UNITED STATES STATUTES AT LARGE

CONTAINING THE

LAWS AND CONCURRENT RESOLUTIONS
ENACTED DURING THE SECOND SESSION OF THE
ONE-HUNDREDTH CONGRESS
OF THE UNITED STATES OF AMERICA

1988

AND

PROCLAMATIONS

VOLUME 102

IN FIVE PARTS

PART 1

PUBLIC LAWS 100-243 THROUGH 100-406

UNITED STATES
GOVERNMENT PRINTING OFFICE
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100-244	To designate January 28, 1988, as "National Challenger Center Day" to honor the crew of the space shuttle Challenger.	Feb. 9, 1988	5
100-245	To designate the week of February 7-13, 1988, as "National Child Passenger Safety Awareness Week".	Feb. 10, 1988	6
100-246	To designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Associations Week".	Feb. 11, 1988	8
100-247	To provide for the designation of the 70th anniversary of the renewal of Lithuanian independence, February 16, 1988, as "Lithuanian Independence Day".	Feb. 11, 1988	10
100-248	To designate April 1988, as "Fair Housing Month"	Feb. 11, 1988	12
100-249	Authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, Florida, and for other purposes.	Feb. 16, 1988	13
100-250	To amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes.	Feb. 16, 1988	16
100-251	To rescind certain budget authority recommended in Public Law 100-202.	Feb. 16, 1988	17
100-252	To authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1988, 1989, and 1990.	Feb. 29, 1988	18
100-253	Veterans' Home Loan Program Emergency Amendments of 1988.	Feb. 29, 1988	20
100-254	To designate the week beginning October 16, 1988, as "Gaucher's Disease Awareness Week".	Feb. 29, 1988	22
100-255	To make a technical correction to section 8103 of title 46, United States Code.	Mar. 4, 1988	23
100-256	Designating March 4, 1988, as "Department of Commerce Day".	Mar. 8, 1988	24
100-257	To designate the month of March 1988, as "Women's History Month".	Mar. 8, 1988	26
100-258	To designate Morgan and Lawrence Counties in Alabama as a single metropolitan statistical area.	Mar. 14, 1988	27
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100-260	To designate March 16, 1988, as "Freedom of Information Day".	Mar. 23, 1988	33
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100-263	To designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week".	Mar. 24, 1988	37

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100-267	Approving the location of the Korean War Memorial	Mar. 28, 1988	41
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100-271	To amend the Department of Defense Authorization Act, 1985, to extend medical benefits for certain former spouses.	Mar. 29, 1988	45
100-272	To designate the period commencing on May 2, 1988, and ending on May 8, 1988, as "National Drinking Water Week".	Mar. 30, 1988	46
100-273	To authorize and request the President to issue a proclamation designating April 24 through April 30, 1988, as "National Organ and Tissue Donor Awareness Week".	Mar. 30, 1988	47
100-274	To authorize appropriations for the Bureau of the Mint for fiscal year 1988, and for other purposes.	Mar. 31, 1988	48
100-275	Nevada-Florida Land Exchange Authorization Act of 1988.	Mar. 31, 1988	52
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100-289	To designate April 6, 1988, as "National Student-Athlete Day".	Apr. 12, 1988	89
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100-293	Prescription Drug Marketing Act of 1987	Apr. 22, 1988	35
100-294	Child Abuse Prevention, Adoption, and Family Services Act of 1988.	Apr. 25, 1988	102
100-295	Recognizing the identical plaques initiated by Sami Bandak, created by Margareta Hennix and Ginvanni Bizzini, and depicting the Calmare Nyckel, the ship that brought the first Swedish settlers to North America, as significant symbols of the "Year of New Sweden"; and providing for the placement of one of such plaques at Fort Christina in the State of Delaware.	Apr. 25, 1988	127
100-296	To designate May 1988 as "National Trauma Awareness Month".	Apr. 26, 1988	129
100-297	Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.	Apr. 28, 1988	130
100-298	Abandoned Shipwreck Act of 1987	Apr. 28, 1988	432
100-299	To designate the month of April 1988, as "National Child Abuse Prevention Month".	Apr. 28, 1988	435
100-300	International Child Abduction Remedies Act	Apr. 29, 1988	437
100-301	Big Cypress National Preserve Addition Act	Apr. 29, 1988	443
100-302	To express gratitude for law enforcement personnel	Apr. 29, 1988	449
100-303	To authorize the President to proclaim the last Friday of April 1988 as "National Arbor Day".	Apr. 29, 1988	450
100-304	Making emergency mandatory veterans supplemental appropriations for the fiscal year ending September 30, 1988.	Apr. 29, 1988	451
100-305	Deploring the Soviet Government's active persecution of religious believers in Ukraine.	May 2, 1988	452
100-306	Designating May 1988 as "National Digestive Disease Awareness Month".	May 3, 1988	454
100-307	To provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.	May 5, 1988	456
100-308	To designate the period commencing on May 1, 1988, and ending on May 7, 1988, as "National Older Americans Abuse Prevention Week".	May 5, 1988	457
100-309	Designating the period commencing May 2, 1988, and ending on May 8, 1988, as "Public Service Recognition Week".	May 5, 1988	458
100-310	Designating May 1988 as "Older Americans Month"	May 6, 1988	459
100-311	Commending the State of Israel and its people on the occasion of the fortieth anniversary of the reestablishment of the independent State of Israel.	May 6, 1988	460
100-312	To authorize and request the President to issue a proclamation designating June 6-12, 1988, as "National Fishing Week".	May 6, 1988	462
100-313	Designating May 8-14, 1988, as "Just Say No Week"	May 10, 1988	463
100-314	To designate the month of May, 1988 as "National Foster Care Month".	May 10, 1988	464
100-315	Designating the week of May 8, 1988, through May 14, 1988, as "National Osteoporosis Prevention Week of 1988".	May 10, 1988	465
100-316	To designate the period commencing May 8, 1988, and ending on May 14, 1988, as "National Tuberous Sclerosis Awareness Week".	May 12, 1988	467
100-317	To designate the period commencing on May 16, 1988 and ending on May 22, 1988, as "National Safe Kids Week".	May 13, 1988	468

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100-318	To provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Tribe.	May 13, 1988	469
100-319	Appalachian States Low-Level Radioactive Waste Compact Consent Act.	May 19, 1988	471
100-320	To designate the period commencing on May 15, 1988, and ending on May 21, 1988, as "National Rural Health Awareness Week".	May 19, 1988	483
100-321	Radiation-Exposed Veterans Compensation Act of 1988	May 20, 1988	485
100-322	Veterans' Benefits and Services Act of 1988	May 20, 1988	487
100-323	Veterans' Employment, Training, and Counseling Amendments of 1988.	May 20, 1988	556
100-324	Merchant Marine Decorations and Medals Act	May 30, 1988	576
100-325	To amend title 5, United States Code, to authorize the establishment of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, and for other purposes.	May 30, 1988	579
100-326	To designate certain national forest system lands in the States of Virginia and West Virginia as wilderness areas.	June 7, 1988	584
100-327	To designate the United States Post Office Building located at 500 West Chestnut Expressway in Springfield, Missouri, as the "Gene Taylor Post Office Building".	June 7, 1988	586
100-328	Designating May 1988 as "Take Pride in America Month".	June 7, 1988	587
100-329	To amend the Merchant Marine Act, 1920, and for other purposes.	June 7, 1988	588
100-330	South Pacific Tuna Act of 1988	June 7, 1988	591
100-331	To amend the provisions of the Agricultural Act of 1949 relating to certain cross compliance requirements under the extra long staple cotton program.	June 14, 1988	602
100-332	To designate June 1988 as "National Recycling Month"	June 14, 1988	603
100-333	Organotin Antifouling Paint Control Act of 1988	June 16, 1988	605
100-334	Retiree Benefits Bankruptcy Protection Act of 1988	June 16, 1988	610
100-335	To designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week".	June 16, 1988	616
100-336	To authorize the Secretary of the Interior to provide assistance to Wildlife Prairie Park, in the State of Illinois, and for other purposes.	June 17, 1988	617
100-337	To amend the Act providing for the establishment of the Tuskegee Institute National Historic Site, Alabama, to authorize an exchange of properties between the United States and Tuskegee University, and for other purposes.	June 17, 1988	618
100-338	To extend the withdrawal of certain public lands in Lincoln County, Nevada.	June 17, 1988	619
100-339	To authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, Texas.	June 17, 1988	620
100-340	To amend the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986, to extend the life of the Commission on the Ukraine Famine.	June 17, 1988	622
100-341	To designate the third week in June 1988 as "National Dairy Goat Awareness Week".	June 22, 1988	623
100-342	Rail Safety Improvement Act of 1988	June 22, 1988	624
100-343	Designating June 14, 1988, as "Baltic Freedom Day"	June 22, 1988	640
100-344	Designating the week beginning on the third Sunday of September in 1988 as "National Adult Day Care Center Week".	June 23, 1988	642

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100-345	To designate the Cleveland Ohio General Mail Facility and Main Office in Cleveland, Ohio, as the "John O. Holly Building of the United States Postal Service".	June 24, 1988	643
100-346	To amend chapter 13 of title 18, United States Code, to impose criminal penalties for damage to religious property and for obstruction of persons in the free exercise of religious beliefs.	June 24, 1988	644
100-347	Employee Polygraph Protection Act of 1988	June 27, 1988	646
100-348	San Francisco Maritime National Historical Park Act of 1988.	June 27, 1988	654
100-349	To revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes.	June 27, 1988	659
100-350	To provide Congressional approval of the Governing International Fishery Agreement between the United States and the Government of the German Democratic Republic.	June 27, 1988	660
100-351	To amend the effective date provision of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.	June 27, 1988	661
100-352	To improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes.	June 27, 1988	662
100-353	To designate the Federal Building located at 600 Las Vegas Boulevard in Las Vegas, Nevada, as the "Alan Bible Federal Building".	June 27, 1988	665
100-354	To designate the Federal Building located at 215 North 17th Street in Omaha, Nebraska, as the "Edward Zorinsky Federal Building".	June 27, 1988	666
100-355	To increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site.	June 28, 1988	667
100-356	To amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget.	June 28, 1988	669
100-357	National Appliance Energy Conservation Amendments of 1988.	June 28, 1988	671
100-358	Indian Housing Act of 1988	June 29, 1988	676
100-359	Designating June 26 through July 2, 1988, as "National Safety Belt Use Week".	June 30, 1988	682
100-360	Medicare Catastrophic Coverage Act of 1988	July 1, 1988	683
100-361	Designating July 2 and 3, 1988, as "United States-Canada Days of Peace and Friendship".	July 1, 1988	818
100-362	To make the International Organizations Immunities Act applicable to the Organization of Eastern Caribbean States.	July 6, 1988	819
100-363	Designating July 2, 1988, as "National Literacy Day"	July 7, 1988	820
100-364	WIN Demonstration Program Extension Act of 1988	July 11, 1988	822
100-365	National Historical Publications and Records Commission Amendments of 1988.	July 13, 1988	823
100-366	To amend section 307 of the Federal Employees' Retirement System Act of 1986.	July 13, 1988	826
100-367	To designate the Federal Building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, Tennessee, as the "John J. Duncan Federal Building".	July 15, 1988	828

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100-368	To amend the provisions of the Toxic Substances Control Act relating to asbestos in the Nation's schools by providing adequate time for local educational agencies to submit asbestos management plans to State Governors and to begin implementation of those plans.	July 18, 1988	829
100-369	To amend the Higher Education Act of 1965 to prevent abuses in the Supplemental Loans for Students program under part B of title IV of the Higher Education Act of 1965, and for other purposes.	July 18, 1988	835
100-370	To amend title 10, United States Code, to codify in that title certain defense-related permanent free-standing provisions of law.	July 19, 1988	840
100-371	Energy and Water Development Appropriations Act, 1989.	July 19, 1988	857
100-372	Independent Safety Board Act Amendments of 1988	July 19, 1988	876
100-373	To extend the expiration date of title II of the Energy Policy and Conservation Act.	July 19, 1988	878
100-374	To designate the United States Courthouse located at 156 Federal Street in Portland, Maine, as the "Edward Thaxter Gignoux United States Courthouse".	July 19, 1988	879
100-375	To designate the week of July 25-31, 1988, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War".	July 26, 1988	880
100-376	Designating July 24 through 30, 1988, as "Lyme Disease Awareness Week".	Aug. 1, 1988	882
100-377	To designate August 1, 1988, as "Helsinki Human Rights Day".	Aug. 1, 1988	883
100-378	Bicentennial of the United States Congress Commemorative Coin Act.	Aug. 1, 1988	887
100-379	Worker Adjustment and Retraining Notification Act	Aug. 4, 1988	890
100-380	To provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago and Northwestern Transportation Company labor-management dispute.	Aug. 4, 1988	896
100-381	To provide that certain lands shall be in trust for the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California.	Aug. 8, 1988	897
100-382	To authorize and request the President to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, and for other purposes.	Aug. 8, 1988	898
100-383	To implement recommendations of the Commission on Wartime Relocation and Internment of Civilians.	Aug. 10, 1988	903
100-384	To designate the Federal building located at 50 Spring Street, Southwest, Atlanta, Georgia, as the "Martin Luther King, Jr. Federal Building".	Aug. 10, 1988	917
100-385	To designate October 1988 as "Polish American Heritage Month".	Aug. 10, 1988	918
100-386	Community and Migrant Health Centers Amendments of 1988.	Aug. 10, 1988	919
100-387	Disaster Assistance Act of 1988	Aug. 11, 1988	924
100-388	To designate the United States Post Office Building located at 700 Main Street in Danville, Virginia, as the "Dan Daniel Post Office Building".	Aug. 11, 1988	962
100-389	To give special recognition to the birth and achievements of Aldo Leopold.	Aug. 11, 1988	963
100-390	To designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week".	Aug. 11, 1988	964

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100-391	To designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week".	Aug. 11, 1988	966
100-392	Designating October 6, 1988, as "German-American Day"	Aug. 11, 1988	968
100-393	Dire Emergency Supplemental Appropriations Act, 1988	Aug. 14, 1988	969
100-394	Hearing Aid Compatibility Act of 1988	Aug. 16, 1988	976
100-395	To amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native Corporations and the State of Alaska.	Aug. 16, 1988	979
100-396	Designating August 9, 1988, as "National Neighborhood Crime Watch Day".	Aug. 16, 1988	982
100-397	Designating Labor Day Weekend, September 3-5, 1988, as "National Drive for Life Weekend".	Aug. 16, 1988	983
100-398	Presidential Transitions Effectiveness Act	Aug. 17, 1988	985
100-399	Agricultural Credit Technical Corrections Act of 1988	Aug. 17, 1988	989
100-400	To authorize and request the President to issue a proclamation designating the third Sunday of August 1988 as "National Senior Citizens Day".	Aug. 17, 1988	1010
100-401	Designating August 12, 1988, as "National Civil Rights Day".	Aug. 17, 1988	1011
100-402	To amend Public Law 90-498 to provide for the designation of National Hispanic Heritage Month.	Aug. 17, 1988	1012
100-403	To amend the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 to extend through the fiscal year 1989 the authorities contained in such Act.	Aug. 19, 1988	1013
100-404	Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989.	Aug. 19, 1988	1014
100-405	To designate the month of November 1988 as "National Hospice Month".	Aug. 19, 1988	1040
100-406	To establish the Grays Harbor National Wildlife Refuge	Aug. 19, 1988	1041
100-407	Technology-Related Assistance for Individuals With Disabilities Act of 1988.	Aug. 19, 1988	1044
100-408	Price-Anderson Amendments Act of 1988	Aug. 20, 1988	1066
100-409	Federal Land Exchange Facilitation Act of 1988	Aug. 20, 1988	1086
100-410	To release a reversionary interest of the United States in a certain parcel of land located in Bay County, Florida.	Aug. 22, 1988	1095
100-411	To settle certain land claims of the Coushatta Tribe of Louisiana against the United States, to authorize the use and distribution of the settlement funds, and for other purposes.	Aug. 22, 1988	1097
100-412	To extend the authorization of the Upper Delaware Citizens Advisory Council for an additional ten years.	Aug. 22, 1988	1100
100-413	Parimutuel Licensing Simplification Act of 1988	Aug. 22, 1988	1101
100-414	To amend the Perishable Agricultural Commodities Act to increase the statutory ceilings on license fees.	Aug. 22, 1988	1102
100-415	To amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.	Aug. 22, 1988	1104
100-416	To delay temporarily certain regulations relating to sea turtle conservation.	Aug. 22, 1988	1105
100-417	Designating May 1989 as "Neurofibromatosis Awareness Month".	Aug. 22, 1988	1106
100-418	Omnibus Trade and Competitiveness Act of 1988	Aug. 23, 1988	1107
100-419	Economic Development Plan for the Northwestern Band of the Shoshoni Nation Act.	Sept. 8, 1988	1575

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100-420	Lac Vieux Desert Band of Lake Superior Chippewa Indians Act.	Sept. 8, 1988	1577
100-421	To authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes.	Sept. 8, 1988	1581
100-422	Designating the week beginning September 18, 1988, as "Emergency Medical Services Week".	Sept. 8, 1988	1583
100-423	Designating the week beginning September 11, 1988, as "National Outpatient Ambulatory Surgery Week".	Sept. 8, 1988	1584
100-424	Commercial Fishing Industry Vessel Safety Act of 1988	Sept. 9, 1988	1585
100-425	To establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes.	Sept. 9, 1988	1594
100-426	General Accounting Office Personnel Amendments Act of 1988.	Sept. 9, 1988	1598
100-427	To make clarifying, corrective, and conforming amendments to laws relating to Indian education, and for other purposes.	Sept. 9, 1988	1603
100-428	Temporary Emergency Wildfire Suppression Act	Sept. 9, 1988	1615
100-429	To provide for a settlement of the labor-management dispute between the Chicago and North Western Transportation Company and the United Transportation Union.	Sept. 9, 1988	1617
100-430	Fair Housing Amendments Act of 1988	Sept. 13, 1988	1619
100-431	Designating September 16, 1988, as "National POW/MIA Recognition Day".	Sept. 15, 1988	1637
100-432	To provide for the designation of September 15, 1988, as "National D.A.R.E. Day".	Sept. 15, 1988	1638
100-433	Constitution Heritage Act of 1988	Sept. 16, 1988	1640
100-434	To designate the day of September 14, 1988, as "National Medical Research Day".	Sept. 16, 1988	1643
100-435	Hunger Prevention Act of 1988	Sept. 19, 1988	1645
100-436	Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989.	Sept. 20, 1988	1680
100-437	To award a congressional medal to Mrs. Jesse Owens, and for other purposes.	Sept. 20, 1988	1717
100-438	District of Columbia Revenue Bond Act of 1988	Sept. 20, 1988	1718
100-439	To amend the Natural Gas Policy Act of 1978 to remove certain contract duration and right of first refusal requirements.	Sept. 22, 1988	1720
100-440	Treasury, Postal Service and General Government Appropriations Act, 1989.	Sept. 22, 1988	1721
100-441	Continental Scientific Drilling and Exploration Act	Sept. 22, 1988	1760
100-442	To amend the Indian Financing Act of 1974, and for other purposes.	Sept. 22, 1988	1763
100-443	Geothermal Steam Act Amendments of 1988	Sept. 22, 1988	1766
100-444	Designating the week of September 25, 1988, as "Religious Freedom Week".	Sept. 26, 1988	1772
100-445	To designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week".	Sept. 26, 1988	1773
100-446	Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes.	Sept. 27, 1988	1774
100-447	Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.	Sept. 27, 1988	1829
100-448	Coast Guard Authorization Act of 1988	Sept. 28, 1988	1836

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100-449	United States-Canada Free-Trade Agreement Implementation Act of 1988.	Sept. 28, 1988	1851
100-450	To designate the week of September 23-30, 1988, as "National American Indian Heritage Week".	Sept. 28, 1988	1899
100-451	Designating October 16, 1988, as "World Food Day"	Sept. 28, 1988	1900
100-452	To commemorate the fiftieth anniversary of the passage of the Federal Food, Drug, and Cosmetic Act.	Sept. 29, 1988	1902
100-453	Intelligence Authorization Act, Fiscal Year 1989	Sept. 29, 1988	1904
100-454	Authorizing the hand enrollment of appropriations bills for fiscal year 1989 and authorizing the subsequent, post-enactment preparation of printed enrollments of those bills.	Sept. 29, 1988	1914
100-455	To designate October 24 through October 30, 1988, as "Drug Free America Week".	Sept. 29, 1988	1916
100-456	National Defense Authorization Act, Fiscal Year 1989	Sept. 29, 1988	1918
100-457	Department of Transportation and Related Agencies Appropriations Act, 1989.	Sept. 30, 1988	2125
100-458	Legislative Branch Appropriations Act, 1989	Oct. 1, 1988	2158
100-459	Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989.	Oct. 1, 1988	2186
100-460	Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989.	Oct. 1, 1988	2229
100-461	Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989.	Oct. 1, 1988	2268
100-462	District of Columbia Appropriations Act, 1989	Oct. 1, 1988	2269
100-463	Department of Defense Appropriations Act, 1989	Oct. 1, 1988	2270
100-464	To designate Soldier Creek Diversion Unit in Topeka, Kansas, as the "Lewis M. Paramore Diversion Unit".	Oct. 3, 1988	2271
100-465	Rio Grande Pollution Correction Act of 1987	Oct. 3, 1988	2272
100-466	To designate the month of September 1988 as "National Sewing Month".	Oct. 3, 1988	2274
100-467	Dwight David Eisenhower Commemorative Coin Act of 1988.	Oct. 3, 1988	2275
100-468	Designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi.	Oct. 3, 1988	2278
100-469	To designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week".	Oct. 3, 1988	2280
100-470	National Trails System Improvements Act of 1988	Oct. 4, 1988	2281
100-471	To provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS.	Oct. 4, 1988	2284
100-472	Indian Self-Determination and Education Assistance Act Amendments of 1988.	Oct. 5, 1988	2285
100-473	Regulatory Fairness Act	Oct. 6, 1988	2299
100-474	Uniform Regulatory Jurisdiction Act of 1988	Oct. 6, 1988	2302
100-475	To increase the amount authorized to be appropriated for acquisition at the Women's Rights National Historical Park.	Oct. 6, 1988	2303
100-476	To authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.	Oct. 6, 1988	2304
100-477	To amend the Second Supplemental Appropriation Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory.	Oct. 6, 1988	2305
100-478	To authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes.	Oct. 7, 1988	2306
100-479	To create a national park at Natchez, Mississippi	Oct. 7, 1988	2324
100-480	Judiciary Office Building Development Act	Oct. 7, 1988	2328

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100–481	To amend the Food Stamp Act of 1977 to make technical corrections in the Family Independence Demonstration Project.	Oct. 11, 1988	2336
100–482	Commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen.	Oct. 11, 1988	2337
100–483	Mining and Mineral Resources Research Institute Amendments of 1988.	Oct. 12, 1988	2339
100–484	To designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week".	Oct. 13, 1988	2342
100–485	Family Support Act of 1988	Oct. 13, 1988	2343
100–486	To authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey.	Oct. 13, 1988	2429
100–487	To amend title 28, United States Code, to create two divisions in the Judicial District of Maryland.	Oct. 14, 1988	2431
100–488	To authorize the Secretary of Agriculture to exchange certain National Forest System lands in the Targhee National Forest.	Oct. 14, 1988	2432
100–489	To designate the United States courthouse located at 445 Broadway in Albany, New York, as the "James T. Foley United States Courthouse".	Oct. 14, 1988	2434
100–490	To authorize additional appropriations for the WEB Rural Water Development Project, South Dakota, authorize the use of Pick-Sloan Missouri Basin electric power by the Lower Brule Sioux Indian Tribe, and to rename certain facilities of the Central Valley Project, California.	Oct. 14, 1988	2435
100–491	To designate the United States Post Office Building located at 1105 Moss Street in Lafayette, Louisiana, as the "James Domengeaux Post Office Building".	Oct. 14, 1988	2437
100–492	To designate the United States Post Office Building in Jeannette, Pennsylvania, as the "John Dent Post Office Building".	Oct. 14, 1988	2438
100–493	Designating February 19 through 25, 1989, as "National Visiting Nurse Associations Week".	Oct. 14, 1988	2439
100–494	Alternative Motor Fuels Act of 1988	Oct. 14, 1988	2441
100–495	To amend the Job Training Partnership Act to make a technical change.	Oct. 17, 1988	2454
100–496	Prompt Payment Act Amendments of 1988	Oct. 17, 1988	2455
100–497	Indian Gaming Regulatory Act	Oct. 17, 1988	2467
100–498	To direct the Secretary of Agriculture to release certain restrictions on a parcel of land located in Henderson, Tennessee.	Oct. 18, 1988	2489
100–499	Winding Stair Mountain National Recreation and Wilderness Area Act.	Oct. 18, 1988	2491
100–500	To designate the Sunderland National Salmon Station located in Sunderland, Massachusetts, as the "Richard Cronin National Salmon Station".	Oct. 18, 1988	2501
100–501	To provide the Secretary of the Air Force with authority to convey certain land.	Oct. 18, 1988	2502
100–502	In support of the restoration of a free and independent Cambodia, the withdrawal of Vietnamese forces, and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge.	Oct. 18, 1988	2504
100–503	Computer Matching and Privacy Protection Act of 1988	Oct. 18, 1988	2507
100–504	Inspector General Act Amendments of 1988	Oct. 18, 1988	2515
100–505	Abandoned Infants Assistance Act of 1988	Oct. 18, 1988	2533

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100-506	To keep secure the rights of intellectual property licensors and licensees which come under the protection of title 11 of the United States Code, the bankruptcy code.	Oct. 18, 1988	2538
100-507	To amend the Nuclear Waste Policy Act of 1982 with respect to the Office of the Nuclear Waste Negotiator and the Monitored Retrievable Storage Commission.	Oct. 18, 1988	2541
100-508	To designate the Federal building and United States courthouse located at 109 South Highland, Jackson, Tennessee, as the "Ed Jones Federal Building and United States Courthouse".	Oct. 20, 1988	2542
100-509	Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988.	Oct. 20, 1988	2543
100-510	To designate the facility of the United States Postal Service located at 850 Newark Turnpike in Kearny, New Jersey, as the "Dominick V. Daniels Postal Facility".	Oct. 20, 1988	2547
100-511	To designate the new Post Office Building in Gretna, Louisiana, as the "William W. Pares, Jr., Post Office Building".	Oct. 20, 1988	2548
100-512	Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988.	Oct. 20, 1988	2549
100-513	Extending permission for the President's Commission on White House Fellows to accept certain donations.	Oct. 20, 1988	2561
100-514	Designating November 6-12, 1988, as "National Women Veterans Recognition Week".	Oct. 20, 1988	2562
100-515	To provide for the establishment of the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes.	Oct. 20, 1988	2563
100-516	To authorize construction of the Mni Wiconi Rural Water Supply Project, and for other purposes.	Oct. 24, 1988	2566
100-517	Health Maintenance Organization Amendments of 1988	Oct. 24, 1988	2578
100-518	United States Grain Standards Act Amendments of 1988	Oct. 24, 1988	2584
100-519	To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1989, and for other purposes.	Oct. 24, 1988	2589
100-520	To direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Oktibbeha County, Mississippi.	Oct. 24, 1988	2599
100-521	Forest Ecosystems and Atmospheric Pollution Research Act of 1988.	Oct. 24, 1988	2601
100-522	To authorize continued storage of water at Abiquiu Dam in New Mexico.	Oct. 24, 1988	2604
100-523	Forest Wildfire Emergency Pay Equity Act of 1988	Oct. 24, 1988	2605
100-524	Congaree Swamp National Monument Expansion and Wilderness Act.	Oct. 24, 1988	2606
100-525	Immigration Technical Corrections Act of 1988	Oct. 24, 1988	2609
100-526	Defense Authorization Amendments and Base Closure and Realignment Act.	Oct. 24, 1988	2623
100-527	Department of Veterans Affairs Act	Oct. 25, 1988	2635
100-528	To remove certain restrictions on land acquisitions for Antietam National Battlefield.	Oct. 25, 1988	2649
100-529	To quiet title and possession with respect to a certain private land claim in Sumter County, Alabama.	Oct. 25, 1988	2650
100-530	To encourage increased international cooperation to protect biological diversity.	Oct. 25, 1988	2651

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100-531	To amend the Department of Energy Organization Act to authorize protective force personnel who guard the strategic petroleum reserve or its storage and related facilities to carry firearms while discharging their official duties and in certain instances to make arrests without warrant; to establish the offense of trespass on property of the strategic petroleum reserve, and for other purposes.	Oct. 25, 1988	2652
100-532	Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988.	Oct. 25, 1988	2654
100-533	Women's Business Ownership Act of 1988	Oct. 25, 1988	2689
100-534	West Virginia National Interest River Conservation Act of 1987.	Oct. 26, 1988	2699
100-535	Imperial Valley College Barker Museum Land Transfer Act of 1988.	Oct. 28, 1988	2709
100-536	To authorize appropriations to carry out title I of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, and 1991.	Oct. 28, 1988	2710
100-537	Michigan Public Lands Improvement Act of 1988	Oct. 28, 1988	2711
100-538	To designate the Federal Building at Spring and High Streets in Columbus, Ohio, as the "John W. Bricker Federal Building".	Oct. 28, 1988	2717
100-539	To change the name of the Pacific Tropical Botanical Garden, a federally chartered organization, to the National Tropical Botanical Garden, and for other purposes.	Oct. 28, 1988	2718
100-540	To amend title 46, United States Code, to require alerting and locating equipment on manned uninspected vessels, to provide for exemption of uninspected vessels from certain requirements of that title, and to increase penalties for violations of certain uninspected vessel requirements.	Oct. 28, 1988	2719
100-541	To modify the boundary of the Guadalupe Mountains National Park, and for other purposes.	Oct. 28, 1988	2720
100-542	Telecommunications Accessibility Enhancement Act of 1988.	Oct. 28, 1988	2721
100-543	To designate the United States Courthouse at 620 Southwest Main Street, Portland, Oregon, as the "Gus J. Solomon United States Courthouse".	Oct. 28, 1988	2723
100-544	To add additional land to the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes.	Oct. 28, 1988	2724
100-545	To amend title 31 of the United States Code to provide for a transfer of control of the General Accounting Office Building and to improve the administration of the General Accounting Office.	Oct. 28, 1988	2727
100-546	Federal Crop Insurance Commission Act of 1988	Oct. 28, 1988	2730
100-547	Sipsey Wild and Scenic River and Alabama Addition Act of 1988.	Oct. 28, 1988	2736
100-548	Designating October 22, 1988, as "National Chester F. Carlson Recognition Day".	Oct. 28, 1988	2740
100-549	Granting the consent of Congress to the compact entered into between the State of North Carolina and the State of South Carolina establishing the Lake Wylie Marine Commission.	Oct. 28, 1988	2742
100-550	National Forest and Public Lands of Nevada Enhancement Act of 1988.	Oct. 28, 1988	2749
100-551	To amend the Toxic Substances Control Act to assist States in responding to the threat to human health posed by exposure to radon.	Oct. 28, 1988	2755

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100-552	To authorize the establishment of the Lewis and Clark National Historic Trail Interpretive Center in the State of Montana, and for other purposes.	Oct. 28, 1988	2766
100-553	National Deafness and Other Communication Disorders Act of 1988.	Oct. 28, 1988	2769
100-554	To designate a segment of the Wildcat River in the State of New Hampshire as a component of the National Wild and Scenic Rivers System, and for other purposes.	Oct. 28, 1988	2776
100-555	To improve the protection and management of archeological resources on Federal land.	Oct. 28, 1988	2778
100-556	To require that plastic ring carrier devices be degradable, and for other purposes.	Oct. 28, 1988	2779
100-557	To amend the Wild and Scenic Rivers Act of 1968, and for other purposes.	Oct. 28, 1988	2782
100-558	To reauthorize the Sleeping Bear Dunes National Lakeshore Advisory Commission.	Oct. 28, 1988	2796
100-559	To redesignate Salinas National Monument in the State of New Mexico, and for other purposes.	Oct. 28, 1988	2797
100-560	To provide for the establishment of the Poverty Point National Monument, and for other purposes.	Oct. 31, 1988	2803
100-561	Pipeline Safety Reauthorization Act of 1988	Oct. 31, 1988	2805
100-562	Imported Vehicle Safety Compliance Act of 1988	Oct. 31, 1988	2818
100-563	To authorize additional appropriations for the Central Utah Project, to implement a settlement with the Strawberry Water Users, to expand the John Muir Historic Site, to prohibit the expansion of any reservoir within the boundaries of Yosemite National Park, and for other purposes.	Oct. 31, 1988	2826
100-564	To authorize and direct the acquisition of lands for Canaveral National Seashore, and for other purposes.	Oct. 31, 1988	2831
100-565	To amend title 31, United States Code, to increase from $25,000 to $40,000 the maximum amount that the United States may pay in settlement of a claim against the United States made by a member of the uniformed services or by an officer or employee of the Government.	Oct. 31, 1988	2833
100-566	Federal Employees Leave Sharing Act of 1988	Oct. 31, 1988	2834
100-567	Zuni-Cibola National Historical Park Establishment Act of 1988.	Oct. 31, 1988	2847
100-568	Berne Convention Implementation Act of 1988	Oct. 31, 1988	2853
100-569	To extend the authorization of appropriations for titles V and VI of the Library Services and Construction Act through fiscal year 1989.	Oct. 31, 1988	2862
100-570	National Science Foundation Authorization Act of 1988	Oct. 31, 1988	2865
100-571	To establish the National Park of American Samoa	Oct. 31, 1988	2879
100-572	Lead Contamination Control Act of 1988	Oct. 31, 1988	2884
100-573	To establish the Delaware Water Gap National Recreation Area Citizen Advisory Commission.	Oct. 31, 1988	2890
100-574	To make nonmailable any plant, fruit, vegetable, or other matter, the movement of which in interstate commerce has been prohibited or restricted by the Secretary of Agriculture in order to prevent the dissemination of dangerous plant diseases or pests, and for other purposes.	Oct. 31, 1988	2892
100-575	Egg Research and Consumer Information Act Amendments of 1988.	Oct. 31, 1988	2895
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100-581	To establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987).	Nov. 1, 1988	2938
100-582	Medical Waste Tracking Act of 1988	Nov. 1, 1988	2950
100-583	Fair Credit and Charge Card Disclosure Act of 1988	Nov. 3, 1988	2960
100-584	To provide authorization of appropriations for activities of the National Telecommunications and Information Administration.	Nov. 3, 1988	2970
100-585	Colorado Ute Indian Water Rights Settlement Act of 1988.	Nov. 3, 1988	2973
100-586	To amend the Federal Land Policy and Management Act of 1976, to permit temporary use for military purposes of public lands in Alaska managed by the Bureau of Land Management, Department of the Interior, and for other purposes.	Nov. 3, 1988	2980
100-587	To amend title 28 of the United States Code to authorize the appointment of additional bankruptcy judges.	Nov. 3, 1988	2982
100-588	To amend the Archaeological Resources Protection Act of 1979 to strengthen the enforcement provisions of that Act, and for other purposes.	Nov. 3, 1988	2983
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100-595	To designate the Federal Records Center Extension Building 109 under construction in Overland, Missouri, as the "Charles F. Prevedel Federal Building".	Nov. 3, 1988	3026
100-596	To designate the Federal building and United States courthouse located at 300 Booth Street in Reno, Nevada, as the "C. Clifton Young Federal Building and United States Courthouse".	Nov. 3, 1988	3027
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100-598	To reauthorize the Office of Government Ethics, and for other purposes.	Nov. 3, 1988	3031
100-599	To designate the United States Post Office and Courthouse located at 151 West Street in Rutland, Vermont, as the "Robert T. Stafford United States Courthouse and Post Office".	Nov. 3, 1988	3036
100-600	To designate the week of November 27, 1988 through December 3, 1988 as "National Home Care Week".	Nov. 3, 1988	3037
100-601	To designate October 1988 as "National Down Syndrome Month".	Nov. 3, 1988	3038
100-602	To designate February 1989 as "America Loves Its Kids Month".	Nov. 3, 1988	3039
100-603	To designate the last full week of October, October 23 through October 29, 1988, as "National Adult Immunization Awareness Week".	Nov. 3, 1988	3040
100-604	To designate October 30, 1988, as "Fire Safety at Home Day—Change Your Clock, Change Your Battery".	Nov. 3, 1988	3042
100-605	To authorize a study of the Hanford Reach of the Columbia River, and for other purposes.	Nov. 4, 1988	3043

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100-606	Genocide Convention Implementation Act of 1987 (the Proxmire Act).	Nov. 4, 1988	3045
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100-608	To designate the building which will house the United States District Court for the Eastern District of Texas in Lufkin, Texas, as the "Ward R. Burke United States Courthouse".	Nov. 5, 1988	3174
100-609	Granting the consent and approval of Congress to the addition of the State of Ohio as a party to the Middle Atlantic Interstate Forest Fire Protection Compact.	Nov. 5, 1988	3175
100-610	Outer Continental Shelf Operations Indemnification Clarification Act of 1988.	Nov. 5, 1988	3176
100-611	To amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes.	Nov. 5, 1988	3179
100-612	Federal Property Management Improvement Act of 1988	Nov. 5, 1988	3180
100-613	To provide that the Consumer Product Safety Commission amend its regulations regarding lawn darts.	Nov. 5, 1988	3183
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100-615	Federal Energy Management Improvement Act of 1988	Nov. 5, 1988	3185
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100-619	To amend the Hunger Prevention Act of 1988 to make a technical correction.	Nov. 5, 1988	3198
100-620	Designating the month of November 1988 as "National Alzheimer's Disease Month".	Nov. 5, 1988	3199
100-621	To designate November, 1988, as "National Diabetes Month".	Nov. 5, 1988	3200
100-622	Designating the day of August 7, 1989, as "National Lighthouse Day".	Nov. 5, 1988	3201
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100-624	Designating the week of October 2 through 8, 1988, as "National Wild and Scenic Rivers Act Week".	Nov. 5, 1988	3204
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100-626	Public Telecommunications Act of 1988	Nov. 7, 1988	3207
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100-628	Stewart B. McKinney Homeless Assistance Amendments Act of 1988.	Nov. 7, 1988	3224
100-629	To approve the governing international fishery agreement between the United States and the Union of Soviet Socialist Republics, and for other purposes.	Nov. 7, 1988	3286
100-630	Handicapped Programs Technical Amendments Act of 1988.	Nov. 7, 1988	3289
100-631	To designate the week beginning November 13, 1988, as "National Craniofacial Awareness Week".	Nov. 7, 1988	3318
100-632	Designating November 4 through 10, 1988, as the "Week of Remembrance of Kristallnacht".	Nov. 7, 1988	3319

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100-633	To amend the Wild and Scenic Rivers Act to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System.	Nov. 7, 1988	3320
100-634	Designating January 20, 1989, as "National Skiing Day"	Nov. 7, 1988	3322
100-635	To designate the week of November 28 through December 5, 1988, as "National Book Week".	Nov. 7, 1988	3323
100-636	To reauthorize the National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990, and for other purposes.	Nov. 8, 1988	3324
100-637	To provide for the leasing of certain real property to the American National Red Cross, District of Columbia Chapter, for the contruction and maintenance of certain buildings and improvements.	Nov. 8, 1988	3325
100-638	To declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes.	Nov. 8, 1988	3327
100-639	To request the President to award a gold medal on behalf of Congress to Andrew Wyeth, and to provide for the production of bronze duplicates of such medal for sale to the public.	Nov. 9, 1988	3331
100-640	To amend the Foreign Sovereign Immunities Act with respect to admiralty jurisdiction.	Nov. 9, 1988	3333
100-641	To designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse and Post Office".	Nov. 9, 1988	3335
100-642	To amend the Act of June 6, 1900, to increase the number of trustees of the Frederick Douglass Memorial and Historical Association.	Nov. 9, 1988	3337
100-643	Designating the month of May, 1989, as "National Asparagus Month".	Nov. 9, 1988	3338
100-644	Designating February 5 through 11, 1989, as "National Burn Awareness Week".	Nov. 9, 1988	3339
100-645	Designating September 13, 1989, as "Uncle Sam Day"	Nov. 9, 1988	3340
100-646	Changing the date for the counting of the Electoral vote by Congress to January 4, 1989.	Nov. 9, 1988	3341
100-647	Technical and Miscellaneous Revenue Act of 1988	Nov. 10, 1988	3342
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100-654	Federal Employees Health Benefits Amendments Act of 1988.	Nov. 14, 1988	3837
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100-660	To authorize the Vietnam Women's Memorial Project, Inc., to establish a memorial on Federal land in the District of Columbia or its environs to honor women of the Armed Forces of the United States who served in the Republic of Vietnam during the Vietnam era.	Nov. 15, 1988	3922
100-661	Designating October 1988 as "Pregnancy and Infant Loss Awareness Month".	Nov. 15, 1988	3923
100-662	Designating 1989 as "Year of the Young Reader"	Nov. 15, 1988	3924
100-663	Designating November 27 through December 3, 1988, as "National Sir Winston Churchill Recognition Week".	Nov. 15, 1988	3925
100-664	To designate the week of June 18 through June 24, 1989, as "National Grasslands Week".	Nov. 15, 1988	3926
100-665	To convey Forest Service land to Flagstaff, Arizona	Nov. 16, 1988	3927
100-666	Navajo and Hopi Indian Relocation Amendments of 1988	Nov. 16, 1988	3929
100-667	To amend the Act entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes".	Nov. 16, 1988	3935
100-668	Washington Park Wilderness Act of 1988	Nov. 16, 1988	3961
100-669	To implement the Inter-American Convention on International Commercial Arbitration.	Nov. 16, 1988	3969
100-670	Generic Animal Drug and Patent Term Restoration Act	Nov. 16, 1988	3971
100-671	To designate the month of October 1988 as "National Lupus Awareness Month".	Nov. 16, 1988	3990
100-672	Designating the third week in May 1989 as "National Tourism Week".	Nov. 16, 1988	3991
100-673	Bicentennial of the United States Congress Commemorative Coin Act.	Nov. 17, 1988	3992
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100-675	To provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, to authorize the lining of the All American Canal, and for other purposes.	Nov. 17, 1988	4000
100-676	Water Resources Development Act of 1988	Nov. 17, 1988	4012
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100-679	Office of Federal Procurement Policy Act Amendments of 1988.	Nov. 17, 1988	4055
100-680	Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988.	Nov. 17, 1988	4073
100-681	Commemorating January 28, 1989, as a "National Day of Excellence" in honor of the crew of the space shuttle Challenger.	Nov. 17, 1988	4078
100-682	To designate the period commencing December 11, 1988, and ending December 17, 1988, as "National Drunk and Drugged Driving Awareness Week".	Nov. 17, 1988	4079
100-683	Designating September 24, 1989, as "United States Marshals Bicentennial Day".	Nov. 17, 1988	4081
100-684	To designate January 28, 1989, as "National Challenger Center Day" to honor the crew of the space shuttle Challenger.	Nov. 17, 1988	4082
100-685	National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989.	Nov. 17, 1988	4083
100-686	Designating April 1989 as "Actors' Fund of America Appreciation Month".	Nov. 18, 1988	4104

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100–687	To amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to establish a Court of Veterans' Appeals and to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; to increase the rates of compensation payable to veterans with service-connected disabilities; and to make various improvements in veterans' health, rehabilitation, and memorial affairs programs; and for other purposes.	Nov. 18, 1988	4105
100–688	To amend the Marine Protection, Research, and Sanctuaries Act of 1972 to provide for termination of ocean dumping of sewage sludge and industrial waste, and for other purposes.	Nov. 18, 1988	4139
100–689	Veterans' Benefits and Programs Improvement Act of 1988.	Nov. 18, 1988	4161
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100–691	Federal Cave Resources Protection Act of 1988	Nov. 18, 1988	4546
100–692	Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988.	Nov. 18, 1988	4552
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100–695	To amend the Federal Hazardous Substances Act to require the labeling of chronically hazardous art materials, and for other purposes.	Nov. 18, 1988	4568
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100–698	To establish in the Department of the Interior the Southwestern Pennsylvania Heritage Preservation Commission, and for other purposes.	Nov. 19, 1988	4618
100–699	Omnibus Public Lands and National Forests Adjustments Act of 1988.	Nov. 19, 1988	4624
100–700	Major Fraud Act of 1988	Nov. 19, 1988	4631
100–701	To amend the Joint resolution of April 27, 1962, to permit the Secretary of the Interior to establish the former home of Alexander Hamilton as a national memorial at its present location in New York, New York.	Nov. 19, 1988	4640
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100–705	Panama Canal Commission Compensation Fund Act of 1988.	Nov. 19, 1988	4685
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100–707	To amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes.	Nov. 23, 1988	4689

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100-709	Home Equity Loan Consumer Protection Act of 1988	Nov. 23, 1988	4725
100-710	To revise, consolidate, and enact certain laws related to shipping definitions and maritime commercial instruments and liens as subtitle III of title 46, United States Code, "Shipping", and for other purposes.	Nov. 23, 1988	4735
100-711	Marine Mammal Protection Act Amendments of 1988	Nov. 23, 1988	4755
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PUBLIC LAWS

ENACTED DURING THE

SECOND SESSION OF THE ONE-HUNDREDTH CONGRESS

OF THE

UNITED STATES OF AMERICA

Begun and held at the City of Washington on Monday, January 25, 1988, adjourned sine die on Saturday, October 22, 1988. RONALD REAGAN, *President;* GEORGE BUSH, *Vice President;* JIM WRIGHT, *Speaker of the House of Representatives.*

Public Law 100-243
100th Congress

Joint Resolution

To designate February 4, 1988, as "National Women in Sports Day".

Feb. 9, 1988
[S.J. Res. 196]

Whereas women's athletics is one of the most effective avenues available through which women of America may develop self-discipline, initiative, confidence, and leadership skills;

Whereas support and fitness activity contributes to emotional and physical well-being and women need strong bodies as well as strong minds;

Whereas the history of women in sports is rich and long, but there has been little national recognition of the significance of women's athletic achievements;

Whereas the number of women in leadership positions of coaches, officials, and administrators has declined drastically over the last decade and there is a need to restore women to these positions to ensure a fair representation of women's abilities and to provide role models for young female athletes;

Whereas the bonds built between women through athletics help to break down the social barriers of racism and prejudice;

Whereas the communication and cooperation skills learned through athletic experience play a key role in the athlete's contributions at home, at work, and to society;

Whereas women's athletics has produced such winners as Flo Hyman, whose spirit, talent, and accomplishments distinguished her above others and exhibited for all of us the true meaning of fairness, determination, and team play;

Whereas early motor-skill training and enjoyable experiences of physical activity strongly influence life-long habits of physical fitness;

Whereas the athletic opportunities for male students at the collegiate and high school level remain significantly greater than those for female students; and

Whereas the number of funded research projects focusing on the specific needs of women athletes is limited and the information provided by these projects is imperative to the health and performance of future women athletes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 4, 1988, is hereby designated as "National Women in Sports Day", and the President is authorized and requested to issue a proclamation calling upon local and State jurisdictions, appropriate Federal agencies, and the people of the United States to observe the day with appropriate ceremonies and activities.

Approved February 9, 1988.

LEGISLATIVE HISTORY—S.J. Res. 196:

CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 3, considered and passed Senate.
Vol. 134 (1988): Feb. 2, considered and passed House.

Public Law 100-244
100th Congress

Joint Resolution

To designate January 28, 1988, as "National Challenger Center Day" to honor the crew of the space shuttle Challenger.

Feb. 9, 1988
[S.J. Res. 201]

Whereas the crew of the space shuttle Challenger was dedicated to stimulating the interest of American children in space flight and science generally;

Whereas the members of the Challenger crew gave their lives trying to benefit the education of American children;

Whereas a fitting tribute to that effort and to the sacrifice of the Challenger crew and their families is needed;

Whereas an appropriate form for such a tribute would be to expand educational opportunities in science by the creation of a center that will offer children and teachers activities and information derived from American space research; and

Whereas the Challenger Center is the only institution expressly established by the immediate families of the crew of the Challenger for the above-named purposes, and is intended to be the living expression of the Nation's commemoration of the Challenger crew: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 28, 1988, is designated as "National Challenger Center Day" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day—

(1) by resolving that in the course of their regular activities the people of the United States will remember both the Challenger astronauts who died while serving their country, and the importance of the Challenger Center is honoring the accomplishments of the Challenger crew by continuing their goal of the expansion of interest and ability in space and science education; and

(2) with other appropriate ceremonies and activities.

Approved February 9, 1988.

LEGISLATIVE HISTORY—S.J. Res. 201:

CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 30, considered and passed Senate.
Vol. 134 (1988): Jan. 27, considered and passed House.

Public Law 100-245
100th Congress

Joint Resolution

Feb. 10, 1988
[H.J. Res. 402]

To designate the week of February 7-13, 1988, as "National Child Passenger Safety Awareness Week".

Whereas motor vehicle crashes are the number one cause of death of children over the age of 6 months in the United States;

Whereas motor vehicle crashes are the number one cause of the crippling of children in the United States;

Whereas more children under the age of 5 years are killed or crippled as passengers involved in motor vehicle crashes than the total number of children killed or crippled by the 7 most common childhood diseases; pertussis (whooping cough), tetanus, diphtheria, measles, mumps, rubella (German measles), and polio;

Whereas motor vehicle crashes are the leading trauma related cause of spinal cord injuries, epilepsy, and mental retardation in the United States;

Whereas, during the years 1978 through 1986, nearly 9,300 children under the age of 5 years were killed in traffic crashes and more than 450,000 children were injured in the United States;

Whereas an unrestrained child is less protected by padding and energy-absorbing materials than an adult in a motor vehicle crash as a result of protective devices being placed in areas more likely to benefit adults;

Whereas unrestrained children are subject to a significantly higher risk of serious head, spine, chest, and abdominal injury in motor vehicle crashes than adult passengers because the bodies of children are less developed and provide less protection;

Whereas an unrestrained child in a motor vehicle crash faces an increased danger of fatal or serious injury from ejection as well as injuries resulting from contact with the vehicle interior;

Whereas an unrestrained child in a motor vehicle not involved in a collision may be killed or injured as a result of sudden stops, turns, swerves, or falling from a moving vehicle;

Whereas all 50 States and the District of Columbia have enacted laws mandating the use of child passenger protection systems;

Whereas the latest national surveys show that 72 percent of children under the age of 5 are placed in child safety seats in the United States and that one-third of such seats are used incorrectly;

Whereas current nationwide studies estimate that only 48 percent of children under the age of 5 are fully protected in cars in the United States through the correct usage of child safety seats;

Whereas numerous government and private sector organizations have agreed to work in concert to achieve a minimum 70 percent correct usage of child passenger protection devices and adult safety belts by the year 1990;

Whereas research shows that the correct use of child passenger protection devices is 90 percent effective in preventing death and 67 percent effective in preventing injury; and

Whereas death and injuries may be reduced significantly through greater public awareness, information, education, and enforcement: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of February 7–13, 1988, is designated as "National Child Passenger Safety Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities to maximize correct usage of child safety seats.

Approved February 10, 1988.

LEGISLATIVE HISTORY—H.J. Res. 402 (S.J. Res. 214):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 3, considered and passed House.
Feb. 4, considered and passed Senate.

Public Law 100-246
100th Congress
Joint Resolution

Feb. 11, 1988
[S.J. Res. 172]

To designate the period commencing February 21, 1988, and ending February 27, 1988, as "National Visiting Nurse Associations Week".

Whereas Visiting Nurse Associations have served homebound Americans since 1885;

Whereas such Associations annually provide home care and support services to nearly 1,000,000 men, women, children, and infants;

Whereas such Associations serve 504 urban and rural communities in 47 States;

Whereas such Associations adhere to high standards of quality and provide personalized and cost-effective home health care and support regardless of the individual's ability to pay;

Whereas such Associations are voluntary in nature, independently operated, and community-based;

Whereas such Associations ensure the quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;

Whereas such Associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;

Whereas such Associations ensure that individuals who are chronically ill or who have physical and mental handicaps receive the therapeutic benefits of care and support services provided in the home;

Whereas, in the absence of such Associations, thousands of patients with mental or physical handicaps or chronically disabling illnesses would have to be institutionalized;

Whereas such Associations provide a wide range of services, including (where appropriate) health care, hospice care, personal care, homemaking, occupational, physical, and speech therapy, "friendly visiting services", social services, nutritional counseling, specialized nursing services, and meals on wheels;

Whereas such Associations offer nursing care provided by registered nurses, homemaking, therapy, and social services by qualified specialists, and "friendly visiting services" by volunteers;

Whereas in each community served by such Associations, local volunteers support the Association by serving on the board of directors, raising funds, visiting patients in their homes, assisting patients and nurses at wellness clinics, delivering meals on wheels to patients, running errands for patients, working in the Association's office, and providing tender loving care;

Whereas the need for home health care for young and old alike continues to grow annually; and

Whereas on February 23, 1988 a national meeting of Visting Nurse Associations from throughout the United States will be held in Innisbrook, Florida: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing February 21, 1988, and ending February 27, 1988, is designated as "National Visiting Nurse Associations Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved February 11, 1988.

LEGISLATIVE HISTORY—S.J. Res. 172:

CONGRESSIONAL RECORD:
Vol. 133 (1987): Nov. 4, considered and passed Senate.
Vol. 134 (1988): Feb. 2, considered and passed House.

Public Law 100-247
100th Congress

Joint Resolution

Feb. 11, 1988
[S.J. Res. 39]

To provide for the designation of the 70th anniversary of the renewal of Lithuanian independence, February 16, 1988, as "Lithuanian Independence Day".

Whereas this year marks the 70th anniversary of the establishment of the Independent Democratic Republic of Lithuania by the Lithuanian National Council on February 16, 1918;

Whereas the Government of the Soviet Union recognized the sovereignty and independence of the Republic of Lithuania in the peace treaty of July 12, 1920;

Whereas the United States does not recognize the illegal incorporation of the free and independent Republic of Lithuania into the Union of Soviet Socialist Republics in 1940;

Whereas the United States continues to provide accreditation to the Charges d'Affaires of the Republic of Lithuania;

Whereas the United States remains firmly committed to the principle of self-determination as contained in the Final Act of the Conference on Security and Cooperation in Europe (also known as the "Helsinki Final Act"), an agreement to which the Soviet Union is a party;

Whereas the people of the Republic of Lithuania struggle every day under Soviet domination;

Whereas the United States condemns the Soviet policy of forced Russification, ethnic dilution, and religious and political persecution; and

Whereas it is appropriate that the people of the United States, who so strongly cherish the principles of independence and self-determination denied the Lithuanian people by the Soviet Union, join with the people of the Republic of Lithuania to demonstrate our common desire to advance the cause of freedom: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the 70th anniversary of the renewal of Lithuanian independence, February 16, 1988, is designated as "Lithuanian Independence Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved February 11, 1988.

LEGISLATIVE HISTORY—S.J. Res. 39 (H.J. Res. 129):

CONGRESSIONAL RECORD:
Vol. 133 (1987): Feb. 24, H.J. Res. 129 considered and passed House.
June 5, S.J. Res. 39 considered and passed Senate.
Vol. 134 (1988): Feb. 2, considered and passed House.

Public Law 100-248
100th Congress

Joint Resolution

Feb. 11, 1988
[S.J. Res. 143]

To designate April 1988, as "Fair Housing Month".

Whereas the year 1988 marks the twentieth anniversary of the passage of title VIII of the Civil Rights Act of 1968, commonly referred to as the "Federal Fair Housing Act", declaring a national policy to provide fair housing throughout the United States;

Whereas the Federal Fair Housing Act prohibits discrimination in housing on the basis of race, color, religion, sex, or national origin;

Whereas fairness is the foundation of our way of life and reflects the best of our traditional American values;

Whereas invidious discriminatory housing practices undermine the strength and vitality of America and the American people; and

Whereas in this twentieth year since the passage of the Fair Housing Act, all Americans must work to continue to improve the Fair Housing Act by strengthening enforcement provisions, by extending the protections of the Act to all our citizens, by assuring there are no victims of discriminatory housing practices, and by making the ideal of fair housing a reality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April as "Fair Housing Month" and to invite the Governors of the several States, the chief officials of local governments, and the people of the United States to observe the month with appropriate ceremonies and activities.

Approved February 11, 1988.

LEGISLATIVE HISTORY—S.J. Res. 143 (H.J. Res. 201):

CONGRESSIONAL RECORD:
Vol. 133 (1987): May 4, H.J. Res. 201 considered and passed House.
June 5, S.J. Res. 143 considered and passed Senate.
Vol. 134 (1988): Feb. 2, considered and passed House.

Public Law 100-249
100th Congress

An Act

Authorizing the Secretary of the Interior to preserve certain wetlands and historic and prehistoric sites in the St. Johns River Valley, Florida, and for other purposes.

Feb. 16, 1988
[H.R. 1983]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National parks, monuments, etc.

TITLE I—FORT CAROLINE NATIONAL MEMORIAL

SECTION 101. AMENDMENTS OF 1950 ACT.

The Act entitled "An Act to provide for the acquisition, investigation, and preservation of lands to commemorate the historic Fort Caroline settlement, Saint Johns Bluff, Florida", approved September 21, 1950 (64 Stat. 897), is amended as follows:

(1) Section 2 is amended by adding the following after the final period: "Such historical park shall serve as the principal interpretive center and administrative facility for the ecological, historic, and prehistoric resources made available under this legislation. In furtherance of the interpretive and administrative functions referred to in the preceding sentence, the Secretary shall construct and maintain appropriate museum facilities for the display of important artifacts and materials that illustrate the history and prehistory of the region.".

(2) Section 3 is repealed, and sections 4 and 5 are redesignated as sections 3 and 4, respectively.

(3) Section 4, as so redesignated, is amended by striking out the phrase ", not to exceed $40,000,".

TITLE II—PRESERVATION OF ST. JOHNS RIVER VALLEY ECOLOGICAL AREA AND PROTECTION OF SIGNIFICANT HISTORIC ASSETS

SEC. 201. TIMUCUAN ECOLOGICAL AND HISTORIC PRESERVE.

16 USC 698n.

(a) ESTABLISHMENT.—There is hereby established in the St. Johns River Valley, Florida, where the Timucuan Indians lived in prehistoric and historic times, the Timucuan Ecological and Historic Preserve (hereafter in this Act referred to as the "Preserve"). The Preserve shall comprise the lands, waters, and interests therein within the boundaries generally depicted on a map of Duval County, Florida, entitled "Timucuan Ecological and Historic Preserve" numbered NA-TEHP 80,003-A and dated July 1987. The map shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior. The Secretary of the

Public information.

Interior may make minor revisions in the boundary of the Preserve in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965. The Preserve shall also include within its boundaries all that land consisting of approximately 500 acres adjacent to Fort Caroline National Memorial and known as the Theodore Roosevelt Preserve, being land formerly owned by one Willie Brown and donated by him to The Nature Conservancy.

Gifts and property.

(b) LAND ACQUISITION.—The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to acquire lands and interests therein within the Preserve by donation, purchase with donated or appropriated funds, or exchange, but no lands other than wetlands or interests therein may be acquired without the consent of the owner. For purposes of this subsection, the term "wetlands" has the same meaning as provided by section 3 of the Emergency Wetlands Resources Act of 1986. Lands, interests in lands, and improvements thereon within the boundaries of the Preserve which are owned by the State of Florida or any political subdivision thereof may be acquired only by donation or exchange. On lands acquired for inclusion within the Preserve, the Secretary shall not impair any legal riparian right of access nor shall he preclude the continued use of any legal right of way.

(c) ADMINISTRATION.—The Secretary shall administer those lands acquired for inclusion within the Preserve in such a manner as to protect the natural ecology of such land and water areas in accordance with this Act and the provisions of law generally applicable to units of the National Park System, including the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4). The Secretary shall permit boating, boating-related activities, hunting, and fishing within the Preserve in accordance with applicable Federal and State laws. The Secretary may designate zones where, and establish periods when, no hunting or fishing shall be permitted for reasons of public safety.

Boating.
Hunting.
Fish and fishing.
Safety.

(d) Nothing in this Act shall affect development of a multiunit residential/resort project currently proposed for Fort George Island, nor shall any provision of this Act be construed to affect any Federal, State or local law applicable to such project.

Gifts and property.
16 USC 698o.

SEC. 202. PROTECTION OF SIGNIFICANT HISTORIC ASSETS.

The Secretary, with the consent of the owners thereof, may acquire by donation or purchase with donated funds the following properties or sites of significant historic interest in Duval County, Florida:

(1) Spanish sixteenth century forts San Gabriel and San Estaban.

(2) Spanish eighteenth century fort Dos Hermanas.

(3) English eighteenth century forts at Saint Johns Bluff and Fort George Island.

(4) Spanish sixteenth and seventeenth century mission San Juan del Puerto.

(5) Site of the American Revolutionary War battle of Thomas Creek.

(6) The Zephaniah Kingsley plantation, with its eighteenth and nineteenth century buildings.

(7) The Spanish American War fortification on Saint Johns Bluff.

(8) The confederate fort known as the Yellow Bluff Fort State Historic Site.

SEC. 203. INTEGRATED ADMINISTRATION AND INTERPRETATION. 16 USC 698p.

Any properties of historic interest acquired under section 202 shall become part of the Preserve established under section 201. The Secretary shall administer such properties in accordance with a plan that integrates the administration and interpretation of the ecological values of the Preserve and the historical values of the sites so acquired and the historical features of Fort Caroline. Such administration and interpretation shall be conducted through the facilities and staff of Fort Caroline National Memorial consistent with section 2 of the Act of September 21, 1950 (64 Stat. 897).

Approved February 16, 1988.

LEGISLATIVE HISTORY—H.R. 1983:

HOUSE REPORTS: No. 100-224 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-247 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): July 21, considered and passed House.
Dec. 11, considered and passed Senate, amended.
Vol. 134 (1988): Feb. 2, House concurred in Senate amendments.

Public Law 100-250
100th Congress

An Act

Feb. 16, 1988
[H.R. 2566]

To amend the National Parks and Recreation Act of 1978, as amended, to extend the term of the Delta Region Preservation Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That title IX of the National Parks and Recreation Act of 1978, as amended (16 U.S.C. 230), is further amended as follows:

16 USC 230.

(a) In section 901 by adding the following new phrase and renumbering subsequent phrases accordingly:

"(4) folk life centers to be established in the Acadian region;".

Cultural programs.
16 USC 230a.
Public lands.
Gifts and property.

(b) In section 902 by adding the following new subsection:

"(g) The Secretary is authorized to acquire lands or interests in lands by donation, purchase with donated or appropriated funds or exchange, not to exceed approximately 20 acres, in Acadian villages and towns. Any lands so acquired shall be developed, maintained and operated as part of the Jean Lafitte National Historical Park.".

16 USC 230f.

(c) In section 907(e) by striking out "ten years" and inserting in lieu thereof "twenty years".

Approved February 16, 1988.

LEGISLATIVE HISTORY—H.R. 2566:

HOUSE REPORTS: No. 100-304 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-251 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Sept. 29, considered and passed House.
Dec. 19, considered and passed Senate, amended.
Vol. 134 (1988): Feb. 2, House concurred in Senate amendment.

Public Law 100-251
100th Congress

An Act

To rescind certain budget authority recommended in Public Law 100-202.

Feb. 16, 1988
[H.R. 3884]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That of the funds made available in the fiscal year 1988 Foreign Operations, Export Financing and Related Programs Appropriations Act (Public Law 100-202), under the heading Migration and Refugee Assistance, $8,000,000 for the construction of educational facilities for North African Jewish refugees in France is rescinded.

101 Stat. 1329.

Approved February 16, 1988.

LEGISLATIVE HISTORY—H.R. 3884:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 2, considered and passed House and Senate.

Public Law 100-252
100th Congress

An Act

Feb. 29, 1988
[H.R. 1612]

To authorize appropriations under the Earthquake Hazards Reduction Act of 1977 for fiscal years 1988, 1989, and 1990.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 7(a) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(a)) is amended by adding at the end the following:

"(7) There are authorized to be appropriated to the Director, to carry out the provisions of sections 5 and 6 of this Act, $5,778,000 for the fiscal year ending September 30, 1988, $5,788,000 for the fiscal year ending September 30, 1989, and $5,798,000 for the fiscal year ending September 30, 1990.".

(b) Section 7(b) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(b)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $38,540,000 for the fiscal year ending September 30, 1988; $41,819,000 for the fiscal year ending September 30, 1989; and $43,283,000 for the fiscal year ending September 30, 1990".

(c) Section 7(c) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(c)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $28,235,000 for the fiscal year ending September 30, 1988; $31,634,000 for the fiscal year ending September 30, 1989; and $35,454,000 for the fiscal year ending September 30, 1990".

(d) Section 7(d) of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7706(d)) is amended—

(1) by striking "and" after "1986;"; and

(2) by inserting immediately before the period the following: "; $525,000 for the fiscal year ending September 30, 1988; $525,000 for the fiscal year ending September 30, 1989; and $525,000 for the fiscal year ending September 30, 1990".

SEC. 2. Section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) is amended by adding at the end the following:

"(j) COST SHARING.—(1) In the case of any State which has voluntarily engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over the three-fiscal-year period ending September 30, 1987, any such cost sharing that may be required for the fiscal year ending September 30, 1988, or the fiscal year ending September 30, 1989, shall be at a level no higher than the State's average level of such cost sharing over such three-year period.

"(2) In the case of any State which has not engaged in cost sharing by matching Federal grants from the Federal Emergency Management Agency for activities under this Act over such three-fiscal-year period—

"(A) no such cost sharing may be required for the fiscal year ending September 30, 1988; and

"(B) any such cost sharing that may be required for the fiscal year ending September 30, 1989, shall be at a level no higher than 25 percent of the cost of the activities involved.

"(3) Nothing in this subsection shall be construed to prevent a State, voluntarily and at its option, from engaging in cost sharing at a level higher than the maximum level which may be required of it under paragraph (1) or (2).".

Approved February 29, 1988.

LEGISLATIVE HISTORY—H.R. 1612:

HOUSE REPORTS: No. 100-89, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-239 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 8, considered and passed House.
Dec. 21, considered and passed Senate, amended.
Vol. 134 (1988): Feb. 16, House concurred in Senate amendment.

Public Law 100-253
100th Congress

An Act

To amend title 38, United States Code, to authorize reductions under certain circumstances in the downpayments required for loans made by the Veterans' Administration to finance the sales of properties acquired by the Veterans' Administration as the result of foreclosures and to clarify the calculation of available guaranty entitlement and make other technical and conforming amendments.

Feb. 29, 1988
[S. 2022]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Home Loan Program Emergency Amendments of 1988.
38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Home Loan Program Emergency Amendments of 1988".

SEC. 2. DOWNPAYMENT REQUIREMENTS FOR VENDEE LOANS.

Section 1816(d)(4)(B) of title 38, United States Code (as amended by section 6(b)(1) of Public Law 100-198), is amended—

(1) by inserting "(i)" after "(B)"; and

(2) by adding at the end the following new division:

"(ii) A loan described in subparagraph (A) of this paragraph may, to the extent the Administrator determines to be necessary in order to market competitively the property involved, exceed 95 percent of the purchase price.".

SEC. 3. AMOUNT OF GUARANTY ENTITLEMENT.

(a) CONVENTIONAL HOUSING.—Section 1803(a)(1) of title 38, United States Code (as amended by section 3(a)(1) of Public Law 100-198) is amended to read as follows:

"(a)(1)(A) Any loan to a veteran eligible for benefits under this chapter, if made for any of the purposes specified in section 1810 of this title and in compliance with the provisions of this chapter, is automatically guaranteed by the United States in an amount not to exceed the lesser of—

"(i)(I) in the case of any loan of not more than $45,000, 50 percent of the loan; or

"(II) in the case of any loan of more than $45,000, the lesser of $36,000 or 40 percent of the loan, except that the amount of such guaranty for any such loan shall not be less than $22,500; or

"(ii) the maximum amount of guaranty entitlement available to the veteran.

"(B) The maximum amount of guaranty entitlement available to a veteran under section 1810 of this chapter shall be $36,000 reduced by the amount of entitlement previously used by the veteran under this chapter and not restored as a result of the exclusion in section 1802(b) of this title.".

(b) MANUFACTURED HOUSING.—Section 1819(c) of such title (as amended by section 3(b) of Public Law 100-198) is amended—

(1) in paragraph (3), by amending the first sentence to read as follows: "The Administrator's guaranty may not exceed the

lesser of (A) the lesser of $20,000 or 40 percent of the loan, or (B) the maximum amount of guaranty entitlement available to the veteran.";

(2) in paragraph (4), by amending the first sentence to read as follows: "The maximum amount of guaranty entitlement available to a veteran under this section shall be $20,000 reduced by the amount of any such entitlement previously used by the veteran."; and

(3) by adding at the end the following new paragraph:

"(5) The amount of any loan guaranteed under this section shall not exceed an amount equal to 95 percent of the purchase price of the property securing the loan.".

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to loans which are closed on or after February 1, 1988, except that they shall not apply to any loan for which a guaranty commitment is made on or before December 31, 1987.

38 USC 1803 note.

Approved February 29, 1988.

LEGISLATIVE HISTORY—S. 2022:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 1, considered and passed Senate.
Feb. 17, considered and passed House.

Public Law 100-254
100th Congress

Joint Resolution

Feb. 29, 1988
[S.J. Res. 122]

To designate the week beginning October 16, 1988, as "Gaucher's Disease Awareness Week."

Whereas Gaucher's disease is caused by the failure of the body to produce an essential enzyme;

Whereas the absence of such enzyme causes the body to store abnormal quantities of lipids in the liver and spleen and frequently has an adverse effect on tissues in the body, particularly bone tissue;

Whereas among Jewish persons, Gaucher's disease is the most common inherited disorder affecting the metabolism of lipids, which are one of the principle structural components of living cells;

Whereas there is no known cure for Gaucher's disease and no successful treatment of the symptoms of the disease;

Whereas the increased awareness and understanding of Gaucher's disease by the people of the United States can aid in the development of a treatment and cure for the disease;

Whereas the National Gaucher's Disease Foundation provides funds for research in the United States with respect to the disease; and

Whereas research and clinical programs with respect to Gaucher's disease should be increased: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning October 16, 1988, is designated as "Gaucher's Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved February 29, 1988.

LEGISLATIVE HISTORY—S.J. Res. 122:

CONGRESSIONAL RECORD:
Vol. 133 (1987): June 25, considered and passed Senate.
Dec. 2, considered and passed House, amended.
Vol. 134 (1988): Feb. 16, Senate concurred in House amendments.

Public Law 100-255
100th Congress

An Act

To make a technical correction to section 8103 of title 46, United States Code.

Mar. 4, 1988
[H.R. 3923]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 8103(b)(3) of title 46, United States Code, is amended by striking "subsection," and substituting "section,".

Approved March 4, 1988.

LEGISLATIVE HISTORY—H.R. 3923:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 16, considered and passed House.
Feb. 19, considered and passed Senate.

Public Law 100-256
100th Congress

Joint Resolution

Mar. 8, 1988
[S.J. Res. 251]

Designating March 4, 1988, as "Department of Commerce Day".

Whereas the ability of the United States to provide for the economic security of the American people depends primarily upon the vitality of the private sector and the competitive free enterprise system;

Whereas the ability of the private sector to generate jobs and a constantly improving standard of living depends heavily on the policies which the Federal Government pursues and the services it provides;

Whereas the Congress of the United States, recognizing the importance of these policies and services, on March 4, 1913, reestablished as the Department of Commerce the executive agency created by the Act of February 14, 1903, and directed it to "foster, promote, and develop the foreign and domestic commerce" of the United States;

Whereas the Department of Commerce has been charged with many important responsibilities, including the effective administration of the trade laws, providing social and economic statistics for business and government planners, promoting the protection of intellectual property at home and abroad, advancing the Nation's science and technology and facilitating their use for public benefit, working to improve our understanding of the Earth's physical environment and ocean resources, helping the private sector take advantage of commercial opportunities in space, assisting in the growth of minority business, promoting domestic economic development, assessing policies and conducting research on telecommunications, and encouraging foreign travel to the United States; and

Whereas the officers and employees of the Department of Commerce, by their dedication, diligence, loyalty, and integrity, reflect the finest traditions of public service and, along with the important work they perform deserve public recognition as the Department of Commerce celebrates its seventy-fifth birthday: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 4, 1988, is designated as "Department of Commerce Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved March 8, 1988.

LEGISLATIVE HISTORY—S.J. Res. 251:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Mar. 2, considered and passed House.

Public Law 100-257
100th Congress

Joint Resolution

Mar. 8, 1988
[S.J. Res. 262]

To designate the month of March 1988, as "Women's History Month".

Whereas American women of every race, class, and ethnic background have made historical contributions to the growth and strength of the Nation in countless recorded and unrecorded ways;

Whereas American women have played and continue to play a critical economic, cultural, and social role in every sphere of our Nation's life by constituting a significant portion of the labor force working in and outside of the home;

Whereas American women have played a unique role throughout our history by providing the majority of the Nation's volunteer labor force and have been particularly important in the establishment of early charitable philanthropic and cultural institutions in this country;

Whereas American women of every race, class, and ethnic background served as early leaders in the forefront of every major progressive social change movement, not only to secure their own right of suffrage and equal opportunity, but also in the abolitionist movement, the emancipation movement, the industrial labor movement, the civil rights movement, and other movements to create a more fair and just society for all; and

Whereas, despite these contributions, the role of American women in history has been consistently overlooked and undervalued in the body of American history: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of March 1988, is designated as "Women's History Month", and the President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved March 8, 1988.

LEGISLATIVE HISTORY—S.J. Res. 262:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Mar. 2, considered and passed House.

Public Law 100-258
100th Congress

An Act

To designate Morgan and Lawrence Counties in Alabama as a single metropolitan statistical area.

Mar. 14, 1988
[S. 1447]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the counties of Morgan and Lawrence in Alabama shall be considered for designation as a single metropolitan statistical area by the Director of the Office of Management and Budget without regard to the portion of the Bankhead National Forest located within Lawrence County.

Approved March 14, 1988.

LEGISLATIVE HISTORY—S. 1447:

HOUSE REPORTS: No. 100-503 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 30, considered and passed Senate.
Vol. 134 (1988): Mar. 1, 2, considered and passed House.

Public Law 100-259
100th Congress

An Act

Mar. 22, 1988
[S. 557]

To restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Civil Rights Restoration Act of 1987.

SHORT TITLE

20 USC 1681 note.

SECTION 1. This Act may be cited as the "Civil Rights Restoration Act of 1987".

FINDINGS OF CONGRESS

20 USC 1687 note.

SEC. 2. The Congress finds that—

(1) certain aspects of recent decisions and opinions of the Supreme Court have unduly narrowed or cast doubt upon the broad application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964; and

(2) legislative action is necessary to restore the prior consistent and long-standing executive branch interpretation and broad, institution-wide application of those laws as previously administered.

EDUCATION AMENDMENTS AMENDMENT

SEC. 3. (a) Title IX of the Education Amendments of 1972 is amended by adding at the end the following new sections:

"INTERPRETATION OF 'PROGRAM OR ACTIVITY'

20 USC 1687.

"SEC. 908. For the purposes of this title, the term 'program or activity' and 'program' mean all of the operations of—

"(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

"(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

"(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance, except that such term does not include any operation of an entity which is controlled by a religious organization if the application of section 901 to such operation would not be consistent with the religious tenets of such organization.".

(b) Notwithstanding any provision of this Act or any amendment adopted thereto:

"NEUTRALITY WITH RESPECT TO ABORTION

"SEC. 909. Nothing in this title shall be construed to require or prohibit any person, or public or private entity, to provide or pay for any benefit or service, including the use of facilities, related to an abortion. Nothing in this section shall be construed to permit a penalty to be imposed on any person or individual because such person or individual is seeking or has received any benefit or service related to a legal abortion.". 20 USC 1688.

REHABILITATION ACT AMENDMENT

SEC. 4. Section 504 of the Rehabilitation Act of 1973 is amended— 29 USC 794.

(1) by inserting "(a)" after "SEC. 504."; and

(2) by adding at the end the following new subsections:

"(b) For the purposes of this section, the term 'program or activity' means all of the operations of—

"(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

"(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

"(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.

Health care facilities.

"(c) Small providers are not required by subsection (a) to make significant structural alterations to their existing facilities for the purpose of assuring program accessibility, if alternative means of providing the services are available. The terms used in this subsection shall be construed with reference to the regulations existing on the date of the enactment of this subsection.".

AGE DISCRIMINATION ACT AMENDMENT

42 USC 6107.

SEC. 5. Section 309 of the Age Discrimination Act of 1975 is amended—

(1) by striking out "and" at the end of paragraph (2);

(2) by striking out the period at the end of paragraph (3) and inserting "; and" in lieu thereof; and

(3) by inserting after paragraph (3) the following new paragraph:

"(4) the term 'program or activity' means all of the operations of—

"(A)(i) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(ii) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(B)(i) a college, university, or other postsecondary institution, or a public system of higher education; or

"(ii) a local educational agency (as defined in section 198(a)(10), of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(C)(i) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

"(I) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(II) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

"(ii) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(D) any other entity which is established by two or more of the entities described in subparagraph (A), (B), or (C);

any part of which is extended Federal financial assistance.".

CIVIL RIGHTS ACT AMENDMENT

SEC. 6. Title VI of the Civil Rights Act of 1964 is amended by adding at the end the following new section:

"SEC. 606. For the purposes of this title, the term 'program or activity' and the term 'program' mean all of the operations of— 42 USC 2000d-4a.

"(1)(A) a department, agency, special purpose district, or other instrumentality of a State or of a local government; or

"(B) the entity of such State or local government that distributes such assistance and each such department or agency (and each other State or local government entity) to which the assistance is extended, in the case of assistance to a State or local government;

"(2)(A) a college, university, or other postsecondary institution, or a public system of higher education; or

"(B) a local educational agency (as defined in section 198(a)(10) of the Elementary and Secondary Education Act of 1965), system of vocational education, or other school system;

"(3)(A) an entire corporation, partnership, or other private organization, or an entire sole proprietorship—

"(i) if assistance is extended to such corporation, partnership, private organization, or sole proprietorship as a whole; or

"(ii) which is principally engaged in the business of providing education, health care, housing, social services, or parks and recreation; or

"(B) the entire plant or other comparable, geographically separate facility to which Federal financial assistance is extended, in the case of any other corporation, partnership, private organization, or sole proprietorship; or

"(4) any other entity which is established by two or more of the entities described in paragraph (1), (2), or (3);

any part of which is extended Federal financial assistance.".

RULE OF CONSTRUCTION

SEC. 7. Nothing in the amendments made by this Act shall be construed to extend the application of the Acts so amended to ultimate beneficiaries of Federal financial assistance excluded from coverage before the enactment of this Act. 20 USC 1687 note.

ABORTION NEUTRALITY

SEC. 8. No provision of this Act or any amendment made by this Act shall be construed to force or require any individual or hospital or any other institution, program, or activity receiving Federal Funds to perform or pay for an abortion. 20 USC 1688 note.

CLARIFICATION OF INDIVIDUALS WITH HANDICAPS IN THE EMPLOYMENT CONTEXT

SEC. 9. Section 7(8) of the Rehabilitation Act of 1973 is amended by adding after subparagraph (B) the following: 29 USC 706.

"(C) For the purpose of sections 503 and 504, as such sections relate to employment, such term does not include an individual who

has a currently contagious disease or infection and who, by reason of such disease or infection, would constitute a direct threat to the health or safety of other individuals or who, by reason of the currently contagious disease or infection, is unable to perform the duties of the job.".

JIM WRIGHT
Speaker of the House of Representatives.

HARRY M. REID
Acting President of the Senate pro tempore.

IN THE SENATE OF THE UNITED STATES,

March 22 (legislative day, March 21), 1988.

The Senate having proceeded to reconsider the bill (S. 557) entitled "An Act to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964", returned by the President of the United States with his objections, to the Senate, in which it originated, it was

Resolved, That the said bill pass, two-thirds of the Senators present having voted in the affirmative.

Attest:

WALTER J. STEWART
Secretary.

I certify that this Act originated in the Senate.

WALTER J. STEWART
Secretary.

IN THE HOUSE OF REPRESENTATIVES, U.S.,

March 22, 1988.

The House of Representatives having proceeded to reconsider the bill (S. 557) entitled "An Act to restore the broad scope of coverage and to clarify the application of title IX of the Education Amendments of 1972, section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, and title VI of the Civil Rights Act of 1964", returned by the President of the United States with his objections, to the Senate, in which it originated, and passed by the Senate on reconsideration of the same, it was

Resolved. That the said bill pass, two-thirds of the House of Representatives agreeing to pass the same.

Attest:

DONNALD K. ANDERSON
Clerk.

LEGISLATIVE HISTORY—S. 557:

SENATE REPORTS: No. 100-64 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Jan. 26-28, considered and passed Senate.
Mar. 2, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Mar. 16, Presidential veto messages.
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 22, Senate and House overrode veto.

Public Law 100-260
100th Congress

Joint Resolution

To designate March 16, 1988, as "Freedom of Information Day".

Mar. 23, 1988
[S.J. Res. 126]

Whereas a fundamental principle of our Government is that a well-informed citizenry can reach the important decisions that determine the present and future of the Nation;

Whereas the freedoms we cherish as Americans are fostered by free access to information;

Whereas many Americans, because they have never known any other way of life, take for granted the guarantee of free access to information that derives from the First Amendment to the Constitution of the United States;

Whereas the guarantee of free access to information should be emphasized and celebrated annually; and

Whereas March 16 is the anniversary of the birth of James Madison, one of the Founding Fathers, who recognized and supported the need to guarantee individual rights through the Bill of Rights: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 16, 1988, is designated as "Freedom of Information Day", and the President is authorized and requested to issue a proclamation calling upon Federal, State, and local government agencies and the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved March 23, 1988.

LEGISLATIVE HISTORY—S.J. Res. 126:

CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 30, considered and passed Senate.
Vol. 134 (1988): Mar. 15, considered and passed House.

Public Law 100-261
100th Congress

Joint Resolution

Mar. 23, 1988
[S.J. Res. 252]

Designating June 5–11, 1988, as "National NHS—NeighborWorks Week".

Whereas Neighborhood Housing Services (NHS) and its affiliated partnership organizations of neighborhood residents, local governments, and businesses all comprise the NeighborWorks Network;

Whereas the NeighborWorks Network is successfully revitalizing declining neighborhoods and building and rehabilitating housing for lower income Americans in 137 cities throughout the United States;

Whereas America's neighborhoods are made up of families of a variety of ethnic, social, and economic backgrounds and such diversity is fundamental to a strong nation;

Whereas deterioration of a neighborhood's physical, economic, and social structures harms the neighborhood's homes, businesses, and residents and especially harms the neighborhood's elderly and poor residents;

Whereas reversing such deterioration is essential to the strength of America's families, neighborhoods, and businesses;

Whereas the NeighborWorks Network has generated over $4,000,000,000 in reinvestment funds for 297 declining neighborhoods and has improved the quality of life of over 3 million individuals, the majority of whom are lower income, elderly, or minority Americans;

Whereas more than 3,000 businesses and local governments are annually contributing over $16,000,000 to the operations of their local NeighborWorks partnerships; and

Whereas, to accomplish their goals, NHS and both Apartment Improvement Programs and Mutual Housing Associations in the NeighborWorks partnerships rely on local government and private sector resources and on the help of thousands of volunteers who contribute millions of hours of service to rebuild America's declining neighborhoods: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 5–11, 1988, is designated as "National NHS—NeighborWorks Week" and the President is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved March 23, 1988.

LEGISLATIVE HISTORY—S.J. Res. 252:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Mar. 10, considered and passed House.

Public Law 100-262
100th Congress

Joint Resolution

Mar. 23, 1988
[S.J. Res. 265]

To designate March 20, 1988 as "National Agriculture Day".

Whereas agriculture is the Nation's largest and most basic industry, and its associated production, processing, and marketing segments together provide more jobs than any other single industry;

Whereas agriculture serves all Americans by providing food, fiber, and other basic necessities of life;

Whereas the performance of the agricultural economy is vital to maintaining the strength of our national economy, the standard of living of our citizens, and our presence in world trade markets;

Whereas it is important that all Americans should understand the role that agriculture plays in their lives and well-being, whether they live in urban or rural areas; and

Whereas, since 1973, the first day of spring has been celebrated as National Agriculture Day by farmers and ranchers, commodity and farm organizations, cooperatives and agribusiness organizations, nonprofit and community organizations, and Federal, State, and local governments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 20, 1988, is hereby proclaimed "National Agriculture Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this day with appropriate ceremonies and activities during the week of March 20 through March 26, 1988.

Approved March 23, 1988.

LEGISLATIVE HISTORY—S.J. Res. 265:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Mar. 17, considered and passed House.

Public Law 100-263
100th Congress

Joint Resolution

To designate the period commencing on May 9, 1988, and ending on May 15, 1988, as "National Stuttering Awareness Week".

Mar. 24, 1988
[S.J. Res. 125]

Whereas stuttering occurs when the natural flow of speech is interrupted, such as with the inability to produce certain sounds, or when an initial sound, word, or phrase is repeated;

Whereas over 3,000,000 Americans, both children and adults, suffer from this handicap;

Whereas there is a tendency for stuttering to be an inherited trait which can often be traced through family genealogy;

Whereas men have been found to be four times as likely as women to have this disorder, the same male to female ratio as with some learning disorders;

Whereas it should be recognized that although there is no known cure for stuttering, there is help available, and that available help should be emphasized; and

Whereas there has been no national recognition of the condition known as stuttering, and the public and Federal Government are not sufficiently aware of the frustration and anxiety felt by persons who stutter and the diminished self-respect and self-esteem which follows: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on May 9, 1988, and ending on May 15, 1988, is designated as "National Stuttering Awareness Week", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such period with appropriate ceremonies and activities.

Approved March 24, 1988.

LEGISLATIVE HISTORY—S.J. Res. 125:

CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 30, considered and passed Senate.
Vol. 134 (1988): Mar. 10, considered and passed House.

Public Law 100-264
100th Congress

An Act

Mar. 25, 1988
[H.R. 3689]

To designate the United States Post Office Building located at 300 Sycamore Street in Waterloo, Iowa, as the "H. R. Gross Post Office Building".

Public buildings and grounds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office Building located at 300 Sycamore Street in Waterloo, Iowa, is hereby designated as the "H. R. Gross Post Office Building". Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "H. R. Gross Post Office Building".

Approved March 25, 1988.

LEGISLATIVE HISTORY—H.R. 3689:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 23, considered and passed House.
Mar. 3, considered and passed Senate.

Public Law 100-265
100th Congress

Joint Resolution

Approving the location of the Black Revolutionary War Patriots Memorial.

Mar. 25, 1988
[S.J. Res. 216]

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (100 Stat. 3650, 3651), provides that the location of a commemorative work in the area described therein as area I shall be deemed disapproved unless, not later than one hundred and fifty days after the Secretary of the Interior or the Administrator of General Services notifies the Congress of his determination that the commemorative work should be located in area I, the location is approved by law;

Whereas the joint resolution approved October 27, 1986 (100 Stat. 3144), authorizes the Black Revolutionary War Patriots Foundation to establish a memorial on Federal land in the District of Columbia and its environs to honor the estimated five thousand courageous slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the countless black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial authorized by the said joint resolution approved October 27, 1986, should be located in area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the location of a commemorative work to honor the slaves and free black persons who served as soldiers and sailors or provided civilian assistance during the American Revolution and to honor the black men, women, and children who ran away from slavery or filed petitions with courts and legislatures seeking their freedom, authorized by the joint resolution approved October 27, 1986 (100 Stat. 3144), in the area described in the Act approved November 14, 1986 (100 Stat. 3650), as area I, is hereby approved.

40 USC 1003 note.

Approved March 25, 1988.

LEGISLATIVE HISTORY—S.J. Res. 216:

HOUSE REPORTS: No. 100-215 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-288 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Mar. 15, considered and passed House.

Public Law 100-266
100th Congress

Joint Resolution

Mar. 25, 1988
[S.J. Res. 218]

To designate March 25, 1988, as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy".

Whereas the ancient Greeks developed the concept of democracy, in which the supreme power to govern was vested in the people;
Whereas the Founding Fathers of the United States of America drew heavily upon the political and philosophical experience of ancient Greece in forming our representative democracy;
Whereas March 25, 1988, marks the one hundred and sixty-seventh anniversary of the beginning of the revolution which freed the Greek people from the Ottoman Empire;
Whereas these and other ideals have forged a close bond between our two nations and their peoples; and
Whereas it is proper and desirable to celebrate with the Greek people, and to reaffirm the democratic principles from which our two great nations sprang: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 25, 1988, is designated as "Greek Independence Day: A National Day of Celebration of Greek and American Democracy", and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated day with appropriate ceremonies and activities.

Approved March 25, 1988.

LEGISLATIVE HISTORY—S.J. Res. 218:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 17, considered and passed Senate.
Mar. 10, considered and passed House.

Public Law 100-267
100th Congress

Joint Resolution

Approving the location of the Korean War Memorial.

Mar. 28, 1988
[S.J. Res. 225]

Whereas section 6(a) of the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes," approved November 14, 1986 (100 Stat. 3650, 3651), provides that the location of a commemorative work in the area described therein as Area I shall be deemed disapproved unless, not later than 150 days after the Secretary of the Interior or the Administrator of General Services notifies the Congress of his determination that the commemorative work should be located in Area I, the location is approved by law;

Whereas the Act approved October 28, 1986 (100 Stat. 3226), authorizes The American Battle Monuments Commission to establish a memorial on Federal land in the District of Columbia and its environs to honor members of the Armed Forces of the United States who served in the Korean War, particularly those who were killed in action, are still listed as missing in action, or were held as prisoners of war; and

Whereas the Secretary of the Interior has notified the Congress of his determination that the memorial authorized by the said Act approved October 28, 1986, should be located in Area I: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the location of a commemorative work to honor members of the Armed Forces who served in the Korean War, particularly those who were killed in action, are still listed as missing in action, or were held as prisoners of war, authorized by the Act approved October 28, 1986 (100 Stat. 3226), in the area described in the Act approved November 14, 1986 (100 Stat. 3650), as Area I, is hereby approved.

40 USC 1003 note.

Approved March 28, 1988.

LEGISLATIVE HISTORY—S.J. Res. 225:

HOUSE REPORTS: No. 100-516 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-289 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Mar. 15, 16, considered and passed House.

Public Law 100-268
100th Congress

Joint Resolution

Mar. 28, 1988
[S.J. Res. 229]

To designate the day of April 1, 1988, as "Run to Daylight Day".

Whereas between one million and one million eight hundred thousand people in the United States suffer head injuries each year;

Whereas twenty years ago 90 per centum of the people who suffered severe head injuries died as a result of such injuries, but currently the survival rate for such injuries is 50 per centum;

Whereas most people who suffer head injuries are under thirty years of age and will survive such injuries for at least forty years;

Whereas more than fifty thousand of the people who survive head injuries annually are unable to resume their normal lifestyles without intensive physical and psychological therapy;

Whereas the long term rehabilitation that is available for survivors of head injuries has not improved at the same rate as the medical treatment of such injuries;

Whereas Run to Daylight, a nonprofit corporation concerned with improving the rehabilitation that is available for survivors of head injuries, is sponsoring a three-thousand-six-hundred-mile run across the United States called the "Run to Daylight";

Whereas the purpose of the "Run to Daylight" is to raise the awareness of the people of the United States about the rehabilitation needs of survivors of head injuries and to raise funds to support the National Head Injury Foundation, an organization dedicated to improving the quality of life for survivors of such injuries and their families and to developing and supporting programs to prevent such injuries; and

Whereas the "Run to Daylight" will begin in San Francisco, California, on April 1, 1988, and will end in Boston, Massachusetts, on June 30, 1988: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1, 1988, is designated as "Run to Daylight Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Approved March 28, 1988.

LEGISLATIVE HISTORY—S.J. Res. 229:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Mar. 17, considered and passed House.

Public Law 100-269
100th Congress

Joint Resolution

Designating April 9, 1988, as "National Former Prisoners of War Recognition Day".

Mar. 28, 1988
[S.J. Res. 253]

Whereas the United States has fought in many wars;
Whereas thousands of members of the Armed Forces of the United States who served in such wars were captured by the enemy and held as prisoners of war;
Whereas many such prisoners of war were subjected to brutal and inhumane treatment by their captors in violation of international codes and customs for the treatment of prisoners of war and died, or were disabled, as a result of such treatment;
Whereas in 1985, the United States Congress (in Public Law 99-145) directed the Department of Defense to issue a medal to former prisoners of war in recognition and commemoration of their great sacrifices in service to our Nation; and
Whereas these great sacrifices of former prisoners of war and their families deserve national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 9, 1988, is designated as "National Former Prisoners of War Recognition Day" in honor of the members of the Armed Forces of the United States who have been held as prisoners of war, and the President is authorized and requested to issue a proclamation calling upon the people of the United States to commemorate such days with appropriate ceremonies and activities.

Approved March 28, 1988.

LEGISLATIVE HISTORY—S.J. Res. 253:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Mar. 17, considered and passed House.

Public Law 100-270
100th Congress

Joint Resolution

Mar. 29, 1988
[S.J. Res. 244]

To designate the month of April 1988, as "National Know Your Cholesterol Month".

Whereas heart attacks struck an estimated 1,500,000 Americans in 1987, a third of whom died immediately;

Whereas scientific data indicates that effective measures to lower serum cholesterol are capable of decreasing occurrences of heart disease;

Whereas only 8 per centum of Americans know their cholesterol level; and

Whereas as many as 250,000 lives could be saved each year if Americans were tested for and took action to reduce high levels of cholesterol: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of April 1988, is designated as "National Know Your Cholesterol Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs and activities.

Approved March 29, 1988.

LEGISLATIVE HISTORY—S.J. Res. 244:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Mar. 17, considered and passed House.

Public Law 100-271
100th Congress

An Act

To amend the Department of Defense Authorization Act, 1985, to extend medical benefits for certain former spouses.

Mar. 29, 1988
[H.R. 3967]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF MEDICAL BENEFITS FOR CERTAIN FORMER SPOUSES.

Section 645(c) of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 98 Stat. 2549), is amended by striking out "April 1, 1988," and inserting in lieu thereof "December 31, 1988,". 10 USC 1072 note.

Approved March 29, 1988.

LEGISLATIVE HISTORY—H.R. 3967:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 9, considered and passed House.
Mar. 17, considered and passed Senate.

Public Law 100-272
100th Congress

Joint Resolution

Mar. 30, 1988
[S.J. Res. 185]

To designate the period commencing on May 2, 1988, and ending on May 8, 1988, as "National Drinking Water Week".

Whereas water itself is God-given, and the drinking water that flows dependably through our household taps results from the dedication of the men and women who operate the public water systems of collection, storage, treatment, testing, and distribution that insures that drinking water is available, affordable, and of unquestionable quality;

Whereas the advances in health effects research and water analysis and treatment technologies, in conjunction with the Safe Drinking Water Act Amendments of 1986 (Public Law 99-339), could create major changes in the production and distribution of drinking water;

Whereas this substance, which the public uses with confidence in so many productive ways, is without doubt the single most important product in the world and a significant issue of the future;

Whereas the public expects high quality drinking water to always be there when needed; and

Whereas the public continues to increase its demand for drinking water of unquestionable quality: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on May 2, 1988, and ending on May 8, 1988, is designated as "National Drinking Water Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate ceremonies, activities, and programs designed to enhance public awareness of drinking water issues and public recognition of the difference that drinking water makes to the health, safety, and quality of the life we enjoy.

Approved March 30, 1988.

LEGISLATIVE HISTORY—S.J. Res. 185:

CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 30, considered and passed Senate.
Vol. 134 (1988): Mar. 22, considered and passed House.

Public Law 100-273
100th Congress

Joint Resolution

To authorize and request the President to issue a proclamation designating April 24 through April 30, 1988, as "National Organ and Tissue Donor Awareness Week".

Mar. 30, 1988
[S.J. Res. 255]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating April 24 through April 30, 1988, as "National Organ and Tissue Donor Awareness Week".

Approved March 30, 1988.

LEGISLATIVE HISTORY—S.J. Res. 255:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Mar. 22, considered and passed House.

Public Law 100-274
100th Congress

An Act

Mar. 31, 1988
[H.R. 2631]

To authorize appropriations for the Bureau of the Mint for fiscal year 1988, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 5132(a) of title 31, United States Code, is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraphs:

"(2) Not more than $46,511,000 may be appropriated to the Secretary for the fiscal year ending on September 30, 1988, to pay costs of the mints. Not more than $965,000 of amounts appropriated pursuant to the preceding sentence shall remain available until expended for research and development.

"(3) Of amounts appropriated pursuant to paragraph (2), not more than $75,000 may be expended for the purpose of hosting the International Mint Directors' Conference in the United States in 1988, including reception, representation, and transportation expenses.

"(4) Notwithstanding sections 3302 and 9701 of this title, the Director of the Mint may—

"(A) collect from participants at the International Mint Directors' Conference reasonable amounts imposed as fees and other assessments in connection with such conference;

"(B) hold and administer the amounts referred to in subparagraph (A); and

"(C) spend on behalf of the United States the amounts referred to in subparagraph (A) to pay expenses incurred in connection with such conference, including reception, representation, and transportation expenses.".

New York.

SEC. 2. REDESIGNATION OF ASSAY OFFICES AS MINTS.

California.

(a) SAN FRANCISCO.—Section 5131(a)(4) of title 31, United States Code, is amended by striking out "assay office" and inserting in lieu thereof "mint".

(b) WEST POINT.—Section 5131(a)(3) of title 31, United States Code, is amended by striking out "assay office at New York" and inserting in lieu thereof "mint at West Point".

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) The first sentence of section 5131(b) of title 31, United States Code, is amended by striking out "and assay offices, except that only bars may be made at the assay offices".

(2) Section 5131(c) of such title is amended by striking out "and the assay office at New York have" and inserting in lieu thereof "has".

(3) Section 5132(b) of such title is amended by striking out "and assay offices".

(4) Section 5133(a)(1) of such title is amended by striking out "and the assay office at New York and the officer in charge of the assay office at San Francisco" and by striking out "or officer".

(5) Section 5133(a)(2) of such title is amended by striking out "and the officer" and by striking out "or officer".

(6) Section 5133(a)(3) of such title is amended by striking out "and the officer".

(7) Section 5133(b) of such title is amended to read as follows:

"(b) SETTLEMENT OF ACCOUNTS.—

"(1) IN GENERAL.—At least once each year, the Secretary of the Treasury shall settle the accounts of the superintendents of the mints.

"(2) PROCEDURE.—At any settlement under this subsection, the superintendent shall—

"(A) return to the Secretary any coin, clipping, or other bullion in the possession of the superintendent; and

"(B) present the Secretary with a statement of bullion received and returned since the last settlement (including any bullion returned for settlement).

"(3) AUDIT.—The Secretary shall—

"(A) audit the accounts of each superintendent; and

"(B) allow each superintendent the waste of precious metals that the Secretary determines is necessary—

"(i) for refining and minting (within the limitations which the Secretary shall prescribe); and

"(ii) for casting fine gold and silver bars (within the limit prescribed for refining), except that any waste allowance under this clause may not apply to deposit operations.".

(8) Upon the enactment of this Act, the superintendent of the United States Assay Office at New York, New York, shall assume the position of superintendent of the Mint at West Point, New York.

(9) Section 5133(c) of such title is amended by striking out "and assay offices".

(10) Section 5133(d) of such title is amended—

(A) in the first sentence, by striking out "and assay office"; and

(B) in the third sentence, by striking out "and assay offices".

SEC. 3. PROTECTION OF INTEGRITY OF COINAGE MANUFACTURE.

Section 5111(c) of title 31, United States Code, is amended to read as follows:

"(c) PROCUREMENTS RELATING TO COIN PRODUCTION.—

"(1) IN GENERAL.—The Secretary may make contracts, on conditions the Secretary decides are appropriate and are in the public interest, to acquire articles, materials, supplies, and services (including equipment, manufacturing facilities, patents, patent rights, technical knowledge, and assistance) necessary to produce the coins referred to in this title. Contracts. Patents and trademarks.

"(2) DOMESTIC CONTROL OF COINAGE.—(A) Subject to subparagraph (B), in order to protect the national security through domestic control of the coinage process, the Secretary shall acquire only such articles, materials, supplies, and services (including equipment, manufacturing facilities, patents, patent Defense and national security. Federal Register, publication. Patents and trademarks.

rights, technical knowledge, and assistance) for the production of coins as have been produced or manufactured in the United States unless the Secretary determines it to be inconsistent with the public interest, or the cost to be unreasonable, and publishes in the Federal Register a written finding stating the basis for the determination.

"(B) Subparagraph (A) shall apply only in the case of a bid or offer from a supplier the principal place of business of which is in a foreign country which does not accord to United States companies the same competitive opportunities for procurements in connection with the production of coins as it accords to domestic companies.

"(3) DETERMINATION.—

"(A) IN GENERAL.—Any determination of the Secretary referred to in paragraph (2) shall not be reviewable in any administrative proceeding or court of the United States.

"(B) OTHER RIGHTS UNAFFECTED.—This paragraph does not alter or annul any right of review that arises under any provision of any law or regulation of the United States other than paragraph (2).

"(4) Nothing in paragraph (2) of this subsection in any way affects the procurement by the Secretary of gold and silver for the production of coins by the United States Mint.".

SEC. 4. STANDARDS FOR GOLD COINS.

(a) FINENESS.—Section 5112(b) of title 31, United States Code, is amended by inserting the following sentence before the last sentence: "In minting gold coins, the Secretary shall use alloys that vary not more than 0.1 percent from the percent of gold required.".

(b) WEIGHT.—Section 5113(a) of title 31, United States Code, is amended by adding at the end thereof the following new sentence: "Any gold coin issued under section 5112 of this title shall contain the full weight of gold stated on the coin.".

SEC. 5. GOLD SALES TO BE USED SOLELY TO REDUCE NATIONAL DEBT.

The second sentence of section 5116(a)(2) of title 31, United States Code, is amended to read as follows: "Amounts received from the sale of gold shall be deposited by the Secretary in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.".

SEC. 6. BULK SALES OF SILVER BULLION COINS.

Section 5112(f) of title 31, United States Code, is amended to read as follows:

"(f) SILVER COINS.—

"(1) SALE PRICE.—The Secretary shall sell the coins minted under subsection (e) to the public at a price equal to the market value of the bullion at the time of sale, plus the cost of minting, marketing, and distributing such coins (including labor, materials, dies, use of machinery, and promotional and overhead expenses).

"(2) BULK SALES.—The Secretary shall make bulk sales of the coins minted under subsection (e) at a reasonable discount.

"(3) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of this title, all coins minted under subsection (e) shall be considered to be numismatic items.".

Approved March 31, 1988.

LEGISLATIVE HISTORY—H.R. 2631:

SENATE REPORTS: No. 100-260 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 6, considered and passed House.
Vol. 134 (1988): Feb. 17, considered and passed Senate, amended.
Mar. 10, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Mar. 31, Presidential statement.

Public Law 100-275
100th Congress

An Act

Mar. 31, 1988
[S. 854]

Entitled the "Nevada-Florida Land Exchange Authorization Act of 1988".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Nevada-Florida Land Exchange Authorization Act of 1988.
Public lands.
Contracts.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Nevada-Florida Land Exchange Authorization Act of 1988".

SEC. 2. DEFINITIONS.

As used in this Act:

(1) The term "land" means lands and interests (including the reserved mineral estate) therein, including leaseholds.

(2) The term "Secretary" means the Secretary of the Interior.

(3) The term "Aerojet" means the Aerojet-General Corporation, an Ohio corporation.

(4) The term "exchange agreement" means an agreement between the Secretary and Aerojet which is entered into for purposes of making the exchange authorized by this Act and which meets the requirements of this Act.

(5) The term "lease agreement" means an agreement between the Secretary and Aerojet which is entered into for the purpose of making the lease authorized and directed by this Act and which meets the requirements of this Act.

(6) The term "endangered or threatened species" means an endangered species or a threatened species, as defined in the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.).

SEC. 3. EXCHANGE.

(a) AUTHORIZATION.—Subject to valid existing rights, the Secretary is authorized and directed to convey and lease public lands in the State of Nevada, described in subsection (b)(1), in exchange for the conveyance to the United States of the lands in Dade County, Florida, described in subsection (b)(2).

(b) LANDS TO BE EXCHANGED.—

(1) NEVADA.—(A) Public lands to be conveyed by the Secretary pursuant to this Act are the public lands, comprised of approximately twenty-eight thousand eight hundred acres, described as "For Conveyance to Aerojet General Corporation" on the map entitled "Public Domain Lands to be Exchanged and Leased to Aerojet-General Corporation, Clark and Lincoln Counties, Nevada," dated October 1987, and the public lands, comprised of approximately ten thousand and forty acres, generally depicted on the map entitled "Public Domain Lands to be Exchanged to Aerojet-General Corporation, Mineral County, Nevada," dated February 1987.

(B) In furtherance of an exchange pursuant to this Act, the Secretary shall also lease to Aerojet the lands described in section 4.

(2) FLORIDA.—The private lands to be acquired by the Secretary pursuant to this Act are all right, title, and interest of Aerojet (exclusive of severable use rights) in and to approximately four thousand six hundred and fifty acres of land as generally depicted on the map entitled "Aerojet-General Corporation Lands to be Exchanged to United States Fish and Wildlife Service, Dade County, Florida," dated February 1987, and available for inspection in the Office of the Secretary. Public information.

(c) CONVEYANCE DOCUMENTS.—

(1) BEFORE SURVEY.—Lands to be conveyed by the United States pursuant to this Act which have not been surveyed, or with respect to which any boundary needs to be surveyed, shall be conveyed by an interim conveyance. An interim conveyance under this paragraph shall convey to and vest in the recipient the same right, title, and interest in and to such lands as the recipient would have received in a patent issued pursuant to this Act. Patents and trademarks.

(2) PATENT.—Upon being surveyed, the Secretary shall issue a patent for such lands. The boundary of such lands shall be that which was defined in and conveyed by the interim conveyance, except that the boundary may be corrected and redescribed in the patent, where necessary, as a result of the survey of such lands.

(3) FINALITY.—The issuance of an interim conveyance or patent pursuant to this section shall be subject to valid existing rights and shall be final and irrevocable. The United States shall not be required to accept a reconveyance or to take any actions with regard to the lands covered by such interim conveyance or patent.

(4) DISCREPANCIES.—The acreages cited in this Act are approximate, and in the event of discrepancies between cited acreages and the maps referred to in this section, the maps shall control.

(d) TERMS AND CONDITIONS.—The Secretary shall include in any interim conveyance, patent, or lease subject to this Act all terms and conditions required by this Act. Such terms and conditions shall apply to all subsequent purchasers, transferees, and other holders of any land covered by any such interim conveyance, patent, or lease.

(e) LEGAL DESCRIPTION.—Within six months after the completion of an exchange pursuant to this Act, the Secretary shall file maps and legal descriptions of the lands so exchanged (including lands conveyed and leased by the United States) with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. Such legal descriptions shall have the same force and effect as if included in this Act, except that the Secretary may correct clerical and typographical errors in such legal descriptions and in the maps referred to in subsection (a). Such legal descriptions and maps shall also be on file and available for public inspection in the Nevada office of the State Director of the Bureau of Land Management, Department of the Interior. For purposes of this subsection, the issuance of a conveyance document (either a patent or an interim conveyance) or lease, whichever is later, shall constitute completion of an exchange. Public information. Patents and trademarks.

SEC. 4. LEASE OF CERTAIN LANDS IN NEVADA.

(a) LEASE.—

(1) GENERAL AUTHORITY.—The Secretary is authorized and directed to lease to Aerojet the approximately fourteen thousand acres of public lands described as "for Lease to Aerojet" on the map entitled "Public Lands to be Exchanged and Leased to Aerojet-General Corporation, Clark and Lincoln Counties, Nevada," dated October 1987. Any such lease shall be subject to subsection (b) and to the terms and conditions specified in section 5.

Minerals and mining.

(2) WITHDRAWAL.—Subject to valid existing rights, the lands described in paragraph (1) are withdrawn from all forms of entry and appropriation under the public land laws (including the mining laws) and from the operation of the mineral leasing and geothermal leasing laws. The withdrawal of such lands shall remain in effect so long as such lands are leased under authority of this Act.

(b) REQUIREMENTS RELATING TO LEASE.—

(1) TERM.—Any lease issued pursuant to subsection (a) shall be for an initial term of ninety-nine years, during which time no rental shall be required to be paid to the United States. Lands leased pursuant to subsection (a) shall not be deemed to be entitlement lands for purposes of Public Law 94-565 (31 U.S.C. 1601 et seq.).

(2) USE OF LEASED LANDS.—During the term of any lease issued pursuant to subsection (a), the lessee shall be entitled to use the lands which are subject to such lease only for purposes of constructing and using necessary roads, utility lines, storage facilities, and wells. The lessee also shall be entitled to use such lands for such other related purposes as the Secretary may from time to time permit, subject to the requirements of this Act and other applicable law and to reasonable requirements the Secretary, acting through the Director of the Fish and Wildlife Service, may establish for the protection of fish, wildlife, or plants. The lease shall provide that the lessee shall consult with the Secretary concerning the location of any roads, utility lines, facilities, and wells on the leased lands, and that with regard to any such location, the lessee, so far as possible, shall follow recommendations of the Secretary intended to minimize adverse impacts on the desert tortoise and other species of wildlife or plants.

Fish and fishing.
Plants.
Wildlife.

(3) FISH, WILDLIFE, AND PLANTS.—Any lease issued pursuant to subsection (a) shall require the lessee to take all reasonable steps the Secretary, acting through the Director of the Fish and Wildlife Service, may from time to time require to minimize adverse impacts on desert tortoises and any other species of fish, wildlife, and plants (including, but not limited to, endangered or threatened species) from the lessee's activities occurring on such lands.

(4) ASSIGNABILITY.—A lease issued pursuant to this section may be assigned or transferred by Aerojet only with the consent of the Secretary, which shall not be unreasonably withheld.

SEC. 5. CONDITIONS OF EXCHANGE.

(a) VALUE.—

(1) EQUALIZATION OF VALUE.—Any exchange of lands pursuant to this Act shall be on the basis of equal value as determined by the Secretary, except that the Secretary may accept a payment of money in order to equalize values between lands transferred,

or leased, to Aerojet by the Secretary and lands transferred to the United States by Aerojet. The Secretary shall require that any conveyance of a production well drilled at Federal expense which Aerojet or its successors or assigns subsequently uses for withdrawal of water for industrial purposes shall be in consideration of receipt by the United States of land or money equal in value to the cost of drilling a well suitable for industrial purposes and located at the same site as the well conveyed.

Water. Business and industry.

(2) APPRAISAL.—Any determination by the Secretary of values of lands to be conveyed or leased by the Secretary pursuant to this Act shall be based on the fair market value of such lands, as determined by appraisals carried out in accordance with established procedures used by the Bureau of Land Management and done after the date of enactment of this Act by qualified appraisers selected and reimbursed by the Secretary. The values of lands to be conveyed by Aerojet pursuant to this Act shall be the values agreed to pursuant to section 7(a).

(3) NOTICE AND PUBLIC INSPECTION.—Upon completion of such appraisals, the Secretary shall—

(A) publish in newspapers of general circulation in Clark, Lincoln, and Mineral Counties, Nevada, a notice as to where and when the results of appraisals carried out pursuant to this Act will be available for public inspection, and

(B) transmit to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives a copy of such appraisals and the determination by the Secretary of the values of lands to be conveyed and leased.

The Secretary shall not issue any interim conveyance, patent, or lease pursuant to this Act before ten days after such transmittals are made to the committees specified in subparagraph (B).

(b) TRANSMISSION CORRIDOR.—

(1) RESERVATION TO THE UNITED STATES.—The transfer of the lands in Clark and Lincoln Counties, Nevada to be conveyed to Aerojet under this Act shall be subject to the reservation to the United States of the right-of-way corridor described in the draft exchange agreement referred to in subsection (g). This corridor shall be designated and administered by the Secretary, who may grant rights-of-way over, upon, under, and through the corridor for systems and facilities used or useful for the construction, operation, and maintenance of electric transmission lines consistent with title V of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1761 et seq.).

Energy.

(2) ACTIVITIES IN TRANSMISSION CORRIDOR.—Activities to construct, operate, and maintain electric transmission lines within the corridor shall be given priority over all conflicting activities. The Secretary shall take all reasonable actions to facilitate and protect the activities planned and proposed for the land in Clark County and Lincoln County, Nevada, referred to in section 3(b), by Aerojet-General Corporation relating to the development, manufacture, and testing of rocket motors or other aerospace and defense products, including the granting of rights-of-way to Aerojet-General Corporation for roads across the corridor connecting the eastern and western portions of the land in Clark County and Lincoln County, Nevada, referred to in section 3(b).

Defense and national security.

(3) ALTERNATIVE TO CORRIDOR ON CERTAIN LANDS.—If, after five years from the date of enactment of this Act, other public lands within the six-mile width of land immediately west of the Clark County and Lincoln County, Nevada, land referred to in section 3(b) are returned to multiple use, are suitable as an alternative to the corridor reserved in this subsection, and are made available for the construction, operation, and maintenance of electric transmission lines, no further rights-of-way or other rights or privileges to construct, operate, and maintain electric transmission lines within the corridor reserved in this subsection shall be granted by the Secretary unless—

(A) such rights-of-way or other rights or privileges are pursuant to or in furtherance or continuation of the specific rights referred to in subsection (c);

(B) at the time the land becomes so available there is pending an application for a right-of-way in the corridor reserved in this subsection and in the opinion of the Secretary such application is being diligently pursued; or

(C) such rights-of-way or other rights or privileges are in renewal of a right-of-way granted prior to the land becoming so available.

Energy.
Utah.

(c) PRESERVATION OF EXISTING RIGHTS.—The existing rights referred to in section 3(a) include the right-of-way (Number U-42519, granted April 3, 1980) to construct, operate, and maintain an electric transmission line from the Intermountain Power Project at Delta, Utah, through the land in Clark County and Lincoln County, Nevada, referred to in section 3(b), and the interest of the White Pine Power Project in the Southern Transmission System (described and analyzed in the final Environmental Impact Statement as the selected alternative and displayed on the map attached to the Record of Decision approved on March 26, 1985), within the land in Clark County and Lincoln County, Nevada, referred to in section 3(b). Nothing in this Act or in the draft exchange agreement referred to in subsection (g) shall negate or diminish such existing rights in any respect, except that (unless otherwise agreed to by the owner of the land in Clark County and Lincoln County, Nevada, referred to in section 3(b)) on and after the consummation of the exchange of lands authorized by this Act and without further act by the holders of such existing rights, such existing rights shall be altered so that—

(1) all transmission lines and related facilities to be located on the land in Clark County and Lincoln County, Nevada, referred to in section 3(b) pursuant to such existing rights may only be located within the corridor referenced in subsection (b); and

(2) the right to locate such transmission lines and related facilities pursuant to such existing rights on the land in Clark County and Lincoln County, Nevada, referred to in section 3(b) outside of that corridor shall be extinguished and of no further force or effect.

Safety.

(d) OFF-ROAD VEHICLES AND ALL-TERRAIN VEHICLES.—Except for purposes of administration or in cases of emergency or for public safety, off-road vehicles and all-terrain vehicles may not be used on unroaded portions of land located in the State of Nevada which is conveyed or leased under this Act.

Claims.

(e) IMMUNITY.—Notwithstanding any other provision of law, the United States, its officers, employees, and instrumentalities, may not be held liable for, and shall be immune from, any claim arising

from any acts or omissions of Aerojet, its employees, agents, successors, or assigns, on or related to any land conveyed or leased pursuant to this Act.

(f) OTHER REQUIREMENTS.—Any exchange pursuant to this Act (including any conveyance and any lease) shall be performed in accordance with and subject to the terms of this Act, the exchange agreement, and the lease agreement.

(g) AGREEMENTS.—

(1) IN GENERAL.—The issuance of any interim conveyance, patent, or lease in furtherance of an exchange under this Act shall be governed by and be in accordance with a written exchange agreement and lease agreement between the Secretary and Aerojet which shall incorporate the relevant terms and conditions of this Act. Such agreements shall incorporate all provisions of the draft exchange agreement and draft lease agreement, respectively, dated October 1, 1987, printed as Appendices to the Report of the Committee on Energy and Natural Resources to accompany S. 854 (S. Rept. 100-292), which are not inconsistent with this Act. Patents and trademarks.

(2) LIMITATIONS.—The Secretary shall not agree to the inclusion in the exchange agreement of any terms or conditions which, after completion of the exchange authorized and directed by this Act, would limit the ability of the Secretary to properly manage lands in Nevada or Florida for which the Secretary will have responsibility, or which, after completion of such exchange, would prevent the Secretary from properly discharging the responsibilities of the Secretary under any then-applicable provision of law. Nothing in the exchange agreement shall afford Aerojet or any other party a preferential position with regard to purchase or lease of any public lands other than those described in this Act.

(3) RULE OF CONSTRUCTION; NOTIFICATION.—In the case of any inconsistency between the terms of the exchange agreement or the lease agreement or any amendments thereto and this Act, the provisions of this Act shall prevail. The Secretary shall not agree to any amendment to either the exchange agreement or the lease agreement without first consulting with the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives, and shall transmit copies of any such amendment to such committees at the time of agreeing to such amendment.

SEC. 6. HABITAT PROTECTION.

(a) GROUND WATER.—

(1) MONITORING OF CONDITIONS AND HABITAT.—The Secretary, acting through the Director of the Fish and Wildlife Service, shall monitor the conditions and habitat of endangered or threatened species whose habitat the Secretary believes could be affected by the withdrawal of ground water from the aquifer beneath lands conveyed or leased pursuant to this Act.

(2) POTENTIAL ADVERSE EFFECTS.—If the Secretary has reasonable evidence to believe that the withdrawal of ground water from the aquifer beneath lands conveyed and leased pursuant to this Act is likely to adversely affect the habitat of any endangered or threatened species, the Secretary shall—

(A) promptly notify Aerojet (or its successors or assigns in the event that Aerojet has transferred its interests in such lands), the Committee on Energy and Natural Resources of the Senate, the Committee on Interior and Insular Affairs of the House of Representatives, and the State Engineer of Nevada concerning such likely adverse effect of such withdrawal; and

(B) request the State Engineer to take appropriate action, in accordance with applicable laws of the State of Nevada, to ascertain whether the withdrawal of ground water from such aquifer is in fact reducing the supply of water to the habitat of any endangered or threatened species, and, if so, to mitigate that reduction in accordance with applicable laws of the State of Nevada.

(3) DEPLETION.—In the event that the State Engineer of Nevada determines that the withdrawal of ground water from beneath lands conveyed or leased pursuant to this Act or from beneath other lands underlain by the same aquifer is causing depletion of water to a surface water habitat of any endangered or threatened species, Aerojet (or its successors or assigns) and the Secretary shall jointly petition the State Engineer to reduce the total water allocation in the affected area, or to take any other actions authorized by State law, in order to eliminate such depletion of water to such habitat.

(b) ALTERNATIVE SOURCES OF WATER.—The Secretary may not convey or lease lands under this Act until the Secretary has been assured by the State Engineer of Nevada that Aerojet has developed a feasible plan, consistent with applicable laws of the State of Nevada, for obtaining an alternative source of water (other than the withdrawal of ground water from the aquifer beneath lands conveyed and leased under this Act) to be used, in total or in part, in the event that Aerojet or a successor in interest is required to cease pumping ground water from beneath the conveyed or leased lands.

(c) ACCESS FOR MONITORING.—The Secretary, acting through the Director of the Fish and Wildlife Service, shall have access at any time to any land conveyed or leased under this Act to monitor—

Water.

(1) the pumping of ground water from such land,

(2) the condition of endangered or threatened species located on such land,

Plants.
Wildlife.

(3) the impact of any activity occurring on such land on wildlife and plants, including (but not limited to) endangered or threatened species.

In exercising such right of access, the Secretary shall afford reasonable notice to Aerojet (or its successors or assigns).

(d) POLLUTION CONTROLS.—Nothing in this Act shall be construed as limiting or impairing the power of any Federal or State agency to monitor and regulate the handling by Aerojet or its successors in interest of hazardous materials or wastes or air or water pollutants to assure compliance with applicable State and Federal laws. The Secretary, from time to time, shall consult and cooperate with the Administrator of the Environmental Protection Agency and appropriate officials of the State of Nevada to facilitate such monitoring and regulation.

SEC. 7. TRANSFER OF FLORIDA LANDS TO WATER MANAGEMENT DISTRICT.

(a) SALE TO SOUTH FLORIDA WATER MANAGEMENT DISTRICT.—Notwithstanding any other provision of law, the Secretary is authorized and directed to sell by issuance of a quitclaim deed any lands acquired in accordance with an exchange pursuant to this Act to the South Florida Water Management District at such per-acre price as may be mutually agreed upon by the Secretary and the District.

(b) USE OF FUNDS RECEIVED BY THE UNITED STATES.—Notwithstanding any other provision of law, any funds received by the United States from the sale of lands authorized by subsection (a) and from any payments by Aerojet to equalize values of lands exchanged pursuant to this Act shall be deposited in the "Contributed Fund Account" of the Fish and Wildlife Service, and shall be utilized for the purchase of additional lands at existing elements of the National Wildlife Refuge System in the State of Florida. Such funds shall be available for obligation without appropriation. National Wildlife Refuge System.

(c) NOTICE TO CONGRESS.—The Secretary shall notify the Committee on Appropriations of the Senate and the Committee on Appropriations of the House of Representatives of any proposal to obligate funds received in accordance with the provisions of subsection (a) at least sixty days prior to the obligation of such funds.

SEC. 8. WILDERNESS STUDY AREAS.

Any public land in the State of Nevada which, as of March 1, 1987, was managed pursuant to section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782) shall be retained in Federal ownership and shall continue to be so managed until Congress determines otherwise. Congress.

SEC. 9. CLAIMS.

Nothing in this Act or in the exchange and lease agreements shall be construed as affirming or denying the validity of any claim which is pending on the date of enactment of this Act by any Indian tribe or any other person with respect to any lands in Nevada.

SEC. 10. JUDICIAL REVIEW.

(a) GENERAL PROVISIONS.—Except as provided in subsection (b), nothing in this Act shall be construed as limiting any right of the Secretary or any other person to bring any action with regard to the responsibilities of the Secretary or any other person under applicable law, as affected or modified by this Act. The Secretary shall not include in the exchange agreement any term or condition that would limit the ability of the Secretary to bring any action or take any other step the Secretary may find appropriate in order to carry out the responsibility of the Secretary under this Act or any other applicable provision of law, as affected or modified by this Act.

(b) FINDING AND LIMITATION.—The Congress hereby finds that studies and analyses completed prior to the date of enactment of this Act have made available information sufficient to meet the objectives of the National Environmental Policy Act of 1969 and other relevant law so far as concerns the possible environmental and other effects of the conveyance and lease of public lands in Nevada as provided for in this Act, and that the provisions of this Act adequately address such possible effects. Environmental protection.

Congress. Patents and trademarks.

(c) LIMITATION.—Based on the finding set forth in subsection (b), the Congress directs that the execution or consummation of any agreement, or the issuance of an interim conveyance, patent, or lease, pursuant to and in accordance with the provisions of this Act, shall not be subject to judicial review with respect to any complaint alleging a failure by the Secretary or any other person to comply with any provision of law other than the provisions of this Act.

SEC. 11. DEADLINE.

It is the sense of Congress that the Secretary shall execute the exchange agreement and the lease agreement and shall implement the conveyance and lease of lands pursuant to this Act no later than one hundred and twenty days after the date of enactment of this Act.

16 USC 670g note.

SEC. 12. DESERT TORTOISE PLAN.

(a) PREPARATION.—The Secretary shall—

(1) review the status of populations of desert tortoises on lands in Nevada and other States managed by the Secretary, other than lands conveyed or leased pursuant to this Act;

(2) assess the nature and extent of threats to the continued health or stability of such populations on such lands; and

(3) prepare a comprehensive plan to address such threats through—

(A) reductions in the extent to which uses of such lands which are potentially harmful to such populations are permitted to occur; and

(B) other measures to remove or mitigate such threats.

State and local governments.

(b) CONSULTATION.—In preparing the plan required by subsection (a), the Secretary shall consult with State officials, other Federal agencies responsible for management of lands where desert tortoise populations are located, the Desert Tortoise Council, and other persons or groups identified by the Secretary as having expertise relevant to the requirements of this section.

(c) DEADLINES AND REPORTS.—

Public information.

(1) REVIEW AND ASSESSMENT.—The review and assessment required by paragraphs (1) and (2) of subsection (a) shall be completed and the results thereof shall be made available to the public and transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives no later than two years after the date of enactment of this Act.

(2) PLAN.—The plan required by subsection (a)(3) shall be developed and transmitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior

and Insular Affairs of the House of Representatives no later than three years after the date of enactment of this Act. A failure by the Secretary to transmit such report within such three-year period shall not relieve the Secretary from the requirement to prepare such plan.

Approved March 31, 1988.

LEGISLATIVE HISTORY—S. 854 (H.R. 1845):

HOUSE REPORTS: No. 100-513, Pt. 1 accompanying H.R. 1845 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-292 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 4, considered and passed Senate.
Mar. 15, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Mar. 31, Presidential statement.

Public Law 100-276
100th Congress

Joint Resolution

Apr. 1, 1988
[H.J. Res. 523]

To provide assistance and support for peace, democracy, and reconciliation in Central America.

Nicaragua.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Defense and national security.

SECTION 1. GENERAL POLICY.—It is the policy of the United States to advance peace and democracy in Central America, and to preserve and protect security interests in the region. Pursuant to that policy, it is the purpose of this joint resolution to assist in bringing peace and democracy to Central America, in a manner compatible with the Guatemala Peace Accord of August 7, 1987, the Declaration of the Presidents of the Central American Nations at San Jose, Costa Rica on January 16, 1988, the Agreement Between the Government of Nicaragua and the Nicaraguan Resistance signed March 23, 1988 at Sapoa, Nicaragua (hereinafter referred to as the "Sapoa Agreement") and consistent with the national security interests of the United States.

SEC. 2. CONSISTENCY WITH SAPOA AGREEMENT.—The assistance and support for which this joint resolution provides shall be administered consistent with the Sapoa Agreement. No authority contained in this joint resolution is intended to be exercised in any manner that might be determined by the Verification Commission established by the Sapoa Agreement to be inconsistent with that Agreement or any subsequent agreement between the Government of Nicaragua and the Nicaraguan democratic resistance.

SEC. 3. PURPOSE OF ADDITIONAL ASSISTANCE FOR THE NICARAGUAN DEMOCRATIC RESISTANCE.—(a) CONGRESSIONAL INTENT.—It is the intention of Congress in providing additional assistance to the Nicaraguan democratic resistance to reinforce the Central American peace process by supporting negotiations leading to a permanent negotiated ceasefire agreement. Such an agreement is seen by the Congress as an essential step towards the establishment of peace and democracy in Nicaragua. The Congress provides assistance under this section with the understanding and strong expectation that the Government of Nicaragua and the Nicaraguan democratic resistance will cease permanently offensive military activities against each other and engage in good faith negotiations towards a permanent ceasefire.

President of U.S.

(b) TRANSFER AND USE.—(1) The President is authorized to transfer to the Agency for International Development $17,700,000 of unobligated funds from the appropriations accounts specified in section 6 to provide assistance for the Nicaraguan democratic resistance in accordance with this joint resolution. Funds so transferred shall remain available through September 30, 1988.

(2) The amount which is authorized to be transferred under paragraph (1) shall be reduced by the cost to the United States Government of any items or services described in subsection (c)(1) which were previously, specifically authorized by law for the Nica-

raguan democratic resistance and which are delivered to the Nicaraguan democratic resistance under subsection (e).

(c) DESCRIPTION OF ASSISTANCE ALLOWED.—(1) As used in this section, "assistance" means only food, clothing, shelter, medical services, medical supplies, and payment for such items or services.

(2) The term "assistance" under this section also includes, to the extent consistent with the Sapoa Agreement, the use of not to exceed $1,500,000 of the funds made available under subsection (b) for the purchase of communications equipment.

(d) LIMITATIONS.—The amount of funds transferred under subsection (b) which is obligated each month for purchasing items and services described in subsection (c)(1)—

(1) for April and May 1988, shall not exceed $2,900,000, of which not less than $400,000 each month shall be available only for medical supplies and medical services; and

(2) for any month thereafter, shall not exceed $2,700,000, except that each such amount for any month shall be reduced by the cost to the United States Government of the items and services described in subsection (c)(1) (medical supplies and medical services in the case of the second amount specified in paragraph (1)) which were previously, specifically authorized by law for the Nicaraguan democratic resistance and which are delivered to the Nicaraguan democratic resistance under subsection (e) during that month.

(e) TRANSPORTATION.—(1) The President shall transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified, in section 6, such funds as may be necessary to provide, to the extent consistent with the Sapoa Agreement, transportation for the assistance authorized by subsection (b), including rental and indemnification of aircraft, trucks or other vehicles, and transportation for the items and services described in paragraph (3) of this subsection. President of U.S.

(2) Transportation provided under this subsection may not be used to deliver any assistance for the Nicaraguan democratic resistance other than the assistance authorized by subsection (b) and the items and services described in paragraph (3) of this subsection.

(3) Transportation may be provided under this subsection for items and services described in subsection (c)(1) which were previously, specifically authorized by law for the Nicaraguan democratic resistance.

(f) PROHIBITIONS.—(1) Funds transferred by subsections (b) or (e) may not be obligated or expended to purchase aircraft or weapons, weapons systems, or ammunition or any other item or service not permitted under subsection (c) or to provide any transportation other than transportation permitted under subsection (e).

(2) Except for items delivered under subsection (e)(3), no item authorized by "Title II—Central America" in section 101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591) or section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202) may be provided to the Nicaragua democratic resistance.

(g) ASSISTANCE FOR YATAMA.—(1) In order to support all elements of the Nicaraguan democratic resistance, assistance authorized by subsection (b) (including the cost of the United States Government of items and services delivered under subsection (e)(3)) in the amount of $2,190,000 shall be provided only to the Indian resistance force known as Yatama. Indians.

(2) The Agency for International Development shall ensure that assistance under this subsection for Yatama is provided consistent with the Preliminary Accord signed by Yatama and the Government of Nicaragua on February 2, 1988, and any subsequent agreement based on that Accord.

SEC. 4. DIRECTION, MANAGEMENT AND DELIVERY.—(a) DELIVERY OF ASSISTANCE.—(1) The Agency for International Development shall direct, manage and provide for the delivery of assistance and support to the Nicaraguan democratic resistance through neutral organizations consistent with the Sapoa Agreement and as authorized by this joint resolution.

President of U.S.

(2) The President shall transfer not to exceed $2,500,000 from the unobligated funds in the appropriations accounts specified in section 6 for "Operating Expenses of the Agency for International Development" to meet the necessary administrative expenses to carry out the purposes of this joint resolution.

(b) INAPPLICABILITY OF CERTAIN PROHIBITIONS.—Prohibitions on the furnishing of foreign assistance to Nicaragua shall not be construed to apply to the provision within Nicaragua of the assistance authorized by this joint resolution.

(c) ACCOUNTABILITY STANDARDS, PROCEDURES, AND CONTROLS.—In implementing this joint resolution, the Agency for International Development shall adopt standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan democratic resistance provided under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202).

(d) INTERAGENCY COOPERATION.—All Government agencies shall cooperate with the Agency for International Development to ensure the orderly, effective direction, management, and delivery by the Agency of assistance for the Nicaraguan democratic resistance. Such cooperation shall include detailing to the Agency, on a reimbursable basis, such personnel as the Agency, with the approval of the President, may request.

(e) SUPPLEMENTAL AUTHORITIES.—In addition to the authorities otherwise available by law to the Agency for International Development, in carrying out this joint resolution, the Agency for International Development may exercise the same authorities, including authorities relating to procurement and expenditure of Government funds other than confidential funds, as the agency administering the assistance provided pursuant to section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202) could exercise with respect to provision of that assistance.

SEC. 5. GENERAL AUTHORITIES AND LIMITATIONS.—(a) REQUIREMENTS DEEMED SATISFIED.—The requirements, terms and conditions of section 104 of the Intelligence Authorization Act, Fiscal Year 1988 (Public Law 100-178), section 8144 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202), section 10 of Public Law 91-672, section 502 of the National Security Act of 1947, section 15(a) of the State Department Basic Authorities Act of 1956, and any other provision of law shall be deemed to have been met for the transfer and use, consistent with the provisions of this joint resolution, of the funds made available by this joint resolution.

(b) CONTINUATION OF LIMITATIONS.—Sections 203(e), 204(b), 207, 209(b), 209(c), and 216 in "Title II—Central America" in section

101(k) of the continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591), shall apply with respect to funds made available by this joint resolution, except that section 216 shall not apply with respect to personnel of the Agency for International Development or the Department of State.

SEC. 6. DEFENSE APPROPRIATIONS ACCOUNTS.—The appropriations accounts to which this resolution refers are the following accounts in the Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190):

(1) Missile Procurement, Army;
(2) Other, Procurement, Army;
(3) Other Procurement, Navy;
(4) Missile Procurement, Air Force;
(5) Aircraft Procurement, Air Force; and
(6) Weapons Procurement, Navy;

except that section 1351 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661) shall apply.

SEC. 7. AUDIT OF FUNDS.—The Comptroller General shall conduct an independent audit of funds expended in the provision of assistance and support under this joint resolution.

SEC. 8. CHILDREN'S SURVIVAL ASSISTANCE.—(a) AUTHORIZATION.—The President shall transfer to the Agency for International Development $17,700,000 of unobligated funds from the appropriations accounts specified in section 6 to provide medical care and other relief for children who are victims of the Nicaraguan civil strife. Such assistance shall be used to make available prosthetic devices and rehabilitation, provide medicines and immunizations, assist burn victims, help children who have been orphaned, and otherwise provide assistance for children who have been physically injured or displaced by the Nicaraguan civil strife. Priority shall be given to those children with the greatest needs for assistance. Funds transferred pursuant to this subsection shall remain available until expended. President of U.S.

(b) USE OF PVO'S AND INTERNATIONAL RELIEF ORGANIZATIONS.—Assistance pursuant to this section shall be provided only through nonpolitical private and voluntary organizations and international relief organizations. Preference in the distribution of such assistance shall be given to organizations presently providing similar services such as the Catholic Relief Services, International Committee of the Red Cross, CARE, United Nations Children's Fund, United Nations High Commissioner for Refugees, Partners of the Americas, and the Pan-American Health Organization.

(c) CHILDREN IN NICARAGUA.—At least one-half of the assistance provided under this section shall be provided through nonpolitical private and voluntary organizations and international relief organizations operating inside Nicaragua. None of this assistance may be provided to or through the Government of Nicaragua.

President of U.S.

SEC. 9. VERIFICATION COMMISSION.—The President shall transfer to the Agency for International Development $10,000,000 of unobligated funds from the appropriations accounts specified in section 6 for periodic payments to support the activities of the Verification Commission established by the Sapoa Agreement. Funds transferred pursuant to this section shall remain available until expended.

Approved April 1, 1988.

LEGISLATIVE HISTORY—H.J. Res. 523:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 30, considered and passed House.
Mar. 31, considered and passed Senate.

Public Law 100-277
100th Congress

An Act

To amend section 416 of the Agricultural Act of 1949, and for other purposes.

Apr. 4, 1988
[S. 2151]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. ELIGIBLE COMMODITIES.

(a) IN GENERAL.—Section 416(b)(2)(A) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(2)(A)) is amended—

(1) by striking out "grains," and inserting in lieu thereof "wheat, rice, feed grains,"; and

(2) by inserting ", and the products thereof," after "price support operations".

(b) CONFORMING AMENDMENTS.—(1) Section 416(b)(10)(B)(i) of such Act is amended by striking out "grains" both places it appears and inserting in lieu thereof "wheat, rice, feed grains,".

(2) Section 416(b)(7) of such Act is amended by striking out ", and products thereof,".

SEC. 2. AVAILABILITY OF COMMODITIES.

Section 416(b)(3) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(3)) is amended by adding at the end thereof the following: "(D) If eligible commodities are made available under this subsection to a friendly country, nonprofit and voluntary agencies and cooperatives shall also be eligible to receive commodities for food aid programs in the country.".

SEC. 3. MULTIYEAR AGREEMENTS.

Section 416(b)(4) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(4)) is amended by adding at the end thereof the following: "In agreements with recipients of eligible commodities under this subsection (including nonprofit and voluntary agencies or cooperatives), subject to the availability of commodities each fiscal year, the Secretary, on request, shall approve multiyear agreements to make agricultural commodities available for distribution or sale by the recipients if the agreements otherwise meet the requirements of this subsection.".

SEC. 4. FOREIGN CURRENCY USE AND ALLOCATION REQUIREMENTS.

(a) FOREIGN CURRENCY USES.—Clause (ii) of section 416(b)(7)(D) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(7)(D)(ii)) is amended to read as follows:

"(ii) Foreign currencies generated from partial or full sales or barter of commodities by a nonprofit and voluntary agency or cooperative shall be used—

"(I) to transport, store, distribute, and otherwise enhance the effectiveness of the use of commodities and the products thereof donated under this section; and

"(II) to implement income generating, community development, health, nutrition, cooperative development, agri-

cultural programs, and other developmental activities.".

(b) ALLOCATION REQUIREMENTS.—Section 416(b)(7)(D)(iii) of such Act is amended—

(1) by striking out "5 percent" and inserting in lieu thereof "10 percent"; and

(2) by inserting ", or the minimum tonnage required, whichever is greater," after "furnished".

SEC. 5. PERIODS FOR REVIEW AND COMMENT.

Section 416(b)(8) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)(8)) is amended by adding at the end thereof the following:

"(C)(i) If a proposal to make eligible commodities available under this subsection is submitted by a nonprofit and voluntary agency or cooperative with the concurrence of the appropriate United States Government field mission or if a proposal to make such commodities available to a nonprofit and voluntary agency or cooperative is submitted by the United States Government field mission, a decision on the proposal shall be provided within 45 days after receipt by the Agency for International Development office in Washington, D.C. The response shall detail the reasons for approval or denial of the proposal. If the proposal is denied, the response shall specify the conditions that would need to be met for the proposal to be approved.

Public information.

"(ii) Not later than 30 days before the issuance of a final guideline issued to carry out this subsection, the Secretary shall—

"(I) provide notice of the proposed guideline to nonprofit and voluntary agencies and cooperatives that participate in programs under this subsection, and other interested persons, that the proposed guideline is available for review and comment;

"(II) make the proposed guideline available, on request, to nonprofit and voluntary agencies, cooperatives, and others; and

"(III) take any comments received into consideration before the issuance of the final guideline.

"(iii) Not later than 15 days after receipt of a call forward from a field mission for commodities or products that meets the requirements of this subsection, the order for the purchase or the supply, from inventory, of such commodities or products shall be transmitted to the Commodity Credit Corporation.".

SEC. 6. EXTENSION OF FARMER-TO-FARMER PROGRAM.

Section 1107(a) of the Food Security Act of 1985 (7 U.S.C. 1736 note) is amended by striking out ", and September 30, 1987" and inserting in lieu thereof "through September 30, 1990".

SEC. 7. INAPPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT TO AGRICULTURAL AID AND TRADE MISSIONS.

7 USC 1736bb note.

Any agricultural aid and trade mission established under section 1 of that portion of the joint resolution entitled "Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes" approved December 22, 1987, under the heading "Agricultural Aid and Trade Missions Act", and any other activity under this section and sections 2 through 7 of such portion, shall not be considered an advisory committee for the purposes of the Federal Advisory Committee Act.

Approved April 4, 1988.

LEGISLATIVE HISTORY—S. 2151:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 4, considered and passed Senate.
Mar. 15, 16, considered and passed House, amended.
Mar. 23, Senate concurred in House amendments.

Public Law 100-278
100th Congress

An Act

Apr. 6, 1988
[H.R. 4263]

To designate interstate route I-195 in the State of New Jersey as the "James J. Howard Interstate Highway".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The segment of the National System for Interstate and Defense Highways designated as I-195 in the State of New Jersey shall hereafter be known and designated as the "James J. Howard Interstate Highway".

SEC. 2. REFERENCE.

Any reference in a law, map, regulation, document, or other paper of the United States to the highway referred to in section 1 shall be deemed to be a reference to the "James J. Howard Interstate Highway".

Approved April 6, 1988.

LEGISLATIVE HISTORY—H.R. 4263:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 28, considered and passed House and Senate.

Public Law 100-279
100th Congress

Joint Resolution

To designate March 29, 1988, as "Education Day, U.S.A.".

Apr. 6, 1988
[H.J. Res. 470]

Whereas Congress recognizes the historical tradition of ethical values and principles which are the basis of civilized society and upon which our great Nation was founded;

Whereas these ethical values and principles have been the bedrock of society from the dawn of civilization, when they were known as the Seven Noahide Laws;

Whereas without these ethical values and principles the edifice of civilization stands in serious peril of returning to chaos;

Whereas society is profoundly concerned with the recent weakening of these principles that has resulted in crises that beleaguer and threaten the fabric of civilized society;

Whereas the justified preoccupation with these crises must not let the citizens of this Nation lose sight of their responsibility to transmit these historical ethical values from our distinguished past to the generations of the future;

Whereas the Lubavitch movement has fostered and promoted these ethical values and principles throughout the world;

Whereas Rabbi Menachem Mendel Schneerson, leader of the Lubavitch movement, is universally respected and revered and his eighty-sixth year will be seen as the year of continued "turn and return", the year in which we continue to turn to an education which will return the world to the moral and ethical values contained in the Seven Noahide Laws; and

Whereas this is reflected in the "international scroll of honor" which has been signed by the President of the United States and other heads of state: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That March 29, 1988, the birthday of Rabbi Menachem Mendel Schneerson, leader and head of the worldwide Lubavitch movement, is designated as "Education Day, U.S.A.". The President is requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities. We also call on heads of state of the world to join our President in this tribute by signing the international scroll of honor which will be presented in their respective countries this year of completing "celebration 85".

Approved April 6, 1988.

LEGISLATIVE HISTORY—H.J. Res. 470:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 17, considered and passed House.
Mar. 25, considered and passed Senate.

Public Law 100-280
100th Congress

Joint Resolution

Apr. 6, 1988
[H.J. Res. 519]

To continue the withdrawal of certain public lands in Nevada.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1(b) of the Act of October 17, 1985 entitled "An Act to withdraw certain public lands in Lincoln County, Nevada, and for other purposes" (Public Law 98-485), as amended, is hereby further amended by striking out "March 31, 1988" and by inserting in lieu thereof "June 15, 1988".

98 Stat. 2261.

Approved April 6, 1988.

LEGISLATIVE HISTORY—H.J. Res. 519:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 29, considered and passed House.
Mar. 31, considered and passed Senate.

Public Law 100-281
100th Congress

An Act

To recognize the organization known as the Non Commissioned Officers Association of the United States of America.

Apr. 6, 1988
[S. 1397]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Corporations.

CHARTER

SECTION 1. The Non Commissioned Officers Association of the United States of America, Incorporated, a nonprofit corporation organized under the laws of the State of Texas, is recognized as such and is granted a Federal charter.

36 USC 4001.

POWERS

SEC. 2. The Non Commissioned Officers Association of the United States of America, Incorporated, (hereinafter in this Act referred to as the "corporation") shall have only those powers granted to it through its bylaws and articles of incorporation filed in the State in which it is incorporated and subject to the laws of such State.

36 USC 4002.

OBJECTS AND PURPOSES OF CORPORATION

SEC. 3. The objects and purposes of the corporation are those provided in its bylaws and articles of incorporation and shall include—

36 USC 4003.

(1) upholding and defending the Constitution of the United States;

(2) promoting health, prosperity, and scholarship among its members and their dependents and survivors through benevolent programs;

(3) assisting veterans and their dependents and survivors through a service program established for that purpose;

(4) improving conditions for service members, veterans and their dependents and survivors; and

(5) fostering fraternal and social activities among its members in recognition that cooperative action is required for the furtherance of their common interests.

SERVICE OF PROCESS

SEC. 4. With respect to service of process, the corporation shall comply with the laws of the State in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes.

36 USC 4004.

MEMBERSHIP

SEC. 5. Except as provided in section 8, eligibility for membership in the corporation and the rights and privileges of members of the

36 USC 4005.

corporation shall be as provided in the constitution and bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

36 USC 4006.

SEC. 6. Except as provided in section 8, the composition of the board of directors of the corporation and the responsibilities of such board shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

OFFICERS OF CORPORATION

36 USC 4007.

SEC. 7. Except as provided in section 8, the positions of officers of the corporation and the election of members to such positions shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State in which it is incorporated.

NONDISCRIMINATION

36 USC 4008.

SEC. 8. In establishing the conditions of membership in the corporation and in determining the requirements for serving on the board of directors or as an officer of the corporation, the corporation may not discriminate on the basis of race, color, religion, sex, handicap, age, or national origin.

RESTRICTIONS

36 USC 4009.

SEC. 9. (a) No part of the income or assets of the corporation may inure to the benefit of any member, officer, or director of the corporation or be distributed to any such individual during the life of this charter. Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation may not make any loan to any officer, director, or employee of the corporation.

(c) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(d) The corporation shall not claim congressional approval or the authorization of the Federal Government for any of its activities by virtue of this Act.

LIABILITY

36 USC 4010.

SEC. 10. The corporation shall be liable for the acts of its officers and agents whenever such officers and agents have acted within the scope of their authority.

BOOKS AND RECORDS; INSPECTION

36 USC 4011.

SEC. 11. The corporation shall keep correct and complete books and records of account and minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep, at its principal office, a record of the names and addresses of all members having the right to vote in any proceeding of the corporation. All books and records of such corporation may be inspected by any member having the right to vote in any corporation proceeding, or by any agent or attorney of such member, for

any proper purpose at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 12. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"The Non Commissioned Officers Association of the United States of America, Incorporated.".

ANNUAL REPORT

SEC. 13. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as the report of the audit required by section 2 of the Act referred to in section 12 of this Act. The report shall not be printed as a public document. 36 USC 4012.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

SEC. 14. The right to alter, amend, or repeal this Act is expressly reserved to the Congress. 36 USC 4013.

DEFINITION OF "STATE"

SEC. 15. For purposes of this Act, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, and the territories and possessions of the United States. 36 USC 4014.

TAX-EXEMPT STATUS

SEC. 16. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1986. If the corporation fails to maintain such status, the charter granted by this Act shall expire. 36 USC 4015.

EXCLUSIVE RIGHT TO NAMES

SEC. 17. The corporation shall have the sole and exclusive right to use the names "The Non Commissioned Officers Association of the United States of America", "Non Commissioned Officers Association of the United States of America", "Non Commissioned Officers Association", and "NCOA", and such seals, emblems, and badges as the corporation may lawfully adopt. Nothing in this section may be construed to conflict or interfere with established or vested rights. 36 USC 4016.

TERMINATION

36 USC 4017.

SEC. 18. If the corporation shall fail to comply with any of the restrictions or provisions of this Act, the charter granted by this Act shall expire.

Approved April 6, 1988.

LEGISLATIVE HISTORY—S. 1397:

HOUSE REPORTS: No. 100-522 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 21, considered and passed Senate.
Vol. 134 (1988): Mar. 21, considered and passed House, amended.
Mar. 24, Senate concurred in House amendments.

Public Law 100-282
100th Congress

Joint Resolution

To designate April 8, 1988, as "Dennis Chavez Day".

Apr. 6, 1988
[S.J. Res. 206]

Whereas the Honorable Dennis Chavez was the first native-born Hispanic elected to the United States Senate;
Whereas Dennis Chavez served the State of New Mexico and his country in a most distinguished manner, serving as a United States Representative for four years and as a United States Senator for twenty-seven years until his death in office;
Whereas Dennis Chavez was the highest ranking Hispanic in the Federal Government for over thirty years;
Whereas Dennis Chavez was too poor to attend high school, but later passed a special entrance exam to attend Georgetown Law School;
Whereas Dennis Chavez provided a source of pride and inspiration to the underprivileged;
Whereas Dennis Chavez served as a spokesman for the poor and oppressed;
Whereas Dennis Chavez exemplifies the true public servant;
Whereas Dennis Chavez provided an everlasting symbol of opportunity found only in America; and
Whereas 1988 marks the centenary of the birth of Dennis Chavez: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 8, 1988 is designated as "Dennis Chavez Day", and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe the day with appropriate programs, ceremonies, and activities.

Approved April 6, 1988.

LEGISLATIVE HISTORY—S.J. Res. 206:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 17, considered and passed Senate.
Mar. 30, considered and passed House.

Public Law 100-283
100th Congress

An Act

Apr. 7, 1988
[S. 2117]

To extend the statute of limitations applicable to certain claims under the Age Discrimination in Employment Act of 1967 that were filed with the Equal Employment Opportunity Commission before the date of enactment of this Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Age Discrimination Claims Assistance Act of 1988.
29 USC 626 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Age Discrimination Claims Assistance Act of 1988".

29 USC 626 note.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the Equal Employment Opportunity Commission (hereafter in this Act referred to as the "Commission") has failed to process an undetermined number of charges filed under the Age Discrimination in Employment Act of 1967 (29 U.S.C. 621-634) before the running of the statute of limitations applicable to bringing civil actions in the Federal courts under such Act, and

(2) many persons who filed such charges with the Commission have lost the right to bring private civil actions with respect to the unlawful practices alleged in such charges.

29 USC 626 note.

SEC. 3. EXTENSION OF STATUTE OF LIMITATIONS.

Notwithstanding section 7(e) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 626(e)), a civil action may be brought under section 7 of such Act by the Commission or an aggrieved person, during the 540-day period beginning on the date of enactment of this Act if—

(1) with respect to the alleged unlawful practice on which the claim in such civil action is based, a charge was timely filed under such Act with the Commission after December 31, 1983,

(2) the Commission did not, within the applicable period set forth in section 7(e) either—

(A) eliminate such alleged unlawful practice by informal methods of conciliation, conference, and persuasion, or

(B) notify such person, in writing, of the disposition of such charge and of the right of such person to bring a civil action on such claim,

(3) the statute of limitations applicable under such section 7(e) to such claim ran before the date of enactment of this Act, and

(4) a civil action on such claim was not brought by the Commission or such person before the running of the statute of limitations.

SEC. 4. NOTICE OF STATUTE OF LIMITATIONS. 29 USC 626 note.

(a) NOTICE REGARDING CLAIMS FOR WHICH STATUTE OF LIMITATIONS IS EXTENDED.—Not later than 60 days after the date of enactment of this Act, the Commission shall provide the notice specified in subsection (b) to each person who has filed a charge to which section 3 applies.

(b) CONTENTS OF NOTICE.—The notice required to be provided under subsection (a) to a person shall be in writing and shall include the following information:

(1) The rights and benefits to which such person is entitled under the Age Discrimination in Employment Act of 1967.

(2) The date (which is 540 days after the date of the enactment of this Act) on which the statute of limitations applicable to such person's claim will run.

(3) That such person may bring a civil action on such claim before the date specified in paragraph (2).

SEC. 5. REPORTS. 29 USC 626 note.

(a) CONTENTS OF REPORTS.—For each 180-day period in the 540-day period beginning on the date of enactment of this Act, the Commission shall submit a written report that includes all of the following information:

(1) The number of persons who have claims to which section 3 applies and the dates charges based on such claims were filed with the Commission.

(2) The number of persons to whom notice was provided in accordance with section 4(a) and the date the notice was provided.

(3) With respect to alleged unlawful practices on which claims affected by section 3 are based, the number of such alleged unlawful practices that the Commission has attempted to eliminate by informal methods of conciliation, conference, and persuasion in the 180-day period for which the report is submitted.

(4) The number of alleged unlawful practices referred to in paragraph (3) that were so eliminated in such period.

(5) The number of civil actions filed by the Commission on behalf of persons to whom notice was sent under section 4.

(b) SUBMISSION OF REPORTS.—Each report required by subsection (a) shall be submitted by the Commission to—

(1) the Committee on Education and Labor, and the Select Committee on Aging, of the House of Representatives, and

(2) the Committee on Labor and Human Resources, and the Special Committee on Aging, of the Senate,

not later than 30 days after the expiration of the 180-day period for which such report is required.

Approved April 7, 1988.

LEGISLATIVE HISTORY—S. 2117:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 17, considered and passed Senate.
Mar. 29, considered and passed House.

Public Law 100-284
100th Congress

An Act

To make section 7351 of title 5, United States Code, inapplicable to leave transfers under certain experimental programs covering Federal employees, except as the Office of Personnel Management may otherwise prescribe.

Apr. 7, 1988
[H.R. 3981]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, except as the Office of Personnel Management may by regulation prescribe, nothing in section 7351 of title 5, United States Code, shall apply with respect to a solicitation, donation, or acceptance of leave under any program under which, during the fiscal year ending on September 30, 1988, unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency.

5 USC 7351 note.

Approved April 7, 1988.

LEGISLATIVE HISTORY—H.R. 3981:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 15, considered and passed House.
Mar. 23, considered and passed Senate.

Public Law 100-285
100th Congress

Joint Resolution

Apr. 7, 1988
[H.J. Res. 480]

Granting the consent of the Congress to amendments made by Maryland, Virginia, and the District of Columbia to the Washington Metropolitan Area Transit Regulation Compact.

Securities.
Safety.

Whereas the State of Maryland, the Commonwealth of Virginia, and the District of Columbia have adopted amendments to the Washington Metropolitan Area Transit Regulation Compact relating to public hearing requirements, investment flexibility, procurement, and public safety; and

Whereas the Congress has reviewed such amendments and is willing to consent to such amendments: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS TO AMENDMENTS TO COMPACT.

The Congress consents to the amendments of the State of Maryland (chapters 674 and 675, 1984 Acts of the Maryland General Assembly), the amendments of the Commonwealth of Virginia (chapter 610, 1984 Acts of Assembly of Virginia; chapter 112, 1987 Acts of Assembly of Virginia), and the amendments of the District of Columbia (D.C. Law 5-122) to sections 62(a), 69(a), 69(b), 73, 76(a), and 76(c) of the Washington Metropolitan Area Transit Regulation Compact. Such amendments are substantially as follows:

(1) Section 62(a) is amended to read as follows:

"62.(a) The Board shall not make or change any fare or rate, nor establish or abandon any service except after holding a public hearing with respect thereto, except for service changes required by an emergency; minor service changes as defined by regulations promulgated by the Board; experimental service established to test the effect of such service, and in effect for not more than six months; and fare and service changes established for special events.".

(2) Subsections (a) and (b) of section 69 are amended to read as follows:

"69.(a) The Board may provide for the creation and administration of such funds as may be required. The funds shall be disbursed in accordance with rules established by the Board and all payments from any fund shall be reported to the Board. Moneys in such funds and other moneys of the Authority shall be deposited, as directed by the Board, in any branch or subsidiary of any state or national bank which has operations within the Zone, and having a total paid-in capital of at least one million dollars ($1,000,000). The trust department of any state or national bank may be designated as a depositary to receive any securities acquired or owned by the Authority. The restriction with respect to paid-in capital may be waived for any such bank which agrees to pledge federal securities to protect the funds and securities of the Authority in such amounts and pursuant to such arrangements as may be acceptable to the Board.

Banks and banking.

"(b) Any moneys of the Authority may, in the discretion of the Board and subject to any agreement or covenant between the Authority and the holders of any of its obligations limiting or restricting classes of investments, be invested in:

"(1) Direct obligations of or obligations guaranteed by the United States of America;

"(2) Bonds, debentures, notes or other evidences of indebtedness issued by agencies of the United States of America, including but not limited to the following: Bank for Cooperatives; Federal Intermediate Credit Banks; Federal Home Loan Bank System; Export-Import Bank of the United States; Federal Land Banks; Federal National Mortgage Association; Student Loan Marketing Association; Government National Mortgage Association; Tennessee Valley Authority; or United States Postal Service; Banks and banking.

"(3) Securities that qualify as lawful investments and may be accepted as security for fiduciary, trust and public funds under the control of the United States or any officer or officers thereof, or securities eligible as collateral for deposits of moneys of the United States, including United States Treasury tax and loan accounts;

"(4) Domestic and Eurodollar certificates of deposits; and

"(5) Bonds, debentures, notes or other evidences of indebtedness issued by a domestic corporation, such as a corporation organized under the laws of one of the States of the United States, provided that such obligations are nonconvertible and at the time of their purchase are rated in the highest rating categories by a nationally recognized bond rating agency.".

(3) Section 73 is amended to read as follows:

"73. Contracts for the construction, reconstruction or improvement of any facility when the expenditure required exceeds twenty-five thousand dollars ($25,000) and contracts for the purchase of supplies, equipment and materials when the expenditure required exceeds ten thousand dollars ($10,000) shall be advertised and let upon sealed bids to the lowest responsible bidder. Notice requesting such bids shall be published in a manner reasonably likely to attract prospective bidders, which publication shall be made at least ten days before bids are received and in at least two newspapers of general circulation in the Zone. The Board may reject any and all bids and readvertise in its discretion. If after rejecting bids the Board determines and resolves that, in its opinion, the supplies, equipment and materials may be purchased at a lower price in the open market, the Board may give each responsible bidder an opportunity to negotiate a price and may proceed to purchase the supplies, equipment and materials in the open market at a negotiated price which is lower than the lowest rejected bid of a responsible bidder, without further observance of the provisions requiring bids or notice. The Board shall adopt rules and regulations to provide for purchasing from the lowest responsible bidder when sealed bids, notice and publication are not required by this section. The Board may suspend and waive the provisions of this section requiring competitive bids whenever: Contracts. Public information. Regulations.

"(a) the purchase is to be made from or the contract is to be made with the Federal or any State government or any agency or political subdivision thereof or pursuant to any open-end bulk-purchase contract of any of them; State and local governments.

"(b) the public exigency requires the immediate delivery of the articles;

"(c) only one source of supply is available; or

"(d) the equipment to be purchased is of a technical nature and the procurement thereof without advertising is necessary in order to assure standardization of equipment and interchangeability of parts in the public interest.".

(4) Section 76(a) is amended to read as follows:

Law enforcement and crime.

"76.(a) The Authority is authorized to establish and maintain a regular police force, to be known as the Metro Transit Police, to provide protection for its patrons, personnel, and transit facilities. The Metro Transit Police shall have the powers and duties and shall be subject to the limitations set forth in this section. It shall be composed of both uniformed and plainclothes personnel and shall be charged with the duty of enforcing the laws of the signatories, and the laws, ordinances and regulations of the political subdivisions thereof in the Transit Zone, and the rules and regulations of the Authority. The jurisdiction of the Metro Transit Police shall be limited to all the transit facilities (including bus stops) owned, controlled or operated by the Authority, but this restriction shall not limit the power of the Metro Transit Police to make arrests in the Transit Zone for violations committed upon, to or against such transit facilities committed from within or outside such transit facilities, while in hot or close pursuit or to execute traffic citations and criminal process in accordance with subsection (c) below. The members of the Metro Transit Police shall have concurrent jurisdiction in the performance of their duties with the duly constituted law enforcement agencies of the signatories and of the political subdivisions thereof in which any transit facility of the Authority is located or in which the Authority operates any transit service. Nothing contained in this section shall either relieve any signatory or political subdivision or agency thereof from its duty to provide police, fire and other public safety service and protection, or limit, restrict or interfere with the jurisdiction of or the performance of duties by the existing police, fire and other public safety agencies. For purposes of this section, 'bus stop' means that area within 150 feet of a metrobus bus stop sign, excluding the interior of any building not owned, controlled, or operated by the Washington Metropolitan Area Transit Authority.".

(5) Section 76(c) is amended to read as follows:

Law enforcement and crime.

"(c) Members of the Metro Transit Police shall have power to execute on the transit facilities owned, controlled, or operated by the Authority any traffic citation or any criminal process issued by any court of any signatory or of any political subdivision of a signatory, for any felony, misdemeanor, or other offense against the laws, ordinances, rules, or regulations specified in subsection (a). However, with respect to offenses committed upon, to, or against the

transit facilities owned, controlled, or operated by the Authority, the Metro Transit Police shall have power to execute criminal process within the Transit Zone.".

SEC. 2. RESERVATION BY THE CONGRESS.

The right of Congress to alter, amend, or repeal this joint resolution is hereby expressly reserved.

Approved April 7, 1988.

LEGISLATIVE HISTORY—H.J. Res. 480:

HOUSE REPORTS: No. 100-521 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 21, considered and passed House.
Mar. 23, considered and passed Senate.

Public Law 100-286
100th Congress

Joint Resolution

Apr. 7, 1988
[S.J. Res. 223]

To designate the period commencing on April 10, 1988, and ending on April 16, 1988, as "National Productivity Improvement Week".

Whereas the economic stability and growth of this Nation relies largely on the collective industry and endeavor of its working citizens;

Whereas the time-honored tradition of American leadership in work-related ingenuity and know-how has brought about great strides in productivity;

Whereas growth in productivity in turn improves the standard of living for United States citizens;

Whereas public awareness of the economic importance of productivity will promote individual and collective ideas and innovations for productivity improvement; and

Whereas a conscientious effort to improve productivity will foster a better standard of living for all citizens and reduce the level of inflation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, for the purpose of providing for a better understanding of the need for productivity growth and of encouraging the development of methods to improve individual and collective productivity in the public and private sectors, the period commencing on April 10, 1988, and ending on April 16, 1988, is designated as "National Productivity Improvement Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such period with appropriate ceremonies and activities.

Approved April 7, 1988.

LEGISLATIVE HISTORY—S.J. Res. 223:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 17, considered and passed Senate.
Mar. 30, considered and passed House.

Public Law 100-287
100th Congress

Joint Resolution

To designate April 21, 1988, as "John Muir Day".

Apr. 7, 1988
[S.J. Res. 245]

Whereas April 21, 1988, marks the one hundred and fiftieth birthday of the great American conservationist John Muir, heralded worldwide for his dedication to the preservation of wilderness in this country;

Whereas generations of Americans have reveled in the wonders of Yosemite, the Grand Canyon, and other parklands set aside by past Presidents and Congresses at the urging of the Scottish-born naturalist;

Whereas a system of natural, cultural, historical, and recreational national parks which John Muir helped pioneer has grown in size to almost eighty million acres symbolizing the stewardship Americans demonstrate for their precious public resources;

Whereas John Muir was the cofounder and first president of the Sierra Club, an organization which contributes in making this Nation a leader in the global environmental movement;

Whereas the John Muir National Historic Site, in Martinez, California, one of three hundred and thirty-seven units of the National Park Service, was set aside by Congress in 1964 as a monument to the wild lands crusader and was the site from which Muir wrote books celebrating the natural beauty and wildlife of the United States, books that are still widely read and treasured by people of all ages; and

Whereas the important role of an ecologically sound environment in the quality of life for all people was proselytised by the tireless voice and pen of John Muir: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 21, 1988, is designated as "John Muir Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved April 7, 1988.

LEGISLATIVE HISTORY—S.J. Res. 245:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 17, considered and passed Senate.
Mar. 30, considered and passed House.

Public Law 100-288
100th Congress

Joint Resolution

Apr. 7, 1988
[S.J. Res. 260]

To designate the week beginning April 10, 1988, as "National Child Care Awareness Week".

Whereas the status and composition of the family in the United States is constantly changing;

Whereas women hold 53 percent of all jobs in the United States;

Whereas 80 percent of the women in the United States who are employed are of childbearing age;

Whereas, while child care is no longer considered the sole responsibility of women, the percentage of single-parent families headed by women has increased by more than 51 percent in 12 years;

Whereas it is estimated that 80 percent of the women with children of preschool age will hold jobs by 1990;

Whereas the increasing participation of women in the workforce will continue to increase the demand for child care during the working hours;

Whereas communities across the United States are planning special activities to honor child care providers and to illustrate the importance of quality child care as part of the Child Care America project of the Public Television Outreach Alliance;

Whereas the National Association for the Education of Young Children and the Public Television Outreach Alliance are sponsoring a week of the child, and it is appropriate for the Congress to designate the same week as a period devoted to increasing public awareness of child care issues; and

Whereas all children deserve quality child care, and all parents have a profound obligation to provide a safe and wholesome environment for their children at all times: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning April 10, 1988, is designated as "National Child Care Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved April 7, 1988.

LEGISLATIVE HISTORY—S.J. Res. 260:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Mar. 30, considered and passed House.

Public Law 100-289
100th Congress

Joint Resolution

To designate April 6, 1988, as "National Student-Athlete Day".

Apr. 12, 1988
[H.J. Res. 513]

Whereas, the student-athlete represents a role model worthy of emulation by America's youth;

Whereas, such worthy values and behaviors as perseverance, teamwork, self-discipline and commitment to a goal are fostered and promoted by both academic and athletic pursuits;

Whereas, participation in athletics, together with education, provides opportunities to develop valuable social and leadership skills and to gain an appreciation of ethnic and racial groups different from one's own;

Whereas, in spite of all the positive aspects of sport, overemphasis on sport at the expense of education can cause serious harm to an athlete's future;

Whereas, the pursuit of victory in athletics among our nation's schools and colleges too often leads to exploitation and abuse of the student-athlete;

Whereas, only 1 in 10,000 high school athletes who dream of a career in professional sports ever realize that aspiration, while those who do can expect a professional sports career of less than 4 years;

Whereas, thousands of America's youth sacrifice academic achievement to the dream of professional athletics;

Whereas, the practice of keeping athletes eligible for participation on a team, even at the high school level, must be abandoned for a policy of ensuring a meaningful education and degree;

Whereas, coaches, parents and educators of student-athletes must express high expectations for academic performance as well as for athletic performance; and

Whereas, there is a need in this Nation to reemphasize the "student" in the term "student-athlete": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 6, 1988, is designated as "National Student-Athlete Day" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate programs, ceremonies, and activities.

Approved April 12, 1988.

LEGISLATIVE HISTORY—H.J. Res. 513:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 30, considered and passed House and Senate.

Public Law 100-290
100th Congress

An Act

Apr. 18, 1988
[H.R. 3459]

To amend the Federal Food, Drug, and Cosmetic Act to revise the provisions respecting orphan drugs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Orphan Drug Amendments of 1988.
Diseases.
21 USC 301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Orphan Drug Amendments of 1988".

SEC. 2. DESIGNATION AS AN ORPHAN DRUG.

(a) REQUEST.—Section 526(a)(1) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb(a)(1)) is amended by adding after the first sentence the following: "A request for designation of a drug shall be made before the submission of an application under section 505(b) for the drug, the submission of an application for certification of the drug under section 507, or the submission of an application for licensing of the drug under section 351 of the Public Health Service Act.".

(b) DISCONTINUANCE.—Section 526 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360bb) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by adding after subsection (a) the following:

"(b) A designation of a drug under subsection (a) shall be subject to the condition that—

"(1) if an application was approved for the drug under section 505(b), a certificate was issued for the drug under section 507, or a license was issued for the drug under section 351 of the Public Health Service Act, the manufacturer of the drug will notify the Secretary of any discontinuance of the production of the drug at least one year before discontinuance, and

"(2) if an application has not been approved for the drug under section 505(b), a certificate has not been issued for the drug under section 507, or a license has not been issued for the drug under section 351 of the Public Health Service Act and if preclinical investigations or investigations under section 505(i) are being conducted with the drug, the manufacturer or sponsor of the drug will notify the Secretary of any decision to discontinue active pursuit of approval of an application under section 505(b), approval of an application for certification under section 507, or approval of a license under section 351 of the Public Health Service Act.".

SEC. 3. FINANCIAL ASSISTANCE.

(a) MEDICAL DEVICES.—Section 5 of the Orphan Drug Act (21 U.S.C. 360ee) is amended—

(1) in subsection (a), by inserting "(1)" after "assist in" and by inserting before the period a comma and "(2) defraying the costs

of developing medical devices for rare diseases or conditions", and

(2) in subsection (b)(2)—

(A) by inserting "(1) in the case of a drug," after "means" in the first sentence and by adding before the period in that sentence a comma and "(2) in the case of a medical device, any disease or condition that occurs so infrequently in the United States that there is no reasonable expectation that a medical device for such disease or condition will be developed without assistance under subsection (a)", and

(B) by striking out "under this subsection" in the last sentence and inserting in lieu thereof "under section 526 of the Federal Food, Drug, and Cosmetic Act".

(b) MEDICAL FOODS.—Section 5 of the Orphan Drug Act (21 U.S.C. 360ee) is amended—

(1) in subsection (a) (as amended by subsection (a)), by inserting before the period a comma and "and (3) defraying the costs of developing medical foods for rare diseases or conditions",

(2) in subsection (b)(2) (as amended by subsection (a)), by inserting before the period at the end of the first sentence a comma and "and (3) in the case of a medical food, any disease or condition that occurs so infrequently in the United States that there is no reasonable expectation that a medical food for such disease or condition will be developed without assistance under subsection (a)", and

(3) by adding at the end of subsection (b) the following: "(3) The term 'medical food' means a food which is formulated to be consumed or administered enterally under the supervision of a physician and which is intended for the specific dietary management of a disease or condition for which distinctive nutritional requirements, based on recognized scientific principles, are established by medical evaluation.".

(c) AUTHORIZATION.—Section 5(c) of the Orphan Drug Act (21 U.S.C. 360ee(c)) is amended to read as follows:

"(c) For grants and contracts under subsection (a) there are authorized to be appropriated $10,000,000 for fiscal year 1988, $12,000,000 for fiscal year 1989, $14,000,000 for fiscal year 1990.".

(d) STUDY.—The Secretary of Health and Human Services shall conduct a study to determine whether the application of subchapter B of chapter V of the Federal Food, Drug, and Cosmetic Act (relating to drugs for rare diseases and conditions) and section 28 of the Internal Revenue Code of 1986 (relating to tax credit) to medical devices or medical foods for rare diseases or conditions or to both is needed to encourage the development of such devices and foods. The Secretary shall report the results of the study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate not later than one year after the date of the enactment of this Act. For purposes of this section, the term "rare diseases or conditions" has the meaning prescribed by section 5 of the Orphan Drug Act (21 U.S.C. 360ee).

Taxes.
21 USC 360aa note.

Reports.

SEC. 4. NATIONAL COMMISSION ON ORPHAN DISEASES.

Section 4(n) of the Orphan Drug Amendments of 1985 (42 U.S.C. 236 note) is amended by striking out "September 30, 1987" and inserting in lieu thereof "February 1, 1989".

Approved April 18, 1988.

LEGISLATIVE HISTORY—H.R. 3459:

HOUSE REPORTS: No. 100-473 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 22, considered and passed House.
Mar. 31, considered and passed Senate.

Public Law 100-291
100th Congress

Joint Resolution

Designating the week of April 17, 1988, as "Crime Victims Week".

Apr. 18, 1988
[S.J. Res. 234]

Whereas millions of Americans are victims of crime each year;
Whereas many of those crime victims are traumatized further by the physical, psychological, and financial burdens resulting from their victimizations;
Whereas the sensitivity of our Nation's criminal justice system must be improved when working with crime victims and their families;
Whereas much progress has been made to correct these injustices by implementing in the Federal, State, local, and private sectors the recommendations of the President's Task Force on Victims of Crime; and
Whereas continuation of these efforts must be encouraged to ensure the restoration of balance to our Nation's criminal justice system and the fair and compassionate treatment of crime victims and their families: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 17, 1988, is designated as "Crime Victims Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved April 18, 1988.

LEGISLATIVE HISTORY—S.J. Res. 234:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Apr. 12, considered and passed House.

Public Law 100-292
100th Congress

Joint Resolution

Apr. 20, 1988
[H.J. Res. 527]

To designate the week of April 17, 1988, through April 24, 1988, as "Jewish Heritage Week".

Whereas April 21, 1988, marks the fortieth anniversary of the founding of the State of Israel;

Whereas the months of March, April, and May contain events of major significance in the Jewish calendar—Passover, the anniversary of the Warsaw Ghetto Uprising, Solidarity Sunday for Soviet Jewry, and Jerusalem Day;

Whereas the Congress recognizes that an understanding of the heritage of all American ethnic groups contributes to the unity of our country; and

Whereas intergroup understanding can be further fostered through an appreciation of the culture, history and traditions of the Jewish community and the contributions of Jews to our country and society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of April 17, 1988, through April 24, 1988, is designated as "Jewish Heritage Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States, State and local government agencies, and interested organizations to observe the week with appropriate ceremonies, activities and programs.

Approved April 20, 1988.

LEGISLATIVE HISTORY—H.J. Res. 527:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 12, considered and passed House.
Apr. 14, considered and passed Senate.

Public Law 100-293
100th Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to ban the reimportation of drugs produced in the United States, to place restrictions on the distribution of drug samples, to ban certain resales of drugs by hospitals and other health care entities, and for other purposes.

Apr. 22, 1988
[H.R. 1207]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Prescription Drug Marketing Act of 1987.
Commerce and trade.
21 USC 301 note.

SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Prescription Drug Marketing Act of 1987".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

SEC. 2. FINDINGS.

21 USC 353 note.

The Congress finds the following:

(1) American consumers cannot purchase prescription drugs with the certainty that the products are safe and effective.

(2) The integrity of the distribution system for prescription drugs is insufficient to prevent the introduction and eventual retail sale of substandard, ineffective, or even counterfeit drugs.

(3) The existence and operation of a wholesale submarket, commonly known as the "diversion market", prevents effective control over or even routine knowledge of the true sources of prescription drugs in a significant number of cases.

(4) Large amounts of drugs are being reimported to the United States as American goods returned. These imports are a health and safety risk to American consumers because they may have become subpotent or adulterated during foreign handling and shipping.

(5) The ready market for prescription drug reimports has been the catalyst for a continuing series of frauds against American manufacturers and has provided the cover for the importation of foreign counterfeit drugs.

(6) The existing system of providing drug samples to physicians through manufacturer's representatives has been abused for decades and has resulted in the sale to consumers of misbranded, expired, and adulterated pharmaceuticals.

(7) The bulk resale of below wholesale priced prescription drugs by health care entities, for ultimate sale at retail, helps fuel the diversion market and is an unfair form of competition to wholesalers and retailers that must pay otherwise prevailing market prices.

(8) The effect of these several practices and conditions is to create an unacceptable risk that counterfeit, adulterated, mis-

branded, subpotent, or expired drugs will be sold to American consumers.

SEC. 3. REIMPORTATION.

Section 801 (21 U.S.C. 381) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following:

"(d)(1) Except as provided in paragraph (2), no drug subject to section 503(b) which is manufactured in a State and exported may be imported into the United States unless the drug is imported by the person who manufactured the drug.

"(2) The Secretary may authorize the importation of a drug the importation of which is prohibited by paragraph (1) if the drug is required for emergency medical care.".

SEC. 4. SALES RESTRICTIONS.

Section 503 (21 U.S.C. 353) is amended by adding at the end the following:

"(c)(1) No person may sell, purchase, or trade or offer to sell, purchase, or trade any drug sample. For purposes of this paragraph and subsection (d), the term 'drug sample' means a unit of a drug, subject to subsection (b), which is not intended to be sold and is intended to promote the sale of the drug. Nothing in this paragraph shall subject an officer or executive of a drug manufacturer or distributor to criminal liability solely because of a sale, purchase, trade, or offer to sell, purchase, or trade in violation of this paragraph by other employees of the manufacturer or distributor.

"(2) No person may sell, purchase, or trade, offer to sell, purchase, or trade, or counterfeit any coupon. For purposes of this paragraph, the term 'coupon' means a form which may be redeemed, at no cost or at a reduced cost, for a drug which is prescribed in accordance with section 503(b).

"(3)(A) No person may sell, purchase, or trade, or offer to sell, purchase, or trade, any drug—

"(i) which is subject to subsection (b), and

"(ii)(I) which was purchased by a public or private hospital or other health care entity, or

"(II) which was donated or supplied at a reduced price to a charitable organization described in section 501(c)(3) of the Internal Revenue Code of 1954.

"(B) Subparagraph (A) does not apply to—

"(i) the purchase or other acquisition by a hospital or other health care entity which is a member of a group purchasing organization of a drug for its own use from the group purchasing organization or from other hospitals or health care entities which are members of such organization,

"(ii) the sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug by an organization described in subparagraph (A)(ii)(II) to a nonprofit affiliate of the organization to the extent otherwise permitted by law,

"(iii) a sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug among hospitals or other health care entities which are under common control,

"(iv) a sale, purchase, or trade of a drug or an offer to sell, purchase, or trade a drug for emergency medical reasons, or

"(v) a sale, purchase, or trade of a drug, an offer to sell, purchase, or trade a drug, or the dispensing of a drug pursuant to a prescription executed in accordance with section 503(b).

For purposes of this paragraph, the term 'entity' does not include a wholesale distributor of drugs or a retail pharmacy licensed under State law and the term 'emergency medical reasons' includes transfers of a drug between health care entities or from a health care entity to a retail pharmacy undertaken to alleviate temporary shortages of the drug arising from delays in or interruptions of regular distribution schedules.".

SEC. 5. DISTRIBUTION OF DRUG SAMPLES.

Section 503 (as amended by section 4 of this Act) is amended by adding at the end thereof the following:

"(d)(1) Except as provided in paragraphs (2) and (3), no representative of a drug manufacturer or distributor may distribute any drug sample.

Mail.
Health care professionals.

"(2)(A) The manufacturer or distributor of a drug subject to subsection (b) may, in accordance with this paragraph, distribute drug samples by mail or common carrier to practitioners licensed to prescribe such drugs or, at the request of a licensed practitioner, to pharmacies of hospitals or other health care entities. Such a distribution of drug samples may only be made—

"(i) in response to a written request for drug samples made on a form which meets the requirements of subparagraph (B), and

"(ii) under a system which requires the recipient of the drug sample to execute a written receipt for the drug sample upon its delivery and the return of the receipt to the manufacturer or distributor.

"(B) A written request for a drug sample required by subparagraph (A)(i) shall contain—

"(i) the name, address, professional designation, and signature of the practitioner making the request,

"(ii) the identity of the drug sample requested and the quantity requested,

"(iii) the name of the manufacturer of the drug sample requested, and

"(iv) the date of the request.

Mail.
Records.
State and local governments.

"(C) Each drug manufacturer or distributor which makes distributions by mail or common carrier under this paragraph shall maintain, for a period of 3 years, the request forms submitted for such distributions and the receipts submitted for such distributions and shall maintain a record of distributions of drug samples which identifies the drugs distributed and the recipients of the distributions. Forms, receipts, and records required to be maintained under this subparagraph shall be made available by the drug manufacturer or distributor to Federal and State officials engaged in the regulation of drugs and in the enforcement of laws applicable to drugs.

"(3) The manufacturer or distributor of a drug subject to subsection (b) may, by means other than mail or common carrier, distribute drug samples only if the manufacturer or distributor makes the distributions in accordance with subparagraph (A) and carries out the activities described in subparagraphs (B) through (F) as follows:

"(A) Drug samples may only be distributed—

Health care professionals.

"(i) to practitioners licensed to prescribe such drugs if they make a written request for the drug samples, or

"(ii) at the written request of such a licensed practitioner, to pharmacies of hospitals or other health care entities. A written request for drug samples shall be made on a form which contains the practitioner's name, address, and professional designation, the identity of the drug sample requested, the quantity of drug samples requested, the name of the manufacturer or distributor of the drug sample, the date of the request and signature of the practitioner making the request.

"(B) Drug manufacturers or distributors shall store drug samples under conditions that will maintain their stability, integrity, and effectiveness and will assure that the drug samples will be free of contamination, deterioration, and adulteration.

Records. "(C) Drug manufacturers or distributors shall conduct, at least annually, a complete and accurate inventory of all drug samples in the possession of representatives of the manufacturer or distributor. Drug manufacturers or distributors shall maintain lists of the names and address of each of their representatives who distribute drug samples and of the sites where drug samples are stored. Drug manufacturers or distributors shall maintain records for at least 3 years of all drug samples distributed, destroyed, or returned to the manufacturer or distributor, of all inventories maintained under this subparagraph, of all thefts or significant losses of drug samples, and of all requests made under subparagraph (A) for drug samples. Records and lists maintained under this subparagraph shall be made available by the drug manufacturer or distributor to the Secretary upon request.

"(D) Drug manufacturers or distributors shall notify the Secretary of any significant loss of drug samples and any known theft of drug samples.

Reports. "(E) Drug manufacturers or distributors shall report to the Secretary any conviction of their representatives for violations of section 503(c)(1) or a State law because of the sale, purchase, or trade of a drug sample or the offer to sell, purchase, or trade a drug sample.

"(F) Drug manufacturers or distributors shall provide to the Secretary the name and telephone number of the individual responsible for responding to a request for information respecting drug samples.".

SEC. 6. WHOLESALE DISTRIBUTORS.

Section 503 (as amended by section 5 of this Act) is amended by adding at the end the following:

"(e)(1) Each person who is engaged in the wholesale distribution of drugs subject to subsection (b) and who is not an authorized distributor of record of such drugs shall provide to each wholesale distributor of such drugs a statement identifying each sale of the drug (including the date of the sale) before the sale to such wholesale

Records. distributor. Each manufacturer shall maintain at its corporate offices a current list of such authorized distributors.

"(2)(A) No person may engage in the wholesale distribution in interstate commerce of drugs subject to subsection (b) in a State unless such person is licensed by the State in accordance with the guidelines issued under subparagraph (B).

Regulations. "(B) The Secretary shall by regulation issue guidelines establishing minimum standards, terms, and conditions for the licensing of persons to make wholesale distributions in interstate commerce of

drugs subject to subsection (b). Such guidelines shall prescribe requirements for the storage and handling of such drugs and for the establishment and maintenance of records of the distributions of such drugs. Records.

"(3) For the purposes of this subsection—

"(A) the term 'authorized distributors of record' means those distributors with whom a manufacturer has established an ongoing relationship to distribute such manufacturer's products, and

"(B) the term 'wholesale distribution' means distribution of drugs subject to subsection (b) to other than the consumer or patient but does not include intracompany sales and does not include distributions of drugs described in subsection (c)(3)(B).".

SEC. 7. PENALTIES.

(a) PROHIBITED ACTS.—Section 301 (21 U.S.C. 331) is amended by adding at the end the following:

"(t) The importation of a drug in violation of section 801(d)(1), the sale, purchase, or trade of a drug or drug sample or the offer to sell, purchase, or trade a drug or drug sample in violation of section 503(c), the sale, purchase, or trade of a coupon, the offer to sell, purchase, or trade such a coupon, or the counterfeiting of such a coupon in violation of section 503(c)(2), the distribution of a drug sample in violation of section 503(d) or the failure to otherwise comply with the requirements of section 503(d), or the distribution of drugs in violation of section 503(e) or the failure to otherwise comply with the requirements of section 503(e).".

(b) PENALTIES.—Section 303 (21 U.S.C. 333) is amended—

(1) by inserting "(1)" after "(a)",

(2) by redesignating subsection (b) as paragraph (2) and by striking out "subsection (a)" in such subsection and inserting in lieu thereof "paragraph (1)", and

(3) by inserting after subsection (a) the following:

"(b)(1) Notwithstanding subsection (a), any person who violates section 301(t) because of an importation of a drug in violation of section 801(d)(1), because of a sale, purchase, or trade of a drug or drug sample or the offer to sell, purchase, or trade a drug or drug sample in violation of section 503(c), because of the sale, purchase, or trade of a coupon, the offer to sell, purchase, or trade such a coupon, or the counterfeiting of such a coupon in violation of section 503(c)(2), or the distribution of drugs in violation of section 503(e)(2)(A) shall be imprisoned for not more than 10 years or fined not more than $250,000, or both.

"(2) Any manufacturer or distributor who distributes drug samples by means other than the mail or common carrier whose representative, during the course of the representative's employment or association with that manufacturer or distributor, violated section 301(t) because of a violation of section 503(c)(1) or violated any State law prohibiting the sale, purchase, or trade of a drug sample subject to section 503(b) or the offer to sell, purchase, or trade such a drug sample shall, upon conviction of the representative for such violation, be subject to the following civil penalties:

"(A) A civil penalty of not more than $50,000 for each of the first two such violations resulting in a conviction of any representative of the manufacturer or distributor in any 10-year period.

"(B) A civil penalty of not more than $1,000,000 for each violation resulting in a conviction of any representative after the second conviction in any 10-year period.

For the purposes of this paragraph, multiple convictions of one or more persons arising out of the same event or transaction, or a related series of events or transactions, shall be considered as one violation.

"(3) Any manufacturer or distributor who violates section 301(t) because of a failure to make a report required by section 503(d)(3)(E) shall be subject to a civil penalty of not more than $100,000.

"(4)(A) If a manufacturer or distributor or any representative of such manufacturer or distributor provides information leading to the arrest and conviction of any representative of that manufacturer or distributor for a violation of section 301(t) because of a sale, purchase, or trade or offer to purchase, sell, or trade a drug sample in violation of section 503(c)(1) or for a violation of State law prohibiting the sale, purchase, or trade or offer to sell, purchase, or trade a drug sample, the conviction of such representative shall not be considered as a violation for purposes of paragraph (2).

"(B) If, in an action brought under paragraph (2) against a manufacturer or distributor relating to the conviction of a representative of such manufacturer or distributor for the sale, purchase, or trade of a drug or the offer to sell, purchase, or trade a drug, it is shown, by clear and convincing evidence—

"(i) that the manufacturer or distributor conducted, before the arrest of such representative for the violation which resulted in such conviction, an investigation of events or transactions which would have led to the reporting of information leading to the arrest and conviction of such representative for such purchase, sale, or trade or offer to purchase, sell, or trade, or

"(ii) that, except in the case of the conviction of a representative employed in a supervisory function, despite diligent implementation by the manufacturer or distributor of an independent audit and security system designed to detect such a violation, the manufacturer or distributor could not reasonably have been expected to have detected such violation,

the conviction of such representative shall not be considered as a conviction for purposes of paragraph (2).

"(5) If a person provides information leading to the arrest and conviction of a person for a violation of section 301(t) because of the sale, purchase, or trade of a drug sample or the offer to sell, purchase, or trade a drug sample in violation of section 503(c)(1), such person shall be entitled to one-half of the criminal fine imposed and collected for such violation but not more than $125,000.".

21 USC 353 note.

SEC. 8. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect upon the expiration of 90 days after the date of the enactment of this Act.

(b) EXCEPTION.—

(1) Section 503(d) of the Federal Food, Drug, and Cosmetic Act (as added by section 5 of this Act) shall take effect upon the expiration of 180 days after the date of the enactment of this Act.

Regulations.

(2) The Secretary of Health and Human Services shall by regulation issue the guidelines required by section 503(e)(2)(B) of

the Federal Food, Drug, and Cosmetic Act (as added by section 6 of this Act) not later than 180 days after the date of the enactment of this Act. Section 503(e)(2)(A) of such Act shall take effect upon the expiration of 2 years after the date such regulations are promulgated and take effect.

Approved April 22, 1988.

LEGISLATIVE HISTORY—H.R. 1207:

HOUSE REPORTS: No. 100-76 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-303 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 133 (1987): May 4, considered and passed House.
Vol. 134 (1988): Mar. 31, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Apr. 22, Presidential statement.

Public Law 100-294
100th Congress

An Act

Apr. 25, 1988
[H.R. 1900]

To amend the Child Abuse Prevention and Treatment Act, the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978, and the Family Violence Prevention and Services Act to extend through fiscal year 1991 the authorities established in such Acts.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Child Abuse Prevention, Adoption, and Family Services Act of 1988.
42 USC 5101 note.

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Child Abuse Prevention, Adoption, and Family Services Act of 1988".

TITLE I—CHILD ABUSE PREVENTION AND TREATMENT ACT

State and local governments.
Health and medical care.
Health care professionals.
Health care facilities.

SEC. 101. AMENDMENT TO THE CHILD ABUSE PREVENTION AND TREATMENT ACT.

The Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) is amended to read as follows:

42 USC 5101 note.

"SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

"(a) SHORT TITLE.—This Act may be cited as the 'Child Abuse Prevention and Treatment Act'.

"(b) TABLE OF CONTENTS.—The table of contents is as follows:

"TABLE OF CONTENTS

"Sec. 1. Short title and table of contents.
"Sec. 2. National Center on Child Abuse and Neglect.
"Sec. 3. Advisory Board on Child Abuse and Neglect.
"Sec. 4. Inter-Agency Task Force on Child Abuse and Neglect.
"Sec. 5. National clearinghouse for information relating to child abuse.
"Sec. 6. Research and assistance activities of the National Center on Child Abuse and Neglect.
"Sec. 7. Grants to public agencies and nonprofit private organizations for demonstration or service programs and projects.
"Sec. 8. Grants to States for child abuse and neglect prevention and treatment programs.
"Sec. 9. Technical assistance to States for child abuse prevention and treatment programs.
"Sec. 10. Grants to States for programs relating to the investigation and prosecution of child abuse cases.
"Sec. 11. Miscellaneous requirements relating to assistance.
"Sec. 12. Coordination of child abuse and neglect programs.
"Sec. 13. Reports.
"Sec. 14. Definitions.
"Sec. 15. Authorization of appropriations.

"SEC. 2. NATIONAL CENTER ON CHILD ABUSE AND NEGLECT. 42 USC 5101.

"(a) ESTABLISHMENT.—The Secretary of Health and Human Services shall establish an office to be known as the National Center on Child Abuse and Neglect.

"(b) APPOINTMENT OF DIRECTOR.—

"(1) APPOINTMENT.—The Secretary shall appoint a Director of the Center. Except as otherwise provided in this Act, the Director shall be responsible only for administration and operation of the Center and for carrying out the functions of the Center under this Act. The Director shall have experience in the field of child abuse and neglect.

"(2) COMPENSATION.—The Director shall be compensated at the annual rate provided for a level GS-15 employee under section 5332 of title 5, United States Code.

"(c) OTHER STAFF AND RESOURCES.—The Secretary shall make available to the Center such staff and resources as are necessary for the Center to carry out effectively its functions under this Act. The Secretary shall require that professional staff have experience relating to child abuse and neglect. The Secretary is required to justify, based on the priorities and needs of the Center, the hiring of any professional staff member who does not have experience relating to child abuse and neglect.

"SEC. 3. ADVISORY BOARD ON CHILD ABUSE AND NEGLECT. 42 USC 5102.

"(a) APPOINTMENT.—The Secretary shall appoint an advisory board to be known as the Advisory Board on Child Abuse and Neglect.

"(b) SOLICITATION OF NOMINATIONS.—The Secretary shall publish a notice in the Federal Register soliciting nominations for the appointments required by subsection (a). Federal Register, publication.

"(c) COMPOSITION OF BOARD.—

"(1) NUMBER OF MEMBERS.—The board shall consist of 15 members, each of which shall be a person who is recognized for expertise in an aspect of the area of child abuse, of which—

"(A) 2 shall be members of the task force established under section 4; and

"(B) 13 shall be members of the general public and may not be Federal employees.

"(2) REPRESENTATION.—The Secretary shall appoint members from the general public under paragraph (1)(B) who are individuals knowledgeable in child abuse and neglect prevention, intervention, treatment, or research, and with due consideration to representation of ethnic or racial minorities and diverse geographic areas, and who represent—

"(A) law (including the judiciary);
"(B) psychology (including child development);
"(C) social services (including child protective services);
"(D) medicine (including pediatrics);
"(E) State and local government;
"(F) organizations providing services to disabled persons;
"(G) organizations providing services to adolescents;
"(H) teachers;
"(I) parent self-help organizations;
"(J) parents' groups; and
"(K) voluntary groups.

"(3) TERMS OF OFFICE.—(A) Except as otherwise provided in this subsection, members shall be appointed for terms of office of 4 years.

"(B) Of the members of the board from the general public first appointed under subsection (a)—

"(i) 4 shall be appointed for terms of office of 2 years;

"(ii) 4 shall be appointed for terms of office of 3 years; and

"(iii) 5 shall be appointed for terms of office of 4 years,

as determined by the members from the general public during the first meeting of the board.

"(C) No member of the board appointed under subsection (a) shall be eligible to serve in excess of two consecutive terms, but may continue to serve until such member's successor is appointed.

"(4) VACANCIES.—Any member of the board appointed under subsection (a) to fill a vacancy occurring before the expiration of the term to which such member's predecessor was appointed shall be appointed for the remainder of such term. If the vacancy occurs prior to the expiration of the term of a member of the board appointed under subsection (a), a replacement shall be appointed in the same manner in which the original appointment was made.

"(5) REMOVAL.—No member of the board may be removed during the term of office of such member except for just and sufficient cause.

"(d) ELECTION OF OFFICERS.—The board shall elect a chairperson and vice-chairperson at its first meeting from among the members from the general public.

"(e) MEETINGS.—The board shall meet not less than twice a year at the call of the chairperson. The chairperson, to the maximum extent practicable, shall coordinate meetings of the board with receipt of reports from the task force under section 4(f).

Reports.

"(f) DUTIES.—The board shall—

"(1) annually submit to the Secretary and the appropriate committees of Congress a report containing—

"(A) recommendations on coordinating Federal child abuse and neglect activities to prevent duplication and ensure efficient allocations of resources and program effectiveness; and

"(B) recommendations as to carrying out the purposes of this Act;

"(2) annually submit to the Secretary and the Director a report containing long-term and short-term recommendations on—

"(A) programs;

"(B) research;

"(C) grant and contract needs;

"(D) areas of unmet needs; and

"(E) areas to which the Secretary should provide grant and contract priorities under sections 6 and 7; and

"(3) annually review the budget of the Center and submit to the Director a report concerning such review.

"(g) COMPENSATION.—

"(1) IN GENERAL.—Except as provided in paragraph (3), members of the board, other than those regularly employed by the Federal Government, while serving on business of the board, may receive compensation at a rate not in excess of the daily

equivalent payable to a GS-18 employee under section 5332 of title 5, United States Code, including traveltime.

"(2) TRAVEL.—Except as provided in paragraph (3), members of the board, while serving on business of the board away from their homes or regular places of business, may be allowed travel expenses (including per diem in lieu of subsistence) as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(3) RESTRICTION.—The Director may not compensate a member of the board under this section if the member is receiving compensation or travel expenses from another source while serving on business of the board.

"SEC. 4. INTER-AGENCY TASK FORCE ON CHILD ABUSE AND NEGLECT. 42 USC 5103.

"(a) ESTABLISHMENT.—The Secretary shall establish a task force to be known as the Inter-Agency Task Force on Child Abuse and Neglect.

"(b) COMPOSITION.—The Secretary shall request representation for the task force from Federal agencies with responsibility for programs and activities related to child abuse and neglect.

"(c) CHAIRPERSON.—The task force shall be chaired by the Director.

"(d) DUTIES.—The task force shall—

"(1) coordinate Federal efforts with respect to child abuse prevention and treatment programs;

"(2) encourage the development by other Federal agencies of activities relating to child abuse prevention and treatment;

"(3) coordinate the use of grants received under this Act with the use of grants received under other programs;

"(4) prepare a comprehensive plan for coordinating the goals, objectives, and activities of all Federal agencies and organizations which have responsibilities for programs and activities related to child abuse and neglect, and submit such plan to such Advisory Board not later than 12 months after the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988; and

"(5) coordinate adoption related activities, develop Federal standards with respect to adoption activities under this Act, and prevent duplication with respect to the allocation of resources to adoption activities.

"(e) MEETINGS.—The task force shall meet not less than three times annually at the call of the chairperson.

"(f) REPORTS.—The task force shall report not less than twice annually to the Center and the Board.

"SEC. 5. NATIONAL CLEARINGHOUSE FOR INFORMATION RELATING TO CHILD ABUSE. 42 USC 5104.

"(a) ESTABLISHMENT.—Before the end of the 2-year period beginning on the date of the enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988, the Secretary shall through the Center, or by contract of no less than 3 years duration let through a competition, establish a national clearinghouse for information relating to child abuse. Contracts.

"(b) FUNCTIONS.—The Director shall, through the clearinghouse established by subsection (a)—

"(1) maintain, coordinate, and disseminate information on all programs, including private programs, that show promise of

success with respect to the prevention, identification, and treatment of child abuse and neglect, including the information provided by the National Center for Child Abuse and Neglect under section 6(b); and

"(2) maintain and disseminate information relating to—

"(A) the incidence of cases of child abuse and neglect in the general population;

"(B) the incidence of such cases in populations determined by the Secretary under section 105(a)(1);

"(C) the incidence of any such cases related to alcohol or drug abuse; and

"(D) State and local recordkeeping with respect to such cases.

"(c) COORDINATION WITH AVAILABLE RESOURCES.—In establishing a national clearinghouse as required by subsection (a), the Director shall—

"(1) consult with other Federal agencies that operate similar clearinghouses;

"(2) consult with the head of each agency that is represented on the task force on the development of the components for information collection and management of such clearinghouse;

"(3) develop a Federal data system involving the elements under subsection (b) which, to the extent practicable, coordinates existing State, regional, and local data systems; and

"(4) solicit public comment on the components of such clearinghouse.

42 USC 5105.

"SEC. 6. RESEARCH AND ASSISTANCE ACTIVITIES OF THE NATIONAL CENTER ON CHILD ABUSE AND NEGLECT.

"(a) RESEARCH.—

"(1) TOPICS.—The Secretary shall, through the Center, conduct research on—

"(A) the causes, prevention, identification, and treatment of child abuse and neglect;

"(B) appropriate and effective investigative, administrative, and judicial procedures with respect to cases of child abuse; and

"(C) the national incidence of child abuse and neglect, including—

"(i) the extent to which incidents of child abuse are increasing or decreasing in number and severity;

"(ii) the relationship of child abuse and neglect to nonpayment of child support, handicaps, and various other factors; and

"(iii) the incidence of substantiated reported child abuse cases that result in civil child protection proceedings or criminal proceedings, including the number of such cases with respect to which the court makes a finding that abuse or neglect exists and the disposition of such cases.

Grants.
Contracts.

"(2) PRIORITIES.—(A) The Secretary shall establish research and demonstration priorities for making grants or contracts for purposes of carrying out paragraph (1)(A) and activities under section 7.

"(B) In establishing research and demonstration priorities as required by subparagraph (A), the Secretary shall—

"(i) publish proposed priorities in the Federal Register for public comment; and

Federal Register, publication.

"(ii) allow not less than 60 days for public comment on such proposed priorities.

"(b) PUBLICATION AND DISSEMINATION OF INFORMATION.—The Secretary shall, through the Center—

"(1) as a part of research activities establish a national data collection and analysis program, which, to the extent practical, coordinates existing State child abuse and neglect reports and which shall include—

Reports.

"(A) standardized data on false, unfounded, or unsubstantiated reports; and

"(B) information on the number of deaths due to child abuse and neglect;

"(2) annually compile and analyze research on child abuse and neglect and publish a summary of such research;

"(3) compile, evaluate, publish, and disseminate to the States and to the clearinghouse, established under section 5, materials and information designed to assist the States in developing, establishing, and operating the programs described in section 10, including an evaluation of—

"(A) various methods and procedures for the investigation and prosecution of child physical and sexual abuse cases; and

"(B) resultant psychological trauma to the child victim;

"(4) compile, publish, and disseminate training materials—

"(A) for persons who are engaged in or intend to engage in the prevention, identification, and treatment of child abuse and neglect; and

"(B) to appropriate State and local officials to assist in training law enforcement, legal, judicial, medical, mental health, and child welfare personnel in appropriate methods of interacting during investigative, administrative, and judicial proceedings with children who have been subjected to abuse; and

"(5) establish model information collection systems, in consultation with appropriate State and local agencies and professionals.

"(c) PROVISION OF TECHNICAL ASSISTANCE.—The Secretary shall, through the Center, provide technical assistance to public and nonprofit private agencies and organizations, including disability organizations and persons who work with children with handicaps, to assist such agencies and organizations in planning, improving, developing, and carrying out programs and activities relating to the prevention, identification, and treatment of child abuse and neglect.

Handicapped persons.

"(d) AUTHORITY TO MAKE GRANTS OR ENTER INTO CONTRACTS.—

"(1) IN GENERAL.—The functions of the Secretary under this section may be carried out either directly or through grant or contract.

"(2) DURATION.—Grants under this section shall be made for periods of not more than 5 years. The Secretary shall review each such grant at least annually, utilizing peer review mechanisms to assure the quality and progress of research conducted under such grant.

"(3) PREFERENCE FOR LONG-TERM STUDIES.—In making grants for purposes of conducting research under subsection (a), the

Secretary shall give special consideration to applications for long-term projects.

"(e) PEER REVIEW FOR GRANTS.—

Contracts.

"(1) ESTABLISHMENT OF PEER REVIEW PROCESS.—(A) The Secretary shall establish a formal peer review process for purposes of evaluating applications for grants and contracts under this section and determining the relative merits of the projects for which such assistance is requested.

"(B) Members of peer review panels shall be appointed by the Secretary from among individuals who are not officers or employees of the Office of Human Development Services. In making appointments to such panels, the Secretary shall include only experts in the field of child abuse and neglect.

Contracts.

"(2) REVIEW OF APPLICATIONS FOR ASSISTANCE.—Each peer review panel established under paragraph (1)(A) that reviews any application for a grant, contract, or other financial assistance shall—

"(A) determine the merit of each project described in such application; and

"(B) rank such application with respect to all other applications it reviews in the same priority area for the fiscal year involved, according to the relative merit of all of the projects that are described in such application and for which financial assistance is requested.

"(3) NOTICE OF APPROVAL.—(A) At the end of each application process, the Secretary shall make available upon request, no later than 14 days after the request, to the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate the list which identifies all applications reviewed by such panel and arranges such applications according to rank determined under paragraph (2) and a list of all applications funded.

"(B) In the instance in which the Secretary approves an application for a program without having approved all applications ranked above such application (as determined under subsection (e)(2)(B)), the Secretary shall append to the approved application a detailed explanation of the reasons relied on for approving the application and for failing to approve each pending application that is superior in merit, as indicated on the list under subsection (e)(2)(B).

Contracts.
42 USC 5106.

"SEC. 7. GRANTS TO PUBLIC AGENCIES AND NONPROFIT PRIVATE ORGANIZATIONS FOR DEMONSTRATION OR SERVICE PROGRAMS AND PROJECTS.

"(a) GENERAL AUTHORITY.—The Secretary, through the Center, shall, in accordance with subsections (b) and (c), make grants to, and enter into contracts with, public agencies or nonprofit private organizations (or combinations of such agencies or organizations) for demonstration or service programs and projects designed to prevent, identify, and treat child abuse and neglect.

"(b) GRANTS FOR RESOURCE CENTERS.—The Secretary shall, directly or through grants or contracts with public or private nonprofit organizations under this section, provide for the establishment of resource centers—

"(1) serving defined geographic areas;

"(2) staffed by multidisciplinary teams of personnel trained in the prevention, identification, and treatment of child abuse and neglect; and

"(3) providing advice and consultation to individuals, agencies, and organizations which request such services.

"(c) DISCRETIONARY GRANTS.—In addition to grants or contracts made under subsection (b), grants or contracts under this section may be used for the following: Education.

"(1) Training programs—

"(A) for professional and paraprofessional personnel in the fields of medicine, law, education, social work, and other relevant fields who are engaged in, or intend to work in, the field of prevention, identification, and treatment of child abuse and neglect; or

"(B) to provide instruction in methods of protecting children from child abuse and neglect to children and to persons responsible for the welfare of children, including parents of and persons who work with children with handicaps. Handicapped persons.

"(2) Such other innovative programs and projects as the Secretary may approve, including programs and projects for parent self-help, for prevention and treatment of alcohol and drug-related child abuse and neglect, and for home health visitor programs designed to reach parents of children in populations in which risk is high, that show promise of successfully preventing and treating cases of child abuse and neglect, and for a parent self-help program of demonstrated effectiveness which is national in scope. Alcohol and alcoholic beverages. Drugs and drug abuse.

"(3) Projects which provide educational identification, prevention, and treatment services in cooperation with preschool and elementary and secondary schools.

"(4) Respite and crisis nursery programs provided by community-based organizations under the direction and supervision of hospitals.

"(5) Respite and crisis nursery programs provided by community-based organizations.

"(6)(A) Providing hospital-based information and referral services to—

"(i) parents of children with handicaps; and

"(ii) children who have been neglected or abused and their parents.

"(B) Except as provided in subparagraph (C)(iii), services provided under a grant received under this paragraph shall be provided at the hospital involved—

"(i) upon the birth or admission of a handicapped child; and

"(ii) upon the treatment of a child for abuse or neglect.

"(C) Services, as determined as appropriate by the grantee, provided under a grant received under this paragraph shall be hospital-based and shall consist of—

"(i) the provision of notice to parents that information relating to community services is available;

"(ii) the provision of appropriate information to parents of a child with handicaps regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child;

"(iii) the provision of appropriate information to parents of a child who has been neglected or abused regarding resources in the community, particularly parent training resources, that will assist such parents in caring for their child and reduce the possibility of abuse or neglect;

"(iv) the provision of appropriate follow-up services to parents of a child described in subparagraph (B) after the child has left the hospital; and

"(v) where necessary, assistance in coordination of community services available to parents of children described in subparagraph (B).

The grantee shall assure that parental involvement described in this subparagraph is voluntary.

"(D) For purposes of this paragraph, a qualified grantee is a nonprofit acute care hospital that—

"(i) is in a combination with—

"(I) a health-care provider organization;

"(II) a child welfare organization;

"(III) a disability organization; and

"(IV) a State child protection agency;

"(ii) submits an application for a grant under this paragraph that is approved by the Secretary;

"(iii) maintains an office in the hospital involved for purposes of providing services under such grant;

"(iv) provides assurances to the Secretary that in the conduct of the project the confidentiality of medical, social, and personal information concerning any person described in subparagraph (A) or (B) shall be maintained, and shall be disclosed only to qualified persons providing required services described in subparagraph (C) for purposes relating to conduct of the project; and

"(v) assumes legal responsibility for carrying out the terms and conditions of the grant.

Urban areas.
Rural areas.

"(E) In awarding grants under this paragraph, the Secretary shall—

"(i) give priority under this section for two grants under this paragraph, provided that one grant shall be made to provide services in an urban setting and one grant shall be made to provide services in rural setting; and

"(ii) encourage qualified grantees to combine the amounts received under the grant with other funds available to such grantees.

"(7) Such other innovative programs and projects that show promise of preventing and treating cases of child abuse and neglect as the Secretary may approve.

42 USC 5106a.

"SEC. 8. GRANTS TO STATES FOR CHILD ABUSE AND NEGLECT PREVENTION AND TREATMENT PROGRAMS.

"(a) DEVELOPMENT AND OPERATION GRANTS.—The Secretary, through the Center, is authorized to make grants to the States for purposes of assisting the States in developing, strengthening, and carrying out child abuse and neglect prevention and treatment programs.

"(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for a grant under subsection (a), such State shall—

"(1) have in effect a State law relating to child abuse and neglect, including—

"(A) provisions for the reporting of known and suspected instances of child abuse and neglect; and

"(B) provisions for immunity from prosecution under State and local laws for persons who report instances of child abuse or neglect for circumstances arising from such reporting;

"(2) provide that upon receipt of a report of known or suspected instances of child abuse or neglect an investigation shall be initiated promptly to substantiate the accuracy of the report, and, upon a finding of abuse or neglect, immediate steps shall be taken to protect the health and welfare of the abused or neglected child and of any other child under the same care who may be in danger of abuse or neglect;

"(3) demonstrate that there are in effect throughout the State, in connection with the enforcement of child abuse and neglect laws and with the reporting of suspected instances of child abuse and neglect, such—

"(A) administrative procedures;

"(B) personnel trained in child abuse and neglect prevention and treatment;

"(C) training procedures;

"(D) institutional and other facilities (public and private); and

"(E) such related multidisciplinary programs and services,

as may be necessary or appropriate to ensure that the State will deal effectively with child abuse and neglect cases in the State;

"(4) provide for methods to preserve the confidentiality of all records in order to protect the rights of the child and of the child's parents or guardians; Classified information.

"(5) provide for the cooperation of law enforcement officials, courts of competent jurisdiction, and appropriate State agencies providing human services;

"(6) provide that in every case involving an abused or neglected child which results in a judicial proceeding a guardian ad litem shall be appointed to represent the child in such proceedings;

"(7) provide that the aggregate of support for programs or projects related to child abuse and neglect assisted by State funds shall not be reduced below the level provided during fiscal year 1973, and set forth policies and procedures designed to ensure that Federal funds made available under this Act for any fiscal year shall be so used as to supplement and, to the extent practicable, increase the level of State funds which would, in the absence of Federal funds, be available for such programs and projects;

"(8) provide for dissemination of information, including efforts to encourage more accurate reporting, to the general public with respect to the problem of child abuse and neglect and the facilities and prevention and treatment methods available to combat instances of child abuse and neglect; Public information.

"(9) to the extent feasible, ensure that parental organizations combating child abuse and neglect receive preferential treatment; and

"(10) have in place for the purpose of responding to the reporting of medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life- Handicapped persons.

threatening conditions), procedures or programs, or both (within the State child protective services system), to provide for—

"(A) coordination and consultation with individuals designated by and within appropriate health-care facilities;

"(B) prompt notification by individuals designated by and within appropriate health-care facilities of cases of suspected medical neglect (including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions); and

"(C) authority, under State law, for the State child protective service system to pursue any legal remedies, including the authority to initiate legal proceedings in a court of competent jurisdiction, as may be necessary to prevent the withholding of medically indicated treatment from disabled infants with life-threatening conditions.

"(c) WAIVERS.—

"(1) GENERAL RULE.—Subject to paragraph (3) of this subsection, any State which does not qualify for assistance under this subsection may be granted a waiver of any requirement under paragraph (2) of this subsection—

"(A) for a period of not more than one year, if the Secretary makes a finding that such State is making a good faith effort to comply with any such requirement, and for a second one-year period if the Secretary makes a finding that such State is making substantial progress to achieve such compliance; or

"(B) for a nonrenewable period of not more than two years in the case of a State the legislature of which meets only biennially, if the Secretary makes a finding that such State is making a good faith effort to comply with such requirement.

"(2) EXTENSION.—(A) Subject to paragraph (3) of this subsection, any State whose waiver under paragraph (1) expired as of the end of fiscal year 1986 may be granted an extension of such waiver, if the Secretary makes a finding that such State is making a good faith effort to comply with the requirements under subsection (b) of this section—

"(i) through the end of fiscal year 1988; or

"(ii) in the case of a State the legislature of which meets biennially, through the end of the fiscal year 1989 or the end of the next regularly scheduled session of such legislature, whichever is earlier.

Effective date.

"(B) This provision shall be effective retroactively to October 1, 1986.

"(3) REQUIREMENTS UNDER SUBSECTION (b)(10).—No waiver under paragraph (1) or (2) may apply to any requirement under subsection (b)(10) of this section.

"(d) REDUCTION OF FUNDS IN CASE OF FAILURE TO OBLIGATE.—If a State fails to obligate funds awarded under subsection (a) before the expiration of the 18-month period beginning on the date of such award, the next award made to such State under this section after the expiration of such period shall be reduced by an amount equal of the amount of such unobligated funds unless the Secretary determines that extraordinary reasons justify the failure to so obligate.

"(e) RESTRICTIONS RELATING TO CHILD WELFARE SERVICES.—Programs or projects relating to child abuse and neglect assisted under part B of title IV of the Social Security Act shall comply with the

requirements set forth in paragraphs (1)(A), (2), (4), (5), and (10) of subsection (b).

"(f) COMPLIANCE AND EDUCATION GRANTS.—The Secretary is authorized to make grants to the States for purposes of developing, implementing, or operating— Handicapped persons.

"(1) the procedures or programs required under subsection (b)(10);

"(2) information and education programs or training programs designed to improve the provision of services to disabled infants with life-threatening conditions for—

"(A) professional and paraprofessional personnel concerned with the welfare of disabled infants with life-threatening conditions, including personnel employed in child protective services programs and health-care facilities; and

"(B) the parents of such infants; and

"(3) programs to assist in obtaining or coordinating necessary services for families of disabled infants with life-threatening conditions, including—

"(A) existing social and health services;

"(B) financial assistance; and

"(C) services necessary to facilitate adoptive placement of any such infants who have been relinquished for adoption.

"SEC. 9. TECHNICAL ASSISTANCE TO STATES FOR CHILD ABUSE PREVENTION AND TREATMENT PROGRAMS. 42 USC 5106b.

"(a) TRAINING AND TECHNICAL ASSISTANCE.—The Secretary shall provide, directly or through grants or contracts with public or private nonprofit organizations, for— Grants. Contracts.

"(1) training and technical assistance programs to assist States in developing, implementing, or operating programs and procedures meeting the requirements of section 8(b)(10); and

"(2) the establishment and operation of national and regional information and resource clearinghouses for the purpose of providing the most current and complete information regarding medical treatment procedures and resources and community resources for the provision of services and treatment to disabled infants with life-threatening conditions, including— Public information. Handicapped persons.

"(A) compiling, maintaining, updating, and disseminating regional directories of community services and resources (including the names and phone numbers of State and local medical organizations) to assist parents, families, and physicians; and

"(B) attempting to coordinate the availability of appropriate regional education resources for health-care personnel. Education.

"(b) LIMITATION ON FUNDING.—Not more than $1,000,000 of the funds appropriated for any fiscal year for purposes of carrying out this Act may be used to carry out this section.

"SEC. 10. GRANTS TO STATES FOR PROGRAMS RELATING TO THE INVESTIGATION AND PROSECUTION OF CHILD ABUSE CASES. 42 USC 5106c.

"(a) GRANTS TO STATES.—The Secretary, acting through the Center and in consultation with the Attorney General, is authorized to make grants to the States for the purpose of assisting States in developing, establishing, and operating programs designed to improve—

"(1) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

"(2) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.

"(b) ELIGIBILITY REQUIREMENTS.—In order for a State to qualify for assistance under this section, such State shall—

"(1) fulfill the requirements of sections 8(b) and 8(e) or receive a waiver under section 8(c);

"(2) establish a task force as provided in subsection (c);

"(3) fulfill the requirements of subsection (d); and

"(4) submit an application to the Secretary at such time and containing such information and assurances as the Secretary considers necessary, including an assurance that the State will—

Reports.

"(A) make such reports to the Secretary as may reasonably be required; and

Records.

"(B) maintain and provide access to records relating to activities under subsections (a) and (b).

"(c) STATE TASK FORCES.—

"(1) GENERAL RULE.—Except as provided in paragraph (2), a State requesting assistance under this section shall establish or designate a State multidisciplinary task force on children's justice (hereinafter referred to as 'State task force') composed of professionals with knowledge and experience relating to the criminal justice system and issues of child abuse. The State task force shall include—

"(A) individuals representing the law enforcement community;

"(B) judicial and legal officers (including individuals involved with the defense as well as the prosecution of such cases);

"(C) child advocates;

"(D) health and mental health professionals;

"(E) individuals representing child protective service agencies;

"(F) individuals experienced in working with children with handicaps;

"(G) parents; and

"(H) representatives of parents' groups.

"(2) EXISTING TASK FORCE.—As determined by the Secretary, a State commission or task force established after January 1, 1983, with substantially comparable membership and functions, may be considered the State task force for purposes of this subsection.

"(d) STATE TASK FORCE STUDY.—Before a State receives assistance under this section, the State task force shall—

"(1) review and evaluate State investigative, administrative and judicial handling of cases of child abuse, particularly child sexual abuse; and

"(2) make recommendations in each of the categories described in subsection (e).

The task force may make such other comments and recommendations as are considered relevant and useful.

"(e) ADOPTION OF STATE TASK FORCE RECOMMENDATIONS.—

"(1) GENERAL RULE.—Subject to the provisions of paragraph (2), before a State receives assistance under this section, a State

shall adopt recommendations of the State task force in each of the following categories—

"(A) investigative, administrative, and judicial handling of cases of child abuse, particularly child sexual abuse cases, in a manner which reduces the additional trauma to the child victim and which also ensures procedural fairness to the accused;

"(B) experimental, model and demonstration programs for testing innovative approaches and techniques which may improve the rate of successful prosecution or enhance the effectiveness of judicial and administrative action in child abuse cases, particularly child sexual abuse cases, and which also ensure procedural fairness to the accused; and Research and development.

"(C) reform of State laws, ordinances, regulations and procedures to provide comprehensive protection for children from abuse, particularly child sexual abuse, while ensuring fairness to all affected persons.

"(2) EXEMPTION.—As determined by the Secretary, a State shall be considered to be in fulfillment of the requirements of this subsection if—

"(A) the State adopts an alternative to the recommendations of the State task force, which carries out the purpose of this section, in each of the categories under paragraph (1) for which the State task force's recommendations are not adopted; or

"(B) the State is making substantial progress toward adopting recommendations of the State task force or a comparable alternative to such recommendations.

"(f) FUNDS AVAILABLE.—For grants under this section, the Secretary shall use the amount authorized by section 1404A of the Victims of Crime Act of 1984.

"SEC. 11. MISCELLANEOUS REQUIREMENTS RELATING TO ASSISTANCE. 42 USC 5106d.

"(a) CONSTRUCTION OF FACILITIES.—

"(1) RESTRICTION ON USE OF FUNDS.—Assistance provided under this Act may not be used for construction of facilities.

"(2) LEASE, RENTAL, OR REPAIR.—The Secretary may authorize the use of funds received under this Act—

"(A) where adequate facilities are not otherwise available, for the lease or rental of facilities; or

"(B) for the repair or minor remodeling or alteration of existing facilities.

"(b) GEOGRAPHICAL DISTRIBUTION.—The Secretary shall establish criteria designed to achieve equitable distribution of assistance under this Act among the States, among geographic areas of the Nation, and among rural and urban areas of the Nation. To the extent possible, the Secretary shall ensure that the citizens of each State receive assistance from at least one project under this Act. Urban areas. Rural areas.

"(c) PREVENTION ACTIVITIES.—The Secretary, in consultation with the task force and the board, shall ensure that a majority share of assistance under this Act is available for discretionary research and demonstration grants. Research and development. Grants.

"(d) LIMITATION.—No funds appropriated for any grant or contract pursuant to authorizations made in this Act may be used for any purpose other than that for which such funds were authorized to be appropriated.

42 USC 5106e.

"SEC. 12. COORDINATION OF CHILD ABUSE AND NEGLECT PROGRAMS.

Regulations.

"The Secretary shall prescribe regulations and make such arrangements as may be necessary or appropriate to ensure that there is effective coordination among programs related to child abuse and neglect under this Act and other such programs which are assisted by Federal funds.

42 USC 5106f.

"SEC. 13. REPORTS.

"(a) COORDINATION EFFORTS.—Not later than March 1 of the second year following the date of enactment of the Child Abuse Prevention, Adoption, and Family Services Act of 1988 and every 2 years thereafter, the Secretary shall submit to the appropriate committees of Congress a report on efforts during the 2-year period preceding the date of the report to coordinate the objectives and activities of agencies and organizations which are responsible for programs and activities related to child abuse and neglect.

"(b) EFFECTIVENESS OF STATE PROGRAMS AND TECHNICAL ASSISTANCE.—Not later than two years after the first fiscal year for which funds are obligated under section 1404A of the Victims of Crime Act of 1984, the Secretary shall submit to the appropriate committees of Congress a report evaluating the effectiveness of—

"(1) assisted programs in achieving the objectives of section 10; and

"(2) the technical assistance provided under section 9.

42 USC 5106g.

"SEC. 14. DEFINITIONS.

"For purposes of this Act—

"(1) the term 'board' means the Advisory Board on Child Abuse and Neglect established under section 3;

"(2) the term 'Center' means the National Center on Child Abuse and Neglect established under section 2;

"(3) the term 'child' means a person who has not attained the lesser of—

"(A) the age of 18; or

"(B) except in the case of sexual abuse, the age specified by the child protection law of the State in which the child resides;

"(4) the term 'child abuse and neglect' means the physical or mental injury, sexual abuse or exploitation, negligent treatment, or maltreatment of a child by a person who is responsible for the child's welfare, under circumstances which indicate that the child's health or welfare is harmed or threatened thereby, as determined in accordance with regulations prescribed by the Secretary;

"(5) the term 'person who is responsible for the child's welfare' includes—

"(A) any employee of a residential facility; and

"(B) any staff person providing out-of-home care;

"(6) the term 'Secretary' means the Secretary of Health and Human Services;

"(7) the term 'sexual abuse' includes—

"(A) the employment, use, persuasion, inducement, enticement, or coercion of any child to engage in, or assist any other person to engage in, any sexually explicit conduct or simulation of such conduct for the purpose of producing a visual depiction of such conduct; or

"(B) the rape, molestation, prostitution, or other form of sexual exploitation of children, or incest with children;

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands;

"(9) the term 'task force' means the Inter-Agency Task Force on Child Abuse and Neglect established under section 4; and

"(10) the term 'withholding of medically indicated treatment' means the failure to respond to the infant's life-threatening conditions by providing treatment (including appropriate nutrition, hydration, and medication) which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all such conditions, except that the term does not include the failure to provide treatment (other than appropriate nutrition, hydration, or medication) to an infant when, in the treating physician's or physicians' reasonable medical judgment—

"(A) the infant is chronically and irreversibly comatose;

"(B) the provision of such treatment would—

"(i) merely prolong dying;

"(ii) not be effective in ameliorating or correcting all of the infant's life-threatening conditions; or

"(iii) otherwise be futile in terms of the survival of the infant; or

"(C) the provision of such treatment would be virtually futile in terms of the survival of the infant and the treatment itself under such circumstances would be inhumane.

"SEC. 15. AUTHORIZATION OF APPROPRIATIONS. 42 USC 5106h.

"(a) IN GENERAL.—There are authorized to be appropriated for purposes of carrying out this Act $48,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991. Of the funds appropriated for any fiscal year under this section, except as provided in the succeeding sentence (1)(A) $11,000,000 shall be available for activities under sections 5, 6, and 7, and (B), $9,000,000 shall be available in each fiscal year for activities under sections 8(a) and 9 of this Act, giving special consideration to continued funding of child abuse and neglect programs or projects (previously funded by the Department of Health and Human Services) of national or regional scope and demonstrated effectiveness, (2) $5,000,000 shall be available in each such year for grants and contracts under section 7(a) of this Act, for identification, treatment, and prevention of sexual abuse, and (3) $5,000,000 shall be available in each such year for the purpose of making additional grants to the States to carry out the provisions of section 8(f) of this Act. With respect to any fiscal year in which the total amount appropriated under this section is less than $30,000,000, no less than $20,000,000 of the funds appropriated in such fiscal year shall be available as provided in clause (1) in the preceding sentence and of the remainder, one-half shall be available as provided for in clause (2) and one-half as provided for in clause (3) in the preceding sentence. Grants. Contracts.

"(b) AVAILABILITY OF FUNDS WITHOUT FISCAL YEAR LIMITATION.—The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.".

42 USC 5105 note.

SEC. 102. CHILD ABUSE AND DISABILITY.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study of—

(1) the incidence of child abuse among children with handicaps, including children in out-of-home placements, and the relationship between child abuse and children's handicapping conditions; and

(2) the incidence of children who have developed handicapping conditions as a result of child abuse or neglect.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to prevent abuse of disabled children.

42 USC 5105 note.

SEC. 103. CHILD ABUSE AND ALCOHOLIC FAMILIES.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study of the incidence of child abuse in alcoholic families and the relationship between child abuse and familial alcoholism.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to prevent child abuse in alcoholic families.

42 USC 5105 note.

SEC. 104. STUDY OF GUARDIAN-AD-LITEM.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study of—

(1) how individual legal representation of children in cases of child abuse or neglect has been provided in each State; and

(2) the effectiveness of legal representation of children in cases of abuse or neglect through the use of guardian-ad-litem and court appointed special advocates.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to improve legal representation of children in cases of abuse or neglect.

42 USC 5105 note.

SEC. 105. HIGH RISK STUDY.

(a) STUDY.—The Director of the National Center on Child Abuse and Neglect shall conduct a study—

(1) to identify groups which have been historically underserved or unserved by programs relating to child abuse and neglect; and

(2) to report the incidence of child abuse and neglect among children who are members of such groups.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Director shall report to the appropriate committees of Congress with respect to the study conducted pursuant to subsection (a). The report shall include—

(1) the information and data gathered;

(2) an analysis of such information and data; and

(3) recommendations on how to better meet the needs of underserved or unserved groups.

SEC. 106. PRESIDENTIAL COMMISSION ON CHILD AND YOUTH DEATHS. 42 USC 5101 note.

(a) FINDINGS.—The Congress finds that—

(1) even by conservative estimates, during 1985 and 1986, child abuse fatalities in this country increased by 23 percent;

(2) the average age of children who die from abuse and neglect is two years old;

(3) child abuse fatalities are not inherently predictable but many are preventable;

(4) many accidental childhood injuries are likewise preventable;

(5) accidental childhood injuries remain the biggest killer and disabler of children between the ages of 1 and 14;

(6) in the face of stagnating infant mortality indicators, the United States is now tied for last place among 20 industrialized nations with respect to infant mortality;

(7) the teen suicide rate is starting to climb again, with deaths totaling over 5,000 in 1986; and

(8) homicide is the second leading cause of death in youths aged fourteen to twenty-four years.

(b) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Child and Youth Deaths (hereafter in this section referred to as the "Commission"). The Commission shall be composed of fifteen members as follows:

(1) Two members of the Senate, one to be selected by the Majority Leader of the Senate, the other to be selected by the Minority Leader of the Senate.

(2) Two members of the House, one to be selected by the Speaker of the House of Representatives, the other to be selected by the Minority Leader of the House.

(3) Four representatives of State government shall be selected by the President:

(A) The chief executive officer of a State.

(B) A chief State official responsible for administering child health and mental health programs.

(C) A chief State official responsible for administering children's social services programs.

(D) A chief State official responsible for administering law enforcement programs.

(4) The Secretary of Health and Human Services.

(5) Six at large members, including representatives of community-based organizations with demonstrated expertise in the prevention and identification of child and youth deaths due to child abuse and neglect, infant mortality (including sudden infant death syndrome), suicide, homicide, and unintentional injuries, to be jointly selected by the Majority Leader of the Senate and Speaker of the House of Representatives.

(c) STUDY AND EVALUATION BY THE COMMISSION.—The Commission shall study and evaluate comprehensively Federal, State, and local

public and private resources which affect child and youth deaths and shall—

(1) evaluate the adequacy and effectiveness of programs designed to prevent or identify child and youth deaths which are intentionally caused or which occur due to negligence, neglect, or a failure to exercise proper care, including child health and mental health services, child protective services, child welfare services, education, juvenile justice services, and law enforcement activities;

(2) evaluate the effectiveness of current Federal, State, and local policies and systems aimed at appropriately identifying and collecting accurate, uniform data on child and youth deaths in a coordinated fashion;

(3) evaluate the adequacy of current Federal, State, and local efforts to enable an appropriate distribution of properly trained child health, mental health, social services, protective services, education, juvenile justice, and law enforcement personnel to prevent and identify child and youth deaths; and

(4) identify current resource limitations on and intergovernmental and Federal interagency barriers to the care needed to prevent high child and youth death rates.

In order to conduct the study and evaluation required by this subsection, the Commission shall hold hearings in areas of the United States with high child and youth death rates.

(d) RECOMMENDATIONS AND REPORT OF THE COMMISSION.—(1) The Commission shall make recommendations with respect to—

(A) a national policy designed to reduce and prevent child and youth deaths, including recommendations for more accurate reporting systems and recommendations concerning appropriate roles for the Federal Government, States, and local governments and the private sector;

(B) specific changes needed in Federal laws and Federal programs to achieve an effective Federal role in preventing child and youth deaths, including the programs specified in subparagraph (A); and

(C) specific changes needed to improve national data collection with respect to child and youth deaths.

In making its recommendations, the Commission shall review recommendations made in recent regional and national conferences and reports on child and youth deaths.

(2) Within 12 months after the appointment of the Commission, the Commission shall prepare and transmit to the President and the appropriate committees of the Congress a report describing the activities of the Commission and containing information gathered and evaluations required by subsection (c) and recommendations required by paragraph (1) of this subsection.

(e) ADMINISTRATION PROVISIONS.—(1) A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect its powers.

(2) Members shall be appointed for the life of the Commission.

(3) The members of the Commission shall elect a Chairman from among the members of the Commission.

(4) Eleven members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(5) The Commission shall hold its first meeting on a date specified by the President which is not later than 90 days after October 1, 1988. Thereafter, the Commission shall meet at the call of the

Chairman or a majority of its members, but shall meet at least three times during the life of the Commission.

(f) COMPENSATION OF MEMBERS.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation.

(2) While away from their homes or regular place of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) EXECUTIVE DIRECTOR OF COMMISSION.—(1) The Commission shall appoint an Executive Director who shall be compensated at a rate not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(3) The Executive Director and the additional personnel of the Commission referred to in paragraph (2) may be appointed without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(4) Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

(5) Upon request of the Commission, the head of any Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

(6) The Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative and support services as the Commission may request.

(h) POWERS OF COMMISSION.—(1) For the purpose of carrying out this section, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this section. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(i) AUTHORIZATION OF APPROPRIATIONS.—For fiscal years beginning after September 30, 1987, there are authorized to be appropriated such sums as may be necessary to carry out this section.

(j) TERMINATION.—The Commission shall terminate 90 days after the date on which the Commission transmits the report required under subsection (d)(2) to the President and the appropriate committees of Congress.

TITLE II—CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978

SEC. 201. AUTHORIZATION FOR CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978.

42 USC 5115.

Section 205 of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 205. (a) There are hereby authorized to be appropriated $6,000,000 for the fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991 to carry out programs and activities under this Act except for programs and activities authorized under sections 203(b)(8) and 203(c)(1).

"(b) For any fiscal year in which appropriations under subsection (a) exceeds $5,000,000, there are authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991 for the purpose of carrying out section 203(b)(8), and there are authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989, 1990, and 1991 for the purpose of carrying out section 203(c)(1).

"(c) The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.".

SEC. 202. AMENDMENTS TO CHILD ABUSE PREVENTION AND TREATMENT AND ADOPTION REFORM ACT OF 1978 RELATING TO ADOPTION ASSISTANCE AND SERVICES.

(a) MINORITY CHILDREN PLACEMENTS.—Section 203(b) of title II of the Child Abuse Prevention and Treatment and Adoption Reform Act of 1978 is amended by— 42 USC 5113.

(1) striking the "and" at the end of paragraph (6);

(2) striking the period at the end of paragraph (7) and inserting "; and"; and

(3) adding the following new paragraph:

Grants.
Contracts.

"(8) provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups and community-based organizations with experience in working with minority populations) for the provision of programs aimed at increasing the number of minority children (who are in foster care and have the goal of adoption) placed in adoptive families, with a special emphasis on recruitment of minority families—

"(A) which may include such activities as—

"(i) outreach, public education, or media campaigns to inform the public of the needs and numbers of such children;

"(ii) recruitment of prospective adoptive families for such children;

"(iii) expediting, where appropriate, the legal availability of such children;

"(iv) expediting, where appropriate, the agency assessment of prospective adoptive families identified for such children;

"(v) formation of prospective adoptive family support groups;

"(vi) training of personnel of—

"(I) public agencies;

"(II) private nonprofit child welfare and adoption agencies that are licensed by the State; and

"(III) adoptive parents organizations and community-based organizations with experience in working with minority populations;

"(vii) use of volunteers and adoptive parent groups; and

"(viii) any other activities determined by the Secretary to further the purposes of this Act; and

"(B) shall be subject to the condition that such grants or contracts may be renewed if documentation is provided to the Secretary demonstrating that appropriate and sufficient placements of such children have occurred during the previous funding period.".

(b) POST LEGAL ADOPTION SERVICES.—Section 203 is amended by adding the following new subsection: 42 USC 5113.

"(c)(1) The Secretary shall provide (directly or by grant to or contract with States, local government entities, public or private nonprofit licensed child welfare or adoption agencies or adoptive family groups) for the provision of post legal adoption services for families who have adopted special needs children. Grants. Contracts.

"(2) Services provided under grants made under this subsection shall supplement, not supplant, services from any other funds available for the same general purposes, including—

"(A) individual counseling;

"(B) group counseling;

"(C) family counseling;

"(D) case management;

"(E) training public agency adoption personnel, personnel of private, nonprofit child welfare and adoption agencies licensed by the State to provide adoption services, mental health services professionals, and other support personnel to provide services under this subsection;

"(F) assistance to adoptive parent organizations; and

"(G) assistance to support groups for adoptive parents, adopted children, and siblings of adopted children.

(c) PLACEMENT OF FOSTER CARE CHILDREN.—Section 203, as amended by subsection (b), is amended by adding the following new subsection:

"(d)(1) The Secretary shall make grants for improving State efforts to increase the placement of foster care children legally free for adoption, according to a pre-established plan and goals for improvement. Grants funded by this section must include a strong evaluation component which outlines the innovations used to improve the placement of special needs children who are legally free for adoption, and the successes and failures of the initiative. The Grants. Reports.

evaluations will be submitted to the Secretary who will compile the results of projects funded by this section and submit a report to the appropriate committees of Congress. The emphasis of this program must focus on the improvement of the placement rate—not the aggregate number of special needs children placed in permanent homes. The Secretary, when reviewing grant applications shall give priority to grantees who propose improvements designed to continue in the absence of Federal funds.

Contracts.

"(2) Each State entering into an agreement under this subsection shall submit an application to the Secretary for each fiscal year in a form and manner determined to be appropriate by the Secretary. Each application shall include verification of the placements described in paragraph (1).

"(3)(A) Payments under this subsection shall begin during fiscal year 1989. Payments under this section during any fiscal year shall not exceed $1,000,000. No payment may be made under this subsection unless an amount in excess of $5,000,000 is appropriated for such fiscal year under section 205(a).

"(B) Any payment made to a State under this subsection which is not used by such State for the purpose provided in paragraph (1) during the fiscal year payment is made shall revert to the Secretary on October 1st of the next fiscal year and shall be used to carry out the purposes of this Act.".

TITLE III—FAMILY VIOLENCE PREVENTION AND SERVICES ACT

SEC. 301. AUTHORIZATION FOR FAMILY VIOLENCE PREVENTION AND SERVICES ACT.

42 USC 10409.

(a) AUTHORIZATION.—Section 310(a) of the Family Violence Prevention and Services Act is amended by—

(1) striking "and" the first place it appears and inserting a comma; and

(2) by striking out the period at the end and inserting in lieu thereof the following: ", $26,000,000 for fiscal year 1988, and such sums as may be necessary for each of the fiscal years 1989, 1990, and 1991.".

(b) LIMITATION ON FUNDS AVAILABLE.—Section 310 of such Act is amended by adding at the end thereof the following:

"(c) The Secretary shall ensure that funds appropriated pursuant to authorizations in this Act shall remain available until expended for the purposes for which they were appropriated.".

SEC. 302. REMOVAL OF THREE-YEAR LIMIT ON GRANTS FOR SHELTERS.

Section 303(c) of the Family Violence Prevention and Services Act (42 U.S.C. 10402(c)) is amended by striking out the second sentence.

SEC. 303. AMENDMENTS TO FAMILY VIOLENCE PREVENTION AND SERVICES ACT.

(a) TECHNICAL AMENDMENT.—The Family Violence Prevention and Services Act is amended by striking out section 312 the first time such section appears in such Act (Public Law 98-457; 42 U.S.C. 10411).

(b) INFORMATION AND TRAINING GRANTS.—Section 311(b) of the Family Violence Prevention and Services Act is amended by inserting at the end thereof the following: 42 USC 10410.

"(2)(A) The Secretary shall award grants or contracts to local law enforcement agencies, acting in coordination with domestic violence shelters, social service agencies and hospitals, for the purposes of— Contracts.

"(i) the development of materials, to be provided to each abused family member at the time such spouse is identified by law enforcement officers, hospital personnel, social services personnel, education counseling personnel, and other appropriate personnel involved in the identification of family violence cases that include—

"(I) an explanation in basic terms of—

"(aa) the rights of the abused family member under the laws of the jurisdiction involved; and

"(bb) the services available to the abused family member, including intervention, treatment, and support services; and

"(II) phone numbers and addresses for the services described in subparagraph (A)(ii);

"(ii) the development of procedures whereby domestic violence shelter, hospital, social service, or law enforcement personnel provide to an abused family member a written report, relating to each incidence of physical abuse reported by the family member, that includes a description of physical injuries to the family member observed by such personnel; and

"(iii) the development of systems whereby domestic violence shelter or local social service personnel, with the consent of the abused family member involved, may obtain from local law enforcement personnel information relating to abuse of such family member, including a report describing the initial contact of such family member and the law enforcement agency.

"(B) The Secretary shall provide assurances that procedures will be developed under this paragraph to guarantee the confidentiality of the records maintained.". Classified information.

(c) FAMILY VIOLENCE PREVENTION PROJECT.—The Family Violence Prevention and Services Act is amended by adding at the end the following new section:

"FAMILY MEMBER ABUSE INFORMATION AND DOCUMENTATION PROJECT

"SEC. 313. The Secretary shall, directly or by grant or contract— 42 USC 10413. Grants. Contracts.

"(1) develop data on the individual characteristics relating to family violence;

"(2) provide for the objective documentation of data on the victims of family violence and their dependents based on injuries that are brought to the attention of domestic violence shelter, hospital, social service, or law enforcement personnel, whether or not formal civil or criminal action is taken; and Records.

"(3) provide assurances that procedures will be developed to guarantee the confidentiality of records pertaining to any individual for whom data are compiled through this subsection.". Classified information.

TITLE IV—ADMINISTRATIVE PROVISIONS

42 USC 5101 note.

SEC. 401. REGULATIONS.

(a) For any rule or regulation needed to implement this Act, the Secretary of Health and Human Services shall—

(1) publish proposed regulations for purposes of implementing the amendments made by this Act before the expiration of the 90-day period beginning on the date of the enactment of this Act;

(2) allow not less than 45 days for public comment on such proposed regulations; and

(3) publish final regulations for purposes of implementing the amendments made by this Act before the end of the 195-day period beginning on the date of the enactment of this Act.

Approved April 25, 1988.

LEGISLATIVE HISTORY—H.R. 1900 (S. 1663):

HOUSE REPORTS: No. 100-135 (Comm. on Education and Labor) and No. 100-543 (Comm. of Conference).

SENATE REPORTS: No. 100-210 accompanying S. 1663 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 133 (1987): June 8, considered and passed House.
Nov. 3, considered and passed Senate, amended, in lieu of S. 1663.

Vol. 134 (1988): Mar. 30, Senate agreed to conference report.
Apr. 12, House agreed to conference report.

Public Law 100-295
100th Congress

Joint Resolution

Recognizing the identical plaques initiated by Sami Bandak, created by Margareta Hennix and Ginvanni Bizzini, and depicting the Calmare Nyckel, the ship that brought the first Swedish settlers to North America, as significant symbols of the "Year of New Sweden"; and providing for the placement of one of such plaques at Fort Christina in the State of Delaware.

Apr. 25, 1988
[H.J. Res. 347]

Whereas, in Public Law 99-304 (100 Stat. 439), the Congress designated 1988 as the "Year of New Sweden" to commemorate the 350th anniversary of the arrival of the first Swedish settlers in North America;

Whereas such Swedish settlers sailed aboard the Calmare Nyckel, established New Sweden as their first settlement in North America in what is now Wilmington, Delaware, and built Fort Christina to defend their settlement;

Whereas Fort Christina is designated as a National Historic Landmark and will be the site of several activities to observe the "Year of New Sweden";

Whereas, as part of the celebration of the "Year of New Sweden", the artists Margareta Hennix and Ginvanni Bizzini, together with the House of Gustavsberg in Gustavsberg, Sweden, created a limited number of identical plaques depicting the Calmare Nyckel;

Whereas such plaques are painted in silver and bear the seal of His Majesty Carl Gustaf XVI, the King of Sweden; and

Whereas a part of the proceeds from the sale of such plaques will be donated to charities that help the handicapped: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RECOGNITION OF CALMARE NYCKEL PLAQUES.

The identical plaques initiated by Sami Bandak, created by Margareta Hennix and Ginvanni Bizzini (together with the House of Gustavsberg), and depicting the Calmare Nyckel, the ship that brought the first Swedish settlers to North America, are hereby recognized as significant symbols of the "Year of New Sweden".

SEC. 2. ACCEPTANCE AND PLACEMENT OF PLAQUE.

Gifts and property.

The Secretary of the Interior shall—

(1) accept as a gift from Sami Bandak on behalf of the House of Gustavsberg one of the plaques referred to in section 1, and

(2) with the consent of the owner of Fort Christina in the State of Delaware, place such plaque at such site to commemorate the 350th anniversary of the establishment of New Sweden.

Approved April 25, 1988.

LEGISLATIVE HISTORY—H.J. Res. 347:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 12, considered and passed House.
Apr. 14, considered and passed Senate.

Public Law 100-296
100th Congress

Joint Resolution

To designate May 1988 as "National Trauma Awareness Month".

Apr. 26, 1988
[H.J. Res. 373]

Whereas more than nine million individuals in the United States suffer traumatic injury each year;
Whereas traumatic injury is the leading cause of death of individuals of less than forty years of age in the United States;
Whereas every individual is a potential victim of traumatic injury;
Whereas traumatic injury can occur without warning;
Whereas traumatic injury frequently renders its victims incapable of caring for themselves;
Whereas past inattention to the causes and effects of trauma has led to the inclusion of trauma among the most neglected medical conditions;
Whereas the people of the United States spend more than $100,000,000,000 annually on the problem of trauma;
Whereas the problem of trauma can be remedied only by prevention and treatment; and
Whereas the people of the United States should be educated in the prevention and treatment of trauma: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1988 is designated as "National Trauma Awareness Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved April 26, 1988.

LEGISLATIVE HISTORY—H.J. Res. 373 (S.J. Res. 199):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, S.J. Res. 199 considered and passed Senate.
Apr. 12, H.J. Res. 373 considered and passed House.
Apr. 14, considered and passed Senate.

Public Law 100-297
100th Congress

An Act

Apr. 28, 1988
[H.R. 5]

To improve elementary and secondary education, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.
State and local governments.
20 USC 2701 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.

TITLE I—ELEMENTARY AND SECONDARY EDUCATION PROGRAM AUTHORIZED

Sec. 1001. Amendments to the Elementary and Secondary Education Act of 1965.

"Sec. 1. Short title.

"TITLE I—BASIC PROGRAMS

"CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

"Sec. 1001. Declaration of policy and statement of purpose.

"PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"SUBPART 1—ALLOCATIONS

"Sec. 1005. Basic grants.
"Sec. 1006. Grants for local educational agencies in counties with especially high concentrations of children from low-income families.

"SUBPART 2—BASIC PROGRAM REQUIREMENTS

"Sec. 1011. Uses of funds.
"Sec. 1012. Assurances and applications.
"Sec. 1013. Eligible schools.
"Sec. 1014. Eligible children.
"Sec. 1015. Schoolwide projects.
"Sec. 1016. Parental involvement.
"Sec. 1017. Participation of children enrolled in private schools.
"Sec. 1018. Fiscal requirements.
"Sec. 1019. Evaluations.
"Sec. 1020. State educational program improvement plan
"Sec. 1021. Program improvement.

"PART B—EVEN START PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Sec. 1051. Statement of purpose.
"Sec. 1052. Program authorization.
"Sec. 1053. Allocation.
"Sec. 1054. Uses of funds.
"Sec. 1055. Eligible participants.
"Sec. 1056. Applications.
"Sec. 1057. Award of grants.
"Sec. 1058. Evaluation.
"Sec. 1059. Authorization of appropriations.

"PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

"Sec. 1101. Purpose.
"Sec. 1102. Allocation.
"Sec. 1103. Uses of funds.
"Sec. 1104. Applications.
"Sec. 1105. Award of grants.
"Sec. 1106. Fiscal requirements and coordination provisions.
"Sec. 1107. Evaluations.
"Sec. 1108. Authorization of appropriations.

"PART D—PROGRAMS OPERATED BY STATE AGENCIES

"SUBPART 1—PROGRAMS FOR MIGRATORY CHILDREN

"Sec. 1201. Grants—entitlement and amount.
"Sec. 1202. Program requirements.
"Sec. 1203. Coordination of migrant education activities.

"SUBPART 2—PROGRAMS FOR HANDICAPPED CHILDREN

"Sec. 1221. Amount and eligibility.
"Sec. 1222. Program requirements.
"Sec. 1223. Uses of funds.
"Sec. 1224. Service and program applications.
"Sec. 1225. Eligible children.
"Sec. 1226. Federal monitoring requirement.

"SUBPART 3—PROGRAMS FOR NEGLECTED AND DELINQUENT CHILDREN

"Sec. 1241. Amount and entitlement.
"Sec. 1242. Program requirements.
"Sec. 1243. Transition services.
"Sec. 1244. Definitions.

"SUBPART 4—GENERAL PROVISIONS FOR STATE OPERATED PROGRAMS

"Sec. 1291. Reservation of funds for territories.
"Sec. 1292. Dual eligibility for programs.

"PART E—PAYMENTS

"Sec. 1401. Payment methods.
"Sec. 1402. Amount of payments to local educational agencies.
"Sec. 1403. Adjustments where necessitated by appropriations.
"Sec. 1404. Payments for State administration.
"Sec. 1405. Funds for the implementation of school improvement programs.
"Sec. 1406. Limitation on grant to the Commonwealth of Puerto Rico.

"PART F—GENERAL PROVISIONS

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"SUBPART 2—STATE ADMINISTRATION

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"Sec. 2003. Program authorized.
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"Sec. 2006. Elementary and secondary education programs.
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"Sec. 323. Private sector adult education training.
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TITLE I—ELEMENTARY AND SECONDARY EDUCATION PROGRAMS REAUTHORIZED

SEC. 1001. AMENDMENT TO THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965.

The Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) (other than title X of such Act) is amended to read as follows:

20 USC 2701 note.

"SECTION 1. SHORT TITLE.

"This Act may be cited as the 'Elementary and Secondary Education Act of 1965'.

"TITLE I—BASIC PROGRAMS

"CHAPTER 1—FINANCIAL ASSISTANCE TO MEET SPECIAL EDUCATIONAL NEEDS OF CHILDREN

20 USC 2701.

"SEC. 1001. DECLARATION OF POLICY AND STATEMENT OF PURPOSE.

"(a) DECLARATION OF POLICY.—In recognition of—

"(1) the special educational needs of children of low-income families and the impact of concentrations of low-income families on the ability of local educational agencies to provide educational programs which meet such needs, and

"(2) the special educational needs of children of migrant parents, of Indian children, and of handicapped, neglected, and delinquent children,

the Congress declares it to be the policy of the United States to—

"(A) provide financial assistance to State and local educational agencies to meet the special needs of such educationally deprived children at the preschool, elementary, and secondary levels;

"(B) expand the program authorized by this chapter over the next 5 years by increasing funding for this chapter by at least $500,000,000 over baseline each fiscal year and thereby increasing the percentage of eligible children served in each fiscal year with the intent of serving all eligible children by fiscal year 1993; and

"(C) provide such assistance in a way which eliminates unnecessary administrative burden and paperwork and overly prescriptive regulations and provides flexibility to State and local educational agencies in making educational decisions.

"(b) STATEMENT OF PURPOSE.—The purpose of assistance under this chapter is to improve the educational opportunities of educationally deprived children by helping such children succeed in the regular program of the local educational agency, attain grade-

level proficiency, and improve achievement in basic and more advanced skills. These purposes shall be accomplished through such means as supplemental education programs, schoolwide programs, and the increased involvement of parents in their children's education.

"PART A—BASIC PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"Subpart 1—Allocations

"SEC. 1005. BASIC GRANTS. 20 USC 2711.

"(a) AMOUNT OF GRANTS.—

"(1) GRANTS FOR TERRITORIES.—There is authorized to be appropriated for each fiscal year for the purpose of this paragraph 1 percent of the amount appropriated for such year for payments to States under this section. The amount appropriated pursuant to this paragraph shall be allotted by the Secretary (A) among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for grants under this part, and (B) to the Secretary of the Interior in the amount necessary (i) to make payments pursuant to paragraph (1) of subsection (d), and (ii) to make payments pursuant to paragraph (2) of subsection (d). The grant which a local educational agency in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands is eligible to receive shall be determined pursuant to such criteria as the Secretary determines will best carry out the purposes of this chapter. Appropriation authorization.

"(2) GRANTS FOR LOCAL EDUCATIONAL AGENCIES AND PUERTO RICO.—

"(A) In any case in which the Secretary determines that satisfactory data for that purpose are available, the grant which a local educational agency in a State is eligible to receive under this subpart for a fiscal year shall (except as provided in paragraph (3)), be determined by multiplying the number of children counted under subsection (c) by 40 percent of the amount determined under the next sentence. The amount determined under this sentence shall be the average per pupil expenditure in the State except that (i) if the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, such amount shall be 80 percent of the average per pupil expenditure in the United States, or (ii) if the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, such amount shall be 120 percent of the average per pupil expenditure in the United States.

"(B) In any case in which such data are not available, subject to paragraph (3), the grant for any local educational agency in a State shall be determined on the basis of the aggregate amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate amount shall be equal to the aggregate amount determined under

subparagraph (A) for such county or counties, and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with the basic criteria prescribed by the Secretary.

"(C) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of children counted under subsection (c) for the Commonwealth of Puerto Rico by the product of—

"(i) the percentage determined under the preceding sentence; and

"(ii) 32 percent of the average per pupil expenditure in the United States.

"(3) SPECIAL ALLOCATION PROCEDURES.—

"(A) Upon determination by the State educational agency that a local educational agency in the State is unable or unwilling to provide for the special educational needs of children described in clause (C) of paragraph (1) of subsection (c), who are living in institutions for neglected or delinquent children, the State educational agency shall, if it assumes responsibility for the special educational needs of such children, be eligible to receive the portion of the allocation to such local educational agency which is attributable to such neglected or delinquent children, but if the State educational agency does not assume such responsibility, any other State or local public agency, as determined by regulations established by the Secretary, which does assume such responsibility, shall be eligible to receive such portion of the allocation.

"(B) In the case of local educational agencies which serve in whole or in part the same geographical area, and in the case of a local educational agency which provides free public education for a substantial number of children who reside in the school district of another local educational agency, the State educational agency may allocate the amount of the grants for those agencies among them in such manner as it determines will best carry out the purposes of this chapter.

"(C) In any State in which a large number of local educational agencies overlap county boundaries, the State educational agency may apply to the Secretary for authority during any particular fiscal year to make the allocations under this part (other than section 1006) directly to local educational agencies without regard to the counties or may continue to make such allocations if the agency had the authority to do so under chapter 1 of the Education Consolidation and Improvement Act of 1981. If the Secretary approves an application of a State educational agency for a particular year under this subparagraph, the State educational agency shall provide assurances that such allocations will be made using precisely the same factors for determining a grant as are used under this part and that a

procedure will be established through which local educational agencies dissatisfied with the determinations made by the State educational agency may appeal directly to the Secretary for a final determination.

"(4) DEFINITION.—For purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

"(b) MINIMUM NUMBER OF CHILDREN TO QUALIFY.—A local educational agency shall be eligible for a basic grant for a fiscal year under this subpart only if it meets the following requirements with respect to the number of children counted under subsection (c):

"(1) In any case (except as provided in paragraph (3)) in which the Secretary determines that satisfactory data for the purpose of this subsection as to the number of such children are available on a school district basis, the number of such children in the school district of such local educational agency shall be at least 10.

"(2) In any other case, except as provided in paragraph (3), the number of such children in the county which includes such local educational agency's school district shall be at least 10.

"(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Secretary has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies or all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of such children for such local educational agency shall be determined in accordance with regulations prescribed by the Secretary for the purposes of this subsection.

"(c) CHILDREN TO BE COUNTED.—

Disadvantaged persons.

"(1) CATEGORIES OF CHILDREN.—The number of children to be counted for purposes of this section is the aggregate of—

"(A) the number of children aged 5 to 17, inclusive, in the school district of the local educational agency from families below the poverty level as determined under paragraph (2)(A),

"(B) the number of children aged 5 to 17, inclusive, in the school district of such agency from families above the poverty level as determined under paragraph (2)(B), and

"(C) the number of children aged 5 to 17, inclusive, in the school district of such agency living in institutions for neglected or delinquent children (other than such institutions operated by the United States) but not counted pursuant to subpart 3 of part D for the purposes of a grant to a State agency, or being supported in foster homes with public funds.

"(2) DETERMINATION OF NUMBER OF CHILDREN.—

"(A) For the purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families below the poverty level on the basis of the most recent satisfactory data available from the Department of Commerce for local educational agencies (or, if such data are not available for such agencies, for counties); and in determining the families which are below the poverty level, the Secretary shall utilize the criteria of poverty used

by the Bureau of the Census in compiling the most recent decennial census.

"(B) For purposes of this section, the Secretary shall determine the number of children aged 5 to 17, inclusive, from families above the poverty level on the basis of the number of such children from families receiving an annual income, in excess of the current criteria of poverty, from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act; and in making such determinations the Secretary shall utilize the criteria of poverty used by the Bureau of the Census in compiling the most recent decennial census for a family of 4 in such form as those criteria have been updated by increases in the Consumer Price Index. The Secretary shall determine the number of such children and the number of children of such ages living in institutions for neglected or delinquent children, or being supported in foster homes with public funds, on the basis of the caseload data for the month of October of the preceding fiscal year (using, in the case of children described in the preceding sentence, the criteria of poverty and the form of such criteria required by such sentence which were determined for the calendar year preceding such month of October) or, to the extent that such data are not available to the Secretary before January of the calendar year in which the Secretary's determination is made, then on the basis of the most recent reliable data available to the Secretary at the time of such determination. The Secretary of Health and Human Services shall collect and transmit the information required by this subparagraph to the Secretary not later than January 1 of each year.

"(C) When requested by the Secretary, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families below the poverty level (as determined under subparagraph (A) of this paragraph) in each county or school district, and the Secretary is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information. For purposes of this section, the Secretary shall consider all children who are in correctional institutions to be living in institutions for delinquent children.

"(d) PROGRAM FOR INDIAN CHILDREN.—

"(1) From the amount allotted for payments to the Secretary of the Interior under the second sentence of subsection (a)(1), the Secretary of the Interior shall make payments to local educational agencies, upon such terms as the Secretary determines will best carry out the purposes of this chapter with respect to out-of-State Indian children in the elementary and secondary schools of such agencies under special contracts with the Department of the Interior. The amount of such payment may not exceed, for each such child, 40 percent of (A) the average per pupil expenditure in the State in which the agency is located, or (B) 120 percent of such expenditure in the United States, whichever is the greater.

"(2) The amount allotted for payments to the Secretary of the Interior under the second sentence of subsection (a)(1) for any fiscal year shall be, as determined pursuant to criteria established by the Secretary, the amount necessary to meet the special educational needs of educationally deprived Indian children on reservations serviced by elementary and secondary schools for Indian children operated with Federal assistance or operated by the Department of the Interior. Such payment shall be made pursuant to an agreement between the Secretary and the Secretary of the Interior containing such assurances and terms as the Secretary determines will best achieve the purposes of this chapter. Such agreement shall contain (A) an assurance that payments made pursuant to this subparagraph will be used solely for programs and projects approved by the Secretary of the Interior which meet the applicable requirements of subpart 2 of this part and that the Department of the Interior will comply in all other respects with the requirements of this chapter, and (B) provision for carrying out the applicable provisions of subpart 2 of this part and part F. Such agreement shall consider a tribal organization operating a school under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.) or the Tribally Controlled Schools Act of 1987 as a local educational agency, and shall consider the Secretary of the Interior as a State or State educational agency for all purposes defining the authority of States or State educational agencies relative to local educational agencies. If, in the capacity as a State educational agency, the Secretary of the Interior promulgates regulations applicable to such tribal organizations, the Secretary shall comply with section 1451 of this Act and with section 553 of title 5 of the United States Code, relating to administrative procedure, and such regulations must be consistent with subsections (d) and (e) of section 1121, section 1130, and section 1133 of the Education Amendments of 1978.

Contracts.

"(e) STATE MINIMUM.—(1) For any fiscal year for which—

"(A) sums available for the purposes of this section exceed sums available under chapter 1 of the Education Consolidation and Improvement Act of 1981 for fiscal year 1988; and

"(B)(i) sums available for the purpose of section 1006 equal or exceed $400,000,000, or

"(ii) sums available for the purpose of section 1005 equal or exceed amounts appropriated for such purpose in fiscal year 1988 by $700,000,000,

the aggregate amount allotted for all local educational agencies within a State may not be less than one-quarter of 1 percent of the total amount available for such fiscal year under this section.

"(2) The provisions of paragraph (1) shall apply only if each State is allotted an amount which is not less than the payment made to each State under chapter 1 of the Education Consolidation and Improvement Act of 1981 for fiscal year 1988.

"(3)(A) No State shall, by reason of the application of the provisions of paragraph (1) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted under subsection (c) in the fiscal year specified in subparagraph (A), multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(g) DURATION OF ASSISTANCE.—During the period beginning October 1, 1988, and ending September 30, 1993, the Secretary shall, in accordance with the provisions of this part, make payments to State educational agencies for grants made on the basis of entitlements created under this section.

Disadvantaged persons.
20 USC 2712.

"SEC. 1006. GRANTS FOR LOCAL EDUCATIONAL AGENCIES IN COUNTIES WITH ESPECIALLY HIGH CONCENTRATIONS OF CHILDREN FROM LOW-INCOME FAMILIES.

"(a) ELIGIBILITY FOR AND AMOUNT OF SPECIAL GRANTS.—

"(1)(A) Except as otherwise provided in this paragraph, each county, in a State other than Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, which is eligible for a grant under this chapter for any fiscal year shall be entitled to an additional grant under this section for that fiscal year if—

"(i) the number of children counted under section 1005(c) of this chapter in the school district of local educational agencies in such county for the preceding fiscal year exceeds 6,500, or

"(ii) the number of children counted under section 1005(c) exceeds 15 percent of the total number of children aged five to seventeen, inclusive, in the school districts of local educational agencies in such county in that fiscal year.

"(B) Except as provided in subparagraph (C), no State described in subparagraph (A) shall receive less than—

"(i) one-quarter of 1 percent of the sums appropriated under subsection (c) of this section for such fiscal year; or

"(ii) $250,000,

whichever is higher.

"(C) No State shall, by reason of the application of the provisions of subparagraph (B)(i) of this paragraph, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(D) For the purpose of subparagraph (C), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this section in the fiscal year specified in subparagraph (B),

multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this section for that year.

"(2) For each county in which there are local educational agencies eligible to receive an additional grant under this sec-

tion for any fiscal year the Secretary shall determine the product of—

"(A) the greater of—

"(i) the number of children in excess of 6,500 counted under section 1005(c) for the preceding fiscal year, in the school districts of local educational agencies of a county which qualifies on the basis of subparagraph (A) of paragraph (1); or

"(ii) the number of children counted under section 1005(c) for the preceding fiscal year in the school districts of local educational agencies in a county which qualifies on the basis of subparagraph (B) of paragraph (1); and

"(B) the quotient resulting from the division of the amount determined for those agencies under section 1005(a)(2) of this chapter for the fiscal year for which the determination is being made divided by the total number of children counted under section 1005(c) for that agency for the preceding fiscal year.

"(3) The amount of the additional grant to which an eligible county is entitled under this section for any fiscal year shall be an amount which bears the same ratio to the amount reserved under subsection (c) for that fiscal year as the product determined under paragraph (2) for such county for that fiscal year bears to the sum of such products for all counties in the United States for that fiscal year.

"(4) For the purposes of this section, the Secretary shall determine the number of children counted under section 1005(c) for any county, and the total number of children aged five to seventeen, inclusive, in school districts of local educational agencies in such county, on the basis of the most recent satisfactory data available at the time the payment for such county is determined under section 1005.

"(5)(A) Pursuant to regulations established by the Secretary and except as provided in subparagraphs (B) and (C) and paragraph (6), funds allocated to counties under this part shall be allocated by the State educational agency only to those local educational agencies whose school districts lie (in whole or in part) within the county and which are determined by the State educational agency to meet the eligibility criteria of clauses (i) and (ii) of paragraph (1)(A). Such determination shall be made on the basis of the available poverty data which such State educational agency determines best reflect the current distribution in the local educational agency of low-income families consistent with the purposes of this chapter. The amount of funds under this part that each qualifying local educational agency receives shall be proportionate to the number or percentage of children from low-income families in the school districts of the local educational agency.

"(B) In counties where no local educational agency meets the criteria of clause (i) or (ii) of paragraph (1)(A), the State educational agency shall allocate such funds among the local educational agencies within such counties (in whole or in part) in rank order of their respective concentration and numbers of children from low-income families and in amounts which are consistent with the degree of concentration of poverty. Only local educational agencies with concentrations of poverty that

exceed the county wide average of poverty shall receive any funds pursuant to the provisions of this subparagraph.

"(C) In States which receive the minimum grant amount under paragraph (1), the State educational agency shall allocate such funds among the local educational agencies in such State by either of the following methods:

"(i) in accordance with the provisions of subparagraphs (A) and (B) of this paragraph; or

"(ii) without regard to the counties in which such local educational agencies are located, in rank order of their respective concentration and numbers of children from low-income families and in amounts which are consistent with the degree of concentration of poverty, except that only those local educational agencies with concentrations of poverty that exceed the Statewide average of poverty shall receive any funds pursuant to the provisions of this clause.

"(6) A State may reserve not more than 2 percent of its allocation under this section for the purpose of making direct payments to local educational agencies that meet the criteria of clauses (i) and (ii) of paragraph (1)(A), but are otherwise ineligible.

"(b) PAYMENTS; USE OF FUNDS.—

"(1) The total amount which counties in a State are entitled to under this section for any fiscal year shall be added to the amount paid to that State under section 1401 for such year. From the amount paid to it under this section, the State shall distribute to local educational agencies in each county of the State the amount (if any) to which it is entitled under this section.

"(2) The amount paid to a local educational agency under this section shall be used by that agency for activities undertaken pursuant to its application submitted under section 1012 and shall be subject to the other requirements in subpart 2 of this part.

"(c) RESERVATION OF FUNDS.—

"(1) For any fiscal year for which amounts appropriated for part A of this chapter exceed $3,900,000,000, the amounts specified in paragraph (2) of this subsection shall be available to carry out this section.

"(2)(A) The first $400,000,000 in excess of $3,900,000,000 appropriated for part A of this chapter in any fiscal year shall be available to carry out this section.

"(B) Whenever the amounts appropriated for part A exceed $4,300,000,000 in any fiscal year, 10 percent of the amount appropriated for that fiscal year shall be available to carry out this section, except that no State shall, as a result of implementation of paragraph (2) of this subsection, receive less under section 1005 than it received for the previous fiscal year under such section or under section 554(a)(1)(A) of the Education Consolidation and Improvement Act of 1981.

"(d) RATABLE REDUCTION RULE.—If the sums available under subsection (c) for any fiscal year for making payments under this section are not sufficient to pay in full the total amounts which all States are entitled to receive under subsection (a) for such fiscal year, the maximum amounts which all States are entitled to receive under subsection (a) for such fiscal year shall be ratably reduced. In case additional funds become available for making such payments

for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.

"Subpart 2—Basic Program Requirements

"SEC. 1011. USES OF FUNDS. 20 USC 2721.

"(a) PROGRAM DESCRIPTION.—

"(1) A local educational agency may use funds received under this part only for programs and projects which are designed to meet the special educational needs of educationally deprived children identified in accordance with section 1014 and which are included in an application for assistance approved by the State educational agency.

"(2) Such programs and projects under paragraph (1) may include preschool through secondary programs; the acquisition of equipment and instructional materials; books and school library resources; employment of special instructional personnel, school counselors, and other pupil services personnel; employment and training of education aides; payments to teachers of amounts in excess of regular salary schedules as a bonus for service in schools serving project areas; the training of teachers, librarians, other instructional and pupil services personnel, and, as appropriate, early childhood education professionals (including training in preparation for the implementation of programs and projects in a subsequent school year); the construction, where necessary, of school facilities; parental involvement activities under section 1016; planning for and evaluation of such programs and projects assisted under this chapter; and other expenditures authorized under this chapter.

"(3) State and local educational agencies are encouraged to develop programs to assist eligible children to improve their achievement in basic skills and more advanced skills and to consider year-round services and activities, including intensive summer school programs.

"(b) INNOVATION PROJECTS.—Subject to the approval of the State educational agency, a local educational agency may use not more than 5 percent of payments under this part for the costs of conducting innovative projects developed by the local educational agency that include only—

"(1) the continuation of services to children eligible for services in any preceding year for a period sufficient to maintain progress made during their eligibility;

"(2) the provision of continued services to eligible children transferred to ineligible areas or schools as part of a desegregation plan for a period not to exceed 2 years;

"(3) incentive payments to schools that have demonstrated significant progress and success in attaining the goals of this chapter;

"(4) training of chapter 1 and nonchapter 1 paid teachers and librarians with respect to the special educational needs of eligible children and integration of activities under this part into regular classroom programs;

"(5) programs to encourage innovative approaches to parental involvement or rewards to or expansion of exemplary parental involvement programs;

"(6) encouraging the involvement of community and private sector resources (including fiscal resources) in meeting the needs of eligible children; and

"(7) assistance by local educational agencies of schools identified under section 1021(b).

20 USC 2722.

"SEC. 1012. ASSURANCES AND APPLICATIONS.

"(a) STATE EDUCATIONAL AGENCY ASSURANCES.—Any State desiring to participate under this chapter shall submit to the Secretary, through its State educational agency, assurances that the State educational agency—

"(1) will meet the requirements in section 435(b)(2) and (b)(5) of the General Education Provisions Act relating to fiscal control and fund accounting procedures;

"(2) will carry out the activities required under this chapter with regard to evaluation and school program improvement;

"(3) has on file a program improvement plan that meets the requirements of section 1020; and

"(4) will ensure that its local educational agencies and State agencies receiving funds under this chapter comply with all applicable statutory and regulatory provisions pertaining to this chapter.

Such assurances shall remain in effect for the duration of participation under this chapter.

Grants.

"(b) LOCAL APPLICATIONS.—A local educational agency may receive a grant under this chapter for any fiscal year if it has on file with the State educational agency an application which describes the procedure to be used under section 1014(b) to assess students' needs and establish program goals, describes the programs and projects to be conducted with such assistance for a period of not more than 3 years, and describes the desired outcomes for eligible children, in terms of basic and more advanced skills that all children are expected to master, which will be used as the basis for evaluating the program or project as required by section 1019, and such application has been approved by the State educational agency and developed in consultation with teachers and parents.

"(c) LOCAL ASSURANCES.—Such application shall provide assurance that the programs and projects described—

"(1) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting the special educational needs of the children being served, are designed and implemented in consultation with teachers (including early childhood education professionals and librarians when appropriate), and provide for parental involvement in accordance with section 1016;

"(2) make provision for services to educationally deprived children attending private elementary and secondary schools in accordance with section 1017;

"(3) allocate time and resources for frequent and regular coordination of the curriculum under this chapter with the regular instructional program; and

Handicapped persons.

"(4) in the case of participating students who are also limited English proficient or are handicapped, provide maximum coordination between services provided under this chapter and

services provided to address children's handicapping conditions or limited English proficiency, in order to increase program effectiveness, eliminate duplication, and reduce fragmentation of the students' programs.

"SEC. 1013. ELIGIBLE SCHOOLS.

Disadvantaged persons.
20 USC 2723.

"(a) GENERAL PROVISIONS.—

"(1) Subject to subsection (b), a local educational agency shall use funds received under this chapter in school attendance areas having high concentrations of children from low-income families (hereinafter referred to as 'eligible school attendance areas'), and where funds under this chapter are insufficient to provide programs and projects for all educationally deprived children in eligible school attendance areas, a local educational agency shall annually rank its eligible school attendance areas from highest to lowest within each grade span grouping or for the entire local educational agency, according to relative degree of concentration of children from low-income families. A local educational agency may carry out a program or project assisted under this chapter in an eligible school attendance area only if it also carries out such program or project in all other eligible school attendance areas which are ranked higher under the first sentence of this paragraph.

"(2) The same measure of low income, which shall be chosen by the local educational agency on the basis of the best available data and which may be a composite of several indicators, shall be used with respect to all school attendance areas within a grade span grouping or for the entire local educational agency, both to identify the areas having high concentrations of children from low-income families and to determine the ranking of each area.

"(3) The requirements of this subsection shall not apply in the case of a local educational agency with a total enrollment of less than 1,000 children, but this paragraph does not relieve such an agency from the responsibility to serve eligible children according to the provisions of section 1014.

"(b) LOCAL EDUCATIONAL AGENCY DISCRETION.—Notwithstanding subsection (a)(1) of this section, a local educational agency shall have discretion to identify and rank eligible attendance areas as follows:

"(1) A local educational agency may designate as eligible and serve all of its attendance areas within a grade span grouping or in the entire local educational agency if the percentage of children from low-income families in each attendance area of the agency is within 5 percentage points of the average percentage of such children within a grade span grouping or for the entire local educational agency.

"(2) A local educational agency may designate any school attendance area in which at least 25 percent of the children are from low-income families as an eligible school attendance area if the aggregate amount expended under this chapter and under a State program meeting the requirements of section 1018(d)(1)(B) in that fiscal year in each school attendance area of that agency eligible under subsection (a) in which projects assisted under this chapter were carried out in the preceding fiscal year equals or exceeds the amount expended from those sources in that area in such preceding fiscal year if such

attendance areas qualify for such amounts under subsection (c)(1).

"(3) A local educational agency may, with the approval of the State educational agency, designate as eligible and serve school attendance areas with substantially higher numbers or percentages of educationally deprived children before school attendance areas with higher concentrations of children from low-income families, but this paragraph shall not permit the provision of services to more school attendance areas than could otherwise be served. A State educational agency shall approve such a proposal only if the State educational agency finds that the proposal will not substantially impair the delivery of deprived children from low-income families in project areas served by the local educational agency.

"(4) Funds received under this part may be used for educationally deprived children who are in a school which is not located in an eligible school attendance area when the proportion of children from low-income families in average daily attendance in such school is substantially equal to the proportion of such children in an eligible school attendance area of such agency.

"(5) If an eligible school attendance area or eligible school was so designated and served in accordance with subsection (a) in the immediately preceding fiscal year, it may continue to be so designated for the subsequent fiscal year even though it does not qualify as eligible under such subsection in such additional year.

"(6) With the approval of the State educational agency, eligible school attendance areas or eligible schools which have higher proportions or numbers of children from low-income families may be skipped if they are receiving, from non-Federal funds, services of the same nature and scope as would otherwise be provided under this part, except that (A) the number of children attending private elementary and secondary schools who receive services under this part shall be determined without regard to non-Federal compensatory education funds which serve eligible children in public elementary and secondary schools, and (B) children attending private elementary and secondary schools who receive assistance under this part shall be identified in accordance with this section and without regard to skipping public school attendance areas or schools under this paragraph.

"(c) ALLOCATIONS.—

"(1) Except as provided in paragraph (2), a local educational agency shall allocate funds under this part among project areas or schools on the basis of the number and needs of children to be served as determined in accordance with section 1014.

"(2) Children in eligible schools, who receive services under this part and subsequently become ineligible due to improved academic achievement attributable to such services, may continue to be considered eligible for 2 additional years only for the purpose of determining the allocation of funds among eligible schools under paragraph (1). Any funds so allocated shall be used to provide services to any children determined to be eligible under section 1014.

"SEC. 1014. ELIGIBLE CHILDREN.

Disadvantaged persons.
20 USC 2724.

"(a) GENERAL PROVISIONS.—

"(1) Except as provided in subsections (c) and (d) of this section and section 1015, a local educational agency shall use funds received under this part for educationally deprived children, identified in accordance with subsection (b) as having the greatest need for special assistance, in school attendance areas or schools satisfying the requirements of section 1013.

"(2) The eligible population for services under this part are—

"(A) those children up to age 21 who are entitled to a free public education through grade 12, and

"(B) those children who are not yet at a grade level where the local educational agency provides a free public education, yet are of an age at which they can benefit from an organized instructional program provided in a school or other educational setting.

"(b) ASSESSMENT OF EDUCATIONAL NEED.—A local educational agency may receive funds under this part only if it makes an assessment of educational needs each year to (1) identify educationally deprived children in all eligible attendance areas; (2) identify the general instructional areas on which the program will focus; (3) select those educationally deprived children who have the greatest need for special assistance, as identified on the basis of educationally related objective criteria established by the local educational agency, which include written or oral testing instruments, that are uniformly applied to particular grade levels throughout the local educational agency; and (4) determine the special educational needs (and library resource needs) of participating children with specificity sufficient to ensure concentration on such needs.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—(1) Educationally deprived children who begin participation in a program or project assisted under this part, in accordance with subsections (a) and (b) but who, in the same school year, are transferred to a school attendance area or school not receiving funds under this part, may, if the local agency so determines, continue to participate in a program or project funded under this part for the duration of that same school year.

"(2) In providing services under this part a local educational agency may skip educationally deprived children in greatest need of assistance who are receiving, from non-Federal sources, services of the same nature and scope as would otherwise be provided under this part.

"(3) A child who, in the previous year, was identified as being in greatest need of assistance, and who continues to be educationally deprived, but who is no longer identified as being in greatest need of assistance, may participate in a program or project assisted under this part while continuing to be educationally deprived for a maximum of 2 additional years.

"(d) SPECIAL RULES.—(1) Children receiving services to overcome a handicapping condition or limited English proficiency shall also be eligible to receive services under this part, if they have needs stemming from educational deprivation and not related solely to the handicapping condition or limited English proficiency. Such children shall be selected on the same basis as other children identified as eligible for and selected to receive services under this part. Funds

under this part may not be used to provide services that are otherwise required by law to be made available to such children.

"(2) A student who at any time in the previous 2 years was receiving services under subpart 3 of part D of this chapter or under subpart 3 of part B of title I of the Elementary and Secondary Education Act (as amended by chapter 1 of the Education Consolidation and Improvement Act of 1981) shall be considered eligible for services under this part, and may be served subject to the provisions of subsections (a) and (b).

Disadvantaged persons.
20 USC 2725.

"SEC. 1015. SCHOOLWIDE PROJECTS.

"(a) USE OF FUNDS FOR SCHOOLWIDE PROJECTS.—In the case of any school serving an attendance area that is eligible to receive services under this part and in which, for the first year of the 3-year period of projects assisted under this section, not less than 75 percent of the children are from low-income families or any eligible school in which not less than 75 percent of the children enrolled in the school are from low-income families, the local educational agency may carry out a project under this part to upgrade the entire educational program in that school if the requirements of subsections (b), (c), (d), and (e) are met.

"(b) DESIGNATION OF SCHOOLS.—A school may be designated for a schoolwide project under subsection (a) if—

"(1) a plan has been developed for that school by the local educational agency and has been approved by the State educational agency which—

"(A) provides for a comprehensive assessment of educational needs of all students in the school, in particular the special needs of educationally deprived children;

"(B) establishes goals to meet the special needs of all students and to ensure that educationally deprived children are served effectively and demonstrate performance gains comparable to other students;

"(C) describes the instructional program, pupil services, and procedures to be used to implement those goals;

"(D) describes the specific uses of funds under this part as part of that program; and

"(E) describes how the school will move to implement an effective schools program as defined in section 1471, if appropriate;

"(2) the plan has been developed with the involvement of those individuals who will be engaged in carrying out the plan, including parents, teachers, librarians, education aides, pupil services personnel, and administrators (and secondary students if the plan relates to a secondary school);

"(3) the plan provides for consultation among individuals described in paragraph (2) as to the educational progress of all students and the participation of such individuals in the development and implementation of the accountability measures required by subsection (e);

"(4) appropriate training is provided to parents of children to be served, teachers, librarians, and other instructional, administrative, and pupil services personnel to enable them effectively to carry out the plan;

"(5) the plan includes procedures for measuring progress, as required by subsection (e), and describes the particular measures to be used; and

"(6)(A) in the case of a school district in which there are one or more schools described in subsection (a) and there are also one or more other schools serving project areas, the local educational agency makes the Federal funds provided under this part available for children in such schools described in subsection (a) in amounts which, per educationally deprived child served, equal or exceed the amount of such funds made available per educationally deprived child served in such other schools; and

"(B) the average per pupil expenditure in schools described in subsection (a) (excluding amounts expended under a State compensatory education program) for the fiscal year in which the plan is to be carried out will not be less than such expenditure in such schools in the previous fiscal year, except that the cost of services for programs described in section 1018(d)(2)(A) shall be included for each fiscal year as appropriate only in proportion to the number of children in the building served in such programs in the year for which this determination is made.

"(c) APPROVAL OF PLAN; OPERATION OF PROJECT.—

"(1) The State educational agency shall approve the plan of any local educational agency for a schoolwide project if that plan meets the requirements of subsection (b).

"(2) For any school which has such a plan approved, the local educational agency—

"(A) shall, in order to carry out the plan, be relieved of any requirements under this part with respect to the commingling of funds provided under this chapter with funds available for regular programs;

"(B) shall use funds received under this part only to supplement, and to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the school approved for a schoolwide project under paragraph (1);

"(C) shall comply with the provisions of section 1018(c); and

"(D) may not be required to identify particular children as being eligible to participate in projects assisted under this part but shall identify educationally deprived children for purposes of subsections (b) and (e) of this section.

"(d) USE OF FUNDS.—In addition to uses under section 1011, funds may be used in schoolwide projects for—

"(1) planning and implementing effective schools programs, and

"(2) other activities to improve the instructional program and pupil services in the school, such as reducing class size, training staff and parents of children to be served, and implementing extended schoolday programs.

"(e) ACCOUNTABILITY.—

"(1) The State educational agency may grant authority for a local educational agency to operate a schoolwide project for a period of 3 years. If a school meets the accountability requirements in paragraphs (2) and (3) at the end of such period, as determined by the State educational agency, that school will be allowed to continue the schoolwide project for an additional 3-year period.

"(2)(A) Except as provided in subparagraph (B), after 3 years, a school must be able to demonstrate (i) that the achievement level of educationally deprived children as measured according to the means specified in the plan required by subsection (b) exceeds the average achievement of participating children districtwide, or (ii) that the achievement of educationally deprived children in that school exceeds the average achievement of such children in that school in the 3 fiscal years prior to initiation of the schoolwide project.

"(B) For a secondary school, demonstration of lower dropout rates, increased retention rates, or increased graduation rates is acceptable in lieu of increased achievement, if achievement levels over the 3-year schoolwide project period, compared with the 3-year period immediately preceding the schoolwide project, do not decline.

"(3) Schools shall annually collect achievement and other assessment data for the purposes of paragraph (2). The results of achievement and other assessments shall be made available annually to parents, the public, and the State educational agency.

Public information.

20 USC 2726.

"SEC. 1016. PARENTAL INVOLVEMENT.

"(a) FINDINGS; GENERAL REQUIREMENT.—

"(1) Congress finds that activities by schools to increase parental involvement are a vital part of programs under this chapter.

"(2) Toward that end, a local educational agency may receive funds under this chapter only if it implements programs, activities, and procedures for the involvement of parents in programs assisted under this chapter. Such activities and procedures shall be planned and implemented with meaningful consultation with parents of participating children and must be of sufficient size, scope, and quality to give reasonable promise of substantial progress toward achieving the goals under subsection (b).

"(3) For purposes of this section, parental involvement includes, but is not limited to, parent input into the design and implementation of programs under this chapter, volunteer or paid participation by parents in school activities, and programs, training, and materials which build parents' capacity to improve their children's learning in the home and in school.

"(b) GOALS OF PARENTAL INVOLVEMENT.—In carrying out the requirements of subsection (a), a local educational agency shall, in coordination with parents of participating children, develop programs, activities, and procedures which have the following goals—

"(1) to inform parents of participating children of the program under this chapter, the reasons for their children's participation in such programs, and the specific instructional objectives and methods of the program;

"(2) to support the efforts of parents, including training parents, to the maximum extent practicable, to work with their children in the home to attain the instructional objectives of programs under this chapter and to understand the program requirements of this chapter and to train parents and teachers to build a partnership between home and school;

"(3) to train teachers and other staff involved in programs under this chapter to work effectively with the parents of participating students;

"(4) to consult with parents, on an ongoing basis, concerning the manner in which the school and parents can better work together to achieve the program's objectives and to give parents a feeling of partnership in the education of their children;

"(5) to provide a comprehensive range of opportunities for parents to become informed, in a timely way, about how the program will be designed, operated, and evaluated, allowing opportunities for parental participation, so that parents and educators can work together to achieve the program's objectives; and

"(6) to ensure opportunities, to the extent practicable, for the full participation of parents who lack literacy skills or whose native language is not English.

"(c) MECHANISMS FOR PARENTAL INVOLVEMENT.—

"(1) Each local educational agency, after consultation with and review by parents, shall develop written policies to ensure that parents are involved in the planning, design, and implementation of programs and shall provide such reasonable support for parental involvement activities as parents may request. Such policies shall be made available to parents of participating children.

"(2) Each local educational agency shall convene an annual meeting to which all parents of participating children shall be invited, to explain to parents the programs and activities provided with funds under this chapter. Such meetings may be districtwide or at the building level, as long as all such parents are given an opportunity to participate.

"(3) Each local educational agency shall provide parents of participating children with reports on the children's progress, and, to the extent practical, hold a parent-teacher conference with the parents of each child served in the program, to discuss that child's progress, placement, and methods by which parents can complement the child's instruction. Educational personnel under this chapter shall be readily accessible to parents and shall permit parents to observe activities under this chapter. Reports.

"(4) Each local educational agency shall (A) provide opportunities for regular meetings of parents to formulate parental input into the program, if parents of participating children so desire; (B) provide parents of participating children with timely information about the program; and (C) make parents aware of parental involvement requirements and other relevant provisions of programs under this chapter.

"(5) Parent programs, activities, and procedures may include regular parent conferences; parent resource centers; parent training programs and reasonable and necessary expenditures associated with the attendance of parents at training sessions; hiring, training, and utilization of parental involvement liaison workers; reporting to parents on the children's progress; training and support of personnel to work with parents, to coordinate parent activities, and to make contact in the home; use of parents as classroom volunteers, tutors, and aides; provision of school-to-home complementary curriculum and materials and assistance in implementing home-based education activities that reinforce classroom instruction and student motivation; provision of timely information on programs under this chapter (such as program plans and evaluations); soliciting parents' suggestions in the planning, development, and operation of the

program; providing timely responses to parent recommendations; parent advisory councils; and other activities designed to enlist the support and participation of parents to aid in the instruction of their children.

"(6) Parents of participating children are expected to cooperate with the local educational agency by becoming knowledgeable of the program goals and activities and by working to reinforce their children's training at home.

"(d) COORDINATION WITH ADULT EDUCATION ACT.—Programs of parental involvement shall coordinate, to the extent possible, with programs funded under the Adult Education Act.

"(e) ACCESSIBILITY REQUIREMENT.—Information, programs, and activities for parents pursuant to this section shall be provided, to the extent practicable, in a language and form which the parents understand.

Disadvantaged persons.
20 USC 2727.

"SEC. 1017. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS.

"(a) GENERAL REQUIREMENTS.—To the extent consistent with the number of educationally deprived children in the school district of the local educational agency who are enrolled in private elementary and secondary schools, such agency shall, after timely and meaningful consultation with appropriate private school officials, make provisions for including special educational services and arrangements (such as dual enrollment, educational radio and television, computer equipment and materials, other technology, and mobile educational services and equipment) in which such children can participate and which meet the requirements of sections 1011(a), 1012(b)(1), 1013, 1014, and 1018(b). Expenditures for educational services and arrangements pursuant to this section for educationally deprived children in private schools shall be equal (taking into account the number of children to be served and the special educational needs of such children) to expenditures for children enrolled in the public schools of the local educational agency.

"(b) BYPASS PROVISION.—

"(1) If a local educational agency is prohibited by law from providing for the participation in special programs for educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall waive such requirements, and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a).

"(2) If the Secretary determines that a local educational agency has substantially failed to provide for the participation on an equitable basis of educationally deprived children enrolled in private elementary and secondary schools as required by subsection (a), the Secretary shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of subsection (a), upon which determination the provisions of subsection (a) shall be waived.

"(3)(A) The Secretary shall develop and implement written procedures for receiving, investigating, and resolving complaints from parents, teachers, or other concerned organizations or individuals concerning violations of this section. The Secretary shall investigate and resolve each such complaint within 120 days after receipt of the complaint.

"(B) When the Secretary arranges for services pursuant to this subsection, the Secretary shall, after consultation with the appropriate public and private school officials, pay to the provider the cost of such services, including the administrative cost of arranging for such services, from the appropriate allocation or allocations under this chapter.

"(C) Pending final resolution of any investigation or complaint that could result in a determination under this subsection, the Secretary may withhold from the allocation of the affected State or local educational agency the amount the Secretary estimates would be necessary to pay the cost of such services.

"(D) Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the local educational agency to meet the requirements of subsection (a).

"(4)(A) The Secretary shall not take any final action under this subsection until the State educational agency and local educational agency affected by such action have had an opportunity, for at least 45 days after receiving written notice thereof, to submit written objections and to appear before the Secretary or a designee to show cause why such action should not be taken.

"(B) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under subparagraph (A) of this paragraph, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

"(C) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify the previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(D) Upon the filing of a petition under subparagraph (B), the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(c) PRIOR DETERMINATION.—Any bypass determination by the Secretary under title I of the Elementary and Secondary Education Act of 1965, as in effect prior to July 1, 1988, or chapter 1 of the Education Consolidation and Improvement Act of 1981 shall remain in effect to the extent consistent with the purposes of this chapter.

"(d) CAPITAL EXPENSES.—

"(1) A local educational agency may apply to the State educational agency for payments for capital expenses consistent with the provisions of this subsection. State educational agen-

cies shall distribute funds to local educational agencies based on the degree of need as set forth in the application. Such an application shall contain information on such capital expenses by fiscal year and shall contain an assurance that any funds received pursuant to this subsection shall be used solely for purposes of the program authorized by this chapter.

"(2)(A) From the amount appropriated for the purposes of this subsection for any fiscal year, the amount which each State shall be eligible to receive shall be an amount which bears the same ratio to the amount appropriated as the number of children enrolled in private schools who were served under chapter 1 of the Education Consolidation and Improvement Act of 1981 in the State during the period July 1, 1984 through June 30, 1985, bears to the total number of such children served during such period in all States.

"(B) Amounts which are not used by a State for the purposes of this subsection shall be reallocated by the Secretary among other States on the basis of need.

Appropriation authorization.

"(3) There is authorized to be appropriated $30,000,000 for fiscal year 1988, $40,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993. Any sums appropriated under this provision shall be used for increases in capital expenses paid from funds under chapter 1 of the Education Consolidation and Improvement Act or this section subsequent to July 1, 1985, of local educational agencies in providing the instructional services required under section 557 of the Education Consolidation and Improvement Act and this section, when without such funds, services to private schoolchildren would have been or have been reduced or would be reduced or adversely affected.

"(4) For the purposes of this subsection, the term 'capital expenses' is limited to expenditures for noninstructional goods and services such as the purchase, lease and renovation of real and personal property (including but not limited to mobile educational units and leasing of neutral sites or space), insurance and maintenance costs, transportation, and other comparable goods and services.

20 USC 2728.

"SEC. 1018. FISCAL REQUIREMENTS.

"(a) MAINTENANCE OF EFFORT.—

"(1) Except as provided in paragraph (2), a local educational agency may receive funds under this chapter for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The State educational agency shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) Each State educational agency may waive, for 1 fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

"(b) FEDERAL FUNDS TO SUPPLEMENT, NOT SUPPLANT REGULAR NON-FEDERAL FUNDS.—A State educational agency or other State agency in operating its State level programs or a local educational agency may use funds received under this chapter only so as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available from non-Federal sources for the education of pupils participating in programs and projects assisted under this chapter and in no case may such funds be so used as to supplant such funds from such non-Federal sources. In order to demonstrate compliance with this subsection, no State educational agency, other State agency, or local educational agency shall be required to provide services under this chapter through use of a particular instructional method or in a particular instructional setting.

"(c) COMPARABILITY OF SERVICES.—

"(1) A local educational agency may receive funds under this chapter only if State and local funds will be used in the district of such agency to provide services in project areas which, taken as a whole, are at least comparable to services being provided in areas in such district which are not receiving funds under this chapter. Where all school attendance areas in the district of the agency are designated as project areas, the agency may receive such funds only if State and local funds are used to provide services which, taken as a whole, are substantially comparable in each project area.

"(2)(A) A local educational agency shall be considered to have met the requirements of paragraph (1) if it has filed with the State educational agency a written assurance that it has established and implemented—

"(i) a districtwide salary schedule;

"(ii) a policy to ensure equivalence among schools in teachers, administrators, and auxiliary personnel; and

"(iii) a policy to ensure equivalence among schools in the provision of curriculum materials and instructional supplies.

"(B) Unpredictable changes in student enrollment or personnel assignments which occur after the beginning of a school year shall not be included as a factor in determining comparability of services.

"(3) Each educational agency shall develop procedures for compliance with the provisions of this subsection, and shall annually maintain records documenting compliance. Each State educational agency shall monitor the compliance of local educational agencies within the States with respect to the requirements of this subsection. Records.

"(4) Each local educational agency with not more than 1 building for each grade span shall not be subject to the provisions of this subsection.

"(5) Each local educational agency which is found to be out of compliance with this subsection shall be subject to withholding

or repayment of funds only to the amount or percentage by which the local educational agency has failed to comply.

Disadvantaged persons.

"(d) EXCLUSION OF SPECIAL STATE AND LOCAL PROGRAM FUNDS.—

"(1)(A) For the purposes of determining compliance with the requirements of subsections (b) and (c), a local educational agency or a State agency operating a program under part D of this chapter may exclude State and local funds expended for carrying out special programs to meet the educational needs of educationally deprived children including compensatory education for educationally deprived children after prior determination pursuant to paragraphs (3) and (4) of this subsection that such programs meet the requirements of subparagraph (B).

"(B) A State or local program meets the requirements of this subparagraph if it is similar to programs assisted under this part. The Secretary shall consider a State or local program to be similar to programs assisted under this part if—

"(i) all children participating in the program are educationally deprived,

"(ii) the program is based on similar performance objectives related to educational achievement and is evaluated in a manner consistent with those performance objectives,

"(iii) the program provides supplementary services designed to meet the special educational needs of the children who are participating,

Records.

"(iv) the local educational agency keeps such records and affords such access thereto as are necessary to assure the correctness and verification of the requirements of this subparagraph, and

"(v) the State educational agency monitors performance under the program to assure that the requirements of this subparagraph are met.

"(2)(A) For the purpose of determining compliance with the requirements of subsection (c), a local educational agency may exclude State and local funds expended for—

Minorities.

"(i) bilingual education for children of limited English proficiency,

Handicapped persons.

"(ii) special education for handicapped children, and

"(iii) certain State phase-in programs as described in subparagraph (B).

"(B) A State education program which is being phased into full operation meets the requirements of this subparagraph if the Secretary is satisfied that—

"(i) the program is authorized and governed specifically by the provisions of State law;

"(ii) the purpose of the program is to provide for the comprehensive and systematic restructuring of the total educational environment at the level of the individual school;

"(iii) the program is based on objectives, including but not limited to, performance objectives related to educational achievement and is evaluated in a manner consistent with those objectives;

"(iv) parents and school staff are involved in comprehensive planning, implementation, and evaluation of the program;

"(v) the program will benefit all children in a particular school or grade-span within a school;

"(vi) schools participating in a program describe, in a school level plan, program strategies for meeting the special educational needs of educationally deprived children;

"(vii) at all times during such phase-in period at least 50 percent of the schools participating in the program are the schools serving project areas which have the greatest number or concentrations of educationally deprived children or children from low-income families;

"(viii) State funds made available for the phase-in program will supplement, and not supplant, State and local funds which would, in the absence of the phase-in program, have been provided for schools participating in such program;

"(ix) the local educational agency is separately accountable, for purposes of compliance with the clauses of this subparagraph, to the State educational agency for any funds expended for such program; and

"(x) the local educational agencies carrying out the program are complying with the clauses of this subparagraph and the State educational agency is complying with applicable provisions of this paragraph.

"(3) The Secretary shall make an advance determination of whether or not a State program meets the requirements of this subsection. The Secretary shall require each State educational agency to submit the provisions of State law together with implementing rules, regulations, orders, guidelines, and interpretations which are necessary for an advance determination. The Secretary's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent State law affecting the program, the State educational agency shall submit such changes to the Secretary.

"(4) The State educational agency shall make an advance determination of whether or not a local program meets the requirements of this subsection. The State educational agency shall require each local educational agency to submit the provisions of local law, together with implementing rules, regulations, guidelines, and interpretations which are necessary to make such an advance determination. The State educational agency's determination shall be in writing and shall include the reasons for the determination. Whenever there is any material change in pertinent local law affecting the program, the local educational agency shall submit such changes to the State educational agency.

"SEC. 1019. EVALUATIONS. 20 USC 2729.

"(a) LOCAL EVALUATION.—Each local educational agency shall—

"(1) evaluate the effectiveness of programs assisted under this part, in accordance with national standards developed according to section 1435, at least once every 3 years (using objective measurement of individual student achievement in basic skills and more advanced skills, aggregated for the local educational agency as a whole) as an indicator of the impact of the program;

"(2) submit such evaluation results to the State educational agency at least once during each 3-year application cycle;

"(3) determine whether improved performance under paragraph (1) is sustained over a period of more than one program year.

"(b) STATE EVALUATIONS.—In accordance with national standards, each State educational agency shall—

Public information.

"(1) conduct an evaluation (based on local evaluation data collected under subsection (a) and sections 1107(b), 1202(a)(6), and 1242(d)) of the programs assisted under this chapter at least every 2 years, submit that evaluation to the Secretary and make public the results of that evaluation;

"(2) inform local educational agencies, in advance, of the specific evaluation data that will be needed and how it may be collected; and

Handicapped persons.

"(3) collect data on the race, age, gender, and number of children with handicapping conditions served by the programs assisted under this chapter and on the number of children served by grade-level under the programs assisted under this chapter and annually submit such data to the Secretary.

"(c) SPECIAL CONDITION.—Projects funded under this part that serve only preschool, kindergarten, or first grade students or students in such grade levels who are included in projects serving children above such grade levels shall not be subject to the requirements of subsection (a).

20 USC 2730.

"SEC. 1020. STATE EDUCATIONAL PROGRAM IMPROVEMENT PLAN.

"(a) PLAN REQUIREMENTS.—A State educational agency which receives funds under part A, part C, and part E of this chapter shall develop, in consultation with a committee of practitioners constituted pursuant to section 1451(b) of this chapter, a plan to ensure implementation of the provisions of this section and section 1021. Each such plan shall contain, but shall not be limited to—

"(1) the objective measures and standards the State educational agency and other agencies receiving funds under part A, part C, and part E of this chapter will use to assess aggregate performance pursuant to section 1021, and may include implementation of section 1019;

"(2) the means the State educational agency will use to develop joint plans with local educational agencies which have identified, pursuant to section 1021(b), schools in need of program improvement to attain satisfactory student progress, the timetable for developing and implementing such plans (within parameters defined pursuant to section 1431) and the program improvement assistance that will be provided to such schools pursuant to section 1021. Such program improvement assistance may include, but shall not be limited to, training and retraining of personnel, development of curricula that has shown promise in similar schools, replication of promising practices in effective schools models, improving coordination between programs assisted under this chapter and the regular school program, and the development of innovative strategies to enhance parental involvement.

"(b) DISSEMINATION AND AVAILABILITY OF PLAN.—(1) The State educational agency shall disseminate the plan developed under this subsection to all local educational agencies and other State agencies receiving funds under this chapter.

"(2) The State educational program improvement plan shall be available at the State educational agency for inspection by the

Secretary and may be amended by the State educational agency after consultation with a committee of practitioners when necessary.

"(c) AVAILABILITY OF FUNDS.—In any fiscal year for which appropriations are made pursuant to section 1405, the State educational agency shall fully implement the program improvement activities described in sections 1020 and 1021. In any fiscal year for which appropriations are not made, the State educational agency shall conduct, at a minimum, the activities required under section 1021(d), and other program improvement activities to the extent practicable.

"SEC. 1021. PROGRAM IMPROVEMENT. 20 USC 2731.

"(a) LOCAL REVIEW.—Each local educational agency shall—

"(1) conduct an annual review of the program's effectiveness in improving student performance for which purpose the local educational agency shall use outcomes developed pursuant to section 1012 and subsection (b) of this section, and make the results of such review available to teachers, parents of participating children, and other appropriate parties;

"(2) determine whether improved performance under paragraph (1) is sustained over a period of more than one program year;

"(3) use the results of such review and of evaluation pursuant to section 1019 in program improvement efforts required by section 1021(b); and

"(4) annually assess through consultation with parents, the effectiveness of the parental involvement program and determine what action needs to be taken, if any, to increase parental participation.

"(b) SCHOOL PROGRAM IMPROVEMENT.—(1) With respect to each school which does not show substantial progress toward meeting the desired outcomes described in the local educational agency's application under section 1012(a) or shows no improvement or a decline in aggregate performance of children served under this chapter for one school year as assessed by measures developed pursuant to section 1019(a) or subsection (a), pursuant to the program improvement timetable developed under sections 1020 and 1431, the local educational agency shall—

"(A) develop and implement in coordination with such school a plan for program improvement which shall describe how such agency will identify and modify programs funded under this chapter for schools and children pursuant to this section and which shall incorporate those program changes which have the greatest likelihood of improving the performance of educationally disadvantaged children, including—

"(i) a description of educational strategies designed to achieve the stated program outcomes or to otherwise improve the performance and meet the needs of eligible children; and

"(ii) a description of the resources, and how such resources will be applied, to carry out the strategies selected, including, as appropriate, qualified personnel, inservice training, curriculum materials, equipment, and physical facilities; and, where appropriate—

"(I) technical assistance;

"(II) alternative curriculum that has shown promise in similar schools;

"(III) improving coordination between part A and part C of this chapter and the regular school program;

"(IV) evaluation of parent involvement;

"(V) appropriate inservice training for staff paid with funds under this chapter and other staff who teach children served under this chapter; and

"(VI) other measures selected by the local educational agency; and

"(B) submit the plan to the local school board and the State educational agency, and make it available to parents of children served under this chapter in that school.

"(2) A school which has 10 or fewer students served during an entire program year shall not be subject to the requirements of this subsection.

"(c) DISCRETIONARY ASSISTANCE.—The local educational agency may apply to the State educational agency for program improvement assistance funds authorized under section 1405.

"(d) STATE ASSISTANCE TO LOCAL EDUCATIONAL AGENCIES.—(1) If after the locally developed program improvement plan shall have been in effect according to the timetable established under sections 1020 and 1431, the aggregate performance of children served under this chapter in a school does not meet the standards stated in subsections (a) and (b), the local educational agency shall, with the State educational agency, and in consultation with school staff and parents of participating children, develop and implement a joint plan for program improvement in that school until improved performance is sustained over a period of more than 1 year.

"(2) The State educational agency shall ensure that program improvement assistance is provided to each school identified under paragraph (1).

"(e) LOCAL CONDITIONS.—The local educational agency and the State educational agency, in performing their responsibilities under this section, shall take into consideration—

"(1) the mobility of the student population,

"(2) the extent of educational deprivation among program participants which may negatively affect improvement efforts,

"(3) the difficulties involved in dealing with older children in secondary school programs funded under this chapter,

"(4) whether indicators other than improved achievement demonstrate the positive effects on participating children of the activities funded under this chapter, and

"(5) whether a change in the review cycle pursuant to section 1019 or 1021(a)(1) or in the measurement instrument used or other measure-related phenomena has rendered results invalid or unreliable for that particular year.

"(f) STUDENT PROGRAM IMPROVEMENT.—On the basis of the evaluations and reviews under sections 1019(a)(1) and 1021(a)(1), each local educational agency shall—

"(1) identify students who have been served for a program year and have not met the standards stated in subsections (a) and (b),

"(2) consider modifications in the program offered to better serve students so identified, and

"(3) conduct a thorough assessment of the educational needs of students who remain in the program after 2 consecutive years of participation and have not met the standards stated in subsection (a).

"(g) PROGRAM IMPROVEMENT ASSISTANCE.—In carrying out the program improvement and student improvement activities required in subsections (a), (b), (c), and (d), local educational agencies and State educational agencies shall utilize the resources of the regional technical assistance centers and appropriate regional rural assistance programs established by section 1456 to the full extent such resources are available.

"(h) FURTHER ACTION.—If the State educational agency finds that, consistent with the program improvement timetable established under sections 1020 and 1431, after one year under the joint plan developed pursuant to subsection (d), including services in accordance with section 1017, a school which continues to fall below the standards for improvement stated in subsections (a) and (b) with regard to the aggregate performance of children served under part A, part C, and part E of this chapter, the State educational agency shall, with the local educational agency, review the joint plan and make revisions which are designed to improve performance, and continue to do so each consecutive year until such performance is sustained over a period of more than one year. Nothing in this section or section 1020 shall be construed to give the State any authority concerning the educational program of a local educational agency that does not otherwise exist under State law.

"(i) MUTUAL AGREEMENT.—Before any joint plan may be implemented under subsection (d) and subsection (h) both the local educational agency and State educational agency must approve such plan.

"PART B—EVEN START PROGRAMS OPERATED BY LOCAL EDUCATIONAL AGENCIES

"SEC. 1051. STATEMENT OF PURPOSE. 20 USC 2741.

"It is the purpose of this part to improve the educational opportunities of the Nation's children and adults by integrating early childhood education and adult education for parents into a unified program to be referred to as 'Even Start'. The program shall be implemented through cooperative projects that build on existing community resources to create a new range of services.

"SEC. 1052. PROGRAM AUTHORIZATION. 20 USC 2742.

"(a) GRANTS BY THE SECRETARY.—In any fiscal year in which the appropriations for this part do not equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part which are not inconsistent with the provisions of this subsection, to make grants to local educational agencies or consortia of such agencies to carry out Even Start programs.

"(b) STATE GRANT PROGRAM.—In any fiscal year in which the appropriations for this part equal or exceed $50,000,000, the Secretary is authorized, in accordance with the provisions of this part, to make grants to States from allocations under section 1053 to enable States to carry out Even Start programs.

"(c) DEFINITION.—For the purpose of this part, the term 'State' includes each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"SEC. 1053. ALLOCATION. 20 USC 2743.

"(a) RESERVATION FOR MIGRANT PROGRAMS.—The Secretary shall first reserve an amount equal to 3 percent of such amount for

programs consistent with the purpose of this part for migrant children. Programs for which funds are reserved under this subsection shall be conducted through the Office of Migrant Education.

"(b) STATE ALLOCATION.—Except as provided in section 1052(a) and subsection (c) of this section, each State shall be eligible to receive a grant under this part in each fiscal year that bears the same ratio to the remainder of the amount appropriated under section 1052(b) in that fiscal year as the amount allocated under section 1005 of this Act to the local educational agencies in the State bears to the total amount allocated to such agencies in all States.

"(c) STATE MINIMUM.—(1) Subject to the provisions of paragraph (2), no State shall receive less than the greater of—

"(A) one-half of one percent of the amount appropriated for this part and allocated under subsection (b) for any fiscal year; or

"(B) $250,000.

"(2)(A) No State shall, by reason of the application of the provisions of paragraph (1)(A) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this part in the fiscal year specified in subparagraph (A), multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this part for that year.

20 USC 2744.

"SEC. 1054. USES OF FUNDS.

"(a) IN GENERAL.—In carrying out the program under this part, funds made available to local educational agencies, in collaboration with, where appropriate, institutions of higher education, community-based organizations, the appropriate State educational agency, or other appropriate nonprofit organizations, shall be used to pay the Federal share of the cost of providing family-centered education programs which involve parents and children in a cooperative effort to help parents become full partners in the education of their children and to assist children in reaching their full potential as learners.

"(b) PROGRAM ELEMENTS.—Each program assisted under this part shall include—

"(1) the identification and recruitment of eligible children;

"(2) screening and preparation of parents and children for participation, including testing, referral to necessary counseling, and related services;

"(3) design of programs and provision of support services (when unavailable from other sources) appropriate to the participants' work and other responsibilities, including—

"(A) scheduling and location of services to allow joint participation by parents and children;

"(B) child care for the period that parents are involved in the program provided for under this part; and

"(C) transportation for the purpose of enabling parents and their children to participate in the program authorized by this part;

"(4) the establishment of instructional programs that promote adult literacy, training parents to support the educational growth of their children, and preparation of children for success in regular school programs;

"(5) provision of special training to enable staff to develop the skills necessary to work with parents and young children in the full range of instructional services offered through this part (including child care staff in programs enrolling children of participants under this part on a space available basis);

"(6) provision of and monitoring of integrated instructional services to participating parents and children through home-based programs; and

"(7) coordination of programs assisted under this part with programs assisted under this chapter and any relevant programs under chapter 2 of this title, the Adult Education Act, the Education of the Handicapped Act, the Job Training Partnership Act, and with the Head Start program, volunteer literacy programs, and other relevant programs.

"(c) FEDERAL SHARE LIMITATION.—The Federal share under this part may be—

"(1) not more than 90 percent of the total cost of the program in the first year the local educational agency receives assistance under this part,

"(2) 80 percent in the second such year,

"(3) 70 percent in the third such year, and

"(4) 60 percent in the fourth and any subsequent such year.

Funds may not be used for indirect costs. The remaining cost may be obtained from any source other than funds made available for programs under this title.

"SEC. 1055. ELIGIBLE PARTICIPANTS. 20 USC 2745.

"Eligible participants shall be—

"(1) a parent or parents who are eligible for participation in an adult basic education program under the Adult Education Act; and

"(2) the child or children (aged 1 to 7, inclusive), of any individual under paragraph (1), who reside in a school attendance area designated for participation in programs under part A.

"SEC. 1056. APPLICATIONS. 20 USC 2746.

"(a) SUBMISSION.—To be eligible to receive a grant under this part a local educational agency shall submit an application to the Secretary under section 1052(a) and to the State educational agency under section 1052(b) in such form and containing or accompanied by such information as the Secretary or the State educational agency, as the case may be, may require. Grants.

"(b) REQUIRED DOCUMENTATION.—Such application shall include documentation that the local educational agency has the qualified personnel required—

"(1) to develop, administer, and implement the program required by this part, and

"(2) to provide special training necessary to prepare staff for the program.

"(c) PLAN.—Such application shall also include a plan of operation for the program which includes—

"(1) a description of the program goals;

"(2) a description of the activities and services which will be provided under the program (including training and preparation of staff);

"(3) a description of the population to be served and an estimate of the number of participants;

"(4) if appropriate, a description of the collaborative efforts of the institutions of higher education, community-based organizations, the appropriate State educational agency, private elementary schools, or other appropriate nonprofit organizations in carrying out the program for which assistance is sought;

"(5) a statement of the methods which will be used—

"(A) to ensure that the programs will serve those eligible participants most in need of the activities and services provided by this part;

Disadvantaged persons. Handicapped persons.

"(B) to provide services under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps; and

"(C) to encourage participants to remain in the programs for a time sufficient to meet program goals; and

"(6) a description of the methods by which the applicant will coordinate programs under this part with programs under chapter 1 and chapter 2, where appropriate, of this title, the Adult Education Act, the Job Training Partnership Act, and with Head Start programs, volunteer literacy programs, and other relevant programs.

20 USC 2747.

"SEC. 1057. AWARD OF GRANTS.

"(a) SELECTION PROCESS.—The Secretary or each State educational agency, as the case may be, shall appoint a review panel that will award grants on the basis of proposals which—

"(1) are most likely to be successful in meeting the goals of this part;

"(2) serve the greatest percentage of eligible children and parents as described in section 1055;

"(3) demonstrate the greatest degree of cooperation and coordination between a variety of relevant service providers in all phases of the program;

"(4) submit budgets which appear reasonable, given the scope of the proposal;

"(5) demonstrate the local educational agency's ability to provide additional funding under section 1054(c);

"(6) are representative of urban and rural regions of the State or of the United States, as the case may be; and

"(7) show the greatest promise for providing models which may be transferred to other local educational agencies.

"(b) REVIEW PANEL.—A review panel shall, to the extent practicable, consist of 7 members as follows:

"(1) an early childhood education professional;

"(2) an adult education professional;

"(3) a representative of parent-child education organizations;

"(4) a representative of community-based literacy organizations;

"(5) a member of a local board of education;

"(6) a representative of business and industry with a commitment to education; and

"(7) an individual involved in the implementation of programs under this chapter within the State.

The panel shall contain members described in paragraphs (1), (2), (6), and (7).

"(c) EQUITABLE DISTRIBUTION OF ASSISTANCE.—In approving grants under this part under section 1052(a), the Secretary shall assure an equitable distribution of assistance among the States, among urban and rural areas of the United States, and among urban and rural areas of a State. Urban areas. Rural areas.

"(d) DURATION.—(1) Grants may be awarded for a period not to exceed 4 years. In any application from a local educational agency for a grant to continue a project for the second, third, or fourth fiscal year following the first fiscal year in which a grant was awarded to such local educational agency, the Secretary or the State educational agency, as the case may be, shall review the progress being made toward meeting the objectives of the project. The Secretary or the State educational agency, as the case may be, may refuse to award a grant if the Secretary or such agency finds that sufficient progress has not been made toward meeting such objectives, but only after affording the applicant notice and an opportunity for a hearing.

"(2) The Secretary shall establish criteria for carrying out the provisions of paragraph (1) in the transition fiscal year whenever the provisions of section 1052(b) apply to authorized State grant programs.

"SEC. 1058. EVALUATION. 20 USC 2748.

"(a) INDEPENDENT ANNUAL EVALUATION.—The Secretary shall provide for the annual independent evaluation of programs under this part to determine their effectiveness in providing—

"(1) services to special populations;

"(2) adult education services;

"(3) parent training;

"(4) home-based programs involving parents and children,

"(5) coordination with related programs; and

"(6) training of related personnel in appropriate skill areas.

"(b) CRITERIA.—

"(1) Each evaluation shall be conducted by individuals not directly involved in the administration of the program or project operated under this part. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors under subsection (a). When possible, each evaluation shall include comparisons with appropriate control groups.

"(2) In order to determine a program's effectiveness in achieving its stated goals, each evaluation shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

"(c) REPORT TO CONGRESS AND DISSEMINATION.—The Secretary shall prepare and submit to the Congress a review and summary of the results of such evaluations not later than September 30, 1993. The annual evaluations shall be submitted to the National Diffusion Network for consideration for possible dissemination.

20 USC 2749.

"SEC. 1059. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated for the purposes of this part $50,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"PART C—SECONDARY SCHOOL PROGRAMS FOR BASIC SKILLS IMPROVEMENT AND DROPOUT PREVENTION AND REENTRY

Disadvantaged persons.
20 USC 2761.

"SEC. 1101. PURPOSE.

"It is the purpose of this subpart to provide additional assistance to local educational agencies with high concentrations of low-income children, low-achieving children, or school dropouts to improve the achievement of educationally disadvantaged children enrolled in secondary schools of such agencies, and to reduce the number of youths who do not complete their elementary and secondary education.

20 USC 2762.

"SEC. 1102. ALLOCATION.

"(a) RESERVATION FOR MIGRANT PROGRAMS.—From the amount appropriated under section 1108 for the fiscal years 1990, 1991, 1992, and 1993, the Secretary shall first reserve an amount equal to 3 percent of such amount for programs consistent with the purpose of this part for school dropout prevention and reentry programs and secondary school basic skills improvement programs for migrant children. Programs for which funds are reserved under this subsection shall be conducted through the Office of Migrant Education.

Grants.

"(b) STATE ALLOCATION.—Except as provided in subsection (c), each State shall be eligible to receive a grant under this part in each fiscal year that bears the same ratio to the remainder of the amount appropriated in that fiscal year as the amount allocated under section 1005 of this Act to the local educational agencies in the State bears to the total amount allocated to such agencies in all States.

"(c) STATE MINIMUM.—(1) No State shall receive less than the greater of—

"(A) one-quarter of 1 percent of the amount appropriated for this part and allocated under subsection (b) for any fiscal year; or

"(B) $250,000.

"(2)(A) No State shall, by reason of the application of the provisions of paragraph (1)(A) of this subsection, be allotted more than—

"(i) 150 percent of the amount that the State received in the fiscal year preceding the fiscal year for which the determination is made, or

"(ii) the amount calculated under subparagraph (B),

whichever is less.

"(B) For the purpose of subparagraph (A)(ii), the amount for each State equals—

"(i) the number of children in such State counted for purposes of this part in the fiscal year specified in subparagraph (A), multiplied by

"(ii) 150 percent of the national average per pupil payment made with funds available under this part for that year.

"(d) LOCAL EDUCATIONAL AGENCY ALLOCATION.—Each State educational agency shall allocate funds among local educational agencies in the State on the basis of—

"(1) the eligibility of such agency for funds under section 1005 of this Act; and

"(2) the criteria described in section 1105.

Each local educational agency may carry out the activities described in section 1103 in cooperation with community-based organizations.

"(e) STATE ADMINISTRATION.—A State may reserve not more than 5 percent of the amounts available under this part for any fiscal year for State administrative costs.

"SEC. 1103. USES OF FUNDS. 20 USC 2763.

"(a) GENERAL RULE.—A local educational agency may use—

"(1) the remainder of such funds for secondary schools basic skills improvement activities pursuant to subsection (b), and

"(2) not to exceed 50 percent of funds paid under this part in any fiscal year for dropout prevention and reentry activities pursuant to subsection (c).

"(b) BASIC SKILLS FOR SECONDARY SCHOOLS.—Funds made available under this subpart may be used—

"(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

"(2) to develop innovative approaches for—

"(A) surmounting barriers that make secondary school programs under this subpart difficult for certain students to attend and difficult for secondary schools to administer, such as scheduling problems; and

"(B) courses leading to successful completion of the general education development test or of graduation requirements;

"(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, preemployment training, or transition-to-work activities;

"(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

"(5) to use the resources of the community to assist in providing services to the target population;

"(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

"(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other student services which are necessary to assist eligible students; and

"(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this subpart and under part A, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

"(c) USES OF FUNDS FOR SCHOOL DROPOUT PREVENTION AND REENTRY PROJECTS.—Funds made available under this subsection may be used for—

"(1) effective programs which identify potential student dropouts and prevent them from dropping out of elementary and secondary school;

"(2) effective programs which identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective programs for early intervention designed to identify at-risk students in elementary and early secondary schools;

"(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school;

"(5) school dropout programs which include coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

"(6) projects which are carried out in consortia with a community-based organization, any nonprofit private organization, institution of higher education, State educational agency, State and local public agencies, private industry councils (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station, or community-based organization; or

"(7) any of the activities described in section 6005 or 6006 of title VI.

"(d) LIMITATION.—Not more than 25 percent of amounts available may be used by a local educational agency for noninstructional services.

20 USC 2764.

"SEC. 1104. APPLICATIONS.

"(a) APPLICATION REQUIRED.—Any local educational agency which desires to receive a grant under this part shall submit to the State educational agency an application which describes the program to be supported with funds under this part and complies with the provisions of subsection (b).

"(b) CONTENTS OF APPLICATION.—Each application submitted under subsection (a) shall—

"(1) describe the program goals and the manner in which funds will be used to initiate or expand services to secondary school students, school dropouts, and potential school dropouts;

"(2) describe the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel required to develop, administer, and implement the program under this part);

"(3) assure that the programs will be conducted in schools with the greatest need for assistance, in terms of achievement levels, poverty rates, or school dropout rates;

"(4) assure that the programs will serve those eligible students most in need of the activities and services provided by this part;

"(5) assure that services will be provided under this part, as appropriate, to special populations, such as individuals with limited English proficiency and individuals with handicaps; Disadvantaged persons. Handicapped persons.

"(6) assure that parents of eligible students will be involved in the development and implementation of programs under this part;

"(7) describe the methods by which the applicant will coordinate programs under this part with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Adult Education Act, the Job Training Partnership Act, and other relevant Acts;

"(8) assure that, if feasible, the local educational agency will enter into arrangements with local businesses, labor organizations, or chambers of commerce under which such businesses and organizations will help secure employment for graduates of schools operating projects under this part;

"(9) assure that to the extent consistent with the number of students in the school district of the local educational agency who are enrolled in private secondary schools, such agency shall, after timely and meaningful consultation with appropriate private school officials, make provision for including such services and arrangements for the benefit of such students as will assure their equitable participation in the purposes and benefits of this part; and

"(10) provide such other information as the State educational agency may require to determine the nature and quality of the proposed project and the applicant's ability to carry it out.

"(c) SPECIAL RULE.—If the Secretary determines that a local educational agency has substantially failed to comply with paragraph (9) (by reason of State law or otherwise) or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirement, and, subject to the provisions of section 1017(b) of part A of this chapter, shall arrange for the provision of services to such students.

"(d) DURATION OF GRANTS.—Grants may be awarded for a period of 3 years.

"SEC. 1105. AWARD OF GRANTS. 20 USC 2765.

"Each State educational agency shall award grants to local educational agencies within the State which—

"(1) demonstrate the greatest need for services provided under this part based on their numbers of low-income children, numbers of low-achieving children, or numbers of school dropouts; Disadvantaged persons.

"(2) are representative of urban and rural regions of the State; Urban areas. Rural areas.

"(3) offer innovative approaches to improving achievement among eligible youth or offer approaches which show promise for replication and dissemination; and

"(4) offer innovative approaches to reducing the number of school dropouts.

20 USC 2766. "SEC. 1106. FISCAL REQUIREMENTS AND COORDINATION PROVISIONS.

"(a) GENERAL RULE.—(1) The provisions of subsections (a) through (d) of section 1018 of this Act shall apply to the program authorized by this part.

"(2) ADMINISTRATIVE COSTS.—Not more than 5 percent of a grant may be used for local administrative costs.

"(3) COORDINATION AND DISSEMINATION.—Local educational agencies receiving grants under this part shall cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

"(b) SPECIAL RULE.—(1) Each local educational agency shall use funds under this part to supplement the level of funds under this chapter that are used for secondary school programs.

"(2) In order to comply with paragraph (1), any local educational agency which operates secondary school programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981 or part A of this Act and which is operating secondary school basic skills programs under this part shall continue the same aggregate level of funding for such programs, at the same schools or at other eligible schools within the local educational agency.

20 USC 2767. "SEC. 1107. EVALUATION.

"The provisions of sections 1019 and 1021 shall apply to local educational agencies receiving grants under this part.

20 USC 2768. "SEC. 1108. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $400,000,000 for the fiscal year 1990, $450,000,000 for the fiscal year 1991, $500,000,000 for the fiscal year 1992, and $550,000,000 for the fiscal year 1993 to carry out this part.

"PART D—PROGRAMS OPERATED BY STATE AGENCIES

"Subpart 1—Programs for Migratory Children

20 USC 2781. "SEC. 1201. GRANTS—ENTITLEMENT AND AMOUNT.

"(a) ENTITLEMENT.—A State educational agency or a combination of such agencies shall, upon application, be entitled to receive a grant for any fiscal year under this part to establish or improve, either directly or through local educational agencies, programs of education for migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen which meet the requirements of section 1202.

"(b) AMOUNT OF GRANT.—(1) Except as provided in section 1291, the total grants which shall be made available for use in any State (other than the Commonwealth of Puerto Rico) for this subpart shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States) multiplied by (i) the estimated number of such migratory children aged 3 to 21, inclusive, who reside in the State full time, and (ii) the full-time equivalent of the estimated number of such

migratory children aged 3 to 21, inclusive, who reside in the State part time, as determined by the Secretary in accordance with regulations, except that if, in the case of any State, such amount exceeds the amount required under section 1202, the Secretary shall allocate such excess, to the extent necessary, to other States, whose total of grants under this sentence would otherwise be insufficient for all such children to be served in such other States. In determining the full-time equivalent number of migratory children who are in a State during the summer months, the Secretary shall adjust the number so determined to take into account the special needs of those children for summer programs and the additional costs of operating such programs during the summer. In determining the number of migrant children for the purposes of this section the Secretary shall use statistics made available by the migrant student record transfer system or such other system as the Secretary may determine most accurately and fully reflects the actual number of migrant students. In submitting the information required to make such determination, the States may not exceed a standard error rate of 5 percent.

"(2) To carry out the determinations of eligibility required by this section, the Secretary shall develop a national standard form for certification of migrant students.

"(3) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this section for a fiscal year shall be the amount arrived at by multiplying the number of such migrant children in the Commonwealth of Puerto Rico by the product of— Puerto Rico.

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

"SEC. 1202. PROGRAM REQUIREMENTS. 20 USC 2782.

"(a) REQUIREMENTS FOR APPROVAL OF APPLICATION.—The Secretary may approve an application submitted under section 1201(a) only upon a determination—

"(1) that payments will be used for programs and projects (including the acquisition of equipment and where necessary the construction of school facilities) which are designed to meet the special educational needs of migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen, and to coordinate such programs and projects with similar programs and projects in other States, including the transmittal of pertinent information with respect to school records of such children; Records.

"(2) that in planning and carrying out programs and projects there has been and will be appropriate coordination with programs administered under section 418 of the Higher Education Act, section 402 of the Job Training Partnership Act, the Education of the Handicapped Act, the Community Services Block Grant Act, the Head Start program, the migrant health program, and all other appropriate programs under the Departments of Education, Labor, and Agriculture;

"(3) that such programs and projects will be administered and carried out in a manner consistent with the basic objectives of section 1011 (other than subsection (b)), sections 1012, 1014, and 1018, and subpart 2 of part F;

"(4) that, in the planning and operation of programs and projects at both the State and local educational agency level, there is appropriate consultation with parent advisory councils (established in order to comply with this provision) for programs extending for the duration of a school year, and that all programs are carried out in a manner consistent with the requirements of section 1016;

"(5) that, in planning and carrying out programs and projects, there has been adequate assurance that provision will be made for the preschool education needs of migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen; and

"(6) that programs conducted under this subpart will be evaluated in terms of their effectiveness in achieving stated goals, including objective measurements of educational achievement in basic skills, and that for formerly migratory children who have been served under this subpart in a full school year program for at least 2 years, such evaluations shall include a determination of whether improved performance is sustained for more than 1 year.

"(b) CONTINUATION OF MIGRANT STATUS.—For purposes of this subpart, with the concurrence of the parents, a migratory child of a migratory agricultural worker (including migratory agricultural dairy workers) or of a migratory fisherman shall be considered to continue to be such a child for a period, not in excess of 5 years. Such children who are currently migrant, as determined pursuant to regulations of the Secretary, shall be given priority in the consideration of programs and activities contained in applications submitted under this section.

"(c) DEFINITIONS.—The Secretary shall continue to use the definitions of 'agricultural activity', 'currently migratory child', and 'fishing activity' which were published in the Federal Register on April 30, 1985, in regulations prescribed under section 555(b) of the Education Consolidation and Improvement Act of 1981 and subpart 1 of part B of title I of the Elementary and Secondary Education Act of 1965 (as in effect on April 30, 1985). No additional definition of 'migratory agricultural worker' or 'migratory fisherman' may be applied to the provisions of this subpart.

"(d) BYPASS PROVISION.—If the Secretary determines that a State is unable or unwilling to conduct educational programs for migratory children of migratory agricultural workers (including migratory agricultural dairy workers) or of migratory fishermen, that it would result in more efficient and economic administration, or that it would add substantially to the welfare or educational attainment of such children, the Secretary may make special arrangements with other public or nonprofit private agencies to carry out the purposes of this section in 1 or more States, and for this purpose the Secretary may use all or part of the total of grants available for any such State under this subpart.

20 USC 2783.

"SEC. 1203. COORDINATION OF MIGRANT EDUCATION ACTIVITIES.

Grants.
Contracts.

"(a) ACTIVITIES AUTHORIZED.—(1) The Secretary is authorized to make grants to, and enter into contracts with, State educational

agencies (in consultation with and with the approval of the States) for activities to improve the interstate and intrastate coordination among State and local educational agencies of the educational programs available for migratory students. Each grant issued under this paragraph shall not exceed 3 years for its stated purpose.

"(2)(A) The Secretary is also authorized to enter into contracts with State educational agencies to operate a system for the transfer among State and local educational agencies of migrant student records (including individualized education programs approved under the Education of the Handicapped Act).

"(B) Except as provided in subparagraph (C), for the purpose of ensuring continuity in the operation of such system, the Secretary shall, not later than July 1 of each year, continue to award such contract to the State educational agency receiving the award in the preceding year, unless a majority of the States notify the Secretary in writing that such agency has substantially failed to perform its responsibilities under the contract during that preceding year.

"(C) Beginning on July 1, 1992, and every 4 years thereafter, the Secretary shall conduct a competition to award such contract. Effective date.

"(D) No activity under this section shall, for purposes of any Federal law, be treated as an information collection that is conducted or sponsored by a Federal agency.

"(3) Grants or contracts shall also be made under this section to State educational agencies to develop and establish a national program of credit exchange and accrual for migrant students so that such students will be better able to meet graduation requirements and receive their high school diplomas. Such grants or contracts may not exceed 3 years.

"(b) AVAILABILITY OF FUNDS.—The Secretary shall, from the funds appropriated for carrying out this subpart, reserve for purposes of this section for any fiscal year an amount, determined by the Secretary, which shall not be less than $6,000,000 nor more than 5 percent of the amount appropriated.

"Subpart 2—Programs for Handicapped Children

"SEC. 1221. AMOUNT AND ELIGIBILITY. 20 USC 2791.

"(a) ELIGIBILITY FOR GRANT.—(1) A State educational agency shall be eligible to receive a grant under this subpart for any fiscal year for programs (as defined in sections 1222 and 1223) for handicapped children (as defined in paragraph (2)(B)).

"(2) For the purpose of this subpart—

"(A) 'children' includes infants and toddlers described in part H of the Education of the Handicapped Act, as appropriate, and

"(B) 'handicapped children' means children who by reason of their handicap require special education and related services, or in the case of infants and toddlers, require early intervention services and who are mentally retarded, hard of hearing, deaf, speech or language impaired, visually handicapped, seriously emotionally disturbed, orthopedically impaired, or other health impaired children or children with specific learning disabilities.

"(b) STATE EDUCATIONAL AGENCY APPLICATION.—In order to receive a grant under this subpart, a State educational agency shall submit an application to the Secretary which provides assurances that— Grants.

"(1) all handicapped children (other than handicapped infants and toddlers) in the State participating in programs and projects funded under this subpart receive a free appropriate public education and such children and such children's parents are provided all the rights and procedural safeguards under part B of the Education of the Handicapped Act and this subpart and that all handicapped infants and toddlers in the State participating under this subpart receive early intervention services and such infants and toddlers and their families are provided the rights and procedural safeguards under part H of such Act;

"(2) programs and projects receiving assistance under this subpart are administered in a manner consistent with this subpart, subpart 2 of part F, part B of the Education of the Handicapped Act, and as determined by the Secretary to be appropriate, part H of the Education of the Handicapped Act, including the monitoring by such agency of compliance under paragraph (1);

"(3) programs and projects under this subpart will be coordinated with services under the Education of the Handicapped Act;

"(4) for fiscal year 1991, and each subsequent fiscal year, the State educational agency will administer the program authorized by this subpart through the State office responsible for administering part B of the Education of the Handicapped Act;

Reports. "(5) the agency will report annually to the Secretary—

"(A) the number of children served under this subpart for each disability and age category as described in part B of the Education of the Handicapped Act;

"(B) the number of children served under this subpart in each of the educational placements described in section 618(b)(2) of the Education of the Handicapped Act (and will report separately State-operated and State-supported programs and local educational agency programs for children previously served in such State programs); and

"(C) on the uses of funds and the allocation of such funds for such uses under this subpart; and

Reports. "(6) the agency will report to the Secretary such other information as the Secretary may reasonably request.

"(c) AMOUNT OF GRANT.—(1) Except as provided in subsection (e) and section 1291, the grant which a State educational agency (other than the agency for Puerto Rico) shall be eligible to receive under this section shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States), multiplied by the number of handicapped children, from birth through 21, enrolled on December 1, as determined by the Secretary, in programs or schools for handicapped infants, toddlers and children operated or supported by a State agency which—

"(i) is directly responsible for providing free public education for handicapped children (including schools or programs provid-

ing special education and related services for handicapped children under contract or other arrangement with such agency); or

"(ii) is directly responsible for providing early intervention services for handicapped infants or toddlers (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency),

in the most recent fiscal year for which satisfactory data are available. The State educational agency shall distribute such funds to the appropriate State agency on the basis of the December 1 child count by distributing an equal amount for each child counted.

"(2) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. Except as provided in subsection (e), a grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such handicapped children in the Commonwealth of Puerto Rico by the product of— Grants. Puerto Rico.

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

"(d) COUNTING OF CHILDREN TRANSFERRING FROM STATE TO LOCAL PROGRAMS.—In any case in which a child described in sections 1225(1)(A) and 1225(1)(B)(i) leaves an educational program for handicapped children operated or supported by a State agency in order to participate in such a program operated or supported by a local educational agency, such child shall be counted under subsection (c) if—

"(1) the child was receiving and continues to receive a free appropriate public education; and

"(2) the State educational agency transfers to the local educational agency in whose program such child participates an amount equal to the sums received by such State educational agency under this section which are attributable to such child, to be used for the purpose set forth in section 1223.

"(e) SPECIAL REQUIREMENT.—The State educational agency may count handicapped children aged 3 to 5, inclusive, in a State only if such State is eligible for a grant under section 619 of the Education of the Handicapped Act.

"SEC. 1222. PROGRAM REQUIREMENTS. 20 USC 2792.

"(a) GENERAL REQUIREMENTS.—A State educational agency shall use the payments made under this subpart for programs and projects (including the acquisition of equipment) which are designed to supplement the special education needs of handicapped children (other than handicapped infants and toddlers) or the early intervention needs of handicapped infants and toddlers. Such programs and projects shall be administered in a manner consistent with this subpart, subpart 2 of part F, part B of the Education of the Handicapped Act, and, as determined by the Secretary to be appropriate, part H of the Education of the Handicapped Act.

"(b) SERVICES.—Funds under this subpart shall be used to supplement the provision of special education and related services for handicapped children (other than handicapped infants and toddlers) or early intervention services for handicapped infants and toddlers.

"(c) DEMONSTRATION OF BENEFIT.—Recipients of funds under this subpart shall collect and maintain such evaluations and assessments as may be necessary to demonstrate that the programs and projects were beneficial to the children served.

20 USC 2793.

"SEC. 1223. USES OF FUNDS.

"(a) GENERAL RULE.—Programs, and projects authorized under this subpart may include, but are not limited to—

"(1) services provided in early intervention, preschool, elementary, secondary, and transition programs;

"(2) acquisition of equipment and instructional materials;

"(3) employment of special personnel;

"(4) training and employment of education aides;

"(5) training in the use and provision of assistive devices and other specialized equipment;

"(6) training of teachers and other personnel;

"(7) training of parents of handicapped children;

"(8) training of nonhandicapped children to facilitate their participation with handicapped children in joint activities;

"(9) training of employers and independent living personnel involved in assisting the transition of handicapped children from school to the world of work and independent living;

"(10) outreach activities to identify and involve handicapped children and their families more fully in a wide range of educational and recreational activities in their communities; and

"(11) planning for, evaluation of, and dissemination of information regarding such programs and projects assisted under this subpart.

"(b) PROHIBITION.—Programs and projects authorized under this subpart may not include the construction of facilities.

20 USC 2794.

"SEC. 1224. SERVICE AND PROGRAM APPLICATIONS.

Grants.

"(a) APPLICATION REQUIRED.—A State agency or local educational agency may receive a grant under this subpart for any fiscal year if it has on file with the State educational agency an application which describes the services, programs, and projects to be conducted with such assistance for a period of not more than 3 years, and each such application has been approved by the State educational agency. Any State educational agency operating programs or projects under this subpart shall prepare a written description of such programs and projects in accordance with subsections (b) and (c).

"(b) REQUIREMENTS.—At a minimum each such application shall—

"(1) indicate the number of children to be served;

"(2) specify the number of children to be served for each disability and age category as described in part B of the Education of the Handicapped Act;

"(3) describe the purpose or purposes of the project and the method or methods of evaluating the effectiveness of the services, projects, or program;

"(4) specify the services to be provided with the funds furnished under this subpart; and

"(5) include other information the Secretary or State educational agency may request.

"(c) APPLICATION ASSURANCES.—Any such application shall provide assurances that—

"(1) all handicapped children in the State (other than handicapped infants and toddlers) participating in programs and projects funded under this subpart receive a free appropriate public education and such children and such children's parents are provided all the rights and procedural safeguards under part B of the Education of the Handicapped Act and this subpart and that all handicapped infants and toddlers in the State participating under this subpart receive early intervention services and such infants and toddlers and their families are provided the rights and procedural safeguards under part H of such Act;

"(2) services, programs, and projects conducted under this subpart are of sufficient size, scope, and quality to give reasonable promise toward meeting the special educational and early intervention needs of children to be served;

"(3) funds made available under the subpart will supplement, not supplant State and local funds in accordance with section 1018(b);

"(4) the agency will maintain its fiscal effort in accordance with section 1018(a);

"(5) the agency will conduct such evaluations and assessments as may be necessary to demonstrate that the programs and projects are beneficial to the children served;

"(6) the parents of children to be served with funds under this subpart are provided an opportunity to participate in the development of its project application; and

"(7) the agency will comply with all reporting requirements in a timely manner.

"(d) LETTER OF REQUEST.—The State educational agency may accept, in lieu of a project application, a letter of request for payment from a local educational agency, if the local agency intends to serve fewer than 5 children with its payment. In such a letter the agency shall include an assurance that the payment will be used to supplement the provision of special education and related services.

"SEC. 1225. ELIGIBLE CHILDREN. 20 USC 2795.

"The children eligible for services under this subpart are—

"(1) those handicapped children from birth to 21, inclusive, who—

"(A) the State is directly responsible for providing special education or early intervention services to (including schools or programs providing special education and related services for handicapped children under contract or other arrangement with such agency), and

"(B)(i) are participating in a State-operated or State-supported school or program for handicapped children (including schools and programs operated under contract or other arrangement with a State agency), or

"(ii) previously participated in such a program and are receiving special education or early intervention services from local educational agencies; and

"(2) other handicapped children, if children described in paragraph (1) have been fully served.

20 USC 2796.

"SEC. 1226. FEDERAL MONITORING REQUIREMENT.

"Whenever the Secretary conducts monitoring visits under part B of the Education of the Handicapped Act, the Secretary shall monitor the program authorized by this subpart, if applicable.

"Subpart 3—Programs for Neglected and Delinquent Children

20 USC 2801.

"SEC. 1241. AMOUNT AND ENTITLEMENT.

"(a) ENTITLEMENT TO GRANTS.—A State agency which is responsible for providing free public education for children in institutions for neglected or delinquent children or in adult correctional institutions shall be entitled to receive a grant under this subpart for any fiscal year (but only if grants received under this subpart are used only for children in such institutions).

"(b) AMOUNT OF GRANT.—(1) Except as provided in section 1291, the grant which such an agency (other than the agency for Puerto Rico) shall be eligible to receive shall be an amount equal to 40 percent of the average per pupil expenditure in the State (or (A) in the case where the average per pupil expenditure in the State is less than 80 percent of the average per pupil expenditure in the United States, of 80 percent of the average per pupil expenditure in the United States, or (B) in the case where the average per pupil expenditure in the State is more than 120 percent of the average per pupil expenditure in the United States, of 120 percent of the average per pupil expenditure in the United States) multiplied by the number of such neglected or delinquent children in average daily attendance, as determined by the Secretary, at schools for such children operated or supported by that agency, including schools providing education for such children under contract or other arrangement with such agency, in the most recent fiscal year for which satisfactory data are available.

Puerto Rico.

"(2) For each fiscal year, the Secretary shall determine the percentage which the average per pupil expenditure in the Commonwealth of Puerto Rico is of the lowest average per pupil expenditure of any of the 50 States. The grant which the Commonwealth of Puerto Rico shall be eligible to receive under this subpart for a fiscal year shall be the amount arrived at by multiplying the number of such neglected or delinquent children in the Commonwealth of Puerto Rico by the product of—

"(A) the percentage determined under the preceding sentence, and

"(B) 32 percent of the average per pupil expenditure in the United States.

20 USC 2802.

"SEC. 1242. PROGRAM REQUIREMENTS.

"(a) USE OF PAYMENTS.—A State agency shall use payments under this subpart only for programs and projects (including the acquisition of equipment and, where necessary, the construction of school facilities) which are designed to meet the special educational needs of children in institutions for neglected or delinquent children, children attending community day programs for neglected and delinquent children, or children in adult correctional institutions. Such programs and projects shall be designed to support educational services supplemental to the basic education of such children which must be provided by the State, and such programs and projects shall be administered and carried out in a manner consistent with sub-

part 2 of part F and sections 1011(a), 1014, and section 1018 (other than subsection (c)). The transfer of neglected and delinquent student records among State and local educational agencies, institutions, and programs shall include any individualized education programs of such students. Records.

"(b) COMPLIANCE.—In determining whether programs under this subpart have complied with the supplement not supplant requirement under section 1018(b), programs which are supplementary in terms of the number of hours of instruction students are receiving from State and local sources shall be considered in compliance without regard to the subject areas in which those instructional hours are given.

"(c) THREE-YEAR PROJECTS.—Where a State agency operates programs under this subpart in which children are likely to participate for more than 1 year, the State educational agency may approve the application for a grant under this subpart for a period of more than 1 year, but not to exceed 3 years.

"(d) EVALUATION.—Programs for neglected and delinquent children under this subpart shall be evaluated annually to determine their impact on the ability of such children to maintain and improve educational achievement, to maintain school credit in compliance with State requirements, and to make the transition to a regular program or special education program operated by a local educational agency.

"SEC. 1243. TRANSITION SERVICES. 20 USC 2803.

"(a) TRANSITION SERVICES.—Each State may reserve not more than 10 percent of the amount it receives under section 1241 for any fiscal year to support projects that facilitate the transition of children from State operated institutions for neglected and delinquent children into locally operated programs.

"(b) CONDUCT OF PROJECTS.—Projects supported under this section may be conducted directly by the State agency, or by contracts or other arrangements with one or more local educational agencies, other public agencies, or private nonprofit organizations.

"(c) LIMITATION.—Assistance under this section shall be used only to provide special educational services to neglected and delinquent children in schools other than State operated institutions.

"SEC. 1244. DEFINITIONS. 20 USC 2804.

"For the purposes of this subpart, the following terms have the following meanings:

"(1) The term 'institution for delinquent children', as determined by the State educational agency, means a public or private residential facility that is operated for the care of children who have been determined to be delinquent or in need of supervision.

"(2) The term 'institution for neglected children' means, as determined by the State educational agency, a public or private residential facility (other than a foster home) that is operated for the care of children who have been committed to the institution or voluntarily placed in the institution under applicable State law, due to abandonment, neglect, or death of parents or guardians.

"Subpart 4—General Provisions for State Operated Programs

20 USC 2811. "SEC. 1291. RESERVATION OF FUNDS FOR TERRITORIES.

Appropriation authorization.

"There is authorized to be appropriated for each fiscal year for purposes of each of subparts 1, 2, and 3 of this part, an amount equal to not more than 1 percent of the amount appropriated for such year for such subparts, for payments to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands under each such subpart. The amounts appropriated for each such subpart shall be allotted among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants, based on such criteria as the Secretary determines will best carry out the purposes of this chapter.

20 USC 2812. "SEC. 1292. DUAL ELIGIBILITY FOR PROGRAMS.

"Neglected and delinquent children under subpart 3 who are eligible for programs for handicapped children under subpart 2, may be counted under each subpart for purposes of grant determination and may be served under each such program.

"PART E—PAYMENTS

20 USC 2821. "SEC. 1401. PAYMENT METHODS.

"The Secretary shall, from time to time, pay to each State, in advance or otherwise, the amount which it and the local educational agencies of that State are eligible to receive under this chapter. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this chapter or chapter 1 of the Education Consolidation and Improvement Act of 1981 (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

20 USC 2822. "SEC. 1402. AMOUNT OF PAYMENTS TO LOCAL EDUCATIONAL AGENCIES.

"From the funds paid to it pursuant to section 1401 each State educational agency shall distribute to each local educational agency of the State which is eligible to receive a grant under this chapter and which has submitted an application approved pursuant to section 1012 the amount for which such application has been approved, and the amount which the local educational agency is eligible to receive under sections 1053 and 1102 except that the amount shall not exceed the amount determined for that local educational agency under this chapter.

20 USC 2823. "SEC. 1403. ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS.

Grants.

"(a) ADJUSTMENT ALLOCATION.—If the sums appropriated for any fiscal year for making the payments provided for in this chapter are not sufficient to pay in full the total amounts which all local and State educational agencies are entitled to receive under this chapter for such year, the amount available for each grant to a State agency eligible for a grant under subpart 1, 2, or 3 of part D shall be equal to the total amount of the grant as computed under each such subpart. If the remainder of such sums available after the application of the preceding sentence is not sufficient to pay in full the total amounts which all local educational agencies are entitled to receive under subpart 1 of part A of this chapter for such year, the alloca-

tions to such agencies shall, subject to section 1006(c) and to adjustments under the next sentence, be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amount so appropriated. The allocation of a local educational agency which would be reduced under the preceding sentence to less than 85 percent of its allocation under subpart 1 of the part A for the preceding fiscal year, shall be increased to such amount, the total of the increases thereby required being derived by proportionately reducing the allocations of the remaining local educational agencies, under the preceding sentence, but with such adjustments as may be necessary to prevent the allocation to any remaining local educational agency from being thereby reduced to less than 85 percent of its allocation for such year.

"(b) ADDITIONAL FUNDS ALLOCATION.—(1) If additional funds become available for making payments under this chapter for that year, allocations that were reduced pursuant to subsection (a) shall be increased on the same basis as they were reduced.

"(2) In order to permit the most effective use of all appropriations made to carry out this chapter, the Secretary may set dates by which (A) State educational agencies must certify to the Secretary the amounts for which the applications of educational agencies have been or will be approved by the State, and (B) State educational agencies referred to in subpart 1 of part D must file applications. If the maximum grant a local educational agency would receive (after any ratable reduction which may have been required under the first sentence of subsection (a) of this section) is more than an amount which the State educational agency determines, in accordance with regulations prescribed by the Secretary, such agency will use, the excess amount shall be made available first to educational agencies in that State. Determinations of the educational agencies to which such excess amounts shall be made available by the State educational agency in furtherance of the purposes of this chapter shall be in accordance with criteria prescribed by the Secretary which are designed to assure that such excess amounts will be made available to other eligible educational agencies with the greatest need, for the purpose of, where appropriate, redressing inequities inherent in, or mitigating hardships caused by, the application of the provisions of section 1005(a) as a result of such factors as population shifts and changing economic circumstances. In the event excess amounts remain after carrying out the preceding 2 sentences of this section, such excess amounts shall be distributed among the other States as the Secretary shall prescribe for use by local educational agencies in such States for the purposes of this chapter in such manner as the respective State educational agencies shall prescribe.

Grants.

"SEC. 1404. PAYMENTS FOR STATE ADMINISTRATION.

20 USC 2824.

"(a) IN GENERAL.—The Secretary is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this chapter (other than section 1021), except that the total of such payments in any fiscal year shall be the greater of the following:

"(1) 1 percent of the amount allocated to the State and its local educational agencies and to other State agencies as determined for that year under parts A and D; or

"(2) $325,000, or $50,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

Territories, U.S.

"(b) LIMITATION ON INDIRECT COSTS.—Not more than 15 percent of the State administrative allocation under subsection (a) may be used for indirect costs of the grant.

20 USC 2825.

"SEC. 1405. FUNDS FOR THE IMPLEMENTATION OF SCHOOL IMPROVEMENT PROGRAMS.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to pay, for the purpose of carrying out program improvement plans described in section 1021, to each State an amount equal to—

"(1)(A) 0.25 percent of the amount allocated to the State and its local educational agencies as determined under parts A and D for fiscal years 1989, 1990, and 1991; and

"(B) 0.5 percent of the amount allocated to the State and its local educational agencies as determined under parts A and D for fiscal years 1992 and 1993; or

"(2)(A) $90,000 or $15,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands for fiscal years 1989, 1990, and 1991; and

Territories, U.S.

"(B) $180,000 or $30,000 in the case of Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands for fiscal years 1992 and 1993.

"(b) LIMITATIONS.—(1) No funds made available to States under subsection (a) may be used for administrative functions related to any provisions of this chapter.

"(2) Funds made available to States under this section shall only be used for direct educational services in schools implementing program improvement plans as described under section 1021.

"(3) Parents of participating children, school staff, the local educational agency and the State educational agency shall jointly agree to the selection of providers of technical assistance and the best use of funds available under subsection (a) for the effective implementation of the program improvement plan. Uses of such funds include assistance from—

"(A) an institution of higher education;

"(B) federally supported educational laboratory or center;

"(C) State personnel with expertise in educational improvement;

"(D) locally, State, or nationally based consultants; and

"(E) other possible providers of the specific services required by the school's program plan.

20 USC 2826.

"SEC. 1406. LIMITATION ON GRANT TO THE COMMONWEALTH OF PUERTO RICO.

"Notwithstanding the provisions of this chapter, the amount paid to the Commonwealth of Puerto Rico under this chapter for any fiscal year shall not exceed 150 percent of the amount received by the Commonwealth of Puerto Rico under chapter 1 of the Education Consolidation and Improvement Act or under this chapter in the preceding fiscal year. Any excess over such amount shall be used to ratably increase the allocations under subpart 1 of part A of the other local educational agencies whose allocations do not exceed the maximum amount for which the agencies are eligible under section 1005.

"PART F—GENERAL PROVISIONS

"Subpart 1—Federal Administration

"SEC. 1431. FEDERAL REGULATIONS. 20 USC 2831.

"(a) IN GENERAL.—The Secretary is authorized to issue such regulations as are considered necessary to reasonably ensure that there is compliance with the specific requirements and assurances required by this chapter.

"(b) PROCEDURE.—(1) Prior to publishing proposed regulations pursuant to this chapter, the Secretary shall convene regional meetings which shall provide input to the Secretary on the content of proposed regulations. Such meetings shall include representatives of Federal, State, and local administrators, parents, teachers, and members of local boards of education involved with implementation of programs under this chapter.

"(2) Subsequent to regional meetings and prior to publishing proposed regulations in the Federal Register, the Secretary shall prepare draft regulations and submit regulations on a minimum of 4 key issues to a modified negotiated rulemaking process as a demonstration of such process. The modified process shall waive application of the Federal Advisory Committee Act, but shall otherwise follow the guidance provided in the Administrative Conference of the United States in Recommendation 82-4, 'Procedures for Negotiating Proposed Regulations' (47 Fed. Reg. 30708, June 18, 1982) and any successor regulation. Participants in the demonstration shall be chosen by the Secretary from among participants in the regional meetings, representing the groups described in paragraph (1) and all geographic regions. The demonstration shall be conducted in a timely manner in order that final regulations may be issued by the Secretary within the 240-day period required by section 431(g) of the General Education Provisions Act.

"(3) In an emergency situation in which regulations pursuant to this chapter must be issued within a very limited time to assist State and local educational agencies with the operation of the program, the Secretary may issue a regulation without such prior consultation, but shall immediately thereafter convene regional meetings to review the emergency regulation prior to issuance in final form.

"(c) SPECIAL RULE.—Funds made available under sections 1437 and 1463 of this chapter shall be released for expenditure by the Secretary only at such time as final regulations pertaining to this chapter are published in the Federal Register. Federal Register, publication.

"(d) LIMITATION.—Programs under this chapter may not be required to follow any 1 instructional model, such as the provision of services outside the regular classroom or school program.

"SEC. 1432. AVAILABILITY OF APPROPRIATIONS. 20 USC 2832.

"(a) GENERAL PROVISION.—Notwithstanding any other provision of law, unless expressly in limitation of this section, funds appropriated in any fiscal year to carry out activities under this chapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"(b) CARRYOVER AND WAIVER.—Notwithstanding section 412 of the General Education Provisions Act, subsection (a) or any other provision of law—

"(1) not more than 25 percent of funds appropriated for fiscal year 1989 and 15 percent of funds appropriated for fiscal year 1990 and each subsequent year may remain available for obligation for 1 additional year;

"(2) a State educational agency may grant a 1-time waiver of the percentage limitation under paragraph (1) if the agency determines that the request by a local educational agency is reasonable and necessary or may grant a waiver in any fiscal year in which supplemental appropriations for this chapter become available for obligation; and

"(3) the percentage limitation under paragraph (1) shall not apply with respect to any local educational agency which receives less than $50,000 under this chapter for any fiscal year.

20 USC 2833.

"SEC. 1433. WITHHOLDING OF PAYMENTS.

"(a) WITHHOLDING.—Whenever the Secretary, after reasonable notice to any State educational agency and an opportunity for a hearing on the record, finds that there has been a failure to comply substantially with any assurances required to be given or conditions required to be met under this chapter, the Secretary shall notify such agency of these findings and that beginning 60 days after the date of such notification, further payments will not be made to the State under this chapter, or affected part or subpart thereof (or, in the Secretary's discretion, that the State educational agency shall reduce or terminate further payments under the affected part or subpart thereof, to specified local educational agencies or State agencies affected by the failure) until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, (1) no further payments shall be made to the State under the part or subpart thereof, or (2) payments by the State educational agency under the part or subpart thereof shall be limited to local educational agencies and State agencies not affected by the failure, or (3) payments to particular local educational agencies shall be reduced, as the case may be.

"(b) NOTICE TO PUBLIC.—Upon submission to a State of a notice under subsection (a) that the Secretary is withholding payments, the Secretary shall take such action as may be necessary to bring the withholding of payments to the attention of the public within the State.

20 USC 2834.

"SEC. 1434. JUDICIAL REVIEW.

"(a) FILING APPEALS.—If any State is dissatisfied with the Secretary's action under section 1433(a), such State may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The filing of such petition shall act to suspend any withholding of funds by the Secretary pending the judgment of the court and prior to a final action on any review of such judgment. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary's action was based, as provided in section 2112 of title 28, United States Code.

Records.

"(b) BASIS OF REVIEW.—For the purposes of this chapter, the basis of review shall be as provided in section 458(c) of the General Education Provisions Act.

"(c) JUDICIAL APPEALS.—Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari of certification as provided in section 1254 of title 28, United States Code.

"SEC. 1435. EVALUATION. 20 USC 2835.

"(a) NATIONAL STANDARDS.—In consultation with State and local educational agencies (including members of State and local boards of education and parent representatives), the Secretary shall develop national standards for local evaluation of programs under this chapter. In developing such standards, the Secretary may use the Title I Evaluation and Reporting System designed and implemented under title I of this Act, as in effect prior to the date of the enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 as the model. The Secretary shall provide advance notification to State and local educational agencies of the requirements of such national standards of evaluations.

"(b) REPORTS.—The Secretary shall submit a comprehensive and detailed report concerning State and local evaluation results based on data collected under sections 1019, 1107, 1202(a)(6), and 1242(d) to the appropriate committees of the Congress on a biennial basis.

"SEC. 1436. COORDINATION OF FEDERAL, STATE, AND LOCAL ADMINISTRATION. 20 USC 2836.

"(a) POLICY MANUAL.—The Secretary shall, not later than 6 months after the publication of final regulations with respect to this chapter, prepare and distribute to State educational agencies, State agencies operating programs under part D, and local educational agencies, and shall make available to parents and other interested individuals, organizations, and agencies, a policy manual for this chapter to—

"(1) assist such agencies in (A) preparing applications for program funds under this chapter, (B) meeting the applicable program requirements under this chapter, and (C) enhancing the quality, increasing the depth, or broadening the scope of activities for programs under this chapter;

"(2) assist State educational agencies in achieving proper and efficient administration of programs funded under this chapter;

"(3) assist parents to become involved in the planning for, and implementation and evaluation of, programs and projects under this chapter; and

"(4) ensure that officers and employees of the Department of Education, including officers and employees of the Secretary and officers and employees of such Department charged with auditing programs carried on under this chapter, uniformly interpret, apply, and enforce requirements under this chapter throughout the United States.

"(b) CONTENTS OF POLICY MANUAL.—The policy manual shall, with respect to programs carried out under this chapter, contain descriptions, statements, procedural and substantive rules, opinions, policy statements and interpretations and indices to and amendments of the foregoing, and in particular, whether or not such items are required under section 552 of title 5, United States Code to be

published or made available. The manual shall include (but not be limited to)—

"(1) a statement of the requirements applicable to the programs carried out under this chapter, including such requirements contained in this chapter, the General Education Provisions Act, other applicable statutes, and regulations issued under the authority of such statutes;

"(2) an explanation of the purpose of each requirement and its interrelationship with other applicable requirements;

"(3) a statement of the procedures to be followed by the Secretary with respect to proper and efficient performance of administrative responsibilities;

"(4) summaries of (A) advisory opinions interpreting and applying applicable requirements, and (B) final audit determinations relevant to programs under this chapter, including examples of actual applications of the legal requirements of applicable statutes and regulations;

"(5) model forms and instructions developed by the Secretary for use by State and local educational agencies, at their discretion, including, but not limited to, application forms, application review checklists, and instruments for monitoring programs under this chapter;

"(6) summaries of appropriate court decisions concerning programs under this chapter; and

"(7) model forms, policies, and procedures developed by State educational agencies.

"(c) RESPONSE TO INQUIRIES.—The Secretary shall respond with written guidance not more than 90 days after any written request (return receipt requested) from a State or local educational agency regarding a policy, question, or interpretation under this chapter. In the case of a request from a local educational agency, such agency must first have addressed its request to the State educational agency.

"(d) TECHNICAL ASSISTANCE.—From funds available to the Secretary for studies, evaluations, and technical assistance, the Secretary shall continue, establish, and expand technical assistance centers to provide assistance to State and local educational agencies with respect to programs under this chapter. In providing such assistance, centers shall place particular emphasis on information relating to program improvement, parental involvement, instruction, testing and evaluation, and curriculum under this chapter. Such centers shall be accessible through electronic means.

"(e) FEDERAL DISSEMINATION OF EXEMPLARY PROGRAMS.—To the extent possible, the Secretary shall provide information to State and local educational agencies regarding opportunities for dissemination of exemplary programs under this chapter through the National Diffusion Network. The Secretary shall emphasize programs which are exemplary in their implementation of the parent involvement provisions of section 1016. The Secretary shall coordinate Federal exemplary project identification activities with the National Diffusion Network.

"(f) FEDERAL REVIEW OF STATE AND LOCAL ADMINISTRATION.—The Secretary shall provide for a review of State and local administration of programs under this chapter. In addition to such other areas as the Secretary may consider appropriate, the review shall consider State policies, guidance materials, monitoring and enforcement

activities, and the detection and resolution of problems of local noncompliance.

"SEC. 1437. AUTHORIZATION OF APPROPRIATIONS FOR EVALUATION AND TECHNICAL ASSISTANCE. 20 USC 2837.

"There are authorized to be appropriated for the purposes of sections 1435 and 1436 for other Federal evaluation, technical assistance, and research activities related to this chapter, and authorized studies under this chapter, $4,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"SEC. 1438. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT. 20 USC 2838.

"(a) GENERAL RULE.—Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this chapter.

"(b) SUPERCESSION RULE.—The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this chapter with respect to the programs authorized by this subtitle:

"(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 1431 of this chapter. 20 USC 1221e-3.

"(2) Section 426(a) of such Act is superseded by section 1437 of this chapter. 20 USC 1231c.

"(3) Section 427 of such Act is superseded by section 1016 of this chapter. 20 USC 1231d.

"(4) Section 430 of such Act is superseded by sections 1012, 1056, 1104(b), 1125, 1202(a), and 1224 of this chapter. 20 USC 1231g.

"(5) Section 455 of such Act is superseded by section 1433 of this chapter. 20 USC 1234d.

"(6) Section 458 of such Act is superseded by section 1434 of this chapter with respect to judicial review of withholding of payments. 20 USC 1234g.

"(c) EXCLUSION RULE.—Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, shall not apply to the programs authorized by this chapter and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this chapter.

"SEC. 1439. NATIONAL COMMISSION ON MIGRANT EDUCATION. 20 USC 2839.

"(a) ESTABLISHMENT.—There is established, as an independent agency within the executive branch, a National Commission on Migrant Education (referred to in this section as the 'Commission').

"(b) MEMBERSHIP.—

"(1) The Commission shall be composed of 12 members. Four of the members shall be appointed by the President. Four of the members shall be appointed by the Speaker of the House, including 2 Members of the House, 1 from each political party. Four of the members shall be appointed by the President pro tempore of the Senate, including 2 Members of the Senate, 1 from each political party.

"(2) The chairman shall be designated by the President from among the members appointed by the President. If the President has not appointed 4 members of the Commission and designated a chairman within 60 days of the enactment of this Act, the members of the Commission appointed by the Speaker

of the House and the President pro tempore of the Senate shall elect a chairman who shall continue to serve for the duration of the Commission.

"(3) Any vacancy in the Commission shall be filled in the same manner as the original appointment.

"(c) STUDY.—The Commission shall make a study of the following issues:

"(1) What are the demographics of the children of migratory workers today compared with 10 years ago and how are the demographics expected to change over the next decade.

"(2) What are the individual roles of the Federal, State, and private sectors in migrant affairs; how has each sector enhanced migrant educational opportunities, including entry into all types of postsecondary education programs; and should Federal programs include incentives for private and State participation.

"(3) What is the number of unserved or underserved migrant students who are eligible for the programs under this chapter nationwide and on a State-by-State basis.

"(4) How can migrant education, migrant health, migrant Head Start, Job Training Partnership programs serving migrants, HEP/CAMP, and adult literacy programs be integrated and coordinated at both the Federal and State levels.

"(5) How many migrant students are identified as potential drop-outs; how might this issue be addressed at the national policy level; and what effect does the migrant mother have on her children's performance.

"(6) How do the migrant programs under this chapter vary from State to State; how do their administrative costs vary; how do parent involvement and services vary.

"(7) What role has the Migrant Student Record Transfer System performed in assisting the migrant population; to what degree is it utilized for enhancing the education program at the local level and by the classroom teacher; is it cost effective; and how well would such a system adapt to other mobile populations like those in the inner cities or those in the Department of Defense overseas schools.

"(8) How many prekindergarten programs are available to migratory children; what services are they provided; what is the degree of parent involvement with these programs; what is a typical profile of a student in such a program.

"(9) How well are migrant handicapped and gifted and talented students identified and served; and what improvements might be made in this area.

"(10) How many of the students being served are identified as 'currently migrant' and how many are 'formerly migrant'; what differences are there in their needs; and how do services provided differ between those of 'currently migrant' and those of 'formerly migrant'.

"(11) How does interstate and intrastate coordination occur at the State and local levels.

"(12) Is there a need to establish a National Center for Migrant Affairs and what are the options for funding such a Center.

"(d) REPORTS.—

"(1) The Commission shall prepare and submit reports and recommendations to the President and to the appropriate committees of the Congress on the studies required to be con-

ducted under this section. The reports for the studies required shall be submitted as soon as practicable.

"(2) Any recommendations and reports submitted under this paragraph which contemplate changes in Federal legislation shall include draft legislation to accomplish the recommendations.

"(e) SPECIAL STUDY ON THE MIGRANT STUDENT RECORDS TRANSFER SYSTEM.—(1) The Commission shall conduct a study of the function and the effectiveness of the Migrant Student Records Transfer System.

"(2) The Commission shall prepare and submit to the Secretary of Education and to the Congress, not later than 2 years after the first meeting of the Commission, a report on the study required by paragraph (1). Reports.

"(f) COMPENSATION.—

"(1) Members of the Commission who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States; but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(2) Members of the Commission who are not officers or full-time employees of the United States may each receive $150 per diem when engaged in the actual performance of duties vested in the Commission. In addition, they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

"(f) STAFF.—Such personnel as the Commission deems necessary may be appointed by the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subtitle III of chapter 53 of such title relating to classification and General Schedule pay rates, but no individual so appointed shall be paid in excess of the rate authorized for GS-18 of the General Schedule.

"(g) ADMINISTRATION.—

"(1) The Commission or, on the authorization of the Commission, any committee thereof, may, for the purpose of carrying out the provisions of this section, hold such hearings and sit and act at such times and such places within the United States as the Commission or such committee may deem advisable.

"(2) In carrying out its duties under this section, the Commission shall consult with other Federal agencies, representatives of State and local governments, and private organizations to the extent feasible.

"(3) The Commission is authorized to secure directly from any executive department, bureau, agency, board, commission, office, independent establishment, or instrumentality, information, suggestions, estimates, and statistics for the purpose of this section, and each such department, bureau, agency, board, commission, office, establishment, or instrumentality is authorized and directed, to the extent permitted by law, to furnish such information, suggestions, estimates, and statistics directly to the Commission, upon request made by the Chairman.

Contracts.

"(4) For the purpose of securing the necessary data and information, the Commission may enter into contracts with universities, research institutions, foundations, and other competent public or private agencies. For such purpose, the Commission is authorized to obtain the services of experts and consultants in accordance with section 3109 of title 5, United States Code.

"(5) The heads of all Federal agencies are, to the extent not prohibited by law, directed to cooperate with the Commission in carrying out this section.

"(6) The Commission is authorized to utilize, with their consent, the services, personnel, information, and facilities of other Federal, State, local, and private agencies with or without reimbursement.

Grants. Gifts and property.

"(7) The Commission shall have authority to accept in the name of the United States, grants, gifts, or bequests of money for immediate disbursement in furtherance of the functions of the Commission. Such grants, gifts, or bequests, after acceptance by the Commission, shall be paid by the donor or the donor's representative to the Treasurer of the United States whose receipts shall be their acquittance. The Treasurer of the United States shall enter them in a special account to the credit of the Commission for the purposes in each case specified.

"(8) Six members of the Commission shall constitute a quorum, but a lesser number of 2 or more may conduct hearings.

"(h) TERMINATION.—The Commission shall terminate 3 years after the date of its first meeting.

"(i) AUTHORIZATION OF APPROPRIATIONS.—Effective October 1, 1988, there is authorized to be appropriated $2,000,000 to carry out the provisions of this section, which shall remain available until expended or until the termination of the Commission, whichever occurs first.

"Subpart 2—State Administration

20 USC 2851.

"SEC. 1451. STATE REGULATIONS.

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), nothing in this chapter may be interpreted to preempt, prohibit, or encourage State regulations issued pursuant to State law which are not inconsistent with the provisions of this chapter, regulations promulgated under this chapter, or other applicable Federal statutes and regulations.

"(2) State rules or policies may not limit local school districts' decisions regarding the grade levels to be served; the basic skills areas (such as reading, mathematics, or language arts) to be addressed; instructional settings, materials or teaching techniques to be used; instructional staff to be employed (as long as such staff meet State certification and licensing requirements for education personnel); or other essential support services (such as counseling and other pupil personnel services) to be provided as part of the programs authorized under this chapter.

"(3) Nothing in this subsection may be construed to inhibit the State educational agency's responsibility to work jointly with local educational agencies and other State agencies receiving funds under this chapter in program improvement activities pursuant to section

1021 where the State may suggest various activities and approaches as it works with such agencies to develop program improvement plans.

"(b) REVIEW BY COMMITTEE OF PRACTITIONERS.—Before publication of any proposed or final State rule or regulation pursuant to this chapter, each such rule shall be reviewed by a State committee of practitioners which shall include administrators, teachers, parents, and members of local boards of education, and on which a majority of the members shall be local educational agency representatives. In an emergency situation where such regulation must be issued within a very limited time to assist local educational agencies with the operation of the program, the State educational agency may issue a regulation without such prior consultation, but shall immediately thereafter convene a State committee of practitioners to review the emergency regulation prior to issuance in final form.

"(c) IDENTIFICATION AS STATE REQUIREMENT.—The imposition of any State rule or policy relating to the administration and operation of programs funded by this chapter (including those based on State interpretation of any Federal law, regulation, or guideline) shall be identified as a State imposed requirement.

"SEC. 1452. RECORDS AND INFORMATION. 20 USC 2852.

"Each State educational agency shall keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter).

"SEC. 1453. ASSIGNMENT OF PERSONNEL. 20 USC 2853.

"(a) LIMITATIONS.—Public school personnel paid entirely by funds made available under this chapter may be assigned limited supervisory duties which are assigned to similarly situated personnel who are not paid with such funds, and such duties need not be limited to classroom instruction or to the benefit of children participating in programs or projects funded under this chapter. The time spent by public school personnel on duties described in the preceding sentence may not exceed either—

"(1) the same proportion of total work time as prevails with respect to similarly situated personnel at the same school site, or

"(2) one period per day,

whichever is less.

"(b) USE IN STATE PROGRAMS.—If a State carries out a program as defined under section 1018(d), the State may use funds under this chapter to pay salaries of personnel assigned to both the State program and the program under this chapter for administration, training, and technical assistance, if the State educational agency maintains time distribution records reflecting the actual amount of time spent by each such employee signed by that employee's supervisor, and costs are charged on a prorated basis to both programs. Wages.

"SEC. 1454. PROHIBITION REGARDING STATE AID. 20 USC 2854.

"No State shall take into consideration payments under this chapter in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

"Subpart 3—Rural Educational Opportunities

20 USC 2861.

"SEC. 1456. PROGRAM AUTHORIZED.

Grants.
Contracts.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to, or enter into contracts with, institutions of higher education, private nonprofit agencies and organizations, regional educational laboratories, technical assistance centers established pursuant to section 1436(d), public agencies, State education agencies, or combinations of such agencies or institutions within particular regions of the United States, to pay all or part of the cost of operating at least 10 rural assistance programs. The Secretary may not make a grant to, or enter into a contract with, any agency, institution, organization, or combination thereof under the preceding sentence unless such agency, institution, organization, or combination thereof has extensive experience providing educational assistance to State and local educational agencies.

"(b) FUNCTIONS OF REGIONAL RURAL ASSISTANCE PROGRAMS.—Each regional rural assistance program established under subsection (a) shall provide technical assistance, consultation, training, and such other assistance as will assist State educational agencies and local educational agencies in the region to improve the quality of the education provided to educationally disadvantaged children participating in programs under this chapter who reside in rural areas or attend small schools. Each such program shall give special consideration to, and report on, problems related to districts with declining enrollments and ways in which districts can combine management to provide effective programs.

Reports.

20 USC 2862.

"SEC. 1457. APPLICATION PRIORITY REQUIREMENTS.

"(a) In carrying out this subpart, the Secretary shall give priority to applicants which describe assistance to school districts in local educational agencies in rural areas—

"(1) with the highest concentrations of children from low-income families;

"(2) that have a significant number or percentage of schools serving children from low-income families; and

"(3) in which there are a significant number of schools in which evaluations indicate lack of substantial progress toward meeting desired outcomes, no improvement, or a decline in aggregate performance by the children participating in programs under this chapter.

"(b) Applicants shall consult with State educational agencies and local educational agencies in the application process.

20 USC 2863.

"SEC. 1458. COORDINATION, DISSEMINATION, AND REPORT.

"(a) COORDINATION.—Each program established under this subpart shall—

"(1) coordinate its activities with technical assistance centers established under section 1436(d),

"(2) coordinate its activities with the activities of local educational agencies and State educational agencies under section 1021, and

"(3) assist in identifying successful programs and practices for dissemination through existing dissemination networks and efforts.

Rural areas.

"(b) DISSEMINATION AND REPORT.—(1) Each rural assistance program shall be accessible through electronic means.

"(2) Regional rural assistance programs shall submit a report to the Secretary every 2 years containing such reasonable information about its activities as the Secretary may request, but including at a minimum information on efforts to provide effective services under this chapter in rural school districts facing declining enrollments, with particular attention to issues inherent in consolidating, jointly administering, or otherwise combining the resources of 2 or more districts.

"SEC. 1459. AUTHORIZATION OF APPROPRIATIONS. 20 USC 2864.

"There are authorized to be appropriated $10,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"Subpart 4—Studies

"SEC. 1461. REPORT ON STATE AND LOCAL EVALUATIONS. 20 USC 2881.

"The Secretary shall submit a comprehensive and detailed report concerning State and local evaluation results based on data collected under sections 1019, 1107(a), 1202(a)(6), and 1242(d) to the appropriate committees of the Congress on a biennial basis.

"SEC. 1462. NATIONAL STUDY ON EFFECT OF PROGRAMS ON CHILDREN. 20 USC 2882.

"(a) NATIONAL LONGITUDINAL STUDY.—The Secretary shall contract with a qualified organization or agency to conduct a national longitudinal study of eligible children participating in programs under this chapter. The study shall assess the impact of participation by such children in chapter 1 programs until they are 18 years of age. The study shall compare educational achievement of those children with significant participation in chapter 1 programs and comparable children who did not receive chapter 1 services. Such study shall consider the correlations between participation in programs under this chapter and academic achievement, delinquency rates, truancy, school dropout rates, employment and earnings, and enrollment in postsecondary education. The study shall be conducted throughout the country in urban, rural, and suburban areas and shall be of sufficient size and scope to assess and evaluate the effect of the program in all regions of the Nation. Contracts. Rural areas. Urban areas. Suburban areas.

"(b) FOLLOW-UP.—The agency or organization with which the Secretary has entered a contract under subsection (a) shall conduct a follow-up of the initial survey which shall include a periodic update on the participation and achievement of a representative group of children who participated in the initial study. Such follow-up shall evaluate the effects of participation until such children are 25 years of age.

"(c) REPORT.—A final report summarizing the findings of the study shall be submitted to the appropriate committees of the Congress not later than January 1, 1997; an interim report shall be so submitted not later than January 1, 1993.

"SEC. 1463. AUTHORIZATION OF APPROPRIATIONS. 20 USC 2883.

"There are authorized to be appropriated $4,000,000 for the fiscal year 1989, $4,200,000 for the fiscal year 1990, $4,400,000 for the fiscal year 1991, $4,700,000 for the fiscal year 1992, and $5,000,000 for the fiscal year 1993 for carrying out sections 1461 and 1462.

"Subpart 5—Definitions

20 USC 2891. "SEC. 1471. DEFINITIONS.

"Except as otherwise provided, for purposes of this Act:

"(1) The term 'average daily attendance' means attendance determined in accordance with State law, except that notwithstanding any other provision of this chapter, where the local educational agency of the school district in which any child resides makes or contracts to make a tuition payment for the free public education of such child in a school situated in another school district, for purposes of this chapter the attendance of such child at such school shall be held and considered (A) to be in attendance at a school of the local educational agency so making or contracting to make such tuition payment, and (B) not to be in attendance at a school of the local educational agency receiving such tuition payment or entitled to receive such payment under the contract.

"(2) The term 'average per pupil expenditure' means in the case of a State or the United States, the aggregate current expenditures, during the third fiscal year preceding the fiscal year for which the computation is made (or if satisfactory data for that year are not available at the time of computation, then during the most recent preceding fiscal year for which satisfactory data are available), of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the 50 States, and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the source of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(3) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides educational or related services to individuals in the community.

"(4) The term 'construction' includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities.

"(5) The term 'county' means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties.

"(6) The term 'current expenditures' means expenditures for free public education, including expenditures for administration, instruction, attendance, and health services, pupil transportation services, operation and maintenance of plant, fixed charges, and net expenditures to cover deficits for food services and student body activities, but not including expenditures for community services, capital outlay, and debt service, or any expenditures made from funds granted under this chapter, chapter 2 of this title, or chapter 1 or 2 of the Education Consolidation and Improvement Act of 1981.

"(7) The term 'effective schools programs' means school-based programs that may encompass preschool through secondary

school levels and that have the objective of (A) promoting school-level planning, instructional improvement, and staff development, (B) increasing the academic achievement levels of all children and, particularly, educationally deprived children, and (C) achieving as ongoing conditions in the school the following factors identified through effective school research as distinguishing effective from ineffective schools—

"(i) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

"(ii) emphasis on the acquisition of basic and higher order skills;

"(iii) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

"(iv) a climate of expectations that all children can learn under appropriate conditions; and

"(v) continuous assessment of students and programs to evaluate the effects of instruction.

"(8) The term 'elementary school' means a day or residential school which provides elementary education, as determined under State law.

"(9) The term 'equipment' includes machinery, utilities, and building equipment and any necessary enclosures or structures to house them, and includes all other items necessary for the functioning of a particular facility as a facility for the provision of educational services, including items such as instructional equipment and necessary furniture, printed, published, and audio-visual instructional materials, and books, periodicals, documents, and other related materials.

"(10) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(11) The term 'free public education' means education which is provided at public expense, under public supervision and direction, and without tuition charge, and which is provided as elementary or secondary school education in the applicable State, except that such term does not include any education provided beyond grade 12.

"(12) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

"(13) The term 'more advanced skills' means skills including reasoning, analysis, interpretation, problem-solving, and decisionmaking as they relate to the particular subjects in which instruction is provided under programs supported by this chapter.

"(14) The term 'parent' includes a legal guardian or other person standing in loco parentis.

"(15) The term 'parent advisory council' means a body composed primarily of members who are parents of children served by the programs or projects assisted under this chapter and who are elected by such parents, in order to advise the State or local educational agency in the planning, implementation, and evaluation of programs under this chapter.

"(16) The term 'project area' means a school attendance area having a high concentration of children from low-income families which, without regard to the locality of the project itself, is designated as an area from which children are to be selected to participate in a program or project assisted under this chapter.

"(17) The terms 'pupil services personnel' and 'pupil services' mean school counselors, school social workers, school psychologists, and other qualified professional personnel involved in providing assessment, diagnosis, counseling, educational, therapeutic, and other necessary services as part of a comprehensive program to meet student needs, and the services provided by such individuals.

"(18) The term 'school attendance area' means in relation to a particular school, the geographical area in which the children who are normally served by that school reside.

"(19) The term 'school facilities' means classrooms and related facilities (including initial equipment) for free public education and interests in land (including site, grading, and improvements) on which such facilities are constructed, except that such term does not include those gymnasiums and similar facilities intended primarily for exhibitions for which admission is to be charged to the general public.

"(20) The term 'Secretary' means the United States Secretary of Education.

"(21) The term 'secondary school' means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

"(22) The term 'State' means a State, the Commonwealth of Puerto Rico, Guam, the District of Columbia, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(23) The term 'State educational agency' means the officer or agency primarily responsible for the State supervision of public elementary and secondary schools.

"Subpart 6—Miscellaneous Provisions

20 USC 2901.

"SEC. 1491. TRANSITION PROVISIONS.

Grants.
Contracts.

"(a) REGULATIONS.—All orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued by the Secretary under chapter 1 of the Education Consolidation and Improvement Act of 1981 and title I of this Act (as in effect on the date before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988), or which are issued under such Acts on or before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988

shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law.

"(b) EFFECT ON PENDING PROCEEDINGS.—The provisions of this chapter shall not affect administrative or judicial proceedings pending on the effective date of this section under chapter 1 of the Education Consolidation and Improvement Act of 1981 or this title.

"(c) TRANSITION.—With respect to the period beginning on July 1, 1988, and ending June 30, 1989, no recipient of funds under this chapter, or chapter 2 of this title, or under chapter 1 or 2 of the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of this Act or of such Act if such funds are expended either in accordance with this Act or such Act.

"CHAPTER 2—FEDERAL, STATE, AND LOCAL PARTNERSHIP FOR EDUCATIONAL IMPROVEMENT

"SEC. 1501. FINDINGS AND STATEMENT OF PURPOSE.

20 USC 2911.

"(a) FINDINGS.—The Congress finds that—

"(1) chapter 2 of the Education Consolidation and Improvement Act of 1981 has been successful in achieving the goals of increasing local flexibility, reducing administrative burden, providing services for private school students, encouraging innovation, and contributing to the improvement of elementary and secondary educational programs;

"(2) State and local governments have placed a new focus on education;

"(3) school effectiveness can be increased through effective schools programs to improve student achievement, student behavior, teaching, learning, and school management; and

"(4) teachers make a significant and positive contribution to the education of our Nation's students, and local educational agencies are encouraged to recognize this contribution.

"(b) STATEMENT OF PURPOSE.—It is the purpose of programs under this chapter—

"(1) to provide the initial funding to enable State and local educational agencies to implement promising educational programs that can be supported by State and local sources of funding after such programs are demonstrated to be effective;

"(2) to provide a continuing source of innovation, educational improvement, and support for library and instructional materials;

"(3) to meet the special educational needs of at risk and high cost students, as described in section 1531(b);

"(4) to enhance the quality of teaching and learning through initiating and expanding effective schools programs; and

"(5) to allow State and local educational agencies to meet their educational needs and priorities for targeted assistance described in section 1531.

"(c) STATE AND LOCAL RESPONSIBILITY.—The basic responsibility for the administration of funds made available under this chapter is in the State educational agencies, but it is the intent of Congress that this responsibility be carried out with a minimum of paperwork and that the responsibility for the design and implementation of programs assisted under this chapter will be mainly that of local educational agencies, school superintendents and principals, and

classroom teachers and supporting personnel, because they have the most direct contact with students and are most directly responsible to parents and because they are the most likely to be able to design programs to meet the educational needs of students in their own districts.

20 USC 2912.

"SEC. 1502. AUTHORIZATION OF APPROPRIATIONS; DURATION OF ASSISTANCE.

"(a) AUTHORIZATION.—There are authorized to be appropriated $580,000,000 for the fiscal year 1989, $610,000,000 for the fiscal year 1990, $640,000,000 for the fiscal year 1991, $672,000,000 for the fiscal year 1992, and $706,000,000 for the fiscal year 1993, to carry out the provisions of this chapter.

"(b) DURATION OF ASSISTANCE.—During the period beginning October 1, 1988, and ending September 30, 1993, the Secretary shall, in accordance with the provisions of this chapter, make payments to State educational agencies for the purpose of this chapter.

"PART A—STATE AND LOCAL PROGRAMS

"Subpart 1—General Provisions

20 USC 2921.

"SEC. 1511. ALLOTMENT TO STATES.

Territories, U.S.

"(a) RESERVATIONS.—(1) From the sums appropriated to carry out this chapter in any fiscal year, the Secretary shall reserve not to exceed 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs.

"(2) The Secretary shall reserve an additional amount, not to exceed 6 percent of the sums appropriated in each fiscal year, to carry out the provisions of part B.

"(b) ALLOTMENT.—From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

"(c) DEFINITIONS.—For purposes of this section—

"(1) The term 'school-age population' means the population aged 5 through 17.

"(2) The term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

20 USC 2922.

"SEC. 1512. ALLOCATION TO LOCAL EDUCATIONAL AGENCIES.

Disadvantaged persons.

"(a) DISTRIBUTION RULE.—From the sum made available each year under section 1511, the State educational agency shall distribute not less than 80 percent to local educational agencies within such State according to the relative enrollments in public and private, nonprofit schools within the school districts of such agencies, adjusted, in accordance with criteria approved by the Secretary, to provide higher per pupil allocations to local educational agencies which have the greatest numbers or percentages of children whose education imposes a higher than average cost per child, such as—

"(1) children living in areas with high concentrations of low-income families,

"(2) children from low-income families, and

"(3) children living in sparsely populated areas.

"(b) CALCULATION OF ENROLLMENTS.—(1) The calculation of relative enrollments under subsection (a) shall be on the basis of the total of—

"(A) the number of children enrolled in public schools, and

"(B) the number of children enrolled in private nonprofit schools that desire that their children participate in programs or projects assisted under this chapter,

for the fiscal year preceding the fiscal year in which the determination is made. Nothing in this subsection shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within the areas served by such agencies in order to determine whether such schools desire that their children participate in programs assisted under this chapter.

"(2)(A) Relative enrollments under subsection (a) shall be adjusted, in accordance with criteria approved by the Secretary under subparagraph (B), to provide higher per pupil allocations only to local educational agencies which serve the greatest numbers or percentages of— Disadvantaged persons.

"(i) children living in areas with high concentrations of low-income families,

"(ii) children from low-income families, or

"(iii) children living in sparsely populated areas.

"(B) The Secretary shall review criteria submitted by a State educational agency for adjusting allocations under paragraph (1) and shall approve such criteria only if the Secretary determines that such criteria are reasonably calculated to produce an adjusted allocation that reflects the relative needs within the State's local educational agencies based on the factors set forth in subparagraph (A).

"(c) PAYMENT OF ALLOCATIONS.—

"(1) From the funds paid to it pursuant to section 1511 for a fiscal year, a State educational agency shall distribute to each eligible local educational agency which has submitted an application as required in section 1533 the amount of its allocation as determined under subsection (a).

"(2)(A) Additional funds resulting from higher per pupil allocations provided to a local educational agency on the basis of adjusted enrollments of children described in subsection (a), may, at the discretion of the local educational agency, be allocated for expenditures to provide services for children enrolled in public and private nonprofit schools in direct proportion to the number of children described in subsection (a) and enrolled in such schools within the local educational agency.

"(B) In any fiscal year, any local educational agency that elects to allocate such additional funds in the manner described in subparagraph (A) shall allocate all additional funds to schools within the local educational agency in such manner.

"(C) The provisions of subparagraphs (A) and (B) may not be construed to require any school to limit the use of such additional funds to the provision of services to specific students or categories of students.

"Subpart 2—State Programs

20 USC 2931. "SEC. 1521. STATE USES OF FUNDS.

"(a) AUTHORIZED ACTIVITIES.—A State educational agency may use funds reserved for State use under this chapter only for—

"(1) State administration of programs under this chapter including—

"(A) supervision of the allocation of funds to local educational agencies;

"(B) planning, supervision, and processing of State funds;

"(C) monitoring and evaluation of programs and activities under this part; and

"(D) operations of the State advisory committee;

"(2) technical assistance and direct grants to local educational agencies and statewide activities which assist local educational agencies to provide targeted assistance as provided in section 1531; and

"(3) assistance to local educational agencies and statewide activities to carry out effective schools programs under subpart 4.

"(b) LIMITATIONS AND REQUIREMENTS.—

"(1) Not more than 25 percent of funds available for State programs under this part in any fiscal year may be used for State administration under subsection (a)(1).

"(2)(A) At least 20 percent of funds available for State programs under this part in any fiscal year shall be used for effective schools programs under subsection (a)(3).

"(B) If a State is spending from non-Federal sources an amount equal to twice as much as the State is required to use for the purposes of subsection (a)(3), the Secretary may waive the requirement of subparagraph (A). In deciding whether or not to grant such a waiver, the Secretary shall use the definition of effective schools contained in section 1471(18).

20 USC 2932. "SEC. 1522. STATE APPLICATIONS.

Grants. "(a) APPLICATION REQUIREMENTS.—Any State which desires to receive grants under this chapter shall submit to the Secretary an application which—

"(1) designates the State educational agency as the State agency responsible for the administration and supervision of programs assisted under this chapter;

"(2) provides for a process of active and continuing consultation with the State educational agency of an advisory committee, appointed by the Governor and determined by the Governor to be broadly representative of the educational interests and the general public in the State, including individuals representative of—

"(A) public and private elementary and secondary schoolchildren;

"(B) classroom teachers;

"(C) parents of elementary and secondary schoolchildren;

"(D) local boards of education;

"(E) local and regional school administrators (including principals, superintendents, and administrators of intermediate educational units);

"(F) institutions of higher education;

"(G) the State legislature;

"(H) elementary and secondary school librarians; and

"(I) school counselors and other pupil services personnel,

to advise the State educational agency on the allocation among targeted programs in accordance with section 1531 (not to exceed 20 percent of the amount of the State's allotment) reserved for State use under section 1512(a), on the formula for the allocation of funds to local educational agencies, and on the planning, development, support, implementation, and evaluation of State programs assisted under this chapter;

"(3)(A) sets forth planned allocation of funds reserved for State use under section 1512(a) among the targeted assistance programs described in section 1531 and describes programs, projects, and activities which are designed to carry out such targeted assistance, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 1572;

"(4) describes how funds reserved under section 1521(b)(2) will be used to carry out subpart 4;

"(5) provides for timely public notice and public dissemination of the information provided pursuant to paragraphs (2) and (3);

"(6)(A) provides for an annual submission of data on the use of funds, the types of services furnished, and the students served under this chapter;

"(B) in fiscal year 1992, provides for an evaluation of the effectiveness of programs assisted under this chapter, which shall include comments of the advisory committee, and shall be made available to the public;

"(7) provides that the State educational agency will keep such records and provide such information to the Secretary as may be required for fiscal audit and program evaluation (consistent with the responsibilities of the Secretary under this chapter);

"(8) provides assurance that, apart from technical and advisory assistance and monitoring compliance with this chapter, the State educational agency has not exercised and will not exercise any influence in the decisionmaking processes of local educational agencies as to the expenditures made pursuant to an application under section 1531;

"(9) provides the following information: (A) how the State will adjust its formula to comply with section 1512(b)(2), (B) how children under section 1512(b)(2)(A) are defined, (C) the basis on which a determination of the local educational agencies under section 1512(b)(2)(A) is made, and (D) the percentage of the State grant which is proposed to be allotted on an adjusted basis under section 1512; and

"(10) contains assurances that there is compliance with the specific requirements of this chapter.

"(b) PERIOD OF APPLICATION.—An application filed by the State under subsection (a) shall be for a period not to exceed 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) AUDIT RULE.—Notwithstanding section 1745 of the Omnibus Budget Reconciliation Act of 1981, local educational agencies receiving less than an average $5,000 each year under this chapter need not be audited more frequently than once every 5 years.

"Subpart 3—Local Targeted Assistance Programs

20 USC 2941.

"SEC. 1531. TARGETED USE OF FUNDS.

"(a) GENERAL RULE.—Funds allocated for use under this chapter shall be used by State and local educational agencies for targeted assistance described in subsection (b).

"(b) TARGETED ASSISTANCE.—The targeted assistance programs referred to in subsection (a) are—

"(1) programs to meet the educational needs of students at risk of failure in school and of dropping out and students for whom providing an education entails higher than average costs;

"(2) programs for the acquisition and use of instructional and educational materials, including library books, reference materials, computer software and hardware for instructional use, and other curricular materials that would be used to improve the quality of instruction;

"(3) innovative programs designed to carry out schoolwide improvements, including the effective schools program;

"(4) programs of training and professional development to enhance the knowledge and skills of educational personnel, including teachers, librarians, school counselors and other pupil services personnel, and administrators and school board members;

"(5) programs designed to enhance personal excellence of students and student achievement, including instruction in ethics, performing and creative arts, humanities, activities in physical fitness and comprehensive health education, and participation in community service projects; and

"(6) other innovative projects which would enhance the educational program and climate of the school, including programs for gifted and talented students, technology education programs, early childhood education programs, community education and programs for youth suicide prevention.

20 USC 2942.

"SEC. 1532. AUTHORIZED ACTIVITIES.

"(a) IN GENERAL.—Activities authorized under this subpart may include the planning, development, or operation and expansion of programs, projects, and activities which are designed to carry out the targeted assistance described in section 1531. Such activities may include—

"(1) training of educational personnel in any of the targeted assistance programs described;

"(2) guidance and counseling services; and

"(3) any other education or related activities which the State or local educational agency determines will contribute to improving the programs described in section 1531.

Grants.
Contracts.

"(b) ADMINISTRATIVE AUTHORITY.—In order to conduct the activities authorized by this part, each State or local educational agency may use funds reserved for this part to make grants to and to enter into contracts with local educational agencies, institutions of higher education, libraries, museums, and other public and private nonprofit agencies, organizations, and institutions.

20 USC 2943.

"SEC. 1533. LOCAL APPLICATIONS.

"(a) CONTENTS OF APPLICATION.—A local educational agency or consortia of local educational agencies may receive an allocation of funds under this chapter for any year for which an application is

submitted to the State educational agency and such application is certified to meet the requirements of this section. The State educational agency shall certify any such application if such application—

"(1)(A) sets forth the planned allocation of funds among targeted assistance programs described in section 1531 of this chapter and describes the programs, projects, and activities designed to carry out such targeted assistance which it intends to support, together with the reasons for the selection of such programs, projects, and activities; and

"(B) sets forth the allocation of such funds required to implement section 1572;

"(2) describes how assistance under this chapter will contribute to the goals of the program of improving student achievement or improving the quality of education for students;

"(3) provides assurances of compliance with provisions of this chapter including the participation of children enrolled in private, nonprofit schools in accordance with section 1572;

"(4) agrees to keep such records, and provide such information to the State educational agency as reasonably may be required for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this chapter; and

"(5) provides, in the allocation of funds for the assistance authorized by this chapter, and in the design, planning, and implementation of such programs, for systematic consultation with parents of children attending elementary and secondary schools in the area served by the local agency, with teachers and administrative personnel in such schools, and with other groups involved in the implementation of this chapter (such as librarians, school counselors, and other pupil services personnel) as may be considered appropriate by the local educational agency.

"(b) PERIOD OF APPLICATION.—An application filed by a local educational agency under subsection (a) shall be for a period not to exceed 3 fiscal years, may provide for the allocation of funds among programs and purposes authorized by this chapter for a period of 3 years, and may be amended annually as may be necessary to reflect changes without filing a new application.

"(c) LOCAL EDUCATIONAL AGENCY DISCRETION.—Subject to the limitations and requirements of this chapter, a local educational agency shall have complete discretion in determining how funds under this subpart shall be divided among the areas of targeted assistance of this subpart. In exercising such discretion, a local educational agency shall ensure that expenditures under this subpart carry out the purposes of this chapter and are intended to meet the educational needs within the schools of that local educational agency.

"Subpart 4—Effective Schools Programs

"SEC. 1541. ESTABLISHMENT. 20 USC 2951.

"Funds shall be available under this chapter in accordance with sections 1521 and 1531 to—

"(1) plan, implement, support, evaluate, revise, and strengthen effective schools programs;

"(2) plan and conduct training and other professional development activities for teachers, administrators and other education personnel on the implementation of effective schools programs;

"(3) provide technical assistance and promote State and local educational agency awareness of effective schools research, model programs, and implementation;

"(4) develop and implement systems to evaluate and analyze effective schools programs;

"(5) improve parent and community involvement and participation as part of an ongoing effective schools program;

"(6) support model and demonstration programs related to effective schools programs; and

"(7) develop and disseminate educational materials related to effective schools programs.

20 USC 2952.

"SEC. 1542. EFFECTIVE SCHOOLS.

"For the purposes of this chapter the term 'effective schools programs' means school-based programs that may encompass preschool through secondary school levels and that have the objectives of (1) promoting school-level planning, instructional improvement, and staff development, (2) increasing the academic achievement levels of all children and particularly educationally deprived children, and (3) achieving as ongoing conditions in the school the following factors identified through effective schools research as distinguishing effective from ineffective schools:

"(A) strong and effective administrative and instructional leadership that creates consensus on instructional goals and organizational capacity for instructional problem solving;

"(B) emphasis on the acquisition of basic and higher order skills;

"(C) a safe and orderly school environment that allows teachers and pupils to focus their energies on academic achievement;

"(D) a climate of expectation that virtually all children can learn under appropriate conditions; and

"(E) continuous assessment of students and programs to evaluate the effects of instruction.

"PART B—NATIONAL PROGRAMS AND ACTIVITIES

20 USC 2961.

"SEC. 1561. GENERAL AUTHORITY.

"(a) AUTHORIZATION.—From funds reserved under section 1511(a)(2), the Secretary is authorized to carry out the programs and activities under this part.

"(b) PRIORITY FUNDING.—Subject to the availability of funds for any fiscal year for this part, the Secretary shall make available—

"(1) not less than $11,200,000 for National Diffusion Network activities under section 1562;

"(2) not less than $8,200,000 for the Inexpensive Book Distribution program under section 1563;

"(3) not less than $3,500,000 for the Arts in Education program under section 1564;

"(4) not less than $3,200,000 for the law-related education program under section 1565; and

"(5) not more than $1,500,000 for the Blue Ribbon Schools program under section 1566.

"SEC. 1562. NATIONAL DIFFUSION NETWORK ACTIVITIES. 20 USC 2962.

"(a) PURPOSES.—The National Diffusion Network shall be a national program that recognizes and furthers excellence in education by—

"(1) promoting the awareness and implementation of exemplary educational programs, products, and practices to interested elementary, secondary, and postsecondary institutions throughout the Nation; and

"(2) promoting the utilization of the knowledge, talents, and services of local staff associated with various educational excellence recognition efforts.

The National Diffusion Network shall be designed to improve the quality of education through the implementation of promising and validated innovations and improvements in educational programs, products, and practices, and through the provision of training, consultation, and related assistance services.

"(b) RESPONSIBILITIES OF SECRETARY.—In carrying out the activities under this section, which shall be limited to activities directly related to the National Diffusion Network, the Secretary shall—

"(1) acquaint persons responsible for the operation of elementary, secondary, and postsecondary schools with information about exemplary educational programs, products, practices, and services;

"(2) assist such persons in implementing programs, products, and practices which such persons determine may improve the quality of education in the schools for which they are responsible, by providing materials, initial training, and ongoing implementation assistance;

"(3) ensure that all such activities, programs, products, and practices are subjected to rigorous evaluation with respect to their effectiveness and their capacity for implementation;

"(4) provide program development assistance toward the recognition, dissemination, and implementation of promising practices that hold the potential for answering critical needs and that have achieved credibility because of their effective use in schools; and

"(5) ensure that a substantial percentage of the innovations disseminated represent significant changes in practice for schools and teachers.

In carrying out paragraph (3) of this section, the Secretary shall conduct a single external review by a program effectiveness panel that focuses exclusively on whether the program is efficacious and transferable to other educational settings. Any activity, program, product, or practice which meets the criteria of the preceding sentence may then be disseminated through the National Diffusion Network, and each eligible recipient (as described in subsection (c)) may apply for assistance in accordance with subsection (d).

"(c) ELIGIBLE RECIPIENTS OF GRANTS AND CONTRACTS.—For the purpose of carrying out the activities under this section, the Secretary is authorized to make grants to, and contracts with, local educational agencies, State educational agencies, institutions of higher education, and other public and private nonprofit educational institutions and organizations.

"(d) FUNDING CRITERIA.—(1) For the purpose of determining which projects to fund under this section, the Secretary shall assess the extent to which the projects meet the following criteria:

"(A) The applicant has a workable plan for disseminating its program.

"(B) The program's approach is innovative.

"(C) The program is accurate and up-to-date.

"(2) Each applicant for assistance under this section shall submit statements and supporting materials as required by the Secretary but shall not be required to submit more than a representative sample of the program materials of the applicant.

"(3) In establishing regulations under this section, including the specific evaluation criteria under paragraph (1), the Secretary shall consult with interested parties, including participants in the National Diffusion Network.

"(4) For fiscal year 1988 only, the Secretary shall assess applications for financial assistance under this section on the basis of the application or reapplication proposals.

Contracts.
20 USC 2963.

"SEC. 1563. INEXPENSIVE BOOK DISTRIBUTION PROGRAM FOR READING MOTIVATION.

Reading is Fundamental.

"(a) AUTHORIZATION.—The Secretary is authorized (1) to enter into a contract with Reading is Fundamental (RIF) (hereinafter in this section referred to as the 'contractor'), a private nonprofit organization which has as its primary purpose the motivation of children to learn to read, to support and promote the establishment of reading motivation programs which include the distribution of inexpensive books to students, and (2) to pay the Federal share of the cost of such programs.

"(b) REQUIREMENTS OF CONTRACT.—The contract shall provide that—

"(1) the contractor will enter into subcontracts with local private nonprofit groups or organizations or with public agencies (hereinafter referred to as 'subcontractors') under which the subcontractors will agree to establish, operate, and provide the non-Federal share of the cost of reading motivational programs which include the distribution of books by gift or loan, to preschool and elementary and secondary school children;

"(2) funds made available by the Secretary to a contractor pursuant to any contract entered into under this section will be used to pay the Federal share of the cost of establishing and operating reading motivational programs as provided in paragraph (1); and

"(3) the contractor will meet such other conditions and standards as the Secretary determines to be necessary to assure the effectiveness of the programs authorized by this section and will provide such technical assistance as may be necessary to carry out the purposes of this section.

"(c) RESTRICTION ON PAYMENTS.—The Secretary shall make no payment of the Federal share of the cost of acquiring and distributing books pursuant to a contract authorized by this section unless the Secretary determines that the contractor or subcontractor, as the case may be, has made arrangements with book publishers or distributors to obtain books at discounts at least as favorable as discounts that are customarily given by such publisher or distributor for book purchases made under similar circumstances in the absence of Federal assistance.

"(d) DEFINITIONS.—For purposes of this section the term 'Federal share' means—

"(1) with respect to the cost of books purchased by a subcontractor for a program in a locality for distribution of such books to children in that locality, 75 percent of the cost to such subcontractor; or

"(2) with respect to the cost of books purchased by a subcontractor for a program of distribution of books to children of migrant or seasonal farmworkers, 100 percent of the cost to such subcontractor for such books.

"SEC. 1564. ARTS IN EDUCATION PROGRAM. 20 USC 2964.

"The Secretary shall carry out a program of grants and contracts to encourage and assist State and local educational agencies and other public and private agencies, organizations, and institutions to establish and conduct programs in which the arts are an integral part of elementary and secondary school curricula such as— Grants. Contracts.

"(1) programs with public and private cultural organizations, agencies, and institutions, including museums, libraries, and theaters;

"(2) a program to develop and implement model projects and programs in the performing arts for children and youth, through arrangements made with the John F. Kennedy Center for the Performing Arts; and

"(3) a program for the identification, development and implementation of model programs and projects in the arts for individuals with handicaps through arrangements with the organization Very Special Arts. Handicapped persons.

"SEC. 1565. LAW-RELATED EDUCATION PROGRAM. 20 USC 2965.

"(a) AUTHORIZATION.—The Secretary shall carry out a program of grants and contracts to encourage State and local educational agencies and other public and private nonprofit agencies, organizations, and institutions to provide law-related education programs. Grants. Contracts.

"(b) DEFINITION.—For the purpose of this section, the term 'law-related education' means education to equip nonlawyers with knowledge and skills pertaining to the law, the legal process, the legal system, and the fundamental principles and values on which they are based.

"(c) AUTHORIZED ACTIVITIES.—Funds made available for the purposes of this section may be available for activities such as—

"(1) awareness activities to provide educators, law-related personnel, and the public with an understanding of what law-related education is;

"(2) support for new and ongoing programs in elementary and secondary schools, adult education, community organizations, and institutions of higher education, to provide law-related education, to develop materials and methods, to conduct pilot and demonstration projects, and to disseminate the products of such activities;

"(3) clearinghouse and technical assistance, to collect and provide information and assistance to institutions, groups, agencies, organizations, and individuals to aid in establishing, improving, and expanding law-related education activities;

"(4) training for law-related personnel in the substance and practice of law-related education, including preservice and in-service seminars, workshops, institutes, and courses;

"(5) research and evaluation to study and improve the effectiveness of materials and methods in law-related education; Research and development.

"(6) involvement of law-related organizations, agencies, and personnel, such as lawyers, law schools, law students, and law enforcement personnel in the provision of law-related education activities; and

"(7) youth internships for outside-the-classroom experiences with the law and the legal system.

20 USC 2966.

"SEC. 1566. BLUE RIBBON SCHOOLS PROGRAM.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to carry out programs to recognize elementary and secondary schools or programs which have established standards of excellence and which have demonstrated a high level of quality. Such programs shall be designated as 'Blue Ribbon Schools'. In selecting schools and programs to be recognized, the Secretary shall competitively select public and private schools or programs within local educational agencies in the States, schools operated for Indian children by the Department of the Interior, and schools operated by the Department of Defense for dependents of Department of Defense personnel.

"(b) SELECTION PROCESS.—(1) The Secretary shall designate, each fiscal year, several categories for a Blue Ribbon Schools program. Such categories may include, but shall not be limited to, outstanding elementary schools, outstanding secondary schools, outstanding mathematics and science programs, or outstanding reading programs.

"(2) Within each category, the Secretary shall determine the criteria and procedures for selection. Selection for such awards shall be based solely on merit. Schools or programs selected for awards under this section shall not be required to be representative of the States.

"(c) ADMINISTRATIVE PROVISIONS.—(1) The Secretary shall carry out the provisions of this section including the establishment of the selection procedures, after consultation with appropriate outside parties.

"(2) No award may be made under this section unless the local educational agency submits an application to the Secretary at such time, in such manner, and containing such information, as the Secretary may reasonably require.

"(3) For the purposes of this section, the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"PART C—GENERAL ADMINISTRATIVE PROVISIONS

20 USC 2971.

"SEC. 1571. MAINTENANCE OF EFFORT; FEDERAL FUNDS SUPPLEMENTARY.

"(a) MAINTENANCE OF EFFORT.—(1) Except as provided in paragraph (2), a State is entitled to receive its full allocation of funds under this chapter for any fiscal year if the Secretary finds that either the combined fiscal effort per student or the aggregate expenditures within the State with respect to the provision of free public education for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The Secretary shall reduce the amount of the allocation of funds under this chapter in any fiscal year in the exact proportion to which the State fails to meet the requirements of paragraph (1) by falling below 90 percent of both the fiscal effort per student and

aggregate expenditures (using the measure most favorable to the State), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) The Secretary may waive, for 1 fiscal year only, the requirements of this subsection if the Secretary determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the State.

"(b) FEDERAL FUNDS SUPPLEMENTARY.—A State or local educational agency may use and allocate funds received under this chapter only so as to supplement and, to the extent practical, increase the level of funds that would, in the absence of Federal funds made available under this chapter, be made available from non-Federal sources, and in no case may such funds be used so as to supplant funds from non-Federal sources.

"SEC. 1572. PARTICIPATION OF CHILDREN ENROLLED IN PRIVATE SCHOOLS. 20 USC 2972.

"(a) PARTICIPATION ON EQUITABLE BASIS.—(1) To the extent consistent with the number of children in the school district of a local educational agency which is eligible to receive funds under this chapter or which serves the area in which a program or project assisted under this chapter is located who are enrolled in private nonprofit elementary and secondary schools, or with respect to instructional or personnel training programs funded by the State educational agency from funds reserved for State use, such agency, after consultation with appropriate private school officials, shall provide for the benefit of such children in such schools secular, neutral, and nonideological services, materials, and equipment, including the participation of the teachers of such children (and other educational personnel serving such children) in training programs, and the repair, minor remodeling, or construction of public facilities as may be necessary for their provision (consistent with subsection (c) of this section), or, if such services, materials, and equipment are not feasible or necessary in one or more such private schools as determined by the local educational agency after consultation with the appropriate private school officials, shall provide such other arrangements as will assure equitable participation of such children in the purposes and benefits of this chapter.

"(2) If no program or project is carried out under subsection (a)(1) of this section in the school district of a local educational agency, the State educational agency shall make arrangements, such as through contracts with nonprofit agencies or organizations, under which children in private schools in that district are provided with services and materials to the extent that would have occurred if the local educational agency had received funds under this chapter. Contracts.

"(3) The requirements of this section relating to the participation of children, teachers, and other personnel serving such children shall apply to programs and projects carried out under this chapter by a State or local educational agency, whether directly or through grants to or contracts with other public or private agencies, institutions, or organizations.

"(b) EQUAL EXPENDITURES.—Expenditures for programs pursuant to subsection (a) shall be equal (consistent with the number of children to be served) to expenditures for programs under this chapter for children enrolled in the public schools of the local educational agency, taking into account the needs of the individual

children and other factors which relate to such expenditures, and when funds available to a local educational agency under this chapter are used to concentrate programs or projects on a particular group, attendance area, or grade or age level, children enrolled in private schools who are included within the group, attendance area, or grade or age level selected for such concentration shall, after consultation with the appropriate private school officials, be assured equitable participation in the purposes and benefits of such programs or projects.

"(c) FUNDS.—(1) The control of funds provided under this chapter, and title to materials, equipment, and property repaired, remodeled, or constructed therewith, shall be in a public agency for the uses and purposes provided in this chapter, and a public agency shall administer such funds and property.

Contracts.

"(2) The provision of services pursuant to this section shall be provided by employees of a public agency or through contract by such public agency with a person, an association, agency, or corporation who or which, in the provision of such services, is independent of such private school and of any religious organizations, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this chapter shall not be commingled with State or local funds.

"(d) STATE PROHIBITION WAIVER.—If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation in programs of children enrolled in private elementary and secondary schools, as required by this section, the Secretary shall waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(e) WAIVER AND PROVISION OF SERVICES.—(1) If the Secretary determines that a State or a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in private elementary and secondary schools as required by this section, the Secretary may waive such requirements and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this section.

"(2) Pending final resolution of any investigation or complaint that could result in a determination under this subsection or subsection (d), the Secretary may withhold from the allocation of the affected State or local educational agency the amount estimated by the Secretary to be necessary to pay the cost of those services.

"(f) DETERMINATION.—Any determination by the Secretary under this section shall continue in effect until the Secretary determines that there will no longer be any failure or inability on the part of the State or local educational agency to meet the requirements of subsections (a) and (b).

"(g) PAYMENT FROM STATE ALLOTMENT.—When the Secretary arranges for services pursuant to this section, the Secretary shall, after consultation with the appropriate public and private school officials, pay the cost of such services, including the administrative costs of arranging for those services, from the appropriate allotment of the State under this chapter.

Courts, U.S.

"(h) REVIEW.—(1) The Secretary shall not take any final action under this section until the State educational agency and the local educational agency affected by such action have had an opportunity, for at least 45 days after receiving written notice thereof, to submit

written objections and to appear before the Secretary or the Secretary's designee to show cause why that action should not be taken.

"(2) If a State or local educational agency is dissatisfied with the Secretary's final action after a proceeding under paragraph (1) of this subsection, it may, within 60 days after notice of such action, file with the United States court of appeals for the circuit in which such State is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which the Secretary based this action, as provided in section 2112 of title 28, United States Code. Records.

"(3) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence and the Secretary may thereupon make new or modified findings of fact and may modify the Secretary's previous action, and shall file in the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(4) Upon the filing of such petition, the court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(i) PRIOR DETERMINATION.—Any bypass determination by the Secretary under chapter 2 of the Education Consolidation and Improvement Act of 1981 shall to the extent consistent with the purposes of this chapter apply to programs under this chapter.

"SEC. 1573. EVALUATIONS AND REPORTING. 20 USC 2973.

"(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives financial assistance under this chapter shall report annually to the State educational agency on the use of funds under section 1531. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educational agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

"(b) STATE EDUCATIONAL AGENCIES.—A State educational agency which receives financial assistance under this chapter shall evaluate the effectiveness of State and local programs under this chapter in accordance with section 1522(a)(6)(B). That evaluation shall be submitted for review and comment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of the evaluation and a summary of the reports under subsection (a).

"(c) REPORTS.—(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agencies may use for data collection and reporting under this chapter.

"(2)(A) The Secretary shall submit annually a report to the Congress for the use of funds, the types of services furnished, and the students served under this chapter.

"(B) The Secretary shall not later than October 1, 1992, submit a report to the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this chapter.

20 USC 2974. "SEC. 1574. FEDERAL ADMINISTRATION.

"(a) TECHNICAL ASSISTANCE.—The Secretary, upon request, shall provide technical assistance to State and local educational agencies under this chapter, particularly with respect to implementation of the programs and activities under subpart 4.

Regulations. "(b) RULEMAKING.—The Secretary shall issue regulations under this chapter only to the extent that such regulations are necessary to ensure that there is compliance with the specific requirements and assurances required by this chapter.

"(c) AVAILABILITY OF APPROPRIATIONS.—Notwithstanding any other provision of law, unless expressly in limitation of this subsection, funds appropriated in any fiscal year to carry out activities under this chapter shall become available for obligation on July 1 of such fiscal year and shall remain available for obligation until the end of the subsequent fiscal year.

"(d) SPECIAL RULE.—The provisions of sections 1433 and 1434 shall apply to the programs authorized by this chapter.

20 USC 2975. "SEC. 1575. APPLICATION OF GENERAL EDUCATION PROVISIONS ACT.

"(a) GENERAL RULE.—Except as otherwise specifically provided by this section, the General Education Provisions Act shall apply to the programs authorized by this chapter.

"(b) APPLICABILITY.—The following provisions of the General Education Provisions Act shall be superseded by the specified provisions of this chapter with respect to the programs authorized by this chapter:

20 USC 1221e-3. "(1) Section 408(a)(1) of the General Education Provisions Act is superseded by section 1574(b) of this chapter.

20 USC 1231c. "(2) Section 426(a) of such Act is superseded by section 1574(a) of this chapter.

20 USC 1231d. "(3) Section 427 of such Act is superseded by section 1534(a)(5) of this chapter.

20 USC 1231g. "(4) Section 430 of such Act is superseded by sections 1522 and 1533 of this chapter.

"(c) SPECIAL RULE.—Sections 434, 435, and 436 of the General Education Provisions Act, except to the extent that such sections relate to fiscal control and fund accounting procedures, may not apply to the programs authorized by this chapter and shall not be construed to authorize the Secretary to require any reports or take any actions not specifically authorized by this chapter.

20 USC 2976. "SEC. 1576. TRANSITION PROVISIONS.

Grants. Contracts. "(a) REGULATIONS.—All orders, determinations, rules, regulations, permits, grants, and contracts, which have been issued under chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981 (as in effect on the date before the effective date of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988), or which are issued under such Act on or before the effective date of this Act shall continue in effect until modified or revoked by the Secretary, by a court of competent jurisdiction, or by operation of law other than this Act.

"(b) EFFECT ON PENDING PROCEEDINGS.—The provisions of this chapter shall not affect administrative or judicial proceedings pending on the effective date of this Act under chapters 2 and 3 of the Education Consolidation and Improvement Act of 1981.

"(c) TRANSITION.—With respect to the period beginning July 1, 1988, and ending June 30, 1989, no recipient of funds under this Act or chapter 2 of the Education Consolidation and Improvement Act of 1981 shall be held to have expended such funds in violation of the requirements of this Act or of such Act if such funds are expended in accordance with this Act or such Act.

"TITLE II—CRITICAL SKILLS IMPROVEMENT

"PART A—DWIGHT D. EISENHOWER MATHEMATICS AND SCIENCE EDUCATION ACT

Dwight D. Eisenhower Mathematics and Science Education Act.

"SEC. 2001. SHORT TITLE.

"This part may be cited as the 'Dwight D. Eisenhower Mathematics and Science Education Act'. 20 USC 2981.

"SEC. 2002. STATEMENT OF PURPOSE.

20 USC 2982.

"The purpose of this part is to strengthen the economic competitiveness and national security of the United States by improving the skills of teachers and the quality of instruction in mathematics and science in the Nation's public and private elementary and secondary schools through assistance to State educational agencies, local educational agencies, and institutions of higher education.

"SEC. 2003. PROGRAM AUTHORIZED.

20 USC 2983.

"(a) GRANTS.—The Secretary is authorized to make grants to States and discretionary grants in accordance with the provisions of this part for strengthening the skills of teachers and improving instruction in mathematics and science.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for the purposes of this part, $250,000,000 for fiscal year 1989 and such sums as may be necessary for each of the 4 succeeding fiscal years.

"SEC. 2004. ALLOCATION OF FUNDS.

20 USC 2984.

"(a) IN GENERAL.—(1) From the amount appropriated under section 2003(b) for any fiscal year, the Secretary shall reserve—

"(A) not more than ½ of 1 percent for allocation among Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands according to their respective needs for assistance under this part; Territories, U.S.

"(B) ½ of 1 percent for programs for Indian students served by schools funded by the Secretary of the Interior consistent with the purposes of this part; and Indians.

"(C) 4 percent for section 2012.

"(2) The remainder of the amount so appropriated (after meeting the requirements of paragraph (1)) shall be allocated among the States (treating the District of Columbia and Puerto Rico as States) as follows—

"(A) ½ of such remainder shall be allocated among the States by allocating to each State an amount which bears the same ratio to such ½ of such remainder as the number of children aged 5 to 17, inclusive, in the State bears to the number of such children in all States; and

"(B) ½ of such remainder shall be allocated among the States according to each State's share of allocations under chapter 1 of the Education Consolidation and Improvement Act of 1981 or part A of chapter 1 of title I of this Act, whichever program was effective for the previous fiscal year,

except that no State shall receive less than ½ of 1 percent of the amount available under this subsection in any fiscal year or less than the amount allotted to such State for fiscal year 1988 under title II of the Education for Economic Security Act.

"(3) For the purposes of this subsection, the term 'State' does not include Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

"(4) The number of children aged 5 to 17, inclusive, in the State and in all States shall be determined by the Secretary on the basis of the most recent satisfactory data available to the Secretary.

"(5) The Secretary shall make payments under paragraph (1)(B) on whatever terms the Secretary determines will best carry out the purposes of this part.

"(b) REALLOTMENT OF UNUSED FUNDS.—The amount of any State's allotment under subsection (a) for any fiscal year to carry out this part which the Secretary determines will not be required for that fiscal year to carry out this part shall be available for reallotment from time to time, on such dates during that year as the Secretary may determine, to other States in proportion to the original allotments to those States under subsection (a) for that year but with such proportionate amount for any of those other States being reduced to the extent it exceeds the sum the Secretary estimates that State needs and will be able to use for that year; and the total of those reductions shall be similarly reallotted among the States whose proportionate amounts were not so reduced. Any amounts reallotted to a State under this subsection during a year shall be deemed a part of its allotment under subsection (a) for that year.

20 USC 2985.

"SEC. 2005. IN-STATE APPORTIONMENT.

"(a) ELEMENTARY AND SECONDARY EDUCATION PROGRAMS.—(1) For each fiscal year, an amount equal to 75 percent of each State's allotment under section 2004 shall be used for elementary and secondary education programs in accordance with section 2006, for demonstration and exemplary programs under section 2006(c) and for technical assistance under section 2006(d).

"(2) Not less than 90 percent of such amount shall be distributed as follows:

"(A) The State educational agency shall distribute 50 percent of the funds available under this subsection to local educational agencies according to the relative enrollments in public and private nonprofit schools within the school districts of such agencies. Such relative enrollments may be calculated, at the option of the State educational agency, on the basis of the total number of children enrolled in public schools, and—

"(i) private nonprofit schools, or

"(ii) private nonprofit schools desiring that their children and teachers participate in programs or projects assisted under this part.

Nothing in the preceding sentence shall diminish the responsibility of local educational agencies to contact, on an annual basis, appropriate officials from private nonprofit schools within their school districts in order to determine whether such schools

desire that their children and teachers participate in programs or projects assisted under this part.

"(B) The State educational agency shall distribute 50 percent of the funds available under this subsection based on the relative number of children aged 5 to 17 who— Disadvantaged persons.

"(i) are from families below the poverty level as determined under section 1005(c)(2)(A) of this Act; and

"(ii) are from families above the poverty level as determined under section 1005(c)(2)(B) of this Act;

in the schools of the local educational agencies within the State.

"(b) HIGHER EDUCATION PROGRAMS.—For each fiscal year, 25 percent of each State's allotment under section 2004 shall be used for higher education programs in accordance with section 2007.

"SEC. 2006. ELEMENTARY AND SECONDARY EDUCATION PROGRAMS. Disadvantaged persons. Women. Minorities. Handicapped persons. 20 USC 2986.

"(a) IN GENERAL.—The amount apportioned under section 2005(a)(2) from each State's allotment under this part shall be used by the State educational agency to strengthen elementary and secondary education programs in accordance with the provisions of this section.

"(b) LOCAL EDUCATIONAL AGENCIES.—(1) Each local educational agency shall use funds distributed under this part for—

"(A) the expansion and improvement of preservice training, inservice training, and retraining of teachers and other appropriate school personnel in the fields of mathematics and science, including vocational education teachers who use mathematics and science in the courses of study they teach;

"(B) recruitment or retraining of minority teachers to become mathematics and science teachers;

"(C) training in and instructional use of computers, video, and other telecommunications technologies as part of a mathematics and science program (which may include the purchase of computers or other telecommunications equipment in schools with an enrollment of 50 percent or more of students from low-income families after all other training needs have been met);

"(D) integrating higher order analytical and problem-solving skills into the mathematics and science curriculum; or

"(E) providing funds for grants projects for individual teachers within the local educational agency to undertake projects to improve their teaching ability or to improve the instructional materials used in their classrooms in mathematics and science.

"(2) Such training and instruction may be carried out through agreements with public agencies, private industry, institutions of higher education, and nonprofit organizations, including museums, libraries, educational television stations, professional science, mathematics and engineering associations, and other appropriate institutions. Agreements for funds available under section 2004(a)(1)(B) may be made with institutions of higher education receiving funds under the Tribally Controlled Community College Assistance Act of 1978. A local educational agency may carry out the activities authorized by this paragraph with one or more other local educational agencies within the State, or with the State educational agency, or both. Each local educational agency shall assure that programs of training, inservice training and retraining will take into account the need for greater access to and participation in mathematics and science programs and careers of students from historically underrepresented groups, including females, minorities, Contracts.

individuals with limited-English proficiency, the handicapped, migrants, and, especially, gifted and talented children from within such groups.

"(3) A local educational agency for any fiscal year may apply for funds as part of a consortium with other local educational agencies, institutions of higher education, or an intermediate educational unit for the conduct of local programs. The State educational agency may assist in the formation of consortia between local educational agencies, institutions of higher education, or intermediate educational units to provide services for the teachers and students in such local educational agency at the request of such local educational agency.

"(4) Not more than 5 percent of funds available to the local educational agency for the purpose of this section for any fiscal year may be used for local administration.

"(c) DEMONSTRATION AND EXEMPLARY PROGRAMS.—Not less than 5 percent of the amount available under this section shall be used by the State educational agency for—

"(1) demonstration and exemplary programs for teacher training and retraining and inservice upgrading of teacher skills in the fields of mathematics and science;

"(2) demonstration and exemplary programs for instructional equipment and materials in such fields and necessary technical assistance;

"(3) demonstration and exemplary programs for special projects for historically underrepresented and underserved populations and for gifted and talented students; or

"(4) the dissemination of information to all local educational agencies within the State relating to the exemplary programs in the fields of mathematics and science.

In providing financial assistance for such demonstration and exemplary programs, the State educational agency shall give special consideration to special projects in mathematics and science to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited-English proficiency, and migrant students, and to programs for gifted and talented students. The programs for gifted and talented students may include assistance to magnet schools for such students.

"(d) TECHNICAL ASSISTANCE AND ADMINISTRATIVE COSTS.—Not more than 5 percent of the amount available under this section may be used by the State educational agency—

"(1) to provide technical assistance to local educational agencies, institutions of higher education, and nonprofit organizations, including museums, libraries, and educational television stations, in the conduct of programs specified in subsection (b); and

"(2) for the costs of administration and assessment of programs assisted under this part.

20 USC 2987.

"SEC. 2007. HIGHER EDUCATION PROGRAMS.

"(a) IN GENERAL.—(1) Except as provided in paragraph (2), the amount apportioned under section 2005(b) from each State's allotment under this part shall be used by the State agency for higher education for education programs in accordance with the provisions of this section.

"(2) Funds available under section 2004(a)(1)(B) and reserved under section 2005(b) shall be used, in accordance with the provi-

sions of this section, to support programs conducted within institutions of higher education funded through the Bureau of Indian Affairs.

"(b) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—(1)(A) Not less than 95 percent of the amount available for this section shall be used by the State agency for higher education for grants to institutions of higher education in accordance with the provisions of this subsection.

"(B) The State agency for higher education shall make funds available on a competitive basis to institutions of higher education in the State which apply for payments under this section and which demonstrate involvement of local educational agencies. The State agency for higher education shall make every effort to ensure equitable participation of private and public institutions of higher education.

Disadvantaged persons. Women. Minorities. Handicapped persons.

"(2) The amount available under this subsection shall be used for—

"(A) establishing traineeship programs for new teachers who will specialize in teaching mathematics and science at the secondary school level;

"(B) retraining of secondary school teachers who specialize in disciplines other than the teaching of mathematics or science to specialize in the teaching of mathematics or science, including the provision of stipends for participation in institutes authorized under title I of the Education for Economic Security Act or any other program of the National Science Foundation; and

"(C) inservice training for elementary, secondary, and vocational school teachers and training for other appropriate school personnel to improve their teaching skills in the fields of mathematics and science, including stipends for participation in institutes authorized under title I of the Education for Economic Security Act, or any other program of the National Science Foundation.

Each institution of higher education receiving a grant under this subsection shall assure that programs of training, retraining, and inservice training will take into account the need for greater access to and participation in mathematics and science and careers by students from historically underrepresented and underserved groups, including females, minorities, individuals with limited-English proficiency, the handicapped, migrants, and the gifted and talented, and will ensure cooperative agreements or cooperative arrangements with local educational agencies.

"(3) No institution of higher education may receive assistance under paragraphs (2)(B) and (2)(C) of this subsection unless the institution enters into an agreement with a local educational agency, or consortium of such agencies, to provide inservice training and retraining for the elementary and secondary school teachers in the public and private schools of the school district of each such agency.

"(c) COOPERATIVE PROGRAMS.—The State agency for higher education may use funds described in subsection (b)(1)(A) for cooperative programs among institutions of higher education, local educational agencies, State educational agencies, private industry, and nonprofit organizations, including museums, libraries, educational television stations, and professional matehmatics, science, and engineering societies and associations for the development and dissemination of

projects designed to improve student understanding and performance in science and mathematics.

"(d) ASSESSMENT AND ADMINISTRATIVE COSTS.—Not to exceed 5 percent of the amount available under this section may be used by the State agency for higher education for—

"(1) the State assessment required by section 2008(c); and

"(2) the costs incurred by such agency for administration and evaluation of programs assisted under this part.

Disadvantaged persons.
Women.
Minorities.
Handicapped persons.
20 USC 2988.

"SEC. 2008. STATE APPLICATION.

"(a) APPLICATION.—Each State which desires to receive a grant under this part shall file an application with the Secretary which covers a period of 3 fiscal years. Such application shall be filed at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) designate the State educational agency for the purpose of programs described in section 2006, and the State agency for higher education for the purpose of programs described in section 2007 as the agency or agencies responsible for the administration and supervision of the programs described in section 2006 or 2007, as the case may be;

"(2) provide assurances that—

"(A) payments will be distributed by the State in accordance with the provisions of this title;

"(B) for programs described in section 2006, the provisions of section 2010 will be carried out;

"(C) the State will provide such fiscal control and funds accounting as the Secretary may require;

"(D) funds provided under this part will supplement, not supplant, State and local funds made available for activities authorized under this part;

"(E) during the 3-year period of the plan, the State will evaluate its standards for teacher preparation, licensing, certification, and endorsement for elementary and secondary mathematics and science;

"(F) the State will take into account the needs for greater access to and participation in mathematics and science by students and teachers from historically underrepresented groups including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and the handicapped;

"(G) that the needs of teachers and students in areas with high concentrations of low-income students and sparsely populated areas will be considered in the distribution of funds reserved for State use; and

"(H) that the programs conducted with State funds will be assessed annually (including statistics on the number of students and teachers involved in these programs) and that the data from such assessments, as well as a summary of the local assessments required under section 2009(b)(6), will be submitted to the Secretary;

"(3) if appropriate, provide a description of how funds paid under this part will be coordinated with State and local funds and other Federal resources, particularly with respect to any program available from the National Science Foundation or the Department of Energy, or both; and

"(4) describe procedures—

"(A) for submitting applications for programs described in sections 2006 and 2007 for distribution of payments under this part within the State, and

"(B) for approval of applications by the appropriate State agency, including appropriate procedures to assure that such agency will not disapprove an application without notice and opportunity for a hearing.

"(c) INFORMATIONAL REQUIREMENTS.—Each State application shall also contain the following:

"(1) A projection of the supply and demand for teachers within the State in all the mathematics and science subject areas at the elementary and secondary levels, including a consideration of the impact of changing State graduation requirements and other State reforms upon such supply.

"(2) An assessment of the current elementary and secondary curriculum needs within the State in mathematics and science.

"(d) DESCRIPTION OF ASSISTED ACTIVITIES.—Each application shall also contain the following descriptions:

"(1) How the programs under this Act will meet the teacher training and curriculum needs projected under subsections (c)(1) and (c)(2).

"(2) The specific activities that will be undertaken that involve institutions of higher education.

"(3) The specific activities that will be supported with funds reserved for State use and how those activities relate to the State's needs in mathematics and science.

"(4) The specific activities the State will support to improve access of historically underrepresented groups in mathematics and science education.

"(e) APPROVAL.—The Secretary shall expeditiously approve any State application that meets the requirements of this section.

"SEC. 2009. LOCAL APPLICATION.

20 USC 2989.

"(a) APPLICATION.—A local educational agency that desires to receive a grant under this part shall submit an application which covers a 3-year period (singly or in conjunction with other local educational agencies, institutions of higher education, or an intermediate educational unit).

"(b) CONTENTS OF APPLICATION.—A local educational agency application shall—

"(1) provide a summary assessment of—

"(A) the needs of its current teachers in mathematics and science and whether a shortage of such qualified teachers exists or will exist within 5 years after the date of the application;

"(B) the current levels of mathematics and science student achievement in the local educational agency; and

"(C) the curricular needs of the local educational agency in mathematics and science;

"(2) describe how the local educational agency plans to use funds received under this part to meet the needs described in paragraph (1)(A);

"(3) if applicable, describe how funds under this part will be coordinated with State and local and other Federal resources, especially with respect to any programs available from the

National Science Foundation, or the Department of Energy, or both;

"(4) if applicable, describe how the programs will use other resources of the community and involve public agencies, private industry, institutions of higher education, public and private nonprofit organizations (including, museums, libraries, educational television stations, professional science, mathematics, and engineering associations), and other appropriate institutions;

Disadvantaged persons. Women. Minorities. Handicapped persons.

"(5) assure that programs will take into account the need for greater access to and participation in mathematics and science programs by students from historically underrepresented groups, including females, minorities, individuals with limited-English proficiency, the economically disadvantaged, and the handicapped; and

"(6) assure that the programs will be assessed, that progress made will be reported in terms of numbers of teachers and students affected, and that the results will be submitted to the State educational agency in the time and manner required.

"(c) RENEWAL OF PAYMENTS.—The State educational agency shall renew payments to local educational agencies under this section based upon a determination by the State educational agency that the local educational agency is making adequate progress toward the goals of this part. The State educational agency will not disapprove an application without notice and opportunity for a hearing.

20 USC 2990.

"SEC. 2010. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE SCHOOLS.

"(a) PARTICIPATION OF PRIVATE SCHOOL STUDENTS.—To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this part.

"(b) PARTICIPATION OF PRIVATE SCHOOL TEACHERS.—To the extent consistent with the number of children in the State or in the school district of a local educational agency who are enrolled in private nonprofit elementary and secondary schools, such State, or agency or institution of higher education shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such inservice and teacher training and retraining as will assure equitable participation of such teachers in the purposes and benefits of this part.

"(c) WAIVER.—If by reason of any provision of law a State or local educational agency or institution of higher education is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers, subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice,

and judicial review requirements in accordance with section 1017 of this Act.

"SEC. 2011. FEDERAL ADMINISTRATION. 20 USC 2991.

"(a) TECHNICAL ASSISTANCE AND EVALUATION PROCEDURES.—The Secretary shall provide technical assistance and, in consultation with State and local representatives, shall develop procedures for State and local evaluations of the programs under this part.

"(b) SUMMARY.—The Secretary shall submit to the Congress every 2 years a summary of the State evaluations of programs under this part.

"(c) MODEL REPORTING STANDARDS.—In conjunction with State and local educational agencies and organizations of mathematics and science educators, the Secretary shall develop model reporting standards to encourage comparability of data required under sections 2008 and 2009.

"SEC. 2012. NATIONAL PROGRAMS.

Grants.
Contracts.
20 USC 2992.

"(a) AMOUNT AVAILABLE.—From 4 percent of amounts appropriated under section 2003(b), the Secretary shall make grants or enter into cooperative agreements in accordance with this section.

"(b) ELIGIBLE GRANTEES.—The Secretary shall make grants to and enter into cooperative agreements with State and local educational agencies, institutions of higher education, and public and private nonprofit organizations (including museums, libraries, educational television producers, distributors, and stations, and professional science, mathematics, and engineering societies and associations) for programs of national significance in mathematics and science instruction. The Secretary shall give special consideration in providing such assistance to local educational agencies (or consortia thereof), institutions of higher education, and public and private nonprofit organizations, providing special services to historically underserved and underrepresented populations (and especially gifted and talented children from within such populations) in the fields of mathematics and science.

"(c) PROGRAMS FOR TRAINING AND RETRAINING TEACHERS.—In awarding grants and cooperative agreements, the Secretary shall also give special consideration to programs of such institutions and organizations (such as museums) which train and retrain teachers in methods of scientific inquiry and provide materials which aid the education of students. In awarding grants and cooperative agreements, the Secretary shall give preference to developed and currently operating programs which are disseminated throughout the region in which such an institution or organization is located.

"(d) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate information concerning grants and cooperative agreements under this section to State and local educational agencies and institutions of higher education. Such dissemination of information shall include examples of exemplary national programs in mathematics and science instruction and necessary technical assistance for the establishment of similar programs.

"SEC. 2013. DEFINITIONS. 20 USC 2993.

"As used in this part:

"(1) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(2) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or agency designated for the purpose of this title by the Governor or by State law.

"PART B—FOREIGN LANGUAGES ASSISTANCE

Foreign Language Assistance Act of 1988.

"SEC. 2101. SHORT TITLE.

20 USC 3001.

"This part may be cited as the 'Foreign Language Assistance Act of 1988'.

20 USC 3002.

"SEC. 2102. FINDINGS.

"The Congress finds that the economic and security interests of this Nation require significant improvement in the quantity and quality of foreign language instruction offered in the Nation's elementary and secondary schools, and Federal funds should be made available to assist the purpose of this part.

20 USC 3003.

"SEC. 2103. PROGRAM AUTHORIZED.

Grants.

"(a) GENERAL AUTHORITY.—The Secretary shall make grants to State educational agencies whose applications are approved under subsection (b) to pay the Federal share of the cost of model programs, designed and operated by local educational agencies, providing for the commencement or improvement and expansion of foreign language study for students.

"(b) APPLICATION.—Any State educational agency desiring to receive a grant under this part shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No application may be approved by the Secretary unless the application—

"(1) contains a description of model programs which—

"(A) are designed by local educational agencies,

"(B) represent a variety of alternative and innovative approaches to foreign language instruction, and

"(C) are selected on a competitive basis by the State educational agency;

"(2) provides assurances that all children aged 5 through 17 who reside within the school district of the local educational agency shall be eligible to participate in any model program funded under this section (without regard to whether such children attend schools operated by such agency);

"(3) provides assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

"(4) provides that the local educational agency will provide standard evaluations of the proficiency of participants at appropriate intervals in the program which are reliable and valid, and provide such evaluations to the State educational agency.

"(c) FEDERAL SHARE.—(1) The Federal share for each fiscal year shall be 50 percent.

"(2) The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the project.

"(d) PARTICIPATION OF PRIVATE SCHOOLS.—(1) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of this section. Expenditures for educational services and arrangements pursuant to this subsection for children in private schools shall be equal (taking into account the number of children to be served and the needs of such children) to expenditures for children enrolled in the public schools of the State or local educational agency.

"(2) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children from private schools as required by paragraph (1), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children which shall be subject to the requirements of this subsection. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 1017(b) of this Act.

"SEC. 2104. ALLOTMENTS. 20 USC 3004.

"(a) GENERAL RULE.—(1) From the sums appropriated to carry out this part in any fiscal year, the Secretary shall reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs. Territories, U.S.

"(2) From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school age population of the State bears to the school age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

"(b) AVAILABILITY OF FUNDS.—The allotment of a State under subsection (a) shall be made available to the State for 2 additional years after the first fiscal year during which the State receives its allotment under this section if the Secretary determines that the funds made available to the State during the first such year were used in the manner required under the State's approved application.

"SEC. 2105. DEFINITIONS. 20 USC 3005.

"(a) GENERAL RULE.—For the purpose of this part:

"(1) The term 'foreign language instruction' means instruction in critical foreign languages as defined by the Secretary.

"(2) The term 'institution of higher education' has the meaning given that term in section 1201(a) of the Higher Education Act of 1965.

"(3) The term 'State agency for higher education' means the State board of higher education or other agency or officer primarily responsible for the State supervision of higher education, or, if there is no such officer or agency, an officer or

agency designated for the purpose of this title by the Governor or by State law.

"(b) SPECIAL RULE.—For the purpose of section 2104—

"(1) the term 'school age population' means the population aged 5 through 17; and

"(2) the term 'States' includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

20 USC 3006.

"SEC. 2106. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993 to carry out this part.

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN MATHEMATICS AND SCIENCE AND IN FOREIGN LANGUAGES

20 USC 3011.

"SEC. 2201. PRESIDENTIAL AWARDS.

"(a) GENERAL AUTHORITY.—(1) The President is authorized to make Presidential awards for teaching excellence in mathematics and science to elementary and secondary school teachers of mathematics or science who have demonstrated outstanding teaching qualifications in the field of teaching mathematics or science.

"(2) The President is authorized to make Presidential awards for teaching excellence in foreign languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching qualifications in the field of teaching foreign languages.

"(b) LIMITATION.—Each year the President is authorized to make 104 awards under subsection (a)(1), and 104 awards under subsection (a)(2). In selecting elementary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

20 USC 3012.

"SEC. 2202. ADMINISTRATIVE PROVISIONS.

"The President shall carry out the provisions of this part, including the establishment of the selection procedures, after consultation with the Secretary of Education, and other appropriate officials of Federal agencies, and representatives of professional foreign language teacher associations.

20 USC 3013.

"SEC. 2203. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—(1) Funds to carry out this part for any fiscal year shall be made available from amounts appropriated pursuant to annual authorizations of appropriations for the National Science Foundation for Science and Engineering Education.

"(2)(A) There are authorized to be appropriated $2,000,000 for each fiscal year to carry out the provisions of this part.

"(B) Not more than $1,000,000 are authorized to be available to carry out the provisions of paragraph (2) of section 2201(a).

"(b) AVAILABILITY.—Amounts appropriated pursuant to subsection (a) and amounts made available under subsection (a) shall be available for making awards under this part, for administrative expenses, for necessary travel by teachers selected under this part,

and for special activities related to carrying out the provisions of this part.

"TITLE III—MAGNET SCHOOLS ASSISTANCE

"SEC. 3001. AUTHORIZATION OF APPROPRIATIONS; RESERVATION. 20 USC 3021.

"(a) AUTHORIZATION.—There are authorized to be appropriated $165,000,000 for the fiscal year 1989 and such sums as may be necessary for the fiscal years 1990 through 1993 to carry out the provisions of this title.

"(b) AVAILABILITY OF FUNDS FOR GRANTS TO AGENCIES NOT PREVIOUSLY ASSISTED.—(1) In any fiscal year in which the amount appropriated pursuant to section 3001 exceeds $75,000,000, the Secretary shall, with respect to such excess amount, give priority to grants to local educational agencies which—

"(A) meet the requirements of section 3002; and

"(B) have not received a grant under title VII of the Education for Economic Security Act, or under this title, in the last fiscal year of the funding cycle prior to the fiscal year for which the determination is made.

"(2) In awarding grants with the first $75,000,000, the Secretary shall not take into account, in whole or in title, whether a local educational agency has received an award in the prior funding cycle.

"SEC. 3002. ELIGIBILITY. Minorities. Discrimination, prohibition. 20 USC 3022.

"A local educational agency is eligible to receive assistance under this title if the local educational agency—

"(1) is implementing a plan undertaken pursuant to a final order issued by a court of the United States, or a court of any State, or any other State agency or official of competent jurisdiction, and which requires the desegregation of minority group segregated children or faculty in the elementary and secondary schools of such agency; or

"(2) without having been required to do so, has adopted and is implementing, or will, if assistance is made available to it under this title, adopt and implement, a plan which has been approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 for the desegregation of minority group segregated children or faculty in such schools.

"SEC. 3003. STATEMENT OF PURPOSE. 20 USC 3023.

"It is the purpose of this title to support, through financial assistance to eligible local educational agencies—

"(1) the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial portions of minority students; and

"(2) courses of instruction within magnet schools that will substantially strengthen the knowledge of academic subjects and the grasp of tangible and marketable vocational skills of students attending such schools.

"SEC. 3004. PROGRAM AUTHORIZED. 20 USC 3024.

"The Secretary is authorized, in accordance with the provisions of this part, to make grants to eligible local educational agencies for use in magnet schools which are part of an approved desegregation Grants.

plan and which are designed to bring students from different social, economic, ethnic, and racial backgrounds together.

20 USC 3025.

"SEC. 3005. DEFINITION.

"For the purpose of this title, the term 'magnet school' means a school or education center that offers a special curriculum capable of attracting substantial numbers of students of different racial backgrounds.

20 USC 3026.

"SEC. 3006. USES OF FUNDS.

Grants.

"Grants made under this title may be used by eligible local educational agencies for—

"(1) planning and promotional activities directly related to expansion, continuation, or enhancement of academic programs and services offered at magnet schools;

"(2) the acquisition of books, materials, and equipment, including computers and the maintenance and operation thereof, necessary for the conduct of programs in magnet schools; and

"(3) the payment of or subsidization of the compensation of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of programs in magnet schools;

where, with respect to clauses (2) and (3), such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving vocational skills.

20 USC 3027.

"SEC. 3007. APPLICATIONS AND REQUIREMENTS.

"(a) APPLICATION.—Each eligible local educational agency which desires to receive assistance under this title shall submit an application to the Secretary. Each such application shall be in such form as the Secretary may reasonably require. Each such application shall contain assurances that the local educational agency will meet the conditions enumerated in subsection (b).

"(b) REQUIREMENTS CERTIFIED.—As part of the annual application required by subsection (a), each eligible local educational agency shall certify that the agency agrees—

"(1) to use funds made available under this title for the purposes specified in section 3003;

"(2) to employ teachers in the courses of instruction assisted under this title who are certified or licensed by the State to teach the subject matter of the courses of instruction;

Discrimination, prohibition.

"(3) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the hiring, promotion, or assignment of employees of the agency or other personnel for whom the agency has any administrative responsibility;

"(4) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in the mandatory assignment of students to schools or to courses of instruction within schools of such agency except to carry out the approved plan;

"(5) to provide assurances that the local educational agency will not engage in discrimination based upon race, religion, color, national origin, sex, or handicap in designing or operating extracurricular activities for students;

"(6) to describe how assistance made available under this title will be used to promote desegregation;

"(7) to provide assurances that the agency will carry out a high quality education program that will encourage greater parental decisionmaking and involvement;

"(8) to provide a description of the manner in which the local educational agency will continue the magnet schools program after assistance under this title is no longer available; and

"(9) to provide such other assurances as the Secretary determines necessary to carry out the provisions of this title.

"(c) SPECIAL RULE.—No application may be approved under this section unless the Assistant Secretary of Education for Civil Rights determines that the assurances described in clauses (3), (4), and (5) of subsection (b) will be met.

"SEC. 3008. SPECIAL CONSIDERATION. 20 USC 3028.

"(a) PRIORITY.—In approving applications under this title the Secretary shall give priority to—

"(1) the recentness of the implementation of the approved plan or modification thereof;

"(2) the proportion of minority group children involved in any approved plan; Minorities.

"(3) the need for assistance based on the expense or difficulty of effectively carrying out an approved plan and the program or projects for which assistance is sought; and

"(4) the degree to which the program or project for which assistance is sought affords promise of achieving the purposes of this title.

"(b) SPECIAL CONSIDERATION.—In approving applications under this title, the Secretary shall give special consideration to the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate State educational agency, or any other private organization.

"SEC. 3009. PROHIBITIONS. 20 USC 3029.

"Grants under this title may not be used for consultants, for transportation, or for any activity which does not augment academic improvement.

"SEC. 3010. LIMITATION ON PAYMENTS. 20 USC 3030.

"(a) LIMITATION ON DURATION AND PROGRESS.—No local educational agency may receive a grant under this title for more than one fiscal year unless the Secretary determines that the program for which assistance was provided in the first fiscal year is making satisfactory progress in achieving the purposes of this title.

"(b) LIMITATION ON PLANNING FUNDS.—No local educational agency may expend more than 10 percent of the amount that the agency receives in any fiscal year for planning.

"(c) SPECIAL RULE ON CHAPTER 2 FUNDS.—No State shall reduce the amount of State aid with respect to the provision of free public education or the amount of assistance received under chapter 2 of title I of this Act in any school district of any local educational agency within such State because of assistance made or to be made available to such agency under this title.

20 USC 3031.

"SEC. 3011. PAYMENTS.

"(a) GENERAL RULE.—(1) The Secretary shall pay to each local educational agency having an application approved under this title the amount set forth in the application.

"(2) Notwithstanding section 412 of the General Education Provisions Act, not more than 15 percent of funds available for each fiscal year for the purposes of this title may remain available to local educational agencies for obligation and expenditure during the succeeding fiscal year pursuant to such section. The provisions of this subsection shall not apply if grants are not awarded in a timely manner.

"(3) The Secretary may not reduce any payment under this title for any fiscal year by any amount on the basis of the availability of funds pursuant to sections 412 (b) and (c) of the General Education Provisions Act.

"(4) Payments under this title for a fiscal year shall remain available for obligation and expenditure by the recipient until the end of the succeeding fiscal year, except that no such agency shall receive more than $4,000,000 under this title in any one grant cycle.

Grants.

"(b) AWARD REQUIREMENT.—To the extent practicable, for any fiscal year, the Secretary shall award grants to local educational agencies under this title no later than June 30 of the applicable fiscal year.

20 USC 3032.

"SEC. 3012. WITHHOLDING.

"The provisions of sections 453 and 454 of the General Education Provisions Act, relating to withholding and cease and desist orders, shall apply to the program authorized by this title.

"TITLE IV—SPECIAL PROGRAMS

"PART A—WOMEN'S EDUCATIONAL EQUITY

Women's Educational Equity Act.

"SEC. 4001. SHORT TITLE; FINDINGS AND STATEMENT OF PURPOSE.

20 USC 3041.

"(a) SHORT TITLE.—This part may be cited as the 'Women's Educational Equity Act'.

"(b) FINDINGS AND STATEMENT OF PURPOSE.—(1) The Congress finds and declares that educational programs in the United States, as presently conducted, are frequently inequitable as such programs relate to women and frequently limit the full participation of all individuals in American society. The Congress finds and declares that excellence in education cannot be achieved without equity for women and girls.

"(2) It is the purpose of this part to provide educational equity for women in the United States and to provide financial assistance to enable educational agencies and institutions to meet the requirements of title IX of the Education Amendments of 1972. It is also the purpose of this part to provide educational equity for women and girls who suffer multiple discrimination, bias, or stereotyping based on sex and on race, ethnic origin, disability, or age.

20 USC 3042.

"SEC. 4002. PROGRAM AUTHORIZED.

Grants.
Contracts.

"(a) AUTHORIZATION.—The Secretary is authorized to make grants to, and enter into contracts with, public agencies, private nonprofit agencies, organizations, and institutions, including student and community groups, and individuals, for activities designed to

achieve the purpose of this part at all levels of education, including preschool, elementary and secondary education, higher education, and adult education. The activities may include—

(1) demonstration, developmental, and dissemination activities of national, statewide, or general significance, including—

"(A) the development, where such materials are commercially unavailable, and evaluation of curricula, textbooks, and other educational materials related to educational equity;

"(B) model preservice and inservice training programs for educational personnel with special emphasis on programs and activities designed to provide educational equity;

"(C) research and development activities designed to advance educational equity;

"(D) guidance and counseling activities, including the development of nondiscriminatory tests, designed to ensure educational equity;

"(E) educational activities to increase opportunities for adult women, including continuing educational activities and programs for underemployed and unemployed women; and

"(F) the expansion and improvement of educational programs and activities for women in vocational education, career education, physical education, and educational administration; and

"(2) assistance to eligible entities to pay a portion of the costs of the establishment and operation, for a period of not to exceed 2 years, of special programs and projects of local significance to provide equal opportunities for both sexes, including activities listed in paragraph (1), activities incident to achieving compliance with title IX of the Education Amendments of 1972 and other special activities designed to achieve the purposes of this part.

Not less than 75 percent of funds used to support activities described by paragraph (2) shall be used for awards to local educational agencies. The Secretary shall ensure that at least 1 grant or contract is available during each fiscal year for the performance of each of the activities described in paragraph (1) of this subsection.

"(b) LIMITATION.—For each fiscal year, the Secretary shall use $4,500,000 from the funds available under this part to support activities described in paragraph (1) of subsection (a). Any funds in excess of $4,500,000 available under this part may be used to support new activities described in paragraph (1) or to support activities described in paragraph (2), or both.

"SEC. 4003. APPLICATION; PARTICIPATION.

20 USC 3043.

"(a) APPLICATION.—A grant may be made, and a contract may be entered into, under this part only upon application to the Secretary, at such time, in such form, and containing or accompanied by such information as the Secretary may prescribe. Each such application shall—

Grants.
Contracts.

"(1) provide that the program or activity for which assistance is sought will be administered by or under the supervision of the applicant;

"(2) describe a program for carrying out one or more of the purposes set forth in section 4001(b) which holds promise of

making a substantial contribution toward attaining such purposes; and

"(3) set forth policies and procedures which insure adequate evaluation of the activities intended to be carried out under the application, including where appropriate an evaluation or estimate of the potential for continued significance following completion of the grant period.

"(b) SPECIAL RULE.—In approving applications under this part, the Secretary shall give special consideration to—

"(1) applications submitted by applicants that have not received assistance under this part or under part C of title IX of the Elementary and Secondary Education Act of 1965 (as in effect prior to October 1, 1988); and

"(2) proposals from applicants on the basis of geographic distribution throughout the United States.

Discrimination, prohibition.

"(c) LIMITATION.—Nothing in this part shall be construed as prohibiting men and boys from participating in any programs or activities assisted under this part.

20 USC 3044.

"SEC. 4004. CHALLENGE GRANTS.

"(a) PURPOSE.—In addition to the authority of the Secretary under section 4002, the Secretary shall carry out a program of challenge grants (as part of the grant program administered under section 4002(a)(1)), not to exceed $40,000 each, in order to support projects to develop—

"(1) comprehensive plans for implementation of equity programs at every educational level;

"(2) innovative approaches to school-community partnerships;

"(3) new dissemination and replication strategies; and

"(4) other innovative approaches to achieving the purposes of this part.

"(b) GRANT RECIPIENTS.—For the purpose described in paragraphs (1) through (4) of subsection (a), the Secretary is authorized to make grants to public agencies and private nonprofit organizations and consortia of these groups and to individuals.

20 USC 3045.

"SEC. 4005. CRITERIA AND PRIORITIES.

"The Secretary shall establish separate criteria and priorities for awards under sections 4002(a)(1) and 4002(a)(2) under this part to insure that available funds are used for programs that most effectively will achieve the purposes of this part. The criteria and priorities shall be promulgated in accordance with section 431 of the General Education Provisions Act.

20 USC 3046.

"SEC. 4006. REPORTS, EVALUATION, AND DISSEMINATION.

"(a) REPORTS.—The Secretary shall, from funds authorized under this part, not later than September 30, 1992, submit to the President and the Congress a report setting forth the programs and activities assisted under this part, and provide for the distribution of this report.

"(b) EVALUATION AND DISSEMINATION.—The Secretary, through the Office of Educational Research and Improvement, shall evaluate and disseminate (at low cost) materials and programs developed under this part.

"SEC. 4007. AUTHORIZATION OF APPROPRIATIONS. 20 USC 3047.

"There are authorized to be appropriated $9,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993, to carry out the provisions of this part.

"PART B—GIFTED AND TALENTED CHILDREN

Jacob K. Javits Gifted and Talented Students Education Act of 1988.

"SEC. 4101. SHORT TITLE. 20 USC 3061.

"This part may be referred to as the 'Jacob K. Javits Gifted and Talented Students Education Act of 1988'.

"SEC. 4102. FINDINGS AND PURPOSES. 20 USC 3062.

"(a) FINDINGS.—The Congress finds and declares that—

"(1) gifted and talented students are a national resource vital to the future of the Nation and its security and well-being;

"(2) unless the special abilities of gifted and talented students are recognized and developed during their elementary and secondary school years, much of their special potential for contributing to the national interest is likely to be lost;

"(3) gifted and talented students from economically disadvantaged families and areas, and students of limited English proficiency are at greatest risk of being unrecognized and of not being provided adequate or appropriate educational services;

"(4) State and local educational agencies and private nonprofit schools often lack the necessary specialized resources to plan and implement effective programs for the early identification of gifted and talented students for the provision of educational services and programs appropriate to their special needs; and

"(5) the Federal Government can best carry out the limited but essential role of stimulating research and development and personnel training, and providing a national focal point of information and technical assistance, that is necessary to ensure that our Nation's schools are able to meet the special educational needs of gifted and talented students, and thereby serve a profound national interest.

"(b) STATEMENT OF PURPOSE.—It is the purpose of this part to provide financial assistance to State and local educational agencies, institutions of higher education, and other public and private agencies and organizations, to initiate a coordinated program of research, demonstration projects, personnel training, and similar activities designed to build a nationwide capability in elementary and secondary schools to identify and meet the special educational needs of gifted and talented students. It is also the purpose of this part to supplement and make more effective the expenditure of State and local funds, and of Federal funds made available under chapter 2 of title I of this Act and title II of this Act, for the education of gifted and talented students.

"SEC. 4103. DEFINITIONS. 20 USC 3063.

"For the purposes of this part:

"(1) The term 'gifted and talented students' means children and youth who give evidence of high performance capability in areas such as intellectual, creative, artistic, or leadership capacity, or in specific academic fields, and who require services or

activities not ordinarily provided by the school in order to fully develop such capabilities.

"(2) The term 'institution of higher education' has the same meaning given such term in section 435(b) of the Higher Education Act of 1965.

"(3) The term 'Hawaiian native' means any individual any of whose ancestors were natives prior to 1778 of the area which now comprises the State of Hawaii.

"(4) The term 'Hawaiian native organization' means any organization recognized by the Governor of the State of Hawaii primarily serving and representing Hawaiian natives.

20 USC 3064.

"SEC. 4104. AUTHORIZED PROGRAMS.

Contracts.
Grants.
Indians.

"(a) ESTABLISHMENT OF PROGRAM.—From the sums appropriated under section 4108 in any fiscal year the Secretary (after consultation with experts in the field of the education of gifted and talented students) shall make grants to or enter into contracts with State educational agencies, local educational agencies, institutions of higher education, or other public agencies and private agencies and organizations (including Indian tribes and organizations as defined by the Indian Self-Determination and Education Assistance Act and Hawaiian native organizations) to assist such agencies, institutions, and organizations which submit applications in carrying out programs or projects authorized by this Act that are designed to meet the educational needs of gifted and talented students, including the training of personnel in the education of gifted and talented students or in supervising such personnel.

"(b) USES OF FUNDS.—Programs and projects assisted under this section may include—

"(1) preservice and inservice training (including fellowships) for personnel (including leadership personnel) involved in the education of gifted and talented students;

"(2) establishment and operation of model projects and exemplary programs for the identification and education of gifted and talented students, including summer programs and cooperative programs involving business, industry, and education;

"(3) strengthening the capability of State educational agencies and institutions of higher education to provide leadership and assistance to local educational agencies and nonprofit private schools in the planning, operation, and improvement of programs for the identification and education of gifted and talented students;

"(4) programs of technical assistance and information dissemination; and

"(5) carrying out (through the National Center for Research and Development in the Education of Gifted and Talented Children and Youth established pursuant to subsection (c))—

"(A) research on methods and techniques for identifying and teaching gifted and talented students, and

"(B) program evaluations, surveys, and the collection, analysis, and development of information needed to accomplish the purposes of this part.

Grants.
Contracts.

"(c) ESTABLISHMENT OF NATIONAL CENTER.—The Secretary (after consultation with experts in the field of the education of gifted and talented students) shall establish a National Center for Research and Development in the Education of Gifted and Talented Children and Youth through grants to or contracts with one or more institu-

tions of higher education or State educational agencies, or a combination or consortium of such institutions and agencies, for the purpose of carrying out clause (5) of subsection (b). Such National Center shall have a Director. The Secretary may authorize the Director to carry out such functions of the National Center as may be agreed upon through arrangements with other institutions of higher education, State or local educational agencies, or other public or private agencies and organizations.

"(d) LIMITATION.—Not more than 30 percent of the funds available in any fiscal year to carry out the programs and projects authorized by this section may be used for the conduct of activities pursuant to subsections (b)(5) or (c).

"SEC. 4105. PROGRAM PRIORITIES. 20 USC 3065.

"(a) GENERAL PRIORITY.—In the administration of this part the Secretary shall give highest priority—

"(1) to the identification of gifted and talented students who may not be identified through traditional assessment methods (including economically disadvantaged individuals, individuals of limited English proficiency, and individuals with handicaps) and to education programs designed to include gifted and talented students from such groups; and Disadvantaged persons. Handicapped persons.

"(2) to programs and projects designed to develop or improve the capability of schools in an entire State or region of the Nation through cooperative efforts and participation of State and local educational agencies, institutions of higher education, and other public and private agencies and organizations (including business, industry, and labor), to plan, conduct, and improve programs for the identification and education of gifted and talented students.

"(b) SERVICE PRIORITY.—In approving applications under section 4104(a) of this part, the Secretary shall assure that in each fiscal year at least one-half of the applications approved contain a component designed to serve gifted and talented students who are economically disadvantaged individuals. Disadvantaged persons.

"SEC. 4106. PARTICIPATION OF PRIVATE SCHOOL CHILDREN AND TEACHERS. 20 USC 3066.

"In making grants and entering into contracts under this Act, the Secretary shall ensure, where appropriate, that provision is made for the equitable participation of students and teachers in private nonprofit elementary and secondary schools, including the participation of teachers and other personnel in preservice and inservice training programs for serving such children. Grants. Contracts.

"SEC. 4107. ADMINISTRATION. 20 USC 3067.

"The Secretary shall establish or designate an administrative unit within the Department of Education—

"(1) to administer the programs authorized by this part,

"(2) to coordinate all programs for gifted and talented students administered by the Department, and

"(3) to serve as a focal point of national leadership and information on the educational needs of gifted and talented students and the availability of educational services and programs designed to meet those needs.

The administrative unit established or designated pursuant to this section shall be headed by a person of recognized professional

qualifications and experience in the field of the education of gifted and talented students.

20 USC 3068.

"SEC. 4108. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993, to carry out the provisions of this part.

"PART C—ALLEN J. ELLENDER FELLOWSHIP PROGRAM

20 USC 3081.

"SEC. 4301. FINDINGS.

"The Congress makes the following findings:

"(1) Allen J. Ellender, a Senator from Louisiana and President pro tempore of the United States Senate, had a distinguished career in public service characterized by extraordinary energy and real concern for young people and the development of greater opportunities for active and responsible citizenship by young people.

"(2) Senator Ellender provided valuable support and encouragement to the Close Up Foundation, a nonpartisan, nonprofit foundation promoting knowledge and understanding of the Federal Government among young people and their educators.

"(3) It is a fitting and appropriate tribute to the beloved Senator Ellender to provide in his name an opportunity for participation, by students of limited economic means and by their teachers, in the program supported by the Close Up Foundation.

Grants.

"Subpart 1—Program for Secondary School Students and Teachers

20 USC 3091.

"SEC. 4311. ESTABLISHMENT.

Close Up Foundation. District of Columbia.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its program of increasing understanding of the Federal Government among secondary school students, their teachers, and the communities they represent.

Disadvantaged persons.

"(b) USE OF FUNDS.—Grants under this subpart shall be used only for financial assistance to economically disadvantaged students and their teachers who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such students and teachers shall be known as Allen J. Ellender fellowships.

20 USC 3092.

"SEC. 4312. APPLICATIONS.

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon an application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged secondary school students, and to secondary school teachers; Disadvantaged persons.

"(2) that not more than 1 secondary school teacher in each such school participating in the program may receive a fellowship grant in any fiscal year;

"(3) that every effort will be made to ensure the participation of students and teachers from rural and small town areas, as well as from urban areas, and that in awarding fellowships to economically disadvantaged students, special consideration will be given to the participation of students with special educational needs, including handicapped students, students from recent immigrant families, ethnic minority students, gifted and talented students, and students of migrant parents; and Rural areas. Urban areas. Disadvantaged persons. Handicapped persons. Minorities.

"(4) the proper disbursement of the funds of the United States received under this part.

"Subpart 2—Programs for Older Americans and Recent Immigrants

Grants.

"SEC. 4321. ESTABLISHMENT. 20 USC 3101.

"(a) GENERAL AUTHORITY.—(1) The Secretary is authorized to make grants in accordance with the provisions of this subpart to the Close Up Foundation of Washington, District of Columbia, a nonpartisan, nonprofit foundation, for the purpose of assisting the Close Up Foundation in carrying out its programs of increasing understanding of the Federal Government among economically disadvantaged older Americans and recent immigrants. Close Up Foundation. District of Columbia.

"(2) For the purpose of this subpart, the term 'older American' means an individual who has attained 55 years of age.

"(b) USE OF FUNDS.—Grants under this subpart shall be used only for financial assistance to economically disadvantaged older Americans and recent immigrants who participate in the program described in subsection (a) of this section. Financial assistance received pursuant to this subpart by such individuals shall be known as Allen J. Ellender fellowships.

"SEC. 4322. APPLICATIONS. 20 USC 3102.

"(a) APPLICATION REQUIRED.—No grant under this subpart may be made except upon application at such time, in such manner, and accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall contain provisions to assure—

"(1) that fellowship grants are made to economically disadvantaged older Americans and recent immigrants;

"(2) that every effort will be made to ensure the participation of older Americans and recent immigrants from rural and small town areas, as well as from urban areas, and that in awarding fellowships, special consideration will be given to the participation of older Americans and recent immigrants with special needs, including handicapped individuals and ethnic minorities; Rural areas. Urban areas. Handicapped persons. Minorities.

"(3) that activities permitted by section 4321 are fully described; and

"(4) the proper disbursement of the funds of the United States received under this part.

"Subpart 3—General Provisions

20 USC 3111.

"SEC. 4331. ADMINISTRATIVE PROVISIONS.

"(a) GENERAL RULE.—Payments under this part may be made in installments, in advance, or by way of reimbursement, with necessary adjustments on account of underpayment or overpayment.

"(b) AUDIT RULE.—The Comptroller General of the United States or any of the Comptroller General's duly authorized representatives shall have access for the purpose of audit and examination to any books, documents, papers, and records that are pertinent to any grant under this part.

20 USC 3112.

"SEC. 4332. AUTHORIZATION OF APPROPRIATIONS.

"(a) AUTHORIZATION FOR SUBPART 1.—There are authorized to be appropriated to carry out the provisions of subpart 1 of this part $3,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"(b) AUTHORIZATION FOR SUBPART 2.—(1) There are authorized to be appropriated to carry out the provisions of subpart 2 of this part $2,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993.

"(2) No funds may be appropriated pursuant to paragraph (1) for the fiscal year 1989 unless amounts appropriated pursuant to subsection (a) for such fiscal year total not less than $2,500,000. In each of the fiscal years 1990 through 1993, no funds may be appropriated pursuant to paragraph (1) unless sufficient amounts are appropriated pursuant to subsection (a) for the fiscal year to carry out activities under subpart 1 of this part at the level established during the fiscal year 1989.

"PART D—IMMIGRANT EDUCATION

Emergency Immigrant Education Act of 1984.

20 USC 3121.

"SEC. 4401. SHORT TITLE.

"This part may be cited as the 'Emergency Immigrant Education Act of 1984'.

20 USC 3122.

"SEC. 4402. DEFINITIONS.

"As used in this part—

"(1) The term 'immigrant children' means children who were not born in any State and who have been attending schools in any 1 or more States for less than 3 complete academic years.

"(2) The term 'elementary or secondary nonpublic schools' means schools which comply with the applicable compulsory attendance laws of the State and which are exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1954.

20 USC 3123.

"SEC. 4403. AUTHORIZATIONS AND ALLOCATION OF APPROPRIATIONS.

"(a) AUTHORIZATIONS OF APPROPRIATIONS.—There are authorized to be appropriated to make payments to which State educational agencies are entitled under this part and payments for administration under section 4404 $30,000,000 for the fiscal year 1985, $40,000,000 for each of the fiscal years 1986, 1987, 1988, and 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"(b) ALLOCATION OF APPROPRIATIONS.—(1) If the sums appropriated for any fiscal year to make payments to States under this part are

not sufficient to pay in full the sum of the amounts which State educational agencies are entitled to receive under this part for such year, the allocations to State educational agencies shall be ratably reduced to the extent necessary to bring the aggregate of such allocations within the limits of the amounts so appropriated.

"(2) In the event that funds become available for making payments under this part for any period after allocations have been made under paragraph (1) of this subsection for such period, the amounts reduced under such paragraph shall be increased on the same basis as they were reduced.

"SEC. 4404. STATE ADMINISTRATIVE COSTS. 20 USC 3124.

"The Secretary is authorized to pay to each State educational agency amounts equal to the amounts expended by it for the proper and efficient administration of its functions under this part, except that the total of such payments for any period shall not exceed 1.5 per centum of the amounts which that State educational agency is entitled to receive for that period under this part.

"SEC. 4405. WITHHOLDING. 20 USC 3125.

"Whenever the Secretary, after reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to meet the requirements of any provision of this part, the Secretary shall notify that agency that further payments will not be made to the agency under this part, or in the discretion of the Secretary, that the State educational agency shall not make further payments under this part to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this part, or payments by the State educational agency under this part shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"SEC. 4406. STATE ENTITLEMENTS. 20 USC 3126.

"(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 1985 through 1993 for the purpose set forth in section 4407.

"(b) ENTITLEMENTS.—(1) Except as provided in paragraph (3) and in subsections (c) and (d) of this section, the amount of the grant to which a State educational agency is entitled under this part shall be equal to the product of (A) the number of immigrant children enrolled during such fiscal year in elementary and secondary public schools under the jurisdiction of each local educational agency described under paragraph (2) within that State, and in any elementary or secondary nonpublic school within the district served by each such local educational agency, multiplied by (B) $500.

"(2) The local educational agencies referred to in paragraph (1) are those local educational agencies in which the sum of the number of immigrant children who are enrolled in elementary or secondary public schools under the jurisdiction of such agencies, and in elementary or secondary nonpublic schools within the districts served by such agencies, during the fiscal year for which the payments are to be made under this part, is equal to—

"(A) at least 500; or

"(B) at least 3 percent of the total number of students enrolled in such public or nonpublic schools during such fiscal year; whichever number is less.

"(3)(A) The amount of the grant of any State educational agency for any fiscal year as determined under paragraph (1) shall be reduced by the amounts made available for such fiscal year under any other Federal law for expenditure within the State for the same purpose as those for which funds are available under this part, but such reduction shall be made only to the extent that (i) such amounts are made available for such purpose specifically because of the refugee, parollee, asylee, or other immigrant status of the individuals served by such funds, and (ii) such amounts are made available to provide assistance to individuals eligible for services under this part.

"(B) No reduction of a grant under this part shall be made under subparagraph (A) for any fiscal year if a reduction is made, pursuant to a comparable provision in any such other Federal law, in the amount made available for expenditure in the State for such fiscal year under such other Federal law, based on the amount assumed to be available under this part.

"(c) DETERMINATIONS OF NUMBER OF CHILDREN.—(1) Determinations by the Secretary under this section for any period with respect to the number of immigrant children shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

"(2) No such determination with respect to the number of immigrant children shall operate because of an underestimate or overestimate to deprive any State educational agency of its entitlement to any payment (or the amount thereof) under this section to which such agency would be entitled had such determination been made on the basis of accurate data.

"(d) REALLOCATION.—Whenever the Secretary determines that any amount of a payment made to a State under this part for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to 1 or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose. Any amount made available to a State from an appropriation for a fiscal year in accordance with the preceding sentence shall, for purposes of this part, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

20 USC 3127.

"SEC. 4407. USES OF FUNDS.

"(a) SUPPLEMENTARY EDUCATIONAL SERVICES AND COSTS.—Payments made under this part to any State may be used in accordance with applications approved under section 4408 for supplementary educational services and costs, as described under subsection (b) of this section, for immigrant children enrolled in the elementary and secondary public schools under the jurisdiction of the local educational agencies of the State described in section 4406(b)(2) and in

elementary and secondary nonpublic schools of that State within the districts served by such agencies.

"(b) KINDS OF SERVICES AND COSTS.—Financial assistance provided under this part shall be available to meet the costs of providing immigrant children supplementary educational services, including but not limited to—

"(1) supplementary educational services necessary to enable those children to achieve a satisfactory level of performance, including—

"(A) English language instruction;

"(B) other bilingual educational services; and

"(C) special materials and supplies;

"(2) additional basic instructional services which are directly attributable to the presence in the school district of immigrant children, including the costs of providing additional classroom supplies, overhead costs, costs of construction, acquisition or rental of space, costs of transportation, or such other costs as are directly attributable to such additional basic instructional services; and

"(3) essential inservice training for personnel who will be providing instruction described in either paragraph (1) or (2) of this subsection.

"SEC. 4408. APPLICATIONS. 20 USC 3128.

"(a) SUBMISSION.—No State educational agency shall be entitled to any payment under this part for any period unless that agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this part are made will be administered by or under the supervision of the agency;

"(2) provide assurances that payments under this part will be used for purposes set forth in section 4407;

"(3) provide assurances that such payments will be distributed among local educational agencies within that State on the basis of the number of children counted with respect to such local educational agency under section 4406(b)(1), adjusted to reflect any reductions imposed pursuant to section 4406(b)(3) which are attributable to such local educational agency;

"(4) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this part without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

"(5) provide for making such reports as the Secretary may reasonably require to perform the functions under this part; and Reports.

"(6) provide assurances—

"(A) that to the extent consistent with the number of immigrant children enrolled in the elementary or secondary nonpublic schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of these children secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children;

"(B) that the control of funds provided under this part and title to any materials, equipment, and property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purposes provided in this part, and a public agency shall administer such funds and property; and

Contracts.

"(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such elementary or secondary nonpublic school and of any religious organization; and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds.

"(b) APPROVAL OF APPLICATION.—The Secretary shall approve an application which meets the requirements of subsection (a). The Secretary shall not finally disapprove an application of a State educational agency except after reasonable notice and opportunity for a hearing on the record to such agency.

20 USC 3129.

"SEC. 4409. PAYMENTS.

"(a) AMOUNT.—Except as provided in section 4403(b), the Secretary shall pay to each State educational agency having an application approved under section 4408 the amount which that State is entitled to receive under this part.

"(b) SERVICES TO CHILDREN ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for children enrolled in elementary and secondary nonpublic schools, as required by section 4408(a)(6), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of children enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services to such children through arrangements which shall be subject to the requirements of this part. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of chapter 1 of title I.

20 USC 3130.

"SEC. 4410. REPORTS.

"(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this part shall submit, biennially, a report to the Secretary concerning the expenditure of funds by local educational agencies under this part. Each local educational agency receiving funds under this part shall submit to the State educational agency such information as may be necessary for such report.

"(b) REPORT TO CONGRESS.—The Secretary shall submit biannually a report to the appropriate committees of the Congress concerning programs under this part.

"PART E—TERRITORIAL ASSISTANCE

20 USC 3141.

"SEC. 4501. GENERAL ASSISTANCE FOR THE VIRGIN ISLANDS.

Appropriation authorization.

"There are authorized to be appropriated $5,000,000 for the fiscal year 1989 and for each of the 4 subsequent fiscal years, for the

purpose of providing general assistance to improve public education in the Virgin Islands.

"SEC. 4502. TERRITORIAL TEACHER TRAINING ASSISTANCE. 20 USC 3142.

"There are authorized to be appropriated $2,000,000 for the fiscal year 1989 and for each of the 4 subsequent fiscal years for the purpose of assisting teacher training programs in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. From the sums appropriated pursuant to this section the Secretary shall make grants and enter into contracts for the purpose of providing training to teachers in schools in Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands. The Secretary may make grants to or contracts with any organization considered qualified to provide training for teachers in such schools and shall allot such sums among such territories on the basis of the need for such training. Appropriation authorization. Grants. Contracts.

"PART F—SECRETARY'S FUND FOR INNOVATION IN EDUCATION

"SEC. 4601. PROGRAM AUTHORIZED. 20 USC 3151.

"(a) GENERAL AUTHORITY.—(1) From funds appropriated under this part, the Secretary is authorized to carry out programs and projects which show promise of identifying and disseminating innovative educational approaches.

"(2) The Secretary, in carrying out the provisions of this part, is authorized to—

"(A) develop, prepare, and conduct an optional test for academic excellence in accordance with section 4602;

"(B) carry out programs for technology education in accordance with section 4603;

"(C) strengthen and expand computer education resources available in public and private elementary and secondary schools in accordance with section 4604; and

"(D) establish and strengthen comprehensive school health education programs in accordance with section 4605.

"(b) ADMINISTRATIVE AUTHORITY.—The Secretary is authorized to carry out programs and projects under this section directly, or through grants to or contracts with State and local educational agencies, institutions of higher education, and other public and private agencies, organizations, and institutions. Grants. Contracts.

"SEC. 4602. OPTIONAL TESTS FOR ACADEMIC EXCELLENCE. 20 USC 3152.

"(a) TEST OF ACADEMIC EXCELLENCE AUTHORIZED.—The Secretary is authorized, after consultation with appropriate State and local educational agencies and public and private organizations, to approve comprehensive tests of academic excellence or to develop such a test where commercially unavailable, to be administered to identify outstanding students who are in the eleventh grade of public and private secondary schools.

"(b) PREPARATION AND CONDUCT OF TESTS.—(1) The Secretary is authorized to establish a program through arrangements with appropriate State educational agencies, local educational agencies, public and private secondary schools, and public and private organizations throughout the Nation, under which the tests of academic excellence prepared or approved under this part may be

given by such agencies or schools, on a voluntary basis, to students described in this section. The tests of academic excellence shall be tests of acquired skills and knowledge appropriate for the completion of a secondary school education. Such students may file applications for the test at such time and in such manner as the Secretary may prescribe. Upon application by any appropriate agency or school by such time and in such manner as the Secretary may determine, the Secretary shall pay to such agency or school the cost of the administrative expenses it has incurred pursuant to an arrangement made under this section.

Classified information.

"(2) The Secretary shall assure that the tests authorized by this part are conducted in a secure manner, and that test items remain confidential so that such items may be used in future tests.

"(c) CERTIFICATE.—(1) The Secretary is authorized and directed to prepare a certificate, of such appropriate design as the Secretary shall prescribe, and in such numbers as are necessary, for issuance to students who have scored at a sufficiently high level, as determined by the Secretary, on a test of academic excellence prepared or approved under this subpart and given in accordance with arrangements made under this section. Each such student shall be awarded a certificate within 60 days following the date on which the student was given the test.

"(2) Each certificate awarded pursuant to this section shall be signed by the Secretary.

"(d) REPORT.—The Secretary shall prepare and submit to the Congress a report on the estimated costs of administering, scoring, and analyzing the tests of academic excellence prepared or approved under this subpart.

Communications and telecommunications. 20 USC 3153.

"SEC. 4603. TECHNOLOGY EDUCATION.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to develop materials for educational television and radio programming for use in elementary and secondary education, together with programs which use telecommunications and video resources for the instruction of public and private elementary and secondary school students and for related teacher training programs for public and private elementary and secondary school teachers.

"(b) USES OF FUNDS.—Funds available to carry out this section may be used for—

"(1) programs and projects which use such technology to address specifically the educational needs in critical subject matter areas;

"(2) programs and projects to assist in the training of public and private elementary and secondary school teachers, administrators, and other educational personnel to use in the schools of such television programming, radio programming, telecommunications programs, or video resources, or in the coordination of such technology with the school curriculum; or

"(3) educational television, educational radio, telecommunications or video resources programs or projects which promote a partnership between elementary and secondary schools, the parents of elementary and secondary students, State educational agencies, and institutions of higher education or the community in which such schools are located.

"(c) DEFINITION.—For the purpose of this section the term 'telecommunications' means the full range of technologies that can be used for educational instruction, including closed circuit television

systems, educational television and radio broadcasting, cable television, satellite transmission, computer laser discs, and video and audio discs and tapes.

"SEC. 4604. PROGRAMS FOR COMPUTER-BASED INSTRUCTION.

Grants.
Contracts.
20 USC 3154.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants and enter into contracts, as authorized by section 4601 for the purpose of strengthening and expanding computer education resources available in public and private elementary and secondary schools.

"(b) USES OF FUNDS.—Projects assisted under this section may include—

"(1) the acquisition and leasing of computer hardware for instructional purposes, including services necessary for the operation, installation, and maintenance of computer hardware;

"(2) the acquisition of computer software and complementary instructional materials; or

"(3) teacher training programs designed to improve the quality of instruction in computer education and to expand the use of computers in the curriculum. Such programs may make provision for teacher stipends at a rate of $275 per week for the period of attendance in such program. The Secretary may enter into cooperative agreements with the National Science Foundation and other appropriate nonprofit agencies and organizations in carrying out programs under this section.

"(c) SPECIAL RULE.—No grant may expend more than 25 percent for the acquisition of computer hardware.

"(d) PLANNING REQUIREMENT.—No grant may be made under this section unless the applicant carries out planning activities designed to facilitate the use of Federal financial assistance under this section for the expansion of computer resources in elementary or secondary schools. Such planning activities shall include—

"(1) the goals for computer education in the schools;

"(2) integration with the curriculum;

"(3) where appropriate, provisions for computer use after school by students, parents, teachers, and adult learners; and

"(4) standards for the evaluation of computer education programs.

"SEC. 4605. PROGRAMS FOR THE IMPROVEMENT OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.

20 USC 3155.

"(a) GENERAL AUTHORITY.—The Secretary through the Office established under subsection (c) of this section, may—

"(1) encourage State and local educational agencies to provide comprehensive school health education to the elementary and secondary school students in the schools of such agencies;

"(2) provide technical support to State and local educational agencies on health education programs and curricula;

"(3) make grants to State and local educational agencies in accordance with this section;

Grants.

"(4) provide an annual report on the progress of the Office (established under subsection (c)) and the status of school health education in the United States;

Reports.

"(5) cooperate with other Federal agencies carrying out school health education programs to ensure coordination of such programs; and

"(6) advise the Secretary on school health education policy.

Grants.

"(b) USES OF FUNDS.—Grants under this section may be used to improve elementary and secondary education in the areas of—

"(1) personal health and fitness;
"(2) nutrition;
"(3) mental and emotional health;
"(4) prevention of chronic diseases;
"(5) substance use and abuse;
"(6) accident prevention and safety;
"(7) community and environmental health;
"(8) prevention and control of communicable diseases;
"(9) effective use of the health services delivery system; and
"(10) development and aging.

Establishment.

"(c) OFFICE OF COMPREHENSIVE SCHOOL HEALTH EDUCATION.—The Secretary may establish within the Office of the Secretary an Office of Comprehensive School Health Education with the following responsibilities:

"(1) To recommend mechanisms for the coordination of school health education programs conducted by various Federal agencies.

"(2) To advise the Secretary on the formulation of school health education policy within the Department of Education.

"(3) To disseminate information on the benefits to health education of utilizing a comprehensive health curriculum in schools.

20 USC 3156.

"SEC. 4606. ALTERNATIVE CURRICULUM SCHOOLS.

"(a) STATEMENT OF PURPOSE.—It is the purpose of this section to assist—

"(1) local educational agencies;
"(2) consortia of such agencies; and
"(3) intermediate educational units;

which have significant percentages of minority students to establish and conduct programs which reflect a minority composition of at least 50 percent in the alternative curriculum school established by the applicant to strengthen the knowledge of elementary and secondary school students in academic subjects and to contribute to the desegregation of the schools of the applicant.

Grants.

"(b) ELIGIBILITY.—A local educational agency, consortium of such agencies, or intermediate educational unit, is eligible to receive a grant under this section if such agency, unit, or consortium submits an application which contains evidence of collaborative arrangements between the applicant and an institution of higher education, a community-based organization, another local educational agency, an appropriate State educational agency, or any combination of such institutions, organizations, or agencies.

Grants.

"(c) USES OF FUNDS.—Grants under this section may be used for—

"(1) planning and outreach activities directly related to expansion and enhancement of academic programs and services in the alternative curriculum school;

"(2) the acquisition of books, materials, and equipment (including computers and the maintenance and operation thereof) necessary for the conduct of educational programs in the alternative curriculum school; and

Wages.

"(3) the payment, or subsidization of the compensation, of elementary and secondary school teachers who are certified or licensed by the State and who are necessary for the conduct of educational programs in the alternative curriculum school;

whenever such assistance is directly related to improving the knowledge of mathematics, science, history, English, foreign languages, art, or music, or to improving the vocational skills of elementary and secondary school students.

"(d) APPLICATIONS.—Each applicant desiring to receive a grant under this section shall submit an application in such form, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall— Grants. Minorities.

"(1) provide assurances that the assistance will be used for the purposes described in subsection (c);

"(2) provide assurances that the local educational agency or intermediate educational unit would have a minority composition of at least 65 percent, or in the case of a consortium, that at least one local educational agency would have a minority composition of 65 percent;

"(3) provide assurances that the students served in the alternative curriculum school established reflect a minority composition of at least 50 percent;

"(4) demonstrate the extent to which the alternative curriculum school will contribute to desegregation in the local educational agency;

"(5) demonstrate the extent to which the alternative curriculum school will contribute to the improvements of the academic quality of the education offered by schools throughout the local educational agency;

"(6) describe the collaborative efforts required by subsection (b);

"(7) provide assurances that teachers will be employed in the courses of instruction assisted under this section who are certified or licensed by the State to teach the subject matter of the courses of instruction;

"(8) provide assurances that the applicant will not engage in discrimination based upon race, religion, color, national origin, sex, or handicapping conditions in— Discrimination, prohibition.

"(A) hiring, promotion, or assignment of employees of the applicant or other personnel for whom the applicant has any administrative responsibility;

"(B) the mandatory assignment of students to schools or to courses of instruction within schools of such applicant, except as is necessary to carry out an approved desegregation plan; and

"(C) designing or operating extracurricular activities for students;

"(9) describe how funds made available under this section will be used to promote integration and provide a high quality education program for local educational agencies with significant concentrations of minority students;

"(10) describe how such applicant will devote its resources to continuing the program when funds made available to it under this section may no longer be made available; and

"(11) provide such other assurances as the Secretary determines necessary.

"(e) UNUSED AMOUNTS.—In any fiscal year in which amounts are appropriated but not allocated under this section, the Secretary shall use such amounts to make grants under title III of this Act (relating to magnet schools). Grants.

"(f) SPECIAL EVIDENTIARY RULE.—Notwithstanding any other provision of law, the award of funds under this section may not be used in any cause of action or administrative proceeding as evidence relating to the issue of desegregation of a public school of a local educational agency receiving such an award.

20 USC 3157.

"SEC. 4607. AUTHORIZATION OF APPROPRIATIONS.

"(a) There are authorized to be appropriated $20,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 through 1993, to carry out the provisions of this part (other than section 4606).

"(b)(1) Subject to paragraph (2), there are authorized to be appropriated $35,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993 to carry out section 4606.

"(2) No appropriation may be made under paragraph (1) for any fiscal year unless the amount appropriated for the Magnet Schools Assistance Program in title III for that fiscal year is equal to or exceeds $165,000,000.

"TITLE V—DRUG EDUCATION

Drug-Free Schools and Communities Act of 1986.
20 USC 3171.

"SEC. 5101. SHORT TITLE.

"This title may be cited as the 'Drug-Free Schools and Communities Act of 1986'.

20 USC 3172.

"SEC. 5102. FINDINGS.

"The Congress finds that:

"(1) Drug abuse education and prevention programs are essential components of a comprehensive strategy to reduce the demand for and use of drugs throughout the Nation.

"(2) Drug use and alcohol abuse are widespread among the Nation's students, not only in secondary schools, but increasingly in elementary schools as well.

"(3) The use of drugs and the abuse of alcohol by students constitute a grave threat to their physical and mental well-being and significantly impede the learning process.

"(4) The tragic consequences of drug use and alcohol abuse by students are felt not only by students and their families, but also by their communities and the Nation, which can ill afford to lose their skills, talents, and vitality.

"(5) Schools and local organizations in communities throughout the Nation have special responsibilities to work together to combat the scourge of drug use and alcohol abuse.

"(6) Prompt action by our Nation's schools, families, and communities can bring significantly closer the goal of a drug-free generation and a drug-free society.

20 USC 3173.

"SEC. 5103. PURPOSE.

"It is the purpose of this title to establish programs of drug abuse education and prevention (coordinated with related community efforts and resources) through the provision of Federal financial assistance—

Grants.

"(1) to States for grants to local and intermediate educational agencies and consortia to establish, operate, and improve local programs of drug abuse prevention, early intervention,

rehabilitation referral, and education in elementary and secondary schools (including intermediate and junior high schools);

"(2) to States for grants to and contracts with community-based organizations for programs of drug abuse prevention, early intervention, rehabilitation referral, and education for school dropouts and other high-risk youth; Grants. Contracts.

"(3) to States for development, training, technical assistance, and coordination activities;

"(4) to institutions of higher education to establish, implement, and expand programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in colleges and universities; and

"(5) to institutions of higher education in cooperation with State and local educational agencies for teacher training programs in drug abuse education and prevention.

"PART A—FINANCIAL ASSISTANCE FOR DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS

"SEC. 5111. AUTHORIZATION OF APPROPRIATIONS. 20 USC 3181.

"(a) IN GENERAL.—For the purpose of carrying out this title, there are authorized to be appropriated $250,000,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

"(b) AVAILABILITY.—(1) Appropriations for any fiscal year for payments made under this title in accordance with regulations of the Secretary may be made available for obligation or expenditure by the agency or institution concerned on the basis of an academic or school year differing from such fiscal year.

"(2) Funds appropriated for any fiscal year under this title shall remain available for obligation and expenditure until the end of the fiscal year succeeding the fiscal year for which such funds were appropriated.

"SEC. 5112. RESERVATIONS AND STATE ALLOTMENTS. 20 USC 3182.

"(a) RESERVATIONS.—From the sums appropriated or otherwise made available to carry out this title for any fiscal year, the Secretary shall reserve—

"(1) 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Northern Mariana Islands, to be allotted in accordance with their respective needs; Territories, U.S.

"(2) 1 percent for programs for Indian youth under section 5133; Indians.

"(3) 0.2 percent for programs for Hawaiian natives under section 5134;

"(4) 8 percent for programs with institutions of higher education under section 5131;

"(5) 3.5 percent for Federal activities under section 5132; and

"(6) 4.5 percent for regional centers under section 5135.

"(b) STATE ALLOTMENTS.—(1) From the remainder of the sums not reserved under subsection (a), the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school-age population of the State bears to the school-age population of all States, except that no State shall be allotted less than an amount equal to 0.5 percent of such remainder.

"(2) The Secretary may reallot any amount of any allotment to a State to the extent that the Secretary determines that the State will not be able to obligate such amount within 2 years of allotment. Any such reallotment shall be made on the same basis as an allotment under paragraph (1).

"(3) For purposes of this subsection, the term 'State' means any of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(4) For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotment under this subsection from amounts appropriated for that fiscal year.

"PART B—STATE AND LOCAL PROGRAMS

20 USC 3191.

"SEC. 5121. USE OF ALLOTMENTS BY STATES.

"(a) STATE PROGRAM.—An amount equal to 30 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the chief executive officer of such State for a State program in accordance with section 5122.

Grants.

"(b) WITHIN STATE DISTRIBUTION; ADMINISTRATIVE COSTS.—An amount equal to 70 percent of the total amount paid to a State from its allotment under section 5112 for any fiscal year shall be used by the State educational agency to carry out its responsibilities in accordance with section 5124 and for grants to local and intermediate educational agencies and consortia for programs and activities in accordance with section 5125.

20 USC 3192.

"SEC. 5122. STATE PROGRAMS.

Grants.
Contracts.

"(a) IN GENERAL.—Not more than 50 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for grants to and contracts with local governments and other public or private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) for the development and implementation of programs and activities such as—

"(1) local broadly-based programs for drug and alcohol abuse prevention, early intervention, rehabilitation referral, and education for all age groups;

"(2) training programs concerning drug abuse education and prevention for teachers, counselors, other educational personnel, parents, local law enforcement officials, judicial officials, other public service personnel, and community leaders;

"(3) the development and distribution of educational and informational materials to provide public information (through the media and otherwise) for the purpose of achieving a drug-free society;

"(4) technical assistance to help community-based organizations and local and intermediate educational agencies and consortia in the planning and implementation of drug abuse prevention, early intervention, rehabilitation referral, and education programs;

"(5) activities to encourage the coordination of drug abuse education and prevention programs with related community efforts and resources, which may involve the use of a broadly representative State advisory council including members of the State board of education, members of local boards of education,

parents, teachers, counselors, health and social service professionals, and others having special interest or expertise; and

"(6) other drug abuse education and prevention activities consistent with the purposes of this title, which may include a youth suicide prevention program.

"(b) INNOVATIVE PROGRAMS.—(1) Not less than 50 percent of the funds available for each fiscal year under section 5121(a) to the chief executive officer of a State shall be used for innovative community-based programs of coordinated services for high-risk youth. The chief executive officer of such State shall make grants to or contracts with local governments and other public and private nonprofit entities (including parent groups, community action agencies, and other community-based organizations) to carry out such services.

Grants.
Contracts.

"(2) For purposes of this subsection, the term 'high risk youth' means an individual who has not attained the age of 21 years, who is at high risk of becoming or who has been a drug or alcohol abuser, and who—

"(A) is a school dropout;
"(B) has become pregnant;
"(C) is economically disadvantaged;
"(D) is the child of a drug or alcohol abuser;
"(E) is a victim of physical, sexual, or psychological abuse;
"(F) has committed a violent or delinquent act;
"(G) has experienced mental health problems;
"(H) has attempted suicide; or
"(I) has experienced long-term physical pain due to injury.

"SEC. 5123. STATE APPLICATIONS.

20 USC 3193.

"(a) IN GENERAL.—In order to receive an allotment under section 5112(b), a State shall submit an application to the Secretary. As part of such application, the chief executive officer of the State shall agree to use the funds made available under section 5121(a) in accordance with the requirements of this part. As part of such application, the State educational agency of the State shall agree to use the funds made available under section 5121(b) in accordance with the requirements of this part.

"(b) CONTENTS OF APPLICATIONS.—The application submitted by each State under subsection (a) shall—

"(1) cover a period of three fiscal years;

"(2) be submitted at such time and in such manner, and contain such information, as the Secretary may require;

"(3) contain assurances that the Federal funds made available under this part for any period will be so used as to supplement and increase the level of State, local, and non-Federal funds that would in the absence of such Federal funds be made available for the programs and activities for which funds are provided under this part and will in no event supplant such State, local, and other non-Federal funds;

"(4) provide that the State will keep such records and provide such information as may be required by the Secretary for fiscal audit and program evaluation;

Records.

"(5) contain assurances that there is compliance with the specific requirements of this part;

"(6) describe the manner in which the State educational agency will coordinate its efforts with appropriate State health, law enforcement, and drug abuse prevention agencies, including

the State agency which administers the Alcohol, Drug Abuse, and Mental Health block grant under part B of title XIX of the Public Health Service Act;

"(7) provide assurances that the State educational agency will provide financial assistance under this part only to local and intermediate educational agencies and consortia which establish and implement drug abuse education and prevention programs in elementary and secondary schools;

"(8) provide for an annual evaluation of the effectiveness of programs assisted under this part; and

"(9) provide a description of how, where feasible, the alcohol and drug abuse programs will be coordinated with youth suicide prevention programs funded by the Federal Government, State and local governments, and nongovernmental agencies and organizations.

20 USC 3194.

"SEC. 5124. RESPONSIBILITIES OF STATE EDUCATIONAL AGENCIES.

"(a) GRANTS TO LOCAL AND INTERMEDIATE EDUCATIONAL AGENCIES.—Each State educational agency shall use a sum which shall be not less than 90 percent of the amounts available under section 5121(b) for each fiscal year for grants to local and intermediate educational agencies and consortia in the State, in accordance with applications approved under section 5126. From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative enrollments in public and private nonprofit schools within the areas served by such agencies. Any amount of the funds made available for use in any area remaining unobligated for more than 1 year after the funds were made available may be provided by the State educational agency to local or intermediate educational agencies or consortia having plans for programs or activities capable of using such amount on a timely basis.

"(b) STATE PROGRAMS.—Each State educational agency shall use not more than 10 percent of the amounts available under section 5121(b) for each fiscal year for such activities as—

"(1) training and technical assistance programs concerning drug abuse education and prevention for local and intermediate educational agencies, including teachers, administrators, athletic directors, other educational personnel, parents, local law enforcement officials, and judicial officials;

"(2) the development, dissemination, implementation, and evaluation of drug abuse education curricular and teaching materials for elementary and secondary schools throughout the State;

"(3) demonstration projects in drug abuse education and prevention;

"(4) special financial assistance to enhance resources available for drug abuse education and prevention in areas serving large numbers of economically disadvantaged children or sparsely populated areas, or to meet special needs; and

"(5) administrative costs of the State educational agency in carrying out its responsibilities under this part, not in excess of 2.5 percent of the amount available under section 5121(b).

"SEC. 5125. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS. 20 USC 3195.

"(a) IN GENERAL.—Any amounts made available to local or intermediate educational agencies or consortia under section 5124(a) shall be used for drug and alcohol abuse prevention and education programs and activities, including—

"(1) the development, acquisition, and implementation of elementary and secondary school drug abuse education and prevention curricula which clearly and consistently teach that illicit drug use is wrong and harmful;

"(2) school-based programs of drug abuse prevention and early intervention (other than treatment);

"(3) family drug abuse prevention programs, including education for parents to increase awareness about the symptoms and effects of drug use through the development and dissemination of appropriate educational materials;

"(4) drug abuse prevention counseling programs (which counsel that illicit drug use is wrong and harmful) for students and parents, including professional and peer counselors and involving the participation (where appropriate) of parent, or other adult counselors and reformed abusers;

"(5) programs of referral for drug abuse treatment and rehabilitation;

"(6) programs of inservice and preservice training in drug and alcohol abuse prevention for teachers, counselors, other educational personnel, athletic directors, public service personnel, law enforcement officials, judicial officials, and community leaders;

"(7) programs in primary prevention and early intervention, such as the interdisciplinary school-team approach;

"(8) community education programs and other activities to involve parents and communities in the fight against drug and alcohol abuse;

"(9) public education programs on drug and alcohol abuse, including programs utilizing professionals and former drug and alcohol abusers;

"(10) on-site efforts in schools to enhance identification and discipline of drug and alcohol abusers, and to enable law enforcement officials to take necessary action in cases of drug possession and supplying of drugs and alcohol to the student population;

"(11) special programs and activities to prevent drug and alcohol abuse among student athletes, involving their parents and family in such drug and alcohol abuse prevention efforts and using athletic programs and personnel in preventing drug and alcohol abuse among all students; and

"(12) other programs of drug and alcohol abuse education and prevention, consistent with the purposes of this part.

"(b) ELIGIBILITY.—A local or intermediate educational agency or consortium may receive funds under this part for any fiscal year covered by an application under section 5126 approved by the State educational agency.

"SEC. 5126. LOCAL APPLICATIONS. 20 USC 3196.

"(a) IN GENERAL.—(1) In order to be eligible to receive a grant under this part for any fiscal year, a local or intermediate edu- Grants.

cational agency or consortium shall submit an application to the State educational agency for approval.

"(2) An application under this section shall be for a period not to exceed 3 fiscal years and may be amended annually as may be necessary to reflect changes without filing a new application. Such application shall—

"(A) set forth a comprehensive plan for programs to be carried out by the applicant under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) establish or designate a local or substate regional advisory council on drug abuse education and prevention composed of individuals who are parents, teachers, officers of State and local government, medical professionals, representatives of the law enforcement community, community-based organizations, and other groups with interest and expertise in the field of drug abuse education and prevention;

"(D) describe the extent of the current drug and alcohol problem in the schools of the applicant;

"(E) describe the applicant's drug and alcohol policy, including an explanation of—

"(i) the practices and procedures it will enforce to eliminate the sale or use of drugs and alcohol on school premises; and

"(ii) how it will convey to students the message that drug use is not permissible;

"(F) describe how the applicant will monitor the effectiveness of its program;

"(G) describe the manner in which the applicant will establish, implement, or augment mandatory age-appropriate, developmentally-based, drug abuse education and prevention programs for students throughout all grades of the schools operated or served by the applicant (from the early childhood level through grade 12), and provide assurances that the applicant enforces related rules and regulations of student conduct;

"(H) describe the manner in which the applicant will coordinate its efforts under this part with other programs in the community related to drug abuse education, prevention, treatment, and rehabilitation;

"(I) provides assurances that the applicant will coordinate its efforts with appropriate State and local drug and alcohol abuse, health, and law enforcement agencies, in order to effectively conduct drug and alcohol abuse education, intervention, and referral for treatment and rehabilitation for the student population;

"(J) provide assurances that the Federal funds made available under this part shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes described in this part, and in no case supplant such funds;

"(K) provide assurances of compliance with the provisions of this part;

Records.

"(L) agree to keep such records and provide such information to the State educational agency as reasonably may be required

for fiscal audit and program evaluation, consistent with the responsibilities of the State agency under this part; and

"(M) include such other information and assurances as the State educational agency reasonably determines to be necessary.

"(b) PROGRESS REPORTS.—(1) An applicant shall submit to the State educational agency a progress report on the first 2 fiscal years of implementation of its plan. The progress report shall include—

"(A) the applicant's significant accomplishments under the plan during the preceding 2 years; and

"(B) the extent to which the original objectives of the plan are being achieved.

"(2) If the State educational agency determines that the applicant's progress report shows that it is not making reasonable progress toward accomplishing the objectives of its plan and the purposes of this Act, the State educational agency shall provide such technical assistance to the applicant as may be necessary.

"SEC. 5127. STATE REPORTS. 20 USC 3197.

"Each State shall submit to the Secretary a biennial report that contains information on the State and local programs conducted under this Act in the State.

"PART C—NATIONAL PROGRAMS

"SEC. 5131. GRANTS TO INSTITUTIONS OF HIGHER EDUCATION. 20 USC 3211.

"(a) IN GENERAL.—(1) From sums reserved by the Secretary under section 5112(a)(4) for the purposes of this section, the Secretary shall make grants to or enter into contracts with institutions of higher education or consortia of such institutions for drug abuse education and prevention programs under this section. Contracts.

"(2) The Secretary shall make financial assistance available on a competitive basis under this section. An institution of higher education or consortium of such institutions which desires to receive a grant or enter into a contract under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require in accordance with regulations.

"(3) The Secretary shall make every effort to ensure the equitable participation of private and public institutions of higher education (including community and junior colleges) and to ensure the equitable geographic participation of such institutions. In the award of grants and contracts under this section, the Secretary shall give appropriate consideration to colleges and universities of limited enrollment.

"(4) Not less than 50 percent of sums available for the purposes of this section shall be used to make grants under subsection (d).

"(b) TRAINING GRANTS.—Training grants shall be available for—

"(1) preservice and inservice training and instruction of teachers and other personnel in the field of drug abuse education and prevention in elementary and secondary schools;

"(2) summer institutes and workshops in instruction in the field of drug abuse education and prevention;

"(3) research and demonstration programs for teacher training and retraining in drug abuse education and prevention; and Research and development.

"(4) training programs for law enforcement officials, judicial officials, community leaders, parents, and government officials.

"(c) GRANTS FOR MODEL DEMONSTRATION PROGRAMS.—Grants shall be available for model demonstration programs to be coordinated with local elementary and secondary schools for the development and implementation of quality drug abuse education curricula. In the award of grants under this subsection, the Secretary shall give priority consideration to joint projects involving faculty of institutions of higher education and teachers in elementary and secondary schools in the practical application of the findings of educational research and evaluation and the integration of such research into drug abuse education and prevention programs.

Research and development.

"(d) GRANTS FOR PROGRAMS OF DRUG ABUSE EDUCATION AND PREVENTION.—Grants shall be available under this subsection to develop, implement, operate, and improve programs of drug abuse education and prevention (including rehabilitation referral) for students enrolled in institutions of higher education.

"(e) COLLABORATIVE EFFORTS.—In making grants under paragraphs (1) and (2) of subsection (b), the Secretary shall encourage projects which provide for coordinated and collaborative efforts between State educational agencies, local educational agencies, and regional centers established under section 5135.

20 USC 3212.

"SEC. 5132. FEDERAL ACTIVITIES.

"(a) USE OF RESERVED FUNDS.—From sums reserved by the Secretary under section 5112(a)(5), the Secretary shall carry out the purposes of this section.

"(b) FEDERAL DRUG ABUSE EDUCATION AND PREVENTION ACTIVITIES.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall carry out Federal education and prevention activities on drug abuse. The Secretary shall coordinate such drug abuse education and prevention activities with other appropriate Federal activities related to drug abuse. The Secretary shall directly or through grants, cooperative agreements, or contracts—

Grants.
Contracts.

"(1) provide information on drug abuse education and prevention to the Secretary of Health and Human Services for dissemination by the clearinghouse for alcohol and drug abuse information established under section 509 of the Public Health Service Act;

"(2) facilitate the utilization of appropriate means of communicating to students at all educational levels about the dangers of drug use and alcohol abuse, especially involving the participation of entertainment personalities and athletes who are recognizable role models for many young people;

"(3) develop, publicize the availability of, and widely disseminate audio-visual and other curricular materials for drug abuse education and prevention programs in elementary and secondary schools throughout the Nation;

"(4) provide technical assistance to State, local, and intermediate education agencies and consortia in the selection and implementation of drug abuse education and prevention curricula, approaches, and programs to address most effectively the needs of the elementary and secondary schools served by such agencies; and

Research and development.

"(5) identify research and development priorities with regard to school-based drug abuse education and prevention, particularly age-appropriate programs focusing on kindergarten through grade 4.

"(c) STUDIES.—The Secretary of Education in conjunction with the Secretary of Health and Human Services shall conduct, directly or by contract, a study of the relationship between drug and alcohol abuse and youth suicide and shall submit a report of the findings of such studies to the President and to the appropriate committees of the Congress not later than 1 year after the date of the enactment of this title. In addition the Secretary may conduct periodic evaluations of programs authorized by this Act. Contracts. Reports.

"SEC. 5133. PROGRAMS FOR INDIAN YOUTH. 20 USC 3213.

"(a) USE OF RESERVED FUNDS.—From the funds reserved pursuant to section 5112(a)(2), the Secretary shall make payments and grants and enter into other financial arrangements for Indian programs in accordance with this subsection. Grants.

"(b) FINANCIAL ARRANGEMENTS.—The Secretary of Education shall enter into such financial arrangements as the Secretary determines will best carry out the purposes of this title to meet the needs of Indian children on reservations serviced by elementary and secondary schools funded for Indian children by the Department of the Interior. Such arrangements shall be made pursuant to an agreement between the Secretary of Education and the Secretary of the Interior containing such assurances and terms as they determine will best achieve the purposes of this title. Contracts.

"(c) GRANT AND CONTRACT AUTHORITY.—The Secretary of Education may, upon request of any Indian tribe which is eligible to contract with the Secretary of the Interior for the administration of programs under the Indian Self-Determination Act or under the Act of April 16, 1934, enter into grants or contracts with any tribal organization of any such Indian tribe to plan, conduct, and administer programs which are authorized and consistent with the purposes of this title (particularly programs for Indian children who are school dropouts), except that such grants or contracts shall be subject to the terms and conditions of section 102 of the Indian Self-Determination Act and shall be conducted in accordance with sections 4, 5, and 6 of the Act of April 16, 1934, which are relevant to the programs administered under this paragraph.

"(d) ADDITIONAL PROGRAMS.—Programs funded under this subsection shall be in addition to such other programs, services, and activities as are made available to eligible Indians under other provisions of this title.

"SEC. 5134. PROGRAMS FOR HAWAIIAN NATIVES. 20 USC 3214.

"(a) GENERAL AUTHORITY.—From the funds reserved pursuant to section 5112(a)(3), the Secretary shall make grants to or enter into cooperative agreements or contracts with organizations primarily serving and representing Hawaiian natives which are recognized by the Governor of the State of Hawaii to plan, conduct, and administer programs, or portions thereof, which are authorized by and consistent with the provisions of this title for the benefit of Hawaiian natives. Grants. Contracts.

"(b) DEFINITION OF 'HAWAIIAN NATIVE'.—For the purposes of this section, the term 'Hawaiian native' means any individual any of whose ancestors were natives, prior to 1778, of the area which now comprises the State of Hawaii.

20 USC 3215.

"SEC. 5135. REGIONAL CENTERS.

Grants.
Contracts.

"The Secretary, through grants, cooperative agreements, or contracts, shall use the amounts made available to carry out this section for each fiscal year to maintain 5 regional centers to—

"(1) train school teams to assess the scope and nature of their drug abuse and alcohol abuse problems, mobilize the community to address such problems, design appropriate curricula, identify students at highest risk and refer them to appropriate treatment, and institutionalize long-term effective drug and alcohol abuse programs, including long-range technical assistance, evaluation, and followup on such training;

"(2) assist State educational agencies in coordinating and strengthening drug abuse and alcohol abuse education and prevention programs;

"(3) assist local educational agencies and institutions of higher education in developing appropriate preservice and in-service training programs for educational personnel; and

"(4) evaluate and disseminate information on effective drug abuse and alcohol abuse education and prevention programs and strategies.

"PART D—GENERAL PROVISIONS

20 USC 3221.

"SEC. 5141. DEFINITIONS.

"(a) GENERAL RULE.—Except as otherwise provided, the terms used in this title shall have the meaning provided under section 1471 of title 1 of this Act.

"(b) SPECIFIC DEFINITIONS.—For the purposes of this title, the following terms have the following meanings:

"(1) The term 'drug abuse education and prevention' means prevention, early intervention, rehabilitation referral, and education related to the abuse of alcohol and the use and abuse of controlled, illegal, addictive, or harmful substances.

"(2) The term 'illicit drug use' means the use of illegal drugs and the abuse of other drugs and alcohol.

"(3) The term 'Secretary' means the Secretary of Education.

"(4) The term 'school-age population' means the population aged 5 through 17 (inclusive), as determined by the Secretary on the basis of the most recent satisfactory data available from the Department of Commerce.

"(5) The term 'school dropout' means an individual aged 5 through 18 who is not attending any school and who has not received a secondary school diploma or a certificate from a program of equivalency for such a diploma. This definition shall not apply after the Secretary defines such term as required by section 6201 of this Act.

"(6) The term 'State' means a State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, or the Virgin Islands.

"(7) The term 'institution of higher education' means an educational institution in any State which—

"(A) admits as regular students only individuals having a certificate of graduation from a high school, or the recognized equivalent of such a certificate;

"(B) is legally authorized within such State to provide a program of education beyond high school;

"(C) provides an educational program for which it awards a bachelor's degree, or provides not less than a 2-year program which is acceptable for full credit toward such a degree, or offers a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or other technological fields which require the understanding and application of basic engineering, scientific, or mathematical principles or knowledge;

"(D) is a public or other nonprofit institution; and

"(E) is accredited by a nationally recognized accrediting agency or association listed by the Secretary pursuant to this paragraph or, if not so accredited, is an institution whose credits are accepted, on transfer, by not less than 3 institutions which are so accredited, for credit on the same basis as if transferred from an institution so accredited, except that in the case of an institution offering a 2-year program in engineering, mathematics, or the physical or biological sciences which is designed to prepare the student to work as a technician and at a semiprofessional level in engineering, scientific, or technological fields which requires the understanding and application of basic engineering, scientific, or mathematical principles or knowledge if the Secretary determines that there is no nationally recognized accrediting agency or association qualified to accredit such institutions, the Secretary shall appoint an advisory committee, composed of persons specially qualified to evaluate training provided by such institutions, which shall prescribe the standards of content, scope, and quality which must be met in order to qualify such institutions to participate under this title and shall also determine whether particular institutions meet such standards. For the purposes of this paragraph the Secretary shall publish a list of nationally recognized accrediting agencies or associations which he determines to be reliable authority as to the quality of education or training offered.

"(8) The term 'nonprofit' as applied to a school, agency, organization, or institution means a school, agency, organization, or institution owned and operated by one or more nonprofit corporations or associations no part of the net earnings of which inures, or may lawfully inure, to the benefit of any private shareholder or individual.

"(9) The term 'consortium' (except in section 5131) means a consortium of local educational agencies or of one or more intermediate educational agencies and one or more local educational agencies.

"SEC. 5142. FUNCTIONS OF THE SECRETARY OF EDUCATION. 20 USC 3222.

"(a) ADMINISTRATION.—The Secretary shall be responsible for the administration of the programs authorized by this title.

"(b) APPLICABILITY OF GENERAL EDUCATION PROVISIONS ACT.—Except as otherwise provided, the General Education Provisions Act shall apply to programs authorized by this title.

20 USC 3223.

"SEC. 5143. PARTICIPATION OF CHILDREN AND TEACHERS FROM PRIVATE NONPROFIT SCHOOLS.

"(a) PARTICIPATION OF PRIVATE SCHOOL CHILDREN.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision for including services and arrangements for the benefit of such children as will assure the equitable participation of such children in the purposes and benefits of this title.

"(b) PARTICIPATION OF PRIVATE SCHOOL TEACHERS.—To the extent consistent with the number of school-age children in the State or in the school attendance area of a local or intermediate educational agency or consortium receiving financial assistance under part B who are enrolled in private nonprofit elementary and secondary schools, such State, agency, or consortium shall, after consultation with appropriate private school representatives, make provision, for the benefit of such teachers in such schools, for such teacher training as will assure equitable participation of such teachers in the purposes and benefits of this title.

"(c) WAIVER; PROVISION OF SERVICES BY SECRETARY.—If by reason of any provision of law a State, local, or intermediate educational agency or consortium is prohibited from providing for the participation of children or teachers from private nonprofit schools as required by subsections (a) and (b) or, if the Secretary determines that a State, local, or intermediate educational agency or consortium has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children or teachers which shall be subject to the requirements of this section. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with section 1017 of this Act.

20 USC 3224.

"SEC. 5144. MATERIALS.

"Any materials produced or distributed with funds made available under this title shall reflect the message that illicit drug use is wrong and harmful. The Secretary shall not review curricula and shall not promulgate regulations to carry out this subsection or subparagraph (1) or (4) of section 5125(a).

"PART E—MISCELLANEOUS PROVISIONS

20 USC 3231.

"SEC. 5191. INDIAN EDUCATION PROGRAMS.

"(a) PILOT PROGRAMS.—The Assistant Secretary of Indian Affairs shall develop and implement pilot programs in selected schools funded by the Bureau of Indian Affairs (subject to the approval of the local school board or contract school board) to determine the effectiveness of summer youth programs in furthering the purposes and goals of the Indian Alcohol and Substance Abuse Prevention Act of 1986. The Assistant Secretary shall defray all costs associated with the actual operation and support of the pilot programs in the school from funds appropriated for this section. For the pilot pro-

Appropriation authorization.

grams there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1987, 1988, and 1989.

"(b) USE OF FUNDS.—Federal financial assistance made available to public or private schools because of the enrollment of Indian children pursuant to—

"(1) the Act of April 16, 1934, as amended by the Indian Education Assistance Act (25 U.S.C. 452 et seq.),

"(2) the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241aa et seq.), and

"(3) the Indian Education Act (20 U.S.C. 3385),

may be used to support a program of instruction relating to alcohol and substance abuse prevention and treatment.

"SEC. 5192. TRANSITION. 20 USC 3232.

"Notwithstanding section 1003 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, a State educational agency may allot funds for each of the fiscal years 1987 and 1988 to local and intermediate educational agencies and consortia under section 4124 of the Drug-Free Schools and Communities Act of 1986 on the basis of their relative numbers of children in the school-age population.

"TITLE VI—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROP-OUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

"PART A—ASSISTANCE TO ADDRESS SCHOOL DROPOUT PROBLEMS

School Dropout Demonstration Assistance Act of 1988.

"SEC. 6001. SHORT TITLE. 20 USC 3241.

"This part may be cited as the 'School Dropout Demonstration Assistance Act of 1988'.

"SEC. 6002. PURPOSE. 20 USC 3242.

"The purpose of this part is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish and demonstrate—

"(1) effective programs to identify potential student dropouts and prevent them from dropping out;

"(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

"(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

"(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

"SEC. 6003. AUTHORIZATION OF APPROPRIATIONS. 20 USC 3243.

"There are authorized to be appropriated to carry out this part $50,000,000 for the fiscal year 1989.

20 USC 3244.

"SEC. 6004. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

"(a) ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated under section 6003 for any fiscal year, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

"(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of the amount appropriated.

"(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of the amount appropriated.

"(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of the amount appropriated. Grants may be made under this paragraph to intermediate educational units and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such units and consortia may also apply in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

"(4) Community-based organizations shall be allotted 5 percent of the amount appropriated. Grants under this category shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

"(b) SPECIAL TREATMENT OF EDUCATIONAL PARTNERSHIPS.—(1) The Secretary shall allot 25 percent of the funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) of this section to educational partnerships.

"(2) Educational partnerships under this subsection shall include—

"(A) a local educational agency; and

"(B) a business concern or business organization, or, if an appropriate business concern or business organization is not available, one of the following: any community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

"(c) AWARD OF GRANT.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 6005 and whose applications propose a program of sufficient size and scope to be of value as a demonstration. The grants shall be made under such terms and conditions as the Secretary shall prescribe consistent with the provisions of this part.

"(d) USE OF FUNDS WHEN NOT FULLY NEEDED FOR EDUCATIONAL PARTNERSHIPS.—(1) Whenever the Secretary determines that the full amount of the sums made available under subsection (b) in each category for educational partnerships will not be required for applications of educational partnerships, the Secretary shall make the amount not so required available to local educational agencies in the same category in which the funds are made available.

"(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund educational partnerships and shall prepare a list of the categories in which additional funds are available, and the reasons therefor, and make such list available to local educational agencies upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(e) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—(1) Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories (1) through (3), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of amounts from one category to another is made to a category in which there is the greatest need for funds.

"(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships, upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

"(f) FEDERAL SHARE.—(1) The Federal share of a grant under this part may not exceed—

"(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this part, and

"(B) 75 percent of such cost for the second such year.

"(2) The remaining cost of a project that receives assistance under this part may be paid from any source other than funds made available under this part, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this part.

"(3) The share of payments from sources other than funds made available under this part may be in cash or in kind fairly evaluated, including plant, equipment or services.

"SEC. 6005. APPLICATION.

20 USC 3245.

Grants.

"(a) IN GENERAL.—(1) A grant under this part may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

"(2) Applications shall be for a 1-year period.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) provide documentation of—

"(A) the number of children who were enrolled in the schools of the applicant for the 5 academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts pursuant to section 5141(b)(5); and

"(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

"(2) include a plan for the development and implementation of a dropout information collection and reporting system for documenting the extent and nature of the dropout problem;

"(3) include a plan for coordinated activities involving at least 1 high school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

"(4) include a plan for the development and implementation of a project including activities designed to carry out the purpose of this part, such as—

"(A) implementing identification, prevention, outreach, or reentry projects for dropouts and potential dropouts;

"(B) addressing the special needs of school-age parents;

"(C) disseminating information to students, parents, and the community related to the dropout problem;

"(D) as appropriate, including coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

Communications and telecommunications.

"(E) involving the use of educational and telecommunications and broadcasting technologies and educational materials for dropout prevention, outreach, and reentry;

"(F) providing activities which focus on developing occupational competencies which link job skill preparation and training with genuine job opportunities;

"(G) establishing annual procedures for—

"(i) evaluating the effectiveness of the project; and

"(ii) where possible, determining the cost-effectiveness of the particular dropout prevention and reentry methods used and the potential for reproducing such methods in other areas of the country;

"(H) coordinating, to the extent practicable, with other student dropout activities in the community; or

"(I) using the resources of the community and parents to help develop and implement solutions to the local dropout problem; and

"(5) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

"(c) PRIORITY.—The Secretary shall, in approving applications under this section, give priority to applications which both show the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency and reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 6004(a).

"(d) SPECIAL CONSIDERATION.—The Secretary shall give additional special consideration to applications that include—

"(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

"(2) provisions for significant parental involvement.

"SEC. 6006. AUTHORIZED ACTIVITIES. 20 USC 3246.

"(a) IN GENERAL.—Grants under this part shall be used to carry out plans set forth in applications approved under section 6005. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including, but not limited to— Grants.

"(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

"(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school;

"(3) the establishment or expansion of work-study, apprentice, or internship programs;

"(4) the use of resources of the community, including contracting with public or private entities or community-based organizations of demonstrated performance, to provide services to the grant recipient or the target population; Contracts.

"(5) the evaluation and revision of program placement of students at risk;

"(6) the evaluation of program effectiveness of dropout programs;

"(7) the development and implementation of programs for traditionally underserved groups of students;

"(8) the implementation of activities which will improve student motivation and the school learning environment;

"(9) the provision of training for school staff on strategies and techniques designed to—

"(A) identify children at risk of dropping out;

"(B) intervene in the instructional program with support and remedial services;

"(C) develop realistic expectations for student performance; and

"(D) improve student-staff interactions;

"(10) the study of the relationship between drugs and dropouts and between youth gangs and dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs;

"(11) the study of the relationship between handicapping conditions and student dropouts;

"(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

"(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities; and Communications and telecommunications.

"(14) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this part.

Grants.

"(b) ACTIVITIES FOR EDUCATIONAL PARTNERSHIPS.—Grants under this part may be used by educational partnerships for—

Employment and unemployment.

"(1) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

"(2) internship, work study, or apprenticeship programs;

"(3) summer employment programs;

"(4) occupational training programs;

"(5) career opportunity and skills counseling;

"(6) job placement services;

"(7) the development of skill employment competency testing programs;

"(8) special school staff training projects; and

"(9) any other activity described in subsection (a).

Grants.
20 USC 3247.

"SEC. 6007. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS.

"(a) DISTRIBUTION OF ASSISTANCE.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this part—

"(1) grants are equitably distributed on a geographic basis within each category set forth in section 6004(a);

"(2) the amount of a grant to a local educational agency for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

"(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

"(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once they return to school.

"(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant made under this part may be used for administrative costs.

"PART B—ASSISTANCE TO PROVIDE BASIC SKILLS IMPROVEMENT

Secondary Schools Basic Skills Demonstration Assistance Act of 1988.
20 USC 3261.

"SEC. 6101. SHORT TITLE.

"This part may be cited as the 'Secondary Schools Basic Skills Demonstration Assistance Act of 1988'.

Disadvantaged persons.
20 USC 3262.

"SEC. 6102. PURPOSE.

"It is the purpose of this part to provide assistance to local educational agencies with high concentrations of children from low-income families to improve the achievement of educationally disadvantaged children enrolled in the secondary schools of such agencies.

20 USC 3263.

"SEC. 6103. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this part $200,000,000 for fiscal year 1989.

"SEC. 6104. GRANTS TO LOCAL EDUCATIONAL AGENCIES. 20 USC 3264.

"(a) GENERAL AUTHORITY.—From the amount appropriated under section 6103 for any fiscal year the Secretary shall make grants to local educational agencies in accordance with the provisions of this part.

"(b) COMMUNITY-BASED ORGANIZATIONS RULE.—Each local educational agency may carry out the activities described in section 6105 in cooperation with community-based organizations.

"(c) ELIGIBLE STUDENTS.—Secondary school students who meet the requirements of part A of chapter 1 of title I of this Act other than the requirement of attendance in the designated school attendance area shall be eligible to participate in programs and activities assisted under this part.

"SEC. 6105. AUTHORIZED ACTIVITIES. 20 USC 3265.

"(a) IN GENERAL.—Funds made available under this part may be used—

"(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

"(2) to develop innovative approaches—

"(A) for surmounting barriers that make secondary school programs under this part difficult for certain students to attend and difficult for secondary schools to administer, such as scheduling problems; and

"(B) for courses leading to successful completion of the general educational development test or of graduation requirements;

"(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, pre-employment training, or transition-to-work activities; Employment and unemployment.

"(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

"(5) to use the resources of the community to assist in providing services to the target population;

"(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

"(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other pupil services which are necessary to assist eligible students; or

"(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this part and under part A of chapter 1 of title I of this Act, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

"(b) LIMITATION.—Not more than 25 percent of amounts available to a local educational agency under this part may be used by such

agency for noninstructional services such as those described in subsections (a)(3), (a)(5), and (a)(7).

20 USC 3266.

"SEC. 6106. APPLICATION.

Grants.

"(a) IN GENERAL.—(1) A grant under this part may be made only to a local educational agency which submits an application to the Secretary containing or accompanied by such information as the Secretary may reasonably require.

"(2) Applications shall be for a 1-year period.

"(b) CONTENTS OF APPLICATION.—Each such application shall include—

"(1) a description of the program goals and the manner in which funds will be used to initiate or expand services to secondary school students;

"(2) a description of the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel needed to develop, administer, and implement the program under this part);

"(3) a list of the secondary schools within the local educational agency in which programs will be conducted and a description of the needs of the schools, in terms of achievement levels of students and poverty rates;

"(4) an assurance that programs will be operated in secondary schools with the greatest need for assistance, in terms of achievement levels and poverty rates;

"(5) an assurance that parents of eligible students will be involved in the development and implementation of programs under this part;

"(6) a statement of the methods which will be used—

"(A) to ensure that the programs will serve eligible students most in need of the activities and services provided by this part; and

Disadvantaged persons. Handicapped persons.

"(B) an assurance that services will be provided under this part to special populations, such as individuals with limited English proficiency and individuals with handicaps;

"(7) an assurance that the program will be of sufficient size, scope, and quality to offer reasonable promise of success;

"(8) a description of the manner in which the agency will provide for equitable participation of private school students as provided under section 1017 of this Act;

"(9) a description of the methods by which the applicant will coordinate programs under this part with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Job Training Partnership Act, and other relevant Acts; and

"(10) such other information as the Secretary may require to determine the nature and quality of the proposed project and the applicant's ability to carry out the project.

"(c) APPROVAL OF APPLICATIONS.—(1) The Secretary shall, in approving applications under this section, give special consideration to programs that—

Disadvantaged persons.

"(A) demonstrate the greatest need for services assisted under this part based on their numbers or proportions of secondary

school children from low-income families and numbers or proportions of low-achieving secondary school children; and

"(B) offer innovative approaches to improving achievement among eligible secondary school children and offer approaches which show promise for replication and dissemination.

"(2) The Secretary shall ensure that programs for which applications are approved under this section are representative of urban and rural regions in the United States. Urban areas. Rural areas.

"(d) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant under this part may be used for administrative costs.

"PART C—GENERAL PROVISIONS

"SEC. 6201. GENERAL PROVISIONS. 20 USC 3271.

"(a) DEFINITION OF SCHOOL DROPOUT.—The Secretary shall, not later than 60 days after the date of the enactment of this title, establish a standard definition of a school dropout, after consultation with pertinent organizations and groups. If the Secretary has defined the term 'school dropout' for fiscal year 1988 that definition shall apply for the purposes of this section.

"(b) TIMELY AWARD OF GRANTS.—To the extent possible, for any fiscal year the Secretary shall award grants to local educational agencies and educational partnerships under this part not later than June 30 preceding such fiscal year.

"(c) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A local educational agency receiving Federal funds under this title shall use such Federal funds only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources or under provisions of Federal law other than this title for activities described in part A or part B of this title, as the case may be.

"(d) EVALUATION.—The Secretary shall evaluate programs operated with funds received under this title, and shall issue a report at the end of the grant period, but in no case later than January 30, 1991. Reports.

"(e) COORDINATION AND DISSEMINATION.—The Secretary shall require local educational agencies receiving grants under this title to cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

"(f) AUDIT.—The Comptroller General shall have access for the purpose of audit and examination to any books, documents, papers, and records of any local educational agency or educational partnership receiving assistance under this title that are pertinent to the sums received and disbursed under this title.

"(g) WITHHOLDING PAYMENTS.—Whenever the Secretary, after reasonable notice and opportunity for a hearing to any local educational agency or educational partnership, finds that the local educational agency or educational partnership has failed to comply substantially with the provisions set forth in its application approved under section 6105 or section 6106, the Secretary shall withhold payments under this title in accordance with section 453 of the General Education Provisions Act until the Secretary is satisfied that there is no longer any failure to comply.

"SEC. 6202. DEFINITIONS. 20 USC 3272.

"(a) As used in this title—

"(1) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which has a proven record of providing effective educational or related services to individuals in the community.

"(2) The term 'basic skills' includes reading, writing, mathematics, and computational proficiency as well as comprehension and reasoning.

Bilingual Education Act.

"TITLE VII—BILINGUAL EDUCATION PROGRAMS

20 USC 3281.

"SEC. 7001. SHORT TITLE.

"This title may be cited as the 'Bilingual Education Act'.

20 USC 3282.

"SEC. 7002. POLICY; APPROPRIATIONS.

"(a) POLICY.—Recognizing—

"(1) that there are large and growing numbers of children of limited English proficiency;

"(2) that many of such children have a cultural heritage which differs from that of English proficient persons;

"(3) that the Federal Government has a special and continuing obligation to assist in providing equal educational opportunity to limited English proficient children;

"(4) that, regardless of the method of instruction, programs which serve limited English proficient students have the equally important goals of developing academic achievement and English proficiency;

"(5) that the Federal Government has a special and continuing obligation to assist language minority students to acquire the English language proficiency that will enable them to become full and productive members of society;

"(6) that the instructional use and development of a child's non-English native language promotes student self-esteem, subject matter achievement, and English-language acquisition;

"(7) that a primary means by which a child learns is through the use of such child's native language and cultural heritage;

"(8) that, therefore, large numbers of children of limited English proficiency have educational needs which can be met by the use of bilingual educational methods and techniques;

"(9) that in some school districts establishment of bilingual education programs may be administratively impractical due to the presence of small numbers of students of a particular native language or because personnel who are qualified to provide bilingual instructional services are unavailable;

"(10) that States and local school districts should be encouraged to determine appropriate curricula for limited English proficient students within their jurisdictions and to develop and implement appropriate instructional programs;

"(11) that children of limited English proficiency have a high dropout rate and low median years of education;

"(12) that the segregation of many groups of limited English proficient students remains a serious problem;

"(13) that reliance on student evaluation procedures which are inappropriate for limited English proficient students have

resulted in the disproportionate representation of limited English proficient students in special education, gifted and talented, and other special programs;

"(14) that there is a serious shortage of teachers and educational personnel who are professionally trained and qualified to serve children of limited English proficiency;

"(15) that many schools fail to meet the full instructional needs of limited English proficient students who also may be handicapped or gifted and talented;

"(16) that both limited English proficient children and children whose primary language is English can benefit from bilingual education programs, and that such programs help develop our national linguistic resources and promote our international competitiveness;

"(17) that research, evaluation, and data collection capabilities in the field of bilingual education need to be strengthened so as to better identify and promote those programs and instructional practices which result in effective education;

"(18) that parent and community participation in bilingual education programs contributes to program effectiveness; and

"(19) that because of limited English proficiency, many adults are not able to participate fully in national life, and that limited English proficient parents are often not able to participate effectively in their children's education,

the Congress declares it to be the policy of the United States, in order to establish equal educational opportunity for all children and to promote educational excellence (A) to encourage the establishment and operation, where appropriate, of educational programs using bilingual educational practices, techniques, and methods, (B) to encourage the establishment of special alternative instructional programs for students of limited English proficiency in school districts where the establishment of bilingual education programs is not practicable or for other appropriate reasons, and (C) for those purposes, to provide financial assistance to local educational agencies, and, for certain related purposes, to State educational agencies, institutions of higher education, and community organizations. The programs assisted under this title include programs in elementary and secondary schools as well as related preschool and adult programs which are designed to meet the educational needs of individuals of limited English proficiency, with particular attention to children having the greatest need for such programs. Such programs shall be designed to enable students to achieve full competence in English and to meet school grade-promotion and graduation requirements. Such programs may additionally provide for the development of student competence in a second language.

"(b) AUTHORIZATION.—(1) For the purpose of carrying out the provisions of this title, there are authorized to be appropriated, subject to paragraph (6), $200,000,000 for the fiscal year 1989 and such sums as may be necessary for the fiscal year 1990 and for each succeeding fiscal year ending prior to October 1, 1993.

"(2) There are further authorized to be appropriated to carry out the provisions of section 7032, subject to paragraph (6), such sums as may be necessary for the fiscal year 1989 and each of the 4 succeeding fiscal years.

"(3) From the sums appropriated under paragraph (1) for part A for any fiscal year, the Secretary may reserve not to exceed 25 percent for special alternative instructional programs and related

activities authorized under section 7021(a)(3) and may include programs under paragraphs (2), (4), (5), and (6) of section 7021(a).

"(4) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 60 percent for the programs carried out under part A of this title; and of this amount, at least 75 percent shall be reserved for the programs of transitional bilingual education carried out under section 7021(a)(1), and may include programs under paragraphs (2), (4), (5), and (6) of section 7021(a).

"(5) From the sums appropriated under paragraph (1) for any fiscal year, the Secretary shall reserve at least 25 percent for training activities carried out under part C.

"(6) Notwithstanding paragraphs (1) and (2), no amount in excess of $200,000,000 may be appropriated for the fiscal year 1989 to carry out the provisions of this title (including section 7032).

"(7) The reservation required by paragraph (3) shall not result in changing the terms, conditions, or negotiated levels of any grant awarded in fiscal year 1987 to which section 7021(d)(1)(A), 7021(d)(1)(C), or 7021(d)(2) applies.

20 USC 3283.

"SEC. 7003. DEFINITIONS; REGULATIONS.

"(a) GENERAL RULE.—The following definitions shall apply to the terms used in this title:

"(1) The terms 'limited English proficiency' and 'limited English proficient' when used with reference to individuals means—

"(A) individuals who were not born in the United States or whose native language is a language other than English;

"(B) individuals who come from environments where a language other than English is dominant; and

"(C) individuals who are American Indian and Alaska Natives and who come from environments where a language other than English has had a significant impact on their level of English language proficiency;

and who, by reason thereof, have sufficient difficulty speaking, reading, writing, or understanding the English language to deny such individuals the opportunity to learn successfully in classrooms where the language of instruction is English or to participate fully in our society.

"(2) The term 'native language', when used with reference to an individual of limited English proficiency, means the language normally used by such individuals, or in the case of a child, the language normally used by the parents of the child.

"(3) The term 'low-income' when used with respect to a family means an annual income for such a family which does not exceed the poverty level determined pursuant to section 1005(c)(2) of this Act.

"(4)(A) The term 'program of transitional bilingual education' means a program of instruction, designed for children of limited English proficiency in elementary or secondary schools, which provides, with respect to the years of study to which such program is applicable, structured English language instruction, and, to the extent necessary to allow a child to achieve competence in the English language, instruction in the child's native language. Such instruction shall incorporate the cultural heritage of such children and of other children in American society. Such instruction shall, to the extent necessary, be in all

courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

"(B) In order to prevent the segregation of children on the basis of national origin in programs of transitional bilingual education, and in order to broaden the understanding of children about languages and cultural heritages other than their own, a program of transitional bilingual education may include the participation of children whose language is English, but in no event shall the percentage of such children exceed 40 percent. The program may provide for centralization of teacher training and curriculum development, but it shall serve such children in the schools which they normally attend.

"(C) In such courses or subjects of study as art, music, and physical education, a program of transitional bilingual education shall make provision for the participation of children of limited English proficiency in regular classes.

"(D) Children enrolled in a program of transitional bilingual education shall, if graded classes are used, be placed, to the extent practicable, in classes with children of approximately the same age and level of educational attainment. If children of significantly varying ages or levels of educational attainment are placed in the same class, the program of transitional bilingual education shall seek to insure that each child is provided with instruction which is appropriate for such child's level of educational attainment.

"(5)(A) The term 'program of developmental bilingual education' means a full-time program of instruction in elementary and secondary schools which provides, with respect to the years of study to which such program is applicable, structured English language instruction and instruction in a second language. Such programs shall be designed to help children achieve competence in English and a second language, while mastering subject matter skills. Such instruction shall, to the extent necessary, be in all courses or subjects of study which will allow a child to meet grade-promotion and graduation standards.

"(B) Where possible, classes in programs of developmental bilingual education shall be comprised of approximately equal numbers of students whose native language is English and limited English proficient students whose native language is the second language of instruction and study in the program.

"(6) The term 'special alternative instructional programs' means programs of instruction designed for children of limited English proficiency in elementary and secondary schools. Such programs are not transitional or developmental bilingual education programs, but have specially designed curricula and are appropriate for the particular linguistic and instructional needs of the children enrolled. Such programs shall provide, with respect to the years of study to which such program is applicable, structured English language instruction and special instructional services which will allow a child to achieve competence in the English language and to meet grade-promotion and graduation standards.

"(7) The term 'family English literacy program' means a program of instruction designed to help limited English proficient adults and out-of-school youth achieve competence in the English language. Such programs of instruction may be conducted exclusively in English or in English and the student's

native language. Where appropriate, such programs may include instruction on how parents and family members can facilitate the educational achievement of limited English proficient children. To the extent feasible, preference for participation in such programs shall be accorded to the parents and immediate family members of children enrolled in programs assisted under this title. Such programs of instruction may include instruction designed to enable aliens who are otherwise eligible for temporary resident status under section 245A of the Immigration and Nationality Act to achieve a minimal understanding of ordinary English and a knowledge and understanding of history and government of the United States as required by section 312 of such Act.

"(8) The term 'programs of academic excellence' means programs of transitional bilingual education, developmental bilingual education, or special alternative instruction (A) which have an established record of providing effective, academically excellent instruction; and (B) which—

"(i) can be used as models for effective schools for limited English proficient students to facilitate the dissemination and use of effective teaching practices for limited English proficient students; or

"(ii) which are designed to serve as models of exemplary bilingual education programs and to facilitate the dissemination of effective bilingual educational practices.

"(9) The term 'Office' means the Office of Bilingual Education and Minority Languages Affairs.

"(10) The term 'Director' means the Director of the Office of Bilingual Education and Minority Languages Affairs.

"(11) The term 'Secretary' means the Secretary of Education.

"(12) The term 'other programs for persons of limited English proficiency' when used in this title means any programs within the Department of Education directly involving bilingual education activities serving persons of limited English proficiency, such as the programs carried out in coordination with the provisions of this title pursuant to part E of title IV of the Carl D. Perkins Vocational Education Act, and section 306(b)(11) of the Adult Education Act, and programs and projects serving individuals of limited English proficiency pursuant to section 6(b)(4) of the Library Services and Construction Act.

"(b) REGULATION REQUIREMENT.—(1) In prescribing regulations under this title, the Secretary shall consult with State and local educational agencies, organizations representing persons of limited English proficiency, and organizations representing teachers and other personnel involved in bilingual education.

"(2) The Secretary shall not prescribe under this title any regulations further defining the terms defined in subsection (a), or any regulations restricting or expanding the definitions set out in subsection (a).

"(c) SPECIAL INFORMATION RULE.—Parents of children participating in programs assisted under this title shall be informed of the instructional goals of the program and the progress of their children in such program. Every effort shall be made to provide the information to parents pursuant to this subsection in a language and form the parents understand.

"PART A—FINANCIAL ASSISTANCE FOR BILINGUAL EDUCATION PROGRAMS

"SEC. 7021. BILINGUAL EDUCATION PROGRAMS.

Grants.
20 USC 3291.

"(a) USES OF FUNDS.—Funds available for grants under this part shall be used for the establishment, operation, and improvement of—

"(1) programs of transitional bilingual education;

"(2) programs of developmental bilingual education;

"(3) special alternative instructional programs for students of limited English proficiency;

"(4) programs of academic excellence;

"(5) family English literacy programs; and

"(6) bilingual preschool, special education, and gifted and talented programs preparatory or supplementary to programs such as those assisted under this Act.

Programs under this subsection may use available funds to provide technology-based instruction to students in order to enhance the program.

"(b) APPLICATIONS.—(1) A grant may be made under subsection (a)(1), (a)(2), or (a)(3) of this section only upon application therefor by 1 or more local educational agencies or by institutions of higher education, including junior or community colleges, applying jointly with 1 or more local educational agencies.

"(2) A grant may be made under subsection (a)(4), (a)(5), or (a)(6) only upon application by one or more local educational agencies; institutions of higher education, including junior or community colleges; or private nonprofit organizations, applying separately or jointly.

"(c) CONTENT OF APPLICATION.—(1) Any application for a grant authorized under subsection (a) of this section shall be made to the Secretary at such time, and in such manner, as the Secretary considers appropriate.

"(2) Applications for grants authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall contain information regarding—

"(A) the number of children enrolled in programs conducted by the local educational agency;

"(B) the number of children residing in the area served by the local educational agency who are enrolled in private schools;

"(C)(i) the number of children enrolled in public and private schools in the area served by the local educational agency who are limited in their English proficiency; (ii) the method used by the applicant to make this determination; and (iii) evidence of the educational condition of the limited English proficient students, such as reading, mathematics, and subject matter test scores, and, where available, data on grade retention rates and student dropout rates;

"(D) the number of limited English proficient children who are enrolled in instructional programs specifically designed to meet their educational needs, as well as descriptions of such programs;

"(E) the number of limited English proficient children enrolled in public or private schools in the area served by the local educational agency who need or could benefit from education programs such as those assisted under this title;

"(F) the number of children who are to receive instruction through the proposed program and the extent of their educational needs;

"(G) a statement of the applicant's ability to serve children of limited English proficiency, including an assessment of the qualifications of personnel who will participate in the proposed project and of the need for further training of such personnel;

"(H) the resources needed to develop and operate or improve the proposed program;

"(I) the activities which would be undertaken under the grant, including training of educational personnel and parents, and how these activities will improve the educational attainment of students and expand the capacity of the applicant to operate programs such as those assisted under this Act when Federal assistance under this section is no longer available; and

"(J) the specific educational goals of the proposed program and how achievement of these goals will be measured.

"(3) An application for a grant under subsection (a)(3) of this section shall receive priority if the application—

"(A) describes the administrative impracticability of establishing a bilingual education program due to the presence of a small number of students of a particular native language,

"(B) describes the unavailability of personnel qualified to provide bilingual instructional services, or

"(C) is made on behalf of a local educational agency having a small number of limited English proficient students in the schools of such agency that because of isolation or regional location is unable to obtain a native language teacher.

"(4) Applications for grants authorized under subsection (a)(4) shall contain information regarding—

"(A) the number of children served by the existing bilingual education program and evidence of their educational condition prior to enrollment in the program;

"(B) a description of the existing program as well as the educational background and linguistic competencies of program personnel;

"(C) the extent to which the program has promoted student academic achievement as indicated by objective evidence, such as improvements in language, mathematics, and subject matter test scores; grade retention rates; student dropout rates; and, where appropriate, postsecondary education and employment experiences of students;

"(D) the extent of parent involvement in and satisfaction with the existing bilingual education program; and

"(E) how the activities carried out under the grant would utilize and promote programs of academic excellence which employ bilingual education practices, techniques, and methods.

"(5) Applications for grants authorized under subsection (a)(5) shall contain information regarding—

"(A) the number of limited English proficient parents and out-of-school family members of limited English proficient students who would be served by the English literacy program;

"(B) the activities which would be undertaken under the grant and how these activities will promote English literacy and enable parents and family members to assist in the education of limited English proficient children;

"(C) the extent to which the persons to be served by the program have been involved in its development;

"(D) applicant's prior experience and performance in providing educational programs to limited English proficient adults and out-of-school youth;

"(E) with respect to applications by a local educational agency, the extent to which limited English proficient students enrolled in the educational agency are served by programs specifically designed to meet their needs; and

"(F) with respect to other applicants, a description of how the applicant will coordinate its program with a local education agency to ensure that the program will help limited English proficient family members promote the academic progress of limited English proficient children.

"(d) DURATION OF GRANTS.—(1)(A) Grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section shall be for 3 years.

"(B) During the first 12 months of grants made pursuant to subsections (a)(1), (a)(2), and (a)(3) of this section, an applicant may engage exclusively in preservice activities. Such activities may include program design, materials development, staff recruitment and training, development of evaluation mechanisms and procedures, and the operation of programs to involve parents in the educational program and to enable parents and family members to assist in the education of limited English proficient children.

"(C) Upon reapplication, grants authorized under subsections (a)(1), (2), and (3) of this section shall be renewed for 2 additional years unless the Secretary determines that—

"(i) the applicant's program does not comply with the requirements set out in this title;

"(ii) the applicant's program has not made substantial progress in achieving the specific educational goals set out in the original application; or

"(iii) there is no longer a need for the applicant's program.

"(D) Parents or legal guardians of students identified for enrollment in bilingual education programs shall be informed of (i) the reasons for the selection of their child as in need of bilingual education, (ii) the alternative educational programs that are available, and (iii) the nature of the bilingual education program and of the instructional alternatives. Parents shall also be informed that they have the option of declining enrollment of their children in such programs and shall be given an opportunity to do so if they so choose. Every effort shall be made to provide the information to parents pursuant to this subsection in a language and form the parents understand.

"(2) Grants made pursuant to subsections (a)(4), (a)(5), and (a)(6) shall be for 3 years.

"(3)(A) No student may be enrolled in a bilingual program for which a grant is made under subsection (a)(1) or (a)(3) of this section for a period of more than 3 years, except where the school in which the student is enrolled—

"(i) conducts a comprehensive evaluation of the overall academic progress of the student, and

"(ii) the results of the evaluation indicate that lack of English proficiency is impeding the academic progress of the student in meeting grade promotion and graduation standards and, in the case of a handicapped child attainment of the objective in the child's individualized education program.

Handicapped persons.

Any student with respect to whom the requirements of this paragraph are met, may remain in the program for a fourth year, except as provided in division (ii) of subparagraph (B).

"(B)(i) The evaluation required by paragraph (A) shall involve teachers and school personnel familiar with the students' overall academic progress. The results of such an evaluation shall be made available to the parents of the student.

"(ii) An evaluation shall be carried out at the end of the fourth year the student is in the program described in subparagraph (A) if the student is to continue in the program for a fifth year and shall be conducted in accordance with division (i) of this subparagraph.

"(iii) Each evaluation shall indicate how the students' English language development will be addressed during the period a student is retained in the program. The students' academic program during that period shall emphasize mastery of English.

"(C) No student shall remain in a bilingual education program described in subparagraph (A) for more than 5 years.

"(D) In carrying out this title, each local educational agency, institution of higher education, and private nonprofit organization having an application approved under this section may intensify instruction for limited English proficient students throughout the regular and any supplementary program by—

"(i) expanding the educational calendar of the schools in which such student is enrolled to include programs before and after school and during the summer months;

"(ii) lowering per pupil ratios, including the use of professional and volunteer aides; and

"(iii) the application of technology to the course of instruction.

"(e) APPLICATION REQUIREMENTS.—An application for a grant authorized under subsections (a)(1), (a)(2), and (a)(3) of this section shall—

"(1) be developed in consultation with an advisory council, of which a majority shall be parents and other representatives of the children to be served in such programs, in accordance with criteria prescribed by the Secretary;

"(2) be accompanied by documentation of such consultation and by the comments which the council makes on the application;

"(3) contain assurances that, after the application has been approved, the applicant will provide for the continuing consultation with, and participation by, the committee of parents, teachers, and other interested individuals which shall be selected by and predominantly composed of parents of children participating in the program, and in the case of programs carried out in secondary schools, representatives of the secondary students to be served;

"(4) ensure applicant support for additional advisory council activities, if support is requested by the advisory council; and

"(5) include evidence that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

"(f) APPROVAL OF APPLICATIONS.—An application for a grant under subsections (a)(1), (a)(2), and (a)(3) of this section may be approved only if the Secretary determines—

"(1) that the program will use qualified personnel, including only those personnel who are proficient in the language or languages used for instruction;

"(2) that in designing the program for which application is made, the needs of the children in nonprofit private elementary and secondary schools have been taken into account through consultation with appropriate private school officials and, consistent with the number of such children enrolled in such schools in the area to be served whose educational needs are of the type and whose language and grade levels are of a similar type which the program is intended to address, after consultation with appropriate private school officials, provision has been made for the participation of such children on a basis comparable to that provided for public schoolchildren;

"(3) that the program will be evaluated in accordance with a plan that meets the requirements of section 7033 of this title;

"(4) that student evaluation and assessment procedures in the program are appropriate for limited English proficiency students, and that limited English proficient students who are handicapped are identified and served in accordance with the requirements of the Education of the Handicapped Act; Handicapped persons.

"(5) that Federal funds made available for the project or activity will be used so as to supplement the level of State and local funds that, in the absence of those Federal funds, would have been expended for special programs for children of limited English proficiency and in no case to supplant such State and local funds, except that nothing in this paragraph shall—

"(A) preclude a local educational agency from using funds under this title for activities carried out under an order of a court of the United States or of any State respecting services to be provided such children, or to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided such children; or

"(B) authorize any priority or preference to be assigned by the Secretary to the funding of the activities under this title;

"(6) that the assistance provided under the application will contribute toward building the capacity of the applicant to provide a program on a regular basis, similar to that proposed for assistance, which will be of sufficient size, scope, and quality to promise significant improvement in the education of children of limited English proficiency, and that the applicant will have the resources and commitment to continue the program when assistance under this title is reduced or no longer available;

"(7) that the applicant will provide or secure training for personnel participating, or preparing to participate, in the program which will assist them to meet State and local certification requirements and that, to the extent possible, college or university credit will be awarded for such training; and

"(8) that the provision of assistance proposed in the application is consistent with criteria established by the Secretary, after consultation with the State educational agency, for the purpose of achieving an equitable distribution of assistance under this part within the State in which the applicant is located, taking into consideration—

"(A) the geographic distribution of children of limited English proficiency;

"(B) the relative need of persons in different geographic areas within the State for the kinds of services and activities authorized under this title;

"(C) the relative ability of applicant local educational agencies within the State to provide needed services and activities; and

Disadvantaged persons.

"(D) the relative numbers of persons from low-income families who would benefit from the applicants' programs; and

"(9) that the State educational agency has been notified of the application and has been given the opportunity to offer recommendations thereon to the applicant and to the Secretary.

"(g) PRIORITY CONSIDERATION OF GRANTS.—An application for a grant under subsection (a)(3) of this section may receive priority based upon the information provided by the applicant pursuant to clause (A), (B), or (C) of subsection (c)(3) of this section.

"(h) PRIORITY FOR PROGRAMS SERVING UNDERSERVED CHILDREN.—In the consideration of applications from local educational agencies to carry out programs authorized under this section, the Secretary shall give priority to applications from local educational agencies which are located in various geographical regions of the Nation and which propose to assist children of limited English proficiency who have historically been underserved by programs of bilingual education, taking into consideration the relative numbers of such children in the schools of such local educational agencies and the relative need for such programs. In approving such applications, the Secretary shall, to the extent feasible, allocate funds appropriated in proportion to the geographical distribution of children of limited English proficiency throughout the Nation, with due regard for the relative ability of particular local educational agencies to carry out such programs and the relative numbers of persons from low-income families who would benefit from such programs.

"(i) LIMITATION ON THE ASSIGNMENT OF STUDENTS.—No action taken may involve the admission or exclusion of students to or from any federally assisted education programs merely on the basis of the surnames of such students.

"(j) PROGRAMS IN PUERTO RICO.—Programs authorized under this title in the Commonwealth of Puerto Rico may, notwithstanding any other provision of this title, include programs of instruction, teacher training, curriculum development, research, evaluation, and testing designed to improve the English proficiency of children, and may also make provision for serving the needs of students of limited proficiency in Spanish.

"(k) BYPASS PROVISION.—If the Secretary determines that an applicant for assistance under this title is unable or unwilling to provide for the participation in the program for which assistance is sought of children of limited English proficiency enrolled in nonprofit, private schools, as required by subsection (f)(2) of this section, the Secretary shall—

"(1) withhold approval of such application until the applicant demonstrates that it is in compliance with those requirements; or

"(2) reduce the amount of the grant to such applicant by the amount which is required for the Secretary to arrange (such as through a contract with a nonprofit, nonsectarian agency,

organization, or institution) to assess the needs of the children in the area to be served for programs of the type authorized in this title and to carry out such programs for the children.

"SEC. 7022. INDIAN CHILDREN IN SCHOOLS. 20 USC 3292.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this title for individuals served by elementary, secondary, or postsecondary schools operated predominantly for Indian or Alaskan Native children, an Indian tribe or a tribally sanctioned educational authority may be considered to be a local educational agency as such term is used in this title, subject to the following qualifications: Alaska.

"(1) The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaskan Native Claims Settlement Act (85 Stat. 688) which is recognized for the special programs and services provided by the United States to Indians because of their status as Indians.

"(2) The term 'tribally sanctioned educational authority' means any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe, as well as any nonprofit institution or organization which is chartered by the governing body of an Indian tribe to operate any such school or otherwise to oversee delivery of educational services to members of that tribe and which is approved by the Secretary for the purposes of this section.

"(b) BUREAU OF INDIAN AFFAIRS SCHOOLS.—From the sums appropriated pursuant to section 7002(b), the Secretary is authorized to make payments to the applicants to carry out programs of bilingual education for Indian children on reservations served by elementary and secondary schools operated or funded by the Bureau of Indian Affairs.

"(c) ANNUAL REPORT.—The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the Congress, the President, and the Secretary by September 30 of each year an annual report which provides—

"(1) an assessment of the needs of the Indian children with respect to the purposes of this title in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act (25 U.S.C. 452 et seq.); and

"(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

"PART B—DATA COLLECTION, EVALUATION, AND RESEARCH

"SEC. 7031. USE OF FUNDS. 20 USC 3301.

"Funds available under this part shall be used for (1) collecting data on the number of limited English proficient persons and the educational services available to such persons, (2) evaluating the operation and effectiveness of programs assisted under this title, (3) conducting research to improve the effectiveness of bilingual edu-

cation programs, and (4) collecting, analyzing, and disseminating data and information on bilingual education.

20 USC 3302.

"SEC. 7032. GRANTS FOR STATE PROGRAMS.

"(a) DATA COLLECTION AND DISSEMINATION.—Upon application from a State educational agency, the Secretary shall make provision for the submission and approval of a State program for the collection, aggregation, analysis, and publication of data and information on the State's population of limited English proficient persons and the educational services provided or available to such persons.

"(b) REPORT TO SECRETARY.—State programs under this part shall provide for the annual submission of a report to the Secretary containing data and information on such matters as the Secretary shall, by regulation, determine necessary and proper to achieve the purposes of this title, including the matters specified in section 7021(c)(2). Such reports shall be in such form and shall be submitted on such date as the Secretary shall specify by regulation. State programs shall provide for the dissemination of information regarding these matters to the public, and particularly to persons of limited English proficiency.

Regulations.
Public information.

"(c) OTHER USES OF FUNDS.—State programs authorized under this section may also provide for—

"(1) the planning and development of educational programs such as those assisted under this title;

"(2) the review and evaluation of programs of bilingual education, including bilingual education programs that are not funded under this title;

"(3) the provision, coordination, or supervision of technical and other forms of nonfinancial assistance to local educational agencies, community organizations, and private elementary and secondary schools that serve limited English proficient persons;

"(4) the development and administration of instruments and procedures for the assessment of the educational needs and competencies of persons of limited English proficiency;

"(5) the training of State and local educational agency staff to carry out the purposes of this title; and

"(6) other activities and services designed to build the capacity of State and local educational agencies to serve the educational needs of persons of limited English proficiency.

"(d) PAYMENTS.—Except as provided in the second sentence of this subparagraph, the Secretary shall pay from the amounts appropriated for the purposes of this section pursuant to section 7002(b)(2) for each fiscal year to each State educational agency which has a State program submitted and approved under subsection (a) of this section such sums as may be necessary for the proper and efficient conduct of such State program. The amount paid by the Secretary to any State educational agency under the preceding sentence for any fiscal year may not be less than $75,000 nor greater than 5 percent of the aggregate of the amounts paid under section 7021 for programs within such State in the fiscal year preceding the fiscal year to which this limitation applies.

"(e) SUPPLEMENT NOT SUPPLANT.—Funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such funds, be made available by the State for the purposes described in this section, and in no case to supplant such funds.

"SEC. 7033. PROGRAM EVALUATION REQUIREMENTS.

Regulations.
20 USC 3303.

"The Secretary shall issue, within 6 months of the date of enactment of this section, regulations which set forth a comprehensive design for evaluating the programs assisted under part A of this title. Such regulations shall be developed by the Director in consultation with State directors of bilingual education programs, the evaluation assistance centers authorized in section 7034, and individuals and organizations with expertise in testing and evaluation of educational programs for children of limited English proficiency. Such regulations shall provide for the collection of information and data including—

"(1) the educational background, needs, and competencies of the limited English proficient persons served by the program;

"(2) the specific educational activities undertaken pursuant to the program; the pedagogical materials, methods, and techniques utilized in the program; and, with respect to classroom activities, the relative amount of instructional time spent with students on specified tasks;

"(3) the educational and professional qualifications, including language competencies, of the staff responsible for planning and operating the program;

"(4) the specific activities undertaken to improve prereferral, evaluation procedures and instructional programs for limited English proficient children who may be handicapped or gifted and talented; and

"(5) the extent of educational progress achieved through the program measured, as appropriate, by (A) tests of academic achievement in English language arts, and where appropriate, second language arts; (B) tests of academic achievement in subject matter areas; and (C) changes in the rate of student grade-retention, dropout, absenteeism, placement in programs for the gifted and talented, and enrollment in postsecondary education institutions.

"SEC. 7034. EVALUATION ASSISTANCE CENTERS.

Grants.
20 USC 3304.

"The Secretary shall establish, through competitive grants to institutions of higher education, at least 2 evaluation assistance centers. Such centers shall provide, upon the request of State or local educational agencies, technical assistance regarding methods and techniques for identifying the educational needs and competencies of limited English proficient persons and assessing the educational progress achieved through programs such as those assisted under this title. Grants made pursuant to this section shall be for a period of 3 years.

"SEC. 7035. RESEARCH.

20 USC 3305.

"(a) RESEARCH AND DEVELOPMENT.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institutions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

Contracts.

"(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

"(1) studies to determine and evaluate effective models for bilingual education programs;

"(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills

required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

"(3) longitudinal studies to measure the effect of this title on students enrolled in title VII programs (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under this title and which provides information including data on grade retention, academic performance, and dropout rates);

"(4) studies to determine effective and reliable methods for identifying students who are entitled to services under this title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

"(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

"(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

"(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

"(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

"(9) studies to determine effective and reliable techniques for providing bilingual education to handicapped students;

"(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English; and

"(11) the effect of this title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title.

"(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

"(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under this title.

"(e) LIMITATION OF AUTHORITY.—Nothing in this title shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

20 USC 3306.

"SEC. 7036. COORDINATION OF RESEARCH.

"Notwithstanding section 405(b)(1) of the General Education Provisions Act, the Assistant Secretary for Educational Research and Improvement shall consult with the Director, the Committee on

Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives to ensure that research activities undertaken pursuant to section 405(b)(2)(C) of the General Education Provisions Act complement and do not duplicate the activities conducted pursuant to this part.

"SEC. 7037. EDUCATION STATISTICS. 20 USC 3307.

"(a) DATA COLLECTION.—Notwithstanding section 406 of the General Education Provisions Act, the National Center for Education Statistics shall collect and publish, as part of its annual report on the condition of education, data for States, the Commonwealth of Puerto Rico, and the trust territories with respect to the population of limited English proficient persons, the special educational services and programs available to limited English proficient persons, and the availability of educational personnel qualified to provide special educational services and programs to limited English proficient persons.

"(b) USE OF DATA.—In carrying out its responsibilities under this section, the National Center for Education Statistics shall utilize, to the extent feasible, data submitted to the Department of Education by State and local educational agencies and institutions of higher education pursuant to the provisions of this title as well as data collected on limited English proficient persons by other Federal agencies.

"PART C—TRAINING AND TECHNICAL ASSISTANCE

"SEC. 7041. USE OF FUNDS. 20 USC 3321.

"(a) USE OF FUNDS.—Funds available under this part shall be used for—

"(1) the establishment, operation, and improvement of training programs for educational personnel preparing to participate in, or personnel participating in, the conduct of programs of bilingual education or special alternative instructional programs for limited English proficient students, which shall emphasize opportunities for career development, advancement, and lateral mobility, and may provide training to teachers, administrators, counselors, paraprofessionals, teacher aides, and parents;

"(2) the training of persons to teach and counsel such persons;

"(3) the encouragement of reform, innovation, and improvement in applicable education curricula in graduate education, in the structure of the academic profession, and in recruitment and retention of higher education and graduate school faculties, as related to bilingual education;

"(4) the operation of short-term training institutes designed to improve the skills of participants in programs of bilingual education or special alternative instructional programs for limited English proficient students; which may include summer programs designed to improve the instructional competence of educational personnel in the languages used in the program; and

"(5) the provision of inservice training and technical assistance to parents and educational personnel participating in, or preparing to participate in, bilingual education programs or special alternative instructional programs for limited English proficient students.

Grants.
Contracts.

"(b) APPLICATIONS.—(1) A grant or contract may be made under subsection (a)(1), (a)(2), or (a)(3) of this section upon application of an institution of higher education.

"(2) A grant or contract may be made under subsection (a)(4) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges) and private for-profit or nonprofit organizations which apply, after consultation with, or jointly with, one or more local educational agencies or a State educational agency; (B) local educational agencies; or (C) a State educational agency.

"(3) A grant or contract may be made under subsection (a)(5) of this section upon application of (A) institutions of higher education (including junior colleges and community colleges), (B) private for-profit or nonprofit organizations, or (C) a State educational agency.

"(c) APPLICATION REQUIREMENT FOR TRAINING PROGRAMS.—An application for a grant or contract for preservice or inservice training activities described in subsection (a)(1) of this section shall be developed in consultation with an advisory council composed of representatives of State and local educational agencies within the applicant's service area or geographic region which operate programs of bilingual education or special alternative instruction for limited English proficient students.

"(d) TRAINING PROGRAM REQUIREMENTS.—A preservice or inservice training program funded under subsection (a)(1) shall assist educational personnel in meeting State and local certification requirements, and, whenever possible, should award college or university credit.

Grants.
Contracts.

"(e) PREFERENCE IN ASSISTANCE AND PURPOSE OF TRAINING.—(1) In making a grant or contract for preservice training programs described in subsection (a)(1) of this section, the Secretary shall give preference to programs which contain coursework in—

"(A) teaching English as a second language;

"(B) use of a non-English language for instructional purposes;

"(C) linguistics; and

"(D) evaluation and assessment;

and which involve parents in the educational process.

"(2) Preservice training programs shall be designed to ensure that participants become proficient in English and a second language of instruction.

20 USC 3322.

"SEC. 7042. MULTIFUNCTIONAL RESOURCE CENTERS.

Grants.
Contracts.

"(a) ESTABLISHMENT.—Pursuant to subsection (a)(5) of section 7041, the Secretary shall establish, through competitive grants or contracts, at least 16 multifunctional resource centers (hereafter in this section referred to as 'centers'). Grants and contracts shall be awarded with consideration given to the geographic and linguistic distribution of children of limited English proficiency.

"(b) REQUIRED SERVICES.—In addition to providing technical assistance and training to persons participating in or preparing to participate in bilingual education programs or special alternative instructional programs for limited English proficient students, each center shall be responsible for gathering and providing information to other centers on a particular area of bilingual education, including (but not limited to) bilingual special education, bilingual education for gifted and talented limited English proficient students, bilingual vocational education, bilingual adult education, bilingual education program administration, literacy, education technology in

bilingual programs, mathematics and science education in bilingual programs, counseling limited English proficient students, and career education programs for limited English proficient students.

"SEC. 7043. FELLOWSHIPS. 20 USC 3323.

"(a) AUTHORIZATION.—Pursuant to subsection (a)(2) of section 7041, the Secretary is authorized to award fellowships for advanced study of bilingual education or special alternative instructional programs for limited English proficient students in such areas as teacher training, program administration, research and evaluation, and curriculum development. For fiscal year 1989 and each of the 4 subsequent fiscal years, not less than 500 fellowships leading to a masters or doctorate degree shall be awarded under the preceding sentence. Such fellowships shall be awarded, to the extent feasible, in proportion to the needs of various groups of individuals with limited English proficiency. In awarding fellowships, the Secretary shall give preference to individuals intending to study bilingual education or special alternative instructional programs for limited English proficient students in the following specialized areas: vocational education, adult education, gifted and talented education, special education, education technology, literacy, and mathematics and science education. The Secretary shall include information on the operation of the fellowship program in the report required under section 7051(c) of this title.

"(b) FELLOWSHIP REQUIREMENTS.—Any person receiving a fellowship under this section shall agree either to repay such assistance or to work for a period equivalent to the period of time during which such person received assistance, and such work shall be in an activity related to programs and activities such as those authorized under this Act. The Secretary may waive this requirement in extraordinary circumstances.

"SEC. 7044. PRIORITY. Grants. Contracts. 20 USC 3324.

"In making grants or contracts under this part, the Secretary shall give priority to eligible applicants with demonstrated competence and experience in programs and activities such as those authorized under this Act.

"SEC. 7045. STIPENDS. 20 USC 3325.

"In the terms of any arrangement described in this part, the Secretary shall provide for the payment, to persons participating in training programs so described, of such stipends (including allowances for subsistence and other expenses for such persons and their dependents) as the Secretary may determine to be consistent with prevailing practices under comparable federally supported programs.

"PART D—ADMINISTRATION

"SEC. 7051. OFFICE OF BILINGUAL EDUCATION AND MINORITY LANGUAGES AFFAIRS. 20 USC 3331.

"(a) ESTABLISHMENT.—There shall be, in the Department of Education, an Office of Bilingual Education and Minority Languages Affairs (hereafter in this section referred to as the 'Office') through which the Secretary shall carry out functions relating to bilingual education.

"(b) DIRECTOR.—(1) The Office shall be headed by a Director of Bilingual Education and Minority Languages Affairs, appointed by the Secretary, to whom the Secretary shall delegate all delegable functions relating to bilingual education. The Director shall also be assigned responsibility for coordinating the bilingual education aspects of other programs administered by the Secretary.

"(2) The Office shall be organized as the Director determines to be appropriate in order to enable the Director to carry out such functions and responsibilities effectively, except that there shall be a division, within the Office, which is exclusively responsible for the collection, aggregation, analysis, and publication of data and information on the operation and effectiveness of programs assisted under this title.

Reports.

"(3) The Director shall prepare and, not later than February 1 of each year, shall submit to Congress and the President a report on—

"(A) the grants and contracts made pursuant to this title in the preceding fiscal year;

"(B) the number of individuals benefiting from the programs assisted under this title;

"(C) the evaluation of activities carried out under this title during the preceding 2 fiscal years and the extent to which each of such activities achieves the policy set forth in section 7002(a);

"(D) an estimate of the number of fellowships in the field of training teachers for bilingual education which will be necessary for the 2 succeeding fiscal years; and

"(E) the research activities carried out under such title during the preceding 2 fiscal years and the major findings of research studies.

"(c) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs administered by the Department of Education, including such areas as teacher training, program content, research, and curriculum. The Secretary's report under section 6213 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 shall include demonstration that such coordination has taken place.

"(d) STAFFING REQUIREMENT.—The Secretary shall ensure that the Office of Bilingual Education and Minority Language Affairs is staffed with sufficient personnel trained, or with experience in, bilingual education to discharge effectively the provisions of this title.

"(e) READING AND SCORING APPLICATIONS.—For the purpose of reading and scoring applications for competitive grants authorized under parts A and C of this title, the Secretary shall use persons who are not otherwise employed by the Federal Government and who are experienced and involved in educational programs similar to those assisted under parts A and C of this title. The Secretary shall solicit nominations for application readers from State directors of bilingual education and may use funds appropriated for parts A and C of this title to pay for the application reading and scoring services required by this provision.

"SEC. 7052. LIMITATION OF AUTHORITY. 20 USC 3332.

"The Secretary shall not impose restrictions on the availability or use of funds authorized under this title other than those set out in this title or other applicable Federal statutes and regulations.

"PART E—TRANSITION

"SEC. 7063. TRANSITION. 20 USC 3341.

"This title shall not apply to grants and contracts entered into under the Bilingual Education Act as in effect before October 1, 1988.".

SEC. 1002. CONFORMING AMENDMENTS.

(a) IN GENERAL.—Sections 1001 through 1004, and 1006 of the Elementary and Secondary Education Act of 1965 are redesignated as sections 8001 through 8005, respectively. 20 USC 3381-3384, 3386.

(b) SPECIAL DEFINITION RULE.—Section 8001 of such Act (as redesignated by subsection (a) of this section) is amended to read as follows:

"DEFINITIONS

"SEC. 8001. Except as otherwise provided, the terms used in this Act have the same meanings provided in section 1471 of this Act." 20 USC 3381.

SEC. 1003. REPEALS.

(a) EDUCATION CONSOLIDATION AND IMPROVEMENT ACT OF 1981.—The Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3801 et seq.) is repealed.

(b) ELLENDER PROGRAM.—The joint resolution of October 19, 1972 (Public Law 92-506) is repealed.

(c) IMMIGRANT EDUCATION.—Title VI of the Education Amendments of 1984 (20 U.S.C. 4101 et seq.) is repealed.

(d) TERRITORIAL ASSISTANCE.—Sections 1524 and 1525 of the Education Amendments of 1978 are repealed.

(e) ANTI-DRUG ABUSE ACT OF 1986.—Subtitle B of title IV of the Anti-Drug Abuse Act of 1986 (Public Law 99-570) is repealed. 20 USC 4601 *et seq.*

SEC. 1004. SPECIAL RULE ON SCHOOL DROPOUT DEMONSTRATION PROGRAM. 20 USC 3245 note.

The provisions of section 6005(c) of the Elementary and Secondary Education Act of 1965 (as added by section 1001 of this Act) shall apply to funds appropriated for the fiscal year 1988 for the dropout demonstration program.

TITLE II—AMENDMENTS TO OTHER EDUCATION PROGRAMS

PART A—IMPACT AID PROGRAM

SEC. 2001. SHORT TITLE. Impact Aid Reauthorization Act of 1988. 20 USC 236 note.

This part may be cited as the "Impact Aid Reauthorization Act of 1988".

Subpart 1—Public Law 874

SEC. 2011. ADMINISTRATIVE AMENDMENTS.

20 USC 236 *et seq.*

(a) GENERAL RULE.—(1) The Act of September 30, 1950 (Public Law 874, Eighty-first Congress) (hereafter referred to in this subpart as the "Act") is amended by striking out "the Commissioner" each time it appears and inserting in lieu thereof "the Secretary".

20 USC 240.

(2) Section 5(b)(3)(C)(vii) of the Act is amended by striking out "Commissioner's" and inserting in lieu thereof "Secretary's".

20 USC 244.

(3) Section 403(9) of the Act is amended to read as follows:

"(9) The term 'Secretary' means the Secretary of Education.".

20 USC 241-1.

(b) SPECIAL RULES.—(1) Section 7(c)(1) of the Act is amended by striking out "Labor and Public Welfare" and inserting in lieu thereof "Labor and Human Resources".

(2) The last sentence of section 7(d) of the Act is amended to read as follows: "The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.".

SEC. 2012. REAUTHORIZATION.

(a) EXTENSION OF PROGRAM.—The Act is amended by striking out "October 1, 1988" each place it appears in sections 2(a), 3(b), 4(a), and 7(a)(1) and inserting in lieu thereof "October 1, 1993".

20 USC 237-239, 241-1.

(b) AUTHORIZATION OF APPROPRIATIONS.—The first section of the Act is amended—

20 USC 236.

(1) by inserting "(a)" after "Section 1."; and

(2) by adding at the end thereof the following:

"(b) There are authorized to be appropriated $735,000,000 for fiscal year 1989, $785,000,000 for fiscal year 1990, $835,000,000 for fiscal year 1991, $885,000,000 for fiscal year 1992, and $935,000,000 for fiscal year 1993, to carry out the provisions of this Act.".

Taxes.

SEC. 2013. FEDERAL ACQUISITION OF REAL PROPERTY.

Section 2(a) of the Act is amended by adding at the end of such subsection the following: "In making the determination of the amount that would have been derived in such year, the Secretary shall apply the current levied real property tax rate for current expenditures levied by fiscally independent local educational agencies or imputed for fiscally dependent local educational agencies to the current annually determined aggregate assessed value of such acquired Federal property.".

SEC. 2014. ENTITLEMENTS AND PAYMENTS.

(a) AMOUNT FOR SECTION 3(a) CHILDREN.—Section 3(d)(1)(A) of the Act is amended to read as follows:

"(A) in the case of any local educational agency with respect to which the number of children is determined under subsection (a) an amount equal to 100 per centum of the local contribution rate multiplied by the number of children determined under such subsection plus the product obtained with respect to such agency under subparagraph (B); and".

(b) AMOUNT FOR OTHER CHILDREN.—Section 3(d)(1)(B) of the Act is amended to read as follows:

"(B) in any other case, an amount equal to 25 per centum of the local contribution rate multiplied by the number of children determined with respect to such agency for such fiscal year under subsection (b).".

(c) SPECIAL RULES.—(1) Section 3(d)(2)(B)(i) of the Act is amended to read as follows: 20 USC 238.

"(i) the amount of payment resulting from paragraph (1), as is otherwise provided in this subsection with respect to any local educational agency for any fiscal year, together with the funds available to such agency from State and local sources and from other sections of this title, determined in accordance with subparagraph (E), is less than the amount necessary to enable such agency to provide a level of education equivalent to the State average during the preceding fiscal year or to the average of that maintained during the preceding fiscal year in three or more of the school districts of the State which are generally comparable to the school district of such agency, whichever is higher, increased or decreased, as the case may be, in the same percentage as the cost of such level of education increased or decreased from the second preceding fiscal year to the prior fiscal year;".

(2) Section 3(d)(2)(B) of the Act is amended by inserting after the first sentence the following new sentences: "The increase computed under this subparagraph shall be sufficient to allow the school district of the local educational agency to provide a level of education (calculated in accordance with this subparagraph) equal to the average of the three comparable districts in the State or the State average, whichever is greater, as described in clause (i). For the purpose of clause (ii), the Secretary shall determine that a reasonable tax effort has been made if the tax rate of the agency in the year for which the determination is made is an amount that is at least equal to 80 percent of the average tax rate for general fund purposes of comparable school districts for such fiscal year. Coterminous military districts shall be deemed to meet the requirement of such reasonable tax effort. Except for coterminous military districts, payments made to any agency under this subparagraph in any fiscal year shall be reduced by the percentage that the average tax rate for operational purposes of the comparable school districts or, if none, the State average tax rate, exceeds the tax rate of such agency.". Taxes.

(3) Section 3(d)(2)(E) of the Act is amended to read as follows:

"(E) For the purpose of subparagraph (B)(i) of this paragraph—

"(i) available funds may not include any cash balance at the end of a year allowed under State law; or

"(ii) whenever no State law governing cash balance exists, available funds may not include 30 percent of the local educational agency's operating costs.".

(d) DISTRICTS WITH UNUSUAL GEOGRAPHIC FACTORS.—(1) Section 3(d)(3)(B)(ii) of the Act is amended by striking out "is authorized to" and inserting in lieu thereof "shall".

(2) Section 3(d)(3)(B)(ii) of the Act is amended by adding at the end thereof the following new sentence: "The amount of any such supplementary payment may not exceed the per pupil share (computed with regard to all children in average daily attendance), as determined by the Secretary, of the increased current expenditures necessitated by such unusual geographical factors.".

(e) COTERMINOUS AGENCY RULE.—Section 3(h) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end the following:

"(2) For the fiscal year beginning October 1, 1987, and for each year thereafter, the local contribution rate for coterminous local educational agencies under paragraph (1) shall be not less than 70 per centum of the average per pupil expenditure in all States during the second preceding year prior to the fiscal year for which the determination is made unless such payment would raise the per pupil expenditure above the average for that State. Whenever the preceding sentence applies, the local contribution rate may not be less than the amount necessary to raise the per pupil expenditure for that district to the average per pupil expenditure for the State in which such agency is located. The first 2 sentences of this paragraph shall not apply for local educational agencies in any State in which the State equalization law would prohibit the local educational agency from retaining such additional funds or in which State law would require that the State contribution would be reduced in proportion to such additional funds. The local contribution rate for local educational agencies under this paragraph may not be less than 50 per centum of the average per pupil expenditure in all States during the second preceding fiscal year prior to the fiscal year for which the determination is made.".

SEC. 2015. METHOD OF PAYMENT.

20 USC 240.

(a) ROUNDING OF PAYMENTS.—The first sentence of section 5(b) of the Act is amended by inserting after "agency" a comma and the following: "rounded to the nearest whole dollar,".

(b) DISPOSITION OF RECOVERED FUNDS.—Section 5(b) of the Act is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following sentence: "The Secretary shall return to the United States Treasury any funds appropriated for payments under this title for fiscal years 1988 and thereafter that, as the result of overpayments or unallowable expenditures, are recovered by the Department of Education after the end of the fifth fiscal year following the end of the fiscal year for which the sums were appropriated, or that remain in Department of Education accounts after that time.".

(c) PRELIMINARY PAYMENTS.—Section 5(b)(2) of the Act is amended to read as follows:

"(2) As soon as possible after the beginning of any fiscal year, the Secretary shall, on the basis of a written request for a preliminary payment from any local educational agency that was eligible for a payment for the preceding fiscal year on the basis of entitlements established under section 2 or 3, make such a preliminary payment—

"(A) to any agency for whom the number of children determined under section 3(a) amounts to at least 20 per centum of such agency's total average daily attendance, of 75 per centum of the amount that such agency received for such preceding fiscal year on the basis of such entitlements; and

"(B) to any other agency, of 50 per centum of the amount that such agency received for such preceding fiscal year on the basis of such entitlements.".

(d) GENERAL RULE ON PAYMENTS.—Section 5(c)(1) of the Act is amended to read as follows:

"(1)(A) The Secretary shall first allocate to each local educational agency which is entitled to a payment under section 2 an amount equal to 100 per centum of the amount to which it is

entitled as computed under that section for such fiscal year and to each local educational agency an amount equal to the supplemental 50 per centum of the entitlement that each child described in section 3(d)(2)(C) served by such agency is eligible to receive under section 3(d)(2)(C).

"(B) The Secretary shall then allocate to any local educational agency which is eligible under section 3(d)(2)(B) an amount equal to 100 per centum of the amount to which such agency is entitled under sections 3(a) and 3(b).

"(C) The Secretary shall reserve from the remainder of the sums appropriated for this Act (other than amounts needed for section 7) for such fiscal year—

"(i) 80 per centum for the purpose of allocating sums under paragraph (2) for entitlements determined under section 3(a); and

"(ii) 20 per centum for the purpose of allocating sums under paragraph (3) for entitlements determined under section 3(b).".

(e) ALLOCATION OF PAYMENTS RULE.—(1) Section 5(c)(2) of the Act is amended to read as follows: 20 USC 240.

"(2)(A) For the purpose of allocating sums available for section 3(a) for any fiscal year which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

"(i) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

"(ii) Each local educational agency in which the number of children determined under section 3(a) amounts to at least 15 per centum, but less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

"(iii) Each local educational agency in which the number of children determined under section 3(a) amounts to less than 15 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (iii).

"(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

"(i) A first allocation shall be made as follows:

"(I) 80 per centum of entitlement to local educational agencies described in category (i);

"(II) 60 per centum of entitlement to local educational agencies described in category (ii); and

"(III) 40 per centum of entitlement to local educational agencies described in category (iii).

"(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

"(I) 20 per centum of entitlement to local educational agencies described in category (i);

"(II) 15 per centum of entitlement to local educational agencies described in category (ii); and

"(III) 10 per centum of entitlement to local educational agencies described in category (iii).

"(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

"(I) 25 per centum of entitlement to local educational agencies described in category (ii); and

"(II) 50 per centum of entitlement to local educational agencies described in category (iii).

"(3)(A) For the purpose of allocating sums available for section 3(b) for any fiscal year which remain after the allocation required by paragraph (1) and any allocation required by sections 5(e) and 3(h) for such fiscal year, the Secretary shall determine the category to which a local educational agency belongs as follows:

"(i) Each local educational agency in which the number of children determined under section 3(b) amounts to at least 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (i).

"(ii) Each local educational agency in which the number of children determined under section 3(b) amounts to less than 20 per centum of the total number of children who were in average daily attendance in the schools of such agency is in category (ii).

"(B) The Secretary shall allocate the amounts described in subparagraph (A) according to the following schedule:

"(i) A first allocation shall be made as follows:

"(I) 20 per centum of entitlement to local educational agencies described in category (i); and

"(II) 10 per centum of entitlement to local educational agencies described in category (ii).

"(ii) Any sums remaining after the allocation pursuant to clause (i) shall be allocated as follows:

"(I) 30 per centum of entitlement to local educational agencies described in category (i); and

"(II) 5 per centum of entitlement to local educational agencies described in category (ii).

"(iii) Any sums remaining after the allocation pursuant to clause (ii) shall be allocated as follows:

"(I) 50 per centum of entitlement to local educational agencies described in category (i); and

"(II) 85 per centum of entitlement to local educational agencies described in category (ii).

"(4) Whenever the additional amounts described in paragraphs (2)(A) and (3)(A) in each fiscal year are insufficient to provide the required percent of entitlement to each local educational agency under clause (ii) or (iii) of paragraph (2)(B), or clause (ii) or (iii) of paragraph (3)(B), respectively, the full amount which local educational agencies are entitled to receive under such clauses shall be ratably reduced. If additional funds become available for making such payments for any fiscal year during which the preceding sentence is applicable, such reduced amounts shall be increased on the same basis as they were reduced.".

20 USC 240.

(2)(A) Section 5(c)(3) of the Act is repealed.

(B) The sentence following paragraph (2) of section 5(c) (as amended by subparagraph (A)) is amended by striking out "or (3)".

(C) The last sentence of section 5(c) of the Act is repealed. 20 USC 240.

(f) STATE AID RULE.—Section 5(d)(2)(A) of the Act is amended by inserting after the first sentence the following flush sentence: "The increase in payments described in sections 3(d)(2)(B), 3(d)(2)(C), 3(d)(2)(D), and 3(d)(3)(B)(ii) shall not be taken into consideration by the State for the purpose of this subparagraph.".

(g) HOLD HARMLESS RULES.—Section 5(e) of the Act is amended to read as follows:

"(e)(1)(A) For any fiscal year after September 30, 1988, the Secretary shall allocate to any local educational agency which received a payment under section 3(a) in fiscal year 1987, an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of such children in average daily attendance for the fiscal year for which the determination is made under such subsection.

"(B) For any fiscal year beginning after September 30, 1988, the Secretary shall allocate to any local educational agency which received a payment under section 3(b) in fiscal year 1987 for children described in section 5(c)(3)(A)(i), an amount which is not less than the product of 100 per centum of the per pupil amount paid to such agency in fiscal year 1987 and the number of such children in average daily attendance in the fiscal year for which such determination is made.

"(C) The provisions of subparagraphs (A) and (B) of this paragraph shall not apply to any local educational agency for which the factor in the determination of the local contribution rate described in section 3(d)(3)(A)(i) in the year for which the determination is made is less than the amount for such factor for fiscal year 1987.

"(D) The Secretary is authorized to modify the per pupil amount described in subparagraph (A) of this paragraph, in any case in which, in the fiscal year for which the determination is made a local educational agency is no longer an agency described in section 5(c)(2)(A)(i), or section 5(c)(2)(A)(ii), but is an agency described in section 5(c)(2)(A)(ii) or section 5(c)(2)(A)(iii), as the case may be.

"(E) The provisions of subparagraph (B) of this paragraph shall not apply to any local educational agency which, in the fiscal year for which the determination is made, is not a local educational agency described in section 5(c)(3)(A)(i).

"(2) If sums appropriated for any fiscal year for making payments under this section are not sufficient to pay in full the amount to which each local educational agency is entitled under the previous paragraph, such amounts shall be ratably reduced.

"(3) In no event shall the amount allocated to any local educational agency in any fiscal year under paragraph (1) exceed the amount received by such agency in the fiscal year 1987.".

SEC. 2016. CHILDREN FOR WHOM LOCAL AGENCY IS UNABLE TO PROVIDE EDUCATION.

Section 6 of the Act is amended by adding at the end thereof the following new subsection: 20 USC 241.

"(i) Notwithstanding any other provision of law, a local educational agency receiving funds under section 3 may also receive funds under section 6.".

SEC. 2017. DISASTER ASSISTANCE.

(a) GENERAL RULE.—Section 7(a)(1) of the Act is amended— 20 USC 241-1.

(1) by striking out subparagraph (B);

(2) by striking out "or" at the end of subparagraph (A) and inserting in lieu thereof "and"; and

(3) by striking out the subparagraph designation "(A)".

20 USC 241-1.

(b) ELIGIBILITY.—Section 7(a)(3) of the Act is amended by striking out "$1,000 or one-half of 1 per centum" and inserting in lieu thereof "$10,000 or 5 per centum".

(c) AVAILABILITY OF FUNDS.—Section 7 of the Act is amended by adding at the end thereof the following new subsection (f):

"(f) Funds available for this section for any fiscal year shall also be available for section 16 of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).".

20 USC 238 note.

SEC. 2018. TREATMENT OF CHILDREN RESIDING ON PROPERTY ASSISTED UNDER SECTION 8 OF THE UNITED STATES HOUSING ACT OF 1937.

Claims.

(a) GENERAL RULE.—Notwithstanding any other provision of law, for fiscal years prior to fiscal year 1989, applicants may claim and receive payments under section 3 of Public Law 81-874 on behalf of children residing in or whose parents are employed on property assisted under section 8 of the United States Housing Act of 1937, if such property was claimed by such applicants and such payments were received for the previous fiscal year.

(b) SPECIAL RULE.—Payments made to any local educational agency under section 3(b) of the Act for fiscal years prior to fiscal year 1989, on behalf of children who reside on or whose parents are employed on property that is housing assisted under section 8 of the United States Housing Act of 1937, shall stand, and such payments withheld or recovered shall be made or restored.

SEC. 2019. CHILDREN RESIDING ON, OR WHOSE PARENTS ARE EMPLOYED ON, FEDERAL PROPERTY.

20 USC 238.

Section 3(d)(2)(D) of the Act of September 30, 1950 (20 U.S.C. 236, Public Law 81-874) is amended by adding at the end thereof the following: "Funds received under this section may be used to pay tuition for any student not eligible for funding under section 1128 of Public Law 95-561 in any school receiving funding under such section. No condition involving program or personnel shall apply to any such payments.".

20 USC 236 note.

SEC. 2020. REGULATION REQUIREMENTS.

No regulations may be established to carry out the provisions of this Act unless such regulations will become final only after a period for comment which is not less than 90 days. No provision of the regulations may have a retroactive effect which results in the recovery of assistance by the United States (other than such recovery based on regulations in effect at the time the assistance was made). To the extent that the provisions of section 431 of the General Education Provisions Act are not inconsistent with the provisions of this section, the provisions of section 431 shall apply to regulations established under this Act.

SEC. 2021. DEFINITION.

20 USC 244.

Section 403(5) of the Act is amended by striking out "under title I, II, or III" and inserting in lieu thereof "under chapter 1 or 2 of title I".

Subpart 2—Public Law 815

SEC. 2031. REAUTHORIZATION.

(a) EXTENSION OF PROGRAM.—The Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended—

(1) in section 3 by striking "1988" and inserting "1993"; 20 USC 633.

(2) in section 16(a)(1)(A) by striking "1988," and inserting "1993,"; and 20 USC 646.

(3) in paragraph (15) of section 15 by striking "1978-1979" and inserting "1988-1989". 20 USC 645.

(b) AUTHORIZATION OF APPROPRIATIONS.—The first section of such Act is amended— 20 USC 631.

(1) by inserting "(a)" after "SECTION 1."; and

(2) by adding at the end thereof the following:

"(b) There are authorized to be appropriated $25,000,000 for fiscal year 1989, $26,000,000 for fiscal year 1990, $27,000,000 for fiscal year 1991, $28,000,000 for fiscal year 1992, and $29,000,000 for fiscal year 1993, to carry out the provisions of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress).".

SEC. 2032. ADMINISTRATIVE AMENDMENTS.

(a) GENERAL RULE.—(1) The Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is further amended by striking out "the Commissioner" each time it appears and inserting in lieu thereof "the Secretary". 20 USC 631 *et seq.*

(2) Section 11(b) of such Act is amended by striking out "Commissioner's" and inserting in lieu thereof "Secretary's". 20 USC 641.

(3) Section 15(14) of such Act is amended to read as follows: "(14) The term 'Secretary' means the Secretary of Education.".

(b) SPECIAL RULE.—The fifth sentence of section 16(c) of such Act is amended to read as follows: "The Secretary shall complete action of approval or disapproval of an application within 90 days of the filing of an application.". 20 USC 646.

SEC. 2033. DISASTER ASSISTANCE.

(a) GENERAL RULE.—Section 16(a)(1) of the Act of September 23, 1950 (Public Law 815, Eighty-first Congress) is amended—

(1) by striking out subparagraph (B);

(2) by striking out "or" at the end of subparagraph (A) and inserting in lieu thereof "and"; and

(3) by striking out the subparagraph designation "(A)".

(b) ELIGIBILITY.—Section 16(a)(5) of such Act is amended by striking out "$1,000 or one-half of 1 per centum" and inserting in lieu thereof "$10,000 or 5 per centum".

SEC. 2034. TECHNICAL AMENDMENT.

Section 14 of the Act is amended— 20 USC 644.

(1) by striking out subsection (d); and

(2) by adding after subsection (c) the following:

"(d) There are hereby authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. There are also authorized to be appropriated such sums as may be necessary for administration of such provisions. Amounts so appropriated, other than amounts appropriated for administration, shall remain available until expended.". Appropriation authorization.

Adult Education Amendments of 1988.
20 USC 1201 note.

PART B—ADULT EDUCATION

SECTION 2101. SHORT TITLE.

This part may be cited as the "Adult Education Amendments of 1988".

SEC. 2102. AMENDMENT TO ADULT EDUCATION ACT.

Title III of the Elementary and Secondary Education Amendments of 1966 is amended to read as follows:

Adult Education Act.

"TITLE III—ADULT EDUCATION PROGRAMS

20 USC 1201 note.

"SEC. 301. SHORT TITLE.

"This title may be cited as the 'Adult Education Act'.

"PART A—BASIC PROGRAM PROVISIONS

20 USC 1201.

"SEC. 311. STATEMENT OF PURPOSE.

"It is the purpose of this title to assist the States to improve educational opportunities for adults who lack the level of literacy skills requisite to effective citizenship and productive employment, to expand and improve the current system for delivering adult education services including delivery of such services to educationally disadvantaged adults, and to encourage the establishment of adult education programs that will—

"(1) enable these adults to acquire the basic educational skills necessary for literate functioning;

"(2) provide these adults with sufficient basic education to enable them to benefit from job training and retraining programs and obtain and retain productive employment so that they might more fully enjoy the benefits and responsibilities of citizenship; and

"(3) enable adults who so desire to continue their education to at least the level of completion of secondary school.

20 USC 1201a.

"SEC. 312. DEFINITIONS.

"As used in this title—

"(1) The term 'adult' means an individual who has attained 16 years of age or who is beyond the age of compulsory school attendance under State law, except that for the purpose of section 313(b), the term 'adult' means an individual 16 years of age or older.

"(2) The term 'adult education' means services or instruction below the college level for adults—

"(A) who are not enrolled in secondary school;

"(B) who lack sufficient mastery of basic educational skills to enable them to function effectively in society or who do not have a certificate of graduation from a school providing secondary education and who have not achieved an equivalent level of education;

"(C) who are not currently required to be enrolled in school; and

"(D) whose lack of mastery of basic skills results in an inability to speak, read, or write the English language

which constitutes a substantial impairment of their ability to get or retain employment commensurate with their real ability, and thus are in need of programs to help eliminate such inability and raise the level of education of such individuals with a view to making them less likely to become dependent on others.

"(3) The term 'educationally disadvantaged adult' means an adult who—

"(A) demonstrates basic skills equivalent to or below that of students at the fifth grade level; or

"(B) has been placed in the lowest or beginning level of an adult education program when that program does not use grade level equivalencies as a measure of students' basic skills.

"(4) The term 'community school program' is a program in which a public building, including but not limited to a public elementary or secondary school or a community or junior college, is used as a community center operated in conjunction with other groups in the community, community organizations, and local governmental agencies, to provide educational, recreational, cultural, and other related community services for the community which the center serves in accordance with the needs, interest, and concerns of that community.

"(5) The term 'local educational agency' means a public board of education or other public authority legally constituted within a State for either administrative control or direction of public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools, except that, if there is a separate board or other legally constituted local authority having administrative control and direction of adult education in public schools therein, such term means such other board or authority.

"(6) The term 'Secretary' means the Secretary of Education.

"(7) The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, and except for the purposes of section 313, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Northern Mariana Islands, and the Virgin Islands.

"(8) The term 'State educational agency' means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is a separate State agency or officer primarily responsible for supervision of adult education in public schools, then such agency or officer may be designated for the purpose of this title by the Governor or by State law. If no agency or officer qualifies under the preceding sentence, such term shall mean an appropriate agency or officer designated for the purposes of this title by the Governor.

"(9) The term 'academic education' means the theoretical, the liberal, the speculative, and classical subject matter found to compose the curriculum of the public secondary school.

"(10) The term 'institution of higher education' means any such institution as defined by section 481 of the Higher Education Act of 1965.

"(11) The term 'individual of limited English proficiency' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

"(A) whose native language is a language other than English; or

"(B) who lives in a family or community environment where a language other than English is the dominant language.

"(12) The term 'out-of-school youth' means an individual who is under 16 years of age and beyond the age of compulsory school attendance under State law who has not completed high school or the equivalent.

"(13) The term 'English literacy program' means a program of instruction designed to help limited English proficient adults, out-of-school youths, or both, achieve full competence in the English language.

"(14) The term 'community-based organization' means a private nonprofit organization which is representative of a community or significant segments of a community and which provides education, vocational education or rehabilitation, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union-related organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians.

"(15) The term 'private industry council' means the private industry council established under section 102 of the Job Training Partnership Act.

20 USC 1201b.

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS; ALLOTMENTS.

"(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $200,000,000 for fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year through fiscal year 1993 to carry out the provisions of this title (other than sections 371 and 372).

Territories, U.S.

"(b) ALLOTMENT.—From the sums available for the purposes of section 311 for any fiscal year, the Secretary shall allot (1) $100,000 each to Guam, American Samoa, the Northern Mariana Islands, the Virgin Islands, and the Trust Territory of the Pacific Islands, and (2) $250,000 to each of the other States. From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to such remainder as the number of adults who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools of such State bears to the number of such adults in all States.

"(c) REALLOTMENT.—The portion of any State's allotment under subsection (b) for a fiscal year which the Secretary determines will not be required for the period such allotment is available for carrying out the State plan approved under this title shall be available for reallotment from time to time, on such dates during such period as the Secretary shall fix, to other States in proportion to the original allotments to such States under subsection (b) for such year, but with such proportionate amount for any of such other State being reduced to the extent it exceeds the sum which the Secretary estimates such State needs and will be able to use for such period for carrying out its State plan approved under this title, and the total of such reductions shall be similarly reallotted among the States whose

proportionate amounts are not so reduced. Any amount allotted to a State under this subsection during a year shall be deemed part of its allotment under subsection (b) for such year.

"(d) RESERVATION OF FUNDS FOR NATIONAL PROGRAMS.—For any fiscal year, if the amount appropriated to carry out the purposes of this title exceeds $108,000,000, not more than $3,000,000 of such amount shall be reserved to carry out the programs described in part D, relating to national programs.

"PART B—STATE PROGRAMS

"Subpart 1—Basic State Grants

"SEC. 321. BASIC GRANTS. 20 USC 1203.

"From the sums allotted to States for this subpart pursuant to section 313, the Secretary is authorized to make grants to States to assist them in funding adult education programs, services, and activities carried out by eligible recipients to achieve the purposes of this title.

"SEC. 322. USE OF FUNDS; LOCAL APPLICATIONS. 20 USC 1203a.

"(a) USE OF FUNDS.—

"(1) Grants to States under this subpart shall be used in accordance with State plans (and amendments thereto) approved under sections 341 and 351, to pay the Federal share of the cost of the establishment or expansion of adult education programs to be carried out by local educational agencies and by public or private nonprofit agencies, organizations, and institutions. Grants provided under this section to States to carry out the programs described in the preceding sentence may be carried out by public or private nonprofit agencies, organizations, and institutions only if the applicable local educational agency has been consulted with and has had an opportunity to comment on the application of such agency, organization, or institution. The comments of the local educational agency, and responses thereto, shall be attached to the application when it is forwarded to the State.

"(2) Grants to States provided under this section may also be used to carry out programs by a consortium which includes a for-profit agency, organization, or institution if such agency, organization, or institution can make a significant contribution to attaining the objectives of this Act. Whenever the establishment or expansion of programs includes a for-profit agency, organization, or institution, as part of a consortium, a contract with such agency, organization, or institution, for the establishment or expansion of such programs shall be entered into by the public or private nonprofit agency, institution, or organization. Contracts.

"(3) The State educational agency shall not approve any application unless evidence that any consultation required by paragraph (1) has taken place is provided. Such application shall contain such information as the State educational agency considers necessary, including a description of current programs, activities, and services receiving assistance from Federal, State, and local sources; cooperative arrangements (including arrangements with business, industry, and volunteer literacy organizations as appropriate) that have been made to deliver services to adults as well as assurances that adult

educational programs, services, or activities provided under this title are coordinated with and not duplicative of services, programs, or activities made available to adults under other Federal, State, and local programs, including the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Indian Education Act, the Higher Education Act of 1965, and the Domestic Volunteer Service Act.

"(4)(A) The State educational agency shall give preference to those applicants who have demonstrated or can demonstrate a capability to recruit and serve educationally disadvantaged adults.

"(B) The provisions of subparagraph (A) shall apply in any fiscal year in which the amount appropriated for basic State grants under this subpart exceeds the amounts available for such grants in fiscal year 1988.

"(b) LIMITATIONS ON USE OF FUNDS.—

"(1) Not less than 10 percent of the funds paid to a State under subsection (a) shall be used for corrections education and education for other institutionalized individuals in accordance with subpart 2.

"(2) Not more than 20 percent of a State's allotment shall be used for programs of equivalency for a certificate of graduation from a secondary school.

20 USC 1203b.

"SEC. 323. LOCAL ADMINISTRATIVE COST LIMITS.

"(a) Of the funds provided by the State agency to eligible recipients, at least 95 percent must be expended for provision of adult education instructional activities. The remainder shall be used for planning, administration, personnel development, and interagency coordination.

"(b) In cases where the administrative cost limits under subsection (a) would be insufficient for adequate planning, administration, evaluation, and coordination of programs supported under this Act, the State agency shall negotiate with the local grant recipient in order to determine an adequate level of funds to be used for noninstructional purposes.

"Subpart 2—Programs for Corrections Education and Education for Other Institutionalized Individuals

20 USC 1204.

"SEC. 326. PROGRAM AUTHORIZED.

"Funds set aside under section 322(b)(1) by a State shall be used for the cost of educational programs for criminal offenders in corrections institutions and for other institutionalized individuals, including—

"(1) academic programs for—

"(A) basic education with special emphasis on reading, writing, vocabulary, and arithmetic;

"(B) special education programs as defined by State law;

"(C) bilingual or English as a second language programs; and

"(D) secondary school credit programs;

"(2) vocational training programs;

"(3) library development and library service programs;

"(4) corrections education programs, training for teacher personnel specializing in corrections education, particularly

courses in social education, basic skills instruction, and abnormal psychology;

"(5) guidance and counseling programs;

"(6) supportive services for criminal offenders, with special emphasis on the coordination of educational services with agencies furnishing services to criminal offenders after their release; and

"(7) cooperative programs with educational institutions, community-based organizations of demonstrated effectiveness, and the private sector, designed to provide education and training.

"(b) As used in this section, the term—

"(1) 'criminal offender' means any individual who is charged with or convicted of any criminal offense; and

"(2) 'correctional institution' means any—

"(A) prison,

"(B) jail,

"(C) reformatory,

"(D) work farm,

"(E) detention center, or

"(F) halfway house, community-based rehabilitation center, or any other similar institution designed for the confinement or rehabilitation of criminal offenders.

"Subpart 3—State Administrative Responsibilities

"SEC. 331. STATE ADMINISTRATION. 20 USC 1205.

"(a) STATE AGENCY RESPONSIBILITIES.—Any State desiring to participate in the programs authorized by this title shall designate the State educational agency to be the sole State agency responsible for the administration and supervision of such programs. The responsibilities of the State agency shall include—

"(1) the development, submission, and implementation of the State application and plan and any amendments thereto (pursuant to sections 342 and 351), and the State evaluation (pursuant to section 352);

"(2) consultation with the State advisory council established pursuant to section 332, and other appropriate agencies, groups, and individuals involved in the planning, administration, evaluation, and coordination of programs funded under this title; and

"(3) the assignment of such personnel as may be necessary for State administration of programs under this title.

"(b) STATE IMPOSED REQUIREMENTS.—Whenever any State imposes any rule or policy relating to the administration and operation of programs funded by this title (including any rule or policy based on State interpretation of any Federal law, regulation, or guideline) the rule or policy shall be identified as a State imposed requirement.

"(c) LIMITATION ON STATE ADMINISTRATIVE COSTS.—Effective for fiscal years beginning after September 30, 1990, a State educational agency may use no more than 5 percent of the State's grant or $50,000, whichever is greater, to pay the cost of its administration of the State's program.

"SEC. 332. STATE ADVISORY COUNCIL ON ADULT EDUCATION. 20 USC 1205a.

"(a) REQUIREMENT.—(1) Any State may designate a body, or establish a new body if there is no suitable existing body, to act as a State

advisory council on adult education, appointed by the Governor. The membership of the State advisory council shall be broadly representative of citizens and groups within the State having an interest in adult education, and shall consist of representatives of public education; private and public sector employment; recognized State labor organizations; private, voluntary, or community literacy organizations; libraries; and State economic development agencies.

"(2) A State which elects to designate or establish a State advisory council available for this subsection may use funds under this subpart for the purposes of this subsection.

"(b) REPRESENTATION ON COUNCIL.—The State shall ensure that there is appropriate representation on the State advisory council of urban as well as rural areas, of women, persons with handicaps, and racial and ethnic minorities.

"(c) CERTIFICATION.—The State shall certify the establishment and membership of the State advisory council to the Secretary prior to the beginning of any fiscal year in which the State desires to receive a grant under this title.

"(d) PROCEDURES.—Members of the State advisory council shall, using procedures agreed upon, elect their own chairperson. The State advisory council shall determine its own procedures, staffing needs (subject to funding levels authorized by the Governor), and the number, time, place, and conduct of meetings, except that it shall hold at least 1 public meeting each year at which the general public is given an opportunity to express views concerning adult education programs in the State. In approving the plan for the evaluations under subsection (f)(3)(A), the council shall ensure that persons knowledgeable of the daily operation of adult education programs are involved.

"(e) TERMS.—Members shall be appointed for fixed and staggered terms and may serve until their successors are appointed. Any vacancy in the membership of the council shall be filled in the same manner as the original appointment. Any member of the council may be removed for cause in accordance with procedures established by the council.

"(f) DUTIES.—Each State advisory council shall—

"(1) meet with the State agency or its representatives during the planning year to advise on the development of the State plan;

"(2) advise the State agency concerning—

"(A) policies the State should pursue to strengthen adult education; and

"(B) initiatives and methods the private sector could undertake to assist the State's improvement of adult education programs; and

"(3)(A) approve the plan for evaluations required in section 352 and participate in the implementation and dissemination of such evaluations, (B) advise the Governor, the State legislature, and the general public of the State of the findings of such evaluations, and (C) include in any report of such evaluations its comments and recommendations.

"Subpart 4—Planning and Applications

"SEC. 341. STATE PLAN AND APPLICATION. 20 USC 1206.

"(a) REQUIREMENT.—Any State desiring to receive funds under this title shall submit to the Secretary, during the fiscal year 1989 and during each fourth fiscal year thereafter, a State plan and application for adult education (in one document) for the four fiscal years succeeding each fiscal year in which the State plan and application are submitted.

"(b) PROCEDURE FOR SUBMISSION AND CONSIDERATION.—Each State plan and application shall be submitted to the Secretary by July 1 preceding the beginning of the first fiscal year for which the plan is in effect. The Secretary shall approve, within 60 days, each such plan and application which is formulated in accordance with sections 342 and 343 and which meets the requirements of such sections, and shall not finally disapprove a State plan except after giving reasonable notice and an opportunity for a hearing to the State agency.

"(c) GEPA PROVISION.—Such document shall be considered to be the general application required to be submitted by the State for funds received under this Act for the purpose of the provisions of section 435 of the General Education Provisions Act.

"SEC. 342. FOUR-YEAR STATE PLAN. 20 USC 1206a.

"(a) PROCEDURES REQUIRED IN FORMULATING STATE PLAN.—(1) In formulating the State plan, the State agency shall meet with and utilize the State advisory council, if established pursuant to section 332 of this title.

"(2) The State agency shall conduct public hearings in the State, after appropriate and sufficient notice, for the purpose of affording all segments of the public, including groups serving educationally disadvantaged adults, and interested organizations and groups an opportunity to present their views and make recommendations regarding the State plan. A summary of such recommendations and the State agency's response shall be included with the State plan submitted to the Secretary. Public information.

"(3)(A) Not less than 60 days before submission of the State plan to the Secretary under section 341, the State agency shall simultaneously submit the proposed State plan to (i) the State Board or agency for vocational education, (ii) the State Job Training Coordinating Council under the Job Training Partnership Act, and (iii) the State Board responsible for postsecondary education for review and comment. Such comments (to the extent such comments are received in a timely fashion) and the State's response shall be included with the State plan submitted to the Secretary. The Secretary shall consider such comments in reviewing such plan.

"(B) Not less than 60 days before the submission of the State plan to the Secretary, such plan shall be submitted to the State advisory council (if such a council exists). Should the State advisory council find that it has substantial disagreement with the final State plan, the Council may file timely objections with the State agency. The State agency shall respond to all substantial objections of the State advisory council in submitting such plan to the Secretary. The Secretary shall consider such comments in reviewing the State plan.

"(b) REQUIRED ASSESSMENTS.—In developing the 4-year State plan, each State shall (1) make a thorough assessment of (A) the needs of adults, including educationally disadvantaged adults, eligible to be

served as well as adults proposed to be served and those served and (B) the capability of existing programs and institutions to meet those needs, and (2) state the changes and improvements required in adult education to fulfill the purposes of this title, and the options for implementing these changes and improvements.

"(c) COMPONENTS OF STATE PLAN.—Consistent with the assessments described in subsection (b) each such plan shall—

"(1) set forth the goals, the methods and strategies, and the expected outcomes of programs, services, and activities during the 4-year period;

"(2) describe the curriculum, equipment, and instruments that are being used by instruction personnel and indicate how current these elements are;

Disadvantaged persons.

"(3) describe the means by which the delivery of adult education services will be significantly expanded (including efforts to reach typically underserved groups such as educationally disadvantaged adults, individuals with limited English proficiency and individuals with handicaps) through the use of agencies, institutions, and organizations other than the public school system, such as businesses, labor unions, libraries, institutions of higher education, public health authorities, employment or training programs, antipoverty programs, organizations providing assistance to the homeless, and community and voluntary organizations;

"(4) describe the means by which representatives of the public and private sector are involved in the development and implementation of the plan, especially in the expansion of the delivery of adult education services by cooperation and collaboration with those public and private agencies, institutions, and organizations;

"(5) describe specialized efforts to attract and assist meaningful participation in adult education programs through flexible course schedules, provision of auxiliary aids and services, convenient locations, adequate transportation, and meeting child care needs;

"(6) provide for the needs of persons with limited English proficiency (as defined in section 7004(a) of title VII of the Elementary and Secondary Education Act of 1965 or no English proficiency by providing adequate appropriate language assistance to the extent necessary to all such persons so they may progress effectively through adult education programs;

Handicapped persons. Homeless persons. Disadvantaged persons. Minorities.

"(7) describe how the particular educational needs of adult immigrants, the incarcerated, persons with handicaps, the chronically unemployed, the homeless, the disadvantaged, and minorities will be addressed;

"(8) describe the progress the State has made in achieving the goals set forth in each State plan subsequent to the initial State plan;

"(9) describe the progress it expects to make toward achieving the purpose of this title during the 4-year period of the State plan;

"(10) set forth the criteria the State agency will use in approving applications by eligible recipients and allocating funds made available under this title to such recipients;

"(11) describe the methods proposed for the joint planning and coordination of programs carried out under this title with those conducted under applicable Federal and State programs, includ-

ing the Carl D. Perkins Vocational Education Act of 1963, the Job Training Partnership Act, the Rehabilitation Act of 1973, the Education of the Handicapped Act, the Immigration Reform and Control Act of 1986, the Higher Education Act of 1965, and the Domestic Volunteer Service Act, to assure maximum use of funds under these Acts and to avoid duplication of services;

"(12) describe the steps taken to utilize volunteers, particularly volunteers assigned to the Literacy Corps established under the Domestic Volunteer Service Act and volunteers trained in programs carried out by section 382 of this title, but only to the extent that such volunteers supplement and do not supplant salaried employees; and

"(13) describe the measures to be taken to ensure that adult education programs, services, and activities assisted under this title will take into account the findings or program reviews and evaluations carried out pursuant to section 352.

"(d) LIMITED ENGLISH PROFICIENCY RULE.—Programs conducted under subsection (c)(6) shall be designed to teach English to limited English proficient adults and, as appropriate, to allow such adults to progress effectively through the adult education program or to prepare them to enter the regular program of adult education as quickly as possible. Such programs may provide instruction in the native language, to the extent necessary, or may provide instruction exclusively in English, and shall be carried out in coordination with programs assisted under the Bilingual Education Act and with bilingual vocational education programs under the Carl D. Perkins Vocational Education Act.

"SEC. 343. STATE APPLICATIONS.

20 USC 1206b.

"The State application submitted pursuant to section 341 shall provide assurances—

"(1) that the State will provide such methods of administration as are necessary for the proper and efficient administration of this title;

"(2) that Federal funds made available under this title will be so used as to supplement the amount of State and local funds available for uses specified in this title, and in no case to supplant such State and local funds;

"(3) that the programs, services, and activities funded in accordance with the uses specified in section 322 are designed to expand or improve the quality of adult education programs including programs for educationally disadvantaged adults, to initiate new programs of high quality, or where necessary, to maintain programs;

"(4) that the State will provide such fiscal control and fundings accounting procedures as may be necessary to ensure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to eligible recipients under this title); and

"(5) that the State has instituted policies and procedures to ensure that copies of the State plan and all statements of general policy, rules, regulations, and procedures will be made available to the public.

"Subpart 5—Evaluation and State Plan Amendments

20 USC 1207. "SEC. 351. STATE PLAN AMENDMENTS.

"(a) TIMELY SUBMISSION.—When changes are necessary in a State plan, the State shall submit amendments to its plan by July 1 preceding the fiscal year of operation to which the amendments apply.

"(b) CONSIDERATION BY SECRETARY.—The Secretary shall approve, within 60 days of submission, State plan amendments which meet the requirements of this section, unless such amendments propose changes that are inconsistent with the requirements and purposes of this title. The Secretary shall not finally disapprove such amendments except after giving reasonable notice and an opportunity for hearing to the State agency.

"(c) TRANSITION RULE.—Upon a written request from a State, the Secretary shall approve an extension of 1 year, from June 30, 1988, to June 30, 1989, for the revision of any plan already approved under this section for the period July 1, 1985, through June 30, 1988.

Grants.
20 USC 1207a. "SEC. 352. EVALUATION.

"In order to assist grant recipients receiving funds under this title to plan and operate the best possible programs of adult education, each State agency during the 4-year period of the State plan shall—

"(1) annually submit data to the Secretary with respect to grant recipients;

"(2) before the end of such period evaluate at least one-third of grant recipients (which are representative of all grant recipients in the State) and such evaluations shall consider—

"(A) the planning and content of the program;

"(B) the curriculum, instructional materials, equipment, and qualifications of all personnel;

"(C) the effect of the program on the subsequent work experience of graduates; and

"(D) other factors determined to affect program operation; and

"(3) gather and analyze data (including standardized test data) to determine the extent to which the adult programs are achieving the goals set forth in the plan including the goal of serving educationally disadvantaged adults, and the extent to which grant recipients have improved their capacity to achieve the purposes of this title as set forth in section 311.

"Subpart 6—Demonstration Projects

20 USC 1208. "SEC. 353. SPECIAL EXPERIMENTAL DEMONSTRATION PROJECTS AND TEACHER TRAINING.

"(a) USE OF FUNDS.—Of the funds allotted to a State under section 313 for a fiscal year, not less than 10 percent shall be used for—

"(1) special projects which will be carried out in furtherance of the purposes of this title, which will be coordinated with other programs funded under this title and which—

"(A) involve the use of innovative methods (including methods for educating persons with handicaps, the homeless, and persons of limited English proficiency), systems, materials, or programs which may have national signifi-

cance or will be of special value in promoting effective programs under this title, or

"(B) involve programs of adult education, including education for persons with handicaps, the homeless, and persons of limited English proficiency, which are part of community school programs, carried out in cooperation with other Federal, State, or local programs which have unusual promise in promoting a comprehensive or coordinated approach to the problems of persons with educational deficiencies; and

"(2) training persons engaged, or preparing to engage, as personnel in programs designed to carry out the purposes of this title.

"(b) APPLICATIONS.—Applications for funds under subsection (a) shall include such information as the State educational agency considers appropriate, including plans for continuing the activities and services under the project after the completion of the funding.

"Subpart 7—Federal Share; Federal Administrative Responsibilities

"SEC. 361. PAYMENTS. 20 USC 1209.

"(a) FEDERAL SHARE.—The Federal share of expenditures to carry out a State plan shall be paid from a State's allotment available for grants to that State. The Federal share shall be— Territories, U.S.

"(1) 90 percent of the cost of carrying out the State's programs for fiscal year 1988;

"(2) 85 percent of such cost for fiscal year 1990;

"(3) 80 percent of such cost for fiscal year 1991; and

"(4) 75 percent of such cost for fiscal year 1992 and for each fiscal year thereafter,

except that with respect to Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, the Federal share of such cost shall be 100 percent.

"(b) MAINTENANCE OF EFFORT.—(1) No payment may be made to any State from its allotment for any fiscal year unless the Secretary finds that the fiscal effort per student or the amount available for expenditure by such State for adult education from non-Federal sources for the second preceding fiscal year was not less than such fiscal effort per student or such amount available for expenditure for such purposes from such sources during the third preceding fiscal year.

"(2) The Secretary may waive the requirements of this subsection for 1 fiscal year only, upon making a determination that such waiver would be equitable due to exceptional or uncontrollable circumstances affecting the ability of the applicant to meet such requirements, such as a natural disaster or an unforeseen and precipitous decline in financial resources.

"PART C—WORKPLACE LITERACY AND ENGLISH LITERACY GRANTS

20 USC 1211.

"SEC. 371. BUSINESS, INDUSTRY, LABOR, AND EDUCATION PARTNERSHIPS FOR WORKPLACE LITERACY.

"(a) GRANTS FOR EXEMPLARY DEMONSTRATION PARTNERSHIPS FOR WORKPLACE LITERACY.—(1) Subject to subsection (b), the Secretary shall make demonstration grants to exemplary education partnerships for workplace literacy to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (3); and

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A).

"(3) Programs funded under paragraph (2)(A) shall be designed to improve the productivity of the workforce through improvement of literacy skills needed in the workplace by—

"(A) providing adult literacy and other basic skills services and activities;

"(B) providing adult secondary education services and activities which may lead to the completion of a high school diploma or its equivalent;

"(C) meeting the literacy needs of adults with limited English proficiency;

"(D) upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

"(E) improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

"(F) providing education counseling, transportation, and nonworking hours child care services to adult workers while they participate in a program funded under paragraph (2)(A).

"(4) An application to receive funding for a program out of a grant made to a partnership under this subsection shall—

"(A) be submitted jointly by—

"(i) a business, industry, or labor organization, or private industry council; and

"(ii) a State educational agency, local educational agency, institution of higher education, or school (including an area vocational school, an employment and training agency, or community-based organization);

"(B) set forth the respective roles of each member of the partnership;

"(C) contain such additional information as the Secretary may require, including evidence of the applicant's experience in providing literacy services to working adults;

"(D) describe the plan for carrying out the requirements of paragraph (3); and

"(E) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this section.

"(b) GRANTS TO STATES.—(1) Whenever in any fiscal year, appropriations under subsection (c) are equal to or exceed $50,000,000, the Secretary shall make grants to States which have State plans approved by the Secretary under section 342 to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, or labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (4);

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A); and

"(C) for costs incurred by State educational agencies in obtaining evaluations described in paragraph (3)(A)(iii).

"(3) A State shall be eligible to receive its allotment under paragraph (7)(B) if it—

"(A) includes in a State plan submitted to the Secretary under section 342 a description of—

"(i) the requirements for State approval of funding of a program;

"(ii) the procedures under which applications for such funding may be submitted; and

"(iii) the method by which the State shall obtain annual third-party evaluation of student achievement in, and overall effectiveness of services provided by, all programs which receive funding out of a grant made to the State under this section; and

"(B) satisfies the requirements of section 306(a).

"(4) The program requirements set forth in subsection (a)(3) shall apply to the program authorized by this subsection.

"(5) An application to receive funding for a program from a grant made to a State under paragraph (1) shall contain the same information required in subparagraphs (A) through (E) of subsection (a)(4).

"(6) If a State is not eligible for a grant under paragraph (1) of this subsection, the Secretary shall use the State's allotment under paragraph (7) to make direct grants to applicants in that State who are qualified to teach literacy skills needed in the workplace.

"(7)(A) The Federal share of expenditures for programs in a State funded under this subsection shall be paid from a State's allotment under this paragraph.

"(B) From the sum appropriated for each fiscal year under subsection (c) for any fiscal year in which appropriations equal or exceed $50,000,000, the Secretary shall allot—

"(i) $25,000 to each of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands; and Territories, U.S.

"(ii) to each remaining State an amount which bears the same ratio to the remainder of such sum as—

"(I) the number of adults in the State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in the State, bears to

"(II) the number of such adults in all States;

except that no State shall receive less than $125,000 in any fiscal year.

"(C) At the end of each fiscal year, the portion of any State's allotment for that fiscal year which—

"(i) exceeds 10 percent of the total allotment for the State under paragraph (2) for the fiscal year; and

"(ii) remains unobligated;

shall be reallocated among the other States in the same proportion as each State's allocation for such fiscal year under paragraph (2).

"(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for the fiscal year 1988, $31,500,000 for the fiscal year 1989, and such sums as may be necessary for the fiscal year 1990 and each succeeding fiscal year ending prior to October 1, 1993, to carry out the provisions of this section.

"(2) No funds may be appropriated under paragraph (1) of this subsection for any fiscal year unless the appropriation for this Act (other than this part) for that year is equal to or greater than $110,000,000.

"(3) Amounts appropriated under this subsection shall remain available until expended.

20 USC 1211a.

"SEC. 372. ENGLISH LITERACY GRANTS.

"(a) GRANTS TO STATES.—(1) The Secretary may make grants to States which have State plans approved by the Secretary under section 342 for the establishment, operation, and improvement of English literacy programs for individuals of limited English proficiency. Such grants may provide for support services for program participants, including child care and transportation costs.

"(2) A State shall be eligible to receive a grant under paragraph (1) if the State includes in a State plan submitted to the Secretary under section 342 a description of—

"(A) the number of individuals of limited English proficiency in the State who need or could benefit from programs assisted under this chapter;

"(B) the activities which would be undertaken under the grant and the manner in which such activities will promote English literacy and enable individuals in the State to participate fully in national life;

"(C) how the activities described in subparagraph (B) will serve individuals of limited English proficiency, including the qualifications and training of personnel who will participate in the proposed activities;

"(D) the resources necessary to develop and operate the proposed activities and the resources to be provided by the State; and

"(E) the specific goals of the proposed activities and how achievement of these goals will be measured.

"(3) The Secretary may terminate a grant only if the Secretary determines that—

"(A) the State has not made substantial progress in achieving the specific educational goals set out in the application; or

"(B) there is no longer a need in the State for the activities funded by the grant.

"(b) SET-ASIDE FOR COMMUNITY-BASED ORGANIZATIONS.—A State that is awarded a grant under subsection (a) shall use not less than 50 percent of funds awarded under the grant to fund programs operated by community-based organizations with the demonstrated capability to administer English proficiency programs.

"(c) REPORT.—A State that is awarded a grant under subsection (a) shall submit to the Secretary a report describing the activities funded under the grant for each fiscal year covered by the grant.

"(d) DEMONSTRATION PROGRAM.—The Secretary, subject to the availability of funds appropriated pursuant to this section, shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program— Contracts.

"(1) through the Adult Education Division to develop innovative approaches and methods of literacy education for individuals of limited English proficiency utilizing new instructional methods and technologies; and

"(2) to designate the Center for Applied Linguistics of the Office of Educational Research and Improvement as a national clearinghouse on literacy education for individuals of limited English proficiency to collect and disseminate information concerning effective approaches or methods, including coordination with employment training and other education programs. Public information.

"(e) EVALUATION AND AUDIT.—The Secretary shall evaluate the effectiveness of programs conducted under this section. Programs funded under this section shall be audited in accordance with chapter 75 of title 31, United States Code.

"(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $25,000,000 for the fiscal year 1988, $26,300,000 for the fiscal year 1989, $27,600,000 for the fiscal year 1990, $29,000,000 for the fiscal year 1991, $30,500,000 for the fiscal year 1992, and $32,000,000 for the fiscal year 1993 to carry out this section.

"(2) Funds appropriated pursuant to this section shall remain available until expended.

"(3) Funds appropriated under this subsection may be combined with other funds made available for the State by the Federal Government for literacy training for individuals with limited English proficiency.

"(4) Not more than 10 percent of funds available under this section may be used to carry out the provisions of subsection (d).

"(5) Not more than 5 percent of funds available under this section may be used for State administration, technical assistance, and training.

"PART D—NATIONAL PROGRAMS

Grants.

"SEC. 381. ADULT MIGRANT FARMWORKER AND IMMIGRANT EDUCATION.

20 USC 1213.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to carry out a program of making grants to States and local eligible recipients to support planning, developing, and evaluating programs which are designed to provide adult education programs, services, and activities to meet the special needs of migrant farmworkers and immigrants. Programs operated from such grants shall be included

Contracts.

in a State's plan and must conform to all requirements of programs provided for by the State's basic grant. In carrying out this section, the Secretary may enter into interagency agreements with the Secretary of Health and Human Services to conduct programs in conjunction with activities authorized under the Immigration Reform and Control Act of 1986.

"(b) PRIORITY.—In carrying out the provisions of this part, the Secretary shall from funds reserved under section 313(d) give first priority to the portion of the program described in subsection (a) for migrant farmworkers.

20 USC 1213a.

"SEC. 382. ADULT LITERACY VOLUNTEER TRAINING.

Aged persons.

"(a) GENERAL AUTHORITY.—The Secretary is authorized to carry out a program of making grants to States and local eligible recipients to support planning, implementation, and evaluation of programs designed to train adult volunteers, especially the elderly, who wish to participate as tutors in local adult education programs.

"(b) PRIORITY.—In carrying out the provisions of this part the Secretary shall from funds reserved under section 313(d) give second priority to the portion of the program described in subsection (a) for adult volunteers.

20 USC 1213b.

"SEC. 383. STATE PROGRAM ANALYSIS ASSISTANCE AND POLICY STUDIES.

"(a) FEDERAL ASSISTANCE.—(1) The Secretary is authorized to assist States in evaluating the status and progress of adult education in achieving the purposes of this title, and activities designed to provide such assistance shall include, but are not limited to—

"(A) an analysis of State plans and of the findings of evaluations conducted pursuant to section 352, with suggestions to State agencies for improvements in planning or program operation; and

Public information.

"(B) the provision of an information network (in conjunction with the National Diffusion Network) on the results of research in adult education, the operation of model or innovative programs (including efforts to continue activities and services, under the program after the Federal funding has been discontinued) successful experiences in the planning, administration, and conduct of adult education programs, advances in curriculum and instructional practices, and other information useful in the improvement of adult education.

"(2) PRIORITY.—In carrying out the provisions of this part the Secretary shall from funds reserved under section 313(d) give third priority to the portion of the program described in paragraph (1) for evaluation and research.

"(b) DETERMINATION OF LITERACY.—The Secretary, in consultation with the Congress shall, within the first 2 years after enactment of the Adult Education Amendments of 1988, make a determination of the criteria for defining literacy, taking into consideration reports prepared by the National Assessment of Educational Progress and others and shall identify concretely those skills that comprise the basic educational skills needed for literate functioning. The Secretary, once the definition of literacy has been determined, shall, in consultation with the Congress and using the appropriate statistical sampling methodology, determine an accurate estimate of the number of illiterate adults in the Nation.

"(c) REPORT ON STATUS OF LITERACY AND ADULT EDUCATION.—Subsequent to the determination of literacy and the number of

illiterate individuals required in subsection (b), the Secretary shall submit a report every 4 years to the President and to the appropriate committees of the Congress on the status of literacy and adult education in the Nation.

"(d) EVALUATION REPORT.—Three years after the date of enactment of the Adult Education Amendments of 1988, and thereafter in conjunction with the report under subsection (c), the Secretary shall report to the appropriate committees of the Congress on the results of program evaluations required under this title and conclusions drawn therefrom regarding progress toward meeting the goals and purposes of this title, together with such recommendations as the Secretary may wish to make.

"SEC. 384. NATIONAL RESEARCH ACTIVITIES. 20 USC 1213c.

"(a) APPROVED ACTIVITIES.—The Secretary shall, through the Office of Educational Research and Improvement, support applied research, development, demonstration, dissemination, evaluation, and related activities which will contribute to the improvement and expansion of adult education in the Nation. Such activities shall include the establishment of a national clearinghouse to compile information on literacy curriculum and resources for adults, including youth and adults of limited English proficiency and adults with handicaps. The Secretary may support such activities directly, or through grants to, or cooperative agreements with, public or private institutions, agencies, or organizations, or individuals. Contracts.

"(b) RESEARCH CONCERNING SPECIAL NEEDS.—In addition to the responsibilities of the Assistant Secretary for Educational Research and Improvement under section 405 of the General Education Provisions Act, the Assistant Secretary may, with funds available under that section, with funds available under other Federal programs, or with funds set aside under section 313(d) of this title, support research on the special needs of persons requiring adult education including a study of the magnitude and nature of the needs of adults with learning disabilities who are eligible for participation in adult education programs. The Assistant Secretary may support such research directly or through grants to, or contracts or cooperative agreements with, public or private institutions, agencies, or organizations. Contracts.

"SEC. 385. LIMITATION. 20 USC 1213d.

"No grant may be made under this title for any educational program, activity, or service related to sectarian instruction or religious worship, or provided by a school or department of divinity. For purposes of this section, the term 'school or department of divinity' means an institution or a department or branch of an institution whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation, or to prepare them to teach theological subjects.".

PART C—EDUCATION FOR ECONOMIC SECURITY

SEC. 2301. REAUTHORIZATION OF PARTNERSHIP IN EDUCATION.

Section 304(b) of the Education for Economic Security Act (20 U.S.C. 3983) is amended—

(1) by striking ", and 1988" and all that follows before the period;

(2) by striking "1986," and inserting "1986 and"; and

Appropriation authorization.

(3) by adding at the end "There are authorized to be appropriated to carry out the provisions of this title $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.".

SEC. 2302. STAR SCHOOLS PROGRAM AUTHORIZED.

The Education for Economic Security Act is amended by adding at the end thereof the following new title:

Star Schools Program Assistance Act. Communications and telecommunications. 20 USC 4081 note.

"TITLE IX—STAR SCHOOLS PROGRAM

"SHORT TITLE

"SEC. 901. This title may be cited as the 'Star Schools Program Assistance Act'.

"STATEMENT OF PURPOSE

20 USC 4081.

"SEC. 902. It is the purpose of this title to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects such as vocational education through a star schools program under which demonstration grants are made to eligible telecommunications partnerships to enable such eligible telecommunications partnerships to develop, construct, and acquire telecommunications audio and visual facilities and equipment, to develop and acquire instructional programming, and obtain technical assistance for the use of such facilities and instructional programming.

"PROGRAM AUTHORIZED

Grants. 20 USC 4082.

"SEC. 903. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible telecommunications partnerships for the Federal share of the cost of the development, construction, and acquisition of telecommunications facilities and equipment, of the development and acquisition of instructional programming, and of technical assistance.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated $100,000,000 for the period beginning October 1, 1987, and ending September 30, 1992.

"(2) No appropriation in excess of $20,000,000 may be made in fiscal year 1988, and no appropriation in excess of $60,000,000 may be made in any of the fiscal years 1989 through 1992 pursuant to paragraph (1) of this subsection.

"(3) Funds appropriated pursuant to this subsection shall remain available until expended.

"(c) LIMITATIONS.—(1)(A) A demonstration grant made to an eligible telecommunications partnership under this title may not exceed $10,000,000.

"(B) An eligible telecommunications partnership may receive a grant for a second year under this title, but in no event may such a partnership receive more than $20,000,000.

"(2) Not less than 25 percent of the funds available in any fiscal year under this Act shall be used for the cost of instructional programming.

"(3) Not less than 50 percent of the funds available in any fiscal year under this title shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

"(d) FEDERAL SHARE.—(1) The Federal share for any fiscal year shall be 75 percent.

"(2) The Secretary may reduce or waive the requirements of the non-Federal share required under paragraph (1) of this subsection upon a showing of financial hardship.

"ELIGIBLE TELECOMMUNICATIONS PARTNERSHIPS

"SEC. 904. (a) GENERAL RULE.—In order to be eligible for demonstration grants under this title, an eligible telecommunications partnership shall consist of— 20 USC 4083.

"(1) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools which are eligible to participate in the program under chapter 1 of title I of the Elementary and Secondary Education Act of 1965; or

"(2) a partnership which includes three or more of the following, and at least one of which shall be an agency described in subparagraph (A) or (B), and which will provide a telecommunications network:

"(A) a local educational agency, which has a significant number of elementary and secondary schools which are eligible for assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 or elementary and secondary schools operated for Indian children by the Department of the Interior eligible under section 1005(d) of the Elementary and Secondary Education Act of 1965, Indians.

"(B) a State educational agency, or a State higher education agency,

"(C) an institution of higher education,

"(D) a teacher training center which—

"(i) provides teacher preservice and inservice training, and

"(ii) receives Federal financial assistance or has been approved by a State agency, or

"(E)(i) a public agency with experience or expertise in the planning or operation of a telecommunications network,

"(ii) a private organization with such experience, or

"(iii) a public broadcasting entity with such experience.

"(b) SPECIAL RULE.—An eligible telecommunications partnership must be organized on a statewide or multistate basis.

"APPLICATIONS

"SEC. 905. (a) APPLICATION REQUIRED.—Each eligible telecommunications partnership which desires to receive a demonstration grant under this title may submit an application to the Secretary, at such 20 USC 4084.

time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought which may include—

"(A) the design, development, construction, and acquisition of State or multistate educational telecommunications networks and technology resource centers;

"(B) microwave, fiber optics, cable, and satellite transmission equipment;

"(C) reception facilities;

"(D) satellite time;

"(E) production facilities;

"(F) other telecommunications equipment capable of serving a wide geographic area;

"(G) the provision of training services to elementary and secondary school teachers (particularly teachers in schools receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965) in using the facilities and equipment for which assistance is sought; and

"(H) the development of educational programming for use on a telecommunications network;

"(2) describe, in the case of an application for assistance for instructional programming, the types of programming which will be developed to enhance instruction and training;

"(3) demonstrate that the eligible telecommunications partnership has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the telecommunications partnership will increase the availability of courses of instruction in mathematics, science, and foreign languages, as well as the other subjects to be offered;

"(4) describe the teacher training policies to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;

"(5) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(6) provide assurances that a significant portion of the facilities, equipment, technical assistance, and programming for which assistance is sought will be made available to elementary and secondary schools of local educational agencies which have a high percentage of children counted for the purpose of chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

Disadvantaged persons.

"(7) describe the manner in which traditionally underserved students will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this title;

"(8) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this title; and

"(9) provide such additional assurances as the Secretary may reasonably require.

"(c) APPROVAL OF APPLICATION; PRIORITY.—The Secretary shall, in approving applications under this title, give priority to applications which demonstrate that—

"(1) a concentration and quality of mathematics, science, and foreign language resources which, by their distribution through the eligible telecommunications partnership, will offer significant new educational opportunities to network participants, particularly to traditionally underserved populations and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages; Disadvantaged persons.

"(2) the eligible telecommunications partnership has secured the direct cooperation and involvement of public and private educational institutions, State and local government, and industry in planning the network;

"(3) the eligible telecommunications partnership will serve the broadest range of institutions, including public and private elementary and secondary schools (particularly schools having significant numbers of children counted for the purpose of chapter 1 of title I of the Elementary and Secondary Education Act of 1965), programs providing instruction outside of the school setting, institutions of higher education, teacher training centers, research institutes, and private industry;

"(4) a significant number of educational institutions have agreed to participate or will participate in the use of the telecommunications system for which assistance is sought;

"(5) the eligible telecommunications partnership will have substantial academic and teaching capabilities including the capability of training, retraining, and inservice upgrading of teaching skills;

"(6) the eligible telecommunications partnership will serve a multistate area; and

"(7) the eligible telecommunications partnership will, in providing services with assistance sought under this Act, meet the needs of groups of individuals traditionally excluded from careers in mathematics and science because of discrimination, inaccessibility, or economically disadvantaged backgrounds.

"(d) GEOGRAPHIC DISTRIBUTION.—In approving applications under this title, the Secretary shall assure an equitable geographic distribution of grants. Grants.

"DISSEMINATION OF COURSES AND MATERIALS UNDER THE STAR SCHOOLS PROGRAM

"SEC. 906. (a) REPORT.—Each eligible telecommunications partnership awarded a grant under this title shall report to the Secretary a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers which will be transmitted over satellite, specifying the satellite on which such transmission will occur and the time of such transmission. 20 USC 4085.

"(b) DISSEMINATION OF COURSES OF INSTRUCTION.—The Secretary shall compile and prepare for dissemination a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers equipped with satellite transmission capabilities, as reported to the Secretary under subsection (a) of this section.

"(c) DISSEMINATION TO STATE EDUCATIONAL AGENCIES.—The Secretary shall distribute the list required by subsection (b) of this section to all State educational agencies.

"DEFINITIONS

20 USC 4086.

"SEC. 907. As used in this title—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, and a State educational agency;

"(2) the term 'institution of higher education' has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

"(3) the term 'local educational agency' has the same meaning given that term under section 1471(10) of the Elementary and Secondary Education Act of 1965;

"(4) the term 'instructional programming' means courses of instruction, and training courses, and materials for use in such instruction and training which have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices;

"(5) the term 'public broadcasting entity' has the same meaning given that term in section 397 of the Communications Act of 1934;

"(6) the term 'Secretary' means the Secretary of Education;

"(7) the term 'State educational agency' has the same meaning given that term under section 1471(16) of the Elementary and Secondary Education Act of 1965; and

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 2303. REPEAL.

Titles II, IV, VI, and VII of the Education for Economic Security Act are repealed.

20 USC 3961-3973, 4001-4003, 4031, 4031 note, 4032-4037, 4051-4062.

PART D—VOCATIONAL EDUCATION

SEC. 2401. TECHNICAL AMENDMENT.

(a) USES OF FUNDS.—Section 201 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2331) is amended—

(1) in subsection (b)(4), by striking "or homemakers;" and inserting ", homemakers, or single pregnant women;"; and

(2) in subsection (f), by striking "and homemakers" each place it appears and inserting ", homemakers, and single pregnant women".

(b) DISTRIBUTION OF ASSISTANCE.—Section 202(a)(4) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2332(4)) is amended by striking "and homemakers;" and inserting ", homemakers, or single pregnant women;".

(c) CONFORMING AMENDMENT.—Section 202 of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2332) is amended—

(1) by striking "(a)"; and

(2) by striking subsection (b).

SEC. 2402. THE NATIONAL CENTER FOR RESEARCH IN VOCATIONAL EDUCATION.

(a) IN GENERAL.—From funds appropriated for the fiscal year 1987 for section 404 of the Carl D. Perkins Vocational Education Act of 1984, the Secretary of Education shall provide financial assistance to a Center for Research in Vocational Education at The Ohio State University in the amount of $2,000,000 and the University of California at Berkeley in the amount of $2,000,000 to support ongoing activities, but not to support any new hiring after April 10, 1988, through December 31, 1988. Funds allocated to either institution shall be shared equitably according to the expenses of all subcontractors. The funds made available under this section shall not be affected by the outcome of the final decision on a grant award recipient for the National Center for Research in Vocational Education. Any funds received under this section shall be deducted from the total award made for a National Center for the 1988 grant award year.

(b) CONSTRUCTION.—Nothing in this section shall be construed to affect the decision with respect to the location of the National Center for Research in Vocational Education.

PART E—COMPREHENSIVE CHILD DEVELOPMENT PROGRAM

Comprehensive Child Development Centers Act of 1988.

SEC. 2501. SHORT TITLE.

42 USC 9801 note.

This part may be cited as the "Comprehensive Child Development Centers Act of 1988".

SEC. 2502. STATEMENT OF PURPOSE.

42 USC 9881 note.

It is the purpose of this part to provide financial assistance to projects, on a multiyear basis, that—

(1) are designed to encourage intensive, comprehensive, integrated, and continuous supportive services for infants and young children from low-income families;

(2) will enhance their physical, social, emotional, and intellectual development and provide support to their parents and other family members; and

(3) target services on infants and young children from families who have incomes below the poverty line and who, because of environmental, health, or other factors, need intensive and comprehensive supportive services to enhance their development.

SEC. 2503. PROGRAM AUTHORIZED.

Chapter 8 of subtitle A of title VI of the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35; 42 U.S.C. 9801 et seq.) is amended by adding at the end the following:

"Subchapter E—Comprehensive Child Development Program

Comprehensive Child Development Act.

"SHORT TITLE

Grants.

"SEC. 670M. This subchapter may be cited as the "Comprehensive Child Development Act".

42 USC 9801 note.

"CHILD DEVELOPMENT PROJECTS

Urban areas.
Rural areas.
Disadvantaged persons.
42 USC 9881.

"SEC. 670N. (a)(1) The Secretary is authorized to make operating grants to eligible agencies in rural and urban areas to pay the Federal share of the cost of projects designed to encourage intensive and comprehensive supportive services which will enhance the physical, social, emotional, and intellectual development of low-income children from birth to compulsory school age, including providing necessary support to their parents and other family members.

Contracts.

"(2) The Secretary shall enter into contracts, agreements, or other arrangements with at least 10, but not more than 25, eligible agencies to carry out this section.

"(3) In carrying out this section, the Secretary shall consider—

"(A) the capacity of the eligible agency to administer the project for which assistance is sought;

"(B) the proximity of the eligible agency and facilities associated with the project to the infants, young children, parents, and other family members, to be served by the project, or the ability of the agency to provide offsite services;

"(C) the ability of the eligible agency to coordinate its activities with State and local public agencies (such as agencies responsible for education, health and mental health services, social services, child care, nutrition, income assistance, and other relevant services), with appropriate nonprofit private organizations involved in the delivery of intensive and comprehensive support services, and with the appropriate local educational agency;

"(D) the management and accounting skills of the eligible agency;

"(E) the ability of the eligible agency to use the appropriate Federal, State, and local programs in carrying out the project; and

"(F) the eligible agency's involvement of project participants and community representatives in the planning and operation of the project.

"(b)(1)(A) The Secretary may make planning grants to eligible agencies to pay the Federal share of the cost of planning for projects funded under this section.

"(B)(i) No planning grant may be for a period longer than 1 year.

"(ii) Not more than 30 planning grants may be made under this subsection.

"(2) Each eligible agency desiring to receive a planning grant under this section shall submit an application to the Secretary at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require. Each such application shall—

"(A) describe the capacity of the eligible agency to provide or ensure the availability of the intensive and comprehensive supportive services pursuant to the purposes of section 2402 of the Comprehensive Child Development Centers Act of 1988;

"(B) describe the eligible infants, young children, parents, and other family members to be served by the project, including the number to be served and information on the population and geographic location to be served;

"(C) describe how the needs of such infants and young children will be met by the project;

"(D) describe the intensive and comprehensive supportive services that project planners intend to address in the development of the plan;

"(E) describe the manner in which the project will be operated together with the involvement of other community groups and public agencies;

"(F) specify the entities that the eligible agency intends to contact and coordinate activities with during the planning phase;

"(G) identify a planning phase advisory board which includes prospective project participants, representatives of the community in which the project will be located, and individuals with expertise in the services to be offered;

"(H) describe the capacity of the eligible agency to raise the non-Federal share of the costs of the project; and

"(I) contain such other information as the Secretary may reasonably require.

"(c)(1)(A) The Secretary shall make operating grants to eligible agencies selected in accordance with this section to pay the Federal share of the cost of carrying out projects for intensive and comprehensive supportive services for low-income infants, young children, parents, and other family members. Disadvantaged persons.

"(B) The Secretary shall ensure that there will be projects receiving grants under this section in rural areas.

"(C) In making operating grants in a fiscal year, the Secretary shall give priority to eligible entities that received operating grants under this section for the preceding fiscal year.

"(2)(A) To be eligible to receive an operating grant under this section, an eligible agency shall—

"(i) have a planning grant application approved under subsection (b) on file with the Secretary or have experience in conducting projects similar to the projects authorized by this section, and

"(ii) submit an operating grant application at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(B) Each such application shall—

"(i) identify the population and geographic location to be served by the project;

"(ii) provide assurances that services are closely related to the identifiable needs of the target population;

"(iii) provide assurances that each project will provide directly or arrange for intensive and comprehensive support services;

"(iv) identify the referral providers, agencies, and organizations that the eligible entity will use to carry out the project for which such operating grant is requested;

"(v) provide assurances that intensive and comprehensive supportive services will be furnished to parents beginning with prenatal care and will be furnished on a continuous basis to infants and young children, as well as to their parents and other family members;

"(vi) describe how services will be furnished at offsite locations, if appropriate;

"(vii) describe the extent to which the eligible agency through its project, will coordinate and expand existing services

as well as provide services not available in the area to be served by the project;

"(viii) describe how the project will relate to the local educational agency as well as State and local agencies providing health, nutritional, education, social, and income maintenance services;

"(ix) provide assurances that the eligible agency will pay the non-Federal share of the cost of the project for which such operating grant is requested, from non-Federal sources;

"(x) collect and provide data on groups of individuals and geographic areas served, including types of services to be furnished, estimated cost of providing comprehensive services on an average per user basis, types and nature of conditions and needs identified and met, and such other information as the Secretary may require;

"(xi) provide for an advisory committee consisting of—

"(I) participants in the project,

"(II) individuals with expertise in furnishing services the project offers and in other aspects of child health and child development, and

"(III) representatives of the community in which the project will be located;

"(xii) describe plans for evaluating the impact of the project; and

"(xiii) include such additional assurances, and agree to submit such necessary reports, as the Secretary may reasonably require.

"(d)(1)(A) The Secretary shall pay to eligible agencies having applications approved under subsections (b) and (c) the Federal share of the cost of the activities described in such applications.

"(B) The Federal share of such costs shall be 80 percent for each fiscal year.

"(C) The non-Federal share of such costs may be provided in cash or in kind fairly evaluated, including equipment or services.

"(D) Payments under this section may be made in installments, and in advance or by way of reimbursement, with necessary adjustments on account of overpayments or underpayments, as the Secretary may determine.

"(2) No planning grant to a single eligible agency may exceed $35,000.

"(e)(1) The Secretary shall, based on the projects assisted under this section, conduct or provide for, an evaluation of the success of projects authorized by this section.

"(2) Each eligible agency receiving a grant under this section shall furnish information requested in order to carry out the evaluation required by paragraph (1).

Reports.

"(f) Not later than October 1, 1993, the Secretary shall prepare and submit to the Congress a report on the evaluation required by subsection (e)(1), together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.

"LIMITATION

42 USC 9882.

"SEC. 670O. For purposes of making any grant under section 670N, the Secretary may not take into consideration whether the applicant for such grant applies for or receives funds under subchapter B.

"APPLICABILITY OF CERTAIN RULES AND REGULATIONS

"SEC. 670P. Except when inconsistent with the provisions of this subchapter, the rules and regulations prescribed by the Secretary, as in effect from time to time, to carry out subchapter B shall apply to carrying out this subchapter to the extent that services provided under this subchapter are similar to services provided under subchapter B. 42 USC 9883.

"CONTINUING EVALUATION OF PROJECTS

"SEC. 670Q. (a) The Secretary shall provide, directly or through grants and contracts, for the continuing evaluation of projects under this subchapter in order to determine their effectiveness in achieving stated goals, their impact on related programs, and their structure and mechanisms for delivery of services. Such evaluation shall include— 42 USC 9884. Contracts.

"(1) evaluations that measure the impact of such projects; and

"(2) where appropriate, comparisons of individuals who participate in such projects with appropriate control groups composed of individuals who do not participate in such projects.

"(b) Each evaluation conducted under subsection (a) of a project shall be conducted by persons who are not directly involved in the administration of such project.

"(c) In carrying out subsection (a), the Secretary may require eligible agencies to provide for independent evaluations.

"GENERAL ADMINISTRATION

"SEC. 670R. The Secretary shall carry out this subchapter through the administrative entity of the Department of Health and Human Services used by the Secretary to carry out subchapter B. 42 USC 9885.

"DEFINITIONS

"SEC. 670S. As used in this subchapter— 42 USC 9886.

"(1) the term 'early intervention services' has the same meaning given that term by section 672(2) of the Education of the Handicapped Act (20 U.S.C. 1472(2));

"(2) the term 'eligible agency' means a Head Start agency, an agency that is eligible to be designated as a Head Start agency under section 641, a community-based organization, an institution of higher education, a public hospital, a community development corporation, or a public or private nonprofit agency or organization specializing in delivering social services to infants or young children;

"(3) the term 'institution of higher education' has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a));

"(4) the term 'intensive and comprehensive supportive services' means—

"(A) in the case of infants and young children, services designed to enhance the physical, social, emotional, and intellectual development of such infants and children and such term includes infant and child health services (including screening and referral), child care that meets State licensing requirements, early childhood development programs, early intervention services for children with or at-risk of developmental delays, and nutritional services; and

"(B) in the case of parents and other family members, services designed to better enable parents and other family members to contribute to their child's healthy development and such term includes prenatal care; education in infant and child development, health, nutrition, and parenting; referral to education, employment counseling and training as appropriate; and assistance in securing adequate income support, health care, nutritional assistance, and housing;

"(5) the term 'local educational agency' has the same meaning given that term by section 1471(12) of the Elementary and Secondary Education Act of 1965;

"(6) the term 'low income' means persons who are from families having incomes below the poverty line as determined and revised in accordance with section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)); and

"(7) the term 'Secretary' means the Secretary of Health and Human Services.

"AUTHORIZATION OF APPROPRIATIONS

42 USC 9887.

"SEC. 670T. (a) Subject to subsection (b), there is authorized to be appropriated $25,000,000 for each of the fiscal years 1989, 1990, 1991, 1992, and 1993 to carry out this subchapter.

"(b) Notwithstanding any other provision of law, no funds shall be available for fiscal year 1989 or 1990 to carry out this subchapter if the amount appropriated for such fiscal year to carry out subchapter B is less than 104 percent of the amount appropriated for the preceding fiscal year to carry out subchapter B.

"(c) Funds made available in accordance with this section shall remain available for obligation and expenditure for one fiscal year succeeding the fiscal year for which such funds are appropriated.".

SEC. 2504. CONFORMING AMENDMENTS.

Section 638 of the Head Start Act (42 U.S.C. 9833) is amended—

(1) by inserting "(a)" after "SEC. 638."; and

(2) by adding at the end thereof the following:

"(b) For purposes of providing financial assistance under subsection (a) to agencies, the Secretary may not take into consideration whether such agency applies for or receives funds under subchapter E.".

PART F—HIGHER EDUCATION

SEC. 2601. ROBERT T. STAFFORD STUDENT LOAN PROGRAM.

(a) AMENDMENT TO TITLE OF PROGRAM.—Section 421 of the Higher Education Act of 1965 (hereafter in this section referred to as the "Act") is amended by adding at the end the following new subsection:

20 USC 1071.

"(c) The program established under this part may be referred to as the 'Robert T. Stafford Student Loan Program'.".

(b) CONFORMING AMENDMENT.—The heading for Part B of title IV of the Act is amended to read as follows: "PART B—ROBERT T. STAFFORD STUDENT LOAN PROGRAM".

20 USC prec. 1071.

TITLE III—EDUCATIONAL ASSESSMENT, ACHIEVEMENT, AND ADMINISTRATION

PART A—STATISTICS

SEC. 3001. NATIONAL CENTER FOR EDUCATION STATISTICS.

(a) ADMINISTRATION.—Section 406(a) of the General Education Provisions Act (hereinafter in this section referred to as "the Act") is amended— 20 USC 1221e-1.

(1) by inserting "(1)" after "(a)";

(2) in the first sentence of subsection (a) by inserting "National" before "Center"; and

(3) by striking all after the first sentence and inserting the following: "The general design and duties of the National Center for Education Statistics shall be to acquire and diffuse among the people of the United States useful statistical information on subjects connected with education (in the most general and comprehensive sense of the word) particularly the retention of students, the assessment of their progress, the financing of institutions of education, financial aid to students, the supply of and demand for teachers and other school personnel, libraries, comparisons of the education of the United States and foreign nations and the means of promoting material, social, and intellectual prosperity through education.". Public information.

(b) COMMISSIONER OF EDUCATION STATISTICS.—(1) Section 406(a) of the Act is amended by inserting after paragraph (1) (as so designated in subsection (a)) the following new paragraph:

"(2)(A) The Center shall be headed by a Commissioner of Education Statistics who shall be appointed by the President, by and with the advice and consent of the Senate. The Commissioner of the National Center for Education Statistics shall have substantial experience and knowledge of programs encompassed by the National Center The Commissioner shall be paid in accordance with section 5315 of title 5, United States Code. The Commissioner shall serve for terms of 4 years, except that the initial appointment shall commence June 21, 1991.

"(B) There shall be within the Center (i) an Associate Commissioner for Statistical Standards and Methodology who shall be qualified in the field of mathematical statistics or statistical methodology; and (ii) an Associate Commissioner for Data Collection and Dissemination, who shall be an individual who has extensive knowledge of uses of statistics for policy purposes at all levels of American education, and who shall promote the participation of States, localities, and institutions of higher education in designing education statistics programs, encourage widespread dissemination and use of the Center's data, and promote United States participation in international and regional education statistics. The Commissioner may appoint such other Associate Commissioners as may be necessary and appropriate.".

(2) Section 5315 of title 5 of the United States Code, is amended by adding at the end thereof the following:

"Commissioner, National Center for Education Statistics.".

(3) TRANSITION PROVISION.—During the period beginning on the date of the enactment of this Act and ending on the date that an appointment is made pursuant to section 406(a)(2)(A) (as inserted by 20 USC 1221e-1 note.

paragraph (1)), the individual serving as the director of the Center for Education Statistics on the date of the enactment of this Act may serve as acting Commissioner.

(c) ADVISORY COUNCIL ON EDUCATION STATISTICS.—Section 406(c) of the Act is amended— 20 USC 1221e-1.

(1) in the first sentence of paragraph (1) by inserting "public" after "7";

(2) in paragraph (2)—

(A) in subparagraph (B) by striking "and";

(B) by striking the period at the end of subparagraph (C) and inserting a comma; and

(C) by adding at the end the following subparagraphs:

"(D) Commissioner of Education Statistics, and;

"(E) Chairman, National Commission on Libraries and Information Science.";

(3) in paragraph (4) by striking "Assistant Secretary" and inserting "Commissioner of Education Statistics";

(4) in paragraph (7) by striking "establishing" and inserting "advising on"; and

(5) by adding after paragraph (7) the following new paragraph:

"(8) The Commissioner may appoint such other ad hoc advisory committees as the Commissioner considers necessary.".

(d) CONDITION OF EDUCATION REPORT.—Section 406(d) of the Act is amended—

(1) in paragraph (1)—

(A) by striking "Secretary" and inserting "Commissioner";

(B) by adding "and" at the end of subparagraph (B);

(C) by striking "; and" at the end of subparagraph (C) and inserting a period; and

(D) by striking all of subparagraph (D);

(2) by redesignating paragraph "(2)" as paragraph "(3)"; and

(3) by adding after paragraph (1) the following new paragraph:

"(2) The Secretary shall submit annually a report to the Congress giving information of the State of Education in the Nation. In such report the Secretary shall clearly set forth the Secretary's views of critical needs in education and the most effective manner in which the nation and the Federal Government may address such needs.".

(e) AUTHORITY OF COMMISSIONER.—Section 406(e) of the Act is amended by adding at the end the following paragraphs:

Contracts. "(3) In carrying out any authorized responsibilities under this section, the Commissioner may enter into contracts under regular competitive procedures of the Federal Government or other financial arrangements. Contracts or financial arrangements may also include sole source contracts with States, additional institutions, organizations performing international studies, and associations that are nationally representative of a wide variety of States or nonpublic schools. The Commissioner shall submit annually a report to the appropriate committees of the Congress, listing each sole source contract, its purpose, and the reasons why competitive bidding was not feasible in each such instance.

Reports.

"(4) The Commissioner is authorized to prepare and publish such information and documents as may be of value in carrying

out the purposes of this section. Periodically, the Commissioner shall issue a regular schedule of publications.

"(5) In addition to the condition of education report under subsection (d), the Commissioner is authorized to make special reports on particular subjects whenever required to do so by the President or either House of Congress or when considered appropriate by the Commissioner. Reports.

"(6) The Commissioner is authorized to use information collected by other offices in the Department of Education and by other executive agencies and to enter into interagency agreements for the collection of statistics for the purposes of this section. The Commissioner is authorized to arrange with any agency, organization, or institution for the collection of statistics for the purposes of this section and may assign employees of the Center to any such agency, organization, or institution to assist in such collection.

"(7) The Commissioner is authorized to use the statistical method known as sampling to carry out this section. Data may be collected from States, local educational agencies, schools, libraries, administrators, teachers, students, the general public, and such other individuals, persons, organizations, agencies, and institutions as the Commissioner may consider appropriate.

"(8) To assure the technical quality and the coordination of statistical activities of the Department, the Commissioner shall provide technical assistance to Department offices that gather data for statistical purposes. Such assistance may include a review of and advice on data collection plans, survey designs and pretests, the management of data, and the quality of reporting of data.

"(9) The Commissioner is authorized to—

"(A) select, appoint, and employ such officers and employees as may be necessary to carry out the functions of the Center, subject to the provisions of title 5, United States Code (governing appointments in the competitive service), and the provisions of chapter 51 and subchapter III of chapter 53 of such title (relating to classification and General Schedule pay rates); and

"(B) notwithstanding any other provision of this Act, to obtain services as authorized by section 3109 of title 5, United States Code, at a rate not to exceed the equivalent daily rate payable for grade GS-18 of the General Schedule under section 5332 of such title.".

(f) REPORTS ON EDUCATION INDICATORS.—Section 406(g) of the Act is amended— 20 USC 1221e-1.

(1) by inserting "(1)" after "(g)"; and

(2) by inserting after paragraph (1) (as so designated in paragraph (1) of this section) the following new paragraph:

"(2) In addition to other duties of the Commissioner under this section, it shall be the responsibility of the Commissioner to issue regular public reports to the President and Congress on dropout and retention rates, results of education, supply and demand of teachers and school personnel, libraries, financial aid and on such other education indicators as the Commissioner determines to be appropriate.".

(g) SPECIAL STUDY PANEL ON EDUCATION INDICATORS.—Section 406(g) of the Act is amended by adding after paragraph (2) (as added by subsection (F)) the following new paragraph:

"(3) The Commissioner shall establish a special study panel to make recommendations concerning the determination of education indicators for study and report under paragraph (2). Not more than 18 months after the date of the enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the Commissioner shall submit the report of the panel to the appropriate committees of the Congress. The panel shall cease to exist 6 months after the date of such submission.".

Reports.

Termination date.

(h) DROPOUT AND RETENTION STUDY AND REPORTS.—Section 406(g) of the Act is amended by adding after paragraph (3) (as added by subsection (g)) the following new paragraph:

20 USC 1221e-1.

"(4)(A) The Center shall conduct an annual national survey of dropout and retention rates as an education indicator

"(B) The Commissioner shall appoint a special task force to develop and test an effective methodology to accurately measure dropout and retention rates. Not later than 1 year after the date of enactment of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, the task force shall submit a report of its recommendations, including procedures for implementation of such recommendations, to the Commissioner and the appropriate committees of the Congress.

"(C) On the second Tuesday after Labor Day of 1989 and on each such Tuesday thereafter, the Center shall submit a report to the appropriate committees of the Congress of the dropout and retention rate prevailing on March 30 of each such year.".

(i) FINANCIAL AID STUDIES.—Section 406(g) of the Act is amended by adding after paragraph (4) (as added by subsection (h)) the following new paragraph:

"(5)(A) As of March 30, 1990, and not less than every 3 years thereafter, the Center shall conduct a national study and survey of financial aid in accordance with the provisions of section 1303(c) of the Higher Education Amendments of 1986. The Center shall submit a report to the appropriate committees of the Congress concerning the findings of such study "

Reports.

"(B) Concurrent with each survey, the Center.shall conduct longitudinal studies of freshman and graduating students concerning access, choice, persistence progress, curriculum and attainment. Such studies shall evaluate such students at 3 points over a 6-year interval.".

(j) DECENNIAL ANALYSIS OF SCHOOL DISTRICTS.—Section 406(g) of the Act is amended by adding after paragraph (5) (as added by subsection (i)) the following new paragraph:

"(6) On April 1, 1993, and every 10 years thereafter, the Center shall submit a report to the appropriate committees of the Congress concerning the social and economic status of children who reside in the areas served by different local educational agencies. Such report shall be based on data collected during the most recent decennial census.".

Reports.

(k) NATIONAL LONGITUDINAL SURVEY.—Section 406(g) of the Act is amended by adding after paragraph (6) (as added by subsection (j)) the following new paragraphs:

"(7) The Center shall conduct a study of a statistically relevant sample of students enrolled in elementary and secondary school and postsecondary education training concerning educational progress, intellectual development, and economic

prosperity. The study shall collect data on participation in higher education, including enrollment, persistence, and attainment. Such study shall evaluate such students by such criteria at 2-year intervals. As of February 1, 1989, and every 8 years thereafter, the Commissioner shall select a sample of students enrolled in school for this study.

"(8) The Center with the assistance of State library agencies, shall develop and support a cooperative system of annual data collection for public libraries. Participation shall be voluntary; however, all States should be encouraged to join the system. Attention should be given to insuring timely, consistent and accurate reporting.". Libraries.

(l) SCHOOL REFORM EFFORTS STUDY.—Section 406(g) of the Act is amended by adding after paragraph (8) (as added by subsection (k)) the following new paragraph: 20 USC 1221e-1.

"(9) The National Center for Education Statistics shall conduct a study on the effects of higher standards prompted by school reform efforts on student enrollment and persistence. The study shall examine academic achievement, and graduation rates of low-income, handicapped, limited English proficient, and educationally disadvantaged students.".

(m) CONFIDENTIAL TREATMENT OF DATA.—Section 406(d) of the Act is amended by adding after paragraph (3) the following new paragraph:

"(4)(A) Except as provided in this section, no person may—

"(i) use any individually identifiable information furnished under the provisions of this section for any purpose other than statistical purposes for which it is supplied;

"(ii) make any publication whereby the data furnished by any particular person under this section can be identified; or

"(iii) permit anyone other than the individuals authorized by the Commissioner to examine the individual reports; or

"(B) No department, bureau, agency, officer, or employee of the Government, except the Commissioner of Education Statistics in carrying out the purposes of this section, shall require, for any reason, copies of reports which have been filed under this section with the Center for Education Statistics or retained by any individual respondent. Copies of such reports which have been so retained or filed with the Center or any of its employees or contractors or agents shall be immune from legal process, and shall not, without the consent of the individual concerned, be admitted as evidence or used for any purpose in any action, suit, or other judicial or administrative proceeding. This subsection shall only apply to individually identifiable data (as defined in subparagraph (E)).

"(C) Whoever, being or having been an employee or staff member appointed under the authority of the Commissioner or in accordance with this section of the Act, having taken and subscribed the oath of office, or having sworn to observe the limitations imposed by subsection (a), knowingly publishes or communicates any individually identifiable information (as defined in subparagraph (E)), the disclosure of which is prohibited under the provisions of subparagraph (A), and which comes into his or her possession by reason of employment (or otherwise providing services) under the provisions of this section,

shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

"(D) The Commissioner may utilize temporary staff, including employees of Federal, State, or local agencies or instrumentalities including local education agencies, and employees of private organizations to assist the Center in performing the work authorized by this section, but only if such temporary staff is sworn to observe the limitations imposed by this section.

"(E) No collection of information or data acquisition activity undertaken by the Center shall be subject to any review, coordination or approval procedure except as required by the Director of the Office of Management and Budget under the rules and regulations established pursuant to chapter 35 of title 44, United States Code.

"(F) For the purposes of this section—

"(i) the term 'individually identifiable information' means any record, response form, completed survey or aggregation thereof from which information about individual students, teachers, administrators or other individual persons may be revealed;

"(ii) the term 'report' means a response provided by or about an individual to an inquiry from the Center and does not include a statistical aggregation from which individually identifiable information cannot be revealed; and

"(iii) as used in clause (i), the term 'persons' does not include States, local educational agencies, or schools.".

20 USC 1221e-1.

(n) EDUCATION INFORMATION AND DATA.—Section 406 of the Act is amended—

(1) in subsection (e)(1) by striking in the first sentence "of the Office";

(2) by redesignating subsection (h) as subjection (i);

(3) by inserting after subsection (g) a new subsection (h):

Establishment.

"(h)(1) There is established within the Center a National Cooperative Education Statistics System (hereafter referred to in this subsection as the 'System'). The purpose of the System is to produce and maintain, with the cooperation of the States, comparable and uniform educational information and data that are useful for policymaking at the Federal, State, and local level.

"(2) Each State that desires to participate in the system shall—

"(A) first develop with the Center the information and data-gathering requirements that are needed to report on the condition and progress of elementary and secondary education in the United States, such as information and data on—

"(i) schools and school districts;

"(ii) students and enrollments, including special populations;

"(iii) the availability and use of school libraries and their resources;

"(iv) teachers, librarians, and school administrators;

"(v) the financing of elementary and secondary education;

"(vi) student outcomes, including scores on standardized tests and other measures of educational achievement; and

"(vii) the progress of education reform in the States and the Nation; and

Contracts.

"(B) then enter into an agreement with the Center for that fiscal year to comply with those information and data-gathering requirements.

"(3) To establish and maintain the system, the Commissioner—
"(A) shall—
"(i) provide technical assistance to the States regarding the collection, maintenance, and use of the System's data, including the timely dissemination of such data; and
"(ii) to the extent possible, implement standard definitions and data collection procedures; and
"(B) may—
"(i) directly, or through grants, cooperative agreements, or contracts, conduct research, development, demonstration, and evaluation activities that are related to the purposes of the System; and
"(ii) prescribe appropriate guidelines to ensure that the statistical activities of the States participating in the System produce data that are uniform, timely, and appropriately accessible.";
(4) in subsection (f)—
(A) by inserting "(1)" after "(f)"; and
(B) by adding after paragraph (1) the following paragraphs:
"(2) The Commissioner may contract with States to carry out subsection (h). Such contracts may not exceed the additional cost to the State— Contracts.
"(A) of meeting the information and data gathering requirements in compliance with such subsection; or
"(B) for compliance with related efforts of the National Center for Education Statistics to achieve comparable and uniform data consistent with the purposes of this subsection.".

(o) STATE TRAINING PROGRAM.—Section 406(b)(3) of the Act is amended by adding before the semicolon the following: "(and shall establish a special program to train employees of such State and local agencies in the use of the Center's standard statistical procedures and concepts and may establish a fellows program to temporarily appoint such employees as fellows at the Center for the purpose of familiarization with the operations of the Center)". 20 USC 1221e-1.

(p) AUTHORIZATION OF APPROPRIATIONS.—
(1) Section 406(f)(1) of the Act (as so redesignated in subsection (m) of this section) is amended to read as follows:
"(f)(1) There are authorized to be appropriated for the purposes of this section (including salaries and expenses) $42,323,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.".
(2) Section 405(f)(1) of the Act is amended by striking "and section 406 of this Act". 20 USC 1221e.

(q) CONFORMING AMENDMENTS.—The heading of section 406 of the Act is amended to read as follows:

"NATIONAL CENTER FOR EDUCATION STATISTICS".

SEC. 3002. ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 DATA.

Section 405(e)(1)(A) of the General Education Provisions Act is amended by inserting before the semicolon ", including data on the performance in these areas of students served by chapter 1 of the Elementary and Secondary Education Act of 1965 and chapter 1 of the Education Consolidation and Improvement Act of 1981".

Fund for the Improvement and Reform of Schools and Teaching Act. 20 USC 4801 note.

PART B—FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING

SEC. 3201. SHORT TITLE.

This part may be cited as the "Fund for the Improvement and Reform of Schools and Teaching Act".

20 USC 4801.

SEC. 3202. ESTABLISHMENT OF FUND.

There is established a Fund for the Improvement and Reform of Schools and Teaching.

Subpart 1—Grants for Schools and Teachers

20 USC 4811.

SEC. 3211. FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING.

Contracts.

(a) GENERAL AUTHORITY.—The Secretary is authorized to make grants to, and enter into contracts with, State educational agencies, local educational agencies, institutions of higher education, nonprofit organizations, individual schools, consortia of such schools, and consortia of such schools and institutions, to improve educational opportunities for and the performance of elementary and secondary school students and teachers by—

(1) helping educationally disadvantaged or at risk children meet higher educational standards;

(2) providing incentives for improved performance;

(3) strengthening school leadership and teaching;

(4) promoting closer ties among school teachers, administrators, families and the local community;

(5) providing opportunities for teacher enrichment and other means to improve the professional status of teachers;

(6) encouraging projects that reallocate existing resources (both human and financial) to serve children better by refocusing priorities;

(7) allowing local schools to establish closer ties with an institution of higher education to increase educational achievement;

(8) increasing the number and quality of minority teachers;

(9) providing entry-year assistance to new teachers and administrators;

(10) improving the teacher certification process, especially for schools, school districts, or States facing serious shortages; and

(11) encouraging pride in schools by teaching students to be responsible for their school environment, involving students in the care and maintenance of their classrooms and promoting individual responsibility and involvement in civic activities.

(b) PRIORITY RULE.—The Secretary shall give priority to proposed projects that—

(1) will benefit students or schools with below average academic performance;

(2) will lead to increased access of all students to a high quality education; and

(3) develop or implement systems for providing incentives to schools, administrators, teachers, students, or others to make measurable progress toward specific goals of improved educational performance.

(c) ADMINISTRATIVE RULE.—The Secretary shall carry out the provisions of this part through the Board established under section 3231.

SEC. 3212. APPLICATIONS. 20 USC 4812.

(a) CONTENTS OF APPLICATIONS.—(1)(A) For grants described under this subpart, each applicant shall, if relevant, describe how the program relates to the priorities listed in section 3211(b). Where appropriate, proposals shall contain a description of the incentive system described in section 3211(b)(3), including specific goals and timetables for progress toward such goals.

(B) For the purpose of this section, incentives may include financial rewards, regulatory waivers, open enrollment among schools, grants to schools for innovative projects, or other rewards for meeting specific goals.

(C) For the purpose of this section, the goals described in subparagraph (A) may include increased graduation rates, reduced dropout rates, increased attendance rates, increased student achievement, reduced rates of incidents of juvenile delinquency or vandalism, or other goals of educational improvement.

(2)(A) Each teacher and administrator desiring to receive a grant at the school level shall submit an application for school level projects involving an individual school or a consortium of schools. Each application shall contain assurances that the project will be carried out under the responsibility of a full-time teacher or school administrator.

(B) Each such application shall be reviewed by the appropriate local educational agency. The local educational agency shall act as the fiscal agent in administering the school's grant to the school, but funds must be expended at the school level.

(b) STATE EDUCATIONAL AGENCY REVIEW.—Each application for a grant under this subpart (other than an application from a State educational agency) shall be forwarded to the appropriate State educational agency for review and comment, if the State educational agency requests the opportunity for review. The State educational agency must complete its review of the application and comment to the Secretary within 30 calendar days of receipt.

(c) SPECIAL EVALUATION RULE.—In evaluating an application for a grant or contract under this subpart, the Secretary shall consider the extent to which the proposed project is likely to improve teaching and learning at the school level.

Subpart 2—Family-School Partnership

SEC. 3221. FINDINGS AND PURPOSE. 20 USC 4821.

(a) FINDINGS.—The Congress finds that—

(1) it has been clearly demonstrated that parent involvement is directly related to better student achievement, attitudes, and performance in school;

(2) demographics of the American family are changing to the degree that significant numbers of children attending school come from families with single parents, families in which both parents are employed outside the home, or where the primary caregiver is not the biological parent;

(3) the demographics mean that current approaches to developing and maintaining partnerships with educators in compensatory education programs require review and modification to

make them more responsive to the needs of both families and schools; and

(4) effective approaches to more fully involving families as partners in their children's education should be encouraged as a matter of Federal policy.

(b) PURPOSE.—The purpose of this subpart is to encourage eligible local educational agencies to increase the involvement of families in the improvement of the educational achievement of their children in the preschool, elementary, and secondary schools within such agency.

20 USC 4822.

SEC. 3222. ELIGIBLE AGENCY.

In order to be eligible to receive a grant under this subpart, a local educational agency must be eligible to receive a grant under section 1005 of the Elementary and Secondary Education Act of 1965.

Grants.
20 USC 4823.

SEC. 3223. PROGRAM AUTHORIZED.

(a) GENERAL AUTHORITY.—The Secretary, through the Fund, is authorized to make demonstration grants to eligible local educational agencies for the development of innovative, promising family-school educational partnership activities designed to—

(1) support the efforts of families, including training, to the maximum extent practicable, to work with children in the home to attain both the instructional objectives of the schools within eligible local educational agencies and instill positive attitudes about the importance of education;

(2) train teachers and other staff personnel involved in the program supported under chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to work effectively as educational partners with the families of participating students;

(3) train families, teachers and other staff personnel in the schools within such agency to build an educational partnership between home and school; and

(4) evaluate how well family involvement activities of the schools within such agency are working, what barriers exist to greater participation, and what steps need to be taken to expand participation in such family involvement activities.

(b) USES OF FUNDS.—The activities and procedures for which grants may be made under this subpart may include—

(1) training programs for the family on the family's educational responsibilities and reasonable and necessary expenditures associated with the attendance of parents or guardians at training sessions;

(2) planning and development of new school procedures and practices to meet the changing demographic characteristics of the families of school-age children;

(3) planning and development of modifications of school procedures and practices necessary for the involvement of parents of special groups, including minorities, disadvantaged, gifted and talented, and students with handicaps;

(4) hiring, training, and use of educational personnel in eligible local educational agencies to coordinate family involvement activities and to foster communications among families, educators, and students;

(5) development and purchase by a local educational agency of educational materials where such materials are commercially unavailable to reinforce school learning at home and assistance

in implementing other home-based education activities that reinforce and extend classroom instruction and student motivation; and

(6) securing technical assistance, including training, to design and carry out family involvement programs.

(c) PRIVATE SCHOOL STUDENTS.—An application may, consistent with the number of children enrolled in private elementary and secondary schools located in the school district of an eligible educational agency, provide for the participation of such children, their families and teachers.

Subpart 3—Administrative Provisions

SEC. 3231. BOARD AUTHORIZED. 20 USC 4831.

(a) FUND FOR THE IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING BOARD ESTABLISHED.—(1) There is established the Fund Board.

(2)(A) The Board shall—

(i) advise the Secretary concerning developments in education that merit the attention of the Secretary;

(ii) identify promising initiatives to be supported under this part; and

(iii) advise the Secretary and the Director of the Fund on the selection of projects under consideration for support, planning documents, guidelines, and procedures for grant competitions carried out by the Fund.

(B) The Secretary shall provide such information and assistance as may be necessary to enable the Board to carry out its functions under this part.

(3)(A) The Board shall be composed of 15 members and the Secretary. Appointed members of the Board shall be appointed from among individuals who have extensive backgrounds in the field of education and shall represent a broad range of viewpoints and experience.

(B)(i) The term of office of each member of the Board shall be 3 years, except that, subject to the provisions of paragraphs (4) and (5), the members first taking office shall serve as designated by the Secretary, one-third of the members for terms of 1 year, one-third of the members for terms of 2 years, and one-third of the members for terms of 3 years;

(ii) Any member appointed to fill a vacancy shall serve for the remainder of the term for which the predecessor of such member was appointed. No Board member may serve more than 2 consecutive terms.

(4) The initial membership of the Board shall be appointed by the Secretary after consultation with appropriate educational organizations and other interest groups.

(5) As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board. The Board shall nominate at least 3 individuals for each vacancy.

(6) The Board shall elect a chairman and vice-chairman from among its membership.

(7) The Board shall meet at least 3 times each year. A meeting shall also be held whenever one-third of the Board members request

in writing that a meeting be held. A majority of the Board shall constitute a quorum.

(b) DIRECTOR OF THE FUND.—(1) The Secretary shall appoint a Director of the Fund to serve a 4-year term. No individual may serve as Director for more than 8 years.

(2) The Director shall advise the Board about developments in education that merit the attention of the Board, identify promising initiatives, coordinate the work of the Fund with the work of the Fund for the Improvement of Postsecondary Education, and provide such information and assistance as may be necessary to enable the Board to carry out its functions. The Director may offer comments to the Board on any application to the Fund.

(3) The Director shall—

(A) consult with the Board on priorities for the improvement of education,

(B) design grant competitions,

(C) solicit proposals,

(D) administer grant competitions,

(E) review and prioritize proposals,

(F) monitor funded projects, and

(G) disseminate the results of successful projects.

(c) PRIORITIES RULE.—In January of every calendar year, the Board shall advise the Secretary and the Congress of the priorities of the Board for the improvement of education and the implications of the priorities for the Fund. The Secretary shall give careful consideration to the priorities set forth by the Board. By December 31 of each calendar year, the Director shall provide the Congress with a report for that year summarizing the projects funded for that year.

Reports.

(d) REVIEW AND EVALUATION PROCEDURES.—The Director shall establish procedures for reviewing and evaluating grants and contracts made or entered into under this part. The procedures established under this subsection for reviewing grant applications or contracts for financial assistance under this Act may not be subject to any review outside of officials responsible for the administration of the Fund.

(e) PROPOSAL REVIEW.—In reviewing proposals, the Director shall consider the need for the proposed project and its plan of operation, educational value, budget and cost effectiveness, plan for evaluation, proposed impact, expected outcomes, potential transferability to other settings, and other factors as appropriate with respect to the goals and priorities of the Fund. The Secretary shall also consider, to the extent practicable, the geographic distribution of the projects selected for funding. The Secretary shall take appropriate steps to ensure that new applicants are encouraged to participate in any grant competition sponsored by the Fund for the Improvement and Reform of Schools and Teaching.

Grants.

(f) PERSONNEL.—The Secretary may appoint for terms not to exceed 3 years, without regard to the provisions of title 5 of the United States Code governing appointments in the competitive service, not more than 7 technical employees to administer this part who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 3232. DISSEMINATION AND REPORTING. 20 USC 4832.

(a) EXEMPLARY PROJECTS.—The Secretary shall take appropriate steps to ensure that exemplary projects that are developed with assistance furnished under this part are made available to institutions of higher education and State and local educational agencies. In carrying out this paragraph the Secretary and Director shall ensure that exemplary projects apply to the National Diffusion Network for dissemination through the procedures established by that program.

(b) REPORT.—The Secretary shall submit a final report to Congress not later than June 1, 1990. The report shall describe the programs assisted by this part, document the success of such programs in improving education, and make such recommendations as the Secretary deems appropriate.

(c) REPORT FOR CONTINUED FUNDING RULE.—As a condition to continue to receive funding after the first year of a multi-year project, the project administrator shall submit an annual report to describe the activities conducted during the preceding year and the progress that has been made toward reaching the goals described in its application, if applicable.

SEC. 3233. COORDINATION WITH THE FUND FOR THE IMPROVEMENT OF POSTSECONDARY EDUCATION. 20 USC 4833.

In order to facilitate coordination between the Fund and the Fund for the Improvement of Postsecondary Education, the Director of the Fund shall meet regularly with the Director of the Fund for the Improvement of Postsecondary Education. The Board of the Fund shall meet at least once each year with the Board of the Fund for the Improvement of Postsecondary Education to discuss priorities and projects to be funded.

Subpart 4—General Provisions

SEC. 3241. SPECIAL GRANT RULES. 20 USC 4841.

(a) GRANT CONDITIONS.—(1) Federal funds paid under this part shall supplement, not supplant, other resources available to the grantee.

(2) Financial assistance made under this part is not intended to be used for the acquisition of capital equipment as a primary purpose.

(b) DISTRIBUTION OF FUNDS.—(1) At least 25 percent of the funds appropriated for the Fund in any fiscal year shall be used for grants to applicants described in section 3212(a)(2)(A).

(2) Grants to a single school as described in section 3212(a)(2)(A) may not be less than $5,000 nor more than $125,000 in any fiscal year.

(3) No grant may be made for more than a 3-year period.

SEC. 3242. AUTHORIZATION OF APPROPRIATIONS. 20 USC 4842.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to carry out the provisions of this part $30,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990, 1991, 1992, and 1993.

(b) RESERVATIONS.—

(1) The Secretary shall reserve one-third of the funds appropriated for activities under subpart 2 of this part.

(2) The Secretary shall reserve $150,000 from funds appropriated for activities authorized by section 3232.

20 USC 4843.

SEC. 3243. DEFINITIONS.

For the purpose of this part—

(1) the term "at risk" means students who, because of learning deficiencies, lack of school readiness, limited English proficiency, poverty, educational or economic disadvantage, or physical or emotional handicapping conditions face greater risk of low educational achievement and have greater potential of becoming school dropouts;

(2) the term "Board" means the Fund Board established under section 3231;

(3) the term "Fund" means the Fund for the Improvement and Reform of Schools and Teaching established under section 3202; and

(4) the term "Secretary" means the Secretary of Education.

PART C—NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS

National Assessment of Educational Progress Improvement Act.
20 USC 1221 note.

SEC. 3401. SHORT TITLE.

This part may be cited as the "National Assessment of Educational Progress Improvement Act".

20 USC 1221e-1 note.

SEC. 3402. STATEMENT OF PURPOSE.

The purpose of this part is to improve the effectiveness of our Nation's schools by making objective information about student performance in selected learning areas available to policymakers at the national, regional, State, and local levels. To enhance its utility, such information shall be both representative and comparable and shall be maintained in a manner that ensures the privacy of individual students and their families. It is not the purpose of this Act to authorize the collection or reporting of information on student attitudes or beliefs or on other matters that are not germane to the acquisition and analysis of information about academic achievement.

SEC. 3403. NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS.

(a) GENERAL AUTHORITY.—Section 406 of the General Education Provisions Act (hereafter in this part referred to as "the Act" and as amended by section 3001 of this title) is amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following:

20 USC 1221e-1.

Grants.
Contracts.

"(i)(1) With the advice of the National Assessment Governing Board established by paragraph (5)(a)(i), the Commissioner shall carry out, by grants, contracts, or cooperative agreements with qualified organizations, or consortia thereof, a National Assessment of Educational Progress. The National Assessment of Educational Progress shall be placed in the National Center for Education Statistics and shall report directly to the Commissioner for Educational Statistics. The purpose of the National Assessment is the assessment of the performance of children and adults in the basic skills of reading, mathematics, science, writing, history/geography and other areas selected by the Board.

"(2)(A) The National Assessment shall provide a fair and accurate presentation of educational achievement in skills, abilities, and knowledge in reading, writing, mathematics, science, history/geography, and other areas specified by the Board, and shall use sampling techniques that produce data that are representative on a

national and regional basis and on a State basis pursuant to subparagraphs (C)(i) and (C)(ii). In addition, the National Assessment shall— Reports.

"(i) collect and report data on a periodic basis, at least once every 2 years for reading and mathematics; at least once every 4 years for writing and science; and at least once every 6 years for history/geography and other subject areas selected by the Board;

"(ii) collect and report data every 2 years on students at ages 9, 13, and 17 and in grades 4, 8, and 12;

"(iii) report achievement data on a basis that ensures valid reliable trend reporting;

"(iv) include information on special groups.

"(B) In carrying out the provisions of subparagraph (A), the Secretary and the Board appointed under paragraph (5) shall assure that at least 1 of the subject matters in each of the 4 and 6 year cycles described in subparagraph (A)(i) will be included in each 2 year cycle Assessment.

"(C)(i) The National Assessment shall develop a trial mathematics assessment survey instrument for the eighth grade and shall conduct a demonstration of the instrument in 1990 in States which wish to participate, with the purpose of determining whether such an assessment yields valid, reliable State representative data.

"(ii) The National Assessment shall conduct a trial mathematics assessment for the fourth and eighth grades in 1992 and, pursuant to subparagraph (6)(D), shall develop a trial reading assessment to be administered in 1992 for the fourth grade in States which wish to participate, with the purpose of determining whether such an assessment yields valid, reliable State representative data.

"(iii) The National Assessment shall ensure that a representative sample of students participate in such assessments.

"(iv) No State may agree to participate in the demonstration described in this subsection without full knowledge of the process for consensus decisionmaking on objectives to be tested, required in paragraph (6)(E), and of assessment demonstration standards for sampling, test administration, test security, data collection, validation and reporting. States wishing to participate shall sign an agreement developed by the Commissioner. A participating State shall review and give permission for release of results from any test of its students administered as a part of this demonstration prior to the release of such data. Refusal by a State to release its data shall not restrict the reporting of data from other States that have approved the release of such data. Contracts.

"(v) The Commissioner shall provide for an independent evaluation conducted by a nationally recognized organization (such as the National Academy of Sciences or the National Academy of Education) of the pilot programs to assess the feasibility and validity of assessments and the fairness and accuracy of the data they produce. The report shall also describe the technical problems encountered and a description about what was learned about how to best report data from the National Assessment of Educational Progress. The results of this report will be provided to the Congress and to States which participated in assessments pursuant to paragraph (C) (i) and (ii) within 18 months of the time such assessments were conducted. Reports.

"(D)(i) The National Assessment shall have the authority to develop and conduct, upon the direction of the Board and subject to the availability of appropriations, assessments of adult literacy.

"(3)(A) The National Assessment shall not collect any data that are not directly related to the appraisal of educational performance, achievements, and traditional demographic reporting variables, or to the fair and accurate presentation of such information.

"(B) The National Assessment shall provide technical assistance to States, localities, and other parties that desire to participate in the assessment to yield additional information described in paragraph (2).

Public information.

"(4)(A) Except as provided in subparagraph (B), the public shall have access to all data, questions, and test instruments of the National Assessment.

Classified information.

"(B)(i) The Commissioner shall ensure that all personally identifiable information about students, their educational performance, and their families and that information with respect to individual schools remain confidential, in accordance with section 552a of title 5, United States Code.

"(ii) Notwithstanding any other provision of the law, the Secretary may decline to make available to the public for a period not to exceed 10 years following their initial use cognitive questions that the Secretary intends to reuse in the future.

"(C) The use of National Assessment test items and test data employed in the pilot program authorized in subsection (2)(C) to rank, compare, or otherwise evaluate individual students, schools, or school districts is prohibited.

Establishment.

"(5)(A)(i) There is established the National Assessment Governing Board (hereafter in this section referred to as the 'Board').

"(ii) The Board shall formulate the policy guidelines for the National Assessment.

"(B) The Board shall be appointed by the Secretary in accordance with this subparagraph and subparagraphs (C), (D), and (E). The Board shall be composed of—

"(i) two Governors, or former Governors, who shall not be members of the same political party;

"(ii) two State legislators, who shall not be members of the same political party;

"(iii) two chief State school officers;

"(iv) one superintendent of a local educational agency;

"(v) one member of a State board of education;

"(vi) one member of a local board of education;

"(vii) three classroom teachers representing the grade levels at which the National Assessment is conducted;

"(viii) one representative of business or industry;

"(ix) two curriculum specialists;

"(x) two testing and measurement experts;

"(xi) one nonpublic school administrator or policymaker;

"(xii) two school principals, one elementary and one secondary;

"(xiii) three additional members who are representatives of the general public, including parents.

The Assistant Secretary for Educational Research and Improvement shall serve as an ex officio member of the Board as a nonvoting member.

"(C)(i) The Secretary and the Board shall ensure at all times that the membership of the Board reflects regional, racial, gender and cultural balance and diversity and that it exercises its independent judgment, free from inappropriate influences and special interests.

"(ii) In the exercise of its functions, powers, and duties, the Board shall hire its own staff and shall be independent of the Secretary and the other offices and officers of the Department of Education.

"(iii) The Secretary may appoint, at the direction of the Board, for terms not to exceed 3 years, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, not more than 6 technical employees to administer this subsection who may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

"(D)(i) The members of the Assessment Policy Committee, serving on the date of enactment of the National Assessment of Educational Progress Improvement Act, shall become members of the Board for the remainder of the terms of the appointment to the Assessment Policy Committee.

"(ii) To complete the initial membership of the Board, the Secretary shall appoint members of the Board as necessary in the categories described in subparagraph (B) for which there are no members continuing from the Assessment Policy Committee on the date of enactment of the National Assessment of Educational Progress Improvement Act. The Secretary shall appoint such members from among nominees furnished by the Governors, chief State school officers, education associations and organizations, the National Academy of Sciences, the National Academy of Education, parent organizations, and learned societies.

"(iii) As vacancies occur, new members of the Board shall be appointed by the Secretary from among individuals who are nominated by the Board after consultation with representatives of the groups listed in subparagraph (B). For each vacancy the Board shall nominate at least 3 individuals who, by reason of experience or training, are qualified in that particular Board vacancy.

"(E) Members of the Board appointed in accordance with this paragraph shall serve for terms not to exceed 4 years which shall be staggered, as determined by the Secretary, subject to the provisions of subparagraph (D)(i). Any appointed member of the Board who changes status under subparagraph (B) during the term of the appointment of the member may continue to serve as a member until the expiration of that term.

"(6)(A) In carrying out its functions under this subsection, the Board shall be responsible for—

"(i) selecting subject areas to be assessed (consistent with paragraph (2)(A));

"(ii) identifying appropriate achievement goals for each age and grade in each subject area to be tested under the National Assessment;

"(iii) developing assessment objectives;

"(iv) developing test specifications;

"(v) designing the methodology of the assessment;

"(vi) developing guidelines and standards for analysis plans and for reporting and disseminating results;

"(vii) developing standards and procedures for interstate, regional and national comparisons; and

"(viii) taking appropriate actions needed to improve the form and use of the National Assessment.

"(B) The Board may delegate any functions described in subparagraph (A) to its staff.

"(C) The Board shall have final authority on the appropriateness of cognitive items.

"(D) The Board shall take steps to ensure that all items selected for use in the National Assessment are free from racial, cultural, gender, or regional bias.

"(E) Each learning area assessment shall have goal statements devised through a national consensus approach, providing for active participation of teachers, curriculum specialists, local school administrators, parents and concerned members of the general public.

Reports. "(F) The Secretary shall report to the Board at regular intervals of the Department's action to implement the decisions of the Board.

"(G) Any activity of the Board or of the organization described in paragraph (1), shall be subject to the provisions of this subsection.

"(7)(A) Not to exceed 10 percent of the funds available for this subsection may be used for administrative expenses (including staff, consultants and contracts authorized by the Board) and to carry out the functions described in paragraph (6)(A).

"(B) For the purposes of its administrative functions, the Board shall have the authorities authorized by the Federal Advisory Committee Act and shall be subject to the open meeting provisions of that law.

"(8)(A) Participation in the National and Regional Assessments by State and local educational agencies shall be voluntary.

"(B) Participation in assessments made on a State basis shall be Contracts. voluntary. The Secretary shall enter into an agreement with any State which desires to carry out an assessment for the State under this subsection. Each such agreement shall contain provisions designed to assure—

"(i) that the State will participate in the assessment;

"(ii) that the State will pay from non-Federal sources the non-Federal share of participation; and

"(iii) that the State agrees with the terms and conditions specified in subsection (a)(2)(C)(iv).

"(C)(i) For each fiscal year, the non-Federal share for the purpose of clause (ii) of subparagraph (B) shall be the cost of conducting the assessment in the State including the cost of administering the assessment at the school level for all schools in the State sample and the cost of coordination within the State.

"(ii) The non-Federal share of payments under this paragraph may be in cash or in kind.

"(9)(A) The Commissioner shall provide for continuing reviews of the National Assessment, including validation studies by the National Center for Education Statistics and solicitation of public comment on the conduct and usefulness of the National Assessment.

Reports. The Secretary shall report to the Congress, the President, and the Nation on the findings and recommendations of such reviews. The Commissioner shall consider the findings and recommendations in designing the competition to select the organization through which the Office carries out the National Assessment.

"(B) The Commissioner shall, not later than 6 months after the date of enactment of the National Assessment of Educational Progress Improvement Act, publish a report setting forth plans for the collection of data for the 1990 assessment and plans for including other subject areas in the 1992 and later assessments. The report shall include methods by which the results of the National Assessment of Educational Progress may be reported so that the results

are more readily available and more easily understood by educators, policymakers, and the general public, and methods by which items will be reviewed to identify and exclude items which reflect racial, cultural, gender, or regional bias. The report shall be developed after consultation with educators, State education officials, members of the Board appointed under paragraph (5), and the general public.

"(C) The report required by this paragraph shall be submitted to the Congress and made available to the public. The appropriate authorizing committees of the Congress may request the Secretary to modify the plan contained in the report. The Secretary shall take such actions as may be appropriate to carry out the recommendations contained in the report.". Public information.

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 405 of the Act is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively. 20 USC 1221e.

(c) RESERVATION OF FUNDS FOR ASSESSMENTS.—(1) Section 405(f)(1)(D) of the Act (as redesignated by subsection (b)(1)) is amended to read as follows:

"(D) Not less than $9,500,000 for the fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1993, shall be available to carry out section 406(i) of this Act (relating to the National Assessment of Education Progress);".

(2) Section 405(f)(1)(E) of the Act (as redesignated by subsection (a)(1)) is amended by inserting a comma and "except for subsection (i) of that section," immediately after "Act".

PART D—GENERAL EDUCATION PROVISIONS ACT

SEC. 3501. ENFORCEMENT UNDER THE GENERAL EDUCATION PROVISIONS ACT.

(a) AMENDMENT TO PART E OF GEPA.—Part E of the General Education Provisions Act is amended to read as follows:

"PART E—ENFORCEMENT

"SEC. 451. OFFICE OF ADMINISTRATIVE LAW JUDGES.

Establishment. 20 USC 1234.

"(a) The Secretary shall establish in the Department of Education an Office of Administrative Law Judges (hereinafter in this part referred to as the 'Office') which shall conduct—

"(1) recovery of funds hearings pursuant to section 452 of this Act,

"(2) withholding hearings pursuant to section 455 of this Act,

"(3) cease and desist hearings pursuant to section 456 of this Act, and

"(4) other proceedings designated by the Secretary.

"(b) The administrative law judges (hereinafter 'judges') of the Office shall be appointed by the Secretary in accordance with section 3105 of title 5, United States Code.

"(c) The judges shall be officers or employees of the Department. The judges shall meet the requirements imposed for administrative law judges pursuant to section 3105 of title 5, United States Code. In choosing among equally qualified candidates for such positions the Secretary shall give favorable consideration to the candidates' experience in State or local educational agencies and their knowl-

edge of the workings of Federal education programs in such agencies. The Secretary shall designate one of the judges of the Office to be the chief judge.

"(d) For the purposes of conducting hearings described in subsection (a), the chief judge shall assign a judge to each case or class of cases. A judge shall be disqualified in any case in which the judge has a substantial interest, has been of counsel, is or has been a material witness, or is so related to or connected with any party or the party's attorney as to make it improper for the judge to be assigned to the case.

"(e) The judge shall review and may require that evidence be taken on the sufficiency of the preliminary departmental determination as set forth in section 452.

Regulations.

"(f)(1) The proceedings of the Office shall be conducted according to such rules as the Secretary shall prescribe by regulation in conformance with the rules relating to hearings in title 5, United States Code, sections 554, 556, and 557.

"(2) The provisions of title 5, United States Code, section 504, relating to costs and fees of parties, shall apply to the proceedings before the Department.

"(g)(1) In order to secure a fair, expeditious, and economical resolution of cases and where the judge determines that the discovered information is likely to elicit relevant information with respect to an issue in the case, is not sought primarily for the purposes of delay or harassment, and would serve the ends of justice, the judge may order a party to—

"(A) produce relevant documents;

"(B) answer written interrogatories that inquire into relevant matters; and

"(C) have depositions taken.

The judge shall set a time limit of 90 days on the discovery period. The judge may extend this period for good cause shown. At the request of any party, the judge may establish a specific schedule for the conduct of discovery.

"(2) In order to carry out the provisions of subsections (f)(1) and (g)(1), the judge is authorized to issue subpoenas and apply to the appropriate court of the United States for enforcement of a subpoena. The court may enforce the subpoena as if it pertained to a proceeding before that court.

"(h) The Secretary shall establish a process for the voluntary mediation of disputes pending before the Office. The mediator shall be agreed to by all parties involved in mediation and shall be independent of the parties to the dispute. In the mediation of disputes the Secretary shall consider mitigating circumstances and proportion of harm pursuant to section 453. In accordance with rule 408 of the Federal Rules of Evidence, evidence of conduct or statements made in compromise negotiations shall not be admissible in proceedings before the Office. Mediation shall be limited to 120 days, except that the mediator may grant extensions of such period.

"(i) The Secretary shall employ, assign, or transfer sufficient professional personnel, including judges of the Office, to ensure that all matters brought before the Office may be dealt with in a timely manner.

20 USC 1234a.

"SEC. 452. RECOVERY OF FUNDS.

Grants.
Contracts.

"(a)(1) Whenever the Secretary determines that a recipient of a grant or cooperative agreement under an applicable program must

return funds because the recipient has made an expenditure of funds that is not allowable under that grant or cooperative agreement, or has otherwise failed to discharge its obligation to account properly for funds under the grant or cooperative agreement, the Secretary shall give the recipient written notice of a preliminary departmental decision and notify the recipient of its right to have that decision reviewed by the Office and of its right to request mediation.

"(2) In a preliminary departmental decision, the Secretary shall have the burden of stating a prima facie case for the recovery of funds. The facts to serve as the basis of the preliminary departmental decision may come from an audit report, an investigative report, a monitoring report, or other evidence. The amount of funds to be recovered shall be determined on the basis of section 453.

"(3) For the purpose of paragraph (2), failure by a recipient to maintain records required by law, or to allow the Secretary access to such records, shall constitute a prima facie case.

"(b)(1) A recipient that has received written notice of a preliminary departmental decision and that desires to have such decision reviewed by the Office shall submit to the Office an application for review not later than 30 days after receipt of notice of the preliminary departmental decision. The application shall be in the form and contain the information specified by the Office. As expeditiously as possible, the Office shall return to the Secretary for such action as the Secretary considers appropriate any preliminary departmental decision which the Office determines does not meet the requirements of subsection (a)(2).

"(2) In cases where the preliminary departmental decision requests a recovery of funds from a State recipient, that State recipient may not recover funds from an affected local educational agency unless that State recipient has—

"(A) transmitted a copy of the preliminary departmental decision to any affected subrecipient within 10 days of the date that the State recipient in a State administered program received such written notice; and

"(B) consulted with each affected subrecipient to determine whether the State recipient should submit an application for review under paragraph (1).

"(3) In any proceeding before the Office under this section, the burden shall be upon the recipient to demonstrate that it should not be required to return the amount of funds for which recovery is sought in the preliminary departmental decision under subsection (a).

"(c) A hearing shall be set 90 days after receipt of a request for review of a preliminary departmental decision by the Office, except that such 90-day requirement may be waived at the discretion of the judge for good cause.

"(d) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(e) Parties to the proceeding shall have 30 days to file a petition for review of a decision of the administrative law judges with the Office of the Secretary.

"(f)(1) If a recipient submits a timely application for review of a preliminary departmental decision, the Secretary shall take no collection action until the decision of the Office upholding the preliminary Department decision in whole or in part becomes final agency action under subsection (g).

"(2) If a recipient files a timely petition for judicial review under section 458, the Secretary shall take no collection action until judicial review is completed.

"(3) The filing of an application for review under paragraph (1) or a petition for judicial review under paragraph (2) shall not affect the authority of the Secretary to take any other adverse action under this part against the recipient.

"(g) A decision of the Office regarding the review of a preliminary departmental decision shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

"(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action, or

"(2) remands the decision to the Office.

Federal Register, publication.

"(h) The Secretary shall publish decisions that have become final agency action under subsection (g) in the Federal Register or in another appropriate publication within 60 days.

"(i) The amount of a preliminary departmental decision under subsection (a) for which review has not been requested in accordance with subsection (b), and the amount sustained by a decision of the Office or the Secretary which becomes final agency action under subsection (g), may be collected by the Secretary in accordance with chapter 37 of title 31, United States Code.

"(j)(1) Notwithstanding any other provision of law, the Secretary may, subject to the notice requirements of paragraph (2), compromise any preliminary departmental decision under this section which does not exceed the amount agreed to be returned by more than $200,000, if the Secretary determines that (A) the collection of any or all or the amount thereof would not be practical or in the public interest, and (B) the practice which resulted in the preliminary departmental decision has been corrected and will not recur.

Federal Register, publication.

"(2) Not less than 45 days prior to the exercise of the authority to compromise a preliminary departmental decision pursuant to paragraph (1), the Secretary shall publish in the Federal Register a notice of intention to do so. The notice shall provide interested persons an opportunity to comment on any proposed action under this subsection through the submission of written data, views, or arguments.

"(k) No recipient under an applicable program shall be liable to return funds which were expended in a manner not authorized by law more than 5 years before the recipient received written notice of a preliminary departmental decision.

"(l) No interest shall be charged arising from a claim during the administrative review of the preliminary departmental decision.

"SEC. 453. MEASURE OF RECOVERY. 20 USC 1234b.

"(a)(1) A recipient determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, shall be required to return funds in an amount that is proportionate to the extent of the harm its violation caused to an identifiable Federal interest associated with the program under which the recipient received the award. Such amount shall be reduced in whole or in part by an amount that is proportionate to the extent the mitigating circumstances caused the violation.

"(2) For the purpose of paragraph (1), an identifiable Federal interest includes, but is not limited to, serving only eligible beneficiaries; providing only authorized services or benefits; complying with expenditure requirements and conditions (such as set-aside, excess cost, maintenance of effort, comparability, supplement-not-supplant, and matching requirements); preserving the integrity of planning, application, recordkeeping, and reporting requirements; and maintaining accountability for the use of funds.

"(b)(1) When a State or local educational agency is determined to have made an unallowable expenditure, or to have otherwise failed to discharge its responsibility to account properly for funds, and mitigating circumstances exist, as described in paragraph (2), the judge shall reduce such amount by an amount that is proportionate to the extent the mitigating circumstances caused the violation. Furthermore, the judge is authorized to determine that no recovery is justified when mitigating circumstances warrant. The burden of demonstrating the existence of mitigating circumstances shall be upon the State or local educational agency.

"(2) For the purpose of paragraph (1), mitigating circumstances exist only when it would be unjust to compel the recovery of funds because the State or local educational agency—

"(A) actually and reasonably relied upon erroneous written guidance provided by the Department;

"(B) made an expenditure or engaged in a practice after—

"(i) the State or local educational agency submitted to the Secretary, in good faith, a written request for guidance with respect to the expenditure or practice at issue, and

"(ii) a Department official did not respond within 90 days of receipt by the Department of such request; or

"(C) actually and reasonably relied upon a judicial decree issued to the recipient.

"(3) A written request for guidance as described in paragraph (2) sent by certified mail (return receipt requested) shall be conclusive proof of receipt by the Department. Mail.

"(4) If the Secretary responds to a written request for guidance described in paragraph (2)(B) more than 90 days after its receipt, the State or local educational agency that submitted the request shall comply with the guidance received at the earliest practicable time.

"(5) In order to demonstrate the existence of the mitigating circumstances described in paragraph (2)(B), the State or local educational agency shall demonstrate that—

"(A) the written request for guidance accurately described the proposed expenditure or practice and included the facts necessary for a determination of its legality; and

"(B) the written request for guidance contained a certification by the chief legal officer of the State educational agency that

such officer had examined the proposed expenditure or practice and believed the proposed expenditure or practice was permissible under then applicable State and Federal law; and

"(C) the State or local educational agency reasonably believed that the proposed expenditure or practice was permissible under then applicable State and Federal law.

"(6) The Secretary shall disseminate to State educational agencies responses to written requests for guidance, described in paragraph (5), that reflect significant interpretations of applicable law or policy.

"(c) The Secretary shall periodically review the written requests for guidance submitted under this section to determine the need for new or supplementary regulatory or other guidance under applicable programs.

20 USC 1234c.

"SEC. 454. REMEDIES FOR EXISTING VIOLATIONS.

"(a) Whenever the Secretary has reason to believe that any recipient of funds under any applicable program is failing to comply substantially with any requirement of law applicable to such funds, the Secretary may—

"(1) withhold further payments under that program, as authorized by section 455;

"(2) issue a complaint to compel compliance through a cease and desist order of the Office, as authorized by section 456;

"(3) enter into a compliance agreement with a recipient to bring it into compliance, as authorized by section 457; or

"(4) take any other action authorized by law with respect to the recipient.

"(b) Any action, or failure to take action, by the Secretary under this section shall not preclude the Secretary from seeking a recovery of funds under section 452.

20 USC 1234d.

"SEC. 455. WITHHOLDING.

"(a) In accordance with section 454, the Secretary may withhold from a recipient, in whole or in part, further payments (including payments for administrative costs) under an applicable program.

"(b) Before withholding payments, the Secretary shall notify the recipient, in writing, of—

"(1) the intent to withhold payments;

"(2) the factual and legal basis for the Secretary's belief that the recipient has failed to comply substantially with a requirement of law; and

"(3) an opportunity for a hearing to be held on a date at least 30 days after the notification has been sent to the recipient.

"(c) The hearing shall be held before the Office and shall be conducted in accordance with the rules prescribed pursuant to subsections (f) and (g) of section 451 of this Act.

"(d) Pending the outcome of any hearing under this section, the Secretary may suspend payments to a recipient, suspend the authority of the recipient to obligate Federal funds, or both, after such recipient has been given reasonable notice and an opportunity to show cause why future payments or authority to obligate Federal funds should not be suspended.

"(e) Upon review of a decision of the Office by the Secretary, the findings of fact by the Office, if supported by substantial evidence, shall be conclusive. However, the Secretary, for good cause shown, may remand the case to the Office to take further evidence, and the

Office may thereupon make new or modified findings of fact and may modify its previous action. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(f) The decision of the Office in any hearing under this section shall become final agency action 60 days after the recipient receives written notice of the decision unless the Secretary either—

"(1) modifies or sets aside the decision, in whole or in part, in which case the decision of the Secretary shall become final agency action when the recipient receives written notice of the Secretary's action; or

"(2) remands the decision of the Office.

"SEC. 456. CEASE AND DESIST ORDERS. 20 USC 1234e.

"(a) In accordance with section 454, the Secretary may issue to a recipient under an applicable program a complaint which—

"(1) describes the factual and legal basis for the Secretary's belief that the recipient is failing to comply substantially with a requirement of law; and

"(2) contains a notice of a hearing to be held before the Office on a date at least 30 days after the service of the complaint.

"(b) The recipient upon which a complaint has been served shall have the right to appear before the Office on the date specified and to show cause why an order should not be entered by the Office requiring the recipient to cease and desist from the violation of law charged in the complaint.

"(c) The testimony in any hearing held under this section shall be reduced to writing and filed with the Office. If upon that hearing the Office is of the opinion that the recipient is in violation of any requirement of law as charged in the complaint, the Office shall—

"(1) make a report in writing stating its findings of fact; and Reports.

"(2) issue to the recipient an order requiring the recipient to cease and desist from the practice, policy, or procedure which resulted in the violation.

"(d) The report and order of the Office under this section shall become the final agency action when the recipient receives the report and order.

"(e) The Secretary may enforce a final order of the Office under this section which becomes final agency action by—

"(1) withholding from the recipient any portion of the amount payable to it, including the amount payable for administrative costs, under the applicable program; or

"(2) certifying the facts to the Attorney General who shall cause an appropriate proceeding to be brought for the enforcement of the order.

"SEC. 457. COMPLIANCE AGREEMENTS. 20 USC 1234f.

"(a) In accordance with section 454, the Secretary may enter into a compliance agreement with a recipient under an applicable program. The purpose of any compliance agreement under this section shall be to bring the recipient into full compliance with the applicable requirements of law as soon as feasible and not to excuse or remedy past violations of such requirements.

"(b)(1) Before entering into a compliance agreement with a recipient, the Secretary shall hold a hearing at which the recipient, affected students and parents or their representatives, and other interested parties are invited to participate. The recipient shall have

the burden of persuading the Secretary that full compliance with the applicable requirements of law is not feasible until a future date.

Federal Register, publication.

"(2) If the Secretary determines, on the basis of all the evidence presented, that full compliance is genuinely not feasible until a future date, the Secretary shall make written findings to that effect and shall publish those findings, along with the substance of any compliance agreement, in the Federal Register.

"(c) A compliance agreement under this section shall contain—

"(1) an expiration date not later than 3 years from the date of the written findings under subsection (b)(2), by which the recipient shall be in full compliance with the applicable requirements of law, and

"(2) those terms and conditions with which the recipient must comply until it is in full compliance.

"(d) If a recipient fails to comply with the terms and conditions of a compliance agreement under this section, the Secretary may consider that compliance agreement to be no longer in effect, and the Secretary may take any action authorized by law with respect to the recipient.

20 USC 1234g.

"SEC. 458. JUDICIAL REVIEW.

"(a) Any recipient of funds under an applicable program that would be adversely affected by a final agency action under section 452, 455, or 456 of this Act, and any State entitled to receive funds under a program described in section 435(a) of this title whose application has been disapproved by the Secretary, shall be entitled to judicial review of such action in accordance with the provisions of this section. The Secretary may not take any action on the basis of a final agency action until judicial review is completed.

"(b) A recipient that desires judicial review of an action described in subsection (a) shall, within 60 days of that action, file with the United States Court of Appeals for the circuit in which that recipient is located, a petition for review of such action. A copy of the petition shall be transmitted by the clerk of the court to the Secretary. The Secretary shall file in the court the record of the proceedings on which the action was based, as provided in section 2112 of title 28, United States Code.

Records.

"(c) The findings of fact by the Office, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Office to take further evidence, and the Office may make new or modified findings of fact and may modify its previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

"(d) The court shall have jurisdiction to affirm the action of the Office or the Secretary or to set it aside, in whole or in part. The judgment of the court shall be subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

20 USC 1234h.

"SEC. 459. USE OF RECOVERED FUNDS.

"(a) Whenever the Secretary recovers funds paid to a recipient under a grant or cooperative agreement made under an applicable program because the recipient made an expenditure of funds that was not allowable, or otherwise failed to discharge its responsibility to account properly for funds, the Secretary may consider those funds to be additional funds available for that program and may

arrange to repay to the recipient affected by that action an amount not to exceed 75 percent of the recovered funds if the Secretary determines that—

"(1) the practices or procedures of the recipient that resulted in the violation of law have been corrected, and that the recipient is in all other respects in compliance with the requirements of that program;

"(2) the recipient has submitted to the Secretary a plan for the use of those funds pursuant to the requirements of that program and, to the extent possible, for the benefit of the population that was affected by the failure to comply or by the misuse of funds that resulted in the recovery; and

"(3) the use of those funds in accordance with that plan would serve to achieve the purposes of the program under which the funds were originally paid.

"(b) Any payments by the Secretary under this section shall be subject to such other terms and conditions as the Secretary considers necessary to accomplish the purposes of the affected programs, including—

"(1) the submission of periodic reports on the use of funds provided under this section; and

"(2) consultation by the recipient with students, parents, or representatives of the population that will benefit from the payments.

"(c) Notwithstanding any other provisions of law, the funds made available under this section shall remain available for expenditure for a period of time deemed reasonable by the Secretary, but in no case to exceed more than 3 fiscal years following the fiscal year in which final agency action under section 452(e) is taken.

"(d) At least 30 days prior to entering into an arrangement under this section, the Secretary shall publish in the Federal Register a notice of intent to enter into such an arrangement and the terms and conditions under which payments will be made. Interested persons shall have an opportunity for at least 30 days to submit comments to the Secretary regarding the proposed arrangement. Federal Register, publication.

"SEC. 460. DEFINITIONS. 20 USC 1234i.

"For purposes of this part:

"(1) The term 'recipient' means a recipient of a grant or cooperative agreement under an applicable program.

"(2) The term 'applicable program' excludes programs authorized by the Higher Education Act of 1965 and assistance programs provided under the Act of September 30, 1950 (Public Law 874, 81st Congress), and the Act of September 23, 1950 (Public Law 815, 81st Congress).".

(b) EFFECTIVE DATES.— 20 USC 1234 note.

(1) Except as provided in paragraph (2), the amendments made by this section shall be effective 180 days after the date of enactment of this Act.

(2) The amendments made by this part shall not apply to any case in which the recipient, prior to the effective date of this part, received a written notice that such recipient must return funds to the Department.

(c) CONFORMING AMENDMENTS.—Section 435(a) of the General Education Provisions Act is amended by striking "titles I and IV" and all that follows through "such Act)" and inserting "chapter 1 20 USC 1232d.

and chapter 2 of title I of the Elementary and Secondary Education Act of 1965)".

TITLE IV—EDUCATION FOR NATIVE HAWAIIANS

20 USC 4901.

SEC. 4001. FINDINGS.

The Congress finds and declares that—

(1) the Federal Government retains the legal responsibility to enforce the administration of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians;

(2) in furtherance of the responsibility for the betterment of the conditions of Native Hawaiians, Congress has the power to specially legislate for the benefit of Native Hawaiians;

(3) the attainment of educational success is critical to the betterment of the conditions of Native Hawaiians;

(4) it is the policy of the Federal Government to encourage the maximum participation of Native Hawaiians in the planning and management of Native Hawaiian Education Programs;

(5) Native Hawaiian students score below national norms on standardized education achievement tests;

(6) both public and private schools show a pattern of low percentages of Native Hawaiian students in the uppermost achievement levels and in gifted and talented programs;

(7) Native Hawaiian students are over-represented among those qualifying for special education programs provided to learning disabled, educable mentally retarded, handicapped, and other such students;

(8) Native Hawaiians are disproportionately represented in many negative social and physical statistics, indicative of special educational needs—

(A) lower educational attainment among Native Hawaiians has been found to relate to lower socioeconomic outcomes;

(B) Native Hawaiian students are disproportionately under-represented in Institutions of Higher Education;

(C) Native Hawaiians are under-represented in both traditional white collar professions, health care professions, and the newly emerging technology based professions and are over-represented in service occupations;

(D) Native Hawaiians are beset with multiple health problems;

(E) Native Hawaiian children are disproportionately victimized by child abuse and neglect, a signal of family stress; and

(F) there are and will continue to be geographically rural isolated areas with a high Native Hawaiian population density; and

(9) special efforts in education recognizing the unique cultural and historical circumstances of Native Hawaiians are required

20 USC 4902.

SEC. 4002. PURPOSE.

It is the purpose of this title to—

(1) authorize and develop supplemental educational programs to benefit Native Hawaiians,

(2) provide direction and guidance to appropriate Federal, State, and local agencies to focus resources, including those made available by this title on the problem of Native Hawaiian education, and

(3) supplement and expand existing programs and authorities in the area of education to further the purposes of this title.

SEC. 4003. NATIVE HAWAIIAN MODEL CURRICULUM IMPLEMENTATION PROJECT. 20 USC 4903.

(a) CURRICULUM DEVELOPMENT AUTHORITY.—In order to implement the Kamehameha Elementary Education Program (KEEP) model curriculum developed by the Kamehameha Elementary Demonstration School in appropriate public schools, the Secretary shall make direct grants to— Grants.

(1) the State of Hawaii (University of Hawaii) for comprehensive teacher training;

(2) the State of Hawaii (Department of Education) for educational support services;

(3) the Kamehameha Schools/Bernice Pauahi Bishop Estate for continued research and development; and

(4) the Kamehameha Schools/Bernice Pauahi Bishop Estate and the State of Hawaii for the establishment of long-term followup and assessment activities.

(b) SPECIAL RULE.—By no later than school year 1992-1993, the Secretary shall assure that the State of Hawaii (Department of Education) has implemented the KEEP model curriculum in a minimum of twenty public schools.

(c) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for fiscal year 1988, and such sums as may be necessary for fiscal years 1989 through 1993, to carry out the provisions of this Act. Such funds shall remain available until expended.

SEC. 4004. NATIVE HAWAIIAN FAMILY-BASED EDUCATION CENTERS. 20 USC 4904.

(a) FAMILY-BASED EDUCATION CENTERS GENERAL AUTHORITY.—The Secretary shall make direct grants to Native Hawaiian Organizations (including Native Hawaiian Educational Organizations) to develop and operate a minimum of eleven Family-Based Education Centers throughout the Hawaiian Islands. Such centers shall include— Grants.

(1) Parent-Infant programs (prenatal through age 3);

(2) Preschool programs for four and five year-olds;

(3) continued research and development; and

(4) a long term followup and assessment program. Research and development.

(b) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for the centers described in subsection (a), there is authorized to be appropriated $2,400,000 for fiscal year 1988, and such sums as may be necessary for such centers for fiscal years 1989 through 1993. Such funds shall remain available until expended.

20 USC 4905.

SEC. 4005. NATIVE HAWAIIAN HIGHER EDUCATION DEMONSTRATION PROGRAM.

Grants.

(a) HIGHER EDUCATION GENERAL AUTHORITY.—The Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for a demonstration program to provide Higher Education fellowship assistance to Native Hawaiian students. The demonstration program under this section may include—

(1) full or partial fellowship support for Native Hawaiian students enrolled at an accredited two or four year degree granting institution of higher education with awards to be based on academic potential and financial need;

(2) counseling and support services for such students receiving fellowship assistance pursuant to subsection (a)(1) of this section;

(3) college preparation and guidance counseling at the secondary school level for students who may be eligible for fellowship assistance pursuant to subsection (a)(1) of this section;

Research and development.

(4) appropriate research and evaluation of the activities authorized by this section; and

(5) implementation of faculty development programs for the improvement and matriculation of Native Hawaiian students.

(b) GRANTS AUTHORIZED.—The Secretary shall make grants to the Kamehameha Schools/Bernice Pauahi Bishop Estate for a demonstration project of fellowship assistance for Native Hawaiian students in post-bachelor degree programs. Such project may include—

(1) full or partial fellowship support for Native Hawaiian students enrolled at an accredited post-bachelor degree granting institution of higher education, with priority given to professions in which Native Hawaiians are under-represented and with awards to be based on academic potential and financial need;

(2) counseling and support services for such students receiving fellowship assistance pursuant to subsection (b)(1) of this section; and

(3) appropriate research and evaluation of the activities authorized by this section.

Contracts.

(c) SPECIAL CONDITION REQUIRED.—For the purpose of subsection (b) fellowship conditions shall be established whereby recipients obtain an enforceable contract obligation to provide their professional services, either during their fellowship or upon completion of post-bachelor degree program, to the Native Hawaiian community within the State of Hawaii.

(d) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) There are authorized to be appropriated $1,250,000 for fiscal year 1988 and for each succeeding fiscal year through 1993 for the purpose of funding the fellowship assistance demonstration project under subsection (a).

(2) There are authorized to be appropriated $750,000 for fiscal year 1988, and for each succeeding fiscal year through 1993, for the purpose of funding the fellowship assistance demonstration project provided under subsection (b).

(3) Funds appropriated under the authority of this subsection shall remain available until expended.

SEC. 4006. NATIVE HAWAIIAN GIFTED AND TALENTED DEMONSTRATION PROGRAM. 20 USC 4906.

(a) GIFTED AND TALENTED DEMONSTRATION AUTHORITY.—

(1) The Secretary shall provide a grant to, or enter into a contract with, the University of Hawaii at Hilo for— Grants. Contracts.

(A) the establishment of a Native Hawaiian Gifted and Talented Center at the University of Hawaii at Hilo, and

(B) for demonstration projects designed to—

(i) address the special needs of Native Hawaiian elementary and secondary school students who are gifted and talented students, and

(ii) provide those support services to their families that are needed to enable such students to benefit from the project.

Such grant or contract shall be subject to the availability of appropriated funds and, contingent on satisfactory performance by the grantee, shall be provided for a term of 3 years.

(2) After the term of the grant or contract provided, or entered into, under paragraph (1) has expired, the Secretary shall, for the purposes described in subparagraphs (A) and (B) of paragraph (1), provide a grant to, or enter into a contract with, the public, 4-year, fully accredited institution of higher education located in the State of Hawaii which has made the greatest contribution to Native Hawaiian students. Such grant or contract shall be provided on an annual basis. The grantees shall be authorized to subcontract when appropriate, including with the Children's Television Workshop. Children's Television Workshop.

(b) USES OF FUNDS.—Demonstration projects funded under this section may include—

(1) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to—

(A) the emotional and psychosocial needs of these students, and

(B) the provision of those support services to their families that are needed to enable these students to benefit from the projects;

(2) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of the Native Hawaiian language and exposure to Native Hawaiian cultural traditions;

(3) the use of public television in meeting the special educational needs of such gifted and talented children;

(4) leadership programs designed to replicate programs for such children throughout the State of Hawaii and to other Native American peoples, including the dissemination of information derived from the demonstration projects conducted under this section; and

(5) appropriate research, evaluation, and related activities pertaining to—

(A) the needs of such children, and

(B) the provision of those support services to their families that are needed to enable such children to benefit from the projects.

(c) INFORMATION PROVISION.—The Secretary shall facilitate the establishment of a national network of Native Hawaiian and American Indian Gifted and Talented Centers, and ensure that the information developed by these centers shall be readily available to the educational community at large.

(d) ADMINISTRATIVE COSTS.—No more than 7 percent of the amounts appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(e) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for projects described in this section, there are authorized to be appropriated $1,000,000 for fiscal year 1988 and for each succeeding fiscal year through fiscal year 1993. Such sums shall remain available until expended.

20 USC 4907.

SEC. 4007. NATIVE HAWAIIAN SPECIAL EDUCATION PROGRAM.

Grants.
Contracts.

(a) SPECIAL EDUCATION AUTHORITY.—The Secretary shall make grants to, and enter into contracts with, the State of Hawaii, or Native Hawaiian Organizations, to operate projects to address the special education needs of Native Hawaiian students. Such projects assisted under this section may include—

(1) the identification of Native Hawaiian children who are learning disabled, mentally or physically handicapped, educable mentally retarded, or otherwise in need of special education services;

(2) the conduct of educational activities consistent with part B of the Education of the Handicapped Act which hold reasonable promise of improving the provision of special education and related services to Native Hawaiian children who are identified as being handicapped; and

(3) appropriate research, evaluation and related activities pertaining to the needs of such children.

(b) ADMINISTRATIVE COSTS.—No more than 7 percent of the funds appropriated to carry out the provisions of this section for any fiscal year may be used for administrative purposes.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amount authorized for such project, there is authorized to be appropriated $1,500,000 for fiscal year 1988 and for each succeeding fiscal year through 1993. Such sums shall remain available until expended.

20 USC 4908.

SEC. 4008. ADMINISTRATIVE PROVISIONS.

(a) APPLICATION REQUIRED.—No grant may be made under this title, nor any contract be entered into under this title, unless an application is submitted to the Secretary in such form, in such manner, and containing such information as the Secretary may determine necessary to carry out the provisions of this title.

(b) SPECIAL RULE.—Each application submitted under this title shall be accompanied by the comments of each local educational agency serving students who will participate in the project for which assistance is sought.

20 USC 4909.

SEC. 4009. DEFINITIONS.

For purposes of this title—

(1) The term "Native Hawaiian" means any individual who is—

(A) a citizen of the United States,

(B) a resident of the State of Hawaii, and

(C) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now comprises the State of Hawaii, as evidenced by—

(i) genealogical records,

(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

(iii) birth records of the State of Hawaii.

(2) The term "Secretary" means the Secretary of Education.

(3) The term "Native Hawaiian Educational Organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians,

(B) has a demonstrated expertise in the education of Native Hawaiian youth, and

(C) has demonstrated expertise in research and program development.

(4) The term "Native Hawaiian Organization" means a private nonprofit organization that—

(A) serves the interests of Native Hawaiians, and

(B) is recognized by the Governor of Hawaii for the purpose of planning, conducting, or administering programs (or portion of programs) for the benefit of Native Hawaiians.

(5) The term "elementary school" has the same meaning given that term under section 1471(7) of this Act.

(6) The term "local educational agency" has the same meaning given that term under section 1471(10) of this Act.

(7) The term "secondary school" has the same meaning given that term under section 1471(7) of this Act.

TITLE V—INDIAN EDUCATION

PART A—BUREAU AND CONTRACT SCHOOLS

Indian Education Amendments of 1988. 25 USC 2001 note.

SEC. 5101. SHORT TITLE.

This part may be cited as the "Indian Education Amendments of 1988".

SEC. 5102. PROHIBITION ON TRANSFERS OF BUREAU AND CONTRACT SCHOOLS.

Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001) is amended—

(1) by adding at the end of subsection (g) the following new paragraph:

"(5) The Secretary may terminate, contract, transfer to any other authority, or consolidate or substantially curtail the operation or facilities of—

"(A) any Bureau funded school that is operated on or after April 1, 1987, or

"(B) any program of such a school that is operated on or after April 1, 1987,

only if the tribal governing body approves such action.",

(2) by striking "Such standards and procedures shall require that whenever" in subsection (g)(3) and inserting in lieu thereof "Whenever",

(3) by inserting "transfer to any other authority," after "close," and after "closure," each place either term appears in paragraphs (3) and (4) of subsection (g), and

(4) by adding at the end thereof the following new subsection:

"(j) For purposes of this section, the term 'tribal governing body' means, with respect to any school, the tribal governing body, or tribal governing bodies, that represent at least 90 percent of the students served by such school.".

SEC. 5103. REPORT ON TEMPORARY ACTIONS TAKEN FOR A YEAR.

Section 1125 of the Education Amendments of 1978 (25 U.S.C. 2005) is amended—

(1) by redesignating subsection (d) as subsection (e),

(2) by inserting after subsection (c) the following new subsection:

Safety.

"(d)(1) A Bureau school may be closed or consolidated, and the programs of a Bureau school may be substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety only if a health and safety officer of the Bureau determines that such conditions exist at the Bureau school.

"(2)(A) In making determinations described in paragraph (1) before July 1, 1989, health and safety officers of the Bureau shall use the health and safety guidelines of the Bureau that were in effect on January 1, 1988.

Regulations.

"(B) Upon the enactment of the Indian Education Amendments of 1988, the Secretary shall conduct a review of the guidelines used by the Bureau in determining whether plant conditions at a Bureau school constitute an immediate hazard to health and safety. By no later than June 30, 1989, the Secretary shall publish in the Federal Register the final form of regulations which shall be used by health and safety officers of the Bureau in making such determinations.

Federal Register, publication.

"(C)(i) If—

"(I) the Secretary fails to publish in the Federal Register in final form the regulations required under subparagraph (B) before July 1, 1989, and

"(II) action described in paragraph (1) is taken after June 30, 1989, and before the date on which such regulations are published in final form in the Federal Register by reason of the condition of any plant,

an inspection of the condition of such plant shall be conducted by an appropriate tribal, county, municipal, or State health and safety officer to determine whether conditions at such plant constitute an immediate hazard to health and safety. Such inspection shall be completed by no later than the date that is 30 days after the date on which the action described in paragraph (1) is taken.

"(ii) The inspection required under clause (i) shall be conducted by a health and safety officer designated jointly by the Secretary and the tribes affected by the action described in paragraph (1). If the Secretary and such tribes are unable to agree on the designation of the health and safety officer, the Secretary shall designate the health and safety officer and shall provide notice of such designation to each of such tribes before the inspection is conducted by such officer.

"(iii) If the health and safety officer conducting an inspection of a plant required under clause (i) determines that conditions at the plant do not constitute an immediate hazard to health and safety, any consolidation or curtailment that was made by reason of conditions at the plant shall immediately cease and any school closed by reason of conditions at the plant shall be reopened immediately.

"(3) If—

"(A) a Bureau school is temporarily closed or consolidated, or the programs of a Bureau school are substantially curtailed, by reason of plant conditions that constitute an immediate hazard to health and safety, and

"(B) the Secretary estimates that the closure, consolidation, or curtailment will be more than 1 year in duration,

Reports.

the Secretary shall submit to the Congress, by no later than the date that is 6 months after the date on which the closure, consolidation, or curtailment is initiated, a report which sets forth the reasons for such temporary actions and the actions the Secretary is taking to eliminate the conditions that constitute the hazard.".

SEC. 5104. ELIGIBILITY AND EXPANSION OF BUREAU FUNDED SCHOOLS.

Section 1121 of the Education Amendments of 1978 (25 U.S.C. 2001) is amended—

(1) by striking out "Indian controlled contract schools (hereinafter referred to as 'contract schools')" in subsection (a) and inserting in lieu thereof "contract schools", and

(2) by adding at the end thereof the following new subsection:

"(k)(1)(A) The Secretary shall only consider the factors described in subparagraphs (B) and (C) in reviewing—

"(i) applications from any tribe for the awarding of a contract or grant for a school that has not previously received funds from the Bureau,

"(ii) applications from any tribe or Bureau school board for—

"(I) a school which has not previously been operated or funded by the Bureau, or

"(II) the expansion of any program currently funded by the Bureau which would increase the amount of funds received by the Indian tribe or school board under section 1128.

The Secretary shall give consideration to all of such factors, but none of such applications may be denied based primarily upon the geographic proximity of public education.

"(B) The Secretary shall consider the following factors relating to the program that is the subject of an application described in subparagraph (A):

"(i) the adequacy of facilities or the potential to obtain or provide adequate facilities;

"(ii) geographic and demographic factors in the affected areas;

"(iii) adequacy of the applicant's program plans or, in the case of a Bureau operated program, of projected needs analysis done either by a tribe or by Bureau personnel;

"(iv) geographic proximity of comparable public education; and

"(v) the stated needs of all affected parties, including (but not limited to) students, families, tribal governments at both the central and local levels, and school organizations.

"(C) The Secretary shall consider with respect to applications described in subparagraph (A) the following factors relating to all

the educational services available at the time the application is considered:

"(i) geographic and demographic factors in the affected areas;

"(ii) adequacy and comparability of programs already available;

"(iii) consistency of available programs with tribal educational codes or tribal legislation on education; and

"(iv) the history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

"(2)(A) The Secretary shall make a determination of whether to approve any application described in paragraph (1)(A) by no later than the date that is 180 days after the day on which such application is submitted to the Secretary.

"(B) If the Secretary fails to make the determination described in subparagraph (A) with respect to an application by the date described in subparagraph (A), the application shall be treated as having been approved by the Secretary.

"(3)(A) Any application described in paragraph (1)(A) may be submitted to the Secretary only if—

"(i) the application has been approved by the tribal governing body of the students served by (or to be served by) the school or program that is the subject of the application, and

"(ii) written evidence of such approval is submitted with the application.

"(B) Each application described in paragraph (1)(A)—

"(i) shall provide information concerning each of the factors described in paragraph (1)(B), and

"(ii) may provide information concerning the factors described in paragraph (1)(C).

"(4) Whenever the Secretary makes a determination to deny approval of any application described in paragraph (1)(A), the Secretary shall—

"(A) state the objections in writing to the applicant by no later than the date that is 180 days after the day on which the application is submitted to the Secretary,

"(B) provide assistance to the applicant to overcome stated objections, and

"(C) provide the applicant a hearing, under the same rules and regulations pertaining to the Indian Self-Determination and Education Assistance Act, and an opportunity to appeal the objections raised by the Secretary.

"(5)(A) Except as otherwise provided in this paragraph, the action which is the subject of any application described in paragraph (1)(A) that is approved by the Secretary shall become effective with the commencement of the academic year succeeding the fiscal year in which the application is approved, or at an earlier date determined by the Secretary.

"(B) If an application is treated as having been approved by the Secretary by reason of paragraph (2)(B), the action that is the subject of the application shall become effective on the date that is 18 months after the date on which the application is submitted to the Secretary, or at an earlier date determined by the Secretary.

"(6)(A) Any application for expansion of the grade levels offered by a tribally controlled school which has been submitted to the Secretary prior to the date of enactment of this Act shall be reviewed under the regulations and guidelines in effect on the date

on which such application was submitted, unless the applicant elects to have the provisions of this subsection apply to the review of such application.

"(B) Notwithstanding any other provision of law, if the school board of the Bureau funded schools at the Pueblo of Zia and the Tama Settlement vote within the 2-year period beginning on the date of enactment of the Indian Education Amendments of 1988 to expand each of the schools to include kindergarten through grade 8, the schools shall be so expanded at the beginning of the next school year occurring after the vote.".

SEC. 5105. DORMITORY CRITERIA.

Section 1122 of the Education Amendments of 1978 (25 U.S.C. 2002) is amended by redesignating subsection (d) as subsection (e) and inserting after subsection (c) the following new subsection:

"(d)(1) The criteria established under this section may be waived in the same manner as the standards provided under section 1121(b) may be waived under section 1121(d).

"(2) No school in operation on or before January 1, 1987 (regardless of compliance or noncompliance with the criteria established under this section) may be closed, transferred to another authority, consolidated or have its program substantially curtailed for failure to meet the criteria.

"(3) By no later than May 1, 1989, the Secretary shall submit to the Congress a report detailing the costs associated with, and the actions necessary for, complete compliance with the criteria established under this section.". Reports.

SEC. 5106. REGULATIONS.

Section 1123 of the Education Amendments of 1978 (25 U.S.C. 2003) is amended to read as follows:

"REGULATIONS

"SEC. 1123. (a) The provisions of part 32 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, are hereby incorporated into this Act and shall be treated as though such provisions are set forth in this subsection. Accordingly, such provisions may be altered only by means of an amendment to this subsection that is contained in an Act or joint resolution which is enacted into law. To the extent that such provisions of part 32 do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(b) The provisions of parts 31, 33, 36, 39, 42, and 43 of title 25 of the Code of Federal Regulations, as in effect on January 1, 1987, shall be applied by the Federal Government and shall not, before July 1, 1989, be amended, revoked, or altered in any manner. No officer or employee of the Executive Branch shall have the authority to issue any other regulations, prior to July 1, 1989, that supersede, supplement, or otherwise affect the provisions of such parts. To the extent that the provisions of such parts do not conform with this Act or any statutory provision of law enacted before the date of enactment of this Act, the provisions of this Act and the provisions of such other statutory law shall govern.

"(c) After June 30, 1989, no regulation prescribed for the application of any program provided under this title shall become effective unless—

"(1) the regulation has been published as a proposed regulation in the Federal Register,

"(2) an opportunity of no less than 90 days has been afforded the public to comment on the published proposed regulation, and

"(3) the regulation has, after such period for public comment, been published in the Federal Register as a final regulation.

"(d) For purposes of this section, the term 'regulation' means any rules, regulations, guidelines, interpretations, orders, or requirements of general applicability prescribed by any officer or employee of the Executive Branch.".

SEC. 5107. FORMULA MODIFICATIONS.

(a) IN GENERAL.—

(1) Paragraph (1) of section 1128(c) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(1)) is amended to read as follows:

"(1) For fiscal year 1990, and for each subsequent fiscal year, the Secretary shall adjust the formula established under subsection (a) to—

"(A) use a weighted unit of 1.2 for each eligible Indian student enrolled in the seventh and eighth grades of the school in considering the number of eligible Indian students served by the school;

"(B) consider a school with an average daily attendance of less than 50 eligible Indian students as having an average daily attendance of 50 eligible Indian students for purposes of implementing the adjustment factor for small schools; and

"(C) take into account the provision of residential services on a less than 9-month basis at a school when the school board and supervisor of the school determine that a less than 9-month basis will be implemented for the school year involved.".

(2) Subsection (c) of section 1128 of the Education Amendments of 1978 (25 U.S.C. 2008(c)) is amended by adding at the end thereof the following new paragraphs:

"(4)(A) The Secretary shall adjust the formula established under subsection (a) to use a weighted unit of 2.0 for each eligible Indian student that—

"(i) is gifted and talented (as determined pursuant to section 5324 of the Indian Education Amendments of 1988), and

"(ii) is enrolled in the school on a full-time basis,

in considering the number of eligible Indian students served by the school.

"(B) The adjustment required under subparagraph (A) shall be used for the later of the following fiscal years and for each fiscal year succeeding such later fiscal year:

"(i) the second fiscal year succeeding the fiscal year in which the Secretary of Education makes the report required under section 5324(c)(6)(B) of the Indian Education Act of 1988, or

"(ii) the first fiscal year for which an increase in the amount of funds appropriated for allotment under this section is designated by the law that appropriates such funds as the amount necessary to implement such adjustment without reducing allotments made under this section to any school.

"(5) For each of the fiscal years 1989 and 1990, the Secretary shall adjust the formula established under subsection (a) to provide funding to schools operated by Indian tribes that are treated under State law as political subdivisions of the State in an amount sufficient to enable the schools to meet standards imposed by the State.".

(b) STUDY.— 20 USC 1411 note.

(1) The Comptroller General of the United States (hereafter in this subsection referred to as the "Comptroller General") shall conduct a study to determine—

(A) the number of children who—

(i) are 3 or 4 years of age,

(ii) are eligible for services provided by the Bureau of Indian Affairs of the Department of the Interior, and

(iii) are handicapped children (within the meaning of section 602(1) of the Education of the Handicapped Act (20 U.S.C. 401(1))),

(B) the geographic disbursement of such children,

(C) the number of such children who the Comptroller General estimates will receive services under the pre-school set-aside program under Public Law 99-457,

(D) the sufficiency of the pre-school services described in subparagraph (C),

(E) the unmet needs of such children,

(F) the number of such children who the Comptroller General estimates will attend education programs (schools or residential programs) funded by the Bureau, and

(G) the information described in subparagraphs (B), (C), (D), and (E) with respect to the children described in subparagraph (F).

(2) By no later than the date that is 1 year after the date of enactment of this Act, the Comptroller General shall submit to the Congress a report on the study conducted under paragraph (1). Reports.

SEC. 5108. ADMINISTRATIVE COST.

(a) IN GENERAL.—The Education Amendments of 1978 (25 U.S.C. 2008) is amended by inserting after section 1128 (25 U.S.C. 2008) the following new section:

"ADMINISTRATIVE COST GRANTS

"SEC. 1128A. (a)(1) The Secretary shall, subject to the availability of appropriated funds, provide grants to each tribe or tribal organization operating a contract school in the amount determined under this section with respect to the tribe or tribal organization for the purpose of paying the administrative and indirect costs incurred in operating contract schools in order to— 25 USC 2008a.

"(A) enable tribes and tribal organizations operating such schools, without reducing direct program services to the beneficiaries of the program, to provide all related administrative

overhead services and operations necessary to meet the requirements of law and prudent management practice, and

"(B) carry out other necessary support functions which would otherwise be provided by the Secretary or other Federal officers or employees, from resources other than direct program funds, in support of comparable Bureau operated programs.

"(2) Amounts appropriated to fund the grants provided under this section shall be in addition to, and shall not reduce, the amounts appropriated for the program being administered by the contract schools.

"(b)(1) The amount of the grant provided to each tribe or tribal organization under this section for each fiscal year shall be determined by applying the administrative cost percentage rate of the tribe or tribal organization to each of the direct cost education programs operated by the tribe or tribal organization for which funds are received from or through the Bureau.

"(2) The Secretary shall—

"(A) reduce the amount of the grant determined under paragraph (1) to the extent that payments for administrative costs are actually received by an Indian tribe or tribal organization under any Federal education program included in the direct cost base of the tribe or tribal organization, and

"(B) take such actions as may be necessary to be reimbursed by any other department or agency of the Federal Government for the portion of grants made under this section for the costs of administering any program for Indians that is funded by appropriations made to such other department or agency.

"(c) For purposes of this section, the administrative cost percentage rate for a contract school for a fiscal year is equal to the percentage determined by dividing—

"(1) the sum of—

"(A) the amount equal to—

"(i) the direct cost base of the tribe or tribal organization for the fiscal year, multiplied by

"(ii) the minimum base rate, plus

"(B) the amount equal to—

"(i) the standard direct cost base, multiplied by

"(ii) the maximum base rate, by

"(2) the sum of—

"(A) the direct cost base of the tribe or tribal organization for the fiscal year, plus

"(B) the standard direct cost base.

The administrative cost percentage rate shall be determined to the one hundredth of a decimal point.

"(d)(1)(A) Funds received by a contract school as grants under this section for tribal elementary or secondary educational programs may be combined by the contract school into a single administrative cost account without the necessity of maintaining separate funding source accounting.

"(B) Indirect cost funds for programs at the school which share common administrative services with tribal elementary or secondary educational programs may be included in the administrative cost account described in subparagraph (A).

"(2) Funds received as grants under this section with respect to tribal elementary or secondary education programs shall remain

available to the contract school without fiscal year limitation and without diminishing the amount of any grants otherwise payable to the school under this section for any fiscal year beginning after the fiscal year for which the grant is provided.

"(3) Funds received as grants under this section for Bureau funded programs operated by a tribe or tribal organization under a contract or agreement shall not be taken into consideration for purposes of indirect cost underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived.

"(e) For purposes of this section—

"(1)(A) The term 'administrative cost' means the costs of necessary administrative functions which—

"(i) the tribe or tribal organization incurs as a result of operating a tribal elementary or secondary educational program,

"(ii) are not customarily paid by comparable Bureau operated programs out of direct program funds, and

"(iii) are either—

"(I) normally provided for comparable Bureau programs by Federal officials using resources other than Bureau direct program funds, or

"(II) are otherwise required of tribal self-determination program operators by law or prudent management practice.

"(B) The term 'administrative cost' may include, but is not necessarily limited to—

"(i) contract (or other agreement) administration;

"(ii) executive, policy, and corporate leadership and decisionmaking;

"(iii) program planning, development, and management;

"(iv) fiscal, personnel, property, and procurement management;

"(v) related office services and record keeping; and

"(vi) costs of necessary insurance, auditing, legal, safety and security services.

"(2) The term 'Bureau elementary and secondary functions' means—

"(A) all functions funded at Bureau schools by the Office of Indian Education Programs of the Bureau;

"(B) all programs—

"(i) funds for which are appropriated to other agencies of the Federal Government, and

"(ii) which are administered for the benefit of Indians through Bureau schools; and

"(C) all operation, maintenance, and repair funds for facilities and government quarters used in the operation or support of elementary and secondary education functions for the benefit of Indians, from whatever source derived.

"(3) The term 'tribal elementary or secondary educational programs' means all Bureau elementary and secondary functions, together with any other Bureau programs or portions of programs (excluding funds for social services that are appropriated to agencies other than the Bureau and are expended through the Bureau, funds for major subcontracts, construction, and other major capital expenditures, and unexpended funds carried over from prior years) which share common administra-

tive cost functions, that are operated directly by a tribe or tribal organization under a contract or agreement with the Bureau.

"(4)(A) Except as otherwise provided in this paragraph, the direct cost base of a tribe or tribal organization for the fiscal year is the aggregate direct cost program funding for all tribal elementary or secondary educational programs operated by the tribe or tribal organization during—

"(i) the second fiscal year preceding such fiscal year, or

"(ii) if such programs have not been operated by the tribe or tribal organization during the 2 preceding fiscal years, the first fiscal year preceding such fiscal year.

"(B) In the case of Bureau elementary or secondary education functions which have not previously been operated by a tribe or tribal organization under contract or agreement with the Bureau, the direct cost base for the initial year shall be the projected aggregate direct cost program funding for all Bureau elementary and secondary functions to be operated by the tribe or tribal organization during that fiscal year.

"(5) The term 'maximum base rate' means 50 percent.

"(6) The term 'minimum base rate' means 11 percent.

"(7) The term 'standard direct cost base' means $600,000.

"(f)(1) Upon the enactment of the Indian Education Amendments of 1988, the Secretary shall—

"(A) conduct such studies as may be needed to establish an empirical basis for determining relevant factors substantially affecting the required administrative costs of tribal elementary and secondary educational programs, using the formula set forth in subsection (c), and

"(B) a study to determine—

"(i) a maximum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the smallest tribal elementary or secondary educational programs,

"(ii) a minimum base rate which ensures that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of the largest tribal elementary or secondary educational programs, and

"(iii) a standard direct cost base which is the aggregate direct cost funding level for which the percentage determined under subsection (c) will—

"(I) be equal to the median between the maximum base rate and the minimum base rate, and

"(II) ensure that the amount of the grants provided under this section will provide adequate (but not excessive) funding of the administrative costs of tribal elementary or secondary educational programs closest to the size of the program.

"(2) The studies required under paragraph (1) shall—

"(A) be conducted in full consultation (in accordance with section 1130) with—

"(i) the tribes and tribal organizations that are affected by the application of the formula set forth in subsection (c), and

"(ii) all national and regional Indian organizations of which such tribes and tribal organizations are typically members;

"(B) be conducted on-site at a representative statistical sample of the tribal elementary or secondary educational programs under a contract entered into with a nationally reputable public accounting and business consulting firm;

"(C) take into account the availability of skilled labor, commodities, business and automatic data processing services, related Indian preference and Indian control of education requirements, and any other market factors found substantially to affect the administrative costs and efficiency of each such tribal elementary or secondary educational program studied in order to assure that all required administrative activities can reasonably be delivered in a cost effective manner for each such program, given an administrative cost allowance generated by the values, percentages, or other factors found in the studies to be relevant in such formula;

"(D) identify, and quantify in terms of percentages of direct program costs, any general factors arising from geographic isolation, or numbers of programs administered, independent of program size factors used to compute a base administrative cost percentage in such formula; and

"(E) identify any other incremental cost factors substantially affecting the costs of required administrative cost functions at any of the tribal elementary or secondary educational programs studied and determine whether the factors are of general applicability to other such programs, and (if so) how they may effectively be incorporated into such formula.

"(3) Determinations described in paragraph (2)(C) shall be based on what is pragmatically possible to do at each location studied, given prudent management practice, irrespective of whether required administrative services were actually or fully delivered at these sites, or other services were delivered instead, during the period of the study.

"(4) Upon completion of the studies conducted under paragraph (1), but in no case later than October 1, 1989, the Secretary shall submit to the Congress a report on the findings of the studies, together with determinations based upon such findings that would affect the definitions of terms used in the formula that is set forth in subsection (c). Reports.

"(5) The Secretary shall include in the Bureau's justification for each appropriations request for each fiscal year beginning after fiscal year 1989, a projection of the overall costs associated with the formula set forth in subsection (c) for all tribal elementary or secondary educational programs which the Secretary expects to be funded in the fiscal year for which the appropriations are sought.

"(6) For purposes of this subsection, the size of tribal elementary or secondary educational programs is determined by the aggregate direct cost program funding level for all Bureau funded programs which share common administrative cost functions.

"(g)(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section. Appropriation authorization.

"(2) If the total amount of funds necessary to provide grants to tribes and tribal organizations in the amounts determined under subsection (b) for a fiscal year exceeds the amount of funds appro-

priated to carry out this section for such fiscal year, the Secretary shall reduce the amount of each grant determined under subsection (b) for such fiscal year by an amount that bears the same relationship to such excess as the amount of such grant determined under subsection (b) bears to the total of all grants determined under subsection (b) for all tribes and tribal organizations for such fiscal year.

"(h)(1) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1989 shall—

"(A) in lieu of being determined under subsection (b), be determined for each tribal elementary or secondary educational program on the same basis that indirect costs were determined for such programs for fiscal year 1988, and

"(B) be subject to the provisions of subsection (d).

"(2) Notwithstanding any other provision of this section, the amount of the grant provided under this section for fiscal year 1990 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1990 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1988 (or fiscal year 1989 if such program was not operated by the tribe or tribal organization during fiscal year 1988), the sum of—

"(i) such amount received, plus

"(ii) one-third of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to one-third of the excess of—

"(I) such amount received, over

"(II) such amount determined under subsection (b).

"(3) Notwithstanding any other provision of this section, the amount of the grants provided under this section for fiscal year 1991 with respect to each tribal elementary and secondary educational program that was operated by a tribe or tribal organization in fiscal year 1989 shall be equal to—

"(A) if the amount of the grant determined under subsection (b) for fiscal year 1991 with respect to such program exceeds the amount received by the tribe or tribal organization with respect to such program for administrative costs for fiscal year 1990, the sum of—

"(i) such amount received, plus

"(ii) one-half of the excess of—

"(I) such amount determined under subsection (b), over

"(II) such amount received, or

"(B) if such amount received exceeds such amount determined under subsection (b), the excess of—

"(i) such amount received, over

"(ii) an amount equal to one-half of the excess of—

"(I) such amount received over,

"(II) such amount determined under subsection (b).".

(b) SCHOOL BOARD TRAINING.—Paragraph (3) of section 1128(c) of the Education Amendments of 1978 (20 U.S.C. 2008(c)(3)) is amended to read as follows: 25 USC 2008.

"(3)(A) The Secretary shall reserve for national school board training 0.133 percent of the funds appropriated for each fiscal year for distribution under this section. Such training shall be conducted through the same organizations through which, and in the same manner in which, the training was conducted in fiscal year 1986. If the contract for such training is not awarded before May 1 of each fiscal year, the contract under which such training was provided for the fiscal year preceding such fiscal year shall be renewed by the Secretary for such fiscal year. The agenda for the training sessions shall be established by the school boards through their regional or national organizations. Contracts.

"(B) For each year in which the Secretary uses a weighted unit formula established under subsection (a) to fund Bureau schools, a Bureau school which generates less than 168 weighted units shall receive an additional 2 weighted units to defray school board activities.

"(C) From the funds allotted in accordance with the formula established under subsection (a) for each Bureau school, the local school board of such school may reserve an amount which does not exceed the greater of—

"(i) $4,000, or

"(ii) 2 percent of such allotted funds,

for school board activities for such school, including but not limited to, and notwithstanding any other provision of law, meeting expenses and the cost of membership in, and support of, organizations engaged in activities on behalf of Indian education.".

(c) PERCENTAGE OF FUNDS NOT SUBJECT TO FISCAL YEAR LIMITATION.—Section 1128 of the Education Amendments of 1978 (20 U.S.C. 2008) is amended by adding at the end thereof the following new subsection: 25 USC 2008.

"(h) At the election of the local school board made at any time during the fiscal year, a portion equal to no more than 15 percent of the funds allocated with respect to a school under this section for any fiscal year shall remain available to the school for expenditure without fiscal year limitation.".

SEC. 5109. LOCAL PROCUREMENT.

Paragraph (4) of section 1129(a) of the Education Amendments of 1978 (25 U.S.C. 2009) is amended to read as follows:

"(4) Notwithstanding any law or regulation, the supervisor of a Bureau school may expend an aggregate of no more than $25,000 of the amount allotted the school under section 1128 to acquire supplies and equipment for the school without competitive bidding if—

"(A) the cost for any single item purchased does not exceed $10,000;

"(B) the school board approves the procurement;

"(C) the supervisor certifies that the cost is fair and reasonable;

"(D) the documents relating to the procurement executed by the supervisor or other school staff cite this paragraph as authority for the procurement; and

"(E) the transaction is documented in a journal maintained at the school clearly identifying when the transaction occurred,

what was acquired and from whom, the prices paid, the quantities acquired, and any other information the supervisor or school board considers relevant.".

SEC. 5110. COORDINATED PROGRAMS.

Section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009) is amended by adding at the end thereof the following new subsection:

Contracts.

"(f)(1) From funds allotted to a school under section 1128, the Secretary shall, if specifically requested by the tribal governing body (within the meaning of section 1121(j)) whose children are served by a program operated by the Bureau, implement any cooperative agreement entered into between the tribe, the Bureau school board, and the local public school district which meets the requirements of paragraph (2) and involves education programs operated by the Bureau. The tribe, the Bureau school board, and the local public school district shall determine the terms of the agreement. Such agreement may encompass coordination of all or any part of the following:

"(A) Academic program and curriculum, if a facility operated by the Bureau which is currently accredited by a State or regional accrediting entity would continue to be accredited.

"(B) Support services, including procurement and facilities maintenance.

"(C) Transportation.

"(2) Each agreement entered into pursuant to the authority provided in paragraph (1) shall confer a benefit upon the Bureau school commensurate with the burden assumed, though this requirement shall not be construed so as to require equal expenditures or an exchange of similar services.".

SEC. 5111. CONSULTATION.

Section 1130 of the Education Amendments of 1978 (25 U.S.C. 2010) is amended—

(1) by striking out "Bureau" the first time it appears and inserting in lieu thereof "the Secretary and the Bureau",

(2) by striking out "It shall" and inserting in lieu thereof "(a) It shall", and

(3) by adding at the end thereof the following new subsection:

"(b)(1) All actions under this Act shall be done with active consultation with tribes.

"(2) The consultation required under paragraph (1) means a process involving the open discussion and joint deliberation of all options with respect to potential issues or changes between the Bureau and all interested parties. During such discussions and joint deliberations, interested parties (including, but not limited to, tribes and school officials) shall be given an opportunity to present issues including proposals regarding changes in current practices or programs which will be considered for future action by the Bureau. All interested parties shall be given an opportunity to participate and discuss the options presented or to present other alternatives, with the views and concerns of the interested parties given effect unless the Secretary determines, from information educed or presented during the discussions, that there is a substantial reason for another course of action. The Secretary shall submit to any Member of Congress, within 18 days of the receipt of a written request by such Member, a written explanation of any decision made by the Sec-

retary which is not consistent with the views of the interested parties.".

SEC. 5112. INDIAN EMPLOYMENT PREFERENCE.

(a) APPLICANTS.—Subsection (f)(1) of section 1131 of the Education Amendments of 1978 (25 U.S.C. 2011) is amended by striking out "an employee" and inserting in lieu thereof "an applicant or employee"

(b) PROVIDERS OF SUPPORT SERVICES.—

(1) Subparagraph (A) of section 1131(n)(1) of the Education Amendments of 1978 (25 U.S.C. 2011(n)(1)(A)) is amended—

(A) by striking out "or" at the end of clause (ii), and

(B) by adding at the end thereof the following new clause:

"(iv) support services at, or associated with, the site of the school; or".

(2) The amendments made by paragraph (1) shall apply with respect to an individual who is employed by the Bureau of Indian Affairs of the Department of the Interior on the date of enactment of this Act only if such individual elects, in such form and at such time as the Secretary of the Interior may prescribe, the application of such amendments with respect to such individual. 25 USC 2011 note.

SEC. 5113. PERSONNEL COMPENSATION, RECRUITMENT, AND RETENTION STUDIES. 25 USC 2011 note.

(a) IN GENERAL.—The Secretary shall conduct such studies and gather such information as may be necessary to prepare a report that the Secretary shall submit to the Congress by no later than the date that is 6 months after the date of enactment of this Act. The report shall compare personnel compensation in Bureau funded schools with— Reports.

(1) nearest public schools that—

(A) have successful educational programs, and

(B) are comparable in size, geographic location, grade levels, and student population characteristics to Bureau funded schools, and

(2) schools operated within the United States by the Department of Defense.

(b) INCLUSIONS.—The report required under subsection (a) shall include—

(1) detailed information on the current salaries and personnel benefits for comparable positions in the Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a),

(2) a comparison of starting salaries, tenure, length of service, educational and certification requirements, length of work year and work day, and fringe benefits between Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a),

(3) a projection of the compensation factors described in paragraphs (1) and (2) for Bureau funded schools and the schools described in paragraphs (1) and (2) of subsection (a) over the next five years, and

(4) such additional information and analysis as the Secretary deems appropriate.

(c) FUNDING AND STAFF.—

(1) The cost of the studies and the report required under subsection (a) (including, but not limited to, costs for all con-

tracts, travel, and staff assigned to the study) shall be paid from amounts appropriated to the Bureau's Management and Administration subactivity of the General Administration activity, except that the salaries and personnel benefits of employees detailed to the study from the Office of Indian Education of the Bureau may continue to be charged to the amounts appropriated to the Bureau's Education account.

(2) If the Secretary does not conduct the studies required under subsection (a) by contract, the staff detailed to work on the studies and report required under subsection (a) shall include not less than two career employees from the Office of Indian Education of the Bureau who have substantial experience in the administration (at the level of an agency office) of school operations and in the drafting of personnel regulations, including but not limited to those under this Act.

(d) CONTRACTS.—The Secretary may conduct part or all of the studies required under subsection (a) through contracts entered into with one or more Indian education organizations.

(e) ADDITIONAL STUDIES.—The Secretary shall conduct such other studies of personnel compensation and recruitment in Bureau funded and public schools as are desirable in carrying out the purposes of title 11 of the Education Amendments of 1978.

(f) DEFINITIONS.—For purposes of this section—

(1) The term "Secretary" means the Secretary of the Interior.

(2) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

SEC. 5114. REGULAR COMPENSATION OF BUREAU EDUCATORS; NONVOLUNTARY FURLOUGHS.

(a) COMPENSATION.—Paragraph (1) of section 1131(h) of the Education Amendments of 1978 (25 U.S.C. 2011(h)(1)) is amended—

(1) by inserting "or on the basis of the Federal Wage System schedule in effect for the locality" after "is applicable",

(2) by striking out "The Secretary shall" and inserting in lieu thereof "(A) Except as otherwise provided in this section, the Secretary shall", and

(3) by adding at the end thereof the following new subparagraphs:

"(B) By no later than the close of the 6-month period beginning on the date of enactment of the Indian Education Amendments of 1988, the Secretary shall establish, for contracts for the 1991-1992 academic year, and thereafter, the rates of basic compensation, or annual salary rates, for the positions of teachers and counselors (including dormitory counselors and home-living counselors) at the rates of basic compensation applicable (on the date of enactment of such Amendments and thereafter) to comparable positions in overseas schools under the Defense Department Overseas Teachers Pay and Personnel Practices Act, unless the Secretary establishes such rates within such 6-month period through collective bargaining with the appropriate union representative of the education employees that is recognized by the Bureau.

"(C) By no later than the close of the 6-month period described in subparagraph (B), the Secretary shall establish the rates of basic compensation or annual salary rates for the positions of teachers and counselors (including dormitory and home-living counselors)—

"(i) for contracts for the 1989-1990 academic year, at rates which reflect one-third of the changes in the rates applicable to such positions on the date of enactment of the Indian Education Amendments of 1988 that must be made to conform the rates to the rates established under subparagraph (B) for such positions for contracts for the 1991-1992 academic year, and

"(ii) for contracts for the 1990-1991 academic year, at rates which reflect two-thirds of such changes.

"(D) The establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not preclude the use of regulations and procedures used by the Bureau before the enactment of the Indian Education Amendments of 1988 in making determinations regarding promotions and advancements through levels of pay that are based on the merit, education, experience, or tenure of the educator.

"(E)(i) Except as provided in clause (ii), the establishment of rates of basic compensation and annual salary rates by the Secretary under subparagraphs (B) and (C) shall not affect the continued employment or compensation of any individual employed in an education position on the day before the date of enactment of the Indian Education Amendments of 1988 if this paragraph did not apply to such individual on such day.

"(ii) Any individual described in clause (i) may, during the 5-year period beginning on the date on which the Secretary establishes rates of basic compensation and annual salary rates under subparagraph (B), make an irrevocable election to have the basic compensation rate or annual salary rate of such individual determined in accordance with this paragraph.

"(iii) If an individual makes the election described in clause (ii), such election shall not affect the application to the individual of the same retirement system and leave system that applies to the individual during the fiscal year preceding the fiscal year in which such election is made.

"(F) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992 a written statement by the Secretary which specifies— President of U.S.

"(i) the amount of funds the Secretary needs to pay basic compensation and the annual salaries of educators for such fiscal year, and

"(ii) the amount of funds the Secretary estimates would be needed to pay basic compensation and the annual salaries of educators for such fiscal year if the amendments made to this paragraph by the Indian Education Amendments of 1988 had not been enacted.".

(b) FURLOUGHS.—Section 1131 of the Education Amendments of 1978 (20 U.S.C. 2011) is amended by adding at the end thereof the following new subsection:

"(p)(1) No educator whose basic compensation is paid from funds allocated under section 1128 may be placed on furlough (within the meaning of section 7511(a)(5) of title 5, United States Code) without the consent of such educator for an aggregate of more than 4 weeks within the same calendar year, unless—

"(A) the supervisor, with the approval of the local school board (or of the agency superintendent for education upon

appeal under paragraph (2)), of the Bureau school at which such educator provides services determines that a longer period of furlough is necessary due to a shortage of funds, and

"(B) all educators (other than principals and clerical employees) providing services at such Bureau school are placed on furloughs of equal length.

"(2) The supervisor of a Bureau school may appeal to the appropriate agency superintendent for education any refusal by the local school board to approve any determination of the supervisor that is described in paragraph (1)(A) by filing a written statement describing the determination and the reasons the supervisor believes such determination should be approved. A copy of such statement shall be submitted to the local school board and such board shall be afforded an opportunity to respond, in writing, to such appeal. After reviewing such written appeal and response, the superintendent may, for good cause, approve the determination of the supervisor. The superintendent shall transmit the determination of such appeal in the form of a written opinion to such local school board and to the supervisor identifying the reasons for approving such determination.".

SEC. 5115. POST DIFFERENTIALS.

Paragraph (3) of section 1131(h) of the Education Amendments of 1978 (25 U.S.C. 2011(h)(3)) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(A) The Secretary", and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) Upon the request of the supervisor and the local school board of a Bureau school, the Secretary shall grant the supervisor of the school authorization to provide one or more post differentials under subparagraph (A) unless the Secretary determines for clear and convincing reasons (and advises the board in writing of those reasons) that certain of the requested post differentials should be disapproved or decreased because there is no disparity of compensation for the involved employees or positions in the Bureau school, as compared with the nearest public school, that is either—

"(I) at least 5 percent, or

"(II) less than 5 percent and affects the recruitment or retention of employees at the school.

The request under this subparagraph shall be deemed granted as requested at the end of the 60th day after the request is received in the Central Office of the Bureau unless before that time it is approved, approved with modification, or disapproved by the Secretary.

"(ii) The Secretary or the supervisor of a Bureau school may discontinue or decrease a post differential authorized by reason of this subparagraph at the beginning of a school year after either—

"(I) the local school board requests that it be discontinued or decreased, or

"(II) the Secretary or the supervisor determines for clear and convincing reasons (and advises the board in writing of those reasons) that there is no disparity of compensation that would affect the recruitment or retention of employees at the school after the differential is discontinued or decreased.

Reports. "(iii) On or before February 1 of each year, the Secretary shall submit to Congress a report describing the requests and grants of

authority under this subparagraph during the previous fiscal year and listing the positions contracted under those grants of authority.".

SEC. 5116. EARLY CHILDHOOD DEVELOPMENT PROGRAM.

Title XI of the Education Amendments of 1978 is amended—
(1) by striking out part C, and
(2) by adding at the end of part B the following new section:

20 USC 241aa note, 241bb-1.

"EARLY CHILDHOOD DEVELOPMENT PROGRAM

"SEC. 1141. (a) The Secretary shall provide grants to tribes, tribal organizations, and consortia of tribes and tribal organizations to fund early childhood development programs that are operated by such tribes, organizations, or consortia.

Grants. 25 USC 2022a.

"(b)(1) The total amount of the grants provided under subsection (a) with respect to each tribe, tribal organization, or consortium of tribes or tribal organizations for each fiscal year shall be equal to the amount which bears the same relationship to the total amount appropriated under the authority of subsection (f) for such fiscal year (less amounts provided under subsection (e)) as—

"(A) the total number of children under 6 years of age who are members of—

"(i) such tribe,

"(ii) the tribe that authorized such tribal organization, or

"(iii) any tribe that—

"(I) is a member of such consortium, or

"(II) authorizes any tribal organization that is a member of such consortium, bears to

"(B) the total number of all children under 6 years of age who are members of any tribe that—

"(i) is eligible to receive funds under subsection (a),

"(ii) is a member of a consortium that is eligible to receive such funds, or

"(iii) authorizes a tribal organization that is eligible to receive such funds.

"(2) No grant may be provided under subsection (a)—

"(A) to any tribe that has less than 500 members,

"(B) to any tribal organization which is authorized—

"(i) by only one tribe that has less than 500 members, or

"(ii) by one or more tribes that have a combined total membership of less than 500 members, or

"(C) to any consortium composed of tribes, or tribal organizations authorized by tribes, that have a combined total tribal membership of less than 500 members.

"(c)(1) A grant may be provided under subsection (a) to a tribe, tribal organization, or consortia of tribes and tribal organizations only if the tribe, organization or consortia submits to the Secretary an application for the grant at such time and in such form as the Secretary shall prescribe.

"(2) Applications submitted under paragraph (1) shall set forth the early childhood development program that the applicant desires to operate.

"(d) The early childhood development programs that are funded by grants provided under subsection (a)—

"(1) shall coordinate existing programs and may provide services that meet identified needs of parents and children under 6

years of age which are not being met by existing programs, including—

"(A) prenatal care,

"(B) nutrition education,

"(C) health education and screening,

"(D) educational testing, and

"(E) other educational services,

"(2) may include instruction in the language, art, and culture of the tribe, and

"(3) shall provide for periodic assessment of the program.

"(e) The Secretary shall, out of funds appropriated under the authority of subsection (f), include in the grants provided under subsection (a) amounts for administrative costs incurred by the tribe or tribal organization in establishing and maintaining the early childhood development program.

Appropriation authorization.

"(f) There are authorized to be appropriated for fiscal year 1989, and for each succeeding fiscal year, $15,000,000 for the purpose of carrying out the provisions of this section.".

SEC. 5117. DEFINITIONS.

Section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is amended—

(1) by striking out paragraph (3) and inserting in lieu thereof the following:

"(3) the term 'Bureau funded school' means—

"(A) a Bureau school;

"(B) a contract school; or

"(C) a school for which assistance is provided under the Tribally Controlled Schools Act of 1988;",

(2) by redesignating paragraphs (4) through (10) as paragraphs (6) through (12), respectively, and

(3) by inserting after paragraph (3) the following new paragraphs:

"(4) the term 'Bureau school' means a Bureau operated elementary or secondary day or boarding school or a Bureau operated dormitory for students attending a school other than a Bureau school;

"(5) the term 'contract school' means an elementary or secondary school or a dormitory which receives financial assistance for its operation under a contract or agreement with the Bureau under section 102, 104(1), or 208 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450f, 450h(1), and 458d);".

SEC. 5118. SEQUESTRATION ORDERS.

Subsection (a) of section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009(a)) is amended by adding at the end thereof the following new paragraph:

"(5) If a sequestration order issued under the Balanced Budget and Emergency Deficit Control Act of 1985 reduces the amount of funds available for allotment under section 1128 for any fiscal year by more than 7 percent of the amount of funds available for allotment under section 1128 during the preceding fiscal year—

"(A) the Secretary may, notwithstanding any other provision of law, use—

"(i) funds appropriated for the operation of any Bureau school that is closed or consolidated, and

"(ii) funds appropriated for any program that has been curtailed at any Bureau school,

to fund allotments made under section 1128, and

"(B) the Secretary may waive the application of the provisions of section 1121(g) with respect to the closure or consolidation of a school, or the curtailment of a program at a school, during such fiscal year if the funds described in clauses (i) and (ii) of subparagraph (A) with respect to such school are used to fund allotments made under section 1128 for such fiscal year.".

SEC. 5119. TRIBAL DEPARTMENTS OF EDUCATION. Grants.

Part B of title XI of the Education Amendments of 1978 is amended by adding at the end thereof the following new section:

"TRIBAL DEPARTMENTS OF EDUCATION

"SEC. 1142. (a) Subject to the availability of appropriations, the Secretary shall provide grants and technical assistance to tribes for the development and operation of tribal departments of education for the purpose of planning and coordinating all educational programs of the tribe. 25 USC 2022b.

"(b) Grants provided under this section shall—

"(1) be based on applications from the governing body of the tribe,

"(2) reflect factors such as geographic and population diversity,

"(3) facilitate tribal control in all matters relating to the education of Indian children on Indian reservations and on former Indian reservations in Oklahoma,

"(4) provide for the development of coordinated educational programs on Indian reservations (including all preschool, elementary, secondary, and higher or vocational educational programs funded by tribal, Federal, or other sources) by encouraging tribal administrative support of all Bureau funded educational programs as well as encouraging tribal cooperation and coordination with all educational programs receiving financial support from State agencies, other Federal agencies, or private entities,

"(5) provide for the development and enforcement of tribal educational codes, including tribal educational policies and tribal standards applicable to curriculum, personnel, students, facilities, and support programs, and

"(6) otherwise comply with regulations for grants under section 104(a) of the Indian Self-Determination and Educational Assistance Act (25 U.S.C. 450h) that are in effect on the date application for such grants are made.

"(c)(1) In approving and funding applications for grants under this section, the Secretary shall give priority to any application that—

"(A) includes assurances from the majority of Bureau funded schools located within the boundaries of the reservation of the applicant that the tribal department of education to be funded under this section will provide coordinating services and technical assistance to all of such schools, including (but not limited to) the submission to each applicable agency of a unified application for funding for all of such schools which provides that—

"(i) no administrative costs other than those attributable to the individual programs of such schools will be associated with the unified application, and

"(ii) the distribution of all funds received under the unified application will be equal to the amount of funds provided by the applicable agency to which each of such schools is entitled under law,

"(B) includes assurances from the tribal governing body that the tribal department of education funded under this section will administer all contracts or grants (except those covered by the other provisions of this title and the Tribally Controlled Community College Assistance Act of 1978) for education programs administered by the tribe and will coordinate all of the programs to the greatest extent possible,

"(C) includes assurances for the monitoring and auditing by or through the tribal department of education of all education programs for which funds are provided by contract or grant to ensure that the programs meet the requirements of law, and

"(D) provides a plan and schedule for—

"(i) the assumption over the term of the grant by the tribal department of education of all assets and functions of the Bureau agency office associated with the tribe, insofar as those responsibilities relate to education, and

"(ii) the termination by the Bureau of such operations and office at the time of such assumption,

but when mutually agreeable between the tribal governing body and the Assistant Secretary, the period in which such assumption is to occur may be modified, reduced, or extended after the initial year of the grant.

"(2) Subject to the availability of appropriated funds, grants provided under this section shall be provided for a period of 3 years and the grant may, if performance by the grantee is satisfactory to the Secretary, be renewed for additional 3-year terms.

"(d) The Secretary shall not impose any terms, conditions, or requirements on the provision of grants under this section that are not specified in this section.

Appropriation authorization.

"(e) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of this section.".

SEC. 5120. SCHOOL BOUNDARIES.

Subsection (b) of section 1124 of the Education Amendments of 1978 (25 U.S.C. 2004(b)) is amended—

(1) by striking out "On or after" and inserting in lieu thereof "(1) Except as provided in paragraph (2), on or after", and

(2) by adding at the end thereof the following new paragraph:

"(2) In any case where there is more than one Bureau funded school located on an Indian reservation, at the direction of the tribal governing body, the relevant school boards of the Bureau funded schools on the reservation may, by mutual consent, establish the relevant attendance areas for such schools, subject to the approval of the tribal governing body. Any such boundaries so established shall be accepted by the Secretary.".

PART B—TRIBALLY CONTROLLED SCHOOL GRANTS

Tribally Controlled Schools Act of 1988.

SEC. 5201. SHORT TITLE.

This part may be cited as the "Tribally Controlled Schools Act of 1988". 25 USC 2501 note.

SEC. 5202. FINDINGS.

25 USC 2501.

The Congress, after careful review of the Federal Government's historical and special legal relationship with, and resulting responsibilities to, Indians, finds that—

(1) the Indian Self-Determination and Education Assistance Act, which was a product of the legitimate aspirations and a recognition of the inherent authority of Indian nations, was and is a crucial positive step towards tribal and community control;

(2) the Bureau of Indian Affairs' administration and domination of the contracting process under such Act has not provided the full opportunity to develop leadership skills crucial to the realization of self-government, and has denied to the Indian people an effective voice in the planning and implementation of programs for the benefit of Indians which are responsive to the true needs of Indian communities;

(3) Indians will never surrender their desire to control their relationships both among themselves and with the non-Indian governments, organizations, and persons;

(4) true self-determination in any society of people is dependent upon an educational process which will ensure the development of qualified people to fulfill meaningful leadership roles;

(5) the Federal administration of education for Indian children has not effected the desired level of educational achievement nor created the diverse opportunities and personal satisfaction which education can and should provide;

(6) true local control requires the least possible Federal interference; and

(7) the time has come to enhance the concepts made manifest in the Indian Self-Determination and Education Assistance Act.

SEC. 5203. DECLARATION OF POLICY.

25 USC 2502.

(a) RECOGNITION.—The Congress recognizes the obligation of the United States to respond to the strong expression of the Indian people for self-determination by assuring maximum Indian participation in the direction of educational services so as to render such services more responsive to the needs and desires of those communities.

(b) COMMITMENT.—The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing trust relationship with and responsibility to the Indian people through the establishment of a meaningful Indian self-determination policy for education which will deter further perpetuation of Federal bureaucratic domination of programs.

(c) NATIONAL GOAL.—The Congress declares that a major national goal of the United States is to provide the resources, processes, and structures which will enable tribes and local communities to effect the quantity and quality of educational services and opportunities which will permit Indian children to compete and excel in the life areas of their choice, and to achieve the measure of self-determination essential to their social and economic well-being.

(d) EDUCATIONAL NEEDS.—The Congress affirms the reality of the special and unique educational needs of Indian peoples, including the need for programs to meet the linguistic and cultural aspirations of Indian tribes and communities. These may best be met through a grant process.

(e) FEDERAL RELATIONS.—The Congress declares its commitment to these policies and its support, to the full extent of its responsibility, for Federal relations with the Indian Nations.

(f) TERMINATION.—The Congress hereby repudiates and rejects House Concurrent Resolution 108 of the 83rd Congress and any policy of unilateral termination of Federal relations with any Indian Nation.

25 USC 2503.

SEC. 5204. GRANTS AUTHORIZED.

(a) IN GENERAL.—

(1) The Secretary shall provide grants to Indian tribes, and tribal organizations, that—

(A) operate tribally controlled schools which are eligible for assistance under this part, and

(B) submit to the Secretary applications for such grants.

(2) Grants provided under this part shall be deposited into the general operating fund of the tribally controlled school with respect to which the grant is provided.

(3)(A) Except as otherwise provided in this paragraph, grants provided under this part shall be used to defray, at the discretion of the school board of the tribally controlled school with respect to which the grant is provided, any expenditures for education-related activities for which any funds that compose the grant may be used under the laws described in section 5205(a), including but not limited to, expenditures for—

(i) school operations, academic, educational, residential, guidance and counseling, and administrative purposes, and

(ii) support services for the school, including transportation.

(B) Grants provided under this part may, at the discretion of the school board of the tribally controlled school with respect to which such grant is provided, be used to defray operation and maintenance expenditures for the school if any funds for the operation and maintenance of the school are allocated to the school under the provisions of any of the laws described in section 5205(a).

(C) If funds allocated to a tribally controlled school under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, the Education of the Handicapped Act, or any Federal education law other than title XI of the Education Amendments of 1978 are included in a grant provided under this part, a portion of the grant equal to the amount of the funds allocated under such law shall be expended only for those activities for which funds provided under such law may be expended under the terms of such law.

(b) LIMITATIONS.—

(1) No more than one grant may be provided under this part with respect to any Indian tribe or tribal organization for any fiscal year.

(2) Funds provided under any grant made under this part may not be used in connection with religious worship or sectarian instruction.

(3) Funds provided under any grant made under this part may not be expended for administrative costs (as defined under section 1128A(e)(1) of the Education Amendments of 1978) in excess of the amount generated for such costs under section 1128A of such Act.

(c) LIMITATION ON TRANSFER OF FUNDS AMONG SCHOOLSITES.—

(1) In the case of a grantee which operates schools at more than one schoolsite, the grantee may expend no more than the lesser of—

(A) 10 percent of the funds allocated for a schoolsite under section 1128 of the Education Amendments of 1978, or

(B) $400,000 of such funds,

at any other schoolsite.

(2) For purposes of this subsection, the term "schoolsite" means the physical location and the facilities of an elementary or secondary educational or residential program operated by, or under contract with, the Bureau for which a discreet student count is identified under the funding formula established under section 1128 of the Education Amendments of 1978.

(d) NO REQUIREMENT TO ACCEPT GRANTS.—Nothing in this part may be construed—

(1) to require a tribe or tribal organization to apply for or accept, or

(2) to allow any person to coerce any tribe or tribal organization into applying for, or accepting,

a grant under this part to plan, conduct, and administer all of, or any portion of, any Bureau program. Such applications, and the timing of such applications, shall be strictly voluntary. Nothing in this part may be construed as allowing or requiring any grant with any entity other than the entity to which the grant is provided.

(e) NO EFFECT ON FEDERAL RESPONSIBILITY.—Grants provided under this part shall not terminate, modify, suspend, or reduce the responsibility of the Federal Government to provide a program.

(f) RETROCESSION.—Whenever an Indian tribe requests retrocession of any program for which assistance is provided under this part, such retrocession shall become effective upon a date specified by the Secretary not more than 120 days after the date on which the tribe requests the retrocession, or such later date as may be mutually agreed upon by the Secretary and the tribe. If such a program is retroceded, the Secretary shall provide to any Indian tribe served by such program at least the same quantity and quality of services that would have been provided under such program at the level of funding provided under this part prior to the retrocession.

(g) NO TERMINATION FOR ADMINISTRATIVE CONVENIENCE.—Grants provided under this Act may not be terminated, modified, suspended, or reduced only for the convenience of the administering agency.

SEC. 5205. COMPOSITION OF GRANTS. 25 USC 2504.

(a) IN GENERAL.—The grant provided under this part to an Indian tribe or tribal organization for any fiscal year shall consist of—

(1) the total amount of funds allocated for such fiscal year under sections 1128 and 1128A of the Education Amendments of 1978 with respect to the tribally controlled schools eligible for assistance under this part that are operated by such Indian tribe or tribal organization, including, but not limited to, funds

provided under such sections, or under any other provision of law, for transportation costs,

(2) to the extent requested by such Indian tribe or tribal organization, the total amount of funds provided from operations and maintenance accounts and other facilities accounts for such schools for such fiscal year under section 1126(d) of the Education Amendments of 1978 or under any other law, and

(3) the total amount of funds provided under—

(A) chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

(B) the Education of the Handicapped Act, and

(C) any other Federal education law,

that are allocated to such schools for such fiscal year.

(b) SPECIAL RULES.—

(1) In the allocation of funds under sections 1128, 1128A, and 1126(d) of the Education Amendments of 1978, tribally controlled schools for which grants are provided under this part shall be treated as contract schools.

(2) In the allocation of funds provided under—

(A) chapter 1 of title I of the Elementary and Secondary Education Act of 1965,

(B) the Education of the Handicapped Act, and

(C) any other Federal education law,

that are distributed through the Bureau, tribally controlled schools for which grants are provided under this part shall be treated as Bureau schools.

(3)(A) Funds allocated to a tribally controlled school by reason of paragraph (1) or (2) shall be subject to the provisions of this part and shall not be subject to any additional restriction, priority, or limitation that is imposed by the Bureau with respect to funds provided under—

(i) title I of the Elementary and Secondary Education Act of 1965,

(ii) the Education of the Handicapped Act, or

(iii) any Federal education law other than title XI of the Education Amendments of 1978.

(B) Indian tribes and tribal organizations to which grants are provided under this part, and tribally controlled schools for which such grants are provided, shall not be subject to any requirements, obligations, restrictions, or limitations imposed by the Bureau that would otherwise apply solely by reason of the receipt of funds provided under any law referred to in clause (i), (ii), or (iii) of subparagraph (A).

25 USC 2505.

SEC. 5206. ELIGIBILITY FOR GRANTS.

(a) IN GENERAL.—

(1) A tribally controlled school is eligible for assistance under this part if the school—

(A) was, on the date of enactment of this Act, a school which received funds under the authority of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450, et seq.),

(B) was a school operated (as either an elementary or secondary school or a combined program) by the Bureau and has met the requirements of subsection (b),

(C) is a school for which the Bureau has not provided funds, but which has met the requirements of subsection (c), or

(D) is a school with respect to which an election has been made under paragraph (2) and which has met the requirements of subsection (b).

(2) Any application which has been submitted under the Indian Self-Determination and Education Assistance Act by an Indian tribe for a school which is not in operation on the date of enactment of this Act shall be reviewed under the guidelines and regulations for applications submitted under the Indian Self-Determination and Education Assistance Act that were in effect at the time the application was submitted, unless the Indian tribe or tribal organization elects to have the application reviewed under the provisions of subsection (b).

(b) ADDITIONAL REQUIREMENTS FOR BUREAU SCHOOLS AND CERTAIN ELECTING SCHOOLS.—

(1) Any school that was operated as a Bureau school on the date of enactment of this Act, and any school with respect to which an election is made under subsection (a)(2), meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting that the Secretary—

(i) transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school, and

(ii) make a determination of whether the school is eligible for assistance under this part, and

(B) the Secretary makes a determination that the school is eligible for assistance under this part.

(2)(A) By no later than the date that is 120 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine—

(i) if the school is not being operated by the Indian tribe or tribal organization, whether to transfer operation of the school to the Indian tribe or tribal organization, and

(ii) whether the school is eligible for assistance under this part.

(B) In considering applications submitted under paragraph (1)(A), the Secretary—

(i) shall transfer operation of the school to the Indian tribe or tribal organization, if the Indian tribe or tribal organization is not already operating the school, and

(ii) shall determine that the school is eligible for assistance under this part,

unless the Secretary finds by clear and convincing evidence that the services to be provided by the Indian tribe or tribal organization will be deleterious to the welfare of the Indians served by the school.

(C) In considering applications submitted under paragraph (1)(A), the Secretary shall consider whether the Indian tribe or tribal organization would be deficient in operating the school with respect to—

(i) equipment,

(ii) bookkeeping and accounting procedures,

(iii) substantive knowledge of operating the school,

(iv) adequately trained personnel, or

(v) any other necessary components in the operation of the school.

(c) ADDITIONAL REQUIREMENTS FOR SCHOOLS THAT HAVE NOT RECEIVED BUREAU FUNDS.—

(1) A school for which the Bureau has not provided funds meets the requirements of this subsection if—

(A) the Indian tribe or tribal organization that operates, or desires to operate, the school submits to the Secretary an application requesting a determination by the Secretary of whether the school is eligible for assistance under this part, and

(B) the Secretary makes a determination that the school is eligible for assistance under this part.

(2)(A) By no later than the date that is 180 days after the date on which an application is submitted to the Secretary under paragraph (1)(A), the Secretary shall determine whether the school is eligible for assistance under this part.

(B) In making the determination under subparagraph (A), the Secretary shall give equal consideration to each of the following factors:

(i) with respect to the applicant's proposal—

(I) the adequacy of facilities or the potential to obtain or provide adequate facilities;

(II) geographic and demographic factors in the affected areas;

(III) adequacy of applicant's program plans;

(IV) geographic proximity of comparable public education; and

(V) the needs as expressed by all affected parties, including but not limited to students, families, tribal governments at both the central and local levels, and school organizations; and

(ii) with respect to all education services already available—

(I) geographic and demographic factors in the affected areas;

(II) adequacy and comparability of programs already available;

(III) consistency of available programs with tribal education codes or tribal legislation to education; and

(IV) the history and success of these services for the proposed population to be served, as determined from all factors and not just standardized examination performance.

(C) The Secretary may not make a determination under this paragraph that is primarily based upon the geographic proximity of comparable public education.

(D) Applications submitted under paragraph (1)(A) shall include information on the factors described in subparagraph (B)(i), but the applicant may also provide the Secretary such information relative to the factors described in subparagraph (B)(ii) as the applicant considers appropriate.

(E) If the Secretary fails to make a determination under subparagraph (A) with respect to an application within 180 days after the date on which the Secretary received the application, the Secretary shall be treated as having made a determination

that the tribally controlled school is eligible for assistance under the title and the grant shall become effective 18 months after the date on which the Secretary received the application, or an earlier date, at the Secretary's discretion.

(d) APPLICATIONS AND REPORTS.—

(1) All applications and reports submitted to the Secretary under this part, and any amendments to such applications or reports, shall be filed with the agency or area education officer designated by the Director of the Office of Indian Education of the Department of Education. The date on which such filing occurs shall, for purposes of this part, be treated as the date on which the application or amendment is submitted to the Secretary.

(2) Any application that is submitted under this part shall be accompanied by a document indicating the action taken by the tribal governing body in authorizing such application.

(e) EFFECTIVE DATE FOR APPROVED APPLICATIONS.—Except as provided in subsection (c)(2)(E), a grant provided under this part, and any transfer of the operation of a Bureau school made under subsection (b), shall become effective beginning with the academic year succeeding the fiscal year in which the application for the grant or transfer is made, or at an earlier date determined by the Secretary.

(f) DENIAL OF APPLICATIONS.—

(1) Whenever the Secretary declines to provide a grant under this part, to transfer operation of a Bureau school under subsection (b), or determines that a school is not eligible for assistance under this part, the Secretary shall—

(A) state the objections in writing to the tribe or tribal organization within the allotted time,

(B) provide assistance to the tribe or tribal organization to overcome all stated objections,

(C) provide the tribe or tribal organization a hearing, under the same rules and regulations that apply under the Indian Self-Determination and Education Assistance Act, and

(D) provide an opportunity to appeal the objection raised.

(2) The Secretary shall reconsider any amended application submitted under this part within 60 days after the amended application is submitted to the Secretary.

(g) REPORT.—The Bureau shall submit an annual report to the Congress on all applications received, and actions taken (including the costs associated with such actions), under this section at the same time that the President is required to submit to the Congress the budget under section 1105 of title 31, United States Code.

SEC. 5207. DURATION OF ELIGIBILITY DETERMINATION. 25 USC 2506.

(a) IN GENERAL.—If the Secretary determines that a tribally controlled school is eligible for assistance under this part, the eligibility determination shall remain in effect until the determination is revoked by the Secretary, and the requirements of subsection (b) or (c) of section 5206, if applicable, shall be considered to have been met with respect to such school until the eligibility determination is revoked by the Secretary.

(b) ANNUAL REPORTS.—Each recipient of a grant provided under this part shall submit to the Secretary and to the tribal governing body (within the meaning of section 1121(j) of the Education Amend-

ments of 1978) of the tribally controlled school an annual report that shall be limited to—

(1) an annual financial statement reporting revenue and expenditures as defined by the cost accounting established by the grantee;

(2) a biannual financial audit conducted pursuant to the standards of the Single Audit Act of 1984;

(3) an annual submission to the Secretary of the number of students served and a brief description of programs offered under the grant; and

(4) a program evaluation conducted by an impartial entity, to be based on the standards established for purposes of subsection (c)(1)(A)(ii).

(c) REVOCATION OF ELIGIBILITY.—

(1)(A) The Secretary shall not revoke a determination that a school is eligible for assistance under this part if—

(i) the Indian tribe or tribal organization submits the reports required under subsection (b) with respect to the school, and

(ii) at least one of the following subclauses applies with respect to the school:

(I) The school is certified or accredited by a State or regional accrediting association as determined by the Secretary of Education, or is a candidate in good standing for such accreditation under the rules of the State or regional accrediting association, showing that credits achieved by students within the education programs are, or will be, accepted at grade level by a State certified or regionally accredited institution.

(II) A determination made by the Secretary that there is a reasonable expectation that the accreditation described in subclause (I), or the candidacy in good standing for such accreditation, will be reached by the school within 3 years and that the program offered by the school is beneficial to the Indian students.

(III) The school is accredited by a tribal department of education if such accreditation is accepted by a generally recognized regional or State accreditation agency.

(IV) The school accepts the standards promulgated under section 1121 of the Education Amendments of 1978 and an evaluation of performance is conducted under this section in conformance with the regulations pertaining to Bureau operated schools by an impartial evaluator chosen by the grantee, but no grantee shall be required to comply with these standards to a higher degree than a comparable Bureau operated school.

(V) A positive evaluation of the school is conducted once every 3 years under standards adopted by the contractor under a contract for a school entered into under the Indian Self-Determination and Education Assistance Act prior to the date of enactment of this Act, such evaluation to be conducted by an impartial evaluator agreed to by the Secretary and the grantee. Upon failure to agree on such an evaluator, the governing body of the tribe shall choose the evaluator or perform the evaluation.

(B) The choice of standards employed for purposes of subparagraph (A)(ii) shall be consistent with section 1121(e) of the Education Amendments of 1978.

(2) The Secretary shall not revoke a determination that a school is eligible for assistance under this part, or reassume control of a school that was a Bureau school prior to approval of an application submitted under section 5206(b)(1)(A), until the Secretary—

(A) provides notice to the tribally controlled school and the tribal governing body (within the meaning of section 1121(j) of the Education Amendments of 1978) of the tribally controlled school which states—

(i) the specific deficiencies that led to the revocation or resumption determination, and

(ii) the actions that are needed to remedy such deficiencies, and

(B) affords such authority an opportunity to effect any remedial actions.

The Secretary shall provide such technical assistance as is necessary to effect such remedial actions. Such notice and technical assistance shall be in addition to a hearing and appeal to be conducted pursuant to the regulations described in section 5206(f)(1)(C).

SEC. 5208. PAYMENT OF GRANTS; INVESTMENT OF FUNDS. 25 USC 2507.

(a) PAYMENTS.—

(1) Except as otherwise provided in this subsection, the Secretary shall make payments to grantees under this part in two payments:

(A) one payment to be made no later than October 1 of each fiscal year in an amount equal to one-half the amount paid during the preceding fiscal year to the grantee or a contractor that has elected to have the provisions of this part apply, and

(B) the second payment consisting of the remainder to which the grantee or contractor is entitled for the fiscal year to be made by no later than January 1 of the fiscal year.

(2) For any school for which no payment was made under this part in the preceding fiscal year, full payment of the amount computed for each fiscal year shall be made by January 1 of the fiscal year.

(b) INVESTMENT OF FUNDS.—

(1) Notwithstanding any other provision of law, any interest or investment income that accrues on any funds provided under this part after such funds are paid to the Indian tribe or tribal organization and before such funds are expended for the purpose for which such funds were provided under this part shall be the property of the Indian tribe or tribal organization and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, under any provision of Federal law.

(2) Funds provided under this part may be—

(A) invested by the Indian tribe or tribal organization only in obligations of the United States or in obligations or

securities that are guaranteed or insured by the United States, or

(B) deposited only into accounts that are insured by an agency or instrumentality of the United States.

(c) RECOVERIES.—For the purposes of underrecovery and overrecovery determinations by any Federal agency for any other funds, from whatever source derived, funds received under this part shall not be taken into consideration.

25 USC 2508.

SEC. 5209. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

(a) CERTAIN PROVISIONS TO APPLY TO GRANTS.—All provisions of sections 5, 6, 7, 105, 109, and 110 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450c, et seq.) except those provisions pertaining to indirect costs and length of contract, shall apply to grants provided under this part.

(b) ELECTION FOR GRANT IN LIEU OF CONTRACT.—

(1) Contractors for activities to which this part applies who have entered into a contract under the Indian Self-Determination and Education Assistance Act that is in effect upon the date of enactment of this Act may, by giving notice to the Secretary, elect to have the provisions of this part apply to such activity in lieu of such contract.

(2) Any election made under paragraph (1) shall take effect on the later of—

(A) October 1 of the fiscal year succeeding the fiscal year in which such election is made, or

(B) the date that is 60 days after the date of such election.

(c) NO DUPLICATION.—No funds may be provided under any contract entered into under the Indian Self-Determination and Education Assistance Act to pay any expenses incurred in providing any program or service if a grant has been made under this part to pay such expenses.

25 USC 2509.

SEC. 5210. ROLE OF THE DIRECTOR.

Applications for grants under this part, and all application modifications, shall be reviewed and approved by personnel under the direction and control of the Director of the Office of Indian Education Programs. Required reports shall be submitted to education personnel under the direction and control of the Director of such Office.

Reports.

25 USC 2510.

SEC. 5211. REGULATIONS.

The Secretary is authorized to issue regulations relating to the discharge of duties specifically assigned to the Secretary by this part. In all other matters relating to the details of planning, development, implementing, and evaluating grants under this part, the Secretary shall not issue regulations. Regulations issued pursuant to this part shall not have the standing of a Federal statute for the purposes of judicial review.

25 USC 2511.

SEC. 5212. DEFINITIONS.

For purposes of this part—

(1) The term "eligible Indian student" has the meaning of such term in section 1128(f) of the Education Amendments of 1978 (25 U.S.C. 2008(f)).

(2) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native Village or regional or village corporation (as defined in or established pursuant to the Alaskan Native Claims Settlement Act), which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.

(3)(A) The term "tribal organization" means—

(i) the recognized governing body of any Indian tribe, or

(ii) any legally established organization of Indians which—

(I) is controlled, sanctioned, or chartered by such governing body or is democratically elected by the adult members of the Indian community to be served by such organization, and

(II) includes the maximum participation of Indians in all phases of its activities.

(B) In any case in which a grant is provided under this part to an organization to perform services benefiting more than one Indian tribe, the approval of the governing bodies of Indian tribes representing 80 percent of those students attending the tribally controlled school shall be considered a sufficient tribal authorization for such grant.

(4) The term "Secretary" means the Secretary of the Interior.

(5) The term "tribally controlled school" means a school, operated by a tribe or a tribal organization, enrolling students in kindergarten through grade 12, including preschools, which is not a local educational agency and which is not directly administered by the Bureau of Indian Affairs.

(6) The term "a local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(7) The term "Bureau" means the Bureau of Indian Affairs of the Department of the Interior.

PART C—DEPARTMENT OF EDUCATION

Indian Education Act of 1988. 25 USC 2601 note.

SEC. 5301. SHORT TITLE.

This part may be cited as the "Indian Education Act of 1988".

Subpart 1—Financial Assistance to Local Educational Agencies for the Education of Indian Children

25 USC 2601.

SEC. 5311. DECLARATION OF POLICY.

In recognition of the special educational and culturally related academic needs of Indian students in the United States, Congress hereby declares it to be the policy of the United States to provide financial assistance to local educational agencies to develop and

carry out elementary and secondary school programs specially designed to meet these special educational and culturally related academic needs, or both.

25 USC 2602.

SEC. 5312. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) IN GENERAL.—The Secretary shall, in order to effectuate the policy set forth in section 5311, carry out a program of making grants to local educational agencies which are entitled to payments under this subpart and which have submitted, and have had approved, applications therefor, in accordance with the provisions of this subpart.

(b) AMOUNT OF GRANTS.—

(1)(A) For any fiscal year for which appropriations are authorized under section 5316 of this Act, the Secretary shall determine the number of eligible Indian children who were enrolled in the schools of a local educational agency, and for whom such agency provided free public education, during such fiscal year.

(B) For purposes of this subpart, the term "eligible Indian children" means Indian children whom the Secretary has determined—

(i) were enrolled in a school of the local educational agency, and

(ii) were provided free public education by the local educational agency.

(2)(A) From the sums appropriated under section 5316(a) for any fiscal year, the Secretary shall allocate to each local educational agency which has an application approved under this subpart an amount which bears the same ratio to such sums as the product of—

(i) the number of eligible Indian children, multiplied by

(ii) the average per pupil expenditure per local educational agency,

bears to the sum of such products for all such local educational agencies.

(B) A local educational agency shall not be entitled to receive a grant under this subpart for any fiscal year unless the number of eligible Indian children, with respect to such agency, is at least 10 or constitutes at least 50 percent of its total enrollment. The requirements of this subparagraph shall not apply to any local educational agencies serving Indian children in Alaska, California, and Oklahoma or located on, or in proximity to, an Indian reservation.

(C) For the purposes of this subsection, the average per pupil expenditure for a local educational agency is equal to the amount determined by dividing—

(i) the sum of—

(I) the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made, of all of the local educational agencies in the State in which such agency is located, plus

(II) any direct current expenditures by such State for the operation of such agencies (without regard to the sources of funds from which either of such expenditures are made), by

(ii) the aggregate number of children who were in average daily attendance for whom such agencies provided free public education during such preceding fiscal year.

(3)(A) The first fiscal year for which schools operated by the Bureau of Indian Affairs of the Department of the Interior shall be treated as local educational agencies for the purposes of this subpart (other than sections 5314(b)(2)(B)(ii) and 5315(c)(2)) is the first fiscal year beginning after the date of enactment of this Act for which the amount of funds appropriated for allocation under this subsection equals or exceeds the amount of funds that, if such schools are not treated as local educational agencies, is necessary to allocate under paragraph (2) (determined without regard to subparagraph (B)) to each local educational agency which has an application approved under this subpart for such fiscal year an amount of funds for each eligible Indian child equal to the sum of—

(i) the average amount of funds per eligible Indian child that was received by such local educational agency for fiscal year 1988 under section 303(a)(2) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C. 241bb(a)(2)), plus

(ii) 2 percent of the amount described in clause (i).

(B)(i) Notwithstanding any other provision of this subpart, for each fiscal year to which this clause applies—

(I) paragraph (2) shall first be applied to allocate the portion of the funds appropriated for such fiscal year for allocation under this subsection that does not exceed the amount determined to be necessary under subparagraph (A) among only those local educational agencies that received funds under section 303(a)(2) of the Indian Elementary and Secondary School Assistance Act (20 U.S.C 241bb(a)(2)) for fiscal year 1988, and

(II) paragraph (2) shall then be applied to allocate the remaining portion (if any) of the funds appropriated for such fiscal year for allocation under this subsection among only those local educational agencies that are schools operated by the Bureau of Indian Affairs.

(ii) Clause (i) applies to the first fiscal year described in subparagraph (A), and each succeeding fiscal year, until the amount of funds appropriated for allocation under this subsection for any fiscal year beginning after the date of enactment of this Act equals or exceeds the amount of funds that, if all schools operated by the Bureau of Indian Affairs are treated as local educational agencies, is necessary to allocate under paragraph (2) (determined without regard to clause (i)) to each local educational agency which has an application approved under this subpart for such fiscal year an amount of funds for each eligible Indian child equal to the sum of—

(I) the average amount of funds per eligible Indian child that was received by such local educational agency for fiscal year 1988 under the Indian Elementary and Secondary School Assistance Act, plus

(II) 2 percent of the amount described in subclause (I).

(c) GRANTS TO SCHOOLS THAT ARE NOT, OR HAVE NOT BEEN, LOCAL EDUCATIONAL AGENCIES.—

(1) In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this subpart, there is

hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percent of the amount appropriated for payments on the basis of entitlements computed under subsection (b) for that fiscal year, for the purpose of enabling the Secretary to provide financial assistance in accordance with the provisions of this subpart to schools—

(A) which are located on or near reservations; and

(B) which—

(i) are not local educational agencies, or

(ii) have not been local educational agencies for more than 3 years.

State listing.

(2) The requirements of clause (A) of paragraph (1) shall not apply to any school serving Indian children in California, Oklahoma, or Alaska.

(d) GRANTS FOR DEMONSTRATION PROJECTS.—In addition to the sums appropriated for any fiscal year for grants to local educational agencies under this subpart, there is hereby authorized to be appropriated for any fiscal year an amount not in excess of 10 percent of the amount appropriated for payments of entitlements computed under subsection (b) for that fiscal year, for the purpose of enabling the Secretary to make grants on a competitive basis to local educational agencies to support demonstration projects and programs which are designed to plan for and improve educational opportunities for Indian children, except that the Secretary shall reserve a portion not to exceed 25 percent of such funds to make grants for demonstration projects examining the special educational and culturally related academic needs that arise in school districts with high concentrations of Indian children.

25 USC 2603.

SEC. 5313. USES OF FEDERAL FUNDS.

Grants under this subpart may be used, in accordance with applications approved under section 5314, for—

(1) planning and development of programs specifically designed to meet the special educational or culturally related academic needs, or both, of Indian children, including pilot projects designed to test the effectiveness of plans so developed;

(2) the establishment, maintenance, and operation of such programs, including, in accordance with regulations of the Secretary, minor remodeling of classroom or other space used for such programs and acquisition of necessary equipment; and

(3) the training of counselors at schools eligible to receive funds under this subpart in counseling techniques relevant to the treatment of alcohol and substance abuse.

25 USC 2604.

SEC. 5314. APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL.

(a) IN GENERAL.—A grant provided under this subpart, except as provided in section 5312(b), may be made only to a local educational agency or agencies, and only upon application to the Secretary at such time or times, in such manner, and containing or accompanied by such information as the Secretary deems necessary. Such application shall—

(1) provide that the activities and services for which assistance under this subpart is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes of section 5313, and provide for such methods of administration as are necessary for the proper and efficient operation of the program;

(3) in the case of an application for payments for planning, provide that—

(A) the planning was or will be directly related to programs or projects to be carried out under this subpart and has resulted, or is reasonably likely to result, in a program or project which will be carried out under this subpart, and

(B) the planning funds are needed because of the innovative nature of the program or project or because the local educational agency lacks the resources necessary to plan adequately for programs and projects to be carried out under this subpart;

(4) provide that effective procedures, including provisions for appropriate objective measurement of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs and projects in meeting the special educational needs of Indian students;

(5) set forth policies and procedures which assure that Federal funds made available under this subpart for any fiscal year will be so used as to supplement and, to the extent practical, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the education of Indian children and in no case supplant such funds;

(6) provide for such fiscal control and fund accounting procedures as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the applicant under this subpart; and

(7) provide for making an annual report and such other reports, in such form and containing such information, as the Secretary may reasonably require to carry out his functions under this subpart and to determine the extent to which funds provided under this subpart have been effective in improving the educational opportunities of Indian students in the area served, and for the keeping of such records, and the affording of such access thereto, as the Secretary may find necessary to assure the correctness and verification of such reports. Reports. Records.

(b) APPROVAL OF APPLICATIONS.—An application by a local educational agency or agencies for a grant under this subpart may be approved only if it is consistent with the applicable provisions of this subpart and—

(1) meets the requirements set forth in subsection (a);

(2) provides that the program or project for which application is made—

(A) will utilize the best available talents and resources (including persons from the Indian community) and will substantially increase the educational opportunities of Indian children in the area to be served by the applicant; and

(B) has been developed—

(i) in open consultation with parents of Indian children, teachers, and, where applicable, secondary school students, including public hearings at which such persons have had a full opportunity to understand the program for which assistance is being sought and to offer recommendations thereon, and

(ii) with the participation and written approval of a committee—

(I) which is composed of, and selected by, parents of children participating in the program for which assistance is sought, teachers, and, where applicable, secondary school students, and

(II) of which at least half the members shall be parents described in subclause (I);

(3) sets forth such policies and procedures including policies and procedures relating to the hiring of personnel, as will ensure that the program for which assistance is sought will be operated and evaluated in consultation with, and with the involvement of, parents of the children and representatives of the area to be served, including the committee established for the purposes of paragraph (2)(B)(ii); and

(4) provides that the parent committee formed pursuant to paragraph (2)(B)(ii) will adopt and abide by reasonable bylaws for the conduct of the program for which assistance is sought.

(c) AMENDMENTS OF APPLICATIONS.—Amendments of applications submitted under this subpart shall, except as the Secretary may otherwise provide by regulation, be subject to approval in the same manner as original applications.

(d) ELIGIBILITY FORMS.—

(1) The Secretary shall require that each application for a grant under this subpart for each fiscal year include a form for each eligible Indian child for whom the local educational agency is providing free public education that sets forth information establishing the status of the child as an eligible Indian child.

(2) The Secretary shall request on the form required under paragraph (1) at least the following information:

(A) either—

(i) the name of the tribe, band, or other organized group of Indians with which the child claims membership, along with the enrollment number establishing membership (if readily available), and the name and address of the organization which has updated and accurate membership data for such tribe, band, or other organized group of Indians, or

(ii) if the child is not a member of a tribe, band, or other organized group of Indians, the name, the enrollment number (if readily available) and the organization (and address thereof) responsible for maintaining updated and accurate membership rolls of any of the child's parents or grandparents, from whom the child claims eligibility;

(B) whether the tribe, band, or other organized group of Indians with which the applicant, his parents, or grandparents claim membership is federally recognized;

(C) the name and address of the parent or legal guardian;

(D) the signature of the parent or legal guardian verifying the accuracy of the information supplied; and

(E) any other information which the Secretary deems necessary to provide an accurate program profile.

(3) Nothing in the requirements of paragraph (2) may be construed as affecting the definition set forth in section 5351(4). The failure of an applicant to furnish any information listed in paragraph (2) with respect to any child shall have no bearing on the determination of whether the child is an eligible Indian child.

(4) The forms and the standards of proof (including the standard of good faith compliance) that were in use during the 1985-1986 academic year to establish a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act shall be the only forms and standards of proof used to establish such eligibility and to meet the requirements of paragraph (1) after the date of enactment of this Act.

(5) For purposes of determining whether a child is an eligible Indian child, the membership of the child, or any parent or grandparent of the child, in a tribe, band, or other organized group of Indians may be established by proof other than an enrollment number, even if enrollment numbers for members of such tribe, band, or groups are available. Nothing in paragraph (2) may be construed as requiring the furnishing of enrollment numbers.

(e) AUDITING; PENALTIES FOR FALSE INFORMATION.—

(1)(A) The Secretary shall establish a method of auditing, on an annual basis, a sample of not less than one-fourth of the total number of local education agencies receiving funds under this subpart and shall submit to the Congress an annual report on the findings of the audits. Reports.

(B) For purposes of any audit conducted by the Federal Government with respect to funds provide under this subpart, all procedures, practices, and policies that are established by—

(i) the Office of Indian Education of the Department of Education, or

(ii) a grantee under this subpart who, in establishing such procedures, practices, and policies, was acting under the direction of any employee of such Office that is authorized by the Director of such Office to provide such direction,

shall, with respect to the period beginning on the date of the establishment of such procedures, practices, and policies, and ending on the date (if any) on which the Director of such Office revokes authorization for such procedures, practices, and policies, be considered appropriate and acceptable procedures, practices, and policies which are in conformity with Federal law.

(C) No local education agency may be held liable to the United States, or be otherwise penalized, by reason of the findings of any audit conducted before the date of enactment of this Act that—

(i) relate to the date of completion, or the date of submission, of any forms used to establish a child's eligibility for entitlement under the Indian Elementary and Secondary School Assistance Act, and

(ii) are the subject of any administrative or judicial proceeding pending on the date of enactment of this Act.

(2) Any local educational agency that provides false information in the application for a grant under this subpart shall be ineligible to apply for any other grants under this subpart and shall be liable to the United States for any funds provided under this subpart that have not been expended.

(3) Any student who provides false information on the form required under subsection (d)(1) may not be taken into account in determining the amount of any grant under this subpart.

25 USC 2605.

SEC. 5315. PAYMENTS.

(a) IN GENERAL.—The Secretary shall, subject to the provisions of section 5316, from time-to-time pay to each local educational agency which has had an application approved under section 5314, an amount equal to the amount estimated to be expended by such agency in carrying out activities under such application.

(b) DENIAL OF PAYMENTS IF PAYMENTS TAKEN INTO ACCOUNT BY STATE.—No payments shall be made under this subpart for any fiscal year to any local educational agency in a State which has taken into consideration payments under this subpart in determining the eligibility of such local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(c) REDUCTION FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

"(1) Except as provided in paragraph (2), a local educational agency may receive funds under this subpart for any fiscal year only if the State educational agency finds that either the combined fiscal effort per student or the aggregate expenditures of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was not less than 90 percent of such combined fiscal effort or aggregate expenditures for the second preceding fiscal year.

"(2) The State educational agency shall reduce the amount of the allocation of funds under this subpart in any fiscal year in the exact proportion to which a local educational agency fails to meet the requirement of paragraph (1) by falling below 90 percent of both the combined fiscal effort per student and aggregate expenditures (using the measure most favorable to such local agency), and no such lesser amount shall be used for computing the effort required under paragraph (1) for subsequent years.

"(3) The State educational agency may waive, for 1 fiscal year only, the requirements of this subsection if the State educational agency determines that such a waiver would be equitable due to exceptional or uncontrollable circumstances such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the local educational agency.

25 USC 2606.

SEC. 5316. AUTHORIZATION OF APPROPRIATIONS; ADJUSTMENTS.

(a) IN GENERAL.—For the purpose of making payments under this subpart, there are authorized to be appropriated—

(1) for fiscal year 1988, $70,000,000, and

(2) for each of the fiscal years 1989, 1990, 1991, 1992, and 1993, such sums as may be necessary.

(b) REALLOCATIONS.—The Secretary may reallocate, in such manner as will best assist in advancing the purposes of this subpart, any amount which the Secretary determines, based upon estimates made by local educational agencies, will not be needed by any such agency to carry out its approved project.

Subpart 2—Special Programs and Projects to Improve Educational Opportunities for Indian Children

Grants.

SEC. 5321. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

25 USC 2621.

(a) IN GENERAL.—The Secretary shall carry out a program of making grants for the improvement of educational opportunities for Indian children—

(1) to support planning, pilot, and demonstration projects, in accordance with subsection (b), which are designed to test and demonstrate the effectiveness of programs for improving educational opportunities for Indian children;

(2) to assist in the establishment and operation of programs, in accordance with subsection (c), which are designed to stimulate—

(A) the provision of educational services not available to Indian children in sufficient quantity or quality, and

(B) the development and establishment of exemplary educational programs to serve as models for regular school programs in which Indian children are educated;

(3) to assist in the establishment and operation of preservice and inservice training programs, in accordance with subsection (d), for persons serving Indian children as educational personnel; and

(4) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian children.

(b) DEMONSTRATION PROJECTS.—The Secretary is authorized to make grants to State and local educational agencies, federally supported elementary and secondary schools for Indian children and to Indian tribes, Indian organizations, and Indian institutions to support planning, pilot, and demonstration projects which are designed to plan for, and test and demonstrate the effectiveness of, programs for improving educational opportunities for Indian children, including—

(1) innovative programs related to the educational needs of educationally deprived children;

(2) bilingual and bicultural education programs and projects;

(3) special health and nutrition services, and other related activities, which meet the special health, social, and psychological problems of Indian children; and

(4) coordination of the operation of other federally assisted programs which may be used to assist in meeting the needs of such children.

(c) SERVICES AND PROGRAMS TO IMPROVE EDUCATIONAL OPPORTUNITIES.—

(1) The Secretary is authorized to make grants to State and local educational agencies and to tribal and other Indian community organizations to assist them in developing and establishing educational services and programs specifically designed to improve educational opportunities for Indian children. Such grants may be used—

(A) to provide educational services not available to such children in sufficient quantity or quality, including—

(i) remedial and compensatory instruction, school health, physical education, psychological, and other services designed to assist and encourage Indian children to enter, remain in, or reenter elementary or secondary school;

(ii) comprehensive academic and vocational instruction;

(iii) instructional materials (such as library books, textbooks, and other printed, published, or audiovisual materials) and equipment;

(iv) comprehensive guidance, counseling, and testing services;

(v) special education programs for handicapped and gifted and talented Indian children;

(vi) early childhood programs, including kindergarten;

(vii) bilingual and bicultural education programs; and

(viii) other services which meet the purposes of this subsection; and

(B) to establish and operate exemplary and innovative educational programs and centers, involving new educational approaches, methods, and techniques designed to enrich programs of elementary and secondary education for Indian children.

(2) In addition to the grants provided under paragraph (1), the Secretary is authorized to provide grants to consortia of Indian tribes or tribal organizations, local educational agencies, and institutions of higher education for the purpose of developing, improving, and implementing a program of—

(A) encouraging Indian students to acquire a higher education, and

(B) reducing the incidence of dropouts among elementary and secondary school students.

(d) TRAINING.—

(1) The Secretary is authorized to make grants to institutions of higher education and to State and local educational agencies, in combination with institutions of higher education, for carrying out programs and projects—

(A) to prepare persons to serve Indian students as teachers, administrators, teacher aides, social workers, and ancillary educational personnel; and

(B) to improve the qualifications of such persons who are serving Indian students in such capacities.

(2) Grants made under this subsection may be used for the establishment of fellowship programs leading to an advanced degree, for institutes and, as part of a continuing program, for seminars, symposia, workshops, and conferences.

(3) In programs funded by grants authorized under this subsection, preference shall be given to the training of Indians.

(e) GRANTS FOR EVALUATION AND TECHNICAL ASSISTANCE.—

(1) The Secretary is authorized to make grants to, and to enter into contracts with, public agencies, State educational agencies in States in which more than 5,000 Indian children are enrolled in public elementary and secondary schools, Indian tribes, Indian institutions, and Indian organizations, and to make con-

tracts with private institutions and organizations, to establish, on a regional basis, information centers to—

(A) evaluate programs assisted under this Act and under other Indian education programs in order to determine their effectiveness in meeting the special educational and culturally related academic needs of Indian children and adults and to conduct research to determine those needs;

(B) provide technical assistance upon request to local educational agencies and Indian tribes, Indian organizations, Indian institutions, and parent committees created pursuant to section 5314(b)(2)(B)(ii) in evaluating and carrying out programs assisted under this Act, through the provision of materials and personnel resources; and

(C) disseminate information upon request to the parties described in subparagraph (B) concerning all Federal education programs which affect the education of Indian children and adults, including information on successful models and programs designed to meet the special educational needs of Indian children. Public information.

(2) Grants or contracts made under this subsection may be made for a term not to exceed 3 years and may be renewed for additional 3-year terms if provision is made to ensure annual review of the projects. Contracts.

(3) From funds appropriated under the authority of subsection (g)(1), the Secretary is authorized to make grants to, and to enter into contracts with, Indian tribes, Indian institutions, and Indian organizations, and public agencies and institutions for— Contracts.

(A) the national dissemination of information concerning education programs, services, and resources available to Indian children, including evaluations thereof; and

(B) the evaluation of the effectiveness of federally assisted programs in which Indian children may participate in achieving the purposes of such programs with respect to such children.

(4) The sum of the grants made under this subsection to State educational agencies for any fiscal year shall not exceed 15 percent of the total amount of funds appropriated for the provision of grants under this subsection for such fiscal year.

(f) APPLICATIONS FOR GRANTS.—

(1) Applications for a grant under this section shall be submitted at such time, in such manner, and shall contain such information, and shall be consistent with such criteria, as may be required under regulations prescribed by the Secretary. Such applications shall—

(A) set forth a statement describing the activities for which assistance is sought;

(B) in the case of an application for a grant under subsection (c)—

(i) subject to such criteria as the Secretary shall prescribe, provide for—

(I) the use of funds available under this section, and

(II) the coordination of other resources available to the applicant,

in order to ensure that, within the scope of the purpose of the project, there will be a comprehensive program to achieve the purposes of this section, and

(ii) provide for the training of personnel participating in the project; and

(C) provide for an evaluation of the effectiveness of the project in achieving its purpose and the purposes of this section.

(2)(A) The Secretary may approve an application for a grant under subsection (b), (c), or (d) only if the Secretary is satisfied that such application, and any document submitted with respect thereto—

(i) demonstrate that—

(I) there has been adequate participation by the parents of the children to be served and tribal communities in the planning and development of the project, and

(II) there will be such participation in the operation and evaluation of the project, and

(ii) provide for the participation, on an equitable basis, of eligible Indian children—

(I) who reside in the area to be served,

(II) who are enrolled in private nonprofit elementary and secondary schools, and

(III) whose needs are of the type which the program is intended to meet,

to the extent consistent with the number of such children.

(B) In approving applications under this section, the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(3) The Secretary may approve an application for a grant under subsection (e) only if the Secretary is satisfied that the funds made available under that subsection will be used to supplement the level of funds from State, local, and other Federal sources that would, in the absence of Federal funds provided under that subsection, be made available by the State or local educational agency for the activities described in that subsection, and in no case will be used to supplant those funds.

(g) AUTHORIZATION OF APPROPRIATIONS.—

(1) For the purpose of making grants under the provisions of this section, there are authorized to be appropriated $35,000,000 for each fiscal year ending prior to October 1, 1993.

(2) For the purpose of making grants under subsection (e)(1), there are authorized to be appropriated $8,000,000 for each of the fiscal years ending prior to October 1, 1993.

25 USC 2622.

SEC. 5322. SPECIAL EDUCATIONAL TRAINING PROGRAMS FOR THE TEACHERS OF INDIAN CHILDREN.

Contracts.

(a) IN GENERAL.—

(1) The Secretary is authorized to make grants to, and enter into contracts with, institutions of higher education, Indian organizations, and Indian tribes for the purpose of—

(A) preparing individuals for teaching or administering special programs and projects designed to meet the special educational needs of Indian people, and

(B) providing in-service training for persons teaching in such programs.

(2) Priority shall be given in the awarding of grants, and in the entering into of contracts, under subsection (a) to Indian institutions and organizations.

(b) FELLOWSHIPS AND TRAINEESHIPS.—

(1) In carrying out the provisions of this section, the Secretary is authorized to award fellowships and traineeships to individuals and to make grants to, and to enter into contracts with, institutions of higher education, Indian organizations, and Indian tribes for the costs of education allowances. Contracts.

(2) In awarding fellowships and traineeships under this subsection, the Secretary shall give preference to Indians.

(3) In the case of traineeships and fellowships, the Secretary is authorized to grant stipends to, and allowances for dependents of, persons receiving traineeships and fellowships.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each fiscal year ending prior to October 1, 1993, such sums as may be necessary to carry out the provisions of this section.

SEC. 5323. FELLOWSHIPS FOR INDIAN STUDENTS. 25 USC 2623.

(a) IN GENERAL.—During each fiscal year ending prior to October 1, 1993, the Secretary is authorized to award fellowships to be used for study in graduate and professional programs at institutions of higher education. Such fellowships shall be awarded to Indian students in order to enable them to pursue a course of study of not more than 4 academic years leading toward a post baccalaureate degree in medicine, clinical psychology, psychology, law, education, and related fields or leading to an undergraduate or graduate degree in engineering, business administration, natural resources, and related fields.

(b) STIPENDS.—The Secretary shall pay to persons awarded fellowships under subsection (a) such stipends (including such allowances for subsistence of such persons and their dependents) as he may determine to be consistent with prevailing practices under comparable federally supported programs.

(c) PAYMENTS TO INSTITUTIONS IN LIEU OF TUITION.—The Secretary shall pay to the institution of higher education at which the holder of a fellowship awarded under subsection (a) is pursuing a course of study, in lieu of tuition charged such holder, such amounts as the Secretary may determine to be necessary to cover the cost of education provided the holder of such a fellowship.

(d) SPECIAL RULES.—

(1) The Secretary may, if a fellowship awarded under subsection (a) is vacated prior to the end of the period for which it was awarded, award an additional fellowship for the remainder of such period.

(2) By no later than the date that is 45 days before the commencement of an academic term, the Secretary shall provide to each individual who is awarded a fellowship under subsection (a) for such academic term written notice of the amount of such fellowship and of any stipends or other payments that will be made under this section to, or for the benefit of, such individual for such academic term.

(3) Not more than 10 percent of the fellowships awarded under subsection (a) shall be awarded, on a priority basis, to persons receiving training in guidance counseling with a specialty in the area of alcohol and substance abuse counseling and education.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1989, and for each of the 4 succeeding

fiscal years, such sums as may be necessary to carry out the provisions of this section.

25 USC 2624.

SEC. 5324. GIFTED AND TALENTED.

(a) ESTABLISHMENT OF CENTERS.—The Secretary shall establish 2 centers for gifted and talented Indian students at tribally controlled community colleges.

Contracts.

(b) DEMONSTRATION PROJECTS.—

(1) The Secretary shall award separate grants to, or enter into contracts with—

(A) 2 tribally controlled community colleges that—

(i) are eligible for funding under the Tribally Controlled Community College Assistance Act of 1978, and

(ii) are fully accredited, or

(B) if acceptable applications are not submitted to the Secretary by 2 of such colleges, the American Indian Higher Education Consortium,

for the establishment of centers under subsection (a) and for demonstration projects designed to address the special needs of Indian students in elementary and secondary schools who are gifted and talented and to provide those support services to their families that are needed to enable the students to benefit from the project.

Children's Television Network.

(2) Any person to whom a grant is made, or with whom a contract is entered into, under paragraph (1) may enter into a contract with any other persons, including the Children's Television Workshop, for the purpose of carrying out the demonstration projects for which such grant was awarded or for which the contract was entered into by the Secretary.

(3) Demonstration projects funded under this section may include—

(A) the identification of the special needs of gifted and talented students, particularly at the elementary school level, with attention to the emotional and psychosocial needs of these students and to the provision of those support services to their families that are needed to enable these students to benefit from the project;

(B) the conduct of educational, psychosocial, and developmental activities which hold reasonable promise of resulting in substantial progress toward meeting the educational needs of such gifted and talented children, including, but not limited to, demonstrating and exploring the use of Indian languages and exposure to Indian cultural traditions;

(C) the provision of technical assistance and the coordination of activities at schools which receive grants under subsection (d) with respect to the activities funded by such grants, the evaluation of programs at such schools funded by such grants, or the dissemination of such evaluations;

(D) the use of public television in meeting the special educational needs of such gifted and talented children;

(E) leadership programs designed to replicate programs for such children throughout the United States, including the dissemination of information derived from the demonstration projects conducted under this section; and

(F) appropriate research, evaluation, and related activities pertaining to the needs of such children and to the

provision of those support services to their families that are needed to enable such children to benefit from the project.

(c) ADDITIONAL GRANTS.—

(1) The Secretary, in consultation with the Secretary of the Interior, shall provide 5 grants to schools that are Bureau funded schools for program research and development regarding, and the development and dissemination of curriculum and teacher training material regarding—

(A) gifted and talented students,

(B) college preparatory studies (including programs for Indian students interested in teaching careers),

(C) students with special culturally related academic needs, including social, lingual, and cultural needs, and

(D) math and science education.

(2) Applications for the grants provided under paragraph (1) shall be submitted to the Secretary in such form and at such time as the Secretary may prescribe. Applications for such grants by Bureau schools, and the administration of any of such grants made to a Bureau school, shall be undertaken jointly by the supervisor of the Bureau school and the local school board.

(3) Grants may be provided under paragraph (1) for one or more activities described in paragraph (1).

(4) In providing grants under paragraph (1), the Secretary shall—

(A) achieve a mixture of programs described in paragraph (1) which ensures that students at all grade levels and in all geographic areas of the United States are able to participate in some programs funded by grants provided under this subsection, and

(B) ensure that a definition of the term "gifted and talented student" for purposes of this section and section 1128(c)(1)(A)(ii) of the Education Amendments of 1978 is developed as soon as possible.

(5) Subject to the availability of appropriated funds, grants provided under paragraph (1) shall be made for a 3-year period and may be renewed by the Secretary for additional 3-year periods if performance by the grantee is satisfactory to the Secretary.

(6)(A) The dissemination of any materials developed from activities funded by grants provided under paragraph (1) shall be carried out in cooperation with institutions receiving funds under subsection (b).

(B) The Secretary shall report to the Secretary of the Interior and to the Congress any results from activities described in paragraph (4)(B). Reports.

(7)(A) The costs of evaluating any activities funded by grants made under paragraph (1) shall be divided between the school conducting such activities and the evaluator.

(B) If no funds are provided under subsection (b) for— Contracts.

(i) the evaluation of activities funded by grants made under paragraph (1),

(ii) technical assistance and coordination with respect to such activities, or

(iii) dissemination of such evaluations,

the Secretary shall, by grant or through contract, provide for such evaluations, technical assistance, coordination, and dissemination.

(d) INFORMATION NETWORK.—The Secretary shall encourage persons to whom a grant is made, or with whom a contract is entered into, under this section to work cooperatively as a national network so that the information developed by such persons is readily available to the entire educational community.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,000,000 for each of the fiscal years 1988, 1989, 1990, 1991, 1992, and 1993 for the purpose of carrying out the provisions of this section. Such sums shall remain available until expended.

Grants.

Subpart 3—Special Programs Relating to Adult Education for Indians

25 USC 2631.

SEC. 5330. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR ADULT INDIANS.

(a) IN GENERAL.—The Secretary shall carry out a program of awarding grants to State and local educational agencies and to Indian tribes, institutions, and organizations—

(1) to support planning, pilot, and demonstration projects which are designed to test and demonstrate the effectiveness of programs for improving employment and educational opportunities for adult Indians;

(2) to assist in the establishment and operation of programs which are designed to stimulate—

(A) the provision of basic literacy opportunities to all nonliterate Indian adults, and

(B) the provision of opportunities to all Indian adults to qualify for a high school equivalency certificate in the shortest period of time feasible;

(3) to support a major research and development program to develop more innovative and effective techniques for achieving the literacy and high school equivalency goals;

(4) to provide for basic surveys and evaluations to define accurately the extent of the problems of illiteracy and lack of high school completion among Indians; and

Public information.

(5) to encourage the dissemination of information and materials relating to, and the evaluation of the effectiveness of, education programs which may offer educational opportunities to Indian adults.

(b) EDUCATIONAL SERVICES.—The Secretary is authorized to make grants to Indian tribes, Indian institutions, and Indian organizations to develop and establish educational services and programs specifically designed to improve educational opportunities for Indian adults.

Contracts.

(c) INFORMATION AND EVALUATION.—The Secretary is also authorized to make grants to, and to enter into contracts with, public agencies and institutions and Indian tribes, institutions, and organizations for—

(1) the dissemination of information concerning educational programs, services, and resources available to Indian adults, including evaluations thereof; and

(2) the evaluation of federally assisted programs in which Indian adults may participate to determine the effectiveness of such programs in achieving the purposes of such programs with respect to such adults.

(d) APPLICATIONS.—

(1) Applications for a grant under this section shall be submitted at such time, in such manner, contain such information, and be consistent with such criteria, as may be required under regulations prescribed by the Secretary. Such applications shall—

(A) set forth a statement describing the activities for which assistance is sought; and

(B) provide for an evaluation of the effectiveness of the project in achieving its purposes and those of this section.

(2) The Secretary shall not approve an application for a grant under subsection (a) unless he is satisfied that such application, and any documents submitted with respect thereto, indicate that—

(A) there has been adequate participation by the individuals to be served and tribal communities in the planning and development of the project, and

(B) there will be such a participation in the operation and evaluation of the project.

(3) In approving applications under subsection (a), the Secretary shall give priority to applications from Indian educational agencies, organizations, and institutions.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1989, and for each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this section.

Subpart 4—Program Administration

SEC. 5341. OFFICE OF INDIAN EDUCATION.

Establishment.
25 USC 2641.

(a) IN GENERAL.—There is established, in the Department of Education, an Office of Indian Education.

(b) DIRECTOR.—

(1) The Office of Indian Education shall be under the direction of the Director of the Office of Indian Education, who shall be appointed by the Secretary from a list of nominees submitted to the Secretary by the National Advisory Council on Indian Education.

(2) The Director of the Office of Indian Education shall—

(A) be responsible for administering the provisions of this part,

(B) be responsible for the development of all policies and procedures relative to the implementation of this part,

(C) be involved in, and primarily responsible for, development of all policies affecting Indians under programs within the Office of Elementary and Secondary Education of the Department of Education, and

(D) coordinate the development of policy and practices for all programs in the Department of Education relating to Indians and Alaskan Natives.

(2) The Director of the Office of Indian Education shall report directly to the Assistant Secretary of Education for Elementary and Secondary Education.

(3) The Director of the Office of Indian Education shall be compensated at the rate prescribed for, and shall be placed in, grade 18 of the General Schedule set forth in section 5332 of

title 5, United States Code, and shall perform such duties as are delegated or assigned to the Director by the Secretary. The position created by this subsection shall be in addition to the number of positions placed in grade 18 of such General Schedule under section 5108 of title 5, United States Code.

(c) INDIAN PREFERENCE.—

(1)(A) All professional staff within the Office of Indian Education shall have experience with Indian education programs. The Secretary shall give a preference to Indians in all personnel actions within the Office of Indian Education. Such preference shall be implemented in the same fashion as the preference given to any veteran referred to in subparagraph (A), (B), or (C) of section 2108(3) of title 5, United States Code.

(B) The provisions of this paragraph shall apply to all personnel actions taken after the date of enactment of this Act.

(2) The Secretary shall provide a one-time preference for qualified individuals who—

(A) are not Indians,

(B) are serving within the Office of Indian Education on the date of enactment of this Act, and

(C) desire to take another position in the Department of Education which is not within the Office of Indian Education and for which there is a vacancy.

Establishment.
25 USC 2642.

SEC. 5342. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

(a) IN GENERAL.—

(1) There is hereby established the National Advisory Council on Indian Education (hereafter in this subpart referred to as the "National Council"), which—

(A) shall consist of 15 members who are Indians appointed by the President from lists of nominees furnished, from time to time, by Indian tribes and organizations, and

(B) shall represent diverse geographic areas of the country.

Termination date.

(2) Subject to section 448(b) of the General Education Provisions Act, the National Council shall continue to exist until October 1, 1993.

(b) FUNCTIONS.—The National Council shall—

(1) advise the Secretary with respect to—

(A) the administration (including the development of regulations and of administrative practices and policies) of any program—

(i) in which Indian children or adults participate, or

(ii) from which they can benefit, including this part, and

(B) adequate funding of such programs;

(2) review applications for assistance under this part and make recommendations to the Secretary with respect to their approval;

(3) evaluate programs and projects carried out under any program of the Department of Education in which Indian children or adults can participate or from which they can benefit, and disseminate the results of such evaluations;

(4) provide technical assistance to local educational agencies and to Indian educational agencies, institutions, and organizations to assist them in improving the education of Indian children;

(5) assist the Secretary in developing criteria and regulations for the administration and evaluation of grants made under subpart 1; Regulations.

(6) submit to the Secretary a list of nominees for the position of Director of the Office of Indian Education whenever a vacancy in such position occurs, and

(7) submit to the Congress by no later than June 30 of each year a report on its activities, which shall include— Reports.

(A) any recommendations it may deem necessary for the improvement of Federal education programs in which Indian children and adults participate, or from which they can benefit, and

(B) a statement of the National Council's recommendations to the Secretary with respect to the funding of any such programs.

(c) CONTRACTING.—With respect to functions of the National Council described in paragraphs (2), (3), and (4) of subsection (b), the National Council is authorized to contract with any public or private nonprofit agency, institution, or organization for assistance in carrying out such functions.

(d) FUNDING.—From sums appropriated pursuant to section 400(d) of the General Education Provisions Act which are available for part D of such Act, the Secretary shall make available such sums as may be necessary to enable the National Council to carry out its functions under this section.

SEC. 5343. AUTHORIZATION OF APPROPRIATIONS. 25 USC 2643.

There are authorized to be appropriated for fiscal year 1989, and each of the 4 succeeding fiscal years, such sums as may be necessary to carry out the provisions of this subpart.

Subpart 5—Miscellaneous

SEC. 5351. DEFINITIONS. 25 USC 2651.

For purposes of this part—

(1) The term "adult" means any individual who—

(A) is 16 years old or older, or

(B) who is beyond the age of compulsory school attendance under State law.

(2) The term "adult education" means instruction or services below college level for adults who are not enrolled in a secondary school and who do not have—

(A) the basic skills to enable them to function effectively in society, or

(B) a certificate of graduation from a school providing secondary education (and who have not achieved an equivalent level of education).

(3) The term "free public education" means education that is provided at public expense, under public supervision and direction, and without tuition charge, and that is provided as elementary or secondary education in the applicable State.

(4) The term "Indian" means any individual who is—

(A) a member of an Indian tribe, band, or other organized group of Indians (as defined by the Indian tribe, band, or other organized group), including those Indian tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside,

(B) a descendant, in the first or second degree, of an individual described in subparagraph (A),

(C) considered by the Secretary of the Interior to be an Indian for any purpose,

(D) an Eskimo, Aleut, or other Alaska Native, or

(E) is determined to be an Indian under regulations promulgated by the Secretary after consultation with the National Advisory Council on Indian Education.

(5)(A) The term "local educational agency" has the meaning given to such term by section 198(a)(10) of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854(a)(10)).

(B) The term "local educational agency", for purposes of subpart 1 (except for sections 5314(b)(2)(B)(ii) and 5315(c)(2)) includes—

(i) any Indian tribe, or an organization controlled or sanctioned by an Indian tribal government, that operates a school for the children of that tribe if the school either—

(I) provides its students an educational program that meets the standards established by the Secretary of the Interior under section 1121 of the Education Amendments of 1978, or

(II) is operated by that tribe or organization under a contract with the Department of the Interior in accordance with the Indian Self-Determination and Education Assistance Act, and

(ii) for the fiscal year described in section 5312(b)(3)(A) and each succeeding fiscal year, any school operated by the Bureau of Indian Affairs of the Department of the Interior, either individually or in cooperation with any other local education agency.

(6) The term "parent" includes an individual acting in loco parentis, other than by virtue of being a school administrator or official.

(7) The term "Secretary" means the Secretary of Education.

(8) The terms "Bureau school", "contract school", and "Bureau funded school" have the respective meaning given to such terms by section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019).

SEC. 5352. CONFORMING AMENDMENTS.

The following provisions of law are hereby repealed:

(1) The Indian Elementary and Secondary School Assistance Act.

20 USC 241aa *et seq.*

(2) Section 1005 of the Elementary and Secondary Education Act of 1965.

20 USC 3385.

(3) Section 315 of the Adult Education Act.

(4) Sections 421(b)(2), 422, 423, 441, 442, and 453 of the Indian Education Act (title IV of Public Law 92-318).

20 USC 1211, 1411 note, 3385a, 3385b, 1221f-1221h.

PART D—MISCELLANEOUS PROVISIONS

SEC. 5401. NAVAJO COMMUNITY COLLEGE.

Paragraph (1) of section 5(b) of the Navajo Community College Act (25 U.S.C. 640c-1(b)(1)) is amended to read as follows:

Appropriation authorization.

"(1) There are authorized to be appropriated for grants to the Navajo Community College, for each fiscal year, an amount necessary to pay expenses incurred for—

Grants.

"(A) the maintenance and operation of the college, including—

"(i) basic, special, developmental, vocational, technical, and special handicapped education costs,

"(ii) annual capital expenditures, including equipment needs, minor capital improvements and remodeling projects, physical plant maintenance and operation costs, and exceptions and supplemental need account, and

"(iii) summer and special interest programs,

"(B) major capital improvements, including internal capital outlay funds and capital improvement projects,

"(C) mandatory payments, including payments due on bonds, loans, notes, or lease purchases, and

"(D) supplemental student services, including student housing, food service, and the provision of access to books and services.".

SEC. 5402. PAYMENT OF GRANTS; INTEREST.

(a) TRIBALLY CONTROLLED COMMUNITY COLLEGES.—Subsection (b) of section 108 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808(b)) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(1) The Secretary", and

(2) by adding at the end thereof the following new paragraphs: Securities.

"(2) Notwithstanding any other provision of law, the Secretary shall not, in disbursing funds provided under this title, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this title.

"(3)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this title after such funds are paid to the tribally controlled community college and before such funds are expended for the purpose for which such funds were provided under this title shall be the property of the tribally controlled community college and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the tribally controlled community college under any provision of Federal law.

"(B) All interest or investment income described in subparagraph (A) shall be expended by the tribally controlled community college by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

"(4) Funds provided under this title may only be invested by the tribally controlled community college in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.".

(b) NAVAJO COMMUNITY COLLEGE.—The Navajo Community College Act is amended by adding at the end thereof the following new section:

"PAYMENTS; INTEREST

"SEC. 7. (a) Notwithstanding any other provision of law, the Secretary of the Interior shall not, in disbursing funds provided under this Act, use any method of payment which was not used during fiscal year 1987 in the disbursement of funds provided under this Act. 25 USC 640c-3.

Securities.

"(b)(1)(A) Notwithstanding any provision of law other than subparagraph (B), any interest or investment income that accrues on any funds provided under this Act after such funds are paid to the Navajo Community College and before such funds are expended for the purpose for which such funds were provided under this Act shall be the property of the Navajo Community College and shall not be taken into account by any officer or employee of the Federal Government in determining whether to provide assistance, or the amount of assistance, to the Navajo Community College under any provision of Federal law.

"(B) All interest or investment income described in subparagraph (A) shall be expended by the Navajo Community College by no later than the close of the fiscal year succeeding the fiscal year in which such interest or investment income accrues.

"(2) Funds provided under this Act may only be invested by the Navajo Community College in obligations of the United States or in obligations or securities that are guaranteed or insured by the United States.".

SEC. 5403. MATCHING FUNDS.

(a) TRIBALLY CONTROLLED COMMUNITY COLLEGES.—Section 109 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1809) is amended by adding at the end thereof the following new subsection:

"(d) Notwithstanding any other provision of law, funds provided under this title to the tribally controlled community college may be treated as non-Federal, private funds of the college for purposes of any provision of Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.".

(b) NAVAJO COMMUNITY COLLEGE.—Section 6 of the Navajo Community College Act is amended— 25 USC 640c-2.

(1) by striking out "Except" and inserting in lieu thereof "(a) Except", and

(2) by adding at the end thereof the following new subsection:

"(b) Notwithstanding any other provision of law, funds provided under this Act to the Navajo Community College may be treated as non-Federal, private funds of the College for purposes of any provision of Federal law which requires that non-Federal or private funds of the college be used in a project or for a specific purpose.".

25 USC 309b.

(c) VOCATIONAL EDUCATION FUNDS.—Notwithstanding any other provision of law, funds provided by the Bureau for adult vocational education to any vocational school (as defined for purposes of any program of assistance to students under the Higher Education Act of 1965) may be treated as non-Federal, private funds of such school for purposes of any provision of Federal law which requires that non-Federal or private funds of such school be used in a project or for a specific purpose.

25 USC 13d-2.

SEC. 5404. ENROLLMENT AND GENERAL ASSISTANCE PAYMENTS.

(a) IN GENERAL.—The Secretary of the Interior shall not disqualify from continued receipt of general assistance payments from the Bureau of Indian Affairs an otherwise eligible Indian for whom the Bureau has been making general assistance payments for at least 3 months (or exclude such an individual from continued consideration in determining the amount of general assistance payments for a household) because the individual is enrolled (and is making satis-

factory progress toward completion of a program or training that can reasonably be expected to lead to gainful employment) for at least half-time study or training in—

(1) a college assisted by the Bureau under the Tribally Controlled Community College Assistance Act of 1978 (92 Stat. 1325; 25 U.S.C. 1801) or the Navajo Community College Act (85 Stat. 645; 25 U.S.C. 640a);

(2) an institution of higher education or a vocational school (as defined for purposes of any program of assistance to students under the Higher Education Act of 1965);

(3) a course the Secretary determines will lead to a high school diploma or an equivalent certificate; or

(4) other programs or training approved by the Secretary.

(b) FACTORS NOT TO BE CONSIDERED.—In determining the amount of general assistance provided by the Bureau of Indian Affairs, the Secretary of the Interior shall not include consideration of—

(1) additional expenses in connection with the study or training described in subsection (a), and

(2) the amount of any financial assistance received by the individual as a student or trainee.

(c) NO EFFECT ON OTHER ELIGIBILITY REQUIREMENTS.—This section does not alter any eligibility requirement for general assistance from the Bureau of Indian Affairs other than the requirement to be available for employment and to seek employment.

SEC. 5405. USE OF BUREAU FACILITIES. 25 USC 17.

(a) IN GENERAL.—The Secretary of the Interior may permit tribal, student, and other non-Federal organizations to use facilities, lands, and equipment administered by the Bureau of Indian Affairs if such use does not interfere with the purpose for which the facilities, land, and equipment are administered by the Bureau. The Secretary of the Interior may charge the user for the actual or estimated additional cost of utilities or other expenses incurred because of the use and the amounts collected shall be credited to the appropriation or fund from which the expenses are paid.

(b) SCOPE OF AUTHORITY.—The authority provided by this section is in addition to, and not in derogation of, any other authority available to the Secretary of the Interior.

SEC. 5406. INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT.

(a) TERMINATION OF CIVIL SERVICE POSITIONS.—Paragraph (1) of section 1509(g) of the Higher Education Amendments of 1986 (20 U.S.C. 4416(g)(1)) is amended by striking out "At the end of the 2-year period beginning on the date referred to in section 1514(f)" and inserting in lieu thereof "On June 30, 1989".

(b) ENDOWMENT PROGRAM.—Section 1518 of the Higher Education Amendments of 1986 (20 U.S.C. 4425) is amended—

(1) by striking out "From the amount appropriated pursuant to section 1521(a), the Secretary shall make available to the Institute not more than $500,000 which" in subsection (a)(1) and and inserting in lieu thereof "From amounts appropriated under section 1531(a), not more than $500,000", and

(2) by striking out "ALLOCATION OF FUNDS.—From the amount appropriated pursuant to section 1521(a), the Secretary shall allocate to the Institute an amount for" in subsection (d) and inserting in lieu thereof "PAYMENT OF FEDERAL CONTRIBU-

TION.—Amounts appropriated under section 1531(a) for use under this section shall be paid by the Secretary of the Treasury to the Institute as".

(c) AUTHORIZATION OF APPROPRIATIONS.—Subsection (a) of section 1531 of the Higher Education Amendments of 1986 (20 U.S.C. 4451(a)) is amended to read as follows:

"(a) PART A.—

"(1) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the provisions of part A.

"(2) Funds appropriated under the authority of paragraph (1) shall remain available without fiscal year limitation.

"(3) Except as provided for amounts subject to section 1518(d), amounts appropriated under the authority of this subsection for fiscal year 1989, and for each succeeding fiscal year, shall be paid to the Institute at the later of—

"(A) the beginning of the fiscal year, or

"(B) upon enactment of such appropriation.".

(d) UNOBLIGATED APPROPRIATION AND RESPONSIBILITY FOR OBLIGATIONS.—Subsection (e) of section 1514 of the Higher Education Amendments of 1986 (20 U.S.C. 4421(e)) is amended by adding at the end thereof the following new paragraphs:

"(3) Any funds appropriated for the Institute for fiscal year 1988 that are not expended or obligated on the date described in paragraph (2) shall be paid to the Institute within 10 days of that date.

"(4) The Institute shall be responsible for all obligations of the Institute incurred after the date described in paragraph (2) and the Secretary of the Interior shall be responsible for all obligations of the Institute incurred on or before that date.

(e) ACCOUNTING FOR NON-FEDERAL FUNDS.—Section 1507 of the Higher Education Amendments of 1986 (20 U.S.C. 4414) is amended—

(1) by striking out "In carrying out" and inserting in lieu thereof "(a) IN GENERAL.—In carrying out", and

(2) by adding at the end thereof the following new subsection:

"(b) ACCOUNTING FOR NON-FEDERAL FUNDS.—Any funds received by, or under the control of, the Institute that are not Federal funds shall be accounted for separately from Federal funds.".

(f) BUDGET PROPOSALS.—Subsection (b) of section 1515 of the Higher Education Amendments of 1986 (20 U.S.C. 4422(b)) is amended—

(1) by striking out "During the 2-year period beginning on the date referred to in section 1514(f)" in paragraph (1) and inserting in lieu thereof "Prior to October 1, 1988", and

(2) by striking out "the period described in paragraph (1)" in paragraph (2) and inserting in lieu thereof "September 30, 1988".

PART E—WHITE HOUSE CONFERENCE ON INDIAN EDUCATION

25 USC 2001 note.

SEC. 5501. FINDINGS.

The Congress finds that—

(1) the Government of the United States has a special relationship with the Indians which has given rise to a responsibility to assure superior educational opportunities for all Indians;

(2) this responsibility is being carried out by Federal schools and federally funded programs;

(3) while the States provide educational services to the majority of Indian students in the United States, the State services are largely funded by Federal funds and are not, in any way, in derogation of the Federal responsibility;

(4) changes in the Federal and State systems in the past decade and the growth of tribal control over schools has led to substantial improvements in the educational opportunities and successes of Indian students;

(5) substantial and substantive problems continue to exist and interfere with the realization of full opportunities for Indian students; and

(6) identification of these problems through the convening of a White House conference will facilitate formulation of solutions.

SEC. 5502. AUTHORIZATION TO CALL CONFERENCE.

25 USC 2001 note.

President of U.S.

(a) IN GENERAL.—The President shall call and conduct a White House Conference on Indian Education (hereafter in this part referred to as the "Conference") which shall be held not earlier than September 1, 1989, and not later than September 30, 1991.

(b) PURPOSE.—The purpose of the White House Conference on Indian Education shall be to—

(1) explore the feasibility of establishing an independent Board of Indian Education that would assume responsibility for all existing Federal programs relating to the education of Indians, and

(2) develop recommendations for the improvement of educational programs to make the programs more relevant to the needs of Indians, in accordance with the findings set forth in section 5501.

SEC. 5503. COMPOSITION OF CONFERENCE.

25 USC 2001 note.

(a) IN GENERAL.—The Conference shall be composed of—

(1) representatives of the Bureau of Indian Affairs of the Department of the Interior;

(2) representatives of Indian educational institutions, public schools, agencies, organizations and associations that deal with the education of Indians;

(3) educators from reservations and urban areas where Indians make up a substantial portion of the student population; and

(4) individuals with a special knowledge of, and special competence in dealing with, Indians and Indian problems, including education and health.

President of U.S.

(b) SELECTION.—The President shall select one-third of the participants of the Conference, the Speaker of the House of Representatives shall select one-third of the participants, and the President pro tempore of the Senate shall select the remaining one-third of the participants.

(c) DISTRIBUTION OF PARTICIPANTS.—In selecting the participants of the Conference the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate shall ensure that—

(1) one-fourth of the participants are individuals who are currently active educators on Indian reservations;

(2) one-fourth of the participants are educators selected from urban areas with large concentrations of Indians;

(3) one-fourth of the participants are individuals who are Federal and tribal government officials; and

(4) one-fourth of the participants are Indians, including members of Indian tribes that are not recognized by the Federal Government.

25 USC 2001 note.

SEC. 5504. ADMINISTRATIVE PROVISIONS.

(a) PLANNING AND DIRECTION.—The Conference shall be planned and conducted by the Interagency Task Force on the White House Conference on Indian Education (hereafter in this part referred to as the "Task Force").

(b) ESTABLISHMENT OF TASK FORCE.—

(1) If the President calls the Conference, the Secretary of the Interior and the Secretary of Education, acting jointly, shall establish the Task Force on the White House Conference on Indian Education which shall consist of such employees of the Department of the Interior and the Department of Education as the Secretary of the Interior and the Secretary of Education determine to be necessary to enable the Task Force to carry out its duties.

(2) The Secretary of the Interior and the Secretary of Education shall each appoint no less than 2 professional staff members and one support staff member to the Task Force.

(3) All staff assigned to the Task Force shall work on preparations for, and the conduct of, the Conference on a full-time basis.

(4) The Secretary of the Interior shall provide office space and materials for the Task Force, including an allowance for mailing costs.

(5) Each professional staff person appointed to the Task Force shall have expertise directly related to Indian education and at least one person appointed by the Secretary of the Interior shall be experienced in dealing with the Congress, Indian tribes, and nongovernmental organizations.

(6) The Secretary of the Interior and the Secretary of Education, acting jointly, shall designate one staff person as the Director of the Task Force.

(c) FUNCTION OF THE TASK FORCE.—The Task Force shall—

(1) when appropriate, request the cooperation and assistance of other Federal departments and agencies in order to carry out its responsibilities;

(2) prepare and make available background materials for the use of participants in the Conference and any associated State conferences, and prepare and distribute such reports of the Conference and of any associated State conferences as may be appropriate;

(3) make technical and financial assistance (by grants, contracts, or otherwise) available to the States and intertribal organizations to enable them to organize and conduct conferences and other meetings in order to prepare for the Conference; and

(4) conduct fiscal oversight activities with respect to the preparation for, and the convening of, the Conference, including contracting for the services of an auditor.

(d) FEDERAL AGENCY COOPERATION AND ASSISTANCE.—

(1) Each Federal department and agency shall cooperate with, and provide assistance to, the Task Force upon request made by the Task Force under subsection (c)(1). For that purpose, each Federal department and agency is authorized and encouraged to provide personnel to the Task Force.

(2) The Commissioner of the Administration for Native Americans of the Department of Health and Human Services and the Director of the Indian Health Service of the Department of Health and Human Services are authorized to detail personnel to the Task Force, upon request, to enable the Task Force to carry out its functions under this part.

(e) PERSONNEL.—In carrying out the provisions of this part, the Task Force is authorized to engage such personnel as may be necessary to assist the Conference and the Advisory Committee of the Conference, without regard for the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(f) EXPENSES.—Participants in the Conference may, while away from their homes or regular places of business and attending the Conference, be allowed such travel expenses, including per diem in lieu of subsistence, as are allowed under section 5703 of title 5, United States Code. Such expenses may be paid by way of advances, reimbursement, or in installments, as the Task Force may determine.

SEC. 5505. REPORTS.

25 USC 2001 note.

(a) IN GENERAL.—A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the close of the Conference. The final report shall be made public and, within 90 days after its receipt by the President, transmitted to the Congress together with a statement of the President containing recommendations of the President with respect to such report.

Public information.

(b) DISTRIBUTION.—The Conference is authorized to publish and distribute for the Conference the reports authorized under this part. Copies of all such reports shall be provided to the Federal depository libraries.

Public information.

SEC. 5506. ADVISORY COMMITTEE.

Establishment. 25 USC 2001 note.

(a) COMPOSITION.—There is hereby established the Advisory Committee of the Conference (hereafter in this part referred to as the "Advisory Committee") composed of—

(1) five individuals designated by the Speaker of the House of Representatives, with not more than three being Members of the House of Representatives;

(2) five individuals designated by the President pro tempore of the Senate, with not more than three being Members of the Senate;

(3) ten individuals appointed by the President;

(4) the Assistant Secretary of the Interior for Indian Affairs or a delegate of the Assistant Secretary;

(5) the Secretary of Education or a delegate of the Secretary; and

(6) the Director of the Task Force.

The President, the President pro tempore of the Senate, and the Speaker of the House of Representatives, shall, after consultation with Indian tribes, ensure that members of the Advisory Committee are broadly representative of all Indians of the United States.

(b) FUNCTION.—The Advisory Committee shall assist and advise the Task Force in planning and conducting the Conference.

(c) ADMINISTRATION.—

(1) The Director of the Task Force shall serve as vice chairman of the Advisory Committee. The Advisory Committee shall elect the chairman of the Advisory Committee from among those members of the Advisory Committee who are not full-time Federal employees.

(2) The Advisory Committee shall select the chairman of the Conference.

(3) The chairman of the Advisory Committee is authorized to establish, prescribe functions for, and appoint members to such advisory and technical committees as may be necessary to assist and advise the Task Force in carrying out its duties.

(d) COMPENSATION.—Members of any committee established under this section who are not regular full-time officers or employees of the United States shall, while attending to the business of the Conference, be entitled to receive compensation at a rate fixed by the President that does not exceed the rate of pay specified at the time of such service for grade GS-18 under section 5332, of title 5, United States Code, including traveltime. Such members may, while away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistence, as may be authorized under section 5703 of title 5, United States Code.

25 USC 2001 note.

SEC. 5507. GIFTS AND TITLE TO CERTAIN PROPERTY.

Grants.

(a) GIFTS.—The Task Force shall have authority to accept, on behalf of the Conference, in the name of the United States, grants, gifts, or bequests of money for immediate disbursement by the Task Force in furtherance of the Conference. Such grants, gifts, or bequests offered the Task Force, shall be paid by the donor or his representative into the Treasury of the United States in a special account to the credit of the Conference for the purposes of this part.

(b) DISPOSITION OF MATERIALS.—Materials and equipment acquired for the use of the Conference, or for the Task Force, shall be transferred to the Bureau of Indian Affairs after the close of the Conference.

25 USC 2001 note.

SEC. 5508. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each of the fiscal years 1988, 1989, and 1990 such sums as may be necessary to carry out this part. Such sums shall remain available until expended.

TITLE VI—GENERAL AND MISCELLANEOUS PROVISIONS

PART A—MISCELLANEOUS EDUCATION PROVISIONS

Subpart 1—Education for the Homeless

SEC. 6001. TECHNICAL AMENDMENT.

Section 702 of the Stewart B. McKinney Homeless Assistance Act is amended— 42 USC 11421.

(1) by inserting at the end of subsection (b) the following: "Each such application shall include an estimate of the number of homeless expected to be served and the number of homeless adults within each of the school districts within the States to be served."; and

(2) by striking out paragraph (2) of subsection (c) and inserting in lieu thereof the following:

"(2) The Secretary of Education shall, in making grants under this section, give special consideration to the estimates submitted in the application under subsection (b) of this section.".

Subpart 2—Special Grant Program

SEC. 6011. EDUCATION AND TRAINING FOR INDIVIDUALS AT RISK. 20 USC 1441 note.

(a)(1) GENERAL AUTHORITY.—The Secretary is authorized to make a grant for a project of national significance to develop or demonstrate new or improved methods of existing approaches or techniques which will contribute to the education and training for individuals who are at risk such as—

(A) infants, toddlers, children (including preschoolers), youth, and adults with disabilities; and Handicapped persons.

(B) individuals with limited English proficiency.

(2) The project funded under this section may include the development of— Handicapped persons.

(A) a statewide delivery system for severely handicapped infants, toddlers, children, youth, and adults for access to adaptive technology, including alternative communication systems; Communications and telecommunications.

(B) a statewide comprehensive plan to strengthen and coordinate special education and related services for handicapped youth who are currently in school or who left school to assist such youth in making the transition to post-secondary education, vocational training, competitive employment (including supported employment), continuing education, or adult services.

(3) No grant may be made under this section unless an application is submitted to the Secretary at such time, in such manner, and containing such information as the Secretary may reasonably require.

(4) This grant shall be awarded to a predominantly rural centrally located western State which has a high birthrate and with a low per pupil expenditure. Rural areas.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $4,000,000 for the fiscal year 1989 to carry out the provision of this section.

PART B—PROHIBITION OF DIAL-A-PORN

47 USC 223.

SEC. 6101. AMENDMENT TO THE COMMUNICATIONS ACT OF 1934.

Section 223(b) of the Communications Act of 1934 is amended—

(1) in paragraph (1)(A), by striking out "under eighteen years of age or to any other person without that person's consent";

(2) by striking out paragraph (2);

(3) in paragraph (4), by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraphs (1) and (2)"; and

(4) by redesignating paragraphs (3), (4), and (5) as paragraphs (2), (3), and (4), respectively.

PART C—STUDIES

20 USC 2748 note.

SEC. 6201. EVEN START STUDY.

(a) INDEPENDENT EVALUATION.—The Secretary shall provide for an independent evaluation of a representative sample of programs under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 to determine their effectiveness in providing—

(1) services to special populations;

(2) adult education services;

(3) parent training;

(4) home-based programs involving parents and children;

(5) coordination with related services programs; and

(6) training of related personnel in appropriate skill areas.

(b) CRITERIA.—

(1) Evaluations shall be conducted by individuals not directly involved in the administration of the program or project operation under part B of chapter 1 of title I of the Elementary and Secondary Education Act of 1965. Such independent evaluators and the program administrators shall jointly develop evaluation criteria which provide for appropriate analysis of the factors under subsection (a). When possible, evaluations shall include comparisons with appropriate control groups.

(2) In order to determine a program's effectiveness in achieving its stated goals, the evaluations shall contain objective measures of such goals and, whenever feasible, shall obtain the specific views of program participants about such programs.

(c) REPORT TO CONGRESS AND DISSEMINATION.—The Secretary shall prepare and submit to the Congress the results of such evaluations. The evaluations shall be submitted to the National Diffusion Network in the form required for consideration for possible dissemination.

20 USC 3241 note.

SEC. 6202. STUDENT DROPOUT STUDY.

With the advice and consultation of the Committee on Education and Labor of the House of Representatives and the Committee on Labor and Human Resources of the Senate, the Secretary shall, with funds available under section 1439, conduct an evaluation of the programs funded under title VI of the Elementary and Secondary Education Act of 1965. The Secretary shall take into account data collected from the national school dropout study and shall incorporate information from any locally conducted evaluations and other objective evidence. The results of such evaluations shall be

made available to the Congress, State educational agencies, and the National Diffusion Network.

SEC. 6203. STUDY OF STATE OPERATED PROGRAM FOR HANDICAPPED CHILDREN. 20 USC 2791 note.

(a) STUDY REQUIRED.—(1) The Comptroller General of the United States shall conduct a study of the State Operated Program for Handicapped Children under chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

(2) Not later than January 30, 1989, the Comptroller General shall prepare and submit a report to the appropriate committees of the Congress containing the findings of such study to the Committee on Labor and Human Resources of the Senate and the Committee on Education and Labor of the House of Representatives. Reports.

(3) For the purpose of this section, the term "children" includes infants and toddlers.

(b) STUDY COMPONENTS.—The study shall include—

(1) a description of State and local agencies that participate in the program, the children the agencies serve, and the programs for which the agencies use funds;

(2) how such program is administered by the State educational agency or any predecessor agencies serving as fiscal agents for the States;

(3) the major policies, procedures and practices pertaining to the determination of when a child is considered eligible to be counted under such program; the allocation of funds to agencies, schools, programs and projects within schools; the supplementary nature of the services provided; and authorized use of funds;

(4) the policies and procedures governing the placement of handicapped children, including local educational agency transfer children, in schools and programs and projects receiving assistance under chapter 1 of title I of the Elementary and Secondary Education Act of 1965;

(5) the relationship between the chapter 1 of title I of the Elementary and Secondary Education Act of 1965 program and parts B and H of the Education of the Handicapped Act (conceptual relationship; comparison of how the two programs are administered by the State educational agency; and a comparison between the programs with respect to the extent to which handicapped children receive a free appropriate public education and such children and their parents are provided the rights and procedural safeguards guaranteed under part B of the Education of the Handicapped Act); and

(6) such other information as the Comptroller General considers appropriate.

(c) FINDINGS AND RECOMMENDATIONS.—The Comptroller General shall include in the report the findings based on the study, a State-by-State analysis for the States subject to the study, together with such recommendations, including recommendations for legislation, as the Comptroller General deems appropriate.

SEC. 6204. STUDY ON TUTORING PROGRAMS. 20 USC 2882 note.

The Secretary shall conduct a study of tutoring programs for eligible participants under chapter 1 of the Elementary and Secondary Education Act of 1965 carried out by students in institutions of higher education. In conducting such research, the Secretary shall

(1) determine if such programs are effective, (2) determine the role the Federal Government should play in promoting and encouraging such programs, (3) determine if such programs are effective if conducted on a volunteer basis or whether it is necessary to offer incentives, such as tuition assistance, academic credit or reduced obligations for student loans, to induce participation by students in institutions of higher education, and (4) review available evidence on programs being conducted in foreign countries with a view toward determining whether their experience is applicable to the United States. The Secretary shall report the results of the study to the Congress within 1 year of the date of the enactment of this Act.

Reports.

Reports.
20 USC 2973 note.

SEC. 6205. STUDY OF LOCAL USE OF CHAPTER 2 FUNDS.

(a) LOCAL EDUCATIONAL AGENCIES.—A local educational agency which receives financial assistance under chapter 2 of title I of the Elementary and Secondary Act of 1965 shall report annually to the State educational agency on the use of funds under section 1531 of such chapter. Such reporting shall be carried out in a manner which minimizes the amount of paperwork required while providing the State educational agency with the necessary information under the preceding sentence. Such report shall be made available to the public.

(b) STATE EDUCATIONAL AGENCIES.—A State educational agency which receives financial assistance under chapter 2 of title I of the Elementary and Secondary Education Act of 1965 shall annually evaluate the effectiveness of State and local programs under this chapter. Such evaluations shall be submitted for review and comment by the State advisory committee and shall be made available to the public. The State educational agency shall submit to the Secretary a copy of such evaluations and a summary of the reports under subsection (a).

(c) REPORTS.—

(1) The Secretary, in consultation with State and local educational agency representatives, shall develop a model system which State educational agencies may use for data collection and reporting under this chapter.

(2) The Secretary shall submit not later than October 1990 and October 1992 a report to the appropriate committees of the Congress summarizing evaluations under subsection (b) in order to provide a national overview of the uses of funds and effectiveness of programs under this chapter.

20 USC 2951 note.
Contracts.

SEC. 6206. NATIONAL STUDY OF EFFECTIVE SCHOOLS PROGRAMS.

From funds available for the purposes of chapter 2 of title I of the Elementary and Secondary Education Act of 1965, the Secretary shall contract with a qualified organization or agency to conduct a national study of effective schools programs to determine the impact of effective schools programs under such chapter. The study shall consider relevant measures of the impact of the effective schools programs, including student achievement, attitudes, and graduation rates.

20 USC 2921 note.

SEC. 6207. STUDY OF FUND DISTRIBUTION.

The Secretary of Education shall conduct a study concerning the methods used for the allocation of funds among the States in the various programs of financial assistance to elementary and secondary education administered by the Department of Education. The

Taxes.

study shall consider whether States and local school districts should be rewarded for making greater tax and fiscal efforts in support of general elementary and secondary education through adjustment of allocations under the various Federal financial assistance programs. The study shall investigate various methods of defining tax and fiscal efforts. Such study may consider other issues relating to the allocation of funds, such as the reliability and currency of poverty data used for purposes of program allocations under chapter 1 of title I of the Elementary and Secondary Education Act of 1965. The Secretary shall submit an interim report of such study on June 30, 1990, and shall submit a final report of such study not later than June 30, 1991. Reports.

SEC. 6208. STUDY RELATING TO WOMEN'S EDUCATIONAL EQUITY. Reports. 20 USC 3046 note.

The Secretary is directed, not later than September 30 of each of the years 1988 through 1993, to submit to the President and the Congress a report setting forth the programs and activities assisted under part A of title IV of the Elementary and Secondary Education Act of 1965, and to provide for the distribution of this report to all interested groups and individuals, including the appropriate committees of the Congress, from funds authorized under such part.

SEC. 6209. IMMIGRANT EDUCATION REPORT AND ASSESSMENT. 20 USC 3130 note.

(a) ANNUAL REPORT.—Each State educational agency receiving funds under part D of title IV of the Elementary and Secondary Education Act of 1965 shall submit, annually, a report to the Secretary concerning the expenditure of funds by local educational agencies under such part. Each local educational agency receiving funds under such part shall submit to the State educational agency such information as may be necessary for such report.

(b) REPORT TO CONGRESS.—The Secretary shall submit biennially a report to the appropriate committees of the Congress concerning programs under such part.

(c) ASSESSMENT BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall review and assess programs conducted under such part. The Comptroller shall submit the findings to the appropriate committees of the Congress by March 15, 1991.

SEC. 6210. ANNUAL REPORT ON EDUCATION OF INDIAN CHILDREN. 25 USC 2016a.

The Assistant Secretary of the Interior for the Bureau of Indian Affairs shall submit to the appropriate committees of the Congress, the President, and the Secretary by September 30 of every other year a report which provides—

(1) an assessment of the needs of the Indian children with respect to the purposes of title IV of this Act in schools operated or funded by the Department of the Interior, including those tribes and local educational agencies receiving assistance under the Johnson-O'Malley Act; and

(2) an assessment of the extent to which such needs are being met by funds provided to such schools for educational purposes through the Secretary of the Interior.

SEC. 6211. RESEARCH RELATING TO BILINGUAL EDUCATION. Contracts. 20 USC 3305 note.

(a) RESEARCH AND DEVELOPMENT.—The Secretary shall, through competitive contracts under this section, provide financial assistance for research and development proposals submitted by institu-

tions of higher education, private for-profit and nonprofit organizations, State and local educational agencies, and individuals.

(b) AUTHORIZED ACTIVITIES.—Research activities authorized to be assisted under this section shall include—

(1) studies to determine and evaluate effective models for bilingual education programs;

(2) studies which examine the process by which individuals acquire a second language and master the subject matter skills required for grade-promotion and graduation, and which identify effective methods for teaching English and subject matter skills within the context of a bilingual education program or special alternative instructional program to students who have language proficiencies other than English;

(3) longitudinal studies to measure the effect of title VII of the Elementary and Secondary Education Act of 1965 on students enrolled in programs under such title (including a longitudinal study of the impact of bilingual education programs on limited-English proficient students using a nationally representative sample of the programs funded under such title and which provides information including data on grade retention, academic performance, and dropout rates);

(4) studies to determine effective and reliable methods for identifying students who are entitled to services under such title and for determining when their English language proficiency is sufficiently well developed to permit them to derive optimal benefits from an all-English instructional program;

(5) the operation of a clearinghouse which shall collect, analyze, and disseminate information about bilingual education and related programs (and coordinate its activities with the National Diffusion Network);

(6) studies to determine effective methods of teaching English to adults who have language proficiencies other than English;

(7) studies to determine and evaluate effective methods of instruction for bilingual programs, taking into account language and cultural differences among students;

(8) studies to determine effective approaches to preservice and inservice training for teachers, taking into account the language and cultural differences of their students;

(9) the effect of such title on the capacity of local educational agencies to operate bilingual programs following the termination of assistance under this title; and

(10) studies to determine effective and reliable methods for identifying gifted and talented students who have language proficiencies other than English.

(c) CONSULTATION AND DELEGATION OF AUTHORITY.—In carrying out the responsibilities of this section, the Secretary may delegate authority to the Director, and in any event, shall consult with the Director, representatives of State and local educational agencies, appropriate groups and organizations involved in bilingual education, the Committee on Labor and Human Resources of the Senate, and the Committee on Education and Labor of the House of Representatives.

(d) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals in research and development assisted under such title.

(e) LIMITATION OF AUTHORITY.—Nothing in this section shall be construed as authorizing the Secretary to conduct or support studies or analyses of the content of educational textbooks.

SEC. 6212. BILINGUAL TRAINING FELLOWSHIP IMPACT STUDY.

20 USC 3323 note.

Contracts.

The Secretary shall by grant or contract undertake a study of the impact of recipients of fellowships under section 7043 of the Elementary and Secondary Education Act of 1965 on the field of bilingual education. The report shall be submitted no later than December 31, 1991. Copies of the report shall be sent to the appropriate committees of the Congress.

Reports.

SEC. 6213. REPORT ON BILINGUAL EDUCATION.

20 USC 3303 note.

The Secretary shall prepare and, not later than June 30, 1991, and June 30, 1992, shall submit to the appropriate committees of the Congress and the President a report on the condition of bilingual education in the Nation and the administration and operation of title VII of the Elementary and Secondary Education Act of 1965 and of other programs for persons of limited English proficiency. Such report shall include—

(1) a national assessment of the educational needs of children and other persons with limited English proficiency and of the extent to which such needs are being met from Federal, State, and local efforts;

(2) a plan, including cost estimates, to be carried out during the 5-year period beginning on such date, for extending programs of bilingual education and bilingual vocational and adult education programs to all such preschool and elementary schoolchildren and other persons of limited English proficiency, including a phased plan for the training of the necessary teachers and other education personnel necessary for such purpose;

(3) a statement of the activities intended to be carried out during the succeeding period, including an estimate of the cost of such activities; and

(4)(A) an assessment of the number of teachers and other educational personnel needed to carry out programs of bilingual education under such title and those carried out under other programs for persons of limited English proficiency;

(B) a statement describing the activities carried out thereunder designed to prepare teachers and other educational personnel for such programs; and

(C) the number of other educational personnel needed to carry out programs of bilingual education in the States.

SEC. 6214. JOINT STUDY OF SERVICES.

20 USC 1201 note.

The Secretary of Education, in conjunction with the Secretary of Labor and the Secretary of Health and Human Services, shall conduct a joint study of Federal funding sources for and services for adult education programs currently available, including literacy initiatives offered by public and private agencies, and shall jointly act to facilitate interagency coordination. The Secretary shall ensure the local and State officials involved in the delivery of adult education and literacy programs are involved in the study under this section. Not later than 24 months after the date of enactment of this Act, a joint report shall be submitted to the appropriate committees of the Congress describing the findings of the study.

Reports.

20 USC 4832 note.

SEC. 6215. REPORT ON PROJECTS DEVELOPED WITH ASSISTANCE FROM THE FUND FOR IMPROVEMENT AND REFORM OF SCHOOLS AND TEACHING.

(a) EXEMPLARY PROJECTS.—The Secretary shall take appropriate steps to ensure that information regarding exemplary projects that are developed with assistance furnished under part B of title III of this Act are made available to institutions of higher education and State and local educational agencies.

(b) REPORT.—The Secretary shall submit a final report to the appropriate committees of the Congress not later than June 1, 1990. The report shall describe the programs assisted by part B of title III of this Act, document the success of such programs in improving education, and make such recommendations as the Secretary deems appropriate.

(c) REPORT FOR CONTINUED FUNDING RULE.—As a condition to continue to receive funding after the first year of a multi-year project, the project administrator shall submit an annual report to describe the activities conducted during the preceding year and the progress that has been made toward reaching the goals described in its application, if applicable.

20 USC 642 note.

SEC. 6216. STUDY OF EFFECTIVENESS OF PUBLIC LAW 815.

(a) GENERAL AUTHORITY.—The Comptroller General shall conduct a thorough study of the need for financial assistance for school construction as authorized by the Act of September 23, 1950 (Public Law 815, 81st Congress). The Comptroller General shall prepare and submit a report on the study required by this section not later than 1 year after the date of enactment of this Act together with such recommendations, including recommendations for such legislation, as the Comptroller deems necessary.

Reports.

(b) CONTENTS OF STUDY.—In carrying out the study required by subsection (a) of this section, the Comptroller General shall examine a representative sample of federally impacted school districts of local educational agencies. The Comptroller General shall—

(1) identify the number of children affected in each such school district;

(2) determine the type of school facility needed for such school district; and

(3) determine the estimated cost involved for building or repairing the school facility in each such district.

(c) SPECIAL CONSIDERATION REQUIRED.—In conducting the study required by this section, the Comptroller General shall give special consideration to—

(1) the eligibility criteria used for determining which federally impacted school districts are entitled to Federal funds for school construction,

(2) the criteria used for setting the priorities for the approval of such applications, and

(3) the process for reevaluating the needs of previously approved applicants which are on the waiting list for funds covered under Public Law 815, Eighty-first Congress.

PART D—GENERAL PROVISIONS

SEC. 6301. DEFINITIONS. 20 USC 2701 note.

Except as otherwise provided, for the purpose of this Act the terms used in this Act have the meanings provided under section 1471 of chapter 1 of title I of the Elementary and Secondary Education Act of 1965.

SEC. 6302. BUDGET ACT PROVISION. 20 USC 2701 note.

Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

SEC. 6303. EFFECTIVE DATES. 20 USC 2701 note.

(a) GENERAL RULE.—Except as otherwise provided, this Act and the amendments made by this Act shall take effect July 1, 1988.

(b) SPECIAL RULES.—(1) Any provision of this Act or any amendment made by this Act which authorizes appropriations for fiscal year 1988 shall take effect on the date of the enactment of this Act.

(2) The provisions of section 2402, relating to the National Center for Vocational Research, shall take effect on April 10, 1988.

(3) The amendments made by section 3403 shall take effect for assessments made after September 30, 1989, with respect to State data.

Approved April 28, 1988.

LEGISLATIVE HISTORY—H.R. 5 (S. 373):

HOUSE REPORTS: No. 100-95 (Comm. on Education and Labor) and No. 100-567 (Comm. of Conference).

SENATE REPORTS: No. 100-222 accompanying S. 373 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 133 (1987): May 20, 21, considered and passed House.
Dec. 1, considered and passed Senate, amended, in lieu of S. 373.

Vol. 134 (1988): Apr. 19, House rejected conference report; receded and concurred in Senate amendment with an amendment.
Apr. 20, Senate concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Apr. 28, Presidential remarks.

Public Law 100-298
100th Congress

An Act

Apr. 28, 1988
[S. 858]

To establish the title of States in certain abandoned shipwrecks, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Abandoned Shipwreck Act of 1987.
Maritime affairs.
43 USC 2101 note.
43 USC 2101.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abandoned Shipwreck Act of 1987".

SEC. 2. FINDINGS.

The Congress finds that—

(a) States have the responsibility for management of a broad range of living and nonliving resources in State waters and submerged lands; and

(b) included in the range of resources are certain abandoned shipwrecks, which have been deserted and to which the owner has relinquished ownership rights with no retention.

43 USC 2102.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(a) the term "embedded" means firmly affixed in the submerged lands or in coralline formations such that the use of tools of excavation is required in order to move the bottom sediments to gain access to the shipwreck, its cargo, and any part thereof;

(b) the term "National Register" means the National Register of Historic Places maintained by the Secretary of the Interior under section 101 of the National Historic Preservation Act (16 U.S.C. 470a);

(c) the terms "public lands", "Indian lands", and "Indian tribe" have the same meaning given the terms in the Archaeological Resource Protection Act of 1979 (16 U.S.C. 470aa-470ll);

(d) the term "shipwreck" means a vessel or wreck, its cargo, and other contents;

(e) the term "State" means a State of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and

(f) the term "submerged lands" means the lands—

(1) that are "lands beneath navigable waters," as defined in section 2 of the Submerged Lands Act (43 U.S.C. 1301);

(2) of Puerto Rico, as described in section 8 of the Act of March 2, 1917, as amended (48 U.S.C. 749);

(3) of Guam, the Virgin Islands and American Samoa, as described in section 1 of Public Law 93-435 (48 U.S.C. 1705); and

(4) of the Commonwealth of the Northern Mariana Islands, as described in section 801 of Public Law 94-241 (48 U.S.C. 1681).

SEC. 4. RIGHTS OF ACCESS.

Cultural programs. Historic preservation. Environmental protection. 42 USC 2103.

(a) ACCESS RIGHTS.—In order to—

(1) clarify that State waters and shipwrecks offer recreational and educational opportunities to sport divers and other interested groups, as well as irreplaceable State resources for tourism, biological sanctuaries, and historical research; and

(2) provide that reasonable access by the public to such abandoned shipwrecks be permitted by the State holding title to such shipwrecks pursuant to section 6 of this Act,

it is the declared policy of the Congress that States carry out their responsibilities under this Act to develop appropriate and consistent policies so as to—

(A) protect natural resources and habitat areas;

(B) guarantee recreational exploration of shipwreck sites; and

(C) allow for appropriate public and private sector recovery of shipwrecks consistent with the protection of historical values and environmental integrity of the shipwrecks and the sites.

(b) PARKS AND PROTECTED AREAS.—In managing the resources subject to the provisions of this Act, States are encouraged to create underwater parks or areas to provide additional protection for such resources. Funds available to States from grants from the Historic Preservation Fund shall be available, in accordance with the provisions of title I of the National Historic Preservation Act, for the study, interpretation, protection, and preservation of historic shipwrecks and properties.

Grants.

SEC. 5. PREPARATION OF GUIDELINES.

43 USC 2104.

(a) In order to encourage the development of underwater parks and the administrative cooperation necessary for the comprehensive management of underwater resources related to historic shipwrecks, the Secretary of the Interior, acting through the Director of the National Park Service, shall within nine months after the date of enactment of this Act prepare and publish guidelines in the Federal Register which shall seek to:

National parks, monuments, etc. Federal Register, publication.

(1) maximize the enhancement of cultural resources;

(2) foster a partnership among sport divers, fishermen, archeologists, salvors, and other interests to manage shipwreck resources of the States and the United States;

(3) facilitate access and utilization by recreational interests;

(4) recognize the interests of individuals and groups engaged in shipwreck discovery and salvage.

(b) Such guidelines shall be developed after consultation with appropriate public and private sector interests (including the Secretary of Commerce, the Advisory Council on Historic Preservation, sport divers, State Historic Preservation Officers, professional dive operators, salvors, archeologists, historic preservationists, and fishermen).

(c) Such guidelines shall be available to assist States and the appropriate Federal agencies in developing legislation and regulations to carry out their responsibilities under this Act.

SEC. 6. RIGHTS OF OWNERSHIP.

43 USC 2105.

(a) UNITED STATES TITLE.—The United States asserts title to any abandoned shipwreck that is—

(1) embedded in submerged lands of a State;

(2) embedded in coralline formations protected by a State on submerged lands of a State; or

(3) on submerged lands of a State and is included in or determined eligible for inclusion in the National Register.

Public information. Historic preservation.

(b) The public shall be given adequate notice of the location of any shipwreck to which title is asserted under this section. The Secretary of the Interior, after consultation with the appropriate State Historic Preservation Officer, shall make a written determination that an abandoned shipwreck meets the criteria for eligibility for inclusion in the National Register of Historic Places under clause (a)(3).

(c) TRANSFER OF TITLE TO STATES.—The title of the United States to any abandoned shipwreck asserted under subsection (a) of this section is transferred to the State in or on whose submerged lands the shipwreck is located.

Gifts and property. Indians.

(d) EXCEPTION.—Any abandoned shipwreck in or on the public lands of the United States is the property of the United States Government. Any abandoned shipwreck in or on any Indian lands is the property of the Indian tribe owning such lands.

(e) RESERVATION OF RIGHTS.—This section does not affect any right reserved by the United States or by any State (including any right reserved with respect to Indian lands) under—

(1) section 3, 5, or 6 of the Submerged Lands Act (43 U.S.C. 1311, 1313, and 1314); or

(2) section 19 or 20 of the Act of March 3, 1899 (33 U.S.C. 414 and 415).

43 USC 2106.

SEC. 7. RELATIONSHIP TO OTHER LAWS.

(a) LAW OF SALVAGE AND THE LAW OF FINDS.—The law of salvage and the law of finds shall not apply to abandoned shipwrecks to which section 6 of this Act applies.

(b) LAWS OF THE UNITED STATES.—This Act shall not change the laws of the United States relating to shipwrecks, other than those to which this Act applies.

(c) EFFECTIVE DATE.—This Act shall not affect any legal proceeding brought prior to the date of enactment of this Act.

Approved April 28, 1988.

LEGISLATIVE HISTORY—S. 858:

HOUSE REPORTS: No. 100-514, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 100-241 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 19, considered and passed Senate.
Vol. 134 (1988): Mar. 28, 29, Apr. 13, considered and passed House.

Public Law 100-299
100th Congress

Joint Resolution

To designate the month of April 1988, as "National Child Abuse Prevention Month".

Apr. 28, 1988
[S.J. Res. 246]

Whereas the incidence and prevalence of child abuse and neglect have reached alarming proportions in the United States;
Whereas an estimated four million children become victims of child abuse in this Nation each year;
Whereas an estimated five thousand of these children die as a result of such abuse each year;
Whereas the Nation faces a continuing need to support innovative programs to prevent child abuse and assist parents and family members in which child abuse occurs;
Whereas Congress has expressed its commitment to seeking and applying solutions to this problem by enacting the Child Abuse Prevention and Treatment Act of 1974;
Whereas many dedicated individuals and private organizations, including Child Help U.S.A., Parents Anonymous, the National Committee for the Prevention of Child Abuse, the American Humane Association, and other members of the National Child Abuse Coalition, are working to counter the ravages of abuse and neglect and to help child abusers break this destructive pattern of behavior;
Whereas the average cost for a public welfare agency to serve a family through a child abuse program is twenty times greater than self-help programs administered by private organizations;
Whereas organizations such as Parents Anonymous, and other members of the National Child Abuse Coalition, are expediting efforts to prevent child abuse in the next generation through special programs for abused children; and
Whereas it is appropriate to focus the attention of the Nation upon the problem of child abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of April 1988, is designated as "National Child Abuse Prevention Month", and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved April 28, 1988.

LEGISLATIVE HISTORY—S.J. Res. 246:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 17, considered and passed Senate.
Apr. 20, considered and passed House.

Public Law 100-300
100th Congress

An Act

To establish procedures to implement the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, and for other purposes.

Apr. 29, 1988
[H.R. 3971]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

International Child Abduction Remedies Act. 42 USC 11601 note.

This Act may be cited as the "International Child Abduction Remedies Act".

SEC. 2. FINDINGS AND DECLARATIONS.

42 USC 11601.

(a) FINDINGS.—The Congress makes the following findings:

(1) The international abduction or wrongful retention of children is harmful to their well-being.

(2) Persons should not be permitted to obtain custody of children by virtue of their wrongful removal or retention.

(3) International abductions and retentions of children are increasing, and only concerted cooperation pursuant to an international agreement can effectively combat this problem.

(4) The Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980, establishes legal rights and procedures for the prompt return of children who have been wrongfully removed or retained, as well as for securing the exercise of visitation rights. Children who are wrongfully removed or retained within the meaning of the Convention are to be promptly returned unless one of the narrow exceptions set forth in the Convention applies. The Convention provides a sound treaty framework to help resolve the problem of international abduction and retention of children and will deter such wrongful removals and retentions.

(b) DECLARATIONS.—The Congress makes the following declarations:

(1) It is the purpose of this Act to establish procedures for the implementation of the Convention in the United States.

(2) The provisions of this Act are in addition to and not in lieu of the provisions of the Convention.

(3) In enacting this Act the Congress recognizes—

(A) the international character of the Convention; and

(B) the need for uniform international interpretation of the Convention.

(4) The Convention and this Act empower courts in the United States to determine only rights under the Convention and not the merits of any underlying child custody claims.

SEC. 3. DEFINITIONS.

42 USC 11602.

For the purposes of this Act—

(1) the term "applicant" means any person who, pursuant to the Convention, files an application with the United States

Central Authority or a Central Authority of any other party to the Convention for the return of a child alleged to have been wrongfully removed or retained or for arrangements for organizing or securing the effective exercise of rights of access pursuant to the Convention;

(2) the term "Convention" means the Convention on the Civil Aspects of International Child Abduction, done at The Hague on October 25, 1980;

(3) the term "Parent Locator Service" means the service established by the Secretary of Health and Human Services under section 453 of the Social Security Act (42 U.S.C. 653);

(4) the term "petitioner" means any person who, in accordance with this Act, files a petition in court seeking relief under the Convention;

(5) the term "person" includes any individual, institution, or other legal entity or body;

(6) the term "respondent" means any person against whose interests a petition is filed in court, in accordance with this Act, which seeks relief under the Convention;

(7) the term "rights of access" means visitation rights;

(8) the term "State" means any of the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States; and

(9) the term "United States Central Authority" means the agency of the Federal Government designated by the President under section 7(a).

42 USC 11603.

SEC. 4. JUDICIAL REMEDIES.

(a) JURISDICTION OF THE COURTS.—The courts of the States and the United States district courts shall have concurrent original jurisdiction of actions arising under the Convention.

(b) PETITIONS.—Any person seeking to initiate judicial proceedings under the Convention for the return of a child or for arrangements for organizing or securing the effective exercise of rights of access to a child may do so by commencing a civil action by filing a petition for the relief sought in any court which has jurisdiction of such action and which is authorized to exercise its jurisdiction in the place where the child is located at the time the petition is filed.

(c) NOTICE.—Notice of an action brought under subsection (b) shall be given in accordance with the applicable law governing notice in interstate child custody proceedings.

(d) DETERMINATION OF CASE.—The court in which an action is brought under subsection (b) shall decide the case in accordance with the Convention.

(e) BURDENS OF PROOF.—(1) A petitioner in an action brought under subsection (b) shall establish by a preponderance of the evidence—

(A) in the case of an action for the return of a child, that the child has been wrongfully removed or retained within the meaning of the Convention; and

(B) in the case of an action for arrangements for organizing or securing the effective exercise of rights of access, that the petitioner has such rights.

(2) In the case of an action for the return of a child, a respondent who opposes the return of the child has the burden of establishing—

(A) by clear and convincing evidence that one of the exceptions set forth in article 13b or 20 of the Convention applies; and

(B) by a preponderance of the evidence that any other exception set forth in article 12 or 13 of the Convention applies.

(f) APPLICATION OF THE CONVENTION.—For purposes of any action brought under this Act—

(1) the term "authorities", as used in article 15 of the Convention to refer to the authorities of the state of the habitual residence of a child, includes courts and appropriate government agencies;

(2) the terms "wrongful removal or retention" and "wrongfully removed or retained", as used in the Convention, include a removal or retention of a child before the entry of a custody order regarding that child; and

(3) the term "commencement of proceedings", as used in article 12 of the Convention, means, with respect to the return of a child located in the United States, the filing of a petition in accordance with subsection (b) of this section.

(g) FULL FAITH AND CREDIT.—Full faith and credit shall be accorded by the courts of the States and the courts of the United States to the judgment of any other such court ordering or denying the return of a child, pursuant to the Convention, in an action brought under this Act.

(h) REMEDIES UNDER THE CONVENTION NOT EXCLUSIVE.—The remedies established by the Convention and this Act shall be in addition to remedies available under other laws or international agreements.

SEC. 5. PROVISIONAL REMEDIES. 42 USC 11604.

(a) AUTHORITY OF COURTS.—In furtherance of the objectives of article 7(b) and other provisions of the Convention, and subject to the provisions of subsection (b) of this section, any court exercising jurisdiction of an action brought under section 4(b) of this Act may take or cause to be taken measures under Federal or State law, as appropriate, to protect the well-being of the child involved or to prevent the child's further removal or concealment before the final disposition of the petition.

(b) LIMITATION ON AUTHORITY.—No court exercising jurisdiction of an action brought under section 4(b) may, under subsection (a) of this section, order a child removed from a person having physical control of the child unless the applicable requirements of State law are satisfied.

SEC. 6. ADMISSIBILITY OF DOCUMENTS. 42 USC 11605.

With respect to any application to the United States Central Authority, or any petition to a court under section 4, which seeks relief under the Convention, or any other documents or information included with such application or petition or provided after such submission which relates to the application or petition, as the case may be, no authentication of such application, petition, document, or information shall be required in order for the application, petition, document, or information to be admissible in court.

SEC. 7. UNITED STATES CENTRAL AUTHORITY. 42 USC 11606.

(a) DESIGNATION.—The President shall designate a Federal agency to serve as the Central Authority for the United States under the Convention. President of U.S.

(b) FUNCTIONS.—The functions of the United States Central Authority are those ascribed to the Central Authority by the Convention and this Act.

(c) REGULATORY AUTHORITY.—The United States Central Authority is authorized to issue such regulations as may be necessary to carry out its functions under the Convention and this Act.

(d) OBTAINING INFORMATION FROM PARENT LOCATOR SERVICE.—The United States Central Authority may, to the extent authorized by the Social Security Act, obtain information from the Parent Locator Service.

State and local governments.
42 USC 11607.

SEC. 8. COSTS AND FEES.

(a) ADMINISTRATIVE COSTS.—No department, agency, or instrumentality of the Federal Government or of any State or local government may impose on an applicant any fee in relation to the administrative processing of applications submitted under the Convention.

(b) COSTS INCURRED IN CIVIL ACTIONS.—(1) Petitioners may be required to bear the costs of legal counsel or advisors, court costs incurred in connection with their petitions, and travel costs for the return of the child involved and any accompanying persons, except as provided in paragraphs (2) and (3).

(2) Subject to paragraph (3), legal fees or court costs incurred in connection with an action brought under section 4 shall be borne by the petitioner unless they are covered by payments from Federal, State, or local legal assistance or other programs.

(3) Any court ordering the return of a child pursuant to an action brought under section 4 shall order the respondent to pay necessary expenses incurred by or on behalf of the petitioner, including court costs, legal fees, foster home or other care during the course of proceedings in the action, and transportation costs related to the return of the child, unless the respondent establishes that such order would be clearly inappropriate.

State and local governments.
42 USC 11608.

SEC. 9. COLLECTION, MAINTENANCE, AND DISSEMINATION OF INFORMATION.

(a) IN GENERAL.—In performing its functions under the Convention, the United States Central Authority may, under such conditions as the Central Authority prescribes by regulation, but subject to subsection (c), receive from or transmit to any department, agency, or instrumentality of the Federal Government or of any State or foreign government, and receive from or transmit to any applicant, petitioner, or respondent, information necessary to locate a child or for the purpose of otherwise implementing the Convention with respect to a child, except that the United States Central Authority—

(1) may receive such information from a Federal or State department, agency, or instrumentality only pursuant to applicable Federal and State statutes; and

(2) may transmit any information received under this subsection notwithstanding any provision of law other than this Act.

(b) REQUESTS FOR INFORMATION.—Requests for information under this section shall be submitted in such manner and form as the United States Central Authority may prescribe by regulation and shall be accompanied or supported by such documents as the United States Central Authority may require.

(c) RESPONSIBILITY OF GOVERNMENT ENTITIES.—Whenever any department, agency, or instrumentality of the United States or of any State receives a request from the United States Central Authority for information authorized to be provided to such Central

Authority under subsection (a), the head of such department, agency, or instrumentality shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality in order to determine whether the information requested is contained in any such files or records. If such search discloses the information requested, the head of such department, agency, or instrumentality shall immediately transmit such information to the United States Central Authority, except that any such information the disclosure of which—

Classified information.

(1) would adversely affect the national security interests of the United States or the law enforcement interests of the United States or of any State; or

Defense and national security. Law enforcement and crime.

(2) would be prohibited by section 9 of title 13, United States Code;

shall not be transmitted to the Central Authority. The head of such department, agency, or instrumentality shall, immediately upon completion of the requested search, notify the Central Authority of the results of the search, and whether an exception set forth in paragraph (1) or (2) applies. In the event that the United States Central Authority receives information and the appropriate Federal or State department, agency, or instrumentality thereafter notifies the Central Authority that an exception set forth in paragraph (1) or (2) applies to that information, the Central Authority may not disclose that information under subsection (a).

(d) INFORMATION AVAILABLE FROM PARENT LOCATOR SERVICE.—To the extent that information which the United States Central Authority is authorized to obtain under the provisions of subsection (c) can be obtained through the Parent Locator Service, the United States Central Authority shall first seek to obtain such information from the Parent Locator Service, before requesting such information directly under the provisions of subsection (c) of this section.

(e) RECORDKEEPING.—The United States Central Authority shall maintain appropriate records concerning its activities and the disposition of cases brought to its attention.

SEC. 10. INTERAGENCY COORDINATING GROUP.

Government organization and employees. 42 USC 11609.

The Secretary of State, the Secretary of Health and Human Services, and the Attorney General shall designate Federal employees and may, from time to time, designate private citizens to serve on an interagency coordinating group to monitor the operation of the Convention and to provide advice on its implementation to the United States Central Authority and other Federal agencies. This group shall meet from time to time at the request of the United States Central Authority. The agency in which the United States Central Authority is located is authorized to reimburse such private citizens for travel and other expenses incurred in participating at meetings of the interagency coordinating group at rates not to exceed those authorized under subchapter I of chapter 57 of title 5, United States Code, for employees of agencies.

SEC. 11. AGREEMENT FOR USE OF PARENT LOCATOR SERVICE IN DETERMINING WHEREABOUTS OF PARENT OR CHILD.

Section 463 of the Social Security Act (42 U.S.C. 663) is amended—

(1) by striking "under this section" in subsection (b) and inserting "under subsection (a)";

(2) by striking "under this section" where it first appears in subsection (c) and inserting "under subsection (a), (b), or (e)"; and

(3) by adding at the end the following new subsection:

Contracts.

"(e) The Secretary shall enter into an agreement with the Central Authority designated by the President in accordance with section 7 of the International Child Abduction Remedies Act, under which the services of the Parent Locator Service established under section 453 shall be made available to such Central Authority upon its request for the purpose of locating any parent or child on behalf of an applicant to such Central Authority within the meaning of section 3(1) of that Act. The Parent Locator Service shall charge no fees for services requested pursuant to this subsection.".

42 USC 11610.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out the purposes of the Convention and this Act.

Approved April 29, 1988.

LEGISLATIVE HISTORY—H.R. 3971:

HOUSE REPORTS: No. 100-525 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 28, considered and passed House.
Apr. 12, considered and passed Senate, amended.
Apr. 25, House concurred in Senate amendment.

Public Law 100-301
100th Congress

An Act

To establish the Big Cypress National Preserve Addition in the State of Florida, and for other purposes.

Apr. 29, 1988
[S. 90]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Big Cypress National Preserve Addition Act. National Wilderness Preservation System. Conservation. Public lands. 16 USC 698f note.

SECTION 1. SHORT TITLE.

(a) SHORT TITLE.—This Act may be cited as the "Big Cypress National Preserve Addition Act".

(b) AMENDMENT OF BIG CYPRESS NATIONAL PRESERVE ACT.—Whenever in this Act an amendment is expressed in terms of an amendment to the Act of October 11, 1974, such amendment shall be considered to be made to the Act entitled "An Act to establish the Big Cypress National Preserve in the State of Florida, and for other purposes", approved October 11, 1974 (Public Law 93-440; 88 Stat. 1257).

16 USC 698f note.

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the planned construction of Interstate 75 is presently being designed in such a way as to improve the natural water flow to the Everglades National Park, which has been disrupted by State Road 84 (commonly known as "Alligator Alley");

(2) the planned construction of Interstate 75 provides an opportunity to enhance protection of the Everglades National Park, to promote protection of the endangered Florida panther, and to provide for public recreational use and enjoyment of public lands by expanding the Big Cypress National Preserve to include those lands adjacent to Interstate 75 in Collier County north and east of the Big Cypress National Preserve, west of the Broward County line, and south of the Hendry County line;

(3) the Federal acquisition of lands bordering the Big Cypress National Preserve in conjunction with the construction of Interstate 75 would provide significant public benefits by limiting development pressure on lands which are important both in terms of fish and wildlife habitat supporting endangered species and of wetlands which are the headwaters of the Big Cypress National Preserve; and

(4) public ownership of lands adjacent to the Big Cypress National Preserve would enhance the protection of the Everglades National Park while providing recreational opportunities and other public uses currently offered by the Big Cypress National Preserve.

(b) PURPOSE.—It is the purpose of this Act to establish the Big Cypress National Preserve Addition.

SEC. 3. ESTABLISHMENT OF ADDITION.

(a) BIG CYPRESS NATIONAL PRESERVE ADDITION.—The Act of October 11, 1974, is amended by adding at the end thereof the following new section:

16 USC 698m-1. "SEC. 9. (a) In order to—

"(1) achieve the purposes of the first section of this Act;

"(2) complete the preserve in conjunction with the planned construction of Interstate Highway 75; and

"(3) insure appropriately managed use and access to the Big Cypress Watershed in the State of Florida,

the Big Cypress National Preserve Addition is established.

Public information. "(b) The Big Cypress National Preserve Addition (referred to in this Act as the 'Addition') shall comprise approximately 146,000 acres as generally depicted on the map entitled Big Cypress National Preserve Addition, dated April, 1987, and numbered 176-91000C, which shall be on file and available for public inspection in the Office of the National Park Service, Department of the Interior, Washington, D.C., and shall be filed with appropriate offices of Collier County in the State of Florida. The Secretary shall, as soon as practicable, publish a detailed description of the boundaries of the Addition in the Federal Register.

Federal Register, publication.

"(c) The area within the boundaries depicted on the map referred to in subsection (b) shall be known as the 'Big Cypress National Preserve Addition' and shall be managed in accordance with section 4.

"(d) For purposes of administering the Addition and notwithstanding section 2(c), it is the express intent of the Congress that the Secretary should substantially complete the land acquisition program contemplated with respect to the Addition in not more than five years after the date of the enactment of this paragraph.".

(b) HUNTING, FISHING, AND TRAPPING.—Section 5 of the Act of 16 USC 698j. October 11, 1974, is amended by inserting "and the Addition" after "preserve" each place it appears.

(c) SUITABILITY AS WILDERNESS.—Section 7 of the Act of October 11, 1974, is amended— 16 USC 698l.

(1) by inserting "with respect to the preserve and five years from the date of the enactment of the Big Cypress National Preserve Addition Act with respect to the Addition" after "date of the enactment of this Act" in the first sentence; and

(2) by inserting "or the area within the Addition (as the case may be)" after "preserve" each place it appears.

16 USC 698k. (d) INDIAN RIGHTS.—Section 6 of the Act of October 11, 1974, is amended as follows:

(1) In clause (i) insert "and the Addition" after "preserve" and insert "(January 1, 1985, in the case of the Addition)" after "1972".

(2) In clause (ii) insert "or within the Addition" after "preserve".

SEC. 4. ACQUISITION OF LAND WITHIN ADDITION.

(a) UNITED STATES SHARE OF ACQUISITION COSTS.—The first section 16 USC 698f. of the Act of October 11, 1974, is amended by adding at the end thereof the following new subsection:

"(d)(1) The aggregate cost to the United States of acquiring lands within the Addition may not exceed 80 percent of the total cost of such lands.

"(2) Except as provided in paragraph (3), if the State of Florida transfers to the Secretary lands within the Addition, the Secretary shall pay to or reimburse the State of Florida (out of funds appropriated for such purpose) an amount equal to 80 percent of the total costs to the State of Florida of acquiring such lands.

"(3) The amount described in paragraph (1) shall be reduced by an amount equal to 20 percent of the amount of the total cost incurred by the Secretary in acquiring lands in the Addition other than from the State of Florida.

"(4) For purposes of this subsection, the term 'total cost' means that amount of the total acquisition costs (including the value of exchanged or donated lands) less the amount of the costs incurred by the Federal Highway Administration and the Florida Department of Transportation, including severance damages paid to private property owners as a result of the construction of Interstate 75.".

(b) METHODS OF LAND ACQUISITION IN THE ADDITION.—The first sentence of subsection (c) of the first section of the Act of October 11, 1974, is amended— 16 USC 698f.

(1) by inserting "or the Addition" after "preserve" the first place it appears; and

(2) in the first proviso—

(A) by inserting "in the preserve" after "subdivisions,"; and

(B) by striking out the colon and inserting in lieu thereof "and, any land acquired by the State of Florida, or any of its subdivisions, in the Addition shall be acquired in accordance with subsection (d):".

(c) VALUATION AND APPRAISAL.—The fourth sentence of subsection (c) of such section is amended by inserting "or the Addition" after "preserve" each place it appears.

(d) ACQUISITION OF PROPERTY RIGHTS BY THE STATE OF FLORIDA.—Subsection (c) of such section is amended by adding at the end thereof the following: "Nothing in this Act shall be construed to interfere with the right of the State of Florida to acquire such property rights as may be necessary for Interstate 75.".

(e) EXCLUSION OF SUBSURFACE ESTATE.—The third sentence of subsection (c) of such section is amended by inserting "and the Addition" after "preserve" each place it appears.

(f) IMPROVED PROPERTY IN ADDITION.—Section 3(b) of the Act of October 11, 1974, is amended— 16 USC 698h.

(1) in clause (i) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971,"; and

(2) in clause (ii)—

(A) by inserting "with respect to the preserve and January 1, 1986, with respect to the Addition" after "November 23, 1971," the first place it appears; and

(B) by inserting "or January 1, 1986, as the case may be," after "November 23, 1971," the second and third places it appears.

SEC. 5. COOPERATION AMONG AGENCIES.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

"SEC. 10. The Secretary and other involved Federal agencies shall cooperate with the State of Florida to establish recreational access Recreation. 16 USC 698m-2.

points and roads, rest and recreation areas, wildlife protection, hunting, fishing, frogging, and other traditional recreational opportunities in conjunction with the creation of the Addition and in the construction of Interstate Highway 75. Three of such access points shall be located within the preserve (including the Addition).".

SEC. 6. REPORT TO CONGRESS.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

16 USC 698m-3. "SEC. 11. Not later than two years after the date of the enactment of this section, the Secretary shall submit to the Congress a detailed report on, and further plan for, the preserve and Addition including—

"(1) the status of the existing preserve, the effectiveness of past regulation and management of the preserve, and recommendations for future management of the preserve and the Addition;

"(2) a summary of the public's use of the preserve and the status of the access points developed pursuant to section 10;

"(3) the need for involvement of other State and Federal agencies in the management and expansion of the preserve and Addition;

"(4) the status of land acquisition; and

"(5) a determination, made in conjunction with the State of Florida, of the adequacy of the number, location, and design of the recreational access points on I-75/Alligator Alley for access to the Big Cypress National Preserve, including the Addition.

The determination required by paragraph (5) shall incorporate the results of any related studies of the State of Florida Department of Transportation and other Florida State agencies. Any recommendation for significant changes in the approved recreational access points, including any proposed additions, shall be accompanied by an assessment of the environmental impact of such changes.".

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

16 USC 698m. Section 8 of the Act of October 11, 1974, is amended—

(1) by striking out "There" in the first sentence and inserting in lieu thereof "(a) Except as provided in subsection (b), there"; and

(2) by adding at the end thereof the following new subsection:

"(b) There is hereby authorized to be appropriated from the Land and Water Conservation Fund not to exceed $49,500,000 for the acquisition of lands within the Addition. There is hereby authorized to be appropriated such sums as may be necessary for development in the Addition.

SEC. 8. OIL AND GAS EXPLORATION, DEVELOPMENT AND PRODUCTION.

The Act of October 11, 1974, is further amended by adding at the end thereof the following new section:

Regulations. 16 USC 698m-4. "SEC. 12. (a) Within nine months from the date of the enactment of the Big Cypress National Preserve Addition Act, the Secretary shall promulgate, subject to the requirements of subsections (b)-(e) of this section, such rules and regulations governing the exploration for and development and production of non-Federal interests in oil and gas located within the boundaries of the Big Cypress National Preserve and the Addition, including but not limited to access on,

across, or through all lands within the boundaries of the Big Cypress National Preserve and the Addition for the purpose of conducting such exploration or development and production, as are necessary and appropriate to provide reasonable use and enjoyment of privately owned oil and gas interests, and consistent with the purposes for which the Big Cypress National Preserve and the Addition were established. Rules and regulations promulgated pursuant to the authority of this section may be made by appropriate amendment to or in substitution of the rules and regulations respecting non-Federal oil and gas rights (currently codified at 36 CFR 9.30, et seq. (1986)).

"(b) Any rule or regulation promulgated by the Secretary under subsection (a) of this section shall provide that—

"(1) exploration or development and production activities may not be undertaken, except pursuant to a permit issued by the National Park Service authorizing such activities or access; and

"(2) final action by the National Park Service with respect to any application for a permit authorizing such activities shall occur within 90 days from the date such an application is submitted unless—

"(A) the National Park Service and the applicant agree that such final action shall occur within a shorter or longer period of time; or

"(B) the National Park Service determines that an additional period of time is required to ensure that the National Park Service has, in reviewing the application, complied with other applicable law, Executive orders and regulations; or

"(C) the National Park Service, within 30 days from the date of submission of such application, notifies the applicant that such application does not contain all information reasonably necessary to allow the National Park Service to consider such application and requests that such additional information be provided. After receipt of such notification to the applicant, the applicant shall supply any reasonably necessary additional information and shall advise the National Park Service that the applicant believes that the application contains all reasonably necessary information and is therefore complete, whereupon the National Park Service may—

"(i) within 30 days of receipt of such notice from the applicant to the National Park Service determine that the application does not contain all reasonably necessary additional information and, on that basis, deny the application; or

"(ii) review the application and take final action within 60 days from the date that the applicant provides notification to the National Park Service that its application is complete.

"(c) Such activities shall be permitted to occur if such activities conform to requirements established by the National Park Service under authority of law.

"(d) In establishing standards governing the conduct of exploration or development and production activities within the boundaries of the Big Cypress National Preserve or the Addition, the Secretary shall take into consideration oil and gas exploration and development and production practices used in similar habitats or

ecosystems within the Big Cypress National Preserve or the Addition at the time of promulgation of the rules and regulations under subsection (a) or at the time of the submission of the application seeking authorization for such activities, as appropriate.

Contracts.

"(e) Prior to the promulgation of rules or regulations under this section, the Secretary is authorized, consistent with the purposes of which the Big Cypress National Preserve Addition was established, to enter into interim agreements with owners of non-Federal oil and gas interests governing the conduct of oil and gas exploration, development or production activities within the boundaries of the Addition, which agreements shall be superseded by the rules and regulations promulgated by the Secretary when applicable: *Provided,* That such agreement shall be consistent with the requirements of subsections (b)–(d) of this section and may be altered by the terms of rules and regulations subsequently promulgated by the Secretary: *Provided further,* That this provision shall not be construed to enlarge or diminish the authority of the Secretary to establish rules and regulations applicable to the conduct of exploration or development and production activities within the Big Cypress National Preserve or the Addition.

"(f) There is hereby authorized to be established a Minerals Management Office within the Office of the Superintendent of the Big Cypress National Preserve, for the purpose of ensuring, consistent with the purposes for which the Big Cypress National Preserve was established, timely consideration of and final action on applications for the exploration or development and production of non-Federal oil and gas rights located beneath the surface of lands within the boundaries of the Big Cypress National Preserve and the Addition.

Appropriation authorization.

"(g) There are hereby authorized to be appropriated such sums as may be necessary to carry out the activities set forth in this section.".

Approved April 29, 1988.

LEGISLATIVE HISTORY—S. 90 (H.R. 184):

HOUSE REPORTS: No. 100-30 accompanying H.R. 184 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-45 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Mar. 31, H.R. 184 considered and passed House.
Dec. 11, S. 90 considered and passed Senate.
Vol. 134 (1988): Mar. 1, considered and passed House, amended.
Mar. 31, Senate concurred in House amendments with amendments.
Apr. 12, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Apr. 29, Presidential statement.

Public Law 100-302
100th Congress

Joint Resolution

To express gratitude for law enforcement personnel.

Apr. 29, 1988
[S.J. Res. 227]

Whereas the first day of May of each year was designated as "Law Day U.S.A." and has been set aside as a special day to advance equality and justice under law; to encourage citizen support both of law enforcement and law observance; and to foster respect for law and to understanding its essential place in the life of every citizen of the United States;

Whereas during the course of each year many law enforcement officers are killed and tens of thousands are injured or assaulted in the course of their duties;

Whereas each day police officers and other law enforcement personnel perform their duties unflinchingly and without hesitation; and

Whereas these dedicated people are devoted to their jobs, underpaid for their efforts, and tireless in their work, performing without adequate recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in celebration of "Law Day U.S.A.", May 1, 1988, special emphasis be given by grateful people to all law enforcement personnel of the United States for the unflinching and devoted service in helping to preserve the domestic tranquility and guaranteeing to all individuals their rights under law.

Approved April 29, 1988.

LEGISLATIVE HISTORY—S.J. Res. 227:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Apr. 20, considered and passed House.

Public Law 100-303
100th Congress

Joint Resolution

Apr. 29, 1988
[S.J. Res. 247]

To authorize the President to proclaim the last Friday of April 1988 as "National Arbor Day".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is hereby authorized and requested to issue a proclamation designating the last Friday of April 1988 as "National Arbor Day" and calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.

Approved April 29, 1988.

LEGISLATIVE HISTORY—S.J. Res. 247:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Apr. 20, considered and passed House.

Public Law 100-304
100th Congress

Joint Resolution

Making emergency mandatory veterans supplemental appropriations for the fiscal year ending September 30, 1988.

Apr. 29, 1988
[H.J. Res. 552]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1988, namely:

VETERANS ADMINISTRATION

LOAN GUARANTY REVOLVING FUND

For an additional amount for the "Loan Guaranty Revolving Fund", $526,600,000, to remain available until expended: *Provided,* That the last proviso in the "General operating expenses" appropriation in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1988 (H.R. 2783), as enacted under the provision of section 101(f) of Public Law 100-202, an Act Making Further Continuing Appropriations for the fiscal year ending September 30, 1988, is deleted.

101 Stat. 1329-187.

READJUSTMENT BENEFITS

For an additional amount for "Readjustment benefits", $182,500,000, to remain available until expended.

Approved April 29, 1988.

LEGISLATIVE HISTORY—H.J. Res. 552:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 27, considered and passed House.
Apr. 28, considered and passed Senate.

Public Law 100-305
100th Congress

Joint Resolution

May 2, 1988
[S.J. Res. 235]

Deploring the Soviet Government's active persecution of religious believers in Ukraine.

Whereas 1988 marks the Millennium of the Christianity of Kievan Rus', adopted by Prince Volodymyr in a ceremony on the banks of the Dnieper River;

Whereas today freedom of religion is a fundamental right which is explicitly guaranteed by the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe;

Whereas the Soviet Government has violated the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe by engaging in the persecution of religious believers in the Soviet Union, including the systematic liquidation of the historic and national churches in Ukraine;

Whereas the Ukrainian Orthodox and Ukrainian Catholic churches, both forcibly liquidated in the 1930's and 1940's, respectively, have remained outlawed while their clergy and laity have been murdered, imprisoned, or exiled for their religious beliefs;

Whereas, despite decades of severe persecution, Ukrainian Orthodox and Ukrainian Catholic believers to this day continue to practice their faiths clandestinely for fear of persecution by Soviet authorities;

Whereas the Soviet Government has, in addition, sought to restrain and undermine the spiritual mission of the Evangelical Church in Ukraine, and has established restrictive legislation in direct contravention of the Biblical precepts that undergird the evangelical movement;

Whereas many members of the Ukrainian Evangelical churches, in particular unregistered Baptist and Pentecostal congregations, are currently imprisoned and harassed for their faith;

Whereas suspected clergy and lay members of the Ukrainian Orthodox, Ukrainian Catholic, Baptist, and Pentecostal churches are victimized by job discrimination, their access to religious literature is restricted, and they are subject to various forms of harassment such as house searches, interrogations, and arbitrary arrests by Soviet authorities;

Whereas, despite the Soviet government's policies of religious persecution in Ukraine, faith in God is widespread among Ukrainians as evidenced by the underground Ukrainian Catholic movement which embraces hundreds of priests headed by a number of secret bishops assisted by more than 1,000 religious women in orders; and

Whereas Ukrainian Catholic catacomb bishops, priests, and laity have placed themselves in direct danger of persecution by appeal-

ing to the Kremlin to end its prohibition of the Ukrainian Catholic Church: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States deplores the Soviet Government's active persecution of religious believers in Ukraine, as well as the forcible liquidation of the Ukrainian Orthodox and Ukrainian Catholic Churches. Human rights.

SEC. 2. On the occasion of the Millennium of Christianity in Kievan Rus', the Congress of the United States—

(1) discourages official participation by the Government of the United States in ceremonies of the Millennium in the Union of Soviet Socialist Republics, so long as individuals remain harassed and imprisoned for their religious beliefs, are denied access to religious literature and the opportunity to receive religious instruction, and the Ukrainian Catholic and Ukrainian Orthodox Churches remain outlawed;

(2) sends its greetings to the Ukrainian people as they mark this solemn event in the history of the Ukrainian nation;

(3) voices its concern for those Ukrainian religious believers who are persecuted for attempting to exercise their rights to religious worship;

(4) urges the President of the United States, the Secretary of State, the United States delegation to the United Nations, the United States Delegation to the Vienna Review Meeting of the Conference on Security and Cooperation in Europe to continue to speak out forcefully against violations of religious liberty throughout the Soviet Union and specifically in Ukraine during this anniversary year;

(5) calls upon the Soviet Government to abide by the Universal Declaration of Human Rights, the International Covenants on Human Rights, and the Final Act of the Conference on Security and Cooperation in Europe, and release all those imprisoned for their religious beliefs; and

(6) urges, in observance of the Christian Millennium, the Soviet Government to legalize the Ukrainian Orthodox and Ukrainian Catholic Churches.

Approved May 2, 1988.

LEGISLATIVE HISTORY—S.J. Res. 235:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 4, considered and passed Senate.
Apr. 19, considered and passed House.

Public Law 100-306
100th Congress

Joint Resolution

May 3, 1988
[H.J. Res. 421]

Designating May 1988 as "National Digestive Disease Awareness Month".

Whereas digestive diseases rank third among illnesses in total economic cost in the United States;

Whereas digestive diseases represent one of the Nation's most serious health problems in terms of discomfort and pain, personal expenditures for treatment, working hours lost, and mortality;

Whereas 20 million Americans suffer from chronic digestive diseases;

Whereas more than 14 million cases of acute digestive diseases are treated in this country each year, including ⅓ of all malignancies and some of the most common acute infections;

Whereas more Americans are hospitalized because of digestive diseases than any other type of disease;

Whereas digestive diseases necessitate 25 percent of all surgical operations;

Whereas digestive diseases are one of the most prevalent causes of disability in the work force;

Whereas, in the United States, digestive diseases cause yearly expenditures of over $17,000,000,000 in direct health care costs and a total annual economic burden of nearly $50,000,000,000;

Whereas more than 100 different digestive diseases, and other disorders of the gastrointestinal tract, each cause more than 200 deaths every year;

Whereas there has been interest on the part of the research community in the causes, cures, prevention, and clinical treatment of digestive diseases and related nutritional problems;

Whereas the people of the United States should recognize prevention and treatment of digestive diseases as a major health priority;

Whereas national organizations, such as the Digestive Diseases National Coalition, are committed to increasing awareness and understanding of digestive diseases in the health care community and among members of the general public;

Whereas the National Institutes of Health, through the National Digestive Diseases Education and Information Clearinghouse and the National Digestive Diseases Advisory Board, is committed to encouraging and coordinating such educational efforts;

Whereas the National Digestive Disease Education Program is a coordinated effort to educate the public and the health care community on the seriousness of digestive diseases and to provide information relative to the treatment, prevention, and control of digestive diseases; and

Whereas May 1988 marks the fourth anniversary of the National Digestive Disease Education Program: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1988 is designated as "National Digestive Disease Awareness Month", and the President is authorized and requested to issue a proclamation calling upon all government agencies and the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved May 3, 1988.

LEGISLATIVE HISTORY—H.J. Res. 421:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 20, considered and passed House.
Apr. 22, considered and passed Senate.

Public Law 100-307
100th Congress

An Act

May 5, 1988
[S. 1378]

To provide for setting aside the first Thursday in May as the date on which the National Day of Prayer is celebrated.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint Resolution to provide for setting aside an appropriate day as a National Day of Prayer", approved April 17, 1952 (Public Law 82-324; 66 Stat. 64), is amended by striking "a suitable day each year, other than a Sunday," and inserting in lieu thereof "the first Thursday in May in each year".

36 USC 169h.

Approved May 5, 1988.

LEGISLATIVE HISTORY—S. 1378:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 22, considered and passed Senate.
May 2, considered and passed House.

Public Law 100-308
100th Congress

Joint Resolution

To designate the period commencing on May 1, 1988, and ending on May 7, 1988, as "National Older Americans Abuse Prevention Week".

May 5, 1988
[S.J. Res. 222]

Whereas each year an estimated 550,000 to 2.5 million elders are the victims of physical and emotional abuse, neglect, and denial of fundamental civil rights;

Whereas these elders represent every racial, religious and socio-economic class;

Whereas the suffering of these elders poses a threat to our families and to our society as a whole;

Whereas in most instances this neglect and abuse stems from the lack of information on intervention and prevention;

Whereas the health and well-being of our elders is, and must be, one of our Nation's highest priorities;

Whereas May, 1988, has traditionally been designated as "Older Americans Month", and provides the ideal opportunity for the people of the United States to become educated and aware of the welfare of the elderly; and

Whereas it is appropriate to focus the attention of the Nation upon the problem of elderly abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on May 1, 1988, and ending on May 7, 1988, is designated as "National Older Americans Abuse Prevention Week", and the President is authorized and requested to issue a proclamation calling upon all Government agencies and the people of the United States to observe such period with appropriate programs, ceremonies, and activities.

Approved May 5, 1988.

LEGISLATIVE HISTORY—S.J. Res. 222:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 17, considered and passed Senate.
Apr. 28, considered and passed House.

Public Law 100-309
100th Congress

Joint Resolution

May 5, 1988
[S.J. Res. 242]

Designating the period commencing May 2, 1988, and ending on May 8, 1988, as "Public Service Recognition Week".

Whereas the remarkable range of skills and unceasing dedication of government employees has supported the United States' leadership position in the world;

Whereas government employees have helped make the United States a global leader in industry, health care, agriculture, and defense by developing some of the world's most important technologies;

Whereas career government employees provide the Nation's defense, carry out the laws of the land, ensure environmental protection, maintain transportation systems, guard the Nation's borders to stem the flow of illegal drugs, administer Social Security, support health programs, provide policy direction for the education of the Nation's children, and provide countless other crucial public services;

Whereas government employees perform their demanding duties in exchange for compensation which is often far less than that received by their private sector counterparts; and

Whereas government employees are a valuable national resource, fulfilling the needs and desires of the American people as expressed through their elected representatives in the executive, legislative, and judicial branches of government: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 2-8, 1988, is designated as "Public Service Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved May 5, 1988.

LEGISLATIVE HISTORY—S.J. Res. 242:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 17, considered and passed Senate.
Apr. 28, considered and passed House.

Public Law 100-310
100th Congress

Joint Resolution

Designating May 1988 as "Older Americans Month".

May 6, 1988
[H.J. Res. 508]

Whereas older Americans have contributed many years of service to their families, their communities, and the Nation;
Whereas the population of the United States is comprised of a large percentage of older Americans representing a wealth of knowledge and experience;
Whereas older Americans should be acknowledged for the contributions they continue to make to their communities and the Nation; and
Whereas many States and communities acknowledge older Americans during the month of May: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That, in recognition of the traditional designation of the month of May as "Older Americans Month" and the repeated expression by the Congress of its appreciation and respect for the achievements of older Americans and its desire that these Americans continue to play an active role in the life of the Nation, the President is directed to issue a proclamation designating the month of May 1988 as "Older Americans Month" and calling on the people of the United States to observe this month with appropriate programs, ceremonies, and activities.

Approved May 6, 1988.

LEGISLATIVE HISTORY—H.J. Res. 508 (S.J. Res. 287):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 20, considered and passed House.
Apr. 21, S.J. Res. 287 considered and passed Senate.
Apr. 22, H.J. Res. 508 considered and passed Senate.

Public Law 100-311
100th Congress

Joint Resolution

May 6, 1988
[H.J. Res. 541]

Commending the State of Israel and its people on the occasion of the fortieth anniversary of the reestablishment of the independent State of Israel.

Whereas the State of Israel redeems the Biblical promise to the Jewish people of the homeland from which they were exiled for 2,000 years;

Whereas the establishment of the State of Israel as a homeland for the Jews followed the slaughter of more than 6,000,000 Jews during the Holocaust;

Whereas the United States helped in the creation of the State of Israel by extending diplomatic relations to the State of Israel upon its proclamation of independence on May 14, 1948;

Whereas since its establishment 40 years ago, Israel has rebuilt a nation, forged a new society, and created an economic, cultural, and intellectual infrastructure that is nothing short of miraculous;

Whereas despite the heavy costs of six wars, terrorism, international ostracism, and economic boycotts, the people of Israel have relinquished neither their desire to live in peace with their neighbors nor their democratic ideals;

Whereas at great social and financial costs, Israel has absorbed hundreds of thousands of Jews from countries throughout the world, many of them refugees from Arab countries, and fully integrated them into Israeli society;

Whereas the world, particularly the less developed countries of Latin America and Africa, has benefited tremendously from Israeli advances in agriculture, medicine, and industry;

Whereas the United States and Israel have always maintained a special relationship based on mutually shared democratic values, strategic interests, and moral bonds of friendship and respect; and

Whereas the American people have shared an affinity with the people of Israel and regard Israel as a strong and trusted ally and important strategic partner: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States—

(1) hails the historic milestone of 40 years of existence of the reestablished, independent State of Israel;

(2) praises the people of Israel for their remarkable achievements in building a new state and society and maintaining the only democracy in the Middle East in the face of constant belligerence by her neighbors;

(3) notes with deep satisfaction the bonds of friendship and cooperation between the United States and the State of Israel which have meant so much to both countries; and

(4) extends the warmest congratulations and best wishes to the State of Israel and its people for a peaceful and successful future.

Approved May 6, 1988.

LEGISLATIVE HISTORY—H.J. Res. 541:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 21, considered and passed House.
Apr. 22, considered and passed Senate.

Public Law 100-312
100th Congress

Joint Resolution

May 6, 1988
[S.J. Res. 190]

To authorize and request the President to issue a proclamation designating June 6-12, 1988, as "National Fishing Week".

Whereas the United States Bureau of the Census reported that fifty-four million residents of our country participated in sport fishing in 1980;

Whereas sport fishing is a family oriented, outdoor, recreational activity that provides therapeutic rewards and enjoyment to people of all ages;

Whereas the demands for goods and services by sport fishing participants is estimated to generate $25,000,000,000 in economic activity and employment for an estimated six hundred thousand individuals each year;

Whereas fishing promotes respect for Nation's marine, estuarine, and fresh waters, and their associated plant and animal communities; and

Whereas our country's league of fishing enthusiasts represent a constituency that seeks to prevent the degradation of our Nation's diverse aquatic habitats: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is requested and authorized to issue a proclamation designating June 6-12, 1988, as "National Fishing Week" and calling upon Federal, State, and local government agencies, and the people of the United States to observe the week with appropriate programs and activities.

Approved May 6, 1988.

LEGISLATIVE HISTORY—S.J. Res. 190:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 17, considered and passed Senate.
Apr. 20, considered and passed House.

Public Law 100-313
100th Congress

Joint Resolution

May 10, 1988
[H.J. Res. 545]

Designating May 8-14, 1988, as "Just Say No Week".

Whereas America's youth are our Nation's most precious resource;
Whereas young people are contributing to drug abuse prevention by starting just-say-no clubs and saying "no" to drugs;
Whereas children across America will participate in a national just-say-no walk against drugs on May 11, 1988; and
Whereas America's youth should be recognized for and encouraged in their efforts in the fight against drug abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 8-14, 1988, is designated as "Just Say No Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved May 10, 1988.

LEGISLATIVE HISTORY—H.J. Res. 545 (S.J. Res. 300):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 28, considered and passed House and Senate.

Public Law 100-314
100th Congress

Joint Resolution

May 10, 1988
[S.J. Res. 59]

To designate the month of May, 1988 as "National Foster Care Month".

Whereas there are more than 250,000 licensed foster families in the United States who temporarily provide guidance, emotional support, food, shelter, and nurture to children who cannot remain in their own home;

Whereas foster parents devotedly and unselfishly open their home and family life to children in need;

Whereas foster parents are a vital part in permanency planning to protect the best interests of a foster child;

Whereas foster parents work cooperatively with human service agencies and biological parents to strengthen family life;

Whereas foster parents must have the commitment of the national, State and local communities in terms of funding, support, and training; and

Whereas the National Foster Parent Association holds its annual training conference during the month of May, 1987: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May, 1988 is designated as "National Foster Care Month". The President is requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

Approved May 10, 1988.

LEGISLATIVE HISTORY—S.J. Res. 59:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Apr. 28, considered and passed House.

Public Law 100-315
100th Congress

Joint Resolution

Designating the week of May 8, 1988, through May 14, 1988, as "National Osteoporosis Prevention Week of 1988".

May 10, 1988
[S.J. Res. 250]

Whereas osteoporosis, a degenerative bone condition, afflicts twenty-four million people in the United States;
Whereas osteoporosis, afflicts 90 per centum of women over age 75;
Whereas 50 per centum of all women in the United States over age 45 will develop some form of osteoporosis;
Whereas hip fractures are the most disabling outcome of osteoporosis, and 32 per centum of women and 17 per centum of men who live to age 90 will likely suffer a hip fracture due primarily to osteoporosis;
Whereas the mortality rates for people who suffer a hip fracture increase by 20 per centum, with such fractures resulting in the death of over fifty thousand older women and many older men each year;
Whereas 15 to 25 per centum of people who suffer a hip fracture stay in a long-term care facility for at least one year after the fracture occurs, and 25 to 35 per centum of people who return home from a long-term care facility after recovering from a hip fracture require assistance with daily living after returning home;
Whereas the total cost to society of dealing with osteoporosis was $7,000,000,000 to $10,000,000,000 in 1986 and such cost is expected to rise as the population ages;
Whereas osteoporosis is associated with the loss of bone mass due to a lack of estrogen as a result of menopause, alcohol or cigarette use, and low calcium intake;
Whereas exercise and proper nutrition before an individual is age 35 will build bone mass to help prevent osteoporosis; and
Whereas people who suffer from osteoporosis should be aware of the increased risk of bone fractures, and should take precautions to reduce the chance of accidents that may result in bone fractures due primarily to osteoporosis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of May 8, 1988, through May 14, 1988, is designated as "National Osteoporosis Prevention Week of 1988", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs and activities.

Approved May 10, 1988.

LEGISLATIVE HISTORY—S.J. Res. 250:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
Apr. 28, considered and passed House.

Public Law 100-316
100th Congress

Joint Resolution

To designate the period commencing May 8, 1988, and ending on May 14, 1988, as "National Tuberous Sclerosis Awareness Week".

May 12, 1988
[S.J. Res. 212]

Whereas tuberous sclerosis (hereinafter referred to in this resolution as "TS") is a genetic disorder affecting as many as 1 in 10,000 Americans;

Whereas TS remains poorly understood and frequently misdiagnosed, even though it is one of the more common genetic disorders;

Whereas TS affects males and females of all races;

Whereas the characteristics of TS include skin markings, seizures, motor difficulties, mental retardation, tumors of the brain and other organs, and behavioral abnormalities;

Whereas in any individual, the disease's severity can range from being mild, when patients can live normal lives, to being extreme, when TS is disabling and may be life threatening;

Whereas although modern research technology has provided information about TS, there remains much to be learned;

Whereas only with continued, extensive research is there any chance of conquering TS; and

Whereas establishing a national TS awareness week would serve to enhance public awareness of TS and stimulate further TS research: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing May 8, 1988, and ending on May 14, 1988, is designated as "National Tuberous Sclerosis Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved May 12, 1988.

LEGISLATIVE HISTORY—S.J. Res. 212:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
May 5, considered and passed House.

Public Law 100-317
100th Congress

Joint Resolution

May 13, 1988
[S.J. Res. 240]

To designate the period commencing on May 16, 1988 and ending on May 22, 1988, as "National Safe Kids Week".

Whereas the children of the United States represent the most precious natural resource of the United States;

Whereas each year approximately one out of every four children under the age of fifteen in the United States is involved in an accident;

Whereas injuries resulting from accidents are the leading cause of death among children in the United States, claiming the lives of nearly eight thousand children each year;

Whereas approximately fifty thousand children in the United States are left permanently disabled because of accidental injuries each year;

Whereas the incidence and seriousness of such injuries can be significantly reduced through preventive measures and appropriate treatments; and

Whereas adults and children in the United States should become aware of the frequency and nature of accidental injuries to children, and of the need to undertake preventive measures and seek appropriate treatment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on May 16, 1988 and ending on May 22, 1988, is designated "National Safe Kids Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved May 13, 1988.

LEGISLATIVE HISTORY—S.J. Res. 240:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
May 5, considered and passed House.

Public Law 100-318
100th Congress

An Act

To provide for the transfer of certain funds to the Secretary of the Interior for the benefit of certain members of the Crow Tribe.

May 13, 1988
[S. 2273]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF FUNDS.

(a) Notwithstanding any other provision of law, the Secretary of Health and Human Services shall transfer to the Secretary of the Interior $180,000 of the funds appropriated to provide a grant to the Crow Tribe under section 2604(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(d)) for fiscal year 1988. Grants.

(b) The funds transferred under this section and any other fiscal year 1988 funds, appropriated pursuant to the Low-Income Home Energy Assistance Program, which have been retained by the Secretary of Health and Human Services and which have been allocated, but not distributed, for the benefit of the Crow Tribe, shall remain available for that purpose until expended.

SEC. 2. USE OF TRANSFERRED FUNDS.

The Secretary of the Interior and the Secretary of Health and Human Services shall enter into an Interagency Agreement for the administration on an expedited basis of the funds transferred under section 1. The Agreement shall include assurances that the Secretary of the Interior shall follow the requirements contained in paragraphs (1), (2), (5), (7), (8), and (13) of subsection 2605(b) of the Low-Income Home Energy Assistance Act of 1981 and such terms regarding the provision of technical assistance as the Secretaries may deem necessary. All such funds shall be used to provide, through the Crow Agency Social Services Program of the Bureau of Indian Affairs, the assistance and benefits otherwise available under the Low-Income Home Energy Assistance Act of 1981 to households who meet the eligibility criteria established by the Crow Tribe in its grant application for fiscal year 1988 and the agreement between the State of Montana and the Crow Tribe for such year. There shall be equitable consideration of claims or applications involving all forms of energy. If direct vendor payments are made, the vendor shall agree to refrain from termination of service to an eligible household until such time as all administrative actions involving withholding of fiscal year 1988 grants under the Low-Income Home Energy Assistance Act of 1981 from the Crow Tribe have been resolved. The provisions of the Interagency Agreement shall be in lieu of any other legal requirements that would otherwise be applicable to the administration of such funds or the assistance and benefits to be provided with such funds. Contracts. Claims.

SEC. 3. CONSTRUCTION.

Nothing in this Act may be construed to affect administrative actions relating to grants received by the Crow Tribe under section 2604(d) of the Low-Income Home Energy Assistance Act of 1981 (42 U.S.C. 8623(d)) for fiscal year 1988 or preceding fiscal years or the eligibility of the Crow Tribe to receive a grant for fiscal year 1989, or any succeeding fiscal year.

Approved May 13, 1988.

LEGISLATIVE HISTORY—S. 2273:

SENATE REPORTS: No. 100-315 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 18, considered and passed Senate.
Apr. 28, considered and passed House, amended. Senate concurred in House amendment.

Public Law 100-319
100th Congress

An Act

To grant the consent of the Congress to the Appalachian States Low-Level Radioactive Waste Compact.

May 19, 1988
[H.R. 3025]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Appalachian States Low-Level Radioactive Waste Compact Consent Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Appalachian States Low-Level Radioactive Waste Compact Consent Act".

42 USC 2021d note.

SEC. 2. CONGRESSIONAL FINDING.

The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act.

42 USC 2021d note.

SEC. 3. CONDITIONS OF CONSENT TO COMPACT.

The consent of the Congress to the compact set forth in section 5—

(1) shall become effective on the date of the enactment of this Act,

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act, and

(3) is granted only for so long as the Appalachian States Low-Level Radioactive Waste Commission, advisory committees, and regional boards established in the compact comply with all the provisions of such Act.

42 USC 2021d note.

SEC. 4. CONGRESSIONAL REVIEW.

The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of the enactment of this Act, and at such intervals thereafter as may be provided for in such compact.

State listing.
42 USC 2021d note.

SEC. 5. APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d(A)(2)), the consent of Congress is given to the States of Pennsylvania, West Virginia, and any eligible States as defined in Article 5(A) of the Appalachian States Low-Level Radioactive Waste Compact to enter into such compact. Such compact is substantially as follows:

"APPALACHIAN STATES LOW-LEVEL RADIOACTIVE WASTE COMPACT

"Preamble

"Whereas, The United States Congress, by enacting the Low-Level Radioactive Waste Policy Act (42 U.S.C. §§ 2021b-2021d) has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste;

"Whereas, Under section 4(a)(1)(A) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. § 2021d(a)(1)(A)), each state is responsible for providing for the capacity for disposal of low-level radioactive waste generated within its borders;

Safety.

"Whereas, To promote the health, safety and welfare of residents within, the Commonwealth of Pennsylvania and other eligible states as defined in Article 5(A) of this compact shall enter into a compact for the regional management and disposal of low-level radioactive waste.

"Now, therefore, the Commonwealth of Pennsylvania and the state of West Virginia and other eligible states hereby agree to enter into the Appalachian States Low-Level Radioactive Waste Compact.

"Article I

"Definitions

"As used in this compact, unless the context clearly indicates otherwise:

"(a) 'Broker' means any intermediate person who handles, treats, processes, stores, packages, ships or otherwise has responsibility for or possesses low-level waste obtained from a generator.

"(b) 'Carrier' means a person who transports low-level waste to a regional facility.

"(c) 'Commission' means the Appalachian States Low-Level Radioactive Waste Commission.

"(d) 'Disposal' means the isolation of low-level waste from the biosphere.

"(e) 'Facility' means any real or personal property within the region, and improvements thereof or thereon, and any and all plant structures, machinery and equipment acquired, constructed, operated or maintained for the management or disposal of low-level waste.

"(f) 'Generate' means to produce low-level waste requiring disposal.

"(g) 'Generator' means a person whose activity results in the production of low-level waste requiring disposal.

"(h) 'Hazardous life' means the time required for radioactive materials to decay to safe levels, as defined by the time period for the concentration of radioactive materials within a given container or package to decay to maximum permissible concentrations as defined by Federal law or by standards to be set by a host state, whichever is more restrictive.

"(i) 'Host state' means Pennsylvania or other party state so designated by the Commission in accordance with Article 3 of this compact.

"(j) 'Institutional control period' means the time of the continued observation, monitoring and care of the regional facility following transfer of control from the operator to the custodial agency.

"(k) 'Low-level waste' means radioactive waste that:

"(1) is neither high-level waste or transuranic waste, nor spent nuclear fuel, nor by-product material as defined in Section 11(e)(2) of the Atomic Energy Act of 1954 as amended; and

"(2) is classified by the Federal Government as low-level waste, consistent with existing law; but does not include waste generated as a result of atomic energy defense activities of the

Federal Government, as defined in Public Law 96-573, or Federal research and development activities.

"(l) 'Management' means the reduction, collection, consolidation, storage, packaging or treatment of low-level waste.

"(m) 'Operator' means a person who operates a regional facility.

"(n) 'Party state' means any state that has become a party in accordance with Article 5 of this compact.

"(o) 'Person' means an individual, corporation, partnership or other legal entity, whether public or private.

"(p) 'Region' means the combined geographical area within the boundaries of the party states.

"(q) 'Regional facility' means a facility within any party state which has been approved by the Commission for the disposal of low-level waste.

"(r) 'Shallow land burial' means the disposal of low-level radioactive waste directly in subsurface trenches without additional confinement in engineered structures or by proper packaging in containers as determined by the law of the host state.

"(s) 'Transuranic waste' means low-level waste containing radionuclides with an atomic number greater than 92 which are excluded from shallow-land burial by the Federal Government.

"(A) Creation and Organization. Establishment.

"(1) Creation—There is hereby created the Appalachian States Low-Level Radioactive Waste Commission. The Commission is hereby created as a body corporate and politic, with succession for the duration of this compact, as an agency and instrumentality of the governments of the respective signatory parties, but separate and distinct from the respective signatory party states. The Commission shall have central offices located in Pennsylvania.

"(2) Commission Membership—The Commission shall consist of two voting members from each party state to be appointed according to the laws of each party state and two additional voting members from each host state to be appointed according to the laws of each host state. Upon selection of the site of the regional facility, an additional voting member shall be appointed to the Commission who shall be a resident of the county or municipality where the facility is to be located. The appointing authority of each party state shall notify the Commission in writing of the identities of the members and of any alternates. An alternate may vote and act in the member's absence. No member shall have a financial interest in any industry which generates low-level radioactive waste, any low-level radioactive waste regional facility or any related industry for the duration of the member's term. No more than one-half the members and alternates from any party state shall have been employed by or be employed by a low-level waste generator or related industry upon appointment to or during their tenure of office; provided, that no member shall have been employed by or be employed by a regional facility operator. No member or alternate from any party state shall accept employment from any regional facility operator or brokers for at least three years after leaving office.

"(3) Compensation—Members of the Commission and alternates shall serve without compensation from the Commission but may be reimbursed for necessary expenses incurred in and incident to the performance of their duties.

"(4) Voting Power—Each Commission member is entitled to one vote. Unless otherwise provided in this compact, affirmative votes by a majority of a host state's members are necessary for the

Commission to take any action related to the regional facility and the disposal and management of low-level waste within that host state.

"(5) Organization and Procedure—

"(a) The Commission shall provide for its own organization and procedures and shall adopt by-laws not inconsistent with this compact and any rules and regulations necessary to implement this compact. It shall meet at least once a year in the county selected to host a regional facility and shall elect a chairman and vice chairman from among its members. In the absence of the chairman, the vice chairman shall serve.

Public information.

"(b) All meetings of the Commission shall be open to the public with at least 14 days' advance notice, except that the chairman may convene an emergency meeting with less advance notice. Each municipality and county selected to host a regional facility shall be specifically notified in advance of all Commission meetings. All meetings of the Commission shall be conducted in a manner that substantially conforms to the Administrative Procedure Act (5 U.S.C. Ch. 5, Subch. II, and Ch. 7). The Commission may, by a two-thirds vote, including approval of a majority of each host state's Commission members, hold an Executive Session closed to the public for the purpose of: considering or discussing legally privileged or proprietary information; to consider dismissal, disciplining of or hearing complaints or charges brought against an employee or other public agent unless such person requests such public hearing; or to consult with its attorney regarding information or strategy in connection with specific litigation. The reason for the Executive Session must be announced at least 14 days prior to the Executive Session, except that the chairman may convene an emergency meeting with less advance notice, in which case the reason for the Executive Session must be announced at the open meeting immediately subsequent to the Executive Session. All action taken in violation of this open meeting provision shall be null and void.

Records. Public information.

"(c) Detailed written minutes shall be kept of all meetings of the Commission. All decisions, files, records and data of the Commission, except for information privileged against introduction in judicial proceedings, personnel records and minutes of a properly convened Executive Session, shall be open to public inspection subject to a procedure that substantially conforms to the Freedom of Information Act (Public Law 89-554, 5 U.S.C. § 552) and applicable Pennsylvania law and may be copied upon request and payment of fees which shall be no higher than necessary to recover copying costs.

"(d) The Commission shall select an appropriate staff, including an Executive Director, to carry out the duties and functions assigned by the Commission. Notwithstanding any other provision of law, the Commission may hire and/or retain its own legal counsel.

"(e) Any person aggrieved by a final decision of the Commission which adversely affects the legal rights, duties or privileges of such person may petition a court of competent jurisdiction, within 60 days after the Commission's final decision, to obtain judicial review of said final decisions.

"(f) Liabilities of the Commission shall not be deemed liabilities of the party states. Members of the Commission shall not be personally liable for actions taken in their official capacity.

"(B) Powers and Duties.

"The Commission:

"(a) Shall conduct research and establish regulations to promote a reasonable reduction of volume and curie content of low-level wastes generated in the region. The regulations shall be reviewed and, if necessary, revised by the Commission at least annually. Research and development. Regulations.

"(b) Shall ensure, to the extent authorized by Federal law, that low-level wastes are safely disposed of within the region except that the Commission shall have no power or authority to license, regulate or otherwise develop a regional facility, such powers and authority being reserved for the host state(s) as permitted under the law.

"(c) Shall designate as 'host states' any party state which generates 25 percent or more of Pennsylvania's volume or total curie content of low-level waste generated based on a comparison of averages over three successive years, as determined by the Commission. This determination shall be based on volume or total curie content, whichever is greater.

"(d) Shall ensure, to the extent authorized by Federal law, that low-level waste packages brought into the regional facility for disposal conform to applicable state and Federal regulations. Low-level waste brokers or generators who violate these regulations will be subject to a fine or other penalty imposed by the Commission, including restricted access to a regional facility. The Commission may impose such fines and/or penalties in addition to any other penalty levied by the party states pursuant to Article 4(D).

"(e) Shall establish such advisory committees as it deems necessary for the purpose of advising the Commission on matters pertaining to the management and disposal of low-level waste.

"(f) May contract to accomplish its duties and effectuate its powers subject to projected available resources. No contract made by the Commission shall bind a party state. Contracts.

"(g) Shall prepare contingency plans for management and disposal of low-level waste in the event any regional facility should be closed or otherwise unavailable.

"(h) Shall examine all records of operators of regional facilities pertaining to operating costs, profits or the assessment or collection of any charge, fee or surcharge and may make recommendations to the host state(s) which shall review the recommendations in accordance with its (their) own sovereign laws. Records.

"(i) Shall have the power to sue and be sued subject to Article 2(A)(5)(e) and may seek to intervene in any administrative or judicial proceeding.

"(j) Shall assemble and make available, to the party states and to the public, information concerning low-level waste management and disposal needs, technologies, and problems.

"(k) Shall keep current and annual inventories of all generators by name and quantity of low-level waste generated within the region, based upon information provided by the party states. Inventory information shall include both volume in cubic feet and total curie content of the low-level waste and all available information on chemical composition and toxicity of such wastes. Records.

"(l) Shall keep an inventory of all regional facilities and specialized facilities, including, but not necessarily restricted to, Records.

information on their size, capacity and location, as well as specific wastes capable of being managed, and the projected useful life of each regional facility.

Reports.

"(m) Shall make and publish an annual report to the governors of the signatory party states and to the public detailing its programs, operations and finances, including copies of the annual budget and the independent audit required by this compact.

Contracts.

"(n) Notwithstanding any other provision of this compact to the contrary, may, with the unanimous approval of the Commission members of the host state(s), enter into temporary agreements with non-party states or other regional boards for the emergency disposal of low-level waste at the regional facility, if so authorized by law(s) of the host state(s), or other disposal facilities located in states that are not parties to this agreement.

Regulations.

"(o) Shall promulgate regulations, pursuant to host state law, to specifically govern and define exactly what would constitute an emergency situation and exactly what restrictions and limitations would be placed on temporary agreements.

"(p) Shall not accept any donations, grants, equipment, supplies, materials or services, conditional or otherwise, from any source, except from any Federal agency and from party states which are certified as being legal and proper under the laws of the donating party state.

"(C) Budget and Operation.

"(1) Fiscal Year—The Commission shall establish a fiscal year which conforms to the fiscal year of the Commonwealth of Pennsylvania.

"(2) Current Expense Budget—Upon legislative enactment of this compact by two party states and each year until the regional facility becomes available, the Commission shall adopt a current expense budget for its fiscal year. The budget shall include the Commission's estimated expenses for administration. Such expenses shall be allocated to the party states according to the following formula:

"Each designated initial host state will be allocated costs equal to twice the costs of the other party states, but such costs will not exceed $200,000.

"Each remaining party state will be allocated a cost of one half the cost of the initial host state, but such costs will not exceed $100,000.

"The party states will include the amounts allocated above in their respective budgets, subject to such review and approval as may be required by their respective budgetary processes. Such amounts shall be due and payable to the Commission in quarterly installments during the fiscal year.

"(3) Annual Budget Request—For continued funding of its activities, the Commission shall submit an annual budget request to each party state for funding, based upon the percentage of the region's waste generated in each state in the region, as reported in the latest available annual inventory required under Article 2(B)(k). The percentage of waste shall be based on volume of waste or total curie content as determined by the Commission.

"(4) Annual Report to Include Budget—The Commission shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the ensuing year.

"(5) Annual Independent Audit—

"(a) As soon as practicable after the closing of the fiscal year, an audit shall be made of the financial accounts of the Commission. The audit shall be made by qualified certified public accountants selected by the Commission, who have no personal direct or indirect interest in the financial affairs of the Commission or any of its officers or employees. The report of audit shall be prepared in accordance with accepted accounting practices and shall be filed with the chairman and such other officers as the Commission shall direct. Copies of the report shall be distributed to each Commission member and shall be made available for public distribution. Reports. Public information.

"(b) Each signatory party, by its duly authorized officers, shall be entitled to examine and audit at any time all of the books, documents, records, files and accounts and all other papers, things or property of the Commission. The representatives of the signatory parties shall have access to all books, documents, records, accounts, reports, files and all other papers, things or property belonging to or in use by the Commission and necessary to facilitate the audit; and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositaries, fiscal agents and custodians.

"Article 3

"Rights, Responsibilities and Obligations of Party States

"(A) Regional Facilities.

"There shall be regional facilities sufficient to dispose of the low-level waste generated within the region. Each regional facility shall be capable of disposing of such low-level waste but in the form(s) required by regulations or license conditions. Specialized facilities for particular types of low-level waste management, reduction or treatment may not be developed in any party state unless they are in accordance with the laws and regulations of such state and applicable Federal laws and regulations.

"(B) Equal Access to Regional Facilities.

"Each party state shall have equal access as other party states to regional facilities located within the region and accepting low-level waste, provided, however, that the host state may close the regional facility located within its borders when necessary for public health and safety. However, a host state shall send notification to the Commission in writing within three (3) days of its action and shall, within thirty (30) working days, provide in writing the reasons for the closing. Safety.

"(C) Initial Host State.

"Pennsylvania and party states which generated 25 percent or more of the volume or curies of low-level waste generated by Pennsylvania, based on a comparison of averages over the three years 1982 through 1984, are designated as "initial host states" and are required to develop and host low-level waste sites as regional facilities. The percentage of waste from each state shall be determined by cubic foot volume or total curie content, whichever is greater.

"(D) Exemption From Being Initial Host State.

"Party states which generate less than 25 percent of the volume or curies of low-level waste generated by Pennsylvania, based on a comparison of averages over the years 1982 through 1984, shall be exempt from initial host state responsibilities. These states shall

continue to be exempt as long as they generate less than 25 percent threshold over successive 3-year periods. Once a state generates an average of 25 percent or more of the volume or curies generated by Pennsylvania over a successive 3-year period, it shall be designated as a "host state" for a 30-year period by the Commission and shall immediately initiate development of a regional facility to be operational within five years. Such host state shall be prepared to accept at its regional facility low-level waste at least equal to that generated in the state. With Commission approval, any party state may volunteer to host a regional facility. The percentage of waste from each state shall be determined by either a cubic foot volume or total curie content, whichever is greater.

"(E) Useful Life of Regional Facilities.

"Pennsylvania and other host states are obligated to develop regional facilities for the duration of this compact. All regional facilities shall be designed for at least a 30-year useful life. At the end of the facility's life, normal closure and maintenance procedures shall be initiated in accordance with the applicable requirements of the host state and the Federal Government. Each host state's obligation for operating regional facilities shall remain as long as the state continues to produce over a 3-year period 25 percent or more of the volume or curies of low-level waste generated by Pennsylvania.

"(F) Duties of Host State.

"Each host state shall:

"(a) Cause a regional facility to be sited and developed on a timely basis.

Safety. Environmental protection.

"(b) Ensure by law, consistent with applicable state and Federal law, the protection and preservation of public health, safety and environmental quality in the siting, design, development, licensure or other regulation, operation, closure, decommissioning, long-term care and the institutional control period of the regional facility within the state. To the extent authorized by Federal law, a host state may adopt more stringent laws, rules or regulations than required by Federal law.

"(c) Ensure and maintain a manifest system which documents all waste-related activities of generators, brokers, carriers and related activities of generators, brokers, carriers and operators, and establish the chain of custody of waste from its initial generation to the end of its hazardous life. Copies of all such manifests shall be submitted to the Commission on a timely basis.

"(d) Ensure that charges for disposal of low-level waste at the regional facility are sufficient to fully fund the safe disposal and perpetual care of the regional facility and that charges are assessed without discrimination as to the party state of origin.

Reports.

"(e) Submit an annual report to the Commission on the status of the regional facility which contains projections of the anticipated future capacity.

"(f) Notify the Commission immediately if any exigency arises requiring the possible temporary or permanent closure of a regional facility within the state at a time earlier than was projected in the state's most recent annual report to the Commission.

"(g) Require that the institutional control period of any disposal facility be at least as long as the hazardous life, as defined in Article 1(h), of the radioactive materials that are disposed at that facility.

"(h) Prohibit the use of any shallow land burial, as defined in Article 1(r), and develop alternative means for treatment, storage and disposal of low-level waste.

"(i) Establish by law, to the extent not prohibited by Federal law, requirements for financial responsibility, including, but not limited to:

"(i) Requirements for the purchase and maintenance of adequate insurance by generators, brokers, carriers and operators of the regional facility;

"(ii) Requirements for the establishment of a long-term care fund to be funded by a fee placed on generators to pay for preventative or corrective measures of low-level waste to the regional facility; and

"(iii) Any further financial responsibility requirements that shall be submitted by generators, brokers, carriers and operators as deemed necessary by the host state.

"(G) Duties of Party State.

"Each party state:

"(a) Shall appropriate its portion of the Commission's initial and annual budgets as set out in Article 2(C) (2) and (3).

"(b) To the extent authorized by Federal law, shall develop and enforce procedures requiring low-level waste shipments originating within its borders and destined for a regional facility to conform to volume reduction, packaging and transportation requirements and regulations as well as any other requirements specified by the regional facility. Such procedures shall include, but are not limited to:

"(i) Periodic inspections of packaging and shipping practices;

"(ii) Periodic inspections of low-level waste containers while in custody of carriers; and

"(iii) Appropriate enforcement actions with respect to violations.

"(c) To the extent authorized by Federal law, shall, after receiving notification from a host state or other person that a person in a party state has violated volume reduction, packaging, shipping or transportation requirements or regulations, take appropriate action to ensure that violations do not recur. Appropriate action shall include, but is not limited to, the requirement that a bond be posted by the violator to pay the cost of repackaging at the regional facility and the requirement that future shipments be inspected. Appropriate action may also include suspension of the violator's use of the regional facility. Should such suspension be imposed, the suspension shall remain in effect until such time as the violator has, to the satisfaction of the party state imposing such suspension, complied with the appropriate requirements or regulations upon which the suspension was based and has taken appropriate action to ensure that such violation or violations do not recur.

"(d) Shall maintain a registry of all generators and quantities generated within the state. Records.

"(H) Liability.

"In the event of liability arising from the operation of any regional facility and during and after closure of that facility, each party state shall share in that liability in an amount equal to that state's share of the region's low-level waste disposed of at the facility. If such liability arises from negligence, malfeasance or Claims.

neglect on the part of a host state or any party state, then any other host or party state(s) may make any claim allowable under law for that negligence, malfeasance or neglect. If such liability arises from a particular waste shipment or shipments to, or quantity of waste or condition at, the regional facility, then any host or party state may make any claim allowable under law for such liability. The percentage of waste shall be based on volume of waste or total curie content.

"(I) Failure of Party State to Fulfill Obligations.

"A party state which fails to fulfill its obligations, including timely funding of the Commission, may have its privileges under the Compact suspended or its membership in the Compact revoked by the Commission and be subject to any other legal and equitable remedies available to the party states.

"Article 4

"Prohibited Acts and Penalties

"(A) Prohibition.

"It shall be unlawful for any person to dispose of low-level waste within the region except at a regional facility unless authorized by the Commission.

"(B) Waste Disposed of Within Region.

"After establishment of the regional facility(s), it shall be unlawful for any person to dispose of any low-level waste within the region unless the waste was generated within the region or unless authorized to do so both by the Commission and by law of the host state in which said disposal takes place. For the purposes of this compact, waste generated within the region excludes radioactive material shipped from outside the party states to a waste management facility within the region. In determining whether to grant such authorization, the factors to be considered by the Commission shall include, but not be limited to, the following:

Safety. Environmental protection.

"(a) The impact on the health, safety and environmental quality of the citizens of the party states;

"(b) The impact of importing waste on the available capacity and projected life of the regional facility;

"(c) The availability of a regional facility appropriate for the safe disposal of the type of low-level waste involved.

"(C) Waste Generated Within Region.

"Any and all low-level waste generated within the region shall be disposed of at a regional facility, except for specific cases agreed upon by the Commission, with the affirmative votes by a majority of the Commission members of the host state(s) affected by the decision.

"(D) Liability.

"Generators, brokers and carriers of wastes, and owners and operators of sites shall be liable for their acts, omissions, conduct or relationships in accordance with all laws relating thereto. The party states shall impose a fine for any violation in an amount equal to the present and future costs associated with correcting any harm caused by the violation and shall assess punitive fines or penalties if it is deemed necessary. In addition, the host state shall bar any person who violates host state or Federal regulations from using the regional facility until that person demonstrates to the satisfaction of the host state the ability and willingness to comply with the law.

"(E) Conflict of Interest.

"(1) Prohibitions—

"No commissioner, officer or employee shall:

"(a) Be financially interested, either directly or indirectly, in a contract, sale, purchase, lease or transfer of real or personal property to which the Commission is a party.

"(b) Solicit or accept money or any other thing of value in addition to the expenses paid to him by the Commission for services performed within the scope of his official duties.

"(c) Offer money or anything of value for or in consideration of obtaining an appointment, promotion or privilege in his employment with the Commission.

"(2) Forfeiture of Office or Employment— Employment and unemployment.

"Any officer or employee who shall willfully violate any of the provisions of this section shall forfeit his office or employment.

"(3) Agreement Void—

"Any contract or agreement knowingly made in contravention of this section is void. Contracts.

"(4) Criminal and Civil Sanctions—

"Officers and employees of the Commission shall be subject, in addition to the provisions of this section, to such criminal and civil sanctions for misconduct in office as may be imposed by Federal law and the law of the signatory state in which such misconduct occurs.

"Article 5

"Eligibility, Entry Into Effect, Congressional Consent, Withdrawal

"(A) Eligibility.

"Only the States of Pennsylvania, West Virginia, Delaware and Maryland are eligible to become parties to this compact. State listing.

"(B) Entry into Effect.

"An eligible state may become a party state by legislative enactment of this compact or by executive order of the governor adopting this compact; provided, however, a state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened thereafter, unless the legislature shall have enacted this compact before such adjournment.

"(C) Congressional Consent.

"This compact shall take effect when it has been enacted by the legislatures of Pennsylvania and one or more eligible states. However, Article 4 (B) and (C) shall not take effect until Congress has consented to this compact. Every fifth year after such consent has been given, Congress may withdraw consent. Effective date.

"(D) Withdrawal.

"A party state may withdraw from the compact by repealing the enactment of this compact, but no such withdrawal shall become effective until two years after enactment of the repealing legislation. If the withdrawing state is a host state, any regional facility in that state shall remain available to receive low-level waste generated within the region until five years after the effective date of the withdrawal.

"Article 6

"Construction and Severability

"(A) Construction.

"The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party state shall not unnecessarily be infringed.

"(B) Severability.

"If any part or application of this compact is held invalid, the remainder, or its application to other situations or persons, shall not be affected.".

Approved May 19, 1988.

LEGISLATIVE HISTORY—H.R. 3025:

HOUSE REPORTS: No. 100-322, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-285 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 13, considered and passed House.
Vol. 134 (1988): Apr. 28, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
May 19, Presidential statement.

Public Law 100-320
100th Congress

Joint Resolution

To designate the period commencing on May 15, 1988, and ending on May 21, 1988, as "National Rural Health Awareness Week".

May 19, 1988
[S.J. Res. 254]

Whereas the health of a nation depends on the health of its people;
Whereas one quarter of the population of the United States lives in rural communities;
Whereas one third of the Nation's elderly live in rural communities;
Whereas rural communities have disproportionately fewer health care providers compared to the urban population, with rural communities holding 12 percent of the Nation's doctors, 18 percent of the Nation's nurses, and 14 percent of the Nation's pharmacies;
Whereas rural areas face an acute and growing nursing shortage, with 50 percent of rural hospitals and long-term care facilities reporting difficulty in recruiting and retaining nurses;
Whereas rural areas are increasingly impacted by a lack of access to obstetric care;
Whereas the decline of the rural economy in recent years has reduced economic resources available to rural communities, leading to increased closures of hospitals and other health care facilities in rural areas, the loss or curtailing of services by local health departments, and disruption of social service programs;
Whereas the decline in availability of health care services in rural areas has, in turn, increased the shortage of physicians, nurses, psychologists, and other allied health professionals;
Whereas rural communities have few transportation services, preventing rural residents from obtaining needed health care;
Whereas the health status of rural Americans is lower than for residents of urban areas, with rural residents having higher infant and maternal mortality rates, higher rates of chronic illness, and higher rates of injury;
Whereas there are more poor and medically indigent in rural areas than in urban areas;
Whereas rural hospitals serve a higher than average number of elderly patients, resulting in a high proportion of Medicare payment as a percentage of their total revenue; and
Whereas current policies result in substantially lower Medicare payments to rural health care providers for equivalent services, further increasing the likelihood of financial failure and closure of these facilities: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing on May 15, 1988, and ending on May 21, 1988, is designated as "National Rural Health Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the above period with appropriate programs, ceremonies, and activities.

Approved May 19, 1988.

LEGISLATIVE HISTORY—S.J. Res. 254:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
May 11, considered and passed House.

Public Law 100-321
100th Congress

An Act

To amend title 38, United States Code, to provide a presumption of service connection to veterans (and survivors of such veterans) who participated in atmospheric or underwater nuclear tests as part of the United States nuclear weapons testing program or in the American occupation of Hiroshima or Nagasaki, Japan, and who suffer from certain diseases that may be attributable to exposure to ionizing radiation, and other purposes.

May 20, 1988
[H.R. 1811]

SECTION 1. SHORT TITLE.

Radiation-Exposed Veterans Compensation Act of 1988.
38 USC 101 note.

This Act may be cited as the "Radiation-Exposed Veterans Compensation Act of 1988".

SEC. 2. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN RADIATION-EXPOSED VETERANS.

(a) PRESUMPTION.—Section 312 of title 38, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) For the purposes of section 310 of this title, and subject to the provisions of section 313 of this title, a disease specified in paragraph (2) of this subsection becoming manifest in a radiation-exposed veteran to a degree of 10 percent or more within the presumption period (as specified in paragraph (3) of this subsection) shall be considered to have been incurred in or aggravated during the veteran's service on active duty, notwithstanding that there is no record of evidence of such disease during the period of such service.

"(2) The diseases referred to in paragraph (1) of this subsection are the following:

"(A) Leukemia (other than chronic lymphocytic leukemia).
"(B) Cancer of the thyroid.
"(C) Cancer of the breast.
"(D) Cancer of the pharynx.
"(E) Cancer of the esophagus.
"(F) Cancer of the stomach.
"(G) Cancer of the small intestine.
"(H) Cancer of the pancreas.
"(I) Multiple myeloma.
"(J) Lymphomas (except Hodgkin's disease).
"(K) Cancer of the bile ducts.
"(L) Cancer of the gall bladder.
"(M) Primary liver cancer (except if cirrhosis or hepatitis B is indicated).

"(3) The presumption period for purposes of paragraph (1) of this subsection is the 40-year period beginning on the last date on which the veteran participated in a radiation-risk activity, except that such period shall be the 30-year period beginning on that date in the case of leukemia (other than chronic lymphocytic leukemia).

"(4) For the purposes of this subsection:

"(A) The term 'radiation-exposed veteran' means a veteran who, while serving on active duty, participated in a radiation-risk activity.

"(B) The term 'radiation-risk activity' means any of the following:

"(i) Onsite participation in a test involving the atmospheric detonation of a nuclear device.

"(ii) The occupation of Hiroshima or Nagasaki, Japan, by United States forces during the period beginning on August 6, 1945, and ending on July 1, 1946.

"(iii) Internment as prisoner of war in Japan (or service on active duty in Japan immediately following such internment) during World War II which (as determined by the Administrator) resulted in an opportunity for exposure to ionizing radiation comparable to that of veterans described in clause (ii) of this subparagraph.".

38 USC 312 note.

(b) EFFECTIVE DATE.—Subsection (c) of section 312 of title 38, United States Code, as added by subsection (a), shall take effect on May 1, 1988.

(c) REQUIREMENTS REGARDING VETERANS' ENVIRONMENTAL HAZARDS ADVISORY COMMITTEE SCIENTIFIC COUNCIL REPORTS.—Section 6(d)(3) of the Veterans' Dioxin and Radiation Exposure Compensation Standards Act (Public Law 98-542) is amended by striking out "the Committee and the Administrator" and inserting in lieu thereof "the Committee, the Administrator, and the Committees on Veterans' Affairs of the Senate and House of Representatives".

38 USC 354 note.

Approved May 20, 1988.

LEGISLATIVE HISTORY—H.R. 1811:

HOUSE REPORTS: No. 100-235 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): July 28, considered and passed House.
Vol. 134 (1988): Apr. 25, considered and passed Senate, amended.
May 2, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
May 20, Presidential statement.

Public Law 100-322
100th Congress

An Act

To amend title 38, United States Code, to revise, improve, and extend various veterans' programs, and for other purposes.

May 20, 1988
[H.R. 2616]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Benefits and Services Act of 1988.
38 USC 101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Benefits and Services Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. References to title 38, United States Code.
Sec. 3. Definition of Administrator.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

Sec. 101. Eligibility for outpatient services.
Sec. 102. Eligibility for domiciliary care.
Sec. 103. Definition of nursing home care.
Sec. 104. Expansion of contract-care authority.
Sec. 105. Health care outside the United States for veterans with service-connected disabilities.
Sec. 106. Internment period required for eligibility for dental care for former prisoners of war.
Sec. 107. Readjustment counseling program.
Sec. 108. Beneficiary travel program.

PART B—PILOT PROGRAMS AND REPORTS

Sec. 111. Adult day health-care program.
Sec. 112. Report on use of contract-care authorities.
Sec. 113. Pilot program of mobile health-care clinics.
Sec. 114. Modification of report on care furnished to veterans having chronic mental illness disabilities.
Sec. 115. Pilot program of community-based residential care for homeless chronically mentally ill and other veterans.
Sec. 116. Reports on assistance to homeless veterans.

PART C—MATTERS RELATING TO AIDS

Sec. 121. Confidentiality of medical records.
Sec. 122. Nondiscrimination.
Sec. 123. Information and training concerning AIDS prevention.
Sec. 124. Restriction on testing for infection with the human immunodeficiency virus.

PART D—OTHER MATTERS

Sec. 131. Definition of Veterans' Administration medical facilities to include certain recreational facilities.
Sec. 132. Veterans' Administration assistance with rehabilitation activities.
Sec. 133. Rules and regulations relating to Veterans' Administration health care.
Sec. 134. Per diem rates for care in State homes.
Sec. 135. Medical research.
Sec. 136. Conversion of underused space to domiciliary care beds.

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

PART A—ADMINISTRATION

Sec. 201. Health-care quality assurance activities.
Sec. 202. Hospital cost collections.
Sec. 203. Tort claims.
Sec. 204. Nonprofit research corporations.
Sec. 205. Nursing home revolving fund.
Sec. 206. State home construction grants.

PART B—PAY AND OTHER PERSONNEL BENEFITS

Sec. 211. Additional pay authorities for nurses to be available for pharmacists and occupational therapists.
Sec. 212. Recruitment and retention bonus pay.
Sec. 213. On-call pay.
Sec. 214. Premium pay for Saturday work.
Sec. 215. Report on effect of certain pay and benefits amendments.
Sec. 216. Health Professionals Educational Assistance Program.
Sec. 217. Pay scales and awards for Department of Medicine and Surgery employees.

PART C—PERSONNEL ADMINISTRATION

Sec. 221. Disciplinary matters as to certain appointees.
Sec. 222. Personnel ceilings for noncareer research personnel.
Sec. 223. Authority to waive licensure and internship requirements for certain health-care personnel.
Sec. 224. Nurse representation on policymaking committees.

PART D—REPORTS

Sec. 231. Study of pay and other personnel management practices.
Sec. 232. Report on certain activities relating to training in geriatrics of medical and other health-professional schools affiliated with the Veterans' Administration.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

Sec. 301. Specially adapted housing assistance.
Sec. 302. Automobile assistance allowance.
Sec. 303. Burial benefit for service-connected deaths.
Sec. 304. Effective date.

PART B—COMPENSATION-RELATED PROVISIONS

Sec. 311. Definition of former prisoner of war.
Sec. 312. Presumption of service connection for certain disabilities for former prisoners of war.
Sec. 313. Presumption of service connection for lupus.
Sec. 314. Reinstated entitlement for certain survivors.

PART C—EDUCATION PROVISIONS

Sec. 321. Measurement of laboratory instruction.
Sec. 322. Authority to waive compliance surveys.
Sec. 323. Effective date of awards under the post-Vietnam era veterans' education assistance program.

PART D—INSURANCE PROVISIONS

Sec. 331. Authority for annuity adjustments.
Sec. 332. Exemptions from State taxation.
Sec. 333. Direct administration of veterans' mortgage life insurance.

PART E—MEMORIAL AFFAIRS

Sec. 341. National cemetery grave markers.
Sec. 342. Contributions for certain projects.
Sec. 343. State veterans' cemetery construction grants.
Sec. 344. Grave liners.
Sec. 345. American Battle Monuments Commission foreign currency fluctuations.
Sec. 346. Transfer of the Arizona Veterans Memorial Cemetery to the Veterans' Administration.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

Sec. 401. Integrity of contracting out process at health-care facilities.
Sec. 402. Standardization of medical and pharmaceutical items.
Sec. 403. Requirements for the procurement of health-care items.
Sec. 404. Multiyear procurement of certain medical items.

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

Sec. 411. Sequestration rules applicable to veterans' programs.
Sec. 412. Child-care services at Veterans' Administration facilities.
Sec. 413. Advisory Committee on Native-American Veterans.
Sec. 414. Management of canteen service.
Sec. 415. Technical amendments to chapter 37.

PART C—REAL PROPERTY

Sec. 421. Limitation on transfer of property to other agencies.
Sec. 422. Congressional procedures for approval of medical facility acquisition and construction.
Sec. 423. Use of former hospital in Minot, North Dakota.
Sec. 424. Naming of Veterans' Administration Medical Center in Shreveport, Louisiana.

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 3. DEFINITION OF ADMINISTRATOR. 38 USC 101 note.

For purposes of this Act, the term "Administrator" means the Administrator of Veterans' Affairs.

TITLE I—HEALTH-CARE PROGRAMS

PART A—BENEFITS

SEC. 101. ELIGIBILITY FOR OUTPATIENT SERVICES.

(a) CERTAIN VETERANS WITH SERVICE-CONNECTED DISABILITIES.—Paragraph (1) of section 612(a) is amended—

(1) in the matter preceding clause (A), by striking out "may furnish" and inserting in lieu thereof "shall furnish on an ambulatory or outpatient basis";

(2) by striking out "and" at the end of clause (A);

(3) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(4) by adding at the end the following new clause:

"(C) to any veteran for a disability for which the veteran is in receipt of compensation under section 351 of this title or for which the veteran would be entitled to compensation under that section but for a suspension pursuant to that section (but in the case of such a suspension, such medical services may be furnished only to the extent that such person's continuing eligibility for medical services is provided for in the judgment or settlement described in that section).".

(b) OTHER VETERANS.—Section 612(a) is further amended—

(1) by striking out paragraph (2);

(2) by redesignating paragraph (3) as paragraph (6); and

(3) by inserting after paragraph (1) the following:

"(2) The Administrator shall furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection—

"(A) to any veteran who has a service-connected disability rated at 30 percent or 40 percent; and

"(B) to any veteran who is eligible for hospital care under section 610(a) of this title and whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

"(3) The Administrator may furnish on an ambulatory or outpatient basis medical services which the Administrator determines are needed—

"(A) to any veteran who is a former prisoner of war;

"(B) to any veteran of the Mexican border period or of World War I; and

"(C) to any veteran who is in receipt of increased pension or additional compensation or allowances based on the need of regular aid and attendance or by reason of being permanently housebound (or who, but for the receipt of retired pay, would be in receipt of such pension, compensation, or allowance).

"(4) Subject to subsection (f) of this section, the Administrator may furnish on an ambulatory or outpatient basis medical services for a purpose described in paragraph (5) of this subsection to any veteran who is eligible for hospital care under section 610 of this title and who is not otherwise eligible for such services under this subsection.

"(5)(A) Medical services for a purpose described in this paragraph are medical services reasonably necessary in preparation for hospital admission or to obviate the need of hospital admission. In the case of a veteran described in paragraph (4) of this subsection, services to obviate the need of hospital admission may be furnished only to the extent that facilities are available.

"(B) In the case of a veteran who has been furnished hospital care, nursing home care, or domiciliary care, medical services for a purpose described in this paragraph include medical services reasonably necessary to complete treatment incident to such care. Such medical services may not be provided for a period in excess of 12 months after discharge from such care. However, the Administrator may authorize a longer period in any case if the Administrator finds that a longer period is required by reason of the disability being treated.".

(c) PRIORITY FOR OUTPATIENT SERVICES.—Section 612(i) is amended by striking out paragraphs (1) through (6) and inserting in lieu thereof the following:

"(1) To a veteran who is entitled to such services under paragraph (1) or (2) of subsection (a) of this section.

"(2) To a veteran (A) who has a service-connected disability rated at less than 30-percent disabling, or (B) who is being examined to determine the existence or severity of a service-connected disability.

"(3) To a veteran (A) who is a former prisoner of war, or (B) who is eligible for hospital care under section 610(e) of this title.

"(4) To a veteran eligible for medical services under subsection (a)(3)(B) or (a)(3)(C) of this section.

"(5) To a veteran not covered by paragraphs (1) through (4) of this subsection who is unable to defray the expenses of nec-

essary care as determined under section 622(a)(1)(C) of this title.".

(d) HOME HEALTH SERVICES.—(1) Section 617 is amended—

(A) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively; and

(B) by inserting after the section heading the following new subsection (a):

"(a)(1) As part of medical services furnished to a veteran under section 612(a) of this title, the Administrator may furnish such home health services as the Administrator finds to be necessary or appropriate for the effective and economical treatment of the veteran's disability.

"(2) Improvements and structural alterations may be furnished as part of such home health services only as necessary to assure the continuation of treatment for the veteran's disability or to provide access to the home or to essential lavatory and sanitary facilities. The cost of such improvements and structural alterations (or the amount of reimbursement therefor) under this subsection may not exceed—

"(A) $2,500 in the case of medical services furnished under paragraph (1) of section 612(a) of this title; or

"(B) $600 in the case of medical services furnished under any other provision of section 612 of this title.".

(2) Subsection (k) of section 612 is transferred to section 617 (as amended by paragraph (1)), inserted at the end of subsection (a) (as added by paragraph (1)), and redesignated as paragraph (3).

(3) The heading of section 617 is amended to read as follows:

"§ 617. Home health services; invalid lifts and other devices".

(e) CONFORMING AMENDMENTS.—(1) Section 612(f) is amended—

(A) by striking out paragraphs (1), (2), and (3);

(B) by striking out "(4)(A) The Administrator may not furnish medical services under this subsection (including home health services under paragraph (2) of this subsection)" and inserting in lieu thereof "(1) The Administrator may not furnish medical services under subsection (a) of this section (including home health services under section 617 of this title)";

(C) by striking out "subparagraph (B) of this paragraph" and inserting in lieu thereof "paragraph (2) of this subsection";

(D) by redesignating subparagraphs (B) through (G) as paragraphs (2) through (7), respectively;

(E) by striking out "this paragraph" each place it appears in such paragraphs and inserting in lieu thereof "this subsection";

(F) in paragraph (2) (as so redesignated), by striking out "this subsection and who is required under subparagraph (A)" and inserting in lieu thereof "subsection (a) of this section and who is required under paragraph (1)";

(G) in paragraph (3) (as so redesignated), by striking out "furnished under this subsection" and inserting in lieu thereof "furnished under subsection (a) of this section"; and

(H) in paragraph (5) (as so redesignated), by striking out "under this subsection" and inserting in lieu thereof "under section 617 of this title".

(2) Section 612 is further amended—

(A) in the first sentence of subsection (b)(4), by striking out "subsections (a) and (f) of this section" and inserting in lieu

thereof "subsection (a) of this section (other than paragraphs (3)(B) and (3)(C) of that subsection)"; and

(B) by striking out subsection (g).

(3) Section 603(a)(2) is amended—

(A) in clause (B), by striking out "section 612(f)(1)(A)(ii) of this title" and inserting in lieu thereof "section 612(a)(4) of this title, for a purpose described in section 612(a)(5) of this title"; and

(B) in clause (C), by striking out "section 612(g)" and inserting in lieu thereof "section 612(a)(3) (other than a veteran who is a former prisoner of war)".

(f) TECHNICAL AMENDMENTS.—Section 612(b)(1)(B) is amended—

(1) in clause (i), by striking out "at time of" and inserting in lieu thereof "at the time of the veteran's";

(2) in clause (ii), by striking out "one hundred and eighty days" and inserting in lieu thereof "180 days";

(3) in clause (iii), by striking out "ninety days" each place it appears and inserting in lieu thereof "90 days"; and

(4) in clause (iv), by striking out "ninety-day" and inserting in lieu thereof "90-day".

(g) REPEAL OF DATED PROVISIONS; GRANDFATHER PROVISION.—(1) Section 612 is amended—

(A) in subsection (b)(1), by striking out subparagraph (F) and redesignating subparagraphs (G) and (H) as subparagraphs (F) and (G), respectively; and

(B) by striking out subsection (e).

38 USC 612 note.

(2) Any disability of a veteran of the Spanish-American War, upon application for outpatient medical services under section 612 or 624 of title 38, United States Code, shall be considered for the purposes thereof to be a service-connected disabilty and, for the purposes of section 612(b) of such title, to be compensable in degree.

(h) CLERICAL AMENDMENTS.—(1) The heading of section 612 is amended to read as follows:

"§ 612. Eligibility for outpatient services".

(2) The table of sections at the beginning of chapter 17 is amended—

(A) by striking out the item relating to section 612 and inserting in lieu thereof the following:

"612. Eligibility for outpatient services.";

and

(B) by striking out the item relating to section 617 and inserting in lieu thereof the following:

"617. Home health services; invalid lifts and other devices.".

38 USC 603 note.

(i) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to the furnishing of medical services to veterans who apply for such services after June 30, 1988.

SEC. 102. ELIGIBILITY FOR DOMICILIARY CARE.

(a) REVISED ELIGIBILITY.—Subsection (b) of section 610 is amended to read as follows:

"(b)(1) The Administrator may furnish to a veteran described in paragraph (2) of this subsection such domiciliary care as the Administrator determines is needed for the purpose of the furnishing of medical services to the veteran.

"(2) This subsection applies in the case of the following veterans:

"(A) Any veteran whose annual income (as determined under section 503 of this title) does not exceed the maximum annual

rate of pension that would be applicable to the veteran if the veteran were eligible for pension under section 521(d) of this title.

"(B) Any veteran who the Administrator determines has no adequate means of support.".

(b) CONFORMING AMENDMENT.—Section 622(g) is amended by striking out "sections 610(b)(2) and" and inserting in lieu thereof "section".

(c) SAVINGS PROVISION.—The amendment made by subsection (a) shall not limit or restrict the eligibility for domiciliary care of a veteran who was a patient or a resident in a State home facility or a Veterans' Administration domiciliary facility during the period beginning on January 1, 1987, and ending on April 1, 1988. 38 USC 610 note.

SEC. 103. DEFINITION OF NURSING HOME CARE.

(a) CLARIFICATION OF DEFINITION.—Section 101(28) is amended—

(1) by striking out "skilled" in the first sentence; and

(2) by striking out the second sentence and inserting in lieu thereof the following: "Such term includes services furnished in skilled nursing care facilities, in intermediate care facilities, and in combined facilities. It does not include domiciliary care.".

(b) CONFORMING AMENDMENTS.—Section 620(e)(1) is amended—

(1) by striking out the first sentence; and

(2) by striking out "(as defined in section 101(28) of this title)".

SEC. 104. EXPANSION OF CONTRACT-CARE AUTHORITY.

(a) ADDITIONAL COVERED SERVICES.—Section 603(a) is amended—

(1) in clause (3), by inserting "or nursing home care under section 620 of this title" after "Veterans' Administration facility" the first place it appears; and

(2) by adding at the end the following new paragraph:

"(8) Diagnostic services (on an inpatient or outpatient basis) for observation or examination of a person to determine eligibility for a benefit or service under laws administered by the Veterans' Administration.".

(b) STYLISTIC AMENDMENTS.—Section 603(a) is further amended—

(1) in the matter preceding clause (1), by striking out "furnish—" and inserting in lieu thereof "furnish any of the following:";

(2) in each of clauses (1) through (7), by capitalizing the first letter of the first word;

(3) at the end of each of clauses (1) through (5), by striking out the semicolon and inserting in lieu thereof a period; and

(4) at the end of clause (6), by striking out "; or" and inserting in lieu thereof a period.

SEC. 105. HEALTH CARE OUTSIDE THE UNITED STATES FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES.

Section 624(b) is amended to read as follows:

"(b)(1) The Administrator may furnish hospital care and medical services outside a State to a veteran who is otherwise eligible to receive hospital care and medical services if the Administrator determines that such care and services are needed for the treatment of a service-connected disability of the veteran or as part of a rehabilitation program under chapter 31 of this title.

"(2) Care and services for a service-connected disability of a veteran who is not a citizen of the United States may be furnished under this subsection only—

"(A) if the veteran is in the Republic of the Philippines or in Canada; or

"(B) if the Administrator determines, as a matter of discretion and pursuant to regulations which the Administrator shall prescribe, that it is appropriate and feasible to furnish such care and services.".

SEC. 106. INTERNMENT PERIOD REQUIRED FOR ELIGIBILITY FOR DENTAL CARE FOR FORMER PRISONERS OF WAR.

Section 612(b)(1)(F) (as redesignated by section 101(g)(1)) is amended by striking out "six months" and inserting in lieu thereof "90 days".

SEC. 107. READJUSTMENT COUNSELING PROGRAM.

(a) REPEAL OF TRANSITION REQUIREMENT.—Subsection (g)(1) of section 612A is amended to read as follows:

"(g)(1)(A) The Administrator may close or relocate a center in existence on January 1, 1988, only as described in the national plan required by paragraph (3) of this subsection (or in a revision to such plan under paragraph (4) of this subsection in which the closure or relocation of that center is proposed).

"(B) A closure or relocation of a center which is proposed in such national plan may be carried out only after the end of the 120-day period beginning on the date on which the national plan is submitted. A closure or relocation of a center not proposed in such plan may be carried out only after the end of the 60-day period beginning on the date the Administrator submits a revision to such plan in which the closure or relocation of that center is proposed.".

(b) CHANGE IN REPORT DEADLINE.—Paragraph (2)(A) of section 612A(g) is amended—

(1) by striking out "April 1, 1987" and inserting in lieu thereof "April 1, 1988"; and

(2) by striking out "(or" and all that follows through "available)".

(c) REQUIREMENT FOR A NATIONAL PLAN.—Section 612A(g) is further amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

Reports.

"(3)(A) The Administrator, after considering the recommendations of the Chief Medical Director, shall submit to such committees a report setting forth a national plan for all centers in existence on January 1, 1988. Such national plan shall set forth the Administrator's proposals as to each such center for a period (to be determined by the Administrator) of not less than 12 months beginning on the date of the submission of the report. The plan shall include, as to each center, whether the Administrator proposes to relocate the center to a general Veterans' Administration facility, relocate the center to a new location away from a general Veterans' Administration facility, expand the center in the same location, or close the center. The plan shall also set forth any proposal of the Administrator to open additional centers.

"(B) The plan shall include the Administrator's evaluation as to how, in light of each of the criteria described in subparagraph (C) of this paragraph, the proposal set forth in the plan for each center covered by the plan would ensure the continued availability and

effective furnishing of readjustment counseling services to eligible veterans needing such services in the geographic area served by that center.

"(C) The Administrator shall make the evaluation described in subparagraph (B) of this paragraph with respect to any center in light of the following:

"(i) The distribution of Vietnam-era veterans in the geographic area served by the center and the relationships between the location of such center and the general Veterans' Administration facility and such distribution.

"(ii) The distance between the center and the general Veterans' Administration facility.

"(iii) The availability of other entities (such as State, local, or private outreach facilities) which provide assistance to Vietnam-era veterans in the area served by the center.

"(iv) The availability of transportation to, and parking at, the center and the general Veterans' Administration facility.

"(v) The availability, cost, and suitability of the space at the general Veterans' Administration facility.

"(vi) The overall cost impact of the proposed closure or relocation, including a comparison of the recurring nonpersonnel costs of providing readjustment counseling to the same estimated number of veterans at the center and the general Veterans' Administration facility.

"(vii) The workload trends over the two previous fiscal years, and projected over the next fiscal year (or longer), at the center.

"(viii) Such other factors as the Administrator determines to be relevant to making the evaluation described in subparagraph (B) of this paragraph.

"(D) For the purposes of this paragraph, the term 'general Veterans' Administration facility' means a Veterans' Administration facility which is not a center and at which readjustment counseling would be furnished in a particular geographic area upon the closure or relocation of a center.

"(4) After submitting the plan required by paragraph (3) of this subsection, the Administrator may submit to the committees a revision to such plan in order to modify the proposal set forth in the plan as to any center. Any such revision shall include, with respect to each center addressed in the revision, a description of the Administrator's evaluation of the matters specified in paragraphs (3)(B) and (3)(C) of this subsection.

"(5) For purposes of determining a period of time under paragraph (1)(B) of this subsection, if the national plan (or a revision to the national plan) is submitted to the committees during the 121-day period beginning 60 days before and ending 60 days after the final day of a session of the Congress, it shall be deemed to have been submitted on the sixty-first day after the final day of such session.".

(d) DEFINITIONS.—Section 612A is further amended by adding at the end the following new subsection:

"(i) For the purposes of this section:

"(1) The term 'center' means a facility (including a Resource Center designated under subsection (h)(3)(A) of this section) which is operated by the Veterans' Administration for the provision of services under this section and which (A) is situated apart from Veterans' Administration general health-care facilities, or (B) was so situated but has been relocated to a Veterans' Administration general health-care facility.

"(2) The term 'Veterans' Administration general health-care facility' means a health-care facility which is operated by the Veterans' Administration for the furnishing of health-care services under this chapter, not limited to services provided through the program established under this section.".

(e) CONFORMING AMENDMENTS.—(1) Subsection (g)(2)(B) of section 612A is amended—

(A) in clause (i), by striking out "a program" and all that follows through "health-care facilities" and inserting in lieu thereof "centers"; and

(B) in clause (ii), by striking out "paragraph (1) of".

(2) Subsection (h) of such section is amended—

(A) in paragraph (3)(B), by striking out " 'Centers' " and inserting in lieu thereof " 'Resource Centers' "; and

(B) in paragraphs (4)(A), (4)(B), and (5), by striking out "Center" and inserting in lieu thereof "Resource Center".

38 USC 612A note.

(f) PROHIBITION OF DELEGATION OF DUTIES.—The Chief Medical Director of the Veterans' Administration may not delegate the function of making recommendations under section 612A(g)(3)(A) of title 38, United States Code, as amended by subsection (c).

SEC. 108. BENEFICIARY TRAVEL PROGRAM.

(a) PROGRAM REVISIONS.—Section 111 is amended—

(1) by redesignating subsections (b), (c), (d), and (e) as subsections (d), (e), (f), and (g), respectively; and

(2) by inserting after subsection (a) the following new subsections (b) and (c):

"(b)(1) Except as provided in subsection (c) of this section and notwithstanding subsection (g)(2)(A) of this section or any other provision of law, if, with respect to any fiscal year, the Administrator exercises the authority under this section to make any payments, the Administrator shall make the payments provided for in this section to or for the following persons for travel during such fiscal year for examination, treatment, or care for which the person is eligible:

"(A) A veteran or other person whose travel is in connection with treatment or care for a service-connected disability.

"(B) A veteran with a service-connected disability rated at 30 percent or more.

"(C) A veteran receiving pension under section 521 of this title.

"(D) A veteran (i) whose annual income (as determined under section 503 of this title) does not exceed the maximum annual rate of pension which would be payable to such veteran if such veteran were eligible for pension under section 521 of this title, or (ii) who is determined, under regulations prescribed by the Administrator, to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(E) Subject to paragraph (3) of this subsection, a veteran or other person whose travel to or from a Veterans' Administration facility is medically required to be performed by a special mode of travel and who is determined under such regulations to be unable to defray the expenses of the travel for which payment under this section is claimed.

"(F) A veteran whose travel to a Veterans' Administration facility is incident to a scheduled compensation and pension examination.

"(2) The Administrator may make payments provided for in this section to or for any person not covered by paragraph (1) of this subsection for travel by such person for examination, treatment, or care. Such payments shall be made in accordance with regulations which the Administrator shall prescribe.

"(3)(A) Except as provided in subparagraph (B) of this paragraph, the Administrator shall not make payments under this section for travel performed by a special mode of travel unless (i) the travel by such mode is medically required and is authorized by the Administrator before the travel begins, or (ii) the travel by such mode is in connection with a medical emergency of such a nature that the delay incident to obtaining authorization from the Administrator to use that mode of travel would have been hazardous to the person's life or health.

"(B) In the case of travel by a person to or from the Veteran's Administration facility by special mode of travel, the Administrator may provide payment under this section to the provider of the transportation by special mode before determining the eligibility of such person for such payment if the Administrator determines that providing such payment is in the best interest of furnishing care and services. Such a payment shall be made subject to subsequently recovering from such person the amount of the payment if such person is determined to have been ineligible for payment for such travel.

"(c)(1) Except as otherwise provided in this subsection, the Administrator, in making a payment under this section to or for a person described in subparagraph (A), (B), (C), or (D) of subsection (b)(1) of this section for travel for examination, treatment, or care, shall deduct from the amount otherwise payable an amount equal to $3 for each one-way trip.

"(2) In the case of a person who is determined by the Administrator to be a person who is required to make six or more one-way trips for needed examination, treatment, or care during the remainder of the calendar month in which the determination is made or during any subsequent calendar month during the one-year period following the last day of the month in which the determination is made, the amount deducted by the Administrator pursuant to paragraph (1) of this subsection from payments for trips made to or from such facility during any such month shall not, except as provided in paragraph (5) of this subsection, exceed $18.

"(3) No deduction shall be made pursuant to paragraph (1) of this subsection in the case of a person whose travel to or from a Veterans' Administration facility is performed by a special mode of travel for which payment under this section is authorized under subsection (b)(3) of this section.

"(4) The Administrator may waive the deduction requirement of paragraph (1) of this subsection in the case of the travel of any veteran for whom the imposition of the deduction would cause severe financial hardship. The Administrator shall prescribe in regulations the conditions under which a finding of severe financial hardship is warranted for purposes of this paragraph. Regulations.

"(5) Whenever the Administrator increases or decreases the rates of allowances or reimbursement to be paid under this section, the Administrator shall, effective on the date on which such increase or decrease takes effect, adjust proportionately the dollar amounts specified in paragraphs (1) and (2) of this subsection as such amounts

may have been increased or decreased pursuant to this paragraph before such date.".

(b) VOLUNTEER TRANSPORTATION.—(1) Such section is further amended by adding at the end the following new subsection:

"(h) The Administrator, in consultation and coordination with the Secretary of Transportation and appropriate representatives of veterans' service organizations, shall take all appropriate steps to facilitate the establishment and maintenance of a program under which such organizations, or individuals who are volunteering their services to the Veterans' Administration, would take responsibility for the transportation, without reimbursement from the Veterans' Administration, to Veterans' Administration facilities of veterans (primarily those residing in areas which are geographically accessible to such facilities) who seek services or benefits from the Veterans' Administration under chapter 17 or other provisions of this title.".

Reports. (2) Not later than six months after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the implementation of subsection (h) of section 111 of title 38, United States Code, as added by paragraph (1).

(c) CONFORMING AMENDMENTS.—Paragraph (4) of subsection (g) of such section (as redesignated by subsection (a)(1)) is amended—

(1) by inserting "or adjusting amounts" after "rates" the first place it appears; and

(2) by inserting "and amounts" after "rates" the third place it appears.

(d) STYLISTIC AMENDMENTS.—Subsection (d) of such section (as redesignated by subsection (a)(1)) is amended—

(1) in paragraph (1)—

(A) by striking out "the" and inserting in lieu thereof "The"; and

(B) by striking out "hereof;" and inserting in lieu thereof "of this section.";

(2) in paragraph (2)—

(A) by striking out "actual" and inserting in lieu thereof "Actual"; and

(B) by striking out the semicolon at the end and inserting in lieu thereof a period; and

(3) in paragraph (3), by striking out "the expense" and inserting in lieu thereof "The expense".

(e) CLERICAL AMENDMENTS.—(1) The heading of section 111 is amended to read as follows:

"§ 111. Payments or allowances for beneficiary travel".

(2) The item relating to such section in the table of sections at the beginning of chapter 1 is amended to read as follows:

"111. Payments or allowances for beneficiary travel.".

38 USC 111 note. (f) TRANSITION PROVISION.—In determining for the purposes of subsection (b)(1) of section 111 of title 38, United States Code, as amended by subsection (a), whether during fiscal year 1988 the Administrator has exercised the authority under that section to make payments there shall be disregarded any exercise of authority under that section before the date of the enactment of this Act.

(g) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect with respect to travel performed after June 30, 1988.

PART B—PILOT PROGRAMS AND REPORTS

SEC. 111. ADULT DAY HEALTH-CARE PROGRAM.

(a) THREE-YEAR EXTENSION.—Section 620(f)(3) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

(b) STUDY REQUIREMENT.—The Administrator shall conduct a study of— 38 USC 620 note.

(1) the medical efficacy and the cost-effectiveness of furnishing adult day health care under section 620(f) of title 38, United States Code, as an alternative to nursing home care; and

(2) the comparative advantages and disadvantages of providing such care through facilities that are not under the direct jurisdiction of the Administrator and through facilities that are under the direct jurisdiction of the Administrator.

(c) REPORTS.—(1) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives—

(A) an interim report on the study under subsection (b) not later than February 1, 1988; and

(B) a final report on such study not later than February 1, 1991.

(2) Each such report shall include—

(A) the results of the study under subsection (b) through September 30 of the year preceding the deadline under paragraph (1) for submission of the report; and

(B) any other recommendation that the Administrator considers appropriate for legislative or administrative action with respect to the furnishing of adult day health care under section 620(f) of title 38, United States Code.

(d) REPEAL OF EXISTING STUDY AND REPORT REQUIREMENTS.—Subsections (b) and (c) of section 103 of Public Law 98-160 (38 U.S.C. 620 note) are repealed.

SEC. 112. REPORT ON USE OF CONTRACT-CARE AUTHORITIES.

(a) REVISED REPORT REQUIREMENT.—Section 603 is amended by adding at the end the following new subsection:

"(c) The Administrator shall include in the budget documents which the Administrator submits to Congress for any fiscal year a detailed report on the furnishing of contract care and services during the most recently completed fiscal year under this section, sections 612A, 620, 620A, 624, and 632 of this title, and section 115 of the Veterans' Benefits and Services Act of 1988.".

(b) REPEAL OF PREVIOUS REQUIREMENT.—Section 201(b) of the Veterans' Health Care Amendments of 1979 (Public Law 96-22; 93 Stat. 54) is repealed. 38 USC 601 note.

SEC. 113. PILOT PROGRAM OF MOBILE HEALTH-CARE CLINICS. 38 USC 612 note.

(a) PROGRAM.—(1) In order to evaluate the desirability of using mobile health-care clinics to increase the access to Veterans' Administration health-care services of veterans who reside in isolated rural areas, the Administrator may conduct a pilot program under which eligible veterans residing in areas which are at least Rural areas.

100 miles from the nearest Veterans' Administration health-care facility are furnished health-care services at a location convenient to their residences by Veterans' Administration employees furnishing such services through the use of appropriately equipped mobile health-care clinics. The pilot program shall be conducted for a period of not less than 24 months.

(2) The pilot program authorized by paragraph (1) shall be carried out using at least two mobile health-care clinics in each of the following geographic areas of the United States: the Northeast, the Midwest, the South, and the West.

Appropriation authorization.

(b) FUNDING.—There is authorized to be appropriated $5,000,000 for each of fiscal years 1989 and 1990 in order to carry out this section. No funds may be used for the pilot program unless specifically appropriated for that purpose.

(c) EVALUATION.—In carrying out the pilot program, the Administrator shall evaluate the efficacy and cost-effectiveness of furnishing care to eligible veterans through the use of mobile health-care clinics.

(d) REPORTS.—Not later than 20 months after the first health-care service under the pilot program is furnished, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an interim report on the implementation, operation, and results of the first 17 months' experience under the pilot program. Not later than 27 months after the beginning of the pilot program, the Administrator shall submit to such committees a final such report. Each such report shall include the following:

(1) Information on the health-care services that were furnished under such pilot program and a detailed specification of the costs of furnishing such services.

(2) Information describing the veterans who were furnished services under the pilot program, including a detailed description with respect to service connection, age, prior access to and use of Veterans' Administration care and services, and the financial need of such veterans.

(3) The preliminary or final results of the Administrator's evaluation.

(4) Any plans for administrative action, and any recommendations for legislation, that the Administrator considers appropriate to include in the report.

38 USC 612 note.

SEC. 114. MODIFICATION OF REPORT ON CARE FURNISHED TO VETERANS HAVING CHRONIC MENTAL ILLNESS DISABILITIES.

(a) REPORT ON INSTITUTIONAL CARE FURNISHED MENTALLY ILL VETERANS.—The report required by section 235 of the Veterans' Benefits Improvement and Health Care Authorization Act of 1986 (Public Law 99-576; 100 Stat. 3266) shall, to the extent feasible, include (1) information on the number of veterans being treated by the Veterans' Administration for mental illness disabilities who were furnished hospital, domiciliary, or nursing home care by the Administrator during each of fiscal years 1986, 1987, and 1988, shown by type of care furnished and the duration of such care, and (2) the Administrator's analysis of any change in the numbers of veterans being furnished any type of such care during such fiscal years, with particular emphasis on the effect of the implementation by the Veterans' Administration of a resource allocation methodology.

(b) DEADLINE FOR SUBMISSION OF REPORT.—Notwithstanding the date specified in subsection (c) of such section, the report required by such section shall be submitted not later than December 15, 1988.

SEC. 115. PILOT PROGRAM OF COMMUNITY-BASED RESIDENTIAL CARE FOR HOMELESS CHRONICALLY MENTALLY ILL AND OTHER VETERANS. 38 USC 612 note.

(a) AUTHORITY FOR PROGRAM.—(1) The Administrator shall conduct a pilot program to provide care and treatment and rehabilitative services (directly or by contract) in halfway houses, therapeutic communities, psychiatric residential treatment centers, and other community-based treatment facilities to homeless veterans suffering from chronic mental illness disabilities who are eligible for care under section 610(a)(1) of title 38, United States Code.

(2) As part of the pilot program, the Administrator may also provide such care and treatment and rehabilitative services—

(A) to veterans being furnished hospital or nursing home care by the Administrator for a chronic mental illness disability; and

(B) to veterans with service-connected chronic mental illness disabilities.

(b) CRITERIA FOR FACILITIES.—Before furnishing care and treatment and rehabilitative services by contract under subsection (a) to a veteran through a facility described in subsection (a), the Administrator shall approve (in accordance with criteria which the Administrator shall prescribe) the quality and effectiveness of the program operated by such facility for the purpose for which such veteran is to be furnished such care and services.

(c) IN-KIND ASSISTANCE.—The Administrator may provide in-kind assistance (through the services of Veterans' Administration employees and the sharing of other Veterans' Administration resources) to a facility described in subsection (a) under this section. Any such in-kind assistance shall be provided under a contract between the Veterans' Administration and the contract facility. The Administrator may provide such assistance only for use solely in the furnishing of appropriate care and services under this section and only if, under such contract, the Veterans' Administration receives reimbursement for the full cost of such assistance, including the cost of services and supplies and normal depreciation and amortization of equipment. Such reimbursement may be made by reduction in the charges to the United States or by payment to the United States. Any funds received through such reimbursement shall be credited to funds allotted to the Veterans' Administration facility that provided the assistance. Contracts.

(d) DURATION OF PROGRAM.—The authority for the pilot program authorized by this section expires on September 30, 1989. Termination date.

(e) REPORT.—Not later than February 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the experience of the Veterans' Administration under the pilot program through September 30, 1988, and the recommendation of the Administrator (together with the reasons for such recommendation) as to whether the pilot program should be continued.

(f) FUNDING.—(1) There is authorized to be appropriated for the pilot program under this section $6,000,000 for each of fiscal years 1988 and 1989. Appropriation authorization.

(2) Of the amounts appropriated for the pilot program for each such fiscal year, not less than $250,000 shall be expended for

management and monitoring of the program to ensure that a high quality of care is provided under the program and to ensure an accurate accounting of funds for the program.

(3) During fiscal year 1989, funds may not be obligated for the pilot program under this section other than funds specifically appropriated for that program.

(g) REPEAL OF CONTRACT AUTHORITY IN TITLE 38.—(1) Section 620C is repealed.

(2) The table of sections at the beginning of chapter 17 is amended by striking out the item relating to that section.

38 USC 214 note.

SEC. 116. REPORTS ON ASSISTANCE TO HOMELESS VETERANS.

Not later than December 15 of each of 1988, 1989, and 1990, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the activities (including outreach activities and delivery of medical benefits and other benefits) of the Veterans' Administration during the preceding fiscal year to assist homeless veterans. The report shall include any suggestions of the Administrator for changes in those activities.

PART C—MATTERS RELATING TO AIDS

SEC. 121. CONFIDENTIALITY OF MEDICAL RECORDS.

(a) GENERAL RULE.—Subsection (a) of section 4132 is amended—

(1) by inserting "(1)" before "Records";

(2) by inserting "infection with the human immunodeficiency virus," after "alcohol abuse,"; and

(3) by adding at the end the following new paragraph:

"(2) Paragraph (1) of this subsection prohibits the disclosure to any person or entity other than the patient or subject concerned of the fact that a special written consent is required in order for such records to be disclosed.".

(b) PUBLIC HEALTH EXCEPTION.—Subsection (b) of such section is amended—

(1) in paragraph (1), by striking out "pursuant to section 4134 of this title"; and

(2) in paragraph (2)—

(A) by redesignating subparagraph (C) as subparagraph (D); and

(B) by inserting after subparagraph (B) the following new subparagraph (C):

State and local governments.

"(C)(i) In the case of any record which is maintained in connection with the performance of any program or activity relating to infection with the human immunodeficiency virus, to a Federal, State, or local public-health authority, charged under Federal or State law with the protection of the public health, and to which Federal or State law requires disclosure of such record, if a qualified representative of such authority has made a written request that such record be provided as required pursuant to such law for a purpose authorized by such law.

"(ii) A person to whom a record is disclosed under this paragraph may not redisclose or use such record for a purpose other than that for which the disclosure was made.".

(c) DISCLOSURE TO SPOUSE OR SEXUAL PARTNER.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f)(1) Notwithstanding subsection (a) of this section but subject to paragraph (2) of this subsection, a physician or a professional counselor may disclose information or records indicating that a patient or subject is infected with the human immunodeficiency virus if the disclosure is made to (A) the spouse of the patient or subject, or (B) to an individual whom the patient or subject has, during the process of professional counseling or of testing to determine whether the patient or subject is infected with such virus, identified as being a sexual partner of such patient or subject. Health care professionals.

"(2)(A) A disclosure under paragraph (1) of this subsection may be made only if the physician or counselor, after making reasonable efforts to counsel and encourage the patient or subject to provide the information to the spouse or sexual partner, reasonably believes that the patient or subject will not provide the information to the spouse or sexual partner and that the disclosure is necessary to protect the health of the spouse or sexual partner.

"(B) A disclosure under such paragraph may be made by a physician or counselor other than the physician or counselor referred to in subparagraph (A) of this paragraph if such physician or counselor is unavailable by reason of absence or termination of employment to make the disclosure.

(d) PENALTY FOR UNAUTHORIZED DISCLOSURE.—Subsection (g) of such section (as redesignated by paragraph (4)(A)) is amended by striking out "shall be fined" and all that follows and inserting in lieu thereof "shall be fined, in the case of a first offense, up to the maximum amount provided under section 3301(f) of this title for a first offense under that section and, in the case of a subsequent offense, up to the maximum amount provided under section 3301(f) of this title for a subsequent offense under that section.".

(e) CROSS-REFERENCE AMENDMENTS.—(1) Subsection (a) of such section is amended by striking out "subsection (e)" and inserting in lieu thereof "subsections (e) and (f)".

(2) Subsection (c) of such section is amended by striking out "subsection (b)(2)(C)" and inserting in lieu thereof "subsection (b)(2)(D)".

SEC. 122. NONDISCRIMINATION.

(a) ADMISSION AND TREATMENT OF PERSONS INFECTED WITH THE HUMAN IMMUNODEFICIENCY VIRUS.—Sections 4133 and 4134 are amended to read as follows:

"§ 4133. Nondiscrimination against alcohol and drug abusers and persons infected with the human immunodeficiency virus

"(a) Veterans eligible for treatment under chapter 17 of this title who are alcohol or drug abusers or who are infected with the human immunodeficiency virus shall not be discriminated against in admission or treatment by any Veterans' Administration health-care facility solely because of their alcohol or drug abuse or dependency or because of their viral infection.

"(b) The Administrator shall prescribe regulations for the enforcement of this section. Such regulations, with respect to the admission and treatment of such veterans who are alcohol or drug abusers, shall be prescribed in accordance with section 4134 of this title. Regulations.

"§ 4134. Regulations

Research and development.

"(a) Regulations prescribed by the Administrator under section 4131 of this title, section 4132 of this title with respect to the confidentiality of alcohol and drug abuse medical records, and section 4133 of this title with respect to alcohol or drug abusers shall, to the maximum extent feasible consistent with other provisions of this title, make applicable the regulations described in subsection (b) of this section to the conduct of research and to the provision of hospital care, nursing home care, domiciliary care, and medical services under this title.

"(b) The regulations referred to in subsection (a) of this section are—

"(1) regulations governing human experimentation and informed consent prescribed by the Secretary of Health and Human Services, based on the recommendations of the National Commission for the Protection of Human Subjects of Biomedical and Behavioral Research, established by section 201 of the National Research Act (Public Law 93-348; 88 Stat. 348); and

"(2) regulations governing (A) the confidentiality of drug and alcohol abuse medical records, and (B) the admission of drug and alcohol abusers to private and public hospitals, prescribed pursuant to the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 (42 U.S.C. 4551 et seq.) and the Drug Abuse Office and Treatment Act of 1972 (21 U.S.C. 1101 et seq.).

"(c) Regulations prescribed by the Administrator under sections 4131, 4132, and 4133 of this title may contain such definitions, and may provide for such safeguards and procedures (including procedures and criteria for the issuance and scope of court orders under section 4132(b)(2)(C) of this title), as are necessary to prevent circumvention or evasion of such regulations or to facilitate compliance with such regulations.

"(d) In prescribing and implementing such regulations, the Administrator shall, from time to time, consult with the Secretary of Health and Human Services and, as appropriate, with the President (or the delegate of the President) in order to achieve the maximum possible coordination of the regulations, and the implementation of the regulations, which they and the Administrator prescribe.".

(b) CLERICAL AMENDMENT.—The items relating to sections 4133 and 4134 in the table of sections at the beginning of chapter 73 of such title are amended to read as follows:

"4133. Nondiscrimination against alcohol and drug abusers and persons infected with human immunodeficiency virus.

"4134. Regulations.".

38 USC 210 note.

SEC. 123. INFORMATION AND TRAINING CONCERNING AIDS PREVENTION.

(a) INFORMATION PROGRAM.—The Administrator shall establish and carry out an information program relating to the acquired immune deficiency syndrome (hereinafter in this section referred to as "AIDS"). The information program shall be for employees and consultants of the Veterans' Administration, for other persons providing services in Veterans' Administration facilities to beneficiaries of programs administered by the Veterans' Administration, and for such beneficiaries.

(b) REQUIRED ELEMENTS OF INFORMATION PROGRAM.—In conducting the program under subsection (a), the Administrator shall—

(1) develop, in consultation with the Surgeon General of the United States and the Director of the Centers for Disease Control, publications and other materials containing information on AIDS, including information on the prevention of infection with the human immunodeficiency virus;

(2) provide for periodic dissemination of publications (including the Surgeon General's Report on AIDS) and other materials containing such information;

(3) make publications and other suitable materials containing such information readily available in Veterans' Administration health-care facilities and such other Veterans' Administration facilities as the Administrator considers appropriate; and

(4) disseminate information (including the Surgeon General's Report on AIDS) on the risk of transmission of the human immunodeficiency virus, and information on preventing the transmission of such virus, to Veterans' Administration substance abuse treatment personnel, to each person being furnished treatment by the Veterans' Administration for drug abuse, and to each person receiving care or services from the Veterans' Administration whom the Administrator believes to be at high risk for AIDS.

(c) TRAINING IN AIDS PREVENTION.—The Administrator shall establish and carry out a program that provides for education, training, and other activities (including continuing education and infection control programs) regarding AIDS and the human immunodeficiency virus designed to improve the effectiveness and safety of all health-care personnel and all health-care support personnel involved in the furnishing of care under programs administered by the Veterans' Administration. Education.

SEC. 124. RESTRICTION ON TESTING FOR INFECTION WITH THE HUMAN IMMUNODEFICIENCY VIRUS. 38 USC 4133 note.

(a) GENERAL RULE.—Except as provided in subsection (b), the Administrator may not during any fiscal year conduct a widespread testing program to determine infection of humans with the human immunodeficiency virus unless funds have been appropriated to the Veterans' Administration specifically for such a program during that fiscal year.

(b) VOLUNTARY TESTING.—(1) The Administrator shall provide for a program under which the Veterans' Administration offers each patient to whom the Veterans' Administration is furnishing health care or services and who is described in paragraph (2) the opportunity to be tested to determine whether such patient is infected with the human immunodeficiency virus.

(2) Patients referred to in paragraph (1) are—

(A) patients who are receiving treatment for intravenous drug abuse, Drugs and drug abuse.

(B) patients who are receiving treatment for a disease associated with the human immunodeficiency virus, and Diseases.

(C) patients who are otherwise at high risk for infection with such virus.

(3) Subject to the consent requirement in paragraph (4) and unless medically contraindicated, the test shall be administered to each patient requesting to be tested for infection with such virus.

(4) A test may not be conducted under this subsection without the prior informed and separate written consent of the patient tested. The Administrator shall provide pre- and post-test counseling regarding the acquired immune deficiency syndrome and the test to each patient who is administered the test.

PART D—OTHER MATTERS

SEC. 131. DEFINITION OF VETERANS' ADMINISTRATION MEDICAL FACILITIES TO INCLUDE CERTAIN RECREATIONAL FACILITIES.

Section 601(4) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

"(C) public or private facilities at which the Administrator provides recreational activities for patients receiving care under section 610 of this title.".

SEC. 132. VETERANS' ADMINISTRATION ASSISTANCE WITH REHABILITATION ACTIVITIES.

(a) IN GENERAL.—Chapter 3 is amended by inserting after section 215 the following new section:

38 USC 216.

"§ 216. Assistance to certain rehabilitation activities

"(a) The Administrator may assist any organization named in or approved under section 3402 of this title in providing recreational activities which would further the rehabilitation of disabled veterans. Such assistance may be provided only if—

"(1) the activities are available to disabled veterans on a national basis; and

"(2) a significant percentage of the individuals participating in the activities are eligible for rehabilitative services under chapter 17 of this title.

"(b) The Administrator may accept from any appropriate source contributions of funds and of other assistance to support the Administrator's provision of assistance for such activities.

"(c)(1) Subject to paragraph (2) of this subsection, the Administrator may authorize the use, for purposes approved by the Administrator in connection with the activity involved, of the seal and other official symbols of the Veterans' Administration and the name 'Veterans' Administration' by—

"(A) any organization which provides an activity described in subsection (a) of this section with assistance from the Administrator; and

"(B) any individual or entity from which the Administrator accepts a significant contribution under subsection (b) of this section or an offer of such a contribution.

"(2) The use of such seal or name or any official symbol of the Veterans' Administration in an advertisement may be authorized by the Administrator under this subsection only if—

"(A) the Administrator has approved the advertisement; and

"(B) the advertisement contains a clear statement that no product, project, or commercial line of endeavor referred to in the advertisement is endorsed by the Veterans' Administration.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 215 the following new item:

"216. Assistance to certain rehabilitation activities.".

SEC. 133. RULES AND REGULATIONS RELATING TO VETERANS' HEALTH CARE.

The text of section 621 is amended to read as follows:

"Rules and regulations prescribed under section 210(c)(1) of this title shall include rules and regulations to promote good conduct on the part of persons who are receiving hospital, nursing home, and domiciliary care and medical services in Veterans' Administration facilities. The Administrator may prescribe in rules and regulations under such section limitations in connection with the furnishing of such care and services during a period of national emergency (other than a period of war or an emergency described in section 5011A of this title).".

SEC. 134. PER DIEM RATES FOR CARE IN STATE HOMES.

(a) INCREASES IN RATES.—Section 641 is amended—

(1) in subsection (a), by striking out clauses (1) through (3) and inserting in lieu thereof the following:

"(1) $8.70 for domiciliary care; and

"(2) $20.35 for nursing home care and hospital care,"; and

(2) by adding at the end the following new subsection:

"(d) Whenever the Administrator makes a determination pursuant to section 620(a)(2)(A) of this title that the cost of care furnished by the Veterans' Administration in a general hospital under the direct jurisdiction of the Administrator has increased, the Administrator may, effective no earlier than the date of such determination, increase the rates paid under subsection (a) of this section by a percentage not greater than the percentage by which the Administrator has determined that such cost of care has increased.".

(b) EFFECTIVE DATES.—(1) The amendment made by subsection (a)(1) shall take effect as of January 1, 1988. 38 USC 641 note.

(2) The amendment made by subsection (a)(2) shall take effect on October 1, 1988.

SEC. 135. MEDICAL RESEARCH.

Section 4101(c)(1) is amended by striking out the parenthetical phrase and inserting in lieu thereof "(including biomedical, mental illness, prosthetic and other rehabilitative, and health-care-services research and stressing research into spinal-cord injuries and other diseases that lead to paralysis of the lower extremities and research into injuries and illnesses particularly related to service)".

SEC. 136. CONVERSION OF UNDERUSED SPACE TO DOMICILIARY-CARE BEDS. 38 USC 5010 note.

(a) IN GENERAL.—(1) Subject to subsection (b), the Administrator shall, not later than June 1, 1988, in urban areas in which there are significant numbers of homeless veterans, convert underused space located in facilities under the jurisdiction of the Administrator to 500 domiciliary-care beds to be used for the care of veterans in need of domiciliary care, primarily homeless veterans. Urban areas. Homeless persons.

(2) If the Administrator determines that it is impractical to undertake the conversions required in paragraph (1) to the extent required in that paragraph—

(A) because appropriate space for the conversions is not available in sufficient quantity, or

(B) because in areas in which there is sufficient space the numbers of homeless veterans in need of domiciliary care who would likely use the beds are not sufficient to warrant the conversions,

the Administrator shall carry out paragraph (1) only to the extent that the Administrator has not determined that it is impractical to do so.

(b) PROHIBITION AGAINST DIMINUTION OF CERTAIN OTHER CONVERSIONS.—Nothing in this section shall result in the diminution of the conversion of hospital-care beds to nursing-home-care beds by the Veterans' Administration.

(c) FUNDING.—The Administrator shall carry out subsection (a) within the limits of available appropriations.

TITLE II—HEALTH-CARE ADMINISTRATION AND PERSONNEL MATTERS

PART A—ADMINISTRATION

38 USC 4151 note.

SEC. 201. HEALTH CARE QUALITY ASSURANCE ACTIVITIES.

(a) ACTIONS TO IMPROVE QUALITY ASSURANCE ACTIVITIES.—Not later than 60 days after the date of the enactment of this Act, the Administrator shall take actions to improve the operation of health-care quality assurance programs and activities in the Veterans' Administration, including actions to achieve the following purposes:

(1) Upgrading the Office of Quality Assurance within the Department of Medicine and Surgery Central Office and assigning responsibility for risk-management activities (to be carried out with the concurrence of the General Counsel) to it.

(2) Expanding, and assigning higher priority and greater resources to, quality-assurance programs and activities at each Veterans' Administration health-care facility, including implementation of the review (known as "occurrence screening") of patient records for adverse events which are not the natural consequence of the patient's disease, injury, or treatment and the maximum use of the facility's computerized management information system for such activities.

(3) Upgrading and expanding the office of the Medical Inspector in the Department of Medicine and Surgery Central Office, including increasing the number of employees assigned to such office on a full-time basis, so as to ensure that each medical inspection carried out by that office includes at least one such full-time employee and otherwise ensuring such adequate numbers of, and such skills and training on the part of, the employees assigned to that office as are necessary to ensure the independence, objectivity, and accountability of that office.

(4) Upgrading and expanding the activities of the Veterans' Administration's Office of Inspector General in overseeing, monitoring, and evaluating the operations of the Department of Medicine and Surgery's quality-assurance programs and activities and its Medical Inspector office so as to provide the Chief Medical Director, the Administrator, and the Congress with clear and objective assessments of the effectiveness of those

programs and operations, including ensuring such numbers of, and such skills and training on the part of, employees assigned to the Office of the Inspector General as are necessary to carry out such oversight, monitoring, and evaluation effectively.

(b) REPORT.—Not later than 75 days after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives, a report describing the actions taken pursuant to subsection (a), including reports of the Chief Medical Director and the Inspector General of the Veterans' Administration on such actions, and any future actions planned (and a timetable therefor) in connection with such actions. The report shall include—

(1) the Administrator's views on (A) the effectiveness of quality assurance and risk management and medical inspection programs and activities in the Department of Medicine and Surgery and of the oversight, monitoring, and evaluation of those programs and activities before the implementation of the actions described in the preceding sentence, and (B) how those actions will improve the effectiveness of these programs and activities; and

(2) a description of actions that have been or will be taken (and the justification for those actions) by the Administrator, the Inspector General, and the Chief Medical Director, as appropriate, to make other improvements in such programs and activities and the oversight, monitoring, and evaluation therefor.

SEC. 202. HOSPITAL COST COLLECTIONS.

Section 629(b)(2) is amended by adding at the end the following new subparagraph:

"(C) A proceeding under subparagraph (B) of this paragraph may not be brought after the end of the six-year period beginning on the last day on which the care or services for which recovery is sought are furnished.".

SEC. 203. TORT CLAIMS.

(a) INAPPLICABILITY OF AN EXCEPTION RELATING TO FEDERAL TORT CLAIMS IN MEDICAL MALPRACTICE AND NEGLIGENCE CASES.—(1) Section 4116 is amended by adding at the end the following new subsection:

"(f) The exception provided in section 2680(h) of title 28 shall not apply to any claim arising out of a negligent or wrongful act or omission of any person described in subsection (a) of this section in furnishing medical care or treatment (including medical care or treatment furnished in the course of a clinical study or investigation) while in the exercise of such person's duties in or for the Department of Medicine and Surgery.".

(2) The amendment made by paragraph (1) shall apply with respect to claims as to which a final judgment has not been rendered as of the date of the enactment of this Act. 38 USC 4116 note.

(b) INCREASED AUTHORITY TO ADJUST TORT CLAIMS ADMINISTRATIVELY.—(1) Subchapter II of chapter 3 is amended by adding at the end the following new section:

"§ 223. Administrative settlement of tort claims 38 USC 223.

"(a) Notwithstanding the limitations contained in section 2672 of title 28, the Administrator may settle any claim for money damages

against the United States cognizable under section 1346(b) or 2672 of title 28 or section 4116 of this title to the extent the authority to do so is delegated to the Administrator by the Attorney General. Such delegation may not exceed the authority delegated by the Attorney General to United States attorneys to settle claims for money damages against the United States.

"(b) For purposes of this subsection, the term 'settle', with respect to a claim, means consider, ascertain, adjust, determine, and dispose of the claim, whether by full or partial allowance or by disallowance.".

(2) The table of sections at the beginning of chapter 3 is amended by inserting after the item relating to section 222 the following:

"223. Administrative settlement of tort claims.".

SEC. 204. NONPROFIT RESEARCH CORPORATIONS.

(a) AUTHORITY OF ADMINISTRATOR.—Chapter 73 is amended by adding at the end the following new subchapter:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

38 USC 4161.

"§ 4161. Authority to establish; status

"(a) The Administrator may authorize the establishment at any Veterans' Administration medical center of a nonprofit corporation to provide a flexible funding mechanism for the conduct of approved research at the medical center. Except as otherwise required in this subchapter or under regulations prescribed by the Administrator, any such corporation, and its directors and employees, shall be required to comply only with those Federal laws, regulations, and executive orders and directives which apply generally to private nonprofit corporations.

"(b) If by the end of the three-year period beginning on the date of the establishment of a corporation under this subchapter the corporation is not recognized as an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986, the Administrator shall dissolve the corporation.

38 USC 4162.

"§ 4162. Purpose of corporations

"Any corporation established under this subchapter shall be established solely to facilitate research as described in section 4101(c)(1) of this title in conjunction with the applicable Veterans' Administration medical center. Any funds received by the Administrator for the conduct of research at the medical center other than funds appropriated to the Veterans' Administration may be transferred to and administered by the corporation for that purpose.

38 USC 4163.

"§ 4163. Board of directors; executive director

"(a) The Administrator shall provide for the appointment of a board of directors for any corporation established under this subchapter. The board shall include—

"(1) the director of the medical center, the chief of staff of the medical center, and the assistant chief of staff for research of the medical center; and

"(2) subject to subsection (c) of this section, members who are not officers or employees of the Federal Government and who are familiar with issues involving medical and scientific research.

"(b) Each such corporation shall have an executive director who shall be appointed by the board of directors with the concurrence of the Chief Medical Director of the Veterans' Administration. The executive director of a corporation shall be responsible for the operations of the corporation and shall have such specific duties and responsibilities as the board may prescribe.

"(c) An individual appointed under subsection (a)(2) of this section to the board of directors of a corporation established under this subchapter may not be affiliated with, employed by, or have any other financial relationship with any entity that is a source of funding for research by the Veterans' Administration unless that source of funding is a governmental entity or an entity the income of which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986.

"§ 4164. General powers 38 USC 4164.

"(a) A corporation established under this subchapter may—

"(1) accept gifts and grants from, and enter into contracts with, individuals and public and private entities solely to carry out the purposes of this subchapter; and Gifts. Grants. Contracts.

"(2) employ such employees as it considers necessary for such purposes and fix the compensation of such employees.

"(b) A corporation established under this subchapter may not spend funds for a research project unless the project is approved in accordance with procedures prescribed by the Chief Medical Director for research carried out with Veterans' Administration funds. Such procedures shall include a peer review process.

"§ 4165. Applicable State law 38 USC 4165.

"Any corporation established under this subchapter shall be established in accordance with the nonprofit corporation laws of the State in which the applicable medical center is located and shall, to the extent not inconsistent with any Federal law, be subject to the laws of such State.

"§ 4166. Accountability and oversight 38 USC 4166.

"(a)(1)(A) The records of a corporation established under this subchapter shall be available to the Administrator. Records.

"(B) For the purposes of sections 4(a)(1) and 6(a)(1) of the Inspector General Act of 1978, the programs and operations of such a corporation shall be considered to be programs and operations of the Veterans' Administration with respect to which the Inspector General of the Veterans' Administration has responsibilities under such Act.

"(2) Such a corporation shall be considered an agency for the purposes of section 716 of title 31 (relating to availability of information and inspection of records by the Comptroller General).

"(b) Each such corporation shall submit to the Administrator an annual report providing a detailed statement of its operations, activities, and accomplishments during that year. The corporation shall obtain a report of independent auditors concerning the receipts and expenditures of funds by the corporation during that year and shall include that report in the corporation's report to the Administrator for that year. Reports.

"(c) Each member of the board of directors of a corporation established under this subchapter, each employee of such a corpora-

tion, and each employee of the Veterans' Administration who is involved in the functions of the corporation during any year—

"(1) shall be subject to Federal laws and regulations applicable to Federal employees with respect to conflicts of interest in the performance of official functions; and

"(2) shall submit to the Administrator an annual statement signed by the director or employee certifying that the director or employee is aware of, and has complied with, such laws and regulations in the same manner as Federal employees are required to.

"(d) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives an annual report on the number and location of corporations established and the amount of the contributions made to each such corporation.

38 USC 4167.

"§ 4167. Report to Congress

"Not later than February 1, 1991, the Administrator shall submit to Congress a report on the experience through the end of fiscal year 1990 under this subchapter. The report shall include such recommendations as the Administrator considers appropriate.

38 USC 4168.

"§ 4168. Expiration of authority

"No corporation may be established under this subchapter after September 30, 1991.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following:

"SUBCHAPTER VI—RESEARCH CORPORATIONS

"4161. Authority to establish; status.
"4162. Purpose of corporations.
"4163. Board of directors; executive director.
"4164. General powers.
"4165. Applicable State law.
"4166. Accountability and oversight.
"4167. Report to Congress.
"4168. Expiration of authority.".

SEC. 205. NURSING HOME REVOLVING FUND.

(a) ESTABLISHMENT OF FUND.—Chapter 81 is amended by inserting after section 5015 the following new section:

38 USC 5016.

"§ 5016. Nursing home revolving fund

"(a)(1) Amounts realized from a transfer pursuant to section 5022(a)(2)(C) of this title shall be administered as a revolving fund and shall be available without fiscal year limitation.

"(2) The revolving fund shall be deposited in a checking account with the Treasurer of the United States.

"(b)(1) The expenditure of funds from the revolving fund may be made only for the construction, alteration, and acquisition (including site acquisition) of nursing home facilities and may be made only as provided for in appropriation Acts.

"(2) For the purpose of section 5004(a)(2) of this title, a bill, resolution, or amendment which provides that funds in the revolving fund may be expended for a project involving a total expenditure of more than $2,000,000 for the construction, alteration, or acquisition (including site acquisition) of a nursing home facility shall be considered to be a bill, resolution, or amendment making an appropriation which may be expended for a major medical facility project.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5016. Nursing home revolving fund.".

SEC. 206. STATE HOME CONSTRUCTION GRANTS.

(a) DATE OF LIST OF APPROVED PROJECTS.—Section 5035(b)(4) is amended by striking out "July 1" and inserting in lieu thereof "August 15".

(b) CONDITIONAL APPROVAL OF APPLICATIONS.—Section 5035(b) is amended—

(1) in paragraph (4), by inserting "(including projects that have been conditionally approved under paragraph (6) of this subsection)" after "projects"; and

(2) by adding at the end the following new paragraphs:

"(6)(A) The Administrator may conditionally approve a project under this section, conditionally award a grant for the project, and obligate funds for the grant if the Administrator determines that the application for the grant is sufficiently complete to warrant awarding the grant and that, based on assurances provided by the State submitting the application, the State will complete the application and meet all the requirements referred to in paragraph (1)(A) of this subsection by the date, not later than 90 days after the date of the conditional approval, specified by the Administrator.

"(B) If a State does not complete the application and meet all the requirements referred to in such paragraph by the date specified by the Administrator under subparagraph (A) of this paragraph, the Administrator shall rescind the conditional approval and award under such subparagraph and deobligate the funds previously obligated in connection with the application.

"(7)(A) Subject to subparagraph (B) of this paragraph, the Administrator may increase the amount of any grant awarded to any State for a project under this section by an amount by which the Administrator determines that the estimated cost of the construction or acquisition has increased from the estimated cost on which the Administrator based the determination to award the grant, without regard to the position of such project on the list established under paragraph (4) of this subsection, if the Administrator determines that the grant was awarded before the State entered into a contract for the construction or acquisition provided for in such project.

"(B) A grant may not be increased under subparagraph (A) of this paragraph by more than 10 percent of the amount of the grant initially awarded for such project, and the amount of such grant, as increased, may not exceed 65 percent of the cost of the project.".

PART B—PAY AND OTHER PERSONNEL BENEFITS

SEC. 211. ADDITIONAL PAY AUTHORITIES FOR NURSES TO BE AVAILABLE FOR PHARMACISTS AND OCCUPATIONAL THERAPISTS.

(a) CATEGORY OF APPOINTMENT.—Section 4104 is amended—

(1) in paragraph (2), by striking out "Pharmacists" and all that follows through "therapists" and inserting in lieu thereof "Psychologists (other than those described in paragraph (3) of this section)"; and

(2) in paragraph (3)—

(A) by striking out "and"; and

(B) by inserting ", pharmacists, and occupational therapists" after "nurses".

(b) AUTHORITY FOR PREMIUM PAY.—The second sentence of section 4107(f) is amended—

(1) by striking out "or licensed" and inserting in lieu thereof "licensed"; and

(2) inserting "pharmacists, or occupational therapists," after "nurses,".

SEC. 212. RECRUITMENT AND RETENTION BONUS PAY.

(a) AUTHORITY TO PAY BONUS.—Chapter 73 is amended by inserting after section 4119 the following new section:

38 USC 4120.

"§ 4120. Recruitment and retention bonus pay for nurses and certain other health-care personnel

Contracts.

"(a)(1) In order to recruit and retain registered nurses, the Administrator may enter into agreements under this section. Such an agreement may be entered into with any registered nurse who is employed at, or who agrees to accept employment with the Veterans' Administration at, a Veterans' Administration health-care facility that is designated by the Administrator as a health-care facility with a significant shortage in registered nurses in any clinical service.

"(2) A registered nurse entering into an agreement under this section shall agree to remain employed by the Veterans' Administration as a registered nurse for a period of time to be specified in the agreement and to serve during that period in a specific health-care facility that is designated by the Administrator as a health-care facility with a significant shortage of registered nurses in that nurse's clinical service. Such period may not be less than two years or more than four years. Such employment during such period may be on a full-time basis or a part-time basis, as specified in the agreement. Part-time employment as specified in such an agreement may not be less than half-time.

"(b)(1) The Administrator shall pay to any nurse entering into an agreement under this section bonus pay in an amount specified in the agreement. The amount of such bonus pay may not exceed—

"(A) $2,000 per year, in the case of an agreement for two years,

"(B) $3,000 per year, in the case of an agreement for three years, and

"(C) $4,000 per year, in the case of an agreement for four years.

"(2) In the case of an agreement for employment on less than a full-time basis, the amount of bonus pay shall be pro rated accordingly.

"(c)(1) Except as provided in paragraph (2) of this subsection, a bonus under this section shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

"(2)(A) The Administrator may make a payment in an amount not in excess of 25 percent of the total bonus in a lump sum at the time that the period of obligated service commences under the agreement.

"(B) If the Administrator makes a lump-sum payment under subparagraph (A) of this paragraph, the remaining balance of the

bonus shall be paid in equal installments after each year of service is completed throughout the period of obligated service specified in the agreement.

"(d)(1) A bonus paid to any individual under this section shall be in addition to any pay or allowance to which the individual is entitled.

"(2) The amount of a bonus paid under this section shall not be considered to be basic pay for the purposes of sections 5551, 5552, and 5595 of title 5, chapters 81, 83, 84, and 87 of such title, or any other provision of law creating an entitlement to benefits based on basic pay.

"(e) At least once each year the Administrator, upon the recommendation of the Chief Medical Director, shall determine the specific health-care facilities and clinical services, if any, as to which there are significant problems with respect to the recruitment and retention of registered nurses. Upon making any such determination, the Administrator shall promptly notify the Committees on Veterans' Affairs of the Senate and the House of Representatives of the determination and the basis for the determination.

"(f) The Administrator may enter into agreements under this section with individuals in a health profession other than nursing (and other than a health profession for which special pay may be provided under section 4118 of this title) if the Administrator determines that there are significant problems with respect to recruitment and retention of employees in that health profession. The Administrator's authority to enter into any such agreement under this section, and such agreement, shall be subject to the provisions of this section in the same manner as are the authority to enter into an agreement under this section with a registered nurse and such an agreement. Contracts.

"(g)(1) Except as provided in paragraph (2) of this subsection, an individual who voluntarily, or because of misconduct, fails to perform services as assigned by the Administrator for the period of obligated service provided in an agreement under this section shall refund to the United States the amount by which the total amount of bonus payments received by that individual under this section exceeds the amount that such individual would have received under an agreement under this section to serve for the period of obligated service actually served (as determined at the time the agreement is entered into). If the period actually served is less than two years, the amount to be refunded is the entire amount paid to the individual.

"(2) An individual shall not be required to make a refund under paragraph (1) of this subsection if the Administrator determines, in accordance with regulations prescribed under subsection (h) of this section, that the individual's failure to perform services for the period of obligated service is due to circumstances (not including separation for cause) beyond the control of the individual.

"(3) An obligation to refund any portion of a bonus payment under this subsection is, for all purposes, a debt owed to the United States.

"(4) The provisions of this subsection and the specific amounts that the individual could be required to refund shall be disclosed to the individual at the time the agreement is entered into and shall be clearly set forth in the contract.

"(h) The Administrator shall prescribe regulations to carry out this section.". Regulations.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 4119 the following:

"4210. Recruitment and retention bonus pay for nurses and certain other health-care personnel.".

(b) CONFORMING AMENDMENT.—Section 4107(d) is amended by striking out "section 4118" and inserting in lieu thereof "sections 4118 and 4120".

SEC. 213. ON-CALL PAY.

Section 4107 is amended by adding at the end the following new subsection:

"(j)(1) The Administrator may pay an employee to whom this subsection applies pay at the rate provided in subsection (e)(8) of this section except for such time as the employee may be called back to work.

"(2) This subsection applies to an employee who meets each of the following criteria:

"(A) The employee is employed in a position listed in paragraph (3) of section 4104 of this title or meets the criteria specified in subclauses (i), (ii), and (iii) of subsection (g)(1)(B) of this section.

"(B) The employee is employed in a work unit for which on-call premium pay is authorized.

"(C) The employee is officially scheduled to be on call outside such employee's regular hours or on a holiday designated by Federal statute or Executive order.

"(3) An employee who is eligible for on-call pay under paragraph (1) of this subsection and who was receiving standby premium pay pursuant to section 5545 of title 5 on the date of the enactment of this subsection shall, as long as such employee is employed in the same position and work unit and remains eligible for such standby pay, receive pay for any period of on-call duty at the rate equal to the greater of (A) the rate of pay which such employee would receive if being paid the rate of standby pay pursuant to such section that such individual would be entitled to receive if such individual were not scheduled to be on call instead, or (B) the rate of pay which such employee is entitled to receive including on-call premium pay described in paragraph (1) of this subsection.".

SEC. 214. PREMIUM PAY FOR SATURDAY WORK.

(a) EXTENSION OF SUNDAY WORK PREMIUM PAY.—Paragraph (3) of section 4107(e) is amended by striking out "Saturday" and inserting in lieu thereof "Friday".

(b) CONFORMING AMENDMENTS.—(1) Subparagraph (A) of paragraph (10) of such section is amended to read as follows:

"(A) Notwithstanding any other provision of law and subject to subparagraph (B) of this paragraph, the Administrator may increase the rates of additional pay authorized under paragraphs (2) through (8) of this subsection if the Administrator determines that it is necessary to do so in order to obtain or retain the services of nurses.".

(2) Such paragraph is further amended—

(A) in subparagraph (B), by striking out "subparagraph (A)(i)" and inserting in lieu thereof "subparagraph (A)"; and

(B) by striking out subparagraph (C).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to tours of duty performed by nurses which begin on or after the first day of the first pay period beginning on or after the date of the enactment of this Act. 38 USC 4107 note.

SEC. 215. REPORT ON EFFECT OF CERTAIN PAY AND BENEFITS AMENDMENTS. 38 USC 4104 note.

Health care professionals.

Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the implementation of the amendments made by sections 211 through 214, relating to pay and benefits for various health care professionals in the Department of Medicine and Surgery. The report—

(1) shall particularly describe the effect of such amendments and other provisions of law on the ability of the Veterans' Administration to meet its requirements for nurses, pharmacists, occupational therapists, and physical therapists; and

(2) shall include such recommendations for further legislative action as the Administrator considers appropriate.

SEC. 216. HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM.

(a) REPEAL OF OLD PROGRAM.—Subchapter IV of chapter 73 is repealed.

(b) IMPROVED AND EXPANDED PROGRAM.—Part V is amended by adding at the end the following new chapter:

"CHAPTER 76—HEALTH PROFESSIONALS EDUCATIONAL ASSISTANCE PROGRAM

"SUBCHAPTER I—GENERAL

"Sec.
"4301. Establishment of program; purpose.
"4302. Eligibility.
"4303. Application and acceptance.
"4304. Terms of agreement.

"SUBCHAPTER II—SCHOLARSHIP PROGRAM

"4311. Authority for program.
"4312. Eligibility; application; agreement.
"4313. Scholarship.
"4314. Part-time students.
"4315. Status of participants.
"4316. Obligated service.
"4317. Breach of agreement: liability.
"4318. Expiration of program.

"SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

"4321. Authority for program.
"4322. Eligibility; application; agreement.
"4323. Obligated service.
"4324. Breach of agreement: liability.
"4325. Allocation and distribution of funding.

"SUBCHAPTER IV—ADMINISTRATIVE MATTERS

"4331. Periodic adjustments in amount of assistance.
"4332. Annual report.
"4333. Regulations.
"4334. Breach of agreement; waiver of liability.
"4335. Service in other agencies.
"4336. Exemption of educational assistance payments from taxation.

"SUBCHAPTER I—GENERAL

38 USC 4301. **"§ 4301. Establishment of program; purpose**

"(a) There is hereby established a program to be known as the Veterans' Administration Health Professionals Educational Assistance Program (hereinafter in this chapter referred to as the 'Educational Assistance Program'). The program consists of—

"(1) the scholarship program provided for in subchapter II of this chapter, and

"(2) the tuition reimbursement program provided for in subchapter III of this chapter.

"(b) The purpose of the Educational Assistance Program is to assist in providing an adequate supply of trained health-care personnel for the Veterans' Administration and the Nation.

38 USC 4302. **"§ 4302. Eligibility**

"(a)(1) To be eligible to participate in the Educational Assistance Program, an individual must be accepted for enrollment or be currently enrolled as a student at a qualifying educational institution in a course of education or training that is approved by the Administrator and that leads toward completion of a degree in a field of education or training for which a scholarship may be awarded under subchapter II of this chapter or for which tuition reimbursement may be provided under subchapter III of this chapter.

"(2) A qualifying educational institution for purposes of this section is an educational institution that is in a State and that (as determined by the Administrator) is an accredited institution.

"(b) An individual is not eligible to apply to participate in the Educational Assistance Program if the individual is obligated under any other Federal program to perform service after completion of the course of education or training of such individual referred to in subsection (a) of this section.

38 USC 4303. **"§ 4303. Application and acceptance**

Contracts. "(a) To apply to participate in the Educational Assistance Program, an individual shall submit to the Administrator an application for such participation together with an agreement described in section 4304 of this title under which the participant agrees to serve a period of obligated service in the Department of Medicine and Surgery as provided in the agreement in return for payment of educational assistance as provided in the agreement.

"(b)(1) An individual becomes a participant in the Educational Assistance Program upon the Administrator's approval of the individual's application and the Administrator's acceptance of the agreement.

"(2) Upon the Administrator's approval of an individual's participation in the program, the Administrator shall promptly notify the individual of that approval. Such notice shall be in writing.

"(c)(1) In distributing application forms and agreement forms to individuals desiring to participate in the Educational Assistance Program, the Administrator shall include with such forms the following:

"(A) A fair summary of the rights and liabilities of an individual whose application is approved (and whose agreement is accepted) by the Administrator, including a clear explanation of

the damages to which the United States is entitled if the individual breaches the agreement.

"(B) A full description of the terms and conditions that apply to participation in the Educational Assistance Program and service in the Department of Medicine and Surgery.

"(2) The Administrator shall make such application forms and other information available to individuals desiring to participate in the Educational Assistance Program on a date sufficiently early to allow such individuals adequate time to prepare and submit such forms.

"(d) In selecting applicants for acceptance in the Educational Assistance Program, the Administrator shall give priority to the applications of individuals who have previously received educational assistance under the program and have not completed the course of education or training undertaken under such program.

"§ 4304. Terms of agreement

38 USC 4304.

"An agreement between the Administrator and a participant in the Educational Assistance Program shall be in writing, shall be signed by the participant, and shall include the following provisions:

"(1) The Administrator's agreement—

"(A) to provide the participant with educational assistance as authorized in subchapter II or III of this chapter and specified in the agreement; and

"(B) to afford the participant the opportunity for employment in the Department of Medicine and Surgery (subject to the availability of appropriated funds for such purpose and other qualifications established in accordance with section 4105 of this title).

"(2) The participant's agreement—

"(A) to accept such educational assistance;

"(B) to maintain enrollment and attendance in the course of training until completed;

"(C) while enrolled in such course, to maintain an acceptable level of academic standing (as determined by the educational institution offering such course of training under regulations prescribed by the Administrator); and

"(D) after completion of the course of training, to serve as a full-time employee in the Department of Medicine and Surgery as specified in the agreement in accordance with subchapter II or III of this chapter.

"(3) A provision that any financial obligation of the United States arising out of an agreement entered into under this chapter, and any obligation of the participant which is conditioned on such agreement, is contingent upon funds being appropriated for educational assistance under this chapter.

"(4) A statement of the damages to which the United States is entitled under this chapter for the participant's breach of the agreement.

"(5) Such other terms as are required to be included in the agreement under subchapter II or III of this chapter or as the Administrator may require consistent with the provisions of this chapter.

"SUBCHAPTER II—SCHOLARSHIP PROGRAM

38 USC 4311. **"§ 4311. Authority for program**

"As part of the Educational Assistance Program, the Administrator shall carry out a scholarship program under this subchapter. The program shall be known as the Veterans' Administration Health Professional Scholarship Program (hereinafter in this chapter referred to as the "Scholarship Program").

38 USC 4312. **"§ 4312. Eligibility; application; agreement**

"(a)(1) Except as provided in paragraph (2) of this subsection, an individual must be accepted for enrollment or be enrolled (as described in section 4302 of this title) as a full-time student to be eligible to participate in the Scholarship Program.

"(2) An individual who is an eligible Veterans' Administration employee may be accepted as a participant if accepted for enrollment or enrolled (as described in section 4302 of this title) for study on less than a full-time but not less than a half-time basis. (Such a participant is hereinafter in this subchapter referred to as a "part-time student".)

"(3) For the purposes of paragraph (2) of this subsection, an eligible Veterans' Administration employee is a full-time Veterans' Administration employee who is permanently assigned to a Veterans' Administration health-care facility on the date on which the individual submits the application referred to in section 4303 of this title and on the date on which the individual becomes a participant in the Scholarship Program.

"(b)(1) A scholarship may be awarded under this subchapter only in a qualifying field of education or training.

"(2) A qualifying field of education or training for purposes of this subchapter is education or training leading to employment (under section 4104 of this title) as any of the following:

"(A) A physician, dentist, podiatrist, optometrist, nurse, physician assistant, or expanded function dental auxiliary.

"(B) A psychologist described in section 4104(3) of this title or a certified or registered respiratory therapist, licensed physical therapist, or licensed practical or vocational nurse.

"(3) The Administrator may designate additional fields of education or training as qualifying fields of education or training if the education or training leads to employment in a position which would qualify the individual for increased basic pay under section 4107(g)(1)(B) of this title.

"(4) Before awarding the initial scholarship in a course of education or training other than medicine or nursing, the Administrator shall notify the Committees on Veterans' Affairs of the Senate and House of Representatives of the Administrator's intent to award a scholarship in such course of education or training. The notice shall include a statement of the reasons why the award of scholarships in that course of education or training is necessary to assist in providing the Veterans' Administration with an adequate supply of personnel in the health profession concerned. Any such notice shall be given not less than 60 days before the first such scholarship is awarded.

"(5) In selecting applicants for the Scholarship Program, the Administrator shall give priority to the applications of individuals who will be entering their final year in a course of training.

"(c)(1) An agreement between the Administrator and a participant in the Scholarship Program shall (in addition to the requirements set forth in section 4304 of this title) include the following:

"(A) The Administrator's agreement to provide the participant with a scholarship under this subchapter for a specified number (from one to four) of school years during which the participant is pursuing a course of education or training described in section 4302 of this title.

"(B) The participant's agreement to serve as a full-time employee in the Department of Medicine and Surgery for a period of time (hereinafter in this subchapter referred to as the 'period of obligated service') of one calendar year for each school year or part thereof for which the participant was provided a scholarship under the Scholarship Program.

"(2) In a case in which an extension is granted under section 4314(3) of this title, the number of years for which a scholarship may be provided under this subchapter shall be the number of school years provided for as a result of the extension.

"(3) In the case of a participant who is a part-time student—

"(A) the period of obligated service shall be reduced in accordance with the proportion that the number of credit hours carried by such participant in any such school year bears to the number of credit hours required to be carried by a full-time student in the course of training being pursued by the participant, but in no event to less than one year; and

"(B) the agreement shall include the participant's agreement to maintain employment, while enrolled in such course of education or training, as a Veterans' Administration employee permanently assigned to a Veterans' Administration healthcare facility.

"(4) If a participant's period of obligated service is deferred under section 4316(b)(3)(A)(i) of this title, the agreement terms under paragraph (1) of this subsection shall provide for the participant to serve any additional period of obligated service that is prescribed by the Administrator under section 4316(b)(4)(B) of this title.

"§ 4313. Scholarship

38 USC 4313.

"(a) A scholarship provided to a participant in the Scholarship Program for a school year under the Scholarship Program shall consist of payment of the tuition of the participant for that school year, payment of other reasonable educational expenses (including fees, books, and laboratory expenses) for that school year, and a stipend determined under subsection (b) of this section.

"(b) A stipend under this section for a school year shall be payment to the participant of not in excess of $485 per month (adjusted in accordance with section 4331 of this title) for each of the 12 consecutive months beginning with the first month of the school year, except that a stipend may not be paid to a participant who is a full-time employee of the Veterans' Administration. The stipend of a participant who is a part-time student shall be adjusted as provided in sections 4314(1) and 4314(2) of this title.

"(c) The Administrator may arrange with an educational institution in which a participant in the Scholarship Program is enrolled for the payment to the educational institution of the amounts of tuition and other reasonable educational expenses described in subsection (a) of this section. Such payments may be made without regard to subsections (a) and (b) of section 3324 of title 31.

38 USC 4314. **"§ 4314. Part-time students**

"In the case of a participant who is a part-time student—

"(1) the maximum amount of the stipend payable to the participant shall be reduced in accordance with the proportion that the number of credit hours carried by such participant bears to the number of credit hours required to be carried by a full-time student in the course of education or training being pursued by the participant;

"(2) a stipend may not be paid for any month during which the participant is not actually attending the course of training in which the participant is enrolled; and

"(3) the Administrator may extend the period for which a scholarship may be awarded to the participant to a maximum of six school years if the Administrator determines that the extension would be in the best interest of the United States.

38 USC 4315. **"§ 4315. Status of participants**

"Participants in the Scholarship Program shall not by reason of their participation in such program (1) be considered to be employees of the Federal Government, or (2) be counted against any personnel ceiling affecting the Department of Medicine and Surgery.

38 USC 4316. **"§ 4316. Obligated service**

"(a) Each participant in the Scholarship Program shall provide service as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of the participant entered into under section 4303 of this title. Such service shall be provided in the full-time clinical practice of such participant's profession or in another health-care position in an assignment or location determined by the Administrator.

"(b)(1) Not later than 60 days before the participant's service commencement date, the Administrator shall notify the participant of that service commencement date. That date is the date for the beginning of the participant's period of obligated service.

"(2) As soon as possible after the participant's service commencement date, the Administrator shall—

"(A) in the case of a participant who is not a full-time employee in the Department of Medicine and Surgery, appoint such participant as such an employee; and

"(B) in the case of a participant who is an employee in the Department of Medicine and Surgery but is not serving in a position for which such participant's course of education or training prepared such participant, assign such participant to such a position.

"(3)(A)(i) In the case of a participant receiving a degree from a school of medicine, osteopathy, dentistry, optometry, or podiatry, the participant's service commencement date is the date upon which the participant becomes licensed to practice medicine, osteopathy, dentistry, optometry, or podiatry, as the case may be, in a State. However, the Administrator may, at the request of such participant, defer such date until the end of the period of time required for the participant to complete an internship or residency or other advanced clinical training. If the participant requests such a deferral, the Administrator shall notify the participant that such deferral

could lead to an additional period of obligated service in accordance with paragraph (4) of this subsection.

"(ii) No such period of internship or residency or other advanced clinical training shall be counted toward satisfying a period of obligated service under this subchapter.

"(B) In the case of a participant receiving a degree from a school of nursing, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date upon which the participant becomes licensed as a registered nurse in a State.

"(C) In the case of a participant not covered by subparagraph (A) or (B) of this paragraph, the participant's service commencement date is the later of (i) the participant's course completion date, or (ii) the date the participant meets any applicable licensure or certification requirements.

"(4) A participant whose period of obligated service is deferred under paragraph (3)(A) of this subsection shall be required to undertake internship or residency or other advanced clinical training in an accredited program in an educational institution which is an affiliated institution (as defined in section 4108(c)(1) of this title) and with respect to which the affiliation agreement provides that all or part of the internship or residency or other advanced clinical training will be undertaken in a Veterans' Administration health-care facility. Such a participant may, at the discretion of the Administrator and upon the recommendation of the Chief Medical Director, incur an additional period of obligated service—

"(A) at the rate of one-half of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator); or

"(B) at the rate of three-quarters of a calendar year for each year of internship or residency or other advanced clinical training (or a proportionate ratio thereof), if the internship, residency, or advanced clinical training is not in a medical specialty necessary to meet the health-care requirements of the Veterans' Administration (as determined under regulations prescribed by the Administrator).

"(5) The Administrator shall by regulation prescribe the service commencement date for participants who were part-time students. Such regulations shall prescribe terms as similar as practicable to the terms set forth in paragraph (3) of this subsection. Regulations.

"(c)(1) Except as provided in paragraph (2) of this subsection, a participant in the Scholarship Program shall be considered to have begun serving such participant's period of obligated service—

"(A) on the date, after such participant's course completion date, on which such participant (in accordance with subsection (b) of this section) is appointed under this chapter as a full-time employee in the Department of Medicine and Surgery; or

"(B) if the participant is a full-time employee in the Department of Medicine and Surgery on such course completion date, on the date thereafter on which such participant is assigned to a position for which such participant's course of training prepared such participant.

"(2) A participant in the Scholarship Program who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery serving in a capacity for which such participant's course of training prepared such participant shall be considered to have begun serving such participant's period of obligated service on such course completion date.

"(3) For the purposes of this section, the term 'course completion date' means the date on which a participant in the Scholarship Program completes such participant's course of education or training under the program.

38 USC 4317.

"§ 4317. Breach of agreement: liability

"(a) A participant in the Scholarship Program (other than a participant described in subsection (b) of this section) who fails to accept payment, or instructs the educational institution in which the participant is enrolled not to accept payment, in whole or in part, of a scholarship under the agreement entered into under section 4303 of this title shall be liable to the United States for liquidated damages in the amount of $1,500. Such liability is in addition to any period of obligated service or other obligation or liability under the agreement.

"(b) A participant in the Scholarship Program shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement if any of the following occurs:

"(1) The participant fails to maintain an acceptable level of academic standing in the educational institution in which the participant is enrolled (as determined by the educational institution under regulations prescribed by the Administrator).

"(2) The participant is dismissed from such educational institution for disciplinary reasons.

"(3) The participant voluntarily terminates the course of training in such educational institution before the completion of such course of training.

"(4) The participant fails to become licensed to practice medicine, osteopathy, dentistry, podiatry, or optometry in a State, fails to become licensed as a registered nurse in a State, or fails to meet any applicable licensure requirement in the case of any other health-care personnel who provide either direct patient-care services or services incident to direct patient-care services, during a period of time determined under regulations prescribed by the Administrator.

"(5) In the case of a participant who is a part-time student, the participant fails to maintain employment, while enrolled in the course of training being pursued by such participant, as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility.

Liability under this subsection is in lieu of any service obligation arising under the participant's agreement.

"(c)(1) If a participant in the Scholarship Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A=3\,\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'Φ' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service, including any additional period of obligated service in accordance with section 4316(b)(4) of this title.

"(D) 's' is the number of months of such period served by the participant in accordance with section 4313 of this title.

"(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

"§ 4318. Expiration of program 38 USC 4318.

"The Administrator may not furnish scholarships to new participants in the Scholarship Program after September 30, 1992.

"SUBCHAPTER III—TUITION REIMBURSEMENT PROGRAM

"§ 4321. Authority for program 38 USC 4321.

"As part of the Educational Assistance Program, the Administrator shall carry out a tuition reimbursement program under this subchapter. The program shall be known as the Veterans' Administration Nurse Education Tuition Reimbursement Program (hereinafter in this chapter referred to as the "Tuition Reimbursement Program").

"§ 4322. Eligibility; application; agreement 38 USC 4322.

"(a) To be eligible to participate in the Tuition Reimbursement Program, an individual must be a full-time employee in the Veterans' Administration permanently assigned to a Veterans' Administration health-care facility and must be enrolled in a course of training offered by an institution approved by the Administrator leading toward completion of (1) an associate or higher degree in nursing, or (2) a masters degree or doctoral degree in nursing.

"(b) In selecting applicants for acceptance in the Tuition Reimbursement Program, the Administrator (in addition to according priorities as set forth in section 4303(d) of this title) shall give special consideration and emphasis to individuals pursuing a course of study which will expedite an increase in the number of registered nurses employed by the Veterans' Administration. The Administrator shall then give priority, in the following order, to—

"(1) individuals who have been employed as full-time employees in the Nursing Service in the Department of Medicine and Surgery; and

"(2) individuals who have previously received tuition reimbursement under the Tuition Reimbursement Program.

"(c) An agreement between the Administrator and a participant in the Tuition Reimbursement Program shall (in addition to the requirements set forth in section 4304 of this title) contain the following:

"(1) The Administrator's agreement to provide the participant with tuition reimbursement following successful completion (as determined, pursuant to regulations prescribed by the Administrator, by the educational institution involved) of (A) a course or courses required for the course of study described in subsection (a) of this section, or (B) a course or courses taken as necessary prerequisites for degree program enrollment if a letter regarding the potential enrollment of the participant from an appropriate official of the institution involved includes a statement specifying such prerequisites.

"(2) The participant's agreement—

"(A) to maintain employment, while enrolled in the course of training being pursued by such participant, as a full-time Veterans' Administration employee in the Department of Medicine and Surgery permanently assigned to a Veterans' Administration health-care facility; and

"(B) to continue to serve as a full-time employee in such Department for one year (hereinafter in this subchapter referred to as the 'period of obligated service') after completion of the course for which the participant received tuition reimbursement.

"(d) Tuition reimbursement provided to a participant in the Tuition Reimbursement Program may not exceed $2,000 per year adjusted in accordance with section 4331 of this title).

"(e) The Administrator may arrange with an educational institution pursuant to which such an institution would provide a course or courses at a Veterans' Administration health-care facility to participants in the Tuition Reimbursement Program. Under such an arrangement, the Administrator may agree to pay to the institution an amount not in excess of an amount determined by multiplying the number of participants in such a course by the amount of tuition reimbursement each participant would receive for enrolling and successfully completing such course.

38 USC 4322.

"§ 4323. Obligated service

"(a) Each participant in the Tuition Reimbursement Program shall provide service in the full-time clinical practice of such participant's profession as a full-time employee of the Veterans' Administration for the period of obligated service provided in the agreement of such participant entered into under section 4303 of this title.

"(b) A participant who on such participant's course completion date is a full-time employee in the Department of Medicine and Surgery shall be considered to have begun serving such participant's period of obligated service on the course completion date.

"(c) Except in the case of a participant whose tuition was paid pursuant to section 4322(f) of this title, if a participant in the Tuition Reimbursement Program fails to successfully complete a course, no reimbursement will be provided and no period of obligated service will be incurred.

"(d) In the case of a participant whose tuition was paid pursuant to section 4322(f) of this title and who fails to complete the course involved, the period of obligation shall be of the same duration as it would have been if the participant had successfully completed the

course and the course completion date shall be considered to be the date on which the participant's failure becomes an established fact.

"(e) For the purposes of this section, the term 'course completion date' means the date on which a participant in the Tuition Reimbursement Program completes such participant's course of training under the program.

"§ 4324. Breach of agreement: liability

38 USC 4324.

"(a) A participant in the Tuition Reimbursement Program who fails to maintain employment as a Veterans' Administration employee permanently assigned to a Veterans' Administration health-care facility—

"(1) may not be provided reimbursement for tuition for the course or courses in which the participant is enrolled; and

"(2) in lieu of any service obligation arising from completion of a course or courses in a previous semester or quarter, shall be liable to the United States for the amount which has been paid to or on behalf of the participant under the agreement.

"(b)(1) If a participant in the Tuition Reimbursement Program breaches the agreement by failing (for any reason) to complete such participant's period of obligated service, the United States shall be entitled to recover from the participant an amount determined in accordance with the following formula:

$$A = 3\,\Phi\left(\frac{t-s}{t}\right)$$

In such formula:

"(A) 'A' is the amount the United States is entitled to recover.

"(B) 'Φ' is the sum of (i) the amounts paid under this subchapter to or on behalf of the participant, and (ii) the interest on such amounts which would be payable if at the time the amounts were paid they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States.

"(C) 't' is the total number of months in the participant's period of obligated service.

"(D) 's' is the number of months of such period served by the participant in accordance with section 4323 of this title.

"(2) Any amount of damages which the United States is entitled to recover under this section shall be paid to the United States within the one-year period beginning on the date of the breach of the agreement.

"§ 4325. Allocation and distribution of funding

38 USC 4325.

"In determining the amount of funding to allocate to Veterans' Administration health-care facilities for any fiscal year in connection with the Tuition Reimbursement Program, the Administrator shall take into account (1) the personnel ceiling for that fiscal year for nursing personnel, and (2) the recruitment and retention needs of such facilities, as determined by the Administrator.

"SUBCHAPTER IV—ADMINISTRATIVE MATTERS

38 USC 4331.

"§ 4331. Periodic adjustments in amount of assistance

"(a)(1) Whenever there is a general Federal pay increase, the Administrator shall increase the maximum monthly stipend amount and the maximum tuition reimbursement amount. Any such increase shall take effect with respect to any school year that ends in the fiscal year in which the pay increase takes effect.

"(2) The amount of any increase under paragraph (1) of this subsection is the previous maximum amount under that paragraph multiplied by the overall percentage of the adjustment in the rates of pay under the General Schedule made under the general Federal pay increase. Such amount shall be rounded to the next lower multiple of $1.

"(b) For purposes of this section:

"(1) The term 'maximum monthly stipend amount' means the maximum monthly stipend that may be paid to a participant in the Scholarship Program specified in section 4313(b) of this title and as previously adjusted (if at all) in accordance with this subsection.

"(2) The term 'maximum tuition reimbursement amount' means the maximum amount of tuition reimbursement provided to a participant in the Tuition Reimbursement Program specified in section 4322(e) of this title and as previously adjusted (if at all) in accordance with this subsection.

"(3) The term 'general Federal pay increase' means an adjustment (if an increase) in the rates of pay under the General Schedule under subchapter III of chapter 51 of title 5.

38 USC 4332.

"§ 4332. Annual report

Not later than March 1 of each year, the Administrator shall submit to Congress a report on the Educational Assistance Program. Each such report shall include the following information:

"(1) The number of students receiving educational assistance under the Educational Assistance Program, showing the numbers of students receiving assistance under the Scholarship Program and the Tuition Reimbursement Program separately, and the number of students enrolled in each type of health profession training under each program.

"(2) The education institutions providing such training to students in each program.

"(3) The number of applications filed under each program, by health profession category, during the school year beginning in such year and the total number of such applications so filed for all years in which the Educational Assistance Program (or predecessor program) has been in existence.

"(4) The average amounts of educational assistance provided per participant in the Scholarship Program and per participant in the Tuition Reimbursement Program.

"(5) The amount of tuition and other expenses paid, by health profession category, in the aggregate and at each educational institution for the school year beginning in such year and for prior school years.

"(6) The number of scholarships accepted, by health profession category, during the school year beginning in such year

and the number, by health profession category, which were offered and not accepted.

"(7) The number of participants who complete a course or course of training in each program each year and for all years that such program (or predecessor program) has been in existence.

"§ 4333. Regulations 38 USC 4333.

"The Administrator shall prescribe regulations to carry out the Educational Assistance Program.

"§ 4334. Breach of agreement; waiver of liability 38 USC 4334.

"(a) An obligation under the Educational Assistance Program (or an agreement under the program) of a participant in the Educational Assistance Program for performance of services or payment of damages is canceled upon the death of the participant.

"(b) The Administrator shall prescribe regulations providing for the waiver or suspension of any obligation of a participant for service or payment under the Educational Assistance Program (or an agreement under the program) whenever noncompliance by the participant is due to circumstances beyond the control of the participant or whenever the Administrator determines that the waiver or suspension of compliance is in the best interest of the United States. Regulations.

"(c) An obligation of a participant under the Educational Assistance Program (or an agreement thereunder) for payment of damages may not be released by a discharge in bankruptcy under title 11 before the expiration of the five-year period beginning on the first date the payment of such damages is due.

"§ 4335. Service in other agencies 38 USC 4335.

"(a) The Administrator, with the consent of the participant or individual involved and the consent of the head of the department or agency involved, may permit—

"(1) a period of obligated service required under this chapter to be performed in the Department of Medicine and Surgery to be performed in another Federal department or agency or in the Armed Forces in lieu of performance of such service in the Department of Medicine and Surgery; and

"(2) a period of obligated service required to be performed in another Federal department or agency or in the Armed Forces under another Federal health personnel educational assistance program to be performed in the Department of Medicine and Surgery.

"(b) This section shall be carried out in cooperation with the heads of other appropriate departments and agencies.

"§ 4336. Exemption of educational assistance payments from taxation 38 USC 4336.

"Notwithstanding any other law, any payment to, or on behalf of a participant in the Educational Assistance Program, for tuition, education expenses, or a stipend under this chapter shall be exempt from taxation.".

(c) SAVINGS PROVISION.—The provisions of subchapter IV of chapter 73 of title 38, United States Code, as in effect on the day before the date of the enactment of this Act, shall remain in effect with respect to scholarships awarded under that subchapter. 38 USC 4141 note.

38 USC 4331 note.

(d) TRANSITION.—Section 4331 of title 38, United States Code, as added by subsection (b), shall not apply with respect to a school year ending during fiscal year 1988.

(e) CLERICAL AMENDMENTS.—(1) The table of sections at the beginning of chapter 73 is amended by striking out the items relating to subchapter IV and sections 4141 through 4146.

(2) The tables of chapters before part I and at the beginning of part V are each amended by inserting after the item relating to chapter 75 the following new item:

"76. Health Professionals Educational Assistance Program ..... 4301".

SEC. 217. PAY SCALES AND AWARDS FOR DEPARTMENT OF MEDICINE AND SURGERY EMPLOYEES.

(a) SECTION 4103 SCHEDULE.—Subsection (a) of section 4107 is amended to read as follows:

"(a) The annual rates or ranges of rates of basic pay for positions provided in section 4103 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law.".

(b) SECTION 4104(1) POSITIONS.—Subsection (b)(1) of section 4107 is amended to read as follows:

"(b)(1) The grades and annual ranges of rates of basic pay for positions provided for in paragraph (1) of section 4104 of this title shall be prescribed from time to time by Executive order as authorized by chapter 53 of title 5 or as otherwise authorized by law:

"PHYSICIAN AND DENTIST SCHEDULE

"Director grade.
"Executive grade.
"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.

"NURSE SCHEDULE

"Director grade.
"Assistant Director grade.
"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.
"Junior grade.

"CLINICAL PODIATRIST AND OPTOMETRIST SCHEDULE

"Chief grade.
"Senior grade.
"Intermediate grade.
"Full grade.
"Associate grade.".

(c) AWARDS FOR CAREER APPOINTEES.—Subsection (c)(3) of such section is amended by inserting "and any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title" after "applies".

PART C—PERSONNEL ADMINISTRATION

SEC. 221. DISCIPLINARY MATTERS AS TO CERTAIN APPOINTEES.

Section 4106(g) is amended by adding at the end the following new paragraph:

"(3) Notwithstanding any other provision of this title or other law, all matters relating to adverse actions, disciplinary actions, and grievance procedures involving individuals appointed to such positions (including similar actions and procedures involving an employee in a probationary status) shall be resolved under the provisions of title 5 as though such individuals had been appointed under such title.".

SEC. 222. PERSONNEL CEILINGS FOR NONCAREER RESEARCH PERSONNEL.

(a) EXCLUSION FROM PERSONNEL CEILINGS.—Section 5010(a) is amended by adding at the end the following new paragraph:

"(6)(A) Temporary research personnel of the Department of Medicine and Surgery shall be excluded from any ceiling on full-time equivalent employees of the Veterans' Administration or any other personnel ceiling otherwise applicable to employees of the Veterans' Administration.

"(B) For purposes of subparagraph (A) of this paragraph, the term 'temporary research personnel' means personnel who are employed in the Department of Medicine and Surgery in other than a career appointment for work on a research activity and who are not paid by the Veterans' Administration or are paid from funds appropriated to the Veterans' Administration to support such activity.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to fiscal years after fiscal year 1987. 38 USC 5010 note.

SEC. 223. AUTHORITY TO WAIVE LICENSURE AND INTERNSHIP REQUIREMENTS FOR CERTAIN HEALTH-CARE PERSONNEL.

Subsection (d) of section 4114 is amended to read as follows:

"(d)(1) Subject to paragraph (2) of this subsection, the Chief Medical Director may waive for the purpose of the appointment of an individual under this section the requirements set forth in section 4105(a) of this title—

"(A) that a physician, dentist, psychologist, optometrist, registered nurse, practical or vocational nurse, or physical therapist be licensed or certified, as appropriate;

"(B) that the licensure or certification of such an individual be in a State; and

"(C) that a psychologist have completed an internship.

"(2) The waivers authorized in paragraph (1) of this subsection may be granted—

"(A) in the case of clauses (A) and (C) of such paragraph, if the individual (i) will be employed to conduct research or serve in an academic position, and (ii) will have no responsibility for furnishing direct patient care services; and

"(B) in the case of clause (B) of such paragraph, if the individual will be employed to serve in a country other than the United States and the individual's licensure or registration is in the country in which the individual is to serve.".

SEC. 224. NURSE REPRESENTATION ON POLICYMAKING COMMITTEES.

(a) INCLUSION OF FACILITY CHIEF OF NURSING.—Section 4112 is amended by adding at the end the following new subsection:

"(c) The Administrator shall require that the Chief of the Nursing Service (or the designee of the Chief) at each Veterans' Administration health-care facility be included in the membership of each policymaking committee at that facility. Such committees include (1) committees relating to matters such as budget, education, position management, clinical executive issues, planning, and resource allocation, and (2) the dean's committee or other advisory committee established under subsection (b) of this section.".

(b) TECHNICAL AMENDMENT.—Subsection (b) of such section is amended in the first sentence by striking out "deans committee" and inserting in lieu thereof "dean's committee".

PART D—REPORTS

38 USC 4104 note.

SEC. 231. STUDY OF PAY AND OTHER PERSONNEL MANAGEMENT PRACTICES.

(a) IN GENERAL.—The Administrator shall conduct a study in order to determine—

(1) the effects of the pay and other personnel management practices of the Department of Medicine and Surgery of the Veterans' Administration on the ability of the Veterans' Administration to recruit and retain categories of employees (A) who are qualified to provide direct patient-care services, or services that are incident to direct patient-care services, in Veterans' Administration health-care facilities, and (B) as to which problems of recruitment and retention have arisen, and

(2) the effects that flexible employment benefits programs would have on the recruitment and retention of such employees.

(b) MATTERS REQUIRED TO BE DETERMINED.—In conducting the study under subsection (a), the Administrator shall make determinations with respect to various factors which may affect the determinations to be made under subsection (a), including determinations of the following:

(1) Whether there is inappropriate pay compression between the rates of pay of long-time employees of the Veterans' Administration and either the rates of pay of their supervisors or the rates of pay of relatively new employees performing the same services as a result of the position classification and pay systems applicable to such long-time and relatively new employees or to their supervisors.

(2) If any such inappropriate pay compression exists and such compression results from such position classification and pay systems, whether it is feasible to revise such system or systems in order to eliminate such pay compression and how much would be the cost to revise such system or systems for that purpose and to implement the revisions.

(3) Whether the payment of pay differentials (or of increased pay differentials) for evening or night service is needed in order to improve the ability of the Veterans' Administration to recruit and retain personnel to perform services referred to in subsection (a) on evening or night shifts, in what amounts such differentials should be paid, how much would be the cost of the payment of such differentials, and what, if any, effects the

payment of such differentials would be expected to have on the ability of the Veterans' Administration to recruit and retain personnel to perform such services on a shift for which a differential is not paid.

(c) CONSIDERATION OF FLEXIBLE EMPLOYEE BENEFITS PROGRAMS.—In conducting the study under subsection (a), the Administrator shall review the personnel management practices of an appropriate sample of employers other than the Federal Government. The Administrator shall consider—

(1) the extent to which such employers provide flexible employment benefits under programs designed to meet the individual needs to their employees,

(2) the advantages of such programs for such employers and employees, and

(3) the feasibility, desirability, and appropriateness of establishing and carrying out any such flexible employment benefits program for employees of the Department of Medicine and Surgery of the Veterans' Administration.

(d) REPORTS.—Not later than one year after the date of the enactment of this Act, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the results of the study required by subsection (a). The report shall contain—

(1) the determinations of the Administrator under subsections (a) and (b); and

(2) any planned administrative actions, and any recommendations for legislation, that the Administrator considers appropriate to include in the report on the basis of the results of the study.

SEC. 232. REPORT ON CERTAIN ACTIVITIES RELATING TO TRAINING IN GERIATRICS OF MEDICAL AND OTHER HEALTH-PROFESSIONAL SCHOOLS AFFILIATED WITH THE VETERANS' ADMINISTRATION.

(a) REPORT.—Not later than August 1, 1988, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report regarding the Veterans' Administration's activities, and the success of those activities, designed to promote increased efforts by affiliated institutions (1) in training health-care professionals to care for older patients, and (2) in research into the aging process and diseases and disabilities associated with aging.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) Information, for each academic year from 1980-1981 through 1987-1988, on the number of affiliated institutions, shown by type of institution and type of training, that—

(A) have a program through which students or trainees receive education and training in geriatrics through regular rotation through Veterans' Administration medical centers, nursing homes, domiciliary facilities, or other units providing extended care to veterans; or

(B) have a formal program providing education and training in geriatrics; or

(C) have both such programs.

(2) Information on the number of affiliated institutions (shown by type of institution) that are planning to establish

programs as described in paragraph (1), together with a timetable for such actions.

(3) Estimates of the costs, both to the Veterans' Administration and to the affiliated institutions, of the programs described in paragraphs (1) and (2).

(4) Estimates of the number of Veterans' Administration patients receiving care or who will receive care from the students or trainees participating in programs described in paragraphs (1)(A) and (2).

(5) A description of the role of the Veterans' Administration in encouraging the establishment and continuation of the programs described in paragraph (1).

(6) The views of the Administrator on the feasibility and desirability of requiring, as a condition of the Veterans' Administration's entering into or continuing an affiliation agreement with a health-care professional training institution, the establishment with such institution of the appropriate type of arrangements described in clause (C)(i) or (C)(ii) of section 4101(f)(1) of title 38, United States Code.

(c) DEFINITION.—For purposes of this section, the term "affiliated institutions" means medical and other health-professional training schools affiliated with the Veterans' Administration.

TITLE III—VETERANS' BENEFITS

PART A—BENEFITS BASED ON SERVICE-CONNECTED DISABILITIES

SEC. 301. SPECIALLY ADAPTED HOUSING ASSISTANCE.

Section 802 is amended—

(1) in subsection (a), by striking out "$35,500" and inserting in lieu thereof "$38,000"; and

(2) in subsection (b), by striking out "$6,000" and inserting in lieu thereof "$6,500".

SEC. 302. AUTOMOBILE ASSISTANCE ALLOWANCE.

Section 1902(a) is amended by striking out "$5,000" and inserting in lieu thereof "$5,500".

SEC. 303. BURIAL BENEFIT FOR SERVICE-CONNECTED DEATHS.

Section 907 is amended by striking out "$1,100" and inserting in lieu thereof "$1,500".

38 USC 802 note.

SEC. 304. EFFECTIVE DATE.

The amendments made by sections 301, 302, and 303 shall take effect on April 1, 1988.

PART B—COMPENSATION-RELATED PROVISIONS

SEC. 311. DEFINITION OF FORMER PRISONER OF WAR.

Section 101(32)(B) is amended by striking out "during a period other than a period of war in which such person was held".

SEC. 312. PRESUMPTION OF SERVICE CONNECTION FOR CERTAIN DISABILITIES FOR FORMER PRISONERS OF WAR.

Section 312(b) is amended—

(1) by striking out "or" at the end of clause (11); and

(2) by inserting after clause (12) the following new clauses:

"(13) peripheral neuropathy except where directly related to infectious causes,

"(14) irritable bowel syndrome, or

"(15) peptic ulcer disease,".

SEC. 313. PRESUMPTION OF SERVICE CONNECTION FOR LUPUS.

Section 301(3) is amended by inserting below "Leukemia" the following: "Lupus erythematosus, systemic".

SEC. 314. REINSTATED ENTITLEMENT FOR CERTAIN SURVIVORS.

Section 156(a)(1) of Public Law 97-377 (96 Stat. 1830, 1920) is amended— 42 USC 402 note.

(1) in subparagraph (B), by inserting "or who meets the requirements for entitlement to the equivalent of such benefit provided under section 412(a) of title 38, United States Code" after "month"; and

(2) in subparagraph (C), by inserting ", or to the equivalent of such benefit based on meeting the requirements of section 412(a) of title 38, United States Code," after "(42 U.S.C. 402(g))".

PART C—EDUCATION PROVISIONS

SEC. 321. MEASUREMENT OF LABORATORY INSTRUCTION.

(a) IN GENERAL.—Section 1788 is amended—

(1) in clause (B) of the first sentence of the matter following clause (7) of subsection (a), by inserting "(or two 50-minute periods)" after "two hours"; and

(2) in subsection (c), by inserting "(or two 50-minute periods)" after "two hours".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to any enrollment or reenrollment commencing on or after the date of enactment of this Act. 38 USC 1788 note.

SEC. 322. AUTHORITY TO WAIVE COMPLIANCE SURVEYS.

The text of section 1793 is amended to read as follows:

"(a) Except as provided in subsection (b) of this section, the Administrator shall conduct an annual compliance survey of each institution offering one or more courses approved for the enrollment of eligible veterans or persons if at least 300 veterans or persons are enrolled in such course or courses under provisions of this title or if any such course does not lead to a standard college degree. Such compliance survey shall be designed to ensure that the institution and approved courses are in compliance with all applicable provisions of chapters 30 through 36 of this title. The Administrator shall assign at least one education compliance specialist to work on compliance surveys in any year for each 40 compliance surveys required to be made under this section for such year.

"(b) The Administrator may waive the requirement in subsection (a) of this section for an annual compliance survey with respect to an institution if the Administrator determines, based on the institution's demonstrated record of compliance with all the applicable provisions of chapters 30 through 36 of this title, that the waiver would be appropriate and in the best interest of the United States Government.".

SEC. 323. EFFECTIVE DATE OF AWARDS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATION ASSISTANCE PROGRAM.

Section 3013 is amended by inserting "32," after "31,".

PART D—INSURANCE PROVISIONS

SEC. 331. AUTHORITY FOR ANNUITY ADJUSTMENTS.

(a)(1) Subchapter I of chapter 19 is amended by adding at the end the following new section:

38 USC 727.

"§ 727. Authority for higher monthly installments payable to certain annuitants

"(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of National Service Life Insurance, Veterans Special Life Insurance, or Veterans Reopened Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance concerned. The Administrator may make such an adjustment without regard to the provisions of sections 702, 723, and 725 of this title with respect to interest rates and the use of mortality tables.

"(b) The Administrator shall determine the amount in the trust funds in the Treasury held for payment of proceeds to National Service Life Insurance, Veterans Special Life Insurance, and Veterans Reopened Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly amount of an annuity authorized in sections 702, 723, and 725 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 726 the following new item:

"727. Authority for higher monthly installments payable to certain annuitants.".

(b)(1) Subchapter II of chapter 19 is amended by adding at the end the following new section:

38 USC 762.

"§ 762. Authority for higher monthly installments payable to certain annuitants

"(a) Subject to subsections (b) and (c) of this section, the Administrator may from time to time adjust the dollar amount of the monthly installments payable to a beneficiary of United States Government Life Insurance who is receiving the proceeds of such insurance under a life annuity settlement option. The Administrator may make such an adjustment only if the Administrator determines that the adjustment is administratively and actuarially

sound. The Administrator may make such an adjustment without regard to the provisions of section 744 of this title with respect to interest rates and the use of mortality tables.

"(b) The Administrator shall determine the amount in the trust fund in the Treasury held for payment of proceeds to United States Government Life Insurance beneficiaries attributable to interest and mortality gains on the reserves held for annuity accounts. Such amount shall be available for distribution to the life annuitants referred to in subsection (a) of this section as a fixed percentage of, and in addition to, the monthly installment amount to which the annuitants are entitled under this subchapter. For the purposes of this section, gains on the reserves are defined as funds attributable solely to annuity accounts that are in excess of actuarial liabilities.

"(c) The monthly amount of an annuity authorized in section 744 of this title, as adjusted under this section, may not be less than the monthly amount of such annuity that would otherwise be applicable without regard to this section.".

(2) The table of sections at the beginning of chapter 19 is amended by inserting after the item relating to section 761 the following new item:

"762. Authority for higher monthly installments payable to certain annuitants.".

SEC. 332. EXEMPTIONS FROM STATE TAXATION.

(a) EXEMPTION.—Section 769 is amended by adding at the end the following new subsection:

"(g)(1) No tax, fee, or other monetary payment may be imposed or collected by any State, or by any political subdivision or other governmental authority of a State, on or with respect to any premium paid under an insurance policy purchased under this subchapter.

"(2) Paragraph (1) of this subsection shall not be construed to exempt any company issuing a policy of insurance under this subchapter from the imposition, payment, or collection of a tax, fee, or other monetary payment on the net income or profit accruing to or realized by that company from business conducted under this subchapter, if that tax, fee, or payment is applicable to a broad range of business activity.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to premiums paid for periods beginning after June 30, 1988. 38 USC 769 note.

SEC. 333. DIRECT ADMINISTRATION OF VETERANS' MORTGAGE LIFE INSURANCE.

(a) REVISION OF PROGRAM.—(1) Section 806 is amended to read as follows:

"§ 806. Veterans' Mortgage Life Insurance

"(a) The United States shall automatically insure any eligible veteran who is or has been granted assistance in securing a suitable housing unit under this chapter against the death of the veteran unless the veteran (1) submits to the Administrator in writing the veterans' election not to be insured under this section, or (2) fails to respond in a timely manner to a request from the Administrator for information on which the premium for such insurance can be based.

"(b) The initial amount of insurance provided a veteran under this section may not exceed the lesser of $40,000 or the amount of the loan outstanding on the housing unit. The amount of such insurance

shall be reduced according to the amortization schedule of the loan and may not at any time exceed the amount of the outstanding loan with interest. If there is no outstanding loan on the housing unit, insurance is not payable under this section. If an eligible veteran elects not to be insured under this section, the veteran may thereafter be insured under this section, but only upon submission of an application, payment of required premiums, and compliance with such health requirements and other terms and conditions as may be prescribed by the Administrator.

"(c) The premiums charged a veteran for insurance under this section shall be paid at such time and in such manner as the Administrator prescribes. The rates for such premiums shall be based on such mortality data as the Administrator considers appropriate to cover only the mortality cost of insuring standard lives. In the case of a veteran receiving compensation or other cash benefits paid to the veteran by the Administrator, the Administrator shall deduct from such compensation or other benefits the premiums charged the veteran under this section.

"(d)(1) The United States shall bear the costs of insurance under this section to the extent that such costs exceed premiums established by the Administrator. Premiums collected on insurance under this section shall be credited to the 'Veterans Insurance and Indemnities' appropriation account, and all disbursements of insurance proceeds under this section shall be made from that account.

Appropriation authorization.

"(2) There are authorized to be appropriated to the Administrator for such account such amounts as may be necessary to carry out this section.

"(e) Any amount of insurance in force under this section on the date of the death of an eligible veteran insured under this section shall be paid to the holder of the mortgage loan, for payment of which the insurance was granted, for credit on the loan indebtedness. Any liability of the United States under such insurance shall be satisfied when such payment is made. If the Administrator is the holder of the mortgage loan, the insurance proceeds shall be credited to the loan indebtedness and, as appropriate, deposited in either the direct loan or loan guaranty revolving fund established by section 1823 or 1824 of this title, respectively.

"(f) The Administrator may prescribe such regulations relating to eligibility for insurance under this section, the maximum amount of insurance, the effective date of insurance, the maximum duration of insurance, and other pertinent matters not specifically provided for in this section as the Administrator determines are in the best interest of veterans or the United States.

"(g) The amount of the insurance in force at any time shall be the amount necessary to pay the mortgage indebtedness in full, except as otherwise limited by subsection (b) of this section or regulations prescribed by the Administrator under this section.

"(h) The Administrator shall issue to each veteran insured under this section a certificate setting forth the benefits to which the veteran is entitled under the insurance.

"(i) Insurance under this section shall terminate upon whichever of the following events first occurs:

"(1) Satisfaction of the veteran's indebtedness under the loan upon which the insurance is based.

"(2) The veteran's seventieth birthday.

"(3) Termination of the veteran's ownership of the property securing the loan.

"(4) Discontinuance of payment of premiums by the veteran.

"(j) Termination of life insurance under this section shall not affect the guaranty or insurance of the loan by the Administrator.".

(2) The item relating to section 806 in the table of sections at the beginning of chapter 21 is amended to read as follows:

"806. Veteran's mortgage life insurance.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the fourth month beginning after the date of the enactment of this Act. 38 USC 806 note.

(c) SAVINGS PROVISION.—Mortgage protection life insurance granted to any veteran under the former section 806 shall continue in force with the United States as insurer, subject to the terms of subsection (d). Nothing in that subsection shall impair any rights of any veteran or mortgage loan holder under the former section 806 that matured before the effective date specified in subsection (b). 38 USC 806 note.

(d) DISCONTINUANCE OF CONTRACT PROGRAM.—(1) Effective as of the effective date specified in subsection (b), the Administrator shall discontinue the policy of insurance purchased in accordance with the former section 806.

(2) All premiums collected or received by the insurer on or after such effective date under a policy purchased under the former section 806 shall be promptly forwarded to the Administrator and shall be credited to the "Veterans Insurance and Indemnities" appropriation account. Any positive balance of the contingency reserve maintained by the insurer under such policy remaining after all charges have been made shall be payable to the Administrator and shall be deposited by the Administrator in such account, except that such balance may, upon the election of the insurer, be paid by the insurer in equal monthly installments over a period of not more than two years beginning on the date, after such effective date, that the Administrator specifies.

(e) FORMER SECTION 806 DEFINED.—For the purpose of subsections (c) and (d), the term "former section 806" means section 806 of title 38, United States Code, as in effect on the day before the effective date specified in subsection (b).

PART E—MEMORIAL AFFAIRS

SEC. 341. NATIONAL CEMETERY GRAVE MARKERS.

(a) IN GENERAL.—Section 1004(c)(2) is amended—

(1) by striking out "and" at the end of clause (A);

(2) by striking out the period at the end and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following new clauses:

"(C) in the case of any cemetery located on the grounds of or adjacent to a Veterans' Administration health-care facility, the Administrator may provide for flat grave markers; and

"(D) in the case of grave sites of cremated remains that are interred in the ground, the Administrator may provide for flat grave markers.".

(b) GRAVE MARKERS IN CERTAIN LOCATIONS.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator may provide for flat grave markers in the cases of the national cemeteries in Riverside, California; Bourne, Massachusetts; Augusta, Michigan; and Indiantown Gap, Pennsylvania; and the proposed State listing. 38 USC 1004 note.

national cemetery approved by the Administrator, as of July 31, 1987, for Northern California.

SEC. 342. CONTRIBUTIONS FOR CERTAIN PROJECTS.

Section 1004(f) is amended—

(1) by striking out "The" and inserting in lieu thereof "(1) The"; and

(2) by adding at the end the following new paragraph:

"(2) The Administrator may, to the extent of appropriated funds available for such purpose, make a contribution to local authorities for the construction of road improvements or traffic controls or other devices on land adjacent to a national cemetery if the Administrator determines that such a contribution is essential to ensure safe ingress to or egress from the cemetery.".

SEC. 343. STATE VETERANS' CEMETERY CONSTRUCTION GRANTS.

Section 1008(b) is amended—

(1) by striking out paragraph (1);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively;

(3) in paragraphs (1) and (2) (as so redesignated), by striking out "per centum" and inserting in lieu thereof "percent"; and

(4) in paragraph (2) (as so redesignated), by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (1)".

SEC. 344. GRAVE LINERS.

(a) AUTHORITY TO PROVIDE.—Section 906 is amended by adding at the end the following new subsection:

"(e)(1) The Administrator may provide a grave liner for any grave in a cemetery within the National Cemetery System in which remains are interred in a casket. The Secretary of the Army may provide a grave liner for such a grave in the Arlington National Cemetery.

"(2) The use of grave liners in a cemetery within the National Cemetery System or in the Arlington National Cemetery shall be in accordance with specifications and procedures approved by the Administrator or the Secretary, respectively.".

(b) CLERICAL AMENDMENTS.—(1) The heading of such section is amended to read as follows:

"§ 906. Headstones, markers, and grave liners".

(2) The item relating to such section in the table of sections at the beginning of chapter 23 is amended to read as follows:

"906. Headstones, markers, and grave liners.".

SEC. 345. AMERICAN BATTLE MONUMENTS COMMISSION FOREIGN CURRENCY FLUCTUATIONS.

(a) ESTABLISHMENT OF FOREIGN CURRENCY FLUCTUATIONS ACCOUNT.—The Act entitled "An Act for the creation of an American Battle Monuments Commission to erect suitable memorials commemorating the services of the American soldier in Europe, and for other purposes", approved March 4, 1923 (36 U.S.C. 121 et seq.), is amended by adding at the end the following new section:

36 USC 138c.

"SEC. 13. (a) There is hereby established in the Treasury an account to be known as the 'Foreign Currency Fluctuations, American Battle Monuments Commission, Account'. The account shall be used to provide funds, in addition to funds appropriated for salaries

and expenses of the American Battle Monuments Commission, to pay the costs of such salaries and expenses that exceed the amount appropriated therefor as a result of fluctuations in currency exchange rates of foreign countries occurring after a budget request for the Commission is submitted to Congress. The account may not be used for any other purpose. Funds in the account may be transferred to funds appropriated for salaries and expenses of the Commission.

"(b) Funds transferred under subsection (a) shall be merged with and available for the same time period as the appropriation to which they are applied. A provision of law limiting the amount of funds the Commission may obligate in any fiscal year shall be increased to the extent necessary to reflect fluctuations in exchange rates from those used in preparing the budget submission.

"(c) An obligation of the Commission payable in the currency of a foreign country may be recorded as an obligation based upon exchange rates used in preparing a budget submission. A change reflecting fluctuations in exchange rates may be recorded as a disbursement is made.

"(d) Funds transferred from the Foreign Currency Fluctuations, American Battle Monuments Commission, Account may be transferred back to that account—

"(1) if the funds are not needed to pay obligations incurred because of fluctuations in currency exchange rates of foreign countries in the appropriation to which the funds were originally transferred; or

"(2) because of subsequent favorable fluctuations in the rates or because other funds are, or become, available to pay such obligations.

"(e) A transfer back to the account under subsection (d) may not be made after the end of the second fiscal year after the fiscal year in which the appropriation to which the funds were originally transferred is available for obligation.

"(f) Not later than the end of the second fiscal year following the fiscal year for which appropriations for salaries and expenses have been made available to the Commission, unobligated balances of such appropriation provided for a fiscal year may be transferred into the Foreign Currency Fluctuations, American Battle Monuments Commission, Account, to be merged with and available for the same period and purposes as that account.

"(g) The Commission shall submit to the appropriate committees of the Congress each year a report on funds transferred under this section.". Reports.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to the Foreign Currency Fluctuations, American Battle Monuments Commission, Account the sum of $3,000,000. 36 USC 138c note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to each fiscal year after fiscal year 1988. 36 USC 138c note.

SEC. 346. TRANSFER OF THE ARIZONA VETERANS MEMORIAL CEMETERY TO THE VETERANS' ADMINISTRATION.

(a) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Administrator shall enter into an agreement with the State of Arizona that— Contracts.

(1) provides for the conveyance to the United States, without consideration, of all right, title, and interest in and to the Real property.

Arizona Veterans Memorial Cemetery in the State of Arizona, consisting of approximately 225 acres; and

(2) commits the State to provide to the Veterans' Administration in a timely manner funding in the amount necessary to supplement Federal funding so that the level of operation and maintenance of the cemetery as of the date the agreement is entered into can be maintained during the three-year period beginning on the date of the conveyance of the cemetery under the agreement.

(b) CEMETERY TO BECOME PART OF THE NATIONAL CEMETERY SYSTEM.—After acceptance by the Administrator, the Arizona Veterans Memorial Cemetery shall become part of the National Cemetery System and shall be administered in accordance with the provisions of chapter 24 of title 38, United States Code.

(c) LEGAL DESCRIPTION.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey that is conducted at no charge to the United States and is satisfactory to the Administrator of Veterans' Affairs.

(d) TERMS AND CONDITIONS.—The Administrator may require such terms and conditions with respect to the conveyance authorized by this section as the Administrator considers appropriate to protect the interests of the United States.

(e) WAIVER OF LIABILITY FOR REPAYMENT OF VETERANS' ADMINISTRATION GRANT.—The State of Arizona is not required to repay the Veterans' Administration, by reason of the conveyance of the Arizona Veterans Memorial Cemetery under this section, the amount of any grant made to such State with respect to such cemetery under section 1008 of title 38, United States Code.

(f) EXPENDITURES.—(1) During each of the one-year periods occurring during the three-year period beginning on the date on which the conveyance under subsection (a) is made, the Administrator may not obligate appropriated funds for the operation and maintenance of the Arizona Veterans Memorial Cemetery in excess of the greater of—

(A) the amount that the Administrator estimates would have been obligated for payment during the one-year period involved to the State pursuant to section 903(b)(1) of title 38, United States Code, in connection with the burial of deceased veterans had the cemetery not been transferred to the Veterans' Administration; or

(B) the amount obligated for such purpose during fiscal year 1987.

(2)(A) Subject to subparagraph (B), in each of the fiscal years occurring during the three-year period described in paragraph (1), the Administrator shall use amounts available for payments under such section 903(b)(1) for the operation and maintenance of such cemetery.

(B) Expenditures under subparagraph (A) shall not exceed the applicable limitation under paragraph (1).

(3) The Administrator shall use all funding received from the State, as described in subsection (a)(2), for the operation and maintenance of such cemetery.

(g) ACCEPTANCE OF GIFTS.—The Administrator may accept devises, bequests, and gifts made in any manner by any person or entity for the purpose of the operation, maintenance, or improvement of the Arizona Veterans Memorial Cemetery after the Administrator has

accepted title thereto pursuant to subsection (a) and shall use the funds or property involved for the intended purpose.

(h) GRAVE MARKERS.—Notwithstanding section 1004(c)(2) of title 38, United States Code, the Administrator shall provide for the use of flat grave markers for interments at the Arizona Veterans Memorial Cemetery after the conveyance of the cemetery to the United States.

TITLE IV—VETERANS' ADMINISTRATION MANAGEMENT AND ADMINISTRATION

PART A—PROCUREMENT POLICY

SEC. 401. INTEGRITY OF CONTRACTING OUT PROCESS AT HEALTH-CARE FACILITIES.

(a) REQUIREMENT FOR TWO BIDDERS.—Section 5010(c)(2) is amended by inserting "responsive bids are received from at least two responsible, financially autonomous bidders and" after "only if".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply only with respect to the awarding of contracts under solicitations issued after the date of the enactment of this Act. 38 USC 5010 note.

SEC. 402. STANDARDIZATION OF MEDICAL AND PHARMACEUTICAL ITEMS. 38 USC 5025 note.

Not later than October 1, 1989, the Administrator shall develop and fully implement an agency-wide plan for the cost-effective standardization, in a manner consistent with the effective furnishing of health-care services, of medical and pharmaceutical items procured by the Veterans' Administration. The plan shall provide for the procurement of generic pharmaceutical items when such procurement is more economical than procurement of a name-brand pharmaceutical item unless the Chief Medical Director of the Veterans' Administration (1) determines, after consultation with the Commissioner of the Food and Drug Administration, that an equivalent generic item is not available, or (2) determines that the procurement of a name-brand item is necessary in the interests of effective patient care.

SEC. 403. REQUIREMENTS FOR THE PROCUREMENT OF HEALTH-CARE ITEMS.

(a) IN GENERAL.—(1) Subchapter II of chapter 81 is amended by adding at the end the following new section:

"§ 5025. Procurement of health-care items 38 USC 5025.

"(a) Except as provided in subsections (b) and (c) of this section, the Administrator may not procure health-care items under local contracts.

"(b)(1) A health-care item for use by the Veterans' Administration may be procured under a local contract if—

"(A) the procurement is within the limits prescribed in paragraph (3) of this subsection; and

"(B)(i) the item is not otherwise available to the Veterans' Administration medical center concerned,

"(ii) procurement of the item by a local contract is necessary for the effective furnishing of health-care services or the conduct of a research or education program at a Veterans' Administration medical center, as determined by the director of

the center in accordance with regulations which the Chief Medical Director shall prescribe, or

"(iii) procurement under a local contract is demonstrably more cost-effective for the item.

"(2) In the case of the need for an emergency procurement of a health-care item, such item may be procured under a local contract, but no greater quantity of such item may be procured by a local contract than is reasonably necessary to meet the emergency need and the reasonably foreseeable need for the item at the medical center concerned until resupply can be achieved through procurement actions other than emergency procurement.

"(3)(A) Except as provided in subparagraphs (C) and (D) of this paragraph, not more than 20 percent of the total of all health-care items procured by the Veterans' Administration in any fiscal year (measured as a percent of the total cost of all such health-care items procured by the Veterans' Administration in that fiscal year) may be procured under local contracts.

Contracts. "(B) Local contracts for the procurement of health-care items shall, to the maximum extent feasible, be awarded to regular dealers or manufacturers engaged in the wholesale supply of such items.

"(C) The Administrator may increase for a fiscal year the percentage specified in subparagraph (A) of this section to a percentage not greater than 30 percent if the Administrator, based on the experience of the Veterans' Administration during the two fiscal years preceding such fiscal year, determines that the increase and the amount of the increase are necessary in the interest of the effective furnishing of health-care services by the Veterans' Administration. The authority to increase such percentage may not be delegated.

"(D) Items procured through an emergency procurement shall not be counted for the purpose of this paragraph.

"(c) A provision of law that is inconsistent with subsection (a) or (b) of this section shall not apply, to the extent of the inconsistency, to the procurement of a health-care item for use by the Veterans' Administration.

Reports. "(d)(1) Not later than December 1 of each year, the director of each Veterans' Administration medical center shall transmit to the Administrator a report containing a list indicating the quantity of each health-care item procured at that medical center under a local contract during the preceding fiscal year and the total amount paid for such item during such fiscal year.

Reports. "(2) Not later than February 1 of each year, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year.

"(e) For the purposes of this section:

"(1) The term 'health-care item' includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 65, 66, or 73. Such term does not include perishable items.

"(2) The term 'local contract' means a contract entered into by a Veterans' Administration medical center for procurement of an item for use by that medical center.

"(3) The term 'emergency procurement' means a procurement necessary to meet an emergency need, affecting the health or safety of a person being furnished health-care services by the Veterans' Administration, for an item.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 5024 the following new item:

"5025. Procurement of health-care items.".

(b) EFFECTIVE DATES.—(1) Subsection (b)(1) of section 5025 of title 38, United States Code (as added by subsection (a)), shall take effect one year after the date of the enactment of this Act. 38 USC 5025 note.

(2) Subsection (b)(3) of such section shall apply to health-care items procured for use by the Veterans' Administration after September 30, 1990.

SEC. 404. MULTIYEAR PROCUREMENT OF CERTAIN MEDICAL ITEMS.

(a) AUTHORITY FOR MULTIYEAR CONTRACTS.—Chapter 1 is amended by adding at the end the following new section:

"§ 114. Multiyear procurement for certain medical items 38 USC 114.

"(a) The Administrator may enter into a multiyear contract for the procurement of supplies or services for use in Veterans' Administration health-care facilities if the Administrator makes each of the following determinations:

"(1) Appropriations are available for obligations that are necessary for total payments that would be required during the fiscal year in which the contract is entered into, plus the estimated amount of any cancellation charge payable under the contract.

"(2) The contract is in the best interest of the United States by reason of the effect that use of a multiyear, rather than one-year, contract would have in—

"(A) reducing costs;

"(B) achieving economies in contract administration or in any other Veterans' Administration activities;

"(C) increasing quality of performance by or service from the contractors; or

"(D) encouraging effective competition.

"(3) During the proposed contract period—

"(A) there will be a continuing or recurring need for the supplies or services being procured;

"(B) there is not a substantial likelihood of substantial changes in the need for such supplies or services in terms of the total quantity of such supplies or services or of the rate of delivery of such supplies or services; and

"(C) the specifications for the supplies or services are expected to be reasonably stable.

"(4) The risks relating to the prospective contractor's ability to perform in accordance with the specifications and other terms of the contract are not excessive.

"(5) The use of a multiyear contract will not inhibit small business concerns in competing for the contract.

"(6) In the case of the procurement of a pharmaceutical item for which a patent has expired less than four years before the date on which the solicitation of offers is issued, there is no substantial likelihood that increased competition among potential contractors would occur during the term of the contract as the result of the availability of generic equivalents increasing during the term of the contract.

"(b)(1) A multiyear contract authorized by this section shall contain—

"(A) a provision that the obligation of the United States under the contract during any fiscal year which is included in the contract period and is subsequent to the fiscal year during which the contract is entered into is contingent on the availability of sufficient appropriations (as determined by the Administrator pursuant to paragraph (2)(A) of this subsection) if, at the time the contract is entered into, appropriations are not available to cover the total estimated payments that will be required during the full term of the contract; and

"(B) notwithstanding section 1502(a) of title 31, a provision for the payment of reasonable cancellation charges to compensate the contractor for nonrecurring, unrecovered costs, if any, if the performance is cancelled pursuant to the provision required by subparagraph (A) of this paragraph.

"(2)(A) If, during a fiscal year after the fiscal year during which a multiyear contract is entered into under this section, the Administrator determines that, in light of other funding needs involved in the operation of Veterans' Administration health-care programs, the amount of funds appropriated for such subsequent fiscal year is not sufficient for such contract, the Administrator shall cancel such contract pursuant to the provisions required by paragraph (1)(A) of this subsection.

"(B) Cancellation charges under a multiyear contract shall be paid from the appropriated funds which were originally available for performance of the contract or the payment of cancellation costs unless such funds are not available in an amount sufficient to pay the entire amount of the cancellation charges payable under the contract. In a case in which such funds are not available in such amount, funds available for the procurement of supplies and services for use for the same purposes as the supplies or services procured through such contract shall be used to the extent necessary to pay such cost.

"(c) Nothing in this section shall be construed so as to restrict the Administrator's exercise of the right to terminate for convenience a contract under any other provision of law which authorizes multiyear contracting.

Regulations.

"(d) The Administrator shall prescribe regulations for the implementation of this section.

"(e) For the purposes of this section:

"(1) The term 'appropriations' has the meaning given that term in section 1511 of title 31.

"(2) The term 'cancel' or 'cancellation' refers to the termination of a contract by the Administrator as required under paragraph (2)(B)(i) of this subsection.

"(3) The term 'multiyear contract' means a contract which by its terms is to remain in effect for a period which extends beyond the end of the fiscal year during which the contract is entered into but not beyond the end of the fourth fiscal year following such fiscal year. Such term does not include a contract for construction or for a lease of real property.

"(4) The term 'nonrecurring, unrecovered costs' means those costs reasonably incurred by the contractor in performing a multiyear contract which (as determined under regulations prescribed under subsection (d) of this section) are generally incurred on a one-time basis."

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"114. Multiyear procurement for certain medical items.".

PART B—GENERAL ADMINISTRATIVE AND FINANCIAL MATTERS

SEC. 411. SEQUESTRATION RULES APPLICABLE TO VETERANS' PROGRAMS.

(a) RESTORATION OF CERTAIN REVOLVING FUNDS.—(1) Notwithstanding section 601(b) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576), section 113(b)(2) of title 38, United States Code, shall apply with respect to a sequestration order issued, or a sequestration law enacted, for any fiscal year after fiscal year 1985. 38 USC 113 note.

(2) The Secretary of the Treasury shall take such action as is necessary to implement paragraph (1). Not later than 60 days after the date of the enactment of this Act, the Secretary shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the action taken by the Secretary pursuant to that paragraph. Reports.

(b) EXTENSION OF EXEMPTION FOR CERTAIN SERVICE-CONNECTED REHABILITATION AND EDUCATION BENEFITS.—Section 113(a) is amended by striking out "(but only with respect to fiscal year 1987)" each place it appears in paragraphs (4) and (5).

(c) TECHNICAL AMENDMENTS.—Subsection (d) of such section is amended by striking out "a joint report of the Directors of the Office of Management and Budget and the Congressional Budget Office" and inserting in lieu thereof "a report of the Director of the Office of Management and Budget". Reports.

SEC. 412. CHILD-CARE SERVICES AT VETERANS' ADMINISTRATION FACILITIES.

(a) OPERATION BY VETERANS' CANTEEN SERVICE.—Chapter 75 is amended by adding at the end the following new section:

"§ 4209. Child-care centers 38 USC 4209.

"(a)(1) The Administrator, through the Service, shall provide for the operation of child care centers at Veterans' Administration facilities in accordance with this section. The operation of such centers shall be carried out to the extent that the Administrator determines, based on the demand for the care involved, that such operation is in the best interest of the Veterans' Administration and that is practicable to do so. The centers shall be available for the children of Veterans' Administration employees and, to the extent space is available, the children of other employees of the Federal Government and the children of employees of affiliated schools and corporations created under section 4161 of this title. Government organization and employees.

"(2) There shall be in the Service an official who is responsible for all matters relating to the provision of child care services under the authority of this section.

"(b) The Service shall establish reasonable charges for child-care services provided at each child-care center operated under this section. The charges shall be subject to the approval of the Administrator. In the case of a center operated directly by the Service, the charges with respect to the center shall be sufficient to provide for

the operating expenses of the center, including the expenses of personnel assigned to the center. In the case of a center operated by a contractor which is a for-profit entity, the charges shall be established by taking into consideration the value of the space and services furnished with respect to the center under subsection (c)(1) of this section.

"(c) In connection with the establishment and operation of any child care center under this section, the Administrator—

"(1) shall furnish, at no cost to the center, space in existing Veterans' Administration facilities and utilities, custodial services, and other services and amenities necessary (as determined by the Administrator) for the health and safety of the children provided care at the center;

"(2) may, on a reimbursable basis, convert space furnished under clause (1) of this subsection for use as the child care center and provide other items necessary for the operation of the center, including furniture, office machines and equipment, and telephone service, except that the Administrator may furnish basic telephone service and surplus furniture and equipment without reimbursement;

"(3) shall provide for the participation (directly or through a parent advisory committee) of parents of children receiving care in the center in the establishment of policies to govern the operation of the center and in the oversight of the implementation of such policies;

"(4) shall require the development and use of a process for determining the fitness and suitability of prospective employees of or volunteers at the center; and

"(5) shall require in connection with the operation of the center compliance with all State and local laws, ordinances, and regulations relating to health and safety and the operation of child-care centers.

Regulations. "(d) The Administrator shall prescribe regulations to carry out this section.

"(e) For the purpose of this section, the term 'parent advisory committee' means a committee comprised of, and selected by, the parents of children receiving care in a child care center operated under this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4209. Child-care centers.".

SEC. 413. ADVISORY COMMITTEE ON NATIVE-AMERICAN VETERANS.

(a) NATIVE HAWAIIAN REPRESENTATION.—(1) Subsections (b) and (c)(3)(A) of section 19032 of the Veterans' Health-Care Amendments of 1986 (Public Law 99-272; 100 Stat. 388) are amended by striking out "and Alaska Natives" and inserting in lieu thereof ", Alaska Natives, and Native Hawaiians".

38 USC 219 note.

(2) Subsection (g) of such section is amended to read as follows:

"(g) DEFINITIONS.—For the purposes of this section:

"(1) The term 'Alaska Native' has the meaning given the term 'Native' in section 3(b) of the Alaska Native Claims Settlement Act (43 U.S.C. 1602(b)).

"(2) The term 'Native Hawaiian' has the meaning given that term in section 813(3) of the Native American Programs Act of 1974 (42 U.S.C. 2992c(3)).".

(b) ONE-YEAR EXTENSION.—(1) Subsection (f)(1) of such section is amended by striking out "and February 1, 1988" and inserting in lieu thereof "February 1, 1988, and February 1, 1989".

(2) Subsection (h) of such section is amended—

(A) by striking out "second" and inserting in lieu thereof "third"; and

(B) by striking out "the Committee" and inserting in lieu thereof "the Administrator".

SEC. 414. MANAGEMENT OF CANTEEN SERVICE.

(a) FINANCIAL MANAGEMENT.—(1) The second sentence of section 4205 is amended by inserting "or other interest-bearing accounts" after "checking accounts".

(2) Section 4206 is amended by striking out the second sentence.

(b) EXEMPTION OF CANTEEN SERVICE FROM PERSONNEL CEILING.—(1) Chapter 75 is amended by adding at the end the following:

"§ 4210. Exemption from personnel ceilings 38 USC 4210.

"Persons who are employed by the Service and compensated from the revolving fund established by section 4204 of this title may not be considered to be employees of the Veterans' Administration for the purposes of any personnel ceiling which may otherwise be applied to employees of the Veterans' Administration by the President or an official of the executive branch.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4210. Exemption from personnel ceilings.".

SEC. 415. TECHNICAL AMENDMENTS TO CHAPTER 37.

(a) TECHNICAL REORGANIZATION OF SUBCHAPTER I.—(1) Section 1802(a) is amended—

(A) by striking out "(a)" and inserting in lieu thereof "(a)(1)";

(B) by striking out the first sentence and inserting in lieu thereof: "The veterans described in paragraph (2) of this subsection are eligible for the housing loan benefits of this chapter."; Loans.

(C) by striking out "in the preceding sentence, or in section 1818 of this title," in the second sentence and inserting in lieu thereof "in paragraph (2)";

(D) by striking out "(1)" and "(2)" in the second sentence and inserting in lieu thereof "(A)" and "(B)", respectively;

(E) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively; and

(F) by adding at the end the following:

"(2) The veterans referred to in the first sentence of paragraph (1) of this subsection are the following:

"(A) Each veteran who served on active duty at any time during World War II, the Korean conflict, or the Vietnam era and whose total service was for 90 days or more.

"(B) Each veteran who after September 15, 1940, was discharged or released from a period of active duty for a service-connected disability.

"(C) Each veteran, other than a veteran described in clause (A) or (B) of this paragraph, who—

"(i) served after July 25, 1947, for a period of more than 180 days and was discharged or released therefrom under conditions other than dishonorable; or

"(ii) has served more than 180 days in active duty status and continues on active duty without a break therein.

"(3) Any unused entitlement of World War II or Korean conflict veterans which expired under provisions of law in effect before October 23, 1970, is hereby restored and shall not expire until used.".

(2) Subsection (g) of section 1802—

(A) is amended by striking out "1801(a)" and inserting in lieu thereof "1801(b)"; and

(B) as amended by subparagraph (A) of this paragraph, is transferred so that it will appear at the end of subsection (a) of such section and is redesignated as paragraph (4) of such subsection (a).

(3)(A) Section 1815—

(i) is amended by striking out the section heading;

(ii) is amended by redesignating subsection (a) as paragraph (2)(A) and redesignating subsection (b) as subparagraph (B); and

(iii) as amended by clauses (i) and (ii) of this subparagraph, is transferred so that it will appear as paragraph (2) of section 1803(a), as amended by subparagraph (B)(ii) of this paragraph.

(B) Section 1803 is amended—

(i) by striking out the section heading and inserting in lieu thereof the following:

"§ 1803. Basic provisions relating to loan guaranty and insurance"; and

(ii) in subsection (a) by striking out paragraph (2).

(4) Section 1807 is repealed.

(b) TECHNICAL REORGANIZATION OF SUBCHAPTERS II AND III.—(1)(A) Section 1816(a)(4)(A)(i)(I) is amended by striking out "section 1816(a)(2) of this title" and inserting in lieu thereof "paragraph (2) of this subsection".

(B) Section 1816(c)(10) is amended—

(i) in subparagraph (A), by inserting "(or such earlier date following the expiration of a reasonable period of time for such sale to occur as the Administrator may specify pursuant to regulations prescribed by the Administrator to implement this subsection)" after "loan"; and

(ii) in subparagraph (B)(ii), by inserting "(5)(A) or" after "under paragraph".

(C) The heading and subsections (a), (b), and (c) of section 1816, as amended by subparagraphs (A) and (B) of this paragraph, are redesignated as a new section 1832 and transferred to subchapter III of chapter 37 so that they will appear following section 1831.

(D) Subsections (d), (e), and (f) of section 1816 are redesignated as subsections (a), (b), and (c), respectively, and transferred so that they will appear after section 1832, as transferred by subparagraph (C) of this paragraph with the following heading:

"§ 1833. Property management".

(2)(A) Section 1817(a) is amended by striking out "under section 1810" and inserting in lieu thereof "for purposes specified in section 1810".

(B) Section 1817, as amended by subparagraph (A) of this paragraph, and section 1817A are redesignated as sections 1813 and 1814, respectively, and transferred so that they will appear after section 1812, as transferred by paragraph (4)(C) of this subsection.

(3) Section 1818 is repealed.

(4)(A) Section 1819 is amended by striking out "under this section" each place it appears in subsections (a)(4)(C), (b)(1), (c)(2), (c)(4), (d)(1), (e), (f), (g) (except where it appears in the second sentence), and (h)(1) and inserting in lieu thereof "for purposes specified in this section".

(B) Section 1819(c) is amended—

(i) in the first sentence of paragraph (3) by inserting before the period the following: "as specified in paragraph (4) of this subsection";

(ii) in the second sentence of paragraph (4), by striking out "under section 1810" and inserting in lieu thereof "for purposes specified in section 1810"; and

(iii) in the second sentence of paragraph (4), by striking out "under such section 1810" and inserting in lieu thereof "for purposes specified in such section 1810".

(C) Section 1819, as amended by subparagraphs (A) and (B) of this paragraph, is redesignated as section 1812 and transferred so that it will appear following section 1811.

(5) Section 1832—

(A) is amended by striking out the section heading;

(B) is amended by redesignating subsection (a) as subsection (d)(1) and subsection (b) as paragraph (2); and

(C) as amended by clause (A) and (B) of this paragraph, is transferred so that it will appear at the end of the new section 1833 added by paragraph (4) of this subsection.

(c) CONFORMING AMENDMENTS.—(1) Section 1801(a) is amended by striking out "1819(a)(1)" and inserting in lieu thereof "1812(a)(1)".

(2) Section 1803(c)(3) is amended—

(A) in clause (A), by striking out "1819(a)(1)(F)" and inserting in lieu thereof "1812(a)(1)(F)"; and

(B) in clause (E), by striking out "1819(a)(1)(G)" and inserting in lieu thereof "1812(a)(1)(G)".

(3) Section 1804 is amended—

(A) in clause (C) of subsection (c)(2), by striking out "1819(a)(5)(A)(i)" and inserting in lieu thereof "1812(a)(5)(A)(i)";

(B) in clause (D) of subsection (c)(2), by striking out "1819(e)(5)" and inserting in lieu thereof "1812(e)(5)"; and

(C) in subsection (f), by striking out "1817A" each place it appears and inserting in lieu thereof "1814".

(4) Section 1810 is amended—

(A) in subsection (a)(9)(B)(ii), by striking out "section 1819(a)(5)" and inserting in lieu thereof "section 1812(a)(5)"; and

(B) in subsection (g)(2), by striking out "section 1819(e)(2)" and inserting in lieu thereof "section 1812(e)(2)".

(5) Section 1811 is amended—

(A) by striking out "1819" each place it appears and inserting in lieu thereof "1812"; and

(B) in subsection (b), by striking out "1819(a)(1)(F)" and inserting in lieu thereof "1812(a)(1)(F)".

(6) Section 1829(d) is amended by striking out "1817A" and inserting in lieu thereof "1814".

(7) Any reference, in effect on the date of the enactment of this Act, in any law, rule, or regulation to any of the sections, or parts

38 USC 1802 note.

thereof, which are redesignated or transferred by this section shall be construed to refer to the section, or part thereof, as redesignated or transferred by this section.

(d) TECHNICAL AMENDMENTS.—(1) Section 1803(a)(1) is amended—

(A) in clause (A)(ii), by inserting "as specified in subparagraph (B) of this paragraph" before the period; and

(B) in clause (B), by striking out "under section 1810 of this chapter" and inserting in lieu thereof "for purposes specified in section 1810 of this title".

(2) Section 1811 is amended—

(A) in subsections (a), (b), and (g), by striking out "under section 1810 or" and inserting in lieu thereof "for purposes specified in section 1810 or"; and

(B) in subsection (d)(2)(B), by striking out "under section 1810(c)" and inserting in lieu thereof "for purposes specified in section 1810".

(e) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 37 is amended—

(1) by striking out the item relating to section 1803 and inserting in lieu thereof the following:

"1803. Basic provisions relating to loan guaranty and insurance.";

(2) by striking out the item relating to section 1807;

(3) by striking out the items relating to subchapter II and inserting in lieu thereof the following:

"SUBCHAPTER II—LOANS

"1810. Purchase or construction of homes.
"1811. Direct loans to veterans.
"1812. Loans to purchase manufactured homes and lots.
"1813. Release from liability under guaranty.
"1814. Assumptions; release from liability.";

and

(4) by striking out the item relating to section 1832 and inserting in lieu thereof the following:

"1832. Procedure on default.
"1833. Property management.".

38 USC 1802 note.

(f) TECHNICAL NATURE OF AMENDMENTS.—The status of any veteran with respect to benefits under chapter 37 of title 38, United States Code, shall not be affected by the amendments made by, or other provisions of, this section.

PART C—REAL PROPERTY

SEC. 421. LIMITATION ON TRANSFER OF PROPERTY TO OTHER AGENCIES.

(a) GENERAL RULE.—(1) Paragraph (2) of section 5022(a) is amended to read as follows:

"(2)(A) The Administrator may not during any fiscal year transfer to another Federal agency or to a State (or any political subdivision of a State) any interest in real property described in subparagraph (B) of this paragraph unless (i) the transfer (as proposed) was described in the budget for that fiscal year submitted to Congress pursuant to section 1105 of title 31, and (ii) the Veterans' Administration receives compensation equal to the fair market value of the property.

"(B) An interest in real property described in this subparagraph is an interest in real property that is owned by the United States and

administered by the Veterans' Administration and that has an estimated value in excess of $50,000.

"(C) Amounts realized from the transfer of any interest in real property described in subparagraph (B) of this paragraph shall be deposited in the nursing home revolving fund established under section 5016 of this title.".

(2) Any proposed transfer of real property described in subparagraph (B) of section 5022(a)(2) of title 38, United States Code, as amended by paragraph (1), that is described in a report submitted to the Committees on Veterans' Affairs of the Senate and House of Representatives by the Administrator not later than 30 days after the date of the enactment of this Act shall be deemed for purposes of subparagraph (A) of that section to have been described in the President's budget for fiscal year 1989. Reports. 38 USC 5022 note.

(b) SPECIAL RULE.—(1) Section 234 of Public Law 99-576 is repealed. 100 Stat. 3266.

(2) The Administrator may not declare as excess to the needs of the Veterans' Administration, or otherwise take any action to dispose of, the land and improvements at the Veterans' Administration Medical Center, West Los Angeles, California (consisting of approximately 109 acres), and at the Veterans' Administration Medical Center, Sepulveda, California (consisting of approximately 46 acres), described in letters dated February 5, 1986 (and enclosed maps), from the Administrator to the Committees on Veterans' Affairs of the Senate and House of Representatives pursuant to section 5022(a)(2) of title 38, United States Code, as in effect on that date. California.

SEC. 422. CONGRESSIONAL PROCEDURES FOR APPROVAL OF MEDICAL FACILITY ACQUISITION AND CONSTRUCTION.

(a) PROCEDURES.—Paragraph (2) of section 5004(a) is amended to read as follows:

"(2) It shall not be in order in the Senate or in the House of Representatives to consider a bill, resolution, or amendment which would make an appropriation for any fiscal year which may be expended for a major medical facility project or a major medical facility lease unless—

"(A) such bill, resolution, or amendment specifies the amount to be appropriated for that project or lease,

"(B) the project or lease has been approved in a resolution adopted by the Committee on Veterans' Affairs of that House, and

"(C) the amount to be appropriated for that project or lease is no more than the amount specified in that resolution for that project or lease for that fiscal year.".

(b) DEFINITIONS.—Section 5004(a) is further amended by striking out paragraphs (3) and (4) and inserting in lieu thereof the following:

"(3) For the purpose of this subsection:

"(A) The term 'major medical facility project' means a project for the construction, alteration, or acquisition of a medical facility involving a total expenditure of more than $2,000,000, but such term does not include an acquisition by exchange.

"(B) The term 'major medical facility lease' means a lease for space for use as a medical facility at an average annual rental of more than $500,000.".

(c) COST VARIATIONS.—Subsection (c) of section 5004 is amended to read as follows:

"(c) Not less than 30 days before obligating funds for a major medical facility project approved by a resolution described in subsection (a)(2) of this section in an amount that would cause the total amount obligated for that project to exceed the amount specified in the resolution for that project (or would add to total obligations exceeding such specified amount) by more than 10 percent, the Administrator shall provide the committees with notice of the Administrator's intention to do so and the reasons for the specified amount being exceeded.".

(d) CONFORMING REPEAL.—Such section is further amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 423. USE OF FORMER HOSPITAL IN MINOT, NORTH DAKOTA.

(a) AGREEMENT WITH SECRETARY OF LABOR.—Upon the satisfaction of the conditions specified in subsection (b), the Administrator shall enter into an agreement with the Secretary of Labor for the use by the Secretary for nominal consideration of the 20.6 acres of land in the city of Minot, North Dakota, on which the Department of the Air Force on July 31, 1987, was operating, under a no-cost use agreement with the Veterans' Administration, the John Moses Air Force Hospital and on which the Veterans' Administration Hospital, Minot, North Dakota, was formerly located.

(b) CONDITIONS.—The conditions referred to in subsection (a) are as follows:

(1) Sufficient funds are appropriated to the Department of Labor by the end of fiscal year 1989 to enable the Department to establish a Job Corps Center in North Dakota.

(2) The Secretary of Labor selects the property referred to in subsection (a) as the site for such a Job Corps Center.

(3) The Secretary agrees to use such property as a Job Corp Center for the duration of the lease agreement with the Administrator.

(c) RENEWALS.—The agreement between the Administrator and the Secretary of Labor under subsection (a) shall be renewed for nominal consideration for successive 10-year periods upon request of the Secretary of Labor.

(d) REVERSAL OF PRIOR ADMINISTRATIVE ACTION.—The action of the Veterans' Administration of September 29, 1987, in declaring the property referred to in subsection (a) to be excess to the needs of the Veterans' Administration is hereby rescinded, and such property is returned to the jurisdiction of the Veterans' Administration.

(e) PROHIBITION ON VETERANS' ADMINISTRATION EXPENDITURES.—Notwithstanding any other provision of law, the Veterans' Administration shall not expend any funds for the repair, improvement, or alteration of the property referred to in subsection (a) in connection with the use of such property by the Secretary of Labor.

SEC. 424. NAMING OF VETERANS' ADMINISTRATION MEDICAL CENTER IN SHREVEPORT, LOUISIANA.

Public buildings and grounds.

The Veterans' Administration Medical Center in Shreveport, Louisiana, shall after the date of the enactment of this Act be known

and designated as the "Overton Brooks Veterans' Administration Medical Center". Any reference to such medical center in any law, regulation, map, document, record, or other paper of the United States shall after such date be deemed to be a reference to the Overton Brooks Veterans' Administration Medical Center.

Approved May 20, 1988.

LEGISLATIVE HISTORY—H.R. 2616 (S. 9):

HOUSE REPORTS: No. 100-191 (Comm. on Veterans' Affairs) and No. 100-578 (Comm. of Conference).
SENATE REPORTS: No. 100-215 accompanying S. 9 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 29, 30, considered and passed House.
Dec. 3, S. 9 considered in Senate.
Dec. 4, H.R. 2616 considered and passed Senate, amended, in lieu of S. 9.
Vol. 134 (1988): Mar. 29, House concurred in Senate amendments with amendments.
Apr. 27, House agreed to conference report.
Apr. 28, Senate agreed to conference report.

Public Law 100-323
100th Congress

An Act

May 20, 1988
[S. 999]

To amend title 38, United States Code, and the Veterans' Job Training Act to improve veterans' employment, counseling, and job-training services and programs; and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Employment, Training, and Counseling Amendments of 1988.
38 USC 101 note.

SECTION 1. SHORT TITLE; REFERENCE TO TITLE 38, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Veterans' Employment, Training, and Counseling Amendments of 1988".

(b) REFERENCES TO TITLE 38.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

SEC. 2. ADMINISTRATION OF EMPLOYMENT AND TRAINING PROGRAMS.

(a) IN GENERAL.—Section 2002A is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following new subsections:

"(b) The Secretary shall—

Handicapped persons.
State and local governments.

"(1) except as expressly provided otherwise, carry out all provisions of this chapter and chapter 43 of this title through the Assistant Secretary of Labor for Veterans' Employment and Training and administer through such Assistant Secretary all programs under the jurisdiction of the Secretary for the provision of employment and training services designed to meet the needs of disabled veterans, veterans of the Vietnam era, and all other eligible veterans and eligible persons;

Contracts.

"(2) in order to make maximum use of available resources in meeting such needs, encourage all such programs and all grantees under such programs to enter into cooperative arrangements with private industry and business concerns (including small business concerns), educational institutions, trade associations, and labor unions;

"(3) ensure that maximum effectiveness and efficiency are achieved in providing services and assistance to eligible veterans under all such programs by coordinating and consulting with the Administrator with respect to (A) programs conducted under other provisions of this title, with particular emphasis on coordination of such programs with readjustment counseling activities carried out under section 612A of this title, apprenticeship or other on-the-job training programs carried

out under section 1787 of this title, and rehabilitation and training activities carried out under chapter 31 of this title, and (B) the Veterans' Job Training Act (29 U.S.C. 1721 note);

"(4) ensure that job placement activities are carried out in coordination and cooperation with appropriate State public employment service officials;

"(5) subject to subsection (c)(2) of this section, make available for use in each State, directly or by grant or contract, such funds as may be necessary (A) to support (i) disabled veterans' outreach program specialists appointed under section 2003A(a)(1) of this title, and (ii) local veterans' employment representatives assigned under section 2004(b) of this title, and (B) to support the reasonable expenses of such specialists and representatives for training, travel, supplies, and fringe benefits, including travel expenses and per diem for attendance at the National Veterans' Employment and Training Services Institute established under section 2009 of this title; Grants. Contracts.

"(6) monitor and supervise on a continuing basis the distribution and use of funds provided for use in the States under paragraph (5) of this subsection; and

"(7) monitor the appointment of disabled veterans' outreach specialists and the assignment of local veterans' employment representatives in order to ensure compliance with the provisions of sections 2003A(a)(1) and 2004(a)(4), respectively, of this title.

"(c)(1) The distribution and use of funds under subsection (b)(5) of this section in order to carry out sections 2003A(a) and 2004(a) of this title shall be subject to the continuing supervision and monitoring of the Secretary and shall not be governed by the provisions of any other law, or any regulations prescribed thereunder, that are inconsistent with this section or section 2003A or 2004 of this title.

"(2) In determining the terms and conditions of a grant or contract under which funds are made available in a State in order to carry out section 2003A or 2004 of this title, the Secretary shall take into account (A) the results of the evaluations, carried out pursuant to section 2003(c)(15) of this title, of the performance of local employment offices in the State, and (B) the monitoring carried out under this section. Grants. Contracts. State and local governments.

"(3) Each grant or contract by which funds are made available in a State shall contain a provision requiring the recipient of the funds to comply with the provisions of this chapter.

"(d) The Assistant Secretary of Labor for Veterans' Employment and Training shall promote and monitor participation of qualified veterans and eligible persons in employment and training opportunities under the Job Training Partnership Act and other federally funded employment and training programs.

"(e)(1) The Secretary shall assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service to serve as the Regional Administrator for Veterans' Employment and Training in such region.

"(2) Each such Regional Administrator shall be responsible for—

"(A) ensuring the promotion, operation, and implementation of all veterans' employment and training programs and services within the region;

Contracts.

"(B) monitoring compliance with section 2012 of this title with respect to veterans' employment under Federal contracts within the region;

"(C) protecting and advancing veterans' reemployment rights within the region; and

Grants.
Contracts.

"(D) coordinating, monitoring, and providing technical assistance on veterans' employment and training programs with respect to all entities receiving funds under grants from or contracts with the Department of Labor within the region.".

(b) BUDGETING.—Section 2006(a) is amended—

(1) in the fifth sentence—

State and local governments.

(A) by striking out "to fund the disabled veterans' outreach program under section 2003A" and inserting in lieu thereof "in all of the States for the purposes specified in paragraph (5) of section 2002A(b) of this title and to fund the National Veterans' Employment and Training Services Institute under section 2009";

(B) by striking out "such section" and inserting in lieu thereof "such sections"; and

(2) by striking out the sixth sentence and inserting in lieu thereof the following: "Each budget submission with respect to such funds shall include separate listings of the amount for the National Veterans' Employment and Training Services Institute and of the proposed numbers, by State, of disabled veterans' outreach program specialists appointed under section 2003A of this title and local veterans' employment representatives assigned under section 2004 of this title, together with information demonstrating the compliance of such budget submission with the funding requirements specified in the preceding sentence.".

Handicapped persons.

(c) USE OF ADMINISTRATIVE FUNDS.—Section 2006(d) is amended by striking out ", except with" and all that follows through "purposes".

(d) REPORTING REQUIREMENTS.—Section 2007(c) is amended to read as follows:

"(c) Not later than February 1 of each year, the Secretary shall report to the Committees on Veterans' Affairs of the Senate and the House of Representatives on the success during the preceding program year of the Department of Labor and its affiliated State employment service agencies in carrying out the provisions of this chapter and programs for the provision of employment and training services to meet the needs of eligible veterans and eligible persons. The report shall include—

Vietnam.
Handicapped persons.

"(1) specification, by State and by age group, of the numbers of eligible veterans, veterans of the Vietnam era, disabled veterans, special disabled veterans, and eligible persons who registered for assistance with the public employment service system and, for each of such categories, the numbers referred to and placed in permanent and other jobs, the numbers referred to and placed in jobs and job training programs supported by the Federal Government, the number counseled, and the number who received some, and the number who received no, reportable service;

"(2) a comparison of the job placement rate for each of the categories of veterans and persons described in clause (1) of this subsection with the job placement rate for nonveterans of the same age groups registered for assistance with the public employment system in each State;

"(3) any determination made by the Secretary during the preceding fiscal year under section 2006 of this title or subsection (a)(2) of this section and a statement of the reasons for such determination;

"(4) a report on activities carried out during the preceding program year under sections 2003A and 2004 of this title; and

"(5) a report on the operation during the preceding program year of programs for the provision of employment and training services designed to meet the needs of eligible veterans and eligible persons, including an evaluation of the effectiveness of such programs during such program year in meeting the requirements of section 2002A(b) of this title, the efficiency with which services were provided through such programs during such year, and such recommendations for further legislative action (including the need for any changes in the formulas governing the appointment of disabled veterans' outreach program specialists under section 2003A(a)(2) of this title and the assignment of local veterans' employment representatives under section 2004(b) of this title and the allocation of funds for the support of such specialists and representatives) relating to veterans' employment and training as the Secretary considers appropriate.". Handicapped persons.

(e) CONFORMING, TECHNICAL, AND CLERICAL AMENDMENTS.—(1) Section 2003A is amended—

(A) in subsection (a)—

(i) by striking out paragraphs (1), (3), and (5) and redesignating paragraphs (2) and (4) as paragraphs (1) and (2), respectively;

(ii) in paragraph (1) (as so redesignated)—

(I) by amending the first sentence to read as follows: "The amount of funds made available for use in a State under section 2002A(b)(5)(A)(i) of this title shall be sufficient to support the appointment of one disabled veterans' outreach program specialist for each 5,300 veterans of the Vietnam era and disabled veterans residing in such State."; State and local governments. Handicapped persons.

(II) in the second sentence, by inserting "qualified" before "veteran";

(III) in the third, fourth, and fifth sentences, by inserting "qualified" before "disabled" each place it appears; and

(IV) in the fifth sentence, by inserting "qualified" after "any"; and

(iii) in paragraph (2) (as so redesignated) by striking out "paragraph (2) of"; and

(B) by striking out subsection (d).

(2) Section 2006(a) is amended by striking out the last sentence.

(3)(A) The section heading of section 2002A is amended to read as follows:

"§ 2002A. Assistant Secretary of Labor for Veterans' Employment and Training; Regional Administrators".

(B) The table of contents of chapter 41 is amended by striking out the item relating to section 2002A and inserting in lieu thereof the following:

"2002A. Assistant Secretary of Labor for Veterans' Employment and Training; Regional Administrators.".

SEC. 3. LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.

(a) IN GENERAL.—Section 2004 is amended to read as follows:

"§ 2004. Local veterans' employment representatives

Effective date.

"(a)(1) Beginning with fiscal year 1988, the total of the amount of funds made available for use in the States under section 2002A(b)(5)(A)(ii) of this title shall be sufficient to support the assignment of 1,600 full-time local veterans' employment representatives and the States' administrative expenses associated with the assignment of that number of such representatives and shall be allocated to the several States so that each State receives funding sufficient to support—

"(A) the number of such representatives who were assigned in such State on January 1, 1987, for which funds were provided under this chapter, plus one additional such representative;

"(B) the percentage of the 1,600 such representatives for which funding is not provided under clause (A) of this paragraph which is equal to the average of (i) the percentage of all veterans residing in the United States who reside in such State, (ii) the percentage of the total of all eligible veterans and eligible persons registered for assistance with local employment service offices in the United States who are registered for assistance with local employment service offices in such State, and (iii) the percentage of all full-service local employment service offices in the United States which are located in such State; and

"(C) the State's administrative expenses associated with the assignment of the number of such representatives for which funding is allocated to the State under clauses (A) and (B) of this paragraph.

"(2)(A) The local veterans' employment representatives allocated to a State pursuant to paragraph (1) of this subsection shall be assigned by the administrative head of the employment service in the State, after consultation with the Director for Veterans' Employment and Training for the State, so that as nearly as practical (i) one full-time representative is assigned to each local employment service office at which at least 1,100 eligible veterans and eligible persons are registered for assistance, (ii) one additional full-time representative is assigned to each local employment service office for each 1,500 eligible veterans and eligible persons above 1,100 who are registered at such office for assistance, and (iii) one half-time representative is assigned to each local employment service office at which at least 350 but less than 1,100 eligible veterans and eligible persons are registered for assistance.

"(B) In the case of a service delivery point (other than a local employment service office described in subparagraph (A) of this paragraph) at which employment services are offered under the Wagner-Peyser Act, the head of such service delivery point shall be responsible for ensuring compliance with the provisions of this title providing for priority services for veterans and priority referral of veterans to Federal contractors.

"(3) For the purposes of this subsection, an individual shall be considered to be registered for assistance with a local employment service office during a program year if the individual—

"(A) registered, or renewed such individual's registration, for assistance with the office during that program year; or

"(B) so registered or renewed such individual's registration during a previous program year and, in accordance with regulations which the Secretary shall prescribe, is counted as still being registered for administrative purposes. Regulations.

"(4) In the assigning of local veterans' employment representatives on or after July 1, 1988, preference shall be given to qualified eligible veterans or eligible persons. Preference shall be accorded first to qualified service-connected disabled veterans; then, if no such disabled veteran is available, to qualified eligible veterans; and, if no such eligible veteran is available, then to qualified eligible persons. Handicapped persons.

"(b) Local veterans' employment representatives shall—

"(1) functionally supervise the providing of services to eligible veterans and eligible persons by the local employment service staff;

"(2) maintain regular contact with community leaders, employers, labor unions, training programs, and veterans' organizations for the purpose of (A) keeping them advised of eligible veterans and eligible persons available for employment and training, and (B) keeping eligible veterans and eligible persons advised of opportunities for employment and training;

"(3) provide directly, or facilitate the provision of, labor exchange services by local employment service staff to eligible veterans and eligible persons, including intake and assessment, counseling, testing, job-search assistance, and referral and placement;

"(4) encourage employers and labor unions to employ eligible veterans and eligible persons and conduct on-the-job training and apprenticeship programs for such veterans and persons;

"(5) promote and monitor the participation of veterans in federally funded employment and training programs, monitor the listing of vacant positions with State employment agencies by Federal agencies, and report to the Director for Veterans' Employment and Training for the State concerned any evidence of failure to provide priority or other special consideration in the provision of services to veterans as is required by law or regulation; Reports.

"(6) monitor the listing of jobs and subsequent referrals of qualified veterans as required by section 2012 of this title;

"(7) work closely with appropriate Veterans' Administration personnel engaged in providing counseling or rehabilitation services under chapter 31 of this title, and cooperate with employers in identifying disabled veterans who have completed or are participating in a vocational rehabilitation training program under such chapter and who are in need of employment; Handicapped persons.

"(8) refer eligible veterans and eligible persons to training, supportive services, and educational opportunities, as appropriate;

"(9) assist, through automated data processing, in securing and maintaining current information regarding available employment and training opportunities; Records.

"(10) cooperate with the staff of programs operated under section 612A of this title in identifying and assisting veterans who have readjustment problems and who may need services available at the local employment service office;

Handicapped persons.

"(11) when requested by a Federal or State agency, a private employer, or a service-connected disabled veteran, assist such agency, employer, or veteran in identifying and acquiring prosthetic and sensory aids and devices needed to enhance the employability of disabled veterans; and

"(12) facilitate the provision of guidance or counseling services, or both, to veterans who, pursuant to section 5(b)(3) of the Veterans' Job Training Act (29 U.S.C. 1721 note), are certified as eligible for participation under such Act.

Reports.

"(c) Each local veterans' employment representative shall be administratively responsible to the manager of the local employment service office and shall provide reports, not less frequently than quarterly, to the manager of such office and to the Director for Veterans' Employment and Training for the State regarding compliance with Federal law and regulations with respect to special services and priorities for eligible veterans and eligible persons.

"(d) Local veterans' employment representatives shall be assigned, in accordance with this section, by the administrative head of the employment service in each State after consultation with the Director for Veterans' Employment and Training.".

(b) DEFINITION.—Section 2001 is amended by adding the following at the end:

"(7) The term 'local employment service office' means a service delivery point which has an intrinsic management structure and at which employment services are offered in accordance with the Wagner-Peyser Act.".

(c) CLERICAL AMENDMENT.—The item for section 2004 in the table of contents for chapter 41 is amended to read as follows:

"2004. Local veterans' employment representatives.".

SEC. 4. PERFORMANCE OF DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS AND LOCAL VETERANS' EMPLOYMENT REPRESENTATIVES.

(a) IN GENERAL.—(1) Chapter 41 is amended by inserting after section 2004 the following new section:

38 USC 2004A.

"§ 2004A. Performance of disabled veterans' outreach program specialists and local veterans' employment representatives

"(a)(1) Subject to paragraph (2) of this subsection, each State employment agency shall develop and apply standards for the performance of disabled veterans' outreach program specialists appointed under section 2003A(a) of this title and local veterans' employment representatives assigned under section 2004(b) of this title.

"(2)(A) Such standards shall be consistent with the duties and functions specified in section 2003A(b) of this title with respect to such specialists and section 2004(b) (1) through (12) of this title with respect to such representatives.

"(B) In developing such standards, the State employment agency—

"(i) shall take into account (I) the prototype developed under paragraph (3) of this subsection, and (II) the comments submitted under clause (ii) of this subparagraph by the Director for Veterans' Employment and Training for the State;

"(ii) shall submit to such Director proposed standards for comment;

"(iii) may take into account the State's personnel merit system requirements and other local circumstances and requirements; and

"(iv) may request the assistance of such Director.

"(C) Such standards shall include as one of the measures of the performance of such a specialist the extent to which the specialist, in serving as a case manager under section 14(b)(1)(A) of the Veterans' Job Training Act (29 U.S.C. 1721 note), facilitates rates of successful completion of training by veterans participating in programs of job training under the Act.

"(3)(A) The Secretary, after consultation with State employment agencies or their representatives, or both, shall provide to such agencies a prototype of performance standards for use by such agencies in the development of performance standards under subsection (a)(1) of this section.

"(B) Each Director for Veterans' Employment and Training—

"(i) shall, upon the request of the State employment agency under paragraph (2)(B)(iv) of this subsection, provide appropriate assistance in the development of performance standards,

"(ii) may, within 30 days after receiving proposed standards under paragraph (2)(B)(ii) of this subsection, provide comments on the proposed standards, particularly regarding the consistency of the proposed standards with such prototype.

"(b)(1) Directors for Veterans' Employment and Training and Assistant Directors for Veterans' Employment and Training shall regularly monitor the performance of the specialists and representatives referred to in subsection (a)(1) of this section through the application of the standards required to be prescribed by subsection (a)(1).

"(2) A Director for Veterans' Employment and Training for a State may submit to the head of the employment service in the State recommendations and comments in connection with each annual performance rating of such specialists and representatives in the State.".

(2) Each State employment agency (A) shall develop and promulgate standards under section 2004A of title 38, United States Code, as added by paragraph (1) of this subsection, as soon as feasible, and in doing so (B) shall submit proposed standards to the Director for Veterans' Employment and Training for the State not later than 12 months after the date on which the Secretary provides the agency with prototype standards under subsection (a)(3)(A) of such section, and (C) shall adopt final standards not later than 90 days after submitting the proposed standards to the Director for Veterans' Employment and Training for comment under subsection (a)(3)(B)(ii) of such section. 38 USC 2004A note.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is amended by adding after the item for section 2004 the following new item:

"2004A. Performance of disabled veterans' outreach program specialists and local veterans' employment representatives.".

SEC. 5. WAIVER OF RESIDENCY REQUIREMENT FOR DIRECTORS AND ASSISTANT DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.

Section 2003(b)(1) is amended—

(1) by inserting "(A)" after "(1)";

(2) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively;

(3) in clause (i), as redesignated by clause (2) of this section, by striking out "be an eligible veteran" and inserting in lieu thereof ", except as provided in subparagraph (B) of this paragraph, be a qualified veteran"; and

(4) by adding at the end the following new subparagraph:

"(B) If, in appointing a Director or Assistant Director for any State under this section, the Secretary determines that there is no qualified veteran available who meets the residency requirement in subparagraph (A)(i), the Secretary may appoint as such Director or Assistant Director any qualified veteran.".

SEC. 6. SHARING OF INFORMATION REGARDING POTENTIAL EMPLOYERS.

(a) BETWEEN THE DEPARTMENTS OF DEFENSE AND LABOR.—Section 2005 is amended—

(1) by inserting "(a)" before "All"; and

(2) by adding at the end the following new subsection:

"(b) For the purpose of assisting the Secretary and the Administrator in identifying employers with potential job training opportunities under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note) and otherwise in order to carry out this chapter, the Secretary of Defense shall provide, not more than 30 days after the date of the enactment of this subsection, the Secretary and the Administrator with any list maintained by the Secretary of Defense of employers participating in the National Committee for Employer Support of the Guard and Reserve and shall provide, on the 15th day of each month thereafter, updated information regarding the list.".

(b) BETWEEN THE VETERANS' ADMINISTRATION AND THE DEPARTMENT OF LABOR.—(1) Section 2008 is amended—

(A) by inserting "(a)" before "In"; and

(B) by adding at the end the following new subsection:

"(b) The Administrator shall provide to appropriate employment service offices and Department of Labor offices, as designated by the Secretary, on a monthly or more frequent basis, the name and address of each employer located in the areas served by such offices that offer a program of job training which has been approved by the Administrator under section 7 of the Veterans' Job Training Act (29 U.S.C. 1721 note).".

(2)(A) The heading of section 2008 is amended to read as follows:

"§ 2008. Cooperation and coordination".

(B) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2008. Cooperation and coordination.".

SEC. 7. RESPONSIBILITIES OF PERSONNEL.

(a) DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.—Section 2003(c) is amended—

(1) in clause (1)—

(A) by inserting "(A) functionally supervise the provision of services to eligible veterans and eligible persons by such system and such program and their staffs, and (B)" after "(1)"; and

(B) by inserting ", including the program conducted under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note)" after "programs";

(2) in clause (2), by inserting "and otherwise to promote the employment of eligible veterans and eligible persons" after "opportunities";

(3) in clause (11), by striking out "and" at the end;

(4) in clause (12), by striking out the period and inserting in lieu thereof a semicolon; and

(5) by adding at the end the following new clauses:

"(13) monitor the implementation of Federal laws requiring veterans preference in employment and job advancement opportunities within the Federal Government and report to the Office of Personnel Management or other appropriate agency, for enforcement or other remedial action, any evidence of failure to provide such preference or to provide priority or other special consideration in the provision of services to veterans as is required by law or regulation; Reports.

"(14) monitor, through disabled veterans' outreach program specialists and local veterans' employment representatives, the listing of vacant positions with State employment agencies by Federal agencies, and report to the Office of Personnel Management or other appropriate agency, for enforcement or other remedial action, any evidence of failure to provide priority or other special consideration in the provision of services to veterans as is required by law or regulation; and Reports.

"(15)(A) not less frequently than annually, conduct, subject to subclause (B) of this clause, an evaluation at each local employment office of the services provided to eligible veterans and eligible persons and make recommendations for corrective action as appropriate; and

"(B) carry out such evaluations in the following order of priority: (I) offices that demonstrated less than satisfactory performance during either of the two previous program years, (II) offices with the largest number of veterans registered during the previous program year, and (III) other offices as resources permit.".

(b) DISABLED VETERANS' OUTREACH PROGRAM SPECIALISTS.—Section 2003A(c) is amended—

(1) in clause (4), by inserting "(including part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.))" after "programs";

(2) in clause (6), by inserting "(including the program conducted under the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note))" after "programs"; and

(3) by adding at the end the following new clauses:

"(9) Provision of vocational guidance or vocational counseling services, or both, to veterans with respect to veterans' selection of and changes in vocations and veterans' vocational adjustment.

"(10) Provision of services as a case manager under section 14(b)(1)(A) of the Veterans' Job Training Act (Public Law 98-77; 29 U.S.C. 1721 note).".

SEC. 8. NATIONAL VETERANS' EMPLOYMENT AND TRAINING SERVICES INSTITUTE.

(a) ESTABLISHMENT OF INSTITUTE.—Section 2009 is amended to read as follows:

"§ 2009. National Veterans' Employment and Training Services Institute

"(a) In order to provide for such training as the Secretary considers necessary and appropriate for the efficient and effective provision of employment, job-training, counseling, placement, job-search, and related services to veterans, the Secretary shall establish and make available such funds as may be necessary to operate a National Veterans' Employment and Training Services Institute for the training of disabled veterans' outreach program specialists, local veterans' employment representatives, Directors for Veterans' Employment and Training, and Assistant Directors for Veterans' Employment and Training, Regional Administrators for Veterans' Employment and Training, and such other personnel involved in the provision of employment, job-training, counseling, placement, or related services to veterans as the Secretary considers appropriate, including travel expenses and per diem for attendance at the Institute.

"(b) In implementing this section, the Secretary shall, as the Secretary considers appropriate, provide, out of program funds designated for the Institute, training for Veterans' Employment and Training Service personnel, including travel expenses and per diem to attend the Institute.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is amended by striking out the item for section 2009 and inserting in lieu thereof the following:

"2009. National Veterans' Employment and Training Services Institute.".

SEC. 9. STUDY OF UNEMPLOYMENT AMONG CERTAIN DISABLED VETERANS AND VIETNAM THEATER VETERANS.

(a) IN GENERAL.—Chapter 41 is further amended by adding at the end the following new section:

38 USC 2010A. Reports.

"§ 2010A. Special unemployment study

"(a) The Secretary, through the Bureau of Labor Statistics, shall conduct, on a biennial basis, studies of unemployment among special disabled veterans and among veterans who served in the Vietnam Theater of Operations during the Vietnam era and promptly report to the Congress on the results of such studies.

"(b) The first study under this section shall be completed not later than 180 days after the date of the enactment of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 41 is amended by adding at the end the following new item:

"2010A. Special unemployment study.".

SEC. 10. SECRETARY'S COMMITTEE ON VETERANS' EMPLOYMENT.

Clause (1) of section 2010(b) is amended—

(1) by redesignating subclauses (D), (E), and (F) as subclauses (E), (F), and (G), respectively;

(2) by inserting after subclause (C) the following:

"(D) the Secretary of Education;"

(3) by striking out "and" at the end of subclauses (F) and (G) (as so redesignated); and

(4) by adding at the end the following:

"(H) the Postmaster General; and

"(I) any other agency of the Federal Government which has had its request to have a representative on the committee approved by the Secretary; and".

SEC. 11. VETERANS' JOB TRAINING ACT AMENDMENTS.

(a) COUNSELING.—(1) Section 14 of the Veterans' Job Training Act is amended by striking out subsection (b) and inserting in lieu thereof the following: 29 USC 1721 note.

"(b)(1) The Secretary shall provide for a program under which—

"(A) except as provided in paragraph (2), a disabled veteran's outreach program specialist appointed under section 2003A(a) of title 38, United States Code, is assigned as a case manager for each veteran participating in a program of job training under this Act;

"(B) the veteran has an in-person interview with the case manager not later than 60 days after entering into a program of training under this Act; and

"(C) periodic (not less frequent than monthly) contact is maintained with each such veteran for the purpose of (i) avoiding unnecessary termination of employment, (ii) referring the veteran to appropriate counseling, if necessary, (iii) facilitating the veteran's successful completion of such program, and (iv) following up with the employer and the veteran in order to determine the veteran's progress in the program and the outcome regarding the veteran's participation in and successful completion of the program.

"(2) No case manager shall be assigned pursuant to paragraph (1)(A)—

"(A) for a veteran if, on the basis of a recommendation made by a disabled veterans' outreach program specialist, the Secretary determines that there is no need for a case manager for such veteran; or

"(B) in the case of the employees of an employer, if the Secretary determines that—

"(i) the employer has an appropriate and effective employee assistance program that is available to all veterans participating in the employer's programs of job training under this Act; or

"(ii) the rate of veterans' successful completion of the employer's programs of job training under this Act, either cumulatively or during the previous program year, is 60 percent or higher.

"(3) The Secretary and the Administrator shall jointly provide, to the extent feasible—

"(A) a program of counseling or other services (to be provided pursuant to subchapter IV of chapter 3 of title 38, United States Code, and sections 612A, 2003A, and 2004 of such title) designed to resolve difficulties that may be encountered by veterans during their training under this Act; and

"(B) a program of information services under which—

"(i) each veteran who enters into a program of job training under this Act and each employer participating under this Act is informed of the supportive services and re-

sources available to the veteran (I) under clauses (A) and (B), (II) through Veterans' Administration counseling and career-development activities (especially, in the case of a Vietnam-era veteran, readjustment counseling services under section 612A of such title) and under part C of title IV of the Job Training Partnership Act (29 U.S.C. 1501 et seq.), and (III) through other appropriate agencies in the community; and

"(ii) veterans and employers are encouraged to request such services whenever appropriate.

"(c) Before a veteran who voluntarily terminates from a program of job training under this Act or is involuntarily terminated from such program by the employer may be eligible to be provided with a further certificate, or renewal of certification, of eligibility for participation under this Act, such veteran must be provided by the Secretary, after consultation with the Administrator, with a case manager.".

29 USC 1721 note.

(2) Section 14(a) of the Veterans' Job Training Act is amended—

(A) by striking out "The" and inserting in lieu thereof "(1) The"; and

(B) by adding at the end the following new paragraph:

"(2) The Administrator shall, after consultation with the Secretary, provide a program of job-readiness skills development and counseling services designed to assist veterans in need of such assistance in finding, applying for, and successfully participating in a suitable program of job training under this Act. As part of providing such services, the Administrator shall coordinate activities, to the extent practicable, with the readjustment counseling program described in section 612A of title 38, United States Code. The Administrator shall advise veterans participating under this Act of the availability of such services and encourage them to request such services whenever appropriate.".

(3)(A) Section 1504(a)(7) is amended—

(i) by inserting "(A)" before "individualized"; and

(ii) by striking out the period and inserting in lieu thereof ", and (B) job-readiness skills development and counseling under section 14(a)(2) of the Veterans' Job Training Act (29 U.S.C. 1721 note) for a participant in a program of training under such Act.".

(B) Section 14 of the Veterans' Job Training Act is amended by adding after the subsections inserted by paragraph (1) of this subsection the following:

"(d) Payments made under this Act pursuant to contracts entered into for the provision of job-readiness skills development and counseling services under subsection (a)(2) may only be paid out of the same account used to make payments under section 1504(a)(7) of title 38, United States Code, and the amount paid out of such account in any fiscal year for such services shall not exceed an amount equal to 5 percent of the amount obligated to carry out this Act for such fiscal year, except that for fiscal year 1988 the amount shall not exceed 5 percent of the amount available to carry out this Act on October 1, 1987.".

29 USC 1721 note.

(4) Section 7(d) of such Act is amended—

(A) by redesignating paragraph (12) as paragraph (13); and

(B) inserting after paragraph (11) the following new paragraph:

"(12) That, as applicable, the employer will provide each participating veteran with the full opportunity to participate in a personal interview pursuant to section 14(b)(1)(A) during the veteran's normal workday.".

(b) DISCONTINUANCE OF APPROVAL OF PARTICIPATION IN PROGRAMS OF EMPLOYERS WITH UNSATISFACTORY COMPLETION RATES.—Section 11 of such Act is amended— 29 USC 1721 note.

(1) by inserting "(a)" after "SEC. 11."; and

(2) by adding at the end the following new subsection:

"(b)(1) If the Administrator determines that the rate of veterans' successful completion of an employer's programs of job training previously approved by the Administrator for the purposes of this Act is disproportionately low because of deficiencies in the quality of such programs, the Administrator shall disapprove participation in such programs on the part of veterans who had not begun such participation on the date that the employer is notified of the disapproval. In determining whether any such rate is disproportionately low because of such deficiencies, the Administrator shall take into account appropriate data, including—

"(A) the quarterly data provided by the Secretary with respect to the number of veterans who receive counseling in connection with training under this Act, are referred to employers under this Act, participate in job training under this Act, complete such training or do not complete such training, and the reasons for noncompletion; and

"(B) data compiled through the particular employer's compliance surveys.

"(2) With respect to a disapproval under paragraph (1), the Administrator shall provide to the employer concerned the kind of statement, opportunity for hearing, and notice described in subsection (a).

"(3) A disapproval under paragraph (1) shall remain in effect until such time as the Administrator determines that adequate remedial action has been taken.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 16 of such Act is amended— 29 USC 1721 note.

(1) by inserting "(a)" before "There";

(2) in subsection (a) (as so designated)—

(A) in the first sentence—

(i) by inserting "(1)" after "Administration";

(ii) by striking out "and" the second place it appears and inserting in lieu thereof ", (2)"; and

(iii) by striking out "1987, and 1988" and inserting in lieu thereof "and 1987, and (3) $60,000,000 for each of the fiscal years 1988 and 1989"; and

(B) in the final sentence, by striking out "1989" and inserting in lieu thereof "1991"; and

(3) by adding at the end the following new subsection:

"(b) Notwithstanding any other provision of law, any funds appropriated under subsection (a) for any fiscal year which are obligated for the purpose of making payments under section 8 on behalf of a veteran (including funds so obligated which previously had been obligated for such purpose on behalf of another veteran and were thereafter deobligated) and are later deobligated shall immediately upon deobligation become available to the Administrator for obligation for such purpose. The further obligation of such funds by the Administrator for such

purpose shall not be delayed, directly or indirectly, in any manner by any officer or employee in the executive branch.".

(2) DEADLINES FOR VETERANS' APPLICATIONS AND ENTRY INTO TRAINING.—Section 17 of such Act is amended to read as follows:

29 USC 1721 note.

"TIME PERIODS FOR APPLICATION AND INITIATION OF TRAINING

"SEC. 17. Assistance may not be paid to an employer under this Act—

"(1) on behalf of a veteran who initially applies for a program of job training under this Act after September 30, 1989; or

"(2) for any such program which begins after March 31, 1990.".

29 USC 1721 note.

(e) CONFORMING AMENDMENT.—Section 5(b)(3)(A) of such Act is amended by striking out "The" at the beginning of the first sentence and inserting in lieu thereof "Subject to section 14(c), the".

29 USC 1721 note.

(f) DATA ON PARTICIPATION.—Section 15 of such Act is amended by adding at the end the following new subsection:

State and local governments.

"(f) The Secretary shall, on a not less frequent than quarterly basis, collect and compile from the heads of State employment services and Directors for Veterans' Employment and Training for each State information available to such heads and Directors, and derived from programs carried out in their respective States, with respect to the numbers of veterans who receive counseling services pursuant to section 14, who are referred to employers participating under this Act, who participate in programs of job training under this Act, and who complete such programs, and the reasons for veterans' noncompletion.".

29 USC 1721 note.

SEC. 12. TRAINING AND EMPLOYMENT STUDY AND REPORT.

The Administrator of Veterans' Affairs shall provide for a study, based on valid statistical samplings, of the implementation of the Veterans' Job Training Act and shall transmit, not later than one year after the date of the enactment of this Act, a report to the Committees on Veterans' Affairs of the Senate and the House of Representatives containing the findings and conclusions of such study, including, to the extent feasible—

(1) a listing, by regional office and by State, of the number of veterans placed in a program of job training under the Veterans' Job Training Act and the percentage that this number represents of the total number of veterans certified (not including renewal of certifications), by regional office and by State, as eligible for participation under such Act;

(2) a description, by regional office and by State, of the demographic nature (including race, sex, age, educational level, service-connected disability status, income before placement, and income after placement) of veterans placed in a program of job training under such Act;

(3) a description, by regional office and by State, of the demographic nature (including, race, sex, age, educational level, service-connected disability status, and income) of veterans certified as eligible for participation under such Act but not placed in a job training program;

(4) an analysis of the reasons that veterans certified as eligible for participation have not been placed in a program of job training under such Act;

(5) a listing, by regional office and by State, of the number of veterans who were certified as eligible for participation under such Act and were not placed in a program of job training under such Act but were later placed in another job training program or employment;

(6) a description, by regional office and by State, of the rate at which veterans have discontinued participation in, without completing, a program of job training under such Act, with a separate rate stated for those who discontinued within 3 months after beginning such a program, those who discontinued within 3 to 6 months after such beginning, and those who discontinued within 6 to 9 months after such beginning;

(7) an analysis of the major reasons for veterans failing to complete such a training program;

(8) a ranking of the twenty-five categories of employment (by types of business or industry and trade) for which programs of job training have most frequently been denied approval under such Act, with such ranking being made on the basis of the number of denials for each such category; and

(9) a ranking of the twenty-five categories of employment (by types of business or industry and trade) for which veterans have most frequently received employment as a result of a program of job training under such Act, with such ranking being made on the basis of the number of jobs provided in each such category.

SEC. 13. STATE APPROVING AGENCIES.

(a) PAYMENTS.—(1) Section 1774(a) is amended—

(A) by striking out "The" in the first sentence and inserting in lieu thereof "(1) Subject to paragraphs (2) through (4) of this subsection, the";

(B) by striking out "(1)" and "(2)" in the first sentence and inserting in lieu thereof "(A)" and "(B)", respectively; and

(C) by adding at the end the following new paragraphs:

"(2)(A) The Administrator shall, effective at the beginning of fiscal year 1988, make payments to State and local agencies, out of amounts available for the payment of readjustment benefits, for the reasonable and necessary expenses of salary and travel incurred by employees of such agencies in carrying out contracts or agreements entered into under this section and for the allowance for administrative expenses described in subsection (b). Contracts. Wages.

"(B) The Administrator shall make such a payment to an agency within a reasonable time after the agency has submitted a report pursuant to paragraph (3)(A) of this subsection.

"(C) Subject to paragraph (4) of this subsection, the amount of any such payment made to an agency for any period shall be equal to the amount of the reasonable and necessary expenses of salary and travel certified by such agency for such period in accordance with paragraph (3) of this subsection plus the allowance for administrative expenses described in subsection (b).

"(3)(A) Each State and local agency with which a contract or agreement is entered into under this section shall submit to the Administrator on a monthly or quarterly basis, as determined by the agency, a report containing a certification of the reasonable and necessary expenses incurred for salary and travel by such agency under such contract or agreement for the period covered by the Contracts. Reports.

report. The report shall be submitted in the form and manner required by the Administrator.

"(B) The Administrator shall transmit a report to the Congress on a quarterly basis which summarizes—

"(i) the amounts for which certifications were made by State and local agencies in the reports submitted under subparagraph (A) of this paragraph with respect to the quarter for which the report is made; and

"(ii) the amounts of the payments made by the Administrator for such quarter with respect to such certifications and with respect to administrative expenses.

"(4) The total amount made available under this section for any fiscal year may not exceed $12,000,000. For any fiscal year in which the total amount that would be made available under this section would exceed $12,000,000 except for the provisions of this paragraph, the Administrator shall provide that each agency shall receive the same percentage of $12,000,000 as the agency would have received of the total amount that would have been made available without the limitation of this paragraph.".

38 USC 1774 note.

(2) If any payment is made to State or local approving agencies with respect to activities carried out under subchapter I of chapter 36 of title 38, United States Code, for fiscal year 1988 before the date of the enactment of this Act and from an account other than the account used for payment of readjustment benefits, the account from which such payment was made shall be reimbursed from the account used for payment of readjustment benefits.

(b) EMPLOYMENT STANDARDS.—(1) Subchapter I of chapter 36 is amended—

(A) by inserting the following new section after section 1774:

38 USC 1774A.

"§ 1774A. Evaluations of agency performance; qualifications and performance of agency personnel

"(a) The Administrator shall—

"(1)(A) conduct, in conjunction with State approving agencies, an annual evaluation of each State approving agency on the basis of standards developed by the Administrator in conjunction with the State approving agencies, and (B) provide each such agency an opportunity to comment on the evaluation;

Contracts.

"(2) take into account the results of annual evaluations carried out under clause (1) when negotiating the terms and conditions of a contract or agreement under section 1774 of this title;

Contracts.

"(3) supervise functionally the provision of course-approval services by State approving agencies under this subchapter;

"(4) cooperate with State approving agencies in developing and implementing a uniform national curriculum, to the extent practicable, for training new employees and for continuing the training of employees of such agencies, and sponsor, with the agencies, such training and continuation of training; and

"(5) prescribe prototype qualification and performance standards, developed in conjunction with State approving agencies, for use by such agencies in the development of qualification and performance standards for State approving agency personnel carrying out approval responsibilities under a contract or agreement entered into under section 1774(a).

Contracts.

"(b)(1) Each State approving agency carrying out a contract or agreement with the Administrator under section 1774(a) after the

18-month period beginning on the date of the enactment of this section shall—

"(A) apply qualification and performance standards based on the standards developed under subsection (a)(5) of this section; and

"(B) make available to any person, upon request, the criteria used to carry out its functions under a contract or agreement entered into under section 1774(a).

"(2) In developing and applying standards described in subsection (a)(5) of this section, the State approving agency may take into consideration the State's merit system requirements and other local requirements and conditions.

"(3) The Administrator shall provide assistance in developing such standards to a State approving agency that requests it."; and

(B) by inserting after the item for section 1774 in the table of sections for such subchapter the following:

"1774A. Evaluations of agency performance; qualifications and performance of agency personnel".

(2) For purposes of implementing the amendments made by paragraph (1)— 38 USC 1774A note.

(A) the Administrator of Veterans' Affairs shall, within 120 days after the date of the enactment of this Act, publish prototype standards developed under section 1774A(a)(5) of title 38, United States Code, as added by paragraph (1);

(B) each State approving agency shall, within 1 year after the Administrator has published prototype standards under subparagraph (A), submit to the Administrator of Veterans' Affairs a copy of the standards to be implemented by such agency under section 1774A(b)(1)(A) of such title; and

(C) the Administrator may, within 30 days after receiving such standards from an agency, provide comments to the agency, especially with regard to whether the State's standards are consistent with the prototype standards developed by the Administrator under section 1774A(a)(5) of such title.

(3) None of the qualification standards implemented pursuant to the amendments made by paragraph (1) shall apply to any person employed by a State approving agency on the date of the enactment of this Act as long as such person remains in the position in which the person is employed on such date. 38 USC 1774A note.

(4) Section 1771(b)(1) is amended by striking out "approving agency," the first place it appears and inserting in lieu thereof "approving agency, or fails to enter into an agreement under section 1774(a),". Contracts.

(5) Section 1774(a)(1), as amended by subsection (a)(1) of this section, is amended—

(A) by striking out "chapters 34 and 35 of this title" the first place it appears in the first sentence and inserting in lieu thereof "chapters 30 through 35 of this title and chapters 106 and 107 of title 10";

(B) by striking out "chapters 34 and 35 of this title" the second place it appears in the first sentence and where it apppears in the second sentence and inserting in lieu thereof "such chapters"; and

(C) by striking out "chapter 32, 34, 35, or 36 of this title" in the third sentence and inserting in lieu thereof "such chapters".

(6) Section 1782 is amended by striking out "No" in the first sentence and inserting in lieu thereof "Except as provided in section 1774A of this title, no".

SEC. 14. COMMISSION ON VETERANS' EDUCATION POLICY.

Section 320(a)(3) of the Veterans' Benefits Improvement and Health-Care Authorization Act of 1986 (Public Law 99-576; 100 Stat. 3248) is amended by inserting "the Assistant Secretary of Defense for Force Management and Personnel," after "paragraph (2)(A),".

38 USC 1792 note.

SEC. 15. REVISIONS OF NOMENCLATURE.

(a) SECRETARY OF LABOR.—(1) Section 2001 is amended by adding at the end the following new paragraph:

"(8) The term 'Secretary' means the Secretary of Labor.".

(2) Sections 2002A, 2003 (a) and (b)(2), 2005, 2006(a), 2007, 2008, and 2010(b) are amended by striking out "Secretary of Labor" each place it appears except where preceded by "Assistant" and inserting in lieu thereof "Secretary".

(3) The first sentence of section 2010(b) is amended by striking out "The" and inserting in lieu thereof "Notwithstanding section 2002A(b) of this title, the".

(b) ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING.—(1) Sections 2000(2), 2002, 2002A, and 2010(b) are amended by inserting "and Training" after "Assistant Secretary of Labor for Veterans' Employment" each place it appears.

29 USC 1721 note.

(2) Section 4(b) of the Veterans' Job Training Act is amended by inserting "and Training" after "Assistant Secretary of Labor for Veterans' Employment".

(c) DIRECTORS FOR VETERANS' EMPLOYMENT AND TRAINING.—(1) Sections 2003 and 2003A(b)(2) are amended by striking out "State Director for Veterans' Employment", "State Directors for Veterans' Employment", "Assistant State Director for Veterans' Employment" and "Assistant State Directors for Veterans' Employment" each place those terms appear and inserting in lieu thereof "Director for Veterans' Employment and Training", "Directors for Veterans' Employment and Training", "Assistant Director for Veterans' Employment and Training", and "Assistant Directors for Veterans' Employment and Training", respectively.

29 USC 1721 note.

(2) Section 15(c)(2) of the Veterans Job Training Act is amended by striking out "State and Assistant State Directors for Veterans' Employment" and inserting in lieu thereof "Directors and Assistant Directors for Veterans' Employment and Training".

(3)(A) The heading of section 2003 is amended to read as follows:

"§ 2003. Directors and Assistant Directors for Veterans' Employment and Training".

(B) The item relating to such section in the table of sections at the beginning of chapter 41 is amended to read as follows:

"2003. Directors and Assistant Directors for Veterans' Employment and Training.".

(d) VETERANS' EMPLOYMENT AND TRAINING SERVICE.—Section 2002 is amended by striking out "Veterans Employment Service" and inserting in lieu thereof "Veterans' Employment and Training Service".

SEC. 16. EFFECTIVE DATES. 38 USC 1504 note.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of and amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EXCEPTIONS.—(1) The following provisions of or amendments made by this Act shall take effect for all of fiscal year 1988 and subsequent fiscal years:

(A) Clause (5) of subsection (b) of section 2002A of title 38, United States Code, as added by section 2(a)(2) of this Act.

(B) Subsection (a) of section 2003A of such title, as amended by section 2(e)(1)(A) of this Act.

(C) Paragraphs (1), (2), and (3) of section 2004(a) of such title, as amended by section 3(a) of this Act.

(D) Paragraphs (2) through (5) of section 1774(a) of such title, as added by section 13(a)(1) of this Act.

(2) The provisions of and amendments made by sections 4 through 11 shall take effect on the 60th day after the date of the enactment of this Act.

Approved May 20, 1988.

LEGISLATIVE HISTORY—S. 999 (H.R. 1504):

HOUSE REPORTS: No. 100-192 accompanying H.R. 1504 (Comm. on Veterans' Affairs).
SENATE REPORTS: No. 100-128 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 29, 30, H.R. 1504 considered and passed House.
Aug. 4, considered and passed Senate, amended, in lieu of S. 999.
Dec. 19, passage of H.R. 1504 vitiated; S. 999 considered and passed Senate.
Vol. 134 (1988): Apr. 27, considered and passed House, amended.
Apr. 28, Senate concurred in House amendments.

Public Law 100-324
100th Congress

An Act

May 30, 1988
[H.R. 1430]

To authorize decorations, medals, and other recognition for service in the United States merchant marine, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Merchant Marine Decorations and Medals Act. Maritime affairs. 46 USC app. 2001 note.

SECTION 1. This Act may be cited as the "Merchant Marine Decorations and Medals Act".

46 USC app. 2001.

SEC. 2. The Secretary of Transportation may award decorations and medals of appropriate design (including ribbons, ribbon bars, emblems, rosettes, miniature facsimiles, plaques, citations, or other suitable devices or insignia) for individual acts or service in the United States merchant marine.

46 USC app. 2002.

SEC. 3. The Secretary of Transportation may award—

(1) a Merchant Marine Distinguished Service Medal to an individual for outstanding acts, conduct, or valor beyond the line of duty;

(2) a Merchant Marine Meritorious Service Medal to an individual for meritorious acts, conduct, or valor in the line of duty, but not of the outstanding character as would warrant the award of the Merchant Marine Distinguished Service Medal;

(3) a decoration or medal to an individual for service in time of war or national emergency proclaimed by the President or Congress, or during operations by the Armed Forces of the United States outside the continental United States under conditions of danger to life and property; and

(4) a decoration or medal to an individual for other acts or service of conspicuous gallantry, intrepidity, and extraordinary heroism under conditions of danger to life and property that would warrant a similar decoration or medal for a member of the Armed Forces of the United States.

46 USC app. 2003.

SEC. 4. The Secretary of Transportation may issue a Gallant Ship Award and a citation to a United States vessel or to a foreign-flag vessel participating in outstanding or gallant action in marine disasters or other emergencies for the purpose of saving life or property at sea. The Secretary may award a plaque to a vessel so cited, and a replica of the plaque may be preserved as a permanent historical record. The Secretary may also award an appropriate citation ribbon bar to the master and each individual serving on board the vessel at the time of the action for which the citation is made. The Secretary shall consult with the Secretary of State before giving an award or citation to a foreign-flag vessel or its crew under this section.

46 USC app. 2004.

SEC. 5. (a) The Secretary of Transportation may not award more than one of any type of decoration or medal to an individual. For each succeeding act or service justifying the same decoration or medal, a suitable device may be awarded to be worn with the decoration or medal.

(b) When an individual scheduled to receive a decoration or medal under this Act is unable to accept it, the Secretary may make the award to an appropriate personal representative.

(c) The Secretary may provide at cost, or authorize for the manufacture and sale at reasonable prices by private persons—

(1) the decorations and medals authorized under section 2 of this Act and replacements for those decorations and medals; and

(2) replacements for decorations and medals issued under a prior law.

(d) Decorations and medals authorized under section 2 of this Act may be of similar design as are authorized for members of the Armed Forces of the United States for similar acts or service.

SEC. 6. Except as authorized under another law, the Secretary of Transportation may issue at no cost a flag of the United States and a grave marker to the family or personal representative of a deceased individual, who served in the United States merchant marine in support of the Armed Forces of the United States or its allies in periods of war or national emergency. 46 USC app. 2005.

SEC. 7. (a) The Maritime Administrator may issue a special certificate in recognition of service to an individual, or the personal representative of an individual, whose service in the United States merchant marine has been determined to be active duty under section 401 of Public Law 95-202 (38 U.S.C. 106, Note). 46 USC app. 2006.

(b) Issuance of a certificate to any individual under subsection (a) of this section does not entitle that individual to any rights, privileges, or benefits under any law of the United States.

SEC. 8. Except as authorized by this Act, a person may not manufacture, sell, possess, or display a decoration or medal provided for in this Act. A person violating this section is liable to the United States Government for a civil penalty of $2,000. 46 USC app. 2007.

SEC. 9. The Act of July 24, 1956 (46 App. U.S.C. 249-249c) is repealed.

SEC. 10. (a) The Act entitled "An Act to set aside certain surplus vessels for use in the provision of health and other humanitarian services", as amended, approved October 22, 1982 (Public Law 97-360; 96 Stat. 1718), is amended—

(1) in section 6, by striking "United States Ship Colonial LSD-18", and substituting "United States Ship Sanctuary AH-20"; and

(2) in section 7, by striking "1989" and substituting "1992".

(b) The United States Ship Sanctuary AH-20 shall be transferred to the National Defense Reserve Fleet.

Approved May 30, 1988.

LEGISLATIVE HISTORY—H.R. 1430:

HOUSE REPORTS: No. 100-510 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 100-329 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 8, considered and passed House.
May 13, considered and passed Senate.

Public Law 100-325
100th Congress

An Act

To amend title 5, United States Code, to authorize the establishment of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, and for other purposes.

May 30, 1988
[H.R. 4083]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY.

(a) IN GENERAL.—Chapter 31 of title 5, United States Code, is amended by adding at the end the following new subchapter:

"SUBCHAPTER III—THE FEDERAL BUREAU OF INVESTIGATION AND DRUG ENFORCEMENT ADMINISTRATION SENIOR EXECUTIVE SERVICE

"§ 3151. The Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service

5 USC 3151.

"(a) The Attorney General may by regulation establish a personnel system for senior personnel within the Federal Bureau of Investigation and the Drug Enforcement Administration to be known as the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service (hereinafter in this subchapter referred to as the 'FBI-DEA Senior Executive Service'). The regulations establishing the FBI-DEA Senior Executive Service shall—

Regulations.

"(1) meet the requirements set forth in section 3131 for the Senior Executive Service;

"(2) provide that positions in the FBI-DEA Senior Executive Service meet requirements that are consistent with the provisions of section 3132(a)(2);

"(3) provide rates of pay for the FBI-DEA Senior Executive Service that are not in excess of the maximum rate or less than the minimum rate of basic pay established for the Senior Executive Service under section 5382 and that are adjusted at the same time and to the same extent as rates of basic pay for the Senior Executive Service are adjusted;

"(4) provide a performance appraisal system for the FBI-DEA Senior Executive Service that conforms to the provisions of subchapter II of chapter 43;

"(5) provide for—

"(A) removal consistent with section 3592;

"(B) reduction-in-force procedures consistent with section 3595(a), together with measures to ensure that a member of the FBI-DEA Senior Executive Service may not be removed due to a reduction in force unless reasonable efforts to place such member in another such position are first taken;

"(C) procedures in accordance with which any furlough affecting the FBI-DEA Senior Executive Service shall be carried out; and

"(D) removal or suspension consistent with subsections (a), (b), and (c) of section 7543 (except that any hearing or appeal to which a member of the FBI-DEA Senior Executive Service is entitled shall be held or decided pursuant to procedures established by regulations of the Attorney General);

"(6) permit the payment of performance awards to members of the FBI-DEA Senior Executive Service consistent with the provisions applicable to performance awards under section 5384; and

"(7) provide that members of the FBI-DEA Senior Executive Service may be granted sabbatical leaves consistent with the provisions of section 3396(c).

"(b)(1) Except as provided in subsection (a), the Attorney General may—

"(A) make applicable to the FBI-DEA Senior Executive Service any of the provisions of this title applicable to applicants for or members of the Senior Executive Service; and

"(B) appoint, promote, and assign individuals to positions established within the FBI-DEA Senior Executive Service without regard to the provisions of this title governing appointments and other personnel actions in the competitive service.

"(2)(A) Notwithstanding any other provision of this section, an individual may not be selected for the FBI-DEA Senior Executive Service unless such individual is a career employee in the civil service.

"(B) For the purpose of subparagraph (A), 'career employee in the civil service' shall have such meaning as the Attorney General, in consultation with the Director of the Office of Personnel Management, by regulation prescribes.

"(c) The President, based on the recommendations of the Attorney General, may award ranks to members of the FBI-DEA Senior Executive Service in a manner consistent with the provisions of section 4507.

"(d) Notwithstanding any other provision of this section, the Attorney General may detail or assign any member of the FBI-DEA Senior Executive Service to serve in a position outside the Federal Bureau of Investigation or the Drug Enforcement Administration (as the case may be) in which the member's expertise and experience may be of benefit to the Federal Bureau of Investigation or the Drug Enforcement Administration (as the case may be) or another Government agency. Any such member shall not by reason of such detail or assignment lose any entitlement or status associated with membership in the FBI-DEA Senior Executive Service.

Reports.

"(e) The Attorney General shall each year submit to Congress, at the time the budget is submitted by the President to the Congress for the next fiscal year, a report on the FBI-DEA Senior Executive Service. The report shall include, in the aggregate and by agency—

"(1) the number of FBI-DEA Senior Executive Service positions established as of the end of the preceding fiscal year;

"(2) the number of individuals being paid at each rate of basic pay for the FBI-DEA Senior Executive Service as of the end of the preceding fiscal year;

"(3) the number, distribution, and amount of awards paid to members of the FBI-DEA Senior Executive Service during the preceding fiscal year; and

"(4) the number of individuals removed from the FBI-DEA Senior Executive Service during the preceding fiscal year—

"(A) for less than fully successful performance;

"(B) due to a reduction in force; or

"(C) for any other reason.

"§ 3152. Limitation on pay 5 USC 3152.

"Nothing in this subchapter shall be construed to allow the aggregate amount payable to a member of the FBI-DEA Senior Executive Service under this subchapter during any fiscal year to exceed the annual rate payable for positions at level I of the Executive Schedule in effect at the end of such year. This section shall be applied in a manner consistent with paragraphs (1) and (2) of section 5383(b).".

(b) CHAPTER ANALYSIS.—The analysis for chapter 31 of title 5, United States Code, is amended by adding at the end the following:

"SUBCHAPTER III—THE FEDERAL BUREAU OF INVESTIGATION AND DRUG ENFORCEMENT ADMINISTRATION SENIOR EXECUTIVE SERVICE

"Sec.
"3151. The Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.
"3152. Limitation on pay.".

SEC. 2. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Section 2108(3) of title 5, United States Code, is amended in the matter following subparagraph (G) by inserting "the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service," after "the Senior Cryptologic Executive Service,".

(b) Section 3109(c) of title 5, United States Code, is amended by inserting "or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service" after "Service".

(c) Section 3132(a) of title 5, United States Code, is amended—

(1) in paragraph (1)(B), by inserting "the Drug Enforcement Administration," after "the Federal Bureau of Investigation,"; and

(2) in paragraph (2)—

(A) by adding "or" at the end of clause (i);

(B) by striking "or" at the end of clause (ii); and

(C) by striking clause (iii).

(d) Section 3321(c) of title 5, United States Code, is amended by striking "Service." and inserting "Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.".

(e) Section 3501(b) of title 5, United States Code, is amended by striking "Service." and inserting "Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.".

(f) Section 4301(2)(E) of title 5, United States Code, is amended by striking "Service;" and inserting "Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service;".

(g) Section 5108(a) of title 5, United States Code, is amended—

(1) by striking "and" at the end of clause (i);

(2) by striking the period at the end of clause (ii) and inserting "; and";

(3) by inserting after clause (ii) the following:

"(iii) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service."; and

(4) in the last sentence, by striking "GS-16, 17, and 18 in the Federal Bureau of Investigation." and inserting "the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.".

(h) Chapter 53 of title 5, United States Code, is amended—

(1) in section 5311(a), by striking "Service positions," and inserting "Service positions and positions in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service,";

(2) in section 5311(b)(2), by striking the matter after subparagraph (B) and inserting the following:

"but does not include any Senior Executive Service position (as defined in section 3132(a) of this title) or any position in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service."; and

(3) in section 5331(b), by striking "Service positions," and inserting "Service positions and positions in the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service,".

(i) Chapter 55 of title 5, United States Code, is amended—

(1) in section 5541(2)—

(A) by striking "or" at the end of clause (xv);

(B) by striking the period at the end of clause (xvi) and inserting "; or"; and

(C) by adding at the end the following:

"(xvii) a member of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service."; and

(2) in section 5595(a)(2)(i), by striking "other than a member of the Senior Executive Service" and inserting ", other than a member of the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service,".

(j) Section 5723(a)(1) of title 5, United States Code, is amended by striking "shortage," and all that follows thereafter through "of any person" and inserting "shortage, (B) of a new appointee to the Senior Executive Service or the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service, or (C) of any person".

(k) Section 6304(f) of title 5, United States Code, is amended—

(1) by striking "or" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; or"; and

(3) by adding at the end the following:

"(5) the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service.".

(l) Section 8336(h) of title 5, United States Code, is amended by adding at the end the following:

"(3) A member of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service who is removed from such service for less than fully successful executive performance after completing 25 years of service or after becoming

50 years of age and completing 20 years of service is entitled to an annuity.".

(m) Section 8414(a) of title 5, United States Code, is amended by adding at the end the following:

"(3) A member of the Federal Bureau of Investigation and Drug Enforcement Administration Senior Executive Service who is removed from such service for less than fully successful executive performance after completing 25 years of service or after becoming 50 years of age and completing 20 years of service is entitled to an annuity.".

Approved May 30, 1988.

LEGISLATIVE HISTORY—H.R. 4083:

HOUSE REPORTS: No. 100-608 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 9, considered and passed House.
May 13, considered and passed Senate.

Public Law 100-326
100th Congress

An Act

June 7, 1988
[H.R. 2878]

To designate certain national forest system lands in the States of Virginia and West Virginia as wilderness areas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Wilderness Preservation System.
16 USC 1132 note.

SECTION 1. DESIGNATION OF WILDERNESS AREAS.

In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131-1136), the following lands in the States of Virginia and West Virginia are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System—

(1) certain lands in the George Washington National Forest, which comprise approximately 9,300 acres, as generally depicted on a map entitled "Rough Mountain Wilderness Area—Proposed", dated June 1987, and which shall be known as the Rough Mountain Wilderness Area;

(2) certain lands in the George Washington National Forest, which comprise approximately 6,450 acres, as generally depicted on a map entitled "Rich Hole Wilderness Area—Proposed", dated June 1987, and which shall be known as the Rich Hole Wilderness Area;

(3) certain lands in the Jefferson National Forest, and George Washington National Forest which comprise approximately 5,700 acres, as generally depicted on a map entitled "Barbours Creek Wilderness Area—Proposed", dated June 1987, and which shall be known as the Barbours Creek Wilderness Area;

(4) certain lands in the Jefferson National Forest and George Washington National Forest, which comprise approximately 3,665 acres, as generally depicted on a map entitled "Shawvers Run Wilderness Area—Proposed", dated October 1987, and which shall be known as the Shawvers Run Wilderness Area;

(5) certain lands in the Jefferson National Forest, which comprise approximately 72 acres, as generally depicted on a map entitled "Lewis Fork Wilderness Area Addition—Proposed", dated June 1987, and which shall be known as the Lewis Fork Wilderness Area; and

(6) certain lands in the Jefferson National Forest, which comprise approximately 2,500 acres, as generally depicted on a map entitled "Mountain Lake Wilderness Area Addition—Proposed", dated June 1987, and which shall be known as the Mountain Lake Wilderness Area.

SEC. 2. ADMINISTRATION OF WILDERNESS AREAS.

Subject to valid existing rights, lands designated as wilderness by section 1 shall be included within the National Forest System and administered in accordance with the laws and regulations applicable to national forest wilderness areas, including the provisions of the Wilderness Act (16 U.S.C. 1131-1136) and the Virginia Wilderness Act of 1984 (Public Law 98-586; 98 Stat. 3105).

SEC. 3. MAPS AND BOUNDARIES.

As soon as practicable after the date of enactment of this Act, the Secretary of Agriculture shall file a map and legal description of each wilderness area designated by this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and with the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in each such map may be made by the Secretary. Each such map and description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

SEC. 4. REPEAL OF STUDY.

Subsection (d) of section 6 of the Virginia Wilderness Act of 1984 (98 Stat. 3108) is hereby repealed.

Approved June 7, 1988.

LEGISLATIVE HISTORY—H.R. 2878:

HOUSE REPORTS: No. 100-367, Pt. 1 (Comm. on Agriculture) and Pt. 2 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 13, considered and passed House.
Vol. 134 (1988): May 19, considered and passed Senate.

Public Law 100-327
100th Congress

An Act

June 7, 1988
[H.R. 3987]

To designate the United States Post Office Building located at 500 West Chestnut Expressway in Springfield, Missouri, as the "Gene Taylor Post Office Building".

Public buildings and grounds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office Building located at 500 West Chestnut Expressway in Springfield, Missouri, is hereby designated as the "Gene Taylor Post Office Building". Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "Gene Taylor Post Office Building".

Approved June 7, 1988.

LEGISLATIVE HISTORY—H.R. 3987:

HOUSE REPORTS: No. 100-593 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 9, considered and passed House.
May 18, considered and passed Senate.

Public Law 100-328
100th Congress

Joint Resolution

Designating May 1988 as "Take Pride in America Month".

June 7, 1988
[H.J. Res. 530]

Whereas America is blessed with outstanding natural and cultural resources;
Whereas America is blessed with tremendous human resources, including citizens with a unique volunteer spirit rooted in the Nation's frontier tradition;
Whereas the Nation's recreational and cultural resources contribute to the economic and social well-being of the Nation;
Whereas the future of the Nation's great historical monuments and natural wonders depends upon the commitment of the American people to their preservation;
Whereas the Take Pride in American Campaign is a partnership of Federal agencies, States, and numerous public and private organizations committed to the wise use of our natural and cultural resources;
Whereas Take Pride in America Month will focus attention on the stewardship of public lands by concerned citizens and citizen groups around the Nation; and
Whereas "Take Pride in America: You Can Make a Difference" will become the theme for Take Pride in America Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1988 is designated as "Take Pride in America Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved June 7, 1988.

LEGISLATIVE HISTORY—H.J. Res. 530:

CONGRESSIONAL RECORD, Vol. 134 (1988):
May 2, considered and passed House.
May 18, considered and passed Senate.

Public Law 100-329
100th Congress

An Act

June 7, 1988
[S. 1988]

To amend the Merchant Marine Act, 1920, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Maritime affairs. Transportation.

SECTION 1. (a) Section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), is amended—

(1) by striking "Treasury" the first time it appears and inserting "Treasury, or the actual cost of the transportation, whichever is greater,"; and

(2) by striking "merchandise." at the end thereof and inserting in lieu thereof the following: "merchandise: *Provided further,* That for purposes of this section, the term 'merchandise' includes valueless material: *Provided further,* That this section applies to the transportation of valueless material or any dredged material regardless of whether it has commercial value, from a point or place in the United States or a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to another point or place in the United States or a point or place on the high seas within that Exclusive Economic Zone: *Provided further,* That the transportation of any platform jacket in or on a launch barge between two points in the United States, at one of which there is an installation or other device within the meaning of section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), shall not be deemed transportation subject to this section if the launch barge has a launch capacity of 12,000 long tons or more, was built as of the date of enactment of this proviso, and is documented under the laws of the United States, and the platform jacket cannot be transported on and launched from a launch barge of lesser launch capacity that is identified by the Secretary of Transportation and is available for such transportation.".

Waste disposal.

46 USC app. 883 note.

(b)(1) For purposes of interpreting the proviso pertaining to transportation of any platform jacket by launch barge, as added by subsection (a) of this section to section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883), the Secretary of Transportation shall develop, maintain, and periodically update an inventory of launch barges with less than a launch capacity of 12,000 long tons that are qualified to engage in the coastwise trade. Each launch barge listed on such inventory shall be identified by its name, launch capacity, length, beam, depth, and other distinguishing characteristics. For each such launch barge, the name and address of the person to whom inquiries may be made shall also be included on the inventory. A launch barge not listed on such inventory shall be deemed not to be "a launch barge of lesser launch capacity identified by the Secretary of Transportation" within the meaning of such proviso to section 27 of the Merchant Marine Act, 1920.

(2) Not later than 15 days after the date of enactment of this Act, the Secretary of Transportation shall publish in the Federal Register an initial inventory of launch barges developed and maintained in accordance with paragraph (1) of this subsection. Federal Register, publication.

(3) Not later than 60 days after the date of enactment of this Act, and periodically thereafter, the Secretary shall publish in the Federal Register a current inventory of launch barges developed, maintained, and updated in accordance with paragraph (1) of this subsection. Federal Register, publication.

SEC. 2. Section 4370(a) of the Revised Statutes of the United States (46 App. U.S.C. 316(a)) is amended by striking the period at the end of the first sentence and inserting in lieu thereof the following: ", or to tow any vessel transporting valueless material or any dredged material, regardless of whether it has commercial value, from a point or place in the United States or a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to another point or place in the United States or a point or place on the high seas within that Exclusive Economic Zone.". Waste disposal.

SEC. 3. Notwithstanding the provisions of section 1 of this Act, a vessel may transport municipal sewage sludge if that vessel, regardless of where it was built, is documented under the laws of the United States and, on the date of enactment of this Act, that vessel— Waste disposal. 46 USC app. 883 note.

(1) is in use by a municipality for the transportation of sewage sludge; or

(2) is under contract with a municipality for the transportation of sewage sludge. Contracts.

SEC. 4. For purposes of the first paragraph of section 805(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1223(a)), a vessel described in section 3(2) of this Act is not a vessel engaged in domestic intercoastal or coastwise service, but the prohibitions in the second paragraph apply to that vessel. 46 USC app. 883 note.

SEC. 5. Notwithstanding the provisions of section 1 of this Act, the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation under section 12106 of title 46, United States Code, to a vessel that— Waste disposal. 46 USC app. 883 note.

(1) is engaged in transporting only valueless material in the coastwise trade or transporting dredged material, whether or not of value, (A) from a point or place on the high seas within the Exclusive Economic Zone as defined in the Presidential Proclamation of March 10, 1983, to a point or place in the United States or to another point or place on the high seas within such Exclusive Economic Zone or (B) from a point or place within the United States to a point or place on the high seas within such Exclusive Economic Zone;

(2) had a certificate of documentation issued under section 12105 of that title on October 1, 1987;

(3) had been sold foreign or placed under a foreign registry before that certificate was issued; and

(4) was built in the United States;

except that such certificate of documentation shall be endorsed to restrict the use of such vessel to the transportation of valueless material in the coastwise trade, and to the transportation of dredged material, whether or not of value, (i) from a point or place on the

high seas within such Exclusive Economic Zone to a point or place in the United States or to another point or place on the high seas within such Exclusive Economic Zone, or (ii) from a point or place within the United States to a point or place on the high seas within such Exclusive Economic Zone.

Approved June 7, 1988.

LEGISLATIVE HISTORY—S. 1988 (H.R. 82):

HOUSE REPORTS: No. 100-219 accompanying H.R. 82 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 100-327 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): July 27, H.R. 82 considered and passed House.
Vol. 134 (1988): May 18, S. 1988 considered and passed Senate.
May 24, considered and passed House.

Public Law 100-330
100th Congress

An Act

To implement the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America.

June 7, 1988
[S. 1989]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "South Pacific Tuna Act of 1988".

South Pacific Tuna Act of 1988.
Maritime affairs.
16 USC 973 note.

SEC. 2. DEFINITIONS.

16 USC 973.

As used in this Act—

(1) The term "Administrator" means the individual or organization designated by the Pacific Island Parties to act on their behalf under the Treaty and notified to the United States Government.

(2) The term "Authorized Officer" means any officer who is authorized by the Secretary, or the Secretary of the department in which the Coast Guard is operating, or the head of any Federal or State agency which has entered into an enforcement agreement with the Secretary under section 10(a) of this Act.

(3) The term "Authorized Party Officer" means any officer authorized by a Pacific Island Party to enforce the provisions of the Treaty.

(4) The term "applicable national law" means any provision of law of a Pacific Island Party which is described in paragraph 1(a) of Annex I of the Treaty.

(5) The term "Closed Area" means any of the closed areas identified in Schedule 2 of Annex I of the Treaty.

(6) The term "fishing" means—

(A) searching for, catching, taking, or harvesting fish;

(B) attempting to search for, catch, take, or harvest fish;

(C) engaging in any other activity which can reasonably be expected to result in the locating, catching, taking, or harvesting of fish;

(D) placing, searching for, or recovering fish aggregating devices or associated electronic equipment such as radio beacons;

(E) any operations at sea directly in support of, or in preparation for, any activity described in this paragraph; or

(F) aircraft use, relating to the activities described in this paragraph except for flights in emergencies involving the health or safety of crew members or the safety of a vessel.

(7) The term "fishing vessel" or "vessel" means any boat, ship, or other craft which is used for, equipped to be used for, or of a type normally used for commercial fishing, and which is documented under the laws of the United States.

(8) The term "Licensing Area" means all waters in the Treaty Area except for—

(A) those waters subject to the jurisdiction of the United States in accordance with international law;

(B) those waters within Closed Areas; and

(C) those waters within Limited Areas closed to fishing.

(9) The term "licensing period" means the period of validity of licenses issued in accordance with the Treaty.

(10) The term "Limited Area" means any area so identified in Schedule 3 of Annex I of the Treaty.

(11) The term "operator" means any person who is in charge of, directs or controls a vessel, including the owner, charterer, and master.

(12) The term "Pacific Island Party" means a Pacific Island nation which is a party to the Treaty.

(13) The term "Party" means a nation which is a party to the Treaty.

(14) The term "person" means any individual (whether or not a citizen or national of the United States), any corporation, partnership, association, or other entity (whether or not organized or existing under the laws of any State), and any Federal, State, local, or foreign government or any entity of any such government.

(15) The term "Secretary" means the Secretary of Commerce, or the designee of the Secretary of Commerce.

(16) The term "State" means each of the several States, the District of Columbia, the Commonwealths of Puerto Rico and the Northern Mariana Islands, American Samoa, the Virgin Islands, Guam, and any other Commonwealth, territory, or possession of the United States.

(17) The term "Treaty" means the Treaty on Fisheries Between the Governments of Certain Pacific Island States and the Government of the United States of America, signed in Port Moresby, Papua New Guinea, April 2, 1987, and its Annexes, Schedules, and implementing agreements.

(18) The term "Treaty Area" means the area so described in paragraph 1(k) of Article 1 of the Treaty.

16 USC 973a.

SEC. 3. APPLICATION TO OTHER LAWS.

The seizure by a Pacific Island Party of a vessel of the United States shall not be determined to be a seizure described in section 205(a)(4)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1825(a)(4)(C)) or section 2 of the Fishermen's Protective Act of 1967 (22 U.S.C. 1972) if the seizure is found by the Secretary of State to be in accordance with the provisions of the Treaty.

16 USC 973b.

SEC. 4. REGULATIONS.

The Secretary of Commerce, with the concurrence of the Secretary of State and after consultation with the Secretary of the department in which the Coast Guard is operating, shall issue regulations as may be necessary to carry out the purposes and objectives of the Treaty and this Act. These regulations shall be made applicable as necessary to all persons and vessels subject to the jurisdiction of the United States, wherever located.

16 USC 973c.

SEC. 5. PROHIBITED ACTS.

(a) Except as provided in section 6 of this Act, it is unlawful for any person subject to the jurisdiction of the United States—

(1) to violate any provision of this Act or any regulation or order issued pursuant to this Act;

(2) to use a vessel for fishing in violation of an applicable national law;

(3) who has entered into a fishing arrangement under paragraph 3 of Article 3 of the Treaty, to violate the terms and conditions of such fishing arrangement if the Secretary of State has decided under section 18 of this Act that Article 4 and paragraph 6 of Article 5 of the Treaty shall apply to the arrangement;

(4) to use a vessel for fishing in any Limited Area in violation of any requirement in Schedule 3 of Annex I of the Treaty;

(5) to use a vessel for fishing in any Closed Area;

(6) to falsify any information required to be reported, notified, communicated, or recorded pursuant to a requirement of this Act, or to fail to submit any required information, or to fail to report to the Secretary immediately any change in circumstances which has the effect of rendering any such information false, incomplete, or misleading;

(7) to intentionally destroy evidence which could be used to determine if a violation of this Act or the Treaty has occurred;

(8) to refuse to permit any Authorized Officer or Authorized Party Officer to board a fishing vessel for purposes of conducting a search or inspection in connection with the enforcement of this Act or the Treaty;

(9) to refuse to comply with the instructions of an Authorized Officer or Authorized Party Officer relating to fishing activities under the Treaty;

(10) to forcibly assault, resist, oppose, impede, intimidate, or interfere with—

(A) any Authorized Officer or Authorized Party Officer in the conduct of a search or inspection in connection with the enforcement of this Act or the Treaty; or

(B) an observer in the conduct of observer duties under the Treaty;

(11) to resist a lawful arrest for any act prohibited by this section;

(12) to interfere with, delay, or prevent, by any means, the apprehension or arrest of another person, knowing that such other person has committed any act prohibited by this section; or

(13) to ship, transport, offer for sale, sell, purchase, import, export, or have custody, control, or possession of, any fish taken or retained in violation of this Act or any regulation, permit, or the Treaty, with the knowledge that the fish were so taken or retained.

(b) Except as provided in section 6 of this Act, it is unlawful for any person subject to the jurisdiction of the United States when in the Licensing Area—

(1) to use a vessel to fish unless validly licensed as required by the Administrator;

(2) to use a vessel for directed fishing for southern bluefin tuna or for fishing for any kinds of fish other than tunas, except that fish may be caught as an incidental by-catch;

(3) to use a vessel for fishing by any method other than the purse-seine method;

(4) to use any vessel to engage in fishing after the revocation of its license, or during the period of suspension of an applicable license;

(5) to operate a vessel in such a way as to disrupt or in any other way adversely affect the activities of traditional and locally based fishermen and fishing vessels;

(6) to use a vessel to fish in a manner inconsistent with an order issued by the Secretary under section 11 of this Act; or

(7) except for circumstances involving force majeure and other emergencies involving the health or safety of crew members or the safety of the vessel, to use an aircraft in association with the fishing activities of a vessel unless it is identified in the license application for the vessel, or any amendment thereto.

16 USC 973d.

SEC. 6. EXCEPTIONS.

(a) The prohibitions of section 5 of this Act and the licensing requirements of section 9 of this Act shall not apply to fishing for albacore tuna by vessels using the trolling method outside of the 200 nautical mile fisheries zones of the Pacific Island Parties.

(b) The prohibitions of section 5 (a)(4), (a)(5), and (b)(3) of this Act shall not apply to fishing under the terms and conditions of an arrangement which has been reached under paragraph 3 of Article 3 of the Treaty and which, pursuant to a decision by the Secretary of State under section 18 of this Act, is covered by Article 4 and paragraph 6 of Article 5 of the Treaty.

16 USC 973e.

SEC. 7. CRIMINAL OFFENSES.

(a) A person is guilty of a criminal offense if he or she commits any act prohibited by section 5(a) (8), (10), (11), or (12) of this Act.

(b) Any offense described in subsection (a) of this section is punishable by a fine of not more than $50,000, or imprisonment for not more than 6 months, or both; except that if in the commission of any such offense the person uses a dangerous weapon, engages in conduct that causes bodily injury to any Authorized Officer, Authorized Party Officer, or observer under the Treaty in the conduct of their duties, or places any such Authorized Officer, Authorized Party Officer, or observer in fear of imminent bodily injury, the offense is punishable by a fine of not more than $100,000 or imprisonment for not more than 10 years, or both.

Courts, U.S.

(c) The district courts of the United States shall have jurisdiction over any offense described in this section.

16 USC 973f.

SEC. 8. CIVIL PENALTIES.

(a) Any person who is found by the Secretary, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by section 5 of this Act, shall be liable to the United States Code for a civil penalty. Before issuing a notice of violation, the Secretary shall consult with the Secretary of State. The amount of the civil penalty shall be determined in accordance with considerations set forth in the Treaty and shall take into account the nature, circumstances, extent, any gravity of the prohibited acts committed, and with respect to the violator, the degree of culpability, any history or prior offenses, ability to pay, and such other matters as justice may require. Except for those acts prohibited by section 5(a) (4), (5), (7), (8), (10), (11), and (12), and section 5(b) (1), (2), (3), and (7) of this Act, the amount of the civil penalty shall not exceed $250,000 for each violation. Upon written notice, the Secretary of State shall have the right to participate in any proceeding initiated to assess a civil penalty for violation of this Act.

(b) Any person against whom a civil penalty is assessed under subsection (a) of this section may obtain review thereof in the United States district court for the appropriate district by filing a complaint in such court within 30 days from the date of the order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General of the United States, and the appropriate United States Attorney. The Secretary shall promptly file in the court a certified copy of the record upon which the violation was found or the penalty imposed. The findings and order of the Secretary shall be set aside or modified by the court if they are not found to be supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

Courts, U.S. Records.

(c) Except as provided in subsection (g) of this section, if any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General of the United States, who shall recover the amount assessed in any appropriate district court of the United States.

Courts, U.S.

(d) Except as provided in subsection (g) of this section, a fishing vessel (including its fishing gear, furniture, appurtenances, stores, and cargo) used in the commission of an act prohibited by section 5 of this Act shall be liable in rem for any civil penalty assessed for the violation under section 8 of this Act and may be proceeded against in any district court of the United States having jurisdiction thereof. The penalty shall constitute a maritime lien on the vessel which may be recovered in an action in rem in the district court of the United States having jurisdiction over the vessel.

Courts, U.S.

(e) The Secretary, after consultation with the Secretary of State, may compromise, modify, or remit, with or without conditions, any civil penalty which is subject to imposition or which has been imposed under this section.

(f) For the purposes of conducting any hearing under this section, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths. Witnesses summoned shall be paid the same fees and mileage that are paid to witnesses in the courts of the United States. In case of contempt or refusal to obey a subpoena served upon a person pursuant to this subsection, the district court of the United States for any district in which the person is found, resides, or transacts business, upon application by the United States and after notice to the person, shall have jurisdiction to issue an order requiring the person to appear and give testimony before the Secretary or to appear and produce documents before the Secretary, or both, and any failure to obey the order of the court may be punished by the court as a contempt thereof.

Courts, U.S.

(g) If a vessel used in a violation of section 5(a) (1), (2), (3), (4), (5), (6), (7), (8), (9), or (13) or section 5(b) of this Act for which a civil penalty has been assessed—

(1) had a valid license under the Treasury at the time of the violation, and

(2) within 60 days after the penalty assessment has become final, leaves and remains outside of the Licensing Area, all Limited Areas closed to fishing, and all Closed Areas until the final penalty has been paid,

there shall be no referral to the Attorney General under subsection (c) of this section or in rem action under subsection (d) of this section in connection with such civil penalty.

16 USC 973g.

SEC. 9. LICENSES.

(a) Licenses to fish in the Licensing Area, to be issued by the Administrator in accordance with the Treaty, may be requested from the Secretary by operators of vessels, under procedures established by the Secretary. The license application shall designate an agent for the service of legal process to be located in Port Moresby, Papua New Guinea. The applicant shall ensure that the designated agent for service of process, acting on behalf of the license holder, will receive and respond to any legal process issued in accordance with the Treaty and will, within 21 days after notification, travel if necessary for this purpose to any Pacific Island Party at no expense to that Party.

(b) Except as provided in subsections (e), (f), and (g) of this section, the Secretary shall forward a vessel license application to the Secretary of State for transmittal to the Administrator whenever such application is in accordance with application procedures established by the Secretary, includes a complete application form as required by Annex II of the Treaty, and is accompanied by the required license fee.

(c)(1) In the initial year of implementation, fees for the first 40 vessel licenses shall be at least $50,000 each, for any 10 vessel licenses in addition to the first 40 shall be $60,000 each, and for vessel licenses in addition to the first 50 shall be in accordance with Annex II of the Treaty.

(2) After such initial year, fees for vessel licenses shall be paid in accordance with fee schedules established under Annex II of the Treaty and published by the Secretary.

(d) Licenses shall be valid for the licensing period specified by the Administrator.

(e) The Secretary may establish a system of allocating licenses in the event more applications are received than there are licenses available.

(f) For the initial year of implementation, license fees totaling at least $1,750,000 must be received by the Secretary before any license applications will be forwarded to the Secretary of State for transmittal to the Administrator.

(g) The Secretary, in consultation with the Secretary of State, may determine that a license application should not be forwarded to the Administrator for one of the following reasons:

(1) where the application is not in accordance with the Treaty or the procedures established by the Secretary;

(2) where the owner or charterer is the subject of proceedings under the bankruptcy laws of the United States, unless reasonable financial assurances have been provided to the Secretary;

(3) where the owner or charterer has not established to the satisfaction of the Secretary that the fishing vessel is fully insured against all risks and liabilities normally provided in maritime liability insurance;

(4) where the owner or charterer has not paid any penalty which has become final, assessed by the Secretary in accordance with this Act.

SEC. 10. ENFORCEMENT. 16 USC 973h.

(a) The provisions of this Act shall be enforced by the Secretary in cooperation with the Secretary of State. The Secretary, after consultation with the Secretary of State, may by agreement, on a reimbursable basis or otherwise, utilize the personnel, services, equipment (including aircraft and vessels), and facilities of any other Federal agency and of any State agency in the performance of these duties. Contracts.

(b)(1) The Secretary shall, at the request of a Pacific Island Party made to the Secretary of State, fully investigate any alleged infringement of the Treaty involving a vessel of the United States, and report as soon as practicable, and in any case within 2 months, to that Party through the Secretary of State on any action taken or proposed by the Secretary in regard to the alleged infringement. Reports.

(2) Upon commencement of an investigation under paragraph (1) of this subsection, the Secretary shall notify the operator of any vessel concerned regarding—

(A) the nature of the investigation;

(B) the right of the operator to submit comments, information, or evidence bearing on the investigation and to receive, upon the operator's timely written request to the Secretary, an opportunity to present such comments, information, or evidence orally to the Secretary or the Secretary's representative within 30 days after receipt of such notification.

(c)(1) Prior to instituting any legal proceedings under this Act for any action which involves an alleged infringement of the Treaty in waters within the jurisdiction of a Pacific Island Party, the Secretary, through the Secretary of State, shall notify the Pacific Island Party in accordance with paragraph 8 of Article 4 of the Treaty that the proceedings will be instituted. Such notice shall include a statement of the facts believed to show an infringement of the Treaty and the nature of the proposed proceedings, including any proposed charges and any proposed penalties. The Secretary shall not institute such proceedings if the Pacific Island Party objects within 30 days after the effective date of the notice under Article 10 of the Treaty.

(2) The Pacific Island Party exercising jurisdiction over the waters involved in such a legal proceeding shall be promptly notified by the Secretary, through the Secretary of State, concerning the outcome of the proceeding.

(d)(1) Any Authorized Officer may—

(A) with or without a warrant or other process—

(i) arrest any person, if he has reasonable cause to believe that the person has committed any act subject to prosecution under section 7 of this Act;

(ii) board, and search or inspect, any fishing vessel which is subject to the provisions of this Act; or

(iii) seize samples of fish or items for evidence (other than the vessel or its fishing gear or equipment) related to any violation of any provision of this Act;

(iv) order a vessel into the most convenient port of the United States for investigation when an investigation has been requested by a Pacific Island Party in accordance with the Treaty and when such an order is necessary to gather information for such an investigation;

(B) execute any warrant or other process issued by any court of competent jurisdiction;

(C) exercise any other lawful authority; and

(D) investigate alleged violations of the Treaty to the same extent authorized to investigate alleged violations of this Act.

(2) To the extent possible, Authorized Officers shall exercise their powers under paragraph (1)(A) (ii), (iii), and (iv) of this subsection so as not to interfere unduly with the lawful operation of the vessel.

(3) Nothing in this Act shall be construed to limit the enforcement of this or other applicable Federal laws under section 89 of title 14, United States Code.

Courts, U.S.

(e) The district courts of the United States shall have exclusive jurisdiction over any case or controversy arising under the provisions of this Act.

16 USC 973i.

SEC. 11. FINDINGS BY THE SECRETARY.

(a) Following any investigation conducted in accordance with section 10(b) of this Act, the Secretary, with the concurrence of the Secretary of State, and upon the request of the Pacific Island Party concerned, may order a fishing vessel which has not submitted to the jurisdiction of that Pacific Island Party to leave immediately the Licensing Area, all Limited Areas, and all Closed Areas upon making a finding—

(1) that the fishing vessel—

(A) while fishing in the Licensing Area did not have a license under the Treaty to fish in the Licensing Area, and that under paragraph 2 of Article 3 of the Treaty, such fishing is not authorized to be conducted in the Licensing Area without a license;

(B) was involved in any incident in which an Authorized Officer, Authorized Party Officer, or observer was allegedly assaulted with resultant bodily harm, physically threatened, forcefully resisted, refused boarding, or subjected to physical intimidation or physical interference in the performance of duties as authorized by this Act or the Treaty;

(C) has not made full payment within 60 days of any amount due as a result of a final judgment or other final determination deriving from a violation in waters within the Treaty Area of a Pacific Island Party; or

(D) was not represented by an agent for service of process in accordance with the Treaty; or

(2) that there is probable cause to believe that the fishing vessel—

(A) was used in violation of section 5 (a)(4), (a)(5), (b)(2), or (b)(3) of this Act;

(B) used an aircraft in violation of section 5(b)(7); or

(C) was involved in an incident in which section 5(b)(7) was violated.

(b) Upon being advised by the Secretary of State that proper notification to Parties has been made under paragraph 7 of Article 5 of the Treaty that a Pacific Island Party is investigating an alleged infringement of the Treaty by a vessel in waters under the jurisdiction of such Pacific Island Party, the Secretary shall order the vessel to leave such waters until the Secretary of State notifies the Secretary that such order is no longer necessary.

(c) The Secretary shall rescind any order issued on the basis of a finding under subsection (a)(1) (C) or (D) of this section as soon as the Secretary determines that the facts underlying the finding do not apply.

(d) No order issued in accordance with this section is subject to judicial review.

(e) Upon a request by the Secretary, the Attorney General shall commence a civil action for appropriate relief, including permanent or temporary injunction, to enforce any order issued by the Secretary under this section.

SEC. 12. REPORTING. 16 USC 973j.

(a) Holders of licenses shall comply with the reporting requirements of part 4 of Annex I to the Treaty.

(b) Information provided by license holders in Schedules 5 and 6 of Annex I of the Treaty shall be provided to the Secretary for transmittal to the Administrator and to an entity designated by the license holder. Such information thereafter shall not be released and shall be maintained as confidential by the Secretary, including information requested under the Freedom of Information Act, unless disclosure is required under court order or unless the information is essential for an enforcement action under section 5, 10(b), 10(c), or 11 of this Act, or any other proper law enforcement action. Classified information.

SEC. 13. CLOSED AREA STOWAGE REQUIREMENTS. 16 USC 973k.

At all times while a vessel is in a Closed Area, the fishing gear of the vessel shall be stowed in such a manner as not to be readily available for fishing. In particular, the boom shall be lowered as far as possible so that the vessel cannot be used for fishing, but so that the skiff is accessible for use in emergency situations; the helicopter, if any, shall be tied down; and launches shall be secured.

SEC. 14. OBSERVERS. 16 USC 973*l*.

(a) The operator and each member of the crew of a vessel shall allow and assist any individual identified as an observer under the Treaty by the Pacific Island Parties—

(1) to board the vessel for scientific, compliance, monitoring and other functions at the point and time notified by the Pacific Island Parties to the Secretary;

(2) without interfering unduly with the lawful operation of the vessel, to have full access to and use of facilities and equipment on board the vessel which the observer may determine are necessary to carry out observer duties; have full access to the bridge, fish on board, and areas which may be used to hold, process, weigh, and store fish; remove samples; have full access to the vessel's records, including its log and documentation for the purpose of inspection and copying; and gather any other information relating to fisheries in the Licensing Area; Records. Public information.

(3) to disembark at the point and time notified by the Pacific Island Parties to the Secretary; and

(4) to carry out observer duties safely. Safety.

(b) The operator shall provide any such observer, while on board the vessel, at no expense to the Pacific Island Parties, with food, accommodation, and medical facilities of such reasonable standard as may be acceptable to the Pacific Island Party whose representative is serving as the observer.

(c) The operator of any vessel from which any fish taken in the Licensing Area is unloaded shall allow, or arrange for, and assist any individual so authorized by the Pacific Island Parties to have full access to any place where such fish is unloaded, to remove samples, and to gather any other information relating to fisheries in the Licensing Area.

16 USC 973m.

SEC. 15. TECHNICAL ASSISTANCE.

Business and industry.

Reports.

The United States tuna industry shall provide $250,000 annually in technical assistance, including provision of assistance by technicians, in response to requests coordinated through the Administrator. The Secretary of State shall designate an entity to coordinate the provision of such technical assistance as provided by the United States tuna industry and to provide an annual report to the Secretary of State regarding the provision of such technical assistance.

16 USC 973n.

SEC. 16. ARBITRATION.

In the event of a dispute requiring the establishment of an arbitral tribunal under Article 6 of the Treaty, the Secretary of State, in consultation with the Secretary, shall appoint the arbitrator to be appointed by the United States under paragraph 3 of that Article, and shall represent the United States in reaching agreement under such paragraph with each Pacific Island Party involved concerning the appointment of the presiding arbitrator of the tribunal.

16 USC 973o.

SEC. 17. DISPOSITION OF FEES, PENALTIES, FORFEITURES, AND OTHER MONEYS.

To the extent required by Article 4 of the Treaty, an amount equivalent to the total value of any fine, penalty, or other amount collected as a result of any action, judicial or otherwise, taken pursuant to sections 7 and 8 of this Act shall be paid by the United States through the Secretary of State to the Administrator as soon as reasonably possible following the date that such amount is collected.

16 USC 973p.

SEC. 18. ADDITIONAL AGREEMENTS.

Within 30 days after the Secretary of State's receipt of notice from a Pacific Island Party that it has concluded an arrangement pursuant to paragraph 3 of Article 3 of the Treaty, the Secretary of State shall consult with the Secretary concerning whether the procedures of Article 4 and paragraph 6 of Article 5 of the Treaty should be made applicable to such arrangement. At the conclusion of the consultations the Pacific Island Party and all other persons agreeing to the arrangement shall be notified by the Secretary of State of the resulting decision.

16 USC 973q.

SEC. 19. SECRETARY OF STATE TO ACT FOR THE UNITED STATES.

The Secretary of State is authorized to receive on behalf of the United States reports, requests, and other communications from the Administrator and to act thereon directly or by reference to the appropriate authorities. The Secretary of State, after consultations with the Secretary, may accept or reject, on behalf of the United States, changes or amendments to Annex I of the Treaty and its Schedules and Annex II to the Treaty and its Schedules.

SEC. 20. AUTHORIZATION OF APPROPRIATIONS. 16 USC 973r.

(a) There are authorized to be appropriated for fiscal years 1988, 1989, 1990, 1991, and 1992 such sums as may be necessary for carrying out the purposes and provisions of the Treaty and this Act including—

(1) for fiscal years 1988, 1989, 1990, 1991, and 1992, an amount not to exceed $350,000 annually to the Department of Commerce for administrative expenses; and

(2) for fiscal years 1988, 1989, 1990, 1991, and 1992, an amount not to exceed $50,000 annually to the Department of State for administrative expenses.

(b) Funds appropriated for the purposes of the Treaty may be used notwithstanding any of the provisions of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.) or of any appropriations Act that imposes restrictions on the maintenance or use of cash transfer assistance, which are inconsistent with the provisions of the Treaty.

SEC. 21. EFFECTIVE DATE. 16 USC 973 note.

(a) Except as provided in subsection (b) of this section, this Act shall be effective on the date on which the Treaty enters into force for the United States.

(b)(1) The authority to promulgate regulations pursuant to this Act shall be effective on the date of enactment of this Act.

(2) Any regulation promulgated pursuant to this Act shall not be effective before the date on which the Treaty enters into force for the United States.

Approved June 7, 1988.

LEGISLATIVE HISTORY—S. 1989 (H.R. 3767):

HOUSE REPORTS: No. 100-645, Pt. 1, accompanying H.R. 3767 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 100-316 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 13, considered and passed Senate.
May 24, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
June 7, Presidential statement.

Public Law 100-331
100th Congress

An Act

June 14, 1988
[H.R. 4556]

To amend the provisions of the Agricultural Act of 1949 relating to certain cross compliance requirements under the extra long staple cotton program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF RELEASE FROM CROSS-COMPLIANCE REQUIREMENTS.

7 USC 1444.

Section 103(h)(16)(C) of the Agricultural Act of 1949 is amended by striking out "and 1988" and inserting in lieu thereof "through 1990".

SEC. 2. PROHIBITION ON INCREASES IN CROP ACREAGE BASES.

Section 103(h)(8)(A) of such Act is amended by—

(1) designating the existing subparagraph as subparagraph "(A)(i)"; and

(2) adding at the end thereof the following new clause:

"(ii) Notwithstanding any other provision of this Act, the Secretary shall ensure, under such terms and conditions as may be prescribed by the Secretary, that the total of the crop acreage bases established on a farm which is enrolled in a production adjustment program for any commodity shall not be increased as a result of the application of the provisions set forth in paragraph (16)(C), as extended for the 1989 and 1990 crop.".

Approved June 14, 1988.

LEGISLATIVE HISTORY—H.R. 4556:

HOUSE REPORTS: No. 100-643 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 23, considered and passed House.
May 25, considered and passed Senate.

Public Law 100-332
100th Congress

Joint Resolution

To designate June 1988 as "National Recycling Month".

June 14, 1988
[H.J. Res. 469]

Whereas a solid waste disposal crisis exists in the United States;
Whereas half of the major cities in the United States will have no space available for disposal of garbage within 5 years;
Whereas trash incineration and non-incineration industries should adopt recycling methods;
Whereas source separation, mechanical separation, and community-based recycling programs divert a significant portion of waste from landfills;
Whereas recycling preserves limited landfill capacity for disposal of nontoxic waste;
Whereas recycling saves energy and avoids the pollution created in extracting resources from their natural environment;
Whereas the revenues from goods recovered by public sector recycling programs help to offset the costs of the programs;
Whereas shared savings, which accrue by avoiding the higher cost of landfills or incineration, make recycling an economically efficient disposal policy even where markets for recycled materials are weak or undeveloped;
Whereas a well-developed system of recycling scrap metals, paper, and glass already exists and significantly reduces the quantity of solid waste composed of metal, paper, and glass;
Whereas substantial increases in the amount of materials recycled will require development of markets that absorb the increase in the amount of materials recycled, known as incremental markets;
Whereas many consumer products are designed without sufficient regard for safe and efficient recycling after disposal;
Whereas the Federal Government and State and local governments should enact legislative measures that will increase the amount of solid waste that is recycled;
Whereas the Federal Government and State and local governments should encourage the growth of incremental markets for materials recovered from recyclable goods;
Whereas the Federal Government and State and local governments should promote the design of products that can be recycled safely and efficiently after use;
Whereas the Federal Government and State and local governments should establish requirements for in-home separation of waste to enable efficient recycling; and
Whereas the people of the United States should be encouraged to participate in educational and legislative endeavors that promote waste separation methods, community-based recycling programs, and expanded utilization of recovered materials: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 1988 is designated as "National Recycling Month", and the President of the

United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved June 14, 1988.

LEGISLATIVE HISTORY—H.J. Res. 469:

CONGRESSIONAL RECORD, Vol. 134 (1988):
May 24, considered and passed House.
May 27, considered and passed Senate.

Public Law 100-333
100th Congress

An Act

To prohibit the use of certain antifouling paints containing organotin and the use of organotin compounds, purchased at retail, used to make such paints.

June 16, 1988
[H.R. 2210]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Organotin Antifouling Paint Control Act of 1988. Hazardous materials. Environmental protection. 33 USC 2401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Organotin Antifouling Paint Control Act of 1988".

SEC. 2. FINDINGS; PURPOSE.

33 USC 2401.

(a) FINDINGS.—The Congress finds the following:

(1) Antifouling paints containing organotin biocides are used to prevent the build-up of barnacles and other encrusting organisms on vessels.

(2) Laboratory and field studies show that organotin is very toxic to marine and freshwater organisms at very low levels.

(3) Vessels that are less than 25 meters in length and are coated with organotin antifouling paint account for a large amount of the organotin released into the aquatic environment.

(4) The Environmental Protection Agency has determined that concentrations of organotin currently in the waters of the United States may pose unreasonable risks to oysters, clams, fish, and other aquatic life.

(b) PURPOSE.—The purpose of this Act is to protect the aquatic environment by reducing immediately the quantities of organotin entering the waters of the United States.

SEC. 3. DEFINITIONS.

33 USC 2402.

For purposes of this Act:

(1) The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) The term "antifouling paint" means a coating, paint, or treatment that is applied to a vessel to control fresh water or marine fouling organisms.

(3) The term "estuary" means a body of water having an unimpaired connection with open sea, where the sea water is measurably diluted with fresh water derived from land drainage, and such term includes the Chesapeake Bay and estuary-type areas of the Great Lakes.

(4) The term "organotin" means any compound of tin used as a biocide in an antifouling paint.

(5) The term "person" means any individual, and partnership, association, corporation, or organized group of persons whether incorporated or not, or any government entity, including the military.

(6) The term "qualified antifouling paint containing organotin" means an antifouling paint containing organotin that—

(A) is allowed to be used under the terms of the final decision referred to in section 12(c); or

(B) until such final decision takes effect, is certified by the Administrator under section 6 as having a release rate of not more than 4.0 micrograms per square centimeter per day.

(7) The term "release rate" means the rate at which organotin is released from an antifouling paint over the long term, as determined by the Administrator, using—

(A) the American Society for Testing Materials (ASTM) standard test method which the Environmental Protection Agency required in its July 29, 1986, data call-in notice on tributyltin compounds used in antifouling paints; or

(B) any similar test method specified by the Administrator.

(8) The term "retail" means the transfer of title to tangible personal property other than for resale, after manufacturing or processing.

(9) The term "Secretary" means the Secretary of the Navy.

(10) The term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States.

(11) The term "vessel" includes every description of watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on water.

33 USC 2403.

SEC. 4. PROHIBITION ON THE APPLICATION OF ORGANOTIN ANTIFOULING PAINTS ON CERTAIN VESSELS.

(a) PROHIBITION.—Subject to section 12(d), and except as provided in subsection (b), no person in any State may apply to a vessel that is less than 25 meters in length an antifouling paint containing organotin.

(b) EXCEPTIONS.—Subsection (a) shall not prohibit the application of a qualified antifouling paint containing organotin on—

(1) the aluminum hull of a vessel that is less than 25 meters in length; or

(2) the outboard motor or lower drive unit of a vessel that is less than 25 meters in length.

33 USC 2404.

SEC. 5. PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS AND ORGANOTIN ADDITIVES USED TO MAKE SUCH PAINTS.

(a) INTERIM PROHIBITION OF CERTAIN ORGANOTIN ANTIFOULING PAINTS.—Subject to section 12(d), no person in any State may—

(1) sell or deliver to, or purchase or receive from, another person an antifouling paint containing organotin; or

Maritime affairs.

(2) apply to a vessel an antifouling paint containing organotin; unless the antifouling paint is certified by the Administrator as being a qualified antifouling paint containing organotin.

(b) PROHIBITION OF CERTAIN ORGANOTIN ADDITIVES.—Subject to section 12(d), no person in any State may sell or deliver to, or purchase or receive from, another person at retail any substance containing organotin for the purpose of adding such substance to paint to create an antifouling paint.

SEC. 6. CERTIFICATION. 33 USC 2405.

(a) INITIAL CERTIFICATION.—Not later than 90 days after the date of the enactment of this Act, the Administrator shall certify each antifouling paint containing organotin that the Administrator determines has a release rate of not more than 4.0 micrograms per square centimeter per day on the basis of the information submitted to the Environmental Protection Agency before the date of the enactment of this Act in response to its July 29, 1986, data call-in notice on tributyltin or any other data call-in notice.

(b) SUBSEQUENT CERTIFICATION.—After the initial period of certification required by subsection (a), and not later than 90 days after the receipt of information with regard to an antifouling paint containing organotin submitted—

(1) in response to a data call-in referred to in subsection (a); or

(2) under any provision of law;

the Administrator shall certify such paint if, on the basis of such information, the Administrator determines that such paint has a release rate of not more than 4.0 micrograms per square centimeter per day.

SEC. 7. MONITORING AND RESEARCH OF ECOLOGICAL EFFECTS. Water. 33 USC 2406.

(a) ESTUARINE MONITORING.—The Administrator, in consultation with the Under Secretary of Commerce for Oceans and Atmosphere, shall monitor the concentrations of organotin in the water column, sediments, and aquatic organisms of representative estuaries and near-coastal waters in the United States. This monitoring program shall remain in effect until 10 years after the date of the enactment of this Act. The Administrator shall submit a report annually to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of such monitoring program for the preceding year. Termination date. Reports.

(b) NAVY HOME PORT MONITORING.—The Secretary shall provide for periodic monitoring, not less than quarterly, of waters serving as the home port for any Navy vessel coated with an antifouling paint containing organotin to determine the concentration of organotin in the water column, sediments, and aquatic organisms of such waters.

(c) NAVY RESEARCH OF ECOLOGICAL EFFECTS.—The Secretary shall continue existing Navy programs evaluating the laboratory toxicity and environmental risks associated with the use of antifouling paints containing organotin.

(d) REPORT.—The Secretary shall submit a report annually to the Administrator and to the Governor of each State in which a home port for the Navy is monitored under subsection (b) detailing the results of such monitoring in the State. Such reports shall be included in the annual report required to be submitted under subsection (a).

(e) ASSISTANCE TO STATES.—To the extent practicable, the Administrator shall assist States in monitoring waters in such States for the presence of organotin and in analyzing samples taken during such monitoring.

(f) FIVE-YEAR REPORT.—At the end of the 5-year period beginning on the date of the enactment of this Act, the Administrator shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate providing an assessment of—

Safety.

(1) the effectiveness of existing laws and rules concerning organotin compounds in ensuring protection of human health and the environment;

(2) compliance with water quality criteria established pursuant to section 9 of this Act and any applicable water quality standards; and

Safety.

(3) recommendations for additional measures to protect human health and the environment.

33 USC 2407.

SEC. 8. ALTERNATIVE ANTIFOULANT RESEARCH.

(a) RESEARCH.—The Secretary and the Administrator shall conduct research into chemical and nonchemical alternatives to antifouling paints containing organotin.

(b) REPORT.—At the end of the 4-year period beginning on the date of the enactment of this Act, the Administrator, in consultation with the Secretary, shall submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate detailing the results of the research conducted pursuant to subsection (a).

33 USC 2408.

SEC. 9. WATER QUALITY CRITERIA DOCUMENT.

Not later than March 30, 1989, the Administrator shall issue a final water quality criteria document concerning organotin compounds pursuant to section 304(a) of the Federal Water Pollution Control Act (33 U.S.C. 1314(a)).

33 USC 2409.

SEC. 10. PENALTIES.

(a) CIVIL PENALTIES.—(1) Any person violating section 4 or 5 shall be assessed a civil penalty of not more than $5,000 for each offense.

(2) After notice and an opportunity for a hearing, a person found by the Administrator to have violated section 4 or 5 is liable to the United States Government for the civil penalty assessed under subsection (a). The amount of the civil penalty shall be assessed by the Administrator by written notice. In determining the amount of the penalty, the Administrator shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(3) The Administrator may compromise, modify, or remit, with or without consideration, a civil penalty assessed under this section until the assessment is referred to the Attorney General.

(4) If a person fails to pay an assessment of a civil penalty after it has become final, the Administrator may refer the matter to the Attorney General for collection in the appropriate United States district court.

(b) CRIMINAL PENALTIES.—Any person knowingly violating section 4 or 5 shall be fined not more than $25,000, or imprisoned for not more than one year, or both.

33 USC 2410.

SEC. 11. OTHER AUTHORITIES; STATE LAWS.

(a) OTHER AUTHORITIES OF THE ADMINISTRATOR.—Nothing in this Act shall limit or prevent the Administrator from establishing a lower permissible release rate for organotin under authorities other than this Act.

(b) STATE LAWS.—Nothing in this Act shall preclude or deny any State or political subdivision thereof the right to adopt or enforce

any requirement regarding antifouling paint or any other substance containing organotin. Compliance with the requirements of any State or political subdivision thereof respecting antifouling paint or any other substance containing organotin shall not relieve any person of the obligation to comply with the provisions of this Act.

SEC. 12. EFFECTIVE DATES; USE OF EXISTING STOCKS.

33 USC 2401 note.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on the date of its enactment.

(b) TERMINATION OF INTERIM PROHIBITION.—Section 5(a) shall remain in effect until a final decision regarding the release of organotin into the aquatic environment by antifouling paints, pursuant to the process initiated by the Administrator's Position Document 1 dated January 8, 1986—

(1) is issued by the Administrator; and

(2) takes effect.

(c) FINAL DECISION DEFINED.—For purposes of subsection (b), a final decision shall be considered to have taken effect upon the date of the expiration of the time for making any appeal with respect to such decision or, in the case of any such appeal, the resolution of such appeal.

(d) USE OF EXISTING STOCKS.—Notwithstanding the prohibitions contained in sections 4 and 5, the Administrator, not later than 90 days after the date of the enactment of this Act, shall provide reasonable times—

(1) not to exceed 180 days after the date of the enactment of this Act, for the continued sale, delivery, purchase, and receipt of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act; and

(2) not to exceed one year after the date of the enactment of this Act, for the application of any antifouling paints containing organotin and organotin additives that exist before the date of the enactment of this Act.

Approved June 16, 1988.

LEGISLATIVE HISTORY—H.R. 2210 (S. 1788):

HOUSE REPORTS: No. 100-400 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 100-237 accompanying S. 1788 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Nov. 9, considered and passed House.
Dec. 11, considered and passed Senate, amended, in lieu of S. 1788.
Dec. 18, House concurred in Senate amendment with an amendment.
Vol. 134 (1988): Apr. 18, Senate concurred in House amendment with an amendment.
May 24, House concurred in Senate amendment.

Public Law 100-334
100th Congress

An Act

June 16, 1988
[H.R. 2969]

To amend chapter 11 of title 11 of the United States Code to improve the treatment of claims for certain retiree benefits of former employees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Retiree Benefits Bankruptcy Protection Act of 1988.
Courts, U.S.
11 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retiree Benefits Bankruptcy Protection Act of 1988".

SEC. 2. RETIREE BENEFITS.

(a) BENEFITS.—Subchapter I of chapter 11 of title 11, United States Code, is amended by adding at the end thereof the following new section:

11 USC 1114.

"§ 1114. Payment of insurance benefits to retired employees

"(a) For purposes of this section, the term 'retiree benefits' means payments to any entity or person for the purpose of providing or reimbursing payments for retired employees and their spouses and dependents, for medical, surgical, or hospital care benefits, or benefits in the event of sickness, accident, disability, or death under any plan, fund, or program (through the purchase of insurance or otherwise) maintained or established in whole or in part by the debtor prior to filing a petition commencing a case under this title.

"(b)(1) For purposes of this section, the term 'authorized representative' means the authorized representative designated pursuant to subsection (c) for persons receiving any retiree benefits covered by a collective bargaining agreement or subsection (d) in the case of persons receiving retiree benefits not covered by such an agreement.

"(2) Committees of retired employees appointed by the court pursuant to this section shall have the same rights, powers, and duties as committees appointed under sections 1102 and 1103 of this title for the purpose of carrying out the purposes of sections 1114 and 1129(a)(13) and, as permitted by the court, shall have the power to enforce the rights of persons under this title as they relate to retiree benefits.

"(c)(1) A labor organization shall be, for purposes of this section, the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, unless (A) such labor organization elects not to serve as the authorized representative of such persons, or (B) the court, upon a motion by any party in interest, after notice and hearing, determines that different representation of such persons is appropriate.

"(2) In cases where the labor organization referred to in paragraph (1) elects not to serve as the authorized representative of those persons receiving any retiree benefits covered by any collective bargaining agreement to which that labor organization is signatory, or in cases where the court, pursuant to paragraph (1) finds different

representation of such persons appropriate, the court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, from among such persons, to serve as the authorized representative of such persons under this section.

"(d) The court, upon a motion by any party in interest, and after notice and a hearing, shall appoint a committee of retired employees if the debtor seeks to modify or not pay the retiree benefits or if the court otherwise determines that it is appropriate, to serve as the authorized representative, under this section, of those persons receiving any retiree benefits not covered by a collective bargaining agreement.

"(e)(1) Notwithstanding any other provision of this title, the debtor in possession, or the trustee if one has been appointed under the provisions of this chapter (hereinafter in this section 'trustee' shall include a debtor in possession), shall timely pay and shall not modify any retiree benefits, except that—

"(A) the court, on motion of the trustee or authorized representative, and after notice and a hearing, may order modification of such payments, pursuant to the provisions of subsections (g) and (h) of this section, or

"(B) the trustee and the authorized representative of the recipients of those benefits may agree to modification of such payments,

after which such benefits as modified shall continue to be paid by the trustee.

"(2) Any payment for retiree benefits required to be made before a plan confirmed under section 1129 of this title is effective has the status of an allowed administrative expense as provided in section 503 of this title.

"(f)(1) Subsequent to filing a petition and prior to filing an application seeking modification of the retiree benefits, the trustee shall—

"(A) make a proposal to the authorized representative of the retirees, based on the most complete and reliable information available at the time of such proposal, which provides for those necessary modifications in the retiree benefits that are necessary to permit the reorganization of the debtor and assures that all creditors, the debtor and all of the affected parties are treated fairly and equitably; and

"(B) provide, subject to subsection (k)(3), the representative of the retirees with such relevant information as is necessary to evaluate the proposal.

"(2) During the period beginning on the date of the making of a proposal provided for in paragraph (1), and ending on the date of the hearing provided for in subsection (k)(1), the trustee shall meet, at reasonable times, with the authorized representative to confer in good faith in attempting to reach mutually satisfactory modifications of such retiree benefits.

"(g) The court shall enter an order providing for modification in the payment of retiree benefits if the court finds that—

"(1) the trustee has, prior to the hearing, made a proposal that fulfills the requirements of subsection (f);

"(2) the authorized representative of the retirees has refused to accept such proposal without good cause; and

"(3) such modification is necessary to permit the reorganization of the debtor and assures that all creditors, the debtor, and

all of the affected parties are treated fairly and equitably, and is clearly favored by the balance of the equities;

except that in no case shall the court enter an order providing for such modification which provides for a modification to a level lower than that proposed by the trustee in the proposal found by the court to have complied with the requirements of this subsection and subsection (f): *Provided, however,* That at any time after an order is entered providing for modification in the payment of retiree benefits, or at any time after an agreement modifying such benefits is made between the trustee and the authorized representative of the recipients of such benefits, the authorized representative may apply to the court for an order increasing those benefits which order shall be granted if the increase in retiree benefits sought is consistent with the standard set forth in paragraph (3): *Provided further,* That neither the trustee nor the authorized representative is precluded from making more than one motion for a modification order governed by this subsection.

"(h)(1) Prior to a court issuing a final order under subsection (g) of this section, if essential to the continuation of the debtor's business, or in order to avoid irreparable damage to the estate, the court, after notice and a hearing, may authorize the trustee to implement interim modifications in retiree benefits.

"(2) Any hearing under this subsection shall be scheduled in accordance with the needs of the trustee.

"(3) The implementation of such interim changes does not render the motion for modification moot.

"(i) No retiree benefits paid between the filing of the petition and the time a plan confirmed under section 1129 of this title becomes effective shall be deducted or offset from the amounts allowed as claims for any benefits which remain unpaid, or from the amounts to be paid under the plan with respect to such claims for unpaid benefits, whether such claims for unpaid benefits are based upon or arise from a right to future unpaid benefits or from any benefits not paid as a result of modifications allowed pursuant to this section.

"(j) No claim for retiree benefits shall be limited by section 502(b)(7) of this title.

"(k)(1) Upon the filing of an application for modifying retiree benefits, the court shall schedule a hearing to be held not later than fourteen days after the date of the filing of such application. All interested parties may appear and be heard at such hearing. Adequate notice shall be provided to such parties at least ten days before the date of such hearing. The court may extend the time for the commencement of such hearing for a period not exceeding seven days where the circumstances of the case, and the interests of justice require such extension, or for additional periods of time to which the trustee and the authorized representative agree.

"(2) The court shall rule on such application for modification within ninety days after the date of the commencement of the hearing. In the interests of justice, the court may extend such time for ruling for such additional period as the trustee and the authorized representative may agree to. If the court does not rule on such application within ninety days after the date of the commencement of the hearing, or within such additional time as the trustee and the authorized representative may agree to, the trustee may implement the proposed modifications pending the ruling of the court on such application.

"(3) The court may enter such protective orders, consistent with the need of the authorized representative of the retirees to evaluate the trustee's proposal and the application for modification, as may be necessary to prevent disclosure of information provided to such representative where such disclosure could compromise the position of the debtor with respect to its competitors in the industry in which it is engaged. Classified information.

"(l) This section shall not apply to any retiree, or the spouse or dependents of such retiree, if such retiree's gross income for the twelve months preceding the filing of the bankruptcy petition equals or exceeds $250,000, unless such retiree can demonstrate to the satisfaction of the court that he is unable to obtain health, medical, life, and disability coverage for himself, his spouse, and his dependents who would otherwise be covered by the employer's insurance plan, comparable to the coverage provided by the employer on the day before the filing of a petition under this title.".

(b) PLAN.—Section 1129 of title 11, United States Code, is amended by adding at the end of subsection (a) thereof the following:

"(13) The plan provides for the continuation after its effective date of payment of all retiree benefits, as that term is defined in section 1114 of this title, at the level established pursuant to subsection (e)(1)(B) or (g) of section 1114 of this title, at any time prior to confirmation of the plan, for the duration of the period the debtor has obligated itself to provide such benefits.".

(c) TECHNICAL AMENDMENT.—The table of sections for subchapter I of chapter 11, title 11, United States Code, is amended by adding at the end thereof the following new item:

"1114. Payment of insurance benefits to retired employees.".

SEC. 3. CONFORMING AMENDMENTS.

(a) PUBLIC LAW 99-591.—(1) Section 608(a) of the second title VI of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-74), is amended— 11 USC 1106 note.

(A) by striking "Notwithstanding" and all that follows through "Code" and inserting "(1) Subject to paragraphs (2), (3), (4), and (5), and notwithstanding title 11 of the United States Code",

(B) by striking "until" and all that follows through "1987"; and

(C) by adding at the end thereof the following:

"(2) The level of benefits required to be paid by this subsection may be modified prior to confirmation of a plan under section 1129 of such title if—

"(A) the trustee and an authorized representative of the former employees with respect to whom such benefits are payable agree to the modification of such benefit payments; or

"(B) the court finds that a modification proposed by the trustee meets the standards of section 1113(b)(1)(A) of such title and the balance of the equities clearly favors the modification.

If such benefits are covered by a collective bargaining agreement, the authorized representative shall be the labor organization that is signatory to such collective bargaining agreement unless there is a conflict of interest.

"(3) The trustee shall pay benefits in accordance with this subsection until—

"(A) the dismissal of the case involved; or

"(B) the effective date of a plan confirmed under section 1129 of such title which provides for the continued payment after confirmation of the plan of all such benefits at the level established under paragraph (2) of this subsection, at any time prior to the confirmation of the plan, for the duration of the period the debtor (as defined in such title) has obligated itself to provide such benefits.

"(4) No such benefits paid between the filing of a petition in a case covered by this section and the time a plan confirmed under section 1129 of such title with respect to such case becomes effective shall be deducted or offset from the amount allowed as claims for any benefits which remain unpaid, or from the amount to be paid under the plan with respect to such claims for unpaid benefits, whether such claims for unpaid benefits are based upon or arise from a right to future benefits or from any benefit not paid as a result of modifications allowed pursuant to this section.

"(5) No claim for benefits covered by this section shall be limited by section 502(b)(7) of such title.".

(2) Section 608(b) of the second title VI of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-74), is amended by inserting before the period the following: "and before the date of the enactment of the Retiree Benefits Bankruptcy Protection Act of 1988".

11 USC 1106 note.

(3) Section 608 of the second title VI of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1987, and for other purposes", approved October 30, 1986 (Public Law 99-591; 100 Stat. 3341-74), is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(B) by adding at the end the following:

"(b)(1) Notwithstanding any provision of title 11 of the United States Code, the trustee shall pay an allowable claim of any person for a benefit paid—

"(A) before the filing of the petition under title 11 of the United States Code; and

"(B) directly or indirectly to a retired former employee under a plan, fund, or program described in subsection (a)(1);

if, as determined by the court, such person is entitled to recover from such employee, or any provider of health care to such employee, directly or indirectly, the amount of such benefit for which such person receives no payment from the debtor.

"(2) For purposes of paragraph (1), the term 'provider of health care' means a person who—

"(A) is the direct provider of health care (including a physician, dentist, nurse, podiatrist, optometrist, physician assistant, or ancillary personnel employed under the supervision of a physician); or

"(B) administers a facility or institution (including a hospital, alcohol and drug abuse treatment facility, outpatient facility, or health maintenance organization) in which health care is provided.".

(b) PUBLIC LAW 99-656.—Section 2 of the Act entitled "An Act to amend the interest provisions of the Declaration of Taking Act", approved November 14, 1986 (Public Law 99-656), is repealed.

11 USC 1106 note.

SEC. 4. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

11 USC 1114 note.

(a) GENERAL EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by section 2 shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

Approved June 16, 1988.

LEGISLATIVE HISTORY—H.R. 2969 (S. 548):

HOUSE REPORTS: 100-119 accompanying S. 548 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 133 (1987): July 24, S. 548 considered and passed Senate.
Oct. 13, H.R. 2969 considered and passed House.
Oct. 30, considered and passed Senate, amended.
Vol. 134 (1988): May 23, House concurred in Senate amendment with an amendment.
May 26, Senate concurred in House amendment.

Public Law 100-335
100th Congress

Joint Resolution

June 16, 1988
[S.J. Res. 266]

To designate the week beginning June 12, 1988, as "National Scleroderma Awareness Week".

Whereas scleroderma is a disease in which connective tissue in the body becomes hardened and rigid, and might afflict any part of the body;
Whereas approximately 300,000 people in the United States suffer from scleroderma;
Whereas women are afflicted by scleroderma 3 times more often than men;
Whereas scleroderma is a chronic and often progressive illness that can result in death;
Whereas the symptoms of scleroderma vary greatly from person to person and can complicate and confuse diagnosis;
Whereas the cause and cure of scleroderma are unknown; and
Whereas scleroderma is an orphan disease, and is considered to be under studied: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning June 12, 1988, is designated as "National Scleroderma Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved June 16, 1988.

LEGISLATIVE HISTORY—S.J. Res. 266:

CONGRESSIONAL RECORD, Vol. 134 (1988):
May 19, considered and passed Senate.
June 3, considered and passed House.

Public Law 100-336
100th Congress

An Act

To authorize the Secretary of the Interior to provide assistance to Wildlife Prairie Park, in the State of Illinois, and for other purposes.

June 17, 1988
[H.R. 1100]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, The Secretary of the Interior (hereinafter referred to as the "Secretary") in recognition of the efforts to create Wildlife Prairie Park, is authorized and directed to prepare and make available within two years after the date of enactment of this Act to the Forest Park Foundation for publication and distribution, an interpretive handbook describing that area of approximately one thousand eight hundred acres near Peoria, Illinois, owned by the Forest Park Foundation and designated as the Wildlife Prairie Park. The handbook shall describe the purposes of the Wildlife Prairie Park, the historical, cultural, and ecological values, the methods of site acquisition and development, the management goals and the facilities that exist for public use.

Conservation.
National parks, monuments, etc.

SEC. 2. (a) The Secretary shall, in consultation with interested conservation, professional, and park management organizations and individuals, prepare and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report of criteria for the elements of national significance and other factors necessary for a proposed area to be considered appropriate for inclusion as an affiliated area of the National Park System including an analysis of applicability to Wildlife Prairie Park. In addition the report shall address the responsibilities to be required of the operators of an affiliated area and the responsibilities of the National Park Service to any such designated area.

Reports.
16 USC 1a-5 note.

(b) The report shall be submitted not later than two years from the date of enactment of this Act and shall provide recommendations by the Secretary of the Interior including but not limited to how criteria for national significance and other factors should be made applicable to future proposed affiliated areas, when such areas are considered by the Secretary. The Secretary shall also recommend any criteria or procedures for such considerations by the Congress including recommendations for legislative action.

SEC. 3. There are authorized for appropriation such sums as may be necessary to carry out the purposes of this Act.

Appropriation authorization.

Approved June 17, 1988.

LEGISLATIVE HISTORY—H.R. 1100:

HOUSE REPORTS: No. 100-186 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-374 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 29, considered and passed House.
Vol. 134 (1988): June 6, considered and passed Senate.

Public Law 100-337
100th Congress

An Act

June 17, 1988
[H.R. 3869]

To amend the Act providing for the establishment of the Tuskegee Institute National Historic Site, Alabama, to authorize an exchange of properties between the United States and Tuskegee University, and for other purposes.

Conservation. National parks, monuments, etc.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 101(a)(5) of the Act entitled "An Act to provide for the establishment of the Clara Barton National Historic Site, Maryland; John Day Fossil Beds National Monument, Oregon; Knife River Indian Villages National Historic Site, North Dakota; Springfield Armory National Historic Site, Massachusetts; Tuskegee Institute National Historic Site, Alabama; Martin Van Buren National Historic Site, New York; and Sewall-Belmont House National Historic Site, Washington, District of Columbia, and for other purposes", approved October 26, 1974 (88 Stat. 1461), is amended by striking out "(5)" and inserting in lieu thereof "(5)(A)" and by changing the semicolon to a period, deleting the word "and" thereafter, and inserting the following new subparagraph:

16 USC 461 note.

"(B) If, following the acquisition of Grey Columns, the Secretary determines that it would be in the public interest and in furtherance of efficient administration of the national historic site to do so, the Secretary may convey Grey Columns to Tuskegee University and in exchange therefor he may accept from the University properties which the Secretary deems necessary for administrative, parking, and maintenance facilities for the national historic site. As to the property between the Carver Museum and the Oaks, the Secretary may accept an easement from the University which shall limit development for the purpose of maintaining the view between the Carver Museum and the Oaks and provide for construction and maintenance by the Secretary of a public walkway from Campus Avenue to Montgomery Road. The conveyance of Grey Columns shall be made upon the express condition that the grantee shall maintain its historic integrity in accordance with the Secretary's standards on historic preservation and make the property available for public use subject to its primary purpose as the residence of the University's president. The exchange herein authorized shall be accomplished without monetary consideration to or from either party. Following such exchange, the Secretary shall cause to be published in the Federal Register a revised boundary map or other boundary description of the national historic site.".

Public buildings and grounds.

Federal Register, publication.

Approved June 17, 1988.

LEGISLATIVE HISTORY—H.R. 3869:

HOUSE REPORTS: No. 100-573 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-376 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 19, considered and passed House.
June 6, considered and passed Senate.

Public Law 100-338
100th Congress

An Act

To extend the withdrawal of certain public lands in Lincoln County, Nevada.

June 17, 1988
[H.R. 4799]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 1(b) of the Military Lands Withdrawal Act of 1986 (100 Stat. 3457) is amended by striking out the period at the end of paragraph (2) and by inserting in lieu thereof the following: "and lands comprising approximately 89,600 acres of land in Lincoln County, Nevada, as generally depicted on the map entitled 'Groom Mountain Addition to Nellis Air Force Range' dated September 1984 and filed in accordance with section 2.".

SEC. 2. CONFORMING AMENDMENT.

Section 5(b)(2) of the Military Lands Withdrawal Act of 1986 (100 Stat. 3463) is hereby amended by striking out subparagraph (B) and by striking out "(A)" after "(2)".

Approved June 17, 1988.

LEGISLATIVE HISTORY—H.R. 4799 (S. 1508):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 25, S. 1508 considered and passed Senate.
Mar. 29, considered and passed House, amended.
June 10, Senate concurred in House amendment with an amendment.
June 14, H.R. 4799 considered and passed House.
June 15, considered and passed Senate.

Public Law 100-339
100th Congress

An Act

June 17, 1988
[S. 1652]

To authorize the establishment by the Secretary of Agriculture of a plant stress and water conservation research laboratory and program at Lubbock, Texas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ESTABLISHMENT OF PLANT STRESS AND WATER CONSERVATION RESEARCH LABORATORY AND PROGRAM.

(a) AUTHORIZATION OF APPROPRIATIONS.—Notwithstanding section 1431(a) of the National Agricultural Research, Extension, and Teaching Policy Act Amendments of 1985 (Public Law 99-198; 99 Stat. 1556), there are authorized to be appropriated such sums as may be necessary for the planning, construction, and acquisition by the Secretary of Agriculture acting through the Agricultural Research Service, of buildings and equipment to establish at Lubbock, Texas, a laboratory and program for plant stress and water conservation research.

(b) AVAILABILITY OF FUNDS.—Funds appropriated under subsection (a) shall remain available for expenditure without fiscal year limitation.

SEC. 2. COLLEGE-AID ANNUAL APPROPRIATION.

Section 5 of the Act of August 30, 1890 (26 Stat. 417, chapter 841; 7 U.S.C. 326a) is amended to read as follows:

"SEC. 5. There is appropriated annually, out of funds in the Treasury not otherwise appropriated, for payment to the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands or its successor governments the amount they would be entitled to receive

under this Act if they were States. Sums appropriated under this section shall be treated in the same manner and be subject to the same provisions of law, as would be the case if they had been appropriated by the first sentence of section 1.".

SEC. 3. EFFECTIVE DATE. 7 USC 326a note.

This Act shall take effect on October 1, 1987.

Approved June 17, 1988.

LEGISLATIVE HISTORY—S. 1652 (H.R. 2663):

HOUSE REPORTS: No. 100-240 accompanying H.R. 2663 (Comm. on Agriculture).
CONGRESSIONAL RECORD:
Vol. 133 (1987): July 27, H.R. 2663 considered and passed House.
Vol. 134 (1988): May 27, S. 1652 considered and passed Senate.
June 1, considered and passed House.

Public Law 100-340
100th Congress

An Act

June 17, 1988
[S. 2304]

To amend the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986, to extend the life of the Commission on the Ukraine Famine.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriation Act, 1986 (Public Law 99-180; 99 Stat. 1157), is amended under the heading "COMMISSION ON THE UKRAINE FAMINE"—

(1) in section 3(2), by striking out "two years after the organizational meeting of the Commission held under section 6(a)" and inserting in lieu thereof "June 22, 1990"; and

(2) in section 4(b), by adding at the end the following: "A vacancy in the Commission shall be filled in the manner in which the original appointment was made.".

Approved June 17, 1988.

LEGISLATIVE HISTORY—S. 2304:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 21, considered and passed Senate.
May 24, considered and passed House, amended.
June 7, Senate concurred in House amendment.

Public Law 100-341
100th Congress

Joint Resolution

To designate the third week in June 1988 as "National Dairy Goat Awareness Week".

June 22, 1988
[H.J. Res. 423]

Whereas United States goat cheeses are in demand by consumers and replacing imported cheeses;

Whereas due to the efficiency of the modern domestic dairy goat, which produces an excellent healthful milk, the dairy goat is becoming increasingly popular and useful on our Nation's family farms;

Whereas United States farmers have developed a dairy goat that produces superior milk and that is sought after and exported worldwide; and

Whereas there is a need to further educate consumers as to the high nutritional value of products made from goats' milk: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the period beginning the second Saturday, and ending the third Saturday, of June 1988 is designated as "National Dairy Goat Awareness Week"; and

(2) the President is authorized and requested to issue a proclamation calling on the people of the United States to commemorate such week with appropriate programs, ceremonies, and activities.

Approved June 22, 1988.

LEGISLATIVE HISTORY—H.J. Res. 423:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 3, considered and passed House.
June 13, considered and passed Senate.

Public Law 100-342
100th Congress

An Act

June 22, 1988
[S. 1539]

To amend the Federal Railroad Safety Act of 1970 and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Rail Safety Improvement Act of 1988.
Law enforcement and crime.
45 USC 421 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rail Safety Improvement Act of 1988".

SEC. 2. AUTHORIZATION FOR APPROPRIATIONS.

Section 214 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 444) is amended to read as follows:

"SEC. 214. AUTHORIZATION FOR APPROPRIATIONS.

"(a) There is authorized to be appropriated to carry out this Act not to exceed $40,649,000 for the fiscal year ending September 30, 1988, not to exceed $41,868,470 for the fiscal year ending September 30, 1989, and not to exceed $44,381,000 for the fiscal year ending September 30, 1990.

"(b) Sums appropriated under this section for research and development, automated track inspection, and the State safety grant program are authorized to remain available until expended.".

SEC. 3. INCREASED PENALTIES; LIABILITY OF INDIVIDUALS.

(a) Section 209 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 438) is amended—

(1) in subsection (a) by striking "railroad" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)";

(2) in subsection (b) by striking all after "(45 U.S.C. 39)" and inserting in lieu thereof "in an amount of not less than $250 nor more than $10,000, except that where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, a penalty of not to exceed $20,000 may be assessed.";

(3) in subsection (c)—

(A) by striking the first sentence and inserting in lieu thereof "Any person violating any rule, regulation, order, or standard referred to in subsection (b) shall be assessed by the Secretary the civil penalty applicable to the standard violated. Penalties may be assessed against individuals under this subsection only for willful violations.";

(B) by inserting ", in which the individual resides," after "such violation occurred"; and

(C) by adding at the end the following new sentences: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor, under protest communicated

to the supervisor. Such individual shall have the right to document such protest."; and

(4) by adding at the end the following new subsection:

"(f) Where an individual's violation of any rule, regulation, order, or standard prescribed by the Secretary under this title is shown to make that individual unfit for the performance of safety-sensitive functions, the Secretary, after notice and opportunity for a hearing, may issue an order prohibiting such individual from performing safety-sensitive functions in the rail industry for a specified period of time or until specified conditions are met. This subsection shall not be construed to affect the Secretary's authority under section 203 to take such action on an emergency basis.".

(b) Within 30 days after the date of the enactment of this Act the Secretary of Transportation (hereafter in this Act referred to as the "Secretary") shall issue interim rules, regulations, orders, or standards containing penalty schedules applicable to railroads and individuals reflecting the changes made by the amendments in subsection (a). The Secretary shall issue final rules, regulations, orders, or standards with respect to such penalty schedules within 6 months after such date of enactment. Regulations. 45 USC 438 note.

SEC. 4. LICENSING OR CERTIFICATION OF ENGINEERS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by adding at the end the following new subsection:

"(l)(1) The Secretary shall, within 12 months after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to establish a program requiring the licensing or certification of any operator of a locomotive, including any locomotive engineer, after the expiration of 12 months following the establishment of such program. Regulations.

"(2) The program established by the Secretary under paragraph (1)—

"(A) shall be implemented through review and approval of each railroad's operator qualification standards;

"(B) shall provide minimum training requirements;

"(C) shall require comprehensive knowledge of applicable railroad operating practices and operating rules;

"(D) shall, except as provided in paragraph (4), require the consideration, to the extent information is available, of the motor vehicle driving record of each individual seeking licensing or certification under such program, including— Records.

"(i) any denial of a motor vehicle operator's license by a State for cause within the previous 5 years;

"(ii) any cancellation, revocation, or suspension of a motor vehicle operator's license by a State for cause within the previous 5 years; and

"(iii) any conviction within the previous 5 years of an offense described under section 205(a)(3) (A) or (B) of the National Driver Register Act of 1982,

and may, based on such driving record, require disqualification of an individual or the granting of a license or certification conditioned on such terms as the Secretary may prescribe; and

"(E) shall require any individual seeking a license or certification under this subsection to—

"(i) request the chief driver licensing official of each State in which such individual has within the previous 5 years State and local governments. Records.

held a motor vehicle operator's license to provide information to his or her employer or prospective employer, or to the Secretary, as the Secretary may determine, with respect to such individual's driving record; and

"(ii) make the request provided for in section 206(b)(5) of the National Driver Register Act of 1982, for information to be transmitted to his or her employer, prospective employer, or the Secretary, as the Secretary may determine.

"(3) The Secretary, employer, or prospective employer, as appropriate, shall make information obtained under paragraph (2)(E) available to the individual, who shall be given an opportunity to comment on it in writing. Any such comment shall be included in any record or file maintained by the Secretary, employer, or prospective employer that contains the information to which the comment is related.

Records.

"(4)(A) The Secretary shall establish standards and procedures for waiving the application of requirements established under paragraph (2)(D) to any individual or class of individuals who the Secretary determines are not currently unfit to operate a locomotive.

"(B) In establishing the program under this subsection, the Secretary may not waive the application of requirements established under paragraph (2)(D) to an individual or class of individuals with a conviction, cancellation, revocation, or suspension described in paragraph (6) (A) or (B) who have not successfully completed a rehabilitation program established by a railroad or approved by the Secretary.

"(5) An individual who is denied a license or certification or whose license or certification is conditioned under requirements established under paragraph (2)(D) shall be entitled to an administrative hearing under subsection (b) to determine whether such license or certification has been properly denied or conditioned.

Alcohol and alcoholic beverages.
Drugs and drug abuse.

"(6) No individual shall be denied a license or certification under requirements established under paragraph (2)(D) because of—

"(A) a conviction for operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance; or

"(B) the cancellation, revocation, or suspension of the motor vehicle operator's license of such individual on the basis of operating a motor vehicle while under the influence of, or impaired by, alcohol or a controlled substance,

if such individual subsequent to such conviction, cancellation, revocation, or suspension has successfully completed a rehabilitation program established by a railroad or approved by the Secretary.".

(b)(1) Section 206(b) of the National Driver Register Act of 1982 (23 U.S.C. 401, note) is amended by adding at the end the following new paragraph:

State and local governments.
Records.

"(5) Any individual who is employed by a railroad as an operator of a locomotive, or who seeks employment with a railroad as an operator of a locomotive, may request the chief driver licensing official of a State to transmit information regarding the individual under subsection (a) of this section to his or her employer or prospective employer, or to the Secretary. There shall be no access to information in the Register under this paragraph which was entered in the Register more than three years before the date of such request, unless such information relates to revocations or suspensions that are still in effect on the date of the request. Information submitted to the Register by the States under Public

Classified information.

Law 86-660 (74 Stat. 526) or under this title shall be subject to access for the purpose of this paragraph during the transition described under section 203(c) of this title.".

(2) Paragraphs (1) and (2) of subsection (b) of section 206 of the National Driver Register Act of 1982 (23 U.S.C. 401, note) are each amended by adding at the end the following: "Information submitted to the Register by States under Public Law 86-660 (74 Stat. 526) or under this title shall be subject to access for the purpose of this paragraph during the transition described under section 203(c) of this title.". State and local governments.

SEC. 5. PROTECTION OF EMPLOYEES AGAINST DISCRIMINATION.

(a) Section 212(c)(2) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441(c)(2)) is amended to read as follows:

"(2) In any proceeding with respect to which a dispute, grievance, or claim arising under this section is brought for resolution before the Adjustment Board (or any division or delegate thereof) of any other board of adjustment created under section 3 of the Railway Labor Act (45 U.S.C. 153), such dispute, grievance, or claim shall be expedited by such Board or other board and be resolved within 180 days after its filing. If the violation of subsection (a) or (b) is a form of discrimination other than discharge, suspension, or any other discrimination with respect to pay, and no other remedy is available under this subsection, the Adjustment Board (or any division or delegate thereof) or any other board of adjustment created under section 3 of the Railway Labor Act may award the aggrieved employee reasonable damages, including punitive damages, not to exceed $20,000.". Claims. Wages.

(b) Section 212 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 441) is amended by adding at the end the following new subsection:

"(f)(1) Except as provided in paragraph (2), or with the written consent of the employee, the Secretary shall not disclose the name of any employee of a railroad who has provided information with respect to an alleged violation of this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law. Classified information.

"(2) The Secretary shall disclose to the Attorney General the name of any employee described in paragraph (1) who has provided information with respect to a matter being referred to the Attorney General for enforcement under this title, any other Federal railroad safety law, or any rule, regulation, order, or standard issued under this title or any other Federal railroad safety law.".

SEC. 6. NORTHEAST CORRIDOR IMPROVEMENT PROJECT.

Section 704(a)(1) of the Railroad Revitalization and Regulatory Reform Act of 1976 (45 U.S.C. 854(a)(1)) is amended—

(1) by striking "and" before "installation of evacuation"; and State listing.

(2) by adding at the end the following: "improvements to the communication and signal systems at locations between Wilmington, Delaware, and Boston, Massachusetts, on the Northeast Corridor main line and between Philadelphia, Pennsylvania, and Harrisburg, Pennsylvania, on the Harrisburg Line; improvement to the electric traction systems between Wilmington, Delaware, and Newark, New Jersey; installation of baggage rack restraints, seat back guards and seat lock devices on three hundred forty-eight passenger cars operating within the Northeast Corridor; installation of forty-four event record-

ers and ten electronic warning devices on locomotives operating within the Northeast Corridor; and acquisition of cab signal test boxes and installation of nine wayside loop code transmitters for use within the Northeast Corridor;".

SEC. 7. JURISDICTION OVER HIGH SPEED RAIL SYSTEMS.

(a) Section 202(e) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431(e)) is amended to read as follows:

"(e) The term 'railroad' as used in this title means all forms of non-highway ground transportation that run on rails or electromagnetic guideways, including (1) commuter or other short-haul rail passenger service in a metropolitan or suburban area, as well as any commuter rail service which was operated by the Consolidated Rail Corporation as of January 1, 1979, and (2) high speed ground transportation systems that connect metropolitan areas, without regard to whether they use new technologies not associated with traditional railroads. Such term does not include rapid transit operations within an urban area that are not connected to the general railroad system of transportation.".

(b) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is amended by striking subsections (i), (j), and (k), and redesignating subsection (l), as added by section 4 of this Act, as subsection (i).

SEC. 8. ENFORCEMENT OF SUBPOENAS AND ORDERS.

Business and industry.
Corporations.
Courts, U.S.

Section 208(a) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 437(a)) is amended by striking "Act;" and all that follows and inserting in lieu thereof the following: "title. In case of contumacy or refusal to obey a subpoena, order, or directive of the Secretary issued under this title by any individual, partnership, or corporation that resides, is found, or conducts business within the jurisdiction of any district court of the United States, such district court shall have jurisdiction, upon petition by the Attorney General, to issue to such individual, partnership, or corporation an order requiring immediate compliance with the Secretary's subpoena, order, or directive.".

SEC. 9. AUTOMATIC TRAIN CONTROL AND RELATED SYSTEMS.

Section 202 of the Federal Railroad Safety Act of 1970 is amended by adding at the end the following new subsections:

Regulations.

"(j) Within 90 days after the date of enactment of this subsection, the Secretary shall issue such rules, regulations, orders, and standards as may be necessary to require that—

"(1) whoever performs any test required by the Secretary of an automatic train stop, train control, or cab signal apparatus prior to entering territory where such apparatus will be used shall certify in writing that such test was properly performed; and

Records.

"(2) that such certification shall be kept and maintained in the same manner and place as the daily inspection report for that locomotive.

District of Columbia.
Massachusetts.

"(k)(1) All trains operating after April 1, 1990, on the main line of the Northeast Corridor betwen Washington, D.C., and Boston, Massachusetts, or on the feeder line referred to in section 704(a)(1)(B) of the Railroad Revitalization and Regulatory Reform Act of 1976, shall be equipped with automatic train control systems designed to slow or stop a train in response to external signals.

"(2) If the Secretary finds that it is impracticable to equip all trains as required under paragraph (1) before April 1, 1990, the Secretary may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past July 1, 1990.

"(l) The Secretary, in consultation with the National Railroad Passenger Corporation, freight carriers, commuter agencies, employee representatives, railroad passengers, and rail equipment manufacturers, shall undertake a study of the advisability and feasibility of requiring automatic train control systems, including systems using advanced technology, such as transponder and satellite relay systems, on each rail corridor on which passengers or hazardous materials are carried. Such study shall include—

"(1) a specific assessment of the dangers of not requiring automatic train control systems on each such corridor, based on analysis of the number of passenger trains, persons, and freight trains traveling on such corridor daily, the frequency of train movements, mileage traveled, and the incident and accident history on such corridor;

"(2) an analysis of the cost of requiring such systems to be installed on each specific corridor; and

"(3) an investigation of alternative means of accomplishing the same safety objectives as would be achieved by requiring automatic train control systems to be installed.

The Secretary shall submit to the Congress by April 1, 1990, a report detailing the results of such study.". Reports.

SEC. 10. EVENT RECORDERS.

Section 202 of the Federal Railroad Safety Act of 1970 is amended by adding at the end the following new subsection: 45 USC 431.

"(m)(1)(A) The Secretary shall, within 18 months after the date of the enactment of the Rail Safety Improvement Act of 1988, issue such rules, regulations, standards, and orders as may be necessary to enhance safety by requiring that trains be equipped with event recorders within 1 year after such rules, regulations, orders, and standards are issued. Regulations.

"(B) If the Secretary finds that it is impracticable to equip trains as required under subparagraph (A) within the time limit under such subparagraph, the Secretary may extend the deadline for compliance with such requirement, but in no event shall such deadline be extended past 18 months after such rules, regulations, orders, and standards are issued.

"(2) For the purposes of this subsection, the term 'event recorders' means devices that—

"(A) record train speed, hot box detection, throttle position, brake application, brake operations, and any other function the Secretary considers necessary to record to assist in monitoring the safety of train operation, such as time and signal indication; and

"(B) are designed to resist tampering.".

SEC. 11. NORTHEAST CORRIDOR SAFETY COMMITTEE. 45 USC 431 note.

(a) Within 30 days after the date of enactment of this Act, the Secretary of Transportation (hereafter in this Act referred to as the "Secretary") shall establish a Northeast Corridor Safety Committee and appoint members to the Committee which shall consist of representatives of— Establishment.

(1) the Secretary;
(2) the National Railroad Passenger Corporation;
(3) freight carriers operating more than 150,000 train miles per year on the main line of the Northeast Corridor;
(4) commuter agencies;
(5) railroad passengers;
(6) rail labor; and
(7) any other persons or organizations the Secretary determines to have a significant interest in rail safety.

(b) The Secretary shall consult with the Northeast Corridor Safety Committee on safety improvements on the main line of the Northeast Corridor.

Transportation.

(c) Within 90 days after the date of enactment of this Act, the Secretary shall, in accordance with section 333 of title 49, United States Code, convene a meeting of rail carriers operating more than 150,000 train miles per year on the main line of the Northeast Corridor for the purpose of reducing through freight traffic on portions of such line used primarily for passenger traffic.

Reports.

(d) Within one year after the date of enactment of this Act the Secretary shall submit a report to the Congress on the status of efforts to improve safety on the main line of the Northeast Corridor pursuant to the provisions of this section.

SEC. 12. MISCELLANEOUS.

Section 211(c) of the Federal Railroad Safety Act of 1970 (45 U.S.C. 440(c)) is repealed.

SEC. 13. AMENDMENTS TO SAFETY APPLIANCE ACTS.

The Act of March 2, 1893 (45 U.S.C. 1-7), the Act of March 2, 1903 (45 U.S.C. 8-10), and the Act of April 14, 1910 (45 U.S.C. 11-16), commonly referred to as the Safety Appliance Acts, are amended as follows:

(1) The Act of March 2, 1893, is amended—
(A) in the first section (45 U.S.C. 1)—
(i) by striking "common carrier engaged in interstate commerce by";
(ii) by striking "in moving interstate traffic"; and
(iii) by striking "in such traffic";
(B) in section 2 (45 U.S.C. 2)—
(i) by striking "common carrier" and inserting in lieu thereof "railroad"; and
(ii) by striking "used in moving interstate traffic";
(C) in section 3 (45 U.S.C. 3), by striking "person, firm, company, or corporation engaged in interstate commerce by";
(D) in section 4 (45 U.S.C. 4), by striking "in interstate commerce";
(E) in section 5 (45 U.S.C. 5)—
(i) by striking "common carriers" and inserting in lieu thereof "railroads";
(ii) by striking "engaged in interstate commerce"; and
(iii) by striking "in interstate traffic";
(F) in section 6 (45 U.S.C. 6)—
(i) by striking all before the first semicolon and inserting in lieu thereof the following: "Any person (including a railroad and any manager, supervisor,

Claims.
Courts, U.S.

official, or other employee or agent of a railroad) using any locomotive engine, running any train, or hauling or permitting to be hauled or used on its line any car in violation of any of the provisions of this Act, shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed $20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation, such penalty to be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office"; and

(ii) by adding at the end the following: "For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this Act shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor, under protest communicated to the supervisor. Such individual shall have the right to document such protest."; Records.

(G) in section 7, by striking "common carrier" and inserting in lieu thereof "railroad"; and

(H) in section 8 (45 U.S.C. 7)—

(i) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(ii) by striking "such carrier" and inserting in lieu thereof "such railroad".

(2) The Act of March 2, 1903, is amended—

(A) in the first section (45 U.S.C. 8), by striking "common carriers by" and by striking "engaged in interstate commerce" the second time it appears;

(B) in section 2 (45 U.S.C. 9)—

(i) by striking "common carriers engaged in interstate commerce by railroad" and inserting in lieu therof "railroads"; and

(ii) by striking "engaged in interstate commerce"; and

(C) in section 3 (45 U.S.C. 10), by striking "common carrier" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)".

(3) The Act of April 14, 1910, is amended—

(A) in section 2 (45 U.S.C. 11), by striking "common carrier" and inserting in lieu thereof "railroad";

(B) in section 3 (45 U.S.C. 12)—

(i) by striking "in interstate or foreign traffic" wherever it appears;

(ii) by striking "common carrier" and inserting in lieu thereof "railroads"; and

(iii) by striking "common carrier" and inserting in lieu thereof "railroad";

(C) in section 4 (45 U.S.C. 13)—

(i) by striking "common carrier subject to this Act" and inserting in lieu thereof "person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad)";

(ii) by striking "carrier" wherever it appears and inserting in lieu thereof "person";

(iii) by striking "of not less than $250 and not more than $2,500 for each and every such violation, to" and inserting in lieu thereof the following: "in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed $20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall";

(iv) by striking "and recovered"and inserting in lieu thereof the following: "and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered"; and

(v) by adding at the end the following: "For purposes of this section, an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest.";

(D) in section 5 (45 U.S.C. 14), by striking "common carrier" and inserting in lieu thereof "railroad"; and

(E) by amending the first section (45 U.S.C. 16) to read as follows: "That as used in this Act, the Act of March 2, 1893 (45 U.S.C. 1-7), and the Act of March 2, 1903 (45 U.S.C. 8-10), commonly known as the Safety Appliance Acts, the term 'railroad' shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).".

SEC. 14. AMENDMENTS TO LOCOMOTIVE INSPECTION ACT.

The Act entitled "An Act to promote the safety of employees and travelers upon railroads by compelling common carriers engaged in interstate commerce to equip their locomotives with safe and suitable boilers and appurtenances thereto", approved February 17, 1911 (45 U.S.C. 22 et seq.), is amended—

(1) by amending the first section (45 U.S.C. 22) to read as follows: "That the term 'railroad', when used in this Act, shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in section 2 (45 U.S.C. 23), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(3) in section 3 (45 U.S.C. 24), by striking "common carriers" and inserting in lieu thereof "railroads";

(4) in section 5 (45 U.S.C. 28)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(5) in section 6 (45 U.S.C. 29), by striking "carrier" and "carriers" wherever they appear and inserting in lieu thereof "railroad" and "railroads", respectively;

(6) in section 8 (45 U.S.C. 32), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad"; and

(7) in section 9 (45 U.S.C. 34)—

Claims.
Courts, U.S.

(A) by striking all before the first semicolon and inserting in lieu thereof the following: "Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) violating this Act, or any rule or regulation made under its provisions or any lawful order of any inspector, shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed $20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office"; and

(B) by adding at the end the following: "For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this Act, or any rule or regulation made under its provisions or any lawful order of any inspector, shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest.".

Records.

SEC. 15. AMENDMENTS TO ACCIDENT REPORTS ACT.

The Act entitled "An Act requiring common carriers engaged in interstate and foreign commerce to make full reports of all accidents to the Interstate Commerce Commission, and authorizing investigations thereof by said commission", approved May 6, 1910 (45 U.S.C. 38 et seq.) is amended—

(1) in the first section (45 U.S.C. 38)—

(A) by striking "common carrier engaged in interstate or foreign commerce by";

(B) by striking "carriers" and by inserting in lieu thereof "railroads"; and

(C) by adding at the end the following: "The term 'railroad' when used in this Act shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in section 2 (45 U.S.C. 39)—

(A) by striking "common carrier" and inserting in lieu thereof "railroad"; and

(B) by striking the last sentence;

(3) in section 3 (45 U.S.C. 40)—

(A) by striking "common carrier engaged in interstate or foreign commerce by"; and

(B) by striking "carriers" and inserting in lieu thereof "railroads";

(4) by amending section 7 (45 U.S.C. 43) to read as follows:

"SEC. 7. Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) violating this Act or any rule, regulation, order, or standard issued under this Act or the Federal Railroad Safety Act of 1970 pertaining to accident reporting or investigations shall be liable for a penalty in such amount, not less thant $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed $20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendent has its principal executive office. For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this Act or any rule, regulation, order, or standard issued under this Act or the Federal Railroad Safety Act of 1970 pertaining to accident reporting or investigations shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest.".

Claims.
Courts, U.S.

Records.

SEC. 16. AMENDMENTS TO HOURS OF SERVICE ACT.

The Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 61 et seq.), is amended—

(1) in the first section (45 U.S.C. 61)—

(A) in subsection (a), by striking "common carrier engaged in interstate or foreign commerce by";

(B) in subsection (b)(1), by striking all after "term" and inserting in lieu thereof "'railroad' shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.)."; and

(C) in subsection (b)(4), by striking "carrier" and inserting in lieu thereof "railroad";

(2) in section 2 (45 U.S.C. 62), by striking "common carrier" wherever it appears and inserting in lieu thereof "railroad";

(3) in section 3 (45 U.S.C. 63), by striking "common carrier" and inserting in lieu thereof "railroad";

(4) in section 3A (45 U.S.C. 63a), by striking "common carrier" and "carrier" wherever they appear and inserting in lieu thereof "railroad";

(5) in section 4 (45 U.S.C. 64), by striking "common carrier" and inserting in lieu thereof "railroad";

(6) in section 5 (45 U.S.C. 64a)—

(A) by amending subsection (a)(1) to read as follows:

"(a)(1) Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) that requires or permits any employee to go, be, or remain on duty in violation of section 2, section 3, or section 3A of this Act, or that violates any other provision of this Act, shall be liable for a penalty of up to $1,000 per violation, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office. It shall be the duty of the United States attorney to bring such an action upon satisfactory information being lodged with him. In the case of a violation of section 2 (a)(3) or (a)(4) of this Act, each day a facility is in noncompliance shall constitute a separate offense. For purposes of this section, an act by an individual that causes a railroad to be in violation of this Act shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest.";

Claims.
Courts, U.S.

Records.

(B) in subsection (a)(2), by striking "the common carrier" and inserting in lieu thereof "such person";

(C) in subsection (c), by striking "common carrier" and inserting in lieu thereof "railroad"; and

(D) in subsection (d), by striking "carrier" and inserting in lieu thereof "railroad".

SEC. 17. AMENDMENTS TO SIGNAL INSPECTION ACT.

Section 25 of the Act of February 4, 1887 (49 App. U.S.C. 26) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The term 'railroad' as used in this section shall have the same meaning as when used in the Federal Railroad Safety Act of 1970 (45 U.S.C. 431 et seq.).";

(2) in subsection (b), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad", and by striking "carriers" and inserting in lieu thereof "railroads";

(3) in subsection (c)—

(A) by striking "carrier by"; and

(B) by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(4) in subsection (d), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(5) in subsection (e), by striking "carrier" and inserting in lieu thereof "railroad";

(6) in subsection (f), by striking "carrier" wherever it appears and inserting in lieu thereof "railroad";

(7) in subsection (h)—

Claims.
Courts, U.S.

(A) by amending the first sentence to read as follows: "Any person (including a railroad and any manager, supervisor, official, or other employee or agent of a railroad) violating any provision of this section, or failing to comply with any of the rules, regulations, orders, standards, or instructions made, prescribed, or approved hereunder shall be liable to a penalty in such amount, not less than $250 nor more than $10,000 per violation (with each day of a violation constituting a separate violation), or where a grossly negligent violation or a pattern of repeated violations has created an imminent hazard of death or injury to persons, or has caused death or injury, not to exceed $20,000, as the Secretary of Transportation deems reasonable, except that a penalty may be assessed against an individual only for a willful violation. Such penalty shall be assessed by the Secretary of Transportation and, where compromise is not reached by the Secretary under the Federal Claims Collection Act of 1966, recovered in a suit or suits to be brought by the United States attorney for the judicial district in which the violation occurred, in which the individual defendant resides, or in which the defendant has its principal executive office."; and

(B) by adding at the end the following: "For purposes of this section, an act by an individual that causes a railroad to be in violation of any of the provisions of this section, or to fail to comply with any of the rules, regulations, orders, standards, or instructions made, prescribed, or approved under this section, shall be deemed a violation, and an individual shall be deemed not to have committed a willful violation where such individual has acted pursuant to the direct order of a railroad official or supervisor under protest communicated to the supervisor. Such individual shall have the right to document such protest."; and

Records.

(8) by striking "Commission" wherever it appears, except as it appears in subsection (f) in the title of the Act of May 6, 1910, and inserting in lieu thereof "Secretary of Transportation".

SEC. 18. RAIL PASSENGER SERVICE AMENDMENTS.

(a) Section 301 of the Rail Passenger Service Act (45 U.S.C. 541) is amended by striking "agency" and inserting in lieu thereof "agency, instrumentality, authority, or entity,".

(b) Section 303(a)(1)(E) of the Rail Passenger Service Act (45 U.S.C. 543(a)(1)(E)) is amended to read as follows:

"(E) Two members selected by the preferred stockholders of the Corporation, who each shall serve for a term of one year or until their successors have been appointed.".

(c) Section 303(d) of the Rail Passenger Service Act (45 U.S.C. 543(d)) is amended by striking the third sentence and inserting in lieu thereof the following: "The president and other officers of the Corporation shall receive compensation at a level no higher than the general level of compensation paid officers of railroads in positions of comparable responsibility.".

(d) Section 308(a) of the Rail Passenger Service Act (45 U.S.C. 548(a)) is amended by inserting immediately after "also" in the last sentence the following: "provide all relevant information concerning any decision to pay to any officer of the Corporation compensation at a rate in excess of that prescribed for level I of the Executive Schedule under section 5312 of title 5, United States Code, and".

(e) Section 602(i) of the Rail Passenger Service Act (45 U.S.C. 602(i)) is repealed.

(f) Subsection (b) of the first section of the Act entitled "An Act to amend the Rail Passenger Service Act of 1970 in order to provide financial assistance to the National Railroad Passenger Corporation, and for other purposes", approved June 22, 1972 (Public Law 92-316; 86 Stat. 227), is repealed.

45 USC 543 note.

(g)(1) The National Railroad Passenger Corporation (hereafter in this subsection referred to as "Amtrak"), or the owner of any facility which presents a danger to the employees, passengers, or property of Amtrak, may petition the Secretary for assistance to the owner of such facility for relocation or other remedial measures to minimize or eliminate such danger under this subsection.

45 USC 650a.

(2) If the Secretary determines that—

(A) a facility which is the subject of a petition under paragraph (1) presents a danger of death or serious injury to any employee or passenger of Amtrak or serious damage to any property of Amtrak; and

(B) the owner of such facility should not be expected to bear the cost of relocating or other remedial measures necessary to minimize or eliminate such danger,

the Secretary shall recommend to the Congress that the Congress authorize funding, by reimbursement or otherwise, for such relocation or other remedial measures.

(3) Petitions may be submitted under paragraph (1) with respect to any relocation or remedial measures undertaken on or after January 1, 1978.

(h)(1) There is authorized to be appropriated to the Secretary for the purposes of this subsection, $1,000,000, to remain available until expended.

Appropriation authorization. 45 USC 650a note.

(2) The National Railroad Passenger Corporation, or such Corporation jointly with any owner or operator of a rail station used for the operations of such Corporation, may apply to the Secretary for funds appropriated under this subsection for payment or reimbursement of expenses, incurred after October 1, 1987, in connection with enabling such station to comply with the requirements of any official notice received before October 1, 1987, from State or local authorities asserting that a violation of building, construction, fire, electric, sanitation, mechanical, or plumbing codes exists or is alleged to exist with respect to such station.

SEC. 19. MAINTENANCE-OF-WAY OPERATIONS.

(a) Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(n) The Secretary shall, within one year after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary for the safety of maintenance-of-way employees, including standards for bridge safety equipment, such as nets, walkways, handrails, and safety lines, and requirements relating to instances when boats shall be used.".

Regulations. Bridges. Maritime affairs.

(b)(1) Section 2 of the Act of March 4, 1907, commonly referred to as the Hours of Service Act (45 U.S.C. 62), is amended by adding at the end the following:

"(e) As used in section 2(a)(3) of this Act, the term 'employees' shall include an individual employed for the purpose of maintaining the right-of-way of any railroad.".

Effective date.
45 USC 62 note.

(2) As it applies to interruptions caused by noise under section 2(a)(3) of such Act, the amendment made by paragraph (1) shall take effect 180 days after the date of the enactment of this Act.

(c) The Secretary shall, within one year after the date of the enactment of this Act, amend part 218 of title 49, Code of Federal Regulations, to apply blue signal protection to on-track vehicles where rest is provided.

SEC. 20. GRADE CROSSING DEMONSTRATION PROJECTS.

The Federal Railroad Safety Act of 1970 is amended by adding at the end the following new section:

45 USC 445.
Highways.

"SEC. 215. GRADE CROSSING DEMONSTRATION PROJECTS.

"(a) The Federal Railroad Administration shall establish demonstration projects for the purpose of evaluating—

"(1) whether reflective markers installed on the road surface or on a signal post at grade crossings would reduce accidents involving trains;

"(2) whether a stop sign or yield sign installed at grade crossings would reduce such accidents; and

"(3) whether speed bumps or rumble strips installed on the road surface at the approach to grade crossings would reduce such accidents.

Reports.

"(b) The Federal Railroad Administration shall, within two years after the date of the enactment of the Rail Safety Improvement Act of 1988, report to the Committee on Energy and Commerce of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate on the results of the demonstration projects established under subsection (a).

Appropriation authorization.

"(c) There is authorized to be appropriated to the Secretary of Transportation for improvements in grade crossing safety other than the demonstration projects provided for under subsection (a), $1,000,000, to remain available until expended.".

SEC. 21. TAMPERING WITH SAFETY DEVICES.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

Regulations.

"(o)(1) The Secretary shall, within 90 days after the date of the enactment of this subsection, issue such rules, regulations, orders, and standards as may be necessary to prohibit the willful tampering with, or disabling of, specified railroad safety or operational monitoring devices.

"(2)(A) Any railroad company operating a train on which safety or operational monitoring devices are tampered with or disabled in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1) shall be liable for a civil penalty under section 209.

"(B) Any individual tampering with or disabling safety or operational monitoring devices in violation of rules, regulations, orders, or standards issued by the Secretary under paragraph (1), or who

knowingly operates or permits to be operated a train on which such devices have been tampered with or disabled by another person, shall be liable for such penalties as may be established by the Secretary, which may include fines under section 209, suspension from work, or suspension or loss of a license or certification issued under subsection (i).".

SEC. 22. DISPATCHER TRAINING.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(p)(1) The Secretary shall, within 180 days after the date of the enactment of the Rail Safety Improvement Act of 1988, conduct and complete an inquiry into whether training standards are necessary for those involved in dispatching trains.

"(2) Upon the completion of such inquiry, the Secretary shall report the results of such inquiry to the Committee on Energy and Commerce of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate along with the Secretary's recommendations, and if the Secretary recommends that rules, regulations, orders, or standards be issued, the Secretary shall promptly initiate appropriate rulemaking proceedings.". Reports.

SEC. 23. GRADE CROSSING SIGNAL SYSTEM SAFETY.

Section 202 of the Federal Railroad Safety Act of 1970 (45 U.S.C. 431) is further amended by adding at the end the following new subsection:

"(q) The Secretary shall, within one year after the date of the enactment of the Rail Safety Improvement Act of 1988, issue such rules, regulations, orders, and standards as may be necessary to ensure the safe maintenance, inspection, and testing of signal systems and devices at railroad highway grade crossings.". Regulations. Highways.

SEC. 24. ACCIDENT REPORTS. 45 USC 43a.

If a railroad, in reporting an accident or incident under the Accident Reports Act (45 U.S.C. 38 et seq.), assigns human error as a cause of the accident or incident, such report shall include, at the option of each employee whose error is alleged, a statement by such employee explaining any factors the employee alleges contributed to the accident or incident.

Approved June 22, 1988.

LEGISLATIVE HISTORY—S. 1539 (H.R. 3743):

HOUSE REPORTS: No. 100-637 (Comm. of Conference).
SENATE REPORTS: No. 100-153 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Nov. 5, considered and passed Senate.
Dec. 18, H.R. 3743 considered and passed House.
Vol. 134 (1988): Feb. 3, S. 1539 considered and passed House, amended.
May 23, House agreed to conference report.
June 9, Senate agreed to conference report.

Public Law 100-343
100th Congress

Joint Resolution

June 22, 1988
[S.J. Res. 249]

Designating June 14, 1988, as "Baltic Freedom Day".

Whereas the people of the Baltic Republics of Lithuania, Latvia, and Estonia have cherished the principles of religious and political freedom and independence;

Whereas the Baltic Republics have existed as independent, sovereign nations belonging to and fully recognized by the League of Nations;

Whereas the Union of the Soviet Socialist Republics (U.S.S.R.) in collusion with Nazi Germany signed the Molotov-Ribbentrop Pact which allowed the U.S.S.R. in 1940 to illegally seize and occupy the Baltic States and by force incorporated them against their national will and contrary to their desire for independence and sovereignty into the U.S.S.R.;

Whereas due to Soviet and Nazi tyranny, by the end of World War II, the Baltic nations had lost 20 per centum of their total population;

Whereas the people of the Baltic Republics have individual and separate culture, national traditions, and languages distinctively foreign to those of Russia;

Whereas the U.S.S.R. since 1940 has systematically implemented its Baltic genocide by deporting native Baltic peoples from their homelands to forced labor and concentration camps in Siberia and elsewhere, and by relocating masses of Russians to the Baltic Republics, thus threatening the Baltic Cultures with extinction through russification;

Whereas the U.S.S.R. has imposed upon the captive people of the Baltic Republics an oppressive political system which has destroyed every vestige of democracy, civil liberties, and religious freedom;

Whereas the people of Lithuania, Latvia and Estonia find themselves today subjugated by the U.S.S.R., locked into a union they deplore, denied basic human rights, and persecuted for daring to protest;

Whereas the U.S.S.R. refuses to abide by the Helsinki accords which the U.S.S.R. voluntarily signed;

Whereas the United States stands as a champion of liberty, dedicated to the principles of national self-determination, human rights, and religious freedom, and opposed to oppression and imperialism;

Whereas the United States as a member of the United Nations has repeatedly voted with a majority of that international body to uphold the right of other countries of the world to determine their fates and be free of foreign domination;

Whereas the U.S.S.R. has steadfastly refused to return to the people of the Baltic States of Lithuania, Latvia, and Estonia the right to exist as independent republics separate and apart from the

U.S.S.R. or permit a return of personal, political and religious freedoms; and

Whereas 1988 marks the forty-eighth anniversary of the United States continued policy of nonrecognition of the illegal forcible occupation of Lithuania, Latvia and Estonia by the U.S.S.R.: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) the Congress recognizes the continuing desire and right of the people of Lithuania, Latvia and Estonia for freedom and independence from the domination of the U.S.S.R.;

(2) the Congress deplores the refusal of the U.S.S.R. to recognize the sovereignty of the Baltic Republics and to yield to their rightful demands for independence from foreign domination and oppression;

(3) the fourteenth day of June 1988, the anniversary of the mass deportation of Baltic peoples from their homelands in 1941, be designated "Baltic Freedom Day" as a symbol of the solidarity of the American people with the aspirations of the enslaved Baltic people; and

(4) the President of the United States be authorized and requested to issue a proclamation for the observance of Baltic Freedom Day with appropriate ceremonies and activities and to submit the issue of the Baltic Republics to the United Nations so that the issue of Baltic self-determination will be brought to the attention of the United Nations General Assembly.

Approved June 22, 1988.

LEGISLATIVE HISTORY—S.J. Res. 249:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 26, considered and passed Senate.
June 14, considered and passed House.

Public Law 100-344
100th Congress

Joint Resolution

June 23, 1988
[S.J. Res. 147]

Designating the week beginning on the third Sunday of September in 1988 as "National Adult Day Care Center Week".

Whereas more than 1,200 adult day care centers are in operation nationwide, providing safe and positive environments to functionally disabled adults and senior citizens who are in need of daytime assistance or supervision;

Whereas adult day care centers have comprehensive programs providing a variety of services related to health, including medical therapy, medication monitoring, counseling, and health education;

Whereas adult day care centers are operated by professional staffs which identify individual health needs and give appropriate advice;

Whereas adult day care centers assist functionally disabled adults and senior citizens in maintaining a maximum level of independence;

Whereas adult day care centers provide opportunities for social interaction to individuals who otherwise may be socially isolated; and

Whereas adult day care centers offer relief to families who otherwise must provide constant care to functionally disabled adults and senior citizens, including victims of Alzheimer's disease and other forms of dementia: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on the third Sunday of September in 1988 is designated as "National Adult Day Care Center Week". The President is requested to issue a proclamation calling on the people of the United States to observe such week with appropriate ceremonies and activities.

Approved June 23, 1988.

LEGISLATIVE HISTORY—S.J. Res. 147 (H.J. Res. 268):

CONGRESSIONAL RECORD:
Vol. 133 (1987): Aug. 6, H.J. Res. 268 considered and passed House.
Vol. 134 (1988): Feb. 26, S.J. Res. 147 considered and passed Senate.
June 14, considered and passed House.

Public Law 100-345
100th Congress

An Act

To designate the Cleveland Ohio General Mail Facility and Main Office in Cleveland, Ohio, as the "John O. Holly Building of the United States Postal Service".

June 24, 1988
[H.R. 4448]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the building located at 2400 Orange Avenue, Cleveland, Ohio, known as the Cleveland Ohio General Mail Facility and Main Office is designated as the "John O. Holly Building of the United States Postal Service". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the John O. Holly Building of the United States Postal Service.

SEC. 2. DESIGNATION OF GRANITE REEF AQUEDUCT AS THE "HAYDEN-RHODES AQUEDUCT".

Arizona.
Rivers and harbors.
43 USC 1521 note.

(a) The Granite Reef Aqueduct of the Central Arizona project, constructed, operated, and maintained under section 301(a)(1) of the Colorado River Basin Act (43 U.S.C. 1521(a)(1)), hereafter shall be known and designated as the "Hayden-Rhodes Aqueduct".

43 USC 1521.

(b) Any reference in any law, regulation, document, record, map, or other paper of the United States to the aqueduct referred to in subsection (a) hereby is deemed to be a reference to the "Hayden-Rhodes Aqueduct".

Approved June 24, 1988.

LEGISLATIVE HISTORY—H.R. 4448:

CONGRESSIONAL RECORD, Vol. 134 (1988):
May 9, considered and passed House.
May 25, considered and passed Senate, amended.
June 9, House concurred in Senate amendment.

Public Law 100-346
100th Congress

An Act

June 24, 1988
[S. 794]

To amend chapter 13 of title 18, United States Code, to impose criminal penalties for damage to religious property and for obstruction of persons in the free exercise of religious beliefs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CRIMINAL PENALTIES FOR DAMAGE TO RELIGIOUS PROPERTY AND FOR OBSTRUCTION OF PERSONS IN THE FREE EXERCISE OF RELIGIOUS BELIEFS.

Chapter 13 of title 18, United States Code, is amended by adding at the end the following new section:

18 USC 247.

"§ 247. Damage to religious property; obstruction of persons in the free exercise of religious beliefs

"(a) Whoever, in any of the circumstances referred to in subsection (b) of this section—

"(1) intentionally defaces, damages, or destroys any religious real property, because of the religious character of that property, or attempts to do so; or

"(2) intentionally obstructs, by force or threat of force, any person in the enjoyment of that person's free exercise of religious beliefs, or attempts to do so;

shall be punished as provided in subsection (c) of this section.

"(b) The circumstances referred to in subsection (a) are that—

Commerce and trade.

"(1) in committing the offense, the defendant travels in interstate or foreign commerce, or uses a facility or instrumentality of interstate or foreign commerce in interstate or foreign commerce; and

"(2) in the case of an offense under subsection (a)(1), the loss resulting from the defacement, damage, or destruction is more than $10,000.

"(c) The punishment for a violation of subsection (a) of this section shall be—

"(1) if death results, a fine in accordance with this title and imprisonment for any term of years or for life, or both;

"(2) if serious bodily injury results, a fine in accordance with this title and imprisonment for not more than ten years, or both; and

"(3) in any other case, a fine in accordance with this title and imprisonment for not more than one year, or both.

"(d) No prosecution of any offense described in this section shall be undertaken by the United States except upon the notification in writing of the Attorney General or his designee that in his judgment a prosecution by the United States is in the public interest and necessary to secure substantial justice.

"(e) As used in this section—

"(1) the term 'religious real property' means any church, synagogue, mosque, religious cemetery, or other religious real property; and

"(2) the term 'serious bodily injury' means bodily injury that involves a substantial risk of death, unconsciousness, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ, or mental faculty.".

SEC. 3. TECHNICAL AMENDMENT.

The table of sections for chapter 13 of title 18, United States Code, is amended by adding at the end the following new item:

"247. Damage to religious property; obstruction of persons in the free exercise of religious beliefs.".

Approved June 24, 1988.

LEGISLATIVE HISTORY—S. 794 (H.R. 3258):

HOUSE REPORTS: No. 100-337 accompanying H.R. 3258 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-324 (Comm. on the Judiciary).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 5, H.R. 3258 considered and passed House.
Vol. 134 (1988): May 18, S. 794 considered and passed Senate.
June 14, considered and passed House.

Public Law 100-347
100th Congress

An Act

June 27, 1988
[H.R. 1212]

To prevent the denial of employment opportunities by prohibiting the use of lie detectors by employers involved in or affecting interstate commerce.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Employee Polygraph Protection Act of 1988.
29 USC 2001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Employee Polygraph Protection Act of 1988".

29 USC 2001.

SEC. 2. DEFINITIONS.

As used in this Act:

(1) COMMERCE.—The term "commerce" has the meaning provided by section 3(b) of the Fair Labor Standards Act of 1938 (29 U.S.C. 203(b)).

(2) EMPLOYER.—The term "employer" includes any person acting directly or indirectly in the interest of an employer in relation to an employee or prospective employee.

(3) LIE DETECTOR.—The term "lie detector" includes a polygraph, deceptograph, voice stress analyzer, psychological stress evaluator, or any other similar device (whether mechanical or electrical) that is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(4) POLYGRAPH.—The term "polygraph" means an instrument that—

(A) records continuously, visually, permanently, and simultaneously changes in cardiovascular, respiratory, and electrodermal patterns as minimum instrumentation standards; and

(B) is used, or the results of which are used, for the purpose of rendering a diagnostic opinion regarding the honesty or dishonesty of an individual.

(5) SECRETARY.—The term "Secretary" means the Secretary of Labor.

29 USC 2002.

SEC. 3. PROHIBITIONS ON LIE DETECTOR USE.

Except as provided in sections 7 and 8, it shall be unlawful for any employer engaged in or affecting commerce or in the production of goods for commerce—

(1) directly or indirectly, to require, request, suggest, or cause any employee or prospective employee to take or submit to any lie detector test;

(2) to use, accept, refer to, or inquire concerning the results of any lie detector test of any employee or prospective employee;

Discrimination, prohibition.

(3) to discharge, discipline, discriminate against in any manner, or deny employment or promotion to, or threaten to take any such action against—

(A) any employee or prospective employee who refuses, declines, or fails to take or submit to any lie detector test, or

(B) any employee or prospective employee on the basis of the results of any lie detector test; or

(4) to discharge, discipline, discriminate against in any manner, or deny employment or promotion to, or threaten to take any such action against, any employee or prospective employee because— Discrimination, prohibition.

(A) such employee or prospective employee has filed any complaint or instituted or caused to be instituted any proceeding under or related to this Act,

(B) such employee or prospective employee has testified or is about to testify in any such proceeding, or

(C) of the exercise by such employee or prospective employee, on behalf of such employee or another person, of any right afforded by this Act.

SEC. 4. NOTICE OF PROTECTION. 29 USC 2003.

The Secretary shall prepare, have printed, and distribute a notice setting forth excerpts from, or summaries of, the pertinent provisions of this Act. Each employer shall post and maintain such notice in conspicuous places on its premises where notices to employees and applicants to employment are customarily posted.

SEC. 5. AUTHORITY OF THE SECRETARY. 29 USC 2004.

(a) IN GENERAL.—The Secretary shall—

(1) issue such rules and regulations as may be necessary or appropriate to carry out this Act; Regulations.

(2) cooperate with regional, State, local, and other agencies, and cooperate with and furnish technical assistance to employers, labor organizations, and employment agencies to aid in effectuating the purposes of this Act; and State and local governments.

(3) make investigations and inspections and require the keeping of records necessary or appropriate for the administration of this Act. Records.

(b) SUBPOENA AUTHORITY.—For the purpose of any hearing or investigation under this Act, the Secretary shall have the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50).

SEC. 6. ENFORCEMENT PROVISIONS. 29 USC 2005.

(a) CIVIL PENALTIES.—

(1) IN GENERAL.—Subject to paragraph (2), any employer who violates any provision of this Act may be assessed a civil penalty of not more than $10,000.

(2) DETERMINATION OF AMOUNT.—In determining the amount of any penalty under paragraph (1), the Secretary shall take into account the previous record of the person in terms of compliance with this Act and the gravity of the violation.

(3) COLLECTION.—Any civil penalty assessed under this subsection shall be collected in the same manner as is required by subsections (b) through (e) of section 503 of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1853) with respect to civil penalties assessed under subsection (a) of such section.

(b) INJUNCTIVE ACTIONS BY THE SECRETARY.—The Secretary may bring an action under this section to restrain violations of this Act. The Solicitor of Labor may appear for and represent the Secretary in any litigation brought under this Act. In any action brought under this section, the district courts of the United States shall have jurisdiction, for cause shown, to issue temporary or permanent restraining orders and injunctions to require compliance with this Act, including such legal or equitable relief incident thereto as may be appropriate, including, but not limited to, employment, reinstatement, promotion, and the payment of lost wages and benefits.

Courts, U.S. Wages.

(c) PRIVATE CIVIL ACTIONS.—

(1) LIABILITY.—An employer who violates this Act shall be liable to the employee or prospective employee affected by such violation. Such employer shall be liable for such legal or equitable relief as may be appropriate, including, but not limited to, employment, reinstatement, promotion, and the payment of lost wages and benefits.

Wages.

(2) COURT.—An action to recover the liability prescribed in paragraph (1) may be maintained against the employer in any Federal or State court of competent jurisdiction by an employee or prospective employee for or on behalf of such employee, prospective employee, and other employees or prospective employees similarly situated. No such action may be commenced more than 3 years after the date of the alleged violation.

(3) COSTS.—The court, in its discretion, may allow the prevailing party (other than the United States) reasonable costs, including attorney's fees.

Courts, U.S.

(d) WAIVER OF RIGHTS PROHIBITED.—The rights and procedures provided by this Act may not be waived by contract or otherwise, unless such waiver is part of a written settlement agreed to and signed by the parties to the pending action or complaint under this Act.

29 USC 2006.

SEC. 7. EXEMPTIONS.

(a) NO APPLICATION TO GOVERNMENTAL EMPLOYERS.—This Act shall not apply with respect to the United States Government, any State or local government, or any political subdivision of a State or local government.

(b) NATIONAL DEFENSE AND SECURITY EXEMPTION.—

(1) NATIONAL DEFENSE.—Nothing in this Act shall be construed to prohibit the administration, by the Federal Government, in the performance of any counterintelligence function, of any lie detector test to—

(A) any expert or consultant under contract to the Department of Defense or any employee of any contractor of such Department; or

(B) any expert or consultant under contract with the Department of Energy in connection with the atomic energy defense activities of such Department or any employee of any contractor of such Department in connection with such activities.

(2) SECURITY.—Nothing in this Act shall be construed to prohibit the administration, by the Federal Government, in the performance of any intelligence or counterintelligence function, of any lie detector test to—

(A)(i) any individual employed by, assigned to, or detailed to, the National Security Agency, the Defense Intelligence Agency, or the Central Intelligence Agency,

(ii) any expert or consultant under contract to any such agency, Contracts.

(iii) any employee of a contractor to any such agency,

(iv) any individual applying for a position in any such agency, or

(v) any individual assigned to a space where sensitive cryptologic information is produced, processed, or stored for any such agency; or Classified information.

(B) any expert, or consultant (or employee of such expert or consultant) under contract with any Federal Government department, agency, or program whose duties involve access to information that has been classified at the level of top secret or designated as being within a special access program under section 4.2(a) of Executive Order 12356 (or a successor Executive order). Contracts. Classified information.

(c) FBI CONTRACTORS EXEMPTION.—Nothing in this Act shall be construed to prohibit the administration, by the Federal Government, in the performance of any counterintelligence function, of any lie detector test to an employee of a contractor of the Federal Bureau of Investigation of the Department of Justice who is engaged in the performance of any work under the contract with such Bureau.

(d) LIMITED EXEMPTION FOR ONGOING INVESTIGATIONS.—Subject to sections 8 and 10, this Act shall not prohibit an employer from requesting an employee to submit to a polygraph test if—

(1) the test is administered in connection with an ongoing investigation involving economic loss or injury to the employer's business, such as theft, embezzlement, misappropriation, or an act of unlawful industrial espionage or sabotage; Fraud. Espionage.

(2) the employee had access to the property that is the subject of the investigation;

(3) the employer has a reasonable suspicion that the employee was involved in the incident or activity under investigation; and

(4) the employer executes a statement, provided to the examinee before the test, that—

(A) sets forth with particularity the specific incident or activity being investigated and the basis for testing particular employees,

(B) is signed by a person (other than a polygraph examiner) authorized to legally bind the employer,

(C) is retained by the employer for at least 3 years, and

(D) contains at a minimum—

(i) an identification of the specific economic loss or injury to the business of the employer,

(ii) a statement indicating that the employee had access to the property that is the subject of the investigation, and

(iii) a statement describing the basis of the employer's reasonable suspicion that the employee was involved in the incident or activity under investigation.

(e) EXEMPTION FOR SECURITY SERVICES.—

(1) IN GENERAL.—Subject to paragraph (2) and sections 8 and 10, this Act shall not prohibit the use of polygraph tests on prospective employees by any private employer whose primary

business purpose consists of providing armored car personnel, personnel engaged in the design, installation, and maintenance of security alarm systems, or other uniformed or plainclothes security personnel and whose function includes protection of—

Safety. Defense and national security. State and local governments.

(A) facilities, materials, or operations having a significant impact on the health or safety of any State or political subdivision thereof, or the national security of the United States, as determined under rules and regulations issued by the Secretary within 90 days after the date of the enactment of this Act, including—

Energy.

(i) facilities engaged in the production, transmission, or distribution of electric or nuclear power,

Water.

(ii) public water supply facilities,

Hazardous materials.

(iii) shipments or storage of radioactive or other toxic waste materials, and

Transportation.

(iv) public transportation, or

Securities.

(B) currency, negotiable securities, precious commodities or instruments, or proprietary information.

(2) ACCESS.—The exemption provided under this subsection shall not apply if the test is administered to a prospective employee who would not be employed to protect facilities, materials, operations, or assets referred to in paragraph (1).

(f) EXEMPTION FOR DRUG SECURITY, DRUG THEFT, OR DRUG DIVERSION INVESTIGATIONS.—

(1) IN GENERAL.—Subject to paragraph (2) and sections 8 and 10, this Act shall not prohibit the use of a polygraph test by any employer authorized to manufacture, distribute, or dispense a controlled substance listed in schedule I, II, III, or IV of section 202 of the Controlled Substances Act (21 U.S.C. 812).

(2) ACCESS.—The exemption provided under this subsection shall apply—

(A) if the test is administered to a prospective employee who would have direct access to the manufacture, storage, distribution, or sale of any such controlled substance; or

(B) in the case of a test administered to a current employee, if—

(i) the test is administered in connection with an ongoing investigation of criminal or other misconduct involving, or potentially involving, loss or injury to the manufacture, distribution, or dispensing of any such controlled substance by such employer, and

(ii) the employee had access to the person or property that is the subject of the investigation.

29 USC 2007.

SEC. 8. RESTRICTIONS ON USE OF EXEMPTIONS.

(a) TEST AS BASIS FOR ADVERSE EMPLOYMENT ACTION.—

(1) UNDER ONGOING INVESTIGATIONS EXEMPTION.—Except as provided in paragraph (2), the exemption under subsection (d) of section 7 shall not apply if an employee is discharged, disciplined, denied employment or promotion, or otherwise discriminated against in any manner on the basis of the analysis of a polygraph test chart or the refusal to take a polygraph test, without additional supporting evidence. The evidence required by such subsection may serve as additional supporting evidence.

(2) UNDER OTHER EXEMPTIONS.—In the case of an exemption described in subsection (e) or (f) of such section, the exemption

shall not apply if the results of an analysis of a polygraph test chart are used, or the refusal to take a polygraph test is used, as the sole basis upon which an adverse employment action described in paragraph (1) is taken against an employee or prospective employee.

(b) RIGHTS OF EXAMINEE.—The exemptions provided under subsections (d), (e), and (f) of section 7 shall not apply unless the requirements described in the following paragraphs are met:

(1) ALL PHASES.—Throughout all phases of the test—

(A) the examinee shall be permitted to terminate the test at any time;

(B) the examinee is not asked questions in a manner designed to degrade, or needlessly intrude on, such examinee;

(C) the examinee is not asked any question concerning— Discrimination, prohibition.

(i) religious beliefs or affiliations,

(ii) beliefs or opinions regarding racial matters,

(iii) political beliefs or affiliations,

(iv) any matter relating to sexual behavior; and

(v) beliefs, affiliations, opinions, or lawful activities regarding unions or labor organizations; and

(D) the examiner does not conduct the test if there is sufficient written evidence by a physician that the examinee is suffering from a medical or psychological condition or undergoing treatment that might cause abnormal responses during the actual testing phase. Health and medical care.

(2) PRETEST PHASE.—During the pretest phase, the prospective examinee—

(A) is provided with reasonable written notice of the date, time, and location of the test, and of such examinee's right to obtain and consult with legal counsel or an employee representative before each phase of the test;

(B) is informed in writing of the nature and characteristics of the tests and of the instruments involved;

(C) is informed, in writing—

(i) whether the testing area contains a two-way mirror, a camera, or any other device through which the test can be observed,

(ii) whether any other device, including any device for recording or monitoring the test, will be used, or

(iii) that the employer or the examinee may (with mutual knowledge) make a recording of the test;

(D) is read and signs a written notice informing such examinee—

(i) that the examinee cannot be required to take the test as a condition of employment,

(ii) that any statement made during the test may constitute additional supporting evidence for the purposes of an adverse employment action described in subsection (a),

(iii) of the limitations imposed under this section,

(iv) of the legal rights and remedies available to the examinee if the polygraph test is not conducted in accordance with this Act, and

(v) of the legal rights and remedies of the employer under this Act (including the rights of the employer under section 9(c)(2)); and

(E) is provided an opportunity to review all questions to be asked during the test and is informed of the right to terminate the test at any time.

(3) ACTUAL TESTING PHASE.—During the actual testing phase, the examiner does not ask such examinee any question relevant during the test that was not presented in writing for review to such examinee before the test.

(4) POST-TEST PHASE.—Before any adverse employment action, the employer shall—

(A) further interview the examinee on the basis of the results of the test; and

(B) provide the examinee with—

(i) a written copy of any opinion or conclusion rendered as a result of the test, and

(ii) a copy of the questions asked during the test along with the corresponding charted responses.

(5) MAXIMUM NUMBER AND MINIMUM DURATION OF TESTS.—The examiner shall not conduct and complete more than five polygraph tests on a calendar day on which the test is given, and shall not conduct any such test for less than a 90-minute duration.

(c) QUALIFICATIONS AND REQUIREMENTS OF EXAMINERS.—The exemptions provided under subsections (d), (e), and (f) of section 7 shall not apply unless the individual who conducts the polygraph test satisfies the requirements under the following paragraphs:

(1) QUALIFICATIONS.—The examiner—

(A) has a valid and current license granted by licensing and regulatory authorities in the State in which the test is to be conducted, if so required by the State; and

(B) maintains a minimum of a $50,000 bond or an equivalent amount of professional liability coverage.

(2) REQUIREMENTS.—The examiner—

(A) renders any opinion or conclusion regarding the test—

(i) in writing and solely on the basis of an analysis of polygraph test charts,

(ii) that does not contain information other than admissions, information, case facts, and interpretation of the charts relevant to the purpose and stated objectives of the test, and

(iii) that does not include any recommendation concerning the employment of the examinee; and

Records.

(B) maintains all opinions, reports, charts, written questions, lists, and other records relating to the test for a minimum period of 3 years after administration of the test.

29 USC 2008.

SEC. 9. DISCLOSURE OF INFORMATION.

(a) IN GENERAL.—A person, other than the examinee, may not disclose information obtained during a polygraph test, except as provided in this section.

(b) PERMITTED DISCLOSURES.—A polygraph examiner may disclose information acquired from a polygraph test only to—

(1) the examinee or any other person specifically designated in writing by the examinee;

(2) the employer that requested the test; or

(3) any court, governmental agency, arbitrator, or mediator, in accordance with due process of law, pursuant to an order from a court of competent jurisdiction.

(c) DISCLOSURE BY EMPLOYER.—An employer (other than an employer described in subsection (a), (b), or (c) of section 7) for whom a polygraph test is conducted may disclose information from the test only to—

(1) a person in accordance with subsection (b); or

(2) a governmental agency, but only insofar as the disclosed information is an admission of criminal conduct.

SEC. 10. EFFECT ON OTHER LAW AND AGREEMENTS. 29 USC 2009.

Except as provided in subsections (a), (b), and (c) of section 7, this Act shall not preempt any provision of any State or local law or of any negotiated collective bargaining agreement that prohibits lie detector tests or is more restrictive with respect to lie detector tests than any provision of this Act.

SEC. 11. EFFECTIVE DATE. 29 USC 2001 note.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall become effective 6 months after the date of enactment of this Act.

(b) REGULATIONS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall issue such rules and regulations as may be necessary or appropriate to carry out this Act.

Approved June 27, 1988.

LEGISLATIVE HISTORY—H.R. 1212 (S. 1904):

HOUSE REPORTS: No. 100-208 (Comm. on Education and Labor) and No. 100-659 (Comm. of Conference).

SENATE REPORTS: No. 100-284 accompanying S. 1904 (Comm. on Labor and Human Resources).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Nov. 4, considered and passed House.

Vol. 134 (1988): Mar. 1, 2, S. 1904 considered in Senate.

Mar. 3, H.R. 1212 considered and passed Senate, amended, in lieu of S. 1904.

June 1, House agreed to conference report.

June 9, Senate agreed to conference report.

Public Law 100-348
100th Congress

An Act

June 27, 1988
[H.R. 1044]

To establish the San Francisco Maritime National Historical Park in the State of California, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

San Francisco Maritime National Historical Park Act of 1988.
Conservation.
National parks, monuments, etc.
16 USC 410nn note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Francisco Maritime National Historical Park Act of 1988".

SEC. 2. ESTABLISHMENT.

Public information.
16 USC 410nn.
Real property.

(a) IN GENERAL.—In order to preserve and interpret the history and achievements of seafaring Americans and of the Nation's maritime heritage, especially on the Pacific coast, there is hereby established the San Francisco Maritime National Historical Park (hereinafter in this Act referred to as the "park").

(b) AREA INCLUDED.—The park shall consist of the lands and interests therein within the area generally depicted on the map entitled "Boundary Map, San Francisco Maritime National Historical Park", numbered 641/80,053 and dated April 7, 1987. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior and in the office of the Superintendent of the park. If the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") determines, upon completion of the General Management Plan for the park, that the inclusion of the property at Jefferson and Hyde Streets, San Francisco, known as the Haslett Warehouse, would promote the purposes of the park, the Secretary may adjust the boundaries of the park to include that property after notification to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. The Secretary may make other minor revisions of the boundary of the park in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965.

(c) GOLDEN GATE NATIONAL RECREATION AREA.—The Secretary shall revise the boundaries of the Golden Gate National Recreation Area to exclude from the National Recreation Area the area within the park (as depicted on the boundary map referred to in subsection (b)). The Secretary shall transfer to the jurisdiction of the park all real and personal property of the United States administered by the Secretary as part of the National Recreation Area located within the boundaries of the park (including the museum building), together with all vessels, marine collections, libraries, historic documents, equipment and other marine artifacts which are administered by the Secretary as part of the National Recreation Area and which relate to maritime history.

Real property.
Gifts and property.
Public buildings and grounds.

(d) MUSEUM BUILDING.—The building housing and displaying the marine collections, libraries, historic documents, equipment, and

marine artifacts shall be named the "Sala Burton Building" and an appropriate plaque with this designation shall be prominently displayed as part of the structure.

SEC. 3. ADMINISTRATION. 16 USC 410nn-1.

(a) IN GENERAL.—The Secretary shall administer the park in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4), the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467), and the National Historic Preservation Act (16 U.S.C. 470-470t). The Secretary shall manage the park in such manner as will preserve and perpetuate knowledge and understanding of American maritime history and to provide for public understanding and enjoyment of maritime history.

(b) DONATIONS.—The Secretary may accept and retain donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this Act. Gifts and property.

(c) LEASING.—The Secretary may lease any real or personal property, including vessels and heavy marine equipment such as floating drydocks, which is administered as part of the park. The net receipts from any such lease shall be credited in accordance with subsection 4(f) of the Act of October 27, 1972 (86 Stat. 1299). Real property. Gifts and property.

(d) FEES.—Notwithstanding any other provision of law, the Secretary may impose entrance fees for admission to the ships in such amounts as he deems appropriate and may impose fees for the use by groups or organizations of the ships. All receipts from such fees shall be credited in accordance with subsection 4(f) of the Act of October 27, 1972 (86 Stat. 1299).

(e) GENERAL MANAGEMENT PLAN.—Within 2 years after establishment of the park, the Secretary shall prepare and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the park. The plan shall include, but not be limited to:

(1) a description of the resources of the park including, but not limited to, maritime and associated artifacts, documents, the following historic vessels: the sailing ship Balclutha; the steam schooner Wapama; the steamship SS Jeremiah O'Brien; the ferry Eureka; the schooner C.A. Thayer; the tug Ellpleton Hall; the tug Hercules; and the scow schooner Alma, and other real and personal property comprising the park collections such as written and illustrative material, objects, wrecks, small watercraft, and vessels; Real property. Gifts and property.

(2) plans for the preservation of each historic vessel, including docking facilities, maintenance and ship repair facilities, and estimates for the costs thereof; a determination of the need for permanent docking facilities in a location best suited to the preservation of the historic vessels and for visitor access to the historic vessels; methods of accommodating visitors while protecting the historic vessels; and methods for providing for the proper care, exhibition, and storage of the park collections;

(3) plans for the location, preliminary design, and estimated cost of public facilities to be developed for the park, including a museum building, visitor parking, and public transit access; and Public buildings and grounds.

(4) Plans for the interpretation of the historic vessels and park collections.

16 USC 410nn-2. **SEC. 4. ACQUISITION OF PROPERTY.**

(a) GENERAL AUTHORITY.—The Secretary may acquire land and interests in land within the boundaries of the park by donation, purchase with donated or appropriated funds, or exchange.

(b) TRANSFERS FROM OTHER AGENCIES.—The Secretary of Commerce may transfer the Liberty Ship SS Jeremiah O'Brien to the Secretary for inclusion in the historic fleet of the park. Any other Federal property located within the boundaries of the park which is under the administrative jurisdiction of another department or agency of the United States may, with the concurrence of the head of the administering department or agency, be transferred without consideration to the administrative jurisdiction of the Secretary for the purposes of the park.

(c) STATE AND LOCAL LANDS.—Lands, and interests in lands, within the boundaries of the park which are owned by the State of California or any political subdivision thereof, may be acquired only by donation. Notwithstanding any other provision of law, the Secretary is authorized to enter into an agreement with the State of California or any political subdivision thereof under which the Secretary may improve and may use appropriated funds for the improvement of berthing facilities if the State or any political subdivision thereof makes available to the Secretary, in accordance with terms and conditions acceptable to the Secretary, lands and interests in land for the purpose of berthing the ships and providing visitor access to the historic ships.

Contracts.

(d)(1) HISTORIC VESSELS AND OTHER PROPERTY.—In furtherance of the administration of the park, the Secretary is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange such property as may be appropriate to carry out the purposes of this Act, including vessels, heavy marine equipment, and drydock facilities. The Secretary shall notify the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate in writing not less than 90 days before acquisition of any large historic vessel. Such notification shall indicate the estimated cost of preservation, restoration if appropriate, and maintenance of the vessel concerned.

(2) ACQUISITION LIMITATION.—The Secretary shall not acquire any historic vessel pursuant to this subsection until the Secretary has notified the Committees in writing that sufficient funds have been made available to preserve and maintain those vessels listed in paragraph 3(e)(1) of this Act.

16 USC 410nn-3. **SEC. 5. ADVISORY COMMISSION.**

(a) ESTABLISHMENT.—There is hereby established the Advisory Commission of the San Francisco Maritime National Historical Park (hereinafter in this Act referred to as the "Commission"). The Commission shall be composed of 12 members appointed by the Secretary as follows:

(1) 3 members appointed for terms of 4 years from recommendations submitted by the National Maritime Museum Association.

(2) 2 members appointed for terms of 4 years from recommendations submitted by the Governor of the State of

California, at least one of whom shall have professional expertise in maritime historic preservation.

(3) 4 members appointed for terms of 5 years from recommendations submitted by the Mayor of San Francisco with special consideration given to individuals with knowledge of museum and/or maritime issues and who represent the local fishing industry, recreational users, the business community, and neighborhood groups.

(4) 1 member appointed for a term of 5 years from recommendations from the Secretary of Commerce, who shall have professional expertise in the maritime industry.

(5) 2 members appointed for terms of 5 years, who shall have professional expertise in maritime history or historic preservation.

Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(b) COMPENSATION.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(c) OFFICERS.—The Chair and other officers of the Commission shall be elected by a majority of the members of the Commission to serve for terms established by the Commission.

(d) MEETINGS.—The Commission shall meet at the call of the Chair or a majority of its members, but not less than twice annually. Seven members of the Commission shall constitute a quorum. Consistent with the public meeting requirements of the Federal Advisory Committee Act, the Commission shall, from time to time, meet with persons concerned with maritime preservation.

(e) BYLAWS AND CHARTER.—The Commission may make such bylaws, rules, and regulations as it considers necessary to carry out its functions under this Act. The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Commission.

(f) FUNCTIONS.—The Commission shall advise the Secretary on the management and development of the park. The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Commission on matters relating to the management and development of the park.

(g) TERMINATION.—The Commission shall cease to exist 10 years after the date on which the first meeting of the Commission is held.

SEC. 6. CONFORMING AMENDMENT.

Section 4(f) of the Act of October 27, 1972 (16 U.S.C. 460bb-3(f)), is amended by striking out "National Maritime Museum" and inserting "San Francisco Maritime National Historical Park".

16 USC 410nn-4.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, but not to exceed $200,000 for planning.

Approved June 27, 1988.

LEGISLATIVE HISTORY—H.R. 1044:

HOUSE REPORTS: No. 100-73 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-373 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): May 4, considered and passed House.
Vol. 134 (1988): June 6, considered and passed Senate, amended.
June 14, House concurred in Senate amendments.

Public Law 100-349
100th Congress

An Act

To revise the boundaries of Salem Maritime National Historic Site in the Commonwealth of Massachusetts, and for other purposes.

June 27, 1988
[H.R. 2652]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.

SECTION 1. BOUNDARY REVISION OF SALEM MARITIME NATIONAL HISTORIC SITE.

(a) BOUNDARY REVISION.—The Salem Maritime National Historic Site (hereafter in this Act referred to as the "national historic site"), designated on March 17, 1938, under section 2 of the Act of August 21, 1935 (49 Stat. 666), and located in Salem, Massachusetts, shall consist of lands and interests in lands as generally depicted on the map entitled "Boundary Map, Salem Maritime National Historic Site, Salem, Massachusetts", numbered 373-80,011, and dated April 1987. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Public information.

(b) ACQUISITION OF LANDS.—The Secretary of the Interior may acquire lands or interests therein within the boundary of the national historic site by donation, purchase with donated or appropriated funds, or exchange. Any lands or interests in lands owned by the Commonwealth of Massachusetts or any political subdivision thereof may be acquired only by donation. Lands and interests therein acquired pursuant to this Act shall become part of the national historic site and shall be subject to all the laws and regulations applicable to the national historic site.

Gifts and property.

Approved June 27, 1988.

LEGISLATIVE HISTORY—H.R. 2652:

HOUSE REPORTS: No. 100-344 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-357 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 5, considered and passed House.
Vol. 134 (1988): June 10, considered and passed Senate.

Public Law 100-350
100th Congress

An Act

June 27, 1988
[H.R. 4621]

To provide Congressional approval of the Governing International Fishery Agreement between the United States and the Government of the German Democratic Republic.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 1823 note.

SECTION 1. APPROVAL OF GIFA WITH GERMAN DEMOCRATIC REPUBLIC.

That notwithstanding section 203 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1823), the extension of the governing international fishery agreement between the Government of the United States of America and the Government of the German Democratic Republic, as contained in the message to Congress from the President of the United States, dated May 3, 1988—

(1) is approved by Congress as a governing international fishery agreement for the purposes of such Act; and

Effective date.

(2) shall enter into force and effect with respect to the United States on the date of enactment of this Act.

SEC. 2. REAUTHORIZATION OF FISHERMEN'S PROTECTIVE ACT.

Section 7(e) of the Fishermen's Protective Act (22 U.S.C. 1977(e)) is amended by striking "October 1, 1988" and inserting in lieu thereof "October 1, 1989".

SEC. 3. COMPOSITION OF NATIONAL FISH AND SEAFOOD PROMOTIONAL COUNCIL.

Section 205(d)(1)(E) of the Fish and Seafood Promotion Act of 1986 (16 U.S.C. 4004(d)(1)(E)) is amended by striking "and who are not residents of the States of the Alaska, Pacific, Southeast, or Northeast regions" and inserting in lieu thereof ", at least one of whom is not a resident of the States of the Alaska, Pacific, Southeast, and Northeast regions".

SEC. 4. AMENDMENTS TO SOUTH PACIFIC TUNA ACT OF 1988.

The South Pacific Tuna Act of 1988 is amended—

16 USC 973f.

(1) in section 8(a)—

(A) by striking "any gravity" and inserting in lieu thereof "and gravity"; and

(B) by striking "history or prior" and inserting in lieu thereof "history of prior";

(2) in section 8(g)(1), by striking "Treasury" and inserting in lieu thereof "Treaty"; and

16 USC 973i.

(3) in section 11(a)(2)(C), by striking "5(b)(7)" and inserting in lieu thereof "5(a)(7)".

Approved June 27, 1988.

LEGISLATIVE HISTORY—H.R. 4621:

HOUSE REPORTS: No. 100-672 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, considered and passed House.
June 14, considered and passed Senate.

Public Law 100-351
100th Congress

An Act

To amend the effective date provision of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988.

June 27, 1988
[H.R. 4638]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That, section 6303(b) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is amended by adding at the end the following new paragraphs:

20 USC 2701 note.

"(4) Allotments to States made under chapters 1 and 2 of title I of the Elementary and Secondary Education Act of 1965 and under the Adult Education Act from amounts appropriated by the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 (Public Law 100-202), shall be computed in accordance with the provisions of law applicable to allotments to States under chapters 1 and 2 of the Education Consolidation and Improvement Act of 1981 and under the Adult Education Act, respectively, as such Acts were in effect on the day before the date of the enactment of this Act.

State and local governments.

"(5) Amounts appropriated by the joint resolution entitled 'Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes', approved December 22, 1987 (Public Law 100-202), for the following programs shall be awarded in accordance with the applicable provisions of law in effect on the day before the date of the enactment of this Act:

"(A) Programs under subchapter D of chapter 2 of the Education Consolidation and Improvement Act of 1981, except that projects under section 583(c) may not be reviewed by a program significance panel.

"(B) National programs under the Adult Education Act.

"(C) Programs under the Indian Education Act.

"(D) Programs under title II of the Education for Economic Security Act.

"(E) The program under section 702 of the Stewart B. McKinney Homeless Assistance Act.

"(6) The provisions of part A of title II of this Act, excluding sections 2014(e) and 2018, shall apply only with respect to amounts appropriated for fiscal years beginning after September 30, 1988.

"(7) The amendments made by section 6001, relating to literacy training of homeless adults, shall take effect on October 1, 1988.

"(8) Any election under section 5209(b)(1) conveyed to the Secretary prior to August 1, 1988, shall take effect for the fiscal year beginning on October 1, 1988, and thereafter.".

Approved June 27, 1988.

LEGISLATIVE HISTORY—H.R. 4638:

HOUSE REPORTS: No. 100-668 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, considered and passed House.
June 14, considered and passed Senate.

Public Law 100-352
100th Congress

An Act

June 27, 1988
[S. 952]

To improve the administration of justice by providing greater discretion to the Supreme Court in selecting the cases it will review, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Section 1252 of title 28, United States Code, and the item relating to that section in the section analysis of chapter 81 of such title, are repealed.

REVIEW OF DECISIONS INVALIDATING STATE STATUTES

SEC. 2. (a) Section 1254 of title 28, United States Code, is amended by striking out paragraph (2) and redesignating paragraph (3) as paragraph (2).

(b) The section heading for section 1254 of such title is amended by striking out "appeal;".

(c) The item relating to section 1254 in the section analysis of chapter 81 of title 28, United States Code, is amended by striking out "appeal;".

REVIEW OF STATE COURT DECISIONS INVOLVING VALIDITY OF STATUTES

SEC. 3. Section 1257 of title 28, United States Code, is amended to read as follows:

"§ 1257. State courts; certiorari

"(a) Final judgments or decrees rendered by the highest court of a State in which a decision could be had, may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of any State is drawn in question on the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.

"(b) For the purposes of this section, the term 'highest court of a State' includes the District of Columbia Court of Appeals.".

REVIEW OF DECISIONS FROM SUPREME COURT OF PUERTO RICO

SEC. 4. Section 1258 of title 28, United States Code, is amended to read as follows:

"§ 1258. Supreme Court of Puerto Rico; certiorari

"Final judgments or decrees rendered by the Supreme Court of the Commonwealth of Puerto Rico may be reviewed by the Supreme Court by writ of certiorari where the validity of a treaty or statute of the United States is drawn in question or where the validity of a statute of the Commonwealth of Puerto Rico is drawn in question on

the ground of its being repugnant to the Constitution, treaties, or laws of the United States, or where any title, right, privilege, or immunity is specially set up or claimed under the Constitution or the treaties or statutes of, or any commission held or authority exercised under, the United States.".

CONFORMING AMENDMENTS

SEC. 5. (a) The items relating to sections 1257 and 1258 in the section analysis of chapter 81 of title 28, United States Code, are amended to read as follows:

"1257. State courts; certiorari.
"1258. Supreme Court of Puerto Rico; certiorari.".

(b) Section 2101(a) of title 28, United States Code, is amended by striking out "sections 1252, 1253 and 2282" and inserting in lieu thereof "section 1253".

(c) Section 2103 of title 28, United States Code, and the item relating to such section in the table of sections for chapter 133 of such title are repealed.

(d)(1) Section 2104 of title 28, United States Code, is amended to read as follows:

"§ 2104. Reviews of State court decisions

"A review by the Supreme Court of a judgment or decree of a State court shall be conducted in the same manner and under the same regulations, and shall have the same effect, as if the judgment or decree reviewed had been rendered in a court of the United States.".

(2) The item relating to section 2104 in the section analysis of chapter 133 of title 28, United States Code, is amended to read as follows:

"2104. Reviews of State court decisions.".

(e) Section 2350(b) of title 28, United States Code, is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

AMENDMENTS TO OTHER LAWS

SEC. 6. (a) Section 310 of the Federal Election Campaign Act of 1971 (2 U.S.C. 437h) is amended by repealing subsection (b), and by striking out "(a)" before "The Commission".

(b) Section 2 of the Act of May 18, 1928 (25 U.S.C. 652), is amended by striking out ", with the right of either party to appeal to the United States Court of Appeals for the Federal Circuit".

(c) The last sentence of section 203(d) of the Trans-Alaska Pipeline Authorization Act (43 U.S.C. 1652(d)) is amended to read as follows: "An interlocutory or final judgment, decree, or order of such district court may be reviewed only upon petition for a writ of certiorari to the Supreme Court of the United States.".

(d) Section 209(e)(3) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 719(e)(3)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court".

(e) Section 303(d) of the Regional Rail Reorganization Act of 1973 (45 U.S.C. 743(d)) is amended to read as follows:

"(d) REVIEW.—A finding or determination entered by the special court pursuant to subsection (c) of this section or section 306 of this title shall be reviewable only upon petition for a writ of certiorari to the Supreme Court of the United States. Such review is exclusive and any such petition shall be filed in the Supreme Court not more than 20 days after entry of such finding or determination.".

(f) Section 1152(b) of the Omnibus Budget Reconciliation Act of 1981 (45 U.S.C. 1105(b)) is amended—

(1) in the first sentence by striking out ", except that" and all that follows through the end of the sentence and inserting in lieu thereof a period; and

(2) in the second sentence by striking out "petition or appeal shall be filed" and inserting in lieu thereof "such petition shall be filed in the Supreme Court".

(g) Section 206 of the International Claims Settlement Act of 1949 (22 U.S.C. 1631e) is amended by striking out "sections 1252, 1254, 1291, and 1292" and inserting in lieu thereof "chapter 83".

(h) Section 12(a) of the Act of May 13, 1954, commonly known as the Saint Lawrence Seaway Act (33 U.S.C. 988(a)), is amended by striking out "1254(3)" and inserting in lieu thereof "1254(2)".

(i) Section 25(a)(4) of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136w(a)(4)) is amended by—

(1) repealing clause (ii) of subparagraph (E); and

(2) striking out the following:

"(E) JUDICIAL REVIEW.—

"(i) Any", and inserting in lieu thereof the following:

"(E) JUDICIAL REVIEW.—Any".

EFFECTIVE DATE

28 USC 1254 note.

SEC. 7. The amendments made by this Act shall take effect ninety days after the date of the enactment of this Act, except that such amendments shall not apply to cases pending in the Supreme Court on the effective date of such amendments or affect the right to review or the manner of reviewing the judgment or decree of a court which was entered before such effective date.

Approved June 27, 1988.

LEGISLATIVE HISTORY—S. 952:

HOUSE REPORTS: No. 100-660 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-300 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 18, considered and passed Senate.
June 7, considered and passed House.

Public Law 100-353
100th Congress

An Act

To designate the Federal Building located at 600 Las Vegas Boulevard in Las Vegas, Nevada, as the "Alan Bible Federal Building".

June 27, 1988
[S. 1901]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 600 Las Vegas Boulevard in Las Vegas, Nevada, is hereby designated, and hereafter shall be known, as the "Alan Bible Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Alan Bible Federal Building".

Approved June 27, 1988.

LEGISLATIVE HISTORY—S. 1901 (H.R. 3691):

HOUSE REPORTS: No. 100-632 accompanying H.R. 3691 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 18, considered and passed Senate.
Vol. 134 (1988): June 20, H.R. 3691 considered and passed House; proceedings vacated and S. 1901 passed in lieu.

Public Law 100-354
100th Congress

An Act

June 27, 1988
[S. 1960]

To designate the Federal Building located at 215 North 17th Street in Omaha, Nebraska, as the "Edward Zorinsky Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 215 North 17th Street in Omaha, Nebraska, shall hereafter be known and designated as the "Edward Zorinsky Federal Building".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Edward Zorinsky Federal Building".

Approved June 27, 1988.

LEGISLATIVE HISTORY—S. 1960 (H.R. 3838):

HOUSE REPORTS: No. 100-635 accompanying H.R. 3838 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 31, considered and passed Senate.
June 20, H.R. 3838 considered and passed House; proceedings vacated and S. 1960 passed in lieu.

Public Law 100-355
100th Congress

An Act

To increase the amount authorized to be appropriated with respect to the Sewall-Belmont House National Historic Site.

June 28, 1988
[H.R. 2203]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
National parks, monuments, etc.

SECTION 1. AMENDMENTS.

Title II of Public Law 93-486 (88 Stat. 1463) is amended as follows:

(1) In section 202 strike "101 of this Act" and insert "201 of this title".

(2) In section 204 strike "Act" and insert "title".

(3) Amend section 204 of Public Law 93-486 (88 Stat. 1463) authorizing the Sewall-Belmont House National Historic Site by striking "$500,000" and inserting "$2,000,000".

(4) After section 204 insert:

"SEC. 205. (a) In order to provide a planning framework for the management, preservation, and interpretation of the Sewall-Belmont House National Historic Site, the Secretary of the Interior shall develop a Statement for Management, a Statement for Interpretation, a Scope of Collections Statements, and a Historic Structures Report. Within one year of enactment of this section the Secretary shall transmit these documents to the House of Representatives Committee on Interior and Insular Affairs and the Senate Committee on Energy and Natural Resources.

Reports.

"(b) The National Park Service and the owner of the Sewall-Belmont House shall enter into negotiations to prepare a revised cooperative agreement detailing the respective responsibilities of each party, including actions to be taken by each party in order to facilitate greater cooperation between them. The National Park Service shall transmit to the respective committees the revised cooperative agreement within 30 days after its execution.".

Contracts.

SEC. 2. EXPANSION OF THE DELTA REGION PRESERVATION COMMISSION.

Section 907(a) of Public Law 95-625, as amended, is further amended as follows:

16 USC 230f.

(1) In clause (6), strike "region; and" and insert "region;".

(2) In clause (7), strike "Arts." and insert "Arts; and".

(3) Add the following new clause:

"(8) one member who shall have experience as a folklorist and who is familiar with the cultures of the Mississippi Delta Region appointed by the Secretary of the Smithsonian Institution.".

SEC. 3. SAIPAN HARBOR AND SAN JOSE HARBOR PROJECTS.

Northern Mariana Islands.

(a) There is authorized to be appropriated to the Secretary of the Interior such sums as are necessary for construction of the Saipan harbor project in the Northern Mariana Islands, in accordance with the May 1987 draft feasibility report of the Honolulu District Engineer.

(b) There is authorized to be appropriated such sums as are necessary for project planning, design, and construction for replacement of the main breakwater and for necessary dredging of the San Jose harbor on the Island of Tinian in the Northern Mariana Islands. The cost-sharing provisions of Public Law 99-662 shall apply to the project, and particular consideration shall be given to possible defense uses of the harbor in determining the benefits of this project.

Approved June 28, 1988.

LEGISLATIVE HISTORY—H.R. 2203 (S. 1682):

HOUSE REPORTS: No. 100-611 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-356 accompanying S. 1682 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 23, considered and passed House.
June 6, considered and passed Senate, amended.
June 14, House concurred in Senate amendment.

Public Law 100-356
100th Congress

An Act

To amend the National School Lunch Act to require eligibility for free lunches to be based on the nonfarm income poverty guidelines prescribed by the Office of Management and Budget.

June 28, 1988
[S. 2156]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FREE LUNCH PROGRAM ELIGIBILITY.

Section 9(b)(1)(A) of the National School Lunch Act (42 U.S.C. 1758(b)(1)(A)) is amended—

(1) in the second sentence, by striking out "For the school years ending June 30, 1982, and June 30, 1983, the" and inserting in lieu thereof "The"; and

(2) by striking out the third sentence.

SEC. 2. COMPUTATION OF CASH COMPENSATION TO DISTRICTS UNDER SECTION 14(g)(3) OF THE NATIONAL SCHOOL LUNCH ACT.

(a) IN GENERAL.—Section 14(g)(3)(A) of the National School Lunch Act (42 U.S.C. 1762a(g)(3)(A)) is amended by adding at the end thereof the following new sentences: "The Secretary, in computing losses sustained by any school district under the preceding sentence, shall base such computation on the actual amount of assistance received by such school district under this Act for the school year ending June 30, 1982, including—

"(i) the value of assistance in the form of commodities provided in addition to those provided pursuant to section 6(e) of this Act; and

"(ii) the value of assistance provided in the form of either cash or commodity letters of credit.

The Secretary may provide cash compensation under this subparagraph only to eligible school districts that submit applications for such compensation not later than May 1, 1988.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 14(g)(3)(B) of the National School Lunch Act (42 U.S.C. 1762a(g)(3)(B)) is amended by striking out "$50,000" and inserting in lieu thereof "such sums as may be necessary".

(c) TIME FOR PAYMENT OF CLAIMS.—Section 14(g)(3)(A) of the National School Lunch Act (42 U.S.C. 1762a(g)(3)(A)) is amended by adding at the end thereof the following new sentence: "The Secretary shall complete action on any claim submitted under this subparagraph not later than 45 days after the date of the enactment of this sentence.".

SEC. 3. FUNDS FOR NUTRITION SERVICES AND ADMINISTRATION.

State and local governments.

(a) CONVERSION OF FUNDS.—Section 17(h)(5) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(h)(5)) is amended by adding at the end thereof the following new subparagraphs:

"(D) Following the implementation of an approved cost-saving strategy identified in subsection (h)(5)(A), a State agency may con-

vert, in addition to funds otherwise converted to nutrition services and administration funds under subparagraphs (A), (B), and (C) of subsection (h)(5), food funds initially allocated to the State agency for program food purchases to nutrition services and administration funds. The amount of funds converted shall be limited to an amount sufficient to ensure that there is no more than a 2 percent annual decrease in the State agency's administrative grant per person if a larger decrease would otherwise result from increased program participation due to the cost-saving system of the State.

"(E) For each such State agency, the total amount of funds transferred from any fiscal year shall not exceed the amounts set forth in section 17(i)(3)(D).".

(b) COST-SAVINGS SYSTEMS.—Section 17(i)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(i)(3)) is amended by adding at the end thereof the following new subparagraph:

"(D) For State agencies implementing approved cost-savings strategies as identified in subsection (h)(5)(A), not more than 5 percent of the amount of funds allocated under this section to such a State agency for supplemental foods for the fiscal year in which the system is implemented, and at the discretion of the Secretary, up to 5 percent of the amount of funds allocated to such a State agency for the fiscal year following the fiscal year in which the system is implemented, may be expended by the State agency for expenses incurred under this section for supplemental foods during the succeeding fiscal year.".

Approved June 28, 1988.

LEGISLATIVE HISTORY—S. 2156:

CONGRESSIONAL RECORD, Vol. 134 (1988):
May 27, considered and passed Senate.
June 13, considered and passed House.

Public Law 100-357
100th Congress

An Act

To amend the Energy Policy and Conservation Act to provide for Federal energy conservation standards for fluorescent lamp ballasts.

June 28, 1988
[S. 2167]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Appliance Energy Conservation Amendments of 1988.
42 USC 6201 note.

SECTION 1. SHORT TITLE.

This Act may be referred to as the "National Appliance Energy Conservation Amendments of 1988".

SEC. 2. AMENDMENTS FOR FLUORESCENT LAMP BALLASTS.

(a) DEFINITION.—(1) Section 321(a) of the Energy Policy and Conservation Act (42 U.S.C. 6291(a)) is amended by adding the following new paragraph at the end:

"(29)(A) The term 'fluorescent lamp ballast' means a device which is used to start and operate fluorescent lamps by providing a starting voltage and current and limiting the current during normal operation.

"(B) The term 'ANSI standard' means a standard developed by a committee accredited by the American National Standards Institute.

"(C) The term 'ballast efficacy factor' means the relative light output divided by the power input of a fluorescent lamp ballast, as measured under test conditions specified in ANSI standard C82.2-1984, or as may be prescribed by the Secretary.

"(D)(i) The term 'F40T12 lamp' means a nominal 40 watt tubular fluorescent lamp which is 48 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.1-1978(R1984).

"(ii) The term 'F96T12 lamp' means a nominal 75 watt tubular fluorescent lamp which is 96 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.3-1978(R1984).

"(iii) The term 'F96T12HO lamp' means a nominal 110 watt tubular fluorescent lamp which is 96 inches in length and one-and-a-half inches in diameter, and conforms to ANSI standard C78.1-1978(R1984).

"(E) The term 'input current' means the root-mean-square (RMS) current in amperes delivered to a fluorescent lamp ballast.

"(F) The term 'luminaire' means a complete lighting unit consisting of a fluorescent lamp or lamps, together with parts designed to distribute the light, to position and protect such lamps, and to connect such lamps to the power supply through the ballast.

"(G) The term 'ballast input voltage' means the rated input voltage of a fluorescent lamp ballast.

"(H) The term 'nominal lamp watts' means the wattage at which a fluorescent lamp is designed to operate.

"(I) The term 'power factor' means the power input divided by the product of ballast input voltage and input current of a fluorescent lamp ballast, as measured under test conditions specified in ANSI standard C82.2-1984, or as may be prescribed by the Secretary.

"(J) The term 'power input' means the power consumption in watts of a ballast and fluorescent lamp or lamps, as determined in accordance with the test procedures specified in ANSI standard C82.2-1984, or as may be prescribed by the Secretary.

"(K) The term 'relative light output' means the light output delivered through the use of a ballast divided by the light output delivered through the use of a reference ballast, expressed as a percent, as determined in accordance with the test procedures specified in ANSI standard C82.2-1984, or as may be prescribed by the Secretary.

"(L) The term 'residential building' means a structure or portion of a structure which provides facilities or shelter for human residency, except that such term does not include any multifamily residential structure of more than three stories above grade.".

Commerce and trade.

(2) Section 321(a)(1) of such Act (42 U.S.C. 6291(a)(1)) is amended by inserting the following before the period at the end thereof: ", except that such term includes fluorescent lamp ballasts distributed in commerce for personal or commercial use or consumption.".

(3) Section 321(a)(6)(B) of such Act (42 U.S.C. 6291(a)(6)(B)) is amended by striking out "(13)" and inserting in lieu thereof "(14)".

(b) COVERAGE.—Section 322(a) of such Act (42 U.S.C. 6292(a)) is amended—

(1) by redesignating paragraph (13) as paragraph (14); and

(2) by inserting after paragraph (12) the following:

"(13) Fluorescent lamp ballasts.".

(c) TEST PROCEDURES.—Section 323(b) of such Act (42 U.S.C. 6293(b)) is amended by adding at the end the following:

"(5) With respect to fluorescent lamp ballasts manufactured on or after January 1, 1990, and to which standards are applicable under section 325, the Secretary shall prescribe test procedures that are in accord with ANSI standard C82.2-1984 or other test procedures determined appropriate by the Secretary.".

(d) LABELING.—Section 324 of such Act (42 U.S.C. 6294) is amended—

(1) in subsection (a)(2)—

(A) by striking out "(2) The" and inserting in lieu thereof "(2)(A) The"; and

(B) by adding at the end the following:

"(B) The Commission shall prescribe labeling rules under this section applicable to the covered product specified in paragraph (13) of section 322(a) and to which standards are applicable under section 325. Such rules shall provide that the labeling of any fluorescent lamp ballast manufactured on or after January 1, 1990, will indicate conspicuously, in a manner prescribed by the Commission under subsection (b) by July 1, 1989, a capital letter 'E' printed within a circle on the ballast and on the packaging of the ballast or of the luminaire into which the ballast has been incorporated.".

(2) by striking out "(13)" and inserting in lieu thereof "(14)" in subsection (a)(3) and in paragraphs (1)(B), (3), and (5) of subsection (b); and

(3) by adding at the end of subsection (c) the following;

"(7) Paragraphs (1), (2), (3), (5), and (6) of this subsection shall not apply to the covered product specified in paragraph (13) of section 322.".

(e) STANDARDS.—(1) Subsection (g) of section 325 of such Act (42 U.S.C. 6295(g)) is amended—

(A) by inserting "; FLUORESCENT LAMP BALLASTS;" after "DRYERS" in the heading; and

(B) by adding at the end the following:

"(5) Except as provided in paragraph (6), each fluorescent lamp ballast—

"(A)(i) manufactured on or after January 1, 1990;

"(ii) sold by the manufacturer on or after April 1, 1990; or

"(iii) incorporated into a luminaire by a luminaire manufacturer on or after April 1, 1991; and

"(B) designed—

"(i) to operate at nominal input voltages of 120 or 277 volts;

"(ii) to operate with an input current frequency of 60 Hertz; and

"(iii) for use in connection with an F40T12, F96T12, or F96T12HO lamps;

shall have a power factor of 0.90 or greater and shall have a ballast efficacy factor not less than the following:

Application for Operation of	Ballast Input Voltage	Total Nominal Lamp Watts	Ballast Efficacy Factor
one F40T12 lamp	120	40	1.805
	277	40	1.805
two F40T12 lamps	120	80	1.060
	277	80	1.050
two F96T12 lamps	120	150	0.570
	277	150	0.570
two F96T12HO lamps	120	220	0.390
	277	220	0.390

"(6) The standards described in paragraph (5) do not apply to (A) a ballast which is designed for dimming or for use in ambient temperatures of 0° F or less, or (B) a ballast which has a power factor of less than 0.90 and is designed for use only in residential building applications.

"(7)(A) The Secretary shall publish a final rule no later than January 1, 1992, to determine if the standards established under paragraph (5) should be amended, including whether such standards should be amended so that they would be applicable to ballasts described in paragraph (6) and other fluorescent lamp ballasts. Such rule shall contain such amendment, if any, and provide that the amendment shall apply to products manufactured on or after January 1, 1995.

"(B) After January 1, 1992, the Secretary shall publish a final rule no later than five years after the date of publication of a previous final rule. The Secretary shall determine in such rule whether to amend the standards in effect for fluorescent lamp ballasts, including whether such standards should be amended so that they would be applicable to additional fluorescent lamp ballasts.

"(C) Any amendment prescribed under subparagraph (B) shall apply to products manufactured after a date which is five years after—

"(i) the effective date of the previous amendment; or

"(ii) if the previous final rule did not amend the standards, the earliest date by which a previous amendment could have been effective;

except that in no case may any amended standard apply to products manufactured within three years after publication of the final rule establishing such amended standard.".

(2) Subsection (i) of section 325 of such Act (42 U.S.C. 6295(i)) is amended by striking out "(13)" in paragraphs (1) and (2) and inserting in lieu thereof "(14)".

(3) Subsection (e)(1)(C) of section 325 of such Act (42 U.S.C. 6295(e)(1)(C)) is amended by inserting "Volume" after "Rated Storage".

(4) Section 325 of such Act (42 U.S.C. 6295) is amended—

(A) in subsection (j)(B)—

(i) by inserting "fluorescent lamp ballasts," after "clothes dryers,"; and

(ii) by striking out "hearing" and inserting in lieu thereof "heating"; and

(B) in subsection (k)—

(i) by inserting "and in paragraph (13)" after "(11)" in paragraph (1); and

(ii) by inserting "fluorescent lamp ballasts," after "clothes dryers," in paragraph (3)(B).

(f) EFFECT ON OTHER LAW.—(1) Section 327(b)(1) of such Act (42 U.S.C. 6297(b)(1)) is amended by inserting before the semicolon at the end the following: ", or in the case of any portion of any regulation which establishes requirements for fluorescent lamp ballasts, was prescribed or enacted before the date of the enactment of the National Appliance Energy Conservation Amendments of 1988".

(2) Section 327(b)(4) of such Act (42 U.S.C. 6297(b)(4)) is amended by inserting before the semicolon at the end the following: ", or is a regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 325(g) is applicable".

(3) Section 327(c)(1) of such Act (42 U.S.C. 6297(c)(1)) is amended by inserting before the semicolon at the end the following: ", except that a State regulation (or portion thereof) regulating fluorescent lamp ballasts other than those to which paragraph (5) of section 325(g) is applicable shall be effective only until the effective date of a standard that is prescribed by the Secretary under paragraph (7) of such section and is applicable to such ballasts". State and local governments.

Approved June 28, 1988.

LEGISLATIVE HISTORY—S. 2167 (H.R. 4158):

HOUSE REPORTS: No. 100-685 accompanying H.R. 4158 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-345 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 19, considered and passed Senate.
June 13, H.R. 4158 considered and passed House; proceedings vacated and S. 2167 passed in lieu.

Public Law 100-358
100th Congress

An Act

June 29, 1988
[H.R. 3927]

To amend the United States Housing Act of 1937 to establish a separate program to provide housing assistance for Indians and Alaska Natives.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Housing Act of 1988.
42 USC 1437aa note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Indian Housing Act of 1988".

SEC. 2. ESTABLISHMENT OF SEPARATE PROGRAM OF ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES.

The United States Housing Act of 1937 is amended by adding at the end the following new title:

"TITLE II—ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES

42 USC 1437aa.

"SEC. 201. ESTABLISHMENT OF SEPARATE PROGRAM OF ASSISTED HOUSING FOR INDIANS AND ALASKA NATIVES.

"(a) GENERAL AUTHORITY.—The Secretary shall carry out programs to provide lower income housing on Indian reservations and other Indian areas in accordance with the provisions of this title.

Contracts.

"(b) APPLICABILITY OF TITLE I.—

"(1) IN GENERAL.—Except as otherwise provided in this title, the provisions of title I shall apply to lower income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority.

"(2) PUBLIC HOUSING.—No provision of title I (or of any other law specifically modifying the public housing program under title I) that is enacted after the date of the enactment of the Indian Housing Act of 1988 shall apply to public housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority, unless the provision explicitly provides for such applicability.

Animals.
Aged persons.
Handicapped persons.

"(c) INAPPLICABILITY OF CERTAIN REQUIREMENTS.—Lower income housing developed or operated pursuant to a contract between the Secretary and an Indian housing authority shall not be subject to section 227 of the Housing and Urban-Rural Recovery Act of 1983 (relating to pet ownership in assisted housing for the elderly or handicapped).

42 USC 1437bb.

"SEC. 202. MUTUAL HELP HOMEOWNERSHIP OPPORTUNITY PROGRAM.

"(a) ESTABLISHMENT.—The Secretary shall carry out a mutual help homeownership opportunity program for Indian families in accordance with this section. The program shall be designed to meet the homeownership needs of Indian families on Indian reservations

and other Indian areas, including Indian families whose incomes exceed the levels established for lower income families.

"(b) FINANCIAL ASSISTANCE.—The Secretary may, to the extent provided in appropriation Acts, enter into contracts with Indian housing authorities under title I to provide financial assistance for the development, acquisition, operation, and improvement of housing projects under this section. Contracts.

"(c) ELIGIBLE PROJECTS.—

"(1) PROJECT TYPES.—Projects for which assistance may be provided under this section may include single-family detached dwellings and other single-family dwellings (including row houses).

"(2) FORMS OF OWNERSHIP.—In addition to fee simple ownership and other forms of ownership, the Secretary may permit and facilitate cooperative ownership for any project assisted under this section, if the Indian housing authority requests cooperative ownership and the Secretary determines such ownership to be appropriate for the project.

"(3) PROPERTY STANDARDS.—Property standards for projects assisted under this section shall be established by regulation, in accordance with section 205. The standards shall—

"(A) provide sufficient flexibility to permit the use of different designs and materials; and

"(B) include cost-effective energy conservation performance standards designed to ensure the lowest total construction and operating costs. Energy. Conservation.

"(d) ELIGIBLE FAMILIES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), assistance under this section shall be limited to Indian lower income families on Indian reservations and other Indian areas.

"(2) EXCEPTION.—

"(A) DEMONSTRATED NEED.—An Indian housing authority may provide assistance under this section to families on Indian reservations and other Indian areas whose incomes exceed the levels established for lower income families, if the Indian housing authority demonstrates to the satisfaction of the Secretary that there is a need for housing for such families that cannot reasonably be met without such assistance. An Indian housing authority may provide assistance under this section to any non-Indian family on an Indian reservation or other Indian area if the Indian housing authority determines that the presence of the family on the Indian reservation or other Indian area is essential to the well-being of Indian families and the need for housing for the family cannot reasonably be met without such assistance.

"(B) LIMITATION ON NUMBER OF UNITS.—The number of dwelling units in any project assisted under this section that may be occupied by or reserved for families on Indian reservations and other Indian areas whose incomes exceed the levels established for lower income families may not exceed whichever of the following is higher:

"(i) 10 PERCENT.—10 percent of the dwelling units in the project.

"(ii) 5 UNITS.—5 dwelling units.

"(e) MUTUAL HELP AND OCCUPANCY AGREEMENT.—Each Indian housing authority operating a program under this section shall

require each family selected for housing under this section to enter into a mutual help and occupancy agreement. The agreement shall provide the following:

"(1) FAMILY CONTRIBUTION.—

"(A) GENERAL REQUIREMENT.—The family shall agree to contribute toward the development cost of a project in the form of land, labor, cash, or materials or equipment. The value of the contribution of each family shall not be less than $1,500.

"(B) CONTRIBUTION BY INDIAN TRIBE.—Contributions other than labor may be made by an Indian tribe on behalf of a family.

"(2) MONTHLY PAYMENT.—

"(A) CALCULATION.—The family shall agree to make a monthly payment to the Indian housing authority that is equal to whichever of the following is higher:

"(i) PERCENTAGE OF ADJUSTED INCOME.—An amount computed by—

"(I) multiplying the monthly adjusted income of the family by a percentage that is not less than 15 percent and not more than 30 percent, as determined by the Indian housing authority to be appropriate; and

"(II) subtracting the estimated monthly payments of the family for the reasonable use of utilities (excluding telephone service).

"(ii) ADMINISTRATION CHARGE.—The amount budgeted by the Indian housing authority for monthly operating expenses on the dwelling of the family, excluding any operating cost for which operating assistance is provided by the Secretary under section 9.

"(B) OTHER APPLICABLE LAW.—Monthly payments under this section shall be subject to section 203 of the Housing and Community Development Act of 1974.

"(3) MAINTENANCE AND UTILITIES.—The family shall be responsible for the maintenance and monthly utility expenses of the dwelling. The Indian housing authority shall have in effect procedures determined by the Secretary to be sufficient for ensuring the timely periodic maintenance of the dwelling by the family.

Contracts.

"(4) HOMEOWNERSHIP OPPORTUNITIES.—The Indian housing authority shall afford the family an opportunity to purchase the dwelling under a lease-purchase, mortgage, or loan agreement with the Indian housing authority or any other qualified entity, if the Indian housing authority determines (in accordance with objective standards and procedures established by the Secretary after consultation with Indian housing authorities) that the family is able to meet the obligations of homeownership.

"(f) SELF-HELP HOUSING PROGRAM.—

"(1) ESTABLISHMENT.—The Secretary shall establish a self-help housing program for projects assisted under this section.

"(2) REQUIREMENTS.—In the case of any project approved by the Secretary for participation in the self-help housing program—

"(A) each family shall make a contribution under subsection (e)(1) in the form of labor in accordance with labor contribution requirements similar to the requirements ap-

plicable under the mutual self-help housing program established in section 523 of the Housing Act of 1949; and

"(B) the Secretary shall provide each family with technical and supervisory assistance similar to the assistance available under the mutual self-help housing program established in section 523 of the Housing Act of 1949.

"(3) APPLICATIONS.—Any Indian housing authority may submit an application to the Secretary for inclusion of a project assisted under this section in the self-help housing program.

"SEC. 203. ADDITIONAL PROVISIONS. 42 USC 1437cc.

"(a) PUBLIC HOUSING MAXIMUM CONTRIBUTIONS.—In determining the maximum contributions that may be made by the Secretary to an Indian housing authority for development of a public housing project (including a mutual help homeownership opportunity project under this title), the Secretary shall consider all relevant factors, including—

"(1) the logistical problems associated with projects of remote location, low density, or scattered sites; and

"(2) the availability of skilled labor and acceptable materials.

"(b) RELATED FACILITIES AND SERVICES.—The Secretary shall take such actions as may be necessary to ensure the timely and efficient provision, through the Interdepartmental Agreement on Indian Housing, of any roads, water supply and sewage facilities, and electrical and fuel distribution systems that are required for completion and occupancy of public housing projects assisted under this title (including mutual help homeownership opportunity projects). Highways. Water. Waste disposal. Utilities.

"(c) ACCESSIBILITY TO PHYSICALLY HANDICAPPED PERSONS.—The Secretary shall, in accordance with Public Law 90-480 (42 U.S.C. 4151 et seq.; commonly known as the Architectural Barriers Act of 1968) and other applicable law, require each Indian housing authority to give proper consideration to the needs of physically handicapped persons for ready access to, and use of, lower income housing assisted under this title.

"SEC. 204. ANNUAL REPORT. 42 USC 1437dd.

"The Secretary shall include in the annual report under section 8 of the Department of Housing and Urban Development Act—

"(1) a description of the actions taken to carry out the provisions of the Housing and Community Development Act of 1987 that relate to Indian housing;

"(2) an evaluation of the status of the program of single-family mortgage insurance for Indians and Alaska Natives under section 248 of the National Housing Act;

"(3) an assessment of the housing needs of native Hawaiians and an evaluation of current Federal programs designed to meet the needs, including programs of housing assistance for lower income families and the program of single-family mortgage insurance for native Hawaiians under section 247 of the National Housing Act;

"(4) recommendations for resolving concerns relating to Indian housing authorities that are authorized to serve both Indians and non-Indians; and

"(5) a description of actions taken to ensure the timely and efficient provision, through the Interdepartmental Agreement on Indian Housing, of any roads, water supply and sewage facilities, and electrical and fuel distribution systems that are

required for completion and occupancy of public housing projects assisted under this title (including mutual help homeownership opportunity projects).

42 USC 1437ee. "SEC. 205. REGULATIONS.

"(a) ISSUANCE.—The Secretary shall issue regulations to carry out this title and the amendments made by the Indian Housing Act of 1988. The regulations shall be issued in accordance with subsections (b) through (e) of section 553 of title 5, United States Code.

"(b) CONSULTATION WITH INDIAN HOUSING AUTHORITIES.—In formulating proposed regulations under this section, the Secretary shall consult with Indian housing authorities.

"(c) EFFECTIVE DATE.—The Secretary shall issue regulations under this section to become effective before the expiration of the 90-day period beginning on the date of the enactment of the Indian Housing Act of 1988.".

SEC. 3. CONTINUED AVAILABILITY OF FUNDS.

42 USC 1437c. Section 5(c) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(8) Any amount available for Indian housing under subsection (a) that is recaptured shall be used only for such housing.".

SEC. 4. DEFINITIONS.

(a) ADJUSTED INCOME.—Section 3(b)(5)(D) of the United States
42 USC 1437a. Housing Act of 1937 is amended—

(1) by inserting "(i)" after "(D)"; and

(2) by inserting before the period at the end the following: "; or (ii) excessive travel expenses, not to exceed $25 per family per week, for employment or education related travel, except that this clause shall apply only to families assisted by Indian housing authorities".

(b) PUBLIC HOUSING AGENCY.—Section 3(b)(6) of the United States Housing Act of 1937 is amended by adding at the end the following: "The term includes any Indian housing authority.".

(c) STATE.—Section 3(b)(7) of the United States Housing Act of 1937 is amended by striking all that follows "Indian tribes" and inserting a period.

(d) INDIAN.—Section 3(b) of the United States Housing Act of 1937 is amended by adding at the end the following new paragraph:

"(9) The term 'Indian' means any person recognized as being an Indian or Alaska Native by an Indian tribe, the Federal Government, or any State.".

(e) INDIAN AREA.—Section 3(b) of the United States Housing Act of 1937 (as amended by subsection (d) of this section) is further amended by adding at the end of the following new paragraph:

"(10) The term 'Indian area' means the area within which an Indian housing authority is authorized to provide lower income housing.".

(f) INDIAN HOUSING AUTHORITY.—Section 3(b) of the United States Housing Act of 1937 (as amended by subsection (e) of this section) is further amended by adding at the end the following new paragraph:

"(11) The term 'Indian housing authority' means any entity that—

"(A) is authorized to engage in or assist in the development or operation of lower income housing for Indians; and

"(B) is established—

"(i) by exercise of the power of self-government of an Indian tribe independent of State law; or

"(ii) by operation of State law providing specifically for housing authorities for Indians, including regional housing authorities in the State of Alaska.".

(g) INDIAN TRIBE.—Section 3(b) of the United States Housing Act of 1937 (as amended by subsection (f) of this section) is further amended by adding at the end the following new paragraph:

"(12) The term 'Indian tribe' means any tribe, band, pueblo, group, community, or nation of Indians or Alaska Natives.".

SEC. 5. CONFORMING AMENDMENTS TO TITLE I.

The United States Housing Act of 1937 is amended by inserting before section 1 the following title heading: 42 USC 1437-1437s.

"TITLE I—GENERAL PROGRAM OF ASSISTED HOUSING".

SEC. 6. APPLICABILITY.

The Secretary of Housing and Urban Development may carry out programs to provide lower income housing on Indian reservations and other Indian areas only in accordance with the amendments made by this Act, commencing on whichever of the following occurs earlier:

(1) EFFECTIVE DATE OF REGULATIONS.—The effective date of regulations issued under section 205 of the United States Housing Act of 1937.

(2) 90 DAYS.—The expiration of the 90-day period beginning on the date of the enactment of this Act.

Approved June 29, 1988.

LEGISLATIVE HISTORY—H.R. 3927 (S. 1987):

HOUSE REPORTS: No. 100-604 (Comm. on Banking, Finance and Urban Affairs).
SENATE REPORTS: No. 100-344 accompanying S. 1987 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 10, considered and passed House.
June 10, considered and passed Senate.

Public Law 100-359
100th Congress

Joint Resolution

June 30, 1988
[H.J. Res. 485]

Designating June 26 through July 2, 1988, as "National Safety Belt Use Week".

Whereas safety belts and child safety seats have proven to be effective in reducing highway fatalities and injuries;

Whereas the legislatures of 32 States and the District of Columbia have recognized the benefits of safety belt use and have enacted safety belt use laws;

Whereas these laws apply to nearly 205,000,000 persons;

Whereas child safety seat use laws are in effect in every State;

Whereas as a result of safety belt and child safety seat use laws and other activities, millions of Americans are regularly wearing safety belts and using child safety seats;

Whereas use of these safety systems by all drivers, passengers, and children would prevent thousands of fatalities and injuries each year;

Whereas use of safety belts and child safety seats should be encouraged even as passive restraint systems are phased into the vehicle fleet; and

Whereas numerous public interest and safety organizations are working to encourage more extensive use of safety belts and child safety seats: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That June 26 through July 2, 1988, is designated as "National Safety Belt Use Week", and the President is authorized and requested to issue a proclamation—

(1) to urge the people of the United States—

(A) to wear safety belts and to have their children wear safety belts, and

(B) to use child safety seats, and

(2) to encourage State and local governments, schools, health agencies, public safety and law enforcement agencies, motor vehicle manufacturers, the insurance industry, the military, media organizations, the business community, the entertainment industry, and other concerned organizations and officials to promote greater use of these essential safety devices.

Approved June 30, 1988.

LEGISLATIVE HISTORY—H.J. Res. 485 (S.J. Res. 270):

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 21, considered and passed House.
June 23, considered and passed Senate.

Public Law 100-360
100th Congress

An Act

To amend title XVIII of the Social Security Act to provide protection against catastrophic medical expenses under the medicare program, and for other purposes.

July 1, 1988
[H.R. 2470]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Medicare Catastrophic Coverage Act of 1988.
Aged persons.
Insurance.
Health and medical care.
Health care facilities.
42 USC 1305 note.

SECTION 1. SHORT TITLE; REFERENCES IN ACT; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Medicare Catastrophic Coverage Act of 1988".

(b) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Except as otherwise specifically provided, whenever in this Act an amendment is expressed in terms of an amendment to or repeal of a section or other provision, the reference shall be considered to be made to that section or other provision of the Social Security Act.

(c) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; references in Act; table of contents.

TITLE I—PROVISIONS RELATING TO PART A OF MEDICARE PROGRAM AND SUPPLEMENTAL MEDICARE PREMIUM

Subtitle A—Expansion of Medicare Part A Benefits

Sec. 101. Expanding scope of benefits under part A.
Sec. 102. Deductibles and coinsurance under part A.
Sec. 103. Part A premium for medicare buy-ins.
Sec. 104. Effective dates, transition, and conforming amendments.

Subtitle B—Supplemental Medicare Premium

Sec. 111. Imposition of supplemental medicare premium.
Sec. 112. Establishment of Federal Hospital Insurance Catastrophic Coverage Reserve Fund.
Sec. 113. Study of tax incentives for purchase of coverage for long-term care.

TITLE II—PROVISIONS RELATING TO PART B OF THE MEDICARE PROGRAM AND TO MEDICARE SUPPLEMENTAL HEALTH INSURANCE

Subtitle A—Expansion of Medicare Part B Benefits

Sec. 201. Limitation on medicare part B cost-sharing.
Sec. 202. Coverage of catastrophic expenses for prescription drugs and insulin.
Sec. 203. Coverage of home intravenous drug therapy services.
Sec. 204. Coverage of screening mammography.
Sec. 205. In-home care for certain chronically dependent individuals.
Sec. 206. Extending home health services.
Sec. 207. Research on long-term care services for medicare beneficiaries.
Sec. 208. Study of adult day care services.

Subtitle B—Medicare Part B Monthly Premium and Financing

Sec. 211. Adjustment in medicare part B premium.
Sec. 212. Establishment of Federal Catastrophic Drug Insurance Trust Fund; fund transfers.
Sec. 213. Creation of Medicare Catastrophic Coverage Account.

Subtitle C—Miscellaneous Provisions

Sec. 221. Voluntary certification of medical supplemental health insurance policies.
Sec. 222. Adjustment of contracts with prepaid health plans.
Sec. 223. Mailing of notice of medicare benefits and information describing participating physician program.
Sec. 224. Changes in civil money penalties for certain practices of health maintenance organizations and competitive medical plans.

TITLE III—PROVISIONS RELATING TO THE MEDICAID PROGRAM

Sec. 301. Requiring medicaid buy-in of premiums and cost-sharing for indigent medicare beneficiaries.
Sec. 302. Coverage and payment for pregnant women and infants with incomes below poverty line.
Sec. 303. Protection of income and resources of couple for maintenance of community spouse.

TITLE IV—UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE, OBRA TECHNICAL CORRECTIONS, AND MISCELLANEOUS PROVISIONS

Subtitle A—United States Bipartisan Commission on Comprehensive Health Care

Sec. 401. Establishment.
Sec. 402. Duties.
Sec. 403. Membership.
Sec. 404. Staff and consultants.
Sec. 405. Powers.
Sec. 406. Report.
Sec. 407. Termination.
Sec. 408. Authorization of appropriations.

Subtitle B—OBRA Technical Corrections

Sec. 411. Technical corrections to certain health care provisions in the Omnibus Budget Reconciliation Act of 1987.

Subtitle C—Miscellaneous Provisions

Sec. 421. Maintenance of effort.
Sec. 422. Rate reduction for medicare eligible Federal annuitants.
Sec. 423. Study and reports by the Office of Personnel Management on offering medicare supplemental plans to Federal medicare eligible individuals, and other changes.
Sec. 424. Benefits counseling and assistance demonstration project for certain medicare and medicaid beneficiaries.
Sec. 425. Case management demonstration projects.
Sec. 426. Extensions of expiring provisions.
Sec. 427. Advisory Committee on Medicare Home Health Claims.
Sec. 428. Prohibition of misuse of symbols, emblems, or names in reference to Social Security or Medicare.
Sec. 429. Demonstration projects with respect to chronic ventilator-dependent units in hospitals.

TITLE I—PROVISIONS RELATING TO PART A OF MEDICARE PROGRAM AND SUPPLEMENTAL MEDICARE PREMIUM

Subtitle A—Expansion of Medicare Part A Benefits

SEC. 101. EXPANDING SCOPE OF BENEFITS UNDER PART A.

Section 1812 (42 U.S.C. 1395d) is amended—

(1) in subsection (a), by striking paragraphs (1) through (4) and inserting the following:

"(1) inpatient hospital services;

"(2) extended care services for up to 150 days during any calendar year;

"(3) home health services; and

"(4) in lieu of certain other benefits, hospice care with respect to the individual during up to two periods of 90 days each, a subsequent period of 30 days, and a subsequent extension period with respect to which the individual makes an election under subsection (d)(1).";

(2) by amending subsection (b) to read as follows:

"(b) Payment under this part for services furnished to an individual may not be made for—

"(1) extended care services furnished to the individual during a calendar year after such services have been furnished to the individual for 150 days during that year, or

"(2) inpatient psychiatric hospital services furnished to the individual after such services have been furnished to the individual for a total of 190 days during his lifetime.";

(3) by amending subsection (c) to read as follows:

"(c)(1) If an individual is an inpatient of a psychiatric hospital on the first day of medicare entitlement (as defined in paragraph (4)(A)) payment may not be made under this part during the period described in paragraph (2) for inpatient mental health services (as defined in paragraph (4)(B)) in excess of the number of days specified in paragraph (3).

"(2) The period described in this paragraph—

"(A) begins on the first day of medicare entitlement, and

"(B) ends at the end of the first period of 60 consecutive days thereafter on each of which the individual is not receiving inpatient mental health services.

"(3) The number of days specified in this paragraph for an individual is 150 days less the number of days (during the 150-day period immediately before the first day of medicare entitlement) during which the individual was an inpatient of a psychiatric hospital.

"(4) In this subsection:

"(A) The term 'first day of medicare entitlement' means, for an individual, the first day of the first month for which the individual is entitled to benefits under this part.

"(B) The term 'inpatient mental health services' means—

"(i) inpatient psychiatric hospital services, and

"(ii) inpatient hospital services for an individual who is an inpatient primarily for the diagnosis or treatment of mental illness.";

(4) in subsection (d)—

(A) in paragraph (1), by striking "and one subsequent period of 30 days" and inserting ", a subsequent period of 30 days, and a subsequent extension period", and

(B) in paragraph (2)(B), by inserting "or a subsequent extension period" after "30-day period";

(5) in subsection (e), by striking "post-hospital"; and

(6) by striking subsections (f) and (g).

SEC. 102. DEDUCTIBLES AND COINSURANCE UNDER PART A.

Section 1813 (42 U.S.C. 1395e) is amended—

(1) by amending paragraphs (1) through (3) of subsection (a) to read as follows:

"(1)(A) Subject to subparagraph (C), the amount payable for inpatient hospital services furnished to an individual during the individual's first period of hospitalization to begin during a calendar year shall be reduced by a deduction equal to the inpatient hospital deductible for that year or, if less, the charges imposed with respect to such individual for such services, except that, if the customary charges for such services are greater than the charges so imposed, such customary charges shall be considered to be the charges so imposed.

"(B) For purposes of subparagraph (A), the term 'period of hospitalization' means, with respect to an individual, the period beginning on the first day the individual is furnished inpatient hospital services and ending on the individual's date of discharge (as established by the Secretary for purposes of section 1886) from the hospital (or, in the case of a transfer, hospitals) involved.

"(C) In the case of an individual with respect to whom—

"(i) a period of hospitalization begins during December of any calendar year,

"(ii) an inpatient hospital deductible is imposed with respect to such period of hospitalization, and

"(iii) a period of hospitalization begins during January of the following calendar year,

no inpatient hospital deductible shall be imposed with respect to a period of hospitalization beginning in January of such following year (but such period of hospitalization shall not be taken into account in determining the application of an inpatient hospital deductible for any period of hospitalization beginning for such individual after January 31 of such following year).

Contracts.

"(D) If the Secretary terminates a contract under section 1876 during a year, no inpatient hospital deductible shall be imposed during the remainder of the year in the case of an individual who can demonstrate to the satisfaction of the Secretary that, during a period of enrollment with the organization in the year, the individual was admitted to a hospital for inpatient hospital services for which the organization was obligated to make payment under such section.

"(2)(A) The amount payable to any provider of services under this part for services furnished an individual shall be further reduced by a deduction equal to the expenses incurred for the first three pints of whole blood (or equivalent quantities of packed red blood cells, as defined under regulations) furnished to the individual during each calendar year, except that such deductible for such blood shall in accordance with regulations be appropriately reduced to the extent that there has been a replacement of such blood (or equivalent quantities of packed red blood cells, as so defined); and for such purposes blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual shall be deemed replaced when the institution or other person furnishing such blood (or such equivalent quantities of packed red blood cells, as so defined) is given one pint of blood for each pint of blood (or equivalent quantities of packed red blood cells, as so defined) furnished such individual with respect to which a deduction is made under this sentence.

"(B) The deductible under subparagraph (A) for blood or blood cells furnished an individual in a year shall be reduced to the extent that a deductible has been imposed under section 1833(b) to blood or blood cells furnished the individual in the year.

"(3)(A) The amount payable for extended care services furnished an individual in any calendar year shall be reduced by the coinsurance amount (promulgated under subparagraph (C) for that year) for each day (before the 9th day) on which he is furnished such services during the year.

"(B) Before September 1 of each year (beginning with 1988), the Secretary shall estimate the national average per diem reasonable cost recognized under this title for extended care services which will be furnished in the succeeding calendar year.

"(C) The Secretary shall, in September of each year (beginning with 1988) promulgate the coinsurance amount which shall apply to extended care services furnished in the succeeding year. Such amount shall be equal to 20 percent of the national average per diem cost estimated under subparagraph (B) in that year. If the coinsurance amount determined under the preceding sentence is not a multiple of 50 cents, it shall be rounded to the nearest multiple of 50 cents (or, if it is a multiple of 25 cents but not a multiple of 50 cents, to the next higher multiple of 50 cents).''; and

(2) by striking paragraph (3) of subsection (b).

SEC. 103. PART A PREMIUM FOR MEDICARE BUY-INS.

Subsection (d) of section 1818 (42 U.S.C. 1395i) is amended to read as follows: 42 USC 1395i-2.

"(d)(1) The Secretary shall, during September of each year (beginning with 1988), estimate the monthly actuarial rate for months in the succeeding year. Such actuarial rate shall be one-twelfth of the amount which the Secretary estimates (on an average, per capita basis) is equal to 100 percent of the benefits and administrative costs which will be payable from the Federal Hospital Insurance Trust Fund for services performed and related administrative costs incurred in the succeeding year with respect to individuals age 65 and over who will be entitled to benefits under this part during that entire year.

"(2) The Secretary shall, during September of each year determine and promulgate the dollar amount which shall be applicable for premiums for months occurring in the following year. Such amount shall be equal to the monthly actuarial rate determined under paragraph (1) for that following year. Any amount determined under the preceding sentence which is not a multiple of $1 shall be rounded to the nearest multiple of $1 (or, if it is a multiple of 50 cents but not a multiple of $1, to the next higher multiple of $1).

"(3) Whenever the Secretary promulgates the dollar amount which shall be applicable as the monthly premium under this section, he shall, at the time such promulgation is announced, issue a public statement setting forth the actuarial assumptions and bases employed by him in arriving at the amount of an adequate actuarial rate for individuals 65 and older as provided in paragraph (1).". Public information.

SEC. 104. EFFECTIVE DATES, TRANSITION, AND CONFORMING AMENDMENTS.

(a) EFFECTIVE DATE.— 42 USC 1395d note.

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this subtitle shall take effect on January 1, 1989, and shall apply—

(A) to the inpatient hospital deductible for 1989 and succeeding years,

(B) to care and services furnished on or after January 1, 1989,

(C) to premiums for January 1989 and succeeding months, and

(D) to blood or blood cells furnished on or after January 1, 1989.

(2) ELIMINATION OF POST-HOSPITAL REQUIREMENT FOR EXTENDED CARE SERVICES.—The amendments made by this subtitle, insofar as they eliminate the requirement (under section 1812(a)(2) of the Social Security Act) that extended care services are only covered under title XVIII of such Act if they are post-hospital extended care services, shall only apply to extended care services furnished pursuant to an admission to a skilled nursing facility occurring on or after January 1, 1989.

42 USC 1395e note.

(b) HOLD HARMLESS PROVISIONS.—In the case of an individual for whom a spell of illness (as defined in section 1861(a) of the Social Security Act, as in effect on December 31, 1988) began before January 1, 1989, and had not yet ended as of such date—

(1) the amendment made to section 1813(a)(1) of such Act shall not apply to services furnished during that spell of illness during 1989 or 1990, and

(2) the amount of any deductible under section 1813(a)(2) of such Act (as amended by this subtitle) shall be reduced during that spell of illness during 1989 or 1990 to the extent the deductible under such section was applied during the spell of illness.

42 USC 1395ww note.

(c) ADJUSTMENTS IN PAYMENTS FOR INPATIENT HOSPITAL SERVICES.—

(1) PPS HOSPITALS.—In adjusting DRG prospective payment rates under section 1886(d) of the Social Security Act, outlier cutoff points under section 1886(d)(5)(A) of such Act, and weighting factors under section 1886(d)(4) of such Act for discharges occurring on or after October 1, 1988, the Secretary of Health and Human Services shall, to the extent appropriate, take into consideration the reductions in payments to hospitals by medicare beneficiaries resulting from the elimination of a day limitation on medicare inpatient hospital services (under the amendments made by section 101).

(2) PPS-EXEMPT HOSPITALS.—In adjusting target amounts under section 1886(b)(3) of the Social Security Act for cost reporting periods beginning on or after October 1, 1988, the Secretary shall, on a hospital-specific basis, take into consideration the reductions in payments to hospitals by medicare beneficiaries resulting from the elimination of a day limitation on medicare inpatient hospital services (under the amendments made by section 101).

(d) MISCELLANEOUS CONFORMING AMENDMENTS.—

(1) Section 1811 (42 U.S.C. 1395c) is amended by striking "hospital, related post-hospital" and inserting "inpatient hospital services, extended care services".

(2) Section 1814 (42 U.S.C. 1395f) is amended—

(A) in paragraphs (2)(B) and (6) of subsection (a), by striking "post-hospital" each place it appears;

(B) in subsection (a)(2)(B), by striking ", for any of the conditions" and all that follows up to the semicolon;

(C) in subsection (a)(7)(A)—

(i) by striking "and" at the end of clause (i),

(ii) by striking the semicolon at the end of clause (ii) and inserting ", and", and

(iii) by adding at the end the following new clause:

"(iii) in a subsequent extension period, the medical director or physician described in clause (i)(II) recertifies at the beginning of the period that the individual is terminally ill;"; and

(D) in subsection (d)(3)—

(i) by striking "60 percent" and "80 percent" and inserting "100 percent" both places, and

(ii) by striking "two-thirds of".

(3) Section 1832(b) (42 U.S.C. 1395k(b)) is amended by striking " 'spell of illness'," and the comma before "and".

(4) Section 1861 (42 U.S.C. 1395x) is amended—

(A) by striking subsection (a);

(B) in subsection (e)—

(i) in the matter before paragraph (1), by striking "paragraph (7) of this subsection, and subsection (i) of this section" and inserting "and paragraph (7) of this subsection",

(ii) in the third sentence, by striking "section 1814(f)(2), and subsection (i) of this section" and inserting "and section 1814(f)(2)",

(iii) in the fifth sentence, by striking ", except for purposes of subsection (a)(2),", and

(iv) by striking the second sentence;

(C) by striking subsection (i);

(D) in subsections (v)(1)(G)(i), (v)(2)(A), and (v)(3), by striking "post-hospital" each place it appears; and

(E) in subsection (y)—

(i) by striking "Post-Hospital" in the heading and by striking "post-hospital" each place it appears,

(ii) in paragraph (1), by striking "(except for purposes of subsection (a)(2))",

(iii) in paragraphs (2) and (3), by striking "spell of illness" and "spell" each place either appears and inserting "year",

(iv) in paragraph (2)(A)(i), by striking "30 days" and inserting "45 days",

(v) in paragraph (3), by striking "one-eighth" and all that follows through "31st day" and inserting "the coinsurance amount established under section 1813(a)(3)(C) for each day before the 46th day", and

(vi) by striking paragraph (4).

(5) Section 1866(d) (42 U.S.C. 1395cc(d)) is amended by striking "post-hospital" each place it appears.

(6) Subsections (d)(1) and (f) of section 1883 (42 U.S.C. 1395tt) are amended by striking "post-hospital" each place it appears.

Subtitle B—Supplemental Medicare Premium

SEC. 111. IMPOSITION OF SUPPLEMENTAL MEDICARE PREMIUM.

(a) GENERAL RULE.—Subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to determination of tax liability) is amended by adding at the end thereof the following new part:

Taxes.

"PART VIII—SUPPLEMENTAL MEDICARE PREMIUM

"Sec. 59B. Supplemental medicare premium.

26 USC 59B.

"SEC. 59B. SUPPLEMENTAL MEDICARE PREMIUM.

"(a) IMPOSITION OF PREMIUM.—In the case of an individual to whom this section applies, there is hereby imposed (in addition to any other amount imposed by this subtitle) for each taxable year a supplemental premium equal to the annual premium for such year determined under subsection (c).

"(b) INDIVIDUALS SUBJECT TO PREMIUM.—This section shall apply to an individual for any taxable year if—

"(1) such individual is a medicare-eligible individual for more than 6 full months beginning in the taxable year, and

"(2) such individual's adjusted income tax liability for the taxable year equals or exceeds $150.

"(c) DETERMINATION OF AMOUNT OF SUPPLEMENTAL PREMIUM.—For purposes of this section—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the annual premium determined under this subsection with respect to any individual for any taxable year shall be equal to the product of—

"(A) the supplemental premium rate determined under subsection (d) or (e) (whichever applies) for the taxable year, multiplied by

"(B) the amount determined by dividing—

"(i) the individual's adjusted income tax liability for the taxable year, by

"(ii) $150.

"(2) LIMITATION ON ANNUAL PREMIUM.—

"(A) YEARS BEFORE 1994.—In the case of any taxable year beginning before 1994, the annual premium determined under this subsection with respect to any individual shall not exceed the limitation determined under the following table:

"In the case of taxable years beginning in:	The limitation is:
1989	$800
1990	850
1991	900
1992	950
1993	1,050.

"(B) YEARS AFTER 1993.—In the case of any taxable year beginning in a calendar year after 1993, the annual premium determined under this subsection with respect to any individual shall not exceed—

"(i) the limitation which would be in effect under this paragraph for taxable years beginning in the preceding calendar year without regard to the last sentence of this subparagraph, increased by

"(ii) the percentage (if any) by which—

"(I) the medicare-part B value for the 2nd preceding calendar year, exceeds

"(II) such value for the 3rd preceding calendar year.

If the limitation determined under the preceding sentence is not a multiple of $50, such limitation shall be rounded to the nearest multiple of $50.

"(C) MEDICARE-PART B VALUE.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'medicare-part B value' means, with respect to any calendar year, an amount equal to the excess of—

"(I) the average per capita part B outlays for the year, over

"(II) 12 times the monthly premium for months in such calendar year established under section 1839 of such Act (without regard to subsections (b), (f), (g)(4), and (g)(5) thereof).

"(ii) AVERAGE PER CAPITA PART B OUTLAYS.—For purposes of clause (i), the term 'average per capita part B outlays' means, with respect to a calendar year—

"(I) the outlays under part B of title XVIII of the Social Security Act for the year, divided by

"(II) the average number of individuals covered under such part during the year.

"(iii) SPECIAL RULE FOR COVERED OUTPATIENT DRUGS.—In applying the limitation under subparagraph (B) with respect to taxable years beginning in any calendar year before 1998, for purposes of this subparagraph—

"(I) the term 'outlays' does not include outlays for covered outpatient drugs (as defined in section 1861(t)(2) of the Social Security Act), and

"(II) the monthly premium shall be computed under clause (i)(II) excluding premiums under section 1839(g) of such Act attributable to the prescription drug monthly premium.

"(3) TABLES.—The annual premium shall be determined under tables which shall be prescribed by the Secretary. Such tables shall be based on the foregoing provisions of this subsection; except that such tables may have adjusted income tax liability brackets of less than $150.

"(d) DETERMINATION OF SUPPLEMENTAL PREMIUM RATE FOR YEARS BEFORE 1994.—In the case of any taxable year beginning before 1994, the supplemental premium rate determined under this subsection shall be the sum of the catastrophic coverage premium rate and the prescription drug premium rate determined under the following table:

"In the case of any taxable year beginning in:	The catastrophic coverage premium rate is:	The prescription drug premium rate is:
1989	$22.50	0
1990	27.14	$10.36
1991	30.17	8.83
1992	30.55	9.95
1993	29.55	12.45.

"(e) SUPPLEMENTAL PREMIUM RATE FOR YEARS AFTER 1993.—

"(1) IN GENERAL.—In the case of any taxable year beginning in a calendar year after 1993, except as provided in paragraph (2), the supplemental premium rate determined under this subsection shall be the sum of—

"(A) the catastrophic coverage premium rate (which would be in effect under this section for taxable years

beginning in the preceding calendar year if paragraph (2) did not apply to any preceding calendar year) adjusted by the percentage determined under paragraph (3) for the calendar year in which the taxable year begins, and

"(B) the prescription drug premium rate (which would be in effect under this section for taxable years beginning in the preceding calendar year if paragraph (2) did not apply to any preceding calendar year) adjusted by the percentage determined under paragraph (4) for the calendar year in which the taxable year begins.

"(2) SUPPLEMENTAL PREMIUM RATE CANNOT GO DOWN, AND CANNOT GO UP BY MORE THAN $1.50.—

"(A) IN GENERAL.—In no event shall the supplemental premium rate determined under this subsection for any taxable year beginning in a calendar year after 1993—

"(i) be less than, or

"(ii) exceed by more than $1.50,

the supplemental premium rate in effect under this section for taxable years beginning in the preceding calendar year.

"(B) DETERMINATION OF COMPONENT RATES WHERE SUBPARAGRAPH (A) APPLIES.—If subparagraph (A) affects the supplemental premium rate determined under this subsection for taxable years beginning in any calendar year, the supplemental premium rate determined after the application of subparagraph (A) shall be allocated between the catastrophic coverage premium rate and the prescription drug premium rate on the basis of the respective amounts of such rates without regard to the application of subparagraph (A).

"(3) PERCENTAGE ADJUSTMENT FOR CATASTROPHIC COVERAGE PREMIUM RATE.—

"(A) IN GENERAL.—The percentage determined under this paragraph for any calendar year shall be the sum of—

"(i) the outlay-premium percentage, and

"(ii) the reserve account percentage.

For purposes of the preceding sentence, negative percentages shall be taken into account as negatives.

"(B) OUTLAY-PREMIUM PERCENTAGE.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the outlay-premium percentage for any calendar year is—

"(I) the percentage by which the per capita catastrophic outlays in the 2nd preceding calendar year exceed such outlays in the 3rd preceding calendar year, reduced (including below zero) by

"(II) the percentage by which the per capita catastrophic coverage premium liability for the 2nd preceding calendar year exceeds such liability for the 3rd preceding calendar year (determined as if the catastrophic coverage premium rate for the 2nd preceding calendar year were the same as the rate in effect for the 3rd preceding calendar year).

If there is no excess described in subclause (I) or (II), such subclause shall be applied by substituting 'is less than' for 'exceeds' and the percentage determined with such substitution shall be taken into account as a negative percentage.

"(ii) ADJUSTMENT FOR MORE RECENT INCREASES IN COST-OF-LIVING.—If—

"(I) the percentage increase in the CPI for the 12-month period ending with May of the preceding calendar year, exceeds (or is less than)

"(II) such increase for the 12-month period ending with May of the 2nd preceding calendar year,

by at least 1 percentage point, the percentage determined under clause (i) for the calendar year shall be adjusted up (or down, respectively) by ½ of the amount by which such excess (or shortage, respectively) exceeds 1 percent.

"(C) RESERVE ACCOUNT PERCENTAGE.—

"(i) IN GENERAL.—The reserve account percentage for any calendar year is the percentage which the rate change determined under clause (ii) is of the catastrophic coverage premium rate which would be in effect under this section for taxable years beginning in the preceding calendar year if paragraph (2) did not apply to any preceding calendar year. If there is an excess determined under clause (iii), the percentage determined under the preceding sentence shall be taken into account as a negative percentage.

"(ii) DETERMINATION OF RATE CHANGE.—The rate change determined under this clause for any calendar year is the adjustment in the catastrophic coverage premium rate (otherwise in effect for taxable years beginning in the 2nd preceding calendar year) which the Secretary determines would have resulted in an aggregate increase (or decrease) in the premiums imposed by this section for such taxable years equal to 63 percent of the shortfall or excess determined under clause (iii) for the calendar year.

"(iii) DETERMINATION OF SHORTFALL OR EXCESS.—The shortfall (or excess) determined under this clause for any calendar year is the amount by which—

"(I) 20 percent of the outlays during the 2nd preceding calendar year from the Medicare Catastrophic Coverage Account created under section 1841B of the Social Security Act, exceeds (or is less than)

"(II) the balance in such Account as of the close of such 2nd preceding calendar year (determined by taking into account previous premium increases by reason of the reserve account percentage under this subsection or by reason of section 1839(g)(2) of the Social Security Act but not credited to the Account).

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) PER CAPITA CATASTROPHIC OUTLAYS.—The term 'per capita catastrophic outlays' means, with respect to any calendar year, the amount (as determined by the Secretary of Health and Human Services) equal to—

"(I) the outlays during such year from the Medicare Catastrophic Coverage Account created under section 1841B of the Social Security Act, divided by

"(II) the average number of individuals entitled to receive benefits under part A of title XVIII of the Social Security Act during such calendar year.

"(ii) PER CAPITA CATASTROPHIC COVERAGE PREMIUM LIABILITY.—The term 'per capita catastrophic coverage premium liability' means, with respect to any calendar year, the amount (as determined by the Secretary) equal to—

"(I) the aggregate premiums imposed by this section for taxable years beginning in such calendar year to the extent attributable to the catastrophic coverage premium rate, divided by

"(II) the number of individuals who had premium liability under this section for such taxable years.

"(iii) PERCENTAGE INCREASE IN CPI.—The percentage increase in the CPI for any 12-month period shall be the percentage by which the Consumer Price Index (as defined in section 1(f)(5)) for the last month of such period exceeds such Index for the last month of the preceding 12-month period.

"(4) PERCENTAGE ADJUSTMENT FOR PRESCRIPTION DRUG PREMIUM RATE.—The percentage determined under this paragraph for any calendar year shall be determined under rules similar to the rules of paragraph (3); except that—

"(A) in determining the prescription drug premium rate for any calendar year before 1998, the following percentages shall be substituted for 20 percent in paragraph (3)(C)(iii)(I):

"In the case of calendar year:	The percentage is:
1994	75
1995	50
1996	25
1997	25,

"(B) no adjustment by reason of the outlay-premium percentage shall be made for any calendar year before 1998,

"(C) any reference to the Medicare Catastrophic Coverage Account shall be treated as a reference to the Federal Catastrophic Drug Insurance Trust Fund, and

"(D) any reference to the catastrophic coverage premium rate shall be treated as a reference to the prescription drug premium rate.

"(f) DEFINITIONS AND SPECIAL RULES.—

"(1) MEDICARE-ELIGIBLE INDIVIDUAL.—For purposes of this section—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'medicare-eligible individual' means, with respect to any month, any individual who is entitled to (or, on application without the payment of an additional premium, would be entitled to) benefits under part A of title XVIII of the Social Security Act for such month.

"(B) EXCEPTIONS.—The term 'medicare-eligible individual' shall not include for any month—

"(i) any individual who is entitled to benefits under part A of title XVIII of the Social Security Act for such month solely by reason of the payment of a premium under section 1818 of such Act, or

"(ii) any qualified nonresident.

"(2) SPECIAL RULES FOR JOINT RETURNS.—In the case of a joint return—

"(A) WHERE PREMIUM APPLIES TO BOTH SPOUSES.—If both spouses meet the requirements of subsection (b)(1) for the taxable year—

"(i) such spouses shall be treated as 1 individual for purposes of applying this section, except that

"(ii) the limitation of subsection (c)(2) shall be twice the amount which would otherwise apply.

"(B) WHERE PREMIUM APPLIES TO ONLY 1 SPOUSE.—If only 1 spouse meets the requirements of subsection (b)(1) for the taxable year—

"(i) this section shall be applied separately with respect to such spouse, and

"(ii) the adjusted income tax liability of such spouse shall be determined under paragraph (4)—

"(I) by taking into account one-half of the income tax liability determined with respect to the joint return, and

"(II) by taking into account under clause (ii) of paragraph (4)(C) only amounts attributable to such spouse.

"(3) SEPARATE RETURNS BY MARRIED INDIVIDUALS.—If an individual is married as of the close of the taxable year (within the meaning of section 7703) but does not file a joint return for the taxable year and such individual does not live apart from his spouse at all times during the taxable year—

"(A) the limitation of subsection (c)(2) shall be twice the amount which would otherwise apply if both the individual and the spouse of the individual meet the requirements of subsection (b)(1) with respect to the calendar year in which the taxable year begins (determined without regard to subparagraph (B) of this paragraph),

"(B) if such individual does not otherwise meet the requirements of subsection (b)(1), such individual shall be treated as meeting the requirements of subsection (b)(1) for the taxable year if the spouse of such individual meets such requirements with respect to the calendar year in which the taxable year begins, and

"(C) in applying subparagraph (C) of paragraph (4)—

"(i) the dollar limitation of clause (i) thereof shall be ½ of the amount which applies to a joint return where both spouses meet the requirements of subsection (b)(1), and

"(ii) the individual shall be deemed to receive social security benefits during the taxable year in an amount not less than ½ of the aggregate social security benefits received by such individual and his spouse during the taxable year.

"(4) ADJUSTED INCOME TAX LIABILITY.—For purposes of this section—

"(A) IN GENERAL.—The term 'adjusted income tax liability' means an amount equal to the income tax liability, reduced by the excess (if any) of—

"(i) 15 percent of the governmental retiree exclusion amount (if any) determined under subparagraph (C) for the taxable year, over

"(ii) the amount of the credit allowable under section 22 for the taxable year.

"(B) INCOME TAX LIABILITY.—The term 'income tax liability' means—

"(i) the tax imposed by this chapter (determined without regard to this section), reduced by

"(ii) the credits allowed under part IV of this subchapter (other than under sections 31, 33, and 34).

"(C) GOVERNMENTAL RETIREE EXCLUSION AMOUNT.—The governmental retiree exclusion amount for any taxable year is the lesser of—

"(i) $6,000 ($9,000 in the case of a joint return where both spouses meet the requirements of subsection (b)(1) for the taxable year), or

"(ii) the amount which is received as an annuity (whether for a period certain or during 1 or more lives) under a governmental plan (as defined in the 1st sentence of section 414(d)) and which is includible in gross income under section 72 for the taxable year.

The amount determined under the preceding sentence shall be reduced by the social security benefits (as defined in section 86(d)) received during the taxable year.

"(D) INDEXING.—In the case of any taxable year beginning in a calendar year after 1989, subparagraph (C)(i) shall be applied by substituting for each dollar amount contained in such subparagraph an amount equal to—

"(i) the dollar amount which would be in effect under subparagraph (C)(i) for taxable years beginning in the preceding calendar year without regard to the last sentence of this subparagraph, increased by

"(ii) the cost-of-living adjustment determined under section 215(i) of the Social Security Act for the calendar year in which the taxable year begins.

Any amount determined under the preceding sentence shall be rounded to the nearest multiple of $50.

"(5) QUALIFIED NONRESIDENT.—

"(A) IN GENERAL.—For purposes of paragraph (1), the term 'qualified nonresident' means, with respect to any month during the taxable year, any individual if—

"(i) such individual is not furnished during such taxable year or any of the 4 preceding taxable years any service for which a claim for payment is made under part A of title XVIII of the Social Security Act,

"(ii) such individual is not entitled to benefits under part B of title XVIII of the Social Security Act at any time during such taxable year or any of the 4 preceding taxable years, and

"(iii) such individual is present in a foreign country or countries for at least 330 full days during—

"(I) the 12-month period ending at the close of the taxable year, and

"(II) each of the 4 consecutive preceding 12-month periods.

"(B) SPECIAL RULE FOR INDIVIDUALS WHO DIE DURING THE TAXABLE YEAR.—An individual who dies during the taxable year shall be treated as meeting the requirement of subparagraph (A)(iii)(I) if such individual is present in a foreign country or countries for at least a number of full days equal to 90 percent of the days during such taxable year before the date of death.

"(6) COORDINATION WITH OTHER PROVISIONS.—

"(A) NOT TREATED AS MEDICAL EXPENSE.—For purposes of section 213, the supplemental premium imposed by this section for any taxable year shall not be treated as an expense paid for medical care.

"(B) NOT TREATED AS TAX FOR CERTAIN PURPOSES.—The supplemental premium imposed by this section shall not be treated as a tax imposed by this chapter for purposes of determining—

"(i) the amount of any credit allowable under this chapter, or

"(ii) the amount of the minimum tax imposed by section 55.

"(C) TREATED AS TAX FOR SUBTITLE F.—For purposes of subtitle F, the supplemental premium imposed by this section shall be treated as if it were a tax imposed by section 1.

"(D) SECTION 15 NOT TO APPLY.—Section 15 shall not apply to the supplemental premium imposed by this section.

"(7) SECTION NOT TO AFFECT LIABILITY TO POSSESSIONS, ETC.—This section shall not apply for purposes of determining liability to any possession of the United States. For purposes of sections 932 and 7654, the supplemental premium imposed by this section shall not be treated as a tax imposed by this chapter.

"(8) SHORT TAXABLE YEARS.—In the case of a taxable year of less than 12 months, this section shall be applied under regulations prescribed by the Secretary."

(b) INFORMATION REPORTING.—

(1) Subsection (a) of section 6050F of such Code is amended by striking "and" at the end of paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting after paragraph (1) the following new paragraph: 26 USC 6050F.

"(2) whether any individual meets the requirements of section 59B(b)(1) with respect to the calendar year (determined without regard to section 59B(f)(1)(B)(ii)), and".

(2) Section 6050F(b) of such Code is amended—

(A) by inserting "or making the determination under subsection (a)(2)" after "payments" in paragraph (1), and

(B) by inserting "and the information required under subsection (a)(2)," after "reductions," in paragraph (2).

(3) Section 6050F(c)(1)(A) of such Code is amended by inserting "and the information required under subsection (a)(2)" after "section 86(d)(1)(A)".

(c) CLERICAL AMENDMENT.—The table of parts for subchapter A of chapter 1 of such Code is amended by adding at the end thereof the following new item:

"Part VIII. Supplemental medicare premium."

(d) ANNOUNCEMENT OF SUPPLEMENTAL PREMIUM RATE.—In the case of calendar year 1993 or any calendar year thereafter— 26 USC 59B note.

(1) not later than July 1 of such calendar year, the Secretary of the Treasury or his delegate shall make an announcement of the estimated supplemental premium rate under section 59B of the Internal Revenue Code of 1986 for taxable years beginning in the following calendar year, and

(2) not later than October 1 of such calendar year, the Secretary of the Treasury or his delegate shall make an announcement of the actual supplemental premium rate under such section for such taxable years.

26 USC 59B note.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988.

(2) WAIVER OF ESTIMATED TAX REQUIREMENT FOR YEARS BEGINNING IN 1989.—In the case of a taxable year beginning in 1989, the premium imposed by section 59B of the Internal Revenue Code of 1986 (as added by this section) shall not be treated as a tax for purposes of applying section 6654 of such Code.

SEC. 112. ESTABLISHMENT OF FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND.

(a) IN GENERAL.—Part A of title XVIII is amended by inserting after section 1817 the following new section:

"FEDERAL HOSPITAL INSURANCE CATASTROPHIC COVERAGE RESERVE FUND

42 USC 1395i-1a.

"SEC. 1817A. (a)(1) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Hospital Insurance Catastrophic Coverage Reserve Fund' (in this section referred to as the 'Reserve Fund'). The Reserve Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts appropriated under paragraph (2).

"(2) There are hereby appropriated to the Reserve Fund, from the supplemental premiums imposed by section 59B of the Internal Revenue Code of 1986 attributable to the supplemental catastrophic premium rate, amounts equivalent to 100 percent of the amount of outlays made under this part attributable to the amendments made by the Medicare Catastrophic Coverage Act of 1988. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Reserve Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the premiums, specified in the preceding sentence, paid to or deposited into the Treasury and on the basis of outlays, specified in the previous sentence, made; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the appropriate amounts specified in such sentence. At the close of each year, the transfers under this subsection shall reflect all premiums (described in this paragraph) paid or deposited into the Treasury in the year.

"(3) With respect to monies transferred to the Reserve Fund, no transfers, authorizations of appropriations, or appropriations are permitted.

"(b) The provisions of subsections (b) through (e) of section 1817 shall apply to the Reserve Fund in the same manner as they apply to the Federal Hospital Insurance Trust Fund, except that the Board of Trustees and Managing Trustee of the Reserve Fund shall be composed of the members of the Board of Trustees and the Manag-

ing Trustee, respectively, of the Federal Hospital Insurance Trust Fund.

"(c) In this part, with respect to the Reserve Fund, the terms 'outlays' and 'receipts' mean, with respect to a quarter or other period, gross outlays and receipts, as such terms are employed in the 'Monthly Treasury Statement of Receipts and Outlays of the United States Government (MTS)', as published by the Department of the Treasury, for months in such quarter or other period.".

(b) INTEREST ADJUSTMENT.—In July 1990, the Secretary of the Treasury shall calculate the interest lost to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund due to the lag between the outlays (attributable to the amendments made by this Act) from the Federal Hospital Insurance Trust Fund during 1989 and the transfers made to such Reserve Fund to cover such outlays. Appropriations under section 1817A(a)(2) of the Social Security Act (as inserted by subsection (a)) shall include the amount calculated under the previous sentence. 42 USC 1395i-1a note.

SEC. 113. STUDY OF TAX INCENTIVES FOR PURCHASE OF COVERAGE FOR LONG-TERM CARE.

(a) IN GENERAL.—The Secretary of the Treasury (in this section referred to as the "Secretary") shall conduct a study of Federal tax policies to promote the private financing of long-term care (as defined in subsection (d)). The study shall identify alternative methods of creating incentives, through the tax system, to encourage individuals to purchase insurance coverage for long-term care. The study shall also consider the cost to the United States Treasury and the potential benefits to consumers, including whether the incentives would benefit all or most of the population requiring protection.

(b) CONSULTATION.—The Secretary shall conduct the study required by subsection (a) in consultation with representatives of the insurance industry, providers of long-term care, and consumers.

(c) REPORT.—The Secretary shall report the results of the study required by subsection (a) to the Congress not later than November 30, 1988, together with the Secretary's recommendations for any changes in Federal law that the Secretary determines to be appropriate to promote the private financing of long-term care.

(d) LONG-TERM CARE DEFINED.—For purposes of this section, the term "long-term care" includes care and services provided by nursing homes, home health agencies, and other mechanisms for the delivery of long-term care services.

TITLE II—PROVISIONS RELATING TO PART B OF THE MEDICARE PROGRAM AND TO MEDICARE SUPPLEMENTAL HEALTH INSURANCE

Subtitle A—Expansion of Medicare Part B Benefits

SEC. 201. LIMITATION ON MEDICARE PART B COST-SHARING.

(a) IN GENERAL.—Section 1833 (42 U.S.C. 1395l) is amended—

(1) in subsection (c)—

(A) by striking "subsections (a) and (b)" and inserting "subsection (a) through (c)",

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B),

(C) by striking "this subsection" and inserting "this paragraph", and

(D) by striking "(c)" and inserting "(d)(1)";

(2) by redesignating subsection (d) as paragraph (2);

(3) in subsection (g), by striking "(a) and (b)" and inserting "(a) through (c)"; and

(4) by inserting after subsection (b) the following new subsection:

"(c)(1) Notwithstanding subsections (a) and (b), if an individual has incurred out-of-pocket part B cost sharing (as defined in paragraph (2)) in a calendar year (beginning with 1990) in an amount equal to the part B catastrophic limit (established under paragraph (3)) for the year, payment under this part with respect to any additional incurred expenses in the calendar year shall be made as if—

"(A) the deduction described in the second sentence of subsection (b) (relating to blood) no longer applied, and

"(B) '100 percent' and '0 percent' were substituted for '80 percent' and '20 percent', respectively, each place either appears in subsections (a) and (i)(2), in sections 1834(a)(1)(A), 1834(e)(1)(C), 1835(b)(2), and 1866(a)(2)(A), and in subsections (b)(2) and (b)(3) of section 1881, except as such provisions may apply to in-home care.

"(2) In this subsection, the term 'out-of-pocket part B cost sharing' means, with respect to an individual covered under this part, the amounts of expenses that the individual incurs that are attributable to—

"(A) the deductions established under subsection (b), and

"(B) the difference between the payment amount provided under this part and the payment amount that would be provided if '100 percent' and '0 percent' were substituted for '80 percent' and '20 percent', respectively, each place either appears in subsections (a) and (i)(2), in sections 1834(a)(1)(A), 1834(e)(1)(C), 1835(b)(2), and 1866(a)(2)(A), and in subsections (b)(2) and (b)(3) of section 1881.

"(3)(A) The part B catastrophic limit for 1990 is $1,370. The part B catastrophic limit for any succeeding year shall be such an amount (rounded to the nearest multiple of $1) as the Secretary estimates will result, in that succeeding year, in 7 percent of the average number of individuals enrolled under this part (other than individuals enrolled with an eligible organization under section 1876 or an organization described in subsection (a)(1)(A)) during the year becoming entitled to benefits under this subsection.

"(B) Not later than September 1 of each year (beginning with 1990), the Secretary shall promulgate the part B catastrophic limit under this paragraph for the succeeding year.

Contracts.

"(4) In the case of an organization receiving payment under clause (A) of subsection (a)(1) or under a reasonable cost reimbursement contract under section 1876, in applying paragraph (1), the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect the aggregate increase in payments that would otherwise be made with respect to enrollees in

such an organization if payments were made other than under such clause or such a contract on an individual-by-individual basis.

"(5)(A) Except as provided in subparagraph (B), expenses incurred by a medicare beneficiary for out-of-pocket part B cost-sharing shall be counted (consistent with subparagraph (C)) whether or not, at the time the expenses were incurred, the beneficiary was enrolled in a plan under section 1833(a)(1)(A) or under section 1876. In this paragraph, with respect to a medicare beneficiary enrolled in such a plan, the term 'out-of-pocket part B cost-sharing' includes deductibles and coinsurance under the plan for items and services covered under this part.

"(B) In the case of a medicare beneficiary enrolled in a month in a buy-out plan (as defined in subparagraph (D))—

"(i) expenses incurred by the beneficiary for items and services reimbursed under the plan shall not be treated as out-of-pocket part B cost-sharing for purposes of paragraph (1), but

"(ii) the beneficiary is deemed to have incurred, for each month of such enrollment, expenses for out-of-pocket part B cost-sharing in an amount equal to the actuarial value (with respect to a month in the year involved) of the deductible and coinsurance amounts under part B (as computed by the Secretary for purposes of section 1876(e)(1), other than with respect to covered outpatient drugs) applicable on the average to individuals in the United States.

"(C) The Secretary may not enter into a contract with an organization under section 1876, or provide for payment under section 1833(a)(1)(A) with respect to an organization, with respect to a plan that is not a buy-out plan, unless the organization provides assurances, satisfactory to the Secretary, that— Contracts.

"(i) the organization will maintain and make available, for its enrollees and in coordination with the appropriate carriers under this part, an accounting of expenses incurred in each year under the plan for out-of-pocket part B cost-sharing (as defined in subparagraph (A)); and

"(ii) the organization will not undertake to charge a beneficiary during a year for services for which payment may be made under this part (other than for covered outpatient drugs) after the individual has incurred (whether through the organization or otherwise) out-of-pocket part B cost sharing in the year in an amount equal to the part B catastrophic limit established under paragraph (1) for the year.

"(D) In this paragraph, the term 'buy-out plan' means a plan under section 1833(a)(1)(A) or offered by an organization under section 1876 and with respect to which—

"(i) the actuarial value of the coinsurance and deductibles under the plan with respect to benefits (other than covered outpatient drugs) under this title (as determined by the Secretary),

is less than 50 percent of—

"(ii) the actuarial value of the coinsurance and deductibles for such benefits for all medicare beneficiaries (as determined by the Secretary) applicable on the average to individuals in the United States.

"(E) In this subsection, the term 'medicare beneficiary' means, with respect to a month, an individual covered for benefits under this part for the month.".

(b) LIMITATION ON CHARGES WHEN CATASTROPHIC LIMIT REACHED.—Section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by adding at the end the following new sentence: "A provider of services may not impose a charge under the first sentence of this subparagraph for services for which payment is made to the provider pursuant to section 1833(c) (relating to catastrophic benefits).".

(c) NOTICE FOR BENEFICIARIES REACHING CATASTROPHIC LIMIT.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)) is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by inserting "and" at the end of subparagraph (H), and

(3) by inserting after subparagraph (H) the following new subparagraph:

"(I) will provide each individual, who is determined to have incurred (or has had paid on the individual's behalf) sufficient out-of-pocket part B cost sharing in a calendar year to qualify for payment for additional incurred expenses to be made pursuant to section 1833(c), with a notice that states that the individual has reached the part B catastrophic limit on out-of-pocket cost sharing for the year;".

(d) CONFORMING AMENDMENT.—The second sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended by striking "1833(c)" and inserting "1833(d)(1)".

SEC. 202. COVERAGE OF CATASTROPHIC EXPENSES FOR PRESCRIPTION DRUGS AND INSULIN.

(a) DESCRIPTION OF COVERED OUTPATIENT DRUGS.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) by amending subparagraph (J) of subsection (s)(2) to read as follows:

"(J) covered outpatient drugs (as defined in subsection (t)); and", and

(2) in subsection (t)—

(A) by inserting "and paragraph (2)" after "subsection (m)(5)",

(B) by inserting "(1)" after "(t)", and

(C) by adding at the end the following new paragraphs:

"(2) Subject to paragraph (3), the term 'covered outpatient drug' means—

"(A) a drug which may be dispensed only upon prescription and—

"(i) which is approved for safety and effectiveness as a prescription drug under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act or which is approved under section 505(j) of such Act;

"(ii)(I) which was commercially used or sold in the United States before the date of the enactment of the Drug Amendments of 1962 or which is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) which has not been the subject of a final determination by the Secretary that it is a 'new drug' (within the meaning of section 201(p) of the Federal Food, Drug, and Cosmetic Act) or an action brought by the Secretary under section 301, 302(a), or 304(a) of such Act to enforce section 502(f) or 505(a) of such Act; or

"(iii)(I) which is described in section 107(c)(3) of the Drug Amendments of 1962 and for which the Secretary has determined there is a compelling justification for its medical need, or is identical, similar, or related (within the meaning of section 310.6(b)(1) of title 21 of the Code of Federal Regulations) to such a drug, and (II) for which the Secretary has not issued a notice of an opportunity for a hearing under section 505(e) of the Federal Food, Drug, and Cosmetic Act on a proposed order of the Secretary to withdraw approval of an application for such drug under such section because the Secretary has determined that the drug is less than effective for all conditions of use prescribed, recommended, or suggested in its labeling;

"(B) a biological product which—

"(i) may only be dispensed upon prescription,

"(ii) is licensed under section 351 of the Public Health Service Act, and

"(iii) is produced at an establishment licensed under such section to produce such product; and

"(C) insulin certified under section 506 of the Federal Food, Drug, and Cosmetic Act.

"(3)(A) The term 'covered outpatient drug' does not include any drug, biological product, or insulin provided as, as part of, or as incident to, any of the following (and for which payment may be included under this title):

"(i) Inpatient hospital services (described in subsection (b)(2)).

"(ii) Extended care services (described in subsection (h)(5)).

"(iii) Physicians' services under subparagraph (A) or (B) of subsection (s)(2).

"(iv) Dialysis supplies under subsection (s)(2)(F).

"(v) Antigens under subsection (s)(2)(G).

"(vi) Blood clotting factors for hemophiliacs under subsection (s)(2)(I).

"(vii) Services of a physician assistant under subsection (s)(2)(K)(ii).

"(viii) Pneumococcal, hepatitis B, or influenza vaccines under subsection (s)(10).

"(ix) Rural health clinic services (under subsection (aa)(1)).

"(x) Comprehensive outpatient rehabilitation facility services (under subsection (cc)(1)).

"(xi) Hospice care (as defined in subsection (dd)(1)).

"(xii) Certified nurse-midwife service (as defined in subsection (gg)(1)).

"(xiii) A covered surgical procedure in an ambulatory surgical center (under section 1832(a)(2)(F)(i)).

"(B) With respect to covered outpatient drugs dispensed in 1990, the term 'covered outpatient drug' is limited—

"(i) to drugs described in paragraph (2)(A) used in immunosuppressive therapy, and

"(ii) to covered home IV drugs (as defined in paragraph (4)).

"(C) The term 'covered outpatient drug' does not include a drug that is intravenously administered in a home setting unless it is a covered home IV drug.

"(4)(A) The term 'covered home IV drug' means a covered outpatient drug dispensed to an individual that—

"(i) is intravenously administered in a place of residence used as the individual's home, and

"(ii)(I) is an antibiotic drug and the Secretary has not determined, for the specific drug or for the indication to which it is applied, that the drug cannot generally be administered safely and effectively in a home setting, or

"(II) is not an antibiotic drug and the Secretary has determined, for the specific drug and the indication for which the drug is being applied, that the drug can generally be administered safely and effectively in a home setting.

"(B) Not later than January 1, 1990 (and periodically thereafter), the Secretary shall publish a list of the drugs, and indications for such drugs, that are covered home IV drugs (as defined in subparagraph (A)), with respect to which home intravenous drug therapy may be provided under this title.".

(b) DEDUCTIBLE AND PAYMENT AMOUNTS.—Part B is amended—

(1) in subsection (a)(1) of section 1833 (42 U.S.C. 1395l(b)), as amended by section 411(h)(7)(A)(v)(I) of this Act—

(A) by striking "and" before "(L)", and

(B) by adding at the end the following: "and (M) with respect to expenses incurred for covered outpatient drugs, the amounts paid shall be the amounts determined under section 1834(c)(2)";

(2) in subsection (a)(2) of such section by inserting "(other than covered outpatient drugs)" after "(2) in the case of services";

(3) in subsection (b) of such section—

(A) in clause (1), by inserting "or for covered outpatient drugs" after "1861(s)(10)(A)", and

(B) in clause (2), by inserting "or with respect to covered outpatient drugs" after "home health services"; and

(4) by adding at the end of section 1834 (42 U.S.C. 1395m) the following new subsection:

"(c) PAYMENT FOR COVERED OUTPATIENT DRUGS.—

"(1) DEDUCTIBLE.—

"(A) APPLICATION.—

"(i) IN GENERAL.—Except as provided in clauses (ii) and (iii), payment shall be made under paragraph (2) only with respect to expenses incurred by an individual for covered outpatient drugs during a calendar year on or after such date in the year as the Secretary determines that the individual has incurred expenses in the year for covered outpatient drugs (during a period in which the individual is entitled to benefits under this part) equal to the amount of the catastrophic drug deductible specified in subparagraph (C) for that year.

"(ii) DEDUCTIBLE NOT APPLIED FOR POST-HOSPITAL HOME INTRAVENOUS DRUG THERAPY.—The catastrophic drug deductible established under this paragraph shall not apply to covered home IV drugs dispensed in conjunction with home intravenous drug therapy services which are part of a continuous course of such therapy initiated while the individual was an inpatient in a hospital.

"(iii) DEDUCTIBLE NOT APPLIED TO 1ST YEAR IMMUNOSUPPRESSIVES.—The catastrophic drug deductible established under this paragraph shall not apply to

drugs described in section 1861(t)(2)(A) used in immunosuppressive therapy and furnished, to an individual who receives an organ transplant for which payment is made under this title, within 1 year after the date of the transplant.

"(B) RESPONSE TO APPLICATION.—If the system described in section 1842(o)(4) has not been established and an individual applies to the Secretary to establish that the individual has met the requirement of subparagraph (A), the Secretary shall promptly notify the individual (and, if the application was submitted by or through a participating pharmacy, the pharmacy) as to the date (if any) as of which the individual has met such requirement.

"(C) CATASTROPHIC DRUG DEDUCTIBLE AMOUNT.—

"(i) IN GENERAL.—Subject to subparagraph (D), the catastrophic drug deductible specified in this subparagraph for—

"(I) 1990 is $550,

"(II) 1991 is $600,

"(III) 1992 is $652, and

"(IV) any succeeding year, is such an amount as the Secretary determines will result in 16.8 percent of the average number of individuals covered under this part (other than individuals enrolled with an eligible organization under section 1876 or an organization described in section 1833(a)(1)(A)) during that succeeding year having incurred expenses for covered outpatient drugs sufficient to meet the catastrophic drug deductible so determined.

"(ii) ROUNDING.—Any amount determined under this subparagraph which is not a multiple of $1 shall be rounded to the nearest multiple of $1.

"(iii) PUBLICATION.—Before May 1 of each year (beginning with 1992) the Secretary shall publish in the Federal Register a proposed regulation establishing the amount of the catastrophic drug deductible under this subparagraph for the following year. During the last 3 days of September of such year, the Secretary shall publish in the Federal Register the final regulation establishing the amount of such deductible for the following year, which amount may not be greater than the amount specified in the proposed regulation.

Federal Register, publication. Regulations.

"(2) PAYMENT AMOUNT.—

"(A) IN GENERAL.—Subject to the catastrophic drug deductible established under paragraph (1)(A) and except as provided in subparagraph (C), the amounts payable under this part with respect to a covered outpatient drug is equal to the payment percent (specified in subparagraph (B)) of the lesser of—

"(i) the actual charge for the drug, or

"(ii) the applicable payment limit established under paragraph (3).

"(B) PAYMENT PERCENT.—For purposes of subparagraph (A), the payment percent is 100 percent minus the applicable coinsurance percent (specified in subparagraph (C)).

"(C) COINSURANCE PERCENT.—For purposes of subparagraph (B), the coinsurance percent—

"(i) for covered home IV drugs and for drugs described in paragraph (1)(A)(iii) (relating to immunosuppressive therapy during the 1st year after transplant), is 20 percent; and

"(ii) for other covered outpatient drugs dispensed—

"(I) in 1990 or 1991, is 50 percent,

"(II) in 1992 is 40 percent, and

"(III) in 1993 or a succeeding year is 20 percent.

Contracts.

"(D) TREATMENT OF CERTAIN COST-BASED PREPAID ORGANIZATIONS.—In applying subparagraph (A) in the case of an organization under a reasonable cost reimbursement contract under section 1876 and in the case of an organization receiving payment under section 1833(a)(1)(A) and providing coverage of covered outpatient drugs, the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect the aggregate increase in payments that would otherwise be made with respect to enrollees in such an organization if payments were made other than under such clause or such a contract on an individual-by-individual basis.

"(3) PAYMENT LIMITS.—

"(A) PAYMENT LIMIT FOR NON-MULTIPLE SOURCE DRUGS AND MULTIPLE-SOURCE DRUGS WITH RESTRICTIVE PRESCRIPTIONS.—In the case of a drug that either is not a multiple source drug (as defined in paragraph (9)(A)) or is a multiple source drug and has a restrictive prescription (as defined in paragraph (9)(B)), the payment limit for the drug under this paragraph for a payment calculation period is equal to the lesser of—

"(i) the 90th percentile of the actual charges (computed on a statewide basis, carrier-wide basis, or other appropriate geographic area basis, as specified by the Secretary) for the drug for the second previous payment calculation period, adjusted (as the Secretary determines to be appropriate) to reflect the number of tablets (or other dosage units) dispensed; or

"(ii) the amount of the administrative allowance (established under paragraph (4)) plus the product of—

"(I) the number of tablets (or other dosage units) dispensed, and

"(II) the per tablet or unit average wholesale price for such drug (as determined under subparagraph (C) for the period for purposes of this subparagraph);

except that clause (i) shall not apply to covered outpatient drugs dispensed before January 1, 1992.

"(B) PAYMENT LIMIT FOR MULTIPLE SOURCE DRUGS WITHOUT RESTRICTIVE PRESCRIPTIONS.—In the case of a drug that is a multiple source drug but does not have a restrictive prescription, the payment limit for the drug under this paragraph for a payment calculation period is equal to the amount of the administrative allowance (established under paragraph (4)) plus the product of—

"(i) the number of tablets (or other dosage units) dispensed, and

"(ii) the unweighted median of the per tablet or unit average wholesale prices (determined under subparagraph (C) for purposes of this subparagraph) for such drug for the period.

"(C) DETERMINATION OF UNIT PRICE.—

"(i) IN GENERAL.—For purposes of this paragraph, the Secretary shall determine, with respect to the dispensing of a covered outpatient drug in a payment calculation period (beginning on or after January 1, 1990), the per tablet or unit average wholesale price for the drug.

"(ii) BASIS FOR DETERMINATIONS.—

"(I) DETERMINATION FOR NON-MULTIPLE-SOURCE DRUGS.—For purposes of subparagraph (A), such determination shall be based on a biannual survey conducted by the Secretary of a representative sample of direct sellers, wholesalers, or pharmacies (as appropriate) of wholesale (or comparable direct) prices (excluding discounts to pharmacies); except that if, because of low volume of sales for the drug or other appropriate reasons or in the case of covered outpatient drugs during 1990, the Secretary determines that such a survey is not appropriate with respect to a specific drug, such determination shall be based on published average wholesale (or comparable direct) prices for the drug.

"(II) DETERMINATION FOR MULTIPLE-SOURCE DRUGS.—For purposes of subparagraph (B), the Secretary may base the determination under this subparagraph on the published average wholesale (or comparable direct) prices for the drug or on a biannual survey conducted by the Secretary of a representative sample of direct sellers, wholesalers, or pharmacists (as appropriate) of wholesale (or comparable direct) prices (excluding discounts to pharmacies).

"(III) COMPLIANCE WITH SURVEY REQUIRED.—If a wholesaler or direct seller of a covered outpatient drug refuses, after being requested by the Secretary, to provide the information required in a survey under this clause, or deliberately provides information that is false, the Secretary may impose a civil money penalty of not to exceed $10,000 for each such refusal or provision of false information. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a). Information gathered pursuant to the survey shall not be disclosed except as the Secretary determines to be necessary to carry out the purposes of this part.

Law enforcement and crime.

Classified information.

"(iii) QUANTITY AND TIMING.—Such determination shall be based on the price or prices for purchases in reasonable quantities and shall be made for a payment calculation period based on prices for the first day of

the first month of the previous payment calculation period.

"(iv) GEOGRAPHIC BASIS.—The Secretary shall make such determination, and calculate the payment limits under this paragraph, on a national basis; except that the Secretary may make such determination, and calculate such payment limits, on a regional basis to take account of limitations on the availability of drug products and variations among regions in the average wholesale prices for a drug product.

"(4) ADMINISTRATIVE ALLOWANCE FOR PURPOSES OF PAYMENT LIMITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), for drugs dispensed in—

"(i) 1990 or 1991, the administrative allowance under this paragraph is—

"(I) $4.50 for drugs dispensed by a participating pharmacy, or

"(II) $2.50 for drugs dispensed by another pharmacy; or

"(ii) a subsequent year, the administrative allowance under this paragraph is the administrative allowance under this paragraph for the preceding year increased by the percentage increase (if any) in the implicit price deflator for gross national product (as published by the Department of Commerce in its 'Survey of Current Business') over the 12-month period ending with August of such preceding year.

Any allowance determined under the clause (ii) which is not a multiple of 1 cent shall be rounded to the nearest multiple of 1 cent.

"(B) ADJUSTMENT IN ALLOWANCE FOR MAIL SERVICE PHARMACIES.—The Secretary may, by regulation and after consultation with pharmacists, elderly groups, and private insurers, reduce the administrative allowances established under subparagraph (A) for any drug dispensed by a mail service pharmacy (as defined by the Secretary) based on differences between such pharmacies and other pharmacies with respect to operating costs and other economies.

"(5) ASSURING APPROPRIATE PRESCRIBING AND DISPENSING PRACTICES.—

Health care professionals.

"(A) IN GENERAL.—The Secretary shall establish a program to identify (and to educate physicians and pharmacists concerning)—

"(i) instances or patterns of unnecessary or inappropriate prescribing or dispensing practices for covered outpatient drugs,

"(ii) instances or patterns of substandard care with respect to such drugs, and

"(iii) potential adverse reactions.

"(B) STANDARDS.—In carrying out the program under subparagraph (A), the Secretary shall establish for each covered outpatient drug standards for the prescribing of the drug which are based on accepted medical practice. In establishing such standards, the Secretary shall incorporate standards from such current authoritative compendia as the Secretary may select; except that the Secretary may

Safety.

modify such a standard by regulation on the basis of scientific and medical information that such standard is not consistent with the safe and effective use of the drug.

"(C) PROHIBITION OF FORMULARY.—Nothing in this title (including paragraph (8)), other than sections 1861(t)(4)(A) and 1862(c), shall be construed as authorizing the Secretary to exclude from coverage or to deny payment—

"(i) for any specific covered outpatient drug, or specific class of covered outpatient drug, or

"(ii) for any specific use of such a drug for a specific indication unless such exclusion is pursuant to section 1862(a)(1) based on a finding by the Secretary that such use is not safe or is not effective. Safety.

"(6) TREATMENT OF CERTAIN PREPAID ORGANIZATIONS.—

"(A) GENERAL RULE COUNTING PREPAID PLAN EXPENSES TOWARDS THE CATASTROPHIC DRUG DEDUCTIBLE.—Except as provided in subparagraph (B), expenses incurred by (or on behalf of) a medicare beneficiary for covered outpatient drugs shall be counted (consistent with subparagraph (C)) toward the catastrophic drug deductible established under paragraph (1) whether or not, at the time the expenses were incurred, the beneficiary was enrolled in a plan under section 1833(a)(1)(A) or under section 1876.

"(B) TREATMENT OF DRUG BUY-OUT PLAN EXPENSES.—In the case of a medicare beneficiary enrolled in a month in a drug buy-out plan (as defined in subparagraph (D))—

"(i) expenses incurred by the beneficiary for covered outpatient drugs reimbursed under the plan shall not be counted towards the catastrophic drug deductible, but

"(ii) if the individual disenrolls from the plan during the year, the beneficiary is deemed to have incurred, for each month of such enrollment, expenses for covered outpatient drugs in an amount equal to the actuarial value (with respect to such month) of the deductible for covered outpatient drugs (as computed by the Secretary for purposes of section 1876(e)(1)) applicable on the average to individuals in the United States.

"(C) TREATMENT OF EXPENSES FOR COVERED OUTPATIENT DRUGS INCURRED WHILE ENROLLED IN A PREPAID PLAN OTHER THAN A DRUG BUY-OUT PLAN.—The Secretary may not enter into a contract with an organization under section 1876, or provide for payment under section 1833(a)(1)(A) with respect to an organization which provides reimbursement for covered outpatient drugs, with respect to a plan that is not a drug buy-out plan, unless the organization provides assurances, satisfactory to the Secretary, that—

"(i) the organization will maintain and make available, for its enrollees and in coordination with the appropriate carriers under this part, an accounting of expenses incurred by (or on behalf of) enrollees under the plan for covered outpatient drugs; and

"(ii) the organization will take into account, in any deductibles established under the plan in a year with respect to covered outpatient drugs under this part, the amounts of expenses for covered outpatient drugs in-

curred in the year by (or on behalf of) the beneficiary and otherwise counted towards the catastrophic drug deductible in the year.

"(D) DRUG BUY-OUT PLAN DEFINED.—In this paragraph, the term 'drug buy-out plan' means a plan under section 1833(a)(1)(A) or offered by an organization under section 1876 and with respect to which—

"(i) the amount of any deductible under the plan with respect to covered outpatient drugs under this title, is less than 50 percent of—

"(ii) the catastrophic drug deductible specified in paragraph (1)(C).

"(E) MEDICARE BENEFICIARY DEFINED.—In this subsection, the term 'medicare beneficiary' means, with respect to a month, an individual covered for benefits under this part for the month.

"(F) TREATMENT OF PLAN CHARGES.—In the case of covered outpatient drugs furnished by an eligible organization under section 1876(b) or an organization described in section 1833(a)(1)(A) which does not impose charges on covered outpatient drugs dispensed to its members, for purposes of this subsection the actual charges of the organization shall be the organization's standard charges to members, and other individuals, not entitled to benefits with respect to such drugs.

"(7) PHYSICIAN GUIDE.—

"(A) IN GENERAL.—The Secretary shall develop, and update annually, an information guide for physicians concerning the comparative average wholesale prices of at least 500 of the most commonly prescribed covered outpatient drugs. Such guide shall, to the extent practicable, group covered outpatient drugs (including multiple source drugs) in a manner useful to physicians by therapeutic category or with respect to the conditions for which they are prescribed. Such guide shall specify the average wholesale prices on the basis of the amount of the drug required for a typical daily therapeutic regimen.

"(B) MAILING GUIDE.—The Secretary shall provide for mailing, in January of each year (beginning with 1991), a copy of the guide developed and updated under subparagraph (A)—

"(i) to each hospital with an agreement in effect under section 1866,

"(ii) to each physician (as defined in section 1861(r)(1)) who routinely provides services under this part, and

"(iii) to Social Security offices, senior citizen centers, and other appropriate places.

"(8) REPORTS ON OUTLAYS AND RECEIPTS; SPECIAL COST CONTROLS.—

"(A) COMPILATION OF INFORMATION.—The Secretary shall compile information on—

"(i) manufacturers' prices for covered outpatient drugs, and on charges of pharmacists for covered outpatient drugs, and

"(ii) the use of covered outpatient drugs by individuals entitled to benefits under this part.

The information compiled under clause (i) shall include a comparison of the increases in prices and charges for covered outpatient drugs during each 6 month period (beginning with January 1987) with the semiannual average increase in such prices and charges during the 6 years beginning with 1981.

"(B) REPORTS.—The Secretary shall submit to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate a report, in May and November of 1989 and 1990 and in May of each succeeding year, providing the information compiled under subparagraph (A). For each such report submitted after 1991, the report shall include an explanation of the extent to which the increases in outlays for covered outpatient drugs under this part are due to the factors described in subparagraphs (A)(i) and (A)(ii).

"(C) MONTHLY REPORTS ON OUTLAYS AND RECEIPTS.—Within 30 days after the end of each month (beginning with October 1991 and ending with April 1993), the Secretary shall report to Congress on the outlays and receipts of the Federal Catastrophic Drug Insurance Trust Fund (in this paragraph referred to as the 'Trust Fund') in the month.

"(D) BUDGETARY INFORMATION.—

"(i) IN GENERAL.—In each report submitted under subparagraph (B) after 1991, the Secretary shall include information on—

"(I) the projected budgetary status of the Trust Fund for the succeeding year,

"(II) the projected increases in manufacturers' prices for covered outpatient drugs and in charges of pharmacists for covered outpatient drugs,

"(III) the projected level of utilization of covered outpatient drugs by medicare beneficiaries, and

"(IV) the projected administrative costs relating to covered outpatient drugs.

"(ii) DETERMINATION AND PUBLICATION OF ANY OUTLAY CONTROLS FOR 1993 AND 1994.—For each such report in 1992 and 1993, the Secretary—

"(I) shall determine in the report whether the anticipated outlays and receipts of the Trust Fund for the succeeding year will provide for at least the minimum contingency margin specified in subparagraph (F) for that succeeding year, and

"(II) if not, shall include in the report (and shall publish in the Federal Register by May 1 of the year a proposed regulation to carry out) changes in the provisions of this part (consistent with subparagraph (E)) in order to reduce outlays from the Trust Fund in that succeeding year sufficiently to provide for the minimum contingency margin specified in subparagraph (F).

Federal Register, publication. Regulations.

Any changes described in subclause (II) in such report shall reflect appropriately each of the anticipated causes of increased or unanticipated outlays for covered outpatient drugs.

Federal Register, publication.

"(iii) EFFECTIVENESS OF REGULATORY CHANGES.—If proposed regulations are published under clause (ii)(II) in 1992 or 1993, during the last 3 days of September of such year, the Secretary shall publish in the Federal Register a final regulation to implement the changes described in such clause. Notwithstanding any other provision of this part, but subject to subparagraph (E) and unless otherwise provided by law, such changes shall become effective on January 1 of the succeeding year and shall apply only during that succeeding year. Such final regulation may not revise the proposed regulation in a manner that would result in a greater reduction in outlays than would have been the case under the proposed regulation.

"(E) LIMITATION ON CHANGES.—In making regulatory changes under subparagraph (D), the Secretary may not—

"(i) provide for a formulary (in violation of paragraph (5)(C));

"(ii) change the methodology for determining whether for a year an individual has met the catastrophic drug deductible established under paragraph (1)(A); or

"(iii) increase the coinsurance percent under paragraph (2)(C) for a year above the coinsurance percent in effect during the previous year.

Clause (ii) shall not be construed as prohibiting the Secretary from increasing the amount of the catastrophic drug deductible under paragraph (1)(A).

"(F) MINIMUM CONTINGENCY MARGIN DEFINED.—In this paragraph, the term 'minimum contingency margin' means—

"(i) for 1993, 50 percent, and

"(ii) for 1994, 25 percent.

Such margin shall be determined as of the close of each calendar year and shall be determined based on the total outlays from the Trust Fund during the year.

"(9) DEFINITIONS.—In this subsection:

"(A) MULTIPLE SOURCE DRUG.—

"(i) IN GENERAL.—The term 'multiple source drug' means, with respect to a payment calculation period, a covered outpatient drug for which there are 2 or more drug products which—

"(I) are rated as therapeutically equivalent (under the Food and Drug Administration's most recent publication of 'Approved Drug Products with Therapeutic Equivalence Evaluations'),

"(II) except as provided in clause (ii), are pharmaceutically equivalent and bioequivalent, as defined in clause (iii) and as determined by the Food and Drug Administration, and

"(III) are sold or marketed during the period.

"(ii) EXCEPTION.—Subclause (II) of clause (i) shall not apply if the Food and Drug Administration changes by regulation (after an opportunity for public comment of 90 days) the requirement that, for purposes of the publication described in clause (i)(I), in order for drug products to be rated as therapeutically equivalent,

they must be pharmaceutically equivalent and bioequivalent, as defined in clause (iii).

"(iii) DEFINITIONS.—For purposes of this subparagraph:

"(I) PHARMACEUTICALLY EQUIVALENT.—Drug products are pharmaceutically equivalent if the products contain identical amounts of the same active drug ingredient in the same dosage form and meet compendial or other applicable standards of strength, quality, purity, and identity.

"(II) BIOEQUIVALENT.—Drugs are bioequivalent if they do not present a known or potential bioequivalence problem or, if they do present such a problem, are shown to meet an appropriate standard of bioequivalence.

"(III) SOLD OR MARKETED.—A drug is considered to be sold or marketed during a period if it is listed in the publications referred to in clause (i)(I), unless the Secretary determines that such sale or marketing is not actually taking place.

"(B) RESTRICTIVE PRESCRIPTION.—A drug has a 'restrictive prescription' only if—

"(i) in the case of a written prescription, the prescription for the drug indicates, in the handwriting of the physician or other person prescribing the drug and with an appropriate phrase (such as 'brand medically necessary') recognized by the Secretary, that the particular drug must be dispensed, or

"(ii) in the case of a prescription issued by telephone—

"(I) the physician or other person prescribing the drug (through use of such an appropriate phrase) states that the particular drug must be dispensed, and

"(II) the physician or other person submits to the pharmacy involved, within 30 days after the date of the telephone prescription, a written confirmation which is in the handwriting of the physician or other person prescribing the drug and which indicates with such appropriate phrase that the particular drug was required to have been dispensed.

"(C) PAYMENT CALCULATION PERIOD.—The term 'payment calculation period' means the 6-month period beginning with January of each year and the 6-month period beginning with July of each year.

"(D) OUTLAYS; RECEIPTS.—The terms 'outlays' and 'receipts' mean, with respect to a year or other period, gross outlays and receipts, as such terms are employed in the 'Monthly Treasury Statement of Receipts and Outlays of the United States Government (MTS)', as published by the Department of the Treasury, for months in such year or other period.".

(c) PARTICIPATING PHARMACIES; CIVIL MONEY PENALTIES.—

(1) PARTICIPATING PHARMACIES.—Section 1842 (42 U.S.C. 1395t) is amended— 42 USC 1395u.

(A) in subsection (h)(1), by inserting before the period at the end of the second sentence the following: ", except that, with respect to a supplier of covered outpatient drugs, the term 'participating supplier' means a participating pharmacy (as defined in subsection (o)(1))";

(B) in subsection (h)(4), is amended by adding at the end the following: "In publishing directories under this paragraph, the Secretary shall provide for separate directories (wherever appropriate) for participating pharmacies."; and

(C) by adding at the end the following new subsection:

"(o)(1) For purposes of this section, the term 'participating pharmacy' means, with respect to covered outpatient drugs dispensed on or after January 1, 1991, an entity which is authorized under a State law to dispense covered outpatient drugs and which has entered into an agreement with the Secretary, providing at least the following:

"(A) The entity agrees to accept payment under this part on an assignment-related basis for all covered outpatient drugs dispensed to an individual entitled to benefits under this part (in this subsection referred to as a 'medicare beneficiary') during a year after—

"(i) the Secretary has notified the entity, through the electronic system described in subparagraph (D)(i), or

"(ii) in the absence of such a system, the entity is otherwise notified that the Secretary has determined,

that the individual has met the catastrophic drug deductible with respect to such drugs under section 1834(c)(1) for the year.

"(B) The entity agrees—

"(i) not to refuse to dispense covered outpatient drugs stocked by the entity to any medicare beneficiary, and

"(ii) not to charge medicare beneficiaries (regardless of whether or not the beneficiaries are enrolled under a prepaid health plan or with eligible organization under section 1876) more for such drugs than the amount it charges to the general public (as determined by the Secretary in regulations).

"(C) The entity agrees to keep patient records (including records on expenses) for all covered outpatient drugs dispensed to all medicare beneficiaries.

"(D) The entity agrees to submit information (in a manner specified by the Secretary to be necessary to administer this title) on all purchases of covered outpatient drugs dispensed to medicare beneficiaries.

"(E) The entity agrees—

"(i) to offer to counsel, or to offer to provide information (consistent with State law respecting the provision of such information) to, each medicare beneficiary on the appropriate use of a drug to be dispensed and whether there are potential interactions between the drug and other drugs dispensed to the beneficiary; and

"(ii) to advise the beneficiary on the availability (consistent with State laws respecting substitution of drugs) of therapeutically equivalent covered outpatient drugs.

"(F) The entity agrees to provide the information requested by the Secretary in surveys under section 1834(c)(3)(C)(ii).

Nothing in this paragraph shall be construed as requiring a pharmacy operated by an eligible organization (described in section 1876(b)) or an organization described in section 1833(a)(1)(A) for the

exclusive benefit of its members to dispense covered outpatient drugs to individuals who are not members of the organization.

"(2) The Secretary shall provide to each participating pharmacy—

"(A) a distinctive emblem (suitable for display to the public) indicating that the pharmacy is a participating pharmacy, and

"(B) upon request, such electronic equipment and technical assistance (other than the costs of obtaining, maintaining, or expanding telephone service) as the Secretary determines may be necessary for the pharmacy to submit claims using the electronic system established under paragraph (4). Claims.

"(3) The Secretary shall provide for periodic audits of participating pharmacies to assure—

"(A) compliance with the requirements for participation under this title, and

"(B) the accuracy of information submitted by the pharmacies under this title.

"(4) The Secretary shall establish, by not later than January 1, 1991, a point-of-sale electronic system for use by carriers and participating pharmacies in the submission of information respecting covered outpatient drugs dispensed to medicare beneficiaries under this part. Science and technology. Communications and telecommunications.

"(5) Notwithstanding subsection (b)(3)(B), payment for covered outpatient drugs may be made on the basis of an assignment described in clause (ii) of that subsection only to a participating pharmacy.".

(2) CIVIL MONEY PENALTIES FOR VIOLATION OF PARTICIPATION AGREEMENT, FOR EXCESSIVE CHARGES FOR NONPARTICIPATING PHARMACIES AND FOR FAILURE TO PROVIDE SURVEY INFORMATION.—Section 1128A(a) (42 U.S.C. 1320a-7a(a)) is amended—

(A) by striking "or" at the end of paragraph (1),

(B) in paragraph (2)(C), by inserting "or to be a participating pharmacy under section 1842(o)" after "1842(h)(1)",

(C) by striking ", or" at the end of paragraph (2) and inserting a semicolon,

(D) by adding "or" at the end of paragraph (3), and

(E) by inserting after paragraph (3) the following new paragraph:

"(4) in the case of a participating or nonparticipating pharmacy (as defined for purposes of part B of title XVIII)—

"(A) presents or causes to be presented to any person a request for payment for covered outpatient drugs dispensed to an individual entitled to benefits under part B of title XVIII and for which the amount charged by the pharmacy is greater than the amount the pharmacy charges the general public (as determined by the Secretary in regulations), or

"(B) fails to provide the information requested by the Secretary in a survey under section 1834(c)(3)(C)(ii);".

(d) LIMITATION ON LENGTH OF PRESCRIPTION.—Section 1862(c) (42 U.S.C. 1395y(c)) is amended—

(1) by redesignating subparagraphs (A) through (D) of paragraph (1) as clauses (i) through (iv), respectively;

(2) in paragraph (2)(A), by striking "paragraph (1)" and inserting "subparagraph (A)";

(3) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(4) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(5) by inserting "(1)" after "(c)"; and

(6) by adding at the end the following new paragraph:

"(2) No payment may be made under part B for any expense incurred for a covered outpatient drug if the drug is dispensed in a quantity exceeding a supply of 30 days or such longer period of time (not to exceed 90 days, except in exceptional circumstances) as the Secretary may authorize.".

(e) USE OF CARRIERS, FISCAL INTERMEDIARIES, AND OTHER ENTITIES IN ADMINISTRATION.—

(1) AUTHORIZING USE OF OTHER ENTITIES IN ELECTRONIC CLAIMS SYSTEM.—Section 1842(f) (42 U.S.C. 1395u(f)) is amended—

(A) by striking "and" at the end of paragraph (1),

(B) by striking the period at the end of paragraph (2) and inserting "; and", and

(C) by adding at the end the following new paragraph:

"(3) with respect to implementation and operation (and related functions) of the electronic system established under subsection (o)(4), a voluntary association, corporation, partnership, or other nongovernmental organization, which the Secretary determines to be qualified to conduct such activities.".

(2) ADDITIONAL FUNCTIONS OF CARRIERS.—Section 1842(b)(3) (42 U.S.C. 1395u(b)(3)), as amended by section 201(c) of this Act, is amended—

(A) by striking "and" at the end of subparagraph (H), and

(B) by inserting after subparagraph (I) the following new subparagraphs:

"(J) if it makes determinations or payments with respect to covered outpatient drugs, will—

"(i) receive information transmitted under the electronic system established under subsection (o)(4), and

"(ii) respond to requests by participating pharmacies (and individuals entitled to benefits under this part) as to whether or not such an individual has met the catastrophic drug deductible established under section 1834(c)(1)(A) for a year; and

Contracts.

"(K) will enter into such contracts with organizations described in subsection (f)(3) as the Secretary determines may be necessary to implement and operate (and for related functions with respect to) the electronic system established under subsection (o)(4) for covered outpatient drugs under this part;".

(3) SPECIAL CONTRACT PROVISIONS FOR ELECTRONIC CLAIMS SYSTEM.—

(A) PAYMENT ON OTHER THAN A COST BASIS.—Section 1842(c)(1)(A) (42 U.S.C. 1395u(c)(1)(A)) is amended—

(i) by inserting "(i)" after "(c)(1)(A)",

(ii) in the first sentence, by inserting ", except as provided in clause (ii)," after "under this part, and", and

(iii) by adding at the end the following new clause:

"(ii) To the extent that a contract under this section provides for implementation and operation (and related functions) of the electronic system established under subsection (o)(4) for covered outpatient drugs, the Secretary may provide for payment for such activities based on any method of payment determined by the Secretary to be appropriate.".

(B) APPLICATION OF DIFFERENT PERFORMANCE STANDARDS.—The Secretary of Health and Human Services, before entering into contracts under section 1842 of the Social Security Act with respect to the implementation and operation (and related functions) of the electronic system for covered outpatient drugs, shall establish standards with respect to performance with respect to such activities. The provisions of section 1153(e)(2), and paragraphs (1) and (2) of section 1153(h), of such Act shall apply to such activities in the same manner as they apply to contracts with peer review organizations, instead of the requirements of the last 2 sentences of section 1842(b)(2) of such Act. Contracts. 42 USC 1395u note.

(C) USE OF REGIONAL CARRIERS.—Section 1842(b)(2) is amended by adding at the end the following new sentence: "With respect to activities relating to implementation and operation (and related functions) of the electronic system established under subsection (o)(4), the Secretary may enter into contracts with carriers under this section to perform such activities on a regional basis.". Contracts.

(4) ADJUSTMENT OF CARRIER OBLIGATIONS.—

(A) NO TOLL-FREE TELEPHONE NUMBER REQUIRED OF LIMITED CARRIERS.—Section 1842(h)(2) (42 U.S.C. 1395u(h)(2)) is amended by inserting "(other than a carrier described in subsection (f)(3))" after "Each carrier".

(B) DELAY IN APPLICATION OF COORDINATED BENEFITS WITH MEDIGAP.—The provisions of subparagraph (B) of section 1842(h)(3) of the Social Security Act shall not apply to covered outpatient drugs (other than drugs described in section 1861(s)(2)(J) of such Act as of the date of the enactment of this Act) dispensed before January 1, 1993. 42 USC 1395u note.

(5) BATCH PROMPT PROCESSING OF CLAIMS.—Section 1842(c) (42 U.S.C. 1395u(c)) is amended—

(A) in paragraphs (2)(A) and (3)(A), by striking "Each" and inserting "Except as provided in paragraph (3), each";

(B) by adding at the end the following new paragraph:

"(4)(A) Each contract under this section which provides for the disbursement of funds, as described in subsection (a)(1)(B), with respect to claims for payment for covered outpatient drugs shall provide for a payment cycle under which each carrier will, on a monthly basis, make a payment with respect to all claims which were received and approved for payment in the period since the most recent date on which such a payment was made with respect to the participating pharmacy or individual submitting the claim. Contracts. Claims.

"(B) If payment is not issued, mailed, or otherwise transmitted within 5 days of when such a payment is required to be made under subparagraph (A), interest shall be paid at the rate used for purposes of section 3902(a) of title 31, United States Code (relating to interest penalties for failure to make prompt payments) for the period beginning on the day after such 5-day period and ending on the date on which payment is made.".

(f) MODIFICATION OF HMO/CMP CONTRACTS.—

(1) SEPARATE ACTUARIAL DETERMINATION FOR COVERED OUTPATIENT DRUG BENEFIT.—Section 1876(e)(1) (42 U.S.C. 1395mm(e)(1)) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall be applied separately with respect to covered outpatient drugs.".

(2) ADDITIONAL OPTIONAL BENEFITS.—Section 1876(g)(3)(A) (42 U.S.C. 1395mm(g)(3)(A)) is amended by striking "rate" and inserting "rates".

(g) REQUIRING SUBMISSION OF DIAGNOSTIC INFORMATION.—Section 1842 (42 U.S.C. 1395u), as amended by subsection (c)(1)(C), is amended by adding at the end the following new subsection:

Health care professionals.

"(p)(1) Each request for payment, or bill submitted, for an item or service furnished by a physician for which payment may be made under this part shall include the appropriate diagnosis code (or codes) as established by the Secretary for such item or service.

"(2) In the case of a request for payment for an item or service furnished by a physician on an assignment-related basis which does not include the code (or codes) required under paragraph (1), payment may be denied under this part.

Law enforcement and crime.

"(3) In the case of a request for payment for an item or service furnished by a physician not submitted on an assignment-related basis and which does not include the code (or codes) required under paragraph (1)—

"(A) if the physician knowingly and willfully fails to provide the code (or codes) promptly upon request of the Secretary or a carrier, the physician may be subject to a civil money penalty in an amount not to exceed $2,000, and

"(B) if the physician knowingly, willfully, and in repeated cases fails, after being notified by the Secretary of the obligations and requirements of this subsection, to include the code (or codes) required under paragraph (1), the physician may be subject to the sanction described in section 1842(j)(2)(A).

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under subparagraph (A) in the same manner as they apply to a penalty or proceeding under section 1128A(a).".

(h) CONFORMING AMENDMENTS.—

(1) The first sentence of section 1866(a)(2)(A) (42 U.S.C. 1395cc(a)(2)(A)) is amended—

(A) by inserting "1834(c)," after "1833(b),", and

Drugs and drug abuse.

(B) by inserting "and in the case of covered outpatient drugs, applicable coinsurance percent (specified in section 1834(c)(2)(C)) of the lesser of the actual charges for the drugs or the payment limit (established under section 1834(c)(3))" after "established by the Secretary".

(2) Section 1903(i)(5) (42 U.S.C. 1396b(i)(5)) is amended by striking "section 1862(c)" and inserting "section 1862(c)(1)".

42 USC 1395m note.

(i) REPORTS ON MEDICARE BENEFICIARY DRUG EXPENSES.—

(1) HHS.—The Secretary of Health and Human Services, by not later than April 1, 1989—

(A) using data from the 1987 National Medical Expenditures Survey (conducted by the National Center for Health Services Research and Health Care Technology Assessment), shall report to Congress on expenses incurred by medicare beneficiaries for outpatient prescription drugs, and

(B) shall provide the Director of the Congressional Budget Office with such data from that Survey as the Director may request to make the estimates required under paragraph (2).

(2) REESTIMATION OF COSTS.—The Director of the Congressional Budget Office shall transmit to the Congress, not later

than June 1, 1989, or, if later, 60 days after the date of providing data requested under paragraph (1)(B), the Director's estimate of the outlays which will be made (in each of fiscal years 1990, 1991, 1992, and 1993) under the medicare program for covered outpatient drugs (under the amendments made by this section).

(j) PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION.—Part B is amended by adding at the end the following new section:

"PRESCRIPTION DRUG PAYMENT REVIEW COMMISSION

"SEC. 1847. (a)(1) The Director of the Congressional Office of Technology Assessment (in this section referred to as the 'Director' and the 'Office', respectively) shall provide for the appointment of a Prescription Drug Payment Review Commission (in this section referred to as the 'Commission'), to be composed of individuals with expertise in the provision and financing of covered outpatient drugs appointed by the Director (without regard to the provisions of title 5, United States Code, governing appointments in the competitive service). 42 USC 1395w-3.

"(2) The Commission shall consist of 11 individuals. Members of the Commission shall first be appointed by no later than January 1, 1989, for a term of 3 years, except that the Director may provide initially for such shorter terms as will insure that (on a continuing basis) the terms of no more than 4 members expire in any one year.

"(3) The membership of the Commission shall include recognized experts in the fields of health care economics, medicine, pharmacology, pharmacy, and prescription drug reimbursement, as well as at least one individual who is a medicare beneficiary.

"(b)(1) The Commission shall submit to Congress an annual report no later than May 1 of each year, beginning with 1990, concerning methods of determining payment for covered outpatient drugs under this part. Reports.

"(2) Such report, in 1992 and thereafter, shall include, with respect to the previous year, information on—

"(A) increases in manufacturers' prices for covered outpatient drugs and in charges of pharmacists for covered outpatient drugs,

"(B) the level of utilization of covered outpatient drugs by medicare beneficiaries, and

"(C) administrative costs relating to covered outpatient drugs.

"(3) Such report, in 1992 and thereafter, shall include comments on the budgetary status of the Federal Catastrophic Drug Insurance Trust Fund and recommendations for any reductions in outlays that may be required to achieve the contingency margin (established under section 1841A(d) for the following year), taking into account each of the causes of increased or unanticipated outlays for covered outpatient drugs in the year.

"(c) Section 1845(c)(1) shall apply to the Commission in the same manner as it applies to the Physician Payment Review Commission.

"(d) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall be payable from the Federal Catastrophic Drug Insurance Trust Fund.". Appropriation authorization.

(k) ADDITIONAL STUDIES.—

(1) HHS.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall conduct the Reports. 42 USC 1395m note.

following studies, and report to Congress on the results of each such study by the following dates:

Diseases.

(A) A study of the possibility of including drugs which have not yet been approved under section 505 or 507 of the Federal Food, Drug, and Cosmetic Act and biological products which have not been licensed under section 351 of the Public Health Service Act but which are commonly used in the treatment of cancer or in immunosuppressive therapy and other experimental drugs and biological products as covered outpatient drugs under the medicare program, for which a report shall be made by January 1, 1990. The study under this subparagraph shall be conducted in consultation with an advisory board of consumers, experts in the fields of cancer chemotherapy and immunosuppressive therapy, representatives of pharmaceutical manufacturers, and such other individuals as the Secretary may select.

Mail.

(B) A study to evaluate the potential to use mail service pharmacies to reduce costs to the medicare program and to medicare beneficiaries, for which a report shall be made by January 1, 1990.

(C) A study of methods to improve utilization review of covered outpatient drugs, for which a report shall be made by January 1, 1993.

(D) A longitudinal study, to be conducted as a follow-up to the data collected under the survey referred to in subsection (i)(1)(A), on the use of outpatient prescription drugs by medicare beneficiaries with respect to medical necessity, potential for adverse drug interactions, cost (including whether lower cost drugs could have been used), and patient stockpiling or wastage, for which a report shall be made by January 1, 1993.

(2) GAO.—The Comptroller General shall conduct the following studies, and report to Congress on the results of each such study by not later than May 1, 1991:

(A) A study comparing average wholesale prices with actual pharmacy acquisition costs by type of pharmacy.

(B) A study to determine the overhead costs of retail pharmacies.

(C) A study of the discounts given by pharmacies to other third-party insurers.

Records.

Pharmacies which fail to provide the Comptroller General with reasonable access to necessary records to carry out the studies under this paragraph are subject to exclusion from the medicare and medicaid programs under section 1128(a) of the Social Security Act.

42 USC 1395m note.

(l) DEVELOPMENT OF STANDARD MEDICARE CLAIMS FORM.—

(1) The Secretary shall develop, in consultation with representatives of pharmacies and other interested individuals, a standard claims form (and a standard electronic claims format) to be used in requests for payment for covered outpatient drugs under the medicare program and other third-party payors.

(2) Not later than October 1, 1989, the Secretary shall distribute official sample copies of the format developed under paragraph (1) to pharmacies and other interested parties and by not later than October 1, 1990, shall distribute official sample copies of the form developed under paragraph (1) to pharmacies and other interested parties.

(m) EFFECTIVE DATES.— 42 USC 1395u note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to items dispensed on or after January 1, 1990.

(2) CARRIERS.—The amendments made by subsection (e) shall take effect on the date of the enactment of this Act; except that the amendments made by subsection (e)(5) shall take effect on January 1, 1991, but shall not be construed as requiring payment before February 1, 1991.

(3) HMO/CMP ENROLLMENTS.—The amendment made by subsection (f) shall apply to enrollments effected on or after January 1, 1990.

(4) DIAGNOSTIC CODING.—The amendment made by subsection (g) shall apply to services furnished after March 31, 1989.

(5) TRANSITION.—With respect to administrative expenses (and costs of the Prescription Drug Payment Review Commission) for periods before January 1, 1990, amounts otherwise payable from the Federal Catastrophic Drug Insurance Trust Fund shall be payable from the Federal Supplementary Medical Insurance Trust Fund and shall also be treated as a debit to the Medicare Catastrophic Coverage Account.

SEC. 203. COVERAGE OF HOME INTRAVENOUS DRUG THERAPY SERVICES.

(a) IN GENERAL.—Section 1832(a)(2)(A) (42 U.S.C. 1395k(a)(2)(A)) is amended by inserting "and home intravenous drug therapy services" before the semicolon.

(b) HOME INTRAVENOUS DRUG THERAPY SERVICES DEFINED.—Section 1861 (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"(jj)(1) The term 'home intravenous drug therapy services' means the items and services described in paragraph (2) furnished to an individual who is under the care of a physician—

"(A) in a place of residence used as such individual's home;

"(B) by a qualified home intravenous drug therapy provider (as defined in paragraph (3)) or by others under arrangements with them made by such provider; and

"(C) under a plan established and periodically reviewed by a physician.

"(2) The items and services described in this paragraph are such nursing, pharmacy, and related services (including medical supplies, intravenous fluids, delivery, and equipment) as are necessary to conduct safely and effectively an intravenously administered drug regimen through use of a covered home IV drug (as defined in subsection (t)(4)), but do not include such covered outpatient drugs.

"(3) The term 'qualified home intravenous drug therapy provider' means any entity that the Secretary determines meets the following requirements:

"(i) The entity is capable of providing or arranging for the items and services described in paragraph (2) and covered home IV drugs.

"(ii) The entity maintains clinical records on all patients.

"(iii) The entity adheres to written protocols and policies with respect to the provision of items and services.

"(iv) The entity makes services available (as needed) seven days a week on a 24-hour basis.

"(v) The entity coordinates all services with the patient's physician.

"(vi) The entity conducts a quality assessment and assurance program, including drug regimen review and coordination of patient care.

"(vii) The entity assures that only trained personnel provide covered home IV drugs (and any other service for which training is required to safely provide the service).

"(viii) The entity assumes responsibility for the quality of services provided by others under arrangements with the agency or entity.

"(ix) In the case of an entity in any State in which State or applicable local law provides for the licensing of entities of this nature, (I) is licensed pursuant to such law, or (II) is approved, by the agency of such State or locality responsible for licensing entities of this nature, as meeting the standards established for such licensing.

"(x) The entity meets such other requirements as the Secretary may determine are necessary to assure the safe and effective provision of home intravenous drug therapy services and the efficient administration of the home intravenous drug therapy benefit.".

(c) PAYMENT.—

(1) IN GENERAL.—Part B is amended—

(A) in subsection (a)(2)(B) of section 1833 (42 U.S.C. 1395l), by striking "or (E)" and inserting "(E), or (F)";

(B) in subsection (a)(2)(D) of such section, by striking "and" at the end;

(C) in subsection (a)(2)(E) of such section, by striking the semicolon and inserting "; and";

(D) by inserting after subsection (a)(2)(E) of such section the following new subparagraph:

"(F) with respect to home intravenous drug therapy services, the amounts described in section 1834(d)(1);";

(E) in subsection (b) of such section, by striking "services, (3)" and inserting "services and home intravenous drug therapy services, (3)"; and

(F) by adding at the end of section 1834, as amended by section 202(b)(4) of this Act, the following new subsection:

42 USC 1395m.

"(d) HOME INTRAVENOUS DRUG THERAPY SERVICES.—

"(1) IN GENERAL.—With respect to home intravenous drug therapy services, subject to paragraph (3), payment under this part shall be made in an amount equal to the lesser of the actual charges for such services or the fee schedule established under paragraph (2).

Regulations.

"(2) ESTABLISHMENT OF FEE SCHEDULE.—The Secretary shall establish by regulation before the beginning of calendar year 1990 and each succeeding calendar year a fee schedule for home intravenous drug therapy services for which payment is made under this part. A fee schedule established under this subsection shall be on a per diem basis.

"(3) LIMITATION ON ACCEPTANCE OF, AND PAYMENTS FOR, CERTAIN REFERRALS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), a home intravenous drug therapy provider may not provide home intravenous drug therapy services under this part to an individual if the individual's referring physician (as defined in subparagraph (D)), or an immediate family member of the physician—

"(i) has an ownership interest in the provider, or
"(ii) receives compensation from the provider.

"(B) EXCEPTIONS.—

"(i) Subparagraph (A)(i) shall not apply—

"(I) if the ownership interest is the ownership of stock which is traded over a publicly-regulated exchange and was purchased on terms generally available to the public, or

"(II) if the provider is a sole home intravenous drug therapy provider (as defined by the Secretary) in a rural area.

"(ii) Subparagraph (A)(ii) shall not apply if the compensation is reasonably related to items or services actually provided by the physician and does not vary in proportion to the number of referrals made by the referring physician, but such exception shall not apply to compensation provided for direct patient care services.

"(iii) Subparagraph (A) shall not be construed to apply to a referring physician whose only ownership or financial relationship with the provider is as an uncompensated officer or director of the provider.

"(iv) Subparagraph (A) also shall not apply in such cases, established by the Secretary in regulations, in which the nature of the ownership or compensation does not pose a substantial risk of program abuse.

"(C) SANCTIONS.—

"(i) DENIAL OF PAYMENT.—No payment may be made under this part for home intravenous drug therapy services which are provided in violation of subparagraph (A).

"(ii) CIVIL MONEY PENALTY FOR IMPROPER CLAIMS.—Any person (including a home intravenous drug therapy provider or physician) that presents or causes to be presented a claim for an item or service that such person knows or should know is for an item or service for which payment may not be made under subparagraph (A) shall be subject to a civil money penalty of not more than $15,000 for each such item or service. The provisions of section 1128A (other than the first sentence of subsection (a) and other than subsection (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).

"(D) REFERRING PHYSICIAN DEFINED.—In this paragraph, the term 'referring physician' means, with respect to providing home intravenous drug therapy services to an individual, a physician who—

"(i) prescribed the covered home IV drug for which the services are to be provided, or

"(ii) established the plan of care for such services.".

(2) PROPAC STUDY.—The Prospective Payment Assessment Commission shall conduct a study, and make recommendations to Congress and the Secretary of Health and Human Services by not later than March 1, 1991, concerning appropriate adjustment to the payment amounts provided under section 1886(d) of the Social Security Act for inpatient hospital services to account

42 USC 1395ww note.

for reduced costs to hospitals resulting from the amendments made by this section.

Health care professionals.

(3) INSPECTOR GENERAL REPORT ON POTENTIALLY ABUSIVE OWNERSHIP OR COMPENSATION ARRANGEMENTS.—The Inspector General of the Department of Health and Human Services shall study and report to Congress, by not later than May 1, 1989, concerning—

(A) physician ownership of, or compensation from, an entity providing items or services to which the physician makes referrals and for which payment may be made under the medicare program;

(B) the range of such arrangements and the means by which they are marketed to physicians;

(C) the potential of such ownership or compensation to influence the decision of a physician regarding referrals and to lead to inappropriate utilization of such items and services; and

Law enforcement and crime.

(D) the practical difficulties involved in enforcement actions against such ownership and compensation arrangements that violate current antikickback provisions.

Such report shall include such recommendations as may be appropriate to strengthen current law provisions to prevent program abuse.

(d) CERTIFICATION.—

(1) IN GENERAL.—Section 1835(a)(2) (42 U.S.C. 1395n(a)(2)) is amended—

(A) by striking "and" at the end of subparagraph (E);

(B) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(C) by inserting after subparagraph (F) the following new subparagraph:

"(G) in the case of home intravenous drug therapy services, (i) such services are or were required because the individual needed such services for the administration of a covered home IV drug, (ii) a plan for furnishing such services has been established and is reviewed periodically by a physician, (iii) such services are or were furnished while the individual is or was under the care of a physician, (iv) such services are administered in a place of residence used as such individual's home, and (v) with respect to such services initiated before January 1, 1993, such services have been reviewed and approved by a utilization and peer review organization under section 1154(a)(16) before the date such services were initiated (or, in the case of services first initiated on an outpatient basis, within 1 working day (except in exceptional circumstances) of the date of initiation of the services).".

(2) PRO PRIOR APPROVAL REQUIRED.—Section 1154(a) (42 U.S.C. 1320c-3(a)) is amended by adding at the end the following new paragraph:

"(16) The organization shall perform the review described in paragraph (1) with respect to home intravenous drug therapy services (as defined in section 1861(jj)(1)) initiated before January 1, 1993, within 1 working day of the date of the organization's receipt of a request for such review. The Secretary shall establish criteria to be used by such an organization in conduct-

ing reviews with respect to the appropriateness of home intravenous drug therapy services under this paragraph.".

(e) CERTIFICATION OF HOME INTRAVENOUS DRUG THERAPY PROVIDERS; INTERMEDIATE SANCTIONS FOR NONCOMPLIANCE.—

(1) TREATMENT AS PROVIDER OF SERVICES.—Section 1861(u) (42 U.S.C. 1395x(u)) is amended by inserting "home intravenous drug therapy provider," after "hospice program,".

(2) CONSULTATION WITH STATE AGENCIES AND OTHER ORGANIZATIONS.—Section 1863 (42 U.S.C. 1395z) is amended by striking "and (dd)(2)" and inserting "(dd)(2), and (jj)(3)".

(3) USE OF STATE AGENCIES IN DETERMINING COMPLIANCE.—Section 1864(a) (42 U.S.C. 1395aa(a)) is amended—

(A) in the first sentence, by inserting "or a home intravenous drug therapy provider," after "hospice program", and

(B) in the second sentence, by striking "or hospice program" and inserting "hospice program, or home intravenous drug therapy provider".

(4) APPLICATION OF INTERMEDIATE SANCTIONS.—Section 1846 (42 U.S.C. 1395w-2) is amended—

(A) in the heading, by adding "AND FOR QUALIFIED HOME INTRAVENOUS DRUG THERAPY PROVIDERS" at the end;

(B) in subsection (a), by inserting "or that a qualified home intravenous drug therapy provider that is certified for participation under this title no longer substantially meets the requirements of section 1861(jj)(3)" after "under this part"; and

(C) in subsection (b)(2)(A)(iv) by inserting "or home intravenous drug therapy services" after "clinical diagnostic laboratory tests".

(f) USE OF REGIONAL INTERMEDIARIES IN ADMINISTRATION OF BENEFIT.—Section 1816 (42 U.S.C. 1395h) is amended by adding at the end thereof the following new subsection:

"(k) With respect to carrying out functions relating to payment for home intravenous drug therapy services and covered home IV drugs, the Secretary may enter into contracts with agencies or organizations under this section to perform such functions on a regional basis.". Contracts.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1990. 42 USC 1320c-3 note.

SEC. 204. COVERAGE OF SCREENING MAMMOGRAPHY.

(a) IN GENERAL.—Section 1861 (42 U.S.C. 1395x) is amended—

(1) in subsection (s)—

(A) by redesignating paragraphs (13) and (14) as paragraphs (14) and (15), respectively,

(B) by striking "and" at the end of paragraph (11),

(C) by striking the period at the end of paragraph (12) and inserting "; and", and

(D) by inserting after paragraph (12) the following new paragraph:

"(13) screening mammography (as defined in subsection (kk))."; and

(2) by adding at the end the following new subsection:

"Screening Mammography

"(kk) The term 'screening mammography' means a radiologic procedure provided to a woman for the purpose of early detection of breast cancer and includes a physician's interpretation of the results of the procedure.".

(b) PAYMENT AND COVERAGE.—Section 1834 (42 U.S.C. 1395m), as amended by sections 202(b)(4) and 203(c)(1)(F) of this Act, is amended—

(1) in subsection (b)(1)(B), by inserting "and subject to subsection (e)(1)(A)" after "conversion factors", and

(2) by adding at the end the following new subsection:

"(e) PAYMENTS AND STANDARDS FOR SCREENING MAMMOGRAPHY.—

"(1) IN GENERAL.—Notwithstanding any other provision of this part (except as provided in section 1833(c)), with respect to expenses incurred for screening mammography (as defined in section 1861(kk))—

"(A) payment may be made only for screening mammography conducted consistent with the frequency permitted under paragraph (2);

"(B) payment may be made only if the screening mammography meets the quality standards established under paragraph (3); and

"(C) the amount of the payment under this part shall, subject to the deductible established under section 1833(b), be equal to 80 percent of the least of—

"(i) the actual charge for the screening,

"(ii) the fee schedule established under subsection (b) with respect to both the professional and technical components of the screening mammography, in the case of screening mammography subject to such schedule but for this paragraph, or

"(iii) the limit established under paragraph (4) for the screening mammography.

"(2) FREQUENCY COVERED.—

"(A) IN GENERAL.—Subject to revision by the Secretary under subparagraph (B)—

"(i) No payment may be made under this part for screening mammography performed on a woman under 35 years of age.

"(ii) Payment may be made under this part for only 1 screening mammography performed on a woman over 34 years of age, but under 40 years of age.

"(iii) In the case of a woman over 39 years of age, but under 50 years of age, who—

"(I) is at a high risk of developing breast cancer (as determined pursuant to factors identified by the Secretary), payment may not be made under this part for a screening mammography performed within the 11 months of a previous screening mammography, or

"(II) is not at a high risk of developing breast cancer, payment may not be made under this part for a screening mammography performed within the 23 months after a previous screening mammography.

"(iv) In the case of a woman over 49 years of age, but under 65 years of age, payment may not be made under this part for screening mammography performed within 11 months after a previous screening mammography.

"(v) In the case of a woman over 64 years of age, payment may not be made for screening mammography performed within 23 months after a previous screening mammography.

"(B) REVISION OF FREQUENCY.—

"(i) REVIEW.—The Secretary, in consultation with the Director of the National Cancer Institute, shall review periodically the appropriate frequency for performing screening mammography, based on age and such other factors as the Secretary believes to be pertinent.

"(ii) REVISION OF FREQUENCY.—The Secretary, taking into consideration the review made under clause (i), may revise from time to time the frequency with which screening mammography may be paid for under this subsection, but no such revision shall apply to screening mammography performed before January 1, 1992.

"(3) QUALITY STANDARDS.—The Secretary shall establish standards to assure the safety and accuracy of screening mammography performed under this part. Such standards shall include the requirements that— Safety.

"(A) the equipment used to perform the mammography must be specifically designed for mammography and must meet radiologic standards established by the Secretary for mammography;

"(B) the mammography must be performed by an individual who—

"(i) is licensed by a State to perform radiological procedures, or

"(ii) is certified as qualified to perform radiological procedures by such an appropriate organization as the Secretary specifies in regulations;

"(C) the results of the mammography must be interpreted by a physician—

"(i) who is certified as qualified to interpret radiological procedures by such an appropriate board as the Secretary specifies in regulations, or

"(ii) who is certified as qualified to interpret screening mammography procedures by such a program as the Secretary recognizes in regulation as assuring the qualifications of the individual with respect to such interpretation; and

"(D) with respect to the first screening mammography performed on a woman for which payment is made under this part, there are satisfactory assurances that the results of the mammography will be placed in permanent medical records maintained with respect to the woman. Records.

"(4) LIMIT.—

"(A) $50, INDEXED.—Except as provided by the Secretary under subparagraph (B), the limit established under this paragraph—

"(i) for screening mammography performed in 1990, is $50, and

"(ii) for screening mammography performed in a subsequent year is the limit established under this paragraph for the preceding year increased by the percentage increase in the MEI for that subsequent year.

"(B) REDUCTION OF LIMIT.—The Secretary shall review from time to time the appropriateness of the amount of the limit established under this paragraph. The Secretary may, with respect to screening mammography performed in a year after 1991, reduce the amount of such limit as it applies nationally or in any area to the amount that the Secretary estimates is required to assure that screening mammography of an appropriate quality is readily and conveniently available during the year.

Claims.

"(C) APPLICATION OF LIMIT IN HOSPITAL OUTPATIENT SETTING.—The Secretary shall provide for an appropriate allocation of the limit established under this paragraph between professional and technical components in the case of hospital outpatient screening mammography (and comparable situations) where there is a claim for professional services separate from the claim for the radiologic procedure.

"(5) LIMITING CHARGES OF NONPARTICIPATING PHYSICIANS.—

"(A) IN GENERAL.—In the case of mammography screening performed on or after January 1, 1990, for which payment is made under this subsection, if a nonparticipating physician or supplier provides the screening to an individual entitled to benefits under this part, the physician or supplier may not charge the individual more than the limiting charge (as defined in subparagraph (B), or, if applicable and if less, as defined in subsection (b)(5)(B)).

"(B) LIMITING CHARGE DEFINED.—In subparagraph (A), the term 'limiting charge' means, with respect to screening mammography performed—

"(i) in 1990, 125 percent of the limit established under paragraph (4),

"(ii) in 1991, 120 percent of the limit established under paragraph (4), and

"(iii) after 1991, 115 percent of the limit established under paragraph (4).

"(C) ENFORCEMENT.—If a physician or supplier knowing and willfully imposes a charge in violation of subparagraph (A), the Secretary may apply sanctions against such physician or supplier in accordance with section 1842(j)(2).".

(c) CERTIFICATION OF SCREENING MAMMOGRAPHY QUALITY STANDARDS.—

(1) Section 1863 (42 U.S.C. 1395z) is amended by inserting "or whether screening mammography meets the standards established under section 1834(e)(3)," after "1832(a)(2)(F)(i),".

(2) The first sentence of section 1864(a) (42 U.S.C. 1395aa(a)) is amended by inserting before the period the following: ", or whether screening mammography meets the standards established under section 1834(e)(3)".

(3) Section 1865(a) (42 U.S.C. 1395bb(a)) is amended by inserting "1834(e)(3)," after "1832(a)(2)(F)(i),".

(d) CONFORMING AMENDMENTS.—

(1) Section 1833(a)(2)(E) (42 U.S.C. 1395l(a)(2)(E)) is amended by inserting ", but excluding screening mammography" after "imaging services".

(2) Section 1862(a) (42 U.S.C. 1395y(a)) is amended—

(A) in paragraph (1)—

(i) in subparagraph (A), by striking "subparagraph (B), (C), (D), or (E)" and inserting "a succeeding subparagraph",

(ii) in subparagraph (D), by striking "and" at the end,

(iii) in subparagraph (E), by striking the semicolon at the end and inserting ", and", and

(iv) by adding at the end the following new subparagraph:

"(F) in the case of screening mammography, which is performed more frequently than is covered under section 1834(e)(2) or which does not meet the standards established under section 1834(e)(3);"; and

(B) in paragraph (7), by inserting "or under paragraph (1)(F)" after "(1)(B)".

(3) Sections 1864(a), 1865(a), 1902(a)(9)(C), and 1915(a)(1)(B)(ii)(I) (42 U.S.C. 1395aa(a), 1395bb(a), 1396a(a)(9)(C), 1396n(a)(1)(B)(ii)(I)) are each amended by striking "paragraphs (13) and (14)" and inserting "paragraphs (14) and (15)".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to screening mammography performed on or after January 1, 1990. Paragraph (5) of section 1834(e) of the Social Security Act shall only apply until such time as the Secretary of Health and Human Services implements the physician fee schedules based on relative value scale developed under section 1845(e) of such Act. 42 USC 1395m note.

(f) REPORTS.— 42 USC 1395m note.

(1) The Physician Payment Review Commission shall study and report, by July 1, 1989, to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate concerning the cost of providing screening mammography in a variety of settings and at different volume levels.

(2) The Comptroller General shall study and report, by July 1, 1989, to the Committees specified in paragraph (1) concerning the quality of care of screening mammography in a variety of settings.

SEC. 205. IN-HOME CARE FOR CERTAIN CHRONICALLY DEPENDENT INDIVIDUALS.

(a) IN GENERAL.—Section 1832(a) (42 U.S.C. 1395k(a)) is amended—

(1) in paragraph (2)(A)—

(A) by inserting "(i)" after "(A)", and

(B) by inserting before the semicolon at the end the following: ", and (ii) in-home care for a chronically dependent individual for up to 80 hours in any 12-month period described in section 1861(ll)(4), but not to exceed 80 hours in any calendar year;"; and

(2) by adding at the end the following new sentence:

"In the case of in-home care (described in paragraph (2)(A)(ii)) provided to a chronically dependent individual on any day, such care provided for 3 hours or less on the day shall be counted (for purposes of the limitation in such paragraph) as 3 hours of such care.".

(b) IN-HOME CARE FOR CHRONICALLY DEPENDENT INDIVIDUAL DEFINED.—Section 1861 (42 U.S.C. 1395x), as amended by section 204(a)(2) of this Act, is amended by adding at the end the following new subsection:

"In-Home Care; Chronically Dependent Individual

"(ll)(1) The term 'in-home care' means the following items and services furnished, under the supervision of a registered professional nurse, to a chronically dependent individual (as defined in paragraph (2)) during the period described in paragraph (4) by a home health agency or by others under arrangements with them made by such agency in a place of residence used as such individual's home:

"(A) Services of a homemaker/home health aide (who has successfully completed a training program approved by the Secretary).

"(B) Personal care services.

"(C) Nursing care provided by a licensed professional nurse.

"(2) The term 'chronically dependent individual' means an individual who—

"(A) is dependent on a daily basis on a primary caregiver who is living with the individual and is assisting the individual without monetary compensation in the performance of at least 2 of the activities of daily living (described in paragraph (3)), and

"(B) without such assistance could not perform such activities of daily living.

"(3) The 'activities of daily living', referred to in paragraph (2), are as follows:

"(i) Eating.

"(ii) Bathing.

"(iii) Dressing.

"(iv) Toileting.

"(v) Transferring in and out of a bed or in and out of a chair.

"(4) The 12-month period described in this paragraph is the 1-year period beginning on the date that the Secretary determines that a chronically dependent individual either—

"(A) has become entitled to benefits under section 1833(c) (relating to having incurred out-of-pocket part B cost sharing equal to the part B catastrophic limit), or

"(B) has become entitled to have payments made for covered outpatient drugs under section 1834(c).

In the case of an individual who qualifies under subparagraph (A) or (B) within 12 months after previously qualifying, the subsequent qualification shall begin a new 12-month period under this paragraph. In the case of an individual enrolled in a buy-out plan (as defined in section 1833(c)(5)(D)) or a drug buy-out plan (as defined in section 1834(c)(6)(D)), the Secretary shall establish such procedures as may be appropriate to identify individuals who are deemed to be described in subparagraph (A) or (B), respectively, for purposes of the provision of in-home care under the plan.".

(c) PAYMENT.—Section 1833(a) (42 U.S.C. 1395l(a)) is amended—

(1) in paragraph (2), by inserting "(A)(ii)," after "subparagraphs" the first place it appears,

(2) in paragraph (3), by striking "(D)" and inserting "(A)(ii), (D),", and

(3) by adding at the end the following:

"Payment for in-home care for chronically dependent individuals shall be paid on the basis of an hour of such care provided. In applying paragraph (2) in the case of an organization receiving payment under clause (A) of paragraph (1) or under a reasonable cost reimbursement contract under section 1876 and providing coverage of in-home care, the Secretary shall provide for an appropriate adjustment in the payment amounts otherwise made to reflect the aggregate increase in payments that would otherwise be made with respect to enrollees in the organization if payments were made other than under such clause or such a contract if payments were to be made on an individual-by-individual basis.". Contracts.

(d) CERTIFICATION.—Section 1835(a)(2) (42 U.S.C. 1395n(a)(2)), as amended by section 203(d) of this Act, is amended—

(1) by striking "and" at the end of subparagraph (F);

(2) by striking the period at the end of subparagraph (G) and inserting in lieu thereof "; and"; and

(3) by inserting after subparagraph (G) the following new subparagraph:

"(H) in the case of in-home care provided to a chronically dependent individual during a 12-month period, the individual was a chronically dependent individual during the 3-month period immediately preceding the beginning of the 12-month period.".

(e) STANDARDS FOR UTILIZATION.—

(1) Section 1862(a) (42 U.S.C. 1395y(a)), as amended by section 204(d)(2) of this Act, is amended—

(A) in paragraph (1)—

(i) by striking "and" at the end of subparagraph (E),

(ii) by adding "and" at the end of subparagraph (F), and

(iv) by adding at the end the following new subparagraph:

"(G) in the case of in-home care for chronically dependent individuals, which is not reasonable and necessary to assure the health and condition of the individual is maintained in the individual's noninstitutional residence;"; and

(B) in paragraph (6), by inserting "and except, in the case of in-home care, as is otherwise permitted under paragraph (1)(G)" after "paragraph (1)(C)".

(2) The Secretary of Health and Human Services shall take appropriate efforts to assure the quality, and provide for appropriate utilization of, in-home care for chronically dependent individuals under the amendments made by this section. 42 USC 1395k note.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to items and services furnished on or after January 1, 1990. 42 USC 1395k note.

(g) STUDY OF ALTERNATIVE OUT-OF-HOME SERVICES.—The Secretary of Health and Human Services shall study, and report to Congress, not later than 18 months after the date of the enactment of this Act, on the advisability of providing, to chronically dependent individuals eligible for in-home care under the amendments made by this section, out-of-home services (such as adult day care services or nursing facility services) as alternative services to in-home care. Reports. 42 USC 1395k note.

SEC. 206. EXTENDING HOME HEALTH SERVICES.

(a) IN GENERAL.—Section 1861(m) (42 U.S.C. 1395x(m)) is amended by adding at the end the following new sentence: "For purposes of paragraphs (1) and (4) and sections 1814(a)(2)(C) and 1835(a)(2)(A),

nursing care and home health aide services shall be considered to be provided or needed on an 'intermittent' basis if they are provided or needed less than 7 days each week and, in the case they are provided or needed for 7 days each week, if they are provided or needed for a period of up to 38 consecutive days.".

42 USC 1395x note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to services furnished in cases of initial periods of home health services beginning on or after January 1, 1990.

42 USC 1395b-1 note.

SEC. 207. RESEARCH ON LONG-TERM CARE SERVICES FOR MEDICARE BENEFICIARIES.

(a) IN GENERAL.—The Secretary of Health and Human Services, from the funds appropriated under subsection (b), shall provide for research on issues relating to the delivery and financing of long-term care services for medicare beneficiaries. Such research shall include research into at least the following areas:

(1) The financial characteristics of medicare beneficiaries who receive or need long-term care services, including whether such beneficiaries are eligible for medicaid benefits for such services.

(2) How the financial and other characteristics of medicare beneficiaries affect their utilization of institutional and noninstitutional long-term care services.

(3) How relatives of medicare beneficiaries are affected financially and in other ways because the beneficiaries require or receive long-term care services.

(4) The quality of long-term care services (in community-based and custodial settings) and how the provision of long-term care services may reduce expenditures for acute health care services.

Consumer protection.

(5) The effectiveness of, and need for, State and Federal consumer protections which assure adequate access to and protect the rights of medicare beneficiaries who are provided long-term care services (other than in a nursing facility).

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in equal parts from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, $5,000,000 for each of fiscal years 1989, 1990, 1991, 1992, and 1993 to carry out the research described in subsection (a).

(c) LONG-TERM CARE SERVICES DEFINED.—In this section, the term "long-term care services" includes nursing home care, home care, community-based services, and custodial care.

(d) REPORTS.—The Secretary of Health and Human Services shall submit interim reports by December 1, 1990, and by December 1, 1992, and a final report by June 1, 1994, concerning the demonstration projects conducted under this section.

42 USC 1395*ll* note.

SEC. 208. STUDY OF ADULT DAY CARE SERVICES.

(a) SURVEY OF CURRENT ADULT DAY CARE SERVICES.—The Secretary of Health and Human Services shall conduct a survey of adult day care services in the United States to collect information concerning—

(1) the scope of such services and the extent of their availability;

(2) the characteristics of entities providing such services;

(3) licensure, certification, and other quality standards that are applied to those providing such services;

(4) the cost and financing of such services; and

(5) the characteristics of the people who use such services.

(b) REPORT.—The Secretary shall report to Congress, by not later than 1 year after the date of the enactment of this Act, on the information collected in the survey. Based on such information, the Secretary shall include in the report recommendations concerning appropriate standards for coverage of adult day care services under medicare, including defining chronically dependent individuals, defining services included in adult day care services, establishing qualifications of providers of adult day care services, and establishing a reimbursement mechanism.

(c) ADULT DAY CARE SERVICES DEFINED.—In this section, the term "adult day care services" means medical or social services provided in an organized nonresidential setting to chronically impaired individuals who are not inpatients in a medical institution.

Subtitle B—Medicare Part B Monthly Premium Financing

SEC. 211. ADJUSTMENT IN MEDICARE PART B PREMIUM.

Prescription drugs.

(a) IN GENERAL.—Section 1839 (42 U.S.C. 1395r) is amended by adding at the end the following new subsection:

"(g)(1)(A) Except as provided in this paragraph, paragraphs (4) and (5), and subsections (b) and (f), the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection, shall be increased by the sum of the catastrophic coverage monthly premium and the prescription drug monthly premium for months in the year determined under the following table (for months occurring in 1989 through 1993) or determined in accordance with paragraphs (2) and (3) (for months after December 1993):

"In the case of:	The catastrophic coverage monthly premium is:	The prescription drug monthly premium is:
1989	$4.00	0
1990	$4.90	0
1991	$5.46	$1.94
1992	$6.75	$2.45
1993	$7.18	$3.02.

"(B)(i) Except as provided in subparagraph (C), if the amount of the supplemental premium rate otherwise determined under section 59B of the Internal Revenue Code of 1986 for taxable years beginning in a calendar year is increased as a result of subsection (e)(2)(A)(i) of such section or is reduced as a result of subsection (e)(2)(A)(ii) of such section, the monthly premium increase otherwise determined under this paragraph shall be reduced or increased, respectively, by an amount equal to—

"(I) 1/12th of the excess or shortfall, respectively, determined under clause (ii) for the year, as adjusted under clause (iv), divided by

"(II) the average number of individuals covered under this part during the preceding year.

"(ii) The excess or shortfall determined under this clause for a year is the excess or shortfall, determined by the Secretary of the Treasury, of—

"(I) the total amount of the supplemental premiums imposed under section 59B of the Internal Revenue Code of 1986 in the 2nd preceding year, over

"(II) the total amount of such premiums which would have been imposed in such year if the supplemental premium rate under such section had been increased by the shortfall rate, or decreased by the excess rate, described in clause (iii).

"(iii) The excess rate or shortfall rate under this clause for a year is the excess or shortfall of—

"(I) the supplemental premium rate established under section 59B of the Internal Revenue Code of 1986 for taxable years beginning in the year, and

"(II) the amount of such supplemental rate if determined without regard to subsection (e)(2)(A) of such section.

"(iv) The amount determined under clause (i)(I) for a year shall be increased by the percentage by which the per capita catastrophic coverage premium liability (as determined in section 59B(e)(3)(D)(ii) of the Internal Revenue Code of 1986) for the second preceding year exceeds such liability for the fourth preceding year (determined as if the catastrophic coverage premium rate for the second preceding calendar year were the same as the rate in effect for the fourth preceding calendar year).

"(C) In no event shall the monthly premium increase in effect under this paragraph for months in a year after 1993 be less than the monthly premium increase in effect under this paragraph for months in the preceding year.

"(D) If subparagraph (B) or subparagraph (C), or both, affects the increase in the monthly premium determined under this paragraph for a year, the increase in the monthly premium determined after the application of such subparagraph or subparagraphs shall be allocated between the catastrophic coverage monthly premium and the prescription drug monthly premium on the basis of the respective amounts of such premiums without regard to the application of either such subparagraph.

"(2)(A) In the case of months in a year after 1993, the catastrophic coverage monthly premium is the catastrophic coverage monthly premium (in effect under paragraph (1) or this paragraph for months in the preceding year, determined without regard to paragraph (1)(B) or (1)(C)) adjusted by the percentage determined under subparagraph (B) for the year.

"(B) The percentage determined under this subparagraph for a year shall be the sum of—

"(i) the outlay-premium percentage, and

"(ii) the reserve account percentage.

For purposes of the preceding sentence, negative percentages shall be taken into account as negatives.

"(C)(i) Except as provided in clause (ii), the outlay-premium percentage for any year is the percentage by which—

"(I) the per capita catastrophic outlays in the 2nd preceding year exceeds

"(II) such outlays in the 3rd preceding calendar year.

If there is no excess, this clause shall be applied by substituting 'is less than' for 'exceeds' and the percentage determined with such substitution shall be taken into account as a negative percentage.

"(ii) If—

"(I) the percentage increase in the CPI for the 12-month period ending with May of the preceding calendar year, exceeds (or is less than)

"(II) such increase for the 12-month period ending with May of the 2nd preceding calendar year,

by at least 1 percentage point, the percentage determined under clause (i) for any year shall be adjusted up (or down, respectively) by ½ of the amount by which such excess (or shortage, respectively) exceeds 1 percent.

"(D)(i) The reserve account percentage for any calendar year is the percentage which the premium change determined under clause (ii) is of the catastrophic coverage monthly premium in effect under paragraph (1) or this paragraph for the preceding year (determined without regard to paragraph (1)(B) or (1)(C)). If there is an excess determined under clause (iii), the percentage determined under the preceding sentence shall be taken into account as a negative percentage.

"(ii) The premium change determined under this clause for any year is the adjustment in the catastrophic coverage monthly premium (otherwise in effect for the 2nd preceding year) which the Secretary determines would have resulted in an aggregate increase (or decrease) in the premiums imposed by this subsection for such year equal to 37 percent of the shortfall or excess determined under clause (iii) for the calendar year.

"(iii) The shortfall (or excess) determined under this clause for any year is the amount by which—

"(I) 20 percent of the outlays during the 2nd preceding calendar year from the Medicare Catastrophic Coverage Account created under section 1841B, exceeds (or is less than)

"(II) the balance in such Account as of the close of such 2nd preceding calendar year (determined by taking into account previous premium increases by reason of the reserve account percentage under this paragraph or section 59B(e) of the Internal Revenue Code of 1986 which have not been credited into such Account).

"(3) In the case of months in a year after 1993, the prescription drug monthly premium shall be determined under rules similar to the rules of paragraph (2); except that—

"(A) in determining the prescription drug monthly premium for any month in a year before 1998, the following percentages shall be substituted for 20 percent in paragraph (2)(D)(iii)(I):

"In the case of year:	The percentage is:
1994	75
1995	50
1996	25
1997	25;

"(B) no adjustment by reason of the outlay-premium percentage shall be made for any calendar year before 1998;

"(C) any reference to the Medicare Catastrophic Coverage Account shall be treated as a reference to the Federal Catastrophic Drug Insurance Trust Fund; and

"(D) any reference to the catastrophic coverage monthly premium shall be treated as a reference to the prescription drug monthly premium.

"(4)(A) In the case of an individual who is a resident of Puerto Rico or who is a resident of another U.S. commonwealth or territory during a month, instead of the premium increase provided under

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paragraph (1), subject to subsection (b), the monthly premium for each individual enrolled under this part otherwise determined, without regard to this subsection, shall be increased by the sum of—

"(i) the catastrophic coverage monthly premium determined under subparagraph (B) for such resident for the year, and

"(ii) the prescription drug monthly premium determined under subparagraph (C) for the resident for the year.

"(B) The catastrophic coverage monthly premium for months—

"(i) in 1989 is $1.30 for a resident of Puerto Rico and $2.10 for a resident of another U.S. commonwealth or territory;

"(ii) in 1990 is $3.56 for a resident of Puerto Rico and $5.78 for a resident of another U.S. commonwealth or territory; and

"(iii) in a subsequent year, with respect to a resident of Puerto Rico or a resident of another U.S. commonwealth or territory, is the catastrophic coverage monthly premium established under this subparagraph for the preceding year with respect to such a resident increased by the same percentage (estimated by the Secretary in September of that preceding year) by which—

"(I) the per capita catastrophic outlays for the year, will exceed

"(II) the per capita catastrophic outlays for that preceding year.

"(C) The prescription drug monthly premium for months—

"(i) in 1990 is $0.14 for a resident of Puerto Rico and $0.22 for a resident of another U.S. commonwealth or territory;

"(ii) in 1991 is $1.21 for a resident of Puerto Rico and $1.93 for a resident of another U.S. commonwealth or territory; and

"(iii) in a subsequent year, with respect to a resident of Puerto Rico or a resident of another U.S. commonwealth or territory, is the prescription drug monthly premium established under this subparagraph for the preceding year with respect to such a resident increased by the same percentage (estimated by the Secretary in September of that preceding year) by which—

"(I) the per capita prescription drug outlays for the year, will exceed

"(II) the per capita prescription drug outlays for that preceding year.

"(5)(A) In the case of a part B only individual (as defined in paragraph (8)(F)) during a month, instead of the premium increase provided under paragraph (1), subject to subsection (b), the monthly premium otherwise determined, without regard to this subsection, shall be increased by the sum of—

"(i) the catastrophic coverage monthly premium determined under subparagraph (B) for the year, and

"(ii) the prescription drug monthly premium determined under subparagraph (C) for the year.

"(B) The catastrophic coverage monthly premium for months—

"(i) in 1990 is $8.57, and

"(ii) in a subsequent year is 1/12th of the average actuarial expenses that the Secretary estimates (during September before the year) will be incurred during the year for benefits and administration costs (other than benefits and costs attributable to part A) for which outlays may be made from the Medicare Catastrophic Coverage Account.

"(C) The prescription drug monthly premium for months—

"(i) in 1990 is $0.53,

"(ii) in 1991 is $4.61, and

"(iii) a subsequent year is 1/12th of the average actuarial expenses that the Secretary estimates (during September before the year) will be incurred during the year for benefits and administration costs for which outlays may be made from the Federal Catastrophic Drug Insurance Trust Fund.

"(6)(A) If any premium increase for a month under this subsection is not a multiple of 10 cents, the Secretary shall round the increase to the nearest multiple of 10 cents.

"(B) If the Secretary so rounds the premium increase, the amount of such increase shall be allocated between the catastrophic coverage monthly premium and the prescription drug monthly premium on the basis of the respective amounts of such premiums without regard to the application of subparagraph (A).

"(7)(A) The Secretary and the Secretary of the Treasury shall jointly—

"(i) publish in the Federal Register by not later than July 1 of each year (beginning with 1993) a proposed regulation to establish premium increases under this subsection for months in the following year, Federal Register, publication. Regulations.

"(ii) report to Congress, by not later than September 1 of such year, on the final premiums to be published under clause (iii), and Reports.

"(iii) publish in the Federal Register, during the last 3 days of September of each such year, a final regulation establishing monthly premiums under this subsection for months in the following year. Federal Register, publication. Regulations.

"(B) The Secretary shall report to Congress, in 1993, respecting the appropriateness of the level of premium increases established under paragraph (4) for residents of Puerto Rico and of other U.S. commonwealths and territories. Reports. Territories, U.S.

"(8) For purposes of this subsection:

"(A) The term 'per capita catastrophic outlays' means, with respect to any year, the amount (as determined by the Secretary) equal to—

"(i) the outlays during such year from the Medicare Catastrophic Coverage Account, divided by

"(ii) the average number of individuals entitled to receive benefits under part A during such year.

"(B) The term 'per capita prescription drug outlays' means, with respect to any year, the amount (as determined by the Secretary) equal to—

"(i) the outlays during such year from the Federal Catastrophic Drug Insurance Trust Fund, divided by

"(ii) the average number of individuals entitled to receive benefits under part A during such year.

"(C) The percentage increase in the CPI for any 12-month period shall be the percentage by which the Consumer Price Index (as defined in section 1(f)(5) of the Internal Revenue Code of 1986) for the last month of such period exceeds such Index for the last month of the preceding 12-month period.

"(D) The term 'Medicare Catastrophic Coverage Account' refers to such Account as created under section 1841B.

"(E) The term 'U.S. commonwealth or territory' means Puerto Rico, the United States Virgin Islands, Guam, American Samoa, or the Northern Mariana Islands.

"(F) The term 'part B only individual' means, with respect to a month, an individual who—

"(i) is not a resident of a U.S. commonwealth or territory (as defined in subparagraph (E)) during the month,

"(ii) is entitled to benefits under this part, and

"(iii) is not entitled to (or, on application without payment of an additional premium, would not be entitled to) benefits under part A or is entitled to benefits under such part only because of payment of a premium under section 1818.".

(b) EXTENSION OF HOLD-HARMLESS PROVISION.—Subsection (f) of section 1839 (42 U.S.C. 1395r) is amended to read as follows:

"(f) For any calendar year after 1988, if an individual is entitled to monthly benefits under section 202 or 223 or to a monthly annuity under section 3(a), 4(a), or 4(f) of the Railroad Retirement Act of 1974 for November and December of the preceding year, and if the monthly premium of the individual under this section for December and for January is deducted from those benefits under section 1840(a)(1) or section 1840(b)(1), the monthly premium otherwise determined under this section for an individual for that year shall not be increased, pursuant to this subsection, to the extent that such increase would reduce the amount of benefits payable to that individual for that January below the amount of benefits payable to that individual for that December (after the deduction of the premium under this section). For purposes of this subsection, retroactive adjustments or payments and deductions on account of work shall not be taken into account in determining the monthly benefits to which an individual is entitled under section 202 or 223 or under the Railroad Retirement Act of 1974.".

(c) CONFORMING AMENDMENTS.—

(1) Section 1839 (42 U.S.C. 1395r) is amended—

(A) in the second sentence of subsections (a)(1) and (a)(4), by inserting "(other than costs relating to the amendments made by the Medicare Catastrophic Coverage Act of 1988)" before the period;

(B) by inserting before the period at the end of the last sentence of subsections (a)(1) and (a)(4) the following: ", but shall not take into account any amounts in the Trust Fund that may be attributable to receipts or outlays relating to the Medicare Catastrophic Coverage Account";

(C) in subsection (a)(2), by striking "and (e)" and inserting ", (e), and (g)";

(D) in subsection (a)(3), by striking "subsection (e)" and inserting "subsections (e) and (g)";

(E) in subsection (b), by striking "determined under subsection (a) or (e)" and inserting "otherwise determined under this section (without regard to subsections (f) and (g)(6))"; and

(F) in subsection (e)(1), by inserting "except as provided in subsection (g)," after "subsection (a)".

(2) Section 1844(a) (42 U.S.C. 1395w(a)) is amended by adding at the end the following:

"In computing the amount of aggregate premiums and premiums per enrollee under paragraph (1), there shall not be taken into account premiums attributable to section 1839(g) or section 59B of the Internal Revenue Code of 1986.".

42 USC 1395mm.

(3) Section 1876(a)(5) (42 U.S.C. 1395ff(a)(5)) is amended—

(A) by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting ", the Federal Supple-

mentary Medical Insurance Trust Fund, and the Federal Catastrophic Drug Insurance Trust Fund", and

(B) by amending the second sentence to read as follows: "The portion of that payment to the organization for a month to be paid by each trust fund shall be determined as follows: Contracts.

"(A) In regard to expenditures by eligible organizations having risk-sharing contracts, the allocation shall be determined each year by the Secretary based on the relative weight that benefits from each fund contribute to the adjusted average per capita cost.

"(B) In regard to expenditures by eligible organizations operating under a reasonable cost reimbursement contract, the initial allocation shall be based on the plan's most recent budget, such allocation to be adjusted, as needed, after cost settlement to reflect the distribution of actual expenditures.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply (except as otherwise specified in such amendments) to monthly premiums for months beginning with January 1989. 42 USC 1395r note.

SEC. 212. ESTABLISHMENT OF FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND; FUND TRANSFERS.

(a) IN GENERAL.—Part B of title XVIII is amended by inserting after section 1841 the following new section:

"FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND

"SEC. 1841A. (a)(1) There is hereby created on the books of the Treasury of the United States a trust fund to be known as the 'Federal Catastrophic Drug Insurance Trust Fund' (in this section referred to as the 'Trust Fund'). The Trust Fund shall consist of such gifts and bequests as may be made as provided in section 201(i)(1) and amounts transferred to it in accordance with section 1841(j) or under paragraph (2). 42 USC 1395t-1.

"(2) There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of the supplemental premiums imposed by section 59B of the Internal Revenue Code of 1986 which are attributable to the prescription drug rate. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the premiums, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the premiums specified in such sentence. At the close of each year, the transfers under this subsection shall reflect all premiums paid or deposited (as specified in this subsection) into the Treasury in the year.

"(b) The provisions of subsections (b) through (i) of section 1841 shall apply to the Trust Fund in the same manner as they apply to the Federal Supplementary Medical Insurance Trust Fund.

"(c) Notwithstanding any other provision of this title, all payments under this part on or after January 1, 1990, for benefits and administrative costs relating to covered outpatient drugs shall be made from the Trust Fund.

Federal Register, publication.

"(d)(1) The Secretary of the Treasury, in consultation with the Board of Trustees of the Trust Fund, shall publish in the Federal Register—

"(A) not later than July 1 of each year (beginning with 1992), information on—

"(i) the outlays made from the Trust Fund in the preceding year, and

"(ii) the balance in the Trust Fund as of the close of the preceding year; and

"(B) during the last 3 days of September of each such year, the prescription drug monthly premiums to be established under section 1839(g) for months in the succeeding year.

Reports.

"(2) The Secretary shall report to Congress, not later than July 1 of each year (beginning with 1992), respecting the distribution of outlays from the Trust Fund in the previous year among major spending categories. The Comptroller General shall report, not later than September 1 of each year, to Congress concerning the completeness and accuracy of the Secretary's report under the previous sentence and of the premiums established under section 1839(g) and under section 59B of the Internal Revenue Code of 1986.

"(e) In this part, with respect to the Trust Fund and the Medicare Catastrophic Coverage Account, the terms 'outlays' and 'receipts' mean, with respect to a quarter or other period, gross outlays and receipts, as such terms are employed in the 'Monthly Treasury Statement of Receipts and Outlays of the United States Government (MTS)', as published by the Department of the Treasury, for months in such quarter or other period.".

(b) TRANSFERS OF CERTAIN PREMIUMS.—

(1) TRANSFER OF FLAT PRESCRIPTION DRUG PREMIUMS TO FEDERAL CATASTROPHIC DRUG INSURANCE TRUST FUND.—Section 1840 (42 U.S.C. 1395s) is amended by adding at the end the following new subsection:

"(i) Notwithstanding the previous provisions of this subsection, premiums collected under this part which are attributable to a prescription drug monthly premium established under section 1839(g) shall, instead of being transferred to (or being deposited to the credit of) the Federal Supplemental Medical Insurance Trust Fund, be transferred to (or deposited to the credit of) the Federal Catastrophic Drug Insurance Trust Fund.".

(2) TRANSFER OF SUPPLEMENTAL CATASTROPHIC COVERAGE PREMIUMS INTO THE SMI TRUST FUND.—Section 1841(a) (42 U.S.C. 1395t(a)) is amended by adding the following: "There are hereby appropriated to the Trust Fund amounts equivalent to 100 percent of the supplemental premiums imposed by section 59B of the Internal Revenue Code of 1986 which are attributable to the catastrophic coverage rate and which are not otherwise appropriated under section 1817A(a)(2) to the Federal Hospital Insurance Catastrophic Coverage Reserve Fund. The amounts appropriated by the preceding sentence shall be transferred from time to time (not less frequently than monthly) from the general fund in the Treasury to the Trust Fund, such amounts to be determined on the basis of estimates by the Secretary of the Treasury of the premiums, specified in the preceding sentence, paid to or deposited into the Treasury; and proper adjustments shall be made in amounts subsequently transferred to the extent prior estimates were in excess of or were less than the premiums specified in such sentence. At the close of each

year, the transfers under this subsection shall reflect all premiums under section 59B of the Internal Revenue Code of 1986 paid or deposited into the Treasury in the year.".

(c) CONFORMING AMENDMENTS.—

(1)(A) Section 201(g)(1)(A) (42 U.S.C. 401(g)(1)(A)) is amended by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting ", Federal Supplementary Medical Insurance Trust Fund, and the Federal Catastrophic Drug Insurance Trust Fund".

(B) Section 201(i)(1) (42 U.S.C. 401(i)(1)) is amended by striking "and the Federal Supplementary Medical Insurance Trust Fund" and inserting ", Federal Hospital Insurance Catastrophic Coverage Reserve Fund, Federal Supplementary Medical Insurance Trust Fund, and the Federal Catastrophic Drug Insurance Trust Fund".

(2) Section 1833(a) (42 U.S.C. 1395l(a)) is amended, in the matter before paragraph (1), by inserting "or, as provided in section 1841A(c), from the Federal Catastrophic Drug Insurance Trust Fund" after "Medical Insurance Trust Fund".

(3) Section 1817(b) (42 U.S.C. 1395i(b)) is amended by inserting after the sixth sentence the following: "Such report shall also identify (and treat separately) those outlays from the Trust Fund which are also outlays from the Medicare Catastrophic Coverage Account created under section 1841B and those outlays for which there are amounts transferred into the Federal Hospital Insurance Catastrophic Coverage Reserve Fund.".

(4) Section 1841(b) (42 U.S.C. 1395t(b)) is amended by inserting after the sixth sentence the following: "Such report shall also identify (and treat separately) those receipts and outlays in the Trust Fund which are also receipts and outlays in the Medicare Catastrophic Coverage Account created under section 1841B.".

SEC. 213. CREATION OF MEDICARE CATASTROPHIC COVERAGE ACCOUNT.

(a) IN GENERAL.—Part B of title XVIII is amended by inserting after section 1841A, as inserted by section 212, the following new section:

"MEDICARE CATASTROPHIC COVERAGE ACCOUNT

"SEC. 1841B. (a) For purposes of carrying out certain provisions of this title, and section 59B of the Internal Revenue Code of 1986, there is hereby created on the books of the Treasury of the United States an account to be known as the 'Medicare Catastrophic Coverage Account' (in this section referred to as the 'Account'), to be maintained by the Secretary of the Treasury in consultation with the Boards of Trustees of the Federal Hospital Insurance Trust Fund and the Federal Supplementary Medical Insurance Trust Fund. No funds shall actually be transferred into or paid out of the Account, but, for other purposes of this part and for purposes of section 59B of the Internal Revenue Code of 1986, amounts credited to the Account shall be considered receipts of the Account and amounts debited to the Account shall be considered outlays from the Account. 42 USC 1395t-2.

"(b)(1) The Account shall be—

"(A) credited for receipts of the Federal Supplementary Medical Insurance Trust Fund attributable to the portion of supplemental premiums under section 59B of the Internal Revenue Code of 1986, and the premiums under section 1839(g), attrib-

utable to the catastrophic coverage premium rate or catastrophic coverage monthly premium,

"(B) credited for receipts of the Federal Hospital Insurance Catastrophic Coverage Reserve Fund, and

"(C) debited for outlays made under this title that are attributable to the amendments made by the Medicare Catastrophic Coverage Act of 1988 (other than outlays relating to covered outpatient drugs and related administrative costs).

"(2) In addition, the Account shall be—

"(A) credited with interest (at the rate used for purposes of the Federal Supplementary Medical Insurance Trust Fund) on any positive average balance maintained in the Account in a calendar quarter, and

"(B) debited with interest (at the rate used for purposes of the Federal Supplementary Medical Insurance Trust Fund) on any negative average balance maintained in the Account in a calendar quarter.

"(3) Credits and debits under this subsection shall be made as of the last date of each month based upon receipts and outlays occurring during the month, as estimated by the Secretary and the Secretary of the Treasury.

"(4) The Account shall also identify (and treat separately) those credits and debits in the Account which are also receipts and outlays in the Federal Supplementary Medical Insurance Trust Fund, those receipts which are also receipts of the Federal Hospital Insurance Catastrophic Coverage Reserve Fund, and those outlays that are also outlays from the Federal Hospital Insurance Trust Fund.

Federal Register, publication.

"(c)(1) The Secretary of the Treasury shall publish in the Federal Register—

"(A) not later than July 1 of each year (beginning with 1990), information on—

"(i) the outlays made from the Account in the preceding year, and

"(ii) the balance in the Account as of the close of the preceding year; and

"(B) during the last 3 days of September of each such year, the catastrophic coverage monthly premiums to be established under section 1839(g) for months in the succeeding year.

Reports.

"(2) The Secretary shall report to Congress, not later than July 1 of each year (beginning with 1990), respecting the distribution of outlays from the Account in the previous year among major spending categories. The Comptroller General shall report, not later than September 1 of each year, to Congress concerning the completeness and accuracy of the Secretary's report under the previous sentence and of the premiums established under section 1839(g) and under section 59B of the Internal Revenue Code of 1986.

Reports.

"(d) The Secretary of the Treasury shall report to Congress in April of each year on the status of the Account created under this section.".

Subtitle C—Miscellaneous Provisions

SEC. 221. VOLUNTARY CERTIFICATION OF MEDICARE SUPPLEMENTAL HEALTH INSURANCE POLICIES.

(a) FREE-LOOK PERIOD.—Section 1882 (42 U.S.C. 1395ss) is amended—

(1) in subsection (b)(1)(B), by striking "and (3)" and inserting "through (4)", and

(2) in subsection (c)—

(A) by striking "and" at the end of paragraph (2),

(B) by striking the period at the end of paragraph (3) and inserting "; and", and

(C) by adding at the end thereof the following:

"(4) may, during a period of not less than 30 days after the policy is issued, be returned for a full refund of any premiums paid (without regard to the manner in which the purchase of the policy was solicited).".

(b) REPORTING OF INFORMATION RELATING TO LOSS RATIOS.—Section 1882(b)(1), as amended by subsection (a), is further amended—

(1) in subparagraph (C), by striking "(A) and (B)" and inserting "(A), (B), and (C)",

(2) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively, and

(3) by inserting after subparagraph (B) the following new subparagraph:

"(C) provides that—

"(i) information with respect to the actual ratio of benefits provided to premiums collected under such policies will be reported to the State on forms conforming to those developed by the National Association of Insurance Commissioners for such purpose, or

"(ii) such ratios will be monitored under the program in an alternative manner approved by the Secretary;".

(c) CONSUMER INFORMATION.—Section 1882(e) is amended— 42 USC 1395ss.

(1) by inserting "(1)" after "(e)", and

(2) by adding at the end thereof the following:

"(2) The Secretary shall—

"(A) inform all individuals entitled to benefits under this title (and, to the extent feasible, individuals about to become so entitled) of—

"(i) the actions and practices that are subject to sanctions under subsection (d), and

"(ii) the manner in which they may report any such action or practice to an appropriate official of the Department of Health and Human Services (or to an appropriate State official), and

"(B) publish the toll-free telephone number for individuals to report suspected violations of the provisions of such subsection. Law enforcement and crime.

"(3) The Secretary shall provide individuals entitled to benefits under this title (and, to the extent feasible, individuals about to become so entitled) with a listing of the addresses and telephone numbers of State and Federal agencies and offices that provide information and assistance to individuals with respect to the selection of medicare supplemental policies.".

(d) REVISION OF MODEL STANDARDS; TRANSITION.—Section 1882 is further amended—

(1) in the third sentence of subsection (a), by striking "Such certification" and inserting "Subject to subsection (k)(3), such certification";

(2) in subsection (b), by striking "(for so long as" and inserting "(subject to subsection (k)(3), for so long as"; and

(3) by adding at the end thereof the following new subsections:

State and local governments.

"(k)(1)(A) If, within the 90-day period beginning on the date of the enactment of this subsection, the National Association of Insurance Commissioners (in this subsection referred to as the 'Association') amends the NAIC Model Regulation adopted on June 6, 1979 (as it relates to medicare supplemental policies), with respect to matters such as minimum benefit standards, loss ratios, disclosure requirements, and replacement requirements and provisions otherwise necessary to reflect the changes in law made by the Medicare Catastrophic Coverage Act of 1988, subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to the Model Regulation as amended by the Association in accordance with this paragraph (in this subsection and subsection (l) referred to as the 'amended NAIC Model Regulation').

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the amended NAIC Model Regulation or 1 year after the date the Association first adopts such amended Regulation.

"(2)(A) If the Association does not amend the NAIC Model Regulation within the 90-day period specified in paragraph (1)(A), the Secretary shall promulgate, not later than 60 days after the end of such period, Federal model standards (in this subsection and subsection (l) referred to as Federal model standards') for medicare supplemental policies to reflect the changes in law made by the Medicare Catastrophic Coverage Act of 1988, and subsection (g)(2)(A) shall be applied in a State, effective on and after the date specified in subparagraph (B), as if the reference to the Model Regulation adopted on June 6, 1979, were a reference to Federal model standards.

"(B) The date specified in this subparagraph for a State is the earlier of the date the State adopts standards equal to or more stringent than the Federal model standards or 1 year after the date the Secretary first promulgates such standards.

"(3) Notwithstanding any other provision of this section (except as provided in subsection (l))—

"(A) no medicare supplemental policy may be certified by the Secretary pursuant to subsection (a),

"(B) no certification made pursuant to subsection (a) shall remain in effect, and

"(C) no State regulatory program shall be found to meet (or to continue to meet) the requirements of subsection (b)(1)(A),

unless such policy meets (or such program provides for the application of standards equal to or more stringent than) the standards set forth in the amended NAIC Model Regulation or the Federal model standards (as the case may be) by the date specified in paragraph (1)(B) or (2)(B) (as the case may be).

State and local governments.

"(l)(1) Until the date specified in paragraph (3), in the case of a qualifying medicare supplemental policy described in paragraph (2) issued—

"(A) before January 1, 1989, the policy is deemed to remain in compliance with this section if the insurer issuing the policy complies with the NAIC Model Transition Regulation (including giving notices to subscribers and filing for premium adjustments with the State as described in section 5.B. of such Regulation) by January 1, 1989; or

"(B) on or after January 1, 1989, the policy is deemed to be in compliance with this section if the insurer issuing the policy complies with the NAIC Model Transition Regulation before the date of the sale of the policy.

"(2) In paragraph (1), the term 'qualifying medicare supplemental policy' means a medicare supplemental policy—

"(A) issued in a State which—

"(i) has not adopted standards equal to or more stringent than the NAIC Model Transition Regulation by January 1, 1989, and

"(ii) has not adopted standards equal to or more stringent than the amended NAIC Model Regulation (or Federal model standards) by January 1, 1989; and

"(B) which has been issued in compliance with this section (as in effect on June 1, 1988).

"(3)(A) The date specified in this paragraph is the earlier of—

"(i) the first date a State adopts, after January 1, 1989, standards equal to or more stringent than the NAIC Model Transition Regulation or equal to or more stringent than the amended NAIC Model Regulation (or Federal model standards), as the case may be, or

"(ii) the later of (I) the date specified in subsection (k)(1)(B) or (k)(2)(B) (as the case may be), or (II) the date specified in subparagraph (B).

"(B) In the case of a State which the Secretary identifies as—

"(i) requiring State legislation (other than legislation appropriating funds) in order for medicare supplemental policies to meet standards described in subparagraph (A)(i), but

"(ii) having a legislature which is not scheduled to meet in 1989 in a legislative session in which such legislation may be considered,

the date specified in this subparagraph is the first day of the first calendar quarter beginning after the close of the first legislative session of the State legislature that begins on or after January 1, 1989, and in which legislation described in clause (i) may be considered. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

"(4) In the case of a medicare supplemental policy in effect on January 1, 1989, and offered in a State which, as of such date—

"(A) has adopted standards equal to or more stringent than the amended NAIC Model Regulation (or Federal model standards), but

"(B) does not have in effect standards equal to or more stringent than the NAIC Model Transition Regulation (or otherwise requiring notice substantially the same as the notice required in section 5.B. of such Regulation),

the policy shall not be deemed to meet the standards in subsection (c) unless each individual who is entitled to benefits under this title and is a policyholder under such policy on January 1, 1989, is sent such a notice in any appropriate form by not later than January 31, 1989, that explains—

"(A) the improved benefits under this title contained in the Medicare Catastrophic Coverage Act of 1988, and

"(B) how these improvements affect the benefits contained in the policies and the premium for the policy.

"(5) In this subsection, the term 'NAIC Model Transition Regulation' refers to the standards contained in the 'Model Regulation to Implement Transitional Requirements for the Conversion of Medicare Supplement Insurance Benefits and Premiums to Conform to Medicare Program Revisions' (as adopted by the National Association of Insurance Commissioners in September 1987).

Reports.

"(6) The Secretary shall report to the Congress in March 1989 and in July 1990 on actions States have taken in adopting standards equal to or more stringent than the NAIC Model Transition Regulation or the amended NAIC Model Regulation (or Federal model standards).".

42 USC 1395ss.

(e) REQUIRED SUBMISSION OF ADVERTISING.—Section 1882(b) is further amended by adding at the end the following new paragraph:

State and local governments.

"(3) Notwithstanding paragraph (1), a medicare supplemental policy offered in a State shall not be deemed to meet the standards and requirements set forth in subsection (c), with respect to an advertisement (whether through written, radio, or television medium) used (or, at a State's option, to be used) for the policy in the State, unless the entity issuing the policy provides a copy of each advertisement to the Commissioner of Insurance (or comparable officer identified by the Secretary) of that State for review or approval to the extent it may be required under State law.".

(f) APPOINTMENT OF SUPPLEMENTAL HEALTH INSURANCE PANEL MEMBERS.—Section 1882(b)(2)(A) is amended by striking "appointed by the President" and inserting "appointed by the Secretary".

42 USC 1395ss note.

(g) EFFECTIVE DATES.—

(1) Except as provided in paragraphs (2) and (3), the amendments made by this section shall take effect on the date of the enactment of this Act.

(2) The amendments made by subsections (a) and (b) shall become effective on the date specified in subsection (k)(1)(B) or (k)(2)(B) of section 1882 of the Social Security Act (as added by subsection (c) of this section).

(3) The amendment made by subsection (f) shall apply to medicare supplemental policies as of January 1, 1989, with respect to advertising used on or after such date.

(4) The Secretary of Health and Human Services shall provide for the reappointment of members to the Supplemental Health Insurance Panel (under section 1882(b)(2) of the Social Security Act) by not later than 90 days after the date of the enactment of this Act.

42 USC 1395mm note.

SEC. 222. ADJUSTMENT OF CONTRACTS WITH PREPAID HEALTH PLANS.

The Secretary of Health and Human Services shall—

(1) modify contracts under sections 1833(a)(1)(A) and 1876 of the Social Security Act, for portions of contract years occurring after December 31, 1988, to take into account the amendments made by this Act; and

(2) require such organizations to make appropriate adjustments (including adjustments in premiums and benefits) in the terms of their agreements with medicare beneficiaries to take into account such amendments.

The Secretary shall also provide for appropriate modifications of contracts with health maintenance organizations under section 1876(i)(2)(A) of the Social Security Act (as in effect before February 1, 1985), under section 402(a) of the Social Security Amendments of 1967, or under section 222(a) of the Social Security Amendments of

1972, for portions of contract years occurring after December 31, 1988, so as to apply to such organizations and contracts the requirements imposed by the amendments made by this Act upon an organization with a risk-sharing contract under section 1876 of the Social Security Act.

SEC. 223. MAILING OF NOTICE OF MEDICARE BENEFITS AND INFORMATION DESCRIBING PARTICIPATING PHYSICIAN PROGRAM.

(a) DISTRIBUTION OF NOTICES.—Title XVIII is amended by inserting after section 1803 the following new section:

"NOTICE OF MEDICARE BENEFITS

"SEC. 1804. The Secretary shall prepare (in consultation with groups representing the elderly and with health insurers) and provide for distribution of a notice containing— 42 USC 1395b-2.

"(1) a clear, simple explanation of the benefits available under this title and the major categories of health care for which benefits are not available under this title,

"(2) the limitations on payment (including deductibles and coinsurance amounts) that are imposed under this title, and

"(3) a description of the limited benefits for long-term care services available under this title and generally available under State plans approved under title XIX.

Such notice shall be mailed annually to individuals entitled to benefits under part A or part B of this title and when an individual applies for benefits under part A or enrolls under part B.".

(b) DISTRIBUTION OF INFORMATION DESCRIBING PARTICIPATING PHYSICIAN PROGRAM.—Section 1842(h)(5) (42 U.S.C. 1395u(h)(5)) is amended—

(1) by inserting "through an annual mailing" after "under this part",

(2) by striking the last sentence,

(3) by inserting "(A)" after "(5)", and

(4) by adding at the end the following new subparagraph:

"(B) The annual notice provided under subparagraph (A) shall include—

"(i) a description of the participation program,

"(ii) an explanation of the advantages to beneficiaries of obtaining covered services through a participating physician or supplier,

"(iii) an explanation of the assistance offered by carriers in obtaining the names of participating physicians and suppliers, and

"(iv) the toll-free telephone number under paragraph (2)(A) for inquiries concerning the program and for requests for free copies of appropriate directories.".

(c) REVISION OF EXPLANATION OF MEDICARE BENEFITS.—Section 1842(h)(7) (42 U.S.C. 1395u(h)(7)) is amended—

(1) in subparagraph (A)—

(A) by inserting "prominent" before "reminder", and

(B) by striking "), and" and inserting "and a clear statement of any amounts charged for the particular items or services on the claim involved above the amount recognized under this part),";

(2) in subparagraph (B), by striking the period at the end and inserting ", and"; and

(3) by adding at the end the following new subparagraph:
"(C) shall include (i) an offer of assistance to such an individual in obtaining the names of participating physicians of appropriate specialty and (ii) an offer to provide a free copy of the appropriate participating physician directory.".

(d) EFFECTIVE DATES.—

42 USC 1395b-2 note.

(1) The Secretary of Health and Human Services shall first distribute the notice required by the amendment made by subsection (a) not later than January 31, 1989.

42 USC 1395u note.

(2) The amendments made by subsection (b) shall apply to annual notices beginning with 1989.

42 USC 1395u note.

(3) The amendments made by subsection (c) shall first apply to explanations of benefits provided for items and services furnished on or after January 1, 1989.

SEC. 224. CHANGES IN CIVIL MONEY PENALTIES FOR CERTAIN PRACTICES OF HEALTH MAINTENANCE ORGANIZATIONS AND COMPETITIVE MEDICAL PLANS.

Section 1876(i)(6)(B)(i) (42 U.S.C. 1395mm(i)(6)(B)(i)) is amended by adding at the end the following: "plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under subparagraph (A)(iv), $15,000 for each individual not enrolled as a result of the practice involved,".

TITLE III—PROVISIONS RELATING TO THE MEDICAID PROGRAM

SEC. 301. REQUIRING MEDICAID BUY-IN OF PREMIUMS AND COST-SHARING FOR INDIGENT MEDICARE BENEFICIARIES.

(a) REQUIREMENT.—

(1) Section 1902(a)(10)(E) (42 U.S.C. 1396a(a)(10)(E)) is amended by striking "at the option of a State, but".

(2) Section 1905(p)(1)(B) (42 U.S.C. 1396d(p)(1)(B)) is amended by striking "and the election of the State".

(b) PHASING-IN REQUIRED INCOME STANDARD TO 100 PERCENT OF POVERTY LEVEL.—Section 1905(p)(2)(A) (42 U.S.C. 1396d(p)(2)(A)) is amended—

(1) by striking "may not exceed a percentage (not more than 100 percent)" and inserting "shall be at least the percent provided under clause (ii) (but not more than 100 percent)",

(2) by inserting "(i)" after "(2)(A)", and

(3) by adding at the end the following new clause:

"(ii) Except as provided in clause (iii), the percent provided under this clause, with respect to eligibility for medical assistance on or after—

"(I) January 1, 1989, is 85 percent,

"(II) January 1, 1990, is 90 percent,

"(III) January 1, 1991, is 95 percent, and

"(IV) January 1, 1992, is 100 percent.

"(iii) In the case of a State which has elected treatment under section 1902(f) and which, as of January 1, 1987, used an income standard for individuals age 65 or older which was more restrictive

than the income standard established under the supplemental security income program under title XVI, the percent provided under clause (ii), with respect to eligibility for medical assistance on or after—

"(I) January 1, 1989, is 80 percent,

"(II) January 1, 1990, is 85 percent,

"(III) January 1, 1991, is 90 percent,

"(IV) January 1, 1992, is 95 percent, and

"(V) January 1, 1993, is 100 percent.".

(c) RESOURCE STANDARD.—Section 1905(p) (42 U.S.C. 1396d(p)) is amended—

(1) in paragraph (1)(C), by striking "(2)(A)" and inserting "(2)";

(2) in paragraph (1)(D), by striking "(except as provided in paragraph (2)(B))" and inserting "twice"; and

(3) in paragraph (2)—

(A) in subparagraph (A), by striking "(2)(A)" and inserting "(2)", and

(B) by striking subparagraph (B).

(d) MEDICARE COVERAGE.—Section 1905(p) (42 U.S.C. 1396d(p)) is amended—

(1) in paragraph (3)(A), by striking "under part B and (if applicable) under section 1818" and inserting "under title XVIII (including under part B and, if applicable, under section 1818)";

(2) by amending subparagraphs (B) and (C) of paragraph (3) to read as follows:

"(B) Coinsurance under title XVIII (including coinsurance described in section 1813).

"(C) Subject to paragraph (4), deductibles established under title XVIII (including those described in section 1813, 1833(b), and section 1834(c)(1))."; and

(3) by adding at the end the following new paragraph:

"(4) In a State which provides medical assistance for prescribed drugs under section 1905(a)(12), instead of providing to qualified medicare beneficiaries, under paragraph (3)(C), medicare cost-sharing with respect to the annual deductible for covered outpatient drugs under section 1834(c)(1), the State may provide to such beneficiaries, before charges for covered outpatient drugs for a year reach such deductible amount, benefits for prescribed drugs in the same amount, duration, and scope as the benefits made available under the State plan for individuals described in section 1902(a)(10)(A)(i).". State and local governments. Prescription drugs.

(e) CONFORMING AMENDMENTS.—

(1) Section 1843 (42 U.S.C. 1395v) is amended by inserting "or after 1988" in subsections (a), (g)(1), and (h)(1) after "during 1981".

(2) Section 1902 (42 U.S.C. 1396a) is amended—

(A) in subsection (a)(10)(A)(ii)(X), by striking "subject to subsection (m)(3),",

(B) in subsection (a)(10)(E), by striking "subject to subsection (m)(3),";

(C) in subsection (a)(17), by striking "(m)(4), and (m)(5)" and inserting "(m)(3), and (m)(4)", and

(D) in subsection (m), by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively.

Effective date. 42 USC 1395v note.

(3) The amendment made by paragraph (1) shall take effect on January 1, 1989, and the amendments made by paragraph (2) shall take effect on July 1, 1989.

Effective date.

(f) TECHNICAL AMENDMENT.—Effective as though included in the enactment of the Omnibus Budget Reconciliation Act of 1986, paragraph (2) of section 9403(g) of such Act is amended to read as follows:

"(2) PAYMENT OF MEDICARE COST-SHARING.—Section 1903(a)(1) (42 U.S.C. 1396b(a)(1)) is amended by inserting 'including expenditures for medicare cost-sharing and' before 'including expenditures'.".

42 USC 1396a note.

(g) TREATMENT OF CERTAIN STATES.—

(1) STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115(a) of the Social Security Act, the Secretary of Health and Human Services shall require the State to meet the requirement of section 1902(a)(10)(E) of the Social Security Act in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under title XIX of such Act.

(2) COMMONWEALTHS AND TERRITORIES.—Section 1905(p) (42 U.S.C. 1396d(p)), as amended by subsection (d)(3), is further amended by adding at the end the following new paragraph:

"(5) Notwithstanding any other provision of this title, in the case of a State (other than the 50 States and the District of Columbia)—

"(A) the requirement stated in section 1902(a)(10)(E) shall be optional, and

"(B) for purposes of paragraph (2)(A), the State may substitute for the percent provided under clause (ii) of such paragraph any percent.".

42 USC 1396a note.

(h) EFFECTIVE DATE.—(1) The amendments made by this section apply (except as provided in subsections (e) and (f) and under paragraph (2)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after January 1, 1989, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date, with respect to medical assistance for—

(A) monthly premiums under title XVIII of such Act for months beginning with January 1989, and

(B) items and services furnished on and after January 1, 1989.

State and local governments.

(2) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section, the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

State and local governments.

SEC. 302. COVERAGE AND PAYMENT FOR PREGNANT WOMEN AND INFANTS WITH INCOMES BELOW POVERTY LINE.

(a) PREGNANT WOMEN AND INFANTS UNDER AGE 1.—

(1) REQUIRING COVERAGE.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended—

(A) in subparagraph (A)(i), by striking "or" at the end of subclause (II), by striking the semicolon in subclause (III) and inserting ", or", and by adding at the end the following new subclause:

"(IV) who are described in subparagraph (A) or (B) of subsection (l)(1) and whose family income does not exceed the minimum income level the State is required to establish under subsection (l)(2)(A) for such a family;";

(B) by amending subclause (IX) of subparagraph (A)(ii) to read as follows:

"(IX) who are described in subsection (l)(1) and are not described in clause (i)(IV);"; and

(C) in clause (VII) in the matter after and below subparagraph (E), by inserting "(A)(i)(IV) or" before "(A)(ii)(IX)".

(2) DESCRIPTION OF INDIVIDUALS REQUIRED TO BE COVERED.—Section 1902(l) (42 U.S.C. 1396a(l)) is amended—

(A) in paragraph (1)(C)—

(i) by inserting "at the option of the State," after "(C)", and

(ii) by striking "and" after "1983,"; and

(B) in paragraph (2)(A)—

(i) by striking "not more than 185 percent)" and inserting "(not less than the percentage provided under clause (ii) and not more than 185 percent)";

(ii) by inserting "(i)" after "(2)(A)"; and

(iii) by adding at the end the following new clause:

"(ii) Subject to clause (iii), the percentage provided under this clause, with respect to eligibility for medical assistance on or after—

"(I) July 1, 1989, is 75 percent, and

"(II) July 1, 1990, is 100 percent.

"(iii) In the case of a State which, as of the date of the enactment of this clause, has elected to provide, and provides, medical assistance to individuals described in this subsection or has enacted legislation authorizing, or appropriating funds, to provide such assistance to such individuals before July 1, 1989, the percentage provided under clause (ii) shall not be less than—

"(I) the percentage specified by the State in an amendment to its State plan (whether approved or not) as of the date of the enactment of this clause, or

"(II) if no such percentage is specified as of the date of the enactment of this clause, the percentage established under the State's authorizing legislation or provided for under the State's appropriations;

but in no case shall this clause require the percentage provided under clause (ii) to exceed 100 percent.".

(b) COVERAGE OF MEDICALLY NECESSARY SERVICES FOR INFANTS AND ASSURING ADEQUATE PAYMENT FOR INPATIENT HOSPITAL SERVICES FOR INFANTS IN DISPROPORTIONATE SHARE HOSPITALS.—

(1) COVERAGE OF MEDICALLY NECESSARY SERVICES FOR INFANTS.—Section 1902(a)(10) (42 U.S.C. 1396a(a)(10)) is amended, in the matter after and below subparagraph (E)—

(A) by striking "and" before "(IX)", and

(B) by inserting before the semicolon at the end the following: ", and (X) if the plan provides for any fixed

durational limit on medical assistance for inpatient hospital services (whether or not such a limit varies by medical condition or diagnosis), the plan must establish exceptions to such a limit for medically necessary inpatient hospital services furnished with respect to individuals under one year of age in a hospital defined under the State plan, pursuant to section 1923(a)(1)(A), as a disproportionate share hospital and subparagraph (B) (relating to comparability) shall not be construed as requiring such an exception for other individuals, services, or hospitals".

(2) ASSURING ADEQUATE PAYMENT FOR INPATIENT HOSPITAL SERVICES FOR INFANTS IN DISPROPORTIONATE SHARE HOSPITALS.—Section 1923(a)(2), as redesignated pursuant to the amendment made by section 411(k)(6)(B) of this Act, is amended by adding at the end the following new subparagraph:

42 USC 1396r-4.

"(C) If a State plan under this title provides for payments for inpatient hospital services on a prospective basis (whether per diem, per case, or otherwise), in order for the plan to be considered to have met such requirement of section 1902(a)(13)(A) as of July 1, 1989, the State must submit to the Secretary by not later than April 1, 1989, a State plan amendment that provides, in the case of hospitals defined by the State as disproportionate share hospitals under paragraph (1)(A), for an outlier adjustment in payment amounts for medically necessary inpatient hospital services provided on or after July 1, 1989, involving exceptionally high costs or exceptionally long lengths of stay for individuals under one year of age.".

(c) CERTAIN STATE PLAN REQUIREMENTS.—

(1) IN GENERAL.—Subsection (c) of section 1902 (42 U.S.C. 1396a) is amended to read as follows:

"(c) Notwithstanding subsection (b), the Secretary shall not approve any State plan for medical assistance if—

"(1) the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on May 1, 1988; or

"(2) the State requires individuals described in subsection (l)(1) to apply for benefits under such part as a condition of applying for, or receiving, medical assistance under this title.".

(2) ELIMINATING DUPLICATE REQUIREMENT.—Section 1902(l) (42 U.S.C. 1396a(l)) is amended by striking paragraph (4).

(3) MAINTENANCE OF EFFORT TO RECEIVE MEDICAL ASSISTANCE FOR OPTIONAL COVERAGE OF PREGNANT WOMEN AND CHILDREN.—Section 1903(i) (42 U.S.C. 1396b(i)) is amended—

(A) by striking the period at the end of paragraph (8) and inserting "; or", and

(B) by inserting after paragraph (8) the following new paragraph:

"(9) with respect to any amount of medical assistance for pregnant women and children described in section 1902(a)(10)(A)(ii)(IX), if the State has in effect, under its plan established under part A of title IV, payment levels that are less than the payment levels in effect under such plan on July 1, 1987.".

(d) TREATMENT OF CERTAIN STATES AND TERRITORIES.—Section 1902(l) (42 U.S.C. 1396a(l)) is amended by adding at the end the following new paragraph:

"(4)(A) In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the

Secretary shall require the State to provide medical assistance for pregnant women and infants under age 1 described in subsection (a)(10)(A)(i)(IV) in the same manner as the State would be required to provide such assistance for such individuals if the State had in effect a plan approved under this title.

"(B) In the case of a State which is not one of the 50 States or the District of Columbia, the State need not meet the requirement of subsection (a)(10)(A)(i)(IV) and, for purposes of paragraph (2)(A), the State may substitute for the percentage provided under clause (ii) of such paragraph any percentage.".

(e) CONFORMING AMENDMENTS.—

(1) Section 1902(e)(6) (42 U.S.C. 1396a(e)(6)) is amended to read as follows:

"(6) At the option of a State, in the case of a pregnant woman described in subsection (a)(10) who, because of a change in income of the family of which she is a member, would not otherwise continue to be described in such subsection, the State plan may nonetheless treat the woman as being an individual described in subsection (a)(10)(A)(i)(IV) and subsection (l)(1)(A) without regard to such change of income through the end of the month in which the 60-day period (beginning on the last day of her pregnancy) ends.".

(2) Section 1902(e)(7) (42 U.S.C. 1396a(e)(7)) is amended—

(A) by striking "If a State plan provides medical assistance for individuals under subsection (a)(10)(A)(ii)(IX), in" and inserting "In",

(B) by inserting "or paragraph (2) of section 1905(n)" after "subsection (l)(1)" the first place it appears, and

(C) by striking "subsection (a)(10)(A)(ii)(IX) and subsection (l)(1)" and inserting "such respective provision".

(3) Section 1902(l) (42 U.S.C. 1396a(l)) is amended—

(A) in the matter after and below subparagraph (C) of paragraph (1), by inserting "any of subclauses (I) through (III) of" after "who are not described in", and

(B) in paragraph (3), in the matter before subparagraph (A), by inserting "(a)(10)(A)(i)(IV) or" before "(a)(10)(A)(ii)(IX)".

(4) Section 1903(f)(4) (42 U.S.C. 1396b(f)(4)) is amended, in the matter before subparagraph (A), by inserting "1902(a)(10)(A)(i)(IV)," before "1902(a)(10)(A)(ii)(IX)".

(f) EFFECTIVE DATE.— 42 USC 1396a note.

(1) IN GENERAL.—The amendments made by this section apply (except as provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1989, with respect to eligibility for medical assistance on or after such date, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(2) PAYMENT ADJUSTMENT.—The amendments made by subsection (b)(2) shall take effect on the date of the enactment of this Act.

(3) DELAY FOR STATE LEGISLATION.—In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section (other than subsection (b)(2)), the State plan shall not be regarded as failing

to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a regular legislative session of 2 years, each year of such session shall be deemed to be a separate regular session of the State legislature.

SEC. 303. PROTECTION OF INCOME AND RESOURCES OF COUPLE FOR MAINTENANCE OF COMMUNITY SPOUSE.

(a) IN GENERAL.—

(1) Title XIX, as amended by the amendment made by section 411(k)(6)(B) of this Act, is amended—

42 USC 1396s.

(A) by redesignating section 1924 as section 1925, and

(B) by inserting after section 1923 the following new section:

"TREATMENT OF INCOME AND RESOURCES FOR CERTAIN INSTITUTIONALIZED SPOUSES

42 USC 1396r-5.

"SEC. 1924. (a) SPECIAL TREATMENT FOR INSTITUTIONALIZED SPOUSES.—

"(1) SUPERSEDES OTHER PROVISIONS.—In determining the eligibility for medical assistance of an institutionalized spouse (as defined in subsection (h)(1)), the provisions of this section supersede any other provision of this title (including sections 1902(a)(17) and 1902(f)) which is inconsistent with them.

"(2) NO COMPARABLE TREATMENT REQUIRED.—Any different treatment provided under this section for institutionalized spouses shall not, by reason of paragraph (10) or (17) of section 1902(a), require such treatment for other individuals.

"(3) DOES NOT AFFECT CERTAIN DETERMINATIONS.—Except as this section specifically provides, this section does not apply to—

"(A) the determination of what constitutes income or resources, or

"(B) the methodology and standards for determining and evaluating income and resources.

"(4) APPLICATION IN CERTAIN STATES AND TERRITORIES.—

"(A) APPLICATION IN STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115, the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(B) NO APPLICATION IN COMMONWEALTHS AND TERRITORIES.—This section shall only apply to a State that is one of the 50 States or the District of Columbia.

"(b) RULES FOR TREATMENT OF INCOME.—

"(1) SEPARATE TREATMENT OF INCOME.—During any month in which an institutionalized spouse is in the institution, except as provided in paragraph (2), no income of the community spouse shall be deemed available to the institutionalized spouse.

"(2) ATTRIBUTION OF INCOME.—In determining the income of an institutionalized spouse or community spouse, after the

institutionalized spouse has been determined to be eligible for medical assistance, except as otherwise provided in this section and regardless of any State laws relating to community property or the division of marital property, the following rules apply:

"(A) NON-TRUST PROPERTY.—Subject to subparagraphs (C) and (D), in the case of income not from a trust, unless the instrument providing the income otherwise specifically provides—

"(i) if payment of income is made solely in the name of the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(ii) if payment of income is made in the names of the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

"(iii) if payment of income is made in the names of the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, one-half of the joint interest shall be considered available to each spouse).

"(B) TRUST PROPERTY.—In the case of a trust—

"(i) except as provided in clause (ii), income shall be attributed in accordance with the provisions of this title (including sections 1902(a)(17) and 1902(k)), and

"(ii) income shall be considered available to each spouse as provided in the trust, or, in the absence of a specific provision in the trust—

"(I) if payment of income is made solely to the institutionalized spouse or the community spouse, the income shall be considered available only to that respective spouse;

"(II) if payment of income is made to both the institutionalized spouse and the community spouse, one-half of the income shall be considered available to each of them; and

"(III) if payment of income is made to the institutionalized spouse or the community spouse, or both, and to another person or persons, the income shall be considered available to each spouse in proportion to the spouse's interest (or, if payment is made with respect to both spouses and no such interest is specified, one-half of the joint interest shall be considered available to each spouse).

"(C) PROPERTY WITH NO INSTRUMENT.—In the case of income not from a trust in which there is no instrument establishing ownership, subject to subparagraph (D), one-half of the income shall be considered to be available to the institutionalized spouse and one-half to the community spouse.

"(D) REBUTTING OWNERSHIP.—The rules of subparagraphs (A) and (C) are superseded to the extent that an institutionalized spouse can establish, by a preponderance of the

evidence, that the ownership interests in income are other than as provided under such subparagraphs.

"(c) RULES FOR TREATMENT OF RESOURCES.—

"(1) COMPUTATION OF SPOUSAL SHARE AT TIME OF INSTITUTIONALIZATION.—

"(A) TOTAL JOINT RESOURCES.—There shall be computed (as of the beginning of a continuous period of institutionalization of the institutionalized spouse)—

"(i) the total value of the resources to the extent either the institutionalized spouse or the community spouse has an ownership interest, and

"(ii) a spousal share which is equal to ½ of such total value.

State and local governments. Records.

"(B) ASSESSMENT.—At the request of an institutionalized spouse or community spouse, at the beginning of a continuous period of institutionalization of the institutionalized spouse and upon the receipt of relevant documentation of resources, the State shall promptly assess and document the total value described in subparagraph (A)(i) and shall provide a copy of such assessment and documentation to each spouse and shall retain a copy of the assessment for use under this section. If the request is not part of an application for medical assistance under this title, the State may, at its option as a condition of providing the assessment, require payment of a fee not exceeding the reasonable expenses of providing and documenting the assessment. At the time of providing the copy of the assessment, the State shall include a notice indicating that the spouse has right to a fair hearing under subsection (e)(2)(E) with respect to the determination of the community spouse resource allowance, to provide for an allowance adequate to raise the spouse's income to the minimum monthly maintenance needs allowance.

"(2) ATTRIBUTION OF RESOURCES AT TIME OF INITIAL ELIGIBILITY DETERMINATION.—In determining the resources of an institutionalized spouse at the time of application for benefits under this title, regardless of any State laws relating to community property or the division of marital property—

"(A) except as provided in subparagraph (B), all the resources held by either the institutionalized spouse, community spouse, or both, shall be considered to be available to the institutionalized spouse, and

"(B) resources shall not be considered to be available to an institutionalized spouse, to the extent that the amount of such resources does not exceed the amount computed under subsection (f)(2)(A) (as of the time of application for benefits).

"(3) ASSIGNMENT OF SUPPORT RIGHTS.—The institutionalized spouse shall not be ineligible by reason of resources determined under paragraph (2) to be available for the cost of care where—

"(A) the institutionalized spouse has assigned to the State any rights to support from the community spouse;

"(B) the institutionalized spouse lacks the ability to execute an assignment due to physical or mental impairment but the State has the right to bring a support proceeding against a community spouse without such assignment; or

"(C) the State determines that denial of eligibility would work an undue hardship.

"(4) SEPARATE TREATMENT OF RESOURCES AFTER ELIGIBILITY FOR BENEFITS ESTABLISHED.—During the continuous period in which an institutionalized spouse is in an institution and after the month in which an institutionalized spouse is determined to be eligible for benefits under this title, no resources of the community spouse shall be deemed available to the institutionalized spouse.

"(5) RESOURCES DEFINED.—In this section, the term 'resources' does not include—

"(A) resources excluded under subsection (a) or (d) of section 1613, and

"(B) resources that would be excluded under section 1613(a)(2)(A) but for the limitation on total value described in such section.

"(d) PROTECTING INCOME FOR COMMUNITY SPOUSE.—

"(1) ALLOWANCES TO BE OFFSET FROM INCOME OF INSTITUTIONALIZED SPOUSE.—After an institutionalized spouse is determined to be eligible for medical assistance, in determining the amount of the spouse's income that is to be applied monthly to payment for the costs of care in the institution, there shall be deducted from the spouse's monthly income the following amounts in the following order:

"(A) A personal needs allowance (described in section 1902(q)(1)), in an amount not less than the amount specified in section 1902(q)(2).

"(B) A community spouse monthly income allowance (as defined in paragraph (2)), but only to the extent income of the institutionalized spouse is made available to (or for the benefit of) the community spouse.

"(C) A family allowance, for each family member, equal to at least ⅓ of the amount by which the amount described in paragraph (3)(A)(i) exceeds the amount of the monthly income of that family member.

"(D) Amounts for incurred expenses for medical or remedial care for the institutionalized spouse (as provided under section 1902(r)).

In subparagraph (C), the term 'family member' only includes minor or dependent children, dependent parents, or dependent siblings of the institutionalized or community spouse who are residing with the community spouse.

"(2) COMMUNITY SPOUSE MONTHLY INCOME ALLOWANCE DEFINED.—In this section (except as provided in paragraph (5)), the 'community spouse monthly income allowance' for a community spouse is an amount by which—

"(A) except as provided in subsection (e), the minimum monthly maintenance needs allowance (established under and in accordance with paragraph (3)) for the spouse, exceeds

"(B) the amount of monthly income otherwise available to the community spouse (determined without regard to such an allowance).

"(3) ESTABLISHMENT OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—

"(A) IN GENERAL.—Each State shall establish a minimum monthly maintenance needs allowance for each community

State and local governments.

spouse which, subject to subparagraph (C), is equal to or exceeds—

"(i) the applicable percent (described in subparagraph (B)) of 1/12 of the nonfarm income official poverty line (defined by the Office of Management and Budget and revised annually in accordance with sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981) for a family unit of 2 members; plus

"(ii) an excess shelter allowance (as defined in paragraph (4)).

A revision of the official poverty line referred to in clause (i) shall apply to medical assistance furnished during and after the second calendar quarter that begins after the date of publication of the revision.

"(B) APPLICABLE PERCENT.—For purposes of subparagraph (A)(i), the 'applicable percent' described in this paragraph, effective as of—

"(i) September 30, 1989, is 122 percent,

"(ii) July 1, 1991, is 133 percent, and

"(iii) July 1, 1992, is 150 percent.

"(C) CAP ON MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—The minimum monthly maintenance needs allowance established under subparagraph (A) may not exceed $1,500 (subject to adjustment under subsections (e) and (g)).

"(4) EXCESS SHELTER ALLOWANCE DEFINED.—In paragraph (3)(A)(ii), the term 'excess shelter allowance' means, for a community spouse, the amount by which the sum of—

"(A) the spouse's expenses for rent or mortgage payment (including principal and interest), taxes and insurance and, in the case of a condominium or cooperative, required maintenance charge, for the community spouse's principal residence, and

"(B) the standard utility allowance (used by the State under section 5(e) of the Food Stamp Act of 1977) or, if the State does not use such an allowance, the spouse's actual utility expenses,

exceeds 30 percent of the amount described in paragraph (3)(A)(i), except that, in the case of a condominium or cooperative, for which a maintenance charge is included under subparagraph (A), any allowance under subparagraph (C) shall be reduced to the extent the maintenance charge includes utility expenses.

"(5) COURT ORDERED SUPPORT.—If a court has entered an order against an institutionalized spouse for monthly income for the support of the community spouse, the community spouse monthly income allowance for the spouse shall be not less than the amount of the monthly income so ordered.

"(e) NOTICE AND FAIR HEARING.—

State and local governments.

"(1) NOTICE.—Upon—

"(A) a determination of eligibility for medical assistance of an institutionalized spouse, or

"(B) a request by either the institutionalized spouse, or the community spouse, or a representative acting on behalf of either spouse,

each State shall notify both spouses (in the case described in subparagraph (A)) or the spouse making the request (in the case

described in subparagraph (B)) of the amount of the community spouse monthly income allowance (described in subsection (d)(1)(B)), of the amount of any family allowances (described in subsection (d)(1)(C)), of the method for computing the amount of the community spouse resources allowance permitted under subsection (f), and of the spouse's right to a fair hearing under this subsection respecting ownership or availability of income or resources, and the determination of the community spouse monthly income or resource allowance.

"(2) FAIR HEARING.—

"(A) IN GENERAL.—If either the institutionalized spouse or the community spouse is dissatisfied with a determination of—

"(i) the community spouse monthly income allowance;

"(ii) the amount of monthly income otherwise available to the community spouse (as applied under subsection (d)(2)(B));

"(iii) the computation of the spousal share of resources under subsection (c)(1);

"(iv) the attribution of resources under subsection (c)(2); or

"(v) the determination of the community spouse resource allowance (as defined in subsection (f)(2));

such spouse is entitled to a fair hearing described in section 1902(a)(3) with respect to such determination. Any such hearing respecting the determination of the community spouse resource allowance shall be held within 30 days of the date of the request for the hearing.

"(B) REVISION OF MINIMUM MONTHLY MAINTENANCE NEEDS ALLOWANCE.—If either such spouse establishes that the community spouse needs income, above the level otherwise provided by the minimum monthly maintenance needs allowance, due to exceptional circumstances resulting in significant financial duress, there shall be substituted, for the minimum monthly maintenance needs allowance in subsection (d)(2)(A), an amount adequate to provide such additional income as is necessary.

"(C) REVISION OF COMMUNITY SPOUSE RESOURCE ALLOWANCE.—If either such spouse establishes that the community spouse resource allowance (in relation to the amount of income generated by such an allowance) is inadequate to raise the community spouse's income to the minimum monthly maintenance needs allowance, there shall be substituted, for the community spouse resource allowance under subsection (f)(2), an amount adequate to provide such a minimum monthly maintenance needs allowance.

"(f) PERMITTING TRANSFER OF RESOURCES TO COMMUNITY SPOUSE.—

"(1) IN GENERAL.—An institutionalized spouse may, without regard to section 1917, transfer to the community spouse (or to another for the sole benefit of the community spouse) an amount equal to the community spouse resource allowance (as defined in paragraph (2)), but only to the extent the resources of the institutionalized spouse are transferred to (or for the sole benefit of) the community spouse. The transfer under the preceding sentence shall be made as soon as pacticable after the date of the initial determination of eligibility, taking into ac-

count such time as may be necessary to obtain a court order under paragraph (3).

"(2) COMMUNITY SPOUSE RESOURCE ALLOWANCE DEFINED.—In paragraph (1), the 'community spouse resource allowance' for a community spouse is an amount (if any) by which—

"(A) the greatest of—

"(i) $12,000 (subject to adjustment under subsection (g)), or, if greater (but not to exceed the amount specified in clause (ii)(II)) an amount specified under the State plan,

"(ii) the lesser of (I) the spousal share computed under subsection (c)(1), or (II) $60,000 (subject to adjustment under subsection (g)),

"(iii) the amount established under subsection (e)(2); or

"(iv) the amount transferred under a court order under paragraph (3);

exceeds

"(B) the amount of the resources otherwise available to the community spouse (determined without regard to such an allowance).

"(3) TRANSFERS UNDER COURT ORDERS.—If a court has entered an order against an institutionalized spouse for the support of the community spouse, section 1917 shall not apply to amounts of resources transferred pursuant to such order for the support of the spouse of a family member (as defined in subsection (d)(1)).

"(g) INDEXING DOLLAR AMOUNTS.—For services furnished during a calendar year after 1989, the dollar amounts specified in subsections (d)(3)(C), (f)(2)(A)(i), and (f)(2)(A)(ii)(II) shall be increased by the same percentage as the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the calendar year involved.

"(h) DEFINITIONS.—In this section:

"(1) The term 'institutionalized spouse' means an individual who—

"(A) is in a medical institution or nursing facility or who (at the option of the State) is described in section 1902(a)(10)(A)(ii)(VI), and

"(B) is married to a spouse who is not in a medical institution or nursing facility;

but does not include any such individual who is not likely to meet the requirements of subparagraph (A) for at least 30 consecutive days.

"(2) The term 'community spouse' means the spouse of an institutionalized spouse.".

(2) Section 1919(c)(1)(B)(i) (42 U.S.C. 1396r(c)(1)(B)(i)) is amended by inserting "and of the requirements and procedures for establishing eligibility for medical assistance under this title, including the right to request an assessment under section 1924(c)(1)(B)" before the semicolon.

(b) TAKING INTO ACCOUNT CERTAIN TRANSFERS OF ASSETS.—Subsection (c) of section 1917 (42 U.S.C. 1396p) is amended to read as follows:

State and local governments.

"(c)(1) In order to meet the requirements of this subsection (for purposes of section 1902(a)(51)(B)), the State plan must provide for a

period of ineligibility in the case of an institutionalized individual (as defined in paragraph (3)) who, at any time during the 30-month period immediately before the individual's application for medical assistance under the State plan, disposed of resources for less than fair market value. The period of ineligibility shall begin with the month in which such resources were transferred and the number of months in such period shall be equal to the lesser of—

"(A) 30 months, or

"(B)(i) the total uncompensated value of the resources so transferred, divided by (ii) the average cost, to a private patient at the time of the application, of nursing facility services in the State or, at State option, in the community in which the individual is institutionalized.

"(2) An individual shall not be ineligible for medical assistance by reason of paragraph (1) to the extent that—

"(A) the resources transferred were a home and title to the home was transferred to— Real property.

"(i) the spouse of such individual;

"(ii) a child of such individual who is under age 21, or (with respect to States eligible to participate in the State program established under title XVI) is blind or permanently and totally disabled, or (with respect to States which are not eligible to participate in such program) is blind or disabled as defined in section 1614; Children and youth. Blind persons. Handicapped persons.

"(iii) a sibling of such individual who has an equity interest in such home and who was residing in such individual's home for a period of at least one year immediately before the date of the individual's admission to the medical institution or nursing facility; or

"(iv) a son or daughter of such individual (other than a child described in clause (ii)) who was residing in such individual's home for a period of at least two years immediately before the date of such individual's admission to the medical institution or nursing facility, and who (as determined by the State) provided care to such individual which permitted such individual to reside at home rather than in such an institution or facility;

"(B) the resources were transferred to (or to another for the sole benefit of) the community spouse, as defined in section 1924(h)(2), or the individual's child who is blind or permanently and totally disabled; Children and youth. Blind persons. Handicapped persons.

"(C) a satisfactory showing is made to the State (in accordance with any regulations promulgated by the Secretary) that (i) the individual intended to dispose of the resources either at fair market value, or for other valuable consideration, or (ii) the resources were transferred exclusively for a purpose other than to qualify for medical assistance; or

"(D) the State determines that denial of eligibility would work an undue hardship.

"(3) In this subsection, the term 'institutionalized individual' means an individual who is an inpatient in a medical institution or nursing facility.

"(4) A State (including a State which has elected treatment under section 1902(f)) may not provide for any period of ineligibility for an individual due to transfer of resources for less than fair market value except in accordance with this subsection.".

(c) NEW SSI POLICY REGARDING DISPOSAL OF RESOURCES FOR LESS THAN FAIR MARKET VALUE.—

(1) ELIMINATION OF SSI PENALTY; NOTIFICATION OF MEDICAID POLICY LIMITING ELIGIBILITY OF INSTITUTIONALIZED INDIVIDUALS FOR BENEFITS BASED ON SUCH DISPOSAL OF RESOURCES.—Subsection (c) of section 1613 (42 U.S.C. 1382b) is amended to read as follows:

"Notification of Medicaid Policy Restricting Eligibility of Institutionalized Individuals for Benefits Based on Disposal of Resources for Less Than Fair Market Value

"(c)(1) At the time an individual (and the individual's eligible spouse, if any) applies for benefits under this title, and at the time the eligibility of an individual (and such spouse, if any) for such benefits is redetermined, the Secretary shall—

"(A) inform such individual of the provisions of section 1917(c) providing for a period of ineligibility for benefits under title XIX for individuals who make certain dispositions of resources for less than fair market value, and inform such individual that information obtained pursuant to subparagraph (B) will be made available to the State agency administering a State plan under title XIX (as provided in paragraph (2)); and

"(B) obtain from such individual information which may be used by the State agency in determining whether or not a period of ineligibility for such benefits would be required by reason of section 1917(c) if such individual (or such spouse, if any) enters a medical institution or nursing facility.

State and local governments.

"(2) The Secretary shall make the information obtained under paragraph (1)(B) available, on request, to any State agency administering a State plan approved under title XIX.".

(2) CONFORMING AMENDMENT.—Subparagraph (B) of section 1611(e)(1) (42 U.S.C. 1382(e)(1)) is amended by adding after and below clause (iii) the following new sentence:

"For purposes of this subsection, a hospital, extended care facility, nursing home, or intermediate care facility which is a 'medical institution or nursing facility' within the meaning of section 1917(c) shall be considered to be receiving payments with respect to an individual under a State plan approved under title XIX during any period of ineligibility of such individual provided for under the State plan pursuant to section 1917(c).".

(d) DISREGARDING PAYMENTS FOR CERTAIN MEDICAL EXPENSES BY INSTITUTIONALIZED INDIVIDUALS.—Section 1902 (42 U.S.C. 1396), as amended by the amendment made by section 411(n)(3) of this Act, is amended by adding at the end the following new subsection:

42 USC 1396a

"(r) For purposes of sections 1902(a)(17) and 1924(d)(1)(D) and for purposes of a waiver under section 1915, with respect to the post-eligibility treatment of income of individuals who are institutionalized or receiving home or community-based services under such a waiver, there shall be taken into account amounts for incurred expenses for medical or remedial care that are not subject to payment by a third party, including—

"(A) medicare and other health insurance premiums, deductibles, or coinsurance, and

"(B) necessary medical or remedial care recognized under State law but not covered under the State plan under this title, subject to reasonable limits the State may establish on the amount of these expenses.".

(e) CONFORMING AMENDMENT.—Section 1902 (42 U.S.C. 1396a), as amended by the amendment made by section 411(n)(3) of this Act, is amended—

(1) in subsection (a)(10)(C)(i)(III), by striking "the same" each place it appears and inserting "no more restrictive than the";

(2) by striking "and" at the end of subsection (a)(49);

(3) by striking the period at the end of subsection (a)(50) and inserting "; and";

(4) by inserting after paragraph (50) of subsection (a) the following new paragraph:

"(51)(A) meet the requirements of section 1924 (relating to protection of community spouses), and (B) meet the requirement of section 1917(c) (relating to transfer of assets)."; and

(5) in subsection (r), as added by subsection (d)—

(A) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(B) by inserting "(1)" after "(r)", and

(C) by adding at the end the following new paragraph:

"(2)(A) The methodology to be employed in determining income and resource eligibility for individuals under subsection (a)(10)(A)(i)(III), (a)(10)(A)(i)(IV), (a)(10)(A)(ii), (a)(10)(C)(i)(III), or under subsection (f) may be less restrictive, and shall be no more restrictive, than the methodology—

"(i) in the case of groups consisting of aged, blind, or disabled individuals, under the supplemental security income program under title XVI, or

Blind persons. Handicapped persons.

"(ii) in the case of other groups, under the State plan most closely categorically related.

"(B) For purposes of this subsection and subsection (a)(10), methodology is considered to be 'no more restrictive' if, using the methodology, additional individuals may be eligible for medical assistance and no individuals who are otherwise eligible are made ineligible for such assistance.".

(f) TREATMENT OF HOMESTEAD EXEMPTION IN MISSOURI.—The State medical assistance plan of Missouri shall not be in compliance with the requirements of title XIX of the Social Security Act as of October 1, 1989, unless such plan is amended to provide that, in determining the resources of any aged, blind, or disabled individual in the State who applies for medical assistance under such plan on or after such date, the State will not consider the home of the individual as a resource, regardless of the value of the home.

Blind persons. Handicapped persons.

(g) EFFECTIVE DATE.—

42 USC 1396r-5 note.

(1)(A) The amendments made by this section apply (except as provided in this subsection) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after September 30, 1989, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) Section 1924 of the Social Security Act (as inserted by subsection (a)) shall only apply to institutionalized individuals who begin continuous periods of institutionalization on or after September 30, 1989, except that subsections (b) and (d) of such section (and so much of subsection (e) of such section as relates to such other subsections) shall apply as of such date to individuals institutionalized on or after such date.

(2)(A) The amendment made by subsection (b) and section 1902(a)(51)(B) of the Social Security Act, apply (except as pro-

vided in paragraph (5)) to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1988, or the date of the enactment of this Act, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(B) Section 1917(c) of the Social Security Act, as amended by subsection (b) of this section, shall apply to resources disposed of on or after July 1, 1988.

State and local governments.

(C) Notwithstanding subparagraphs (A) and (B), a State may continue to apply the policies contained in the State plan as of June 30, 1988, with respect to resources disposed of before July 1, 1988.

(3) The amendments made by subsection (c) shall apply to transfers occurring on or after July 1, 1988, without regard to whether or not final regulations to carry out such amendments have been promulgated by such date.

(4) The amendment made by subsection (d) is effective on and after April 8, 1988. The final rule of the Health Care Financing Administration published on February 8, 1988 (53 Federal Register 3586) is superseded to the extent inconsistent with the amendment made by subsection (d).

State and local governments.

(5) In the case of a State plan for medical assistance under title XIX of the Social Security Act which the Secretary of Health and Human Services determines requires State legislation (other than legislation appropriating funds) in order for the plan to meet the additional requirements imposed by the amendments made by this section (other than subsection (e)), the State plan shall not be regarded as failing to comply with the requirements of such title solely on the basis of its failure to meet these additional requirements before the first day of the first calendar quarter beginning after the close of the first regular session of the State legislature that begins after the date of the enactment of this Act. For purposes of the previous sentence, in the case of a State that has a 2-year legislative session, each year of such session shall be deemed to be a separate regular session of the State legislature.

(6) The amendments made by paragraphs (1) and (5) of subsection (e) shall apply to medical assistance furnished on or after October 1, 1982.

TITLE IV—UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE, OBRA TECHNICAL CORRECTIONS, AND MISCELLANEOUS PROVISIONS

Subtitle A—United States Bipartisan Commission on Comprehensive Health Care

SEC. 401. ESTABLISHMENT.

42 USC 1395b note.

There is established a commission to be known as the United States Bipartisan Commission on Comprehensive Health Care (in this title referred to as the "Commission").

SEC. 402. DUTIES.

42 USC 1395b note.

(a) IN GENERAL.—The Commission shall—

(1) examine shortcomings in the current health care delivery and financing mechanisms that limit or prevent access of all individuals in the United States to comprehensive health care, and

(2) make specific recommendations to the Congress respecting Federal programs, policies, and financing needed to assure the availability of—

(A) comprehensive long-term care services for the elderly and disabled,

(B) comprehensive health care services for the elderly and disabled, and

(C) comprehensive health care services for all individuals in the United States.

(b) CONSIDERATIONS IN RECOMMENDATIONS.—In making its recommendations, the Commission shall consider—

(1) the amount and sources (consistent with principles of social insurance) of Federal funds to finance the needed services, including reallocations of existing Federal program funds, and

(2) the most efficient and effective manner of administering such programs.

(c) DEFINITIONS.—In this title:

(1) The term "comprehensive health care services" includes—

(A) inpatient hospital services (including mental health services);

(B) skilled nursing facility services, intermediate care facility services, home health services, and other long-term health care services;

(C) physician services and other outpatient health care services (including mental health services);

(D) periodic general physical examinations, eye examinations, hearing examinations, dental examinations, foot examinations, and other preventive health care services; and

(E) prescription drugs, eyeglasses, hearing aids, orthopedic equipment, and dentures (both complete and partial).

(2) The term "comprehensive long-term care services" includes custodial and noncustodial services in facilities, as well as home and community-based services.

42 USC 1395b note.

SEC. 403. MEMBERSHIP.

(a) APPOINTMENT.—The Commission shall be composed of 15 members appointed as follows:

President of U.S.

(1) The President shall appoint 3 members.

(2) The President pro tempore of the Senate shall appoint, after consultation with the minority leader of the Senate, 6 members of the Senate, of whom not more than 4 may be of the same political party.

(3) The Speaker of the House of Representatives shall appoint, after consultation with the minority leader of the House of Representatives, 6 members of the House, of whom not more than 4 may be of the same political party.

(b) CHAIRMAN AND VICE CHAIRMAN.—The Commission shall elect a chairman and vice chairman from among its members.

(c) VACANCIES.—Any vacancy in the membership of the Commission shall be filled in the manner in which the original appointment was made and shall not affect the power of the remaining members to execute the duties of the Commission.

(d) QUORUM.—A quorum shall consist of 8 members of the Commission, except that 4 members may conduct a hearing under section 405(a).

(e) MEETINGS.—The Commission shall meet at the call of its chairman or a majority of its members.

(f) COMPENSATION AND REIMBURSEMENT OF EXPENSES.—Members of the Commission are not entitled to receive compensation for service on the Commission. Members may be reimbursed for travel, subsistence, and other necessary expenses incurred in carrying out the duties of the Commission.

42 USC 1395b note.

SEC. 404. STAFF AND CONSULTANTS.

(a) STAFF.—The Commission may appoint and determine the compensation of such staff as may be necessary to carry out the duties of the Commission. Such appointments and compensation may be made without regard to the provisions of title 5, United States Code, that govern appointments in the competitive services, and the provisions of chapter 51 and subchapter III of chapter 53 of such title that relate to classifications and the General Schedule pay rates.

(b) CONSULTANTS.—The Commission may procure such temporary and intermittent services of consultants under section 3109(b) of title 5, United States Code, as the Commission determines to be necessary to carry out the duties of the Commission.

42 USC 1395b note.

SEC. 405. POWERS.

(a) HEARINGS AND OTHER ACTIVITIES.—For the purpose of carrying out its duties, the Commission may hold such hearings and undertake such other activities as the Commission determines to be necessary to carry out its duties.

(b) STUDIES BY GENERAL ACCOUNTING OFFICE.—Upon the request of the Commission, the Comptroller General shall conduct such studies or investigations as the Commission determines to be necessary to carry out its duties.

(c) COST ESTIMATES BY CONGRESSIONAL BUDGET OFFICE.—

(1) Upon the request of the Commission, the Director of the Congressional Budget Office shall provide to the Commission such cost estimates as the Commission determines to be necessary to carry out its duties.

(2) The Commission shall reimburse the Director of the Congressional Budget Office for expenses relating to the employment in the office of the Director of such additional staff as may be necessary for the Director to comply with requests by the Commission under paragraph (1).

(d) DETAIL OF FEDERAL EMPLOYEES.—Upon the request of the Commission, the head of any Federal agency is authorized to detail, without reimbursement, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties. Any such detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(e) TECHNICAL ASSISTANCE.—Upon the request of the Commission, the head of a Federal agency shall provide such technical assistance to the Commission as the Commission determines to be necessary to carry out its duties.

(f) USE OF MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as Federal agencies.

(g) OBTAINING INFORMATION.—The Commission may secure directly from any Federal agency information necessary to enable it to carry out its duties, if the information may be disclosed under section 552 of title 5, United States Code. Upon request of the Chairman of the Commission, the head of such agency shall furnish such information to the Commission.

(h) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Commission, the Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

(i) ACCEPTANCE OF DONATIONS.—The Commission may accept, use, and dispose of gifts or donations of services or property.

SEC. 406. REPORT.

42 USC 1395b note.

(a) REPORT ON COMPREHENSIVE LONG-TERM CARE SERVICES FOR THE ELDERLY AND DISABLED.—The Commission shall submit to Congress a report, not later than 6 months after the date of the enactment of this Act, containing its findings and recommendations regarding comprehensive long-term care services for the elderly and disabled. The report shall include detailed recommendations for appropriate legislative initiatives respecting such services.

(b) REPORT ON COMPREHENSIVE HEALTH CARE SERVICES.—The Commission shall submit to Congress a report, not later than 1 year after the date of the enactment of this Act, containing its findings and recommendations regarding comprehensive health care services for the elderly and disabled and comprehensive health care services for all individuals in the United States. The report shall include detailed recommendations for appropriate legislative initiatives respecting such services.

SEC. 407. TERMINATION.

42 USC 1395b note.

The Commission shall terminate 30 days after the date of submission of the report required in section 406(b).

42 USC 1395b note.

SEC. 408. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,500,000 to carry out this title.

Subtitle B—OBRA Technical Corrections

SEC. 411. TECHNICAL CORRECTIONS TO CERTAIN HEALTH CARE PROVISIONS IN THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

1 USC 106 note.

(a) REFERENCE TO OBRA AND EFFECTIVE DATES.—

(1) REFERENCE.—In this section, the term "OBRA" refers to the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203).

(2) EFFECTIVE DATE.—Except as specifically provided in this section, the amendments made by this section, as they relate to a provision in OBRA, shall be effective as if they were included in the enactment of that provision in OBRA.

(3) RATIFICATION OF ENROLLMENT CORRECTIONS AND PRINTED ENROLLMENT.—

(A) IN GENERAL.—Except as provided in subparagraph (B), the enrollment corrections noted in footnotes numbered 9 through 72 of OBRA are hereby ratified and shall be considered to have been enacted as part of OBRA. The printed enrollment of title IV of OBRA, as prepared and printed under section 8004 of OBRA (including the footnote corrections described in subparagraph (B) and as incorporating the clarifications described in subparagraph (C)), shall be deemed to constitute title IV of OBRA as enacted.

42 USC 1320a-7b.

(B) FOOTNOTE CORRECTIONS.—(i) With respect to the reference to which footnote 28 relates (101 Stat. 1330-81), the reference shall be deemed to have read "1320a-7b)".

42 USC 1395m.

(ii) With respect to the word to which footnote 30 relates (101 Stat. 1330-91), the word shall be deemed to have read "the".

42 USC 1396b.

(iii) With respect to the designation to which footnote 52 relates (101 Stat. 1330-151), the designation shall be deemed to have read "(F)".

(C) CLARIFICATIONS OF ILLEGIBLE MATTER.—(i) Section 1842(n)(1)(A) of the Social Security Act, as added by section

42 USC 1395u.

4051(a) of OBRA (101 Stat. 1330-93), is deemed to have the phrase "the supplier's reasonable charge to individuals enrolled under this part for the test" immediately after "or, if lower, the".

(ii) Section 1834(a)(7)(B)(i) of the Social Security Act, as

42 USC 1395m.

inserted by section 4062(b) of OBRA (101 Stat. 1330-103), is deemed to have a reference to "1987" immediately after "December".

(b) CORRECTIONS RELATING TO PART 1 OF SUBTITLE A OF TITLE IV (PART A OF THE MEDICARE PROGRAM).—

(1) SECTION 4002.—(A) Subclauses (III) and (IV) of section 1886(b)(3)(B)(i) of the Social Security Act, as amended by section

42 USC 1395ww.

4002(a) of OBRA, are amended by striking "other hospitals" and inserting "for hospitals located in other urban areas".

(B) Section 1886(b)(3)(B)(i)(IV) of the Social Security Act, as amended by section 4002(a) of OBRA, is amended by striking

"percent" each place it appears and inserting "percentage points".

(C) Section 1886(b)(3)(B)(i)(V) of the Social Security Act, as amended by section 4002(a) of OBRA, is amended by inserting "increase" after "market basket percentage". 42 USC 1395ww.

(D) The second sentence of section 1886(d)(2)(D) of the Social Security Act, as amended by section 4002(b) of OBRA, is amended by striking "the publication described in subsection (e)(5)(B)" and inserting "the publications described in subsection (e)(5)".

(E) Section 4002(c)(1)(B)(iii) of OBRA is amended, in the matter stricken, by striking the comma after "available". 42 USC 1395ww.

(F) Section 1886(d)(3)(A)(ii) of the Social Security Act, as amended by section 4002(c)(1)(C) of OBRA, is amended by striking "in urban areas" and inserting "in other urban areas". Urban areas.

(G) Section 1886(d)(1)(A)(iii) of the Social Security Act, as amended by section 4002(d) of OBRA, is amended by striking "if greater" and inserting "if the average standardized amount (described in clause (i)(I) or clause (ii)(I) of paragraph (3)(D)) for hospitals within the region of, and in the same rural, large urban, or other urban area as, the hospital is greater than the average standardized amount (described in the respective clause) for hospitals within the United States in that type of area". Urban areas. Rural areas.

(H)(i) Section 1886(d)(2)(D) of the Social Security Act is amended by striking the last sentence (added by section 4002(f)(1)(A) of OBRA).

(ii) Section 4002(f) of OBRA is amended by adding at the end the following new paragraph:

"(3) The second sentence of section 1813(b)(1) of the Social Security Act (42 U.S.C. 1395e(b)(1)) is amended by striking 'applicable percentage increase' and all that follows through 'is applied' and inserting 'Secretary's best estimate of the payment-weighted average of the applicable percentage increases (as defined in section 1886(b)(3)(B)) which are applied'.".

(iii) The amendment made by clause (ii) shall apply to the inpatient hospital deductible for years beginning with 1989. Effective date. 42 USC 1395e note.

(I) Section 4002(g) of OBRA is amended— 42 USC 1395ww note.

(i) in paragraph (1)(A), by striking "1886(a)(1)(A)(iii)" and inserting "1886(d)(1)(A)(iii)",

(ii) in paragraphs (1)(B) and (2)(B), by striking "1886(d)(3)(B)" and inserting "1886(b)(3)(B)", and

(iii) in paragraph (6), by striking "1886(d)(10)(B)" and inserting "1886(d)(1)(B)".

(2) SECTION 4003.—Section 4003(d) of OBRA is amended— 101 Stat.1330-46.

(A) in paragraph (2)—

(i) by inserting "(other than under section 1886(d)(5)(F) of such Act)" after "receives payments", and

(ii) by inserting "of such services" after "reasonable costs"; and

(B) in the matter following paragraph (2), by inserting "the" after "facilities of".

(3) SECTION 4004.—Section 4004(a) of OBRA is amended by inserting "(1)" after "SURVEY.—" and by adding at the end the following new paragraph: 42 USC 1395ww.

"(2) Section 1886(d)(9)(C)(iv) of such Act is amended by adding at the end the following new sentence: 'The second and third sentences Puerto Rico.

of paragraph (3)(E) shall apply to subsection (d) Puerto Rico hospitals under this clause in the same manner as they apply to subsection (d) hospitals under such paragraph and, for purposes of this clause, any reference in such paragraph to a subsection (d) hospital is deemed a reference to a subsection (d) Puerto Rico hospital.'.".

42 USC 1395ww.

(4) SECTION 4005.—(A) Section 1886(d)(8)(B) of the Social Security Act, as added by section 4005(a)(1)(D) of OBRA, is amended—

(i) by striking "The Secretary" and inserting "For purposes of this subsection, the Secretary", and

Rural areas.

(ii) by striking all that follows "if" and inserting the following: "the rural county would otherwise be considered part of an urban area, under the standards for designating Metropolitan Statistical Areas (and for designating New England County Metropolitan Areas) published in the Federal Register on January 3, 1980, if the commuting rates used in determining outlying counties (or, for New England, similar recognized areas) were determined on the basis of the aggregate number of resident workers who commute to (and, if applicable under the standards, from) the central county or counties of all contiguous Metropolitan Statistical Areas (or New England County Metropolitan Areas).".

(B) Section 1886(d)(8)(C) of the Social Security Act, as added by section 4005(a)(1)(D) of OBRA, is amended by striking "standardized amount" and inserting "standardized amounts".

101 Stat. 1330-47.

(C) Section 4005(a) of OBRA is amended—

(i) in paragraph (1)(D), by striking "subparagraph" and inserting "subparagraphs", and

42 USC 1395ww note.

(ii) in paragraph (3), by striking "This section, and the amendments made by paragraph (1)," and inserting "This subsection".

42 USC 1395tt.

(D) Section 1883(d)(3) of the Social Security Act, as added by section 4005(b)(2)(B) of OBRA, is amended by inserting before the period at the end the following: ", except that such payment shall continue to be made in the period for those patients who are receiving extended care services at the time the hospital reaches the limit specified in this paragraph".

(5) SECTION 4006.—(A) Section 1886(g)(3)(A)(iv) of the Social Security Act, as amended by section 4006(a) of OBRA, is amended by inserting "for payments attributable" after "15 percent".

42 USC 1395ww.

(B) Section 4006(a) of OBRA is amended—

(i) by adding "and" at the end of subparagraph (A), and

(ii) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2), respectively.

42 USC 1395ww note.

(6) SECTION 4007.—Section 4007 of OBRA is amended—

(A) in the second sentence of subsection (a), by striking "updata" and inserting "updated";

(B) by amending subsection (b) to read as follows:

"(b) REQUIRING REPORTING OF STANDARDIZED COST REPORT ELECTRONICALLY.—

"(1) IN GENERAL.—Section 1886(f)(1) of the Social Security Act (42 U.S.C. 1395ww(f)(1)) is amended—

"(A) by striking ', for a period ending not earlier than September 30, 1988,',

"(B) by inserting '(A)' after '(f)(1)', and

"(C) by adding at the end the following new subparagraph:

" '(B)(i) Subject to clause (ii), the Secretary shall place into effect a standardized electronic cost reporting format for hospitals under this title.

" '(ii) The Secretary may delay or waive the implementation of such format in particular instances where such implementation would result in financial hardship (in particular with respect to hospitals with a small percentage of inpatients entitled to benefits under this title).'.

"(2) EFFECTIVE DATE.—The amendment made by paragraph (1)(C) shall apply to hospital cost reporting periods beginning on or after October 1, 1989."; and

42 USC 1395ww note.

(C) in subsection (c)—

42 USC 1395ww note.

(i) in paragraph (1)—

(I) by striking "3-year", and

(II) by striking "contracting" and inserting "conducting";

(ii) in paragraph (2), by striking "by category of service and" in subparagraphs (A) and (B);

(iii) in paragraph (2)(C), by striking "(by category of service)";

(iv) in paragraph (2), by striking subparagraph (D) and redesignating subparagraphs (E) through (L) as subparagraphs (D) through (K), respectively;

(v) by amending subparagraph (I), as so redesignated, to read as follows:

"(I) Bad debt and charity care.";

(vi) in paragraph (2), by adding at the end the following:

"The Secretary shall develop a definition of 'outpatient visit' for purposes of reporting hospital information.";

(vii) in paragraph (5), by striking "paragraph (3)" and inserting "paragraph (2)";

(viii) in paragraph (5)(A), by striking "The terms" and all that follows through "as" and inserting "The term 'bad debt and charity care' has such meaning as";

(ix) in paragraph (5)(B)—

(I) by inserting "at least" after "to payors",

(II) by striking "title VIII" and inserting "title XVIII", and

(III) by striking "self-paying individuals" and inserting "and other persons (including self-paying individuals)"; and

(x) in paragraph (6)—

(I) by striking "$1,000,000 for each of" and inserting "a total of $3,000,000 for",

(II) by inserting "or from operation funds" after "research funds",

(III) by striking ", and at least" and all that follows through "operations funds" and inserting "and", and

(IV) by striking "over 3 years".

(7) SECTION 4008.—Section 4008(d)(1)(B) of OBRA is amended by striking "1886" and inserting "1886(d)".

42 USC 1395ww note.

(8) SECTION 4009.—(A) Section 4009(a) of OBRA is amended—

42 USC 1395dd.

(i) by striking paragraphs (1) and (2) and inserting the following:

"(1) INCREASE IN CIVIL MONETARY PENALTY AND EXCLUSION OF RESPONSIBLE PHYSICIAN VIOLATORS.—Section 1867(d)(2) of the Social Security Act (42 U.S.C. 1395dd(d)(2)) is amended—

"(A) in the second sentence—

"(i) by redesignating such sentence as subparagraph (C),

"(ii) by striking 'previous sentence' and inserting 'this paragraph', and

"(iii) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively; and

"(B) by striking the first sentence and inserting the following: '(A) A participating hospital that knowingly violates a requirement of this section is subject to a civil money penalty of not more than $50,000 for each such violation. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this subparagraph in the same manner as such provisions apply with respect to a penalty or proceeding under section 1128A(a).

"'(B) The responsible physician in a participating hospital with respect to the hospital's violation of a requirement of this subsection is subject to the sanctions described in section 1842(j)(2), except that, for purposes of this subparagraph, the civil money penalty with respect to each violation may not exceed $50,000, rather than $2,000.'"; and

(ii) by redesignating paragraph (3) as paragraph (2).

42 USC 1395dd note.

(B) Section 4009(d)(1)(A) of OBRA is amended, in the matter inserted by such section, by striking the comma after "representatives".

42 USC 1395ww.

42 USC 1395ww note.

(C) Section 4009(i) of OBRA is amended by striking "New England county metropolitan areas" and "4001(b)" and inserting "urban areas in New England" and "4002(b)", respectively.

(D) Section 4009(j) of OBRA is amended by adding at the end the following new paragraphs:

"(9) Section 1818(c) of the Social Security Act (42 U.S.C. 1395i-2(c)) is amended by striking paragraph (4) and redesignating paragraphs (5) through (7) as paragraphs (4) through (6), respectively.

"(10) Section 9305(d) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking '2 years after the date of the enactment of this Act' and inserting 'January 1, 1990'.".

100 Stat. 1988.

(c) CORRECTIONS RELATING TO SUBPART A OF PART 2 OF SUBTITLE A OF TITLE IV (HEALTH MAINTENANCE ORGANIZATION REFORMS).—

(1) SECTION 4011.—Subparagraph (F) of section 1876(c)(3) of the Social Security Act, as added by the amendment made by section 4011(a)(1) of OBRA, is amended by moving its indentation 4 ems to the left so its left margin is aligned with the left margin of subparagraph (G) of that section, as added by section 4011(b)(1) of OBRA.

42 USC 1395mm.

Contracts.

(2) SECTION 4012.—(A)(i) Section 1866(a)(1)(O) of the Social Security Act, as inserted by section 4012(a) of OBRA, is amended by striking "with a risk-sharing contract under section 1876" and inserting "(i) with a risk-sharing contract under section 1876, under section 1876(i)(2)(A) (as in effect before

42 USC 1395cc.

February 1, 1985), under section 402(a) of the Social Security Amendments of 1967, or under section 222(a) of the Social Security Amendments of 1972, and (ii) which does not have a contract establishing payment amounts for services furnished to members of the organization".

(ii) The amendment made by clause (i) shall apply to admissions occurring on or after the first day of the fourth month beginning after the date of the enactment of this Act. Effective date. 42 USC 1395cc note.

(B) Section 4012(c) of OBRA is amended by striking "paragraph (2)" and inserting "subsection (a)". 42 USC 1395mm note.

(3) SECTION 4013.—Section 4013 of OBRA is amended by striking "(a) IN GENERAL" and all that follows through the end and inserting the following: 42 USC 1395mm.

"Section 2350(b)(3) of the Deficit Reduction Act of 1984 is amended by striking 'four years after the date of the enactment of this Act' and inserting 'September 30, 1990'.". 42 USC 1395mm note.

(4) SECTION 4014.—Section 1876(i)(6) of the Social Security Act, as amended by section 4014 of OBRA, is amended— 42 USC 1395mm.

(A) in subparagraph (A), by inserting ", in addition to any other remedies authorized by law," after "the Secretary may provide", and

(B) in the last sentence of subparagraph (B), by striking "under that section" and inserting "or proceeding under section 1128A(a)".

(5) SECTION 4018.—Section 1876(f)(3)(A) of the Social Security Act, as inserted by section 4018(a) of OBRA, is amended—

(A) by inserting "enrollment and residency requirements under this section and for" after "for purposes of", and

(B) by striking "of the subdivision" and inserting "described in subparagraph (B)(iii) who receive services through the subdivision".

(d) CORRECTIONS RELATING TO SUBPART B OF PART 2 OF SUBTITLE A OF TITLE IV (HOME HEALTH QUALITY).—

(1) SECTION 4021.—(A) Section 1891(a) of the Social Security Act, as added by section 4021(b) of OBRA, is amended— 42 USC 1395bbb.

(i) in paragraph (3)(A), by striking "who is not a licensed health care professional (as defined in subparagraph (F))",

(ii) in paragraph (3)(F), by inserting "physical or occupational therapy assistant," after "occupational therapist,", and Health care professionals.

(iii) by striking paragraph (4) and by redesignating paragraphs (5) and (6) as paragraphs (4) and (5), respectively.

(B)(i) Section 1861(n) of the Social Security Act (42 U.S.C. 1395x(n)) is amended by inserting before the period at the end the following: "; except that such term does not include such equipment furnished by a supplier who has used, for the demonstration and use of specific equipment, an individual who has not met such minimum training standards as the Secretary may establish with respect to the demonstration and use of such specific equipment".

(ii) The amendment made by clause (i) shall apply to equipment furnished on or after the effective date provided in section 4021(c) of OBRA. Effective date.

(2) SECTION 4022.—(A) The third sentence of section 1891(c)(1) of the Social Security Act, as added by section 4022(a) of OBRA, is amended by inserting "(other than subsections (a) and (b))" after "1128A".

42 USC 1395bbb.

(B) Section 1891(d)(2)(A) of the Social Security Act, as added by section 4022(a) of OBRA, is amended by striking "1991" and inserting "1992".

42 USC 1395bbb.

(3) SECTION 4023.—(A) Section 4023 of OBRA is amended by inserting "(a) IN GENERAL.—" before "Section 1891".

(B) Section 1891(f)(2)(A) of the Social Security Act, as added by section 4023 of OBRA, is amended—

(i) by moving the indentation of clauses (i) through (iii) (and the sentence following clause (iii)) 2 ems to the left,

(ii) in clause (i), by striking "for each day of noncompliance" and inserting "in an amount not to exceed $10,000 for each day of noncompliance", and

(iii) by inserting after and below clause (iii), the following: "The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(C) Section 4023(b) of OBRA is amended by inserting before the period at the end the following: ", and no intermediate sanction described in section 1891(f)(2)(A) of such Act shall be imposed for violations occurring before such effective date".

42 USC 1395aa.

(4) SECTION 4025.—(A) Section 1864(a) of the Social Security Act is amended—

(i) in the first sentence added by section 4025(a) of OBRA, by striking "most recent accreditation survey conducted with respect to the agency," and inserting "most recent accreditation survey conducted by a State agency or private accreditation agency under section 1865 with respect to the home health agency,", and

(ii) in the second sentence so added—

(I) by inserting "such State or local" before "agency" the first place it appears, and

(II) by striking "section 1864" and inserting "section 1865".

42 USC 1395aa note.

(B) Section 4025 of OBRA is amended—

(i) in subsection (b), by striking "subsection (a)" and inserting "this section" and by redesignating such subsection as subsection (c), and

(ii) by inserting after subsection (a) the following new subsection:

"(b) CONFORMING AMENDMENT.—The last sentence of section 1865(a) of such Act (42 U.S.C. 1395bb(a)) is amended by inserting '(other than a survey with respect to a home health agency' after 'any accreditation survey'.".

42 USC 1395x.

(5) SECTION 4026.—(A) Section 1861(v)(1)(L)(iii) of the Social Security Act, as added by section 4026(a)(1) of OBRA, is amended—

(i) by striking "audited" each place it appears and inserting "verified", and

(ii) by adding at the end the following:

Wages.

"In the case of a home health agency that refuses to provide data, or deliberately provides false data, respecting wages for purposes of this clause upon the request of the Secretary, the Secretary may withhold up to 5 percent of the amount of the payments otherwise payable to the agency under this title until such date as the Secretary determines that such data has been satisfactorily provided.".

(B) Section 4026(a)(2) of OBRA is amended by striking "July 1, 1988" and inserting "July 1, 1989". 42 USC 1395x note.

(C) Section 4026(b) of OBRA is amended by striking "June 1, 1988" and inserting "June 1, 1989".

(6) SECTION 4027.—Section 4027(a) of OBRA is amended by striking "July 1, 1988" and inserting "April 1, 1989". 42 USC 1395n note.

(e) CORRECTIONS RELATING TO SUBPART C OF PART 2 OF SUBTITLE A OF TITLE IV (OTHER MEDICARE PART A AND B PROVISIONS).—

(1) SECTION 4032.—(A) Section 4032 of OBRA is amended by striking "AND PHYSICIAN REVIEW" in the heading of subsection (a) and by striking "AND CARRIERS" in the heading of subsection (b). 42 USC 1395h.

(B) Section 1816(j)(2) of the Social Security Act, as added by section 4032(a) of OBRA, is amended— 42 USC 1395h.

(i) by inserting "in the case of a request for reconsideration of a denial," after "(2)", and

(ii) by inserting "the" before "disposition".

(C) Section 4032(c)(1)(B) of OBRA is amended by striking "claims filed" and inserting "reconsiderations requested". 42 USC 1395h note.

(2) SECTION 4033.—Section 4033 of OBRA is amended— 42 USC 426.

(A) by striking "(a) IN GENERAL.—"; 42 USC 426 note.

(B) by redesignating paragraphs (1) and (2) (and subparagraphs (A) and (B) of paragraph (2)) as subsections (a) and (b) (and paragraphs (1) and (2) of subsection (b)), respectively; and

(C) by aligning the left margins of the matter in such section flush left.

(3) SECTION 4039.—Section 4039 of OBRA is amended by adding at the end the following new subsection:

"(h) TECHNICAL CORRECTIONS.—

"(1) Section 1128A(b) of the Social Security Act (42 U.S.C. 1320a-7a(b)) is amended—

"(A) in paragraph (1)(A), by striking 'XVII' and inserting 'XVIII', and

"(B) in paragraph (2) by inserting 'each' after '$2,000 for'.

"(2) Section 1138(a)(1)(B) of such Act (42 U.S.C. 1320b-8(a)(1)(B)) is amended by striking 'In' and inserting 'in'.

"(3) Section 1154(a)(4) of such Act (42 U.S.C. 1320c-3(a)(4)) is amended—

"(A) by indenting subparagraphs (B) and (C) (and clauses (i) through (iii) of subparagraph (C)) two additional ems;

"(B) in subparagraph (B), by inserting 'risk-sharing' before 'contract under section 1876'; and

"(C) in subparagraph (C)(i), by adding before the comma at the end the following: '(other than the ability to perform review functions under this section that are not described in subparagraph (B))'.

"(4) Section 1154(d) of such Act (42 U.S.C. 1320c-3(d)) is amended by striking '1164(b)(4)' and inserting '1164'.

"(5) Section 1156(b) of such Act (42 U.S.C. 1320c-5(b)) is amended—

"(A) in the second sentence of paragraph (1), by striking 'such services on a reimbursable basis.' and inserting 'services under this Act on a reimbursable basis.', and

"(B) in paragraph (2), by striking 'at such time' and all that follows through 'and shall remain' and inserting 'on the same date and in the same manner as an exclusion

from participation under the programs under this Act becomes effective under section 1128(c), and shall remain'.

"(6) Section 1160 of such Act (42 U.S.C. 1320c-9) is amended by adding at the end the following new subsection:

" '(e) For purposes of this section and section 1157, the term "organization with a contract with the Secretary under this part" includes an entity with a contract with the Secretary under section 1154(a)(4)(C).'.

"(7) The heading of section 1870 of such Act (42 U.S.C. 1395gg) is amended to read as follows:

'OVERPAYMENT ON BEHALF OF INDIVIDUALS AND SETTLEMENT OF CLAIMS FOR BENEFITS ON BEHALF OF DECEASED INDIVIDUALS'.

"(8) Section 1876(i)(7) of such Act (42 U.S.C. 1395mm(i)(7)) is amended—

"(A) in subparagraph (A), by striking 'Except as provided under section 1154(a)(4)(C), each' and inserting 'Each';

"(B) in subparagraph (A), by inserting 'or with an entity selected by the Secretary under section 1154(a)(4)(C)' after 'located)'; and

"(C) by striking 'peer' in subparagraph (B) and the second place it appears in subparagraph (A).

"(9) Section 9353 of the Omnibus Budget Reconciliation Act of 1986 is amended—

42 USC 1320c-3 note.
Contracts.

"(A) in subsection (a)(6)(A)(i), by striking 'paragraphs (1) and (2)(D) shall apply to contracts as of' and inserting 'paragraph (1) shall apply to contracts entered into or renewed on or after';

"(B) in subsection (a)(6)(B), by striking 'amendment made by paragraph (2)(B)' and inserting 'amendments made by paragraphs (2)(B) and (2)(D)'; and

42 USC 1395mm note.
Contracts.

"(C) in subsection (e)(3)(B), by adding at the end the following: 'The provisions of section 1876(i)(7) of the Social Security Act (added by such amendment) shall apply to health maintenance organizations with contracts in effect under section 1876 of such Act (as in effect before the date of the enactment of Public Law 97-248) in the same manner as it applies to eligible organizations with risk-sharing contracts in effect under section 1876 of such Act (as in effect on the date of the enactment of this Act).'.".

(f) CORRECTIONS RELATING TO SUBPART A OF PART 3 OF SUBTITLE A OF TITLE IV (PAYMENTS FOR PHYSICIANS' SERVICES).—

42 USC 1395u.

(1) SECTION 4041.—(A) Section 4041(a)(1)(B) of OBRA is amended—

(i) by inserting "as amended retroactively by section 4085(i)(7)(C)," after "(j)(1)(C),", and

(ii) by redesignating the clause added by such section as clause (viii).

(B) The last sentence of section 1842(b)(2) of the Social Security Act, as added by section 4041(a)(3)(A) of OBRA, is amended by striking "and subsection (h)" and inserting ", subsection (h), and section 1845(f)(2)".

42 USC 1395u note.

(C) Subclause (II) of section 4041(a)(3)(B)(iii) of OBRA is amended to read as follows:

"(II) by striking 'April 1' and inserting 'September 30', and".

(2) SECTION 4042.—(A) Section 1842(b)(4)(F)(iii) of the Social Security Act, as added by section 4042(a) of OBRA, is amended— 42 USC 1395u.

(i) in subclause (I), by striking the semicolon and inserting a comma, and

(ii) in subclause (II), by striking "physician's" and inserting "physicians' ".

(B) Section 1842(b)(4)(F)(ii)(I) of the Social Security Act, as added by section 4042(a) of OBRA, is amended by striking "subparagraph (E)(iii)" and inserting "subsection (i)(4)".

(C) Section 4042(b) of OBRA is amended by striking "Section" and all that follows up to "The term" and inserting the following:

"(1) Section 1842 of such Act (42 U.S.C. 1395u) is amended—

"(A) in subsection (h)(7), by striking ', described in paragraph (8)';

"(B) in paragraph (8) of subsection (h)—

"(i) by striking '(8) For purposes of this title, a' and inserting '(1) A',

"(ii) by indenting such paragraph 2 ems, and

"(iii) by inserting before such paragraph the following:

" '(i) For purposes of this title:';

"(C) in subsection (b)(4)(E)—

"(i) by striking '(E) In this section:',

"(ii) by redesignating clauses (i) and (ii), as paragraphs (2) and (3), respectively, and

"(iii) by transferring and inserting such paragraphs, as redesignated, before subsection (j);

"(D) in subsection (b)(4), by redesignating subparagraphs (F) and (G) of subsection (b)(4), as subparagraphs (E) and (F), respectively; and

"(E) by inserting, after the paragraphs transferred and inserted by subparagraph (C)(iii), the following new paragraph:

" '(4)'.

(D) Section 4042(b) of OBRA is further amended by adding at the end the following: 42 USC 1395u.

"(2)(A) Section 1842(b)(4)(A)(vii) of such Act, as redesignated by sections 4041(a)(1)(A)(i) and 4044(a), is amended by striking 'subparagraph (E)(ii)' and inserting 'subsection (i)(3)'.

"(B) Section 1833(l)(2) of such Act (42 U.S.C. 1395l(l)(2)) is amended by striking '1842(b)(4)(E)(ii)' and inserting '1842(i)(3)'.".

(E) The last sentence of section 1842(b)(4)(A)(iv)(II) of the Social Security Act, as added by section 4042(c)(2) of OBRA, is amended by striking "January 1, 1988" and inserting "January 1, 1989".

(F) Section 4042(c) of OBRA is amended—

(i) by striking "Section" and all that follows up to "In the previous sentence" and inserting the following:

"(1) The first sentence of clause (iv) of section 1842(b)(4)(A) of such Act (42 U.S.C. 139u(b)(4)(A)) is amended to read as follows: 'The reasonable charge for physicians' services furnished on or after January 1, 1987, by a nonparticipating physician shall be no greater than the applicable percent of the prevailing charge levels established under the third and fourth sentences of paragraph (3) (or under any other applicable provision of law affecting the prevailing charge level).'.", and Health care professionals.

(ii) by adding at the end the following:

Health care professionals. 42 USC 1395u.

"(2) Subclauses (I) and (II) of section 1842(j)(1)(C)(i) of such Act are amended by striking 'prevailing charge for the year involved for such service furnished by nonparticipating physicians' and inserting 'applicable percent (as defined in subsection (b)(4)(A)(iv)) of the prevailing charge for the year and service involved'.".

101 Stat. 1330-86.

(3) SECTION 4044.—(A) Section 4044(a) of OBRA is amended by striking "INCREASE IN PREVAILING CHARGES" and inserting "PREVAILING CHARGE FLOOR".

42 USC 1395u.

(B) Section 1842(b)(4)(A)(vi) of the Social Security Act, as inserted by section 4044(a) of OBRA, is amended—

(i) by striking "subparagraph (E)(iii)" and inserting "subsection (i)(4)",

(ii) by striking "the average of the prevailing charge levels" and inserting "the estimated average prevailing charge levels based on the best available data", and

(iii) by striking "for participating physicians".

(4) SECTION 4045.—(A) Section 1842(b)(10) of the Social Security Act, as amended by section 4045(a) of OBRA, is amended—

(i) in subparagraph (A)(i)—

(I) by striking "under paragraph (3)",

(II) by striking "subparagraph (C)" and inserting "subparagraph (B)", and

(III) by striking "for participating and nonparticipating physicians";

(ii) in subparagraph (A)(iii), by striking "clause (i)(II)" and inserting "clause (i)(I)";

(iii) in subparagraph (B) by inserting "(including subsequent insertion of an intraocular lens)" after "cataract surgery"; and

(iv) in subparagraph (D), by inserting "under" after "review".

42 USC 1395u.

(B) Section 4045(c)(2) of OBRA is amended—

(i) in subparagraph (B), by inserting before the period at the end the following: "and by striking the second sentence", and

(ii) by adding at the end the following new subparagraph:

"(D) The fourth sentence of section 1842(b)(3) of the Social Security Act (42 U.S.C. 1395u(b)(3)) is amended by inserting '(or under any other provision of law affecting the prevailing charge level)' after 'the level determined under this sentence'.".

(C) Section 1842(j)(1)(D)(iv) of the Social Security Act, as added by section 4045(c)(1)(B) of OBRA, is amended by striking "imposes a charge" and inserting "bills".

(D)(i) Section 1862(a)(15) of the Social Security Act (42 U.S.C. 1395y(a)(15)) is amended by inserting "(including subsequent insertion of an intraocular lens)" after "operation".

Effective date. 42 USC 1395y note.

(ii) The amendment made by clause (i) shall apply to operations performed on or after 60 days after the date of the enactment of this Act.

(5) SECTION 4046.—(A) Section 1842(b)(11)(C)(i) of the Social Security Act, as inserted by section 4046(a)(1)(C) of OBRA and as designated by section 4063(a)(1)(A), is amended by striking "implantation" and inserting "insertion".

(B) Section 1842(j)(1)(D)(ii)(IV) of the Social Security Act, as inserted by section 4046(a)(2)(A) of OBRA, is amended by striking "is". 42 USC 1395u.

(6) SECTION 4047.—(A) The heading of section 4047 of OBRA is amended by striking "**PRIMARY CARE**" and inserting "**CERTAIN**".

(B) Section 1842(b)(4)(G) of the Social Security Act, as added by section 4047(a) of OBRA, is amended—

(i) by inserting "than" after "(other", and

(ii) by striking "(as determined under the third and fourth sentences of paragraph (3) and under paragraph (4))".

(C) Section 4047(b) of OBRA is amended by inserting "on or" after "medicare beneficiaries". 42 USC 1395u note.

(D) The item in the table of contents of title IV of OBRA relating to section 4047 is amended to read as follows:

"Sec. 4047. Customary charges for certain services of new physicians.".

(7) SECTION 4048.—(A) Paragraph (14) of section 1842(b) of the Social Security Act, as added by section 4048(a) of OBRA, is redesignated as paragraph (13).

(B) Section 4048 of OBRA is amended by adding at the end the following new subsection: 101 Stat.1330-89.

"(e) CONFORMING AMENDMENT TO MAXMIMUM ALLOWABLE ACTUAL CHARGE.—Section 1842(j)(1)(C) of the Social Security Act (42 U.S.C. 1395u(j)(1)(C)), as amended by sections 4085(i)(7)(C) and 4041(a)(1)(B) of this title, is amended by adding at the end the following new clause:

" '(ix) If there is a reduction under subsection (b)(13) in the reasonable charge for medical direction furnished by a nonparticipating physician, the maximum allowable actual charge otherwise permitted under this subsection for such services shall be reduced in the same manner and in the same percentage as the reduction in such reasonable charge.'.". Health care professionals.

(8) SECTION 4049.—(A) Section 1834(b)(6) of the Social Security Act, as added by section 4049(a)(2) of OBRA, is amended by striking "radiologic" each place it appears and inserting "radiology". 42 USC 1395m.

(B) Section 4049(a) of OBRA is amended—

(i) in paragraph (1), by striking "4062(c)(3)" and inserting "4062(d)(3)", and 42 USC 1395*l*.

(ii) in paragraph (2), by striking "4062(a)" and inserting "4062(b)". 42 USC 1395n.

(C) Section 1833(a)(1) of the Social Security Act, as amended by section 4049(a)(1) of OBRA, is amended in the clause added by that section by striking "1834(b)(5)" and inserting "1834(b)(6)". 42 USC 1395*l*.

(D) Section 1834(b) of the Social Security Act, as added by section 4049(a)(2) of OBRA, is amended—

(i) in the headings of paragraphs (4)(D) and (5), by inserting "AND SUPPLIERS" after "PHYSICIANS";

(ii) in paragraph (5)(C), by striking "imposes a charge" and inserting "bills";

(iii) in paragraph (5)(C), by inserting "in the same manner as such sanctions may apply to a physician" after "1842(j)(2)";

(iv) in paragraph (6), by striking ", section 1833(a)(1)(I), and section 1842(h)(1)(B)" and inserting "and section 1833(a)(1)(J)"; and

(v) in paragraph (6)(B), by striking "billings" and inserting "the total amount of charges".

42 USC 1395m note.

(E) Section 4049(b) of OBRA is amended by striking "establish" and inserting "propose".

42 USC 1395u.

(9) SECTION 4051.—Section 1842(n) of the Social Security Act, as added by section 4051(a) of OBRA, is amended—

(A) in paragraph (1) in the matter before subparagraph (A)—

(i) by striking "to a patient",

(ii) by inserting "the bill or request for" after "for which",

(iii) by striking "his" and inserting "a", and

(iv) by striking "supervised the test" and inserting "supervised the performance of the test";

(B) in paragraph (1)(A), by striking "to individuals enrolled under this part";

(C) in paragraph (2)(A), by inserting "the payment amount specified in paragraph (1)(A) and" after "other than"; and

(D) in paragraph (3), by striking "or supplier".

42 USC 1395ccc.

(10) FIRST SECTION 4052.—(A) Section 1892(a) of the Social Security Act, as added by the first section 4052(a) of OBRA, is amended—

(i) in paragraphs (2)(C)(ii) and (3)(B), by striking "paragraph (3)" and inserting "paragraph (4)",

(ii) in paragraph (4), by striking "bar" and inserting "exclude", and

(iii) in paragraph (4), by inserting before the period at the end the following: "if a State requests that the physician not be excluded".

42 USC 254o.

(B) The first section 4052(b) of OBRA (relating to conforming reference) is amended by striking "338E(b)(1)" and "254o(b)(1)" and inserting "338E(b)(1)(B)(i)" and "254o(b)(1)(B)(i)", respectively.

(C)(i) Section 1892 of the Social Security Act, as added by the first section 4052(a) of OBRA, is amended—

(I) in the heading, by striking "PHYSICIANS" and "SCHOLARSHIP" and inserting "INDIVIDUALS" and "SCHOLARSHIP AND LOAN", respectively;

(II) by striking "physician" each place it appears (other than the third place it appears in subsection (a)(4)) and inserting "individual";

(III) by striking "physician" the third place it appears in subsection (a)(4) and inserting "practitioner";

(IV) in paragraph (1)(A), by inserting ", the Physician Shortage Area Scholarship Program, or the Health Education Assistance Loan Program," after "Scholarship Program";

(V) in subsection (b), by striking ", and (2)" and all that follows through "Act" and inserting "or under subpart III of part F of title VII of such Act (as in effect before October 1, 1976) and which has not been paid by the deadline established by the Secretary pursuant to such respective section"; and

(VI) in subsection (b), by striking the period at the end and inserting "; or" and by adding at the end the following:

"(2) owed by an individual to the United States by reason of a loan covered by Federal loan insurance under subpart I of part C of title VII of the Public Health Service Act and payment for which has not been cancelled, waived, or suspended by the Secretary under such subpart.". Loans.

(ii) Section 733(f) of the Public Health Service Act (42 U.S.C. 294f(f)) is amended by adding at the end the following: "Procedures for reduction of payments under the medicare program are provided under section 1892 of the Social Security Act.".

(iii) The amendments made by this subparagraph shall be effective 30 days after the date of the enactment of this Act. Effective date. 42 USC 294f note.

(11) SECOND SECTION 4052.—(A) The second section 4052(a) of OBRA is amended by striking "is amended" and all that follows through the end and inserting the following: "is amended by inserting before the period at the end of the next-to-last sentence the following: ', and shall remain at such prevailing charge level until the prevailing charge for a year (as adjusted by economic index data) equals or exceeds such prevailing charge level'.". 42 USC 1395u.

(B) The second section 4052(b) of OBRA is amended by striking "January" and inserting "April". 42 USC 1395u note.

(12) SECTION 4054.—(A) Section 4054 of OBRA is amended to read as follows: 42 USC 1395*l* note.

"SEC. 4054. APPLYING COPAYMENT AND DEDUCTIBLE TO CERTAIN OUTPATIENT PHYSICIANS' SERVICES.

"(a) IN GENERAL.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended—

"(1) in subsection (a)(1), by striking clause (F),

"(2) in subsection (b), by striking paragraph (3) and by redesignating paragraphs (4) and (5) as paragraphs (3) and (4), respectively, and

"(3) in subsection (i), by striking paragraph (4).

"(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to services furnished on or after April 1, 1988.".

(B) The item relating to section 4054 in the table of contents of title IV of OBRA is amended to read as follows:

"Sec. 4054. Applying copayment and deductible to certain outpatient physicians' services.".

(13) SECTION 4055.—Section 4055 of OBRA is amended—

(A) in subsection (a)(2), by striking "such list" and inserting "such definitions", and 42 USC 1395u note.

(B) in subsection (b)(1), by striking "dermatology,". 42 USC 1395w-1 note.

(14) REDESIGNATION.—The second section 4052 of OBRA and sections 4053, 4054, and 4055 of OBRA are redesignated as sections 4053 through 4056, respectively. 42 USC 1395u, 1395u notes, 1395*l*, 1395*l* notes, 1395w-1 note.

(g) CORRECTIONS RELATING TO SUBPART B OF PART 3 OF SUBTITLE A OF TITLE IV (PAYMENTS FOR OTHER PART B SERVICES).—

(1) SECTION 4062.—(A) The heading of section 1834 of the Social Security Act, as inserted by section 4062(b) of OBRA, is amended by inserting "ITEMS AND" after "PARTICULAR". 42 USC 1395m.

(B) Subsection (a) of section 1834 of the Social Security Act, as so inserted, is amended—

(i) in paragraph (1)(C), by inserting "or under part A to a home health agency" after "under this part";

(ii) in the second sentence of paragraph (2)(A), by striking "rental" before "payments";

(iii) in paragraph (2)(B)(i), by striking "allowed" and inserting "reasonable", and in paragraphs (3)(B)(i) and (8)(A)(i)(I), by striking "allowable" and inserting "reasonable";

(iv) in paragraph (3)(A), by striking the extra space after "ventilators";

(v) in paragraph (4), by inserting after "individual patient" the following: ", and for that reason cannot be grouped with similar items for purposes of payment under this title,";

(vi) in paragraph (4), by inserting "(A)" after "in a lump-sum amount" and by inserting "(B)" after "for that item, and";

(vii) in paragraph (4), by striking "maintenance and service" each place it appears and inserting "maintenance and servicing", in paragraph (7)(A)(iii), by striking "service and maintenance" and inserting "maintenance and servicing", and in paragraphs (7)(A)(ii) and (11)(A), by striking "servicing" and inserting "maintenance and servicing";

(viii) in paragraph (7)(A)(iii)(I), by striking "fee established by the carrier" and inserting "fee or fees established by the Secretary ";

(ix) in paragraph (9)(A)(ii)(I), by striking "12-month period" and inserting "6-month period";

(x) in paragraph (9)(A)(ii)(II), by striking "and to 1991" and inserting ", 1991, and 1992";

(xi) in paragraphs (9)(B)(i) and (10)(B)(i), by striking the comma after "1991";

(xii) in paragraph (9)(C)(i), by striking "subparagraph (A)(ii)(I)" and inserting "subparagraph (A)(ii)";

(xiii) in paragraph (10)(B), by inserting before the period the following: "and payments under this subsection as such provisions apply to physicians' services and physicians and a reasonable charge under section 1842(b)";

(xiv) in the last sentence of paragraph (11)(A), by striking "under subsection (j)(2)" and inserting "under section 1842(j)(2)";

(xv) in paragraph (12), by striking "(as defined in section 1886(d)(2)(D))"; and

(xvi) by striking paragraph (14).

42 USC 1395m note.

(C) Section 4062(c)(4) of OBRA is amended—

(i) by inserting "and payment of a reasonable copying fee which the Secretary may establish" after "upon written request", and

(ii) by inserting before the period at the end the following: ", but only in a form which does not permit identification of individual suppliers".

42 USC 1395cc.

(D) The last sentence of section 1866(a)(2)(A) of the Social Security Act, as added by section 4062(d)(4) of OBRA, is amended by striking "section 1834(a)(2)" and inserting "section 1834(a)(1)(B)".

42 USC 1395*l*.

(E) The matter added by section 4062(d)(3)(A)(ii) of OBRA is amended by striking "and" before "(I)".

(2) SECTION 4063.—(A) Section 1842(b)(11)(C)(ii) of the Social Security Act, as amended by section 4063(a)(1)(A) of OBRA, is amended— 42 USC 1395u.

(i) by striking "implanted" and inserting "inserted", and

(ii) by inserting "or subsequent to" after "during".

(B) Subclause (IV) of section 1842(j)(1)(D)(ii) of the Social Security Act, as inserted by section 4063(a)(2)(A) of OBRA, is redesignated as subclause (V) and is amended by striking "is".

(C) Section 4063(a)(2)(B) of OBRA is amended by striking clause (ii) and by redesignating clauses (iii) and (iv) as clauses (ii) and (iii), respectively. 42 USC 1395*l*.

(D) Section 1833(i)(2)(A)(iii) of the Social Security Act, as inserted by section 4063(b)(3) of OBRA, is amended— 42 USC 1395*l*.

(i) by striking "implantation" and inserting "insertion", and

(ii) by inserting "or subsequent to" after "during".

(E) Section 4063 of OBRA is amended by adding at the end the following new subsection:

"(e) PREVENTION OF ADDITIONAL BILLINGS FOR IOLS.—

"(1) Section 1833(i) of the Social Security Act (42 U.S.C. 1395l(i)) is amended by adding at the end the following new paragraph:

" '(6) Any person, other than a facility having an agreement under section 1832(a)(2)(F)(i), who knowingly and willfully presents, or causes to be presented, a bill or request for payment, for an intraocular lens inserted during or subsequent to cataract surgery for which payment may be made under paragraph (2)(A)(iii), is subject to a civil money penalty of not to exceed $2,000. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).'. Contracts. Claims. Law enforcement and crime.

"(2) Section 1832(a)(2)(F)(i) of such Act (42 U.S.C. 1395k(a)(2)(F)(i)) is amended by inserting '(including intraocular lens in cases described in section 1833(i)(2)(A)(iii))' after 'services' each place it appears.".

(3) SECTION 4064.—(A) Section 4064(a) of OBRA is amended by striking all that follows the first dash and inserting the following: "Paragraph (2) of section 1833(h) of the Social Security Act (42 U.S.C. 1395l(h)) is amended— 42 USC 1395*l* note.

"(1) by inserting '(A)(i)' after '(2)';

"(2) in the second sentence—

"(A) by redesignating clauses (A) and (B) as clauses (i) and (ii), respectively, and

"(B) by designating such sentence as subparagraph (B); and

"(3) by adding at the end of subparagraph (A)(i), as designated under paragraph (1), the following new clause:

" '(ii) Notwithstanding any other provision of this subsection—

" '(I) any change in the fee schedules which would have become effective under this subsection for tests furnished on or after January 1, 1988, shall not be effective for tests furnished during the 3-month period beginning on January 1, 1988, and

" '(II) the Secretary shall not adjust the fee schedules under clause (i) to take into account any increase in the consumer price index for 1988.'.".

(B) Section 4064(b)(1) of OBRA is amended—

(i) by striking "1833(h)(2) of the Social Security Act (42 U.S.C. 1395l(h)(2))" and inserting "1833(h)(2)(A) of the Social Security Act (42 U.S.C. 1395l(h)(2)(A)), as amended by subsection (a),";

(ii) by striking "the following: 'In establishing fee schedules under the first sentence of this paragraph with respect to" and inserting "the following new clause:

" '(iii) In establishing fee schedules under clause (i) with respect to"; and

(iii) by moving the indentation of all the matter added following "with respect to" 2 ems to the left.

42 USC 1395*l*.

(C) The clause added by section 4064(b)(1) of OBRA, as amended by subparagraph (A), is amended by inserting before the period at the end the following: ", and such reduced fee schedules shall serve as the base for 1989 and subsequent years".

42 USC 1395*l*.

(D) Section 1833(h)(4)(B)(ii) of the Social Security Act, as amended by section 4064(b)(2)(B) of OBRA, is amended by inserting "after" before "March".

(E) Section 4064(c) of OBRA is amended by striking all that follows the dash and inserting the following: "Section 1833(h)(1)(D) of such Act is amended by inserting ', in a sole community hospital (as defined in the last sentence of section 1886(d)(5)(C)(ii)),' after 'a hospital laboratory'.".

(F) Section 4064(c) of OBRA is amended by inserting "(1)" after the dash and by adding at the end the following new paragraph:

Effective date.
42 USC 1395*l* note.

"(2) The amendment made by paragraph (1) shall apply with respect to diagnostic laboratory tests furnished on or after April 1, 1988.".

42 USC 1395w-2.

(G) Section 1846 of the Social Security Act, as added by section 4064(d)(1) of OBRA, is amended—

(i) in subsection (a)—

(I) by striking "certified" and "certification" and inserting "approved" and "approval", respectively,

(II) by inserting "or for coverage" after "conditions of participation", and

(III) by striking "cancelling immediately the certification of the provider or clinical laboratory" and inserting "terminating immediately the provider agreement or cancelling immediately approval of the clinical laboratory";

(ii) in subsections (b)(1)(A) and (b)(2)(A)(iv), by striking "certified";

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(iii) in subsection (b)(2)(A)(ii), by striking "civil fines and penalties" and inserting "civil money penalties in an amount not to exceed $10,000 for each day of substantial noncompliance";

(iv) in subsection (b)(2)(A), by adding at the end the following new sentence:

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"The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (ii) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).";

(v) in subsection (b)(2)(A)(iii), by striking "certification";

(vi) in subsection (b)(2)(A)(iv), by striking "provided on or after the date in" and inserting "furnished on or after the date on"; and

(vii) in subsection (b)(3), by striking "fines" and inserting "penalties" each place it appears.

(H) The matter inserted in section 1861(s) of the Social Security Act by section 4064(e)(1) of OBRA is amended by inserting a comma after "year". 42 USC 1395x.

(4) SECTION 4066.—(A) The heading of section 4066 of OBRA is amended by inserting "AND OTHER DIAGNOSTIC TESTS" after "RADIOLOGY".

(B) The item relating to section 4066 in the table of contents of title IV of OBRA is amended to read as follows:

"Sec. 4066. Payments to hospital outpatient departments for radiology and other diagnostic tests.".

(C) Section 1833(n) of the Social Security Act, as added by section 4066(a)(2) of OBRA, is amended— 42 USC 1395*l*.

(i) in paragraph (1)(A), by striking "beginning on or after October 1, 1988, under this part for services described in subsection (a)(2)(E)" and inserting "for services described in subsection (a)(2)(E)(i) furnished under this part on or after October 1, 1988, and for services described in subsection (a)(2)(E)(ii) furnished under this part on or after October 1, 1989,";

(ii) in paragraph (1)(B)(i)(II), by inserting "or (for services described in subsection (a)(2)(E)(i) furnished on or after January 1, 1989) the fee schedule amount established" after "the prevailing charge"; and

(iii) by amending subclauses (I) and (II) of paragraph (1)(B)(ii) to read as follows:

"(I) The term 'cost proportion' means 50 percent, except that such term means 65 percent in the case of outpatient radiology services for portions of cost reporting periods which occur in fiscal year 1989 and in the case of diagnostic procedures described in subsection (a)(2)(E)(ii) for portions of cost reporting periods which occur in fiscal year 1990.

"(II) The term 'charge proportion' means 100 percent minus the cost proportion.".

(5) SECTION 4067.—Section 1833(f) of the Social Security Act, as inserted by section 4067(a) of OBRA, is amended by striking "medicare economic index (referred to in the fourth sentence of section 1842(b)(3)) applicable to physicians' services" and inserting "MEI (as defined in section 1842(i)(3)) applicable to primary care services (as defined in section 1842(i)(4))".

(6) SECTION 4068.—The last sentence of section 1135(d)(3) of the Social Security Act, as added by section 4068(b)(1) of OBRA, is amended by striking "speciality" and inserting "specialty". 42 USC 1320b-5.

(h) CORRECTIONS RELATING TO SUBPART B OF PART 3 OF SUBTITLE A OF TITLE IV (PART B ELIGIBILITY AND BENEFITS CHANGES).—

(1) SECTION 4070.—(A) The last sentence of section 1833(c) of the Social Security Act, as added by section 4070(a)(2) of OBRA, is amended by striking "prescribing or monitoring prescription drugs" and inserting "monitoring or changing drug prescriptions". Prescription drugs.

(B) Section 1861(ff) of the Social Security Act, as added by section 4070(b)(2) of OBRA, is amended—

(i) by inserting before such subsection the following heading:

"Partial Hospitalization Services", and

(ii) in paragraph (3), by striking "hospital-based or hospital-affiliated (as defined by the Secretary)" and inserting "furnished by a hospital to its outpatients".

(2) SECTION 4071.—Section 1861(s)(10)(A) of the Social Security Act, as amended by section 4071(a) of OBRA, is amended by inserting ", subject to section 4071(b) of the Omnibus Budget Reconciliation Act of 1987," before "influenza vaccine".

42 USC 1395x.

(3) SECTION 4072.—(A) Section 1861(s)(12) of the Social Security Act, as amended by section 4072(a) of OBRA, is amended by inserting "subject to section 4072(e) of the Omnibus Budget Reconciliation Act of 1987," after "(12)".

(B) Section 4072(b) of OBRA is amended—

42 USC 1395*l*.

(i) by striking "by inserting after subsection (e)" and inserting "by adding at the end, as previously amended,", and

(ii) by redesignating the subsection added by such section as subsection (o).

(4) SECTION 4073.—Section 4073 of OBRA is amended—

42 USC 1395k.

(A) by striking paragraph (1) of subsection (b);

42 USC 1395*l*.

(B) in paragraph (2) of subsection (b)—

(i) by redesignating such paragraph as paragraph (1);

(ii) by inserting "and" at the end of subparagraph (A);

(iii) by striking subparagraph (B);

(iv) in the matter added by subparagraph (C)—

(I) by striking "and (I)" and inserting "(K)",

(II) by inserting "80 percent of the lesser of the actual charge for the services or" after "amounts paid shall be",

(III) by striking "but in no event more than" and inserting "but in no event shall such fee schedule exceed", and

(IV) by striking the semicolon and inserting a comma; and

(v) by redesignating subparagraph (C) as subparagraph (B);

(C) in paragraph (3) of subsection (b)—

(i) by inserting ", as previously amended," after "at the end",

(ii) by redesignating such paragraph as paragraph (2),

(iii) by redesignating the subsection added by such paragraph as subsection (p), and

(iv) by adding at the end of the subsection added by such paragraph the following: "Except for deductible and coinsurance amounts applicable under section 1833, whoever knowingly and willfully presents, or causes to be presented, to an individual enrolled under this part a bill or request for payment for services described in the previous sentence, is subject to a civil money penalty of not to exceed $2,000 for each such bill or request. The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).";

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(D) in the subsection added by subsection (c)— 42 USC 1395x.
(i) by redesignating such subsection as subsection (gg), and
(ii) in paragraph (1), by striking "his" and inserting "the nurse-midwife's" and by striking "physician's" and inserting "physicians' "; and
(E) in the matter inserted by subsection (d)(1), by striking "section 1861(ff)" and inserting "section 1861(gg)". 42 USC 1396d.

(5) SECTION 4074.—Section 4074 of OBRA is amended— 42 USC 1395x.
(A) in the matter inserted by subsection (a)(1), by striking "(ff)" and inserting "(hh)", and
(B) by redesignating the subsection added by subsection (b) as subsection (hh).

(6) SECTION 4076.—Subsection (a) of section 4076 of OBRA is amended to read as follows: 42 USC 1395x.

"(a) SERVICES COVERED.—Section 1861(s)(2)(K) of the Social Security Act (42 U.S.C. 1395x(s)(2)(K)) is amended by inserting '(I)' before 'in a hospital' and by striking 'or as an assistant at surgery' and inserting ', (II) as an assistant at surgery, or (III) in a rural area (as defined in section 1886(d)(2)(D)) that is designated, under section 332(a)(1)(A) of the Public Health Service Act, as a health manpower shortage area,'.". Rural areas.

(7) SECTION 4077.—Section 4077(b) of OBRA is amended—
(A) in paragraph (1), by inserting "by section 4073(a) of this title" after "as amended"; 42 USC 1395x.
(B) by striking paragraph (2); 42 USC 1395k.
(C) in paragraph (3)— 42 USC 1395l.
(i) by striking "1395k(a)(1))" and inserting "1395l(a)(1)),
(ii) by striking subparagraphs (A) and (B),
(iii) in subparagraph (C), by striking "(I)" and inserting "(K)" and by redesignating such subparagraph as subparagraph (A),
(iv) in subparagraph (D), by striking "subparagraph:" and inserting "clause:" and by redesignating such subparagraph as subparagraph (B), and
(v) in the matter added by subparagraph (B), as so redesignated—
(I) by striking "(J)" and inserting "(L)", and
(II) by inserting "80 percent of the lesser of the actual charge for the services or" after "amounts paid shall be";
(D) in paragraph (4), by striking "section 4073(b)(3)" and inserting "4073(b)(2)"; 42 USC 1395l.
(E) in paragraph (5), by redesignating the subsection (gg) added by such paragraph as subsection (ii); and 42 USC 1395x.
(F) by redesignating paragraphs (3) through (6) as paragraphs (2) through (5), respectively. 42 USC 1395l, 1395x, 1395k note.

(8) SECTION 4079.—Section 4079(c)(1) of OBRA is amended by striking "subsection (d)" and inserting "subsection (e)". 42 USC 1395mm note.

(i) PROVISIONS RELATING TO SUBPART D OF PART 3 OF SUBTITLE A OF TITLE IV (OTHER PART B PROVISIONS).—

(1) SECTION 4081.—(A) Section 1842(h)(3)(B) of the Social Security Act, as added by section 4081(a) of OBRA, is amended— 42 USC 1395u.
(i) in the second sentence—
(I) by striking "claims" and inserting "payment", and

(II) by striking "including such information as the Secretary determines is generally provided" and inserting "shall include an explanation of benefits and any additional information that the Secretary may determine to be appropriate in order";

(ii) in the third sentence, by striking "arrangements" and inserting "agreements"; and

(iii) in the fourth sentence—

(I) by inserting "by a carrier" after "under this subparagraph", and

(II) by inserting before the period at the end the following: ", and such user fees shall be collected and retained by the carrier".

42 USC 1395ss.

(B) Section 4081(b)(2) of OBRA is amended by redesignating subparagraphs (A) through (C) as subparagraphs (B) through (D), respectively, and by inserting before subparagraph (B), as so redesignated, the following:

"(A) in the matter before paragraph (1), by inserting '(or, with respect to paragraph (3), the issuer of the policy)' after 'he finds that such policy',".

42 USC 1395ss.

(C) Section 1882(c)(3) of the Social Security Act, as inserted by section 4081(b)(2)(C) of OBRA, is amended—

(i) in subparagraph (A), by striking "claims form" each place it appears and inserting "claim form" in the first 2 places and "notice" in the third place,

(ii) in subparagraph (B)(i), by inserting "under the policy" after "payment determination", and

(iii) in subparagraph (B)(ii), by striking "appropriate payment" and inserting "payment covered by such policy".

42 USC 1395ss note.

(D) Section 4081(c)(2)(B)(i) of OBRA is amended by striking "medical" and inserting "medicare".

(E) Section 4081(c)(2)(B)(ii) of OBRA is amended by inserting "or which has not enacted such legislation before July 1, 1988," after "in which such legislation may be considered".

42 USC 1395u.

(2) SECTION 4082.—Section 4082(c) of OBRA is amended—

(A) by striking "1842(b)(5) of such Act (42 U.S.C. 1395u(b)(5)" and inserting "1842(b)(2) of such Act (42 U.S.C. 1395u(b)(2))", and

(B) in paragraph (1), by striking "(5)" and inserting "(2)".

(3) SECTION 4084.—Section 4084 of OBRA is amended by adding at the end the following new subsection:

"(c) ADDITIONAL TECHNICAL CORRECTIONS.—

"(1) Section 1861(bb)(2) of the Social Security Act (42 U.S.C. 1395x(bb)(2)) is amended by adding at the end the following: 'Such term also includes, as prescribed by the Secretary, an anesthesiologist assistant.'.

"(2) Section 1833(a)(1)(H) of such Act (42 U.S.C. 1395l(a)(1)(H)) is amended by striking 'lesser of the actual charge' and inserting 'least of the actual charge, the prevailing charge that would be recognized if the services had been performed by an anesthesiologist,'.

Effective date. 42 USC 1395l note.

"(3) The amendments made by this subsection shall apply to services furnished after December 31, 1988.".

42 USC 1395w-1.

(4) SECTION 4085.—(A) Section 1845(f) of the Social Security Act, as added by section 4085(a) of OBRA, is amended—

(i) in paragraph (1), by striking "October 1st" and inserting "December 31st", and

(ii) in paragraph (2), by striking "July 1st of the following year" and inserting "the later of (A) July 1st of the following year, or (B) 45 days after the date of a reasonable charge update".

(B) Subparagraph (D) of section 1833(h)(5) of the Social Security Act, as added by section 4085(b)(1) of OBRA, is amended— 42 USC 1395*l*.

(i) by striking "If a person" and all that follows through "under subparagraph (C)" and inserting the following: "A person may not bill for a clinical diagnostic laboratory test performed by a laboratory, other than a rural health clinic, other than on an assignment-related basis. If a person knowingly and willfully and on a repeated basis bills for a clinical diagnostic laboratory test in violation of the previous sentence", and

(ii) by striking "section 1842(j)(2)" and inserting "paragraphs (2) and (3) of section 1842(j) in the same manner such paragraphs apply with respect to a physician".

(C) Section 4085(i) of OBRA is amended—

(i) in the matter inserted by paragraph (1)(A), by inserting a comma after "assignment-related basis"; 42 USC 1395*l*.

(ii) in paragraph (1), by striking subparagraph (B);

(iii) in paragraph (11), by striking "9367(a)" and inserting "4072(a)"; 42 USC 1395x.

(iv) in paragraph (21)(D)(i), by inserting "by" after "(i)"; 42 USC 1395*l*.

(v) in paragraph (21)(D)(ii), by striking "and by" and all that follows up to the semicolon; and 42 USC 1395*l* note.

(vi) by adding at the end the following:

"(22)(A) Section 1832(a)(2)(F)(ii) of the Social Security Act (42 U.S.C. 1395k(a)(2)(F)(ii)) is amended by striking 'an assignment described in section 1842(b)(3)(B)(ii)' and inserting 'payment on an assignment-related basis'.

"(B) Section 1833(h)(5) of such Act (42 U.S.C. 1395l(h)(5)) is amended, in each of subparagraphs (A) and (C), by striking 'on the basis of an assignment' and all that follows through '1870(f)(1),' and inserting 'on an assignment-related basis'.

"(C) Section 1842(b)(7)(B)(iii) of such Act (42 U.S.C. 1395u(b)(7)(B)(ii)) is amended by striking 'the basis of' and all that follows through '1870(f)(1)' and inserting 'an assignment-related basis'.

"(23) Section 1833(l)(5)(B)(ii) of such Act (42 U.S.C. 1395k(l)(5)(B)(ii)) is amended— 42 USC 1395*l*.

"(A) in the first sentence by striking 'monetary' and inserting 'money', and

"(B) by amending the second sentence to read as follows: 'The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).'.

"(24) The fourth sentence of section 1842(b)(3) of such Act (42 U.S.C. 1395u(b)(3)) is amended by striking 'physician services' and 'physicians services' and inserting 'physicians' services' in both places.

"(25) Section 1842(b)(12)(C) of such Act (42 U.S.C. 1395u(b)(12)(C)) is amended—

"(A) in the first sentence by striking 'monetary' and inserting 'money', and

"(B) by amending the second sentence to read as follows: 'The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).'.

"(26) Section 1842(j)(2) of such Act (42 U.S.C. 1395u(j)(2)(B)) is amended—

"(A) by striking 'title' each place it appears and inserting 'Act', and

"(B) in subparagraph (B)—

"(i) by striking 'the imposition of',

"(ii) by inserting 'and assessments' after 'such penalties', and

"(iii) by amending the second sentence to read as follows: 'The provisions of section 1128A (other than the first 2 sentences of subsection (a) and other than subsection (b)) shall apply to a civil money penalty and assessment under subparagraph (B) in the same manner as such provisions apply to a penalty, assessment, or proceeding under section 1128A(a), except to the extent such provisions are inconsistent with subparagraph (A) or paragraph (3).'.

"(27) Section 1842(l)(1)(C)(i) of such Act (42 U.S.C. 1395u(l)(1)(C)(i)) is amended by inserting 'the physician establishes that' after '(i)'.

"(28) Section 1866(g) of such Act (42 U.S.C. 1395cc(g)) is amended—

"(A) in the first sentence by striking 'monetary' and inserting 'money', and

"(B) by amending the second sentence to read as follows: 'The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).'.".

(D)(i) Section 1862(e) of the Social Security Act (42 U.S.C. 1395y(e)) is amended—

(I) by striking "or section 1128A" and inserting ", 1128A, 1156, 1842(j)(2), or 1867(d)",

(II) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), and

(III) by inserting "(1)" after "(e)".

(ii) Section 1890 of the Social Security Act, as added by section 10 of Public Law 100-93, is amended— 42 USC 1395aaa.

(I) by striking its heading;

(II) by striking "SEC. 1890" and inserting "(2)";

(III) by inserting "1842(j)(2)," before "1862(d),";

(IV) by striking "or 1866" and inserting "1866, or 1867(d)"; and

(V) by transferring and adding such provision at the end of section 1862(e) of such Act. 42 USC 1395y.

(j) CORRECTIONS TO PART 4 OF SUBTITLE A OF TITLE IV (RELATING TO PEER REVIEW ORGANIZATIONS).—

(1) SECTION 4091.—Section 4091(a)(1)(B) of OBRA is amended by striking "renewals occurring" and inserting "contracts expiring". 42 USC 1320c-2 note.

(2) SECTION 4093.—Section 1154(a)(3) of the Social Security Act, as amended by section 4093(a) of OBRA, is amended by amending the last sentence to read as follows: 42 USC 1320c-3.

"(C) The discussion and review conducted under subparagraph (B)(ii) shall not affect the rights of a practitioner or provider to a formal reconsideration of a determination under this part (as provided under section 1155).". Health care professionals.

(3) SECTION 4094.—(A) Section 4094(a) of OBRA is amended by striking "subparagraph (B)" and inserting "subparagraph (A)". 42 USC 1320c-3.

(B) Section 1154(a)(15) of the Social Security Act, as added by section 4094(b) of OBRA, is amended by striking "at at" and inserting "in at".

(4) SECTION 4096.—(A) Section 4096(a)(1)(A) of OBRA is amended by striking "(b)(3)(ii)" and inserting "(b)(3)(B)(ii)". 42 USC 1395u.

(B) Section 1870(f) of the Social Security Act, as amended by section 4096(a)(2) of OBRA, is amended by striking "specified in subclauses (I) and (II) of" and inserting "of assignment specified in". 42 USC 1395gg.

(C) Sections 1154(e)(3)(A)(i) and 1154(e)(3)(B) (42 U.S.C. 1320c-3(e)(3)(A)(i), 1320c-3(e)(2)(B)), as amended by section 4096(c) of OBRA, are each amended by striking "or (2)" before "paragraph (2)".

(5) SECTION 4097.—Section 4097(b) of OBRA is amended by striking "1866(a)(4)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(4)(C)(ii))" and inserting "1866(a)(3)(C)(ii) of such Act (42 U.S.C. 1395cc(a)(3)(C)(ii))". 42 USC 1395cc.

(k) CORRECTIONS TO SUBTITLE B OF TITLE IV (RELATING TO MEDICAID).—

(1) TABLE OF CONTENTS.—The table of contents of title IV of OBRA is amended by striking the item relating to section 4105 and by redesignating the items relating to sections 4106 and 4107 as relating to sections 4105 and 4106, respectively.

(2) SECTION 4101.—Section 1916(c)(1) of the Social Security Act, as inserted by section 4101(d)(1)(C) of OBRA, is amended by striking "nonfarm". 42 USC 1396o.

(3) SECTION 4102.—(A) Section 1915(d)(5)(B) of the Social Security Act, as amended by section 4102(a)(1)(B) of OBRA, is amended— 42 USC 1396n.

(i) in clause (iii)(III), by striking "75" and inserting "65", and

(ii) by inserting before "Effective on" the following: "The Secretary shall develop (by not later than October 1, 1989) a method for projecting, on a State-specific basis, the percentage increase in the number of residents in each State who are over 75 years of age for any period.".

(B) Section 1915(d)(5)(C)(i) of the Social Security Act, as amended by section 4102(a)(1)(B) of OBRA, is amended—

(i) by striking "(4)(B)," and inserting "(4), and", and

(ii) by striking ", and services furnished" and all that follows through "subsection (c)".

(4) SECTION 4103.—Section 1905(a)(5)(B) of the Social Security Act, as inserted by section 4103(a) of OBRA, is amended by striking "subparagraph" and inserting "clause". 42 USC 1396d.

(5) SECTION 4104.—(A) Paragraph (1) of section 4104(1) of OBRA is amended to read as follows: 42 USC 1396a.

"(1) by striking ', or' at the end of subclause (IX) and inserting a semicolon and by inserting 'or' at the end of subclause (X); and".

(B) Section 1902(a)(10)(A)(ii)(XI) of the Social Security Act, as added by section 4104(2) of OBRA, is amended— 42 USC 1396a.

(i) by striking "are more restrictive" and inserting "may be more restrictive", and

(ii) by striking the period at the end and inserting a semicolon.

(6) SECTION 4112.—(A) Section 4112 of OBRA is amended— 42 USC 1396a note.

(i) in subsection (a)(2)(A)—

(I) by striking "such date" and inserting "April 1, 1989", and

(II) by inserting ", effective for inpatient hospital services provided on or after July 1, 1989" before the period;

(ii) in subsection (a)(2)(B)—

(I) by striking "such date" and inserting "April 1, 1990", and

(II) by inserting ", effective for inpatient hospital services provided on or after July 1, 1990" before the period;

(iii) the undesignated paragraph at the end of subsection (a) is amended— State and local governments.

(I) by striking "June 30 of each year in which the State is required to submit" and inserting "90 days after the date a State submits",

(II) by indenting all of such paragraph 2 ems, and

(III) by designating the first two sentences thereof as paragraph (3) and the last sentence thereof as paragraph (4);

(iv) in subsection (b)(2), by striking "the State plan" and inserting "a State plan";

(v) in subsection (b)(3)(B)(i), by inserting ", less the portion of any cash subsidies described in clause (i)(II) in the period reasonably attributable to inpatient hospital services" after "charity care in a period";

(vi) in subsection (c)—

(I) by striking "paragraphs (2)(A) and (2)(B)" and inserting "paragraphs (1)(B) and (2)(A) of subsection (a)",

(II) by striking "paragraph (2)(A)" and "paragraph (2)(B)" and inserting "such paragraph (1)(B)" and "such paragraph (2)(A)", respectively,

(III) in paragraph (1), by inserting "at least" after "equal to",

(IV) in paragraph (2), by inserting "(without regard to the election made by a State under subsection (b)(1))" after "payment) and",

(V) in the matter after paragraph (2), by inserting "at least" before "one-third" and before "two-thirds", and

(VI) by adding at the end the following new sentences: "In the case of a hospital described in subsection (d)(2)(A)(i) (relating to children's hospitals), in computing the hospital's disproportionate share adjustment percentage for purposes of paragraph (1)(B) of this subsection, the disproportionate patient percent- Children and youth.

age (defined in section 1886(d)(5)(F)(vi)) shall be computed by substituting for the fraction described in subclause (I) of such section the fraction described in subclause (II) of that section. If a State elects in a State plan amendment under subsection (a) to provide the payment adjustment described in paragraph (2), the State must include in the amendment a detailed description of the specific methodology to be used in determining the specified additional payment amount (or increased percentage payment) to be made to each hospital qualifying for such a payment adjustment and must publish at least annually the name of each hospital qualifying for such a payment adjustment and the amount of such payment adjustment made for each such hospital."; and

State and local governments.

(vii) in subsection (e)—

(I) by inserting "(1)" after "SPECIAL RULE.—",

(II) by inserting "based on a pooling arrangement involving a majority of the hospitals participating under the plan" after "payment adjustments", and

(III) by adding at the end the following new paragraph:

"(2) In the case of a State that used a health insuring organization before January 1, 1986, to administer a portion of its plan on a Statewide basis, during the 3-year period beginning on July 1, 1988—

State and local governments.

"(A) the requirements of subsections (b) and (c) shall not apply if the aggregate amount of the payment adjustments under the plan for disproportionate share hospitals (as defined under the State plan) is not less than the aggregate amount of payment adjustments otherwise required to be made if such subsections applied, and

"(B) subsection (d)(2)(B) shall apply to hospitals located in urban areas, as well as in rural areas.".

Urban areas. Rural areas.

(B) Section 4112 of OBRA is further amended—

42 USC 1396a note.

(i) by striking "(a) IMPLEMENTATION OF REQUIREMENT.—" and inserting the following:

"(a) IN GENERAL.—Title XIX of the Social Security Act is amended—

"(1) by redesignating section 1923 as section 1924, and

42 USC 1396s.

"(2) by inserting after section 1922 the following new section:

" 'ADJUSTMENT IN PAYMENT FOR INPATIENT HOSPITAL SERVICES FURNISHED BY DISPROPORTIONATE SHARE HOSPITALS

" 'SEC. 1923. (a) IMPLEMENTATION OF REQUIREMENT.—";

42 USC 1396r-4.

(ii) in subsection (a)(1), by striking "A State's plan under title XIX of the Social Security Act" and inserting "A State plan under this title";

(iii) in subsection (a)(1), by striking "of such Act";

(iv) in subsection (a), by striking "of Health and Human Services" each place it appears;

(v) in the matter following paragraph (2)(B) of subsection (a), by striking "of the Social Security Act";

(vi) in subsections (b) and (c), by striking "under title XIX of the Social Security Act" each place it appears and inserting "under this title";

(vii) in subsection (d)(2)(B), by striking "of the Social Security Act";

(viii) in subsections (b)(2), (b)(3), and (d)(2)(B), by striking double quotation marks enclosing terms and inserting single quotation marks;

(ix) by placing opening double quotation marks at the beginning of any matter with an initial paragraph indentation (beginning with subsection (a)(1)) and closing double quotation marks at the end of subsection (e); and

(x) by adding at the end the following:

Disadvantaged persons.

"(b) CONFORMING AMENDMENT.—Section 1903(i)(3) of such Act (42 U.S.C. 1396b(i)(3)) is amended by inserting '(other than amounts attributable to the special situation of a hospital which serves a disproportionate number of low income patients with special needs)' before 'to the extent'.".

(7) SECTION 4113.—Section 4113 of OBRA is amended—

42 USC 1396b.

(A) in the matter inserted by subsection (a)(1)(B)—

(i) by moving the left margin of the matter 2 ems to the left, and

(ii) by striking "subparagraph (G)" and inserting "subparagraph (E) or (G)";

42 USC 1396a.

(B) in the matter inserted by subsection (a)(2), by striking "paragraph (2)(G) or (6)" and inserting "paragraph (2)(B)(iii), (2)(E), (2)(G), or (6)";

42 USC 1396a.

(C) in subsection (b)(2)(ii), by striking "such"; and

42 USC 1396a, 1396b.

(D) by striking subsection (d) and redesignating subsection (e) as subsection (d).

42 USC 1396d.

(8) SECTION 4114.—(A) Section 4114 of OBRA is amended in paragraph (1), by striking " '(1)' " and inserting " '(o)(1)' ".

42 USC 1396d.

(B) Section 1905(o)(1)(B) of the Social Security Act, as added by section 4114(3) of OBRA, is amended—

(i) by striking "only", and

(ii) by striking "immunodeficiency syndrome" and inserting "immune deficiency syndrome (AIDS)".

101 Stat. 1330-153.

(9) SECTION 4115.—(A) Section 4115 of OBRA is amended—

(A) in subsection (b)(4)(B), by striking "program" and inserting "Program",

(B) in subsection (c)—

(i) by inserting "under section 9121 of this Act" after "Upon approval", and

(ii) by striking "1916, and 1924" and inserting "1902(e)(1), and 1916", and

(C) by adding at the end the following:

"(d) EXTENSION OF TEXAS STATE WAIVER.—Section 9523(a) of the

100 Stat. 217.

Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking 'January 1, 1989' and inserting 'January 1, 1990'.".

(10) SECTION 4118.—(A) Section 1915(c)(10) of the Social Security Act, as added by section 4118(b) of OBRA, is amended—

42 USC 1396n.

(i) by striking "No waiver under this subsection shall limit by an amount less than 200" and inserting "The Secretary shall not limit to fewer than 200", and

(ii) by striking "under such waiver" and inserting "under a waiver under this subsection".

42 USC 1320a-7a note.

(B) Section 4118(e) of OBRA is amended—

(i) in paragraph (3), by striking "amendment" and inserting "amendments", and

(ii) in paragraph (1)—

(I) by inserting "(A)" after "(1)",

(II) by striking "1128A(a)(1)" and "1320a-7(a)(1))" and inserting "1128(a)" and "1320a-7(a))", respectively, and

(III) by adding at the end the following:

42 USC 1320a-7a, 1320a-7.

"(B) Section 1128A of such Act is amended by adding at the end the following new subsection:

42 USC 1320a-7a.

" '(l) A principal is liable under this section for the actions of the principal's agent acting within the scope of the agency.' ".

(C) Section 1128(d)(3)(B)(ii) of the Social Security Act, as added by section 4118(e)(2)(B) of OBRA, is amended by striking "under a program".

42 USC 1320a-7.

(D) Section 4118(e) of OBRA is amended by redesignating paragraph (3) as paragraph (14) and by inserting after paragraph (2) the following new paragraphs:

42 USC 1320a-7a note.

"(3) Section 1128(b)(8)(A)(i) of such Act is amended by inserting after '(A)(i)' the following: 'who has a direct or indirect ownership or control interest of 5 percent or more in the entity or'.

"(4) Section 1128(d) of such Act is amended—

"(A) in paragraph (1), by striking 'subsection (b)' and inserting 'this section and section 1128A', and

"(B) in paragraph (3)(A), by striking 'under a program'.

"(5) Section 1128(i) of such Act is amended—

"(A) in the matter before paragraph (1), by striking 'a physician or other individual' and inserting 'an individual or entity',

"(B) in paragraphs (1) through (4), by striking 'physician or other individual' each place it appears and inserting 'individual or entity', and

"(C) in paragraph (4), by striking 'first offender or other program' and inserting 'first offender, deferred adjudication, or other arrangement or program'.

"(6) Section 1128A(a)(1)(D) of such Act is amended—

"(A) by striking 'excluded under' and inserting 'excluded from', and

"(B) by inserting 'or as a result of the application of the provisions of section 1842(j)(2) or section 1867(d)(2)' after 'or 1866(b)'.

"(7) The second sentence of section 1128A(c)(1) of such Act is amended—

"(A) by inserting ', request for payment, or other occurrence described in this section' after 'any claim', and

"(B) by inserting ', the request for payment was made, or the occurrence took place' after 'claim was presented'.

"(8) Section 1128A(i) of such Act is amended, in the matter before paragraph (1), by striking 'subsection' and inserting 'section'.

"(9) Section 1128A(i)(1) of such Act is amended by inserting 'or title XX' after 'title V'.

"(10) Section 1128A of such Act is further amended—

"(A) in the matter in subsection (a) before paragraph (1), by inserting ', but excluding a beneficiary, as defined in subsection (i)(5)' after 'other entity',

"(B) in subsection (i)(2), by striking 'submitted by' and all that follows through the end and inserting 'for payments for items and services under title V, XVIII, XIX, or XX of this Act.', and

"(C) by adding at the end the following new paragraph:

" '(5) The term "beneficiary" means an individual who is eligible to receive items or services for which payment may be made under title V, XVIII, XIX, or XX but does not include a provider, supplier, or practitioner.'.

"(11) Section 1903(i)(2) of such Act (42 U.S.C. 1396b(i)(2)) is amended—

"(A) in subparagraph (A), by striking 'in the State plan under this title pursuant to section 1128 or section 1128A' and inserting 'under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)', and

"(B) in subparagraph (B), by striking 'pursuant to section 1128 or section 1128A from participation in the program under this title' and inserting 'from participation under title V, XVIII, or XX or under this title pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)'.

"(12) Section 504(b)(6) of such Act (42 U.S.C. 704(b)(6)) is amended by striking 'pursuant to section 1128 or section 1128A from participation in the program under this title' each place it appears and inserting 'under this title or title XVIII, XIX, or XX pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)'.

"(13) Section 2005(a)(9) of such Act (42 U.S.C. 1397d(a)(9)) is amended by striking 'pursuant to section 1128 or section 1128A from participation in the program under this title' each place it appears and inserting 'under this title or title V, XVIII, or XIX pursuant to section 1128, 1128A, 1156, 1842(j)(2), or 1867(d)(2)'.".

42 USC 1396j.

(E) Section 4118(f)(1) of OBRA is amended by striking "4111(g)(8)" and inserting "4211(h)(8)".

(F) Section 4118(g)(1)(B) of OBRA is amended by striking "insert" and inserting "inserting".

(G) Section 4118(h) of OBRA is amended—

(i) by inserting a dash after "EXPENSES.";

(ii) in paragraph (1), by striking "Section 1902(a)(17) of the Social Security Act (42 U.S.C. 1396a(a)(17)) is amended" and inserting "Sections 1902(a)(17) and 1903(f)(2) of the Social Security Act (42 U.S.C. 1396a(a)(17), 1396b(f)(2)) are each amended";

42 USC 1396a note.

(iii) in paragraph (2), by striking "(2) The amendment made by paragraph (1)" and inserting "(3) The amendments made by this subsection", and

(iv) by inserting after paragraph (1) the following new paragraph:

State and local governments.

"(2) The first sentence of section 1902(f) of such Act (42 U.S.C. 1396a(f)) is amended by inserting after 'as recognized under State law' the following: 'regardless of whether such expenses are reimbursed under another public program of the State or political subdivision thereof'.".

42 USC 1396n.

(H) Section 1915(c)(7)(B) of the Social Security Act, as added by section 4118(k) of OBRA, is amended by inserting before the period at the end the following: ", without regard to the availability of beds for such inpatients".

42 USC 1396n.

(I) Section 4118(l)(1) of OBRA is amended by inserting ", as redesignated by section 4102(a)," after "1396n(h))".

(J) Section 9414(b)(3) of the Omnibus Budget Reconciliation Act of 1986, as amended by section 4118(o)(1)(C) of OBRA, is amended by striking "nonfarm". 100 Stat. 2064.

(K) Section 4118(o)(2)(A) of OBRA is amended by inserting "each place it appears" before "and inserting". 101 Stat. 1330-158.

(L) Section 4118(p)(9) of OBRA is amended by striking "1925(a)" and "(4111(a))" and inserting "1923(a)" and "4211(a)", respectively. 42 USC 1396s.

(M) Section 4118(p) of OBRA is amended by adding at the end the following new paragraph:

"(11) Paragraph (5) of section 9432(c) of the Omnibus Budget Reconciliation Act of 1986 is amended to read as follows: 42 USC 1396a note.

" '(5) The Secretary shall submit an interim report on the results of the study, including an analysis of the geographic variations under paragraph (2), to the Congress not later than January 1, 1990, and shall report the final results of the study to the Congress not later than January 1, 1992.'.". Reports.

(11) OMITTED SECTION.—(A) Part 2 of subtitle B of title IV of OBRA is amended by adding at the end the following new section:

"SEC. 4119. STUDY OF MEANS OF RECOVERING COSTS OF NURSING FACILITY SERVICES FROM ESTATES OF BENEFICIARIES.

"The Secretary of Health and Human Services shall study the means of recovering amounts from estates of deceased medicaid beneficiaries (or the estates of the spouses of such deceased beneficiaries) to pay for the medical assistance for skilled nursing facility or intermediate care facility services furnished, under title XIX of the Social Security Act, to such medicaid beneficiaries. The Secretary shall report to Congress, not later than December 31, 1988, on such means, and include appropriate recommendations for changes in legislation.". Reports.

(B) The table of contents of title IV of OBRA is amended by inserting after the item relating to section 4118 the following new item:

"Sec. 4119. Study of means of recovering costs of nursing facility services from estates of beneficiaries.".

(12) MEDICAID CONFORMING AMENDMENT TO SECTION 4014 OF OBRA.—(A) Paragraph (5) of section 1903(m) of the Social Security Act (42 U.S.C. 1396b(m)) is amended to read as follows:

"(5)(A) If the Secretary determines that an entity with a contract under this subsection— Contracts.

"(i) fails substantially to provide medically necessary items and services that are required (under law or under the contract) to be provided to an individual covered under the contract, if the failure has adversely affected (or has substantial likelihood of adversely affecting) the individual;

"(ii) imposes premiums on individuals enrolled under this subsection in excess of the premiums permitted under this title;

"(iii) acts to discriminate among individuals in violation of the provision of paragraph (2)(A)(v), including expulsion or refusal to re-enroll an individual or engaging in any practice that would reasonably be expected to have the effect of denying or discouraging enrollment (except as permitted by this subsection) by eligible individuals with the organization whose medical condi-

tion or history indicates a need for substantial future medical services; or

"(iv) misrepresents or falsifies information that is furnished—

"(I) to the Secretary or the State under this subsection, or

"(II) to an individual or to any other entity under this subsection,

the Secretary may provide, in addition to any other remedies available under law, for any of the remedies described in subparagraph (B).

Law enforcement and crime.

"(B) The remedies described in this subparagraph are—

"(i) civil money penalties of not more than $25,000 for each determination under subparagraph (A), or, with respect to a determination under clause (iii) or (iv)(I) of such subparagraph, of not more than $100,000 for each such determination, plus, with respect to a determination under subparagraph (A)(ii), double the excess amount charged in violation of such subparagraph (and the excess amount charged shall be deducted from the penalty and returned to the individual concerned), and plus, with respect to a determination under subparagraph (A)(iii), $15,000 for each individual not enrolled as a result of a practice described in such subparagraph, or

State and local governments. Contracts.

"(ii) denial of payment to the State for medical assistance furnished under the contract under this subsection for individuals enrolled after the date the Secretary notifies the organization of a determination under subparagraph (A) and until the Secretary is satisfied that the basis for such determination has been corrected and is not likely to recur.

The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under clause (i) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

Effective date. 42 USC 1396b note.

(B) The amendment made by subparagraph (A) shall apply to actions occurring on or after the date of the enactment of this Act.

(13) TREATMENT OF EDUCATIONALLY-RELATED SERVICES.—(A) Section 1903 of the Social Security Act (42 U.S.C. 1396b) is amended by inserting after subsection (b) the following new subsection:

Children and youth. Handicapped persons.

"(c) Nothing in this title shall be construed as prohibiting or restricting, or authorizing the Secretary to prohibit or restrict, payment under subsection (a) for medical assistance for covered services furnished to a handicapped child because such services are included in the child's individualized education program established pursuant to part B of the Education of the Handicapped Act or furnished to a handicapped infant or toddler because such services are included in the child's individualized family service plan adopted pursuant to part H of such Act.".

Effective date. 42 USC 1396b note.

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(14) CLARIFICATION OF TERM "INSTITUTION FOR MENTAL DISEASES".—(A) Section 1905 of the Social Security Act (42 U.S.C. 1396d) is amended by inserting after subsection (h) the following new subsection:

"(i) The term 'institution for mental diseases' means a hospital, nursing facility, or other institution of more than 16 beds, that is primarily engaged in providing diagnosis, treatment, or care of

persons with mental diseases, including medical attention, nursing care, and related services.".

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act. Effective date. 42 USC 1396d note.

(15) ELIGIBILITY VERIFICATION TECHNICAL CORRECTION.—(A) Section 1137 of the Social Security Act (42 U.S.C. 1320b-7) is amended by adding at the end the following new subsection:

"(f) Subsections (a)(1) and (d) shall not apply with respect to aliens seeking medical assistance for the treatment of an emergency medical condition under section 1903(v)(2).". Aliens.

(B) The amendment made by subparagraph (A) shall apply as if it were included in the enactment of section 9406 of the Omnibus Budget Reconciliation Act of 1986. Effective date. 42 USC 1320b-7 note.

(16) TECHNICAL CORRECTIONS RELATING TO PRESUMPTIVE ELIGIBILITY.—(A) Section 1920(d)(1)(B) of the Social Security Act (42 U.S.C. 1396r-1(d)(1)(B)) is amended by striking "by a qualified provider" and inserting "by a provider that is eligible for payments under the State plan".

(B) Section 1920(b)(2)(D) of such Act (42 U.S.C. 1396r-1(b)(2)(D)) is amended—

(i) in clause (i)—

(I) in subclause (I), by striking "or section 330" and inserting ", 330, or 340" and by striking "or" at the end,

(II) in subclause (II), by striking the semicolon at the end and inserting ", or", and

(III) by adding after subclause (II) the following new subclause:

"(III) title V of the Indian Health Care Improvement Act;";

(ii) in clause (ii), by striking "or" at the end; and

(iii) by adding at the end the following new clause:

"(iv) is the Indian Health Service or is a health program or facility operated by a tribe or tribal organization under the Indian Self-Determination Act (Public Law 93-638).". Indians.

(C) The amendments made by this paragraph shall be effective as if they were included in section 9407(b) of the Omnibus Budget Reconciliation Act of 1986. Effective date. 42 USC 1396r-1 note.

(17) WAIVER FOR CHILDREN INFECTED WITH AIDS OR DRUG DEPENDENT AT BIRTH.—(A) Section 1915 of the Social Security Act (42 U.S.C. 1396n) is amended—

(i) by redesignating subsection (f) as paragraph (2);

(ii) in subsection (e), by striking paragraph (2) and by redesignating such subsection as subsection (f);

(iii) by inserting after subsection (d) the following new subsection:

"(e)(1)(A) Subject to paragraph (2), the Secretary shall grant a waiver to provide that a State plan approved under this title shall include as 'medical assistance' under such plan payment for part or all of the cost of nursing care, respite care, physicians' services, prescribed drugs, medical devices and supplies, transportation services, and such other services requested by the State as the Secretary may approve which are provided pursuant to a written plan of care to a child described in subparagraph (B) with respect to whom there has been a determination that but for the provision of such services the infants would be likely to require the level of care provided in a State and local governments. Prescription drugs. Children and youth. Transportation.

hospital or nursing facility the cost of which could be reimbursed under the State plan.

"(B) Children described in this subparagraph are individuals under 5 years of age who—

AIDS.

"(i) at the time of birth were infected with (or tested positively for) the etiologic agent for acquired immune deficiency syndrome (AIDS),

"(ii) have such syndrome, or

Drugs and drug abuse.

"(iii) at the time of birth were dependent on heroin, cocaine, or phencyclidine,

and with respect to whom adoption or foster care assistance is (or will be) made available under part E of title IV.

State and local governments.

"(2) A waiver shall not be granted under this subsection unless the State provides assurances satisfactory to the Secretary that—

Safety.

"(A) necessary safeguards (including adequate standards for provider participation) have been taken to protect the health and welfare of individuals provided services under the waiver and to assure financial accountability for funds expended with respect to such services;

"(B) under such waiver the average per capita expenditure estimated by the State in any fiscal year for medical assistance provided with respect to such individuals does not exceed 100 percent of the average per capita expenditure that the State reasonably estimates would have been made in that fiscal year for expenditures under the State plan for such individuals if the waiver had not been granted; and

"(C) the State will provide to the Secretary annually, consistent with a data collection plan designed by the Secretary, information on the impact of the waiver granted under this subsection on the type and amount of medical assistance provided under the State plan and on the health and welfare of recipients.

"(3) A waiver granted under this subsection may include a waiver of the requirements of section 1902(a)(1) (relating to statewideness) and section 1902(a)(10)(B) (relating to comparability). A waiver under this subsection shall be for an initial term of 3 years and, upon the request of a State, shall be extended for additional five-year periods unless the Secretary determines that for the previous waiver period the assurances provided under paragraph (2) have not been met.

"(4) The provisions of paragraph (6) of subsection (d) shall apply to this subsection in the same manner as it applies to subsection (d).";

and

(iv) in subsection (h), by striking "or (d)" and inserting "(d), or (e)".

(B) Section 1902(a)(10)(A)(ii)(VI) of such Act (42 U.S.C. 1396a(a)(10)(A)(ii)(VI)) is amended by striking "(c) or (d)" each place it appears and inserting "(c), (d), or (e)".

(l) CORRECTIONS RELATING TO SUBTITLE C OF TITLE IV (NURSING HOME REFORM).—

(1) SECTION 4201.—(A) Section 1819 of the Social Security Act, as added by section 4201(a)(3) of OBRA, is amended—

42 USC 1395i-3.

(i) in subsection (b)(3)(C)(i)(I), by striking "October 1, 1990" the second place it appears and inserting "January 1, 1991";

(ii) in subsection (b)(4)(C)(i)—

(I) by inserting "licensed" after "24-hour",

(II) by striking "employ" and inserting "use", and

(III) by striking "during the day tour of duty (of at least 8 hours a day)" and inserting "at least 8 consecutive hours a day,";

(iii) in subsection (b)(5)(A), by striking "October 1, 1989" and all that follows through "July 1, 1989)" and inserting "January 1, 1990";

(iv) in subsection (e)(1)(A), by striking "March 1, 1989" and inserting "January 1, 1989";

(v) in subsection (e)(1)(B), by striking "March 1, 1990" and inserting "January 1, 1990";

(vi) in subsection (e)(2)(A), by striking "March 1, 1989" and inserting "January 1, 1989";

(vii) in subsection (e)(3), by striking "October 1, 1990" and inserting "October 1, 1989";

(viii) in subsection (e)(5), by striking "July 1, 1989" and inserting "July 1, 1990";

(ix) in subsection (f)(3), by striking "October 1, 1989" and inserting "October 1, 1988";

(x) in subsection (f)(6)(A), by striking "July 1, 1989" and inserting "January 1, 1989"; and

(xi) in subsection (f)(6)(B), by striking "October 1, 1990" and inserting "April 1, 1990".

(B) Section 4201(d) of OBRA is amended— 42 USC 1395x.

(i) by striking "AMENDMENT.—" and inserting "AMENDMENTS.—(1)",

(ii) by striking "1919(a)(2)" and inserting "1819(a)(1)", and

(iii) by adding at the end the following new paragraph:

"(2) Section 1861(n) of such Act (42 U.S.C. 1395x(n)) is amended by striking 'or (j)(1) of this section' and inserting 'or of section 1819(a)(1)'.".

(2) SECTIONS 4201 AND 4211.—(A) Sections 1819(b)(3)(A)(iv) and 1919(b)(3)(A)(iv) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are amended by striking "in the case of a resident eligible for benefits under part A of this title" and by striking "in the case of a resident eligible for benefits under part A of title XVIII", respectively. 42 USC 1395i-3, 1396r.

(B) Sections 1819(b)(3)(A)(iii) and 1919(b)(3)(A)(iii) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are amended by striking "in the case of a resident eligible for benefits under title XIX," and "in the case of a resident eligible for benefits under this title,", respectively.

(C) Subclause (III) of each of sections 1819(b)(3)(B)(ii) and 1919(b)(3)(B)(ii) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, is amended to read as follows:

"(III) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this clause in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(D) Sections 1819(b)(5) and 1919(b)(5) of the Social Security Act, as added by section 4201(a)(3) of OBRA and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended—

(i) in subparagraph (A), by striking ", who is not a licensed health care professional (as defined in subparagraph (E))",

(ii) in subparagraph (A)(ii), by striking "such services" and inserting "nursing or nursing-related services", and

(iii) in subparagraph (G), by inserting "physical or occupational therapy assistant," after "occupational therapist,".

Effective date. 42 USC 1395x note. 42 USC 1395x.

(E) Effective as of the date of the enactment of this Act and until the effective date of section 1819(c) of such Act, section 1861(j) of the Social Security Act is deemed to include the requirement described in section 1819(c)(3)(A) of such Act (as added by section 4201(a)(3) of OBRA).

(F) Sections 1819(c)(2)(A)(v) and 1919(c)(2)(A)(v) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended by striking "an allowable charge" and all that follows through the semicolon and inserting "for a stay at the facility;".

42 USC 1395i-3, 1396r.

(G) Sections 1819(c)(6) and 1919(c)(6) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended—

(i) in subparagraph (A)(ii), by striking "once the facility accepts" and inserting "upon", and

(ii) in subparagraph (B), by striking "a facility's acceptance of".

(H) Sections 1819(e)(2)(B) and 1919(e)(2)(B) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively are each amended by inserting after the first sentence the following sentence: "The State shall make available to the public information in the registry.".

State and local governments. Public information. Records.

(I) Sections 1819(e)(3), 1819(f)(3), 1919(e)(3), and 1919(f)(3) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, are each amended—

(i) by inserting "AND DISCHARGES" after "TRANSFERS", and

(ii) by inserting "and discharges" after "transfers".

(J) Sections 1819(f)(2)(A)(i)(I) and 1919(f)(2)(A)(i)(I) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended by striking "cognitive, behavioral and social care" and inserting "recognition of mental health and social service needs".

(K) Sections 1819(f)(7) and 1919(f)(7) of the Social Security Act, as added by section 4201(a)(3) and as inserted by section 4211(a)(3) of OBRA, respectively, are each amended by striking "patients" and inserting "residents".

(L)(i) Section 1819(f)(7)(B) of the Social Security Act, as added by section 4201(a)(3), is amended by striking "shall not" and inserting "shall".

(ii) Section 1919(f)(7)(B) of the Social Security Act, as inserted by section 4211(a)(3) of OBRA, is amended by striking "do not".

(3) SECTION 4211.—(A) Section 1919(b)(4)(C) of the Social Security Act, as inserted by section 4211(a) of OBRA, is amended—

(i) by striking "registered nurse" each place it appears and inserting "registered professional nurse";

(ii) by striking "employ" and inserting "use";

(iii) by striking "(ii) FACILITY WAIVERS.—" and all that follows through "(i) WAIVER" and inserting "(ii) WAIVER";

(iv) by striking "and subject to clause (ii)" and inserting "and subject to clause (iii)";

(v) by striking "(ii) ASSUMPTION" and inserting "(iii) ASSUMPTION"; and

(vi) in clause (iii), as so redesignated, by striking "excercise" and inserting "exercise".

(B) Section 1919(b)(5)(A) of the Social Security Act, as added by section 4211(a)(3) of OBRA, is amended by striking "subparagraph (E)" and inserting "subparagraph (F)". 42 USC 1396r.

(C) Effective as of the date of the enactment of this Act and until the effective date of section 1919(c) of such Act, section 1905(c) of the Social Security Act is deemed to include the requirement described in section 1919(c)(3)(A) of such Act (as inserted by section 4211(a)(3) of OBRA). Effective date. 42 USC 1396d.

(D) Section 1919 of the Social Security Act, as inserted by section 4211(a)(3) of OBRA, is amended—

(i) in subsection (e)(1)(A), by striking "September 1, 1988" and inserting "January 1, 1989";

(ii) in subsection (e)(1)(B), by striking "September 1, 1990" and inserting "January 1, 1990";

(iii) in subsection (e)(7)(E), by striking "October 1, 1988" and inserting "April 1, 1989"; and

(iv) in subsection (f)(2), by striking "July 1, 1988" and inserting "September 1, 1988".

(E) Section 1902(a)(28)(D)(i) of the Social Security Act, as amended by section 4211(b)(1)(B) of OBRA, is amended by striking "1919(f)" and all that follows through "instrument)" and inserting "1919(e)". 42 USC 1396a.

(F) Section 4211(d)(2) of OBRA is amended by striking "For calendar quarters during fiscal years 1988 and 1989" and inserting "For the 8 calendar quarters (beginning with the calendar quarter that begins on July 1, 1988)". 42 USC 1396b note.

(G) Section 4211(h)(10)(G) of OBRA is amended by adding before the period at the end the following: ", and by striking 'skilled nursing facility or intermediate care facility' in subparagraph (B) and inserting 'nursing facility' ". 42 USC 1396n.

(H) Section 4211(h)(2) of OBRA is amended— 42 USC 1396a.

(i) in subparagraph (C), by striking "inserting 'nursing facilities' " each place it appears and inserting "inserting 'nursing facilities and for intermediate care facilities for the mentally retarded' ",

(ii) in subparagraph (D)(i), by striking "inserting 'nursing facility' " and inserting "inserting 'nursing facility or intermediate care facility for the mentally retarded' ", and

(iii) in subparagraph (D)(ii), by striking "inserting 'nursing facility' " and inserting "inserting 'nursing facility services or services in an intermediate care facility for the mentally retarded' ".

(I) Subparagraph (B) of section 4211(h)(12) of OBRA is amended to read as follows: 42 USC 1396p.

"(B) in subsection (c)(2)(B)(ii), by striking 'skilled' each place it appears.".

(4) SECTION 4202.—Section 1819(g)(2)(C)(i) of the Social Security Act, as added by section 4202(a) of OBRA, is amended by striking "October 1, 1990" and inserting "January 1, 1990". 42 USC 1395i-3.

(5) SECTIONS 4202 AND 4212.—Sections 1819(g) and 1919(g) of the Social Security Act, as added by sections 4202(a)(2) and 4212(a) of OBRA, respectively, are amended—

42 USC 1395i-3, 1396r.

(A) in paragraph (1)(C), by striking ", review," and inserting "and timely review";

(B) in the first sentence of paragraph (1)(C), by inserting "or by another individual used by the facility in providing services to such a resident" after "a nursing facility";

(C) by striking the second sentence of paragraph (1)(C) and inserting the following: "The State shall, after notice to the individual involved and a reasonable opportunity for a hearing for the individual to rebut allegations, make a finding as to the accuracy of the allegations. If the State finds that a nurse aide has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the nurse aide and the registry of such finding. If the State finds that any other individual used by the facility has neglected or abused a resident or misappropriated resident property in a facility, the State shall notify the appropriate licensure authority.";

State and local governments. Health care professionals.

(D) in paragraph (1)(D), by striking "to establish standards under subsection (f)" and inserting "to issue regulations to carry out this subsection";

(E) in paragraph (2)(A)(i), by amending the third sentence to read as follows: "The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).";

(F) in paragraph (3)(D) (relating to special surveys of compliance, as redesignated by paragraph (6)(A) in the case of section 1919(g)), by striking "on that basis" and inserting "on the basis of that survey"; and

(G) in paragraph (4), by striking "chronically".

(6) SECTION 4212.—(A) Section 1919(g)(3) of the Social Security Act, as added by section 4212(a) of OBRA, is amended by redesignating the second subparagraph (C) (relating to special surveys of compliance) as subparagraph (D).

42 USC 1395aa, 1396r.

(B) Section 4212(b) of OBRA is amended to read as follows:

"(b) POSTING SURVEY RESULTS.—Section 1919(c) of such Act is amended by adding at the end the following new paragraph:

" '(7) POSTING OF SURVEY RESULTS.—A nursing facility must post in a place readily accessible to residents, and family members and legal representatives of residents, the results of the most recent survey of the facility conducted under subsection (g).'.".

42 USC 1396a.

(C) Section 1902(a)(33)(B) of the Social Security Act, as amended by section 4212(d)(3) of OBRA, is amended by striking "1919(d)" and inserting "1919(g)".

42 USC 1396a.

(D) Section 4212(e)(1)(B) of OBRA is amended by inserting "provided" after "services" each place it appears.

(E) Section 4212(e) of OBRA is amended by adding at the end the following new paragraph:

42 USC 1396r-3.

"(5) Section 1922(e) of such Act, as redesignated and transferred by section 4211(a)(2) of this Act, is amended by striking '1910(c)' in paragraphs (1) and (2)(A) and inserting '1910(b)'.".

(7) SECTIONS 4203 AND 4213.—(A) Sections 1819(h)(2)(B)(ii) and 1919(h)(3)(C)(ii) of the Social Security Act, as added by sections 4203(a)(2) and 4213(a) of OBRA, respectively, are each amended by striking "and the Secretary" and all that follows through "1128A." and inserting the following: ". The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under the previous sentence in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).". 42 USC 1395i-3, 1396r.

(B) Sections 1819(h)(6) and 1919(h)(9) of the Social Security Act, as added by sections 4203(a)(2) and 4213(a) of OBRA, respectively, are each amended by inserting "by such facilities" after "shall be made available".

(8) SECTION 4213.—(A) Section 4213(a) of OBRA is amended by striking "as inserted by section 4201 and amended by section 4202" and inserting "as inserted by section 4211 and amended by section 4212". 42 USC 1396r.

(B) Section 1919(h) of the Social Security Act, as added by section 4213(a) of OBRA, is amended—

(i) in the last sentence of paragraph (1), by striking "(2)(A)(i)" and inserting "(2)(A)(ii)",

(ii) in the second sentence of paragraph (2)(B)(i), by striking "or otherwise", and

(iii) in paragraph (5), by striking "State and the Secretary" and inserting "State or the Secretary, respectively".

(C) Paragraph (1) of section 4213(b) of OBRA is amended by striking "1902" and all that follows through the end and inserting the following: "1902(i) of such Act (42 U.S.C. 1396a(i)) is amended— 42 USC 1396a.

"(A) in paragraph (1), by striking 'skilled nursing facility or intermediate care facility' and inserting 'intermediate care facility for the mentally retarded';

"(B) in paragraph (1), by striking 'the provisions of section 1861(j) or section 1905(c), respectively,' and inserting 'the requirements for such a facility under this title'; and

"(C) in paragraphs (2) and (3), by striking 'the provisions of section 1861(j) or section 1905(c) (as the case may be)' and inserting 'the requirements for such a facility under this title'.".

(9) SECTION 4204.—(A) Section 4204(a) of OBRA is amended by striking "extended care". 42 USC 1395i-3 note.

(B) Section 4204 of OBRA is amended—

(i) in subsection (a), by striking "made by this part" and inserting "made by sections 4201 and 4202 (relating to skilled nursing facility requirements and survey and certification requirements)",

(ii) by redesignating subsection (c) as subsection (d), and

(iii) by inserting after subsection (a) the following new subsection:

"(b) ENFORCEMENT.—(1) Except as otherwise specifically provided in section 1819 of the Social Security Act, the amendments made by section 4203 of this Act apply January 1, 1988, without regard to whether regulations to implement such amendments are promulgated by such date. Effective date.

"(2) In applying the amendments made by section 4203 of this Act for services furnished by a skilled nursing facility before October 1, 1990, any reference to a requirement of subsection (b), (c), or (d), of

section 1819 of the Social Security Act is deemed a reference to the provisions of section 1861(j) of such Act.".

42 USC 1396r note.

(10) SECTION 4214.—Section 4214 of OBRA is amended—

(A) by striking "(c) TRANSITIONAL RULE.—" and inserting "(2)",

(B) by inserting "of section 1919 of the Social Security Act" after "(b), (c), or (d)", and

(C) by redesignating subsection (d) as subsection (c).

(m) CORRECTIONS TO SUBTITLE E OF TITLE IV (RELATING TO RURAL HEALTH).—

(1) SECTION 4401.—Section 711(b)(1) of the Social Security Act, as added by section 4401 of OBRA, is amended by striking "section 4083 of the Omnibus Budget Reconciliation Act of 1987" and inserting "section 4403 of the Omnibus Budget Reconciliation Act of 1987 (as such section pertains to rural health issues)".

42 USC 912.

42 USC 1395b-1 note.

(2) SECTION 4403.—(A) Section 4403 of OBRA is amended—

(i) in the heading, by striking "**EXPERIMENTS AND DEMONSTRATION PROJECTS RELATING TO RURAL HEALTH CARE ISSUES**" and inserting "**RESEARCH AND DEMONSTRATION PROJECTS ON RURAL AND INNER-CITY HEALTH ISSUES**";

(ii) in subsection (a)—

(I) by striking "SET ASIDE.—" and inserting "SET ASIDES FOR ISSUES OF HEALTH CARE IN RURAL AREAS AND IN INNER-CITY AREAS.—(1)",

(II) by striking "expended in each fiscal year" and all that follows through "1972" and inserting "annually appropriated to, and expended by, the Health Care Financing Administration for the conduct of research and demonstration projects in fiscal years 1988, 1989, and 1990",

(III) by striking "experiments" and inserting "research";

(iii) by adding at the end the following new paragraph:

Research and development. Urban areas.

"(2) Not less than ten percent of the total amounts annually appropriated to, and expended by, the Health Care Financing Administration for the conduct of research and demonstration projects in fiscal years 1988, 1989, and 1990 shall be expended for research and demonstration projects relating exclusively or substantially to issues of providing health care in inner-city areas, including (but not limited to) the impact of the payment methodology under section 1886(d) of the Social Security Act on the financial viability of inner-city hospitals and the impact of medicare policies on access to (and the quality of) health care in inner-city areas."; and

(iv) in subsection (b)—

(I) by striking "of experiments" and inserting "of research",

(II) by inserting "or to inner-city health issues" after "rural health issues", and

(III) by striking "experiments and".

(B) The item in the table of contents of OBRA relating to section 4403 is amended to read as follows:

"Sec. 4403. Set aside for research and demonstration projects on rural and inner-city health issues.".

(n) CORRECTIONS TO CERTAIN HEALTH-RELATED PROVISIONS IN TITLE IX.—

(1) SECTION 9010.—The last sentence of section 226(b) of the Social Security Act, as added by section 9010(e)(3) of OBRA, is amended to read as follows: "In determining when an individual's entitlement or status terminates for purposes of the preceding sentence, the term '36 months' in the second sentence of section 223(a)(1), in section 202(d)(1)(G)(i), in the last sentence of section 202(e)(1), and in the last sentence of section 202(f)(1) shall be applied as though it read '15 months'.". 42 USC 426.

(2) SECTION 9115.—Section 9115(b) of OBRA is amended by striking "1902(l)" and inserting "1902(o)". 42 USC 1396a.

(3) SECTION 9119.—Section 9119 of OBRA is amended by adding at the end the following new subsection: 42 USC 1396a note.

"(d) CONFORMING AMENDMENTS TO MEDICAID PROGRAM FOR THE MEDICALLY NEEDY.—(1) Section 1902 of the Social Security Act (42 U.S.C. 1396a) is amended—

"(A) in subsection (a)—

"(i) by striking 'and' at the end of paragraph (48),

"(ii) by striking the period at the end of paragraph (49) and inserting '; and', and

"(iii) by inserting after paragraph (49) the following new paragraph:

" '(50) provide, in accordance with subsection (q), for a monthly personal needs allowance for certain institutionalized individuals and couples.'; and

"(B) by adding at the end the following new subsection:

" '(q)(1)(A) In order to meet the requirement of subsection (a)(50), the State plan must provide that, in the case of an institutionalized individual or couple described in subparagraph (B), in determining the amount of the individual's or couple's income to be applied monthly to payment for the cost of care in an institution, there shall be deducted from the monthly income (in addition to other allowances otherwise provided under the State plan) a monthly personal needs allowance— State and local governments.

" '(i) which is reasonable in amount for clothing and other personal needs of the individual (or couple) while in an institution, and

" '(ii) which is not less (and may be greater) than the minimum monthly personal needs allowance described in paragraph (2).

" '(B) In this subsection, the term "institutionalized individual or couple" means an individual or married couple—

" '(i) who is an inpatient (or who are inpatients) in a medical institution or nursing facility for which payments are made under this title throughout a month, and

" '(ii) who is or are determined to be eligible for medical assistance under the State plan.

" '(2) The minimum monthly personal needs allowance described in this paragraph is $30 for an institutionalized individual and $60 for an institutionalized couple (if both are aged, blind, or disabled, and their incomes are considered available to each other in determining eligibility).'. Blind persons. Handicapped persons.

"(2) The amendments made by paragraph (1) apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after July 1, 1988, without regard to whether or not 42 USC 1396a note.

final regulations to carry out such amendments have been promulgated by such date.".

(o) SUBTITLE D OF TITLE IV.—

(1) SECTION 4303.—Section 2115 of the Public Health Service Act is amended— 42 USC 300aa-15.

(A) in subsection (i)(1), as added by section 4303(a) of OBRA, by striking "from appropriations under subsection (i)" and inserting "by the Secretary from appropriations under subsection (j)", and

(B) in subsection (j), as added by section 4303(b) of OBRA, by inserting "to the Department of Health and Human Services" after "to be appropriated".

(2) SECTION 4307.—Section 4307(3)(C) of OBRA is amended by striking "subsection (g)" and inserting "subsection (e), as redesignated by section 4303(d)(2)(A),". 42 USC 300aa-12.

(3) SECTION 4308.—(A) Subtitle D of title IV of OBRA is amended by adding at the end the following new section:

"SEC. 4308. TECHNICAL AMENDMENTS RELATING TO COURT OF CLAIMS PROCEDURES.

"(a) DUTIES OF SPECIAL MASTERS.—Section 2112(c)(2) of the Public Health Service Act (42 U.S.C. 300aa-12(a)) is amended—

"(1) by inserting ', shall prepare and submit to the court proposed findings of fact and conclusions of law,' after 'adjunct to the court',

"(2) by inserting 'and' at the end of subparagraph (C),

"(3) by striking ', and' at the end of subparagraph (D) and inserting a period, and

"(4) by striking subparagraph (E).

"(b) REQUIRING FILING OF APPEALS WITHIN 60 DAYS.—Section 2112(e) of such Act (42 U.S.C. 300aa-12(e)), as redesignated by section 4303(d)(2)(A), is amended by inserting 'within 60 days of the date of the judgment' after 'petition filed'.

"(c) CLARIFICATION ON TIMING OF BRINGING ADDITIONAL ACTIONS.—The second sentence of section 2121(a) of such Act (42 U.S.C. 300aa-21(a)) is amended by striking 'the entry of the court's judgment' and inserting 'the court's final judgment'.".

(B) The table of contents relating to title IV of OBRA is amended by inserting after the item relating to section 4307 the following new item:

"Sec. 4308. Technical amendments relating to Court of Claims procedures.".

Subtitle C—Miscellaneous Provisions

Employment and unemployment. 42 USC 1395b note.

SEC. 421. MAINTENANCE OF EFFORT.

(a) IN GENERAL.—

(1) DUPLICATIVE PART A BENEFITS.—If an employer described in subsection (b)(1) provides, as of the date of the enactment of this Act, health care benefits to an employee or retired former employee that are duplicative part A benefits (as defined in paragraph (3)(A)), the employer shall, during the period described in subsection (c)(1), provide to the employee or retired former employee an amount of additional benefits or refunds, or combination of such benefits and refunds, that total at least the

actuarial value of the duplicative part A benefits during the period described in subsection (c)(1)(A).

(2) DUPLICATIVE PART B BENEFITS.—If an employer described in subsection (b)(2) provides, as of the date of the enactment of this Act, health care benefits to an employee or retired former employee that are duplicative part B benefits (as defined in paragraph (3)(B)), the employer shall, during the period described in subsection (c)(2), provide to the employee or retired former employee an amount of additional benefits or refunds, or combination of such benefits and refunds, that total at least the actuarial value of the duplicative part B benefits during the period described in subsection (c)(1)(B).

(3) DUPLICATIVE BENEFITS DEFINED.—In this section:

(A) The term "duplicative part A benefits" means benefits which are duplicative of benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989), but which were not duplicative of such benefits as such part was in effect before the date of the enactment of this Act.

(B) The term "duplicative part B benefits" means benefits which are duplicative of benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs), but which were not duplicative of such benefits as such part was in effect before the date of the enactment of this Act.

(C) Duplicative part A benefits and duplicative part B benefits shall be determined under this section net of any premiums payable by employees (or retired former employees) attributable to the respective duplicative benefits.

(b) EMPLOYERS COVERED.—

(1) DUPLICATIVE PART A BENEFITS.—An employer is described in this paragraph if the employer (including a public employer, other than an employer to which section 422 applies) provides, as of the date of the enactment of this Act, duplicative part A benefits the actuarial value of which is at least 50 percent of the national average actuarial value (discounted to the value as of the date of the enactment of this Act) of the duplicative part A benefits.

(2) DUPLICATIVE PART B BENEFITS.—An employer is described in this paragraph if the employer (including a public employer, other than an employer to which section 422 applies) provides, as of the date of the enactment of this Act, duplicative part B benefits the actuarial value of which is at least 50 percent of the national average actuarial value (discounted to the value as of the date of the enactment of this Act) of the duplicative part B benefits.

(3) ELECTION.—For purposes of this section—

(A) IN GENERAL.—An employer may elect to compute the actuarial value of duplicative part A benefits and duplicative part B benefits either—

(i) on the basis of average actuarial values published by the Secretary under subparagraph (B)(i), or

(ii) on the basis of the actuarial value with respect to that employer, computed using guidelines published by the Secretary under subparagraph (B)(ii).

(B) COMPUTATION OF ACTUARIAL VALUES.—The Secretary of Health and Human Services, before the beginning of each of 4 years (beginning with 1989 for duplicative part A benefits and beginning with 1990 for duplicative part B benefits) shall—

(i) calculate and publish the national average actuarial value of duplicative part A benefits and duplicative part B benefits for 1988 and the year involved, and

(ii) guidelines for employers to use, under subparagraph (A)(ii), in computing the actuarial value of such duplicative benefits with respect to each employer for such years.

The guidelines published under clause (ii) shall include instructions to assist employers in determining whether or not employers are described in paragraph (1) or (2) of this subsection.

(c) EFFECTIVE PERIOD.—

(1) IN GENERAL.—

(A) DUPLICATIVE PART A BENEFITS.—Subsection (a)(1) shall only be effective during the period beginning on January 1, 1989, and ending on December 31, 1989, or, if later, the date specified in paragraph (2).

(B) DUPLICATIVE PART B BENEFITS.—Subsection (a)(2) shall only be effective during the period beginning on January 1, 1990, and ending on December 31, 1990, or, if later, the date specified in paragraph (2).

(2) EXTENSION TO COVER CURRENT COLLECTIVE BARGAINING AGREEMENTS.—In the case of employees or retired former employees who are provided duplicative part A benefits or duplicative part B benefits under a collective bargaining agreement that is in effect on the date of enactment of this Act, the date specified in this paragraph is the date of the expiration of the agreement (determined without regard to any extension thereof agreed to after the date of the enactment of this Act).

(d) EXCLUSION OF MULTI-EMPLOYER PLANS.—This section shall not apply with respect to duplicative benefits provided under a plan—

(1) to which more than one employer is required to contribute, and

Contracts.

(2) which is maintained pursuant to one or more collective bargaining agreements between one or more employee organizations and more than one employer.

5 USC 8902 note.

SEC. 422. RATE REDUCTION FOR MEDICARE ELIGIBLE FEDERAL ANNUITANTS.

(a) IN GENERAL.—

(1) The Office of Personnel Management shall, in consultation with carriers offering health benefits plans contracted pursuant to section 8902 of title 5, United States Code, reduce the rates charged medicare eligible individuals participating in such health benefit plans, by the amount, prorated for each covered medicare eligible individual, of the estimated cost of medical services and supplies which, but for the amendments made by subtitle A of title I and subtitle A of title II of this Act, would have been payable by such plans.

(2) The reduced rates as provided under paragraph (1), shall apply as of the effective dates of the respective amendments.

(b) AUTHORIZATION OF AVAILABILITY OF EMPLOYEE HEALTH BENEFITS FUND FOR RATE REDUCTION.—Funds in the Employees Health Benefits Fund established under section 8909 of title 5, United States Code, are available without fiscal year limitation for costs incurred by the Office of Personnel Management in making rate reductions provided under this section.

(c) DEFINITION.—For purposes of this section the term "medicare eligible individual" means any annuitant, survivor of an annuitant, or former spouse of an annuitant—

(1) who is—

(A) otherwise eligible for benefits under chapter 89 of title 5, United States Code;

(B) eligible for benefits under part A of title XVIII of the Social Security Act; and

(C) covered by the insurance program established under part B of such title; and

(2) for whom benefits paid under title XVIII of the Social Security Act are the primary source of health care benefits.

SEC. 423. STUDY AND REPORTS BY THE OFFICE OF PERSONNEL MANAGEMENT ON OFFERING MEDICARE SUPPLEMENTAL PLANS TO FEDERAL MEDICARE ELIGIBLE INDIVIDUALS, AND OTHER CHANGES.

(a) STUDY AND REPORT.—

(1) No later than April 1, 1989, the Director of the Office of Personnel Management shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Post Office and Civil Service of the House of Representatives regarding changes to the health benefits program established under chapter 89 of title 5, United States Code, that may be required to incorporate plans designed specifically for medicare eligible individuals and to improve the efficiency and effectiveness of the program.

(2) Any medicare supplemental plan recommended by the Director of the Office of Personnel Management shall not duplicate benefits for which payment may be made under title XVIII of the Social Security Act, however such recommendation—

(A) shall cover expenses which are not payable under such title by reason of deductibles or coinsurance amounts; and

(B) may offer additional reimbursement—

(i) where benefits under such title are limited by fee schedule; and

(ii) for benefits not covered under such title which may be of value to medicare eligible individuals.

(b) FEASIBILITY STUDY AND REPORT.—No later than April 1, 1989, the Director of the Office of Personnel Management shall report to the appropriate committees of the Congress whether it is feasible to adopt such standards as issued by the National Association of Insurance Commissioners as required by section 1882 of the Social Security Act (42 U.S.C. 1395ss) for medicare supplemental policies, when providing medicare supplemental plans as a type of health benefits plan available for Federal employees pursuant to chapter 89 of title 5, United States Code.

Voluntarism.
42 USC 1395b-2 note.

SEC. 424. BENEFITS COUNSELING AND ASSISTANCE DEMONSTRATION PROJECT FOR CERTAIN MEDICARE AND MEDICAID BENEFICIARIES.

(a) TRAINING AND TECHNICAL ASSISTANCE.—

Contracts.

(1) The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish a demonstration project through an agreement with a private or public nonprofit agency or organization, which demonstrates, to the satisfaction of the Secretary, that its volunteers are adequately trained and competent to render effective benefits counseling and assistance to the elderly, for the purpose of providing training and technical assistance to prepare volunteers to provide to elderly individuals receiving benefits under title XVIII or XIX of the Social Security Act counseling with respect to eligibility for such benefits and assistance in preparing such documentation as may be required to fully receive such benefits.

(2) In addition to any other forms of technical assistance provided under this subsection, the Secretary is authorized to provide to the project—

(A) material to be used in making elderly persons aware of the availability of assistance under volunteer assistance programs under this section; and

(B) technical materials and publications to be used by such volunteers.

(b) POWERS OF THE SECRETARY.—Under the demonstration project under this section, the Secretary is authorized—

(1) to provide for the training of volunteers, and assist in such training, to insure that volunteers are qualified to provide benefits and counseling assistance (as described in paragraph (1)) to the elderly;

(2) to provide reimbursement to volunteers through the agency or organization for transportation, meals, and other expenses incurred by them in training or providing benefits counseling and assistance under this section, and such other support and assistance as the Secretary determines to be appropriate in carrying out the provisions of this section; and

(3) to provide for the use of services, personnel, and facilities of Federal executive agencies and of State and local public agencies with their consent, with or without reimbursement therefor.

(c) EMPLOYMENT OF VOLUNTEERS.—

(1) Service as a volunteer in the demonstration project carried out under this section shall not be considered service as an employee of the United States. Volunteers under the project shall not be considered Federal employees and shall not be subject to the provisions of law relating to Federal employment, except that the provisions of section 1905 of title 18, United States Code, shall apply to volunteers as if they were employees of the United States.

Taxes.

(2) Amounts received by volunteers serving in any program carried out under this section as reimbursement for expenses are exempt from taxation under chapters 1 and 21 of the Internal Revenue Code of 1986.

(d) DEFINITION.—For purposes of this section, the term "elderly individual" means an individual who has attained the age of 60 years.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated, in appropriate parts from the Federal Hospital Insurance Trust Fund and from the Federal Supplementary Medical Insurance Trust Fund, for fiscal years 1989, 1990, and 1991 such sums as may be necessary to carry out the provisions of this section.

SEC. 425. CASE MANAGEMENT DEMONSTRATION PROJECTS.

Contracts.
42 USC 1395b-1 note.

(a) IN GENERAL.—Within 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall establish 4 demonstration projects under which an appropriate entity agrees to provide case management services to medicare beneficiaries with selected catastrophic illnesses, particularly those with high costs of health care services. At least one such demonstration project shall be conducted through an agreement with a utilization and quality control peer review organization with a contract with the Secretary under part B of title XI of the Social Security Act.

(b) PURPOSE OF PROJECTS.—It is the purpose of the demonstration projects established under this section to provide the Secretary and the Congress with the information necessary—

(1) to evaluate the appropriateness of providing case management services under the medicare program for medicare beneficiaries with high costs of medical care, and

(2) to determine the most effective approach to implementing a case management system under the program for such beneficiaries.

(c) AGREEMENT.—The agreement entered into under subsection (a) shall specify—

(1) the high cost cases with respect to which case management services will be provided under the project,

(2) the payments to be made to the entity conducting the project for carrying out the project, and

(3) such other terms and conditions as the Secretary and the entity conducting the project may agree to.

(d) WAIVERS.—The Secretary shall waive—

(1) such provisions of part B of title XI of the Social Security Act, and

(2) such provisions of title XVIII of such Act as relate to limitations or restrictions on benefits under such title,

as the Secretary determines to be appropriate for the conduct of demonstration projects under this section.

(e) DURATION.—

(1) Except as provided in paragraph (2), a demonstration project under this section shall be conducted for a 2-year period.

(2) The Secretary may terminate a demonstration project before the end of the 2-year period specified in paragraph (1) if the Secretary determines that the entity conducting the project is not in substantial compliance with the terms of the agreement entered into under subsection (a).

(f) INFORMATION AND REPORTS.—

(1) An entity with an agreement under subsection (a) shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of that project.

(2)(A) The Secretary shall submit to the Congress an interim report on the projects conducted under this section based upon information that is derived from the first year of project oper-

ations and shall set forth any interim findings, recommendations, and conclusions that the Secretary determines to be appropriate.

(B) The Secretary shall submit to the Congress a final report on the demonstration projects conducted under this section based upon data derived from the projects and shall update the findings, recommendations, and conclusions set forth in the interim report submitted under paragraph (1).

(g) AUTHORIZATION TO USE CERTAIN FUNDS.—The Secretary shall provide for the transfer, from the Federal Hospital Insurance Trust Fund and the Federal Supplementary Insurance Trust Fund in such proportions as the Secretary determines to be appropriate, of not to exceed $2,000,000 in each of 2 fiscal years for administrative costs in carrying out the demonstration projects under this section. Such amounts shall be transferred without regard to amounts appropriated in advance in appropriation Acts.

SEC. 426. EXTENSIONS OF EXPIRING PROVISIONS.

42 USC 1395y note.

(a) HOSPICE WAIVER OF LIABILITY PROVISION.—Section 9305(f)(2) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "November 1, 1988" and inserting "November 1, 1990".

42 USC 1395y note.

(b) SKILLED NURSING FACILITY WAIVER OF LIABILITY PRESUMPTION.—The second sentence of section 9126(c) of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended—

(1) by striking "30-month", and

(2) by inserting before the period at the end the following: "and ending on October 31, 1990".

42 USC 1395pp note.

(c) HOME HEALTH SERVICES WAIVER OF LIABILITY PRESUMPTION.—Section 9305(g)(3) of the Omnibus Budget Reconciliation Act of 1986 is amended by striking "October 1, 1989" and inserting "November 1, 1990".

42 USC 1395y note.

(d) HOME HEALTH WAIVER OF LIABILITY PRESUMPTION.—The second sentence of section 9205 of the Consolidated Omnibus Budget Reconciliation Act of 1985 is amended by striking all that follows "until" and inserting "November 1, 1990.".

42 USC 1395ww note.

(e) PROHIBITION ON NEW COST-SAVING REGULATIONS.—Section 4039(d) of the Omnibus Budget Reconciliation Act of 1987 is amended—

(1) by striking "October 15, 1988" and inserting "October 15, 1989", and

(2) by inserting "or in fiscal year 1990" after "in fiscal year 1989".

42 USC 1395h note.

SEC. 427. ADVISORY COMMITTEE ON MEDICARE HOME HEALTH CLAIMS.

(a) ESTABLISHMENT.—The Administrator of the Health Care Financing Administration (in this section referred to as the "Administrator") shall, within 90 days after the date of the enactment of this Act, establish an advisory committee to be known as the Advisory Committee on Medicare Home Health Claims (in this section referred to as the "Advisory Committee").

(b) MEMBERSHIP.—The Advisory Committee shall be composed of 11 members appointed by the Administrator for the life of the Committee. Of the members appointed—

(1) at least 5 shall be representatives of home health or visiting nurse agencies, and

(2) the remaining members shall be representative of fiscal intermediaries, physician groups, and senior citizen groups, but

no more than 3 of such members may be representative of fiscal intermediaries.

Members shall be appointed so as to be representative of all geographic areas of the United States.

(c) DUTIES.—The Advisory Committee shall study the reasons for the increase in the denial of claims for home health services during 1986 and 1987, the ramifications of such increase, and the need to reform the process involved in such denials.

(d) REPORT.—The Advisory Committee shall report to the Administrator, the Committees on Ways and Means and Energy and Commerce of the House of Representatives, and the Committee on Finance of the Senate, not later than one year after the date of the enactment of this Act, on its study under subsection (c), the findings of its study, and its recommendations for changes in the regulations under title XVIII of the Social Security Act as they relate to denial of claims for home health services.

(e) MISCELLANEOUS PROVISIONS.—

(1) The Advisory Committee shall elect one of its members to serve as Chairman.

(2)(A) A majority of the members of the Advisory Committee shall constitute a quorum for the transaction of business.

(B) The Advisory Committee shall meet at the call of the Chairman, or at the call of a majority of its members.

(3) Members of the Advisory Committee shall serve without compensation, but shall be entitled to reimbusement for travel, subsistence, and other necessary expenses incurred in the performance of their duties as members of the Committee.

(4) The Advisory Committee may appoint and fix the compensation of such personnel as it deems advisable, in accordance with the provisions of title 5, United States Code, governing appointments to the competitive service, and the provisions of chapter 51 and subchapter III of chapter 53 of such title, relating to classification and General Schedule pay rates.

(5) In carrying out its duties, the Advisory Committee is authorized to hold such hearings, sit and act at such times and places, and take such testimony, with respect to matters for which is has a responsibility under this section, as the Committee may deem advisable.

(6) The Advisory Committee may secure directly from any department or agency of the United States such data and information as may be necessary to carry out its responsibilities. Upon request of the Committee, any such department or agency shall furnish any such data or information.

(7) The General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Advisory Committee may request.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 428. PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE.

(a) IN GENERAL.—Part A of title XI is amended by adding at the end the following new section:

"PROHIBITION OF MISUSE OF SYMBOLS, EMBLEMS, OR NAMES IN REFERENCE TO SOCIAL SECURITY OR MEDICARE

Law enforcement and crime.
42 USC 1320b-10.

"SEC. 1140. (a) No person may use, in connection with any item constituting an advertisement, solicitation, circular, book, pamphlet, or other communication, or a play, motion picture, broadcast, telecast, or other production, alone or with other words, letters, symbols, or emblems—

"(1) the words 'Social Security', 'Social Security Account', 'Social Security System', 'Social Security Administration', 'Medicare', 'Health Care Financing Administration', the letters 'SSA' or 'HCFA', or any other combination or variation of such words or letters, or

"(2) a symbol or emblem of the Social Security Administration (including the design of, or a reasonable facsimile of the design of, the social security card issued pursuant to section 205(c)(2)(E), the check used for payment of benefits under title II, or envelopes or other stationery used by the Social Security Administration) or of the Health Care Financing Administration, or any other combination or variation of such symbols or emblems,

in a manner which such person knows or should know would convey the false impression that such item is approved, endorsed, or authorized by the Social Security Administration, the Health Care Financing Administration, or the Department of Health and Human Services or that such person has some connection with, or authorization from, the Social Security Administration, the Health Care Financing Administration, or the Department of Health and Human Services.

"(b)(1) Subject to paragraph (2), the Secretary may, pursuant to regulations, impose a civil money penalty not to exceed—

"(A) except as provided in subparagraph (B), $5,000, or

"(B) in the case of a violation consisting of a broadcast or telecast, $25,000,

against any person for each violation by such person of subsection (a).

"(2) The total amount of penalties which may be imposed under paragraph (1) with respect to multiple violations in any one year period consisting of substantially identical communications or productions shall not exceed $100,000.

"(c)(1) Subsections (c), (d), (e), (g), (j), and (k) of section 1128A shall apply with respect to violations under subsection (a) and penalties imposed under subsection (b) in the same manner and to the same extent as such subsections apply with respect to claims in violation of section 1128A and penalties imposed under section 1128A(a).

Claims.

"(2) Penalties imposed against a person under subsection (b) may be compromised by the Secretary and may be recovered in a civil action in the name of the United States brought in the district court of the United States for the district in which the violation occurred or where the person resides, has its principal office, or may be found, as determined by the Secretary. Amounts recovered under this section shall be paid to the Secretary and shall be deposited as miscellaneous receipts of the Treasury of the United States. The amount of such penalty when finally determined, or the amount agreed upon in compromise, may be deducted from any sum then or later owing by the United States to the person against whom the penalty has been imposed.".

(b) AUTHORIZING CIVIL MONEY PENALTIES FOR CERTAIN VIOLATIONS RELATING TO MEDICAL SUPPLEMENTAL POLICIES.—Section 1882(d) (42 U.S.C. 1395ss(d)) is amended—

(1) by striking "shall be guilty" and all that follows through "or both" in each of paragraphs (1), (2), (3)(A), and (4)(A), and inserting in each case the following: "shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both, and, in addition to or in lieu of such a criminal penalty, is subject to a civil money penalty of not to exceed $5,000 for each such prohibited act", and

(2) by adding at the end the following new paragraph:

"(5) The provisions of section 1128A (other than subsections (a) and (b)) shall apply to civil money penalties under paragraphs (1), (2), (3)(A), and (4)(A) in the same manner as such provisions apply to penalties and proceedings under section 1128A(a).".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act and shall apply only with respect to violations occurring on or after such date. 42 USC 1320b-10 note.

SEC. 429. DEMONSTRATION PROJECTS WITH RESPECT TO CHRONIC VENTILATOR-DEPENDENT UNITS IN HOSPITALS. 42 USC 1395b-1 note.

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide for up to 5 demonstration projects, for up to 3 years each, to review the appropriateness of classifying chronic ventilator-dependent units in hospitals as rehabilitation units. Such projects shall be conducted in consultation with the Prospective Payment Assessment Commission.

(b) WAIVER AUTHORITY.—In conducting demonstration projects under this section for units, the Secretary may treat such a unit as a rehabilitation unit described in section 1886(d)(1)(B) of the Social Security Act for purposes of such section.

Approved July 1, 1988.

LEGISLATIVE HISTORY—H.R. 2470 (S. 1127):

HOUSE REPORTS: No. 100-105, Pt. 1 (Comm. on Ways and Means) and Pt. 2 (Comm. on Energy and Commerce), and No. 100-661 (Comm. of Conference).

SENATE REPORTS: No. 100-126 accompanying S. 1127 (Comm. on Finance).

CONGRESSIONAL RECORD:

Vol. 133 (1987): July 22, considered and passed House.
Oct. 9, 13, 23, S. 1127 considered in Senate.
Oct. 27, H.R. 2470 considered and passed Senate, amended, in lieu of S. 1127.

Vol. 134 (1988): June 2, House agreed to conference report.
June 8, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
July 1, Presidential remarks.

Public Law 100-361
100th Congress

Joint Resolution

July 1, 1988
[H.J. Res. 587]

Designating July 2 and 3, 1988, as "United States-Canada Days of Peace and Friendship".

Whereas Congress passed a joint resolution designating July 2 and 3, 1987, as "United States-Canada Days of Peace and Friendship" to symbolize the Nation's commitment to improving relations with Canada;

Whereas the Canadian Parliament passed a similar resolution commemorating the continued peace and friendship between the United States and Canada;

Whereas although the democratic systems of government of the United States and Canada are quite different from each other, both systems embody the same ideals of freedom, democracy, human rights, and justice;

Whereas the American Bar Association, the Canadian Bar Association, and the International Rotary are joining with universities in 5 States and 5 Canadian Provinces in a United States-Canada Days of Peace and Friendship project to provide outstanding high school and college students from the United States and Canada with an opportunity to study the constitutions and systems of law and government of the United States and Canada;

Whereas many other international educational projects are also associated with United States-Canada Days of Peace and Friendship;

Whereas the Premier of each of the 10 Canadian Provinces, the Governor of each State that borders Canada, and leaders of education, industry, culture, and other branches of government in the United States and Canada have become honorary sponsors of United States-Canada Days of Peace and Friendship; and

Whereas Congress is deeply interested in the governmental, military, and cultural relations of the United States and Canada: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2 and 3, 1988, are designated as "United States-Canada Days of Peace and Friendship", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such days with appropriate programs, ceremonies, and activities.

Approved July 1, 1988.

LEGISLATIVE HISTORY—H.J. Res. 587:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 14, considered and passed House.
June 23, considered and passed Senate.

Public Law 100-362
100th Congress

An Act

To make the International Organizations Immunities Act applicable to the Organization of Eastern Caribbean States.

July 6, 1988
[H.R. 4162]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 11 of the International Organizations Immunities Act (22 U.S.C. 288f-1) is amended by inserting "and to the Organization of Eastern Caribbean States (including any office established in the United States by that organization)" after "European Space Agency".

Approved July 6, 1988.

LEGISLATIVE HISTORY—H.R. 4162:

CONGRESSIONAL RECORD, Vol. 134 (1988):
May 17, considered and passed House.
June 23, considered and passed Senate.

Public Law 100-363
100th Congress

Joint Resolution

July 7, 1988
[S.J. Res. 304]

Designating July 2, 1988, as "National Literacy Day".

Whereas literacy is a necessary tool for survival in our society;
Whereas thirty-five million Americans today read at a level which is less than necessary for full survival needs;
Whereas there are twenty-seven million adults in the United States who cannot read, whose resources are left untapped, and who are unable to offer their full contribution to society;
Whereas illiteracy is growing rapidly, as two million three-hundred thousand persons, including one million two-hundred thousand legal and illegal immigrants, one million high school dropouts, and one hundred thousand refugees, are added to the pool of illiterates annually;
Whereas the annual cost of illiteracy to the United States in terms of welfare expenditures, crime, prison expenses, lost revenues, and industrial and military accidents has been estimated at $225,000,000,000;
Whereas the competitiveness of the United States is eroded by the presence in the workplace of millions of Americans who are functionally or technologically illiterate;
Whereas there is a direct correlation between the number of illiterate adults unable to perform at the standard necessary for available employment and the money allocated to child welfare and unemployment compensation;
Whereas the percentage of illiterates in proportion to population size is higher for blacks and Hispanics, resulting in increased economic and social discrimination against these minorities;
Whereas the prison population represents the single highest concentration of adult illiteracy;
Whereas one million children in the United States between the ages of twelve and seventeen cannot read above a third grade level, 13 per centum of all seventeen-year-olds are functionally illiterate, and 15 per centum of graduates of urban high schools read at less than a sixth grade level;
Whereas 85 per centum of the juveniles who appear in criminal court are functionally illiterate;
Whereas the 47 per centum illiteracy rate among black youths is expected to increase to 50 per centum by 1990;
Whereas one-half of all heads of households cannot read past the eighth grade level and one-third of all mothers on welfare are functionally illiterate;
Whereas the cycle of illiteracy continues because the children of illiterate parents are often illiterate themselves because of the lack of support they receive from their home environment;
Whereas Federal, State, municipal, and private literacy programs have only been able to reach 5 per centum of the total illiterate population;

Whereas it is vital to call attention to the problem of illiteracy, to understand the severity of the problem and its detrimental effects on our society, and to reach those who are illiterate and unaware of the free services and help available to them; and

Whereas it is also necessary to recognize and thank the thousands of volunteers who are working to promote literacy and provide support to the millions of illiterates in need of assistance: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 2, 1988, is designated as "National Literacy Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved July 7, 1988.

LEGISLATIVE HISTORY—S.J. Res. 304:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 27, considered and passed Senate.
June 30, considered and passed House.

Public Law 100-364
100th Congress

An Act

July 11, 1988
[H.R. 4731]

To extend the authority for the Work Incentive Demonstration Program.

WIN Demonstration Program Extension Act of 1988.
42 USC 1305 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "WIN Demonstration Program Extension Act of 1988".

SEC. 2. DEMONSTRATION AUTHORITY EXTENDED.

42 USC 645.

(a) Section 445(b)(1) of the Social Security Act is amended by striking out "June 30, 1987" and inserting in lieu thereof "September 30, 1989".

(b) Section 445(d) of such Act is amended by striking out "June 30, 1987" and inserting in lieu thereof "September 30, 1989", and by striking out "June 30, 1988" and inserting in lieu thereof "September 30, 1990".

Approved July 11, 1988.

LEGISLATIVE HISTORY—H.R. 4731:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 13, considered and passed House.
June 27, 28, considered and passed Senate.

Public Law 100-365
100th Congress

An Act

To amend chapter 25 of title 44, United States Code, to provide an authorization for the National Historical Publications and Records Commission programs, and for other purposes.

July 13, 1988
[S. 1856]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

National Historical Publications and Records Commission Amendments of 1988.
44 USC 101 note.

This Act may be cited as the "National Historical Publications and Records Commission Amendments of 1988".

SEC. 2. MEMBERSHIPS AND TERMS OF MEMBERS OF COMMISSION.

(a) MEMBERSHIP.—Section 2501 of title 44, United States Code, is amended to read as follows:

"§ 2501. Creation; composition; appointment and tenure; meetings

"(a) The National Historical Publications and Records Commission shall consist of 15 members as follows:

"(1) the following ex officio members:

"(A) the Archivist of the United States, who shall be chairman;

"(B) the Librarian of Congress (or an alternate designated by the Librarian);

"(C) one Senator, appointed by the President of the Senate;

"(D) one Representative, appointed by the Speaker of the House of Representatives;

"(E) one member of the judicial branch of the Government, appointed by the Chief Justice of the United States;

"(F) one representative of the Department of State to be appointed by the Secretary of State; and

"(G) one representative of the Department of Defense to be appointed by the Secretary of Defense;

"(2) one member from each of the following organizations, appointed by the governing council or board of the respective organization:

"(A) the American Historical Association;

"(B) the Organization of American Historians;

"(C) the Society of American Archivists;

"(D) the American Association for State and Local History;

"(E) the Association for Documentary Editing; and

"(F) the National Association for Government Archives and Records Administrators; and

"(3) two other members, outstanding in the fields of the social or physical sciences, the arts, or archival or library science, appointed by the President of the United States.

"(b)(1) The members appointed under subsection (a) shall be appointed for terms of 4 years, except that—

"(A) a member appointed under subsection (a)(1)(D) shall be appointed for a term of 2 years; and

"(B) the Archivist and the Librarian of Congress are permanent ex officio members.

"(2) A member may continue to serve after the expiration of a term until a successor has been appointed, but not to exceed one year.

"(c) The Commission shall meet at least annually and at call of the Chairman.".

44 USC 2501 note.

(b) EFFECTIVE DATE AND IMPLEMENTATION OF STAGGERING OF TERMS.—The amendment made by this section shall be effective on January 1, 1989, and shall apply to the appointment of any member on the expiration of a predecessor's term as follows:

(1) The next two members appointed to such Commission after such date shall be appointed pursuant to section 2501(a)(2) (E) and (F) of title 44, United States Code, as amended by this section.

(2) Notwithstanding section 2501(b)(1), the first members appointed pursuant to section 2501(a)(2) (B) and (C) after January 1, 1991, shall be appointed for terms of one year.

SEC. 3. EXECUTIVE DIRECTOR, STAFF, TRANSPORTATION EXPENSES.

Section 2503 of title 44, United States Code, is amended to read as follows:

"§ 2503. Executive director, staff, transportation expenses

"(a) The Commission may appoint, without reference to chapter 51 of title 5, an executive director. The Chairman may appoint such other employees as may be necessary to carry out the purposes of this chapter.

"(b) Members of the Commission shall be allowed travel expenses (including per diem allowance in lieu of subsistence) in the same amount and to the same extent as persons serving intermittently in the Government service are allowed travel expenses under section 5703 of title 5, United States Code.".

SEC. 4. DUTIES AND FUNCTIONS.

Section 2504 of title 44, United States Code, is amended to read as follows:

"§ 2504. Duties; authorization of grants for historical publications and records programs; authorization for appropriations

"(a) The Commission shall make plans, estimates, and recommendations for historical works and collections of sources it considers appropriate for preserving, publishing or otherwise recording at the public expense. The Chairman of the Commission shall transmit to the President and the Congress from time to time, and at least biennially, the plans, estimates, and recommendations developed and approved by the Commission.

"(b) The Commission shall cooperate with, assist and encourage appropriate Federal, State, and local agencies and nongovernmental institutions, societies, and individuals in collecting and preserving and, when it considers it desirable, in editing and publishing papers of outstanding citizens of the United States, and other documents as may be important for an understanding and appreciation of the history of the United States.

"(c) The Commission may conduct institutes, training and educational programs, and recommend candidates for fellowships related to the activities of the Commission and may disseminate information about documentary sources through guides, directories, and other technical publications.

"(d) The Commission may recommend the expenditure of appropriated or donated funds for the collecting, describing, preserving, compiling and publishing (including microfilming and other forms of reproduction) of documentary sources significant to the history of the United States and for the activities described in subsection (c).

"(e) The Archivist of the United States may, within the limits of available appropriated and donated funds, make grants to State and local agencies and to nonprofit organizations, institutions, and individuals, for those activities in subsection (d) after considering the advice and recommendations of the Commission.

"(f)(1) For the purposes specified in this section, there is hereby authorized to be appropriated to the National Historical Publications and Records Commission—

"(A) $6,000,000 for fiscal year 1989;

"(B) $8,000,000 for fiscal year 1990; and

"(C) $10,000,000 for each of the fiscal years 1991, 1992, and 1993.

"(2) Amounts appropriated under this subsection shall be available until expended when so provided in appropriation Acts.".

SEC. 5. CONFORMING AMENDMENT.

The table of contents for chapter 25 of title 44, United States Code, is amended to read as follows:

"Sec.
"2501. Creation; composition; appointment and tenure; vacancies; meetings.
"2502. Vacancies.
"2503. Executive director; staff; transportation expenses.
"2504. Duties; authorization of grants for historical publications and records programs; authorization for appropriations.
"2505. Special advisory committees; membership; reimbursement.
"2506. Records to be kept by grantees.".

Approved July 13, 1988.

LEGISLATIVE HISTORY—S. 1856 (H.R. 3933):

HOUSE REPORTS: No. 100-533 accompanying H.R. 3933 (Comm. on Government Operations).
SENATE REPORTS: No. 100-330 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 30, H.R. 3933 considered and passed House.
June 13, S. 1856 considered and passed Senate.
June 30, considered and passed House.

Public Law 100-366
100th Congress

An Act

July 13, 1988
[S. 2188]

To amend section 307 of the Federal Employees' Retirement System Act of 1986.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF "NORMAL-COST PERCENTAGE".

5 USC 8401 note.

Section 307 of the Federal Employees' Retirement System Act of 1986 (Public Law 99-335; 100 Stat. 607) is amended to read as follows:

"SEC. 307. USE OF 'NORMAL-COST PERCENTAGE'.

"Notwithstanding any other provision of law, the normal-cost percentage (as defined by section 8401(23) of title 5, United States Code, as added by this Act) of the Federal Employees' Retirement System shall be used to value the cost of such System to the Civil Service Retirement and Disability Fund for all purposes in which the cost of the System is required to be determined by the Federal Government. For any comparisons between the cost of performing commercial activities under the contract with commercial sources and the cost of performing such activities using Government facilities and personnel, the cost of the System shall include the cost of such System to the Civil Service Retirement and Disability Fund as specified in the preceding sentence, the cost of the thrift savings plan under subchapter III of chapter 84 of title 5, United States Code, and the cost of social security.".

Contracts.

SEC. 2. TECHNICAL AMENDMENT TO SECTION 8438 OF TITLE 5, UNITED STATES CODE.

(a) AMENDMENT.—Section 8438(e)(3)(A) of title 5, United States Code, is amended by striking "and the earnings attributable to the investment of such sums".

Effective date.
5 USC 8438 note.

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply with respect to earnings attributable to contributions made to the Thrift Savings Fund on or after April 1, 1987.

SEC. 3. TECHNICAL AMENDMENT TO SECTION 8477 OF TITLE 5, UNITED STATES CODE.

(a) AMENDMENT.—Section 8477(e) of title 5, United States Code, is amended—

(1) in paragraph (3)(C)(ii)—

(A) by striking "28, if" and inserting "28, provided that"; and

(B) by striking "is exclusive of" and inserting "shall be exclusive of"; and

(2) in paragraph (5), by striking "paragraphs (3) and (4)" and inserting "paragraph (3)".

Effective date.
5 USC 8477 note.

(b) APPLICABILITY.—Section 8477(e) of title 5, United States Code, as amended by subsection (a), shall apply to any civil action or

proceeding arising from any act or omission occurring on or after October 1, 1986.

Approved July 13, 1988.

LEGISLATIVE HISTORY—S. 2188:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 6, considered and passed Senate.
June 20, considered and passed House, amended.
June 28, Senate concurred in House amendments.

Public Law 100-367
100th Congress

An Act

July 15, 1988
[H.R. 4288]

To designate the Federal Building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, Tennessee, as the "John J. Duncan Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building located at the corner of Locust Street and West Cumberland Avenue in Knoxville, Tennessee, shall be known and designated as the "John J. Duncan Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "John J. Duncan Federal Building".

Approved July 15, 1988.

LEGISLATIVE HISTORY—H.R. 4288:

HOUSE REPORTS: No. 100-722 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 22, considered and passed House.
June 29, considered and passed Senate.

Public Law 100-368
100th Congress

An Act

To amend the provisions of the Toxic Substances Control Act relating to asbestos in the Nation's schools by providing adequate time for local educational agencies to submit asbestos management plans to State Governors and to begin implementation of those plans.

July 18, 1988
[H.R. 3893]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFERRAL OF DEADLINE FOR SUBMISSION OF ASBESTOS MANAGEMENT PLANS.

(a) REQUEST FOR DEFERRAL OF SUBMISSION OF MANAGEMENT PLAN.—Section 205 of the Toxic Substances Control Act (15 U.S.C. 2645) is amended by adding at the end the following new subsection:

"(d) DEFERRAL OF SUBMISSION.—

"(1) REQUEST FOR DEFERRAL.—A local educational agency may request a deferral, to May 9, 1989, of the deadline under subsection (a). Upon approval of such a request, the deadline under subsection (a) is deferred until May 9, 1989, for the local educational agency which submitted the request. Such a request may cover one or more schools under the authority of the agency and shall include a list of all the schools covered by the request. A local educational agency shall file any such request with the State Governor by October 12, 1988, and shall include with the request either of the following statements:

"(A) A statement—

"(i) that the State in which the agency is located has requested from the Administrator, before June 1, 1988, a waiver under section 203(m); and

"(ii) that gives assurance that the local educational agency has carried out the notification and, in the case of a public school, public meeting required by paragraph (2).

"(B) A statement, the accuracy of which is sworn to by a responsible official of the agency (by notarization or other means of certification), that includes the following with respect to each school for which a deferral is sought in the request:

"(i) A statement that, in spite of the fact that the local educational agency has made a good faith effort to meet the deadline for submission of a management plan under subsection (a), the agency will not be able to meet the deadline. The statement shall include a brief explanation of the reasons why the deadline cannot be met.

"(ii) A statement giving assurance that the local educational agency has made available for inspection by the public, at each school for which a deferral is sought in the request, at least one of the following documents:

Public information.

Contracts.

"(I) A solicitation by the local educational agency to contract with an accredited asbestos contractor for inspection or management plan development.

"(II) A letter attesting to the enrollment of school district personnel in an Environmental Protection Agency-accredited training course for inspection and management plan development.

"(III) Documentation showing that an analysis of suspected asbestos-containing material from the school is pending at an accredited laboratory.

"(IV) Documentation showing that an inspection or management plan has been completed in at least one other school under the local educational agency's authority.

"(iii) A statement giving assurance that the local educational agency has carried out the notification and, in the case of a public school, public meeting required by paragraph (2).

Contracts.

"(iv) A proposed schedule outlining all significant activities leading up to submission of a management plan by May 9, 1989, including inspection of the school (if not completed at the time of the request) with a deadline of no later than December 22, 1988, for entering into a signed contract with an accredited asbestos contractor for inspection (unless such inspections are to be performed by school personnel), laboratory analysis of material from the school suspected of containing asbestos, and development of the management plan.

"(2) NOTIFICATION AND PUBLIC MEETING.—Before filing a deferral request under paragraph (1), a local educational agency shall notify affected parent, teacher, and employee organizations of its intent to file such a request. In the case of a deferral request for a public school, the local educational agency shall discuss the request at a public meeting of the school board with jurisdiction over the school, and affected parent, teacher, and employee organizations shall be notified in advance of the time and place of such meeting.

"(3) RESPONSE BY GOVERNOR.—(A) Not later than 30 days after the date on which a Governor receives a deferral request under paragraph (1) from a local educational agency, the Governor shall respond to the local educational agency in writing by acknowledging whether the request is complete or incomplete. If the request is incomplete, the Governor shall identify in the response the items that are missing from the request.

"(B) A local educational agency may correct any deficiencies in an incomplete deferral request and refile the request with the Governor. In any case in which the local educational agency decides to refile the request, the agency shall refile the request, and the Governor shall respond to such refiled request in the manner described in subparagraph (A), no later than 15 days after the local educational agency has received a response from the Governor under subparagraph (A).

"(C) Approval of a deferral request under this subsection occurs only upon the receipt by a local educational agency of a written acknowledgment from the Governor that the agency's deferral request is complete.

"(4) SUBMISSION AND REVIEW OF PLAN.—A local educational agency whose deferral request is approved shall submit a management plan to the Governor not later than May 9, 1989. Such management plan shall include a copy of the deferral request and the statement accompanying such request. Such management plan shall be reviewed in accordance with subsection (c), except that the Governor may extend the 30-day period for revision of the plan under subsection (c)(2) for only an additional 30 days (for a total of 60 days).

"(5) IMPLEMENTATION OF PLAN.—The approval of a deferral request from a local educational agency shall not be considered to be a waiver or exemption from the requirement under section 203(i) for the local educational agency to begin implementation of its management plan by July 9, 1989.

"(6) EPA NOTICE.—(A) Not later than 15 days after the date of the enactment of this subsection, the Administrator shall publish in the Federal Register the following: Federal Register, publication.

"(i) A notice describing the opportunity to file a request for deferral under this subsection.

"(ii) A list of the State offices (including officials (if available) in each State as designated under subsection (b)) with which deferral requests should be filed.

"(B) As soon as practicable, but in no event later than 30 days, after the date of the enactment of this subsection, the Administrator shall mail a notice describing the opportunity to file a request for deferral under this subsection to each local educational agency and to each State office in the list published under subparagraph (A).".

SEC. 2. NOTIFICATION TO EPA OF STATUS OF STATE MANAGEMENT PLAN SUBMISSIONS.

Section 205 of the Toxic Substances Control Act (15 U.S.C. 2645), as amended by section (1), is further amended by adding at the end the following new subsection:

"(e) STATUS REPORTS.—(1) Not later than December 31, 1988, the Governor of each State shall submit to the Administrator a written statement on the status of management plan submissions and deferral requests by local educational agencies in the State. The statement shall be made available to local educational agencies in the State and shall contain the following:

"(A) A list containing each local educational agency that submitted a management plan by October 12, 1988.

"(B) A list containing each local educational agency whose deferral request was approved.

"(C) A list containing each local educational agency that failed to submit a management plan by October 12, 1988, and whose deferral request was disapproved.

"(D) A list containing each local educational agency that failed to submit a management plan by October 12, 1988, and did not submit a deferral request.

"(2) Not later than December 31, 1989, the Governor of each State shall submit to the Administrator an updated version of the written statement submitted under paragraph (1). The statement shall be made available to local educational agencies in the State and shall contain the following:

"(A) A list containing each local educational agency whose management plan was submitted and not disapproved as of October 9, 1989.

"(B) A list containing each local educational agency whose management plan was submitted and disapproved, and which remains disapproved, as of October 9, 1989.

"(C) A list containing each local educational agency that submitted a management plan after May 9, 1989, and before October 10, 1989.

"(D) A list containing each local educational agency that failed to submit a management plan as of October 9, 1989.".

SEC. 3. PUBLICATION OF EPA-APPROVED ACCREDITATION COURSES.

Section 206 of the Toxic Substances Control Act (15 U.S.C. 2646) is amended by adding at the end the following new subsection:

Federal Register, publication.

"(f) LIST OF EPA-APPROVED COURSES.—Not later than August 31, 1988, and every three months thereafter until August 31, 1991, the Administrator shall publish in the Federal Register a list of all Environmental Protection Agency-approved asbestos training courses for persons to achieve accreditation in each category described in subsection (b)(1)(A) and for laboratories to achieve accreditation. The Administrator may continue publishing such a list after August 31, 1991, at such times as the Administrator considers it useful. The list shall include the name and address of each approved trainer and, to the extent available, a list of all the geographic sites where training courses will take place. The Administrator shall provide a copy of the list to each State official on the list published by the Administrator under section 205(d)(6) and to each regional office of the Environmental Protection Agency.".

SEC. 4. WORKER PROTECTION.

(a) WORKER PROTECTION REQUIRED.—The Toxic Substances Control Act (15 U.S.C. 2601 et seq.) is further amended by adding at the end the following new section:

15 USC 2655.

"SEC. 215. WORKER PROTECTION.

"(a) PROHIBITION ON CERTAIN ACTIVITIES.—Until the local educational agency with authority over a school has submitted a management plan (for the school) which the State Governor has not disapproved as of the end of the period for review and revision of the plan under section 205, the local educational agency may not do either of the following in the school:

"(1) Perform, or direct an employee to perform, renovations or removal of building materials, except emergency repairs, in the school, unless—

"(A) the school is carrying out work under a grant awarded under section 505 of the Asbestos School Hazard Abatement Act of 1984; or

"(B) an inspection that complies with the requirements of regulations promulgated under section 203 has been carried out in the school and the agency complies with the following sections of title 40 of the Code of Federal Regulations:

"(i) Paragraphs (g), (h), and (i) of section 763.90 (response actions).

Waste disposal.

"(ii) Appendix D to subpart E of part 763 (transport and disposal of asbestos waste).

"(2) Perform, or direct an employee to perform, operations and maintenance activities in the school, unless the agency complies with the following sections of title 40 of the Code of Federal Regulations:

"(A) Section 763.91 (operations and maintenance), including appendix B to subpart E of part 763.

"(B) Paragraph (a)(2) of section 763.92 (training and periodic surveillance).

"(b) EMPLOYEE TRAINING AND EQUIPMENT.—Any school employee who is directed to conduct emergency repairs involving any building material containing asbestos or suspected of containing asbestos, or to conduct operations and maintenance activities, in a school—

"(1) shall be provided the proper training to safely conduct such work in order to prevent potential exposure to asbestos; and

"(2) shall be provided the proper equipment and allowed to follow work practices that are necessary to safely conduct such work in order to prevent potential exposure to asbestos.

"(c) DEFINITION OF EMERGENCY REPAIR.—For purposes of this section, the term 'emergency repair' means a repair in a school building that was not planned and was in response to a sudden, unexpected event that threatens either—

"(1) the health or safety of building occupants; or

"(2) the structural integrity of the building.".

(b) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by adding after the item relating to section 214 the following new item:

"Sec. 215. Worker protection.".

(c) EFFECTIVE DATE.—Section 215 of the Toxic Substances Control Act, as added by subsection (a), shall take effect on October 12, 1988. 15 USC 2655 note.

SEC. 5. ENFORCEMENT.

Section 207(a) of the Toxic Substances Control Act is amended— 15 USC 2647.

(1) by striking out "or" at the end of paragraph (2); and

(2) by adding after paragraph (3) the following new paragraphs:

"(4) which carries out any activity prohibited by section 215, or

"(5) which knowingly submits false information to the Governor regarding a deferral request under section 205(d).".

SEC. 6. TECHNICAL CORRECTIONS TO AHERA.

(a) PLACEMENT OF SENTENCE.—Section 512 of the Asbestos School Hazard Abatement Act of 1984 (20 U.S.C. 4021) is amended by moving the last sentence of such section (as added by section 4(a) of the Asbestos Hazard Emergency Response Act of 1986) to the end of paragraph (1) of subsection (a).

(b) CROSS REFERENCES.—Paragraph (4) of section 505(g) of such Act (20 U.S.C. 4014) (as added by section 3(a) of the Asbestos Hazard Emergency Response Act of 1986) is amended—

(1) in subparagraph (B)(i), by striking out "this title" and inserting in lieu thereof "such Act"; and

(2) in subparagraph (B)(ii), by striking out "subsection (d)" and inserting in lieu thereof "section 206(d) of the Toxic Substances Control Act".

Approved July 18, 1988.

LEGISLATIVE HISTORY—H.R. 3893 (S. 2024):

HOUSE REPORTS: No. 100-734 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-405 accompanying S. 2024 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 27, considered and passed House.
June 29, considered and passed Senate.

Public Law 100-369
100th Congress

An Act

To amend the Higher Education Act of 1965 to prevent abuses in the Supplemental Loans for Students program under part B of title IV of the Higher Education Act of 1965, and for other purposes.

July 18, 1988
[H.R. 4639]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PELL GRANT APPLICATION REQUIRED FOR GSL AND SLS LOANS.

Section 484(b)(1) of the Higher Education Act of 1965 (20 U.S.C. 1091(b)(1)) is amended—

(1) by striking out "section 428A, 428B, or 428C" and inserting "section 428B or 428C";

(2) by striking out subparagraph (A) and inserting the following:

"(A)(i) have received a determination of eligibility or ineligibility for a Pell Grant under such subpart 1 for such period of enrollment; and (ii) if determined to be eligible, have filed an application for a Pell Grant for such enrollment period; or".

SEC. 2. GSL LOAN APPLICATION REQUIRED FOR SLS LOANS.

Section 484(b) of the Higher Education Act of 1965 is further amended—

(1) by redesignating paragraph (2) as paragraph (3); and

(2) by inserting after paragraph (1) the following:

"(2) In order to be eligible to receive any loan under section 428A for any period of enrollment, a student shall—

"(A) have received a determination of need for a loan under section 428(a)(2)(B) of this title; and

"(B) if determined to have need for a loan under section 428, have applied for such a loan.".

SEC. 3. DETERMINATION OF SLS LOAN AMOUNTS.

Section 428A(b)(3) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(b)(3)) is amended by striking out "minus (B)" and inserting "minus (B) the total of (i) any loan for which the student is eligible under section 428 and (ii)".

SEC. 4. RESTRICTIONS ON SLS LOAN ELIGIBILITY.

Section 428A(a) of the Higher Education Act of 1965 (20 U.S.C. 1078-1(a)) is amended—

(1) in the last sentence, by striking "extenuating" and inserting "exceptional"; and

(2) by adding at the end the following: "If the financial aid administrator makes such a determination, appropriate documentation of such determination shall be maintained in the institution's records to support such determination.". Records.

SEC. 5. SLS LOAN DISBURSEMENT.

20 USC 1078-1.

(a) DISBURSEMENT REQUIREMENTS.—Section 428A(b) of the Higher Education Act of 1965 is further amended by inserting after paragraph (3) the following:

"(4) DISBURSEMENT.—Any loan under this section shall be disbursed in the manner required by subparagraphs (N) and (O) of section 428(b)(1).".

(b) CONFORMING AMENDMENTS.—(1) Section 427(b)(2) of such Act (20 U.S.C. 1077(b)(2)) is amended by striking out "section 428A, 428B, or 428C" and inserting "section 428B or 428C".

(2) Section 428(b)(1)(O) of such Act (20 U.S.C. 1078(b)(1)(O)) is amended by striking out "section 428A, 428B, or 428C" and inserting "section 428B or 428C".

(3) Section 428A(c) of such Act (20 U.S.C. 1078-1(c)) is amended—

(A) in paragraph (1), by inserting after "disbursed by the lender," the following: "or, if the loan is disbursed in multiple installments, not later than 60 days after the disbursement of the last such installment,";

(B) in paragraph (2), by inserting after "made under this section" the following: "which are disbursed in installments or,"; and

(C) in such paragraph (2) by inserting a comma after "428(b)(1)(M)(i)".

SEC. 6. TECHNICAL AMENDMENT CONCERNING TEACHER TRAINING PROGRAM ELIGIBILITY FOR GSL PROGRAM.

20 USC 1091.

Section 484 of the Act is further amended—

(1) in subsection (a)(1), by striking out "subsection (b)(2)" and inserting in lieu thereof "subsections (b)(3) and (b)(4)"; and

(2) by adding at the end of subsection (b) the following new paragraph:

"(4) A student who—

"(A) is carrying at least one-half the normal full-time work load for the course of study the student is pursuing, as determined by the institution, and

"(B) is enrolled or accepted for enrollment in a program at an eligible institution necessary for a professional credential or certification from a State that is required for employment as a teacher in an elementary or secondary school in that State,

shall be, notwithstanding paragraph (1) of subsection (a), eligible to apply for loans under part B of this title.".

SEC. 7. TREATMENT OF TERRITORIAL AND FOREIGN TAX PAYMENTS FOR PURPOSES OF NEED ANALYSIS.

(a) PELL GRANT NEED ANALYSIS.—Section 411F of the Higher Education Act of 1965 (20 U.S.C. 1070a-6) is amended by adding at the end thereof the following:

"(17)(A) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as United States income taxes.

"(B) References in this subpart to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in subparagraph

(A), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may prescribe by regulation.".

(b) GENERAL NEED ANALYSIS PROVISIONS.—Section 480 of the Higher Education Act of 1965 (20 U.S.C. 1087vv) is amended by adding at the end thereof the following:

"(i) TREATMENT OF INCOME TAXES PAID TO OTHER JURISDICTIONS.—(1) The tax on income paid to the Governments of the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Northern Mariana Islands, or the Trust Territory of the Pacific Islands under the laws applicable to those jurisdictions, or the comparable tax paid to the central government of a foreign country, shall be treated as Federal income taxes.

"(2) References in this part to the Internal Revenue Code of 1986, Federal income tax forms, and the Internal Revenue Service shall, for purposes of the tax described in paragraph (1), be treated as references to the corresponding laws, tax forms, and tax collection agencies of those jurisdictions, respectively, subject to such adjustments as the Secretary may prescribe by regulation.".

(c) TECHNICAL AMENDMENT.—The Higher Education Act of 1965 is amended by striking out "Internal Revenue Code of 1954" each time it appears and inserting in lieu thereof "Internal Revenue Code of 1986". 20 USC 1001 *et seq.*

SEC. 8. ROBERT T. STAFFORD STUDENT LOAN PROGRAM.

Section 421(c) of the Higher Education Act of 1965 (as amended by section 2601 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988) is amended by striking out "may" and inserting in lieu thereof "shall" and by adding at the end thereof the following new sentence: "Loans made under this part shall be known as 'Stafford Loans'.". 20 USC 1071.

SEC. 9. MICRONESIA PROVISION.

Section 105(h) of the Compact of Free Association Act of 1985 (99 Stat. 1794) is amended by adding at the end thereof the following new paragraph: 48 USC 1681 note.

"(5) FEDERAL EDUCATION GRANTS.—Pursuant to section 224 of the Compact or section 224 of the Compact with Palau (as contained in title II of Public Law 99-658), the Pell Grant Program, the Supplemental Educational Opportunity Grant Program, and the College Work-Study Program (as authorized by title IV of the Higher Education Act of 1965) shall be extended to students who are, or will be, citizens of the Federated States of Micronesia, or the Marshall Islands and who attend postsecondary institutions in the United States, its territories and commonwealths, the Trust Territory of the Pacific Islands, the Federated States of Micronesia, or the Marshall Islands, except that this paragraph shall not apply to any student receiving assistance pursuant to section 223 of the Compact or section 223 of the Compact with Palau (as contained in title II of Public Law 99-658).". Territories, U.S.

SEC. 10. AMENDMENTS TO TITLE III.

(a) HISTORICALLY BLACK COLLEGE ELIGIBILITY FOR PART A FUNDS.—Section 312 of the Higher Education Act of 1965 (20 U.S.C. 1058) is amended by adding at the end thereof the following new subsection:

"(f) HISTORICALLY BLACK COLLEGE OR UNIVERSITY.—For the purposes of this section, no historically black college or university which is eligible for and receives funds under part B of this title is eligible for or may receive funds under this part.".

(b) NEW PART B ACTIVITIES.—Section 323(a) of the Higher Education Act of 1965 (20 U.S.C. 1062) is amended—

(1) by inserting a comma and "and faculty development" after "exchanges" in paragraph (3); and

(2) by inserting after paragraph (6) the following new paragraphs:

"(7) Funds and administrative management, and acquisition of equipment for use in strengthening funds management.

"(8) Joint use of facilities, such as laboratories and libraries.".

20 USC 1061.

(c) TITLE III ELIGIBILITY.—Section 322(2) of the Act is amended—

(1) by adding a comma after the word "accreditation"; and

Grants.

(2) by inserting the following before the period at the end of the sentence a comma and the following: "except that any branch campus of a southern institution of higher education that prior to September 30, 1986, received a grant as an institution with special needs under section 321 of this title and was formally recognized by the National Center for Education Statistics as a Historically Black College or University but was determined not to be a part B institution on or after October 17, 1986, shall, from the date of enactment of this exception, be considered a part B institution".

SEC. 11. INTERNSHIP DEFERMENT.

(a) IN GENERAL.—Sections 427(a)(2)(C)(vii) and 428(b)(1)(M)(vii) of the Act are each amended by inserting "after January 1, 1986," after "service".

20 USC 1077, 1078.

20 USC 1077 note.

(b) APPLICABILITY.—The amendments made by subsection (a) and section 10(b) of the Higher Education Technical Amendments Act of 1987 shall apply with respect to loans made, insured or guaranteed under part B of the Higher Education Act of 1965, on, before, or after the date of enactment of the Higher Education Technical Amendments Act of 1987.

SEC. 12. DELAY OF REGULATORY EFFECTIVE DATE.

Section 600.3 (c) and (d) of title 34 of the Code of Federal Regulations, relating to new special conditions imposed on an institution's authority to measure academic programs in clock or credit hours, shall not take effect until July 1, 1989.

20 USC 1078-1 note.

SEC. 13. EFFECTIVE DATE.

(a) GENERAL RULE.—Except as otherwise provided, the amendments made by this Act to title IV of the Higher Education Act of 1965 shall be effective for any loan for which the eligibility of the

borrower is certified by the institution 30 days after the date of enactment of this Act.

(b) SPECIAL RULES.—(1) The amendments made by section 5 shall be effective with respect to loans made on or after October 1, 1988.

(2) The amendments made by sections 6, 7, 8, 9, 10, 11, and 12 shall take effect on the date of enactment of this Act.

Approved July 18, 1988.

LEGISLATIVE HISTORY—H.R. 4639:

HOUSE REPORTS: No. 100-669 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, 8, considered and passed House.
June 15, considered and passed Senate, amended.
June 28, House concurred in Senate amendment.

Public Law 100-370
100th Congress

An Act

July 19, 1988
[H.R. 4229]

To amend title 10, United States Code, to codify in that title certain defense-related permanent free-standing provisions of law.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Armed Forces.

SECTION 1. CODIFICATION OF CERTAIN PERMANENT PROVISIONS OF LAW IN TITLE 10, UNITED STATES CODE.

(a) ENLISTMENT QUALIFICATIONS.—(1) Section 520(b) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof the following: "; however, a person may not be denied enlistment in the armed forces solely because of his not having a high school diploma if his enlistment is needed to meet established strength requirements.".

(2) Section 3262 of title 10, United States Code, is amended by striking out "Of" and inserting in lieu thereof "Notwithstanding section 520(b) of this title, of".

(3) Section 401 of the Department of Defense Supplemental Appropriation Authorization Act, 1974 (Public Law 93-307; 88 Stat. 234), is repealed. 10 USC 520 note.

(b) CAP ON NUMBER OF GENERAL AND FLAG OFFICERS ON ACTIVE DUTY.—(1) Chapter 32 of title 10, United States Code, is amended—

(A) by redesignating section 526 as section 527; and

(B) by inserting after section 525 the following new section 526:

10 USC 526.

"§ 526. Authorized strength: general and flag officers on active duty

"The total number of general officers on active duty in the Army, Air Force, and Marine Corps and flag officers on active duty in the Navy may not exceed 1,073.".

(2)(A) Section 527 (as redesignated by paragraph (1)(A)) is amended by striking out "or 525" and inserting in lieu thereof "525, or 526".

(B) The heading of such section is amended to read as follows:

"§ 527. Authority to suspend sections 523, 524, 525, and 526".

(3) The table of sections at the beginning of such chapter is amended by striking out the item relating to section 526 and inserting in lieu thereof the following:

"526. Authorized strength: general and flag officers on active duty.
"527. Authority to suspend sections 523, 524, 525, and 526.".

(4) Section 811(a) of the Department of Defense Appropriation Authorization Act, 1978 (10 U.S.C. 523 note), is repealed.

(c) COMMISSARY AND EXCHANGE ELIGIBILITY.—(1) Part II of subtitle A of title 10, United States Code, is amended by inserting after chapter 53 the following new chapter:

"CHAPTER 54—COMMISSARY AND EXCHANGE BENEFITS

"Sec.
"1061. Survivors of certain Reserve and Guard members.
"1062. Certain former spouses.
"1063. Period for use of commissary stores: eligibility attributable to active duty for training.

"§ 1061. Survivors of certain Reserve and Guard members 10 USC 1061.

"(a) BENEFITS.—The Secretary of Defense shall prescribe regulations to allow dependents of members of the uniformed services described in subsection (b) to use commissary and exchange stores on the same basis as dependents of members of the uniformed services who die while on active duty for a period of more than 30 days. Regulations.

"(b) COVERED DEPENDENTS.—A dependent referred to in subsection (a) is a dependent of a member of a uniformed service who died—

"(1) while on active duty, active duty for training, or inactive-duty training (regardless of the period of such duty); or

"(2) while traveling to or from the place at which the member was to perform, or has performed, active duty, active duty for training, or inactive-duty training (regardless of the period of such duty).

"§ 1062. Certain former spouses 10 USC 1062.

"The Secretary of Defense shall prescribe such regulations as may be necessary to provide that an unremarried former spouse described in subparagraph (F)(i) of section 1072(2) of this title is entitled to commissary and exchange privileges to the same extent and on the same basis as the surviving spouse of a retired member of the uniformed services.". Regulations.

(2)(A) Section 1052 of such title is transferred to the end of chapter 54 of such title (as added by paragraph (1)) and redesignated as section 1063.

(B) The table of sections at the beginning of chapter 53 of such title is amended by striking out the item relating to such section 1052.

(3) The tables of chapters at the beginning of subtitle A, and at the beginning of part II of subtitle A, of such title are each amended by inserting after the item relating to chapter 53 the following new item:

"54. Commissary and Exchange Benefits ..... 1061".

(4) Section 308 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 618), is repealed.

(5) Section 1005 of the Uniformed Services Former Spouses' Protection Act (10 U.S.C. 1408 note) is repealed. 10 USC 1052 note.

(d) FINANCIAL MANAGEMENT.—(1)(A) Chapter 131 of title 10, United States Code, is amended by inserting before section 2202 the following new section:

"§ 2201. Apportionment of funds: authority for exemption; excepted expenses 10 USC 2201.

"(a) EXEMPTION FROM APPORTIONMENT REQUIREMENT.—If the President determines such action to be necessary in the interest of national defense, the President may exempt from the provisions of section 1512 of title 31 appropriations, funds, and contract Contracts.

authorizations available for military functions of the Department of Defense.

"(b) AIRBORNE ALERTS.—Upon a determination by the President that such action is necessary, the Secretary of Defense may provide for the cost of an airborne alert as an excepted expense under section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)).

"(c) MEMBERS ON ACTIVE DUTY.—Upon a determination by the President that it is necessary to increase (subject to limits imposed by law) the number of members of the armed forces on active duty beyond the number for which funds are provided in appropriation Acts for the Department of Defense, the Secretary of Defense may provide for the cost of such additional members as an excepted expense under section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)).

"(d) NOTIFICATION TO CONGRESS.—The Secretary of Defense—

"(1) shall immediately notify Congress of the use of any authority under this section; and

Reports. "(2) shall submit monthly reports to Congress on the estimated obligations incurred pursuant to subsections (b) and (c).".

(B) Section 8009 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1204)), is repealed.

10 USC 114 note.

(2)(A) Chapter 131 of title 10, United States Code, is further amended by inserting after section 2211 the following new section:

10 USC 2212.

"§ 2212. Contracted advisory and assistance services: accounting procedures

"(a) ACCOUNTING PROCEDURE.—The Secretary of Defense shall require that there be maintained within each military department an accounting procedure to aid in the identification and control of expenditures for services identified as contracted advisory and assistance services.

"(b) REGULATIONS TO IDENTIFY CONTRACTED ADVISORY AND ASSISTANCE SERVICES.—(1) The Secretary shall prescribe regulations which specifically describe—

"(A) those services which the Department of Defense considers to be contracted advisory and assistance services; and

"(B) of those services, which services are carried out in direct support of a weapons system and are essential to the development, production, or maintenance of the system.

"(2) In prescribing regulations under paragraph (1), the Secretary shall consider the following areas:

"(A) Management and professional services.

"(B) Special studies and analyses.

"(C) Management and support services for research and development activities.

"(D) Training.

"(E) Management review of program funded organizations.

"(F) Public relations.

"(G) Other consulting services.

"(H) Engineering development and operational systems development related to research and development activities and production activities.

"(I) Technical assistance.

"(J) Technical representation.

"(K) Quality control, testing, and inspection services.

"(L) Specialized medical services.

"(M) Architectural and engineering services, other than in connection with construction.

"(N) Technical and management assistance for weapons systems management and review.

"(c) CONGRESSIONAL BUDGET DOCUMENTS.—Budget documents presented to Congress in support of the budget for the Department of Defense for any fiscal year—

"(1) shall identify the total amount requested for contracted advisory and assistance services (as defined under regulations prescribed under subsection (b));

"(2) shall identify the amount requested for each category of such services established by regulations prescribed under subsection (b); and

"(3) within each such category, shall separately set forth amounts for such services described in subsection (b)(1)(B).".

(B) Section 918 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145) is repealed. 10 USC 2304 note.

(3)(A) Chapter 131 of title 10, United States Code, is further amended by adding at the end the following new section:

"§ 2217. Comparable budgeting for common procurement weapon systems 10 USC 2217.

"(a) MATTERS TO BE INCLUDED IN ANNUAL DEFENSE BUDGETS.—In preparing the defense budget for any fiscal year, the Secretary of Defense shall—

"(1) specifically identify each common procurement weapon system included in the budget;

"(2) take all feasible steps to minimize variations in procurement unit costs for any such system as shown in the budget requests of the different armed forces requesting procurement funds for the system; and

"(3) identify and justify in the budget all such variations in procurement unit costs for common procurement weapon systems.

"(b) COMPTROLLER.—The Secretary shall carry out this section through the Comptroller of the Department of Defense.

"(c) DEFINITIONS.—In this section:

"(1) The term 'defense budget' means the budget of the Department of Defense included in the President's budget submitted to Congress under section 1105 of title 31 for a fiscal year.

"(2) The term 'common procurement weapon system' means a weapon system for which two or more of the Army, Navy, Air Force, and Marine Corps request procurement funds in a defense budget.".

(B) Section 955 of the Defense Acquisition Improvement Act of 1986 is repealed. 10 USC 113 note.

(4) The table of sections at the beginning of chapter 131 of title 10 United States Code, is amended—

(A) by inserting before the item relating to section 2202 the following new item:

"2201. Apportionment of funds: authority for exemption; excepted expenses.";

(B) by inserting after the item relating to section 2211 the following new item:

"2212. Contracted advisory and assistance services: accounting procedures.";

and

(C) by adding at the end the following new item:

"2217. Comparable budgeting for common procurement weapon systems.".

(e) MISCELLANEOUS ADMINISTRATIVE PROVISIONS.—(1) Subtitle A of title 10, United States Code, is amended by inserting after chapter 133 the following new chapter:

"CHAPTER 134—MISCELLANEOUS ADMINISTRATIVE PROVISIONS

"Subchapter Sec.
"I. Miscellaneous Authorities, Prohibitions, and Limitations on the Use of Appropriated Funds. 2241
"II. Miscellaneous Administrative Authority 2251

"SUBCHAPTER I—MISCELLANEOUS AUTHORITIES, PROHIBITIONS, AND LIMITATIONS ON THE USE OF APPROPRIATED FUNDS

"Sec.
"2241. Availability of appropriations for certain purposes.
"2242. Authority to use appropriated funds for certain investigations and security services.

10 USC 2241.

"§ 2241. Availability of appropriations for certain purposes

"(a) OPERATION AND MAINTENANCE APPROPRIATIONS.—Amounts appropriated to the Department of Defense for operation and maintenance of the active forces may be used for the following purposes:

"(1) Morale, welfare, and recreation.
"(2) Modification of personal property.
"(3) Design of vessels.
"(4) Industrial mobilization.
"(5) Military communications facilities on merchant vessels.
"(6) Acquisition of services, special clothing, supplies, and equipment.
"(7) Expenses for the Reserve Officers' Training Corps and other units at educational institutions.

"(b) NECESSARY EXPENSES.—Amounts appropriated to the Department of Defense may be used for all necessary expenses, at the seat of the Government or elsewhere, in connection with communication and other services and supplies that may be necessary for the national defense.

10 USC 2242.

"§ 2242. Authority to use appropriated funds for certain investigations and security services

"The Secretary of Defense and the Secretary of each military department may—

"(1) pay in advance for the expenses of conducting investigations in foreign countries incident to matters relating to the Department of Defense, to the extent such expenses are determined by the investigating officer to be necessary and in accord with local custom;
"(2) pay expenses incurred in connection with the administration of occupied areas;
"(3) pay expenses of military courts, boards, and commissions; and

"(4) reimburse the Administrator of General Services for security guard services furnished by the Administrator to the Department of Defense for the protection of confidential files. Classified information.

"SUBCHAPTER II—MISCELLANEOUS ADMINISTRATIVE AUTHORITY

"Sec.
"2251. Household furnishings and other property: personnel outside the United States or in Alaska or Hawaii.
"2252. Rewards: missing property.
"2253. Motor vehicles.

"§ 2251. Household furnishings and other property: personnel outside the United States or in Alaska or Hawaii 10 USC 2251.

"(a) IN GENERAL.—Subject to subsection (b), the Secretary of the military department concerned may—

"(1) purchase household furnishings and automobiles from members of the armed forces and civilian employees of the Department of Defense on duty outside the United States or in Hawaii for resale at cost to incoming personnel; and

"(2) provide household furnishings, without charge, in other than public quarters occupied by members of the armed forces or civilian employees of the Department of Defense who are on duty outside the United States or in Alaska or Hawaii.

"(b) REQUIRED DETERMINATION.—The authority provided in subsection (a) may be used only when it is determined, under regulations approved by the Secretary of Defense, that the use of that authority would be advantageous to the United States.

"§ 2252. Rewards: missing property 10 USC 2252.

"The Secretary of Defense and the Secretary of each military department may pay a reward of not more than $500 in any case for information leading to the discovery of missing property under the jurisdiction of that Secretary or leading to the recovery of such property.

"§ 2253. Motor vehicles 10 USC 2253.

"(a) GENERAL AUTHORITIES.—The Secretary of Defense and the Secretary of each military department may—

"(1) provide for insurance of official motor vehicles in a foreign country when the laws of such country require such insurance; and Insurance.

"(2) purchase right-hand drive vehicles at a cost of not more than $12,000 each.

"(b) HIRE OF PASSENGER VEHICLES.—Amounts appropriated to the Department of Defense for operation and maintenance of the active forces may be used for the hire of passenger motor vehicles.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are each amended by inserting after the item relating to chapter 133 the following new item:

"134. Miscellaneous Administrative Provisions ..... 2241".

(3)(A) Section 7209 of such title is repealed.

(B) The table of sections at the beginning of chapter 631 of such title is amended by striking out the item relating to section 7209.

(f) PROCUREMENT GENERALLY.—(1)(A) Section 2307 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e)(1) The Secretary of Defense shall ensure that any payment for work in progress (including materials, labor, and other items) under a defense contract that provides for such payments is commensurate with the work, which meets standards of quality established under the contract, that has been accomplished.

"(2) The Secretary shall ensure that progress payments referred to in paragraph (1) are not made for more than 80 percent of the work accomplished under a defense contract so long as the Secretary has not made the contractual terms, specifications, and price definite.

"(3) This subsection does not apply to contracts for amounts less than the maximum amount for small purchases specified in section 2304(g)(2) of this title.".

(B) Section 916 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 688) is repealed.

10 USC 2307 note.

(2)(A) Section 2324(e)(1) of such title (as amended by section 805 of Public Law 100-180) is amended by adding at the end the following new subparagraph:

Insurance.

"(L) Costs of commercial insurance that protects against the costs of the contractor for correction of the contractor's own defects in materials or workmanship.".

(B) Section 2399 of such title is repealed.

(3)(A) Section 2324 of such title is further amended—

(i) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively; and

(ii) by inserting after subsection (i) the following new subsection (j):

"(j) In a proceeding before the Armed Services Board of Contract Appeals, the United States Claims Court, or any other Federal court in which the reasonableness of indirect costs for which a contractor seeks reimbursement from the Department of Defense is in issue, the burden of proof shall be upon the contractor to establish that those costs are reasonable.".

(B) Section 933 of the Defense Procurement Improvement Act of 1985 (title IX of Public Law 99-145; 99 Stat. 700) is repealed.

10 USC 2324 note.

(g) RESEARCH AND DEVELOPMENT.—(1) Section 2361 of title 10, United States Code, is transferred within chapter 139 to appear immediately before section 2352, redesignated as section 2351, and amended—

(A) by inserting "(a)" before "Funds"; and

(B) by adding at the end the following new subsection:

"(b) Funds appropriated to the Department of Defense for research and development may be used—

"(1) for the purposes of section 2353 of this title; and

"(2) for purposes related to research and development for which expenditures are specifically authorized in other appropriations of the Department of Defense.".

(2) Section 8015 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1205)), is repealed.

10 USC 2353 note.

(3) Section 2358 of title 10, United States Code, is amended—

(A) by inserting "(a) IN GENERAL.—" before "Subject to approval" in the first sentence;

(B) by striking out "or his designee" both places it appears; and

(C) by adding at the end the following new subsection:

"(b) REQUIREMENT OF POTENTIAL MILITARY RELATIONSHIP.—Funds appropriated to the Department of Defense may not be used to finance any research project or study unless the project or study has, in the opinion of the Secretary of Defense, a potential relationship to a military function or operation.".

(4) The table of sections at the beginning of chapter 139 of title 10, United States Code, is amended—

(A) by inserting before the item relating to section 2352 the following new item:

"2351. Availability of appropriations.";

and

(B) by striking out the item relating to section 2361.

(5) Section 204 of Public Law 91-441 (10 U.S.C. 2358 note) is repealed.

(h) MISCELLANEOUS PROCUREMENT PROVISIONS.—(1)(A) Section 2389 of title 10, United States Code, is amended—

(i) by inserting "(a)" before "Under regulations"; and

(ii) by adding at the end the following new subsection:

"(b)(1) Funds appropriated to the Department of Defense may be used to purchase for enlisted members milk made available to the Department of Defense under section 202 of the Agricultural Act of 1949 (7 U.S.C. 1446a). Dairy products.

"(2) The cost of milk so purchased (as determined by the Secretary of Defense) shall be included in the value of the commuted ration of enlisted members.".

(B) The heading of such section is amended to read as follows:

"§ 2389. Contracts for the procurement of milk: price adjustments; purchases from the Commodity Credit Corporation".

(2) Chapter 141 of such title is amended by adding at the end the following new sections:

"§ 2410. Contract claims: certification 10 USC 2410.

"A contract claim, request for equitable adjustment to contract terms, request for relief under Public Law 85-804 (50 U.S.C. 1431 et seq.), or other similar request by a contractor that exceeds $100,000 may not be paid unless a senior official of the contractor in charge at the plant or location involved certifies at the time the claim or request is submitted that—

"(1) the claim or request is made in good faith; and

"(2) all supporting data submitted in connection with the claim or request are accurate and complete to the best of such official's knowledge and belief.

"§ 2410a. Appropriated funds: availability for certain contracts for 12 months 10 USC 2410a.

"Funds appropriated to the Department of Defense for a fiscal year shall be available for payments under contracts for any of the following purposes for 12 months beginning at any time during the fiscal year:

"(1) The maintenance of tools and facilities.

"(2) The lease of real or personal property, including the maintenance of such property when contracted for as part of the lease agreement. Real property.

"(3) Depot maintenance.".

(3) The table of sections at the beginning of such chapter is amended—

(A) by striking out the item relating to section 2389 and inserting in lieu thereof the following:

"2389. Contracts for the procurement of milk: price adjustments; purchases from the Commodity Credit Corporation.";

(B) by striking out the item relating to section 2399; and

(C) by adding at the end the following new items:

"2410. Contract claims: certification.

"2410a. Appropriated funds: availability for certain contracts for 12 months.".

(i) OVERSIGHT OF MAJOR PROGRAMS.—(1) Section 2435 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c) STABILITY OF PROGRAM MANAGERS.—(1) The tour of duty of an officer of the armed forces as a program manager of a major defense acquisition program shall be (A) not less than four years, or (B) until completion of a major program milestone (as defined in regulations prescribed by the Secretary of Defense).

"(2) The Secretary of the military department concerned may waive the length of the tour of duty prescribed in paragraph (1). The authority under the preceding sentence may not be delegated.".

(2) Section 1243 of the Defense Procurement Reform Act of 1984 (title XII of Public Law 98-525; 98 Stat. 2609) is repealed.

10 USC 2432 note.

(j) UTILITIES AND SERVICES.—(1) Chapter 147 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2490.

"§ 2490. Utility services: furnishing for certain buildings

"Appropriations for the Department of Defense may be used for utility services for—

"(1) buildings constructed at private cost, as authorized by law; and

"(2) buildings on military reservations authorized by regulation to be used for morale, welfare, and recreational purposes.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2490. Utility services: furnishing for certain buildings.".

(k) INTERDEPARTMENTAL TRANSFER OF VESSELS.—(1) Chapter 153 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2578.

"§ 2578. Vessels: transfer between departments

"A vessel under the jurisdiction of a military department may be transferred or otherwise made available without reimbursement to another military department or to the Department of Transportation, and a vessel under the jurisdiction of the Department of Transportation may be transferred or otherwise made available without reimbursement to a military department. Any such transfer may be made only upon the request of the Secretary of the military department concerned or the Secretary of Transportation, as the case may be, and with the approval of the Secretary of the department having jurisdiction of the vessel.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2578. Vessels: transfer between departments.".

(3) Section 8012 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (40 U.S.C 483a)), is repealed.

(l) REAL PROPERTY.—(1) Chapter 159 of title 10, United States Code, is amended by inserting after section 2672a the following new section:

"§ 2673. Acquisition of certain interests in land: availability of funds 10 USC 2673.

"Appropriations available to the Department of Defense for maintenance or construction may be used for the acquisition of land or interests in land under section 2672 of this title and for the acquisition of interests in land under section 2675 of this title.".

(2) Section 2828 of such title is amended by adding at the end the following new subsection:

"(h) Appropriations available to the Department of Defense for maintenance or construction may be used for the acquisition of interests in land under this section.".

(3) Chapter 159 of such title is further amended by inserting after the table of sections the following new section:

"§ 2661. Miscellaneous administrative provisions relating to real property 10 USC 2661.

"(a) Appropriations for operation and maintenance of the active forces shall be available for the following:

"(1) The repair of facilities.

"(2) The installation of equipment in public and private plants.

"(b) The Secretary of Defense and the Secretary of each military department may provide for the following:

"(1) The leasing of buildings and facilities (including the payment of rentals for special purpose space at the seat of Government). Rental for such leases may be paid in advance in connection with— Contracts.

"(A) the conduct of field exercises and maneuvers; and

"(B) the administration of the Act of July 9, 1942 (43 U.S.C. 315q).

"(2) The maintenance of defense access roads which are certified to the Secretary of Transportation as important to the national defense under the provisions of section 210 of title 23.". Highways.

(4) The table of sections at the beginning of such chapter is amended—

(A) by inserting before the item relating to section 2662 the following new item:

"2661. Miscellaneous administrative provisions relating to real property.";

and

(B) by inserting after the item relating to section 2672a the following new item:

"2673. Acquisition of certain interests in land: availability of funds.".

(m) ACCOUNTABILITY AND RESPONSIBILITY.—(1) Chapter 165 of title 10, United States Code, is amended by adding at the end the following new section:

10 USC 2781.

"§ 2781. Availability of appropriations: exchange fees; losses in accounts

"Amounts appropriated to the Department of Defense may be used for—

"(1) exchange fees; and

"(2) losses in the accounts of disbursing officials and agents in accordance with law.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2781. Availability of appropriations: exchange fees; losses in accounts.".

(n) SHIP OVERHAUL WORK.—(1) Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

Contracts.
10 USC 7313.

"§ 7313. Ship overhaul work: availability of appropriations for unusual cost overruns and for changes in scope of work

"(a) UNUSUAL COST OVERRUNS.—(1) Appropriations available to the Department of Defense for a fiscal year may be used for payment of unusual cost overruns incident to ship overhaul, maintenance, and repair for a vessel inducted into an industrial-fund activity or contracted for during a prior fiscal year.

"(2) The Secretary of Defense shall notify Congress promptly before an obligation is incurred for any payment under paragraph (1).

"(b) CHANGES IN SCOPE OF WORK.—An appropriation available to the Department of Defense for a fiscal year may be used after the otherwise-applicable expiration of the availability for obligation of that appropriation—

"(1) for payments to an industrial-fund activity for amounts required because of changes in the scope of work for ship overhaul, maintenance, and repair, in the case of work inducted into the industrial-fund activity during the fiscal year; and

"(2) for payments under a contract for amounts required because of changes in the scope of work, in the case of a contract entered into during the fiscal year for ship overhaul, maintenance, and repair.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7313. Ship overhaul work: availability of appropriations for unusual cost overruns and for changes in scope of work.".

(o) ANNUAL REPORT ON STATIONING FORCES OVERSEAS.—(1) Section 113 of title 10, United States Code (as amended by section 1214 of Public Law 100-180), is amended by adding at the end the following new subsection:

"(k)(1) Not later than April 8 of each year, the Secretary of Defense shall submit to the Committees on Armed Services and Committees on Appropriations of the Senate and House of Representatives a report on the cost of stationing United States forces outside of the United States. Each such report shall include a detailed statement of the following:

"(A) Costs incurred in the United States and costs incurred outside the United States in connection with the stationing of United States forces outside the United States.

"(B) The costs incurred outside the United States in connection with operating, maintaining, and supporting United States

forces outside the United States, including all direct and indirect expenditures of United States funds in connection with such stationing.

"(C) The effect of such expenditures outside the United States on the balance of payments of the United States.

"(2) Each report under this subsection shall be prepared in consultation with the Secretary of Commerce.

"(3) In this subsection, the term 'United States', when used in a geographic sense, includes the territories and possessions of the United States.".

(2) Section 8042 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202 (101 Stat. 1329-69)), is repealed. 10 USC 113 note.

(p) GENERAL REPEALS.—The following provisions of law are repealed:

(1) Sections 705, 707, 723, 728, and 735 of the Department of Defense Appropriation Act, 1984 (Public Law 98-212; 97 Stat. 1437 et seq.). 10 USC 114 note.

(2) Section 8078 of the Department of Defense Appropriations Act, 1985 (as contained in section 101(h) of Public Law 98-473 (98 Stat. 1938)). 10 USC 2304 note.

(3) Sections 8005 and 8006 of the Department of Defense Appropriations Act, 1986 (as contained in section 101(b) of Public Law 99-190 (99 Stat. 1185)). 10 USC 114 note.

(4) Section 813 of the Department of Defense Appropriation Authorization Act, 1979 (Public Law 95-485; 92 Stat. 1624). 10 USC 2304 note.

SEC. 2. CODIFICATION OF LAWS RELATING TO CONTRACTING FOR PERFORMANCE OF CIVILIAN FUNCTIONS.

(a) CONSOLIDATION AND CODIFICATION.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 145 the following new chapter:

"CHAPTER 146—CONTRACTING FOR PERFORMANCE OF CIVILIAN COMMERCIAL OR INDUSTRIAL TYPE FUNCTIONS

"Sec.
"2461. Commercial or industrial type functions: required studies and reports before conversion to contractor performance.
"2462. Contracting for certain supplies and services required when cost is lower.
"2463. Reports on savings or costs from increased use of DOD civilian personnel.
"2464. Core logistics functions.
"2465. Prohibition on contracts for performance of firefighting or security-guard functions.

"§ 2461. Commercial or industrial type functions: required studies and reports before conversion to contractor performance 10 USC 2461.

"(a) REQUIRED NOTICE TO CONGRESS.—A commercial or industrial type function of the Department of Defense that on October 1, 1980, was being performed by Department of Defense civilian employees may not be converted to performance by a private contractor unless the Secretary of Defense provides to Congress in a timely manner—

"(1) notification of any decision to study such function for possible performance by a private contractor;

"(2) a detailed summary of a comparison of the cost of performance of such function by Department of Defense civilian employees and by private contractor which demonstrates that

the performance of such function by a private contractor will result in a cost savings to the Government over the life of the contract and a certification that the entire cost comparison is available;

"(3) a certification that the Government calculation for the cost of performance of such function by Department of Defense civilian employees is based on an estimate of the most efficient and cost effective organization for performance of such function by Department of Defense civilian employees; and

"(4) a report, to be submitted with the certification required by paragraph (3), showing—

"(A) the potential economic effect on employees affected, and the potential economic effect on the local community and Federal Government if more than 75 employees are involved, of contracting for performance of such function;

"(B) the effect of contracting for performance of such function on the military mission of such function; and

"(C) the amount of the bid accepted for the performance of such function by the private contractor whose bid is accepted and the cost of performance of such function by Department of Defense civilian employees, together with costs and expenditures which the Government will incur because of the contract.

"(b) CONGRESSIONAL NOTIFICATION OF DECISION TO CONVERT.—If, after completion of the studies required for completion of the certification and report required by paragraphs (3) and (4) of subsection (a), a decision is made to convert the function to contractor performance, the Secretary of Defense shall notify Congress of such decision.

"(c) ANNUAL REPORTS.—Not later than February 1 of each fiscal year, the Secretary of Defense shall submit to Congress a written report describing the extent to which commercial and industrial type functions were performed by Department of Defense contractors during the preceding fiscal year. The Secretary shall include in each such report an estimate of the percentage of commercial and industrial type functions of the Department of Defense that will be performed by Department of Defense civilian employees, and the percentage of such functions that will be performed by private contractors, during the fiscal year during which the report is submitted.

"(d) WAIVER FOR SMALL FUNCTIONS.—Subsections (a) through (c) shall not apply to a commercial or industrial type function of the Department of Defense that is being performed by 45 or fewer Department of Defense civilian employees.

"(e) ADDITIONAL LIMITATIONS.—(1) A commercial or industrial type function of the Department of Defense that on October 1, 1980, was being performed by Department of Defense civilian employees may not be converted to performance by a private contractor to circumvent a civilian personnel ceiling.

"(2) In no case may a commercial or industrial type function being performed by Department of Defense personnel be modified, reorganized, divided, or in any way changed for the purpose of exempting from the requirements of subsection (a) the conversion of all or any part of such function to performance by a private contractor.

"(f) INAPPLICABILITY DURING WAR OR EMERGENCY.—The provisions of this section shall not apply during war or during a period of national emergency declared by the President or Congress.

"§ 2462. Contracting for certain supplies and services required when cost is lower 10 USC 2462.

"(a) IN GENERAL.—Except as otherwise provided by law, the Secretary of Defense shall procure each supply or service necessary for or beneficial to the accomplishment of the authorized functions of the Department of Defense (other than functions which the Secretary of Defense determines must be performed by military or Government personnel) from a source in the private sector if such a source can provide such supply or service to the Department at a cost that is lower (after including any cost differential required by law, Executive order, or regulation) than the cost at which the Department can provide the same supply or service.

"(b) REALISTIC AND FAIR COST COMPARISONS.—For the purpose of determining whether to contract with a source in the private sector for the performance of a Department of Defense function on the basis of a comparison of the costs of procuring supplies or services from such a source with the costs of providing the same supplies or services by the Department of Defense, the Secretary of Defense shall ensure that all costs considered (including the costs of quality assurance, technical monitoring of the performance of such function, liability insurance, employee retirement and disability benefits, and all other overhead costs) are realistic and fair.

"§ 2463. Reports on savings or costs from increased use of DOD civilian personnel 10 USC 2463.

"(a) IN GENERAL.—Whenever during a fiscal year to which this section applies the performance of a commercial or industrial type activity of the Department of Defense that is being performed by 50 or more employees of a private contractor is changed to performance by civilian employees of the Department of Defense, the Secretary of Defense shall maintain data in which a comparison is made of the estimated costs of (1) continued performance of such activity by private contractor employees, and (2) performance of such activity by civilian employees of the Department of Defense. Records.

"(b) SEMIANNUAL REPORT ON COSTS AND SAVINGS.—As soon as practicable after the end of the first six months, and after the end of the second six months, of a fiscal year to which this section applies, the Secretary of Defense shall submit to the Committees on Armed Services and the Committee on Appropriations of the Senate and House of Representatives a report showing the estimated savings or loss to the United States, during the preceding six-month period, that is reflected in the data maintained under subsection (a).

"(c) APPLICABILITY OF SECTION.—This section applies only with respect to a fiscal year during which there is no statutory limit (commonly known as an 'end strength') on the number of civilian employees that may be employed by the Department of Defense as of the last day of that fiscal year.

"§ 2464. Core logistics functions 10 USC 2464.

"(a) NECESSITY FOR CORE LOGISTICS CAPABILITY.—(1) It is essential for the national defense that Department of Defense activities maintain a logistics capability (including personnel, equipment, and facilities) to ensure a ready and controlled source of technical competence and resources necessary to ensure effective and timely response to a mobilization, national defense contingency situations, and other emergency requirements.

"(2) The Secretary of Defense shall identify those logistics activities that are necessary to maintain the logistics capability described in paragraph (1).

"(b) LIMITATION ON CONTRACTING.—(1) Except as provided in paragraph (2), performance of a logistics activity identified by the Secretary under subsection (a)(2), and performance of a function of the Department of Defense described in section 1231(b) of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 731), may not be contracted for performance by non-Government personnel under the procedures and requirements of Office of Management and Budget Circular A-76 or any successor administrative regulation or policy (hereinafter in this section referred to as OMB Circular A-76).

"(2) The Secretary of Defense may waive paragraph (1) in the case of any such logistics activity or function and provide that performance of such activity or function shall be considered for conversion to contractor performance in accordance with OMB Circular A-76. Any such waiver shall be made under regulations prescribed by the Secretary and shall be based on a determination by the Secretary that Government performance of the activity or function is no longer required for national defense reasons. Such regulations shall include criteria for determining whether Government performance of any such activity or function is no longer required for national defense reasons.

Regulations.

"(3) A waiver under paragraph (2) may not take effect until—

Reports.

"(A) the Secretary submits a report on the waiver to the Committees on Armed Services and the Committee on Appropriations of the Senate and House of Representatives; and

"(B) a period of 20 days of continuous session of Congress or 40 calendar days has passed after the receipt of the report by those committees.

"(4) For purposes of paragraph (3)(B), the continuity of a session of Congress is broken only by an adjournment sine die, and the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of such 20-day period.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are amended by inserting after the item relating to chapter 145 the following new item:

"146. Contracting for Performance of Civilian Commercial or Industrial Type Functions ..... 2461".

(b) TRANSFER OF SECTION.—(1) Section 2693 of title 10, United States Code, is transferred to the end of chapter 146 of such title (as added by subsection (a)) and is redesignated as section 2465.

(2) The table of sections at the beginning of chapter 159 of such title is amended by striking out the item relating to section 2693.

(c) CONFORMING REPEALS.—The following provisions of laws are repealed:

(1) Section 502 of the Department of Defense Authorization Act, 1981 (10 U.S.C. 2304 note).

(2) Section 307 of the Department of Defense Authorization Act, 1985 (10 U.S.C. 2304 note).

(3) Sections 1223 and 1224 of the Department of Defense Authorization Act, 1987 (10 U.S.C. 2304 note).

SEC. 3. CODIFICATION OF DEFENSE-RELATED BUY AMERICAN LAWS.

(a) CONSOLIDATION AND CODIFICATION.—(1) Part IV of subtitle A of title 10, United States Code, is amended by inserting after chapter 147 the following new chapter:

"CHAPTER 148—BUY AMERICAN REQUIREMENTS

"Sec.
"2501. Limitation on use of funds: procurement of goods which are other than American goods.
"2502. Miscellaneous procurement limitations.

"§ 2501. Limitation on use of funds: procurement of goods which are other than American goods

10 USC 2501.

"(a) Funds appropriated to the Department of Defense may not be obligated under a contract for procurement of goods which are other than American goods (as defined in subsection (c)) unless adequate consideration is given to the following:

"(1) The bids or proposals of firms located in labor surplus areas in the United States (as designated by the Department of Labor) which have offered to furnish American goods.

"(2) The bids or proposals of small business firms in the United States which have offered to furnish American goods.

"(3) The bids or proposals of all other firms in the United States which have offered to furnish American goods.

"(4) The United States balance of payments.

"(5) The cost of shipping goods which are other than American goods.

"(6) Any duty, tariff, or surcharge which may enter into the cost of using goods which are other than American goods.

"(b) Consideration of the matters referred to in paragraphs (1) through (6) of subsection (a) shall be given under regulations of the Secretary of Defense and subject to the determinations and exceptions contained in title III of the Act of March 3, 1933 (41 U.S.C. 10a, 10b), popularly known as the 'Buy American Act'.

"(c) In this section, the term 'goods which are other than American goods' means—

"(1) an end product that is not mined, produced, or manufactured in the United States; or

"(2) an end product that is manufactured in the United States but which includes components mined, produced, or manufactured outside the United States the aggregate cost of which exceeds the aggregate cost of the components of such end product that are mined, produced, or manufactured in the United States.".

(2) The tables of chapters at the beginning of subtitle A, and at the beginning of part IV of subtitle A, of such title are amended by inserting after the item relating to chapter 147 the following new item:

"148. Buy American Requirements ..... 2501".

(b) TRANSFER OF SECTION.—(1) Section 2400 of such title is transferred to the end of chapter 148 of such title (as added by subsection (a)), redesignated as section 2502, and amended in the second sentence of subsection (a) by striking out "this section" and inserting in lieu thereof "this subsection".

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking out the item relating to section 2400.

(c) CONFORMING REPEAL.—Section 707 of the Department of Defense Appropriation Authorization Act, 1975 (Public Law 93-365; 10 U.S.C. 2301 note), is repealed.

10 USC 101 note.

SEC. 4. LEGISLATIVE CONSTRUCTION.

(a) REFERENCES TO REPLACED LAWS.—A reference to a law replaced by the provisions of title 10, United States Code, enacted by this Act (including a reference in a regulation, order, or other law) shall be treated as referring to the corresponding provision enacted by this Act.

(b) SAVINGS PROVISION FOR REGULATIONS.—A regulation, rule, or order in effect under a law replaced by the provisions of title 10, United States Code, enacted by this Act shall continue in effect under the corresponding provision enacted by this Act until repealed, amended, or superseded.

(c) GENERAL SAVINGS PROVISION.—An action taken or an offense committed under a law replaced by the provisions of title 10, United States Code, enacted by this Act shall be treated as having been taken or committed under the corresponding provision enacted by this Act.

Approved July 19, 1988.

LEGISLATIVE HISTORY—H.R. 4229:

HOUSE REPORTS: No. 100-696 (Comm. on Armed Services).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
July 6, considered and passed Senate.

Public Law 100-371
100th Congress

An Act

Making appropriations for energy and water development for the fiscal year ending September 30, 1989, and for other purposes.

July 19, 1988
[H.R. 4567]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for energy and water development, and for other purposes, namely:

Energy and Water Development Appropriations Act, 1989.

TITLE I

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

The following appropriations shall be expended under the direction of the Secretary of the Army and the supervision of the Chief of Engineers for authorized civil functions of the Department of the Army pertaining to rivers and harbors, flood control, beach erosion, and related purposes.

GENERAL INVESTIGATIONS

For expenses necessary for the collection and study of basic information pertaining to river and harbor, flood control, shore protection, and related projects, restudy of authorized projects, miscellaneous investigations, and when authorized by laws, surveys and detailed studies and plans and specifications of projects prior to construction, $142,405,000, to remain available until expended: *Provided,* That $300,000 of funds appropriated in this bill for section 22 planning assistance to the States shall be used to assist the State of Nebraska in seeking solutions to water problems, including investigating and resolving problems of streambank erosion and environmental concerns along the Platte and Missouri Rivers: *Provided further,* That $100,000 of funds appropriated in this bill shall be used by the Army Corps of Engineers to prepare plans and specifications to complete preconstruction activities of the Platte River bank stabilization demonstration project for a 46-mile reach of the Platte River between Hershey, Nebraska, and the boundary between Lincoln and Dawson Counties, Nebraska: *Provided further,* That not to exceed $20,500,000 shall be available for obligation or research and development activities.

The Secretary of the Army is directed to proceed expeditiously with the study of the project authorized as a demonstration project at Sunset Harbor, California, and submit his report to the Committee on Public Works and Transportation of the House of Representa- Reports.

tives and the Committee on Environment and Public Works of the Senate.

The Secretary of the Army is directed to complete the Arkansas River and Tributaries, South Central and Southeast Areas of Oklahoma, Comprehensive Study and the Oklahoma portion of the Red River Basin, Oklahoma, Arkansas, Louisiana, and Texas, Comprehensive Study being conducted by the Tulsa District by March 31, 1989, and to include in the final report data on the economic factors that affect the feasibility of each project, indicating on a sliding scale what levels of each economic factor could make each project feasible at a future date. The economic impact plans associated with the above studies shall be conducted without the requirement of meeting the completion date specified above.

CONSTRUCTION, GENERAL

For the prosecution of river and harbor, flood control, shore protection, and related projects authorized by laws; and detailed studies, and plans and specifications, of projects (including those for development with participation or under consideration for participation by States, local governments, or private groups) authorized or made eligible for selection by law (but such studies shall not constitute a commitment of the Government to construction), $1,066,735,000, of which such sums as are necessary pursuant to Public Law 99-662 shall be derived from the Inland Waterways Trust Fund, to remain available until expended: *Provided,* That no fully allocated funding policy shall apply and that all structural portions shall conform to the Standard Project Flood level with respect to the construction of Barbourville, Kentucky, and Harlan, Kentucky (Levisa/Tug Forks of Big Sandy River and Upper Cumberland River, West Virginia, Virginia, and Kentucky): *Provided further,* That $500,000 of the total sum herein appropriated for the Big South Fork National River and Recreation Area, Kentucky and Tennessee, shall be allocated to the construction of infrastructure, including, but not limited to, road and sewer development, associated with the Bear Creek, Kentucky, portion of the project, such funds to remain available until expended: *Provided further,* That $200,000 of the funds appropriated in this bill shall be to carry out the provisions of section 847(b) of Public Law 99-662: *Provided further,* That the Secretary of the Army acting through the Chief of Engineers is directed to use, immediately upon enactment of this Act $8,700,000 previously appropriated in Public Law 100-202, and $9,600,000 of the total sum appropriated for design, testing, and construction in fiscal year 1989 of juvenile fish passage facilities at the Little Goose, Lower Granite, McNary, Lower Monumental, Ice Harbor, and The Dalles projects on the Columbia and Snake Rivers as directed in the report accompanying this Act; and in addition, $118,000,000, to remain available until expended, is hereby appropriated for construction of the Red River Waterway, Mississippi River to Shreveport, Louisiana, project and for compliance with the directions given to the Secretary of the Army in the fiscal year 1988 Energy and Water Development Act, Public Law 100-202, regarding the construction of this project, and the Secretary is directed to continue the design of locks and dams 4 and 5 on the accelerated schedule in fiscal year 1989 in order to initiate the first phase of construction of locks and dams 4 and 5 by April 1990, and with funds provided in this title or previously appropriated to the Corps of

Engineers, the Secretary further is directed to fund previously awarded and directed construction contracts and to award continuing contracts in fiscal year 1989 for construction and completion of each of the following features of the Red River Waterway: in pool 3, Fausse Revetment Downstream Extension; and in pool 4, Westdale Realignment, Hammell Revetment, Bull Revetment, and Williams Revetment Downstream Extension. None of these contracts are to be considered fully funded.

FLOOD CONTROL, MISSISSIPPI RIVER AND TRIBUTARIES, ARKANSAS, ILLINOIS, KENTUCKY, LOUISIANA, MISSISSIPPI, MISSOURI, AND TENNESSEE

For expenses necessary for prosecuting work of flood control, and rescue work, repair, restoration, or maintenance of flood control projects threatened or destroyed by flood, as authorized by law (33 U.S.C. 702a, 702g-1), $337,980,000, to remain available until expended: *Provided,* That not less than $250,000 shall be available for bank stabilization measures as determined by the Chief of Engineers to be advisable for the control of bank erosion of streams in the Yazoo Basin, including the foothill area, and where necessary such measures shall complement similar works planned and constructed by the Soil Conservation Service and be limited to the areas of responsibility mutually agreeable to the District Engineer and the State Conservationist.

OPERATION AND MAINTENANCE, GENERAL

For expenses necessary for the preservation, operation, maintenance, and care of existing river and harbor, flood control, and related works, including such sums as may be necessary for the maintenance of harbor channels provided by a State, municipality or other public agency, outside of harbor lines, and serving essential needs of general commerce and navigation; surveys and charting of northern and northwestern lakes and connecting waters; clearing and straightening channels; and removal of obstructions to navigation, $1,370,714,000, to remain available until expended, of which such sums as become available in the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662, may be derived from that fund, and of which $15,000,000 shall be for construction, operation, and maintenance of outdoor recreation facilities, to be derived from the special account established by the Land and Water Conservation Act of 1965, as amended (16 U.S.C. 460l): *Provided,* That $200,000 of funds appropriated in this bill shall be used by the Army Corps of Engineers for operation and maintenance of existing structures and facilities of the Missouri National Recreation River, Nebraska and South Dakota: *Provided further,* That the Secretary of the Army, acting through the Chief of Engineers, shall allow an entity of the State of Oklahoma that is responsible for the development of the water and natural resources of the Arkansas River and Red River basins in southeast Oklahoma to operate and occupy, at no expense to such entity of the State, the Visitors Center at Crowder Point on Lake Eufaula, Oklahoma: *Provided further,* That the State of Oklahoma signs a cost sharing agreement for the construction of the Visitors Center according to the cost sharing provisions of Public Law 99-662: *Provided further,* That not to exceed $8,000,000 shall be available for obligation for national emergency preparedness pro-

grams: *Provided further,* That of the funds appropriated under this heading, $500,000 shall be available only for providing low water access to Lake Koocanusa, Montana, as the Secretary of the Army determines is necessary to alleviate low water impact on existing access facilities at the Libby Dam Project administered by the Forest Service of the Department of Agriculture: *Provided further,* That funds unused for the project described in the preceding proviso shall be transferred to the Department of Agriculture for purposes of carrying out maintenance and the Department's other responsibilities with respect to that project.

GENERAL REGULATORY FUNCTIONS

For expenses necessary for administration of laws pertaining to regulation of navigable waters and wetlands, $60,427,000, to remain available until expended.

FLOOD CONTROL AND COASTAL EMERGENCIES

For expenses necessary for emergency flood control, hurricane, and shore protection activities, as authorized by section 5 of the Flood Control Act, approved August 18, 1941, as amended, $20,000,000, to remain available until expended.

GENERAL EXPENSES

For expenses necessary for general administration and related functions in the office of the Chief of Engineers and offices of the Division Engineers; activities of the Board of Engineers for Rivers and Harbors, the Coastal Engineering Research Board, the Engineer Automation Support Activity, and the Water Resources Support Center, $120,000,000, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations in this title shall be available for expenses of attendance by military personnel at meetings in the manner authorized by section 4110 of title 5, United States Code, uniforms, and allowances therefor, as authorized by law (5 U.S.C. 5901–5902), and for printing, either during a recess or session of Congress, of survey reports authorized by law, and such survey reports as may be printed during a recess of Congress shall be printed, with illustrations, as documents of the next succeeding session of Congress; and during the current fiscal year the revolving fund, Corps of Engineers, shall be available for purchase (not to exceed 200 for replacement only) and hire of passenger motor vehicles.

TITLE II

DEPARTMENT OF THE INTERIOR

BUREAU OF RECLAMATION

For carrying out the functions of the Bureau of Reclamation as provided in the Federal reclamation laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) and other Acts applicable to that Bureau as follows:

For engineering and economic investigations of proposed Federal reclamation projects and studies of water conservation and development plans and activities preliminary to the reconstruction, rehabilitation and betterment, financial adjustment, or extension of existing projects, to remain available until expended, $14,250,000: *Provided,* That, of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That all costs of an advance planning study of a proposed project shall be considered to be construction costs and to be reimbursable in accordance with the allocation of construction costs if the project is authorized for construction: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such amounts shall remain available until expended: *Provided further,* That $800,000 of funds herein appropriated shall be used for advanced planning for the Prairie Bend Project, Nebraska: *Provided further,* That $175,000 of funds herein appropriated shall be for the South Platte Frenchman Valley Project study.

CONSTRUCTION PROGRAM

(INCLUDING TRANSFER OF FUNDS)

For construction and rehabilitation of projects and parts thereof (including power transmission facilities for Bureau of Reclamation use) and for other related activities as authorized by law, to remain available until expended $712,305,000, of which $174,005,000 shall be available for transfers to the Upper Colorado River Basin Fund authorized by section 5 of the Act of April 11, 1956 (43 U.S.C. 620d), and $180,389,000 shall be available for transfers to the Lower Colorado River Basin Development Fund authorized by section 403 of the Act of September 30, 1968 (43 U.S.C. 1543), and such amounts as may be necessary shall be considered as though advanced to the Colorado River Dam Fund for the Boulder Canyon Project as authorized by the Act of December 21, 1928, as amended: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That transfers to the Upper Colorado River Basin Fund and Lower Colorado River Basin Development Fund may be increased or decreased by transfers within the overall appropriation under this heading: *Provided further,* That funds contributed by non-Federal entities for purposes similar to this appropriation shall be available for expenditure for the purposes for which contributed as though specifically appropriated for said purposes, and such funds shall remain available until expended: *Provided further,* That the final point of discharge for the interceptor drain for the San Luis Unit shall not be determined until development by the Secretary of the Interior and the State of California of a plan, which shall conform with the water quality standards of the State of California as approved by the Administrator of the Environmental Protection Agency, to minimize any detrimental effect of the San Luis drainage waters: *Provided further,* That no part of the funds herein approved shall be available for construction or oper-

ation of facilities to prevent waters of Lake Powell from entering any national monument: *Provided further,* That of the amount herein appropriated, such amounts as may be necessary shall be available to enable the Secretary of the Interior to continue work on rehabilitating the Velarde Community Ditch Project, New Mexico, in accordance with the Federal Reclamation Laws (Act of June 17, 1902, 32 Stat. 388, and Acts amendatory thereof or supplementary thereto) for the purposes of diverting and conveying water to irrigated project lands. The cost of the rehabilitation will be nonreimbursable and constructed features will be turned over to the appropriate entity for operation and maintenance: *Provided further,* That the funds contained in this Act for the Garrison Diversion Unit, North Dakota, shall be expended only in accordance with the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294): *Provided further,* That none of the funds appropriated in this Act shall be used to study or construct the Cliff Dam feature of the Central Arizona Project: *Provided further,* That Plan 6 features of the Central Arizona Project other than Cliff Dam, including (1) water rights and associated lands within the State of Arizona acquired by the Secretary of the Interior through purchase, lease, or exchange, for municipal and industrial purposes, not to exceed 30,000 acre feet; and, (2) such increments of flood control that may be found to be feasible by the Secretary of the Interior at Horseshoe and Bartlett Dams, in consultation and cooperation with the Secretary of the Army and using Corps of Engineers evaluation criteria, developed in conjunction with dam safety modifications and consistent with applicable environmental law, are hereby deemed to constitute a suitable alternative to Orme Dam within the meaning of the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.): *Provided further,* That notwithstanding the provisions of the Garrison Diversion Unit Reformulation Act of 1986 (Public Law 99-294), the James River Comprehensive Report on water resource development proposals may be submitted to Congress at a date after September 30, 1988, but not later than September 30, 1989: *Provided further,* That of the amount appropriated herein, $10,000,000 shall be available for right of way acquisition and construction of the Davis Creek Dam, North Loup Division, Nebraska (authorized by Public Law 92-514), and for preconstruction work on related facilities such as the Fullerton and Elbe canals and laterals and the Kent Diversion Dam, together with $1,000,000 appropriated in Public Law 100-202 but not allocated for the Davis Creek Dam, which shall be in addition to the amount requested by the Secretary of the Interior for continuing work on the North Loup Division, which funds shall remain available until expended, together with funds heretofore or hereafter appropriated, and with which the Secretary of the Interior is directed to award contracts for construction and completion of the Davis Creek Dam and related facilities: *Provided further,* That $2,000,000 of funds appropriated in this bill shall be available for reconstruction and rehabilitation of failing dikes of the Glendo Reservoir, North Platte Project, Nebraska and Wyoming, to restore area flood protection.

OPERATION AND MAINTENANCE

(INCLUDING TRANSFER OF FUNDS)

For operation and maintenance of reclamation projects or parts thereof and other facilities, as authorized by law; and for a soil and moisture conservation program on lands under the jurisdiction of the Bureau of Reclamation, pursuant to law, to remain available until expended, $187,731,000: *Provided,* That of the total appropriated, the amount for program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That of the total appropriated, such amounts as may be required for replacement work on the Boulder Canyon Project which would require readvances to the Colorado River Dam Fund shall be readvanced to the Colorado River Dam Fund pursuant to section 5 of the Boulder Canyon Project Adjustment Act of July 19, 1940 (43 U.S.C. 618d), and such readvances since October 1, 1984, and in the future shall bear interest at the rate determined pursuant to section 104(a)(5) of Public Law 98-381: *Provided further,* That funds advanced by water users for operation and maintenance of reclamation projects or parts thereof shall be deposited to the credit of this appropriation and may be expended for the same objects and in the same manner as sums appropriated herein may be expended, and such advances shall remain available until expended: *Provided further,* That revenues in the Upper Colorado River Basin Fund shall be available for performing examination of existing structures on participating projects of the Colorado River Storage Project, the costs of which shall be nonreimbursable: *Provided further,* That none of the funds appropriated in this Act shall be used to execute new long-term contracts for water supply from the Central Valley project, California, prior to May 1, 1989.

43 USC 618d note.

LOAN PROGRAM

For loans to irrigation districts and other public agencies for construction of distribution systems on authorized Federal reclamation projects, and for loans and grants to non-Federal agencies for construction of projects, as authorized by the Acts of July 4, 1955, as amended (43 U.S.C. 421a–421d), and August 6, 1956, as amended (43 U.S.C. 422a–422l), including expenses necessary for carrying out the program, $26,022,000, to remain available until expended: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the reclamation fund shall be derived from that fund: *Provided further,* That during fiscal year 1989 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $27,766,000: *Provided further,* That any contract under the Act of July 4, 1955 (69 Stat. 244), as amended, not yet executed by the Secretary, which calls for the making of loans beyond the fiscal year in which the contract is entered into shall be made only on the same conditions as those prescribed in section 12 of the Act of August 4, 1939 (53 Stat. 1187, 1197).

GENERAL ADMINISTRATIVE EXPENSES

For necessary expenses of general administration and related functions in the office of the Commissioner, the Denver office, and

offices in the five regions of the Bureau of Reclamation, $48,313,000, of which $1,639,000 shall remain available until expended, the total amount to be derived from the reclamation fund and to be nonreimbursable pursuant to the Act of April 19, 1945 (43 U.S.C. 377): *Provided,* That no part of any other appropriation in this Act shall be available for activities or functions budgeted for the current fiscal year as general administrative expenses.

EMERGENCY FUND

For an additional amount for the "Emergency fund", as authorized by the Act of June 26, 1948 (43 U.S.C. 502), as amended, to remain available until expended for the purposes specified in said Act, $1,000,000, to be derived from the reclamation fund.

WORKING CAPITAL FUND

For acquisition of computer capacity for the Administrative Systems Modernization project, $4,000,000, to remain available until expended, as authorized in section 1472 of title 43, United States Code (99 Stat. 571).

SPECIAL FUNDS

(TRANSFER OF FUNDS)

Sums herein referred to as being derived from the reclamation fund are appropriated from the special funds in the Treasury created by the Act of June 17, 1902 (43 U.S.C. 391). Such sums shall be transferred, upon request of the Secretary, to be merged with and expended under the heads herein specified; and the unexpended balances of sums transferred for expenditure under the head "General Administrative Expenses" shall revert and be credited to the reclamation fund.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Reclamation shall be available for purchase of not to exceed 26 passenger motor vehicles for replacement only; payment of claims for damages to or loss of property, personal injury, or death arising out of activities of the Bureau of Reclamation; payment, except as otherwise provided for, of compensation and expenses of persons on the rolls of the Bureau of Reclamation appointed as authorized by law to represent the United States in the negotiations and administration of interstate compacts without reimbursement or return under the reclamation laws; for service as authorized by section 3109 of title 5, United States Code, in total not to exceed $500,000; rewards for information or evidence concerning violations of law involving property under the jurisdiction of the Bureau of Reclamation; performance of the functions specified under the head "Operation and Maintenance Administration", Bureau of Reclamation, in the Interior Department Appropriations Act 1945; preparation and dissemination of useful information including recordings, photographs, and photographic prints; and studies of recreational uses of reservoir areas, and investigation and recovery of archeological and paleontological remains in such areas in the same manner as provided for in the Acts of August 21, 1935 (16 U.S.C. 461–467) and June 27, 1960 (16 U.S.C. 469): *Provided,* That no part of any appropriation made

herein shall be available pursuant to the Act of April 19, 1945 (43 U.S.C. 377), for expenses other than those incurred on behalf of specific reclamation projects except "General Administrative Expenses", amounts provided for plan formulation and advance planning investigations under the head "General Investigations", and amounts provided for applied engineering under the head "Construction Program".

Sums appropriated herein which are expended in the performance of reimbursable functions of the Bureau of Reclamation shall be returnable to the extent and in the manner provided by law.

No part of any appropriation for the Bureau of Reclamation, contained in this Act or in any prior Act, which represents amounts earned under the terms of a contract but remaining unpaid, shall be obligated for any other purpose, regardless of when such amounts are to be paid: *Provided*, That the incurring of any obligation prohibited by this paragraph shall be deemed a violation of section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341).

No funds appropriated to the Bureau of Reclamation for operation and maintenance, except those derived from advances by water users, shall be used for the particular benefits of lands (a) within the boundaries of an irrigation district, (b) of any member of a water users' organization, or (c) of any individual when such district, organization, or individual is in arrears for more than twelve months in the payment of charges due under a contract entered into with the United States pursuant to laws administered by the Bureau of Reclamation. 43 USC 377a.

None of the funds made available by this or any other Act shall be used by the Bureau of Reclamation for contracts for surveying and mapping services unless such contracts for which a solicitation is issued after the date of this Act are awarded in accordance with title IX of the Federal Property and Administrative Service Act of 1949 (40 U.S.C. 541 et seq.).

GENERAL PROVISIONS

DEPARTMENT OF THE INTERIOR

SEC. 201. Appropriations in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided*, That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted.

SEC. 202. The Secretary may authorize the expenditure or transfer (within each bureau or office) of any appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under jurisdiction of the Department of the Interior.

SEC. 203. Appropriations in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency, or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by the Act of

June 30, 1932 (31 U.S.C. 1535 and 1536): *Provided,* That reimbursements for costs of supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 204. Appropriations in this title shall be available for hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchases of reprints; payment for telephone services in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members.

SEC. 205. Of the appropriations for the Central Utah project, in this or any other Act, not more than $17,000,000 of the total in any one fiscal year may be expended by the Secretary for all administrative expenses; except that this provision shall only become applicable after legislation to raise the authorization ceiling for the Colorado River Storage Project Act is approved by the Congress and signed by the President, otherwise the existing administrative expense limitation shall remain in effect: *Provided,* That the Inspector General of the Department of the Interior shall annually audit expenditures by the Bureau of Reclamation to determine compliance with this section: *Provided further,* That none of the Bureau of Reclamation's appropriations shall be used to fund the audit: *Provided further,* That the Bureau of Reclamation shall not delay or stop construction of the project due to this limitation and shall apply all the remaining appropriations to completion of this project, unless continuation of work on the Central Utah project would cause administrative expenses attributable to the Central Utah project to be paid from funds available for other Bureau of Reclamation projects and thereby delay their construction.

TITLE III

DEPARTMENT OF ENERGY

ENERGY SUPPLY, RESEARCH AND DEVELOPMENT ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for energy supply, research and development activities, and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 23 for replacement only), $2,142,326,000, to remain available until expended: *Provided,* That within 180 days after the date of enactment of this Act, the Secretary of Energy shall provide the Committee on Appropriations of the Senate and House of Representatives and the Energy and Natural Resources Committee of the Senate and the Science, Space, and Technology Committee of the House of Representatives a report which contains a program for the long-term utilization of the Fast Flux Test Facility at the Hanford, Washington site.

Reports.

URANIUM SUPPLY AND ENRICHMENT ACTIVITIES

For expenses of the Department of Energy in connection with operating expenses; the purchase, construction, and acquisition of plant and capital equipment and other expenses incidental thereto necessary for uranium supply and enrichment activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 21 for replacement only), $1,133,080,000, to remain available until expended: *Provided,* That revenues received by the Department for the enrichment of uranium and estimated to total $1,276,000,000 in fiscal year 1989, shall be retained and used for the specific purpose of offsetting costs incurred by the Department in providing uranium enrichment service activities as authorized by section 201 of Public Law 95-238, notwithstanding the provisions of section 3302(b) of section 484, of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced as uranium enrichment revenues are received during fiscal year 1989 so as to result in a final fiscal year 1989 appropriation estimated at not more than $0.

GENERAL SCIENCE AND RESEARCH ACTIVITIES

For expenses of the Department of Energy activities including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for general science and research activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95-91), including the acquisition or condemnation of any real property or facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 10, of which 5 are for replacement only and one is a police-type vehicle), and one replacement fixedwing aircraft to be acquired pursuant to the Federal Property and Administrative Services Act of 1949, as amended, $922,116,000, to remain available until expended.

NUCLEAR WASTE DISPOSAL FUND

For nuclear waste disposal activities to carry out the purposes of Public Law 97-425, as amended, including the acquisition of real property or facility construction or expansion, $369,832,000, to remain available until expended, to be derived from the Nuclear Waste Fund. To the extent that balances in the fund are not sufficient to cover amounts available for obligation in the account, the Secretary shall exercise his authority pursuant to section 302(e)(5) to issue obligations to the Secretary of the Treasury: *Provided,* That any proceeds resulting from the sale of assets purchased from the Nuclear Waste Fund shall be returned to the Nuclear Waste Fund: *Provided further,* That of the amount herein appropriated not to exceed $11,000,000, at an annualized rate, may be provided to the State of Nevada for the period July 1, 1988 through June 30, 1989, for the conduct of its oversight responsibilities pursuant to the Nuclear Waste Policy Act of 1982, Public Law 97-425, as amended, of which not more than $1,500,000 may be expended for socioeconomic studies and not more than $1,500,000 may be ex-

pended on transportation studies: *Provided further,* That not more than $5,000,000, at an annualized rate, may be provided to affected local governments, as defined in the Act, to conduct appropriate activities pursuant to the Act: *Provided further,* That none of the funds herein appropriated may be used directly or indirectly to influence legislative action on any matter pending before Congress or a State legislature or for any lobbying activity as provided in 18 U.S.C. 1913.

ATOMIC ENERGY DEFENSE ACTIVITIES

For expenses of the Department of Energy activities, $8,100,000,000, to remain available until expended, including the purchase, construction and acquisition of plant and capital equipment and other expenses incidental thereto necessary for atomic energy defense activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the acquisition or condemnation of any real property or any facility or for plant or facility acquisition, construction, or expansion; purchase of passenger motor vehicles (not to exceed 248, of which 247 are for replacement only including 6 police-type vehicles): *Provided,* That no funds appropriated for operating expenses or construction for new production reactor capacity may be obligated until 30 days after the Secretary of Energy has presented to Congress the acquisition strategy report for new production reactor capacity, as required by the Energy and Water Appropriations Act for Fiscal Year 1988—Public Law 100–202, and has certified, with appropriate documentation, that the preferred technology, design and site selected for new production reactor capacity, best satisfies the considerations required under Public Law 100–202.

Reports.

DEPARTMENTAL ADMINISTRATION

For salaries and expenses of the Department of Energy necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act (Public Law 95–91), including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed $35,000) $403,665,000, to remain available until expended, plus such additional amounts as necessary to cover increases in the estimated amount of cost of work for others notwithstanding the provisions of the Anti-Deficiency Act (31 U.S.C. 1511 et seq.): *Provided,* That such increases in cost of work are offset by revenue increases of the same or greater amount, to remain available until expended: *Provided further,* That moneys received by the Department for miscellaneous revenues estimated to total $240,725,000 in fiscal year 1989 may be retained and used for operating expenses within this account, and may remain available until expended, as authorized by section 201 of Public Law 95–238, notwithstanding the provisions of section 3302 of title 31, United States Code: *Provided further,* That the sum herein appropriated shall be reduced by the amount of miscellaneous revenues received during fiscal year 1989 so as to result in a final fiscal year 1989 appropriation estimated at not more than $162,940,000.

POWER MARKETING ADMINISTRATIONS

OPERATION AND MAINTENANCE, ALASKA POWER ADMINISTRATION

For necessary expenses of operation and maintenance of projects in Alaska and of marketing electric power and energy, $3,159,000, to remain available until expended.

BONNEVILLE POWER ADMINISTRATION FUND

Expenditures from the Bonneville Power Administration Fund, established pursuant to Public Law 93-454, are approved for official reception and representation expenses in an amount not to exceed $2,500.

During fiscal year 1989, no new direct loan obligations may be made.

Without fiscal year limitation, the Bonneville Power Administration continues to be authorized to incur obligations for authorized purposes and may do so in excess of borrowing authority and cash in the Bonneville Power Administration Fund. 16 USC 838i note.

OPERATION AND MAINTENANCE, SOUTHEASTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy pursuant to the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southeastern power area, $36,267,000, to remain available until expended.

OPERATION AND MAINTENANCE, SOUTHWESTERN POWER ADMINISTRATION

For necessary expenses of operation and maintenance of power transmission facilities and of marketing electric power and energy, and for construction and acquisition of transmission lines, substations and appurtenant facilities, and for administrative expenses connected therewith, in carrying out the provisions of section 5 of the Flood Control Act of 1944 (16 U.S.C. 825s), as applied to the southwestern power area, $15,389,000, to remain available until expended; in addition, notwithstanding the provisions of 31 U.S.C. 3302, not to exceed $4,411,000 in collections from the Department of Defense from power purchases, not to exceed $2,430,000 in collections from various Oklahoma companies from power purchases, and not to exceed $1,000,000 in collections from non-Federal entities for construction projects in fiscal year 1989, to remain available until expended.

CONSTRUCTION, REHABILITATION, OPERATION AND MAINTENANCE, WESTERN AREA POWER ADMINISTRATION

(INCLUDING TRANSFER OF FUNDS)

For carrying out the functions authorized by title III, section 302(a)(1)(E) of the Act of August 4, 1977 (Public Law 95-91), and other related activities including conservation and renewable resources programs as authorized, including official reception and representation expenses in an amount not to exceed $1,500, the

purchase of passenger motor vehicles (not to exceed 5 for replacement only), $270,928,000, to remain available until expended, of which $250,142,000, shall be derived from the Department of the Interior Reclamation fund; in addition, the Secretary of the Treasury is authorized to transfer from the Colorado River Dam Fund to the Western Area Power Administration $2,485,000, to carry out the power marketing and transmission activities of the Boulder Canyon project as provided in section 104(a)(4) of the Hoover Power Plant Act of 1984, to remain available until expended: *Provided,* That, concurrent with the enactment of Public Law 99-360, purchase, operation, and maintenance of 1 replacement helicopter is authorized from the Colorado River Basins Power Marketing Fund.

FEDERAL ENERGY REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Energy Regulatory Commission to carry out the provisions of the Department of Energy Organization Act (Public Law 95-91), including services as authorized by 5 U.S.C. 3109, including the hire of passenger motor vehicles; official reception and representation expenses (not to exceed $2,000); $108,760,000, of which $5,000,000 shall remain available until expended and be available only for contractual activities: *Provided,* That hereafter and notwithstanding any other provision of law, not to exceed $108,760,000 of revenues from licensing fees, inspection services, and other services and collections in fiscal year 1989, may be retained and used for necessary expenses in this account, and may remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced as revenues are received during fiscal year 1989, so as to result in a final fiscal year 1989 appropriation estimated at not more than $0.

42 USC 7171 note.

GEOTHERMAL RESOURCES DEVELOPMENT FUND

For carrying out the Loan Guarantee and Interest Assistance Program as authorized by the Geothermal Energy Research, Development and Demonstration Act of 1974, as amended, $75,000, to remain available until expended: *Provided,* That the indebtedness guaranteed or committed to be guaranteed through funds provided by this or any other appropriation Act shall not exceed the aggregate of $500,000,000.

GENERAL PROVISIONS—DEPARTMENT OF ENERGY

SEC. 301. Appropriations for the Department of Energy under this title for the current fiscal year shall be available for hire of passenger motor vehicles; hire, maintenance and operation of aircraft; purchase, repair and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services. From these appropriations, transfers of sums may be made to other agencies of the United States Government for the performance of work for which this appropriation is made. None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriation Act. The Secretary is authorized to accept lands,

Gifts and property.

buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign.

(TRANSFERS OF UNEXPENDED BALANCES)

SEC. 302. Not to exceed 5 per centum of any appropriation made available for the current fiscal year for Department of Energy activities funded in this Act may be transferred between such appropriations, but no such appropriation, except as otherwise provided, shall be increased or decreased by more than 5 per centum by any such transfers, and any such proposed transfers shall be submitted promptly to the Committees on Appropriations of the House and Senate.

SEC. 303. The unexpended balances of prior appropriations provided for activities in this Act may be transferred to appropriation accounts for such activities established pursuant to this title. Balances so transferred may be merged with funds in the applicable established accounts and thereafter may be accounted for as one fund for the same time period as originally enacted.

SEC. 304. No funds appropriated or made available under this or any other Act shall be used by the executive branch for studies, reviews, to solicit proposals, to consider unsolicited proposals, undertake any initiatives or draft any proposals to transfer out of Federal ownership, management or control in whole or in part, the facilities, assets, and functions of the uranium supply and enrichment program, including inventories, until such activities have been specifically authorized in accordance with terms and conditions established by an Act of Congress hereafter enacted: *Provided,* That this provision shall not apply to the authority granted to the Department of Energy under section 161g of the Atomic Energy Act of 1954, as amended, under which it may sell, lease, grant, and dispose of property in furtherance of Atomic Energy Act activities or to the authority of the Administrator of the General Services Administration pursuant to the Federal Property and Administrative Service Act of 1944 to sell or otherwise dispose of surplus property.

SEC. 305. (a) During fiscal year 1989, the Department of Energy, in the case of any State with unemployment in excess of 10 percent as determined by the Bureau of Labor Statistics, shall give priority in approving plans for the use of funds available to such State under the Agreement approved on July 7, 1986 In Re: The Department of Energy Stripper Well Exemption Litigation, M.D.L. No. 378. State and local governments.

(b) Any plan described in subsection (a) submitted in fiscal year 1989 shall be deemed approved by the Department of Energy if the Department fails to act on the plan within 45 calendar days after such submittal and if the Governor or a designated State official certifies in writing that the use of such funds provided in such plan is consistent with the applicable terms of such Agreement.

(c) It is the intent of Congress that the purpose of this provision is to help such States gain prompt approval of such plans for the purposes proposed by such States so long as such plans are consistent with the terms and conditions of such Agreement.

TITLE IV

INDEPENDENT AGENCIES

APPALACHIAN REGIONAL COMMISSION

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the programs authorized by the Appalachian Regional Development Act of 1965, as amended, 40 USC app. 401 note.

notwithstanding section 405 of said Act, except expenses authorized by section 105 of said Act, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, and for necessary expenses for the Federal Cochairman and the alternate on the Appalachian Regional Commission and for payment of the Federal share of the administrative expenses of the Commission, including services as authorized by section 3109 of title 5, United States Code, and hire of passenger motor vehicles, to remain available until expended, $110,700,000. Amounts previously made available for Appalachian Regional Development programs shall be transferred to and made part of this appropriation.

DELAWARE RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Delaware River Basin Commission, as authorized by law (75 Stat. 716), $205,000.

CONTRIBUTION TO DELAWARE RIVER BASIN COMMISSION

For payment of the United States share of the current expenses of the Delaware River Basin Commission, as authorized by law (75 Stat. 706, 707), $263,000.

INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

CONTRIBUTION TO INTERSTATE COMMISSION ON THE POTOMAC RIVER BASIN

To enable the Secretary of the Treasury to pay in advance to the Interstate Commission on the Potomac River Basin the Federal contribution toward the expenses of the Commission during the current fiscal year in the administration of its business in the conservancy district established pursuant to the Act of July 11, 1940 (54 Stat. 748), as amended by the Act of September 25, 1970 (Public Law 91-407), $379,000.

NUCLEAR REGULATORY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Commission in carrying out the purposes of the Energy Reorganization Act of 1974, as amended, and the Atomic Energy Act, as amended, including the employment of aliens; services authorized by section 3109 of title 5, United States Code; publication and dissemination of atomic information; purchase, repair, and cleaning of uniforms, official representation expenses (not to exceed $20,000); reimbursements to the General Services Administration for security guard services; hire of passenger motor vehicles and aircraft, $420,000,000, to remain available until expended: *Provided,* That from this appropriation, transfer of sums may be made to other agencies of the Government for the performance of the work for which this appropriation is made, and in such cases the sums so transferred may be merged with the appropriation to which transferred: *Provided further,* That moneys

received by the Commission for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs including criminal history checks under section 149 of the Atomic Energy Act, as amended, may be retained and used for salaries and expenses associated with those activities, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That revenues from licensing fees, inspection services, and other services and collections estimated at $189,000,000 in fiscal year 1989 shall be retained and used for necessary salaries and expenses in this account, notwithstanding the provisions of section 3302 of title 31, United States Code, and shall remain available until expended: *Provided further,* That the sum herein appropriated shall be reduced by the amount of revenues received during fiscal year 1989 from licensing fees, inspection services and other services and collections, excluding those moneys received for the cooperative nuclear safety research program, services rendered to foreign governments and international organizations, and the material and information access authorization programs, so as to result in a final fiscal year 1989 appropriation estimated at not more than $231,000,000.

SUSQUEHANNA RIVER BASIN COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out the functions of the United States member of the Susquehanna River Basin Commission as authorized by law (84 Stat. 1541), $192,000.

CONTRIBUTION TO SUSQUEHANNA RIVER BASIN COMMISSION

For payment of the United States share of the current expense of the Susquehanna River Basin Commission, as authorized by law (84 Stat. 1530, 1531), $262,000.

TENNESSEE VALLEY AUTHORITY

TENNESSEE VALLEY AUTHORITY FUND

For the purpose of carrying out the provisions of the Tennessee Valley Authority Act of 1933, as amended (16 U.S.C. ch. 12A), including purchase, hire, maintenance, and operation of aircraft, and purchase and hire of passenger motor vehicles, and for entering into contracts and making payments under section 11 of the National Trails System Act, as amended, $103,000,000, to remain available until expended: *Provided,* That this appropriation and other moneys available to the Tennessee Valley Authority may be used hereafter for payment of the allowances authorized by section 5948 of title 5, United States Code: *Provided further,* That the official of the Tennessee Valley Authority referred to as the "inspector general of the Tennessee Valley Authority" is authorized, during the fiscal year ending September 30, 1989, to require by subpoena the production of all information, documents, reports, answers, records, accounts, papers, and other data and other documentary evidence necessary in the performance of the audit and investigation functions of that official, which subpoena, in the case of contumacy or

16 USC 831b note.

refusal to obey, shall be enforceable by order of any appropriate United States district court: *Provided further,* That procedures other than subpoenas shall be used by the inspector general to obtain documents and evidence from Federal agencies.

TITLE V—GENERAL PROVISIONS

SEC. 501. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 502. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 503. None of the programs, projects or activities as defined in the report accompanying this Act, may be eliminated or disproportionately reduced due to the application of "Savings and Slippage", "general reduction", or the provision of Public Law 99-177 or Public Law 100-119.

Contracts. Public information.

SEC. 504. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 505. None of the funds appropriated in this Act shall be used to implement a program of retention contracts for senior employees of the Tennessee Valley Authority.

SEC. 506. Notwithstanding any other provision of this Act or any other provision of law, none of the funds made available under this Act or any other law shall be used for the purposes of conducting any studies relating or leading to the possibility of changing from the currently required "at cost" to a "market rate" or any other noncost-based method for the pricing of hydroelectric power by the six Federal public power authorities, or other agencies or authorities of the Federal Government, except as may be specifically authorized by Act of Congress hereafter enacted.

SEC. 507. None of the funds appropriated in this Act for Power Marketing Administrations or the Tennessee Valley Authority, and none of the funds authorized to be expended by this or any previous Act from the Bonneville Power Administration Fund or the Tennessee Valley Authority Fund, may be used to pay the costs of procuring extra high voltage (EHV) power equipment unless contract awards are made for EHV equipment manufactured in the United States when such agencies determine that there are one or more manufacturers of domestic end product offering a product that meets the technical requirements of such agencies at a price not exceeding 130 per centum of the bid or offering price of the most competitive foreign bidder: *Provided,* That such agencies shall determine the incremental costs associated with implementing this section and defer or offset such incremental costs against otherwise existing repayment obligations: *Provided further,* That this section shall not apply to any procurement initiated prior to October 1, 1985, or to the acquisition of spare parts or accessory equipment necessary for the efficient operation and maintenance of existing equipment and available only from the manufacturer of the original equipment: *Provided further,* That this section shall not apply to

procurement of domestic end product as defined in 48 C.F.R. sec. 25.101: *Provided further,* That this section shall not apply to EHV power equipment produced or manufactured in a country whose government has completed negotiations with the United States to extend the GATT Government Procurement Code, or a bilateral equivalent, to EHV power equipment, or which otherwise offers fair competitive opportunities in public procurements to United States manufacturers of such equipment.

IMPLEMENTATION OF BUY AMERICAN ACT WITH RESPECT TO CERTAIN WATER RESOURCE PROJECTS

SEC. 508. (a) GENERAL RULE.—For purposes of title III of the Act of March 3, 1933 (47 Stat. 1520; 41 U.S.C. 10a–10c), commonly known as the Buy American Act, a cofferdam or any other temporary structure to be constructed by the Secretary of the Army, acting through the Chief of Engineers, shall be treated in the same manner as a permanent dam constructed by the Secretary of the Army. 41 USC 10a note.

(b) APPLICABILITY.—Subsection (a) shall only apply to contracts entered into after the date of the enactment of this Act. Contracts.

SEC. 509. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Energy and Water Development Appropriations Act, 1989".

Approved July 19, 1988.

LEGISLATIVE HISTORY—H.R. 4567:

HOUSE REPORTS: No. 100-618 (Comm. on Appropriations) and No. 100-724 (Comm. of Conference).
SENATE REPORTS: No. 100-381 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 17, considered and passed House.
June 14, 15, considered and passed Senate, amended.
June 30, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
July 6, Senate concurred in House amendments.
July 7, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
July 19, Presidential statement.

Public Law 100-372
100th Congress

An Act

July 19, 1988
[S. 623]

To amend the Independent Safety Board Act of 1974 to authorize appropriations for fiscal years 1987, 1988, 1989, and 1990, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Independent Safety Board Act Amendments of 1988.
Transportation.
49 USC app. 1901 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Independent Safety Board Act Amendments of 1988".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORIZATION.—Section 309 of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1907) is amended by adding at the end the following: "There are authorized to be appropriated for the purposes of this Act not to exceed $25,400,000 for the fiscal year ending September 30, 1988; $27,000,000 for the fiscal year ending September 30, 1989; and $28,600,000 for fiscal year ending September 30, 1990. Such sums shall remain available until expended.".

(b) ESTABLISHMENT OF EMERGENCY FUND.—Section 309 of such Act is further amended by inserting "(a)" after "309." and by adding at the end the following new subsection:

"(b) An emergency fund of $1,000,000 is authorized for expenditure by the Board to be available for necessary expenses, not otherwise provided for, of the Board for accident investigations. There is authorized to be appropriated such sums as may be necessary to establish the emergency fund under the preceding sentence and to replenish the fund annually. Such sums are authorized to remain available until expended.".

SEC. 3. ELIMINATION OF CERTAIN NOTICE REQUIREMENTS.

Federal Register, publication.

(a) REPORTS.—Section 304(a)(2) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(a)(2)) is amended by striking "and to cause notice of the issuance and availability of such reports to be published in the Federal Register".

Public information.

(b) SAFETY RECOMMENDATIONS.—The last sentence of section 307(a) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1906(a)) is amended to read as follows: "The Board shall make copies of each such recommendation and response thereto available to the public at reasonable cost.".

SEC. 4. TRAINING SCHOOLS.

Section 304(b) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(b)) is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) The Board may at any time utilize on a reimbursable basis the services of the Transportation Safety Institute of the Department of Transportation (established for the purpose of developing

courses and conducting training in safety and security for all modes of transportation) or any successor organization. The Secretary shall continue to make available such Institute or successor organization (A) to the Board for safety training of employees of the Board in the performance of all of their authorized functions, and (B) to such other safety personnel of Federal, interstate, State, local, and foreign governments and non-governmental organizations as the Board may from time to time designate in consultation with the Secretary. Utilization of such training at the Institute or successor organization by any designated non-Federal safety personnel shall be at a reasonable fee to be established periodically by the Board in consultation with the Secretary. Such fee shall be paid directly to the Secretary for the credit of the proper appropriation, subject to the requirements of any annual appropriation, and shall be an offset against any annual reimbursement agreement entered into between the Board and the Secretary to cover all reasonable direct and indirect costs incurred for all such training by the Secretary in the administration and operation of the Institute or successor organization. The Board shall maintain an annual record of all such offsets. In providing such training to Federal employees, the Board shall be subject to chapter 41 of title 5, United States Code (relating to training of employees).".

State and local governments.

Contracts.

Records.

SEC. 5. PAYMENT FOR GOODS AND SERVICES.

State and local governments.

Section 304(b)(6) of the Independent Safety Board Act of 1974 (49 U.S.C. App. 1903(b)(6)) is amended by striking "and" before "(G)" and by striking the period at the end and inserting the following: "; and (H) require payment or other appropriate consideration from Federal agencies, and State, local, and foreign governments for the reasonable cost of goods and services supplied by the Board and to apply the funds received to the Board's appropriations.".

Approved July 19, 1988.

LEGISLATIVE HISTORY—S. 623 (H.R. 11):

HOUSE REPORTS: No. 100-158, Pt. 1 (Comm. on Public Works and Transportation) and Pt. 2 (Comm. on Energy and Commerce), accompanying H.R. 11.

SENATE REPORTS: No. 100-18 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Mar. 25, considered and passed Senate.

Vol. 134 (1988): Apr. 12, H.R. 11 considered and passed House; proceedings vacated and S. 623, amended, passed in lieu.

July 6, Senate concurred in House amendments.

Public Law 100-373
100th Congress

An Act

July 19, 1988
[S. 2203]

To extend the expiration date of title II of the Energy Policy and Conservation Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 281 of the Energy Policy and Conservation Act (42 U.S.C. 6285) is amended by striking "1988" both places it appears and inserting in lieu thereof "1990".

42 USC 6272 note.

SEC. 2. STUDY AND REPORT ON ENERGY POLICY COOPERATION BETWEEN UNITED STATES AND THE OTHER WESTERN HEMISPHERE COUNTRIES.

(a) STUDY.—The Secretary of Energy, in consultation with the Secretary of State and the Secretary of Commerce, shall conduct a study to determine how best to enhance cooperation between the United States and the other countries of the Western Hemisphere with respect to energy policy including stable supplies of, and stable prices for, energy.

(b) REPORT.—On completion of the study described in subsection (a), the Secretary of Energy shall—

(1) report the results of such study to the Committee on Energy and Commerce of the House of Representatives and the Committee on Energy and Natural Resources of the Senate;

(2) propose a comprehensive international energy policy for the United States designed to enhance cooperation between the United States and the other countries of the Western Hemisphere; and

(3) recommend such action as the Secretary deems necessary to establish and implement such policy.

Approved July 19, 1988.

LEGISLATIVE HISTORY—S. 2203 (H.R. 4604):

HOUSE REPORTS: No. 100-730 accompanying H.R. 4604 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-355 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 6, considered and passed Senate.
June 27, 28, H.R. 4604 considered and passed House.
June 29, S. 2203 considered and passed House, amended.
July 8, Senate concurred in House amendment.

Public Law 100-374
100th Congress

An Act

To designate the United States Courthouse located at 156 Federal Street in Portland, Maine, as the "Edward Thaxter Gignoux United States Courthouse".

July 19, 1988
[S. 2248]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The United States Courthouse located at 156 Federal Street in Portland, Maine, shall be known and is designated as the "Edward Thaxter Gignoux United States Courthouse".

SEC. 2. LEGAL REFERENCES TO BUILDING.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Edward Thaxter Gignoux United States Courthouse".

Approved July 19, 1988.

LEGISLATIVE HISTORY—S. 2248 (H.R. 4525):

HOUSE REPORTS: No. 100-752 accompanying H.R. 4525 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 22, considered and passed Senate.
July 7, H.R. 4525 considered and passed House; proceedings vacated and S. 2248 passed in lieu.

Public Law 100-375
100th Congress

Joint Resolution

July 26, 1988
[S.J. Res. 318]

To designate the week of July 25–31, 1988, as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War".

Whereas on June 25, 1950, the Communist army of North Korea invaded and attacked South Korea, initiating the Korean War;

Whereas the week of July 25–31, 1988, includes July 27, the 35th anniversary of the Cease Fire agreement that ended the active combat of the Korean War;

Whereas the Korean War was brought to an end primarily through the efforts of the United States Armed Forces;

Whereas for the first and only time in history a United Nations Command was created, with the United States as the executive agent, to repel this invasion and preserve liberty for the people of the Republic of Korea;

Whereas, in addition to the United States and the Republic of Korea, twenty other member nations provided military contingents to serve under the United Nations banner;

Whereas, after 3 years of active hostilities, the territorial integrity of the Republic of Korea was restored, and the freedom and independence of its people are assured even to this date;

Whereas over 5.7 million American servicemen and women were involved directly or indirectly in the war;

Whereas American casualties during that period were 54,246 dead, of which 33,629 were battle deaths, 103,284 wounded, 8,177 listed as missing or prisoners of war, and 329 prisoners of war are still unaccounted for;

Whereas, although the Korean War has been known as America's "Forgotten War", this nation should never forget the ultimate sacrifice made by those who fought and died in Korea for the noble and just cause of freedom;

Whereas the Congress and the President of the United States have enacted a law authorizing the establishment of a Korean War memorial in the Nation's Capitol to recognize and honor the service and sacrifice of those who participated in the Korean War;

Whereas increasing numbers of Korean War veterans are setting aside July 27, the anniversary date of the Armistice, as a special day to remember those with whom they served and to honor those who made the supreme sacrifice in a war to preserve the ideals of freedom and independence; and

Whereas on this significant anniversary of the cease fire which started the longest military armistice in modern history, it is right and appropriate to recognize, honor, and remember the service and sacrifice of those who endured the rigors of combat and the extremes of a hostile climate under the most trying conditions and still prevailed to preserve the independence of a free nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of July 25–31, 1988, is designated as the "National Week of Recognition and Remembrance for Those Who Served in the Korean War". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities, and to urge the departments and agencies of the United States and interested organizations, groups and individuals to fly the American flag at half staff on July 27, 1988 in honor of those Americans who died as a result of their service in Korea.

Approved July 26, 1988.

LEGISLATIVE HISTORY—S.J. Res. 318:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 23, considered and passed Senate.
July 13, considered and passed House.

Public Law 100-376
100th Congress

Joint Resolution

Aug. 1, 1988
[H.J. Res. 569]

Designating July 24 through 30, 1988, as "Lyme Disease Awareness Week".

Whereas Lyme disease is spread by the tick species Ixodes Dammini by means of the bacterium Burrelia Burgdorferi;
Whereas these ticks are no larger than the head of a pin;
Whereas these ticks can be carried by domestic animals such as cats, dogs, and horses;
Whereas these ticks can be transferred from domestic animals to humans;
Whereas Lyme disease started in southeastern Connecticut and has spread to 32 States;
Whereas the Center for Disease Control has reported 6,000 cases of Lyme disease since 1982;
Whereas Lyme disease is easily treated in its early stages by an oral vaccine administered by a physician (penicillin and erythromycin for young children and tetracycline for persons allergic to penicillin);
Whereas the early symptoms of Lyme disease are a rash, mild headaches, a slight fever, and swollen glands;
Whereas Lyme disease often mocks rheumatoid arthritis and heart disease;
Whereas if left untreated, Lyme disease can cause severe depression, brain disorders, and even death;
Whereas the best cure for Lyme disease is prevention;
Whereas prevention of Lyme disease depends upon public awareness; and
Whereas education is essential to making the general public and health care professionals more knowledgeable of Lyme disease and its debilitating side effects: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That July 24 through 30, 1988, is designated as "Lyme Disease Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved August 1, 1988.

LEGISLATIVE HISTORY—H.J. Res. 569 (S.J. Res. 326):

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 13, considered and passed House.
July 14, S.J. Res. 326 and H.J. Res. 569 considered and passed Senate.

Public Law 100-377
100th Congress

Joint Resolution

To designate August 1, 1988, as "Helsinki Human Rights Day".

Aug. 1, 1988
[S.J. Res. 338]

Whereas August 1, 1988, will be the thirteenth anniversary of the signing of the Final Act of the Conference on Security and Cooperation in Europe (hereafter in this preamble referred to as the "Helsinki accords");

Whereas on August 1, 1975, the Helsinki accords were agreed to by the Governments of Austria, Belgium, Bulgaria, Canada, Cyprus, Czechoslovakia, Denmark, Finland, France, the German Democratic Republic, the Federal Republic of Germany, Greece, the Holy See, Hungary, Iceland, Ireland, Italy, Liechtenstein, Luxembourg, Malta, Monaco, the Netherlands, Norway, Poland, Portugal, Romania, San Marino, Spain, Sweden, Switzerland, Turkey, the Union of Soviet Socialist Republics, the United Kingdom, the United States of America, and Yugoslavia;

Whereas the participating States have committed themselves to balanced progress in all areas of the Helsinki accords;

Whereas the Helsinki accords recognize the inherent relationship between respect for human rights and fundamental freedoms and the attainment of genuine security;

Whereas the Helsinki accords express the commitment of the participating States to "recognize the universal significance of human rights and fundamental freedoms, respect for which is an essential factor for the peace, justice and well-being necessary to ensure the development of friendly relations and cooperation among themselves as among all States";

Whereas the Helsinki accords also express the commitment of the participating States to "respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief, for all without distinction as to race, sex, language or religion";

Whereas the Helsinki accords also express the commitment of the participating States to "promote and encourage the effective exercise of civil, political, economic, social, cultural and other rights and freedoms all of which derive from the inherent dignity of the human person and are essential for his free and full development";

Whereas the Helsinki accords also express the commitment of the participating States to "recognize and respect the freedom of the individual to profess and practice, alone or in community with others, religion or belief acting in accordance with the dictates of his own conscience";

Whereas the Helsinki accords also express the commitment of the participating States on whose territory national minorities exist to "respect the right of persons belonging to such minorities to equality before the law" and that such States "will afford them the full opportunity for the actual enjoyment of human rights and

fundamental freedoms and will in this manner, protect their legitimate interests in this sphere";

Whereas the Helsinki accords also express the commitment of the participating States to "constantly respect these rights and freedoms in their mutual relations" and that such States "will endeavor jointly and separately, including in cooperation with the United Nations, to promote universal and effective respect for them";

Whereas the Helsinki accords also express the commitment of the participating States to "conform the right of the individual to know and act upon his rights and duties in this field";

Whereas the Helsinki accords also express the commitment of the participating States in the field of human rights and fundamental freedoms to "act in conformity with the purposes and principles of the Charter of the United Nations and with the Universal Declaration of Human Rights" and to "fulfill their obligations as set forth in the international declarations and agreements in this field, including inter alia the International Covenants on Human Rights, by which they may be bound";

Whereas the Helsinki accords by incorporation also express the commitment of the participating States to guarantee the right of the individual to leave his own country and return to such country;

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate freer movement and contacts, individually and collectively, whether privately or officially, among persons, institutions and organizations of the participating States, and to contribute to the solution of the humanitarian problems that arise in that connection";

Whereas the Helsinki accords also express the commitment of the participating States to "favorably consider applications for travel with the purpose of allowing persons to enter or leave their territory temporarily, and on a regular basis if desired, in order to visit members of their families";

Whereas the Helsinki accords also express the commitment of the participating States to "deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their family" and "to deal with applications in this field as expeditiously as possible";

Whereas the Helsinki accords also express the commitments of the participating States to "examine favorably and on the basis of humanitarian considerations requests for exit or entry permits from persons who have decided to marry a citizen from another participating State";

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate wider travel by their citizens for personal or professional reasons";

Whereas the Helsinki accords also express the commitment of the participating States to "facilitate the freer and wider dissemination of information of all kinds, to encourage cooperation in the field of information and the exchange of information with other countries";

Whereas the Governments of the Union of Soviet Socialist Republics, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania, in agreeing to the Helsinki accords, have made a commitment to adhere to the principles of

human rights and fundamental freedoms as embodied in the Helsinki accords;

Whereas, despite some limited improvements, the aforementioned Governments have failed to implement their obligations under Principle VII of the Helsinki accords to respect human rights and fundamental freedoms, including the freedom of thought, conscience, religion or belief;

Whereas, despite some limited improvements, the aforementioned Governments have failed to implement their obligations under Basket III of the Helsinki accords to promote free movement of people, ideas and information;

Whereas representatives from the signatory States are convened in Vienna to review implementation and address issues of compliance with the human rights and humanitarian provisions of the Helsinki accords: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That—

(1) August 1, 1988, the thirteenth anniversary of the signing of the Helsinki accords is designated as "Helsinki Human Rights Day";

(2) the President is authorized and requested to issue a proclamation reasserting the American commitment to full implementation of the human rights and humanitarian provisions of the Helsinki accords, urging all signatory nations to abide by their obligations under the Helsinki accords, and encouraging the people of the United States to join the President and Congress in observance of the Helsinki Human Rights Day with appropriate programs, ceremonies, and activities;

(3) the President is further requested to continue his efforts to achieve full implementation of the human rights and humanitarian provisions of the Helsinki accords by raising, with the Governments of the Soviet Union, Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Poland, and Romania, the issue of their noncompliance at every available opportunity;

(4) the President is further requested to convey to all signatories of the Helsinki accords that respect for human rights and fundamental freedoms is a vital element of further progress in the ongoing Helsinki process;

(5) the President is authorized to convey to allies and friends of the United States that unity on the question of respect for human rights and fundamental freedoms is an essential means of promoting the full implementation of the human rights and humanitarian provisions of the Helsinki accords;

(6) the President is requested to continue his efforts to achieve before the end of the Vienna meeting the release of all political prisoners of the Soviet Union, including Helsinki monitors, a significant increase in Soviet emigration, the resolution of all family reunification cases, the cessation of all radio transmission jamming, and the repeal of laws, procedures, and practices which undermine human rights;

(7) the President is further requested to seek the inclusion, in any concluding document agreed to in Vienna, of a mechanism to assure that human rights progress is sustained following the conclusion of the Vienna meeting; and

(8) the President is further requested to convey to signatory States the insistence of the United States for a balanced result

at the Vienna meeting that will not favor military security at the expense of human rights.

SEC. 2. The Secretary of the Senate is directed to transmit copies of this joint resolution to the President, the Secretary of State, and the Ambassadors of the thirty-four Helsinki signatory nations.

Approved August 1, 1988.

LEGISLATIVE HISTORY—S.J. Res. 338:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 8, considered and passed Senate.
July 14, considered and passed House.

Public Law 100-378
100th Congress

An Act

To require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress.

Aug. 1, 1988
[H.R. 3251]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Bicentennial of the United States Congress Commemorative Coin Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bicentennial of the United States Congress Commemorative Coin Act".

SEC. 2. SPECIFICATIONS OF COINS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue not more than 1,000,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. Each five dollar coin shall bear a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 10,000,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the one dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 10,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of the half dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. On each half dollar coin shall be a designation of the value of the coin, an inscription of the year

"1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins minted under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

(e) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN OF COINS.

The Director of the Mint shall submit the proposed designs of the coins to be minted under this Act to the Commission of Fine Arts for comments. After receiving the comments on the designs from such Commission, the Director of the Mint shall submit the proposed designs together with such comments to the Secretary. After receiving the proposed designs and the comments, the Secretary shall select the design of the coins to be minted under this Act.

SEC. 5. ISSUANCE OF COINS.

New York.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than 1 facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning January 1, 1989.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after June 30, 1990.

SEC. 6. SALE OF COINS.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

SEC. 7. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

SEC. 8. REDUCTION OF NATIONAL DEBT.

An amount equal to the amount of all surcharges that are received by the Secretary from the sale of coins minted under this Act shall be deposited in the general fund of the Treasury and shall be used for the sole purpose of reducing the national debt.

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of this Act from complying with any law relating to equal employment opportunity.

SEC. 10. AMENDMENTS TO THE FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION RECAPITALIZATION ACT OF 1987.

(a) IN GENERAL.—Section 306(h)(1) of the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987 (12 U.S.C. 1730 note) is amended by striking out "1-year" and inserting in lieu thereof "2-year".

(b) CLERICAL AMENDMENT.—The heading for section 306(h) of the Federal Savings and Loan Insurance Corporation Recapitalization Act of 1987 (12 U.S.C. 1730 note) is amended by striking out "1-YEAR" and inserting in lieu thereof "2-YEAR".

SECTION 11. SUNSET.

All provisions of this Act, other than section 10, shall be repealed on the day after the date of enactment of this Act, and no person shall be liable for not complying with such provisions (other than section 10) while they are in effect.

Approved August 1, 1988.

LEGISLATIVE HISTORY—H.R. 3251:

SENATE REPORTS: No. 100-383 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Sept. 29, considered and passed House.
Vol. 134 (1988): June 15, considered and passed Senate, amended.
June 23, House concurred in certain Senate amendments, in another with an amendment; and disagreed to others.
July 12, Senate receded and concurred in House amendment with an amendment.
July 13, House concurred in Senate amendment.

Public Law 100-379
100th Congress

An Act

Aug. 4, 1988
[S. 2527]

To require advance notification of plant closings and mass layoffs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Worker Adjustment and Retraining Notification Act.
Business and industry.
Employment and unemployment.
29 USC 2101 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Worker Adjustment and Retraining Notification Act".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title.
Sec. 2. Definitions; exclusions from definition of loss of employment.
Sec. 3. Notice required before plant closings and mass layoffs.
Sec. 4. Exemptions.
Sec. 5. Administration and enforcement of requirements.
Sec. 6. Procedures in addition to other rights of employees.
Sec. 7. Procedures encouraged where not required.
Sec. 8. Authority to prescribe regulations.
Sec. 9. Effect on other laws.
Sec. 10. Report on employment and international competitiveness.
Sec. 11. Effective date.

29 USC 2101.

SEC. 2. DEFINITIONS; EXCLUSIONS FROM DEFINITION OF LOSS OF EMPLOYMENT.

(a) DEFINITIONS.—As used in this Act—

(1) the term "employer" means any business enterprise that employs—

(A) 100 or more employees, excluding part-time employees; or

(B) 100 or more employees who in the aggregate work at least 4,000 hours per week (exclusive of hours of overtime);

(2) the term "plant closing" means the permanent or temporary shutdown of a single site of employment, or one or more facilities or operating units within a single site of employment, if the shutdown results in an employment loss at the single site of employment during any 30-day period for 50 or more employees excluding any part-time employees;

(3) the term "mass layoff" means a reduction in force which—

(A) is not the result of a plant closing; and

(B) results in an employment loss at the single site of employment during any 30-day period for—

(i)(I) at least 33 percent of the employees (excluding any part-time employees); and

(II) at least 50 employees (excluding any part-time employees); or

(ii) at least 500 employees (excluding any part-time employees);

(4) the term "representative" means an exclusive representative of employees within the meaning of section 9(a) or 8(f) of the National Labor Relations Act (29 U.S.C. 159(a), 158(f)) or section 2 of the Railway Labor Act (45 U.S.C. 152);.

(5) the term "affected employees" means employees who may reasonably be expected to experience an employment loss as a consequence of a proposed plant closing or mass layoff by their employer;

(6) subject to subsection (b), the term "employment loss" means (A) an employment termination, other than a discharge for cause, voluntary departure, or retirement, (B) a layoff exceeding 6 months, or (C) a reduction in hours of work of more than 50 percent during each month of any 6-month period;

(7) the term "unit of local government" means any general purpose political subdivision of a State which has the power to levy taxes and spend funds, as well as general corporate and police powers; and

(8) the term "part-time employee" means an employee who is employed for an average of fewer than 20 hours per week or who has been employed for fewer than 6 of the 12 months preceding the date on which notice is required.

(b) EXCLUSIONS FROM DEFINITION OF EMPLOYMENT LOSS.—(1) In the case of a sale of part or all of an employer's business, the seller shall be responsible for providing notice for any plant closing or mass layoff in accordance with section 3 of this Act, up to and including the effective date of the sale. After the effective date of the sale of part or all of an employer's business, the purchaser shall be responsible for providing notice for any plant closing or mass layoff in accordance with section 3 of this Act. Notwithstanding any other provision of this Act, any person who is an employee of the seller (other than a part-time employee) as of the effective date of the sale shall be considered an employee of the purchaser immediately after the effective date of the sale.

(2) Notwithstanding subsection (a)(6), an employee may not be considered to have experienced an employment loss if the closing or layoff is the result of the relocation or consolidation of part or all of the employer's business and, prior to the closing or layoff—

(A) the employer offers to transfer the employee to a different site of employment within a reasonable commuting distance with no more than a 6-month break in employment; or

(B) the employer offers to transfer the employee to any other site of employment regardless of distance with no more than a 6-month break in employment, and the employee accepts within 30 days of the offer or of the closing or layoff, whichever is later.

SEC. 3. NOTICE REQUIRED BEFORE PLANT CLOSINGS AND MASS LAYOFFS. 29 USC 2102.

(a) NOTICE TO EMPLOYEES, STATE DISLOCATED WORKER UNITS, AND LOCAL GOVERNMENTS.—An employer shall not order a plant closing or mass layoff until the end of a 60-day period after the employer serves written notice of such an order—

(1) to each representative of the affected employees as of the time of the notice or, if there is no such representative at that time, to each affected employee; and

(2) to the State dislocated worker unit (designated or created under title III of the Job Training Partnership Act) and the chief elected official of the unit of local government within which such closing or layoff is to occur.

If there is more than one such unit, the unit of local government which the employer shall notify is the unit of local government to which the employer pays the highest taxes for the year preceding the year for which the determination is made.

(b) REDUCTION OF NOTIFICATION PERIOD.—(1) An employer may order the shutdown of a single site of employment before the conclusion of the 60-day period if as of the time that notice would have been required the employer was actively seeking capital or business which, if obtained, would have enabled the employer to avoid or postpone the shutdown and the employer reasonably and in good faith believed that giving the notice required would have precluded the employer from obtaining the needed capital or business.

(2)(A) An employer may order a plant closing or mass layoff before the conclusion of the 60-day period if the closing or mass layoff is caused by business circumstances that were not reasonably foreseeable as of the time that notice would have been required.

(B) No notice under this Act shall be required if the plant closing or mass layoff is due to any form of natural disaster, such as a flood, earthquake, or the drought currently ravaging the farmlands of the United States.

(3) An employer relying on this subsection shall give as much notice as is practicable and at that time shall give a brief statement of the basis for reducing the notification period.

(c) EXTENSION OF LAYOFF PERIOD.—A layoff of more than 6 months which, at its outset, was announced to be a layoff of 6 months or less, shall be treated as an employment loss under this Act unless—

(1) the extension beyond 6 months is caused by business circumstances (including unforeseeable changes in price or cost) not reasonably foreseeable at the time of the initial layoff; and

(2) notice is given at the time it becomes reasonably foreseeable that the extension beyond 6 months will be required.

(d) DETERMINATIONS WITH RESPECT TO EMPLOYMENT LOSS.—For purposes of this section, in determining whether a plant closing or mass layoff has occurred or will occur, employment losses for 2 or more groups at a single site of employment, each of which is less than the minimum number of employees specified in section 2(a) (2) or (3) but which in the aggregate exceed that minimum number, and which occur within any 90-day period shall be considered to be a plant closing or mass layoff unless the employer demonstrates that the employment losses are the result of separate and distinct actions and causes and are not an attempt by the employer to evade the requirements of this Act.

29 USC 2103.

SEC. 4. EXEMPTIONS.

This Act shall not apply to a plant closing or mass layoff if—

(1) the closing is of a temporary facility or the closing or layoff is the result of the completion of a particular project or undertaking, and the affected employees were hired with the understanding that their employment was limited to the duration of the facility or the project or undertaking; or

(2) the closing or layoff constitutes a strike or constitutes a lockout not intended to evade the requirements of this Act. Nothing in this Act shall require an employer to serve written notice pursuant to section 3(a) of this Act when permanently replacing a person who is deemed to be an economic striker under the National Labor Relations Act: *Provided,* That nothing in this Act shall be deemed to validate or invalidate any judicial or administrative ruling relating to the hiring of permanent replacements for economic strikers under the National Labor Relations Act.

SEC. 5. ADMINISTRATION AND ENFORCEMENT OF REQUIREMENTS. 29 USC 2104.

(a) CIVIL ACTIONS AGAINST EMPLOYERS.—(1) Any employer who orders a plant closing or mass layoff in violation of section 3 of this Act shall be liable to each aggrieved employee who suffers an employment loss as a result of such closing or layoff for—

(A) back pay for each day of violation at a rate of compensation not less than the higher of— Wages.

(i) the average regular rate received by such employee during the last 3 years of the employee's employment; or

(ii) the final regular rate received by such employee; and

(B) benefits under an employee benefit plan described in section 3(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(3)), including the cost of medical expenses incurred during the employment loss which would have been covered under an employee benefit plan if the employment loss had not occurred. Health and medical care.

Such liability shall be calculated for the period of the violation, up to a maximum of 60 days, but in no event for more than one-half the number of days the employee was employed by the employer.

(2) The amount for which an employer is liable under paragraph (1) shall be reduced by—

(A) any wages paid by the employer to the employee for the period of the violation; Wages.

(B) any voluntary and unconditional payment by the employer to the employee that is not required by any legal obligation; and

(C) any payment by the employer to a third party or trustee (such as premiums for health benefits or payments to a defined contribution pension plan) on behalf of and attributable to the employee for the period of the violation. Health and medical care. Retirement.

In addition, any liability incurred under paragraph (1) with respect to a defined benefit pension plan may be reduced by crediting the employee with service for all purposes under such a plan for the period of the violation.

(3) Any employer who violates the provisions of section 3 with respect to a unit of local government shall be subject to a civil penalty of not more than $500 for each day of such violation, except that such penalty shall not apply if the employer pays to each aggrieved employee the amount for which the employer is liable to that employee within 3 weeks from the date the employer orders the shutdown or layoff.

(4) If an employer which has violated this Act proves to the satisfaction of the court that the act or omission that violated this Act was in good faith and that the employer had reasonable grounds for believing that the act or omission was not a violation of this Act the court may, in its discretion, reduce the amount of the liability or penalty provided for in this section. Courts, U.S.

(5) A person seeking to enforce such liability, including a representative of employees or a unit of local government aggrieved under paragraph (1) or (3), may sue either for such person or for other persons similarly situated, or both, in any district court of the United States for any district in which the violation is alleged to have occurred, or in which the employer transacts business. State and local governments.

(6) In any such suit, the court, in its discretion, may allow the prevailing party a reasonable attorney's fee as part of the costs. Courts, U.S.

(7) For purposes of this subsection, the term, "aggrieved employee" means an employee who has worked for the employer ordering the plant closing or mass layoff and who, as a result of the failure by the employer to comply with section 3, did not receive timely notice either directly or through his or her representative as required by section 3.

Courts, U.S.

(b) EXCLUSIVITY OF REMEDIES.—The remedies provided for in this section shall be the exclusive remedies for any violation of this Act. Under this Act, a Federal court shall not have authority to enjoin a plant closing or mass layoff.

29 USC 2105.

SEC. 6. PROCEDURES IN ADDITION TO OTHER RIGHTS OF EMPLOYEES.

Contracts.

The rights and remedies provided to employees by this Act are in addition to, and not in lieu of, any other contractual or statutory rights and remedies of the employees, and are not intended to alter or affect such rights and remedies, except that the period of notification required by this Act shall run concurrently with any period of notification required by contract or by any other statute.

29 USC 2106.

SEC. 7. PROCEDURES ENCOURAGED WHERE NOT REQUIRED.

It is the sense of Congress that an employer who is not required to comply with the notice requirements of section 3 should, to the extent possible, provide notice to its employees about a proposal to close a plant or permanently reduce its workforce.

29 USC 2107.

SEC. 8. AUTHORITY TO PRESCRIBE REGULATIONS.

(a) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this Act. Such regulations shall, at a minimum, include interpretative regulations describing the methods by which employers may provide for appropriate service of notice as required by this Act.

(b) The mailing of notice to an employee's last known address or inclusion of notice in the employee's paycheck will be considered acceptable methods for fulfillment of the employer's obligation to give notice to each affected employee under this Act.

29 USC 2108.

SEC. 9. EFFECT ON OTHER LAWS.

The giving of notice pursuant to this Act, if done in good faith compliance with this Act, shall not constitute a violation of the National Labor Relations Act or the Railway Labor Act.

29 USC 2109.

SEC. 10. REPORT ON EMPLOYMENT AND INTERNATIONAL COMPETITIVENESS.

Two years after the date of enactment of this Act the Comptroller General shall submit to the Committee on Small Business of both the House and Senate, the Committee on Labor and Human Resources, and the Committee on Education and Labor a report containing a detailed and objective analysis of the effect of this Act on employers (especially small- and medium-sized businesses), the economy (international competitiveness), and employees (in terms of levels and conditions of employment). The Comptroller General shall assess both costs and benefits, including the effect on productivity, competitiveness, unemployment rates and compensation, and worker retraining and readjustment.

SEC. 11. EFFECTIVE DATE.

29 USC 2101 note.

This Act shall take effect on the date which is 6 months after the date of enactment of this Act, except that the authority of the Secretary of Labor under section 8 is effective upon enactment.

[Note by the Office of the Federal Register: The foregoing Act, having been presented to the President of the United States on Friday, July 22, 1988, and not having been returned by him to the House of Congress in which it originated within the time prescribed by the Constitution of the United States, has become law without his signature on August 4, 1988.]

LEGISLATIVE HISTORY—S. 2527:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 22-24, 27-29, July 6, considered and passed Senate.
July 13, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Aug. 2, Presidential statement.

Public Law 100-380
100th Congress

Joint Resolution

Aug. 4, 1988
[S.J. Res. 356]

To provide for the extension of a temporary prohibition of strikes or lockout with respect to the Chicago and Northwestern Transportation Company labor-management dispute.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Railroads.

SECTION 1. EXTENSION OF TEMPORARY PROHIBITION.

Section 10(h) of the Railway Labor Act (45 U.S.C. 160) shall be extended until September 9, 1988, with respect to the dispute referred to in Executive Order No. 12636 of April 20, 1988, so that no change, except by agreement, shall be made by the rail carrier, Chicago and Northwestern Transportation Company, or by the employees of such carrier represented by labor organizations that are a party to such dispute, in the conditions out of which the dispute arose as such conditions existed before 12:01 ante meridiem of August 4, 1988.

Approved August 4, 1988.

LEGISLATIVE HISTORY—S.J. Res. 356:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 2, considered and passed Senate.
Aug. 4, considered and passed House.

Public Law 100-381
100th Congress

An Act

To provide that certain lands shall be in trust for the Pechanga Band of Luiseno Mission Indians of the Pechanga Reservation, California.

Aug. 8, 1988
[H.R. 2615]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CERTAIN LANDS HELD IN TRUST FOR PECHANGA BAND.

All right, title, and interest of the United States in and to the land acquired by the deed dated March 11, 1907, pursuant to the Act of June 21, 1906 (34 Stat. 333), is hereby declared to be held in trust by the United States for the use and benefit of the Pechanga Band of Luiseno Mission Indians of California. Such land is hereby declared to be part of the Pechanga Indian Reservation.

SEC. 2. PUBLICATION OF LAND DESCRIPTION.

Federal Register, publication.

The Secretary of the Interior shall publish in the Federal Register the description of the land referred to in section 1.

Approved August 8, 1988.

LEGISLATIVE HISTORY—H.R. 2615:

HOUSE REPORTS: No. 100-247 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-415 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Aug. 3, considered and passed House.
Vol. 134 (1988): July 14, considered and passed Senate.

Public Law 100-382
100th Congress

Joint Resolution

Aug. 8, 1988
[H.J. Res. 90]

To authorize and request the President to call and conduct a White House Conference on Library and Information Services to be held not earlier than September 1, 1989, and not later than September 30, 1991, and for other purposes.

20 USC 1501 note.

Whereas access to information and ideas is indispensable to the development of human potential, the advancement of civilization, and the continuance of enlightened self-government;

Whereas the preservation and the dissemination of information and ideas are the primary purpose and function of the library and information services;

Whereas the economic vitality of the United States in a global economy and the productivity of the work force of the Nation rest on access to information in the postindustrial information age;

Whereas the White House Conference on Library and Information Services of 1979 began a process in which a broadly representative group of citizens made recommendations that have improved the library and information services of the Nation, and sparked the Nation's interest in the crucial role of library and information services at home and abroad;

Whereas library and information service is essential to a learning society;

Whereas social, demographic, and economic shifts of the past decade have intensified the rate of change and require that Americans of all age groups develop and sustain literacy and other lifelong learning habits;

Whereas expanding technological developments offer unprecedented opportunities for application to teaching and learning and to new means to provide access to library and information services;

Whereas the growth and augmentation of the Nation's library and information services are essential if all Americans, without regard to race, ethnic background, or geographic location are to have reasonable access to adequate information and lifelong learning;

Whereas the future of our society depends on developing the learning potential inherent in all children and youth, especially literary, reading, research, and retrieval skills;

Whereas rapidly developing technology offers a potential for enabling libraries and information services to serve the public more fully; and

Whereas emerging satellite communication networks and other technologies offer unparalleled opportunity for access to education opportunities to all parts of the world, and to individuals who are homebound, handicapped, or incarcerated: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

20 USC 1501 note.

SECTION 1. PRESIDENT TO CALL CONFERENCE IN 1989.

The President is authorized to call and conduct a White House Conference on Library and Information Services to be held not

earlier than September 1, 1989, and not later than September 30, 1991.

SEC. 2. ESTABLISHMENT OF CONFERENCE.

20 USC 1501 note.

(a) PURPOSE.—The purpose of the White House Conference on Library and Information Services shall be to develop recommendations for the further improvement of the library and information services of the Nation and their use by the public, in accordance with the findings set forth in the preamble to this joint resolution.

(b) COMPOSITION.—The Conference shall be composed of—

(1) representatives of professional library and information personnel and individuals who support or furnish volunteer services to libraries and information services centers, from all age groups and walks of life, and members of the general public;

(2) representatives of local, statewide, regional, and national institutions, agencies, organizations, and associations which provide library and information services to the public;

(3) representatives of educational institutions, agencies, organizations, and associations (including professional and scholarly associations for the advancement of education and research);

(4) individuals with special knowledge of, and special competence in, technology as it may be used for the improvement of library and information services; and

(5) representatives of Federal, State, and local governments.

(c) DISTRIBUTION OF PARTICIPANTS.—In carrying out subsection (a)—

(1) one-fourth of the participants shall be selected from the library and information profession,

(2) one-fourth of the participants shall be selected from among individuals who are currently active library and information supporters, including trustees and friends groups,

(3) one-fourth shall be selected from among individuals who are Federal, State, or local government officials, and

(4) one-fourth shall be selected from the general public.

(d) STATE PARTICIPATION OPTIONAL.—(1) State and territorial delegates and alternates to the national conference may participate in a respective State or territorial conference.

(2) Nothing in this Act shall be construed to require any State to participate in a State or territorial conference.

SEC. 3. ADMINISTRATIVE PROVISIONS.

20 USC 1501 note.

(a) DIRECTION BY COMMISSION.—The Conference shall be planned and conducted under the direction of the National Commission on Libraries and Information Science.

(b) COMMISSION FUNCTIONS.—In carrying out this joint resolution, the Commission shall—

(1) when appropriate, request the cooperation and assistance of other Federal departments and agencies in order to carry out its responsibilities;

(2) make technical and financial assistance (by grant, contract, or otherwise) available to the States to enable them to organize and conduct conferences and other meetings in order to prepare for the Conference;

Grants. Contracts. State and local governments.

(3) prepare and make available background materials for the use of delegates to the Conference and associated State conferences, and prepare and distribute such reports of the Con-

ference and associated State conferences as may be appropriate; and

(4) conduct fiscal oversight activities with respect to the preparation for and the convening of the Conference including contracting for the services of an audit firm.

(c) FEDERAL AGENCY COOPERATION AND ASSISTANCE.—(1) Each Federal department and agency, including the national libraries, shall cooperate with, and provide assistance to the Commission upon its request under clause (1) of subsection (b). For that purpose, each Federal department and agency is authorized and encouraged to provide personnel to the Commission.

(2) The Librarian of Congress, the Director of the National Library of Medicine, and the Director of the National Agricultural Library are authorized to detail personnel to the Commission, upon request, to enable the Commission to carry out its functions under this joint resolution.

(d) PERSONNEL.—In carrying out the provisions of this joint resolution, the Commission is authorized to engage such personnel as may be necessary to assist the Commission and the Advisory Committee, without regard for the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51, and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(e) EXPENSES.—Members of the Conference may, while away from their homes or regular places of business and attending the Conference, be allowed travel expenses, including per diem in lieu of subsistence, as may be allowed under section 5703 of title 5, United States Code, for persons serving without pay. Such expenses may be paid by way of advances, reimbursement, or in installments as the Commission may determine.

20 USC 1501 note.

SEC. 4. REPORTS.

(a) SUBMISSION TO PRESIDENT; TRANSMITTAL TO CONGRESS.—A final report of the Conference, containing such findings and recommendations as may be made by the Conference, shall be submitted to the President not later than 120 days following the close of the Conference. The final report shall be made public and, within 90 days after its receipt by the President, transmitted to the Congress together with a statement of the President containing the recommendations of the President with respect to such report.

Public information.

(b) PUBLICATION AND DISTRIBUTION.—The Commission is authorized to publish and distribute for the Conference the reports authorized under this joint resolution. Copies of all such reports shall be provided to the depository libraries.

20 USC 1501 note.

SEC. 5. ADVISORY COMMITTEE.

(a) COMPOSITION.—There is established an advisory committee of the Conference composed of—

(1) eight individuals designated by the Chairman of the Commission;

(2) five individuals designated by the Speaker of the House of Representatives with not more than three being Members of the House of Representatives;

(3) five individuals designated by the President pro tempore of the Senate with not more than three being Members of the Senate;

(4) ten individuals appointed by the President;

(5) the Secretary of Education; and
(6) the Librarian of Congress.

The President, the President pro tempore of the Senate, the Speaker of the House of Representatives, and the Chairman of the Commission shall, after consultation, assure that members of the Advisory Committee are broadly representative of all areas of the United States.

(b) FUNCTION.—The advisory committee shall assist and advise the Commission in planning and conducting the Conference.

(c) ADMINISTRATION.—(1) The Chairman of the Commission shall serve as Vice Chairman of the Advisory Committee. The Advisory Committee shall elect the Chair of the Advisory Committee from among its members, who are not full-time Federal employees. The Advisory Committee shall select the Chair of the Conference.

(2) The Chairman of the Advisory Committee is authorized to establish, prescribe functions for, and appoint members to, such advisory and technical committees and staff as may be necessary to assist and advise the Conference in carrying out its functions.

(d) COMPENSATION.—Members of any committee established under this section who are not regular full-time officers or employees of the United States shall, while attending to the business of the Conference, be entitled to receive compensation therefor at a rate fixed by the President but not exceeding the rate of pay specified at the time of such service for grade GS-18 in section 5332 of title 5, United States Code, including traveltime. Such members, may, while away from their homes or regular places of business, be allowed travel expenses, including per diem in lieu of subsistence, as may be authorized under section 5703 of title 5, United States Code, for persons in the Government service employed intermittently.

SEC 6. GIFTS AND TITLE TO CERTAIN PROPERTY.

20 USC 1501 note.
Grants.

(a) GIFTS.—The Commission shall have authority to accept, on behalf of the Conference, in the name of the United States, grants, gifts, or bequests of money for immediate disbursement by the Commission in furtherance of the Conference. Such grants, gifts, or bequests offered the Commission, shall be paid by the donor or his representative into the Treasury of the United States, whose receipts shall enter such grants, gifts, and bequests in a special account to the credit of the Commission for the purposes of this joint resolution.

(b) REVERSION OF CERTAIN EQUIPMENT AND MATERIAL.—Materials and equipment acquired by the White House Conference shall revert to the National Commission on Libraries and Information Science after the close of the White House Conference.

SEC. 7. DEFINITIONS.

20 USC 1501 note.

For the purpose of this joint resolution—

(1) the term "Commission" means the National Commission on Libraries and Information Science;

(2) The term "Conference" means White House Conference on Library and Information Services; and

(3) the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the

Virgin Islands, the Trust Territory of the Pacific Islands, and American Indian Tribes.

20 USC 1501 note.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated without fiscal year limitations $6,000,000 to carry out this joint resolution. Such sums shall remain available for obligation until expended.

Approved August 8, 1988.

LEGISLATIVE HISTORY—H.J. Res. 90 (S.J. Res. 26):

HOUSE REPORTS: No. 100-121 (Comm. on Education and Labor) and No. 100-765 (Comm. of Conference).
SENATE REPORTS: No. 100-156 accompanying S.J. Res. 26 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 8, considered and passed House.
Dec. 15, S.J. Res. 26 considered in Senate; H.J. Res. 90, amended, passed in lieu.
Vol. 134 (1988): July 13, Senate agreed to conference report.
July 26, House agreed to conference report.

Public Law 100-383
100th Congress

An Act

To implement recommendations of the Commission on Wartime Relocation and Internment of Civilians.

Aug. 10, 1988
[H.R. 442]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Human rights.

SECTION 1. PURPOSES.

50 USC app. 1989.

The purposes of this Act are to—

(1) acknowledge the fundamental injustice of the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry during World War II;

(2) apologize on behalf of the people of the United States for the evacuation, relocation, and internment of such citizens and permanent resident aliens;

(3) provide for a public education fund to finance efforts to inform the public about the internment of such individuals so as to prevent the recurrence of any similar event;

Public information.

(4) make restitution to those individuals of Japanese ancestry who were interned;

(5) make restitution to Aleut residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island, in settlement of United States obligations in equity and at law, for—

(A) injustices suffered and unreasonable hardships endured while those Aleut residents were under United States control during World War II;

(B) personal property taken or destroyed by United States forces during World War II;

Real property.

(C) community property, including community church property, taken or destroyed by United States forces during World War II; and

(D) traditional village lands on Attu Island not rehabilitated after World War II for Aleut occupation or other productive use;

(6) discourage the occurrence of similar injustices and violations of civil liberties in the future; and

(7) make more credible and sincere any declaration of concern by the United States over violations of human rights committed by other nations.

SEC. 2. STATEMENT OF THE CONGRESS.

50 USC app. 1989a.

(a) WITH REGARD TO INDIVIDUALS OF JAPANESE ANCESTRY.—The Congress recognizes that, as described by the Commission on Wartime Relocation and Internment of Civilians, a grave injustice was done to both citizens and permanent resident aliens of Japanese ancestry by the evacuation, relocation, and internment of civilians during World War II. As the Commission documents, these actions were carried out without adequate security reasons and without any acts of espionage or sabotage documented by the Commission, and were motivated largely by racial prejudice, wartime hysteria, and a

failure of political leadership. The excluded individuals of Japanese ancestry suffered enormous damages, both material and intangible, and there were incalculable losses in education and job training, all of which resulted in significant human suffering for which appropriate compensation has not been made. For these fundamental violations of the basic civil liberties and constitutional rights of these individuals of Japanese ancestry, the Congress apologizes on behalf of the Nation.

(b) WITH RESPECT TO THE ALEUTS.—The Congress recognizes that, as described by the Commission on Wartime Relocation and Internment of Civilians, the Aleut civilian residents of the Pribilof Islands and the Aleutian Islands west of Unimak Island were relocated during World War II to temporary camps in isolated regions of southeast Alaska where they remained, under United States control and in the care of the United States, until long after any potential danger to their home villages had passed. The United States failed to provide reasonable care for the Aleuts, and this resulted in widespread illness, disease, and death among the residents of the camps; and the United States further failed to protect Aleut personal and community property while such property was in its possession or under its control. The United States has not compensated the Aleuts adequately for the conversion or destruction of personal property, and the conversion or destruction of community property caused by the United States military occupation of Aleut villages during World War II. There is no remedy for injustices suffered by the Aleuts during World War II except an Act of Congress providing appropriate compensation for those losses which are attributable to the conduct of United States forces and other officials and employees of the United States.

Civil Liberties Act of 1988.

TITLE I—UNITED STATES CITIZENS OF JAPANESE ANCESTRY AND RESIDENT JAPANESE ALIENS

50 USC app. 1989b.

SEC 101. SHORT TITLE.

This title may be cited as the "Civil Liberties Act of 1988".

50 USC app. 1989b-1.

SEC. 102. REMEDIES WITH RESPECT TO CRIMINAL CONVICTIONS.

(a) REVIEW OF CONVICTIONS.—The Attorney General is requested to review any case in which an individual living on the date of the enactment of this Act was, while a United States citizen or permanent resident alien of Japanese ancestry, convicted of a violation of—

(1) Executive Order Numbered 9066, dated February 19, 1942;

(2) the Act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones", approved March 21, 1942 (56 Stat. 173); or

(3) any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry;

on account of the refusal by such individual, during the evacuation, relocation, and internment period, to accept treatment which discriminated against the individual on the basis of the individual's Japanese ancestry.

(b) RECOMMENDATIONS FOR PARDONS.—Based upon any review under subsection (a), the Attorney General is requested to recommend to the President for pardon consideration those convictions which the Attorney General considers appropriate.

(c) ACTION BY THE PRESIDENT.—In consideration of the statement of the Congress set forth in section 2(a), the President is requested to offer pardons to any individuals recommended by the Attorney General under subsection (b).

SEC. 103. CONSIDERATION OF COMMISSION FINDINGS BY DEPARTMENTS AND AGENCIES. 50 USC app. 1989b-2.

(a) REVIEW OF APPLICATIONS BY ELIGIBLE INDIVIDUALS.—Each department and agency of the United States Government shall review with liberality, giving full consideration to the findings of the Commission and the statement of the Congress set forth in section 2(a), any application by an eligible individual for the restitution of any position, status, or entitlement lost in whole or in part because of any discriminatory act of the United States Government against such individual which was based upon the individual's Japanese ancestry and which occurred during the evacuation, relocation, and internment period.

(b) NO NEW AUTHORITY CREATED.—Subsection (a) does not create any authority to grant restitution described in that subsection, or establish any eligibility to apply for such restitution.

SEC. 104. TRUST FUND. 50 USC app. 1989b-3.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States the Civil Liberties Public Education Fund, which shall be administered by the Secretary of the Treasury.

(b) INVESTMENT OF AMOUNTS IN THE FUND.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code.

(c) USES OF THE FUND.—Amounts in the Fund shall be available only for disbursement by the Attorney General under section 105 and by the Board under section 106.

(d) TERMINATION.—The Fund shall terminate not later than the earlier of the date on which an amount has been expended from the Fund which is equal to the amount authorized to be appropriated to the Fund by subsection (e), and any income earned on such amount, or 10 years after the date of the enactment of this Act. If all of the amounts in the Fund have not been expended by the end of that 10-year period, investments of amounts in the Fund shall be liquidated and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund $1,250,000,000, of which not more than $500,000,000 may be appropriated for any fiscal year. Any amounts appropriated pursuant to this section are authorized to remain available until expended.

SEC. 105. RESTITUTION. 50 USC app. 1989b-4.

(a) LOCATION AND PAYMENT OF ELIGIBLE INDIVIDUALS.—

(1) IN GENERAL.—Subject to paragraph (6), the Attorney General shall, subject to the availability of funds appropriated to the Fund for such purpose, pay out of the Fund to each eligible individual the sum of $20,000, unless such individual refuses, in the manner described in paragraph (4), to accept the payment.

(2) LOCATION OF ELIGIBLE INDIVIDUALS.—The Attorney General shall identify and locate, without requiring any application for payment and using records already in the possession of the United States Government, each eligible individual. The Attorney General should use funds and resources available to the Attorney General, including those described in subsection (c), to attempt to complete such identification and location within 12 months after the date of the enactment of this Act. Any eligible individual may notify the Attorney General that such individual is an eligible individual, and may provide documentation therefor. The Attorney General shall designate an officer or employee to whom such notification and documentation may be sent, shall maintain a list of all individuals who submit such notification and documentation, and shall, subject to the availability of funds appropriated for such purpose, encourage, through a public awareness campaign, each eligible individual to submit his or her current address to such officer or employee. To the extent that resources referred to in the second sentence of this paragraph are not sufficient to complete the identification and location of all eligible individuals, there are authorized to be appropriated such sums as may be necessary for such purpose. In any case, the identification and location of all eligible individuals shall be completed within 12 months after the appropriation of funds under the preceding sentence. Failure to be identified and located by the end of the 12-month period specified in the preceding sentence shall not preclude an eligible individual from receiving payment under this section.

Records.
Public information.

Appropriation authorization.

(3) NOTICE FROM THE ATTORNEY GENERAL.—The Attorney General shall, when funds are appropriated to the Fund for payments to an eligible individual under this section, notify that eligible individual in writing of his or her eligibility for payment under this section. Such notice shall inform the eligible individual that—

Claims.

(A) acceptance of payment under this section shall be in full satisfaction of all claims against the United States arising out of acts described in section 108(2)(B), and

(B) each eligible individual who does not refuse, in the manner described in paragraph (4), to accept payment under this section within 18 months after receiving such written notice shall be deemed to have accepted payment for purposes of paragraph (5).

(4) EFFECT OF REFUSAL TO ACCEPT PAYMENT.—If an eligible individual refuses, in a written document filed with the Attorney General, to accept any payment under this section, the amount of such payment shall remain in the Fund and no payment may be made under this section to such individual at any time after such refusal.

(5) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The acceptance of payment by an eligible individual under this section shall be in full satisfaction of all claims against the United States arising out of acts described in section 108(2)(B). This paragraph shall apply to any eligible

individual who does not refuse, in the manner described in paragraph (4), to accept payment under this section within 18 months after receiving the notification from the Attorney General referred to in paragraph (3).

(6) EXCLUSION OF CERTAIN INDIVIDUALS.—No payment may be made under this section to any individual who, after September 1, 1987, accepts payment pursuant to an award of a final judgment or a settlement on a claim against the United States for acts described in section 108(2)(B), or to any surviving spouse, child, or parent of such individual to whom paragraph (6) applies. Claims.

(7) PAYMENTS IN THE CASE OF DECEASED PERSONS.—(A) In the case of an eligible individual who is deceased at the time of payment under this section, such payment shall be made only as follows:

(i) If the eligible individual is survived by a spouse who is living at the time of payment, such payment shall be made to such surviving spouse.

(ii) If there is no surviving spouse described in clause (i), such payment shall be made in equal shares to all children of the eligible individual who are living at the time of payment.

(iii) If there is no surviving spouse described in clause (i) and if there are no children described in clause (ii), such payment shall be made in equal shares to the parents of the eligible individual who are living at the time of payment.

If there is no surviving spouse, children, or parents described in clauses (i), (ii), and (iii), the amount of such payment shall remain in the Fund, and may be used only for the purposes set forth in section 106(b).

(B) After the death of an eligible individual, this subsection and subsections (c) and (f) shall apply to the individual or individuals specified in subparagraph (A) to whom payment under this section will be made, to the same extent as such subsections apply to the eligible individual.

(C) For purposes of this paragraph—

(i) the "spouse" of an eligible individual means a wife or husband of an eligible individual who was married to that eligible individual for at least 1 year immediately before the death of the eligible individual;

(ii) a "child" of an eligible individual includes a recognized natural child, a stepchild who lived with the eligible individual in a regular parent-child relationship, and an adopted child; and

(iii) a "parent" of an eligible individual includes fathers and mothers through adoption.

(b) ORDER OF PAYMENTS.—The Attorney General shall endeavor to make payments under this section to eligible individuals in the order of date of birth (with the oldest individual on the date of the enactment of this Act (or, if applicable, that individual's survivors under paragraph (6)) receiving full payment first), until all eligible individuals have received payment in full.

(c) RESOURCES FOR LOCATING ELIGIBLE INDIVIDUALS.—In attempting to locate any eligible individual, the Attorney General may use any facility or resource of any public or nonprofit organization or any other record, document, or information that may be made available to the Attorney General. Records.

(d) ADMINISTRATIVE COSTS NOT PAID FROM THE FUND.—No costs incurred by the Attorney General in carrying out this section shall be paid from the Fund or set off against, or otherwise deducted from, any payment under this section to any eligible individual.

(e) TERMINATION OF DUTIES OF ATTORNEY GENERAL.—The duties of the Attorney General under this section shall cease when the Fund terminates.

(f) CLARIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Amounts paid to an eligible individual under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering; and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

50 USC app. 1989b–5.

SEC. 106. BOARD OF DIRECTORS OF THE FUND.

(a) ESTABLISHMENT.—There is established the Civil Liberties Public Education Fund Board of Directors, which shall be responsible for making disbursements from the Fund in the manner provided in this section.

(b) USES OF FUND.—The Board may make disbursements from the Fund only—

Research and development. Education. Public information.

(1) to sponsor research and public educational activities, and to publish and distribute the hearings, findings, and recommendations of the Commission, so that the events surrounding the evacuation, relocation, and internment of United States citizens and permanent resident aliens of Japanese ancestry will be remembered, and so that the causes and circumstances of this and similar events may be illuminated and understood; and

(2) for reasonable administrative expenses of the Board, including expenses incurred under subsections (c)(3), (d), and (e).

(c) MEMBERSHIP.—

(1) APPOINTMENT.—The Board shall be composed of 9 members appointed by the President, by and with the advice and consent of the Senate, from individuals who are not officers or employees of the United States Government.

(2) TERMS.—(A) Except as provided in subparagraphs (B) and (C), members shall be appointed for terms of 3 years.

(B) Of the members first appointed—

(i) 5 shall be appointed for terms of 3 years, and

(ii) 4 shall be appointed for terms of 2 years,

as designated by the President at the time of appointment.

(C) Any member appointed to fill a vacancy occurring before the expiration of the term for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of such member's term until such member's successor has taken office. No individual may be appointed as a member for more than 2 consecutive terms.

(3) COMPENSATION.—Members of the Board shall serve without pay, except that members of the Board shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Board, in the same manner as persons employed intermittently

in the United States Government are allowed expenses under section 5703 of title 5, United States Code.

(4) QUORUM.—5 members of the Board shall constitute a quorum but a lesser number may hold hearings.

(5) CHAIR.—The Chair of the Board shall be elected by the members of the Board.

(d) DIRECTOR AND STAFF.—

(1) DIRECTOR.—The Board shall have a Director who shall be appointed by the Board.

(2) ADDITIONAL STAFF.—The Board may appoint and fix the pay of such additional staff as it may require.

(3) APPLICABILITY OF CIVIL SERVICE LAWS.—The Director and the additional staff of the Board may be appointed without regard to section 5311(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that the compensation of any employee of the Board may not exceed a rate equivalent to the minimum rate of basic pay payable for GS-18 of the General Schedule under section 5332(a) of such title.

(e) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of General Services shall provide to the Board on a reimbursable basis such administrative support services as the Board may request.

(f) GIFTS AND DONATIONS.—The Board may accept, use, and dispose of gifts or donations of services or property for purposes authorized under subsection (b).

(g) ANNUAL REPORTS.—Not later than 12 months after the first meeting of the Board and every 12 months thereafter, the Board shall transmit to the President and to each House of the Congress a report describing the activities of the Board.

(h) TERMINATION.—90 days after the termination of the Fund, the Board shall terminate and all obligations of the Board under this section shall cease.

SEC. 107. DOCUMENTS RELATING TO THE INTERNMENT.

50 USC app. 1989b-6.

(a) PRESERVATION OF DOCUMENTS IN NATIONAL ARCHIVES.—All documents, personal testimony, and other records created or received by the Commission during its inquiry shall be kept and maintained by the Archivist of the United States who shall preserve such documents, testimony, and records in the National Archives of the United States. The Archivist shall make such documents, testimony, and records available to the public for research purposes.

Public information.

(b) PUBLIC AVAILABILITY OF CERTAIN RECORDS OF THE HOUSE OF REPRESENTATIVES.—(1) The Clerk of the House of Representatives is authorized to permit the Archivist of the United States to make available for use records of the House not classified for national security purposes, which have been in existence for not less than thirty years, relating to the evacuation, relocation, and internment of individuals during the evacuation, relocation, and internment period.

(2) This subsection is enacted as an exercise of the rulemaking power of the House of Representatives, but is applicable only with respect to the availability of records to which it applies, and supersedes other rules only to the extent that the time limitation established by this section with respect to such records is specifically

inconsistent with such rules, and is enacted with full recognition of the constitutional right of the House to change its rules at any time, in the same manner and to the same extent as in the case of any other rule of the House.

50 USC app. 1989b-7.

SEC. 108. DEFINITIONS.

For the purposes of this title—

(1) the term "evacuation, relocation, and internment period" means that period beginning on December 7, 1941, and ending on June 30, 1946;

(2) the term "eligible individual" means any individual of Japanese ancestry who is living on the date of the enactment of this Act and who, during the evacuation, relocation, and internment period—

(A) was a United States citizen or a permanent resident alien; and

(B)(i) was confined, held in custody, relocated, or otherwise deprived of liberty or property as a result of—

(I) Executive Order Numbered 9066, dated February 19, 1942;

(II) the Act entitled "An Act to provide a penalty for violation of restrictions or orders with respect to persons entering, remaining in, leaving, or committing any act in military areas or zones", approved March 21, 1942 (56 Stat. 173); or

(III) any other Executive order, Presidential proclamation, law of the United States, directive of the Armed Forces of the United States, or other action taken by or on behalf of the United States or its agents, representatives, officers, or employees, respecting the evacuation, relocation, or internment of individuals solely on the basis of Japanese ancestry; or

(ii) was enrolled on the records of the United States Government during the period beginning on December 7, 1941, and ending on June 30, 1946, as being in a prohibited military zone;

except that the term "eligible individual" does not include any individual who, during the period beginning on December 7, 1941, and ending on September 2, 1945, relocated to a country while the United States was at war with that country;

(3) the term "permanent resident alien" means an alien lawfully admitted into the United States for permanent residence;

(4) the term "Fund" means the Civil Liberties Public Education Fund established in section 104;

(5) the term "Board" means the Civil Liberties Public Education Fund Board of Directors established in section 106; and

(6) the term "Commission" means the Commission on Wartime Relocation and Internment of Civilians, established by the Commission on Wartime Relocation and Internment of Civilians Act (Public Law 96-317; 50 U.S.C. App. 1981 note).

50 USC app. 1989b-8. Contracts.

SEC. 109. COMPLIANCE WITH BUDGET ACT.

No authority under this title to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as are provided in advance in appropriations Acts. In any fiscal year, total benefits conferred by this title shall be

limited to an amount not in excess of the appropriations for such fiscal year. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal year 1989 and thereafter.

Effective date.

TITLE II—ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION

Aleutian and Pribilof Islands Restitution Act. Alaska.

SEC. 201. SHORT TITLE.

50 USC app. 1989c.

This title may be cited as the "Aleutian and Pribilof Islands Restitution Act".

SEC. 202. DEFINITIONS.

50 USC app. 1989c-1.

As used in this title—

(1) the term "Administrator" means the person appointed by the Secretary under section 204;

(2) the term "affected Aleut villages" means the surviving Aleut villages of Akutan, Atka, Nikolski, Saint George, Saint Paul, and Unalaska, and the Aleut village of Attu, Alaska;

(3) the term "Association" means the Aleutian/Pribilof Islands Association, Inc., a nonprofit regional corporation established for the benefit of the Aleut people and organized under the laws of the State of Alaska;

(4) the term "Corporation" means the Aleut Corporation, a for-profit regional corporation for the Aleut region organized under the laws of the State of Alaska and established under section 7 of the Alaska Native Claims Settlement Act (Public Law 92-203; 43 U.S.C. 1606);

(5) the term "eligible Aleut" means any Aleut living on the date of the enactment of this Act—

(A) who, as a civilian, was relocated by authority of the United States from his or her home village on the Pribilof Islands or the Aleutian Islands west of Unimak Island to an internment camp, or other temporary facility or location, during World War II; or

(B) who was born while his or her natural mother was subject to such relocation;

(6) the term "Secretary" means the Secretary of the Interior;

(7) the term "Fund" means the Aleutian and Pribilof Islands Restitution Fund established in section 203; and

(8) the term "World War II" means the period beginning on December 7, 1941, and ending on September 2, 1945.

SEC. 203. ALEUTIAN AND PRIBILOF ISLANDS RESTITUTION FUND.

50 USC app. 1989c-2.

(a) ESTABLISHMENT.—There is established in the Treasury of the United States the Aleutian and Pribilof Islands Restitution Fund, which shall be administered by the Secretary. The Fund shall consist of amounts appropriated to it pursuant to this title.

(b) REPORT.—The Secretary shall report to the Congress, not later than 60 days after the end of each fiscal year, on the financial condition of the Fund, and the results of operations of the Fund, during the preceding fiscal year and on the expected financial condition and operations of the Fund during the current fiscal year.

(c) INVESTMENT.—Amounts in the Fund shall be invested in accordance with section 9702 of title 31, United States Code.

(d) TERMINATION.—The Secretary shall terminate the Fund 3 years after the date of the enactment of this Act, or 1 year following disbursement of all payments from the Fund, as authorized by this title, whichever occurs later. On the date the Fund is terminated, all investments of amounts in the Fund shall be liquidated by the Secretary and receipts thereof deposited in the Fund and all funds remaining in the Fund shall be deposited in the miscellaneous receipts account in the Treasury.

Securities.

50 USC app. 1989c-3.

Contracts.

SEC. 204. APPOINTMENT OF ADMINISTRATOR.

As soon as practicable after the date of the enactment of this Act, the Secretary shall offer to undertake negotiations with the Association, leading to the execution of an agreement with the Association to serve as Administrator under this title. The Secretary may appoint the Association as Administrator if such agreement is reached within 90 days after the date of the enactment of this title. If no such agreement is reached within such period, the Secretary shall appoint another person as Administrator under this title, after consultation with leaders of affected Aleut villages and the Corporation.

50 USC app. 1989c-4.

SEC. 205. COMPENSATION FOR COMMUNITY LOSSES.

(a) IN GENERAL.—Subject to the availability of funds appropriated to the Fund, the Secretary shall make payments from the Fund, in accordance with this section, as restitution for certain Aleut losses sustained in World War II.

(b) TRUST.—

(1) ESTABLISHMENT.—The Secretary shall, subject to the availability of funds appropriated for this purpose, establish a trust for the purposes set forth in this section. Such trust shall be established pursuant to the laws of the State of Alaska, and shall be maintained and operated by not more than seven trustees, as designated by the Secretary. Each affected Aleut village may submit to the Administrator a list of three prospective trustees. The Secretary, after consultation with the Administrator, affected Aleut villages, and the Corporation, shall designate not more than seven trustees from such lists as submitted.

(2) ADMINISTRATION OF TRUST.—The trust established under this subsection shall be administered in a manner that is consistent with the laws of the State of Alaska, and as prescribed by the Secretary, after consultation with representatives of eligible Aleuts, the residents of affected Aleut villages, and the Administrator.

(c) ACCOUNTS FOR THE BENEFIT OF ALEUTS.—

(1) IN GENERAL.—The Secretary shall deposit in the trust such sums as may be appropriated for the purposes set forth in this subsection. The trustees shall maintain and operate 8 independent and separate accounts in the trust for purposes of this subsection, as follows:

(A) One account for the independent benefit of the wartime Aleut residents of Attu and their descendants.

(B) Six accounts for the benefit of the 6 surviving affected Aleut villages, one each for the independent benefit of Akutan, Atka, Nikolski, Saint George, Saint Paul, and Unalaska, respectively.

(C) One account for the independent benefit of those Aleuts who, as determined by the Secretary, upon the advice of the trustees, are deserving but will not benefit directly from the accounts established under subparagraphs (A) and (B).

The trustees shall credit to the account described in subparagraph (C) an amount equal to 5 percent of the principal amount deposited by the Secretary in the trust under this subsection. Of the remaining principal amount, an amount shall be credited to each account described in subparagraphs (A) and (B) which bears the same proportion to such remaining principal amount as the Aleut civilian population, as of June 1, 1942, of the village with respect to which such account is established bears to the total civilian Aleut population on such date of all affected Aleut villages.

(2) USES OF ACCOUNTS.—The trustees may use the principal, accrued interest, and other earnings of the accounts maintained under paragraph (1) for—

(A) the benefit of elderly, disabled, or seriously ill persons on the basis of special need; Aged persons. Handicapped persons.

(B) the benefit of students in need of scholarship assistance; Education.

(C) the preservation of Aleut cultural heritage and historical records; Historic preservation.

(D) the improvement of community centers in affected Aleut villages; and Community development.

(E) other purposes to improve the condition of Aleut life, as determined by the trustees.

(3) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to the Fund to carry out this subsection.

(d) COMPENSATION FOR DAMAGED OR DESTROYED CHURCH PROPERTY.—

(1) INVENTORY AND ASSESSMENT OF PROPERTY.—The Administrator shall make an inventory and assessment of real and personal church property of affected Aleut villages which was damaged or destroyed during World War II. In making such inventory and assessment, the Administrator shall consult with the trustees of the trust established under subsection (b), residents of affected Aleut villages, affected church members and leaders, and the clergy of the churches involved. Within 1 year after the date of the enactment of this Act, the Administrator shall submit such inventory and assessment, together with an estimate of the present replacement value of lost or destroyed furnishings and artifacts, to the Secretary. Records.

(2) REVIEW BY THE SECRETARY; DEPOSIT IN THE TRUST.—The Secretary shall review the inventory and assessment provided under paragraph (1), and shall deposit in the trust established under subsection (b) an amount reasonably calculated by the Secretary to compensate affected Aleut villages for church property lost, damaged, or destroyed during World War II.

(3) DISTRIBUTION OF COMPENSATION.—The trustees shall distribute the amount deposited in the trust under paragraph (2) for the benefit of the churches referred to in this subsection.

(4) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund $1,400,000 to carry out this subsection.

(c) ADMINISTRATIVE AND LEGAL EXPENSES.—

(1) REIMBURSEMENT FOR EXPENSES.—The Secretary shall reimburse the Administrator, not less often than annually, for reasonable and necessary administrative and legal expenses in carrying out the Administrator's responsibilities under this title.

(2) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this subsection.

50 USC app. 1989c-5.

SEC. 206. INDIVIDUAL COMPENSATION OF ELIGIBLE ALEUTS.

(a) PAYMENTS TO ELIGIBLE ALEUTS.—In addition to payments made under section 205, the Secretary shall, in accordance with this section, make per capita payments out of the Fund to eligible Aleuts. The Secretary shall pay, subject to the availability of funds appropriated to the Fund for such payments, to each eligible Aleut the sum of $12,000.

(b) ASSISTANCE OF ATTORNEY GENERAL.—The Secretary may request the Attorney General to provide reasonable assistance in locating eligible Aleuts residing outside the affected Aleut villages, and upon such request, the Attorney General shall provide such assistance. In so doing, the Attorney General may use available facilities and resources of the International Committee of the Red Cross and other organizations.

(c) ASSISTANCE OF ADMINISTRATOR.—The Secretary may request the assistance of the Administrator in identifying and locating eligible Aleuts for purposes of this section.

(d) CLARIFICATION OF TREATMENT OF PAYMENTS UNDER OTHER LAWS.—Amounts paid to an eligible Aleut under this section—

(1) shall be treated for purposes of the internal revenue laws of the United States as damages for human suffering, and

(2) shall not be included as income or resources for purposes of determining eligibility to receive benefits described in section 3803(c)(2)(C) of title 31, United States Code, or the amount of such benefits.

(e) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The payment to an eligible Aleut under this section shall be in full satisfaction of all claims against the United States arising out of the relocation described in section 202(5).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Fund such sums as are necessary to carry out this section.

Public lands. National Wildlife Refuge System. Conservation. 50 USC app. 1989c-6.

SEC. 207. ATTU ISLAND RESTITUTION PROGRAM.

(a) PURPOSE OF SECTION.—In accordance with section (3)(c) of the Wilderness Act (78 Stat. 892; 16 U.S.C. 1132(c)), the public lands on Attu Island, Alaska, within the National Wildlife Refuge System have been designated as wilderness by section 702(1) of the Alaska National Interest Lands Conservation Act (94 Stat. 2417; 16 U.S.C. 1132 note). In order to make restitution for the loss of traditional Aleut lands and village properties on Attu Island, while preserving the present designation of Attu Island lands as part of the National Wilderness Preservation System, compensation to the Aleut people, in lieu of the conveyance of Attu Island, shall be provided in accordance with this section.

(b) ACREAGE DETERMINATION.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall, in accordance

with this subsection, determine the total acreage of land on Attu Island, Alaska, that, at the beginning of World War II, was subject to traditional use by the Aleut villagers of that island for subsistence and other purposes. In making such acreage determination, the Secretary shall establish a base acreage of not less than 35,000 acres within that part of eastern Attu Island traditionally used by the Aleut people, and shall, from the best available information, including information that may be submitted by representatives of the Aleut people, identify any such additional acreage on Attu Island that was subject to such use. The combination of such base acreage and such additional acreage shall constitute the acreage determination upon which payment to the Corporation under this section is based. The Secretary shall promptly notify the Corporation of the results of the acreage determination made under this subsection.

(c) VALUATION.—

(1) DETERMINATION OF VALUE.—Not later than 120 days after the date of the enactment of this Act, the Secretary shall determine the value of the Attu Island acreage determined under subsection (b), except that—

(A) such acreage may not be valued at less than $350 per acre nor more than $500 per acre; and

(B) the total valuation of all such acreage may not exceed $15,000,000.

(2) FACTORS IN MAKING DETERMINATION.—In determining the value of the acreage under paragraph (1), the Secretary shall take into consideration such factors as the Secretary considers appropriate, including—

(A) fair market value;

(B) environmental and public interest value; and

(C) established precedents for valuation of comparable wilderness lands in the State of Alaska.

(3) NOTIFICATION OF DETERMINATION; APPEAL.—The Secretary shall promptly notify the Corporation of the determination of value made under this subsection, and such determination shall constitute the final determination of value unless the Corporation, within 30 days after the determination is made, appeals the determination to the Secretary. If such appeal is made, the Secretary shall, within 30 days after the appeal is made, review the determination in light of the appeal, and issue a final determination of the value of that acreage determined to be subject to traditional use under subsection (b).

(d) IN LIEU COMPENSATION PAYMENT.—

(1) PAYMENT.—The Secretary shall pay, subject to the availability of funds appropriated for such purpose, to the Corporation, as compensation for the Aleuts' loss of lands on Attu Island, the full amount of the value of the acreage determined under subsection (c), less the value (as determined under subsection (c)) of any land conveyed under subsection (e).

(2) PAYMENT IN FULL SETTLEMENT OF CLAIMS AGAINST THE UNITED STATES.—The payment made under paragraph (1) shall be in full satisfaction of any claim against the United States for the loss of traditional Aleut lands and village properties on Attu Island.

(e) VILLAGE SITE CONVEYANCE.—The Secretary may convey to the Corporation all right, title, and interest of the United States to the surface estate of the traditional Aleut village site on Attu Island, Alaska (consisting of approximately 10 acres) and to the surface

estate of a parcel of land consisting of all land outside such village that is within 660 feet of any point on the boundary of such village. The conveyance may be made under the authority contained in section 14(h)(1) of the Alaska Native Claims Settlement Act (Public Law 92-203; 43 U.S.C. 1613(h)(1)), except that after the enactment of this Act, no site on Attu Island, Alaska, other than such traditional Aleut village site and such parcel of land, may be conveyed to the Corporation under such section 14(h)(1).

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $15,000,000 to the Secretary to carry out this section.

Contracts.
50 USC app. 1989c-7.

SEC. 208. COMPLIANCE WITH BUDGET ACT.

No authority under this title to enter into contracts or to make payments shall be effective in any fiscal year except to such extent and in such amounts as are provided in advance in appropriations Acts. In any fiscal year, the Secretary, with respect to—

(1) the Fund established under section 203,

(2) the trust established under section 205(b), and

(3) the provisions of sections 206 and 207,

shall limit the total benefits conferred to an amount not in excess of the appropriations for such fiscal year. Any provision of this title which, directly or indirectly, authorizes the enactment of new budget authority shall be effective only for fiscal year 1989 and thereafter.

Effective date.

50 USC app. 1989c-8.

SEC. 209. SEVERABILITY.

If any provision of this title, or the application of such provision to any person or circumstance, is held invalid, the remainder of this title and the application of such provision to other persons not similarly situated or to other circumstances shall not be affected by such invalidation.

TITLE III—TERRITORY OR PROPERTY CLAIMS AGAINST UNITED STATES

SEC. 301. EXCLUSION OF CLAIMS.

Mexico.
Indians.
50 USC app. 1989d.

Notwithstanding any other provision of law or of this Act, nothing in this Act shall be construed as recognition of any claim of Mexico or any other country or any Indian tribe (except as expressly provided in this Act with respect to the Aleut tribe of Alaska) to any territory or other property of the United States, nor shall this Act be construed as providing any basis for compensation in connection with any such claim.

Approved August 10, 1988.

LEGISLATIVE HISTORY—H.R. 442:

HOUSE REPORTS: No. 100-278 (Comm. on the Judiciary) and No. 100-785 (Comm. of Conference).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Sept. 17, considered and passed House.

Vol. 134 (1988): Apr. 20, considered and passed Senate, amended.
July 27, Senate agreed to conference report.
Aug. 4, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Aug. 10, Presidential remarks.

Public Law 100-384
100th Congress

An Act

To designate the Federal building located at 50 Spring Street, Southwest, Atlanta, Georgia, as the "Martin Luther King, Jr. Federal Building".

Aug. 10, 1988
[H.R. 3811]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building located at 50 Spring Street, Southwest, Atlanta, Georgia, shall be known and designated as the "Martin Luther King, Jr. Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal building referred to in section 1 shall be deemed to be a reference to the "Martin Luther King, Jr. Federal Building".

Approved August 10, 1988.

LEGISLATIVE HISTORY—H.R. 3811:

HOUSE REPORTS: No. 100-633 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
July 29, considered and passed Senate.

Public Law 100-385
100th Congress

Joint Resolution

Aug. 10, 1988
[H.J. Res. 475]

To designate October 1988 as "Polish American Heritage Month".

Whereas the first Polish immigrants to North America were among the settlers of Jamestown, Virginia, in the 17th century;

Whereas Kazimierz Pulaski, Tadeusz Kosciuszko, and other Poles came to the British colonies in America to fight in the Revolutionary War and to risk their lives and fortunes for the creation of the United States;

Whereas Poles and Americans of Polish descent have distinguished themselves by contributing to the development of arts, sciences, government, military service, athletics, and education in the United States;

Whereas the Polish Constitution of May 3, 1791, was directly modeled on the Constitution of the United States, is recognized as the second written constitution in history, and is revered by Poles and Americans of Polish descent;

Whereas Americans of Polish descent and Americans sympathetic to the struggle of the Polish people to regain their freedom remain committed to a free and independent Polish nation;

Whereas Poles and Americans of Polish descent take great pride in and honor the achievements of the greatest son of Poland, His Holiness Pope John Paul II;

Whereas Poles and Americans of Polish descent take great pride in and honor the achievements of Nobel Peace Prize laureate Lech Walesa, the founder of the Solidarity Labor Federation;

Whereas the Solidarity Labor Federation was founded in August 1980 and is continuing its struggle against oppression by the Government of Poland; and

Whereas the Polish American Congress is observing its 44th anniversary this year and is celebrating October 1988 as Polish American Heritage Month: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1988 is designated as "Polish American Heritage Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved August 10, 1988.

LEGISLATIVE HISTORY—H.J. Res. 475:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 14, considered and passed House.
July 26, considered and passed Senate.

Public Law 100-386
100th Congress

An Act

To amend the Public Health Service Act to revise and extend the programs establishing migrant health centers and community health centers.

Aug. 10, 1988
[S. 2385]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Community and Migrant Health Centers Amendments of 1988.
42 USC 201 note.

SECTION 1. SHORT TITLE, REFERENCE TO ACT.

(a) SHORT TITLE.—This Act may be cited as the "Community and Migrant Health Centers Amendments of 1988".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. MIGRANT HEALTH CENTERS.

(a) ADDITION OF PATIENT CASE MANAGEMENT SERVICES TO LIST OF PROVIDED SERVICES.—Section 329(a)(1) (42 U.S.C. 254b(a)(1)) is amended—

(1) by striking "and " at the end of subparagraph (F) and inserting "and" at the end of subparagraph (G); and

(2) by inserting after subparagraph (G) the following new subparagraph:

"(H) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) ADDITION OF APPROPRIATE HEALTH NEEDS TO LIST OF SUPPLEMENTAL HEALTH SERVICES.—Section 329(a)(7) (42 U.S.C. 254b(a)(7)) is amended—

(1) by striking "and " at the end of subparagraph (K);

(2) by striking the period at the end of subparagraph (L) and inserting "; and"; and

(3) by adding at the end the following new subparagraph:

"(M) other services appropriate to meet the health needs of the population served by the migrant health center involved.".

(c) PROCEDURES FOR ALTERATION OF DETERMINATION OF HIGH IMPACT AREA.—Section 329(d)(1)(A) (42 U.S.C. 254b(d)(1)(A)) is amended—

(1) by inserting "(i)" after "(A)"; and

(2) by adding at the end the following new clause:

"(ii) If the Secretary makes a determination that an area is a high impact area, the Secretary may alter the determination only after providing to the grantee under subclause (i) for the area, and to other interested entities in the area, reasonable notice with respect to such determination and a reasonable opportunity to offer information with respect to such determination.".

(d) REQUIREMENT OF FEES CONSISTENT WITH LOCALLY PREVAILING RATES.—Section 329(f)(3)(F)(i) (42 U.S.C. 254b(f)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or charges and"; and

(2) by inserting "has prepared" after "operation and".

(e) AUTHORITY WITH RESPECT TO EXPANSION AND CONSTRUCTION OF CENTERS.—

(1) Section 329 (42 U.S.C. 254b) is amended—

(A) in the second sentence of subsection (c)(1)(A), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings and construction of new buildings";

(B) in the matter after and below subsection (c)(1)(B)(iv), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(C) in the matter after and below subsection (d)(1)(B)(iv), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(D) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(E) in subsection (d)(2), by striking "acquiring and modernizing existing buildings" and inserting "acquiring, expanding, and modernizing existing buildings and constructing new buildings"; and

(F) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(2) Section 329(f) (42 U.S.C. 254b(f)) is amended by adding at the end the following:

Grants. "(7) The Secretary may make a grant under subsection (c) or (d) for the construction of new buildings for a migrant health center or a migrant health program only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, or expanding existing buildings and that the entity to which the grant will be made has made reasonable efforts to secure from other sources funds, in lieu of the grant, to construct such facilities.".

(f) AMOUNT OF GRANTS FOR COSTS OF OPERATION.—

(1) Section 329(d)(4)(A)(i) (42 U.S.C. 254b(d)(4)(A)(i)) is amended to read as follows:

"(i) State, local, and other operational funding, and".

(2) Section 329(d)(4)(B) (42 U.S.C. 254b(d)(4)(B)) is amended by striking out "may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center" in the matter immediately following clause (ii) and inserting in lieu thereof "shall be entitled to retain the additional amount of fees, premiums, and other third party reimbursements as the center will use".

(g) ADMINISTRATION OF PROGRAMS.—Section 329 (42 U.S.C. 254b) is amended by adding at the end the following:

Grants. Contracts. "(i) The Secretary may delegate the authority to administer the programs authorized by this section to any office within the Service, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the

central office of the Health Resources and Services Administration.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 329(h) (42 U.S.C. 254b(h)) is amended— Grants.

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purposes of subsections (c) through (e), there are authorized to be appropriated $48,500,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990 and 1991.

"(B) Of the amounts appropriated pursuant to subparagraph (A) for a fiscal year, the Secretary may obligate for grants and contracts under subsection (c)(1) not more than 2 percent, for grants under subsection (d)(1)(C) not more than 5 percent, and for contracts under subsection (e) not more than 10 percent."; and Contracts.

(2) by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $1,500,000 for fiscal year 1989, $2,000,000 for fiscal year 1990, and $2,500,000 for fiscal year 1991.

"(B) The Secretary may make grants to migrant health centers to assist such centers in— Children and youth.

"(i) providing services for the reduction of the incidence of infant mortality; and

"(ii) developing and coordinating referral arrangements between migrant health centers and other entities for the health management of infants and pregnant women. Women.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to migrant health centers providing services in any catchment area in which there is a substantial incidence of infant mortality or in which there is a significant increase in the incidence of infant mortality. Children and youth.".

SEC. 3. COMMUNITY HEALTH CENTERS.

(a) ADDITION OF PATIENT CASE MANAGEMENT SERVICES TO LIST OF PROVIDED SERVICES.—Section 330(a)(1) (42 U.S.C. 254c(a)(1)) is amended—

(1) by striking "and" at the end of paragraph (4) and inserting "and" at the end of paragraph (5); and

(2) by inserting after paragraph (5) the following new paragraph:

"(6) patient case management services (including outreach, counseling, referral, and follow-up services),".

(b) ADDITION OF APPROPRIATE HEALTH NEEDS TO LIST OF SUPPLEMENTAL HEALTH SERVICES.—Section 330(b)(2) (42 U.S.C. 254c(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (L);

(2) by striking the period at the end of subparagraph (M) and inserting "; and"; and

(3) by adding at the end the following new subparagraph: Disadvantaged persons.

"(N) other services appropriate to meet the health needs of the medically underserved population served by the community health center involved.".

(c) REQUIREMENT OF NOTICE AND COMMENT WITH RESPECT TO REGULATIONS ON MEDICALLY UNDERSERVED POPULATIONS.—Section 330(b)(4) (42 U.S.C. 254c(b)(4)) is amended by inserting after and below subparagraph (B) the following:

"The Secretary may modify the criteria established in regulations issued under this paragraph only after affording public notice and an opportunity for comment on any such proposed modifications.".

(d) REQUIREMENT OF FEES CONSISTENT WITH LOCALLY PREVAILING RATES.—Section 330(e)(3)(F)(i) (42 U.S.C. 254c(e)(3)(F)(i)) is amended—

(1) by inserting after "provision of its services" the following: "consistent with locally prevailing rates or charges and"; and

(2) by inserting "has prepared" after "operation and".

(e) AUTHORITY WITH RESPECT TO EXPANSION AND CONSTRUCTION OF CENTERS.—

(1) Section 330 (42 U.S.C. 254c) is amended—

(A) in the second sentence of subsection (c)(1), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings and construction of new buildings";

(B) in the matter after and below subsection (d)(1)(C)(iii), by striking "acquisition and modernization of existing buildings" and inserting "acquisition, expansion, and modernization of existing buildings, construction of new buildings,";

(C) in subsection (d)(2), by striking "acquiring and modernizing existing buildings" and inserting "acquiring, expanding, and modernizing existing buildings and constructing new buildings"; and

(D) in subsection (d)(4)(B)(ii)(III), by striking "construct and modernize" and inserting "construct, expand, and modernize".

(2) Section 330(e) (42 U.S.C. 254c(e)) is amended by adding at the end the following:

Grants. "(6) The Secretary may make a grant under subsection (c) or (d) for the construction of new buildings for a community health center only if the Secretary determines that appropriate facilities are not available through acquiring, modernizing, or expanding existing buildings and that the entity to which the grant will be made has made reasonable efforts to secure from other sources funds, in lieu of the grant, to construct such facilities.".

(f) AMOUNT OF GRANTS FOR COSTS OF OPERATION.—

(1) Section 330(d)(4)(A)(i) (42 U.S.C. 254c(d)(4)(A)(i)) is amended to read as follows:

"(i) State, local, and other operational funding, and".

(2) Section 330(d)(4)(B) (42 U.S.C. 254c(d)(4)(B)) is amended by striking out "may retain such an amount (equal to not less than one-half of the amount by which such sum exceeded such costs) as the center can demonstrate to the satisfaction of the Secretary will be used to enable the center" in the matter immediately following clause (ii) and inserting in lieu thereof "shall be entitled to retain the additional amount of fees, premiums, and other third party reimbursements as the center will use".

(g) ADMINISTRATION OF PROGRAMS.—Section 330 (42 U.S.C. 254c) is amended by adding at the end the following:

Grants. Contracts. "(j) The Secretary may delegate the authority to administer the programs authorized by this section to any office within the Service, except that the authority to enter into, modify, or issue approvals with respect to grants or contracts may be delegated only within the central office of the Health Resources and Services Administration.".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 330(g) (42 U.S.C. 254c(g)) is amended— Grants.

(1) by amending paragraph (1) to read as follows:

"(1)(A) For the purpose of payments under grants under this section, there are authorized to be appropriated $440,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal years 1990 and 1991.";

(2)(A) by redesignating subparagraphs (A) and (B) of paragraph (2) as clauses (i) and (ii), respectively;

(B) by redesignating paragraph (2) as subparagraph (B);

(C) in paragraph (1)(B)(i) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(D) in paragraph (1)(B)(ii) (as so redesignated), by striking "this section" and inserting "paragraph (1)"; and

(3) by inserting after paragraph (1) the following new paragraph:

"(2)(A) For the purpose of carrying out subparagraph (B), there are authorized to be appropriated $25,000,000 for fiscal year 1989, $30,000,000 for fiscal year 1990, and $35,000,000 for fiscal year 1991.

"(B) The Secretary may make grants to community health centers to assist such centers in— Children and youth.

"(i) providing services for the reduction of the incidence of infant mortality; and

"(ii) developing and coordinating referral arrangements between community health centers and other entities for the health management of infants and pregnant women. Women.

"(C) In making grants under subparagraph (B), the Secretary shall give priority to community health centers providing services to any medically underserved population among which there is a substantial incidence of infant mortality or among which there is a significant increase in the incidence of infant mortality.". Disadvantaged persons. Children and youth.

SEC. 4. REQUIREMENT WITH RESPECT TO FRONTIER AREAS.

Section 330 (42 U.S.C. 254c) is amended by adding at the end the following new subsection:

"(j) In making grants under this section, the Secretary shall give special consideration to the unique needs of frontier areas.". Grants.

SEC. 5. EFFECTIVE DATE. 42 USC 254b note.

The amendments made by this Act shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

Approved August 10, 1988.

LEGISLATIVE HISTORY—S. 2385 (H.R. 4503):

HOUSE REPORTS: No. 100-719 accompanying H.R. 4503 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-343 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 13, considered and passed Senate.
June 27, 28, H.R. 4503 considered and passed House.
July 12, S. 2385 considered and passed House, amended, in lieu of H.R. 4503.
July 29, Senate concurred in House amendment with an amendment.
Aug. 1, House concurred in Senate amendment.

Public Law 100-387
100th Congress

An Act

Aug. 11, 1988
[H.R. 5015]

To provide drought assistance to agricultural producers, and for other purposes.

Disaster Assistance Act of 1988.
7 USC 1421 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Disaster Assistance Act of 1988".

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TITLE I—EMERGENCY LIVESTOCK ASSISTANCE

SEC. 101. EMERGENCY FEED AND RELATED ASSISTANCE.

(a) IN GENERAL.—The Agricultural Act of 1949 is amended by adding at the end thereof the following new title:

"TITLE VI—EMERGENCY LIVESTOCK FEED ASSISTANCE ACT OF 1988

Emergency Livestock Feed Assistance Act of 1988.

"SHORT TITLE

"SEC. 601. This title may be cited as the 'Emergency Livestock Feed Assistance Act of 1988'. 7 USC 1421 note.

"DEFINITIONS

7 USC 1471.

"SEC. 602. As used in this title:

"(1) The term 'livestock producer' means—

"(A) a person that is actively engaged in farming and that receives a substantial amount of total income from the production of grain or livestock, as determined by the Secretary, that is—

"(i) an established producer or husbander of livestock or a dairy producer who is a citizen of, or legal resident alien in, the United States; or

"(ii) a farm cooperative, private domestic corporation, partnership, or joint operation in which a majority interest is held by members, stockholders, or partners who are citizens of, or legal resident aliens in, the United States, if such cooperative, corporation, partnership, or joint operation is engaged in livestock production or husbandry, or dairy production; or

"(B) Any of the following entities that is actively engaged in livestock production or husbandry, or dairy production—

"(i) any Indian tribe (as defined in section 4(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450(b)));

"(ii) any Indian organization or entity chartered under the Act of June 18, 1934 (48 Stat. 984, chapter 576; 25 U.S.C. 461 et seq.), commonly known as the 'Indian Reorganization Act';

"(iii) any tribal organization (as defined in section 4(c) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(c))); or

"(iv) any economic enterprise (as defined in section 3(e) of the Indian Financing Act of 1974 (25 U.S.C. 1452(e)));

"(2) The term 'livestock' means cattle, sheep, goats, swine, poultry (including egg-producing poultry), equine animals used for food or in the production of food, fish used for food, and other animals designated by the Secretary (at the Secretary's sole discretion) that—

"(A) are part of a foundation herd (including producing dairy cattle) or offspring; or

"(B) are purchased as part of a normal operation and not to obtain additional benefits under this title.

"(3) The term 'State' means any State of the United States, the Commonwealth of Puerto Rico, the Virgin Islands, or Guam.

"(4) The term 'feed', for the purposes of emergency feed assistance, means any type of feed (including feed grain, oilseed meal, premix or mixed feed, liquid or dry supplemental feed, roughage, pasture, or forage) that—

"(A) best suits the livestock producer's operation; and

"(B) is consistent with acceptable feed practices.

"(5) The term 'area' includes any Indian reservation (as defined in section 335(e)(1)(D)(ii) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1985(e)(1)(D)(ii))).

"EMERGENCY LIVESTOCK ASSISTANCE

"SEC. 603. (a) The Secretary shall provide emergency feed assistance under this title for the preservation and maintenance of livestock in any State or area of a State where, because of disease, insect infestation, flood, drought, fire, hurricane, earthquake, storm, hot weather, or other natural disaster, the Secretary determines that a livestock emergency exists. 7 USC 1471a.

"(b)(1) The Secretary shall provide emergency feed assistance under this title for the preservation and maintenance of livestock, to livestock producers that—

"(A) conduct farming, ranching, or aquaculture operations in any county contiguous to a county where the Secretary has determined, under subsection (a), that a livestock emergency exists, and

"(B) are otherwise eligible for assistance under this title.

"(2) The Secretary shall accept applications for assistance under this subsection from producers that are affected by the livestock emergency at any time during the eight-month period beginning on the date on which the Secretary determines that such emergency exists in the other county.

"DETERMINATION OF NEED FOR ASSISTANCE

"SEC. 604. (a)(1) Whenever the Governor of a State determines that a livestock emergency due to a natural disaster exists in the State, or a county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)) determines that such an emergency exists in the county, the Governor or county committee may submit a request for a determination by the Secretary of a livestock emergency in such State or county and for emergency livestock feed assistance under this title. State and local governments. 7 USC 1471b.

"(2) The request of a Governor or county committee for a livestock emergency determination and for emergency livestock feed assistance shall include, to the extent feasible, recommendations to the Secretary of those options that will most fully use feed available through local sources.

"(b) The Secretary may consider a State, county, or area in a State for a livestock emergency determination and emergency livestock feed assistance under this title whether or not a request for assistance is submitted, as described in subsection (a).

"(c) The Secretary shall act on requests for determinations under subsection (a) and make final determinations on whether a livestock emergency exists in any State, county, or area, under regulations that ensure thorough and prompt action (not later than 30 days after receipt of any such request) and provide for appropriate notification procedures.

"(d) Notwithstanding the preceding provisions of this section, any State, county, or area determined eligible, due to drought or related conditions in 1988, for the emergency feed program or emergency feed assistance program conducted prior to the effective date of this title shall continue to be eligible for such programs and may be eligible for other programs under this title for such drought or related condition. As soon as practicable after the effective date of this title, the Secretary shall determine whether any of the programs described in section 606, other than the emergency feed program under section 606(a)(4) and the emergency feed assistance

program under section 606(a)(2), or in section 607 should be made available in such State, county, or area. If the Secretary makes such determination, the Secretary shall make such programs immediately available to livestock producers in the State, county, or area.

"ELIGIBLE PRODUCERS

7 USC 1471c.

"SEC. 605. (a)(1) If the Secretary determines that a livestock emergency exists in a State, county, or area, qualifying livestock producers located in such State, county, or area, or in a contiguous county as provided for in section 603(b), shall be eligible (under application procedures established by the Secretary) for emergency feed assistance under this title in accordance with this subsection.

"(2) For the purposes of this subsection, a 'qualifying livestock producer' is a livestock producer who has suffered a substantial loss in feed normally produced on the farm for such producer's livestock as a result of the livestock emergency and, as a result, does not have sufficient feed that has adequate nutritive value and is suitable for each of such producer's particular types of livestock (as of the date of the request, or initiation of consideration, for a determination of a livestock emergency under section 604) for the estimated duration of the emergency.

"(3) Each qualifying livestock producer shall be eligible for emergency feed assistance under the programs specified in section 606(a) that is made available where the producer is located in quantities sufficient to meet such feed deficiency with respect to the producer's livestock normally fed with feed produced by the producer.

"(b) Each livestock producer in such State, county, or area, or in a contiguous county as provided for in section 603(b), regardless of whether the producer qualifies for assistance under subsection (a), shall be eligible for emergency assistance under the programs specified in section 607 that are made available where the producer is located.

"(c) Any livestock producer, located in a county or area in which benefits under the emergency feed program or the emergency feed assistance program were made available due to the drought or related condition in 1988 prior to the effective date of this title, who qualifies for assistance under such pre-existing programs shall be eligible for assistance for such drought or related conditions as prescribed in subsection (a) or, at the producer's option, for assistance under such pre-existing programs.

"ASSISTANCE PROGRAMS

7 USC 1471d.

"SEC. 606. (a) In accordance with section 605(a), the Secretary shall make one or more of the following assistance programs available to qualifying livestock producers in a State, county or area, if the Secretary determines that the livestock emergency in such State, county or area requires the implementation of such program:

"(1) The donation of feed grain owned by the Commodity Credit Corporation to producers who are financially unable to purchase feed under paragraph (2) or to participate in any other program authorized under this subsection.

"(2) The sale of feed grain owned by the Commodity Credit Corporation to producers for livestock feed at a price, established by the Secretary, that does not exceed—

"(A) with respect to such assistance provided for any livestock emergency determined to exist prior to January 1, 1989, 75 percent of the current basic county loan rate for such feed grain in effect under this Act (or at a comparable price if there is no such current basic county loan rate), or

"(B) with respect to such assistance provided for any other livestock emergency, 50 percent of the average market price in the county or area involved, as determined by the Secretary.

"(3) Reimbursement of any transportation and handling expenses incurred, not to exceed 50 percent of such expenses, by a producer in connection with feed grain donations or sales under paragraphs (1) and (2). Transportation.

"(4) Reimbursement of not to exceed 50 percent of the cost of feed purchased by a producer for the producer's livestock during the duration of the livestock emergency.

"(5) Hay and forage transportation assistance to producers of not to exceed 50 percent of the cost of transporting hay or forage purchased from a point of origin beyond a producer's normal trade area to the livestock, subject to the following limitations: Transportation.

"(A) The transportation assistance may not exceed $50 per ton of eligible hay or forage ($12.50 for silage).

"(B) The quantity of eligible hay and forage for each producer may not exceed the lesser of—

"(i) 20 pounds per day per eligible animal unit; or

"(ii) the quantity of additional feed needed by the producer for the duration of the livestock emergency.

"(6) Livestock transportation assistance to producers of not to exceed 50 percent of the cost of transporting livestock to and from available grazing locations, except that such assistance may not exceed the lesser of— Transportation.

"(A) $24 per head of a producer's eligible livestock; or

"(B) the local cost of the quantity of additional feed needed by the producer for the eligible livestock for duration of the livestock emergency.

"(b) If assistance is made available through the furnishing of feed grain under paragraph (1) or (2) of subsection (a), the Secretary may provide for the furnishing of the feed grain through a dealer or manufacturer and the replacing of the feed grain so furnished from feed grain owned by the Commodity Credit Corporation.

"(c) In providing assistance under paragraph (2) or (4) of subsection (a), the Secretary may make in-kind payments or reimbursements through the issuance of negotiable certificates that the Commodity Credit Corporation shall exchange for a commodity in accordance with rules prescribed by the Secretary.

"(d) No payment or benefit provided under this section shall be payable or due until such time as a completed application therefor has been approved.

"(e) A person eligible to receive a payment or benefit under this section with respect to a livestock emergency determined to exist prior to January 1, 1989, shall make application for such payment or benefit not later than March 31, 1989, or such later date that the Secretary, by regulation, may prescribe.

"ADDITIONAL ASSISTANCE

7 USC 1471e.

"SEC. 607. (a) In addition to the assistance provided under section 606, if the Secretary determines that the livestock emergency also requires the implementation of one or more of the assistance programs described in subsection (b), the Secretary shall implement such programs.

"(b) Special assistance under this section includes—

Transportation.

"(1) the donation of feed owned by the Commodity Credit Corporation for use in feeding livestock stranded and unidentified as to its owner, including the cost of transporting feed to the affected area, during such period as the Secretary, by regulation, may prescribe;

Water.

"(2) reimbursement of not to exceed 50 percent of the cost of—

"(A) installing pipelines (if that is the least expensive method) or other facilities, including tanks or troughs, for livestock water;

"(B) construction or deepening of wells for livestock water; or

"(C) developing springs or seeps for livestock water,

as appropriate in drought areas to facilitate more efficient and better-distributed grazing on land normally used for grazing. Such cost-share assistance may not be made available to provide water for wildlife or recreational livestock, dry lot feeding, or barns or corrals, or to acquire pumping equipment;

"(3) reimbursement of not to exceed 50 percent of the cost of burning prickly pear cactus to make it suitable for animal feed; and

"(4) making commodities owned by the Commodity Credit Corporation available to livestock producers through the use of a catalog that specifies lots of a size that are economically feasible for a small producer to obtain by means of certificate exchanges.

"USE OF THE COMMODITY CREDIT CORPORATION

7 USC 1471f.

"SEC. 608. The Secretary shall carry out this title through the use of the funds, facilities, and authorities of the Commodity Credit Corporation.

"BENEFITS LIMITATION

7 USC 1471g.

"SEC. 609. (a) The total amount of benefits that a person shall be entitled to receive annually under one or more of the programs established under this title may not exceed $50,000.

Regulations.

"(b) The Secretary shall issue regulations—

"(1) defining the term 'person', which shall conform, to the extent practicable, to the regulations defining the term 'person' issued under section 1001 of the Food Security Act of 1985, or successor statute;

"(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section; and

"(3) providing that the term 'person' shall include, in the case of any cooperative association of producers, each member of the association with respect to benefits due to such member of the association.

"(c) No person may receive benefits under this title attributable to lost production of a feed commodity due to a natural disaster in 1988 to the extent that such person receives a disaster payment under the Disaster Assistance Act of 1988 on such lost production.

"(d) Each person otherwise eligible for a livestock emergency benefit under this title in 1988 shall be subject to the combined payment and benefits limitation established under section 211(c) of the Disaster Assistance Act of 1988.

"INELIGIBILITY

"SEC. 610. (a) Any person that has qualifying gross revenues in excess of $2,500,000 annually, as determined by the Secretary, shall not be eligible to receive any livestock emergency benefits under this title. 7 USC 1471h.

"(b) For purposes of this section, the term 'qualifying gross revenue' means—

"(1) if a majority of the person's annual income is received from farming and ranching operations, the gross revenue from the person's farming and ranching operations; and

"(2) if less than a majority of the person's annual income is received from farming and ranching operations, the person's gross revenue from all sources.

"ADMINISTRATION

"SEC. 611. (a) The Commodity Credit Corporation shall issue regulations to carry out this title. Regulations. 7 USC 1471i.

"(b) Such regulations shall establish procedures to ensure that the request for assistance by a Governor or county committee under section 604, and individual applications of livestock producers under section 605 for assistance, are processed and decisions thereon are made as quickly as practicable.

"(c) For purposes of this title, indigenous plants available to a livestock producer but not normally consumed by livestock as feed, such as cactus, may not be considered as feed on hand for such producers.

"PENALTIES

"SEC. 612. A person that disposes of any feed made available to a livestock producer under this title other than as authorized by the Secretary shall be (1) subject to a civil penalty equal to the market value of the feed involved, to be recovered by the Secretary in a civil suit brought for that purpose, and (2) guilty of a misdemeanor and, on conviction thereof, subject to a fine of not more than $1,000, or imprisonment for not more than one year, or both.". 7 USC 1471j.

(b) CONFORMING CHANGES.—(1) Section 1105 of the Food and Agriculture Act of 1977 (7 U.S.C. 2267) is repealed.

(2) Section 407 of the Agricultural Act of 1949 (7 U.S.C. 1427) is amended by striking out "and may make feed owned or controlled by it" in the fifth sentence and all that follows through the end of the sixth sentence and inserting in lieu thereof "and may donate or sell commodities in accordance with title VI.".

(3) Section 421 of the Agricultural Act of 1949 (7 U.S.C. 1433) is repealed.

(4) Public Law 86-299 (73 Stat. 574), as amended, is repealed. 7 USC 1427 note.

(5) Section 303 of the Dairy and Tobacco Adjustment Act of 1983 (7 U.S.C. 1427 note) is repealed.

7 USC 1427 note.

(c) EFFECTIVE PERIOD.—(1) This section and the amendments made by this section shall become effective 15 days after the date of the enactment of this Act.

(2) The provisions of section 604(d), 605(c), 606(a)(2)(A), 606(e), 609(c), and 609(d) of the Agricultural Act of 1949, as added by subsection (a), shall apply only with respect to any livestock emergency in 1988.

SEC. 102. ASSISTANCE FOR DAIRY FARMERS.

(a) FISCAL YEAR 1989 GENERALLY.—Section 201(d)(1)(D) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)(D)) is amended by striking out "if for any of the calendar years 1988, 1989, and 1990" and inserting in lieu thereof "if for each of the calendar years 1988 and 1990".

Effective date.
Termination date.
7 USC 1446 note.

(b) TEMPORARY INCREASE IN PRICE SUPPORT.—Notwithstanding section 201(d)(1) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)(1)), the rate of price support for milk in effect under such section immediately before April 1, 1989, shall be increased by 50 cents throughout the period beginning on April 1, 1989, and ending on June 30, 1989.

Contracts.
7 USC 1471d note.

SEC. 103. EMERGENCY FORAGE PROGRAM.

(a) IN GENERAL.—The Secretary of Agriculture shall implement an emergency forage program for established pasture damaged by the drought or related condition in 1988, under which the Secretary shall enter into cost-share agreements with owners or operators of such damaged land to provide for reseeding of forage crops on such land to facilitate late fall 1988 and early spring 1989 grazing and haying. Assistance may be provided to such owners and operators only when—

(1) the forage crop will not regenerate naturally;

(2) reseeding is the most cost-effective method to reestablish the forage crop; and

(3) reseeding is not undertaken simply to improve the forage crop damaged by the drought.

(b) COST-SHARE.—The Secretary shall share half the costs incurred under each agreement entered into under subsection (a), including the costs of seed, fertilizer, and other inputs on reseeded pasture.

(c) LIMITATIONS.—(1) The total amount of payments an owner or operator of pasture land shall be entitled to receive under this section shall be $3,500.

(2) The Secretary may cost-share for reseeding under this section only if the reseeding is to nonannual crops planted for pasture purposes.

(d) FUNDING.—(1) The Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this section.

(2) Not more than $50,000,000 of the funds of the Commodity Credit Corporation may be expended under paragraph (1).

(3) To ensure the equitable award of funds under agreements under this section, as limited under paragraph (2), the Secretary may prorate, and adopt procedures to facilitate proration of, funds made available under this section.

TITLE II—EMERGENCY CROP LOSS ASSISTANCE

Subtitle A—Annual Crops

SEC. 201. PAYMENTS TO PROGRAM PARTICIPANTS FOR TARGET PRICE COMMODITIES. 7 USC 1421 note.

(a) DISASTER PAYMENTS.—(1) Effective only for producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, except as otherwise provided in this subsection, if the Secretary of Agriculture determines that, because of drought, hail, excessive moisture, or related condition in 1988, the total quantity of the 1988 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 65 percent of the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of drought, hail, excessive moisture, or related condition in 1988, as determined by the Secretary) for such crop, the Secretary shall make a disaster payment available to such producers at a rate equal to—

(A) 65 percent of the established price for the crop for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(B) 90 percent of the established price for the crop for any deficiency in production greater than 75 percent for the crop.

(2)(A) Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm with respect to any acreage in excess of the permitted acreage for the farm for the commodity.

(B) Payments provided under paragraph (1) for a crop of a commodity may not be made available to producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207. Contracts. Insurance.

(3) The total quantity of a crop of a commodity on which deficiency payments otherwise would be payable to producers on a farm under the Agricultural Act of 1949 shall be reduced by the quantity on which a payment is made to the producers for the crop under paragraph (1).

(4) Effective only for the 1988 crops of wheat and feed grains, in the case of producers on a farm who elected after March 11, 1988, to devote all or a portion of the permitted acreage of the farm for the commodity to conservation or other uses in accordance with section 107D(c)(1)(C) or 105C(c)(1)(B) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(c)(1)(C) or 1444e(c)(1)(B)), the Secretary shall allow (within 30 days after the date of the enactment of this Act) such producers to elect whether to receive disaster payments in accordance with this subsection in lieu of payments under such section. Conservation.

(b) ADVANCE DEFICIENCY PAYMENTS.—(1) This subsection shall apply only to producers on a farm who elected to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1988 crop of wheat, feed grains, upland cotton, or rice.

(2)(A) Subject to subparagraph (B), if because of drought, hail, excessive moisture, or related condition in 1988 the total quantity of the 1988 crop of the commodity that the producers are able to harvest on the farm is less than the result of multiplying the farm program payment yield established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage prevented from being planted (because of such natural disaster, as determined by the Secretary) for such crop (hereinafter referred to as the "qualifying amount"), the producers shall not be required to refund any advance deficiency payment made to the producers for such crop under section 107C of the Agricultural Act of 1949 (7 U.S.C. 1445b-2) with respect to that portion of the deficiency in production that does not exceed 35 percent of the qualifying amount.

Contracts. Insurance.

(B) Producers on a farm shall not be eligible for the waiver provided for under subparagraph (A), unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(3) The Secretary shall allow producers on a farm that elected, prior to the date of enactment of this Act, not to receive advance deficiency payments made available for the 1988 crop under section 107C of such Act, to elect (within 30 days after the date of the enactment of this Act) whether to receive such advance deficiency payments.

(4) Effective only for the 1988 crops of wheat, feed grains, upland cotton, and rice, if the Secretary determines that any portion of the advance deficiency payment made to producers for the crop under section 107C of such Act must be refunded, such refund shall not be required prior to July 31, 1989, for that portion of the crop for which a disaster payment is made under subsection (a).

7 USC 1421 note.

SEC. 202. PAYMENTS TO PROGRAM NONPARTICIPANTS FOR TARGET PRICE COMMODITIES.

(a) DISASTER PAYMENTS.—Effective only for producers on a farm who elected not to participate in the production adjustment program established under the Agricultural Act of 1949 for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, if the Secretary of Agriculture determines that because of drought, hail, excessive moisture, or related condition in 1988, the total quantity of the 1988 crop of the commodity that such producers are able to harvest on the farm is less than the result of multiplying 65 percent of the county average yield established by the Secretary for such crop by the sum of acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers. The payment shall be made to the producers at a rate equal to—

(1) 65 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(2) 90 percent of the basic county loan rate (or a comparable price if there is no current basic county loan rate) for the crop, as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(b) PREVENTED PLANTING CREDIT.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acre-

age that producers on a farm were prevented from planting to the 1988 crop of the commodity for harvest because of drought, hail, excessive moisture, or related condition in 1988, as determined by the Secretary. Such acreage may not exceed the greater of—

(1) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987 minus acreage actually planted to the commodity for harvest in 1988; or

(2) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1985, 1986, and 1987, minus acreage actually planted to the commodity for harvest in 1988.

The Secretary shall make appropriate adjustments in applying the limitations contained in the preceding sentence to take into account crop rotation practices of the producers.

(c) LIMITATIONS.—(1) The amount of payments made available to producers on a farm for a crop of a commodity under subsection (a) shall be reduced by a factor equivalent to the acreage limitation program percentage established for such crop under the Agricultural Act of 1949.

(2) Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207. Contracts. Insurance.

SEC. 203. PEANUTS, SUGAR, AND TOBACCO. 7 USC 1421 note.

(a) DISASTER PAYMENTS.—(1) Effective only for the 1988 crops of peanuts, sugar beets, sugarcane, and tobacco, if the Secretary of Agriculture determines that, because of drought, hail, excessive moisture, or related condition in 1988, the total quantity of the 1988 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of the county average yield (or program yield, in the case of peanuts) established by the Secretary for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers. The payment shall be made to the producers at a rate equal to—

(A) 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop (or in the case of a crop of burley tobacco or flue-cured tobacco, for any deficiency in production greater than 35 percent, but not greater than 75 percent, of the farm's effective marketing quota for 1988); and

(B) 90 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop (or, in the case of burley tobacco or flue-cured tobacco, for any deficiency in production greater than 75 percent of the farm's effective marketing quota for 1988).

(2) For purposes of paragraph (1), the payment level for a commodity shall be equal to—

(A) for peanuts, the price support level for quota peanuts or the price support level for additional peanuts, as appropriate;

(B) for tobacco, the national average loan rate for the type of tobacco involved, or (if there is none) the market price, as determined under section 204(a)(2); and

(C) for sugar beets and sugarcane, a level determined by the Secretary to be fair and reasonable in relation to the level of price support established for the 1988 crops of sugar beets and sugarcane, and that, insofar as is practicable, shall reflect no less return to the producer than under the 1988 price support levels.

(b) PREVENTED PLANTING CREDIT.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1988 crop of the commodity for harvest because of drought, hail, excessive moisture, or related condition in 1988, as determined by the Secretary. Such acreage may not exceed the greater of—

(1) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987 minus acreage actually planted for harvest in 1988; or

(2) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1985, 1986, and 1987, minus acreage actually planted to the commodity for harvest in 1988.

The Secretary shall make appropriate adjustments in applying the limitations contained in the preceding sentence to take into account crop rotation practices of the producers and increased quotas for the 1988 crops of tobacco.

Contracts. Insurance.

(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(d) SPECIAL RULES FOR PEANUTS.—Notwithstanding any other provision of law—

(1) a deficiency in production of quota peanuts from a farm, as otherwise determined under this section, shall be reduced by the quantity of peanut poundage quota that was the basis of such anticipated production that has been transferred from the farm;

Claims.

(2) payments made under this section shall be taken into account whether the deficiency for which the deficiency in production is claimed was a deficiency in production of quota or additional peanuts and the payment rate shall be established accordingly; and

Claims.

(3) the amount of undermarketings of quota peanuts from a farm for the 1988 crop that may otherwise be claimed under section 358 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such peanuts for which payment has been received under this section.

(e) SPECIAL RULES FOR TOBACCO.—Notwithstanding any other provision of law—

Claims.

(1) the amount of undermarketings of quota tobacco from a farm for the 1988 crop that may otherwise be claimed under

section 317 or 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314c or 1314e) for purposes of future quota increases shall be reduced by the quantity of the deficiency of production of such tobacco for which payment has been received under this section; and

(2) disaster payments made to producers under this section may not be considered by the Secretary in determining the net losses of the Commodity Credit Corporation under section 106A(d) of the Agricultural Act of 1949 (7 U.S.C. 1445-1(d)).

(f) SPECIAL RULE FOR SUGAR.—A producer of the 1988 crop of sugarcane or sugar beets that is unable to process the commodity into sugar due to the inability of local processing plants to process sugar as a result of drought, hail, excessive moisture, or related condition in 1988 shall be eligible for disaster payments in accordance with subsection (a) for any loss in sugar production attributable to such inability. Disaster payments made available under this subsection for such loss of production shall be reduced by an amount equal to any proceeds received by the producer from the disposition of that portion of the crop on which disaster payments are made.

SEC. 204. SOYBEANS AND NONPROGRAM CROPS. 7 USC 1421 note.

(a) DISASTER PAYMENTS.—(1)(A) Effective only for the 1988 crops of soybeans and nonprogram crops, if the Secretary of Agriculture determines that, because of drought, hail, excessive moisture, or related condition in 1988, the total quantity of the 1988 crop of the commodity that the producers on a farm are able to harvest is less than the result of multiplying 65 percent of—

(i) with respect to soybeans, the State, area, or county yield, adjusted for adverse weather conditions during the three previous crop years, as determined by the Secretary; or

(ii) with respect to nonprogram crops, the yield established by the Commodity Credit Corporation under subsection (d)(2),

for such crop by the sum of the acreage planted for harvest and the acreage for which prevented planted credit is approved by the Secretary for such crop under subsection (b), the Secretary shall make a disaster payment available to such producers.

(B) The payment shall be made to such producers at a rate equal to—

(i) 65 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 35 percent, but not greater than 75 percent, for the crop; and

(ii) 90 percent of the applicable payment level under paragraph (2), as determined by the Secretary, for any deficiency in production greater than 75 percent for the crop.

(2) For purposes of paragraph (1), the payment level for a commodity shall equal the simple average price received by producers of the commodity, as determined by the Secretary subject to paragraph (3), during the marketing years for the immediately preceding five crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

(3)(A) The Secretary shall make disaster payments under subsection (a) on a crop by crop basis, with consideration given to markets and uses of the crops, under regulations issued by the Secretary. Regulations.

(B) For the purposes of determining the payment rates on a crop by crop basis, the Secretary shall consider as separate crops, and

develop separate payment rates insofar as is practicable for, different varieties of the same commodity for which there is a significant difference in the economic value in the market.

(b) PREVENTED PLANTING CREDIT.—The Secretary shall provide prevented planting credit under subsection (a) with respect to acreage that producers on a farm were prevented from planting to the 1988 crop of the commodity for harvest because of drought, hail, excessive moisture, or related condition in 1988, as determined by the Secretary. Such acreage may not exceed the greater of—

(1) a quantity equal to the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1987 minus acreage actually planted for harvest in 1988; or

(2) a quantity equal to the average of the acreage on the farm planted (or prevented from being planted due to a natural disaster or other condition beyond the control of the producers) to the commodity for harvest in 1985, 1986, and 1987, minus acreage actually planted to the commodity for harvest in 1988.

The Secretary shall make appropriate adjustments in applying the limitations contained in the preceding sentence to take into account crop rotation practices of the producers.

Contracts. Insurance.

(c) LIMITATION.—Payments provided under subsection (a) for a crop of a commodity may not be made available to the producers on a farm unless such producers enter into an agreement to obtain multiperil crop insurance, to the extent required under section 207.

(d) SPECIAL RULES FOR NONPROGRAM CROPS.—(1) As used in this section, the term "nonprogram crop" means all crops (including sweet potatoes) for which crop insurance through the Federal Crop Insurance Corporation was available for crop year 1988, and other commercial crops (including sweet potatoes) for which such insurance was not available for crop year 1988, except that such term shall not include a crop covered under section 201, 202, or 203, or soybeans.

(2) The Commodity Credit Corporation shall establish disaster program farm yields for nonprogram crops. The yield for a farm shall be based on proven yields, if the producers on the farm can provide satisfactory evidence to the Commodity Credit Corporation of actual crop yields on the farm for at least one of the immediately preceding three crop years. If such data do not exist for any of the three preceding crop years, the Commodity Credit Corporation shall establish a yield for the farm by using a county average yield for the commodity.

(3) It shall be the responsibility of the producers of nonprogram crops to provide satisfactory evidence of crop losses resulting from drought, hail, excessive moisture, or related condition in 1988 in order for such producers to obtain disaster payments under this section.

7 USC 1421 note.

SEC. 205. CROP QUALITY REDUCTION DISASTER PAYMENTS.

(a) IN GENERAL.—To ensure that all producers of 1988 crops covered under the provisions of sections 201 through 203, and producers of soybeans, are treated equitably, the Secretary of Agriculture may make additional disaster payments to producers of such crops that suffer losses resulting from the reduced quality of such crops caused by drought, hail, excessive moisture, or related conditions in 1988, as determined by the Secretary.

(b) ELIGIBLE PRODUCERS.—If the Secretary determines to make crop quality disaster payments available to producers under subsection (a), producers on a farm of a crop described in subsection (a) shall be eligible to receive reduced quality disaster payments only if such producers incur a deficiency in production of not less than 35 percent and not more than 75 percent for such crop (as determined under section 201, 202, 203, or 204, as appropriate).

(c) MAXIMUM PAYMENT RATE.—The Secretary shall establish the reduced quality disaster payment rate, but such rate shall not exceed 10 percent, as determined by the Secretary, of—

(1) the established price for the crop, for commodities covered under section 201;

(2) the basic county loan rate for the crop (or a comparable price if there is no current basic county loan rate), for commodities covered under section 202;

(3) the payment level under section 203(a)(2), for commodities covered by section 203; and

(4) the payment level under section 204(a)(2), for commodities covered under section 204.

(d) DETERMINATION OF PAYMENT.—The amount of payment to a producer under this section shall be determined by multiplying the payment rate established under subsection (c) by the portion of the actual harvested crop on the producer's farm that is reduced in quality by such natural disaster in 1988, as determined by the Secretary.

SEC. 206. EFFECT OF FEDERAL CROP INSURANCE PAYMENTS. 7 USC 1421 note.

In the case of producers on a farm who obtained crop insurance for the 1988 crop of a commodity under the Federal Crop Insurance Act, the Secretary of Agriculture shall reduce the amount of payments made available under this subtitle for such crop to the extent that the amount determined by adding the net amount of crop insurance indemnity payment (gross indemnity less premium paid) received by such producers for the deficiency in the production of the crop and the disaster payment determined in accordance with this subtitle for such crop exceeds the amount determined by multiplying—

(1) 100 percent of the yield used for the calculation of disaster payments made under this subtitle for such crop, by

(2) the sum of the acreage of such crop planted to harvest and the acreage for which prevented planting credit is approved by the Secretary (or, in the case of disaster payments under section 201, the eligible acreage established under sections 201(a)(1) and 201(a)(2)(A)), by

(3)(A) in the case of producers who participated in a production adjustment program for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the established price for the 1988 crop of the commodity;

(B) in the case of producers who did not participate in a production adjustment program for the 1988 crop of wheat, feed grains, upland cotton, extra long staple cotton, or rice, the basic county loan rate (or a comparable price, as determined by the Secretary, if there is no current basic county loan rate) for the 1988 crop of the commodity;

(C) in the case of producers of sugar beets, sugarcane, peanuts, or tobacco, the payment level for the commodity established under section 203(a)(2); and

(D) in the case of producers of soybeans or a nonprogram crop (as defined in section 204(d)(1)), the simple average price received by producers of the commodity, as determined by the Secretary, during the marketing years for the immediately preceding five crops of the commodity, excluding the year in which the average price was the highest and the year in which the average price was the lowest in such period.

Loans.
Contracts.
7 USC 1421 note.

SEC. 207. CROP INSURANCE COVERAGE FOR THE 1989 CROPS.

(a) REQUIREMENT.—Subject to the limitations under subsection (b), producers on a farm, to be eligible to receive a disaster payment under this subtitle, an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) for crop losses due to drought, hail, excessive moisture, or related condition in 1988, or forgiveness of the repayment of advance deficiency payments under section 201(b), must agree to obtain multiperil crop insurance under the Federal Crop Insurance Act for the 1989 crop of the commodity for which such payments, loans, or forgiveness are sought.

(b) LIMITATIONS.—Producers on a farm shall not be required to agree to obtain crop insurance under subsection (a) for a commodity—

(1) unless the producers' deficiency in production, with respect to the crop for which a disaster payment under this subtitle otherwise may be made, exceeds 65 percent;

(2) where, or if, crop insurance coverage is not available to the producers for the commodity for which the payment, loan, or forgiveness is sought;

(3) if the producers' annual premium rate for such crop insurance is an amount greater than 125 percent of the average premium rate for insurance on that commodity for the 1988 crop in the county in which the producers are located;

(4) in any case in which the producers' annual premium for such crop insurance is an amount greater than 25 percent of the amount of the payment, loan, or forgiveness sought; or

(5) if the producers can establish by appeal to the county committee established under section 8(b) of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590(b)), or to the county committee established under section 332 of the Consolidated Farm and Rural Development Act (17 U.S.C. 1982), as appropriate, that the purchase of crop insurance would impose an undue financial hardship on such producers and that a waiver of the requirement to obtain crop insurance should, in the discretion of the county committee, be granted.

(c) IMPLEMENTATION.—(1) The Secretary of Agriculture shall ensure (acting through the county committees established under section 8(b) of the Soil Conservation and Domestic Allotment Act and located in the counties in which the assistance programs provided for under sections 201 through 205 are implemented and through the county committees established under section 332 of the Consolidated Farm and Rural Development Act in counties in which emergency loans, as described in subsection (a), are made available) that producers who apply for assistance, as described in subsection (a), obtain multiperil crop insurance as required under this section.

(2) Each producer who is subject to the requirements of this section may comply with such requirements by providing evidence

of multiperil crop insurance coverage from sources other than through the county committee office, as approved by the Secretary.

(3) The Secretary shall provide by regulation for a reduction in the commissions paid to private insurance agents, brokers, or companies on crop insurance contracts entered into under this section sufficient to reflect that such insurance contracts principally involve only a servicing function to be performed by the agent, broker, or company. Regulations.

(d) REPAYMENT OF BENEFITS.—Each producer subject to the requirements under this section shall make immediate repayment to the Secretary of any disaster payment or forgiven advance deficiency payment that the producer otherwise is required to repay, and (notwithstanding any other provision of law) shall become immediately liable for full repayment of all principal and interest outstanding on any emergency loan described in subsection (a) made subject to this section, at any time (prior to the end of the 1989 crop year for the commodity involved) that the crop insurance coverage required of the producer under this section is cancelled by the producer.

SEC. 208. DRY EDIBLE BEANS; COMMUNICATION AND EDUCATION.

Insurance.
7 USC 1421 note.

(a) DRY EDIBLE BEANS.—Section 508 of the Federal Crop Insurance Act (7 U.S.C. 1508) is amended by inserting after subsection (i) the following new subsection:

"(j) To accumulate, prior to the 1989 crop year, sufficient actuarial data to enable the Corporation to provide crop insurance that meets the differentiated needs of producers of different types of dry edible beans. Commencing with the 1989 crop year, the Corporation shall make such crop insurance available to producers.".

(b) COMMUNICATION AND EDUCATION.—The Federal Crop Insurance Corporation, as soon as practicable, shall make improvements in—

(1) the dissemination of information to producers on the availability of Federal crop insurance, using existing Department of Agriculture education facilities and producer financial and crop program support personnel;

(2) the training requirements of crop insurance agents who sell and service Federal crop insurance coverage;

(3) the incentives to increase the sale of Federal crop insurance through the delivery systems provided for under sections 507(c) and 508(e) of the Federal Crop Insurance Act;

(4) the Federal crop insurance agency referral system for producers seeking information or insurance coverage;

(5) the cooperation between Federal and State agencies relating to the Federal crop insurance program; and

(6) the use of financial and educational computer programs available in Federal and State agencies to foster the use of Federal crop insurance as a uniform input of costs of production of agricultural commodities for purposes of disaster risk management.

SEC. 209. TRANSFER OF FUNDS.

7 USC 1421 note.

The Secretary of Agriculture may transfer funds made available to the Commodity Credit Corporation during fiscal year 1988 to the Agricultural Stabilization and Conservation Service in such amounts as may be necessary for salaries and other expenses incurred in carrying out titles I and II of this Act, except that this

authorization shall be available only if funding for this purpose is not provided under an appropriations Act.

7 USC 1421 note.

SEC. 210. CROPS HARVESTED FOR FORAGE USES.

Not later than 15 days after the date of the enactment of this Act, the Secretary of Agriculture shall announce the terms and conditions by which producers on a farm may establish 1988 yield with respect to crops that will be harvested for silage and other forage uses.

7 USC 1421 note.

SEC. 211. PAYMENT LIMITATIONS.

(a) LIMITATION.—Subject to subsections (b) and (c), the total amount of payments that a person shall be entitled to receive under one or more of the programs established under this subtitle may not exceed $100,000.

Animals.

(b) NO DOUBLE BENEFITS.—No person may receive disaster payments under this subtitle to the extent that such person receives a livestock emergency benefit for lost feed production in 1988 under section 606 of the Agricultural Act of 1949, as added by section 101(a) of this Act.

Animals.

(c) COMBINED LIMITATION.—No person may receive any payment under this subtitle or benefit under title VI of the Agricultural Act of 1949 for livestock emergency losses suffered in 1988 if such payment or benefit will cause the combined total amount of such payments and benefits received by such person to exceed $100,000. If a producer is subject to the preceding sentence, the person may elect (subject to the benefits limitations under section 609 of the Agricultural Act of 1949) whether to receive the $100,000 in such payments, or such livestock emergency benefits (not to exceed $50,000), or a combination of payments and benefits specified by the person.

(d) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this section, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitations established under this section.

7 USC 1421 note.

SEC. 212. DE MINIMIS YIELDS.

The Secretary of Agriculture may determine a de minimis yield for each crop eligible for reduced yield disaster payments under this subtitle. The de minimis yield shall be set at a level that will minimize any incentive provided by the prospect of disaster payments to abandon crops that have a value that exceeds the cost of harvesting. In no case may the de minimis yield be less than the amount of production that, when valued at current market prices, equals the average cost of harvesting the crop, as determined by the Secretary. Any producer whose actual yield for a crop is equal to or less than the de minimis yield for such crop shall be considered as having an actual yield of zero for the purpose of calculating any reduced yield disaster payments for such crop under this subtitle.

Subtitle B—Forest Crops

7 USC 1421 note.

SEC. 221. ELIGIBILITY.

(a) DROUGHT LOSS.—Subject to the limitation in subsection (b), the Secretary of Agriculture shall provide assistance, as specified in section 222, to eligible tree farmers that planted tree seedlings in 1987 or 1988 for commercial purposes but lost such seedlings as a result of the drought or related condition in 1988, as determined by the Secretary.

(b) LIMITATION.—An eligible tree farmer shall qualify for assistance under subsection (a) if such tree farmer's tree seedling mortality, as a result of the natural disaster, exceeds 35 percent (adjusted for normal mortality).

SEC. 222. ASSISTANCE.

The assistance provided by the Secretary of Agriculture to eligible tree farmers for losses described in section 221 shall consist of either—

(1) reimbursement of 65 percent of the cost of replanting seedlings lost due to drought or related conditions in 1988 in excess of 35 percent mortality (adjusted for normal mortality); or

(2) at the discretion of the Secretary, sufficient tree seedlings to reestablish the stand.

SEC. 223. LIMITATION ON ASSISTANCE.

(a) LIMITATION.—The total amount of payments that a person shall be entitled to receive under this subtitle may not exceed $25,000, or an equivalent value in tree seedlings.

(b) REGULATIONS.—The Secretary of Agriculture shall issue regulations—

(1) defining the term "person" for the purposes of this subtitle, which shall conform, to the extent practicable, to the regulations defining the term "person" issued under section 1001 of the Food Security Act of 1985; and

(2) prescribing such rules as the Secretary determines necessary to ensure a fair and reasonable application of the limitation established under this section.

SEC. 224. DEFINITION.

As used in this subtitle, the term "eligible tree farmer" means a person that produces annual crops from trees for commercial purposes or that grows trees for harvest for commercial purposes, and owns 1,000 acres or less of such trees.

SEC. 225. DUPLICATIVE PAYMENTS.

The Secretary of Agriculture shall establish guidelines to ensure that no person receives duplicative payments under this subtitle and the forestry incentives program, agricultural conservation program, or other existing Federal program.

7 USC 1421 note.

Subtitle C—Administrative Provisions

SEC. 231. INELIGIBILITY.

(a) GENERAL RULE.—A person that has qualifying gross revenues in excess of $2,000,000 annually, as determined by the Secretary of Agriculture, shall not be eligible to receive any disaster payment or other benefits under this title.

(b) QUALIFYING GROSS REVENUES.—For purposes of this section, the term "qualifying gross revenues" means—

(1) if a majority of the person's annual income is received from farming, ranching, and forestry operations, the gross revenue from the person's farming, ranching, and forestry operations; and

(2) if less than a majority of the person's annual income is received from farming, ranching, and forestry operations, the person's gross revenue from all sources.

SEC. 232. TIMING AND MANNER OF ASSISTANCE.

(a) TIMING OF ASSISTANCE.—(1)(A) Subject to subparagraph (B), the Secretary of Agriculture shall make full disaster assistance available under this title as soon as practicable after the date of the enactment of this Act.

(B) Notwithstanding any other provision of law or of this Act, no payment or benefit provided under this title shall be payable or due until such time as a completed application therefor has been approved.

(2) A person eligible to receive payments under subtitle A shall make application for such payments not later than March 31, 1989, or such later date that the Secretary, by regulation, may prescribe.

(b) MANNER.—The Secretary may make payments available under subtitle A in the form of cash, commodities, or commodity certificates, as determined by the Secretary.

SEC. 233. USE OF COMMODITY CREDIT CORPORATION.

The Secretary of Agriculture shall use the funds, facilities, and authorities of the Commodity Credit Corporation in carrying out this title.

SEC. 234. REGULATIONS.

The Secretary of Agriculture or the Commodity Credit Corporation, as appropriate, shall issue regulations to implement the provisions of this title as soon as practicable, without regard to the requirement for notice and public participation in rulemaking prescribed in section 553 of title 5, United States Code, or in any directive of the Secretary.

Subtitle D—Sense of Congress

Rural areas.
Marketing.
7 USC 1421 note.

SEC. 241. PURPOSES OF DISASTER PAYMENTS.

It is the sense of Congress that disaster payments made to producers under subtitle A are intended to preserve each producer's livelihood and farming operation, to enable the producer to meet preexisting commitments and obligations, to protect the infrastructure of the United States agricultural production input, supply,

marketing, and distribution systems, and to preserve the vitality and financial health of rural communities.

TITLE III—OTHER EMERGENCY PROVISIONS

Subtitle A—Commodity Stock Adjustment

SEC. 301. SOYBEANS, SUNFLOWERS, AND COTTONSEED AND SUNFLOWER SEED OIL.

(a) PLANTING OF SOYBEANS AND SUNFLOWERS ON PERMITTED ACRES.—(1) Effective for the 1989 and 1990 crops, section 504 of the Agricultural Act of 1949 (7 U.S.C. 1464) is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any other provision of this Act—

"(A)(i) Effective for the 1989 crops, the Secretary shall permit, subject to subparagraph (B), producers on a farm to plant soybeans or sunflowers on a portion (not less than 10 percent nor more than 25 percent) of the producers' 1989 wheat, feed grain, upland cotton, extra long staple cotton, and rice permitted acreage, as determined by the Secretary.

"(ii) Effective for the 1990 crops, if the Secretary determines that there will be insufficient supplies of soybeans, the Secretary may permit, subject to subparagraph (B), the producers on a farm to plant soybeans or sunflowers on a portion (not less than 10 percent nor more than 25 percent) of the farm's 1990 wheat, feed grain, upland cotton, extra long staple cotton, and rice permitted acreage, as determined by the Secretary.

"(B)(i) For the 1989 crops and, if necessary, the 1990 crops, the Secretary shall establish a sign-up period during which the producers on a farm, participating in the wheat, feed grain, upland cotton, extra long staple cotton, or rice price support and production adjustment program, must state their intentions regarding use of the increased planting provision under subparagraph (A).

"(ii) After termination of the sign-up period under clause (i), the Secretary shall estimate whether, based on the additional soybean and sunflower plantings for the crop, the average market price for that crop of soybeans will be below 115 percent of the loan rate established for the previous crop of soybeans.

"(iii) If the Secretary estimates that the average market price for the crop of soybeans will be below 115 percent of such loan rate, the Secretary shall reduce the percentage of permitted acreage on the farm that may be planted to soybeans and sunflowers to a level, or prohibit such plantings, as necessary to ensure that the average soybean market price does not fall below 115 percent of such loan rate.

"(iv) For each of the 1989 and 1990 crops, the Secretary shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth the reasons for permitting or not permitting producers to plant soybeans or sunflowers on permitted acreage and any reduction in the permitted planting percentage under this subparagraph.

"(C)(1) For the purposes of determining the farm acreage base or the crop acreage bases for the farm, any acreage on the farm on which soybeans or sunflowers are planted under this paragraph shall be considered to be planted to the program crop for which soybeans or sunflowers are substituted.

Loans.

"(2) The Secretary may not make program benefits other than soybean or sunflower seed price support loans and purchases available to producers with respect to acreage planted to soybeans or sunflowers under paragraph (1) and shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased due to such plantings.".

Marketing. Loans. 7 USC 1446 note.

(2) Not earlier than February 1, 1989, and not later than March 1, 1989, with respect to the 1989 crop of soybeans, and not later than September 1, 1989, with respect to the 1990 crop of soybeans, the Secretary of Agriculture shall submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a statement setting forth the reasons for implementing or not implementing the soybean marketing loan program authorized under section 201(i)(3) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)(3)) for such crop. Such statement shall include—

(A) an economic evaluation of current soybean markets, foreign and domestic;

(B) the current foreign soybean production statistics;

Exports.

(C) the United States soybean export market situation and outlook;

(D) the computation of the prevailing world market price for soybeans, as described in section 201(i)(3)(B) of such Act;

(E) the fiscal effect of the implementation of the marketing loan for soybeans; and

(F) such other factors as the Secretary considers appropriate.

7 USC 1464 note.

(b) COTTONSEED AND SUNFLOWER SEED OIL.—(1) The Secretary of Agriculture shall determine if the price of cottonseed or cottonseed products is adversely affected by the amendment made by subsection (a)(1). If the Secretary determines that any such price has been adversely affected, the Secretary shall support the price of cottonseed and cottonseed products through loans, purchases, export assistance, or any other form of assistance, as necessary to offset such adverse effect.

Loans. Exports.

Exports.

(2)(A) Effective for the fiscal years ending September 30, 1989, and September 30, 1990, the Secretary of Agriculture shall use funds available under section 32 of Public Law 320, Seventy-fourth Congress (7 U.S.C. 612c), to purchase sunflower seed oil and cottonseed oil to facilitate additional export sales of sunflower seed oil and cottonseed oil at competitive prices, as necessary and appropriate to enable United States producers to compete with producers in other countries in world markets. Funds may be made available under this subparagraph only to the extent authorized in advance in appropriations Acts; and such funds shall be in addition to funds made available for the purchase of sunflower seed oil under section 637 of the rural development, agriculture, and related agencies appropriations in section 101(k) of Public Law 100-202 (101 Stat. 1329-357).

(B) To the extent practicable, facilitation of cottonseed oil exports shall be accomplished through the use of authorities available to the Secretary other than the authority granted in subparagraph (A).

(3) Except as otherwise provided in paragraph (2)(A), the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection.

SEC. 302. OATS.

(a) FARM ACREAGE BASES.—Section 503 of the Agricultural Act of 1949 (7 U.S.C. 1463) is amended by adding at the end thereof the following new subsection:

"(c)(1) Notwithstanding any other provision of this Act, effective for each of the 1989 and 1990 crops, if the acreage limitation percentage established for a crop of feed grains under section 105C(f) is 12.5 percent or less, the Secretary shall permit producers on a farm to designate any portion of the farm acreage base (excluding any portion designated as soybean acreage base) for the crop year as acreage base established for oats. For the purposes of determining the farm acreage base or the crop acreage bases for the farm, any acreage on the farm that is designated as oats base under this paragraph and planted to oats for harvest in 1989 or 1990 shall be considered to be planted to the program crop for which oats are substituted.

"(2) The Secretary shall not make program benefits other than benefits available under the program established for oats available to producers with respect to acreage planted to oats under paragraph (1), and shall ensure that the crop acreage bases established for the farm and the farm acreage base are not increased due to such plantings.".

(b) SENSE OF CONGRESS.—It is the sense of Congress that if the acreage limitation requirement established for the 1989 or 1990 crop of feed grains under section 105C(f) of the Agricultural Act of 1949 is more than 12.5 percent, the Secretary of Agriculture should establish the lowest possible acreage limitation requirement for such crop of oats under section 105C(f) if market imbalances for barley and oats exist. 7 USC 1444e note.

SEC. 303. PRODUCER RESERVE PROGRAM FOR WHEAT AND FEED GRAINS.

(a) REPAYMENT OF LOANS.—Effective for the 1988 marketing year for wheat or feed grains, once the market price described in clause (5) of the third sentence of subsection (b) of section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) has been reached at any time during such marketing year with respect to such commodity, producers may repay loans made under section 110 for such commodity during the remainder of such marketing year without the payment of a penalty, regardless of the then current market price. 7 USC 1445e note.

(b) REDEMPTION OF GENERIC CERTIFICATES.—Effective only for the 1988 marketing years for wheat and feed grains, section 110 of the Agricultural Act of 1949 (7 U.S.C. 1445e) is amended by adding at the end thereof the following new subsection:

"(j) Notwithstanding any other provision of law, if a producer has substituted purchased or other commodities for the commodities originally pledged as collateral for a loan made under this section, the producer may repay the loan using a generic commodity certificate that may be exchanged for commodities owned by the Commodity Credit Corporation, if the substitute commodities have been pledged as loan collateral and redeemed only within the same county.". Loans.

SEC. 304. TOBACCO AND PEANUTS.

(a) TRANSFER AUTHORITY.—(1) Section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314e) is amended by adding at the end thereof the following new subsection:

Contracts. "(k)(1) Notwithstanding any other provision of this section, the Secretary may permit, after July 1 of any crop year, the lease and transfer of burley tobacco quota assigned to a farm if—

"(A) the planted acreage of burley tobacco on the farm to which the quota is assigned is determined by the Secretary to be sufficient to produce the effective farm marketing quota under average conditions; and

"(B) the farm's expected production of burley tobacco is less than 80 percent of the farm's effective marketing quota as a result of a natural disaster condition.

Contracts. "(2) Any lease and transfer of quota under this subsection may be made to any other farm within the same State in accordance with regulations issued by the Secretary.".

(2) Section 358a(k)(1) of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1358a(k)(1)), as effective for the 1986 through 1990 crops of peanuts, is amended by adding at the end thereof the following: "In the case of a fall transfer or a transfer after the normal planting season by a cash lessee, the landowner shall not be required to sign the transfer authorization. A fall transfer or transfer after the normal planting season may be made not later than 72 hours after the peanuts that are the subject of the transfer are inspected and graded.".

7 USC 1314e note. (b) QUOTA ADJUSTMENT.—Notwithstanding any other provision of law, if a producer has produced burley tobacco in 1988 in an amount less than the producer's farm marketing quota for 1988 due to natural disaster, the Secretary may adjust the producer's burley tobacco farm marketing quota for the 1989 crop, as established under section 319 of the Agricultural Adjustment Act of 1938 (7 U.S.C. 1314(e)), by adding the accumulated undermarketings of the basic quota for 1988 crop, including undermarketings of leased quota, to the producer's basic quota for the 1989 crop, except that such adjustment may not exceed 125 percent of the producer's basic quota.".

Subtitle B—Disaster Credit and Forbearance

7 USC 1961 note. SEC. 311. EMERGENCY LOANS.

Section 321(b) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1981(b)) shall not apply to a person who otherwise would be eligible for an emergency loan under subtitle C of such Act (subject to the person's compliance with the requirements of section 207 of this Act), if such eligibility is the result of damage to an annual crop planted for harvest in 1988.

7 USC 1941 note. SEC. 312. 1989 FARM OPERATING LOANS.

(a) DIRECT CREDIT.—To the maximum extent practicable, the Secretary of Agriculture shall ensure that direct operating loans made or insured under subtitle B of the Consolidated Farm and Rural Development Act for 1989 crop production are made available to farmers and ranchers suffering major losses due to drought, hail, excessive moisture, or related condition in 1988, as authorized under

existing law and under regulations of the Secretary that implement the objective of enabling farmers and ranchers to stay in business.

(b) LOAN GUARANTEES.—(1) Notwithstanding any other provision of law, the Secretary of Agriculture shall make available in the fiscal year ending September 30, 1989, guarantees to commercial or cooperative lenders for loans under subtitle B of the Consolidated Farm and Rural Development Act, to refinance and reamortize 1988 operating loans, or 1988 or 1989 installments due and payable on real estate debt, farm equipment or building (including storage facilities) debt, livestock loans, or other operating debt, of farmers and ranchers that otherwise cannot be repaid due to major losses incurred by such farmers or ranchers as a result of drought, hail, excessive moisture, or related condition in 1988. Real property. Animals.

(2) Each fiscal year 1989 guaranteed loan for 1988 natural disaster purposes, as described in paragraph (1), shall contain terms and conditions governing the reamortization of the debt of the farmer or rancher that will provide the farmer or rancher a reasonable opportunity to continue to receive new operating credit while repaying the guaranteed loan, as determined by the Secretary.

(3) Notwithstanding any other provision of law, any person eligible to receive payments under subtitle A of title II of this Act shall be deemed eligible to have guaranteed, in accordance with this subsection, loans made to such person by a commercial or cooperative lender to refinance installment payments that are or become due and payable during 1988 or 1989, as described in paragraph (1), except that, to be deemed eligible to have such loan guaranteed, the person must otherwise be current in the person's obligation to the commercial or cooperative lender that agrees to accept the guarantee in consideration of allowing the person to make the 1988 or 1989 payment or installment over a period of time not to exceed 6 years from the original due date of such payment or installment, and must otherwise meet the criteria for guaranteed loan borrowers under subtitle B of the Consolidated Farm and Rural Development Act established by the Secretary.

(c) USE OF ACIF FUNDS.—For purposes of providing guaranteed loans in accordance with subsection (b) of this section, in addition to funds otherwise available, the Secretary may use any funds available from the Agricultural Credit Insurance Fund during fiscal years 1988 or 1989 for emergency insured and guaranteed loans under subtitle C of the Consolidated Farm and Rural Development Act to meet the needs resulting from natural disasters: *Provided,* That funds available from such Fund first shall be used to satisfy the level of assistance estimated by the Secretary to meet the needs of persons eligible for emergency disaster loans.

SEC. 313. FORBEARANCE AND RESTRUCTURING FOR FARM LOANS.

(a) FARMERS HOME ADMINISTRATION.—It is the sense of Congress that the Secretary of Agriculture should, with respect to farmers and ranchers who suffer major losses due to drought, hail, excessive moisture, or related condition in 1988— 7 USC 1981a note.

(1) exercise forbearance in the collection of interest and principal on direct farmer program loans under the Consolidated Farm and Rural Development Act outstanding for such farmers and ranchers;

(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act

of 1987 and similar provisions of law for such farmers and ranchers; and

(3) encourage commercial lenders participating in guaranteed farmer lending programs under the Consolidated Farm and Rural Development Act to exercise forbearance before declaring loans to such farmers and ranchers under such programs in default.

12 USC 2252 note.

(b) FARM CREDIT ADMINISTRATION.—It further is the sense of Congress that the Farm Credit Administration should in its oversight of Farm Credit System institutions, with respect to farmers and ranchers who suffer major losses due to drought, hail, excessive moisture, or related condition in 1988—

(1) ensure that Farm Credit System institutions exercise forbearance in the collection of principal and interest on loans outstanding to such farmers and ranchers;

(2) expedite the use of credit restructuring and other credit relief mechanisms authorized under the Agricultural Credit Act of 1987 and related provisions of law for such farmers and ranchers; and

(3) encourage other lenders participating with Farm Credit System institutions in mutual loan agreements to exercise forbearance before declaring loans to such farmers and ranchers in default.

Subtitle C—Conservation Assistance

16 USC 3832 note.

SEC. 321. NEW CONSERVATION MEASURES.

Contracts.

(a) IN GENERAL.—(1) In the case of an owner or operator of land who has entered into a conservation reserve program contract under subtitle D of title XII of the Food Security Act of 1985 (16 U.S.C. 3831 et seq.) and harvests hay during the 1988 crop year on acreage subject to such contract as authorized by the Secretary of Agriculture, the Secretary may not reduce the amount of rental payments made to such owner or operator as the result of such harvesting to the extent that the owner or operator—

Water. Wildlife.

(A) carries out additional conservation practices, approved by the Soil Conservation Service in consultation with appropriate Federal and State agencies, to enhance soil, water, and wildlife conservation on or in the vicinity of lands subject to such contract; and

(B) pays the costs of carrying out such practices.

(2) The amount of the reduction prohibited under paragraph (1) shall equal one-half of the amount paid by the owner or operator to cover the costs of carrying out the conservation practices.

(b) CONSERVATION PRACTICES.—For purposes of subsection (a), the term "conservation practices" includes—

(1) establishment of permanent shelterbelts and windbreaks;

(2) restoration of wetlands;

(3) establishment of wildlife food plots; or

(4) planting of trees.

SEC. 322. CONSERVATION RESERVE ENHANCEMENT PROGRAMS.

Effective beginning with the 1988 crop year, subsection (f) of section 1234 of the Food Security Act of 1985 (16 U.S.C. 3834(f)) is amended by adding at the end thereof the following new paragraph:

"(4) The provisions of this subsection that limit payments to any person, and section 1305(d) of the Agricultural Reconciliation Act of 1987, shall not be applicable to payments received by a State, political subdivision, or agency thereof in connection with agreements entered into under a special conservation reserve enhancement program carried out by that entity that has been approved by the Secretary. The Secretary may enter into such agreements for payments to States, political subdivisions, or agencies thereof that the Secretary determines will advance the purposes of this subtitle.". Contracts. State and local governments.

Subtitle D—Rural Businesses

SEC. 331. DISASTER ASSISTANCE FOR RURAL BUSINESS ENTERPRISES. 7 USC 1929a note.

(a) LOAN GUARANTEES.—The Secretary of Agriculture shall guarantee loans made in rural areas to public, private, or cooperative organizations, to Indian tribes on Federal and State reservations or other federally recognized Indian tribal groups, or to any other business entities to assist them in alleviating distress caused to such entities, directly or indirectly, by the drought, hail, excessive moisture, or related condition in 1988, and shall guarantee loans made in rural areas to such entities that refinance or restructure debt as a result of losses incurred, directly or indirectly, because of such natural disasters in 1988. Indians.

(b) ELIGIBLE LOANS.—Loans that may be guaranteed under this section are loans made by any Federal or State chartered bank, savings and loan association, cooperative lending agency, insurance company, or other legally organized lending agency. Banks and banking.

(c) LENDING LIMITS.—(1) No guarantee under this section may exceed 90 percent of the principal amount of the loan and guarantees made on loans to any eligible borrower may not exceed $500,000. Loans.

(2) The total amount of loan guarantees that may be made under this section shall not exceed $200,000,000.

(d) USE OF THE RURAL DEVELOPMENT INSURANCE FUND.—The Secretary shall use the Rural Development Insurance Fund established under section 309A of the Consolidated Farm and Rural Development Act for the purposes of discharging the Secretary's obligations under this section.

SEC. 332. SALE OF CORN TO ETHANOL PRODUCERS. 7 USC 1427 note.

(a) IN GENERAL.—Except as otherwise provided in this section and notwithstanding section 110(f) of the Agricultural Act of 1949 (7 U.S.C. 1445e(f)) or any other provision of law, if, during any month commencing after July 31, 1988, the average corn price (as determined under subsection (d)) exceeds the fuel conversion price (as defined in section 212 of the Agricultural Trade Suspension Adjustment Act of 1980 (7 U.S.C. 4005)), the Secretary of Agriculture may make available for sale to domestic producers of ethanol fuel, for the production of ethanol, not more than 12,000,000 bushels per month of corn owned by the Commodity Credit Corporation.

(b) PRICE.—Corn shall be sold under this section at a price that is not more than such fuel conversion price, except that such price shall not be less than 110 percent of the basic county loan rate for corn, prior to any adjustment made under section 105C(a)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444e(a)(3)).

(c) MAXIMUM AMOUNT.—The total quantity of corn sold to any ethanol producer under this section may not exceed 2,000,000 bushels per month.

(d) AVERAGE CORN PRICE.—The average corn price under this section shall be determined by the Secretary based on the average corn price in markets used for determinations made under clause (5) of the third sentence of section 110(b) of the Agricultural Act of 1949 (7 U.S.C. 1445e(b)).

(e) TERMS.—(1) The Secretary may not make corn or other commodities available under this section to any domestic producer of ethanol that uses in excess of 30,000,000 bushels of corn or comparable commodity annually in producing ethanol.

Animals. (2) Domestic producers of ethanol fuel purchasing corn under this section shall agree not to resell such corn and to make available a quantity of feed byproducts equivalent to the quantity processed from such corn for sale to domestic livestock producers and feeders in a manner and subject to such terms and conditions as are approved by the Secretary.

(f) TERMINATION.—The Secretary shall terminate any program established under this section no later than September 1, 1989. The Secretary shall terminate the program on an earlier date if the Secretary determines that—

(1) such program is no longer necessary to maintain the economic viability of the ethanol industry; or

Animals. (2) a sufficient supply of corn otherwise would not be available to fulfill estimated obligations of the Commodity Credit Corporation under emergency livestock feeding programs during the subsequent 180-day period.

(g) OTHER COMMODITIES.—The Secretary may, at the request of a domestic producer of ethanol, substitute other feed grains (such as grain sorghum) for corn on an equitable basis, taking into account variations in the value of such commodities in the production of ethanol.

SEC. 333. SURVEY OF AGRIBUSINESS.

Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall—

(1) conduct a survey of rural business and enterprises, including grain handling and storage facilities, in the United States whose activities involve or are directly related to the production, processing, or marketing of agricultural commodities or products, or to servicing the business and home needs of United States farmers and ranchers, to determine the extent that such businesses are being adversely affected, directly or indirectly, by drought, hail, excessive moisture, or related condition in 1988; and

Reports. (2) submit a report describing the results of such survey to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

SEC. 334. FORWARD CONTRACTING REPORT.

(a) REPORT.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the financial effect that forward contracting,

hedging, and associated margin requirements for wheat, feed grains, and soybeans during the recent drought-related period of price volatility have had on producers and on grain marketers, particularly local elevators and intermediaries.

(b) CONTENTS OF REPORT.—In the report, the Secretary shall include a discussion of—

(1) the extent to which currently planted or stored crops are subject to cash forward contracts or otherwise are hedged, and what portion of such forward contracts are in danger of being defaulted on as a result of drought-related crop losses;

(2) the extent to which local grain elevators may experience severe financial stress due to defaults on cash forward contracts or due to margin requirements on futures market positions;

(3) the extent to which producers have been able to renegotiate forward contracts in light of drought-related changes in economic conditions;

(4) the extent to which hedging and forward contracting practices may produce unusual demands for credit among farm producers and marketers in light of drought-related conditions; and

(5) such other areas of related concern as the Secretary may find appropriate.

(c) IMMEDIATE NOTIFICATION.—The Secretary shall immediately notify, in advance of the report, the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate if the Secretary finds, in the course of the study required under this section, that serious economic or financial problems related to forward contracting, hedging, and margin requirements for grains are likely to arise.

(d) CONSULTATION.—The Secretary shall consult with the Chairman of the Commodity Futures Trading Commission on issues concerning futures markets that arise in the course of the study required under this section.

SEC. 335. RURAL ECONOMIC DEVELOPMENT RESPONSE TO THE DROUGHT.

(a) FINDINGS.—Congress finds that—

(1) the disastrous drought of 1988 is adversely affecting a large number of States, with serious economic consequences for family farmers;

(2) the harm caused by the drought is not limited to farmers, but extends to each rural community whose economic viability is being devastated;

(3) rural businesses and financial institutions are already experiencing the negative effects of decreased sales, and they anticipate severe problems over the next year, due to crop failures and the unavailability of credit;

(4) local rural governments, whose fiscal bases depend on tax revenues from agriculture and agriculture-related businesses, will experience, as a result of the effects of the drought, difficulties in providing services that are important to the quality of life for rural residents;

(5) as a result of the effects of the drought, significant savings will accrue to the Federal budget due to reduced deficiency payments and storage payments, substantially in excess of the funds allocated by this Act; and

(6) assistance to farmers, while essential, represents only the first stage of a comprehensive response to the serious national problems created by the drought.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) budgetary savings that accrue from the effects of the drought and other economic circumstances should, to the maximum extent possible, be dedicated to relief for farmers and agricultural workers and to assist rural businesses and communities in promotion of rural economic development;

(2) action should be taken to establish comprehensive Federal rural economic programs that address the needs of rural businesses and governments; and

(3) rural development programs should stress efforts to cooperate with and support local decisionmaking; promote market-based capital formation; create a more equitable and dependable partnership between the Federal Government and other levels of government; provide Federal initiatives for improving the quality of rural health care, child care, and education; and foster better understanding of the effect of Federal spending, tax, trade, and regulatory decisions on rural communities.

Subtitle E—Agricultural Exports

SEC. 341. SENSE OF CONGRESS—AGRICULTURAL EXPORTS.

(a) FINDINGS.—Congress finds that—

(1) the disastrous drought of 1988 is causing substantial agricultural crop losses and is putting an enormous financial burden on United States farmers and their families;

(2) the Food Security Act of 1985 (A) recognized that agricultural export markets are extremely important in ensuring the economic recovery and future success of United States farmers, their families, and rural communities, and (B) established several programs to develop and expand agricultural export markets and help restore the United States share of international agricultural trade;

(3) the programs under the Food Security Act of 1985, such as the export enhancement program and the targeted export assistance program, have been successful to date and have served to increase agricultural exports;

(4) United States agricultural exports make a substantial contribution to reducing our Nation's international trade deficit;

(5) it is important that the United States be perceived as being a reliable supplier of agricultural commodities and products;

(6) imposing embargoes on, or taking other steps to reduce the levels of, the exports of agricultural commodities or products in wake of the drought will undermine the gains made since 1985 in securing markets for United States agricultural commodities and products abroad, by allowing foreign competitors opportunity to move into our international markets; and

(7) imposing embargoes on, or taking other steps to reduce the levels of, exports of agricultural commodities and products would jeopardize the progress in strengthening our agricultural export markets made by export assistance programs under the Food Security Act of 1985.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Government should not take any action that (1) will further exacerbate the already disastrous circumstances for United States agriculture resulting from the drought by imposing, or facilitating the imposition of, embargoes or other limitations that reduce exports of agricultural commodities and products, or (2) otherwise jeopardize United States foreign agricultural markets or give our trading partners reason to believe United States farmers have become unreliable suppliers of agricultural commodities and products.

Subtitle F—Food Prices

SEC. 351. SENSE OF CONGRESS—FOOD PRICES.

(a) FINDINGS.—Congress finds that—

(1) the disastrous drought of 1988 is causing substantial agricultural crop losses and is placing enormous financial burdens on livestock, poultry, and dairy producers;

(2) in spite of the effects of the drought, the United States continues to have ample supplies of grain for human and animal consumption through the upcoming crop year;

(3) the Department of Agriculture projects that even if the drought continues, food prices are not expected to increase significantly due to the drought; and

(4) in view of these circumstances, no person in the United States should have to pay unwarranted, unjustified, or excessive food prices and that higher food prices, irrespective of their cause, affect those least able to pay the most.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Department of Agriculture, in cooperation with other Federal agencies and State and local agencies where appropriate, should monitor, study, and report to Congress about food price increases at wholesale and retail levels during the coming months, to ensure that no unwarranted food price increases are implemented and that any necessary increases are commensurate with commodity price increases resulting from the drought. Reports.

SEC. 352. STUDY OF EFFECT OF DROUGHT ON FOOD PRICES.

(a) SURVEY.—The Secretary of Agriculture shall conduct a survey of food and commodity prices as of December 31, 1988, to determine the effects of the drought and related conditions in 1988 on recipients of Federal nutrition and hunger benefits. Hunger.

(b) REPORT.—Not later than March 1, 1988, the Secretary shall submit a report to Congress on the results of the survey required under subsection (a), including—

(1) an analysis of the adequacy of benefits under Federal nutrition and hunger programs with respect to any food price inflation that has occurred because of the drought or related conditions in 1988; and

(2) recommendations for any actions that may be taken by the Secretary or Congress to address problems identified in such survey.

TITLE IV—WATER-RELATED ASSISTANCE

Subtitle A—Water Management for Rural Areas

7 USC 2204c.

SEC. 401. WATER MANAGEMENT FOR RURAL AREAS.

Corporations. Indians. State and local governments.

(a) IN GENERAL.—The Secretary of Agriculture is authorized, directly or in coordination with any other Federal agency, entity, corporation, department, unit of State or local government, cooperative, confederation, individual, public or private organization, Indian tribe, or university, to—

Research and development. Grants. Loans.

(1) conduct research and demonstration projects;

(2) provide technical assistance and extension services;

(3) make grants, loans, and loan guarantees; and

(4) provide other forms of assistance, for the purpose of helping rural areas make better and more efficient use of water resources and to alleviate problems arising in such areas from droughts or lack of water.

(b) ACTIVITIES.—The Secretary is authorized to provide assistance under this section for the promotion or establishment of irrigation, watersheds, and other water management and drought management activities, including water transmission, application, and activation.

(c) COOPERATION.—In implementing this section, the Secretary—

(1) should address the general, special, and unique problems of water management existing in rural areas;

(2) may take action independently or in cooperation with Federal, State, public, or private entities and agencies; and

(3) shall cooperate with—

Compacts between States.

(A) cooperatives, public or private organizations, confederations, authorities, or other entities (including such entities that may be organized under multiple State agreements or compacts and entities created under State law) to carry out projects authorized under this section; and

State and local governments.

(B) water, watershed, and sewer authorities, rural electric cooperatives, Federal agencies, and other State or local governments or agencies.

(d) REGULATIONS.—(1) The Secretary shall issue regulations to carry out this section.

(2) Such regulations shall—

(A) specify the terms and conditions that the entities described in subsections (a) and (c) must meet in order to participate in programs carried out under this section;

(B) establish a procedure under which entities described in subsections (a) and (c) may apply for assistance under this section; and

(C) foster cooperation between such entities and other Federal, State, or local agencies for the purposes of carrying out the provisions of this section.

(e) DEFINITION.—As used in this section, the term "university" means—

(1) a land grant university established under the Act of July 2, 1862 (known as the "First Morrill Act"; 12 Stat. 503, chapter 130; 7 U.S.C. 301 et seq.);

(2) a land grant university established under the Act of August 30, 1890 (known as the "Second Morrill Act"; 26 Stat. 419, chapter 841; 7 U.S.C. 321 et seq.);

(3) the Tuskegee Institute; and

(4) any other support research organization.

(f) FUNDING.—(1) There are authorized to be appropriated each fiscal year such sums as are necessary to carry out this section. Appropriation authorization.

(2) The Secretary is authorized to accept funds from non-Federal sources to carry out the activities authorized by this section.

(g) NO WAIVERS.—Nothing in this section shall authorize the waiver of a cost-share requirement under a program established under any other provision of law.

Subtitle B—Emergency Drought Authority

43 USC 502 note.

PART I—RECLAMATION STATES DROUGHT ASSISTANCE

Reclamation States Drought Assistance Act of 1988.

SEC. 411. SHORT TITLE.

Conservation.

This part may be cited as the "Reclamation States Drought Assistance Act of 1988".

SEC. 412. ASSISTANCE DURING DROUGHT.

The Secretary of the Interior, acting under the authorities of the Federal reclamation laws (the Act of June 17, 1902 (32 Stat. 388), and Acts supplementary thereto and amendatory thereof) and other appropriate authorities of the Secretary shall—

(1)(A) perform studies to identify opportunities to augment, make use of, or conserve water supplies available to Federal reclamation projects and Indian water resource developments, which studies shall be completed no later than March 1, 1990; and Indians.

(B) consistent with existing contractual arrangements and State law, and without further authorization, undertake construction, management, and conservation activities that will mitigate or can be expected to have an effect in mitigating losses and damages resulting from drought conditions in 1987, 1988, or 1989, which construction shall be completed by December 31, 1989; and

(2) assist willing buyers in their purchase of available water supplies from willing sellers and redistribute such water based upon priorities to be determined by the Secretary consistent with State law, with the objective of minimizing losses and damages resulting from drought conditions in 1987, 1988, and 1989.

SEC. 413. AVAILABILITY OF WATER ON A TEMPORARY BASIS.

(a) GENERAL AUTHORITY.—The Secretary of the Interior may make available, by contract, consistent with existing contracts or agreements and State law, water or canal capacity at existing Federal reclamation projects to water users and others, on a temporary basis to mitigate losses and damages resulting from drought conditions in 1987, 1988, and 1989. Contracts.

(b) CONTRACTS.—Any contract signed under this section shall provide that—

(1) the price for the use of such water shall be at least sufficient to recover all Federal operation and maintenance costs, and an appropriate share of capital costs, except that, for water delivered to a landholding in excess of 960 acres of class I lands or the equivalent thereof for a qualified recipient and 320 acres of class I lands or the equivalent thereof for a limited recipient, the cost of such water shall be full cost (as defined in section 202(3)(A) of Public Law 97-293, 43 U.S.C. 390bb) for those acres in excess of 960 acres or 320 acres, as appropriate;

(2) the lands not now subject to reclamation law that receive temporary irrigation water supplies under this section shall not become subject to the ownership limitations of Federal reclamation law because of the delivery of such temporary water supplies;

(3) the lands that are subject to the ownership limitations of Federal reclamation law shall not be exempted from those limitations because of the delivery of such temporary water supplies; and

Termination date.

(4) the contract shall terminate no later than December 31, 1989.

(c) FISH AND WILDLIFE.—The Secretary may make available water for the purposes of protecting fish and wildlife resources, including mitigating losses that occur as a result of drought conditions.

SEC. 414. EMERGENCY LOAN PROGRAM.

Transportation. Contracts.

The Secretary of the Interior may make loans to water users for the purposes of undertaking management, conservation activities, or the acquisition and transportation of water consistent with State law, that can be expected to have an effect in mitigating losses and damages resulting from drought conditions in 1987, 1988, and 1989. Such loans shall be made available under such terms and conditions as the Secretary deems appropriate. Section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97-293; 43 U.S.C. 390cc) shall not apply to any contract to repay such loan.

SEC. 415. INTERAGENCY COORDINATION.

The program established by this part, to the extent practicable, shall be coordinated with emergency and disaster relief operations conducted by other Federal and State agencies under other provisions of law. The Secretary of the Interior shall consult such other Federal and State agencies as he deems necessary. Other Federal agencies performing relief functions under other Federal authorities shall provide the Secretary with information and records that the Secretary deems necessary for the administration of this part.

Records.

SEC. 416. REPORT.

Not later than March 1, 1990, the Secretary of the Interior shall submit a report and recommendations to the President and Congress on—

(1) expenditures and accomplishments under this part;

(2) legislative and administrative recommendations for responding to droughts and drought related problems in the Reclamation States; and

(3) structural and non-structural measures to mitigate the effects of droughts.

SEC. 417. CARRYOVER STORAGE AND WATER, NEW MELONES UNIT, CENTRAL VALLEY PROJECT, CALIFORNIA.

The first undesignated paragraph under the heading "San Joaquin River Basin" in section 203 of the Flood Control Act of 1962 (Public Law 87-874, 76 Stat. 1191) is amended by inserting before the last period the following: ": *And provided further,* That the Secretary of the Interior is authorized to make available to the Oakdale and South San Joaquin irrigation districts, at the current contract rate, unallocated storage of such districts carried over from the previous year".

SEC. 418. INITIATION AND DEADLINE OF EMERGENCY DROUGHT PROGRAM.

(a) LIMITATION.—The programs and authorities established under this part shall become operative in any Reclamation State only after—

(1) the Governor of that State has declared a drought emergency; and

(2) the affected area is declared eligible for Federal disaster relief under applicable rules and regulations.

(b) TERMINATION.—The programs and authorities established under this part shall terminate on December 31, 1989, unless otherwise specifically stated.

PART 2—WATER PROJECT

SEC. 421. CENTRAL VALLEY PROJECT WATER RELEASES.

The Secretary of the Interior is authorized to install a temperature control curtain as a demonstration project at Shasta Dam, Central Valley project, California, at a cost not to exceed $5,500,000. The purpose of the demonstration project is to determine the effectiveness of the temperature control curtain in controlling the temperature of water releases from Shasta Dam, so as to protect and enhance anadromous fisheries in the Sacramento River and San Francisco Bay/Sacramento-San Joaquin Delta and Estuary

Fish and fishing.

PART 3—AUTHORIZATION AND SAVINGS CLAUSE

SEC. 431. AUTHORIZATION OF APPROPRIATIONS.

(a) There are authorized to be appropriated a total amount not to exceed $25,000,000 for section 412(1)(B) and section 414 of this subtitle.

(b) Unless otherwise specified, there are authorized to be appropriated such sums as may be necessary to carry out the remaining provisions of this subtitle.

SEC. 432. SAVINGS CLAUSE.

Nothing in this subtitle shall be construed as limiting or restricting the power and authority of the United States or—

(1) as affecting in any way any law governing appropriation or use of, or Federal right to, water on public lands;

Public lands.

(2) as expanding or diminishing Federal or State jurisdiction, responsibility, interests, or rights in water resources development or control;

(3) as displacing, superseding, limiting, or modifying any interstate compact or the jurisdiction or responsibility of any

Compacts between States.

legally established joint or common agency of two or more States or of two States and the Federal Government;

(4) as superseding, modifying, or repealing, except as specifically set forth in this subtitle, existing law applicable to the various Federal agencies; or

Compacts between States.

(5) as modifying the terms of any interstate compact.

TITLE V—MIGRANT OR SEASONAL FARMWORKER ASSISTANCE

SEC. 501. EMERGENCY ASSISTANCE PAYMENTS TO MIGRANT FARMWORKER HOUSEHOLDS.

(a) EXCLUSION OF ASSISTANCE.—Section 5(k)(2) of the Food Stamp Act of 1977 (7 U.S.C. 2014(k)(2)) is amended by—

(1) striking out "(E)" and inserting in lieu thereof "(F)";

(2) striking out "(F)" and inserting in lieu thereof "(G)"; and

(3) inserting the following new subparagraph after subparagraph (D):

"(E) emergency assistance for migrant or seasonal farmworker households during the period such households are in the job stream;".

7 USC 2014 note.

(b) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect on the date of enactment of this Act.

(2) The amendments made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 to any household for any month beginning before the effective period of this section begins.

SEC. 502. PRORATING BENEFITS OF MIGRANT OR SEASONAL FARMWORKER HOUSEHOLDS.

(a) CERTIFICATION.—Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended by—

(1) striking out "and (2)" and inserting "(2)"; and

(2) inserting before the period at the end thereof the following: ", and (3) in the case of a migrant or seasonal farmworker household, the first month for which allotment is issued to a household that applies following any period of more than 30 days in which such household was not participating in the food stamp program after previous participation in such program".

7 USC 2017 note.

(b) EFFECTIVE DATE AND APPLICATION.—(1) The amendments made by this section take effect on the date of enactment of this Act.

(2) The amendments made by this section shall not apply with respect to allotments issued under the Food Stamp Act of 1977 to any household for any month beginning before the effective period of this section begins.

29 USC 1672 note.

SEC. 503. ASSISTANCE TO LOW-INCOME AGRICULTURAL WORKERS.

Notwithstanding any other provision of law, for necessary services to be provided by agencies that have received funds under the Job Training Partnership Act to low-income agricultural workers who have been adversely affected by the drought of 1988, not to exceed $5,000,000 shall be made available to be derived by transfer from the Disaster Relief Program of the Federal Emergency Management Agency. The funds shall be distributed by the Secretary of Labor within 30 days after the date of the enactment of this Act based on

an assessment of the number of low-income agricultural workers in each grantee's service delivery area who have lost income or are unable to work due to the drought, including those workers who have stayed at home in anticipation of work shortages. Emergency services to be provided under this section may include all types of assistance that the Secretary determines to be necessary. For the purposes of this section, a low-income agricultural worker receiving assistance must meet the income eligibility requirements of the section 402 program under the Job Training Partnership Act.

Approved August 11, 1988.

LEGISLATIVE HISTORY—H.R. 5015 (S. 2631):

HOUSE REPORTS: No. 100-800, Pt. 1 (Comm. on Agriculture) and No. 100-830 (Comm. of Conference).
SENATE REPORTS: No. 100-426 accompanying S. 2631 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 28, considered and passed House. S. 2631 considered and passed Senate.
July 29, passage of S. 2613 vitiated; H.R. 5015 considered and passed Senate, amended, in lieu of S. 2613.
Aug. 8, Senate agreed to conference report.
Aug. 9, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Aug. 11, Presidential remarks.

Public Law 100-388
100th Congress

An Act

Aug. 11, 1988
[H.R. 4726]

To designate the United States Post Office Building located at 700 Main Street in Danville, Virginia, as the "Dan Daniel Post Office Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States Post Office Building located at 700 Main Street in Danville, Virginia, shall be known and designated as the "Dan Daniel Post Office Building".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Dan Daniel Post Office Building".

Approved August 11, 1988.

LEGISLATIVE HISTORY—H.R. 4726:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
July 28, considered and passed Senate.

O

Public Law 100-389
100th Congress

Joint Resolution

To give special recognition to the birth and achievements of Aldo Leopold.

Aug. 11, 1988
[S.J. Res. 40]

Whereas January 11, 1987, marks the one-hundredth anniversary of the birth of Aldo Leopold;

Whereas Aldo Leopold is an undisputed pioneer of wildlife management and wilderness ecology;

Whereas Aldo Leopold's land ethics, which "changes the role of Homo sapiens from conqueror of the land-community to plain member and citizen" by "simply enlarg[ing] the boundaries of the community to include soils, waters, plants, and animals, or collectively: the land", has inspired and encouraged the protection and wise management of our renewable natural resources;

Whereas the teaching of Aldo Leopold, so eloquently captured in A Sand County Almanac, continued to be read and enjoyed by millions of Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress of the United States give special recognition to the achievements of Aldo Leopold and urges Federal land management agencies to model their activities after the conservation ethic he has inspired.

Approved August 11, 1988.

LEGISLATIVE HISTORY—S.J. Res. 40:

CONGRESSIONAL RECORD:
Vol. 133 (1987): June 25, considered and passed Senate.
Vol. 134 (1988): Aug. 2, considered and passed House.

Public Law 100-390
100th Congress

Joint Resolution

Aug. 11, 1988
[S.J. Res. 248]

To designate the week of October 2, 1988, through October 8, 1988, as "Mental Illness Awareness Week".

Whereas mental illness is a problem of grave concern and consequence in American society, though one widely but unnecessarily feared and misunderstood;

Whereas thirty-one to forty-one million Americans annually suffer from clearly diagnosable mental disorders involving significant disability with respect to employment, attendance at school, or independent living;

Whereas more than ten million Americans are disabled for long periods of time by schizophrenia, manic depressive disorder, and major depression;

Whereas between 30 and 50 per centum of the homeless suffer serious, chronic forms of mental illness;

Whereas alcohol, drug, and mental disorders affect almost 19 per centum of American adults in any six-month period;

Whereas mental illness in at least twelve million children interferes with vital development and maturational processes;

Whereas mental disorder-related deaths are estimated to be thirty-three thousand, with suicide accounting for at least twenty-nine thousand, although the real number is thought to be at least three times higher;

Whereas our growing population of the elderly is particularly vulnerable to mental illness;

Whereas estimates indicate that one in ten AIDS patients will develop dementia or other psychiatric problems as the first sign of the disease and as many as two-thirds of AIDS patients will show neuropsychiatric symptoms before they die;

Whereas mental disorders result in staggering costs to society, estimated to be in excess of $249,000,000,000 in direct treatment and support and indirect costs to society, including lost productivity;

Whereas mental illness is increasingly a treatable disability with excellent prospects for amelioration and recovery when properly recognized;

Whereas families of mentally ill citizens and those persons themselves have begun to join self-help groups seeking to combat the unfair stigma of the diseases, to support greater national investment in research, and to advocate for an adequate continium of care from hospital to community;

Whereas in recent years there have been unprecedented major research developments bringing new methods and technology to the sophisticated and objective study of the functioning of the brain and its linkages to both normal and abnormal behavior;

Whereas research in recent decades has led to a wide array of new and more effective modalities of treatment (both somatic and psychosocial) for some of the most incapacitating forms of mental

illness (including schizophrenia, major affective disorders, phobias, and phobic disorders);

Whereas appropriate treatment of mental illness has been demonstrated to be cost effective in terms of restored productivity, reduced utilization of other health services, and lessened social dependence; and

Whereas recent and unparalleled growth in scientific knowledge about mental illness has generated the current emergence of a new threshold of opportunity for future research advances and fruitful application to specific clinical problems: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on October 2, 1988, is designated as "Mental Illness Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved August 11, 1988.

LEGISLATIVE HISTORY—S.J. Res. 248:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Aug. 2, considered and passed House.

Public Law 100-391
100th Congress

Joint Resolution

Aug. 11, 1988
[S.J. Res. 263]

To designate the period commencing November 13, 1988, and ending November 19, 1988, as "Geography Awareness Week".

Whereas geography is the study of people, their environments, and their resources;

Whereas the United States of America is a truly unique nation with diverse landscapes, bountiful resources, a distinctive multiethnic population, and a rich cultural heritage, all of which contribute to the status of the United States as a world power;

Whereas, historically, geography has aided Americans in understanding the wholeness of their vast nation and the great abundance of its natural resources;

Whereas geography today offers perspectives and information in understanding ourselves, our relationship to the Earth, and our interdependence with other peoples of the world;

Whereas statistics illustrate that a significant number of American students could not find the United States on a world map, could not identify Alaska and Texas as the Nation's largest States, and could not name the New England States;

Whereas geography has been offered to fewer than one in ten United States secondary school students as part of the curriculum;

Whereas departments of geography are being eliminated from American institutes of higher learning, thus endangering the discipline of geography in the United States;

Whereas traditional geography has virtually disappeared from the curricula of American schools while still being taught as a basic subject in other countries, including the United Kingdom, Canada, Japan, and the Soviet Union;

Whereas an ignorance of geography, foreign languages, and cultures places the United States at a disadvantage with other countries in matters of business, politics, and the environment;

Whereas the United States is a nation of worldwide involvements and global influence, the responsibilities of which demand an understanding of the lands, languages, and cultures of the world; and

Whereas national attention must be focused on the integral role that knowledge of world geography plays in preparing citizens of the United States for the future of an increasingly interdependent and interconnected world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing November 13, 1988, and ending November 19, 1988, is designated as "Geography Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved August 11, 1988.

LEGISLATIVE HISTORY—S.J. Res. 263:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Aug. 2, considered and passed House.

Public Law 100-392
100th Congress

Joint Resolution

Aug. 11, 1988
[S.J. Res. 273]

Designating October 6, 1988, as "German-American Day".

Whereas, German-Americans, through their work and contributions to the culture of the United States since the arrival of the first German immigrants in the United States on October 6, 1683, have earned this very special day and tribute to their achievements;

Whereas, as they have before, so will Americans of German descent continue to contribute to the life and culture of the United States, and will work for and will support the Government of the United States, its democratic principles and the freedom of all people everywhere;

Whereas such contributions should be recognized and celebrated in 1988, and annually thereafter; and

Whereas common ties and lasting friendship exist between the United States and the Federal Republic of Germany and other German speaking countries: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 6, 1988, is designated as "German-American Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Approved August 11, 1988.

LEGISLATIVE HISTORY—S.J. Res. 273:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Aug. 2, considered and passed House.

Public Law 100-393
100th Congress

An Act

Making dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes.

Aug. 14, 1988
[H.R. 5026]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide dire emergency supplemental appropriations for the fiscal year ending September 30, 1988, and for other purposes, namely:

Dire Emergency Supplemental Appropriations Act, 1988.

TITLE I—DIRE EMERGENCY PROGRAM SUPPLEMENTALS

To meet dire emergencies created by needs for State Unemployment Insurance and Employment Service Operations, the Black Lung Disability Trust Fund, Trade Adjustment Assistance and Small Business Disaster Assistance and for personnel, operations, and capital required to meet dire emergencies caused by the drought, disaster, and financial conditions:

DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For an additional amount for "State unemployment insurance and employment service operations", $15,000,000 which shall be expended from the Employment Security Administration account in the Unemployment Trust Fund, to fund activities under section 6 of the Act of June 6, 1933, as amended (29 U.S.C. 49-49l-1; 39 U.S.C. 3202 (a)(1)(E)), including the cost of penalty mail made available to States in lieu of allotments for such purpose: *Provided,* That such amount shall be available for obligation for the period July 1, 1988, through June 30, 1989.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

(TRANSFER OF FUNDS)

In order to provide for the Black Lung Disability Trust Fund and for Trade Adjustment Assistance, such amounts for necessary advances for the fiscal year ending September 30, 1988, that exceed those provided in appropriations, may be derived from balances in the revolving fund established by 42 U.S.C. 1101(e).

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(BY TRANSFER)

For an additional amount for "Salaries and expenses", $10,300,000, to be derived by transfer from the "Business Loan and Investment Fund".

BUSINESS LOAN AND INVESTMENT FUND

Outlays in fiscal year 1988 resulting from the use of funds appropriated under this heading may not exceed $204,105,000, not including transactions originated by the Federal Financing Bank.

To meet the dire emergency which requires increased drug interdiction activities and the enhancement of protection of life and property:

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

(TRANSFERS OF FUNDS)

For an additional amount for "Operating expenses", not to exceed $60,000,000 of which $69,467 shall be derived from unobligated balances of "Territorial highways"; $2,460,000 shall be derived from unobligated balances of "Motor carrier safety grants"; $129,000 shall be derived from unobligated balances of "Conrail labor protection"; $654,014 shall be derived from unobligated balances of "Facilities, engineering, and development"; not to exceed $22,000,000 shall be derived from funds recovered under sections 5, 9, and 18 of the Urban Mass Transportation Act of 1964, as amended, that would otherwise be reapportioned on or after October 1, 1988; $2,000,000 shall be derived from unobligated balances of "Research, training, and human resources" other than funding for the cold weather transit technology program and the phosphoric acid fuel cell bus technology program; not to exceed $6,000,000 shall be derived from unobligated balances of "Acquisition, construction, and improvements"; $5,000,000 shall be derived from unobligated balances of "Research, development, test, and evaluation"; $6,687,519 shall be derived from unobligated balances of "Pollution fund"; $1,600,000 shall be derived from unobligated balances of "Offshore oil pollution compensation fund"; and $1,400,000 shall be derived from unobligated balances of "Deepwater port liability fund".

FEDERAL AVIATION ADMINISTRATION

GRANTS-IN-AID FOR AIRPORTS

(AIRPORT AND AIRWAY TRUST FUND)

(RESCISSION)

The sum of $12,000,000 of unobligated contract authority available for airport development and planning pursuant to section 505(a) of

the Airport and Airway Improvement Act of 1982, as amended, is hereby rescinded.

To meet the dire emergency created by the Mariel Cuban prisoner riots in Federal prisons and a deficiency in the United States Marshals Service:

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

(TRANSFER OF FUNDS)

For an additional amount for "Salaries and Expenses, United States Marshals Service", $3,500,000 to remain available until expended to be derived by transfer from "Immigration and Naturalization Service, Salaries and expenses".

SUPPORT OF UNITED STATES PRISONERS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for "Support of Prisoners", $23,300,000, to remain available until expended of which $8,300,000 shall be derived by transfer from the Immigration and Naturalization Service salaries and expenses.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For an additional amount for "Salaries and expenses, Community Relations Service", $6,000,000, to remain available until expended.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $42,609,000, to remain available until expended.

DEPARTMENT OF DEFENSE—CIVIL

DEPARTMENT OF THE ARMY

CORPS OF ENGINEERS—CIVIL

EMERGENCY DROUGHT AUTHORITY

To meet the problems of the Mississippi River Basin, where the water is the lowest in history, with the River flowing north at New Orleans, with water systems endangered, and similar conditions elsewhere, the Secretary of the Army, acting through the Chief of Engineers, within existing law and within available funds, is directed to—

(a) conduct emergency drought relief activities for domestic, municipal, industrial, aquacultural and agricultural purposes in and adjacent to the Mississippi River and its tributaries. Such activities may include, but shall not be limited to, dredging of shoals impeding navigation; construction and operation of salt

water intrusion barriers and associated facilities; transportation (by barge or other means) of potable water; and construction of water wells and necessary treatment and distribution facilities;

(b) as provided by existing law, in cooperation with local authorities, utilize water in any reservoir operated by the Secretary for emergency water supply purposes: *Provided,* That no additional authority to change the existing situation in regard to the Great Lakes or reservoirs at the headwaters of the Mississippi is provided by this language.

(c) provide technical assistance to State and local governments and public water agencies engaged in water conservation and drought management activities; and

(d) prepare regional drought management plans.

DEPARTMENT OF AGRICULTURE

ADMINISTRATIVE PROVISION

Because of the effects of the drought, financial, and other problems, the Department of Agriculture is urged to use all authority in existing law in addition to such additional authority as may be provided by the Congress, to enable those engaged in agriculture to stay in business and to prevent foreclosure and make their normal and essential contribution to the general economy.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed an additional $45,427,000 may be transferred to and merged with this appropriation from the Commodity Credit Corporation fund to meet the increased workload in the county offices as a result of the 1988 drought, and the portion thereof made available to county committees shall remain available until expended.

SOIL CONSERVATION SERVICE

WATERSHED AND FLOOD PREVENTION OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For an additional amount for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), $10,000,000, to remain available until expended, to be derived by transfer from the unobligated balances in emergency insured loans, Agricultural Credit Insurance Fund.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

AIDS.

For an additional amount for necessary expenses of the Food and Drug Administration for product emergencies and AIDS, $5,500,000, to remain available until expended.

FUNDS APPROPRIATED TO THE PRESIDENT

DEPARTMENT OF STATE

UNITED STATES EMERGENCY MIGRATION AND REFUGEE ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended, $24,000,000 to remain available until expended: *Provided,* That not less than $6,000,000 shall be made available for Soviet and other Eastern European Refugees.

DEPARTMENT OF COMMERCE

BUREAU OF THE CENSUS

PERIODIC CENSUSES AND PROGRAMS

The amount made available in the appropriation under this heading in the Department of Commerce Appropriation Act, 1988, shall remain available until expended.

DEPARTMENT OF DEFENSE—MILITARY

ADMINISTRATIVE PROVISION

Of the funds available to the Department of Defense during the current fiscal year, not more than $14,000,000 may be transferred to "Federal Bureau of Investigation, Salaries and Expenses" to fund increased workload requirements due to INF treaty implementation: *Provided,* That such funds may be expended pursuant to authorities available to the Federal Bureau of Investigation: *Provided further,* That of this amount, $8,000,000 shall remain available until expended.

DEPARTMENT OF STATE

ADMINISTRATIVE PROVISION

Notwithstanding any other provision of law, funds appropriated to the Department of State in fiscal year 1988 may be used without reimbursement to carry out the provisions of section 6 of the Arms Control and Disarmament Amendments Act of 1987 (Public Law 100-213).

DEPARTMENT OF ENERGY

ADMINISTRATIVE PROVISION

The 30-day notice period for the review of the sale of the Great Plains gasification plant by Congress shall not commence earlier than August 25, 1988.

OTHER INDEPENDENT AGENCIES

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

In appropriation language under this heading in the Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1988, delete the word "for"; add the following phrase at the beginning of the paragraph: "Notwithstanding section 501(b) of title V of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, for"; and delete the phrase "of which $20,000,000, to remain available until expended, shall become available for expenditure on October 1, 1988, and": *Provided,* That for purposes of section 202 of Public Law 100-119 (H.J. Res. 324, 100th Congress), this action is a necessary (but secondary) result of a significant policy change.

101 Stat. 1329-28.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND PROGRAM MANAGEMENT

(TRANSFER OF FUNDS)

For an additional amount for "Research and program management", up to $19,600,000, which shall be derived by transfer from "Research and development" and "Space flight, control and data communications".

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For an additional amount for "Compensation and pensions", $498,100,000, to remain available until expended, and for an additional amount for "Medical care", $31,730,000, of which $21,730,000 is derived by transfer from the Veterans' Administration Loan Guaranty Revolving Fund: *Provided,* That the penultimate proviso in the appropriation language under the head "MEDICAL CARE" in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (H.R. 2783), as enacted in section 101(f) of Public Law 100-202 is deleted.

101 Stat. 1329-206.

TITLE II—GENERAL PROVISION

No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This Act may be cited as the "Dire Emergency Supplemental Appropriations Act, 1988".

Approved August 14, 1988.

LEGISLATIVE HISTORY—H.R. 5026:

HOUSE REPORTS: No. 100-797 (Comm. on Appropriations).
SENATE REPORTS: No. 100-448 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 27, considered and passed House.
Aug. 4, 10, considered and passed Senate, amended.
Aug. 11, House disagreed to certain Senate amendments and concurred in another with an amendment. Senate receded and concurred in House amendment.

Public Law 100-394
100th Congress

An Act

Aug. 16, 1988
[H.R. 2213]

To require certain telephones to be hearing aid compatible.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Hearing Aid Compatibility Act of 1988. Communications and telecommunications. 47 USC 609 note. 47 USC 610 note.

That this Act may be cited as the "Hearing Aid Compatibility Act of 1988".

FINDINGS

SEC. 2. The Congress finds that—

(1) to the fullest extent made possible by technology and medical science, hearing-impaired persons should have equal access to the national telecommunications network;

(2) present technology provides effective coupling of telephones to hearing aids used by some severely hearing-impaired persons for communicating by voice telephone;

(3) anticipated improvements in both telephone and hearing aid technologies promise greater access in the future; and

(4) universal telephone service for hearing-impaired persons will lead to greater employment opportunities and increased productivity.

HEARING AID COMPATIBILITY REQUIREMENTS

SEC. 3. (a) Subsection (b) of section 710 of the Communications Act of 1934 (47 U.S.C. 610) is amended to read as follows:

"(b)(1) Except as provided in paragraphs (2) and (3), the Commission shall require that—

"(A) all essential telephones, and

"(B) all telephones manufactured in the United States (other than for export) more than one year after the date of enactment of the Hearing Aid Compatibility Act of 1988 or imported for use in the United States more than one year after such date,

provide internal means for effective use with hearing aids that are designed to be compatible with telephones which meet established technical standards for hearing aid compatibility.

"(2)(A) The initial regulations prescribed by the Commission under paragraph (1) of this subsection after the date of enactment of the Hearing Aid Compatibility Act of 1988 shall exempt from the requirements established pursuant to paragraph (1)(B) of this subsection only—

"(i) telephones used with public mobile services;

"(ii) telephones used with private radio services;

"(iii) cordless telephones; and

"(iv) secure telephones.

"(B) The exemption provided by such regulations for cordless telephones shall not apply with respect to cordless telephones manufactured or imported more than three years after the date of enactment of the Hearing Aid Compatibility Act of 1988.

"(C) The Commission shall periodically assess the appropriateness of continuing in effect the exemptions provided by such regulations for telephones used with public mobile services and telephones used with private radio services. The Commission shall revoke or otherwise limit any such exemption if the Commission determines that—

"(i) such revocation or limitation is in the public interest;

"(ii) continuation of the exemption without such revocation or limitation would have an adverse effect on hearing-impaired individuals;

"(iii) compliance with the requirements of paragraph (1)(B) is technologically feasible for the telephones to which the exemption applies; and

"(iv) compliance with the requirements of paragraph (1)(B) would not increase costs to such an extent that the telephones to which the exemption applies could not be successfully marketed.

"(3) The Commission may, upon the application of any interested person, initiate a proceeding to waive the requirements of paragraph (1)(B) of this subsection with respect to new telephones, or telephones associated with a new technology or service. The Commission shall not grant such a waiver unless the Commission determines, on the basis of evidence in the record of such proceeding, that such telephones, or such technology or service, are in the public interest, and that (A) compliance with the requirements of paragraph (1)(B) is technologically infeasible, or (B) compliance with such requirements would increase the costs of the telephones, or of the technology or service, to such an extent that such telephones, technology, or service could not be successfully marketed. In any proceeding under this paragraph to grant a waiver from the requirements of paragraph (1)(B), the Commission shall consider the effect on hearing-impaired individuals of granting the waiver. The Commission shall periodically review and determine the continuing need for any waiver granted pursuant to this paragraph. Science and technology.

"(4) For purposes of this subsection—

"(A) the term 'essential telephones' means only coin-operated telephones, telephones provided for emergency use, and other telephones frequently needed for use by persons using such hearing aids;

"(B) the term 'public mobile services' means air-to-ground radiotelephone services, cellular radio telecommunications services, offshore radio, rural radio service, public land mobile telephone service, and other common carrier radio communication services covered by part 22 of title 47 of the Code of Federal Regulations;

"(C) the term 'private radio services' means private land mobile radio services and other communications services characterized by the Commission in its rules as private radio services; and

"(D) the term 'secure telephones' means telephones that are approved by the United States Government for the transmission of classified or sensitive voice communications.".

(b) Section 710(f) of the Communications Act of 1934 (47 U.S.C. 610(f)) is amended by striking out the second sentence and inserting in lieu thereof the following: "The Commission shall complete rulemaking actions required to implement the amendments made by the Hearing Aid Compatibility Act of 1988 within nine months after the date of enactment of such Act. Thereafter, the Commission shall periodically review the regulations established pursuant to this section.".

Approved August 16, 1988.

LEGISLATIVE HISTORY—H.R. 2213 (S. 314):

HOUSE REPORTS: No. 100-674 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-391 accompanying S. 314 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, 8, considered and passed House.
July 11, considered and passed Senate, amended, in lieu of S. 314.
July 28, House concurred in Senate amendment.

Public Law 100-395
100th Congress

An Act

To amend the Alaska National Interest Lands Conservation Act of 1980 to clarify the conveyance and ownership of submerged lands by Alaska Natives, Native Corporations and the State of Alaska.

Aug. 16, 1988
[H.R. 2629]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—SUBMERGED LANDS

SEC. 101. Section 901 of the Alaska National Interest Lands Conservation Act (94 Stat. 2430; Public Law 96-487) is amended by striking out text of such section and inserting in lieu thereof:

43 USC 1631.

"SEC. 901. (a)(1) Except as provided in paragraph (2), whenever the Secretary surveys land selected by a Native, a Native Corporation, or the State pursuant to the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or this Act, lakes, rivers, and streams shall be meandered in accordance with the principles in the Bureau of Land Management, 'Manual of Surveying Instructions' (1973).

Rivers and harbors.
Water.

"(2) If title to lands beneath navigable waters of a lake less than fifty acres in size or a river or stream less than three chains in width did not vest in the State pursuant to the Submerged Lands Act, such lake, river, or stream shall not be meandered.

"(3) The Secretary is not required to determine the navigability of a lake, river, or stream which because of its size or width is required to be meandered or to compute the acreage of the land beneath such lake, river, or stream or to describe such land in any conveyance document.

"(4) Nothing in this subsection shall be construed to require ground survey or monumentation of meanderlines.

"(b)(1) Whenever, either before or after the date of enactment of this section, the Secretary conveys land to a Native, a Native Corporation, or the State pursuant to the Alaska Native Claims Settlement Act, the Alaska Statehood Act, or this Act which abuts or surrounds a meanderable lake, river, or stream, all right, title, and interest of the United States, if any, in the land under such lake, river, or stream lying between the uplands and the median line or midpoint, as the case may be, shall vest in and shall not be charged against the acreage entitlement of such Native or Native Corporation or the State. The right, title, and interest vested in a Native or Native Corporation shall be no greater an estate than the estate he or it is conveyed in the land which abuts or surrounds the lake, river, or stream.

"(2) The specific terms, conditions, procedures, covenants, reservations, and other restrictions set forth in the document entitled, 'Memorandum of Agreement between the United States Department of the Interior and the State of Alaska' dated March 28, 1984, signed by the Secretary and the Governor of Alaska and submitted to the Committee on Interior and Insular Affairs of the House of Representatives, and the Committee on Energy and Natural Re-

sources of the Senate, are hereby incorporated in this section and are ratified as to the duties and obligations of the United States and the State, as a matter of Federal law.

Patents and trademarks.

"(c)(1) The execution of an interim conveyance or patent, as appropriate, by the Bureau of Land Management which conveys an area of land selected by a Native or Native Corporation which includes, surrounds, or abuts a lake, river, or stream, or any portion thereof, shall be the final agency action with respect to a decision of the Secretary of the Interior that such lake, river, or stream, is or is not navigable, unless such decision was validly appealed to an agency or board of the Department of the Interior on or before December 2, 1980.

"(2) No agency or board of the Department of the Interior other than the Bureau of Land Management shall have authority to determine the navigability of a lake, river, or stream within an area selected by a Native or Native Corporation pursuant to the Alaska Native Claims Settlement Act or this Act unless a determination by the Bureau of Land Management that such lake, river, or stream, is or is not navigable, was validly appealed to such agency or board on or before December 2, 1980.

Claims.

"(3) If title to land conveyed to a Native Corporation pursuant to the Alaska Native Claims Settlement Act or this Act which underlies a lake, river, or stream is challenged in a court of competent jurisdiction and such court determines that such land is owned by the Native Corporation, the Native Corporation shall be awarded a money judgment against the plaintiffs in an amount equal to its costs and attorney's fees, including costs and attorney's fees incurred on appeal.

"(d) For the purposes of this section, the terms 'navigable' and 'navigability' means navigable for the purpose of determining title to lands beneath navigable waters, as between the United States and the several States pursuant to the Submerged Lands Act and section 6(m) of the Alaska Statehood Act.".

43 USC 1631 note.

SEC. 102. Nothing in this Act shall amend or alter any land exchange agreement to which the United States is a party, or any statute, including but not limited to the Act of January 2, 1976 (89 Stat. 1151) and section 506(c) of the Alaska National Interest Lands Conservation Act (94 Stat. 2409; Public Law 96-487), that authorizes, ratifies or implements such an agreement.

Reports. 43 USC 1631 note.

SEC. 103. (a) IN GENERAL.—The Secretary shall prepare a report that assesses the effects of the implementation of section 101 of this Act on Conservation System Units as defined in section 102(4) of the Alaska National Lands Conservation Act and makes recommendations for appropriate action.

(b) SCOPE OF REPORT.—The report required to be prepared under subsection (a) shall at a minimum—

(1) identify and estimate the acreage of all lands currently patented to or selected by a Native, Native Corporation, or the State pursuant to the Alaska Native Claims Settlement Act, the Alaska National Interest Lands Conservation Act, the Alaska Statehood Act, or this Act that is within the boundaries of Conservation System Units;

(2) establish priorities for the acquisition of lands currently patented to or selected by a Native, Native Corporation or the State that are within the boundaries of Conservation System Units;

(3) make recommendations as to administrative or Congressional action deemed appropriate to reduce any adverse effects of section 101 on the management of lands or resources within Conservation System Units.

(c) SUBMISSIONS TO CONGRESS.—Within one year after the date of enactment of this Act, the Secretary shall submit a report pursuant to subsections (a) and (b) of this section to the Committee on Environment and Public Works and Committee on Energy and Natural Resources of the United States Senate and to the appropriate committees of the United States House of Representatives. Reports.

TITLE II—APPROVAL OF CONVEYANCE IN ALASKA NATIONAL WILDLIFE REFUGE

SEC. 201. Section 1302(h) of the Alaska National Interest Lands Conservation Act (94 Stat. 2430; Public Law 96-487) is amended by redesignating the section "(h)(1)" and by adding the following new subsection: 16 USC 3192.

"(2) Nothing in this Act or any other provision of law shall be construed as authorizing the Secretary to convey, by exchange or otherwise, lands or interest in lands within the coastal plain of the Arctic National Wildlife Refuge (other than land validly selected prior to July 28, 1987), without prior approval by Act of Congress.".

TITLE III—APPROVAL OF PUBLIC LAND ORDER

SEC. 301. The lands described in Public Land Order 6607 of July 8, 1985 (50 Fed. Reg. 130), comprising approximately three hundred and twenty-five thousand acres, are hereby included as part of the Arctic National Wildlife Refuge to be subject to and administered in accordance with the provisions of sections 303(2) and 304 of the Alaska National Interest Lands Conservation Act (94 Stat. 2430; Public Law 96-487) and other applicable statutes.

Approved August 16, 1988.

LEGISLATIVE HISTORY—H.R. 2629:

HOUSE REPORTS: No. 100-262, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-302 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Aug. 3, considered and passed House.
Vol. 134 (1988): July 14, considered and passed Senate, amended.
Aug. 2, House concurred in Senate amendment.

Public Law 100-396
100th Congress

Joint Resolution

Aug. 16, 1988
[S.J. Res. 294]

Designating August 9, 1988, as "National Neighborhood Crime Watch Day".

Whereas neighborhood crime is of continuing concern to the American people;

Whereas the fight against neighborhood crime requires people to work together in cooperation with law enforcement officials;

Whereas neighborhood crime watch organizations are effective at promoting awareness about, and the participation of volunteers in, crime prevention activities at the local level;

Whereas neighborhood crime watch groups can contribute to the Nation's war on drugs by helping to prevent their communities from becoming markets for drug dealers; and

Whereas citizens across America will soon take part in a "National Night Out", a unique crime prevention event which will demonstrate the importance and effectiveness of community participation in crime prevention efforts by having people spend the period from 8 to 10 o'clock post meridian on August 9, 1988, with their neighbors in front of their homes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 9, 1988, is designated as "National Neighborhood Crime Watch Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved August 16, 1988.

LEGISLATIVE HISTORY—S.J. Res. 294:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Aug. 9, considered and passed House.

Public Law 100-397
100th Congress

Joint Resolution

Designating Labor Day Weekend, September 3-5, 1988, as "National Drive for Life Weekend".

Aug. 16, 1988
[S.J. Res. 350]

Whereas drunk-driving is the most frequently committed crime in the United States, with arrests for driving while intoxicated totalling more than three times the number of arrests for all violent crimes combined;

Whereas one individual in the United States was killed every 22 minutes in a drunk-driving related crash in 1987, an average of 65 individuals each day;

Whereas approximately 23,632 individuals were killed in the United States in drunk-driving related crashes in 1987;

Whereas two out of every five individuals in the United States will be involved in a drunk-driving related crash at some point in their lives;

Whereas the estimates of the economic costs of drunk-driving in the United States are as high as $24 billion;

Whereas on October 24, 1987, Mothers Against Drunk Driving and Volkswagen United States, Inc., sponsored the first annual National Drive for Life day;

Whereas Drive for Life is a public awareness campaign which asks all Americans to pledge not to drink and drive on the Drive for Life day and thereby demonstrate a commitment to reduce significantly the tragedies of drunk-driving, and which serves to educate the public about the dangers of drunk-driving;

Whereas on the first annual National Drive for Life day, the toll of individuals killed in drunk-driving related crashes in the United States was 27.5 percent lower than the average number of deaths due to drunk-driving related crashes on an average Autumn Saturday in 1986, reflecting the success of this campaign;

Whereas the first annual National Drive for Life campaign featured endorsements from Nancy Reagan and other prominent public officials; and

Whereas the second annual National Drive for Life day will occur on September 3, 1988, the Saturday of the Labor Day Weekend, when drunk-driving related crashes are traditionally at their peak: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Labor Day Weekend beginning on September 3, 1988, is designated as "National Drive for Life Weekend". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that weekend with a pledge to not drink and drive and other appropriate activities.

Approved August 16, 1988.

LEGISLATIVE HISTORY—S.J. Res. 350 (H.J. Res. 592):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed Senate.
Aug. 9, H.J. Res. 592 considered and passed House; proceedings vacated and S.J. Res. 350 passed in lieu.

Public Law 100-398
100th Congress

An Act

To amend the Presidential Transition Act of 1963 to provide for a more orderly transfer of executive power in connection with the expiration of the term of office of a President.

Aug. 17, 1988
[H.R. 3932]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Presidential Transitions Effectiveness Act.
3 USC 102 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Presidential Transitions Effectiveness Act".

SEC. 2. PRESIDENTIAL TRANSITION AUTHORIZATIONS.

(a) AMENDMENTS.—Section 5 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by redesignating such section as section 6;

(2) by inserting before such section the following heading:

"AUTHORIZATION OF APPROPRIATIONS";

(3) by inserting "(a)" after the section designation;

(4) in paragraph (1), by striking out "$2,000,000" and inserting in lieu thereof "$3,500,000";

(5) in paragraph (2), by striking out "$1,000,000" and inserting in lieu thereof "$1,500,000";

(6) in paragraph (2), by inserting before the period at the end thereof the following: ", except that any amount appropriated pursuant to this paragraph in excess of $1,250,000 shall be returned to the general fund of the Treasury in the case where the former Vice President is the incumbent President"; and

(7) by adding at the end thereof the following new subsection:

"(b) The amounts authorized to be appropriated under subsection (a) shall be increased by an inflation adjusted amount, based on increases in the cost of transition services and expenses which have occurred in the years following the most recent Presidential transition, and shall be included in the proposed appropriation transmitted by the President under the last sentence of subsection (a).".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) of this section shall be effective upon enactment, except that the amendment made by paragraph (7) of such subsection shall take effect on October 1, 1989.

3 USC 102 note.

SEC. 3. PRESIDENTIAL TRANSITION FINANCING AND PERSONNEL.

The Presidential Transition Act of 1963 (3 U.S.C. 102 note) is further amended by inserting after section 4 the following new section:

"DISCLOSURES OF FINANCING AND PERSONNEL; LIMITATION ON ACCEPTANCE OF DONATIONS

3 USC 102 note.

"SEC. 5. (a)(1) The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1)) shall disclose to the Administrator the date of contribution, source, amount, and expenditure thereof of all money, other than funds from the Federal Government, and including currency of the United States and of any foreign nation, checks, money orders, or any other negotiable instruments payable on demand, received either before or after the date of the general elections for use in the preparation of the President-elect or Vice-President-elect for the assumption of official duties as President or Vice President.

"(2) The President-elect and Vice-President-elect (as a condition for receiving such services and funds) shall make available to the Administrator and the Comptroller General all information concerning such contributions as the Administrator or Comptroller General may require for purposes of auditing both the public and private funding used in the activities authorized by this Act.

"(3) Disclosures made under paragraph (1) shall be—

Reports.

"(A) in the form of a report to the Administrator within 30 days after the inauguration of the President-elect as President and the Vice-President-elect as Vice President; and

"(B) made available to the public by the Administrator upon receipt by the Administrator.

"(b)(1) The President-elect and Vice-President-elect (as a condition for receiving services provided under section 3 and funds provided under section 6(a)(1)) shall make available to the public—

"(A) the names and most recent employment of all transition personnel (full-time or part-time, public or private, or volunteer) who are members of the President-elect or Vice-President-elect's Federal department or agency transition teams; and

"(B) information regarding the sources of funding which support the transition activities of each transition team member.

"(2) Disclosures under paragraph (1) shall be made public before the initial transition team contact with a Federal department or agency and shall be updated as necessary.

"(c) The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1)) shall not accept more than $5,000 from any person, organization, or other entity for purposes of carrying out activities authorized by this Act.".

SEC. 4. LIMITATION ON EXPENDITURES OF CERTAIN FUNDS.

(a) USE OF AIRCRAFT.—Section 3(a)(4) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) is amended—

(1) by inserting "(A)" after "(4)";

(2) by adding at the end thereof the following new subparagraph:

"(B) When requested by the President-elect or Vice-President-elect or their designee, and approved by the President, Government aircraft may be provided for transition purposes on a reimbursable basis; when requested by the President-elect, the Vice-President-elect, or the designee of the President-elect or Vice-President-elect, aircraft may be chartered for transition purposes; and any collections from the Secret Service, press, or others occupying space on

chartered aircraft shall be deposited to the credit of the appropriations made under section 6 of this Act;".

(b) DURATION OF EXPENDITURES.—Section 3(b) of the Presidential Transition Act of 1963 is amended to read as follows: 3 USC 102 note.

"(b) The Administrator may not expend funds for the provision of services and facilities under section 3 of this Act in connection with any obligations incurred by the President-elect or Vice-President-elect—

"(1) before the day following the date of the general elections held to determine the electors of President and Vice President under section 1 or 2 of title 3, United States Code; or

"(2) after 30 days after the date of the inauguration of the President-elect as President and the inauguration of the Vice-President-elect as Vice President.".

(c) COMMENCEMENT OF EXPENDITURES.—Section 4 of the Presidential Transition Act of 1963 is amended by striking out "six months from the date of the expiration" and inserting "seven months from 30 days before the date of the expiration". 3 USC 102 note.

SEC. 5. DISCLOSURE OF IN-KIND CONTRIBUTIONS TO 1988-1989 TRANSITION. 3 USC 102 note.

(a) DISCLOSURE AS CONDITION OF RECEIPT OF FUNDS.—The President-elect and Vice-President-elect (as a condition for receiving services under section 3 and for funds provided under section 6(a)(1) of the Presidential Transition Act of 1963 (3 U.S.C. 102 note) shall provide an estimate to the Administrator of General Services of the aggregate value of in-kind contributions made during the period beginning on November 9, 1988, through January 20, 1989, received for transition activities for—

(1) transportation;

(2) hotel and other accommodations;

(3) suitable office space; and

(4) furniture, furnishings, office machines and equipment, and office supplies.

(b) FORM AND AVAILABILITY OF ESTIMATES.—The estimates made under subsection (a) shall be—

(1) in the form of a report to the Administrator of General Services within 90 days after January 20, 1989; and Reports.

(2) made available to the public by the Administrator upon receipt by the Administrator.

SEC. 6. TRAVEL AND TRANSPORTATION EXPENSES.

Section 5723 of title 5, United States Code, is amended—

(1) in subsection (a)(1), by striking out "or (B)" and inserting "or (C)";

(2) in subsection (a), by adding at the end thereof: "In the case of an appointee described in paragraph (1) who has performed transition activities under section 3 of the Presidential Transition Act of 1963 (3 U.S.C. 102 note), the provisions of paragraphs (1) and (2) may apply to travel and transportation expenses from the place of residence of such appointee (at the time of relocation following the most recent general elections held to determine the electors of the President) to the assigned duty station of such appointee."; and

(3) in subsection (c), by adding at the end thereof the following: "In the case of an appointee described in subsection (a)(1) who has performed transition activities under section 3 of the

Presidential Transition Act of 1963 (3 U.S.C. 102 note), the travel or transportation shall take place at any time after the most recent general elections held to determine the electors of the President.".

SEC. 7. EXECUTIVE AGENCY VACANCIES.

(a) APPLICATION OF VACANCY PROVISIONS TO EXECUTIVE AGENCIES.—(1) Section 3345 of title 5, United States Code, is amended by striking out "Executive department" and inserting in lieu thereof "Executive agency (other than the General Accounting Office)".

(2) The heading for section 3345 of title 5, United States Code, is amended to read as follows:

"§ 3345. Details; to office of head of Executive agency or military department".

(3) The table of section headings for chapter 33 of title 5, United States Code, is amended by amending the item relating to section 3345 to read as follows:

"3345. Details; to office of head of Executive agency or military department.".

(b) EXTENSION OF TIME FOR INTERIM SERVICE.—Section 3348 of title 5, United States Code, is amended to read as follows:

"§ 3348. Details; limited in time

"(a) A vacancy caused by death or resignation may be filled temporarily under section 3345, 3346, or 3347 of this title for not more than 120 days, except that—

"(1) if a first or second nomination to fill such vacancy has been submitted to the Senate, the position may be filled temporarily under section 3345, 3346, or 3347 of this title—

"(A) until the Senate confirms the nomination; or

"(B) until 120 days after the date on which either the Senate rejects the nomination or the nomination is withdrawn; or

"(2) if the vacancy occurs during an adjournment of the Congress sine die, the position may be filled temporarily until 120 days after the Congress next convenes, subject thereafter to the provisions of paragraph (1) of this subsection.

"(b) Any person filling a vacancy temporarily under section 3345, 3346, or 3347 of this title whose nomination to fill such vacancy has been submitted to the Senate may not serve after the end of the 120-day period referred to in paragraph (1)(B) or (2) of subsection (a) of this section, if the nomination of such person is rejected by the Senate or is withdrawn.".

Approved August 17, 1988.

LEGISLATIVE HISTORY—H.R. 3932 (S. 2037):

HOUSE REPORTS: No. 100-532 (Comm. on Government Operations).
SENATE REPORTS: No. 100-317 accompanying S. 2037 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 31, considered and passed House.
Apr. 26, S. 2037 considered and passed Senate.
Apr. 29, H.R. 3932 considered and passed Senate, amended, in lieu of S. 2037.
July 26, House concurred in Senate amendment with an amendment.
Aug. 2, Senate concurred in House amendment.

Public Law 100-399
100th Congress

An Act

To make technical corrections to the agricultural credit laws.

Aug. 17, 1988
[H.R. 3980]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Agricultural Credit Technical Corrections Act of 1988.
Banks and banking.
Rural areas.
Securities.
12 USC 2001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Agricultural Credit Technical Corrections Act of 1988".

SEC. 2. REFERENCES.

(a) FARM CREDIT ACT OF 1971.—Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.).

(b) THE 1987 ACT.—As used in this Act, the term "the 1987 Act" means the Agricultural Credit Act of 1987.

TITLE I—AMENDMENTS RELATED TO TITLE I OF THE 1987 ACT

SEC. 101. AMENDMENTS RELATED TO SECTION 101 OF THE 1987 ACT.

(a) Section 4.9A, as in effect immediately before the enactment of the 1987 Act, is hereby repealed. 12 USC 2161.

(b) Section 4.9A(a), as added by section 101 of the 1987 Act, is amended by striking out the second sentence. 12 USC 2162.

(c) Section 4.9A(c), as added by section 101 of the 1987 Act, is amended to read as follows:

"(c) INABILITY TO RETIRE STOCK AT PAR VALUE.—If an institution is unable to retire eligible borrower stock at par value due to the liquidation of the institution, the receiver of the institution shall retire such stock at par value as would have been retired in the ordinary course of business of the institution, and—

"(1) during the 5-year period beginning on the date of the enactment of the Agricultural Credit Act of 1987, the Assistance Board shall direct the Financial Assistance Corporation to provide the receiver with sufficient funds to enable the receiver to carry out this subsection; and

"(2) after such 5-year period, the Farm Credit System Insurance Corporation shall provide the receiver with sufficient funds from the Farm Credit Insurance Fund to enable the receiver to carry out this subsection.".

(d) Section 4.9A(d)(2)(B), as added by section 101 of the 1987 Act, is amended—

(1) by striking out "required" and all that follows through "made" and inserting in lieu thereof "issued or allocated"; and

(2) by striking out "4.9B" and inserting in lieu thereof "4.3A".

SEC. 102. AMENDMENTS RELATED TO SECTION 102 OF THE 1987 ACT.

12 USC 2202a. (a) Section 4.14A(a) is amended by striking out "(other than in sections 4.17 and 4.18)".

(b) Section 4.14A(a)(6)(B) is amended—

(1) by striking out "2.3(a)(2)" and inserting in lieu thereof "1.7(b)(1)(B)"; and

(2) by striking out "2.3(a)" and inserting in lieu thereof "1.7(b)(1)".

(c) Section 4.14A(e)(1) is amended by striking out "a qualified" the second place it appears and inserting in lieu thereof "such qualified".

(d) Section 4.14A(g)(1) is amended by striking out "farm credit district" and inserting in lieu thereof "bank".

(e) Section 4.14A(g)(3) is amended by striking out "district board" and inserting "bank board".

(f) Section 4.14A(l) is amended by striking out "Federal intermediate credit bank" and inserting in lieu thereof "Farm Credit Bank".

12 USC 2202b. (g) Section 4.14B(a) is amended—

(1) by amending the heading to read as follows:

"(a) FARM CREDIT BANK.—";

(2) by striking out "a Federal land bank" and inserting in lieu thereof "a Farm Credit Bank"; and

(3) by striking out "the Federal land bank shall" and inserting in lieu thereof ", to the extent provided for in the bylaws of the bank relating to its capitalization, the bank shall".

12 USC 2202c. (h) Section 4.14C(b)(1) is amended by striking out "district board of such district" and inserting in lieu thereof "Farm Credit Bank board".

SEC. 103. AMENDMENTS RELATED TO SECTION 106 OF THE 1987 ACT.

12 USC 2202. (a) Section 4.14(b)(1) is amended by striking out "by a" and inserting in lieu thereof "before the".

(b) Section 4.14(d)(1) is amended by inserting "or (2)" after "(b)(1)".

SEC. 104. AMENDMENTS RELATED TO SECTION 108 OF THE 1987 ACT.

12 USC 2219a. (a) Section 4.36(b)(2) is amended by striking out "15" and inserting in lieu thereof "30".

(b) Section 4.36(b)(3) is amended by striking out "30" and inserting in lieu thereof "15".

(c) Section 4.36(g) is amended by striking out "former borrower" and inserting in lieu thereof "previous owner".

TITLE II—AMENDMENTS RELATED TO TITLE II OF THE 1987 ACT

SEC. 201. AMENDMENTS RELATED TO SECTION 201 OF THE 1987 ACT.

12 USC 2278a-3, 2278b-4. (a) Sections 6.3(a)(12) and 6.24(a)(12) are each amended by striking out "(as defined in section 3(b) of the Federal Deposit Insurance Act (12 U.S.C. 1813(b))" and inserting in lieu thereof "(within the meaning of section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813))".

(b) Sections 6.3(b) and 6.24(b) are each amended by striking out "original" and inserting in lieu thereof "exclusive".

(c) Section 6.4 is amended by redesignating the second subsection (c) and subsection (d), as subsections (d) and (e), respectively. 12 USC 2278a-4.

(d) Section 6.5(d) is amended by striking out "No" and inserting in lieu thereof "Except as provided in section 410(c) of the Agricultural Credit Act of 1987, no". 12 USC 2278a-5.

(e) Section 6.5 is amended by striking out "the appropriate provision of" each place it appears.

(f) Section 6.6(a)(8)(B) is amended by striking out "under sections 5.5 and 5.17(a)(15)". 12 USC 2278a-6.

(g) Section 6.6(a)(9) is amended by striking out "may".

(h) Section 6.6(b)(1) is amended by striking out "(a)(8)" and inserting in lieu thereof "(a)(9)".

(i) Section 6.6(b)(2) is amended by striking out "the appropriate provision of".

(j) Section 6.7(d) is amended— 12 USC 2278a-7.

(1) by inserting a comma after "material"; and

(2) by striking out "under terms" and all that follows through "acceptable" and inserting in lieu thereof "under such terms and conditions, acceptable".

(k) The heading of section 6.9(a) is amended by inserting "ASSETS AND" before "LIABILITIES". 12 USC 2278a-9.

(l) Section 6.9(e)(5) is amended—

(1) by inserting "activation of" after the first comma; and

(2) by striking out the close quotation mark and the period that follows.

(m) Section 6.12 is amended by inserting "to the Assistance Board" after "provided". 12 USC 2278a-12.

(n) Section 6.13(d) is amended by inserting ", for return to the revolving fund established under section 4.0," before "the full". 12 USC 2278a-13.

(o) Section 6.22(a)(1) is amended by striking out "Act" and inserting in lieu thereof "subtitle". 12 USC 2278b-2.

(p) Subsections (c)(2)(D) and (d)(1)(D) of section 6.26 are each amended— 12 USC 2278b-6.

(1) by inserting "and Federal land banks" after "credit banks"; and

(2) by striking out "production credit".

(q) Subsections (c)(2)(D) and (d)(1)(D) of section 6.26 are each amended by striking out "Federal intermediate credit banks and Federal land banks" and inserting in lieu thereof "Farm Credit Banks".

(r) Section 6.26(c)(5) is amended—

(1) in each of subparagraphs (B) and (C)(i), by striking out "interest payments" and inserting in lieu thereof "payments under this paragraph"; and

(2) in subparagraph (B), by striking out "issued under subsection (d)(1)(C)" and inserting in lieu thereof "referred to in subsection (d)(1)(E)".

(s) The heading of section 6.26(d) is amended by inserting "; DEFAULTS" after "PRINCIPAL".

(t) Section 6.26(d)(1)(C) is amended—

(1) by striking out "referred to in" and all that follows through "1987," and inserting in lieu thereof "issued to provide assistance under section 410(c) of the Agricultural Credit Act of 1987 and section 4.9A(c) of this Act, or issued to provide funds to cover the expenses of the Assistance Board under section 6.7(a) of this Act,";

(2) by striking out "such principal" and inserting in lieu thereof "such obligation";

(3) in clause (i), by striking out "bank" and inserting in lieu thereof "institution"; and

(4) in clause (ii), by striking out "banks" and inserting in lieu thereof "institutions".

12 USC 2278b-6. (u) Section 6.26(d)(1)(E) is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(v) Clauses (i) and (iii) of section 6.26(d)(3)(A) are each amended by striking out "this subsection" and inserting in lieu thereof "subsection (c)".

(w) The third sentence of section 6.26(d)(3)(B)(iii) is amended by inserting "is prohibited from redeeming or" after "If such institution".

(x) Section 6.26(d)(4)(B)(iii) is amended by striking out "5.60" and inserting in lieu thereof "5.60(c)(2)(B)".

12 USC 2278b-7. (y) Section 6.27(a)(1) is amended by striking out "(a) or (b)".

(z) Section 6.27(a)(2)(B) is amended—

(1) by striking out "Reserve Account Board" and inserting in lieu thereof "Farm Credit System Insurance Corporation"; and

(2) by striking out "Board purchases" and inserting in lieu thereof "Insurance Corporation purchases".

(aa) Section 6.27(b) is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a)".

12 USC 2278b-8. (bb) Section 6.28(b)(2) is amended—

(1) by striking out "this paragraph" and inserting in lieu thereof "paragraph (1) equal"; and

(2) in subparagraph (A), by striking out "subsection (c)(1)(D)" and inserting in lieu thereof "section 6.26(c)(2)(D)".

SEC. 202. AMENDMENT RELATED TO SECTION 202 OF THE 1987 ACT.

12 USC 2151. Section 4.0 is amended to read as follows:

"SEC. 4.0. REVOLVING FUND.

"The revolving fund established by this section (in effect immediately before the date of the enactment of the Agricultural Credit Act of 1987) shall be available to the Farm Credit Administration and the Assistance Board during the periods, and for the purposes, provided for in sections 6.13 and 6.7, respectively.".

SEC. 203. AMENDMENTS RELATED TO SECTION 204 OF THE 1987 ACT.

12 USC 2160. (a) Section 4.9 is amended by adding at the end the following:

"(f) SUCCESSION.—

Contracts. "(1) ASSETS AND LIABILITIES.—The Corporation shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor Federal Farm Credit Banks Funding Corporation (hereinafter referred to in this subsection as 'the predecessor corporation') chartered under this Act, or any court, succeed to the assets of and assume all debts, obligations, contracts, and other liabilities of the predecessor corporation, matured or unmatured, accrued, absolute, contingent or otherwise, and whether or not reflected or reserved against on balance sheets, books of account, or records of the predecessor corporation.

"(2) CONTRACTS.—The existing contractual obligations, security instruments, and title instruments of the predecessor corporation shall, by operation of law and without any further

action by the Farm Credit Administration, the predecessor corporation, or any court, become and be converted into obligations, entitlements, and instruments of the Corporation.

"(3) STOCK.—The stock of the predecessor corporation issued before the date of the enactment of this section shall, by operation of law and without any further action by the Farm Credit Administration, the predecessor corporation, or any court, become and be converted into stock of the Corporation established by this section.

"(4) TAXATION.—The succession to assets, assumption of liabilities, conversion of obligations, instruments, and stock, and effectuation of any other transaction by the Corporation to carry out this subsection shall not be treated as a taxable event under the laws of any State or political subdivision thereof.". State and local governments.

(b) Section 4.9(b)(3) is amended by inserting "predecessor Federal Farm Credit Banks" before "Funding Corporation". 12 USC 2160.

(c) Subparagraphs (B) and (C) of section 4.9(d)(2) are each amended by striking out "Federal Farm Credit Banks Funding".

(d) Section 4.9(e) is amended to read as follows:

"(e) TRANSITIONAL AUTHORITY.—Until a majority of the voting members of the board of directors of the Corporation is elected, which shall occur as soon as is practicable after the enactment of this section—

"(1) the finance committee established under section 4.5 in effect before the date of the enactment of this section, and the fiscal agency established under section 4.9 in effect before such date of enactment, shall continue to operate as if this section had not been enacted; and

"(2) the board of directors of the predecessor Federal Farm Credit Banks Funding Corporation shall be the board of directors of the Financial Assistance Corporation.".

(e) Section 4.2(e) is amended— 12 USC 2153.

(1) by striking out "their" and inserting in lieu thereof "the"; and

(2) by striking out "fiscal agent" each place it appears and inserting in lieu thereof "Federal Farm Credit Banks Funding Corporation".

SEC. 204. AMENDMENT RELATED TO SECTION 205 OF THE 1987 ACT.

Section 5.19(b)(2) is amended by striking out "this section" and inserting in lieu thereof "the third sentence of paragraph (1)". 12 USC 2254.

SEC. 205. AMENDMENTS RELATED TO SECTION 207 OF THE 1987 ACT.

Section 5.17(a) is amended by redesignating paragraphs (9), (10), (11), (12), (13), and (14), as paragraphs (8), (9), (10), (11), (12), and (13), respectively. 12 USC 2252.

TITLE III—AMENDMENTS RELATED TO TITLE III OF THE 1987 ACT

SEC. 301. AMENDMENTS RELATED TO SECTION 301 OF THE 1987 ACT.

(a) Section 301(a) of the 1987 Act is amended— 12 USC 2154 note.

(1) in paragraph (1)(B), by striking out "be" and inserting in lieu thereof "apply to an institution";

(2) in paragraph (2), by striking out "5.17(b)(2)" and all that follows through "proposed" and inserting in lieu thereof "5.17(c)(2) of the Farm Credit Act of 1971 (12 U.S.C. 2251(c)(2)) with respect to the issuance of the"; and

(3) in paragraph (3), by striking out "(1)(C)" and inserting in lieu thereof "(1)(D)".

12 USC 2154a.

(b) Section 4.3A(a)(1)(B) is amended by striking out "4.9B" and inserting in lieu thereof "4.9A".

(c) Section 4.3A(c)(1) is amended—

(1) in subparagraph (D)(i), by striking out the third comma; and

(2) in subparagraph (G), by inserting "voting" before "stock issued".

(d) Section 4.3A(c)(1)(H) is amended by inserting ", except as otherwise provided in this section" after "the borrower".

(e) Section 4.3A(c)(1)(I) is amended by striking out "standards issued under".

(f) Section 4.3A(d)(1) is amended—

(1) by striking out "and in section 4.9A"; and

(2) by striking out "or allocated equities".

SEC. 302. AMENDMENTS RELATED TO SECTION 302 OF THE 1987 ACT.

12 USC 2277a.

(a) Subparagraphs (A) and (B) of section 5.51(3) are amended to read as follows:

"(A) on or before January 5, 1989, on behalf of any System bank; and

"(B) after such date, which, when issued, is issued on behalf of any insured System bank."

(b) Section 5.51(5) is amended by striking out "to liquidate" and inserting in lieu thereof "for".

12 USC 2277a-4.

(c) Section 5.55(d) is amended by striking out "loans made by a Federal intermediate credit bank" and inserting in lieu thereof "intermediate term loans made by a Farm Credit Bank".

(d) Section 5.55(d)(2) is amended by striking out "2.3(a)(2)" and inserting in lieu thereof "1.7(b)(1)(B)".

(e) Paragraphs (2) and (3) of section 5.55(d) are each amended by striking out "Federal intermediate credit bank" and inserting in lieu thereof "Farm Credit Bank".

12 USC 2277a-5.

(f) Section 5.56(a) is amended by striking out "of such" and inserting in lieu thereof "of the".

12 USC 2277a-6.

(g) Section 5.57(b)(1) is amended—

(1) by striking out "made any report of condition required under section 5.55 or"; and

(2) by striking out "make any such report or".

(h) Section 5.57(b)(2) is amended by striking out "made or".

12 USC 2277a-7.

(i) Section 5.58(5)(A) is amended by striking out "to" each place it appears.

12 USC 2277a-9.

(j) Section 5.60(b)(1) is amended by striking out "(in effect immediately before the date of the enactment of this part)".

(k) Section 5.60(b)(2) is amended by striking out "Beginning 5 years after the date of the enactment of this part, the" and inserting in lieu thereof "The".

(l) Section 5.60(c)(2)(B) is amended to read as follows:

"(B) ensure the retirement of eligible borrower stock at par value under section 4.9A.".

SEC. 303. AMENDMENT RELATED TO SECTION 303 OF THE 1987 ACT.

Section 4.4 is amended by redesignating subsection (e) as subsection (d). 12 USC 2155.

TITLE IV—AMENDMENTS RELATED TO TITLE IV OF THE 1987 ACT

SEC. 401. AMENDMENTS RELATED TO SECTION 401 OF THE 1987 ACT.

(a) Section 1.3(a) is amended by inserting ", as provided in section 410 of the Agricultural Credit Act of 1987," before "shall". 12 USC 2011.

(b) Section 1.3(b) is amended to read as follows:

"(b) CHARTERS.—The Farm Credit Administration shall, consistent with this Act, issue charters for, and approve amendments to charters of, the Farm Credit Banks.".

(c) Section 1.4 is amended by striking out "from its voting stockholders". 12 USC 2012.

(d) Section 1.5 is amended— 12 USC 2013.

(1) by amending paragraph (9) to read as follows:

"(9) prescribe, by its board of directors, its bylaws that shall be consistent with law, and that shall provide for—

"(A) the classes of its stock and the manner in which such stock shall be issued, transferred, and retired; and

"(B) the manner in which it is to—

"(i) select officers, employees, and agents;

"(ii) acquire, hold, and transfer property;

"(iii) make loans and discounts;

"(iv) conduct general business; and

"(v) exercise and enjoy the privileges granted to it by law;";

(2) in paragraph (11), by striking out "or securities of" and inserting in lieu thereof "of securities or";

(3) in subparagraphs (B) and (C) of paragraph (12), by striking out "participate with";

(4) in paragraph (14), by striking out "as defined in section 3 of the Federal Deposit Insurance Act" and inserting in lieu thereof "(within the meaning of section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813))";

(5) in paragraph (18), by striking out "Federal land bank";

(6) in paragraph (22), by striking out "as authorized by the Farm Credit Administration; and" and inserting in lieu thereof "in accordance with generally accepted accounting principles, except as may be authorized by the Farm Credit Administration;";

(7) in paragraph (23)—

(A) by striking out "and approved by the Farm Credit Administration Board"; and

(B) by striking out the period at the end and inserting in lieu thereof "; and"; and

(8) by adding at the end the following:

"(24) operate as an originator and become certified as a certified facility under title VIII.".

(e) Section 1.7(a) is amended to read as follows: 12 USC 2015.

"(a) REAL ESTATE LOANS AND RELATED ASSISTANCE.—

"(1) REAL ESTATE LOANS.—The Farm Credit Banks may make or participate with other lenders in long-term real estate mort-

gage loans in rural areas, as defined by the Farm Credit Administration, or to producers or harvesters of aquatic products, and make continuing commitments to make such loans under specified circumstances, for a term of not less than 5 nor more than 40 years.

"(2) FINANCIAL ASSISTANCE.—The Farm Credit Banks may provide and extend financial assistance to, and discount for, or purchase from, a Federal land bank association any note, draft, or other obligation with the endorsement or guarantee of the association, the proceeds of which have been advanced to persons eligible and for purposes of financing by the association, as authorized under section 7.6(a).".

12 USC 2015. (f) Section 1.7(b) is amended—

(1) in paragraph (2), by striking out the second sentence;

(2) in paragraph (3)—

(A) in the heading, by striking out "ASSISTANCE" and inserting in lieu thereof "SERVICES"; and

(B) in subparagraph (B), by striking out "herein contained" and inserting in lieu thereof "described in subparagraph (A)"; and

(3) in paragraph (4)(A), by striking out "section" and inserting in lieu thereof "subsection".

12 USC 2016. (g) Section 1.8(a) is amended by striking out "interest at a rate or rates, and" and inserting in lieu thereof "such rate or rates of interest or discount, and be".

12 USC 2018. (h) Section 1.10(a) is amended—

(1) in paragraph (2), by striking out "approved by" and inserting in lieu thereof "prescribed by regulations of"; and

(2) in paragraph (3)—

(A) by striking out "appraisal" the second place it appears; and

(B) by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of".

(i) Section 1.10(b) is amended by striking out "harvester" and inserting in lieu thereof "harvesters".

12 USC 2019. (j) Section 1.11(c)(2) is amended—

(1) by inserting "equipment or" before "facilities"; and

(2) by inserting "or title II" after "title".

12 USC 2020. (k) Section 1.12 is amended—

(1) by inserting "(a) IN GENERAL.—" before "The Farm Credit Banks";

(2) by striking out "each district" and inserting in lieu thereof "the"; and

(3) by adding at the end the following new subsection:

"(b) AUTHORITY TO PASS ALONG COST OF INSURANCE PREMIUMS.—Each Farm Credit Bank may assess each production credit association and other financing institution described in section 1.7(b)(1)(B) in the district in which the bank is located to cover the costs of making premium payments under part E of title V. The assessment on any such association or other financing institution for any calendar year shall be computed on the same basis as is used to compute the premium payment and shall not exceed the sum of—

"(1) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Farm Credit Bank, that are in accrual status, multiplied by 0.0015; and

"(2) the annual average principal outstanding for such year on loans made by the association, or on loans made by the other financing institution and discounted with the Farm Credit Bank, that are in nonaccrual status, multiplied by 0.0025.".

(l) Section 1.15 is amended— 12 USC 2023.

(1) by inserting a comma after "therefrom" the first place it appears; and

(2) by striking out "742(a)" and inserting in lieu thereof "3124".

(m) Section 2.0(b) is amended— 12 USC 2071.

(1) in paragraph (1), by striking out "title" and inserting in lieu thereof "subtitle";

(2) in paragraph (3)(B), by striking out "part" and inserting in lieu thereof "subtitle";

(3) in subparagraphs (B) and (C) of paragraph (3), by striking out "the" the first place it appears; and

(4) in paragraph (8)—

(A) by striking out "or by approval of bylaws of the association"; and

(B) by amending subparagraph (D) to read as follows: "(D) approve amendments to the charter of the association.".

(n) Section 2.1 is amended by striking out the sixth comma. 12 USC 2072.

(o) Section 2.2 is amended— 12 USC 2073.

(1) by amending paragraph (16) to read as follows:

"(16) prescribe, by its board of directors, its bylaws that shall be consistent with law, and that shall provide for—

"(A) the classes of its stock and the manner in which such stock shall be issued, transferred, and retired; and

"(B) the manner in which it is to—

"(i) select officers and employees;

"(ii) acquire, hold, and transfer property;

"(iii) conduct general business; and

"(iv) exercise and enjoy the privileges granted to it by law;";

(2) in paragraph (17)—

(A) by striking out "elect by the board of directors of the association" and insert in lieu thereof "provide by its board of directors for"; and

(B) by striking out "be elected or designated" and inserting in lieu thereof "serve as";

(3) in paragraph (19), by striking out "and";

(4) in paragraph (20), by striking out the period and inserting in lieu thereof "; and"; and

(5) by adding at the end the following:

"(21) operate as an originator and become certified as a certified facility under title VIII.".

(p) Section 2.4(b)(1) is amended— 12 USC 2075.

(1) by striking out "title" and inserting in lieu thereof "subtitle"; and

(2) by inserting "or" before "planned".

(q) Section 2.4 is amended by adding at the end the following:

"(d) SPECIAL DISTRICT RULE.—

"(1) PROVISION OF CREDIT AND TECHNICAL ASSISTANCE OUTSIDE SERVICE TERRITORY.—Notwithstanding any territorial limitation in the charter of a production credit association located in a district in which there are only two such associations, the Farm

Credit Administration Board, on request of such association, may permit such association to provide credit and technical assistance to any borrower who is denied credit by the other production credit association in the district if the Board determines that such other production credit association in the district is unduly restrictive in the application of credit standards.

"(2) TIMING OF DETERMINATION.—If the Farm Credit Administration Board approves the extension of credit and technical assistance under paragraph (1), the association shall approve or deny the application for credit within 90 days after receipt of the application from the borrower.".

12 USC 2077. (r) Section 2.6 is amended—

(1) by inserting a comma after "interest"; and

Taxes. (2) by inserting ", except that interest on such obligations shall be subject to Federal income taxation in the hands of the holder" before the period.

12 USC 2091. (s) Section 2.10(b) is amended—

(1) in paragraph (1), by inserting "under section 1.7(a)" before the first comma; and

(2) by amending paragraph (2)(D)(i) to read as follows:

"(i) the individual's eligibility and request for a Farm Credit Bank loan;".

(t) Section 2.10(c) is amended to read as follows:

"(c) FCA AUTHORITY ON ORGANIZATION.—The Farm Credit Administration shall have power, in the terms of the charter, under rules and regulations prescribed by the Farm Credit Administration—

"(1) to provide for the organization of the association;

"(2) to provide for the initial amount of stock of the association;

"(3) to provide for the territory within which the association may carry on its operations; and

"(4) to approve amendments to the charter of such association.".

12 USC 2093. (u) Section 2.12 is amended—

(1) in paragraph (7)—

(A) by striking out "elect by its board of directors" and insert in lieu thereof "provide by its board of directors for"; and

(B) by striking out "be elected or designated" and inserting in lieu thereof "serve as";

(2) by amending paragraph (8) to read as follows:

"(8) prescribe, by its board of directors, its bylaws that shall be consistent with law, and that shall provide for—

"(A) the classes of its stock and the manner in which such stock shall be issued, transferred, and retired; and

"(B) the manner in which it is to—

"(i) select officers and employees;

Real property. "(ii) acquire, hold, and transfer property;

"(iii) conduct general business; and

"(iv) exercise and enjoy the privileges granted to it by law;";

(3) in paragraph (12), by striking out "or delegated to" and inserting in lieu thereof "by";

(4) in paragraph (20), by striking out "and";

(5) in paragraph (21), by striking out the period and inserting in lieu thereof "; and"; and

(6) by adding at the end the following:

"(22) operate as an originator and become certified as a certified facility under title VIII.".

(v) Section 2.14 is hereby repealed, and the Farm Credit Act of 1971 shall be applied and administered as if such section had not been enacted. 12 USC 2095 and note.

(w) Title II is amended by redesignating sections 2.15, 2.16, and 2.17, as sections 2.14, 2.15, and 2.16, respectively. 12 USC 2096-2098.

(x) Section 2.16, as so redesignated, is amended— 12 USC 2098.

(1) by inserting a comma after "therefrom" the first place it appears;

(2) by striking out "banks" and inserting in lieu thereof "associations"; and

(3) by striking out "742(a)" and inserting in lieu thereof "3124".

SEC. 402. AMENDMENTS RELATED TO SECTION 410 OF THE 1987 ACT.

(a) Section 410(a) of the 1987 Act is amended— 12 USC 2011 note.

(1) by inserting "Farm Credit System" after "each"; and

(2) by adding at the end the following: "The mergers required by this section shall be implemented without regard to title VII.".

(b) Section 410(b) of the 1987 Act is amended by striking out "The" and inserting in lieu thereof "Notwithstanding section 1.6 (as added by section 401 of this Act), the".

(c) Section 410(c) of the 1987 Act is amended—

(1) by inserting "established under section 6.0" after "Assistance Board"; and

(2) by inserting "established under section 6.20" after "Assistance Corporation".

(d) Section 410(d) of the 1987 Act is amended by striking out "The" and inserting in lieu thereof "Notwithstanding section 1.4 (as added by section 401 of this Act), the".

SEC. 403. AMENDMENTS RELATED TO SECTION 411 OF THE 1987 ACT.

Paragraphs (2) and (3) of section 411(b) of the 1987 Act are each amended by striking out "6-month" and inserting in lieu thereof "12-month". 12 USC 2071 note.

SEC. 404. AMENDMENTS RELATED TO SECTION 412 OF THE 1987 ACT.

(a) The section heading of section 412 of the 1987 Act is amended to read as follows: 12 USC 2002 note.

"SEC. 412. CONSOLIDATION OF DISTRICT FARM CREDIT BANKS.".

(b) Section 412(a)(2) of the 1987 Act is amended—

(1) by striking out the second comma;

(2) by striking out "System banks" and inserting in lieu thereof "Banks";

(3) by striking out "farm credit banks" and inserting in lieu thereof "Farm Credit Banks".

(c) Section 412(b)(1) of the 1987 Act is amended—

(1) by striking out "(b)(2)" and inserting in lieu thereof "(a)(2)"; and

(2) by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)".

12 USC 2002 note.

(d) Section 412(b)(2) of the 1987 Act is amended by striking out "Proposals" and inserting in lieu thereof "The proposal".

SEC. 405. AMENDMENTS RELATED TO SECTION 413 OF THE 1987 ACT.

12 USC 2121 note.

(a) Section 413(a)(2)(A) of the 1987 Act is amended by striking out "subparagraph (C)" and inserting in lieu thereof "paragraph (1)(C)".

(b) Section 413(a)(3) of the 1987 Act is amended—

(1) by striking out the open quotation mark;

(2) by striking out "and subscribers to the guaranty funds"; and

(3) by inserting "for cooperatives" after "banks".

(c) Section 413(b)(1)(A)(i) of the 1987 Act is amended by striking out ", or a subscriber to the guaranty fund of".

(d) Section 413(b)(4)(A) of the 1987 Act is amended by inserting "for cooperatives" after "district banks".

(e) Section 413(b)(6)(A)(ii) of the 1987 Act is amended by striking out the comma.

(f) Section 413(b)(6)(B) of the 1987 Act is amended by striking out the first comma.

(g) Section 413(b)(6)(C) of the 1987 Act is amended by striking out "(a)" and inserting in lieu thereof "(b)(1)".

SEC. 406. AMENDMENTS RELATED TO THE FIRST SECTION 414 OF THE 1987 ACT.

12 USC 2121 note.

(a) Subsection (a) of the first section 414 of the 1987 Act is amended by striking out "(a) INITIAL BOARD.—The" and inserting in lieu thereof "Notwithstanding section 3.2, the".

12 USC 2121 and note.

(b) Subsection (b) of the first section 414 of the 1987 Act is hereby repealed, and the 1987 Act and the Farm Credit Act of 1971 shall be applied and administered as if such subsection had not been enacted.

SEC. 407. AMENDMENTS RELATED TO THE FIRST SECTION 415 OF THE 1987 ACT.

12 USC 2141.

(a) Section 3.20(a) is amended—

(1) by striking out "in this section"; and

(2) by inserting ", established under section 413 of the Agricultural Credit Act of 1987," before "shall".

(b) Section 3.20(b) is amended by inserting "except" before "as otherwise".

12 USC 2142.

(c) Section 3.21(b)(2) is amended by adding at the end the following:

"(C) THIRD MEMBER.—The nomination and election of the third member from each district shall be carried out in accordance with procedures prescribed in the bylaws of the consolidated bank.".

(d) Section 3.21(b)(2)(B)(i)(I) is amended to read as follows:

"(I) at the close of the immediately preceding fiscal year of the consolidated bank; or".

12 USC 2143.

(e) Section 3.22 is amended—

(1) by striking out "United Bank for Cooperatives or the National Bank for Cooperatives" and inserting in lieu thereof "consolidated bank"; and

(2) by striking out "merger" and inserting in lieu thereof "establishment of the bank under section 413 of the Agricultural Credit Act of 1987".

12 USC 2146.

(f) Section 3.25 is amended to read as follows:

"SEC. 3.25. CAPITALIZATION.

"In accordance with section 4.3A, each consolidated bank shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the bank and the manner in which bank stock shall be issued, held, transferred, and retired and bank earnings distributed.".

(g) Section 3.27 is amended by striking out "taxable institution" and inserting in lieu thereof "cooperative". 12 USC 2148.

SEC. 408. AMENDMENTS RELATED TO SECTION 416 OF THE 1987 ACT.

(a) The title heading of title VII is amended to read as follows:

"TITLE VII—RESTRUCTURING OF SYSTEM INSTITUTIONS"

(b) Section 7.0 is amended— 12 USC 2279a.

(1) by striking out "Two or more" and inserting in lieu thereof "The"; and

(2) in paragraph (3), by striking out "in accordance" and all that follows through "by" and inserting in lieu thereof "with each association entitled to cast a number of votes equal to the number of its voting".

(c) Section 7.1 is amended to read as follows: 12 USC 2279a-1.

"SEC. 7.1. BOARD OF DIRECTORS.

"Each merged bank shall elect a board of directors of such number, for such term, in such manner, and with such qualifications, as may be required in its bylaws, except that at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.".

(d) Subtitle A of title VII is amended by striking out sections 7.3 and 7.4 and inserting in lieu thereof the following: 12 USC 2279a-3, 2279a-4.

"SEC. 7.3. CAPITALIZATION.

"In accordance with section 4.3A, each merged bank shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the bank and the manner in which bank stock shall be issued, held, transferred, and retired and bank earnings distributed.".

(e) Subtitle A of title VII is amended by redesignating section 7.5 as section 3.29, and by transferring such section, as so amended, to the end of part B of title III. 12 USC 2279a-5, 2149a.

(f) Section 7.6(a) is amended— 12 USC 2279b.

(1) by striking out "ASSIGNMENTS.—" and inserting in lieu thereof "VOLUNTARY TRANSFERS.—";

(2) by striking out "assign" and inserting in lieu thereof "transfer";

(3) by striking out "sections 1.6 through 1.9" and inserting in lieu thereof "this Act";

(4) by striking out "assignment" and inserting in lieu thereof "transfer"; and

(5) in paragraph (3), by striking out "7.6" and inserting in lieu thereof "7.8, respectively".

(g) Section 7.6(b) is amended—

(1) by striking out "an assignment described in subsection (a)" and inserting in lieu thereof "a transfer described in subsection (a) or (d)"; and

(2) in paragraph (2), by striking out "Federal land" the first place it appears.

12 USC 2279b. (h) Section 7.6(c) is amended—

(1) by striking out "assignments or"; and

(2) by striking out the second sentence.

12 USC 2279c. (i) The section heading and text of section 7.7 are amended to read as follows:

"(d) MANDATORY TRANSFER.—On the merger of one or more production credit associations with one or more Federal land bank associations, the bank supervising the Federal land bank association shall transfer all of the direct lending authority of the bank in the territory served by such Federal land bank association to such merged association.".

12 USC 2279b, 2279c. (j) The provision amended by subsection (i) of this section, as so amended, is hereby transferred to the end of section 7.6, where such transferred provision shall become a new subsection (d).

12 USC 2279c-1. (k) Section 7.8(b)(2) is amended by striking out the second sentence.

(l) Section 7.8 is amended by striking out paragraphs (2) and (3) of subsection (c) and subsection (d) and inserting in lieu thereof the following:

"(2) CAPITALIZATION.—In accordance with section 4.3A, each merged association shall provide, through bylaws and subject to Farm Credit Administration regulations, for the capitalization of the association and the manner in which association stock shall be issued, held, transferred, and retired, and association earnings shall be distributed.".

(m) Subtitle B of title VII is amended by redesignating chapter 3 as chapter 4, and by inserting before section 7.9 the following:

"Chapter 3—Reconsideration".

12 USC 2279c-2. (n) Section 7.9(a) is amended—

(1) in paragraph (1), by striking out "section 5.17(a)(2)" and inserting in lieu thereof "this Act";

(2) in paragraph (5), by inserting "or 7.13" before the semicolon;

(3) in paragraph (6), by striking out "and" and inserting in lieu thereof "or";

(4) in paragraph (7), by striking out "7.13" and inserting in lieu thereof "7.12"; and

(5) by redesignating paragraphs (5), (6), and (7), as paragraphs (4), (5), and (6), respectively.

(o) Section 7.9(b)(2) is amended—

(1) by striking out the third comma; and

(2) by inserting "banks or" after "such".

12 USC 2279e. (p) Section 7.11(a)(1) is amended—

(1) by striking out "or assignment"; and

(2) by striking out "such institutions" and inserting in lieu thereof "the institutions involved".

12 USC 2279f. (q) Section 7.12(b) is amended to read as follows:

"(b) POWERS AND CAPITALIZATION.—Sections 7.2 and 7.3 shall apply to banks merged under this section.".

(r) Section 7.12(c)(2)(B) is amended by striking out "members" and inserting in lieu thereof "directors". 12 USC 2279f.

(s) Section 7.13(a)(4) is amended by striking out "Bank" and inserting in lieu thereof "Banks involved". 12 USC 2279f-1.

(t) Section 7.13(b) is amended by striking out "(b), (c), and (d)" and inserting in lieu thereof "(b) and (c)".

(u) Title VII is amended by adding at the end the following new subtitle:

"Subtitle E—Taxation of Merger Transactions 12 USC 2279g.

"SEC. 7.14. TRANSACTIONS TO ACCOMPLISH MERGERS EXEMPT FROM CERTAIN STATE TAXES.

"No State or political subdivision thereof may treat the merger or consolidation of two or more institutions of the Farm Credit System under this title or title IV of the Agricultural Credit Act of 1987 as resulting in a change of ownership of any property owned by any of such merging or consolidating institutions, for purposes of any law of such State or political subdivision providing for reassessment of property on the occurrence of a change of ownership or imposing a tax on the ownership or transfer of property.". Real property.

SEC. 409. AMENDMENTS RELATED TO THE SECOND SECTION 414 AND SECOND SECTION 415 OF THE 1987 ACT.

(a) Subtitle B of title IV of the 1987 Act is amended by redesignating the second section 414 and the second section 415, as sections 417 and 418, respectively. 12 USC 2153, 2181-2183, 2222-2227, 2252.

(b) The table of contents of the 1987 Act is amended by striking out the items relating to the second section 414 and the second section 415, and inserting in lieu thereof the following:

"Sec. 417. Nondiscrimination.
"Sec. 418. Conforming amendments.".

(c) Subsection (c) of section 418 of the 1987 Act (as so redesignated by subsection (a) of this section) is hereby repealed, and the Farm Credit Act of 1971 shall be applied and administered, and the amendments made by sections 430 and 802(u) of the 1987 Act shall take effect, as if such subsection (c) had not been enacted. 12 USC 2222-2227, 2222 note.

(d) Sections 5.1 through 5.6 are hereby repealed.

(e) Section 5.17(a)(2) is amended— 12 USC 2222-2227. 12 USC 2258.

(1) by inserting "approve" before "the consolidation"; and

(2) by striking out "that they serve" and inserting in lieu thereof "of institutions".

SEC. 410. AMENDMENT RELATED TO SECTION 421 OF THE 1987 ACT.

Section 3.8(b)(1)(C) is amended by striking out "make" and inserting in lieu thereof "makes". 12 USC 2129.

SEC. 411. AMENDMENTS RELATED TO SECTION 422 OF THE 1987 ACT.

(a) Section 4.29(a)(1) is amended by striking out "sections 1.11, 1.15, 2.5, and 2.16" and inserting in lieu thereof "titles I and II". 12 USC 2218.

(b) Section 4.29(a)(2) is amended by striking out "Federal intermediate credit banks" and inserting in lieu thereof "Farm Credit Banks".

SEC. 412. AMENDMENTS RELATED TO SECTION 426 OF THE 1987 ACT.

12 USC 2017.

(a) Section 1.9(b) is amended by striking out "approved by" and inserting in lieu thereof "prescribed by regulations of".

(b) Section 1.9(c) is amended—

(1) by striking out "appraisal" the second place it appears; and

(2) by striking out "and approved by" and inserting in lieu thereof "in accordance with regulations of".

SEC. 413. AMENDMENTS RELATED TO SECTIONS 427 AND 428 OF THE 1987 ACT.

12 USC 2219c, 2219d.

Part H of title IV is amended by redesignating section 4.37 (as added by section 427 of the 1987 Act) and section 4.38, as sections 4.38 and 4.39, respectively.

SEC. 414. AMENDMENT RELATED TO SECTION 430 OF THE 1987 ACT.

Part D of title IV is amended by adding at the end the following:

12 USC 2209.

"SEC. 4.21. COMPENSATION OF DIRECTORS.

"No member of the board of directors of a System bank may receive more than $15,000 per year under this Act as compensation for serving as a director of such bank.".

SEC. 415. AMENDMENTS RELATED TO SECTION 431 OF THE 1987 ACT.

12 USC 2245.

(a) Section 5.11(c)(2)(C) is amended by striking out "5315" and inserting in lieu thereof "5373".

12 USC 2096.

(b) Section 2.15(c)(1) is amended to read as follows:

"(c)(1) Notwithstanding any territorial limitation in the charter of a production credit association located in a district in which there are only two such associations, the Farm Credit Administration Board, on request of such association, may permit such association to provide credit and technical assistance to any borrower who is denied credit by the other production credit association in the district if the Board determines that such other production credit association in the district is unduly restrictive in the application of credit standards.".

SEC. 416. AMENDMENTS RELATED TO SECTION 432 OF THE 1987 ACT.

12 USC 2250.

(a) Section 5.15(a)(2)(A) is amended by striking out "such assessment" and inserting in lieu thereof "the assessment described in paragraph (1)(B)".

(b) Section 5.15(a)(2)(C) is amended by striking out "specified" and inserting in lieu thereof "described".

12 USC 2254.

(c) Section 5.19(a) is amended by striking out "5" and inserting in lieu thereof "three".

SEC. 417. AMENDMENTS RELATED TO SECTION 433 OF THE 1987 ACT.

12 USC 2071 note.

(a) Section 433(a) of the 1987 Act is amended—

(1) by striking out "this Act" and inserting in lieu thereof "law"; and

(2) by striking out "the Agricultural Credit Act of 1987" and inserting in lieu thereof "this Act".

(b) Section 433(b) of the 1987 Act is amended by striking out "subsection" and inserting in lieu thereof "section".

(c) Section 433(c)(2)(B) of the 1987 Act is amended by striking out "such adjoining district" and inserting in lieu thereof "the adjoining district bank".

(d) Section 433(c)(2)(C) of the 1987 Act is amended by inserting "Farm Credit System" before "Assistance Board". 12 USC 2071 note.

TITLE V—AMENDMENTS RELATED TO TITLE V OF THE 1987 ACT

SEC. 501. AMENDMENT RELATED TO SECTION 501 OF THE 1987 ACT.

Section 501(b) of the 1987 Act is amended by striking out the first comma. 7 USC 5101.

SEC. 502. AMENDMENTS RELATED TO SECTION 503 OF THE 1987 ACT.

(a) Section 503(a)(1)(B) of the 1987 Act is amended by inserting "effective beginning" before "on". 7 USC 5103.

(b) Section 503(a)(2) of the 1987 Act is amended by striking out "paragraph (1)" and inserting in lieu thereof "section 501".

TITLE VI—AMENDMENTS RELATED TO TITLE VII OF THE 1987 ACT

SEC. 601. AMENDMENTS RELATED TO SECTION 702 OF THE 1987 ACT.

(a) Section 8.0(9)(B)(ii) is amended— 12 USC 2279aa.

(1) by striking out "hold" and inserting in lieu thereof "holding"; and

(2) by striking out "and" the first place it appears.

(b) Subsections (a)(1) and (b)(3) of section 8.2 are each amended by striking out "effective date" and inserting in lieu thereof "date of the enactment". 12 USC 2279aa-2.

(c) Section 8.3(c)(4) is amended by striking out "the persons" and inserting in lieu thereof "such persons". 12 USC 2279aa-3.

(d) The penultimate sentence of section 8.4(a)(1) is amended— 12 USC 2279aa-4.

(1) by inserting "and" before "that are entitled"; and

(2) by inserting ", including national banking associations (which shall be allowed to purchase and hold such stock)" before the period.

(e) Section 8.4(e)(1) is amended by striking out "Association" and inserting in lieu thereof "Corporation".

(f) Section 8.6(a)(1) is amended— 12 USC 2279aa-6.

(1) by striking out "in, or obligations" and inserting in lieu thereof "solely in, or obligations fully"; and

(2) by striking out "any pool of qualified loans" and inserting in lieu thereof "any pool consisting solely of qualified loans which meet the standards established under section 8.8 and which are".

(g) Section 8.6(e) is amended—

(1) in paragraph (1), by inserting "and" at the end;

(2) by striking out paragraph (2); and

(3) by redesignating paragraph (3) as paragraph (2).

(h) Section 8.6(f)(1) is amended by striking out "effective date" and inserting in lieu thereof "date of the enactment".

(i) Section 8.8(a) is amended by inserting "permanent" before "Board" the first place it appears. 12 USC 2279aa-8.

(j) Section 8.9 is amended by striking out "and 4.37" each place it appears and inserting in lieu thereof "4.14D, and 4.36"; 12 USC 2279aa-9.

12 USC 2279aa-12.

(k) Section 8.12(a)(1) is amended by inserting ", or obligations backed by," before "a pool".

(l) Section 8.12(b)(2) is amended by striking out "effective date" and inserting in lieu thereof "date of the enactment".

SEC. 602. AMENDMENT RELATED TO SECTION 703 OF THE 1987 ACT.

Section 9105(a)(4)(B)(i) of title 31, United States Code, is amended by striking out "Association" and inserting in lieu thereof "Corporation".

SEC. 603. AMENDMENTS RELATED TO SECTION 704 OF THE 1987 ACT.

12 USC 2279aa note.

Paragraphs (1) and (3) of section 704(a) of the 1987 Act are each amended by striking out "title" and inserting in lieu thereof "subtitle".

SEC. 604. AMENDMENTS RELATED TO SECTION 705 OF THE 1987 ACT.

12 USC 2012, 2033, 2072, 2093.

Sections 1.4(23), 1.15(22), 2.1(21), and 2.12(21) are each amended by striking out "to".

SEC. 605. AMENDMENTS RELATED TO SECTION 711 OF THE 1987 ACT.

7 USC 1988. Contracts.

Section 338(f) of the Consolidated Farm and Rural Development Act is amended by adding at the end the following:

"(5) The Secretary may contract for goods and services to be used for the purposes of this subsection without regard to the provisions of titles 5, 40, and 41, United States Code, and any regulations issued thereunder.".

TITLE VII—AMENDMENTS RELATED TO TITLE VIII OF THE 1987 ACT

SEC. 701. AMENDMENT RELATED TO SECTION 802 OF THE 1987 ACT.

12 USC 2017 and note.

Subsection (d) of section 802 of the 1987 Act is hereby repealed, and section 1.9 shall be applied and administered as if such subsection had not been enacted.

SEC. 702. AMENDMENTS RELATED TO SECTION 805 OF THE 1987 ACT.

12 USC 2033.

(a) Section 1.15(12) is amended by inserting "by" before "the association".

12 USC 2154 and note, 2202, 2245.

(b) Subsections (q), (s), and (x) of section 805 of the 1987 Act are hereby repealed, and sections 4.3(c), 4.14, and 5.11 shall be applied and administered as if such subsections had not been enacted.

(c) Title IV is amended by redesignating parts G and H as parts F and G, respectively.

12 USC 2264.

(d) Section 5.28(e) is amended by striking out "(d)" and inserting in lieu thereof "(c)".

12 USC 2265.

(e) Section 5.29(b) is amended by striking out "may" the second place it appears.

TITLE VIII—AMENDMENTS RELATED TO TITLE IX OF THE 1987 ACT

SEC. 801. AMENDMENTS RELATED TO SECTION 901 OF THE 1987 ACT.

12 USC 2001 note.

Section 901(b)(2) of the 1987 Act is amended—

(1) by inserting "et seq." after "2201";

(2) by striking out the fourth comma; and
(3) by striking out "title" the second place it appears and inserting in lieu thereof "Act".

TITLE IX—OTHER AMENDMENTS TO THE FARM CREDIT ACT OF 1971

SEC. 901. OTHER AMENDMENTS.

(a) Sections 1.21 and 2.8 are each amended by striking out "742(a)" and inserting in lieu thereof "3124". 12 USC 2055, 2079.

(b) Sections 2.1(12) and 3.1(12) are each amended by striking out "as defined in section 2 of the Federal Deposit Insurance Act" and inserting in lieu thereof "(within the meaning of section 3 of the Federal Deposit Insurance Act (12 U.S.C. 1813))". 12 USC 2072, 2122.

(c) Section 3.0 is amended by striking out "one or more" and all that follows through "this Act" and inserting in lieu thereof "another bank". 12 USC 2121.

(d) Subsections (a) and (b) of section 3.2 are amended to read as follows: 12 USC 2123.

"(a) Each bank for cooperatives not merged into the United Bank for Cooperatives or the National Bank for Cooperatives shall elect a board of directors of such number, for such term, in such manner, and with such qualifications as may be required in its bylaws, except that at least one member shall be elected by the other directors, which member shall not be a director, officer, employee, or stockholder of a System institution.

"(b) The board of directors of the Central Bank for Cooperatives shall consist of one member elected by the board of each bank for cooperatives, including the United Bank for Cooperatives if the Central Bank for Cooperatives is not merged into such bank, and one member appointed by the Farm Credit Administration.".

(e) Section 3.8(a)(4) is amended by striking out "district board" and inserting in lieu thereof "bank board". 12 USC 2129.

(f) Section 4.12(a) is amended by striking out "district board" and inserting in lieu thereof "board of the supervising bank". 12 USC 2183.

(g) Section 4.15 is amended by striking out "district" the first and second places it appears and inserting in lieu thereof "bank". 12 USC 2203.

(h) Section 4.17 is amended by striking out "pursuant to section 2.3 of this Act" and inserting in lieu thereof "and Farm Credit Banks". 12 USC 2205.

(i) Section 4.19(a) is amended by inserting "Farm Credit Bank" after "district". 12 USC 2207.

(j) Section 4.19(b) is amended—
(1) by striking out "The Federal land bank and the Federal intermediate credit bank" and inserting in lieu thereof "The Farm Credit Bank";
(2) by striking out "their" each place it appears and inserting in lieu thereof "its";
(3) by striking out "of this section";
(4) by striking out "banks" and inserting in lieu thereof "bank"; and
(5) by striking out "a joint" and inserting in lieu thereof "an".

(k) Section 4.28 is amended— 12 USC 2214.
(1) by inserting "or associations" after "exempt banks"; and

(2) by striking out "1.21, 2.8," and inserting in lieu thereof "1.15, 2.17,".

12 USC 2251. (l) Section 5.16 is amended by striking out "district" and inserting in lieu thereof "bank".

12 USC 2252. (m) Section 5.17(a) is amended—

(1) in paragraph (1), by striking out "district boards" and inserting in lieu thereof "district banks";

(2) in paragraph (2), by striking out "boards of the districts" and inserting in lieu thereof "district bank boards"; and

(3) in paragraph (3), by striking out "Federal land banks" and all that follows through "of this Act" and inserting in lieu thereof "Farm Credit Banks under section 4.19(b)".

(n) Section 5.17(d)(1) is amended—

(1) by striking out "of this Act" each place it appears; and

(2) by striking out "2.3" and inserting in lieu thereof "1.7(b)".

(o) The title heading of title V is amended to read as follows:

"TITLE V—FARM CREDIT ADMINISTRATION ORGANIZATION".

(p) Title V is amended by striking out the heading of part A.

12 USC 2221. (q) Section 5.0 is amended—

(1) by striking out "SEC. 5.0. CREATION OF" and inserting in lieu thereof "(b) FARM CREDIT"; and

(2) by striking out "district boards" and inserting in lieu thereof "boards of the banks in each district".

12 USC 2221, 2002. (r) The provision amended by subsection (q) of this section, as so amended, is hereby transferred to the end of section 1.2, where such transferred provision shall become a new subsection (b).

12 USC 2002. (s) Section 1.2 is amended—

(1) by inserting "(a) COMPOSITION.—" before "The Farm Credit System shall"; and

(2) by striking out "the regulation" and inserting in lieu thereof "regulation".

TITLE X—EFFECTIVE DATES

12 USC 2002 note. **SEC. 1001. EFFECTIVE DATES.**

(a) GENERAL RULE.—Except as provided in subsection (b), the amendments made by this Act shall take effect as if enacted immediately after the enactment of the 1987 Act.

(b) EXCEPTIONS.—The amendments made by sections 102(b), 102(f), 102(g), 102(h), 201(q), 302(c), 302(d), 302(e), 401, 402(b), 409(d), 411, 414, and 901 (other than by subsections (a), (b), (c), (e), (f), and (g) thereof) of this Act shall take effect immediately after the amendment made by section 401 of the 1987 Act takes effect.

Approved August 17, 1988.

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CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 23, considered and passed House.
Aug. 3, considered and passed Senate.

Public Law 100-400
100th Congress

Joint Resolution

Aug. 17, 1988
[H.J. Res. 138]

To authorize and request the President to issue a proclamation designating the third Sunday of August 1988 as "National Senior Citizens Day".

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the President is authorized and requested to issue a proclamation designating the third Sunday of August 1988 as "National Senior Citizens Day", and calling upon the people of the United States to observe such day with appropriate ceremonies and activities in honor of the contributions to the United States of individuals more than 55 years of age.

Approved August 17, 1988.

LEGISLATIVE HISTORY—H.J. Res. 138:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 2, considered and passed House.
Aug. 8, considered and passed Senate.

Public Law 100-401
100th Congress

Joint Resolution

Designating August 12, 1988, as "National Civil Rights Day".

Aug. 17, 1988
[H.J. Res. 140]

Whereas the people of the United States are the heirs and beneficiaries of the courageous men and women who struggled to achieve legal and social equality in the United States for men and women of every race, religion, and country;

Whereas such men and women include Martin Luther King, Jr., Susan B. Anthony, and Mary McLeod Bethune;

Whereas the people of the United States should not forget that constant vigilance is necessary to ensure the protection of civil rights and much yet remains to be accomplished with respect to securing civil rights for all the people of the United States;

Whereas in August 1963 Martin Luther King, Jr., led a march in Washington, D.C., to demonstrate the need for legislation to protect the civil rights of the people of the United States;

Whereas August 12, 1988, is an appropriate date on which to commemorate the progress made in securing civil rights and the need for continued progress; and

Whereas the National Civil Rights Museum and Hall of Fame will be constructed in Gary, Indiana, to pay continued tribute to the fallen national heroes of civil rights and the cause that they embraced: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That August 12, 1988, is designated as "National Civil Rights Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States—

(1) to pause for a minute of silence at noon on such day to pay tribute to the men and women who have struggled to secure civil rights for all the people of the United States,

(2) to ring church bells 11 times during the minute of silence as a reminder that the hour is late with respect to continuing progress in securing civil rights for all the people of the United States, and

(3) to observe such day with other appropriate ceremonies and activities.

Approved August 17, 1988.

LEGISLATIVE HISTORY—H.J. Res. 140:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 2, considered and passed House.
Aug. 11, considered and passed Senate.

Public Law 100-402
100th Congress

An Act

Aug. 17, 1988
[S. 2200]

To amend Public Law 90-498 to provide for the designation of National Hispanic Heritage Month.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZE THE DESIGNATION OF THE NATIONAL HISPANIC HERITAGE MONTH.

The joint resolution entitled "Joint resolution authorizing the President to proclaim annually the week including September 15 and 16 as 'National Hispanic Heritage Week' ", approved September 17, 1968 (36 U.S.C. 169f), is amended—

(1) by striking "week including September 15 and 16" and inserting "31-day period beginning September 15 and ending on October 15";

(2) by striking "Week" and inserting "Month"; and

(3) by striking "week" and inserting "month".

36 USC 169f note.

SEC. 2. EFFECTIVE DATE.

The amendments made by section 1 shall take effect on January 1 of the first year beginning after the date of the enactment of this Act.

Approved August 17, 1988.

LEGISLATIVE HISTORY—S. 2200:

CONGRESSIONAL RECORD, Vol. 134 (1988):
May 18, considered and passed Senate.
Aug. 8, considered and passed House.

Public Law 100-403
100th Congress

An Act

To amend the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 to extend through the fiscal year 1989 the authorities contained in such Act.

Aug. 19, 1988
[H.R. 4676]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF TEMPORARY CHILD CARE FOR HANDICAPPED CHILDREN AND CRISIS NURSERIES ACT OF 1986.

Section 206 of the Temporary Child Care for Handicapped Children and Crisis Nurseries Act of 1986 (42 U.S.C. 5117d) is amended—

(1) by striking "and" in the first sentence and inserting a comma; and

(2) by striking the period at the end and inserting the following: ", and 1989.".

Approved August 19, 1988.

LEGISLATIVE HISTORY—H.R. 4676:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
Aug. 9, considered and passed Senate.

Public Law 100-404
100th Congress

An Act

Aug. 19, 1988
[H.R. 4800]

Making appropriations for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes.

Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Housing and Urban Development, and for sundry independent agencies, boards, commissions, corporations, and offices for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

HOUSING PROGRAMS

ANNUAL CONTRIBUTIONS FOR ASSISTED HOUSING

(INCLUDING RESCISSION)

For assistance under the United States Housing Act of 1937, as amended ("the Act" herein) (42 U.S.C. 1437), not otherwise provided for, $7,538,765,000, to remain available until expended: *Provided,* That of the new budget authority provided herein, $89,350,788 shall be for the development or acquisition cost of public housing for Indian families, including amounts for housing under the mutual help homeownership opportunity program (section 202 of the Act, as amended by section 2 of Public Law 100-358, approved June 29, 1988); $343,347,300 shall be for the development or acquisition cost of public housing, including major reconstruction of obsolete public housing projects, other than for Indian families; $1,646,948,200 shall be for modernization of existing public housing projects pursuant to section 14 of the Act (42 U.S.C. 1437l); $969,570,000 shall be for assistance under section 8 of the Act for projects developed for the elderly under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q); $572,059,890 shall be for the section 8 existing housing certificate program (42 U.S.C. 1437f); $368,473,610 shall be for the section 8 moderate rehabilitation program (42 U.S.C. 1437f), of which $45,000,000 is to be used to assist homeless individuals pursuant to section 441 of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77); up to $307,430,000 shall be for section 8 assistance for property disposition; and $1,354,937,780 shall be available for the housing voucher program under section 8(o) of the Act (42 U.S.C. 1437f(o)): *Provided further,* That of that portion of such budget authority under section 8(o) to be used to achieve a net increase in the number of dwelling units for assisted families, highest priority shall be given to assisting families who as a result of

rental rehabilitation actions are involuntarily displaced or who are or would be displaced in consequence of increased rents (wherever the level of such rents exceeds 35 percent of the adjusted income of such families, as defined in regulations promulgated by the Department of Housing and Urban Development): *Provided further,* That up to $145,462,500 shall be for loan management under section 8 and that any amounts of budget authority provided herein that are used for loan management activities under section 8(b)(1) (42 U.S.C. 1437f(b)(1)) shall not be obligated for a contract term that exceeds five years, notwithstanding the specification in section 8(v) of the Act that such term shall be 180 months: *Provided further,* That those portions of the fees for the costs incurred in administering incremental units assisted in the certificate and housing voucher programs under sections 8(b) and 8(o), respectively, shall be established or increased in accordance with the authorization for such fees in section 8(q) of the Act: *Provided further,* That of the $7,538,765,000 provided herein, $355,509,000 shall be used to assist handicapped families in accordance with section 202(h) (2), (3) and (4) of the Housing Act of 1959, as amended (12 U.S.C. 1701q), and $20,000,000 shall be for assistance under the Nehemiah housing opportunity program pursuant to section 612 of the Housing and Community Development Act of 1987 (Public Law 100-242) and the immediately aforementioned $20,000,000 shall not become available for obligation until July 1, 1989, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That amounts equal to all amounts of budget authority (and contract authority) reserved or obligated for the development or acquisition cost of public housing (excluding public housing for Indian families), for modernization of existing public housing projects (excluding such projects for Indian families), and for programs under section 8 of the Act (42 U.S.C. 1437f), which are recaptured during fiscal year 1989, shall be rescinded: *Provided further,* That notwithstanding the 20 percent limitation under section 5(j)(2) of the Act, any part of the new budget authority for the development or acquisition costs of public housing other than for Indian families may, in the discretion of the Secretary, based on applications submitted by public housing authorities, be used for new construction or major reconstruction of obsolete public housing projects other than for Indian families: *Provided further,* That amounts equal to recaptured amounts for housing development grants shall be made available during 1989 on the terms specified in the sixth proviso under this head in the Department of Housing and Urban Development appropriation for 1987 (section 101(g) of Public Laws 99-500 and 99-591, 100 Stat. 1783, 1783-242, and 3341, 3341-242). Grants.

RENTAL REHABILITATION GRANTS

For the rental rehabilitation grants program, pursuant to section 17(a)(1)(A) of the Housing Act of 1937, as amended (42 U.S.C. 1437o), $150,000,000, to remain available until September 30, 1991.

RENTAL HOUSING ASSISTANCE

(RESCISSION)

The limitation otherwise applicable to the maximum payments that may be required in any fiscal year by all contracts entered into under section 236 of the National Housing Act (12 U.S.C. 1715z-1) is reduced in fiscal year 1989 by not more than $2,000,000 in uncommitted balances of authorizations provided for this purpose in appropriations Acts.

HOUSING FOR THE ELDERLY OR HANDICAPPED FUND

In fiscal year 1989, $480,106,000 of direct loan obligations may be made under section 202 of the Housing Act of 1959, as amended (12 U.S.C. 1701q), utilizing the resources of the fund authorized by subsection (a)(4) of such section, in accordance with paragraph (C) of such subsection: *Provided,* That such commitments shall be available only to qualified nonprofit sponsors for the purpose of providing 100 per centum loans for the development of housing for the elderly or handicapped, with any cash equity or other financial commitments imposed as a condition of loan approval to be returned to the sponsor if sustaining occupancy is achieved in a reasonable period of time: *Provided further,* That the full amount shall be available for permanent financing (including construction financing) for housing projects for the elderly or handicapped: *Provided further,* That 25 percent of the direct loan authority provided herein shall be used only for the purpose of providing loans for projects for the handicapped, with the mentally ill homeless handicapped receiving priority: *Provided further,* That the Secretary may borrow from the Secretary of the Treasury in such amounts as are necessary to provide the loans authorized herein: *Provided further,* That, notwithstanding any other provision of law, the receipts and disbursements of the aforesaid fund shall be included in the totals of the Budget of the United States Government: *Provided further,* That, notwithstanding section 202(a)(3) of the Housing Act of 1959, loans made in fiscal year 1989 shall bear an interest rate which does not exceed 9.25 per centum, including the allowance adequate in the judgment of the Secretary to cover administrative costs and probable losses under the program.

12 USC 1701q note.

CONGREGATE SERVICES

For contracts with and payments to public housing agencies and nonprofit corporations for congregate services programs in accordance with the provisions of the Congregate Housing Services Act of 1978, $5,400,000, to remain available until September 30, 1990.

PAYMENTS FOR OPERATION OF LOW-INCOME HOUSING PROJECTS

For payments to public housing agencies and Indian housing authorities for operating subsidies for low-income housing projects as authorized by section 9 of the United States Housing Act of 1937, as amended (42 U.S.C. 1437g), $1,617,508,000.

HOUSING COUNSELING ASSISTANCE

For contracts, grants, and other assistance, not otherwise provided for, for providing counseling and advice to tenants and homeowners—both current and prospective—with respect to property maintenance, financial management, and such other matters as may be appropriate to assist them in improving their housing conditions and meeting the responsibilities of tenancy or homeownership, including provisions for training and for support of voluntary agencies and services as authorized by section 106(a)(1)(iii), section 106(a)(2), and section 106(c) of the Housing and Urban Development Act of 1968, as amended, $3,500,000.

FLEXIBLE SUBSIDY FUND

For assistance to owners of eligible multifamily housing projects insured, or formerly insured, under the National Housing Act, as amended, or which are otherwise eligible for assistance under section 201(c) of the Housing and Community Development Amendments of 1978, as amended (12 U.S.C. 1715z-1a), in the program of assistance for troubled multifamily housing projects under the Housing and Community Development Amendments of 1978, as amended, all uncommitted balances of excess rental charges as of September 30, 1988, and any collections and other amounts in the fund authorized under section 201(j) of the Housing and Community Development Amendments of 1978, as amended, during fiscal year 1989, to remain available until expended: *Provided,* That assistance to an owner of a multifamily housing project assisted, but not insured, under the National Housing Act may be made if the project owner and the mortgagee have provided or agreed to provide assistance to the project in a manner as determined by the Secretary of Housing and Urban Development.

EMERGENCY SHELTER GRANTS PROGRAM

For the emergency shelter grants program, as authorized under subtitle B of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77, 101 Stat. 482, 495), $46,500,000, to remain available until expended.

TRANSITIONAL AND SUPPORTIVE HOUSING DEMONSTRATION PROGRAM

For the transitional and supportive housing demonstration program, as authorized under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act (Public Law 100-77, 101 Stat. 482, 498), $80,000,000, to remain available until expended.

INTERAGENCY COUNCIL ON THE HOMELESS

For necessary expenses of the Interagency Council on the Homeless, not otherwise provided for, as authorized by title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311-11319), $1,100,000, to remain available until expended: *Provided,* That the Council shall carry out its duties in the 10 standard Federal regions under section 203(a)(4) of such Act only through detail, on a non-reimbursable basis, of employees of the departments and agencies represented on the Council pursuant to section 202(a) of such Act. 42 USC 11313 note.

FEDERAL HOUSING ADMINISTRATION FUND

For payment to cover losses, not otherwise provided for, sustained by the Special Risk Insurance Fund and General Insurance Fund as authorized by the National Housing Act, as amended (12 U.S.C. 1715z-3(b) and 1735c(f)), $237,720,000, to remain available until expended.

Loans.

During fiscal year 1989, within the resources available, gross obligations for direct loans are authorized in such amounts as may be necessary to carry out the purposes of the National Housing Act, as amended.

During fiscal year 1989, additional commitments to guarantee loans to carry out the purposes of the National Housing Act, as amended, shall not exceed a loan principal of $96,000,000,000.

During fiscal year 1989, gross obligations for direct loans of not to exceed $103,350,000 are authorized for payments under section 230(a) of the National Housing Act, as amended, from the insurance fund chargeable for benefits on the mortgage covering the property to which the payments made relate, and payments in connection with such obligations are hereby approved.

NONPROFIT SPONSOR ASSISTANCE

During fiscal year 1989, within the resources and authority available, gross obligations for the principal amounts of direct loans shall not exceed $960,000.

GOVERNMENT NATIONAL MORTGAGE ASSOCIATION

GUARANTEES OF MORTGAGE-BACKED SECURITIES

During fiscal year 1989, new commitments to issue guarantees to carry out the purposes of section 306 of the National Housing Act, as amended (12 U.S.C. 1721g), shall not exceed $144,000,000,000 of loan principal.

COMMUNITY PLANNING AND DEVELOPMENT

COMMUNITY DEVELOPMENT GRANTS

(INCLUDING TRANSFERS OF FUNDS)

For grants to States and units of general local government and for related expenses, not otherwise provided for, necessary for carrying out a community development grants program as authorized by title I of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), $3,000,000,000, to remain available until September 30, 1991, of which $200,000,000 shall be derived by transfer from the unobligated balances in the "Rehabilitation loan fund" and $150,000,000 shall be derived by transfer from the unobligated balances in the "Flexible subsidy fund": *Provided,* That not to exceed 20 per centum of any grant made with funds appropriated herein (other than a grant using funds set aside in the following proviso) shall be expended for "Planning and Management Development" and "Administration" as defined in regulations promulgated by the Department of Housing and Urban Development: *Provided further,* That $5,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a child care demonstration under section 222 of the Housing and Urban-Rural Recovery Act of 1983, as

amended (12 U.S.C. 1701z-6 note): *Provided further,* That $2,000,000 shall be made available from the foregoing $3,000,000,000 to carry out a neighborhood development demonstration under section 123 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181).

During fiscal year 1989, total commitments to guarantee loans, as authorized by section 108 of the Housing and Community Development Act of 1974, as amended (42 U.S.C. 5301), shall not exceed $144,000,000 of contingent liability for loan principal.

For purposes of administering its community development block grant program for nonentitlement areas under section 106(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)), the State of Pennsylvania may, with respect to funds provided in appropriations Acts for fiscal years 1987 and 1988, continue to utilize the data on low and moderate income populations that were utilized by the State with respect to funds provided in appropriations Acts for fiscal year 1986. Pennsylvania.

Section 105(c)(2)(A) of the Housing and Community Development Act of 1974 is amended by striking out "or" immediately before "(ii)" and inserting at the end thereof before the period the following: 42 USC 5305.

"; or (iii) the assistance for such activity is limited to paying assessments (including any charge made as a condition of obtaining access) levied against properties owned and occupied by persons of low and moderate income to recover the capital cost for a public improvement". Real property.

REHABILITATION LOAN FUND

During fiscal year 1989, collections, unexpended balances of prior appropriations (including any recoveries of prior reservations) and any other amounts in the revolving fund established pursuant to section 312 of the Housing Act of 1964, as amended (42 U.S.C. 1452b), after September 30, 1988, are available and may be used for commitments for loans and operating costs and the capitalization of delinquent interest on delinquent or defaulted loans notwithstanding section 312(h) of such Act: *Provided,* That none of the funds in this Act may be used to sell any loan asset that the Secretary holds as evidence of indebtedness under such section 312.

URBAN HOMESTEADING

For reimbursement to the Federal Housing Administration Fund or the Rehabilitation Loan Fund for losses incurred under the urban homesteading program (12 U.S.C. 1706e), and for reimbursement to the Administrator of Veterans Affairs and the Secretary of Agriculture for properties conveyed by the Administrator of Veterans Affairs and the Secretary of Agriculture, respectively, for use in connection with an urban homesteading program approved by the Secretary of Housing and Urban Development pursuant to section 810 of the Housing and Community Development Act of 1974, as amended, $13,200,000, to remain available until expended.

ASSISTANCE FOR SOLAR AND CONSERVATION IMPROVEMENTS

All funds recaptured from the amount appropriated under this head in the Department of Housing and Urban Development-Independent Agencies Appropriations Act, 1988 (section 101(f),

Public Law 100-202) to remain available until September 30, 1989, shall likewise remain available to the Department of Housing and Urban Development for obligation until September 30, 1989.

POLICY DEVELOPMENT AND RESEARCH

RESEARCH AND TECHNOLOGY

For contracts, grants, and necessary expenses of programs of research and studies relating to housing and urban problems, not otherwise provided for, as authorized by title V of the Housing and Urban Development Act of 1970, as amended (12 U.S.C. 1701z-1 et seq.), including carrying out the functions of the Secretary under section 1(a)(1)(i) of Reorganization Plan No. 2 of 1968, $17,200,000, of which not less than $1,200,000 shall be available for lead-based paint studies, with all funds to remain available until September 30, 1990.

FAIR HOUSING AND EQUAL OPPORTUNITY

FAIR HOUSING ACTIVITIES

For contracts, grants, and other assistance, not otherwise provided for, as authorized by title VIII of the Civil Rights Act of 1968, as amended, and section 561 of the Housing and Community Development Act of 1987, $10,000,000, to remain available until September 30, 1990: *Provided,* That not less than $5,000,000 shall be available to carry out activities pursuant to section 561 of the Housing and Community Development Act of 1987.

MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary administrative and nonadministrative expenses of the Department of Housing and Urban Development, not otherwise provided for, including not to exceed $4,000 for official reception and representation expenses, $716,609,000, of which $381,528,000 shall be provided from the various funds of the Federal Housing Administration: *Provided,* That during fiscal year 1989, notwithstanding any other provision of law, the Department of Housing and Urban Development shall maintain an average employment of at least 1,365 for Public and Indian Housing Programs.

ADMINISTRATIVE PROVISIONS

42 USC 5318. Grants. Urban areas.

Section 119(d)(5) of the Housing and Community Development Act of 1974 is amended by adding at the end thereof the following:

"(C) Notwithstanding any other provision of this section, in each competition for grants under this section, no city or urban county may be awarded a grant or grants in an amount in excess of $10,000,000 until all cities and urban counties which submitted fundable applications have been awarded a grant. If funds are available for additional grants after each city and urban county submitting a fundable application is awarded one or more grants under the preceding sentence, then additional grants shall be made so that each city or urban county that has

submitted multiple applications is awarded one additional grant in order of ranking, with no single city or urban county receiving more than one grant approval in any subsequent series of grant determinations within the same competition.

"(D) All grants under this section, including grants to cities and urban counties described in subsection (b)(2), shall be awarded in accordance with subparagraph (C) so that all grants under this section are made in order of ranking.".

None of the funds provided in this Act or heretofore provided may be used to implement or enforce the regulations promulgated by the Department of Housing and Urban Development on June 6, 1988, with respect to the testing and abatement of lead-based paint in public housing until the Secretary develops comprehensive technical guidelines on reliable testing protocols, safe and effective abatement techniques, cleanup methods, and acceptable post-abatement lead dust levels. 42 USC 4822 note.

TITLE II

INDEPENDENT AGENCIES

AMERICAN BATTLE MONUMENTS COMMISSION

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, of the American Battle Monuments Commission, including the acquisition of land or interest in land in foreign countries; purchases and repair of uniforms for caretakers of national cemeteries and monuments outside of the United States and its territories and possessions; rent of office and garage space in foreign countries; purchase (one for replacement only) and hire of passenger motor vehicles; and insurance of official motor vehicles in foreign countries, when required by law of such countries; $15,085,000, of which $829,000 shall be deposited in the account known as the "Foreign Currency Fluctuations, American Battle Monuments Commission Account", authorized by section 345, Public Law 100-322: *Provided,* That where station allowance has been authorized by the Department of the Army for officers of the Army serving the Army at certain foreign stations, the same allowance shall be authorized for officers of the Armed Forces assigned to the Commission while serving at the same foreign stations, and this appropriation is hereby made available for the payment of such allowance: *Provided further,* That when traveling on business of the Commission, officers of the Armed Forces serving as members or as Secretary of the Commission may be reimbursed for expenses as provided for civilian members of the Commission: *Provided further,* That the Commission shall reimburse other Government agencies, including the Armed Forces, for salary, pay, and allowances of personnel assigned to it: *Provided further,* That section 409 of the general provisions carried in title IV of this Act shall not apply to the funds provided under this heading: *Provided further,* That not more than $125,000 of the private contributions to the Korean War Memorial Fund may be used for administrative support of the Korean War Veterans Memorial Advisory Board including travel by members of the board authorized by the Commission, travel allowances to conform to those provided by Federal Travel regulations. 36 USC 121b. 36 USC 122. 36 USC 122a.

CONSUMER PRODUCT SAFETY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Consumer Product Safety Commission, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18, and not to exceed $500 for official reception and representation expenses, $34,500,000: *Provided,* That no more than $308,500 of these funds shall be available for personnel compensation and benefits for the Commissioners of the Consumer Product Safety Commission appointed pursuant to 15 U.S.C. 2053.

DEPARTMENT OF DEFENSE—CIVIL

CEMETERIAL EXPENSES, ARMY

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, for maintenance, operation, and improvement of Arlington National Cemetery and Soldiers' and Airmen's Home National Cemetery, including the purchase of three passenger motor vehicles for replacement only, and not to exceed $1,000 for official reception and representation expenses; $13,195,000, to remain available until expended.

ENVIRONMENTAL PROTECTION AGENCY

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire of passenger motor vehicles; hire, maintenance, and operation of aircraft; uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; purchase of reprints; library memberships in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members; construction, alteration, repair, rehabilitation, and renovation of facilities, not to exceed $25,000 per project; and not to exceed $3,000 for official reception and representation expenses; $804,000,000: *Provided,* That of the total sums appropriated, the amount of program activities which can be financed by the licensing and other services special fund shall be derived from that fund: *Provided further,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913).

RESEARCH AND DEVELOPMENT

For research and development activities, $202,500,000, to remain available until September 30, 1990: *Provided,* That not more than $2,000,000 of these funds shall be available for replacement of laboratory equipment.

ABATEMENT, CONTROL, AND COMPLIANCE

For abatement, control, and compliance activities, $715,625,000, to remain available until September 30, 1990: *Provided,* That not more than $2,500,000 shall be available for administrative expenses to carry out the Asbestos School Hazards Abatement Act of 1984, as amended: *Provided further,* That none of the funds appropriated under this head shall be available to the National Oceanic and Atmospheric Administration pursuant to section 118(h)(3) of the Federal Water Pollution Control Act, as amended: *Provided further,* That none of these funds may be expended for purposes of Resource Conservation and Recovery Panels established under section 2003 of the Resource Conservation and Recovery Act, as amended (42 U.S.C. 6913), or for support to State, regional, local and interstate agencies in accordance with subtitle D of the Solid Waste Disposal Act, as amended, other than section 4008(a)(2) or 4009 (42 U.S.C. 6948, 6949).

BUILDINGS AND FACILITIES

For construction, repair, improvement, extension, alteration, and purchase of fixed equipment for facilities of, or use by, the Environmental Protection Agency, $8,000,000, to remain available until expended.

HAZARDOUS SUBSTANCE SUPERFUND

For necessary expenses to carry out the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended, including sections 111 (c)(3), (c)(5), (c)(6), and (e)(4) (42 U.S.C. 9611), $1,425,000,000, to be derived from the Hazardous Substance Superfund, consisting of $1,275,000,000 as authorized by section 517(a) of the Superfund Amendments and Reauthorization Act of 1986 (SARA) and $150,000,000 as a payment from general revenues to the Hazardous Substance Superfund as authorized by section 517(b) of SARA, with all of such funds to remain available until expended: *Provided,* That funds appropriated under this heading may be allocated to other Federal agencies in accordance with section 111(a) of CERCLA, as amended: *Provided further,* That, notwithstanding section 111(m) of CERCLA, as amended, or any other provision of law, not to exceed $44,500,000 of the funds appropriated under this heading shall be available to the Agency for Toxic Substances and Disease Registry to carry out activities described in sections 104(i), 111(c)(4), and 111(c)(14) of CERCLA and section 118(f) of the Superfund Amendments and Reauthorization Act of 1986: *Provided further,* That none of the funds appropriated under this heading shall be available for the Agency for Toxic Substances and Disease Registry to issue in excess of 40 toxicological profiles pursuant to section 104(i) of CERCLA, as amended, during fiscal year 1989: *Provided further,* That no more than $190,000,000 of these funds shall be available for administrative expenses.

LEAKING UNDERGROUND STORAGE TANK TRUST FUND

For necessary expenses to carry out leaking underground storage tank cleanup activities authorized by section 205 of the Superfund Amendments and Reauthorization Act of 1986, $50,000,000, to remain available until expended: *Provided,* That no more than $5,000,000 shall be available for administrative expenses.

CONSTRUCTION GRANTS

For necessary expenses to carry out the purposes of the Federal Water Pollution Control Act, as amended, and the Water Quality Act of 1987, $1,950,000,000, to remain available until expended, of which $941,000,000 shall be for title II (other than sections 201(m)(1-3), 201(n)(2), 206, 208, and 209) of the Federal Water Pollution Control Act, as amended; $941,000,000 shall be for title VI of the Federal Water Pollution Control Act, as amended; and $68,000,000 shall be for title V of the Water Quality Act of 1987, consisting of $20,000,000 for section 510, $3,000,000 for section 512, $25,000,000 for section 513, and $20,000,000 for section 515.

ADMINISTRATIVE PROVISION

None of the funds in this Act shall be available for any indemnity payment under section 15 of the Federal Insecticide, Fungicide, and Rodenticide Act.

EXECUTIVE OFFICE OF THE PRESIDENT

COUNCIL ON ENVIRONMENTAL QUALITY AND OFFICE OF ENVIRONMENTAL QUALITY

For necessary expenses of the Council on Environmental Quality and the Office of Environmental Quality, in carrying out their functions under the National Environmental Policy Act of 1969 (Public Law 91-190), the Environmental Quality Improvement Act of 1970 (Public Law 91-224), and Reorganization Plan No. 1 of 1977, including not to exceed $500 for official reception and representation expenses, and hire of passenger motor vehicles, $850,000: *Provided,* That not to exceed $290,000 of these funds shall be available for obligation in the first four months of fiscal year 1989.

OFFICE OF SCIENCE AND TECHNOLOGY POLICY

For necessary expenses of the Office of Science and Technology Policy, in carrying out the purposes of the National Science and Technology Policy, Organization, and Priorities Act of 1976 (42 U.S.C. 6601 and 6671), hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109, not to exceed $1,500 for official reception and representation expenses, and rental of conference rooms in the District of Columbia, $1,587,000: *Provided,* That the Office of Science and Technology Policy shall reimburse other agencies for not less than one-half of the personnel compensation costs of individuals detailed to it: *Provided further,* That not to exceed $400,000 of these funds shall be available for obligation in the first four months of fiscal year 1989.

FEDERAL EMERGENCY MANAGEMENT AGENCY

DISASTER RELIEF

For necessary expenses in carrying out the functions of the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), $100,000,000, to remain available until expended.

SALARIES AND EXPENSES

For necessary expenses, not otherwise provided for, including hire and purchase of motor vehicles (31 U.S.C. 1343); uniforms, or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18; expenses of attendance of cooperating officials and individuals at meetings concerned with the work of emergency preparedness; transportation in connection with the continuity of Government program to the same extent and in the same manner as permitted the Secretary of a Military Department under 10 U.S.C. 2632; and not to exceed $1,500 for official reception and representation expenses, $137,274,000.

EMERGENCY MANAGEMENT PLANNING AND ASSISTANCE

For necessary expenses, not otherwise provided for, to carry out activities under the National Flood Insurance Act of 1968, as amended, and the Flood Disaster Protection Act of 1973, as amended (42 U.S.C. 4001 et seq.), the Disaster Relief Act of 1974, as amended (42 U.S.C. 5121 et seq.), the Earthquake Hazards Reduction Act of 1977, as amended (42 U.S.C. 7701 et seq.), the Federal Fire Prevention and Control Act of 1974, as amended (15 U.S.C. 2201 et seq.), the Federal Civil Defense Act of 1950, as amended (50 U.S.C. App. 2251 et seq.), the Defense Production Act of 1950, as amended (50 U.S.C. App. 2061 et seq.), section 103 of the National Security Act (50 U.S.C. 404), and Reorganization Plan No. 3 of 1978, $282,438,000.

NATIONAL FLOOD INSURANCE FUND

(TRANSFERS OF FUNDS)

Of the funds available from the National Flood Insurance Fund for activities under the National Flood Insurance Act of 1968, and the Flood Disaster Protection Act of 1973, $10,178,000 shall, upon enactment of this Act, be transferred to the "Salaries and expenses" appropriation for administrative costs of the insurance and flood plain management programs and $43,200,000 shall, upon enactment of this Act, be transferred to the "Emergency management planning and assistance" appropriation for flood plain management activities, including $2,720,000 for expenses under section 1362 of the National Flood Insurance Act of 1968, as amended (42 U.S.C. 4103, 4127), which amount shall be available until September 30, 1990. In fiscal year 1989, no funds in excess of (1) $36,000,000 for operating expenses, (2) $169,003,000 for agents' commissions and taxes, and (3) $3,500,000 for interest on Treasury borrowings shall be available from the National Flood Insurance Fund without prior notice to the Committees on Appropriations.

EMERGENCY FOOD AND SHELTER PROGRAM

There is hereby appropriated $114,000,000 to the Federal Emergency Management Agency to carry out an emergency food and shelter program pursuant to title III of Public Law 100-77: *Provided,* That total administrative costs shall not exceed three and one-half per centum of the total appropriation.

GENERAL SERVICES ADMINISTRATION

CONSUMER INFORMATION CENTER

For necessary expenses of the Consumer Information Center, including services authorized by 5 U.S.C. 3109, $1,354,000, to be deposited into the Consumer Information Center Fund: *Provided,* That the appropriations, revenues and collections deposited into the fund shall be available for necessary expenses of Consumer Information Center activities in the aggregate amount of $5,200,000. Administrative expenses of the Consumer Information Center in fiscal year 1989 shall not exceed $1,736,000. Appropriations, revenues and collections accruing to this fund during fiscal year 1989 in excess of $5,200,000 shall remain in the fund and shall not be available for expenditure except as authorized in appropriations Acts.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

OFFICE OF CONSUMER AFFAIRS

For necessary expenses of the Office of Consumer Affairs, including services authorized by 5 U.S.C. 3109, $1,708,000.

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

RESEARCH AND DEVELOPMENT

(INCLUDING RESCISSION OF FUNDS)

For necessary expenses, not otherwise provided for, including research, development, operations, services, minor construction, maintenance, repair, rehabilitation and modification of real and personal property; purchase, hire, maintenance, and operation of other than administrative aircraft, necessary for the conduct and support of aeronautical and space research and development activities of the National Aeronautics and Space Administration; $4,191,700,000, to remain available until September 30, 1990, of which $900,000,000 is for the space station program only: *Provided,* That $515,000,000 of the $900,000,000 for the space station program shall not become available for obligation until May 15, 1989, and pursuant to section 202(b) of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, this action is a necessary (but secondary) result of a significant policy change: *Provided further,* That the aforementioned $515,000,000 shall become available unless the President submits a special message after February 1, 1989, notifying the Congress that such funds will not be made available for the space station program.

Of the funds appropriated under this head in the Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1988 (H.R. 2783), as enacted under the provision of section 101(f) of Public Law 100-202, an Act making further continuing appropriations for the fiscal year ending September 30, 1988, $25,000,000 are rescinded.

SPACE FLIGHT, CONTROL AND DATA COMMUNICATIONS

For necessary expenses, not otherwise provided for; in support of space flight, spacecraft control and communications activities of the

National Aeronautics and Space Administration, including operations, production, services, minor construction, maintenance, repair, rehabilitation, and modification of real and personal property; tracking and data relay satellite services as authorized by law; purchase, hire, maintenance and operation of other than administrative aircraft; $4,364,200,000: *Provided,* That, notwithstanding any provision of this or any other Act, not to exceed $100,000,000 may be transferred to the National Aeronautics and Space Administration in fiscal year 1989 from any funds appropriated to the Department of Defense and such funds may only be transferred to the "Space flight, control and data communications" appropriation for space shuttle operations: *Provided further,* That the transfer limitation in the immediately preceding proviso shall not apply to funds transferred for advanced launch systems or under existing reimbursement arrangements: *Provided further,* That the funds appropriated under this heading are, together with funds permitted to be transferred hereunder, to remain available until September 30, 1990.

CONSTRUCTION OF FACILITIES

For construction, repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and for facility planning and design not otherwise provided, for the National Aeronautics and Space Administration, and for the acquisition or condemnation of real property, as authorized by law, $270,100,000, to remain available until September 30, 1991: *Provided,* That, notwithstanding the limitation on the availability of funds appropriated under this heading by this appropriations Act, when any activity has been initiated by the incurrence of obligations therefor, the amount available for such activity shall remain available until expended, except that this provision shall not apply to the amounts appropriated pursuant to the authorization for repair, rehabilitation and modification of facilities, minor construction of new facilities and additions to existing facilities, and facility planning and design: *Provided further,* That no amount appropriated pursuant to this or any other Act may be used for the lease or construction of a new contractor-funded facility for exclusive use in support of a contract or contracts with the National Aeronautics and Space Administration under which the Administration would be required to substantially amortize through payment or reimbursement such contractor investment, unless an appropriations Act specifies the lease or contract pursuant to which such facilities are to be constructed or leased or such facility is otherwise identified in such Act: *Provided further,* That the Administrator may authorize such facility lease or construction, if he determines, in consultation with the Committees on Appropriations, that deferral of such action until the enactment of the next appropriations Act would be inconsistent with the interest of the Nation in aeronautical and space activities: *Provided further,* That in addition to sums otherwise provided by this paragraph, an additional $20,000,000, to remain available until expended: *Provided further,* That up to $30,000,000 of the funds provided by this paragraph may be transferred to and merged with sums appropriated for "Research and development" and/or "Research and program management".

Contracts.

SCIENCE, SPACE, AND TECHNOLOGY EDUCATION TRUST FUND

42 USC 2467.

There is appropriated, by transfer from funds appropriated in this Act for "Construction of facilities", the sum of $15,000,000 to the "Science, Space, and Technology Education Trust Fund" which is hereby established in the Treasury of the United States: *Provided,* That the Secretary shall invest such funds in the United States Treasury special issue securities, that such interest shall be credited to the Trust Fund on a quarterly basis, and that such interest shall be available for the purpose of making grants for programs directed at improving science, space, and technology education in the United States: *Provided further,* That the Administrator of the National Aeronautics and Space Administration, after consultation with the Director of the National Science Foundation, shall review applications made for such grants and determine the distribution of such available funds on a competitive basis: *Provided further,* That such grants shall be made available to any awardee only to the extent that said awardee provides matching funds from non-Federal sources to carry out the program for which grants from this Trust Fund are made: *Provided further,* That of the funds made available by this Trust Fund, $250,000 shall be disbursed each calendar quarter for a ten-year period to the Challenger Center for Space Science Education: *Provided further,* That the Administrator of the National Aeronautics and Space Administration shall submit to the Congress an annual report on the grants made pursuant to this paragraph.

Grants.

Reports.

RESEARCH AND PROGRAM MANAGEMENT

For necessary expenses of research in Government laboratories, management of programs and other activities of the National Aeronautics and Space Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); awards; lease, hire, purchase of one aircraft for replacement only (for which partial payment may be made by exchange of at least one existing administrative aircraft and such other existing aircraft as may be considered appropriate), maintenance and operation of administrative aircraft; purchase (not to exceed thirty-three for replacement only) and hire of passenger motor vehicles; and maintenance and repair of real and personal property, and not in excess of $100,000 per project for construction of new facilities and additions to existing facilities, repairs, and rehabilitation and modification of facilities; $1,855,000,000: *Provided,* That contracts may be entered into under this appropriation for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That not to exceed $35,000 of the foregoing amount shall be available for scientific consultations or extraordinary expense, to be expended upon the approval or authority of the Administrator and his determination shall be final and conclusive.

Contracts.

NATIONAL CREDIT UNION ADMINISTRATION

CENTRAL LIQUIDITY FACILITY

During fiscal year 1989, gross obligations of the Central Liquidity Facility for the principal amount of new direct loans to member credit unions as authorized by the National Credit Union Central

Liquidity Facility Act (12 U.S.C. 1795) shall not exceed $600,000,000: *Provided,* That administrative expenses of the Central Liquidity Facility in fiscal year 1989 shall not exceed $880,000.

NATIONAL SCIENCE FOUNDATION

RESEARCH AND RELATED ACTIVITIES

For necessary expenses in carrying out the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861–1875), and the Act to establish a National Medal of Science (42 U.S.C. 1880–1881); services as authorized by 5 U.S.C. 3109; maintenance and operation of aircraft and purchase of flight services for research support; acquisition of one aircraft; hire of passenger motor vehicles; not to exceed $2,500 for official reception and representation expenses; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); rental of conference rooms in the District of Columbia; and reimbursement of the General Services Administration for security guard services; $1,583,000,000, to remain available until September 30, 1990: *Provided,* That of the funds appropriated in this Act, $900,000 shall be available only for the International Institute for Applied Systems Analysis, and that, notwithstanding any other provision of law, the Director may choose not to obligate these funds for that purpose: *Provided further,* That of the funds appropriated in this Act, or from funds appropriated previously to the Foundation, not more than $90,550,000 shall be available for program development and management in fiscal year 1989: *Provided further,* That none of the funds appropriated in this Act may be used, directly or through grants, contracts, or other awards mechanisms, for agreements executed after enactment of this Act, to pay or to provide reimbursement for the Federal portion of the salary of any individual functioning as a Federal employee at more than the daily equivalent of the maximum rate paid for ES–6 for assignments to Senior Executive Service positions, unless specifically authorized by law: *Provided further,* That notwithstanding the preceding proviso, none of the funds appropriated in this Act may be used to pay the salary of any individual functioning as a Federal employee, or any other individual, through a grant or grants at a rate in excess of $95,000 per year: *Provided further,* That contracts may be entered into under the program development and management limitation in fiscal year 1989 for maintenance and operation of facilities, and for other services, to be provided during the next fiscal year: *Provided further,* That receipts for scientific support services and materials furnished by the National Research Centers and other National Science Foundation supported research facilities may be credited to this appropriation: *Provided further,* That of the funds appropriated in this Act, not more than $73,480,000 shall be available for advanced scientific computing, networking and communications research and infrastructure: *Provided further,* That none of the funds appropriated in this Act may be made available for a new academic research facilities program: *Provided further,* That to the extent that the amount appropriated is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

Contracts.

UNITED STATES ANTARCTIC PROGRAM ACTIVITIES

For necessary expenses in carrying out the research and operational support for the United States Antarctic Program pursuant to the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875); maintenance and operation of aircraft and purchase of flight services for research and operations support; maintenance and operation of research ships and charter or lease of ships for research and operations support; hire of passenger motor vehicles; not to exceed $1,000 for official reception and representation expenses; $131,000,000, to remain available until expended: *Provided,* That receipts for support services and materials provided for non-Federal activities may be credited to this appropriation: *Provided further,* That no funds in this account shall be used for the purchase of aircraft other than ones transferred from other Federal agencies: *Provided further,* That no funds in this Act shall be used to acquire or lease a research vessel with ice-breaking capability built by a shipyard located in a foreign country if such a vessel of United States origin can be obtained at a cost no more than 50 per centum above that of the least expensive technically acceptable foreign vessel bid: *Provided further,* That, in determining the cost of such a vessel, such cost be increased by the amount of any subsidies or financing provided by a foreign government (or instrumentality thereof) to such vessel's construction: *Provided further,* That a new competitive solicitation for such vessel shall be conducted: *Provided further,* That if the vessel contracted for pursuant to the foregoing is not available for the 1989-1990 austral summer Antarctic season, a vessel of any origin may be leased for a period of not to exceed 120 days for that season and each season thereafter until delivery of the new vessel: *Provided further,* That the preceding four provisos shall not apply to appropriated funds used for the lease of the vessel POLAR DUKE.

SCIENCE EDUCATION ACTIVITIES

For necessary expenses in carrying out science and engineering education programs and activities pursuant to the purposes of the National Science Foundation Act of 1950, as amended (42 U.S.C. 1861-1875), including services as authorized by 5 U.S.C. 3109 and rental of conference rooms in the District of Columbia, $171,000,000, to remain available until September 30, 1990: *Provided,* That to the extent that the amount of this appropriation is less than the total amount authorized to be appropriated for included program activities, all amounts, including floors and ceilings, specified in the authorizing Act for those program activities or their subactivities shall be reduced proportionally.

NEIGHBORHOOD REINVESTMENT CORPORATION

PAYMENT TO THE NEIGHBORHOOD REINVESTMENT CORPORATION

For payment to the Neighborhood Reinvestment Corporation for use in neighborhood reinvestment activities, as authorized by the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8101-8107), $19,494,000.

SELECTIVE SERVICE SYSTEM

SALARIES AND EXPENSES

For necessary expenses of the Selective Service System, including expenses of attendance at meetings and of training for uniformed personnel assigned to the Selective Service System, as authorized by law (5 U.S.C. 4101-4118) for civilian employees; and not to exceed $1,000 for official reception and representation expenses; $26,313,000: *Provided,* That during the current fiscal year, the President may exempt this appropriation from the provisions of 31 U.S.C. 1341, whenever he deems such action to be necessary in the interest of national defense: *Provided further,* That none of the funds appropriated by this Act may be expended for or in connection with the induction of any person into the Armed Forces of the United States.

VETERANS ADMINISTRATION

COMPENSATION AND PENSIONS

For the payment of compensation benefits to or on behalf of veterans as authorized by law (38 U.S.C. 107, chapters 11, 13, 51, 53, 55, and 61); pension benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 15, 51, 53, 55, and 61; 92 Stat. 2508); and burial benefits, emergency and other officers' retirement pay, adjusted-service credits and certificates, payment of premiums due on commercial life insurance policies guaranteed under the provisions of Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, and for other benefits as authorized by law (38 U.S.C. 107, 412, 777, and 806, chapters 23, 51, 53, 55, and 61; 50 U.S.C. App. 540-548; 43 Stat. 122, 123; 45 Stat. 735; 76 Stat. 1198), $14,759,100,000, to remain available until expended.

READJUSTMENT BENEFITS

For the payment of readjustment and rehabilitation benefits to or on behalf of veterans as authorized by law (38 U.S.C. chapters 21, 30, 31, 34-36, 39, 51, 53, 55, and 61), $597,600,000, to remain available until expended.

VETERANS INSURANCE AND INDEMNITIES

For military and naval insurance, national service life insurance, servicemen's indemnities, and service-disabled veterans insurance, as authorized by law (38 U.S.C. chapter 19; 70 Stat. 887; 72 Stat. 487), $9,220,000, to remain available until expended.

MEDICAL CARE

For necessary expenses for the maintenance and operation of hospitals, nursing homes, and domiciliary facilities; for furnishing, as authorized by law, inpatient and outpatient care and treatment to beneficiaries of the Veterans Administration, including care and treatment in facilities not under the jurisdiction of the Veterans Administration, and furnishing recreational facilities, supplies and equipment; funeral, burial and other expenses incidental thereto for beneficiaries receiving care in Veterans Administration facilities; repairing, altering, improving or providing facilities in the several hospitals and homes under the jurisdiction of the Veterans Adminis-

tration, not otherwise provided for, either by contract or by the hire of temporary employees and purchase of materials; uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902); aid to State homes as authorized by law (38 U.S.C. 641); and not to exceed $2,000,000 to fund cost comparison studies as referred to in 38 U.S.C. 5010(a)(5); $10,542,546,000, plus reimbursements: *Provided,* That $13,252,000 of the foregoing amount shall be available for a pilot program of community-based residential care for homeless chronically mentally ill and other veterans: *Provided further,* That, during fiscal year 1989, jurisdictional average employment shall not exceed 38,000 for administrative support: *Provided further,* That, notwithstanding any other provision in this Act, a supplemental budget request may be transmitted to maintain the personnel level mandated by this Act.

MEDICAL AND PROSTHETIC RESEARCH

For necessary expenses in carrying out programs of medical and prosthetic research and development as authorized by law, to remain available until September 30, 1990, $210,241,000, plus reimbursements.

MEDICAL ADMINISTRATION AND MISCELLANEOUS OPERATING EXPENSES

For necessary expenses in the administration of the medical, hospital, nursing home, domiciliary, construction, supply, and research activities, as authorized by law, $47,909,000, plus reimbursements.

GENERAL OPERATING EXPENSES

For necessary operating expenses of the Veterans Administration, not otherwise provided for, including uniforms or allowances therefor, as authorized by law; not to exceed $3,000 for official reception and representation expenses; cemeterial expenses as authorized by law; purchase of six passenger motor vehicles, for use in cemeterial operations, and hire of passenger motor vehicles; and reimbursement of the General Services Administration for security guard services, and the Department of Defense for the cost of overseas employee mail; $774,316,000, including $512,359,000 for the Department of Veterans Benefits: *Provided,* That, during fiscal year 1989, jurisdictional average employment shall not be less than 12,898 for the Department of Veterans Benefits.

CONSTRUCTION, MAJOR PROJECTS

For constructing, altering, extending and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, where the estimated cost of a project is $2,000,000 or more or where funds for a project were made available in a previous major project appropriation, $363,040,000, to remain available until expended: *Provided,* That, except for advance planning of projects funded through the advance planning fund and the design of projects funded through the design fund, none of these funds shall

be used for any project which has not been considered and approved by the Congress in the budgetary process: *Provided further,* That funds provided in the appropriation "Construction, major projects" for fiscal year 1989, for each approved project shall be obligated (1) by the awarding of a working drawings contract by September 30, 1989, and (2) by the awarding of a construction contract by September 30, 1990: *Provided further,* That the Administrator shall promptly report in writing to the Comptroller General and to the Committees on Appropriations any approved major construction project in which obligations are not incurred within the time limitations established above; and the Comptroller General shall review the report in accordance with the procedures established by section 1015 of the Impoundment Control Act of 1974 (title X of Public Law 93-344): *Provided further,* That no funds from any other account, except the "Parking garage revolving fund", may be obligated for constructing, altering, extending, or improving a project which was approved in the budget process and funded in this account until one year after substantial completion and beneficial occupancy by the Veterans Administration of the project or any part thereof with respect to that part only: *Provided further,* That prior to the issuance of a bidding document for any construction contract for a project approved under this heading (excluding completion items), the director of the affected Veterans Administration medical facility must certify that the design of such project is acceptable from a patient care standpoint: *Provided further,* That not to exceed $8,000,000 of the funds available shall be used for the settlement of contractors' claims arising from the construction of a replacement hospital at the Veterans Administration Medical Center, Bronx, New York: *Provided further,* That not to exceed $2,600,000 of the funds available shall be used for the payment of sales and use tax to the State of Washington due on prior construction projects funded by this and other accounts, in lieu of payment to contractors of these tax costs which were not included in the contracts for these projects: *Provided further,* That the Veterans Administration shall, from funds previously appropriated for the replacement and modernization of the hospital at Allen Park, Michigan, immediately proceed with the planning, site acquisition, site preparation, and design of a new hospital in downtown Detroit, Michigan, which contains not less than 503 hospital beds.

Contracts.

Reports.

Contracts.

CONSTRUCTION, MINOR PROJECTS

For constructing, altering, extending, and improving any of the facilities under the jurisdiction or for the use of the Veterans Administration, including planning, architectural and engineering services, maintenance or guarantee period services costs associated with equipment guarantees provided under the project, and site acquisition, or for any of the purposes set forth in sections 1004, 1006, 5002, 5003, 5006, 5008, 5009, and 5010 of title 38, United States Code, where the estimated cost of a project is less than $2,000,000, $111,596,000, to remain available until expended, along with unobligated balances of previous "Construction, minor projects" appropriations which are hereby made available for any project where the estimated cost is less than $2,000,000: *Provided,* That not more than $41,731,000 shall be available for expenses of the Office of Facilities, including research and development in building construction technology: *Provided further,* That funds in this account shall be avail-

able for (1) repairs to any of the nonmedical facilities under the jurisdiction or for the use of the Veterans Administration which are necessary because of loss or damage caused by any natural disaster or catastrophe, and (2) temporary measures necessary to prevent or to minimize further loss by such causes.

PARKING GARAGE REVOLVING FUND

For the parking garage revolving fund as authorized by law (38 U.S.C. 5009), $26,000,000, together with income from fees collected, to remain available until expended. Resources of this fund shall be available for all expenses authorized by 38 U.S.C. 5009 except operations and maintenance costs which will be funded from "Medical care".

GRANTS FOR CONSTRUCTION OF STATE EXTENDED CARE FACILITIES

For grants to assist the several States to acquire or construct State nursing home and domiciliary facilities and to remodel, modify or alter existing hospital, nursing home and domiciliary facilities in State homes, for furnishing care to veterans as authorized by law (38 U.S.C. 5031-5037), $42,000,000, to remain available until September 30, 1991.

GRANTS TO THE REPUBLIC OF THE PHILIPPINES

For payment to the Republic of the Philippines of grants, as authorized by law (38 U.S.C. 632), for assisting in the replacement and upgrading of equipment and in rehabilitating the physical plant and facilities of the Veterans Memorial Medical Center, $500,000, to remain available until September 30, 1990.

GRANTS FOR THE CONSTRUCTION OF STATE VETERANS CEMETERIES

For grants to aid States in establishing, expanding, or improving State veterans cemeteries as authorized by law (38 U.S.C. 1008), $9,000,000, to remain available until September 30, 1991.

DIRECT LOAN REVOLVING FUND

During 1989, within the resources available, not to exceed $1,000,000 in gross obligations for direct loans are authorized for specially adapted housing loans (38 U.S.C. chapter 37).

LOAN GUARANTY REVOLVING FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title), $658,000,000, to remain available until expended.

During 1989, the resources of the loan guaranty revolving fund shall be available for expenses for property acquisitions and other loan guaranty and insurance operations, as authorized by law (38 U.S.C. chapter 37, except administrative expenses, as authorized by section 1824 of such title): *Provided,* That the unobligated balances, including retained earnings of the direct loan revolving fund, shall be available, during 1989, for transfer to the loan guaranty revolv-

ing fund in such amounts as may be necessary to provide for the timely payment of obligations of such fund, and the Administrator of Veterans Affairs shall not be required to pay interest on amounts so transferred after the time of such transfer.

During 1989, with the resources available, gross obligations for direct loans and total commitments to guarantee loans are authorized in such amounts as may be necessary to carry out the purposes of the "Loan guaranty revolving fund".

ADMINISTRATIVE PROVISIONS

(INCLUDING TRANSFER OF FUNDS)

Any appropriation for 1989 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" may be transferred to any other of the mentioned appropriations.

Appropriations available to the Veterans Administration for 1989 for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

No part of the appropriations in this Act for the Veterans Administration (except the appropriations for "Construction, major projects" and "Construction, minor projects") shall be available for the purchase of any site for or toward the construction of any new hospital or home.

No part of the foregoing appropriations shall be available for hospitalization or examination of any persons except beneficiaries entitled under the laws bestowing such benefits to veterans, unless reimbursement of cost is made to the appropriation at such rates as may be fixed by the Administrator of Veterans Affairs.

Appropriations available to the Veterans Administration for fiscal year 1989 for "Compensation and pensions", "Readjustment benefits", "Veterans insurance and indemnities", and the "Loan guaranty revolving fund" shall be available for payment of prior year accrued obligations required to be recorded by law against the aforementioned accounts within the last quarter of fiscal year 1988.

TITLE III

CORPORATIONS

Corporations and agencies of the Department of Housing and Urban Development and the Federal Home Loan Bank Board which are subject to the Government Corporation Control Act, as amended, are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Act as may be necessary in carrying out the programs set forth in the budget for 1989 for such corporation or agency except as hereinafter provided: *Provided,* That collections of these corporations and agencies may be used for new loan or mortgage purchase commitments only to the extent expressly provided for in this Act (unless such loans are in support of other forms of assistance provided for in this or prior appropriations Acts), except that this proviso shall not apply to the mortgage insurance or guaranty operations of these corporations, or where

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Loans.

loans or mortgage purchases are necessary to protect the financial interest of the United States Government.

FEDERAL HOME LOAN BANK BOARD

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL HOME LOAN BANK BOARD

Not to exceed a total of $31,942,000 shall be available for administrative expenses of the Federal Home Loan Bank Board for procurement of services as authorized by 5 U.S.C. 3109, and contracts for such services with one organization may be renewed annually, and uniforms or allowances therefor in accordance with law (5 U.S.C. 5901-5902), and said amount shall be derived from funds available to the Federal Home Loan Bank Board, including those in the Federal Home Loan Bank Board revolving fund and receipts of the Board for the current fiscal year, of which not to exceed $800,000 shall be available for purposes of training State examiners and not to exceed $1,500 shall be available for official reception and representation expenses: *Provided,* That members and alternates of the Federal Savings and Loan Advisory Council may be compensated subject to the provisions of section 7 of the Federal Advisory Committee Act, and shall be entitled to reimbursement from the Board for transportation expenses incurred in attendance at meetings of or concerned with the work of such Council and may be paid in lieu of subsistence per diem not to exceed the dollar amount set forth in 5 U.S.C. 5703: *Provided further,* That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the expenses and other obligations of the Board shall be incurred, allowed, and paid in accordance with the provisions of the Federal Home Loan Bank Act of 1932, as amended (12 U.S.C. 1421-1449).

12 USC 1428a note.

LIMITATION ON ADMINISTRATIVE EXPENSES, FEDERAL SAVINGS AND LOAN INSURANCE CORPORATION

Not to exceed $1,667,000 shall be available for administrative expenses, which shall be on an accrual basis and shall be exclusive of interest paid, depreciation, properly capitalized expenditures, expenses in connection with liquidation of insured institutions or activities relating to sections 406(c), 407, or 408 of the National Housing Act, liquidation or handling of assets of or derived from insured institutions, payment of insurance, and action for or toward the avoidance, termination, or minimizing of losses in the case of insured institutions, legal fees and expenses and payments for expenses of the Federal Home Loan Bank Board determined by said Board to be properly allocable to said Corporation, and said Corporation may utilize and may make payments for services and facilities of the Federal home loan banks, the Federal Reserve banks, the Federal Home Loan Bank Board, the Federal Home Loan Mortgage Corporation, and other agencies of the Government: *Provided,* That, notwithstanding any other provisions of this Act, except for the limitation in amount hereinbefore specified, the administrative expenses and other obligations of said Corporation shall be incurred, allowed, and paid in accordance with title IV of the Act of June 27, 1934, as amended (12 U.S.C. 1724-1730f).

TITLE IV

GENERAL PROVISIONS

SECTION 401. Where appropriations in titles I and II of this Act are expendable for travel expenses and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amounts set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans Administration; to travel performed in connection with major disasters or emergencies declared or determined by the President under the provisions of the Disaster Relief Act of 1974; to site-related travel performed in connection with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended; to site-related travel under the Solid Waste Disposal Act, as amended; or to payments to interagency motor pools where separately set forth in the budget schedules: *Provided further,* That if appropriations in titles I and II exceed the amounts set forth in budget estimates initially submitted for such appropriations, the expenditures for travel may correspondingly exceed the amounts therefor set forth in the estimates in the same proportion.

SEC. 402. Appropriations and funds available for the administrative expenses of the Department of Housing and Urban Development and the Selective Service System shall be available in the current fiscal year for purchase of uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902); hire of passenger motor vehicles; and services as authorized by 5 U.S.C. 3109.

SEC. 403. Funds of the Department of Housing and Urban Development subject to the Government Corporation Control Act or section 402 of the Housing Act of 1950 shall be available, without regard to the limitations on administrative expenses, for legal services on a contract or fee basis, and for utilizing and making payment for services and facilities of Federal National Mortgage Association, Government National Mortgage Association, Federal Home Loan Mortgage Corporation, Federal Financing Bank, Federal Reserve banks or any member thereof, Federal home loan banks, and any insured bank within the meaning of the Federal Deposit Insurance Corporation Act, as amended (12 U.S.C. 1811–1831).

SEC. 404. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 405. No funds appropriated by this Act may be expended—

(1) pursuant to a certification of an officer or employee of the United States unless—

(A) such certification is accompanied by, or is part of, a voucher or abstract which describes the payee or payees and the items or services for which such expenditure is being made, or

(B) the expenditure of funds pursuant to such certification, and without such a voucher or abstract, is specifically authorized by law; and

(2) unless such expenditure is subject to audit by the General Accounting Office or is specifically exempt by law from such audit.

SEC. 406. None of the funds provided in this Act to any department or agency may be expended for the transportation of any officer or employee of such department or agency between his domicile and his place of employment, with the exception of the Secretary of the Department of Housing and Urban Development, who, under title 5, United States Code, section 101, is exempted from such limitation.

SEC. 407. None of the funds provided in this Act may be used for payment, through grants or contracts, to recipients that do not share in the cost of conducting research resulting from proposals not specificially solicited by the Government: *Provided,* That the extent of cost sharing by the recipient shall reflect the mutuality of interest of the grantee or contractor and the Government in the research.

SEC. 408. None of the funds provided in this Act may be used, directly or through grants, to pay or to provide reimbursement for payment of the salary of a consultant (whether retained by the Federal Government or a grantee) at more than the daily equivalent of the maximum rate paid for GS–18, unless specifically authorized by law.

SEC. 409. No part of any appropriation contained in this Act for personnel compensation and benefits shall be available for other object classifications set forth in the budget estimates submitted for the appropriations.

SEC. 410. None of the funds in this Act shall be used to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings. Nothing herein affects the authority of the Consumer Product Safety Commission pursuant to section 7 of the Consumer Product Safety Act (15 U.S.C. 2056 et seq.).

Contracts.
Public information.

SEC. 411. Except as otherwise provided under existing law or under an existing Executive order issued pursuant to an existing law, the obligation or expenditure of any appropriation under this Act for contracts for any consulting service shall be limited to contracts which are (1) a matter of public record and available for public inspection, and (2) thereafter included in a publicly available list of all contracts entered into within twenty-four months prior to the date on which the list is made available to the public and of all contracts on which performance has not been completed by such date. The list required by the preceding sentence shall be updated quarterly and shall include a narrative description of the work to be performed under each such contract.

Contracts.
Reports.

SEC. 412. Except as otherwise provided by law, no part of any appropriation contained in this Act shall be obligated or expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.) for a contract for services unless such executive agency (1) has awarded and entered into such contract in full compliance with such Act and the regulations promulgated thereunder, and (2) requires any report prepared pursuant to such contract, including plans, evaluations, studies, analyses and manuals, and any report prepared by the agency which is substantially derived from or substantially includes any report prepared pursuant to such contract, to contain information concerning (A) the contract pursuant to which the report was prepared, and

(B) the contractor who prepared the report pursuant to such contract.

SEC. 413. Except as otherwise provided in section 406, none of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency.

SEC. 414. None of the funds provided in this Act to any department or agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than 22 miles per gallon.

SEC. 415. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Department of Housing and Urban Development—Independent Agencies Appropriations Act, 1989".

Approved August 19, 1988.

LEGISLATIVE HISTORY—H.R. 4800:

HOUSE REPORTS: No. 100-701 (Comm. on Appropriations) and No. 100-817 (Comm. of Conference).
SENATE REPORTS: No. 100-401 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 22, considered and passed House.
July 12, 13, considered and passed Senate, amended.
Aug. 9, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Aug. 19, Presidential statement.

Public Law 100-405
100th Congress

Joint Resolution

Aug. 19, 1988
[H.J. Res. 525]

To designate the month of November 1988 as "National Hospice Month".

Whereas hospice care has been demonstrated to be a humanitarian way for terminally ill patients to approach the end of their lives in comfort with appropriate, competent, and compassionate care in an environment of personal individuality and dignity;

Whereas hospice advocates care for the patient and family by attending to their physical, emotional, and spiritual needs and, specifically, the pain and grief they experience;

Whereas hospice care is provided by an interdisciplinary team of physicians, nurses, social workers, pharmacists, psychological and spiritual counselors, and other community volunteers trained in the hospice concept of care;

Whereas hospice is rapidly becoming a full partner in the Nation's health care system;

Whereas the recent enactment of a permanent medicare hospice benefit and an optional medicaid hospice benefit makes it possible for many more Americans to have the opportunity to elect to receive hospice care;

Whereas private insurance carriers and employers have recognized the value of hospice care by the inclusion of hospice benefits in health care coverage packages; and

Whereas there remains a great need to increase public awareness of the benefits of hospice care: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1988 is designated as "National Hospice Month". The President is requested to issue a proclamation calling upon all Government agencies, the health care community, appropriate private organizations, and people of the United States to observe the month with appropriate forums, programs, and activities designed to encourage national recognition of and support for hospice care as a humane response to the needs of the terminally ill and as a viable component of the health care system in this country.

Approved August 19, 1988.

LEGISLATIVE HISTORY—H.J. Res. 525 (S.J. Res. 289):

CONGRESSIONAL RECORD, Vol. 134 (1988):
May 11, considered and passed House.
July 26, S.J. Res. 289 considered and passed Senate.
Aug. 9, H.J. Res. 525 considered and passed Senate.

Public Law 100-406
100th Congress

An Act

To establish the Grays Harbor National Wildlife Refuge.

Aug. 19, 1988
[S. 1979]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Birds.
Conservation.
Washington.
16 USC 668dd note.

SECTION 1. FINDINGS.

The Congress finds that—

(1) Grays Harbor, a ninety-four-square-mile estuary on the coast of the State of Washington, is of critical importance to certain migratory shorebirds and waterfowl and provides important habitat for many types of fish and wildlife, including threatened and endangered species;

(2) the area known as Bowerman Basin is a tidal mudflat within the Grays Harbor estuary which attracts hundreds of thousands of migratory shorebirds during spring and fall migrations as well as peregrine falcons and other raptors;

(3) the Bowerman Basin provides extraordinary recreational, research, and educational opportunities for students, scientists, birdwatchers, nature photographers, the physically handicapped, and others;

(4) the Bowerman Basin is an internationally significant environmental resource that is unprotected and may require active management to prevent vegetative encroachment and to otherwise protect and enhance its habitat values; and

(5) the Bowerman Basin has been identified in the Grays Harbor Estuary Management Plan, prepared by Grays Harbor Regional Planning Commission, as an area deserving permanent protection.

SEC. 2. PURPOSES.

The purposes for which the Grays Harbor National Wildlife Refuge is established and shall be managed for include—

(1) to conserve fish and wildlife populations and their habitats, including but not limited to those of western sandpiper, dunlin, red knot, long-billed dowitcher, short-billed dowitcher, other shorebirds, and other migratory birds, including birds of prey; Fish and fishing.

(2) to fulfill international treaty obligations of the United States with regard to fish and wildlife and their habitats; International agreements.

(3) to conserve those species known to be threatened with extinction; and

(4) to provide an opportunity, consistent with the purposes set forth in paragraphs (1), (2), and (3), for wildlife-oriented recreation, education, and research.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "refuge" means the Grays Harbor National Wildlife Refuge.

(2) The term "lands and waters" includes interests in lands and waters.

(3) The term "Secretary" means the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service.

Real property. Water.

SEC. 4. ESTABLISHMENT OF REFUGE.

(a)(1) The Secretary is authorized and directed to establish, as herein provided, a national wildlife refuge to be known as the Grays Harbor National Wildlife Refuge.

(2) There shall be included within the boundaries of the refuge those lands, marshes, tidal flats, submerged lands, and open waters in the State of Washington generally depicted on a map entitled "Grays Harbor National Wildlife Refuge", dated December, 1987, which comprise approximately one thousand eight hundred acres.

Public information.

(3) Said boundary map shall be on file and available for public inspection in the office of the Director of the Fish and Wildlife Service, Department of the Interior, and in appropriate offices of the Fish and Wildlife Service in the State of Washington.

(b) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries designated under subsection (a) as may be necessary to carry out the purposes of the refuge and to facilitate the acquisition of property within the refuge.

(c) ACQUISITION.—(1) The Secretary shall, not later than the 3rd anniversary of the effective date of this Act, acquire by transfer or purchase, or both, the approximately one thousand seven hundred eleven acres of lands and waters owned by the Port of Grays Harbor within the refuge and identified as Management Unit 12, Area 1, in the Grays Harbor Estuary Management Plan.

(2) The appropriate Federal agencies may consider the transfer of any lands and waters to the Secretary under paragraph (c)(1) as compensation to satisfy, in whole or in part, obligations resulting from water-dependent activities by the Port of Grays Harbor under section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344): *Provided,* That there are no practicable alternatives to such water-dependent activities which would have less adverse impact on the aquatic ecosystem: *Provided further,* That appropriate and practicable steps have been taken which will minimize, rectify, and reduce adverse impacts to the aquatic ecosystem from those water-dependent activities which can not be avoided.

(3) The Secretary is authorized to acquire up to sixty-eight acres of lands and waters owned by the city of Hoquiam within the boundaries of the Refuge, and to compensate the lessees on such lands and waters for improvements and relocation costs.

SEC. 5. ADMINISTRATION.

Real property. Water.

(a) GENERAL ADMINISTRATIVE AUTHORITY.—The Secretary shall administer all lands, waters, and interests therein, acquired under section 4 in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1966 (16 U.S.C. 668dd–668ee).

Recreation. Education.

(b) OTHER AUTHORITY.—Consistent with the provisions of section 5(a) of this Act, the Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of fish, wildlife, and natural resources, the development of outdoor recreation opportunities, and interpretative education as he considers appropriate to carry out the purposes of the refuge.

(c) MANAGEMENT PLAN.—Within eighteen months after the effective date of this Act, the Secretary shall prepare a management plan for the development and operation of the refuge which shall include—

(1) the construction of a visitor center suitable for year-round use with special emphasis in interpretative education and research; Education. Research and development.

(2) viewpoints, boardwalks, and access;

(3) parking and other necessary facilities; and

(4) a comprehensive plan setting forth refuge management priorities and strategies.

The Secretary shall provide opportunity for public participation in developing the management plan.

SEC. 6. AUTHORIZATION OF APPROPRIATION.

There are authorized to be appropriated to the Department of the Interior—

(1) such sums as may be necessary for the acquisition of the lands and waters referred to in section 4(c)(1).

(2) not to exceed $2,500,000 to carry out other provisions of this Act.

SEC. 7. REFUGE DEVELOPMENT FUND. Gifts and property.

The Director of the United States Fish and Wildlife Service shall, upon enactment of this Act, promptly request that the National Fish and Wildlife Foundation created by Public Law 98-244 take those measures that the Foundation deems appropriate to encourage, accept, and administer private gifts of property to further the purposes of this Act. The Secretary shall, in preparing the management plan required by section 5(c), give special consideration to means by which the participation and contributions of local public and private entities in developing and implementing such plan can be encouraged.

SEC. 8. EFFECTIVE DATE.

This Act shall take effect on the date of enactment of this Act, or January 1, 1988, whichever date occurs later.

Approved August 19, 1988.

LEGISLATIVE HISTORY—S. 1979:

SENATE REPORTS: No. 100-403 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 7, considered and passed Senate.
Aug. 8, considered and passed House.

Public Law 100-407
100th Congress

An Act

Aug. 19, 1988
[S. 2561]

To establish a program of grants to States to promote the provision of technology-related assistance to individuals with disabilities, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Technology-Related Assistance for Individuals With Disabilities Act of 1988.
29 USC 2201 note.
29 USC 2201.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Technology-Related Assistance for Individuals With Disabilities Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings:

(1) During the past decade, there have been major advances in modern technology. Technology is now a powerful force in the lives of most residents of the United States.

(2) For all individuals, technology can provide important tools for making the performance of tasks quicker and easier.

(3) For some individuals with disabilities, assistive technology is a necessity that enables them to engage in or perform many tasks. The provision of assistive technology devices and assistive technology services enables some individuals with disabilities to—

(A) have greater control over their own lives;

(B) participate in and contribute more fully to activities in their home, school, and work environments, and in their communities;

(C) interact to a greater extent with nondisabled individuals; and

(D) otherwise benefit from opportunities that are taken for granted by individuals who do not have disabilities.

(4) Although the development of assistive technology devices designed to assist individuals with disabilities is still in its early stages, there already exist a substantial number of assistive technology devices, including simple adaptations to existing equipment, that could significantly benefit, in all major life activities, individuals of all ages with disabilities. Such devices, including adaptations, could be used in programs and activities such as early intervention, education, rehabilitation and training, employment, residential living, independent living, recreation, and other aspects of daily living.

(5) The use of assistive technology devices and services by individuals with disabilities can reduce the costs of the disabilities to society, individuals with disabilities, and families of individuals with disabilities by reducing expenditures associated with early intervention, education, rehabilitation, health care, transportation, telecommunication services, and other services required by individuals with disabilities.

(6) Many individuals with disabilities do not have access to the assistive technology devices and assistive technology serv-

ices that such individuals need to allow such individuals to function in society commensurate with their abilities. States do not have comprehensive programs for making available technology-related assistance to individuals with disabilities. There is a lack of—

(A) resources to pay for such devices and services;

(B) trained personnel to provide such devices and services and to assist individuals with disabilities to use such devices and services;

(C) information about the potential of technology available to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals;

(D) coordination among existing State human services programs, and among such programs and private agencies, particularly with respect to transitions between such programs and agencies; and

(E) capacity of such programs to provide the necessary technology-related assistance.

(7) There are insufficient incentives for the commercial pursuit of the application of technology devices to meet the needs of individuals with disabilities, because of limited markets.

(8) At the Federal level, there is a lack of coordination among agencies that provide or pay for the provision of assistive technology devices and assistive technology services. Also, the Federal Government does not provide adequate assistance and information with respect to the use of assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To provide financial assistance to the States to help each State to develop and implement a consumer-responsive statewide program of technology-related assistance for individuals of all ages with disabilities that is designed to—

(A) increase awareness of the needs of individuals with disabilities for assistive technology devices and assistive technology services;

(B) increase awareness of policies, practices, and procedures that facilitate or impede the availability or provision of assistive technology devices and assistive technology services;

(C) increase the availability of and funding for the provision of assistive technology devices and assistive technology services for individuals with disabilities;

(D) increase awareness and knowledge of the efficacy of assistive technology devices and assistive technology services among individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals;

(E) increase the capacity of public and private entities to provide technology-related assistance, particularly assistive technology devices and assistive technology services, and to pay for the provision of assistive technology devices and assistive technology services;

(F) increase coordination among State agencies and public and private entities that provide technology-related assistance, particularly assistive technology devices and assistive technology services; and

(G) increase the probability that individuals of all ages with disabilities will, to the extent appropriate, be able to secure and maintain possession of assistive technology devices as such individuals make the transition between services offered by human service agencies or between settings of daily living.

(2) To facilitate—

(A) the identification of Federal policies that facilitate payment for assistive technology devices and assistive technology services for individuals with disabilities;

(B) the identification of Federal policies that impede such payment; and

(C) the elimination of inappropriate barriers to such payment.

(3) To enhance the ability of the Federal Government to provide the States with—

(A) technical assistance, information, and training and public awareness programs relating to the provision of assistive technology devices and assistive technology services; and

(B) funding for model demonstration and innovation projects.

29 USC 2202.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) ASSISTIVE TECHNOLOGY DEVICE.—The term "assistive technology device" means any item, piece of equipment, or product system, whether acquired commercially off the shelf, modified, or customized, that is used to increase, maintain, or improve functional capabilities of individuals with disabilities.

(2) ASSISTIVE TECHNOLOGY SERVICE.—The term "assistive technology service" means any service that directly assists an individual with a disability in the selection, acquisition, or use of an assistive technology device. Such term includes—

(A) the evaluation of the needs of an individual with a disability, including a functional evaluation of the individual in the individual's customary environment;

(B) purchasing, leasing, or otherwise providing for the acquisition of assistive technology devices by individuals with disabilities;

(C) selecting, designing, fitting, customizing, adapting, applying, maintaining, repairing, or replacing of assistive technology devices;

(D) coordinating and using other therapies, interventions, or services with assistive technology devices, such as those associated with existing education and rehabilitation plans and programs;

(E) training or technical assistance for an individual with disabilities, or, where appropriate, the family of an individual with disabilities; and

(F) training or technical assistance for professionals (including individuals providing education and rehabilitation services), employers, or other individuals who provide services to, employ, or are otherwise substantially involved in the major life functions of individuals with disabilities.

(3) INDIVIDUAL WITH DISABILITIES.—The term "individual with disabilities" means any individual—

(A) who is considered to have a disability or handicap for the purposes of any Federal law other than this Act or for the purposes of the law of the State in which the individual resides; and

(B) who is or would be enabled by assistive technology devices or assistive technology services to maintain a level of functioning or to achieve a greater level of functioning in any major life activity.

(4) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 435(b) of the Higher Education Act of 1965, and includes community colleges receiving funding under the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1801 et seq.).

(5) SECRETARY.—The term "Secretary" means the Secretary of Education.

(6) STATE.—Except as otherwise provided, the term "State" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(7) TECHNOLOGY-RELATED ASSISTANCE.—The term "technology-related assistance" means functions performed and activities carried out under section 101 that accomplish the purposes described in section 2(b)(1).

(8) UNDERSERVED GROUP.—The term "underserved group" means any group of individuals with disabilities who, because of disability, place of residence, geographic location, age, race, sex, or socioeconomic status, have not historically sought, been eligible for, or received technology-related assistance.

TITLE I—GRANTS TO STATES

SEC. 101. PROGRAM AUTHORIZED. 29 USC 2211.

(a) GRANTS TO STATES.—The Secretary of Education shall make grants to States in accordance with the provisions of this title to assist States to develop and implement consumer-responsive comprehensive statewide programs of technology-related assistance that accomplish the purposes described in section 2(b)(1).

(b) FUNCTIONS OF PROGRAMS.—Any State that receives a grant under this title may accomplish the purposes described in section 2(b)(1) by carrying out any of the following functions:

(1) IDENTIFICATION AND NEEDS ASSESSMENT.—Identification of individuals with disabilities (including individuals from underserved groups) who reside in the State and the conduct of an

ongoing evaluation of the needs of such individuals for technology-related assistance, which may be based on existing data.

Contracts.

(2) IDENTIFICATION AND COORDINATION OF RESOURCES.—Identification and coordination of Federal and State policies, resources, and services relating to the provision of assistive technology devices and assistive technology services to individuals with disabilities, including entering into interagency agreements.

(3) PROVISION OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES.—Provision of assistive technology devices and assistive technology services to individuals with disabilities and payment for the provision of assistive technology devices and assistive technology services.

(4) DISSEMINATION OF INFORMATION.—Dissemination of information relating to technology-related assistance and sources of funding for assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(5) TRAINING AND TECHNICAL ASSISTANCE.—Provision of training and technical assistance relating to assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(6) PUBLIC AWARENESS PROGRAM.—Conduct of a public awareness program focusing on the efficacy and availability of assistive technology devices and assistive technology services for individuals with disabilities.

(7) ASSISTANCE TO STATEWIDE AND COMMUNITY-BASED ORGANIZATIONS.—Provision of assistance to statewide and community-based organizations or systems that provide assistive technology services to individuals with disabilities.

(8) PARTNERSHIPS AND COOPERATIVE INITIATIVES.—Support of the establishment or continuation of partnerships and cooperative initiatives between the public sector and the private sector to facilitate the development and implementation of a statewide program of technology-related assistance for individuals with disabilities.

(9) QUALIFICATIONS OF STAFF.—Taking actions to develop standards, or where appropriate, apply existing standards to ensure the availability of qualified personnel.

(10) PROGRAM DATA.—Compilation and evaluation of appropriate data relating to the program.

(11) PROCEDURES FOR INVOLVEMENT OF CONCERNED INDIVIDUALS.—The establishment of procedures providing for the active involvement of individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals in the development and implementation of the program, and for the active involvement, to the maximum extent appropriate, of individuals with disabilities who use assistive technology devices and assistive technology services in decisions

relating to such assistive technology devices and assistive technology services.

(12) OTHER FUNCTIONS.—Any other functions the Secretary considers appropriate.

(c) AUTHORIZED ACTIVITIES.—In carrying out the functions described in subsection (b), any State may use amounts made available to the State under a grant under this title for activities including the following:

(1) MODEL DELIVERY SYSTEMS.—The State may support model systems for the delivery of assistive technology devices and assistive technology services to individuals with disabilities that if successful could be replicated or made generally applicable. Any such system may include—

(A) the purchase, lease, or other acquisition of assistive technology devices and assistive technology services or payment for the provision of assistive technology devices and assistive technology services;

(B) the use of counselors, including peer counselors, to assist individuals with disabilities and the families of individuals with disabilities to obtain assistive technology devices and assistive technology services;

(C) the involvement of individuals with disabilities or, if appropriate, families or representatives of individuals with disabilities in decisions related to the provision of assistive technology devices and assistive technology services to individuals with disabilities; and

(D) the evaluation of the efficacy of the particular model delivery system involved.

(2) STATEWIDE NEEDS ASSESSMENT.—The State may conduct a statewide needs assessment, which may be based on existing data and may include—

(A) estimates of the numbers of individuals with disabilities within the State, categorized by residence, type and extent of disabilities, age, race, gender, and ethnicity;

(B) a description of efforts during the fiscal year ending before the date of the enactment of this Act to provide assistive technology devices and assistive technology services to individuals with disabilities within the State, including—

(i) the number of individuals with disabilities who received appropriate assistive technology devices and assistive technology services; and

(ii) a description of the devices and services provided;

(C) the number of individuals with disabilities who are in need of assistive technology devices and assistive technology services, and a description of the devices and services needed;

(D) the cost of providing assistive technology devices and assistive technology services to all individuals with disabilities within the State who need such devices and services;

(E) a description of State and local public resources and private resources (including insurance) that are available to establish a statewide program of technology-related assistance for individuals with disabilities;

(F) the identification of State and Federal policies that facilitate or interfere with the operation of a statewide program of technology-related assistance;

Loans.

(G) a description of—

(i) alternative State-financed systems of subsidies for the provision of assistive technology devices and assistive technology services, including—

(I) a loan system for assistive technology devices;

(II) a low-interest loan fund;

(III) a revolving fund;

(IV) a loan insurance program; and

(V) a partnership with private entities for the purchase, lease, or other acquisition of assistive technology devices or the provision of assistive technology services; and

(ii) a description of the eligibility criteria for such a system;

(H) a description of the State's procurement policies and the extent to which such policies will ensure, to the extent practicable, that assistive technology devices purchased, leased, or otherwise acquired with assistance under a grant under this title are compatible with other technology devices, including technology devices designed primarily for use by individuals without disabilities, elderly individuals, or individuals with particular disabilities; and

Insurance.

(I) an inquiry into whether it is advantageous for either a State agency or a task force (composed of individuals representing the State and individuals representing the private sector) to study the practices of private insurance companies holding licenses within the State that offer health or disability insurance policies under which an individual may obtain reimbursement for—

(i) the purchase, lease, or other acquisition of assistive technology devices; or

(ii) the use of assistive technology services.

(3) SUPPORT GROUPS.—The State may encourage the creation or maintenance of statewide or community-based organizations or systems that assist individuals with disabilities to use assistive technology devices or assistive technology services, or support any existing organization or system that provides such assistance.

(4) PUBLIC AWARENESS PROGRAM.—The State may support a public awareness program designed to provide information relating to the availability and efficacy of assistive technology devices and assistive technology services for individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals, or may establish and support such a program if no such program exists. Such a program may include—

(A) the development and dissemination of information relating to—

(i) the nature of assistive technology devices and assistive technology services;

(ii) the appropriateness, cost, and availability of, and access to assistive technology devices and assistive technology services; and

(iii) the efficacy of assistive technology devices and assistive technology services with respect to enhancing the capacity of individuals with disabilities;

(B) procedures for providing direct communication between public providers of assistive technology devices and assistive technology services and private providers of such devices and services (including employers); and

(C) the development and dissemination of information relating to—

(i) use of the program by individuals with disabilities, families or representatives of individuals with disabilities, and professionals who work in the field of technology-related assistance, and other appropriate individuals; and

(ii) the nature of the inquiries made by the individuals described in clause (i).

(5) TRAINING AND TECHNICAL ASSISTANCE.—The State may provide directly or support public or private training and technical assistance activities relating to the use of assistive technology devices and assistive technology services to individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(6) ACCESS TO TECHNOLOGY-RELATED INFORMATION.—The State may develop, operate, or expand a system for public access to information concerning technology-related assistance, including information about assistive technology devices and assistive technology services, funding sources, costs, and individuals, organizations, and agencies capable of providing technology-related assistance to individuals with disabilities. In developing, operating, or expanding a system described in the preceding sentence, the State may—

(A) develop, compile, and categorize print, braille, audio, and video materials containing the information described in such sentence;

(B) identify and classify existing funding sources, conditions of and criteria for access to such sources, including any funding mechanisms or strategies developed by the State;

(C) identify existing support groups and systems designed to help individuals with disabilities make effective use of technology-related assistance; and

(D) maintain a record of the extent to which citizens of the State use or make inquiries of the system established under this paragraph, and of the nature of such inquiries. Records.

(7) INTERSTATE AGREEMENTS.—The State may enter into cooperative agreements with other States to expand the capacity of the States involved to assist individuals of all ages with disabilities to learn about, acquire, use, maintain, adapt, and upgrade assistive technology devices and assistive technology services that such individuals need at home, school, work, or in other environments that are part of daily living.

(8) OTHER ACTIVITIES.—The State may utilize amounts made available under grants made under this title for any other

activities necessary for developing, implementing, or evaluating the statewide program of technology-related assistance.

29 USC 2212.

SEC. 102. DEVELOPMENT GRANTS.

(a) GENERAL AUTHORITY.—The Secretary shall award to States 3-year grants to assist States to develop and implement statewide programs of technology-related assistance for individuals with disabilities in accordance with the provisions of section 101.

(b) NUMBER OF GRANTS TO BE AWARDED.—From amounts appropriated under section 106, the Secretary shall award under this section, to the extent appropriate applications are submitted—

(1) in the first fiscal year for which amounts are appropriated, not more than 10 grants on a competitive basis;

(2) in the second fiscal year for which amounts are appropriated, not more than 20 grants on a competitive basis; and

(3) in the third fiscal year for which amounts are appropriated, any number of grants on a competitive basis.

(c) AMOUNTS OF GRANTS.—

(1) GRANTS TO STATES.—From amounts appropriated under section 106, the Secretary shall pay to each State that receives a grant under this section—

(A) for each of the first 2 years of the grant period, an amount that is not less than $500,000 and not more than $1,000,000; and

(B) for the third year of the grant period, an amount that is not less than $500,000 and not more than $1,500,000.

(2) GRANTS TO TERRITORIES.—From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section not more than $150,000.

(3) CALCULATION OF AMOUNTS.—The Secretary shall calculate the amounts described in paragraphs (1) and (2) on the basis of—

(A) amounts available for making grants under this section;

(B) the population of the State or territory concerned; and

(C) the types of activities proposed by the State relating to the development of a statewide program of technology-related assistance.

(4) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated for purposes of carrying out the provisions of this section in each of the 2 fiscal years succeeding the fiscal year in which amounts are first appropriated for such purposes shall first be made available to States that received grants under this section during the fiscal year preceding the fiscal year concerned.

(5) DEFINITIONS.—For purposes of this subsection:

(A) The term "State" does not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(B) The term "territory" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(d) PRIORITIES FOR DISTRIBUTION.—To the extent practicable, the Secretary shall award grants to States under this section in a manner that—

(1) is geographically equitable; and

(2) distributes the grants among States that have differing levels of development of statewide programs of technology-related assistance.

(e) APPLICATIONS.—Any State that desires to receive a grant under this section shall submit an application that contains the following information and assurances:

(1) DESIGNATION OF RESPONSIBLE ENTITY.—The designation by the Governor of the office, agency, entity, or individual responsible for—

(A) preparing the application;

(B) administering and supervising the use of amounts made available under the grant;

(C) planning and developing the statewide program of technology-related assistance;

(D) coordination between public and private agencies, including the entering into of interagency agreements;

(E) ensuring active, timely, and meaningful participation by individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals with respect to performing functions and carrying out activities under the grant; and

(F) the delegation of any responsibilities described above, in whole or in part, to one or more appropriate offices, agencies, entities, or individuals.

(2) AGENCY INVOLVEMENT.—A description of the nature and extent of involvement of various State agencies in the preparation of the application and the continuing role of such agencies in the development of the statewide program of technology-related assistance.

(3) PUBLIC INVOLVEMENT.—A description of the nature and extent of involvement of individuals with disabilities, the families or representatives of such individuals, and other appropriate individuals who are not employed by a State agency in the development of the application and the continuing role of such individuals in the development of the statewide program of technology-related assistance.

(4) PRELIMINARY NEEDS ASSESSMENT.—A tentative assessment of the extent of the need of individuals with disabilities in the State, including individuals from underserved groups, for a statewide program of technology-related assistance and a description of previous efforts and efforts continuing on the date of the application to develop a statewide program of technology-related assistance.

(5) STATE RESOURCES.—A description of State resources and other resources (to the extent such information is available) that are available to commit to the development of a statewide program of technology-related assistance.

(6) GOALS, OBJECTIVES, FUNCTIONS, ACTIVITIES, AND OUTCOMES.—The State's goals, objectives, functions, and activities planned under the grant, and the expected outcomes at the end of the grant period with respect to a consumer-responsive statewide program of technology-related assistance, consistent with the purposes described in section 2(b)(1).

(7) INFORMATION AND EVALUATIONS.—A description of—

(A) procedures used for compiling information; and

(B) procedures that will be used to conduct evaluations.

(8) STATE POLICIES WITH RESPECT TO CONTRACTS AND AGREEMENTS.—A description of the policies governing contracts, grants, and other arrangements with public agencies, private nonprofit organizations, and other entities or individuals for the purpose of providing assistive technology devices and assistive technology services consistent with the provisions of this title.

(9) DISTRIBUTION PROCEDURE.—An assurance that, to the extent practicable, technology-related assistance made available with amounts received under the grant will be equitably distributed among all geographical areas of the State.

(10) COMPLIANCE WITH ACT.—An assurance that amounts received under the grant will be expended in accordance with the provisions of this title.

(11) SUPPLEMENT OTHER FUNDS.—An assurance that amounts received under the grant—

(A) will be used to supplement amounts available from other sources that are expended for technology-related assistance, including the provision of assistive technology devices and assistive technology services; and

(B) will not be used to pay a financial obligation for technology-related assistance (including the provision of assistive technology devices or assistive technology services) that would have been paid with amounts available from other sources if amounts under the grant had not been available, unless—

(i) such payment is made only to prevent a delay in the receipt of appropriate technology-related assistance (including the provision of assistive technology devices or assistive technology services) by an individual with disabilities; and

(ii) the entity or agency responsible subsequently reimburses the appropriate account with respect to programs and activities under the grant in an amount equal to the amount of the payment.

(12) CONTROL OF FUNDS AND PROPERTY.—An assurance that—

(A) a public agency shall control and administer amounts received under the grant; and

(B) a public agency or an individual with disabilities shall—

(i) hold title to property purchased with such amounts; and

(ii) administer such property.

(13) REPORTS.—An assurance that the State will—

(A) prepare reports to the Secretary in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this title; and

Records.

(B) keep such records and allow access to such records as the Secretary may require to ensure the correctness and verification of information provided to the Secretary under this paragraph.

(14) COMMINGLING OF FUNDS.—An assurance that amounts received under the grant will not be commingled with State or other funds.

(15) FISCAL CONTROL AND ACCOUNTING PROCEDURES.—An assurance that the State will adopt such fiscal control and accounting procedures as may be necessary to ensure proper disbursement of and accounting for amounts received under the grant.

(16) AVAILABILITY OF INFORMATION.—An assurance that the State will—

(A) make available to individuals with disabilities and the families or representatives of individuals with disabilities information concerning technology-related assistance in a form that will allow such individuals to effectively use such information; and

(B) in preparing such information for dissemination, consider the media-related needs of individuals with disabilities who have sensory and cognitive limitations and consider the use of auditory materials, including audio cassettes, visual materials, including video cassettes and video discs, and braille materials.

(17) OTHER INFORMATION.—Such other information and assurances as the Secretary may reasonably require.

SEC. 103. EXTENSION GRANTS. 29 USC 2213.

(a) GENERAL AUTHORITY.—The Secretary may award a 2-year extension grant to any State that demonstrates to the Secretary that the State made significant progress in developing and implementing a statewide program of technology-related assistance under a grant provided under section 102, consistent with the requirements of such section and the purposes described in section 2(b)(1).

(b) AMOUNTS OF GRANTS.—

(1) IN GENERAL.—(A) From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each State that receives a grant under this section an amount that is not less than $500,000 and not more than $1,500,000.

(B) From amounts appropriated under section 106 for any fiscal year, the Secretary shall pay to each territory that receives a grant under this section not more than $150,000.

(C) For purposes of this paragraph:

(i) The term "State" does not include the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, or the Trust Territory of the Pacific Islands.

(ii) The term "territory" means the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(2) CALCULATION OF AMOUNT.—The Secretary shall calculate the amount described in paragraph (1) on the basis of—

(A) amounts available for making grants pursuant to this section;

(B) the population of the State;

(C) the types of assistance to be provided; and

(D) the amount of resources committed and available from other sources.

(3) PRIORITY FOR PREVIOUSLY PARTICIPATING STATES.—Amounts appropriated in any fiscal year for purposes of carrying out the provisions of this section shall first be made available to States

that received grants under this section during the fiscal year preceding the fiscal year concerned.

(c) APPLICATION.—A State that desires to receive an extension grant under this section shall submit an application that contains the following:

(1) NEEDS.—A description of needs relating to technology-related assistance of individuals with disabilities, including individuals from underserved groups, families or representatives of individuals with disabilities, and other appropriate individuals within the State.

(2) ACTIVITIES UNDER DEVELOPMENT GRANT.—A description of the specific activities carried out under the development grant received under section 102 and the relationship of such activities to the development of a statewide program of technology-related assistance.

(3) PROGRESS.—Documentation of the progress made under the development grant toward development of a statewide program of technology-related assistance.

(4) PUBLIC INVOLVEMENT.—A description of State actions designed to determine the degree of satisfaction of individuals with disabilities, families or representatives of individuals with disabilities, public and private service providers, employers, and other appropriate individuals with—

(A) the degree of their ongoing involvement in the development and implementation of the statewide program of technology-related assistance;

(B) the specific activities carried out by the State under the development grant; and

(C) progress made toward development and implementation of a consumer-responsive statewide program of technology-related assistance under the development grant.

(5) COMMENTS.—A summary of any comments received concerning the issues described in paragraph (4) and the State's response to such comments, solicited from individuals affected by the statewide program of technology-related assistance, including individuals with disabilities, families or representatives of individuals with disabilities, public and private service providers, employers, and other appropriate individuals.

(6) OTHER INFORMATION AND ASSURANCES.—The information and assurances described in section 102(e), except the preliminary needs assessment described in section 102(e)(4).

(7) COMPATIBILITY AND ACCESSIBILITY OF ELECTRONIC EQUIPMENT.—An assurance that the State will comply with guidelines established under section 508 of the Rehabilitation Act of 1973.

29 USC 2214.

SEC. 104. PROGRESS REPORTS.

(a) IN GENERAL.—Each State that receives a grant under this title shall submit to the Secretary annually a report that describes—

(1) completed activities carried out under the grant, especially with regard to section 102(e)(6), including, to the extent appropriate, a description of the impact of such activities on individuals with disabilities, public agencies, financial resources committed to technology-related assistance for individuals with disabilities, community-based organizations, and employers;

(2) unanticipated problems encountered in carrying out such activities;

(3) activities planned to rectify such problems in the following year.

(b) SPECIFIC REQUIREMENTS FOR REPORTS WITH RESPECT TO EXTENSION GRANTS.—Each State that receives a development grant under section 102 may include, and each State that receives an extension grant under section 103 shall include in the report required by subsection (a) a description of—

(1) the types of assistance provided under the grant and the effects of such assistance, especially with respect to individuals with disabilities;

(2) the types of environments in which assistance was provided under the grant; and

(3) how the information required by this subsection was derived.

SEC. 105. ADMINISTRATIVE PROVISIONS. 29 USC 2215.

(a) REVIEW OF PARTICIPATING STATES.—

(1) IN GENERAL.—The Secretary shall establish a system to assess the extent to which States that receive grants pursuant to this title are making significant progress in achieving the purposes of this title.

(2) ONSITE VISITS.—(A) The Secretary shall conduct an onsite visit during the final year of each State's participation in the development grant program. Two-thirds of the onsite monitoring team in each case shall be qualified peer reviewers from other participating States.

(B)(i) Members of any onsite monitoring team who are officers or full-time employees of the United States shall serve without compensation in addition to that received for their services as officers or employees of the United States, but they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5702 of title 5, United States Code, for individuals in the Government service traveling on official business. Wages.

(ii) Members of any onsite monitoring team who are not officers or full-time employees of the United States shall receive compensation at a rate not to exceed the daily equivalent of the pay rate specified for GS–18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including traveltime) during which such members are engaged in the actual performance of their duties as members of an onsite monitoring team. In addition, such members may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for individuals in the Government service employed intermittently.

(3) MINIMUM REQUIREMENTS.—At a minimum the visits shall allow the Secretary to determine the extent to which the State is making significant progress in developing a statewide program of technology-related assistance consistent with the purposes described in section 2(b)(1).

(4) PROVISION OF INFORMATION.—To assist the Secretary in carrying out the responsibilities of the Secretary under this section, the Secretary may require States to provide relevant information.

(b) CORRECTIVE ACTION PLAN.—

(1) IN GENERAL.—Any State that fails to comply with the requirements of this title shall be subject to a corrective action plan.

(2) PENALTIES.—A State that fails to comply with the requirements of this title may be subject to penalties such as—

(A) partial or complete fund termination;

(B) ineligibility to participate in the grant program in the following year; or

(C) reduction in funding for the following year.

(3) APPEALS PROCEDURES.—The Secretary shall establish appeals procedures for States that are found in noncompliance with the provisions of this title as the result of an onsite visit or failure to supply information required under subsection (a)(4).

(c) EFFECT ON OTHER ASSISTANCE.—Nothing in this title shall be construed to permit the State or any Federal agency to reduce medical or other assistance available or to alter eligibility under—

(1) title II, V, XVI, XVIII, XIX, or XX of the Social Security Act;

(2) the Education of the Handicapped Act;

(3) the Rehabilitation Act of 1973; or

(4) laws relating to veterans' benefits.

29 USC 2216.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There are authorized to be appropriated to carry out this title $9,000,000 for the fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year ending before October 1, 1993.

(b) RESERVATION.—

(1) PROVISION OF INFORMATION.—The Secretary shall reserve 1 percent of funds appropriated in any fiscal year under subsection (a), or $500,000, whichever is greater, for the purpose of providing States with information and technical assistance with respect to the development and implementation of consumer-responsive statewide programs of technology-related assistance.

(2) ONSITE VISITS.—The Secretary may reserve from amounts appropriated in any fiscal year under subsection (a) such sums as the Secretary considers necessary for the purposes of conducting onsite visits as required by section 105(a)(2).

29 USC 2217.

SEC. 107. EVALUATION.

(a) EVALUATION.—

Contracts.

(1) IN GENERAL.—The Secretary, directly or by contract, shall conduct a national evaluation of the program of grants to States authorized by this title.

(2) REPORT TO CONGRESS.—The Secretary shall report to the Congress on the results of the evaluation conducted as required by paragraph (1) not later than October 1, 1992.

(b) PURPOSE.—The purpose of the evaluation required by subsection (a) shall be—

(1) to assess, through representative samples, the status and effects of State efforts to develop statewide programs of technology-related assistance for individuals with disabilities in a manner consistent with the provisions of this title, particularly in terms of the impact of such efforts on individuals with disabilities; and

(2) to recommend amendments to this title that the Secretary considers necessary to assist States to fully accomplish the purposes of this title.

(c) INFORMATION SYSTEM.—The Secretary shall work with the States to consider and develop an information system designed to report and compile, from information provided by the States, a qualitative and quantitative description of the impact of the program of grants to States authorized by this title on—

(1) the lives of individuals with disabilities, particularly with regard to the purposes described in section 2(a)(3);

(2) public agencies;

(3) fiscal resources committed to technology-related assistance for individuals with disabilities;

(4) community-based organizations; and

(5) employers.

TITLE II—PROGRAMS OF NATIONAL SIGNIFICANCE

PART A—STUDY ON FINANCING OF ASSISTIVE TECHNOLOGY DEVICES AND ASSISTIVE TECHNOLOGY SERVICES FOR INDIVIDUALS WITH DISABILITIES

SEC. 201. STUDY BY NATIONAL COUNCIL ON THE HANDICAPPED.

29 USC 2231.

(a) STUDY AND RECOMMENDATIONS.—The National Council on the Handicapped (hereafter in this part referred to as the "Council"), in addition to the duties of the Council described in section 401 of the Rehabilitation Act of 1973, shall conduct a study and make recommendations to the Congress and the President concerning—

(1) Federal laws, regulations, procedures, and practices that facilitate or impede the ability of the States to develop and implement consumer-responsive statewide programs of technology-related assistance for individuals with disabilities;

(2) Federal and State laws, regulations, procedures, and practices that facilitate or impede the acquisition of, financing of, or payment for assistive technology devices and assistive technology services for individuals with disabilities;

(3) policies, practices, and procedures of private entities (including insurers) that facilitate or impede the acquisition of, financing of, or payment for assistive technology devices and assistive technology services for individuals with disabilities; and

(4) alternative strategies for acquiring or paying for assistive technology devices and assistive technology services.

(b) ADVISORY COMMITTEE.—The Council shall appoint an advisory committee in accordance with section 404(c) of the Rehabilitation Act of 1973 to assist the Council in carrying out the duties of the Council under this part. Such advisory committee shall be appointed from individuals from both the public and private sectors who have broad experience and expertise directly relevant to the issues to be studied by the Council under this part, and shall also include individuals with disabilities, families of individuals with disabilities,

and representatives of organizations representing individuals with disabilities.

(c) COOPERATION OF OTHER AGENCIES.—

(1) FEDERAL AGENCIES.—The heads of all Federal agencies shall, to the extent not prohibited by law, cooperate with the Council in carrying out the duties of the Council under this part.

(2) USE OF RESOURCES OF FEDERAL, STATE, AND LOCAL AGENCIES.—The Council may use in carrying out its duties under this part, with the consent of the agency involved, services, personnel, information, and facilities of other Federal, State, local, and private agencies, with or without reimbursement.

(d) REPORTS.—The Council shall submit to the President and to the appropriate committees of the Congress—

(1) such interim reports as the Council considers advisable; and

(2) not later than 18 months after the date of the enactment of an Act providing appropriations to carry out this part, a final report of its study and investigation together with such recommendations, including specific proposals for legislation, as the Council considers advisable.

PART B—NATIONAL INFORMATION AND PROGRAM REFERRAL NETWORK

29 USC 2241.

SEC. 211. ESTABLISHMENT OF NATIONAL INFORMATION AND PROGRAM REFERRAL NETWORK.

Before the end of the 30-month period beginning on the date of the enactment of an Act providing appropriations to carry out this part, the Secretary shall—

(1) determine whether it is appropriate, based on the findings and recommendations of the study conducted under section 212, to establish and operate a national information and program referral network to assist States to develop and implement consumer-responsive statewide programs of technology-related assistance; and

Contracts.

(2) if the Secretary determines that establishment and operation of such a network is appropriate, enter into any contract or cooperative agreement necessary to establish and operate such a network, which may consist of information and program referral networks in existence or under development at the time of the study conducted under section 212.

29 USC 2242.

SEC. 212. FEASIBILITY STUDY REQUIRED.

(a) IN GENERAL.—The Secretary shall conduct a study—

(1) to determine the feasibility and desirability of creating the network described in section 211; and

(2) to determine the appropriate structure for the organization and operation of such a network, if it is determined to be feasible and desirable.

(b) CONTRACT AUTHORITY.—In carrying out the study required by subsection (a), the Secretary may enter into a contract or cooperative agreement necessary to conduct the study.

29 USC 2243.

SEC. 213. CONTENTS OF STUDY.

The study conducted under section 212 shall—

(1) analyze the needs of States that are interested in developing and implementing consumer-responsive statewide programs of technology-related assistance;

(2) describe the types of information and program referral networks (including electronic networks) in existence or under development at the time of the study, including—

(A) the types of information and program referral incorporated into or provided by such networks;

(B) the cost of maintaining such networks;

(C) the types of services provided by such networks;

(D) the types and numbers of individuals served by such networks;

(E) the location of such networks and accessibility to other networks; and

(F) the feasibility and desirability of linking such networks, including proposed plans and an estimate of the cost of such a linkage;

(3) analyze the impediments to the exchange of information and the development and operation of such networks;

(4) describe the information that should be incorporated into a national information and program referral network to ensure that the network serves the entire United States, in particular addressing the gaps in existing networks and methods of filling such gaps using networks in existence or under development at the time of the study;

(5) describe the information systems from other fields of technology development that may be incorporated into a national information and program referral network on technology-related assistance;

(6) analyze the issues involved in operating a national information and program referral network;

(7) analyze and describe management and cost projections for a national information and program referral network;

(8) evaluate operational alternatives including at least the advantages and disadvantages of—

(A) grant arrangements, contracting arrangements, or other funding mechanisms or arrangements, and the lengths of any such arrangements;

(B) various network configurations, including—

(i) regionally distributed;

(ii) focused on functional limitations;

(iii) age-focused;

(iv) expertise-centered; and

(v) other network configurations;

(C) costs associated with funding arrangements described in subparagraph (A) and network configurations described in subparagraph (B), and options for paying such costs, including the possible use of Federal funds, State funds, and other alternatives;

(D) mechanisms of payment for information and program referral services;

(E) mechanisms for ensuring that information systems remain current, have relevant and useful information, and provide information in a form that allows individuals with disabilities to make effective use of the information;

(F) forms of Federal oversight and independent evaluations that could be applied to a national information and program referral network;

(G) types of staffing expertise required for different options; and

(H) types of institutional oversight, such as governing boards and advisory panels; and

(9) a timetable for implementation of various network options.

29 USC 2244.

SEC. 214. TIMETABLE FOR STUDY.

(a) AWARD OF CONTRACT.—The Secretary shall, before the end of the six-month period beginning on the date of the enactment of an Act providing appropriations to carry out the study required by this part, enter into any contract or cooperative agreement necessary for conducting such study.

Contracts. Reports.

(b) COMPLETION OF STUDY.—Any contract or agreement entered into under subsection (a) shall require the study to be completed and a report concerning such study to be submitted to the Secretary and to the appropriate committees of the Congress before the end of the 18-month period beginning on the date of the contract or agreement.

(c) IMPLEMENTATION OF RECOMMENDATIONS.—The Secretary, after allowing for public comment on the report submitted under subsection (b), shall take appropriate action based on the report before the end of the 6-month period following the date on which the Secretary receives the report.

PART C—TRAINING AND PUBLIC AWARENESS PROJECTS

29 USC 2251.

SEC. 221. TRAINING.

Contracts.

(a) TECHNOLOGY TRAINING.—

(1) GENERAL AUTHORITY.—The Secretary shall enter into contracts or cooperative agreements with appropriate nonprofit or for-profit entities for the purposes of—

(A) conducting training sessions; and

(B) developing, demonstrating, disseminating, and evaluating curricula, materials, and methods used to train individuals regarding the provision of technology-related assistance.

(2) ELIGIBLE ACTIVITIES.—Activities conducted under contracts or cooperative agreements entered into under paragraph (1) may address the training needs of individuals with disabilities, the families or representatives of individuals with disabilities, individuals who work for public agencies and private entities that have contact with individuals with disabilities (including insurers), employers, and other appropriate individuals.

(b) TECHNOLOGY CAREERS.—

(1) GENERAL AUTHORITY.—The Secretary shall make grants to assist institutions of higher education to prepare personnel for careers relating to the provision of technology-related assistance to individuals with disabilities.

(2) PRIORITY.—In awarding grants under paragraph (1), the Secretary shall give priority to the preparation of personnel who will provide technical assistance, administer programs, or prepare personnel necessary to support the development and

implementation of consumer-responsive statewide programs of technology-related assistance to individuals with disabilities.

(3) USES OF FUNDS.—Amounts made available for grants under paragraph (1) may be used by institutions of higher education to assist in covering the cost of courses of training or study for such personnel and for establishing and maintaining fellowships or traineeships with such stipends and allowances as may be determined by the Secretary.

SEC. 222. PUBLIC AWARENESS PROJECTS.

Contracts.
29 USC 2252.

(a) PROGRAM AUTHORIZED.—The Secretary shall make grants to, or enter into contracts with, nonprofit and for-profit entities to carry out national projects that recognize and build awareness of the importance and efficacy of assistive technology devices and assistive technology services for individuals of all ages with disabilities functioning in various settings of daily life.

(b) USES OF FUNDS.—Amounts made available for grants and contracts under subsection (a) may be used to—

(1) develop a national media campaign (including public service time slots on radio and television);

(2) convene national or regional conferences;

(3) prepare and disseminate information (including summaries, comparisons, analyses, and cost-benefit projections) concerning the efficacy of technology-related assistance;

(4) encourage others to hold national or regional conferences;

(5) develop and maintain recognition programs that are designed to promote public credit to entities that demonstrate an aggressive effort for a sustained time to provide or promote the use of technology-related assistance or the development of assistive technology devices; and

(6) other activities considered appropriate by the Secretary.

SEC. 223. PRIORITIES.

Federal Register, publication.
29 USC 2253.

(a) IN GENERAL.—Beginning in fiscal year 1991, the Secretary shall—

(1) establish priorities for activities carried out with assistance under this part;

(2) publish such priorities in the Federal Register for the purpose of receiving public comment; and

(3) publish such priorities in the Federal Register in final form not later than the date on which the Secretary publishes grant announcements for grants made under this part.

(b) EXPLANATION OF DETERMINATION OF PRIORITIES.—Concurrent with the publication required by subsection (a), the Secretary shall publish in the Federal Register an explanation of how the priorities were determined.

PART D—DEMONSTRATION AND INNOVATION PROJECTS

SEC. 231. PROGRAM AUTHORIZED.

29 USC 2261.

(a) DEMONSTRATION AND INNOVATION PROJECTS.—The Secretary shall make grants to, or enter into contracts or cooperative agreements with, nonprofit and for-profit entities to pay all or part of the cost of establishing or operating demonstration and innovation

Contracts.

projects relating to technology-related assistance for individuals with disabilities.

(b) ELIGIBLE ACTIVITIES.—Amounts made available for purposes of carrying out this part may be used for the following activities:

(1) MODEL PROJECTS FOR DELIVERING ASSISTIVE TECHNOLOGY DEVICES AND SERVICES.—The establishment or operation of model projects for delivering assistive technology devices and assistive technology services to individuals of all ages with disabilities functioning in various environments and carrying out various life activities (including model systems described in section 101(c)(1) of title I).

(2) MODEL RESEARCH AND DEVELOPMENT PROJECTS.—The conduct of applied research and development projects, including projects designed to—

(A) increase the availability of reliable and durable assistive technology devices that address unique, low-market demand, or complex technology-related needs for individuals with disabilities;

(B) develop strategies and techniques that involve individuals with disabilities in assessing the performance characteristics of technology that is not designed specifically for individuals with disabilities and developing adaptations of such technology for individuals with disabilities;

(C) assist in the transfer of technology that is not specifically designed for individuals with disabilities to uses appropriate for such individuals; and

(D) facilitate effective and efficient technology transfer.

(3) INCOME-CONTINGENT DIRECT LOAN DEMONSTRATION PROJECT.—Demonstration projects in accordance with regulations issued by the Secretary (which may include a requirement that the Secretary shall provide an amount equal to not more than 90 percent of the amount required for any such project) to examine the feasibility of a direct loan program that would provide loans—

(A) to individuals with disabilities who require technology-related assistance in order to maintain a level of functioning or to achieve a greater level of functioning in any major life activity; or

(B) to the families or employers of individuals with disabilities, on behalf of such individuals, for the purposes described in subparagraph (A).

(c) REPORT TO CONGRESS ON EXTENSION OF DIRECT LOAN PROGRAM.—The Secretary shall, based on the projects assisted under subsection (b)(3), report to Congress concerning the feasibility of operating a direct loan program of general applicability beginning after September 30, 1993.

PART E—AUTHORIZATION OF APPROPRIATIONS

29 USC 2271.

SEC. 241. AUTHORIZATION OF APPROPRIATIONS.

(a) GENERAL AUTHORITY.—There are authorized to be appropriated for purposes of carrying out this title (other than section 231(b)(1)) $5,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(b) MODEL DELIVERY PROJECTS.—There are authorized to be appropriated for purposes of carrying out section 231(b)(1) $1,500,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, 1992, and 1993.

(c) PRIORITIES.—

(1) MODEL DELIVERY PROJECTS.—Notwithstanding any other provision of this Act, if amounts appropriated for purposes of carrying out this Act for the fiscal year 1989 equal or exceed $6,000,000, the Secretary shall first make available, from such amounts, not less than $500,000 for demonstration projects under section 231(b)(1).

(2) OTHER TITLE II ACTIVITIES.—(A) Of amounts appropriated under subsection (a) for the fiscal year 1989, the Secretary shall first make available not more than $250,000 for purposes of carrying out part A.

(B) Subject to subparagraph (A), of amounts appropriated under subsection (a) for any fiscal year, the Secretary shall first make available, in order of priority—

(i) not more than $750,000 for purposes of carrying out section 212; and

(ii) such sums as may be necessary for purposes of carrying out section 211.

Approved August 19, 1988.

LEGISLATIVE HISTORY—S. 2561 (H.R. 4904):

HOUSE REPORTS: No. 100-819 accompanying H.R. 4904 (Comm. on Education and Labor).
SENATE REPORTS: No. 100-438 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 2, considered and passed Senate.
Aug. 8, H.R. 4904 considered and passed House; proceedings vacated and S. 2561 passed in lieu.

Public Law 100-408
100th Congress

An Act

Aug. 20, 1988
[H.R. 1414]

To amend the Price-Anderson provisions of the Atomic Energy Act of 1954 to extend and improve the procedures for liability and indemnification for nuclear incidents.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Price-Anderson Amendments Act of 1988.
42 USC 2011 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Price-Anderson Amendments Act of 1988".

SEC. 2. FINANCIAL PROTECTION.

(a) PRIMARY FINANCIAL PROTECTION AMOUNT REQUIRED FOR LARGE ELECTRICAL GENERATING FACILITIES.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting "primary" before "financial protection" the first, second, third, and sixth places it appears;

(2) by inserting before the period at the end of the proviso in the first sentence the following; "(excluding the amount of private liability insurance available under the industry retrospective rating plan required in this subsection)"; and

(3) by striking in the third sentence all that precedes "private liability insurance" and inserting the following: "The Commission shall require licensees that are required to have and maintain primary financial protection equal to the maximum amount of liability insurance available from private sources to maintain, in addition to such primary financial protection,".

(b) STANDARD DEFERRED PREMIUM AMOUNT.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) in the second proviso of the third sentence by striking "That" and all that follows through "protection" and inserting the following: "That the maximum amount of the standard deferred premium that may be charged a licensee following any nuclear incident under such a plan shall not be more than $63,000,000 (subject to adjustment for inflation under subsection t.), but not more than $10,000,000 in any 1 year, for each facility for which such licensee is required to maintain the maximum amount of primary financial protection"; and

(2) in the third proviso of the third sentence, by adding after "and costs" the following: "(excluding legal costs subject to subsection o. (1)(D), payment of which has not been authorized under such subsection)".

(c) LESSER ANNUAL DEFERRED PREMIUM AMOUNTS.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) in the first sentence, by redesignating clauses (1) through (3) as clauses (A) through (C), respectively;

(3) by striking the fifth and sixth sentences; and

(4) by adding at the end of the fourth sentence the following new paragraph:

"(2)(A) The Commission may, on a case by case basis, assess annual deferred premium amounts less than the standard annual deferred premium amount assessed under paragraph (1)—

"(i) for any facility, if more than one nuclear incident occurs in any one calendar year; or

"(ii) for any licensee licensed to operate more than one facility, if the Commission determines that the financial impact of assessing the standard annual deferred premium amount under paragraph (1) would result in undue financial hardship to such licensee or the ratepayers of such licensee.

"(B) In the event that the Commission assesses a lesser annual deferred premium amount under subparagraph (A), the Commission shall require payment of the difference between the standard annual deferred premium assessment under paragraph (1) and any such lesser annual deferred premium assessment within a reasonable period of time, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the standard annual deferred premium assessment under paragraph (1) would become due.".

(d) BORROWING AUTHORITY.—Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended—

(1) by inserting "(3)" before the penultimate sentence and redesignating the penultimate and last sentences as a paragraph (3); and

(2) by adding at the end the following new paragraph:

"(4)(A) In the event that the funds available to pay valid claims in any year are insufficient as a result of the limitation on the amount of deferred premiums that may be required of a licensee in any year under paragraph (1) or (2), or the Commission is required to make reinsurance or guaranteed payments under paragraph (3), the Commission shall, in order to advance the necessary funds— Claims.

"(i) request the Congress to appropriate sufficient funds to satisfy such payments; or

"(ii) to the extent approved in appropriation Acts, issue to the Secretary of the Treasury obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions as may be agreed to by the Commission and the Secretary of the Treasury.

"(B) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), any funds appropriated under subparagraph (A)(i) shall be repaid to the general fund of the United States Treasury from amounts made available by standard deferred premium assessments, with interest at a rate determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the date that the funds appropriated under such subparagraph are made available.

"(C) Except for funds appropriated for purposes of making reinsurance or guaranteed payments under paragraph (3), redemption of obligations issued under subparagraph (A)(ii) shall be made by the Commission from amounts made available by standard deferred premium assessments. Such obligations shall bear interest at a rate determined by the Secretary of the Treasury by taking into consideration the average market yield on outstanding marketable obliga-

Securities.

tions to the United States of comparable maturities during the month preceding the issuance of the obligations under this paragraph. The Secretary of the Treasury shall purchase any issued obligations, and for such purpose the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of any securities issued under chapter 31 of title 31, United States Code, and the purposes for which securities may be issued under such chapter are extended to include any purchase of such obligations. The Secretary of the Treasury may at any time sell any of the obligations acquired by the Secretary of the Treasury under this paragraph. All redemptions, purchases, and sales by the Secretary of the Treasury of obligations under this paragraph shall be treated as public debt transactions of the United States.".

SEC. 3. INDEMNIFICATION AGREEMENTS FOR LICENSEES OF NUCLEAR REGULATORY COMMISSION.

Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended by striking "August 1, 1987" each place it appears and inserting "August 1, 2002".

SEC. 4. INDEMNIFICATION AGREEMENTS FOR ACTIVITIES UNDERTAKEN UNDER CONTRACT WITH DEPARTMENT OF ENERGY.

(a) IN GENERAL.—Section 170 d. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(d)) is amended to read as follows:

"d. INDEMNIFICATION OF CONTRACTORS BY DEPARTMENT OF ENERGY.—(1)(A) In addition to any other authority the Secretary of Energy (in this section referred to as the 'Secretary') may have, the Secretary shall, until August 1, 2002, enter into agreements of indemnification under this subsection with any person who may conduct activities under a contract with the Department of Energy that involve the risk of public liability and that are not subject to financial protection requirements under subsection b. or agreements of indemnification under subsection c. or k.

"(B)(i)(I) Beginning 60 days after the date of enactment of the Price-Anderson Amendments Act of 1988, agreements of indemnification under subparagraph (A) shall be the exclusive means of indemnification for public liability arising from activities described in such subparagraph, including activities conducted under a contract that contains an indemnification clause under Public Law 85-804 entered into between August 1, 1987, and the date of enactment of the Price-Anderson Amendments Act of 1988.

"(II) The Secretary may incorporate in agreements of indemnification under subparagraph (A) the provisions relating to the waiver of any issue or defense as to charitable or governmental immunity authorized in subsection n. (1) to be incorporated in agreements of indemnification. Any such provisions incorporated under this subclause shall apply to any nuclear incident arising out of nuclear waste activities subject to an agreement of indemnification under subparagraph (A).

"(ii) Public liability arising out of nuclear waste activities subject to an agreement of indemnification under subparagraph (A) that are funded by the Nuclear Waste Fund established in section 302 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10222) shall be compensated from the Nuclear Waste Fund in an amount not to exceed the maximum amount of financial protection required of licensees under subsection b.

"(2) In agreements of indemnification entered into under paragraph (1), the Secretary may require the contractor to provide and maintain financial protection of such a type and in such amounts as the Secretary shall determine to be appropriate to cover public liability arising out of or in connection with the contractual activity, and shall indemnify the persons indemnified against such claims above the amount of the financial protection required, to the full extent of the aggregate public liability of the persons indemnified for each nuclear incident, including such legal costs of the contractor as are approved by the Secretary. Claims.

"(3)(A) Notwithstanding paragraph (2), if the maximum amount of financial protection required of licensees under subsection b. is increased by the Commission, the amount of indemnity, together with any financial protection required of the contractor, shall at all times remain equal to or greater than the maximum amount of financial protection required of licensees under subsection b.

"(B) The amount of indemnity provided contractors under this subsection shall not, at any time, be reduced in the event that the maximum amount of financial protection required of licensees is reduced.

"(C) All agreements of indemnification under which the Department of Energy (or its predecessor agencies) may be required to indemnify any person, shall be deemed to be amended, on the date of the enactment of the Price-Anderson Amendments Act of 1988, to reflect the amount of indemnity for public liability and any applicable financial protection required of the contractor under this subsection on such date.

"(4) Financial protection under paragraph (2) and indemnification under paragraph (1) shall be the exclusive means of financial protection and indemnification under this section for any Department of Energy demonstration reactor licensed by the Commission under section 202 of the Energy Reorganization Act of 1974 (42 U.S.C. 5842).

"(5) In the case of nuclear incidents occurring outside the United States, the amount of the indemnity provided by the Secretary under this subsection shall not exceed $100,000,000.

"(6) The provisions of this subsection may be applicable to lump sum as well as cost type contracts and to contracts and projects financed in whole or in part by the Secretary.

"(7) A contractor with whom an agreement of indemnification has been executed under paragraph (1)(A) and who is engaged in activities connected with the underground detonation of a nuclear explosive device shall be liable, to the extent so indemnified under this subsection, for injuries or damage sustained as a result of such detonation in the same manner and to the same extent as would a private person acting as principal, and no immunity or defense founded in the Federal, State, or municipal character of the contractor or of the work to be performed under the contract shall be effective to bar such liability.".

(b) DEFINITIONS.—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) is amended by adding at the end the following new subsections:

"dd. The terms 'high-level radioactive waste' and 'spent nuclear fuel' have the meanings given such terms in section 2 of the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101).

"ee. The term 'transuranic waste' means material contaminated with elements that have an atomic number greater than 92, includ-

ing neptunium, plutonium, americium, and curium, and that are in concentrations greater than 10 nanocuries per gram, or in such other concentrations as the Nuclear Regulatory Commission may prescribe to protect the public health and safety.

"ff. The term 'nuclear waste activities', as used in section 170, means activities subject to an agreement of indemnification under subsection d. of such section, that the Secretary of Energy is authorized to undertake, under this Act or any other law, involving the storage, handling, transportation, treatment, or disposal of, or research and development on, spent nuclear fuel, high-level radioactive waste, or transuranic waste, including (but not limited to) activities authorized to be carried out under the Waste Isolation Pilot Project under section 213 of Public Law 96-164 (93 Stat. 1265).".

SEC. 5. PRECAUTIONARY EVACUATIONS.

(a) COSTS INCURRED BY STATE GOVERNMENTS.—Section 11 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(w)) is amended by inserting after "nuclear incident" the first place it appears the following: "or precautionary evacuation (including all reasonable additional costs incurred by a State, or a political subdivision of a State, in the course of responding to a nuclear incident or a precautionary evacuation)".

(b) DEFINITION.—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"gg. The term 'precautionary evacuation' means an evacuation of the public within a specified area near a nuclear facility, or the transportation route in the case of an accident involving transportation of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste to or from a production or utilization facility, if the evacuation is—

"(1) the result of any event that is not classified as a nuclear incident but that poses imminent danger of bodily injury or property damage from the radiological properties of source material, special nuclear material, byproduct material, high-level radioactive waste, spent nuclear fuel, or transuranic waste, and causes an evacuation; and

"(2) initiated by an official of a State or a political subdivision of a State, who is authorized by State law to initiate such an evacuation and who reasonably determined that such an evacuation was necessary to protect the public health and safety.".

(c) LIMITATION.—Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by adding at the end the following new subsection:

Courts, U.S.

"q. LIMITATION ON AWARDING OF PRECAUTIONARY EVACUATION COSTS.—No court may award costs of a precautionary evacuation unless such costs constitute a public liability.".

SEC. 6. AGGREGATE PUBLIC LIABILITY FOR SINGLE NUCLEAR INCIDENT.

Section 170 e. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(e)) is amended to read as follows:

"e. LIMITATION ON AGGREGATE PUBLIC LIABILITY.—(1) The aggregate public liability for a single nuclear incident of persons indemnified, including such legal costs as are authorized to be paid under subsection o. (1)(D), shall not exceed—

"(A) in the case of facilities designed for producing substantial amounts of electricity and having a rated capacity of 100,000 electrical kilowatts or more, the maximum amount of financial protection required of such facilities under subsection b. (plus any surcharge assessed under subsection o. (1)(E));

"(B) in the case of contractors with whom the Secretary has entered into an agreement of indemnification under subsection d., the maximum amount of financial protection required under subsection b. or the amount of indemnity and financial protection that may be required under paragraph (3) of subsection d., whichever amount is more; and Contracts.

"(C) in the case of all other licensees of the Commission required to maintain financial protection under this section—

"(i) $500,000,000, together with the amount of financial protection required of the licensee; or

"(ii) if the amount of financial protection required of the licensee exceeds $60,000,000, $560,000,000 or the amount of financial protection required of the licensee, whichever amount is more.

"(2) In the event of a nuclear incident involving damages in excess of the amount of aggregate public liability under paragraph (1), the Congress will thoroughly review the particular incident in accordance with the procedures set forth in section 170 i. and will in accordance with such procedures, take whatever action is determined to be necessary (including approval of appropriate compensation plans and appropriation of funds) to provide full and prompt compensation to the public for all public liability claims resulting from a disaster of such magnitude. Claims.

"(3) No provision of paragraph (1) may be construed to preclude the Congress from enacting a revenue measure, applicable to licensees of the Commission required to maintain financial protection pursuant to subsection b., to fund any action undertaken pursuant to paragraph (2).

"(4) With respect to any nuclear incident occurring outside of the United States to which an agreement of indemnification entered into under the provisions of subsection d. is applicable, such aggregate public liability shall not exceed the amount of $100,000,000, together with the amount of financial protection required of the contractor.". Contracts.

SEC. 7. COMPENSATION PLANS.

(a) IN GENERAL.—Section 170 i. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(i)) is amended to read as follows:

"i. COMPENSATION PLANS.—(1) After any nuclear incident involving damages that are likely to exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection e. (1), the Secretary or the Commisison, as appropriate, shall—

"(A) make a survey of the causes and extent of damage; and

"(B) expeditiously submit a report setting forth the results of such survey to the Congress, to the Representatives of the affected districts, to the Senators of the affected States, and (except for information that will cause serious damage to the national defense of the United States) to the public, to the parties involved, and to the courts. Reports. Defense and national security.

"(2) Not later than 90 days after any determination by a court, pursuant to subsection o., that the public liability from a single President of U.S.

nuclear incident may exceed the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection e. (1) the President shall submit to the Congress—

"(A) an estimate of the aggregate dollar value of personal injuries and property damage that arises from the nuclear incident and exceeds the amount of aggregate public liability under subsection e. (1);

Claims. "(B) recommendations for additional sources of funds to pay claims exceeding the applicable amount of aggregate public liability under subparagraph (A), (B), or (C) of subsection e. (1), which recommendations shall consider a broad range of possible sources of funds (including possible revenue measures on the sector of the economy, or on any other class, to which such revenue measures might be applied);

Claims. "(C) 1 or more compensation plans, that either individually or collectively shall provide for full and prompt compensation for all valid claims and contain a recommendation or recommendations as to the relief to be provided, including any recommendations that funds be allocated or set aside for the payment of claims that may arise as a result of latent injuries that may not be discovered until a later date; and

"(D) any additional legislative authorities necessary to implement such compensation plan or plans.

"(3)(A) Any compensation plan transmitted to the Congress pursuant to paragraph (2) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

"(B) The provisions of paragraphs (4) through (6) shall apply with respect to consideration in the Senate of any compensation plan transmitted to the Senate pursuant to paragraph (2).

"(4) No such compensation plan may be considered approved for purposes of subsection 170 e. (2) unless between the date of transmittal and the end of the first period of sixty calendar days of continuous session of Congress after the date on which such action is transmitted to the Senate, the Senate passes a resolution described in paragraph 6 of this subsection.

"(5) For the purpose of paragraph (4) of this subsection—

"(A) continuity of session is broken only by an adjournment of Congress sine die; and

"(B) the days on which either House is not in session because of an adjournment of more than three days to a day certain are excluded in the computation of the sixty-day calendar period.

"(6)(A) This paragraph is enacted—

"(i) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of resolutions described by subparagraph (B) and it supersedes other rules only to the extent that it is inconsistent therewith; and

"(ii) with full recognition of the constitutional right of the Senate to change the rules at any time, in the same manner and to the same extent as in the case of any other rule of the Senate.

"(B) For purposes of this paragraph, the term 'resolution' means only a joint resolution of the Congress the matter after the resolving clause of which is as follows: 'That the approves the compensation plan numbered submitted to the Congress on , 19 .', the first blank space therein being

filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which specifies more than one compensation plan.

"(C) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate.

"(D)(i) If the committee of the Senate to which a resolution with respect to a compensation plan has been referred has not reported it at the end of twenty calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

"(ii) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(iii) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

"(E)(i) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(ii) Debate on the resolution referred to in clause (i) of this subparagraph shall be limited to not more than ten hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

"(F)(i) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

"(ii) Appeals from the decision of the Chair relating to the application of the rules of the Senate to the procedures relating to a resolution shall be decided without debate.".

(b) CONFORMING AMENDMENT.—Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)) is amended—

(1) in the matter preceding paragraph (1), by striking "subsection 170 e." and inserting "the applicable limit of liability under subparagraph (A), (B), or (C) of subsection e. (1):"; and

(2) by striking paragraph (4).

SEC. 8. DATE OF EXEMPTION FROM FINANCIAL PROTECTION REQUIREMENT.

Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended—

(1) by striking "August 1, 1987" each place it appears and inserting "August 1, 2002"; and

(2) by striking "excluding cost of investigating and settling claims and defending suits for damage;" in paragraph (1) and inserting "including such legal costs of the licensee as are approved by the Commission;".

SEC. 9. PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) is amended by striking subsection 1. and inserting the following:

"(1) PRESIDENTIAL COMMISSION ON CATASTROPHIC NUCLEAR ACCIDENTS.—(1) Not later than 90 days after the date of the enactment of the Price-Anderson Amendments Act of 1988, the President shall establish a commission (in this subsection referred to as the 'study commission') in accordance with the Federal Advisory Committee Act (5 U.S.C. App.) to study means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under subsection e. (1).

"(2)(A) The study commission shall consist of not less than 7 and not more than 11 members, who—

"(i) shall be appointed by the President; and

"(ii) shall be representative of a broad range of views and interests.

"(B) The members of the study commission shall be appointed in a manner that ensures that not more than a mere majority of the members are of the same political party.

"(C) Each member of the study commission shall hold office until the termination of the study commission, but may be removed by the President for inefficiency, neglect of duty, or malfeasance in office.

"(D) Any vacancy in the study commission shall be filled in the manner in which the original appointment was made.

"(E) The President shall designate one of the members of the study commission as chairperson, to serve at the pleasure of the President.

Reports.

"(3) The study commission shall conduct a comprehensive study of appropriate means of fully compensating victims of a catastrophic nuclear accident that exceeds the amount of aggregate public liability under subsection e. (1), and shall submit to the Congress a final report setting forth—

"(A) recommendations for any changes in the laws and rules governing the liability or civil procedures that are necessary for the equitable, prompt, and efficient resolution and payment of all valid damage claims, including the advisability of adjudicating public liability claims through an administrative agency instead of the judicial system;

"(B) recommendations for any standards or procedures that are necessary to establish priorities for the hearing, resolution, and payment of claims when awards are likely to exceed the amount of funds available within a specific time period; and

"(C) recommendations for any special standards or procedures necessary to decide and pay claims for latent injuries caused by the nuclear incident.

"(4)(A) The chairperson of the study commission may appoint and fix the compensation of a staff of such persons as may be necessary to discharge the responsibilities of the study commission, subject to the applicable provisions of the Federal Advisory Committee Act (5 U.S.C. App.) and title 5, United States Code.

"(B) To the extent permitted by law and requested by the chairperson of the study commission, the Administrator of General Services shall provide the study commission with necessary administrative services, facilities, and support on a reimbursable basis.

"(C) The Attorney General, the Secretary of Health and Human Services, and the Director of the Federal Emergency Management Agency shall, to the extent permitted by law and subject to the availability of funds, provide the study commission with such facilities, support, funds and services, including staff, as may be necessary for the effective performance of the functions of the study commission.

"(D) The study commission may request any Executive agency to furnish such information, advice, or assistance as it determines to be necessary to carry out its functions. Each such agency is directed, to the extent permitted by law, to furnish such information, advice or assistance upon request by the chairperson of the study commission.

"(E) Each member of the study commission may receive compensation at the maximum rate prescribed by the Federal Advisory Committee Act (5 U.S.C. App.) for each day such member is engaged in the work of the study commission. Each member may also receive travel expenses, including per diem in lieu of subsistence under sections 5702 and 5703 of title 5, United States Code.

"(F) The functions of the President under the Federal Advisory Committee Act (5 U.S.C. App.) that are applicable to the study commission, except the function of reporting annually to the Congress, shall be performed by the Administrator of General Services.

"(5) The final report required in paragraph (3) shall be submitted to the Congress not later than the expiration of the 2-year period beginning on the date of the enactment of the Price-Anderson Amendments Act of 1988. Reports.

"(6) The study commission shall terminate upon the expiration of the 2-month period beginning on the date on which the final report required in paragraph (3) is submitted.". Termination date.

SEC. 10. WAIVER OF DEFENSES.

(a) STATUTE OF LIMITATIONS.—Section 170 n. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended in clause (iii) of the first sentence by striking the following: ", but in no event more than twenty years after the date of the nuclear incident".

(b) APPLICABILITY.—Section 170 n. (1) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended—

(1) by redesignating subparagraphs (a), (b), and (c) as subparagraphs (A), (B), and (C), respectively;

(2) by striking "or" at the end of subparagraphs (A) and (B); and

(3) by inserting after subparagraph (C) the following new subparagraphs:

"(D) arises out of, results from, or occurs in the course of, the construction, possession, or operation of any facility licensed

under section 53, 63, or 81, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection a.,

"(E) arises out of, results from, or occurs in the course of, transportation of source material, byproduct material, or special nuclear material to or from any facility licensed under section 53, 63, or 81, for which the Commission has imposed as a condition of the license a requirement that the licensee have and maintain financial protection under subsection a., or

"(F) arises out of, results from, or occurs in the course of nuclear waste activities.".

SEC. 11. JUDICIAL REVIEW OF CLAIMS ARISING OUT OF A NUCLEAR INCIDENT.

(a) CONSOLIDATION OF CLAIMS.—Section 170 n. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(2)) is amended—

(1) in the first sentence—

(A) by striking "an extraordinary nuclear occurrence" each place it appears and inserting "a nuclear incident"; and

(B) by striking "the extraordinary nuclear occurrence" each place it appears and inserting "the nuclear incident";

(2) in the second sentence, by inserting after "court" the first place it appears the following: "(including any such action pending on the date of the enactment of the Price-Anderson Amendments Act of 1988)"; and

(3) by adding at the end the following new sentence: "In any action that is or becomes removable pursuant to this paragraph, a petition for removal shall be filed within the period provided in section 1446 of title 28, United States Code, or within the 30-day period beginning on the date of the enactment of the Price-Anderson Amendments Act of 1988, whichever occurs later.".

(b) DEFINITION OF PUBLIC LIABILITY ACTION.—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"hh. The term 'public liability action', as used in section 170, means any suit asserting public liability. A public liability action shall be deemed to be an action arising under section 170, and the substantive rules for decision in such action shall be derived from the law of the State in which the nuclear incident involved occurs, unless such law is inconsistent with the provisions of such section.".

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(c) SPECIAL CASELOAD MANAGEMENT PANEL.—Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended by adding at the end the following new paragraph:

"(3)(A) Following any nuclear incident, the chief judge of the United States district court having jurisdiction under paragraph (2) with respect to public liability actions (or the judicial council of the judicial circuit in which the nuclear incident occurs) may appoint a special caseload management panel (in this paragraph referred to as the 'management panel') to coordinate and assign (but not necessarily hear themselves) cases arising out of the nuclear incident, if—

"(i) a court, acting pursuant to subsection o., determines that the aggregate amount of public liability is likely to exceed the

amount of primary financial protection available under subsection b. (or an equivalent amount in the case of a contractor indemnified under subsection d.); or

"(ii) the chief judge of the United States district court (or the judicial council of the judicial circuit) determines that cases arising out of the nuclear incident will have an unusual impact on the work of the court.

"(B)(i) Each management panel shall consist only of members who are United States district judges or circuit judges.

"(ii) Members of a management panel may include any United States district judge or circuit judge of another district court or court of appeals, if the chief judge of such other district court or court of appeals consents to such assignment.

"(C) It shall be the function of each management panel—

"(i) to consolidate related or similar claims for hearing or trial;

"(ii) to establish priorities for the handling of different classes of cases;

"(iii) to assign cases to a particular judge or special master;

"(iv) to appoint special masters to hear particular types of cases, or particular elements or procedural steps of cases;

"(v) to promulgate special rules of court, not inconsistent with the Federal Rules of Civil Procedure, to expedite cases or allow more equitable consideration of claims;

"(vi) to implement such other measures, consistent with existing law and the Federal Rules of Civil Procedure, as will encourage the equitable, prompt, and efficient resolution of cases arising out of the nuclear incident; and

"(vii) to assemble and submit to the President such data, available to the court, as may be useful in estimating the aggregate damages from the nuclear incident.".

(d) LEGAL COSTS.—

(1) PAYMENT CRITERIA.—Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)), as previously amended by this Act, is further amended by—

(A) inserting after the subsection designation the following: "PLAN FOR DISTRIBUTION OF FUNDS.—(1)";

(B) redesignating paragraphs (1) through (3) as subparagraphs (A) through (C); and

(C) adding at the end the following:

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"(D) A court may authorize payment of only such legal costs as are permitted under paragraph (2) from the amount of financial protection required by subsection b.

"(E) If the sum of public liability claims and legal costs authorized under paragraph (2) arising from any nuclear incident exceeds the maximum amount of financial protection required under subsection b., any licensee required to pay a standard deferred premium under subsection b. (1) shall, in addition to such deferred premium, be charged such an amount as is necessary to pay a pro rata share of such claims and costs, but in no case more than 5 percent of the maximum amount of such standard deferred premium described in such subsection.

"(2) A court may authorize the payment of legal costs under paragraph (1)(D) only if the person requesting such payment has—

"(A) submitted to the court the amount of such payment requested; and

"(B) demonstrated to the court—

"(i) that such costs are reasonable and equitable; and
"(ii) that such person has—
"(I) litigated in good faith;
"(II) avoided unnecessary duplication of effort with that of other parties similarly situated;
"(III) not made frivolous claims or defenses; and
"(IV) not attempted to unreasonably delay the prompt settlement or adjudication of such claims.".

(2) DEFINITION OF LEGAL COSTS.—Section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"jj. LEGAL COSTS.—As used in section 170, the term 'legal costs' means the costs incurred by a plaintiff or a defendant in initiating, prosecuting, investigating, settling, or defending claims or suits for damage arising under such section.".

SEC. 12. REPORTS TO CONGRESS BY NUCLEAR REGULATORY COMMISSION AND DEPARTMENT OF ENERGY.

Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended—

(1) by inserting "(1)" after the subsection designation;

(2) by striking "shall submit to the Congress by August 1, 1983, a detailed report", and inserting the following: "and the Secretary shall submit to the Congress by August 1, 1998, detailed reports"; and

(3) by adding at the end the following new paragraph:

"(2) Not later than April 1 of each year, the Commission and the Secretary shall each submit an annual report to the Congress setting forth the activities under this section during the preceding calendar year.".

SEC. 13. LIABILITY OF LESSORS.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"r. LIMITATION ON LIABILITY OF LESSORS.—No person under a bona fide lease of any utilization or production facility (or part thereof or undivided interest therein) shall be liable by reason of an interest as lessor of such production or utilization facility, for any legal liability arising out of or resulting from a nuclear incident resulting from such facility, unless such facility is in the actual possession and control of such person at the time of the nuclear incident giving rise to such legal liability.".

SEC. 14. PUNITIVE DAMAGES.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as previously amended by this Act, is further amended by adding at the end the following new subsection:

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"s. LIMITATION ON PUNITIVE DAMAGES.—No court may award punitive damages in any action with respect to a nuclear incident or precautionary evacuation against a person on behalf of whom the United States is obligated to make payments under an agreement of indemnification covering such incident or evacuation.".

SEC. 15. INFLATION ADJUSTMENT.

Section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210), as previously amended by this Act, is further amended by adding at the end the following new subsection:

"t. INFLATION ADJUSTMENT.—(1) The Commission shall adjust the amount of the maximum standard deferred premium under subsection b. (1) not less than once during each 5-year period following the date of the enactment of the Price-Anderson Amendments Act of 1988, in accordance with the aggregate percentage change in the Consumer Price Index since—

"(A) such date of enactment, in the case of the first adjustment under this subsection; or

"(B) the previous adjustment under this subsection.

"(2) For purposes of this subsection, the term 'Consumer Price Index' means the Consumer Price Index for all urban consumers published by the Secretary of Labor.".

SEC. 16. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REFERENCES TO NUCLEAR REGULATORY COMMISSION.—

(1) Section 11 q. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(q)) is amended by striking "Commission" each place it appears and inserting "Nuclear Regulatory Commission".

(2) Section 170 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(a)) is amended by striking "Commission" in the first sentence and inserting the following: "Nuclear Regulatory Commission (in this section referred to as the 'Commission')".

(b) REFERENCES TO SECRETARY OF ENERGY.—

(1) Subsections j. and m. of section 11 of the Atomic Energy Act of 1954 (42 U.S.C. 2014) are amended by striking "Commission" each place it appears and inserting the following: "Nuclear Regulatory Commission or the Secretary of Energy, as appropriate,".

(2) Section 11 t. (2) of the Atomic Energy Act of 1954 (42 U.S.C. 2014(t)(2)) is amended by striking "Commission" and inserting "Secretary of Energy".

(3) Section 170 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(f)) is amended by inserting after "Commission" the first 2 places it appears the following: "or the Secretary, as appropriate,".

(4) Subsections g., h., j., and m. of section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) are amended by inserting after "Commission" each place it appears the following: "or the Secretary, as appropriate,".

(5) Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended—

(A) in paragraph (1)—

(i) by striking "Commission" in subparagraph (C) and inserting "Department of Energy"; and

(ii) by inserting after "Commission" the second place it appears the following: "or the Secretary, as appropriate,"; and

(B) in paragraph (2), by inserting after "Commission" the following: "or the Secretary, as appropriate".

(6) Section 170 o. (1)(C), as redesignated by section 11(d)(1) of the bill, is amended—

(A) by inserting after "Commission" the first place it appears the following: "or the Secretary, as appropriate,"; and

(B) by inserting after "Commission" the second place it appears the following: "or the Secretary as appropriate".

(c) REFERENCES TO REVISED STATUTES.—

(1) Section 170 g. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(g)) is amended by inserting "(41 U.S.C. 5)" after "Statutes".

(2) Section 170 j. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(j)) is amended by striking "section 3679 of the Revised Statutes, as amended" and inserting the following: "sections 1341, 1342, 1349, 1350, and 1351, and subchapter II of chapter 15, of title 31, United States Code".

(d) INTERNAL CROSS-REFERENCES.—

(1) Section 11 q. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(q)) is amended by striking "subsection each place it appears and inserting "section".

(2) Section 11 t. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(t)) is amended by striking "subsection" each place it appears and inserting "section".

(3) Section 11 w. of the Atomic Energy Act of 1954 (42 U.S.C. 2014(w)) is amended by striking "subsections 170 a., c., and k." and inserting "subsections a., c., and k. of section 170".

(4) Section 170 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2010(a)) is amended—

(A) in the first sentence, by striking "subsection 2 i. of the Atomic Energy Act of 1954, as amended" and inserting "section 2 i.";

(B) in the first sentence, by striking "subsection 170 b." and inserting "subsection b."; and

(C) in the second sentence, by striking "subsection 170 c." and inserting "subsection c.".

(5) Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended in the first sentence by striking "subsection 170 a." and inserting "subsection a.".

(6) Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)(1)) is amended in the last sentence by striking "subsection 170 e." and inserting "subsection e.".

(7) Section 170 o. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(o)) is amended in subparagraph (B), as redesignated by section 11(d)(1) of the bill, by striking "subparagraph (3) of this subsection (o)" and inserting "subparagraph (C)".

(e) SUBSECTION CAPTIONS.—

(1) Section 170 a. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(a)) is amended by inserting after the subsection designation the following: "REQUIREMENT OF FINANCIAL PROTECTION FOR LICENSEES.—".

(2) Section 170 b. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(b)) is amended by inserting after the subsection designation the following: "AMOUNT AND TYPE OF FINANCIAL PROTECTION FOR LICENSEES.—".

(3) Section 170 c. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(c)) is amended by inserting after the subsection designation the following: "INDEMNIFICATION OF LICENSES BY NUCLEAR REGULATORY COMMISSION.—".

(4) Section 170 f. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(f)) is amended by inserting after the subsection designation

the following: "COLLECTION OF FEES BY NUCLEAR REGULATORY COMMISSION.—".

(5) Section 170 g. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(g)) is amended by inserting after the subsection designation the following: "USE OF SERVICES OF PRIVATE INSURERS.—".

(6) Section 170 h. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(h)) is amended by inserting after the subsection designation the following: "CONDITIONS OF AGREEMENTS OF INDEMNIFICATION.—".

(7) Section 170 j. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(j)) is amended by inserting after the subsection designation the following: "CONTRACTS IN ADVANCE OF APPROPRIATIONS.—".

(8) Section 170 k. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(k)) is amended by inserting after the subsection designation the following: "EXEMPTION FROM FINANCIAL PROTECTION REQUIREMENT FOR NONPROFIT EDUCATIONAL INSTITUTIONS.—".

(9) Section 170 m. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(m)) is amended by inserting after the subsection designation the following: "COORDINATED PROCEDURES FOR PROMPT SETTLEMENT OF CLAIMS AND EMERGENCY ASSISTANCE.—".

(10) Section 170 n. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(n)) is amended by inserting after the subsection designation the following: "WAIVER OF DEFENSES AND JUDICIAL PROCEDURES.—".

(11) Section 170 p. of the Atomic Energy Act of 1954 (42 U.S.C. 2210(p)) is amended by inserting after the subsection designation the following: "REPORTS TO CONGRESS.—".

SEC. 17. CIVIL PENALTIES.

The Atomic Energy Act of 1954, as amended, is further amended by adding a new section 234A as follows:

"SEC. 234A. CIVIL MONETARY PENALTIES FOR VIOLATIONS OF DEPARTMENT OF ENERGY REGULATIONS.—a. Any person who has entered into an agreement of indemnification under subsection 170 d. (or any subcontractor or supplier thereto) who violates (or whose employee violates) any applicable rule, regulation or order related to nuclear safety prescribed or issued by the Secretary of Energy pursuant to this Act (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except any rule, regulation, or order issued by the Secretary of Transportation) shall be subject to a civil penalty of not to exceed $100,000 for each such violation. If any violation under this subsection is a continuing one, each day of such violation shall constitute a separate violation for the purpose of computing the applicable civil penalty.

42 USC 2282a.
Contracts.

"b. (1) The Secretary shall have the power to compromise, modify or remit, with or without conditions, such civil penalties and to prescribe regulations as he may deem necessary to implement this section.

"(2) In determining the amount of any civil penalty under this subsection, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation or violations and, with respect to the violator, ability to pay, effect on ability to continue to do business, any history of prior such violations, the degree of culpability, and such other matters as justice may require. In implementing this section, the Secretary shall determine by rule whether nonprofit educational institutions should receive automatic remission of any penalty under this section.

"c. (1) Before issuing an order assessing a civil penalty against any person under this section, the Secretary shall provide to such person notice of the proposed penalty. Such notice shall inform such person of his opportunity to elect in writing within thirty days after the date of receipt of such notice to have the procedures of paragraph (3) (in lieu of those of paragraph (2)) apply with respect to such assessment.

"(2)(A) Unless an election is made within thirty calendar days after receipt of notice under paragraph (1) to have paragraph (3) apply with respect to such penalty, the Secretary shall assess the penalty, by order, after a determination of violation has been made on the record after an opportunity for an agency hearing pursuant to section 554 of title 5, United States Code, before an administrative law judge appointed under section 3105 of such title 5. Such assessment order shall include the administrative law judge's findings and the basis for such assessment.

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"(B) Any person against whom a penalty is assessed under this paragraph may, within sixty calendar days after the date of the order of the Secretary assessing such penalty, institute an action in the United States court of appeals for the appropriate judicial circuit for judicial review of such order in accordance with chapter 7 of title 5, United States Code. The court shall have jurisdiction to enter a judgment affirming, modifying, or setting aside in whole or in part, the order of the Secretary, or the court may remand the proceeding to the Secretary for such further action as the court may direct.

"(3)(A) In the case of any civil penalty with respect to which the procedures of this paragraph have been elected, the Secretary shall promptly assess such penalty, by order, after the date of the election under paragraph (1).

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"(B) If the civil penalty has not been paid within sixty calendar days after the assessment order has been made under subparagraph (A), the Secretary shall institute an action in the appropriate district court of the United States for an order affirming the assessment of the civil penalty. The court shall have authority to review de novo the law and facts involved, and shall have jurisdiction to enter a judgment enforcing, modifying, and enforcing as so modified, or setting aside in whole or in part, such assessment.

"(C) Any election to have this paragraph apply may not be revoked except with consent of the Secretary.

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"(4) If any person fails to pay an assessment of a civil penalty after it has become a final and unappealable order under paragraph (2), or after the appropriate district court has entered final judgment in favor of the Secretary under paragraph (3), the Secretary shall institute an action to recover the amount of such penalty in any appropriate district court of the United States. In such action, the validity and appropriateness of such final assessment order or judgment shall not be subject to review.

"d. The provisions of this section shall not apply to:

"(1) The University of Chicago (and any subcontractors or suppliers thereto) for activities associated with Argonne National Laboratory;

"(2) The University of California (and any subcontractors or suppliers thereto) for activities associated with Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Lawrence Berkeley National Laboratory;

"(3) American Telephone an Telegraph Company and its subsidiaries (and any subcontractors or suppliers thereto) for activities associated with Sandia National Laboratories;

"(4) Universities Research Association, Inc. (and any subcontractors or suppliers thereto) for activities associated with FERMI National Laboratory;

"(5) Princeton University (and any subcontractors or suppliers thereto) for activities associated with Princeton Plasma Physics Laboratory;

"(6) The Associated Universities, Inc. (and any subcontractors or suppliers thereto) for activities associated with the Brookhaven National Laboratory; and

"(7) Battelle Memorial Institute (and any subcontractors or suppliers thereto) for activities associated with Pacific Northwest Laboratory.".

SEC. 18. CRIMINAL PENALTIES.

Section 223 of the Atomic Energy Act of 1954, as amended, is further amended by adding a new subsection c. as follows: 42 USC 2273.

"c. Any individual director, officer or employee of a person indemnified under an agreement of indemnification under section 170 d. (or of a subcontractor or supplier thereto) who, by act or omission, knowingly and willfully violates or causes to be violated any section of this Act or any applicable nuclear safety-related rule, regulation or order issued thereunder by the Secretary of Energy (or expressly incorporated by reference by the Secretary for purposes of nuclear safety, except any rule, regulation, or order issued by the Secretary of Transportation), which violation results in or, if undetected, would have resulted in a nuclear incident as defined in subsection 11 q. shall, upon conviction, notwithstanding section 3571 of title 18, United States Code, be subject to a fine of not more than $25,000, or to imprisonment not to exceed two years, or both. If the conviction is for a violation committed after the first conviction under this subsection, notwithstanding section 3571 of title 18, United States Code, punishment shall be a fine of not more than $50,000, or imprisonment for not more than five years, or both.". Contracts.

SEC. 19. NEGOTIATED RULEMAKING ON FINANCIAL PROTECTION FOR RADIOPHARMACEUTICAL LICENSEES. 42 USC 2210 note.

(a) RULEMAKING PROCEEDING.— Contracts.

(1) PURPOSE.—The Nuclear Regulatory Commission (hereafter in this section referred to as the "Commission") shall initiate a proceeding, in accordance with the requirements of this section, to determine whether to enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with persons licensed by the Commission under section 81, 104(a), or 104(c) of the Atomic Energy Act of 1954 (42 U.S.C. 2111, 2134(a), and 2134(c)) or by a State under section 274(b) of the Atomic Energy Act of 1954 (42 U.S.C. 2021(b)) for the manufacture, production, possession, or use of radioisotopes or radiopharmaceuticals for medical purposes (hereafter in this section referred to as "radiopharmaceutical licensees").

(2) FINAL DETERMINATION.—A final determination with respect to whether radiopharmaceutical licensees, or any class of such licensees, shall be indemnified pursuant to section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) and if so, the terms and conditions of such indemnification, shall be rendered

by the Commission within 18 months of the date of the enactment of this Act.

(b) NEGOTIATED RULEMAKING.—

(1) ADMINISTRATIVE CONFERENCE GUIDELINES.—For the purpose of making the determination required under subsection (a), the Commission shall, to the extent consistent with the provisions of this Act, conduct a negotiated rulemaking in accordance with the guidance provided by the Administrative Conference of the United States in Recommendation 82-4, "Procedures for Negotiating Proposed Regulations" (42 Fed. Reg. 30708, July 15, 1982).

(2) DESIGNATION OF CONVENER.—Within 30 days of the date of the enactment of this Act, the Commission shall designate an individual or individuals recommended by the Administrative Conference of the United States to serve as a convener for such negotiations.

Contracts.

(3) SUBMISSION OF RECOMMENDATIONS OF THE CONVENER.—The convener shall, not later than 7 months after the date of the enactment of this Act, submit to the Commission recommendations for a proposed rule regarding whether the Commission should enter into indemnity agreements under section 170 of the Atomic Energy Act of 1954 (42 U.S.C. 2210) with radiopharmaceutical licensees and, if so, the terms and conditions of such indemnification. If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the proposed rule submitted by the convener shall set forth the procedures for the execution of indemnification agreements with radiopharmaceutical licensees.

(4) PUBLICATION OF RECOMMENDATIONS AND PROPOSED RULE.—If the convener recommends that such indemnity be provided for radiopharmaceutical licensees, the Commission shall publish the recommendations of the convener submitted under paragraph (3) as a notice of proposed rulemaking within 30 days of the submission of such recommendations under such paragraph.

(5) ADMINISTRATIVE PROCEDURES.—To the extent consistent with the provisions of this Act, the Commission shall conduct the proceeding required under subsection (a) in accordance with section 553 of title 5, United States Code.

42 USC 2014 note.

SEC. 20. EFFECTIVE DATE.

(a) Except as provided in subsection (b), the amendments made by this Act shall become effective on the date of the enactment of this Act and shall be applicable with respect to nuclear incidents occurring on or after such date.

(b)(1) The amendments made by section 11 shall apply to nuclear incidents occurring before, on, or after the date of the enactment of this Act.

(2)(A) Section 234A of the Atomic Energy Act of 1954 shall not apply to any violation occurring before the date of the enactment of this Act.

(B) Section 223 c. of the Atomic Energy Act of 1954 shall not apply to any violation occurring before the date of enactment of this Act.

Approved August 20, 1988.

LEGISLATIVE HISTORY—H.R. 1414 (S. 748) (S. 1865):

HOUSE REPORTS: No. 100-104, Pt. 1 (Comm. on Interior and Insular Affairs), Pt. 2 (Comm. on Science, Space, and Technology), and Pt. 3 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 100-70 accompanying S. 748 (Comm. on Energy and Natural Resources) and No. 100-218 accompanying S. 1865 (Comm. on Environment and Public Works).

CONGRESSIONAL RECORD:

Vol. 133 (1987): July 29, 30, considered and passed House.

Vol. 134 (1988): Mar. 16-18, considered and passed Senate, amended.

Aug. 2, House concurred in certain Senate amendment with an amendment and disagreed to others.

Aug. 5, Senate receded and concurred in House amendment.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Aug. 20, Presidential statement.

Public Law 100-409
100th Congress

An Act

Aug. 20, 1988
[H.R. 1860]

Entitled the "Federal Land Exchange Facilitation Act of 1988".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Land Exchange Facilitation Act of 1988.
Public lands.
43 USC 1701 note.
43 USC 1716 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Land Exchange Facilitation Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares that—

(1) land exchanges are a very important tool for Federal and State land managers and private landowners to consolidate Federal, State, and private holdings of land or interests in land for purposes of more efficient management and to secure important objectives including the protection of fish and wildlife habitat and aesthetic values; the enhancement of recreation opportunities; the consolidation of mineral and timber holdings for more logical and efficient development; the expansion of communities; the promotion of multiple-use values; and fulfillment of public needs;

(2) needs for land ownership adjustments and consolidation consistently outpace available funding for land purchases by the Federal Government and thereby make land exchanges an increasingly important method of land acquisition and consolidation for both Federal and State land managers and private landowners;

(3) the Federal Land Policy and Management Act of 1976 and other laws provide a basic framework and authority for land exchanges involving lands under the jurisdiction of the Secretary of the Interior and the Secretary of Agriculture; and

(4) such existing laws are in need of certain revisions to streamline and facilitate land exchange procedures and expedite exchanges.

(b) PURPOSES.—The purposes of this Act are:

(1) to facilitate and expedite land exchanges pursuant to the Federal Land Policy and Management Act of 1976 and other laws applicable to exchanges involving lands managed by the Departments of the Interior and Agriculture by—

(A) providing more uniform rules and regulations pertaining to land appraisals which reflect nationally recognized appraisal standards; and

(B) establishing procedures and guidelines for the resolution of appraisal disputes.

(2) to provide sufficient resources to the Secretaries of the Interior and Agriculture to ensure that land exchange activities can proceed consistent with the public interest; and

(3) to require a study and report concerning improvements in the handling of certain information related to Federal and other lands. Reports.

SEC. 3. LAND EXCHANGES AND APPRAISALS.

(a) FLPMA AMENDMENTS.—Section 206 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716) is hereby amended by adding the following new subsections:

"(d)(1) No later than ninety days after entering into an agreement to initiate an exchange of land or interests therein pursuant to this Act or other applicable law, the Secretary concerned and other party or parties involved in the exchange shall arrange for appraisal (to be completed within a time frame and under such terms as are negotiated by the parties) of the lands or interests therein involved in the exchange in accordance with subsection (f) of this section. Contracts.

"(2) If within one hundred and eighty days after the submission of an appraisal or appraisals for review and approval by the Secretary concerned, the Secretary concerned and the other party or parties involved cannot agree to accept the findings of an appraisal or appraisals, the appraisal or appraisals shall be submitted to an arbitrator appointed by the Secretary from a list of arbitrators submitted to him by the American Arbitration Association for arbitration to be conducted in accordance with the real estate valuation arbitration rules of the American Arbitration Association. Such arbitration shall be binding for a period of not to exceed two years on the Secretary concerned and the other party or parties involved in the exchange insofar as concerns the value of the lands which were the subject of the appraisal or appraisals.

"(3) Within thirty days after the completion of the arbitration, the Secretary concerned and the other party or parties involved in the exchange shall determine whether to proceed with the exchange, modify the exchange to reflect the findings of the arbitration or any other factors, or to withdraw from the exchange. A decision to withdraw from the exchange may be made by either the Secretary concerned or the other party or parties involved.

"(4) Instead of submitting the appraisal to an arbitrator, as provided in paragraph (2) of this section, the Secretary concerned and the other party or parties involved in an exchange may mutually agree to employ a process of bargaining or some other process to determine the values of the properties involved in the exchange.

"(5) The Secretary concerned and the other party or parties involved in an exchange may mutually agree to suspend or modify any of the deadlines contained in this subsection.

"(e) Unless mutually agreed otherwise by the Secretary concerned and the other party or parties involved in an exchange pursuant to this Act or other applicable law, all patents or titles to be issued for land or interests therein to be acquired by the Federal Government and lands or interest therein to be transferred out of Federal ownership shall be issued simultaneously after the Secretary concerned has taken any necessary steps to assure that the United States will receive acceptable title. Patents and trademarks.

"(f)(1) Within one year after the enactment of subsections (d) through (i) of this section, the Secretaries of the Interior and Agriculture shall promulgate new and comprehensive rules and regulations governing exchanges of land and interests therein pursuant to this Act and other applicable law. Such rules and regulations shall fully reflect the changes in law made by subsections (d) through (i) of Regulations.

this section and shall include provisions pertaining to appraisals of lands and interests therein involved in such exchanges.

"(2) The provisions of the rules and regulations issued pursuant to paragraph (1) of this subsection governing appraisals shall reflect nationally recognized appraisal standards, including, to the extent appropriate, the Uniform Appraisal Standards for Federal Land Acquisitions: *Provided, however,* That the provisions of such rules and regulations shall—

"(A) ensure that the same nationally approved appraisal standards are used in appraising lands or interest therein being acquired by the Federal Government and appraising lands or interests therein being transferred out of Federal ownership; and

"(B) with respect to costs or other responsibilities or requirements associated with land exchanges—

"(i) recognize that the parties involved in an exchange may mutually agree that one party (or parties) will assume, without compensation, all or part of certain costs or other responsibilities or requirements ordinarily borne by the other party or parties; and

"(ii) also permit the Secretary concerned, where such Secretary determines it is in the public interest and it is in the best interest of consummating an exchange pursuant to this Act or other applicable law, and upon mutual agreement of the parties, to make adjustments to the relative values involved in an exchange transaction in order to compensate a party or parties to the exchange for assuming costs or other responsibilities or requirements which would ordinarily be borne by the other party or parties.

"As used in this subparagraph, the term 'costs or other responsibilities or requirements' shall include, but not be limited to, costs or other requirements associated with land surveys and appraisals, mineral examinations, title searches, archeological surveys and salvage, removal of encumbrances, arbitration pursuant to subsection (d) of this section, curing deficiencies preventing highest and best use, and other costs to comply with laws, regulations and policies applicable to exchange transactions, or which are necessary to bring the Federal or non-Federal lands or interests involved in the exchange to their highest and best use for the appraisal and exchange purposes. Prior to making any adjustments pursuant to this subparagraph, the Secretary concerned shall be satisfied that the amount of such adjustment is reasonable and accurately reflects the approximate value of any costs or services provided or any responsibilities or requirements assumed.

"(g) Until such time as new and comprehensive rules and regulations governing exchange of land and interests therein are promulgated pursuant to subsection (f) of this section, land exchanges may proceed in accordance with existing laws and regulations, and nothing in the Act shall be construed to require any delay in, or otherwise hinder, the processing and consummation of land exchanges pending the promulgation of such new and comprehensive rules and regulations. Where the Secretary concerned and the party or parties involved in an exchange have agreed to initiate an exchange of land or interests therein prior to the day of enactment of such subsections, subsections (d) through (i) of this section shall not apply to such exchanges unless the Secretary concerned and the party or parties involved in the exchange mutually agree otherwise.

"(h)(1) Notwithstanding the provisions of this Act and other applicable laws which require that exchanges of land or interests therein be for equal value, where the Secretary concerned determines it is in the public interest and that the consummation of a particular exchange will be expedited thereby, the Secretary concerned may exchange lands or interests therein which are of approximately equal value in cases where—

"(A) the combined value of the lands or interests therein to be transferred from Federal ownership by the Secretary concerned in such exchange is not more than $150,000; and

"(B) the Secretary concerned finds in accordance with the regulations to be promulgated pursuant to subsection (f) of this section that a determination of approximately equal value can be made without formal appraisals, as based on a statement of value made by a qualified appraiser and approved by an authorized officer; and

"(C) the definition of and procedure for determining 'approximately equal value' has been set forth in regulations by the Secretary concerned and the Secretary concerned documents how such determination was made in the case of the particular exchange involved.

"(2) As used in this subsection, the term 'approximately equal value' shall have the same meaning with respect to lands managed by the Secretary of Agriculture as it does in the Act of January 22, 1983 (commonly known as the 'Small Tracts Act').

"(i)(1) Upon receipt of an offer to exchange lands or interests in lands pursuant to this Act or other applicable laws, at the request of the head of the department or agency having jurisdiction over the lands involved, the Secretary of the Interior may temporarily segregate the Federal lands under consideration for exchange from appropriation under the mining laws. Such temporary segregation may only be made for a period of not to exceed five years. Upon a decision not to proceed with the exchange or upon deletion of any particular parcel from the exchange offer, the Federal lands involved or deleted shall be promptly restored to their former status under the mining laws. Any segregation pursuant to this paragraph shall be subject to valid existing rights as of the date of such segregation. Minerals and mining.

"(2) All non-Federal lands which are acquired by the United States through exchange pursuant to this Act or pursuant to other law applicable to lands managed by the Secretary of Agriculture shall be automatically segregated from appropriation under the public land law, including the mining laws, for ninety days after acceptance of title by the United States. Such segregation shall be subject to valid existing rights as of the date of such acceptance of title. At the end of such ninety day period, such segregation shall end and such lands shall be open to operation of the public land laws and to entry, location, and patent under the mining laws except to the extent otherwise provided by this Act or other applicable law, or appropriate actions pursuant thereto.". Patents and trademarks.

(b) CONFORMING AMENDMENT.—The first sentence of section 206(b) (43 U.S.C. 1716(b)) of the Federal Land Policy and Management Act of 1976 is hereby amended by inserting the word "concerned" after the words "the Secretary".

(c) ADDITIONAL AMENDMENT.—Section 206(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(c)) is hereby amended to read as follows:

National Forest System. National Park System. National Wildlife Refuge System. National Wilderness Preservation System. California.

"(c) Lands acquired by the Secretary by exchange under this section which are within the boundaries of any unit of the National Forest System, National Park System, National Wildlife Refuge System, National Wild and Scenic Rivers System, National Trails System, National Wilderness Preservation System, or any other system established by Act of Congress, or the boundaries of the California Desert Conservation Area, or the boundaries of any national conservation area or national recreation area established by Act of Congress, upon acceptance of title by the United States shall immediately be reserved for and become a part of the unit or area within which they are located, without further action by the Secretary, and shall thereafter be managed in accordance with all laws, rules, and regulations applicable to such unit or area.".

43 USC 1716 note.

SEC. 4. LAND EXCHANGE FUNDING AUTHORIZATION.

In order to ensure that there are increased funds and personnel available to the Secretaries of the Interior and Agriculture to consider, process, and consummate land exchanges pursuant to the Federal Land Policy and Management Act of 1976 and other applicable law, there are hereby authorized to be appropriated for fiscal years 1989 through 1998 an annual amount not to exceed $4,000,000 which shall be used jointly or divided among the Secretaries as they determine appropriate for the consideration, processing, and consummation of land exchanges pursuant to the Federal Land Policy and Management Act of 1976, as amended, and other applicable law. Such moneys are expressly intended by Congress to be in addition to, and not offset against, moneys otherwise annually requested by the Secretaries, and appropriated by Congress for land exchange purposes.

43 USC 1716 note.

SEC. 5. SAVING CLAUSE.

Nothing in this Act shall be construed as amending the Alaska Native Claims Settlement Act (Public Law 92-203, as amended) or the Alaska National Interest Lands Conservation Act (Public Law 96-487, as amended) or as enlarging or diminishing the authority with regard to exchanges conferred upon either the Secretary of the Interior or the Secretary of Agriculture by either such Acts. If any provision of this Act or the application thereof is held invalid, the remainder of the Act and the application thereof shall not be affected thereby. Nothing in this Act shall be construed to change the discretionary nature of land exchanges or to prohibit the Secretary concerned or any other party or parties involved in a land exchange from withdrawing from the exchange at any time, unless the Secretary concerned and the other party or parties specifically commit otherwise by written agreement.

SEC. 6. NFMA AMENDMENTS.

16 USC 521b.

Section 17(b) of the National Forest Management Act of 1976 is hereby amended—

(1) by striking out "$25,000" and inserting in lieu thereof "$150,000";

(2) by striking out "and" at the end of paragraph (3);

(3) by striking out the period at the end of paragraph (4) and inserting in lieu thereof "; and"; and

(4) by adding after paragraph (4) the following:

"(5) any adjustment made by the Secretary of relative value pursuant to section 206(f)(2)(B)(ii) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716).".

SEC. 7. ADDITIONAL AMENDMENTS.

The Act of July 26, 1956 (70 Stat. 656, 16 U.S.C. 505a, 505b) is hereby amended as follows:

(a) The words "national forest lands" are hereby deleted wherever they occur, and the words "National Forest System lands" are inserted in lieu thereof.

(b) The words "a national forest" are hereby deleted in the first paragraph, and the words "a unit of the National Forest System" are inserted in lieu thereof.

(c) The following sentence is hereby added at the end of the second paragraph: "Lands interchanged under the authority of this Act shall be deemed to include interests in lands.".

SEC. 8. LAND INFORMATION STUDY. 43 USC 751 note.

(a) STUDY.—The Secretary of the Interior shall conduct an assessment of the need for and cost and benefits associated with improvements in the existing methods of land surveying and mapping and of collecting, storing, retrieving, disseminating, and using information about Federal and other lands.

(b) CONSULTATION.—In conducting the assessment required by this section, the Secretary of the Interior shall consult with the following—

(1) the Secretary of Agriculture;

(2) the Secretary of Commerce;

(3) the Director of the National Science Foundation;

(4) representatives of State and local governments;

(5) representatives of private sector surveying and mapping science.

(c) REPORT.—No later than one year after the day of enactment of this Act, the Secretary of the Interior shall report to the Congress concerning the results of the assessment required by this section.

(d) TOPICS.—In the report required by subsection (c), the Secretary of the Interior shall include a discussion and evaluation of the following:

(1) relevant recommendations made by the National Academy of Sciences (National Research Council) on the concept of a multipurpose cadastre from time to time prior to the date of enactment of this Act; Records.

(2) ongoing activities concerning development of an overall reference frame for land and resource information, including but not limited to a geodetic network, a series of current and accurate large-scale maps, cadastral overlay maps, unique identifying numbers linking specific land parcels to a common index of all land records in United States cadastral systems, and a series of land data files; Records.

(3) ways to achieve better definition of the roles of Federal and other governmental agencies and the private sector in dealing with land information systems;

(4) ways to improve the coordination of Federal land information activities; and

(5) model standards developed by the Secretary for compatible multipurpose land information systems for use by Federal,

State and local governmental agencies, the public, and the private sector.

(e) RECOMMENDATIONS.—The report required by subsection (c) may also include such recommendations for legislation as the Secretary of the Interior considers necessary or desirable.

SEC. 9. CASH EQUALIZATION WAIVER.

Subsection 206(b) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1716(b)) is hereby amended by adding the following at the end of the third sentence thereof:

"The Secretary concerned and the other party or parties involved in the exchange may mutually agree to waive the requirement for the payment of money to equalize values where the Secretary concerned determines that the exchange will be expedited thereby and that the public interest will be better served by such a waiver of cash equalization payments and where the amount to be waived is no more than 3 per centum of the value of the lands being transferred out of Federal ownership or $15,000, whichever is less, except that the Secretary of Agriculture shall not agree to waive any such requirement for payment of money to the United States.".

SEC. 10. TEMPORARY REVOCATION AUTHORITY.

The Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.), as amended, is further amended by adding the following new section:

Courts, U.S. District of Columbia.
43 USC 1723.

"SEC. 215. (a) When the sole impediment to consummation of an exchange of lands or interests therein (hereinafter referred to as an exchange) determined to be in the public interest, is the inability of the Secretary of the Interior to revoke, modify, or terminate part or all of a withdrawal or classification because of the order (or subsequent modification or continuance thereof) of the United States District Court for the District of Columbia dated February 10, 1986, in Civil Action No. 85-2238 (National Wildlife Federation v. Robert E. Burford, et al.), the Secretary of the Interior is hereby authorized, notwithstanding such order (or subsequent modification or continuance thereof), to use the authority contained herein, in lieu of other authority provided in this Act including section 204, to revoke, modify, or terminate in whole or in part, withdrawals or classifications to the extent deemed necessary by the Secretary to enable the United States to transfer land or interests therein out of Federal ownership pursuant to an exchange.

"(b) REQUIREMENTS.—The authority specified in subsection (a) of this section may be exercised only in cases where—

"(1) a particular exchange is proposed to be carried out pursuant to this Act, as amended, or other applicable law authorizing such an exchange;

"(2) the proposed exchange has been prepared in compliance with all laws applicable to such exchange;

"(3) the head of each Federal agency managing the lands proposed for such transfer has submitted to the Secretary of the Interior a statement of concurrence with the proposed revocation, modification, or termination;

"(4) at least sixty days have elapsed since the Secretary of the Interior has published in the Federal Register a notice of the proposed revocation, modification, or termination; and

"(5) at least sixty days have elapsed since the Secretary of the Interior has transmitted to the Committee on Interior and

Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a report which includes—

"(A) a justification for the necessity of exercising such authority in order to complete an exchange;

"(B) an explanation of the reasons why the continuation of the withdrawal or a classification or portion thereof proposed for revocation, modification, or termination is no longer necessary for the purposes of the statutory or other program or programs for which the withdrawal or classification was made or other relevant programs;

"(C) assurances that all relevant documents concerning the proposed exchange or purchase for which such authority is proposed to be exercised (including documents related to compliance with the National Environmental Policy Act of 1969 and all other applicable provisions of law) are available for public inspection in the office of the Secretary concerned located nearest to the lands proposed for transfer out of Federal ownership in furtherance of such exchange and that the relevant portions of such documents are also available in the offices of the Secretary concerned in Washington, District of Columbia; and

"(D) an explanation of the effect of the revocation, modification, or termination of a withdrawal or classification or portion thereof and the transfer of lands out of Federal ownership pursuant to the particular proposed exchange, on the objectives of the land management plan which is applicable at the time of such transfer to the land to be transferred out of Federal ownership.

"(c) LIMITATIONS.—(1) Nothing in this section shall be construed as affirming or denying any of the allegations made by any party in the civil action specified in subsection (a), or as constituting an expression of congressional opinion with respect to the merits of any allegation, contention, or argument made or issue raised by any party in such action, or as expanding or diminishing the jurisdiction of the United States District Court for the District of Columbia. Claims. Courts, U.S. District of Columbia.

"(2) Except as specifically provided in this section, nothing in this section shall be construed as modifying, terminating, revoking, or otherwise affecting any provision of law applicable to land exchanges, withdrawals, or classifications.

"(3) The availability or exercise of the authority granted in subsection (a) may not be considered by the Secretary of the Interior in making a determination pursuant to this Act or other applicable law as to whether or not any proposed exchange is in the public interest.

"(d) TERMINATION.—The authority specified in subsection (a) shall expire either (1) on December 31, 1990, or (2) when the Court order (or subsequent modification or continuation thereof) specified in subsection (a) is no longer in effect, whichever occurs first.".

Approved August 20, 1988.

LEGISLATIVE HISTORY—H.R. 1860:

HOUSE REPORTS: No. 100-165, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).
SENATE REPORTS: No. 100-375 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 14, considered and passed House.
Vol. 134 (1988): June 13, considered and passed Senate, amended.
July 27, House concurred in Senate amendments with an amendment.
Aug. 3, Senate concurred in House amendment.

Public Law 100-410
100th Congress

An Act

To release a reversionary interest of the United States in a certain parcel of land located in Bay County, Florida.

Aug. 22, 1988
[H.R. 3431]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TRANSFER OF REVERSIONARY INTEREST.

(a) AUTHORIZATION.—If within one year after the date of enactment of this Act, the Secretary of the Interior (hereafter, "the Secretary") receives from the Board of Commissioners of Bay County, Florida (hereafter, "the county") the documents required by this Act, the Secretary is authorized and directed to take all actions necessary to release from the property described in subsection (b) the restriction that such property be forever used for recreational purposes, and to release and quitclaim all right, title and interest of the United States in the surface estate in such property to the county or its successors. The minerals in such property, and rights associated therewith, which were reserved to the United States shall continue to be so reserved.

Minerals and mining.

(b) DESCRIPTION.—The property referred to in subsection (a) is a parcel of land comprised of approximately 40 acres surface estate to which was conveyed to Bay County, Florida, pursuant to the Act entitled "An Act to authorize acquisition or use of public lands by States, counties, or municipalities for recreational purposes" (43 U.S.C. 869 et seq.), and is more particularly described as follows:

TALLAHASSEE MERIDIAN, FLORIDA

Township 1 South, Range 14 West

Section 15: Southwest quarter, southwest quarter.

SEC. 2. REQUIREMENTS.

Recreation.

(a) DOCUMENTS.—The Secretary shall not exercise the authority described in section 1 unless and until the county makes a timely submission to the Secretary of documents which to the satisfaction of the Secretary demonstrate that—

(1) The county has entered into a binding agreement to exchange the county's interest in the land described in section 1(b) for other land, comprising at least 36 acres, which the Secretary has determined is suitable for use for public open space and recreation; and

Contracts.

(2) The county agrees that upon the completion of the exchange described in paragraph (1), the land obtained by the county through such exchange shall be forever used for public open space and recreation, and that if any part of such land is used for any other purpose, all right, title, and interest of the county in all such land obtained by the county in such exchange shall be transferred to and vested in the United States.

Public lands.
Recreation.

(b) OTHER CONDITIONS.—In the event that by operation of this Act, any land is transferred to and vested in the United States, the Secretary shall retain such land and shall manage it for public open space and recreation unless the Secretary determines, in accordance with the Federal Land Policy and Management Act of 1976, that such land is suitable for disposal, in which case the Secretary may dispose of such land through exchange or otherwise.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 3431:

HOUSE REPORTS: No. 100-706 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-451 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Aug. 9, considered and passed Senate.

Public Law 100-411
100th Congress

An Act

To settle certain land claims of the Coushatta Tribe of Louisiana against the United States, to authorize the use and distribution of the settlement funds, and for other purposes.

Aug. 22, 1988
[H.R. 3617]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SETTLEMENT PAYMENT.

(a)(1) The Secretary of the Treasury is authorized and directed to pay to the Secretary of the Interior (hereinafter referred to as the "Secretary") for the benefit of the Coushatta Tribe of Louisiana (hereinafter referred to as the "Tribe"), out of any money in the Treasury not otherwise appropriated, the sum of $1,300,000.

(2) Such sum represents the value of a settlement reached between the Tribe and the United States in a dispute over the uncompensated taking by the United States of land owned or occupied by the Tribe or its historical predecessor-in-interest in the 19th Century.

(b) The payment of such sum shall be in full settlement of, and shall finally dispose of, all rights, claims or demands which the Tribe has asserted, or could have asserted, against the United States under the provisions of the Act of August 13, 1946 (60 Stat. 1049).

(c) Upon payment of the funds as provided in subsection (a), the Secretary shall hold, manage and invest such funds, less—

(1) the amount paid to the Tribe pursuant to section 2(b), and

(2) any amount paid as attorney fees or expenses pursuant to section 4, as tribal trust funds until disposed of as provided by section 2 of this Act.

SEC. 2. USE AND DISTRIBUTION OF FUNDS.

(a) All available funds invested by the Secretary pursuant to section 1 plus all accrued interest or income, less the amount reserved for tribal organization pursuant to section 4, shall be distributed as provided in this section.

(b)(1) The Tribe, with the assistance and approval of the Secretary, shall develop a plan for the use and distribution of the funds held by the Secretary pursuant to section 1.

(2) Upon payment by the Secretary of the Treasury of the amount provided in section 1, the Secretary shall, prior to investing such funds, immediately make available to the Tribe 3 per centum of such funds to assist the Tribe in developing such plan and shall render such other advice and assistance as the Tribe may require.

(c) Prior to approving a plan submitted pursuant to subsection (b), the Secretary shall be assured that—

(1) tribal members were reasonably consulted during the development of the plan; and

(2) the plan complies with paragraphs (3), (5), and (6) of section 3(b) of the Act of October 19, 1973 (25 U.S.C. 1403).

(d)(1) In the event that the plan provides for the per capita distribution of any portion of the funds to the members of the Tribe, such per capita payments shall be made as provided in this subsection.

Records.

(2)(A) Within one hundred and eighty days after the approval, by the Secretary, of a plan for the use and distribution of funds as provided in subsection (c), the Secretary shall prepare a roll of all persons who—

(i) were born on or prior to and living on the date of enactment of this Act,

(ii) are persons—

(I) on the roll prepared by the Tribe which is on file with the Office of the Assistant Secretary of the Interior for Indian Affairs, or

(II) who can show, by evidence satisfactory to the Secretary, that such person is at least one-fourth degree of Coushatta Tribe of Louisiana blood, and

(iii) are not enrolled with any other Indian tribe.

Federal Register, publication.

(B)(i) Within thirty days after the date of the Secretarial approval of a plan, the Secretary shall publish in the Federal Register a notice of the right of persons to apply for enrollment under subparagraph (A)(i)(II) of this paragraph and shall, contemporaneously, publish such notice in an appropriate newspaper or newspapers of general circulation, including those in the parish within which the Tribe is located.

(ii) Applications submitted for enrollment pursuant to subparagraph (A)(i)(II) must be submitted within ninety days after the publication of the notice in the Federal Register as required by this subparagraph.

(C) The determination of the Secretary of the eligibility of an applicant under subparagraph (A)(i)(II) of this paragraph for enrollment under this subsection shall be final.

(3)(A) Upon final approval of the roll by the Secretary, the funds provided for per capita payments under the plan adopted pursuant to this section shall be paid in equal shares to persons on such roll.

(B) Payments made pursuant to this paragraph shall be subject to the provisions of section 7 of the Act of October 19, 1973 (25 U.S.C. 1407).

SEC. 3. ATTORNEY FEES.

Not more than 10 per centum of the payment specified in section 1(a) shall be paid to, or received by, any agent or attorney as consideration for any services rendered in connection with such payment, any contract to the contrary notwithstanding. Violation of this section shall be deemed a misdemeanor punishable by a fine of not more than $1,000.

Law enforcement and crime.

SEC. 4. TRIBAL ORGANIZATION.

(a) The provisions of the Act of June 18, 1934 (25 U.S.C. 461 et seq.) are made applicable to the Coushatta Tribe of Louisiana and the Tribe is authorized to organize under section 16 of such Act.

(b) For the purpose of such organization, the base roll of the Tribe shall be the roll established pursuant to section 2(d) of this Act.

(c)(1) The Secretary shall reserve, for a period of three years, from the funds authorized to be distributed pursuant to section 2 an amount equal to 5 per centum of such funds.

(2) Upon notification by the Tribe of its intent to organize under this section and upon the request of the Tribe, the Secretary shall disburse to the Tribe the amount reserved pursuant to this subsection, plus any accrued interest or income, for purposes of assisting the Tribe in its organizational efforts.

(3) If the Tribe has not requested such funds for organizational purposes by the end of such three year period, the Secretary shall disburse the funds to the Tribe for such purposes as it may desire.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 3617:

HOUSE REPORTS: No. 100-565, Pt. 1 (Comm. on the Judiciary) and Pt. 2 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-478 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 13, considered and passed House.
Aug. 11, considered and passed Senate.

Public Law 100-412
100th Congress

An Act

Aug. 22, 1988
[H.R. 3880]

To extend the authorization of the Upper Delaware Citizens Advisory Council for an additional ten years.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF AUTHORIZATION.

The last sentence of paragraph (1) of section 704(f) of the National Parks and Recreation Act of 1978 (16 U.S.C. 1274 note; relating to the Upper Delaware River) is amended by striking out "ten" and inserting in lieu thereof "20".

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 3880:

HOUSE REPORTS: No. 100-697 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-452 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Aug. 9, considered and passed Senate.

Public Law 100-413
100th Congress

An Act

To simplify the process of obtaining licensing by States for participation in parimutuel wagering by allowing consolidated requests to be made to the Federal Government for identification and criminal history records relating to the applicant for such licensing.

Aug. 22, 1988
[H.R. 4458]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Parimutuel Licensing Simplification Act of 1988.
28 USC 534 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Parimutuel Licensing Simplification Act of 1988".

28 USC 534 note.

SEC. 2. SUBMISSION BY ASSOCIATION OF STATE REGULATORY OFFICIALS.

(a) IN GENERAL.—An association of State officials regulating parimutuel wagering, designated for the purpose of this section by the Attorney General, may submit fingerprints to the Attorney General on behalf of any applicant for State license to participate in parimutuel wagering. In response to such a submission, the Attorney General may, to the extent provided by law, exchange, for licensing and employment purposes, identification and criminal history records with the State governmental bodies to which such applicant has applied.

(b) DEFINITION.—As used in this section, the term "State" means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any territory or possession of the United States.

28 USC 534 note.

SEC. 3. EFFECTIVE DATE.

This Act shall take effect on July 1, 1989.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 4458:

HOUSE REPORTS: No. 100-832 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed House.
Aug. 11, considered and passed Senate.

Public Law 100-414
100th Congress

An Act

Aug. 22, 1988
[H.R. 4694]

To amend the Perishable Agricultural Commodities Act to increase the statutory ceilings on license fees.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LICENSE FEES.

Section 3(b) of the Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499c(b)), is amended by—

(1) in the third sentence, striking out "$300, plus $150" and inserting in lieu thereof "$400, plus $200"; and

(2) in the fourth sentence, striking out "$3,000" and inserting in lieu thereof "$4,000".

SEC. 2. ADVISORY COMMITTEE.

The Perishable Agricultural Commodities Act, 1930 (7 U.S.C. 499 et seq.) is amended by adding at the end thereof the following new section:

"ADVISORY COMMITTEE

Establishment.
7 USC 499t.

"SEC. 20. (a) The Secretary of Agriculture shall establish the Perishable Agricultural Commodities Act Industry Advisory Committee to—

"(1) review the Perishable Agricultural Commodities Act program to ensure increased program efficiency and equitable treatment among the various segments of the fruit and vegetable industry;

"(2) enhance the mutual understanding and cooperation among all segments of the fruit and vegetable industry;

"(3) advise the Secretary on the Perishable Agricultural Commodities Act program; and

Reports.

"(4) submit a report to the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Secretary, as provided in subsection (f).

"(b) The committee shall be comprised of not more than twenty members, and ten alternates, appointed by the Secretary, representing the balanced interests of the fruit and vegetable industry, including but not limited to growers, shippers, brokers, receivers, wholesalers, retailers, and processors. The Secretary shall appoint the members of the advisory committee not later than 180 days after the date of enactment of this section.

"(c) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

"(d) The Secretary shall provide the advisory committee with necessary clerical assistance and personnel.

"(e) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States. Members of the advisory committee shall, while away from their homes or regular places of business in the performance of

services under this Act, be allowed travel expenses, including per diem in lieu of subsistence, as authorized under section 5703 of title 5 of the United States Code.

"(f)(1) The advisory committee shall review the Perishable Agricultural Commodities Act program, including but not limited to the administration, operations, and funding of such program.

"(2) On the basis of its review, the advisory committee shall make findings and develop recommendations for consideration by Congress and the Secretary of Agriculture with respect to the future operation of the Perishable Agricultural Commodities Act program.

"(3) The advisory committee shall submit, to the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Secretary of Agriculture, an interim report no later than September 30, 1989, and a final report no later than May 1, 1990, containing the results of its review and recommendations based on such results. Reports.

"(g) The advisory committee shall cease to exist on the date of its report to the House Committee on Agriculture, the Senate Committee on Agriculture, Nutrition, and Forestry, and the Secretary of Agriculture.". Termination date.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 4694:

HOUSE REPORTS: No. 100-794 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
Aug. 10, considered and passed Senate.

Public Law 100-415
100th Congress

An Act

Aug. 22, 1988
[H.R. 4754]

To amend the Pennsylvania Avenue Development Corporation Act of 1972 to authorize appropriations for implementation of the development plan for Pennsylvania Avenue between the Capitol and the White House, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Pennsylvania Avenue Development Corporation Act of 1972 (86 Stat. 1266, as amended, 40 U.S.C. 871), is amended as follows: At the end of section 17(a), insert the following: "There are further authorized to be appropriated for operating and administrative expenses of the Corporation $2,353,000 for the fiscal year 1989; $2,650,000 for the fiscal year 1990; $2,400,000 for the fiscal year 1991; and $2,200,000 for the fiscal year 1992.".

40 USC 885.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 4754 (S. 2318):

HOUSE REPORTS: No. 100-836 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-462 accompanying S. 2318 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed House.
Aug. 9, considered and passed Senate.

Public Law 100-416
100th Congress

An Act

To delay temporarily certain regulations relating to sea turtle conservation.

Aug. 22, 1988
[H.R. 5141]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EFFECTIVE DATE OF SEA TURTLE CONSERVATION REGULATIONS.

Notwithstanding any other law and except as provided in section 2, the regulations promulgated by the Secretary of Commerce on June 29, 1987, relating to sea turtle conservation, shall not be effective before September 17, 1988.

SEC. 2. REGULATIONS FOR THE CANAVERAL AREAS OF FLORIDA REMAIN IN EFFECT.

The regulations referred to in section 1 shall continue in effect for the Canaveral area of Florida.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.R. 5141:

HOUSE REPORTS: No. 100-826 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed House.
Aug. 11, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 100-417
100th Congress

Joint Resolution

Aug. 22, 1988
[H.J. Res. 417]

Designating May 1989 as "Neurofibromatosis Awareness Month".

Whereas neurofibromatosis is a genetic disorder which causes tumors to grow in the human nervous system;

Whereas neurofibromatosis is the most common tumor-causing genetic disorder of the nervous system;

Whereas neurofibromatosis is a potentially debilitating disorder which strikes males and females of all races and ethnic groups;

Whereas neurofibromatosis can strike in any part of the nervous system, at any time;

Whereas the National Neurofibromatosis Foundation, Inc., is a voluntary health organization, with chapters across the Nation, which was established to serve people with neurofibromatosis and their families, to stimulate and support biomedical research on neurofibromatosis, and to increase public awareness of neurofibromatosis and its consequences;

Whereas the public and the Federal Government are not sufficiently aware of neurofibromatosis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That May 1989 is designated as "Neurofibromatosis Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate programs, ceremonies, and activities.

Approved August 22, 1988.

LEGISLATIVE HISTORY—H.J. Res. 417:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 2, considered and passed House.
Aug. 9, considered and passed Senate.

Public Law 100-418
100th Congress

An Act

To enhance the competitiveness of American industry, and for other purposes.

Aug. 23, 1988
[H.R. 4848]

Omnibus Trade and Competitiveness Act of 1988.
Exports.
Imports.
International agreements.
19 USC 2901 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Omnibus Trade and Competitiveness Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Legislative history of H.R. 3 applicable.

TITLE I—TRADE, CUSTOMS, AND TARIFF LAWS

Sec. 1001. Findings and purposes.

Subtitle A—United States Trade Agreements

PART 1—NEGOTIATION AND IMPLEMENTATION OF TRADE AGREEMENTS

Sec. 1101. Overall and principal trade negotiating objectives of the United States.
Sec. 1102. Trade agreement negotiating authority.
Sec. 1103. Implementation of trade agreements.
Sec. 1104. Compensation authority.
Sec. 1105. Termination and reservation authority; reciprocal nondiscriminatory treatment.
Sec. 1106. Accession of state trading regimes to the General Agreement on Tariffs and Trade.
Sec. 1107. Definitions and conforming amendments.

PART 2—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

Sec. 1111. Hearings and advice.

PART 3—OTHER TRADE AGREEMENT AND NEGOTIATION PROVISIONS

Sec. 1121. Implementation of Nairobi Protocol.
Sec. 1122. Implementation of United States-EC Agreement on citrus and pasta.
Sec. 1123. Extension of International Coffee Agreement Act of 1980.
Sec. 1124. Negotiations on currency exchange rates.
Sec. 1125. Reports on negotiations to eliminate wine trade barriers.

Subtitle B—Implementation of the Harmonized Tariff Schedule

Sec. 1201. Purposes.
Sec. 1202. Definitions.
Sec. 1203. Congressional approval of United States accession to the Convention.
Sec. 1204. Enactment of the Harmonized Tariff Schedule.
Sec. 1205. Commission review of, and recommendations regarding, the Harmonized Tariff Schedule.
Sec. 1206. Presidential action on Commission recommendations.
Sec. 1207. Publication of the Harmonized Tariff Schedule.
Sec. 1208. Import and export statistics.
Sec. 1209. Coordination of trade policy and the Convention.
Sec. 1210. United States participation on the Customs Cooperation Council regarding the Convention.
Sec. 1211. Transition to the Harmonized Tariff Schedule.
Sec. 1212. Reference to the Harmonized Tariff Schedule.
Sec. 1213. Technical amendments.
Sec. 1214. Conforming amendments.
Sec. 1215. Negotiating authority for certain ADP equipment.
Sec. 1216. Commission report on operation of subtitle.

Sec. 1217. Effective dates.

Subtitle C—Response to Unfair International Trade Practices

PART 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSES TO FOREIGN TRADE PRACTICES

Sec. 1301. Revision of chapter 1 of title III of the Trade Act of 1974.
Sec. 1302. Identification of trade liberalization priorities.
Sec. 1303. Identification of countries that deny adequate and effective protection of intellectual property rights.
Sec. 1304. Amendments to the National Trade Estimates.
Sec. 1305. Investigation of barriers in Japan to certain United States services.
Sec. 1306. Trade and economic relations with Japan.
Sec. 1307. Supercomputer trade dispute.

PART 2—IMPROVEMENT IN THE ENFORCEMENT OF THE ANTIDUMPING AND COUNTERVAILING DUTY LAWS

Sec. 1311. Reference to title VII of the Tariff Act of 1930.
Sec. 1312. Actionable domestic subsidies.
Sec. 1313. Calculation of subsidies on certain processed agricultural products.
Sec. 1314. Revocation of status as a country under the Agreement.
Sec. 1315. Treatment of international consortia.
Sec. 1316. Dumping by nonmarket economy countries.
Sec. 1317. Third-country dumping.
Sec. 1318. Input dumping by related parties.
Sec. 1319. Fictitious markets.
Sec. 1320. Downstream product monitoring.
Sec. 1321. Prevention of circumvention of antidumping and countervailing duty orders.
Sec. 1322. Steel imports.
Sec. 1323. Short life cycle products.
Sec. 1324. Critical circumstances.
Sec. 1325. Expedited review authority.
Sec. 1326. Processed agricultural products.
Sec. 1327. Leases equivalent to sales.
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Sec. 1332. Access to information.
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PART 4—TELECOMMUNICATIONS TRADE

Sec. 1371. Short title.
Sec. 1372. Findings and purposes.
Sec. 1373. Definitions.
Sec. 1374. Investigation of foreign telecommunications trade barriers.
Sec. 1375. Negotiations in response to investigation.
Sec. 1376. Actions to be taken if no agreement obtained.
Sec. 1377. Review of trade agreement implementation by Trade Representative.
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Sec. 1380. Submission of data; action to ensure compliance.
Sec. 1381. Study on telecommunications competitiveness in the United States.
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PART 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

Sec. 1401. Positive adjustment by industries injured by imports.

PART 2—MARKET DISRUPTION

Sec. 1411. Market disruption.

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Sec. 1421. Eligibility of workers and firms for trade adjustment assistance.
Sec. 1422. Notice to workers of benefits under trade adjustment assistance program.
Sec. 1423. Cash assistance for workers.
Sec. 1424. Job training for workers.
Sec. 1425. Limitation on period in which trade readjustment allowances may be paid.
Sec. 1426. Authorization of trade adjustment assistance program.
Sec. 1427. Trade Adjustment Assistance Trust Fund.
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Sec. 1712. Naphtha and motor fuel blending stocks.
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Sec. 1735. Derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl]acetamide.
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Sec. 1737. 3,5-Dinitro-o-toluamide.
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Sec. 1740. Duty-free entry of personal effects and equipment of participants and officials involved in the 10th Pan American games.
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Sec. 1745. Fluazifop-p-butyl.
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Sec. 1747. Extracorporeal shock wave lithotripters imported by nonprofit institutions.
Sec. 1748. Transparent plastic sheeting.
Sec. 1749. Doll wig yarns.
Sec. 1750. 1-(3-Sulfopropyl) pyridinium hydroxide.
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Sec. 1785. Triallate.
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SEC. 2. LEGISLATIVE HISTORY OF H.R. 3 APPLICABLE.

(a) IN GENERAL.—Except as provided in subsection (b), the legislative history of a title, subtitle, part, subpart, chapter, subchapter, section, or other provision of the conference report to accompany H.R. 3 of the 100th Congress (H. Rept. 100-576) shall be treated (along with any other legislative history developed by reason of this Act) as being the legislative history of the provision of this Act that has the same numerical or alphabetical designation as the provision of the conference report.

(b) EXCEPTIONS.—

(1) Subsection (a) does not apply to section 2424(a) of this Act.

(2) The legislative history for subtitle F of title VI of the conference report to accompany H.R. 3 shall be treated as the legislative history for subtitle E of title VI of this Act.

TITLE I—TRADE, CUSTOMS, AND TARIFF LAWS

SEC. 1001. FINDINGS AND PURPOSES.

19 USC 2901 note.

(a) FINDINGS.—The Congress finds that—

(1) in the last 10 years there has arisen a new global economy in which trade, technological development, investment, and services form an integrated system; and in this system these activities affect each other and the health of the United States economy;

(2) the United States is confronted with a fundamental disequilibrium in its trade and current account balances and a rapid increase in its net external debt;

(3) such disequilibrium and increase are a result of numerous factors, including—

(A) disparities between the macroeconomic policies of the major trading nations,

(B) the large United States budget deficit,

(C) instabilities and structural defects in the world monetary system,

(D) the growth of debt throughout the developing world,

(E) structural defects in the world trading system and inadequate enforcement of trade agreement obligations,

(F) governmental distortions and barriers,

(G) serious shortcomings in United States trade policy, and

(H) inadequate growth in the productivity and competitiveness of United States firms and industries relative to their overseas competition;

(4) it is essential, and should be the highest priority of the United States Government, to pursue a broad array of domestic and international policies—

(A) to prevent future declines in the United States economy and standards of living,

(B) to ensure future stability in external trade of the United States, and

(C) to guarantee the continued vitality of the technological, industrial, and agricultural base of the United States;

(5) the President should be authorized and encouraged to negotiate trade agreements and related investment, financial, intellectual property, and services agreements that meet the standards set forth in this title; and

(6) while the United States is not in a position to dictate economic policy to the rest of the world, the United States is in a position to lead the world and it is in the national interest for the United States to do so.

(b) PURPOSES.—The purposes of this title are to—

(1) authorize the negotiation of reciprocal trade agreements;

(2) strengthen United States trade laws;

(3) improve the development and management of United States trade strategy; and

(4) through these actions, improve standards of living in the world.

Subtitle A—United States Trade Agreements

PART 1—NEGOTIATION AND IMPLEMENTATION OF TRADE AGREEMENTS

SEC. 1101. OVERALL AND PRINCIPAL TRADE NEGOTIATING OBJECTIVES OF THE UNITED STATES. 19 USC 2901.

(a) OVERALL TRADE NEGOTIATING OBJECTIVES.—The overall trade negotiating objectives of the United States are to obtain—

(1) more open, equitable, and reciprocal market access;

(2) the reduction or elimination of barriers and other trade-distorting policies and practices; and

(3) a more effective system of international trading disciplines and procedures.

(b) PRINCIPAL TRADE NEGOTIATING OBJECTIVES.—

(1) DISPUTE SETTLEMENT.—The principal negotiating objectives of the United States with respect to dispute settlement are—

(A) to provide for more effective and expeditious dispute settlement mechanisms and procedures; and

(B) to ensure that such mechanisms within the GATT and GATT agreements provide for more effective and expeditious resolution of disputes and enable better enforcement of United States rights.

(2) IMPROVEMENT OF THE GATT AND MULTILATERAL TRADE NEGOTIATION AGREEMENTS.—The principal negotiating objectives of the United States regarding the improvement of GATT and multilateral trade negotiation agreements are—

(A) to enhance the status of the GATT;

(B) to improve the operation and extend the coverage of the GATT and such agreements and arrangements to products, sectors, and conditions of trade not adequately covered; and

(C) to expand country participation in particular agreements or arrangements, where appropriate.

(3) TRANSPARENCY.—The principal negotiating objective of the United States regarding transparency is to obtain broader application of the principle of transparency and clarification of the costs and benefits of trade policy actions through the observance of open and equitable procedures in trade matters by Contracting Parties to the GATT.

(4) DEVELOPING COUNTRIES.—The principal negotiating objectives of the United States regarding developing countries are—

(A) to ensure that developing countries promote economic development by assuming the fullest possible measure of responsibility for achieving and maintaining an open international trading system by providing reciprocal benefits and assuming equivalent obligations with respect to their import and export practices; and

(B) to establish procedures for reducing nonreciprocal trade benefits for the more advanced developing countries.

(5) CURRENT ACCOUNT SURPLUSES.—The principal negotiating objective of the United States regarding current account surpluses is to develop rules to address large and persistent global current account imbalances of countries, including imbalances which threaten the stability of the international trading system,

by imposing greater responsibility on such countries to undertake policy changes aimed at restoring current account equilibrium, including expedited implementation of trade agreements where feasible and appropriate.

(6) TRADE AND MONETARY COORDINATION.—The principal negotiating objective of the United States regarding trade and monetary coordination is to develop mechanisms to assure greater coordination, consistency, and cooperation between international trade and monetary systems and institutions.

(7) AGRICULTURE.—The principal negotiating objectives of the United States with respect to agriculture are to achieve, on an expedited basis to the maximum extent feasible, more open and fair conditions of trade in agricultural commodities by—

(A) developing, strengthening, and clarifying rules for agricultural trade, including disciplines on restrictive or trade-distorting import and export practices;

(B) increasing United States agricultural exports by eliminating barriers to trade (including transparent and nontransparent barriers) and reducing or eliminating the subsidization of agricultural production consistent with the United States policy of agricultural stabilization in cyclical and unpredictable markets;

(C) creating a free and more open world agricultural trading system by resolving questions pertaining to export and other trade-distorting subsidies, market pricing and market access and eliminating and reducing substantially other specific constraints to fair trade and more open market access, such as tariffs, quotas, and other nontariff practices, including unjustified phytosanitary and sanitary restrictions; and

(D) seeking agreements by which the major agricultural exporting nations agree to pursue policies to reduce excessive production of agricultural commodities during periods of oversupply, with due regard for the fact that the United States already undertakes such policies, and without recourse to arbitrary schemes to divide market shares among major exporting countries.

(8) UNFAIR TRADE PRACTICES.—The principal negotiating objectives of the United States with respect to unfair trade practices are—

(A) to improve the provisions of the GATT and nontariff measure agreements in order to define, deter, discourage the persistent use of, and otherwise discipline unfair trade practices having adverse trade effects, including forms of subsidy and dumping and other practices not adequately covered such as resource input subsidies, diversionary dumping, dumped or subsidized inputs, and export targeting practices;

(B) to obtain the application of similar rules to the treatment of primary and nonprimary products in the Agreement on Interpretation and Application of Articles VI, XVI, and XXIII of the GATT (relating to subsidies and countervailing measures); and

(C) to obtain the enforcement of GATT rules against—

(i) state trading enterprises, and

(ii) the acts, practices, or policies of any foreign government which, as a practical matter, unreasonably require that—

(I) substantial direct investment in the foreign country be made,

(II) intellectual property be licensed to the foreign country or to any firm of the foreign country, or

Copyrights. Patents and trademarks.

(III) other collateral concessions be made,

as a condition for the importation of any product or service of the United States into the foreign country or as a condition for carrying on business in the foreign country.

(9) TRADE IN SERVICES.—

(A) The principal negotiating objectives of the United States regarding trade in services are—

(i) to reduce or to eliminate barriers to, or other distortions of, international trade in services, including barriers that deny national treatment and restrictions on establishment and operation in such markets; and

(ii) to develop internationally agreed rules, including dispute settlement procedures, which—

(I) are consistent with the commercial policies of the United States, and

(II) will reduce or eliminate such barriers or distortions, and help ensure fair, equitable opportunities for foreign markets.

(B) In pursuing the negotiating objectives described in subparagraph (A), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto.

(10) INTELLECTUAL PROPERTY.—The principal negotiating objectives of the United States regarding intellectual property are—

Copyrights. Patents and trademarks.

(A) to seek the enactment and effective enforcement by foreign countries of laws which—

(i) recognize and adequately protect intellectual property, including copyrights, patents, trademarks, semiconductor chip layout designs, and trade secrets, and

Computers.

(ii) provide protection against unfair competition,

(B) to establish in the GATT obligations—

(i) to implement adequate substantive standards based on—

(I) the standards in existing international agreements that provide adequate protection, and

(II) the standards in national laws if international agreement standards are inadequate or do not exist,

(ii) to establish effective procedures to enforce, both internally and at the border, the standards implemented under clause (i), and

(iii) to implement effective dispute settlement procedures that improve on existing GATT procedures;

(C) to recognize that the inclusion in the GATT of—

(i) adequate and effective substantive norms and standards for the protection and enforcement of intellectual property rights, and

(ii) dispute settlement provisions and enforcement procedures,

is without prejudice to other complementary initiatives undertaken in other international organizations; and

(D) to supplement and strengthen standards for protection and enforcement in existing international intellectual property conventions administered by other international organizations, including their expansion to cover new and emerging technologies and elimination of discrimination or unreasonable exceptions or preconditions to protection.

(11) FOREIGN DIRECT INVESTMENT.—

(A) The principal negotiating objectives of the United States regarding foreign direct investment are—

(i) to reduce or to eliminate artificial or trade-distorting barriers to foreign direct investment, to expand the principle of national treatment, and to reduce unreasonable barriers to establishment; and

(ii) to develop internationally agreed rules, including dispute settlement procedures, which—

(I) will help ensure a free flow of foreign direct investment, and

(II) will reduce or eliminate the trade distortive effects of certain trade-related investment measures.

(B) In pursuing the negotiating objectives described in subparagraph (A), United States negotiators shall take into account legitimate United States domestic objectives including, but not limited to, the protection of legitimate health or safety, essential security, environmental, consumer or employment opportunity interests and the law and regulations related thereto.

(12) SAFEGUARDS.—The principal negotiating objectives of the United States regarding safeguards are—

(A) to improve and expand rules and procedures covering safeguard measures;

(B) to ensure that safeguard measures are—

(i) transparent,

(ii) temporary,

(iii) degressive, and

(iv) subject to review and termination when no longer necessary to remedy injury and to facilitate adjustment; and

(C) to require notification of, and to monitor the use by, GATT Contracting Parties of import relief actions for their domestic industries.

(13) SPECIFIC BARRIERS.—The principal negotiating objective of the United States regarding specific barriers is to obtain competitive opportunities for United States exports in foreign markets substantially equivalent to the competitive opportunities afforded foreign exports to United States markets, including the reduction or elimination of specific tariff and nontariff trade barriers, particularly—

(A) measures identified in the annual report prepared under section 181 of the Trade Act of 1974 (19 U.S.C. 2241); and

(B) foreign tariffs and nontariff barriers on competitive United States exports when like or similar products enter the United States at low rates of duty or are duty-free, and other tariff disparities that impede access to particular export markets.

(14) WORKER RIGHTS.—The principal negotiating objectives of the United States regarding worker rights are—

(A) to promote respect for worker rights;

(B) to secure a review of the relationship of worker rights to GATT articles, objectives, and related instruments with a view to ensuring that the benefits of the trading system are available to all workers; and

(C) to adopt, as a principle of the GATT, that the denial of worker rights should not be a means for a country or its industries to gain competitive advantage in international trade.

(15) ACCESS TO HIGH TECHNOLOGY.—

(A) The principal negotiating objective of the United States regarding access to high technology is to obtain the elimination or reduction of foreign barriers to, and acts, policies, or practices by foreign governments which limit, equitable access by United States persons to foreign-developed technology, including barriers, acts, policies, or practices which have the effect of—

(i) restricting the participation of United States persons in government-supported research and development projects; Research and development.

(ii) denying equitable access by United States persons to government-held patents; Patents and trademarks.

(iii) requiring the approval or agreement of government entities, or imposing other forms of government interventions, as a condition for the granting of licenses to United States persons by foreign persons (except for approval or agreement which may be necessary for national security purposes to control the export of critical military technology); and

(iv) otherwise denying equitable access by United States persons to foreign-developed technology or contributing to the inequitable flow of technology between the United States and its trading partners.

(B) In pursuing the negotiating objective described in subparagraph (A), the United States negotiators shall take into account United States Government policies in licensing or otherwise making available to foreign persons technology and other information developed by United States laboratories.

(16) BORDER TAXES.—The principal negotiating objective of the United States regarding border taxes is to obtain a revision of the GATT with respect to the treatment of border adjustments for internal taxes to redress the disadvantage to countries relying primarily for revenue on direct taxes rather than indirect taxes.

19 USC 2902.

SEC. 1102. TRADE AGREEMENT NEGOTIATING AUTHORITY.

(a) AGREEMENTS REGARDING TARIFF BARRIERS.—

(1) Whenever the President determines that one or more existing duties or other import restrictions of any foreign country or the United States are unduly burdening and restricting the foreign trade of the United States and that the purposes, policies, and objectives of this title will be promoted thereby, the President—

(A) before June 1, 1993, may enter into trade agreements with foreign countries; and

(B) may, subject to paragraphs (2) through (5), proclaim—

(i) such modification or continuance of any existing duty,

(ii) such continuance of existing duty-free or excise treatment, or

(iii) such additional duties;

as he determines to be required or appropriate to carry out any such trade agreement.

(2) No proclamation may be made under subsection (a) that—

(A) reduces any rate of duty (other than a rate of duty that does not exceed 5 percent ad valorem on the date of enactment of this Act) to a rate which is less than 50 percent of the rate of such duty that applies on such date of enactment; or

(B) increases any rate of duty above the rate that applies on such date of enactment.

(3)(A) Except as provided in subparagraph (B), the aggregate reduction in the rate of duty on any article which is in effect on any day pursuant to a trade agreement entered into under paragraph (1) shall not exceed the aggregate reduction which would have been in effect on such day if a reduction of 3 percent ad valorem or a reduction of one-tenth of the total reduction, whichever is greater, had taken effect on the effective date of the first reduction proclaimed in paragraph (1) to carry out such agreement with respect to such article.

(B) No staging under subparagraph (A) is required with respect to a rate reduction that is proclaimed under paragraph (1) for an article of a kind that is not produced in the United States. The United States International Trade Commission shall advise the President of the identity of articles that may be exempted from staging under this subparagraph.

(4) If the President determines that such action will simplify the computation of reductions under paragraph (3), the President may round an annual reduction by the lesser of—

(A) the difference between the reduction without regard to this paragraph and the next lower whole number; or

(B) one-half of 1 percent ad valorem.

(5) No reduction in a rate of duty under a trade agreement entered into under subsection (a) on any article may take effect more than 10 years after the effective date of the first reduction under paragraph (1) that is proclaimed to carry out the trade agreement with respect to such article.

(6) A rate of duty reduction or increase that may not be proclaimed by reason of paragraph (2) may take effect only if a provision authorizing such reduction or increase is included

within an implementing bill provided for under section 1103 and that bill is enacted into law.

(b) AGREEMENTS REGARDING NONTARIFF BARRIERS.—

(1) Whenever the President determines that any barrier to, or other distortion of, international trade—

(A) unduly burdens or restricts the foreign trade of the United States or adversely affects the United States economy; or

(B) the imposition of any such barrier or distortion is likely to result in such a burden, restriction, or effect; and that the purposes, policies, and objectives of this title will be promoted thereby, the President may, before June 1, 1993, enter into a trade agreement with foreign countries providing for—

(i) the reduction or elimination of such barrier or other distortion; or

(ii) the prohibition of, or limitations on the imposition of, such barrier or other distortion.

(2) A trade agreement may be entered into under this subsection only if such agreement makes progress in meeting the applicable objectives described in section 1101.

(c) BILATERAL AGREEMENTS REGARDING TARIFF AND NONTARIFF BARRIERS.—

(1) Before June 1, 1993, the President may enter into bilateral trade agreements with foreign countries that provide for the elimination or reduction of any duty imposed by the United States. A trade agreement entered into under this paragraph may also provide for the reduction or elimination of barriers to, or other distortions of, the international trade of the foreign country or the United States.

(2) Notwithstanding any other provision of law, no trade benefit shall be extended to any country by reason of the extension of any trade benefit to another country under a trade agreement entered into under paragraph (1) with such other country.

(3) A trade agreement may be entered into under paragraph (1) with any foreign country only if—

(A) the agreement makes progress in meeting the applicable objectives described in section 1101;

(B) such foreign country requests the negotiation of such an agreement; and

(C) the President, at least 60 days before the date notice is provided under section 1103(a)(1)(A)—

(i) provides written notice of such negotiations to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives, and

(ii) consults with such committees regarding the negotiation of such agreement.

(4) The 60-day period of time described in paragraph (3)(B) shall be computed in accordance with section 1103(f).

(5) In any case in which there is an inconsistency between any provision of this Act and any bilateral free trade area agreement that entered into force and effect with respect to the United States before January 1, 1987, the provision shall not apply with respect to the foreign country that is party to that agreement.

(d) CONSULTATION WITH CONGRESS BEFORE AGREEMENTS ENTERED INTO.—

President of U.S.

(1) Before the President enters into any trade agreement under subsection (b) or (c), the President shall consult with—

(A) the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate; and

(B) each other committee of the House and the Senate, and each joint committee of the Congress, which has jurisdiction over legislation involving subject matters which would be affected by the trade agreement.

(2) The consultation under paragraph (1) shall include—

(A) the nature of the agreement;

(B) how and to what extent the agreement will achieve the applicable purposes, policies, and objectives of this title; and

(C) all matters relating to the implementation of the agreement under section 1103.

(3) If it is proposed to implement two or more trade agreements in a single implementing bill under section 1103, the consultation under paragraph (1) shall include the desirability and feasibility of such proposed implementation.

19 USC 2903.

SEC. 1103. IMPLEMENTATION OF TRADE AGREEMENTS.

(a) IN GENERAL.—

President of U.S.

(1) Any agreement entered into under section 1102 (b) or (c) shall enter into force with respect to the United States if (and only if)—

Federal Register, publication.

(A) the President, at least 90 calendar days before the day on which he enters into the trade agreement, notifies the House of Representatives and the Senate of his intention to enter into the agreement, and promptly thereafter publishes notice of such intention in the Federal Register;

(B) after entering into the agreement, the President submits a document to the House of Representatives and to the Senate containing a copy of the final legal text of the agreement, together with—

(i) a draft of an implementing bill,

(ii) a statement of any administrative action proposed to implement the trade agreement, and

(iii) the supporting information described in paragraph (2); and

(C) the implementing bill is enacted into law.

(2) The supporting information required under paragraph (1)(B)(iii) consists of—

(A) an explanation as to how the implementing bill and proposed administrative action will change or affect existing law; and

(B) a statement—

(i) asserting that the agreement makes progress in achieving the applicable purposes, policies, and objectives of this title,

(ii) setting forth the reasons of the President regarding—

(I) how and to what extent the agreement makes progress in achieving the applicable purposes, policies, and objectives referred to in clause (i), and

why and to what extent the agreement does not achieve other applicable purposes, policies, and objectives,

(II) how the agreement serves the interests of United States commerce, and

(III) why the implementing bill and proposed administrative action is required or appropriate to carry out the agreement;

(iii) describing the efforts made by the President to obtain international exchange rate equilibrium and any effect the agreement may have regarding increased international monetary stability; and

(iv) describing the extent, if any, to which—

(I) each foreign country that is a party to the agreement maintains non-commercial state trading enterprises that may adversely affect, nullify, or impair the benefits to the United States under the agreement, and

(II) the agreement applies to or affects purchases and sales by such enterprises.

President of U.S.

(3) To ensure that a foreign country which receives benefits under a trade agreement entered into under section 1102 (b) or (c) is subject to the obligations imposed by such agreement, the President shall recommend to Congress in the implementing bill and statement of administrative action submitted with respect to such agreement that the benefits and obligations of such agreement apply solely to the parties to such agreement, if such application is consistent with the terms of such agreement. The President may also recommend with respect to any such agreement that the benefits and obligations of such agreement not apply uniformly to all parties to such agreement, if such application is consistent with the terms of such agreement.

(b) APPLICATION OF CONGRESSIONAL "FAST TRACK" PROCEDURES TO IMPLEMENTING BILLS.—

(1) Except as provided in subsection (c)—

(A) the provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) (hereinafter in this section referred to as "fast track procedures") apply to implementing bills submitted with respect to trade agreements entered into under section 1102 (b) or (c) before June 1, 1991; and

(B) such fast track procedures shall be extended to implementing bills submitted with respect to trade agreements entered into under section 1102 (b) or (c) after May 31, 1991, and before June 1, 1993, if (and only if)—

(i) the President requests such extension under paragraph (2); and

(ii) neither House of the Congress adopts an extension disapproval resolution under paragraph (5) before June 1, 1991.

President of U.S. Reports.

(2) If the President is of the opinion that the fast track procedures should be extended to implementing bills described in paragraph (1)(B), the President must submit to the Congress, no later than March 1, 1991, a written report that contains a request for such extension, together with—

(A) a description of all trade agreements that have been negotiated under section 1102 (b) or (c) and the anticipated

schedule for submitting such agreements to the Congress for approval;

(B) a description of the progress that has been made in multilateral and bilateral negotiations to achieve the purposes, policies, and objectives of this title, and a statement that such progress justifies the continuation of negotiations; and

(C) a statement of the reasons why the extension is needed to complete the negotiations.

President of U.S. Reports.

(3) The President shall promptly inform the Advisory Committee for Trade Policy and Negotiations established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) of his decision to submit a report to Congress under paragraph (2). The Advisory Committee shall submit to the Congress as soon as practicable, but no later than March 1, 1991, a written report that contains—

(A) its views regarding the progress that has been made in multilateral and bilateral negotiations to achieve the purposes, policies, and objectives of this title; and

(B) a statement of its views, and the reasons therefor, regarding whether the extension requested under paragraph (2) should be approved or disapproved.

Reports.

(4) The reports submitted to the Congress under paragraphs (2) and (3), or any portion of the reports, may be classified to the extent the President determines appropriate.

(5)(A) For purposes of this subsection, the term "extension disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the disapproves the request of the President for the extension, under section 1103(b)(1)(B)(i) of the Omnibus Trade and Competitiveness Act of 1988, of the provisions of section 151 of the Trade Act of 1974 to any implementing bill submitted with respect to any trade agreement entered into under section 1102 (b) or (c) of such Act after May 31, 1991, because sufficient tangible progress has not been made in trade negotiations.", with the blank space being filled with the name of the resolving House of the Congress.

(B) Extension disapproval resolutions—

(i) may be introduced in either House of the Congress by any member of such House; and

(ii) shall be jointly referred, in the House of Representatives, to the Committee on Ways and Means and the Committee on Rules.

(C) The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to extension disapproval resolutions.

(D) It is not in order for—

(i) the Senate to consider any extension disapproval resolution not reported by the Committee on Finance;

(ii) the House of Representatives to consider any extension disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules; or

(iii) either House of the Congress to consider an extension disapproval resolution that is reported to such House after May 15, 1991.

(c) LIMITATIONS ON USE OF "FAST TRACK" PROCEDURES.—

(1)(A) The fast track procedures shall not apply to any implementing bill submitted with respect to a trade agreement entered into under section 1102 (b) or (c) if both Houses of the Congress separately agree to procedural disapproval resolutions within any 60-day period.

(B) Procedural disapproval resolutions—

(i) in the House of Representatives—

(I) shall be introduced by the chairman or ranking minority member of the Committee on Ways and Means or the chairman or ranking minority member of the Committee on Rules,

(II) shall be jointly referred to the Committee on Ways and Means and the Committee on Rules, and

(III) may not be amended by either Committee; and

(ii) in the Senate shall be original resolutions of the Committee on Finance.

(C) The provisions of section 152 (d) and (e) of the Trade Act of 1974 (19 U.S.C. 2192 (d) and (e)) (relating to the floor consideration of certain resolutions in the House and Senate) apply to procedural disapproval resolutions.

(D) It is not in order for the House of Representatives to consider any procedural disapproval resolution not reported by the Committee on Ways and Means and the Committee on Rules.

(E) For purposes of this subsection, the term "procedural disapproval resolution" means a resolution of either House of the Congress, the sole matter after the resolving clause of which is as follows: "That the President has failed or refused to consult with Congress on trade negotiations and trade agreements in accordance with the provisions of the Omnibus Trade and Competitiveness Act of 1988, and, therefore, the provisions of section 151 of the Trade Act of 1974 shall not apply to any implementing bill submitted with respect to any trade agreement entered into under section 1102 (b) or (c) of such Act of 1988, if, during the 60-day period beginning on the date on which this resolution is agreed to by the , the agrees to a procedural disapproval resolution (within the meaning of section 1103(c)(1)(E) of such Act of 1988).", with the first blank space being filled with the name of the resolving House of the Congress and the second blank space being filled with the name of the other House of the Congress.

(2) The fast track procedures shall not apply to any implementing bill that contains a provision approving of any trade agreement which is entered into under section 1102(c) with any foreign country if either—

(A) the requirements of section 1102(c)(3) are not met with respect to the negotiation of such agreement; or

(B) the Committee on Finance of the Senate or the Committee on Ways and Means of the House of Representatives disapproves of the negotiation of such agreement before the close of the 60-day period which begins on the date notice is provided under section 1102(c)(3)(C)(i) with respect to the negotiation of such agreement.

(d) RULES OF HOUSE OF REPRESENTATIVES AND SENATE.—Subsections (b) and (c) are enacted by the Congress—

(1) as an exercise of the rulemaking power of the House of Representatives and the Senate, respectively, and as such is

deemed a part of the rules of each House, respectively, and such procedures supersede other rules only to the extent that they are inconsistent with such other rules; and

(2) with the full recognition of the constitutional right of either House to change the rules (so far as relating to the procedures of that House) at any time, in the same manner, and to the same extent as any other rule of that House.

(e) COMPUTATION OF CERTAIN PERIODS OF TIME.—Each period of time described in subsection (c)(1) (A) and (E) and (2) of this section shall be computed without regard to—

(1) the days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(2) any Saturday and Sunday, not excluded under paragraph (1), when either House of the Congress is not in session.

SEC. 1104. COMPENSATION AUTHORITY.

Section 123 of the Trade Act of 1974 (19 U.S.C. 2133) is amended—

(1) by amending subsection (a) to read as follows:

"(a) Whenever—

"(1) any action taken under chapter 1 of title II or chapter 1 of title III; or

"(2) any judicial or administrative tariff reclassification that becomes final after the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988;

increases or imposes any duty or other import restriction, the President—

"(A) may enter into trade agreements with foreign countries or instrumentalities for the purpose of granting new concessions as compensation in order to maintain the general level of reciprocal and mutually advantageous concessions; and

"(B) may proclaim such modification or continuance of any existing duty, or such continuance of existing duty-free or excise treatment, as he determines to be required or appropriate to carry out any such agreement.";

(2) by amending subsection (b)(2) by—

(A) striking out "section 109" and inserting "section 1102(a) of the Omnibus Trade and Competitiveness Act of 1988", and

(B) striking out "section 101" each place it appears and inserting "such section 1102(a)";

(3) by striking out "section 101" in subsection (d) and inserting "section 1102 of the Omnibus Trade and Competitiveness Act of 1988"; and

(4) by adding at the end thereof the following new subsection:

"(e) The provisions of this section shall apply by reason of action taken under chapter 1 of title III only if the President determines that action authorized under this section is necessary or appropriate to meet the international obligations of the United States.".

19 USC 2904.

SEC. 1105. TERMINATION AND RESERVATION AUTHORITY; RECIPROCAL NONDISCRIMINATORY TREATMENT.

(a) IN GENERAL.—For purposes of applying sections 125, 126(a), and 127 of the Trade Act of 1974 (19 U.S.C. 2135, 2136(a), and 2137)—

(1) any trade agreement entered into under section 1102 shall be treated as an agreement entered into under section 101 or

102, as appropriate, of the Trade Act of 1974 (19 U.S.C. 2111 or 2112); and

(2) any proclamation or Executive order issued pursuant to a trade agreement entered into under section 1102 shall be treated as a proclamation or Executive order issued pursuant to a trade agreement entered into under section 102 of the Trade Act of 1974.

(b) RECIPROCAL NONDISCRIMINATORY TREATMENT.— President of U.S.

(1) The President shall determine, before June 1, 1993, whether any major industrial country has failed to make concessions under trade agreements entered into under section 1102 (a) and (b) which provide competitive opportunities for the commerce of the United States in such country substantially equivalent to the competitive opportunities, provided by concessions made by the United States under trade agreements entered into under section 1102 (a) and (b), for the commerce of such country in the United States.

(2) If the President determines under paragraph (1) that a major industrial country has not made concessions under trade agreements entered into under section 1102 (a) and (b) which provide substantially equivalent competitive opportunities for the commerce of the United States, the President shall, either generally with respect to such country or by article produced by such country, in order to restore equivalence of competitive opportunities, recommend to the Congress—

(A) legislation providing for the termination or denial of the benefits of concessions of trade agreements entered into under section 1102 (a) and (b) that have been made with respect to rates of duty or other import restrictions imposed by the United States, and

(B) legislation providing that any law necessary to carry out any trade agreement under section 1102 (a) or (b) not apply to such country.

(3) For purposes of this subsection, the term "major industrial country" means Canada, the European Communities, the individual member countries of the European Communities, Japan, and any other foreign country designated by the President for purposes of this subsection.

SEC. 1106. ACCESSION OF STATE TRADING REGIMES TO THE GENERAL AGREEMENT ON TARIFFS AND TRADE. 19 USC 2905.

(a) IN GENERAL.—Before any major foreign country accedes, after the date of enactment of this Act, to the GATT the President shall determine— President of U.S.

(1) whether state trading enterprises account for a significant share of—

(A) the exports of such major foreign country, or

(B) the goods of such major foreign country that are subject to competition from goods imported into such foreign country; and

(2) whether such state trading enterprises—

(A) unduly burden and restrict, or adversely affect, the foreign trade of the United States or the United States economy, or

(B) are likely to result in such a burden, restriction, or effect.

(b) EFFECTS OF AFFIRMATIVE DETERMINATION.—If both of the determinations made under paragraphs (1) and (2) of subsection (a) with respect to a major foreign country are affirmative—

President of U.S.

(1) the President shall reserve the right of the United States to withhold extension of the application of the GATT, between the United States and such major foreign country, and

(2) the GATT shall not apply between the United States and such major foreign country until—

(A) such foreign country enters into an agreement with the United States providing that the state trading enterprises of such foreign country—

(i) will—

(I) make purchases which are not for the use of such foreign country, and

(II) make sales in international trade,

in accordance with commercial considerations (including price, quality, availability, marketability, and transportation), and

(ii) will afford United States business firms adequate opportunity, in accordance with customary practice, to compete for participation in such purchases or sales; or

(B) a bill submitted under subsection (c) which approves of the extension of the application of the GATT between the United States and such major foreign country is enacted into law.

(c) EXPEDITED CONSIDERATION OF BILL TO APPROVE EXTENSION.—

(1) The President may submit to the Congress any draft of a bill which approves of the extension of the application of the GATT between the United States and a major foreign country.

(2) Any draft of a bill described in paragraph (1) that is submitted by the President to the Congress shall—

(A) be introduced by the majority leader of each House of the Congress (by request) on the first day on which such House is in session after the date such draft is submitted to the Congress; and

(B) shall be treated as an implementing bill for purposes of subsections (d), (e), (f), and (g) of section 151 of the Trade Act of 1974.

President of U.S. Federal Register, publication. 19 USC 2906.

(d) PUBLICATION.—The President shall publish in the Federal Register each determination made under subsection (a).

SEC. 1107. DEFINITIONS AND CONFORMING AMENDMENTS.

(a) DEFINITIONS.—For purposes of this part:

(1) The term "distortion" includes, but is not limited to, a subsidy.

(2) The term "foreign country" includes any foreign instrumentality. Any territory or possession of a foreign country that is administered separately for customs purposes, shall be treated as a separate foreign country.

(3) The term "GATT" means the General Agreement on Tariffs and Trade.

(4) The term "implementing bill" has the meaning given such term in section 151(b)(1) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)).

(5) The term "international trade" includes, but is not limited to—

(A) trade in both goods and services, and

(B) foreign direct investment by United States persons, especially if such investment has implications for trade in goods and services.

(6) The term "state trading enterprise" means—

(A) any agency, instrumentality, or administrative unit of a foreign country which—

(i) purchases goods or services in international trade for any purpose other than the use of such goods or services by such agency, instrumentality, administrative unit, or foreign country, or

(ii) sells goods or services in international trade; or

(B) any business firm which—

(i) is substantially owned or controlled by a foreign country or any agency, instrumentality, or administrative unit thereof,

(ii) is granted (formally or informally) any special or exclusive privilege by such foreign country, agency, instrumentality, or administrative unit, and

(iii) purchases goods or services in international trade for any purpose other than the use of such goods or services by such foreign country, agency, instrumentality, or administrative unit, or which sells goods or services in international trade.

(b) CONFORMING AMENDMENTS.—

(1) Section 151(b)(1) of the Trade Act of 1974 (19 U.S.C. 2191(b)(1)) is amended by striking out "section 102" and inserting "section 102 of this Act or section 1103(a)(1) of the Omnibus Trade and Competitiveness Act of 1988".

(2) Section 121 of the Trade Act of 1974 (19 U.S.C. 2131) is amended by striking out subsections (a), (b), and (c).

PART 2—HEARINGS AND ADVICE CONCERNING NEGOTIATIONS

SEC. 1111. HEARINGS AND ADVICE.

(a) ADVICE FROM ITC AND OTHER FEDERAL AGENCIES CONCERNING TRADE POLICY AND NEGOTIATIONS.—Sections 131 through 134, inclusive, of the Trade Act of 1974 (19 U.S.C. 2151-2154) are amended to read as follows:

"SEC. 131. ADVICE FROM INTERNATIONAL TRADE COMMISSION. 19 USC 2151.

"(a) LISTS OF ARTICLES WHICH MAY BE CONSIDERED FOR ACTION.—

"(1) In connection with any proposed trade agreement under section 123 of this Act or section 1102 (a) or (c) of the Omnibus Trade and Competitiveness Act of 1988, the President shall from time to time publish and furnish the International Trade Commission (hereafter in this section referred to as the 'Commission') with lists of articles which may be considered for modification or continuance of United States duties, continuance of United States duty-free or excise treatment, or additional duties. In the case of any article with respect to which consideration may be given to reducing or increasing the rate of duty, the list shall specify the provision of this subchapter under which such consideration may be given. President of U.S.

"(2) In connection with any proposed trade agreement under section 1102 (b) or (c) of the Omnibus Trade and Competitive-

ness Act of 1988, the President may from time to time publish and furnish the Commission with lists of nontariff matters which may be considered for modification.

Copyrights. Patents and trademarks. Securities. Consumer protection.

"(b) ADVICE TO PRESIDENT BY COMMISSION.—Within 6 months after receipt of a list under subsection (a) or, in the case of a list submitted in connection with a trade agreement, within 90 days after receipt of such list, the Commission shall advise the President, with respect to each article or nontariff matter, of its judgment as to the probable economic effect of modification of the tariff or nontariff measure on industries producing like or directly competitive articles and on consumers, so as to assist the President in making an informed judgment as to the impact which might be caused by such modifications on United States interests, such as sectors involved in manufacturing, agriculture, mining, fishing, services, intellectual property, investment, labor, and consumers. Such advice may include in the case of any article the advice of the Commission as to whether any reduction in the rate of duty should take place over a longer period of time than the minimum period provided for in section 1102(a)(3)(A).

"(c) ADDITIONAL INVESTIGATIONS AND REPORTS REQUESTED BY THE PRESIDENT OR THE TRADE REPRESENTATIVE.—In addition, in order to assist the President in his determination whether to enter into any agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, or how to develop trade policy, priorities or other matters (such as priorities for actions to improve opportunities in foreign markets), the Commission shall make such investigations and reports as may be requested by the President or the United States Trade Representative on matters such as effects of modification of any barrier to (or other distortion of) international trade on domestic workers, industries or sectors, purchasers, prices and quantities of articles in the United States.

"(d) COMMISSION STEPS IN PREPARING ITS ADVICE TO THE PRESIDENT.—In preparing its advice to the President under this section, the Commission shall to the extent practicable—

"(1) investigate conditions, causes, and effects relating to competition between the foreign industries producing the articles or services in question and the domestic industries producing the like or directly competitive articles or services;

Employment and unemployment.

"(2) analyze the production, trade, and consumption of each like or directly competitive article or service, taking into consideration employment, profit levels, and use of productive facilities with respect to the domestic industries concerned, and such other economic factors in such industries as it considers relevant, including prices, wages, sales, inventories, patterns of demand, capital investment, obsolescence of equipment, and diversification of production;

Employment and unemployment.

"(3) describe the probable nature and extent of any significant change in employment, profit levels, and use of productive facilities; the overall impact of such or other possible changes on the competitiveness of relevant domestic industries or sectors; and such other conditions as it deems relevant in the domestic industries or sectors concerned which it believes such modifications would cause; and

Wages. Consumer protection. Copyrights. Patents and trademarks. Securities.

"(4) make special studies (including studies of real wages paid in foreign supplying countries), whenever deemed to be warranted, of particular proposed modifications affecting United States manufacturing, agriculture, mining, fishing, labor,

consumers, services, intellectual property and investment, using to the fullest extent practicable United States Government facilities abroad and appropriate personnel of the United States.

"(e) PUBLIC HEARING.—In preparing its advice to the President under this section, the Commission shall, after reasonable notice, hold public hearings.

"SEC. 132. ADVICE FROM EXECUTIVE DEPARTMENTS AND OTHER SOURCES.

President of U.S.
19 USC 2152.

"Before any trade agreement is entered into under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President shall seek information and advice with respect to such agreement from the Departments of Agriculture, Commerce, Defense, Interior, Labor, State and the Treasury, from the United States Trade Representative, and from such other sources as he may deem appropriate. Such advice shall be prepared and presented consistent with the provisions of Reorganization Plan Number 3 of 1979, Executive Order Number 12188 and section 141(c).

"SEC. 133. PUBLIC HEARINGS.

19 USC 2153.

"(a) OPPORTUNITY FOR PRESENTATION OF VIEWS.—In connection with any proposed trade agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President shall afford an opportunity for any interested person to present his views concerning any article on a list published under section 131, any matter or article which should be so listed, any concession which should be sought by the United States, or any other matter relevant to such proposed trade agreement. For this purpose, the President shall designate an agency or an interagency committee which shall, after reasonable notice, hold public hearings and prescribe regulations governing the conduct of such hearings. When appropriate, such procedures shall apply to the development of trade policy and priorities.

President of U.S.

Regulations.

"(b) SUMMARY OF HEARINGS.—The organization holding such hearing shall furnish the President with a summary thereof.

"SEC. 134. PREREQUISITES FOR OFFERS.

19 USC 2154.

"(a) In any negotiation seeking an agreement under section 123 of this Act or section 1102 of the Omnibus Trade and Competitiveness Act of 1988, the President may make a formal offer for the modification or continuance of any United States duty, import restrictions, or barriers to (or other distortions of) international trade, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, import restrictions, or other barrier to (or other distortion of) international trade including trade in services, foreign direct investment and intellectual property as covered by this title, with respect to any article or matter only after he has received a summary of the hearings at which an opportunity to be heard with respect to such article has been afforded under section 133. In addition, the President may make an offer for the modification or continuance of any United States duty, the continuance of United States duty-free or excise treatment, or the imposition of additional duties, with respect to any article included in a list published and furnished under section 131(a), only after he has received advice concerning such article from the Commission under section 131(b), or after the expiration of the 6-month or 90-day

Copyrights.
Patents and trademarks.

period provided for in that section, as appropriate, whichever first occurs.

President of U.S.

"(b) In determining whether to make offers described in subsection (a) in the course of negotiating any trade agreement under section 1102 of the Omnibus Trade and Competitiveness Act of 1988, and in determining the nature and scope of such offers, the President shall take into account any advice or information provided, or reports submitted, by—

"(1) the Commission;

"(2) any advisory committee established under section 135; or

"(3) any organization that holds public hearings under section 133;

with respect to any article, or domestic industry, that is sensitive, or potentially sensitive, to imports.".

PART 3—OTHER TRADE AGREEMENT AND NEGOTIATION PROVISIONS

SEC. 1121. IMPLEMENTATION OF NAIROBI PROTOCOL.

(a) PURPOSE AND REFERENCE.—

(1) The purpose of this section is—

(A) to provide for the implementation by the United States of the Protocol (S. Treaty Doc. 97-2, 9; hereafter referred to in this section as the "Nairobi Protocol") to the Agreement on the Importation of Educational, Scientific, and Cultural Materials (17 UST (pt. 2) 1835; commonly known as the "Florence Agreement");

(B) to clarify or modify the duty-free treatment accorded under the Educational, Scientific, and Cultural Materials Importation Act of 1982 (Public Law 97-446, 96 Stat. 2346-2349), the Educational, Scientific, and Cultural Materials Importation Act of 1966 (Public Law 89-65, 80 Stat. 897 et seq.), and Public Law 89-634 (80 Stat. 879); and

(C) to continue the safeguard provisions concerning certain imported articles provided for in the Educational, Scientific, and Cultural Materials Importation Act of 1982.

(2) Whenever an amendment or repeal in this section is expressed in terms of an amendment to, or repeal of, an item, headnote, Appendix, or other provision, the reference shall be considered to be made to an item, headnote, Appendix, or other provision of the Tariff Schedules of the United States.

(b) REPEAL OF THE EDUCATIONAL, SCIENTIFIC, AND CULTURAL MATERIALS IMPORTATION ACT OF 1982.—The Educational, Scientific, and Cultural Materials Importation Act of 1982 is hereby repealed.

(c) TREATMENT OF PRINTED MATTER AND CERTAIN OTHER ARTICLES.—

(1) Items 270.45 and 270.50 are redesignated as items 270.46 and 270.48, respectively.

(2) Part 5 of schedule 2 is amended—

(A) by inserting in numerical sequence the following new item:

(D) Item 737.52 is amended by inserting "(whether or not in the form of microfilm, microfiches, or similar film media)" after "Toy books".

(E) Item 830.00 is amended by inserting "; official government publications in the form of microfilm, microfiches, or similar film media" after "not developed".

(F) Item 840.00 is amended by inserting ", whether or not in the form of microfilm, microfiches, or similar film media" after "documents".

(d) VISUAL AND AUDITORY MATERIAL.—

(1) Headnote 1 to part 7 of schedule 8 is amended to read as follows:

"1. (a) No article shall be exempted from duty under item 870.30 unless either—

"(i) a Federal agency (or agencies) designated by the President determines that such article is visual or auditory material of an educational, scientific, or cultural character within the meaning of the Agreement for Facilitating the International Circulation of Visual and Auditory Materials of an Educational, Scientific, or Cultural Character (17 UST (pt. 2) 1578; Beirut Agreement), or

"(ii) such article—

"(A) is imported by, or certified by the importer to be for the use of, any public or private institution or association approved as educational, scientific, or cultural by a Federal agency or agencies designated by the President for the purpose of duty-free admission pursuant to the Nairobi Protocol to the Florence Agreement, and

"(B) is certified by the importer to be visual or auditory material of an educational, scientific, or cultural character or to have been produced by the United Nations or any of its specialized agencies.

For purposes of subparagraph (i), whenever the President determines that there is, or may be, profitmaking exhibition or use of articles described in item 870.30 which interferes significantly (or threatens to interfere significantly) with domestic production of similar articles, he may prescribe regulations imposing restrictions on the entry under that item of such foreign articles to insure that they will be exhibited or used only for nonprofitmaking purposes.

"(b) For purposes of items 870.32 through 870.35, inclusive, no article shall be exempted from duty unless it meets the criteria set forth in subparagraphs (a)(ii) (A) and (B) of this headnote.".

(2) Item 870.30 is amended—

(A) by inserting "(except toy models)" after "models", and

(B) by striking out "headnote 1" and inserting in lieu thereof "headnote 1(a)".

(3) Part 7 of schedule 8 is amended by inserting in numerical sequence the following new items with a superior heading at the same degree of indentation as item 870.30:

"		Articles determined to be visual or auditory materials in accordance with headnote 1 of this part:			

(4) Any action in effect or any proceeding in progress under section 166 of the Educational, Scientific, and Cultural Materials Importation Act of 1982 on the day that Act is repealed shall be considered as an action or proceeding under this section and shall be continued or resumed under this section.

(h) AUTHORITY TO EXPAND CERTAIN DUTY-FREE TREATMENT ACCORDED BY REASON OF SUBSECTION (d).—

(1) If the President determines such action to be in the interest of the United States, the President may proclaim changes to the Tariff Schedules of the United States in order to remove or modify any condition or restriction imposed under headnote 1 to part 7 of schedule 8 (as amended by subsection (d) of this section) of such Schedules, on the importation of articles provided for in items 870.30 through 870.35, inclusive (except as to articles entered under the terms of headnote 1(a)(i) to part 7 of schedule 8) of such Schedules, in order to implement the provisions of annex C–1 of the Nairobi Protocol.

(2) Any change to the Tariff Schedules of the United States proclaimed under paragraph (1) shall be effective with respect to articles entered, or withdrawn from warehouse, for consumption on or after the date that is 15 days after the date on which the President proclaims such change. Effective date.

(i) STATISTICAL INFORMATION.—In order to implement effectively the provisions of subsection (g), the Secretary of the Treasury, in conjunction with the Secretary of Commerce, shall take such actions as are necessary to obtain adequate statistical information with respect to articles to which amendments made by subsection (c) apply, in such detail and for such period as the Secretaries consider necessary.

(j) EFFECTIVE DATE.—

(1) The provisions of this section, and the repeal and amendments made by this section, shall apply with respect to articles entered, or withdrawn from warehouse, for consumption on or after the later of—

(A) October 1, 1988, or

(B) the date that is 15 days after the deposit of the United States ratification of the Nairobi Protocol.

(2) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon request filed with the appropriate customs officer on or before the date that is 180 days after the later of the dates described in subparagraphs (A) and (B) of paragraph (1), any entry, or withdrawal from warehouse, of any article—

(A) which was made on or after August 12, 1985, and before such later date, and

(B) with respect to which there would have been no duty if the provisions of this section, or any amendments made by this section, applied to such entry or withdrawal,

shall be liquidated or reliquidated as though such entry or withdrawal had been made on or after such later date.

SEC. 1122. IMPLEMENTATION OF UNITED STATES-EC AGREEMENT ON CITRUS AND PASTA.

(a) PURPOSE.—The purpose of this section is to provide for the implementation of tariff reductions agreed to by the United States in the Agreement between the European Communities and the

United States, concluded February 24, 1987, with respect to citrus and pasta.

(b) PROCLAMATION AUTHORITY.—

(1) The amendments made by subsection (c) shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after a date occurring after September 30, 1988, that is proclaimed by the President as being appropriate to carry out the Agreement referred to in subsection (a).

President of U.S.

(2) The President is authorized at any time to modify or terminate by proclamation any provision of law enacted by the amendments made by subsection (c).

(3) The rates of duty in column numbered 1 of the Tariff Schedules of the United States that are enacted by the amendments made by subsection (c) shall be treated—

(A) as not having the status of statutory provisions enacted by the Congress; but

(B) as having been proclaimed by the President as being required to carry out a foreign trade agreement to which the United States is a party.

(c) AMENDMENTS TO TARIFF SCHEDULES.—

(1) Whenever in this subsection an amendment is expressed in terms of an amendment to a schedule, headnote, item, the Appendix, or other provision, the reference shall be considered to be made to a schedule, headnote, item, the Appendix, or other provision of the Tariff Schedules of the United States.

(2) Subpart C of part 3 of schedule 1 is amended by striking out item 112.40 and inserting in lieu thereof the following items with a superior heading having the same degree of indentation as the article description in item 112.42:

"		Anchovies:			
	112.40	If entered in any calendar year before 3,000 metric tons of anchovies have been entered under this item in such calendar year..	3% ad val.	Free (A,E,I)	30% ad val.
	112.41	Other	6% ad val.	Free (A,E,I)	30% ad val. ".

(3)(A) Item 117.65 is amended by striking out "9% ad val." and inserting in lieu thereof "Free".

(B) Item 117.67 is amended by striking out "12% ad val." and inserting in lieu thereof "Free".

(4) Subpart B of part 9 of Schedule 1 is amended by striking out item 147.29 and inserting in lieu thereof the following items with a superior heading having the same degree of indentation as the article description in item 147.30:

"		Mandarin, packed in airtight containers:			
	147.28	Satsuma, if entered in any calendar year *before 40,000 metric* tons of Satsuma oranges have been entered under this item in such calendar year..	Free	Free (A,E,I)	1¢ per lb.
	147.29	Other	0.2¢ per lb.	Free (A,E,I)	1¢ per lb. ".

148.54	In containers each holding more than 0.3 gallon	30¢ per gal.	Free (E)	30¢ per gal.	";

(F) by striking out "5¢ per lb." in item 148.55, as redesignated by paragraph (4), and inserting in lieu thereof "2.5¢ per lb."; and

(G) by striking out item 148.57, as redesignated by paragraph (4), and inserting in lieu thereof the following new items with the superior heading having the same degree of indentation as the article description in item 148.40:

"		Otherwise prepared or preserved:				
	148.57	If entered in any calendar year before 550 metric tons of olives have been entered under this item in such calendar year	2.5¢ per lb.	Free (E)	5¢ per lb.	
	148.58	Other	5¢ per lb.	Free (E)	5¢ per lb.	".

(6) Items 161.06 and 161.08 are each amended by striking out "16% ad val." and inserting in lieu thereof "8% ad val.".

(7) Item 161.71 is amended by striking out "2¢ per lb." and inserting in lieu thereof "1.35¢ per lb.".

(8) Item 167.15 is amended by striking out "3¢ per gal." and inserting in lieu thereof "1.5¢ per gal.".

(9)(A) Item 176.29 is amended by striking out "3.8¢ per lb. on contents and container" and inserting in lieu thereof "2.28¢ per lb. on contents and container.".

(B) Item 176.30 is amended by striking out "2.6¢ per lb." and inserting in lieu thereof "1.56¢ per lb.".

(d) REPORT.—The Trade Representative shall include in the semi-annual report submitted under section 309(3) of the Trade Act of 1974 an assessment of whether the European Communities are in compliance with the agreement referred to in subsection (a).

SEC. 1123. EXTENSION OF INTERNATIONAL COFFEE AGREEMENT ACT OF 1980.

(a) EXTENSION.—Section 2 of the International Coffee Agreement Act of 1980 (19 U.S.C. 1356k) is amended by striking out "October 1, 1986" and inserting "October 1, 1989".

19 USC 1356k note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect January 1, 1987.

22 USC 5304 note.

SEC. 1124. NEGOTIATIONS ON CURRENCY EXCHANGE RATES.

(a) FINDINGS.—The Congress finds that—

(1) the benefit of trade concessions can be adversely affected by misalignments in currency, and

(2) misalignments in currency caused by government policies intended to maintain an unfair trade advantage tend to nullify and impair trade concessions.

(b) NEGOTIATIONS.—Whenever, in the course of negotiating a trade agreement under this subtitle, the President is advised by the Secretary of the Treasury that a foreign country that is a party to the negotiations satisfies the criteria for initiating bilateral currency negotiations listed in section 3004(b) of this Act, the Secretary

of the Treasury shall take action to initiate bilateral currency negotiations on an expedited basis with such foreign country.

SEC. 1125. REPORTS ON NEGOTIATIONS TO ELIMINATE WINE TRADE BARRIERS.

President of U.S.
19 USC 2804 note.

Before the close of the 13-month period beginning on the date of the enactment of this Act, the President shall update each report that the President submitted to the Committee on Ways and Means and the Committee on Finance under section 905(b) of the Wine Equity and Export Expansion Act of 1984 (19 U.S.C. 2804) and submit the updated report to both of such committees. Each updated report shall contain, with respect to the major wine trading country concerned—

(1) a description of each tariff or nontariff barrier to (or other distortion of) trade in United States wine of that country with respect to which the United States Trade Representative has carried out consultations since the report required under such section 905(b) was submitted;

(2) the status of the consultations described under paragraph (1); and

(3) information, explanations, and recommendations of the kind referred to in paragraph (1) (C), (D), and (E) of such section 905(b) that are based on developments (including the taking of relevant actions, if any, of a kind not contemplated at the time of the enactment of such 1984 Act) since the submission of the report required under such section.

Subtitle B—Implementation of the Harmonized Tariff Schedule

SEC. 1201. PURPOSES.

19 USC 3001.

The purposes of this subtitle are—

(1) to approve the International Convention on the Harmonized Commodity Description and Coding System;

(2) to implement in United States law the nomenclature established internationally by the Convention; and

(3) to provide that the Convention shall be treated as a trade agreement obligation of the United States.

SEC. 1202. DEFINITIONS.

19 USC 3002.

As used in this subtitle:

(1) The term "Commission" means the United States International Trade Commission.

(2) The term "Convention" means the International Convention on the Harmonized Commodity Description and Coding System, done at Brussels on June 14, 1983, and the Protocol thereto, done at Brussels on June 24, 1986, submitted to the Congress on June 15, 1987.

(3) The term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(4) The term "Federal agency" means any establishment in the executive branch of the United States Government.

(5) The term "old Schedules" means title I of the Tariff Act of 1930 (19 U.S.C. 1202) as in effect on the day before the effective date of the amendment to such title under section 1204(a).

(6) The term "technical rectifications" means rectifications of an editorial character or minor technical or clerical changes which do not affect the substance or meaning of the text, such as—

(A) errors in spelling, numbering, or punctuation;

(B) errors in indentation;

(C) errors (including inadvertent omissions) in cross-references to headings or subheadings or notes; and

(D) other clerical or typographical errors.

19 USC 3003.

SEC. 1203. CONGRESSIONAL APPROVAL OF UNITED STATES ACCESSION TO THE CONVENTION.

(a) CONGRESSIONAL APPROVAL.—The Congress approves the accession by the United States of America to the Convention.

(b) ACCEPTANCE OF THE FINAL LEGAL TEXT OF THE CONVENTION BY THE PRESIDENT.—The President may accept for the United States the final legal instruments embodying the Convention. The President shall submit a copy of each final instrument to the Congress on the date it becomes available.

(c) UNSPECIFIED PRIVATE REMEDIES NOT CREATED.—Neither the entry into force with respect to the United States of the Convention nor the enactment of this subtitle may be construed as creating any private right of action or remedy for which provision is not explicitly made under this subtitle or under other laws of the United States.

(d) TERMINATION.—The provisions of section 125(a) of the Trade Act of 1974 (19 U.S.C. 2135(a)) do not apply to the Convention.

19 USC 3004.

SEC. 1204. ENACTMENT OF THE HARMONIZED TARIFF SCHEDULE.

19 USC prec. 1202 note.

(a) IN GENERAL.—The Tariff Act of 1930 is amended by striking out title I and inserting a new title I entitled "Title I—Harmonized Tariff Schedule of the United States" (hereinafter in this subtitle referred to as the "Harmonized Tariff Schedule") which—

(1) consists of—

(A) the General Notes;

(B) the General Rules of Interpretation;

(C) the Additional U.S. Rules of Interpretation;

(D) sections I to XXII, inclusive (encompassing chapters 1 to 99, and including all section and chapter notes, article provisions, and tariff and other treatment accorded thereto); and

(E) the Chemical Appendix to the Harmonized Tariff Schedule;

all conforming to the nomenclature of the Convention and as set forth in Publication No. 2030 of the Commission entitled "Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes" and Supplement No. 1 thereto; but

(2) does not include the statistical annotations, notes, annexes, suffixes, check digits, units of quantity, and other matters formulated under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)), nor the table of contents, footnotes, index, and other matters inserted for ease of reference, that are included in such Publication No. 2030 or Supplement No. 1. thereto.

(b) MODIFICATIONS TO THE HARMONIZED TARIFF SCHEDULE.—At the earliest practicable date after the date of the enactment of the Onmibus Trade and Competitiveness Act of 1988, the President shall— President of U.S.

(1) proclaim such modifications to the Harmonized Tariff Schedule as are consistent with the standards applied in converting the old Schedules into the format of the Convention, as reflected in such Publication No. 2030 and Supplement No. 1. thereto, and as are necessary or appropriate to implement—

(A) the future outstanding staged rate reductions authorized by the Congress in—

(i) the Trade Act of 1974 (19 U.S.C. 2101 et seq.) and the Trade Agreements Act of 1979 (19 U.S.C. 2501 et seq.) to reflect the tariff reductions that resulted from the Tokyo Round of multilateral trade negotiations, and

(ii) the United States-Israel Free Trade Area Implementation Act of 1985 (19 U.S.C. 1202 note) to reflect the tariff reduction resulting from the United States-Israel Free Trade Area Agreement,

(B) the applicable provisions of—

(i) statutes enacted,

(ii) executive actions taken, and

(iii) final judicial decisions rendered,

after January 1, 1988, and before the effective date of the Harmonized Tariff Schedule, and

(C) such technical rectifications as the President considers necessary; and

(2) take such action as the President considers necessary to bring trade agreements to which the United States is a party into conformity with the Harmonized Tariff Schedule.

(c) STATUS OF THE HARMONIZED TARIFF SCHEDULE.—

(1) The following shall be considered to be statutory provisions of law for all purposes:

(A) The provisions of the Harmonized Tariff Schedule as enacted by this subtitle.

(B) Each statutory amendment to the Harmonized Tariff Schedule.

(C) Each modification or change made to the Harmonized Tariff Schedule by the President under authority of law (including section 604 of the Trade Act of 1974).

(2) Neither the enactment of this subtitle nor the subsequent enactment of any amendment to the Harmonized Tariff Schedule, unless such subsequent enactment otherwise provides, may be construed as limiting the authority of the President—

(A) to effect the import treatment necessary or appropriate to carry out, modify, withdraw, suspend, or terminate, in whole or in part, trade agreements; or

(B) to take such other actions through the modification, continuance, or imposition of any rate of duty or other import restriction as may be necessary or appropriate under the authority of the President.

(3) If a rate of duty established in column 1 by the President by proclamation or Executive order is higher than the existing rate of duty in column 2, the President may by proclamation or Executive order increase such existing rate to the higher rate.

(4) If a rate of duty is suspended or terminated by the President by proclamation or Executive order and the proclamation or Executive order does not specify the rate that is to apply in lieu of the suspended or terminated rate, the last rate of duty that applied prior to the suspended or terminated rate shall be the efffective rate of duty.

(d) INTERIM INFORMATIONAL USE OF HARMONIZED TARIFF SCHEDULE CLASSIFICATIONS.—Each—

(1) proclamation issued by the President;

(2) public notice issued by the Commission or other Federal agency; and

(3) finding, determination, order, recommendation, or other decision made by the Commission or other Federal agency;

during the period between the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988 and the effective date of the Harmonized Tariff Schedule shall, if the proclamation, notice, or decision contains a reference to the tariff classification of any article, include, for informational purposes, a reference to the classification of that article under the Harmonized Tariff Schedule.

19 USC 3005.

SEC. 1205. COMMISSION REVIEW OF, AND RECOMMENDATIONS REGARDING, THE HARMONIZED TARIFF SCHEDULE.

(a) IN GENERAL.—The Commission shall keep the Harmonized Tariff Schedule under continuous review and periodically, at such time as amendments to the Convention are recommended by the Customs Cooperation Council for adoption, and as other circumstances warrant, shall recommend to the President such modifications in the Harmonized Tariff Schedule as the Commission considers necessary or appropriate—

(1) to conform the Harmonized Tariff Schedule with amendments made to the Convention;

(2) to promote the uniform application of the Convention and particularly the Annex thereto;

(3) to ensure that the Harmonized Tariff Schedule is kept up-to-date in light of changes in technology or in patterns of international trade;

(4) to alleviate unnecessary administrative burdens; and

(5) to make technical rectifications.

(b) AGENCY AND PUBLIC VIEWS REGARDING RECOMMENDATIONS.—In formulating recommendations under subsection (a), the Commission shall solicit, and give consideration to, the views of interested Federal agencies and the public. For purposes of obtaining public views, the Commission—

(1) shall give notice of the proposed recommendations and afford reasonable opportunity for interested parties to present their views in writing; and

(2) may provide for a public hearing.

Reports.

(c) SUBMISSION OF RECOMMENDATIONS.—The Commission shall submit recommendations under this section to the President in the form of a report that shall include a summary of the information on which the recommendations were based, together with a statement of the probable economic effect of each recommended change on any industry in the United States. The report also shall include a copy of all written views submitted by interested Federal agencies and a copy or summary, prepared by the Commission, of the views of all other interested parties.

(d) REQUIREMENTS REGARDING RECOMMENDATIONS.—The Commission may not recommend any modification to the Harmonized Tariff Schedule unless the modification meets the following requirements:

(1) The modification must—

(A) be consistent with the Convention or any amendment thereto recommended for adoption;

(B) be consistent with sound nomenclature principles; and

(C) ensure substantial rate neutrality.

(2) Any change to a rate of duty must be consequent to, or necessitated by, nomenclature modifications that are recommended under this section.

(3) The modification must not alter existing conditions of competition for the affected United States industry, labor, or trade.

SEC. 1206. PRESIDENTIAL ACTION ON COMMISSION RECOMMENDATIONS. 19 USC 3006.

(a) IN GENERAL.—The President may proclaim modifications, based on the recommendations by the Commission under section 1205, to the Harmonized Tariff Schedule if the President determines that the modifications—

(1) are in conformity with United States obligations under the Convention; and

(2) do not run counter to the national economic interest of the United States.

(b) LAY-OVER PERIOD.—

(1) The President may proclaim a modification under subsection (a) only after the expiration of the 60-day period beginning on the date on which the President submits a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth the proposed modification and the reasons therefor. President of U.S. Reports.

(2) The 60-day period referred to in paragraph (1) shall be computed by excluding—

(A) the days on which either House is not in session because of an adjournment of more than 3 days to a day certain or an adjournment of the Congress sine die; and

(B) any Saturday and Sunday, not excluded under subparagraph (A), when either House is not in session.

(c) EFFECTIVE DATE OF MODIFICATIONS.—Modifications proclaimed by the President under subsection (a) may not take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

SEC. 1207. PUBLICATION OF THE HARMONIZED TARIFF SCHEDULE. 19 USC 3007.

(a) IN GENERAL.—The Commission shall compile and publish, at appropriate intervals, and keep up to date the Harmonized Tariff Schedule and related information in the form of printed copy; and, if, in its judgment, such format would serve the public interest and convenience—

(1) in the form of microfilm images; or

(2) in the form of electronic media.

(b) CONTENT.—Publications under subsection (a), in whatever format, shall contain—

(1) the then current Harmonized Tariff Schedule;

(2) statistical annotations and related statistical information formulated under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)); and

(3) such other matters as the Commission considers to be necessary or appropriate to carry out the purposes enumerated in the Preamble to the Convention.

Public information. 19 USC 3008.

SEC. 1208. IMPORT AND EXPORT STATISTICS.

The Secretary of Commerce shall compile, and make publicly available, the import and export trade statistics of the United States. Such statistics shall be conformed to the nomenclature of the Convention.

19 USC 3009.

SEC. 1209. COORDINATION OF TRADE POLICY AND THE CONVENTION.

The United States Trade Representative is responsible for coordination of United States trade policy in relation to the Convention. Before formulating any United States position with respect to the Convention, including any proposed amendments thereto, the United States Trade Representative shall seek, and consider, information and advice from interested parties in the private sector (including a functional advisory committee) and from interested Federal agencies.

19 USC 3010.

SEC. 1210. UNITED STATES PARTICIPATION ON THE CUSTOMS COOPERATION COUNCIL REGARDING THE CONVENTION.

(a) PRINCIPAL UNITED STATES AGENCIES.—

(1) Subject to the policy direction of the Office of the United States Trade Representative under section 1209, the Department of the Treasury, the Department of Commerce, and the Commission shall, with respect to the activities of the Customs Cooperation Council relating to the Convention—

(A) be primarily responsible for formulating United States Government positions on technical and procedural issues; and

(B) represent the United States Government.

(2) The Department of Agriculture and other interested Federal agencies shall provide to the Department of the Treasury, the Department of Commerce, and the Commission technical advice and assistance relating to the functions referred to in paragraph (1).

(b) DEVELOPMENT OF TECHNICAL PROPOSALS.—

(1) In connection with responsibilities arising from the implementation of the Convention and under section 484(e) of the Tariff Act of 1930 (19 U.S.C. 1484(e)) regarding United States programs for the development of adequate and comparable statistical information on merchandise trade, the Secretary of the Treasury, the Secretary of Commerce, and the Commission shall prepare technical proposals that are appropriate or required to assure that the United States contribution to the development of the Convention recognizes the needs of the United States business community for a Convention which reflects sound principles of commodity identification, modern producing methods, and current trading patterns and practices.

(2) In carrying out this subsection, the Secretary of the Treasury, the Secretary of Commerce, and the Commission shall—

(A) solicit and consider the views of interested parties in the private sector (including a functional advisory committee) and of interested Federal agencies;

(B) establish procedures for reviewing, and developing appropriate responses to, inquiries and complaints from

interested parties concerning articles produced in and exported from the United States; and

(C) where appropriate, establish procedures for—

(i) ensuring that the dispute settlement provisions and other relevant procedures available under the Convention are utilized to promote United States export interests, and

(ii) submitting classification questions to the Harmonized System Committee of the Customs Cooperation Council.

(c) AVAILABILITY OF CUSTOMS COOPERATION COUNCIL PUBLICATIONS.—As soon as practicable after the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, and periodically thereafter as appropriate, the Commission shall see to the publication of—

(1) summary records of the Harmonized System Committee of the Customs Cooperation Council; and Records.

(2) subject to applicable copyright laws, the Explanatory Notes, Classification Opinions, and other instruments of the Customs Cooperation Council relating to the Convention.

SEC. 1211. TRANSITION TO THE HARMONIZED TARIFF SCHEDULE. 19 USC 3011.

(a) EXISTING EXECUTIVE ACTIONS.—

(1) The appropriate officers of the United States Government shall take whatever actions are necessary to conform, to the fullest extent practicable, with the tariff classification system of the Harmonized Tariff Schedule all proclamations, regulations, rulings, notices, findings, determinations, orders, recommendations, and other written actions that—

(A) are in effect on the day before the effective date of the Harmonized Tariff Schedule; and

(B) contain references to the tariff classification of articles under the old Schedules.

(2) Neither the repeal of the old Schedules, nor the failure of any officer of the United States Government to make the conforming changes required under paragraph (1), shall affect to any extent the validity or effect of the proclamation, regulation, ruling, notice, finding, determination, order, recommendation, or other action referred to in paragraph (1).

(b) GENERALIZED SYSTEM OF PREFERENCES CONVERSION.—

(1) The review of the proposed conversion of the Generalized System of Preferences program to the Convention tariff nomenclature, initiated by the Office of the United States Trade Representative by notice published in the Federal Register on December 8, 1986 (at page 44,163 of volume 51 thereof), shall be treated as satisfying the requirements of sections 503(a) and 504(c)(3) of the Trade Act of 1974 (19 U.S.C. 2463(a), 2464(c)(3)).

(2) In applying section 504(c)(1) of the Trade Act of 1974 (19 U.S.C. 2464(c)(1)) for calendar year 1989, the reference in such section to July 1 shall be treated as a reference to September 1.

(c) IMPORT RESTRICTIONS UNDER THE AGRICULTURAL ADJUSTMENT ACT.—

(1) Whenever the President determines that the conversion of an import restriction proclaimed under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624) from part 3 of the Appendix to the old Schedules to subchapter IV of chapter 99 of the Harmonized Tariff Schedule results in—

(A) an article that was previously subject to the restriction being excluded from the restriction; or

(B) an article not previously subject to the restriction being included within the restriction;

the President may proclaim changes in subchapter IV of chapter 99 of the Harmonized Tariff Schedule to conform that subchapter to the fullest extent possible to part 3 of the Appendix to the old Schedules.

(2) Whenever the President determines that the conversion from headnote 2 of subpart A of part 10 of schedule 1 of the old Schedules to Additional U.S. Note 2, chapter 17, of the Harmonized Tariff Schedule results in—

(A) an article that was previously covered by such headnote being excluded from coverage; or

(B) an article not previously covered by such headnote being included in coverage;

the President may proclaim changes in Additional U.S. Note 2, chapter 17 of the Harmonized Tariff Schedule to conform that note to the fullest extent possible to headnote 2 of subpart A of part 10 of schedule 1 of the old Schedules.

(3) No change to the Harmonized Tariff Schedule may be proclaimed under paragraph (1) or (2) after June 30, 1990.

Courts, U.S.

(d) CERTAIN PROTESTS AND PETITIONS UNDER THE CUSTOMS LAW.—(1)(A) This subtitle may not be considered to divest the courts of jurisdiction over—

(i) any protest filed under section 514 of the Tariff Act of 1930 (19 U.S.C. 1514); or

(ii) any petition by an American manufacturer, producer, or wholesaler under section 516 of such Act (19 U.S.C. 1516);

covering articles entered before the effective date of the Harmonized Tariff Schedule.

(B) Nothing in this subtitle shall affect the jurisdiction of the courts with respect to articles entered after the effective date of the Harmonized Tariff Schedule.

(2)(A) If any protest or petition referred to in paragraph (1)(A) is sustained in whole or in part by a final judicial decision, the entries subject to that protest or petition and made before the effective date of the Harmonized Tariff Schedule shall be liquidated or reliquidated, as appropriate, in accordance with such final judicial decision under the old Schedules.

(B) At the earliest practicable date after the effective date of the Harmonized Tariff Schedule, the Commission shall initiate an investigation under section 332 of the Tariff Act of 1930 (19 U.S.C. 1332) of those final judicial decisions referred to in subparagraph (A) that—

(i) are published during the 2-year period beginning on February 1, 1988; and

(ii) would have affected tariff treatment if they had been published during the period of the conversion of the old Schedules into the format of the Convention.

Reports.

No later than September 1, 1990, the Commission shall report the results of the investigation to the President, the Committee on Ways and Means, and the Committee on Finance, and shall recommend those changes to the Harmonized Tariff Schedule that the Commission would have recommended if the final decisions concerned had been made before the conversion into the format of the Convention occurred.

(3) The President shall review all changes recommended by the Commission under paragraph (2)(B) and shall, as soon as practicable, proclaim such of those changes, if any, which he decides are necessary or appropriate to conform such Schedule to the final judicial decisions. Any such change shall be effective with respect to— President of U.S.

(A) entries made on or after the date of such proclamation; and

(B) entries made on or after the effective date of the Harmonized Tariff Schedule if, notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514), application for liquidation or reliquidation thereof is made by the importer to the customs officer concerned within 180 days after the effective date of such proclamation.

(4) If any protest or petition referred to in paragraph (1)(A) is not sustained in whole or in part by a final judicial decision, the entries subject to that petition or protest and made before the effective date of the Harmonized Tariff Schedule shall be liquidated or reliquidated, as appropriate, in accordance with the final judicial decision under the old Schedules.

SEC. 1212. REFERENCE TO THE HARMONIZED TARIFF SCHEDULE. 19 USC 3012.

Any reference in any law to the "Tariff Schedules of the United States", "the Tariff Schedules", "such Schedules", and any other general reference that clearly refers to the old Schedules shall be treated as a reference to the Harmonized Tariff Schedule.

SEC. 1213. TECHNICAL AMENDMENTS.

(a) TRADE ACT OF 1974.—Section 604 of the Trade Act of 1974 (19 U.S.C. 2483) is amended by striking out "including modification," and inserting "including removal, modification,".

(b) TARIFF CLASSIFICATION ACT OF 1962.—Section 201 of the Tariff Classification Act of 1962 (76 Stat. 72, 74) is repealed. 19 USC prec. 1202 note.

(c) TARIFF ACT OF 1930.—Section 315(d) of the Tariff Act of 1930 (19 U.S.C. 1315(d)) is amended by adding at the end thereof the following: "This subsection shall not apply with respect to increases in rates of duty resulting from the enactment of the Harmonized Tariff Schedule of the United States to replace the Tariff Schedules of the United States.".

SEC. 1214. CONFORMING AMENDMENTS.

(a) CODIFIED TITLES.—

(1) Section 374(a)(3) of title 10 of the United States Code is amended by striking out "general headnote 2 of the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(2) Section 301 of title 13 of the United States Code is amended—

(A) by striking out "Tariff Schedules of the United States Annotated and general statistical headnote 1 thereof," in subsection (b) and inserting "Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes and general statistical note 1 thereof,";

(B) by striking out "item in the Tariff Schedules of the United States Annotated" in subsection (e) and inserting "heading or subheading in the Harmonized Tariff Schedule

of the United States Annotated for Statistical Reporting Purposes"; and

(C) by amending subsection (f)—

(i) by striking out "item of the Tariff Schedules of the United States Annotated" and inserting "heading or subheading in the Harmonized Tariff Schedule of the United States Annotated for Statistical Reporting Purposes", and

(ii) by striking out "under that item" each place it appears and inserting "under that heading or subheading".

(3) Section 1295(a)(7) of title 28 of the United States Code is amended by striking out "headnote 6 to schedule 8, part 4, of the Tariff Schedules of the United States" and inserting "U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States".

(b) TOBACCO ADJUSTMENT ACT OF 1983.—Section 213(a)(2) of the Tobacco Adjustment Act of 1983 (7 U.S.C. 511r(a)(2)) is amended by striking out "Schedule 1, Part 13, Tariff Schedules of the United States" and inserting "chapter 24 of the Harmonized Tariff Schedule of the United States".

(c) FEDERAL HAZARDOUS SUBSTANCES ACT.—Section 15 of the Federal Hazardous Substances Act (15 U.S.C. 1274) is amended—

(1) by striking out "general headnote 2 to the Tariff Schedules of the United States" in subsection (b) and inserting "general note 2 of the Harmonized Tariff Schedule of the United States"; and

(2) by striking out "general headnote 2 to the Tariff Schedules of the United States" in subsection (c)(2) and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(d) CONSUMER PRODUCT SAFETY ACT.—Section 15(d) and section 17(a) of the Consumer Product Safety Act (15 U.S.C. 2064(d) and 2066(a)) are each amended by striking out "general headnote 2 to the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(e) TOXIC SUBSTANCES CONTROL ACT.—

(1) Section 3(7) of the Toxic Substances Control Act (15 U.S.C. 2602(7)) is amended by striking out "general headnote 2 of the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(2) Section 13(a)(1) of such Act (15 U.S.C. 2612(a)(1)) is amended by striking out "general headnote 2 to the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(f) EMERGENCY WETLANDS RESOURCES ACT OF 1986.—Section 203 of the Emergency Wetlands Resources Act of 1986 (16 U.S.C. 3912) is amended by striking out "subpart A of part 5 of schedule 7 of the Tariff Schedules of the United States" and inserting "chapter 93 of the Harmonized Tariff Schedule of the United States".

(g) COBRA OF 1985.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

(1) by striking out "schedule 8 of the Tariff Schedules of the United States" in subsection (a)(9)(A) and inserting "chapter 98 of the Harmonized Tariff Schedule of the United States";

(2) by striking out "General Headnote 3(e)(vi) or (vii)" in subsection (a)(9)(C) and inserting "general note 3(c)(v)"; and

(3) by striking out "headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States" in subsection (c)(3) and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(h) TARIFF ACT OF 1930.—The Tariff Act of 1930 is amended as follows:

(1) Section 312(f) (19 U.S.C. 1312(f)) is amended—

(A) by amending paragraph (1)—

(i) by striking out "schedule 6, part 1, of the Tariff Schedules of the United States," and inserting "chapter 26 of the Harmonized Tariff Schedule of the United States,";

(ii) by striking out "schedule 6, part 2, of such schedules," and inserting "chapters 71 through 83 of the Harmonized Tariff Schedule of the United States,"; and

(iii) by striking out the quotation marks surrounding "metal waste and scrap" and "unwrought metal";

(B) by amending paragraph (2)(A)—

(i) by striking out "part 2 of schedule 6" and inserting "chapters 71 through 83 of the Harmonized Tariff Schedule of the United States";

(ii) by striking out "part 1 of schedule 6" and inserting "chapter 26 of the Harmonized Tariff Schedule of the United States"; and

(iii) by striking out the quotation marks surrounding "unwrought metal"; and

(C) by amending paragraph (3) by striking out "as defined in part 1 of schedule 6" and inserting "of chapter 26 of the Harmonized Tariff Schedule of the United States".

(2) Section 321(a)(2)(B) (19 U.S.C. 1321(a)(2)(B)) is amended by striking out "item 812.25 or 813.31" and inserting "subheading 9804.00.30 or 9804.00.70".

(3) Section 337(j) (19 U.S.C. 1337(j)) is amended by striking out "general headnote 2 of the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(4) Section 466(f) (19 U.S.C. 1466(f)) is amended by striking out "headnote 3 to schedule 6, part 6, subpart C of the Tariff Schedules of the United States" and inserting "general note 3(c)(iv) of the Harmonized Tariff Schedule of the United States".

(5) Section 498(a)(1) (19 U.S.C. 1498(a)(1)) is amended—

(A) by striking out subparagraphs (A), (B), and (C) and inserting the following:

"(A) chapters 50 through 63;

"(B) chapters 39 through 43, 61 through 65, 67 and 95; and

"(C) subchapters III and IV of chapter 99;"; and

(B) by striking out "of the Tariff Schedules of the United States," and inserting "of the Harmonized Tariff Schedule of the United States,".

(i) AUTOMOTIVE PRODUCTS TRADE ACT OF 1965.—Section 201 (a) and (b) of the Automotive Products Trade Act of 1965 (19 U.S.C. 2011 (a) and (b)) are each amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

(j) TRADE ACT OF 1974.—The Trade Act of 1974 is amended as follows:

(1) Section 128(b) (19 U.S.C. 2138(b)) is amended to read as follows:

President of U.S.

"(b) The President shall exercise his authority under subsection (a) of this section only with respect to the following subheadings listed in the Harmonized Tariff Schedule of the United States—

"(1) transistors (provided for in subheadings 8541.21.00, 8541.29.00, and 8541.40.70);

"(2) diodes and rectifiers (provided for in subheadings 8541.10.00, 8541.30.00, and 8541.40.60);

"(3) monolithic integrated circuits (provided for in subheadings 8542.11.00 and 8542.19.00);

"(4) other integrated circuits (provided for in subheading 8542.20.00);

"(5) other components (provided for in subheading 8541.50.00);

"(6) parts of semiconductors (provided for in subheadings 8541.90.00 and 8542.90.00); and

"(7) units of automatic data processing machines (provided for in subheadings 8471.92.20, 8471.92.30, 8471.92.70, 8471.92.80, 8471.93.10, 8471.93.15, 8471.93.30, 8471.93.50, 8471.99.15, and 8471.99.60) and parts (provided for in subheading 8473.30.40), all the foregoing not incorporating a cathode ray tube.".

(2) Section 203(f) (19 U.S.C. 2253(f)) is amended—

(A) by striking out "item 806.30 or 807.00 of the Tariff Schedules of the United States" in paragraph (1) and inserting "subheadings 9802.00.60 or 9802.00.80 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "item 806.30 or item 807.00" in paragraph (3) and inserting "subheading 9802.00.60 or subheading 9802.00.80 of the Harmonized Tariff Schedule of the United States".

(3) Section 404(c) (19 U.S.C. 2434(c)) is amended by striking out "Tariff Schedules for the United States" and inserting "Harmonized Tariff Schedule of the United States".

(4) Section 407(c)(3) and section 604 (19 U.S.C. 2437(c)(3) and 2483) are each amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

(5) Section 601(7) (19 U.S.C. 2481(7)) is amended by striking out "schedules 1 through 7 of the Tariff Schedules of the United States" and inserting "chapters 1 through 97 of the Harmonized Tariff Schedule of the United States".

(k) TRADE AGREEMENTS ACT OF 1979.—Section 1102(b)(3) of the Trade Agreements Act of 1979 (19 U.S.C. 2581(b)(3)) is amended by striking out "headnotes of the Tariff Schedules of the United States" and inserting "notes of the Harmonized Tariff Schedule of the United States".

(l) ACT OF MARCH 2, 1897.—Section 1 of the Act of March 2, 1897 (29 Stat. 604) (21 U.S.C. 41) is amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

(m) CONTROLLED SUBSTANCES IMPORT AND EXPORT ACT.—Section 1001(a)(2) of the Controlled Substances Import and Export Act (21 U.S.C. 951(a)(2)) is amended by striking out "general headnote 2 to the Tariff Schedules of the United States" and inserting "general note 2 of the Harmonized Tariff Schedule of the United States".

(n) COMPREHENSIVE ANTI-APARTHEID ACT OF 1986.—Section 309(b) of the Comprehensive Anti-Apartheid Act of 1986 (22 U.S.C. 5059(b))

is amended by striking out "item 812.10 or 813.10 of the Tariff Schedules of the United States" and inserting "subheading 9804.00.20 or 9804.00.45 of the Harmonized Tariff Schedule of the United States".

(o) STRATEGIC AND CRITICAL MATERIALS STOCK PILING ACT.—Section 13 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-4) is amended by striking out "general headnote 3(d) of the Tariff Schedules of the United States" and inserting "general note 3(b) of the Harmonized Tariff Schedule of the United States".

(p) INTERNAL REVENUE CODE OF 1986.—

(1) Section 7652(e)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 7652(e)(3)) is amended by striking out "item 169.13 or 169.14 of the Tariff Schedules of the United States" and inserting "subheading 2208.40.00 of the Harmonized Tariff Schedule of the United States".

(2) Section 9504(b)(1)(B) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(b)(1)(B)) is amended—

(A) by striking out "subpart B of part 5 of schedule 7 of the Tariff Schedules of the United States" and inserting "heading 9507 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "subpart D of part 6 of schedule 6 of such Schedules" and inserting "chapter 89 of the Harmonized Tariff Schedule of the United States".

(q) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—The Caribbean Basin Economic Recovery Act is amended as follows:

(1) Section 212(a)(1)(C) (19 U.S.C. 2702(a)(1)(C)) is amended by striking out " 'TSUS' means Tariff Schedules of the United States" and inserting " 'HTS' means Harmonized Tariff Schedule of the United States".

(2) Section 213 (19 U.S.C. 2703) is amended as follows:

(A) Subsection (b) is amended—

(i) by striking out "part 10 of schedule 4 of the TSUS" in paragraph (4) and inserting "headings 2709 and 2710 of the Harmonized Tariff Schedule of the United States"; and

(ii) by striking out "TSUS" in paragraph (5) and inserting "HTS".

(B) Subsection (c) is amended—

(i) by striking out "items 155.20 and 155.30 of the TSUS" in paragraph (1)(A)(i) and inserting "subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States"; and

(ii) by striking out "subpart B of part 2 of schedule 1 of the TSUS" in paragraph (1)(A)(ii) and inserting "chapters 2 and 16 of the Harmonized Tariff Schedule of the United States".

(C) Subsection (d) is amended by striking out "items 155.20 and 155.30 of the TSUS" and inserting "subheadings 1701.11.00, 1701.12.00, 1701.91.20, 1701.99.00, 1702.90.30, 1806.10.40, and 2106.90.10 of the Harmonized Tariff Schedule of the United States".

(D) Subsection (f)(5) is amended—

(i) by amending subparagraph (A) to read as follows:

"(A) live plants and fresh cut flowers provided for in chapter 6 of the HTS;";

(ii) by striking out "items 135.10 through 138.46 of the TSUS" in subparagraph (B) and inserting "headings 0701 through 0709 (except subheading 0709.52.00) and heading 0714 of the HTS";

(iii) by striking out subparagraph (C);

(iv) by redesignating subparagraph (D) as subparagraph (C) and by striking out "items 146.10, 146.20, 146.30, 146.50 through 146.62, 146.90, 146.91, 147.03 through 147.33, 147.50 through 149.21 and 149.50 of the TSUS" in such redesignated subparagraph and inserting "subheadings 0804.20 through 0810.90 (except citrons of subheading 0805.90.00, tamarinds and kiwi fruit of subheading 0810.90.20, and cashew apples, mameyes colorados, sapodillas, soursops and sweetsops of subheading 0810.90.40) of the HTS";

(v) by striking out subparagraph (E); and

(vi) by redesignating subparagraph (F) as subparagraph (E) and by striking out "items 165.25 and 165.35 of the TSUS" in such redesignated subparagraph and inserting "subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS".

(r) ACT RELATING TO REFORESTATION TRUST FUND.—Section 303(b)(1) of the Act of October 14, 1980 (16 U.S.C. 1606a(b)(1)) is amended to read as follows:

"(b)(1) Subject to the limitation in paragraph (2), the Secretary of the Treasury shall transfer to the Trust Fund an amount equal to the sum of the tariffs received in the Treasury after January 1, 1989, under headings 4401 through 4412 and subheadings 4418.50.00, 4418.90.20, 4420.10.00, 4420.90.80, 4421.90.10 through 4421.90.20, and 4421.90.70 of chapter 44, subheadings 6808.00.00 and 6809.11.00 of chapter 68 and subheading 9614.10.00 of chapter 96 of the Harmonized Tariff Schedule of the United States.".

(s) TRADE AND TARIFF ACT OF 1984.—The Trade and Tariff Act of 1984 (Public Law 98-573) is amended as follows:

98 Stat. 2990. (1) Section 231(a)(1) is amended by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States".

98 Stat. 2994. (2) Section 239 is amended by striking out "headnote 6 of part 4 of schedule 8 of the Tariff Schedules of the United States" and inserting "U.S. note 6 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States".

98 Stat. 2994. (3) Section 240 is amended—

(A) by striking out "headnote 6(a) of part 4 of schedule 8 of the Tariff Schedules of the United States" in subsection (a)(1)(A) and inserting "U.S. note 6(a) to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "headnote 1 of part 4 of schedule 8" in subsection (e) and inserting "U.S. note 1 to subchapter X of chapter 98 of the Harmonized Tariff Schedule of the United States".

19 USC 2112 note. (4) Section 404(e) is amended—

(A) by amending paragraphs (1) and (2) to read as follows:

"(1) live plants and fresh cut flowers provided for in chapter 6 of the Harmonized Tariff Schedule of the United States (19 U.S.C. 1202, hereinafter referred to as the 'HTS');

"(2) vegetables, edible nuts or fruit provided for in chapters 7 and 8, heading 1105, subheadings 1106.10.00 and 1106.30, heading 1202, subheadings 1214.90.00 and 1704.90.60, headings 2001 through 2008 (excluding subheadings 2001.90.20 and 2004.90.10) and subheading 2103.20.40 of the HTS;";

(B) by striking out paragraphs (3), (4), and (5); and

(C) by striking out paragraph (6) and inserting the following:

"(3) concentrated citrus fruit juice provided for in subheadings 2009.11.00, 2009.19.40, 2009.20.40, 2009.30.20, and 2009.30.60 of the HTS.".

(t) TRADE AGREEMENTS ACT OF 1979.—The Trade Agreements Act of 1979 (Public Law 96-39) is amended as follows:

(1) Section 701(c)(1) is amended to read as follows:

19 USC 1202 note.

"(1) QUOTA CHEESE.—The term 'quota cheese' means the articles provided for in the following subheadings of the Harmonized Tariff Schedule of the United States:

"(A) 0406.10.00 (except whey cheese, curd, and cheese, cheese substitutes for cheese mixtures containing: Roquefort, Stilton produced in the United Kingdom, Bryndza, Gjetost, Goya in original loaves, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses);

"(B) 0406.20.20 (except Stilton produced in the United Kingdom);

"(C) 0406.20.30;

"(D) 0406.20.35;

"(E) 0406.20.40;

"(F) 0406.20.50;

"(G) 0406.20.60 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses);

"(H) 0406.30.10 (except Stilton produced in the United Kingdom);

"(I) 0406.30.20;

"(J) 0406.30.30;

"(K) 0406.30.40;

"(L) 0406.30.50;

"(M) 0406.30.60 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses);

"(N) 0406.40.60 (except Stilton produced in the United Kingdom);

"(O) 0406.40.80 (except Stilton produced in the United Kingdom);

"(P) 0406.90.10;

"(Q) 0406.90.15;

"(R) 0406.90.30 (except Goya in original loaves);

"(S) 0406.90.35;

"(T) 0406.90.40;

"(U) 0406.90.45 (except Gammelost and Nokkelost);

"(V) 0406.90.65;

"(W) 0406.90.70; and

"(X) 0406.90.80 (except cheeses containing or processed from: Stilton produced in the United Kingdom, Roquefort, Bryndza, Gjetost, Gammelost and Nokkelost, cheese made from sheep's and goat's milk and soft ripened cow's milk cheeses).".

19 USC 1202 note.

(2) Section 703 is amended—

(A) by striking out "item 950.15 of the Tariff Schedules of the United States" and inserting "subheading 9904.10.63 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "item 950.16 of the Tariff Schedules of the United States" and inserting "subheading 9904.10.66 of the Harmonized Tariff Schedule of the United States".

19 USC 1202 note.

(3) Section 855 is amended—

(A) by striking out "item set forth in subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States" in subsection (a) and inserting "article provided for in subheading 2207.10.30 and heading 2208 of the Harmonized Tariff Schedule of the United States"; and

(B) by striking out "item set forth in rate column numbered 1 of subpart D of part 12 of schedule 1 of the Tariff Schedules of the United States" in subsection (b) and inserting "article as set forth in rate of duty column numbered 1 of subheading 2207.10.30 and heading 2208 of the Harmonized Tariff Schedule of the United States".

(u) MEAT IMPORT ACT OF 1979.—The Meat Import Act of 1979 (19 U.S.C. 1202 note) is amended—

(1) by amending subsection (b)(2)—

(A) by striking out "Tariff Schedules of the United States" and inserting "Harmonized Tariff Schedule of the United States",

(B) by striking out "item 106.10" in subparagraph (A) and inserting "subheadings 0201.10.00, 0201.20.60, 0201.30.60, 0202.10.00, 0202.20.60 and 0202.30.60",

(C) by striking out "cattle" in subparagraph (A) and inserting "bovine",

(D) by striking out "items 106.22 and 106.25" in subparagraph (B) and inserting "subheadings 0204.50.00, 0204.21.00, 0204.22.40, 0204.23.40, 0204.41.00, 0204.42.40, and 0204.43.40", and

(E) by amending subparagraph (C) to read as follows: "(C) subheadings 0201.20.40, 0201.30.40, 0202.20.40, and 0202.30.40 (relating to processed meat of beef or veal other than high quality beef cuts).";

(2) by striking out "items 100.40, 100.43, 100.45, 100.53, and 100.55 of such Schedules" in the sentence following subsection (c)(2) and inserting "subheadings 0102.90.20 and 0102.90.40 of the Harmonized Tariff Schedule of the United States"; and

(3) by striking out "item 107.61 of the Tariff Schedules of the United States" in subsection (f)(1) and inserting "subheadings 0201.20.20, 0201.30.20, 0202.20.20, and 0202.30.20 of the Harmonized Tariff Schedule of the United States".

(v) NATIONAL WOOL ACT OF 1954.—Sections 704 and 705 of the National Wool Act of 1954 (7 U.S.C. 1783 and 1784) are each amended by striking out "all articles subject to duty under schedule 11 of the Tariff Act of 1930, as amended" and inserting "wool or fine animal hair, and articles thereof, as provided for in the Harmonized Tariff Schedule of the United States".

(w) AGRICULTURAL ACT OF 1949.—Section 103(f)(3) of the Agricultural Act of 1949 (7 U.S.C. 1444(f)(3)) is amended by striking out "items 955.01 through 955.03 of the Appendix to the Tariff Schedules of the United States" and inserting "subheadings 9904.30.10 through 9904.30.30 of chapter 99 of the Harmonized Tariff Schedule of the United States".

SEC. 1215. NEGOTIATING AUTHORITY FOR CERTAIN ADP EQUIPMENT.

Section 128(b) of the Trade Act of 1974 (19 U.S.C. 2138(b)), as amended by section 1212(j)(1) of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out "tube." and inserting "tube; and" in paragraph (7); and

(3) by adding at the end thereof the following new paragraph:

"(8) Digital processing units for automatic data processing machines, unhoused, consisting of a printed circuit (single or multiple) with one or more electronic integrated circuits or other semiconductor devices mounted directly thereon, certified as units designed for use other than in an automatic data processing machine of subheading 8471.20 (provided for in subheading 8471.91).".

SEC. 1216. COMMISSION REPORT ON OPERATION OF SUBTITLE.

19 USC 3005 note.

The Commission, in consultation with other appropriate Federal agencies, shall prepare, and submit to the Congress and to the President, a report regarding the operation of this subtitle during the 12-month period commencing on the effective date of the Harmonized Tariff Schedule. The report shall be submitted to the Congress and to the President before the close of the 6-month period beginning on the day after the last day of such 12-month period.

SEC. 1217. EFFECTIVE DATES.

19 USC 3001 note.

(a) ACCESSION TO CONVENTION AND PROVISIONS OTHER THAN THE IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—Except as provided in subsection (b), the provisions of this subtitle take effect on the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988.

(b) IMPLEMENTATION OF THE HARMONIZED TARIFF SCHEDULE.—The effective date of the Harmonized Tariff Schedule is January 1, 1989. On such date—

(1) the amendments made by sections 1204(a), 1213, 1214, and 1215 take effect and apply with respect to articles entered on or after such date; and

(2) sections 1204(c), 1211, and 1212 take effect.

Subtitle C—Response to Unfair International Trade Practices

PART 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

SEC. 1301. REVISION OF CHAPTER 1 OF TITLE III OF THE TRADE ACT OF 1974.

(a) IN GENERAL.—Chapter 1 of title III of the Trade Act of 1974 (19 U.S.C. 2411 et seq.) is amended to read as follows:

"CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO CERTAIN FOREIGN TRADE PRACTICES

19 USC 2411.

"SEC. 301. ACTIONS BY UNITED STATES TRADE REPRESENTATIVE.

"(a) MANDATORY ACTION.—

"(1) If the United States Trade Representative determines under section 304(a)(1) that—

"(A) the rights of the United States under any trade agreement are being denied; or

"(B) an act, policy, or practice of a foreign country—

"(i) violates, or is inconsistent with, the provisions of, or otherwise denies benefits to the United States under, any trade agreement, or

"(ii) is unjustifiable and burdens or restricts United States commerce;

the Trade Representative shall take action authorized in subsection (c), subject to the specific direction, if any, of the President regarding any such action, and shall take all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to enforce such rights or to obtain the elimination of such act, policy, or practice.

"(2) The Trade Representative is not required to take action under paragraph (1) in any case in which—

"(A) the Contracting Parties to the General Agreement on Tariffs and Trade have determined, a panel of experts has reported to the Contracting Parties, or a ruling issued under the formal dispute settlement proceeding provided under any other trade agreement finds, that—

"(i) the rights of the United States under a trade agreement are not being denied, or

"(ii) the act, policy, or practice—

"(I) is not a violation of, or inconsistent with, the rights of the United States, or

"(II) does not deny, nullify, or impair benefits to the United States under any trade agreement; or

"(B) the Trade Representative finds that—

"(i) the foreign country is taking satisfactory measures to grant the rights of the United States under a trade agreement,

"(ii) the foreign country has—

"(I) agreed to eliminate or phase out the act, policy, or practice, or

"(II) agreed to an imminent solution to the burden or restriction on United States commerce that is satisfactory to the Trade Representative,

"(iii) it is impossible for the foreign country to achieve the results described in clause (i) or (ii), as appropriate, but the foreign country agrees to provide to the United States compensatory trade benefits that are satisfactory to the Trade Representative,

"(iv) in extraordinary cases, where the taking of action under this subsection would have an adverse impact on the United States economy substantially out of proportion to the benefits of such action, taking into account the impact of not taking such action on the credibility of the provisions of this chapter, or

"(v) the taking of action under this subsection would cause serious harm to the national security of the United States.

"(3) Any action taken under paragraph (1) to eliminate an act, policy, or practice shall be devised so as to affect goods or services of the foreign country in an amount that is equivalent in value to the burden or restriction being imposed by that country on United States commerce.

"(b) DISCRETIONARY ACTION.—If the Trade Representative determines under section 304(a)(1) that—

"(1) an act, policy, or practice of a foreign country is unreasonable or discriminatory and burdens or restricts United States commerce, and

"(2) action by the United States is appropriate, the Trade Representative shall take all appropriate and feasible action authorized under subsection (c), subject to the specific direction, if any, of the President regarding any such action, and all other appropriate and feasible action within the power of the President that the President may direct the Trade Representative to take under this subsection, to obtain the elimination of that act, policy, or practice.

"(c) SCOPE OF AUTHORITY.—

"(1) For purposes of carrying out the provisions of subsection (a) or (b), the Trade Representative is authorized to—

"(A) suspend, withdraw, or prevent the application of, benefits of trade agreement concessions to carry out a trade agreement with the foreign country referred to in such subsection;

"(B) impose duties or other import restrictions on the goods of, and, notwithstanding any other provision of law, fees or restrictions on the services of, such foreign country for such time as the Trade Representative determines appropriate; or

"(C) enter into binding agreements with such foreign country that commit such foreign country to—

"(i) eliminate, or phase out, the act, policy, or practice that is the subject of the action to be taken under subsection (a) or (b),

"(ii) eliminate any burden or restriction on United States commerce resulting from such act, policy, or practice, or

"(iii) provide the United States with compensatory trade benefits that—

"(I) are satisfactory to the Trade Representative, and

"(II) meet the requirements of paragraph (4).

"(2)(A) Notwithstanding any other provision of law governing any service sector access authorization, and in addition to the authority conferred in paragraph (1), the Trade Representative may, for purposes of carrying out the provisions of subsection (a) or (b)—

"(i) restrict, in the manner and to the extent the Trade Representative determines appropriate, the terms and conditions of any such authorization, or

"(ii) deny the issuance of any such authorization.

"(B) Actions described in subparagraph (A) may only be taken under this section with respect to service sector access authorizations granted, or applications therefor pending, on or after the date on which—

"(i) a petition is filed under section 302(a), or

"(ii) a determination to initiate an investigation is made by the Trade Representative under section 302(b).

"(C) Before the Trade Representative takes any action under this section involving the imposition of fees or other restrictions on the services of a foreign country, the Trade Representative shall, if the services involved are subject to regulation by any agency of the Federal Government or of any State, consult, as appropriate, with the head of the agency concerned.

"(3) The actions the Trade Representative is authorized to take under subsection (a) or (b) may be taken against any goods or economic sector—

Discrimination, prohibition.

"(A) on a nondiscriminatory basis or solely against the foreign country described in such subsection, and

"(B) without regard to whether or not such goods or economic sector were involved in the act, policy, or practice that is the subject of such action.

"(4) Any trade agreement described in paragraph (1)(C)(iii) shall provide compensatory trade benefits that benefit the economic sector which includes the domestic industry that would benefit from the elimination of the act, policy, or practice that is the subject of the action to be taken under subsection (a) or (b), or benefit the economic sector as closely related as possible to such economic sector, unless—

"(A) the provision of such trade benefits is not feasible, or

"(B) trade benefits that benefit any other economic sector would be more satisfactory than such trade benefits.

"(5) In taking actions under subsection (a) or (b), the Trade Representative shall—

"(A) give preference to the imposition of duties over the imposition of other import restrictions, and

"(B) if an import restriction other than a duty is imposed, consider substituting, on an incremental basis, an equivalent duty for such other import restriction.

"(6) Any action taken by the Trade Representative under this section with respect to export targeting shall, to the extent

possible, reflect the full benefit level of the export targeting to the beneficiary over the period during which the action taken has an effect.

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this chapter—

"(1) The term "commerce" includes, but is not limited to—

"(A) services (including transfers of information) associated with international trade, whether or not such services are related to specific goods, and

"(B) foreign direct investment by United States persons with implications for trade in goods or services.

"(2) An act, policy, or practice of a foreign country that burdens or restricts United States commerce may include the provision, directly or indirectly, by that foreign country of subsidies for the construction of vessels used in the commercial transportation by water of goods between foreign countries and the United States. Maritime affairs.

"(3)(A) An act, policy, or practice is unreasonable if the act, policy, or practice, while not necessarily in violation of, or inconsistent with, the international legal rights of the United States, is otherwise unfair and inequitable.

"(B) Acts, policies, and practices that are unreasonable include, but are not limited to, any act, policy, or practice, or any combination of acts, policies, or practices, which—

"(i) denies fair and equitable—

"(I) opportunities for the establishment of an enterprise,

"(II) provision of adequate and effective protection of intellectual property rights, or Copyrights. Patents and trademarks.

"(III) market opportunities, including the toleration by a foreign government of systematic anticompetitive activities by private firms or among private firms in the foreign country that have the effect of restricting, on a basis that is inconsistent with commercial considerations, access of United States goods to purchasing by such firms,

"(ii) constitutes export targeting, or

"(iii) constitutes a persistent pattern of conduct that—

"(I) denies workers the right of association,

"(II) denies workers the right to organize and bargain collectively,

"(III) permits any form of forced or compulsory labor,

"(IV) fails to provide a minimum age for the employment of children, or Children and youth.

"(V) fails to provide standards for minimum wages, hours of work, and occupational safety and health of workers. Wages. Safety.

"(C)(i) Acts, policies, and practices of a foreign country described in subparagraph (B)(iii) shall not be treated as being unreasonable if the Trade Representative determines that—

"(I) the foreign country has taken, or is taking, actions that demonstrate a significant and tangible overall advancement in providing throughout the foreign country (including any designated zone within the foreign country) the rights and other standards described in the subclauses of subparagraph (B)(iii), or

"(II) such acts, policies, and practices are not inconsistent with the level of economic development of the foreign country.

Federal Register, publication.

"(ii) The Trade Representative shall publish in the Federal Register any determination made under clause (i), together with a description of the facts on which such determination is based.

"(D) For purposes of determining whether any act, policy, or practice is unreasonable, reciprocal opportunities in the United States for foreign nationals and firms shall be taken into account, to the extent appropriate.

"(E) The term 'export targeting' means any government plan or scheme consisting of a combination of coordinated actions (whether carried out severally or jointly) that are bestowed on a specific enterprise, industry, or group thereof, the effect of which is to assist the enterprise, industry, or group to become more competitive in the export of a class or kind of merchandise.

"(4)(A) An act, policy, or practice is unjustifiable if the act, policy, or practice is in violation of, or inconsistent with, the international legal rights of the United States.

Copyrights. Patents and trademarks.

"(B) Acts, policies, and practices that are unjustifiable include, but are not limited to, any act, policy, or practice described in subparagraph (A) which denies national or most-favored-nation treatment or the right of establishment or protection of intellectual property rights.

"(5) Acts, policies, and practices that are discriminatory include, when appropriate, any act, policy, and practice which denies national or most-favored-nation treatment to United States goods, services, or investment.

"(6) The term 'service sector access authorization' means any license, permit, order, or other authorization, issued under the authority of Federal law, that permits a foreign supplier of services access to the United States market in a service sector concerned.

"(7) The term 'foreign country' includes any foreign instrumentality. Any possession or territory of a foreign country that is administered separately for customs purposes shall be treated as a separate foreign country.

"(8) The term 'Trade Representative' means the United States Trade Representative.

"(9) The term 'interested persons', only for purposes of sections 302(a)(4)(B), 304(b)(1)(A), 306(c)(2), and 307(a)(2), includes, but is not limited to, domestic firms and workers, representatives of consumer interests, United States product exporters, and any industrial user of any goods or services that may be affected by actions taken under subsection (a) or (b).

19 USC 2412.

"SEC. 302. INITIATION OF INVESTIGATIONS.

"(a) PETITIONS.—

"(1) Any interested person may file a petition with the Trade Representative requesting that action be taken under section 301 and setting forth the allegations in support of the request.

"(2) The Trade Representative shall review the allegations in any petition filed under paragraph (1) and, not later than 45 days after the date on which the Trade Representative received the petition, shall determine whether to initiate an investigation.

"(3) If the Trade Representative determines not to initiate an investigation with respect to a petition, the Trade Representative shall inform the petitioner of the reasons therefor and shall publish notice of the determination, together with a summary of such reasons, in the Federal Register. Federal Register, publication.

"(4) If the Trade Representative makes an affirmative determination under paragraph (2) with respect to a petition, the Trade Representative shall initiate an investigation regarding the issues raised in the petition. The Trade Representative shall publish a summary of the petition in the Federal Register and shall, as soon as possible, provide opportunity for the presentation of views concerning the issues, including a public hearing— Federal Register, publication.

"(A) within the 30-day period beginning on the date of the affirmative determination (or on a date after such period if agreed to by the petitioner) if a public hearing within such period is requested in the petition, or

"(B) at such other time if a timely request therefor is made by the petitioner or by any interested person.

"(b) INITIATION OF INVESTIGATION BY MEANS OTHER THAN PETITION.—

"(1)(A) If the Trade Representative determines that an investigation should be initiated under this chapter with respect to any matter in order to determine whether the matter is actionable under section 301, the Trade Representative shall publish such determination in the Federal Register and shall initiate such investigation. Federal Register, publication.

"(B) The Trade Representative shall, before making any determination under subparagraph (A), consult with appropriate committees established pursuant to section 135.

"(2)(A) By no later than the date that is 30 days after the date on which a country is identified under section 182(a)(2), the Trade Representative shall initiate an investigation under this chapter with respect to any act, policy, or practice of that country that—

"(i) was the basis for such identification, and

"(ii) is not at that time the subject of any other investigation or action under this chapter.

"(B) The Trade Representative is not required under subparagraph (A) to initiate an investigation under this chapter with respect to any act, policy, or practice of a foreign country if the Trade Representative determines that the initiation of the investigation would be detrimental to United States economic interests.

"(C) If the Trade Representative makes a determination under subparagraph (B) not to initiate an investigation, the Trade Representative shall submit to the Congress a written report setting forth, in detail—

"(i) the reasons for the determination, and

"(ii) the United States economic interests that would be adversely affected by the investigation.

"(D) The Trade Representative shall, from time to time, consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, and other appropriate officers of the Federal Government, during any investigation initiated under this chapter by reason of subparagraph (A).

"(c) DISCRETION.—In determining whether to initiate an investigation under subsection (a) or (b) of any act, policy, or practice that is enumerated in any provision of section 301(d), the Trade Representative shall have discretion to determine whether action under section 301 would be effective in addressing such act, policy, or practice.

19 USC 2413.

"SEC. 303. CONSULTATION UPON INITIATION OF INVESTIGATION.

"(a) IN GENERAL.—

"(1) On the date on which an investigation is initiated under section 302, the Trade Representative, on behalf of the United States, shall request consultations with the foreign country concerned regarding the issues involved in such investigation.

"(2) If the investigation initiated under section 302 involves a trade agreement and a mutually acceptable resolution is not reached before the earlier of—

"(A) the close of the consultation period, if any, specified in the trade agreement, or

"(B) the 150th day after the day on which consultation was commenced,

the Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under such agreement.

"(3) The Trade Representative shall seek information and advice from the petitioner (if any) and the appropriate committees established pursuant to section 135 in preparing United States presentations for consultations and dispute settlement proceedings.

"(b) DELAY OF REQUEST FOR CONSULTATIONS.—

"(1) Notwithstanding the provisions of subsection (a)—

"(A) the United States Trade Representative may, after consulting with the petitioner (if any), delay for up to 90 days any request for consultations under subsection (a) for the purpose of verifying or improving the petition to ensure an adequate basis for consultation, and

"(B) if such consultations are delayed by reason of subparagraph (A), each time limitation under section 304 shall be extended for the period of such delay.

"(2) The Trade Representative shall—

Federal Register, publication.

"(A) publish notice of any delay under paragraph (1) in the Federal Register, and

Reports.

"(B) report to Congress on the reasons for such delay in the report required under section 309(a)(3).

19 USC 2414.

"SEC. 304. DETERMINATIONS BY THE TRADE REPRESENTATIVE.

"(a) IN GENERAL.—

"(1) On the basis of the investigation initiated under section 302 and the consultations (and the proceedings, if applicable) under section 303, the Trade Representative shall—

"(A) determine whether—

"(i) the rights to which the United States is entitled under any trade agreement are being denied, or

"(ii) any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 301 exists, and

"(B) if the determination made under subparagraph (A) is affirmative, determine what action, if any, the Trade Representative should take under subsection (a) or (b) of section 301.

"(2) The Trade Representative shall make the determinations required under paragraph (1) on or before—

"(A) in the case of an investigation involving a trade agreement (other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), the earlier of—

"(i) the date that is 30 days after the date on which the dispute settlement procedure is concluded, or

"(ii) the date that is 18 months after the date on which the investigation is initiated, or

"(B) in all cases not described in subparagraph (A) or paragraph (3), the date that is 12 months after the date on which the investigation is initiated.

"(3)(A) If an investigation is initiated under this chapter by reason of section 302(b)(2) and the Trade Representative does not make a determination described in subparagraph (B) with respect to such investigation, the Trade Representative shall make the determinations required under paragraph (1) with respect to such investigation by no later than the date that is 6 months after the date on which such investigation is initiated.

"(B) If the Trade Representative determines with respect to any investigation initiated by reason of section 302(b)(2) that—

"(i) complex or complicated issues are involved in the investigation that require additional time,

"(ii) the foreign country involved in the investigation is making substantial progress in drafting or implementing legislative or administrative measures that will provide adequate and effective protection of intellectual property rights, or

Copyrights. Patents and trademarks.

"(iii) such foreign country is undertaking enforcement measures to provide adequate and effective protection of intellectual property rights,

the Trade Representative shall publish in the Federal Register notice of such determination and shall make the determinations required under paragraph (1) with respect to such investigation by no later than the date that is 9 months after the date on which such investigation is initiated.

Federal Register, publication.

"(4) In any case in which a dispute is not resolved before the close of the minimum dispute settlement period provided for in a trade agreement (other than the agreement on subsidies and countervailing measures described in section 2(c)(5) of the Trade Agreements Act of 1979), the Trade Representative, within 15 days after the close of such dispute settlement period, shall submit a report to Congress setting forth the reasons why the dispute was not resolved within the minimum dispute settlement period, the status of the case at the close of the period, and the prospects for resolution. For purposes of this paragraph, the minimum dispute settlement period provided for under any such trade agreement is the total period of time that results if all stages of the formal dispute settlement procedures are carried out within the time limitations specified in the agreement, but computed without regard to any extension authorized under the agreement at any stage.

Reports.

"(b) CONSULTATION BEFORE DETERMINATIONS.—

"(1) Before making the determinations required under subsection (a)(1), the Trade Representative, unless expeditious action is required—

"(A) shall provide an opportunity (after giving not less than 30 days notice thereof) for the presentation of views by interested persons, including a public hearing if requested by any interested person,

"(B) shall obtain advice from the appropriate committees established pursuant to section 135, and

"(C) may request the views of the United States International Trade Commission regarding the probable impact on the economy of the United States of the taking of action with respect to any goods or service.

"(2) If the Trade Representative does not comply with the requirements of subparagraphs (A) and (B) of paragraph (1) because expeditious action is required, the Trade Representative shall, after making the determinations under subsection (a)(1), comply with such subparagraphs.

Federal Register, publication.

"(c) PUBLICATION.—The Trade Representative shall publish in the Federal Register any determination made under subsection (a)(1), together with a description of the facts on which such determination is based.

19 USC 2415.

"SEC. 305. IMPLEMENTATION OF ACTIONS.

"(a) ACTIONS TO BE TAKEN UNDER SECTION 301.—

"(1) Except as provided in paragraph (2), the Trade Representative shall implement the action the Trade Representative determines under section 304(a)(1)(B) to take under section 301, subject to the specific direction, if any, of the President regarding any such action, by no later than the date that is 30 days after the date on which such determination is made.

"(2)(A) Except as otherwise provided in this paragraph, the Trade Representative may delay, by not more than 180 days, the implementation of any action that is to be taken under section 301—

"(i) if—

"(I) in the case of an investigation initiated under section 302(a), the petitioner requests a delay, or

"(II) in the case of an investigation initiated under section 302(b)(1) or to which section 304(a)(3)(B) applies, a delay is requested by a majority of the representatives of the domestic industry that would benefit from the action, or

"(ii) if the Trade Representative determines that substantial progress is being made, or that a delay is necessary or desirable, to obtain United States rights or a satisfactory solution with respect to the acts, policies, or practices that are the subject of the action.

"(B) The Trade Representative may not delay under subparagraph (A) the implementation of any action that is to be taken under section 301 with respect to any investigation to which section 304(a)(3)(A) applies.

"(C) The Trade Representative may not delay under subparagraph (A) the implementation of any action that is to be taken under section 301 with respect to any investigation to which section 304(a)(3)(B) applies by more than 90 days.

"(b) ALTERNATIVE ACTIONS IN CERTAIN CASES OF EXPORT TARGETING.—

"(1) If the Trade Representative makes an affirmative determination under section 304(a)(1)(A) involving export targeting

by a foreign country and determines to take no action under section 301 with respect to such affirmation determination, the Trade Representative—

"(A) shall establish an advisory panel to recommend measures which will promote the competitiveness of the domestic industry affected by the export targeting,

"(B) on the basis of the report of such panel submitted under paragraph (2)(B) and subject to the specific direction, if any, of the President, may take any administrative actions authorized under any other provision of law, and, if necessary, propose legislation to implement any other actions, that would restore or improve the international competitiveness of the domestic industry affected by the export targeting, and

"(C) shall, by no later than the date that is 30 days after the date on which the report of such panel is submitted under paragraph (2)(B), submit a report to the Congress on the administrative actions taken, and legislative proposals made, under subparagraph (B) with respect to the domestic industry affected by the export targeting. Reports.

"(2)(A) The advisory panels established under paragraph (1)(A) shall consist of individuals appointed by the Trade Representative who—

"(i) earn their livelihood in the private sector of the economy, including individuals who represent management and labor in the domestic industry affected by the export targeting that is the subject of the affirmative determination made under section 304(a)(1)(A), and

"(ii) by education or experience, are qualified to serve on the advisory panel.

"(B) By no later than the date that is 6 months after the date on which an advisory panel is established under paragraph (1)(A), the advisory panel shall submit to the Trade Representative and to the Congress a report on measures that the advisory panel recommends be taken by the United States to promote the competitiveness of the domestic industry affected by the export targeting that is the subject of the affirmative determination made under section 304(a)(1)(A). Reports.

"SEC. 306. MONITORING OF FOREIGN COMPLIANCE. 19 USC 2416.

"(a) IN GENERAL.—The Trade Representative shall monitor the implementation of each measure undertaken, or agreement of a kind described in clause (i), (ii), or (iii) of section 301(a)(2)(B) that is entered into under subsection (a) or (b) of section 301, by a foreign country—

"(1) to enforce the rights of the United States under any trade agreement, or

"(2) to eliminate any act, policy, or practice described in subsection (a)(1)(B) or (b)(1) of section 301.

"(b) FURTHER ACTION.—If, on the basis of the monitoring carried out under subsection (a), the Trade Representative considers that a foreign country is not satisfactorily implementing a measure or agreement referred to in subsection (a), the Trade Representative shall determine what further action the Trade Representative shall take under section 301(a). For purposes of section 301, any such determination shall be treated as a determination made under section 304(a)(1).

"(c) CONSULTATIONS.—Before making any determination under subsection (b), the Trade Representative shall—

"(1) consult with the petitioner, if any, involved in the initial investigation under this chapter and with representatives of the domestic industry concerned; and

"(2) provide an opportunity for the presentation of views by interested persons.

19 USC 2417.

"SEC. 307. MODIFICATION AND TERMINATION OF ACTIONS.

"(a) IN GENERAL.—

"(1) The Trade Representative may modify or terminate any action, subject to the specific direction, if any, of the President with respect to such action, that is being taken under section 301 if—

"(A) any of the conditions described in section 301(a)(2) exist,

"(B) the burden or restriction on United States commerce of the denial rights, or of the acts, policies, and practices, that are the subject of such action has increased or decreased, or

"(C) such action is being taken under section 301(b) and is no longer appropriate.

"(2) Before taking any action under paragraph (1) to modify or terminate any action taken under section 301, the Trade Representative shall consult with the petitioner, if any, and with representatives of the domestic industry concerned, and shall provide opportunity for the presentation of views by other interested persons affected by the proposed modification or termination concerning the effects of the modification or termination and whether any modification or termination of the action is appropriate.

Federal Register, publication.

"(b) NOTICE; REPORT TO CONGRESS.—The Trade Representative shall promptly publish in the Federal Register notice of, and report in writing to the Congress with respect to, any modification or termination of any action taken under section 301 and the reasons therefor.

"(c) REVIEW OF NECESSITY.—

"(1) If—

"(A) a particular action has been taken under section 301 during any 4-year period, and

"(B) neither the petitioner nor any representative of the domestic industry which benefits from such action has submitted to the Trade Representative during the last 60 days of such 4-year period a written request for the continuation of such action,

such action shall terminate at the close of such 4-year period.

Mail.

"(2) The Trade Representative shall notify by mail the petitioner and representatives of the domestic industry described in paragraph (1)(B) of any termination of action by reason of paragraph (1) at least 60 days before the date of such termination.

"(3) If a request is submitted to the Trade Representative under paragraph (1)(B) to continue taking a particular action under section 301, the Trade Representative shall conduct a review of—

"(A) the effectiveness in achieving the objectives of section 301 of—

"(i) such action, and

"(ii) other actions that could be taken (including actions against other products or services), and

"(B) the effects of such actions on the United States economy, including consumers. Consumer protection.

"SEC. 308. REQUEST FOR INFORMATION. 19 USC 2418.

"(a) IN GENERAL.—Upon receipt of written request therefor from any person, the Trade Representative shall make available to that person information (other than that to which confidentiality applies) concerning—

"(1) the nature and extent of a specific trade policy or practice of a foreign country with respect to particular goods, services, investment, or intellectual property rights, to the extent that such information is available to the Trade Representative or other Federal agencies; Securities. Copyrights. Patents and trademarks.

"(2) United States rights under any trade agreement and the remedies which may be available under that agreement and under the laws of the United States; and

"(3) past and present domestic and international proceedings or actions with respect to the policy or practice concerned.

"(b) IF INFORMATION NOT AVAILABLE.—If information that is requested by a person under subsection (a) is not available to the Trade Representative or other Federal agencies, the Trade Representative shall, within 30 days after receipt of the request—

"(1) request the information from the foreign government; or

"(2) decline to request the information and inform the person in writing of the reasons for refusal.

"(c) CERTAIN BUSINESS INFORMATION NOT MADE AVAILABLE.— Classified information.

"(1) Except as provided in paragraph (2), and notwithstanding any other provision of law (including section 552 of title 5, United States Code), no information requested and received by the Trade Representative in aid of any investigation under this chapter shall be made available to any person if—

"(A) the person providing such information certifies that—

"(i) such information is business confidential,

"(ii) the disclosure of such information would endanger trade secrets or profitability, and

"(iii) such information is not generally available;

"(B) the Trade Representative determines that such certification is well-founded; and

"(C) to the extent required in regulations prescribed by the Trade Representative, the person providing such information provides an adequate nonconfidential summary of such information.

"(2) The Trade Representative may—

"(A) use such information, or make such information available (in his own discretion) to any employee of the Federal Government for use, in any investigation under this chapter, or

"(B) may make such information available to any other person in a form which cannot be associated with, or otherwise identify, the person providing the information.

"SEC. 309. ADMINISTRATION. 19 USC 2419.

"The Trade Representative shall—

Regulations.

"(1) issue regulations concerning the filing of petitions and the conduct of investigations and hearings under this subchapter,

"(2) keep the petitioner regularly informed of all determinations and developments regarding the investigation conducted with respect to the petition under this chapter, including the reasons for any undue delays, and

Reports.

"(3) submit a report to the House of Representatives and the Senate semiannually describing—

"(A) the petitions filed and the determinations made (and reasons therefor) under section 302,

"(B) developments in, and the current status of, each investigation or proceeding under this chapter,

"(C) the actions taken, or the reasons for no action, by the Trade Representative under section 301 with respect to investigations conducted under this chapter, and

"(D) the commercial effects of actions taken under section 301.".

(b) CONFORMING AMENDMENT.—The table of contents of the Trade Act of 1974 is amended by striking out the items relating to chapter 1 of title III and inserting in lieu thereof the following:

"CHAPTER 1—ENFORCEMENT OF UNITED STATES RIGHTS UNDER TRADE AGREEMENTS AND RESPONSE TO FOREIGN TRADE PRACTICES

"Sec. 301. Actions by United States Trade Representative.
"Sec. 302. Initiation of investigations.
"Sec. 303. Consultation upon initiation of investigation.
"Sec. 304. Determinations by the Trade Representative.
"Sec. 305. Implementation of actions.
"Sec. 306. Monitoring of foreign compliance.
"Sec. 307. Modification and termination of actions.
"Sec. 308. Request for information.
"Sec. 309. Administration.".

19 USC 2411 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to—

(1) petitions filed, and investigations initiated, under section 302 of the Trade Act of 1974 on or after the date of the enactment of this Act; and

(2) petitions filed, and investigations initiated, before the date of enactment of this Act, if by that date no decision had been made under section 304 regarding the petition or investigation.

SEC. 1302. IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES.

(a) IN GENERAL.—Chapter 1 of title III of the Trade Act of 1974, as amended by section 1301, is further amended by adding at the end thereof the following new section:

19 USC 2420.

"SEC. 310. IDENTIFICATION OF TRADE LIBERALIZATION PRIORITIES.

"(a) IDENTIFICATION.—

"(1) By no later than the date that is 30 days after the date in calendar year 1989, and also the date in calendar year 1990, on which the report required under section 181(b) is submitted to the appropriate Congressional committees, the Trade Representative shall identify United States trade liberalization priorities, including—

"(A) priority practices, including major barriers and trade distorting practices, the elimination of which are likely to have the most significant potential to increase

United States exports, either directly or through the establishment of a beneficial precedent;

"(B) priority foreign countries that, on the basis of such report, satisfy the criteria in paragraph (2);

"(C) estimate the total amount by which United States exports of goods and services to each foreign country identified under subparagraph (B) would have increased during the preceding calendar year if the priority practices of such country identified under subparagraph (A) did not exist; and

"(D) submit to the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and publish in the Federal Register, a report which lists— Reports. Federal Register, publication.

"(i) the priority foreign countries identified under subparagraph (B),

"(ii) the priority practices identified under subparagraph (A) with respect to each of such priority foreign countries, and

"(iii) the amount estimated under subparagraph (C) with respect to each of such priority foreign countries.

"(2) In identifying priority foreign countries under paragraph (1)(B), the Trade Representative shall take into account—

"(A) the number and pervasiveness of the acts, policies, and practices described in section 181(a)(1)(A), and

"(B) the level of United States exports of goods and services that would be reasonably expected from full implementation of existing trade agreements to which that foreign country is a party, based on the international competitive position and export potential of such products and services.

"(3) In identifying priority practices under paragraph (1)(A), the Trade Representative shall take into account—

"(A) the international competitive position and export potential of United States products and services,

"(B) circumstances in which the sale of a small quantity of a product or service may be more significant than its value, and

"(C) the measurable medium-term and long-term implications of government procurement commitments to United States exporters.

"(b) INITIATION OF INVESTIGATIONS.—By no later than the date that is 21 days after the date on which a report is submitted to the appropriate Congressional committees under subsection (a)(1)(D), the Trade Representative shall initiate under section 302(b)(1) investigations under this chapter with respect to all of those priority practices identified in such report by reason of subsection (a)(1)(D) for each of the priority foreign countries. The Trade Representative may initiate investigations under section 302(b)(1) with respect to all other priority practices identified under subsection (a)(1)(A).

"(c) AGREEMENTS FOR THE ELIMINATION OF BARRIERS.—

"(1) In the consultations with a priority foreign country identified under subsection (a)(1) that the Trade Representative is required to request under section 303(a) with respect to an investigation initiated by reason of subsection (b), the Trade Representative shall seek to negotiate an agreement which provides for—

"(A) the elimination of, or compensation for, the priority practices identified under subsection (a)(1)(A) by no later than the close of the 3-year period beginning on the date on which such investigation is initiated, and

"(B) the reduction of such practices over a 3-year period with the expectation that United States exports to the foreign country will, as a result, increase incrementally during each year within such 3-year period.

"(2) Any investigation initiated under this chapter by reason of subsection (b) shall be suspended if an agreement described in subparagraphs (A) and (B) of paragraph (1) is entered into with the foreign country before the date on which any action under section 301 with respect to such investigation may be required under section 305(a) to be implemented.

"(3) If an agreement described in paragraph (1) is entered into with a foreign country before the date on which any action under section 301 with respect to such investigation may be required under section 305(a) to be implemented and the Trade Representative determines that the foreign country is not in compliance with such agreement, the Trade Representative shall continue the investigation that was suspended by reason of such agreement as though such investigation had not been suspended.

"(d) ANNUAL REPORTS.—

"(1) On the date on which the report the Trade Representative is required to submit under subsection (a)(1)(D) in calendar year 1990, and on the anniversary of such date in the succeeding calendar years, the Trade Representative shall submit a report which includes—

"(A) revised estimates of the total amount determined under subsection (a)(1)(C) for each priority foreign country that has been identified under subsection (a)(1)(B),

"(B) evidence that demonstrates, in the form of increased United States exports to each of such priority foreign countries during the previous calendar year—

"(i) in the case of a priority foreign country that has entered into an agreement described in subsection (c)(1), substantial progress during each year within the 3-year period described in subsection (c)(1)(A) toward the goal of eliminating the priority practices identified under subsection (a)(1)(A) by the close of such 3-year period, and

"(ii) in the case of a country which has not entered into (or has not complied with) an agreement described in subsection (c)(1), the elimination of such practices, and

"(C) to the extent that the evidence described in subparagraph (B) cannot be provided, any actions that have been taken by the Trade Representative under section 301 with respect to such priority practices of each of such foreign countries.

"(2) The Trade Representative may exclude from the requirements of paragraph (1) in any calendar year beginning after 1993 any foreign country that has been identified under subsection (a)(1)(A) if the evidence submitted under paragraph (1)(B) in the 2 previous reports demonstrated that all the priority prac-

tices identified under subsection (a)(1)(A) with respect to such foreign country have been eliminated.".

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting after the item relating to section 309 the following new item:

"Sec. 310. Identification of trade liberalization priorities.".

SEC. 1303. IDENTIFICATION OF COUNTRIES THAT DENY ADEQUATE AND EFFECTIVE PROTECTION OF INTELLECTUAL PROPERTY RIGHTS.

Copyrights. Patents and trademarks.

(a) FINDINGS AND PURPOSE.— 19 USC 2242 note.

(1) The Congress finds that—

(A) international protection of intellectual property rights is vital to the international competitiveness of United States persons that rely on protection of intellectual property rights; and

(B) the absence of adequate and effective protection of United States intellectual property rights, and the denial of fair and equitable market access, seriously impede the ability of the United States persons that rely on protection of intellectual property rights to export and operate overseas, thereby harming the economic interests of the United States.

(2) The purpose of this section is to provide for the development of an overall strategy to ensure adequate and effective protection of intellectual property rights and fair and equitable market access for United States persons that rely on protection of intellectual property rights.

(b) IN GENERAL.—Chapter 8 of title I of the Trade Act of 1974 is amended by adding at the end thereof the following new section:

"SEC. 182. IDENTIFICATION OF COUNTRIES THAT DENY ADEQUATE PROTECTION, OR MARKET ACCESS, FOR INTELLECTUAL PROPERTY RIGHTS. 19 USC 2242.

"(a) IN GENERAL.—By no later than the date that is 30 days after the date on which the annual report is submitted to Congressional committees under section 181(b), the United States Trade Representative (hereafter in this section referred to as the 'Trade Representative') shall identify—

"(1) those foreign countries that—

"(A) deny adequate and effective protection of intellectual property rights, or

"(B) deny fair and equitable market access to United States persons that rely upon intellectual property protection, and

"(2) those foreign countries identified under paragraph (1) that are determined by the Trade Representative to be priority foreign countries.

"(b) SPECIAL RULES FOR IDENTIFICATIONS.—

"(1) In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall only identify those foreign countries—

"(A) that have the most onerous or egregious acts, policies, or practices that—

"(i) deny adequate and effective intellectual property rights, or

"(ii) deny fair and equitable market access to United States persons that rely upon intellectual property protection,

"(B) whose acts, policies, or practices described in subparagraph (A) have the greatest adverse impact (actual or potential) on the relevant United States products, and

"(C) that are not—

"(i) entering into good faith negotiations, or

"(ii) making significant progress in bilateral or multilateral negotiations,

to provide adequate and effective protection of intellectual property rights.

"(2) In identifying priority foreign countries under subsection (a)(2), the Trade Representative shall—

"(A) consult with the Register of Copyrights, the Commissioner of Patents and Trademarks, other appropriate officers of the Federal Government, and

"(B) take into account information from such sources as may be available to the Trade Representative and such information as may be submitted to the Trade Representative by interested persons, including information contained in reports submitted under section 181(b) and petitions submitted under section 302.

"(3) The Trade Representative may identify a foreign country under subsection (a)(1)(B) only if the Trade Representative finds that there is a factual basis for the denial of fair and equitable market access as a result of the violation of international law or agreement, or the existence of barriers, referred to in subsection (d)(3).

"(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

"(1) The Trade Representative may at any time—

"(A) revoke the identification of any foreign country as a priority foreign country under this section, or

"(B) identify any foreign country as a priority foreign country under this section,

if information available to the Trade Representative indicates that such action is appropriate.

"(2) The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) a detailed explanation of the reasons for the revocation under paragraph (1) of the identification of any foreign country as a priority foreign country under this section.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The term 'persons that rely upon intellectual property protection' means persons involved in—

"(A) the creation, production or licensing of works of authorship (within the meaning of sections 102 and 103 of title 17, United States Code) that are copyrighted, or

"(B) the manufacture of products that are patented or for which there are process patents.

"(2) A foreign country denies adequate and effective protection of intellectual property rights if the foreign country denies adequate and effective means under the laws of the foreign country for persons who are not citizens or nationals of such foreign country to secure, exercise, and enforce rights relating to patents, process patents, registered trademarks, copyrights and mask works.

"(3) A foreign country denies fair and equitable market access if the foreign country effectively denies access to a market for a product protected by a copyright, patent, or process patent through the use of laws, procedures, practices, or regulations which—

"(A) violate provisions of international law or international agreements to which both the United States and the foreign country are parties, or

"(B) constitute discriminatory nontariff trade barriers.

"(e) PUBLICATION.—The Trade Representative shall publish in the Federal Register a list of foreign countries identified under subsection (a) and shall make such revisions to the list as may be required by reason of action under subsection (c).". Federal Register, publication.

(c) CONFORMING AMENDMENTS.—

(1) The heading for chapter 8 of title I of the Trade Act of 1974 is amended to read as follows:

"CHAPTER 8—IDENTIFICATION OF MARKET BARRIERS AND CERTAIN UNFAIR TRADE ACTIONS".

(2) The table of contents for the Trade Act of 1974 is amended—

(A) by striking out the item relating to chapter 8 of title I and inserting in lieu thereof the following:

"CHAPTER 8—IDENTIFICATION OF MARKET BARRIERS AND CERTAIN UNFAIR TRADE PRACTICES",

and

(B) by inserting after the item relating to section 181 the following new item:

"Sec. 182. Identification of countries that deny adequate protection, or market access, for intellectual property rights.".

SEC. 1304. AMENDMENTS TO THE NATIONAL TRADE ESTIMATES.

(a) IN GENERAL.—Section 181 of the Trade Act of 1974 (19 U.S.C. 2241) is amended—

(1) by striking out "Not later than the date on which the initial report is required under subsection (b)(1)," in subsection (a)(1) and inserting in lieu thereof "For calendar year 1988, and for each succeeding calendar year,",

(2) by inserting "of each foreign country" after "or practices" in subsection (a)(1)(A),

(3) by striking out "and" at the end of subsection (a)(1)(A)(ii),

(4) by striking out the period at the end of subsection (a)(1)(B) and inserting in lieu thereof "; and",

(5) by adding at the end of subsection (a)(1) the following new subparagraph:

"(C) make an estimate, if feasible, of—

"(i) the value of additional goods and services of the United States, and

"(ii) the value of additional foreign direct investment by United States persons,

that would have been exported to, or invested in, each foreign country during such calendar year if each of such acts, policies, and practices of such country did not exist.",

(6) by striking out "and" at the end of subsection (a)(2)(C),

(7) by striking out the period at the end of subsection (a)(2)(D) and inserting in lieu thereof "; and",

(8) by adding at the end of subsection (a)(2) the following new subparagraph:

"(E) the actual increase in—

"(i) the value of goods and services of the United States exported to, and

"(ii) the value of foreign direct investment made in, the foreign country during the calendar year for which the estimate under paragraph (1)(C) is made.",

(9) by inserting "and with the assistance of the interagency advisory committee established under section 141(d)(2)," after "Trade Expansion Act of 1962," in subsection (a)(1), and

(10) by striking out "ACTIONS CONCERNING" in the section heading and inserting in lieu thereof "ESTIMATES OF".

(b) SUBMISSION OF REPORT.—Paragraph (1) of section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241(b)(1)) is amended to read as follows:

"(1) On or before April 30, 1989, and on or before March 31 of each succeeding calendar year, the Trade Representative shall submit a report on the analysis and estimates made under subsection (a) for the calendar year preceding such calendar year (which shall be known as the 'National Trade Estimate') to the President, the Committee on Finance of the Senate, and appropriate committees of the House of Representatives.".

SEC. 1305. INVESTIGATION OF BARRIERS IN JAPAN TO CERTAIN UNITED STATES SERVICES.

The United States Trade Representative shall, within 90 days after the date of enactment of this Act, initiate an investigation under section 302 of the Trade Act of 1974 regarding those acts, policies, and practices of the Government of Japan, and of entities owned, financed, or otherwise controlled by the Government of Japan, that are barriers in Japan to the offering or performance by United States persons of architectural, engineering, construction, and consulting services in Japan.

SEC. 1306. TRADE AND ECONOMIC RELATIONS WITH JAPAN.

(a) FINDINGS.—The Congress finds that—

(1) the United States is at a critical juncture in bilateral relations with Japan;

(2) the balance of trade between the United States and Japan has deteriorated steadily from an already large United States deficit of $10,400,000,000 in 1980 to an unprecedented United States deficit of $57,700,000,000 in 1987, a magnitude that is simply untenable;

(3) approximately 90 percent of the increase in total trade between the United States and Japan since 1980 has been in Japanese exports to the United States;

(4) United States exports to Japan have not significantly benefited from appreciation of the yen;

(5) the United States deficit in the balance of trade in manufactured goods is growing: in 1987 Japan exported $82,500,000,000 of manufactured goods to the United States, while the United States exported $14,600,000,000 in manufactured goods;

(6) Japan accounts for 49 percent of the worldwide deficit of the United States in the balance of trade in manufactured goods, calculated on a customs basis;

(7) our trade and economic relations with Japan are complex and cannot be effectively resolved through narrow sector-by-sector negotiations;

(8) a major problem between the United States and Japan is the absence of a political will in Japan to import; and

(9) meaningful negotiations must take place at the highest level, at a special summit of political leaders from both countries.

(b) SENSE OF THE CONGRESS.—

(1) It is the sense of the Congress that the President should propose to the Japanese Prime Minister that a special summit be held between the leaders of the United States and Japan for the purpose of—

(A) addressing trade and economic issues, and

(B) establishing—

(i) an agreement that provides objectives for improvement in trade and economic relations, and

(ii) targets for achieving these objectives.

(2) The delegation of the United States to the summit meeting described in subsection (a) should include—

(A) Members of Congress from both political parties, and

(B) appropriate officers of the executive branch of the United States Government.

(3) The delegation of Japan to the summit meeting described in subsection (a) should include—

(A) representatives of all political parties in Japan, and

(B) appropriate officers of the Government of Japan.

SEC. 1307. SUPERCOMPUTER TRADE DISPUTE.

(a) FINDINGS.—The Congress finds that—

(1) United States manufacturers of supercomputers have encountered significant obstacles in selling supercomputers in Japan, particularly to government agencies and universities;

(2) Japanese government procurement policies and pricing practices have denied United States manufacturers access to the Japanese supercomputer market;

(3) it has been reported that officials of the Ministry of International Trade and Industry of Japan have told United States Government officials that Japanese government agencies and universities do not intend to purchase supercomputers from United States manufacturers, or take steps to improve access for United States manufacturers;

(4) the United States Government in August 1987 signed an agreement with the Government of Japan establishing procedures for the procurement of United States supercomputers by the Government of Japan;

(5) concern remains as to implementation of the procurement agreement by the Government of Japan;

(6) there have been allegations that Japanese manufacturers of supercomputers have been offering supercomputers at drastically discounted prices in the markets of the United States, Japan, and other countries;

(7) deep price discounting raises the concern that Japan's large-scale vertically integrated manufacturers of

supercomputers have targeted the supercomputer industry with the objective of eventual domination of the global computer market; and

(8) the supercomputer industry plays a central role in the technological competitiveness and national security of the United States.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the United States Trade Representative and other appropriate officials of the United States Government should—

(1) give the highest priority to concluding and enforcing agreements with the Government of Japan which achieve improved market access for United States manufacturers of supercomputers and end any predatory pricing activities of Japanese companies in the United States, Japan, and other countries; and

(2) continue to monitor the efforts of United States manufacturers of supercomputers to gain access to the Japanese market, recognizing that the Government of Japan may continue to manipulate the government procurement process to maintain the market dominance of Japanese manufacturers.

PART 2—IMPROVEMENT IN THE ENFORCEMENT OF THE ANTIDUMPING AND COUNTERVAILING DUTY LAWS

SEC. 1311. REFERENCE TO TITLE VII OF THE TARIFF ACT OF 1930.

Unless otherwise provided, whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a subtitle, section, subsection, or other provision, the reference shall be considered to be made to a subtitle, section, subsection, or other provision of title VII of the Tariff Act of 1930 (19 U.S.C. 1671 et seq.).

SEC. 1312. ACTIONABLE DOMESTIC SUBSIDIES.

Paragraph (5) of section 771 (19 U.S.C. 1677(5)) is amended to read as follows:

"(5) SUBSIDY.—

"(A) IN GENERAL.—The term 'subsidy' has the same meaning as the term 'bounty or grant' as that term is used in section 303, and includes, but is not limited to, the following:

"(i) Any export subsidy described in Annex A to the Agreement (relating to illustrative list of export subsidies).

"(ii) The following domestic subsidies, if provided or required by government action to a specific enterprise or industry, or group of enterprises or industries, whether publicly or privately owned and whether paid or bestowed directly or indirectly on the manufacture, production, or export of any class or kind of merchandise:

"(I) The provision of capital, loans, or loan guarantees on terms inconsistent with commercial considerations.

"(II) The provision of goods or services at preferential rates.

"(III) The grant of funds or forgiveness of debt to cover operating losses sustained by a specific industry.

"(IV) The assumption of any costs or expenses of manufacture, production, or distribution.

"(B) SPECIAL RULE.—In applying subparagraph (A), the administering authority, in each investigation, shall determine whether the bounty, grant, or subsidy in law or in fact is provided to a specific enterprise or industry, or group of enterprises or industries. Nominal general availability, under the terms of the law, regulation, program, or rule establishing a bounty, grant, or subsidy, of the benefits thereunder is not a basis for determining that the bounty, grant, or subsidy is not, or has not been, in fact provided to a specific enterprise or industry, or group thereof.".

SEC. 1313. CALCULATION OF SUBSIDIES ON CERTAIN PROCESSED AGRICULTURAL PRODUCTS.

(a) IN GENERAL.—Title VII of the Tariff Act of 1930 is amended by inserting after section 771A (19 U.S.C. 1677-1) the following new section:

"SEC. 771B. In the case of an agricultural product processed from a raw agricultural product in which (1) the demand for the prior stage product is substantially dependent on the demand for the latter stage product, and (2) the processing operation adds only limited value to the raw commodity, subsidies found to be provided to either producers or processors of the product shall be deemed to be provided with respect to the manufacture, production, or exportation of the processed product.". 19 USC 1677-2.

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 771A the following:

"Sec. 771B. Calculation of subsidies on certain processed agricultural products.".

SEC. 1314. REVOCATION OF STATUS AS A COUNTRY UNDER THE AGREEMENT.

Section 701 (19 U.S.C. 1671) is amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection:

"(c) REVOCATION OF STATUS AS A COUNTRY UNDER THE AGREEMENT.—The United States Trade Representative may revoke the status of a foreign country as a country under the Agreement for purposes of this subtitle if such foreign country—

"(1) announces that such foreign country does not intend, or is not able, to honor the obligations it has assumed with respect to the United States or the Agreement for purposes of this subtitle, or

"(2) does not in fact honor such obligations.".

SEC. 1315. TREATMENT OF INTERNATIONAL CONSORTIA.

Section 701 (19 U.S.C. 1671) (as amended by section 1314) is further amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) TREATMENT OF INTERNATIONAL CONSORTIA.—For purposes of this subtitle, if the members (or other participating entities) of an international consortium that is engaged in the production of a class or kind of merchandise subject to a countervailing duty investigation receive subsidies from their respective home countries to assist, permit, or otherwise enable their participation in that consortium through production or manufacturing operations in their respective home countries, then the administering authority shall cumulate all such subsidies, as well as subsidies provided directly to the international consortium, in determining any countervailing duty upon such merchandise.".

SEC. 1316. DUMPING BY NONMARKET ECONOMY COUNTRIES.

(a) IN GENERAL.—Subsection (c) of section 773 (19 U.S.C. 1677b) is amended to read as follows:

"(c) NONMARKET ECONOMY COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) the merchandise under investigation is exported from a nonmarket economy country, and

"(B) the administering authority finds that available information does not permit the foreign market value of the merchandise to be determined under subsection (a),

the administering authority shall determine the foreign market value of the merchandise on the basis of the value of the factors of production utilized in producing the merchandise and to which shall be added an amount for general expenses and profit plus the cost of containers, coverings, and other expenses, as required by subsection (e). Except as provided in paragraph (2), the valuation of the factors of production shall be based on the best available information regarding the values of such factors in a market economy country or countries considered to be appropriate by the administering authority.

"(2) EXCEPTION.—If the administering authority finds that the available information is inadequate for purposes of determining the foreign market value of merchandise under paragraph (1), the administering authority shall determine the foreign market value on the basis of the price at which merchandise that is—

"(A) comparable to the merchandise under investigation, and

"(B) produced in one or more market economy countries that are at a level of economic development comparable to that of the nonmarket economy country,

is sold in other countries, including the United States.

"(3) FACTORS OF PRODUCTION.—For purposes of paragraph (1), the factors of production utilized in producing merchandise include, but are not limited to—

"(A) hours of labor required,

"(B) quantities of raw materials employed,

"(C) amounts of energy and other utilities consumed, and

"(D) representative capital cost, including depreciation.

"(4) VALUATION OF FACTORS OF PRODUCTION.--The administering authority, in valuing factors of production under paragraph (1), shall utilize, to the extent possible, the prices or costs of factors of production in one or more market economy countries that are—

"(A) at a level of economic development comparable to that of the nonmarket economy country, and

"(B) significant producers of comparable merchandise.".

(b) NONMARKET ECONOMY COUNTRY DEFINED.—Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(18) NONMARKET ECONOMY COUNTRY.—

"(A) IN GENERAL.—The term 'nonmarket economy country' means any foreign country that the administering authority determines does not operate on market principles of cost or pricing structures, so that sales of merchandise in such country do not reflect the fair value of the merchandise.

"(B) FACTORS TO BE CONSIDERED.—In making determinations under subparagraph (A) the administering authority shall take into account—

"(i) the extent to which the currency of the foreign country is convertible into the currency of other countries;

"(ii) the extent to which wage rates in the foreign country are determined by free bargaining between labor and management,

"(iii) the extent to which joint ventures or other investments by firms of other foreign countries are permitted in the foreign country,

"(iv) the extent of government ownership or control of the means of production,

"(v) the extent of government control over the allocation of resources and over the price and output decisions of enterprises, and

"(vi) such other factors as the administering authority considers appropriate.

"(C) DETERMINATION IN EFFECT.—

"(i) Any determination that a foreign country is a nonmarket economy country shall remain in effect until revoked by the administering authority.

"(ii) The administering authority may make a determination under subparagraph (A) with respect to any foreign country at any time.

"(D) DETERMINATIONS NOT IN ISSUE.—Notwithstanding any other provision of law, any determination made by the administering authority under subparagraph (A) shall not be subject to judicial review in any investigation conducted under subtitle B.

"(E) COLLECTION OF INFORMATION.—Upon request by the administering authority, the Commissioner of Customs shall provide the administering authority a copy of all public and proprietary information submitted to, or obtained by, the Commissioner of Customs that the administering authority considers relevant to proceedings involving merchandise from nonmarket economy countries. The administering authority shall protect proprietary information obtained under this section from public disclosure in accordance with section 777.". Classified information.

(c) SUSPENSION OF NONMARKET ECONOMY COUNTRY INVESTIGATIONS.—Section 734 (19 U.S.C. 1673c) is amended by adding at the end thereof the following new subsection:

"(l) SPECIAL RULE FOR NONMARKET ECONOMY COUNTRIES.—

"(1) IN GENERAL.—The administering authority may suspend an investigation under this subtitle upon acceptance of an agreement with a nonmarket economy country to restrict the volume of imports into the United States of the merchandise under investigation only if the administering authority determines that—

"(A) such agreement satisfies the requirements of subsection (d), and

"(B) will prevent the suppression or undercutting of price levels of domestic products by imports of the merchandise under investigation.

"(2) FAILURE OF AGREEMENTS.—If the administering authority determines that an agreement accepted under this subsection no longer prevents the suppression or undercutting of domestic prices of merchandise manufactured in the United States, the provisions of subsection (i) shall apply.".

19 USC 1677k.

SEC. 1317. THIRD-COUNTRY DUMPING.

(a) DEFINITIONS.—For purposes of this section:

(1) The term "Agreement" means the Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).

(2) The term "Agreement country" means a foreign country that has accepted the Agreement.

(3) The term "Trade Representative" means the United States Trade Representative.

(b) PETITION BY DOMESTIC INDUSTRY.—

(1) A domestic industry that produces a product that is like or directly competitive with merchandise produced by a foreign country (whether or not an Agreement country) may, if it has reason to believe that—

(A) such merchandise is being dumped in an Agreement country; and

(B) such domestic industry is being materially injured, or threatened with material injury, by reason of such dumping;

submit a petition to the Trade Representative that alleges the elements referred to in subparagraphs (A) and (B) and requests the Trade Representative to take action under subsection (c) on behalf of the domestic industry.

(2) A petition submitted under paragraph (1) shall contain such detailed information as the Trade Representative may require in support of the allegations in the petition.

(c) APPLICATION FOR ANTIDUMPING ACTION ON BEHALF OF THE DOMESTIC INDUSTRY.—

(1) If the Trade Representative, on the basis of the information contained in a petition submitted under paragraph (1), determines that there is a reasonable basis for the allegations in the petition, the Trade Representative shall submit to the appropriate authority of the Agreement country where the alleged dumping is occurring an application pursuant to Article 12 of the Agreement which requests that appropriate antidumping action under the law of that country be taken, on behalf of the United States, with respect to imports into that country of the merchandise concerned.

(2) At the request of the Trade Representative, the appropriate officers of the Department of Commerce and the United

States International Trade Commission shall assist the Trade Representative in preparing the application under paragraph (1).

(d) CONSULTATION AFTER SUBMISSION OF APPLICATION.—After submitting an application under subsection (c)(1), the Trade Representative shall seek consultations with the appropriate authority of the Agreement country regarding the request for antidumping action.

(e) ACTION UPON REFUSAL OF AGREEMENT COUNTRY TO ACT.—If the appropriate authority of an Agreement country refuses to undertake antidumping measures in response to a request made therefor by the Trade Representative under subsection (c), the Trade Representative shall promptly consult with the domestic industry on whether action under any other law of the United States is appropriate.

SEC. 1318. INPUT DUMPING BY RELATED PARTIES.

Subsection (e) of section 773 (19 U.S.C. 1677b(e)) is amended—

(1) by striking out "(3)" each place it appears in paragraph (2) and inserting "(4)",

(2) by redesignating paragraph (3) as paragraph (4),

(3) by inserting after paragraph (2) the following new paragraph:

"(3) SPECIAL RULE.—If, regarding any transaction between persons specified in any one of the subparagraphs of paragraph (4) involving the production by one of such persons of a major input to the merchandise under consideration, the administering authority has reasonable grounds to believe or suspect that an amount represented as the value of such input is less than the costs of production of such input, then the administering authority may determine the value of the major input on the best evidence available regarding such costs of production, if such costs are greater than the amount that would be determined for such input under paragraph (2).", and

(4) by striking out "paragraph (2)" in paragraph (4) (as redesignated by paragraph (2)) and inserting "paragraphs (2) and (3)".

SEC. 1319. FICTITIOUS MARKETS.

Subsection (a) of section 773 of the Tariff Act of 1930 (19 U.S.C. 1677b(a)) is amended by adding at the end thereof the following new paragraph:

"(5) FICTITIOUS MARKETS.—The occurrence of different movements in the prices at which different forms of any merchandise subject to an antidumping duty order issued under this title are sold (or, in the absence of sales, offered for sale) after the issuance of such order in the principal markets of the foreign country from which the merchandise is exported may be considered by the administering authority as evidence of the establishment of a fictitious market for the merchandise if the movement in such prices appears to reduce the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise.".

SEC. 1320. DOWNSTREAM PRODUCT MONITORING.

(a) IN GENERAL.—Subtitle D (19 U.S.C. 1677 et seq.) is amended by adding at the end thereof the following:

19 USC 1677i.

"SEC. 780. DOWNSTREAM PRODUCT MONITORING.

"(a) PETITION REQUESTING MONITORING.—

"(1) IN GENERAL.—A domestic producer of an article that is like a component part or a downstream product may petition the administering authority to designate a downstream product for monitoring under subsection (b). The petition shall specify—

"(A) the downstream product,

"(B) the component product incorporated into such downstream product, and

"(C) the reasons for suspecting that the imposition of antidumping or countervailing duties has resulted in a diversion of exports of the component part into increased production and exportation to the United States of such downstream product.

"(2) DETERMINATION REGARDING PETITION.—Within 14 days after receiving a petition submitted under paragraph (1), the administering authority shall determine—

"(A) whether there is a reasonable likelihood that imports into the United States of the downstream product will increase as an indirect result of any diversion with respect to the component part, and

"(B) whether—

"(i) the component part is already subject to monitoring to aid in the enforcement of a bilateral arrangement (within the meaning of section 804 of the Trade and Tariff Act of 1984),

"(ii) merchandise related to the component part and manufactured in the same foreign country in which the component part is manufactured has been the subject of a significant number of investigations suspended under section 704 or 734 or countervailing or antidumping duty orders issued under this title or section 303, or

"(iii) merchandise manufactured or exported by the manufacturer or exporter of the component part that is similar in description and use to the component part has been the subject of at least 2 investigations suspended under section 704 or 734 or countervailing or antidumping duty orders issued under this title or section 303.

"(3) FACTORS TO TAKE INTO ACCOUNT.—In making a determination under paragraph (2)(A), the administering authority may, if appropriate, take into account such factors as—

"(A) the value of the component part in relation to the value of the downstream product,

"(B) the extent to which the component part has been substantially transformed as a result of its incorporation into the downstream product, and

"(C) the relationship between the producers of component parts and producers of downstream products.

Federal Register, publication.

"(4) PUBLICATION OF DETERMINATION.—The administering authority shall publish in the Federal Register notice of each determination made under paragraph (2) and, if the determination made under paragraph (2)(A) and a determination made under any subparagraph of paragraph (2)(B) are affirmative, shall transmit a copy of such determinations and the petition to the Commission.

"(5) DETERMINATIONS NOT SUBJECT TO JUDICIAL REVIEW.—Notwithstanding any other provision of law, any determination made by the administering authority under paragraph (2) shall not be subject to judicial review.

"(b) MONITORING BY THE COMMISSION.—

"(1) IN GENERAL.—If the determination made under subsection (a)(2)(A) and a determination made under any clause of subsection (a)(2)(B) with respect to a petition are affirmative, the Commission shall immediately commence monitoring of trade in the downstream product that is the subject of the determination made under subsection (a)(2)(A). If the Commission finds that imports of a downstream product being monitored increased during any calendar quarter by 5 percent or more over the preceding quarter, the Commission shall analyze that increase in the context of overall economic conditions in the product sector.

"(2) REPORTS.—The Commission shall make quarterly reports to the administering authority regarding the monitoring and analyses conducted under paragraph (1). The Commission shall make the reports available to the public. Public information.

"(c) ACTION ON BASIS OF MONITORING REPORTS.—The administering authority shall review the information in the reports submitted by the Commission under subsection (b)(2) and shall—

"(1) consider the information in determining whether to initiate an investigation under section 702(a), 732(a), or 303 regarding any downstream product, and

"(2) request the Commission to cease monitoring any downstream product if the information indicates that imports into the United States are not increasing and there is no reasonable likelihood of diversion with respect to component parts.

"(d) DEFINITIONS.—For purposes of this section—

"(1) The term 'component part' means any imported article that—

"(A) during the 5-year period ending on the date on which the petition is filed under subsection (a), has been subject to—

"(i) a countervailing or antidumping duty order issued under this title or section 303 that requires the deposit of estimated countervailing or antidumping duties imposed at a rate of at least 15 percent ad valorem, or

"(ii) an agreement entered into under section 704, 734, or 303 after a preliminary affirmative determination under section 703(b), 733(b)(1), or 303 was made by the administering authority which included a determination that the estimated net subsidy was at least 15 percent ad valorem or that the estimated average amount by which the foreign market value exceeded the United States price was at least 15 percent ad valorem, and

"(B) because of its inherent characteristics, is routinely used as a major part, component, assembly, subassembly, or material in a downstream product.

"(2) The term 'downstream product' means any manufactured article—

"(A) which is imported into the United States, and

"(B) into which is incorporated any component part.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 779 the following:

"Sec. 780. Downstream product monitoring.".

SEC. 1321. PREVENTION OF CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

(a) IN GENERAL.—Subtitle D (19 U.S.C. 1677 et seq.) (as amended by section 1320) is further amended by adding at the end thereof the following:

19 USC 1677j.

"SEC. 781. PREVENTION OF CIRCUMVENTION OF ANTIDUMPING AND COUNTERVAILING DUTY ORDERS.

"(a) MERCHANDISE COMPLETED OR ASSEMBLED IN THE UNITED STATES.—

"(1) IN GENERAL.—If—

"(A) merchandise sold in the United States is of the same class or kind as any other merchandise that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303,

"(B) such merchandise sold in the United States is completed or assembled in the United States from parts or components produced in the foreign country with respect to which such order or finding applies, and

"(C) the difference between the value of such merchandise sold in the United States and the value of the imported parts and components referred to in subparagraph (B) is small,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include within the scope of such order or finding the imported parts or components referred to in subparagraph (B) that are used in the completion or assembly of the merchandise in the United States at any time such order or finding is in effect.

"(2) FACTORS TO CONSIDER.—In determining whether to include parts or components in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade,

"(B) whether the manufacturer or exporter of the parts or components is related to the person who assembles or completes the merchandise sold in the United States from the parts or components produced in the foreign country with respect to which the order or finding described in paragraph (1) applies, and

"(C) whether imports into the United States of the parts or components produced in such foreign country have increased after the issuance of such order or finding.

"(b) MERCHANDISE COMPLETED OR ASSEMBLED IN OTHER FOREIGN COUNTRIES.—

"(1) IN GENERAL.—If—

"(A) merchandise imported into the United States is of the same class or kind as any merchandise produced in a foreign country that is the subject of—

"(i) an antidumping duty order issued under section 736,

"(ii) a finding issued under the Antidumping Act, 1921, or

"(iii) a countervailing duty order issued under section 706 or section 303,

"(B) before importation into the United States, such imported merchandise is completed or assembled in another foreign country from merchandise which—

"(i) is subject to such order or finding, or

"(ii) is produced in the foreign country with respect to which such order or finding applies,

"(C) the difference between the value of such imported merchandise and the value of the merchandise described in subparagraph (B) is small, and

"(D) the administering authority determines that action is appropriate under this paragraph to prevent evasion of such order or finding,

the administering authority, after taking into account any advice provided by the Commission under subsection (e), may include such imported merchandise within the scope of such order or finding at any time such order or finding is in effect.

"(2) FACTORS TO CONSIDER.—In determining whether to include merchandise assembled or completed in a foreign country in a countervailing or antidumping duty order or finding under paragraph (1), the administering authority shall take into account such factors as—

"(A) the pattern of trade,

"(B) whether the manufacturer or exporter of the merchandise described in paragraph (1)(B) is related to the person who uses the merchandise described in paragraph (1)(B) to assemble or complete in the foreign country the merchandise that is subsequently imported into the United States, and

"(C) whether imports into the foreign country of the merchandise described in paragraph (1)(B) have increased after the issuance of such order or finding.

"(c) MINOR ALTERATIONS OF MERCHANDISE.—

"(1) IN GENERAL.—The class or kind of merchandise subject to—

"(A) an investigation under this title,

"(B) an antidumping duty order issued under section 736,

"(C) a finding issued under the Antidumping Act, 1921, or

"(D) a countervailing duty order issued under section 706 or section 303,

shall include articles altered in form or appearance in minor respects (including raw agricultural products that have undergone minor processing), whether or not included in the same tariff classification.

"(2) EXCEPTION.—Paragraph (1) shall not apply with respect to altered merchandise if the administering authority determines that it would be unnecessary to consider the altered merchandise within the scope of the investigation, order, or finding.

"(d) LATER-DEVELOPED MERCHANDISE.—

"(1) IN GENERAL.—For purposes of determining whether merchandise developed after an investigation is initiated under this title or section 303 (hereafter in this paragraph referred to as the 'later-developed merchandise') is within the scope of an outstanding antidumping or countervailing duty order issued under this title or section 303 as a result of such investigation, the administering authority shall consider whether—

"(A) the later-developed merchandise has the same general physical characteristics as the merchandise with respect to which the order was originally issued (hereafter in this paragraph referred to as the 'earlier product'),

"(B) the expectations of the ultimate purchasers of the later-developed merchandise are the same as for the earlier product,

"(C) the ultimate use of the earlier product and the later-developed merchandise are the same,

"(D) the later-developed merchandise is sold through the same channels of trade as the earlier product, and

"(E) the later-developed merchandise is advertised and displayed in a manner similar to the earlier product.

The administering authority shall take into account any advice provided by the Commission under subsection (e) before making a determination under this subparagraph.

"(2) EXCLUSION FROM ORDERS.—The administering authority may not exclude a later-developed merchandise from a countervailing or antidumping duty order merely because the merchandise—

"(A) is classified under a tariff classification other than that identified in the petition or the administering authority's prior notices during the proceeding, or

"(B) permits the purchaser to perform additional functions, unless such additional functions constitute the primary use of the merchandise and the cost of the additional functions constitute more than a significant proportion of the total cost of production of the merchandise.

"(e) COMMISSION ADVICE.—

"(1) NOTIFICATION TO COMMISSION OF PROPOSED ACTION.—Before making a determination—

"(A) under subsection (a) with respect to merchandise completed or assembled in the United States (other than minor completion or assembly),

"(B) under subsection (b) with respect to merchandise completed or assembled in other foreign countries, or

"(C) under subsection (d) with respect to any later-developed merchandise which incorporates a significant technological advance or significant alteration of an earlier product,

with respect to an antidumping or countervailing duty order or finding as to which the Commission has made an affirmative injury determination, the administering authority shall notify the Commission of the proposed inclusion of such merchandise in such countervailing or antidumping order or finding. Notwithstanding any other provision of law, a decision by the administering authority regarding whether any merchandise is within a category for which notice is required under this paragraph is not subject to judicial review.

"(2) REQUEST FOR CONSULTATION.—After receiving notice under paragraph (1), the Commission may request consultations with the administering authority regarding the inclusion. Upon the request of the Commission, the administering authority shall consult with the Commission and any such consultation shall be completed within 15 days after the date of the request.

"(3) COMMISSION ADVICE.—If the Commission believes, after consultation under paragraph (2), that a significant injury issue is presented by the proposed inclusion, the Commission may provide written advice to the administering authority as to whether the inclusion would be inconsistent with the affirmative determination of the Commission on which the order or finding is based. If the Commission decides to provide such written advice, it shall promptly notify the administering authority of its intention to do so, and must provide such advice within 60 days after the date of notification under paragraph (1). For purposes of formulating its advice with respect to merchandise completed or assembled in the United States from parts or components produced in a foreign country, the Commission shall consider whether the inclusion of such parts or components taken as a whole would be inconsistent with its prior affirmative determination.".

(b) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 780 the following:

"Sec. 781. Prevention of circumvention of antidumping and countervailing duty orders.".

SEC. 1322. STEEL IMPORTS.

Section 805 of the Trade and Tariff Act of 1984 (19 U.S.C. 2253, note) is amended by adding at the end thereof the following new subsection:

"(d)(1) Any steel product that is manufactured in a country that is not party to a bilateral arrangement from steel which was melted and poured in a country that is party to a bilateral arrangement (hereafter in this subsection referred to as an 'arrangement country') may be treated for purposes of the quantitative restrictions and related terms under that arrangement as if it were a product of the arrangement country.

"(2) The President may implement such procedures as may be necessary or appropriate to carry out the purpose of paragraph (1).

"(3) The United States Trade Representative may, in a manner consistent with the purpose of any so-called 'third country equity provision' of an arrangement entered into under the President's Steel Policy, take such actions as he deems necessary with respect to steel imports of any other country or countries so as to ensure the effectiveness of any portion of such arrangement.".

SEC. 1323. SHORT LIFE CYCLE PRODUCTS.

(a) ESTABLISHMENT OF PRODUCT CATEGORIES FOR SHORT LIFE CYCLE MERCHANDISE.—Subtitle B is amended by adding at the end thereof the following new section:

"SEC. 739. ESTABLISHMENT OF PRODUCT CATEGORIES FOR SHORT LIFE CYCLE MERCHANDISE. 19 USC 1673h.

"(a) ESTABLISHMENT OF PRODUCT CATEGORIES.—

"(1) PETITIONS.—

"(A) IN GENERAL.—An eligible domestic entity may file a petition with the Commission requesting that a product category be established with respect to short life cycle merchandise at any time after the merchandise becomes the subject of 2 or more affirmative dumping determinations.

"(B) CONTENTS.—A petition filed under subparagraph (A) shall—

"(i) identify the short life cycle merchandise that is the subject of the affirmative dumping determinations,

"(ii) specify the short life cycle merchandise that the petitioner seeks to have included in the same product category as the merchandise that is subject to the affirmative dumping determinations,

"(iii) specify any short life cycle merchandise the petitioner particularly seeks to have excluded from the product category,

"(iv) provide reasons for the inclusions and exclusions specified under clauses (ii) and (iii), and

"(v) identify such merchandise in terms of the designations used in the Tariff Schedules of the United States.

"(2) DETERMINATIONS ON SUFFICIENCY OF PETITION.—Upon receiving a petition under paragraph (1), the Commission shall—

"(A) request the administering authority to confirm promptly the affirmative determinations on which the petition is based, and

"(B) upon receipt of such confirmation, determine whether the merchandise covered by the confirmed affirmative determinations is short life cycle merchandise and whether the petitioner is an eligible domestic entity.

"(3) NOTICE; HEARINGS.—If the determinations under paragraph (2)(B) are affirmative, the Commission shall—

Federal Register, publication.

"(A) publish notice in the Federal Register that the petition has been received, and

"(B) provide opportunity for the presentation of views regarding the establishment of the requested product category, including a public hearing if requested by any interested person.

"(4) DETERMINATIONS.—

"(A) IN GENERAL.—By no later than the date that is 90 days after the date on which a petition is filed under paragraph (1), the Commission shall determine the scope of the product category into which the short life cycle merchandise that is the subject of the affirmative dumping determinations identified in such petition shall be classified for purposes of this section.

"(B) MODIFICATIONS NOT REQUESTED BY PETITION.—

"(i) IN GENERAL.—The Commission may, on its own initiative, make a determination modifying the scope of any product category established under subparagraph (A) at any time.

"(ii) NOTICE AND HEARING.—Determinations may be made under clause (i) only after the Commission has—

"(I) published in the Federal Register notice of the proposed modification, and

"(II) provided interested parties an opportunity for a hearing, and a period for the submission of written comments, on the classification of merchandise into the product categories to be affected by such determination.

"(C) BASIS OF DETERMINATIONS.—In making determinations under subparagraph (A) or (B), the Commission shall ensure that each product category consists of similar short life cycle merchandise which is produced by similar processes under similar circumstances and has similar uses.

"(b) DEFINITIONS.—For purposes of this section—

"(1) ELIGIBLE DOMESTIC ENTITY.—The term 'eligible domestic entity' means a manufacturer or producer in the United States, or a certified union or recognized union or group of workers which is representative of an industry in the United States, that manufactures or produces short life cycle merchandise that is—

"(A) like or directly competitive with other merchandise that is the subject of 2 or more affirmative dumping determinations, or

"(B) is similar enough to such other merchandise as to be considered for inclusion with such merchandise in a product monitoring category established under this section.

"(2) AFFIRMATIVE DUMPING DETERMINATION.—The term 'affirmative dumping determination' means—

"(A) any affirmative final determination made by the administering authority under section 735(a) during the 8-year period preceding the filing of the petition under this section that results in the issuance of an antidumping duty order under section 736 which requires the deposit of estimated antidumping duties at a rate of not less than 15 percent ad valorem, or

"(B) any affirmative preliminary determination that—

"(i) is made by the administering authority under section 733(b) during the 8-year period preceding the filing of the petition under this section in the course of an investigation for which no final determination is made under section 735 by reason of a suspension of the investigation under section 734, and

"(ii) includes a determination that the estimated average amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is not less than 15 percent ad valorem.

"(3) SUBJECT OF AFFIRMATIVE DUMPING DETERMINATION.—

"(A) IN GENERAL.—Short life cycle merchandise of a manufacturer shall be treated as being the subject of an affirmative dumping determination only if the administering authority—

"(i) makes a separate determination of the amount by which the foreign market value of such merchandise of the manufacturer exceeds the United States price of such merchandise of the manufacturer, and

"(ii) specifically identifies the manufacturer by name with such amount in the affirmative dumping determination or in an antidumping duty order issued as a result of the affirmative dumping determination.

"(B) EXCLUSION.—Short life cycle merchandise of a manufacturer shall not be treated as being the subject of an affirmative dumping determination if—

"(i) such merchandise of the manufacturer is part of a group of merchandise to which the administering authority assigns (in lieu of making separate determinations described in subparagraph (A)(i)(I)) an amount determined to be the amount by which the foreign market value of the merchandise in such group exceeds the United States price of the merchandise in such group, and

"(ii) the merchandise and the manufacturer are not specified by name in the affirmative dumping determination or in any antidumping duty order issued as a result of such affirmative dumping determination.

"(4) SHORT LIFE CYCLE MERCHANDISE.—The term 'short life cycle merchandise' means any product that the Commission determines is likely to become outmoded within 4 years, by reason of technological advances, after the product is commercially available. For purposes of this paragraph, the term 'outmoded' refers to a kind of style that is no longer state-of-the-art.

"(c) TRANSITIONAL RULES.—

"(1) For purposes of this section and section 733(b)(1) (B) and (C), all affirmative dumping determinations described in subsection (b)(2)(A) that were made after December 31, 1980, and before the date of enactment of the Omnibus Trade and Competitiveness Act of 1988, and all affirmative dumping determinations described in subsection (b)(2)(B) that were made after December 31, 1984, and before the date of enactment of such Act, with respect to each category of short life cycle merchandise of the same manufacturer shall be treated as one affirmative dumping determination with respect to that category for that manufacturer which was made on the date on which the latest of such determinations was made.

"(2) No affirmative dumping determination that—

"(A) is described in subsection (b)(2)(A) and was made before January 1, 1981, or

"(B) is described in subsection (b)(2)(B) and was made before January 1, 1985,

may be taken into account under this section or section 733(b)(1) (B) and (C).".

(b) EXPEDITED DUMPING INVESTIGATIONS.—Section 733 (19 U.S.C. 1673) is amended as follows: 19 USC 1673b.

(1) Paragraph (1) of subsection (b)(1) is amended to read as follows:

"(1) PERIOD OF ANTIDUMPING DUTY INVESTIGATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), within 160 days after the date on which a petition is filed under section 732(b), or an investigation is commenced under section 732(a), but not before an affirmative determination by the Commission under subsection (a) of this section, the administering authority shall make a determination, based upon the best information available to it at the time of the determination, of whether there is a reasonable basis to believe or suspect that the merchandise is being sold, or is likely to be sold, at less than fair value. If the determination of the administering authority under

this subsection is affirmative, the determination shall include the estimated average amount by which the foreign market value exceeds the United States price.

"(B) IF CERTAIN SHORT LIFE CYCLE MERCHANDISE INVOLVED.—If a petition filed under section 732(b), or an investigation commenced under section 732(a), concerns short life cycle merchandise that is included in a product category established under section 739(a), subparagraph (A) shall be applied—

"(i) by substituting '120 days' for '160 days' if manufacturers that are second offenders account for a significant proportion of the merchandise under investigation, and

"(ii) by substituting '100 days' for '160 days' if manufacturers that are multiple offenders account for a significant proportion of the merchandise under investigation.

"(C) DEFINITIONS OF OFFENDERS.—For purposes of subparagraph (B)—

"(i) The term 'second offender' means a manufacturer that is specified in 2 affirmative dumping determinations (within the meaning of section 739) as the manufacturer of short life cycle merchandise that is—

"(I) specified in both such determinations, and

"(II) within the scope of the product category referred to in subparagraph (B).

"(ii) The term 'multiple offender' means a manufacturer that is specified in 3 or more affirmative dumping determinations (within the meaning of section 739) as the manufacturer of short life cycle merchandise that is—

"(I) specified in each of such determinations, and

"(II) within the scope of the product category referred to in subparagraph (B).".

(2) Paragraph (1) of subsection (c) is amended by inserting at the end thereof the following sentence: "No extension of a determination date may be made under this paragraph for any investigation in which a determination date provided for in subsection (b)(1)(B) applies unless the petitioner submits written notice to the administering authority of its consent to the extension.".

(3) Subsection (e)(1) is amended by adding at the end thereof the following flush sentence:

"The administering authority shall be treated as having made an affirmative determination under subparagraph (A) in any investigation to which subsection (b)(1)(B) is applied.".

(c) CONFORMING AMENDMENT.—The table of contents for title VII of the Tariff Act of 1930 is amended by inserting after the item relating to section 739 the following:

"Sec. 739. Establishment of product categories for short life cycle merchandise.".

SEC. 1324. CRITICAL CIRCUMSTANCES.

(a) COUNTERVAILING DUTY INVESTIGATIONS.—

(1) Section 702 (19 U.S.C. 1671a) is amended by adding at the end thereof the following new subsection:

"(e) INFORMATION REGARDING CRITICAL CIRCUMSTANCES.—If, at any time after the initiation of an investigation under this subtitle,

the administering authority finds a reasonable basis to suspect that the alleged subsidy is inconsistent with the Agreement, the administering authority may request the Commissioner of Customs to compile information on an expedited basis regarding entries of the class or kind of merchandise that is the subject of the investigation. Upon receiving such request, the Commissioner of Customs shall collect information regarding the volume and value of entries of the class or kind of merchandise that is the subject of the investigation and shall transmit such information to the administering authority at such times as the administering authority shall direct (at least once every 30 days), until a final determination is made under section 705(a), the investigation is terminated, or the administering authority withdraws the request.".

Records.

(2) Paragraph (1) of section 703(e) (19 U.S.C. 1671b(e)(1)) is amended by inserting "(at any time after the initiation of the investigation under this subtitle)" after "promptly".

(3) Subparagraph (A) of section 705(b)(4) (19 U.S.C. 1671d(b)(4)(A)) is amended to read as follows:

"(A) RETROACTIVE APPLICATION.—

"(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(2) is affirmative, then the final determination of the Commission shall include a finding as to whether retroactive imposition of a countervailing duty on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time and will be difficult to repair.

"(ii) PREVENTION OF RECURRENCE.—For purposes of making its finding under clause (i), the Commission shall make an evaluation as to whether the effectiveness of the countervailing duty order would be materially impaired if such imposition did not occur.

"(iii) EVALUATION OF EFFECTIVENESS.—In making the evaluation under clause (ii), the Commission shall consider, among other factors it considers relevant—

"(I) the condition of the domestic industry,

"(II) whether massive imports of the merchandise over a relatively short period of time can be accounted for by efforts to avoid the potential imposition of countervailing duties,

"(III) whether foreign economic conditions led to the massive imports of the merchandise, and

"(IV) whether the impact of the massive imports of the merchandise is likely to continue for some period after issuance of the countervailing duty order under this subtitle.".

(b) ANTIDUMPING DUTY INVESTIGATIONS.—

(1) Section 732 (19 U.S.C. 1673a) is amended by adding at the end thereof the following new subsection:

Records.

"(e) INFORMATION REGARDING CRITICAL CIRCUMSTANCES.—If, at any time after the initiation of an investigation under this subtitle, the administering authority finds a reasonable basis to suspect that—

"(1) there is a history of dumping in the United States or elsewhere of the class or kind of the merchandise which is the subject of the investigation, or

"(2) the person by whom, or for whose account, the merchandise was imported knew, or should have known, that the exporter was selling the merchandise which is the subject of the investigation at less than its fair value,

the administering authority may request the Commissioner of Customs to compile information on an expedited basis regarding entries of the class or kind of merchandise that is the subject of the investigation. Upon receiving such request, the Commissioner of Customs shall collect information regarding the volume and value of entries of the class or kind of merchandise that is the subject of the investigation and shall transmit such information to the administering authority at such times as the administering authority shall direct (at least once every 30 days), until a final determination is made under section 735(a), the investigation is terminated, or the administering authority withdraws the request.".

(2) Paragraph (1) of section 733(e) (19 U.S.C. 1673b(e)(1)) is amended by inserting "(at any time after the initiation of the investigation under this subtitle)" after "promptly".

(3) Subparagraph (A) of section 735(b)(4) (19 U.S.C. 1673d(b)(4)(A)) is amended to read as follows:

"(A) RETROACTIVE APPLICATION.—

"(i) IN GENERAL.—If the finding of the administering authority under subsection (a)(3) is affirmative, then the final determination of the Commission shall include a finding as to whether retroactive imposition of antidumping duties on the merchandise appears necessary to prevent recurrence of material injury that was caused by massive imports of the merchandise over a relatively short period of time.

"(ii) PREVENTION OF RECURRENCE.—For purposes of making its finding under clause (i), the Commission shall make an evaluation as to whether the effectiveness of the antidumping duty order would be materially impaired if such imposition did not occur.

"(iii) EVALUATION OF EFFECTIVENESS.—In making the evaluation under clause (ii), the Commission shall consider, among other factors it considers relevant—

"(I) the condition of the domestic industry,

"(II) whether massive imports of the merchandise in a relatively short period of time can be accounted for by efforts to avoid the potential imposition of antidumping duties,

"(III) whether foreign economic conditions led to the massive imports of the merchandise, and

"(IV) whether the impact of the massive imports of the merchandise is likely to continue for some period after issuance of the antidumping duty order under this subtitle.".

SEC. 1325. EXPEDITED REVIEW AUTHORITY.

(a) IN GENERAL.—Paragraph (1) of section 736(c) (19 U.S.C. 1673e(c)(1)) is amended to read as follows:

"(1) CONDITIONS FOR WAIVER OF DEPOSIT OF ESTIMATED DUTIES.—The administering authority may permit, for not more than 90 days after the date of publication of an order under subsection (a), the posting of a bond or other security in lieu of

the deposit of estimated antidumping duties required under subsection (a)(3) if—

"(A) the investigation has not been designated as extraordinarily complicated by reason of—

"(i) the number and complexity of the transactions to be investigated or adjustments to be considered,

"(ii) the novelty of the issues presented, or

"(iii) the number of firms whose activities must be investigated,

"(B) the final determination in the investigation has not been postponed under section 735(a)(2)(A);

"(C) on the basis of information presented to the administering authority by any manufacturer, producer, or exporter in such form and within such time as the administering authority may require, the administering authority is satisfied that a determination will be made, within 90 days after the date of publication of an order under subsection (a), of the foreign market value and the United States price for all merchandise of such manufacturer, producer, or exporter described in that order which was entered, or withdrawn from warehouse, for consumption on or after the date of publication of—

"(i) an affirmative preliminary determination by the administering authority under section 733(b), or

"(ii) if its determination under section 733(b) was negative, an affirmative final determination by the administering authority under section 735(a),

and before the date of publication of the affirmative final determination by the Commission under section 735(b);

"(D) the party described in subparagraph (C) provides credible evidence that the amount by which the foreign market value of the merchandise exceeds the United States price of the merchandise is significantly less than the amount of such excess specified in the antidumping duty order published under subsection (a); and

"(E) the data concerning the foreign market value and the United States price apply to sales in the usual commercial quantities and in the ordinary course of trade and the number of such sales are sufficient to form an adequate basis for comparison.".

(b) BUSINESS PROPRIETARY INFORMATION.—Subsection (c) of section 736 (19 U.S.C. 1673e(c)) is amended by adding at the end thereof the following new paragraph:

"(4) PROVISION OF BUSINESS PROPRIETARY INFORMATION; WRITTEN COMMENTS.—Before determining whether to permit the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties, the administering authority shall—

"(A) make all business proprietary information supplied to the administering authority under paragraph (1) available under a protective order in accordance with section 777(c) to all interested parties described in subparagraph (C), (D), (E), (F), or (G) of section 771(9), and

"(B) afford all interested parties an opportunity to file written comments on whether the posting of bond or other security under paragraph (1) in lieu of the deposit of estimated antidumping duties should be permitted.".

SEC. 1326. PROCESSED AGRICULTURAL PRODUCTS.

(a) DEFINITION OF INDUSTRY PRODUCING PROCESSED AGRICULTURAL PRODUCTS.—Paragraph (4) of section 771 (19 U.S.C. 1677(4)) is amended by adding at the end thereof the following new subparagraph:

"(E) INDUSTRY PRODUCING PROCESSED AGRICULTURAL PRODUCTS.—

"(i) IN GENERAL.—Subject to clause (v), in an investigation involving a processed agricultural product produced from any raw agricultural product, the producers or growers of the raw agricultural product may be considered part of the industry producing the processed product if—

"(I) the processed agricultural product is produced from the raw agricultural product through a single continuous line of production; and

"(II) there is a substantial coincidence of economic interest between the producers or growers of the raw agricultural product and the processors of the processed agricultural product based upon relevant economic factors, which may, in the discretion of the Commission, include price, added market value, or other economic interrelationships (regardless of whether such coincidence of economic interest is based upon any legal relationship).

"(ii) PROCESSING.—For purposes of this subparagraph, the processed agricultural product shall be considered to be processed from a raw agricultural product through a single continuous line of production if—

"(I) the raw agricultural product is substantially or completely devoted to the production of the processed agricultural product; and

"(II) the processed agricultural product is produced substantially or completely from the raw product.

"(iii) RELEVANT ECONOMIC FACTORS.—For purposes of clause (i)(II), in addition to such other factors it considers relevant to the question of coincidence of economic interest, the Commission shall—

"(I) if price is taken into account, consider the degree of correlation between the price of the raw agricultural product and the price of the processed agricultural product; and

"(II) if added market value is taken into account, consider whether the value of the raw agricultural product constitutes a significant percentage of the value of the processed agricultural product.

"(iv) RAW AGRICULTURAL PRODUCT.—For purposes of this subparagraph, the term 'raw agricultural product' means any farm or fishery product.

"(v) TERMINATION OF THIS SUBPARAGRAPH.—This subparagraph shall cease to have effect if the United States Trade Representative notifies the administering authority and the Commission that the application of

this subparagraph is inconsistent with the international obligations of the United States.".

(b) THREAT OF MATERIAL INJURY.—Section 771(7)(F) (19 U.S.C. 1677(7)(F)) is amended—

(1) by striking out "and" at the end of subclause (VII);

(2) by striking out the period at the end of subclause (VIII) and inserting ", and"; and

(3) by adding at the end thereof the following:

"(IX) in any investigation under this title which involves imports of both a raw agricultural product (within the meaning of paragraph (4)(E)(iv)) and any product processed from such raw agricultural product, the likelihood that there will be increased imports, by reason of product shifting, if there is an affirmative determination by the Commission under section 705(b)(1) or 735(b)(1) with respect to either the raw agricultural product or the processed agricultural product (but not both).".

(c) INTERESTED PARTIES.—Section 771(9) (19 U.S.C. 1677(9)) is amended—

(1) by striking out "and" at the end of subparagraph (E);

(2) by striking out the period at the end of subparagraph (F) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph:

"(G) in any investigation under this title involving an industry engaged in producing a processed agricultural product, as defined in paragraph (4)(E), a coalition or trade association which is representative of either—

"(i) processors,

"(ii) processors and producers, or

"(iii) processors and growers,

but this subparagraph shall cease to have effect if the United States Trade Representative notifies the administering authority and the Commission that the application of this subparagraph is inconsistent with the international obligations of the United States.".

(d) CONFORMING AMENDMENTS.—

19 USC 1671 *et seq.*

(1) Title VII of the Tariff Act of 1930 is amended by striking out "subparagraph (C), (D), (E), or (F) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), (F), or (G) of section 771(9)".

(2) Title VII of the Tariff Act of 1930 is amended by striking out "subparagraph (C), (D), (E), and (F) of section 771(9)" each place it appears and inserting in lieu thereof "subparagraph (C), (D), (E), (F), or (G) of section 771(9)".

(3) Subsection (a) of section 516 of the Tariff Act of 1930 (19 U.S.C. 1516(a)) is amended by adding at the end thereof the following new paragraph:

"(3) Any producer of a raw agricultural product who is considered under section 771(4)(E) to be part of the industry producing a processed agricultural product of the same class or kind as the designated imported merchandise shall, for purposes of this section, be treated as an interested party producing such processed agricultural product.".

SEC. 1327. LEASES EQUIVALENT TO SALES.

Section 771 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph:

"(19) EQUIVALENCY OF LEASES TO SALES.—In determining whether a lease is equivalent to a sale for purposes of this title, the administering authority shall consider—

"(A) the terms of the lease,

"(B) commercial practice within the industry,

"(C) the circumstances of the transaction,

"(D) whether the product subject to the lease is integrated into the operations of the lessee or importer,

"(E) whether in practice there is a likelihood that the lease will be continued or renewed for a significant period of time, and

"(F) other relevant factors, including whether the lease transaction would permit avoidance of antidumping or countervailing duties.".

SEC. 1328. MATERIAL INJURY.

Section 771(7) (19 U.S.C. 1677(7)) is amended—

(1) by amending subparagraph (B) to read as follows:

"(B) VOLUME AND CONSEQUENT IMPACT.—In making determinations under sections 703(a), 705(b), 733(a), and 735(b), the Commission, in each case—

"(i) shall consider—

"(I) the volume of imports of the merchandise which is the subject of the investigation,

"(II) the effect of imports of that merchandise on prices in the United States for like products, and

"(III) the impact of imports of such merchandise on domestic producers of like products, but only in the context of production operations within the United States; and

"(ii) may consider such other economic factors as are relevant to the determination regarding whether there is material injury by reason of imports.

In the notification required under section 705(d) or 735(d), as the case may be, the Commission shall explain its analysis of each factor considered under clause (i), and identify each factor considered under clause (ii) and explain in full its relevance to the determination."; and

(2) by amending subparagraph (C)—

(A) by amending the heading to read as follows: "(C) EVALUATION OF RELEVANT FACTORS.—",

(B) by striking out "price undercutting" in clause (ii) and inserting "price underselling", and

(C) by amending clause (iii) to read as follows:

"(iii) IMPACT ON AFFECTED DOMESTIC INDUSTRY.—In examining the impact required to be considered under subparagraph (B)(iii), the Commission shall evaluate all relevant economic factors which have a bearing on the state of the industry in the United States, including, but not limited to—

"(I) actual and potential decline in output, sales, market share, profits, productivity, return on investments, and utilization of capacity,

"(II) factors affecting domestic prices,

Employment and unemployment. Wages.

"(III) actual and potential negative effects on cash flow, inventories, employment, wages, growth, ability to raise capital, and investment, and

"(IV) actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.

The Commission shall evaluate all relevant economic factors described in this clause within the context of the business cycle and conditions of competition that are distinctive to the affected industry.".

SEC. 1329. THREAT OF MATERIAL INJURY.

Subparagraph (F) of section 771(7) (19 U.S.C. 1677(7)(F)) (as amended by section 1326) is further amended—

(1) by striking out "and" at the end of clause (i)(VIII),

(2) by striking out the period at the end of clause (i)(IX),

(3) by adding at the end of clause (i) the following new subclause:

"(X) the actual and potential negative effects on the existing development and production efforts of the domestic industry, including efforts to develop a derivative or more advanced version of the like product.", and

(4) by adding at the end thereof the following:

"(iii) EFFECT OF DUMPING IN THIRD-COUNTRY MARKETS.—

"(I) IN GENERAL.—In investigations under subtitle B, the Commission shall consider whether dumping in the markets of foreign countries (as evidenced by dumping findings or antidumping remedies in other GATT member markets against the same class or kind of merchandise manufactured or exported by the same party as under investigation) suggests a threat of material injury to the domestic industry. In the course of its investigation, the Commission shall request information from the foreign manufacturer, exporter, or United States importer concerning this issue.

"(II) GATT MEMBER MARKET.—For purposes of this clause, the term 'GATT member market' means the market of any country which is a signatory to The Agreement on Implementation of Article VI of the General Agreement on Tariffs and Trade (relating to antidumping measures).

"(III) EUROPEAN COMMUNITIES.—For purposes of this clause, the European Communities shall be treated as a foreign country.".

SEC. 1330. CUMULATION.

(a) THREAT OF INJURY.—Subparagraph (F) of section 771(7) (19 U.S.C. 1677(7)(F)) (as amended by section 1329) is further amended by adding at the end thereof the following new clause:

"(iv) CUMULATION.—To the extent practicable and subject to subparagraph (C)(v), for purposes of clause (i) (III) and (IV) the Commission may cumulatively assess

the volume and price effects of imports from two or more countries if such imports—

"(I) compete with each other, and with like products of the domestic industry, in the United States market, and

"(II) are subject to any investigation under section 303, 701, or 731.".

(b) TREATMENT OF NEGLIGIBLE IMPORTS.—Subparagraph (C) of section 771(7) (19 U.S.C. 1677(7)(C)) is amended by adding at the end thereof the following new clause:

"(v) TREATMENT OF NEGLIGIBLE IMPORTS.—The Commission is not required to apply clause (iv) or subparagraph (F)(iv) in any case in which the Commission determines that imports of the merchandise subject to investigation are negligible and have no discernable adverse impact on the domestic industry. For purposes of making such determination, the Commission shall evaluate all relevant economic factors regarding the imports, including, but not limited to, whether—

"(I) the volume and market share of the imports are negligible,

"(II) sales transactions involving the imports are isolated and sporadic, and

"(III) the domestic market for the like product is price sensitive by reason of the nature of the product, so that a small quantity of imports can result in price suppression or depression.

For purposes of this clause, the Commission may treat as negligible and having no discernable adverse impact on the domestic industry imports that are the product of any country that is a party to a free trade area agreement with the United States which entered into force and effect before January 1, 1987, if the Commission determines that the domestic industry is not being materially injured by reason of such imports.".

SEC. 1331. CERTIFICATION OF SUBMISSIONS.

Section 776 (19 U.S.C. 1677e) is amended—

(1) by redesignating subsections (a) and (b) as subsections (b) and (c), respectively,

(2) by amending the heading to subsection (b) (as so redesignated) to read as follows: "(b) VERIFICATION.—", and

(3) by inserting before such subsection (b) the following:

"(a) CERTIFICATION OF SUBMISSIONS.—Any person providing factual information to the administering authority or the Commission in connection with a proceeding under this title on behalf of the petitioner or any other interested party shall certify that such information is accurate and complete to the best of that person's knowledge.".

SEC. 1332. ACCESS TO INFORMATION.

Section 777 (19 U.S.C. 1677f) is amended—

(1) by amending subsection (b)(1)(B)(ii) to read as follows:

"(ii) a statement to the administering authority or the Commission that the business proprietary informa-

tion is of a type that should not be released under administrative protective order.";

(2) by amending subsection (c)(1)—

(A) by amending subparagraph (A) to read as follows:

"(A) IN GENERAL.—Upon receipt of an application (before or after receipt of the information requested) which describes in general terms the information requested and sets forth the reasons for the request, the administering authority or the Commission shall make all business proprietary information presented to, or obtained by it, during a proceeding (except privileged information, classified information, and specific information of a type for which there is a clear and compelling need to withhold from disclosure) available to interested parties who are parties to the proceeding under a protective order described in subparagraph (B), regardless of when the information is submitted during a proceeding."; and

(B) by adding at the end thereof the following new subparagraphs:

"(C) TIME LIMITATION ON DETERMINATIONS.—The administering authority or the Commission, as the case may be, shall determine whether to make information available under this paragraph—

"(i) not later than 14 days (7 days if the submission pertains to a proceeding under section 703(a) or 733(a)) after the date on which the information is submitted, or

"(ii) if—

"(I) the person that submitted the information raises objection to its release, or

"(II) the information is unusually voluminous or complex,

not later than 30 days (10 days if the submission pertains to a proceeding under section 703(a) or 733(a)) after the date on which the information is submitted.

"(D) AVAILABILITY AFTER DETERMINATION.—If the determination under subparagraph (C) is affirmative, then—

"(i) the business proprietary information submitted to the administering authority or the Commission on or before the date of the determination shall be made available, subject to the terms and conditions of the protective order, on such date; and

"(ii) the business proprietary information submitted to the administering authority or the Commission after the date of the determination shall be served as required by subsection (d).

"(E) FAILURE TO DISCLOSE.—If a person submitting information to the administering authority refuses to disclose business proprietary information which the administering authority determines should be released under a protective order described in subparagraph (B), the administering authority shall return the information, and any nonconfidential summary thereof, to the person submitting the information and summary and shall not consider either.";

(3) by striking out "or the Commission denies a request for proprietary information submitted by the petitioner or an in-

terested party in support of the petitioner concerning the domestic price or cost of production of the like product," in subsection (c)(2); and

(4) by adding at the end thereof the following new subsections:

"(d) SERVICE.—Any party submitting written information, including business proprietary information, to the administering authority or the Commission during a proceeding shall, at the same time, serve the information upon all interested parties who are parties to the proceeding, if the information is covered by a protective order. The administering authority or the Commission shall not accept any such information that is not accompanied by a certificate of service and a copy of the protective order version of the document containing the information. Business proprietary information shall only be served upon interested parties who are parties to the proceeding that are subject to protective order; however, a nonconfidential summary thereof shall be served upon all other interested parties who are parties to the proceeding.

"(e) TIMELY SUBMISSIONS.—Information shall be submitted to the administering authority or the Commission during the course of a proceeding on a timely basis and shall be subject to comment by other parties within such reasonable time as the administering authority or the Commission shall provide. If information is submitted without an adequate opportunity for other parties to comment thereon, the administering authority or the Commission may return the information to the party submitting it and not consider it.".

SEC. 1333. CORRECTION OF MINISTERIAL ERRORS.

(a) FINAL DETERMINATIONS.—Sections 705 and 735 (19 U.S.C. 1671d and 1673d) are each amended by adding at the end thereof the following new subsection:

"(e) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.".

(b) ADMINISTRATIVE REVIEW.—Section 751 (19 U.S.C. 1675) is amended by adding at the end thereof the following new subsection:

"(f) CORRECTION OF MINISTERIAL ERRORS.—The administering authority shall establish procedures for the correction of ministerial errors in final determinations within a reasonable time after the determinations are issued under this section. Such procedures shall ensure opportunity for interested parties to present their views regarding any such errors. As used in this subsection, the term 'ministerial error' includes errors in addition, subtraction, or other arithmetic function, clerical errors resulting from inaccurate copying, duplication, or the like, and any other type of unintentional error which the administering authority considers ministerial.".

SEC. 1334. DRAWBACK TREATMENT.

(a) IN GENERAL.—Section 779 (19 U.S.C. 1677h) is amended by striking out "shall be treated as any other customs duties." and inserting "shall not be treated as being regular customs duties.".

(b) CONFORMING AMENDMENTS.—

(1) The section heading for such section 779 is amended by striking out "DRAWBACKS" and inserting "DRAWBACK TREATMENT".

(2) The table of contents for title VII of the Tariff Act of 1930 is amended by striking out "Drawbacks." in the entry for section 779 and inserting "Drawback treatment.".

SEC. 1335. GOVERNMENTAL IMPORTATIONS.

Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) (as amended by section 1316(b)) is amended by adding at the end thereof the following new paragraph:

"(19) APPLICATION TO GOVERNMENTAL IMPORTATIONS.—

"(A) IN GENERAL.—Except as otherwise provided by this paragraph, merchandise imported by, or for the use of, a department or agency of the United States Government (including merchandise provided for under schedule 8 of the Tariff Schedules of the United States) is subject to the imposition of countervailing duties or antidumping duties under this title or section 303.

"(B) EXCEPTIONS.—Merchandise imported by, or for the use of, the Department of Defense shall not be subject to the imposition of countervailing or antidumping duties under this title if—

"(i) the merchandise is acquired by, or for use of, such Department—

"(I) from a country with which such Department had a Memorandum of Understanding which was in effect on January 1, 1988, and has continued to have a comparable agreement (including renewals) or superceding agreements, and

"(II) in accordance with terms of the Memorandum of Understanding in effect at the time of importation, or

"(ii) the merchandise has no substantial nonmilitary use.".

SEC. 1336. STUDIES.

(a) STUDY OF MARKET ORIENTATION OF CHINA.—The Secretary of Commerce, in consultation with the heads of other appropriate Federal agencies, shall undertake a study regarding the new market orientation of the People's Republic of China. The study shall address, but not be limited to—

(1) the effect of the new orientation on Chinese market policies and price structure, and the relationship between domestic Chinese prices and world prices;

(2) the extent to which United States trade law practices can accommodate the increased market orientation of the Chinese economy; and

(3) the possible need for changes in United States antidumping laws as they apply to foreign countries, such as China, which are in transition to a more market-oriented economy.

Reports. The Secretary of Commerce shall submit to the Congress within 1 year after the date of the enactment of this Act a report on the study required under this subsection.

(b) SUBSIDIES CODE COMMITMENTS.—Within 90 days after the date of the enactment of this Act, the United States Trade Representa-

tive shall initiate a review of all bilateral subsidy commitments that have been entered into by foreign governments with the United States. The review shall include—

(1) an evaluation of the extent to which the commitments have been complied with;

(2) with respect to those commitments found under paragraph (1) not to have been complied with, an estimate regarding when compliance is likely; and

(3) recommendations regarding how compliance can be improved.

The United States Trade Representative shall complete the review required under this subsection and submit a report thereon to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate within 180 days after the date of the enactment of this Act. Reports.

SEC. 1337. EFFECTIVE DATES. 19 USC 1671 note.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this part shall take effect on the date of enactment of this Act.

(b) INVESTIGATIONS AND REVIEWS AFTER ENACTMENT.—The amendments made by sections 1312, 1315, 1316, 1318, 1325, 1326, 1327, 1328, 1329, 1331, and 1332 shall only apply with respect to—

(1) investigations initiated after the date of enactment of this Act, and

(2) reviews initiated under section 736(c) or 751 of the Tariff Act of 1930 after the date of enactment of this Act.

(c) INVESTIGATIONS AFTER ENACTMENT.—The amendments made by sections 1324 and 1330 shall only apply with respect to investigations initiated after the date of enactment of this Act.

(d) PREVENTION OF CIRCUMVENTION OF DUTIES; DRAWBACK.—The provisions of section 781 of the Tariff Act of 1930, as added by section 1321(a), and the amendments made by section 1334 shall apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the date of enactment of this Act.

(e) GOVERNMENTAL IMPORTATIONS; STEEL.—The amendments made by sections 1321(b) and 1335 shall apply with respect to entries, and withdrawals from warehouse for consumption, that are liquidated on or after the date of enactment of this Act.

(f) FICTITIOUS MARKETS.—The amendment made by section 1319 shall only apply with respect to—

(1) reviews initiated under section 736(c) or 751 of the Tariff Act of 1930 after the date of enactment of this Act, and

(2) reviews initiated under such sections—

(A) which are pending on the date of enactment of this Act, and

(B) in which a request for revocation is pending on the date of enactment of this Act.

PART 3—PROTECTION OF INTELLECTUAL PROPERTY RIGHTS

Copyrights. Patents and trademarks.

SEC. 1341. CONGRESSIONAL FINDINGS AND PURPOSES. 19 USC 1337 note.

(a) FINDINGS.—The Congress finds that—

(1) United States persons that rely on protection of intellectual property rights are among the most advanced and competitive in the world; and

(2) the existing protection under section 337 of the Tariff Act of 1930 against unfair trade practices is cumbersome and costly and has not provided United States owners of intellectual property rights with adequate protection against foreign companies violating such rights.

(b) PURPOSE.—The purpose of this part is to amend section 337 of the Tariff Act of 1930 to make it a more effective remedy for the protection of United States intellectual property rights.

SEC. 1342. PROTECTION UNDER THE TARIFF ACT OF 1930.

(a) IN GENERAL.—Section 337 of the Tariff Act of 1930 (19 U.S.C. 1337) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) Subject to paragraph (2), the following are unlawful, and when found by the Commission to exist shall be dealt with, in addition to any other provision of law, as provided in this section:

"(A) Unfair methods of competition and unfair acts in the importation of articles (other than articles provided for in subparagraphs (B), (C), and (D)) into the United States, or in the sale of such articles by the owner, importer, or consignee, the threat or effect of which is—

"(i) to destroy or substantially injure an industry in the United States;

"(ii) to prevent the establishment of such an industry; or

"(iii) to restrain or monopolize trade and commerce in the United States.

"(B) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that—

"(i) infringe a valid and enforceable United States patent or a valid and enforceable United States copyright registered under title 17, United States Code; or

"(ii) are made, produced, processed, or mined under, or by means of, a process covered by the claims of a valid and enforceable United States patent.

"(C) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of articles that infringe a valid and enforceable United States trademark registered under the Trademark Act of 1946.

"(D) The importation into the United States, the sale for importation, or the sale within the United States after importation by the owner, importer, or consignee, of a semiconductor chip product in a manner that constitutes infringement of a mask work registered under chapter 9 of title 17, United States Code.

"(2) Subparagraphs (B), (C), and (D) of paragraph (1) apply only if an industry in the United States, relating to the articles protected by the patent, copyright, trademark, or mask work concerned, exists or is in the process of being established.

"(3) For purposes of paragraph (2), an industry in the United States shall be considered to exist if there is in the United States, with respect to the articles protected by the patent, copyright, trademark, or mask work concerned—

"(A) significant investment in plant and equipment;

"(B) significant employment of labor or capital; or

"(C) substantial investment in its exploitation, including engineering, research and development, or licensing.

"(4) For the purposes of this section, the phrase 'owner, importer, or consignee' includes any agent of the owner, importer, or consignee.".

(2) Subsection (c) is amended by inserting before the period in the first sentence the following: ", except that the Commission may, by issuing a consent order or on the basis of a settlement agreement, terminate any such investigation, in whole or in part, without making such a determination".

(3) Subsection (e) is amended—

(A) by striking out "If" in the first sentence and inserting "(1) If"; and

(B) by adding at the end thereof the following new paragraphs:

"(2) A complainant may petition the Commission for the issuance of an order under this subsection. The Commission shall make a determination with regard to such petition by no later than the 90th day after the date on which the Commission's notice of investigation is published in the Federal Register. The Commission may extend the 90-day period for an additional 60 days in a case it designates as a more complicated case. The Commission shall publish in the Federal Register its reasons why it designated the case as being more complicated. The Commission may require the complainant to post a bond as a prerequisite to the issuance of an order under this subsection.

Federal Register, publication.

"(3) The Commission may grant preliminary relief under this subsection or subsection (f) to the same extent as preliminary injunctions and temporary restraining orders may be granted under the Federal Rules of Civil Procedure.".

(4) Subsection (f) is amended—

(A) by striking out "In lieu of" in paragraph (1) and inserting "In addition to, or in lieu of,"; and

(B) by striking out "$10,000 or" in paragraph (2) and inserting "$100,000 or twice".

(5) Such section is further amended—

(A) by redesignating subsections (g), (h), (i), and (j) as subsections (j), (k), (l), and (m), respectively; and

(B) by inserting after subsection (f) the following new subsections:

"(g)(1) If—

"(A) a complaint is filed against a person under this section;

"(B) the complaint and a notice of investigation are served on the person;

"(C) the person fails to respond to the complaint and notice or otherwise fails to appear to answer the complaint and notice;

"(D) the person fails to show good cause why the person should not be found in default; and

"(E) the complainant seeks relief limited solely to that person;

the Commission shall presume the facts alleged in the complaint to be true and shall, upon request, issue an exclusion from entry or a cease and desist order, or both, limited to that person unless, after considering the effect of such exclusion or order upon the public health and welfare, competitive conditions in the United States economy, the production of like or directly competitive articles in

the United States, and United States consumers, the Commission finds that such exclusion or order should not be issued.

"(2) In addition to the authority of the Commission to issue a general exclusion from entry of articles when a respondent appears to contest an investigation concerning a violation of the provisions of this section, a general exclusion from entry of articles, regardless of the source or importer of the articles, may be issued if—

"(A) no person appears to contest an investigation concerning a violation of the provisions of this section, and

"(B) such a violation is established by substantial, reliable, and probative evidence.

"(h) The Commission may by rule prescribe sanctions for abuse of discovery and abuse of process to the extent authorized by Rule 11 and Rule 37 of the Federal Rules of Civil Procedure.

"(i) FORFEITURE.—

"(1) In addition to taking action under subsection (d), the Commission may issue an order providing that any article imported in violation of the provisions of this section be seized and forfeited to the United States if—

"(A) the owner, importer, or consignee of the article previously attempted to import the article into the United States;

"(B) the article was previously denied entry into the United States by reason of an order issued under subsection (d); and

"(C) upon such previous denial of entry, the Secretary of the Treasury provided the owner, importer, or consignee of the article written notice of—

"(i) such order, and

"(ii) the seizure and forfeiture that would result from any further attempt to import the article into the United States.

"(2) The Commission shall notify the Secretary of the Treasury of any order issued under this subsection and, upon receipt of such notice, the Secretary of the Treasury shall enforce such order in accordance with the provisions of this section.

"(3) Upon the attempted entry of articles subject to an order issued under this subsection, the Secretary of the Treasury shall immediately notify all ports of entry of the attempted importation and shall identify the persons notified under paragraph (1)(C).

"(4) The Secretary of the Treasury shall provide—

"(A) the written notice described in paragraph (1)(C) to the owner, importer, or consignee of any article that is denied entry into the United States by reason of an order issued under subsection (d); and

"(B) a copy of such written notice to the Commission.".

(6) Subsection (k) (as redesignated by paragraph (5)(B) of this section) is amended—

(A) by inserting "(1)" before the first sentence; and

(B) by adding at the end the following:

"(2) If any person who has previously been found by the Commission to be in violation of this section petitions the Commission for a determination that the petitioner is no longer in violation of this section or for a modification or rescission of an exclusion from entry or order under subsection (d), (e), (f), (g), or (i)—

"(A) the burden of proof in any proceeding before the Commission regarding such petition shall be on the petitioner; and

"(B) relief may be granted by the Commission with respect to such petition—

"(i) on the basis of new evidence or evidence that could not have been presented at the prior proceeding, or

"(ii) on grounds which would permit relief from a judgment or order under the Federal Rules of Civil Procedure.".

(7) Subsection (l) (as redesignated by paragraph (5)(B) of this section) is amended—

(A) by striking out "claims of United States letters patent" in the first sentence and inserting "a proceeding involving a patent, copyright, or mask work under subsection (a)(1)"; and

(B) by striking out "a patent owner" in the second sentence and inserting "an owner of the patent, copyright, or mask work".

(8) Such section is further amended by adding at the end the following:

"(n)(1) Information submitted to the Commission or exchanged among the parties in connection with proceedings under this section which is properly designated as confidential pursuant to Commission rules may not be disclosed (except under a protective order issued under regulations of the Commission which authorizes limited disclosure of such information) to any person (other than a person described in paragraph (2)) without the consent of the person submitting it. Classified information.

"(2) Notwithstanding the prohibition contained in paragraph (1), information referred to in that paragraph may be disclosed to—

"(A) an officer or employee of the Commission who is directly concerned with carrying out the investigation in connection with which the information is submitted,

"(B) an officer or employee of the United States Government who is directly involved in the review under subsection (h), or

"(C) an officer or employee of the United States Customs Service who is directly involved in administering an exclusion from entry under this section resulting from the investigation in connection with which the information is submitted.".

(b) TECHNICAL AMENDMENTS.—Section 337 (as amended by subsection (a)) is further amended—

(1) by amending subsection (b)—

(A) by striking out "Department of Health, Education, and Welfare" in paragraph (2) and inserting "Department of Health and Human Services"; and

(B) by striking out "Secretary of the Treasury" in paragraph (3) and inserting "Secretary of Commerce";

(2) by amending subsection (c)—

(A) by striking out "or (f)" and inserting "(f), or (g)", and

(B) by striking out "and (f)" and inserting "(f), and (g)";

(3) by striking out "or (f)" each place it appears in subsection (j) and inserting "(f), (g), or (i)";

(4) by striking out "(g)" in subsection (k) and inserting "(j)"; and

(5) by striking out "or (f)" in subsection (l) and inserting "(f), (g), or (i)".

(c) CONFORMING AMENDMENT.—The Act entitled "An Act to limit the importation of products made, produced, processed, or mined

under process covered by unexpired valid United States patents, and for other purposes", approved July 2, 1940 (54 Stat. 724, 19 U.S.C. 1337a), is repealed.

19 USC 1337 note.

(d) EFFECTIVE DATE.—

(1)(A) Subject to subparagraph (B), the amendments made by this section shall take effect on the date of the enactment of this Act.

(B) The United States International Trade Commission is not required to apply the provision in section 337(e)(2) of the Tariff Act of 1930 (as amended by subsection (a)(3) of this section) relating to the posting of bonds until the earlier of—

(i) the 90th day after such date of enactment; or

(ii) the day on which the Commission issues interim regulations setting forth the procedures relating to such posting.

(2) Notwithstanding any provision of section 337 of the Tariff Act of 1930, the United States International Trade Commission may extend, by not more than 90 days, the period within which the Commission is required to make a determination in an investigation conducted under such section 337 if—

(A) the Commission would, but for this paragraph, be required to make such determination before the 180th day after the date of enactment of this Act; and

(B) the Commission finds that the investigation is complicated.

Telecommunications Trade Act of 1988. 19 USC 3101 note.

PART 4—TELECOMMUNICATIONS TRADE

SEC. 1371. SHORT TITLE.

This part may be cited as the "Telecommunications Trade Act of 1988".

19 USC 3101.

SEC. 1372. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) rapid growth in the world market for telecommunications products and services is likely to continue for several decades;

(2) the United States can improve prospects for—

(A) the growth of—

(i) United States exports of telecommunications products and services, and

(ii) export-related employment and consumer services in the United States, and

(B) the continuance of the technological leadership of the United States,

by undertaking a program to achieve an open world market for trade in telecommunications products, services, and investment;

(3) most foreign markets for telecommunications products, services, and investment are characterized by extensive government intervention (including restrictive import practices and discriminatory procurement practices) which adversely affect United States exports of telecommunications products and services and United States investment in telecommunications;

(4) the open nature of the United States telecommunications market, accruing from the liberalization and restructuring of such market, has contributed, and will continue to contribute, to an increase in imports of telecommunications products and a

growing imbalance in competitive opportunities for trade in telecommunications;

(5) unless this imbalance is corrected through the achievement of mutually advantageous market opportunities for trade in telecommunications products and services between the United States and foreign countries, the United States should avoid granting continued open access to the telecommunications products and services of such foreign countries in the United States market; and

(6) the unique business conditions in the worldwide market for telecommunications products and services caused by the combination of deregulation and divestiture in the United States, which represents a unilateral liberalization of United States trade with the rest of the world, and continuing government intervention in the domestic industries of many other countries create a need to make an exception in the case of telecommunications products and services that should not necessarily be a precedent for legislating specific sectoral priorities in combating the closed markets or unfair foreign trade practices of other countries.

(b) PURPOSES.—The purposes of this part are—

(1) to foster the economic and technological growth of, and employment in, the United States telecommunications industry;

(2) to secure a high quality telecommunications network for the benefit of the people of the United States;

(3) to develop an international consensus in favor of open trade and competition in telecommunications products and services;

(4) to ensure that countries which have made commitments to open telecommunications trade fully abide by those commitments; and

(5) to achieve a more open world trading system for telecommunications products and services through negotiation and provision of mutually advantageous market opportunities for United States telecommunications exporters and their subsidiaries in those markets in which barriers exist to free international trade.

SEC. 1373. DEFINITIONS. 19 USC 3102.

For purposes of this part—

(1) The term "Trade Representative" means the United States Trade Representative.

(2) The term "telecommunications product" means—

(A) any paging devices provided for under item 685.65 of such Schedules, and

(B) any article classified under any of the following item numbers of such Schedules:

684.57	684.67	685.28	685.39
684.58	684.80	685.30	685.48
684.59	685.16	685.31	688.17
684.65	685.24	685.33	688.41
684.66	685.25	685.34	707.90.

SEC. 1374. INVESTIGATION OF FOREIGN TELECOMMUNICATIONS TRADE BARRIERS. 19 USC 3103.

(a) IN GENERAL.—The Trade Representative shall conduct an investigation to identify priority foreign countries. Such investiga- Termination date.

tion shall be concluded by no later than the date that is 5 months after the date of enactment of this Act.

(b) FACTORS TO BE TAKEN INTO ACCOUNT.—In identifying priority foreign countries under subsection (a), the Trade Representative shall take into account, among other relevant factors—

(1) the nature and significance of the acts, policies, and practices that deny mutually advantageous market opportunities to telecommunications products and services of United States firms;

(2) the economic benefits (actual and potential) accruing to foreign firms from open access to the United States market;

(3) the potential size of the market of a foreign country for telecommunications products and services of United States firms;

(4) the potential to increase United States exports of telecommunications products and services, either directly or through the establishment of a beneficial precedent; and

(5) measurable progress being made to eliminate the objectionable acts, policies, or practices.

(c) REVOCATIONS AND ADDITIONAL IDENTIFICATIONS.—

(1) The Trade Representative may at any time, after taking into account the factors described in subsection (b)—

(A) revoke the identification of any priority foreign country that was made under this section, or

(B) identify any foreign country as a priority foreign country under this section,

if information available to the Trade Representative indicates that such action is appropriate.

(2) The Trade Representative shall include in the semiannual report submitted to the Congress under section 309(3) of the Trade Act of 1974 a detailed explanation of the reasons for the revocation under paragraph (1) of this subsection of any identification of any foreign country as a priority foreign country.

(d) REPORT TO CONGRESS.—By no later than the date that is 30 days after the date on which the investigation conducted under subsection (a) is completed, the United States Trade Representative shall submit a report on the investigation to the President and to appropriate committees of the Congress.

19 USC 3104.

SEC. 1375. NEGOTIATIONS IN RESPONSE TO INVESTIGATION.

(a) IN GENERAL.—Upon—

(1) the date that is 30 days after the date on which any foreign country is identified in the investigation conducted under section 1374(a) as a priority foreign country, and

President of U.S. Contracts.

(2) the date on which any foreign country is identified under section 1374(c)(1)(B) as a priority foreign country,

the President shall enter into negotiations with such priority foreign country for the purpose of entering into a bilateral or multilateral trade agreement under part 1 of subtitle A which meets the specific negotiating objectives established by the President under subsection (b) for such priority foreign country.

President of U.S.

(b) ESTABLISHMENT OF SPECIFIC NEGOTIATING OBJECTIVES FOR EACH FOREIGN PRIORITY COUNTRY.—

(1) The President shall establish such relevant specific negotiating objectives on a country-by-country basis as are necessary to meet the general negotiating objectives of the United States under this section.

(2)(A) The President may refine or modify specific negotiating objectives for particular negotiations in order to respond to circumstances arising during the negotiating period, including—

(i) changed practices by the priority foreign country,

(ii) tangible substantive developments in multilateral negotiations,

(iii) changes in competitive positions, technological developments, or

(iv) other relevant factors.

(B) By no later than the date that is 30 days after the date on which the President makes any modifications or refinements to specific negotiating objectives under subparagraph (A), the President shall submit to appropriate committees of the Congress a statement describing such modifications or refinements and the reasons for such modifications or refinements.

(c) GENERAL NEGOTIATING OBJECTIVES.—The general negotiating objectives of the United States under this section are—

(1) to obtain multilateral or bilateral agreements (or the modification of existing agreements) that provide mutually advantageous market opportunities for trade in telecommunications products and services between the United States and foreign countries;

(2) to correct the imbalances in market opportunities accruing from reductions in barriers to the access of telecommunications products and services of foreign firms to the United States market; and

(3) to facilitate the increase in United States exports of telecommunications products and services to a level of exports that reflects the competitiveness of the United States telecommunications industry.

(d) SPECIFIC NEGOTIATING OBJECTIVES.—The specific negotiating objectives of the United States under this section regarding telecommunications products and services are to obtain—

(1) national treatment for telecommunications products and services that are provided by United States firms;

(2) most-favored-nation treatment for such products and services;

(3) nondiscriminatory procurement policies with respect to such products and services and the inclusion under the Agreement on Government Procurement of the procurement (by sale or lease by government-owned or controlled entities) of all telecommunications products and services;

(4) the reduction or elimination of customs duties on telecommunications products;

(5) the elimination of subsidies, violations of intellectual property rights, and other unfair trade practices that distort international trade in telecommunications products and services;

(6) the elimination of investment barriers that restrict the establishment of foreign-owned business entities which market such products and services;

(7) assurances that any requirement for the registration of telecommunications products, which are to be located on customer premises, for the purposes of—

(A) attachment to a telecommunications network in a foreign country, and

(B) the marketing of the products in a foreign country, be limited to the certification by the manufacturer that the products meet the standards established by the foreign country for preventing harm to the network or network personnel;

(8) transparency of, and open participation in, the standards-setting processes used in foreign countries with respect to telecommunications products;

(9) the ability to have telecommunications products, which are to be located on customer premises, approved and registered by type, and, if appropriate, the establishment of procedures between the United States and foreign countries for the mutual recognition of type approvals;

(10) access to the basic telecommunications network in foreign countries on reasonable and nondiscriminatory terms and conditions (including nondiscriminatory prices) for the provision of value-added services by United States suppliers;

(11) the nondiscriminatory procurement of telecommunications products and services by foreign entities that provide local exchange telecommunications services which are owned, controlled, or, if appropriate, regulated by foreign governments; and

(12) monitoring and effective dispute settlement mechanisms to facilitate compliance with matters referred to in the preceding paragraphs of this subsection.

President of U.S.
19 USC 3105.

SEC. 1376. ACTIONS TO BE TAKEN IF NO AGREEMENT OBTAINED.

(a) IN GENERAL.—

(1) If the President is unable, before the close of the negotiating period, to enter into an agreement under subtitle A with any priority foreign country identified under section 1374 which achieves the general negotiating objectives described in section 1375(b) as defined by the specific objectives established by the President for that country, the President shall take whatever actions authorized under subsection (b) that are appropriate and most likely to achieve such general negotiating objectives.

(2) In taking actions under paragraph (1), the President shall first take those actions which most directly affect trade in telecommunications products and services with the priority foreign country referred to in paragraph (1), unless the President determines that actions against other economic sectors would be more effective in achieving the general negotiating objectives referred to in paragraph (1).

(b) ACTIONS AUTHORIZED.—

(1) The President is authorized to take any of the following actions under subsection (a) with respect to any priority foreign country:

(A) termination, withdrawal, or suspension of any portion of any trade agreement entered into with such country under—

(i) the Trade Act of 1974,

(ii) section 201 of the Trade Expansion Act of 1962, or

(iii) section 350 of the Tariff Act of 1930,

with respect to any duty or import restriction imposed by the United States on any telecommunications product;

(B) actions described in section 301 of the Trade Act of 1974;

(C) prohibition of purchases by the Federal Government of telecommunications products of such country;

(D) increases in domestic preferences under title III of the Act of March 3, 1933 (41 U.S.C. 10a, et seq.) for purchases by the Federal Government of telecommunications products of such country;

(E) suspension of any waiver of domestic preferences under title III of the Act of March 3, 1933 (41 U.S.C. 10a, et seq.) which may have been extended to such country pursuant to the Trade Agreements Act of 1979 with respect to telecommunications products or any other products;

(F) issuance of orders to appropriate officers and employees of the Federal Government to deny Federal funds or Federal credits for purchases of the telecommunications products of such country; and

(G) suspension, in whole or in part, of benefits accorded articles of such country under title V of the Trade Act of 1974 (19 U.S.C. 2461, et seq.).

(2) Notwithstanding section 125 of the Trade Act of 1974 and any other provision of law, if any portion of a trade agreement described in paragraph (1)(A) is terminated, withdrawn, or suspended under paragraph (1) with respect to any duty imposed by the United States on the products of a foreign country, the rate of such duty that shall apply to such products entered, or withdrawn from warehouse for consumption, after the date on which such termination, withdrawal, or suspension takes effect shall be a rate determined by the President.

(c) NEGOTIATING PERIOD.—

(1) For purposes of this section, the term "negotiating period" means—

(A) with respect to a priority foreign country identified in the investigation conducted under section 1374(a), the 18-month period beginning on the date of the enactment of this Act, and

(B) with respect to any foreign country identified as a priority foreign country after the conclusion of such investigation, the 1-year period beginning on the date on which such identification is made.

(2)(A) The negotiating period with respect to a priority foreign country may be extended for not more than two 1-year periods.

(B) By no later than the date that is 15 days after the date on which the President extends the negotiating period with respect to any priority foreign country, the President shall submit to appropriate committees of the Congress a report on the status of negotiations with such country that includes—

(i) a finding by the President that substantial progress is being made in negotiations with such country, and

(ii) a statement detailing the reasons why an extension of such negotiating period is necessary.

(d) MODIFICATION AND TERMINATION AUTHORITY.—The President may modify or terminate any action taken under subsection (a) if, after taking into consideration the factors described in section 1374(b), the President determines that changed circumstances warrant such modification or termination.

(e) REPORT.—The President shall promptly inform the appropriate committees of the Congress of any action taken under subsection (a)

or of the modification or termination of any such action under subsection (d).

19 USC 3106.

SEC. 1377. REVIEW OF TRADE AGREEMENT IMPLEMENTATION BY TRADE REPRESENTATIVE.

(a) IN GENERAL.—

(1) In conducting the annual analysis under section 181(a) of the Trade Act of 1974 (19 U.S.C. 2241), the Trade Representative shall review the operation and effectiveness of—

(A) each trade agreement negotiated by reason of this part that is in force with respect to the United States; and

(B) every other trade agreement regarding telecommunications products or services that is in force with respect to the United States.

(2) In each review conducted under paragraph (1), the Trade Representative shall determine whether any act, policy, or practice of the foreign country that has entered into the agreement described in paragraph (1)—

(A) is not in compliance with the terms of such agreement, or

(B) otherwise denies, within the context of the terms of such agreement, to telecommunications products and services of United States firms mutually advantageous market opportunities in that foreign country.

(b) REVIEW FACTORS.—

(1) In conducting reviews under subsection (a), the Trade Representative shall consider any evidence of actual patterns of trade (including United States exports to a foreign country of telecommunications products and services, including sales and services related to those products) that do not reflect patterns of trade which would reasonably be anticipated to flow from the concessions or commitments of such country based on the international competitive position and export potential of such products and services.

(2) The Trade Representative shall consult with the United States International Trade Commission with regard to the actual patterns of trade described in paragraph (1).

(c) ACTION IN RESPONSE TO AFFIRMATIVE DETERMINATION.—

(1) Any affirmative determination made by the Trade Representative under subsection (a)(2) with respect to any act, policy, or practice of a foreign country shall, for purposes of chapter 1 of title III of the Trade Act of 1974, be treated as an affirmative determination under section 304(a)(1)(A) of such Act that such act, policy, or practice violates a trade agreement.

(2) In taking actions under section 301 by reason of paragraph (1), the Trade Representative shall first take those actions which most directly affect trade in telecommunications products and services with the priority foreign country referred to in paragraph (1), unless the Trade Representative determines that actions against other economic sectors would be more effective in achieving compliance by the foreign country with the trade agreement that is the subject of the affirmative determination made under subsection (a)(2).

19 USC 3107.

SEC. 1378. COMPENSATION AUTHORITY.

If—

(1) the President has taken action under section 1376(a) with respect to any foreign country, and

(2) such action is found to be inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade,

the President may enter into trade agreements with such foreign country for the purpose of granting new concessions as compensation for such action in order to maintain the general level of reciprocal and mutually advantageous concessions.

SEC. 1379. CONSULTATIONS.

(a) ADVICE FROM DEPARTMENTS AND AGENCIES.—Prior to taking any action under this part, the President shall seek information and advice from the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872). President of U.S. 19 USC 3108.

(b) ADVICE FROM THE PRIVATE SECTOR.—Before—

(1) the Trade Representative concludes the investigation conducted under section 1374(a) or takes action under section 1374(c),

(2) the President establishes specific negotiating objectives under section 1375(b) with respect to any foreign country, or

(3) the President takes action under section 1376,

the Trade Representative shall provide an opportunity for the presentation of views by any interested party with respect to such investigation, objectives, or action, including appropriate committees established pursuant to section 135 of the Trade Act of 1974 (19 U.S.C. 2155).

(c) CONSULTATIONS WITH CONGRESS AND OFFICIAL ADVISORS.—For purposes of conducting negotiations under section 1375(a), the Trade Representative shall keep appropriate committees of the Congress, as well as appropriate committees established pursuant to section 135 of the Trade Act of 1974, currently informed with respect to—

(1) the negotiating priorities and objectives for each priority foreign country;

(2) the assessment of negotiating prospects, both bilateral and multilateral; and

(3) any United States concessions which might be included in negotiations to achieve the objectives described in subsections (c) and (d) of section 1375.

(d) MODIFICATION OF SPECIFIC NEGOTIATING OBJECTIVES.—Before the President takes any action under section 1375(b)(2)(A) to refine or modify specific negotiating objectives, the President shall consult with the Congress and with members of the industry, and representatives of labor, affected by the proposed refinement or modification. President of U.S.

SEC. 1380. SUBMISSION OF DATA; ACTION TO ENSURE COMPLIANCE. 19 USC 3109.

(a) SUBMISSION OF DATA.—The Federal Communications Commission (hereafter in this section referred to as the "Commission") shall periodically submit to appropriate committees of the House of Representatives and of the Senate any data collected and otherwise made public under Report No. DC-1105, "Information Reporting Requirements Established for Common Carriers", adopted February 25, 1988, relating to FCC Docket No. 86-494, adopted December 23, 1987.

(b) ACTION TO ENSURE COMPLIANCE.—

(1)(A) Any product of a foreign country that is subject to registration or approval by the Commission may be entered only if—

(i) such product conforms with all applicable rules and regulations of the Commission, and

(ii) the information which is required on Federal Communications Commission Form 740 on the date of enactment of this Act is provided to the appropriate customs officer at the time of such entry in such form and manner as the Secretary of the Treasury may prescribe.

(B) For purposes of this paragraph, the term "entered" means entered, or withdrawn from warehouse for consumption, in the customs territory of the United States.

(2) The Commission, the Secretary of Commerce, and the Trade Representative shall provide such assistance in the enforcement of paragraph (1) as the Secretary of the Treasury may request.

Reports.

(3) The Secretary of the Treasury shall compile the information collected under paragraph (1)(A)(ii) into a summary and shall annually submit such summary to the Congress until the authority to negotiate trade agreements under part 1 of subtitle A expires. Such information shall also be made available to the public.

Public information.

19 USC 3110.

SEC. 1381. STUDY ON TELECOMMUNICATIONS COMPETITIVENESS IN THE UNITED STATES.

(a) IN GENERAL.—The Secretary of Commerce, in consultation with the Federal Communications Commission and the United States Trade Representative, shall conduct a study of the competitiveness of the United States telecommunications industry and the effects of foreign telecommunications policies and practices on such industry in order to assist the Congress and the President in determining what actions might be necessary to preserve the competitiveness of the United States telecommunications industry.

(b) PUBLIC COMMENT.—The Secretary of Commerce may, as appropriate, provide notice and reasonable opportunity for public comment as part of the study conducted under subsection (a).

(c) REPORT.—The Secretary of Commerce shall, by no later than the date that is 1 year after the date of enactment of this Act, submit to the Congress and the President a report on the findings and recommendations reached by the Secretary of Commerce as a result of the study conducted under subsection (a). Such report shall be referred to the appropriate committees of the House of Representatives and of the Senate.

19 USC 3111.

SEC. 1382. INTERNATIONAL OBLIGATIONS.

Nothing in this part may be construed to require actions inconsistent with the international obligations of the United States, including the General Agreement on Tariffs and Trade.

Subtitle D—Adjustment to Import Competition

PART 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

SEC. 1401. POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS.

(a) IN GENERAL.—Chapter 1 of title II of the Trade Act of 1974 (19 U.S.C. 2251-2253) is amended to read as follows:

"CHAPTER 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

"SEC. 201. ACTION TO FACILITATE POSITIVE ADJUSTMENT TO IMPORT COMPETITION. 19 USC 2251.

"(a) PRESIDENTIAL ACTION.—If the United States International Trade Commission (hereinafter referred to in this chapter as the 'Commission') determines under section 202(b) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article, the President, in accordance with this chapter, shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.

"(b) POSITIVE ADJUSTMENT TO IMPORT COMPETITION.—

"(1) For purposes of this chapter, a positive adjustment to import competition occurs when—

"(A) the domestic industry—

"(i) is able to compete successfully with imports after actions taken under section 204 terminate, or

"(ii) the domestic industry experiences an orderly transfer of resources to other productive pursuits; and

"(B) dislocated workers in the industry experience an orderly transition to productive pursuits.

"(2) The domestic industry may be considered to have made a positive adjustment to import competition even though the industry is not of the same size and composition as the industry at the time the investigation was initiated under section 202(b).

"SEC. 202. INVESTIGATIONS, DETERMINATIONS, AND RECOMMENDATIONS BY COMMISSION. 19 USC 2252.

"(a) PETITIONS AND ADJUSTMENT PLANS.—

"(1) A petition requesting action under this chapter for the purpose of facilitating positive adjustment to import competition may be filed with the Commission by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry.

"(2) A petition under paragraph (1)—

"(A) shall include a statement describing the specific purposes for which action is being sought, which may include facilitating the orderly transfer of resources to more productive pursuits, enhancing competitiveness, or other means of adjustment to new conditions of competition; and

"(B) may—

"(i) subject to subsection (d)(1)(C)(i), request provisional relief under subsection (d)(1); or

"(ii) request, or at any time before the 150th day after the date of filing be amended to request, provisional relief under subsection (d)(2).

"(3) Whenever a petition is filed under paragraph (1), the Commission shall promptly transmit copies of the petition to the Office of the United States Trade Representative and other Federal agencies directly concerned.

"(4) A petitioner under paragraph (1) may submit to the Commission and the United States Trade Representative (hereafter in this chapter referred to as the 'Trade Representative'), either with the petition, or at any time within 120 days after the date of filing of the petition, a plan to facilitate positive adjustment to import competition.

"(5)(A) Before submitting an adjustment plan under paragraph (4), the petitioner and other entities referred to in paragraph (1) that wish to participate may consult with the Trade Representative and the officers and employees of any Federal agency that is considered appropriate by the Trade Representative, for purposes of evaluating the adequacy of the proposals being considered for inclusion in the plan in relation to specific actions that may be taken under this chapter.

Federal Register, publication.

"(B) A request for any consultation under subparagraph (A) must be made to the Trade Representative. Upon receiving such a request, the Trade Representative shall confer with the petitioner and provide such assistance, including publication of appropriate notice in the Federal Register, as may be practicable in obtaining other participants in the consultation. No consultation may occur under subparagraph (A) unless the Trade Representative, or his delegate, is in attendance.

"(6)(A) In the course of any investigation under subsection (b), the Commission shall seek information (on a confidential basis, to the extent appropriate) on actions being taken, or planned to be taken, or both, by firms and workers in the industry to make a positive adjustment to import competition.

"(B) Regardless whether an adjustment plan is submitted under paragraph (4) by the petitioner, if the Commission makes an affirmative determination under subsection (b), any—

"(i) firm in the domestic industry;

"(ii) certified or recognized union or group of workers in the domestic industry;

"(iii) State or local community;

"(iv) trade association representing the domestic industry; or

"(v) any other person or group of persons,

may, individually, submit to the Commission commitments regarding actions such persons and entities intend to take to facilitate positive adjustment to import competition.

"(7) Nothing in paragraphs (5) and (6) may be construed to provide immunity under the antitrust laws.

"(b) INVESTIGATIONS AND DETERMINATIONS BY COMMISSION.—

"(1)(A) Upon the filing of a petition under subsection (b), the request of the President or the Trade Representative, the resolution of either the Committee on Ways and Means of the House of Representatives or the Committee on Finance of the Senate,

or on its own motion, the Commission shall promptly make an investigation to determine whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry producing an article like or directly competitive with the imported article.

"(B) For purposes of this section, the term 'substantial cause' means a cause which is important and not less than any other cause.

"(2)(A) Except as provided in subparagraph (B), the Commission shall make the determination under paragraph (1) within 120 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be.

"(B) If before the 100th day after a petition is filed under subsection (a)(1) the Commission determines that the investigation is extraordinarily complicated, the Commission shall make the determination under paragraph (1) within 150 days after the date referred to in subparagraph (A).

"(3)(A) If the Commission makes an affirmative determination under paragraph (1) and the petitioner alleges the existence of critical circumstances, the Commission shall make a determination regarding such allegation—

"(i) on or before the 120th day after the day on which the petition was filed, if such allegation was included in the petition on or before the 90th day after such filing date; or

"(ii) on or before the date the report required under subsection (f) regarding the determination is submitted to the President, if such allegation was included in the petition after the 90th day, and on or before the 150th day, after such filing date.

"(B) For purposes of this paragraph and subsection (d)(2), critical circumstances exist if a substantial increase in imports (either actual or relative to domestic production) over a relatively short period of time has led to circumstances in which a delay in taking action under this chapter would cause harm that would significantly impair the effectiveness of such action.

"(4) In the course of any proceeding under this subsection, the Commission shall, after reasonable notice, hold public hearings and shall afford interested parties and consumers an opportunity to be present, to present evidence, to comment on the adjustment plan, if any, submitted under subsection (a), and to be heard at such hearings.

"(c) FACTORS APPLIED IN MAKING DETERMINATIONS.—

"(1) In making determinations under subsection (b), the Commission shall take into account all economic factors which it considers relevant, including (but not limited to)—

"(A) with respect to serious injury—

"(i) the significant idling of productive facilities in the domestic industry,

"(ii) the inability of a significant number of firms to carry out domestic production operations at a reasonable level of profit, and

"(iii) significant unemployment or underemployment within the domestic industry; Employment and unemployment.

"(B) with respect to threat of serious injury—

Wages.

"(i) a decline in sales or market share, a higher and growing inventory (whether maintained by domestic producers, importers, wholesalers, or retailers), and a downward trend in production, profits, wages, or employment (or increasing underemployment) in the domestic industry,

"(ii) the extent to which firms in the domestic industry are unable to generate adequate capital to finance the modernization of their domestic plants and equipment, or are unable to maintain existing levels of expenditures for research and development,

"(iii) the extent to which the United States market is the focal point for the diversion of exports of the article concerned by reason of restraints on exports of such article to, or on imports of such article into, third country markets; and

"(C) with respect to substantial cause, an increase in imports (either actual or relative to domestic production) and a decline in the proportion of the domestic market supplied by domestic producers.

"(2) In making determinations under subsection (b), the Commission shall—

"(A) consider the condition of the domestic industry over the course of the relevant business cycle, but may not aggregate the causes of declining demand associated with a recession or economic downturn in the United States economy into a single cause of serious injury or threat of injury; and

"(B) examine factors other than imports which may be a cause of serious injury, or threat of serious injury, to the domestic industry.

The Commission shall include the results of its examination under subparagraph (B) in the report submitted by the Commission to the President under subsection (e).

"(3) The presence or absence of any factor which the Commission is required to evaluate in subparagraphs (A) and (B) of paragraph (1) is not necessarily dispositive of whether an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry.

"(4) For purposes of subsection (b), in determining the domestic industry producing an article like or directly competitive with an imported article, the Commission—

"(A) to the extent information is available, shall, in the case of a domestic producer which also imports, treat as part of such domestic industry only its domestic production;

"(B) may, in the case of a domestic producer which produces more than one article, treat as part of such domestic industry only that portion or subdivision of the producer which produces the like or directly competitive article; and

"(C) may, in the case of one or more domestic producers which produce a like or directly competitive article in a major geographic area of the United States and whose production facilities in such area for such article constitute a substantial portion of the domestic industry in the United States and primarily serve the market in such area, and where the imports are concentrated in such area, treat as

such domestic industry only that segment of the production located in such area.

"(5) In the course of any proceeding under this subsection, the Commission shall investigate any factor which in its judgment may be contributing to increased imports of the article under investigation. Whenever in the course of its investigation the Commission has reason to believe that the increased imports are attributable in part to circumstances which come within the purview of subtitles A and B of title VII or section 337 of the Tariff Act of 1930, or other remedial provisions of law, the Commission shall promptly notify the appropriate agency so that such action may be taken as is otherwise authorized by such provisions of law.

"(6) For purposes of this subsection:

"(A) The term 'domestic industry' includes producers located in the United States insular possession.

"(B) The term 'significant idling of productive facilities' includes the closing of plants or the underutilization of production capacity.

"(d) PROVISIONAL RELIEF.—

Agriculture and agricultural commodities.

"(1)(A) An entity representing a domestic industry that produces a perishable agricultural product that is like or directly competitive with an imported perishable agricultural product may file a request with the Trade Representative for the monitoring of imports of that product under subparagraph (B). Within 21 days after receiving the request, the Trade Representative shall determine if—

"(i) the imported product is a perishable agricultural product; and

"(ii) there is a reasonable indication that such product is being imported into the United States in such increased quantities as to be, or likely to be, a substantial cause of serious injury, or the threat thereof, to such domestic industry.

"(B) If the determinations under subparagraph (A) (i) and (ii) are affirmative, the Trade Representative shall request, under section 332(g) of the Tariff Act of 1930, the Commission to monitor and investigate the imports concerned for a period not to exceed 2 years. The monitoring and investigation may include the collection and analysis of information that would expedite an investigation under subsection (b).

"(C) If a petition filed under subsection (a)—

"(i) alleges injury from imports of a perishable agricultural product that has been, on the date the allegation is included in the petition, subject to monitoring by the Commission under paragraph (2) for not less than 90 days; and

"(ii) requests that provisional relief be provided under this subsection with respect to such imports;

the Commission shall, not later than the 21st day after the day on which the request was filed, make a determination, on the basis of available information, whether increased imports (either actual or relative to domestic production) of the perishable agricultural product are a substantial cause of serious injury, or the threat thereof, to the domestic industry producing a like or directly competitive perishable product, and whether either—

"(I) the serious injury is likely to be difficult to repair by reason of perishability of the like or directly competitive agricultural product; or

"(II) the serious injury cannot be timely prevented through investigation under subsection (b) and action under section 203.

"(D) At the request of the Commission, the Secretary of Agriculture shall promptly provide to the Commission any relevant information that the Department of Agriculture may have for purposes of making determinations and findings under this subsection.

"(E) Whenever the Commission makes an affirmative preliminary determination under subparagraph (C), the Commission shall find the amount or extent of provisional relief that is necessary to prevent or remedy the serious injury or threat thereof. In carrying out this subparagraph, the Commission shall give preference to increasing or imposing a duty on imports, if such form of relief is feasible and would prevent or remedy the serious injury or threat thereof.

Reports. "(F) The Commission shall immediately report to the President its determination under subparagraph (C) and, if the determination is affirmative, the finding under subparagraph (E).

President of U.S. "(G) Within 7 days after receiving a report from the Commission under subparagraph (F) containing an affirmative determination, the President, if he considers provisional relief to be warranted and after taking into account the finding of the Commission under subparagraph (E), shall proclaim such provisional relief that the President considers necessary to prevent or remedy the serious injury or threat thereof.

"(2)(A) The Commission shall, at the same time it makes an affirmative determination under subsection (b)(3)(A) regarding the existence of critical circumstances, find the amount or extent of provisional relief that is appropriate to address such

Reports. critical circumstances. The Commission shall immediately report to the President each such affirmative determination and finding.

President of U.S. "(B) After receiving a report from the Commission under subparagraph (A), the President shall, within 7 days after the day on which the report is received and after taking into account the finding of the Commission under subparagraph (A), proclaim such provisional relief, if any, that the President considers appropriate to address the critical circumstances.

President of U.S. "(3) If provisional relief is proclaimed under paragraph (1)(G) or (2)(B) in the form of an increase, or the imposition of, a duty, the President shall order the suspension of liquidation of all imported articles subject to the affirmative determination under paragraph (1)(C) or subsection (b)(1), as the case may be, that are entered, or withdrawn from warehouse for consumption, on or after the date of the determination.

"(4)(A) Any provisional relief implemented under this subsection with respect to an imported article shall terminate on the day on which—

"(i) if such relief was proclaimed under paragraph (1)(G), the Commission makes a negative determination under section 203(a) regarding injury or the threat thereof by imports of such article;

"(ii) action described in section 203(a)(3) (A) or (C) takes effect under section 203 with respect to such article;

"(iii) a decision by the President not to take any action under section 203(a) with respect to such article becomes final; or

"(iv) whenever the President determines that, because of changed circumstances, such relief is no longer warranted.

"(B) Any suspension of liquidation ordered under paragraph (3) with respect to an imported article shall terminate on the day on which provisional relief is terminated under subparagraph (A) with respect to the article.

"(C) If an increase in, or the imposition of, a duty that is proclaimed under section 203 on an imported article is different from a duty increase or imposition that was proclaimed for such an article under this section, then the entry of any such article for which liquidation was suspended under paragraph (3) shall be liquidated at whichever of such rates of duty is lower.

"(D) If provisional relief in the form of an increase in, or the imposition of, a duty is proclaimed under this section with respect to an imported article and neither a duty increase nor a duty imposition is proclaimed under section 203 regarding such article, the entry of any such article for which liquidation was suspended under paragraph (3) may be liquidated at the rate of duty that applied before provisional relief was provided.

"(5) For purposes of this subsection:

"(A) A perishable agricultural product is any agricultural article, including livestock, regarding which the Trade Representative considers action under this section to be appropriate after taking into account—

"(i) whether the article has—

"(I) a short shelf life,

"(II) a short growing season, or

"(III) a short marketing period,

"(ii) whether the article is treated as a perishable product under any other Federal law or regulation; and

"(iii) any other factor considered appropriate by the Trade Representative.

The presence or absence of any factor which the Trade Representative is required to take into account under clause (i), (ii), or (iii) is not necessarily dispositive of whether an article is a perishable agricultural product.

"(B) The term 'provisional relief' means—

"(i) any increase in, or imposition of, any duty;

"(ii) any modification or imposition of any quantitative restriction on the importation of an article into the United States; or

"(iii) any combination of actions under clauses (i) and (ii).

"(e) COMMISSION RECOMMENDATIONS.—

"(1) If the Commission makes an affirmative determination under subsection (b)(1), the Commission shall also recommend the action that would address the serious injury, or threat thereof, to the domestic industry and be most effective in facilitating the efforts of the domestic industry to make a positive adjustment to import competition.

"(2) The Commission is authorized to recommend under paragraph (1)—

"(A) an increase in, or the imposition of, any duty on the imported article;

"(B) a tariff-rate quota on the article;

"(C) a modification or imposition of any quantitative restriction on the importation of the article into the United States;

"(D) one or more appropriate adjustment measures, including the provision of trade adjustment assistance under chapter 2; or

"(E) any combination of the actions described in subparagraphs (A) through (D).

"(3) The Commission shall specify the type, amount, and duration of the action recommended by it under paragraph (1). The limitations set forth in section 203(e) are applicable to the action recommended by the Commission.

"(4) In addition to the recommendation made under paragraph (1), the Commission may also recommend that the President—

"(A) initiate international negotiations to address the underlying cause of the increase in imports of the article or otherwise to alleviate the injury or threat; or

"(B) implement any other action authorized under law that is likely to facilitate positive adjustment to import competition.

"(5) For purposes of making its recommendation under this subsection, the Commission shall—

"(A) after reasonable notice, hold a public hearing at which all interested parties shall be provided an opportunity to present testimony and evidence; and

"(B) take into account—

"(i) the form and amount of action described in paragraph (2) (A), (B), and (C) that would prevent or remedy the injury of threat thereof,

"(ii) the objectives and actions specified in the adjustment plan, if any, submitted under subsection (a)(4),

"(iii) any individual commitment that was submitted to the Commission under subsection (a)(6),

"(iv) any information available to the Commission concerning the conditions of competition in domestic and world markets, and likely developments affecting such conditions during the period for which action is being requested, and

"(v) whether international negotiations may be constructive to address the injury or threat thereof or to facilitate adjustment.

"(6) Only those members of the Commission who agreed to the affirmative determination under subsection (b) are eligible to vote on the recommendation required to be made under paragraph (1) or that may be made under paragraph (3). Members of the Commission who did not agree to the affirmative determination may submit, in the report required under subsection (f), separate views regarding what action, if any, should be taken under section 203.

"(f) REPORT BY COMMISSION.—

"(1) The Commission shall submit to the President a report on each investigation undertaken under subsection (b). The report shall be submitted at the earliest practicable time, but not later

than 180 days after the date on which the petition is filed, the request or resolution is received, or the motion is adopted, as the case may be.

"(2) The Commission shall include in the report required under paragraph (1) the following:

"(A) The determination made under subsection (b) and an explanation of the basis for the determination.

"(B) If the determination under subsection (b) is affirmative, the recommendations for action made under subsection (e) and an explanation of the basis for each recommendation.

"(C) Any dissenting or separate views by members of the Commission regarding the determination and any recommendation referred to in subparagraphs (A) and (B).

"(D) The findings required to be included in the report under subsection (c)(2).

"(E) A copy of the adjustment plan, if any, submitted under section 201(b)(4).

"(F) Commitments submitted, and information obtained, by the Commission regarding steps that firms and workers in the domestic industry are taking, or plan to take, to facilitate positive adjustment to import competition.

"(G) A description of—

"(i) the short- and long-term effects that implementation of the action recommended under subection (e) is likely to have on the petitioning domestic industry, on other domestic industries, and on consumers, and

"(ii) the short- and long-term effects of not taking the recommended action on the petitioning domestic industry, its workers and the communities where production facilities of such industry is located, and on other domestic industries.

"(3) The Commission, after submitting a report to the President under paragraph (1), shall promptly make it available to the public (with the exception of the confidential information obtained under section 202(a)(6)(B) and any other information which the Commission determines to be confidential) and cause a summary thereof to be published in the Federal Register. Public information. Federal Register, publication.

"(g) EXPEDITED CONSIDERATION OF ADJUSTMENT ASSISTANCE PETITIONS.—If the Commission makes an affirmative determination under subsection (b)(1), the Commission shall promptly notify the Secretary of Labor and the Secretary of Commerce of the determination. After receiving such notification—

"(1) the Secretary of Labor shall give expedited consideration to petitions by workers in the domestic industry for certification for eligibility to apply for adjustment assistance under chapter 2; and

"(2) the Secretary of Commerce shall give expedited consideration to petitions by firms in the domestic industry for certification of eligibility to apply for adjustment assistance under chapter 3.

"(h) LIMITATIONS ON INVESTIGATIONS.—

"(1) Except for good cause determined by the Commission to exist, no investigation for the purposes of this section shall be made with respect to the same subject matter as a previous investigation under this chapter, unless 1 year has elapsed since

the Commission made its report to the President of the results of such previous investigation.

"(2) If an article was the subject of an investigation under this section that resulted in any action described in section 203(a)(3) (A), (B), (C), or (E) being taken under section 203, no other investigation under this chapter may be initiated with respect to such article while such action is in effect or during the period beginning on the date on which such action terminates that is equal in duration to the period during which such action was in effect.

19 USC 2253.

"SEC. 203. ACTION BY PRESIDENT AFTER DETERMINATION OF IMPORT INJURY.

"(a) IN GENERAL.—

"(1)(A) After receiving a report under section 202(f) containing an affirmative finding regarding serious injury, or the threat thereof, to a domestic industry, the President shall take all appropriate and feasible action within his power which the President determines will facilitate efforts by the domestic industry to make a positive adjustment to import competition and provide greater economic and social benefits than costs.

"(B) The action taken by the President under subparagraph (A) shall be to such extent, and for such duration, subject to subsection (e)(1), that the President determines to be appropriate and feasible under such subparagraph.

"(C) The interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962 shall, with respect to each affirmative determination reported under section 202(f), make a recommendation to the President as to what action the President should take under subparagraph (A).

"(2) In determining what action to take under paragraph (1), the President shall take into account—

"(A) the recommendation and report of the Commission;

"(B) the extent to which workers and firms in the domestic industry are—

"(i) benefitting from adjustment assistance and other manpower programs, and

"(ii) engaged in worker retraining efforts;

"(C) the efforts being made, or to be implemented, by the domestic industry (including the efforts included in any adjustment plan or commitment submitted to the Commission under section 201(b)) to make a positive adjustment to import competition;

"(D) the probable effectiveness of the actions authorized under paragraph (3) to facilitate positive adjustment to import competition;

"(E) the short- and long-term economic and social costs of the actions authorized under paragraph (3) relative to their short- and long-term economic and social benefits and other considerations relative to the position of the domestic industry in the United States economy;

"(F) other factors related to the national economic interest of the United States, including, but not limited to—

"(i) the economic and social costs which would be incurred by taxpayers, communities, and workers if import relief were not provided under this chapter,

"(ii) the effect of the implementation of actions under this section on consumers and on competition in domestic markets for articles, and

"(iii) the impact on United States industries and firms as a result of international obligations regarding compensation;

"(G) the extent to which there is diversion of foreign exports to the United States market by reason of foreign restraints;

"(H) the potential for circumvention of any action taken under this section;

"(I) the national security interests of the United States; and

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"(J) the factors required to be considered by the Commission under section 202(e)(5).

"(3) The President may, for purposes of taking action under paragraph (1)—

"(A) proclaim an increase in, or the imposition of, any duty on the imported article;

"(B) proclaim a tariff-rate quota on the article;

"(C) proclaim a modification or imposition of any quantitative restriction on the importation of the article into the United States;

"(D) implement one or more appropriate adjustment measures, including the provision of trade adjustment assistance under chapter 2;

"(E) negotiate, conclude, and carry out orderly marketing agreements with foreign countries limiting the export from foreign countries and the import into the United States of such article;

"(F) proclaim procedures necessary to allocate among importers by the auction of import licenses quantities of the article that are permitted to be imported into the United States;

"(G) initiate international negotiations to address the underlying cause of the increase in imports of the article or otherwise to alleviate the injury or threat thereof;

"(H) submit to Congress legislative proposals to facilitate the efforts of the domestic industry to make a positive adjustment to import competition;

"(I) take any other action which may be taken by the President under the authority of law and which the President considers appropriate and feasible for purposes of paragraph (1); and

"(J) take any combination of actions listed in subparagraphs (A) through (I).

"(4) The President shall take action under paragraph (1) within 60 days after receiving a report from the Commission containing an affirmative determination under section 202(b)(1) (or a determination under such section which he considers to be an affirmative determination by reason of section 330(d) of the Tariff Act of 1930); except that if a supplemental report is requested under paragraph (5), the President shall take action under paragraph (1) within 30 days after the supplemental report is received.

"(5) The President may, within 15 days after the date on which he receives a report from the Commission containing an

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affirmative determination under section 202(b)(1), request additional information from the Commission. The Commission shall, as soon as practicable but in no event more than 30 days after the date on which it receives the President's request, furnish additional information with respect to the industry in a supplemental report.

"(b) REPORTS TO CONGRESS.—

"(1) On the day the President takes action under subsection (a)(1), the President shall transmit to Congress a document describing the action and the reasons for taking the action. If the action taken by the President differs from the action required to be recommended by the Commission under section 202(e)(1), the President shall state in detail the reasons for the difference.

"(2) On the day on which the President decides that there is no appropriate and feasible action to take under subsection (a)(1) with respect to a domestic industry, the President shall transmit to Congress a document that sets forth in detail the reasons for the decision.

"(3) On the day on which the President takes any action under subsection (a)(1) that is not reported under paragraph (1), the President shall transmit to Congress a document setting forth the action being taken and the reasons therefor.

"(c) IMPLEMENTATION OF ACTION RECOMMENDED BY COMMISSION.—If the President reports under subsection (b)(1) or (2) that—

"(1) the action taken under subsection (a)(1) differs from the action recommended by the Commission under section 202(e)(1); or

"(2) no action will be taken under subsection (a)(1) with respect to the domestic industry;

Effective date.

the action recommended by the Commission shall take effect (as provided in subsection (c)(2)) upon the enactment of a joint resolution described in section 152(a)(1)(A) within the 90-day period beginning on the date on which the document referred to in subsection (b)(1) or (2) is transmitted to the Congress.

"(d) TIME FOR TAKING EFFECT OF CERTAIN RELIEF.—

"(1) Except as provided in paragraph (2), any action described in subsection (a)(3)(A), (B), or (C), that is taken under subsection (a)(1) shall take effect within 15 days after the day on which the President proclaims the action, unless the President announces, on the date he decides to take such action, his intention to negotiate one or more orderly marketing agreements in which case the action under subsection (a)(3)(A), (B), or (C) shall be proclaimed and take effect within 90 days after the date of such decision.

"(2) If the contingency set forth in subsection (c) occurs, the President shall, within 30 days after the date of the enactment of the joint resolution referred to in such subsection, proclaim the action recommended by the Commission under section 202(e)(1).

"(e) LIMITATIONS ON ACTIONS.—

"(1)(A) The duration of the period in which action taken under this section may be in effect shall not exceed 8 years.

"(B) If the initial effective period for action taken under this section is less than 8 years, the President may extend the effective period once, but the aggregate of the initial period and the extension may not exceed 8 years.

"(2) Action may be taken under subsection (a)(1)(A), (B), or (C) or under section 202(d)(2)(B) only to the extent the cumulative impact of such action does not exceed the amount necessary to prevent or remedy the serious injury or threat thereof.

"(3) No action may be taken under this section which would increase a rate of duty to (or impose a rate) which is more than 50 percent ad valorem above the rate (if any) existing at the time the action is taken.

"(4) Any action taken under this section proclaiming a quantitative restriction shall permit the importation of a quantity or value of the article which is not less than the quantity or value of such article imported into the United States during the most recent period that is representative of imports of such article.

"(5) To the extent feasible, an effective period of more than 3 years for an action described in subsection (a)(3)(A), (B), or (C) shall be phased down during the period in which the action is taken, with the first reduction taking effect no later than the close of the day which is 3 years after the day on which such action first takes effect.

"(6)(A) The suspension, pursuant to any action taken under this section, of—

"(i) item 806.30 or 807.00 of the Tariff Schedules of the United States with respect to an article; and

"(ii) the designation of any article as an eligible article for purposes of title V;

shall be treated as an increase in duty.

"(B) No proclamation providing for a suspension referred to in subparagraph (A) with respect to any article may be made by the President, nor may any such suspension be recommended by the Commission under section 203(c), unless the Commission, in addition to making an affirmative determination under section 202(b)(1), determines in the course of its investigation under section 203(a) that the serious injury, or threat thereof, substantially caused by imports to the domestic industry producing a like or directly competitive article results from, as the case may be—

"(A) the application of item 806.30 or item 807.00; or

"(B) the designation of the article as an eligible article for the purposes of title V.

"(f) ORDERLY MARKETING AND OTHER AGREEMENTS.—

"(1) If the President takes action under this section other than the implemention of orderly marketing agreements, the President may, after such action takes effect, negotiate orderly marketing agreements with foreign countries, and may, after such agreements take effect, suspend or terminate, in whole or in part, any action previously taken.

"(2) If an orderly marketing agreement implemented under subsection (a) is not effective, the President may, consistent with the limitations contained in subsection (e), take additional action under subsection (a).

"(g) REGULATIONS.—

"(1) The President shall by regulation provide for the efficient and fair administration of all actions taken for the purpose of providing import relief under this chapter.

"(2) In order to carry out an orderly marketing or other international agreement concluded under this chapter, the President may prescribe regulations governing the entry or

withdrawal from warehouse of articles covered by such agreement. In addition, in order to carry out any orderly marketing agreement concluded under this chapter with one or more countries accounting for a major part of United States imports of the article covered by such agreements, including imports into a major geographic area of the United States, the President may issue regulations governing the entry or withdrawal from warehouse of like articles which are the product of countries not parties to such agreement.

"(3) Regulations prescribed under this subsection shall, to the extent practicable and consistent with efficient and fair administration, insure against inequitable sharing of imports by a relatively small number of the larger importers.

19 USC 2254.

"SEC. 204. MONITORING, MODIFICATION, AND TERMINATION OF ACTION.

"(a) MONITORING.—

"(1) So long as any action taken under section 203 remains in effect, the Commission shall monitor developments with respect to the domestic industry, including the progress and specific efforts made by workers and firms in the domestic industry to make a positive adjustment to import competition.

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"(2) The Commission shall submit a report on the results of the monitoring under paragraph (1) to the President and to the Congress not later than—

"(A) the 2nd-anniversary of the day on which the action under section 203 first took effect; and

"(B) the last day of each 2-year period occurring after the 2-year period referred to in subparagraph (A).

"(3) In the course of preparing each report under paragraph (2), the Commission shall hold a hearing at which interested persons shall be given a reasonable opportunity to be present, to produce evidence, and to be heard.

"(4) Upon request of the President, the Commission shall advise the President of its judgment as to the probable economic effect on the industry concerned of any extension, reduction, modification, or termination of the action taken under section 203 which is under consideration.

"(b) REDUCTION, MODIFICATION, AND TERMINATION OF ACTION.—

"(1) Action taken under section 203 may be reduced, modified, or terminated by the President (but not before the President receives the report required under subsection (a)(2)(A)) if the President—

"(A) after taking into account any report or advice submitted by the Commission under subsection (a) and after seeking the advice of the Secretary of Commerce and the Secretary of Labor, determines, on the basis that either—

"(i) the domestic industry has not made adequate efforts to make a positive adjustment to import competition, or

"(ii) the effectiveness of the action taken under section 203 has been impaired by changed economic circumstances,

that changed circumstances warrant such reduction, or termination; or

"(B) determines, after a majority of the representatives of the domestic industry submits to the President a petition requesting such reduction, modification, or termination on

such basis, that the domestic industry has made a positive adjustment to import competition.

"(2) Notwithstanding paragraph (1), the President is authorized to take such additional action under section 203 as may be necessary to eliminate any circumvention of any action previously taken under such section. President of U.S.

"(d) EVALUATION OF EFFECTIVENESS OF ACTION.—

"(1) After any action taken under section 203 has terminated, the Commission shall evaluate the effectiveness of the actions in facilitating positive adjustment by the domestic industry to import competition, consistent with the reasons set out by the President in the report submitted to the Congress under section 203(b).

"(2) During the course of the evaluation conducted under paragraph (1), the Commission shall, after reasonable public notice, hold a hearing on the effectiveness of the action. All interested persons shall have the opportunity to attend such hearing and to present evidence or testimony at such hearing.

"(3) A report on the evaluation made under paragraph (1) and the hearings held under paragraph (2) shall be submitted by the Commission to the President and to the Congress by no later than the 180th day after the day on which the actions taken under section 203 terminated. Reports.

"(e) OTHER PROVISIONS.—

"(1) Action by the President under this chapter may be taken without regard to the provisions of section 126(a) of this Act but only after consideration of the relation of such actions to the international obligations of the United States.

"(2) If the Commission treats as the domestic industry production located in a major geographic area of the United States under section 202(c)(4)(C), then the President shall take into account the geographic concentration of domestic production and of imports in that area in taking any action authorized under paragraph (1).". President of U.S.

(b) CONFORMING AMENDMENTS.—

(1) TRADE ACT OF 1974.—The Trade Act of 1974 is amended as follows:

(A) section 123(b)(4) is amended by striking out "import relief under section 203(h)." and inserting "action under sections 203(e) and 204.". 19 USC 2133.

(B) Sections 224 and 264 (19 U.S.C. 2274 and 2354) are each amended—

(i) by striking out "201" in subsection (a) and inserting "202";

(ii) by striking out "201" in subsection (b) and inserting "202(f)"; and

such section 264 is amended by striking out "201(b)" in subsection (c) and inserting "202(b)".

(2) CARIBBEAN BASIN ECONOMIC RECOVERY ACT.—Section 213 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2703) is amended—

(A) by striking out "proclaimed pursuant to section 203" in subsection (e)(1) and inserting "provided under chapter 1 of title II";

(B) by striking out "201(d)(1)" in subsection (e)(2) and inserting "202(f)";

(C) by striking out "(a) and (c) of section 203" in subsection (e)(3) and inserting "section 203";

(D) by amending subsection (e)(4)—

(i) by striking out "made under subsections (a) and (c) of section 203" and inserting "taken under section 203";

(ii) by striking out "201(b)" the first place it appears and inserting "202(b)"; and

(iii) by striking out "section 201(b) of such Act" and inserting "such section";

(E) by amending subsection (e)(5)—

(i) by striking out "proclamation issued pursuant to section 203" in subparagraph (A) and inserting "action taken under section 203"; and

(ii) by amending subparagraph (B)—

(I) by striking out "to import relief" and inserting "to any such action",

(II) by striking out "such import relief" and inserting "such action", and

(III) by striking out "subsections (h) and (i) of section 203" and inserting "section 203";

(F) by amending subsection (f)(4)—

(i) by amending subparagraph (A) by striking out "proclamation of import relief pursuant to section 202(a)(1)" and inserting "taking of action under section 203", and

(ii) by amending subparagraph (B) to read as follows:

"(B) on the day a determination by the President not to take action under section 203 of such Act not to take action becomes final,".

(3) TRADE AND TARIFF ACT OF 1984.—

(A) Title IV of the Tariff and Trade Act of 1984 is amended—

19 USC 2112 note.

(i) by amending section 403—

(I) by striking out "section 201(d)(1)" in subsection (b) and inserting "section 202(f)",

(II) by striking out "subsections (a) and (c) of" in subsections (c) and (d),

(III) by striking out "201(b)" in subsection (d) and inserting "202(b)", and

(IV) by striking out "subsections (h) and (i) of section 203" in subsection (e)(2) and inserting "sections 203 and 204"; and

19 USC 2112 note.

(ii) by amending section 404—

(I) by striking out "section 201" in subsection (a) and inserting "section 202(a)",

(II) by striking out "proclamation of import relief under section 202(a)(1)" in subsection (d)(1) and inserting "taking of action under section 203", and

(III) by amending subsection (d)(2) to read as follows:

"(2) on the day a determination of the President under section 203 of such Act not to take action becomes final;".

(4) TARIFF ACT OF 1930.—Section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) is amended—

(A) by amending paragraph (1) by striking out "201" and inserting "202";

(B) by amending paragraph (2)—

(i) by striking out "201" the first place it appears and inserting "202(b)",

(iii) by striking out "201(d)(1)" and inserting "202(e)(1)",

(iv) by striking out "sections 202 and 203" each place it appears and inserting "section 203", and

(v) by striking out "203(b)" in subparagraph (B) and inserting "204(a)"; and

(C) by striking out "203(c)(1)" in paragraph (4) and inserting "203(a)".

(5) TABLE OF CONTENTS.—The entry for such chapter 1 in the table of contents to the Trade Act of 1974 is amended to read as follows:

"CHAPTER 1—POSITIVE ADJUSTMENT BY INDUSTRIES INJURED BY IMPORTS

"Sec. 201. Action to facilitate positive adjustment to import competition.
"Sec. 202. Investigations, determinations, and recommendations by Commission.
"Sec. 203. Action by President after determination of import injury.
"Sec. 204. Monitoring, modification, and termination of action.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on the date of the enactment of this Act and shall apply with respect to investigations initiated under chapter 1 of title II of the Trade Act of 1974 on or after that date. Any petition filed under section 201 of such chapter before such date of enactment, and with respect to which the United States International Trade Commission did not make a finding before such date with respect to serious injury or the threat thereof, may be withdrawn and refiled, without prejudice, by the petitioner under section 202(a) of such chapter (as amended by this section). 19 USC 2251 note.

PART 2—MARKET DISRUPTION

SEC. 1411. MARKET DISRUPTION.

(a) IN GENERAL.—Section 406 of the Trade Act of 1974 (19 U.S.C. 2436) is amended as follows—

(1) Subsection (b) is amended to read as follows:

"(b) With respect to any affirmative determination of the Commission under subsection (a)—

"(1) such determination shall be treated as an affirmative determination made under section 201(b) of this Act (as in effect on the day before the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988); and

"(2) sections 202 and 203 of this Act (as in effect on the day before the date of the enactment of such Act of 1988), rather than the provisions of chapter 1 of title II of this Act as amended by section 1401 of such Act of 1988, shall apply with respect to the taking of subsequent action, if any, by the President in response to such affirmative determination;

except that—

"(A) the President may take action under such sections 202 and 203 only with respect to imports from the country or countries involved of the article with respect to which the affirmative determination was made; and

"(B) if such action consists of, or includes, an orderly marketing agreement, such agreement shall be entered into within 60 days after the import relief determination date.".

(2) Subsection (c) is amended by inserting "referred to in subsection (b)" after "sections 202 and 203".

(3) Subsection (e)(2) is amended—

(A) by inserting "(A)" after "(2)"; and

(B) by inserting at the end thereof the following new subparagraphs:

"(B) For purposes of subparagraph (A):

"(i) Imports of an article shall be considered to be increasing rapidly if there has been a significant increase in such imports (either actual or relative to domestic production) during a recent period of time.

"(ii) The term 'significant cause' refers to a cause which contributes significantly to the material injury of the domestic industry, but need not be equal to or greater than any other cause.

"(C) The Commission, in determining whether market disruption exists, shall consider, among other factors—

"(i) the volume of imports of the merchandise which is the subject of the investigation;

"(ii) the effect of imports of the merchandise on prices in the United States for like or directly competitive articles;

"(iii) the impact of imports of such merchandise on domestic producers of like or directly competitive articles; and

"(iv) evidence of disruptive pricing practices, or other efforts to unfairly manage trade patterns.".

(b) CONFORMING AMENDMENTS REQUIRED BY AMENDMENT OF CHAPTER 1 OF TITLE II OF THE TRADE ACT OF 1974.—Such section 406 is further amended— 19 USC 2436.

(1) by striking out "201(a)(1)" in subsection (a)(1) and subsection (d) and inserting "202(a)"; and

(2) by striking out "subsections (a)(2), (b)(3), and (c) of section 201" in subsection (a)(2) and inserting "subsections (a)(3), (b)(4), and (c)(4) of section 202".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) apply with respect to investigations initiated under section 406(a) of the Trade Act of 1974 on or after the date of the enactment of this Act. 19 USC 2436 note.

PART 3—TRADE ADJUSTMENT ASSISTANCE

Employment and unemployment.

SEC. 1421. ELIGIBILITY OF WORKERS AND FIRMS FOR TRADE ADJUSTMENT ASSISTANCE.

(a) OIL AND NATURAL GAS INDUSTRY.—

(1)(A) Section 222 of the Trade Act of 1974 (19 U.S.C. 2272) is amended—

(i) by striking out "For purposes of paragraph (3), the term 'contributed importantly' means a cause which is important, but not necessarily more important than any other cause.",

(ii) by striking out "The Secretary" and inserting in lieu thereof "(a) The Secretary", and

(iii) by adding at the end thereof the following new subsection:

"(b) For purposes of subsection (a)(3)—

"(1) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(2)(A) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

"(B) Any firm, or appropriate subdivision of a firm, that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.".

(B) Notwithstanding section 223(b) of the Trade Act of 1974, or any other provision of law, any certification made under subchapter A of chapter 2 of title II of such Act which— 19 USC 2272 note.

(i) is made with respect to a petition filed before the date that is 90 days after the date of enactment of this Act, and

(ii) would not have been made if the amendments made by subparagraph (A) had not been enacted into law,

shall apply to any worker whose most recent total or partial separation from the firm, or appropriate subdivision of the firm, described in section 222(a) of such Act occurs after September 30, 1985.

(2) Subsection (c) of section 251 of the Trade Act of 1974 (19 U.S.C. 2341(c)) is amended to read as follows:

"(c)(1) The Secretary shall certify a firm (including any agricultural firm) as eligible to apply for adjustment assistance under this chapter if the Secretary determines—

"(A) that a significant number or proportion of the workers in such firm have become totally or partially separated, or are threatened to become totally or partially separated,

"(B) that—

"(i) sales or production, or both, of such firm have decreased absolutely, or

"(ii) sales or production, or both, of an article that accounted for not less than 25 percent of the total production or sales of the firm during the 12-month period preceding the most recent 12-month period for which data are available have decreased absolutely, and

"(C) increases of imports of articles like or directly competitive with articles which are produced by such firm contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.

"(2) For purposes of paragraph (1)(C)—

"(A) The term 'contributed importantly' means a cause which is important but not necessarily more important than any other cause.

"(B)(i) Any firm which engages in exploration or drilling for oil or natural gas shall be considered to be a firm producing oil or natural gas.

"(ii) Any firm that engages in exploration or drilling for oil or natural gas, or otherwise produces oil or natural gas, shall be considered to be producing articles directly competitive with imports of oil and with imports of natural gas.".

(b) APPLICATION TO ALL INDUSTRIES.—

(1) Paragraph (3) of section 222(a) of the Trade Act of 1974 (19 U.S.C. 2272(a)(3)) is amended to read as follows:

"(3) increases of imports of articles like or directly competitive with articles—

"(A) which are produced by such workers' firm or appropriate subdivision thereof, or

"(B) for which such workers' firm, or appropriate subdivision thereof, provides essential goods or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.".

(2) Subparagraph (C) of section 251(c)(1) of the Trade Act of 1974 (19 U.S.C. 2341(c)(1)(C)) is amended to read as follows:

"(C) increases of imports of articles like or directly competitive with articles—

"(i) which are produced by such firm, or

"(ii) for which such firm provides essential goods or essential services,

contributed importantly to such total or partial separation, or threat thereof, and to such decline in sales or production.".

Employment and unemployment.

SEC. 1422. NOTICE TO WORKERS OF BENEFITS UNDER TRADE ADJUSTMENT ASSISTANCE PROGRAM.

Section 225 of the Trade Act of 1974 (19 U.S.C. 2275) is amended—

(1) by striking out "The Secretary" in the first sentence and inserting in lieu thereof "(a) The Secretary", and

(2) by adding at the end thereof the following new subsection:

Mail.

"(b)(1) The Secretary shall provide written notice through the mail of the benefits available under this chapter to each worker whom the Secretary has reason to believe is covered by a certification made under subchapter A of this chapter—

"(A) at the time such certification is made, if the worker was partially or totally separated from the adversely affected employment before such certification, or

"(B) at the time of the total or partial separation of the worker from the adversely affected employment, if subparagraph (A) does not apply.

"(2) The Secretary shall publish notice of the benefits available under this chapter to workers covered by each certification made under subchapter A in newspapers of general circulation in the areas in which such workers reside.".

Employment and unemployment.

SEC. 1423. CASH ASSISTANCE FOR WORKERS.

(a) PARTICIPATION IN TRAINING PROGRAM REQUIRED.—

(1) Paragraph (5) of section 231(a) of the Trade Act of 1974 (19 U.S.C. 2291(a)(5)) is amended to read as follows:

"(5) Such worker—

"(A) is enrolled in a training program approved by the Secretary under section 236(a),

"(B) has, after the date on which the worker became totally separated, or partially separated, from the adversely affected employment, completed a training program approved by the Secretary under section 236(a), or

"(C) has received a written statement certified under subsection (c)(1) after the date described in subparagraph (B).".

(2) Subsection (b) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(b)) is amended to read as follows:

"(b)(1) If—

"(A) the Secretary determines that—

"(i) the adversely affected worker—

"(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subsection (a)(5), or

"(II) has ceased to participate in such training program before completing such training program, and

"(ii) there is no justifiable cause for such failure or cessation, or

"(B) the certification made with respect to such worker under subsection (c)(1) is revoked under subsection (c)(2),

no trade readjustment allowance may be paid to the adversely affected worker under this part for the week in which such failure, cessation, or revocation occurred, or any succeeding week, until the adversely affected worker begins or resumes participation in a training program approved under section 236(a).

"(2) The provisions of subsection (a)(5) and paragraph (1) shall not apply with respect to any week of unemployment which begins—

"(A) after the date that is 60 days after the date on which the petition that results in the certification that covers the worker is filed under section 221, and

"(B) before the first week following the week in which such certification is made under subchapter (A).".

(3) Subsection (c) of section 231 of the Trade Act of 1974 (19 U.S.C. 2291(c)) is amended to read as follows:

"(c)(1)(A) If the Secretary finds that it is not feasible or appropriate to approve a training program for a worker under section 236(a), the Secretary shall submit to such worker a written statement certifying such finding.

"(B) If a State or State agency has an agreement with the Secretary under section 239 and the State or State agency finds that it is not feasible or appropriate to approve a training program for a worker pursuant to the requirements of section 236(a), the State or State agency shall— State and local governments. Contracts.

"(i) submit to such worker a written statement certifying such finding, and

"(ii) submit to the Secretary a written statement certifying such finding and the reasons for such finding.

"(2)(A) If, after submitting to a worker a written statement certified under paragraph (1)(A), the Secretary finds that it is feasible or appropriate to approve a training program for such worker under section 236(a), the Secretary shall submit to such worker a written statement that revokes the certification made under paragraph (1)(A) with respect to such worker.

"(B) If, after submitting to a worker a written statement certified under paragraph (1)(B), a State or State agency finds that it is feasible or appropriate to approve a training program for such worker pursuant to the requirements of section 236(a), the State or State agency shall submit to such worker, and to the Secretary, a written statement that revokes the certification made under paragraph (1)(B) with respect to such worker.

"(3) The Secretary shall submit to the Finance Committee of the Senate and to the Ways and Means Committee of the House of Representatives an annual report on the number of workers who received certifications under paragraph (1) during the preceding year and the number of certifications made under paragraph (1) that were revoked during the preceding year.". Reports.

(4) Paragraph (3) of section 239(a) of the Trade Act of 1974 (19 U.S.C. 2311(a)(3)) is amended to read as follows:

"(3) will make any certifications required under section 231(c)(2), and".

(b) WEEKLY AMOUNTS OF READJUSTMENT ALLOWANCES.—Section 232 of the Trade Act of 1974 (19 U.S.C. 2292) is amended—

(1) by striking out ", including on-the-job training," in subsection (b), and

(2) by striking out "under section 231(c) or 236(c)" in subsection (c) and inserting in lieu thereof "under section 231(b)".

(c) LIMITATIONS.—Section 233 of the Trade Act of 1974 (19 U.S.C. 2293) is amended—

(1) by striking out "is approved" in subsection (a)(3)(B) and inserting in lieu thereof "begins",

(2) by striking out "engaged in such training and has not been determined under section 236(c) to be failing to make satisfactory progress in the training" in subsection (a)(3) and inserting in lieu thereof "participating in such training", and

(3) by adding at the end thereof the following new subsection:

"(f) For purposes of this chapter, a worker shall be treated as participating in training during any week which is part of a break in training that does not exceed 14 days if—

"(1) the worker was participating in a training program approved under section 236(a) before the beginning of such break in training, and

"(2) the break is provided under such training program.".

(d) SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS.—

(1) Subchapter C of chapter 2 of title II of the Trade Act of 1974 is amended by inserting after section 245 the following new section:

19 USC 2318.

"SEC. 246. SUPPLEMENTAL WAGE ALLOWANCE DEMONSTRATION PROJECTS.

"(a) The Secretary shall establish and carry out one or more demonstration projects during fiscal years 1989 and 1990 for the purpose of—

"(1) determining the attractiveness of a supplemental wage allowance to various categories of workers eligible for assistance under this chapter, based on the amount and duration of the supplement;

"(2) determining the effectiveness of a supplemental wage allowance as an option under this chapter in facilitating the readjustment of adversely affected workers; and

"(3) determining whether a supplemental wage allowance should be made an option under the Trade Adjustment Assistance program for all fiscal years.

"(b)(1) For purposes of this section, the term 'supplemental wage allowance' means a payment that is made to an adversely affected worker who—

"(A) accepts full-time employment at an average weekly wage that is less than the average weekly wage of the worker in the adversely affected employment,

"(B) prior to such acceptance, is eligible for trade readjustment allowances under part I of subchapter B, and

"(C) voluntarily elects to receive such payment in lieu of any trade readjustment allowances that the worker would otherwise

be eligible to receive with respect to the period covered by the certification made under subchapter A that applies to such worker.

"(2) A supplemental wage allowance shall be provided under any demonstration project established under subsection (a) to a worker described in paragraph (1) for each week during which the worker performs services in the full-time employment referred to in paragraph (1)(A) in an amount that does not exceed the lesser of—

"(A) the amount of the trade readjustment allowance that the worker would have been eligible to receive for any week under part 1 of subchapter B if the worker had not accepted the full-time employment and had not made the election described in paragraph (1)(C), or

"(B) the excess of—

"(i) an amount equal to 80 percent of the average weekly wage of the worker in the adversely affected employment, over

"(ii) the average weekly wage in the full-time employment.

"(3)(A) Supplemental wage allowances shall not be provided under any demonstration project established under subsection (a) for more than 52 weeks.

"(B) The total amount of supplemental wage allowances that may be paid to any worker under any demonstration project established under subsection (a) with respect to the period covered by the certification applicable to such worker shall not exceed an amount that is equal to the excess of—

"(i) the amount of the limitation imposed under section 233(a)(1) with respect to such worker for such period, over

"(ii) the amount of the trade readjustment allowances paid under part I of subchapter B to such worker for such period.

"(c) The Secretary shall provide for an evaluation of demonstration projects conducted under this section to determine at least the following:

"(1) the extent to which different age groups of eligible recipients utilize the supplemental wage allowance;

"(2) the effect of the amount and duration of the supplemental wage allowance on the utilization of the allowance;

"(3) the extent to which the supplemental wage allowance affects the demand for training and the appropriateness thereof;

"(4) the extent to which the supplemental wage allowance facilitates the readjustment of workers who would not otherwise utilize benefits provided under this chapter;

"(5) the extent to which the allowance affects the cost of carrying out the provisions of this chapter; and

"(6) the effectiveness of the supplemental wage allowance as an option under this chapter in facilitating the readjustment of adversely affected workers.

"(d) By no later than the date that is 3 years after the date of enactment of the Omnibus Trade and Competitiveness Act of 1988, the Secretary shall transmit to the Congress a report that includes— Reports.

"(1) an evaluation of the projects authorized under this section that is conducted in accordance with subsection (c), and

"(2) a recommendation as to whether the supplemental wage allowance should be available on a permanent basis as an

option for some or all workers eligible for assistance under this chapter.".

19 USC 2318 note.

(2) For purposes of funding the demonstration projects established under section 246(a) of the Trade Act of 1974, as added by paragraph (1) of this subsection—

(A) the supplemental wage allowances payable under such projects shall be considered to be trade readjustment allowances payable under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974, and

(B) the costs of administering such projects by the States shall be considered to be costs of administering such part I.

(3) The table of contents of the Trade Act of 1974 is amended by inserting after the item relating to section 245 the following new item:

"Sec. 246. Supplemental wage allowance demonstration projects.".

Employment and unemployment.

SEC. 1424. JOB TRAINING FOR WORKERS.

(a) IN GENERAL.—Subsection (a) of section 236 of the Trade Act of 1974 (19 U.S.C. 2296(a)) is amended—

(1) by striking out "is available" in paragraph (1)(D) and inserting in lieu thereof "is reasonably available",

(2) by striking out ", and" at the end of subparagraph (D) of paragraph (1),

(3) by adding "and" at the end of subparagraph (E) of paragraph (1),

(4) by inserting after subparagraph (E) of paragraph (1) the following new subparagraph:

"(F) such training is suitable for the worker and available at a reasonable cost,",

(5) by striking out "(to the extent appropriated funds are available)" in the first sentence of paragraph (1),

(6) by inserting "(subject to the limitations imposed by this section)" after "costs of such training" in the second sentence of paragraph (1),

(7) by inserting "directly or through a voucher system" after "by the Secretary" in the second sentence of paragraph (1),

(8) by striking out "and" at the end of subparagraph (C) of paragraph (4),

(9) by redesignating subparagraph (D) of paragraph (4) as subparagraph (F) of paragraph (4),

(10) by inserting after subparagraph (C) of paragraph (4) the following new subparagraphs:

Education.

"(D) any program of remedial education,

"(E) any training program (other than a training program described in paragraph (7)) for which all, or any portion, of the costs of training the worker are paid—

"(i) under any Federal or State program other than this chapter, or

"(ii) from any source other than this section, and",

(11) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively,

(12) by inserting after paragraph (1) the following new paragraph:

"(2)(A) The total amount of payments that may be made under paragraph (1) for any fiscal year shall not exceed $80,000,000.

"(B) If, during any fiscal year, the Secretary estimates that the amount of funds necessary to pay the costs of training approved

under this section will exceed the amount of the limitation imposed under subparagraph (A), the Secretary shall decide how the portion of such limitation that has not been expended at the time of such estimate is to be apportioned among the States for the remainder of such fiscal year.", and

(13) by adding at the end of subsection (a) the following new paragraphs:

"(6)(A) The Secretary is not required under paragraph (1) to pay the costs of any training approved under paragraph (1) to the extent that such costs are paid—

"(i) under any Federal or State program other than this chapter, or

"(ii) from any source other than this section.

"(B) Before approving any training to which subparagraph (A) may apply, the Secretary may require that the adversely affected worker enter into an agreement with the Secretary under which the Secretary will not be required to pay under this section the portion of the costs of such training that the worker has reason to believe will be paid under the program, or by the source, described in subparagraph (A) or (B) of paragraph (1). Contracts.

"(7) The Secretary shall not approve a training program if—

"(A) all or a portion of the costs of such training program are paid under any nongovernmental plan or program,

"(B) the adversely affected worker has a right to obtain training or funds for training under such plan or program, and

"(C) such plan or program requires the worker to reimburse the plan or program from funds provided under this chapter, or from wages paid under such training program, for any portion of the costs of such training program paid under the plan or program.

"(8) The Secretary may approve training for any adversely affected worker who is a member of a group certified under subchapter A at any time after the date on which the group is certified under subchapter A, without regard to whether such worker has exhausted all rights to any unemployment insurance to which the worker is entitled.

"(9) The Secretary shall prescribe regulations which set forth the criteria under each of the subparagraphs of paragraph (1) that will be used as the basis for making determinations under paragraph (1).". Regulations.

(b) DELAYED INCREASE IN LIMITATION.—Paragraph (2) of section 236(a) of the Trade Act of 1974, as added by subsection (a)(12) of this section, is amended by striking out "$80,000,000" in subparagraph (A) and inserting in lieu thereof "$120,000,000".

(c) ON-THE-JOB TRAINING.—Section 236 of the Trade Act of 1974 (19 U.S.C. 2296) is amended—

(1) by striking out that portion of subsection (d) that precedes paragraph (1) and inserting in lieu thereof the following:

"(d) The Secretary shall pay the costs of any on-the-job training of an adversely affected worker that is approved under subsection (a)(1) in equal monthly installments, but the Secretary may pay such costs, notwithstanding any other provision of this section, only if—",

(2) by striking out subsection (c), and

(3) by redesignating subsections (d), (e), and (f) as subsections (c), (d), and (e), respectively.

(d) AGREEMENTS WITH THE STATES.—

(1)(A) Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is amended by striking out "cooperating State agencies" and inserting in lieu thereof "the States".

(B) Subsection (e) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311(e)) is amended to read as follows:

"(e) Any agreement entered into under this section shall provide for the coordination of the administration of the provisions for employment services, training, and supplemental assistance under sections 235 and 236 of this Act and under title III of the Job Training Partnership Act upon such terms and conditions as are established by the Secretary in consultation with the States and set forth in such agreement. Any agency of the State jointly administering such provisions under such agreement shall be considered to be a cooperating State agency for purposes of this chapter.".

(2) Subsection (f) of section 239 of the Trade Act of 1974 (19 U.S.C. 2311(f)) is amended to read as follows:

"(f) Each cooperating State agency shall, in carrying out subsection (a)(2)—

"(1) advise each worker who applies for unemployment insurance of the benefits under this chapter and the procedures and deadlines for applying for such benefits,

"(2) facilitate the early filing of petitions under section 221 for any workers that the agency considers are likely to be eligible for benefits under this chapter,

"(3) advise each adversely affected worker to apply for training under section 236(a) before, or at the same time, the worker applies for trade readjustment allowances under part I of subchapter B, and

"(4) as soon as practicable, interview the adversely affected worker regarding suitable training opportunities available to the worker under section 236 and review such opportunities with the worker.".

Employment and unemployment.

SEC. 1425. LIMITATION ON PERIOD IN WHICH TRADE READJUSTMENT ALLOWANCES MAY BE PAID.

(a) IN GENERAL.—Paragraph (2) of section 233(a) of the Trade Act of 1974 (19 U.S.C. 2293(a)(2)) is amended to read as follows:

"(2) A trade readjustment allowance shall not be paid for any week occurring after the close of the 104-week period that begins with the first week following the week in which the adversely affected worker was most recently totally separated from adversely affected employment—

"(A) within the period which is described in section 231(a)(1), and

"(B) with respect to which the worker meets the requirements of section 231(a)(2).".

19 USC 2293 note.

(b) WAIVER OF CERTAIN TIME LIMITATIONS.—

(1) The provisions of subsections (a)(2) and (b) of section 233 of the Trade Act of 1974 shall not apply with respect to any worker who became totally separated from adversely affected employment (within the meaning of section 247 of such Act) during the period that began on August 13, 1981, and ended on April 7, 1986.

(2)(A) Any worker who is otherwise eligible for payment of a trade readjustment allowance under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 by reason of

paragraph (1) of this subsection may receive payments of such allowance only if such worker—

(i) is enrolled in a training program approved by the Secretary under section 236(a) of such Act, and

(ii) has been unemployed continuously since the date on which the worker became totally separated from the adversely affected employment, not taking into account seasonal employment, odd jobs, or part-time, temporary employment.

(B) If the Secretary of Labor determines that—

(i) a worker—

(I) has failed to begin participation in the training program the enrollment in which meets the requirement of subparagraph (A), or

(II) has ceased to participate in such training program before completing such training program, and

(ii) there is no justifiable cause for such failure or cessation,

no trade readjustment allowance may be paid to the worker under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974 for the week in which such failure or cessation occurred, or any succeeding week, until the worker begins or resumes participation in a training program approved under section 236(a) of such Act.

SEC. 1426. AUTHORIZATION OF TRADE ADJUSTMENT ASSISTANCE PROGRAM.

(a) EXTENSION OF SUNSET.—Subsection (b) of section 285 of the Trade Act of 1974 (19 U.S.C. 2271, preceding note) is amended to read as follows:

"(b) No assistance, vouchers, allowances, or other payments may be provided under chapter 2, no technical assistance may be provided under chapter 3, and no duty shall be imposed under section 287, after September 30, 1993.".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended by striking out "1986, 1987, 1988, 1989, 1990, and 1991" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, and 1993".

(2) Subsection (b) of section 256 of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended by striking out "1986, 1987, 1988, 1989, 1990, and 1991" and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, and 1993".

(c) SPECIAL RULE.—In addition to amounts appropriated for payments under sections 236, 237, and 238 of the Trade Act of 1974 (19 U.S.C. 2296) for fiscal year 1988, such amounts as may be necessary for payments under such sections—

(1) after the date of enactment of this Act, and

(2) before October 1, 1988,

are hereby appropriated and shall be charged to the appropriation for payments under such sections for fiscal year 1989.

SEC. 1427. TRADE ADJUSTMENT ASSISTANCE TRUST FUND.

(a) IN GENERAL.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391, et seq.) is amended by inserting after section 285 the following new section:

19 USC 2396.

"SEC. 286. TRADE ADJUSTMENT ASSISTANCE TRUST FUND.

"(a) There is hereby established within the Treasury of the United States a trust fund to be known as the Trade Adjustment Assistance Trust Fund (hereinafter in this section referred to as the 'Trust Fund'), consisting of such amounts as may be transferred or credited to the Trust Fund as provided in this section or appropriated to the Trust Fund under subsection (e).

"(b)(1) The Secretary of the Treasury shall transfer to the Trust Fund out of the general fund of the Treasury of the United States amounts determined by the Secretary of the Treasury to be equivalent to the amounts received into such general fund that are attributable to the duty imposed by section 287.

"(2) The amounts which are required to be transferred under paragraph (1) shall be transferred at least quarterly from the general fund of the Treasury of the United States to the Trust Fund on the basis of estimates made by the Secretary of the Treasury of the amounts referred to in paragraph (1) that are received into the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of, or less than, the amounts required to be transferred.

Reports.

"(c)(1) The Secretary of the Treasury shall be the trustee of the Trust Fund, and shall submit an annual report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on the financial condition and the results of the operations of the Trust Fund during the fiscal year preceding the fiscal year in which such report is submitted and on the expected condition and operations of the Trust Fund during the fiscal year in which such report is submitted and the 5 fiscal years succeeding such fiscal year. Such report shall be printed as a House document of the session of the Congress to which the report is made.

Securities.

"(2)(A) The Secretary of the Treasury shall invest such portion of the Trust Fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States. For such purpose, such obligations may be acquired—

"(i) on original issue at the issue price, or

"(ii) by purchase of outstanding obligations at the market price.

"(B) Any obligation acquired by the Trust Fund may be sold by the Secretary of the Treasury at the market price.

"(C) The interest on, and the proceeds from the sale or redemption of, any obligations held in the Trust Fund shall be credited to and form a part of the Trust Fund.

"(d)(1) Amounts in the Trust Fund shall be available—

"(A) for the payment of drawbacks and refunds of the duty imposed by section 287 that are allowable under any other provision of Federal law,

"(B) as provided in appropriation Acts—

"(i) for expenditures that are required to carry out the provisions of chapters 2 and 3, including administrative costs, and

"(ii) for payments required under subsection (e)(2).

"(2) None of the amounts in the Trust Fund shall be available for the payment of loans guaranteed under chapter 3 or for any other expenses relating to financial assistance provided under chapter 3.

"(3)(A) If the total amount of funds expended in any fiscal year to carry out chapters 2 and 3 (including administrative costs) exceeds an amount equal to 0.15 percent of the total value of all articles upon which a duty was imposed by section 287 during the preceding 1-year period, the Secretary of Labor and the Secretary of Commerce (in consultation with the Secretary of the Treasury) shall, notwithstanding any provision of chapter 2 or 3, make a pro rata reduction in—

"(i) the amounts of the trade readjustment allowances that are paid under part I of subchapter B of chapter 2, and

"(ii) the assistance provided under chapter 3,

to ensure (based on estimates of the amount of funds that will be necessary to carry out chapters 2 and 3, and of the amount of revenue that will be raised by section 287, during the remainder of such fiscal year and for the fiscal year succeeding such fiscal year) that all workers and firms eligible for assistance under chapter 2 or 3 receive some assistance under chapter 2 or 3 and that the expenditures made in providing such assistance during the remainder of such fiscal year and the fiscal year succeeding such fiscal year do not exceed the amount of funds available in the Trust Fund to pay for such expenditures.

"(B) No reduction may be made under this paragraph in the amount of any trade readjustment allowance payable under part I of subchapter B of chapter 2 to any worker who received such trade readjustment allowance under such part for the week preceding the first week for which such reduction is otherwise being made under this paragraph.

"(C) If a pro rata reduction made under subparagraph (A) is in effect at the close of a fiscal year, the Secretary of Labor and the Secretary of Commerce, in consultation with the Secretary of the Treasury, may adjust or modify such reduction at the beginning of the fiscal year succeeding such fiscal year, based on estimates of the amount of funds that will be necessary to carry out chapters 2 and 3, and of the amount of revenue that will be raised by section 287, during that succeeding fiscal year.

"(D) Any pro rata reduction made under subparagraph (A), and any pro rata reduction adjusted or modified under subparagraph (C), shall cease to apply after the week in which—

"(i) a 1-year period ends during which the total amount of funds that would have been expended to carry out chapters 2 and 3, including administrative costs, if such reduction were not in effect did not exceed an amount equal to 0.15 percent of the total value of all articles upon which a duty was imposed during such 1-year period, or

"(ii) the Secretary of Labor and the Secretary of Commerce, in consultation with the Secretary of the Treasury, determine that the amount of funds available in the Trust Fund are sufficient to carry out chapters 2 and 3 without such reduction.

"(e)(1)(A) There are authorized to be appropriated to the Trust Fund, as repayable advances, such sums as may from time to time be necessary to make the expenditures described in subsection (d)(1)(B). Appropriation authorization.

"(B) Any advance appropriated to the Trust Fund under the authority of subparagraph (A) may be paid to the Trust Fund only to the extent that the total amount of advances paid during the fiscal year to the Trust Fund from any appropriation authorized under

subparagraph (A) that are outstanding after such advance is paid to the Trust Fund does not exceed the lesser of—

"(i) the excess of—

"(I) the total amount of funds that the Secretary of the Treasury (in consultation with the Secretary of Labor and the Secretary of Commerce) estimates will be necessary for the payments and expenditures described in subparagraphs (A) and (B) of subsection (d)(1) for such fiscal year, over

"(II) the total amount of funds that the Secretary of the Treasury estimates will be available in the Trust Fund during the fiscal year (determined without regard to any advances made under this subsection during such fiscal year), or

"(ii) the excess of—

"(I) an amount equal to 0.15 percent of the total value of all articles upon which the Secretary of the Treasury estimates a duty will be imposed by section 287 during such fiscal year, over

"(II) the amount described in clause (i)(II).

"(2) Advances made to the Trust Fund from appropriations authorized under paragraph (1)(A) shall be repaid, and interest on such advances shall be paid, to the general fund of the Treasury of the United States when the Secretary of the Treasury determines that sufficient funds are available in the Trust Fund for such purposes.

"(3) Interest on advances made from appropriations authorized under paragraph (1)(A) shall be at a rate determined by the Secretary of the Treasury (as of the close of the calendar month preceding the month in which the advance is made) to be equal to the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the anticipated period during which the advance will be outstanding.".

(b) CONFORMING AMENDMENT.—The table of contents for the Trade Act of 1974 is amended by inserting, after the item relating to section 285, the following new items:

"Sec. 286. Trade Adjustment Trust Fund.
"Sec. 287. Imposition of additional fee.".

President of U.S.
19 USC 2397
note.

SEC. 1428. IMPOSITION OF SMALL UNIFORM FEE ON ALL IMPORTS.

(a) NEGOTIATIONS.—

(1) The President shall—

(A) undertake negotiations necessary to achieve changes in the General Agreement on Tariffs and Trade that would allow any country to impose a small uniform fee of not more than 0.15 percent on all imports to such country for the purpose of using the revenue from such fee to fund programs which directly assist adjustment to import competition, and

(B) undertake negotiations with any foreign country that has entered into a free trade agreement with the United States under subtitle A or under section 102 of the Trade Act of 1974 to obtain the consent of such country to the imposition of such a fee by the United States.

(2) In the report that is submitted under section 163 of the Trade Act of 1974 for 1989 and 1990, the President shall include a statement on the progress of negotiations conducted under paragraph (1).

(3)(A) On the first day after the date of enactment of this Act on which the General Agreement on Tariffs and Trade allows any country to impose a fee described in paragraph (1), the President shall submit to the Congress, and publish in the Federal Register, a written statement certifying such allowance. Federal Register, publication.

(B) On the first day after the date of enactment of this Act on which any foreign country described in paragraph (1)(B) consents to the imposition of such a fee by the United States, the President shall submit to the Congress, and publish in the Federal Register, a written statement certifying such consent.

(4) If—

(A) the President does not submit to the Congress the written statement described in paragraph (3)(A) before the date that is 2 years after the date of enactment of this Act, and

(B) the President determines on such date that the fee imposed by the amendment made by subsection (b) is not in the national economic interest,

the President shall submit to the Congress, and publish in the Federal Register, written notice of such determination on such date. Federal Register, publication.

(5)(A) Any disapproval resolution that is introduced in the Senate or House of Representatives within the 90-day period beginning on the date that is 2 years after the date of enactment of this Act shall, for purposes of section 152 of the Trade Act of 1974 (19 U.S.C. 2192), be treated as a joint resolution described in section 152(a)(1)(A) of such Act.

(B) For purposes of this part, the term "disapproval resolution" means a joint resolution of the two Houses of the Congress, the matter after the resolving clause of which is as follows: "That the Congress disapproves of the determination made by the President under section 1428(a)(4)(A) of the Omnibus Trade and Competitiveness Act of 1988.".

(b) IMPOSITION OF FEE.—Chapter 5 of title II of the Trade Act of 1974 (19 U.S.C. 2391, et seq.), as amended by the preceding section of this Act, is further amended by adding at the end thereof the following new section:

"SEC. 287. IMPOSITION OF ADDITIONAL FEE. 19 USC 2397.

"(a) In addition to any other fee imposed by law, there is hereby imposed a fee on all articles entered, or withdrawn from warehouse, for consumption in the customs territory of the United States during any fiscal year.

"(b)(1) The rate of the fee imposed by subsection (a) shall be a uniform ad valorem rate proclaimed by the President that is equal to the lesser of—

"(A) 0.15 percent, or

"(B) the percentage that is sufficient to provide the funding necessary to—

"(i) carry out the provisions of chapters 2 and 3, and

"(ii) repay any advances made under section 286(e).

"(2) The President shall issue a proclamation setting forth the rate of the fee imposed by subsection (a) by no later than the date that is 15 days before the first date on which a fee is imposed under subsection (a). President of U.S.

"(3)(A) For each fiscal year succeeding the first fiscal year in which a fee is imposed under subsection (a), the President shall issue President of U.S.

a proclamation adjusting the rate of the fee imposed by subsection (a) during such fiscal year to the ad valorem rate that meets the requirements of paragraph (1) for such fiscal year.

"(B) Any proclamation issued under subparagraph (A) for a fiscal year shall be issued at least 30 days before the beginning of such fiscal year.

"(c)(1) Except as otherwise provided in this subsection, duty-free treatment provided with respect to any article under any other provision of law shall not prevent the imposition of a fee with respect to such article by subsection (a).

"(2) No fee shall be imposed by subsection (a) with respect to—

"(A) any article (other than an article provided for in item 870.40, 870.45, 870.50, 870.55, or 870.60 of the Tariff Schedules of the United States) that is treated as duty-free under schedule 8 of the Tariff Schedules of the United States, or

"(B) any article which has a value of less than $1,000.".

SEC. 1429. STUDY OF CERTIFICATION METHODS.

(a) IN GENERAL.—The Secretary of Labor, in consultation with the Secretary of Commerce, shall conduct a study of the methods (including, but not limited to, industry-wide certification) that could be used to expedite the certification of workers under subchapter A of chapter 2 of title II of the Trade Act of 1974.

(b) REPORT.—By no later than the date that is 6 months after the date of enactment of this Act, the Secretary of Labor shall submit to the Congress a report on the study conducted under subsection (a). The report shall include the recommendations of the Secretary of Labor regarding the methods that are the subject of the study conducted under subsection (a).

19 USC 2397 note.

SEC. 1430. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided by this section, the amendments made by this part shall take effect on the date of enactment of this Act.

(b) ADDITIONAL FEE.—

(1) Except as otherwise provided in this subsection, the amendment made by section 1428(b) shall apply (if at all) to any article entered, or withdrawn from warehouse for consumption, after the date that is 30 days after the earlier of—

(A) the date on which the President submits to the Congress the written statement described in section 1428(a)(3)(A),

(B) the date that is 2 years after the date of enactment of this Act, or

(C) the date of the enactment of a disapproval resolution that passes both Houses of the Congress within the 90-day period beginning on the date that is 2 years after the date of enactment of this Act.

(2) If the President determines on the date that is 2 years after the date of enactment of this Act that the fee imposed by the amendment made by section 1428(b) is not in the national economic interest, subparagraph (B) of paragraph (1) shall not be taken into account in applying the provisions of paragraph (1).

(3) The amendment made by section 1428(b) shall apply (if at all) to the products of any foreign country described in section

1428(a)(1)(B) that are entered, or withdrawn from warehouse for consumption, after the later of—

(A) the first date on which the fee imposed by such amendment applies with respect to products of foreign countries that are not described in section 1428(a)(1)(B), or

(B) the date on which the President submits to the Congress the written statement described in section 1428(a)(3)(B) certifying the consent of such foreign country to the imposition of the fee.

(c) TRUST FUND.—The amendments made by section 1427 shall take effect on the first date on which the amendment made by section 1428(b) applies with respect to any articles.

(d) ELIGIBILITY OF WORKERS AND FIRMS.—The amendments made by sections 1421(b) and 1424(b) shall take effect on the date that is 1 year after the first date on which the amendment made by section 1428(b) applies with respect to any articles.

(e) NOTIFICATION REQUIREMENTS.—The amendments made by section 1422 shall take effect on the date that is 30 days after the date of enactment of this Act.

(f) TRAINING REQUIREMENT.—The amendments made by subsections (a), (b)(2), and (c)(2) of section 1423 and by paragraphs (2) and (3) of section 1424(c) shall take effect on the date that is 90 days after the date of enactment of this Act.

(g) LIMITATION ON PERIOD FOR WHICH TRADE READJUSTMENT ALLOWANCES MAY BE MADE.—The amendment made by section 1425(a) shall not apply to with respect to any total separation of a worker from adversely affected employment (within the meaning of section 247 of such Act) that occurs before the date of enactment of this Act if the application of such amendment with respect to such total separation would reduce the period for which such worker would (but for such amendment) be allowed to receive trade readjustment allowances under part I of subchapter B of chapter 2 of title II of the Trade Act of 1974.

Subtitle E—National Security

SEC. 1501. IMPORTS THAT THREATEN NATIONAL SECURITY.

(a) IN GENERAL.—Section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862) is amended—

(1) by striking out "subsection (b)" each place it appears in subsection (e) and inserting in lieu thereof "subsection (c)",

(2) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and

(3) by striking out subsection (b) and inserting in lieu thereof the following new subsections:

"(b)(1)(A) Upon request of the head of any department or agency, upon application of an interested party, or upon his own motion, the Secretary of Commerce (hereafter in this section referred to as the 'Secretary') shall immediately initiate an appropriate investigation to determine the effects on the national security of imports of the article which is the subject of such request, application, or motion.

"(B) The Secretary shall immediately provide notice to the Secretary of Defense of any investigation initiated under this section.

"(2)(A) In the course of any investigation conducted under this subsection, the Secretary shall—

"(i) consult with the Secretary of Defense regarding the methodological and policy questions raised in any investigation initiated under paragraph (1),

"(ii) seek information and advice from, and consult with, appropriate officers of the United States, and

"(iii) if it is appropriate and after reasonable notice, hold public hearings or otherwise afford interested parties an opportunity to present information and advice relevant to such investigation.

"(B) Upon the request of the Secretary, the Secretary of Defense shall provide the Secretary an assessment of the defense requirements of any article that is the subject of an investigation conducted under this section.

Reports.

"(3)(A) By no later than the date that is 270 days after the date on which an investigation is initiated under paragraph (1) with respect to any article, the Secretary shall submit to the President a report on the findings of such investigation with respect to the effect of the importation of such article in such quantities or under such circumstances upon the national security and, based on such findings, the recommendations of the Secretary for action or inaction under this section. If the Secretary finds that such article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the Secretary shall so advise the President in such report.

Federal Register, publication.

"(B) Any portion of the report submitted by the Secretary under subparagraph (A) which does not contain classified information or proprietary information shall be published in the Federal Register.

Regulations.

"(4) The Secretary shall prescribe such procedural regulations as may be necessary to carry out the provisions of this subsection.

President of U.S.

"(c)(1)(A) Within 90 days after receiving a report submitted under subsection (b)(3)(A) in which the Secretary finds that an article is being imported into the United States in such quantities or under such circumstances as to threaten to impair the national security, the President shall—

"(i) determine whether the President concurs with the finding of the Secretary, and

"(ii) if the President concurs, determine the nature and duration of the action that, in the judgment of the President, must be taken to adjust the imports of the article and its derivatives so that such imports will not threaten to impair the national security.

"(B) If the President determines under subparagraph (A) to take action to adjust imports of an article and its derivatives, the President shall implement that action by no later than the date that is 15 days after the day on which the President determines to take action under subparagraph (A).

"(2) By no later than the date that is 30 days after the date on which the President makes any determinations under paragraph (1), the President shall submit to the Congress a written statement of the reasons why the President has decided to take action, or refused to take action, under paragraph (1). Such statement shall be included in the report published under subsection (e).

"(3)(A) If—

"(i) the action taken by the President under paragraph (1) is the negotiation of an agreement which limits or restricts the importation into, or the exportation to, the United States of the article that threatens to impair national security, and

"(ii) either—

"(I) no such agreement is entered into before the date that is 180 days after the date on which the President makes the determination under paragraph (1)(A) to take such action, or

"(II) such an agreement that has been entered into is not being carried out or is ineffective in eliminating the threat to the national security posed by imports of such article,

the President shall take such other actions as the President deems necessary to adjust the imports of such article so that such imports will not threaten to impair the national security. The President shall publish in the Federal Register notice of any additional actions being taken under this section by reason of this subparagraph. Federal Register, publication.

"(B) If—

"(i) clauses (i) and (ii) of subparagraph (A) apply, and

"(ii) the President determines not to take any additional actions under this subsection,

the President shall publish in the Federal Register such determination and the reasons on which such determination is based.".

(b) REPORTS.—

(1) Subsection (e) of section 232 of the Trade Expansion Act of 1962 (19 U.S.C. 1862), as redesignated by subsection (a)(2), is amended to read as follows:

"(d)(1) Upon the disposition of each request, application, or motion under subsection (b), the Secretary shall submit to the Congress, and publish in the Federal Register, a report on such disposition. Federal Register, publication.

"(2) The President shall submit to the Congress an annual report on the operation of the provisions of this section.". President of U.S.

(2) Section 127 (c) of the Trade Act of 1974 (19 U.S.C. 1863) is repealed.

(c) ENFORCEMENT OF MACHINE TOOL IMPORT ARRANGEMENTS.—

(1) The Secretary of Commerce is authorized to request the Secretary of the Treasury to carry out such actions as may be necessary or appropriate to ensure the attainment of the objectives of the machine tool decision of the President on May 20, 1986, and to enforce any quantitative limitation, restriction, or other terms contained in related bilateral arrangements. Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of assembled and unassembled machine tool products.

(2) For purposes of this subsection, the term "related bilateral arrangement" means any arrangement, agreement, or understanding entered into or undertaken, or previously entered into or undertaken, by the United States and any foreign country or customs union containing such quantitative limitations, restrictions, or other terms relating to the importation into, or exportation to, the United States of categories of assembled and unassembled machine tool products as may be necessary to implement such machine tool decision of May 20, 1986.

(d) APPLICATION OF AMENDMENTS.— 19 USC 1862 note.

(1) Except as otherwise provided under this subsection, the amendments made by this section shall apply with respect to investigations initiated under section 232(b) of the Trade Expansion Act of 1962 on or after the date of enactment of this Act.

(2) The provisions of subsection (c) of section 232 of the Trade Expansion Act of 1962, as amended by this section, shall apply with respect to any report submitted by the Secretary of Commerce to the President under section 232(b) of such Act after the date of enactment of this Act.

President of U.S.

(3) By no later than the date that is 90 days after the date of enactment of this Act, the President shall make the determinations described in section 232(c)(1)(A) of the Trade Expansion Act of 1962, as amended by this section, with respect to any report—

(A) which was submitted by the Secretary of Commerce to the President under section 232(b) of such Act before the date of enactment of this Act, and

(B) with respect to which no action has been taken by the President before the date of enactment of this Act.

Subtitle F—Trade Agencies; Advice, Consultation, and Reporting Regarding Trade Matters

PART 1—FUNCTIONS AND ORGANIZATION OF TRADE AGENCIES

Subpart A—Office of the United States Trade Representative

SEC. 1601. FUNCTIONS.

(a) IN GENERAL.—Section 141(c) of the Trade Act of 1974 (19 U.S.C. 2171(c)) is amended—

(1) by amending paragraph (1) to read as follows:

"(c)(1) The United States Trade Representative shall—

"(A) have primary responsibility for developing, and for coordinating the implementation of, United States international trade policy, including commodity matters, and, to the extent they are related to international trade policy, direct investment matters;

"(B) serve as the principal advisor to the President on international trade policy and shall advise the President on the impact of other policies of the United States Government on international trade;

"(C) have lead responsibility for the conduct of, and shall be the chief representative of the United States for, international trade negotiations, including commodity and direct investment negotiations, in which the United States participates;

"(D) issue and coordinate policy guidance to departments and agencies on basic issues of policy and interpretation arising in the exercise of international trade functions, to the extent necessary to assure the coordination of international trade policy and consistent with any other law;

"(E) act as the principal spokesman of the President on international trade;

"(F) report directly to the President and the Congress regarding, and be responsible to the President and the Congress for the administration of, trade agreements programs;

"(G) advise the President and Congress with respect to non-tariff barriers to international trade, international commodity agreements, and other matters which are related to the trade agreements programs;

"(H) be responsible for making reports to Congress with respect to matters referred to in subparagraphs (C) and (F);

"(I) be chairman of the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and shall consult with and be advised by such organization in the performance of his functions; and

"(J) in addition to those functions that are delegated to the United States Trade Representative as of the date of the enactment of the Omnibus Trade and Competitiveness Act of 1988, be responsible for such other functions as the President may direct.";

(2) by redesignating paragraphs (2) and (3) as paragraphs (3) and (4), respectively; and

(3) by inserting after paragraph (1) the following:

"(2) It is the sense of Congress that the United States Trade Representative should—

"(A) be the senior representative on any body that the President may establish for the purpose of providing to the President advice on overall economic policies in which international trade matters predominate; and

"(B) be included as a participant in all economic summit and other international meetings at which international trade is a major topic.".

(b) UNFAIR TRADE PRACTICES.—Such section 141 is further amended— 19 USC 2171.

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d)(1) In carrying out subsection (c) with respect to unfair trade practices, the United States Trade Representative shall—

"(A) coordinate the application of interagency resources to specific unfair trade practice cases;

"(B) identify, and refer to the appropriate Federal department or agency for consideration with respect to action, each act, policy, or practice referred to in the report required under section 181(b), or otherwise known to the United States Trade Representative on the basis of other available information, that may be an unfair trade practice that either—

"(i) is considered to be inconsistent with the provisions of any trade agreement and has a significant adverse impact on United States commerce, or

"(ii) has a significant adverse impact on domestic firms or industries that are either too small or financially weak to initiate proceedings under the trade laws;

"(C) identify practices having a significant adverse impact on United States commerce that the attainment of United States negotiating objectives would eliminate; and

"(D) identify, on a biennial basis, those United States Government policies and practices that, if engaged in by a foreign government, might constitute unfair trade practices under United States law.

"(2) For purposes of carrying out paragraph (1), the United States Trade Representative shall be assisted by an interagency unfair trade practices advisory committee composed of the Trade Representative, who shall chair the committee, and senior representatives of the following agencies, appointed by the respective heads of those agencies:

"(A) The Bureau of Economics and Business Affairs of the Department of State.

"(B) The United States and Foreign Commercial Services of the Department of Commerce.

"(C) The International Trade Administration (other than the United States and Foreign Commercial Service) of the Department of Commerce.

"(D) The Foreign Agricultural Service of the Department of Agriculture.

The United States Trade Representative may also request the advice of the United States International Trade Commission regarding the carrying out of paragraph (1).

"(3) For purposes of this subsection, the term 'unfair trade practice' means any act, policy, or practice that—

"(A) may be a subsidy with respect to which countervailing duties may be imposed under subtitle A of title VII;

"(B) may result in the sale or likely sale of foreign merchandise with respect to which antidumping duties may be imposed under subtitle B of title VII;

"(C) may be either an unfair method of competition, or an unfair act in the importation of articles into the United States, that is unlawful under section 337; or

"(D) may be an act, policy, or practice of a kind with respect to which action may be taken under title III of the Trade Act of 1974.".

Subpart B—United States International Trade Commission

SEC. 1611. SERVICE ON COMMISSION FOR PURPOSES OF DETERMINING ELIGIBILITY FOR DESIGNATION AS CHAIRMAN.

Section 330(c)(A)(i) of the Tariff Act of 1930 (19 U.S.C. 1330(c)(A)(i)) is amended by striking out "most recently appointed to" and inserting "with the shortest period of service on".

SEC. 1612. TREATMENT OF COMMISSION UNDER PAPERWORK REDUCTION ACT.

Section 330 of the Tariff Act of 1930 (19 U.S.C. 1330) is amended by adding at the end thereof the following new subsection:

"(f) The Commission shall be considered to be an independent regulatory agency for purposes of chapter 35 of title 44, United States Code.".

SEC. 1613. TREATMENT OF CONFIDENTIAL INFORMATION BY COMMISSION.

The first sentence of section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)) is amended by striking out ", and shall report to Congress" and inserting ". However, the Commission may not release information which the Commission considers to be confidential business information unless the party submitting the confidential

business information had notice, at the time of submission, that such information would be released by the Commission, or such party subsequently consents to the release of the information. The Commission shall report to Congress.". Reports.

SEC. 1614. TRADE REMEDY ASSISTANCE OFFICE.

Section 339 of the Tariff Act of 1930 (19 U.S.C. 1339) is amended—

(1) by amending subsection (a)—

(A) by striking out "a Trade" and inserting "a separate office to be known as the Trade", and

(B) by striking out ", upon request, concerning—" and inserting "upon request and shall, to the extent feasible, provide assistance and advice to interested parties concerning—"; and

(2) by amending subsection (b) to read as follows:

"(b) The Trade Remedy Assistance Office, in coordination with each agency responsible for administering a trade law, shall provide technical and legal assistance and advice to eligible small businesses to enable them—

"(1) to prepare and file petitions and applications (other than those which, in the opinion of the Office, are frivolous); and

"(2) to seek to obtain the remedies and benefits available under the trade laws, including any administrative review or administrative appeal thereunder.".

Subpart C—Interagency Trade Organization

SEC. 1621. FUNCTIONS AND ORGANIZATION.

(a) IN GENERAL.—Section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) The President shall establish an interagency organization. President of U.S.

"(2) The functions of the organization are—

"(A) to assist, and make recommendations to, the President in carrying out the functions vested in him by the trade laws and to advise the United States Trade Representative (hereinafter in this section referred to as the 'Trade Representative') in carrying out the functions set forth in section 141 of the Trade Act of 1974;

"(B) to assist the President, and advise the Trade Representative, with respect to the development and implementation of the international trade policy objectives of the United States; and

"(C) to advise the President and the Trade Representative with respect to the relationship between the international trade policy objectives of the United States and other major policy areas which may significantly affect the overall international trade policy and trade competitiveness of the United States.

"(3) The interagency organization shall be composed of the following:

"(A) The Trade Representative, who shall be chairperson.

"(B) The Secretary of Commerce.

"(C) The Secretary of State.

"(D) The Secretary of the Treasury.

"(E) The Secretary of Agriculture.

"(F) The Secretary of Labor.

The Trade Representative may invite representatives from other agencies, as appropriate, to attend particular meetings if subject

matters of specific functional interest to such agencies are under consideration. It shall meet at such times and with respect to such matters as the President or the Chairman shall direct.".

(2) Subsection (b) is amended by adding at the end thereof the following:

"In carrying out its functions under this subsection, the organization shall take into account the advice of the congressional advisers and private sector advisory committees, as well as that of any committee or other body established to advise the department, agency, or office which a member of the organization heads.".

19 USC 1872 note.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the interagency organization established under subsection (a) should be the principal interagency forum within the executive branch on international trade policy matters.

PART 2—ADVICE AND CONSULTATION REGARDING TRADE POLICY, NEGOTIATIONS, AND AGREEMENTS

SEC. 1631. INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS RELATING TO TRADE POLICY AND AGREEMENTS.

Section 135 of the Trade Act of 1974 (19 U.S.C. 2155) is amended to read as follows:

"SEC. 135. INFORMATION AND ADVICE FROM PRIVATE AND PUBLIC SECTORS.

President of U.S.

"(a) IN GENERAL.—

"(1) The President shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to—

"(A) negotiating objectives and bargaining positions before entering into a trade agreement under this title or section 1102 of the Omnibus Trade and Competitiveness Act of 1988;

"(B) the operation of any trade agreement once entered into; and

"(C) other matters arising in connection with the development, implementation, and administration of the trade policy of the United States, including those matters referred to in Reorganization Plan Number 3 of 1979 and Executive Order Numbered 12188, and the priorities for actions thereunder.

To the maximum extent feasible, such information and advice on negotiating objectives shall be sought and considered before the commencement of negotiations.

"(2) The President shall consult with representative elements of the private sector and the non-Federal governmental sector on the overall current trade policy of the United States. The consultations shall include, but are not limited to, the following elements of such policy:

"(A) The principal multilateral and bilateral trade negotiating objectives and the progress being made toward their achievement.

"(B) The implementation, operation, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

"(C) The actions taken under the trade laws of the United States and the effectiveness of such actions in achieving trade policy objectives.

"(D) Important developments in other areas of trade for which there must be developed a proper policy response.

"(3) The President shall take the advice received through consultation under paragraph (2) into account in determining the importance which should be placed on each major objective and negotiating position that should be adopted in order to achieve the overall trade policy of the United States.

"(b) ADVISORY COMMITTEE FOR TRADE POLICY AND NEGOTIATIONS.— President of U.S.

"(1) The President shall establish an Advisory Committee for Trade Policy and Negotiations to provide overall policy advice on matters referred to in subsection (a). The committee shall be composed of not more than 45 individuals and shall include representatives of non-Federal governments, labor, industry, agriculture, small business, service industries, retailers, and consumer interests. The committee shall be broadly representative of the key sectors and groups of the economy, particularly with respect to those sectors and groups which are affected by trade. Members of the committee shall be recommended by the United States Trade Representative and appointed by the President for a term of 2 years. An individual may be reappointed to committee for any number of terms. Appointments to the Committee shall be made without regard to political affiliation.

"(2) The committee shall meet as needed at the call of the United States Trade Representative or at the call of two-thirds of the members of the committee. The chairman of the committee shall be elected by the committee from among its members.

"(3) The United States Trade Representative shall make available to the committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

"(c) GENERAL POLICY, SECTORAL, OR FUNCTIONAL ADVISORY COMMITTEES.—

"(1) The President may establish individual general policy advisory committees for industry, labor, agriculture, services, investment, defense, and other interests, as appropriate, to provide general policy advice on matters referred to in subsection (a). Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, service, investment, defense, and other interests, respectively, including small business interests, and shall be organized by the United States Trade Representative and the Secretaries of Commerce, Defense, Labor, Agriculture, the Treasury, or other executive departments, as appropriate. The members of such committees shall be appointed by the United States Trade Representative in consultation with such Secretaries.

"(2) The President shall establish such sectoral or functional advisory committees as may be appropriate. Such committees shall, insofar as is practicable, be representative of all industry, labor, agricultural, or service interests (including small business interests) in the sector or functional areas concerned. In organizing such committees, the United States Trade Representative and the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, shall— President of U.S.

"(A) consult with interested private organizations; and

"(B) take into account such factors as—

"(i) patterns of actual and potential competition between United States industry and agriculture and foreign enterprise in international trade,

"(ii) the character of the nontariff barriers and other distortions affecting such competition,

"(iii) the necessity for reasonable limits on the number of such advisory committees,

"(iv) the necessity that each committee be reasonably limited in size, and

"(v) in the case of each sectoral committee, that the product lines covered by each committee be reasonably related.

"(3) The President—

"(A) may, if necessary, establish policy advisory committees representing non-Federal governmental interests to provide policy advice—

"(i) on matters referred to in subsection (a), and

"(ii) with respect to implementation of trade agreements, and

President of U.S.

"(B) shall include as members of committees established under subparagraph (A) representatives of non-Federal governmental interests if he finds such inclusion appropriate after consultation by the United States Trade Representative with such representatives.

"(4) Appointments to each committee established under paragraph (1), (2), or (3) shall be made without regard to political affiliation.

"(d) POLICY, TECHNICAL, AND OTHER ADVICE AND INFORMATION.—Committees established under subsection (c) shall meet at the call of the United States Trade Representative and the Secretaries of Agriculture, Commerce, Labor, Defense, or other executive departments, as appropriate, to provide policy advice, technical advice and information, and advice on other factors relevant to the matters referred to in subsection (a).

Reports.

"(e) MEETING OF ADVISORY COMMITTEES AT CONCLUSION OF NEGOTIATIONS.—

"(1) The Advisory Committee for Trade Policy and Negotiations, each appropriate policy advisory committee, and each sectoral or functional advisory committee, if the sector or area which such committee represents is affected, shall meet at the conclusion of negotiations for each trade agreement entered into under section 1102 of the Omnibus Trade and Competitiveness Act of 1988, to provide to the President, to Congress, and to the United States Trade Representative a report on such agreement. Each report that applies to a trade agreement entered into under section 1102 of the Omnibus Trade and Competitiveness Act of 1988 shall be provided under the preceding sentence not later than the date on which the President notifies the Congress under section 1103(a)(1)(A) of such Act of 1988 of his intention to enter into that agreement.

"(2) The report of the Advisory Committee for Trade Policy and Negotiations and each appropriate policy advisory committee shall include an advisory opinion as to whether and to what extent the agreement promotes the economic interests of the United States and achieves the applicable overall and principal

negotiating objectives set forth in section 1101 of the Omnibus Trade and Competitiveness Act of 1988, as appropriate.

"(3) The report of the appropriate sectoral or functional committee under paragraph (1) shall include an advisory opinion as to whether the agreement provides for equity and reciprocity within the sector or within the functional area.

"(f) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—The provisions of the Federal Advisory Committee Act apply—

"(1) to the Advisory Committee for Trade Policy and Negotiations established under subsection (b); and

"(2) to all other advisory committees which may be established under subsection (c); except that the meetings of advisory committees established under subsections (b) and (c) shall be exempt from the requirements of subsections (a) and (b) of sections 10 and 11 of the Federal Advisory Committee Act (relating to open meetings, public notice, public participation, and public availability of documents), whenever and to the extent it is determined by the President or his designee that such meetings will be concerned with matters the disclosure of which would seriously compromise the development by the United States Government of trade policy, priorities, negotiating objectives or bargaining positions with respect to matters referred to in subsection (a), and that meetings may be called of such special task forces, plenary meetings of chairmen, or other such groups made up of members of the committees established under subsections (b) and (c).

"(g) TRADE SECRETS AND CONFIDENTIAL INFORMATION.—

"(1) Trade secrets and commercial or financial information which is privileged or confidential, and which is submitted in confidence by the private sector or non-Federal government to officers or employees of the United States in connection with trade negotiations, may be disclosed upon request to—

"(A) officers and employees of the United States designated by the United States Trade Representative;

"(B) members of the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate who are designated as official advisers under section 161(a)(1) or are designated by the chairmen of either such committee under section 161(b)(3)(A) and staff members of either such committee designated by the chairmen under section 161(b)(3)(A); and

"(C) members of any committee of the House or Senate or any joint committee of Congress who are designated as advisers under section 161(a)(2) or designated by the chairman of such committee under section 161(b)(3)(B) and staff members of such committee designated under section 161(b)(3)(B), but disclosure may be made under this subparagraph only with respect to trade secrets or commercial or financial information that is relevant to trade policy matters or negotiations that are within the legislative jurisdiction of such committee;

for use in connection with matters referred to in subsection (a).

"(2) Information other than that described in paragraph (1), and advice submitted in confidence by the private sector or non-Federal government to officers or employees of the United States, to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsec-

tion (c), in connection with matters referred to in subsection (a), may be disclosed upon request to—

"(A) the individuals described in paragraph (1); and

"(B) the appropriate advisory committee established under this section.

"(3) Information submitted in confidence by officers or employees of the United States to the Advisory Committee for Trade Policy and Negotiations, or to any advisory committee established under subsection (c), may be disclosed in accordance with rules issued by the United States Trade Representative and the Secretaries of Commerce, Labor, Defense, Agriculture, or other executive departments, as appropriate, after consultation with the relevant advisory committees established under subsection (c). Such rules shall define the categories of information which require restricted or confidential handling by such committee considering the extent to which public disclosure of such information can reasonably be expected to prejudice the development of trade policy, priorities, or United States negotiating objectives. Such rules shall, to the maximum extent feasible, permit meaningful consultations by advisory committee members with persons affected by matters referred to in subsection (a).

"(h) ADVISORY COMMITTEE SUPPORT.—The United States Trade Representative, and the Secretaries of Commerce, Labor, Defense, Agriculture, the Treasury, or other executive departments, as appropriate, shall provide such staff, information, personnel, and administrative services and assistance to advisory committees established under subsection (c) as such committees may reasonably require to carry out their activities.

"(i) CONSULTATION WITH ADVISORY COMMITTEES; PROCEDURES; NONACCEPTANCE OF COMMITTEE ADVICE OR RECOMMENDATIONS.—It shall be the responsibility of the United States Trade Representative, in conjunction with the Secretaries of Commerce, Labor, Agriculture, the Treasury, or other executive departments, as appropriate, to adopt procedures for consultation with and obtaining information and advice from the advisory committees established under subsection (c) on a continuing and timely basis. Such consultation shall include the provision of information to each advisory committee as to—

"(1) significant issues and developments; and

"(2) overall negotiating objectives and positions of the United States and other parties;

with respect to matters referred to in subsection (a). The United States Trade Representative shall not be bound by the advice or recommendations of such advisory committees, but shall inform the advisory committees of significant departures from such advice or recommendations made. In addition, in the course of consultations with the Congress under this title, information on the advice and information provided by advisory committees shall be made available to congressional advisers.

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"(j) PRIVATE ORGANIZATIONS OR GROUPS.—In addition to any advisory committee established under this section, the President shall provide adequate, timely and continuing opportunity for the submission on an informal basis (and, if such information is submitted under the provisions of subsection (g), on a confidential basis) by private organizations or groups, representing government, labor, industry, agriculture, small business, service industries, consumer

interests, and others, of statistics, data and other trade information, as well as policy recommendations, pertinent to any matter referred to in subsection (a).

"(k) SCOPE OF PARTICIPATION BY MEMBERS OF ADVISORY COMMITTEES.—Nothing contained in this section shall be construed to authorize or permit any individual to participate directly in any negotiation of any matters referred to in subsection (a). To the maximum extent practicable, the members of the committees established under subsections (b) and (c), and other appropriate parties, shall be informed and consulted before and during any such negotiations. They may be designated as advisors to a negotiating delegation, and may be permitted to participate in international meetings to the extent the head of the United States delegation deems appropriate. However, they may not speak or negotiate for the United States.

"(l) ADVISORY COMMITTEES ESTABLISHED BY DEPARTMENT OF AGRICULTURE.—The provisions of title XVIII of the Food and Agriculture Act of 1977 (7 U.S.C. 2281 et seq.) shall not apply to any advisory committee established under subsection (c).

"(m) NON-FEDERAL GOVERNMENT DEFINED.—As used in this section, the term 'non-Federal government' means—

"(1) any State, territory, or possession of the United States, or the District of Columbia, or any political subdivision thereof; or

"(2) any agency or instrumentality of any entity described in paragraph (1).".

SEC. 1632. CONGRESSIONAL LIAISON REGARDING TRADE POLICY AND AGREEMENTS.

Section 161 of the Trade Act of 1974 (19 U.S.C. 2211) is amended to read as follows:

"SEC. 161. CONGRESSIONAL ADVISERS FOR TRADE POLICY AND NEGOTIATIONS.

"(a) SELECTION.—

"(1) At the beginning of each regular session of Congress, the Speaker of the House of Representatives, upon the recommendation of the chairman of the Committee on Ways and Means, shall select 5 members (not more than 3 of whom are members of the same political party) of such committee, and the President pro tempore of the Senate, upon the recommendation of the chairman of the Committee on Finance, shall select 5 members (not more than 3 of whom are members of the same political party) of such committee, who shall be designated congressional advisers on trade policy and negotiations. They shall provide advice on the development of trade policy and priorities for the implementation thereof. They shall also be accredited by the United States Trade Representative on behalf of the President as official advisers to the United States delegations to international conferences, meetings, and negotiating sessions relating to trade agreements.

"(2)(A) In addition to the advisers designated under paragraph (1) from the Committee on Ways and Means and the Committee on Finance—

"(i) the Speaker of the House may select additional members of the House, for designation as congressional advisers regarding specific trade policy matters or negotiations, from any other committee of the House or joint committee

of Congress that has jurisdiction over legislation likely to be affected by such matters or negotiations; and

"(ii) the President pro tempore of the Senate may select additional members of the Senate, for designation as congressional advisers regarding specific trade policy matters or negotiations, from any other committee of the Senate or joint committee of Congress that has jurisdiction over legislation likely to be affected by such matters or negotiations.

Members of the House and Senate selected as congressional advisers under this subparagraph shall be accredited by the United States Trade Representative.

"(B) Before designating any member under subparagraph (A), the Speaker or the President pro tempore shall consult with—

"(i) the chairman and ranking member of the Committee on Ways and Means or the Committee on Finance, as appropriate; and

"(ii) the chairman and ranking minority member of the committee from which the member will be selected.

"(C) Not more than 3 members (not more than 2 of whom are members of the same political party) may be selected under this paragraph as advisers from any committee of Congress.

"(b) BRIEFING.—

"(1) The United States Trade Representative shall keep each official adviser designated under subsection (a)(1) currently informed on matters affecting the trade policy of the United States and, with respect to possible agreements, negotiating objectives, the status of negotiations in progress, and the nature of any changes in domestic law or the administration thereof which may be recommended to Congress to carry out any trade agreement or any requirement of, amendment to, or recommendation under, such agreement.

"(2) The United States Trade Representative shall keep each official adviser designated under subsection (a)(2) currently informed regarding the trade policy matters and negotiations with respect to which the adviser is designated.

"(3)(A) The chairmen of the Committee on Ways and Means and the Committee on Finance may designate members (in addition to the official advisers under subsection (a)(1)) and staff members of their respective committees who shall have access to the information provided to official advisers under paragraph (1).

"(B) The Chairman of any committee of the House or Senate or any joint committee of Congress from which official advisers are selected under subsection (a)(2) may designate other members of such committee, and staff members of such committee, who shall have access to the information provided to official advisers under paragraph (2).

"(c) COMMITTEE CONSULTATION.—The United States Trade Representative shall consult on a continuing basis with the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the other appropriate committees of the House and Senate on the development, implementation, and administration of overall trade policy of the United States. Such consultations shall include, but are not limited to, the following elements of such policy:

"(1) The principal multilateral and bilateral negotiating objectives and the progress being made toward their achievement.

"(2) The implementation, administration, and effectiveness of recently concluded multilateral and bilateral trade agreements and resolution of trade disputes.

"(3) The actions taken, and proposed to be taken, under the trade laws of the United States and the effectiveness, or anticipated effectiveness, of such actions in achieving trade policy objectives.

"(4) The important developments and issues in other areas of trade for which there must be developed proper policy response.

When necessary, meetings shall be held with each Committee in executive session to review matters under negotiation.".

PART 3—ANNUAL REPORTS AND NATIONAL TRADE POLICY AGENDA

SEC. 1641. REPORTS AND AGENDA.

Section 163 of the Trade Act of 1974 (19 U.S.C. 2213) is amended to read as follows:

"SEC. 163. REPORTS.

"(a) ANNUAL REPORT ON TRADE AGREEMENTS PROGRAM AND NATIONAL TRADE POLICY AGENDA.—

"(1) The President shall submit to the Congress during each calendar year (but not later than March 1 of that year) a report on— President of U.S.

"(A) the operation of the trade agreements program, and the provision of import relief and adjustment assistance to workers and firms, under this Act during the preceding calendar year; and

"(B) the national trade policy agenda for the year in which the report is submitted.

"(2) The report shall include, with respect to the matters referred to in paragraph (1)(A), information regarding—

"(A) new trade negotiations;

"(B) changes made in duties and nontariff barriers and other distortions of trade of the United States;

"(C) reciprocal concessions obtained;

"(D) changes in trade agreements (including the incorporation therein of actions taken for import relief and compensation provided therefor);

"(E) the extension or withdrawal of nondiscriminatory treatment by the United States with respect to the products of foreign countries;

"(F) the extension, modification, withdrawal, suspension, or limitation of preferential treatment to exports of developing countries;

"(G) the results of actions to obtain the removal of foreign trade restrictions (including discriminatory restrictions) against United States exports and the removal of foreign practices which discriminate against United States service industries (including transportation and tourism) and investment;

"(H) the measures being taken to seek the removal of other significant foreign import restrictions;

"(I) each of the referrals made under section 141(d)(1)(B) and any action taken with respect to such referral;

"(J) other information relating to the trade agreements program and to the agreements entered into thereunder; and

"(K) the number of applications filed for adjustment assistance for workers and firms, the number of such applications which were approved, and the extent to which adjustment assistance has been provided under such approved applications.

"(3)(A) The national trade policy agenda required under paragraph (1)(B) for the year in which a report is submitted shall be in the form of a statement of—

"(i) the trade policy objectives and priorities of the United States for the year, and the reasons therefor;

"(ii) the actions proposed, or anticipated, to be undertaken during the year to achieve such objectives and priorities, including, but not limited to, actions authorized under the trade laws and negotiations with foreign countries;

"(iii) any proposed legislation necessary or appropriate to achieve any of such objectives or priorities; and

"(iv) the progress that was made during the preceding year in achieving the trade policy objectives and priorities included in the statement provided for that year under this paragraph.

Classified information.

"(B) The President may separately submit any information referred to in subparagraph (A) to the Congress in confidence if the President considers confidentiality appropriate.

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"(C) Before submitting the national trade policy agenda for any year, the President shall seek advice from the appropriate advisory committees established under section 135 and shall consult with the appropriate committees of the Congress.

"(D) The United States Trade Representative (hereafter referred to in this section as the 'Trade Representative') and other appropriate officials of the United States Government shall consult periodically with the appropriate committees of the Congress regarding the annual objectives and priorities set forth in each national trade policy agenda with respect to—

"(i) the status and results of the actions that have been undertaken to achieve the objectives and priorities; and

"(ii) any development which may require, or result in, changes to any of such objectives or priorities.

"(b) ANNUAL TRADE PROJECTION REPORT.—

"(1) In order for the Congress to be informed of the impact of foreign trade barriers and macroeconomic factors on the balance of trade of the United States, the Trade Representative and the Secretary of the Treasury shall jointly prepare and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter referred to in this subsection as the 'Committees') on or before March 1 of each year a report which consists of—

"(A) a review and analysis of—

"(i) the merchandise balance of trade,

"(ii) the goods and services balance of trade,

"(iii) the balance on the current account,

"(iv) the external debt position,

"(v) the exchange rates,

"(vi) the economic growth rates,

"(vii) the deficit or surplus in the fiscal budget, and

"(viii) the impact on United States trade of market barriers and other unfair practices,

of countries that are major trading partners of the United States, including, as appropriate, groupings of such countries;

"(B) projections for each of the economic factors described in subparagraph (A) (except those described in clauses (v) and (viii)) for each of the countries and groups of countries referred to in subparagraph (A) for the year in which the report is submitted and for the succeeding year; and

"(C) conclusions and recommendations, based upon the projections referred to in subparagraph (B), for policy changes, including trade policy, exchange rate policy, fiscal policy, and other policies that should be implemented to improve the outlook.

"(2) To the extent that subjects referred to in paragraph (1)(A), (B), or (C) are covered in the national trade policy agenda required under subsection (a)(1)(B) or in other reports required by this Act or other law, the Trade Representative and the Secretary of the Treasury may, as appropriate, draw on the information, analysis, and conclusions, if any, in those reports for the purposes of preparing the report required by this subsection.

"(3) The Trade Representative and the Secretary of the Treasury shall consult with the Chairman of the Board of Governors of the Federal Reserve System in the preparation of each report required under this subsection.

"(4) The Trade Representative and the Secretary of the Treasury may separately submit any information, analysis, or conclusion referred to in paragraph (1) to the Committees in confidence if the Trade Representative and the Secretary consider confidentiality appropriate.

"(5) After submission of each report required under paragraph (1), the Trade Representative and the Secretary of the Treasury shall consult with each of the Committees with respect to the report.

"(c) ITC REPORTS.—The United States International Trade Commission shall submit to the Congress, at least once a year, a factual report on the operation of the trade agreements program.".

Subtitle G—Tariff Provisions

PART 1—AMENDMENTS TO THE TARIFF SCHEDULES OF THE UNITED STATES

SEC. 1701. REFERENCE.

Whenever in this part an amendment or repeal is expressed in terms of an amendment to, or repeal of, a schedule, headnote, item, the Appendix, or other provision, the reference shall be considered to be made to a schedule, headnote, item, the Appendix, or other provision of the Tariff Schedules of the United States.

Subpart A—Permanent Changes in Tariff Treatment

SEC. 1711. BROADWOVEN FABRICS OF MAN-MADE FIBERS.

(a) IN GENERAL.—Subpart E of part 3 of schedule 3 is amended by striking out item 338.50 and inserting the following new items with the article description for item 338.60 having the same degree of indentation as the article description for item 338.40:

"	338.60	Containing 85% or more by weight of continuous man-made fibers	17% ad val.	8.5% ad val. (I)	81% ad val.	
		Other:				
	338.70	Weighing not more than 5 oz. per square yard	17% ad val.	8.5% ad val. (I)	81% ad val.	
	338.80	Other	17% ad val.	8.5% ad val. (I)	81% ad val.	".

(b) STAGED RATE REDUCTION.—Any staged rate reduction of a rate of duty set forth in item 338.50 of the Tariff Schedules of the United States (as in effect before the date of enactment of this Act) that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall apply to the corresponding rates of duty set forth in items 338.60, 338.70, and 338.80 of such Schedules.

SEC. 1712. NAPHTHA AND MOTOR FUEL BLENDING STOCKS.

Part 10 of schedule 4 is amended—

(1) by amending headnote 1 by inserting "motor fuel blending stocks," immediately after "except";

(2) by amending headnote 2—

(A) by striking out "and" at the end of subdivision (a);

(B) by striking out the period at the end of subdivision (b) and inserting "; and"; and

(C) by adding at the end thereof the following:

"(c) 'Motor fuel blending stock' (item 475.27) means any product (except naphthas provided for in item 475.35) derived primarily from petroleum, shale oil, or natural gas, whether or not containing additives, to be used for direct blending in the manufacture of motor fuel.";

(3) by inserting in numerical sequence the following new item with an article description having the same degree of indentation as the article description for item 475.30:

"	475.27	Motor fuel blending stocks	1.25¢ per gal.		2.5¢ per gal.	",

(4) by amending 475.30 by striking out "fuel)" and inserting "fuel or motor fuel blending stocks)"; and

(5) by amending 475.35 by striking out "fuel)" and inserting in lieu thereof "fuel or motor fuel blending stocks)".

SEC. 1713. WATCHES AND WATCH COMPONENTS.

Headnote 4 of subpart E of part 2 of schedule 7 is amended to read as follows:

"4. Special Marking Requirements: Any movement or case provided for in this subpart, whether imported separately or attached to any article provided for in this subpart, shall not be permitted to be entered unless conspicuously and indelibly marked by cutting,

die-sinking, engraving, stamping, or mold-marking (either indented or raised), as specified below:

"(a) Watch movements shall be marked on one or more of the bridges or top plates to show—

"(i) the name of the country of manufacture;

"(ii) the name of the manufacturer or purchaser; and

"(iii) in words, the number of jewels, if any, serving a mechanical purpose as frictional bearings.

"(b) Clock movements shall be marked on the most visible part of the front or back plate to show—

"(i) the name of the country of manufacture;

"(ii) the name of the manufacturer or purchaser; and

"(iii) the number of jewels, if any.

"(c) Watch cases shall be marked on the inside or outside of the back case to show—

"(i) the name of the country of manufacture; and

"(ii) the name of the manufacturer or purchaser.

"(d) Clock cases provided for in this subpart shall be marked on the most visible part of the outside of the back to show the name of the country of manufacture.".

SEC. 1714. SLABS OF IRON OR STEEL.

Headnote 3(c) to subpart B of part 2 of schedule 6 is amended by striking out "and not over 6 inches".

SEC. 1715. CERTAIN WORK GLOVES.

(a) Headnote 5(a) to schedule 3 is amended by striking out "(except subpart A)" and inserting in lieu thereof "(except subparts A and C)".

(b) Headnote 1 to subpart C of part 1 of schedule 7 of the Tariff Schedules of the United States is amended—

(1) by striking out "and" at the end of subdivision (b),

(2) by striking out the period at the end of subdivision (c) and inserting in lieu thereof "; and", and

(3) by adding after subdivision (c) the following new subdivision:

"(d) gloves which are—

"(i) other than gloves with fourchettes, and

"(ii) constructed of a textile fabric coated, filled, impregnated, or laminated, in whole or in part, with rubber or plastics and cut-and-sewn,

shall be regarded as gloves of textile materials.".

SEC. 1716. DUTY-FREE IMPORTATION OF HATTER'S FUR.

(a) IN GENERAL.—Subpart D of part 15 of schedule 1 is amended—

(1) by striking out "use, and carroted furskins" in item 186.20 and inserting in lieu thereof "use",

(2) by striking out "15% ad val." in item 186.20 and inserting in lieu thereof "Free",

(3) by striking out "Free (A,E) 4.8% ad val. (I)" in item 186.20, and

(4) by inserting after item 186.20 the following new item with the article description having the same degree of indentation as the article description in item 186.20:

"	186.22	Carroted furskins	15% ad. val.	Free (A,E) 4.8% ad val. (I)	35% ad val.

".

(b) STAGED RATE REDUCTION.—Any staged rate reduction of a rate of duty set forth in item 186.20 of the Tariff Schedules of the United States that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall apply to the corresponding rate of duty set forth in item 186.22 of such Schedules.

SEC. 1717. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS.

Item 709.15 is amended by inserting "other than extracorporeal shock wave lithotripters," before "and".

SEC. 1718. SALTED AND DRIED PLUMS.

(a) IN GENERAL.—Subpart B of part 9 of schedule 1 is amended by striking out item 149.28 and inserting in lieu thereof the following items with the article descriptions having the same degree of indentation as the article description in item 149.26:

"	149.27	Soaked in brine and dried	2¢ per lb.	Free (E,I)	2¢ per lb.	
	149.29	Otherwise prepared or preserved	17.5% ad val.	Free (E) 5.6% ad val. (I)	35% ad val.	".

(b) STAGED RATE REDUCTION.—Any staged rate reduction of a rate of duty set forth in item 149.28 of the Tariff Schedules of the United States that was proclaimed by the President before the date of enactment of this Act and would otherwise take effect after the date of enactment of this Act shall apply to the corresponding rates of duty set forth in items 149.27 and 149.29 of such Schedules.

SEC. 1719. TELEVISION APPARATUS AND PARTS.

(a) PERMANENT TREATMENT.—The headnotes to part 5 of schedule 6 are amended—

(1) by striking out "assembled," in subparagraph (a) of headnote 3 and inserting in lieu thereof "assembled in its cabinet,";

(2) by redesignating headnotes 4, 5, and 6 as headnotes 5, 6, and 7, respectively; and

(3) by inserting after headnote 3 the following new headnote:

"4. Picture tubes imported in combination with, or incorporated into, other articles are to be classified in items 687.35 through 687.44, inclusive, unless they are—

"(i) incorporated into complete television receivers, as defined in headnote 3;

"(ii) incorporated into fully assembled units such as word processors, ADP terminals, or similar articles;

"(iii) put up in kits containing all the parts necessary for assembly into complete television receivers, as defined in headnote 3; or

"(iv) put up in kits containing all the parts necessary for assembly into fully assembled units such as word processors, ADP terminals, or similar articles.".

(b) TEMPORARY TREATMENT.—

(1) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.16	Television picture tubes, color, having a video display diagonal of less than 12 inches (provided for in item 687.35, part 5, schedule 6).....	Free		No change	On or before 12/31/90	".

(2) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.19	Television picture tubes, color, having a video display diagonal of 30 inches and over (provided for in item 687.35, part 5, schedule 6).....	Free		No change	On or before 9/30/88	".

SEC. 1720. CASEIN.

(a) HUMAN FOOD AND ANIMAL FEED USE.—Subpart D of part 4 of schedule 1 is amended by adding at the end thereof the following new items with the superior heading having the same degree of indentation as the article description in item 118.45:

"		Casein, caseinates, and dried milk:				
	118.50	Casein	Free		Free	
	118.55	Dried milk (described in items 115.45, 115.50, 115.55, and 118.05) which contains not over 5.5 percent by weight of butterfat and which is mixed with other ingredients, including but not limited to sugar, if such mixtures contain over 16 percent milk solids by weight, are capable of being further processed or mixed with similar or other ingredients and are not prepared for marketing to the retail consumers in the identical form and package in which imported	1.3¢ per lb.	Free (A,E,I)	5.5¢ per lb.	
	118.60	Other.....	0.2¢ per lb.	Free (A,E,I)	5.5¢ per lb.	".

(b) INDUSTRIAL USE.—Subpart B of part 13 of schedule 4 is amended by striking out items 493.12, 493.14, and 493.17 and the superior heading thereto.

SEC. 1721. TARIFF TREATMENT OF CERTAIN TYPES OF PLYWOOD.

Headnote 1 of part 3 of schedule 2 is amended—

(1) in paragraph (b) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked";

(2) in paragraph (c) by inserting immediately before the semicolon at the end thereof the following: "or any edge of which has been tongued, grooved, lapped, or otherwise worked"; and

(3) in paragraph (e) by inserting before "chiefly" the following: "other than plywood, wood-veneer panels, or cellular panels,".

SEC. 1722. IMPORTATION OF FURSKINS.

Headnote 4 to subpart B of part 5 of schedule 1 is repealed.

SEC. 1723. GRAPEFRUIT.

Subpart A of part 12 of schedule 1 is amended—

(1) by inserting after item 165.29 the following new items with a superior heading having the same degree of indentation as item 165.25:

"		Grapefruit:				
	165.31	Not concentrated and not made from a juice having a degree of concentration of 1.5 or more (as determined before correction to the nearest 0.5 degree)	20¢ per gal.	Free (E)	70¢ per gal.	
	165.34	Other	35¢ per gal.	Free (E)	70¢ per gal.	";

and

(2) by redesignating items 165.32 and 165.36 as items 165.37 and 165.38, respectively.

SEC. 1724. SILICONE RESINS AND MATERIALS.

Part 4 of schedule 4 is amended—

(1) by amending subpart A—

(A) by striking out "provided for in part 1C" in headnote 1 and inserting ", other than silicones, provided for in part 1", and

(B) by amending headnote 2 to read as follows:

"2. (a) For purposes of this subpart, the term 'synthetic plastics materials'—

"(i) embraces products formed by the condensation, polymerization, or copolymerization of organic chemicals and to which an antioxidant, color, dispersing agent, emulsifier, extender, filler, pesticide, plasticizer, or stabilizer may have been added; and

"(ii) includes silicones (including fluids, resins, elastomers, and copolymers) whether or not such materials are solid in the finished articles.

"(b) The products referred to in subdivision (a) contain as an essential ingredient an organic substance of high molecular weight; and, except as provided in subdivision (a)(ii), are capable, at some stage during processing into finished articles, of being molded or shaped by flow and are solid in the finished article. The term includes, but is not limited to, such products derived from esters of acrylic or methacrylic acid; vinyl acetate, vinyl chloride resins, polyvinyl alcohol, acetals, butyral, formal resins, polyvinyl ether and ester resins, and polyvinylidene chloride resins; urea and amino resins; polyethylene, polypropylene, and other polyalkene resins;

siloxanes, silicones, and other organo-silicon resins; alkyd, acrylonitrile, allyl, and formaldehyde resins, and cellulosic plastics materials. These synthetic plastics materials may be in solid, semi-solid, or liquid condition such as flakes, powders, pellets, granules, solutions, emulsions, and other basic crude forms not further processed.",

(C) by inserting after item 445.54 the following new item with the article description having the same degree of indentation as the article description for item 445.54:

"	445.55	Silicone resins and materials	3% ad val.	Free (A,E,I)	25% ad val.	",

and

(D) by redesignating item 445.56 as item 445.60; and

(2) by amending headnote 2 to subpart B by adding at the end thereof the following:

"(c) For purposes of the Tariff Schedules, the term 'rubber' does not include silicones.".

Subpart B—Temporary Changes in Tariff Treatment

SEC. 1731. COLOR COUPLERS AND COUPLER INTERMEDIATES.

Subpart B of part 1 of the Appendix is amended—

(1) by inserting ", but excluding 6,7-dihydroxy-2-naphthalene sulfonic acid sodium salt provided for in item 403.57," after "schedule 4" and before the parenthesis in item 907.10; and

(2) by striking out "9/30/85" in each of items 907.10 and 907.12 and inserting in lieu thereof "12/31/90".

SEC. 1732. POTASSIUM 4-SULFOBENZOATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.26	p-Sulfobenzoic acid, potassium salt (provided for in item 404.28, part 1B, schedule 4)	Free		No change	On or before 12/31/90	",

SEC. 1733. 2,2'-OXAMIDOBIS[ETHYL-3-(3,5-DI-TERT-BUTYL-4-HYDROXYPHENYL)PROPIONATE].

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.09	2,2'-Oxamidobis-[ethyl-3-(3,5-di-tert-butyl-4-hydroxyphenyl) propionate] (provided for in item 405.34, part 1B, schedule 4)	Free		No change	On or before 12/31/90	",

SEC. 1734. 2,4-DICHLORO-5-SULFAMOYLBENZOIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.48	2,4-Dichloro-5-sulfamoylbenzoic acid (provided for in item 406.56, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1735. DERIVATIVES OF N-[4-(2-HYDROXY-3-PHENOXYPROPOXY)-PHENYL]ACETAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.11	Mixtures containing derivatives of N-[4-(2-hydroxy-3-phenoxypropoxy)phenyl] acetamide (provided for in item 407.19, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1736. CERTAIN KNITWEAR FABRICATED IN GUAM.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	905.45	Sweaters that— (i) do not contain foreign materials in excess of the percentage of total value limitation contained in general headnote 3(a), and					

	(ii) are assembled in Guam, exclusively by United States citizens, nationals, or resident aliens, by joining together (by completely sewing, looping, linking, or other means of attaching) at least 5 otherwise completed major knit-to-shape component parts of foreign origin, if entered before the aggregate quantity of such sweaters that is entered during any 12-month period after October 31, 1985, exceeds the duty-free quantity for that period.....	Free			On or before 10/31/92	".

(b) DUTY-FREE QUANTITY.—The headnotes to subpart B of part 1 of the Appendix are amended by adding at the end thereof the following new headnote:

"3. For purposes of item 905.45, the term 'duty-free quantity' means—

"(a) for the 12-month period ending October 31, 1986, 161,600 dozen; and

"(b) for any 12-month period thereafter, an amount equal to 101 percent of the duty-free quantity for the preceding 12-month period.".

SEC. 1737. 3,5-DINITRO-O-TOLUAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.42	3,5-Dinitro-o-toluamide (provided for in item 411.95, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1738. SECONDARY-BUTYL CHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.55	Secondary-butyl chloride (provided for in item 429.47, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1739. CERTAIN NONBENZENOID VINYL ACETATE-VINYL CHLORIDE-ETHYLENE TERPOLYMERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.83	Nonbenzenoid vinyl acetate-vinyl chloride-ethylene terpolymers, containing by weight less than 50 percent derivatives of vinyl acetate (provided for in item 445.48, part 4A, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1740. DUTY-FREE ENTRY OF PERSONAL EFFECTS AND EQUIPMENT OF PARTICIPANTS AND OFFICIALS INVOLVED IN THE 10TH PAN AMERICAN GAMES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	915.20	Personal effects of aliens who are participants in or officials of the Tenth Pan American Games, or who are accredited members of delegations thereto, or who are members of the immediate families of any of the foregoing persons, or who are their servants; equipment for use in connection with such games; and other related articles as prescribed in regulations issued by the Secretary of the Treasury	Free		Free	On or before 9/30/87	".

SEC. 1741. CARDING AND SPINNING MACHINES.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.03	Carding and spinning machines specially designed for wool, other than machines specially designed for the manufacture of combed wool (worsted) yarns (provided for in item 670.04, part 4E, schedule 6).....	Free		No change	On or before 12/31/90	".

(b) PARTS.—The headnote to subpart E of part 4 of schedule 6 is amended by striking out "item 912.04" each place it appears and inserting in lieu thereof "item 912.03 or 912.04".

SEC. 1742. DICOFOL AND CERTAIN MIXTURES.

(a) DICOFOL.—Item 907.15 of the Appendix is amended to read as follows:

"	907.15	1,1-Bis(4-chlorophenyl)-2,2,2-trichloroethanol (dicofol) (provided for in item 408.28, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	"

(b) MIXTURES OF DICOFOL AND APPLICATION ADJUVANTS.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"	907.27	Mixtures of 1,1-bis(4-chlorophenyl)-2,2,2-trichloroethanol (dicofol) and application adjuvants (provided for in item 408.36, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1743. SILK YARN.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	905.25	Yarns of silk (provided for in item 308.51, part 1D, schedule 3).....	Free		No change	On or before 12/31/90	"

SEC. 1744. TERFENADONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.48	1-(4-(1,1-Dimethylethyl)-phenyl)-4-(hydroxydi-phenyl-methyl-1-piperidinyl)-1-butanone (provided for in item 406.42, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1745. FLUAZIFOP-P-BUTYL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.49	Butyl 2-[4-(5-trifluoromethyl-2-pryidinyloxy)-phenoxy]-propanoate (provided for in item 408.23, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1746. PARTS OF INDIRECT PROCESS ELECTROSTATIC COPYING MACHINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.18	Parts, not including photoreceptors or assemblies containing photoreceptors, of indirect process electrostatic copying machines, which machines reproduce the original image onto the copy material by electrostatic transference to and from an intermediate (provided for in item 676.56, part 4G, schedule 6).....	Free		No change	On or before 12/31/90	"

SEC. 1747. EXTRACORPOREAL SHOCK WAVE LITHOTRIPTERS IMPORTED BY NONPROFIT INSTITUTIONS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.24	Extracorporeal shock wave lithotripters imported by nonprofit hospitals and research or educational institutions (provided for in item 709.17, part 2B, schedule 7).....	Free		No change	On or before 12/31/87	"

SEC. 1748. TRANSPARENT PLASTIC SHEETING.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	915.10	Transparent plastic sheeting containing 30% or more of lead, by weight (provided for in item 774.58, part 12D, schedule 7).....	Free		No change	On or before 12/31/90	".

SEC. 1749. DOLL WIG YARNS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	905.30	Grouped filaments and yarns, not textured, in continuous form, colored, of nylon or modacrylic, whether or not curled of not less than 20 denier per filament, to be used in the manufacture of wigs for dolls (provided for in item 309.32 and 309.33, part 1E, schedule 3, or item 389.62, part 7B, schedule 3).....	Free		No change	On or before 12/31/90	".

SEC. 1750. 1-(3-SULFOPROPYL) PYRIDINIUM HYDROXIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.97	1-(3-Sulfopropyl)-pyridinium hydroxide (provided for in item 406.42, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1751. POLYVINYLBENZYLTRIMETHYLAMMONIUM CHLORIDE (CHOLESTYRAMINE RESIN USP).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.30	Cross-linked polyvinyl-benzyltri-methyl-ammonium chloride (cholestyramine resin USP) (provided for in item 412.71, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1752. METHYLENE BLUE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.81	3,7-Bis-(dimethyl-amino)-phenazathio-nium chloride (methylene blue) (provided for in item 409.74, part 1C, schedule 4.....	Free		No change	On or before 12/31/90	".

SEC. 1753. 3-AMINO-3-METHYL-1-BUTYNE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.53	3-Amino-3-methyl-1-butyne (provided for in item 425.52, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1754. DICYCLOHEXYLBENZOTHIAZYLSULFENAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.45	Dicyclohexylben-zothiazyl-sulfenamide (provided for in item 406.39, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1755. D-6-METHOXY-α-METHYL-2-NAPHTHALENEACETIC ACID AND ITS SODIUM SALT.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.39	d-6-Methoxy-α-methyl-2-naphthaleneacetic acid and its sodium salt (provided for in item 412.22, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1756. SUSPENSION OF DUTIES ON JACQUARD CARDS AND JACQUARD HEADS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.46	Jacquard cards and jacquard heads for power-driven weaving machines, and parts thereof (provided for in items 670.56 and 670.74, respectively, part 4E, schedule 6).....	Free		No change	On or before 12/31/90	".

SEC. 1757. 2,2-BIS(4-CYANATOPHENYL).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.44	2,2-Bis(4-cyanatophenyl) (provided for in item 405.76, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1758. PHENYLMETHYLAMINOPYRAZOLE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.47	Aminomethylphenylpyrazole (Phenylmethylaminopyrazole) (provided for in item 406.36, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1759. BENZETHONIUM CHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.52	Benzethonium chloride (provided for in item 408.32, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1760. MANEB, ZINEB, MANCOZEB, AND METIRAM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.60	Maneb, zineb, mancozeb, and metiram (provided for in item 432.15, part 2E, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1761. METALDEHYDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.56	Metaldehyde (provided for in item 427.58, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1762. PARALDEHYDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.57	Paraldehyde, USP grade (provided for in item 439.50, part 3C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1763. CYCLOSPORINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.78	Cyclosporine (provided for in item 439.30, part 3C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1764. TEMPORARY REDUCTION OF DUTIES ON GLASS INNERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	909.35	Glass inners designed for vacuum flasks or for other vacuum vessels (provided for in items 545.31, 545.34, 545.35, and 545.37, part 3C, schedule 5)....	9% ad val.	3.6% ad val. (I) Free (A,E)	55% ad val.	On or before 12/31/90	"

SEC. 1765. BENZENOID DYE INTERMEDIATES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following items:

"	907.84	p-Toluenesulfonyl chloride (provided for in item 403.05, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	
	907.85	6-Hydroxy-2-naphthalenesulfonic acid; 6-Hydroxy-2-naphthalenesulfonic acid, sodium salt; 6-Hydroxy-2-napthalenesulfonic acid, potassium salt; and 6-Hydroxy-2-napthalenesulfonic acid, ammonium salt (provided for in item 403.57, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	
	907.86	2,6-Dichlorobenzaldehyde (provided for in item 403.81 part 1B, schedule 4)....	Free		No change	On or before 12/31/90	

907.87	8-Amino-1-naphthalenesulfonic acid and its salts (provided for in item 404.52, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.88	5-Amino-2-(p-amino-anilino) benzene-sulfonic acid (provided for in item 404.84, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.89	1-Amino-2,4-dibromo-anthraquinone; and α,α,α-Trifluoro-o-toluidine (provided for in item 404.88, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.90	1-Amino-8-hydroxy-3,6-naphthalene-disulfonic acid; 4-Amino-5-hydroxy-2,7-naphthalene-disulfonic acid, monosodium salt (H acid, monosodium salt); and 2-Amino-5-nitrophenol (provided for in item 404.92, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.91	1-Amino-4-bromo-2-anthraquinone-sulfonic acid (Bromamine acid);				

	1-Amino-4-bromo-2-anthraquinone-sulfonic acid (Bromamine acid), sodium salt; 6-Amino-4-hydroxy-2-naphthalene-sulfonic acid (Gamma acid); 3,3'-Dimethoxybenzidine (o-Dianisidine); 3,3'-Dimethoxybenzidine dihydrochloride (o-Dianisidine dihydrochloride); and 4-Methoxyaniline-2-sulfonic acid (provided for in item 405.07, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.92	N-(7-Hydroxy-1-naphthyl)-acetamide (provided for in item 405.28, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.93	N,N-Bis(2-cyanoethyl)-aniline (provided for in item 405.60, part 1B, schedule 4).....	Free		No change	On or before 12/31/90
907.94	6-(3-Methyl-5-oxo-1-pyrazolyl)-1,3-naphthalene-disulfonic acid (Amino-J-pyrazolone) (CAS No. 7277-87-4); and 3-Methyl-1-phenyl-5-pyrazolone				

	(Methylphenyl-pyrazolone) (provided for in item 406.36, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	
907.95	2-Amino-N-ethyl-benzenesulfon-anilide (provided for in item 406.49, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	
907.96	m-Sulfamino-pyrazolone m-Sulfamido-phenylmethyl-pyrazolone) (provided for in item 406.56, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1766. TUNGSTEN ORE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	911.96	Tungsten ore (provided for in item 601.54, part 1, schedule 6).....	Free		No change	On or before 12/31/90	".

SEC. 1767. CHLOR AMINO BASE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.07	4-Chloro-2,5-dimethoxy aniline (CAS No. 6358-64-1) (provided for in item 405.01, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1768. NITRO SULFON B.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.01	2-[(3-Nitrophenyl)-sulfonyl]-ethanol (CAS No. 41687-30-3) (provided for in item 406.00, part 1B, schedule 4).....	Free			No change	On or before 12/31/90	".

SEC. 1769. 4-CHLORO-2-NITRO ANILINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"	908.02	4-Chloro-2-nitro aniline (CAS No. 89-63-4) (provided for in item 404.88, part 1B, schedule 4).....	Free			No change	On or before 12/31/90	".

SEC. 1770. AMINO SULFON BR.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.03	3-(4'-aminobenz-amido) phenyl-beta-hydroxy-ethyl sulfone (CAS No. 20241-68-3) (provided for in item 406.00, part 1B, schedule 4).....	Free			No change	On or before 12/31/90	".

SEC. 1771. ACET QUINONE BASE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.04	2,5-Dimethoxy-acetanilide (CAS No. 3467-59-2) (provided for in item 405.34, part 1B, schedule 4).....	Free			No change	On or before 12/31/90	".

SEC. 1772. DIAMINO PHENETOLE SULFATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.05	3,4-Diamino phenetole dihydrogen sulfate (CAS No. 85137-09-3) (provided for in item 405.09, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1773. CERTAIN MIXTURES OF CROSS-LINKED SODIUM POLYACRYLATE POLYMERS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following item:

"	907.72	Mixtures of two or more organic compounds containing one or more cross-linked sodium polyacrylate polymers (provided for in item 430.20, part 2D, schedule 4).....	Free		No change	On or before 10/31/87	".

SEC. 1774. N-ETHYL-O-TOLUENESULFONAMIDE AND N-ETHYL-P-TOLUENESULFONAMIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.07	N-Ethyl-o-toluene-sulfonamide, and N-Ethyl-p-toluene-sulfonamide (provided for in item 409.34, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1775. SETHOXYDIM.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.36	Mixtures of 2-[1-(ethoxyimino)-butyl]-5-[2-(ethylthio)-propyl]-3-hydroxy-2-cyclohexen-1-one (sethoxydim) and application adjuvants (provided for in item 407.19, part 1B, or item 430.20, part 2D of schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1776. 3-ETHYLAMINO-P-CRESOL.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.34	3-Ethylamino-p-cresol (provided for in item 404.96, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1777. ROSACHLORIDE LUMPS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.11	1-Amino-2-chloro-4-hydroxyanthraquinone (provided for in item 405.07, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1778. C-AMINES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.59	2-Amino-5-chloro-4-methyl-benzene-sulfonic acid; and 2-amino-5-chloro-4-ethylbenzene-sulfonic acid (provided for in item 404.88 and 404.90, respectively, part 1B, sched-					

		ule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1779. DIAMINO IMID SP.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.60	4,11-Diamino-1H-naphth[2,3-f]iso-indole-1,3,5,10(2H)-tetrone (CAS No. 128-81-4) (provided for in item 406.42, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1780. CERTAIN STUFFED TOY FIGURES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.32	Stuffed or filled toy figures of animate objects (except dolls), not having a spring mechanism and not exceeding 25 inches in either length, width, or height (provided for in items 737.30 and 737.40, part 5E, schedule 7)....	Free		No change	On or before 12/31/90	".

SEC. 1781. KITCHENWARE OF TRANSPARENT, NONGLAZED GLASS CERAMICS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	909.15	Kitchenware of glass-ceramics, nonglazed, greater than 75 percent by volume crystalline, containing lithium aluminosilicate, having a linear coefficient of expansion not exceeding 10×10^{-7} per Kelvin within a temperature range of 0° C to 300° C, transparent, haze-free, exhibiting transmittances of infrared radiations in excess of 75 percent at a wavelength of 2.5 microns when measured on a sample 3 mm. in thickness, and containing beta-quartz solid solution as the predominant crystal phase (provided for in item 534.97, part 2C, schedule 5).....	Free		No change	On or before 12/31/90	".

SEC. 1782. HOSIERY KNITTING MACHINES AND NEEDLES.

(a) IN GENERAL.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"	912.28	Needles for knitting machines (provided for in items 670.58 and 670.62, part 4E, schedule 6)....	Free		No change	On or before 12/31/90	

"	912.29	Hosiery knitting machines, single cylinder fine gauge and all double cylinder (provided for in items 670.16 and 670.18, part 4E, schedule 6)....	Free		No change	On or before 12/31/90	".

(b) REPEAL.—Items 912.08 and 912.09 are repealed.

SEC. 1783. CERTAIN BICYCLE PARTS.

(a) BICYCLE TIRES AND TUBES.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.01	Bicycle tires and tubes and rim strips, the foregoing of rubber or plastics (provided for in item 732.42, part 5C, schedule 7, and items 772.48 and 772.57, part 12C, schedule 7)..	Free		No change	On or before 12/31/90	".

(b) GENERATOR LIGHTING SETS.—Item 912.05 of the Appendix is amended by striking out "6/30/86" and inserting in lieu thereof "12/31/90".

(c) BICYCLE CHAINS.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.06	Bicycle chains (provided for in items 652.13 and 652.15, part 3F, schedule 6)....	Free		No change	On or before 12/31/90	".

(d) OTHER BICYCLE PARTS.—Item 912.10 of the Appendix is amended—

(1) by inserting "front and rear derailleurs, shift levers, cables and casings for derailleurs," immediately after "drum brakes,",

(2) by striking out "multiple free wheel sprockets" and inserting in lieu thereof "free wheel sprockets",

(3) by inserting "and" after "frame lugs,",

(4) by striking out ", including cable or inner wire for caliper brakes and casing therefor, whether or not cut to length, and parts of bicycles consisting of sets of steel tubing cut to exact length and each set having the number of tubes needed for the assembly (with other parts) into the frame and fork of one bicycle", and

(5) by striking out "6/30/86" and inserting in lieu thereof "12/31/90".

(e) CALIPER BRAKE CABLE OR INNER WIRE AND CASING.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.12	Cable or inner wire for caliper brakes and casing therefor, whether or not cut to length (provided for in items 642.08, 642.11, 642.14, 642.16, 642.18, 642.19, 642.23, and 657.25, parts 3B and 3G, schedule 6, and items 771.55 and 772.65, parts 12B and 12C, schedule 7).....	Free		No change	On or before 12/31/90	".

(f) EXCEPTION TO CUSTOMS EXEMPTION APPLICABLE TO FOREIGN TRADE ZONES.—Section 3(b) of the Act of June 18, 1934 (commonly known as the Foreign Trade Zones Act, 19 U.S.C. 81c(b)), is amended by striking out "June 30, 1986" and inserting in lieu thereof "January 1, 1991".

SEC. 1784. 1,2-DIMETHYL-3,5-DIPHENYLPYRAZOLIUM METHYL SULFATE (DIFENZOQUAT METHYL SULFATE).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.24	1,2-Dimethyl-3,5-diphenylpyrazolium methyl sulfate (difenzoquat methyl sulfate) (provided for in item 408.19, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1785. TRIALLATE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.64	S-(2,3,3'-trichlorallyl)-diisopropyl-thiocarbamate (provided for in item 425.36, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1786. m-NITRO-p-ANISIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.56	m-Nitro-p-anisidine (provided for in item 405.09, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1787. DINOCAP AND MIXTURES OF DINOCAP AND MANCOZEB.

(a) DINOCAP AND APPLICATION ADJUVANTS.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new items:

"	907.98	Dinocap (provided for in item 408.16, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	
	907.99	Mixtures of dinocap and application adjuvants (provided for in item 408.38, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	"

(b) MIXTURES OF DINOCAP AND MANCOZEB.—Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.28	Mixtures of mancozeb and dinocap (provided for in item 408.38, part 1C, schedule 4).....	Free		No change	On or before 12/31/90	"

SEC. 1788. m-NITRO-O-ANISIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.35	m-Nitro-o-anisidine (provided for in item 405.07, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1789. p-NITRO-O-TOLUIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence to the following new item:

"	906.37	p-Nitro-o-toluidine (provided for in item 404.88, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1790. PHENYLCARBETHOXYPYRAZOLONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	906.31	Phenylcarbethoxy-pyrazolone (provided for in item 406.39, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1791. p-NITRO-O-ANISIDINE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.14	p-Nitro-o-anisidine (provided for in item 405.07, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1792. CARBODIIMIDES.

(a) Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.70	Bis(o-tolyl) carbodiimide; 2,2',6,6'-Tetraisopropyl-diphenyl carbodiimide; Poly[nitrilo-methanete-traryl-nitrilo [2,4,6-tris(1,-methylethyl)-1,3 phenylene]], 2,6-bis(1-methylethyl) phenyl]-omega-[[[[2,6-bis(1-methylethyl) phenyl]amino] methylene]-amino]; and Benezene, 2,4-diisocyanato-1,3,5-tris(1-methylethyl)-homopolymer (provided for in item 405.53, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1793. TRIETHYLENE GLYCOL DICHLORIDE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.73	Triethylene glycol dichloride (provided for in item 428.47, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1794. MIXTURES OF 5-CHLORO-2-METHYL-4-ISOTHIAZOLIN-3-ONE, 2-METHYL-4-ISOTHIAZOLIN-3-ONE, MAGNESIUM CHLORIDE, STABILIZERS AND APPLICATION ADJUVANTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.16	Mixtures of 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride, stabilizers and application adjuvants (provided for in item 432.28, part 2E, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1795. 2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE, AND ON MIXTURES OF 2-N-OCTYL-4-ISOTHIAZOLIN-3-ONE AND APPLICATION ADJUVANTS.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.17	2-n-Octyl-4-isothiazolin-3-one, and mixtures of 2-n-octyl-4-isothiazolin-3-one and application adjuvants (provided in items 425.52 and 430.20, part 2D, schedule 4)....	Free		No change	On or before 12/31/90	".

SEC. 1796. WEAVING MACHINES FOR FABRICS IN EXCESS OF 16 FEET WIDTH.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	912.48	Power-driven weaving machines for weaving fabrics more than sixteen feet in width, and parts thereof (provided for in item 670.14 and 670.74, part 4E, schedule 6).....	Free		No change	On or before 12/31/90	".

SEC. 1797. BARBITURIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.50	Barbituric acid (provided for in item 437.36, part 3B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1798. 3-METHYL-5-PYRAZOLONE.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	907.46	3-Methyl-5-pyrazolone (provided for in item 425.52, part 2D, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1799. 3-METHYL-1-(P-TOLYL)-2-PYRAZOLIN-5-ONE (P-TOLYL METHYL PYRAZOLONE).

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.15	3-Methyl-1-(p-tolyl)-2-pyrazolin-5-one (p-Tolyl methyl pyrazolone) (provided for in item 406.36, part 1B, schedule 4).....	Free		No change	On or before 12/31/90	".

SEC. 1800. CERTAIN OFFSET PRINTING PRESSES.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	911.93	Offset printing presses of the sheet-fed type weighing 3,500 pounds or more (provided for in item 668.21, part 4D, schedule 6).....	No change		10% ad val.	On or before 12/31/90	".

SEC. 1801. FROZEN CRANBERRIES.

Subpart B of part 1 of the Appendix to the Tariff Schedules of the United States is amended by inserting in numerical sequence the following item:

"	903.63	Cranberries, frozen (provided for in item 146.71, part 9B, schedule 1).....	Free			No change	On or before 12/31/90	".

SEC. 1802. m-HYDROXYBENZOIC ACID.

Subpart B of part 1 of the Appendix is amended by inserting in numerical sequence the following new item:

"	908.18	m-Hydroxybenzoic acid (provided for in item 404.40, part 1B, schedule 4).....	Free			No change	On or before 12/31/90	".

SEC. 1803. CERTAIN BENZENOID CHEMICALS.

Subpart B of part 1 of the Appendix is amended—

(1) by inserting in numerical sequence the following new item:

"	908.32	N1,N4,N4-Tris(2-hydroxyethyl)-2-nitro-1,4-phenylenediamine; N1,N4-Dimethyl-N1-(2-hydroxyethyl)-3-nitro-1,4-phenylenediamine; N1,N4-Dimethyl-N1-(2,3-dihydroxypropyl)-3-nitro-1,4-phenylenediamine; and N1-(2-Hydroxyethyl)-3-nitro-1,4-phenylenediamine (provided for in item 405.09, part 1B, schedule 4).....	Free			No change	On or before 12/1/90	",

(2) by inserting in numerical sequence the following new item:

"	908.33	N1-(2-Hydroxyethyl)-2-nitro-1,4-phenylenediamine (provided for in item 405.07, part 1B, schedule 4).....	Free			No change	On or before 12/1/90	",

and

(3) by inserting in numerical sequence the following new item:

"	908.34	2-Nitro-5-[(2,3-dihydroxy)-propoxy]-N-methylaniline; 2-Nitro-5-(2-hydroxy-ethoxy)-N-methylaniline; 4-[(2-Hydroxyethyl)-amino]-3-nitrophenol; 4-(2-Hydroxyeth-oxy)-1,3-phenylenedia-mine dihydrochloride; and 3-Methoxy-4-[(2-hydroxyethyl)-amino]nitro-benzene (provided for in item 405.09, part 1B, schedule 4).....	Free		No change	On or before 12/1/90	".

SEC. 1804. EXTENSION OF CERTAIN SUSPENSION PROVISIONS.

(a) PROVISIONS THAT EXPIRED BEFORE 1987.—Each of the following items are amended by striking out the date in the effective date column and inserting in lieu thereof "12/31/90":

(1) Item 903.65 (relating to cantaloupes).

(2) Items 905.10 and 905.11 (relating to certain wools).

(3) Items 906.10 and 906.12 (relating to needlecraft display models).

(4) Item 907.01 (relating to triphenyl phosphate).

(5) Item 907.14 (relating to isomeric mixtures of ethylbiphenyl).

(6) Item 907.17 (relating to sulfapyridine).

(7) Item 911.25 (relating to synthetic rutile).

(8) Item 911.95 (relating to certain clock radios).

(9) Item 912.07 (relating to machines designed for heat-set, stretch texturing of continuous man-made fibers).

(10) Item 912.20 (relating to certain small toys).

(11) Items 912.30, 912.34, and 912.36 (relating to stuffed dolls, certain toy figures, and skins thereof).

(12) Item 912.45 (relating to umbrella frames).

(13) Item 903.60 (relating to mixtures of mashed or macerated hot red peppers and salt).

(b) PROVISIONS EXPIRING IN 1987 OR LATER.—Each of the following items is amended by striking out the date in the effective date column and inserting in lieu thereof "12/31/90":

(1) Items 903.70 and 903.80 (relating to crude feathers and down).

(2) Item 905.50 (relating to surgical gowns).

(3) Item 906.50 (relating to diphenylguanidine and di-ortho-tolylguanidine).
(4) Item 906.57 (relating to m-toluic acid).
(5) Item 907.13 (relating to menthol feedstocks).
(6) Item 907.19 (relating to sulfathiazole).
(7) Item 907.21 (relating to flecainide acetate).
(8) Item 907.23 (relating to o-Benzyl-p-chlorophenol).
(9) Item 907.31 (relating to B-Naphthol).
(10) Item 907.32 (relating to 3,3'-Diaminobenzidine).
(11) Item 907.33 (relating to acetylsulfaguanidine).
(12) Item 907.34 (relating to 6-Amino-1-naphthol-3-sulfonic acid).
(13) Item 907.35 (relating to 2-(4-Aminophenyl)-6-methylbenzothiazole-7-sulfonic acid).
(14) Item 907.36 (relating to sulfamethazine).
(15) Item 907.37 (relating to sulfaguanidine).
(16) Item 907.38 (relating to sulfaquinoxaline and sulfanilamide).
(17) Item 907.63 (relating to nicotine resins).
(18) Item 907.79 (relating to iron-dextran complex).
(19) Item 909.01 (relating to natural graphite).
(20) Item 912.04 (relating to certain narrow weaving machines).
(21) Item 912.11 (relating to certain lace-braiding machines).
(22) Item 905.40 (relating to certain hovercraft skirts).
(23) Item 906.52 (relating to 5-chloro-2-methyl-4-isothiazolin-3-one, 2-methyl-4-isothiazolin-3-one, magnesium chloride and magnesium nitrate).

(c) TECHNICAL AMENDMENTS.—
(1) Item 906.10 is amended—
(A) by striking out "365.78" and inserting in lieu thereof "365.66",
(B) by striking out "365.86" and inserting in lieu thereof "365.89",
(C) by striking out "367.34" and inserting in lieu thereof "367.32",
(D) by striking out "367.60" and inserting in lieu thereof "367.63",
(E) by striking out "386.13" and inserting in lieu thereof "386.12", and
(F) by striking out "386.50" and inserting in lieu thereof "386.53".
(2) Item 906.12 is amended by striking out "383.03, 383.08, 383.20, and 383.50" and inserting in lieu thereof "384.04, 384.09, 384.22, and 384.52".
(3) Item 907.14 is amended by striking out "407.16" and inserting in lieu thereof "407.19".
(4) Item 912.45 is amended by striking out "751.20" and inserting in lieu thereof "751.21".
(5) Item 907.21 is amended by striking out "412.12" and inserting in lieu thereof "412.11".

Subpart C—Effective Dates

SEC. 1831. EFFECTIVE DATES.

(a) IN GENERAL.—Except as otherwise provided in this section, the amendments made by this part shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after September 30, 1988.

(b) RETROACTIVE APPLICATION FOR CERTAIN LIQUIDATIONS AND RELIQUIDATIONS.—

(1) Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1988, and before April 1, 1989, any entry—

(A) which was made after the applicable date and before October 1, 1988, and

(B) with respect to which there would have been no duty or a lesser duty if any amendment made by—

(i) section 1716, 1717, 1719(b)(2), 1731, 1736, 1740, 1742(a), 1747, or 1773,

(ii) subsection (a), (b), (d), or (e) of section 1783, or

(iii) section 1804 (other than section 1804(a)(7) and paragraphs (2) and (10) of section 1804(b)),

applied to such entry,

shall be liquidated or reliquidated as though such amendment applied to such entry.

(2) For purposes of this section—

(A) The term "applicable date" means—

(i) if the amendment described in paragraph (1)(B) is made by section 1717 or 1747, December 31, 1982,

(ii) if such amendment is made by section 1804(a)(1), May 15, 1985,

(iii) if such amendment is made by paragraph (2), (3), (5), or (13) of section 1804(a), June 30, 1985,

(iv) if such amendment is made by section 1773, July 1, 1985,

(v) if such amendment is made by section 1731, 1742(a), or 1804(a)(4), September 30, 1985,

(vi) if such amendment is made by section 1736, October 31, 1985,

(vii) if such amendment is made by section 1716 or by paragraph (6), (9), or (11) of section 1804(a), December 31, 1985,

(viii) if such amendment is made by section 1740, May 31, 1986,

(ix) if such amendment is made by subsection (b), (d), or (e) of section 1783, June 30, 1986,

(x) if such amendment is made by paragraph (8), (10), or (12) of section 1804(a), December 31, 1986,

(xi) if such amendment is made by section 1783(a) or 1804(b) (other than by paragraph (2) or (10) of section 1804(b)), December 31, 1987, or

(xii) if such amendment is made by section 1719(b)(2), the date that is 15 days after the date of enactment of this Act.

(B) The term "entry" includes any withdrawal from warehouse.

(c) HOSIERY KNITTING MACHINES AND NEEDLES.—Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the appropriate customs officer after September 30, 1988, and before April 1, 1989—

(1) any entry of an article described in item 912.08 of the Tariff Schedules of the United States (as in effect on September 30, 1985) that was made—

(A) after September 30, 1985, and

(B) before the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry had been made on September 30, 1985; and

(2) any entry of an article described in item 912.09 of such Schedules (as in effect on June 30, 1985) that was made—

(A) after June 30, 1985, and

(B) before the date that is 15 days after the date of enactment of this Act,

shall be liquidated or reliquidated as though such entry had been made on June 30, 1985.

PART II—MISCELLANEOUS PROVISIONS

SEC. 1841. CERTAIN STRUCTURES AND PARTS USED IN THE W.M. KECK OBSERVATORY PROJECT, MAUNA KEA, HAWAII.

The Secretary of the Treasury is authorized and directed to admit free of duty after September 30, 1988, the following articles for the use of the California Association for Research in Astronomy in the construction of the optical telescope for the W.M. Keck Observatory Project, Mauna Kea, Hawaii:

(1) The telescope structure.

Canada.

(2) The observatory domes, produced by Brittain Steel, Ltd., of Vancouver, British Columbia, Canada.

Federal Republic of Germany.

(3) The primary mirror blanks, produced by the Schott Glassworks, Frankfurt, Federal Republic of Germany.

If the liquidation of the entry of any such article has become final before October 1, 1988, the entry shall, notwithstanding any other provision of law, be reliquidated on October 1, 1988, in accordance with the provisions of this section and the appropriate refund of duty made at the time of such reliquidation.

SEC. 1842. RELIQUIDATION OF CERTAIN ENTRIES AND REFUND OF ANTIDUMPING DUTIES.

(a) IN GENERAL.—Notwithstanding section 514 of the Tariff Act of 1930 (19 U.S.C. 1514) or any other provision of law, the entries listed in subsection (b) shall be reliquidated on October 1, 1988, without liability of the importer of record for antidumping duties, and if any such duty has been paid, either through liquidation or compromise under section 617 of the Tariff Act of 1930 (19 U.S.C. 1617), refund thereof shall be made on October 1, 1988.

(b) SPECIFIC ENTRIES.—The entries referred to in subsection (a) are as follows:

Entry Number:	Date of Entry:
144549	March 26, 1976
150297	April 27, 1976
152729	May 11, 1976
156068	May 26, 1976
161653	June 23, 1976

Entry Number:	Date of Entry:
168759	July 30, 1976
173393	August 25, 1976
175173	September 3, 1976
178811	September 23, 1976
108842	November 18, 1976
113000	December 9, 1976
115229	December 21, 1976
120070	January 17, 1977
120908	January 20, 1977
121403	January 24, 1977
130005	March 10, 1977.

SEC. 1843. RELIQUIDATION OF CERTAIN TUBULAR TIN PRODUCTS.

Notwithstanding any provision of the Tariff Act of 1930 or any other provision of the law to the contrary, the Secretary of the Treasury shall reliquidate on or after October 1, 1988, as free of duty under item 911.12 of the Appendix to the Tariff Schedules of the United States, as in effect at the time of entry, the entries numbered 00329493 (dated March 16, 1979), 00329494 (dated March 13, 1979), 00329495 (dated March 28, 1979), and 00330003 (dated March 21, 1979), made at New York, and covering tubular tin products, if a certificate of actual use (remelt certificate) for the articles covered by the four entries is submitted to the United States Customs Service at the port of entry after September 30, 1988, and before April 1, 1989.

SEC. 1844. CERTAIN EXTRACORPOREAL SHOCK WAVE LITHOTRIPTER IMPORTED FOR USE IN HAWAII.

Notwithstanding any other provision of law—

(1) the entry, or withdrawal from warehouse, for consumption in October 1986 of any extracorporeal shock wave lithotripter exclusively for use in the State of Hawaii shall be free of duty and, upon a request filed with the appropriate customs officer after September 30, 1988, and before April 1, 1989, shall be reliquidated in accordance with the provisions of this section, and

(2) the appropriate refund of any duties paid on such entry or withdrawal shall be made after September 30, 1988.

SEC. 1845. EXTENSION OF THE FILING PERIOD FOR RELIQUIDATION OF CERTAIN ENTRIES.

Notwithstanding section 514 of the Tariff Act of 1930 or any other provision of law, upon proper request filed with the customs officer concerned after September 30, 1988, and before April 1, 1989, the entry of any article described in item 687.70 of the Tariff Schedules of the United States which was made on or after March 1, 1985, and before November 6, 1986, shall be liquidated or reliquidated as though such entry had been made on November 6, 1986.

Subtitle H—Miscellaneous Customs, Trade, and Other Provisions

PART 1—CUSTOMS PROVISIONS

SEC. 1901. ENFORCEMENT OF THE RESTRICTIONS AGAINST IMPORTED PORNOGRAPHY.

(a) IN GENERAL.—Section 305 of the Tariff Act of 1930 (19 U.S.C. 1305) is amended as follows:

(1) The second paragraph of subsection (a) is designated as subsection (b) and the following side heading, appropriately indented, is inserted before "Upon" at the beginning of the paragraph: "(b) ENFORCEMENT PROCEDURES.—".

(2) The second sentence of subsection (b) (as redesignated by paragraph (1)) is amended to read as follows: "Upon the seizure of such book or matter, such customs officer shall transmit information thereof to the United States attorney of the district in which is situated either—

"(1) the office at which such seizure took place; or

"(2) the place to which such book or matter is addressed;

and the United States attorney shall institute proceedings in the district court for the forfeiture, confiscation, and destruction of the book or matter seized.".

(3) The following new subsections are added at the end thereof:

"(c) Notwithstanding the provisions of subsections (a) and (b), whenever a customs officer discovers any obscene material after such material has been imported or brought into the United States, or attempted to be imported or brought into the United States, he may refer the matter to the United States attorney for the institution of forfeiture proceedings under this section. Such proceedings shall begin no more than 30 days after the time the material is seized; except that no seizure or forfeiture shall be invalidated for delay if the claimant is responsible for extending the action beyond the allowable time limits or if proceedings are postponed pending the consideration of constitutional issues.

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"(d) Upon motion of the United States, a court shall stay such civil forfeiture proceedings commenced under this section pending the completion of any related criminal matter.".

19 USC 1305 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) apply with respect to articles entered, or withdrawn from warehouse for consumption, on or after the 15th day after the date of the enactment of this Act.

SEC. 1902. TARE ON CRUDE OIL AND PETROLEUM PRODUCTS.

(a) IN GENERAL.—Section 507 of the Tariff Act of 1930 (19 U.S.C. 1507) is amended—

(1) by striking out "The Secretary" and inserting in lieu thereof "(a) IN GENERAL.—The Secretary",

(2) by striking out "in no case shall there be" and inserting in lieu thereof "(except as otherwise provided in this section) there shall not be", and

(3) by adding at the end thereof the following new subsection:

"(b) CRUDE OIL AND PETROLEUM PRODUCTS.—In ascertaining tare on imports of crude oil, and on imports of petroleum products,

allowance shall be made for all detectable moisture and impurities present in, or upon, the imported crude oil or petroleum products.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to articles entered, or withdrawn from warehouse for consumption, after October 1, 1987. 19 USC 1507 note.

SEC. 1903. ELIGIBLE ARTICLES UNDER THE GENERALIZED SYSTEM OF PREFERENCES.

Section 503(c)(1)(B) of the Trade Act of 1974 (19 U.S.C. 2463(c)(1)(B)) is amended to read as follows:

"(B) watches, except those watches entered after June 30, 1989, that the President specifically determines, after public notice and comment, will not cause material injury to watch or watch band, strap, or bracelet manufacturing and assembly operations in the United States or the United States insular possessions,".

SEC. 1904. CUSTOMS BOND CANCELLATION STANDARDS.

Section 623(c) of the Tariff Act of 1930 (19 U.S.C. 1623(c)) is amended by adding at the end thereof the following new sentence: "In order to assure uniform, reasonable, and equitable decisions, the Secretary of the Treasury shall publish guidelines establishing standards for setting the terms and conditions for cancellation of bonds or charges thereunder.".

SEC. 1905. CUSTOMS SERVICES AT PONTIAC/OAKLAND, MICHIGAN, AIRPORT.

Section 236 of the Trade and Tariff Act of 1984 (19 U.S.C. 586) is amended— 19 USC 58b.

(1) by striking out "and" at the end of subsection (a)(1);

(2) by redesignating paragraph (2) of subsection (a) as paragraph (3);

(3) by inserting after paragraph (1) of subsection (a) the following new paragraph:

"(2) the airport located at Pontiac/Oakland, Michigan, and"; and

(4) by striking out "20" in subsection (c).

SEC. 1906. SENSE OF CONGRESS REQUESTING THE PRESIDENT TO INSTRUCT THE SECRETARY OF THE TREASURY TO ENFORCE SECTION 307 OF THE TARIFF ACT OF 1930 WITHOUT DELAY. 19 USC 1307 note.

(a) CONGRESSIONAL FINDINGS.—The Congress finds that—

(1) its February 1983 report to the Congress on forced labor in the Union of Soviet Socialist Republics, the Department of State confirmed that Soviet forced labor is used "to produce large amounts of primary and manufactured goods for both domestic and Western export markets", and that such labor is used as an integral part of Soviet national economy;

(2) the Central Intelligence Agency has compiled a list of over three dozen products made by Soviet forced labor and imported by the United States, and that items on the September 27, 1983 list include chemicals, gold, uranium, aluminum, wood products and glassware;

(3) the International Commission on Human Rights has concluded that the Soviet Union "continues the deplorable practice of forced labor in manufacturing and construction projects" and that prisoners "are forced to work under conditions of extreme

hardship including malnutrition, inadequate shelter and clothing, and severe discipline";

(4) the Congress is on record as opposing forced labor, having enacted a prohibition (in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307)) on the importation of goods made with such labor and having passed in the Ninety-eighth Congress by unanimous vote a resolution calling such practices morally reprehensible and calling upon the President to express to the Soviet Union the opposition of the United States to such policies;

(5) the prohibition enacted by the Congress declares that "goods, wares, articles, and merchandise mined, produced or manufactured wholly or in part in any foreign country by convict labor or/and forced labor or/and indentured labor under penal sanctions shall not be entitled to entry at any of the ports of the United States, and the importation thereof is hereby prohibited";

(6) there is ample knowledge of the Soviet forced labor system to require enforcement of the prohibition contained in section 307 of the Tariff Act of 1930 (19 U.S.C. 1307); and

(7) the delay in enforcing the law brings into question the commitment of the United States to protest the inhumane treatment of prisoners in the Soviet Gulag, an estimated ten thousand of whom are political and religious prisoners according to the Department of State.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that the President should express to the Soviet Union in the firmest possible terms the strong moral opposition of the United States to the slave labor policies of the Soviet Union by every means possible, including refusing to permit the importation into the United States of any products made in whole or in part by such labor.

(c) PRESIDENTIAL ACTION.—The President is hereby requested to instruct the Secretary of the Treasury to enforce section 307 of the Tariff Act of 1930 (19 U.S.C. 1307) without delay.

SEC. 1907. IMPORT MARKING PROVISIONS.

(a) INCREASE IN PENALTY FOR VIOLATIONS OF COUNTRY-OF-ORIGIN MARKING REQUIREMENTS.—

(1) Section 304(h) of the Tariff Act of 1930 (19 U.S.C. 1304(h)) is amended to read as follows:

"(h) PENALTIES.—Any person who, with intent to conceal the information given thereby or contained therein, defaces, destroys, removes, alters, covers, obscures, or obliterates any mark required under the provisions of this Act shall—

"(1) upon conviction for the first violation of this subsection, be fined not more than $100,000, or imprisoned for not more than 1 year, or both; and

"(2) upon conviction for the second or any subsequent violation of this subsection, be fined not more than $250,000, or imprisoned for not more than 1 year, or both.".

19 USC 1304 note.

(2)(A) The amendment made by paragraph (1) applies with respect to acts committed on or after the date of the enactment of this Act.

(B) The conviction of a person under section 304(h) of the Tariff Act of 1930 for an act committed before the date of the enactment of this Act shall be disregarded for purposes of applying paragraph (2) of such subsection (as added by the amendment made by paragraph (1) of this subsection.

(b) MARKING OF CONTAINERS OF IMPORTED MUSHROOMS.—Imported preserved mushrooms shall not be considered to be in compliance with section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) or any other law relating to the marking of imported articles unless the containers thereof indicate in English the country in which the mushrooms were grown.

(c) NATIVE-AMERICAN STYLE JEWELRY AND NATIVE-AMERICAN STYLE ARTS AND CRAFTS.—By no later than the date that is 1 year after the date of enactment of this Act, the Secretary of the Treasury shall prescribe and implement regulations under section 304 of the Tariff Act of 1930 (19 U.S.C. 1304) which require, to the greatest extent possible, that all Native-American style jewelry and Native-American style arts and crafts that are imported into the United States have the English name of the country of origin of such jewelry or arts and crafts indelibly marked in a conspicuous place on such jewelry or arts and crafts by a permanent method of marking. Regulations.

SEC. 1908. DUTY-FREE SALES ENTERPRISES.

(a) FINDINGS.—The Congress finds that— 19 USC 1555 note.

(1) duty-free sales enterprises play a significant role in attracting international passengers to the United States and thereby their operations favorably affect our balance of payments;

(2) concession fees derived from the operations of authorized duty-free sales enterprises constitute an important source of revenue for the State, local and other governmental authorities that collect such fees;

(3) there is inadequate statutory and regulatory recognition of, and guidelines for the operation of, duty-free sales enterprises; and

(4) there is a need to encourage uniformity and consistency of regulation of duty-free sales enterprises.

(b) IN GENERAL.—Section 555(b) of the Tariff Act of 1930 (19 U.S.C. 1555(b)) is amended to read as follows:

"(b) DUTY-FREE SALES ENTERPRISES.—

"(1) Duty-free sales enterprises may sell and deliver for export from the customs territory duty-free merchandise in accordance with this subsection and such regulations as the Secretary may prescribe to carry out this subsection.

"(2) A duty-free sales enterprise may be located anywhere within—

"(A) the same port of entry, as established under section 1 of the Act of August 24, 1912 (37 Stat. 434), from which a purchaser of duty-free merchandise departs the customs territory; or

"(B) 25 statute miles from the exit point through which the purchaser of duty-free merchandise will depart the customs territory.

"(3) Each duty-free sales enterprise—

"(A) shall establish procedures to provide reasonable assurance that duty-free merchandise sold by the enterprise will be exported from the customs territory;

"(B) if the duty-free sales enterprise is an airport store, shall establish and enforce, in accordance with such regulations as the Secretary may prescribe, restrictions on the

sale of duty-free merchandise to any one individual to personal use quantities;

"(C) shall display in prominent places within its place of business notices which state clearly that any duty-free merchandise purchased from the enterprise—

"(i) has not been subject to any Federal duty or tax,

"(ii) if brought back into the customs territory, must be declared and is subject to Federal duty and tax, and

"(iii) is subject to the customs laws and regulation of any foreign country to which it is taken;

"(D) shall not be required to mark or otherwise place a distinguishing identifier on individual items of merchandise to indicate that the items were sold by a duty-free sales enterprise, unless the Secretary finds a pattern in which such items are being brought back into the customs territory without declaration;

"(E) may unpack merchandise into saleable units after it has been entered for warehouse and placed in a duty-free sales enterprise, without requirement of further permits; and

"(F) shall deliver duty-free merchandise—

"(i) in the case of a duty-free sales enterprise that is an airport store—

"(I) to the purchaser (or a family member or companion traveling with the purchaser) in an area that is within the airport and to which access to passengers is restricted to those departing from the customs territory;

"(II) to the purchaser (or a family member or companion traveling with the purchaser) at the exit point of a specific departing flight;

"(III) by placing the merchandise within the aircraft on which the purchaser will depart for carriage as passenger baggage; or

"(IV) if the duty-free sales enterprise has made a good faith effort to effect delivery for exportation through one of the methods described in subclause (I), (II), or (III) but is unable to do so, by any other reasonable method to effect delivery; or

"(ii) in the case of a duty-free sales enterprise that is a border store—

"(I) at a merchandise storage location at or beyond the exit point; or

"(II) at any location approved by the Secretary before the date of enactment of the Omnibus Trade Act of 1987.

State and local governments.

"(4) If a State or local or other governmental authority, incident to its jurisdiction over any airport, seaport, or other exit point facility, requires that a concession or other form of approval be obtained from that authority with respect to the operation of a duty-free sales enterprise under which merchandise is delivered to or through such facility for exportation, merchandise incident to such operation may not be withdrawn from a bonded warehouse and transferred to or through such facility unless the operator of the duty-free sales enterprise demonstrates to the Secretary that the concession or approval required for the enterprise has been obtained.

"(5) This subsection does not prohibit a duty-free sales enterprise from offering for sale and delivering to, or on behalf of, individuals departing from the customs territory merchandise other than duty-free merchandise, except that such other merchandise may not be stored in a bonded warehouse facility other than a bonded facility used for retail sales.

"(6) Merchandise that is purchased in a duty-free sales enterprise is not eligible for exemption from duty under subpart A of part 2 of schedule 8 of the Tariff Schedules of the United States if such merchandise is brought back to the customs territory.

"(7) The Secretary shall by regulation establish a separate class of bonded warehouses for duty-free sales enterprises. Regulations issued to carry out this paragraph shall take into account the unique characteristics of the different types of duty-free sales enterprises. Regulations.

"(8) For purposes of this subsection—

"(A) The term 'airport store' means a duty-free sales enterprise which delivers merchandise to, or on behalf of, individuals departing from the customs territory from an international airport located within the customs territory.

"(B) The term 'border store' means a duty-free sales enterprise which delivers merchandise to, or on behalf of, individuals departing from the customs territory through a land or water border by a means of conveyance other than an aircraft.

"(C) The term 'customs territory' means the customs territory of the United States and foreign trade zones.

"(D) The term 'duty-free sales enterprise' means a person that sells, for use outside the customs territory, duty-free merchandise that is delivered from a bonded warehouse to an airport or other exit point for exportation by, or on behalf of, individuals departing from the customs territory.

"(E) The term 'duty-free merchandise' means merchandise sold by a duty-free sales enterprise on which neither Federal duty nor Federal tax has been assessed pending exportation from the customs territory.

"(F) The term 'exit point' means the area in close proximity to an actual exit for departing from the customs territory, including the gate holding area in the case of an airport, but only if there is reasonable assurance that duty-free merchandise delivered in the gate holding area will be exported from the customs territory.

"(G) The term 'personal use quantities' means quantities that are only suitable for uses other than resale, and includes reasonable quantities for household or family consumption as well as for gifts to others.".

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date that is 15 days after the date of enactment of this Act. 19 USC 1555 note.

SEC. 1909. CARIBBEAN BASIN INITIATIVE.

(a) FINDINGS.—The Congress finds that— 19 USC 2702 note.

(1) Caribbean and Central American countries historically have had close economic, political, and cultural ties to the United States;

(2) promoting economic and political stability in the Caribbean and Central America is in the national security interests of the United States;

(3) the economic and political stability of the nations of the Caribbean and Central America can be stengthened significantly by the attraction of foreign and domestic investment specifically devoted to employment generation; and

(4) the diversification of the economies and expansion of exports, particularly those of a non-traditional nature, of the nations of the Caribbean and Central America is linked directly to fair access to the markets of the United States.

(b) INTENT OF THE CONGRESS.—The Congress hereby expresses its intention to ensure that—

(1) the trade elements of the Caribbean Basin Initiative be strengthened in a manner consistent with the promotion of economic and political stability in the Caribbean and Central America;

(2) to the extent that Congress imposes changes that are intended to improve the competitive environment for United States industry and workers, such changes do not unduly affect the unilateral duty-free trade system available to the beneficiary countries designated under the Caribbean Basin Economic Recovery Act; and

(3) generic changes in the trade laws of the United States do not discriminate against imports from designated beneficiary countries in relation to imports from other United States trading partners.

(c) WITHDRAWAL OR SUSPENSION OF DUTY-FREE TREATMENT TO SPECIFIC ARTICLES.—Subsection (e) of section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702(e)) is amended to read as follows:

"(e)(1) The President may, after the requirements of subsection (a)(2) and paragraph (2) have been met—

"(A) withdraw or suspend the designation of any country as a beneficiary country, or

"(B) withdraw, suspend, or limit the application of duty-free treatment under this subtitle to any article of any country,

if, after such designation, the President determines that as a result of changed circumstances such country would be barred from designation as a beneficiary country under subsection (b).

President of U.S. Federal Register, publication.

"(2)(A) The President shall publish in the Federal Register notice of the action the President proposes to take under paragraph (1) at least 30 days prior to taking such action.

"(B) The United States Trade Representative shall, within the 30-day period beginning on the date on which the President publishes under subparagraph (A) notice of proposed action—

"(i) accept written comments from the public regarding such proposed action,

"(ii) hold a public hearing on such proposed action, and

Federal Register, publication.

"(iii) publish in the Federal Register—

"(I) notice of the time and place of such hearing prior to the hearing, and

"(II) the time and place at which such written comments will be accepted.".

SEC. 1910. ETHYL ALCOHOL AND MIXTURES FOR FUEL USE.

(a) IN GENERAL.—Subsection (b) of section 423 of the Tax Reform Act of 1986 (19 U.S.C. 2703, note) is amended—

(1) by striking out "and 1988" in paragraphs (1) and (2) and inserting in lieu thereof ", 1988, and 1989",

(2) by striking out "an insular possession of the United States or" in paragraph (1)(A),

(3) by striking out "January 1, 1986, or" in paragraph (1)(A) and inserting in lieu thereof "July 1, 1987,",

(4) by inserting "or an insular possession of the United States" after "beneficiary country" in paragraph (1)(B)(ii)(II),

(5) by striking out the period at the end of paragraph (1)(B) and inserting in lieu thereof ", or",

(6) by inserting the following new subparagraph after subparagraph (B) of paragraph (1):

"(C) a distillation facility operated by a corporation which, before the date of enactment of the Omnibus Trade Act of 1987—

"(i) has completed engineering and design of a full-scale fermentation facility in the United States Virgin Islands, and

"(ii) has obtained authorization from authorities of the United States Virgin Islands to operate a full-scale fermentation facility.", and

Virgin Islands.

(7) by striking out "or (B)" in paragraph (2) and inserting in lieu thereof ", (B), or (C)".

(b) STUDIES.—

(1) The United States International Trade Commission and the Comptroller General of the United States shall each immediately undertake a study regarding whether the definition of indigenous ethyl alcohol or mixtures thereof used in applying section 423 of the Tax Reform Act of 1986 is consistent with, and will contribute to the achievement of, the stated policy of Congress to encourage the economic development of the beneficiary countries under the Caribbean Basin Economic Recovery Act and the insular possessions of the United States through the maximum utilization of the natural resources of those countries and possessions. Each study shall specifically include—

(A) an assessment regarding whether the indigenous product percentage requirements set forth in subsection (c)(2)(B) of such section 423 are economically feasible for ethyl alcohol producers; and

(B) if the assessment under subparagraph (A) is negative, recommended modifications to the indigenous product percentage requirements that—

(i) will ensure meaningful production and employment in the region,

(ii) will discourage pass-through operations, and

(iii) will not result in harm to producers of ethyl alcohol, or mixtures thereof, in the United States; and

(C) an assessment of the effects of imports of ethyl alcohol, and mixtures thereof, from such beneficiary countries and possessions on producers of ethyl alcohol, and mixtures thereof, in the United States.

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(2) The United States International Trade Commission and the Comptroller General of the United States shall each submit a report containing the findings and conclusions of the study carried out under this subsection to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate before the 180th day after the date of the enactment of this Act.

SEC. 1911. ENFORCEMENT OF RESTRICTIONS ON IMPORTS FROM CUBA.

The United States Trade Representative shall request that all relevant agencies prepare appropriate recommendations for improving the enforcement of restrictions on the importation of articles from Cuba. Such recommendations should include, but not be limited to, appropriate measures to prevent indirect shipments or other means of circumvention. The United States Trade Representative shall, after considering such recommendations, report to the Congress, within 90 days after the date of enactment of this Act, on any administrative measures or proposed legislation which the United States Trade Representative considers necessary and appropriate to enforce restrictions on imports from Cuba.

Reports.

SEC. 1912. CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended—

(1) by striking out "beginning on the date of the enactment of this section, and ending on September 30, 1987," in subsection (c) and inserting in lieu thereof "described in subsection (a) for which the fund is available to the United States Customs Service,", and

(2) by striking out "private citizens" in subsection (a)(iii) and inserting in lieu thereof "private persons".

PART 2—MISCELLANEOUS TRADE PROVISIONS

SEC. 1931. TRADE STATISTICS.

(a) REPORTING OF IMPORT STATISTICS.—Subsection (e) of section 301 of title 13, United States Code, is amended by striking out the last sentence thereof.

13 USC 301 note.

(b) VOLUMETRIC INDEX.—

(1) The Director of the Census, in consultation with the Director of the Bureau of Economic Analysis and the Commissioner of Labor Statistics, shall conduct a study to determine the feasibility of developing, and of publishing, an index that measures the real volume of merchandise trade on a monthly basis, which would be reported simultaneously with the balance of merchandise trade for the United States.

Reports.

(2) The Director of the Census shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the study conducted under paragraph (1) by no later than the date that is one year after the date of enactment of this Act.

SEC. 1932. ADJUSTMENT OF TRADE STATISTICS FOR INFLATION AND DEFLATION.

Subsection (e) of section 301 of title 13, United States Code, is amended by adding at the end thereof the following new sentence: "The information required to be reported under this subsection shall

be reported in a form that is adjusted for economic inflation or deflation (on a constant dollar basis consistent with the reporting of the National Income and Product Accounts), and in a form that is not so adjusted.".

SEC. 1933. COAL EXPORTS TO JAPAN.

It is the sense of the Congress that—

(1) the objectives of the November 1983 Joint Policy Statement on Energy Cooperation, as it relates to United States exports of coal to Japan, have not been achieved;

(2) the President should seek to establish reciprocity with Japan with respect to metallurgical coal exports and steel product imports and should encourage increased purchases by Japan of United States steam coal;

(3) the President should direct the United States Trade Representative, in negotiating a Steel Trade Arrangement with Japan, to take into consideration, consistent with the President's steel program, the amount of coal that Japan purchases from the United States in determining the level of steel, semi-finished steel and fabricated structured steel products that can be imported into the United States; and

(4) the President should report to the Congress by November 1, 1988 regarding the results of the outcome of any negotiation undertaken in response to this section.

SEC. 1934. PURCHASES OF UNITED STATES-MADE AUTOMOTIVE PARTS BY JAPAN.

(a) FINDINGS.—The Congress finds that—

(1) the United States merchandise trade deficit reached the unprecedented level of $170,000,000,000 in 1986;

(2) the United States trade deficit with Japan, which reached $59,000,000,000 in 1986, accounted for approximately one-third of the total deficit;

(3) approximately one-half of the United States trade deficit with Japan was in motor vehicles and equipment;

(4) while Japanese automobile firms based in Japan produced 7,800,000 passenger cars in 1986 and exported 2,300,000 cars to the United States, United States exports of auto parts to Japan were only about $300,000,000 in 1986;

(5) United States automotive parts producers meet increasingly rigorous requirements for quality, just-in-time supply, and competitive pricing in the United States market; and

(6) the market-oriented sector specific (MOSS) talks on auto parts are aimed at overcoming substantial market access barriers and increasing the access of United States auto parts producers to the original and replacement parts market represented by Japanese automobiles produced in Japan, the United States, and third countries.

(b) SENSE OF CONGRESS.—The Congress—

(1) strongly supports efforts being made by United States negotiators to expand significantly the opportunities for United States automotive parts producers to supply original and replacement parts for Japanese automobiles, wherever those automobiles may be produced; and

(2) determines that success of the MOSS talks will be measured by a significant increase in sales by United States auto parts companies to Japanese vehicle companies and the

initiation of long-term sourcing relationships between such companies.

(c) REPORT ON OUTCOME.—The United States Trade Representative and the Secretary of Commerce shall report to Congress at the conclusion of the MOSS talks on the outcome of the talks and on any agreements reached with Japan with respect to purchases by Japanese firms of United States automotive parts.

SEC. 1935. EFFECT OF IMPORTS ON CRUDE OIL PRODUCTION AND REFINING CAPACITY IN THE UNITED STATES.

Reports.

The Secretary of Energy shall send to the Secretary of Commerce the results of the study conducted under section 3102 of the Omnibus Budget Reconciliation Act of 1986. Within 180 days of the receipt of the results of such study, the Secretary of Commerce shall report to the President and the Congress recommendations for actions which may be appropriate to address any impact of imports of crude oil and petroleum products on domestic crude oil exploration and production and the domestic petroleum refining capacity.

SEC. 1936. STUDY OF TRADE BARRIERS ESTABLISHED BY AUTO PRODUCING COUNTRIES TO AUTO IMPORTS AND THE IMPACT ON THE UNITED STATES MARKET.

(a) STUDY.—The United States Trade Representative shall conduct a study of formal and informal barriers which auto producing countries have established toward automobile imports and the impact of such barriers on diverting automobile imports into the United States. The study shall consider the impact of such barriers on automobile imports into the United States in the presence of, and in the absence of, voluntary restraint agreements between the United States and Japan.

(b) REPORT.—The United States Trade Representative shall include the findings of the study conducted under subsection (a) in the first report that is submitted under section 181(b) of the Trade Act of 1974 (19 U.S.C. 2241) after the date of enactment of this Act.

SEC. 1937. LAMB MEAT IMPORTS.

Within 15 days after the date of the enactment of this Act, the United States International Trade Commission, pursuant to section 332(g) of the Tariff Act of 1930 (19 U.S.C. 1332(g)), shall monitor and investigate for a period of 2 years the importation into the United States of articles provided for in item 106.30 of the Tariff Schedules of the United States (19 U.S.C. 1202) (relating to fresh, chilled, and frozen lamb meat). For purposes of any request made under subsection (d) of section 202 of the Trade Act of 1974 (as amended by section 1401 of this Act) within such 2-year period for provisional relief with respect to imports of such articles, the monitoring and investigation required under this section shall be treated as having been requested by the United States Trade Representative under paragraph (1)(B) of such subsection.

PART 3—OTHER PROVISIONS

SEC. 1941. WINDFALL PROFIT TAX REPEAL.

26 USC 4986-4998.

(a) IN GENERAL.—Chapter 45 of the Internal Revenue Code of 1986 is repealed.

(b) CONFORMING AMENDMENTS.—

(1) Sections 6050C, 6076, 6232, 6429, 6430, and 7241 of the Internal Revenue Code of 1986 are repealed.

(2)(A) Subsection (a) of section 164 of such Code is amended by striking paragraph (4) and redesignating the subsequent paragraphs as paragraphs (4) and (5), respectively.

(B) The following provisions of such Code are each amended by striking "44, or 45" each place it appears and inserting "or 44":

(i) section 6211(a),
(ii) section 6211(b)(2),
(iii) section 6212(a),
(iv) section 6213(a),
(v) section 6213(g),
(vi) section 6214(c),
(vii) section 6214(d),
(viii) section 6161(b)(1),
(ix) section 6344(a)(1), and
(x) section 7422(e).

(C) Subsection (a) of section 6211 of such Code is amended by striking "44, and 45" and inserting "and 44".

(D) Subsection (b) of section 6211 of such Code is amended by striking paragraphs (5) and (6).

(E) Paragraph (1) of section 6212(b) of such Code is amended—

(i) by striking "chapter 44, or chapter 45" and inserting "or chapter 44", and

(ii) by striking "chapter 44, chapter 45, and this chapter" and inserting "chapter 44, and this chapter".

(F) Paragraph (1) of section 6212(c) of such Code is amended—

(i) by striking "of chapter 42 tax" and inserting "or of chapter 42 tax", and

(ii) by striking ", or of chapter 45 tax for the same taxable period".

(G) Subsection (e) of section 6302 of such Code is amended—

(i) by striking "(1) For" and inserting "For", and

(ii) by striking paragraph (2).

(H) Section 6501 of such Code is amended by striking the subsection relating to special rules for windfall profit tax.

(I) Section 6511 of such Code is amended by striking subsection (h) and redesignating subsection (i) as subsection (h).

(J) Subsection (a) of section 6512 of such Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41", and

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(K) Paragraph (1) of section 6512(b) of such Code is amended—

(i) by striking "of tax imposed by chapter 41" and inserting "or of tax imposed by chapter 41", and

(ii) by striking ", or of tax imposed by chapter 45 for the same taxable period".

(L) Section 6611 of such Code is amended by striking subsection (h) and redesignating subsections (i) and (j) as subsections (h) and (i), respectively.

(M) Subsection (d) of section 6724 of such Code is amended—

(i) by striking clause (i) in paragraph (1)(B) and redesignating clauses (ii) through (x) as clauses (i) through (ix), respectively, and

(ii) by striking subparagraphs (A) and (K) of paragraph (2) and redesignating subparagraphs (B), (C), (D), (E), (F), (G), (H), (I), (J), (L), (M), (N), (O), (P), (Q), (R), (S), and (T) as subparagraphs (A), (B), (C), (D), (E), (F), (G), (H), (I), (J), (K), (L), (M), (N), (O), (P), (Q), and (R), respectively.

26 USC 6862.

(N) Subsection (a) of section 6862 of such Code is amended by striking "44, and 45" and inserting "and 44".

(O) Section 7512 of such Code is amended—

(i) by striking ", by chapter 33, or by section 4986" in subsections (a) and (b) and inserting "or chapter 33", and

(ii) by striking ", chapter 33, or section 4986" in subsections (b) and (c) and inserting "or chapter 33".

(3)(A) The table of contents of subtitle D of such Code is amended by striking the item relating to chapter 45.

(B) The table of contents of subpart B of part III of subchapter A of chapter 61 of such Code is amended by striking the item relating to section 6050C.

(C) The table of contents of part V of such subchapter is amended by striking the item relating to section 6076.

(D) The table of contents of subchapter C of chapter 63 of such Code is amended by striking the item relating to section 6232.

(E) The table of contents of subchapter B of chapter 65 of such Code is amended by striking the items relating to sections 6429 and 6430.

(F) The table of contents of part II of subchapter A of chapter 75 of such Code is amended by striking the item relating to section 7241.

(4)(A) Section 280D of such Code is repealed.

(B) The table of sections for part IX of subchapter B of chapter 1 of such Code is amended by striking the item relating to section 280D.

(5) Paragraph (4) of section 291(b) of such Code is amended to read as follows:

"(4) INTEGRATED OIL COMPANY DEFINED.—For purposes of this subsection, the term 'integrated oil company' means, with respect to any taxable year, any producer of crude oil to whom subsection (c) of section 613A does not apply by reason of paragraph (2) or (4) of section 613A(d)."

(6)(A) Paragraph (3) of section 6654(f) of such Code is amended to read as follows:

"(3) the credits against tax provided by part IV of subchapter A of chapter 1, other than the credit against tax provided by section 31 (relating to tax withheld on wages)."

(B) Subparagraph (B) of section 6655(g)(1) of such Code is amended to read as follows:

"(B) the credits against tax provided by part IV of subchapter A of chapter 1."

(7) Subparagraph (A) of section 193(b)(3) of such Code is amended by striking "section 4996(b)(8)(C)" and inserting "section 4996(b)(8)(C) as in effect before its repeal".

26 USC 164 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to crude oil removed from the premises on or after the date of the enactment of this Act.

TITLE II—EXPORT ENHANCEMENT

Export Enhancement Act of 1988. 15 USC 4701 note.

SEC. 2001. SHORT TITLE.

This title may be referred to as the "Export Enhancement Act of 1988".

Subtitle A—Trade and Foreign Policy

PART I—RELATIONS WITH CERTAIN COUNTRIES

SEC. 2101. UNITED STATES-MEXICO FRAMEWORK AGREEMENT ON TRADE AND INVESTMENT.

(a) FINDINGS.—The Congress finds that the Bilateral Framework Agreement on Trade and Investment, entered into by the United States and Mexico on November 6, 1987—

(1) provides a useful vehicle for the management of bilateral trade and investment relations, based on shared principles and objectives;

(2) establishes procedures for consultation by the two countries on matters of bilateral trade and investment, and should facilitate resolution of disputes on these matters; and

(3) has led to negotiations between the two countries on important issues, and should continue to facilitate such negotiations.

(b) FURTHER IMPLEMENTATION OF THE AGREEMENT.—Within the context of the Bilateral Framework Agreement on Trade and Investment, the President is urged to continue to pursue consultations with representatives of the Government of Mexico for the purposes of implementing the Agreement and achieving an expansion of mutually beneficial trade and investment.

SEC. 2102. RELATIONS WITH COUNTRIES PROVIDING OFFENSIVE WEAPONRY TO BELLIGERENT COUNTRIES IN THE PERSIAN GULF REGION.

It is the sense of the Congress that the President should use all available appropriate leverage to persuade all countries to desist from any further transfers of offensive weaponry, such as Silkworm missiles, to any belligerent country in the Persian Gulf region.

PART II—FAIR TRADE IN AUTO PARTS

Fair Trade in Auto Parts Act of 1988. 15 USC 4701 note.

SEC. 2121. SHORT TITLE.

This part may be referred to as the "Fair Trade in Auto Parts Act of 1988".

15 USC 4701.

SEC. 2122. DEFINITION.

For purposes of this part, the term "Japanese markets" refers to markets, including those in the United States and Japan, where automotive parts and accessories, both original equipment and aftermarket, are purchased for use in the manufacture or repair of Japanese automobiles.

15 USC 4702.

SEC. 2123. ESTABLISHMENT OF INITIATIVE ON AUTO PARTS SALES TO JAPAN.

(a) IN GENERAL.—The Secretary of Commerce shall establish an initiative to increase the sale of United States-made auto parts and accessories to Japanese markets.

(b) FUNCTIONS.—In carrying out this section, the Secretary shall—

(1) foster increased access for United States-made auto parts and accessories to Japanese companies, including specific consultations on access to Japanese markets;

(2) facilitate the exchange of information between United States auto parts manufacturers and the Japanese automobile industry;

(3) collect data and market information on the Japanese automotive industry regarding needs, trends, and procurement practices, including the types, volume, and frequency of parts sales to Japanese automobile manufacturers;

(4) establish contacts with Japanese automobile manufacturers in order to facilitate contact between United States auto parts manufacturers and Japanese automobile manufacturers;

(5) report on and attempt to resolve disputes, policies, or practices, whether public or private, that result in barriers to increased commerce between United States auto parts manufacturers and Japanese automobile manufacturers;

(6) take actions to initiate periodic consultations with officials of the Government of Japan regarding sales of United States-made auto parts in Japanese markets; and

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(7) submit annual written reports or otherwise report annually to the Congress on the sale of United States-made auto parts in Japanese markets, including the extent to which long-term, commercial relationships exist between United States auto parts manufacturers and Japanese automobile manufacturers.

15 USC 4703.

SEC. 2124. ESTABLISHMENT OF SPECIAL ADVISORY COMMITTEE ON AUTO PARTS SALES IN JAPAN.

(a) IN GENERAL.—The Secretary of Commerce shall seek the advice of the United States automotive parts industry in carrying out this part.

(b) ESTABLISHMENT OF COMMITTEE.—The Secretary of Commerce shall establish a Special Advisory Committee for purposes of carrying out this part.

(c) FUNCTIONS.—The Special Advisory Committee established under subsection (b) shall—

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(1) report to the Secretary of Commerce on barriers to sales of United States-made auto parts and accessories in Japanese markets;

(2) review and consider data collected on sales of United States-made auto parts and accessories in Japanese markets;

(3) advise the Secretary of Commerce during consultations with the Government of Japan on issues concerning sales of United States-made auto parts in Japanese markets;

(4) assist in establishing priorities for the initiative established under section 2123, and otherwise provide assistance and direction to the Secretary of Commerce in carrying out the intent of that section; and

(5) assist the Secretary in reporting, or otherwise report to the Congress as requested, on the progress of sales of United States-made auto parts in Japanese markets.

(d) AUTHORITY.—The Secretary of Commerce shall draw on existing budget authority in carrying out this part.

SEC. 2125. EXPIRATION DATE. 15 USC 4704.

The authorities under this part shall expire on December 31, 1993.

Subtitle B—Export Enhancement

PART I—GENERAL PROVISIONS

SEC. 2201. COMMERCIAL PERSONNEL AT THE AMERICAN INSTITUTE OF TAIWAN. 22 USC 3310a.

The American Institute of Taiwan shall employ personnel to perform duties similar to those performed by personnel of the United States and Foreign Commercial Service. The number of individuals employed shall be commensurate with the number of United States personnel of the Commercial Service who are permanently assigned to the United States diplomatic mission to South Korea.

SEC. 2202. COUNTRY REPORTS ON ECONOMIC POLICY AND TRADE PRACTICES. 15 USC 4711.

The Secretary of State shall, not later than January 31 of each year, prepare and transmit to the Committee on Foreign Affairs and the Committee on Ways and Means of the House of Representatives, to the Committee on Foreign Relations and the Committee on Finance of the Senate, and to other appropriate committees of the Congress, a detailed report regarding the economic policy and trade practices of each country with which the United States has an economic or trade relationship. The Secretary may direct the appropriate officers of the Department of State who are serving overseas, in consultation with appropriate officers or employees of other departments and agencies of the United States, including the Department of Agriculture and the Department of Commerce, to coordinate the preparation of such information in a country as is necessary to prepare the report under this section. The report shall identify and describe, with respect to each country—

(1) the macroeconomic policies of the country and their impact on the overall growth in demand for United States exports;

(2) the impact of macroeconomic and other policies on the exchange rate of the country and the resulting impact on price competitiveness of United States exports;

(3) any change in structural policies (including tax incentives, regulations governing financial institutions, production standards, and patterns of industrial ownership) that may affect the country's growth rate and its demand for United States exports;

(4) the management of the country's external debt and its implications for trade with the United States;

(5) acts, policies, and practices that constitute significant barriers to United States exports or foreign direct investment in that country by United States persons, as identified under section 181(a)(1) of the Trade Act of 1974 (19 U.S.C. 2241(a)(1));

(6) acts, policies, and practices that provide direct or indirect government support for exports from that country, including exports by small businesses;

(7) the extent to which the country's laws and enforcement of those laws afford adequate protection to United States intellectual property, including patents, trademarks, copyrights, and mask works; and

(8) the country's laws, enforcement of those laws, and practices with respect to internationally recognized worker rights (as defined in section 502(a)(4) of the Trade Act of 1974), the conditions of worker rights in any sector which produces goods in which United States capital is invested, and the extent of such investment.

SEC. 2203. OVERSEAS PRIVATE INVESTMENT CORPORATION.

22 USC 2191 note.

(a) REAFFIRMATION OF SUPPORT FOR OPIC.—The Congress reaffirms its support for the Overseas Private Investment Corporation as a United States Government agency serving important development assistance goals. In order to enhance the Corporation's ability to meet these goals, the Overseas Private Investment Corporation should increase its loan guaranty and direct investment programs.

Loans.

(b) INCREASE IN GUARANTIES AND DIRECT INVESTMENTS.—

(1) LOAN GUARANTIES.—Section 235(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2195(a)) is amended—

(A) in paragraph (2) by striking "$750,000,000" and inserting "$1,000,000,000";

(B) by redesignating paragraph (5) as paragraph (6); and

(C) by inserting after paragraph (4) the following:

"(5) Subject to paragraphs (2), (3), and (4), the Corporation shall issue guaranties under section 234(b) having an aggregate contingent liability with respect to principal of not less than $200,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such guaranties.".

(2) DIRECT INVESTMENT.—Section 235(b) of the Foreign Assistance Act of 1961 is amended—

(A) by striking the comma after "Act of 1981" and inserting a period; and

(B) by striking "and the Corporation shall use" and all that follows through "funding" and inserting the following: "The Corporation shall make loans under section 234(c) in an aggregate amount of not less than $25,000,000 in each fiscal year, to the extent that there are eligible projects which meet the Corporation's criteria for such loans".

(c) OPERATIONS OF THE OVERSEAS PRIVATE INVESTMENT CORPORATION IN THE PEOPLE'S REPUBLIC OF CHINA.—Section 231A(a) of the Foreign Assistance Act of 1961 is amended by adding at the end the following new paragraph:

22 USC 2191a.

"(4) In making a determination under this section for the People's Republic of China, the Corporation shall discuss fully and completely the justification for making such determination with respect to each item set forth in subparagraphs (A) through (E) of section 502(a)(4) of the Trade Act of 1974.".

SEC. 2204. TRADE AND DEVELOPMENT PROGRAM.

22 USC 2421 note.

(a) REAFFIRMATION OF SUPPORT FOR TRADE AND DEVELOPMENT PROGRAM.—The Congress reaffirms its support for the Trade and Development Program, and believes that the Program's ability to

support high priority development projects in developing countries would be enhanced by an increase in the funds authorized for the Program as well as by a clarification of the Program's status as a separate component of the International Development Cooperation Agency.

(b) AUTHORIZATION AND USES OF FUNDS; ESTABLISHMENT AS SEPARATE AGENCY.—

(1) ADDITIONAL USES OF FUNDS.—Section 661(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2421(a)) is amended by inserting after the first sentence the following: "Funds under this section may be used to provide support for project planning, development, management, and procurement for both bilateral and multilateral projects, including training activities undertaken in connection with a project, for the purpose of promoting the use of United States exports in such projects.".

(2) ESTABLISHMENT AS A SEPARATE AGENCY.—Section 661 of that Act is amended—

(A) by redesignating subsection (b) as subsection (d); and

(B) by inserting after subsection (a) the following:

"(b)(1) The purposes of this section shall be carried out by the Trade and Development Program, which shall be a separate component agency of the International Development Cooperation Agency. The Trade and Development Program shall not be an agency within the Agency for International Development or any other component agency of the International Development Cooperation Agency.

"(2) There shall be at the head of the Trade and Development Program a Director. Any individual appointed as the Director on or after January 1, 1989, shall be appointed by the President, by and with the advice and consent of the Senate. President of U.S.

"(3) The Trade and Development Program should serve as the primary Federal agency to provide information to persons in the private sector concerning trade development and export promotion related to bilateral development projects. The Trade and Development Program shall cooperate with the Office of International Major Projects of the Department of Commerce in providing information to persons in the private sector concerning trade development and export promotion related to multilateral development projects. Other Federal departments and agencies shall cooperate with the Trade and Development Program in order for the Program to more effectively provide informational services in accordance with this paragraph.

"(4) The Director of the Trade and Development Program shall, not later than December 31 of each year, submit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate a report on the activities of the Trade and Development Program in the preceding fiscal year. Reports.

"(c) The Director of the Trade and Development Program shall, by regulation, establish an advisory board which shall include representatives of the private sector. The purpose of the advisory board shall be to make recommendations to the Director with respect to the Trade and Development Program.". Regulations.

(3) FUNDING LEVELS.—In addition to funds otherwise available to the President for purposes of section 661 of the Foreign Assistance Act of 1961—

(A) not less than $5,000,000 and not more than $10,000,000 for fiscal year 1988 shall be made available for such purposes, half of which shall be derived from amounts

available to carry out section 108 of the Foreign Assistance Act of 1961 for such fiscal year, and half of which shall be derived from amounts available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for such fiscal year; and

(B) not less than $5,000,000 and not more than $10,000,000 for fiscal year 1989 shall be made available for such purposes, half of which shall be derived from amounts available to carry out section 108 of the Foreign Assistance Act of 1961 for such fiscal year, and half of which shall be derived from amounts available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 for such fiscal year.

(4) ADDITIONAL FUNDING.—(A) In addition to the amounts otherwise available to the President for purposes of section 661 of the Foreign Assistance Act of 1961 (including amounts available under paragraph (3) of this subsection) for fiscal years 1988 and 1989, there are authorized to be appropriated $10,000,000 for each such fiscal year for education and training programs undertaken in connection with projects under section 661 of that Act, including the operating expenses incurred in implementing such programs. Particular emphasis shall be placed on including in such programs nationals from the People's Republic of China and the Republic of China (Taiwan). Assistance may be provided for education and training under this paragraph only if there is a reasonable expectation that such education and training will result in increased exports from the United States and will not have a negative impact on employment in the United States.

Education.

Education.

(B) Of the funds made available to carry out subparagraph (A), 50 percent of such funds shall be available only for education and training programs administered in the United States by small business concerns as defined under section 3 of the Small Business Act (15 U.S.C. 632).

(c) AUTHORITIES UNDER THE TRADE AND DEVELOPMENT ENHANCEMENT ACT OF 1983.—

(1) TRANSFER OF FUNCTIONS FROM AID TO TDP.—(A) Section 644 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635q) is amended—

(i) in subsection (a)(2) by striking "Agency for International Development" and inserting "Trade and Development Program";

(ii) in subsection (a)(3)(A)—

(I) by striking "offered by the Agency for International Development" and inserting "made available under section 645(d) of this Act"; and

(II) by striking "Agency for International Development" and inserting "Trade and Development Program"; and

(iii) in subsection (d)—

(I) by striking "offered by the Agency for International Development" and inserting "made available under section 645(d) of this Act"; and

(II) by striking "subsections (c) and (d) of section 645" and inserting "section 645(c)".

(B) Section 645 of that Act (12 U.S.C. 635r) is amended—

(i) in the section heading by striking "IN THE AGENCY FOR INTERNATIONAL DEVELOPMENT" and inserting "ADMINISTERED BY THE TRADE AND DEVELOPMENT PROGRAM";

(ii) in subsection (a)—

(I) by striking "Administrator of the Agency for International Development shall establish within the Agency" and inserting "Director of the Trade and Development Program shall carry out";

(II) in paragraph (1) by striking "offered by the Agency for International Development" and inserting "made available under subsection (d)";

(III) in paragraph (1) by striking "Agency for International Development" and inserting "Trade and Development Program";

(IV) in paragraph (2) by striking "offered by the Agency for International Development" and inserting "made available under subsection (d)"; and

(V) in paragraph (2) by striking "Agency for International Development" and inserting "Trade and Development Program";

(iii) in subsection (c)—

(I) in paragraph (1) by striking "of the Agency for International Development"; and

(II) in paragraph (2) by striking "Administrator of the Agency for International Development" and inserting "Director of the Trade and Development Program"; and

(iv) by amending subsection (d) to read as follows:

"(d) Funds available to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 may be used by the Director of the Trade and Development Program, with the concurrence of the Secretary of State (as provided under section 531 of the Foreign Assistance Act of 1961), for the purposes for which funds made available under this subsection are authorized to be used in section 644 and this section. The Secretary of State shall exercise his authority in cooperation with the Administrator of the Agency for International Development. Funds made available pursuant to this subsection may be used to finance a tied aid credit activity in any country eligible for tied aid credits under this Act.".

(2) FUNCTIONS OF NATIONAL ADVISORY COUNCIL ON INTERNATIONAL MONETARY AND FINANCIAL POLICIES.—Section 646 of the Trade and Development Enhancement Act of 1983 (12 U.S.C. 635s) is amended by adding at the end the following:

"(b) The Trade and Development Program shall be represented at any meetings of the National Advisory Council on International Monetary and Financial Policies for discussion of tied aid credit matters, and the representative of the Trade and Development Program at any such meeting shall have the right to vote on any decisions of the Advisory Council relating to tied aid credit matters.".

(d) ADMINISTRATIVE PROVISIONS.—

(1) PAY OF DIRECTOR OF TDP.—Section 5314 of title 5, United States Code, is amended by adding at the end the following:

"Director, Trade and Development Program.".

(2) TRANSITION PROVISIONS.—(A) The Administrator of the Agency for International Development shall transfer to the Director of the Trade and Development Program all records,

Records. Contracts. 12 USC 635q note.

contracts, applications, and any other documents or information in connection with the functions transferred by virtue of the amendments made by subsection (c)(1).

(B) All determinations, regulations, and contracts—

(i) which have been issued, made, granted, or allowed to become effective by the President, the Agency for International Development, or by a court of competent jurisdiction, in the performance of the functions transferred by virtue of the amendments made by subsection (c)(1), and

(ii) which are in effect at the time this section takes effect,

shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with the law by the President, the Director of the Trade and Development Program, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(C)(i) The amendments made by subsection (c)(1) shall not affect any proceedings, including notices of proposed rulemaking, or any application for any financial assistance, which is pending on the effective date of this section before the Agency for International Development in the exercise of functions transferred by virtue of the amendments made by subsection (c)(1). Such proceedings and applications, to the extent that they relate to functions so transferred, shall be continued.

(ii) Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this section had not been enacted. Orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by the Director of the Trade and Development Program or other authorized official, by a court of competent jurisdiction, or by operation of law.

(iii) Nothing in this subparagraph shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this section had not been enacted.

(iv) The Director of the Trade and Development Program is authorized to issue regulations providing for the orderly transfer to the Trade and Development Program of proceedings continued under this subparagraph.

(D) With respect to any function transferred by virtue of the amendments made by subsection (c)(1) and exercised on or after the effective date of this section, reference in any other Federal law to the Agency for International Development or any officer shall be deemed to refer to the Trade and Development Program or other official to which such function is so transferred.

15 USC 4712.

SEC. 2205. BARTER AND COUNTERTRADE.

(a) INTERAGENCY GROUP.—

President of U.S.

(1) ESTABLISHMENT.—The President shall establish an interagency group on countertrade, to be composed of representatives of such departments and agencies of the United States as the President considers appropriate. The Secretary of Commerce shall be the chairman of the interagency group.

(2) FUNCTIONS.—It shall be the function of the interagency group to—

(A) review and evaluate—

(i) United States policy on countertrade and offsets, in light of current trends in international countertrade and offsets and the impact of those trends on the United States economy;

(ii) the use of countertrade and offsets in United States exports and bilateral United States foreign economic assistance programs; and

(iii) the need for and the feasibility of negotiating with other countries, through the Organization for Economic Cooperation and Development and other appropriate international organizations, to reach agreements on the use of countertrade and offsets; and

(B) make recommendations to the President and the Congress on the basis of the review and evaluation referred to in subparagraph (A).

(3) SHARING OF INFORMATION.—Other departments and agencies of the United States shall provide to the interagency group such information available to such departments and agencies as the interagency group may request, except that the requirements, including penalties for violation thereof, for preserving the confidentiality of such information which are applicable to the officials, employees, experts, or consultants of such departments and agencies shall apply in the same manner to each member of the interagency group and to any other person performing any function under this subsection. Classified information.

(b) OFFICE OF BARTER.—

(1) ESTABLISHMENT—There is established, within the International Trade Administration of the Department of Commerce, the Office of Barter (hereafter in this section referred to as the "Office").

(2) DIRECTOR.—There shall be at the head of the Office a Director, who shall be appointed by the Secretary of Commerce.

(3) STAFF.—The Secretary of Commerce shall transfer such staff to the Office as the Secretary determines is necessary to enable the Office to carry out its functions under this section.

(4) FUNCTIONS.—It shall be the function of the Office to—

(A) monitor information relating to trends in international barter;

(B) organize and disseminate information relating to international barter in a manner useful to business firms, educational institutions, export-related Federal, State, and local government agencies, and other interested persons, including publishing periodic lists of known commercial opportunities for barter transactions beneficial to United States enterprises; Public information. State and local governments. Education.

(C) notify Federal agencies with operations abroad of instances where it would be beneficial to the United States for the Federal Government to barter Government-owned surplus commodities for goods and services purchased abroad by the Federal Government; and

(D) provide assistance to enterprises seeking barter and countertrade opportunities.

SEC. 2206. PROTECTION OF UNITED STATES INTELLECTUAL PROPERTY.

It is the sense of the Congress that—

(1) the Secretary of State should urge international technical organizations, such as the World Intellectual Property

Organization, to provide expertise and cooperate fully in developing effective standards, in the General Agreement on Tariffs and Trade, for the international protection of intellectual property rights; and

(2) development assistance programs administered by the Agency for International Development, especially the reimbursable development program, should, in cooperation with the Copyright Office and the Patent and Trademark Office, include technical training for officials responsible for the protection of patents, copyrights, trademarks, and mask works in those countries that receive such development assistance.

SEC. 2207. REPORT ON WORKER RIGHTS.

The Secretary of State shall conduct an in-depth study with a view to improving the breadth, content, and utility of the annual reports submitted to the Congress pursuant to section 505(c) of the Trade Act of 1974 regarding the status of internationally recognized worker rights in foreign countries. Not later than 6 months after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the findings of such study and shall include in the report recommendations for upgrading the capacity of the United States Government to monitor and report on other countries' respect for such rights.

SEC. 2208. JAPANESE IMPORTATION OF MANUFACTURED GOODS FROM LESS DEVELOPED COUNTRIES.

(a) FINDINGS.—The Congress finds that—

(1) Japan's merchandise trade surplus rose from $62,000,000,000 in fiscal year 1985 to $101,000,000,000 in fiscal year 1986;

(2) these surpluses pose a grave threat to the free trade system;

(3) Japan's most important contribution to the international trading system would be to commit itself as a nation to import with vigor, just as it has exported with vigor in recent decades;

(4) Japan should particularly increase its imports of manufactured goods; and

(5) Japan's share of the exports of less developed countries has declined from 10.6 percent in 1979 to below 8 percent in 1985.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that—

(1) by taking its proportionate share of the manufactured exports of developing countries, Japan will promote not only its economic development but the economic conditions conducive to democracy;

(2) expanding markets for the manufactured exports of less developed countries will directly benefit the United States, and, if less developed countries are able to increase exports to Japan, these countries will be able to earn more of the hard currency needed to service their foreign debt obligations and make the investments necessary to chart a course of solid economic growth; and

(3) if less developed countries are able to export manufactured goods to Japan, they will be under less pressure to divert exports to the United States market.

SEC. 2209. JAPAN AND THE ARAB BOYCOTT OF ISRAEL.

It is the sense of the Congress that the United States should encourage the Government of Japan in its efforts to expand trade relations with Israel and to end compliance by Japanese commercial enterprises with the Arab economic boycott of Israel.

SEC. 2210. FACILITATION OF JEWELRY TRADE.

It is the sense of the Congress that the United States should become a party to the Convention on the Control and Marking of Articles of Precious Metals in order to facilitate the efforts of the United States jewelry industry in penetrating foreign markets.

SEC. 2211. LOAN GUARANTEES.

Section 108 of the Foreign Assistance Act of 1961 (22 U.S.C. 2151f) is amended by adding at the end the following:

"(i)(1) To carry out the purposes of subsection (a), in addition to the other authorities set forth in this section, the agency primarily responsible for administering this part is authorized to issue guarantees on such terms and conditions as it shall determine assuring against losses incurred in connection with loans made to projects that meet the criteria set forth in subsection (c). The full faith and credit of the United States is hereby pledged for the full payment and performance of such guarantees.

"(2) Loans guaranteed under this subsection shall be on such terms and conditions as the agency may prescribe, except for the following:

"(A) The agency shall issue guarantees only when it is necessary to alleviate a credit market imperfection.

"(B) Loans guaranteed shall provide for complete amortization within a period not to exceed ten years or, if the principal purpose of the guaranteed loan is to finance the construction or purchase of a physical asset with a useful life of less than ten years, within a period not to exceed such useful life.

"(C) No loan guaranteed to any one borrower may exceed 50 percent of the cost of the activity to be financed, or $3,000,000, whichever is less, as determined by the agency.

"(D) No loan may be guaranteed unless the agency determines that the lender is responsible and that adequate provision is made for servicing the loan on reasonable terms and protecting the financial interest of the United States.

"(E) The fees earned from the loan guarantees issued under this subsection shall be deposited in the revolving fund account as part of the guarantee reserve established under paragraph (5) of this subsection. Fees shall be assessed at a level such that the fees received, plus the funds from the revolving fund account placed in the guarantee reserve, satisfy the requirements of paragraph (5). Fees shall be reviewed every twelve months to ensure that the fees assessed on new loan guarantees are at the required level.

"(F) Any guarantee shall be conclusive evidence that such guarantee has been properly obtained, and that the underlying loan as contracted qualifies for such guarantee. Except for fraud or material misrepresentation for which the parties seeking payment under such guarantee are responsible, such guarantee shall be presumed to be valid, legal, and enforceable.

"(G) The agency shall determine that the standards used by the lender for assessing the credit risk of new and existing

guaranteed loans are reasonable. The agency shall require that there be a reasonable assurance of repayment before credit assistance is extended.

"(H) Commitments to guarantee loans may be made by the agency only to the extent that the total loan principal, any part of which is guaranteed, will not exceed the amount specified in annual appropriations Acts.

"(3) To the extent that fees are not sufficient as specified under paragraph (2)(E) to cover expected future liabilities, appropriations are authorized to maintain an appropriate reserve.

"(4) The losses guaranteed under this subsection may be in dollars or in other currencies. In the case of loans in currencies other than dollars, the guarantees issued shall be subject to an overall payment limitation expressed in dollars.

"(5) The agency shall segregate in the revolving fund account and hold as a reserve an amount estimated to be sufficient to cover the agency's expected net liabilities on the loan guarantees outstanding under this subsection; except that the amount held in reserve shall not be less than 25 percent of the principal amount of the agency's outstanding contingent liabilities on such guarantees. Any payments made to discharge liabilities arising from the loan guarantees shall be paid first out of the assets in the revolving fund account and next out of other funds made available for this purpose.".

American Aid to Poland Act of 1988.
7 USC 1421 note.

PART II—ASSISTANCE TO POLAND

SEC. 2221. SHORT TITLE.

This part may be cited as the "American Aid to Poland Act of 1988".

SEC. 2222. FUNDING FOR SCIENCE AND TECHNOLOGY AGREEMENT.

(a) FUNDING.—For purposes of implementing the 1987 United States-Polish science and technology agreement, there are authorized to be appropriated to the Secretary of State for fiscal year 1988, $1,000,000.

(b) AVAILABILITY OF FUNDS.—Amounts appropriated under subsection (a) are authorized to remain available until expended.

(c) DEFINITION.—For purposes of this section, the term "1987 United States-Polish science and technology agreement" refers to the draft agreement concluded in 1987 by the United States and Poland, entitled "Agreement Between the Government of the United States of America and the Polish People's Republic on Cooperation in Science and Technology and Its Funding", together with annexes relating thereto.

7 USC 1431 note.

SEC. 2223. DONATION OF SURPLUS AGRICULTURAL COMMODITIES.

(a) AUTHORITY TO DONATE.—Notwithstanding any other provision of law, the Secretary of Agriculture shall donate, under the applicable provisions of section 416(b) of the Agricultural Act of 1949, for each of the fiscal years 1988 through 1992, 8,000 metric tons of uncommitted stocks of eligible commodities of the Commodity Credit Corporation under an agreement with the Government of Poland that the Government of Poland will sell such commodities and that all the proceeds from such sales will be used by nongovernmental agencies for eligible activities in Poland described in section 416(b)(7)(D)(ii) of that Act (as amended by section 2225 of this Act) that have been approved, upon application, by the joint commission

described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) DEFINITIONS.—For purposes of this section—

(1) the term "eligible commodities" has the same meaning as is given such term in section 416(b)(2) of the Agricultural Act of 1949 and, in addition, includes feed grains; and

(2) the term "nongovernmental agencies" includes nonprofit voluntary agencies, cooperatives, intergovernmental agencies such as the World Food Program, and other multilateral organizations.

SEC. 2224. USE OF POLISH CURRENCIES. 7 USC 1431 note.

(a) USE OF POLISH CURRENCIES.—Subject to subsection (b), nonconvertible Polish currencies (zlotys) held by the United States on the date of enactment of this Act pursuant to an agreement with the Government of Poland under the Agricultural Trade Development and Assistance Act of 1954 which are not assets of the Commodity Credit Corporation shall be made available, to the extent and in such amounts as are provided in advance in appropriation Acts, for eligible activities in Poland described in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) and approved, upon application, by the joint commission described in section 2226 and by the United States chief of diplomatic mission in Poland.

(b) AVAILABILITY OF CURRENCIES.—Currencies available under subsection (a) are currencies available after satisfaction of existing commitments to use such currencies for other purposes specified by law.

SEC. 2225. ELIGIBLE ACTIVITIES.

Section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 is amended by adding at the end the following: "In addition, foreign currency proceeds generated in Poland may also be used by such agencies or cooperatives for eligible activities approved by the joint commission established pursuant to section 2226 of the American Aid to Poland Act of 1988 and by the United States chief of diplomatic mission in Poland that would improve the quality of life of the Polish people and would strengthen and support the activities of private, nongovernmental independent institutions in Poland. Activities eligible under the preceding sentence include— 7 USC 1431.

"(I) any project undertaken in Poland under the auspices of the Charitable Commission of the Polish Catholic Episcopate for the benefit of handicapped or orphaned children; Handicapped persons. Children and youth.

"(II) any project for the reconstruction, renovation, or maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland; and

"(III) any other project or activity which strengthens and supports private and independent sectors of the Polish economy, especially independent farming and agriculture.". Agriculture and agricultural commodities.

SEC. 2226. JOINT COMMISSION. 7 USC 1431 note.

(a) ESTABLISHMENT.—The joint commission referred to in sections 2223 and 2224 and in section 416(b)(7)(D)(ii) of the Agricultural Act of 1949 (as amended by section 2225 of this Act) shall be established under an agreement between the United States Government, the

Government of Poland, and nongovernmental agencies (as defined in section 2223) operating in Poland.

(b) MEMBERSHIP.—The joint commission shall be composed of—

(1) appropriate representatives of the Government of Poland;

(2) appropriate representatives of nongovernmental agencies which are parties to the agreement described in subsection (a); and

(3) representatives from the United States diplomatic mission in Poland, which may include a representative of the Foreign Agricultural Service.

SEC. 2227. PROVISION OF MEDICAL SUPPLIES AND HOSPITAL EQUIPMENT TO POLAND.

In addition to amounts authorized to be appropriated to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the economic support fund) for fiscal years 1988 and 1989, there are authorized to be appropriated to carry out that chapter for each such fiscal year $2,000,000, which shall be available only for providing medical supplies and hospital equipment to Poland through private and voluntary organizations, including for the expenses of purchasing, transporting, and distributing such supplies and equipment.

Subtitle C—Export Promotion

15 USC 4721.

SEC. 2301. UNITED STATES AND FOREIGN COMMERCIAL SERVICE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Commerce shall establish, within the International Trade Administration, the United States and Foreign Commercial Service. The Secretary shall, to the greatest extent practicable, transfer to the Commercial Service the functions and personnel of the United States and Foreign Commercial Services.

(2) ASSISTANT SECRETARY OF COMMERCE AND DIRECTOR GENERAL; OTHER PERSONNEL.—The head of the Commercial Service shall be the Assistant Secretary of Commerce and Director General of the Commercial Service, who shall be appointed by the President, by and with the advice and consent of the Senate. The Assistant Secretary of Commerce and Director General of the Commercial Service may appoint Commercial Service Officers and such other personnel as may be necessary to carry out the activities of the Commercial Service.

(3) COORDINATION WITH FOREIGN POLICY OBJECTIVES.—The Secretary shall take the necessary steps to ensure that the activities of the Commercial Service are carried out in a manner consistent with United States foreign policy objectives, and the Secretary shall consult regularly with the Secretary of State in order to comply with this paragraph.

(4) AUTHORITY OF CHIEF OF MISSION.—All activities of the Commercial Service shall be subject to section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927).

(b) STATEMENT OF PURPOSE.—The Commercial Service shall place primary emphasis on the promotion of exports of goods and services from the United States, particularly by small businesses and medium-sized businesses, and on the protection of United States business interests abroad by carrying out activities such as—

(1) identifying United States businesses with the potential to export goods and services and providing such businesses with advice and information on establishing export businesses;

(2) providing United States exporters with information on economic conditions, market opportunities, the status of the intellectual property system in such country, and the legal and regulatory environment within foreign countries; Patents and trademarks. Copyrights.

(3) providing United States exporters with information and advice on the necessary adaptation of product design and marketing strategy to meet the differing cultural and technical requirements of foreign countries; Marketing.

(4) providing United States exporters with actual leads and an introduction to contacts within foreign countries;

(5) assisting United States exporters in locating reliable sources of business services in foreign countries;

(6) assisting United States exporters in their dealings with foreign governments and enterprises owned by foreign governments; and

(7) assisting the coordination of the efforts of State and local agencies and private organizations which seek to promote United States business interests abroad so as to maximize their effectiveness and minimize the duplication of efforts. State and local governments.

(c) OFFICES.—

(1) IN GENERAL.—The Commercial Service shall conduct its activities at a headquarters office, district offices located in major United States cities, and foreign offices located in major foreign cities.

(2) HEADQUARTERS.—The headquarters of the Commercial Service shall provide such managerial, administrative, research, and other services as the Secretary considers necessary to carry out the purposes of the Commercial Service. Research and development.

(3) DISTRICT OFFICES.—The Secretary shall establish district offices of the Commercial Service in any United States city in a region in which the Secretary determines that there is a need for Federal Government export assistance.

(4) FOREIGN OFFICES.—(A) The Secretary may, after consultation with the Secretary of State, establish foreign offices of the Commercial Service. These offices shall be located in foreign cities in regions in which the Secretary determines there are significant business opportunities for United States exporters.

(B) The Secretary may, in consultation with the Secretary of State, assign to the foreign offices Commercial Service Officers and such other personnel as the Secretary considers necessary. In employing Commercial Service Officers and such other personnel, the Secretary shall use the Foreign Service personnel system in accordance with the Foreign Service Act of 1980. The Secretary shall designate a Commercial Officer as head of each foreign office.

(C) Upon the request of the Secretary, the Secretary of State shall attach the Commercial Service Officers and other employees of each foreign office to the diplomatic mission of the United States in the country in which that foreign office is located, and shall obtain for them diplomatic privileges and immunities equivalent to those enjoyed by Foreign Service personnel of comparable rank and salary.

(D) For purposes of official representation, the senior Commercial Service Officer in each country shall be considered

to be the senior commercial representative of the United States in that country, and the United States chief of mission in that country shall accord that officer all privileges and responsibilities appropriate to the position of senior commercial representative of other countries.

(E) The Secretary of State is authorized, upon the request of the Secretary, to provide office space, equipment, facilities, and such other administrative and clerical services as may be required for the operation of the foreign offices. The Secretary is authorized to reimburse or advance funds to the Secretary of State for such services.

(F) The authority of the Secretary under this paragraph shall be subject to section 103 of the Diplomatic Security Act (22 U.S.C. 4802).

(d) RANK OF COMMERCIAL SERVICE OFFICERS IN FOREIGN MISSIONS.—

(1) MINISTER-COUNSELOR.—Notwithstanding any other provision of law, the Secretary is authorized to designate up to 8 United States missions abroad at which the senior Commercial Service Officer will be able to use the diplomatic title of Minister-Counselor. The Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Service Officer assigned to a United States mission so designated.

(2) CONSUL GENERAL.—In any United States consulate in which a vacancy occurs in the position of Consul General, the Secretary of State, in consultation with the Secretary, shall consider filling that vacancy with a Commercial Service Officer if the primary functions of the consulate are of a commercial nature and if there are significant business opportunities for United States exporters in the region in which the consulate is located.

(e) INFORMATION DISSEMINATION.—In order to carry out subsection (b)(7), to lessen the cost of distribution of information produced by the Commercial Service, and to make that information more readily available, the Secretary should establish a system for distributing that information in those areas where no district offices of the Commercial Service are located. Distributors of the information should be State export promotion agencies or private export and trade promotion associations. The distribution system should be consistent with cost recovery objectives of the Department of Commerce.

(f) AUDITS.—The Inspector General of the Department of Commerce shall perform periodic audits of the operations of the Commercial Service, but at least once every 3 years. The Inspector General shall report to the Congress the results of each such audit. In addition to an overview of the activities and effectiveness of Commerce Service operations, the audit shall include— Reports.

(1) an evaluation of the current placement of domestic personnel and recommendations for transferring personnel among district offices;

(2) an evaluation of the current placement of foreign-based personnel and recommendations for transferring such personnel in response to newly emerging business opportunities for United States exporters; and

(3) an evaluation of the personnel system and its management, including the recruitment, assignment, promotion, and

performance appraisal of personnel, the use of limited appointees, and the "time-in-class" system.

(g) REPORT BY THE SECRETARY.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall submit a report to the Congress on the feasibility and desirability, the progress to date, the present status, and the 5-year outlook, of the comprehensive integration of the functions and personnel of the foreign and domestic export promotion operations within the International Trade Administration of the Department of Commerce.

(h) PAY OF ASSISTANT SECRETARY AND DIRECTOR GENERAL.—Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Assistant Secretary of Commerce and Director General of the United States and Foreign Commercial Service.".

(i) DEFINITIONS.—For purposes of this section—

(1) the term "Secretary" means the Secretary of Commerce;

(2) the term "Commercial Service" means the United States and Foreign Commercial Service;

(3) the term "United States exporter" means—

(A) a United States citizen;

(B) a corporation, partnership, or other association created under the laws of the United States or of any State; or

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B),

that exports, or seeks to export, goods or services produced in the United States;

(4) the term "small business" means any small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632);

(5) the term "State" means any of the several States, the District of Columbia, or any commonwealth, territory, or possession of the United States; and

(6) the term "United States" means the several States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

SEC. 2302. COMMERCIAL SERVICE OFFICERS AND MULTILATERAL DEVELOPMENT BANK PROCUREMENT. 15 USC 4722.

(a) APPOINTMENT OF COMMERCIAL SERVICE OFFICERS TO SERVE WITH EXECUTIVE DIRECTORS.—The Secretary of Commerce, in consultation with the Secretary of the Treasury, shall appoint a procurement officer, who is a representative of the International Trade Administration or a Commercial Service Officer of the United States and Foreign Commercial Service, to serve, on a full-time or part-time basis, with each of the Executive Directors of the multilateral development banks in which the United States participates.

(b) FUNCTIONS OF OFFICERS.—Each procurement officer appointed under subsection (a) shall assist the United States Executive Director with respect to whom such officer is appointed in promoting opportunities for exports of goods and services from the United States by doing the following:

(1) Acting as the liaison between the business community and the multilateral development bank involved, whether or not the bank has offices in the United States. The Secretary of Commerce shall ensure that the procurement officer has access to, and disseminates to United States businesses, information relat-

ing to projects which are being proposed by the multilateral development bank, and bid specifications and deadlines for projects about to be developed by the bank. The procurement officer shall make special efforts to disseminate such information to small and medium-sized businesses interested in participating in such projects. The procurement officer shall explore opportunities for disseminating such information through private sector, nonprofit organizations.

Loans.

(2) Taking actions to assure that United States businesses are fully informed of bidding opportunities for projects for which loans have been made by the multilateral development bank involved.

(3) Taking actions to assure that United States businesses can focus on projects in which they have a particular interest or competitive advantage, and to permit them to compete and have an equal opportunity in submitting timely and conforming bidding documents.

(c) DEFINITION.—As used in this section, the term "multilateral development bank" includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund.

15 USC 4723.

SEC. 2303. MARKET DEVELOPMENT COOPERATOR PROGRAM.

(a) AUTHORITY OF SECRETARY OF COMMERCE.—In order to promote further the exportation of goods and services from the United States, the Secretary of Commerce is authorized to establish, in the International Trade Administration of the Department of Commerce, a Market Development Cooperator Program. The purpose of the program is to develop, maintain, and expand foreign markets for nonagricultural goods and services produced in the United States.

Contracts.

(b) IMPLEMENTATION OF THE PROGRAM.—The Secretary of Commerce shall carry out the Market Development Cooperator Program by entering into contracts with—

(1) nonprofit industry organizations,

(2) trade associations,

State and local governments.

(3) State departments of trade and their regional associations, including centers for international trade development, and

(4) private industry firms or groups of firms in cases where no entity described in paragraph (1), (2), or (3) represents that industry,

(in this section referred to as "cooperators") to engage in activities in order to carry out the purpose of the Market Development Cooperator Program set forth in subsection (a). The costs of activities under such a contract shall be shared equitably among the Department of Commerce, the cooperator involved, and, whenever appropriate, foreign businesses. The Department of Commerce shall undertake to support direct costs of activities under such a contract, and the cooperator shall undertake to support indirect costs of such activities. Activities under such a contract shall be carried out by the cooperator with the approval and assistance of the Secretary.

(c) COOPERATOR PARTNERSHIP PROGRAM.—

(1) IN GENERAL.—(A) As part of the Market Development Cooperator Program established under subsection (a), the Secretary of Commerce shall establish a partnership program with

cooperators under which a cooperator may detail individuals, subject to the approval of the Secretary, to the United States and Foreign Commercial Service for a period of not less than 1 year or more than 2 years to supplement the Commercial Service.

(B) Any individual detailed to the United States and Foreign Commercial Service under this subsection shall be responsible for such duties as the Secretary may prescribe in order to carry out the purpose of the Market Development Cooperator Program set forth in subsection (a).

(C) Individuals detailed to the United States and Foreign Commercial Service under this subsection shall not be considered to be employees of the United States for the purposes of any law administered by the Office of Personnel Management, except that the Secretary of State may determine the applicability to such individuals of section 2(f) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(f)) and of any other law administered by the Secretary of State concerning the detail of such individuals abroad.

(2) QUALIFICATIONS OF PARTICIPANTS.—In order to qualify for the program established under this subsection, individuals shall have demonstrated expertise in the international business arena in at least 2 of the following areas: marketing, market research, and computer data bases.

(3) EXPENSES OF THE PROGRAM.—(A) The cooperator who details an individual to the United States and Foreign Commercial Service under this subsection shall be responsible for that individual's salary and related expenses, including health care, life insurance, and other noncash benefits, if any, normally paid by such cooperator.

(B) The Secretary of Commerce shall pay transportation and housing costs for each individual participating in the program established under this subsection.

(d) BUDGET ACT.—Contracts may be entered into under this section in a fiscal year only to such extent or in such amounts as are provided in appropriations Acts. Contracts.

SEC. 2304. TRADE SHOWS. 15 USC 4724.

(a) AUTHORITY OF THE SECRETARY OF COMMERCE.—In order to facilitate exporting by United States businesses, the Secretary of Commerce shall provide assistance for trade shows in the United States which bring together representatives of United States businesses seeking to export goods or services produced in the United States and representatives of foreign companies or governments seeking to buy such goods or services from these United States businesses.

(b) RECIPIENTS OF ASSISTANCE.—Assistance under subsection (a) may be provided to—

(1) nonprofit industry organizations,

(2) trade associations,

(3) foreign trade zones, and

(4) private industry firms or groups of firms in cases where no entity described in paragraph (1), (2), or (3) represents that industry,

to provide the services necessary to operate trade shows described in subsection (a).

(c) ASSISTANCE TO SMALL BUSINESSES.—In providing assistance under this section, the Secretary of Commerce shall, in consultation with the Administrator of the Small Business Administration, make special efforts to facilitate participation by small businesses and companies new to export.

(d) USES OF ASSISTANCE.—Funds appropriated to carry out this section shall be used to—

(1) identify potential participants for trade show organizers,

(2) provide information on trade shows to potential participants,

(3) supply language services for participants, and

(4) provide information on trade shows to small businesses and companies new to export.

(e) DEFINITIONS.—As used in this section—

(1) the term "United States business" means—

(A) a United States citizen;

(B) a corporation, partnership, or other association created under the laws of the United States or of any State (including the District of Columbia or any commonwealth, territory, or possession of the United States); or

(C) a foreign corporation, partnership, or other association, more than 95 percent of which is owned by persons described in subparagraphs (A) and (B); and

(2) the term "small business" means any small business concern as defined under section 3 of the Small Business Act (15 U.S.C. 632).

SEC. 2305. AUTHORIZATION OF APPROPRIATIONS FOR EXPORT PROMOTION PROGRAMS.

(a) DEFINITION OF EXPORT PROMOTION PROGRAM.—Section 201(d) of the Export Administration Amendments Act of 1985 (15 U.S.C. 4051(d)) is amended—

(1) in paragraph (3) by striking "and" after the semicolon;

(2) in paragraph (4) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(5) the Market Development Cooperator Program established under section 2303 of the Export Enhancement Act of 1988, and assistance for trade shows provided under section 2304 of that Act.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) Section 202 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4052) is amended to read as follows:

"There are authorized to be appropriated to the Department of Commerce to carry out export promotion programs $123,922,000 for the fiscal year 1988, and $146,400,000 for each of the fiscal years 1989 and 1990.".

(2) In addition to funds otherwise available, there are authorized to be appropriated to the Department of Commerce to carry out sections 2303 and 2304 of this Act $6,000,000 for each of the fiscal years 1988, 1989, and 1990.

15 USC 4725.

SEC. 2306. UNITED STATES AND FOREIGN COMMERCIAL SERVICE PACIFIC RIM INITIATIVE.

Japan.
South Korea.
Taiwan.

(a) IN GENERAL.—In order to encourage the export of United States goods and services to Japan, South Korea, and Taiwan, the

United States and Foreign Commercial Service shall make a special effort to—

(1) identify United States goods and services which are not being exported to the markets of Japan, South Korea, and Taiwan but which could be exported to these markets under competitive market conditions;

(2) identify and notify United States persons who sell or provide such goods or services of potential opportunities identified under paragraph (1);

(3) present, periodically, a list of the goods and services identified under paragraph (1), together with a list of any impediments to the export of such goods and services, to appropriate authorities in Japan, South Korea, and Taiwan, with a view toward liberalizing markets to such goods and services;

(4) facilitate the entrance into such markets by United States persons identified and notified under paragraph (2); and

(5) monitor and evaluate the results of efforts to increase the sale of goods and services in such markets.

(b) REPORTS TO THE CONGRESS.—The Secretary of Commerce shall report periodically to the Congress on activities carried out under subsection (a).

(c) DEFINITION.—As used in this section, the term "United States person" means—

(1) a United States citizen; or

(2) a corporation, partnership, or other association created under the laws of the United States or any State (including the District of Columbia or any commonwealth, territory, or possession of the United States).

SEC. 2307. INDIAN TRIBES EXPORT PROMOTION.

Marketing.
15 USC 4726.

(a) ASSISTANCE AUTHORIZED.—The Secretary of Commerce is authorized to provide assistance to eligible entities for the development of foreign markets for authentic American Indian arts and crafts. Eligible entities under this section include Indian tribes, tribal organizations, tribal enterprises, craft guilds, marketing cooperatives, and individual Indian-owned businesses.

(b) ACTIVITIES ELIGIBLE FOR ASSISTANCE.—Activities eligible for assistance under this section include, but are not limited to, conduct of market surveys, development of promotional materials, financing of trade missions, participation in international trade fairs, direct marketing, and other market development activities.

(c) ADMINISTRATION OF ASSISTANCE.—Assistance under this section shall be administered by the Secretary of Commerce under guidelines developed by the Secretary. Priority shall be given to projects which support the establishment of long term, stable international markets for American Indian arts and crafts and which are designed to provide the greatest economic benefit to American Indian artisans.

(d) TECHNICAL AND OTHER ASSISTANCE.—The Secretary of Commerce shall provide technical assistance and support services to applicants eligible for and entities receiving assistance under this section for the purpose of helping them in identifying and entering appropriate foreign markets, complying with foreign and domestic legal and banking requirements regarding the export and import of arts and crafts, and utilizing import and export financial arrangements, and shall provide such other assistance as may be necessary

to support the development of export markets for American Indian arts and crafts.

(e) LIMITATION ON ASSISTANCE.—No assistance shall be provided under this section in support of any activity which includes the sale or marketing of any craft items other than authentic arts and crafts hand made or hand crafted by American Indian artisans.

SEC. 2308. PRINTING AT OVERSEAS LOCATIONS.

(a) PRINTING IN CONJUNCTION WITH EXPORT PROMOTION PROGRAMS.—Section 201 of the Export Administration Amendments Act of 1985 (15 U.S.C. 4051) is amended by adding at the end the following:

"(e) PRINTING OUTSIDE THE UNITED STATES.—(1) Notwithstanding the provisions of section 501 of title 44, United States Code, and consistent with other applicable law, the Secretary of Commerce, in carrying out any export promotion program, may authorize—

"(A) the printing, distribution, and sale of documents outside the contiguous United States, if the Secretary finds that the implementation of such export promotion program would be more efficient, and if such documents will be distributed primarily and sold exclusively outside the United States; and

"(B) the acceptance of private notices and advertisements in connection with the printing and distribution of such documents.

"(2) Any fees received by the Secretary pursuant to paragraph (1) shall be deposited in a separate account or accounts which may be used to defray directly the costs incurred in conducting activities authorized by paragraph (1) or to repay or make advances to appropriations or other funds available for such activities.".

SEC. 2309. LOCAL CURRENCIES UNDER PUBLIC LAW 480.

Section 108(i) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1708(i)) is amended—

(1) in paragraph (1) by striking "and";

(2) in paragraph (2) by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(3) the terms 'private sector development activity' and 'private enterprise investment' include the construction of low- and medium-income housing and shelter.".

SEC. 2310. OFFICE OF EXPORT TRADE.

Section 104 of the Export Trading Company Act of 1982 (15 U.S.C. 4003) is amended by adding at the end the following: "The office shall establish a program to encourage and assist the operation of other export intermediaries, including existing and newly formed export management companies.".

15 USC 4011 note.

SEC. 2311. REPORT ON EXPORT TRADING COMPANIES.

Not later than 18 months after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Banking, Housing, and Urban Affairs of the Senate, and to the Committee on Banking, Finance and Urban Affairs, the Committee on Foreign Affairs, and the Committee on the Judiciary of the House of Representatives, on the activities of the Department of Commerce to promote and encourage the formation of new and the operation of existing and new export promotion intermediaries,

including export management companies, export trade associations, bank export trading companies, and export trading companies. The report shall include a survey of the activities of export management companies, export trade associations, and those bank export trading companies and export trading companies established pursuant to the amendments made by title II of the Export Trading Company Act of 1982, and pursuant to title III of that Act. The report shall not contain any information subject to the protections from disclosure provided in that Act.

Subtitle D—Export Controls

SEC. 2401. REFERENCE TO THE EXPORT ADMINISTRATION ACT OF 1979.

For purposes of this subtitle, the Export Administration Act of 1979 shall be referred to as "the Act".

PART I—EXPORT CONTROLS GENERALLY

SEC. 2411. EXPORT LICENSE FEES.

Section 4 of the Act (50 U.S.C. App. 2403) is amended by adding at the end the following:

"(g) FEES.—No fee may be charged in connection with the submission or processing of an export license application.".

SEC. 2412. MULTIPLE LICENSE AUTHORITY.

People's Republic of China.

Section 4(a)(2) of the Act (50 U.S.C. App. 2403(a)(2)) is amended—

(1) in subparagraph (A) by striking the period at the end of the first sentence and inserting ", except that the Secretary may establish a type of distribution license appropriate for consignees in the People's Republic of China."; and

(2) in subparagraph (B) in the first sentence by inserting "(except the People's Republic of China)" after "controlled countries".

SEC. 2413. DOMESTIC SALES TO COMMERCIAL ENTITIES OF CONTROLLED COUNTRIES.

Section 5(a)(1) of the Act (50 U.S.C. App. 2404(a)(1)) is amended by inserting after the second sentence the following: "For purposes of the preceding sentence, the term 'affiliates' includes both governmental entities and commercial entities that are controlled in fact by controlled countries.".

SEC. 2414. AUTHORITY FOR REEXPORTS.

Science and technology.

Section 5(a) of the Act (50 U.S.C. App. 2404(a)) is amended by adding at the end the following:

"(4)(A) No authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States to any country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee, or pursuant to an agreement described in subsection (k) of this section. The Secretary may require any person reexporting any goods or technology under this subparagraph to notify the Secretary of such reexports.

"(B) Notwithstanding subparagraph (A), the Secretary may require authority or permission to reexport the following:

"(i) supercomputers;

"(ii) goods or technology for sensitive nuclear uses (as defined by the Secretary);

Communications and telecommunications.

"(iii) devices for surreptitious interception of wire or oral communications; and

"(iv) goods or technology intended for such end users as the Secretary may specify by regulation.

"(5)(A) Except as provided in subparagraph (B), no authority or permission may be required under this section to reexport any goods or technology subject to the jurisdiction of the United States from any country when the goods or technology to be reexported are incorporated in another good and—

"(i) the value of the controlled United States content of that other good is 25 percent or less of the total value of the good; or

"(ii) the export of the goods or technology to a controlled country would require only notification of the participating governments of the Coordinating Committee.

For purposes of this paragraph, the 'controlled United States content' of a good means those goods or technology subject to the jurisdiction of the United States which are incorporated in the good, if the export of those goods or technology from the United States to a country, at the time that the good is exported to that country, would require a validated license.

"(B) The Secretary may by regulation provide that subparagraph (A) does not apply to the reexport of a supercomputer which contains goods or technology subject to the jurisdiction of the United States.

Regulations.

"(6) Not later than 90 days after the date of the enactment of this paragraph, the Secretary shall issue regulations to carry out paragraphs (4) and (5). Such regulations shall define the term 'supercomputer' for purposes of those paragraphs.".

SEC. 2415. EXPORTS TO COUNTRIES OTHER THAN CONTROLLED COUNTRIES.

Science and technology. People's Republic of China.

(a) COCOM COUNTRIES.—Section 5(b)(2) of the Act (50 U.S.C. App. 2404(b)(2)) is amended to read as follows:

"(2)(A) Except as provided in subparagraph (B), no authority or permission may be required under this section to export goods or technology to a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k) of this section, if the export of such goods or technology to the People's Republic of China or a controlled country on the date of the enactment of the Export Enhancement Act of 1988 would require only notification of the participating governments of the Coordinating Committee.

"(B)(i) The Secretary may require a license for the export of goods or technology described in subparagraph (A) to such end users as the Secretary may specify by regulation.

"(ii) The Secretary may require any person exporting goods or technology under this paragraph to notify the Secretary of those exports.

"(C) The Secretary shall, within 3 months after the date of the enactment of the Export Enhancement Act of 1988, determine which countries referred to in subparagraph (A) are implementing

an effective export control system consistent with principles agreed to in the Coordinating Committee, including the following:

"(i) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations; Law enforcement and crime.

"(ii) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end-users;

"(iii) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports; Law enforcement and crime.

"(iv) a system of export control documentation to verify the movement of goods and technology; and Records. Science and technology.

"(v) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee.

The Secretary shall, at least once each year, review the determinations made under the preceding sentence with respect to all countries referred to in subparagraph (A). The Secretary may, as appropriate, add countries to, or remove countries from, the list of countries that are implementing an effective export control system in accordance with this subparagraph. No authority or permission to export may be required for the export of goods or technology to a country on such list.".

(b) COUNTRIES OTHER THAN COCOM COUNTRIES.—Section 5(b) of the Act (50 U.S.C. App. 2404(b)) is amended by adding at the end the following:

"(3)(A) No authority or permission may be required under this section to export to any country, other than a controlled country, any goods or technology if the export of the goods or technology to controlled countries would require only notification of the participating governments of the Coordinating Committee. Science and technology.

"(B) The Secretary may require any person exporting any goods or technology under subparagraph (A) to notify the Secretary of those exports.".

SEC. 2416. CONTROL LIST.

(a) RESOLUTION OF DISPUTES.—Section 5(c)(2) of the Act (50 U.S.C. App. 2404(c)(2)) is amended by striking the last sentence and inserting the following: "If the Secretary and the Secretary of Defense are unable to concur on such items, as determined by the Secretary, the Secretary of Defense may, within 20 days after receiving notification of the Secretary's determination, refer the matter to the President for resolution. The Secretary of Defense shall notify the Secretary of any such referral. The President shall, not later than 20 days after such referral, notify the Secretary of his determination with respect to the inclusion of such items on the list. Failure of the Secretary of Defense to notify the President or the Secretary, or failure of the President to notify the Secretary, in accordance with this paragraph, shall be deemed by the Secretary to constitute concurrence in the implementation of the actions proposed by the Secretary regarding the inclusion of such items on the list.". President of U.S.

(b) CONDUCT OF LIST REVIEWS.—

(1) CONTROL LIST.—Section 5(c)(3) of the Act is amended to read as follows:

"(3) The Secretary shall conduct partial reviews of the list established pursuant to this subsection at least once each calendar

quarter in order to carry out the policy set forth in section 3(2)(A) of this Act and the provisions of this section, and shall promptly make such revisions of the list as may be necessary after each such review. Before beginning each quarterly review, the Secretary shall publish notice of that review in the Federal Register. The Secretary shall provide a 30-day period during each review for comment and the submission of data, with or without oral presentation, by interested Government agencies and other affected or potentially affected parties. After consultation with appropriate Government agencies, the Secretary shall make a determination of any revisions in the list within 30 days after the end of the review period. The concurrence or approval of any other department or agency is not required before any such revision is made. The Secretary shall publish in the Federal Register any revisions in the list, with an explanation of the reasons for the revisions. The Secretary shall use the data developed from each review in formulating United States proposals relating to multilateral export controls in the group known as the Coordinating Committee. The Secretary shall further assess, as part of each review, the availability from sources outside the United States of goods and technology comparable to those subject to export controls imposed under this section. All goods and technology on the list shall be reviewed at least once each year. The provisions of this paragraph apply to revisions of the list which consist of removing items from the list or making changes in categories of, or other specifications in, items on the list.".

Federal Register, publication.

Federal Register, publication.

Science and technology.

(2) LIST OF MILITARILY CRITICAL TECHNOLOGIES.—Section 5(d)(5) of the Act (50 U.S.C. App. 2404(d)(5)) is amended in the first sentence by striking "at least annually" and inserting "on an ongoing basis".

(3) TECHNICAL ADVISORY COMMITTEES.—(A) Section 5(c) of the Act is amended by adding at the end the following:

"(4) The appropriate technical advisory committee appointed under subsection (h) of this section shall be consulted by the Secretary with respect to changes, pursuant to paragraph (2) or (3), in the list established pursuant to this subsection, and such technical advisory committee may submit recommendations to the Secretary with respect to such changes. The Secretary shall consider the recommendations of the technical advisory committee and shall inform the committee of the disposition of its recommendations.".

(c) CONTROL LIST REDUCTION.—

(1) IN GENERAL.—Section 5(c) of the Act (50 U.S.C. App. 2404(c)) (as amended by subsection (b)(3) of this section) is further amended by adding at the end the following:

"(5)(A) Not later than 6 months after the date of the enactment of this paragraph, the following shall no longer be subject to export controls under this section:

Science and technology.

"(i) All goods or technology the export of which to controlled countries on the date of the enactment of the Export Enhancement Act of 1988 would require only notification of the participating governments of the Coordinating Committee, except for those goods or technology on which the Coordinating Committee agrees to maintain such notification requirement.

"(ii) All medical instruments and equipment, subject to the provisions of subsection (m) of this section.

Reports.

"(B) The Secretary shall submit to the Congress annually a report setting forth the goods and technology from which export controls have been removed under this paragraph.".

(2) ELIMINATION OF UNILATERAL CONTROLS.—Section 5(c) of the Act (as amended by subsection (b)(3) and paragraph (1) of this subsection) is further amended by adding at the end the following:

"(6)(A) Notwithstanding subsection (f) or (h)(6) of this section, any export control imposed under this section which is maintained unilaterally by the United States shall expire 6 months after the date of the enactment of this paragraph, or 6 months after the export control is imposed, whichever date is later, except that— Science and technology.

"(i) any such export controls on those goods or technology for which a determination of the Secretary that there is no foreign availability has been made under subsection (f) or (h)(6) of this section before the end of the applicable 6-month period and is in effect may be renewed for periods of not more than 6 months each, and

"(ii) any such export controls on those goods or technology with respect to which the President, by the end of the applicable 6-month period, is actively pursuing negotiations with other countries to achieve multilateral export controls on those goods or technology may be renewed for 2 periods of not more than 6 months each.

"(B) Export controls on goods or technology described in clause (i) or (ii) of subparagraph (A) may be renewed only if, before each renewal, the President submits to the Congress a report setting forth all the controls being renewed and stating the specific reasons for such renewal.". President of U.S. Reports.

(3) REVIEW OF CERTAIN LOW TECHNOLOGY ITEMS.—Section 5(c) of the Act (as amended by subsection (b)(3) and paragraphs (1) and (2) of this subsection) is further amended by adding at the end the following:

"(7) Notwithstanding any other provision of this subsection, after 1 year has elapsed since the last review in the Federal Register on any item within a category on the control list the export of which to the People's Republic of China would require only notification of the members of the group known as the Coordinating Committee, an export license applicant may file an allegation with the Secretary that such item has not been so reviewed within such 1-year period. Within 90 days after receipt of such allegation, the Secretary—

"(A) shall determine the truth of the allegation;

"(B) shall, if the allegation is confirmed, commence and complete the review of the item; and

"(C) shall, pursuant to such review, submit a finding for publication in the Federal Register. Federal Register, publication.

In such finding, the Secretary shall identify those goods or technology which shall remain on the control list and those goods or technology which shall be removed from the control list. If such review and submission for publication are not completed within that 90-day period, the goods or technology encompassed by such item shall immediately be removed from the control list.". Science and technology.

SEC. 2417. TRADE SHOWS.

Section 5(e) of the Act (50 U.S.C. App. 2404(e)) is amended by adding at the end the following:

"(6) Any application for a license for the export to the People's Republic of China of any good on which export controls are in effect under this section, without regard to the technical specifications of People's Republic of China.

the good, for the purpose of demonstration or exhibition at a trade show shall carry a presumption of approval if—

"(A) the United States exporter retains title to the good during the entire period in which the good is in the People's Republic of China; and

"(B) the exporter removes the good from the People's Republic of China no later than at the conclusion of the trade show.".

Science and technology. Defense and national security.

SEC. 2418. FOREIGN AVAILABILITY.—

(a) IN GENERAL.—Section 5(f) of the Act (50 U.S.C. App. 2404(f)) is amended to read as follows:

"(f) FOREIGN AVAILABILITY.—

"(1) FOREIGN AVAILABILITY TO CONTROLLED COUNTRIES.—(A) The Secretary, in consultation with the Secretary of Defense and other appropriate Government agencies and with appropriate technical advisory committees established pursuant to subsection (h) of this section, shall review, on a continuing basis, the availability to controlled countries, from sources outside the United States, including countries which participate with the United States in multilateral export controls, of any goods or technology the export of which requires a validated license under this section. In any case in which the Secretary determines, in accordance with procedures and criteria which the Secretary shall by regulation establish, that any such goods or technology are available in fact to controlled countries from such sources in sufficient quantity and of comparable quality so that the requirement of a validated license for the export of such goods or technology is or would be ineffective in achieving the purpose set forth in subsection (a) of this section, the Secretary may not, after the determination is made, require a validated license for the export of such goods or technology during the period of such foreign availability, unless the President determines that the absence of export controls under this section on the goods or technology would prove detrimental to the national security of the United States. In any case in which the President determines under this paragraph that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination, together with a concise statement of its basis and the estimated economic impact of the decision.

Regulations.

"(B) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a controlled country and which meets all other requirements for such an application, if the Secretary determines that such goods or technology will, if the license is denied, be available in fact to such country from sources outside the United States, including countries which participate with the United States in multilateral export controls, in sufficient quantity and of comparable quality so that denial of the license would be ineffective in achieving the purpose set forth in subsection (a) of this section, unless the President determines that approving the license application would prove detrimental to the national security of the United States. In any case in which the Secretary makes a determination of foreign availability under this subparagraph with respect to any goods or technology, the Secretary shall determine

whether a determination of foreign availability under subparagraph (A) with respect to such goods or technology is warranted.

"(2) FOREIGN AVAILABILITY TO OTHER THAN CONTROLLED COUNTRIES.—(A) The Secretary shall review, on a continuing basis, the availability to countries other than controlled countries, from sources outside the United States, of any goods or technology the export of which requires a validated license under this section. If the Secretary determines, in accordance with procedures which the Secretary shall establish, that any goods or technology in sufficient quantity and of comparable quality are available in fact from sources outside the United States (other than availability under license from a country which maintains export controls on such goods or technology cooperatively with the United States pursuant to the agreement of the group known as the Coordinating Committee or pursuant to an agreement described in subsection (k) of this section), the Secretary may not, after the determination is made and during the period of such foreign availability, require a validated license for the export of such goods or technology to any country (other than a controlled country) to which the country from which the goods or technology is available does not place controls on the export of such goods or technology. The requirement with respect to a validated license in the preceding sentence shall not apply if the President determines that the absence of export controls under this section on the goods or technology would prove detrimental to the national security of the United States. In any case in which the President determines under this paragraph that export controls under this section must be maintained notwithstanding foreign availability, the Secretary shall publish that determination, together with a concise statement of its basis and the estimated economic impact of the decision.

"(B) The Secretary shall approve any application for a validated license which is required under this section for the export of any goods or technology to a country (other than a controlled country) and which meets all other requirements for such an application, if the Secretary determines that such goods or technology are available from foreign sources to that country under the criteria established in subparagraph (A), unless the President determines that approving the license application would prove detrimental to the national security of the United States. In any case in which the Secretary makes a determination of foreign availability under this subparagraph with respect to any goods or technology, the Secretary shall determine whether a determination of foreign availability under subparagraph (A) with respect to such goods or technology is warranted.

"(3) PROCEDURES FOR MAKING DETERMINATIONS.—(A) The Secretary shall make a foreign availability determination under paragraph (1) or (2) on the Secretary's own initiative or upon receipt of an allegation from an export license applicant that such availability exists. In making any such determination, the Secretary shall accept the representations of applicants made in writing and supported by reasonable evidence, unless such representations are contradicted by reliable evidence, including scientific or physical examination, expert opinion based upon adequate factual information, or intelligence information. In making determinations of foreign availability, the Secretary

may consider such factors as cost, reliability, the availability and reliability of spare parts and the cost and quality thereof, maintenance programs, durability, quality of end products produced by the item proposed for export, and scale of production. For purposes of this subparagraph, 'evidence' may include such items as foreign manufacturers' catalogues, brochures, or operations or maintenance manuals, articles from reputable trade publications, photographs, and depositions based upon eyewitness accounts.

Federal Register, publication.

"(B) In a case in which an allegation is received from an export license applicant, the Secretary shall, upon receipt of the allegation, submit for publication in the Federal Register notice of such receipt. Within 4 months after receipt of the allegation, the Secretary shall determine whether the foreign availability exists, and shall so notify the applicant. If the Secretary has determined that the foreign availability exists, the Secretary shall, upon making such determination, submit the determination for review to other departments and agencies as the Secretary considers appropriate. The Secretary's determination of foreign availability does not require the concurrence or approval of any official, department, or agency to which such a determination is submitted. Not later than 1 month after the Secretary makes the determination, the Secretary shall respond in writing to the applicant and submit for publication in the Federal Register, that—

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"(i) the foreign availability does exist and—

"(I) the requirement of a validated license has been removed,

"(II) the President has determined that export controls under this section must be maintained notwithstanding the foreign availability and the applicable steps are being taken under paragraph (4), or

"(III) in the case of a foreign availability determination under paragraph (1), the foreign availability determination will be submitted to a multilateral review process in accordance with the agreement of the Coordinating Committee for a period of not more than 4 months beginning on the date of the publication; or

"(ii) the foreign availability does not exist.

In any case in which the submission for publication is not made within the time period specified in the preceding sentence, the Secretary may not thereafter require a license for the export of the goods or technology with respect to which the foreign availability allegation was made. In the case of a foreign availability determination under paragraph (1) to which clause (i)(III) applies, no license for such export may be required after the end of the 9-month period beginning on the date on which the allegation is received.

President of U.S.

"(4) NEGOTIATIONS TO ELIMINATE FOREIGN AVAILABILITY.—(A) In any case in which export controls are maintained under this section notwithstanding foreign availability, on account of a determination by the President that the absence of the controls would prove detrimental to the national security of the United States, the President shall actively pursue negotiations with the governments of the appropriate foreign countries for the purpose of eliminating such availability. No later than the commencement of such negotiations, the President shall notify

in writing the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Foreign Affairs of the House of Representatives that he has begun such negotiations and why he believes it is important to national security that export controls on the goods or technology involved be maintained.

"(B) If, within 6 months after the President's determination that export controls be maintained, the foreign availability has not been eliminated, the Secretary may not, after the end of that 6-month period, require a validated license for the export of the goods or technology involved. The President may extend the 6-month period described in the preceding sentence for an additional period of 12 months if the President certifies to the Congress that the negotiations involved are progressing and that the absence of the export controls involved would prove detrimental to the national security of the United States. Whenever the President has reason to believe that goods or technology subject to export controls for national security purposes by the United States may become available from other countries to controlled countries and that such availability can be prevented or eliminated by means of negotiations with such other countries, the President shall promptly initiate negotiations with the governments of such other countries to prevent such foreign availability. President of U.S.

"(C) After an agreement is reached with a country pursuant to negotiations under this paragraph to eliminate or prevent foreign availability of goods or technology, the Secretary may not require a validated license for the export of such goods or technology to that country.

"(5) EXPEDITED LICENSES FOR ITEMS AVAILABLE TO COUNTRIES OTHER THAN CONTROLLED COUNTRIES.—(A) In any case in which the Secretary finds that any goods or technology from foreign sources is of similar quality to goods or technology the export of which requires a validated license under this section and is available to a country other than a controlled country without effective restrictions, the Secretary shall designate such goods or technology as eligible for export to such country under this paragraph.

"(B) In the case of goods or technology designated under subparagraph (A), then 20 working days after the date of formal filing with the Secretary of an individual validated license application for the export of those goods or technology to an eligible country, a license for the transaction specified in the application shall become valid and effective and the goods or technology are authorized for export pursuant to such license unless the license has been denied by the Secretary on account of an inappropriate end user. The Secretary may extend the 20-day period provided in the preceding sentence for an additional period of 15 days if the Secretary requires additional time to consider the application and so notifies the applicant.

"(C) The Secretary may make a foreign availability determination under subparagraph (A) on the Secretary's own initiative, upon receipt of an allegation from an export license applicant that such availability exists, or upon the submission of a certification by a technical advisory committee of appropriate jurisdiction that such availability exists. Upon receipt of such an allegation or certification, the Secretary shall publish Federal Register, publication,

notice of such allegation or certification in the Federal Register and shall make the foreign availability determination within 30 days after such receipt and publish the determination in the Federal Register. In the case of the failure of the Secretary to make and publish such determination within that 30-day period, the goods or technology involved shall be deemed to be designated as eligible for export to the country or countries involved, for purposes of subparagraph (B).

"(D) The provisions of paragraphs (1), (2), (3), and (4) do not apply with respect to determinations of foreign availability under this paragraph.

Establishment.

"(6) OFFICE OF FOREIGN AVAILABILITY.—The Secretary shall establish in the Department of Commerce an Office of Foreign Availability, which shall be under the direction of the Under Secretary of Commerce for Export Administration. The Office shall be responsible for gathering and analyzing all the necessary information in order for the Secretary to make determinations of foreign availability under this Act. The Secretary shall make available to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate at the end of each 6-month period during a fiscal year information on the operations of the Office, and on improvements in the Government's ability to assess foreign availability, during that 6-month period, including information on the training of personnel, the use of computers, and the use of Commercial Service Officers of the United States and Foreign Commercial Service. Such information shall also include a description of representative determinations made under this Act during that 6-month period that foreign availability did or did not exist (as the case may be), together with an explanation of such determinations.

Contracts.

"(7) SHARING OF INFORMATION.—Each department or agency of the United States, including any intelligence agency, and all contractors with any such department or agency, shall, upon the request of the Secretary and consistent with the protection of intelligence sources and methods, furnish information to the Office of Foreign Availability concerning foreign availability of goods and technology subject to export controls under this Act. Each such department or agency shall allow the Office of Foreign Availability access to any information from a laboratory or other facility within such department or agency.

"(8) REMOVAL OF CONTROLS ON LESS SOPHISTICATED GOODS OR TECHNOLOGY.—In any case in which Secretary may not, pursuant to paragraph (1), (2), (3), or (4) of this subsection or paragraph (6) of subsection (h) of this section, require a validated license for the export of goods or technology, then the Secretary may not require a validated license for the export of any similar goods or technology whose function, technological approach, performance thresholds, and other attributes that form the basis for export controls under this section do not exceed the technical parameters of the goods or technology from which the validated license requirement is removed under the applicable paragraph.

Federal Register, publication.

"(9) NOTICE OF ALL FOREIGN AVAILABILITY ASSESSMENTS.—Whenever the Secretary undertakes a foreign availability assessment under this subsection or subsection (h)(6), the Sec-

retary shall publish notice of such assessment in the Federal Register.

"(10) AVAILABILITY DEFINED.—For purposes of this subsection and subsections (f) and (h), the term 'available in fact to controlled countries' includes production or availability of any goods or technology in any country—

"(A) from which the goods or technology is not restricted for export to any controlled country; or

"(B) in which such export restrictions are determined by the Secretary to be ineffective.

For purposes of subparagraph (B), the mere inclusion of goods or technology on a list of goods or technology subject to bilateral or multilateral national security export controls shall not alone constitute credible evidence that a country provides an effective means of controlling the export of such goods or technology to controlled countries.".

(b) TECHNICAL ADVISORY COMMITTEE DETERMINATIONS.—Section 5(h)(6) of the Act (50 U.S.C. App. 2404(h)(6)) is amended by adding at the end the following: "After an agreement is reached with a country pursuant to negotiations under this paragraph to eliminate foreign availability of goods or technology, the Secretary may not require a validated license for the export of such goods or technology to that country.".

(c) TECHNICAL AMENDMENT.—Section 14(a)(8) of the Act (50 U.S.C. 2413(a)(8)) is amended by striking "5(f)(5)" and inserting "5(f)(6)". 50 USC app. 2413.

SEC. 2419. REVIEW OF TECHNOLOGY LEVELS.

Section 5(g) of the Act (50 U.S.C. 2404(g)) is amended— 50 USC app. 2404.

(1) by inserting "(1)" immediately before the first sentence; and

(2) by adding at the end the following:

"(2)(A) In carrying out this subsection, the Secretary shall conduct annual reviews of the performance levels of goods or technology—

"(i) which are eligible for export under a distribution license,

"(ii) below which exports to the People's Republic of China require only notification of the governments participating in the group known as the Coordinating Committee, and People's Republic of China.

"(iii) below which no authority or permission to export may be required under subsection (b)(2) or (b)(3) of this section.

The Secretary shall make appropriate adjustments to such performance levels based on these reviews.

"(B) In any case in which the Secretary receives a request which—

"(i) is to revise the qualification requirements or minimum thresholds of any goods eligible for export under a distribution license, and

"(ii) is made by an exporter of such goods, representatives of an industry which produces such goods, or a technical advisory committee established under subsection (h) of this section,

the Secretary, after consulting with other appropriate Government agencies and technical advisory committees established under subsection (h) of this section, shall determine whether to make such revision, or some other appropriate revision, in such qualification requirements or minimum thresholds. In making this determination, the Secretary shall take into account the availability of the goods from sources outside the United States. The Secretary shall make a determination on a request made under this subparagraph within 90 days after the date on which the request is filed. If the Federal Register, publication.

Secretary's determination pursuant to such a request is to make a revision, such revision shall be implemented within 120 days after the date on which the request is filed and shall be published in the Federal Register.".

SEC. 2420. FUNCTIONS OF TECHNICAL ADVISORY COMMITTEES.

50 USC app. 2404.

(a) CONSULTATION ON REVISIONS OF CONTROL LIST AND ON REGULATIONS.—Section 5(h)(2) of the Act (50 U.S.C. 2404(h)(2)) is amended—

(1) by redesignating clause (E) as clause (F); and

(2) by striking clause (D) and inserting the following: "(D) revisions of the control list (as provided in subsection (c)(4)), including proposed revisions of multilateral controls in which the United States participates, (E) the issuance of regulations, and".

(b) REVIEW OF REGULATIONS.—Section 15(b) of the Act (50 U.S.C. App. 2414(b)) is amended in the third sentence—

(1) by striking "and such other" and inserting "such other"; and

(2) by inserting after "appropriate" the following: ", and the appropriate technical advisory committee".

SEC. 2421. NEGOTIATIONS WITH COCOM.

(a) NEGOTIATING OBJECTIVES.—Section 5(i) of the Act (50 U.S.C. App. 2404(i)) is amended by striking "The President" and inserting "Recognizing the ineffectiveness of unilateral controls and the importance of uniform enforcement measures to the effectiveness of multilateral controls, the President".

(b) INDUSTRY REPRESENTATIVE TO COCOM.—Section 5(i) of the Act is amended by adding at the end the following:

"For purposes of reviews of the International Control List, the President may include as advisors to the United States delegation to the Committee representatives of industry who are knowledgeable with respect to the items being reviewed.".

SEC. 2422. GOODS CONTAINING MICROPROCESSORS OR CERTAIN OTHER PARTS OR COMPONENTS.

50 USC app. 2404.

Section 5(m) of the Act (50 U.S.C. 2404(m)) is amended to read as follows:

"(m) GOODS CONTAINING CONTROLLED PARTS AND COMPONENTS.—Export controls may not be imposed under this section, or under any other provision of law, on a good solely on the basis that the good contains parts or components subject to export controls under this section if such parts or components—

"(1) are essential to the functioning of the good,

"(2) are customarily included in sales of the good in countries other than controlled countries, and

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"(3) comprise 25 percent or less of the total value of the good, unless the good itself, if exported, would by virtue of the functional characteristics of the good as a whole make a significant contribution to the military potential of a controlled country which would prove detrimental to the national security of the United States.".

SEC. 2423. FOREIGN POLICY CONTROLS.

50 USC app. 2405.

(a) DIPLOMATIC ALTERNATIVES.—Section 6(a) of the Act (50 U.S.C. 2405(a)) is amended by adding at the end the following:

"(6) Before imposing, expanding, or extending export controls under this section on exports to a country which can use goods,

technology, or information available from foreign sources and so incur little or no economic costs as a result of the controls, the President should, through diplomatic means, employ alternatives to export controls which offer opportunities of distinguishing the United States from, and expressing the displeasure of the United States with, the specific actions of that country in response to which the controls are proposed. Such alternatives include private discussions with foreign leaders, public statements in situations where private diplomacy is unavailable or not effective, withdrawal of ambassadors, and reduction of the size of the diplomatic staff that the country involved is permitted to have in the United States.".

(b) SPARE PARTS.—Section 6 of the Act (50 U.S.C. App. 2405) is amended by adding at the end the following:

"(p) SPARE PARTS.—(1) At the same time as the President imposes or expands export controls under this section, the President shall determine whether such export controls will apply to replacement parts for parts in goods subject to such export controls. President of U.S.

"(2) With respect to export controls imposed under this section before the date of the enactment of this subsection, an individual validated export license shall not be required for replacement parts which are exported to replace on a one-for-one basis parts that were in a good that was lawfully exported from the United States, unless the President determines that such a license should be required for such parts.".

SEC. 2424. EXPORTS OF DOMESTICALLY PRODUCED CRUDE OIL.

(a) TECHNICAL AMENDMENT.—Section 7(d) of the Act (50 U.S.C. App. 2406(d)) is amended by striking paragraph (4).

(b) CRUDE OIL STUDY.— 50 USC app. 2406 note.

(1) REVIEW OF EXPORT RESTRICTIONS ON CRUDE OIL.—The Secretary of Commerce, in consultation with the Secretary of Energy, shall undertake a comprehensive review to assess whether existing statutory restrictions on the export of crude oil produced in the contiguous United States are adequate to protect the energy and national security interests of the United States and American consumers. Taking into account exports licensed since 1983 and potential exports of heavy crude oil produced in California, the review shall assess the effect of increased exports of crude oil produced in the contiguous United States on— California.

(A) the adequacy of domestic supplies of crude oil and refined petroleum products in meeting United States energy and national security needs;

(B) the quantity, quality, and retail price of petroleum products available to consumers in the United States generally and on the West Coast in particular;

(C) the overall trade deficit of the United States;

(D) acquisition costs of crude oil by domestic petroleum refiners;

(E) the financial viability of sectors of the domestic petroleum industry (including independent refiners, distributors, marketers, and pipeline carriers); and

(F) the United States tanker fleet (and the industries that support it), with particular emphasis on the availability of militarily useful tankers to meet anticipated national defense requirements. Defense and national security.

(2) PUBLIC HEARING AND COMMENT.—The Secretary of Commerce shall provide notice and a reasonable opportunity for public hearing and comment on the review conducted pursuant to this subsection.

(3) CONSULTATIONS WITH OTHER AGENCIES.—The Secretary of Commerce shall consult with the Secretary of Defense, the Secretary of the Interior, and the Secretary of Transportation, in addition to the Secretary of Energy, in undertaking the review pursuant to this subsection.

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(4) FINDINGS, OPTIONS, AND RECOMMENDATIONS.—After taking public comment and consulting with appropriate State and Federal officials, the Secretary of Commerce, in consultation with the Secretary of Energy, shall develop findings, options, and recommendations regarding the adequacy of existing statutory restrictions on the export of crude oil produced in the contiguous United States in protecting the energy and national security interests of the United States and American consumers.

(5) CONSULTATIONS AND REPORT.—In carrying out this subsection, the Secretary of Commerce shall consult with the Committee on Foreign Affairs and the Committee on Energy and Commerce of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs, the Committee on Commerce, Science, and Transportation, and the Committee on Energy and Natural Resources of the Senate. Not later than 12 months after the date of the enactment of this Act, the Secretary shall transmit to each of those committees a report which contains the results of the review undertaken pursuant to this subsection and the findings, options, and recommendations developed under paragraph (4).

SEC. 2425. PROCEDURES FOR LICENSE APPLICATIONS.

(a) REVIEW OF LICENSE APPLICATIONS BY THE SECRETARY OF DEFENSE.—Section 10(g) of the Act (50 U.S.C. App. 2409(g)) is amended—

(1) in paragraph (2)(A) by inserting "and the Secretary" after "to the President";

(2) by inserting before the last sentence of paragraph (2) the following:

"Whenever the Secretary of Defense makes a recommendation to the President pursuant to paragraph (2)(A), the Secretary shall also submit his recommendation to the President on the request to export if the Secretary differs with the Secretary of Defense.";

(3) by adding at the end of paragraph (2) the following: "If the Secretary of Defense fails to make a recommendation or notification under this paragraph within the 20-day period specified in the third sentence, or if the President, within 20 days after receiving a recommendation from the Secretary of Defense with respect to an export, fails to notify the Secretary that he approves or disapproves the export, the Secretary shall approve or deny the request for a license or other authority to export without such recommendation or notification."; and

(4) by striking paragraph (4).

(b) REPORT BY SECRETARIES OF COMMERCE AND DEFENSE.—The Secretary of Commerce and the Secretary of Defense shall each evaluate and, not later than 4 months after the date of the enactment of this Act, shall jointly prepare and submit a report to the

Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on the review by the Department of Defense for national security purposes as provided in the Export Administration Act of 1979, of export license applications for exports to countries other than controlled countries under section 5(b)(1) of that Act

(c) REPORT ON SMALL BUSINESSES.—Section 10(m) of the Act (50 U.S.C. App. 2409(m)) is amended by adding at the end the following: "The Secretary shall, not later than 120 days after the date of the enactment of the Export Enhancement Act of 1988, report to the Congress on steps taken to implement the plan developed under this subsection to assist small businesses in the export licensing application process."

SEC. 2426. VIOLATIONS.

Section 11(h) of the Act (50 U.S.C. App. 2410(h)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" before "No"; and

(B) by inserting after "violation of" the following: "this Act (or any regulation, license, or order issued under this Act), any regulation, license, or order issued under the International Emergency Economic Powers Act,"; and

(2) by adding at the end the following:

"(2) The Secretary may exercise the authority under paragraph (1) with respect to any person related, through affiliation, ownership, control, or position of responsibility, to any person convicted of any violation of law set forth in paragraph (1), upon a showing of such relationship with the convicted party, and subject to the procedures set forth in section 13(c) of this Act.".

SEC. 2427. ENFORCEMENT.

Section 12(a)(2)(B) of the Act (50 U.S.C. App. 2411(a)(2)(B)) is amended by adding at the end the following: "The Customs Service may not detain for more than 20 days any shipment of goods or technology eligible for export under a general license under section 4(a)(3). In a case in which such detention is on account of a disagreement between the Secretary and the head of any other department or agency with export license authority under other provisions of law concerning the export license requirements for such goods or technology, such disagreement shall be resolved within that 20-day period. At the end of that 20-day period, the Customs Service shall either release the goods or technology, or seize the goods or technology as authorized by other provisions of law.". Science and technology.

SEC. 2428. ADMINISTRATIVE PROCEDURE AND JUDICIAL REVIEW. Courts, U.S.

(a) JUDICIAL REVIEW.—(1) Section 13(c) of the Act (50 U.S.C. App. 2412(c)) is amended—

(A) in the last sentence of paragraph (1) by inserting before the period ", except as provided in paragraph (3)";

(B) by redesignating paragraph (3) as paragraph (4); and

(C) by inserting after paragraph (2) the following:

"(3) The order of the Secretary under paragraph (1) shall be final except that the charged party may, within 15 days after the order is issued, appeal the order in the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the appeal. The court may, while the appeal is pending, stay the order of the Secretary. The court may review only those issues necessary to Law enforcement and crime.

Records.

determine liability for the civil penalty or other sanction involved. In an appeal filed under this paragraph, the court shall set aside any finding of fact for which the court finds there is not substantial evidence on the record and any conclusion of law which the court finds to be arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

(2) Section 13(d) of the Act (50 U.S.C. App. 2412(d)) is amended—

(A) in the fifth sentence of paragraph (2) by inserting before the period ", except as provided in paragraph (3)"; and

(B) by adding at the end of paragraph (2) the following:

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"All materials submitted to the administrative law judge and the Secretary shall constitute the administrative record for purposes of review by the courts.

"(3) An order of the Secretary affirming, in whole or in part, the issuance of a temporary denial order may, within 15 days after the order is issued, be appealed by a person subject to the order to the United States Court of Appeals for the District of Columbia Circuit, which shall have jurisdiction of the appeal. The court may review only those issues necessary to determine whether the standard for issuing the temporary denial order has been met. The court shall vacate the Secretary's order if the court finds that the Secretary's order is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.".

(b) ISSUANCE OF TEMPORARY DENIAL ORDERS.—Section 13(d)(1) of the Act (50 U.S.C. App. 2412(d)(1)) is amended in the second sentence by striking "60" each place it appears and inserting "180".

SEC. 2429. RESPONSIBILITIES OF THE UNDER SECRETARY OF COMMERCE FOR EXPORT ADMINISTRATION.

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Section 15(a) of the Act (50 U.S.C. App. 2414(a)) is amended by inserting "and such other statutes that relate to national security" after "functions of the Secretary under this Act".

SEC. 2430. AUTHORIZATION OF APPROPRIATIONS.

Section 18(b) of the Act (50 U.S.C. App. 2417(b)) is amended—

(1) in paragraph (1)—

(A) by striking "each of the fiscal years 1987 and 1988" and inserting "the fiscal year 1988";

(B) by striking "for each such year" each place it appears, and

(C) by striking "and" after the semicolon; and

(2) by striking paragraph (2) and inserting the following:

"(2) $46,913,000 for the fiscal year 1989, of which $15,000,000 shall be available only for enforcement, $5,000,000 shall be available only for foreign availability assessments under subsections (f) and (h)(6) of section 5, $4,000,000 shall be available only for regional export control assistance centers, and $22,913,000 shall be available for all other activities under this Act; and

"(3) such additional amounts for each of the fiscal years 1988 and 1989 as may be necessary for increases in salary, pay, retirement, other employee benefits authorized by law, and other nondiscretionary costs.".

SEC. 2431. TERMINATION DATE.

50 USC app. 2419.

Section 20 of the Act (50 U.S.C. 2419) is amended by striking "1989" and inserting "1990".

SEC. 2432. MONITORING OF WOOD EXPORTS.

50 USC app. 2406 note.

The Secretary of Commerce shall, for a period of 2 years beginning on the date of the enactment of this Act, monitor exports of processed and unprocessed wood to all countries of the Pacific Rim. The Secretary shall include the results of such monitoring in monthly reports setting forth, with respect to each item monitored, actual exports, the destination by country, and the domestic and worldwide price, supply, and demand. The Secretary shall transmit such reports to the Committee on Foreign Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate.

Reports.

SEC. 2433. STUDY ON NATIONAL SECURITY EXPORT CONTROLS.

50 USC app. 2404 note.

(a) ARRANGEMENTS FOR AND CONTENTS OF STUDY.—

(1) ARRANGEMENTS FOR CONDUCTING STUDY.—The Secretary of Commerce and the Secretary of Defense, not later than 60 days after the date of the enactment of this Act, shall enter into appropriate arrangements with the National Academy of Sciences and the National Academy of Engineering (hereafter in this section referred to as the "Academies") to conduct a comprehensive study of the adequacy of the current export administration system in safeguarding United States national security while maintaining United States international competitiveness and Western technological preeminence.

(2) REQUIREMENTS OF STUDY.—Recognizing the need to minimize the disruption of United States trading interests while preventing Western technology from enhancing the development of the military capabilities of controlled countries, the study shall—

(A) identify those goods and technologies which are likely to make crucial differences in the military capabilities of controlled countries, and identify which of those goods and technologies controlled countries already possess or are available to controlled countries from other sources;

(B) develop implementable criteria by which to define those goods and technologies;

(C) demonstrate how such criteria would be applied to the control list by the relevant agencies to revise the list, eliminate ineffective controls, and strengthen controls;

(D) develop proposals to improve United States and multilateral assessments of foreign availability of goods and technology subject to export controls; and

(E) develop proposals to improve the administration of the export control program, including procedures to ensure timely, predictable, and effective decision-making.

(b) ADVISORY PANEL.—In conducting the study under subsection (a), the Academies shall appoint an Advisory Panel of not more than 24 members who shall be selected from among individuals in private life who, by virtue of their experience and expertise, are knowledgeable in relevant scientific, business, legal, or administrative matters. No individual may be selected as a member who, at the time of his or her appointment, is an elected or appointed official or employee in the executive, legislative, or judicial branch of the Government In selecting members of the Advisory Panel, the Academies shall seek suggestions from the President, the Congress, and representatives of industry and the academic community.

(c) EXECUTIVE BRANCH COOPERATION.—The Secretary of Commerce, the Secretary of Defense, the Secretary of State, the Director of the Central Intelligence Agency, and the head of any department or agency that exercises authority in export administration—

Classified information.

(1) shall furnish to the Academies, upon request and under appropriate safeguards, classified or unclassified information which the Academies determine to be necessary for the purposes of conducting the study required by this section; and

(2) shall work with the Academies on such problems related to the study as the Academies consider necessary.

(d) REPORT.—Under the direction of the Advisory Panel, the Academies shall prepare and submit to the President and the Congress, not later than 18 months after entering into the arrangements referred to in subsection (a), a report which contains a detailed statement of the findings and conclusions of the Academies pursuant to the study conducted under subsection (a), together with their recommendations for such legislative or regulatory reforms as they consider appropriate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $900,000 to carry out this section.

Multilateral Export Control Enhancement Amendments Act.

PART II—MULTILATERAL EXPORT CONTROL ENHANCEMENT

50 USC app. 2401 note.

SEC. 2441. SHORT TITLE.

This part may be cited as the "Multilateral Export Control Enhancement Amendments Act".

50 USC app. 2410a note.

SEC. 2442. FINDINGS.

The Congress makes the following findings:

(1) The diversion of advanced milling machinery to the Soviet Union by the Toshiba Machine Company and Kongsberg Trading Company has had a serious impact on United States and Western security interests.

(2) United States and Western security is undermined without the cooperation of the governments and nationals of all countries participating in the group known as the Coordinating Committee (hereafter in this part referred to as "COCOM") in enforcing the COCOM agreement.

(3) It is the responsibility of all governments participating in COCOM to place in effect strong national security export control laws, to license strategic exports carefully, and to enforce those export control laws strictly, since the COCOM system is only as strong as the national laws and enforcement on which it is based.

(4) It is also important for corporations to implement effective internal control systems to ensure compliance with export control laws.

(5) In order to protect United States national security, the United States must take steps to ensure the compliance of foreign companies with COCOM controls, including, where necessary conditions have been met, the imposition of sanctions against violators of controls commensurate with the severity of the violation.

SEC. 2443. MANDATORY SANCTIONS AGAINST TOSHIBA AND KONGSBERG.

President of U.S. Contracts. 50 USC app. 2401a note.

(a) SANCTIONS AGAINST TOSHIBA MACHINE COMPANY, KONGSBERG TRADING COMPANY, AND CERTAIN OTHER FOREIGN PERSONS.—(1) The President shall impose, for a period of 3 years—

(1) a prohibition on contracting with, and procurement of products and services from—

(A) Toshiba Machine Company and Kongsberg Trading Company, and

(B) any other foreign person whom the President finds to have knowingly facilitated the diversion of advanced milling machinery by Toshiba Machine Company and Kongsberg Trading Company to the Soviet Union,

by any department, agency, or instrumentality of the United States Government; and

(2) a prohibition on the importation into the United States of all products produced by Toshiba Machine Company, Kongsberg Trading Company, and any foreign person described in paragraph (1)(B).

(b) SANCTIONS AGAINST TOSHIBA CORPORATION AND KONGSBERG VAAPENFABRIKK.—The President shall impose, for a period of 3 years, a prohibition on contracting with, and procurement of products and services from, the Toshiba Corporation and Kongsberg Vaapenfabrikk, by any department, agency, or instrumentality of the United States Government.

(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

(1) in the case of procurement of defense articles or defense services—

Defense and national security.

(A) under existing contracts or subcontracts, including exercise of options for production quantities to satisfy United States operational military requirements;

(B) if the President determines that the company or foreign person to whom the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements; or

(2) to—

(A) products or services provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before June 30, 1987;

(B) spare parts;

(C) component parts, but not finished products, essential to United States products or production;

(D) routine servicing and maintenance of products; or

(E) information and technology.

Science and technology.

(d) DEFINITIONS.—For purposes of this section—

(1) the term "component part" means any article which is not usable for its intended functions without being imbedded or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

(2) the term "finished product" means any article which is usable for its intended functions without being imbedded in or integrated into any other product, but in no case shall such

term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

(3) the term "sanctioned person" means a company or other foreign person upon whom prohibitions have been imposed under subsection (a) or (b).

SEC. 2444. MANDATORY SANCTIONS FOR FUTURE VIOLATIONS.

The Act is amended by inserting after section 11 the following new section:

"MULTILATERAL EXPORT CONTROL VIOLATIONS

50 USC app. 2410a.

"SEC. 11A. (a) DETERMINATION BY THE PRESIDENT.—The President, subject to subsection (c), shall apply sanctions under subsection (b) for a period of not less than 2 years and not more than 5 years, if the President determines that—

Defense and national security.

"(1) a foreign person has violated any regulation issued by a country to control exports for national security purposes pursuant to the agreement of the group known as the Coordinating Committee, and

Arms and munitions.

"(2) such violation has resulted in substantial enhancement of Soviet and East bloc capabilities in submarine or antisubmarine warfare, ballistic or antiballistic missile technology, strategic aircraft, command, control, communications and intelligence, or other critical technologies as determined by the President, on the advice of the National Security Council, to represent a serious adverse impact on the strategic balance of forces.

The President shall notify the Congress of each action taken under this section. This section, except subsections (h) and (j), applies only to violations that occur after the date of the enactment of the Export Enhancement Act of 1988.

"(b) SANCTIONS.—The sanctions referred to in subsection (a) shall apply to the foreign person committing the violation, as well as to any parent, affiliate, subsidiary, and successor entity of the foreign person, and, except as provided in subsection (c), are as follows:

Contracts.

"(1) a prohibition on contracting with, and procurement of products and services from, a sanctioned person, by any department, agency, or instrumentality of the United States Government, and

"(2) a prohibition on importation into the United States of all products produced by a sanctioned person.

"(c) EXCEPTIONS.—The President shall not apply sanctions under this section—

Defense and national security.
Contracts.

"(1) in the case of procurement of defense articles or defense services—

"(A) under existing contracts or subcontracts, including the exercise of options for production quantities to satisfy United States operational military requirements;

"(B) if the President determines that the foreign person or other entity to which the sanctions would otherwise be applied is a sole source supplier of essential defense articles or services and no alternative supplier can be identified; or

"(C) if the President determines that such articles or services are essential to the national security under defense coproduction agreements; or

"(2) to—

"(A) products or services provided under contracts or other binding agreements (as such terms are defined by the President in regulations) entered into before the date on which the President notifies the Congress of the intention to impose the sanctions; Contracts.

"(B) spare parts;

"(C) component parts, but not finished products, essential to United States products or production;

"(D) routine servicing and maintenance of products; or

"(E) information and technology. Science and technology.

"(d) EXCLUSION.—The President shall not apply sanctions under this section to a parent, affiliate, subsidiary, and successor entity of a foreign person if the President determines that—

"(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not knowingly violated the export control regulation violated by the foreign person, and

"(2) the government of the country with jurisdiction over the parent, affiliate, subsidiary, or successor entity had in effect, at the time of the violation by the foreign person, an effective export control system consistent with principles agreed to in the Coordinating Committee, including the following:

"(A) national laws providing appropriate civil and criminal penalties and statutes of limitations sufficient to deter potential violations; Law enforcement and crime.

"(B) a program to evaluate export license applications that includes sufficient technical expertise to assess the licensing status of exports and ensure the reliability of end-users;

"(C) an enforcement mechanism that provides authority for trained enforcement officers to investigate and prevent illegal exports; Law enforcement and crime.

"(D) a system of export control documentation to verify the movement of goods and technology; and Records.

"(E) procedures for the coordination and exchange of information concerning violations of the agreement of the Coordinating Committee.

"(e) DEFINITIONS.—For purposes of this section—

"(1) the term 'component part' means any article which is not usable for its intended functions without being imbedded in or integrated into any other product and which, if used in production of a finished product, would be substantially transformed in that process;

"(2) the term 'finished product' means any article which is usable for its intended functions without being imbedded or integrated into any other product, but in no case shall such term be deemed to include an article produced by a person other than a sanctioned person that contains parts or components of the sanctioned person if the parts or components have been substantially transformed during production of the finished product; and

"(3) the term 'sanctioned person' means a foreign person, and any parent, affiliate, subsidiary, or successor entity of the for-

eign person, upon whom sanctions have been imposed under this section.

"(f) SUBSEQUENT MODIFICATIONS OF SANCTIONS.—The President may, after consultation with the Congress, limit the scope of sanctions applied to a parent, affiliate, subsidiary, or successor entity of the foreign person determined to have committed the violation on account of which the sanctions were imposed if the President determines that—

"(1) the parent, affiliate, subsidiary, or successor entity (as the case may be) has not, on the basis of available evidence, itself violated the export control regulation involved, either directly or through a course of conduct;

"(2) the government with jurisdiction over the parent, affiliate, subsidiary, or successor entity has improved its export control system as measured by the criteria set forth in subsection (d)(2);

"(3) the parent, affiliate, subsidiary, or successor entity, has instituted improvements in internal controls sufficient to detect and prevent violations of the export control regime implemented under paragraph (2); and

"(4) the impact of the sanctions imposed on the parent, affiliate, subsidiary, or successor entity is proportionate to the increased defense expenditures imposed on the United States.

Notwithstanding the preceding sentence, the President may not limit the scope of the sanction referred to in subsection (b)(1) with respect to the parent of the foreign person determined to have committed the violation, until that sanction has been in effect for at least 2 years.

President of U.S.

"(g) REPORTS TO CONGRESS.—The President shall include in the annual report submitted under section 14, a report on the status of any sanctions imposed under this section, including any exceptions, exclusions, or modifications of sanctions that have been applied under subsection (c), (d), or (f).

Defense and national security.

"(h) DISCRETIONARY IMPOSITION OF SANCTIONS.—If the President determines that a foreign person has violated a regulation issued by a country to control exports for national security purposes pursuant to the agreement of the group known as the Coordinating Committee, but in a case in which subsection (a)(2) may not apply, the President may apply the sanctions referred to in subsection (b) against that foreign person for a period of not more than 5 years.

President of U.S. Research and development. Contracts.

"(i) COMPENSATION FOR DIVERSION OF MILITARILY CRITICAL TECHNOLOGIES TO CONTROLLED COUNTRIES.—(1) In cases in which sanctions have been applied against a foreign person under subsection (a), the President shall initiate discussions with the foreign person and the government with jurisdiction over that foreign person regarding compensation on the part of the foreign person in an amount proportionate to the costs of research and development and procurement of new defensive systems by the United States and the allies of the United States to counteract the effect of the technological advance achieved by the Soviet Union as a result of the violation by that foreign person.

Reports.

"(2) The President shall, at the time that discussions are initiated under paragraph (1), report to the Congress that such discussions are being undertaken, and shall report to the Congress the outcome of those discussions.

"(j) OTHER ACTIONS BY THE PRESIDENT.—Upon making a determination under subsection (a) or (h), the President shall—

"(1) initiate consultations with the foreign government with jurisdiction over the foreign person who committed the violation involved, in order to seek prompt remedial action by that government;

"(2) initiate discussions with the governments participating in the Coordinating Committee regarding the violation and means to ensure that similar violations do not occur; and

"(3) consult with and report to the Congress on the nature of the violation and the actions the President proposes to take, or has taken, to rectify the situation. Reports.

"(k) DAMAGES FOR CERTAIN VIOLATIONS.—(1) In any case in which the President makes a determination under subsection (a), the Secretary of Defense shall determine the costs of restoring the military preparedness of the United States on account of the violation involved. The Secretary of Defense shall notify the Attorney General of his determination, and the Attorney General may bring an action for damages, in any appropriate district court of the United States, to recover such costs against the person who committed the violation, any person that is owned or controlled by the person who committed the violation, and any person who owns and controls the person who committed the violation. Defense and national security.

"(3) The total amount awarded in any case brought under paragraph (2) shall be determined by the court in light of the facts and circumstances, but shall not exceed the amount of the net loss to the national security of the United States. An action under this subsection shall be commenced not later than 3 years after the violation occurs, or one year after the violation is discovered, whichever is later. Courts, U.S.

"(l) DEFINITION.—For purposes of this section, the term 'foreign person' means any person other than a United States person.".

SEC. 2445. ANNUAL REPORT OF DEFENSE IMPACT.

Section 14 of the Act (50 U.S.C. App. 2413) is amended by adding at the end the following new subsection:

"(f) ANNUAL REPORT OF THE PRESIDENT.—The President shall submit an annual report to the Congress estimating the additional defense expenditures of the United States arising from illegal technology transfers, focusing on estimated defense costs arising from illegal technology transfers that resulted in a serious adverse impact on the strategic balance of forces. These estimates shall be based on assessment by the intelligence community of any technology transfers that resulted in such serious adverse impact. This report may have a classified annex covering any information of a sensitive nature.". Classified information.

SEC. 2446. IMPROVED MULTILATERAL COOPERATION.

Section 5(i) of the Act (50 U.S.C. App. 2404) (relating to multilateral export controls), as amended by section 2421 of this Act, is further amended by striking paragraphs (1) through (9) and inserting the following:

"(1) Enhanced public understanding of the Committee's purpose and procedures, including publication of the list of items controlled for export by agreement of the Committee, together with all notes, understandings, and other aspects of such agreement of the Committee, and all changes thereto.

"(2) Periodic meetings of high-level representatives of participating governments for the purpose of coordinating export control policies and issuing policy guidance to the Committee.

"(3) Strengthened legal basis for each government's export control system, including, as appropriate, increased penalties and statutes of limitations.

"(4) Harmonization of export control documentation by the participating governments to verify the movement of goods and technology subject to controls by the Committee.

"(5) Improved procedures for coordination and exchange of information concerning violations of the agreement of the Committee.

"(6) Procedures for effective implementation of the agreement through uniform and consistent interpretations of export controls agreed to by the governments participating in the Committee.

"(7) Coordination of national licensing and enforcement efforts by governments participating in the Committee, including sufficient technical expertise to assess the licensing status of exports and to ensure end-use verification.

"(8) More effective procedures for enforcing export controls, including adequate training, resources, and authority for enforcement officers to investigate and prevent illegal exports.

"(9) Agreement to provide adequate resources to enhance the functioning of individual national export control systems and of the Committee.

"(10) Improved enforcement and compliance with the agreement through elimination of unnecessary export controls and maintenance of an effective control list.

"(11) Agreement to enhance cooperation among members of the Committee in obtaining the agreement of governments outside the Committee to restrict the export of goods and technology on the International Control List, to establish an ongoing mechanism in the Committee to coordinate planning and implementation of export control measures related to such agreements, and to remove items from the International Control List if such items continue to be available to controlled countries or if the control of the items no longer serves the common strategic objectives of the members of the Committee.".

SEC. 2447. TECHNICAL AND CONFORMING AMENDMENTS.

(a) TRADE EXPANSION ACT OF 1962.—Section 233 of the Trade Expansion Act of 1962 (19 U.S.C 1864) is amended—

(1) by striking out "(a)"; and

(2) by striking out subsection (b).

(b) DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 1988.—Sections 8124 and 8129 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(d) of Public Law 100-202) are repealed.

101 Stat. 1329-85, 1329-86.

Subtitle E—Miscellaneous Provisions

SEC. 2501. TRADING WITH THE ENEMY ACT.

(a) TERMINATION OF OFFICE OF ALIEN PROPERTY.—(1) The Trading with the Enemy Act is amended by striking subsections (b) through

(e) of section 39 (50 U.S.C. App. 39) and inserting the following new subsection:

"(b) The Attorney General shall cover into the Treasury, to the credit of miscellaneous receipts, all sums from property vested in or transferred to the Attorney General under this Act—

"(1) which the Attorney General receives after the date of the enactment of the Export Enhancement Act of 1988, or

"(2) which the Attorney General received before that date and which, as of that date, the Attorney General had not covered into the Treasury for deposit in the War Claims Fund, other than any such sums which the Attorney General determines in his or her discretion are the subject matter of any judicial action or proceeding.".

(2) Subsection (f) of such section is amended—

(A) by striking "(f)" and inserting "(c)"; and

(B) by striking "through (d)" and inserting "and (b)".

(b) REMOVAL OF REPORTING REQUIREMENT.—Section 6 of such Act (50 U.S.C. App. 6) is amended in the next to the last sentence by striking ": *Provided further,*" and all that follows through the end of the section and inserting a period.

SEC. 2502. LIMITATION ON EXERCISE OF EMERGENCY AUTHORITIES.

(a) TRADING WITH THE ENEMY ACT.—(1) Section 5(b) of the Trading With the Enemy Act (50 U.S.C. App. 5(b)) is amended by adding at the end the following new paragraph:

"(4) The authority granted to the President in this subsection does not include the authority to regulate or prohibit, directly or indirectly, the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 or with respect to which no acts are prohibited by chapter 37 of title 18, United States Code.".

(2) The authorities conferred upon the President by section 5(b) of the Trading With the Enemy Act, which were being exercised with respect to a country on July 1, 1977, as a result of a national emergency declared by the President before such date, and are being exercised on the date of the enactment of this Act, do not include the authority to regulate or prohibit, directly or indirectly, any activity which, under section 5(b)(4) of the Trading With the Enemy Act, as added by paragraph (1) of this subsection, may not be regulated or prohibited. 50 USC app. 5 note.

(b) INTERNATIONAL EMERGENCY ECONOMIC POWERS ACT.—(1) Section 203(b) of the International Emergency Economic Powers Act (50 U.S.C. 1702(b)) is amended—

(A) in paragraph (1) by striking "or" after the semicolon;

(B) in paragraph (2) by striking the period and inserting "; or"; and

(C) by adding at the end the following:

"(3) the importation from any country, or the exportation to any country, whether commercial or otherwise, of publications, films, posters, phonograph records, photographs, microfilms, microfiche, tapes, or other informational materials, which are not otherwise controlled for export under section 5 of the Export Administration Act of 1979 or with respect to which no acts are prohibited by chapter 37 of title 18, United States Code.".

50 USC app. 1702 note.

(2) The amendments made by paragraph (1) apply to actions taken by the President under section 203 of the International Emergency Economic Powers Act before the date of the enactment of this Act which are in effect on such date of enactment, and to actions taken under such section on or after such date of enactment.

SEC. 2503. BUDGET ACT.

Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this title shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

TITLE III—INTERNATIONAL FINANCIAL POLICY

Subtitle A—Exchange Rates and International Economic Policy Coordination

Exchange Rates and International Economic Policy Coordination Act of 1988.

SEC. 3001. SHORT TITLE.

22 USC 5301.

This subtitle may be cited as the "Exchange Rates and International Economic Policy Coordination Act of 1988".

22 USC 5302.

SEC. 3002. FINDINGS.

The Congress finds that—

(1) the macroeconomic policies, including the exchange rate policies, of the leading industrialized nations require improved coordination and are not consistent with long-term economic growth and financial stability;

(2) currency values have a major role in determining the patterns of production and trade in the world economy;

(3) the rise in the value of the dollar in the early 1980's contributed substantially to our current trade deficit;

(4) exchange rates among major trading nations have become increasingly volatile and a pattern of exchange rates has at times developed which contribute to substantial and persistent imbalances in the flow of goods and services between nations, imposing serious strains on the world trading system and frustrating both business and government planning;

(5) capital flows between nations have become very large compared to trade flows, respond at times quickly and dramatically to policy and economic changes, and, for these reasons, contribute significantly to uncertainty in financial markets, the volatility of exchange rates, and the development of exchange rates which produce imbalances in the flow of goods and services between nations;

(6) policy initiatives by some major trading nations that manipulate the value of their currencies in relation to the United States dollar to gain competitive advantage continue to create serious competitive problems for United States industries;

(7) a more stable exchange rate for the dollar at a level consistent with a more appropriate and sustainable balance in the United States current account should be a major focus of national economic policy;

(8) procedures for improving the coordination of macroeconomic policy need to be strengthened considerably; and

(9) under appropriate circumstances, intervention by the United States in foreign exchange markets as part of a coordinated international strategic intervention effort could produce more orderly adjustment of foreign exchange markets and, in combination with necessary macroeconomic policy changes, assist adjustment toward a more appropriate and sustainable balance in current accounts.

SEC. 3003. STATEMENT OF POLICY. 22 USC 5303.

It is the policy of the United States that—

(1) the United States and the other major industrialized countries should take steps to continue the process of coordinating monetary, fiscal, and structural policies initiated in the Plaza Agreement of September 1985;

(2) the goal of the United States in international economic negotiations should be to achieve macroeconomic policies and exchange rates consistent with more appropriate and sustainable balances in trade and capital flows and to foster price stability in conjunction with economic growth;

(3) the United States, in close coordination with the other major industrialized countries should, where appropriate, participate in international currency markets with the objective of producing more orderly adjustment of foreign exchange markets and, in combination with necessary macroeconomic policy changes, assisting adjustment toward a more appropriate and sustainable balance in current accounts; and

(4) the accountability of the President for the impact of economic policies and exchange rates on trade competitiveness should be increased.

SEC. 3004. INTERNATIONAL NEGOTIATIONS ON EXCHANGE RATE AND ECONOMIC POLICIES. 22 USC 5304.

(a) MULTILATERAL NEGOTIATIONS.—The President shall seek to confer and negotiate with other countries— President of U.S.

(1) to achieve—

(A) better coordination of macroeconomic policies of the major industrialized nations; and

(B) more appropriate and sustainable levels of trade and current account balances, and exchange rates of the dollar and other currencies consistent with such balances; and

(2) to develop a program for improving existing mechanisms for coordination and improving the functioning of the exchange rate system to provide for long-term exchange rate stability consistent with more appropriate and sustainable current account balances.

(b) BILATERAL NEGOTIATIONS.—The Secretary of the Treasury shall analyze on an annual basis the exchange rate policies of foreign countries, in consultation with the International Monetary Fund, and consider whether countries manipulate the rate of exchange between their currency and the United States dollar for purposes of preventing effective balance of payments adjustments or gaining unfair competitive advantage in international trade. If the Secretary considers that such manipulation is occurring with respect to countries that (1) have material global current account surpluses; and (2) have significant bilateral trade surpluses with the United

States, the Secretary of the Treasury shall take action to initiate negotiations with such foreign countries on an expedited basis, in the International Monetary Fund or bilaterally, for the purpose of ensuring that such countries regularly and promptly adjust the rate of exchange between their currencies and the United States dollar to permit effective balance of payments adjustments and to eliminate the unfair advantage. The Secretary shall not be required to initiate negotiations in cases where such negotiations would have a serious detrimental impact on vital national economic and security interests; in such cases, the Secretary shall inform the chairman and the ranking minority member of the Committee on Banking, Housing, and Urban Affairs of the Senate and of the Committee on Banking, Finance and Urban Affairs of the House of Representatives of his determination.

22 USC 5305.

SEC. 3005. REPORTING REQUIREMENTS.

(a) REPORTS REQUIRED.—In furtherance of the purpose of this title, the Secretary, after consultation with the Chairman of the Board, shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, on or before October 15 of each year, a written report on international economic policy, including exchange rate policy. The Secretary shall provide a written update of developments six months after the initial report. In addition, the Secretary shall appear, if requested, before both committees to provide testimony on these reports.

(b) CONTENTS OF REPORT.—Each report submitted under subsection (a) shall contain—

(1) an analysis of currency market developments and the relationship between the United States dollar and the currencies of our major trade competitors;

(2) an evaluation of the factors in the United States and other economies that underlie conditions in the currency markets, including developments in bilateral trade and capital flows;

(3) a description of currency intervention or other actions undertaken to adjust the actual exchange rate of the dollar;

(4) an assessment of the impact of the exchange rate of the United States dollar on—

(A) the ability of the United States to maintain a more appropriate and sustainable balance in its current account and merchandise trade account;

(B) production, employment, and noninflationary growth in the United States;

(C) the international competitive performance of United States industries and the external indebtedness of the United States;

(5) recommendations for any changes necessary in United States economic policy to attain a more appropriate and sustainable balance in the current account;

(6) the results of negotiations conducted pursuant to section 3004;

(7) key issues in United States policies arising from the most recent consultation requested by the International Monetary Fund under article IV of the Fund's Articles of Agreement; and

(8) a report on the size and composition of international capital flows, and the factors contributing to such flows, includ-

ing, where possible, an assessment of the impact of such flows on exchange rates and trade flows.

(c) REPORT BY BOARD OF GOVERNORS.—Section 2A(1) of the Federal Reserve Act (12 U.S.C. 225a(1)) is amended by inserting after "the Nation" the following: ", including an analysis of the impact of the exchange rate of the dollar on those trends".

SEC. 3006. DEFINITIONS. 22 USC 5306.

As used in this subtitle:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Treasury.

(2) BOARD.—The term "Board" means the Board of Governors of the Federal Reserve System.

Subtitle B—International Debt

International Debt Management Act of 1988. Developing countries. Banks and banking.

PART I—FINDINGS, PURPOSES, AND STATEMENT OF POLICY

SEC. 3101. SHORT TITLE. 22 USC 5321.

This subtitle may be cited as the "International Debt Management Act of 1988".

SEC. 3102. FINDINGS. 22 USC 5322.

The Congress finds that—

(1) the international debt problem threatens the safety and soundness of the international financial system, the stability of the international trading system, and the economic development of the debtor countries;

(2) orderly reduction of international trade imbalances requires very substantial growth in all parts of the world economy, particularly in the developing countries;

(3) growth in developing countries with substantial external debts has been significantly constrained over the last several years by a combination of high debt service obligations and insufficient new flows of financial resources to these countries;

(4) substantial interest payment outflows from debtor countries, combined with inadequate net new capital inflows, have produced a significant net transfer of financial resources from debtor to creditor countries;

(5) negative resource transfers at present levels severely depress both investment and growth in the debtor countries, and force debtor countries to reduce imports and expand exports in order to meet their debt service obligations;

(6) current adjustment policies in debtor countries, which depress domestic demand and increase production for export, help to depress world commodity prices and limit the growth of export markets for United States industries;

(7) the United States has borne a disproportionate share of the burden of absorbing increased exports from debtor countries, while other industrialized countries have increased their imports from developing countries only slightly;

(8) current approaches to the debt problem should not rely solely on new lending as a solution to the debt problem, and should focus on other financing alternatives including a reduction in current debt service obligations;

(9) new international mechanisms to improve the management of the debt problem and to expand the range of financing options available to developing countries should be explored; and

(10) industrial countries with strong current account surpluses have a disproportionate share of the world's capital resources, and bear an additional responsibility for contributing to a viable long-term solution to the debt problem.

22 USC 5323.

SEC. 3103. PURPOSES.

The purposes of this subtitle are—

(1) to expand the world trading system and raise the level of exports from the United States to the developing countries in order to reduce the United States trade deficit and foster economic expansion and an increase in the standard of living throughout the world;

(2) to alleviate the current international debt problem in order to make the debt situation of developing countries more manageable and permit the resumption of sustained growth in those countries; and

(3) to increase the stability of the world financial system and ensure the safety and soundness of United States depository institutions.

22 USC 5324.

SEC. 3104. STATEMENT OF POLICY.

It is the policy of the United States that—

(1) increasing growth in the developing world is a major goal of international economic policy;

(2) it is necessary to broaden the range of options in dealing with the debt problem to include improved mechanisms to restructure existing debt;

(3) active consideration of a new multilateral authority to improve the management of the debt problem and to share the burdens of adjustment more equitably must be undertaken; and

(4) countries with strong current account surpluses bear a major responsibility for providing the financial resources needed for growth in the developing world.

PART II—THE INTERNATIONAL DEBT MANAGEMENT AUTHORITY

22 USC 5331.

SEC. 3111. INTERNATIONAL INITIATIVE.

(a) DIRECTIVE.—

(1) STUDY.—The Secretary of the Treasury shall study the feasibility and advisability of establishing the International Debt Management Authority described in this section.

(2) EXPLANATION OF DETERMINATIONS.—If the Secretary of the Treasury determines that initiation of international discussions with regard to such authority would (A) result in material increase in the discount at which sovereign debt is sold, (B) materially increase the probability of default on such debt, or (C) materially enhance the likelihood of debt service failure or disruption, the Secretary shall include in his interim reports to the Congress an explanation in detail of the reasons for such determination.

(3) INITIATION OF DISCUSSIONS.—Unless such a determination is made, the Secretary of the Treasury shall initiate discussions with such industrialized and developing countries as the Secretary may determine to be appropriate with the intent to negotiate the establishment of the International Debt Management Authority, which would undertake to—

(A) purchase sovereign debt of less developed countries from private creditors at an appropriate discount;

(B) enter into negotiations with the debtor countries for the purpose of restructuring the debt in order to—

(i) ease the current debt service burden on the debtor countries; and

(ii) provide additional opportunities for economic growth in both debtor and industrialized countries; and

(C) assist the creditor banks in the voluntary disposition of their Third World loan portfolio.

(b) OBJECTIVES.—In any discussions initiated under subsection (a), the Secretary should include the following specific proposals:

(1) That any loan restructuring assistance provided by such an authority to any debtor nation should involve substantial commitments by the debtor to (A) economic policies designed to improve resource utilization and minimize capital flight, and (B) preparation of an economic management plan calculated to provide sustained economic growth and to allow the debtor to meet its restructured debt obligations. Loans.

(2) That support for such an authority should come from industrialized countries, and that greater support should be expected from countries with strong current account surpluses.

(3) That such an authority should have a clearly defined close working relationship with the International Monetary Fund and the International Bank for Reconstruction and Development and the various regional development banks.

(4) That such an authority should be designed to operate as a self-supporting entity, requiring no routine appropriation of resources from any member government, and to function subject to the prohibitions contained in the first sentence of section 3112(a).

(5) That such an authority should have a defined termination date and a clear proposal for the restoration of creditworthiness to debtor countries within this timeframe.

(c) INTERIM REPORTS.—At the end of the 6-month period beginning on the date of enactment of this Act and at the end of the 12-month period beginning on such date of enactment, the Secretary of the Treasury shall submit a report on the progress being made on the study or in discussions described in subsection (a) to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, and shall consult with such committees after submitting each such report.

(d) FINAL REPORT.—On the conclusion of the study or of discussions described in subsection (a), the Secretary shall transmit a report containing a detailed description thereof to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, together with such recommendations for legislation which the Secretary may

determine to be necessary or appropriate for the establishment of the International Debt Management Authority.

22 USC 5332.

SEC. 3112. ACTIONS TO FACILITATE CREATION OF THE AUTHORITY.

(a) IN GENERAL.—No funds, appropriations, contributions, callable capital, financial guarantee, or any other financial support or obligation or contingent support or obligation on the part of the United States Government may be used for the creation, operation, or support of the International Debt Management Authority specified in section 3111, without the express approval of the Congress through subsequent law, nor shall any expenses associated with such authority, either directly or indirectly, accrue to any United States person without the consent of such person. Except as restricted in the preceding sentence, the Secretary of the Treasury shall review all potential resources available to the multilateral financial institutions which could be used to support the creation of the International Debt Management Authority. In the course of this review, the Secretary shall direct—

(1) the United States Executive Director of the International Monetary Fund to determine the amount of, and alternative methods by which, gold stock of the Fund which, subject to action by its Board of Governors, could be pledged as collateral to obtain financing for the activities of the authority specified in section 3111; and

(2) the United States Executive Director to the International Bank for Reconstruction and Development to determine the amount of, and alternative methods by which, liquid assets controlled by such Bank and not currently committed to any loan program which, subject to action by its Board of Governors, could be pledged as collateral for obtaining financing for the activities of the authority specified in section 3111.

Reports.

The Secretary of the Treasury shall include a report on the results of the review in the first report submitted under section 3111(c).

(b) CONSTRUCTION OF SECTION.—Subsection (a) shall not be construed to affect any provision of the Articles of Agreement of the International Monetary Fund or of the International Bank for Reconstruction and Development or any agreement entered into under either of such Agreements.

22 USC 5333.

SEC. 3113. IMF-WORLD BANK REVIEW.

(a) IMF REVIEW.—The United States Executive Director of the International Monetary Fund shall request the management of the International Monetary Fund to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending instruments, rescheduling and refinancing of existing debt, securitization and debt conversion techniques, discounted debt repurchases, and the International Debt Management Authority described in section 3111 no later than 1 year after the date of the enactment of this Act.

(b) WORLD BANK REVIEW.—The United States Executive Director to the International Bank for Reconstruction and Development shall request the management of the International Bank for Reconstruction and Development to prepare a review and analysis of the debt burden of the developing countries, with particular attention to alternatives for dealing with the debt problem including new lending instruments, rescheduling and refinancing of existing debt,

securitization and debt conversion techniques, discounted debt repurchases, and the International Debt Management Authority described in section 3111 no later than 1 year after the date of the enactment of this Act.

PART III—REGULATORY PROVISIONS AFFECTING INTERNATIONAL DEBT

SEC. 3121. PROVISIONS RELATING TO THE REGULATION OF DEPOSITORY INSTITUTIONS.

(a) REGULATORY OBJECTIVES.—It is the sense of the Congress that regulations prescribed by Federal banking regulatory agencies which affect the international assets of United States commercial banks should grant the widest possible latitude to the banks for negotiating principal and interest reductions with respect to obligations of heavily indebted sovereign borrowers.

(b) FLEXIBILITY IN DEBT RESTRUCTURING.—It is the intent of the Congress that, in applying generally accepted accounting standards, Federal agencies which regulate and oversee the operations of depository institutions (within the meaning given to such term by clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) apply to such institutions maximum flexibility in determining the asset value of restructured loans to heavily indebted sovereign borrowers and in accounting for the effects of such restructuring prospectively. Loans.

(c) RECAPITALIZATION.—It is the intent of the Congress that Federal agencies which regulate and oversee the operations of depository institutions (within the meaning given to such term by clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) should require depository institutions with substantial amounts of loans to heavily indebted sovereign borrowers to seek, as appropriate, expanded recapitalization through equity financing to ensure that prudent institutional capital-to-total asset ratios are established and maintained.

(d) RESERVES FOR LOAN LOSSES.—It is the intent of the Congress that Federal agencies which regulate and oversee the operations of depository institutions (within the meaning given to such term by clauses (i) through (vi) of section 19(b)(1)(A) of the Federal Reserve Act) should seek to ensure that appropriate levels of reserves be established by depository institutions engaged in substantial lending to heavily indebted sovereign borrowers in accordance with both the credit and country risks associated with such lending.

(e) DATA ON BANKS FOREIGN LOAN RISKS.—Section 913 of the International Lending Supervision Act of 1983 is amended by adding at the end thereof the following new subsection: 12 USC 3912.

"(d) To ensure that Congress is fully informed of the risks to our banking system posed by troubled foreign loans, the Federal banking agencies, before March 31, 1989, and on April 30 of each succeeding year, shall jointly submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and Committee on Banking, Finance and Urban Affairs of the House of Representatives a report that shall include the following: Reports.

"(1) The level of loan exposure of those banking institutions under the jurisdiction of each agency which is rated 'value-impaired', 'substandard', 'other transfer risk problems', or in any other troubled debt category as may be established by the

banking agencies. This tabulation shall clearly identify aggregate loan exposures of the 9 largest United States banks under the agencies' jurisdiction, the aggregate loan exposures of the next 13 largest banks, and the aggregate exposure of all other such banks which have significant country risk exposures. This tabulation shall include a separate section identifying, to the extent feasible, new bank loans to countries with debt service problems which were made within the past year preceding the date on which the report required under this subsection is due, and shall include the amount of sovereign loans written off or sold by such banks during the preceding year.

"(2) Progress that has been achieved by the appropriate Federal banking agencies and by banking institutions in reducing the risk to the economy of the United States posed by the exposure of banking institutions to troubled international loans through appropriate voluntary or regulatory policies, including increases in capital and reserves of banking institutions.

"(3) The relationship between lending activity by the United States banks and foreign banks in countries experiencing debt service difficulties and exports from the United States and other lending countries to these markets, and the extent to which United States banking institutions can be encouraged to continue to make credit available to finance necessary growth in international trade, and particularly to finance United States exports.

"(4) The response of regulatory agencies in other countries to the international debt problems, including measures which encourage the building of capital and reserves by foreign banking institutions, tax treatment of reserves, encouragement of new lending to promote international trade, and measures which may place United States banking institutions at a competitive disadvantage when compared with foreign banking institutions.

"(5) Steps that have been taken during the previous year by countries experiencing debt service difficulties to enhance conditions for private direct investment (including investment by United States persons) and to eliminate production subsidies, attain price stability, and undertake such other steps as will remove the causes of their debt service difficulties.

Classified information.

Each appropriate Federal banking agency may provide data in the aggregate to the extent necessary to preserve the integrity and confidentiality of the regulatory and examination process.".

SEC. 3122. STUDIES RELATING TO THE REGULATION OF DEPOSITORY INSTITUTIONS.

(a) REGULATORY STUDY REQUIRED.—The Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall conduct a study to determine the extent of any regulatory obstacle to negotiated reductions in the debt service obligations associated with foreign debt.

Loans.

(b) SPECIFIC FACTORS TO BE STUDIED.—The study required by subsection (a) shall include an analysis of regulatory and accounting obstacles to various forms of debt restructuring, including negotiated interest reduction, the amortization of loan losses, securitization and debt conversion techniques, and discounted debt repurchases, as well as an analysis of the profitability of commercial bank lending to developing countries during the 10-year period

ending on December 31, 1986. The analysis should include an assessment of the impact of the various forms of debt restructuring on the development of a secondary market in developing country debt and on the safety and soundness of the United States banking system.

(c) REPORT REQUIRED.—Within 6 months after the date of the enactment of this Act, the Comptroller of the Currency, the Board of Governors of the Federal Reserve System, and the Federal Deposit Insurance Corporation shall transmit to the Congress a report containing the findings and conclusions of such agencies with respect to the study required under subsection (a), together with any recommendations concerning legislation which such agencies determine to be necessary or appropriate to remove regulatory obstacles to negotiated reductions in the debt service obligations associated with sovereign debt.

SEC. 3123. LIMITED PURPOSE SPECIAL DRAWING RIGHTS FOR THE POOREST HEAVILY INDEBTED COUNTRIES.

(a) STUDY REQUIRED.—

(1) IN GENERAL.—The Secretary of the Treasury, in consultation with the directors and staff of the International Monetary Fund and such other interested parties as the Secretary may determine to be appropriate, shall conduct a study of the feasibility and the efficacy of reducing the international debt of the poorest of the heavily indebted countries through a one-time allocation by the International Monetary Fund of limited purpose Special Drawing Rights to such countries in accordance with a plan which provides that—

(A) the allocation be made without regard to the quota established for any such country under the Articles of Agreement of the Fund;

(B) limited purpose Special Drawing Rights be used only to repay official debt of any such country;

(C) the allocation of limited purpose Special Drawing Rights to any such country not be treated as an allocation on which such country must pay interest to the Fund; and

(D) the use of limited purpose Special Drawing Rights by any such country to repay official debt shall be treated as an allocation of regular Special Drawing Rights to the creditor.

(2) ADDITIONAL FACTORS TO BE STUDIED.—The study required under paragraph (1) shall include the following:

(A) To the extent the creation and allocation of the limited purpose Special Drawing Rights described in paragraph (1) would require an amendment of the Articles of Agreement of the International Monetary Fund, an assessment of the period of time within which such amendment could be ratified by the member nations, based on discussions with the major members of the Fund.

(B) An assessment of other means for achieving the objectives of principal and interest reduction on official debt of the poorest heavily indebted countries through the use of Special Drawing Rights.

(C) A comparative evaluation of proposals of other members of the International Monetary Fund, the directors and staff of the Fund, and other interested parties.

(D) An analysis of the effect the implementation of the provisions in paragraph (1) would have on bilateral and

multilateral lenders, the international monetary system, and such other provisions of this Act as may be appropriate.

(E) A comparative analysis of the available alternatives identified under subparagraph (B) or (C).

(b) REPORT REQUIRED.—Within 3 months after the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate containing the findings and conclusions of the Secretary pursuant to the study required under subsection (a), together with—

(1) the recommendation of the Secretary as to which, of all the alternatives for providing relief for the poorest of the heavily indebted countries which were assessed in connection with such study, represents the best available option; and

(2) recommendations for such legislation and administrative action as the Secretary determines to be necessary and appropriate to implement such option.

Subtitle C—Multilateral Development Banks

Multilateral Development Banks Procurement Act of 1988.

22 USC 262a note.

SEC. 3201. SHORT TITLE.

This subtitle may be cited as the "Multilateral Development Banks Procurement Act of 1988".

22 USC 262a.

SEC. 3202. MULTILATERAL DEVELOPMENT BANK PROCUREMENT.

(a) EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each multilateral development bank to attach a high priority to promoting opportunities for exports for goods and services from the United States and, in carrying out this function, to investigate thoroughly any complaints from United States bidders about the awarding of procurement contracts by the multilateral development banks to ensure that all contract procedures and rules of the banks are observed and that United States firms are treated fairly.

(b) OFFICER OF PROCUREMENT.—

(1) ESTABLISHMENT.—The Secretary of the Treasury shall designate, within the Office of International Affairs in the Department of the Treasury, an officer of multilateral development bank procurement.

(2) FUNCTION.—The officer shall act as the liaison between the Department of the Treasury, the Department of Commerce, and the United States Executive Directors' offices in the multilateral development banks, in carrying out this section. The officer shall cooperate with the Department of Commerce in efforts to improve opportunities for multilateral development bank procurement by United States companies.

(b) MULTILATERAL DEVELOPMENT BANK DEFINED.—As used in this section, the term "multilateral development bank" includes the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the Inter-American Investment Corporation, the Asian Development Bank, the African Development Bank, and the African Development Fund.

Subtitle D—Export-Import Bank and Tied Aid Credit Amendments

Export-Import Bank and Tied Aid Credit Amendments of 1988.
12 USC 635 note.

SEC. 3301. SHORT TITLE.

This subtitle may be cited as the "Export-Import Bank and Tied Aid Credit Amendments of 1988".

SEC. 3302. PROVISIONS RELATING TO TIED AID CREDIT.

12 USC 635i-3 note.

(a) FINDINGS.—The Congress finds that—

(1) negotiations have led to an international agreement to increase the grant element required in tied aid credit offers;

(2) concern continues to exist that countries party to the agreement may continue to offer tied aid credits that deviate from the agreement;

(3) in such cases, the United States could continue to lose export sales in connection with the aggressive, and in some cases, unfair, tied aid practices of such countries; and

(4) in such cases, the Export-Import Bank of the United States should continue to use the Tied Aid Credit Fund established by section 15(c) of the Export-Import Bank Act of 1945 to discourage the use of such predatory financing practices.

(b) EXTENSION OF TIED AID CREDIT FUND.—Subsections (c)(2) and (e)(1) of section 15 of the Export-Import Bank Act of 1945 (12 U.S.C. 635i-3 (c)(2) and (e)(1)) are each amended by striking out "and 1988" and inserting in lieu thereof "1988, and 1989".

(c) REPORT.—

(1) IN GENERAL.—On or before December 31, 1988, the President and Chairman of the Export-Import Bank of the United States, in cooperation with other appropriate government agencies, shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a written report identifying and analyzing the tied aid credit practices of other countries and shall make recommendations for dealing with such practices.

(2) CONSULTATION.—In preparing the report described in paragraph (1), the Export-Import Bank shall consult with appropriate international organizations such as the International Bank for Reconstruction and Development, the International Monetary Fund, and the Development Assistance Committee of the Organization for Economic Cooperation and Development, and with the countries which are party to the Arrangement on Guidelines for Officially Supported Export Credits adopted by the Organization for Economic Cooperation and Development in November 1987.

SEC. 3303. REPORT ON UNITED STATES EXPORTS TO DEVELOPING COUNTRIES.

Within 90 days after the date of the enactment of this Act, the President and Chairman of the Export-Import Bank of the United States shall submit to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate a written report which contains—

(1) an assessment of the effectiveness of recent program changes in increasing United States exports to developing countries; and

(2) an identification of additional specific policy and program changes which—

(A) would enable the Bank to increase the financing of United States exports to developing countries; and

(B) would encourage greater private sector participation in such financing efforts.

SEC. 3304. AMENDMENTS TO SECTION 2(e) OF THE EXPORT-IMPORT BANK ACT OF 1945.

(a) TIME FOR DETERMINING SUPPLIES.—Section 2(e)(1)(A)(i) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(e)(1)(A)(i)) is amended by striking out "productive capacity is expected to become operative" and inserting in lieu thereof "commodity will first be sold".

(b) MAKING COMPARATIVE INJURY DETERMINATIONS.—Section 2(e)(2) of such Act (12 U.S.C. 635(e)(2)) is amended—

(1) by inserting "short- and long-term" before "injury to United States producers"; and

(2) by inserting "and employment" before "of the same, similar, or competing commodity".

(c) SUBSTANTIAL INJURY DEFINED FOR EXPORT-IMPORT BANK DETERMINATIONS.—Section 2(e) of such Act (12 U.S.C. 635(e)) is amended by adding at the end the following:

"(3) DEFINITION.—For purposes of paragraph (1)(B), the extension of any credit or guarantee by the Bank will cause substantial injury if the amount of the capacity for production established, or the amount of the increase in such capacity expanded, by such credit or guarantee equals or exceeds 1 percent of United States production.".

Export Trading Company Act Amendments of 1988.
12 USC 1841 note.

Subtitle E—Export Trading Company Act Amendments

SEC. 3401. SHORT TITLE.

This subtitle may be cited as the "Export Trading Company Act Amendments of 1988".

SEC. 3402. EXPORT TRADING COMPANY ACT AMENDMENTS.

(a) STANDARDS FOR DETERMINATION OF EXPORT TRADING COMPANY STATUS.—Section 4(c)(14) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)) is amended by inserting after subparagraph (F) the following new subparagraph:

"(G) DETERMINATION OF STATUS AS EXPORT TRADING COMPANY.—

"(i) TIME PERIOD REQUIREMENTS.—For purposes of determining whether an export trading company is operated principally for the purposes described in subparagraph (F)(i)—

"(I) the operations of such company during the 2-year period beginning on the date such company commences operations shall not be taken into account in making any such determination; and

"(II) not less than 4 consecutive years of operations of such company (not including any portion of the period referred to in subclause (I)) shall be taken into account in making any such determination.

"(ii) EXPORT REVENUE REQUIREMENTS.—A company shall not be treated as operated principally for the purposes described in subparagraph (F)(i) unless—

"(I) the revenues of such company from the export, or facilitating the export, of goods or services produced in the United States exceed the revenues of such company from the import, or facilitating the import, into the United States of goods or services produced outside the United States; and

"(II) at least ⅓ of such company's total revenues are revenues from the export, or facilitating the export, of goods or services produced in the United States by persons not affiliated with such company.".

(b) LEVERAGE.—Section 4(c)(14)(A) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)(A)) is amended by redesignating clauses (v) and (vi) as clauses (vi) and (vii), respectively, and by inserting after clause (iv) the following new clause:

"(v) LEVERAGE.—The Board may not disapprove any proposed investment solely on the basis of the anticipated or proposed asset-to-equity ratio of the export trading company with respect to which such investment is proposed, unless the anticipated or proposed annual average asset-to-equity ratio is greater than 20-to-1.". Securities.

(c) INVENTORY.—Section 4(c)(14)(A)) of the Bank Holding Company Act of 1956 (12 U.S.C. 1843(c)(14)) is amended by inserting after subparagraph (G) (as added by subsection (a) of this section) the following new subparagraph:

"(H) INVENTORY.—

"(i) NO GENERAL LIMITATION.—The Board may not prescribe by regulation any maximum dollar amount limitation on the value of goods which an export trading company may maintain in inventory at any time.

"(ii) SPECIFIC LIMITATION BY ORDER.—Notwithstanding clause (i), the Board may issue an order establishing a maximum dollar amount limitation on the value of goods which a particular export trading company may maintain in inventory at any time (after such company has been operating for a reasonable period of time) if the Board finds that, under the facts and circumstances, such limitation is necessary to prevent risks that would affect the financial or managerial resources of an investor bank holding company to an extent which would be likely to have a materially adverse effect on the safety and soundness of any subsidiary bank of such bank holding company.".

Primary Dealers Act of 1988.

Subtitle F—Primary Dealers

22 USC 5341.

SEC. 3501. SHORT TITLE.

This subtitle may be cited as the "Primary Dealers Act of 1988".

22 USC 5342.

SEC. 3502. REQUIREMENT OF NATIONAL TREATMENT IN UNDERWRITING GOVERNMENT DEBT INSTRUMENTS.

(a) FINDINGS.—The Congress finds that—

(1) United States companies can successfully compete in foreign markets if they are given fair access to such markets;

(2) a trade surplus in services could offset the deficit in manufactured goods and help lower the overall trade deficit significantly;

(3) in contrast to the barriers faced by United States firms in Japan, Japanese firms generally have enjoyed access to United States financial markets on the same terms as United States firms; and

(4) United States firms seeking to compete in Japan face or have faced a variety of discriminatory barriers effectively precluding such firms from fairly competing for Japanese business, including—

(A) limitations on membership on the Tokyo Stock Exchange;

(B) high fixed commission rates (ranging as high as 80 percent) which must be paid to members of the exchange by nonmembers for executing trades;

(C) unequal opportunities to participate in and act as lead manager for equity and bond underwritings;

(D) restrictions on access to automated teller machines;

(E) arbitrarily applied employment requirements for opening branch offices;

(F) long delays in processing applications and granting approvals for licenses to operate; and

(G) restrictions on foreign institutions' participation in Ministry of Finance policy advisory councils.

(b) DESIGNATION OF CERTAIN PERSONS AS PRIMARY DEALERS PROHIBITED.—

(1) GENERAL RULE.—Neither the Board of Governors of the Federal Reserve System nor the Federal Reserve Bank of New York may designate, or permit the continuation of any prior designation of, any person of a foreign country as a primary dealer in government debt instruments if such foreign country does not accord to United States companies the same competitive opportunities in the underwriting and distribution of government debt instruments issued by such country as such country accords to domestic companies of such country.

(2) CERTAIN PRIOR ACQUISITIONS EXCEPTED.—Paragraph (1) shall not apply to the continuation of the prior designation of a company as a primary dealer in government debt instruments if—

(A) such designation occurred before July 31, 1987; and

(B) before July 31, 1987—

(i) control of such company was acquired from a person (other than a person of a foreign country) by a person of a foreign country; or

(ii) in conjunction with a person of a foreign country, such company informed the Federal Reserve Bank of New York of the intention of such person to acquire control of such company.

(c) EXCEPTION FOR COUNTRIES HAVING OR NEGOTIATING BILATERAL AGREEMENTS WITH THE UNITED STATES.—Subsection (b) shall not apply to any person of a foreign country if—

(1) that country, as of January 1, 1987, was negotiating a bilateral agreement with the United States under the authority of section 102(b)(4)(A) of the Trade Act of 1974 (19 U.S.C. 2112(b)(4)(A)); or

(2) that country has a bilateral free trade area agreement with the United States which entered into force before January 1, 1987.

(d) PERSON OF A FOREIGN COUNTRY DEFINED.—For purposes of this section, a person is a "person of a foreign country" if that person, or any other person which directly or indirectly owns or controls that person, is a resident of that country, is organized under the laws of that country, or has its principal place of business in that country.

(e) EFFECTIVE DATE.—This section shall take effect 12 months after the date of the enactment of this Act.

Subtitle G—Financial Reports

Financial Reports Act of 1988.

SEC. 3601. SHORT TITLE.

22 USC 5351.

This subtitle may be cited as the "Financial Reports Act of 1988".

SEC. 3602. QUADRENNIAL REPORTS ON FOREIGN TREATMENT OF UNITED STATES FINANCIAL INSTITUTIONS.

22 USC 5352.

Not less frequently than every 4 years, beginning December 1, 1990, the Secretary of the Treasury, in conjunction with the Secretary of State, the Board of Governors of the Federal Reserve System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation, the Securities and Exchange Commission, and the Department of Commerce, shall report to the Congress on (1) the foreign countries from which foreign financial services institutions have entered into the business of providing financial services in the United States, (2) the kinds of financial services which are being offered, (3) the extent to which foreign countries deny national treatment to United States banking organizations and securities companies, and (4) the efforts undertaken by the United States to eliminate such discrimination. The report shall focus on those countries in which there are significant denials of national treatment which impact United States financial firms. The report shall also describe the progress of discussions pursuant to section 3603.

SEC. 3603. FAIR TRADE IN FINANCIAL SERVICES.

President of U.S.
22 USC 5353.

(a) DISCUSSIONS.—When advantageous the President or his designee shall conduct discussions with the governments of countries that are major financial centers, aimed at:

(1) ensuring that United States banking organizations and securities companies have access to foreign markets and receive national treatment in those markets;

(2) reducing or eliminating barriers to, and other distortions of, international trade in financial services;

(3) achieving reasonable comparability in the types of financial services permissible for financial service companies; and

(4) developing uniform supervisory standards for banking organizations and securities companies, including uniform capital standards.

(b) CONSULTATION BEFORE DISCUSSIONS.—Before entering into those discussions, the President or his designee shall consult with the committees of jurisdiction in the Senate and the House of Representatives.

(c) RECOMMENDATIONS.—After completing those discussions and after consultation with the committees of jurisdiction, the President shall transmit to the Congress any recommendations that have emerged from those discussions. Any recommendations for changes in United States financial laws or practices shall be accompanied by a description of the changes in foreign financial laws or practices that would accompany action by the Congress, and by an explanation of the benefits that would accrue to the United States from adoption of the recommendations.

(d) CONSTRUCTION OF SECTION.—Nothing in this section may be construed as prior approval of any legislation which may be necessary to implement any recommendations resulting from discussions under this section.

Reports.
22 USC 5354.

SEC. 3604. BANKS LOAN LOSS RESERVES.

The Federal Reserve Board shall submit to the Committee on Banking, Housing, and Urban Affairs of the Senate and the Committee on Banking, Finance and Urban Affairs of the House of Representatives a report on the issues raised by including loan loss reserves as part of banks' primary capital for regulatory purposes by March 31, 1989. Such report shall include a review of the treatment of loan loss reserves and the composition of primary capital of banks in other major industrialized countries, and shall include an analysis as to whether loan loss reserves should continue to be counted as primary capital for regulatory purposes.

Agricultural Competitiveness and Trade Act of 1988.
7 USC 5201 note.

TITLE IV—AGRICULTURAL TRADE

SEC. 4001. SHORT TITLE.

This title may be cited as the "Agricultural Competitiveness and Trade Act of 1988".

Subtitle A—Findings, Policy, and Purpose

7 USC 5201.

SEC. 4101. FINDINGS.

Congress finds that—

(1) United States agricultural exports have declined by more than 36 percent since 1981, from $43,800,000,000 in 1981 to $27,900,000,000 in 1987;

(2) the United States share of the world market for agricultural commodities and products has dropped by 20 percent during the last 6 years;

(3) for the first time in 15 years, the United States incurred monthly agricultural trade deficits in 1986;

(4) the loss of $1,000,000,000 in United States agricultural exports causes the loss of 35,000 agricultural jobs and the loss of 60,000 nonagricultural jobs;

(5) the loss of agricultural exports threatens family farms and the economic well-being of rural communities in the United States;

(6) factors contributing to the loss of United States agricultural exports include changes in world agricultural markets such as—

(A) the addition of new exporting nations;

(B) innovations in agricultural technology;

(C) increased use of export subsidies designed to lower the price of commodities on the world market;

(D) the existence of barriers to agricultural trade;

(E) the slowdown in the growth of world food demand in the 1980's due to cyclical economic factors, including currency fluctuations and a debt-related slowdown in the economic growth of agricultural markets in certain developing countries; and

(F) the rapid buildup of surplus stocks as a consequence of favorable weather for agricultural production during the 1980's;

(7) increasing the volume and value of exports is important to the financial well-being of the farm sector in the United States and to increasing farm income in the United States;

(8) in order to increase agricultural exports and improve prices for farmers and ranchers in the United States, it is necessary that all agricultural export programs of the United States be used in an expeditious manner, including programs established under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), and section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

(9) greater use should be made by the Secretary of Agriculture of the authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.) to provide intermediate credit financing and other assistance for the establishment of facilities in importing countries to—

(A) improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products; and

(B) increase livestock production to enhance the demand for United States feed grains;

(10) food aid and export assistance programs in developing countries stimulate economic activity which causes incomes to rise, and, as incomes rise, diets improve and the demand for and ability to purchase food increases;

(11) private voluntary organizations and cooperatives are important and successful partners in our food aid and development programs; and

(12) in addition to meeting humanitarian needs, food aid used in sales and barter programs by private voluntary organizations and cooperatives—

(A) provides communities with health care, credit systems, and tools for development; and

(B) establishes the infrastructure that is essential to the expansion of markets for United States agricultural commodities and products.

7 USC 5202.

SEC. 4102. POLICY.

It is the policy of the United States—

(1) to provide, through all possible means, agricultural commodities and products for export at competitive prices, with full assurance of quality and reliability of supply;

(2) to support the principle of free trade and the promotion of fair trade in agricultural commodities and products;

(3) to support fully the negotiating objectives set forth in section 1101(b) of this Act to eliminate or reduce substantially constraints on fair and open trade in agricultural commodities and products;

(4) to use statutory authority to counter unfair foreign trade practices and to use all available means, including export promotion programs, and, if necessary, restrictions on United States imports of agricultural commodities and products, in order to encourage fair and open trade; and

(5) to provide for increased representation of United States agricultural trade interests in the formulation of national fiscal and monetary policy affecting trade.

7 USC 5203.

SEC. 4103. PURPOSE.

It is the purpose of this title—

(1) to increase the effectiveness of the Department of Agriculture in agricultural trade policy formulation and implementation and in assisting United States agricultural producers to participate in international agricultural trade, by strengthening the operations of the Department of Agriculture; and

(2) to improve the competitiveness of United States agricultural commodities and products in the world market.

Subtitle B—Agricultural Trade Initiatives

PART 1—GENERAL PROVISIONS

7 USC 5211.

SEC. 4201. LONG-TERM AGRICULTURAL TRADE STRATEGY REPORTS.

President of U.S.

(a) CONTENTS.—The Secretary of Agriculture shall prepare annually, and the President shall submit together with the budget for each fiscal year, a Long-Term Agricultural Trade Strategy Report establishing recommended policy goals for United States agricultural trade and exports, and recommended levels of spending on international activities of the Department of Agriculture, for 1-, 5-, and 10-fiscal year periods. In preparing each such report, the Secretary shall consult with the United States Trade Representative to ensure that the report is coordinated with the annual national trade policy agenda included in the annual report for the relevant fiscal year prepared under section 163 of the Trade Act of 1974 (19 U.S.C. 2213). Each such report shall include—

(1) findings with respect to trends in the comparative position of the United States and other countries in the export of

agricultural commodities and products, organized by major commodity group and including a comparative analysis of the cost of production of such commodities and products;

(2) findings with respect to new developments in research conducted by other countries that may affect the competitiveness of United States agricultural commodities and products;

(3) findings and recommendations with respect to the movement of United States agricultural commodities and products in nonmarket economies;

(4) as appropriate, the agricultural trade goals for each agricultural commodity and value-added product produced in the United States for the period involved, expressed in both physical volume and monetary value;

(5) recommended Federal policy and programs to meet such agricultural trade goals;

(6) recommended levels of Federal spending on international programs and activities of the Department of Agriculture to meet such agricultural trade goals;

(7) recommended levels of Federal spending on programs and activities of agencies other than the Department of Agriculture to meet such agricultural trade goals; and

(8) recommended long-term strategies for growth in agricultural trade and exports—

(A) taking into account United States competitiveness, trade negotiations, and international monetary and exchange rate policies; and

(B) including specific recommendations with respect to export enhancement programs (including credit programs and export payment-in-kind programs), market development activities, and foreign agricultural and economic development assistance activities needed to implement such strategies.

(b) TREATMENT AS ANNUAL BUDGET SUBMISSION.—Provisions of each Long-Term Agricultural Trade Strategy Report that relate to recommended levels of spending on international activities of the Department of Agriculture for the upcoming fiscal year shall be treated as the President's annual budget submission to Congress for such activities for such fiscal year, and shall be submitted along with the budget request for other programs of the Department of Agriculture for such fiscal year.

(c) SUCCEEDING REPORTS.—The Secretary of Agriculture, in each annual Long-Term Agricultural Trade Strategy Report, shall identify any recommendations in such report that might modify the long-term policy contained in any previous report.

(d) RECOMMENDATIONS FOR CHANGES IN LAW.—The President shall include in each annual budget submission recommendations for such changes in law as are required to meet the long-term goals established in the Report. President of U.S.

SEC. 4202. TECHNICAL ASSISTANCE IN TRADE NEGOTIATIONS. 7 USC 5212.

The Secretary of Agriculture shall provide technical services to the United States Trade Representative on matters pertaining to agricultural trade and with respect to international negotiations on issues related to agricultural trade.

7 USC 5213.

SEC. 4203. JOINT DEVELOPMENT ASSISTANCE AGREEMENTS WITH CERTAIN TRADING PARTNERS.

(a) DEVELOPMENT OF PLAN.—With respect to any country that has a substantial positive trade balance with the United States, the Secretary of Agriculture, in consultation with the Secretary of State and (through the Secretary of State) representatives of such country, may develop an appropriate plan under which that country would purchase United States agricultural commodities or products for use in development activities in developing countries. In developing such plan, the Secretary of Agriculture shall take into consideration the agricultural economy of such country, the nature and extent of such country's programs to assist developing countries, and other relevant factors. The Secretary of Agriculture shall submit each such plan to the President as soon as practicable.

(b) AGREEMENT.—The President may enter into an agreement with any country that has a positive trade balance with the United States under which that country would purchase United States agricultural commodities or products for use in agreed-on development activities in developing countries.

7 USC 5214.

SEC. 4204. REORGANIZATION EVALUATION.

The Secretary of Agriculture shall evaluate the reorganization proposal recommended by the National Commission on Agricultural Trade and Export Policy and other proposals to improve management of international trade activities of the Department of Agriculture. To assist the Secretary in the evaluation, the Secretary shall appoint a private sector advisory committee of not less than 4 members, who shall be appointed from among individuals representing farm and commodity organizations, market development cooperators, and agribusiness. Not later than April 30, 1989, the Secretary shall report the findings of the evaluation to Congress, together with the views and recommendations of the private sector advisory committee.

Reports.

7 USC 5215.

SEC. 4205. CONTRACTING AUTHORITY TO EXPAND AGRICULTURAL EXPORT MARKETS.

(a) IN GENERAL.—The Secretary of Agriculture may contract with individuals for services to be performed outside the United States as the Secretary determines necessary or appropriate for carrying out programs and activities to maintain, develop, or enhance export markets for United States agricultural commodities and products.

(b) NOT EMPLOYEES OF THE UNITED STATES.—Such individuals shall not be regarded as officers or employees of the United States.

7 USC 5216.

SEC. 4206. ESTABLISHMENT OF TRADE ASSISTANCE OFFICE.

(a) ESTABLISHMENT WITHIN THE FOREIGN AGRICULTURAL SERVICE.—The Secretary of Agriculture shall establish an office within the Foreign Agricultural Service to carry out the duties described in subsections (b) and (c) under the direction of the Administrator of the Foreign Agricultural Service.

(b) PRIMARY RESPONSIBILITY.—The office established under subsection (a) shall provide trade assistance and information to persons who are interested in exporting United States agricultural commodities and products or who believe they have been injured by unfair trade practices with respect to trade in agricultural commodities and products.

(c) DUTIES.—The office established under subsection (a) shall—

(1) compile and make readily available international trade information, including information concerning trade practices carried out by other countries to promote the export of agricultural commodities and products, trade barriers imposed by other countries, unfair trade practices of other countries, and remedies under United States law that might be available to persons injured by unfair trade practices; and

(2) provide information and assistance to persons interested in participating in programs carried out by the Foreign Agricultural Service, the Commodity Credit Corporation, and other agencies with respect to the international marketing and export of domestically produced agricultural commodities and products or who believe they have been injured by unfair trade practices of other countries with respect to trade in agricultural commodities and products.

(d) REPORT.—

(1) DEADLINE FOR SUBMISSION.—Not later than 60 days after the end of each fiscal year, the Administrator of the Foreign Agricultural Service shall submit a report described in paragraphs (2) and (3) to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(2) CONTENTS OF EACH REPORT.—Each such report shall describe—

(A) the type of information that is currently available through the office established by this section; and

(B) the type of assistance provided to persons during the previous fiscal year.

(3) ADDITIONAL CONTENTS FOR FIRST REPORT.—In the first report submitted under this section, the Administrator shall also—

(A) provide an analysis of the information currently available concerning foreign agricultural trade practices and domestic agricultural trade promotion programs and the methods used to disseminate such information;

(B) provide recommendations with respect to additional information and assistance that should be made available to interested persons; and

(C) provide an analysis of the degree that overlapping information and reports concerning agricultural trade are prepared.

PART 2—FOREIGN AGRICULTURAL SERVICE

SEC. 4211. PERSONNEL OF THE SERVICE. 7 USC 5231.

(a) INCREASED LEVEL.—To ensure that the agricultural export programs of the United States are carried out in an effective manner, the authorized number of personnel for the Foreign Agricultural Service of the Department of Agriculture (hereinafter in this part referred to as the "Service") shall not be less than 900 full-time employees during each of the fiscal years 1989 and 1990.

(b) RANK OF FOREIGN AGRICULTURAL SERVICE OFFICERS IN FOREIGN MISSIONS.—Notwithstanding any other provision of law, the Secretary of State shall, upon the request of the Secretary of Agriculture, accord the diplomatic title of Minister-Counselor to the senior Service officer assigned to any United States mission abroad.

The number of Service officers holding such diplomatic title at any time may not exceed eight.

7 USC 5232.

SEC. 4212. AGRICULTURAL ATTACHE EDUCATIONAL PROGRAM.

The Administrator of the Service (hereinafter in this part referred to as the "Administrator") shall establish a program within the Service that directs attaches of the Service who are reassigned from abroad to the United States, and other personnel of the Service, to visit and consult with producers and exporters of agricultural commodities and products and State officials throughout the United States concerning various methods to increase exports of United States agricultural commodities and products.

7 USC 5233.

SEC. 4213. PERSONNEL RESOURCE TIME.

(a) IN GENERAL.—In planning the overall allocation of personnel resource time of agricultural attaches of the Service, the Administrator shall ensure that the maximum quantity practicable of the overall personnel resource time of agricultural attaches of the Service be devoted to activities designed to increase markets for United States agricultural commodities and products.

(b) REPORTS.—The Administrator shall submit reports to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate that describe the allocation of personnel resource time of agricultural attaches during the 1988 and 1989 fiscal years. The report for fiscal year 1988 shall be submitted not later than September 30, 1988, or 30 days after the date of the enactment of this Act, whichever is later. The report for fiscal year 1989 shall be submitted not later than September 30, 1989.

7 USC 5234.

SEC. 4214. COOPERATOR ORGANIZATIONS.

(a) SENSE OF CONGRESS.—It is the sense of Congress that the foreign market development cooperator program of the Service, and the activities of individual foreign market cooperator organizations, have been among the most successful and cost-effective means to expand United States agricultural exports. Congress affirms its support for the program and the activities of the cooperator organizations. The Administrator and the private sector should work together to ensure that the program, and the activities of cooperator organizations, are expanded in the future.

Marketing.

(b) COMMODITIES FOR COOPERATOR ORGANIZATIONS.—The Secretary of Agriculture may make available to cooperator organizations agricultural commodities owned by the Commodity Credit Corporation, for use by such cooperators in projects designed to expand markets for United States agricultural commodities and products.

(c) RELATION TO FUNDS.—Commodities made available to cooperator organizations under this section shall be in addition to, and not in lieu of, funds appropriated for market development activities of such cooperator organizations.

(d) CONFLICTS OF INTEREST.—The Secretary shall take appropriate action to prevent conflicts of interest among cooperator organizations participating in the cooperator program.

(e) EVALUATION.—It is the sense of Congress that the Secretary should establish a consistent, objective means for the evaluation of cooperator programs.

SEC. 4215. AUTHORIZATION OF ADDITIONAL APPROPRIATIONS. 7 USC 5235.

There are authorized to be appropriated for the Service, in addition to any sums otherwise authorized to be appropriated by any provision of law other than this section, $20,000,000 for each of the fiscal years 1988, 1989, and 1990 for market development activities, including—

(1) expansion of the agricultural attache service;

(2) expansion of international trade policy activities of the Service;

(3) enhancement of the Service worldwide market information system;

(4) increasing the number of trade shows and exhibitions conducted by the Service and upgrading the quality of United States representation at trade shows and exhibitions; and

(5) developing markets for value-added beef, pork, and poultry products.

Subtitle C—Existing Agricultural Trade Programs

SEC. 4301. TRIGGERED MARKETING LOANS AND EXPORT ENHANCEMENT. President of U.S. 7 USC 1466 note.

(a) CERTIFICATION TO CONGRESS.—Notwithstanding any other provision of law, if, before January 1, 1990, a law has not been enacted in accordance with section 151 of the Trade Act of 1974 (19 U.S.C. 2191) that implements an agreement negotiated under the Uruguay round of multilateral trade negotiations conducted under the General Agreement on Tariffs and Trade (hereinafter in this section referred to as "GATT negotiations") concerning agricultural trade, the President, not later than 45 days after such date—

(1) shall submit a report to the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate describing the status of the GATT negotiations concerning agricultural trade, the progress that has been made to date in the negotiations, the general areas of disagreement, the anticipated date of completion of the negotiations, and the changes in domestic farm programs that are likely to be necessary on conclusion of the negotiations; and Reports.

(2) shall certify to Congress whether or not significant progress has been made in the negotiations.

(b) MARKETING LOAN.—

(1) IMPLEMENTATION.—Except as provided in paragraph (2), if the President does not certify that significant progress has been made towards reaching a GATT agreement concerning agricultural trade, the President shall, not later than 60 days before the beginning of the marketing year for the 1990 crop of wheat, instruct the Secretary of Agriculture to permit producers to repay loans made under sections 107D(a), 105C(a), and 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1445b-3(a), 1444e(a), and 1446(i)) for each of the 1990 crops of wheat, feed grains, and soybeans at a level that is the lesser of—

(A) the loan level determined for each such crop; or

(B) the prevailing world market price for each such crop, as determined by the Secretary.

(2) WAIVER.—The President may waive the application of paragraph (1) by certifying to Congress that implementation of the marketing loan would harm further negotiations.

(3) DISCONTINUANCE.—If, after the implementation of a marketing loan in accordance with paragraph (1), the President certifies to Congress that substantial progress is being made in the GATT negotiations and that continuation of the marketing loan program implemented in accordance with paragraph (1) would harm such progress, the President may instruct the Secretary of Agriculture to discontinue the marketing loan program.

(c) EXPORT ENHANCEMENT.—

(1) IN GENERAL.—Except as provided in paragraph (4), if the President exercises the authority to waive or discontinue the marketing loan program provided for in paragraph (2) or (3) of subsection (b), the President shall instruct the Secretary of Agriculture to make agricultural commodities and products acquired by the Commodity Credit Corporation equaling at least $2,000,000,000 in value available during the 1990 through 1992 fiscal years to United States exporters of domestically produced agricultural commodities and products for the purpose of making exports of such commodities and products available on the world market at competitive prices.

(2) NONDISPLACEMENT.—Commodities and products made available in accordance with this subsection shall be in addition to, and not in lieu of, other commodities and products made available for the purpose of enhancing the export of United States commodities and products.

(3) USE OF COMMODITY CREDIT CORPORATION.—The Secretary of Agriculture may use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this subsection.

(4) EXCEPTION.—The President may waive the application of paragraph (1) by certifying to Congress that implementation of the export enhancement program provided for by this subsection would be a substantial impediment to achieving a successful agreement under the GATT.

(5) DISCONTINUANCE.—If, after the implementation of paragraph (1), the President certifies to Congress that substantial progress is being made in the GATT negotiations and that continuation of the export enhancement program implemented in accordance with paragraph (1) would harm such progress, the President may, not before 60 days after the consultation required under subsection (d) with respect to such certification, instruct the Secretary of Agriculture to suspend the implementation of such program.

(d) CONSULTATION.—The President may not make a certification to Congress under this section unless the United States Trade Representative—

(1) consults about the certification with—

(A) the Committee on Agriculture, the Committee on Foreign Affairs, and the Committee on Ways and Means of the House of Representatives; and

(B) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate; and

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(2) reports to the President the results of such consultation.

SEC. 4302. PRICE SUPPORT PROGRAMS FOR SUNFLOWER SEEDS AND COTTONSEED.

Loans.
7 USC 1446 note.

(a) SUNFLOWER SEEDS.—If producers are permitted to repay loans for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of sunflower seeds through loans and purchases for the 1990 crop of sunflowers in accordance with section 201(l) of the Agricultural Act of 1949.

(b) COTTONSEED.—If a producer is permitted to repay a loan for the 1990 crop of soybeans under section 201(i) of the Agricultural Act of 1949 (7 U.S.C. 1446(i)) at a level that is less than the full amount of the loan pursuant to section 4301 of this Act, the Secretary shall support the price of the 1990 crop of cottonseed at such level as the Secretary determines will cause cottonseed to compete on equal terms with soybeans on the market. The Secretary shall carry out this subsection using the funds, facilities, and authorities of the Commodity Credit Corporation.

(c) DISCONTINUANCE.—If the marketing loan program for the 1990 crop of soybeans is discontinued under section 4301(b)(3) of this Act, the Secretary shall discontinue the price support programs for sunflower seeds and cottonseed required by this section.

SEC. 4303. MULTIYEAR AGREEMENTS UNDER THE FOOD FOR PROGRESS PROGRAM.

Section 1110 of the Food Security Act of 1985 (7 U.S.C. 1736o) is amended—

(1) by redesignating subsection (k) as subsection (l); and

(2) by inserting after subsection (j) the following:

"(k) In carrying out this section, the President shall, on request and subject to the availability of commodities, approve agreements that provide for commodities to be made available for distribution or sale by recipient countries on a multiyear basis if the agreements otherwise meet the requirements of this section.".

President of U.S.

SEC. 4304. TARGETED EXPORT ASSISTANCE.

(a) LEVEL OF PROGRAM.—Section 1124(a) of the Food Security Act of 1985 (7 U.S.C. 1736s(a)) is amended—

(1) in paragraph (1)—

(A) by striking out "1988" and inserting in lieu thereof "1987"; and

(B) by striking out "and" at the end; and

(2) by striking out paragraph (2) and inserting in lieu thereof the following:

"(2) for the fiscal year 1988, the Secretary shall use under this section not less than $215,000,000 of the funds of, or commodities owned by, the Corporation, except that the Secretary shall use funds or commodities of the Corporation in excess of $110,000,000 only to the extent appropriations to reimburse the Corporation for such additional expenditures of funds or distribution of commodities are made available in advance to carry out this section; and

"(3) for each of the fiscal years 1989 and 1990, the Secretary shall use under this section not less than $325,000,000 of the funds of, or commodities owned by, the Corporation.".

(b) COUNTERVAILING DUTY ACTION.—Section 1124(b) of such Act is amended—

(1) in paragraph (1), by striking out "Funds" and inserting in lieu thereof "Except as provided in paragraph (3), funds"; and

(2) by adding at the end thereof the following new paragraph:

"(3)(A) Funds or commodities made available for use under this section may be used by the Secretary to assist organizations consisting of producers or processors of United States agricultural commodities in amounts necessary to compensate the organizations for reasonable expenses incurred in defending countervailing duty actions instituted after January 1, 1986, in foreign countries to offset the benefits of the agricultural programs provided for under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.). In no event may such assistance exceed $500,000 for the defense of any one countervailing duty action.

"(B) If the Secretary declines to make funds or commodities available under this paragraph, the Secretary shall notify the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate of the reasons for declining to make the funds or commodities available.".

7 USC 1736t note.

SEC. 4305. EXPORT CREDIT GUARANTEE PROGRAM.

It is the sense of Congress that, to the extent that the Commodity Credit Corporation makes a specified allocation of credit guarantees available under the export credit guarantee program referred to in section 1125 of the Food Security Act of 1985 (7 U.S.C. 1736t) for short-term credit extended to finance the export sales of United States agricultural commodities and products, such allocation should be made on a country-only basis and not on a commodity basis or a commodity and country basis.

SEC. 4306. AGRICULTURAL EXPORT ENHANCEMENT PROGRAM.

(a) PRIORITIES.—Section 1127(b) of the Food Security Act of 1985 (7 U.S.C. 1736v(b)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) may consider for participation all interested United States exporters, processors, and users and interested foreign purchasers, and may give priority to sales to countries that have traditionally purchased United States agricultural commodities and products;".

(b) LEVEL OF FUNDING.—Section 1127(i) of such Act is amended—

(1) by striking out "1988" and inserting in lieu thereof "1990"; and

(2) by striking out "$1,500,000,000" and inserting in lieu thereof "$2,500,000,000".

SEC. 4307. AGRICULTURAL ATTACHE REPORTS.

Subsection (b) of section 1132 of the Food Security Act of 1985 (7 U.S.C. 1736x(b)) is amended to read as follows:

"(b) The Secretary shall—

"(1) annually compile the information contained in such reports;

"(2) in consultation with the agricultural technical advisory committees established under section 135(c) of the Trade Act of 1974 (19 U.S.C. 2155(c)), include in the compilation a priority ranking of those trade barriers identified in subsection (a) by commodity group;

"(3) include in the compilation a list of actions undertaken to reduce or eliminate such trade barriers; and

"(4) make the compilation available to Congress, the trade assistance office created under section 4602 of the Agricultural Competitiveness and Trade Act of 1988, the agricultural policy advisory committee, and other interested parties.".

SEC. 4308. DAIRY EXPORT INCENTIVE PROGRAM.

Paragraphs (2) through (3) of section 153(d) of the Food Security Act of 1985 (15 U.S.C. 713a-14(d)) are amended to read as follows:

"(2) If payments in commodities are authorized, such payments shall be made through the issuance of generic certificates redeemable in commodities.

"(3) If generic certificates issued in accordance with the program provided for by this section are exchanged for dairy products owned by the Commodity Credit Corporation, the regulations issued by the Secretary shall ensure that—

"(A) such dairy products, or an equal quantity of other dairy products, will be sold for export by the entity; and

"(B) any such export sales by the entity—

"(i) will be in addition to, and not in place of, export sales of dairy products that the entity would otherwise make under the program or in the absence of the program; and

"(ii) to the extent practicable, will not displace commercial export sales of United States dairy products by other exporters.".

SEC. 4309. BARTER OF AGRICULTURAL COMMODITIES. 7 USC 1431 note.

In recognition of the importance of barter programs in expanding agricultural trade, it is the sense of Congress that the Secretary of Agriculture should expedite the implementation of section 416(d) of the Agricultural Act of 1949 (7 U.S.C. 1431(d)) and section 1167 of the Food Security Act of 1985 (7 U.S.C. 1727g note and 1736aa), relating to the barter of agricultural commodities.

SEC. 4310. MINIMUM LEVEL OF FOOD ASSISTANCE. 7 USC 1691 note.

(a) ANNUAL MINIMUM.—It is the sense of Congress that—

(1) the United States should maintain its historic proportion of food assistance constituting one-third of all United States foreign economic assistance; and

(2) accordingly, the total amount of food assistance made available to foreign countries under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.) and section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)) should not be less than one-third of the total amount of foreign economic assistance provided for each fiscal year.

(b) DEFINITION.—For purposes of this section, the term "foreign economic assistance" includes—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 (22 U.S.C. 2151 et seq.), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416(b) of the Agricultural Act of 1949 (7 U.S.C. 1431(b)), or any other law authorizing economic assistance for foreign countries; and

(2) United States contributions to the International Bank for Reconstruction and Development, the International Development Association, the Inter-American Development Bank, the

Asian Development Bank, the African Development Bank, or any other multilateral development bank.

7 USC 1691 note.

SEC. 4311. FOOD AID AND MARKET DEVELOPMENT.

(a) POLICY STATEMENT.—It is the policy of the United States to use food aid and agriculturally-related foreign economic assistance programs more effectively to develop markets for United States agricultural commodities and products.

President of U.S.

(b) REQUIREMENT.—The President (or, as appropriate, the Secretary of Agriculture) shall encourage recipient countries under food assistance agreements entered into under any program administered by the Secretary to agree to give preference to United States food and food products in future food purchases.

Subtitle D—Wood and Wood Products

SEC. 4401. DEVELOPING MARKETS FOR WOOD AND WOOD PRODUCTS UNDER PUBLIC LAW 480.

Section 104(b)(1) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1704(b)(1)) is amended by inserting "(including wood and processed wood products of the United States)" after "agricultural commodities" the first place it appears.

SEC. 4402. DEVELOPING MARKETS FOR WOOD AND WOOD PRODUCTS UNDER THE SHORT-TERM AND INTERMEDIATE-TERM EXPORT CREDIT GUARANTEE PROGRAMS.

(a) SHORT-TERM EXPORT CREDIT GUARANTEES.—Section 1125 of the Food Security Act of 1985 (7 U.S.C. 1736t) is amended—

(1) in subsection (b), by inserting ", including wood and processed wood products" after "agricultural commodities and the products thereof"; and

(2) by adding at the end thereof the following:

"(d) For the purpose of this section, the term 'wood and processed wood products' includes but is not limited to logs, lumber (boards, timber, millwork, molding, flooring, and siding), veneer, panel products (plywood, particle board, and fiberboard), utility and telephone poles, other poles and posts, railroad ties, wood pulp, and wood chips.".

(b) INTERMEDIATE-TERM EXPORT CREDIT.—Section 4(b)(1) of the Food for Peace Act of 1966 (7 U.S.C. 1707a(b)(1)) is amended by adding at the end thereof the following: "For the purpose of this paragraph, the term 'agricultural commodities' includes wood and processed wood products, as defined in section 1125(d) of the Food Security Act of 1985 (7 U.S.C. 1736t(d)).".

SEC. 4403. COOPERATIVE NATIONAL FOREST PRODUCTS MARKETING PROGRAM.

The Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) is amended by adding at the end thereof the following:

16 USC 2112.

"SEC. 15. COOPERATIVE NATIONAL FOREST PRODUCTS MARKETING PROGRAM.

"(a) FINDINGS AND PURPOSES.—

"(1) FINDINGS.—Congress finds that—

"(A) the health and vitality of the domestic forest products industry is important to the well-being of the economy of the United States;

"(B) the domestic forest products industry has a significant potential for expansion in both domestic and foreign markets;

"(C) many small-sized to medium-sized forest products firms lack the tools that would enable them to meet the increasing challenge of foreign competition in domestic and foreign markets; and

"(D) a new cooperative forest products marketing program will improve the competitiveness of the United States forest products industry.

"(2) PURPOSES.—The purposes of this section are to—

"(A) provide direct technical assistance to the United States forest products industry to improve marketing activities;

"(B) provide cost-share grants to States to support State and regional forest products marketing programs; and

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State and local governments.

"(C) target assistance to small-sized and medium-sized producers of solid wood and processed wood products, including pulp.

"(b) PROGRAM AUTHORITY.—

Grants.
State and local governments.

"(1) IN GENERAL.—The Secretary shall establish a cooperative national forest products marketing program under this Act that provides—

"(A) technical assistance to States, landowners, and small-sized to medium-sized forest products firms on ways to improve domestic and foreign markets for forest products; and

"(B) grants of financial assistance with matching requirements to the States to assist in State and regional forest products marketing efforts targeted to aid small-sized to medium-sized forest products firms and private, nonindustrial forest landowners.

"(2) INTERSTATE COOPERATIVE AGREEMENTS.—Grant agreements shall encourage the establishment of interstate cooperative agreements by the States for the purpose of promoting the development of domestic and foreign markets for forest products.

"(c) LIMITATIONS.—

"(1) COOPERATION WITH OTHER FEDERAL AGENCIES.—In carrying out this section, the Secretary shall cooperate with Federal departments and agencies to avoid the duplication of efforts and to increase program efficiency.

"(2) DOMESTIC PROGRAM.—The program authorized under this section shall be carried out within the United States and not be extended to Department of Agriculture activities in foreign countries.

"(d) AUTHORIZATION FOR APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1991, to carry out this section.

"(e) PROGRAM REPORT.—The Secretary shall report to Congress annually on the activities taken under the marketing program established under this section. A final report including recommendations for program changes and the need and desirability of

the reauthorization of this authority, and required levels of funding, shall be submitted to Congress not later than September 30, 1990.".

7 USC 1736t note.

SEC. 4404. USE OF DEPARTMENT OF AGRICULTURE PROGRAMS.

The Secretary of Agriculture shall actively use Department of Agriculture concessional programs and export credit guarantee programs to promote the export of wood and processed wood products.

Subtitle E—Studies and Reports

SEC. 4501. STUDY OF CANADIAN WHEAT IMPORT LICENSING REQUIREMENTS.

(a) FINDINGS.—Congress finds that—

(1) Canadian importers of wheat or products containing a minimum of 25 percent wheat (except packaged wheat products for retail sale) from the United States must obtain import licenses from the Canadian Wheat Board;

(2) the Canadian Wheat Board requires such importers of United States wheat and wheat products to prove that the wheat or wheat products to be imported are not readily available in Canada before issuance of an import license, and therefore, for all practical purposes, such licenses are not granted by the Canadian Wheat Board;

(3) the licensing requirements of the Canadian Wheat Board's import licensing program result in a trade barrier on the importation of United States wheat and wheat products; and

(4) Canada is a member of the General Agreement on Tariffs and Trade and, under such agreement, member countries should, in general, eliminate import licensing programs that operate as nontariff trade barriers.

(b) STUDY.—The Secretary of Agriculture shall conduct a study of the Canadian Wheat Board's import licensing program to—

(1) assess the effect of the Canadian Wheat Board's import licensing program referred to in subsection (a) on wheat producers, processors, and exporters in the United States; and

(2) determine—

(A) the nature and extent of the licensing requirements of the Canadian Wheat Board's import licensing program; and

(B) the estimated effect of the Canadian Wheat Board's import licensing program in reducing exports of United States wheat and wheat products to Canada.

(c) SUBMISSION OF RESULTS.—Not later than 90 days after the date of enactment of this Act, the Secretary shall submit the results of the study conducted under subsection (b) to the United States Trade Representative.

(d) CONSULTATION WITH CONGRESS.—Not later than 90 days after the results of the study are submitted, the Secretary and the United States Trade Representative shall consult with the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate on the status of efforts to negotiate the elimination of such Canadian licensing requirements.

SEC. 4502. IMPORT INVENTORY. 7 USC 626.

(a) COMPILATION AND REPORT ON IMPORTS.—The Secretary of Agriculture, in consultation with the Secretary of Commerce, the International Trade Commission, the United States Trade Representative, and the heads of all other appropriate Federal agencies, shall compile and report to the public statistics on the total value and quantity of imported raw and processed agricultural products. The report shall be limited to those statistics that such agencies already obtain for other purposes.

(b) COMPILATION AND REPORT ON CONSUMPTION.—The Secretary shall compile and report to the public data on the total quantity of production and consumption of domestically produced raw and processed agricultural products. Public information.

(c) ISSUING OF DATA.—The reports required by this section shall be made in a format that correlates statistics for the quantity and value of imported agricultural products to the production and consumption of domestic agricultural products. The Secretary shall issue such reports on an annual basis, with the first report required not later than 1 year after the date of enactment of this Act.

SEC. 4503. STUDY RELATING TO HONEY.

(a) STUDY.—The Secretary of Agriculture shall conduct a study to determine the effect of imported honey on United States honey producers, the availability of honey bee pollination within the United States, and whether there is reason to believe imports of honey tend to interfere with or render ineffective the honey price support program of the Department of Agriculture.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary shall report the results of such study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives and to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4504. STUDY OF DAIRY IMPORT QUOTAS.

(a) STUDY.—Not later than 180 days after the date of enactment of this Act, the Secretary of Agriculture shall conduct a study to determine whether, and to what extent, the price support program for milk established under section 201(d) of the Agricultural Act of 1949 (7 U.S.C. 1446(d)) would be affected by a reduction in, or elimination of, limitations imposed on the importation of certain dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, as a result of multilateral trade negotiations, including negotiations under the General Agreement on Tariffs and Trade. In conducting this study, the Secretary shall assess the likelihood of other nations' agreeing to reduce or eliminate their domestic dairy price stabilization, export subsidization, or import control programs in such multilateral negotiations.

(b) REPORT.—The Secretary shall submit a report describing the results of the study, together with any recommendations, to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4505. REPORT ON INTERMEDIATE EXPORT CREDIT.

Not later than 180 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to the Committee on Agriculture and the Committee on Foreign Affairs of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, on the use of authorities established under section 4 of the Food for Peace Act of 1966 (7 U.S.C. 1707a), the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.), section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431), and the Commodity Credit Corporation Charter Act (15 U.S.C. 714 et seq.), to provide intermediate credit financing and other trade assistance for the establishment of facilities in importing countries—

Marketing.

(1) to improve the handling, marketing, processing, storage, and distribution of imported agricultural commodities and products;

Animals.

(2) to increase livestock production in order to enhance the demand for United States feed grains; and

(3) to increase markets for United States livestock and livestock products.

21 USC 1401 note.

SEC. 4506. IMPORTED MEAT, POULTRY PRODUCTS, EGGS, AND EGG PRODUCTS.

(a) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Agriculture shall submit a report to Congress—

Pests and pesticides. Drugs and drug abuse.

(1) specifying the planned distribution, in fiscal years 1988 and 1989, of the resources of the Department of Agriculture available for sampling imported covered products to ensure compliance with the requirements of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.), the Poultry Products Inspection Act (21 U.S.C. 451 et seq.), and the Egg Products Inspection Act (21 U.S.C. 1031 et seq.) that govern the level of residues of pesticides, drugs, and other products permitted in or on such products;

Pests and pesticides. Drugs and drug abuse.

(2) describing current methods used by the Secretary to enforce the requirements of such Acts with respect to the level of residues of pesticides, drugs, and other products permitted in or on such products;

(3) responding to the audit report of the Inspector General of the Department of Agriculture, Number 38002—2—hy, dated January 14, 1987;

(4) providing a summary with respect to the importation of covered products during fiscal years 1987 and 1988 that specifies—

(A) the number of samples of each such product taken during each such fiscal year in carrying out the requirements described in paragraph (1); and

(B) for each violation of such requirements during each such fiscal year—

(i) the covered products with respect to which such violation occurred;

(ii) the residue in or on such product in violation of such requirements;

(iii) the country exporting such product;

(iv) the actions taken in response to such violation and the reasons for such actions; and

(v) the level of testing conducted by the countries exporting such products;

(5) describing any research conducted by the Secretary to develop improved methods to detect residues subject to such requirements in or on covered products; and Research and development.

(6) providing any recommendations the Secretary considers appropriate for legislation to add or modify penalties for violations of laws, regulations, and other enforcement requirements governing the level of residues that are permitted in or on imported covered products.

(b) REVISION.—Not later than November 15, 1989, the Secretary of Agriculture shall revise, as necessary, the report prepared under subsection (a) and submit the revision to Congress. Reports.

(c) DEFINITION.—As used in this section, the term "covered products" means meat, poultry products, eggs, and egg products.

SEC. 4507. STUDY OF CIRCUMVENTION OF AGRICULTURAL QUOTAS.

(a) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Comptroller General of the United States shall conduct a study with respect to—

(1) whether articles containing dairy products (including chocolate in blocks of at least 10 pounds and other such products) are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of dairy products under section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937; and Dairy products.

(2) whether products containing refined sugar are being imported into the United States in such a manner or in such quantities as to circumvent or avoid the limitations imposed on imports of refined sugar and sugar containing products imposed under Federal law.

(b) REQUIREMENTS.—In conducting the study required under subsection (a), the Comptroller General shall investigate—

(1) the efforts undertaken by the United States Customs Service in the enforcement of the existing quantitative limitations described in subsection (a);

(2) the change in the composition, volume, and pattern of imports containing sugar and imports containing dairy products subsequent to the initial imposition of the quantitative limitations; Dairy products.

(3) the effectiveness of section 22 of the Agricultural Adjustment Act (7 U.S.C. 624), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, in preventing the circumvention or avoidance of the quantitative limitations; and

(4) the use of United States foreign trade zones to circumvent the quantitative limitations.

(c) REPORT.—On completion of the study required by this section, the Comptroller General shall report the results of the study to the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate.

SEC. 4508. STUDY OF LAMB MEAT IMPORTS.

(a) STUDY.—The Secretary of Agriculture shall conduct a study of the market for lamb meat products in the United States, focusing on production, demand, rate of return on investment, marketing and trends with respect to the level of imports of live lamb and lamb meat products, and the effects of such imports on the production of lamb meat in the United States.

(b) REPORT.—Not later than 180 days after the date of enactment of this Act, the Secretary shall submit to the Committee on Ways and Means and the Committee on Agriculture of the House of Representatives and the Committee on Finance and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report setting forth the results of such study. If appropriate, the report should include proposals on ways to bring about a long-term increase in per capita consumption of lamb meat products and ways to encourage a more profitable and productive domestic industry to ensure a plentiful and affordable supply of lamb meat.

SEC. 4509. ROSE STUDY.

(a) STUDY.—Not later than 240 days after the date of enactment of this Act, the United States International Trade Commission shall, pursuant to section 332 of the Tariff Act of 1930 (19 U.S.C. 1332), complete a study with respect to—

(1) competitive factors affecting the domestic rose-growing industry, including competition from imports;

(2) the effect that the European Community's tariff rate for imported roses has on world trade of roses; and

(3) the extent to which unfair trade practices and foreign barriers to trade are impeding the marketing abroad of domestically produced roses.

(b) REPORT.—The Commission shall report the results of the study conducted in accordance with subsection (a) as soon as the study is completed to—

(1) the Committee on Agriculture and the Committee on Ways and Means of the House of Representatives;

(2) the Committee on Agriculture, Nutrition, and Forestry and the Committee on Finance of the Senate;

(3) the United States Trade Representative;

(4) the Secretary of Commerce; and

(5) the Secretary of Agriculture.

(c) REVIEW.—It is the sense of Congress that the United States Trade Representative, the Secretary of Commerce, and the Secretary of Agriculture, should use all available remedies, programs, and policies within their respective jurisdictions to assist the domestic rose industry to maintain and enhance its ability to compete in the domestic and world market for roses if, after their review of the study and report required by this section, such officials determine that such action is appropriate to counter any adverse effects on the domestic rose industry caused by unfair trade practices of foreign competitors.

Subtitle F—Miscellaneous Agricultural Provisions

SEC. 4601. ALLOCATION OF CERTAIN MILK.

Section 8c(5) of the Agricultural Adjustment Act (7 U.S.C. 608c(5)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by adding at the end the following:

"(K)(i) Notwithstanding any other provision of law, milk produced by dairies—

"(I) owned or controlled by foreign persons; and

"(II) financed by or with the use of bonds the interest on which is exempt from Federal income tax under section 103 of the Internal Revenue Code of 1986;

Securities.
Taxes.

shall be treated as other-source milk, and shall be allocated as milk received from producer-handlers for the purposes of classifying producer milk, under the milk marketing program established under this Act. For the purposes of this subparagraph, the term 'foreign person' has the meaning given such term under section 9(3) of the Agricultural Foreign Investment Disclosure Act of 1978 (7 U.S.C. 3508(3)).

"(ii) The Secretary of Agriculture shall prescribe regulations to carry out this subparagraph.

Regulations.

"(iii) This subparagraph shall not apply with respect to any dairy that began operation before May 6, 1986.".

SEC. 4602. PAID ADVERTISING FOR FLORIDA-GROWN STRAWBERRIES UNDER MARKETNG ORDERS.

The first proviso of section 8c(6)(I) of the Agricultural Adjustment Act (7 U.S.C. 608c(6)(I)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended by striking out "or tomatoes" and inserting in lieu thereof "tomatoes, or Florida-grown strawberries,".

SEC. 4603. APPLICATION OF MARKETNG ORDERS TO IMPORTS.

Section 8e of the Agricultural Adjustment Act (7 U.S.C. 608e-1), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, is amended—

(1) by inserting "(a)" at the beginning of the first sentence; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The Secretary may provide for a period of time (not to exceed 35 days) in addition to the period of time covered by a marketing order during which the marketing order requirements would be in effect for a particular commodity during any year if the Secretary determines that such additional period of time is necessary—

"(A) to effectuate the purposes of this Act; and

"(B) to prevent the circumvention of the grade, size, quality, or maturity standards of a seasonal marketing order applicable to a commodity produced in the United States by imports of such commodity.

"(2) In making the determination required by paragraph (1), the Secretary, through notice and comment procedures, shall consider—

"(A) to what extent, during the previous year, imports of a commodity that did not meet the requirements of a marketing

order applicable to such commodity were marketed in the United States during the period that such marketing order requirements were in effect for available domestic commodities (or would have been marketed during such time if not for any additional period established by the Secretary):

"(B) if the importation into the United States of such commodity did, or was likely to, circumvent the grade, size, quality or maturity standards of a seasonal marketing order applicable to such commodity produced in the United States; and

"(C) the availability and price of commodities of the variety covered by the marketing order during any additional period the marketing order requirements are to be in effect.

"(3) An additional period established by the Secretary in accordance with this subsection shall be—

"(A) announced not later than 30 days before the date such additional period is to be in effect; and

"(B) reviewed by the Secretary on request, through notice and comment procedures, at least every 3 years in order to determine if the additional period is still needed to prevent circumvention of the seasonal marketing order by imported commodities.

"(4) For the purposes of carrying out this subsection, the Secretary is authorized to make such reasonable inspections as may be necessary.".

SEC. 4604. RECIPROCAL MEAT INSPECTION REQUIREMENT.

(a) IN GENERAL.—Section 20 of the Federal Meat Inspection Act (21 U.S.C. 620) is amended by adding at the end thereof the following new subsection:

"(h)(1) As used in this subsection:

"(A) The term 'meat articles' means carcasses, meat and meat food products of cattle, sheep, swine, goats, horses, mules, or other equines, that are capable of use as human food.

"(B) The term 'standards' means inspection, building construction, sanitary, quality, species verification, residue, and other standards that are applicable to meat articles.

Safety.

"(2) On request of the Committee on Agriculture or the Committee on Ways and Means of the House of Representatives or the Committee on Agriculture, Nutrition, and Forestry or the Committee on Finance of the Senate, or at the initiative of the Secretary, the Secretary shall, as soon as practicable, determine whether a particular foreign country applies standards for the importation of meat articles from the United States that are not related to public health concerns about end-product quality that can be substantiated by reliable analytical methods.

"(3) If the Secretary determines that a foreign country applies standards described in paragraph (2)—

"(A) the Secretary shall consult with the United States Trade Representative; and

"(B) within 30 days after the determination of the Secretary under paragraph (2), the Secretary and the United States Trade Representative shall recommend to the President whether action should be taken under paragraph (4).

President of U.S.

"(4) Within 30 days after receiving a recommendation for action under paragraph (3), the President shall, if and for such time as the President considers appropriate, prohibit imports into the United

States of any meat articles produced in such foreign country unless it is determined that the meat articles produced in that country meet the standards applicable to meat articles in commerce within the United States.

"(5) The action authorized under paragraph (4) may be used instead of, or in addition to, any other action taken under any other law.".

(b) REPORTS.—Section 20(e) of such Act is amended— 21 USC 620.

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new paragraph:

"(6) the name of each foreign country that applies standards for the importation of meat articles from the United States that are described in subsection (h)(2).".

SEC. 4605. STUDY OF INTERNATIONAL MARKETING IN LAND GRANT COLLEGES AND UNIVERSITIES.

It is the sense of Congress that—

(1) land grant colleges and universities (as defined in section 1404(10) of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3103(10)) should encourage the study and career objective of international marketing of agricultural commodities and products;

(2) because marketing complements production, international agricultural marketing specialists are needed in a globally competitive world; and

(3) enhanced foreign marketing of United States agricultural commodities and products will help relieve stress in the rural economy.

SEC. 4606. INTERNATIONAL TRADE IN EGGS AND EGG PRODUCTS.

(a) FINDINGS.—Congress finds that—

(1) the system of basic and variable levies of the European Community has severely restricted the export of United States eggs and egg products to European Community member countries;

(2) export subsidies of the European Community have caused displacement of United States egg exports in international markets; and

(3) the Secretary of Agriculture is in the process of certifying the Netherland's inspection procedures for egg products for the purpose of importation into the United States of egg products of the Netherlands.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the United States Trade Representative should enter into negotiations with the European Community concerning—

(1) duties, tariffs, and other means used by the European Community to limit the access of United States eggs and egg products to European Community markets; and

(2) European Community export subsidies that have had the effect of excluding United States eggs and egg products from other world markets.

SEC. 4607. UNITED STATES ACCESS TO THE KOREAN BEEF MARKET.

(a) FINDINGS.—Congress finds that—

(1) the 1986 United States trade deficit with the Republic of Korea was $7,600,000,000;

(2) the Republic of Korea has banned beef imports since May 1985;

(3) this beef import ban is in contravention of Korea's obligations under the General Agreement on Tariffs and Trade and impairs United States rights under such agreement;

(4) Korea imposes an unreasonably high 20 percent ad valorem tariff on meat products; and

(5) if the Korean beef market were liberalized, the United States, due to comparative advantage, could supply a significant portion of the Korean market for beef, thereby increasing profit opportunities for the United States beef industry while benefiting Korean consumers.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Republic of Korea should take immediate action to fulfill its obligations under the General Agreement on Tariffs and Trade and permit access to its market for United States beef;

(2) the United States should aggressively pursue negotiations to gain access to the Korean market for United States beef;

(3) such negotiations, in addition to elimination of the beef import ban, should address the high tariffs set by the Republic of Korea and the means by which imported beef is distributed in Korea; and

(4) if the Republic of Korea does not show clear evidence that it is engaging in meaningful liberalization of its market for United States beef, the United States should use all available and appropriate means to encourage the Republic of Korea to open its market to United States beef imports.

SEC. 4608. UNITED STATES ACCESS TO JAPANESE AGRICULTURAL MARKETS.

(a) FINDINGS.—Congress finds that—

(1) the United States requested establishment of a panel pursuant to Article XXIII of the General Agreement on Tariffs and Trade (hereinafter in this section referred to as "GATT") to examine Japanese import restrictions on 12 categories of agricultural products;

(2) the GATT panel found that Japanese quantitative restrictions on 10 of the 12 product categories are inconsistent with Article XI of the GATT and recommended that Japan eliminate them or otherwise take action to bring them into conformity with the GATT; and

(3) the rationale behind the GATT panel finding can also be applied to other restrictions that Japan maintains on imports from the United States, including—

(A) a virtual ban on imports of United States rice;

(B) a very restrictive quota on imports of United States beef; and

(C) high tariffs and restrictive quotas on imports of United States citrus.

(b) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of Japan should immediately take actions to comply with the findings of the GATT panel report;

(2) the Government of Japan should immediately liberalize its trade policies by lowering high tariffs and removing quotas on

agricultural imports from the United States, including those imposed on rice, beef, and citrus, in order to avoid any damage to the close relations between Japan and the United States; and

(3) the United States should continue efforts to persuade the Government of Japan to remove its trade barriers.

SEC. 4609. SENSE OF CONGRESS RELATING TO SECTION 22.

7 USC 624 note.

It is the sense of Congress that—

(1) the amounts of assessments collected under the no-net-cost tobacco program can be an indicator of import injury and material interference with the tobacco price support program administered by the Secretary of Agriculture; and

(2) for purposes of any investigation conducted under section 22(a) of the Agricultural Adjustment Act (7 U.S.C. 624(a)), reenacted with amendments by the Agricultural Marketing Agreement Act of 1937, with respect to tobacco, or articles containing tobacco, imported into the United States, the International Trade Commission should take into account, as if they are costs to the Federal government, contributions and assessments imposed under sections 106A and 106B of the Agricultural Act of 1949 (7 U.S.C. 1445-1 and 1445-2) in determining whether such imported tobacco or articles containing tobacco materially interfere with the tobacco price support program carried out by the Secretary of Agriculture.

SEC. 4610. TECHNICAL CORRECTIONS TO THE AGRICULTURAL AID AND TRADE MISSION PORTION OF PUBLIC LAW 100-202.

(a) SHORT TITLE FOR AGRICULTURAL AID AND TRADE MISSIONS ACT.—That portion of the joint resolution entitled "Joint resolution making further continuing appropriations for the fiscal year 1988, and for other purposes" approved December 22, 1987, under the heading "Agricultural Aid and Trade Missions Act" is amended by adding at the end the following:

"SEC. 16. SHORT TITLE.

Agricultural Aid and Trade Missions Act.
7 USC 1691 note.

"Section 1 through this section under the heading 'Agricultural Aid and Trade Missions Act' may be cited as the 'Agricultural Aid and Trade Missions Act'." .

(b) CORRECTION OF INTERNAL REFERENCES.—Sections 1 through 7 of that portion of such joint resolution are each amended by striking out "chapter" each place it appears and inserting "Act" in lieu thereof.

7 USC 1736bb, 1736bb-3—1736bb-6.

(c) ELIMINATION OF SUPERFLUOUS CATCHLINE.—That portion of such joint resolution is amended by striking out "Subtitle E—Public Law 480 and Related Provisions".

101 Stat. 1329-447.

(d) CORRECTION OF CROSS REFERENCE.—Section 13 of that portion of such joint resolution is amended by striking out "section 655 of this Act" and inserting "section 12" in lieu thereof.

7 USC 1726.

Subtitle G—Pesticide Monitoring Improvements

Pesticide Monitoring Improvements Act of 1988.

SEC. 4701. SHORT TITLE.

21 USC 1401 note.

This subtitle may be cited as the "Pesticide Monitoring Improvements Act of 1988".

21 USC 1401.

SEC. 4702. PESTICIDE MONITORING AND ENFORCEMENT INFORMATION.

(a) DATA MANAGEMENT SYSTEMS.—

(1) Not later than 480 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall place in effect computerized data management systems for the Food and Drug Administration under which the Administration will—

(A) record, summarize, and evaluate the results of its program for monitoring food products for pesticide residues,

(B) identify gaps in its pesticide monitoring program in the monitoring of (i) pesticides, (ii) food products, and (iii) food from specific countries and from domestic sources,

Safety.

(C) detect trends in the presence of pesticide residues in food products and identify public health problems emerging from the occurrence of pesticide residues in food products,

(D) focus its testing resources for monitoring pesticide residues in food on detecting those residues which pose a public health concern,

(E) prepare summaries of the information listed in subsection (b), and

(F) provide information to assist the Environmental Protection Agency in carrying out its responsibilities under the Federal Insecticide, Fungicide, and Rodenticide Act and the Federal Food, Drug, and Cosmetic Act.

(2) As soon as practicable, the Secretary of Health and Human Services shall develop a means to enable the computerized data management systems placed into effect under paragraph (1) to make the summary described in subsection (c).

(3)(A) Paragraph (1) does not limit the authority of the Food and Drug Administration to—

(i) use the computerized data management systems placed in effect under paragraph (1), or

(ii) develop additional data management systems,

to facilitate the regulation of any substance or product covered under the requirements of the Federal Food, Drug, and Cosmetic Act.

(B) In placing into effect the computerized data management systems under paragraph (1) and in carrying out paragraph (2), the Secretary shall comply with applicable regulations governing computer system design and procurement.

Safety.

(b) INFORMATION.—The Food and Drug Administration shall use the computerized data management systems placed into effect under subsection (a)(1) to prepare a summary of—

(1) information on—

(A) the types of imported and domestically produced food products analyzed for compliance with the requirements of the Federal Food, Drug, and Cosmetic Act regarding the presence of pesticide residues,

(B) the number of samples of each such food product analyzed for such compliance by country of origin,

(C) the pesticide residues which may be detected using the testing methods employed,

(D) the pesticide residues in such food detected and the levels detected,

(E) the compliance status of each sample of such food tested and the violation rate for each country-product combination, and

(F) the action taken with respect to each sample of such food found to be in violation of the Federal Food, Drug, and Cosmetic Act and its ultimate disposition, and

(2) information on—

(A) the country of origin of each imported food product referred to in paragraph (1)(A), and

(B) the United States district of entry for each such imported food product.

(c) VOLUME DATA.—The Food and Drug Administration shall use the computerized data management systems placed into effect under subsection (a)(1) to summarize the volume of each type of food product subject to the requirements of the Federal Food, Drug, and Cosmetic Act which is imported into the United States and which has an entry value which exceeds an amount established by the Secretary of Health and Human Services. The summary shall be made by country of origin and district of entry. Information with respect to volumes of food products to be included in the summary shall, to the extent feasible, be obtained from data bases of other Federal agencies.

(d) COMPILATION.—Not later than 90 days after the expiration of 1 year after the data management systems are placed into effect under subsection (a) and annually thereafter, the Secretary of Health and Human Services shall compile a summary of the information described in subsection (b) with respect to the previous year. When the Food and Drug Administration is able to make summaries under subsection (c), the Secretary shall include in the compilation under the preceding sentence a compilation of the information described in subsection (c). Compilations under this subsection shall be made available to Federal and State agencies and other interested persons.

SEC. 4703. FOREIGN PESTICIDE INFORMATION. 21 USC 1402.

(a) COOPERATIVE AGREEMENTS.—The Secretary of Health and Human Services shall enter into cooperative agreements with the governments of the countries which are the major sources of food imports into the United States subject to pesticide residue monitoring by the Food and Drug Administration for the purpose of improving the ability of the Food and Drug Administration to assure compliance with the pesticide tolerance requirements of the Federal Food, Drug, and Cosmetic Act with regard to imported food.

(b) INFORMATION ACTIVITIES.—

(1) The cooperative agreements entered into under subsection (a) with governments of foreign countries shall specify the action to be taken by the parties to the agreements to accomplish the purpose described in subsection (a), including the means by which the governments of the foreign countries will provide to the Secretary of Health and Human Services current information identifying each of the pesticides used in the production, transportation, and storage of food products imported from production regions of such countries into the United States.

(2) In the case of a foreign country with which the Secretary is unable to enter into an agreement under subsection (a) or for which the information provided under paragraph (1) is insuffi-

cient to assure an effective pesticide monitoring program, the Secretary shall, to the extent practicable, obtain the information described in paragraph (1) with respect to such country from other Federal or international agencies or private sources.

(3) The Secretary of Health and Human Services shall assure that appropriate offices of the Food and Drug Administration which are engaged in the monitoring of imported food for pesticide residues receive the information obtained under paragraph (1) or (2).

(4) The Secretary of Health and Human Services shall make available any information obtained under paragraph (1) or (2) to State agencies engaged in the monitoring of imported food for pesticide residues other than information obtained from private sources the disclosure of which to such agencies is restricted.

(c) COORDINATION WITH OTHER AGENCIES.—The Secretary of Health and Human Services shall—

(1) notify in writing the Department of Agriculture, the Environmental Protection Agency, and the Department of State at the initiation of negotiations with a foreign country to develop a cooperative agreement under subsection (a); and

(2) coordinate the activities of the Department of Health and Human Services with the activities of those departments and agencies, as appropriate, during the course of such negotiations.

(d) REPORT.—Not later than one year after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to the Committee on Agriculture, Nutrition, and Forestry and the Committee on Labor and Human Resources of the Senate and the House of Representatives on the activities undertaken by the Secretary to implement this section. The report shall be made available to appropriate Federal and State agencies and to interested persons.

State and local governments.

21 USC 1403.

SEC. 4704. PESTICIDE ANALYTICAL METHODS.

The Secretary of Health and Human Services shall, in consultation with the Administrator of the Environmental Protection Agency—

(1) develop a detailed long-range plan and timetable for research that is necessary for the development of and validation of—

(A) new and improved analytical methods capable of detecting at one time the presence of multiple pesticide residues in food, and

(B) rapid pesticide analytical methods, and

(2) conduct a review to determine whether the use of rapid pesticide analytical methods by the Secretary would enable the Secretary to improve the cost-effectiveness of monitoring and enforcement activities under the Federal Food, Drug, and Cosmetic Act, including increasing the number of pesticide residues which can be detected and the number of tests for pesticide residues which can be conducted in a cost-effective manner.

Reports.

The Secretary shall report the plan developed under paragraph (1), the resources necessary to carry out the research described in such paragraph, recommendations for the implementation of such research, and the result of the review conducted under paragraph (2) not later than the expiration of 240 days after the date of the enactment of this Act to the Committee on Agriculture, Nutrition,

and Forestry and the Committee on Labor and Human Resources of the Senate and the House of Representatives.

TITLE V—FOREIGN CORRUPT PRACTICES AMENDMENTS; INVESTMENT; AND TECHNOLOGY

Subtitle A—Foreign Corrupt Practices Act Amendments; Review of Certain Acquisitions

PART I—FOREIGN CORRUPT PRACTICES ACT AMENDMENTS

Foreign Corrupt Practices Act Amendments of 1988.
15 USC 78a note.

SEC. 5001. SHORT TITLE.

This part may be cited as the "Foreign Corrupt Practices Act Amendments of 1988".

SEC. 5002. PENALTIES FOR VIOLATIONS OF ACCOUNTING STANDARDS.

Section 13(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78m(b)) is amended by adding at the end thereof the following:

"(4) No criminal liability shall be imposed for failing to comply with the requirements of paragraph (2) of this subsection except as provided in paragraph (5) of this subsection.

"(5) No person shall knowingly circumvent or knowingly fail to implement a system of internal accounting controls or knowingly falsify any book, record, or account described in paragraph (2).

"(6) Where an issuer which has a class of securities registered pursuant to section 12 of this title or an issuer which is required to file reports pursuant to section 15(d) of this title holds 50 per centum or less of the voting power with respect to a domestic or foreign firm, the provisions of paragraph (2) require only that the issuer proceed in good faith to use its influence, to the extent reasonable under the issuer's circumstances, to cause such domestic or foreign firm to devise and maintain a system of internal accounting controls consistent with paragraph (2). Such circumstances include the relative degree of the issuer's ownership of the domestic or foreign firm and the laws and practices governing the business operations of the country in which such firm is located. An issuer which demonstrates good faith efforts to use such influence shall be conclusively presumed to have complied with the requirements of paragraph (2).

"(7) For the purpose of paragraph (2) of this subsection, the terms 'reasonable assurances' and 'reasonable detail' mean such level of detail and degree of assurance as would satisfy prudent officials in the conduct of their own affairs.".

SEC. 5003. FOREIGN CORRUPT PRACTICES ACT AMENDMENTS.

(a) PROHIBITED TRADE PRACTICES BY ISSUERS.—Section 30A of the Securities Exchange Act of 1934 (15 U.S.C. 78dd-1) is amended to read as follows:

"PROHIBITED FOREIGN TRADE PRACTICES BY ISSUERS

"SEC. 30A. (a) PROHIBITION.—It shall be unlawful for any issuer which has a class of securities registered pursuant to section 12 of

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this title or which is required to file reports under section 15(d) of this title, or for any officer, director, employee, or agent of such issuer or any stockholder thereof acting on behalf of such issuer, to make use of the mails or any means or instrumentality of interstate commerce corruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

"(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate,

"(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

"(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

"(b) EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.—Subsection (a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to actions under subsection (a) that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official's, political party's, party official's, or candidate's country; or

"(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) GUIDELINES BY THE ATTORNEY GENERAL.—Not later than one year after the date of the enactment of the Foreign Corrupt Practices Act Amendments of 1988, the Attorney General, after consultation with the Commission, the Secretary of Commerce, the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury, and after obtaining the views of all interested persons through public notice and comment procedures, shall determine to what extent compliance with this section would be enhanced and the business community would be assisted by further clarification of the preceding provisions of this section and may, based on such determination and to the extent necessary and appropriate, issue—

"(1) guidelines describing specific types of conduct, associated with common types of export sales arrangements and business contracts, which for purposes of the Department of Justice's present enforcement policy, the Attorney General determines would be in conformance with the preceding provisions of this section; and Contracts.

"(2) general precautionary procedures which issuers may use on a voluntary basis to conform their conduct to the Department of Justice's present enforcement policy regarding the preceding provisions of this section.

The Attorney General shall issue the guidelines and procedures referred to in the preceding sentence in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and those guidelines and procedures shall be subject to the provisions of chapter 7 of that title.

"(e) OPINIONS OF THE ATTORNEY GENERAL.—(1) The Attorney General, after consultation with appropriate departments and agencies of the United States and after obtaining the views of all interested persons through public notice and comment procedures, shall establish a procedure to provide responses to specific inquiries by issuers concerning conformance of their conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section. The Attorney General shall, within 30 days after receiving such a request, issue an opinion in response to that request. The opinion shall state whether or not certain specified prospective conduct would, for purposes of the Department of Justice's present enforcement policy, violate the preceding provisions of this section. Additional requests for opinions may be filed with the Attorney General regarding other specified prospective conduct that is beyond the scope of conduct specified in previous requests. In any action brought under the applicable provisions of this section, there shall be a rebuttable presumption that conduct, which is specified in

a request by an issuer and for which the Attorney General has issued an opinion that such conduct is in conformity with the Department of Justice's present enforcement policy, is in compliance with the preceding provisions of this section. Such a presumption may be rebutted by a preponderance of the evidence. In considering the presumption for purposes of this paragraph, a court shall weigh all relevant factors, including but not limited to whether the information submitted to the Attorney General was accurate and complete and whether it was within the scope of the conduct specified in any request received by the Attorney General. The Attorney General shall establish the procedure required by this paragraph in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and that procedure shall be subject to the provisions of chapter 7 of that title.

Courts, U.S.

Classified information.

"(2) Any document or other material which is provided to, received by, or prepared in the Department of Justice or any other department or agency of the United States in connection with a request by an issuer under the procedure established under paragraph (1), shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not, except with the consent of the issuer, be made publicly available, regardless of whether the Attorney General responds to such a request or the issuer withdraws such request before receiving a response.

"(3) Any issuer who has made a request to the Attorney General under paragraph (1) may withdraw such request prior to the time the Attorney General issues an opinion in response to such request. Any request so withdrawn shall have no force or effect.

"(4) The Attorney General shall, to the maximum extent practicable, provide timely guidance concerning the Department of Justice's present enforcement policy with respect to the preceding provisions of this section to potential exporters and small businesses that are unable to obtain specialized counsel on issues pertaining to such provisions. Such guidance shall be limited to responses to requests under paragraph (1) concerning conformity of specified prospective conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section and general explanations of compliance responsibilities and of potential liabilities under the preceding provisions of this section.

"(f) DEFINITIONS.—For purposes of this section:

"(1) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality.

"(2)(A) A person's state of mind is 'knowing' with respect to conduct, a circumstance, or a result if—

"(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

"(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

"(3)(A) The term 'routine governmental action' means only an action which is ordinarily and commonly performed by a foreign official in—

"(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

"(ii) processing governmental papers, such as visas and work orders;

"(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

"(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

"(v) actions of a similar nature.

"(B) The term 'routine governmental action' does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decisionmaking process to encourage a decision to award new business to or continue business with a particular party.".

(b) VIOLATIONS.—Section 32(c) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff) is amended to read as follows:

"(c)(1)(A) Any issuer that violates section 30A(a) shall be fined not more than $2,000,000.

"(B) Any issuer that violates section 30A(a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Commission.

"(2)(A) Any officer or director of an issuer, or stockholder acting on behalf of such issuer, who willfully violates section 30A(a) shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(B) Any employee or agent of an issuer who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such issuer), and who willfully violates section 30A(a), shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(C) Any officer, director, employee, or agent of an issuer, or stockholder acting on behalf of such issuer, who violates section 30A(a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Commission.

"(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of an issuer, such fine may not be paid, directly or indirectly, by such issuer.".

(c) PROHIBITED TRADE PRACTICES BY DOMESTIC CONCERNS.—Section 104 of the Foreign Corrupt Practices Act of 1977 (15 U.S.C. 78dd-2) is amended to read as follows:

"PROHIBITED FOREIGN TRADE PRACTICES BY DOMESTIC CONCERNS

"SEC. 104. (a) PROHIBITION.—It shall be unlawful for any domestic concern, other than an issuer which is subject to section 30A of the Securities Exchange Act of 1934, or for any officer, director, employee, or agent of such domestic concern or any stockholder thereof acting on behalf of such domestic concern, to make use of the mails

Mail.
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or any means or instrumentality of interstate commerce curruptly in furtherance of an offer, payment, promise to pay, or authorization of the payment of any money, or offer, gift, promise to give, or authorization of the giving of anything of value to—

"(1) any foreign official for purposes of—

"(A)(i) influencing any act or decision of such foreign official in his official capacity, or (ii) inducing such foreign official to do or omit to do any act in violation of the lawful duty of such official, or

"(B) inducing such foreign official to use his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person;

"(2) any foreign political party or official thereof or any candidate for foreign political office for purposes of—

"(A)(i) influencing any act or decision of such party, official, or candidate in its or his official capacity, or (ii) inducing such party, official, or candidate to do or omit to do an act in violation of the lawful duty of such party, official, or candidate,

"(B) inducing such party, official, or candidate to use its or his influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such domestic concern in obtaining or retaining business for or with, or directing business to, any person; or

"(3) any person, while knowing that all or a portion of such money or thing of value will be offered, given, or promised, directly or indirectly, to any foreign official, to any foreign political party or official thereof, or to any candidate for foreign political office, for purposes of—

"(A)(i) influencing any act or decision of such foreign official, political party, party official, or candidate in his or its official capacity, or (ii) inducing such foreign official, political party, party official, or candidate to do or omit to do any act in violation of the lawful duty of such foreign official, political party, party official, or candidate, or

"(B) inducing such foreign official, political party, party official, or candidate to use his or its influence with a foreign government or instrumentality thereof to affect or influence any act or decision of such government or instrumentality,

in order to assist such issuer in obtaining or retaining business for or with, or directing business to, any person.

"(b) EXCEPTION FOR ROUTINE GOVERNMENTAL ACTION.—Subsection (a) shall not apply to any facilitating or expediting payment to a foreign official, political party, or party official the purpose of which is to expedite or to secure the performance of a routine governmental action by a foreign official, political party, or party official.

"(c) AFFIRMATIVE DEFENSES.—It shall be an affirmative defense to actions under subsection (a) that—

"(1) the payment, gift, offer, or promise of anything of value that was made, was lawful under the written laws and regulations of the foreign official's, political party's, party official's, or candidate's country; or

"(2) the payment, gift, offer, or promise of anything of value that was made, was a reasonable and bona fide expenditure, such as travel and lodging expenses, incurred by or on behalf of a foreign official, party, party official, or candidate and was directly related to—

"(A) the promotion, demonstration, or explanation of products or services; or

"(B) the execution or performance of a contract with a foreign government or agency thereof.

"(d) INJUNCTIVE RELIEF.—(1) When it appears to the Attorney General that any domestic concern to which this section applies, or officer, director, employee, agent, or stockholder thereof, is engaged, or about to engage, in any act or practice constituting a violation of subsection (a) of this section, the Attorney General may, in his discretion, bring a civil action in an appropriate district court of the United States to enjoin such act or practice, and upon a proper showing, a permanent injunction or a temporary restraining order shall be granted without bond. Courts, U.S.

"(2) For the purpose of any civil investigation which, in the opinion of the Attorney General, is necessary and proper to enforce this section, the Attorney General or his designee are empowered to administer oaths and affirmations, subpoena witnesses, take evidence, and require the production of any books, papers, or other documents which the Attorney General deems relevant or material to such investigation. The attendance of witnesses and the production of documentary evidence may be required from any place in the United States, or any territory, possession, or commonwealth of the United States, at any designated place of hearing.

"(3) In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Attorney General may invoke the aid of any court of the United States within the jurisdiction of which such investigation or proceeding is carried on, or where such person resides or carries on business, in requiring the attendance and testimony of witnesses and the production of books, papers, or other documents. Any such court may issue an order requiring such person to appear before the Attorney General or his designee, there to produce records, if so ordered, or to give testimony touching the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt thereof. All process in any such case may be served in the judicial district in which such person resides or may be found. The Attorney General may make such rules relating to civil investigations as may be necessary or appropriate to implement the provisions of this subsection.

"(e) GUIDELINES BY THE ATTORNEY GENERAL.—Not later than 6 months after the date of the enactment of the Foreign Corrupt Practices Act Amendments of 1988, the Attorney General, after consultation with the Securities and Exchange Commission, the Secretary of Commerce, the United States Trade Representative, the Secretary of State, and the Secretary of the Treasury, and after obtaining the views of all interested persons through public notice and comment procedures, shall determine to what extent compliance with this section would be enhanced and the business community would be assisted by further clarification of the preceding provisions of this section and may, based on such determination and to the extent necessary and appropriate, issue—

Contracts.

"(1) guidelines describing specific types of conduct, associated with common types of export sales arrangements and business contracts, which for purposes of the Department of Justice's present enforcement policy, the Attorney General determines would be in conformance with the preceding provisions of this section; and

"(2) general precautionary procedures which domestic concerns may use on a voluntary basis to conform their conduct to the Department of Justice's present enforcement policy regarding the preceding provisions of this section.

The Attorney General shall issue the guidelines and procedures referred to in the preceding sentence in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and those guidelines and procedures shall be subject to the provisions of chapter 7 of that title.

"(f) OPINIONS OF THE ATTORNEY GENERAL.—(1) The Attorney General, after consultation with appropriate departments and agencies of the United States and after obtaining the views of all interested persons through public notice and comment procedures, shall establish a procedure to provide responses to specific inquiries by domestic concerns concerning conformance of their conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section. The Attorney General shall, within 30 days after receiving such a request, issue an opinion in response to that request. The opinion shall state whether or not certain specified prospective conduct would, for purposes of the Department of Justice's present enforcement policy, violate the preceding provisions of this section. Additional requests for opinions may be filed with the Attorney General regarding other specified prospective conduct that is beyond the scope of conduct specified in previous requests. In any action brought under the applicable provisions of this section, there shall be a rebuttable presumption that conduct, which is specified in a request by a domestic concern and for which the Attorney General has issued an opinion that such conduct is in conformity with the Department of Justice's present enforcement policy, is in compliance with the preceding provisions of this section. Such a presumption may be rebutted by a preponderance of the evidence. In considering the presumption for purposes of this paragraph, a court shall weigh all relevant factors, including but not limited to whether the information submitted to the Attorney General was accurate and complete and whether it was within the scope of the conduct specified in any request received by the Attorney General. The Attorney General shall establish the procedure required by this paragraph in accordance with the provisions of subchapter II of chapter 5 of title 5, United States Code, and that procedure shall be subject to the provisions of chapter 7 of that title.

Courts, U.S.

Classified information.

"(2) Any document or other material which is provided to, received by, or prepared in the Department of Justice or any other department or agency of the United States in connection with a request by a domestic concern under the procedure established under paragraph (1), shall be exempt from disclosure under section 552 of title 5, United States Code, and shall not, except with the consent of the domestic concern, be made publicly available, regardless of whether the Attorney General responds to such a request or the domestic concern withdraws such request before receiving a response.

"(3) Any domestic concern who has made a request to the Attorney General under paragraph (1) may withdraw such request prior to the time the Attorney General issues an opinion in response to such request. Any request so withdrawn shall have no force or effect.

"(4) The Attorney General shall, to the maximum extent practicable, provide timely guidance concerning the Department of Justice's present enforcement policy with respect to the preceding provisions of this section to potential exporters and small businesses that are unable to obtain specialized counsel on issues pertaining to such provisions. Such guidance shall be limited to responses to requests under paragraph (1) concerning conformity of specified prospective conduct with the Department of Justice's present enforcement policy regarding the preceding provisions of this section and general explanations of compliance responsibilities and of potential liabilities under the preceding provisions of this section.

"(g) PENALTIES.—(1)(A) Any domestic concern that violates subsection (a) shall be fined not more than $2,000,000.

"(B) Any domestic concern that violates subsection (a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General.

"(2)(A) Any officer or director of a domestic concern, or stockholder acting on behalf of such domestic concern, who willfully violates subsection (a) shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(B) Any employee or agent of a domestic concern who is a United States citizen, national, or resident or is otherwise subject to the jurisdiction of the United States (other than an officer, director, or stockholder acting on behalf of such domestic concern), and who willfully violates subsection (a), shall be fined not more than $100,000, or imprisoned not more than 5 years, or both.

"(C) Any officer, director, employee, or agent of a domestic concern, or stockholder acting on behalf of such domestic concern, who violates subsection (a) shall be subject to a civil penalty of not more than $10,000 imposed in an action brought by the Attorney General.

"(3) Whenever a fine is imposed under paragraph (2) upon any officer, director, employee, agent, or stockholder of a domestic concern, such fine may not be paid, directly or indirectly, by such domestic concern.

"(h) DEFINITIONS.—For purposes of this section:

"(1) The term 'domestic concern' means—

"(A) any individual who is a citizen, national, or resident of the United States; and

"(B) any corporation, partnership, association, joint-stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

"(2) The term 'foreign official' means any officer or employee of a foreign government or any department, agency, or instrumentality thereof, or any person acting in an official capacity for or on behalf of any such government or department, agency, or instrumentality.

"(3)(A) A person's state of mind is 'knowing' with respect to conduct, a circumstance, or a result if—

"(i) such person is aware that such person is engaging in such conduct, that such circumstance exists, or that such result is substantially certain to occur; or

"(ii) such person has a firm belief that such circumstance exists or that such result is substantially certain to occur.

"(B) When knowledge of the existence of a particular circumstance is required for an offense, such knowledge is established if a person is aware of a high probability of the existence of such circumstance, unless the person actually believes that such circumstance does not exist.

"(4)(A) For purposes of paragraph (1), the term 'routine governmental action' means only an action which is ordinarily and commonly performed by a foreign official in—

"(i) obtaining permits, licenses, or other official documents to qualify a person to do business in a foreign country;

"(ii) processing governmental papers, such as visas and work orders;

"(iii) providing police protection, mail pick-up and delivery, or scheduling inspections associated with contract performance or inspections related to transit of goods across country;

"(iv) providing phone service, power and water supply, loading and unloading cargo, or protecting perishable products or commodities from deterioration; or

"(v) actions of a similar nature.

"(B) The term 'routine governmental action' does not include any decision by a foreign official whether, or on what terms, to award new business to or to continue business with a particular party, or any action taken by a foreign official involved in the decision-making process to encourage a decision to award new business to or continue business with a particular party.

"(5) The term 'interstate commerce' means trade, commerce, transportation, or communication among the several States, or between any foreign country and any State or between any State and any place or ship outside thereof, and such term includes the intrastate use of—

"(A) a telephone or other interstate means of communication, or

"(B) any other interstate instrumentality.".

15 USC 78dd-1 note.

(d) INTERNATIONAL AGREEMENT.—

(1) NEGOTIATIONS.—It is the sense of the Congress that the President should pursue the negotiation of an international agreement, among the members of the Organization of Economic Cooperation and Development, to govern persons from those countries concerning acts prohibited with respect to issuers and domestic concerns by the amendments made by this section. Such international agreement should include a process by which problems and conflicts associated with such acts could be resolved.

(2) REPORT TO CONGRESS.—(A) Within 1 year after the date of the enactment of this Act, the President shall submit to the Congress a report on—

(i) the progress of the negotiations referred to in paragraph (1),

(ii) those steps which the executive branch and the Congress should consider taking in the event that these

negotiations do not successfully eliminate any competitive disadvantage of United States businesses that results when persons from other countries commit the acts described in paragraph (1); and

(iii) possible actions that could be taken to promote cooperation by other countries in international efforts to prevent bribery of foreign officials, candidates, or parties in third countries.

(B) The President shall include in the report submitted under subparagraph (A)— President of U.S.

(i) any legislative recommendations necessary to give the President the authority to take appropriate action to carry out clauses (ii) and (iii) of subparagraph (A);

(ii) an analysis of the potential effect on the interests of the United States, including United States national security, when persons from other countries commit the acts described in paragraph (1); and

(iii) an assessment of the current and future role of private initiatives in curtailing such acts.

PART II—REVIEW OF CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

SEC. 5021. AUTHORITY TO REVIEW CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS.

Title VII of the Defense Production Act of 1950 (50 U.S.C. App. 2158 et seq.) is amended by adding at the end thereof the following:

"AUTHORITY TO REVIEW CERTAIN MERGERS, ACQUISITIONS, AND TAKEOVERS

"SEC. 721. (a) INVESTIGATIONS.—The President or the President's designee may make an investigation to determine the effects on national security of mergers, acquisitions, and takeovers proposed or pending on or after the date of enactment of this section by or with foreign persons which could result in foreign control of persons engaged in interstate commerce in the United States. If it is determined that an investigation should be undertaken, it shall commence no later than 30 days after receipt by the President or the President's designee of written notification of the proposed or pending merger, acquisition, or takeover as prescribed by regulations promulgated pursuant to this section. Such investigation shall be completed no later than 45 days after such determination. Defense and national security. 50 USC app. 2170.

"(b) CONFIDENTIALITY OF INFORMATION.—Any information or documentary material filed with the President or the President's designee pursuant to this section shall be exempt from disclosure under section 552 of title 5, United States Code, and no such information or documentary material may be made public, except as may be relevant to any administrative or judicial action or proceeding. Nothing in this subsection shall be construed to prevent disclosure to either House of Congress or to any duly authorized committee or subcommittee of the Congress.

"(c) ACTION BY THE PRESIDENT.—Subject to subsection (d), the President may take such action for such time as the President considers appropriate to suspend or prohibit any acquisition, merger, or takeover, of a person engaged in interstate commerce in

the United States proposed or pending on or after the date of enactment of this section by or with foreign persons so that such control will not threaten to impair the national security. The President shall announce the decision to take action pursuant to this subsection not later than 15 days after the investigation described in subsection (a) is completed. The President may direct the Attorney General to seek appropriate relief, including divestment relief, in the district courts of the United States in order to implement and enforce this section.

President of U.S.

"(d) FINDINGS OF THE PRESIDENT.—The President may exercise the authority conferred by subsection (c) only if the President finds that—

"(1) there is credible evidence that leads the President to believe that the foreign interest exercising control might take action that threatens to impair the national security, and

"(2) provisions of law, other than this section and the International Emergency Economic Powers Act (50 U.S.C. 1701-1706), do not in the President's judgment provide adequate and appropriate authority for the President to protect the national security in the matter before the President.

The provisions of subsection (d) of this section shall not be subject to judicial review.

"(e) FACTORS TO BE CONSIDERED.—For purposes of this section, the President or the President's designee may, taking into account the requirements of national security, consider among other factors—

"(1) domestic production needed for projected national defense requirements,

"(2) the capability and capacity of domestic industries to meet national defense requirements, including the availability of human resources, products, technology, materials, and other supplies and services, and

"(3) the control of domestic industries and commercial activity by foreign citizens as it affects the capability and capacity of the United States to meet the requirements of national security.

President of U.S.

"(f) REPORT TO THE CONGRESS.—If the President determines to take action under subsection (c), the President shall immediately transmit to the Secretary of the Senate and the Clerk of the House of Representatives a written report of the action which the President intends to take, including a detailed explanation of the findings made under subsection (d).

President of U.S.

"(g) REGULATIONS.—The President shall direct the issuance of regulations to carry out this section. Such regulations shall, to the extent possible, minimize paperwork burdens and shall to the extent possible coordinate reporting requirements under this section with reporting requirements under any other provision of Federal law.

"(h) EFFECT ON OTHER LAW.—Nothing in this section shall be construed to alter or affect any existing power, process, regulation, investigation, enforcement measure, or review provided by any other provision of law.".

Subtitle B—Technology

PART I—TECHNOLOGY COMPETITIVENESS

Technology Competitiveness Act.
Research and development.
15 USC 271 note.

SEC. 5101. SHORT TITLE.

This part may be cited as the "Technology Competitiveness Act".

Subpart A—National Institute of Standards and Technology

SEC. 5111. FINDINGS AND PURPOSES.

Section 1 of the Act of March 3, 1901 (15 U.S.C. 271) is amended to read as follows:

"FINDINGS AND PURPOSES

"SECTION 1. (a) The Congress finds and declares the following:

"(1) The future well-being of the United States economy depends on a strong manufacturing base and requires continual improvements in manufacturing technology, quality control, and techniques for ensuring product reliability and cost-effectiveness.

"(2) Precise measurements, calibrations, and standards help United States industry and manufacturing concerns compete strongly in world markets.

"(3) Improvements in manufacturing and product technology depend on fundamental scientific and engineering research to develop (A) the precise and accurate measurement methods and measurement standards needed to improve quality and reliability, and (B) new technological processes by which such improved methods may be used in practice to improve manufacturing and to assist industry to transfer important laboratory discoveries into commercial products.

"(4) Scientific progress, public safety, and product compatibility and standardization also depend on the development of precise measurement methods, standards, and related basic technologies.

"(5) The National Bureau of Standards since its establishment has served as the Federal focal point in developing basic measurement standards and related technologies, has taken a lead role in stimulating cooperative work among private industrial organizations in efforts to surmount technological hurdles, and otherwise has been responsible for assisting in the improvement of industrial technology.

"(6) The Federal Government should maintain a national science, engineering, and technology laboratory which provides measurement methods, standards, and associated technologies and which aids United States companies in using new technologies to improve products and manufacturing processes.

"(7) Such national laboratory also should serve industry, trade associations, State technology programs, labor organizations, professional societies, and educational institutions by disseminating information on new basic technologies including automated manufacturing processes.

"(b) It is the purpose of this Act—

"(1) to rename the National Bureau of Standards as the National Institute of Standards and Technology and to modernize and restructure that agency to augment its unique ability to enhance the competitiveness of American industry while maintaining its traditional function as lead national laboratory for providing the measurements, calibrations, and quality assurance techniques which underpin United States commerce, technological progress, improved product reliability and manufacturing processes, and public safety;

"(2) to assist private sector initiatives to capitalize on advanced technology;

"(3) to advance, through cooperative efforts among industries, universities, and government laboratories, promising research and development projects, which can be optimized by the private sector for commercial and industrial applications; and

"(4) to promote shared risks, accelerated development, and pooling of skills which will be necessary to strengthen America's manufacturing industries.".

SEC. 5112. ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES.

(a) ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES OF THE INSTITUTE.—Section 2 of the Act of March 3, 1901 (15 U.S.C. 272) is amended to read as follows:

"ESTABLISHMENT, FUNCTIONS, AND ACTIVITIES

"SEC. 2. (a) There is established within the Department of Commerce a science, engineering, technology, and measurement laboratory to be known as the National Institute of Standards and Technology (hereafter in this Act referred to as the 'Institute').

"(b) The Secretary of Commerce (hereafter in this Act referred to as the 'Secretary') acting through the Director of the Institute (hereafter in this Act referred to as the 'Director') and, if appropriate, through other officials, is authorized to take all actions necessary and appropriate to accomplish the purposes of this Act, including the following functions of the Institute—

"(1) to assist industry in the development of technology and procedures needed to improve quality, to modernize manufacturing processes, to ensure product reliability, manufacturability, functionality, and cost-effectiveness, and to facilitate the more rapid commercialization, especially by small- and medium-sized companies throughout the United States, of products based on new scientific discoveries in fields such as automation, electronics, advanced materials, biotechnology, and optical technologies;

"(2) to develop, maintain, and retain custody of the national standards of measurement, and provide the means and methods for making measurements consistent with those standards, including comparing standards used in scientific investigations, engineering, manufacturing, commerce, industry, and educational institutions with the standards adopted or recognized by the Federal Government;

Contracts.

"(3) to enter into contracts, including cooperative research and development arrangements, in furtherance of the purposes of this Act;

"(4) to provide United States industry, Government, and educational institutions with a national clearinghouse of current information, techniques, and advice for the achievement of higher quality and productivity based on current domestic and international scientific and technical development;

"(5) to assist industry in the development of measurements, measurement methods, and basic measurement technology;

"(6) to determine, compile, evaluate, and disseminate physical constants and the properties and performance of conventional and advanced materials when they are important to science,

engineering, manufacturing, education, commerce, and industry and are not available with sufficient accuracy elsewhere;

"(7) to develop a fundamental basis and methods for testing materials, mechanisms, structures, equipment, and systems, including those used by the Federal Government;

"(8) to assure the compatibility of United States national measurement standards with those of other nations;

"(9) to cooperate with other departments and agencies of the Federal Government, with industry, with State and local governments, with the governments of other nations and international organizations, and with private organizations in establishing standard practices, codes, specifications, and voluntary consensus standards;

"(10) to advise government and industry on scientific and technical problems; and

"(11) to invent, develop, and (when appropriate) promote transfer to the private sector of measurement devices to serve special national needs.

"(c) In carrying out the functions specified in subsection (b), the Secretary, acting through the Director and, if appropriate, through other appropriate officials, may, among other things—

"(1) construct physical standards;

"(2) test, calibrate, and certify standards and standard measuring apparatus;

"(3) study and improve instruments, measurement methods, and industrial process control and quality assurance techniques;

"(4) cooperate with the States in securing uniformity in weights and measures laws and methods of inspection;

"(5) cooperate with foreign scientific and technical institutions to understand technological developments in other countries better;

"(6) prepare, certify, and sell standard reference materials for use in ensuring the accuracy of chemical analyses and measurements of physical and other properties of materials;

"(7) in furtherance of the purposes of this Act, accept research associates, cash donations, and donated equipment from industry, and also engage with industry in research to develop new basic and generic technologies for traditional and new products and for improved production and manufacturing;

"(8) study and develop fundamental scientific understanding and improved measurement, analysis, synthesis, processing, and fabrication methods for chemical substances and compounds, ferrous and nonferrous metals, and all traditional and advanced materials, including processes of degradation;

"(9) investigate ionizing and nonionizing radiation and radioactive substances, their uses, and ways to protect people, structures, and equipment from their harmful effects;

"(10) determine the atomic and molecular structure of matter, through analysis of spectra and other methods, to provide a basis for predicting chemical and physical structures and reactions and for designing new materials and chemical substances, including biologically active macromolecules;

"(11) perform research on electromagnetic waves, including optical waves, and on properties and performance of electrical, electronic, and electromagnetic devices and systems and their essential materials, develop and maintain related standards,

and disseminate standard signals through broadcast and other means;

"(12) develop and test standard interfaces, communication protocols, and data structures for computer and related telecommunications systems;

"(13) study computer systems (as that term is defined in section 20(d) of this Act) and their use to control machinery and processes;

"(14) perform research to develop standards and test methods to advance the effective use of computers and related systems and to protect the information stored, processed, and transmitted by such systems and to provide advice in support of policies affecting Federal computer and related telecommunications systems;

"(15) determine properties of building materials and structural elements, and encourage their standardization and most effective use, including investigation of fire-resisting properties of building materials and conditions under which they may be most efficiently used, and the standardization of types of appliances for fire prevention;

"(16) undertake such research in engineering, pure and applied mathematics, statistics, computer science, materials science, and the physical sciences as may be necessary to carry out and support the functions specified in this section;

"(17) compile, evaluate, publish, and otherwise disseminate general, specific and technical data resulting from the performance of the functions specified in this section or from other sources when such data are important to science, engineering, or industry, or to the general public, and are not available elsewhere;

"(18) collect, create, analyze, and maintain specimens of scientific value;

"(19) operate national user facilities;

"(20) evaluate promising inventions and other novel technical concepts submitted by inventors and small companies and work with other Federal agencies, States, and localities to provide appropriate technical assistance and support for those inventions which are found in the evaluation process to have commercial promise;

"(21) demonstrate the results of the Institute's activities by exhibits or other methods of technology transfer, including the use of scientific or technical personnel of the Institute for part-time or intermittent teaching and training activities at educational institutions of higher learning as part of and incidental to their official duties; and

"(22) undertake such other activities similar to those specified in this subsection as the Director determines appropriate.".

15 USC 1532.

(b) OTHER FUNCTIONS OF SECRETARY.—The Secretary of Commerce is authorized to—

(1) conduct research on all of the telecommunications sciences, including wave propagation and reception, the conditions which affect electromagnetic wave propagation and reception, electromagnetic noise and interference, radio system characteristics, operating techniques affecting the use of the electromagnetic spectrum, and methods for improving the use of the electromagnetic spectrum for telecommunications purposes;

(2) prepare and issue predictions of electromagnetic wave propagation conditions and warnings of disturbances in such conditions;

(3) investigate conditions which affect the transmission of radio waves from their source to a receiver and the compilation and distribution of information on such transmission of radio waves as a basis for choice of frequencies to be used in radio operations;

(4) conduct research and analysis in the general field of telecommunications sciences in support of assigned functions and in support of other Government agencies;

(5) investigate nonionizing electromagnetic radiation and its uses, as well as methods and procedures for measuring and assessing electromagnetic environments, for the purpose of developing and coordinating policies and procedures affecting Federal Government use of the electromagnetic spectrum for telecommunications purposes;

(6) compile, evaluate, publish, and otherwise disseminate general scientific and technical data resulting from the performance of the functions specified in this section or from other sources when such data are important to science, engineering, or industry, or to the general public, and are not available elsewhere; and

(7) undertake such other activities similar to those specified in this subsection as the Secretary of Commerce determines appropriate.

(c) DIRECTOR OF INSTITUTE.—(1) Section 5 of the Act of March 3, 1901 (15 U.S.C. 274) is amended to read as follows:

"SEC. 5. The Director shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall have the general supervision of the Institute, its equipment, and the exercise of its functions. The Director shall make an annual report to the Secretary of Commerce. The Director may issue, when necessary, bulletins for public distribution, containing such information as may be of value to the public or facilitate the exercise of the functions of the Institute. The Director shall be compensated at the rate in effect for level IV of the Executive Schedule under section 5315 of title 5, United States Code. Until such time as the Director assumes office under this section, the most recent Director of the National Bureau of Standards shall serve as Director.". President of U.S. Reports.

(2) Section 5315 of title 5, United States Code, is amended by striking "National Bureau of Standards" and inserting in lieu thereof "National Institute of Standards and Technology".

(d) ORGANIZATION PLAN.—(1) At least 60 days before its effective date and within 120 days after the date of the enactment of this Act, an initial organization plan for the National Institute of Standards and Technology (hereafter in this part referred to as the "Institute") shall be submitted by the Director of the Institute (hereafter in this part referred to as the "Director") after consultation with the Visiting Committee on Advanced Technology, to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate. Such plan shall— 15 USC 272 note.

(A) establish the major operating units of the Institute;

(B) assign each of the activities listed in section 2(c) of the Act of March 3, 1901, and all other functions and activities of the

Institute, to at least one of the major operating units established under subparagraph (A);

(C) provide details of a 2-year program for the Institute, including the Advanced Technology Program;

(D) provide details regarding how the Institute will expand and fund the Inventions program in accordance with section 27 of the Act of March 3, 1901; and

(E) make no changes in the Center for Building Technology or the Center for Fire Research.

(2) The Director may revise the organization plan. Any revision of the organization plan submitted under paragraph (1) shall be submitted to the appropriate committees of the House of Representatives and the Senate at least 60 days before the effective date of such revision.

(3) Until the effective date of the organization plan, the major operating units of the Institute shall be the major operating units of the National Bureau of Standards that were in existence on the date of the enactment of this Act and the Advanced Technology Program.

SEC. 5113. REPEAL OF PROVISIONS.

The second paragraph of the material relating to the Bureau of Standards in the first section of the Act of July 16, 1914 (15 U.S.C. 280), the last paragraph of the material relating to Contingent and Miscellaneous Expenses in the first section of the Act of March 4, 1913 (15 U.S.C. 281), and the first section of the Act of May 14, 1930 (15 U.S.C. 282) are repealed.

SEC. 5114. REPORTS TO CONGRESS; STUDIES BY THE NATIONAL ACADEMIES OF ENGINEERING AND SCIENCES.

15 USC 271 note.

The Act of March 3, 1901 (15 U.S.C. 271 et seq.) is amended—

(1) by redesignating section 23 as section 31; and

(2) by adding after section 22 the following new sections:

"REPORTS TO CONGRESS

15 USC 278i.

"SEC. 23. (a) The Director shall keep the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives fully and currently informed with regard to all of the activities of the Institute.

"(b) The Director shall justify in writing all changes in policies regarding fees for standard reference materials and calibration services occurring after June 30, 1987, including a description of the anticipated impact of any proposed changes on demand for and anticipated revenues from the materials and services. Changes in policy and fees shall not be effective unless and until the Director has submitted the proposed schedule and justification to the Congress and 30 days on which both Houses of Congress are in session have elapsed since such submission, except that the requirement of this sentence shall not apply with respect to adjustments which are based solely on changes in the costs of raw materials or of producing and delivering standard reference materials or calibration services.

"STUDIES BY THE NATIONAL RESEARCH COUNCIL

Contracts.
15 USC 278j.

"SEC. 24. The Director may periodically contract with the National Research Council for advice and studies to assist the Institute

to serve United States industry and science. The subjects of such advice and studies may include—

"(1) the competitive position of the United States in key areas of manufacturing and emerging technologies and research activities which would enhance that competitiveness;

"(2) potential activities of the Institute, in cooperation with industry and the States, to assist in the transfer and dissemination of new technologies for manufacturing and quality assurance; and

"(3) identification and assessment of likely barriers to widespread use of advanced manufacturing technology by the United States workforce, including training and other initiatives which could lead to a higher percentage of manufacturing jobs of United States companies being located within the borders of our country.".

SEC. 5115. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO ORGANIC ACT.—(1) Except as provided in paragraph (2), the Act of March 3, 1901 (15 U.S.C. 271 et seq.) is amended by striking "National Bureau of Standards", "Bureau" and "bureau" wherever they appear and inserting in lieu thereof "Institute".

(2) Section 31 of such Act, as so redesignated by section 5114(1) of this part, is amended by striking "National Bureau of Standards" and inserting in lieu thereof "National Institute of Standards and Technology".

(b) AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980.—(1) Section 8(b) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122 of this part, is amended by striking "Director" and inserting in lieu thereof "Assistant Secretary". 15 USC 3706.

(2) Sections 11(e) and 17(d) and (e) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, are amended— 15 USC 3710, 3711a.

(A) by striking "National Bureau of Standards" wherever it appears and inserting in lieu thereof "National Institute of Standards and Technology"; and

(B) by striking "Bureau" wherever it appears and inserting in lieu thereof "Institute".

(c) AMENDMENTS TO OTHER LAWS.—References in any other Federal law to the National Bureau of Standards shall be deemed to refer to the National Institute of Standards and Technology. 15 USC 271 note.

Subpart B—Technology Extension Activities and Clearinghouse on State and Local Initiatives

SEC. 5121. TECHNOLOGY EXTENSION ACTIVITIES.

(a) TECHNOLOGY CENTERS AND TECHNICAL ASSISTANCE.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 24 the following new sections:

"REGIONAL CENTERS FOR THE TRANSFER OF MANUFACTURING TECHNOLOGY

"SEC. 25. (a) The Secretary, through the Director and, if appropriate, through other officials, shall provide assistance for the creation and support of Regional Centers for the Transfer of Manu- 15 USC 278k.

facturing Technology (hereafter in this Act referred to as the 'Centers'). Such centers shall be affiliated with any United States-based nonprofit institution or organization, or group thereof, that applies for and is awarded financial assistance under this section in accordance with the description published by the Secretary in the Federal Register under subsection (c)(2). Individual awards shall be decided on the basis of merit review. The objective of the Centers is to enhance productivity and technological performance in United States manufacturing through—

"(1) the transfer of manufacturing technology and techniques developed at the Institute to Centers and, through them, to manufacturing companies throughout the United States;

Schools and colleges.

"(2) the participation of individuals from industry, universities, State governments, other Federal agencies, and, when appropriate, the Institute in cooperative technology transfer activities;

"(3) efforts to make new manufacturing technology and processes usable by United States-based small- and medium-sized companies;

"(4) the active dissemination of scientific, engineering, technical, and management information about manufacturing to industrial firms, including small- and medium-sized manufacturing companies; and

"(5) the utilization, when appropriate, of the expertise and capability that exists in Federal laboratories other than the Institute.

"(b) The activities of the Centers shall include—

"(1) the establishment of automated manufacturing systems and other advanced production technologies, based on research by the Institute, for the purpose of demonstrations and technology transfer;

"(2) the active transfer and dissemination of research findings and Center expertise to a wide range of companies and enterprises, particularly small- and medium-sized manufacturers; and

"(3) loans, on a selective, short-term basis, of items of advanced manufacturing equipment to small manufacturing firms with less than 100 employees.

"(c)(1) The Secretary may provide financial support to any Center created under subsection (a) for a period not to exceed six years. The Secretary may not provide to a Center more than 50 percent of the capital and annual operating and maintenance funds required to create and maintain such Center.

Federal Register, publication.

"(2) The Secretary shall publish in the Federal Register, within 90 days after the date of the enactment of this section, a draft description of a program for establishing Centers, including—

"(A) a description of the program;

"(B) procedures to be followed by applicants;

"(C) criteria for determining qualified applicants;

"(D) criteria, including those listed under paragraph (4), for choosing recipients of financial assistance under this section from among the qualified applicants; and

"(E) maximum support levels expected to be available to Centers under the program in the fourth through sixth years of assistance under this section.

The Secretary shall publish a final description under this paragraph after the expiration of a 30-day comment period.

"(3) Any nonprofit institution, or group thereof, or consortia of nonprofit institutions, including entities existing on the date of the enactment of this section, may submit to the Secretary an application for financial support under this subsection, in accordance with the procedures established by the Secretary and published in the Federal Register under paragraph (2). In order to receive assistance under this section, an applicant shall provide adequate assurances that it will contribute 50 percent or more of the proposed Center's capital and annual operating and maintenance costs for the first three years and an increasing share for each of the last three years. Each applicant shall also submit a proposal for the allocation of the legal rights associated with any invention which may result from the proposed Center's activities.

"(4) The Secretary shall subject each such application to merit review. In making a decision whether to approve such application and provide financial support under this subsection, the Secretary shall consider at a minimum (A) the merits of the application, particularly those portions of the application regarding technology transfer, training and education, and adaptation of manufacturing technologies to the needs of particular industrial sectors, (B) the quality of service to be provided, (C) geographical diversity and extent of service area, and (D) the percentage of funding and amount of in-kind commitment from other sources.

"(5) Each Center which receives financial assistance under this section shall be evaluated during its third year of operation by an evaluation panel appointed by the Secretary. Each such evaluation panel shall be composed of private experts, none of whom shall be connected with the involved Center, and Federal officials. An official of the Institute shall chair the panel. Each evaluation panel shall measure the involved Center's performance against the objectives specified in this section. The Secretary shall not provide funding for the fourth through the sixth years of such Center's operation unless the evaluation is positive. If the evaluation is positive, the Secretary may provide continued funding through the sixth year at declining levels, which are designed to ensure that the Center no longer needs financial support from the Institute by the seventh year. In no event shall funding for a Center be provided by the Department of Commerce after the sixth year of the operation of a Center.

"(6) The provisions of chapter 18 of title 35, United States Code, shall (to the extent not inconsistent with this section) apply to the promotion of technology from research by Centers under this section.

"(d) There are authorized to be appropriated for the purposes of carrying out this section, a combined total of not to exceed $40,000,000 for fiscal years 1989 and 1990. Such sums shall remain available until expended.

Appropriation authorization.

"ASSISTANCE TO STATE TECHNOLOGY PROGRAMS

"SEC. 26. (a) In addition to the Centers program created under section 25, the Secretary, through the Director and, if appropriate, through other officials, shall provide technical assistance to State technology programs throughout the United States, in order to help those programs help businesses, particularly small- and medium-sized businesses, to enhance their competitiveness through the application of science and technology.

15 USC 278*l*.

"(b) Such assistance from the Institute to State technology programs shall include, but not be limited to—

"(1) technical information and advice from Institute personnel;

"(2) workshops and seminars for State officials interested in transferring Federal technology to businesses; and

Contracts.

"(3) entering into cooperative agreements when authorized to do so under this or any other Act.".

15 USC 278*l* note.

(b) TECHNOLOGY EXTENSION SERVICES.—(1) The Secretary shall conduct a nationwide study of current State technology extension services. The study shall include—

(A) a thorough description of each State program, including its duration, its annual budget, and the number and types of businesses it has aided;

(B) a description of any anticipated expansion of each State program and its associated costs;

(C) an evaluation of the success of the services in transferring technology, modernizing manufacturing processes, and improving the productivity and profitability of businesses;

(D) an assessment of the degree to which State services make use of Federal programs, including the Small Business Innovative Research program and the programs of the Federal Laboratory Consortium, the National Technical Information Service, the National Science Foundation, the Office of Productivity, Technology, and Innovation, and the Small Business Administration;

(E) a survey of what additional Federal information and technical assistance the services could utilize; and

(F) an assessment of how the services could be more effective agents for the transfer of Federal scientific and technical information, including the results and application of Federal and federally funded research.

The Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate, at the time of submission of the organization plan for the Institute under section 5112(d)(1), the results of the study and an initial implementation plan for the programs under section 26 of the Act of March 3, 1901, and under this section. The implementation plan shall include methods of providing technical assistance to States and criteria for awarding financial assistance under this section. The Secretary may make use of contractors and experts for any or all of the studies and findings called for in this section.

Contracts.

(2)(A) The Institute shall enter into cooperative agreements with State technology extension services to—

(i) demonstrate methods by which the States can, in cooperation with Federal agencies, increase the use of Federal technology by businesses within their States to improve industrial competitiveness; or

(ii) help businesses in their States take advantage of the services and information offered by the Regional Centers for the Transfer of Manufacturing Technology created under section 25 of the Act of March 3, 1901.

(B) Any State, for itself or for a consortium of States, may submit to the Secretary an application for a cooperative agreement under this subsection, in accordance with procedures established by the Secretary. To qualify for a cooperative agreement under this subsec-

tion, a State shall provide adequate assurances that it will increase its spending on technology extension services by an amount at least equal to the amount of Federal assistance.

(C) In evaluating each application, the Secretary shall consider—

(i) the number and types of additional businesses that will be assisted under the cooperative agreement;

(ii) the extent to which the State extension service will demonstrate new methods to increase the use of Federal technology;

(iii) geographic diversity; and

(iv) the ability of the State to maintain the extension service after the cooperative agreement has expired.

(D) States which are party to cooperative agreements under this subsection may provide services directly or may arrange for the provision of any or all of such services by institutions of higher education or other non-profit institutions or organizations.

(3) In carrying out section 26 of the Act of March 3, 1901, and this subsection, the Secretary shall coordinate the activities with the Federal Laboratory Consortium; the National Technical Information Service; the National Science Foundation; the Office of Productivity, Technology, and Innovation; the Small Business Administration; and other appropriate Federal agencies.

(4) There are authorized to be appropriated for the purposes of this subsection $2,000,000 for each of the fiscal years 1989, 1990, and 1991. Appropriation authorization.

(5) Cooperative agreements entered into under paragraph (2) shall terminate no later than September 30, 1991. Contracts. Termination date

(c) FEDERAL TECHNOLOGY TRANSFER ACT OF 1986.—Nothing in sections 25 or 26 of the Act of March 3, 1901, or in subsection (b) of this section shall be construed as limiting the authorities contained in the Federal Technology Transfer Act of 1986 (Public Law 99-502). 15 USC 278l note.

(d) NON-ENERGY INVENTIONS PROGRAM.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 26 the following new section:

"NON-ENERGY INVENTIONS PROGRAM

"SEC. 27. In conjunction with the initial organization of the Institute, the Director shall establish a program for the evaluation of inventions that are not energy-related to complement but not replace the Energy-Related Inventions Program established under section 14 of the Federal Nonnuclear Energy Research and Development Act of 1974 (Public Law 93-577). The Director shall submit an initial implementation plan for this program to accompany the organization plan for the Institute. The implementation plan shall include specific cost estimates, implementation schedules, and mechanisms to help finance the development of technologies the program has determined to have potential. In the preparation of the plan, the Director shall consult with appropriate Federal agencies, including the Small Business Administration and the Department of Energy, State and local government organizations, university officials, and private sector organizations in order to obtain advice on how those agencies and organizations might cooperate with the expansion of this program of the Institute.". 15 USC 278m.

SEC. 5122. CLEARINGHOUSE ON STATE AND LOCAL INITIATIVES.

(a) CLEARINGHOUSE.—The Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701 et seq.) is amended—

15 USC 3705–3708, 3710–3710d, 3711, 3711a, 3712–3714.

(1) by redesignating sections 6 through 19 as sections 7 through 20, respectively; and

(2) by inserting after section 5 the following new section:

15 USC 3704a.

"SEC. 6. CLEARINGHOUSE FOR STATE AND LOCAL INITIATIVES ON PRODUCTIVITY, TECHNOLOGY, AND INNOVATION.

"(a) ESTABLISHMENT.—There is established within the Office of Productivity, Technology, and Innovation a Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation. The Clearinghouse shall serve as a central repository of information on initiatives by State and local governments to enhance the competitiveness of American business through the stimulation of productivity, technology, and innovation and Federal efforts to assist State and local governments to enhance competitiveness.

"(b) RESPONSIBILITIES.—The Clearinghouse may—

"(1) establish relationships with State and local governments, and regional and multistate organizations of such governments, which carry out such initiatives;

"(2) collect information on the nature, extent, and effects of such initiatives, particularly information useful to the Congress, Federal agencies, State and local governments, regional and multistate organizations of such governments, businesses, and the public throughout the United States;

"(3) disseminate information collected under paragraph (2) through reports, directories, handbooks, conferences, and seminars;

"(4) provide technical assistance and advice to such governments with respect to such initiatives, including assistance in determining sources of assistance from Federal agencies which may be available to support such initiatives;

"(5) study ways in which Federal agencies, including Federal laboratories, are able to use their existing policies and programs to assist State and local governments, and regional and multistate organizations of such governments, to enhance the competitiveness of American business;

"(6) make periodic recommendations to the Secretary, and to other Federal agencies upon their request, concerning modifications in Federal policies and programs which would improve Federal assistance to State and local technology and business assistance programs;

"(7) develop methodologies to evaluate State and local programs, and, when requested, advise State and local governments, and regional and multistate organizations of such governments, as to which programs are most effective in enhancing the competitiveness of American business through the stimulation of productivity, technology, and innovation; and

"(8) make use of, and disseminate, the nationwide study of State industrial extension programs conducted by the Secretary.

"(c) CONTRACTS.—In carrying out subsection (b), the Secretary may enter into contracts for the purpose of collecting information on the nature, extent, and effects of initiatives.

"(d) TRIENNIAL REPORT.—The Secretary shall prepare and transmit to the Congress once each 3 years a report on initiatives by State and local governments to enhance the competitiveness of American businesses through the stimulation of productivity, technology, and innovation. The report shall include recommendations to the Presi-

dent, the Congress, and to Federal agencies on the appropriate Federal role in stimulating State and local efforts in this area. The first of these reports shall be transmitted to the Congress before January 1, 1989.".

(b) DEFINITION.—Section 4 of such Act is amended by adding at the end thereof the following new paragraph: 15 USC 3703.

"(13) 'Clearinghouse' means the Clearinghouse for State and Local Initiatives on Productivity, Technology, and Innovation established by section 6.".

(c) CONFORMING AMENDMENT.—Section 10(d) of such Act, as so redesignated by section 5122(a)(1) of this part, is amended by striking "6, 8, 10, 14, 16, or 17" and inserting in lieu thereof "7, 9, 11, 15, 17, or 18". 15 USC 3708.

Subpart C—Advanced Technology Program

SEC. 5131. ADVANCED TECHNOLOGY.

(a) ADVANCED TECHNOLOGY PROGRAM.—The Act of March 3, 1901, as amended by this part, is further amended by adding after section 27 the following new section:

"ADVANCED TECHNOLOGY PROGRAM

"SEC. 28. (a) There is established in the Institute an Advanced Technology Program (hereafter in this Act referred to as the 'Program') for the purpose of assisting United States businesses in creating and applying the generic technology and research results necessary to— 15 USC 278n.

"(1) commercialize significant new scientific discoveries and technologies rapidly; and

"(2) refine manufacturing technologies.

The Secretary, acting through the Director, shall assure that the Program focuses on improving the competitive position of the United States and its businesses, gives preference to discoveries and to technologies that have great economic potential, and avoids providing undue advantage to specific companies.

"(b) Under the Program established in subsection (a), and consistent with the mission and policies of the Institute, the Secretary, acting through the Director, and subject to subsections (c) and (d), may—

"(1) aid United States joint research and development ventures (hereafter in this section referred to as 'joint ventures') (which may also include universities and independent research organizations), including those involving collaborative technology demonstration projects which develop and test prototype equipment and processes, through—

"(A) provision of organizational and technical advice; and

"(B) participation in such joint ventures, if the Secretary, acting through the Director, determines participation to be appropriate, which may include (i) partial start-up funding, (ii) provision of a minority share of the cost of such joint ventures for up to 5 years, and (iii) making available equipment, facilities, and personnel,

provided that emphasis is placed on areas where the Institute has scientific or technological expertise, on solving generic problems of specific industries, and on making those industries more competitive in world markets;

Contracts.

"(2) enter into contracts and cooperative agreements with United States businesses, especially small businesses, and with independent research organizations, provided that emphasis is placed on applying the Institute's research, research techniques, and expertise to those organizations' research programs;

"(3) involve the Federal laboratories in the Program, where appropriate, using among other authorities the cooperative research and development agreements provided for under section 12 of the Stevenson-Wydler Technology Innovation Act of 1980; and

"(4) carry out, in a manner consistent with the provisions of this section, such other cooperative research activities with joint ventures as may be authorized by law or assigned to the Program by the Secretary.

"(c) The Secretary, acting through the Director, is authorized to take all actions necessary and appropriate to establish and operate the Program, including—

Federal Register, publication.

"(1) publishing in the Federal Register draft criteria and, no later than six months after the date of the enactment of this section, following a public comment period, final criteria, for the selection of recipients of assistance under subsection (b) (1) and (2);

Reports.

"(2) monitoring how technologies developed in its research program are used, and reporting annually to the Congress on the extent of any overseas transfer of these technologies;

Contracts.

"(3) establishing procedures regarding financial reporting and auditing to ensure that contracts and awards are used for the purposes specified in this section, are in accordance with sound accounting practices, and are not funding existing or planned research programs that would be conducted in the same time period in the absence of financial assistance under the Program;

"(4) assuring that the advice of the Committee established under section 10 is considered routinely in carrying out the responsibilities of the Institute; and

"(5) providing for appropriate dissemination of Program research results.

Contracts.

"(d) When entering into contracts or making awards under subsection (b), the following shall apply:

"(1) No contract or award may be made until the research project in question has been subject to a merit review, and has, in the opinion of the reviewers appointed by the Director and the Secretary, acting through the Director, been shown to have scientific and technical merit.

"(2) In the case of joint ventures, the Program shall not make an award unless, in the judgment of the Secretary, acting through the Director, Federal aid is needed if the industry in question is to form a joint venture quickly.

"(3) No Federal contract or cooperative agreement under subsection (b)(2) shall exceed $2,000,000 over 3 years, or be for more than 3 years unless a full and complete explanation of such proposed award, including reasons for exceeding these limits, is submitted in writing by the Secretary to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. The proposed contract or cooperative agreement may be executed only after 30 calendar days on which both Houses of Congress are in session have elapsed since such submission. Federal funds made available under subsec-

tion (b)(2) shall be used only for direct costs and not for indirect costs, profits, or management fees of the contractor.

"(4) In determining whether to make an award to a particular joint venture, the Program shall consider whether the members of the joint venture have made provisions for the appropriate participation of small United States businesses in such joint venture.

"(5) Section 552 of title 5, United States Code, shall not apply to the following information obtained by the Federal Government on a confidential basis in connection with the activities of any business or any joint venture receiving funding under the Program— Classified information.

"(A) information on the business operation of any member of the business or joint venture; and

"(B) trade secrets possessed by any business or any member of the joint venture.

"(6) Intellectual property owned and developed by any business or joint venture receiving funding or by any member of such a joint venture may not be disclosed by any officer or employee of the Federal Government except in accordance with a written agreement between the owner or developer and the Program. Copyrights. Patents and trademarks. Classified information.

"(7) The Federal Government shall be entitled to a share of the licensing fees and royalty payments made to and retained by any business or joint venture to which it contributes under this section in an amount proportional to the Federal share of the costs incurred by the business or joint venture as determined by independent audit.

"(8) If a business or joint venture fails before the completion of the period for which a contract or award has been made, after all allowable costs have been paid and appropriate audits conducted, the unspent balance of the Federal funds shall be returned by the recipient to the Program.

"(9) Upon dissolution of any joint venture or at the time otherwise agreed upon, the Federal Government shall be entitled to a share of the residual assets of the joint venture proportional to the Federal share of the costs of the joint venture as determined by independent audit.

"(e) As used in this section, the term 'joint research and development venture' has the meaning given to such term in section 2(a)(6) of the National Cooperative Research Act of 1984 (15 U.S.C. 4301(a)(6))."

(b) VISITING COMMITTEE ON ADVANCED TECHNOLOGY.—Section 10 of the Act of March 3, 1901, is amended to read as follows:

"VISITING COMMITTEE ON ADVANCED TECHNOLOGY

"SEC. 10. (a) There is established within the Institute a Visiting Committee on Advanced Technology (hereafter in this Act referred to as the 'Committee'). The Committee shall consist of nine members appointed by the Director, at least five of whom shall be from United States industry. The Director shall appoint as original members of the Committee any final members of the National Bureau of Standards Visiting Committee who wish to serve in such capacity. In addition to any powers and functions otherwise granted to it by this Act, the Committee shall review and make recommendations regarding general policy for the Institute, its organization, its Establishment. 15 USC 278.

budget, and its programs within the framework of applicable national policies as set forth by the President and the Congress.

"(b) The persons appointed as members of the Committee—

"(1) shall be eminent in fields such as business, research, new product development, engineering, labor, education, management consulting, environment, and international relations;

"(2) shall be selected solely on the basis of established records of distinguished service;

"(3) shall not be employees of the Federal Government; and

"(4) shall be so selected as to provide representation of a cross-section of the traditional and emerging United States industries.

The Director is requested, in making appointments of persons as members of the Committee, to give due consideration to any recommendations which may be submitted to the Director by the National Academies, professional societies, business associations, labor associations, and other appropriate organizations.

"(c)(1) The term of office of each member of the Committee, other than the original members, shall be 3 years; except that any member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed shall be appointed for the remainder of such term. Any person who has completed two consecutive full terms of service on the Committee shall thereafter be ineligible for appointment during the one-year period following the expiration of the second such term.

"(2) The original members of the Committee shall be elected to three classes of three members each; one class shall have a term of one year, one a term of two years, and the other a term of three years.

"(d) The Committee shall meet at least quarterly at the call of the Chairman or whenever one-third of the members so request in writing. A majority of the members of the Committee not having a conflict of interest in the matter being considered by the Committee shall constitute a quorum. Each member shall be given appropriate notice, whenever possible, not less than 15 days prior to any meeting, of the call of such meeting.

"(e) The Committee shall have an executive committee, and may delegate to it or to the Secretary such of the powers and functions granted to the Committee by this Act as it deems appropriate. The Committee is authorized to appoint from among its members such other committees as it deems necessary, and to assign to committees so appointed such survey and advisory functions as the Committee deems appropriate to assist it in exercising its powers and functions under this Act.

"(f) The election of the Chairman and Vice Chairman of the Committee shall take place at each annual meeting occurring in an even-numbered year. The Vice Chairman shall perform the duties of the Chairman in his absence. In case a vacancy occurs in the chairmanship or vice chairmanship, the Committee shall elect a member to fill such vacancy.

"(g) The Committee may, with the concurrence of a majority of its members, permit the appointment of a staff consisting of not more than four professional staff members and such clerical staff members as may be necessary. Such staff shall be appointed by the Director, after consultation with the Chairman of the Committee, and assigned at the direction of the Committee. The professional members of such staff may be appointed without regard to the

provisions of title 5, United States Code, governing appointments in the competitive service and the provisions of chapter 51 of title 5 of such Code relating to classification, and compensated at a rate not exceeding the appropriate rate provided for individuals in grade GS-18 of the General Schedule under section 5332 of title 5 of such Code, as may be necessary to provide for the performance of such duties as may be prescribed by the Committee in connection with the exercise of its powers and functions under this Act.

"(h)(1) The Committee shall render an annual report to the Secretary for submission to the Congress on or before January 31 in each year. Such report shall deal essentially, though not necessarily exclusively, with policy issues or matters which affect the Institute, including the Program established under section 28, or with which the Committee in its official role as the private sector policy advisor of the Institute is concerned. Each such report shall identify areas of research and research techniques of the Institute of potential importance to the long-term competitiveness of United States industry, in which the Institute possesses special competence, which could be used to assist United States enterprises and United States industrial joint research and development ventures. Reports.

"(2) The Committee shall render to the Secretary and the Congress such additional reports on specific policy matters as it deems appropriate.". Reports.

(c) NATIONAL ACADEMIES OF SCIENCES AND ENGINEERING STUDY OF GOVERNMENT-INDUSTRY COOPERATION IN CIVILIAN TECHNOLOGY.—(1) Within 90 days after the date of enactment of this Act, the Secretary of Commerce shall enter into contracts with the National Academies of Sciences and Engineering for a thorough review of the various types of arrangements under which the private sector in the United States and the Federal Government cooperate in civilian research and technology transfer, including activities to create or apply generic, nonproprietary technologies. The purpose of the review is to provide the Secretary and Congress with objective information regarding the uses, strengths, and limitations of the various types of cooperative technology arrangements that have been used in the United States. The review is to provide both an analysis of the ways in which these arrangements can help improve the technological performance and international competitiveness of United States industry, and also to provide the Academies' recommendations regarding ways to improve the effectiveness and efficiency of these types of cooperative arrangements. A special emphasis shall be placed on discussions of these subjects among industry leaders, labor leaders, and officials of the executive branch and Congress. The Secretary is authorized to seek and accept funding for this study from both Federal agencies and private industry. Contracts. 15 USC 278n note.

(2) The members of the review panel shall be drawn from among industry and labor leaders, entrepreneurs, former government officials with great experience in civilian research and technology, and scientific and technical experts, including experts with experience with Federal laboratories.

(3) The review shall analyze the strengths and weaknesses of different types of Federal-industry cooperative arrangements in civilian technology, including but not limited to—

(A) Federal programs which provide technical services and information to United States companies;

(B) cooperation between Federal laboratories and United States companies, including activities under the Technology Share Program created by Executive Order 12591;

(C) Federal research and technology transfer arrangements with selected business sectors;

(D) Federal encouragement of, and assistance to, private joint research and development ventures; and

(E) such other mechanisms of Federal-industry cooperation as may be identified by the Secretary.

Reports.

(4) A report based on the findings and recommendations of the review panel shall be submitted to the Secretary, the President, and Congress within 18 months after the Secretary signs the contracts with the National Academies of Sciences and Engineering.

Subpart D—Technology Reviews

SEC. 5141. REPORT OF PRESIDENT.

The President shall, at the time of submission of the budget request for fiscal year 1990 to Congress, also submit to the Congress a report on—

(1) the President's policies and budget proposals regarding Federal research in semiconductors and semiconductor manufacturing technology, including a discussion of the respective roles of the various Federal departments and agencies in such research;

(2) the President's policies and budget proposals regarding Federal research and acquisition policies for fiber optics and optical-electronic technologies generally;

(3) the President's policies and budget proposals, identified by agency, regarding superconducting materials, including descriptions of research priorities, the scientific and technical barriers to commercialization which such research is designed to overcome, steps taken to ensure coordination among Federal agencies conducting research on superconducting materials, and steps taken to consult with private United States industry and to ensure that no unnecessary duplication of research exists and that all important scientific and technical barriers to the commercialization of superconducting materials will be addressed; and

(4) the President's policies and budget proposals, identified by agency, regarding Federal research to assist United States industry to develop and apply advanced manufacturing technologies for the production of durable and nondurable goods.

SEC. 5142. SEMICONDUCTOR RESEARCH AND DEVELOPMENT.

National Advisory Committee on Semiconductor Research and Development Act of 1988.
15 USC 4632.

(a) SHORT TITLE.—This section may be cited as the "National Advisory Committee on Semiconductor Research and Development Act of 1988".

(b) FINDINGS AND PURPOSES.—(1) The Congress finds and declares that—

(A) semiconductor technology is playing an ever-increasing role in United States industrial and commercial products and processes, making secure domestic sources of state-of-the-art semiconductors highly desirable;

(B) modern weapons systems are highly dependent on leading edge semiconductor devices, and it is counter to the national

security interest to be heavily dependent upon foreign sources for this technology;

(C) governmental responsibilities related to the semiconductor industry are divided among many Federal departments and agencies; and

(D) joint industry-government consideration of semiconductor industry problems is needed at this time.

(2) The purposes of this section are—

(A) to establish the National Advisory Committee on Semiconductors; and

(B) to assign to such Committee the responsibility for devising and promulgating a national semiconductor strategy, including research and development, the implementation of which will assure the continued leadership of the United States in semiconductor technology.

(c) CREATION OF COMMITTEE.—There is hereby created in the executive branch of the Government an independent advisory body to be known as the National Advisory Committee on Semiconductors (hereafter in this section referred to as the "Committee").

(d) FUNCTIONS.—(1) The Committee shall—

(A) collect and analyze information on the needs and capabilities of industry, the Federal Government, and the scientific and research communities related to semiconductor technology;

(B) identify the components of a successful national semiconductor strategy in accordance with subsection (b)(2)(B);

(C) analyze options, establish priorities, and recommend roles for participants in the national strategy;

(D) assess the roles for government and national laboratories and other laboratories supported largely for government purposes in contributing to the semiconductor technology base of the Nation, as well as to access the effective use of the resources of United States private industry, United States universities, and private-public research and development efforts; and

(E) provide results and recommendations to agencies of the Federal Government involved in legislative, policymaking, administrative, management, planning, and technology activities that affect or are part of a national semiconductor strategy, and to the industry and other nongovernmental groups or organizations affected by or contributing to that strategy.

(2) In fulfilling this responsibility, the Committee shall—

(A) monitor the competitiveness of the United States semiconductor technology base;

(B) determine technical areas where United States semiconductor technology is deficient relative to international competition;

(C) identify new or emerging semiconductor technologies that will impact the national defense or United States competitiveness or both;

(D) develop research and development strategies, tactics, and plans whose execution will assure United States semiconductor competitiveness; and

(E) recommend appropriate actions that support the national semiconductor strategy.

(e) MEMBERSHIP AND PROCEDURES.—(1)(A) The Committee shall be composed of 13 members, 7 of whom shall constitute a quorum.

(B) The Secretary of Defense, the Secretary of Commerce, the Secretary of Energy, the Director of the Office of Science and

Technology Policy, and the Director of the National Science Foundation, or their designees, shall serve as members of the Committee.

President of U.S.

(C) The President, acting through the Director of the Office of Science and Technology Policy, shall appoint, as additional members of the Committee, 4 members from outside the Federal Government who are eminent in the semiconductor industry, and 4 members from outside the Federal Government who are eminent in the fields of technology, defense, and economic development.

(D) One of the members appointed under subparagraph (C), as designated by the President at the time of appointment, shall be chairman of the Committee.

(2) Funding and administrative support for the Committee shall be provided to the Office of Science and Technology Policy through an arrangement with an appropriate agency or organization designated by the Committee, in accordance with a memorandum of understanding entered into between them.

(3) Members of the Committee, other than full-time employees of the Federal Government, while attending meetings of the Committee or otherwise performing duties at the request of the Chairman while away from their homes or regular places of business, shall be allowed travel expenses in accordance with subchapter I of chapter 57 of title 5, United States Code.

(4) The Chairman shall call the first meeting of the Committee not later than 90 days after the date of the enactment of this Act.

Reports.

(5) At the close of each fiscal year the Committee shall submit to the President and the Congress a report on its activities conducted during such year and its planned activities for the coming year, including specific findings and recommendations with respect to the national semiconductor strategy devised and promulgated under subsection (b)(2)(B). The first report shall include an analysis of those technical areas, including manufacturing, which are of importance to the United States semiconductor industry, and shall make specific recommendations regarding the appropriate Federal role in correcting any deficiencies identified by the analysis. Each report shall include an estimate of the length of time the Committee must continue before the achievement of its purposes and the issuance of its final report.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out the purposes of this section such sums as may be necessary for the fiscal years 1988, 1989, and 1990.

30 USC 1803 note.

SEC. 5143. REVIEW OF RESEARCH AND DEVELOPMENT PRIORITIES IN SUPERCONDUCTORS.

President of U.S.

(a) NATIONAL COMMISSION ON SUPERCONDUCTIVITY.—The President shall appoint a National Commission on Superconductivity to review all major policy issues regarding United States applications of recent research advances in superconductors in order to assist the Congress in devising a national strategy, including research and development priorities, the development of which will assure United States leadership in the development and application of superconducting technologies.

(b) MEMBERSHIP.—The membership of the National Commission on Superconductivity shall include representatives of—

(1) the National Critical Materials Council, the National Academy of Sciences, the National Academy of Engineering, the National Science Foundation, the National Aeronautics and Space Administration, the Department of Energy, the Depart-

ment of Justice, the Department of Commerce (including the National Institute of Standards and Technology), the Department of Transportation, the Department of the Treasury, and the Department of Defense;

(2) organizations whose membership is comprised of physicists, engineers, chemical scientists, or material scientists; and

(3) industries, universities, and national laboratories engaged in superconductivity research.

(c) CHAIRMAN.—A representative of the private sector shall be designated as chairman of the Commission.

(d) COORDINATION.—The National Critical Materials Council shall be the coordinating body of the National Commission on Superconductivity and shall provide staff support for the Commission.

(e) REPORT.—Within 6 months after the date of the enactment of this Act, the National Commission on Superconductivity shall submit a report to the President and the Congress with recommendations regarding methods of enhancing the research, development, and implementation of improved superconductor technologies in all major applications.

(f) SCOPE OF REVIEW.—In preparing the report required by subsection (e), the Commission shall consider addressing, but need not limit, its review to—

(1) the state of United States competitiveness in the development of improved superconductors;

(2) methods to improve and coordinate the collection and dissemination of research data relating to superconductivity;

(3) methods to improve and coordinate funding of research and development of improved superconductors;

(4) methods to improve and coordinate the development of viable commercial and military applications of improved superconductors;

(5) foreign government activities designed to promote research, development, and commercial application of improved superconductors;

(6) the need to provide increased Federal funding of research and development of improved superconductors;

(7) the impact on the United States national security if the United States must rely on foreign producers of superconductors;

(8) the benefit, if any, of granting private companies partial exemptions from United States antitrust laws to allow them to coordinate research, development, and products containing improved superconductors;

(9) options for providing income tax incentives for encouraging research, development, and production in the United States of products containing improved superconductors; and

(10) methods to strengthen domestic patent and trademark laws to ensure that qualified superconductivity discoveries receive the fullest protection from infringement.

(g) SUNSET.—The Commission shall disband within a year of its establishment. Thereafter the National Critical Materials Council may review and update the report required by subsection (e) and make further recommendations as it deems appropriate.

Subpart E—Authorization of Appropriations

SEC. 5151. AUTHORIZATION OF APPROPRIATIONS FOR TECHNOLOGY ACTIVITIES.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for fiscal year 1988 to the Secretary of Commerce to carry out activities performed by the Institute the sums set forth in the following line items:

(1) Measurement Research and Technology: $41,939,000.

(2) Engineering Measurements and Manufacturing: $40,287,000.

(3) Materials Science and Engineering: $23,521,000.

(4) Computer Science and Technology: $7,941,000.

(5) Research Support Activities: $19,595,000.

(6) Cold Neutron Source Facility: $6,500,000 (for a total authorization of $13,000,000).

(7) Programs established under sections 25, 26, and 27 of the Act of March 3, 1901 and section 5121 of this part: $5,000,000.

(b) LIMITATIONS.—Notwithstanding any other provision of this or any other Act—

(1) of the total of the amounts authorized under subsection (a), $2,000,000 is authorized only for steel technology;

(2) of the amount authorized under paragraph (1) of subsection (a) of this section, $3,550,000 is authorized only for the purpose of research in process and quality control;

(3) of the amount authorized under paragraph (2) of subsection (a) of this section, $3,710,000 is authorized only for the Center for Building Technology, $5,662,000 is authorized only for the Center for Fire Research, and the two Centers shall not be merged;

(4) of the amount authorized under paragraph (3) of subsection (a) of this section, $1,500,000 is authorized only for the purpose of research to improve high-performance composites; and

(5) of the amount authorized under paragraph (5) of subsection (a) of this section, $7,371,000 is authorized only for technical competence fund projects in new areas of high technical importance, and $1,091,000 is authorized only for the Postdoctoral Research Associates Program and related new personnel.

(c) TRANSFER.—(1) Funds may be transferred among the line items listed in subsection (a) of this section so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) In addition, the Secretary of Commerce may propose transfers to or from any line item exceeding 10 percent of the amount authorized for the line item in subsection (a) of this section, but a full and complete explanation of any such proposed transfer and the reason for such transfer must be transmitted in writing to the President of the Senate, the Speaker of the House of Representatives, and the appropriate authorizing committees of the Senate and House of Representatives. The proposed transfer may be made only when 30 calendar days have passed after the transmission of such written explanation.

(d) COLD NEUTRON SOURCE FACILITY.—In addition to any sums otherwise authorized by this part, there are authorized to be appropriated to the Secretary of Commerce for fiscal years 1988, 1989, and 1990 such sums as were authorized but not appropriated for the Cold Neutron Source Facility for fiscal year 1987. Furthermore, the Secretary may accept contributions for funds, to remain available until expended, for the design, construction, and equipment of the Cold Neutron Source Facility, notwithstanding the limitations of section 14 of the Act of March 3, 1901 (15 U.S.C. 278d). Gifts and property.

(e) EMPLOYEE BENEFIT ADJUSTMENTS.—In addition to any sums otherwise authorized by this part, there are authorized to be appropriated to the Secretary of Commerce for fiscal year 1988 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

(f) AVAILABILITY.—Appropriations made under the authority provided in this section shall remain available for obligation, for expenditure, or for obligations and expenditure for periods specified in the Acts making such appropriations.

SEC. 5152. STEVENSON-WYDLER ACT AUTHORIZATIONS. 15 USC 3713.

Section 19 (a) and (b) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended to read as follows:

"(a)(1) There is authorized to be appropriated to the Secretary for the purposes of carrying out sections 5, 11(g), and 16 of this Act not to exceed $3,400,000 for the fiscal year ending September 30, 1988.

"(2) Of the amount authorized under paragraph (1) of this subsection, $2,400,000 is authorized only for the Office of Productivity, Technology, and Innovation; $500,000 is authorized only for the purpose of carrying out the requirements of the Japanese technical literature program established under section 5(d) of this Act; and $500,000 is authorized only for the patent licensing activities of the National Technical Information Service.

"(b) In addition to the authorization of appropriations provided under subsection (a) of this section, there is authorized to be appropriated to the Secretary for the purposes of carrying out section 6 of this Act not to exceed $500,000 for the fiscal year ending September 30, 1988, $1,000,000 for the fiscal year ending September 30, 1989, and $1,500,000 for the fiscal year ending September 30, 1990.".

Subpart F—Miscellaneous Technology and Commerce Provisions

SEC. 5161. SAVINGS PROVISION AND USER FEES.

The Act of March 3, 1901 (15 U.S.C. 271 et seq.), as amended by this part, is further amended by adding after section 28 the following new sections:

"SAVINGS PROVISION

"SEC. 29. All rules and regulations, determinations, standards, contracts, certifications, authorizations, delegations, results and findings of investigations, or other actions duly issued, made, or taken by or pursuant to this Act, or under the authority of any other statutes which resulted in the assignment of functions or activities to the Secretary, the Department, the Director, or the Institute, as Contracts. 15 USC 271 note.

are in effect immediately before the date of enactment of this section, and not suspended by the Secretary, the Director, the Institute or the courts, shall continue in full force and effect after the date of enactment of this section until modified or rescinded.

"USER FEES

15 USC 278o. "SEC. 30. The Institute shall not implement a policy of charging fees with respect to the use of Institute research facilities by research associates in the absence of express statutory authority to charge such fees.".

SEC. 5162. MISCELLANEOUS AMENDMENTS TO THE STEVENSON-WYDLER ACT.

(a) INVENTION MANAGEMENT SERVICES.—The first sentence of section 14(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part (15 U.S.C. 3710c) is amended by striking out "shall" and inserting in lieu thereof "may", and by striking out "such invention performed at the request of the other agency or laboratory" and inserting in lieu thereof "any invention of the other agency".

(b) FEDERAL LABORATORY CONSORTIUM.—Section 11(e)(7)(A) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part (15 U.S.C. 3710) is amended by striking out "0.005 percent of that portion of the research and development budget of each Federal agency that is to be utilized by" and inserting in lieu thereof "0.008 percent of the budget of each Federal agency from any Federal source, including related overhead, that is to be utilized by or on behalf of".

SEC. 5163. MISCELLANEOUS TECHNOLOGY AND COMMERCE PROVISIONS.

15 USC 282a. (a) ASSESSMENT OF EMERGING TECHNOLOGIES.—The Board of Assessment of the National Institute of Standards and Technology shall include, as part of its annual review, an assessment of emerging technologies which are expected to require research in metrology to keep the Institute abreast of its mission, including process and quality control, engineering databases, advanced materials, electronics and fiber optics, bioprocess engineering, and advanced computing concepts. Such review shall include estimates of the cost of the required effort, required staffing levels, appropriate interaction with industry, including technology transfer, and the period over which the research will be required.

15 USC 272 note. (b) SMALL BUSINESS PLAN.—The Director of the National Institute of Standards and Technology shall prepare a plan detailing the manner in which the Institute will make small businesses more aware of the Institute's activities and research, and the manner in which the Institute will seek to increase the application by small businesses of the Institute's research, particularly in manufacturing. The plan shall be submitted to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than 120 days after the date of the enactment of this Act.

(c) NATIONAL TECHNICAL INFORMATION SERVICE.—(1) Section 11 of the Stevenson-Wydler Technology Innovation Act of 1980, as so
15 USC 3710. redesignated by section 5122(a)(1) of this part, is amended by inserting at the end the following new subsection:

"(h) None of the activities or functions of the National Technical Information Service which are not performed by contractors as of September 30, 1987, shall be contracted out or otherwise transferred from the Federal Government unless such transfer is expressly authorized by statute, or unless the value of all work performed under the contract and related contracts in each fiscal year does not exceed $250,000.". Contracts.

(2) The Secretary of Commerce shall report the Secretary's recommendations for improvements in the National Technical Information Service (including methods for automating document distribution and inventory control), and any statutory changes required to make such improvements, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives by January 31, 1989. Reports.

(3) Section 11(d) of the Stevenson-Wydler Technology Innovation Act of 1980, as so redesignated by section 5122(a)(1) of this part, is amended— 15 USC 3710.

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) maintain a permanent archival repository and clearinghouse for the collection and dissemination of nonclassified scientific, technical, and engineering information.".

(d) FELLOWSHIP PROGRAM.—There is established within the Department of Commerce a Commerce, Science, and Technology Fellowship Program with the stated purpose of providing a select group of employees of the executive branch of the Government with the opportunity of learning how the legislative branch and other parts of the executive branch function through work experiences of up to one year. The Secretary of Commerce shall report to the Congress within six months after the date of enactment of this Act on the Department of Commerce's plans for implementing such Program by March 31, 1989. 15 USC 1533. Reports.

SEC. 5164. METRIC USAGE.

(a) FINDINGS.—Section 2 of the Metric Conversion Act of 1975 is amended by adding at the end thereof the following new paragraphs: 15 USC 205a.

"(3) World trade is increasingly geared towards the metric system of measurement.

"(4) Industry in the United States is often at a competitive disadvantage when dealing in international markets because of its nonstandard measurement system, and is sometimes excluded when it is unable to deliver goods which are measured in metric terms.

"(5) The inherent simplicity of the metric system of measurement and standardization of weights and measures has led to major cost savings in certain industries which have converted to that system.

"(6) The Federal Government has a responsibility to develop procedures and techniques to assist industry, especially small business, as it voluntarily converts to the metric system of measurement.

"(7) The metric system of measurement can provide substantial advantages to the Federal Government in its own operations.".

15 USC 205b.

(b) POLICY.—Section 3 of the Metric Conversion Act of 1975 is amended to read as follows:

"SEC. 3. It is therefore the declared policy of the United States—

"(1) to designate the metric system of measurement as the preferred system of weights and measures for United States trade and commerce;

"(2) to require that each Federal agency, by a date certain and to the extent economically feasible by the end of the fiscal year 1992, use the metric system of measurement in its procurements, grants, and other business-related activities, except to the extent that such use is impractical or is likely to cause significant inefficiencies or loss of markets to United States firms, such as when foreign competitors are producing competing products in non-metric units;

"(3) to seek out ways to increase understanding of the metric system of measurement through educational information and guidance and in Government publications; and

"(4) to permit the continued use of traditional systems of weights and measures in nonbusiness activities.".

15 USC 205k.

(c) IMPLEMENTATION.—The Metric Conversion Act of 1975 is further amended by redesignating section 12 as section 13, and by inserting after section 11 the following new section:

Reports.
15 USC 205j-1.

"SEC. 12. (a) As soon as possible after the date of the enactment of this section, each agency of the Federal Government shall establish guidelines to carry out the policy set forth in section 3 (with particular emphasis upon the policy set forth in paragraph (2) of that section), and as part of its annual budget submission for each fiscal year beginning after such date shall report to the Congress on the actions which it has taken during the previous fiscal year, as well as the actions which it plans for the fiscal year involved, to implement fully the metric system of measurement in accordance with that policy. Such reporting shall cease for an agency in the fiscal year after it has fully implemented its efforts under section 3(2). As used in this section, the term 'agency of the Federal Government' means an Executive agency or military department as those terms as defined in chapter 1 of title 5, United States Code.

"(b) At the end of the fiscal year 1992, the Comptroller General shall review the implementation of this Act, and upon completion of such review shall report his findings to the Congress along with any legislative recommendations he may have.".

PART II—SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH

SEC. 5171. SYMMETRICAL ACCESS TO TECHNOLOGICAL RESEARCH.

(a) Section 502 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656b) is amended by adding at the end the following new paragraph:

"(5) Federally supported international science and technology agreements should be negotiated to ensure that—

Copyrights.
Patents and trademarks.

"(A) intellectual property rights are properly protected; and

"(B) access to research and development opportunities and facilities, and the flow of scientific and technological information, are, to the maximum extent practicable, equitable and reciprocal.".

(b) Section 503(b) of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656c(b)) is amended—

(1) by striking "Congress" and inserting in lieu thereof "the Speaker of the House of Representatives and the Committees on Foreign Relations and Governmental Affairs of the Senate";

(2) by inserting "information and" before "recommendations";

(3) by striking "and" at the end of paragraph (1);

(4) by striking the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(5) by adding at the end the following new paragraph:

"(3) equity of access by United States public and private entities to public (and publicly supported private) research and development opportunities and facilities in each country which is a major trading partner of the United States.".

(c) Section 503 of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656c) is amended by adding at the end the following new subsection:

"(d)(1) The information and recommendations developed under subsection (b)(3) shall be made available to the United States Trade Representative for use in his consultations with Federal agencies pursuant to Executive orders pertaining to the transfer of science and technology.

"(2) In providing such information and recommendations, the President shall utilize information developed by any Federal departments, agencies, or interagency committees as he may consider necessary.". President of U.S.

(d) Section 504(a) of the Foreign Relations Authorization Act, Fiscal Year 1979 (22 U.S.C. 2656d(a)) is amended to read as follows:

"(a)(1) In order to implement the policies set forth in section 502 of this title, the Secretary of State (hereafter in this section referred to as the "Secretary") shall have primary responsibility for coordination and oversight with respect to all major science or science and technology agreements and activities between the United States and foreign countries, international organizations, or commissions of which the United States and one or more foreign countries are members.

"(2) In coordinating and overseeing such agreements and activities, the Secretary shall consider (A) scientific merit; (B) equity of access as described in section 503(b); (C) possible commercial or trade linkages with the United States which may flow from the agreement or activity; (D) national security concerns; and (E) any other factors deemed appropriate.

"(3) Prior to entering into negotiations on such an agreement or activity, the Secretary shall provide Federal agencies which have primary responsibility for, or substantial interest in, the subject matter of the agreement or activity, including those agencies responsible for—

"(A) Federal technology management policies set forth by Public Law 96-517 and the Stevenson-Wydler Technology Innovation Act of 1980;

"(B) national security policies; Defense and national security.

"(C) United States trade policies; and

"(D) relevant Executive orders,

with an opportunity to review the proposed agreement or activity to ensure its consistency with such policies and Executive orders, and to ensure effective interagency coordination.".

PART III—NATIONAL CRITICAL MATERIALS COUNCIL

30 USC 1804 note.

SEC. 5181. THE NATIONAL FEDERAL PROGRAM PLAN FOR ADVANCED MATERIALS RESEARCH AND DEVELOPMENT.

The National Critical Materials Council shall prepare the national Federal program plan for advanced materials research and development under section 205(a)(1)(A) of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1251) and shall submit such plan to Congress not later than 180 days after the date of the enactment of this Act. The plan shall be submitted to the Committee on Science, Space, and Technology, as well as other appropriate committees, of the House of Representatives, and to the Committee on Governmental Affairs, as well as other appropriate committees, of the Senate.

30 USC 1807 note.

SEC. 5182. PERSONNEL MATTERS.

(a) REQUIREMENT TO INCREASE STAFF.—Not later than 30 days after the date of the enactment of this Act, the Executive Director of the National Critical Materials Council shall increase the number of employees of the Council by the equivalent of 5 full-time employees over the number of employees of the Council on the date of the enactment of this Act.

(b) QUALIFICATIONS OF STAFF.—Not less than the equivalent of 4 full-time employees appointed pursuant to subsection (a) shall be permanent professional employees who have expertise in technical fields that are relevant to the responsibilities of the National Critical Materials Council, such as materials science and engineering, environmental matters, minerals and natural resources, ceramic or composite engineering, metallurgy, and geology.

SEC. 5183. AUTHORITY TO ACCEPT SERVICES AND PERSONNEL FROM OTHER FEDERAL AGENCIES.

30 USC 1809.

Section 210(4) of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1254) is amended by striking out "reimbursable" and inserting in lieu thereof "nonreimbursable".

SEC. 5184. AUTHORIZATION OF APPROPRIATIONS.

30 USC 1810.

Section 211 of the National Critical Materials Act of 1984 (Public Law 98-373; 98 Stat. 1254) is amended by striking out "1990" and inserting in lieu thereof "1992".

Competitiveness Policy Council Act.

Subtitle C—Competitiveness Policy Council Act

15 USC 4801 note.

SEC. 5201. SHORT TITLE.

This subtitle may be cited as the "Competitiveness Policy Council Act".

SEC. 5202. FINDINGS AND PURPOSES. 15 USC 4801.

(a) FINDINGS.—The Congress finds that—

(1) efforts to reverse the decline of United States industry has been hindered by—

(A) a serious erosion in the institutions and policies which foster United States competitiveness including a lack of high quality domestic and international economic and scientific data needed to—

(i) reveal sectoral strengths and weaknesses;

(ii) identify potential new markets and future technological and economic trends; and

(iii) provide necessary information regarding the competitive strategies of foreign competitors;

(B) the lack of a coherent and consistent government competitiveness policy, including policies with respect to—

(i) international trade, finance, and investment,

(ii) research, science, and technology,

(iii) education, labor retraining, and adjustment,

(iv) macroeconomic and budgetary issues,

(v) antitrust and regulation, and

(vi) government procurement;

(2) the United States economy benefits when business, labor, government, academia, and public interest groups work together cooperatively;

(3) the decline of United States economic competitiveness endangers the ability of the United States to maintain the defense industrial base which is necessary to the national security of the United States;

(4) the world is moving rapidly toward the creation of an integrated and interdependent economy, a world economy in which the policies of one nation have a major impact on other nations;

(5) integrated solutions to such issues as trade and investment research, science, and technology, education, and labor retraining and adjustments help the United States compete more effectively in the world economy; and

(6) government, business, labor, academia, and public interest groups shall cooperate to develop and coordinate long-range strategies to help assure the international competitiveness of the United States economy.

(b) PURPOSE.—It is the purpose of this subtitle—

(1) to develop recommendations for long-range strategies for promoting the international competitiveness of the United States industries; and

(2) to establish the Competitiveness Policy Council which shall—

(A) analyze information regarding the competitiveness of United States industries and business and trade policy;

(B) create an institutional forum where national leaders with experience and background in business, labor, government, academia, and public interest activities shall—

(i) identify economic problems inhibiting the competitiveness of United States agriculture, business, and industry; Agriculture and agricultural commodities.

(ii) develop long-term strategies to address such problem; and

(C) make recommendations on issues crucial to the development of coordinated competitiveness strategies;

(D) publish analysis in the form of periodic reports and recommendations concerning the United States business and trade policy.

15 USC 4802.

SEC. 5203. COUNCIL ESTABLISHED.

There is established the Competitiveness Policy Council (hereafter in this subtitle referred to as the "Council"), an advisory committee under the provisions of the Federal Advisory Committee Act (5 U.S.C. App.).

15 USC 4803.

SEC. 5204. DUTIES OF THE COUNCIL.

The Council shall—

(1) develop recommendations for national strategies and on specific policies intended to enhance the productivity and international competitiveness of United States industries;

(2) provide comments, when appropriate, and through any existing comment procedure, on—

(A) private sector requests for governmental assistance or relief, specifically as to whether the applicant is likely, by receiving the assistance or relief, to become internationally competitive; and

(B) what actions should be taken by the applicant as a condition of such assistance or relief to ensure that the applicant is likely to become internationally competitive;

(3) analyze information concerning current and future United States economic competitiveness useful to decision making in government and industry;

(4) create a forum where national leaders with experience and background in business, labor, academia, public interest activities, and government shall identify and develop recommendations to address problems affecting the economic competitiveness of the United States;

(5) evaluate Federal policies, regulations, and unclassified international agreement on trade, science, and technology to which the United States is a party with respect to the impact on United States competitiveness;

(6) provide policy recommendations to the Congress, the President, and the Federal departments and agencies regarding specific issues concerning competitiveness strategies;

(7) monitor the changing nature of research, science, and technology in the United States and the changing nature of the United States economy and its capacity—

(A) to provide marketable, high quality goods and services in domestic and international markets; and

(B) to respond to international competition;

(8) identify—

(A) Federal and private sector resources devoted to increased competitiveness; and

(B) State and local government programs devised to enhance competitiveness, including joint ventures between universities and corporations;

(9) establish, when appropriate, subcouncils of public and private leaders to develop recommendations on long-term strategies for sectors of the economy and for specific competitiveness issues;

(10) review policy recommendations developed by the subcouncils and transmit such recommendations to the Federal agencies responsible for the implementation of such recommendations;

(11) prepare, publish, and distribute reports containing the recommendations of the Council; and

(12) publish their analysis and recommendations in the form of an annual report to the President and the Congress which also comments on the overall competitiveness of the American economy. Reports.

SEC. 5205. MEMBERSHIP. 15 USC 4804.

(a) COMPOSITION AND REPRESENTATION.—

(1) The Council shall consist of 12 members, of whom—

(A) four members shall be appointed by the President, of whom—

(i) one shall be a national leader with experience and background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader who has been active in public interest activities; and

(iv) one shall be a head of a Federal department or agency;

(B) four members shall be appointed by the majority leader and the minority leader of the Senate, acting jointly, of whom—

(i) one shall be a national leader with experience or background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government; and

(C) four members shall be appointed by the Speaker, the minority leader of the House of Representatives, acting jointly, of whom—

(i) one shall be a national leader with experience and background in business;

(ii) one shall be a national leader with experience and background in the labor community;

(iii) one shall be a national leader with experience and background in the academic community; and

(iv) one shall be a representative of State or local government.

(2) In addition to the head of a Federal department or agency appointed in accordance with subsection (a)(1)(A)(iv), other Federal officials may participate on an ex-officio basis as requested by the Council.

(3) All members of the Council shall be individuals who have a broad understanding of the United States economy and the United States competitive position internationally.

(4) Not more than 6 members of the Council shall be members of the same political party.

(b) INITIAL APPOINTMENTS.—The initial members of the Council shall be appointed within 30 days after January 21, 1989.

(c) VACANCIES.—

(1) A vacancy on the Council shall be filled in the same manner in which the original appointment was made.

(2) Any member appointed to fill a vacancy on the Council occurring before the expiration of the term for which the predecessor of such member was appointed shall be appointed only for the remainder of such term.

(3) A member of the Council may serve after the expiration of the term of such member until the successor of such member has taken office.

(d) REMOVAL.—Members of the Council may be removed only for malfeasance in office.

(e) CONFLICT OF INTEREST.—

(1) A member of the Council may not serve as an agent for a foreign principal.

(2) Members of the Council shall be required to file a financial disclosure report under title II of the Ethics in Government Act of 1978 (Public Law 95-521), except that such reports shall be held confidential and exempt from any law otherwise requiring their public disclosure.

(3) Members of the Council shall be deemed to be special Government employees, as defined in section 202 of title 18, United States Code, for purposes of sections 201, 202, 203, 205, and 208 of such title.

(f) COMPENSATION.—

(1) Each member of the Council who is not employed by the Federal Government or any State or local government—

(A) shall be compensated at a rate equal to the daily equivalent of the rate for GS-18 of the General Schedule pursuant to section 5332 of title 5, United States Code, for each day such member is engaged in duties as a member of the Council; and

(B) shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with section 5703 of such title.

(2) Each member of the Council who is employed by the Federal Government or any State or local government shall serve on the Council without additional compensation, but while engaged in duties as a member of the Council shall be paid actual travel expenses, and per diem in lieu of subsistence expenses when away from the usual place of residence of such member, in accordance with subchapter I of chapter 57 of title 5, United States Code.

(g) QUORUM.—

(1) IN GENERAL.—Seven members of the Council constitute a quorum, except that a lesser number may hold hearings if such action is approved by a two-thirds vote of the entire Council.

(2) INITIAL ORGANIZATION.—The Council shall not commence its duties until all the nongovernmental members have been appointed and have qualified.

(h) CHAIRPERSON.—The Council shall elect, by a two-thirds vote of the entire Council, a chairperson from among the nongovernmental members.

(i) MEETINGS.—The Council shall meet at the call of the chairperson or a majority of the members.

(j) POLICY ACTIONS.—Except as provided in subsection (g), no action establishing policy shall be taken by the Council unless approved by two-thirds of the entire membership of the Council.

(k) ALTERNATE MEMBERS.—

(1) Each member of the Council shall designate one alternate representative to attend any meeting that such member is unable to attend.

(2) In the course of attending any such meeting, an alternate representative shall be considered a member of the Council for all purposes, except for voting.

(l) EXPERTS AND CONSULTANTS.—The Council may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay for GS-16 of the General Schedule.

(m) DETAILS.—Upon request of the Council, the head of any other Federal agency is authorized to detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this subtitle.

SEC. 5206. EXECUTIVE DIRECTOR AND STAFF. 15 USC 4805.

(a) EXECUTIVE DIRECTOR.—

(1) The principal administrative officer of the Council shall be an Executive Director, who shall be appointed by the Council and who shall be paid at a rate not to exceed GS-18 of the General Schedule.

(2) The Executive Director shall serve on a full-time basis.

(b) STAFF.—(1) Within the limitations of appropriations to the Council, the Executive Director may appoint a staff for the Council in accordance with the Federal civil service and classification laws.

(2) The staff of the Council shall be deemed to be special government employees as defined in section 202 of title 18, United States Code, for purposes of title II of the Ethics in Government Act of 1978 and sections 201, 202, 203, 205, 207, and 208 of title 18, United States Code.

SEC. 5207. POWERS OF THE COUNCIL. 15 USC 4806.

(a) HEARINGS.—The Council may, for the purpose of carrying out the provisions of this subtitle, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Council considers appropriate. The Council may administer oaths or affirmations to witnesses appearing before the Council.

(b) INFORMATION.—

(1)(A) Except as provided in subparagraph (B), the Council may secure directly from any Federal agency information necessary to enable the Council to carry out the provisions of this subtitle. Upon request of the chairman of the Council, the head of such agency shall promptly furnish such information to the Council.

(B) Subparagraph (A) does not apply to matters that are specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order. Classified information. Defense and national security.

(2) In any case in which the Council receives any information from a Federal agency, the Council shall not disclose such

information to the public unless such agency is authorized to disclose such information pursuant to Federal law.

Reports.

(d) CONSULTATION WITH THE PRESIDENT AND THE CONGRESS.—No later than 60 days after the initial members are appointed to the Council, the Council shall submit a report to the President, the Senate Governmental Affairs Committee, and the appropriate committees of the House of Representatives and of the Senate, that proposes the type and scope of activities the Council shall undertake, including the extent to which the Council will coordinate activities with other advisory committees relating to trade and competitiveness in order to maximize the effectiveness of the Council.

(e) GIFTS.—The Council may accept, use, and dispose of gifts or donations of services or property.

(f) USE OF THE MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other Federal agencies.

(g) ADMINISTRATIVE AND SUPPORT SERVICES.—The Administrator of General Services shall provide to the Council, on a reimbursable basis, such administrative and support services as the Council may request.

(h) SUBCOUNCILS.—

(1) The Council may establish, for such period of time as the Council determines appropriate, subcouncils of public and private leaders to analyze specific competitive issues.

(2) Any such subcouncil shall include representatives of business, labor, government, and other individuals or representatives of groups whose participation is considered by the Council to be important to developing a full understanding of the subject with which the subcouncil is concerned.

(3) Any such subcouncil shall include a representative of the Federal Government.

(4) Any such subcouncil shall assess the actual or potential competitiveness problems facing the industry or the specific policy issues with which the subcouncil is concerned and shall formulate specific recommendations for responses by business, government, and labor—

(A) to encourage adjustment and modernization of the industry involved;

(B) to monitor and facilitate industry responsiveness to opportunities identified under section 5208(b)(1)(B);

(C) to encourage the ability of the industry involved to compete in markets identified under section 5208(b)(1)(C); or

(D) to alleviate the problems in a specific policy area facing more than one industry.

(5) Any discussion held by any subcouncil shall not be considered to violate any Federal or State antitrust law.

(6) Any discussion held by any subcouncil shall not be subject to the provisions of the Federal Advisory Committee Act, except that a Federal representative shall attend all subcouncil meetings.

Termination date.

(7) Any subcouncil shall terminate 30 days after making recommendations, unless the Council specifically requests that the subcouncil continue in operation.

(i) APPLICABILITY OF ADVISORY COMMITTEE ACT.—The provisions of subsections (e) and (f) of section 10, of the Federal Advisory Committee Act shall not apply to the Council.

SEC. 5208. ANNUAL REPORT. 15 USC 4807.

(a) SUBMISSION OF REPORT.—The Council shall annually prepare and submit to the President, the Senate Governmental Affairs Committee, and the appropriate Committees of the House of Representatives and the Senate a report setting forth—

(1) the goals to achieve a more competitive United States economy;

(2) the policies needed to meet such goals;

(3) a summary of existing policies of the Federal Government or State and local governments significantly affecting the competitiveness of the United States economy; and

(4) a summary of significant economic and technological developments, in the United States and abroad, affecting the competitive position of United States industries.

(b) CONTENTS OF REPORT.—The report submitted under subsection (a) shall—

(1) identify and describe actual or foreseeable developments, in the United States and abroad, which—

(A) create a significant likelihood of a competitive challenge to, or of substantial dislocation in, an established United States industry;

(B) present significant opportunities for United States industries to compete in new geographical markets or product markets, or to expand the position of such industries in established markets; or

(C) create a significant risk that United States industries shall be unable to compete successfully in significant markets;

(2) specify the industry sectors affected by the developments described in the report under paragraph (1); and

(3) contain a statement of the findings and recommendations of the Council during the previous fiscal year, including any recommendations of the Council for (a) such legislative or administrative actions as the Council considers appropriate, and (b) including the elimination, consolidation, reorganization of government agencies especially such agencies that specifically deal with research, science, technology, and international trade.

(c) REPORT BY CONGRESSIONAL COMMITTEES.—The Council shall consult with each committee to which a report is submitted under this section and after such consultation, each such committee shall submit to its respective House a report setting forth the views and recommendations of such committee with respect to the report of the Council.

SEC. 5209. AUTHORIZATION OF APPROPRIATIONS. 15 USC 4808.

There are authorized to be appropriated for each of the fiscal years 1989 and 1990 such sums as may be necessary not to exceed $5,000,000 to carry out the provisions of this subtitle.

SEC. 5210. DEFINITIONS. 15 USC 4809.

For purposes of this subtitle—

(1) the term "Council" means the Competitiveness Policy Council established under section 5203;

(2) the term "member" means a member of the Competitiveness Policy Council;

(3) the term "United States" means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico,

Guam, the Virgin Islands, the Commonwealth of the Northern Mariana Islands, American Samoa, and any other territory or possession of the United States; and

(4) the term "agent of a foreign principal" is defined as such term is defined under subsection (d) of the first section of the Foreign Agents Registration Act of 1938 (22 U.S.C. 611) subject to the provisions of section 3 of such Act (22 U.S.C. 613).

Subtitle D—Federal Budget Competitiveness Impact Statement

SEC. 5301. PRESIDENT'S ANNUAL BUDGET SUBMISSION.

Subsection (a) of section 1105 of title 31, United States Code, is amended by inserting at the end thereof the following new paragraph:

"(26) an analysis, prepared by the Office of Management and Budget after consultation with the chairman of the Council of Economic Advisers, of the budget's impact on the international competitiveness of United States business and the United States balance of payments position and shall include the following projections, based upon the best information available at the time, for the fiscal year for which the budget is submitted—

"(A) the amount of borrowing by the Government in private credit markets;

"(B) net domestic savings (defined as personal savings, corporate savings, and the fiscal surplus of State and local governments);

"(C) net private domestic investment;

"(D) the merchandise trade and current accounts;

"(E) the net increase or decrease in foreign indebtedness (defined as net foreign investment); and

"(F) the estimated direction and extent of the influence of the Government's borrowing in private credit markets on United States dollar interest rates and on the real effective exchange rate of the United States dollar.".

SEC. 5302. ANNUAL CONCURRENT RESOLUTION ON THE BUDGET.

Subsection (e) of section 301 of the Congressional Budget Act of 1974 (2 U.S.C. 632(e)) is amended by "and" at the end of paragraph (8), by striking out the period and by inserting "; and" at the end of paragraph (9), and by inserting at the end thereof the following new paragraph:

"(10) an analysis, prepared after consultation with the Director of the Congressional Budget Office, of the concurrent resolution's impact on the international competitiveness of United States business and the United States balance of payments position and shall include the following projections, based upon the best information available at the time, for the fiscal year covered by the concurrent resolution—

"(A) the amount of borrowing by the Government in private credit markets;

"(B) net domestic savings (defined as personal savings, corporate savings, and the fiscal surplus of State and local governments);

"(C) net private domestic investment;

"(D) the merchandise trade and current accounts;
"(E) the net increase or decrease in foreign indebtedness (defined as net foreign investment); and
"(F) the estimated direction and extent of the influence of the Government's borrowing in private credit markets on United States dollar interest rates and on the real effective exchange rate of the United States dollar.".

SEC. 5303. EFFECTIVE DATE. 31 USC 1105 note.

The amendment made by section 5301 shall be effective for fiscal years 1989, 1990, 1991, and 1992, and shall be fully reflected in the budgets submitted by the President as required by section 1105(a) of title 31, United States Code, for each such fiscal year, and the amendment made by section 5302 shall be effective for fiscal years 1989, 1990, 1991, and 1992.

Subtitle E—Trade Data and Studies

PART I—NATIONAL TRADE DATA BANK

SEC. 5401. DEFINITIONS. 15 USC 4901.

For purposes of this subtitle—
(1) the term "Committee" means the Interagency Trade Data Advisory Committee;
(2) the term "Data Bank" means the National Trade Data Bank;
(3) the term "Executive agency" has the same meaning as in section 105 of title 5, United States Code;
(4) the term "export promotion data system" means the data system known as the Commercial Information Management System which is maintained and operated by the United States and Foreign Commercial Service and is established as part of the Data Bank under section 3816;
(5) the term "international economic data system" means the data system established as part of the Data Bank under section 5406 which contains data useful to policymakers and analysis concerned with international economics; and
(6) the term "Secretary" means the Secretary of Commerce.

SEC. 5402. INTERAGENCY TRADE DATA ADVISORY COMMITTEE. 15 USC 4902.

(a) ESTABLISHMENT.—There is established the Interagency Trade Data Advisory Committee.
(b) MEMBERSHIP.—The Committee shall consist of—
(1) the United States Trade Representative;
(2) the Secretary of Agriculture;
(3) the Secretary of Defense;
(4) the Secretary of Commerce;
(5) the Secretary of Labor;
(6) the Secretary of the Treasury;
(7) the Secretary of State;
(8) the Director of the Office of Management and Budget;
(9) the Director of Central Intelligence;
(10) the Chairman of the Federal Reserve Board;
(11) the Chairman of the International Trade Commission;
(12) the President of the Export-Import Bank;

(13) the President of the Overseas Private Investment Corporation; and

(14) such other members as may be appointed by the President from full-time officers or employees of the Federal Government.

(c) CHAIRMAN.—The Secretary of Commerce shall be Chairman of the Committee.

(d) DESIGNEES.—Any member of the Committee may appoint a designee to serve in place of such member on the Committee.

15 USC 4903.

SEC. 5403. FUNCTIONS OF THE COMMITTEE.

The Committee shall advise the Secretary of Commerce, as appropriate, on the establishment, structure, contents, and operation of a National Trade Data Bank in accordance with section 5406 in order to assure the timely collection of accurate data and to provide the private sector and government officials efficient access to economic and trade data collected by the Federal Government for purposes of policymaking and export promotion.

15 USC 4904.

SEC. 5404. CONSULTATION WITH THE PRIVATE SECTOR AND GOVERNMENT OFFICIALS.

The Secretary shall regularly consult with representatives of the private sector and officials of State and local governments to assess the adequacy of United States trade information. The Secretary shall seek recommendations on how trade information can be made more accessible, understandable, and relevant. The Secretary shall seek recommendations as to what data should be included in the export promotion data system in the Data Bank.

15 USC 4905.

SEC. 5405. COOPERATION AMONG EXECUTIVE AGENCIES.

Each executive agency shall furnish to the Secretary such information for inclusion in the National Trade Data Bank as the Secretary, in consultation with the Advisory Committee, considers necessary to the operation of the Data Bank.

15 USC 4906.

SEC. 5406. ESTABLISHMENT OF THE DATA BANK.

(a) ESTABLISHMENT.—Within 2 years after the date of the enactment of this Act, the Secretary of Commerce shall establish the Data Bank. The Secretary shall manage the Data Bank. The Data Bank shall consist of two data systems, to be designated the International Economic Data System, as described in subsection (b) and the Export Promotion Data System, as described in subsection (c).

(b) INTERNATIONAL ECONOMIC DATA SYSTEM.—The International Economic Data System shall include current and historical information determined by the Secretary to be useful (after the consultation required by section 5404) to policymakers and analysts concerned with international economics and trade and which shall include data compiled or obtained by appropriate executive agencies. Such information shall not identify parties to transactions. Such information may include data for the United States and countries with which the United States has important economic relations including—

Classified information.

(1) data on imports and exports, including—

(A) aggregate import and export data for the United States and for each foreign country;

(B) industry-specific import and export data for each foreign country;

(C) product and service specific import and export data for the United States;
(D) market penetration information; and
(E) foreign destinations for exports of the United States;
(2) data on international service transactions;
(3) information on international capital markets, including—
(A) interest rates; and
(B) average exchange rates;
(4) information on foreign direct investment in the United States economy;
(5) international labor market information, including—
(A) wage rates for major industries;
(B) international unemployment rates; and
(C) trends in international labor productivity;
(6) information on foreign government policies affecting trade, including—
(A) trade barriers; and
(B) export financing policies;
(7) import and export data for the United States on a State-by-State basis aggregated at the product level including—
(A) data concerning the country shipping the import, the State of first destination, and the original part of entry for imports of goods and, to the extent possible, services; and
(B) data concerning the State of the exporter, the port of departure, and the country of first destination for export of goods and, to the extent possible, services; and
(8) any other economic and trade data collected by the Federal Government that the Secretary determines to be useful in carrying out the purposes of this subtitle.

Classified information.

(c) EXPORT PROMOTION DATA SYSTEM.—The export promotion data system shall include data and information collected by the Federal Government on the industrial sectors and markets of foreign countries which are determined by the Secretary (after consultation required by section 5404) to be of the greatest interest to United States business firms that are engaged in export-related activities and to Federal and State agencies that promote exports, while providing for the confidentiality of proprietary business information, and shall be designed to use the most effective means of disseminating data and information electronically through the Department, or Department-designated offices, or through other available data bases in an accurate and timely manner. Such data system shall monitor, organize, and disseminate selected information on—
(1) specific business opportunities in foreign countries;
(2) specific industrial sectors within foreign countries with high export potential such as—
(A) size of the market;
(B) distribution of products;
(C) competition;
(D) significant applicable laws, regulations, specifications, and standards;
(E) appropriate government officials; and
(F) trade associations and other contact points; and
(3) foreign countries generally, such as—
(A) the general economic conditions;
(B) common business practices;
(C) significant tariff and trade barriers; and

(D) other significant laws and regulations regarding imports, licensing, and the protection of intellectual property;

(4) export financing information, including the availability, through public sources of funds for United States exporters and foreign competitors;

(5) transactions involving barter and countertrade; and

(6) any other similar information, that the Secretary determines to be useful in carrying out the purposes of this subtitle.

15 USC 4907.

SEC. 5407. OPERATION OF THE DATA BANK.

The Secretary shall manage the Data Bank to provide the most appropriate data retrieval system or systems possible. Such system or systems shall—

(1) be designed to utilize data processing and retrieval technology in monitoring, organizing, analyzing, and disseminating the data and information contained in the Data Bank;

(2) use the most effective and meaningful means of organizing and making such information available to—

(A) United States Government policymakers;

(B) United States business firms;

(C) United States workers;

(D) United States industry associations;

(E) United States agricultural interests;

(F) State and local economic development agencies; and

(G) other interested United States persons who could benefit from such information;

(3) be of such quality and timeliness and in such form as to assist coordinated trade strategies for the United States; and

(4) facilitate dissemination of information through nonprofit organizations with significant outreach programs which complement the regional outreach programs of the United States and Foreign Commercial Service.

15 USC 4908.

SEC. 5408. INFORMATION ON THE SERVICE SECTOR.

(a) SERVICE SECTOR INFORMATION.—The Secretary shall ensure that, to the extent possible, there is included in the Data Bank information on service sector economic activity that is as complete and timely as information on economic activity in the merchandise sector.

(b) SURVEY.—The Secretary shall undertake a new benchmark survey of service transactions, including transactions with respect to—

(1) banking services;

(2) information services, including computer software services;

(3) brokerage services;

(4) transportation services;

(5) travel services;

(6) engineering services;

(7) construction services; and

(8) health services.

(c) GENERAL INFORMATION AND INDEX OF LEADING INDICATORS.—The Secretary shall provide—

(1) not less than once a year, comprehensive information on the service sector of the economy; and

(2) an index of leading indicators which includes the measurement of service sector activity in direct proportion to the con-

tribution of the service sector to the gross national product of the United States.

SEC. 5409. EXCLUSION OF INFORMATION. 15 USC 4909.

The Data Bank shall not include any information—

(1) the disclosure of which to the public is prohibited under any other provision of law or otherwise authorized to be withheld under other provision of law; or

(2) that is specifically authorized under criteria established by statute or an Executive order not to be disclosed in the interest of national defense or foreign policy and are in fact properly classified pursuant to such Executive order.

SEC. 5410. NONDUPLICATION. 15 USC 4910.

The Secretary shall ensure that information systems created or developed pursuant to this subtitle do not unnecessarily duplicate information systems available from other Federal agencies or from the private sector.

SEC. 5411. COLLECTION OF DATA. 15 USC 4911.

Except as provided in section 5408, nothing in this subtitle shall be considered to grant independent authority to the Federal Government to collect any data or information from individuals or entities outside of the Federal Government.

SEC. 5412. FEES AND ACCESS. 15 USC 4912.

The Secretary shall provide reasonable public services and access (including electronic access) to any information maintained as part of the Data Bank and may charge reasonable fees consistent with section 552 of title 5, United States Code.

SEC. 5413. REPORT TO CONGRESS. 15 USC 4913.

(a) INTERIM REPORT.—Not more than 1 year after the date of enactment of this Act, the Secretary after consultation with the Advisory Committee shall submit a report to the Governmental Affairs Committee and the Banking, Housing, and Urban Affairs Committee of the Senate, other appropriate committees of the Senate, and the House of Representatives describing actions taken pursuant to this subtitle, particularly—

(1) actions taken to provide the information on services described in section 5408; and

(2) actions taken to provide State-by-State information as described in section 5406(b)(7).

(b) FINAL REPORT.—Not more than 3 years after the date of enactment of this Act, the Secretary after consultation with the Advisory Committee shall submit a report to the Governmental Affairs Committee and the Banking, Housing, and Urban Affairs Committee of the Senate, other appropriate committees of the Senate, and the House of Representatives—

(1) assessing the current quality and comprehensiveness of, and the ability of the public and of private entities to obtain access to trade data;

(2) describing all other actions taken and planned to be taken pursuant to this subtitle;

(3) including comments by the private sector and by State agencies that promote exports on the implementation of the Data Bank;

(4) describing the extent to which the systems within the Data Bank are being used and any recommendations with regard to the operation of the system; and

(5) describing the extent to which United States citizens and firms have access to the data banks of foreign countries that is similar to the access provided to foreign citizens and firms.

PART II—STUDIES

2 USC 194b.

SEC. 5421. COMPETITIVENESS IMPACT STATEMENTS.

(a) The President or the head of the appropriate department or agency of the Federal Government shall include in every recommendation or report made to the Congress on legislation which may affect the ability of United States firms to compete in domestic and international commerce a statement of the impact of such legislation on—

(1) the international trade and public interest of the United States, and

(2) the ability of United States firms engaged in the manufacture, sale, distribution, or provision of goods or services to compete in foreign or domestic markets.

(b) This section provides no private right of action as to the need for or adequacy of the statement required by subsection (a).

Termination date.

(c) This section shall cease to be effective six years from the date of enactment.

15 USC 4603a.

SEC. 5422. STUDY AND REPORT BY THE ADVISORY COUNCIL ON FEDERAL PARTICIPATION IN SEMATECH.

(a) STUDY AND REPORT.—Not later than February 1, 1989, and annually thereafter for each fiscal year in which appropriated funds are expended for Sematech the Advisory Council on Federal Participation in Sematech established under section 273(a) of the National Defense Authorization Act for fiscal years 1988 and 1989 (15 U.S.C. 4603(a); Public Law 100-180) shall conduct a study and submit a report to the Governmental Affairs Committee and the Armed Services Committee of the Senate and to appropriate committees of the House of Representatives concerning Federal participation in Sematech. The study and report shall be conducted under the direction of the Under Secretary of Commerce for Economic Affairs.

(b) COUNCIL RECOMMENDATIONS AND REPORT.—The Council shall include in the report submitted under subsection (a) the following:

(1) identification of potential sources of Federal funding from department and agency budgets for Sematech and recommendations concerning methods and terms of Federal financial participation in Sematech, including grants, loans, loan guarantees, and contributions in kind. The feasibility of methods of Federal recoupment shall also be considered;

(2) definition and assessment of continued Federal participation in Sematech including, but not limited to, issues of technology research and development, civilian and defense industrial base objectives and initiatives, and commercialization. The report shall include a summary of the most recent plans, milestones, and cost estimates for Sematech, including any changes and alterations, and shall comment on Sematech's accomplishments and shortfalls in the preceding fiscal year;

(3) coordination of inter-agency participation, including all matters pertaining to Federal funding and decisionmaking, and other issues regarding Federal participation in Sematech; and

(4) any other issues and questions the Council deems appropriate shall be considered.

SEC. 5423. IMPACT OF NATIONAL DEFENSE EXPENDITURES ON INTERNATIONAL COMPETITIVENESS.

(a) FINDINGS.—The Congress finds that the ability of United States industries to compete in world markets may be adversely affected by the following factors:

(1) The allocation of intellectual resources between the private and public sectors.

(2) The distribution of innovative research and development between commercial and noncommercial applications.

(3) The number of scientific advances which are ultimately commercialized.

(4) The cost of capital which is affected by many factors including the budget deficit and defense spending.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should evaluate the impact on United States competitiveness of—

(1) the defense spending by foreign countries, particularly Japan's expenditure of 1 percent of its gross national product for defense compared to the expenditure of the United States of 6 percent of its gross national product, and

(2) the other factors listed in subsection (a).

TITLE VI—EDUCATION AND TRAINING FOR AMERICAN COMPETITIVENESS

Education and Training for a Competitive America Act of 1988.
Disadvantaged persons.
Employment and unemployment.
Schools and colleges.
20 USC 5001.
20 USC 5002.

SEC. 6001. SHORT TITLE.

This title may be cited as the "Education and Training for a Competitive America Act of 1988".

SEC. 6002. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the relationship between a strong and vibrant educational system and a healthy national economy is inseparable in an era in which economic growth is dependent on technology and is imperiled by increased foreign competition;

(2) our Nation's once undisputed pre-eminence in international commerce is facing unprecedented challenges from competitor nations who have given priority to the relationship between education and economic growth in areas such as high technology industries;

(3) our standing in the international marketplace is being further eroded by the presence in the workforce of millions of Americans who are functionally or technologically illiterate or who lack the mathematics, science, foreign language, or vocational skills needed to adapt to the structural changes occurring in the global economy;

(4) our competitive position is also being eroded by declines in the number of students taking advanced courses in mathematics, science, and foreign languages and by the lack of

modern technical and laboratory equipment in our educational institutions;

(5) restoring our competitiveness and enhancing our productivity will require that all workers possess basic educational skills and that many others possess highly specific skills in mathematics, science, foreign languages, and vocational areas; and

(6) our Nation must recognize the substantial impact that an investment in human capital will have on increasing productivity.

(b) PURPOSE.—It is therefore the purpose of this title to establish programs designed—

(1) to enhance ongoing efforts in elementary and secondary education;

(2) to improve our productivity and competitive position by investing in human capital;

Disadvantaged persons.

(3) to assist out-of-school youth and adults who are functionally illiterate in obtaining the basic skills needed for them to become productive workers in a competitive economy;

Schools and colleges.

(4) to help educational institutions prepare those engaged in work relating to mathematics, science, and foreign languages by improving and expanding instruction in those areas and by modernizing laboratory and technical equipment;

Employment and unemployment.

(5) to enhance the skills of workers affected, or about to be affected, by economic change, in order to prevent dislocation within existing industries and to strengthen emerging domestic industries; and

(6) to accomplish such purposes without impairing the availability of funds to carry out existing programs that address the needs of dislocated workers, such as previously authorized education programs.

20 USC 5003.

SEC. 6003. DEFINITIONS.

As used in this title—

(1) The term "foreign language instruction" means instruction in critical foreign languages as defined by the Secretary.

(2) The term "institution of higher education" has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965.

(3) The terms "local educational agency" and "State educational agency" have the same meaning given such terms under section 198 of the Elementary and Secondary Education Act of 1965.

(4) The term "Secretary" means the Secretary of Education.

(5) The term "State" means any of the several States, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands, the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

20 USC 5004.

SEC. 6004. GENERAL PROVISIONS.

(a) GRANT REQUIREMENTS.—The Secretary shall ensure, with respect to grants provided under subtitles A and B, that—

Women. Minorities. Handicapped persons.

(1) services assisted by funds received under such grants shall be made available to historically underrepresented and underserved populations of students, including females, minorities, handicapped individuals, individuals with limited English proficiency, and migrant students;

(2) the terms "training" and "instruction" are interpreted to include training and instruction through telecommunications technologies, including the full range of current and new technologies that can be used for educational purposes, such as television broadcasts, closed circuit television systems, cable television, satellite transmissions, computers, VHS, laser discs, and audio by discs, tapes, or broadcast, and such other video and telecommunications technologies that alone or in combination can assist in teaching and learning; and

(3) where appropriate, programs funded under subtitles A and B shall be coordinated with other federally funded education and training programs.

(b) ADDITIONAL ELIGIBLE INSTITUTIONS.—For purposes of any program authorized by subtitle A or B, institutions eligible to participate shall include any accredited proprietary institution providing a program of less than six months duration that is otherwise eligible to participate in any program under subtitle A or B.

(c) BUDGET LIMITATION.—The Secretary may not make grants or enter into contracts under subtitle A, B, or C except to such extent, or in such amounts, as may be provided in appropriation Acts.

State and local governments.

Subtitle A—Elementary and Secondary Education

CHAPTER 1—MATHEMATICS AND SCIENCE

SEC. 6005. MATHEMATICS AND SCIENCE EDUCATION REAUTHORIZED.

Section 203(b) of the Education for Economic Security Act is amended to read as follows: 20 USC 3963.

"(b) There are authorized to be appropriated $175,000,000 for the fiscal year 1988 to carry out the provisions of this title.". Appropriation authorization.

CHAPTER 2—ADULT LITERACY

SEC. 6011. WORKPLACE LITERACY PARTNERSHIPS GRANTS

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Adult Education Act is amended by inserting after section 315 the following new section:

"BUSINESS, INDUSTRY, LABOR, AND EDUCATION PARTNERSHIPS FOR WORKPLACE LITERACY

"SEC. 316. (a) GRANTS FOR EXEMPLARY DEMONSTRATION PARTNERSHIPS FOR WORKPLACE LITERACY.—(1) Subject to subsection (b), the Secretary may make demonstration grants to exemplary education partnerships for workplace literacy to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, or labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (3); and

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A).

"(3) Programs funded under paragraph (2)(A) shall be designed to improve the productivity of the workforce through improvement of literacy skills needed in the workplace by—

"(A) providing adult literacy and other basic skills services and activities;

"(B) providing adult secondary education services and activities which may lead to the completion of a high school diploma or its equivalent;

"(C) meeting the literacy needs of adults with limited English proficiency;

"(D) upgrading or updating basic skills of adult workers in accordance with changes in workplace requirements, technology, products, or processes;

"(E) improving the competency of adult workers in speaking, listening, reasoning, and problem solving; or

Children and youth.

"(F) providing education counseling, transportation, and nonworking hours child care services to adult workers while they participate in a program funded under paragraph (2)(A).

"(4) An application to receive funding for a program out of a grant made to a partnership under this subsection shall—

"(A) be submitted jointly by—

"(i) a business, industry, or labor organization, or private industry council; and

"(ii) a State educational agency, local educational agency, institution of higher education, or school (including an area vocational school, an employment and training agency, or community-based organization);

"(B) set forth the respective roles of each member of the partnership;

"(C) contain such additional information as the Secretary may require, including evidence of the applicant's experience in providing literacy services to working adults;

"(D) describe the plan for carrying out the requirements of paragraph (3); and

"(E) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this section.

"(b) GRANTS TO STATES.—(1) Whenever in any fiscal year, appropriations under subsection (c) are equal to or exceed $50,000,000, the Secretary shall make grants to States which have State plans approved by the Secretary under section 306 to pay the Federal share of the cost of adult education programs which teach literacy skills needed in the workplace through partnerships between—

"(A) business, industry, or labor organizations, or private industry councils; and

"(B) State educational agencies, local educational agencies, institutions of higher education, or schools (including employment and training agencies or community-based organizations).

"(2) Grants under paragraph (1) may be used—

"(A) to fund 70 percent of the cost of programs which meet the requirements of paragraph (4);

"(B) for administrative costs incurred by State educational agencies and local educational agencies in establishing programs funded under subparagraph (A); and

"(C) for costs incurred by State educational agencies in obtaining evaluations described in paragraph (3)(A)(iii).

"(3) A State shall be eligible to receive its allotment under subsection (e) if it—

"(A) includes in a State plan submitted to the Secretary under section 306 a description of—

"(i) the requirements for State approval of funding of a program;

"(ii) the procedures under which applications for such funding may be submitted; and

"(iii) the method by which the State shall obtain annual third-party evaluation of student achievement in, and overall effectiveness of services provided by, all programs which receive funding out of a grant made to the State under this section; and

"(B) satisfies the requirements of section 306(a).

"(4) The program requirements set forth in subsection (a)(3), shall apply to the program authorized by this subsection.

"(5) An application to receive funding for a program from a grant made to a State under paragraph (1) shall contain the same information required in subparagraphs (A) through (E) of subsection (a)(4).

"(6) If a State is not eligible for a grant under paragraph (1) of this subsection, the Secretary shall use the State's allotment under paragraph (7) to make direct grants to applicants in that State who are qualified to teach literacy skills needed in the workplace.

"(7)(A) The Federal share of expenditures for programs in a State funded under this subsection shall be paid from a State's allotment under this paragraph.

"(B) From the sum appropriated for each fiscal year under subsection (c) for any fiscal year in which appropriations equal or exceed $50,000,000, the Secretary shall allot—

"(i) $25,000 to each of American Samoa, Guam, the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands; and Territories, U.S.

"(ii) to each remaining State an amount which bears the same ratio to the remainder of such sum as—

"(I) the number of adults in the State who do not have a certificate of graduation from a school providing secondary education (or its equivalent) and who are not currently required to be enrolled in schools in the State, bears to

"(II) the number of such adults in all States;

except that no State shall receive less than $125,000 in any fiscal year.

"(C) At the end of each fiscal year, the portion of any State's allotment for that fiscal year which—

"(i) exceeds 10 percent of the total allotment for the State under paragraph (2) for the fiscal year; and

"(ii) remains unobligated;

shall be reallocated among the other States in the same proportion as each State's allocation for such fiscal year under paragraph (2).

"(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $30,000,000 for the fiscal year 1988, $31,500,000 for the fiscal year 1989, and such sums as may be necessary for the

fiscal year 1990 and each succeeding fiscal year ending prior to October 1, 1993, to carry out the provisions of this section.

"(2) Amounts appropriated under this subsection shall remain available until expended.".

20 USC 1202.

(b) DEFINITIONS.—Section 303 of the Adult Education Act is amended by adding at the end the following new subsections:

"(k) The term 'community-based organization' has the meaning given such term in section 4(5) of the Job Training Partnership Act (21 U.S.C. 1501 et seq.).

"(l) The term 'private industry council' means the private industry council established under section 102 of the Job Training Partnership Act (21 U.S.C. 1501 et seq.).".

SEC. 6012. ENGLISH LITERACY GRANTS.

(a) ESTABLISHMENT OF GRANT PROGRAM.—The Adult Education Act is amended by inserting after section 316 (as added by section 6011) the following new section:

"ENGLISH LITERACY PROGRAM GRANTS

Minorities. Community development.

"SEC. 317. (a) GRANTS TO STATES.—(1) The Secretary may make grants to States which have State plans approved by the Secretary under section 306 for the establishment, operation, and improvement of English literacy programs for individuals of limited English proficiency. Such grants may provide for support services for program participants, including child care and transportation costs.

Children and youth. Transportation.

"(2) A State shall be eligible to receive a grant under paragraph (1) if the State includes in a State plan submitted to the Secretary under section 306 a description of—

"(A) the number of individuals of limited English proficiency in the State who need or could benefit from programs assisted under this chapter;

"(B) the activities which would be undertaken under the grant and the manner in which such activities will promote English literacy and enable individuals in the State to participate fully in national life;

"(C) how the activities described in subparagraph (B) will serve individuals of limited English proficiency, including the qualifications and training of personnel who will participate in the proposed activities;

"(D) the resources necessary to develop and operate the proposed activities and the resources to be provided by the State; and

"(E) the specific goals of the proposed activities and how achievement of these goals will be measured.

"(3) The Secretary may terminate a grant only if the Secretary determines that—

"(A) the State has not made substantial progress in achieving the specific educational goals set out in the application; or

"(B) there is no longer a need in the State for the activities funded by the grant.

"(b) SET-ASIDE FOR COMMUNITY-BASED ORGANIZATIONS.—A State that is awarded a grant under subsection (a) shall use not less than 50 percent of funds awarded under the grant to fund programs operated by community-based organizations with the demonstrated capability to administer English proficiency programs.

"(c) REPORT.—A State that is awarded a grant under subsection (a) shall submit to the Secretary a report describing the activities funded under the grant for each fiscal year covered by the grant.

"(d) DEMONSTRATION PROGRAM.—The Secretary, subject to the availability of funds appropriated pursuant to this section, shall directly, and through grants and contracts with public and private nonprofit agencies, institutions, and organizations, carry out a program— Contracts.

"(1) through the Adult Education Division to develop innovative approaches and methods of literacy education for individuals of limited English proficiency utilizing new instructional methods and technologies; and

"(2) to designate the Center for Applicable Linguistics of the Office of Educational Research and Improvement as a national clearinghouse on literacy education for individuals of limited English proficiency to collect and disseminate information concerning effective approaches or methods, including coordination with manpower training and other education programs.

"(e) EVALUATION AND AUDIT.—The Secretary shall evaluate the effectiveness of programs conducted under this section. Programs funded under this section shall be audited in accordance with chapter 75 of title 31, United States Code.

"(f) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $25,000,000 for the fiscal year 1988 to carry out this section.

"(2) Funds appropriated pursuant to this section shall remain available until expended.

"(3) Funds appropriated under this subsection may be combined with other funds made available for the State by the Federal Government for literacy training for individuals with limited English proficiency.

"(4) Not more than 10 percent of funds available under this section shall be used to carry out the purposes of subsection (d).".

(b) DEFINITIONS.—Section 303 of the Adult Education Act (20 U.S.C. 1201 et seq.) (as amended by section 6011) is amended by adding at the end the following new subsections:

"(m) The term 'individual of limited English proficiency' means an adult or out-of-school youth who has limited ability in speaking, reading, writing, or understanding the English language and—

"(1) whose native language is a language other than English; or

"(2) who lives in a family or community environment where a language other than English is the dominant language.

"(n) The term 'out-of-school youth' means an individual who is under 16 years of age and beyond the age of compulsory school attendance under State law who has not completed high school or the equivalent.

"(o) The term 'English literacy program' means a program of instruction designed to help limited English proficient adults, out-of-school youths, or both, achieve full competence in the English language.

"(p) The term 'community-based organization' means a private organization which is representative of a community or significant segments of a community and which provides education, vocational education, job training, or internship services and programs and includes neighborhood groups and organizations, community action agencies, community development corporations, union-related

organizations, employer-related organizations, tribal governments, and organizations serving Native Alaskans and Indians.".

SEC. 6013. LITERACY COORDINATION.

(a) FEDERAL LITERACY OFFICE.—The Adult Education Act is amended by inserting after section 317 (as added by section 6012) the following new section:

"COORDINATION OF LITERACY PROGRAMS

"SEC. 318. (a) FEDERAL LITERACY COORDINATION OFFICE.—The Adult Education Division shall serve as the Federal literacy coordination office.

"(b) DUTIES.—The Secretary, through the Division, shall—

"(1) coordinate Federal literacy programs, including grant programs administered under this chapter and other grant programs funded under the Adult Education Act (20 U.S.C. 1201 et seq.); and

"(2) provide information and guidance to States with respect to the establishment of State and local volunteer programs relating to literacy.

"(c) STATE LITERACY COORDINATION.—To the extent practicable, each State agency designated under section 306(b)(2) that receives funds under section 316 or section 317 shall—

"(1) designate area offices for coordination of literacy programs, distributed throughout the State so that persons in all areas of the State have access to literacy programs;

"(2) train personnel who will operate the area offices;

"(3) determine curricula and materials for literacy programs;

"(4) oversee area offices;

"(5) provide assistance to area offices;

"(6) conduct programs to recruit volunteers and participants;

"(7) coordinate the programs described in paragraph (6) with existing literacy programs; and

"(8) allocate funds to area offices.".

SEC. 6014. APPLICABILITY PROVISION.

The amendments made by this chapter shall not take effect if the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is enacted prior to the enactment of this Act.

CHAPTER 3—FOREIGN LANGUAGES

Subchapter A—Foreign Language Assistance

Foreign Language Assistance Act of 1988.

SEC. 6021. SHORT TITLE.

20 USC 5011.

This subchapter may be cited as the "Foreign Language Assistance Act of 1988".

20 USC 5012.

SEC. 6022. FINDINGS.

The Congress finds that the economic and security interests of this Nation require significant improvement in the quantity and quality of foreign language instruction offered in the Nation's elementary and secondary schools, and Federal funds should be made available to assist the purpose of this subchapter.

SEC. 6023. PROGRAM AUTHORIZED.

20 USC 5013.

(a) GENERAL AUTHORITY.—The Secretary shall make grants to State educational agencies whose applications are approved under subsection (b) to pay the Federal share of the cost of model programs, designed and operated by local educational agencies, providing for the commencement or improvement and expansion of foreign language study for students. Grants.

(b) APPLICATION.—Any State educational agency desiring to receive a grant under this subchapter shall submit an application therefor to the Secretary at such time, in such form, and containing such information and assurances as the Secretary may require. No application may be approved by the Secretary unless the application—

(1) contains a description of model programs which—

(A) are designed by local educational agencies and are available without regard to whether students attend the schools operated by such agency and if the local educational agency determines to do so, are available to residents of the community,

(B) represents a variety of alternative and innovative approaches to foreign language instruction, and

(C) are selected on a competitive basis by the State educational agency;

(2) provides assurances that all children aged 5 through 17 who reside within the school district of the local educational agency shall be eligible to participate in any model program funded under this section (without regard to whether such children attend schools operated by such agency);

(3) provides assurances that the State will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources; and

(4) provides that the local educational agency will provide standard evaluations of the proficiency of participants at appropriate intervals in the program which are reliable and valid, and provide such evaluations to the State educational agency.

(c) FEDERAL SHARE.—(1) The Federal share for each fiscal year shall be 50 percent.

(2) The Secretary may waive the requirement of paragraph (1) for any local educational agency which the Secretary determines does not have adequate resources to pay the non-Federal share of the cost of the project.

(d) PARTICIPATION OF PRIVATE SCHOOLS.—(1) To the extent consistent with the number of children in the State or in the school district of each local educational agency who are enrolled in private elementary and secondary schools, such State or agency shall, after consultation with appropriate private school representatives, make provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which such children can participate and which meet the requirements of this section. Expenditures for educational services and arrangements pursuant to this subsection for children in private schools shall be equal (taking into account the number of children to be served and the needs of such children) to expenditures for children enrolled in the public schools of the State or local educational agency. Children and youth.

(2) If by reason of any provision of law a State or local educational agency is prohibited from providing for the participation of children from private schools as required by paragraph (1), or if the Secretary determines that a State or local educational agency has substantially failed or is unwilling to provide for such participation on an equitable basis, the Secretary shall waive such requirements and shall arrange for the provision of services to such children which shall be subject to the requirements of this subsection. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with paragraphs (3) and (4) of section 557(b) of the Education Consolidation and Improvement Act of 1981.

20 USC 5014.

SEC. 6024. ALLOTMENT.

Territories, U.S.

(a) GENERAL RULE.—(1) From the sums appropriated to carry out this subchapter in any fiscal year, the Secretary shall reserve 1 percent for payments to Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands, to be allotted in accordance with their respective needs.

(2) From the remainder of such sums the Secretary shall allot to each State an amount which bears the same ratio to the amount of such remainder as the school age population of the State bears to the school age population of all States, except that no State shall receive less than an amount equal to one-half of 1 percent of such remainder.

(b) AVAILABILITY OF FUNDS.—The allotment of a State under subsection (a) shall be made available to the State for 2 additional years after the first fiscal year during which the State receives its allotment under this section if the Secretary determines that the funds made available to the State during the first such year were used in the manner required under the State's approved application.

20 USC 5015.

SEC. 6025. DEFINITIONS.

(a) GENERAL RULE.—For the purpose of this subchapter, the term "foreign language instruction" means instruction in critical foreign languages as defined by the Secretary.

(b) SPECIAL RULE.—For the purpose of section 6024—

(1) the term "school age population" means the population aged 5 through 17; and

(2) the term "States" includes the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

20 USC 5016.

SEC. 6026. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $20,000,000 for the fiscal year 1988 to carry out this subchapter.

Subchapter B—Presidential Award for Languages

20 USC 5021.

SEC. 6027. PRESIDENTIAL AWARDS.

(a) GENERAL AUTHORITY.—The President is authorized to make Presidential Awards for Teaching Excellence in Foreign Languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching qualifications in the field of teaching foreign languages.

District of Columbia. Puerto Rico.

(b) SELECTION PROCEDURES.—The President is authorized to make 104 awards under subsection (a) of this section. In selecting ele-

mentary and secondary school teachers for the award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher from each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 6028. ADMINISTRATIVE PROVISIONS. 20 USC 5022.

The President shall carry out the provisions of section 6027, including the establishment of the selection procedures, after consultation with the Secretary of Education, other appropriate officials of Federal agencies, and representatives of professional foreign language teacher associations.

SEC. 6029. AUTHORIZATION OF APPROPRIATIONS. 20 USC 5023.

(a) AUTHORIZATION.—There are authorized to be appropriated $1,000,000 for fiscal year 1988 to carry out the provisions of this subchapter.

(b) USE OF FUNDS.—Amounts appropriated pursuant to subsection (a) shall be available for making awards under section 6027, for administrative expenses, for necessary travel by teachers selected under section 6027, and for special activities related to carrying out the provisions of this subchapter.

CHAPTER 4—SCIENCE AND MATHEMATICS ELEMENTARY AND SECONDARY BUSINESS PARTNERSHIPS

SEC. 6031. PROGRAM AUTHORIZED.

(a) ESTABLISHMENT OF PROGRAM.—Title III of the Education for Economic Security Act (20 U.S.C. 3981 et seq.) is amended—

(1) by inserting after the title heading the following:

"PART A—HIGHER EDUCATION PARTNERSHIPS"; and

(2) by adding at the end the following new part:

"PART B—ELEMENTARY AND SECONDARY EDUCATION PARTNERSHIPS Grants.

"PURPOSE

"SEC. 321. It is the purpose of this part to supplement State and local resources to— 20 USC 3991.

"(1) improve the quality of instruction in the fields of mathematics and science in elementary and secondary schools;

"(2) furnish additional resources and support for the acquisition of equipment, and instructional and reference materials and improvement of laboratory facilities in elementary and secondary schools; and

"(3) encourage partnerships in science and mathematics education between the business community, museums, libraries, professional mathematics and scientific associations, private nonprofit organizations, appropriate State agencies and elementary and secondary schools.

"PROGRAMS AUTHORIZED

20 USC 3992. "SEC. 322. (a) GRANTS.—The Secretary may make grants to States to pay the Federal share of the cost of the programs described in section 324.

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for purposes of carrying out this chapter $20,000,000 for fiscal year 1988.

"AMENDMENT TO STATE APPLICATION

20 USC 3993. "SEC. 323. (a) APPLICATION.—A State shall be eligible to receive a grant under this part if—

"(1) the State submits to the Secretary as part of its application under section 209 such information and assurances as the Secretary may require at such time as the Secretary shall establish; and

"(2) the Secretary approves such application.

"(b) APPLICATION REQUIREMENTS.—The Secretary shall require each application to include—

"(1) a description of the State's procedures relating to the use of funds from grants received under this part, including the approval process for local applications;

"(2) an assurance that not more than 1 percent of the amount received shall be used for administrative expenses; and

"(3) an assurance that the State will, to the extent possible, assist local school districts in economically depressed areas to obtain matching funds from business concerns.

"ELIGIBLE PROGRAMS

20 USC 3994. "SEC. 324. (a) IN GENERAL.—A State may use funds from grants received in any fiscal year under this part for elementary and secondary programs described in this section. The State educational agency shall administer such funds, which shall be awarded to such programs on a competitive basis.

"(b) USE OF FUNDS.—Funds from grants received under this part may be used for the following:

"(1) IMPROVEMENT OF ELEMENTARY AND SECONDARY RESOURCES.—Such funds may be used for acquisition of equipment, instructional and reference materials, and partnership in education programs designed to—

"(A) improve instruction in mathematics and science education at the elementary and secondary level;

"(B) improve laboratory facilities, classroom and library resources in elementary and secondary mathematics and science education; and

"(C) attract matching dollars and in kind contributions of equipment, learning resources or shared time from business concerns, libraries, museums, nonprofit private organizations, professional mathematics and scientific associations, and appropriate State agencies.

"(2) ADVANCED PLACEMENT PROGRAMS.—(A) Such funds may be used for advanced placement programs operated by local educational agencies that are designed to allow qualified secondary students to attend college preparatory schools, colleges, or universities on a part-time or full-time basis with respect to science and mathematics instruction.

"(B) A local educational agency that receives funds from a grant under this part for an advanced placement program described in subparagraph (A) shall allocate to such program a percentage of funds received from the State on a per student basis according to—

"(i) the number of students participating in the program; and

"(ii) the instruction time such students receive under the program.

"LOCAL APPLICATIONS

"SEC. 325. (a) ELIGIBILITY.—An applicant that desires to receive a grant under this part shall submit an application to the State educational agency, at such time, and in such manner, as the State may require. Such application may take the form of an amendment to an assessment submitted by the local educational agency under section 210, if appropriate. 20 USC 3995.

"(b) REQUIREMENTS FOR APPLICATION.—The State shall require each application to include—

"(1) a description of the activities for which assistance under this part is sought;

"(2) assurances that not more than 5 percent of the amount received by the applicant in any fiscal year shall be expended on administrative expenses;

"(3) if the funds are to be used for improvement of elementary and secondary resources as described in subsection (b)(1)—

"(A) an estimate of the amount to be spent on equipment, facilities improvement, library resources, and classroom instructional material;

"(B) an estimate of the number of elementary and secondary students who will be aided by activities and expenditures under the grant;

"(C) assurances that—

"(i) except as provided in subsection (c), a minimum of 25 percent of the funds for each project will be supplied by business concerns within the community;

"(ii) no stipend shall be paid directly to employees of a profitmaking business concern;

"(iii) provision shall be made for the equitable participation in the project of children who are enrolled in private elementary and secondary schools; and

"(iv) consideration will be given to programs and activities designed to meet the needs of educationally disadvantaged and other traditionally underserved populations; and

"(4) if the funds are to be used for advanced placement programs as described in subsection (b)(2), a commitment as to the percentage of funds received from the State on a per student basis that shall be used by the local educational agency to defray costs of the advanced placement program.

"(c) WAIVER.—The State may waive or reduce the amount of matching funds required under subsection (b)(3)(C)(i) if the State determines that—

"(1) substantial need exists in the area served by the applicant for a grant under this part; and

"(2) the required amount of matching funds cannot be made available.

"(d) JOINT APPLICATIONS.—A regional consortium of applicants in 2 or more local school districts may file a joint application under subsection (a).

"SUBMISSION OF APPLICATIONS

20 USC 3996.

"SEC. 326. An applicant within a State that desires to receive a grant under this chapter shall submit an application prepared in accordance with section 325 to the State educational agency for approval. Each application with respect to funds for improvement of elementary and secondary resources under section 324(b)(1) shall be submitted jointly by the local educational agency and each business concern or other party that is to participate in the activities for which assistance is sought.

"APPROVAL OF APPLICATIONS

20 USC 3997.

"SEC. 327. (a) CRITERIA.—The State shall establish criteria for approval of applications under this section. Such criteria shall include—

"(1) consideration of the local district's need for, and inability to locally provide for, the activities, equipment, library and instructional materials requested;

"(2) the number and nature of elementary and secondary students who will benefit from the planned program; and

"(3) the expressed level of financial and in-kind commitment from other parties to the program.

"(b) APPROVAL PROCEDURES.—The State shall adopt approval procedures designed to ensure that grants are equitably distributed among—

Rural areas.
Urban areas.
Suburban areas.

"(1) rural, urban, and suburban areas; and

"(2) small, medium, and large local educational agencies.

"COMPUTATION OF GRANT AMOUNTS

20 USC 3998.

"SEC. 328. (a) PAYMENTS TO GRANTEES.—

"(1) PAYMENT BY STATE.—The State shall pay to the extent of amounts received by it from the Secretary under this part, to each applicant having an application approved under section 327, the Federal share of the cost of the program described in the application.

"(2) AMOUNT.—(A) Except as provided in subparagraph (B), the Federal share for each fiscal year shall be 75 percent.

"(B) In the case of an applicant that receives a waiver under section 325(c), the Federal share for each fiscal year may be as much as 100 percent.

"(3) NON-FEDERAL SHARE.—The non-Federal share of payments under this part may be in cash or in kind, fairly evaluated, including plant, equipment, or services.

"(b) PAYMENTS TO STATES.—Except as provided in subsection (c), each State shall receive under this part the greater of—

"(1) an amount equal to its share of funds appropriated under chapter 1 of the Education Consolidation and Improvement Act; or

"(2) $225,000.

"(c) REDUCTION FOR INSUFFICIENT FUNDING.—If sums appropriated to carry out this part are not sufficient to permit the Secretary to pay in full the grants which States may receive under subsection (b), the amount of such grants shall be ratably reduced.".

(b) CONFORMING AMENDMENTS.—

(1) TITLE HEADING.—The title heading of such title is amended to read as follows:

"TITLE III—PARTNERSHIPS IN EDUCATION FOR MATHEMATICS, SCIENCE, AND ENGINEERING".

(2) REFERENCES.—Part A of such title (as redesignated by subsection (a)) is amended by striking out "title" each place such term appears and inserting in lieu thereof "part". 20 USC 3981 *et seq.*

CHAPTER 5—EDUCATIONAL PARTNERSHIPS

Educational Partnerships Act of 1988.

SEC. 6041. SHORT TITLE. 20 USC 5031.

This chapter may be cited as the "Educational Partnerships Act of 1988"

SEC. 6042. PURPOSE. 20 USC 5032.

It is the purpose of this chapter to encourage the creation of alliances between public elementary and secondary schools or institutions of higher education and the private sector in order to—

(1) apply the resources of the private and nonprofit sectors of the community to the needs of the elementary and secondary schools or institutions of higher education, as the case may be, in that community designed to encourage excellence in education;

(2) encourage business to work with educationally disadvantaged students and with gifted students;

(3) apply the resources of communities for the improvement of elementary and secondary education or higher education, as the case may be; and

(4) enrich the career awareness of secondary or postsecondary school students to exposures to the private sector and their work.

SEC. 6043. PROGRAM AUTHORIZED. 20 USC 5033.

(a) GRANTS TO ELIGIBLE PARTNERSHIPS.—The Secretary may make grants to eligible partnerships to pay the Federal share of the costs of the activities described in section 6144.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1988 and such sums as may be necessary for each of fiscal years 1989 through 1993 to carry out the provisions of this chapter.

SEC. 6044. AUTHORIZED ACTIVITIES. 20 USC 5034.

An eligible partnership may use payments received under this chapter in any fiscal year for—

(1) model cooperative programs designed to apply the resources of the private and nonprofit sectors of the community to

the elementary and secondary schools of the local educational agency or institutions of higher education in that community;

(2) projects designed to encourage business concerns and other participants in the eligible partnership, to work with educationally disadvantaged students and with gifted students in the elementary and secondary schools of local educational agencies or institutions of higher education;

(3) projects designed to apply the resources of the community to the elementary and secondary schools of the local educational agency or institutions of higher education in that community to improve the education of students in such schools;

(4) projects which are designed to address the special educational needs of gifted and talented children in the elementary and secondary schools of such agencies which are conducted with the support of the private sector;

(5) projects designed to enrich the career awareness of secondary or postsecondary school students through exposure to officers and employees of business concerns and other agencies and organizations participating in the eligible partnership for education;

(6) projects for statewide activities designed to carry out the purpose of this chapter, including the development of model State statutes for the support of cooperative arrangements between the private sector and the elementary and secondary schools or institutions of higher education within the State;

(7) special training projects for staff designed to develop skills necessary to facilitate cooperative arrangements between the private and nonprofit sectors and the elementary and secondary schools of local educational agencies or institutions of higher education;

(8) academic internship programs, including where possible academic credit, involving activities designed to carry out the purpose of this chapter; and

(9) projects encouraging tutorial and volunteer work in the elementary and secondary schools of local education agencies or institutions of higher education by personnel assigned from business concerns and other participants in the eligible partnership.

20 USC 5035.

SEC. 6045. APPLICATION.

Grants.

(a) IN GENERAL.—An eligible partnership which desires to receive a grant under this chapter shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Each such application shall—

(1) describe the activities for which assistance under this chapter is sought;

(2) provide assurances that the eligible partnership will pay the non-Federal share of the activities for which assistance is sought from non-Federal sources;

(3) provide assurances that the eligible partnership will take such steps as may be available to it to continue the activities for which the eligible partnership is making application after the period for which assistance is sought;

(4) provide assurances—

(A) that the educational partnership will disseminate information on the model program for which assistance is sought; and

(B) that not more than 1 percent of the grant in any fiscal year may be expended for the purpose described in subparagraph (A); and

(5) provide such additional assurances as the Secretary determines to be essential to ensure compliance with the requirements of this chapter.

(b) JOINT APPLICATION.—A consortium of eligible alliances may file a joint application under the provisions of subsection (a) of this section.

SEC. 6046. APPROVAL OF APPLICATION. 20 USC 5036.

(a) IN GENERAL.—The Secretary shall approve applications in accordance with uniform criteria established by the Secretary.

(b) RESTRICTION.—The Secretary may not approve an application if the State educational agency for the State in which the institution is located, or, in the case of a consortium of institutions, in which any institution in the consortium is located, notifies the Secretary that the application is inconsistent with State plans for elementary and secondary education in the State.

SEC. 6047. COMPUTATION OF GRANT AMOUNTS. 20 USC 5037.

(a) COMPUTATION.—

(1) IN GENERAL.—The Secretary shall pay to each eligible partnership having an application approved under section 6046 the Federal share of the cost of the activities described in the application.

(2) FEDERAL SHARE.—The Federal share shall be—

(A) 90 percent for the first year for which an eligible partnership receives assistance under this chapter;

(B) 75 percent for the second such year;

(C) 50 percent for the third such year; and

(D) 33⅓ percent for the fourth such year.

(3) NON-FEDERAL SHARE.—The non-Federal share of payments under this chapter may be in cash or in kind fairly evaluated, including planned equipment or services.

(b) RESTRICTION.—The total amount of funds paid under this chapter during any fiscal year to eligible partnerships in any single State may not be greater than the greater of—

(1) an amount equal to 15 percent of the funds appropriated under this chapter for that fiscal year; or

(2) $1,000,000.

SEC. 6048. EVALUATION AND DISSEMINATION. 20 USC 5038.

(a) ANNUAL EVALUATION.—The Secretary shall conduct an annual evaluation of grants made under this chapter to determine—

(1) the type of activities assisted under this chapter;

(2) the impact upon the educational characteristics of the elementary and secondary schools and institutions of higher education from activities assisted under this chapter;

(3) the extent to which activities assisted under this chapter have improved or expanded the nature of support for elementary and secondary education in the community or in the State; and

(4) a list of specific activities assisted under this chapter which show promise as model programs to carry out the purpose of this chapter.

(b) DISSEMINATION OF INFORMATION.—The Secretary shall disseminate to State and local educational agencies and other participants in the eligible alliance program information relating to the activities assisted under this chapter.

20 USC 5039.

SEC. 6049. DEFINITIONS.

As used in this chapter—

(1) The term "elementary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

(2) The term "eligible partnership" means—

(A) a local educational agency or an institution of higher education, or both, and

(B) business concerns, community-based organizations, nonprofit private organizations, museums, libraries, educational television and radio stations, and if the State agrees to participate, appropriate State agencies.

(3) The term "institution of higher education" has the same meaning given that term by section 481(a)(1) of the Higher Education Act of 1965.

(4) The term "secondary school" has the same meaning given that term under section 198(a)(7) of the Elementary and Secondary Education Act of 1965.

CHAPTER 6—STAR SCHOOLS PROGRAM

Grants.

SEC. 6051. PROGRAM AUTHORIZED.

The Education for Economic Security Act is amended by adding at the end thereof the following new title:

Star Schools Program Assistance Act.

"TITLE IX—STAR SCHOOLS PROGRAM

"SHORT TITLE

"SEC. 901. This title may be cited as the 'Star Schools Program Assistance Act'.

"STATEMENT OF PURPOSE

"SEC. 902. It is the purpose of this title to encourage improved instruction in mathematics, science, and foreign languages as well as other subjects such as vocational education through a star schools program under which demonstration grants are made to eligible telecommunications partnerships to enable such eligible telecommunications partnerships to develop, construct, and acquire telecommunications audio and visual facilities and equipment, to develop and acquire instructional programming, and obtain technical assistance for the use of such facilities and instructional programming.

"PROGRAM AUTHORIZED

"SEC. 903. (a) GENERAL AUTHORITY.—The Secretary is authorized, in accordance with the provisions of this title, to make grants to eligible telecommunications partnerships for the Federal share of the cost of the development, construction, and acquisition of tele-

communications facilities and equipment, of the development and acquisition of instructional programming, and of technical assistance.

"(b) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated $100,000,000 for the period beginning October 1, 1987, and ending September 30, 1992.

"(2) No appropriation in excess of $20,000,000 may be made in fiscal year 1988, and no appropriation in excess of $37,500,000 may be made in any of the fiscal years 1989 through 1992 pursuant to paragraph (1) of this subsection.

"(3) Funds appropriated pursuant to this subsection shall remain available until expended.

"(c) LIMITATIONS.—(1)(A) A demonstration grant made to an eligible telecommunications partnership under this title may not exceed $10,000,000.

"(B) An eligible telecommunications partnership may receive a grant for a second year under this title, but in no event may such a partnership receive more than $20,000,000.

"(2) Not less than 25 percent of the funds available in any fiscal year under this Act shall be used for the cost of instructional programming.

"(3) Not less than 50 percent of the funds available in any fiscal year under this Act shall be used for the cost of facilities, equipment, teacher training or retraining, technical assistance, or programming, for local educational agencies which are eligible to receive assistance under chapter 1 of title I of this Act.

"(d) FEDERAL SHARE.—(1) The Federal share for any fiscal year shall be 75 percent.

"(2) The Secretary may reduce or waive the requirements of the non-Federal share required under paragraph (1) of this subsection upon a showing of financial hardship.

"ELIGIBLE TELECOMMUNICATIONS PARTNERSHIPS

"SEC. 904. (a) GENERAL RULE.—In order to be eligible for demonstration grants under this title, an eligible telecommunications partnership shall consist of—

"(1) a public agency or corporation established for the purpose of developing and operating telecommunications networks to enhance educational opportunities provided by educational institutions, teacher training centers, and other entities, except that any such agency or corporation shall represent the interests of elementary and secondary schools which are eligible to participate in the program under chapter 1 of title I of this Act; or

"(2) a partnership which includes 3 or more of the following, and at least one of which shall be an agency described in subparagraph (A) or (B), and which will provide a telecommunications network:

"(A) a local educational agency, which has a significant number of elementary and secondary schools which are eligible for assistance under chapter 1 of title I of this Act or elementary and secondary schools operated for Indian children by the Department of the Interior eligible under section 1005(d) of this Act, Indians.

"(B) a State educational agency, or a State higher education agency,

"(C) an institution of higher education,
"(D) a teacher training center which—
"(i) provides teacher preservice and inservice training, and
"(ii) receives Federal financial assistance or has been approved by a State agency, or
"(E)(i) a public agency with experience or expertise in the planning or operation of a telecommunications network,
"(ii) a private organization with such experience, or
"(iii) a public broadcasting entity with such experience.

"(b) SPECIAL RULE.—An eligible telecommunications partnership must be organized on a statewide or multistate basis.

"APPLICATIONS

"SEC. 905. (a) APPLICATION REQUIRED.—Each eligible telecommunications partnership which desires to receive a demonstration grant under this title may submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—
"(1) describe the telecommunications facilities and equipment and technical assistance for which assistance is sought which may include—
"(A) the design, development, construction, and acquisition of State or multistate educational telecommunications networks and technology resource centers;
"(B) microwave, fiber optics, cable, and satellite transmission equipment;
"(C) reception facilities;
"(D) satellite time;
"(E) production facilities;
"(F) other telecommunications equipment capable of serving a wide geographic area;
"(G) the provision of training services to elementary and secondary school teachers (particularly teachers in schools receiving assistance under chapter 1 of title I of this Act in using the facilities and equipment for which assistance is sought; and
"(H) the development of educational programming for use on a telecommunications network;
"(2) describe, in the case of an application for assistance for instructional programming, the types of programming which will be developed to enhance instruction and training;
"(3) demonstrate that the eligible telecommunications partnership has engaged in sufficient survey and analysis of the area to be served to ensure that the services offered by the telecommunications partnership will increase the availability of courses of instruction in mathematics, science, and foreign languages, as well as the other subjects to be offered;
"(4) describe the teacher training policies to be implemented to ensure the effective use of the telecommunications facilities and equipment for which assistance is sought;
"(5) provide assurances that the financial interest of the United States in the telecommunications facilities and equipment will be protected for the useful life of such facilities and equipment;

"(6) provide assurances that a significant portion of the facilities, equipment, technical assistance, and programming for which assistance is sought will be made available to elementary and secondary schools of local educational agencies which have a high percentage of children counted for the purpose of chapter 1 of title I of this Act;

"(7) describe the manner in which traditionally underserved students will participate in the benefits of the telecommunications facilities, equipment, technical assistance, and programming assisted under this Act;

"(8) provide assurances that the applicant will use the funds to supplement and not supplant funds otherwise available for the purpose of this title; and

"(9) provide such additional assurances as the Secretary may reasonably require.

"(c) APPROVAL OF APPLICATION; PRIORITY.—The Secretary shall, in approving applications under this title, give priority to applications which demonstrate that—

"(1) a concentration and quality of mathematics, science, and foreign language resources which, by their distribution through the eligible telecommunications partnership, will offer significant new educational opportunities to network participants, particularly to traditionally underserved populations and areas with scarce resources and limited access to courses in mathematics, science, and foreign languages;

"(2) the eligible telecommunications partnership has secured the direct cooperation and involvement of public and private educational institutions, State and local government, and industry in planning the network;

"(3) the eligible telecommunications partnership will serve the broadest range of institutions, including public and private elementary and secondary schools (particularly schools having significant numbers of children counted for the purpose of chapter 1 of title I of this Act, programs providing instruction outside of the school setting, institutions of higher education, teacher training centers, research institutes, and private industry;

"(4) a significant number of educational institutions have agreed to participate or will participate in the use of the telecommunications system for which assistance is sought;

"(5) the eligible telecommunications partnership will have substantial academic and teaching capabilities including the capability of training, retraining, and inservice upgrading of teaching skills;

"(6) the eligible telecommunications partnership will serve a multistate area; and

"(7) the eligible telecommunications partnership will, in providing services with assistance sought under this Act, meet the needs of groups of individuals traditionally excluded from careers in mathematics and science because of discrimination, inaccessibility, or economically disadvantaged backgrounds.

"(d) GEOGRAPHIC DISTRIBUTION.—In approving applications under this title, the Secretary shall assure an equitable geographic distribution of grants.

"DISSEMINATION OF COURSES AND MATERIALS UNDER THE STAR SCHOOLS PROGRAM

"SEC. 906. (a) REPORT.—Each eligible telecommunications partnership awarded a grant under this Act shall report to the Secretary a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers which will be transmitted over satellite, specifying the satellite on which such transmission will occur and the time of such transmission.

"(b) DISSEMINATION OF COURSES OF INSTRUCTION.—The Secretary shall compile and prepare for dissemination a listing and description of available courses of instruction and materials to be offered by educational institutions and teacher training centers equipped with satellite transmission capabilities, as reported to the Secretary under subsection (a) of this section.

"(c) DISSEMINATION TO STATE EDUCATIONAL AGENCIES.—The Secretary shall distribute the list required by subsection (b) of this section to all State educational agencies.

"DEFINITIONS

"SEC. 907. As used in this title—

"(1) the term 'educational institution' means an institution of higher education, a local educational agency, and a State educational agency;

"(2) the term 'institution of higher education' has the same meaning given that term under section 1201(a) of the Higher Education Act of 1965;

"(3) the term 'local educational agency' has the same meaning given that term under section 198(a)(10) of the Elementary and Secondary Education Act of 1965;

"(4) the term 'instructional programming' means courses of instruction, and training courses, and materials for use in such instruction and training which have been prepared in audio and visual form on tape, disc, film, or live, and presented by means of telecommunications devices;

"(5) the term 'public broadcasting entity' has the same meaning given that term in section 397 of the Communications Act of 1934;

"(6) the term 'Secretary' means the Secretary of Education;

"(7) the term 'State educational agency' has the same meaning given that term under section 198(a)(17) of the Elementary and Secondary Education Act of 1965; and

"(8) the term 'State' means each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands.".

SEC. 6052. APPLICABILITY PROVISION.

The amendment made by this chapter shall not take effect if the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 is enacted prior to the enactment of this Act.

CHAPTER 7—PROJECTS AND PROGRAMS DESIGNED TO ADDRESS SCHOOL DROPOUT PROBLEMS AND TO STRENGTHEN BASIC SKILLS INSTRUCTION

Grants.

Subchapter A—Assistance to Address School Dropout Problems

School Dropout Demonstration Assistance Act of 1988.

SEC. 6061. SHORT TITLE. 20 USC 5051.

This subchapter may be cited as the "School Dropout Demonstration Assistance Act of 1988".

SEC. 6062. PURPOSE. 20 USC 5052.

The purpose of this subchapter is to reduce the number of children who do not complete their elementary and secondary education by providing grants to local educational agencies to establish and demonstrate—

(1) effective programs to identify potential student dropouts and prevent them from dropping out;

(2) effective programs to identify and encourage children who have already dropped out to reenter school and complete their elementary and secondary education;

(3) effective early intervention programs designed to identify at-risk students in elementary and secondary schools; and

(4) model systems for collecting and reporting information to local school officials on the number, ages, and grade levels of the children not completing their elementary and secondary education and the reasons why such children have dropped out of school.

SEC. 6063. AUTHORIZATION OF APPROPRIATIONS. 20 USC 5053.

There are authorized to be appropriated to carry out this subchapter $50,000,000 for the fiscal year 1988.

SEC. 6064. GRANTS TO LOCAL EDUCATIONAL AGENCIES. 20 USC 5054.

(a) ALLOTMENT TO CATEGORIES OF LOCAL EDUCATIONAL AGENCIES.—From the amount appropriated under section 6063 for any fiscal year, the Secretary shall allot the following percentages to each of the following categories of local educational agencies:

(1) Local educational agencies administering schools with a total enrollment of 100,000 or more elementary and secondary school students shall be allotted 25 percent of the amount appropriated.

(2) Local educational agencies administering schools with a total enrollment of at least 20,000 but less than 100,000 elementary and secondary school students shall be allotted 40 percent of the amount appropriated.

(3) Local educational agencies administering schools with a total enrollment of less than 20,000 elementary and secondary school students shall be allotted 30 percent of the amount appropriated. Grants may be made under this paragraph to intermediate educational units and consortia of not more than 5 local educational agencies in any case in which the total enrollment of the largest such local educational agency is less than 20,000 elementary and secondary students. Such units and con-

sortia may also apply in conjunction with the State educational agency. Not less than 20 percent of funds available under this paragraph shall be awarded to local educational agencies administering schools with a total enrollment of less than 2,000 elementary and secondary school students.

(4) Community-based organizations shall be allotted 5 percent of the amount appropriated. Grants under this category shall be made after consultation between the community-based organization and the local educational agency that is to benefit from such a grant.

(b) SPECIAL TREATMENT OF EDUCATIONAL PARTNERSHIPS.—(1) The Secretary shall allot 25 percent of the funds available for each category described in paragraphs (1), (2), and (3) of subsection (a) of this section to educational partnerships.

(2) Educational partnerships under this subsection shall include—

(A) a local educational agency; and

(B) a business concern or business organization, or, if an appropriate business concern or business organization is not available, one of the following: any community-based organization, nonprofit private organization, institution of higher education, State educational agency, State or local public agency, private industry council (established under the Job Training Partnership Act), museum, library, or educational television or broadcasting station.

(c) AWARD OF GRANT.—From the amount allotted for any fiscal year to a category of local educational agencies under subsection (a), the Secretary shall award as many grants as practicable within each such category to local educational agencies and educational partnerships whose applications have been approved by the Secretary for such fiscal year under section 6065 and whose applications propose a program of sufficient size and scope to be of value as a demonstration. The grants shall be made under such terms and conditions as the Secretary shall prescribe consistent with the provisions of this subchapter.

(d) USE OF FUNDS WHEN NOT FULLY NEEDED FOR EDUCATIONAL PARTNERSHIPS.—(1) Whenever the Secretary determines that the full amount of the sums made available under subsection (b) in each category for educational partnerships will not be required for applications of educational partnerships, the Secretary shall make the amount not so required available to local educational agencies in the same category in which the funds are made available.

(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund educational partnerships and shall prepare a list of the categories in which additional funds are available, and the reasons therefor, and make such list available to local educational agencies upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

(e) USE OF FUNDS WHEN NOT FULLY ALLOTTED TO CATEGORIES UNDER SUBSECTION (a).—(1) Whenever the Secretary determines that the full amount of the sums allotted under any category set forth under subsection (a) will not be required for applications of the local educational agencies in the case of categories (1) through (3), the Secretary shall make the amount not so required available to another category under subsection (a). In carrying out the provisions of this subsection, the Secretary shall assure that the transfer of

amounts from one category to another is made to a category in which there is the greatest need for funds.

(2) In order to transfer funds under this subsection, the Secretary shall use a peer review process to determine that such excess funds are not needed to fund projects in particular categories and shall prepare a list of the categories in which funds were not fully expended and the reasons therefor, and make such list available to local educational agencies and educational partnerships, upon request. The Secretary may use the peer review process to determine grant recipients of funds transferred in accordance with this subsection.

(f) FEDERAL SHARE.—(1) The Federal share of a grant under this subchapter may not exceed—

(A) 90 percent of the total cost of a project for the first year for which the project receives assistance under this subchapter, and

(B) 75 percent of such cost for the second such year.

(2) The remaining cost of a project that receives assistance under this subchapter may be paid from any source other than funds made available under this subchapter, except that not more than 10 percent of the remaining cost in any fiscal year may be provided from Federal sources other than this subchapter.

(3) The share of payments from sources other than funds made available under this subchapter may be in cash or in kind fairly evaluated, including plant, equipment or services.

SEC. 6065. APPLICATION.

20 USC 5055.

(a) IN GENERAL.—(1) A grant under this subchapter may be made only to a local educational agency or an educational partnership which submits an application to the Secretary containing such information as may be required by the Secretary by regulation.

(2) Applications shall be for a 1-year period.

(b) CONTENTS OF APPLICATION.—Each such application shall—

(1) provide documentation of—

(A) the number of children who were enrolled in the schools of the applicant for the 5 academic years prior to the date application is made who have not completed their elementary or secondary education and who are classified as school dropouts pursuant to section 4141(b)(5) of the Drug-Free Schools and Communities Act of 1986; and

(B) the percentage that such number of children is of the total school-age population in the applicant's schools;

(2) include a plan for the development and implementation of a dropout information collection and reporting system for documenting the extent and nature of the dropout problem;

(3) include a plan for coordinated activities involving at least 1 high school and its feeder junior high or middle schools and elementary schools for local educational agencies that have feeder systems;

(4) include a plan for the development and implementation of a project including activities designed to carry out the purposes of this subchapter, such as—

(A) implementing identification, prevention, outreach, or reentry projects for dropouts and potential dropouts;

(B) addressing the special needs of school-age parents;

(C) disseminating information to students, parents, and the community related to the dropout problem;

(D) as appropriate, including coordinated services and activities with programs of vocational education, adult basic education, and programs under the Job Training Partnership Act;

(E) involving the use of educational and telecommunications and broadcasting technologies and educational materials for dropout prevention, outreach, and reentry;

(F) providing activities which focus on developing occupational competencies which link job skill preparation and training with genuine job opportunities;

(G) establishing annual procedures for—

(i) evaluating the effectiveness of the project; and

(ii) where possible, determining the cost-effectiveness of the particular dropout prevention and reentry methods used and the potential for reproducing such methods in other areas of the country;

(H) coordinating, to the extent practicable, with other student dropout activities in the community; or

(I) using the resources of the community and parents to help develop and implement solutions to the local dropout problem; and

(5) contain such other information as the Secretary considers necessary to determine the nature of the local needs, the quality of the proposed project, and the capability of the applicant to carry out the project.

(c) PRIORITY.—The Secretary shall, in approving applications under this section, give priority to applications which both show the replication of successful programs conducted in other local educational agencies or the expansion of successful programs within a local educational agency and reflect very high numbers or very high percentages of school dropouts in the schools of the applicant in each category described in section 6064(a).

(d) SPECIAL CONSIDERATION.—The Secretary shall give additional special consideration to applications that include—

(1) provisions which emphasize early intervention services designed to identify at-risk students in elementary or early secondary schools; and

(2) provisions for significant parental involvement.

20 USC 5056.

SEC. 6066. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Grants under this subchapter shall be used to carry out plans set forth in applications approved under section 6065. In addition, grants may be used for educational, occupational, and basic skills testing services and activities, including, but not limited to—

(1) the establishment of systemwide or school-level policies, procedures, and plans for dropout prevention and school reentry;

(2) the development and implementation of activities, including extended day or summer programs, designed to address poor achievement, basic skills deficiencies, language deficiencies, or course failures, in order to assist students at risk of dropping out of school and students reentering school;

(3) the establishment or expansion of work-study, apprentice, or internship programs;

Contracts.

(4) the use of resources of the community, including contracting with public or private entities or community-based organiza-

tions of demonstrated performance, to provide services to the grant recipient or the target population;

(5) the evaluation and revision of program placement of students at risk;

(6) the evaluation of program effectiveness of dropout programs;

(7) the development and implementation of programs for traditionally underserved groups of students;

(8) the implementation of activities which will improve student motivation and the school learning environment;

(9) the provision of training for school staff on strategies and techniques designed to—

(A) identify children at risk of dropping out;

(B) intervene in the instructional program with support and remedial services;

(C) develop realistic expectations for student performance; and

(D) improve student-staff interactions;

(10) the study of the relationship between drugs and dropouts and between youth gangs and dropouts, and the coordination of dropout prevention and reentry programs with appropriate drug prevention and community organizations for the prevention of youth gangs; Drugs and drug abuse.

(11) the study of the relationship between handicapping conditions and student dropouts;

(12) the study of the relationship between the dropout rate for gifted and talented students compared to the dropout rate for the general student enrollment;

(13) the use of educational telecommunications and broadcasting technologies and educational materials designed to extend, motivate, and reinforce school, community, and home dropout prevention and reentry activities; and Communications and telecommunications.

(14) the provision of other educational, occupational and testing services and activities which directly relate to the purpose of this subchapter.

(b) ACTIVITIES FOR EDUCATIONAL PARTNERSHIPS.—Grants under this subchapter may be used by educational partnerships for—

(1) activities which offer jobs and college admissions for successful completion of the program for which assistance is sought;

(2) internship, work study, or apprenticeship programs;

(3) summer employment programs;

(4) occupational training programs;

(5) career opportunity and skills counseling;

(6) job placement services;

(7) the development of skill employment competency testing programs;

(8) special school staff training projects; and

(9) any other activity described in subsection (a).

SEC. 6067. DISTRIBUTION OF ASSISTANCE; LIMITATION ON COSTS. 20 USC 5057.

(a) DISTRIBUTION OF ASSISTANCE.—The Secretary shall ensure that, to the extent practicable, in approving grant applications under this subchapter—

(1) grants are equitably distributed on a geographic basis within each category set forth in section 6064(a);

(2) the amount of a grant to a local educational agency for a fiscal year is proportionate to the extent and severity of the local school dropout problem;

(3) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to school dropout prevention; and

(4) not less than 30 percent of the amount available for grants in each fiscal year is used for activities relating to persuading school dropouts to return to school and assisting former school dropouts with specialized services once they return to school.

(b) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant made under this subchapter may be used for administrative costs.

Subchapter B—Assistance to Provide Basic Skills Improvement

Secondary Schools Basic Skills Demonstration Assistance Act of 1988.
Grants.
Disadvantaged persons.
20 USC 5061.
20 USC 5062.

SEC. 6071. SHORT TITLE.

This subchapter may be cited as the "Secondary Schools Basic Skills Demonstration Assistance Act of 1988".

SEC. 6072. PURPOSE.

It is the purpose of this subchapter to provide assistance to local educational agencies with high concentrations of children from low-income families to improve the achievement of educationally disadvantaged children enrolled in the secondary schools of such agencies.

20 USC 5063.

SEC. 6073. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to carry out this subchapter $200,000,000 for fiscal year 1988.

20 USC 5064.

SEC. 6074. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

(a) GENERAL AUTHORITY.—From the amount appropriated under section 6073 for any fiscal year the Secretary shall make grants to local educational agencies in accordance with the provisions of this subchapter.

(b) COMMUNITY-BASED ORGANIZATIONS RULE.—Each local educational agency may carry out the activities described in section 6075 in cooperation with community-based organizations.

(c) ELIGIBLE STUDENTS.—Secondary school students who meet the requirements of part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 other than the requirement of attendance in the designated school attendance area shall be eligible to participate in programs and activities assisted under this subchapter.

20 USC 5065.

SEC. 6075. AUTHORIZED ACTIVITIES.

(a) IN GENERAL.—Funds made available under this subchapter may be used—

(1) to initiate or expand programs designed to meet the special educational needs of secondary school students and to help such students attain grade level proficiency in basic skills, and, as appropriate, learn more advanced skills;

(2) to develop innovative approaches—

(A) for surmounting barriers that make secondary school programs under this subchapter difficult for certain stu-

dents to attend and difficult for secondary schools to administer, such as scheduling problems; and

(B) for courses leading to successful completion of the general educational development test or of graduation requirements;

(3) to develop and implement innovative programs involving community-based organizations or the private sector, or both, to provide motivational activities, pre-employment training, or transition-to-work activities;

(4) to provide programs for eligible students outside the school, with the goal of reaching school dropouts who will not reenter the traditional school, for the purpose of providing compensatory education, basic skills education, or courses for general educational development;

(5) to use the resources of the community to assist in providing services to the target population;

(6) to provide training for staff who will work with the target population on strategies and techniques for identifying, instructing, and assisting such students;

(7) to provide guidance and counseling activities, support services, exploration of postsecondary educational opportunities, youth employment activities, and other pupil services which are necessary to assist eligible students; or

(8) to recruit, train, and supervise secondary school students (including the provision of stipends to students in greatest need of financial assistance) to serve as tutors of other students eligible for services under this subchapter and under part A of chapter 1 of title I of the Elementary and Secondary Education Act of 1965, in order to assist such eligible students with homework assignments, provide instructional activities, and foster good study habits and improved achievement.

(b) LIMITATION.—Not more than 25 percent of amounts available to a local educational agency under this subchapter may be used by such agency for noninstructional services such as those described in subsections (a)(3), (a)(5), and (a)(7).

SEC. 6076. APPLICATION. 20 USC 5066.

(a) IN GENERAL.—(1) A grant under this subchapter may be made only to a local educational agency which submits an application to the Secretary containing or accompanied by such information as the Secretary may reasonably require.

(2) Applications shall be for a 1-year period.

(b) CONTENTS OF APPLICATION.—Each such application shall include—

(1) a description of the program goals and the manner in which funds will be used to initiate or expand services to secondary school students;

(2) a description of the activities and services which will be provided by the program (including documentation to demonstrate that the local educational agency has the qualified personnel needed to develop, administer, and implement the program under this subchapter);

(3) a list of the secondary schools within the local educational agency in which programs will be conducted and a description of the needs of the schools, in terms of achievement levels of students and poverty rates;

(4) an assurance that programs will be operated in secondary schools with the greatest need for assistance, in terms of achievement levels and poverty rates;

(5) an assurance that parents of eligible students will be involved in the development and implementation of programs under this subchapter;

(6) a statement of the methods which will be used—

(A) to ensure that the programs will serve eligible students most in need of the activities and services provided by this subchapter; and

(B) an assurance that services will be provided under this subchapter to special populations, such as individuals with limited English proficiency and individuals with handicaps;

(7) an assurance that the program will be of sufficient size, scope, and quality to offer reasonable promise of success;

(8) a description of the manner in which the agency will provide for equitable participation of private school students under provisions applicable to chapter 1 of title I of the Elementary and Secondary Education Act of 1965, relating to participation of children enrolled in private schools;

(9) a description of the methods by which the applicant will coordinate programs under this subchapter with programs for the eligible student population operated by community-based organizations, social service organizations and agencies, private sector entities, and other agencies, organizations, and institutions, and with programs conducted under the Carl D. Perkins Vocational Education Act, the Job Training Partnership Act, and other relevant Acts; and

(10) such other information as the Secretary may require to determine the nature and quality of the proposed project and the applicant's ability to carry out the project.

(c) APPROVAL OF APPLICATIONS.—(1) The Secretary shall, in approving applications under this section, give special consideration to programs that—

(A) demonstrate the greatest need for services assisted under this subchapter on their numbers or proportions of secondary school children from low-income families and numbers or proportions of low-achieving secondary school children; and

(B) offer innovative approaches to improving achievement among eligible secondary school children and offer approaches which show promise for replication and dissemination.

Urban areas. Rural areas.

(2) The Secretary shall ensure that programs for which applications are approved under this section are representative of urban and rural regions in the United States.

(d) ADMINISTRATIVE COSTS.—Not more than 5 percent of any grant under this subchapter may be used for administrative costs.

Subchapter C—General Provisions

20 USC 5071.

SEC. 6081. GENERAL PROVISIONS.

(a) DEFINITION OF SCHOOL DROPOUT.—The Secretary shall, not later than 60 days after the date of the enactment of this chapter, establish a standard definition of a school dropout, after consultation with pertinent organizations and groups.

(b) TIMELY AWARD OF GRANTS.—To the extent possible, for any fiscal year the Secretary shall award grants to local educational

agencies and educational partnerships under this subchapter not later than June 30 preceding such fiscal year.

(c) GRANTS MUST SUPPLEMENT OTHER FUNDS.—A local educational agency receiving Federal funds under this chapter shall use such Federal funds only to supplement the funds that would, in the absence of such Federal funds, be made available from non-Federal sources or under provisions of Federal law other than this chapter for activities described in subchapter A or subchapter B of this chapter, as the case may be.

(d) EVALUATION.—The Secretary shall evaluate programs operated with funds received under this chapter, and shall issue a report at the end of the grant period, but in no case later than January 30, 1991. Reports.

(e) COORDINATION AND DISSEMINATION.—The Secretary shall require local educational agencies receiving grants under this chapter to cooperate with the coordination and dissemination efforts of the National Diffusion Network and State educational agencies.

(f) AUDIT.—The Comptroller General shall have access for the purpose of audit and examination to any books, documents, papers, and records of any local educational agency or educational partnership receiving assistance under this chapter that are pertinent to the sums received and disbursed under this chapter. Records.

(g) WITHHOLDING PAYMENTS.—Whenever the Secretary, after reasonable notice and opportunity for a hearing to any local educational agency or educational partnership, finds that the local educational agency or educational partnership has failed to comply substantially with the provisions set forth in its application approved under section 6075 or section 6076, the Secretary shall withhold payments under this chapter in accordance with section 453 of the General Education Provisions Act until the Secretary is satisfied that there is no longer any failure to comply.

SEC. 6082. DEFINITIONS. 20 USC 5072.

(a) As used in this title—

(1) The term "community-based organization" means a private nonprofit organization which is representative of a community or significant segments of a community and which has a proven record of providing effective educational or related services to individuals in the community.

(2) The term "basic skills" includes reading, writing, mathematics, and computational proficiency as well as comprehension and reasoning.

CHAPTER 8—MISCELLANEOUS

SEC. 6091. DRUG-FREE SCHOOLS PROGRAM.

(a) WITHIN STATE ALLOCATIONS.—The second sentence of section 4124 of the Drug-Free Schools and Communities Act of 1986 is amended to read as follows: "From such sum, the State educational agency shall distribute funds for use among areas served by local or intermediate educational agencies or consortia on the basis of the relative enrollments in public and private, nonprofit schools within such areas.". 20 USC 4624.

(b) EFFECTIVE DATE.—(1) The amendment made by subsection (a) of the Act shall take effect October 27, 1986. 20 USC 4624 note.

(2) Notwithstanding paragraph (1), a State educational agency may allot fiscal year 1987 funds to local and intermediate edu-

cational agencies and consortia under section 4124(a) of the Drug-Free Schools and Communities Act of 1986 on the basis of their relative numbers of children in the school-aged population.

Subtitle B—Technology and Training

CHAPTER 1—TRANSFER OF EDUCATION AND TRAINING SOFTWARE

Training Technology Transfer Act of 1988.

20 USC 5091.

SEC. 6101. SHORT TITLE.

This chapter may be cited as the "Training Technology Transfer Act of 1988".

20 USC 5092.

SEC. 6102. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) Federal agencies, particularly the Department of Defense, have made extensive investments of public funds in the development of education and training software;

(2) much knowledge and education and training software, especially computer programs and videodisc systems, is directly transferable to the private sector or could be transferable to the private sector after conversion;

(3) the transfer of education and training software to the public and private sector could properly augment existing Federal programs for the training of new industrial workers or the retraining of workers whose jobs have been disrupted because of technological developments, foreign trade, and changes in consumer requirements; and

(4) the transfer of education and training software to the public and private sector would be especially beneficial to small business concerns which lack the resources to develop such software independently.

(b) PURPOSE.—Therefore, it is the purpose of this chapter to facilitate the transfer of education and training software from Federal agencies to the public and private sector and to State and local governments and agencies thereof, including educational systems and educational institutions, in order to support the education, training, and retraining of industrial workers, especially workers in small business concerns.

20 USC 5093.

SEC. 6103. OFFICE OF TRAINING TECHNOLOGY TRANSFER.

(a) OFFICE ESTABLISHED.—There is established in the Office of Educational Research and Improvement of the Department of Education an Office of Training Technology Transfer. The Office shall be headed by a Director, who shall be appointed by the Secretary of Education. The Director shall be compensated at the rate provided for GS-16 of the General Schedule under section 5332 of title 5, United States Code.

(b) PERSONNEL.—To carry out this chapter, the Director may appoint personnel in accordance with the civil service laws, and may compensate such personnel in accordance with the General Schedule under section 5332 of title 5, United States Code.

20 USC 5094.

SEC. 6104. FUNCTIONS OF THE OFFICE.

(a) CLEARINGHOUSE REQUIRED.—(1) The Director shall compile and maintain a current and comprehensive clearinghouse of all knowl-

edge and education and training software developed or scheduled for development by or under the supervision of Federal agencies. The clearinghouse shall include, with respect to each item of education and training software listed in the clearinghouse—

(A) a complete description of such software, including the purpose, content, intended academic level or competency level, date of development, imbedded learning and instructional strategies, and mode of presentation of such software;

(B) a description of each type of computer hardware which is compatible with such software and of any other equipment required to use such software;

(C) a specification of any patent, copyright, or proprietary interest affecting the copying, conversion, or transfer of such software; and

(D) information with respect to any conversion or transfer of such software pursuant to this chapter.

(2) In compiling the clearinghouse required by this subsection, the Director shall—

(A) consult with and utilize fully the resources of all Federal agencies engaged in the collection and dissemination of information concerning education and training software; and

(B) request the participation and cooperation of entities in the legislative and judicial branches of Government.

(b) DISSEMINATION REQUIRED.—(1) The Director shall disseminate widely and on a regular basis the clearinghouse required by subsection (a) and any revisions thereof in order to enable all potential commercial users and public interest users of education and training software to receive ample notice that Federal agencies have developed such software, or have scheduled such software for development. In carrying out the preceding sentence, the Director shall—

(A) utilize all interagency and intergovernmental communication mechanisms, including the National Center for Research in Vocational Education, the National Occupational Information Committee, State educational agencies, State occupational information coordinating committees, State job training coordinating councils, private industry councils, State economic development agencies, regional educational laboratories, and the Small Business Administration; and

(B) encourage the participation of independent private sector organizations, including organizations representing State and local educational agencies, educational institutions, technical and professional organizations, and trade associations.

(2) The Director shall develop and distribute, in conjunction with the dissemination of the clearinghouse required under subsection (a), detailed instructions and procedures for securing copies, including such rights thereto as may be required, of education and training software listed in such clearinghouse and guidelines for cooperative agreements between commercial users and public interest users under subsection (d).

(c) CONSULTATION; PUBLIC INTEREST USER.—(1) The Director shall advise, consult with, and may provide grants to any prospective public interest user of an education and training software listed in the clearinghouse required under subsection (a) and shall assist such user in securing the transfer of such software from the Federal agency which developed such software at a cost to the public interest user based upon the ability of such user to pay for such transfer. In providing such assistance, the Director shall encourage

Grants.

such public interest user to obtain such software by working with the Training Technology Transfer Officer of such agency. If an agency has not established procedures for the transfer of education and training software, the Director shall negotiate the transfer of such software upon application by such user.

Contracts. (2) The Director, to such extent and in such amounts as provided in advance by appropriation Acts, may enter into contracts with any qualified agency having expertise in the field of education and qualified private sector business concerns for the conversion of education and training software in order to adapt such software to the requirements of a public interest user.

Contracts. (d) CONSULTATION; COMMERCIAL USER.—(1) The Director shall advise and consult with any prospective commercial user of an education and training software listed in the clearinghouse required under subsection (a)(1). The Director may sell or lease such training software, including exclusive or nonexclusive rights in copyrights or patents pertaining thereto, to a commercial user for a price or fee which reflects a reasonable return to the Government.

(2) The Director may waive purchase prices or lease fees for a commercial user of training software, may negotiate reduced purchase prices or lease fees for such commercial user, or may negotiate exclusive sale or lease agreements or other terms favorable to such commercial user if such commercial user agrees to enter into a cooperative agreement with a public interest user or a group of public interest users in accordance with this section. Under the preceding sentence, the Director may not waive such prices or fees, negotiate reduced prices or fees, or negotiate exclusive agreements or favorable terms for a commercial user unless such cooperative agreement—

(A) provides for the conversion of the education and training software by the commercial user in order to meet the specific needs of the public interest user or group of public interest users;

(B) provides that such conversion will be performed without charge to the public interest user or group of users; and

(C) is acceptable to the Director.

(3) In negotiating terms for the sale or lease of education and training software pursuant to subsection (b), the Director shall give preferential consideration to cooperative agreements which—

(A) will result in enhancing the employment potential and potential earnings of the maximum number of individuals;

(B) encourage and promote multiple uses of education and training software converted pursuant to this section by users with similar education needs; and

(C) provide beneficial uses of education and training software for businesses.

(4) Any education and training software converted pursuant to subsection (b) shall be listed in the clearinghouse required by subsection (a)(1) and shall be available for transfer to any other public interest user.

(e) STUDY REQUIRED.—(1) The Director shall study the effectiveness of transfers and conversions of education and training software pursuant to this chapter, and shall analyze national needs for methods to convert education and training software which are in addition to the method provided in subsection (d)(2).

Reports. (2) The Director shall submit to the Congress a report that—

(A) describes the study and analysis conducted as required by paragraph (1); and

(B) contains recommendations of the Director concerning whether the public interest is served through the program of grants and contracts to public interest users to support conversion of education and training software.

(3) The Director shall submit the report required by subparagraph (A) before the expiration of the two-year period beginning on the date of enactment of this Act. Reports.

SEC. 6105. ADMINISTRATIVE PROVISIONS. 20 USC 5095.

(a) IN GENERAL.—In carrying out this chapter, the Director is authorized—

(1) to promulgate such rules, regulations, procedures, and forms as may be necessary to carry out the functions of the Office, and delegate authority for the performance of any function to any officer or employee of the Office under the direction and supervision of the Director;

(2) to utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal agencies and of State, local, and private agencies and instrumentalities, with or without reimbursement therefor;

(3) to enter into agreements with other Federal agencies as may be appropriate;

(4) to accept voluntary and uncompensated services, without regard to the provisions of section 1342 of title 31, United States Code;

(5) to request such information, data, and reports from any Federal agency as the Director may from time to time require and as may be produced consistent with other law; and

(6) to use the facilities of the Office of Educational Research and Improvement.

(b) SPECIFIC DELEGATION OF CLEARINGHOUSE AND DISSEMINATION FUNCTIONS.—The Director shall enter into interagency agreements with the National Technical Information Service of the Department of Commerce to perform on a reimbursable basis the functions specified in sections 6104(a) and 6104(b) of this Act. Contracts.

SEC. 6106. COORDINATION WITH FEDERAL AGENCIES. 20 USC 5096.

(a) USE OF FEDERAL PROGRAMS.—In carrying out this chapter, the Director shall utilize, to the fullest possible extent, all existing Federal programs to promote the identification, conversion, and transfer of knowledge and education and training software in accordance with this chapter.

(b) EDUCATION AND TRAINING SOFTWARE TRANSFER OFFICER.—The head of each Federal agency which develops knowledge for or uses education and training software shall designate, from the officers and employees of the agency, an education and training software transfer officer. The education and training software transfer officer of an agency shall—

(1) supply information to the Office of Education Software Transfer for inclusion in the clearinghouse;

(2) receive and process inquiries and requests from prospective users of knowledge and education and training software employed by such agency;

(3) promote direct contact between prospective users of knowledge and education and training software and personnel of the agency;

(4) facilitate the prompt transfer for knowledge and education and training software to public interest users; and

(5) refer requests for education and training software from commercial users to the Office of Training Software Transfer for the negotiation of the purchase or lease of such software.

(c) COOPERATION OF FEDERAL AGENCIES.—

Reports.

(1) IN GENERAL.—All Federal agencies shall cooperate with the Director in the implementation of this chapter. If the head of a Federal agency finds that such agency is unable to cooperate with the Director for reasons of national security, or for any other reason, such agency head shall report such finding to the Secretary. The Secretary shall report to the Congress by July 1 of each year all such findings received by the Secretary during the preceding 12-month period.

(2) COOPERATION WITH EXCHANGE CENTER.—The Director shall cooperate with the Federal Software Exchange Center of the National Technical Information Service to facilitate the transfer of education and training software between Federal agencies.

(3) AVAILABILITY OF FEDERAL SERVICES, EQUIPMENT, PERSONNEL, AND FACILITIES.—Upon request of the Director, the head of each Federal agency shall promptly make the services, equipment, personnel, facilities, and information of the agency (including suggestions, estimates, and statistics) available to the Office to the greatest extent practicable.

(d) EQUITY RULE.—In carrying out the purposes of this chapter, the Director shall consider special equity concerns, including psychological, physiological, sociological, and socioeconomic factors, which could prevent some persons from benefiting from new technological developments, and shall, to the extent possible, ensure that such persons benefit from software transfer activities under this chapter.

20 USC 5097.

SEC. 6107. DEFINITIONS.

For the purpose of this chapter—

(1) the term "commercial user" means any individual, corporation, partnership, or other legal entity which operates for profit and which uses or intends to use the education and training software of a Federal agency;

(2) the term "community-based organizations" has the same meaning as in section 2704(5) of the Job Training Partnership Act;

(3) the term "conversion" means the process whereby education and training software is modified and revised to meet the needs of a commercial user or a public interest user;

(4) the term "Director" means the Director of the Office of Training Technology Transfer established pursuant to section 6103;

(5) the term "Federal agency" has the meaning given to the term "agency" in section 551(1) of title 5, United States Code;

(6) the term "National Occupational Information Coordinating Committee" means the National Occupational Information Coordinating Committee established under section 422(a) of the Carl D. Perkins Vocational Education Act;

(7) the term "Office" means the Office of Training Technology Transfer established pursuant to section 6103;

(8) the term "private industry council" means a private industry council established under section 102 of the Job Training Partnership Act;

(9) the term "public interest user" means—

(A) any nonprofit entity which—

(i) provides job training, vocational education or other educational services, including public school systems, vocational schools, private preparatory schools, colleges, universities, community colleges, private industry councils, community-based organizations, and State and local governments and agencies thereof; and

(ii) which uses or intends to use the education and training software of a Federal agency; or

(B) any Federal agency which uses or intends to use the education and training software of another Federal agency;

(10) the term "small business concern" has the same meaning as in section 3 of the Small Business Act;

(11) the term "State job training coordinating council" means a State job training coordinating council established under section 122 of the Job Training Partnership Act;

(12) the term "State occupational information coordinating committee" means a State occupational information coordinating committee established under section 422(b) of the Carl D. Perkins Vocational Education Act;

(13) the term "education and training software" means computer software which is developed by a Federal agency to educate and train employees of the agency and which may be transferred to or converted for use by a public interest user or a commercial user and includes software for computer based instructional systems, interactive video disc systems, microcomputer education devices, audiovisual devices, and programmed learning kits, and associated manuals and devices if such manuals and devices are integrally related to a software program;

(14) the term "transfer" means the process whereby education and training software is made available to a commercial user or a public interest user for the training of the employees of such user, with or without the conversion of such software.

CHAPTER 2—INSTRUCTIONAL PROGRAMS IN TECHNOLOGY EDUCATION

SEC. 6111. PURPOSE. 20 USC 5101.

It is the purpose of this chapter to assist educational agencies and institutions in developing a technologically literate population through instructional programs in technology education.

SEC. 6112. TECHNOLOGY EDUCATION DEMONSTRATION PROGRAM. Grants. 20 USC 5102.

(a) ESTABLISHMENT.—Subject to the availability of funds for purposes of this chapter, the Secretary of Education shall establish a program of grants to local educational agencies, State educational agencies, consortia of public and private agencies, organizations and institutions, and institutions of higher education to establish not more than 10 demonstration programs in technology education for

secondary schools, vocational educational centers and community colleges.

(b) USES OF GRANT FUNDS.—(1)(A) Funds made available under this chapter may be used to develop a model demonstration program for technology education which, to the extent practicable, address the components described in paragraphs (2) through (12).

(B) To the extent feasible, the Secretary shall give priority under subparagraph (A) to model demonstration programs which address the largest number of components described in paragraphs (2) through (12).

(2) Educational course content based on—

(A) an organized set of concepts, processes, and systems that is uniquely technological and relevant to the changing needs of the workplace; and

(B) fundamental knowledge about the development of technology and its effect on people, the environment, and culture.

(3) Instructional content drawn from introduction to technology education courses in 1 or more of the following areas—

(A) communication—efficiently using resources to transfer information to extend human potential;

(B) construction—efficiently using resources to build structures on a site;

(C) manufacturing—efficiently using resources to extract and convert raw or recycled materials into industrial and consumer goods; and

(D) transportation—efficiently using resources to obtain time and place utility and to attain and maintain direct physical contact and exchange among individuals and societal units through the movement of materials, goods, and people.

(4) Assisting students in developing insight, understanding, and application of technological concepts, processes, and systems.

(5) Educating students in the safe and efficient use of tools, materials, machines, processes, and technical concepts.

(6) Developing student skills, creative abilities, confidence, and individual potential in using technology.

(7) Developing student problem solving and decisionmaking abilities involving technological systems.

(8) Preparing students for lifelong learning in a technological society.

(9) Activity oriented laboratory instruction which reinforces abstract concepts with concrete experiences.

(10) An institute for the purpose of developing teacher capability in the area of technology education.

(11) Research and development of curriculum materials for use in technology education programs.

(12) Multidisciplinary teacher workshops for the interfacing of mathematics, science, and technology education.

(13) Optional employment of a curriculum specialist to provide technical assistance for the program.

(14) Stressing basic remedial skills in conjunction with training and automation literacy, robotics, computer-aided design, and other areas of computer-integrated manufacturing technology.

(15) A combined emphasis on "know-how" and "ability-to-do" in carrying out technological work.

(c) LIMITATION ON FEDERAL ASSISTANCE.—Federal assistance to any program or project under this chapter shall not exceed 65 percent of the cost of such program in any fiscal year. Not less than

10 percent of the cost of such program shall be in the form of private sector contributions. Non-Federal contributions may be in cash or in kind, fairly evaluated, including facilities, overhead, personnel, and equipment.

SEC. 6113. APPLICATIONS FOR GRANTS. 20 USC 5103.

(a) IN GENERAL.—A local educational agency, a State educational agency, a consortium of public and private agencies, organizations, and institutions, or an institution of higher education which desires to receive a grant under this chapter shall submit an application to the Secretary. Applications shall be submitted at such time, in such form, and containing such information as the Secretary shall prescribe.

(b) CONTENTS OF APPLICATION.—An application shall include—

(1) a description of a demonstration program designed to carry out the purpose described in section 6111;

(2) an estimate of the cost for the establishment and operation of the program;

(3) a description of policies and procedures for the program that will ensure adequate evaluation of the activities intended to be carried out under the application;

(4) assurances that Federal funds made available under this chapter will be so used as to supplement and, to the extent practicable, increase the amount of State and local funds that would be in the absence of such Federal funds be made available for the uses specified in this chapter, and in no case supplant such State or local funds;

(5) a provision for making such reports, in such form and containing such information, as the Secretary may require; and

(6) a description of the manner in which programs under this chapter will be coordinated, to the extent practicable, with programs under the Job Training Partnership Act, the Carl D. Perkins Vocational Education Act, and other Acts related to the purposes of this chapter.

(c) GEOGRAPHIC DISTRIBUTION.—In making grants under this chapter, the Secretary shall consider the equitable geographic distribution of such grants.

SEC. 6114. NATIONAL DISSEMINATION OF INFORMATION. 20 USC 5104.

The Secretary shall disseminate the results of the programs and projects assisted under this chapter in a manner designed to improve the training of teachers, other instructional personnel, counselors, and administrators.

SEC. 6115. AUTHORIZATION OF APPROPRIATIONS. 20 USC 5105.

There are authorized to be appropriated $2,000,000 for fiscal year 1988 and such sums as may be necessary for each of fiscal years 1989 through 1993 to carry out the provisions of this chapter.

SEC. 6116. DEFINITIONS. 20 USC 5106.

As used in this chapter, the term "technology education" means a comprehensive educational process designed to develop a population that is knowledgeable about technology, its evolution, systems, techniques, utilization in industry and other fields, and social and cultural significance.

CHAPTER 3—REPLICATION OF TECHNICAL EDUCATION PROGRAMS

20 USC 5111.

SEC. 6121. REPLICATION MODELS FOR TECHNICAL EDUCATION PROGRAMS DESIGNED TO IMPROVE THE QUALITY OF EDUCATION FOR AMERICA'S TECHNICALLY TRAINED WORKFORCE.

(a) IN GENERAL.—The Secretary, through the National Diffusion Network established under section 583(c) of the Education Consolidation and Improvement Act of 1981 (20 U.S.C. 3851), in addition to its duties under such Act—

(1) shall gather, organize, and disseminate information on innovative programs at institutions of postsecondary education and secondary schools designed to—

(A) enhance the development of technical skills needed to improve the competitiveness of American industry;

(B) encourage the development of higher skills among individuals facing or likely to face job dislocation;

(C) encourage the acquisition of basic literacy skills among youth as well as adults; or

(D) involve the business community in the planning and offering of employment opportunities to the trained workforce;

(2) shall gather, organize, and disseminate information on consultative and collaborative efforts by elementary education, secondary education, postsecondary education, business, labor, local, State and Federal governments designed to—

(A) improve the efficiency, productivity, and competitiveness of American business; or

(B) enhance the international competitiveness of American business (such as international trade education and foreign language training for business);

(3) in carrying out the activities described in paragraphs (1) and (2), shall produce a catalog of exemplary consultative and collaborative efforts which have the highest probability of being replicated; and

(4) may provide technical assistance to any institution or entity to facilitate the gathering of information for replication models.

(b) CONFORMING RULE.—Any program of replication shall conform to the provisions of subsection (a) if such program—

(1) is being conducted by the National Diffusion Network on the date of the enactment of this chapter; and

(2) has the same purpose as the programs described in such subsection.

CHAPTER 4—VOCATIONAL EDUCATION PROGRAMS

SEC. 6131. ADULT TRAINING, RETRAINING, AND EMPLOYMENT DEVELOPMENT.

(a) IN GENERAL.—Part C of title III of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2371 et seq.) is amended—

(1) by inserting after the part heading the following:

"Subpart 1—Basic Program";

(2) by striking out "this part" each place such term appears in sections 321 through 324 and inserting in lieu thereof "this subpart"; and

(3) by adding at the end the following new subpart:

"Subpart 2—Special Program

State and local governments.

"FINDINGS AND PURPOSE

"SEC. 326. (a) FINDINGS.—The Congress finds that— 20 USC 2376.

"(1) technological change, international competition, and the demographics of the Nation's workforce have resulted in increases in the numbers of experienced adult workers who are unemployed, who have been dislocated, or who require training, retraining, or upgrading of skills,

"(2) the individuals who are entering and reentering the labor market are less educated, trained, or skilled and are disproportionately employed in low-wage occupations and require additional training, and

"(3) these needs can be met by education and training programs, especially vocational programs, that are responsive to the needs of individuals and the demands of the labor market.

"(b) PURPOSE.—It is the purpose of this part to (1) provide financial assistance to States to enable them to expand and improve vocational education programs designed to meet current needs for training, retraining, and employment development of adults who have completed or left high school and are preparing to enter or have entered the labor market, including workers who are 55 years of age and older, in order to equip adults with the competencies and skills required for productive employment, and (2) to ensure that programs are available which are relevant to the labor market needs and accessible to all segments of the population.

"AUTHORIZATION OF GRANTS AND USES OF FUNDS

"SEC. 327. (a) GRANTS TO STATES.—The Secretary shall make grants in proportion to the amount received under section 101 to States for programs, services, and activities authorized by this part. 20 USC 2377.

"(b) STATE ADMINISTRATION.—(1) Grants to States under this part shall be made to the board established under section 111 to serve as the grant recipient and catalyst to public-private training partnerships.

"(2)(A) Such board shall make awards on the basis of application from educational institutions (e.g. community colleges, vocational schools, service providers under the Job Training Partnership Act (29 U.S.C. 49 et seq.), four-year colleges, universities, and community based organizations) which link up with one or more private companies in order to train people for jobs in high growth fields.

"(B) The board shall establish criteria for application, application content and criteria, and procedures for the awarding of grants under this section.

"(3) Business must be actively involved in the planning, designing, operating, and monitoring of the education and training programs so that they will meet their needs.

"(4) Training can include entry level training, employee upgrading, retraining, and customized training.

"(5) Grants shall not be awarded for more than 50 percent of the costs. The remainder must come from the private sector in either cash or related equipment and services which would be at least equivalent to the Federal grant portion.

"(c) ELIGIBLE PROGRAMS.—Programs eligible for funding by the State, and designed cooperatively between education institutions and one or more businesses, may include—

"(1) institutional and worksite programs tailored to meet the needs of an industry or group of industries for skilled workers, technicians or managers, or to assist their existing workforce to adjust to changes in technology or work requirements;

"(2) quick-start, customized training for workers in new and expanding industries, or for workers for placement in jobs that are difficult to fill because of a shortage of workers with the requisite skills;

"(3) shared programs between educational institutions and businesses, where a work experience is provided by the business subsequent to the classroom training to reinforce the classroom or workshop training;

"(4) cooperative education programs with public and private sector employers and economic development agencies, including seminars in institutional or worksite settings, designed to improve management and increase productivity;

"(5) entrepreneurship training programs which assist individuals in the establishment, management, and operation of small business enterprises;

Women.
Aged persons.
Handicapped persons.
Disadvantaged persons.

"(6) recruitment, job search assistance, counseling, remedial services, and information and outreach programs designed to encourage and assist males and females to take advantage of vocational education programs and services, with particular attention to reaching women, older workers, individuals with limited English proficiency, the handicapped, and the disadvantaged; and

"(7) related instruction for apprentices in apprenticeship training programs.

"(d) REQUIREMENTS.—In making grants under this part, the Secretary shall require each State, in its State plan (or an amendment to such plan), to assure that programs—

"(1) are designed with the active participation of the State council established pursuant to section 112;

"(2) make maximum effective use of existing institutions, are planned to avoid duplication of programs or institutional capabilities, and to the fullest extent practicable are designed to strengthen institutional capacity to meet the education and training needs addressed by this part;

"(3) assure the active participation by public and private sector employers and public and private agencies working with programs of employment and training and economic development; and

"(4) where appropriate, involve coordination with programs under the Rehabilitation Act of 1973 and the Education of the Handicapped Act.

"COORDINATION WITH THE JOB TRAINING PARTNERSHIP ACT

20 USC 2378.

"SEC. 328. (a) REQUIREMENTS FOR INCLUSION IN STATE PLAN.—Each State receiving grants under this part shall include in the State plan

methods and procedures for coordinating vocational education programs, services, and activities funded under this part to provide programs of assistance for dislocated workers funded under title III of the Job Training Partnership Act.

"(b) CONSULTATION WITH STATE JOB TRAINING COORDINATING COUNCIL.—(1) The State board shall consult with the State job training coordinating council (established under section 122 of the Job Training Partnership Act) in order that programs assisted under this part may be taken into account by such council in formulating recommendations to the Governor for the Governor's coordination and special services plan required by section 121 of such Act.

"(2) The State board shall also adopt such procedures as it considers necessary to encourage coordination between eligible recipients receiving funds under this part and the appropriate administrative entity established under the Job Training Partnership Act in the conduct of their respective programs, in order to achieve the most effective use of all Federal funds through programs that complement and supplement each other, and, to the extent feasible, provide an ongoing and integrated program of training and services for workers in need of such assistance.".

(2) The table of contents at the beginning of such Act is amended—

(1) by inserting after the item relating to part C the following:

"Subpart 1—Basic Program"; and

(2) by inserting after the item relating to section 323 the following:

"Subpart 2—Special Program

"Sec. 326. Findings and purpose.
"Sec. 327. Authorization of grants and uses of funds.
"Sec. 328. Coordination with the Job Training Partnership Act.".

(b) AUTHORIZATION OF APPROPRIATIONS.—(1) Subparagraph (A) of section 3(b)(3) of the Carl D. Perkins Vocational Education Act is amended to read as follows: 20 USC 2302.

"(3)(A)(i) There are authorized to be appropriated $35,000 for the fiscal year 1985, such sums as may be necessary for each of the fiscal years 1986 and 1987, and $25,000,000 for each of the fiscal years 1988 and 1989 to carry out subpart 1 of part C of title III, relating to the basic program for adult training, retraining, and employment development.

"(ii) There are authorized to be appropriated $25,000,000 for each of the fiscal years 1988 and 1989 to carry out subpart 2 of such part, relating to the special program for adult training, retraining, and employment development.".

(2) Subparagraph (B) of such section is amended by striking out "subparagraph (A)" and inserting in lieu thereof "subparagraph (A)(i)".

SEC. 6132. AUTHORIZATION OF ADDITIONAL USES OF VOCATIONAL EDUCATION FUNDS.

Section 251(a) of the Carl D. Perkins Vocational Education Act (20 U.S.C. 2341) is amended—

(1) by striking out "and" at the end of paragraph (23);

(2) by striking out the period at the end of paragraph (24) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraphs:

"(25) pre-employment skills training; and
"(26) school-to-work transition programs.".

20 USC 2411 note.

SEC. 6133. EDUCATION FOR EMPLOYMENT DEMONSTRATION PROGRAM.

From the sums available to the Secretary for national programs under the Carl D. Perkins Vocational Education Act, the Secretary shall conduct a demonstration program with secondary school students designed to provide participating students with the skills needed for employment or further education by forming partnerships with business and industry for purpose of incorporating into school curriculums—

(1) practical applications of academic subjects;
(2) career exploration;
(3) instruction relating to job seeking skills, career choices, and use of information relating to the labor market; and
(4) a school monitored work experience program, designed to equip each high school graduate with a resume as well as a diploma.

20 USC 2393.

SEC. 6134. INDUSTRY-EDUCATION PARTNERSHIP AUTHORIZATION.

(a) PROGRAM AUTHORIZED.—Section 343 of the Carl D. Perkins Vocational Education Act is amended by adding at the end thereof the following new subsection:

"(d)(1) Funds made available pursuant to section 3(b)(5)(B) of this Act may be used, in accordance with this part, to provide vocational education to individuals in order to assist their entry into, or advancement in, high technology occupations or to meet the technological needs of other industries or businesses.

"(2) Special consideration shall be given to individuals described in paragraph (1) who have attained 55 years of age.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 3(b)(5) of such Act is amended— 20 USC 2302.

(1) by inserting "(A)" after the paragraph designation; and
(2) by adding at the end thereof the following new subparagraph:

"(B) There are authorized to be appropriated an additional $10,000,000 for each of the fiscal years 1988 and 1989 to carry out part E of title III, for workers described in section 343(d).

20 USC 2411 note.

SEC. 6135. DEMONSTRATION PROGRAM FOR TECHNOLOGICAL LITERACY.

(a) ESTABLISHMENT.—The Secretary shall establish demonstration programs in vocational training centers and community colleges for purposes of providing modular training in basic skills with the objective of rendering participants technologically literate. Such programs shall—

(1) stress techniques and methods that offer basic remedial skills in conjunction with training in automation literacy, robotics, computer-aided design, and other areas of computer-integrated manufacturing technology; and
(2) be designed to foster flexibility and assist workers in meeting the challenge of a changing workplace.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $2,000,000 for fiscal year 1988 for purposes of carrying out this section. Amounts appropriated pursuant to this subsection shall remain available until expended.

CHAPTER 5—ACCESS DEMONSTRATION PROGRAMS

Rural areas.

SEC. 6141. PURPOSE. 20 USC 5121.

It is the purpose of this chapter to support training programs for secondary school personnel, including guidance counselors, in order to increase the opportunities of secondary school students in rural sections of the Nation for continued education.

SEC. 6142. PROGRAM AUTHORIZED. 20 USC 5122.

(a) GRANTS TO ELIGIBLE ENTITIES.—The Secretary may make grants to institutions of higher education, private nonprofit agencies and organizations, including regional educational laboratories, public agenices, State educational agencies, or combinations thereof within particular regions of the United States to support the development of training programs for secondary school personnel, including guidance counselors. The Secretary may not make a grant under the preceding sentence to any nonpublic agency unless such agency has extensive experience in providing educational assistance to State and local educational agencies.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 for fiscal year 1988 for purposes of carrying out this chapter.

SEC. 6143. APPLICATIONS. 20 USC 5123.

(a) SUBMISSION OF APPLICATIONS.—An eligible entity which desires to develop and operate a program described in section 6142(a) shall submit an application to the Secretary.

(b) REVIEW OF APPLICATIONS.—Each application submitted under subsection (a) shall be reviewed by peers, including educators and researchers, to determine the quality of the proposed program and its relationship to the demonstrated needs of the region to be served.

(c) SOLICITATION OF ALTERNATIVE PROPOSALS.—If, based upon a review under subsection (b), the Secretary determines that a proposed program would not best serve the needs of the students of the region to be served, the Secretary may solicit proposals from other eligible entities located in the region.

(d) CONTENT OF APPLICATIONS.—Each application for assistance under this section shall—

(1) contain assurances that—

(A) the eligible entity shall provide technical assistance to appropriate educational agencies; and

(B) information developed as a result of the applicant's research and development activities, including new educational methods, practices, techniques, and products, will be appropriately disseminated;

(C) all rural students in all States within the region will have access to and information about the access program;

(2) contain a description of—

(A) the rural secondary school population within the region served by the eligible entity, including estimates of the number of high school graduates who—

(i) attend institutions of higher education, including an estimate of the number who attend out-of-state institutions;

(ii) attend trade schools;

(iii) enter military service;

(B) services available within each of the States in the region that exist to provide secondary school students with information and training relating to higher education and self-employment; and

(C) activities provided—

(i) to train designated school personnel to advise and establish community partnership programs; and

(ii) to provide technical assistance; and

(3) demonstrate that—

(A) the eligible entity has engaged in sufficient study and analysis to ensure that the services to be offered by the proposed program will increase the number of secondary school students entering institutions of higher education and increase their awareness of and opportunities for financial assistance;

(B) In the case of an eligible entity other than a State educational agency or local educational agency, State and local educational agencies were involved in planning the proposed programs and that services available from such agencies are incorporated into the proposed program; and

(C) the program will probably be funded by State or other sources after the expiration of funding under this chapter.

(e) REPORT.—

(1) PROGRAM EFFECT.—The Office of Educational Research and Improvement shall submit a report to the Congress on the effect of programs funded under this chapter, including recommendations of the eligible entities.

(2) The report required by paragraph (1) shall be submitted not later than November 30, 1989.

20 USC 5124.

SEC. 6144. DEFINITIONS.

As used in this chapter:

(1) The term "regional educational laboratory" means a regional educational laboratory supported by the Secretary under section 405(d)(4)(A)(i) of the General Education Provisions Act (20 U.S.C. 1221e(d)(4)(A)(i)).

(2) The term "eligible entity" means any entity or combination of entities described in section 6142(a).

Subtitle C—Higher Education

CHAPTER 1—STUDENT LITERACY CORPS

SEC. 6201. STUDENT LITERACY CORPS.

Title I of the Higher Education Act of 1965 is amended by adding the following new part at the end thereof:

Grants.
Loans.

"PART D—STUDENT LITERACY CORPS

20 USC 1018.

"SEC. 141. PURPOSE.

"It is the purpose of this part to provide financial assistance to institutions of higher education to promote the development of literacy corps programs to be operated by institutions of higher education in public community agencies in the communities in which such institutions are located.

"SEC. 142. LITERACY CORPS PROGRAM. 20 USC 1018a.

"From the amount appropriated pursuant to section 146 for any fiscal year, the Secretary is authorized, in accordance with the provisions of this part, to make grants to institutions of higher education for not to exceed 2 years to carry out literacy corps programs.

"SEC. 143. USES OF FUNDS. 20 USC 1018b.

"(a) IN GENERAL.—Funds made available under this part may be used for—

"(1) grants to institutions of higher education for—

"(A) the costs of participation of institutions of higher education in the literacy corps program for which assistance is sought; and

"(B) stipends for student coordinators engaged in the literacy corps program for which assistance is sought; and

"(2) technical assistance, collection and dissemination of information, and evaluation in accordance with section 145.

"(b) LIMITATIONS.—(1) No grant under this part to an institution of higher education may exceed $50,000.

"(2) No institution of higher education may expend more than $25,000 of a grant made under this part in the first year in which the institution receives such a grant.

"SEC. 144. APPLICATIONS. 20 USC 1018c.

"(a) APPLICATION REQUIRED.—Each institution of higher education desiring to receive a grant under this part shall submit an application to the Secretary, at such time, in such manner, and containing or accompanied by such information as the Secretary may reasonably require.

"(b) CONTENTS OF APPLICATION.—Each such application shall—

"(1) contain assurances that the institution will use the grant in accordance with section 143;

"(2) contain adequate assurances that—

"(A) the institution has established 1 or more courses of instruction for academic credit which are designed to combine the training of undergraduate students in various academic departments such as social sciences, economics, and education with experience as tutors;

"(B) such individuals will be required, as a condition of receiving credit in such course, to perform not less than 6 hours of voluntary, uncompensated service each week of the academic term in a public community agency as a tutor in such agency's educational or literacy program;

"(C) such tutoring service will be supplementary to the existing instructional services, offered in a structured classroom setting, and furnished under the supervision of qualified personnel; and

"(D) the institution will locate such tutoring services in one or more public community agencies which serve educationally or economically disadvantaged individuals; and

"(3) demonstrate that the institution of higher education has participated, prior to applying for a grant under this subtitle, in community service activities, including—

"(A) the use of a portion of its allotment under part C of title IV of the Higher Education Act of 1965 for work study

for community service learning under section 443(b)(2)(A); or

"(B) the conduct of a cooperative education program; and

"(4) contain such other assurances as the Secretary may reasonably require.

"(c) WAIVER.—The Secretary may, upon request of an institution of higher education which does not meet the requirements of clause (3) of subsection (b), grant a waiver of the requirement under such clause if the institution of higher education provides assurances that—

"(1)(A) the institution of higher education has conducted another significant program which involves community outreach and service; or

"(B) its failure to engage in community service related programs or activities prior to making application under this part will not impede the ability of the institution to engage in the outreach efforts necessary to carry out the requirements of this part; and

"(2) the institution will use a portion of its allotment under part C of title IV of the Higher Education Act of 1965 for community service learning programs pursuant to section 443(b)(2)(A) of that Act if the institution receives an allotment under such part C.

An institution of higher education may apply for a waiver as part of the application described in subsection (b).

20 USC 1018d.

"SEC. 145. TECHNICAL ASSISTANCE AND COORDINATION CONTRACT.

"To the extent that funds are available therefor pursuant to section 146, the Secretary may, directly or by way of grant, contract, or other arrangement—

"(1) provide technical assistance to grant recipients under this part;

"(2) collect and disseminate information with respect to programs assisted under this part; and

Reports.

"(3) evaluate such programs and issue reports on the results of such evaluations.

20 USC 1018e.

"SEC. 146. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out the provisions of this part $10,000,000 for fiscal year 1988, and $10,000,000 for each succeeding fiscal year thereafter ending prior to October 1, 1991, except that no funds are authorized to be appropriated for this part for more than 2 fiscal years.

20 USC 1018f.

"SEC. 147. DEFINITIONS.

"For the purpose of this part—

"(1) the term 'public community agency' means an established community agency with an established program of instruction such as elementary and secondary schools, Head Start centers, prisons, agencies serving youth, and agencies serving the handicapped, including disabled veterans;

"(2) the term 'institution of higher education' has the same meaning given that term by section 1201(a) of the Higher Education Act of 1965; and

"(3) the term 'Secretary' means the Secretary of Education."

CHAPTER 2—SPECIAL RESEARCH FACILITIES

SEC. 6211. AGRICULTURE, STRATEGIC METALS, MINERALS, FORESTRY, AND OCEANS COLLEGE AND UNIVERSITY RESEARCH FACILITIES AND INSTRUMENTATION MODERNIZATION PROGRAM.

Title VII of the Higher Education Act of 1965 is amended by adding new part J:

"PART J—AGRICULTURE, STRATEGIC METALS, MINERALS, FORESTRY AND OCEANS COLLEGE AND UNIVERSITY RESEARCH FACILITIES AND INSTRUMENTATION MODERNIZATION PROGRAM

"PROGRAM AUTHORITY

"SEC. 795. (a) PURPOSE.—It is the purpose of this section to help revitalize college and university academic research programs that specialize in agricultural, strategic metals and minerals, energy, forestry and wood products, and oceanic research by assisting colleges and universities in repair and renovation of their research laboratories and other research facilities and upgrading or replacing outmoded research equipment and instrumentation currently in use at such facilities for agricultural, strategic metals, minerals, energy, forestry, and oceans research. 20 USC 1132j.

"(b) FINANCIAL ASSISTANCE AUTHORIZED.—The Secretary shall, from the sums available to carry out this section in any fiscal year, establish and carry out a new College and University Research Facilities and Instrumentation Modernization Program for agriculture, strategic metals, minerals, energy, forestry, and oceanic research that will provide assistance for the replacement, repair, or renovation of such institutions' obsolete laboratories, other research facilities, and outmoded equipment and instrumentation. No funds made available under this section may be used for the construction of new facilities.

"(c) PROGRAM REQUIREMENTS.—The College and University Research Facilities and Instrumentation Modernization Program for agriculture, strategic metals, minerals, energy, forestry, and oceans shall be carried out through projects which involve the replacement, repair, or renovation of specific research facilities and research equipment or instrumentation at colleges and universities. Funds shall be awarded competitively, on the basis of specific proposals submitted by colleges and universities, in accordance with regulations prescribed by the Secretary. The Secretary shall consult with the Secretaries of Agriculture, Interior, Energy, and Commerce and shall obtain their recommendations regarding final proposal funding should they wish to provide such. In no case should this language be construed as granting these Secretaries final authority over funding or the right to hold up funding of acceptable projects. Regulations.

"(d) MATCHING REQUIREMENTS.—Any participating college or university must provide an amount not exceeding 50 percent of the costs involved from other non-Federal public or private sources.

"(e) SELECTION CRITERIA.—The criteria for making an award to any college or university under this part, shall include—

"(1) the quality of the research and training to be carried out in the facility or facilities involved;

"(2) the congruence of the institution's research activities to be supported with funds awarded under this part with the

future research needs of the Nation, especially as they relate to improving the Nation's trade and competitiveness position;

"(3) the contribution which the project will make toward meeting national, regional, and State research and related training needs, especially as those needs are related to improving the Nation's trade and competitiveness position; and

"(4) an analysis of the age and condition of existing research facilities and equipment.

"(f) SET-ASIDE.—At least 20 percent of the amount available under this section in any fiscal year shall be available only for awards to colleges and universities that received less than $10,000,000 in total Federal obligations for research and development (including obligations for the university research laboratory modernization program) in each of the two preceding fiscal years.

"(g) CONSULTATIONS FOR RULEMAKING.—In prescribing regulations and conducting the program under this section, the Secretary shall consult with other agencies of the Federal Government concerned with research, including the Departments of Energy, Agriculture, Interior, and Commerce.

"(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $10,000,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years to carry out this section.".

CHAPTER 3—MINORITY SCIENCE AND ENGINEERING IMPROVEMENT

SEC. 6221. MINORITY SCIENCE AND ENGINEERING IMPROVEMENT.

20 USC 1135d-6.

Section 1047 of title X of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"(c) ADDITIONAL AUTHORIZATION.—In addition, there are authorized to be appropriated $7,500,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years for the purpose of funding new activities, consistent with the purposes of sections 1021 and 1031, which are specifically aimed at increasing the participation of minority students in scientific and engineering research careers.".

CHAPTER 4—TECHNOLOGY TRANSFER CENTERS

SEC. 6231. TECHNOLOGY TRANSFER CENTERS.

Title XII of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

"TECHNOLOGY TRANSFER CENTERS

Appropriation authorization.
20 USC 1145f.

"SEC. 1211. (a)(1)(A) Except as provided in subparagraph (B), there are authorized to be appropriated $15,000,000 for fiscal year 1988 and such sums as may be necessary for each of the 3 succeeding fiscal years to develop, construct, and operate regional technology transfer centers. The Secretary shall establish such regional centers—

"(i) to promote the study and development of programs and depositories necessary to further the transfer of technology relevant to a respective region's economy;

"(ii) to assist in developing incubator facilities to encourage new economic initiatives;

"(iii) to provide technical assistance linking university expertise and private sector resources to solve technical, marketing, and manufacturing problems associated with technology-transfer and start-up businesses; and Marketing.

"(iv) to ensure consideration of the economic development needs of rural as well as urban areas within the region. Rural areas. Urban areas.

"(B) The Secretary shall reserve not less than $3,000,000 of amounts appropriated pursuant to subparagraph (A) for the purpose of carrying out the Training Technology Transfer Act of 1988.

"(2) In carrying out the requirements of this section, regional technology-transfer centers are authorized—

"(A) to build on or, where needed, develop telecommunications systems to link the centers and their affiliates with industrial users; Communications and telecommunications.

"(B) to build on or develop necessary computer networks and data bases; and

"(C) to utilize or help develop regional and national libraries. Libraries.

"(b) Financial assistance to each center shall be awarded competitively. Such financial assistance shall be awarded for the establishment or operation of such centers.

"(c) Each regional center established shall be operated by an appropriately qualified college or university within the region, a consortium of such schools within the region, or a university-related research park or center, and such regional center shall, where deemed necessary, establish one or more affiliate centers at colleges and universities based in other States within the region.

"(d) In establishing such centers, the institutions applying shall show in their application—

"(1) how the center will facilitate the economy of the region;

"(2) that the center's mission is compatible with the economic development plans of States in the region; and

"(3) that appropriate consultation with the relevant State agencies concerned with economic development has taken place.

"(e)(1) Such center also may be operated by a consortium composed of an entity or entities described in subsection (c), and an existing campus-based research entity, or other State and local agencies, nonprofit agencies, interstate higher education organizations, or, where appropriate, for-profit agencies. The Secretary, through regulation, shall determine a mechanism for assessing the percentage of operating costs paid by other members of a technology transfer consortium arrangements. Regulations.

"(2) For purpose of paragraph (1), the term 'existing campus-based research facilities includes agricultural research facilities, mining and minerals research facilities; forestry and wood-products research facilities, solar renewable energy research facilities, high technology facilities, and manufacturing technology research facilities.

"(f) Each such center shall establish a Board to advise the center on policy. Such board shall be—

"(1) representative of the States involved in the region; and

"(2) consist of representatives for urban areas, rural areas, ethnic concerns, business, labor, and education.

"(g)(1) Grants for each center shall be awarded for a 5-year period. Before the end of such period, the Secretary shall conduct a competition for the award of grants for the succeeding 5-year period. Grants.

"(2) For the fourth and fifth year of each such 5-year period, and during any renewal of the grant for succeeding 5-year periods, 50 percent of the cost of the activities for which assistance is awarded shall be provided from non-Federal sources.

Contracts.

"(h) Funding for affiliate centers authorized in subsection (c) shall be provided by the regional center and the college or university operating the affiliate center, with funding levels to be reached by the 2 entities in a scope-of-work agreement negotiated between the 2 entities. Should the affiliate center wish, its operations and funding support can be a consortia, as specified in subsection (e).

Public information.

"(i)(1) The Secretary, after consultation with the Departments of Agriculture, Energy, Commerce, and Interior shall publish, for public comment, a proposed list of priorities for the establishment of regional technology transfer centers and shall propose the regional composition of such centers, keeping in mind that satellite and telecommunications technology enables regions to contain non-contiguous States.

"(2) The Secretary shall publish the final list of regions and priorities along with the public's comments. In establishing such regions, the Secretary may designate a State or a portion of a State as a region.".

CHAPTER 5—LIBRARY TECHNOLOGY ENHANCEMENT

SEC. 6241. LIBRARY TECHNOLOGY ENHANCEMENT.

20 USC 1021.

Section 201(b) of the Higher Education Act of 1965 is amended by adding at the end thereof the following:

Appropriation authorization.

"(5) There are authorized to be appropriated to carry out the purposes of part D an additional $2,500,000 for fiscal year 1988 and such additional sums as may be necessary for each of the 3 succeeding fiscal years. Activities supported by funds appropriated pursuant to this paragraph shall be activities that will enable libraries to participate more fully in the initiative funded under the Education and Training for American Competitiveness Act of 1987.".

CHAPTER 6—INTERNATIONAL BUSINESS EDUCATION PROGRAM

SEC. 6261. CENTERS FOR INTERNATIONAL BUSINESS EDUCATION AUTHORIZED.

20 USC 1130a, 1130b.

Title VI of the Higher Education Act of 1965 is further amended—

(1) by redesignating sections 612 and 613 as sections 613 and 614, respectively; and

(2) by inserting after section 611 the following new section:

"CENTERS FOR INTERNATIONAL BUSINESS EDUCATION

Grants. 20 USC 1130-1.

"SEC. 612. (a) The Secretary is authorized to make grants to institutions of higher education, or combinations of such institutions, to pay the Federal share of the cost of planning, establishing and operating centers for international business education which—

"(1) will be national resources for the teaching of improved business techniques, strategies, and methodologies which emphasize the international context in which business is transacted,

"(2) will provide instruction in critical foreign languages and international fields needed to provide understanding of the cultures and customs of United States trading partners, and Cultural programs.

"(3) will provide research and training in the international aspects of trade, commerce, and other fields of study.

In addition to providing training to students enrolled in the institution of higher education in which a center is located, such centers shall serve as regional resources to businesses proximately located by offering programs and providing research designed to meet the international training needs of such businesses.

"(b) Each grant made under this section may be used to pay the Federal share of the cost of planning, establishing or operating a center, including the cost of—

"(1) faculty and staff travel in foreign areas, regions, or countries,

"(2) teaching and research materials,

"(3) curriculum planning and development,

"(4) bringing visiting scholars and faculty to the center to teach or to conduct research, and

"(5) training and improvement of the staff, for the purpose of, and subject to such conditions as the Secretary finds necessary for, carrying out the objectives of this section.

"(c)(1) Programs and activities to be conducted by centers assisted under this section shall include—

"(A) interdisciplinary programs which incorporate foreign language and international studies training into business, finance, management, communications systems, and other professional curricula;

"(B) interdisciplinary programs which provide business, finance, management, communications systems, and other professional training for foreign language and international studies faculty and advanced degree candidates;

"(C) evening or summer programs, including, but not limited to, intensive language programs, available to members of the business community and other professionals which are designed to develop or enhance their international skills, awareness, and expertise;

"(D) collaborative programs, activities, or research involving other institutions of higher education, local educational agencies, professional associations, businesses, firms, or combinations thereof, to promote the development of international skills, awareness, and expertise among current and prospective members of the business community and other professionals;

"(E) research designed to strengthen and improve the international aspects of business and professional education and to promote integrated curricula; and

"(F) research designed to promote the international competitiveness of American businesses and firms, including those not currently active in international trade.

"(2) Programs and activities to be conducted by centers assisted under this section may include—

"(A) the establishment of overseas internship programs for students and faculty designed to provide training and experience in international business activities, except that no Federal funds provided under this section may be used to pay wages or stipends to any participant who is engaged in compensated employment as part of an internship program; and

"(B) other eligible activities prescribed by the Secretary.

"(d)(1) In order to be eligible for assistance under this section, an institution of higher education, or combination of such institutions, shall establish a center advisory council which will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs.

"(2) The Center Advisory Council shall include—

"(A) one representative of an administrative department or office of the institution of higher education;

"(B) one faculty representative of the business or management school or department of such institution;

"(C) one faculty representative of the international studies or foreign language school or department of such institution;

"(D) one faculty representative of another professional school or department of such institution, as appropriate;

"(E) one or more representative of local or regional businesses or firms;

"(F) one representative appointed by the Governor of the State in which the institution of higher education is located whose normal responsibilities include official oversight or involvement in State-sponsored trade-related activities or programs; and

"(G) such other individuals as the institution of higher education deems appropriate.

"(3) In addition to the initial planning activities required under subsection (d)(1), the center advisory council shall meet not less than once each year after the establishment of the center to assess and advise on the programs and activities conducted by the center.

"(e)(1) The Secretary shall make grants under this section for a minimum of 3 years unless the Secretary determines that the provision of grants of shorter duration is necessary to carry out the objectives of this section.

"(2) The Federal share of the cost of planning, establishing and operating centers under this section shall be—

"(A) not more than 90 per centum for the first year in which Federal funds are furnished,

"(B) not more than 70 per centum for the second such year and

"(C) not more than 50 per centum for the third such year and for each such year thereafter.

"(3) The non-Federal share of the cost of planning, establishing, and operating centers under this section may be provided either in cash or in-kind assistance.

"(f)(1) Grants under this section shall be made on such conditions as the Secretary determines to be necessary to carry out the objectives of this section. Such conditions shall include—

"(A) evidence that the institution of higher education, or combination of such institutions, will conduct extensive planning prior to the establishment of a center concerning the scope of the center's activities and the design of its programs in accordance with subsection (d)(1);

"(B) assurance of ongoing collaboration in the establishment and operation of the center by faculty of the business, management, foreign language, international studies and other professional schools or departments, as appropriate;

"(C) assurance that the education and training programs of the center will be open to students concentrating in each of these respective areas, as appropriate; and

"(D) assurance that the institution of higher education, or combination of such institutions, will use the assistance provided under this section to supplement and not to supplant activities conducted by institutions of higher education described in subsection (c)(1).".

SEC. 6262. AUTHORIZATION OF APPROPRIATIONS.

Section 614 of the Act (as redesignated by section 6261 of this Act) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 614. (a) There are authorized to be appropriated $5,000,000 for the fiscal year 1988 and for each of the 3 succeeding fiscal years to carry out the provisions of section 612. 20 USC 1130b.

"(b) There are authorized to be appropriated $5,000,000 for fiscal year 1987, and such sums as may be necessary for the 4 succeeding fiscal years, to carry out the provisions of section 613.".

SEC. 6263. CONFORMING AMENDMENT.

Section 613 of the Act (as redesignated by section 6261 of this Act) is amended by striking out "part" each time it appears and inserting in lieu thereof "section".

CHAPTER 7—ADDITIONAL HIGHER EDUCATION PROVISIONS

SEC. 6271. RONALD E. MCNAIR POST-BACCALAUREATE ACHIEVEMENT PROGRAM.

Section 417D(d)(6) of the Act is amended by striking out "in no case" and all that follows through the period and inserting in lieu thereof the following: "if— 20 USC 1070d-1b.

"(A) the funds so allocated equal or exceed $168,800,000 but are less than $215,000,000 funds allocated to projects authorized under this subsection may not exceed—

"(i) $1,000,000 in the fiscal year 1988,

"(ii) $2,000,000 in the fiscal year 1989,

"(iii) $3,000,000 in the fiscal year 1990, and

"(iv) $4,000,000 in the fiscal year 1991, and

"(B) the funds so allocated equal or exceed $215,000,000 funds allocated to projects authorized under this subsection may not exceed $5,000,000.".

SEC. 6272. UNITED STATES INSTITUTE OF PEACE.

Section 25 of the Higher Education Technical Amendments Act of 1987 is amended by striking out "Section 1703" and inserting in lieu thereof "Section 1705(b)(3)". 22 USC 4604.

Economic Dislocation and Worker Adjustment Assistance Act.

Subtitle D—Employment and Training for Dislocated Workers

29 USC 1501 note.

SEC. 6301. SHORT TITLE.

This title may be cited as the "Economic Dislocation and Worker Adjustment Assistance Act".

SEC. 6302. AMENDMENT TO TITLE III OF THE JOB TRAINING PARTNERSHIP ACT.

(a) IN GENERAL.—Title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) is amended to read as follows:

"TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

"DEFINITIONS

29 USC 1651.

"SEC. 301. (a) DISLOCATED WORKERS.—(1) For purposes of this title, the term 'eligible dislocated workers' means individuals who—

"(A) have been terminated or laid off or who have received a notice of termination or layoff from employment, are eligible for or have exhausted their entitlement to unemployment compensation, and are unlikely to return to their previous industry or occupation;

"(B) have been terminated or have received a notice of termination of employment, as a result of any permanent closure of or any substantial layoff at a plant, facility, or enterprise;

"(C) are long-term unemployed and have limited opportunities for employment or reemployment in the same or a similar occupation in the area in which such individuals reside, including older individuals who may have substantial barriers to employment by reason of age; or

"(D) were self-employed (including farmers and ranchers) and are unemployed as a result of general economic conditions in the community in which they reside or because of natural disasters, subject to regulations prescribed by the Secretary.

"(2) For purposes of this title, the term 'additional dislocated worker' means a displaced homemaker as that term is defined in section 4(29) of this Act.

"(3) The Secretary shall establish categories of self-employed individuals and of economic conditions and natural disasters to which paragraph (1)(D) applies.

"(b) ADDITIONAL DEFINITIONS.—For the purposes of this title—

"(1) The term 'labor-management committees' means committees voluntarily established to respond to actual or prospective worker dislocation, which ordinarily include (but are not limited to) the following—

"(A) shared and equal participation by workers and management;

"(B) shared financial participation between the company and the State, using funds provided under this title, in paying for the operating expenses of the committee;

Reports.

"(C) a chairperson, to oversee and guide the activities of the committee, (i) who shall be jointly selected by the labor

and management members of the committee, (ii) who is not employed by or under contract with labor or management at the site, and (iii) who shall provide advice and leadership to the committee and prepare a report on its activities;

"(D) the ability to respond flexibly to the needs of affected workers by devising and implementing a strategy for assessing the employment and training needs of each dislocated worker and for obtaining the services and assistance necessary to meet those needs;

"(E) a formal agreement, terminable at will by the workers or the company management, and terminable for cause by the Governor; and

"(F) local job identification activities by the chairman and members of the committee on behalf of the affected workers.

"(2) The term 'local elected official' means the chief elected executive officer of a unit of general local government in a substate area.

"(3) The term 'service provider' means a public agency, private nonprofit organization, or private-for-profit entity that delivers educational, training, or employment services.

"(4) The term 'substate area' means that geographic area in a State established pursuant to section 312(a).

"(5) The term 'substate grantee' means that agency or organization selected to administer programs pursuant to section 312(b).

"(6) The term 'State' means any of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"ALLOTMENT

"SEC. 302. (a) ALLOTMENT OF FUNDS.—From the funds appropriated pursuant to section 3(c) for any fiscal year, the Secretary shall— 29 USC 1652.

"(1) allot 80 percent of such funds in accordance with the provisions of subsection (b); and

"(2) reserve 20 percent for use under part B of this title, subject to the reservation required by subsection (e) of this section.

"(b) ALLOTMENT AMONG STATES.—(1) Subject to the provisions of paragraph (2), the Secretary shall allot the amount available in each fiscal year under subsection (a)(1) on the basis of the following factors:

"(A) One-third of such amount shall be allotted among the States on the basis of the relative number of unemployed individuals who reside in each State as compared to the total number of unemployed individuals in all the States.

"(B) One-third of such amount shall be allotted among the States on the basis of the relative excess number of unemployed individuals who reside in each State as compared to the total excess number of unemployed individuals in all the States. For purposes of this paragraph, the term 'excess number' means the number which represents unemployed individuals in excess of 4.5 percent of the civilian labor force in the State.

"(C) One-third of such amount shall be allotted among the States on the basis of the relative number of individuals who have been unemployed for 15 weeks or more and who reside in

each State as compared to the total number of such individuals in all the States.

"(2) As soon as satisfactory data are available under section 462(e) of this Act, the Secretary shall allot amounts appropriated to carry out part B and this part for any fiscal year to each State so that—

"(A) 25 percent of such amount shall be allotted on the basis of each of the factors described in subparagraphs (A), (B), and (C) of paragraph (1), respectively, for a total of 75 percent of the amount allotted; and

"(B) 25 percent of such amount shall be allotted among the States on the basis of the relative number of dislocated workers in such State in the most recent period for which satisfactory data are available under section 462(e) and, when available, under section 462(f) of this Act.

"(c) RESERVATIONS FOR STATE ACTIVITIES AND FOR SUBSTATE GRANTEES IN NEED.—(1) The Governor may reserve not more than 40 percent of the amount allotted to the State under section 302(a)(1) for—

"(A) State administration, technical assistance, and coordination of the programs authorized under this title;

"(B) statewide, regional, or industrywide projects;

"(C) rapid response activities as described in section 314(b);

"(D) establishment of coordination between the unemployment compensation system and the worker adjustment program system; and

"(E) discretionary allocation for basic readjustment and retraining services to provide additional assistance to areas that experience substantial increases in the number of dislocated workers, to be expended in accordance with the substate plan or modification thereof.

"(2) In addition, the Governor may reserve not more than 10 percent of the amount allotted to the State under section 302(a)(1) for allocation among substate grantees. The amount so reserved shall be allocated on the basis of need and distributed to such grantees not later than 9 months after the beginning of the program year for which the allotment was made.

"(d) WITHIN STATE DISTRIBUTION.—The Governor shall allocate the remainder of the amount allotted to the State under this part to substate areas for services authorized in this part, based on an allocation formula prescribed by the Governor. Such formula may be amended by the Governor not more than once for each program year. Such formula shall utilize the most appropriate information available to the Governor to distribute amounts to address the State's worker readjustment assistance needs. Such information shall include (but is not limited to)—

"(1) insured unemployment data;

"(2) unemployment concentrations;

Plant closings.

"(3) plant closing and mass layoff data;

"(4) declining industries data;

"(5) farmer-rancher economic hardship data; and

"(6) long-term unemployment data.

"(e) RESERVATION FOR THE TERRITORIES.—Not more than 0.3 percent of the amounts appropriated pursuant to section 3(c) and available under subsection (a)(2) of this section for any fiscal year shall be allocated among the Commonwealth of the Northern Mariana Islands and the other territories and possessions of the United States.

"RECAPTURE AND REALLOTMENT OF UNEXPENDED FUNDS

"SEC. 303. (a) GENERAL REALLOTMENT AUTHORITY.—For program years beginning July 1, 1989, and thereafter, the Secretary shall, in accordance with the requirements of this section, reallot to eligible States the funds allotted to States from funds appropriated for such program year that are available for reallotment. State and local governments. 29 USC 1653.

"(b) AMOUNT AVAILABLE FOR REALLOTMENT.—The amount available for reallotment is equal to—

"(1) the amount by which the unexpended balance of the State allotment at the end of the program year prior to the program year for which the determination under this section is made exceeds 20 percent of such allotment for that prior program year; plus

"(2) the unexpended balance of the State allotment from any program year prior to the program year in which there is such excess.

"(c) METHOD OF REALLOTMENT.—(1) The Secretary shall determine the amount that would be allotted to each eligible State by using the factors described in section 302(b) to allocate among eligible States the amount available pursuant to subsection (b) of this section.

"(2) The Secretary shall allot to each eligible high unemployment State the amount determined for that State under the procedure in paragraph (1) of this subsection.

"(3) The Secretary shall, by using the factors described in section 302(b), allot to eligible States the amount available that remains after the allotment required by paragraph (2) of this subsection.

"(d) STATE PROCEDURES WITH RESPECT TO REALLOTMENT.—The Governor of each State shall prescribe uniform procedures for the expenditure of funds by substate grantees in order to avoid the requirement that funds be made available for reallotment under subsection (b). The Governor shall further prescribe equitable procedures for making funds available from the State and substate grantees in the event that a State is required to make funds available for reallotment under such subsection.

"(e) DEFINITIONS.—(1) For the purpose of this section, an eligible State means a State which has expended at least 80 percent of its allotment for the program year prior to the program year for which the determination under this section is made.

"(2) For the purpose of this section, an eligible high unemployment State means a State—

"(A) which meets the requirement in subsection (c)(1), and

"(B) which is among the States which has an unemployment rate greater than the national average unemployment for the most recent 12 months for which satisfactory data are available.

"(3) For purposes of this section, funds awarded from discretionary funds of the Secretary shall not be included in calculating any of the reallotments described in this section.

"PART A—STATE DELIVERY OF SERVICES

"STATE PLAN

"SEC. 311. (a) STATE PLAN REQUIRED.—In order to receive an allotment of funds under section 302(b), the Governor of a State shall submit to the Secretary, on a biennial basis, a State plan describing in detail the programs and activities that will be assisted 29 USC 1661.

with funds provided under this title. The State plan shall be submitted on or before the first day of May immediately preceding the program year for which funds are first to be made available under this title. Such plan shall include incentives to provide training of greater duration for those who require it, consistent with section 106(g).

"(b) CONTENTS OF PLAN.—Each State plan shall contain provisions demonstrating to the satisfaction of the Secretary that the State will comply with the requirements of this title and that—

"(1) services under this title—

"(A) will, except as provided in paragraph (4), only be provided to eligible dislocated workers;

"(B) will not be denied to an eligible dislocated worker displaced by a permanent closure or substantial layoff within the State, regardless of the State of residence of such worker; and

"(C) may be provided to other eligible dislocated workers regardless of the State of residence of such worker;

"(2) the State will designate or create an identifiable State dislocated worker unit or office with the capability to respond rapidly, on site, to permanent closures and substantial layoffs throughout the State in order to assess the need for, and initially to provide for, appropriate basic readjustment services;

"(3) the State unit will—

"(A) make appropriate retraining and basic readjustment services available to eligible dislocated workers through the use of rapid response teams, substate grantees, and other appropriate organizations;

"(B) work with employers and labor organizations in promoting labor-management cooperation to achieve the goals of this title;

"(C) operate a monitoring, reporting, and management system which provides an adequate information base for effective program management, review, and evaluation; and

"(D) provide technical assistance and advice to substate grantees;

"(4) the State will provide to additional dislocated workers (as defined in section 301(a)(2)) the services available under this title to eligible dislocated workers only if the Governor of such State determines that such services may be provided to additional dislocated workers without adversely affecting the delivery of such services to eligible dislocated workers;

"(5) the State unit will exchange information and coordinate programs with—

"(A) the appropriate economic development agency, for the purpose of developing strategies to avert plant closings or mass layoffs and to accelerate the reemployment of affected individuals;

"(B) State education, training, and social services programs; and

"(C) all other programs available to assist dislocated workers (including the Job Service and the unemployment insurance system);

"(6) the State unit will disseminate throughout the State information on the availability of services and activities under this title;

"(7) any program conducted with funds made available under this title which will provide services to a substantial number of members of a labor organization will be established only after full consultation with such labor organization;

"(8) the State will not prescribe any standard for the operation of programs under this part that is inconsistent with section 106(g);

"(9) the State job training coordinating council has reviewed and commented in writing on the plan; and

"(10) the delivery of services with funds made available under this title will be integrated or coordinated with services or payments made available under chapter 2 of title II of the Trade Act of 1974 and provided by any State or local agencies designated under section 239 of the Trade Act of 1974.

"(c) REVIEW AND APPROVAL OF STATE PLANS.—The Secretary shall review any plan submitted under subsection (a), and any comments thereon submitted by the State job training coordinating council pursuant to subsection (b)(9), and shall notify a State as to any deficiencies in such plan within 30 days after submission. Unless a State has been so notified, the Secretary shall approve the plan within 45 days after submission. The Secretary shall not finally disapprove the plan of any State except after notice and opportunity for a hearing.

"(d) MODIFICATIONS—Any plan submitted under subsection (a) may be modified to describe changes in or additions to the programs and activities set forth in the plan, except that no such modification shall be effective unless reviewed and approved in accordance with subsection (c).

"(e) COMPLAINT, INVESTIGATION, PENALTY.—(1) Whenever the Secretary receives a complaint or a report from an aggrieved party or a public official that a State is not complying with the provisions of the State plan required by this section, the Secretary shall investigate such report or complaint.

"(2)(A) Whenever the Secretary determines that there has been such a failure to comply and that other remedies under this Act are not available or are not adequate to achieve compliance, the Secretary may withhold an amount not to exceed 10 percent of the allotment of the State for the fiscal year in which the determination is made for each such violation.

"(B) No determination may be made under this paragraph until the State affected is afforded adequate notice and opportunity for a hearing.

"(f) SPECIAL RULE.—The provisions of section 102(h) and 105(d), relating to cases in which a service delivery area is a State, shall apply to this title.

"SUBSTATE GRANTEES

"SEC. 312. (a) DESIGNATION OF SUBSTATE AREAS.—(1) The Governor of each State shall, after receiving any recommendations from the State job training coordinating council, designate substate areas for the State. 29 USC 1661a.

"(2) Each service delivery area within a State shall be included within a substate area and no service delivery area shall be divided among two or more substate areas.

"(3) In making designations of substate areas, the Governor shall consider—

"(A) the availability of services throughout the State;

"(B) the capability to coordinate the delivery of services with other human services and economic development programs; and

"(C) the geographic boundaries of labor market areas within the State.

"(4) Subject to paragraphs (2) and (3), the Governor—

"(A) shall designate as a substate area any single service delivery area that has a population of 200,000 or more;

"(B) shall designate as a substate area any two or more contiguous service delivery areas—

"(i) that in the aggregate have a population of 200,000 or more; and

"(ii) that request such designation; and

Rural areas.

"(C) shall designate as a substate area any concentrated employment program grantee for a rural area described in section 101(a)(4)(A)(iii) of this Act.

"(5) The Governor may deny a request for designation under paragraph (4)(B) if the Governor determines that such designation would not be consistent with the effective delivery of services to eligible dislocated workers in various labor market areas (including urban and rural areas) within the State, or would not otherwise be appropriate to carry out the purposes of this title.

"(6) The designations made under this section may not be revised more than once each two years, in accordance with the requirements of this section.

"(b) DESIGNATION OF SUBSTATE GRANTEES.—A substate grantee shall be designated, on a biennial basis, for each substate area. Such substate grantee shall be designated in accordance with an agreement among the Governor, the local elected official or officials of such area, and the private industry council or councils of such area. Whenever a substate area is represented by more than one such official or council, the respective officials and councils shall each designate representatives, in accordance with procedures established by the Governor (after consultation with the State job training coordinating council), to negotiate such agreement. In the event agreement cannot be reached on the selection of a substate grantee, the Governor shall select the substate grantee.

Contracts.

"(c) ELIGIBILITY.—Entities eligible for designation as substate grantees include—

"(1) private industry councils in the substate area;

"(2) service delivery area grant recipients or administrative entities;

"(3) private nonprofit organizations;

"(4) units of general local government in the substate area, or agencies thereof;

"(5) local offices of State agencies; and

"(6) other public agencies, such as community colleges and area vocational schools.

"(d) FUNCTIONS OF SUBSTATE GRANTEES.—The substate grantee shall be responsible for providing, within such substate area, services described in section 314 (c), (d), and (e) pursuant to an agreement with the Governor and in accordance with the State plan under section 311 and the substate plan under section 313. The substate grantee may provide such services directly or through contract, grant, or agreement with service providers.

Contracts.

"(e) APPLICABILITY OF GENERAL ADMINISTRATIVE PROVISIONS TO SUBSTATE GRANTEES.—The requirements of parts C and D of title I of this Act that apply to an administrative entity or a recipient of

financial assistance under this Act shall also apply to substate grantees under this title.

"SUBSTATE PLAN

"SEC. 313. (a) GENERAL RULE.—No amounts appropriated for any fiscal year may be provided to a substate grantee unless the Governor (after considering the recommendations of the State job training coordinating council) has approved a substate plan, or modification thereof, submitted by the substate grantee describing the manner in which activities will be conducted within the substate area. Prior to the submission to the Governor, the plan shall be submitted for review and comment to the other parties to the agreement described in section 312(b). 29 USC 1661b.

"(b) CONTENTS OF SUBSTATE PLAN.—The substate plan shall contain a statement of—

"(1) the means for delivering services described in section 314 to eligible dislocated workers;

"(2) the means to be used to identify, select, and verify the eligibility of program participants;

"(3) the means for implementing the requirements of section 314(f);

"(4) the means for involving labor organizations in the development and implementation of services;

"(5) the performance goals to be achieved consistent with the performance goals contained in the State plan pursuant to section 311(b)(8);

"(6) procedures, consistent with section 107, for selecting service providers which take into account past performance in job training or related activities, fiscal accountability, and ability to meet performance standards;

"(7) a description of the methods by which the substate grantee will respond expeditiously to worker dislocation where the rapid response assistance required by section 314(b) is inappropriate, including worker dislocation in sparsely populated areas, which methods may include (but are not limited to)—

(A) development and delivery of widespread outreach mechanisms;

(B) provision of financial evaluation and counseling (where appropriate) to assist in determining eligibility for services and the type of services needed;

(C) initial assessment and referral for further basic adjustment and training services; and

(D) establishment of regional centers for the purpose of providing such outreach, assessment, and early readjustment assistance;

"(8) a description of the methods by which the other parties to the agreement described in section 312(b) may be involved in activities of the substate grantee;

"(9) a description of training services to be provided, including—

"(A) procedures to assess participants' current education skill levels and occupational abilities;

"(B) procedures to assess participants' needs, including educational, training, employment, and social services;

"(C) methods for allocating resources to provide the services recommended by rapid response teams for eligible dislocated workers within the substate area; and

"(D) a description of services and activities to be provided in the substate area;

"(10) the means whereby coordination with other appropriate programs, services, and systems will be effected, particularly where such coordination is intended to provide access to the services of such other systems for program participants at no cost to the worker readjustment program; and

"(11) a detailed budget, as required by the State.

"(c) PLAN APPROVAL.—The Governor shall approve or disapprove the plan of a substate grantee in the manner required by section 105(b) (1), (2), and (3). If a substate grantee fails to submit a plan, or submits a plan that is not approved by the Governor in accordance with such section, the Governor may direct the expenditure of funds allocated to the substate area until such time as a plan is submitted and approved or a new substate grantee is designated under section 312.

"(d) BY-PASS AUTHORITY.—If a substate grantee fails to expend funds allocated to it in accordance with its plan, the Governor may, subject to appropriate notice and opportunity for comment in the manner required by section 105(b) (1), (2), and (3), direct the expenditure of funds in accordance with the substate plan until—

"(1) the substate grantee corrects the failure,

"(2) the substate grantee submits an acceptable modification to its plan pursuant to subsection (a), or

"(3) a new substate grantee is designated under section 312.

"USE OF FUNDS; SERVICES TO BE PROVIDED

29 USC 1661c.

"SEC. 314. (a) IN GENERAL.—Funds allotted under section 302 may be used—

"(1) to provide rapid response assistance in accordance with subsection (b);

"(2) to deliver, coordinate, and integrate basic readjustment services and support services in accordance with subsection (c);

"(3) to provide retraining services in accordance with subsection (d);

"(4) to provide needs-related payments in accordance with subsection (e); and

"(5) to provide for coordination with the unemployment compensation system in accordance with subsection (f).

"(b) RAPID RESPONSE ASSISTANCE.—(1) The dislocated worker unit required by section 311(b)(2) shall include specialists who may use funds available under this title—

"(A) to establish on-site contact with employer and employee representatives within a short period of time (preferably 48 hours or less) after becoming aware of a current or projected permanent closure or substantial layoff in order to—

Public information.

"(i) provide information on and facilitate access to available public programs and services; and

"(ii) provide emergency assistance adapted to the particular closure or layoff;

"(B) to promote the formation of labor-management committees, by providing—

"(i) immediate assistance in the establishment of the labor-management committee, including providing immediate financial assistance to cover the start-up costs of the committee;

"(ii) a list of individuals from which the chairperson of the committee may be selected;

"(iii) technical advice as well as information on sources of assistance, and liaison with other public and private services and programs; and

"(iv) assistance in the selection of worker representatives in the event no union is present;

"(C) to collect information related to—

"(i) economic dislocation (including potential closings or layoffs); and

"(ii) all available resources within the State for displaced workers,

which information shall be made available on a regular basis to the Governor and the State job training coordinating council to assist in providing an adequate information base for effective program management, review, and evaluation;

"(D) to provide or obtain appropriate financial and technical advice and liaison with economic development agencies and other organizations to assist in efforts to avert worker dislocations;

"(E) to disseminate information throughout the State on the availability of services and activities carried out by the dislocated worker unit or office; and

"(F) to assist the local community in developing its own coordinated response and in obtaining access to State economic development assistance.

"(2) In a situation involving an impending permanent closure or substantial layoff, a State may provide funds, where other public or private resources are not expeditiously available, for a preliminary assessment of the advisability of conducting a comprehensive study exploring the feasibility of having a company or group, including the workers, purchase the plant and continue it in operation.

"(c) BASIC READJUSTMENT SERVICES.—Funds allotted under section 302 may be used to provide basic readjustment services to eligible dislocated workers. Subject to limitations set forth in subsection (e) and section 315(a), the services may include (but are not limited to)—

"(1) development of individual readjustment plans for participants in programs under this title;

"(2) outreach and intake;

"(3) early readjustment assistance;

"(4) job or career counseling;

"(5) testing;

"(6) orientation;

"(7) assessment, including evaluation of educational attainment and participant interests and aptitudes;

"(8) determination of occupational skills;

"(9) provision of future world-of-work and occupational information;

"(10) job placement assistance;

"(11) labor market information;

"(12) job clubs;

"(13) job search;

"(14) job development;

"(15) supportive services, including child care, commuting assistance, and financial and personal counseling which shall terminate not later than the 90th day after the participant has completed other services under this part, except that counseling necessary to assist participants to retain employment shall terminate not later than 6 months following the completion of training;

"(16) prelayoff assistance;

"(17) relocation assistance; and

"(18) programs conducted in cooperation with employers or labor organizations to provide early intervention in the event of closures of plants or facilities.

"(d) RETRAINING SERVICES.—(1) Funds allotted under section 302 may be used to provide training services under this part to eligible dislocated workers. Such services may include (but are not limited to)—

"(A) classroom training;

"(B) occupational skill training;

"(C) on-the-job training;

"(D) out-of-area job search;

"(E) relocation;

"(F) basic and remedial education;

"(G) literacy and English for non-English speakers training;

"(H) entrepreneurial training; and

"(I) other appropriate training activities directly related to appropriate employment opportunities in the substate area.

"(2) No funds under this part may be expended to provide wages for public service employment.

"(e) NEEDS-RELATED PAYMENTS.—(1) Funds allocated to a substate grantee under section 302(d) may be used pursuant to a substate plan under section 313 to provide needs-related payments to an eligible dislocated worker who does not qualify or has ceased to qualify for unemployment compensation, in order to enable such worker to participate in training or education programs under this title. To be eligible for such payments, an eligible dislocated worker who has ceased to qualify for unemployment compensation must have been enrolled in training by the end of the 13th week of the worker's initial unemployment compensation benefit period, or, if later, the end of the 8th week after an employee is informed that a short-term layoff will in fact exceed 6 months.

"(2) The level of needs-related payments shall be made available at a level not greater than the higher of—

"(A) the applicable level of unemployment compensation; or

"(B) the poverty level determined in accordance with criteria established by the Director of the Office of Management and Budget.

"(f) COORDINATION WITH UNEMPLOYMENT COMPENSATION.—Funds allocated to a State under section 302 may be used for coordination of worker readjustment programs and the unemployment compensation system, consistent with the limitation on administrative expenses in section 315. Each State shall be responsible for coordinating the unemployment compensation system and worker readjustment programs within such State.

"LIMITATIONS ON USES OF FUNDS

"SEC. 315. (a) USE OF FUNDS FOR RETRAINING SERVICES.—(1) Not less than 50 percent of the funds expended under this title by any substate grantee shall be expended for retraining services specified under section 314(d). 29 USC 1661d.

"(2) A substate grantee may apply to the Governor for a waiver of the requirement in paragraph (1). Such waiver may not permit less than 30 percent of the funds to be spent for such retraining services. The waiver may be granted in whole or in part if the substate grantee demonstrates that the worker readjustment program in the area will be consistent with the principle that dislocated workers be prepared for occupations or industries with long-term potential. The Governor shall prescribe criteria for the demonstration required by the previous sentence.

"(3) An application for such a waiver shall be submitted at such time and in such form as the Governor may prescribe. The Governor shall provide an opportunity for public comment on the application.

"(b) NEEDS-RELATED PAYMENTS AND SUPPORTIVE SERVICES LIMITATION.—Not more than 25 percent of the funds expended under this title by any substate grantee or by the Governor may be used to provide needs-related payments and other supportive services.

"(c) ADMINISTRATIVE COST LIMITATION.—Not more than 15 percent of the funds expended under this title by any substate grantee or by the Governor may be expended to cover the administrative cost of programs under this title. For purposes of this subsection, administrative cost does not include the cost of activities under section 314(b).

"RETRAINING SERVICES AVAILABILITY

"SEC. 316. (a) ALTERNATIVE METHODS OF PROVIDING RETRAINING SERVICES.—A substate grantee may provide retraining services described in section 314(d) to an eligible dislocated worker— 29 USC 1661e.

"(1) by beginning such services promptly upon the worker's application for the program under this title;

"(2) by deferring the beginning of such services and providing the worker with a certificate of continuing eligibility in accordance with subsection (b) (1) and (2); or

"(3) by permitting the worker to obtain such services from a service provider using such certificate in accordance with subsection (b)(3).

"(b) CERTIFICATION OF CONTINUING ELIGIBILITY.—(1) A substate grantee may issue to any eligible dislocated worker who has applied for the program authorized in this part a certificate of continuing eligibility. Such a certificate of continuing eligibility may be effective for periods not to exceed 104 weeks. No such certificate shall include any reference to any specific amount of funds. Any such certificate shall state that it is subject to the availability of funds at the time that any such training services are to be provided. Acceptance of such a certificate shall not be deemed to be enrollment in training.

"(2) Any individual to whom a certificate of continuing eligibility has been issued under paragraph (1) of this subsection shall remain eligible for the program authorized under this part for the period specified in the certificate, notwithstanding section 301(a), and may use the certificate in order to receive the retraining services, subject to the limitations contained in the certificate.

"(3) A substate grantee may provide training services through systems that permit eligible dislocated workers to use certificates of continuing eligibility to seek out and arrange their own retraining with service providers approved by that substate grantee. Retraining provided pursuant to the certificate shall be conducted under a grant, contract, or other arrangement between the substate grantee and the service provider.

Contracts.

"FUNCTIONS OF STATE JOB TRAINING COORDINATING COUNCIL

29 USC 1661f.

"SEC. 317. For purposes of this title, the State job training coordinating council shall—

"(1) provide advice to the Governor regarding the use of funds under this title, including advice on—

"(A) the designation of substate areas and substate grantees, and the procedures for the selection of representatives within such areas under section 312; and

"(B) the methods for allocation and reallocation of funds, including the method for distribution of funds reserved under section 302(c)(2) and funds subject to reallocation under section 303(d);

"(2) submit comments to the Governor and the Secretary on the basis of review of the State and substate programs under this title;

"(3) review, and submit written comments on, the State plan (and any modification thereof) before its submission under section 311;

"(4) review, and submit written comments on, each substate plan submitted to the Governor under section 313; and

"(5) provide advice to the Governor regarding performance standards.

"PART B—FEDERAL RESPONSIBILITIES

"FEDERAL ADMINISTRATION

29 USC 1662.

"SEC. 321. (a) STANDARDS.—The Secretary shall promulgate standards for the conduct and evaluation of programs under this title.

"(b) BY-PASS AUTHORITY.—In the event that any State fails to submit a plan that is approved under section 311, the Secretary shall use the amount that would be allotted to that State to provide for the delivery in that State of the programs, activities, and services authorized by this title until the State plan is submitted and approved under that section.

"FEDERAL DELIVERY OF DISLOCATED WORKER SERVICES

29 USC 1662a.

"SEC. 322. (a) GENERAL AUTHORITY.—The Secretary shall, with respect to programs required by this title—

"(1) distribute funds to States in accordance with the requirements of section 302;

"(2) provide funds to exemplary and demonstration programs on plant closings and worker dislocation;

"(3) otherwise allocate discretionary funds to projects serving workers affected by multi-State or industry-wide dislocations and to areas of special need in a manner that efficiently targets resources to areas of most need, encourages a rapid response to economic dislocations, and promotes the effective use of funds;

"(4) monitor performance and expenditures and annually certify compliance with standards prescribed by the Secretary under section 106(g);

"(5) conduct research and serve as a national clearinghouse for gathering and disseminating information on plant closings and worker dislocation; and Research and development.

"(6) provide technical assistance and staff training services to States, communities, businesses, and unions, as appropriate.

"(b) ADMINISTRATIVE PROVISIONS.—The Secretary shall designate or create an identifiable dislocated workers unit or office to coordinate the functions of the Secretary under this title.

"ALLOWABLE ACTIVITIES

"SEC. 323. (a) CIRCUMSTANCES AND ACTIVITIES FOR USE OF FUNDS.— Amounts reserved for this part under section 302(a)(2) may be used to provide services of the type described in section 314 in the following circumstances: 29 USC 1662b.

"(1) mass layoffs, including mass layoffs caused by natural disasters or Federal actions (such as relocations of Federal facilities) when the workers are not expected to return to their previous occupations;

"(2) industrywide projects;

"(3) multistate projects;

"(4) special projects carried out through agreements with Indian tribal entities;

"(5) special projects to address national or regional concerns;

"(6) demonstration projects, including the projects described in section 324;

"(7) to provide additional financial assistance to programs and activities provided by States and substate grantees under part A of this title; and

"(8) to provide additional assistance under proposals for financial assistance that are submitted to the Secretary and approved by the Secretary after consultation with the Governor of the State in which the project is to operate.

"(b) USE OF FUNDS IN EMERGENCIES.—Amounts reserved for this part under section 302(a)(2) may also be used to provide services of the type described in section 314 whenever the Secretary (with agreement of the Governor) determines that an emergency exists with respect to any particular distressed industry or any particularly distressed area to provide emergency financial assistance to dislocated workers. The Secretary may make arrangements for the immediate provision of such emergency financial assistance for the purposes of this section with any necessary supportive documentation to be submitted at a date agreed to by the Governor and the Secretary.

"(c) STAFF TRAINING AND TECHNICAL ASSISTANCE.—(1) Amounts reserved for this part under section 302(a)(2) may be used to provide staff training and technical assistance services to States, communities, businesses and labor organizations, and other entities involved in providing adjustment assistance to workers. Applications for technical assistance funds shall be submitted in accordance with procedures issued by the Secretary.

"(2) Not more than 5 percent of the funds reserved for this part in any fiscal year shall be used for the purpose of this subsection.

"(d) TRAINING OF RAPID RESPONSE STAFFS.—Amounts reserved for this part under section 302(a)(2) shall be used to provide training of staff, including specialists, providing rapid response services. Such training shall include instruction in proven methods of promoting, establishing, and assisting labor-management committees.

"DEMONSTRATION PROGRAMS

29 USC 1662c. "SEC. 324. (a) AUTHORIZED PROGRAMS.—From the amount reserved for this part under section 302(a)(2) for the fiscal years 1989, 1990, and 1991, not less than 10 percent of such amount shall be used for demonstration programs. Such demonstration programs may be up to three years in length, and shall include (but need not be limited to) at least two of the following demonstration programs:

"(1) self-employment opportunity demonstration program;
"(2) public works employment demonstration program;
"(3) dislocated farmer demonstration program; and
"(4) job creation demonstration program.

"(b) EVALUATION AND REPORT.—The Secretary shall conduct or provide for an evaluation of the success of each demonstration program, and shall prepare and submit to the Congress a report of the evaluation not later than October 1, 1992, together with such recommendations, including recommendations for legislation, as the Secretary deems appropriate.".

SEC. 6303. AUTHORIZATION OF APPROPRIATIONS.

29 USC 1502. Section 3(c) of the Job Training Partnership Act is amended to read as follows:

"(c) There are authorized to be appropriated to carry out title III—
"(1) $980,000,000 for fiscal year 1989; and
"(2) such sums as may be necessary for each succeeding fiscal year.".

SEC. 6304. CONFORMING AMENDMENTS.

(a) PERFORMANCE STANDARDS.—Section 106 of the Job Training
29 USC 1516. Partnership Act is amended—

(1) in subsection (e)—
(A) by inserting "and subsection (g)" after "subsection";
(B) by inserting after "State" the following: "and in substate areas"; and
(2) in subsection (g)—
(A) by inserting "(1)" after "(g)"; and
(B) by adding at the end thereof the following new paragraph:

"(2) Any performance standard that may be prescribed under paragraph (1) of this subsection shall make appropriate allowance for the difference in cost resulting from serving workers receiving needs-related payments under section 314(e).".

(b) STATE JOB TRAINING COORDINATING COUNCIL.—Section 122(a)(3)
29 USC 1532. of the Job Training Partnership Act is amended to read as follows:

"(3) The State job training coordinating council shall be composed as follows:

"(A) Thirty percent of the membership of the State council shall be representatives of business and industry (including agriculture, where appropriate), including individuals who are representatives of business and industry on private industry councils within the State.

"(B) Thirty percent of the membership of the State council shall be—

"(i) representatives of the State legislature, and State agencies and organizations, such as the State educational agency, the State vocational education board, the State advisory council on vocational education, the State board of education (when not otherwise represented), State public assistance agencies, the State employment security agency, the State rehabilitation agency, the State occupational information coordinating committee, State postsecondary institutions, the State economic development agency, State veterans' affairs agencies or equivalent, and such other agencies as the Governor determines to have a direct interest in employment and training and human resource utilization within the State; and

"(ii) representatives of the units or consortia of general local government in the State who shall be nominated by the chief elected officials of the units or consortia of units of general local government, and the representatives of local educational agencies who shall be nominated by local educational agencies.

"(C) Thirty percent of the membership of the State council shall be representatives of organized labor and representatives of community-based organizations in the State.

"(D) Ten percent of the membership of the State council shall be appointed from the general public by the Governor of the State.".

(c) TABLE OF CONTENTS.—The table of contents of such Act is amended by striking out the portion pertaining to title III and inserting the following:

"TITLE III—EMPLOYMENT AND TRAINING ASSISTANCE FOR DISLOCATED WORKERS

"Sec. 301. Definitions.
"Sec. 302. Allotment.
"Sec. 303. Recapture and reallotment of unexpended funds.

"PART A—STATE DELIVERY OF SERVICES

"Sec. 311. State plan.
"Sec. 312. Substate grantees.
"Sec. 313. Substate plan.
"Sec. 314. Use of funds; services to be provided.
"Sec. 315. Limitations on uses of funds.
"Sec. 316. Retraining services availability.
"Sec. 317. Functions of State job training coordinating council.

"PART B—FEDERAL RESPONSIBILITIES

"Sec. 321. Federal administration.
"Sec. 322. Federal delivery of dislocated worker services.
"Sec. 323. Allowable activities.
"Sec. 324. Demonstration programs.".

SEC. 6305. TRANSITION PROVISIONS.

29 USC 1651 note.

(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by sections 6302 and 6304 shall be effective for program years beginning on or after July 1, 1989.

Effective date.

(b) PROGRAM YEAR 1988–1989.—The Secretary of Labor and Governors shall, during the program year beginning July 1, 1988, continue to administer title III of the Job Training Partnership Act in the same manner as such title was administered during prior

program years, except to the extent necessary to provide for an orderly transition to and implementation of the amendments made by this subtitle. The Secretary and Governors may, for such purposes, use funds appropriated for fiscal year 1989 or any preceding fiscal year to carry out appropriate transition and implementation activities. Such activities may include—

(1) activities to prevent disruption in the delivery of services to program participants; and

(2) planning for and implementation of such amendments.

(c) STATE JOB TRAINING COORDINATING COUNCIL.—A State job training coordinating council shall comply with the changes in membership required by the amendment made by section 6304(b) not later than January 1, 1989. Upon certification by the Governor to the Secretary that such changes in membership have been accomplished, such council shall begin to perform the functions specified by section 317 of the Job Training Partnership Act (as amended by this subtitle).

(d) SUBSTATE AREAS AND GRANTEES.—The designation of substate areas and substate grantees required by the amendment to title III of such Act shall be completed not later than March 1, 1989.

(e) LIMITATION ON CARRY-OVER OF FUNDS.—The provisions of section 303 of such Act (as amended) shall apply to the program year beginning July 1, 1988, except that, for such program year—

(1) subsection (b)(1) of such section shall be applied by substituting "30 percent" for "20 percent"; and

(2) subsection (e) of such section shall be applied by substituting "70 percent" for "80 percent".

(f) REGULATIONS.—The Secretary of Labor shall prescribe such regulations as may be required to implement the amendments made by this subtitle not later than November 1, 1988.

SEC. 6306. STUDIES.

(a) DATA ON DISPLACED FARMERS AND RANCHERS.—Section 462 of such Act is amended by adding at the end the following new subsection:

29 USC 1752.

"(f)(1) The Secretary shall develop, in coordination with the Secretary of Agriculture, statistical data relating to permanent dislocation of farmers and ranchers due to farm and ranch failures. Among the data to be included are—

"(A) the number of such farm and ranch failures;

"(B) the number of farmers and ranchers displaced;

"(C) the location of the affected farms and ranches;

"(D) the types of farms and ranches involved; and

"(E) the identification of farm family members, including spouses, and farm workers working the equivalent of a full-time job on the farm who are dislocated by such farm and ranch failures.

Reports.

"(2) The Secretary shall publish a report based upon such data as soon as practicable after the end of each calendar year. Such report shall include a comparison of data contained therein with data currently used by the Bureau of Labor Statistics in determining the Nation's annual employment and unemployment rates and an analysis of whether farmers and ranchers are being adequately counted in such employment statistics. Such report shall also include an analysis of alternative methods for reducing the adverse effects of displacements of farmers and ranchers, not only on the individual farmer or rancher, but on the surrounding community ".

(b) FAILURE TO PROVIDE INTERNATIONALLY RECOGNIZED WORKER RIGHTS.—(1) The Secretary of Labor shall conduct a study, in consultation with the Secretary of State, to identify the extent to which countries recognize and enforce, and the producers fail to comply with, internationally recognized worker rights. A report on the study conducted under this subsection shall be submitted to Congress biennially. 29 USC 565. Reports.

(2) As used in this Act, the term "internationally recognized worker rights" includes—

(A) the right of association;

(B) the right to organize and bargain collectively;

(C) the right to be free from the use of any form of forced or compulsory labor;

(D) a minimum age for the employment of children; and

(E) acceptable conditions of work with respect to minimum wages, maximum hours of work, and occupational safety and health.

(c) ADDITIONAL STUDIES.—The National Commission for Employment Policy shall conduct research related to the provisions of this title. Such research shall include examinations of— Research and development. 29 USC 1651 note.

(1) the role of the employment services in implementing programs to enhance services provided under this title, and

(2) alternative techniques for managing production cutbacks without permanently reducing workforces.

A report on the research conducted under this subsection shall be submitted to the Congress not later than 18 months after the date of enactment of this Act. Reports.

SEC. 6307. JOB BANKS.

(a) AMENDMENT.—Title V of the Job Training Partnership Act is amended by adding at the end thereof the following new section:

"STATE JOB BANK SYSTEMS

"SEC. 505. (a)(1) The Secretary shall carry out the purposes of this section with sums appropriated pursuant to paragraph (2) for any fiscal year. 29 USC 1505.

"(2) There are authorized to be appropriated to carry out this section $50,000,000 for fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year. Appropriation authorization.

"(b) The Secretary shall make such sums available through the United States Employment Service for the development and implementation of job bank systems in each State. Such systems shall be designed to use computerized electronic data processing and telecommunications systems for such purposes as— Computers. Communications and telecommunications.

"(1) identifying job openings and referring jobseekers to job openings, with continual updating of such information;

"(2) providing information on occupational supply and demand; and

"(3) utilization of such systems by career information delivery systems (including career counseling programs in schools).

"(c) Wherever possible, computerized data systems developed with assistance under this section shall be capable of utilizing software compatible with other systems (including management information systems and unemployment insurance and other income maintenance programs) used in the administration of employment and training programs. In developing such systems, special consider- Computers.

ation shall be given to the advice and recommendations of the State occupational information coordinating committees (established under section 422(b) of the Carl D. Perkins Vocational Education Act), and other users of such systems for the various purposes described in subsection (b) of this section.".

(b) CLERICAL AMENDMENT.—The table of contents of such Act is amended by inserting after the item relating to section 504 the following:

"Sec. 505. State job bank systems.".

National Science Foundation University Infrastructure Act of 1988.
Research and development.
Schools and colleges.
Museums.
42 USC 1861 note.
42 USC 1862a.

Subtitle E—National Science Foundation University Infrastructure

SEC. 6401. SHORT TITLE.

This subtitle may be cited as the "National Science Foundation University Infrastructure Act of 1988".

SEC. 6402. NATIONAL SCIENCE FOUNDATION ACADEMIC RESEARCH FACILITIES MODERNIZATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to assist in modernizing and revitalizing the Nation's research facilities at institutions of higher education, independent nonprofit research institutions and research museums through capital investments.

(b) ESTABLISHMENT OF PROGRAM.—To carry out this purpose, the National Science Foundation shall establish and carry out an Academic Research Facilities Modernization Program, under which awards shall be made to institutions of higher education, independent nonprofit research institutions and research museums, and consortia thereof, for the repair, renovation, or replacement (as appropriate) of such institutions' obsolete laboratories and other research facilities.

(c) PROJECTS AND FUNDING.—(1) The Academic Research Facilities Modernization Program established by the National Science Foundation pursuant to subsection (b) shall be carried out, through projects—

(A) which involve the repair, renovation, or replacement (as appropriate) of specific research facilities at the eligible institutions or consortia thereof involved, and

(B) for which funds are awarded in response to specific proposals submitted by such eligible institutions or consortia thereof in accordance with regulations prescribed by the Director of the Foundation, pursuant to subsection (d), with the objective of carrying out the purpose of this section.

Regulations.

(2) The regulations so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that—

(A) funds to carry out the program will be awarded to an institution after a comprehensive review using established Foundation procedures, and

(B) the funds so awarded to any eligible institution or consortia thereof will be in an amount equal to not more than 50 percent of the cost of the repair, renovation, or replacement involved (with the funds required to meet the remainder of such cost being provided by the institution involved or consortia thereof or from other non-Federal public or private sources).

(d) CRITERIA FOR AWARDS.—(1) Annually, or prior to the issuance of a program announcement for solicitation of proposals for the award of funds to any institution or consortia thereof for a project under the National Science Foundation Academic Research Facilities Modernization Program, the National Science Foundation shall publish in the Federal Register interim guidelines for public review and comment for a period of 60 days. Such guidelines shall include (but not be limited to) the following: Federal Register, publication.

(A) specific definitions for the terms: facilities, instrumentation, equipment, repair, renovation, and replacement;

(B) specific selection criteria to be used in evaluating the scientific merit of proposals and, in making awards to an institution or to consortia thereof, including an analysis of the age and condition of existing research facilities; and

(C) specific provisions for matching the Federal grant pursuant to subsection (b).

(2) Final guidelines shall be published in the Federal Register 60 days following the close of the comment period incorporating such appropriate revisions as may arise from comments received during the review period. The guidelines, at a minimum, shall include selection criteria for the following: Federal Register, publication.

(A) the quality of the research and training to be carried out in the facility or facilities involved;

(B) the congruence of the institution's research and training activities with the future research needs of the Nation and the training and research mission of the National Science Foundation;

(C) the contribution which the project will make toward meeting national, regional, and the institution's research and related training needs; and

(D) the need for the proposed repair, renovation, or replacement (as appropriate) based on an analysis of the age and condition of existing research facilities and equipment.

(e) DISTRIBUTION OF FUNDS.—Awards made under the National Science Foundation Academic Research Facilities Modernization Program shall not exceed $5,000,000 to any institution or consortium over any period of 5 years for the repair, renovation, or replacement (as appropriate) of academic research facilities. Grants.

(f) CONSULTATIONS.—In prescribing criteria and conducting the program under this section, the Director of the National Science Foundation shall consult with the Secretary of Education and other related agencies.

(g) RESERVATIONS FOR CERTAIN INSTITUTIONS.—(1) At least 15 percent of the amount which is appropriated pursuant to this section in any fiscal year shall be available only for awards to universities, colleges, and research museums that received less than $10,000,000 in total Federal obligations for research and development (including obligations for the activities authorized in this section and section 6403) in each of the two preceding fiscal years. Grants.

(2) Of the amounts appropriated under this section in each fiscal year at least 10 percent of the funds shall be reserved for institutions of higher education servicing a substantial percentage of students who are Black Americans, Native Americans, Hispanic Americans, Alaskan Natives (Eskimos or Aleut), Native Hawaiian, American Samoan, Micronesian, Guamanian (Chamorro), Northern Marianian, or Palauan. Minorities. Indians.

(3) Requirements of paragraph (2) may be satisfied by considering the funds awarded under paragraph (1) to the institutions described in paragraph (2).

(h) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $85,000,000 for fiscal year 1989 to carry out the National Science Foundation Academic Research Facilities Modernization Program. Such sums shall be available for that Program every year thereafter subject to the authorizations and appropriations of activities for the National Science Foundation.

42 USC 1862b.

SEC. 6403. NATIONAL SCIENCE FOUNDATION COLLEGE SCIENCE INSTRUMENTATION PROGRAM.

(a) PURPOSE.—It is the purpose of this section to assist in revitalizing the Nation's academic instructional instrumentation at colleges.

(b) ESTABLISHMENT OF PROGRAM.—To carry out this purpose, the National Science Foundation shall establish and carry out the College Science Instrumentation Program, under which awards are made only to two-year and community colleges and four-year, non-Ph.D. degree-granting institutions or consortia thereof for the purchase of instructional instrumentation.

(c) PROJECTS AND FUNDING.—(1) The College Science Instrumentation Program established by the National Science Foundation pursuant to subsection (b) shall be carried out, through projects—

(1) which involve the purchase and replacement (as appropriate) of specific instructional instrumentation at the institutions involved, and

(2) for which funds are awarded in response to specific proposals submitted by such institutions or consortia thereof on a competitive basis in accordance with regulations prescribed by the Director of the Foundation with the objective of carrying out the purposes of this Act.

Regulations.

(2) The regulations so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of that objective, but shall in any event provide that—

(A) funds to carry out the program will be awarded to an institution or consortia thereof after a comprehensive review using established Foundation procedures, and

(B) the funds so awarded to any academic institution will be in an amount equal to not more than 50 percent of the cost of the purchase and replacement involved (with the funds required to meet the remainder of such cost being provided by the institution involved or from other non-Federal public or private sources).

(d) CRITERIA FOR AWARDS.—The National Science Foundation will evaluate proposals on the basis of the following criteria:

(1) PERFORMANCE COMPETENCE.—This criterion relates to the capacity of the investigator or investigators, the technical soundness of the proposed approach, the adequacy of the institutional resources available, and the proposed recent research/science education performance.

(2) INTRINSIC MERIT.—This criterion relates to the quality, currency, and significance of the scientific content and related instructional activity of the project within the context of undergraduate science, mathematics, and engineering education.

(3) UTILITY OR RELEVANCE.—This criterion relates to the impact the project will have at the proposing institution, and the relevance of the project in the local context.

(4) EFFECT ON THE INFRASTRUCTURE OF SCIENCE AND ENGINEERING.—This criterion relates to the potential of the proposed project to contribute to better understanding or improvement of the quality, distribution, effectiveness of the Nation's scientific and engineering research, education, and manpower base.

(e) CONSULTATIONS.—In prescribing regulations and conducting the program under this section, the Director of the National Science Foundation shall consult with the Secretary of Education and other related agencies.

(f) AUTHORIZATION OF APPROPRIATIONS.—Such sums shall be available for the College Science Instrumentation Program subject every year to the authorizations and appropriations for the National Science Foundation.

TITLE VII—BUY AMERICAN ACT OF 1988

Buy American Act of 1988. Contracts.

SEC. 7001. SHORT TITLE. 41 USC 10a note.

This title may be cited as the "Buy American Act of 1988".

SEC. 7002. AMENDMENTS TO THE BUY AMERICAN ACT.

Title III of the Act of March 3, 1933 (41 U.S.C. 10a–10d), is amended—

(1) by redesignating sections 4 and 5 as sections 5 and 6, respectively; and 41 USC 10c notes.

(2) by inserting after section 3 the following new section:

"SEC. 4. (a) A Federal agency shall not award any contract— 41 USC 10b-1.

"(1) for the procurement of an article, material, or supply mined, produced, or manufactured— Minerals and mining.

"(A) in a signatory country that is considered to be a signatory not in good standing of the Agreement pursuant to section 305(f)(3)(A) of the Trade Agreements Act of 1979; or

"(B) in a foreign country whose government maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses, as identified by the President pursuant to section 305(g)(1)(A) of such Act; or

"(2) for the procurement of a service of any contractor or subcontractor that is a citizen or national of a foreign country identified by the President pursuant to section 305(f)(3)(A) or 305(g)(1)(A) of such Act, or is owned or controlled directly or indirectly by citizens or nationals of such a foreign country.

"(b) The prohibition on procurement in subsection (a) is subject to sections 305(h) and 305(j) of such Act and shall not apply—

"(1) with respect to services, articles, materials, or supplies procured and used outside the United States and its territories;

"(2) notwithstanding section 305(g) of such Act, to an eligible product of a country which is a signatory country unless that country is considered to be a signatory not in good standing pursuant to section 305(f)(3)(A) of such Act; or

"(3) notwithstanding section 305(g) of such Act, to a country that is a least developed country (as that term is defined in section 308(6) of that Act).

"(c) Notwithstanding subsection (a) of this section, the President or the head of a Federal agency may authorize the award of a

contract or class of contracts if the President or the head of the Federal agency—

"(1) determines that such action is necessary—

"(A) in the public interest;

"(B) to avoid the restriction of competition in a manner which would limit the procurement in question to, or would establish a preference for, the services, articles, materials, or supplies of a single manufacturer or supplier; or

"(C) because there would be or are an insufficient number of potential or actual bidders to assure procurement of services, articles, materials, or supplies of requisite quality at competitive prices; and

"(2) notifies the Committee on Governmental Affairs of the Senate, as well as other appropriate Senate committees, and the appropriate committees of the House of Representatives, of such determination—

"(A) not less than 30 days prior to the date of the award of the contract or the date of authorization of the award of a class of contracts; or

"(B) if the agency's need for the service, article, material, or supply is of such urgency that the United States would be seriously injured by delaying the award or authorization, not more than 90 days after the date of such award or authorization.

"(d) The authority of the head of a Federal agency under subsection (c) shall not apply to contracts subject to memorandums of understanding entered into by the Department of Defense (or any military department) and a representative of a foreign country (or agency or instrumentality thereof). In the case of any such contracts, any determinations and notice required by subsection (c) shall be made by—

"(1) the President, or

"(2) if delegated, by the Secretary of Defense or the Secretary of the Army, Navy, or Air Force, subject to review and policy guidance by the organization established under section 242(a) of the Trade Expansion Act of 1962 (19 U.S.C. 1872(a)).

"(e) The authority of the head of a Federal agency under subsection (c) or (d) of this section may not be delegated.

"(f) Nothing in this section shall restrict the application of the prohibition under section 302(a)(1) of the Trade Agreements Act of 1979.

"(g)(1) For purposes of this section with respect to construction services, a contractor or subcontractor is owned or controlled directly or indirectly by citizens or nationals of a foreign country if—

"(A) 50 percent or more of the voting stock of the contractor or subcontractor is owned by one or more citizens or nationals of the foreign country;

"(B) the title to 50 percent or more of the stock of the contractor or subcontractor is held subject to trust or fiduciary obligations in favor of one or more citizens or nationals of the foreign country;

"(C) 50 percent or more of the voting stock of the contractor or subcontractor is vested in or exercisable on behalf of one or more citizens or nationals of the foreign country;

"(D) the case of a corporation—

"(i) the number of its directors necessary to constitute a quorum are citizens or nationals of the foreign country; or

"(ii) the corporation is organized under the laws of the foreign country or any subdivision, territory, or possession thereof; or

"(E) in the case of a contractor or subcontractor who is a participant in a joint venture or a member of a partnership, any participant of the joint venture or partner meets any of the criteria in subparagraphs (A) through (D) of this paragraph.

"(2)(A) For purposes of this section, except as provided in paragraph (1), a determination of whether a contractor or subcontractor is a citizen or national of a foreign country or is owned or controlled directly or indirectly by citizens or nationals of a foreign country shall be made in accordance with policy guidance prescribed by the Administrator for Federal Procurement Policy after conducting one or more public hearings at which interested parties may present comments. Sections 556 and 557 of title 5, United States Code, shall not apply to the conduct of any such hearing.

"(B) The Administrator shall include in the policy guidance prescribed under subparagraph (A) definitions, procedures, standards, and rules that, to the extent the Administrator considers appropriate and consistent with the applicability of such policy guidance to all services (other than construction services), is the same as or similar to the definitions, procedures, standards, and rules that the Administrator has developed and issued for the administration of section 109 of the Treasury, Postal Service, and General Government Appropriations Act, 1988 (101 Stat. 1329-434).

"(C) The policy guidance required by subparagraph (A) shall be prescribed not later than 180 days after the date of enactment of this subsection.

"(3)(A) The Administrator for Federal Procurement Policy shall conduct an assessment of the current rules under this Act for making determinations of country of origin and alternatives to such rules. Such assessment shall identify and evaluate (i) reasonable alternatives to such rules of origin, including one or more alternative rules that require a determination on the basis of total cost, and (ii) the specific cost factors that should be included in determining total cost.

"(B) In conducting the analysis, the Administrator shall consult and seek comment from representatives of United States labor and business, other interested United States persons, and other Federal agencies. The Administrator shall hold public hearings for the purpose of obtaining such comment, and a transcript of such hearings shall be appended to the report required by subparagraph (C).

"(C) A report on the results of the analysis shall be submitted to the appropriate committees of the House of Representatives and to the Committee on Governmental Affairs and other appropriate committees of the Senate not later than 18 months after the date of enactment of this subsection. Such report shall include proposed policy guidance or any recommended legislative changes on the factors to be used in making determinations of country of origin. Reports.

"(h) As used in this section—

"(1) the term 'Agreement' means the Agreement on Government Procurement as defined in section 308(1) of the Trade Agreements Act of 1979;

"(2) the term 'signatory' means a party to the Agreement; and

"(3) the term 'eligible product' has the meaning given such term by section 308(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)).".

President of U.S.

SEC. 7003. PROCEDURES TO PREVENT GOVERNMENT PROCUREMENT DISCRIMINATION.

Section 305 of the Trade Agreements Act of 1979 (19 U.S.C. 2515) is amended by adding at the end thereof the following:

"(d) ANNUAL REPORT ON FOREIGN DISCRIMINATION.—

"(1) ANNUAL REPORT REQUIRED.—The President shall, no later than April 30, 1990, and annually on April 30 thereafter, submit to the appropriate committees of the House of Representatives and the Committee on Governmental Affairs of the Senate, as well as other appropriate Senate committees, a report on the extent to which foreign countries discriminate against United States products or services in making government procurements.

"(2) IDENTIFICATIONS REQUIRED.—In the annual report, the President shall identify (and continue to identify subject to subsections (f)(5) and (g)(3)) any countries, other than least developed countries, that—

"(A) are signatories to the Agreement and not in compliance with the requirements of the Agreement;

"(B)(i) are signatories to the Agreement; (ii) are in compliance with the Agreement but, in the government procurement of products or services not covered by the Agreement, maintain a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and (iii) whose products or services are acquired in significant amounts by the United States Government; or

"(C)(i) are not signatories to the Agreement; (ii) maintain, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and (iii) whose products or services are acquired in significant amounts by the United States Government.

"(3) CONSIDERATIONS IN MAKING IDENTIFICATIONS.—In making the identifications required by paragraph (1), the President shall—

"(A) use the requirements of the Agreement, government procurement practices, and the effects of such practices on United States businesses as a basis for evaluating whether the procurement practices of foreign governments do not provide fair market opportunities for United States products or services;

"(B) take into account, among other factors, whether and to what extent countries that are signatories to the Agreement, and other countries described in paragraph (1) of this subsection—

"(i) use sole-sourcing or otherwise noncompetitive procedures for procurements that could have been conducted using competitive procedures;

"(ii) conduct what normally would have been one procurement as two or more procurements, to decrease the anticipated contract values below the Agreement's value threshold or to make the procurements less attractive to United States businesses;

"(iii) announce procurement opportunities with inadequate time intervals for United States businesses to submit bids; and

"(iv) use specifications in such a way as to limit the ability of United States suppliers to participate in procurements; and

"(C) use any other additional criteria deemed appropriate.

"(4) CONTENTS OF REPORTS.—The reports required by this subsection shall include, with respect to each country identified under subparagraph (A), (B), or (C) of paragraph (1), the following:

"(A) a description of the specific nature of the discrimination, including (for signatory countries) any provision of the Agreement with which the country is not in compliance;

"(B) an identification of the United States products or services that are affected by the noncompliance or discrimination;

"(C) an analysis of the impact of the noncompliance or discrimination on the commerce of the United States and the ability of United States companies to compete in foreign government procurement markets; and

"(D) a description of the status, action taken, and disposition of cases of noncompliance or discrimination identified in the preceding annual report with respect to such country.

"(5) INFORMATION AND ADVICE FROM GOVERNMENT AGENCIES AND UNITED STATES BUSINESSES.—In developing the annual reports required by this subsection, the President shall seek information and advice from executive agencies through the interagency trade organization established under section 242(a) of the Trade Expansion Act of 1962, and from United States businesses in the United States and in countries that are signatories to the Agreement and in other foreign countries whose products or services are acquired in significant amounts by the United States Government.

"(6) IMPACT OF NONCOMPLIANCE.—The President shall take into account, in identifying countries in the annual report and in any action required by this section, the relative impact of any noncompliance with the Agreement or of other discrimination on United States commerce and the extent to which such noncompliance or discrimination has impeded the ability of United States suppliers to participate in procurements on terms comparable to those available to suppliers of the country in question when seeking to sell goods or services to the United States Government.

"(7) IMPACT ON PROCUREMENT COSTS.—Such report shall also include an analysis of the impact on United States Government procurement costs that may occur as a consequence of any sanctions that may be required by subsection (f) or (g) of this section.

"(e) CONSULTATION.—No later than the date the annual report is submitted under subsection (d)(1), the United States Trade Representative, on behalf of the United States, shall request consultations with any countries identified in the report to obtain their compliance with the Agreement or the elimination of their discriminatory procurement practices unless the country is identified as

discriminatory pursuant to section 305(d)(1) in the preceding annual report.

"(f) PROCEDURES WITH RESPECT TO VIOLATIONS OF THE AGREEMENT.—

"(1) INITIATION OF DISPUTE SETTLEMENT PROCEDURES.—If, within 60 days after the annual report is submitted under subsection (d)(1), a signatory country identified pursuant to subsection (d)(1)(A) has not complied with the Agreement, then the United States Trade Representative shall promptly request proceedings on the matter under the formal dispute settlement procedures provided under the Agreement unless such proceedings are already underway pursuant to the identification of the signatory country under section 305(d)(1) as not in compliance in a preceding annual report.

"(2) SETTLEMENT OF DISPUTES.—If, before the end of a year following the initiation of dispute settlement procedures—

"(A) the other participant to the dispute settlement procedures has complied with the Agreement,

"(B) the other participant to the procedures takes the action recommended as a result of the procedures to the satisfaction of the President, or

"(C) the procedures result in a determination requiring no action by the other participant,

the President shall take no action to limit Government procurement from that participant.

"(3) SANCTIONS AFTER FAILURE OF DISPUTE RESOLUTION.—If the dispute settlement procedures initiated pursuant to this subsection with any signatory country to the Agreement are not concluded within one year from their initiation or the country has not met the requirements of paragraph (2)(A) or (2)(B), then—

"(A) from the end of such one year period, such signatory country shall be considered as a signatory not in good standing of the Agreement and the prohibition on procurement contained in section 4 of the Act of March 3, 1933, shall apply to such country; and

"(B) on the day after the end of such one year period, the President shall revoke the waiver of discriminatory purchasing requirements granted to that signatory country pursuant to section 301(a) of this Act.

"(4) WITHHOLDING AND MODIFICATION OF SANCTIONS.—If the President determines that imposing or continuing the sanctions required by subparagraph (A) or (B) of paragraph (3) would harm the public interest of the United States, the President may, to the extent necessary to apply appropriate limitations that are equivalent, in their effect, to the noncompliance with the Agreement by that signatory country—

"(A) withhold the imposition of either (but not both) of such sanctions;

"(B) modify or restrict the application of either or both such sanctions, subject to such terms and conditions as the President considers appropriate; or

"(C) take any combination of the actions permitted by subparagraph (A) or (B) of this paragraph.

"(5) TERMINATION OF SANCTIONS AND REINSTATEMENT OF WAIVERS.—The President may terminate the sanctions imposed under paragraph (3) or (4), reinstate the waiver of discrimina-

tory purchasing requirements granted to that signatory country pursuant to section 301(a) of this Act, and remove that country from the report under subsection (d)(1) of this section at such time as the President determines that—

"(A) the signatory country has complied with the Agreement;

"(B) the signatory country has taken corrective action as a result of the dispute settlement procedures to the satisfaction of the President; or

"(C) the dispute settlement procedures result in a determination requiring no action by the other signatory country.

"(g) PROCEDURES WITH RESPECT TO OTHER DISCRIMINATION.—

"(1) IMPOSITION OF SANCTIONS.—If, within 60 days after the annual report is submitted under subsection (d)(1), a country that is identified pursuant to subparagraph (B) or (C) of such subsection has not eliminated their discriminatory procurement practices, then, on the day after the end of such 60-day period—

"(A) the President shall identify such country as a country that maintains, in government procurement, a significant and persistent pattern or practice of discrimination against United States products or services which results in identifiable harm to United States businesses; and

"(B) the prohibition on procurement contained in section 4 of the Act of March 3, 1933, shall apply to such country.

"(2) WITHHOLDING AND MODIFICATION OF SANCTIONS.—If the President determines that imposing or continuing the sanction required by paragraph (1) would harm the public interest of the United States, the President may, to the extent necessary to impose appropriate limitations that are equivalent, in their effect, to the discrimination against United States products or services in government procurement by that country, modify or restrict the application of such sanction, subject to such terms and conditions as the President considers appropriate.

"(3) TERMINATION OF SANCTIONS.—The President may terminate the sanctions imposed under paragraph (1) or (2) and remove a country from the report under subsection (d)(1) at such time as the President determines that the country has eliminated the discrimination identified pursuant to subsection (d)(2)(B) or (C).

"(h) LIMITATIONS ON IMPOSING SANCTIONS.—

"(1) AVOIDING ADVERSE IMPACT ON COMPETITION.—The President shall not take any action under subsection (f) or (g) of this section if the President determines that such action—

"(A) would limit the procurement or class of procurements to, or would establish a preference for, the products or services of a single manufacturer or supplier; or

"(B) would, with respect to any procurement or class of procurements, result in an insufficient number of potential or actual bidders to assure procurement of services, articles, materials, or supplies of requisite quality at competitive prices.

"(2) ADVICE FROM U.S. AGENCIES AND BUSINESSES.—The President, in taking any action under this subsection to limit government procurements from foreign countries, shall seek the advice of executive agencies through the interagency trade organization established under section 242(a) of the Trade

Expansion Act of 1962 and the advice of United States businesses and other interested parties.

"(i) RENEGOTIATION TO SECURE FULL AND OPEN COMPETITION.—The President shall instruct the United States Trade Representative, in conducting renegotiations of the Agreement, to seek improvements in the Agreement that will secure full and open competition consistent with the requirements imposed by the amendments made by the Competition in Contracting Act (Public Law 98-369; 98 Stat. 1175).

"(j) FEDERAL REGISTER NOTICES OF ACTIONS.—

"(1) NOTICES REQUIRED.—A notice shall be published in the Federal Register on the date of any action under this section, describing—

"(A) the results of dispute settlement proceedings under subsection (f)(2);

"(B) any sanction imposed under subsection (f)(3) or (g)(1);

"(C) any withholding, modification, or restriction of any sanction under subsection (f)(4) or (g)(2); and

"(D) the termination of any sanction under subsection (f)(5) or (g)(3).

"(2) PUBLICATION OF DETERMINATIONS LIFTING SANCTIONS.—A notice describing the termination of any sanction under subsection (f)(5) or (g)(3) shall include a copy of the President's determination under such subsection.

"(k) GENERAL REPORT ON ACTIONS UNDER THIS SECTION.—

"(1) ADVICE TO THE CONGRESS.—The President shall, as necessary, advise the Congress and, by no later than April 30, 1994, submit to the the appropriate committees of the House of Representatives, and to the Committee on Governmental Affairs and other appropriate committees of the Senate, a general report on actions taken pursuant to this section.

"(2) CONTENTS OF REPORT.—The general report required by this subsection shall include an evaluation of the adequacy and effectiveness of actions taken pursuant to subsections (e), (f), and (g) of this section as a means toward eliminating discriminatory government procurement practices against United States businesses.

"(3) LEGISLATIVE RECOMMENDATIONS.—The general report may also include, if appropriate, legislative recommendations for enhancing the usefulness of this section or for other measures to be used as means for eliminating or responding to discriminatory foreign government procurement practices.".

41 USC 10a note.

SEC. 7004. SUNSET PROVISION.

The amendments made by this title shall cease to be effective on April 30, 1996, unless the Congress, after reviewing the report required by section 305(k) of the Trade Agreements Act of 1979, and other relevant information, extends such date. After such date, the President may modify or terminate any or all actions taken pursuant to such amendments.

SEC. 7005. CONFORMING AMENDMENTS.

(a) DEFINITION OF FEDERAL AGENCY.—The first section of the Act of March 3, 1933 (41 U.S.C. 10c), is amended—

(1) by striking out the period at the end of paragraph (b) and inserting a semicolon; and

(2) by adding at the end thereof the following:

"(c) The term 'Federal agency' has the meaning given such term by section 3 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C 472), which includes the Departments of the Army, Navy, and Air Force.

(b) AMENDMENTS TO SECTION 2.—Section 2 of such Act (41 U.S.C. 10a) is amended by striking out "department or independent establishment" and inserting "Federal agency".

(c) AMENDMENTS TO SECTION 3.—Section 3 of such Act (41 U.S.C. 10b) is amended—

(1) by striking out "department or independent establishment" in such subsection and inserting "Federal agency"; and

(2) by striking out "department, bureau, agency, or independent establishment" in subsection (b) and inserting "Federal agency".

(d) ADDITIONAL CONFORMING AMENDMENTS.—Section 633 of the Act of October 29, 1949 (41 U.S.C. 10d) is amended by striking out "department or independent establishment" and inserting "Federal agency".

(e) SECTION 301 WAIVER AUTHORITY.—Section 301 of the Trade Agreements Act of 1979 is amended by adding at the end thereof the following: 19 USC 2511.

"(d) LIMITATIONS ON WAIVER AUTHORITY NOT EFFECTIVE UNLESS PROVISION AMENDED.—The authority of the President under subsection (a) to waive any laws, regulation, procedure, or practice shall be effective notwithstanding any other provision of law hereafter enacted (excluding the provisions of and amendments made by the Buy American Act of 1988) unless such other provision specifically refers to and amends this section.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect upon enactment. 41 USC 10a note.

TITLE VIII—SMALL BUSINESS

Small Business International Trade and Competitiveness Act. 15 USC 631 note.

SEC. 8001. SHORT TITLE.

This title may be cited as the "Small Business International Trade and Competitiveness Act".

SEC. 8002. DECLARATION OF POLICY.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by redesignating subsections (b) through (e) as subsections (c) through (f), respectively, and by inserting after subsection (a) the following:

"(b)(1) It is the declared policy of the Congress that the Federal Government, through the Small Business Administration, acting in cooperation with the Department of Commerce and other relevant State and Federal agencies, should aid and assist small businesses, as defined under this Act, to increase their ability to compete in international markets by—

"(A) enhancing their ability to export;

"(B) facilitating technology transfers;

"(C) enhancing their ability to compete effectively and efficiently against imports;

"(D) increasing the access of small businesses to long-term capital for the purchase of new plant and equipment used in the production of goods and services involved in international trade;

"(E) disseminating information concerning State, Federal, and private programs and initiatives to enhance the ability of small businesses to compete in international markets; and

"(F) ensuring that the interests of small businesses are adequately represented in bilateral and multilateral trade negotiations.

"(2) The Congress recognizes that the Department of Commerce is the principal Federal agency for trade development and export promotion and that the Department of Commerce and the Small Business Administration work together to advance joint interests. It is the purpose of this Act to enhance, not alter, their respective roles.".

SEC. 8003. CHANGES IN EXISTING SMALL BUSINESS ADMINISTRATION INTERNATIONAL TRADE OFFICE.

Section 22 of the Small Business Act (15 U.S.C. 649) is amended—

(1) by redesignating subsection (b) as subsection (c) and by inserting after subsection (a) the following:

"(b) The Office, working in close cooperation with the Department of Commerce and other relevant Federal agencies, Small Business Development Centers engaged in export promotion efforts, regional and local Administration offices, the small business community, and relevant State and local export promotion programs, shall—

"(1) assist in developing a distribution network for existing trade promotion, trade finance, trade adjustment, trade remedy assistance and trade data collection programs through use of the Administration's regional and local offices and the Small Business Development Center network;

Marketing.

"(2) assist in the aggressive marketing of these programs and the dissemination of marketing information, including computerized marketing data, to the small business community; and

"(3) give preference in hiring or approving the transfer of any employee into the Office or to a position described in paragraph (8) below to otherwise qualified applicants who are fluent in a language in addition to English. Such employees shall accompany foreign trade missions if designated by the director of the Office and shall be available as needed to translate documents, interpret conversations and facilitate multilingual transactions including providing referral lists for translation services if required.";

(2) in subsection (c), as redesignated, by redesignating paragraphs (1) through (3) as (6) through (8), respectively, and by inserting the following before paragraph (6), as redesignated:

"(1) in cooperation with the Department of Commerce, other relevant agencies, regional and local Administration offices, the Small Business Development Center network, and State programs, develop a mechanism for (A) identifying sub-sectors of the small business community with strong export potential; (B) identifying areas of demand in foreign markets; (C) prescreening foreign buyers for commercial and credit purposes; and (D) assisting in increasing international marketing by disseminating relevant information regarding market leads, linking potential sellers and buyers, and catalyzing the formation of joint ventures, where appropriate;

"(2) in cooperation with the Department of Commerce, actively assist small businesses in the formation and utilization of export trading companies, export management companies and

research and development pools authorized under section 9 of this Act;

"(3) work in conjunction with other Federal agencies, regional and local offices of the Administration, the Small Business Development Center network, and the private sector to identify and publicize existing translation services, including those available through colleges and universities participating in the Small Business Development Center Program; Schools and colleges.

"(4) work closely with the Department of Commerce and other relevant Federal agencies to—

"(A) collect, analyze and periodically update relevant data regarding the small business share of United States exports and the nature of State exports (including the production of Gross State Produce figures) and disseminate that data to the public and to Congress; Public information.

"(B) make recommendations to the Secretary of Commerce and to Congress regarding revision of the SIC codes to encompass industries currently overlooked and to create SIC codes for export trading companies and export management companies;

"(C) improve the utility and accessibility of existing export promotion programs for small businesses; and

"(D) increase the accessibility of the Export Trading Company contact facilitation service;

"(5) make available to the small business community information regarding conferences on exporting and international trade sponsored by the public and private sector."; and

(3) by adding after subsection (c), as redesignated, the following new subsections:

"(d) The Office shall work in cooperation with the Export-Import Bank of the United States, the Department of Commerce, other relevant Federal agencies, and the States to develop a program through which export specialists in the regional offices of the Administration, regional and local loan officers, and Small Business Development Center personnel can facilitate the access of small businesses to relevant export financing programs of the Export-Import Bank of the United States and to export and pre-export financing programs available from the Administration and the private sector. To accomplish this goal, the Office shall work in cooperation with the Export-Import Bank and the small business community, including small business trade associations, to—

"(1) aggressively market existing Administration export financing and pre-export financing programs; Marketing.

"(2) identify financing available under various Export-Import Bank programs, and aggressively market those programs to small businesses;

"(3) assist in the development of financial intermediaries and facilitate the access of those intermediaries to existing financing programs;

"(4) promote greater participation by private financial institutions, particularly those institutions already participating in loan programs under this Act, in export finance; and

"(5) provide for the participation of appropriate Administration personnel in training programs conducted by the Export-Import Bank.

"(e) The Office shall—

"(1) work in cooperation with other Federal agencies and the private sector to counsel small businesses with respect to initiating and participating in any proceedings relating to the administration of the United States trade laws; and

"(2) work with the Department of Commerce, the Office of the United States Trade Representative, and the International Trade Commission to increase access to trade remedy proceedings for small businesses.

Reports. "(f) The Office shall report to the Committees on Small Business of the House of Representatives and the Senate on an annual basis as to its progress in implementing the requirements under this section.

Reports. "(g) The Office, in cooperation, where appropriate, with the Division of Economic Research of the Office of Advocacy, and with other Federal agencies, shall undertake studies regarding the following issues and shall report to the Committees on Small Business of the House of Representatives and the Senate, and to other relevant Committees of the House and Senate within 6 months after the date of enactment of the Small Business International Trade and Competitiveness Act with specific recommendations on—

"(1) the viability and cost of establishing an annual, competitive small business export incentive program similar to the Small Business Innovation Research program and alternative methods of structuring such a program;

"(2) methods of streamlining trade remedy proceedings to increase access for, and reduce expenses incurred by, smaller firms;

"(3) methods of improving the current small business foreign sales corporation tax incentives and providing small businesses with greater benefits from this initiative;

"(4) methods of identifying potential export markets for United States small businesses; maintaining and disseminating current foreign market data; and devising a comprehensive export marketing strategy for United States small business goods and services, and shall include data on the volume and dollar amount of goods and services, identified by type, imported by United States trading partners over the past 10 years; and

"(5) the results of a survey of major United States trading partners to identify the domestic policies, programs and incentives, and the private sector initiatives, which exist to encourage the formation and growth of small business.".

15 USC 631 note. **SEC. 8004. AUTHORIZATION OF APPROPRIATIONS.**

Section 20 of the Small Business Act (15 U.S.C. 631) is amended by adding the following at the end of subsection (z): "There are hereby authorized to be appropriated to the Administration for each of fiscal years 1988 and 1989, $3,500,000 to carry out the provisions of section 22 of this Act and section 8011 of the Small Business International Trade and Competitiveness Act, of which $350,000 is authorized to reimburse volunteers in the Service Corps of Retired Executives for their expenses in performing on-site counseling to actual or potential small business exporters, in participating in training sessions for such small businesses, and in preparing materials for use at such training sessions or during counseling.".

SEC. 8005. EXPORT FINANCING PROVIDED BY THE ADMINISTRATION.

Section 7(a)(14) of the Small Business Act (15 U.S.C. 636(a)(14)) is amended to read as follows:

"(14)(A) The Administration under this subsection may provide extensions and revolving lines of credit for export purposes and for pre-export financing to enable small business concerns, including small business export trading companies and small business export management companies, to develop foreign markets. No such extension or revolving line of credit may be made for a period or periods exceeding 18 months. A bank or participating lending institution may establish the rate of interest on extensions and revolving lines of credit as may be legal and reasonable. Banks and banking.

"(B) When considering loan or guarantee applications, the Administration shall give weight to export-related benefits, including opening new markets for United States goods and services abroad and encouraging the involvement of small businesses, including agricultural concerns, in the export market. Loans.

"(C) The Administration shall aggressively market its export financing program to small businesses.".

SEC. 8006. SMALL BUSINESS DEVELOPMENT CENTERS.

(a) AUTHORIZATION OF APPROPRIATION.—Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by adding the following at the end of subsection (z): "There are hereby authorized to be appropriated to the Administration for each of the fiscal years 1988 and 1989, $5,000,000 to carry out the provisions of section 21(a)(6).".

(b) SBDC INFORMATION DISSEMINATION AND SERVICE DELIVERY.—Section 21 of the Small Business Act (15 U.S.C. 648) is amended—

(1) in subsection (a)(1), by inserting after "enterprises;" the following: "management and technical assistance regarding small business participation in international markets, export promotion and technology transfer;";

(2) in subsection (a), by redesignating paragraphs (2) through (4) as paragraphs (3) through (5), respectively, and by inserting the following after paragraph (1):

"(2) The Small Business Development Centers shall work in close cooperation with the Administration's regional and local offices, the Department of Commerce, appropriate Federal, State and local agencies and the small business community to serve as an active information dissemination and service delivery mechanism for existing trade promotion, trade finance, trade adjustment, trade remedy and trade data collection programs of particular utility for small businesses.";

(3) by adding at the end of subsection (a) the following new paragraph:

"(6) Any applicant which is funded by the Administration as a Small Business Development Center may apply for an additional grant to be used solely to assist— Grants.

"(A) with the development and enhancement of exports by small business concerns; and

"(B) in technology transfer,

as provided under subparagraphs (B) through (G) of subsection (c)(3). Applicants for such additional grants shall comply with all of the provisions of this section, including providing matching funds, except that funding under this paragraph shall be

effective for any fiscal year to the extent provided in advance in appropriations Acts and shall be in addition to the dollar program limitations specified in paragraphs (4) and (5). No recipient of funds under this paragraph shall receive a grant which would exceed its pro rata share of a $15,000,000 program based upon the populations to be served by the Small Business Development Center as compared to the total population of the United States. The minimum amount of eligibility for any State shall be $100,000.";

State and local governments.

(4) in subsection (c)(3), by striking subparagraph (B) and by inserting the following new subparagraph (B):

Research and development.

"(B) assisting in technology transfer, research and development, including applied research, and coupling from existing sources to small businesses, including—

"(i) working to increase the access of small businesses to the capabilities of automated flexible manufacturing systems;

"(ii) working through existing networks and developing new networks for technology transfer that encourage partnership between the small business and academic communities to help commercialize university-based research and development and introduce university-based engineers and scientists to their counterparts in small technology-based firms; and

"(iii) exploring the viability of developing shared production facilities, under appropriate circumstances;";

(5) in subsection (c)(3), by redesignating subparagraphs (C) through (H) as subparagraphs (H) through (M), respectively, and by inserting the following new subparagraphs after subparagraph (B):

"(C) in cooperation with the Department of Commerce and other relevant Federal agencies, actively assisting small businesses in exporting by identifying and developing potential export markets, facilitating export transactions, developing linkages between United States small business firms and prescreened foreign buyers, assisting small businesses to participate in international trade shows, assisting small businesses in obtaining export financing, and facilitating the development or reorientation of marketing and production strategies; where appropriate, the Small Business Development Center may work in cooperation with the State to establish a State international trade center for these purposes;

State and local governments.

Marketing.

"(D) assisting small businesses in developing and implementing marketing and production strategies that will enable them to better compete within the domestic market;

"(E) developing a program in conjunction with the Export-Import Bank and local and regional Administration offices that will enable Small Business Development Centers to serve as an information network and to assist small business applicants for Export-Import Bank financing programs, and otherwise identify and help to make available export financing programs to small businesses;

"(F) working closely with the small business community, small business consultants, State agencies, universities and other appropriate groups to make translation services more

readily available to small business firms doing business, or attempting to develop business, in foreign markets;

"(G) in providing assistance under this subsection, applicants shall cooperate with the Department of Commerce and other relevant Federal agencies to increase access to available export market information systems, including the CIMS system;";

(6) in subsection (c), by adding the following new paragraphs:

State and local governments. Grants.

"(5) In any State (A) in which the Administration has not made a grant pursuant to paragraph (1) of subsection (a), or (B) in which no application for a grant has been made by a Small Business Development Center pursuant to paragraph (6) of such subsection within 60 days after the effective date of any grant under paragraph (a)(1) to such center, the Administration may make grants to a non-profit entity in that State to carry out the activities specified in paragraph (6) of subsection (a). Any such applicants shall comply with the matching funds requirement of paragraph (4) of subsection (a). Such grants shall be effective for any fiscal year only to the extent provided in advance in appropriations Acts, and each State shall be limited to the pro rata share provisions of paragraph (6) of subsection (a).

"(6) In performing the services identified in paragraph (3), the Small Business Development Centers shall work in close cooperation with the Administration's regional and local offices, the local small business community, and appropriate State and local agencies.

"(7) The Deputy Associate Administrator of the Small Business Development Center program, in consultation with the Small Business Development Centers, shall develop and implement an information sharing system which will—

"(A) allow Small Business Development Centers participating in the program to exchange information about their programs; and

"(B) provide information central to technology transfer."; and

(7) by redesignating subsections (d) through (k) as subsections (e) through (l), respectively, and inserting the following new subsection after subsection (c):

"(d) Where appropriate, the Small Business Development Centers shall work in conjunction with the relevant State agency and the Department of Commerce to develop a comprehensive plan for enhancing the export potential of small businesses located within the State. This plan may involve the cofunding and staffing of a State Office of International Trade within the State Small Business Development Center, using joint State and Federal funding, and any other appropriate measures directed at improving the export performance of small businesses within the State.".

SEC. 8007. CAPITAL FORMATION.

(a) LOAN LIMITATIONS.—Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended—

(1) by striking "and" at the end of clause (i) of paragraph (2)(B) and by adding after clause (ii) the following new clauses:

"(iii) not less than 85 per centum of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16) and is less than $1,176,470; and

"(iv) less than 85 per centum of the financing outstanding at the time of disbursement if such financing is a loan under paragraph (16) and exceeds $1,176,470;";

(2) by amending paragraph (3) to read as follows:

"(3) No loan shall be made under this subsection—

"(A) if the total amount outstanding and committed (by participation or otherwise) to the borrower from the business loan and investment fund established by this Act would exceed $750,000, except as provided in subparagraph (B);

"(B) if the total amount outstanding and committed (on a deferred basis) solely for the purposes provided in paragraph (16) to the borrower from the business loan and investment fund established by this Act would exceed $1,000,000, such amount to be in addition to any financing solely for working capital, supplies, or revolving lines of credit for export purposes up to a maximum of $250,000; and

Banks and banking.

"(C) if effected either directly or in cooperation with banks or other lending institutions through agreements to participate on an immediate basis if the amount would exceed $350,000.";

(3) by adding the following new paragraphs after paragraph (15):

"(16)(A) The Administration may guarantee loans under this paragraph to assist any eligible small business concern in an industry engaged in or adversely affected by international trade in the financing of the acquisition, construction, renovation, modernization, improvement or expansion of productive facilities or equipment to be used in the United States in the production of goods and services involved in international trade, if the Administration determines that the appropriate upgrading of plant and equipment will allow the concern to improve its competitive position. Each such loan shall be secured by a first lien position or first mortgage on the property or equipment financed by the loan. The lender shall agree to sell the loan in the secondary market as authorized in sections 5(f) and 5(g) of this Act within 180 days of the date of disbursement.

"(B) A small business concern shall be considered to be engaged in or adversely affected by international trade for purposes of this provision if such concern is, as determined by the Administration in accordance with regulations that it shall develop—

"(i) in a position to significantly expand existing export markets or develop new export markets; or

"(ii) adversely affected by import competition in that it is—

"(I) confronting increased direct competition with foreign firms in the relevant market; and

"(II) can demonstrate injury attributable to such competition.

Banks and banking.

"(17) The Administration shall authorize lending institutions and other entities in addition to banks to make loans authorized under this subsection."; and

(4) by redesignating the existing paragraph (16) as paragraph (18).

(b) DEVELOPMENT COMPANY LIMITS.—Section 502(2) of the Small Business Investment Act of 1985 (15 U.S.C. 636(a)(3)) is amended by striking "$500,000" and by inserting in lieu thereof "$750,000" 15 USC 696.

(c) REPORT.—The Administrator of the Small Business Administration shall report to the Committees on Small Business of the House of Representatives and the Senate within 6 months after the date of enactment of this title as to the viability of creating cooperative Federal-State guarantee programs, particularly for purposes of export financing, to encourage States to coinsure Federal loans, thus permitting the Federal Government to reduce its exposure. State and local governments. Loans.

SEC. 8008. SMALL BUSINESS INNOVATION RESEARCH. 15 USC 638 note.

Section 6 of Public Law 97-219, as amended by Public Law 99-443, is further amended by adding the following at the end of subsection (a): "The report also shall include the Comptroller General's recommendations as to the advisability of amending the Small Business Innovation Research program to— Reports.

"(1) increase each agency's share of research and development expenditures devoted to it by 0.25 per centum per year, until it is 3 per centum of the total extramural research and development funds, and targeting a portion of the increment at products with commercialization or export potential;

"(2) make the Small Business Innovation Research program permanent with a formal congressional review every 10 years, beginning in 1993;

"(3) allocate a modest but appropriate share of each agency's Small Business Innovation Research fund for administrative purposes for effective management, quality maintenance, and the elimination of program delays; and

"(4) include within the Small Business Innovation and Research program all agencies expending between $20,000,000 and $100,000,000 in extramural research and development funds annually.".

SEC. 8009. GLOBALIZATION OF PRODUCTION. Reports. 15 USC 631 note.

Within one year after the date of enactment of this Act, the Administrator of the Small Business Administration shall submit a written report to the Committees on Small Business of the House of Representatives and the Senate, prepared by the Administration in conjunction with the Bureau of Census and in cooperation with other relevant agencies, that would—

(1) analyze to the extent possible the effect of increased outsourcing and other shifts in production arrangements on small firms, particularly manufacturing firms, within the United States subcontractor tier and to the extent that such data is not available determine methods by which such data may be collected;

(2) assess the impact of specific economic policies, including, but not limited to, procurement, tax and trade policies, in facilitating outsourcing and other international production arrangements; and

(3) make recommendations as to changes in Government policy that would improve the competitive position of smaller United States subcontractors, including recommendations as to incentives which could be provided to larger corporations to maximize their use of United States subcontractors and assist these subcontractors in changing production and marketing

strategies and in obtaining new business in domestic and foreign markets.

Reports.

SEC. 8010. SMALL BUSINESS TRADE REMEDY ASSISTANCE.

Not later than December 1, 1988, the Comptroller General of the United States shall conduct a study and submit a report to the Committee on Governmental Affairs and the Committee on Small Business of the Senate, as well as to other appropriate committees of the Senate, and to the Committee on Small Business and the Committee on Ways and Means of the House of Representatives on the costs incurred by small businesses in pursuing rights and remedies under the trade laws. Such report shall include an analysis of—

(1) the costs incurred by small businesses (and trade associations whose membership is primarily small business) in pursuing investigations under the trade remedy laws, including—

(A) antidumping investigations and proceedings under title VII of the Tariff Act of 1930;

(B) countervailing duty investigations and proceedings under section 303 or title VII of the Tariff Act of 1930;

(C) unfair trade practice investigations under section 337 of the Tariff Act of 1930;

(D) investigations under chapter 1 of title III of the Tariff Act of 1974;

(E) import relief investigations under chapter 1 of title II of the Trade Act of 1974;

(F) market disruption investigations under section 406 of the Trade Act of 1974; and

(G) national security relief investigations under section 232 of the Trade Expansion Act of 1962;

(2) the extent of assistance and information provided by the Trade Remedy Assistance Office of the United States International Trade Commission;

(3) the ability of small businesses to generate the information and resources needed for such investigations; and

(4) the costs and benefits to the Federal Government of either—

(A) providing reimbursement to small businesses for legal expenses incurred in pursuing trade remedies; or

(B) providing direct legal assistance to small businesses.

15 USC 631 note.

SEC. 8011. NATIONAL SEMINAR ON SMALL BUSINESS EXPORTS.

(a) SEMINAR.—The Administration shall conduct a National Seminar on Small Business Exports within one year following enactment of this Act in order to develop recommendations designed to stimulate exports from small companies. The Seminar shall build upon the information collected by the Administration through previously conducted regional small business trade conferences.

(b) ASSISTANCE BY EXPERTS.—For the purpose of ascertaining facts and developing policy recommendations concerning the expansion of United States exports from small companies the Seminar shall bring together individuals who are experts in the fields of international trade and small business development and representatives of small businesses, associations, the labor community, academic institutions, and Federal, State and local governments.

(c) RECOMMENDATIONS CONCERNING UTILITY OF INTERNATIONAL CONFERENCE.—The Seminar shall specifically consider the utility of, and make recommendations regarding, a subsequent International Conference on Small Business and Trade that would—

(1) help establish linkages between United States small business owners and small business owners in foreign countries;

(2) enable United States small business owners to learn how others organize themselves for exporting; and

(3) foster greater consideration of small business concerns in the GATT.

SEC. 8012. TRADE NEGOTIATIONS. 15 USC 631 note.

It is the sense of the Congress that the interests of the small business community have not been adequately represented in trade policy formulation and in trade negotiations. Therefore, it is the sense of the Congress that the Administrator of the Small Business Administration should be appointed as a member of the Trade Policy Committee and that the United States Trade Representative should consult with the Small Business Administration and its Office of Advocacy in trade policy formulation and in trade negotiations.

Further, it is the sense of the Congress that the United States Trade Representative would better serve the needs of the small business community with full-time staff assistance with responsibilities for small business trade issues.

Further, it is the sense of the Congress that the United States Trade Representative should appoint a special trade assistant for small business.

SEC. 8013. PROMULGATION OF REGULATIONS. 15 USC 631 note.

Notwithstanding any law, rule, or regulation, the Small Business Administration shall promulgate final regulations to carry out the provisions of this title within six months after the date of enactment of this title.

SEC. 8014. EFFECTIVE DATE. 15 USC 631 note.

This title shall become effective on the date of its enactment.

TITLE IX—PATENTS

Subtitle A—Process Patents

Process Patent Amendments Act of 1988.

SEC. 9001. SHORT TITLE. 35 USC 1 note.

This subtitle may be cited as the "Process Patent Amendments Act of 1988".

SEC. 9002. RIGHTS OF OWNERS OF PATENTED PROCESSES.

Section 154 of title 35, United States Code, is amended by inserting after "United States" the following: "and, if the invention is a process, of the right to exclude others from using or selling throughout the United States, or importing into the United States, products made by that process,".

SEC. 9003. INFRINGEMENT FOR IMPORTATION, USE, OR SALE.

Section 271 of title 35, United States Code, is amended by adding at the end the following new subsection:

"(g) Whoever without authority imports into the United States or sells or uses within the United States a product which is made by a process patented in the United States shall be liable as an infringer, if the importation, sale, or use of the product occurs during the term of such process patent. In an action for infringement of a process patent, no remedy may be granted for infringement on account of the noncommercial use or retail sale of a product unless there is no adequate remedy under this title for infringement on account of the importation or other use or sale of that product. A product which is made by a patented process will, for purposes of this title, not be considered to be so made after—

"(1) it is materially changed by subsequent processes; or

"(2) it becomes a trivial and nonessential component of another product.".

SEC. 9004. DAMAGES FOR INFRINGEMENT.

(a) LIMITATIONS AND OTHER REMEDIES.—Section 287 of title 35, United States Code, is amended—

(1) in the section heading by striking "**Limitation on damages**" and inserting "**Limitation on damages and other remedies**";

(2) by inserting "(a)" before "Patentees"; and

(3) by adding at the end the following:

"(b)(1) An infringer under section 271(g) shall be subject to all the provisions of this title relating to damages and injunctions except to the extent those remedies are modified by this subsection or section 9006 of the Process Patent Amendments Act of 1988. The modifications of remedies provided in this subsection shall not be available to any person who—

"(A) practiced the patented process;

"(B) owns or controls, or is owned or controlled by, the person who practiced the patented process; or

"(C) had knowledge before the infringement that a patented process was used to make the product the importation, use, or sale of which constitutes the infringement.

"(2) No remedies for infringement under section 271(g) of this title shall be available with respect to any product in the possession of, or in transit to, the person subject to liability under such section before that person had notice of infringement with respect to that product. The person subject to liability shall bear the burden of proving any such possession or transit.

Courts, U.S.

"(3)(A) In making a determination with respect to the remedy in an action brought for infringement under section 271(g), the court shall consider—

"(i) the good faith demonstrated by the defendant with respect to a request for disclosure,

"(ii) the good faith demonstrated by the plaintiff with respect to a request for disclosure, and

"(iii) the need to restore the exclusive rights secured by the patent.

"(B) For purposes of subparagraph (A), the following are evidence of good faith:

"(i) a request for disclosure made by the defendant;

"(ii) a response within a reasonable time by the person receiving the request for disclosure; and

Claims.

"(iii) the submission of the response by the defendant to the manufacturer, or if the manufacturer is not known, to the

supplier, of the product to be purchased by the defendant, together with a request for a written statement that the process claimed in any patent disclosed in the response is not used to produce such product.

The failure to perform any acts described in the preceding sentence is evidence of absence of good faith unless there are mitigating circumstances. Mitigating circumstances include the case in which, due to the nature of the product, the number of sources for the product, or like commercial circumstances, a request for disclosure is not necessary or practicable to avoid infringement.

"(4)(A) For purposes of this subsection, a 'request for disclosure' means a written request made to a person then engaged in the manufacture of a product to identify all process patents owned by or licensed to that person, as of the time of the request, that the person then reasonably believes could be asserted to be infringed under section 271(g) if that product were imported into, or sold or used in, the United States by an unauthorized person. A request for disclosure is further limited to a request—

"(i) which is made by a person regularly engaged in the United States in the sale of the same type of products as those manufactured by the person to whom the request is directed, or which includes facts showing that the person making the request plans to engage in the sale of such products in the United States;

"(ii) which is made by such person before the person's first importation, use, or sale of units of the product produced by an infringing process and before the person had notice of infringement with respect to the product; and

"(iii) which includes a representation by the person making the request that such person will promptly submit the patents identified pursuant to the request to the manufacturer, or if the manufacturer is not known, to the supplier, of the product to be purchased by the person making the request, and will request from that manufacturer or supplier a written statement that none of the processes claimed in those patents is used in the manufacture of the product.

"(B) In the case of a request for disclosure received by a person to whom a patent is licensed, that person shall either identify the patent or promptly notify the licensor of the request for disclosure.

"(C) A person who has marked, in the manner prescribed by subsection (a), the number of the process patent on all products made by the patented process which have been sold by that person in the United States before a request for disclosure is received is not required to respond to the request for disclosure. For purposes of the preceding sentence, the term 'all products' does not include products made before the effective date of the Process Patent Amendments Act of 1988.

"(5)(A) For purposes of this subsection, notice of infringement means actual knowledge, or receipt by a person of a written notification, or a combination thereof, of information sufficient to persuade a reasonable person that it is likely that a product was made by a process patented in the United States.

"(B) A written notification from the patent holder charging a person with infringement shall specify the patented process alleged to have been used and the reasons for a good faith belief that such process was used. The patent holder shall include in the notification such information as is reasonably necessary to explain fairly the

patent holder's belief, except that the patent holder is not required to disclose any trade secret information.

"(C) A person who receives a written notification described in subparagraph (B) or a written response to a request for disclosure described in paragraph (4) shall be deemed to have notice of infringement with respect to any patent referred to in such written notification or response unless that person, absent mitigating circumstances—

"(i) promptly transmits the written notification or response to the manufacturer or, if the manufacturer is not known, to the supplier, of the product purchased or to be purchased by that person; and

"(ii) receives a written statement from the manufacturer or supplier which on its face sets forth a well grounded factual basis for a belief that the identified patents are not infringed.

"(D) For purposes of this subsection, a person who obtains a product made by a process patented in the United States in a quantity which is abnormally large in relation to the volume of business of such person or an efficient inventory level shall be rebuttably presumed to have actual knowledge that the product was made by such patented process.

"(6) A person who receives a response to a request for disclosure under this subsection shall pay to the person to whom the request was made a reasonable fee to cover actual costs incurred in complying with the request, which may not exceed the cost of a commercially available automated patent search of the matter involved, but in no case more than $500.".

(b) TECHNICAL AMENDMENT.—The item relating to section 287 of title 35, United States Code, in the table of sections for chapter 29 of such title is amended to read as follows:

"287. Limitation on damages and other remedies; marking and notice.".

SEC. 9005. PRESUMPTION IN CERTAIN INFRINGEMENT ACTIONS.

(a) PRESUMPTION THAT PRODUCT MADE BY PATENTED PROCESS.—Chapter 29 of title 35, United States Code, is amended by adding at the end the following:

"§ 295. Presumption: Product made by patented process

"In actions alleging infringement of a process patent based on the importation, sale, or use of a product which is made from a process patented in the United States, if the court finds—

"(1) that a substantial likelihood exists that the product was made by the patented process, and

"(2) that the plaintiff has made a reasonable effort to determine the process actually used in the production of the product and was unable to so determine,

the product shall be presumed to have been so made, and the burden of establishing that the product was not made by the process shall be on the party asserting that it was not so made.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 29 of title 35, United States Code, is amended by adding after the item relating to section 294 the following:

"295. Presumption: Product made by patented process.".

35 USC 271 note.

SEC. 9006. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this subtitle take effect 6 months after the date of enactment of this Act and, subject

to subsections (b) and (c), shall apply only with respect to products made or imported after the effective date of the amendments made by this subtitle.

(b) EXCEPTIONS.—The amendments made by this subtitle shall not abridge or affect the right of any person or any successor in business of such person to continue to use, sell, or import any specific product already in substantial and continuous sale or use by such person in the United States on January 1, 1988, or for which substantial preparation by such person for such sale or use was made before such date, to the extent equitable for the protection of commercial investments made or business commenced in the United States before such date. This subsection shall not apply to any person or any successor in business of such person using, selling, or importing a product produced by a patented process that is the subject of a process patent enforcement action commenced before January 1, 1987, before the International Trade Commission, that is pending or in which an order has been entered.

(c) RETENTION OF OTHER REMEDIES.—The amendments made by this subtitle shall not deprive a patent owner of any remedies available under subsections (a) through (f) of section 271 of title 35, United States Code, under section 337 of the Tariff Act of 1930, or under any other provision of law.

SEC. 9007. REPORTS TO CONGRESS. 35 USC 271 note.

(a) CONTENTS.—The Secretary of Commerce shall, not later than the end of each 1-year period described in subsection (b), report to the Congress on the effect of the amendments made by this subtitle on those domestic industries that submit complaints to the Department of Commerce, during that 1-year period, alleging that their legitimate sources of supply have been adversely affected by the amendments made by this subtitle.

(b) WHEN SUBMITTED.—A report described in subsection (a) shall be submitted with respect to each of the five 1-year periods which occur successively beginning on the effective date of the amendments made by this subtitle and ending five years after that effective date.

Subtitle B—Foreign Filing

SEC. 9101. INCREASED EFFECTIVENESS OF PATENT LAW.

(a) SHORT TITLE.—This section may be cited as the "Patent Law Foreign Filing Amendments Act of 1988". Patent Law Foreign Filing Amendments Act of 1988. 35 USC 1 note.

(b) FILING OF APPLICATIONS IN FOREIGN COUNTRIES.—(1) Section 184 of title 35, United States Code, is amended—

(A) in the third sentence by—

(i) striking out "inadvertently"; and

(ii) inserting "through error and without deceptive intent" after "filed abroad"; and

(B) by adding at the end thereof the following new paragraph:

"The scope of a license shall permit subsequent modifications, amendments, and supplements containing additional subject matter if the application upon which the request for the license is based is not, or was not, required to be made available for inspection under section 181 of this title and if such modifications, amendments, and supplements do not change the general nature of the invention in a manner which would require such application to be made available

for inspection under such section 181. In any case in which a license is not, or was not, required in order to file an application in any foreign country, such subsequent modifications, amendments, and supplements may be made, without a license, to the application filed in the foreign country if the United States application was not required to be made available for inspection under section 181 and if such modifications, amendments, and supplements do not, or did not, change the general nature of the invention in a manner which would require the United States application to have been made available for inspection under such section 181.".

(2) Section 185 of title 35, United States Code, is amended by inserting immediately before the period in the last sentence the following: ", unless the failure to procure such license was through error and without deceptive intent, and the patent does not disclose subject matter within the scope of section 181 of this title.".

(3) Section 186 of title 35, United States Code, is amended by inserting "willfully" after "whoever", the second place it appears.

35 USC 184 note.

(c) REGULATIONS.—The Commissioner of Patents and Trademarks shall prescribe such regulations as may be necessary to implement the amendments made by this section.

35 USC 184 note.

(d) EFFECTIVE DATE.—(1) Subject to paragraphs (2), (3), and (4) of this subsection, the amendments made by this section shall apply to all United States patents granted before, on, or after the date of enactment of this section, to all applications for United States patents pending on or filed after such date of enactment, and to all licenses under section 184 granted before, on, or after the date of enactment of this section.

(2) The amendments made by this section shall not affect any final decision made by a court or the Patent and Trademark Office before the date of enactment of this section with respect to a patent or application for patent, if no appeal from such decision is pending and the time for filing an appeal has expired.

Claims.

(3) No United States patent granted before the date of enactment of this section shall abridge or affect the right of any person or his successors in business who made, purchased, or used, prior to such date of enactment, anything protected by the patent, to continue the use of, or to sell to others to be used or sold, the specific thing so made, purchased, or used, if the patent claims were invalid or otherwise unenforceable on a ground obviated by this section and the person made, purchased, or used the specific thing in reasonable reliance on such invalidity or unenforceability. If a person reasonably relied on such invalidity or unenforceability, the court before which such matter is in question may provide for the continued manufacture, use, or sale of the thing made, purchased, or used as specified, or for the manufacture, use, or sale of which substantial preparation was made before the date of enactment of this section, and it may also provide for the continued practice of any process practiced, or for the practice of which substantial preparation was made, prior to the date of enactment of this section, to the extent and under such terms as the court deems equitable for the protection of investments made or business commenced before such date of enactment.

(4) The amendments made by this section shall not affect the right of any party in any case pending in court on the date of enactment of this section to have its rights or liabilities—

(A) under any patent before the court, or

(B) under any patent granted after such date of enactment which is related to the patent before the court by deriving priority rights under section 120 or 121 of title 35, United States Code, from a patent or an application for patent common to both patents,

determined on the basis of the substantive law in effect before the date of enactment of this section.

Subtitle C—Patent Term Extension

SEC. 9201. PATENT TERM EXTENSION. Drugs and drug abuse.

(a) GENERAL RULE.—Except as provided in subsection (b), the term of United States Patent number 3,674,836 issued for the drug Lopid shall be extended in accordance with section 9202 for 3 years and 6 months from the date of its expiration.

(b) CONDITIONS.—

(1) No extension of the term of the patent described in subsection (a) may be made unless there has been submitted for the drug Lopid a supplemental new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act for the approval of an expansion of the permitted indications and usage in the labeling of the drug.

(2) If the Secretary of Health and Human Services makes a final determination, after the date of the enactment of this Act, disapproving the first supplemental new drug application submitted under section 505 of the Federal Food, Drug, and Cosmetic Act for the approval of an expansion of the permitted indications and usage in the labeling of the drug Lopid—

(A) no extension shall be granted for the term of the patent under subsection (a) if the final determination of disapproval is issued before the date the term of the patent is extended under subsection (a), and

(B) if an extension has been granted under subsection (a) before the final determination of disapproval is issued, the extension shall be terminated as of the date of such disapproval.

The Secretary shall promptly notify the Commissioner of Patents and Trademarks of such a disapproval.

SEC. 9202. PROCEDURE. Drugs and drug abuse.

(a) NOTICE.—To receive the patent term extension under section 9201(a), the owner of record of the patent shall notify the Commissioner of Patents and Trademarks before January 4, 1989, of the identity of the supplemental new drug application required under section 9201(b)(1).

(b) EXTENSION.—On receipt of the notice under subsection (a), the Commissioner shall, in accordance with section 9201, promptly issue to the owner of record of the patent a certificate of extension, under seal, stating the fact and length of the extension and indicating that such extension is limited to the subject matter of claim 1 (insofar as claim 1 is needed to cover the compound described in claim 6 and additionally insofar as claim 1 is needed to cover the pharmaceutically acceptable salts of the compound described in claim 6) and claim 6 of the patent. Such certificate shall be recorded in the official file of the patent extended and such certificate shall be considered as part of the original patent, and an appropriate notice Claims. Records.

shall be published in the Official Gazette of the Patent and Trademark Office. If the extension of the term of the patent is to be terminated under section 9201(b), the Commissioner shall promptly issue a certificate of termination of extension, under seal, stating the fact that the patent term extension is terminated, effective on the date of the final determination that the supplemental new drug application under section 505 of the Federal Food, Drug, and Cosmetic Act was disapproved. Such certificate shall be recorded in the official file of the patent and such certificate shall be considered as a part of the original patent, and an appropriate notice shall be published in the Official Gazette of the Patent and Trademark Office.

Records.

TITLE X—OCEAN AND AIR TRANSPORTATION

Subtitle A—Foreign Shipping Practices

Foreign Shipping Practices Act of 1988.
Maritime affairs.
46 USC app. 1701 note.

SEC. 10001. SHORT TITLE.

This subtitle may be cited as the "Foreign Shipping Practices Act of 1988".

46 USC app. 1710a.

SEC. 10002. FOREIGN LAWS AND PRACTICES.

(a) DEFINITIONS.—For purposes of this section—

(1) "common carrier", "marine terminal operator", "non-vessel-operating common carrier", "ocean common carrier", "person", "shipper", "shippers' association", and "United States" have the meanings given each such term, respectively, in section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702);

(2) "foreign carrier" means an ocean common carrier a majority of whose vessels are documented under the laws of a country other than the United States;

(3) "maritime services" means port-to-port carriage of cargo by the vessels operated by ocean common carriers;

(4) "maritime-related services" means intermodal operations, terminal operations, cargo solicitation, forwarding and agency services, non-vessel-operating common carrier operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates on their own and others' behalf;

(5) "United States carrier" means an ocean common carrier which operates vessels documented under the laws of the United States; and

(6) "United States oceanborne trade" means the carriage of cargo between the United States and a foreign country, whether direct or indirect, by an ocean common carrier.

(b) AUTHORITY TO CONDUCT INVESTIGATIONS.—The Federal Maritime Commission shall investigate whether any laws, rules, regulations, policies, or practices of foreign governments, or any practices of foreign carriers or other persons providing maritime or maritime-related services in a foreign country result in the existence of conditions that—

(1) adversely affect the operations of United States carriers in United States oceanborne trade; and

(2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

(c) INVESTIGATIONS.—(1) Investigations under subsection (b) of this section may be initiated by the Commission on its own motion or on the petition of any person, including any common carrier, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any branch, department, agency, or other component of the Government of the United States.

(2) The Commission shall complete any such investigation and render a decision within 120 days after it is initiated, except that the Commission may extend such 120-day period for an additional 90 days if the Commission is unable to obtain sufficient information to determine whether a condition specified in subsection (b) of this section exists. Any notice providing such an extension shall clearly state the reasons for such extension.

(d) INFORMATION REQUESTS.—(1) In order to further the purposes of subsection (b) of this section, the Commission may, by order, require any person (including any common carrier, shipper, shippers' association, ocean freight forwarder, or marine terminal operator, or any officer, receiver, trustee, lessee, agent or employee thereof) to file with the Commission any periodic or special report, answers to questions, documentary material, or other information which the Commission considers necessary or appropriate. The Commission may require that the response to any such order shall be made under oath. Such response shall be furnished in the form and within the time prescribed by the Commission.

(2) In an investigation under subsection (b) of this section, the Commission may issue subpoenas to compel the attendance and testimony of witnesses and the production of records or other evidence.

(3) Notwithstanding any other provision of law, the Commission may, in its discretion, determine that any information submitted to it in response to a request under this subsection, or otherwise, shall not be disclosed to the public. Classified information.

(e) ACTION AGAINST FOREIGN CARRIERS.—(1) Whenever, after notice and opportunity for comment or hearing, the Commission determines that the conditions specified in subsection (b) of this section exist, the Commission shall take such action as it considers necessary and appropriate against any foreign carrier that is a contributing cause to, or whose government is a contributing cause to, such conditions, in order to offset such conditions. Such action may include—

(A) limitations on sailings to and from United States ports or on the amount or type of cargo carried;

(B) suspension, in whole or in part, of any or all tariffs filed with the Commission, including the right of an ocean common carrier to use any or all tariffs of conferences in United States trades of which it is a member for such period as the Commission specifies;

(C) suspension, in whole or in part, of the right of an ocean common carrier to operate under any agreement filed with the Commission, including agreements authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenues with other ocean common carriers; and Contracts.

(D) a fee, not to exceed $1,000,000 per voyage.

(2) The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate Government agencies prior to taking any action under this subsection.

(3) Before a determination under this subsection becomes effective or a request is made under subsection (f) of this section, the determination shall be submitted immediately to the President who may, within 10 days after receiving such determination, disapprove the determination in writing, setting forth the reasons for the disapproval, if the President finds that disapproval is required for reasons of the national defense or the foreign policy of the United States.

(f) ACTIONS UPON REQUEST OF THE COMMISSION.—Whenever the conditions specified in subsection (b) of this section are found by the Commission to exist, upon the request of the Commission—

(1) the collector of customs at any port or place of destination in the United States shall refuse the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91) to any vessel of a foreign carrier that is identified by the Commission under subsection (e) of this section; and

(2) the Secretary of the department in which the Coast Guard is operating shall deny entry, for purposes of oceanborne trade, of any vessel of a foreign carrier that is identified by the Commission under subsection (e) of this section to any port or place in the United States or the navigable waters of the United States, or shall detain any such vessel at the port or place in the United States from which it is about to depart for any other port or place in the United States.

(g) REPORT.—The Commission shall include in its annual report to Congress—

(1) a list of the twenty foreign countries which generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States;

(2) an analysis of conditions described in subsection (b) of this section being investigated or found to exist in foreign countries;

(3) any actions being taken by the Commission to offset such conditions;

(4) any recommendations for additional legislation to offset such conditions; and

(5) a list of petitions filed under subsection (c) of this section that the Commission rejected, and the reasons for each such rejection.

(h) The actions against foreign carriers authorized in subsections (e) and (f) of this section may be used in the administration and enforcement of section 13(b)(5) of the Shipping Act of 1984 (46 App. U.S.C. 1712(b)(5)) or section 19(1)(b) of the Merchant Marine Act, 1920 (46 App. U.S.C. 876).

(i) Any rule, regulation or final order of the Commission issued under this section shall be reviewable exclusively in the same forum and in the same manner as provided in section 2342(3)(B) of title 28, United States Code.

SEC. 10003. MOBILE TRADE FAIRS.

(a) Section 212(B)(c) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122b(c)), is amended to read as follows:

"(c) In addition to any amounts appropriated to carry out trade promotion activities, the President may use foreign currencies owned by or owed to the United States to carry out this section.".

(b) For one year after the date of enactment of this Act, a vessel that is undergoing repair or retrofitting for use solely for mobile trade fair purposes is deemed to be out of commission under section 3302(e) of title 46, United States Code, during the repair or retrofitting. 46 USC 3302 note.

Subtitle B—International Air Transportation

SEC. 10011. MAXIMUM PERIOD FOR TAKING ACTION WITH RESPECT TO COMPLAINTS.

Section 2(b)(2) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b(b)(2)) is amended—

(1) in the third sentence by striking out "but in no event may" and all that follows through "180 days" and inserting in lieu thereof "but the aggregate period for taking action under this subsection may not exceed 90 days"; and

(2) by inserting after the third sentence the following new sentence: "However, if on the last day of such 90-day period, the Secretary finds that—

"(A) negotiations with the foreign government have progressed to a point that a satisfactory resolution of the complaint appears imminent;

"(B) no United States air carrier has been subject to economic injury by the foreign government or an instrumentality of the foreign government (including a foreign air carrier) as a result of the filing of the complaint; and

"(C) public interest requires additional time before the taking of action with respect to the complaint;

the Secretary may extend such 90-day period for not to exceed an additional 90 days.".

SEC. 10012. VIEWS OF THE DEPARTMENT OF COMMERCE AND OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE.

Section 2(b) of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b(b)) is amended—

(1) by redesignating paragraph (3), and any references thereto, as paragraph (4);

(2) by striking out the last sentence of paragraph (2); and

(3) by inserting after paragraph (2) the following new paragraph:

"(3) In considering any complaint, or in any proceedings under its own initiative, under this subsection, the Secretary shall—

"(A) solicit the views of the Department of State, the Department of Commerce, and the Office of the United States Trade Representative; and

"(B) provide any affected air carrier or foreign air carrier with reasonable notice and such opportunity to file written evidence and argument as is consistent with acting on the complaint within the time limits set forth in this subsection.".

SEC. 10013. REPORTING ON ACTIONS TAKEN WITH RESPECT TO COMPLAINTS.

Section 2 of the International Air Transportation Fair Competitive Practices Act of 1974 (49 U.S.C. App. 1159b) is amended by adding at the end thereof the following new subsection:

"(e) Not later than the 30th day after taking action with respect to a complaint under this section, the Secretary of Transportation shall report to the Committee on Public Works and Transportation of the House Representatives and the Committee on Commerce, Science, and Transportation of the Senate on actions that have been taken under this section with respect to the complaint.".

Approved August 23, 1988.

LEGISLATIVE HISTORY—H.R. 4848:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 13, considered and passed House.
Aug. 2, 3, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Aug. 23, Presidential remarks.

Public Law 100-419
100th Congress

An Act

To provide for the establishment of an economic development plan for, and Federal services and assistance to, the Northwestern Band of the Shoshoni Nation, and for other purposes.

Sept. 8, 1988
[H.R. 2370]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Economic Development Plan for the Northwestern Band of the Shoshoni Nation Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Economic Development Plan for the Northwestern Band of the Shoshoni Nation Act".

SEC. 2. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC DEVELOPMENT.—The Secretary shall—

(1)(A) enter into negotiations with the tribal council with respect to establishing a plan for economic development for the tribe, including (but not limited to) the provision of Federal services to the tribe; and

(B) in accordance with this section and not later than 2 years after the date of the enactment of this Act, develop such a plan; and

(2) upon the approval of such plan by the tribal council (and after consultation with the State and local officials pursuant to subsection (b)), the Secretary shall submit such plan to the Congress.

(b) CONSULTATION WITH STATE AND LOCAL OFFICIALS REQUIRED.—To assure that legitimate State and local interests are not prejudiced by the proposed economic development plan, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State. The Secretary shall provide complete information on the proposed plan to such officials, including the restrictions on such proposed plan imposed by subsection (c). During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess, and shall request comments and additional information on the extent of any State or local service to the tribe.

(c) RESTRICTIONS TO BE CONTAINED IN PLAN.—Any plan developed by the Secretary under subsection (a) shall provide that— Real property.

(1) any real property transferred by the tribe or any member to the Secretary shall be taken and held in the name of the United States in trust for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax; and Taxes.

(B) foreclosure or sale in accordance with the laws of the State pursuant to the terms of any valid obligation in

existence at the time of the acquisition of such land by the Secretary;

Taxes.

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind; and

(4) the territorial jurisdiction of the tribe shall be limited to real property taken or held in trust by the Secretary for the tribe or individual members of the tribe.

(d) APPENDIX TO PLAN SUBMITTED TO THE CONGRESS.—The Secretary shall append to the plan submitted to the Congress under subsection (a) a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b);

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

SEC. 3. DEFINITIONS.

For the purposes of this Act the following definitions apply:

(1) The term "Constitution" means the Constitution and Bylaws of the Northwestern Band of the Shoshoni Nation in effect on the date of the enactment of this Act.

(2) The term "member" means those persons eligible for enrollment under the Constitution of the Northwestern Band of the Shoshoni Nation.

(3) The term "Secretary" means the Secretary of the Interior.

(4) The term "State" means the State of Utah.

(5) The term "tribe" means the Northwestern Band of the Shoshoni Nation.

Approved September 8, 1988.

LEGISLATIVE HISTORY—H.R. 2370:

HOUSE REPORTS: No. 100-468 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-477 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 14, considered and passed House.
Vol. 134 (1988): Aug. 11, considered and passed Senate.

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Public Law 100-420
100th Congress

An Act

To clarify the Federal relationship to the Lac Vieux Desert Band of Lake Superior Chippewa Indians as a distinct Indian tribe, to clarify the status of members of the band, to transfer title to trust lands, and for other purposes.

Sept. 8, 1988
[H.R. 3679]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Lac Vieux Desert Band of Lake Superior Chippewa Indians Act. 25 USC 1300h note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lac Vieux Desert Band of Lake Superior Chippewa Indians Act".

25 USC 1300h.

SEC. 2. FINDINGS.

Congress finds that—

(1) the Lac Vieux Desert Band of Lake Superior Chippewa Indians, although currently recognized by the Federal Government as part of the Keweenaw Bay Indian Community, has historically existed, and continues to exist, as a separate and distinct Indian tribe that is located over 75 miles from the Keweenaw Bay Indian Community;

(2) the Lac Vieux Desert Band consists of approximately 250 members who continue to reside close to their ancestral homeland near the town of Watersmeet, Michigan;

(3) the Lac Vieux Desert Band entered into two treaties with the United States as a distinct tribal entity (7 Stat. 591, 10 Stat. 1109);

(4) members of the Lac Vieux Desert Band currently reside on or otherwise occupy lands within the Township of Watersmeet, Michigan, which are held by the United States in trust for the Keweenaw Bay Indian Community, and currently receive limited Federal benefits through the Keweenaw Bay Indian Community; and

(5) because of its distance from Keweenaw Bay and the failure of the United States to recognize the independent status of the tribe, the Lac Vieux Desert Band and its members receive only limited benefits to which the tribe and its members are entitled.

25 USC 1300h-1.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) the term "Band" means the Lac Vieux Desert Band of Lake Superior Chippewa Indians;

(2) the term "member" means those individuals eligible for enrollment under section 5 in the Band; and

(3) the term "Secretary" means the Secretary of the Interior.

25 USC 1300h-2.

SEC. 4. FEDERAL TRUST RELATIONSHIP.

(a) The Federal recognition of the Band and the trust relationship between the United States and the Band is hereby reaffirmed. The Act of June 18, 1934 (48 Stat. 984), as amended, and all laws and rules of law of the United States of general application to Indians,

Indian tribes, or Indian reservations which are not inconsistent with this Act shall apply to the members of the Band, and the reservation. The Band is hereby recognized as an independent tribal entity, separate from the Keweenaw Bay Indian Community or any other tribe.

(b) The Band and its members are eligible for all special programs and services provided by the United States to Indians because of their status as Indians.

Records.
25 USC 1300h-3.

SEC. 5. ESTABLISHMENT OF A BAND ROLL.

(a) Within six months after the date of enactment of this Act, the Band shall submit to the Secretary, for approval, its base membership roll which shall include only individuals who are not members of any other federally recognized Indian tribe or who have relinquished membership in such tribe and who are eligible for membership under subsection (b).

(b) An individual is eligible for inclusion on the base membership roll in the Band if that individual—

(1) is on the tribal membership roll as maintained by the Band prior to the date of enactment of this Act and is on file with the Bureau of Indian Affairs as of the date of enactment of this Act; or

(2) is at least one-quarter Chippewa Indian blood and is a person or a descendant of a person who was listed, or could have been listed, on any of the census of the Lac Vieux Desert Band prepared by the Superintendent of the MacKinaw Agency prior to 1928 or by the Superintendent of the Great Lakes agency on or prior to 1940.

(c) The Band shall ensure that the roll, once completed and approved, is maintained and kept current.

(d)(1) Notwithstanding paragraph (b) of section 6 and except as provided in paragraph (2), future membership in the tribe shall be limited to descendants of individuals whose names appear on the base roll and who have at least one-quarter Chippewa blood quantum.

(2) The Band may modify such quarter Chippewa blood quantum requirement if such modification is adopted in the tribal election as prescribed under paragraph (a) of section 6 or in a referendum by a majority of the voters and approved by the Secretary of the Interior. The Secretary shall approve such new membership requirements once adopted by the tribal voters unless he finds that the proposed amendment is contrary to Federal law.

25 USC 1300h-4.

SEC. 6. ORGANIZATION OF TRIBE; CONSTITUTION AND GOVERNING BODY.

(a) Within one year following the enactment of this Act, the Band's governing body shall propose a governing document, and the Secretary shall conduct, pursuant to section 16 of the Act of June 18, 1934 (48 Stat. 984), and in accordance with applicable rules and regulations, an election as to the adoption of the proposed document. The Secretary shall approve the governing document if approved by a majority of the tribal voters unless the Secretary finds that the proposed constitution, or any provision thereof, is contrary to Federal law.

(b) Until the Band adopts and the Secretary approves a governing document, the Band's interim governing document shall be the Lac Vieux Desert Constitution which bears the approval date of June 18, 1986, and a copy of which is in the files of the Division of Tribal

Government Services, Bureau of Indian Affairs, Washington, District of Columbia.

(c) Until the Band elects a new governing body pursuant to the new governing document, the Band's governing body shall consist of its current Band officers, elected at the Band's election held on November 5, 1986, or any new officers selected under election procedures of the interim governing document identified under subsection (b) of this section.

SEC. 7. LAND ACQUISITION; ESTABLISHMENT OF FEDERAL RESERVATION. Michigan. 25 USC 1300h-5.

(a) The Keweenaw Bay Indian Community is hereby authorized to convey, by deed to the United States in trust for the Band, all lands located in Gogebic County, Michigan, which, on the date of enactment of this Act, are held in trust by the United States for the benefit of said community. The Secretary is hereby authorized and directed to approve and accept the deed with the expressed consent of the Keweenaw Bay Indian Community and the Band. Upon acceptance of the deed, all lands described therein shall constitute the reservation of the Band.

(b) The Secretary may place such other land into trust for the benefit of the Band pursuant to the provisions of the Act of June 18, 1934 (48 Stat. 84), or any other Act: *Provided,* That any such land placed in trust which is located in Gogebic County, shall become part of the reservation.

SEC. 8. DISTRIBUTION OF FUNDS. 25 USC 1300h-6.

(a) For the purpose of proceeding with the per capita distribution of the funds appropriated and subsequently apportioned to the Keweenaw Bay Indian Community in satisfaction of judgments awarded the Lake Superior Chippewas and Mississippi Chippewas in dockets numbered 18-C, 18-T, 18-S, and 18-U of the Indian Claims Commission, the Secretary of the Interior shall accept the tribe's certification of enrolled membership.

(b) Individuals who are or become members of the Lac Vieux Desert Band and who are eligible for per capita shares out of funds apportioned to the Keweenaw Bay Indian Community or Sokaogan Chippewa Community shall continue to be eligible for such per capita payments notwithstanding their relinquishment of their enrollment in either community pursuant to section 5 of this Act.

SEC. 9. CONSTITUTIONAL AMENDMENT. 25 USC 1300h-7.

Notwithstanding any other law or provision in the constitution of the Keweenaw Bay Indian Community, the Secretary shall call an election within 90 days of receipt of a resolution of the Keweenaw Bay Tribal Council requesting an election for the purpose of amending provisions of the constitution of the Keweenaw Bay Indian Community.

SEC. 10. COMPLIANCE WITH BUDGET ACT. 25 USC 1300h-8.

Notwithstanding any other provision of this Act, any spending authority provided under this Act shall be effective for any fiscal

year only to such extent or in such amounts as are provided in advance in appropriation Acts. For purposes of this Act, the term "spending authority" has the meaning provided in section 401(c)(2) of the Congressional Budget and Impoundment Control Act of 1974, as amended.

Approved September 8, 1988.

LEGISLATIVE HISTORY—H.R. 3679 (S. 1735):

HOUSE REPORTS: No. 100-584 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-414 accompanying S. 1735 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 2, considered and passed House.
July 14, S. 1735 considered and passed Senate; proceedings vacated and H.R. 3679, amended, passed in lieu.
Aug. 10, House concurred in Senate amendment.

Public Law 100-421
100th Congress

An Act

To authorize the establishment of the Charles Pinckney National Historic Site in the State of South Carolina, and for other purposes.

Sept. 8, 1988
[H.R. 3960]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
National parks, monuments, etc.
16 USC 461 note.

SECTION 1. ESTABLISHMENT OF CHARLES PINCKNEY NATIONAL HISTORIC SITE.

(a) ESTABLISHMENT.—In order to provide for the benefit, inspiration, and education of the American people, there is hereby established the Charles Pinckney National Historic Site (hereinafter in this Act referred to as the "historic site") in the State of South Carolina.

(b) MAP.—The historic site shall consist of the lands and interests in lands, and improvements thereon, including the Snee Farm, as generally depicted on the map entitled "Charles Pinckney National Historic Site", numbered NA-CPNHS 80,000 and dated June 1988.

SEC. 2. ACQUISITION OF PROPERTY.

Gifts and property.

The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized to acquire lands, interests in lands, and improvements within the boundaries of the historic site by donation, purchase with donated or appropriated funds, or exchange. The Secretary may also acquire by the same methods, personal property associated with, and appropriate for interpretation of, the site.

SEC. 3. ADMINISTRATION OF HISTORIC SITE.

The Secretary shall administer the historic site in accordance with the provisions of law generally applicable to units of the National Park System, including the Act of August 21, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461). In administering the historic site, the Secretary shall—

(1) provide the interpretation of the life of Charles Pinckney;

(2) preserve and interpret Snee Farm, home of Charles Pinckney; and

(3) present the history of the United States as a young Nation.

SEC. 4. GENERAL MANAGEMENT PLAN.

Within 3 complete fiscal years after the enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the historic site. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1—1a-7). Such plan shall identify appropriate facilities for proper interpretation of the site for visitors.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved September 8, 1988.

LEGISLATIVE HISTORY—H.R. 3960:

HOUSE REPORTS: No. 100-698 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-453 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Aug. 10, considered and passed Senate.

Public Law 100-422
100th Congress

Joint Resolution

Designating the week beginning September 18, 1988, as "Emergency Medical Services Week".

Sept. 8, 1988
[H.J. Res. 539]

Whereas the members of emergency medical services teams devote their lives to saving the lives of others;
Whereas emergency medical services teams consist of emergency physicians, nurses, emergency medical technicians, paramedics, educators, and administrators;
Whereas the people of the United States benefit daily from the knowledge and skill of these trained individuals;
Whereas advances in emergency medical care increase the number of lives saved every year;
Whereas the professional organizations of providers of emergency medical services promote research to improve emergency medical care;
Whereas the members of emergency medical services teams work together to improve and adapt their skills as new methods of emergency treatment are developed;
Whereas the members of emergency medical services teams encourage national standardization of training and testing of emergency medical personnel and reciprocal recognition of training and credentials by the States;
Whereas the designation of Emergency Medical Services Week will serve to educate the people of the United States about accident prevention and what to do when confronted with a medical emergency; and
Whereas it is appropriate to recognize the value and the accomplishments of emergency medical services teams by designating Emergency Medical Services Week: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 18, 1988, is designated as "Emergency Medical Services Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved September 8, 1988.

LEGISLATIVE HISTORY—H.J. Res. 539 (S.J. Res. 312):

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 13, considered and passed House.
July 26, S.J. Res. 312 considered and passed Senate.
Aug. 11, H.J. Res. 539 considered and passed Senate.

Public Law 100-423
100th Congress

Joint Resolution

Sept. 8, 1988
[H.J. Res. 583]

Designating the week beginning September 11, 1988, as "National Outpatient Ambulatory Surgery Week".

Whereas outpatient surgery currently accounts for one-third of all surgical procedures performed in the United States;

Whereas the use of outpatient surgery has reduced hospital costs while improving the quality of health care;

Whereas Americans are increasingly choosing outpatient surgery over traditional inpatient surgery because it is more convenient, less time consuming, and requires less of a change of lifestyle of patients and their families; and

Whereas the number of outpatient surgical procedures performed in the United States is expected to increase from over 6 million in 1985 to over 11 million in 1995: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning September 11, 1988, is designated as "National Outpatient Ambulatory Surgery Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved September 8, 1988.

LEGISLATIVE HISTORY—H.J. Res. 583:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 9, considered and passed House.
Aug. 11, considered and passed Senate.

Public Law 100-424
100th Congress

An Act

To provide for the establishment of additional safety requirements for fishing industry vessels, and for other purposes.

Sept. 9, 1988
[H.R. 1841]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Commercial Fishing Industry Vessel Safety Act of 1988. 46 USC 2101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Fishing Industry Vessel Safety Act of 1988".

SEC. 2. UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSEL SAFETY REQUIREMENTS.

(a) IN GENERAL.—Chapter 45 of title 46, United States Code, is amended to read as follows:

"CHAPTER 45—UNINSPECTED COMMERCIAL FISHING INDUSTRY VESSELS

"Sec.
"4501. Application.
"4502. Safety standards.
"4503. Fish processing vessel certification.
"4504. Prohibited acts.
"4505. Termination of unsafe operations.
"4506. Exemptions.
"4507. Penalties.
"4508. Commercial Fishing Industry Vessel Advisory Committee.

"§ 4501. Application

46 USC 4501.

"(a) This chapter applies to an uninspected vessel which is a fishing vessel, fish processing vessel, or fish tender vessel.

"(b) This chapter does not apply to the carriage of bulk dangerous cargoes regulated under chapter 37 of this title.

"§ 4502. Safety standards

46 USC 4502. Regulations.

"(a) The Secretary shall prescribe regulations which require that each vessel to which this chapter applies shall be equipped with—

"(1) readily accessible fire extinguishers capable of promptly and effectively extinguishing a flammable or combustible liquid fuel fire;

"(2) at least one readily accessible life preserver or other lifesaving device for each individual on board;

"(3) an efficient flame arrestor, backfire trap, or other similar device on the carburetors of each inboard engine which uses gasoline as fuel;

"(4) the means to properly and efficiently ventilate enclosed spaces, including engine and fuel tank compartments, so as to remove explosive or flammable gases;

"(5) visual distress signals;

"(6) a buoyant apparatus, if the vessel is of a type required by regulations prescribed by the Secretary to be equipped with that apparatus;

"(7) alerting and locating equipment, including emergency position indicating radio beacons, on vessels that operate on the high seas; and

"(8) a placard as required by regulations prescribed under section 10603(b) of this title.

Regulations. "(b) In addition to the requirements of subsection (a) of this section, the Secretary shall prescribe regulations for documented vessels to which this chapter applies that operate beyond the Boundary Line or that operate with more than 16 individuals on board, for the installation, maintenance, and use of—

"(1) alerting and locating equipment, including emergency position indicating radio beacons;

"(2) lifeboats or liferafts sufficient to accommodate all individuals on board;

"(3) at least one readily accessible immersion suit for each individual on board that vessel when operating on the waters described in section 3102 of this title;

"(4) radio communications equipment sufficient to effectively communicate with land-based search and rescue facilities;

"(5) navigation equipment, including compasses, radar reflectors, nautical charts, and anchors;

"(6) first aid equipment, including medicine chests; and

"(7) other equipment required to minimize the risk of injury to the crew during vessel operations, if the Secretary determines that a risk of serious injury exists that can be eliminated or mitigated by that equipment.

"(c) In addition to the requirements described in subsections (a) and (b) of this section, the Secretary may prescribe regulations establishing minimum safety standards for vessels to which this chapter applies that were built after December 31, 1988, or that undergo a major conversion completed after that date, and that operate with more than 16 individuals on board, including standards relating to—

"(1) navigation equipment, including radars and fathometers;

"(2) life saving equipment, immersion suits, signaling devices, bilge pumps, bilge alarms, life rails, and grab rails;

"(3) fire protection and firefighting equipment, including fire alarms and portable and semiportable fire extinguishing equipment;

"(4) use and installation of insulation material;

"(5) storage methods for flammable or combustible material; and

"(6) fuel, ventilation, and electrical systems.

Regulations. "(d)(1) The Secretary shall prescribe regulations for the operating stability of a vessel to which this chapter applies—

"(A) that was built after December 31, 1989; or

"(B) the physical characteristics of which are substantially altered after December 31, 1989, in a manner that affects the vessel's operating stability.

"(2) The Secretary may accept, as evidence of compliance with this subsection, a certification of compliance issued by the person providing insurance for the vessel or by another qualified person approved by the Secretary.

"(e) In prescribing regulations under this chapter, the Secretary—

"(1) shall consider the specialized nature and economics of the operations and the character, design, and construction of the vessel; and

"(2) may not require the alteration of a vessel or associated equipment that was constructed or manufactured before the effective date of the regulation.

"(f) The Secretary shall examine a fish processing vessel at least once every two years to ensure that the vessel complies with the requirements of this chapter.

"§ 4503. Fish processing vessel certification 46 USC 4503.

"(a) A fish processing vessel to which this section applies may not be operated unless the vessel—

"(1) meets all survey and classification requirements prescribed by the American Bureau of Shipping or another similarly qualified organization approved by the Secretary; and

"(2) has on board a certificate issued by the American Bureau of Shipping or that other organization evidencing compliance with this subsection.

"(b) This section applies to a fish processing vessel to which this chapter applies that—

"(1) is built after July 27, 1990; or

"(2) undergoes a major conversion completed after that date.

"§ 4504. Prohibited acts 46 USC 4504.

"A person may not operate a vessel in violation of this chapter or a regulation prescribed under this chapter.

"§ 4505. Termination of unsafe operations 46 USC 4505.

"An official authorized to enforce this chapter—

"(1) may direct the individual in charge of a vessel to which this chapter applies to immediately take reasonable steps necessary for the safety of individuals on board the vessel if the official observes the vessel being operated in an unsafe condition that the official believes creates an especially hazardous condition, including ordering the individual in charge to return the vessel to a mooring and to remain there until the situation creating the hazard is corrected or ended; and

"(2) may order the individual in charge of an uninspected fish processing vessel that does not have on board the certificate required under section 4503(1) of this title to return the vessel to a mooring and to remain there until the vessel is in compliance with that section.

"§ 4506. Exemptions 46 USC 4506.

"(a) The Secretary may exempt a vessel from any part of this chapter if, under regulations prescribed by the Secretary (including regulations on special operating conditions), the Secretary finds that—

"(1) good cause exists for granting an exemption; and

"(2) the safety of the vessel and those on board will not be adversely affected.

"(b) A vessel to which this chapter applies is exempt from section 4502(b)(2) of this title if it—

"(1) is less than 36 feet in length; and

"(2) is not operating on the high seas.

46 USC 4507.

"§ 4507. Penalties

"(a) The owner, charterer, managing operator, agent, master, and individual in charge of a vessel to which this chapter applies which is operated in violation of this chapter or a regulation prescribed under this chapter may each be assessed a civil penalty by the Secretary of not more than $5,000. Any vessel with respect to which a penalty is assessed under this subsection is liable in rem for the penalty.

"(b) A person willfully violating this chapter or a regulation prescribed under this chapter shall be fined not more than $5,000, imprisoned for not more than one year, or both.

46 USC 4508.
Establishment.

"§ 4508. Commercial Fishing Industry Vessel Advisory Committee

"(a) The Secretary shall establish a Commercial Fishing Industry Vessel Advisory Committee. The Committee—

"(1) may advise, consult with, report to, and make recommendations to the Secretary on matters relating to the safe operation of vessels to which this chapter applies, including navigation safety, safety equipment and procedures, marine insurance, vessel design, construction, maintenance and operation, and personnel qualifications and training;

"(2) may review proposed regulations under this chapter;

"(3) may make available to Congress any information, advice, and recommendations that the Committee is authorized to give to the Secretary; and

"(4) shall meet at the call of the Secretary, who shall call such a meeting at least once during each calendar year.

"(b)(1) The Committee shall consist of seventeen members with particular expertise, knowledge, and experience regarding the commercial fishing industry as follows:

"(A) ten members from the commercial fishing industry who—

"(i) reflect a regional and representational balance; and

"(ii) have experience in the operation of vessels to which this chapter applies or as a crew member or processing line worker on an uninspected fish processing vessel;

"(B) three members from the general public, including, whenever possible, an independent expert or consultant in maritime safety and a member of a national organization composed of persons representing owners of vessels to which this chapter applies and persons representing the marine insurance industry;

"(C) one member representing each of—

"(i) naval architects or marine surveyors;

"(ii) manufacturers of equipment for vessels to which this chapter applies;

"(iii) education or training professionals related to fishing vessel, fish processing vessel, or fish tender vessel safety or personnel qualifications; and

"(iv) underwriters that insure vessels to which this chapter applies.

Federal Register, publication.

"(2) At least once each year, the Secretary shall publish a notice in the Federal Register and in newspapers of general circulation in coastal areas soliciting nominations for membership on the Committee, and, after timely notice is published, appoint the members of

the Committee. An individual may be appointed to a term as a member of the Committee more than once.

"(3)(A) A member of the Committee shall serve a term of three years.

"(B) If a vacancy occurs in the membership of the Committee, the Secretary shall appoint a member to fill the remainder of the vacated term.

"(4) The Committee shall elect one of its members as the Chairman and one of its members as the Vice Chairman. The Vice Chairman shall act as Chairman in the absence or incapacity of, or in the event of a vacancy in the office of, the Chairman.

"(5) The Secretary shall, and any other interested agency may, designate a representative to participate as an observer with the Committee. These representatives shall, as appropriate, report to and advise the Committee on matters relating to vessels to which this chapter applies which are under the jurisdiction of their respective agencies. The Secretary's designated representative shall act as executive secretary for the Committee and perform the duties set forth in section 10(c) of the Federal Advisory Committee Act (5 App. U.S.C.).

"(c)(1) The Secretary shall, whenever practicable, consult with the Committee before taking any significant action relating to the safe operation of vessels to which this chapter applies.

"(2) The Secretary shall consider the information, advice, and recommendations of the Committee in consulting with other agencies and the public or in formulating policy regarding the safe operation of vessels to which this chapter applies.

"(d)(1) A member of the Committee who is not an officer or employee of the United States or a member of the Armed Forces, when attending meetings of the Committee or when otherwise engaged in the business of the Committee, is entitled to receive—

"(A) compensation at a rate fixed by the Secretary, not exceeding the daily equivalent of the current rate of basic pay in effect for GS-18 of the General Schedule under section 5332 of title 5 including travel time; and

"(B) travel or transportation expenses under section 5703 of title 5.

"(2) Payments under this section do not render a member of the Committee an officer or employee of the United States or a member of the Armed Forces for any purpose.

"(3) A member of the Committee who is an officer or employee of the United States or a member of the Armed Forces may not receive additional pay based on the member's service to the Committee.

"(4) The provisions of this section relating to an officer or employee of the United States or a member of the Armed Forces do not apply to a member of a reserve component of the Armed Forces unless that member is in an active status.

"(e)(1) The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) applies to the Committee, except that the Committee terminates on September 30, 1992. Termination date.

"(2) Two years prior to the termination date referred to in paragraph (1) of this subsection, the Committee shall submit to Congress its recommendation regarding whether the Committee should be renewed and continued beyond the termination date.".

(b) INITIAL APPOINTMENTS TO COMMERCIAL FISHING INDUSTRY ADVISORY COMMITTEE.— 46 USC 4508 note.

(1) TERMS OF INITIAL APPOINTMENTS.—Of the members first appointed to the Commercial Fishing Industry Advisory Committee under section 4508 of title 46, United States Code (as amended by this Act)—

(A) one-third of the members shall serve a term of one year and one-third of the members shall serve a term of two years, to be determined by lot at the first meeting of the Committee; and

(B) terms may be adjusted to coincide with the Government's fiscal year.

(2) COMPLETION OF INITIAL APPOINTMENTS.—The Secretary shall complete appointment of members pursuant to this subsection not later than 90 days after the date of the enactment of this Act.

(c) REPEAL.—Subsection (e) of section 4102 of title 46, United States Code, is repealed.

46 USC 7101 note.

SEC. 3. PLAN FOR LICENSING OPERATORS OF FISHING INDUSTRY VESSELS.

The Secretary of the department in which the Coast Guard is operating shall, within two years after the date of enactment of this Act, and in close consultation with the Commercial Fishing Industry Vessel Advisory Committee established under section 4508 of title 46, United States Code (as amended by this Act), prepare and submit to the Congress a plan for the licensing of operators of documented fishing, fish processing, and fish tender vessels. The plan shall take into consideration the nature and variety of the different United States fisheries and of the vessels engaged in those fisheries, the need to license all operators or only those working in certain types of fisheries or vessels, and other relevant factors.

SEC. 4. ACCIDENT DATA STATISTICS.

(a) COMPILATION AND SUBMISSION OF DATA.—Chapter 61 of title 46, United States Code, is amended by adding at the end the following new section:

Records. Insurance. 46 USC 6104.

"§ 6104. Commercial fishing industry vessel casualty statistics

"(a) The Secretary shall compile statistics concerning marine casualties from data compiled from insurers of fishing vessels, fish processing vessels, and fish tender vessels.

"(b) A person underwriting primary insurance for a fishing vessel, fish processing vessel, or fish tender vessel shall submit periodically to the Secretary data concerning marine casualties that is required by regulations prescribed by the Secretary.

Regulations.

"(c) After consulting with the insurance industry, the Secretary shall prescribe regulations under this section to gather a statistical base for analyzing vessel risks.

"(d) The Secretary may delegate to a qualified person that has knowledge and experience in the collection of statistical insurance data the authority of the Secretary under this section to compile statistics from insurers.".

(b) PENALTY.—Section 6103 of title 46, United States Code, is amended as follows:

(1) before "An" insert "(a)"; and

(2) add the following new subsection:

"(b) A person failing to comply with section 6104 of this title or a regulation prescribed under that section is liable to the Government for a civil penalty of not more than $5,000.".

(c) CONFORMING AMENDMENT.—The analysis for chapter 61 of title 46, United States Code, is amended by adding at the end the following:

"6104. Commercial fishing industry vessel casualty statistics.".

SEC. 5. STUDIES.

46 USC 4502 note.

(a) FISHING INDUSTRY VESSEL INSPECTION STUDY.—The Secretary of Transportation, utilizing the National Academy of Engineering and in consultation with the National Transportation Safety Board, the Commercial Fishing Industry Vessel Advisory Committee, and the fishing industry, shall—

(1) conduct a study of the safety problems on fishing industry vessels;

(2) make recommendations regarding whether a vessel inspection program should be implemented for fishing vessels, fish tender vessels, and fish processing vessels, including recommendations on the nature and scope of that inspection; and

(3) submit the study and recommendations to Congress before January 1, 1990.

(b) UNCLASSIFIED FISH PROCESSING VESSEL STUDY.—The Secretary of the department in which the Coast Guard is operating, in consultation with the Commercial Fishing Industry Vessel Advisory Committee established under section 4508 of title 46, United States Code (as amended by this Act), and with representatives of persons operating fish processing vessels—

(1) shall conduct a study of fish processing vessels that are not surveyed and classed by an organization approved by the Secretary;

(2) shall make recommendations regarding what hull and machinery requirements should apply to vessels described in paragraph (1) to ensure that those vessels are operated and maintained in a condition in which they are safe to operate at sea; and

(3) shall submit the study and recommendations to Congress before July 28, 1991.

SEC. 6. FISHING VOYAGE REQUIREMENTS.

(a) ENACTMENT OF NEW CHAPTER IN TITLE 46.—Title 46, United States Code, is amended by inserting after chapter 105 the following:

"CHAPTER 106—FISHING VOYAGES

"Sec.
"10601. Fishing agreements.
"10602. Recovery of wages and shares of fish under agreement.
"10603. Seaman's duty to notify employer regarding illness, disability, and injury.

"§ 10601. Fishing agreements

46 USC 10601.

"(a) Before proceeding on a voyage, the master or individual in charge of a fishing vessel, fish processing vessel, or fish tender vessel shall make a fishing agreement in writing with each seaman enployed on board if the vessel is—

"(1) at least 20 gross tons; and

"(2) on a voyage from a port in the United States.

"(b) The agreement shall be signed also by the owner of the vessel.

"(c) The agreement shall—

"(1) state the period of effectiveness of the agreement;

Wages.

"(2) include the terms of any wage, share, or other compensation arrangement peculiar to the fishery in which the vessel will be engaged during the period of the agreement; and

"(3) include other agreed terms.

46 USC 10602.

"§ 10602. Recovery of wages and shares of fish under agreement

"(a) When fish caught under an agreement under section 10601 of this title are delivered to the owner of the vessel for processing and are sold, the vessel is liable in rem for the wages and shares of the proceeds of the seamen. An action under this section must be brought within six months after the sale of the fish.

"(b)(1) In an action under this section, the owner shall produce an accounting of the sale and division of proceeds under the agreement. If the owner fails to produce the accounting, the vessel is liable for the highest value alleged for the shares.

"(2) The owner may offset the value of general supplies provided for the voyage and other supplies provided the seaman bringing the action.

"(c) This section does not affect a common law right of a seaman to bring an action to recover the seaman's share of the fish or proceeds.

46 USC 10603.

"§ 10603. Seaman's duty to notify employer regarding illness, disability, and injury

"(a) A seaman on a fishing vessel, fish processing vessel, or fish tender vessel shall notify the master or individual in charge of the vessel or other agent of the employer regarding any illness, disability, or injury suffered by the seaman when in service to the vessel not later than seven days after the date on which the illness, disability, or injury arose.

Regulations.

"(b) The Secretary shall prescribe regulations requiring that each fishing vessel, fish processing vessel, and fish tender vessel shall have on board a placard displayed in a prominent location accessible to the crew describing the seaman's duty under subsection (a) of this section.".

(b) CONFORMING AMENDMENT.—The table of contents at the beginning of title 46, United States Code, is amended by inserting after the item relating to chapter 105 the following:

"106. Fishing voyages.....10601.".

(c) REPEALS.—Sections 4391, 4392, 4393, and 4394 of the Revised Statutes of the United States (46 App. U.S.C. 531–534) are repealed.

46 USC 4501 note.

SEC. 7. TRANSITIONAL PROVISION.

Until July 28, 1990, a foreign built fish processing vessel subject to chapter 45 of title 46, United States Code, is deemed to comply with the requirements of that chapter if—

(1) it has an unexpired certificate of inspection issued by a foreign country that is a party to an International Convention for Safety of Life at Sea to which the United States Government is a party; and

(2) it is in compliance with the safety requirements of that foreign country that apply to that vessel.

SEC. 8. TECHNICAL AND CONFORMING AMENDMENTS.

(a) IMMERSION SUITS.—

(1) REQUIREMENT.—Section 3102 of title 46, United States Code, is amended by striking "exposure" each place it appears and inserting in lieu thereof "immersion".

(2) SECTION HEADING.—The section heading for section 3102 of that title is amended by striking "**Exposure**" and inserting in lieu thereof "**Immersion**".

(3) ANALYSIS.—The chapter analysis for chapter 31 of that title is amended by striking "Exposure" and inserting in lieu thereof "Immersion".

(b) OTHER UNINSPECTED VESSEL REQUIREMENTS.—Section 4101 of title 46, United States Code, is amended by inserting "not subject to chapter 45 of this title" after "uninspected vessel".

(c) MAJOR CONVERSION DEFINED.—

(1) DEFINITION.—Section 2101 of title 46, United States Code, is amended by inserting after paragraph (14) the following:

"(14a) 'major conversion' means a conversion of a vessel that—

"(A) substantially changes the dimensions or carrying capacity of the vessel;

"(B) changes the type of the vessel;

"(C) substantially prolongs the life of the vessel; or

"(D) otherwise so changes the vessel that it is essentially a new vessel, as decided by the Secretary.".

(2) REPEAL.—Section 3701(2) of title 46, United States Code, is repealed.

Approved September 9, 1988.

LEGISLATIVE HISTORY—H.R. 1841:

HOUSE REPORTS: No. 100-729 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 27, 28, considered and passed House.
Aug. 11, considered and passed Senate.

○

Public Law 100-425
100th Congress

An Act

Sept. 9, 1988
[H.R. 4143]

To establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

25 USC 713f note. Contracts.

SECTION 1. ESTABLISHMENT OF RESERVATION.

(a) LANDS HELD IN TRUST; RESERVATION.—Subject to valid existing rights, including (but not limited to) all valid liens, rights-of-way, reciprocal road rights-of-way agreements, licenses, leases, permits, and easements existing on the date of enactment of this Act, all right, title, and interest of the United States in and to the land described in subsection (c) is hereby held in trust for the use and benefit of the Confederated Tribes of the Grand Ronde Community of Oregon. Such land shall constitute the reservation of the Confederated Tribes of the Grand Ronde Community of Oregon and shall be subject to the Act entitled "An Act to conserve and develop Indian lands and resources; to extend to Indians the right to form business and other organizations; to establish a credit system for Indians; to grant certain rights of home rule to Indians; to provide for vocational education for Indians; and for other purposes", approved June 18, 1934 (25 U.S.C. 461 et seq.).

(b) TREATMENT OF RECEIPTS FROM RESERVATION LANDS.—Beginning on the date of enactment of this Act, all receipts from the lands described in subsection (c) shall accrue to the Confederated Tribes of the Grand Ronde Community of Oregon. This subsection shall not apply to receipts from timber on such lands which was removed before the date of enactment of this Act.

Forests and forest products.

(c) LANDS DESCRIBED.—The lands referred to in subsection (a) are approximately 9,811.32 acres of land located in Oregon and more particularly described as:

Willamette Meridian, Oregon

Township South	Range West	Section	Subdivision	Acres
4	8	36	SE¼SE¼	40.00
4	7	31	Lots 1, 2, NE¼E½, NW¼	320.89
5	7	6	All	634.02
5	7	7	All	638.99
5	7	18	Lots 1&2, NE¼E½, NW¼	320.07
5	8	1	SE¼	160.00
5	8	3	All	635.60
5	8	7	All	661.75
5	8	8	All	640.00
5	8	9	All	640.00
5	8	10	All	640.00
5	8	11	All	640.00
5	8	12	All	640.00
5	8	13	All	640.00
5	8	14	All	640.00
5	8	15	All	640.00

South	West	Section	Subdivision	Acres
5	8	16	All	640.00
5	8	17	All	640.00
Total				9,811.32

SEC. 2. HUNTING, FISHING, AND TRAPPING.

25 USC 713f note. Courts, U.S.

The establishment of the Grand Ronde Reservation, and the addition of lands to the reservation after the date of the enactment of this Act, shall not grant or restore to the Confederated Tribes of the Grand Ronde Community of Oregon, or to any member of the Confederated Tribes of the Grand Ronde Community of Oregon, any hunting, fishing, or trapping right of any nature, including any indirect or procedural right or advantage, beyond the rights which are declared and set forth in the final judgment and decree of the United States District Court for the District of Oregon, in the action entitled "Confederated Tribes of the Grand Ronde Community of Oregon against the State of Oregon", entered on January 12, 1987. Those rights as declared and set forth in the January 12, 1987, final judgment and decree shall constitute the exclusive and final determination of all tribal rights to hunt, fish, and trap that the Confederated Tribes of the Grand Ronde Community of Oregon or its members possess.

SEC. 3. CIVIL AND CRIMINAL JURISDICTION.

25 USC 713f note.

The State of Oregon shall exercise criminal and civil jurisdiction over the reservation, and over individuals on the reservation, in accordance with section 1162 of title 18, United States Code, and section 1360 of title 28, United States Code.

SEC. 4. TREATMENT OF CERTAIN LANDS AS REVESTED OREGON AND CALIFORNIA RAILROAD GRANT LANDS.

25 USC 713f note.

(a) IN GENERAL.—The lands described in subsection (b) shall hereafter be managed under the Act entitled "An Act relating to the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands situated in the State of Oregon", approved August 28, 1937 (43 U.S.C. 1181a et seq.). Beginning on the date of enactment of this Act, all moneys received from or on account of those lands shall be deposited in the Treasury of the United States in the special fund designated "Oregon and California land-grant fund" and shall be distributed as provided in such Act. This subsection shall not apply to receipts from timber on such lands which was removed before the date of enactment of this Act.

Forests and forest products.

(b) LANDS DESCRIBED.—The lands referred to in subsection (a) are those lands located in Oregon, comprised of approximately 12,035.32 acres and more particularly described as:

Willamette Meridian, Oregon

Township Range

South	West	Section	Subdivision	Acres
1	6	30	Lots 1-4, S½NE¼, E½W½, N½SE¼, SW¼SE¼	537.01
2	6	20	E½SE¼, SW¼SE¼	120.00
2	6	28	Lots 4, 5, 9, 16	169.46
2	6	34	NW¼NW¼	40.00
3	6	8	SW¼SE¼	40.00
3	6	18	Lots 1-4, N½NE¼, E½NW¼, NE¼SW¼	507.88
3	6	20	E½	320.00

economic development purposes. The Tribes shall place into that separate account an amount equal to 30 percent of the income from tribal timber resources received into the Tribes' Federal trust funds account. The Tribes may expend funds from that separate account for economic development purposes.

Approved September 9, 1988.

LEGISLATIVE HISTORY—H.R. 4143:

HOUSE REPORTS: No. 100-631 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-479 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Aug. 11, considered and passed Senate.

○

Public Law 100-426
100th Congress

An Act

Sept. 9, 1988
[H.R. 4318]

To improve the administration of the personnel systems of the General Accounting Office.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

General Accounting Office Personnel Amendments Act of 1988.
31 USC 701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "General Accounting Office Personnel Amendments Act of 1988".

SEC. 2. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 31, United States Code.

TITLE I—PERSONNEL APPEALS BOARD

SEC. 101. MEMBERS.

(a) 3 YEARS OF EXPERIENCE IN ADJUDICATION OR ARBITRATION NOT A PREREQUISITE.—Section 751(a) is amended by striking paragraph (1) and by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(b) CANDIDATES RECOMMENDED NEED ONLY BE CONSIDERED.—Paragraph (1) of section 751(b) is amended to read as follows:

"(1) after considering any candidates who are recommended to the Comptroller General (at such time and in such manner as the Comptroller General requires) by organizations composed primarily of individuals experienced in adjudicating or arbitrating personnel matters; and".

(c) TERMS OF OFFICE.—Section 751(c) is amended—

(1) by striking "The" in the first sentence and inserting "(1) Except as provided in paragraph (2), the";

(2) by striking "3" each place it appears and inserting "5"; and

(3) by adding at the end the following:

"(2)(A) The term of a member serving on the date of the enactment of the General Accounting Office Personnel Amendments Act of 1988 shall be as follows:

"(i) Of the 2 members appointed in 1985, the term of 1 such member shall be 5 years, and the term of the other such member shall be 6 years.

"(ii) Of the 2 members appointed in 1986, the term of 1 such member shall be 6 years, and the term of the other such member shall be 7 years.

"(iii) The term of the member appointed in 1987 shall be 7 years.

"(B) Within 60 days after the date referred to in subparagraph (A), the Comptroller General shall determine—

"(i) with respect to the members under subparagraph (A)(i), which will have a term of 5 years and which will have a term of 6 years; and

"(ii) with respect to the members under subparagraph (A)(ii), which will have a term of 6 years and which will have a term of 7 years.

"(C) A term established for a member under this paragraph shall be measured—

"(i) from the date on which the member was originally appointed; or

"(ii) in the case of a member serving for the unexpired portion of a term, from the appointment date of the individual who was originally appointed to serve for such term.".

SEC. 102. PAY RATES.

(a) GENERAL COUNSEL.—The second sentence of section 752(b)(2) is amended to read as follows: "The rate of basic pay of the General Counsel may be not more than the maximum rate of basic pay payable for grade GS-16 of the General Schedule.".

(b) MEMBERS.—The first sentence of section 751(e) is amended to read as follows: "While carrying out a member's duties (including travel), a member who is not an officer or employee of the United States Government is entitled to basic pay at a rate equal to the daily rate of basic pay payable for grade GS-18 of the General Schedule.".

SEC. 103. JUDICIAL REVIEW.

(a) JURISDICTION OF COURTS.—Section 755 is amended by striking "District of Columbia Circuit or by the court of appeals of the United States for the circuit in which the petitioner resides." and inserting "Federal Circuit.".

(b) ATTORNEY'S FEES IN DISCRIMINATION CASES.—Section 755 as amended by subsection (a), is further amended—

(1) by inserting "(a)" immediately before the beginning of the first sentence; and

(2) by adding at the end the following:

"(b) If an officer, employee, or applicant for employment is the prevailing party in a proceeding under this section, and the decision is based on a finding of discrimination prohibited under section 732(f) of this title, attorney's fees may be allowed by the court in accordance with the standards prescribed under section 706(k) of the Civil Rights Act of 1964.".

(c) APPLICABILITY.—Nothing in any of the amendments made by this section shall apply with respect to an appeal pending on the date of the enactment of this Act. 31 USC 755 note.

TITLE II—RETIREMENT AND ANNUITIES

SEC. 201. ELIGIBILITY REQUIREMENTS FOR RETIREMENT.

Section 703(e)(1) is amended by striking "retires on becoming 70 years of age." and inserting "may retire after becoming 70 years of age and completing 10 years of service as Comptroller General or Deputy Comptroller General (as the case may be).".

SEC. 202. DEFINITIONS.

(a) DEPENDENT CHILD.—Section 771(1) is amended by striking "or" at the end of subparagraph (A), by striking the period at the end of subparagraph (B) and inserting "; or", and by adding after subparagraph (B) the following:

"(C) between 18 and 22 years of age and is a student regularly pursuing a full-time course of study or training in residence in a high school, trade school, technical or vocational institute, junior college, college, university, or comparable recognized educational institution. For the purposes of this subchapter, a child whose 22nd birthday occurs before July 1 or after August 31 of a calendar year, and while such child is regularly pursuing such a course of study or training, is deemed to have become 22 years of age on the first day of July after that birthday. A child who is a student is deemed not to have ceased to be a student during an interim period between school years if the interim period is not more than 5 months and if such child shows to the satisfaction of the General Counsel of the General Accounting Office that such child has a bona fide intention of continuing in the same or a different school during the school semester (or other period into which the school year is divided) immediately after the interim period.".

(b) SURVIVING SPOUSE.—Section 771(2) is amended—

(1) in subparagraph (A), by striking "2 years" and inserting "1 year"; and

(2) in subparagraph (B), by inserting "before age 55" after "remarried".

SEC. 203. ANNUITY OF THE COMPTROLLER GENERAL.

Section 772 is amended—

(1) in subsection (a), by striking "is retired for age under section 703(e)(1) of this title after serving at least 10 years" and inserting "retires under section 703(e)(1) of this title"; and

(2) in subsection (c), by striking "subchapter III of chapter 83 of title 5 remains subject to subchapter III" and inserting "subchapter III of chapter 83 or chapter 84 of title 5 remains subject to such subchapter III or such chapter 84 (as the case may be)".

SEC. 204. ELECTION OF SURVIVOR BENEFITS.

Section 773 is amended—

(1) in subsection (b)(1), by inserting "5 percent of the" before "annuity";

(2) in subsection (b)(2)(C), by striking "4.5" and inserting "3"; and

(3) by adding after subsection (c) the following:

"(d) The reduction in the Comptroller General's annuity under subsection (b)(1) for the purpose of providing survivor benefits shall be terminated for each full month after the death of the spouse.".

SEC. 205. SURVIVOR ANNUITIES.

Section 774 is amended—

(1) in subsection (b), by striking "5 years" each place it appears and inserting "18 months";

(2) in subsection (c), by amending paragraphs (2) and (3) to read as follows:

"(2) by a spouse and a dependent child, the surviving spouse shall receive an immediate annuity computed under subsection (d) of this section and each dependent child shall receive an immediate annuity equal to the smaller of—

"(A) 10 percent of the average annual pay computed under subsection (d)(1) of this section; or

"(B) 20 percent of the average annual pay computed under subsection (d)(1) of this section, divided by the number of dependent children; or

"(3) only by a dependent child, each dependent child shall receive an immediate annuity equal to the smaller of—

"(A) the annuity a surviving spouse would be entitled to receive under clause (2) of this subsection, divided by the number of dependent children;

"(B) 20 percent of the average annual pay computed under subsection (d)(1) of this section; or

"(C) 40 percent of the average annual pay computed under subsection (d)(1) of this section, divided by the number of dependent children.";

(3) in subsection (d)(1), by striking "1.25" and inserting "1.5"; and

(4) in subsection (e), by amending the first sentence to read as follows: "A surviving spouse's annuity may not be more than 50 percent nor less than 25 percent of the average annual pay computed under subsection (d)(1) of this section.".

SEC. 206. PAYMENT OF SURVIVOR BENEFITS.

Section 776(b) is amended—

(1) in paragraph (1), by inserting "before age 55" after "remarries"; and

(2) in paragraph (2), by striking "age," and inserting "age (unless the child is then a student as described in section 771(1)(C) of this title),".

SEC. 207. ANNUITY INCREASES.

Section 777 is amended to read as follows:

"§ 777. Annuity increases

"(a) An annuity payable under this subchapter shall be increased at the same time that, and by the same percent as the percentage by which, annuities are increased under section 8340(b) of title 5.

"(b) An annuity under section 772 of this title may not be more than the basic pay of the Comptroller General. A surviving spouse's annuity may be increased under this section without regard to any limitation set forth in section 774(e) of this title.".

SEC. 208. EFFECTIVE DATE. 31 USC 772 note.

The amendments made by this title shall be effective after the end of the 60-day period beginning on the date of enactment of this Act, except that an individual who, as of such date of enactment, is receiving an annuity under subchapter V of chapter 7 of title 31, United States Code, as a retired Comptroller General (and the spouse and any dependent children of such individual who may survive such individual) shall remain subject to the provisions of such subchapter, as in effect immediately before such date, if the retired Comptroller General makes an election under this section. An election under this section shall be ineffective unless it is made

in writing and received by the General Counsel of the General Accounting Office before the end of the 60-day period referred to in the preceding sentence.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. PREVAILING RATE EMPLOYEES.

Section 5349(a) of title 5, United States Code, is amended by inserting "the General Accounting Office," after "the Government Printing Office,".

SEC. 302. MAXIMUM NUMBER OF POSITIONS PAYABLE AT GS-18.

Section 732(c)(4) is amended—

(1) by striking "119" and inserting "129"; and

(2) by striking "the highest rate for GS-18," and inserting "the rate of basic pay payable for grade GS-18 of the General Schedule,".

SEC. 303. TECHNICAL AND CONFORMING AMENDMENTS.

Section 732(c)(3) is amended by striking "in section 733(a)(3)(B) of this title," and inserting "under section 733(a)(3)(B) of this title or section 5349(a) of title 5,".

Approved September 9, 1988.

LEGISLATIVE HISTORY—H.R. 4318:

HOUSE REPORTS: No. 100-599, Pt. 1 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 100-463 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 9, considered and passed House.
Aug. 11, considered and passed Senate.

Public Law 100-427
100th Congress

An Act

To make clarifying, corrective, and conforming amendments to laws relating to Indian education, and for other purposes.

Sept. 9, 1988
[H.R. 5174]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BUREAU FUNDED SCHOOLS.

(a) FACTORS.—Section 1121(k)(1) of the Education Amendments of 1978 (25 U.S.C. 2001(k)(1)) is amended—

(1) in subparagraph (A)(i)—

(A) by striking out "has not previously received funds from the Bureau" and inserting in lieu thereof "is not a Bureau funded school";

(B) by striking out "Bureau school board" and inserting in lieu thereof "school board of any Bureau funded school";

(C) by striking out "has not previously been operated or funded by the Bureau" in subclause (I) and inserting in lieu thereof "is not a Bureau funded school"; and

(D) by striking out "any program currently funded by the Bureau" in subclause (II) and inserting in lieu thereof "a Bureau funded school"; and

(2) in subparagraph (B)(iii), by striking out "a Bureau operated program" and inserting in lieu thereof "a Bureau funded school".

(b) APPLICATION.—Section 1121(k)(6)(A) of the Education Amendments of 1978 (25 U.S.C. 2001(k)(6)(A)) is amended—

(1) by striking out "tribally controlled school" and inserting in lieu thereof "contract school"; and

(2) by striking out "the date of enactment of this Act" and inserting in lieu thereof "April 28, 1988,".

(c) DEFINITIONS.—(1) Section 1139 of the Education Amendments of 1978 (25 U.S.C. 2019) is amended—

(A) by redesignating paragraphs (10) through (12) as paragraphs (11) through (13), respectively; and

(B) by inserting after paragraph (9) the following new paragraph:

"(10) the term 'Office' means the Office of Indian Education Programs within the Bureau;".

(2) Section 1139(5) of the Education Amendments of 1978 (25 U.S.C. 2019) is amended—

(A) by striking out "104(1)" and inserting in lieu thereof "104(a)"; and

(B) by striking out "450h(1)" and inserting in lieu thereof "450h(a)".

(3) Section 1126(a) of the Education Amendments of 1978 (25 U.S.C. 2006(a)) is amended by striking out "(hereinafter referred to as the 'Office')".

SEC. 2. ALLOTMENT FORMULA.

(a) FISCAL YEAR 1990.—Section 1128(c)(1)(B) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(1)(B)) is amended by striking out "an average daily attendance of" and inserting in lieu thereof "an enrollment of".

(b) TECHNICAL AMENDMENTS.—(1) Clause (i) of section 1128(c)(4)(A) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(4)(A)) is amended by striking out "Amendments" and inserting in lieu thereof "Act".

(2) Clause (iii) of section 5107(b)(1)(A) of the Indian Education Amendments of 1988 (20 U.S.C. 1411 note) is amended—

(A) by striking out "602(1)" and inserting in lieu thereof "602(a)(1)"; and

(B) by striking out "401(1)" and inserting in lieu thereof "1401(a)(1)".

(c) CONTRACT SCHOOLS TREATED AS POLITICAL SUBDIVISIONS.—Section 1128(c)(5) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(5)) is amended by striking out "schools operated by Indian tribes" and inserting in lieu thereof "contract schools".

SEC. 3. EMERGENCIES AND UNFORESEEN CONTINGENCIES.

Section 1128(d) of the Education Amendments of 1978 (25 U.S.C. 2008(d)) is amended to read as follows:

"(d) The Secretary shall reserve from the funds available for distribution for each fiscal year under this section an amount which, in the aggregate, shall equal 1 percent of the funds available for such purpose for that fiscal year. Such funds shall be used, at the discretion of the Director of the Office, to meet emergencies and unforeseen contingencies affecting the education programs funded under this section. Funds reserved under this subsection may only be expended for education services or programs at a schoolsite (as defined in section 5204(c)(2) of the Tribally Controlled Schools Act of 1988). Funds reserved under this subsection shall remain available without fiscal year limitation until expended. However, the aggregate amount available from all fiscal years may not exceed 1 percent of the current year funds. Whenever the Secretary makes funds available under this subsection, the Secretary shall report such action to the appropriate committees of Congress within the annual budget submission.".

Reports.

SEC. 4. ADMINISTRATIVE COST GRANTS.

(a) AMOUNT OF GRANT; RATE APPLICABLE ONLY TO EDUCATIONAL ACTIVITIES.—Section 1128A(b)(1) of the Education Amendments of 1978 (25 U.S.C. 2008a(b)(1)) is amended—

(1) by striking out "to each of the direct cost education programs" and inserting in lieu thereof "to the aggregate of the Bureau elementary and secondary functions"; and

(2) by adding at the end thereof the following new sentence: "The administrative cost percentage rate determined under subsection (c) does not apply to other programs operated by the tribe or tribal organization.".

(b) SINGLE ADMINISTRATIVE COST ACCOUNT.—Subsection (d)(1)(A) of section 1128A of the Education Amendments of 1978 (25 U.S.C. 2008a) is amended by inserting "tribe or" before "contract school" each place it appears.

(c) STUDIES.—Subsection (f) of section 1128A of the Education Amendments of 1978 (25 U.S.C. 2008a) is amended—

(1) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively; and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) In carrying out the studies required under this subsection, the Secretary shall obtain the input of, and afford an opportunity to participate to, the Inspector General of the Department of the Interior.".

(d) GRANT SCHOOLS.—Section 1128A of the Education Amendments of 1978 (25 U.S.C. 2008a) is amended by adding at the end thereof the following new subsection:

"(i) The provisions of this section shall also apply to those schools operating under the Tribally Controlled Schools Act of 1988.".

SEC. 5. SCHOOL BOARD TRAINING.

(a) EFFECTIVE DATE.—Paragraph (3) of section 1128(c) of the Education Amendments of 1978 (25 U.S.C. 2008(c)) is amended by adding at the end thereof the following new subparagraph:

"(D) This paragraph shall take effect on October 1, 1989.".

(b) SET-ASIDE AMOUNT.—Clause (ii) of section 1128(c)(3)(C) of the Education Amendments of 1978 (25 U.S.C. 2008(c)(3)(C)) is amended by striking out "2 percent" and inserting in lieu thereof "1 percent".

SEC. 6. COORDINATED PROGRAMS.

Section 1129(f)(1) of the Education Amendments of 1978 (25 U.S.C. 2009(f)(1) is amended—

(1) by striking out "a school" and inserting in lieu thereof "a Bureau school";

(2) by striking out "whose children are served by a program operated by the Bureau";

(3) by striking out "education programs operated by the Bureau" and inserting in lieu thereof "the school"; and

(4) in subparagraph (A), by striking out "if a facility operated by the Bureau which is currently accredited by a State or regional accrediting entity would continue to be accredited" and inserting in lieu thereof "unless the Bureau school is currently accredited by a State or regional accrediting entity and would not continue to be so accredited".

SEC. 7. CONSULTATION.

Section 1130(b)(2) of the Education Amendments of 1978 (25 U.S.C. 2010(b)(2)) is amended by striking out "from information educed or presented during the discussions" and substituting in lieu thereof "from information educed or presented by the interested parties during one or more of the discussions and deliberations.".

SEC. 8. PERSONNEL STUDIES.

Section 5113 of the Indian Education Amendments of 1988 (25 U.S.C. 2011 note) is amended—

(1) in subsection (a)(2), by striking out "schools operated within the United States" and inserting in lieu thereof "elementary and secondary schools operated"; and

(2) in subsection (e), by striking out "11" and inserting in lieu thereof "XI".

SEC. 9. REGULAR COMPENSATION OF BUREAU EDUCATORS: NON-VOLUNTARY FURLOUGHS.

(a) COMPENSATION.—Section 1131(h)(1) of the Education Amendments of 1978 (25 U.S.C. 2011(h)(1)) is amended—

(1) in subparagraph (B), by striking out "the close of the 6-month period beginning on the date of enactment of the Indian Education Amendments of 1988" and inserting in lieu thereof "October 28, 1988";

(2) in subparagraph (C), by striking out "the close of the 6-month period described in subparagraph (B)" and inserting in lieu thereof "October 28, 1988";

(3) in subparagraph (C)(i), by striking out "the date of enactment of the Indian Education Amendments of 1988" and inserting in lieu thereof "April 28, 1988,";

(4) in subparagraph (E)(i), by striking out "any individual employed in an education position on the day before the date of enactment of the Indian Education Amendments of 1988 if this paragraph did not apply to such individual on such day" and inserting in lieu thereof "an educator who was employed in an education position on October 31, 1979, and who did not make the election under paragraph (2) of subsection (o)"; and

(5) in subparagraph (E)(iii), by inserting before the period ", except that the individual must use leave accrued during a contract period by the end of that contract period".

(b) APPLICATION.—Section 1131(o) of the Education Amendments of 1978 (25 U.S.C. 2011(o)) is amended—

(1) in paragraph (1)—

(A) by striking out "This section shall apply with respect to any individual hired after the effective date of subsection (a)(2) for employment in an education position" and inserting in lieu thereof "Subsections (a) through (n) of this section apply to an educator hired after November 1, 1979 (and to an educator who elected application under paragraph (2))"; and

(B) by striking out "any individual employed immediately before the effective date of subsection (a)(2)" and inserting in lieu thereof "an individual employed on October 31, 1979"; and

(2) in paragraph (2)—

(A) by striking out "position immediately before the effective date of subsection (a)(2) may, within five years of the date of enactment of this Act" and inserting in lieu thereof "position on October 31, 1979, may, not later than November 1, 1983"; and

(B) by inserting "of subsections (a) through (n)" after "provisions".

(c) FURLOUGHS.—Section 1131(p)(1) of the Education Amendments of 1978 (25 U.S.C. 2011(p)(1)) is amended—

(1) by striking out "No educator whose basic compensation is paid from funds allocated under section 1128 may be" and inserting in lieu thereof "An educator who was employed in an education position on October 31, 1979, who was eligible to make an election under paragraph (2) of subsection (o) at that time, and who did not make the election under paragraph (2) of subsection (o), may not be";

(2) in subparagraph (A), by striking out "a shortage of funds" and inserting in lieu thereof "an insufficient amount of funds available for personnel compensation at such school, as determined under the financial plan process as determined under section 1129(b) of this Act"; and

(3) by inserting before the period at the end of subparagraph (B) ", except that the supervisor, with the approval of the local school board (or of the agency superintendent for education upon appeal under paragraph (2)), may continue one or more educators in pay status if (i) they are needed to operate summer programs, attend summer training sessions, or participate in special activities including (but not limited to) curriculum development committees, and (ii) they are selected based upon their qualifications, after public notice of the minimum qualifications reasonably necessary and without discrimination as to supervisory, nonsupervisory, or other status of the educators who apply".

Discrimination, prohibition.

(d) FINANCIAL PLANS.—Section 1129 of the Education Amendments of 1978 (25 U.S.C. 2009) is amended by adding after the first sentence of subsection (b) the following new sentence: "The supervisor shall provide the appropriate union representative of the education employees with copies of proposed draft financial plans and all amendments or modifications thereto, at the same time they are submitted to the local school board.".

SEC. 10. GRANTS.

Contracts.

(a) IN GENERAL.—Section 5204(a)(1) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2503(a)(1)) is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) operate contract schools under title XI of the Education Amendments of 1978 and notify the Secretary of their election to operate the schools with assistance under this part rather than continuing as contract schools;

"(B) operate other tribally controlled schools eligible for assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants; or

"(C) elect to assume operation of Bureau schools with assistance under this part and submit applications (which are approved by their tribal governing bodies) to the Secretary for such grants.".

(b) RETROCESSION.—Section 5204(f) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2503(f)) is amended—

(1) by adding the following at the end thereof:

"The tribe requesting retrocession shall specify whether the retrocession is to status as a Bureau school or as a contract school under title XI of the Education Amendments of 1978. Except as otherwise determined by the Secretary, the tribe or tribal organization operating the program to be retroceded must transfer to the Secretary (or to the tribe or tribal organization which will operate the program as a contract school) the existing equipment and materials which were acquired—

"(1) with assistance under this part, or

"(2) upon assumption of operation of the program under this part if it was a Bureau funded school under title XI of the

Education Amendments of 1978 before receiving assistance under this part.";

(2) by striking out "tribe" each place it appears in the first sentence and inserting in lieu thereof "tribal governing body"; and

(3) by striking out "Indian" in the first sentence.

(c) COMPOSITION.—Section 5205(b)(3)(A)(i) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2504(b)(3)(A)(i)) is amended by inserting "chapter 1 of" before "title I".

SEC. 11. ELIGIBILITY FOR GRANTS.

(a) IN GENERAL.—Subparagraphs (A) and (B) of section 5206(a)(1) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505(a)(1)) are amended to read as follows:

Contracts.

"(A) was, on April 28, 1988, a contract school under title XI of the Education Amendments of 1978 and the tribe or tribal organization operating the school submits to the Secretary a written notice of election to receive a grant under this part,

"(B) was a Bureau school under title XI of the Education Amendments of 1978 and has met the requirements of subsection (b),".

(b) ADDITIONAL REQUIREMENTS FOR BUREAU FUNDED SCHOOLS.—Section 5206(b)(1) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505(b)(1)) is amended by striking out "Any school that was operated as a Bureau school on the date of enactment of this Act" and inserting in lieu thereof "A school that was a Bureau funded school under title XI of the Education Amendments of 1978 on April 28, 1988.".

(c) SCHOOLS WHICH ARE NOT BUREAU FUNDED.—Section 5206(c) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505(c)) is amended—

(1) by amending the subsection heading to read "ADDITIONAL REQUIREMENTS FOR A SCHOOL WHICH IS NOT A BUREAU FUNDED SCHOOL.—"; and

(2) in paragraph (1), by striking out "A school for which the Bureau has not provided funds" and inserting in lieu thereof "A school which is not a Bureau funded school under title XI of the Education Amendments of 1978".

(d) APPLICATIONS AND REPORTS.—Section 5206(d)(1) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505(d)(1)) is amended by striking out "the Department of Education" and inserting in lieu thereof "the Bureau of Indian Affairs".

(e) RECORD OF HEARINGS.—Section 5206(f)(1)(C) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2505(f)(1)(C)) is amended by inserting "on the record" after "hearing".

SEC. 12. DURATION OF ELIGIBILITY DETERMINATION.

(a) ROLE OF SECRETARY OF EDUCATION.—Subclause (I) of section 5207(c)(1)(A)(ii) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2506(c)(1)(A)(ii)) is amended by striking out "as determined by" and inserting in lieu thereof "as recognized by".

(b) REVOCATION.—Subclause (V) of section 5207(c)(1)(A)(ii) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2506(c)(1)(A)(ii)) is amended—

(1) by striking out the last sentence and inserting in lieu thereof the following: "If the Secretary and a grantee other than the tribal governing body fail to agree on such an evalua-

tor, the tribal governing body shall choose the evaluator or perform the evaluation. If the Secretary and a grantee which is the tribal governing body fail to agree on such an evaluator, this subclause shall not apply."; and

(2) by inserting "(or revisions of such standards agreed to by the Secretary and the grantee)" after "Education Assistance Act".

(c) APPLICATION.—Section 5207 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507) is amended by adding at the end thereof the following new subsection: 25 USC 2506.

"(d) APPLICABILITY OF SECTION PURSUANT TO ELECTION UNDER SECTION 5209(b).—With respect to a tribally controlled school which receives assistance under this part pursuant to an election made under section 5209(b)—

"(1) subsection (b) of this section shall apply; and

"(2) the Secretary may not revoke eligibility for assistance under this part except in conformance with subsection (c) of this section.".

SEC. 13. PAYMENTS OF GRANTS.

(a) PAYMENT.—Paragraph (2) of section 5208(a) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507(a)) is amended by striking out "under this part" and inserting in lieu thereof "from Bureau funds".

(b) RESTRICTIONS.—Section 5208(a) of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2507(a)) is amended by adding the following new paragraph at the end thereof:

"(3) Paragraphs (1) and (2) of this subsection shall be subject to any restriction on amounts of payments under this part that may be imposed by a continuing resolution or other Act appropriating the funds involved.".

SEC. 14. APPLICATION WITH RESPECT TO INDIAN SELF-DETERMINATION AND EDUCATION ASSISTANCE ACT.

Section 5209 of the Tribally Controlled Schools Act of 1988 (25 U.S.C. 2508) is amended—

(1) in subsection (b) by adding at the end thereof the following:

"(3) In any case in which the 60-day period referred to in paragraph (2)(B) is less than 60 days before the beginning of the succeeding fiscal year, such election shall not take effect until the fiscal year after the fiscal year succeeding the election. For fiscal year 1989, the Secretary may waive this paragraph for elections received prior to September 30, 1988."; and

(2) by adding the following new subsections at the end thereof:

"(d) TRANSFERS AND CARRYOVERS.— Contracts.

"(1) A tribe or tribal organization assuming the operation of a Bureau school with assistance under this part shall be entitled to the transfer or use of buildings, equipment, supplies, and materials to the same extent as if it were contracting under the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(2) A tribe or tribal organization assuming the operation of a contract school with assistance under this part shall be entitled to the transfer or use of the buildings, equipment, supplies, and materials that were used in the operation of the contract school to the same extent as if it were contracting under the Indian

Self-Determination and Education Assistance Act (25 U.S.C. 450 et seq.).

"(3) Any tribe or tribal organization which assumes operation of a Bureau school with assistance under this part and any tribe or tribal organization which elects to operate a school with assistance under this part rather than to continue as a contract school shall be entitled to any funds which would carryover from the previous fiscal year as if such school were operated as a contract school.

Grants.
Contracts.

"(e) EXCEPTIONS, PROBLEMS, AND DISPUTES.—Any exception or problem cited in an audit conducted pursuant to section 5207(b)(2) of this Act, any dispute regarding the amount of a grant under section 5205 (and the amount of any funds referred to in that section), any payments to be made under section 5208 of this Act, and any dispute involving the amount of, or payment of, the administrative grant under section 1128A of the Education Amendments of 1978 (25 U.S.C. 2008a) shall be handled under the provisions governing such exceptions, problems, or disputes in the case of contracts under the Indian Self-Determination and Education Assistance Act of 1975 (Public Law 93-658; 25 U.S.C. 450 et seq.).".

SEC. 15. GRANTS TO LOCAL EDUCATIONAL AGENCIES.

Section 5312 of the Indian Education Act of 1988 (25 U.S.C. 2602) is amended—

(1) by amending subsection (b)(1) to read as follows:

"(1) For any fiscal year for which appropriations are authorized under section 5316 of this Act, the Secretary shall determine the number of Indian children who were enrolled in the schools of each local educational agency that applies for a grant, and for whom such agency provided free public education, during such fiscal year.";

(2) in subsection (b)(2)(A), by striking all after "the product of—" and inserting in lieu thereof the following:

"(i) the number of Indian children determined under paragraph (1), multiplied by

"(ii) the average per pupil expenditure per local educational agency, as determined under subparagraph (C), bears to the sum of such products for all such local educational agencies.";

(3) in the first sentence of subsection (b)(2)(B)—

(A) by striking out "eligible"; and

(B) by inserting "determined under paragraph (1)" after "children";

(4) in subsection (b)(3), by striking out "5315(c)(2)" and inserting in lieu thereof "5315(c)"; and

(5) in subsection (c)(1), by striking out "in accordance with the provisions of this subpart" and inserting in lieu thereof ", on a competitive basis,".

SEC. 16. APPLICATIONS FOR GRANTS; CONDITIONS FOR APPROVAL.

Section 5314 of the Indian Education Act of 1988 (25 U.S.C. 2604) is amended—

(1) in subsection (a)—

(A) by striking out "provided"; and

(B) by striking out "5312(b)" and inserting in lieu thereof "5312(c)";

(2) in subsection (b)(3), by inserting "," after "procedures" the first place it appears;

(3) in subsection (d)(1), by striking out "include a form" and inserting in lieu thereof "be supported by a form, maintained in the files of the applicant,";

(4) in subsection (d)(2)(A)(ii), by striking out "grandparents," and inserting in lieu thereof "grandparents";

(5) in subsection (d)(2)(B), by striking out "applicant" and inserting in lieu thereof "child";

(6) in subparagraphs (C) and (D) of subsection (d)(2), by striking out "or legal guardian" each place it appears;

(7) in subsection (d)(3)—

(A) by inserting "other" before "information"; and

(B) by inserting after the first sentence the following: "In order for a child to be counted in computing the local educational agency's grant award, the eligibility form for the child must contain at least—

"(A) the child's name;

"(B) the name of the tribe, band, or other organized group of Indians; and

"(C) the parent's dated signature."; and

(8) in subsection (e)(1)—

(A) by striking out "education" in subparagraph (A) and inserting in lieu thereof "educational";

(B) by striking out "provide" in subparagraph (B) and inserting in lieu thereof "provided"; and

(C by striking out "education" in subparagraph (C) and inserting in lieu thereof "educational".

SEC. 17. PAYMENTS.

Section 5315(c) of the Indian Education Act of 1988 (25 U.S.C. 2605(c)) is amended to read as follows:

"(c) REDUCTION FOR FAILURE TO MAINTAIN FISCAL EFFORT.—

State and local governments.

"(1) The Secretary shall not pay to any local educational agency its full allotment under section 5312 for any fiscal year unless the State educational agency determines that the combined fiscal effort of that local agency and the State with respect to the provision of free public education by that local agency for the preceding fiscal year, computed on either a per student or aggregate expenditure basis, was at least 90 percent of such combined fiscal effort, computed on the same basis, for the second preceding fiscal year.

"(2) If the Secretary determines for any fiscal year that a local educational agency failed to maintain its expenditures at the 90 percent level required by paragraph (1), the Secretary shall—

"(A) reduce the allocation of funds to that agency in the exact proportion of that agency's failure to maintain its expenditures at that level, and

"(B) not use the reduced amount of the agency's expenditures for the preceding year to determine compliance with paragraph (1) in any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1).

"(3) The Secretary may waive the requirements of this subsection for one fiscal year only if the Secretary determines that a waiver would be equitable due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and

unforeseen decline in the agency's financial resources. The Secretary shall not use the reduced amount of the agency's expenditures for the fiscal year preceding the fiscal year for which a waiver is granted to determine compliance with paragraph (1) in any succeeding fiscal year, but shall use the amount of expenditures that would have been required to comply with paragraph (1) in the absence of a waiver.".

SEC. 18. IMPROVEMENT OF EDUCATIONAL OPPORTUNITIES FOR INDIAN CHILDREN.

(a) TRAINING FOR THOSE SERVING INDIAN STUDENTS.—Section 5321(d) of the Indian Education Act of 1988 (25 U.S.C. 2621(d)) is amended by adding at the end thereof the following:

Grants.

"(4) In making grants under this subsection, the Secretary shall consider prior performance and may not limit eligibility on the basis of the number of previous grants or the length of time for which the applicant has received grants.".

(b) TECHNICAL AMENDMENTS.—Subparagraphs (B) and (C) of section 5321(e)(1) of the Indian Education Act of 1988 (25 U.S.C. 2621(e)(1)) are each amended by striking out "upon request" and inserting in lieu thereof ", upon request,".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 5321(g)(1) of the Indian Education Act of 1988 (25 U.S.C. 2621(g)(1)) is amended by inserting ", other than subsection (e)(1)" after "this section".

SEC. 19. FELLOWSHIPS FOR INDIAN STUDENTS.

(a) TECHNICAL CORRECTION.—Section 5323(a) of the Indian Education Act of 1988 (25 U.S.C. 2623(a)) is amended by striking out "post baccalaureate" and inserting in lieu thereof "postbaccalaureate".

(b) TABLE OF CONTENTS.—The item relating to section 5323 in the table of contents contained in section 1(b) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (102 Stat. 139) is amended to read as follows:

"Sec. 5323. Fellowships for Indian Students.".

SEC. 20. GIFTED AND TALENTED.

(a) DEMONSTRATION PROJECTS.—Section 5324(b)(3)(C) of the Indian Education Act of 1988 (25 U.S.C. 2624(b)(3)(C)) is amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (c)".

(b) ADDITIONAL GRANTS.—Section 5324(c) of the Indian Education Act of 1988 (25 U.S.C. 2624(c)) is amended—

(1) in paragraph (4)(B), by striking out "1128(c)(1)(A)(ii)" and inserting in lieu thereof "1128(c)(4)(A)(i)"; and

(2) in paragraph (7)(A), by striking out "evaluator" and inserting in lieu thereof "demonstration project recipients under subsection (b)".

SEC. 21. OFFICE OF INDIAN EDUCATION.

Section 5341(b)(2)(D) of the Indian Education Act of 1988 (25 U.S.C. 2641(b)(2)(D)) is amended by striking out "Alaskan" and inserting in lieu thereof "Alaska".

SEC. 22. NATIONAL ADVISORY COUNCIL ON INDIAN EDUCATION.

Section 5342(a)(1)(A) of the Indian Education Act of 1988 (25 U.S.C. 2642(a)(1)(A)) is amended by striking out "Indians" and inserting in lieu thereof "Indians,".

SEC. 23. DEFINITIONS.

Section 5351 of the Indian Education Act of 1988 (25 U.S.C. 2651) is amended—

(1) by amending paragraph (4)(A) to read as follows:

"(A) a member (as defined by an Indian tribe, band, or other organized group) of such Indian tribe, band, or other organized group of Indians, including those Indian tribes, bands, or groups terminated since 1940 and those recognized by the State in which they reside,";

(2) in paragraph (5)(A)—

(A) by striking out "The" and inserting in lieu thereof "Except as provided in subparagraph (B), the";

(B) by striking out "section 198(a)(10)" and inserting in lieu thereof "section 1471(12)"; and

(C) by striking out "(20 U.S.C. 2854(a)(10))" and inserting in lieu thereof "(20 U.S.C. 2891(12)"; and

(3) in paragraph 5(B)—

(A) by striking out "The term" and all that follows through "includes—" and inserting in lieu thereof the following: "For purposes of the formula grant of subpart 1 (except for sections 5314(b)(2)(B)(ii) and 5315(c)), the term 'local educational agency' includes—"; and

(B) by striking out "education" in clause (ii) and inserting in lieu thereof "educational".

SEC. 24. TRIBALLY CONTROLLED COMMUNITY COLLEGES.

Section 108 of the Tribally Controlled Community College Assistance Act of 1978 (25 U.S.C. 1808) is amended by adding at the end thereof the following:

"(c) Nothing in this section shall be construed as interfering with, or suspending the obligation of the Bureau for, the implementation of all legislative provisions enacted prior to April 28, 1988, specifically including those of Public Law 98-192.".

SEC. 25. USE OF BUREAU FACILITIES.

(a) IN GENERAL.—Section 5405(a) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 17(a)) is amended to read as follows:

"(a) IN GENERAL.—The Secretary of the Interior may permit tribal governments and organizations and student organizations to use Bureau of Indian Affairs equipment, land, buildings, and other structures if such use does not interfere with the purpose for which they are administered by the Bureau and when such use benefits Indians or Federal or federally funded programs. The Secretary may charge the user for the cost of the utilities and other expenses incurred for the use. The amounts collected shall be credited to the appropriation or fund from which the expenses are paid and shall be available until the end of the fiscal year following the fiscal year in which collected. The Secretary's decision to not permit a use under this section is final and shall not be subject to judicial review.".

Public lands.
Public buildings and grounds.

Utilities.

(b) Section 5405 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of

1988 (25 U.S.C. 17) is further amended by adding at the end thereof the following new subsection:

Contracts.

"(c) The payment of any fee, or agreement to pay costs, to the Secretary shall not in any way or to any extent limit the right of the United States to rely upon sovereign immunity or any State or Federal statute limiting liability or damages from injuries sustained in connection with use under this section.".

SEC. 26. WHITE HOUSE CONFERENCE ON INDIAN EDUCATION.

(a) COMPOSITION.—Section 5503(a)(2) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note) is amended by inserting "(including members of local school boards of schools funded by the Bureau of Indian Affairs)" after "Indian educational institutions".

(b) ADVISORY COMMITTEE.—Section 5506(d) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note) is amended by striking out "traveltime" and inserting in lieu thereof "travel time".

(c) GIFTS.—Section 5507(a) of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2001 note) is amended by striking out "Force," and inserting in lieu thereof "Force".

SEC. 27. REPEAL OF ANNUAL REPORT ON EDUCATION OF INDIAN CHILDREN.

Section 6210 of the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988 (25 U.S.C. 2016a) is repealed.

Approved September 9, 1988.

LEGISLATIVE HISTORY—H.R. 5174:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 9, considered and passed House and Senate.

○

Public Law 100-428
100th Congress

An Act

To authorize the Secretary of Agriculture and other agency heads to enter into agreements with foreign fire organizations for assistance in wildfire protection.

Sept. 9, 1988
[S. 2641]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Temporary Emergency Wildfire Suppression Act".

Temporary Emergency Wildfire Suppression Act.
42 USC 1856 note.

SEC. 2. DEFINITIONS.

42 USC 1856m.

As used in this Act—

(1) the term "fire organization" means any governmental, public, or private entity having wildfire protection resources;

(2) the term "wildfire protection resources" means personnel, supplies, equipment, and other resources required for wildfire presuppression and suppression activities; and

(3) the term "wildfire" means any forest or range fire.

SEC. 3. IMPLEMENTATION.

42 USC 1856n.

(a)(1) The Secretary of Agriculture or the Secretary of the Interior, in consultation with the Secretary of State, may enter into a reciprocal agreement with any foreign fire organization for mutual aid in furnishing wildfire protection resources for lands and other properties for which such Secretary or organization normally provides wildfire protection.

(2) Any agreement entered into under this subsection—

Claims.

(A) shall include a waiver by each party to the agreement of all claims against every other party to the agreement for compensation for any loss, damage, personal injury, or death occurring in consequence of the performance of such agreement;

(B) shall include a provision to allow the termination of such agreement by any party thereto after reasonable notice; and

(C) may provide for the reimbursement of any party thereto for all or any part of the costs incurred by such party in furnishing wildfire protection resources for, or on behalf of, any other party thereto.

(b) In the absence of any agreement authorized under subsection (a), the Secretary of Agriculture or the Secretary of the Interior may—

(1) furnish emergency wildfire protection resources to any foreign nation when the furnishing of such resources is determined by such Secretary to be in the best interest of the United States, and

(2) accept emergency wildfire protection resources from any foreign fire organization when the acceptance of such resources is determined by such Secretary to be in the best interest of the United States.

Canada.

(c) Notwithstanding the preceding provisions of this section, reimbursement may be provided for the costs incurred by the Government of Canada or a Canadian organization in furnishing wildfire

Public Law 100-429
100th Congress

Joint Resolution

To provide for a settlement of the labor-management dispute between the Chicago and North Western Transportation Company and the United Transportation Union.

Sept. 9, 1988
[S.J. Res. 374]

Whereas the labor dispute between the Chicago and North Western Transportation Company, a common carrier by rail in interstate commerce, and certain of its employees represented by the United Transportation Union threatens to interrupt essential transportation services of the United States;

Whereas it is essential to the national interest, particularly in health and defense, that essential transportation services be maintained;

Whereas Congress finds that emergency measures are essential to maintaining the security and continuity of transportation services provided by the Chicago and North Western Transportation Company;

Whereas the President, by Executive Order 12636 of April 20, 1988, and pursuant to the provisions of section 10 of the Railway Labor Act (45 U.S.C. 160), created Presidential Emergency Board 213 to investigate the dispute and report findings;

Whereas the recommendations of the Emergency Board 213 issued on July 1, 1988, have not resulted in a settlement of the dispute;

Whereas all the procedures provided under the Railway Labor Act for resolving the dispute have been exhausted and have not resulted in settlement of the dispute;

Whereas Congress, under the Commerce Clause of the Constitution, has the authority and responsibility to ensure the uninterrupted operation of essential transportation services; and

Whereas Congress has in the past enacted legislation for such purposes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

Railroads.

SECTION 1. CONDITIONS FOR RESOLVING DISPUTE.

The following conditions shall apply to the dispute referred to in Executive Order 12636 of April 20, 1988, between Chicago and North Western Transportation Company, a common carrier by rail in interstate commerce, and certain of its employees represented by the United Transportation Union:

(1) The parties to such dispute shall take all necessary steps to restore or preserve the conditions out of which such dispute arose as such conditions existed before 12:01 a.m. on August 4, 1988, except as provided in paragraphs (2) and (3).

(2) The report and recommendations of the Emergency Board 213 shall be binding on the parties upon the enactment of this joint resolution and shall have the same effect as though arrived at by agreement of the parties under the Railway Labor Act (45 U.S.C. 151 et seq.), except that nothing in this joint resolution shall prevent a mutual written agreement to any

Contracts.

terms and conditions different from those established by this joint resolution.

SEC. 2. ARBITRATION.

(a) UNRESOLVED ISSUES.—If there are any unresolved issues as to the initial implementation of the report and recommendations or agreement under section 1(a)(2) after 10 days after the date of the enactment of this joint resolution, on request of either party the parties to the dispute shall enter into binding arbitration to provide for a resolution of such issues.

(b) APPOINTMENT OF ARBITRATION BOARD.—The National Mediation Board established by section 4 of the Railway Labor Act (45 U.S.C. 154), shall appoint an arbitration board composed of three neutral members experienced in the resolution of railroad disputes to resolve the issues described in subsection (a).

(c) CONDUCT OF ARBITRATION BOARD.—Except as provided in this joint resolution, the arbitration required under this section shall be conducted in accordance with section 7 of the Railway Labor Act (45 U.S.C. 157).

(d) ENFORCEMENT AND REVIEW OF ARBITRATION AWARD.—The arbitration award shall be enforceable and reviewable as if it were under section 9 of the Railway Labor Act (45 U.S.C. 159).

Courts, U.S. Illinois.

(e) JURISDICTION FOR JUDICIAL REVIEW OF ARBITRATION AWARD.—The United States District Court for the Northern District of Illinois, Eastern Division, is designated as the court in which the award is to be filed and reviewed.

SEC. 3. TIME LIMIT FOR ARBITRATION.

Not later than 30 days after the date of the enactment of this joint resolution, the binding arbitration entered into pursuant to subsection (a) shall be completed.

Approved September 9, 1988.

LEGISLATIVE HISTORY—S.J. Res. 374:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 8, considered and passed Senate.
Sept. 9, considered and passed House.

Public Law 100-430
100th Congress

An Act

To amend title VIII of the Act commonly called the Civil Rights Act of 1968, to revise the procedures for the enforcement of fair housing, and for other purposes.

Sept. 13, 1988
[H.R. 1158]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fair Housing Amendments Act of 1988.
Discrimination, prohibition.
42 USC 3601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Housing Amendments Act of 1988".

Civil Rights Act of 1968.
42 USC 3601 note.

SEC. 2. SHORT TITLE FOR 1968 ACT.

The Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968) is amended by inserting after the comma at the end of the enacting clause, the following: "That this Act may be cited as the 'Civil Rights Act of 1968'.".

SEC. 3. REFERENCES TO 1968 ACT.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to prescribe penalties for certain acts of violence or intimidation, and for other purposes" (Public Law 90-284, approved April 11, 1968).

SEC. 4. SHORT TITLE FOR TITLE VIII.

Title VIII is amended by inserting after the title's heading the following new section:

"SHORT TITLE

Fair Housing Act.
42 USC 3601 note.

"SEC. 800. This title may be cited as the 'Fair Housing Act'.".

SEC. 5. AMENDMENTS TO DEFINITIONS SECTION.

42 USC 3602.

(a) MODIFICATION OF DEFINITION OF DISCRIMINATORY HOUSING PRACTICE.—Section 802(f) is amended by striking out "or 806" and inserting in lieu thereof "806, or 818".

(b) ADDITIONAL DEFINITIONS.—Section 802 is amended by adding at the end the following:

"(h) 'Handicap' means, with respect to a person—

"(1) a physical or mental impairment which substantially limits one or more of such person's major life activities,

"(2) a record of having such an impairment, or

"(3) being regarded as having such an impairment,

but such term does not include current, illegal use of or addiction to a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).

"(i) 'Aggrieved person' includes any person who—

"(1) claims to have been injured by a discriminatory housing practice; or

"(2) believes that such person will be injured by a discriminatory housing practice that is about to occur.

"(j) 'Complainant' means the person (including the Secretary) who files a complaint under section 810.

"(k) 'Familial status' means one or more individuals (who have not attained the age of 18 years) being domiciled with—

"(1) a parent or another person having legal custody of such individual or individuals; or

"(2) the designee of such parent or other person having such custody, with the written permission of such parent or other person.

The protections afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or is in the process of securing legal custody of any individual who has not attained the age of 18 years.

"(l) 'Conciliation' means the attempted resolution of issues raised by a complaint, or by the investigation of such complaint, through informal negotiations involving the aggrieved person, the respondent, and the Secretary.

"(m) 'Conciliation agreement' means a written agreement setting forth the resolution of the issues in conciliation.

"(n) 'Respondent' means—

"(1) the person or other entity accused in a complaint of an unfair housing practice; and

"(2) any other person or entity identified in the course of investigation and notified as required with respect to respondents so identified under section 810(a).

"(o) 'Prevailing party' has the same meaning as such term has in section 722 of the Revised Statutes of the United States (42 U.S.C. 1988).".

Handicapped persons.
42 USC 3604.

SEC. 6. DISCRIMINATORY HOUSING PRACTICE AMENDMENTS.

(a) ADDITIONAL DISCRIMINATORY HOUSING PRACTICES.—Section 804 is amended by adding at the end the following:

"(f)(1) To discriminate in the sale or rental, or to otherwise make unavailable or deny, a dwelling to any buyer or renter because of a handicap of—

"(A) that buyer or renter,

"(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

"(C) any person associated with that buyer or renter.

"(2) To discriminate against any person in the terms, conditions, or privileges of sale or rental of a dwelling, or in the provision of services or facilities in connection with such dwelling, because of a handicap of—

"(A) that person; or

"(B) a person residing in or intending to reside in that dwelling after it is so sold, rented, or made available; or

"(C) any person associated with that person.

"(3) For purposes of this subsection, discrimination includes—

"(A) a refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises;

"(B) a refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person equal opportunity to use and enjoy a dwelling; or

"(C) in connection with the design and construction of covered multifamily dwellings for first occupancy after the date that is 30 months after the date of enactment of the Fair Housing Amendments Act of 1988, a failure to design and construct those dwellings in such a manner that—

"(i) the public use and common use portions of such dwellings are readily accessible to and usable by handicapped persons;

"(ii) all the doors designed to allow passage into and within all premises within such dwellings are sufficiently wide to allow passage by handicapped persons in wheelchairs; and

"(iii) all premises within such dwellings contain the following features of adaptive design:

"(I) an accessible route into and through the dwelling;

"(II) light switches, electrical outlets, thermostats, and other environmental controls in accessible locations;

"(III) reinforcements in bathroom walls to allow later installation of grab bars; and

"(IV) usable kitchens and bathrooms such that an individual in a wheelchair can maneuver about the space.

"(4) Compliance with the appropriate requirements of the American National Standard for buildings and facilities providing accessibility and usability for physically handicapped people (commonly cited as 'ANSI A117.1') suffices to satisfy the requirements of paragraph (3)(C)(iii).

State and local governments.

"(5)(A) If a State or unit of general local government has incorporated into its laws the requirements set forth in paragraph (3)(C), compliance with such laws shall be deemed to satisfy the requirements of that paragraph.

"(B) A State or unit of general local government may review and approve newly constructed covered multifamily dwellings for the purpose of making determinations as to whether the design and construction requirements of paragraph (3)(C) are met.

"(C) The Secretary shall encourage, but may not require, States and units of local government to include in their existing procedures for the review and approval of newly constructed covered multifamily dwellings, determinations as to whether the design and construction of such dwellings are consistent with paragraph (3)(C), and shall provide technical assistance to States and units of local government and other persons to implement the requirements of paragraph (3)(C).

"(D) Nothing in this title shall be construed to require the Secretary to review or approve the plans, designs or construction of all covered multifamily dwellings, to determine whether the design and construction of such dwellings are consistent with the requirements of paragraph 3(C).

State and local governments.

"(6)(A) Nothing in paragraph (5) shall be construed to affect the authority and responsibility of the Secretary or a State or local public agency certified pursuant to section 810(f)(3) of this Act to

receive and process complaints or otherwise engage in enforcement activities under this title.

"(B) Determinations by a State or a unit of general local government under paragraphs (5) (A) and (B) shall not be conclusive in enforcement proceedings under this title.

"(7) As used in this subsection, the term 'covered multifamily dwellings' means—

"(A) buildings consisting of 4 or more units if such buildings have one or more elevators; and

"(B) ground floor units in other buildings consisting of 4 or more units.

State and local governments.

"(8) Nothing in this title shall be construed to invalidate or limit any law of a State or political subdivision of a State, or other jurisdiction in which this title shall be effective, that requires dwellings to be designed and constructed in a manner that affords handicapped persons greater access than is required by this title.

Safety.

"(9) Nothing in this subsection requires that a dwelling be made available to an individual whose tenancy would constitute a direct threat to the health or safety of other individuals or whose tenancy would result in substantial physical damage to the property of others.".

42 USC 3606, 3604.

(b) ADDITIONAL PROTECTED CLASSES.—(1) Section 806 and subsections (c), (d), and (e) of section 804, are each amended by inserting "handicap, familial status," immediately after "sex," each place it appears.

(2) Subsections (a) and (b) of section 804 are each amended by inserting "familial status," after "sex," each place it appears.

42 USC 3602 note.

(3) For the purposes of this Act as well as chapter 16 of title 29 of the United States Code, neither the term "individual with handicaps" nor the term "handicap" shall apply to an individual solely because that individual is a transvestite.

(c) DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS.—Section 805 is amended to read as follows:

"DISCRIMINATION IN RESIDENTIAL REAL ESTATE-RELATED TRANSACTIONS

42 USC 3605.

"SEC. 805. (a) IN GENERAL.—It shall be unlawful for any person or other entity whose business includes engaging in residential real estate-related transactions to discriminate against any person in making available such a transaction, or in the terms or conditions of such a transaction, because of race, color, religion, sex, handicap, familial status, or national origin.

"(b) DEFINITION.—As used in this section, the term 'residential real estate-related transaction' means any of the following:

"(1) The making or purchasing of loans or providing other financial assistance—

"(A) for purchasing, constructing, improving, repairing, or maintaining a dwelling; or

"(B) secured by residential real estate.

"(2) The selling, brokering, or appraising of residential real property.

"(c) APPRAISAL EXEMPTION.—Nothing in this title prohibits a person engaged in the business of furnishing appraisals of real property to take into consideration factors other than race, color, religion, national origin, sex, handicap, or familial status.".

42 USC 3607.

(d) ADDITIONAL EXEMPTION.—Section 807 is amended—

(1) by inserting "(a)" after "SEC. 807."; and

(2) by adding at the end of such section the following:

"(b)(1) Nothing in this title limits the applicability of any reasonable local, State, or Federal restrictions regarding the maximum number of occupants permitted to occupy a dwelling. Nor does any provision in this title regarding familial status apply with respect to housing for older persons.

"(2) As used in this section, 'housing for older persons' means housing—

"(A) provided under any State or Federal program that the Secretary determines is specifically designed and operated to assist elderly persons (as defined in the State or Federal program); or

"(B) intended for, and solely occupied by, persons 62 years of age or older; or

"(C) intended and operated for occupancy by at least one person 55 years of age or older per unit. In determining whether housing qualifies as housing for older persons under this subsection, the Secretary shall develop regulations which require at least the following factors: Regulations. Aged persons.

"(i) the existence of significant facilities and services specifically designed to meet the physical or social needs of older persons, or if the provision of such facilities and services is not practicable, that such housing is necessary to provide important housing opportunities for older persons; and

"(ii) that at least 80 percent of the units are occupied by at least one person 55 years of age or older per unit; and

"(iii) the publication of, and adherence to, policies and procedures which demonstrate an intent by the owner or manager to provide housing for persons 55 years of age or older.

"(3) Housing shall not fail to meet the requirements for housing for older persons by reason of: Aged persons.

"(A) persons residing in such housing as of the date of enactment of this Act who do not meet the age requirements of subsections (2) (B) or (C): *Provided,* That new occupants of such housing meet the age requirements of subsections (2) (B) or (C); or

"(B) unoccupied units: *Provided,* That such units are reserved for occupancy by persons who meet the age requirements of subsections (2) (B) or (C).

"(4) Nothing in this title prohibits conduct against a person because such person has been convicted by any court of competent jurisdiction of the illegal manufacture or distribution of a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).". Drugs and drug abuse.

(e) CLERICAL AMENDMENT.—The heading of section 804 is amended by adding at the end the following: "AND OTHER PROHIBITED PRACTICES". 42 USC 3604.

SEC. 7. ADDITIONAL ADMINISTRATIVE AUTHORITY.

(a) COOPERATION WITH SECRETARY.—Section 808(d) is amended by inserting "(including any Federal agency having regulatory or supervisory authority over financial institutions)" after "urban development". 42 USC 3608.

42 USC 3608.

(b) ADDITIONAL FUNCTIONS OF SECRETARY.—(1) Section 808(e) is amended—

Reports.

(A) in paragraph (2), by inserting before the semicolon at the end, the following: ", including an annual report to the Congress—

"(A) specifying the nature and extent of progress made nationally in eliminating discriminatory housing practices and furthering the purposes of this title, obstacles remaining to achieving equal housing opportunity, and recommendations for further legislative or executive action; and

"(B) containing tabulations of the number of instances (and the reasons therefor) in the preceding year in which—

"(i) investigations are not completed as required by section 810(a)(1)(B);

"(ii) determinations are not made within the time specified in section 810(g); and

"(iii) hearings are not commenced or findings and conclusions are not made as required by section 812(g)";

(B) by striking out "; and" at the end of paragraph (4);

(C) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(D) by adding at the end, the following:

Reports.
Public information.
Records.

"(6) annually report to the Congress, and make available to the public, data on the race, color, religion, sex, national origin, age, handicap, and family characteristics of persons and households who are applicants for, participants in, or beneficiaries or potential beneficiaries of, programs administered by the Department to the extent such characteristics are within the coverage of the provisions of law and Executive orders referred to in subsection (f) which apply to such programs (and in order to develop the data to be included and made available to the public under this subsection, the Secretary shall, without regard to any other provision of law, collect such information relating to those characteristics as the Secretary determines to be necessary or appropriate).".

(2) Section 808 is amended by adding at the end the following:

"(f) The provisions of law and Executive orders to which subsection (e)(6) applies are—

"(1) title VI of the Civil Rights Act of 1964;

"(2) title VIII of the Civil Rights Act of 1968;

"(3) section 504 of the Rehabilitation Act of 1973;

"(4) the Age Discrimination Act of 1975;

"(5) the Equal Credit Opportunity Act;

"(6) section 1978 of the Revised Statutes (42 U.S.C. 1982);

"(7) section 8(a) of the Small Business Act;

"(8) section 527 of the National Housing Act;

"(9) section 109 of the Housing and Community Development Act of 1974;

"(10) section 3 of the Housing and Urban Development Act of 1968;

"(11) Executive orders 11063, 11246, 11625, 12250, 12259, and 12432; and

"(12) any other provision of law which the Secretary specifies by publication in the Federal Register for the purpose of this subsection.".

SEC. 8. ENFORCEMENT CHANGES.

Title VIII is amended—

(1) by redesignating sections 815 through 819 as sections 816 through 820, respectively; and 42 USC 3615-3619.

(2) by striking out sections 810 through 813 and inserting in lieu thereof the following: 42 USC 3610-3613.

"ADMINISTRATIVE ENFORCEMENT; PRELIMINARY MATTERS

"SEC. 810. (a) COMPLAINTS AND ANSWERS.—(1)(A)(i) An aggrieved person may, not later than one year after an alleged discriminatory housing practice has occurred or terminated, file a complaint with the Secretary alleging such discriminatory housing practice. The Secretary, on the Secretary's own initiative, may also file such a complaint. 42 USC 3610.

"(ii) Such complaints shall be in writing and shall contain such information and be in such form as the Secretary requires.

"(iii) The Secretary may also investigate housing practices to determine whether a complaint should be brought under this section.

"(B) Upon the filing of such a complaint—

"(i) the Secretary shall serve notice upon the aggrieved person acknowledging such filing and advising the aggrieved person of the time limits and choice of forums provided under this title;

"(ii) the Secretary shall, not later than 10 days after such filing or the identification of an additional respondent under paragraph (2), serve on the respondent a notice identifying the alleged discriminatory housing practice and advising such respondent of the procedural rights and obligations of respondents under this title, together with a copy of the original complaint;

"(iii) each respondent may file, not later than 10 days after receipt of notice from the Secretary, an answer to such complaint; and

"(iv) the Secretary shall make an investigation of the alleged discriminatory housing practice and complete such investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), unless it is impracticable to do so.

"(C) If the Secretary is unable to complete the investigation within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

"(D) Complaints and answers shall be under oath or affirmation, and may be reasonably and fairly amended at any time.

"(2)(A) A person who is not named as a respondent in a complaint, but who is identified as a respondent in the course of investigation, may be joined as an additional or substitute respondent upon written notice, under paragraph (1), to such person, from the Secretary.

"(B) Such notice, in addition to meeting the requirements of paragraph (1), shall explain the basis for the Secretary's belief that the person to whom the notice is addressed is properly joined as a respondent.

Contracts.

"(b) INVESTIGATIVE REPORT AND CONCILIATION.—(1) During the period beginning with the filing of such complaint and ending with the filing of a charge or a dismissal by the Secretary, the Secretary shall, to the extent feasible, engage in conciliation with respect to such complaint.

"(2) A conciliation agreement arising out of such conciliation shall be an agreement between the respondent and the complainant, and shall be subject to approval by the Secretary.

"(3) A conciliation agreement may provide for binding arbitration of the dispute arising from the complaint. Any such arbitration that results from a conciliation agreement may award appropriate relief, including monetary relief.

Public information.

"(4) Each conciliation agreement shall be made public unless the complainant and respondent otherwise agree and the Secretary determines that disclosure is not required to further the purposes of this title.

Reports.

"(5)(A) At the end of each investigation under this section, the Secretary shall prepare a final investigative report containing—

"(i) the names and dates of contacts with witnesses;

"(ii) a summary and the dates of correspondence and other contacts with the aggrieved person and the respondent;

"(iii) a summary description of other pertinent records;

"(iv) a summary of witness statements; and

"(v) answers to interrogatories.

"(B) A final report under this paragraph may be amended if additional evidence is later discovered.

"(c) FAILURE TO COMPLY WITH CONCILIATION AGREEMENT.—Whenever the Secretary has reasonable cause to believe that a respondent has breached a conciliation agreement, the Secretary shall refer the matter to the Attorney General with a recommendation that a civil action be filed under section 814 for the enforcement of such agreement.

"(d) PROHIBITIONS AND REQUIREMENTS WITH RESPECT TO DISCLOSURE OF INFORMATION.—(1) Nothing said or done in the course of conciliation under this title may be made public or used as evidence in a subsequent proceeding under this title without the written consent of the persons concerned.

"(2) Notwithstanding paragraph (1), the Secretary shall make available to the aggrieved person and the respondent, at any time, upon request following completion of the Secretary's investigation, information derived from an investigation and any final investigative report relating to that investigation.

"(e) PROMPT JUDICIAL ACTION.—(1) If the Secretary concludes at any time following the filing of a complaint that prompt judicial action is necessary to carry out the purposes of this title, the Secretary may authorize a civil action for appropriate temporary or preliminary relief pending final disposition of the complaint under this section. Upon receipt of such an authorization, the Attorney General shall promptly commence and maintain such an action. Any temporary restraining order or other order granting preliminary or temporary relief shall be issued in accordance with the Federal Rules of Civil Procedure. The commencement of a civil action under this subsection does not affect the initiation or continuation of administrative proceedings under this section and section 812 of this title.

"(2) Whenever the Secretary has reason to believe that a basis may exist for the commencement of proceedings against any

respondent under sections 814(a) and 814(c) or for proceedings by any governmental licensing or supervisory authorities, the Secretary shall transmit the information upon which such belief is based to the Attorney General, or to such authorities, as the case may be.

"(f) REFERRAL FOR STATE OR LOCAL PROCEEDINGS.—(1) Whenever a complaint alleges a discriminatory housing practice—

"(A) within the jurisdiction of a State or local public agency; and

"(B) as to which such agency has been certified by the Secretary under this subsection;

the Secretary shall refer such complaint to that certified agency before taking any action with respect to such complaint.

"(2) Except with the consent of such certified agency, the Secretary, after that referral is made, shall take no further action with respect to such complaint unless—

"(A) the certified agency has failed to commence proceedings with respect to the complaint before the end of the 30th day after the date of such referral;

"(B) the certified agency, having so commenced such proceedings, fails to carry forward such proceedings with reasonable promptness; or

"(C) the Secretary determines that the certified agency no longer qualifies for certification under this subsection with respect to the relevant jurisdiction.

"(3)(A) The Secretary may certify an agency under this subsection only if the Secretary determines that—

"(i) the substantive rights protected by such agency in the jurisdiction with respect to which certification is to be made;

"(ii) the procedures followed by such agency;

"(iii) the remedies available to such agency; and

"(iv) the availability of judicial review of such agency's action;

are substantially equivalent to those created by and under this title.

"(B) Before making such certification, the Secretary shall take into account the current practices and past performance, if any, of such agency.

"(4) During the period which begins on the date of the enactment of the Fair Housing Amendments Act of 1988 and ends 40 months after such date, each agency certified (including an agency certified for interim referrals pursuant to 24 CFR 115.11, unless such agency is subsequently denied recognition under 24 CFR 115.7) for the purposes of this title on the day before such date shall for the purposes of this subsection be considered certified under this subsection with respect to those matters for which such agency was certified on that date. If the Secretary determines in an individual case that an agency has not been able to meet the certification requirements within this 40-month period due to exceptional circumstances, such as the infrequency of legislative sessions in that jurisdiction, the Secretary may extend such period by not more than 8 months.

"(5) Not less frequently than every 5 years, the Secretary shall determine whether each agency certified under this subsection continues to qualify for certification. The Secretary shall take appropriate action with respect to any agency not so qualifying.

"(g) REASONABLE CAUSE DETERMINATION AND EFFECT.—(1) The Secretary shall, within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with

respect to a complaint, within 100 days after the commencement of such further action), determine based on the facts whether reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, unless it is impracticable to do so, or unless the Secretary has approved a conciliation agreement with respect to the complaint. If the Secretary is unable to make the determination within 100 days after the filing of the complaint (or, when the Secretary takes further action under subsection (f)(2) with respect to a complaint, within 100 days after the commencement of such further action), the Secretary shall notify the complainant and respondent in writing of the reasons for not doing so.

"(2)(A) If the Secretary determines that reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall, except as provided in subparagraph (C), immediately issue a charge on behalf of the aggrieved person, for further proceedings under section 812.

"(B) Such charge—

"(i) shall consist of a short and plain statement of the facts upon which the Secretary has found reasonable cause to believe that a discriminatory housing practice has occurred or is about to occur;

"(ii) shall be based on the final investigative report; and

"(iii) need not be limited to the facts or grounds alleged in the complaint filed under section 810(a).

"(C) If the Secretary determines that the matter involves the legality of any State or local zoning or other land use law or ordinance, the Secretary shall immediately refer the matter to the Attorney General for appropriate action under section 814, instead of issuing such charge.

"(3) If the Secretary determines that no reasonable cause exists to believe that a discriminatory housing practice has occurred or is about to occur, the Secretary shall promptly dismiss the complaint. The Secretary shall make public disclosure of each such dismissal.

Public information.

"(4) The Secretary may not issue a charge under this section regarding an alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

"(h) SERVICE OF COPIES OF CHARGE.—After the Secretary issues a charge under this section, the Secretary shall cause a copy thereof, together with information as to how to make an election under section 812(a) and the effect of such an election, to be served—

"(1) on each respondent named in such charge, together with a notice of opportunity for a hearing at a time and place specified in the notice, unless that election is made; and

"(2) on each aggrieved person on whose behalf the complaint was filed.

"SUBPOENAS; GIVING OF EVIDENCE

42 USC 3611.

"SEC. 811. (a) IN GENERAL.—The Secretary may, in accordance with this subsection, issue subpoenas and order discovery in aid of investigations and hearings under this title. Such subpoenas and discovery may be ordered to the same extent and subject to the same limitations as would apply if the subpoenas or discovery were ordered or served in aid of a civil action in the United States district court for the district in which the investigation is taking place.

"(b) WITNESS FEES.—Witnesses summoned by a subpoena under this title shall be entitled to the same witness and mileage fees as witnesses in proceedings in United States district courts. Fees payable to a witness summoned by a subpoena issued at the request of a party shall be paid by that party or, where a party is unable to pay the fees, by the Secretary.

"(c) CRIMINAL PENALTIES.—(1) Any person who willfully fails or neglects to attend and testify or to answer any lawful inquiry or to produce records, documents, or other evidence, if it is in such person's power to do so, in obedience to the subpoena or other lawful order under subsection (a), shall be fined not more than $100,000 or imprisoned not more than one year, or both. Records.

"(2) Any person who, with intent thereby to mislead another person in any proceeding under this title—

"(A) makes or causes to be made any false entry or statement of fact in any report, account, record, or other document produced pursuant to subpoena or other lawful order under subsection (a);

"(B) willfully neglects or fails to make or to cause to be made full, true, and correct entries in such reports, accounts, records, or other documents; or

"(C) willfully mutilates, alters, or by any other means falsifies any documentary evidence;

shall be fined not more than $100,000 or imprisoned not more than one year, or both.

"ENFORCEMENT BY SECRETARY

"SEC. 812. (a) ELECTION OF JUDICIAL DETERMINATION.—When a charge is filed under section 810, a complainant, a respondent, or an aggrieved person on whose behalf the complaint was filed, may elect to have the claims asserted in that charge decided in a civil action under subsection (o) in lieu of a hearing under subsection (b). The election must be made not later than 20 days after the receipt by the electing person of service under section 810(h) or, in the case of the Secretary, not later than 20 days after such service. The person making such election shall give notice of doing so to the Secretary and to all other complainants and respondents to whom the charge relates. 42 USC 3612.

"(b) ADMINISTRATIVE LAW JUDGE HEARING IN ABSENCE OF ELECTION.—If an election is not made under subsection (a) with respect to a charge filed under section 810, the Secretary shall provide an opportunity for a hearing on the record with respect to a charge issued under section 810. The Secretary shall delegate the conduct of a hearing under this section to an administrative law judge appointed under section 3105 of title 5, United States Code. The administrative law judge shall conduct the hearing at a place in the vicinity in which the discriminatory housing practice is alleged to have occurred or to be about to occur.

"(c) RIGHTS OF PARTIES.—At a hearing under this section, each party may appear in person, be represented by counsel, present evidence, cross-examine witnesses, and obtain the issuance of subpoenas under section 811. Any aggrieved person may intervene as a party in the proceeding. The Federal Rules of Evidence apply to the presentation of evidence in such hearing as they would in a civil action in a United States district court.

"(d) EXPEDITED DISCOVERY AND HEARING.—(1) Discovery in administrative proceedings under this section shall be conducted as

expeditiously and inexpensively as possible, consistent with the need of all parties to obtain relevant evidence.

"(2) A hearing under this section shall be conducted as expeditiously and inexpensively as possible, consistent with the needs and rights of the parties to obtain a fair hearing and a complete record.

"(3) The Secretary shall, not later than 180 days after the date of enactment of this subsection, issue rules to implement this subsection.

"(e) RESOLUTION OF CHARGE.—Any resolution of a charge before a final order under this section shall require the consent of the aggrieved person on whose behalf the charge is issued.

"(f) EFFECT OF TRIAL OF CIVIL ACTION ON ADMINISTRATIVE PROCEEDINGS.—An administrative law judge may not continue administrative proceedings under this section regarding any alleged discriminatory housing practice after the beginning of the trial of a civil action commenced by the aggrieved party under an Act of Congress or a State law, seeking relief with respect to that discriminatory housing practice.

"(g) HEARINGS, FINDINGS AND CONCLUSIONS, AND ORDER.—(1) The administrative law judge shall commence the hearing under this section no later than 120 days following the issuance of the charge, unless it is impracticable to do so. If the administrative law judge is unable to commence the hearing within 120 days after the issuance of the charge, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

"(2) The administrative law judge shall make findings of fact and conclusions of law within 60 days after the end of the hearing under this section, unless it is impracticable to do so. If the administrative law judge is unable to make findings of fact and conclusions of law within such period, or any succeeding 60-day period thereafter, the administrative law judge shall notify the Secretary, the aggrieved person on whose behalf the charge was filed, and the respondent, in writing of the reasons for not doing so.

"(3) If the administrative law judge finds that a respondent has engaged or is about to engage in a discriminatory housing practice, such administrative law judge shall promptly issue an order for such relief as may be appropriate, which may include actual damages suffered by the aggrieved person and injunctive or other equitable relief. Such order may, to vindicate the public interest, assess a civil penalty against the respondent—

"(A) in an amount not exceeding $10,000 if the respondent has not been adjudged to have committed any prior discriminatory housing practice;

"(B) in an amount not exceeding $25,000 if the respondent has been adjudged to have committed one other discriminatory housing practice during the 5-year period ending on the date of the filing of this charge; and

"(C) in an amount not exceeding $50,000 if the respondent has been adjudged to have committed 2 or more discriminatory housing practices during the 7-year period ending on the date of the filing of this charge;

except that if the acts constituting the discriminatory housing practice that is the object of the charge are committed by the same natural person who has been previously adjudged to have committed acts constituting a discriminatory housing practice, then the civil penalties set forth in subparagraphs (B) and (C) may be imposed

without regard to the period of time within which any subsequent discriminatory housing practice occurred.

"(4) No such order shall affect any contract, sale, encumbrance, or lease consummated before the issuance of such order and involving a bona fide purchaser, encumbrancer, or tenant without actual notice of the charge filed under this title. Contracts.

"(5) In the case of an order with respect to a discriminatory housing practice that occurred in the course of a business subject to a licensing or regulation by a governmental agency, the Secretary shall, not later than 30 days after the date of the issuance of such order (or, if such order is judicially reviewed, 30 days after such order is in substance affirmed upon such review)—

"(A) send copies of the findings of fact, conclusions of law, and the order, to that governmental agency; and

"(B) recommend to that governmental agency appropriate disciplinary action (including, where appropriate, the suspension or revocation of the license of the respondent).

"(6) In the case of an order against a respondent against whom another order was issued within the preceding 5 years under this section, the Secretary shall send a copy of each such order to the Attorney General.

"(7) If the administrative law judge finds that the respondent has not engaged or is not about to engage in a discriminatory housing practice, as the case may be, such administrative law judge shall enter an order dismissing the charge. The Secretary shall make public disclosure of each such dismissal. Public information.

"(h) REVIEW BY SECRETARY; SERVICE OF FINAL ORDER.—(1) The Secretary may review any finding, conclusion, or order issued under subsection (g). Such review shall be completed not later than 30 days after the finding, conclusion, or order is so issued; otherwise the finding, conclusion, or order becomes final.

"(2) The Secretary shall cause the findings of fact and conclusions of law made with respect to any final order for relief under this section, together with a copy of such order, to be served on each aggrieved person and each respondent in the proceeding.

"(i) JUDICIAL REVIEW.—(1) Any party aggrieved by a final order for relief under this section granting or denying in whole or in part the relief sought may obtain a review of such order under chapter 158 of title 28, United States Code.

"(2) Notwithstanding such chapter, venue of the proceeding shall be in the judicial circuit in which the discriminatory housing practice is alleged to have occurred, and filing of the petition for review shall be not later than 30 days after the order is entered.

"(j) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION BY SECRETARY.—(1) The Secretary may petition any United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred or in which any respondent resides or transacts business for the enforcement of the order of the administrative law judge and for appropriate temporary relief or restraining order, by filing in such court a written petition praying that such order be enforced and for appropriate temporary relief or restraining order.

"(2) The Secretary shall file in court with the petition the record in the proceeding. A copy of such petition shall be forthwith transmitted by the clerk of the court to the parties to the proceeding before the administrative law judge. Records.

"(k) RELIEF WHICH MAY BE GRANTED.—(1) Upon the filing of a petition under subsection (i) or (j), the court may—

"(A) grant to the petitioner, or any other party, such temporary relief, restraining order, or other order as the court deems just and proper;

"(B) affirm, modify, or set aside, in whole or in part, the order, or remand the order for further proceedings; and

"(C) enforce such order to the extent that such order is affirmed or modified.

"(2) Any party to the proceeding before the administrative law judge may intervene in the court of appeals.

"(3) No objection not made before the administrative law judge shall be considered by the court, unless the failure or neglect to urge such objection is excused because of extraordinary circumstances.

"(l) ENFORCEMENT DECREE IN ABSENCE OF PETITION FOR REVIEW.—If no petition for review is filed under subsection (i) before the expiration of 45 days after the date the administrative law judge's order is entered, the administrative law judge's findings of fact and order shall be conclusive in connection with any petition for enforcement—

"(1) which is filed by the Secretary under subsection (j) after the end of such day; or

"(2) under subsection (m).

"(m) COURT ENFORCEMENT OF ADMINISTRATIVE ORDER UPON PETITION OF ANY PERSON ENTITLED TO RELIEF.—If before the expiration of 60 days after the date the administrative law judge's order is entered, no petition for review has been filed under subsection (i), and the Secretary has not sought enforcement of the order under subsection (j), any person entitled to relief under the order may petition for a decree enforcing the order in the United States court of appeals for the circuit in which the discriminatory housing practice is alleged to have occurred.

"(n) ENTRY OF DECREE.—The clerk of the court of appeals in which a petition for enforcement is filed under subsection (l) or (m) shall forthwith enter a decree enforcing the order and shall transmit a copy of such decree to the Secretary, the respondent named in the petition, and to any other parties to the proceeding before the administrative law judge.

"(o) CIVIL ACTION FOR ENFORCEMENT WHEN ELECTION IS MADE FOR SUCH CIVIL ACTION.—(1) If an election is made under subsection (a), the Secretary shall authorize, and not later than 30 days after the election is made the Attorney General shall commence and maintain, a civil action on behalf of the aggrieved person in a United States district court seeking relief under this subsection. Venue for such civil action shall be determined under chapter 87 of title 28, United States Code.

"(2) Any aggrieved person with respect to the issues to be determined in a civil action under this subsection may intervene as of right in that civil action.

"(3) In a civil action under this subsection, if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may grant as relief any relief which a court could grant with respect to such discriminatory housing practice in a civil action under section 813. Any relief so granted that would accrue to an aggrieved person in a civil action commenced by that aggrieved person under section 813 shall also accrue to that aggrieved person in a civil action under this subsection. If monetary relief is sought

for the benefit of an aggrieved person who does not intervene in the civil action, the court shall not award such relief if that aggrieved person has not complied with discovery orders entered by the court.

"(p) ATTORNEY'S FEES.—In any administrative proceeding brought under this section, or any court proceeding arising therefrom, or any civil action under section 812, the administrative law judge or the court, as the case may be, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 504 of title 5, United States Code, or by section 2412 of title 28, United States Code.

"ENFORCEMENT BY PRIVATE PERSONS

"SEC. 813. (a) CIVIL ACTION.—(1)(A) An aggrieved person may commence a civil action in an appropriate United States district court or State court not later than 2 years after the occurrence or the termination of an alleged discriminatory housing practice, or the breach of a conciliation agreement entered into under this title, whichever occurs last, to obtain appropriate relief with respect to such discriminatory housing practice or breach. Contracts. 42 USC 3613.

"(B) The computation of such 2-year period shall not include any time during which an administrative proceeding under this title was pending with respect to a complaint or charge under this title based upon such discriminatory housing practice. This subparagraph does not apply to actions arising from a breach of a conciliation agreement.

"(2) An aggrieved person may commence a civil action under this subsection whether or not a complaint has been filed under section 810(a) and without regard to the status of any such complaint, but if the Secretary or a State or local agency has obtained a conciliation agreement with the consent of an aggrieved person, no action may be filed under this subsection by such aggrieved person with respect to the alleged discriminatory housing practice which forms the basis for such complaint except for the purpose of enforcing the terms of such an agreement.

"(3) An aggrieved person may not commence a civil action under this subsection with respect to an alleged discriminatory housing practice which forms the basis of a charge issued by the Secretary if an administrative law judge has commenced a hearing on the record under this title with respect to such charge.

"(b) APPOINTMENT OF ATTORNEY BY COURT.—Upon application by a person alleging a discriminatory housing practice or a person against whom such a practice is alleged, the court may—

"(1) appoint an attorney for such person; or

"(2) authorize the commencement or continuation of a civil action under subsection (a) without the payment of fees, costs, or security, if in the opinion of the court such person is financially unable to bear the costs of such action.

"(c) RELIEF WHICH MAY BE GRANTED.—(1) In a civil action under subsection (a), if the court finds that a discriminatory housing practice has occurred or is about to occur, the court may award to the plaintiff actual and punitive damages, and subject to subsection (d), may grant as relief, as the court deems appropriate, any permanent or temporary injunction, temporary restraining order, or other order (including an order enjoining the defendant from engaging

in such practice or ordering such affirmative action as may be appropriate).

"(2) In a civil action under subsection (a), the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the same extent as a private person.

"(d) EFFECT ON CERTAIN SALES, ENCUMBRANCES, AND RENTALS.—Contracts. Relief granted under this section shall not affect any contract, sale, encumbrance, or lease consummated before the granting of such relief and involving a bona fide purchaser, encumbrancer, or tenant, without actual notice of the filing of a complaint with the Secretary or civil action under this title.

"(e) INTERVENTION BY ATTORNEY GENERAL.—Upon timely application, the Attorney General may intervene in such civil action, if the Attorney General certifies that the case is of general public importance. Upon such intervention the Attorney General may obtain such relief as would be available to the Attorney General under section 814(e) in a civil action to which such section applies.

"ENFORCEMENT BY THE ATTORNEY GENERAL

Courts, U.S. 42 USC 3614. "SEC. 814. (a) PATTERN OR PRACTICE CASES.—Whenever the Attorney General has reasonable cause to believe that any person or group of persons is engaged in a pattern or practice of resistance to the full enjoyment of any of the rights granted by this title, or that any group of persons has been denied any of the rights granted by this title and such denial raises an issue of general public importance, the Attorney General may commence a civil action in any appropriate United States district court.

"(b) ON REFERRAL OF DISCRIMINATORY HOUSING PRACTICE OR CONCILIATION AGREEMENT FOR ENFORCEMENT.—(1)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to a discriminatory housing practice referred to the Attorney General by the Secretary under section 810(g).

"(B) A civil action under this paragraph may be commenced not later than the expiration of 18 months after the date of the occurrence or the termination of the alleged discriminatory housing practice.

Contracts. "(2)(A) The Attorney General may commence a civil action in any appropriate United States district court for appropriate relief with respect to breach of a conciliation agreement referred to the Attorney General by the Secretary under section 810(c).

"(B) A civil action may be commenced under this paragraph not later than the expiration of 90 days after the referral of the alleged breach under section 810(c).

"(c) ENFORCEMENT OF SUBPOENAS.—The Attorney General, on behalf of the Secretary, or other party at whose request a subpoena is issued, under this title, may enforce such subpoena in appropriate proceedings in the United States district court for the district in which the person to whom the subpoena was addressed resides, was served, or transacts business.

"(d) RELIEF WHICH MAY BE GRANTED IN CIVIL ACTIONS UNDER SUBSECTIONS (a) AND (b).—(1) In a civil action under subsection (a) or (b), the court—

"(A) may award such preventive relief, including a permanent or temporary injunction, restraining order, or other order

against the person responsible for a violation of this title as is necessary to assure the full enjoyment of the rights granted by this title;

"(B) may award such other relief as the court deems appropriate, including monetary damages to persons aggrieved; and

"(C) may, to vindicate the public interest, assess a civil penalty against the respondent—

"(i) in an amount not exceeding $50,000, for a first violation; and

"(ii) in an amount not exceeding $100,000, for any subsequent violation.

"(2) In a civil action under this section, the court, in its discretion, may allow the prevailing party, other than the United States, a reasonable attorney's fee and costs. The United States shall be liable for such fees and costs to the extent provided by section 2412 of title 28, United States Code.

"(e) INTERVENTION IN CIVIL ACTIONS.—Upon timely application, any person may intervene in a civil action commenced by the Attorney General under subsection (a) or (b) which involves an alleged discriminatory housing practice with respect to which such person is an aggrieved person or a conciliation agreement to which such person is a party. The court may grant such appropriate relief to any such intervening party as is authorized to be granted to a plaintiff in a civil action under section 813.

"RULES TO IMPLEMENT TITLE

"SEC. 815. The Secretary may make rules (including rules for the collection, maintenance, and analysis of appropriate data) to carry out this title. The Secretary shall give public notice and opportunity for comment with respect to all rules made under this section.". 42 USC 3614a. Public information.

SEC. 9. CONFORMING AMENDMENT TO TITLE IX.

Section 901 is amended by inserting ", handicap (as such term is defined in section 802 of this Act), familial status (as such term is defined in section 802 of this Act)," after "sex" each place it appears. 42 USC 3631.

SEC. 10. TECHNICAL AMENDMENT RELATING TO CIVIL ACTION.

Section 818 (as so redesignated by section 8 of this Act) is amended by striking out the last sentence thereof. 42 USC 3617.

SEC. 11. CONFORMING AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) JURISDICTION.—Section 2342 of title 28, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting "; and" in lieu thereof; and

(3) by inserting after paragraph (5) but before the matter beginning "Jurisdiction is invoked" the following:

"(6) all final orders under section 812 of the Fair Housing Act.".

(b) DEFINITION.—Section 2341(3) of title 28, United States Code, is amended—

(1) by striking out "and" at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following:

"(D) the Secretary, when the order is under section 812 of the Fair Housing Act.".

42 USC 3601 note.

SEC. 12. DISCLAIMER OF PREEMPTIVE EFFECT ON OTHER ACTS.

Nothing in the Fair Housing Act as amended by this Act limits any right, procedure, or remedy available under the Constitution or any other Act of the Congress not so amended.

SEC. 13. EFFECTIVE DATE AND INITIAL RULEMAKING.

42 USC 3601 note.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect on the 180th day beginning after the date of the enactment of this Act.

(b) INITIAL RULEMAKING.—In consultation with other appropriate Federal agencies, the Secretary shall, not later than the 180th day after the date of the enactment of this Act, issue rules to implement title VIII as amended by this Act. The Secretary shall give public notice and opportunity for comment with respect to such rules.

Public information.

42 USC 3601 note.

SEC. 14. SEPARABILITY OF PROVISIONS.

If any provision of this Act or the application thereof to any person or circumstances is held invalid, the remainder of the Act and the application of the provision to other persons not similarly situated or to other circumstances shall not be affected thereby.

SEC. 15. MODIFICATION OF RENTAL HOUSING BY HANDICAPPED PERSONS.

Section 804 (as amended by section 6 of this Act) is further amended by striking out the period at the end of subsection (f)(3)(A) and inserting in lieu thereof "except that, in the case of a rental, the landlord may where it is reasonable to do so condition permission for a modification on the renter agreeing to restore the interior of the premises to the condition that existed before the modification, reasonable wear and tear excepted.".

Approved September 13, 1988.

LEGISLATIVE HISTORY—H.R. 1158:

HOUSE REPORTS: No. 100-711 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 22, 23, 29, considered and passed House.
Aug. 1, 2, considered and passed Senate, amended.
Aug. 8, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Sept. 13, Presidential remarks.

Public Law 100-431
100th Congress

Joint Resolution

Designating September 16, 1988, as "National POW/MIA Recognition Day".

Sept. 15, 1988
[H.J. Res. 453]

Whereas the United States has fought in many wars;
Whereas thousands of Americans who served in those wars were captured by the enemy or are missing in action;
Whereas many American prisoners of war were subjected to brutal and inhuman treatment by their enemy captors in violation of international codes and customs for the treatment of prisoners of war, and many such prisoners of war died from such treatment;
Whereas many Americans are still listed as missing and unaccounted for, and the uncertainty surrounding their fates has caused their families to suffer acute hardship; and
Whereas the sacrifices of American prisoners and Americans missing in action and their families are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 16, 1988, is designated as "National POW/MIA Recognition Day". The President is authorized and requested to issue a proclamation calling upon the people of the United States to recognize that day with appropriate ceremonies and activities.

Approved September 15, 1988.

LEGISLATIVE HISTORY—H.J. Res. 453 (S.J. Res. 330):

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 13, considered and passed House.
July 26, S.J. Res. 330 considered and passed Senate.
Sept. 8, H.J. Res. 453 considered and passed Senate.

Public Law 100-432
100th Congress
Joint Resolution

Sept. 15, 1988
[S.J. Res. 295]

To provide for the designation of September 15, 1988, as "National D.A.R.E. Day".

Whereas D.A.R.E. (Drug Abuse Resistance Education) is a semester long program which teaches fifth and sixth grade children how to resist pressure to experiment with drugs and alcohol;

Whereas the D.A.R.E. program is also provided to kindergarten and junior high school students and their parents;

Whereas D.A.R.E. targets children when they are most vulnerable to tremendous peer pressure to try drugs or alcohol and teaches the skills to make positive decisions and resist pressure to participate in negative behaviors;

Whereas more than 495 communities in 34 States now teach the D.A.R.E. program in their local schools, and a pilot program has been implemented for use internationally in the Department of Defense Dependent Schools;

Whereas almost 1.5 million students have been reached through D.A.R.E.;

Whereas because school children are frequently much more sophisticated about substance abuse than are classroom teachers, the D.A.R.E. program is taught by veteran police officers with direct experience with ruined lives and crimes caused by substance abuse;

Whereas each police officer teaching the D.A.R.E. program completes an 80-hour training course including instruction in teaching techniques, officer-school relationships, development of self-esteem, child development, and communication skills;

Whereas the D.A.R.E. curriculum, developed by the Los Angeles Police Department and the Los Angeles Unified School District helps students understand self-image, recognize stress and manage it without taking drugs, analyze and resist media presentations about alcohol and drugs, evaluate risk-taking behavior, resist gang pressure, apply decision making skills, and evaluate the consequences of the choices available to them;

Whereas independent research shows that the D.A.R.E. program has exceeded its goal of helping students combat peer pressure to use drugs and alcohol, and it has also contributed to improved study habits and grades, decreased vandalism and gang activity, and has generated greater respect for police officers; and

Whereas the D.A.R.E. program has achieved outstanding success teaching positive and effective approaches to what is one of the most difficult problems facing our young people today, drug abuse: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 15, 1988, is designated as "National D.A.R.E. Day", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved September 15, 1988.

LEGISLATIVE HISTORY—S.J. Res. 295:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 7, considered and passed House.

Public Law 100-433
100th Congress

An Act

Sept. 16, 1988
[H.R. 1939]

To provide for continuing interpretation of the Constitution in appropriate units of the National Park System by the Secretary of the Interior, and to establish a National center for the United States Constitution within the Independence National Historical Park in Philadelphia, Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Constitution Heritage Act of 1988.
Conservation.
Historic preservation.
16 USC 407aa note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Constitution Heritage Act of 1988".

16 USC 407aa.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—Congress finds that:

(1) 1987 was the bicentennial of the signing of the United States Constitution;

(2) commemoration of the Constitution's bicentennial included various events conducted by the Federal Commission on the Bicentennial of the United States Constitution, and State and local bicentennial commissions;

(3) bicentennial activities included important educational and instructional programs to heighten public awareness of the Constitution and the democratic process;

(4) educational programs for the Constitution should continue after the bicentennial to document its profound impact on the political, economic and social development of this Nation, and in order to recognize those Americans instrumental in the history of the Constitution; and

(5) units of the National Park System preserve and interpret key historic sites that document the history of the origins, subsequent development, and effects of the United States Constitution on this Nation.

(b) PURPOSES.—It is therefore the policy of the Congress to provide each of the following:

Education.

(1) the necessary resources to develop a national resource center to undertake, on an ongoing basis, educational programs on the Constitution;

(2) exhibits of, and an archives for, programs on or related to the recent bicentennial of the United States Constitution; and

(3) interpretation of the United States Constitution at those units of the National Park System particularly relevant to its history.

16 USC 407bb.

SEC. 3. ESTABLISHMENT OF THE CENTER.

(a) ESTABLISHMENT BY SECRETARY OF THE INTERIOR.—The Secretary of the Interior (hereafter in this Act referred to as the "Secretary") shall establish The National Constitution Center (hereafter in this Act referred to as the "Center") within or in close proximity to the Independence National Historical Park. The Center shall disseminate information about the United States Constitution on a non-

Public information.

partisan basis in order to increase the awareness and understanding of the Constitution among the American people.

(b) FUNCTIONS OF THE CENTER.—The functions of the Center shall include—

(1) serving as a center of exhibits and related materials on the history and contemporary significance of the Constitution;

(2) directing a national program of public education on the Constitution; issuing traveling exhibits, commissioning radio and television programs, furnishing materials for the schools, and providing other education services; Education.

(3) functioning as an intellectual center, drawing both academics and practitioners to debate and refine constitutional issues and, at the same time, providing intellectual support for the Center's exhibits and public education program; and

(4) creating archives for programs on the bicentennial of the United States Constitution.

SEC. 4. ACQUISITION OF SITE FOR AND OPERATION OF THE CENTER. 16 USC 407cc.

(a) PROVIDING A SITE.—The Secretary through the General Services Administration, is authorized to provide, upon adequate reimbursement, a site, including necessary structures, for the Center by—

(1) using an existing structure or modifying an existing structure for use; or

(2) constructing a new structure to house the Center. The Secretary may acquire such land as is necessary to provide a site for the Center.

(b) PROVISION OF FUNDS TO THE CENTER.—The Secretary is authorized to make grants to, and enter into cooperative agreements, contracts or leases with the National Constitution Center, Philadelphia, Pennsylvania, which shall operate the Center as provided in this Act in order to carry out the purposes of this Act. Funds authorized to be appropriated under this Act may be made available to the National Constitution Center only to the extent that they are matched by such entity with funds from nonfederal sources. Grants. Contracts.

SEC. 5. DIRECTIVES TO SECRETARY. 16 USC 407dd.

(a) INDEPENDENCE NATIONAL HISTORICAL PARK AND OTHER UNITS.—The Secretary shall interpret the origins, subsequent development, and effects of the United States Constitution on this country at Independence National Historical Park and at such other units of the National Park System as are closely associated with the Constitution. The Secretary shall select not less than 12 units of the National Park System for such interpretation, including Independence National Historical Park.

(b) MEMORIAL.—The Secretary is authorized to establish and maintain at Independence National Historical Park an appropriate memorial to the United States Constitution as a key document in our Nation's history.

(c) PUBLIC MATERIALS.—In coordination with the National Constitution Center, the Secretary shall develop and make available to the public interpretive and educational materials related to sites within the National Park System as referred to in subsection (a).

(d) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the owners or administrators of historic sites closely associated with the Constitution, pursuant to

which the Secretary may provide technical assistance in the preservation and interpretation of such sites.

Contracts.

(e) RESEARCH AND EDUCATION.—The Secretary shall contract with the National Constitution Center and other qualified institutions of higher learning for research and other activities including the distribution of interpretive and educational materials as appropriate in order to carry out the provisions of this Act.

(f) Nothing in this section may be construed to alter or waive the requirement that the Secretary maintain the historic integrity of units of the National Park System, including compliance with section 106 of the Historic Preservation Act (90 Stat. 1320) as amended.

16 USC 407ee.

SEC. 6. FUNDING.

There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this Act.

Approved September 16, 1988.

LEGISLATIVE HISTORY—H.R. 1939:

HOUSE REPORTS: No. 100-107 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-450 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): May 27, considered and passed House.
Vol. 134 (1988): Aug. 9, considered and passed Senate, amended.
Sept. 8, House concurred in Senate amendments.

Public Law 100-434
100th Congress

Joint Resolution

To designate the day of September 14, 1988, as "National Medical Research Day".

Sept. 16, 1988
[S.J. Res. 328]

Whereas America's medical research enterprise has been, and will continue to be, the acknowledged world leader in promoting health and preventing disease and disability;

Whereas medical research (defined for purposes of this Joint Resolution as biomedical, behavioral, and related research) continuously contributes to the discovery of new knowledge that will lead to the improved health and well-being of Americans and of all humankind;

Whereas America's medical research enterprise continues to pioneer breakthroughs in the detection and treatment of diseases and promote the widespread application of these methods and technologies to medical practice;

Whereas medical research has significantly contributed to bringing America's death rate to an all-time low and its life expectancy rates to all-time highs;

Whereas America's medical research enterprise has contributed enormously to the control and virtual worldwide eradication of epidemic diseases such as cholera, smallpox, yellow fever, and bubonic plague, and the prevention in this country of childhood diseases such as diphtheria, polio, tetanus, and pertussis;

Whereas medical research has successfully produced effective vaccines now widely used to combat measles, mumps, rubella, meningitis, pneumonia, influenza, rabies, upper respiratory diseases, and hepatitis B;

Whereas America's financial investment in medical research has consistently been rewarded with positive returns as measured by reduced morbidity, and improved individual productivity and health status;

Whereas the products and by-products of medical research contribute significantly to the health of America's overall economy and its ability to compete successfully in international commerce and trade;

Whereas medical research in this country has fostered a productive and ongoing positive public and private sector partnership among government, academia, industry, and voluntary organizations in the pursuit of research excellence and discovery;

Whereas the Congress of the United States has consistently demonstrated a Federal financial commitment to maintaining America's preeminence in medical research through support of such agencies as the National Institutes of Health, the Alcohol, Drug Abuse and Mental Health Administration, the Centers for Disease Control, and the Veterans' Administration;

Whereas 1987 was formally recognized by the Congress and the President of the United States as the National Institutes of Health centennial year, commemorating 100 years of Federal support for medical research;

Whereas America's medical research enterprise has produced 85 internationally respected Nobel laureates in physiology, medicine, and chemistry and must continue to foster the interest and training of young scientists, medical practitioners, and other health professionals in research careers, as well as ensure the adequacy of the settings within which they will work;

Whereas America's medical researchers are working at the forefront of biomedical technologies which create exciting new medical research opportunities that hold the best hope for unraveling the mysteries of cancer, AIDS, Alzheimer's disease, arthritis, epilepsy, diabetes, multiple sclerosis, heart and lung diseases, mental illness, and the many other diseases and disorders which claim or severely impair the lives of millions of Americans; and

Whereas the Congress of the United States acknowledges with pride the many accomplishments of America's medical research enterprise and confidently looks to it for continued progress in relieving human suffering and conquering the diseases and disorders that afflict the people of this country: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the day of September 14, 1988, is designated as "National Medical Research Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved September 16, 1988.

LEGISLATIVE HISTORY—S.J. Res. 328:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 14, considered and passed House.

Public Law 100-435
100th Congress

An Act

To amend the Temporary Emergency Food Assistance Act of 1983 to require the Secretary of Agriculture to make available additional types of commodities, to improve child nutrition and food stamp programs, to provide other hunger relief, and for other purposes.

Sept. 19, 1988
[S. 2560]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Hunger Prevention Act of 1988.
Disadvantaged persons.
State and local governments.
7 USC 2011 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Hunger Prevention Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EMERGENCY HUNGER PREVENTION

Subtitle A—Temporary Emergency Food Assistance Program

Sec. 101. Domestic use as a higher priority than foreign sales.
Sec. 102. Supplementation of commodities.
Sec. 103. Extension of TEFAP.
Sec. 104. Additional commodities program.
Sec. 105. Distribution costs and regulations.
Sec. 106. Extension of dairy export incentive program.
Sec. 107. Extension of export sales of dairy products.

Subtitle B—Soup Kitchens and Other Emergency Food Aid

Sec. 110. Soup kitchens and food banks.
Sec. 111. Gleaning technical assistance.

Subtitle C—Basic Food Stamp Benefit Levels

Sec. 120. Thrifty food plan.

Subtitle D—Commodity Supplemental Food Program

Sec. 130. Continuation of provision of cheese supplies.

TITLE II—NUTRITION IMPROVEMENTS

Subtitle A—Food Stamp Act of 1977

Sec. 201. Categorical eligibility.
Sec. 202. Reporting requirements and calculation of household income.
Sec. 203. Benefits for households subject to prorating.
Sec. 204. Optional food stamp information activities.
Sec. 205. Extension of homeless amendments.

Subtitle B—Child Nutrition Act of 1966, and National School Lunch Act

Sec. 210. Improvement of school breakfast program.
Sec. 211. Addition of one snack or one meal to the Child Care Food Program.
Sec. 212. Access of homeless women, infants, and children to the special supplemental food program.
Sec. 213. Summer feeding program.
Sec. 214. Department of Defense child care feeding program.

Subtitle C—Food Processing and Distribution

Sec. 220. Encouragement of food processing and distribution by eligible recipient agencies.

TITLE III—ADMINISTRATIVE IMPROVEMENTS AND SIMPLIFICATION

Sec. 301. References to the Food Stamp Act of 1977.

Subtitle A—Reducing Unnecessary Paperwork

Sec. 310. Simplified application forms.
Sec. 311. Statement of required verification.

Subtitle B—Assuring Accurate Issuance of Benefits

Sec. 320. Correcting improper denials and underissuances.
Sec. 321. Special training of State personnel involved in certifying farm households.
Sec. 322. Training of certification workers and community resources.
Sec. 323. Preventing incorrect issuances.

Subtitle C—Reducing Barriers in Rural America

Sec. 330. Transportation difficulties in rural areas.

Subtitle D—Eliminating Inequities for Farmers and Others

Sec. 340. Continuation of food stamps to participants in cash-outs of other benefit programs.
Sec. 341. Annualizing self-employment income and expenses from farming.
Sec. 342. Households in transition.
Sec. 343. Technical correction to exclusion of energy assistance from food stamp income.
Sec. 344. Civil money penalties and disqualification of retail food stores and wholesale food concerns.

Subtitle E—Reducing Barriers for the Elderly and Disabled

Sec. 350. Disabled persons receiving benefits under standards at least as stringent as those in the Social Security Act.
Sec. 351. Simplified procedure for claiming excess medical deduction.
Sec. 352. Coordinated application.

TITLE IV—FAMILY SELF-SUFFICIENCY

Sec. 401. References to the Food Stamp Act of 1977.
Sec. 402. Exclusion for advance payment of earned income credit.
Sec. 403. Deduction for dependent care.
Sec. 404. Employment and training.

TITLE V—DEMONSTRATION PROJECTS

Sec. 501. Farmers' market coupons demonstration project.
Sec. 502. Food bank demonstration project.
Sec. 503. Family or group day care home demonstration project.
Sec. 504. Demonstration projects for development and use of intelligent computer benefit cards to pay food stamp benefits.
Sec. 505. Study of the effectiveness of the food stamp employment and training program.

TITLE VI—IMPROVING PAYMENT ACCURACY

Sec. 601. Review of State program investment when settling claims.
Sec. 602. Interest on claims against State agencies.
Sec. 603. Administrative and judicial review.
Sec. 604. Payment accuracy improvement system.

TITLE VII—IMPLEMENTATION

Sec. 701. Effective dates.

TITLE I—EMERGENCY HUNGER PREVENTION

Subtitle A—Temporary Emergency Food Assistance Program

SEC. 101. DOMESTIC USE AS A HIGHER PRIORITY THAN FOREIGN SALES.

Section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsection:

"(f) Notwithstanding any other provision of law, the programs authorized by sections 153 and 1163 of the Food Security Act of 1985 (15 U.S.C. 713a-14 and 7 U.S.C. 1731 note) shall not be operated in a manner that will, in any way, reduce the quantities of dairy products that traditionally are made available to carry out this Act or any other domestic feeding program.". Dairy products.

SEC. 102. SUPPLEMENTATION OF COMMODITIES.

The Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding after section 203C the following new section:

"SEC. 203D. STATE AND LOCAL SUPPLEMENTATION OF COMMODITIES.

"(a) AUTHORIZATION.—The Secretary shall establish procedures under which State and local agencies, charitable institutions, or any other persons may supplement the commodities distributed under the program authorized by this Act for use by emergency feeding organizations with nutritious and wholesome commodities that such entities or persons donate to State agencies and emergency feeding organizations for distribution, in all or part of the State, in addition to the commodities otherwise made available under this Act.

"(b) USE OF FUNDS AND FACILITIES.—States and emergency feeding organizations may use the funds appropriated under this Act and equipment, structures, vehicles, and all other facilities involved in the storage, handling, or distribution of commodities made available under this Act, and the personnel, both paid or volunteer, involved in such storage, handling, or distribution, to store, handle or distribute commodities donated for the use of emergency feeding organizations under subsection (a).

"(c) VOLUNTEER WORKERS.—State and emergency feeding organizations shall continue, to the maximum extent practicable, to use volunteer workers and commodities and other foodstuffs donated by charitable and other organizations in the operation of the program authorized by this section.".

SEC. 103. EXTENSION OF TEFAP.

(a) AUTHORIZATION.—The first sentence of section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out "through September 30, 1988" and inserting in lieu thereof "through September 30, 1990".

(b) LOCAL SUPPORT.—The first sentence of section 204(c)(2) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out "20" and inserting in lieu thereof "40".

(c) STORAGE AND PREPARATION.—The second sentence of section 204(c)(2) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by inserting after "documentation;" the following: "costs of providing information to persons receiving commodities under this Act concerning the appropriate storage and preparation of such commodities;".

(d) NOTICE OF AVAILABILITY OF COMMODITIES.—Section 210(c) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out "the fiscal year ending September 30, 1988" and inserting "each of the fiscal years 1989 and 1990".

(e) PROGRAM DATES.—Section 212 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by striking out "1988" and inserting in lieu thereof "1990".

SEC. 104. ADDITIONAL COMMODITIES PROGRAM.

The Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new sections:

"SEC. 213. INCORPORATION OF ADDITIONAL COMMODITIES.

"(a) IN GENERAL.—The Secretary shall administer the program authorized under this Act in a manner that incorporates into the program additional commodities purchased by the Secretary under section 214 to be distributed to States for use in such States by emergency feeding organizations, as defined in section 201A(1). Such additional commodities, to the extent practicable and appropriate, shall include commodities purchased within a given State for distribution within such State.

"(b) SUPPLEMENT COMMODITIES AVAILABLE.—The Secretary shall supplement the commodities made available to emergency feeding organizations under sections 202 and 203D(a) with nutritious and useful commodities purchased by the Secretary under section 214.

"SEC. 214. REQUIRED PURCHASES OF COMMODITIES.

"(a) PURPOSE.—It is the purpose of this section to establish a formula so that the amount, measured by their value, of additional commodities that are to be allocated to each State can be precisely calculated for fiscal years 1989 and 1990. The share of commodities, as measured by their value, to be allocated to each State shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State.

"(b) DEFINITIONS.—As used in this section—

"(1) ADDITIONAL COMMODITIES.—The term 'additional commodities' means commodities purchased under this section in addition to the commodities otherwise made available under sections 202 and 203D(a).

"(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term 'average monthly number of unemployed persons' refers to the average monthly number of unemployed persons within each State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

"(3) POVERTY LINE.—The term 'poverty line' has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

"(4) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term 'total value of additional commodities' means the actual cost (including the distribution and processing costs incurred by the Secretary), as paid by the Secretary, for all additional commodities purchased under subsection (e).

"(5) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO EACH STATE.—The term 'value of additional commodities allocated to each State' means the actual cost for additional commodities (including the distribution and processing costs incurred by the Secretary) as paid by the Secretary under this section and allocated to such State.

"(c) PURCHASE OF COMMODITIES.—The Secretary shall purchase a variety of nutritious and useful commodities of the types that the Secretary has the authority to acquire through the Commodity Credit Corporation or under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c note), to supplement the commodities otherwise provided under the program authorized by this Act.

"(d) TYPES AND VARIETIES.—The Secretary shall, to the extent practicable and appropriate, purchase types and varieties of commodities—

"(1) with high nutrient density per calorie;

"(2) that are easily and safely stored;

"(3) that are convenient to use and consume;

"(4) that are desired by recipient agencies; and

"(5) that meet the requirement imposed by section 203C(a).

"(e) AMOUNTS.—During each of the fiscal years 1989 and 1990, the Secretary shall spend $120,000,000 to purchase, process, and distribute additional commodities under this section.

"(f) MANDATORY ALLOTMENTS.—In each fiscal year, the Secretary shall allot—

"(1) 60 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 60 percent of the total value of additional commodities as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line, and each State shall be entitled to receive such value of additional commodities; and

"(2) 40 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 40 percent of the total value of additional commodities as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year, and each State shall be entitled to receive such value of additional commodities.

"(g) REALLOCATION.—The Secretary shall notify each State of the amount of the additional commodities that such State is allotted to receive under subsection (f) or subsection (j) if applicable, and each State shall promptly notify the Secretary if such State determines that it will not accept any or all of the commodities made available under such allocation. On such a notification by a State, the Secretary shall reallocate and distribute the amount the State was

allocated to receive under the formula prescribed in subsection (f) but declined to accept. The Secretary shall further establish procedures to permit States to decline to receive portions of such allocation during each fiscal year as the State determines is appropriate and the Secretary shall reallocate and distribute such allocation. In the event of any drought, flood, hurricane, or other natural disaster affecting substantial numbers of persons in a State, county or parish, the Secretary may request that States unaffected by such a disaster consider assisting affected States by allowing the Secretary to reallocate commodities to which each such unaffected State is entitled to States containing areas adversely affected by the disaster.

Disaster assistance.

"(h) ADMINISTRATION.—Subject to subsections (e) and (f), or subsection (j) if applicable, purchases under this section shall be made by the Secretary at such times and under such conditions as the Secretary determines appropriate within each fiscal year. All such commodities purchased for each such fiscal year shall be delivered at reasonable intervals to States based on the allotments calculated under subsection (f), or reallocated under subsection (g), or calculated under subsection (j) if applicable, before the end of such fiscal year. Each State shall be entitled to receive that value of additional commodities that results from the application of the formula set forth in this section to the total value of additional commodities.

"(i) MAINTENANCE OF EFFORT.—If a State uses its own funds to provide commodities or services to organizations receiving funds or services under this section, such State shall not diminish the level of support it provides to such organizations or reduce the amount of funds available for other nutrition programs in the State in each fiscal year.

"(j) NEW FORMULA.—Notwithstanding the provisions of this section that set forth the specific formula for allocating additional commodities to each State, the Secretary is authorized to promulgate a different precise formula, after prior notice and comment as required by section 553 of title 5, United States Code, only to the extent that—

"(1) any such formula is effective at the outset of, and throughout any given fiscal year;

"(2) any such formula can be used to precisely calculate the amount of commodities to be made available to each State by the Secretary for each fiscal year; and

"(3) such formula provides that each State is entitled to receive that value of additional commodities which results from the application of such formula to the total value of additional commodities.

"(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.".

SEC. 105. DISTRIBUTION COSTS AND REGULATIONS.

(a) DISTRIBUTION COSTS.—Section 204(c)(1) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new sentence: "States may also use funds provided under this paragraph to pay for the costs associated with the distribution of commodities under the program authorized under section 110 of the Hunger Prevention Act of 1988,

and to pay for the costs associated with the distribution of additional commodities provided pursuant to section 214.".

(b) REGULATIONS.—Section 210 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new subsection:

"(e) The Secretary is authorized to issue final regulations without first issuing proposed regulations (except as otherwise provided for in section 214(j)) for public comment in order to carry out the provisions of sections 213 and 214. If final regulations are issued without such prior public comment the Secretary shall permit public comment on such regulations, consider pertinent comments, and make modifications of such regulations as appropriate not later than 1 year after the date of enactment of this subsection. Such final and modified regulations shall be accompanied by a statement of the basis and purpose for such regulations.".

(c) STATE OPTIONAL PRIORITY.—Section 203B(a) of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) is amended by adding at the end thereof the following new sentence: "Notwithstanding any other provision of this Act, in the distribution of commodities under this Act, each State agency shall have the option to give priority to existing food bank networks and other organizations whose ongoing primary function is to facilitate the distribution of food to low-income households, including food from sources other than the Department of Agriculture.".

SEC. 106. EXTENSION OF DAIRY EXPORT INCENTIVE PROGRAM.

Section 153(a) of the Food Security Act of 1985 (15 U.S.C. 713a-14(a)) is amended by striking out "1989" and inserting in lieu thereof "1990".

SEC. 107. EXTENSION OF EXPORT SALES OF DAIRY PRODUCTS.

Section 1163 of the Food Security Act of 1985 (7 U.S.C. 1731 note) is amended—

(1) in subsection (a), by striking out "fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1988" and inserting in lieu thereof "fiscal years 1986 through 1990"; and

(2) in subsection (c), by striking out "1988" and inserting in lieu thereof "1990".

Subtitle B—Soup Kitchens and Other Emergency Food Aid

SEC. 110 SOUP KITCHENS AND FOODS BANKS. 7 USC 612c note.

(a) PURPOSE.—It is the purpose of this section to establish a formula so that the amount, measured by their value, of additional commodities that are to be provided to each State for redistribution to soup kitchens and food banks can be precisely calculated for fiscal years 1989 through 1991. The share of commodities, as measured by their value, to be provided to each State shall be based 60 percent on the number of persons in households within the State having incomes below the poverty level and 40 percent on the number of unemployed persons within the State.

(b) DEFINITIONS.—As used in this section —

(1) ADDITIONAL COMMODITIES.—The term "additional commodities" means commodities purchased under this section in addition to the commodities otherwise made available to soup kitchens and food banks providing nutrition assistance to relieve situations of emergency and distress.

(2) AVERAGE MONTHLY NUMBER OF UNEMPLOYED PERSONS.—The term "average monthly number of unemployed persons" refers to the average monthly number of unemployed persons within each State in the most recent fiscal year for which such information is available as determined by the Bureau of Labor Statistics of the Department of Labor.

(3) FOOD BANKS.—The term "food bank" refers to public and charitable institutions that maintain an established operation involving the provision of food or edible commodities, or the products thereof, to food pantries, soup kitchens, hunger relief centers, or other food or feeding centers that provide meals or food to needy persons on a regular basis as an integral part of their normal activities.

(4) POVERTY LINE.—The term "poverty line" has the same meaning given such term in section 673(2) of the Community Services Block Grant Act (42 U.S.C. 9902(2)).

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(6) SOUP KITCHENS.—The term "soup kitchens" refers to public and charitable institutions that maintain an established feeding operation to provide food to needy homeless persons on a regular basis as an integral part of their normal activities.

(7) TOTAL VALUE OF ADDITIONAL COMMODITIES.—The term "total value of additional commodities" means the actual cost (including the processing and distribution costs of the Secretary), as paid by the Secretary, for all additional commodities purchased under subsection (c).

(8) VALUE OF ADDITIONAL COMMODITIES ALLOCATED TO A STATE.—The term "value of additional commodities allocated to a State" means the actual cost for additional commodities (including the processing and distribution costs of the Secretary) as paid by the Secretary for commodities purchased under this section and allocated to such State.

(c) AMOUNTS.—During each of the fiscal years 1989 and 1990, the Secretary shall spend $40,000,000, and in fiscal year 1991, the Secretary shall spend $32,000,000, to purchase, process, and distribute additional commodities to States for distribution to soup kitchens and food banks within a given State that provide nutrition assistance to relieve situations of emergency and distress through the provision of food and meals to needy persons.

(d) MANDATORY ALLOTMENTS.—In each fiscal year, the Secretary shall allot—

(1) 60 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 60 percent of the total value of additional commodities as the number of persons in households within the State having incomes below the poverty line bears to the total number of persons in households within all States having incomes below such poverty line, and each State shall be entitled to receive such value of additional commodities; and

(2) 40 percent of the total value of additional commodities provided to States in a manner such that the value of additional commodities allocated to each State bears the same ratio to 40 percent of the total value of additional commodities as the average monthly number of unemployed persons within the State bears to the average monthly number of unemployed persons within all States during the same fiscal year, and each State shall be entitled to receive such value of additional commodities.

(e) ALLOCATION AND REALLOCATION.—

(1) NOTIFICATION BY SECRETARY.—The Secretary shall notify each State of the amount of the allocation that the State is entitled to receive under subsection (d).

(2) NOTIFICATION BY STATE.—

(A) ACCEPTANCE AMOUNT.—A State shall promptly notify the Secretary of the amount of commodities that will be accepted by soup kitchens or food banks. In determining such amount, the State shall give priority to institutions that provide meals to homeless individuals. Homeless persons.

(B) LESS THAN FULL AMOUNT ACCEPTED.—A State shall promptly notify the Secretary if the State determines that it will not accept the full amount of the allocation under subsection (d) (or a portion thereof).

(3) REALLOCATION.—Whenever the Secretary receives a notification under paragraph (2)(B), the Secretary shall reallocate and distribute the amount of such allocation (or any portion thereof) not accepted, in a fair and equitable manner among the States that accept the full amount of their respective allocations under subsection (d) and that have requested receipt of additional allocations.

(f) ADMINISTRATION.—Subject to subsection (c), purchases under this section shall be made by the Secretary at such times and under such conditions as the Secretary determines to be appropriate within each fiscal year. All commodities purchased under subsection (c) within each fiscal year shall be provided to States prior to the end of each such fiscal year.

(g) MAINTENANCE OF EFFORT.—If a State uses its own funds to provide commodities or services under this section, such State funds shall not be obtained from existing Federal or State programs.

(h) INCREASED COMMODITY LEVELS AND MAINTENANCE OF EFFORT.—

(1) INCREASED COMMODITY LEVELS.—Commodities provided under the amendments made by section 104 and under this section shall be in addition to the commodities otherwise provided (through commodity donations traditionally provided by the Secretary or the Commodity Credit Corporation) to emergency feeding organizations. The value of the commodity donations traditionally provided to such organizations shall not be diminished as a result of the purchases required by the amendments made by section 104 and this section.

(2) FEDERAL MAINTENANCE.—The purchase of commodities required under the amendments made by section 104 and under this section, shall not be made in such a manner as to cause any reduction in the value of the bonus commodities that would otherwise be distributed, in the absence of section 104 and this section, to charitable institutions, or to any other domestic food assistance program, such as the programs authorized under the National School Lunch Act, the Child Nutrition Act of 1966, the

Food Stamp Act of 1977, or sections 4 and 5 of the Agriculture and Consumer Protection Act of 1973.

(3) OTHER MAINTENANCE.—Local agencies receiving commodities purchased under this section shall provide an assurance to the State that donations of foodstuffs from other sources shall not be diminished as a result of the receipt of commodities under this section.

(i) NEW FORMULA.—Notwithstanding the provisions of this section that set forth the specific formula for allocating additional commodities to each State, the Secretary is authorized to establish a different precise formula, after prior notice and comment as required by section 553 of title 5, United States Code, only to the extent that—

(1) any such formula is effective at the outset of, and throughout any given fiscal year;

(2) any such formula can be used to precisely calculate the amount of commodities to be made available to each State by the Secretary for each fiscal year; and

(3) such formula provides that each State is entitled to receive that value of additional commodities which results from the application of such formula to the total value of additional commodities.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

7 USC 612c note.

SEC. 111. GLEANING TECHNICAL ASSISTANCE.

(a) GLEANING DEFINED.—As used in this section, the term "gleaning" means—

(1) obtaining harvested or unharvested agricultural products from farmers, processors, or retailers; or

(2) obtaining food or meals donated by public or private entities (where State and local health and food safety regulations permit such donations);

in order to facilitate the distribution of such products or such food or meals to needy individuals, but only if such products or such food or meals, and the access to such, are obtained with the permission of the owner and without charge therefor.

(b) DUTIES.—The Secretary of Agriculture shall provide technical assistance to State and local agencies to—

(1) assist such agencies in encouraging public and private nonprofit organizations to initiate and carry out gleaning activities and in providing technical assistance to organizations and individuals involved in gleaning; and

(2) assist such agencies in collecting information on the kinds, amounts, and geographical location of agricultural products and food or meals available for gleaning.

Voluntarism.

(c) ADMINISTRATION.—The Secretary of Agriculture may use Department of Agriculture employees and volunteers, as may be necessary, to carry out this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $500,000 for each of fiscal years 1989 and 1990.

Subtitle C—Basic Food Stamp Benefit Levels

SEC. 120. THRIFTY FOOD PLAN.

Section 3(o) of the Food Stamp Act of 1977 (7 U.S.C. 2012(o)) is amended—

(1) in clause (7), by striking out "and" at the end thereof;

(2) in clause (8), by inserting "through October 1, 1987" after "thereafter"; and

(3) by striking out the colon and all that follows through the period at the end thereof and inserting in lieu thereof the following: ", (9) on October 1, 1988, adjust the cost of such diet to reflect 100.65 percent of the cost of the thrifty food plan in the preceding June, and round the result to the nearest lower dollar increment for each household size, (10) on October 1, 1989, adjust the cost of such diet to reflect 102.05 percent of the cost, in the preceding June (without regard to the adjustment made under clause (9)), of the then most recent thrifty food plan as determined by the Secretary or the cost of the thrifty food plan in effect on the date of enactment of the Hunger Prevention Act of 1988, whichever is greater, and round the result to the nearest lower dollar increment for each household size, and (11) on October 1, 1990, and each October 1 thereafter, adjust the cost of such diet to reflect 103 percent of the cost, in the preceding June (without regard to any previous adjustment made under clause (9), (10), or this clause), of the then most recent thrifty food plan as determined by the Secretary or the cost of the thrifty food plan in effect on the date of enactment of the Hunger Prevention Act of 1988, whichever is greater, and round the result to the nearest lower dollar increment for each household size.".

Subtitle D—Commodity Supplemental Food Program

SEC. 130. CONTINUATION OF PROVISION OF CHEESE SUPPLIES. 7 USC 612c note.

Notwithstanding any other provision of law, the Commodity Credit Corporation shall, to the extent that the Commodity Credit Corporation's inventory levels permit, provide 7,000,000 pounds of cheese in each of the fiscal years 1989 and 1990 to the Secretary of Agriculture and the Secretary shall provide such amounts of cheese to the Commodity Supplemental Food Program authorized under section 4(a) of the Agriculture and Consumer Protection Act of 1973 (Public Law 93-86; 7 U.S.C. 612c note) before the end of each fiscal year.

TITLE II—NUTRITION IMPROVEMENTS

Subtitle A—Food Stamp Act of 1977

SEC. 201. CATEGORICAL ELIGIBILITY.

The second sentence of section 5(a) of the Food Stamp Act of 1977 (7 U.S.C. 2014(a)) is amended—

(1) by striking out "during the period"; and

(2) by striking out "and ending on September 30, 1989".

SEC. 202. REPORTING REQUIREMENTS AND CALCULATION OF HOUSEHOLD INCOME.

(a) CALCULATION OF HOUSEHOLD INCOME.—Section 5(f) of the Food Stamp Act of 1977 (7 U.S.C. 2014(f)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2)(A) Households not required to submit monthly reports of their income and household circumstances under section 6(c)(1) shall have their income calculated on a prospective basis, as provided in paragraph (3)(A).

"(B) Households required to submit monthly reports of their income and household circumstances under section 6(c)(1) shall have their income calculated on a retrospective basis, as provided in paragraph (3)(B), except that in the case of the first month, or at the option of the State the first and second months, in a continuous period in which a household is certified, the State agency shall determine the amount of benefits on the basis of the household's income and other relevant circumstances in such first or second month.".

(b) OPTIONAL MONTHLY REPORTING.—Section 6(c) of such Act (7 U.S.C. 2015(c)) is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(1)(A) A State agency may require certain categories of households to file periodic reports of income and household circumstances in accordance with standards prescribed by the Secretary, except that a State agency may not require periodic reporting by—

"(i) migrant or seasonal farmworker households;

Homeless persons.

"(ii) households in which all members are homeless individuals; or

Aged persons. Handicapped persons.

"(iii) households that have no earned income and in which all adult members are elderly or disabled.

"(B) Each household that is not required to file such periodic reports on a monthly basis shall be required to report or cause to be reported to the State agency changes in income or household circumstances that the Secretary considers necessary to assure accurate eligibility and benefit determinations.".

(c) MONTHLY NOTICE.—Section 6(c)(2) of such Act (7 U.S.C. 2015(c)(2)) is amended—

(1) by striking out "and (D)" and inserting "(D)"; and

Reports.

(2) by inserting before the period the following: ", and (E) be provided each month (or other applicable period) with an appropriate, simple form for making the required reports of the household together with clear instructions explaining how to complete the form and the rights and responsibilities of the household under any periodic reporting system".

SEC. 203. BENEFITS FOR HOUSEHOLDS SUBJECT TO PRORATING.

(a) IN GENERAL.—Section 8(c) of the Food Stamp Act of 1977 (7 U.S.C. 2017(c)) is amended—

(1) by designating the first and second sentences as paragraphs (1) and (2), respectively;

(2) in paragraph (2) (as so redesignated), by redesignating clauses (1), (2), and (3) as subparagraphs (A), (B), and (C) respectively; and

(3) by adding at the end thereof the following new paragraph:

"(3) An eligible household applying after the 15th day of the month shall receive, in lieu of its initial allotment and its regular allotment for the following month, an allotment that is the aggregate of the initial allotment and the first regular allotment, which shall be provided in accordance with paragraphs (3) and (9) of section 11(e).".

(b) CONFORMING AMENDMENT.—Section 7(h) is amended— 7 USC 2016.

(1) by striking out "(1)"; and

(2) by repealing paragraph (2).

SEC. 204. OPTIONAL FOOD STAMP INFORMATION ACTIVITIES.

(a) OPTIONAL INFORMATION ACTIVITIES.—Subparagraph (A) of section 11(e)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2020(e)(1)(A)) is amended to read as follows: "(A) at the option of the State agency, inform low-income households about the availability, eligibility requirements, application procedures, and benefits of the food stamp program; and".

(b) ADMINISTRATIVE COSTS.—Section 16(a)(4) of such Act (7 U.S.C. 2025(a)(4)) is amended by striking out "permitted" and inserting in lieu thereof ", including those undertaken".

SEC. 205. EXTENSION OF HOMELESS AMENDMENTS.

Section 11002(f)(3) of the Homeless Eligibility Clarification Act (7 U.S.C. 2012 note) is amended by inserting ", except those amendments made by subsection (b)," after "this section".

Subtitle B—Child Nutrition Act of 1966, and National School Lunch Act

SEC. 210. IMPROVEMENT OF SCHOOL BREAKFAST PROGRAM.

The first sentence of section 4(b)(3) of the Child Nutrition Act of 1966 (42 U.S.C. 1773(b)(3)) is amended by striking out "3 cents" and inserting in lieu thereof "6 cents".

SEC. 211. ADDITION OF ONE SNACK OR ONE MEAL TO THE CHILD CARE FOOD PROGRAM.

Section 17(f)(2)(B) of the National School Lunch Act (42 U.S.C. 1766(f)(2)(B)) is amended by inserting before the period the following: ", or in the case of an institution (but not in the case of a family or group day care home sponsoring organization), two meals and two supplements or three meals and one supplement per day per child, for children that are maintained in a child care setting for eight or more hours per day.".

SEC. 212. ACCESS OF HOMELESS WOMEN, INFANTS, AND CHILDREN TO THE SPECIAL SUPPLEMENTAL FOOD PROGRAM.

(a) DEFINITIONS.—Section 17(b) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(b)) is amended by adding at the end thereof the following new paragraph:

"(15) 'Homeless individual' means—

"(A) an individual who lacks a fixed and regular nighttime residence; or

"(B) an individual whose primary nighttime residence is—

"(i) a supervised publicly or privately operated shelter (including a welfare hotel or congregate shelter) designed to provide temporary living accommodations;

"(ii) an institution that provides a temporary residence for individuals intended to be institutionalized;

"(iii) a temporary accommodation in the residence of another individual; or

"(iv) a public or private place not designed for, or ordinarily used as, a regular sleeping accommodation for human beings.".

(b) GENERAL AUTHORITY.—The last sentence of section 17(c)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(c)(1)) is amended to read as follows: "The program shall be supplementary to—

"(A) the food stamp program;

"(B) any program under which foods are distributed to needy families in lieu of food stamps; and

"(C) receipt of food or meals from soup kitchens, or shelters, or other forms of emergency food assistance.".

Homeless persons.

(c) STATE ADMINISTRATION.—Section 17(f) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(f)) is amended—

(1) in paragraph (1)(C)(iv), by striking out "migrants" and inserting in lieu thereof "migrants, homeless individuals,";

(2) in paragraph (8)(A), by inserting "organizations and agencies serving homeless individuals and shelters for victims of domestic violence," after "Indian tribal organizations,";

(3) in paragraph (13), by striking out "cultural eating patterns." and inserting in lieu thereof the following: "cultural eating patterns, and, in the case of homeless individuals, the special needs and problems of such individuals."; and

(4) by adding at the end thereof the following new paragraph:

"(17) The State agency may adopt methods of delivering benefits to accommodate the special needs and problems of homeless individuals.".

SEC. 213. SUMMER FEEDING PROGRAM.

Schools and colleges.

(a) ELIGIBLE SERVICE INSTITUTIONS.—Section 13(a)(1) of the National School Lunch Act (42 U.S.C. 1761(a)(1)) is amended in subparagraph (B), by inserting ", public or private nonprofit higher education institutions participating in the National Youth Sports Program," after "county governments".

(b) ELIGIBLE PRIVATE NONPROFIT ORGANIZATIONS.—Section 13(a) of the Act is amended by adding at the end thereof the following new paragraph:

"(7)(A) Not later than May 1, 1989, the Secretary shall institute Statewide demonstration projects in five States in which private nonprofit organizations, as defined in subparagraph (B) (other than organizations already eligible under section 13(a)(1)), shall be eligible for the program under the same terms and conditions as other service institutions.

"(B) As used in this paragraph, the term 'private nonprofit organizations' means those organizations that—

"(i) serve no more than 2,500 children per day and operate at not more than 5 sites;

"(ii) use self-preparation facilities to prepare meals, or obtain meals from a public facility (such as a school district, public hospital, or State university);

"(iii) operate in areas where a school food authority or the local, municipal, or county government has not indicated by March 1 of any year that such authority or unit of local government will operate a program under this section in such year;

"(iv) exercise full control and authority over the operation of the program at all sites under their sponsorship;

"(v) provide ongoing year-around activities for children;

"(vi) demonstrate that such organizations have adequate management and the fiscal capacity to operate a program under this section; and

"(vii) meet applicable State and local health, safety, and sanitation standards.". Safety.

SEC. 214. DEPARTMENT OF DEFENSE CHILD CARE FEEDING PROGRAM.

Section 17(h) of the National School Lunch Act (42 U.S.C. 1766(h)) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary is authorized to provide agricultural commodities obtained by the Secretary under the provisions of the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) and donated under the provisions of section 416 of such Act, to the Department of Defense for use by its institutions providing child care services, when such commodities are in excess of the quantities needed to meet the needs of all other child nutrition programs, domestic and foreign food assistance and export enhancement programs. The Secretary shall require reimbursement from the Department of Defense for the costs, or some portion thereof, of delivering such commodities to overseas locations, unless the Secretary determines that it is in the best interest of the program that the Department of Agriculture shall assume such costs.".

Subtitle C—Food Processing and Distribution

SEC. 220. ENCOURAGEMENT OF FOOD PROCESSING AND DISTRIBUTION BY ELIGIBLE RECIPIENT AGENCIES. 7 USC 612c note.

(a) SOLICITATION OF APPLICATIONS.—

(1) IN GENERAL.—Not later than 60 days after the date of enactment of this Act, the Secretary of Agriculture shall, to the extent that the Commodity Credit Corporation's inventory levels permit, solicit applications, in accordance with paragraph (2), for surplus commodities available for distribution under section 202 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note).

(2) REQUIREMENTS.—The solicitation by the Secretary of Agriculture under paragraph (1) shall be in the form of a request that any eligible recipient agency (as defined in section 201A of the Temporary Emergency Food Assistance Act of 1983) submit an application to the Secretary that shall include an assurance that such agency will—

(A) process any agricultural commodity received in response to such application into end-use products suitable for distribution through the Temporary Emergency Food Assistance Program;

(B) package such products for use by individual households; and

(C) distribute such products to State agencies responsible for the administration of the Temporary Emergency Food Assistance Program, at no cost to the State agency, for distribution through the Temporary Emergency Food Assistance Program.

(3) PROHIBITION ON PAYMENT OF PROCESSING COSTS.—Funds made available under section 204 of the Temporary Emergency Food Assistance Act of 1983 (7 U.S.C. 612c note) or funds of the Commodity Credit Corporation shall not be used to pay any costs incurred for the processing, storage, transportation or distribution of the commodities or end-use products prior to their delivery to the State agency.

(b) REVIEW OF APPLICATIONS.—

(1) TIME OF REVIEW.—Not later than 60 days after the Secretary of Agriculture receives an application solicited under subsection (a), the Secretary shall approve or disapprove such application.

(2) NOTICE OF DISAPPROVAL.—If the Secretary disapproves the application submitted under subsection (a), the Secretary shall inform the applicant of the reasons for such disapproval.

TITLE III—ADMINISTRATIVE IMPROVEMENTS AND SIMPLIFICATION

SEC. 301. REFERENCES TO THE FOOD STAMP ACT OF 1977.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

Subtitle A—Reducing Unnecessary Paperwork

SEC. 310. SIMPLIFIED APPLICATION FORMS.

Section 11(e)(2) (7 U.S.C. 2020(e)(2)), is amended by inserting after "exigencies as determined by the Secretary" the following: ", and in approving such deviation, the Secretary takes into account whether such State forms are easy to use, brief and readable. In consultation with the Secretary of Health and Human Services, the Secretary shall develop a program to provide assistance to States that request assistance in the development of brief, simply-written and readable application forms including application forms that cover the food stamp program, the aid to families with dependent children program under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.), and medical assistance programs administered by the Secretary of Health and Human Services under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.). Each food stamp application form shall contain, in plain and prominent language on its front cover, a place where applicants can write their names, addresses, and signatures, and instructions in understandable terms informing households of their right to file the application without immediately completing additional sections, describing the expe-

Health and medical care.

dited processing requirements of section 11(e)(9) and informing households that benefits are provided only from the date of application".

SEC. 311. STATEMENT OF REQUIRED VERIFICATION.

Section 11(e)(3) (7 U.S.C. 2020(e)(3)) is amended by inserting before the semicolon at the end thereof the following: ", and that the State agency shall—

"(A) provide each applicant household, at the time of application, a clear written statement explaining what acts the household must perform to cooperate in obtaining verification and otherwise completing the application process;

"(B) assist each applicant household in obtaining appropriate verification and completing the application process;

"(C) not require any household to submit additional proof of a matter on which the State agency already has current verification as determined under regulations issued by the Secretary, unless the State agency has reason to believe that the information possessed by the agency is inaccurate, incomplete, or inconsistent;

"(D) subject to subparagraph (E), not deny any application for participation under this program solely because of the failure of a person outside the household to cooperate (other than an individual failing to cooperate who would otherwise be a household member but for the operation of any of the individual disqualification provisions of subsections (b), (d), (e), (f), and (g) of section 6; and

"(E) process applications if a household complies with the requirements of the first sentence of section 6(c), by taking appropriate steps to verify information otherwise required to be verified under this Act".

Subtitle B—Assuring Accurate Issuance of Benefits

SEC. 320. CORRECTING IMPROPER DENIALS AND UNDERISSUANCES.

Section 11 (7 U.S.C. 2020) is amended by adding at the end thereof the following new subsection:

"(p) When a State agency learns, through its own reviews under section 16 or other reviews, or through other sources, that it has improperly denied, terminated, or underissued benefits to an eligible household, the State agency shall promptly restore any improperly denied benefits to the extent required by sections 11(e)(11) and 14(b), and shall take other steps to prevent a recurrence of such errors where such error was caused by the application of State agency practices, rules or procedures inconsistent with the requirements of this Act or with regulations or policies of the Secretary issued under the authority of this Act.".

SEC. 321. SPECIAL TRAINING OF STATE PERSONNEL INVOLVED IN CERTIFYING FARM HOUSEHOLDS.

(a) TRAINING.—Section 11(e)(6) (7 U.S.C. 2020(e)(6)) is amended—

(1) by striking out "and (C)" at the end of subparagraph (B) and inserting in lieu thereof "(C)"; and

(2) by inserting at the end thereof the following: "(D) the State agency, at its option, may undertake intensive training to ensure that State agency personnel who undertake the certification of households that include a member who engages in farming are qualified to perform such certification;".

(b) TRAINING MATERIALS.—Section 16 (7 U.S.C. 2025) is amended by adding at the end thereof the following new subsection:

"(k) Not later than 180 days after the date of the enactment of the Hunger Prevention Act of 1988, and annually thereafter, the Secretary shall publish instructional materials specifically designed to be used by the State agency to provide intensive training to State agency personnel who undertake the certification of households that include a member who engages in farming.".

(c) TECHNICAL CORRECTIONS.—Section 16 (7 U.S.C. 2025) is amended by redesignating subsection (h), as added by section 121(b)(5) of the Immigration Reform and Control Act of 1986, as subsection (j).

SEC. 322. TRAINING OF CERTIFICATION WORKERS AND COMMUNITY RESOURCES.

(a) TRAINING CERTIFICATION WORKERS.—Section 11(e)(6)(C) (7 U.S.C. 2020(e)(6)(C)) is amended—

(1) by striking out "undertake to"; and

(2) by inserting "so that eligible households are promptly and accurately certified to receive the allotments for which they are eligible under this Act" after "such certification".

Contracts. Voluntarism.

(b) COMMUNITY RESOURCES.—Section 11(e)(6) (7 U.S.C. 2020(e)(6)) (as amended by section 321(a) and subsection (a)) is further amended by adding at the end thereof the following new subparagraph: "and (E) at its option, the State agency may provide, or contract for the provision of, training and assistance to persons working with volunteer or nonprofit organizations that provide program information activities or eligibility screening to persons potentially eligible for food stamps;".

SEC. 323. PREVENTING INCORRECT ISSUANCES.

Communications and telecommunications.

Section 11(e) (7 U.S.C. 2020(e)) (as amended by section 311) is further amended by inserting before the semicolon at the end of paragraph (3), the following: ", and that the State agency shall provide the household, at the time of each certification and recertification, with a statement describing the reporting responsibilities of the household under this Act, and provide a toll-free or local telephone number, or a telephone number at which collect calls will be accepted by the State agency, at which the household may reach an appropriate representative of the State agency".

Subtitle C—Reducing Barriers in Rural America

SEC. 330. TRANSPORTATION DIFFICULTIES IN RURAL AREAS.

Aged persons. Handicapped persons.

Section 11(e)(2) (7 U.S.C. 2020(e)(2)) (as amended by section 310), is further amended by striking out "The State Agency shall comply" and all that follows through "certified properly;" and inserting in lieu thereof the following new sentences: "The State agency shall waive in-office interviews, on a household's request, if a household is unable to appoint an authorized representative pursuant to para-

graph (7) and has no adult household members able to come to the appropriate State agency office because such members are elderly, are mentally or physically handicapped, live in a location not served by a certification office, or have transportation difficulties or similar hardships as determined by the State agency (including hardships due to residing in a rural area, illness, care of a household member, prolonged severe weather, or work or training hours). If an in-office interview is waived, the State agency may conduct a telephone interview or a home visit. The State agency shall provide for telephone contact by, mail delivery of forms to, and mail return of forms by, households that have transportation difficulties or similar hardships.".

Communications and telecommunications. Mail.

Subtitle D—Eliminating Inequities for Farmers and Others

SEC. 340. CONTINUATION OF FOOD STAMPS TO PARTICIPANTS IN CASH-OUTS OF OTHER BENEFIT PROGRAMS.

Section 5(d)(1) (7 U.S.C. 2014(d)(1)) is amended—

(1) by striking out "and except as provided in subsection (k),", and

(2) by inserting after "to a household" the following: "(notwithstanding its conversion in whole or in part to direct payments to households pursuant to any demonstration project carried out or authorized under Federal law including demonstration projects created by the waiver of provisions of Federal law)".

SEC. 341. ANNUALIZING SELF-EMPLOYMENT INCOME AND EXPENSES FROM FARMING.

Section 5(f)(1)(A) (7 U.S.C. 2014(f)(1)(A)) is amended—

(1) in the second sentence by striking out "preceding" and inserting in lieu thereof "first"; and

(2) by inserting after the first sentence the following new sentence: "Notwithstanding the preceding sentence, household income resulting from the self-employment of a member in a farming operation, who derives income from such farming operation and who has irregular expenses to produce such income, may, at the option of the household, be calculated by averaging such income and expenses over a 12-month period.".

SEC. 342. HOUSEHOLDS IN TRANSITION.

Section 5(g) (7 U.S.C. 2014(g)) is amended by adding at the end thereof the following new sentence: "In the case of farm property (including land, equipment, and supplies) that is essential to the self-employment of a household member in a farming operation, the Secretary shall exclude from financial resources the value of such property until the expiration of the 1-year period beginning on the date such member ceases to be self-employed in farming.".

Real property. Employment and unemployment.

SEC. 343. TECHNICAL CORRECTION TO EXCLUSION OF ENERGY ASSISTANCE FROM FOOD STAMP INCOME.

Section 5(d)(11) (7 U.S.C. 2014(d)(11)) is amended—

(1) in the matter preceding subparagraph (A), by striking out "under" and inserting in lieu thereof "for the purpose of providing energy assistance";

(2) in subparagraph (A), to read as follows: "(A) under any Federal law, or"; and

(3) in subparagraph (B)—

(A) by striking out "any" and inserting in lieu thereof "under any"; and

(B) by striking out "for the purpose of providing energy assistance".

SEC. 344. CIVIL MONEY PENALTIES AND DISQUALIFICATION OF RETAIL FOOD STORES AND WHOLESALE FOOD CONCERNS.

Section 12(b)(3) (7 U.S.C. 2021(b)(3)) is amended to read as follows:

"(3) permanent upon—

"(A) the third occasion of disqualification; or

"(B) the first occasion or any subsequent occasion of a disqualification based on the purchase of coupons or trafficking in coupons or authorization cards by a retail food store or wholesale food concern, except that the Secretary shall have the discretion to impose a civil money penalty of up to $20,000 in lieu of disqualification under this subparagraph, for such purchase of coupons or trafficking in coupons or cards that constitutes a violation of the provisions of this Act or the regulations issued pursuant to this Act, if the Secretary determines that there is substantial evidence that such store or food concern had an effective policy and program in effect to prevent violations of the Act and the regulations.".

Subtitle E—Reducing Barriers for the Elderly and Disabled

SEC. 350. DISABLED PERSONS RECEIVING BENEFITS UNDER STANDARDS AT LEAST AS STRINGENT AS THOSE IN THE SOCIAL SECURITY ACT.

Paragraph (2) of section 3(r) (7 U.S.C. 2012(r)) is amended to read as follows:

"(2)(A) receives supplemental security income benefits under title XVI of the Social Security Act (42 U.S.C. 1381 et seq.), or Federally or State administered supplemental benefits of the type described in section 212(a) of Public Law 93-66 (42 U.S.C. 1382 note), or

Blind persons.

"(B) receives Federally or State administered supplemental assistance of the type described in section 1616(a) of the Social Security Act (42 U.S.C. 1382e(a)), interim assistance pending receipt of supplemental security income, disability-related medical assistance under title XIX of the Social Security Act (42 U.S.C. 1396 et seq.), or disability-based State general assistance benefits, if the Secretary determines that such benefits are conditioned on meeting disability or blindness criteria at least as stringent as those used under title XVI of the Social Security Act;".

SEC. 351. SIMPLIFIED PROCEDURE FOR CLAIMING EXCESS MEDICAL DEDUCTION.

Section 5(e) (7 U.S.C. 2014(e)) is amended by adding at the end thereof the following new sentences: "State agencies shall offer

eligible households a method of claiming a deduction for recurring medical expenses that are initially verified under the excess medical expense deduction provided for in subparagraph (A), in lieu of submitting information or verification on actual expenses on a monthly basis. The method described in the preceding sentence shall be designed to minimize the administrative burden for eligible elderly and disabled household members choosing to deduct their recurrent medical expenses pursuant to such method.".

SEC. 352. COORDINATED APPLICATION.

The second sentence of section 11(i) (7 U.S.C. 2020(i)) is amended to read as follows: "In addition to implementing paragraphs (1) through (4), the State agency shall inform applicants for benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.) that such applicants may file, along with their application for such benefits, an application for benefits under this Act, and that if such applicants file, they shall have a single interview for food stamps and for benefits under part A of title IV of the Social Security Act.".

TITLE IV—FAMILY SELF-SUFFICIENCY

SEC. 401. REFERENCES TO THE FOOD STAMP ACT OF 1977.

Except as otherwise specifically provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.).

SEC. 402. EXCLUSION FOR ADVANCE PAYMENT OF EARNED INCOME CREDIT.

Section 5(d) (7 U.S.C. 2014(d)) is amended—

(1) by striking out "and (13)" and inserting in lieu thereof "(13)"; and

(2) by inserting before the period at the end thereof the following: ", (14) any payment made to the household under section 3507 of the Internal Revenue Code of 1986 (relating to advance payment of earned income credit)".

SEC. 403. DEDUCTION FOR DEPENDENT CARE.

(a) IN GENERAL.—Section 5(d) (7 U.S.C. 2014(d)) (as amended by section 402) is further amended by inserting before the period at the end thereof the following: ", and (15) any payment made to the household under section 6(d)(4)(I) for work related expenses or for dependent care".

(b) DEDUCTION.—Section 5(e) (7 U.S.C. 2014(e)) is amended—

(1) in the matter preceding paragraph (1) of the fourth sentence by inserting "and expenses that are paid under section 6(d)(4)(I) for dependent care" after "third party"; and

(2) in paragraph (1) of the fourth sentence, by inserting after "$160 a month" the following: "for each dependent".

SEC. 404. EMPLOYMENT AND TRAINING.

(a) COMPONENTS OF EMPLOYMENT AND TRAINING PROGRAMS.—Section 6(d)(4)(B) (7 U.S.C. 2015(d)(4)(B)) is amended—

(1) in clause (i), by striking out "have no obligation" through "State agency shall";

(2) in clause (v)—

(A) by inserting "or the State under regulations issued by the Secretary," after "the Secretary"; and

(B) by inserting "employment, educational and training" after "other";

(3) by redesignating clause (v) (as amended by paragraph (2)) as clause (vi); and

(4) by inserting after clause (iv), the following new clause:

Education.

"(v) Educational programs or activities to improve basic skills or otherwise improve employability, including educational programs determined by the State agency to expand the job search abilities or employability of those subject to the program under this paragraph.".

(b) EMPLOYMENT ASSIGNMENTS AND CONCILIATION.—Section 6(d)(4) (7 U.S.C. 2015(d)(4)) is amended—

(1) by redesignating subparagraphs (H), (I), (J), (K), and (L) as subparagraphs (I), (J), (K), (M) and (N), respectively; and

(2) by inserting after subparagraph (G), the following new subparagraph:

Regulations.

"(H)(i) The Secretary shall issue regulations under which each State agency shall establish a conciliation procedure for the resolution of disputes involving the participation of an individual in the program.

"(ii) Federal funds made available to a State agency for purposes of the component authorized under subparagraph (B)(v) shall not be used to supplant non-Federal funds used for existing services and activities that promote the purposes of this component.".

(c) PARTICIPANTS' EXPENSES.—Section 6(d)(4)(I) (as redesignated by subsection (b) of this section), is amended to read as follows:

Grants.

"(I)(i) The State agency shall provide payments or reimbursements to participants in programs carried out under this paragraph, including individuals participating under subparagraph (G), for—

Transportation.

"(I) the actual costs of transportation and other actual costs (other than dependent care costs), that are reasonably necessary and directly related to participation in the program, except that the State agency may limit such reimbursement to each participant to $25 per month; and

"(II) the actual costs of such dependent care expenses that are determined by the State agency to be necessary for the participation of an individual in the program (other than an individual who is the caretaker relative of a dependent in a family receiving benefits under part A of title IV of the Social Security Act (42 U.S.C. 601 et seq.)) in a local area where an employment, training, or education program under title IV of such Act is in operation or was in operation, on the date of enactment of the Hunger Prevention Act of 1988, but in no event shall such payment or reimbursements exceed $160 per dependent per month. Individuals subject to the program under this paragraph may not be required to participate if dependent care costs exceed $160 per dependent per month.

Contracts.

"(ii) In lieu of providing reimbursements or payments for dependent care expenses under clause (i), a State agency may, at its option, arrange for dependent care through providers by the use of purchase of service contracts or vouchers or by providing vouchers to the household.

"(iii) The value of any dependent care services provided for or arranged under clause (ii), or any amount received as a payment or reimbursement under clause (i), shall—

"(I) not be treated as income for the purposes of any other Federal or federally assisted program that bases eligibility for, or the amount of benefits on, need; and

"(II) not be claimed as an employment-related expense for the purposes of the credit provided under section 21 of the Internal Revenue Code of 1986.".

(d) PERFORMANCE STANDARDS AND PARTICIPATION STANDARDS.—Section 6(d)(4) (7 U.S.C. 2015(d)(4)) is amended by inserting after subparagraph (K) (as redesignated by subsection (b)) the following new subparagraph:

"(L)(i) The Secretary shall establish, in accordance with this subparagraph, performance standards that are applicable to employment and training programs carried out under this paragraph.

"(ii) The performance standards referred to in clause (i) shall be developed by the Secretary after consultation with the Office of Technology Assessment, the Secretary of Labor, the Secretary of Health and Human Services, appropriate State officials designated for purposes of this clause by the chief executive officers of the States, other appropriate experts, and representatives of households participating in the food stamp program. Such performance standards (which shall be coordinated with the corresponding performance standards under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) and the performance standards under title IV of the Social Security Act (42 U.S.C. 601 et seq.), taking into consideration the differing characteristics of such households)—

"(I) shall be measured by employment outcomes and shall be based on the degree of success that may reasonably be expected of States (in carrying out employment and training programs) in helping individuals to achieve self-sufficiency;

"(II) shall take into account the extent to which persons have elected to participate in employment and training programs under this paragraph, job placement rates, wage rates, job retention rates, households ceasing to need benefits under this Act, and improvements in household members' educational levels;

"(III) shall encourage States to serve those individuals who have greater barriers to employment and thus have greater difficulties in achieving self-sufficiency; and

"(IV) shall include guidelines permitting appropriate variations that take into account the differing conditions (including unemployment rates and rates of elective participation under subparagraph (G) in employment and training programs under this paragraph) that may exist in different States.

"(iii) Final measures for the performance standards referred to in clause (i) shall be published by the Secretary, after the consideration of public comments concerning the proposed measures for such performance standards, and implemented by the States not later than April 1, 1991.

"(iv) The performance standards developed and issued under clause (ii) shall be varied in any State, to the extent permitted under clause (ii)(IV), to the extent necessary to take into account specific economic, geographic, and demographic factors in the State, the characteristics of the population to be served, and the types of services to be provided.

Effective date. Termination date.

"(v) The performance standards in effect under subparagraph (K) shall remain in effect during the period beginning on October 1, 1988, and ending on the date the Secretary implements the performance standards required to be issued under this subparagraph on which date the authority to issue such standards shall expire.

"(vi) Not later than 180 days after the Secretary publishes the proposed measures for the performance standards under this subparagraph, the Office of Technology Assessment shall—

"(I) develop model performance standards suitable for application to employment and training programs carried out under this subsection and that satisfy the criteria specified in this subparagraph;

"(II) compare the standards developed under subclause (I) with the performance standards established under this subparagraph by the Secretary, and

Reports.

"(III) submit to the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Secretary of Agriculture a report describing the results of the comparison required under subclause (II).".

(e) INCENTIVE PAYMENTS.—Section 16(h) (7 U.S.C. 2025(h)) is amended by adding at the end thereof the following new paragraph:

"(6) The Secretary shall develop, and transmit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a proposal for modifying the rate of Federal payments under this subsection so as to reflect the relative effectiveness of the various States in carrying out employment and training programs under section 6(d)(4).".

(f) HOUSEHOLDS.—Section 5(d)(5) (7 U.S.C. 2014(d)(5)) is amended by inserting after "child care expenses" the following: "(except for payments or reimbursements for such expenses made under an employment, education, or training program initiated under such title after the date of enactment of the Hunger Prevention Act of 1988)".

Transportation.

(g) REIMBURSABLE COSTS.—Section 16(h)(3) (7 U.S.C. 2025) is amended by inserting after "month" the following: "for costs of transportation and other actual costs (other than dependent care costs) and an amount representing $160 per month per dependent".

TITLE V—DEMONSTRATION PROJECTS

Grants.

SEC. 501. FARMERS' MARKET COUPONS DEMONSTRATION PROJECT.

42 USC 1786 note.

(a) PURPOSE.—The purpose of this section is to authorize the establishment of a grant program to encourage State demonstration projects designed to—

(1) provide resources to persons who are nutritionally at risk in the form of fresh nutritious unprepared foods (such as fruits and vegetables), from farmers' markets; and

(2) expand the awareness and use of farmers' markets and increase sales at such markets.

(b) GENERAL AUTHORITY.—Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended by adding at the end thereof the following new subsection:

"(m)(1) Subject to the availability of funds appropriated for purposes of this subsection, the Secretary shall award a 3-year grant to up to 10 States that submit applications that are approved for the establishment of demonstration projects designed to provide recipi-

ents of assistance under subsection (c) with coupons that may be exchanged for foods at farmers' markets.

"(2) A grant provided to any State under this subsection shall be provided to the chief executive officer of the State, who shall—

"(A) designate the appropriate State agency or agencies to administer the program in conjunction with the appropriate nonprofit organizations; and

"(B) assure coordination of the program among the appropriate agencies and organizations.

"(3) The Secretary shall not make a grant to any State under this subsection unless such State agrees to provide State funds for the demonstration project in an amount that is equal to not less than 30 percent of the total cost of the demonstration project which may be satisfied from State contributions that are made for similar projects.

"(4)(A) The Secretary shall establish a formula for determining the amount of the grant to be awarded under this subsection to each State for which an application is approved under paragraph (6), according to the number of recipients proposed to participate as specified in the application of the State.

"(B) If the sums appropriated for any fiscal year pursuant to the authorization contained in paragraph (10) for grants under this subsection are not sufficient to pay to each State for which an application is approved under paragraph (6) the amount which the Secretary determines each such State is entitled to under this subsection, each State's grant shall be ratably reduced.

"(5) Each State that receives a grant under this subsection shall ensure that the demonstration project for which the grant is received complies with the following requirements:

"(A) Persons who are eligible to receive Federal benefits under the project shall only be persons who are receiving assistance under subsection (c).

"(B) Construction or operation of a farmers' market may not be carried out using funds—

"(i) provided under the grant; or

"(ii) required to be provided by the State under paragraph (3).

"(C) The value of the Federal share of the benefit received by any recipient under the project may not be—

"(i) less than $10 per year; or

"(ii) more than $20 per year.

"(D) The coupon issuance process under the project shall be designed to ensure that coupons target areas with—

"(i) the highest concentration of eligible persons;

"(ii) the greatest access to farmers' markets; and

"(iii) certain characteristics, in addition to those described in clauses (i) and (ii), that are determined to be relevant by the Secretary that maximize the availability of benefits to eligible persons.

"(E) The coupon redemption process under the project shall be designed to ensure that coupons may be—

"(i) redeemed only by producers authorized by the State to participate in the project; and

"(ii) redeemed only to purchase unprepared food for human consumption.

"(F)(i) Except as provided in clauses (ii) and (iii), the State may not use for administration of such project for any fiscal year more than 10 percent of the total amount of project funds.

"(ii) On the showing by the State of substantial need, the Secretary may permit a State to use up to an additional two percent of the total project funds for administration of such project for any fiscal year.

"(iii) The provisions of clauses (i) and (ii) with respect to the use of project funds for the administration of the project shall not apply to any funds that a State may contribute in excess of the funds used by the State to meet the requirements under subparagraph (B).

Taxes.

"(G) The State shall ensure that no State or local taxes are collected within the State on purchases of food with coupons distributed under the project.

"(6)(A) A State that desires to receive a grant under this subsection shall submit an application to the Secretary at such time and in such manner as the Secretary may reasonably require.

"(B)(i) Each application submitted under this paragraph shall contain—

"(I) the estimated cost of the program and the estimated number of individuals to be served by such program;

"(II) a description of the State plan for complying with the requirements established in paragraph (5); and

"(III) criteria developed by the State with respect to authorization of producers to participate in the program.

"(ii) The criteria developed by the State as required by clause (i)(III) shall require any authorized producer to sell fresh nutritious unprepared foods (such as fruits and vegetables) to recipients, in exchange for coupons distributed under the project.

"(C) The Secretary shall establish objective criteria for the approval of applications submitted under this paragraph.

"(D) In approving applications submitted under this paragraph, the Secretary shall—

"(i) favorably consider a State's prior experiences with programs in existence as of the date of enactment of the Hunger Prevention Act of 1988;

"(ii) favorably consider a State's operation of a similar project with State or local funds that can present data concerning the value of such project, and such data can be of assistance to other States interested in developing such farmers' market coupons projects;

"(iii) award a grant to at least one applicant that proposes to operate the program on a Statewide basis;

"(iv) give preference to applications from States that propose projects that are determined by the Secretary to—

"(I) have possible national significance; or

"(II) show unusual promise in promoting similar projects;

"(v) give preference to applications that show promise of continued operation of the project for which the grant is requested after the grant expires;

"(vi) require that if a State receives a grant under this section and that State is operating a similar project with State or local funds, that State shall not reduce in any fiscal year the amount of State and local funds available to the project in the preceding fiscal year after receiving funds for the project under this subsection; and

"(vii) give preference to applications for projects that would serve areas in the State that have—

"(I) the highest concentration of eligible persons;

"(II) the greatest access to farmers' markets;
"(III) broad geographical area;
"(IV) the greatest number of participants in the broadest geographical area within the State; and
"(V) any other characteristics, as determined appropriate by the Secretary, that maximize the availability of benefits to eligible persons.

"(7)(A) The value of the benefit received by any recipient under any project for which a grant is received under this subsection may not affect the eligibility or benefit levels for assistance under any other State or Federal program.

"(B) Any projects for which a grant is received under this subsection shall be supplementary to the food stamp program carried out under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.) and to any other Federal or State program under which foods are distributed to needy families in lieu of food stamps.

"(8) Each State that receives a grant under this subsection shall submit a report to the Secretary for each year of the grant period. Each such report shall include— Reports.

"(A) the number of recipients served under the project for which the grant is received;
"(B) the rate of redemption of coupons distributed under the project;
"(C) the types of foods purchased with the coupons;
"(D) the average amount distributed in coupons to each recipient;
"(E) any change in the amount of food purchased at farmers' markets after the establishment of the project;
"(F) any change in the number of farmers participating in farmers' markets after the establishment of the project;
"(G) a description of how coupons were distributed to and redeemed by recipients in the State project; and
"(H) any other information determined to be necessary by the Secretary.

"(9)(A) The Secretary shall evaluate the projects for which grants are received under this subsection and submit to the Committee on Agriculture of the House of Representatives, the Committee on Education and Labor of the House of Representatives, and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on such evaluations.

"(B) Such report shall be submitted before the end of the 2-year period beginning on the date that the last grant is awarded under this subsection. Reports.

"(10) There are authorized to be appropriated to carry out this subsection $2,000,000 for fiscal year 1989, $2,800,000 for fiscal year 1990, and $3,500,000 for fiscal year 1991. Appropriation authorization.

"(11) For purposes of this subsection:
"(A) The term 'recipient' means a person who is chosen by a State to receive benefits under a project.
"(B) The term 'State agency' has the meaning provided in subsection (b)(13), except that such term also includes the agriculture department of each State.".

SEC. 502. FOOD BANK DEMONSTRATION PROJECTS. 7 USC 612c note.

(a) IN GENERAL.—The Secretary of Agriculture may carry out demonstration projects to provide and redistribute to needy individ-

uals and families through community food banks and other charitable food banks—

(1) agricultural commodities or the products thereof made available under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431); and

(2) to the extent practicable, agricultural commodities or the products thereof made available under section 32 of the Act entitled "An Act to amend the Agricultural Adjustment Act, and for other purposes", approved August 24, 1935 (7 U.S.C. 612c).

(b) FOOD TYPES.—The Secretary shall determine the quantities, varieties, and types of agricultural commodities and products thereof to be made available to community food banks under this section.

(c) REPORT.—Not later than July 1, 1990, the Secretary shall submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report describing any demonstration projects carried out under this section. The report shall include an analysis and evaluation of the distribution and redistribution of food under the demonstration projects and the feasibility of expanding the projects to other community food banks.

(d) TERMINATION.—The authority provided under this section shall terminate on September 30, 1990.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $400,000 for each of the fiscal years 1989 through 1990.

42 USC 1766 note.

SEC. 503. FAMILY OR GROUP DAY CARE HOME DEMONSTRATION PROJECT.

(a) IN GENERAL.—The Secretary of Agriculture shall conduct a demonstration project to begin 30 days after enactment of this Act, but in no event earlier than October 1, 1988, in one State regarding the Child Care Food Program authorized under section 17 of the National School Lunch Act (42 U.S.C. 1766) in which day care institutions and family or group day care sponsoring organizations shall receive a reimbursement (in addition to that received under subsections (d) and (f) of section 17 for providing one additional meal or supplement for children that are maintained in a day care institution or in a family or group day care home setting for eight or more hours per day.

(b) LOCATION.—The Secretary of Agriculture shall select one State in which to conduct the demonstration project established under subsection (a). The State shall have a large number of children served by family or group day care homes and shall have a large proportion of its Child Care Food Program meals served under such program in homes rather than in day care centers.

(c) PURPOSE OF DEMONSTRATION.—The demonstration project established under subsection (a) shall be structured in a manner that will enable the Secretary of Agriculture to determine—

(1) if the additional meal or supplement for children staying in day care homes longer than eight hours would increase participation in the Child Care Food Program by family and group day care homes;

(2) the extent to which meal service increases at such homes; and

(3) the nutritional impact of the additional meal or supplement.

(d) REPORT.—Not later than August 1, 1989, the Secretary of Agriculture shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Senate Committee on Agriculture, Nutrition, and Forestry, a preliminary report that describes the results of the project conducted under this section. As expeditiously as possible after the conclusion of such project, the Secretary shall prepare and submit to such Committees a final report concerning the project.

(e) TERMINATION.—The demonstration project required by this section shall terminate not later than 12 months after the date on which the project was fully initiated.

SEC. 504. DEMONSTRATION PROJECTS FOR DEVELOPMENT AND USE OF INTELLIGENT COMPUTER BENEFIT CARDS TO PAY FOOD STAMP BENEFITS.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) is amended by adding at the end thereof the following new subsection:

"(f)(1) In order to encourage States to plan, design, develop, and implement a system for making food stamp benefits available through the use of intelligent benefit cards or other automated or electronic benefit delivery systems, the Secretary may conduct one or more pilot or experimental projects, subject to the restrictions imposed by subsection (b)(1) and section 7(g)(2), designed to test whether the use of such cards or systems can enhance the efficiency and effectiveness of program operations while ensuring that individuals receive correct benefit amounts on a timely basis. Intelligent benefit cards developed under such a demonstration project shall contain information, encoded on a computer chip embedded in a credit card medium, including the eligibility of the individual and the amount of benefits to which such individual is entitled. Any other automated or electronic benefit delivery system developed under such a demonstration project shall be able to use a plastic card to access such information from a data file.".

SEC. 505. STUDY OF THE EFFECTIVENESS OF THE FOOD STAMP EMPLOYMENT AND TRAINING PROGRAM.

Section 17 of the Food Stamp Act of 1977 (7 U.S.C. 2026) (as amended by section 504), is further amended by adding at the end thereof the following new subsection:

"(g) In order to assess the effectiveness of the employment and training programs established under section 6(d) in placing individuals into the work force and withdrawing such individuals from the food stamp program, the Secretary is authorized to carry out studies comparing the pre- and post-program labor force participation, wage rates, family income, level of receipt of food stamp and other transfer payments, and other relevant information, for samples of participants in such employment and training programs as compared to the appropriate control or comparison groups that did not participate in such programs. Such studies shall, to the maximum extent possible— Records.

"(1) collect such data for up to 3 years after the individual has completed the employment and training program; and

"(2) yield results that can be generalized to the national program as a whole.

The results of such studies and reports shall be considered in developing or updating the performance standards required under section 6."

TITLE VI—IMPROVING PAYMENT ACCURACY

SEC. 601. REVIEW OF STATE PROGRAM INVESTMENT WHEN SETTLING CLAIMS.

Section 13(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2022(a)(1)) is amended by inserting at the end thereof the following new sentence: "In determining whether to settle, adjust, compromise, or waive a claim arising against a State agency pursuant to section 16(c), the Secretary shall review a State agency's plans for new dollar investment in activities to improve program administration in order to reduce payment error, and shall take the State agency's plans for new dollar investment in such activities into consideration as the Secretary considers appropriate.".

SEC. 602. INTEREST ON CLAIMS AGAINST STATE AGENCIES.

Section 13(a)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2022(a)(1)), as amended by section 601, is further amended by adding at the end thereof the following new sentences: "To the extent that a State agency does not pay a claim established under section 16(c)(1)(C), including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding, within 30 days from the date on which the bill for collection (after a determination on any request for a waiver for good cause related to the claim has been made by the Secretary) is received by the State agency, the State agency shall be liable for interest on any unpaid portion of such claim accruing from the date on which the bill for collection was received by the State agency, unless the State agency appeals the claim under section 16(c)(7). If the State agency appeals such claim (in whole or in part), the interest on any unpaid portion of the claim shall accrue from the date of the decision on the administrative appeal, or from a date that is 2 years after the date the bill is received, whichever is earlier, until the date the unpaid portion of the payment is received. If the State agency pays such claim (in whole or in part, including an agreement to have all or part of the claim paid through a reduction in Federal administrative funding) and the claim is subsequently overturned through administrative or judicial appeal, any amounts paid by the State agency shall be promptly returned with interest, accruing from the date the payment is received until the date the payment is returned. Any interest assessed under this paragraph shall be computed at a rate determined by the Secretary based on the average of the bond equivalent of the weekly 90-day Treasury bill auction rates during the period such interest accrues.".

Claims.

SEC. 603. ADMINISTRATIVE AND JUDICIAL REVIEW.

Section 14(a) of the Food Stamp Act of 1977 (7 U.S.C. 2023(a)) is amended—

Records.

(1) by inserting immediately after the fifth sentence the following new sentences: "Determinations regarding claims made pursuant to section 16(c) shall be made on the record after

opportunity for an agency hearing in accordance with section 556 and 557 of title 5, United States Code, in which one or more administrative law judges appointed pursuant to section 3105 of such title shall preside over the taking of evidence. Such judges shall have authority to issue and enforce subpoenas in the manner prescribed in sections 13 (c) and (d) of the Perishable Agricultural Commodities Act of 1930 (7 U.S.C. 499m (c) and (d)) and to appoint expert witnesses under the provisions of Rule 706 of the Federal Rules of Evidence. The Secretary may not limit the authority of such judges presiding over determinations regarding claims made pursuant to section 16(c). The Secretary shall provide a summary procedure for determinations regarding claims made pursuant to section 16(c) in amounts less than $50,000. Such summary procedure need not include an oral hearing. On a petition by the State agency or sua sponte, the Secretary may permit the full administrative review procedure to be used in lieu of such summary review procedure for a claim of less than $50,000. Subject to the right of judicial review hereinafter provided, a determination made by an administrative law judge regarding a claim made pursuant to section 16(c) shall be final and shall take effect thirty days after the date of the delivery or service of final notice of such determination.";

Effective date.

(2) by inserting before the period at the end of the eighth sentence (as it existed before the amendment made by paragraph (1)) ", except that judicial review of determinations regarding claims made pursuant to section 16(c) shall be a review on the administrative record"; and

(3) by adding at the end thereof the following new sentence: "Notwithstanding the administrative or judicial review procedures set forth in this subsection, determinations by the Secretary concerning whether a State agency had good cause for its failure to meet error rate tolerance levels established under section 16(c) are final.".

SEC. 604. PAYMENT ACCURACY IMPROVEMENT SYSTEM.

Section 16 of the Food Stamp Act of 1977 (7 U.S.C. 2025) is amended—

(1) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c)(1) The program authorized under this Act shall include a system that enhances payment accuracy by establishing fiscal incentives that require State agencies with high error rates to share in the cost of payment error and provide enhanced administrative funding to States with the lowest error rates. Under such system—

"(A) the Secretary shall adjust a State agency's federally funded share of administrative costs pursuant to subsection (a), other than the costs already shared in excess of 50 percent under the proviso in the first sentence of subsection (a) or under subsection (g), by increasing such share of all such administrative costs by one percentage point to a maximum of 60 percent of all such administrative costs for each full one-tenth of a percentage point by which the payment error rate is less than 6 percent, except that only States whose rate of invalid decisions in denying eligibility is less than a nationwide percentage that the Secretary determines to be reasonable shall be entitled to the adjustment prescribed in this subsection;

"(B) the Secretary shall foster management improvements by the States pursuant to subsection (b) by requiring State agencies other than those receiving adjustments under subparagraph (A) to develop and implement corrective action plans to reduce payment errors; and

"(C) for any fiscal year in which a State agency's payment error rate exceeds the payment error tolerance level for payment error rates announced under paragraph (6), other than for good cause shown, the State agency shall pay to the Secretary an amount equal to its payment error rate less such tolerance level times the total value of allotments issued in such a fiscal year by such State agency. The amount of liability shall not be affected by corrective action under subparagraph (B).

"(2) As used in this section—

"(A) the term 'payment error rate' means the sum of the point estimates of an overpayment error rate and an underpayment error rate determined by the Secretary from data collected in a probability sample of participating households;

"(B) the term 'overpayment error rate' means the percentage of the value of all allotments issued in a fiscal year by a State agency that are either—

"(i) issued to households that fail to meet basic program eligibility requirements; or

"(ii) overissued to eligible households; and

"(C) the term 'underpayment error rate' means the ratio of the value of allotments underissued to recipient households to the total value of allotments issued in a fiscal year by a State agency.

"(3) The following errors may be measured for management purposes but shall not be included in the payment error rate:

"(A) Any errors resulting in the application of new regulations promulgated under this Act during the first 60 days (or 90 days at the discretion of the Secretary) from the required implementation date for such regulations.

"(B) Errors resulting from the use by a State agency of correctly processed information concerning households or individuals received from Federal agencies or from actions based on policy information approved or disseminated, in writing, by the Secretary or the Secretary's designee.

"(4) The Secretary may require a State agency to report any factors that the Secretary considers necessary to determine a State agency's payment error rate, enhanced administrative funding, or claim for payment error, under this subsection. If a State agency fails to meet the reporting requirements established by the Secretary, the Secretary shall base the determination on all pertinent information available to the Secretary.

Records.

"(5) To facilitate the implementation of this subsection each State agency shall submit to the Secretary expeditiously data regarding its operations in each fiscal year sufficient for the Secretary to establish the payment error rate for the State agency for such fiscal year and determine the amount of either incentive payments under paragraph (1)(A) or claims under paragraph (1)(C). The Secretary shall make a determination for a fiscal year, and notify the State agency of such determination, within nine months following the end of each fiscal year. The Secretary shall initiate efforts to collect the amount owed by the State agency as a claim established under

Claims.

paragraph (1)(C) for a fiscal year, subject to the conclusion of any formal or informal appeal procedure and administrative or judicial review under section 14 (as provided for in paragraph (7)), before the end of the fiscal year following such fiscal year.

"(6) At the time the Secretary makes the notification to State agencies of their error rates and incentive payments or claims pursuant to paragraphs (1)(A) and (1)(C), the Secretary shall also announce a national performance measure that shall be the sum of the products of each State agency's error rate as developed for the notifications under paragraph (5) times that State agency's proportion of the total value of national allotments issued for the fiscal year using the most recent issuance data available at the time of the notifications issued pursuant to paragraph (5). Where a State fails to meet reporting requirements pursuant to paragraph (4), the Secretary may use another measure of a State's error developed pursuant to paragraph (5), to develop the national performance measure. The announced national performance measure shall be used to establish a payment-error tolerance level. Such tolerance level for any fiscal year will be one percentage point added to the lowest national performance measure ever announced up to and including such fiscal year under this section. The payment-error tolerance level shall be used in determining the State share of the cost of payment error under paragraph (1)(C) for the fiscal year whose error rates are being announced under paragraph (5). Claims.

"(7) If the Secretary asserts a financial claim against a State agency under paragraph (1)(C), the State may seek administrative and judicial review of the action pursuant to section 14."; and

(2) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

"(d) The Secretary shall undertake the following studies of the payment error improvement system established under subsection (c): Reports.

"(1) An assessment of the feasibility of measuring payment errors due to improper denials and terminations of benefits or otherwise developing performance standards with financial consequences for improper denials and terminations, including incorporation in subsection (c). The Secretary shall report the results of such study and the recommendations of the Secretary to the Congress by July 1, 1990.

"(2) An evaluation of the effectiveness of the system of program improvement initiated under this section that shall be reported to the Congress along with the Secretary's recommendations no later than 3 years from the date of enactment of this section.".

TITLE VII—IMPLEMENTATION

SEC. 701. EFFECTIVE DATES. 7 USC 2012 note.

(a) IN GENERAL.—Except as otherwise provided for in section 503 and in subsection (b) of this section, this Act and the amendments made by this Act shall become effective and be implemented on October 1, 1988.

(b) SPECIAL RULES.—

(1) The amendments made by sections 101, 103, 301, 321(c), 343, and 401 shall become effective and be implemented on the date of enactment of this Act.

(2) The amendments made by section 402 shall become effective and be implemented on January 1, 1989.

(3)(A) The amendments made by section 203(a) shall become effective on January 1, 1989, and the States shall implement such section by January 1, 1990.

(B) The amendments made by section 203(b) shall become effective on January 1, 1989, except with regards to those States not implementing section 203(a).

(4) The amendments made by sections 204, 210, 211, subsections (a)(1), (c), and (e) of section 404, and sections 310 through 352 shall become effective and implemented on July 1, 1989.

(5) The amendments made by title VI shall be effective as follows:

(A) Except as provided in subparagraph (D), the provisions of section 16(c) of the Food Stamp Act of 1977, as amended by section 604, shall become effective on October 1, 1985, with respect to claims under section 16(c) for quality control review periods after such date, except that—

(i) the provisions of section 16(c)(1)(A), as amended, shall become effective on October 1, 1988, with respect to payment error rates for quality control review periods after such date; and

(ii) the provisions of section 16(c)(3), as amended, shall become effective on October 1, 1988, with respect to payment error rates for quality control review periods after such date.

(B) The amendments made by sections 601 and 602 shall become effective on October 1, 1985, with respect to claims under section 16(c) for quality control review periods after such date.

(C) Except as provided in subparagraph (D), the amendments made to section 14 of the Food Stamp Act of 1977 by section 603 shall become effective on October 1, 1985, with respect to claims under section 16(c) for quality control review periods after such date.

(D)(i) The provisions of sections 13, 14, and 16 of the Food Stamp Act of 1977 that relate to claims against State agencies and that were in effect for any quality control review period or periods through fiscal year 1985 shall remain in effect for claims arising with respect to such period or periods.

(ii) The provisions of sections 14 and 16(c) of the Food Stamp Act of 1977 that relate to enhanced administrative funding for State agencies and that were in effect for any quality control review period or periods through fiscal year 1988 shall remain in effect for such funding with respect to such period or periods.

(c) SEQUESTRATION.—

(1) IN GENERAL.—Notwithstanding any other provision of law, if a final order is issued for fiscal year 1989 under section 252(b) of the Balanced Budget and Emergency Deficit Control Act of 1985 (2 U.S.C. 902(b)), the amount made available to carry out the food stamp program under section 18 of the Food Stamp Act of 1977 (7 U.S.C. 2027) shall be reduced by an amount equal to $110,000,000 multiplied by the amount of the percentage reduction for domestic programs required under such order. The reduction required by the preceding sentence shall be achieved

by reducing the amount of the adjustment to the cost of the thrifty food plan for fiscal year 1989 under section 3(o)(9) of the Food Stamp Act of 1977 (as added by section 120 of this Act).

(2) EFFECTIVE DATES IF SEQUESTRATION OCCURS.—Notwithstanding subsections (a) and (b), if a final order is issued under section 252(b) of the Emergency Deficit Control Act of 1985 (2 U.S.C. 902(b)) for fiscal year 1989 to make reductions and sequestrations specified in the report required under section 251(a)(3)(A) of such Act, sections 111, 201, 204, 310, 311, 321, 322, 323, 341, 342, 350, 351, 352, 402, 403, 404, 502, 504, and 505 shall become effective and be implemented on October 1, 1989.

Approved September 19, 1988.

LEGISLATIVE HISTORY—S. 2560 (H.R. 4060):

HOUSE REPORTS: No. 100-828, Pt. 1, accompanying H.R. 4060 (Comm. on Agriculture).
SENATE REPORTS: No. 100-397 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Aug. 8, H.R. 4060 considered and passed House.
Aug. 11, S. 2560 considered and passed House, amended. Senate concurred in House amendment.

Public Law 100-436
100th Congress

An Act

Sept. 20, 1988
[H.R. 4783]

Making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies, for the fiscal year ending September 30, 1989, and for other purposes.

Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989.
Department of Labor Appropriations Act, 1989.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $71,638,000 together with not to exceed $48,906,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

TRAINING AND EMPLOYMENT SERVICES

For expenses necessary to carry into effect the Job Training Partnership Act, including the purchase and hire of passenger motor vehicles, $3,709,800,000, plus reimbursements, to be available for obligation for the period July 1, 1989, through June 30, 1990, of which $59,713,000 shall be for carrying out section 401, $69,372,000 shall be for carrying out section 402, $9,633,000 shall be for carrying out section 441, $2,000,000 shall be for the National Commission for Employment Policy, $4,000,000 shall be for all activities conducted by and through the National Occupational Information Coordinating Committee under the Job Training Partnership Act, and $6,000,000 shall be for service delivery areas under section 101(a)(4)(A)(iii) of the Job Training Partnership Act in addition to amounts otherwise provided under sections 202 and 251(b) of the Act and $36,000,000 shall be used to continue acquisition, rehabilitation, and construction of six new Job Corps centers; and, in addition, $9,500,000 is appropriated for activities authorized by title VII, subtitle C of the Stewart B. McKinney Homeless Assistance Act, of which $1,900,000 shall be for carrying out section 738 of the Act: *Provided,* That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers as authorized by the Job Training Partnership Act, $63,916,000, to be available for obligation for the period July 1, 1989 through June 30, 1992.

For activities authorized by sections 236, 237, and 238 of the Trade Act of 1974, as amended, including necessary related administrative expenses, $47,870,000, in accordance with section 1424 of H.R. 4848 as passed the Senate on August 3, 1988.

Of the funds provided under this heading in the Department of Labor Appropriations Act, 1988, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers, not to exceed $30,000,000, may be expended as necessary, for center operations to maintain existing Job Corps centers and current enrollment levels. Such funds for center operations shall be available for obligation for the period July 1, 1988 through June 30, 1989. Such transfer shall in no way reduce the obligation of the Department of Labor to comply with the provisions of Public Law 100-202 for the rehabilitation and relocation of existing centers and the expeditious obligation of funds for the planning and construction of new centers.

Science and technology. Research and development. Employment and unemployment.

The Congress recognizes the need to prepare the Nation's workforce for the more complex work environment of the United States post-industrial economy. The Congress is concerned with the findings of the Office of Technology Assessment that 25 million workers will have to upgrade their job skills by the end of this century. Accordingly, the Congress directs the Secretary to give priority to funding pilots and demonstrations and research, development, and evaluation programs that will address this urgent National priority.

Further, in recognition that upgrading the skills of 25,000,000 workers cannot be achieved with current methods of teaching, the Congress directs the Secretary to fund from the available National activities program funds research and development projects using interactive laser-videodisc technology course materials that are specifically designed to upgrade "workplace literacy".

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out the activities for national grants or contracts with public agencies and public or private nonprofit organizations under paragraph (1)(A) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $271,440,000.

To carry out the activities for grants to States under paragraph (3) of section 506(a) of title V of the Older Americans Act of 1965, as amended, $76,560,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of benefits and payments as authorized by title II of Public Law 95-250, as amended, and of trade adjustment benefit payments and allowances, as provided by law (part I, subchapter B, chapter 2, title II of the Trade Act of 1974, as amended), $134,000,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year: *Provided,* That amounts received or recovered pursuant to section 208(e) of Public Law 95-250 shall be available for payments.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For activities authorized by the Act of June 6, 1933, as amended (29 U.S.C. 49-49l-1; 39 U.S.C. 3202(a)(1)(E)); title III of the Social Security Act, as amended (42 U.S.C. 502-504); necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, and sections 231-235 and 243-244, title II of the Trade Act of 1974, as amended; as authorized by section 7c of the Act of June 6, 1933, as amended, necessary administrative expenses under sections 101(a)(15)(H)(ii), 212(a)(14), and 216(g) (1), (2), and (3) of the Immigration and Nationality Act, as amended (8 U.S.C. 1101 et seq.); and necessary administrative expenses to carry out the Targeted Jobs Tax Credit program under section 51 of the Internal Revenue Code of 1986, $22,833,000, together with not to exceed $2,479,714,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund, and of which the sums available in the basic allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502-504), and the sums available in the basic allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501-8523, shall be available for obligation by the States through December 31, 1989, and of which $21,733,000 together with not to exceed $751,296,000 of the amount which may be expended from said trust fund shall be available for obligation for the period July 1, 1989, through June 30, 1990, to fund activities under section 6 of the Act of June 6, 1933, as amended, including the cost of penalty mail made available to States in lieu of allotments for such purpose and of which $157,479,000 (including not to exceed $3,000,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980) shall be available only to the extent necessary to administer unemployment compensation laws to meet increased costs of administration resulting from changes in a State law or increases in the number of unemployment insurance claims filed and claims paid or increased salary costs resulting from changes in State salary compensation plans embracing employees of the State generally over those upon which the State's basic allocation was based, which cannot be provided for by normal budgetary adjustments based on State obligations as of December 31, 1989.

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 1990; $124,000,000.

LABOR-MANAGEMENT SERVICES

SALARIES AND EXPENSES

For necessary expenses for Labor-Management Services, $73,059,000, of which $5,000,000 for a pension plan data base shall remain available until September 30, 1990.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96-364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program through September 30, 1989, for such Corporation: *Provided,* That not to exceed $41,232,000 shall be available for administrative expenses of the Corporation: *Provided further,* That contractual expenses of such Corporation for legal and financial services in connection with the termination of pension plans, for the acquisition, protection or management, and investment of trust assets, and for benefits administration services shall be considered as non-administrative expenses for the purposes hereof, and excluded from the above limitation.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $214,489,000 together with $526,000 which may be expended from the Special Fund in accordance with sections 39(c) and 44(j) of the Longshore and Harbor Workers' Compensation Act.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title V, chapter 81 of the United States Code; continuation of benefits as provided for under the head "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; and sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 per centum of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $255,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to September 15 of the current year: *Provided,* That in addition there

shall be transferred from the Postal Service fund to this appropriation such sums as the Secretary of Labor determines to be the cost of administration for Postal Service employees through September 30, 1989.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

For payments from the Black Lung Disability Trust Fund, $690,757,000, of which $633,435,000 shall be available until September 30, 1990, for payment of all benefits as authorized by section 9501(d) (1), (2), and (7) of the Internal Revenue Code of 1954, as amended, and of which $30,210,000 shall be available for transfer to Employment Standards Administration, Salaries and Expenses, and $26,597,000 for transfer to Departmental Management, Salaries and Expenses, and $515,000 for transfer to Departmental Management, Office of Inspector General, for expenses of operation and administration of the Black Lung Benefits program as authorized by section 9501(d)(5)(A) of that Act: *Provided,* That in addition, such amounts as may be necessary may be charged to the subsequent year appropriation for the payment of compensation or other benefits for any period subsequent to June 15 of the current year: *Provided further,* That in addition, such amounts shall be paid from this fund into miscellaneous receipts as the Secretary of the Treasury determines to be the administrative expenses of the Department of the Treasury for administering the fund during the current fiscal year, as authorized by section 9501(d)(5)(B) of that Act.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $247,517,000, including not to exceed $43,000,000, which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act, which grants shall be no less than fifty percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Occupational Safety and Health Act of 1970: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended for the assessment of civil penalties issued for first instance violations of any standard, rule, or regulation promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful, or repeated violations under section 17 of the Act) resulting from the inspection of any establishment or workplace subject to the Act, unless such establishment or workplace is cited, on the basis of such inspection, for ten or more violations: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, order or

administrative action under the Occupational Safety and Health Act of 1970 affecting any work activity by reason of recreational hunting, shooting, or fishing: *Provided further,* That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Occupational Safety and Health Act of 1970 with respect to any employer of ten or fewer employees who is included within a category having an occupational injury lost work day case rate, at the most precise Standard Industrial Classification Code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of five or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs ten or fewer employees: *Provided further,* That none of the funds appropriated under this paragraph shall be obligated or expended for the proposal or assessment of any civil penalties for the violation or alleged violation by an employer of ten or fewer employees of any standard, rule, regulation, or order promulgated under the Occupational Safety and Health Act of 1970 (other than serious, willful or repeated violations and violations which pose imminent danger under section 13 of the Act) if, prior to the inspection which gives rise to the alleged violation, the employer cited has (1) voluntarily requested consultation under a program operated pursuant to section 7(c)(1) or section 18 of the Occupational Safety and Health Act of 1970 or from a private consultative source approved by the Administration and (2) had the consultant examine the condition cited and (3) made or is in the process of making a reasonable good faith effort to eliminate the hazard created by the condition cited as such, which was identified by the aforementioned consultant, unless changing circumstances or workplace conditions render inapplicable the advice obtained from such consultants: *Provided further,* That none of the funds appropriated under this paragraph may be obligated or expended for any State plan monitoring visit by the Secretary of Labor under section 18 of the Occupational Safety and Health Act of

1970, of any factory, plant, establishment, construction site, or other area, workplace or environment where such a workplace or environment has been inspected by an employee of a State acting pursuant to section 18 of such Act within the six months preceding such inspection: *Provided further,* That this limitation does not prohibit the Secretary of Labor from conducting such monitoring visit at the time and place of an inspection by an employee of a State acting pursuant to section 18 of such Act, or in order to investigate a complaint about State program administration including a failure to respond to a worker complaint regarding a violation of such Act, or in order to investigate a discrimination complaint under section 11(c) of such Act, or as part of a special study monitoring program, or to investigate a fatality or catastrophe.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $164,597,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the purchase of not to exceed twenty passenger motor vehicles for replacement only; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; and any funds available to the Department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of major disaster: *Provided,* That none of the funds appropriated under this paragraph shall be obligated or expended to carry out section 115 of the Federal Mine Safety and Health Act of 1977 or to carry out that portion of section 104(g)(1) of such Act relating to the enforcement of any training requirements, with respect to shell dredging, or with respect to any sand, gravel, surface stone, surface clay, colloidal phosphate, or surface limestone mine.

30 USC 962.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $190,397,000, of which $2,829,000 shall be for expenses of revising the Standard Industrial Classification, together with not to exceed $46,323,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund: *Provided,* That $3,550,000 shall remain available until September 30, 1990.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of 5 sedans, and including $2,468,000 for the President's

Committee on Employment of the Handicapped, $117,839,000, together with not to exceed $285,000 which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

ASSISTANT SECRETARY FOR VETERANS EMPLOYMENT AND TRAINING

Not to exceed $159,406,000 may be derived from the Employment Security Administration account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 2001–08 and 2021–26.

OFFICE OF THE INSPECTOR GENERAL

For salaries and expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $39,997,000, together with not to exceed $5,701,000, which may be expended from the Employment Security Administration account in the Unemployment Trust Fund.

GENERAL PROVISIONS

SEC. 101. Appropriations in this Act available for salaries and expenses shall be available for supplies, services, and rental of conference space within the District of Columbia, as the Secretary of Labor shall deem necessary for settlement of labor-management disputes.

SEC. 102. None of the funds appropriated under this Act shall be used to grant variances, interim orders or letters of clarification to employers which will allow exposure of workers to chemicals or other workplace hazards in excess of existing Occupational Safety and Health Administration standards for the purpose of conducting experiments on workers health or safety.

SEC. 103. None of the funds appropriated in this Act shall be obligated or expended for the purpose of closing any Job Corps Center operating under part B of title IV of the Job Training Partnership Act prior to July 1, 1989.

SEC. 104. Notwithstanding any other provision of this Act, no funds appropriated by this Act may be used to execute or carry out any contract with a non-governmental entity to administer or manage a Civilian Conservation Center of the Job Corps which was not under such a contract as of September 1, 1984.

SEC. 105. None of the funds appropriated in this Act shall be used by the Job Corps program to pay the expenses of legal counsel or representation in any criminal case or proceeding for a Job Corps participant, unless certified to and approved by the Secretary of Labor that a public defender is not available.

This title may be cited as the "Department of Labor Appropriations Act, 1989".

Department of Health and Human Services Appropriations Act, 1989.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

PROGRAM OPERATIONS

For carrying out titles III, VII, VIII, X, XVI, and XXIII of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and section 1110 of the Social Security Act, and title IV of the Health Care Quality Improvement Act of 1986, as amended, $1,632,584,000, of which not to exceed $900,000, to remain available until expended, shall be available for renovating the Gillis W. Long Hansen's Disease Center, 42 U.S.C. 247e, and of which $500,000 shall remain available until expended for interest subsidies on loan guarantees made prior to fiscal year 1981 under part B of title VII of the Public Health Service Act and of which $4,000,000 shall be made available until expended to make grants under section 1610(b) of the Public Health Service Act for renovation or construction of non-acute care intermediate and long term care facilities for AIDS patients and of which $20,800,000 shall be available for an infant mortality initiative funded through the community health centers and migrant health centers: *Provided,* That grants made under the Excellence in Minority Health Education and Care Act shall be awarded competitively and, notwithstanding section 788A, any university which awards a graduate degree in the health professions and which has a majority enrollment of minority students shall be eligible to apply and compete for a grant: *Provided further,* That not to exceed $10,000,000 of funds returned to the Secretary pursuant to section 839(c) of the Public Health Service Act or pursuant to a loan agreement under section 740 or 835 of the Act may be used for activities under titles III, VII, and VIII of the Act: *Provided further,* That when the Department of Health and Human Services administers or operates an employee health program for any Federal department or agency, payment for the full estimated cost shall be made by way of reimbursement or in advances to this appropriation: *Provided further,* That during fiscal year 1989, and within the resources and authority available under section 338 of the Public Health Service Act, gross obligations for the principal amount of direct loans under sections 335(c), 338C(e)(1), and 338E of that Act shall not exceed $500,000.

MEDICAL FACILITIES GUARANTEE AND LOAN FUND

FEDERAL INTEREST SUBSIDIES FOR MEDICAL FACILITIES

For carrying out subsections (d) and (e) of section 1602 of the Public Health Service Act, $21,600,000, together with any amounts received by the Secretary in connection with loans and loan guarantees under title VI of the Public Health Service Act, to be available without fiscal year limitation for the payment of interest subsidies. During the fiscal year, no commitments for direct loans or loan guarantees shall be made.

CENTERS FOR DISEASE CONTROL

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles III, XVII, XIX, and section 1102 of the Public Health Service Act, sections 101, 102, 103, 201, 202, and 203 of the Federal Mine Safety and Health Act of 1977, and sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970; including insurance of official motor vehicles in foreign countries; and hire, maintenance, and operation of aircraft, $993,830,000, of which $2,000,000 shall remain available until expended for equipment and construction and renovation of facilities: *Provided,* That training of private persons shall be made subject to reimbursement or advances to this appropriation for not in excess of the full cost of such training: *Provided further,* That funds appropriated under this heading shall be available for payment of the costs of medical care, related expenses, and burial expenses hereafter incurred by or on behalf of any person who had participated in the study of untreated syphilis initiated in Tuskegee, Alabama, in 1932, in such amounts and subject to such terms and conditions as prescribed by the Secretary of Health and Human Services and for payment, in such amounts and subject to such terms and conditions, of such costs and expenses hereafter incurred by or on behalf of such person's wife or offspring determined by the Secretary to have suffered injury or disease from syphilis contracted from such person: *Provided further,* That collections from user fees, may be credited to this appropriation: *Provided further,* That amounts received by the National Center for Health Statistics from reimbursable and interagency agreements and the sale of data tapes may be credited to this appropriation and shall remain available until expended: *Provided further,* That in addition to amounts provided herein, up to $12,486,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Health and Nutrition Examination Survey: *Provided further,* That employees of the Public Health Service, both civilian and Commissioned Officer, detailed to States or municipalities as assignees under authority of section 214 of the Public Health Service Act in the instance where in excess of 50 percent of salaries and benefits of the assignee is paid directly or indirectly by the State or municipality shall be treated as non-Federal employees for reporting purposes only. In addition, the full-time equivalents for organizations within the Department of Health and Human Services shall not be reduced to accommodate implementation of this provision: *Provided further,* That the office building at the Centers for Disease Control (CDC) Clifton Road site in Atlanta, Georgia and the laboratory facility in Chamblee, Georgia, referred to in the CENTERS FOR DISEASE CONTROL—DISEASE CONTROL, RESEARCH AND TRAINING APPROPRIATION appearing in title II of the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriation Act for the fiscal year ending September 30, 1988, Public Law 100-202, December 22, 1987, 101 Stat. 1329-264—1329-265, shall be constructed in conformity with design plans prepared by the CDC, and shall be acquired without regard to the provisions of the Public Buildings Act of 1959 regarding prospectus approval by lease-purchase contracts entered into by the General Services Administration prior to their construction using funds appropriated annually to GSA from the Federal Buildings Fund for the rental of space which

shall hereafter be available for this purpose. The contracts shall provide for the payment of the purchase price and reasonable interest thereon by lease or installment payments over a period not to exceed 30 years. The contracts shall futher provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. The Federal Buildings Fund shall be reimbursed from the annual appropriations to the CENTERS FOR DISEASE CONTROL—DISEASE CONTROL, RESEARCH, AND TRAINING (or any other appropriation hereafter made available to the CDC for construction of facilities) and such appropriations shall be hereafter available for the purpose of reimbursing the Federal Buildings Fund. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. sections 1502 and 1341(a)(1)(B).

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $1,593,536,000; of which at least $75,000,000 shall be available only for cancer prevention and control and $2,500,000, to remain available until expended, shall be available only for the Frederick Cancer Research Facility.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out sections 301 and 1105 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $1,059,303,000.

NATIONAL INSTITUTE OF DENTAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental diseases, $132,578,000.

SEC. 200. None of the funds contained in this Act shall be used to compel any action in violation of section 401 (b) and (c) of Public Law 93-45.

NATIONAL INSTITUTE OF DIABETES, AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney diseases, $567,158,000.

NATIONAL INSTITUTE OF NEUROLOGICAL AND COMMUNICATIVE DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological and communicative disorders and stroke, $573,978,000 of which up to $96,100,000 as the Secretary may determine to be appropriate, shall be transferred to the National Institute on Deafness and Other Communication Disorders upon being enacted into law.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $754,084,000.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $690,653,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $431,388,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $234,218,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $226,168,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $225,578,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis, and musculoskeletal and skin diseases, $161,931,000.

RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $362,987,000, of which $5,000,000 shall remain available until expended to provide for the repair, renovation, modernization, and expansion of existing facilities and purchase of associated equipment, and to make grants and enter into contracts for such purposes: *Provided*, That none of these funds, with the exception of funds for the Minority Biomedical Research Support program, shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $29,500,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $16,074,000, of which $1,852,000 shall be available for payment to the Gorgas Memorial Institute for maintenance and operation of the Gorgas Memorial Laboratory.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $74,626,000.

OFFICE OF THE DIRECTOR

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $73,078,000 including purchase of not to exceed five passenger motor vehicles for replacement only.

BUILDINGS AND FACILITIES

For construction of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, $39,000,000, to remain available until expended.

AIDS.

Notwithstanding any other provision of this Act, AIDS education programs funded by the Centers for Disease Control and other education curricula funded under this Act dealing with sexual activity—

(1) shall not be designed to promote or encourage, directly, intravenous drug abuse or sexual activity, homosexual or heterosexual, and

(2) in addition, with regard to AIDS education programs and curricula—

(A) shall be designed to reduce exposure to and transmission of the etiologic agent for acquired immune deficiency syndrome by providing accurate information, and

(B) shall provide information on the health risks of promiscuous sexual activity and intravenous drug abuse.

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH

For carrying out the Public Health Service Act with respect to mental health, drug abuse, alcohol abuse, and alcoholism, and the Protection and Advocacy for Mentally Ill Individuals Act of 1986, $1,581,691,000 of which $4,787,000 shall be available, on a pro rata basis, for grants to the States for State comprehensive mental health services plans pursuant to title V of Public Law 99-660 (100 Stat. 3794-3797), of which $200,000 for renovation of government owned or leased intramural research facilities shall remain available until expended.

FEDERAL SUBSIDY FOR SAINT ELIZABETHS HOSPITAL

To carry out the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, $24,000,000 which shall be available in fiscal year 1989 for payments to the District of Columbia as authorized by section 9(a) of the Act: *Provided,* That any amounts

determined by the Secretary of Health and Human Services to be in excess of the amounts requested and estimated to be necessary to carry out sections 6 and 9(f)(2) of the Act shall be returned to the Treasury.

In fiscal year 1989 and thereafter, the maximum amount available to Saint Elizabeths Hospital from Federal sources shall not exceed the total of the following amounts: the appropriations made under this heading, amounts billed to Federal agencies and entities by the District of Columbia for services provided at Saint Elizabeths Hospital, and amounts authorized by titles XVIII and XIX of the Social Security Act. This maximum amount shall not include Federal funds appropriated to the District of Columbia under "Federal Payment to the District of Columbia" and payments made pursuant to section 9(c) of Public Law 98-621. Amounts chargeable to and available from Federal sources for inpatient and outpatient services provided through Saint Elizabeths Hospital as authorized by 24 U.S.C. 191, 196, 211, 212, 222, 253, and 324; 31 U.S.C. 1535; and 42 U.S.C. 249 and 251 shall not exceed the estimated total cost of such services as computed using only the proportionate amount of the direct Federal subsidy appropriated under this heading.

24 USC 170a.

24 USC 168b.

OFFICE OF ASSISTANT SECRETARY FOR HEALTH

PUBLIC HEALTH SERVICE MANAGEMENT

For the expenses necessary for the Office of Assistant Secretary for Health and for carrying out title III, XVII, and XX of the Public Health Service Act, $70,167,000, together with not to exceed $1,050,000 to be transferred and expended as authorized by section 201(g) of the Social Security Act from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds referred to therein and $5,950,000 to be transferred and expended for patient outcome assessment research as authorized by section 9316 of Public Law 99-509, of which $3,868,000 will come from the Federal Hospital Insurance Trust Fund and $2,082,000 will come from the Federal Supplementary Medical Insurance Trust Fund, and, in addition, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements and the sale of data tapes shall be credited to this appropriation and shall remain available until expended: *Provided,* That in addition to amounts provided herein, up to $10,155,000 shall be available from amounts available under section 2313 of the Public Health Service Act, to carry out the National Medical Expenditure Survey.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, and for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan and for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. ch. 55), and for payments pursuant to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), such amounts as may be required during the current fiscal year.

VACCINE INJURY COMPENSATION TRUST FUND

For payments from the Vaccine Injury Compensation Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death resolved during the current fiscal year with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act as amended by Public Law 100-203, and from such trust fund such sums as may be necessary, not to exceed $80,000,000, for compensation of claims adjudicated by the United States Claims Court arising from liability related to the administration of vaccines before October 1, 1988.

HEALTH CARE FINANCING ADMINISTRATION

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $26,236,000,000 to remain available until expended.

For making, after May 31, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 1989 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

Payment under title XIX may be made for any quarter beginning after June 30, 1988 and before October 1, 1989, with respect to any State plan or plan amendment in effect during any such quarter, if submitted in, or prior to such quarter and approved in that or any such subsequent quarter.

For making payments to States under title XIX of the Social Security Act for the first quarter of fiscal year 1990, $9,000,000,000, to remain available until expended.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under sections 217(g) and 1844 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, and section 278(d) of Public Law 97-248, $31,227,000,000.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, and XIX of the Social Security Act, $94,417,000, together with not to exceed $1,825,219,000 to be transferred to this appropriation as authorized by section 201(g) of the Social Security Act, from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds or any other trust fund which may be established by law for catastrophic coverage under the Medicare program: *Provided,* That $100,000,000 of said trust funds shall be expended only to the extent necessary to process workloads not anticipated in the budget estimates of this Act, and to meet unanticipated costs of agencies or organizations with which agreements have been made to participate in the administration of title XVIII and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further,* That all funds derived in accordance with 31 U.S.C. 9701, are to be credited to this appropriation.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance Trust Funds, as provided under sections 201(m), 217(g), 228(g), and 1131(b)(2) of the Social Security Act, $93,631,000.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, including the payment of travel expenses on an actual cost or commuted basis, to an individual, for travel incident to medical examinations, and when travel of more than 75 miles is required, to parties, their representatives, and all reasonably necessary witnesses for travel within the United States, Puerto Rico, and the Virgin Islands, to reconsideration interviews and to proceedings before administrative law judges, $628,581,000, to remain available until expended: *Provided,* That monthly benefit payments shall be paid consistent with section 215(g) of the Social Security Act.

For making, after July 31, of the current fiscal year, benefit payments to individuals under title IV of the Federal Mine Safety and Health Act of 1977, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV of the Federal Mine Safety and Health Act of 1977 for the first quarter of fiscal year 1990, $211,000,000, to remain available until expended.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out the Supplemental Security Income Program, title XI of the Social Security Act, section 401 of Public Law 92-603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95-216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $9,473,953,000, to remain available until expended: *Provided,* That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after July 31 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For carrying out the Supplemental Security Income Program for the first quarter of fiscal year 1990, $2,936,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, not more than $3,795,661,000, may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: *Provided,* That travel expense payments under section 1631(h) of such Act for travel to hearings may be made only when travel of more than seventy-five miles is required: *Provided further,* That $97,870,000 of the foregoing amount shall be apportioned for use only to the extent necessary to process workloads not anticipated in

42 USC 1383 note.

the budget estimates, for automation projects and their impact on the work force, and to meet mandatory increases in costs of agencies or organizations with which agreements have been made to participate in the administration of titles XVI and XVIII and section 221 of the Social Security Act, and after maximum absorption of such costs within the remainder of the existing limitation has been achieved: *Provided further,* That none of the funds appropriated by this Act may be used for the manufacture, printing, or procuring of social security cards, as provided in section 205(c)(2)(D) of the Social Security Act, where paper and other materials used in the manufacture of such cards are produced, manufactured, or assembled outside of the United States: *Provided further,* That not to exceed $170,000,000 shall be available for automatic data processing and telecommunication activities.

FAMILY SUPPORT ADMINISTRATION

FAMILY SUPPORT PAYMENTS TO STATES

For making payments to States or other non-Federal entities, except as otherwise provided, under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C., ch. 9), $8,204,337,000, to remain available until expended.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, for the last three months of the current year for unaniticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or other non-Federal entities under titles I, IV-A and -D, X, XI, XIV, and XVI of the Social Security Act, and the Act of July 5, 1960 (24 U.S.C., ch. 9) for the first quarter of fiscal year 1990, $2,700,000,000, to remain available until expended.

LOW INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $1,400,000,000.

REFUGEE AND ENTRANT ASSISTANCE

For making payments for refugee and entrant assistance activities authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96-422), $387,000,000.

WORK INCENTIVES

For carrying out a work incentive program, as authorized by part C of title IV of the Social Security Act, including registration of individuals for such programs, and for related child care and other supportive services, as authorized by section 402(a)(19)(G) of the Act, including transfer to the Secretary of Labor, as authorized by section 431 of the Act, $92,551,000 which shall be the maximum amount available for transfer to the Secretary of Labor and to which the States may become entitled pursuant to section 403(d) of such Act, for these purposes.

COMMUNITY SERVICES BLOCK GRANT

For making payments under the Community Services Block Grant Act and section 408 of Public Law 99-425, and the Stewart B. McKinney Homeless Assistance Act, $382,185,000 of which $20,500,000 shall be for carrying out section 681(a)(2)(A), $4,062,000 shall be for carrying out section 681(a)(2)(D), $2,984,000 shall be for carrying out section 681(a)(2)(E), $6,750,000 shall be for carrying out section 681(a)(2)(F), $239,000 shall be for carrying out section 681(a)(3), $3,555,000 shall be for carrying out section 408 of Public Law 99-425 and $2,447,000 shall be for carrying out section 681A with respect to the community food and nutrition program.

PROGRAM ADMINISTRATION

For necessary administrative expenses to carry out titles I, IV, X, XI, XIV, and XVI of the Social Security Act, the Act of July 5, 1960 (24 U.S.C., ch. 9), title XXVI of the Omnibus Budget Reconciliation Act of 1981, the Community Services Block Grant Act, title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980, $82,464,000.

ASSISTANT SECRETARY FOR HUMAN DEVELOPMENT SERVICES

SOCIAL SERVICES BLOCK GRANT

For carrying out the Social Services Block Grant Act, $2,700,000,000.

HUMAN DEVELOPMENT SERVICES

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Older Americans Act of 1965, the Developmental Disabilities Assistance and Bill of Rights Act, the Child Abuse Prevention and Treatment Act, section 404 of Public Law 98-473, the Family Violence Prevention and Services Act (title III of Public Law 98-457), the Native American Programs Act, title II of Public Law 100-294 (adoption opportunities), title II of the Children's Justice and Assistance Act of 1986, chapter 8-D of title VI of the Omnibus Budget Reconciliation Act of 1981 (pertaining to grants to States for planning and development of dependent care programs), the Head Start Act, the Comprehensive Child Development Centers Act of 1988, the Child Development Associate Scholarship Assistance Act of 1985, and part B of title IV and section 1110 of the Social Security Act, $2,574,808,000, of which $12,000,000 shall be made available to carry out the State Dependent Care Development Grants Act (42 U.S.C. 9871 et seq.): *Provided,* That appropriations to carry out the Comprehensive Child Development Program under chapter 8, subchapter E of the Omnibus Budget Reconciliation Act of 1981, shall be available notwithstanding section 670T(b) of that Act.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For carrying out part E of title IV of the Social Security Act, $1,119,907,000.

DEPARTMENTAL MANAGEMENT

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six medium sedans, $68,160,000, together with not to exceed $7,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, $46,430,000, together with not to exceed $40,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $16,173,000, together with not to exceed $4,000,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from any one or all of the trust funds referred to therein.

POLICY RESEARCH

For carrying out, to the extent not otherwise provided, research studies under section 1110 of the Social Security Act, $7,946,000: *Provided,* That not less than $3,000,000 shall be obligated to continue research on poverty conducted by the Institute for Research on Poverty.

GENERAL PROVISIONS

SEC. 201. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the cost of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 202. None of the funds made available by this Act for the National Institutes of Health, except for those appropriated to the "Office of the Director," may be used to provide forward funding or multiyear funding of research project grants except in those cases where the Director of the National Institutes of Health has determined that such funding is specifically required because of the scientific requirements of a particular research project grant.

SEC. 203. Appropriations in this or any other Act shall be available for expenses for active commissioned officers in the Public Health Service Reserve Corps and for not to exceed 2,400 commissioned officers in the Regular Corps; expenses incident to the dissemination of health information in foreign countries through exhibits and other appropriate means; advances of funds for compensation, travel, and subsistence expenses (or per diem in lieu thereof) for persons coming from abroad to participate in health or

scientific activities of the Department pursuant to law; expenses of primary and secondary schooling of dependents in foreign countries, of Public Health Service commissioned officers stationed in foreign countries, at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools available in the locality are unable to provide adequately for the education of such dependents, and for the transportation of such dependents, between such schools and their places of residence when the schools are not accessible to such dependents by regular means of transportation; expenses for medical care for civilian and commissioned employees of the Public Health Service and their dependents, assigned abroad on a permanent basis in accordance with such regulations as the Secretary may provide; rental or lease of living quarters (for periods not exceeding five years), and provision of heat, fuel, and light and maintenance, improvement, and repair of such quarters, and advance payments therefor, for civilian officers, and employees of the Public Health Service who are United States citizens and who have a permanent station in a foreign country; purchase, erection, and maintenance of temporary or portable structures; and for the payment of compensation to consultants or individual scientists appointed for limited periods of time pursuant to section 207(f) or section 207(g) of the Public Health Service Act, at rates established by the Assistant Secretary for Health, or the Secretary where such action is required by statute, not to exceed the per diem rate equivalent to the rate for GS–18; not to exceed $9,500 for official reception and representation expenses related to any health agency of the Department when specifically approved by the Assistant Secretary for Health.

Abortion.

SEC. 204. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 205. Funds advanced to the National Institutes of Health Management Fund from appropriations in this Act shall be available for the expenses of sharing medical care facilities and resources pursuant to section 327A of the Public Health Service Act.

SEC. 206. Funds appropriated in this title for the Social Security Administration shall be available for not to exceed $10,000 for official reception and representation expenses when specifically approved by the Commissioner of Social Security.

SEC. 207. Funds appropriated in this title for the Health Care Financing Administration shall be available for not to exceed $2,000 for each fiscal year for official reception and representation expenses when specifically approved by the Administrator of the Health Care Financing Administration.

42 USC 210 note.

SEC. 208. No funds appropriated for the fiscal year ending September 30, 1989, by this or any other Act, may be used to pay basic pay, special pays, basic allowances for subsistence and basic allowances for quarters of the commissioned corps of the Public Health Service described in section 204 of title 42, United States Code, at a level that exceeds 110 percent of the Executive Level I annual rate of basic pay: *Provided,* That amounts received from employees of the Department in payment for room and board may be credited to the appropriation accounts which finance the services: *Provided further,* That none of the funds made available by this Act shall be used to provide special retention pay (bonuses) under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve medical officer of the Public Health Service for any period during which the officer is assigned to

the clinical, research, or staff associate program administered by the National Institutes of Health.

SEC. 209. None of the funds appropriated in this title shall be used to transfer the general administration of programs authorized under the Native American Programs Act from the Department of Health and Human Services to the Department of the Interior.

Contracts.

SEC. 210. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years, so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

Government organization and employees.
Children and youth.
AIDS.

SEC. 211. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service, who shall be exempt from all FTE limitations in the Department, to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization. In addition, commissioned officers assigned under this section shall be exempt from all limitations on the number and grade of officers in the Public Health Service Commissioned Corps.

SEC. 212. For the purpose of insuring proper management of federally supported computer systems and data bases, funds appropriated by this Act are available for the purchase of dedicated telephone service between the private residences of employees assigned to computer centers funded under this Act, and the computer centers to which such employees are assigned.

AIDS.

SEC. 213. Funds available in this title for activities related to acquired immune deficiency syndrome (AIDS) may be transferred between appropriation accounts upon the approval by the House and Senate Committees on Appropriations of a transfer request submitted by the Secretary of Health and Human Services.

42 USC 210 note.

SEC. 214. Funds made available for fiscal year 1989 and hereafter to the National Institutes of Health shall be available for payment of nurses and allied health professionals using pay, schedule options, benefits, and other authorities as provided for the nurses of the Veterans' Administration under 38 U.S.C. chapter 73.

SEC. 215. Of the funds appropriated in this Act for the National Institutes of Health, a reduction of $6,765,000 is to be applied to all appropriations as a result of improved procurement practices.

Public buildings and grounds.

SEC. 216. NIH Building Numbered 31 is hereby named the Claude Denson Pepper Building.

SEC. 217. Funds appropriated by this Act may be used to pay physicians' comparability allowances as authorized under 5 U.S.C. 5948.

SEC. 218. (a)(1) In enacting this section Congress hereby—

Wildlife.

(A) recognizes the national and international legal protection granted chimpanzees under the Endangered Species Act and the Convention on International Trade of Endangered Species, to which the United States is a signatory, and also the World Health Organization's Policy Statement on Use of Primates for Biomedical Purposes, all of which acknowledges the threatened or endangered status of the chimpanzee; and

(B) acknowledges that substantial public monies are already being expended on a National Chimpanzee Breeding and Research Program in the United States.

(2) No funds appropriated under this Act or any other provisions of law shall be used by the National Institutes of Health, or any

other Federal agency, or recipient of Federal funds and be expended on any project that entails the capture or procurement of chimpanzees obtained from the wild.

(3) For purposes of this section, the term "recipient of Federal funds" includes private citizens, corporations, or other research institutions located outside of the United States that are recipients of Federal funds.

SEC. 219. During the 12-month period beginning October 1, 1988, none of the funds made availalbe under this Act may be used to impose any reductions in payment, or to seek repayment from or to withhold any payment to any State pursuant to section 427 or 471 of the Social Security Act, as a result of a disallowance determination made in connection with a compliance review for any Federal fiscal year preceding Federal fiscal year 1989, until all judicial proceedings, including appeals, relating to such disallowance determination have been finally concluded, nor may such funds be used to conduct further compliance reviews with respect to any State which is a party to such judicial proceeding until such proceeding has been finally concluded.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 1989".

TITLE III—DEPARTMENT OF EDUCATION

Department of Education Appropriations Act, 1989.

COMPENSATORY EDUCATION FOR THE DISADVANTAGED

For carrying out the activities authorized by chapter 1 of title I of the Elementary and Secondary Education Act of 1965, as amended, $4,625,755,000, of which a total of $8,000,000 for purposes of sections 1437 and 1463 and $4,000,000 for subpart 3 of part F, shall become available on October 1, 1988 and remain available until September 30, 1989, and may be expended by the Secretary at any time during that period; and the remaining $4,613,755,000 shall become available on July 1, 1989 and shall remain available until September 30, 1990: *Provided,* That of these remaining funds, $3,900,000,000 shall be available for the purposes of section 1005, $175,000,000 shall be available for the purposes of section 1006, $20,000,000 shall be available for the purposes of section 1017(d), $15,000,000 shall be available for the purposes of part B, $275,000,000 shall be available for the purposes of subpart 1 of part D, $150,000,000 shall be available for the purposes of subpart 2 of part D, $32,000,000 shall be available for the purposes of subpart 3 of part D, $41,000,000 shall be available for the purposes of section 1404, and $5,755,000 shall be available for the purposes of section 1405: *Provided further,* That no State shall receive less than $340,000 under section 1006 from the amounts made available under this appropriation for section 1006.

For carrying out section 418A of the Higher Education Act, $9,000,000.

IMPACT AID

For carrying out title I of the Act of September 30, 1950, as amended (20 U.S.C. ch. 13), $717,000,000, of which $15,000,000 shall be for entitlements under section 2 of said Act, and $702,000,000 shall be for entitlements under section 3 of said Act of which $565,000,000 shall be for entitlements under section 3(a) of said Act: *Provided,* That any school district that received an overpayment under section 2 in fiscal year 1984 funds and also received, through

administrative offset, 30.13 per centum of such sum in an overpayment of the subsequent fiscal year's funds, is relieved of the liability to repay those sums, together with interest on such sums.

For carrying out the Act of September 23, 1950, as amended (20 U.S.C. ch. 19), $25,000,000, which shall remain available until expended, shall be for providing school facilities as authorized by said Act, of which $10,000,000 shall be for awards under section 10 of said Act, $12,000,000 shall be for awards under sections 14(a) and 14(b) of said Act, and $3,000,000 shall be for awards under sections 5 and 14(c) of said Act.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out the activities authorized by chapter 2 of title I, part A of title II, title III, part A, part B, subpart 1 and subpart 2 of part C, and part E of title IV, sections 4601, 4604, and 4605, title V, and parts A and C of title VI of the Elementary and Secondary Education Act of 1965, as amended; section 722 of the Stewart B. McKinney Homeless Assistance Act; section 403 of the Civil Rights Act of 1964; subpart 2 of part C and subpart 2 of part D of title V of the Higher Education Act, as amended; part B of title III and title IV of Public Law 100-297; title IX of the Education for Economic Security Act; and the Follow Through Act, $1,123,075,000: *Provided,* That of the amounts provided, $497,700,000 shall be for chapter 2 of title I of the Elementary and Secondary Education Act, of which $468,600,000 for part A shall become available on July 1, 1989 and remain available until September 30, 1990 and $29,100,000 for part B including $1,000,000 for national school volunteer programs shall become available on October 1, 1988: *Provided further,* That $130,000,000 for grants to States and Outlying Areas under part A of title II, $8,000,000 for part B, $3,000,000 for subpart 1 and $500,000 for subpart 2 of part C of title IV, and $207,000,000 for grants to States and Outlying Areas under title V of the Elementary and Secondary Education Act, $4,358,000 for subpart 2 of part C of title V of the Higher Education Act, and $4,893,000 for section 722 of the Stewart B. McKinney Homeless Assistance Act shall become available on July 1, 1989 and shall remain available until September 30, 1990: *Provided further,* That, of the amounts provided, $115,000,000 shall be for title III, $9,000,000 shall be for section 2012 and $1,500,000 shall be for section 6201(d) of the Elementary and Secondary Education Act.

Unobligated balances of funds appropriated for fiscal years 1985 and 1986 for title VI of the Education for Economic Security Act shall be available until September 30, 1989 for carrying out activities authorized by part F of title IV of which not less than $1,000,000 shall be for activities authorized by section 4603 of the Elementary and Secondary Education Act.

BILINGUAL, IMMIGRANT, AND REFUGEE EDUCATION

For carrying out, to the extent not otherwise provided, title VII and part D of title IV of the Elementary and Secondary Education Act and part B of title III of the Refugee Act of 1980, $199,791,000, of which $112,106,000 shall be for part A, $10,903,000 shall be for part B, $30,782,000 shall be for part C of title VII, except that no funds shall be used for activities authorized by section 7043 until an interim report is submitted to the House and Senate Appropriations Committees which the Secretary shall submit no later than eight

Reports.

months following the enactment of this appropriations Act in partial compliance with section 6212 of Public Law 100-297 and such sums are released under further statutory Act of Congress, and $30,000,000 shall be for part D of title IV of the Elementary and Secondary Education Act.

EDUCATION FOR THE HANDICAPPED

For carrying out the Education of the Handicapped Act, $1,990,321,000 of which $5,213,000 shall be for carrying out title I of S. 2561, as enacted, and of which $1,493,369,000 for section 611, $250,000,000 for section 619, and $70,679,000 for section 685 shall become available for obligation on July 1, 1989, and shall remain available until September 30, 1990: *Provided,* That up to $479,000 may be used for section 621(d) of said Act.

REHABILITATION SERVICES AND HANDICAPPED RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973 and the Helen Keller National Center Act, as amended, $1,667,570,000, of which $1,450,000,000 shall be for allotments under sections 100(b)(1) and 110(b)(3) of the Rehabilitation Act, $17,200,000 shall be for special demonstration programs under sections 311 (a), (b), and (c), $750,000 shall be for carrying out section 202(j)(1), and $4,900,000 shall be for the Helen Keller National Center.

Of the funds provided under the heading "Rehabilitation Services and Handicapped Research" in fiscal year 1987 in Public Law 99-500 and Public Law 99-591, for carrying out the Rehabilitation Act of 1973, which are unobligated, the sum of $500,000 is reappropriated for an allotment under section 100(b)(1) of the Rehabilitation Act of 1973 to Montana for obligations incurred by Montana during fiscal year 1987.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational Education Act, the Adult Education Act including section 372 of said Act, and section 702 of the Stewart B. McKinney Homeless Assistance Act, $1,086,504,000 which shall become available for obligation on July 1, 1989, and shall remain available until September 30, 1990: *Provided,* That $26,321,000 shall be available for title IV of the Carl D. Perkins Vocational Education Act, of which $7,050,000 shall be for part A, including $5,744,000 for section 404, $14,556,000 shall be for section 411 and $215,000 shall be for section 415 of part B, and $4,500,000 shall be for part C of said title: *Provided further,* That $8,000,000 shall be available for State councils under section 112 of the Carl D. Perkins Vocational Education Act: *Provided further,* That $9,000,000 shall be made available to carry out title III-A and $33,520,000 shall be made available for title III-B of said Vocational Education Act: *Provided further,* That $3,817,000 shall be available for part E of title IV of the Carl D. Perkins Vocational Education Act: *Provided further,* That $2,000,000 provided herein for part D of the Adult Education Act shall be only for section 383 of said Act.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 2, and 3 of part A and parts C, D, and E of title IV of the Higher Education Act, as amended, $5,884,671,000, which shall remain available until September 30, 1990: *Provided,* That the maximum Pell grant that a student may receive in the 1989-90 award year shall be $2,300: *Provided further,* That notwithstanding section 479A of the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.), student financial aid administrators shall be authorized, on the basis of adequate documentation, to make necessary adjustments to the cost of attendance and expected student or parent contribution (or both) and to use supplementary information about the financial status or personal circumstances of eligible applicants only for purposes of selecting recipients and determining the amount of awards under subpart 2 of part A, and parts B, C, and E of title IV of the Act: *Provided further,* That notwithstanding section 411F(1) of the Higher Education Act of 1965, as amended (20 U.S.C. 1001 et seq.), the term "annual adjusted family income" shall, under special circumstances prescribed by the Secretary of Education, mean the sum received in the first calendar year of the award year from the sources described in that section: *Provided further,* That notwithstanding section 484 of the Higher Education Act of 1965, as amended (20 U.S.C. 1001 et seq.), in order for a student to be eligible to receive grant, loan, or work assistance under title IV of that Act, that student shall be required to have earned a high school diploma or its recognized equivalent if (1) that student is enrolled or accepted for enrollment in a course of study of less than one year in preparation for an occupation for which the student must be certified by an agency other than the eligible institution or institution of higher education in order to begin practice or service, and (2) a high school diploma or its recognized equivalent is a requirement for that certification.

20 USC 1070a note.

GUARANTEED STUDENT LOANS

For necessary expenses under title IV, part B of the Higher Education Act, $3,174,400,000, to remain available until expended.

HIGHER EDUCATION

For carrying out title III of the Higher Education Act of 1965, as amended, $176,697,000, of which up to $12,850,000 for section 332 of part C of title III of said Act shall remain available until expended: *Provided,* That $85,447,000 of funds appropriated for title III of said Act shall be available only to historically black colleges and universities, of which $4,500,000 is available until expended for the cost of construction and related costs for a Health and Human Resources Center at Voorhees College in Denmark, South Carolina, when an authorization for such Center is enacted into law: *Provided further,* That up to $7,300,000 of funds appropriated for part A of title III of said Act shall be available for non-competing continuation awards made to four-year institutions in fiscal year 1988.

For carrying out subparts 4 and 6 of part A of title IV; part B and subpart 1 of part D of title V; titles VI and VIII; part D of title VII; parts A, B, C, D, E, and F of title IX; subpart 1 of part B and parts A and C of title X; and sections 420A and 1204(c) of the Higher Education Act of 1965, as amended; title XIII, part H, subpart 1 of the Education Amendments of 1980, as amended; and section

102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961, $388,257,000, of which $22,744,000 for part D of title VII shall remain available until expended: *Provided,* That $8,300,000 provided herein for carrying out subpart 6 of part A of title IV shall be available notwithstanding sections 419G(b) and 419I(a) of the Higher Education Act of 1965 (20 U.S.C. 1070d-37(b) and 1070d-39(a)): *Provided further,* That $1,500,000, of the amount provided herein for subpart 4 of part A of title IV of the Higher Education Act shall be for the Ronald E. McNair Post-Baccalaureate Achievement Program: *Provided further,* That the Secretary shall, in carrying out section 802 of the Higher Education Act of 1965, give special consideration to applications from private urban institutions of higher education, or combinations thereof, with minority student enrollment exceeding 66 percent of total student enrollment, and with plans to develop from a traditional academic curriculum to a universal cooperative education program applicable to all undergraduate four year major fields of study: *Provided further,* That an additional amount of $5,750,000 shall be made available, of which $5,000,000 shall be made available for part D of title I of the Higher Education Act of 1965, relating to the student literacy corps program, to become available on July 1, 1989, and remain available until September 30, 1990, and $750,000 shall be made available for section 6261 of the Omnibus Trade and Competitiveness Act of 1988, relating to international business education centers.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing and academic facilities loans program, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation: *Provided,* That during fiscal year 1989, gross commitments for the principal amount of direct loans shall be $30,000,000.

For payment of interest on funds borrowed from the Treasury pursuant to section 761(d) of the Higher Education Act, as amended, $1,675,000, to remain available until expended.

HIGHER EDUCATION FACILITIES LOANS

The Secretary is hereby authorized to make such expenditures, within the limits of funds available under this heading and in accord with law, and to make such contracts and commitments without regard to fiscal year limitation, as provided by section 104 of the Government Corporation Control Act (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year. For the fiscal year 1989, no new commitments for loans may be made from the fund established pursuant to title VII, section 733 of the Higher Education Act, as amended (20 U.S.C. 1132d-2).

COLLEGE HOUSING LOANS

Pursuant to title VII, part F of the Higher Education Act, as amended, for necessary expenses of the college housing loan program, previously carried out under title IV of the Housing Act of 1950, the Secretary shall make expenditures, contracts, and commitments without regard to fiscal year limitation using loan repayments and other resources available to this account. Any

unobligated balances becoming available from fixed fees paid into this account pursuant to 12 U.S.C. 1749d, relating to payment of costs for inspections and site visits, shall be available for the operating expenses of this account.

EDUCATION RESEARCH AND STATISTICS

For necessary expenses to carry out section 405 of the General Education Provisions Act, as amended, $47,651,000: *Provided,* That $5,200,000 of the sums appropriated shall be used to continue a rural education program by the nine regional laboratories.

For necessary expenses to carry out section 406 of the General Education Provisions Act, as amended by Public Law 100-297, $22,000,000, and an additional $9,500,000 shall be for the National Assessment of Educational Progress.

LIBRARIES

For carrying out, to the extent not otherwise provided, titles I, II, III, IV, and VI of the Library Services and Construction Act (20 U.S.C. ch. 16), and title II, parts B, C, and D of the Higher Education Act, notwithstanding the provisions of section 221, $138,866,000: *Provided,* That $22,595,000 of the sums appropriated shall be used to carry out the provisions of title II of the Library Services and Construction Act and shall remain available until expended: *Provided further,* That the State of Illinois is relieved of all liability to repay the United States the sum of $14,547,769 representing payments made to Illinois under the Library Services and Construction Act for fiscal years 1977 through 1986 which were disallowed because of a pioneering nature of the program for libraries in that State and, in the audit and settlement of the accounts of any certifying or disbursing officer of the United States, full credit shall be given for the amount for which liability is relieved by this proviso.

SPECIAL INSTITUTIONS

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101-106), including provision of materials to adults undergoing rehabilitation on the same basis as provided in 1985, $5,400,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles II and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $33,731,000, of which $200,000 shall be for the endowment program as authorized under section 408 and shall be available until expended: *Provided,* That none of the funds provided herein may be used to subsidize the tuition of foreign students.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf and the partial support of Gallaudet University under titles I and IV of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), including continuing education activities, existing extension centers and the National Center for Law and

the Deaf, $66,800,000, of which $1,000,000 shall be for the endowment program as authorized under section 407 and shall be available until expended.

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $180,647,000: *Provided,* That of the funds appropriated under this head in the Department of Education Appropriations Act, 1988, not to exceed $500,000 together with $1,500,000 provided herein shall be for a matching endowment grant to be administered in accordance with the Howard University Endowment Act (Public Law 98-480) and shall remain available until expended.

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $258,600,000, of which $500,000 shall be available until expended for carrying out the National Summit Conference on Education Act of 1984, $5,200,000 shall be available only for additional staff and related expenses necessary to increase the number of on-site student aid program reviews, and of which $5,600,000 shall be available for necessary expenses of the National Student Loan Data System upon enactment of amendments to section 485B of the Higher Education Act which will decrease student loan and default costs by more than the cost of the system on an annual basis.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $41,341,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $18,400,000.

GENERAL PROVISIONS

SEC. 301. None of the funds appropriated by this title for grants-in-aid of State agencies to cover, in whole or in part, the costs of operation of said agencies, including the salaries and expenses of officers and employees of said agencies, shall be withheld from the said agencies of any State which have established by legislative enactment and have in operation a merit system and classification and compensation plan covering the selection, tenure in office, and compensation of their employees, because of any disapproval of their personnel or the manner of their selection by the agencies of the said States, or the rates of pay of said officers or employees.

SEC. 302. Funds appropriated in this Act to the American Printing House for the Blind, Howard University, the National Technical Institute for the Deaf, and Gallaudet University shall be subject to audit by the Secretary of Education.

Schools and colleges. Busing.

SEC. 303. No part of the funds contained in this title may be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to force on account of race, creed or color the abolishment of any school so desegregated; or to force the transfer or assignment of any student attending any elementary or secondary school so desegregated to or from a particular school over the protest of his or her parents or parent.

Schools and colleges. Busing.

SEC. 304. (a) No part of the funds contained in this title shall be used to force any school or school district which is desegregated as that term is defined in title IV of the Civil Rights Act of 1964, Public Law 88-352, to take any action to force the busing of students; to require the abolishment of any school so desegregated; or to force on account of race, creed or color the transfer of students to or from a particular school so desegregated as a condition precedent to obtaining Federal funds otherwise available to any State, school district or school.

(b) No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 305. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

School prayer.

SEC. 306. No funds appropriated under this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

This title may be cited as the "Department of Education Appropriations Act, 1989".

TITLE IV—RELATED AGENCIES

ACTION

OPERATING EXPENSES

For expenses necessary for Action to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $170,465,000.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal

year 1991, $302,500,000 of which $57,500,000 shall be available for section 396(k)(10) of said Act: *Provided,* That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: *Provided further,* That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: *Provided further,* That funds provided herein for fiscal year 1991 shall be available pending authorization.

Discrimination, prohibition.

COMMISSION ON RAILROAD RETIREMENT REFORM

For necessary expenses of the Commission on Railroad Retirement Reform established by section 9033 of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203), $1,000,000, which shall remain available until expended.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor-Management Relations Act, 1947 (29 U.S.C. 171-180, 182), including expenses of the Labor-Management Panel and boards of inquiry appointed by the President, hire of passenger motor vehicles, and rental of conference rooms in the District of Columbia; and for expenses necessary pursuant to Public Law 93-360 for mandatory mediation in health care industry negotiation disputes and for convening factfinding boards of inquiry appointed by the Director in the health care industry; and for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 125a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95-454 (5 U.S.C. chapter 71), $26,127,000.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $4,079,000.

NATIONAL COMMISSION ON CHILDREN

For necessary expenses of the National Commission on Children established by section 9136 of the Omnibus Reconciliation Act of 1987, Public Law 100-203, $800,000, which shall remain available until expended.

NATIONAL COMMISSION TO PREVENT INFANT MORTALITY

For necessary expenses of the National Commission to Prevent Infant Mortality, established by section 203 of the National Commission to Prevent Infant Mortality Act of 1986, Public Law 99-660, $500,000, which shall remain available until expended. Notwith-

42 USC 285g note.

standing any other provision of law, the Commission shall be composed of sixteen members, including seven at large members. Furthermore, the Commission has the power to accept voluntary and uncompensated services, notwithstanding section 1342 of title 31, and shall continue operating, notwithstanding sections 208 and 209 of Public Law 99-660.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91-345), $750,000.

NATIONAL COMMISSION ON MIGRANT EDUCATION

For necessary expenses of the National Commission on Migrant Education established by section 1439 of Public Law 100-297, $2,000,000 to become available on April 1, 1989 and which shall remain available until expended.

NATIONAL COMMISSION ON RESPONSIBILITIES FOR FINANCING POSTSECONDARY EDUCATION

For necessary expenses of the National Commission on Responsibilities for Financing Postsecondary Education established by section 1321 of the Higher Education Amendments of 1986 (Public Law 99-498), $800,000, which shall remain available until expended.

NATIONAL COUNCIL ON THE HANDICAPPED

SALARIES AND EXPENSES

For expenses necessary for the National Council on the Handicapped as authorized by section 405 of the Rehabilitation Act of 1973, as amended, $1,174,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141-167), and other laws, $138,647,000: *Provided,* That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 per centum of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151-188), including emergency boards appointed by the President, $6,551,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For the expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $5,916,000.

PHYSICIAN PAYMENT REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1845(a) of the Social Security Act, $3,059,000, to be transferred to this appropriation from the Federal Supplementary Medical Insurance Trust Fund.

PROSPECTIVE PAYMENT ASSESSMENT COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 601 of Public Law 98-21, $3,664,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $355,000,000, which shall include amounts becoming available in fiscal year 1989 pursuant to section 224(c)(1)(B) of Public Law 98-76: *Provided,* That the total amount provided herein shall be credited to the account in 12 approximately equal amounts on the first day of each month in the fiscal year.

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for unnegotiated checks, $3,100,000, to remain available through September 30, 1990, which shall be the maximum amount available for payments pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board, $60,350,000, to be derived from the railroad retirement accounts: *Provided,* That $200,000 of the foregoing amount shall be available only to the extent necessary to process workloads not anticipated in the budget estimates and after maximum absorption of the costs of

such workloads within the remainder of the existing limitation has been achieved: *Provided further,* That notwithstanding any other provision of law, no portion of this limitation shall be available for payments of standard level user charges pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(j); 45 U.S.C. 228a-r).

LIMITATION ON RAILROAD UNEMPLOYMENT INSURANCE ADMINISTRATION FUND

For further expenses necessary for the Railroad Retirement Board, for administration of the Railroad Unemployment Insurance Act, not less than $13,950,000 shall be apportioned for fiscal year 1989 from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON REVIEW ACTIVITY

For expenses necessary for the Railroad Retirement Board for audit, investigatory and review activities, as authorized by section 418 of Public Law 98-76, not more than $3,100,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account.

SOLDIERS' AND AIRMEN'S HOME

OPERATION AND MAINTENANCE

For maintenance and operation of the United States Soldiers' and Airmen's Home, to be paid from the Soldiers' and Airmen's Home permanent fund, $37,700,000: *Provided,* That this appropriation shall not be available for the payment of hospitalization of members of the Home in United States Army hospitals at rates in excess of those prescribed by the Secretary of the Army upon recommendation of the Board of Commissioners and the Surgeon General of the Army.

CAPITAL OUTLAY

For construction and renovation of the physical plant, to be paid from the Soldiers' and Airmen's Home permanent fund, $15,000,000, to remain available until expended: *Provided further,* That funds provided under this paragraph as well as $15,000,000 provided for Capital Outlay in Public Law 100-202 shall, immediately upon enactment of this Act, be made available for the construction of a 200-bed Intermediate Care Facility on the grounds of the LaGarde building.

UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE

For necessary expenses of the United States Bipartisan Commission on Comprehensive Health Care established by section 401 of the Medicare Catastrophic Coverage Act of 1988, $1,046,000, which shall remain available until expended.

UNITED STATES INSTITUTE OF PEACE

OPERATING EXPENSES

For necessary expenses of the United States Institute of Peace as authorized in the United States Institute of Peace Act, $7,000,000.

TITLE V—GENERAL PROVISIONS

Contracts. Records. Public information.

SEC. 501. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 502. No part of any appropriation contained in this Act shall be expended by an executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract in full compliance with such Act and regulations promulgated thereunder.

SEC. 503. Appropriations contained in this Act, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for GS-18.

SEC. 504. Appropriations contained in this Act, available for salaries and expenses, shall be available for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 505. Appropriations contained in this Act, available for salaries and expenses, shall be available for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities.

SEC. 506. No part of the funds appropriated under this Act shall be used to provide a loan, guarantee of a loan, a grant, the salary of or any remuneration whatever to any individual applying for admission, attending, employed by, teaching at, or doing research at an institution of higher education who has engaged in conduct on or after August 1, 1969, which involves the use of (or the assistance to others in the use of) force or the threat of force or the seizure of property under the control of an institution of higher education, to require or prevent the availability of certain curricula, or to prevent the faculty, administrative officials, or students in such institution from engaging in their duties or pursuing their studies at such institution.

SEC. 507. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: *Provided,* That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 508. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 509. No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative

relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or film presentation designed to support or defeat legislation pending before the Congress, except in presentation to the Congress itself.

No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress.

SEC. 510. The Secretaries of Labor, Health and Human Services, and Education are each authorized to make available not to exceed $7,500 from funds available for salaries and expenses under titles I, II, and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $2,500 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $2,500 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 511. None of the funds appropriated by this Act shall be used to pay for any research program or project or any program, project, or course which is of an experimental nature, or any other activity involving human participants, which is determined by the Secretary or a court of competent jurisdiction to present a danger to the physical, mental, or emotional well-being of a participant or subject of such program, project, or course, without the written, informed consent of each participant or subject, or a participant's parents or legal guardian, if such participant or subject is under eighteen years of age. The Secretary shall adopt appropriate regulations respecting this section.

Regulations.

AIDS.

SEC. 512. In administering funds made available under this Act for research relating to the treatment of AIDS, the National Institutes of Health shall take all possible steps to ensure that all experimental drugs for the treatment of AIDS, particularly antivirals and immunomodulators, that have shown some effectiveness in treating individuals infected with the human immunodeficiency virus are tested in clinical trials as expeditiously as possible and with as many subjects as is scientifically acceptable.

SEC. 513. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 514. (a) Subject to subsection (b), none of the funds made available by this or any other Act may be used by the Secretary of Labor to withdraw approval of the California State occupational safety and health plan, or to exercise exclusive Federal safety and health authority in the State of California, under the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

(b) The prohibition established in subsection (a) shall apply until the California Supreme Court has rendered a final disposition in the case of Ixta v. Rinaldi (Case No. 3 Civil C 002805).

SEC. 515. (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional serv-

ices; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 per centum of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and support services for research and development activities; engineering development and operational systems development; technical representatives; training; quality control, testing, and inspection services; specialized medical services; and public relations; in excess of an amount equal to 95 per centum of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

(c) As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Management and Budget Circular A-120, dated January 4, 1988.

(d) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the increase in rates of pay in such department, agency, or instrumentality made under this Act.

(e) The limitations contained in subsection (a) shall not apply to the Offices of Inspector General of the departments, agencies, and instrumentalities of the United States Government receiving appropriated funds under this Act. Neither shall the limitations in subsection (a) apply to routine, on-going activities which departments, agencies and instrumentalities provide through contract as part of their regular mission.

SEC. 516. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total costs of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 517. Notwithstanding any other provision of this Act, funds appropriated or otherwise made available which are not mandated by law for programs, projects or activities funded by this Act shall be reduced by 1.2 per centum.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 1989".

Approved September 20, 1988.

LEGISLATIVE HISTORY—H.R. 4783:

HOUSE REPORTS: No. 100-689 (Comm. on Appropriations) and No. 100-880 (Comm. of Conference).
SENATE REPORTS: No. 100-399 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 15, considered and passed House.
July 25-27, considered and passed Senate, amended.
Sept. 9, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments; and insisted on disagreement to another Senate amendment.
Sept. 12, Senate agreed to conference report; concurred in certain House amendments.
Sept. 13, Senate receded from its amendment.

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Public Law 100-437
100th Congress

An Act

To award a congressional medal to Mrs. Jesse Owens, and for other purposes.

Sept. 20, 1988
[H.R. 1270]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONGRESSIONAL GOLD MEDAL.

31 USC 5111 note.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to Mrs. Jesse Owens a gold medal of appropriate design, in recognition of the late Jesse Owens' athletic achievements and humanitarian contributions to public service, civil rights, and international goodwill.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(c) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated not to exceed $20,000 to carry out this section.

SEC. 2. DUPLICATE MEDALS.

31 USC 5111 note.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 1 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(b) REIMBURSEMENT OF APPROPRIATION.—The appropriation used to carry out section 1 shall be reimbursed out of the proceeds of sales under subsection (a).

SEC. 3. NATIONAL MEDALS.

31 USC 5111 note.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

SEC. 4. YOUNG ASTRONAUT PROGRAM MEDAL ACT AMENDMENTS.

Section 2 of the Young Astronaut Program Medal Act (31 U.S.C. 5111 note) is amended—

(1) in subsection (a), by inserting ", including medals in uncirculated or proof condition," after "750,000 medals"; and

(2) in subsection (b), by striking out "December 31, 1988" and inserting in lieu thereof "December 31, 1989".

Approved September 20, 1988.

LEGISLATIVE HISTORY—H.R. 1270:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed House.
Sept. 8, considered and passed Senate.

Public Law 100-438
100th Congress

An Act

Sept. 20, 1988
[H.R. 5143]

To waive the period of congressional review for certain District of Columbia acts authorizing the issuance of revenue bonds.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

District of Columbia Revenue Bond Act of 1988.

SECTION 1. SHORT TITLE.

This Act may be cited as the "District of Columbia Revenue Bond Act of 1988".

SEC. 2. WAIVER OF CONGRESSIONAL REVIEW PERIOD FOR CERTAIN DISTRICT OF COLUMBIA ACTS AUTHORIZING THE ISSUANCE OF REVENUE BONDS.

(a) WAIVER.—Section 602(c)(1) of the District of Columbia Self-Government and Governmental Reorganization Act shall not apply to certain acts of the District of Columbia described in subsection (c) authorizing the issuance, sale, and delivery of revenue bonds.

(b) EFFECTIVE DATE OF ACTS.—Notwithstanding section 404(e) of the District of Columbia Self-Government and Governmental Reorganization Act and any provision in any District of Columbia act described in subsection (c), the District of Columbia acts described in paragraphs (1), (2), and (3) of subsection (c) shall take effect on the date of the enactment of this Act.

(c) CERTAIN ACTS OF THE DISTRICT OF COLUMBIA AUTHORIZING THE ISSUANCE OF REVENUE BONDS.—The District of Columbia acts authorizing the issuance, sale, and delivery of revenue bonds referred to in subsections (a) and (b) are as follows:

(1) The St. Johns Child Development Center Revenue Bond Act of 1988, District of Columbia act 7-205, transmitted to the Speaker of the House and the President of the Senate July 25, 1988.

(2) The Columbia Hospital for Women Revenue Bond Act of 1988, District of Columbia act 7-208, transmitted to the Speaker of the House and the President of the Senate July 25, 1988.

(3) The Providence Hospital Revenue Bond Act of 1988, District of Columbia act 7-206, transmitted to the Speaker of the House and the President of the Senate July 25, 1988.

(4) The District of Columbia Hospital Association Revenue Bond Act of 1988 (District of Columbia bill 7-553, introduced in the Council of the District of Columbia July 14, 1988) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed $200,000,000.

(5) The Georgetown University Revenue Bond Act of 1988 (District of Columbia bill 7-551, introduced in the Council of the District of Columbia July 14, 1988) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed $237,000,000.

(6) The Children's Hospital National Medical Center Bond Act of 1988 (District of Columbia bill 7-552, introduced in the Council of the District of Columbia July 14, 1988) in such form as such act may be enacted by the Council of the District of Columbia, except that the authorization for issuance of bonds under such act may not exceed $55,000,000.

Approved September 20, 1988.

LEGISLATIVE HISTORY—H.R. 5143:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 11, considered and passed House.
Sept. 8, considered and passed Senate.

Public Law 100-439
100th Congress

An Act

Sept. 22, 1988
[H.R. 2701]

To amend the Natural Gas Policy Act of 1978 to remove certain contract duration and right of first refusal requirements.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONTRACT DURATION.

Section 315(a) of the Natural Gas Policy Act of 1978 (15 U.S.C. 3375(a)) is amended by striking the last sentence of paragraph (1) and by striking paragraph (3).

SEC. 2. OFFERS; RIGHT OF FIRST REFUSAL.

(a) AMENDMENT.—Section 315(b) of such Act (15 U.S.C. 3375(b)) is repealed, and subsection (c) of such section is redesignated as subsection (b).

(b) CONFORMING AMENDMENTS.—(1) The title of such section 315 is amended by striking "**RIGHT OF FIRST REFUSAL;**".

(2) The item relating to section 315 in the table of contents in section 1(b) of such Act is amended by striking "right of first refusal;".

Approved September 22, 1988.

LEGISLATIVE HISTORY—H.R. 2701:

HOUSE REPORTS: No. 100-682 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-485 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 13, considered and passed House.
Sept. 8, considered and passed Senate.

Public Law 100-440
100th Congress

An Act

Making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1989, and for other purposes.

Sept. 22, 1988
[H.R. 4775]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Treasury Department, the United States Postal Service, the Executive Office of the President, and certain Independent Agencies, for the fiscal year ending September 30, 1989, and for other purposes, namely:

Treasury, Postal Service and General Government Appropriations Act, 1989.

TITLE I

Treasury Department Appropriations Act, 1989.

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary, including operation and maintenance of the Treasury Building and Annex; hire of passenger motor vehicles; not to exceed $22,000 for official reception and representation expenses; not to exceed $200,000 for unforeseen emergencies of a confidential nature, to be allocated and expended under the direction of the Secretary of the Treasury and to be accounted for solely on his certificate; not to exceed $573,000, to remain available until expended, for repairs and improvements to the Main Treasury Building and Annex; $59,618,000.

INTERNATIONAL AFFAIRS

For necessary expenses of the international affairs function of the Office of the Secretary; hire of passenger motor vehicles; maintenance, repairs, and improvements of, and purchase of commercial insurance policies for, real properties leased or owned overseas, when necessary for the performance of official business; not to exceed $2,000,000 for official travel expenses; and not to exceed $73,000 for official reception and representation expenses; $22,000,000.

FEDERAL LAW ENFORCEMENT TRAINING CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Law Enforcement Training Center, as a bureau of the Department of the Treasury, including purchase (not to exceed fifteen for police-type use) and hire of passenger motor vehicles; for expenses for student athletic and related activities; uniforms without regard to the general purchase price limitation for the current fiscal year; the conducting of and

participating in firearms matches and presentation of awards; for public awareness and enhancing community support of law enforcement training; not to exceed $5,000 for official reception and representation expenses; room and board for student interns; and services as authorized by 5 U.S.C. 3109: *Provided,* That the Center is authorized the acceptance of gifts: *Provided further,* That funds appropriated in this account shall be available for State and local government law enforcement training on a space-available basis; training of foreign law enforcement officials on a space-available basis with reimbursement of actual costs to this appropriation; training of private sector security officials on a space-available basis with reimbursement of actual costs to this appropriation; travel expenses of non-Federal personnel to attend State and local course development meetings at the Center: *Provided further,* That the Federal Law Enforcement Training Center shall hire up to and maintain an average of not less than 425 direct full-time equivalent positions for fiscal year 1989; $34,664,000: *Provided further,* That none of the funds appropriated under this heading shall be used to reduce the level of advanced training or other training activities of the Federal Law Enforcement Training Center at Marana, Arizona.

ACQUISITION, CONSTRUCTION, IMPROVEMENTS, AND RELATED EXPENSES

For acquisition, construction, improvements, and related expenses (to include design, equipment, furnishings, and other such costs) for the Federal Law Enforcement Training Center, $20,000,000 to remain available until expended: *Provided,* That of this amount, $7,000,000 shall remain available for the acquisition, renovation, and adaptation of the former Artesia Christian College campus in Artesia, New Mexico, as a facility of the Federal Law Enforcement Training Center: *Provided further,* That $13,000,000 shall be available for the first phase of implementation of the Master Plan for the expansion of the Federal Law Enforcement Training Center at Glynco, Georgia, and for on-going maintenance, facility improvements, and related equipment: *Provided further,* That the Master Plan for the Federal Law Enforcement Training Center shall make provision for construction of an advanced firearms training range for participating agencies with specialized firearms training requirements.

FINANCIAL MANAGEMENT SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Financial Management Service, $277,230,000, of which not to exceed $13,237,000, shall remain available until expended for systems modernization initiatives.

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS

SALARIES AND EXPENSES

For necessary expenses of the Bureau of Alcohol, Tobacco and Firearms, including purchase of not to exceed five hundred vehicles for police-type use for replacement only; and hire of passenger motor vehicles; hire of aircraft; and services of expert witnesses at such

rates as may be determined by the Director; not to exceed $5,000 for official reception and representation expenses; for training of State and local law enforcement agencies with or without reimbursement; provision of laboratory assistance to State and local agencies, with or without reimbursement; $234,000,000, of which $15,000,000 shall be available solely for the enforcement of the Federal Alcohol Administration Act during fiscal year 1989, and of which not to exceed $1,000,000 shall be available for the payment of attorneys' fees as provided by 18 U.S.C. 924(d)(2): *Provided,* That no funds appropriated herein shall be available for administrative expenses in connection with consolidating or centralizing within the Department of the Treasury the records of receipts and disposition of firearms maintained by Federal firearms licensees or for issuing or carrying out any provisions of the proposed rules of the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms, on Firearms Regulations, as published in the Fedral Register, volume 43, number 55, of March 21, 1978: *Provided further,* That none of the funds appropriated herein shall be available for explosive identification or detection tagging research, development, or implementation: *Provided further,* That not to exceed $300,000 shall be available for research and development of an explosive identification and detection device: *Provided further,* That funds made available under this Act shall be used to maintain a base level of 3,701 full-time equivalent positions for fiscal year 1989, of which no fewer than 543 full-time equivalent positions shall be allocated for the Armed Career Criminal Apprehension Program: *Provided further,* That not to exceed $2,500,000 shall be available until expended for the purchase of a mainframe processor and associated hardware and software for special occupational and excise tax processing, and $300,000 shall be available until expended for the development and implementation of a secure communications and intelligence facility.

UNITED STATES CUSTOMS SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Customs Service, including purchase of up to one thousand motor vehicles for replacement only, including nine hundred and ninety for police-type use and commercial operations; hire of passenger motor vehicles; not to exceed $110,000 for official reception and representation expenses, including $100,000 to be available only for the Customs Cooperation Council meeting; and awards of compensation to informers, as authorized by any Act enforced by the United States Customs Service; $1,025,411,000; of which such sums as become available in the Customs User Fee Account, except sums subject to section 13031(f)(3) of the Consolidated Omnibus Reconciliation Act of 1985, as amended (19 U.S.C. 58c(f)(3)), shall be derived from that Account; of the total, not to exceed $150,000 shall be available for payment for rental space in connection with preclearance operations, and not to exceed $4,000,000, to remain available until expended, for research: *Provided,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000: *Provided further,* That the Commissioner or his designee may waive this limitation in

individual cases in order to prevent excessive costs or to meet emergency requirements of the Service: *Provided further,* That none of the funds made available by this Act may be used for administrative expenses in connection with the proposed redirection of the Equal Employment Opportunity Program: *Provided further,* That none of the funds made available by this Act shall be available for administrative expenses to reduce the number of Customs Service regions below seven during fiscal year 1989: *Provided further,* That the United States Customs Service shall hire and maintain an average of not less than 16,739 full-time equivalent positions in fiscal year 1989: *Provided further,* That all of the additional full-time equivalent positions made available by this Act for the United States Customs Service over the full-time equivalent positions level of 16,099 contained in the President's budget for fiscal year 1989 shall be allocated only for commercial operations of the Customs Service in fiscal year 1989: *Provided further,* That none of the funds made available in this or any other Act may be used to fund more than nine hundred positions in the Headquarters staff of the United States Customs Service in the fiscal year ending September 30, 1989: *Provided further,* That no funds appropriated by this Act may be used to reduce to single eight hour shifts at airports and that all current services as provided by the Customs Service shall continue through September 30, 1989: *Provided further,* That not less than $300,000 shall be expended for additional part-time and temporary positions in the Honolulu Customs District.

OPERATION AND MAINTENANCE, AIR INTERDICTION PROGRAM

For expenses, not otherwise provided for, necessary for the hire, lease, acquisition (transfer or acquisition from any other agency), operation and maintenance of aircraft, and other related equipment of the Air Program; $142,262,000, to remain available until expended: *Provided,* That no aircraft or other related equipment, shall be transferred to any other Federal agency, Department, or office outside of the Department of the Treasury during fiscal year 1989.

CUSTOMS FORFEITURE FUND

(LIMITATION ON AVAILABILITY OF DEPOSITS)

For necessary expenses of the Customs Forfeiture Fund, not to exceed $10,000,000, as authorized by Public Law 98-573, to be derived from deposits in the Fund.

CUSTOMS SERVICES AT SMALL AIRPORTS

(TO BE DERIVED FROM FEES COLLECTED)

Such sums as may be necessary, not to exceed $1,588,000, for expenses for the provision of Customs services at certain small airports designated by the Secretary of the Treasury, including expenditures for the salaries and expenses of individuals employed to provide such services, to be derived from fees collected by the Secretary of the Treasury pursuant to section 236 of Public Law 98-573 for each of these airports, and to remain available until expended.

UNITED STATES MINT

SALARIES AND EXPENSES

For necessary expenses of the United States Mint; $47,000,000, of which $665,000 shall remain available until expended for research and development projects.

BUREAU OF THE PUBLIC DEBT

ADMINISTERING THE PUBLIC DEBT

For necessary expenses connected with any public-debt issues of the United States; $219,430,000, of which not to exceed $700,000 shall be available for expenses of the National Economic Commission.

PAYMENT OF GOVERNMENT LOSSES IN SHIPMENT

For payment of Government losses in shipment, in accordance with section 2 of the Act approved July 8, 1937 (40 U.S.C. 722) $960,000, to remain available until expended.

INTERNAL REVENUE SERVICE

SALARIES AND EXPENSES

For necessary expenses of the Internal Revenue Service, not otherwise provided; for executive direction and management services, and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $87,165,000, of which not to exceed $25,000 for official reception and representation expenses and of which not to exceed $500,000 shall remain available until expended, for research.

PROCESSING TAX RETURNS

For necessary expenses of the Internal Revenue Service not otherwise provided for; including processing tax returns; revenue accounting; computer services; and hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,740,353,000, of which not to exceed $80,000,000 shall remain available until expended for systems modernization initiatives: *Provided,* That, of the total amount appropriated under this heading, $22,900,000 shall be available for the Statistics of Income Program in fiscal year 1989.

EXAMINATIONS AND APPEALS

For necessary expenses of the Internal Revenue Service for determining and establishing tax liabilities; employee plans and exempt organizations; tax litigation; hire of passenger motor vehicles (31 U.S.C. 1343(b)); and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner; $1,932,441,000.

INVESTIGATION, COLLECTION, AND TAXPAYER SERVICE

For necessary expenses of the Internal Revenue Service for investigation and enforcement activities; including purchase (not to exceed four hundred and fifty-one for replacement only, for police-type use) and hire of passenger motor vehicles (31 U.S.C. 1343(b)); securing unfiled tax returns; collecting unpaid accounts; examining selected employment and excise tax returns; technical rulings; enforcement litigation; providing assistance to taxpayers; and services as authorized by 5 U.S.C. 3109, at such rates as may be determined by the Commissioner: *Provided,* That notwithstanding any other provision of the Act, none of the funds made available by this Act shall be used to reduce the number of positions allocated to taxpayer service activities below fiscal year 1984 levels, or to reduce the number of positions allocated to any other direct taxpayer assistance functions below fiscal year 1984 levels, including, but not limited to Internal Revenue Service toll-free telephone tax law assistance and walk-in assistance available at Internal Revenue Service field offices: *Provided further,* That the Internal Revenue Service shall fund the Tax Counseling for the Elderly Program at $2,800,000. The Internal Revenue Service shall absorb within existing funds the administrative costs of the program in order that the full $2,800,000 can be devoted to program requirements; $1,434,921,000.

ADMINISTRATIVE PROVISIONS—INTERNAL REVENUE SERVICE

SECTION 1. Not to exceed 4 per centum of any appropriation made available to the Internal Revenue Service for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation.

SEC. 2. Not to exceed 15 per centum, or $15,000,000, whichever is greater, of any appropriation made available to the Internal Revenue Service for document matching for the current fiscal year by this Act may be transferred to any other Internal Revenue Service appropriation for document matching.

UNITED STATES SECRET SERVICE

SALARIES AND EXPENSES

For necessary expenses of the United States Secret Service, including purchase (not to exceed three hundred and forty-three vehicles for police-type use for replacement only) and hire of passenger motor vehicles; hire of aircraft; training and assistance requested by State and local governments, which may be provided without reimbursement; services of expert witnesses at such rates as may be determined by the Director; rental of buildings in the District of Columbia, and fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control, as may be necessary to perform protective functions; the conducting of and participating in firearms matches and presentation of awards and for travel of Secret Service employees on protective missions without regard to the limitations on such expenditures in this or any other Act: *Provided,* That approval is obtained in advance from the House and Senate Committees on Appropriations; for repairs, alterations, and minor construction at

the James J. Rowley Secret Service Training Center; for research and development; for making grants to conduct behavioral research in support of protective research and operations; not to exceed $12,500 for official reception and representation expenses; for payment in advance for commercial accommodations as may be necessary to perform protective functions; and for uniforms without regard to the general purchase price limitation for the current fiscal year; $357,500,000, of which $2,500,000 shall remain available until expended for continued construction at the James J. Rowley Secret Service Training Center, and of which $7,126,000 shall be available for Presidential candidate protective activities pursuant to 18 U.S.C. 3056(a)(7).

DEPARTMENT OF THE TREASURY—GENERAL PROVISIONS

SECTION 101. Appropriations to the Treasury Department in this Act shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901), including maintenance, repairs, and cleaning; purchase of insurance for official motor vehicles operated in foreign countries; entering into contracts with the Department of State for the furnishing of health and medical services to employees and their dependents serving in foreign countries; and services as authorized by 5 U.S.C. 3109.

SEC. 102. None of the funds appropriated by this title shall be used in connection with the collection of any underpayment of any tax imposed by the Internal Revenue Code of 1954 unless the conduct of officers and employees of the Internal Revenue Service in connection with such collection complies with subsection (a) of section 805 (relating to communications in connection with debt collection), and section 806 (relating to harassment or abuse), of the Fair Debt Collection Practices Act (15 U.S.C. 1692).

SEC. 103. Not to exceed 2 per centum of any appropriations in this Act for the Department of the Treasury may be transferred between such appropriations. However, no such appropriation shall be increased or decreased by more than 1 per centum and any such proposed transfers shall be approved in advance by the Committees on Appropriations of the House and Senate.

SEC. 104. None of the funds made available by this Act may be used to place the United States Secret Service, the United States Customs Service, or the Bureau of Alcohol, Tobacco and Firearms under the operation, oversight, or jurisdiction of the Inspector General of the Department of the Treasury.

This title may be cited as the "Treasury Department Appropriations Act, 1989".

TITLE II

Postal Service Appropriation Act, 1989.

POSTAL SERVICE

PAYMENT TO THE POSTAL SERVICE FUND

For payment to the Postal Service Fund for revenue forgone on free and reduced rate mail, pursuant to subsection (c) of section 2401 of title 39, United States Code; $436,417,000: *Provided,* That mail for overseas voting and mail for the blind shall continue to be free: *Provided further,* That six-day delivery and rural delivery of mail shall continue at not less than the 1983 level: *Provided further,* That none of the funds made available to the Postal Service by this Act

39 USC 403 note.

shall be used to implement any rule, regulation, or policy of charging any officer or employee of any State or local child support enforcement agency, or any individual participating in a State or local program of child support enforcement, a fee for information requested or provided concerning an address of a postal customer: *Provided further,* That none of the funds provided in this Act shall be used to consolidate or close small rural and other small post offices in the fiscal year ending on September 30, 1989.

SENSE OF SENATE PROVISION

Reports.

It is the sense of the Senate that no funds appropriated under this Act or made available by 39 U.S.C. 2401(a) be used by the United States Postal Service to implement Phase II of the contract between the United States Postal Service and Perot Systems until forty-five days after the General Accounting Office reports to Congress on the Perot Systems sole source contract and that the General Accounting Office report to Congress within forty-five days of the adoption of this amendment.

UNITED STATES POSTAL SERVICE—ADMINISTRATIVE PROVISION

Public buildings and grounds. Mississippi.

SECTION 1. Funds made available to the United States Postal Service pursuant to section 2401(a) of title 39, United States Code, shall be used hereafter to continue full postal service to the people of Holly Springs proper, including upgrading, remodeling, and improving the United States Post Office building located at 110 North Memphis Street, Holly Springs, Mississippi.

This title may be cited as the "Postal Service Appropriation Act, 1989".

Executive Office Appropriations Act, 1989.

TITLE III

EXECUTIVE OFFICE OF THE PRESIDENT

COMPENSATION OF THE PRESIDENT

For compensation of the President, including an expense allowance at the rate of $50,000 per annum as authorized by 3 U.S.C. 102; $250,000: *Provided,* That none of the funds made available for official expenses shall be expended for any other purpose and any unused amount shall revert to the Treasury pursuant to section 1552 of title 31 of the United States Code: *Provided further,* That none of the funds made available for official expenses shall be considered as taxable to the President.

3 USC 102 note.

OFFICE OF ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Office of Administration; $16,850,000, including services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 107, and hire of passenger motor vehicles.

THE WHITE HOUSE OFFICE

SALARIES AND EXPENSES

For necessary expenses for the White House as authorized by law, including not to exceed $3,850,000 for services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 105; including subsistence expenses as authorized by 3 U.S.C. 105, which shall be expended and accounted for as provided in that section; hire of passenger motor vehicles, newspapers, periodicals, teletype news service, and travel (not to exceed $100,000 to be expended and accounted for as provided by 3 U.S.C. 103); not to exceed $20,000 for official entertainment expenses, to be available for allocation within the Executive Office of the President; $27,950,000.

EXECUTIVE RESIDENCE AT THE WHITE HOUSE

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the Executive Residence at the White House and official entertainment expenses of the President; $5,698,000, to be expended and accounted for as provided by 3 U.S.C. 105, 109-110, 112-114.

OFFICIAL RESIDENCE OF THE VICE PRESIDENT

OPERATING EXPENSES

For the care, maintenance, repair and alteration, refurnishing, improvement, heating and lighting, including electric power and fixtures, of the official residence of the Vice President, the hire of passenger motor vehicles, and not to exceed $75,000 for official entertainment expenses of the Vice President, to be accounted for solely on his certificate; $258,000: *Provided,* That advances or repayments or transfers from this appropriation may be made to any department or agency for expenses of carrying out such activities.

SPECIAL ASSISTANCE TO THE PRESIDENT

SALARIES AND EXPENSES

For necessary expenses to enable the Vice President to provide assistance to the President in connection with specially assigned functions, services as authorized by 5 U.S.C. 3109 and 3 U.S.C. 106, including subsistence expenses as authorized by 3 U.S.C. 106, which shall be expended and accounted for as provided in that section; and hire of passenger motor vehicles; $2,199,000.

COUNCIL OF ECONOMIC ADVISERS

SALARIES AND EXPENSES

For necessary expenses of the Council in carrying out its functions under the Employment Act of 1946 (15 U.S.C. 1021); $2,787,000.

OFFICE OF POLICY DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Office of Policy Development, including services as authorized by 5 U.S.C. 3109, and 3 U.S.C. 107; $3,000,000.

NATIONAL CRITICAL MATERIALS COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Critical Materials Council, including activities as authorized by Public Law 98-373; $225,000.

NATIONAL SECURITY COUNCIL

SALARIES AND EXPENSES

For necessary expenses of the National Security Council, including services as authorized by 5 U.S.C. 3109; $5,100,000.

OFFICE OF MANAGEMENT AND BUDGET

SALARIES AND EXPENSES

For necessary expenses of the Office of Management and Budget, including hire of passenger motor vehicles, services as authorized by 5 U.S.C. 3109; $39,640,000, of which not to exceed $1,000,000 may be available for a consolidated Federal budget and financial information system to improve the management of Executive agencies, and of which not to exceed $4,500,000 shall be available to carry out the provisions of 44 U.S.C., chapter 35: *Provided,* That, as provided in 31 U.S.C. 1301(a), appropriations shall be applied only to the objects for which appropriations were made except as otherwise provided by law: *Provided further,* That none of the funds appropriated in this Act for the Office of Management and Budget may be used for the purpose of reviewing any agricultural marketing orders or any activities or regulations under the provisions of the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 601 et seq.): *Provided further,* That none of the funds made available for the Office of Management and Budget by this Act may be expended for the altering of the transcript of actual testimony of witnesses, except for testimony of officials of the Office of Management and Budget, before the Committee on Appropriations or the Committee on Veterans' Affairs or their subcommittees: *Provided further,* That this proviso shall not apply to printed hearings released by the Committee on Appropriations or the Committee on Veterans' Affairs: *Provided further,* That none of the funds made available by this Act or any other Act shall be used to reduce the scope or publication frequency of statistical data relative to the operations and production of the alcoholic beverage and tobacco industries below fiscal year 1985 levels: *Provided further,* That none of the funds appropriated by this Act shall be available to the Office of Management and Budget for revising, curtailing or otherwise amending the administrative and/or regulatory methodology employed by the Bureau of Alcohol, Tobacco and Firearms to assure compliance with

section 205, title 27 of the United States Code (Federal Alcohol Administration Act) or with regulations, rulings or forms promulgated thereunder.

OFFICE OF FEDERAL PROCUREMENT POLICY

SALARIES AND EXPENSES

For expenses of the Office of Federal Procurement Policy, including services as authorized by 5 U.S.C. 3109; $2,353,000.

FUNDS APPROPRIATED TO THE PRESIDENT

UNANTICIPATED NEEDS

For expenses necessary to enable the President to meet unanticipated needs, in furtherance of the national interest, security, or defense which may arise at home or abroad during the current fiscal year; $1,000,000.

EXPENSES OF MANAGEMENT IMPROVEMENT

For expenses necessary to provide a comprehensive office automation system, including equipment and software, for the Office of Management and Budget, $1,000,000, to remain available until expended.

This title may be cited as the "Executive Office Appropriations Act, 1989".

TITLE IV—INDEPENDENT AGENCIES

Independent Agencies Appropriations Act, 1989.

ADMINISTRATIVE CONFERENCE OF THE UNITED STATES

SALARIES AND EXPENSES

For necessary expenses of the Administrative Conference of the United States, established by the Administrative Conference Act, as amended (5 U.S.C. 571 et seq.), including not to exceed $1,000 for official reception and representation expenses; $1,865,000.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Advisory Commission on Intergovernmental Relations Act of 1959, as amended (42 U.S.C. 4271-79); $1,040,000, and additional amounts not to exceed $200,000, collected from the sale of publications shall be credited to and used for the purposes of this appropriation.

ADVISORY COMMITTEE ON FEDERAL PAY

SALARIES AND EXPENSES

For necessary expenses of the Advisory Committee on Federal Pay, established by 5 U.S.C. 5306; $205,000: *Provided*, That the annual report of the Advisory Committee on Federal Pay shall be submitted to the Appropriations Committees of the House and

Reports.

Senate and other appropriate Committees of the Congress at the same time the report is submitted to the President.

COMMITTEE FOR PURCHASE FROM THE BLIND AND OTHER SEVERELY HANDICAPPED

SALARIES AND EXPENSES

For necessary expenses of the Committee for Purchase From the Blind and Other Severely Handicapped established by the Act of June 23, 1971, Public Law 92-28, $862,000.

FEDERAL ELECTION COMMISSION

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the Federal Election Campaign Act of 1971, as amended; $15,433,000.

GENERAL SERVICES ADMINISTRATION

FEDERAL BUILDINGS FUND

LIMITATIONS ON AVAILABILITY OF REVENUE

The revenues and collections deposited into the Fund established pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)), shall be available for necessary expenses of real property management and related activities not otherwise provided for, including operation, maintenance, and protection of federally owned and leased buildings; rental of buildings in the District of Columbia; restoration of leased premises; moving Government agencies (including space adjustments) in connection with the assignment, allocation and transfer of space; contractual services incident to cleaning or servicing buildings and moving; repair and alteration of federally owned buildings, including grounds, approaches and appurtenances; care and safeguarding of sites; maintenance, preservation, demolition, and equipment; acquisition of buildings and sites by purchase, condemnation, or as otherwise authorized by law; conversion and extension of federally owned buildings; preliminary planning and design of projects by contract or otherwise; construction of new buildings (including equipment for such buildings); and payment of principal, interest, taxes, and any other obligations for public buildings acquired by purchase contract, in the aggregate amount of $3,024,217,000, of which (1) not to exceed $119,820,000 shall remain available until expended for construction of additional projects at locations and at maximum construction improvement costs (including funds for sites and expenses) as follows:

New Construction:

Connecticut:

Bridgeport, Federal Building, Courthouse Annex, $4,138,000

Hartford, Federal Building, Courthouse Annex, $6,612,000

Florida:

Lakeland, Federal Building, $14,000,000

Illinois:
Champaign-Urbana, Federal Building, Courthouse, $8,316,000
Louisiana:
Baton Rouge, Federal Building, Courthouse, to be constructed on a site donated by the City of Baton Rouge, $16,758,000
Michigan:
Detroit, Ambassador Bridge Cargo Inspection Facility, $10,197,000
Minnesota:
International Falls, Border Station, Site, $260,000
New Jersey:
Camden, U.S. Post Office, Courthouse Annex, $18,728,000
Newark, Martin Luther King, Jr., Federal Building, Site and Design (parking facility), $250,000
Paterson, Federal Building, $6,552,000
Trenton, Federal Building, Courthouse Annex, $25,939,000
New Mexico:
Albuquerque, Grant to the University of New Mexico, Zimmerman Library, Repair and Extension, $5,000,000
South Carolina:
Columbia, Federal Building and Courthouse Claim, $100,000
Virgin Islands:
St. Croix, Federal Building, Courthouse, $8,827,000
Construction Projects, less than $500,000, $2,470,000
Other selected purchases including options to purchase, $500,000:

Provided, That each of the immediately foregoing limits of costs on new construction projects may be exceeded to the extent that savings are effected in other such projects, but by not to exceed 10 per centum: *Provided further,* That all funds for direct construction projects shall expire on September 30, 1990, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date: *Provided further,* That claims against the Government of less than $100,000 arising from direct construction projects, acquisitions of buildings and purchase contract projects pursuant to Public Law 92-313, be liquidated with prior notification to the Committees on Appropriations of the House and Senate to the extent savings are effected in other such projects; (2) not to exceed $532,865,000 which shall remain available until expended, for repairs and alterations: *Provided further,* That funds in the Federal Buildings Fund for Repairs and Alterations shall, for prospectus projects, be limited to the amount by project as follows, except each project may be increased by an amount not to exceed 10 per centum unless advance approval is obtained from the Committees on Appropriations of the House and Senate for a greater amount:

Termination date.

Repairs and Alterations:
Alaska:
Juneau, Federal Building, Post Office, Courthouse, $24,700,000
Alabama:
Montgomery, Federal Building, Courthouse, $515,000
Arkansas:

Pine Bluff, Federal Building, Post Office, Courthouse, $2,084,000

California:

County of Los Angeles, for a grant for Senior Citizens Health Center renovation, $1,000,000

California State University at East Los Angeles for a grant to establish a center, $800,000

San Francisco, 450 Golden Gate Avenue, Federal Building, Courthouse, $5,000,000

Santa Ana, Federal Building, $1,406,000

San Diego, Federal Building, $1,742,000

District of Columbia:

Mary Switzer Federal Building, $502,000

Commerce Building, $2,457,000

Interstate Commerce Building, $526,000

Health and Human Services, $1,395,000

U.S. Customs Building, $754,000

Internal Revenue Service, $2,179,000

Housing and Urban Development, $1,221,000

Hubert H. Humphrey Federal Building, $606,000

Ariel Rios Federal Building, New Post Office, $29,000,000

GSA Headquarters, $11,000,000

James V. Forrestal Building, $19,970,000

Florida:

Jacksonville, Federal Building, $6,889,000

Miami, Federal Building, $1,415,000

Hawaii:

Honolulu, Kalanianole Federal Building, $5,680,000

Kentucky:

Louisville, Post Office, Courthouse, Customhouse, $9,435,000

Louisiana:

New Orleans, Boggs Federal Building, Courthouse, $10,245,000

New Orleans, Customhouse, $1,672,000

Maryland:

Avondale, Interior (Bureau of Mines), $6,500,000

Woodlawn, SSA Complex, $7,030,000

Baltimore, Garmatz Federal Building, Courthouse, $800,000

Suitland, Federal Building, #3, $1,926,000

Suitland, Federal Building, #4, $817,000

Baltimore, Fallon Federal Building, $6,901,000

Massachusetts:

Boston, John F. Kennedy Federal Building, $10,000,000

Boston, McCormack Federal Building, Courthouse, $3,000,000

Missouri:

Overland, Federal Archives and Records Center, $3,059,000

Mississippi:

Jackson, Eastland Post Office, Courthouse, $2,143,000

New Jersey:

Newark, Rodino Federal Building, $5,201,000

Trenton, Federal Building, Courthouse, $1,417,000

New Mexico:

Albuquerque, Chavez Federal Building, Courthouse, $3,207,000
Albuquerque, Federal Building, $1,967,000
New York:
Brooklyn, Cellar Federal Building, $16,000,000
Rochester, Keating Federal Building, $6,800,000
New York, United States Mission to the United Nations, $4,300,000
Ohio:
Cleveland, Celebrezze Federal Building, $5,836,000
Pennsylvania:
Philadelphia, Green Federal Building, $1,200,000
Philadelphia, SSA Computer Center, $950,000
South Carolina:
Charleston, Rivers Federal Building, $1,275,000
Tennessee:
Memphis, Davis Federal Building, $9,466,000
Texas:
Austin, Federal Building, $3,241,000
Austin, Internal Revenue Service Center, $3,282,000
Austin, Post Office, Courthouse, $7,995,000
Houston, Casey Federal Building, Courthouse, $8,008,000
Lubbock, Federal Building, Courthouse, $3,674,000
Utah:
Salt Lake City, Post Office, Courthouse, $2,543,000
Virginia:
McLean, Central Intelligence Agency, Headquarters, $2,336,000
McLean, Central Intelligence Agency Printing Plant, $746,000
Reston, J.W. Powell Federal Building, $1,336,000
Arlington, Heating Plant, $593,000
Richmond, Annex, $3,287,000
Vermont:
Burlington, Federal Building Post Office, Courthouse, $4,100,000
Wisconsin:
Milwaukee, Federal Building, Courthouse, $7,586,000

Capital Improvements of United States-Mexico Border Facilities, $42,150,000 as follows:
Arizona:
Douglas, AZ
New facility/R&A/Safety, $820,700
Lukeville, AZ
R&A/Safety, $229,100
Naco, AZ
New facility/R&A/Safety, $320,900
Nogalas, AZ
Grande Ave./Morley Gate, New Station/R&A/Safety, $2,420,900
Mariposa, R&A, $746,800
Sasebe, AZ
New facility/R&A/Safety, $355,300
San Luis, AZ
R&A/Safety, $499,300
California:
Andrade, CA

New station/R&A/Safety, $454,300
Calexico, CA
New station/R&A/Safety, $4,830,900
San Ysidro/Otay Mesa, CA
New facility/Otay Mesa, $721,700
Safety/San Ysidro/Otay Mesa, $2,673,900
R&A/Signs/Security/Commercial lot improvements, $4,956,200
Tecate, CA
New station/R&A, $861,800
New Mexico:
Antelope Wells, NM
Security/Housing, $158,500
Columbus, NM
Security, $236,300
Santa Teresa, NM
New station, $1,668,000
Texas:
Amastad Dam, TX
R&A, $83,400
Brownsville, TX
Gateway Bridge, Security/R&A/Lane expansion/ New Bridge, $5,783,000
B&M Bridge, Replace station, $1,794,300
Los Indios, Replace station, $105,700
Del Rio, TX
Security/Lane expansion, $597,700
Eagle Pass, TX
Security/R&A, $2,251,800
El Paso, TX
Bridge of the Americas, Design/R&A/Import Lot Paving, $1,700,300
Paso del Norte, Extension/R&A, $639,400
Ysleta, Design/Construction, $1,501,200
Fabens, TX
Site acquisition/Security, $444,800
Falcon Dam, TX
R&A, $172,400
Hidalgo, TX
Safety/Design/R&A, $617,200
Laredo, TX
Juarez-Lincoln Bridge, Site/Design/R&A, $1,668,000
New bridge, $278,000
Convent Street, Design upgrade, $1,473,400
Presidio, TX
Security/Housing, $556,000
Progresso, TX
Security/R&A, $222,400
Roma, TX
Safety, $305,800

Minor Repairs and Alterations, $200,000,000, of which up to $2,000,000 shall be made available to fund a pilot project establishing safe areas-of-refuge from fire for the disabled in six existing Federal buildings in the United States: *Provided,* That by no later than July 30, 1989, the Administrator of General Services shall assess the level of unobligated balances, if any, in the Federal Buildings Fund and request reprogramming of such balances, not to

exceed $10,000,000, to provide additional funding for United States-Mexico Border Facility projects: *Provided further,* That additional projects for which prospectuses have been fully approved may be funded under this category only if advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That all funds for repairs and alterations prospectus projects shall expire on September 30, 1990, and remain in the Federal Buildings Fund except funds for projects as to which funds for design or other funds have been obligated in whole or in part prior to such date; (3) not to exceed $133,000,000 for payment on purchase contracts entered into prior to July 1, 1975; (4) not to exceed $1,177,532,000 for rental of space; (5) not to exceed $882,000,000 for real property operations; (6) not to exceed $49,000,000 for program direction and centralized services; and (7) not to exceed $130,000,000, of which $2,200,000 shall be made available for a grant to the Marine Biological Laboratory at Woods Hole, Massachusetts and of which $127,800,000 shall be available for design and construction services which shall remain available until expended: *Provided further,* That obligations of funds for lease, lease purchase, or installment purchase public buildings projects authorized in Public Law 100-202 for the General Services Administration at Oakland, California and San Francisco, California, and for the Environmental Protection Agency and Department of Transportation shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1341(a)(1)(B): *Provided further,* That for the purposes of this authorization, buildings constructed pursuant to the Public Buildings Purchase Contract Act of 1954 (40 U.S.C. 356), the Public Buildings Amendments of 1972 (40 U.S.C. 490), and buildings under the control of another department or agency where alterations of such buildings are required in connection with the moving of such other department or agency from buildings then, or thereafter to be, under the control of the General Services Administration shall be considered to be federally owned buildings: *Provided further,* That none of the funds available to the General Services Administration with the exception of those for Capital Improvements for United States-Mexico Border Facilities; Memphis, Tennessee, Internal Revenue Service Center; Avondale, Maryland, Interior Department (Bureau of Mines); Baton Rouge, Louisiana, Federal Building/Courthouse; and Lakeland, Florida, Federal Building, shall be available for expenses in connection with any construction, repair, alteration, and acquisition project for which a prospectus, if required by the Public Buildings Act of 1959, as amended, has not been approved, except that necessary funds may be expended for each project for required expenses in connection with the development of a proposed prospectus: *Provided further,* That funds available in the Federal Buildings Fund may be expended for emergency repairs when advance approval is obtained from the Committees on Appropriations of the House and Senate: *Provided further,* That amounts necessary to provide reimbursable special services to other agencies under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949, as amended (40 U.S.C. 490(f)(6)) and amounts to provide such reimbursable fencing, lighting, guard booths, and other facilities on private or other property not in Government ownership or control as may be appropriate to enable the United States Secret Service to perform its protective functions pursuant to 18 U.S.C. 3056, as amended, shall be available from such revenues and collections: *Provided*

Termination date.

further, That revenues and collections and any other sums accruing to this Fund during fiscal year 1989 excluding reimbursements under section 210(f)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 490(f)(6)) in excess of $3,024,217,000 shall remain in the Fund and shall not be available for expenditure except as authorized in appropriation Acts.

FEDERAL SUPPLY SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for property management activities, utilization of excess and disposal of surplus personal property, rehabilitation of personal property, transportation management activities, transportation audits by in-house personnel, procurement, and other related supply management activities, including services as authorized by 5 U.S.C. 3109; $47,000,000.

FEDERAL PROPERTY RESOURCES SERVICE

OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for carrying out the functions of the Administrator with respect to utilization of excess real property; the disposal of surplus real property, the utilization survey, deed compliance inspection, appraisal, environmental and cultural analysis, and land use planning functions pertaining to excess and surplus real property; $10,800,000 to be derived from proceeds from transfers of excess real property and disposal of surplus real property and related personal property, subject to the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-5).

REAL PROPERTY RELOCATION

For expenses not otherwise provided for, $4,000,000 to remain available until expended, necessary for carrying out the functions of the Administrator with respect to relocation of Federal agencies from property which has been determined by the Administrator to be other than optimally utilized under the provisions of section 210(e) of the Federal Property and Administrative Services Act of 1949, as amended: *Provided,* That such relocations shall only be undertaken when the estimated proceeds from the disposition of the original facilities approximate the appraised fair market value of such new facilities and exceed the estimated costs of relocation. Relocation costs include expenses for and associated with acquisition of sites and facilities, and expenses of moving or repurchasing equipment and personal property. These funds may be used for payments to other Federal entities to accomplish the relocation functions: *Provided further,* That nothing in this paragraph shall be construed as relieving the Administrator of General Services or the head of any other Federal agency from any obligation or restriction under the Public Buildings Act of 1959 (including any obligation concerning submission and approval of a prospectus), the Federal Property and Administrative Services Act of 1949, as amended, or

any other Federal law, or as authorizing the Administrator of General Services or the head of any other Federal agency to take actions inconsistent with statutory obligations or restrictions placed upon the Administrator of General Services or such agency head with respect to authority to acquire or dispose of real property: *Provided further,* That notwithstanding any provision of this or any other Act, not more than $1,500,000 of the appropriations made available under the heading "Real Property Relocation" by this Act or by Public Law 100-202, shall be available to pay for the relocation costs associated with the facility at Loran Station, Makahuena Point, Island of Kauai, Hawaii: *Provided further,* That upon relocation, such property shall be sold by the Administrator of General Services at not less than the estimated fair market value through a competitive public sale.

GENERAL MANAGEMENT AND ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of agency management of activities under the control of the General Services Administration, and general administrative and staff support services not otherwise provided for; for providing accounting, records management, and other support incident to adjudication of Indian Tribal Claims by the United States Court of Claims, and services authorized by 5 U.S.C. 3109; $122,774,000, of which $800,000 shall be available only for, and is hereby specifically earmarked for personnel and associated costs in support of Congressional District and Senate State offices: *Provided,* That this appropriation shall be available, subject to reimbursement by the applicable agency, for services performed for other agencies pursuant to subsections (a) and (b) of section 1535 of title 31, United States Code.

INFORMATION RESOURCES MANAGEMENT SERVICE

OPERATING EXPENSES

For expenses authorized by law, not otherwise provided for, necessary for carrying out Government-wide and internal responsibilities relating to automated data management, telecommunications, information resources management, and related activities, including services as authorized by 5 U.S.C. 3109; and for the Information Security Oversight Office established pursuant to Executive Order 12356; $31,875,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General; $25,000,000: *Provided,* That not to exceed $10,000 shall be available for payment for information and detection of fraud against the Government, including payment for recovery of stolen Government property.

ALLOWANCES AND OFFICE STAFF FOR FORMER PRESIDENTS

For carrying out the provisions of the Act of August 25, 1958, as amended (3 U.S.C. 102 note), and Public Law 95-138; $1,431,000: *Provided,* That the Administrator of General Services shall transfer

to the Secretary of the Treasury such sums as may be necessary to carry out the provisions of such Acts.

EXPENSES, PRESIDENTIAL TRANSITION

For expenses necessary to carry out the provisions of the Presidential Transition Act of 1963, as amended (3 U.S.C. 102, note), $3,000,000: *Provided,* That the availability of these funds shall be in accordance with sections 3(b) and 4 of the Act.

NATIONAL DEFENSE STOCKPILE TRANSACTION FUND

For the fiscal year ending September 30, 1989, in addition to the funds previously appropriated to the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there is hereby appropriated $30,000,000 to the Fund, to remain available until expended, the amounts to be allocated for the following projects:

University of Texas at El Paso pursuant to 50 U.S.C. 98 a and g for a grant to study and facilitate the development, transfer, and installation of strategic materials technologies among American industries, $3,000,000;

University of Hawaii at Manoa pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility, $14,000,000;

Loyola College in Maryland pursuant to 50 U.S.C. 98a and 98g(a), for a grant to pay the Federal share of the cost of construction and equipment, including approaches and appurtenances and costs already incurred, of a Center for Advanced Information and Resource Management Studies, $3,000,000;

University of Idaho pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a Strategic Research and Environmental Laboratory, $3,000,000; and

University of Utah pursuant to 50 U.S.C. 98a and 98g(a)(2)(C) for a grant to pay the Federal share of the cost of construction and equipment for a Center for Biomedical Polymers, $7,000,000.

Public buildings and grounds.

GENERAL SERVICES ADMINISTRATION—GENERAL PROVISIONS

SECTION 1. The appropriate appropriation or fund available to the General Services Administration shall be credited with the cost of operation, protection, maintenance, upkeep, repair, and improvement, included as part of rentals received from Government corporations pursuant to law (40 U.S.C. 129).

SEC. 2. Funds available to the General Services Administration shall be available for the hire of passenger motor vehicles.

SEC. 3. Not to exceed 1 per centum of funds made available in appropriations for operating expenses and salaries and expenses, during the current fiscal year, may be transferred between such appropriations for mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 4. Funds in the Federal Buildings Fund made available for fiscal year 1989 for Federal Buildings Fund activities may be transferred between such activities only to the extent necessary for

mandatory program requirements. Any transfers proposed shall be submitted promptly to the Committees on Appropriations of the House and Senate for approval.

SEC. 5. Funds hereafter made available to the General Services Administration for the payment of rent shall be available for the purpose of leasing, for periods not to exceed thirty years, space in buildings erected on land owned by the United States. 40 USC 490d.

SEC. 6. The Administrator of General Services shall proceed with the site selection and design for construction of a facility of not less than 182,000 usable square feet for the Social Security Administration in Wilkes-Barre, Pennsylvania, pursuant to section 115 of the joint resolution entitled "Joint resolution making continuing appropriations for the fiscal year 1987 and for other purposes", approved October 30, 1986 (100 Stat. 3341-49; Public Law 99-591). Pennsylvania.

SEC. 7. Notwithstanding any provisions of this Act or any other Act in any fiscal year, the Administrator of General Services is authorized and directed to charge the Department of the Interior for design and alterations to the Avondale, Maryland property at rates so as to recover the approximate applicable cost incurred by General Services Administration in providing such alterations, and the Department of the Interior is authorized to repay such charges out of any appropriation available to the department and the payments shall be deposited in the fund established by 40 U.S.C. 490(f). Maryland.

SEC. 8. (a) LEASE-PURCHASE AGREEMENT.—The Administrator of General Services shall acquire from the State of Tennessee or a political subdivision thereof by lease-purchase a building to house the Internal Revenue Service Center in Memphis, Tennessee, and such other Federal agencies as may be appropriate. Tennessee. Contracts.

(b) LIMITATIONS.—

(1) SIZE.—The building to be acquired under subsection (a) may not exceed 600,000 gross square feet in size plus such additional space as may be necessary for parking.

(2) COST.—The total cost of the lease-purchase agreement under this section to the United States may not exceed $36,000,000, plus reasonable interest thereon, as well as operating costs, if applicable.

(3) TERM.—The term of the lease-purchase agreement under this section may not exceed thirty years. The agreement shall provide that ownership of the building will vest in the United States on or before the end of such term.

(4) OBLIGATION OF FUNDS.—Obligations of funds under this section shall be limited to the current fiscal year for which payments are due without regard to section 1341(a)(1)(B) of title 31, United States Code.

(c) SALE OF LEASEHOLD INTEREST.—The Administrator of General Services shall sell any leasehold or other interest which the United States has in the building which is providing office space for the Internal Revenue Service Center in Memphis, Tennessee, and shall deposit the proceeds from such sale in the Federal Buildings Fund established by section 210(f) of the Federal Property and Administrative Services Act of 1949.

SEC. 9. The General Services Administration is directed to construct under their lease-purchase authority, a 40,000 net square foot office building at the CDC campus in Chamblee, Georgia, designed with funds which Congress provided the Center for Disease Control in the fiscal year 1987 Department of Labor, Health and Human Services, and Education, and Related Agencies Appropriations, and Contracts. Georgia.

shall be acquired without regard to the provisions of the Public Buildings Act of 1959 regarding prospectus approval by lease-purchase contracts entered into by the General Services Administration prior to their construction using funds appropriated annually to the General Services Administration from the Federal Buildings Fund for the rental of space which shall hereafter be available for this purpose. The contracts shall provide for the payment of the purchase price and reasonable interest thereon by lease or installment payments over a period not to exceed thirty years. The contracts shall further provide that title to the buildings shall vest in the United States at or before expiration of the contract term upon fulfillment of the terms and conditions of the contracts. The Federal Buildings Fund shall be reimbursed from the annual appropriation to the Centers for Disease Control—Disease Control, Research, and Training (or any other appropriation hereafter made available to the CDC for construction of research facilities) and such appropriations shall hereafter be available for the purpose of reimbursing the Federal Buildings Fund. Obligations of funds under these transactions shall be limited to the current fiscal year for which payments are due without regard to 31 U.S.C. 1502 and 1341(a)(1)(B).

Employment and unemployment. Government organization and employees.

SEC. 10. The Administrator of General Services is authorized and directed to hire up to and maintain an annual average of not less than one thousand full-time equivalent positions for Federal Protective Officers. This shall be accomplished by increasing existing staff levels at the end of fiscal year 1988 at a rate of not less than fifty positions per year until the full-time equivalency of one thousand is attained by not later than fiscal year 1992.

40 USC 490a-1.

SEC. 11. Notwithstanding any other provision of law, the Administrator of General Services is hereafter authorized to transfer from the available resources of the Federal Buildings Fund, in accordance with such rules and procedures as may be established by the Office of Management and Budget and the Department of the Treasury, such amounts as are necessary to repay the principal amount of General Services Administration borrowings from the Federal Financing Bank when such borrowings are legal obligations of the Fund.

Florida.

SEC. 12. Notwithstanding any other provision of law, the General Services Administration is hereby authorized to sell, at competitive bid, the Federal Building located at 124 South Tennessee Avenue in Lakeland, Florida, and to deposit such proceeds into the Federal Buildings Fund.

Arkansas.

SEC. 13. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Bull Shoals Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 14. None of the funds appropriated by this Act may be obligated or expended in any way for the purpose of the sale, excessing, surplusing, or disposal of lands in the vicinity of Norfork Lake, Arkansas, administered by the Corps of Engineers, Department of the Army, without the specific approval of the Congress.

SEC. 15. Notwithstanding any other provision of this Act the amount appropriated for "General Management and Administration, Salaries and Expenses" of the General Services Administration is $120,774,000 for fiscal year 1989.

SEC. 16. The Administrator of General Services shall transfer, without consideration, to the Secretary of the Army the approximately twenty-four acres located in Laurel, Maryland, and classified as surplus property under the title "FDA—Beltsville Research Facility". Such property shall be used in connection with the Maryland National Guard. Maryland. National Guard.

SEC. 17. The Secretary of the Interior, within thirty days of enactment of this Act shall designate a consolidated agency of no less than four hundred people within the Department of the Interior for relocation to Avondale, Maryland. The Administrator of General Services shall relocate the designee to the Avondale facility no later than ninety days after the Administrator determines design and alteration of the facility is completed. Maryland.

SEC. 18. Notwithstanding any other provision of this Act, no funds made available from the Federal Buildings Fund for new construction for fiscal year 1989 may be used to fund the St. Croix Federal Building, Courthouse located in the Virgin Islands. Virgin Islands.

SEC. 19. None of the funds appropriated by this or any other Act in any fiscal year may be obligated or expended in any way for the purpose of the sale, lease, rental, excessing, surplusing, or disposal of any portion of land identified as a portion of the Middle River Federal Depot located in Baltimore County, Maryland before October 1, 1989: *Provided,* That such land may be sold before that time if the General Services Administration enters into a mutually agreed upon sale agreement with the State of Maryland and/or Baltimore County, Maryland. Maryland.

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

OPERATING EXPENSES

For necessary expenses in connection with National Archives and Records Administration and related activities, as provided by law, and for expenses necessary for the review and declassification of documents, and for the hire of passenger motor vehicles, $121,900,000, of which $125,000 shall be made available directly to the Forbes Library, Northampton, Massachusetts for such expenses as are necessary for the proper preservation, restoration, and display of the Presidential papers of Calvin Coolidge, and of which $4,000,000 for allocations and grants for historical publications and records as authorized by 44 U.S.C. 2504, as amended, shall remain available until expended, and of which $4,100,000 shall remain available until expended for continuation of construction at the John F. Kennedy Library in Boston, Massachusetts: *Provided,* That notwithstanding the provisions of 31 U.S.C. 1341(a)(1) or any other provisions of law, the Archivist of the United States is authorized, pursuant to 44 U.S.C. 2903, to enter into a contract for construction and related services for a new National Archives facility in Prince George's County, Maryland, on a site provided, without charge, to the United States by the University of Maryland or the State of Maryland, which site may be transferred to the United States by less than fee simple estate, but shall remain available to the United States so long as it shall be used as a National Archives facility. The contract shall provide, by lease or installment payments payable out of annual appropriations over a period not to exceed thirty years, for the payment of the purchase price and associated costs, which shall not exceed $205,000,000 plus escalation to the midpoint of construc-

tion, and reasonable interest thereon. The contract shall further provide that title to the building shall vest in the United States at or before the expiration of the contract term upon fulfillment of the terms and conditions of the contract.

OFFICE OF PERSONNEL MANAGEMENT

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF TRUST FUNDS)

For necessary expenses to carry out functions of the Office of Personnel Management pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, medical examinations performed for veterans by private physicians on a fee basis, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles, not to exceed $2,500 for official reception and representation expenses, and advances for reimbursements to applicable funds of the Office of Personnel Management and the Federal Bureau of Investigation for expenses incurred under Executive Order 10422 of January 9, 1953, as amended; $108,000,000, of which $170,000 shall be for the salaries, administrative support and for other expenses of the Commission on Executive, Legislative and Judicial Salaries; not to exceed $1,000,000 may be made available for establishment of Federal health promotion and disease prevention programs for Federal employees; and not to exceed $500,000 may be made available for implementation of the Combined Federal Campaign in fiscal year 1989; in addition to $77,017,000 for administrative expenses, including direct procurement of health benefits printing, for the retirement and insurance programs, of which $7,000,000 shall be for costs incurred in implementing the record-keeping system of the Federal Employees Retirement System, to be transferred from the appropriate trust funds of the Office of Personnel Management in the amounts determined by the Office of Personnel Management without regard to other statutes: *Provided,* That the provisions of this appropriation shall not affect the authority to use applicable trust funds as provided by section 8348(a)(1)(B) of title 5, U.S.C.: *Provided further,* That no part of this appropriation shall be available for salaries and expenses of the Legal Examining Unit of the Office of Personnel Management established pursuant to Executive Order 9358 of July 1, 1943, or any successor unit of like purpose: *Provided further,* That the President's Commission on White House Fellows, established by Executive Order 11183 of October 3, 1964, may, during the fiscal year ending September 30, 1989, accept donations of money, property, and personal services in connection with the development of a publicity brochure to provide information about the White House Fellows, except that no such donations shall be accepted for travel or reimbursement of travel expenses, or for the salaries of employees of such Commission.

REVOLVING FUND

Pursuant to section 4109(d)(1) of title 5, United States Code, costs for entertainment expenses of the President's Commission on Executive Exchange shall not exceed $12,000.

GOVERNMENT PAYMENT FOR ANNUITANTS, EMPLOYEES HEALTH BENEFITS

For payment of Government contributions with respect to retired employees, as authorized by chapter 89 of title 5, United States Code, and the Retired Federal Employees Health Benefits Act (74 Stat. 849), as amended, $2,374,414,000, to remain available until expended.

PAYMENT TO CIVIL SERVICE RETIREMENT AND DISABILITY FUND

For financing the unfunded liability of new and increased annuity benefits becoming effective on or after October 20, 1969, as authorized by 5 U.S.C. 8348, and annuities under special Acts to be credited to the Civil Service Retirement and Disability Fund, $4,858,668,000: *Provided,* That annuities authorized by the Act of May 29, 1944, as amended (22 U.S.C. 3682(e)), August 19, 1950, as amended (33 U.S.C. 771-75), may hereafter be paid out of the Civil Service Retirement and Disability Fund. 33 USC 776.

MERIT SYSTEMS PROTECTION BOARD

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to carry out functions of the Merit Systems Protection Board pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, rental of conference rooms in the District of Columbia and elsewhere, hire of passenger motor vehicles; $20,488,000, together with not to exceed $1,400,000 for administrative expenses to adjudicate retirement appeals to be transferred from the Civil Service Retirement and Disability Fund in amounts determined by the Merit Systems Protection Board.

OFFICE OF SPECIAL COUNSEL

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Office of the Special Counsel pursuant to Reorganization Plan Numbered 2 of 1978 and the Civil Service Reform Act of 1978 (Public Law 95-454), including services as authorized by 5 U.S.C. 3109, payment of fees and expenses for witnesses, rental of conference rooms in the District of Columbia and elsewhere, and hire of passenger motor vehicles; $5,000,000.

FEDERAL LABOR RELATIONS AUTHORITY

SALARIES AND EXPENSES

For necessary expenses to carry out functions of the Federal Labor Relations Authority, pursuant to Reorganization Plan Numbered 2 of 1978, and the Civil Service Reform Act of 1978, including services as authorized by 5 U.S.C. 3109, including hire of experts and consultants, hire of passenger motor vehicles, rental of conference rooms in the District of Columbia and elsewhere; $17,540,000: *Pro-*

vided, That public members of the Federal Service Impasses Panel may be paid travel expenses and per diem in lieu of subsistence as authorized by law (5 U.S.C. 5703) for persons employed intermittently in the Government service, and compensation as authorized by 5 U.S.C. 3109.

UNITED STATES TAX COURT

SALARIES AND EXPENSES

26 USC 7443 note.

For necessary expenses, including contract reporting and other services as authorized by 5 U.S.C. 3109; $29,345,000: *Provided,* That travel expenses of the judges shall be paid upon the written certificate of the judge; and in addition, $1,225,000 shall be available only for installation of a chiller/air conditioning system in the United States Tax Court Headquarters Building in the District of Columbia, to remain available until expended.

This title may be cited as the "Independent Agencies Appropriations Act, 1989".

TITLE V—GENERAL PROVISIONS

THIS ACT

SECTION 501. Where appropriations in this Act are expendable for travel expenses of employees and no specific limitation has been placed thereon, the expenditures for such travel expenses may not exceed the amount set forth therefor in the budget estimates submitted for the appropriations: *Provided,* That this section shall not apply to travel performed by uncompensated officials of local boards and appeal boards of the Selective Service System; to travel performed directly in connection with care and treatment of medical beneficiaries of the Veterans' Administration; to travel of the Office of Personnel Management in carrying out its observation responsibilities of the Voting Rights Act; or to payments to interagency motor pools where separately set forth in the budget schedules.

SEC. 502. No part of any appropriation contained in this Act shall be available to pay the salary of any person filling a position, other than a temporary position, formerly held by an employee who has left to enter the Armed Forces of the United States and has satisfactorily completed his period of active military or naval service and has within ninety days after his release from such service or from hospitalization continuing after discharge for a period of not more than one year made application for restoration to his former position and has been certified by the Office of Personnel Management as still qualified to perform the duties of his former position and has not been restored thereto.

SEC. 503. No part of any appropriation made available in this Act shall be used for the purchase or sale of real estate or for the purpose of establishing new offices inside or outside the District of Columbia: *Provided,* That this limitation shall not apply to programs which have been approved by the Congress and appropriations made therefor.

SEC. 504. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Contracts. Public information.

SEC. 505. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5

U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 506. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of any hand or measuring tool(s) not produced in the United States or its possessions except to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of hand or measuring tools produced in the United States or its possessions cannot be procured as and when needed from sources in the United States and its possessions, or except in accordance with procedures prescribed by section 6-104.4(b) of Armed Services Procurement Regulation dated January 1, 1969, as such regulation existed on June 15, 1970: *Provided,* That a factor of 75 per centum in lieu of 50 per centum shall be used for evaluating foreign source end products against a domestic source end product. This section shall be applicable to all solicitations for bids opened after its enactment.

SEC. 507. None of the funds made available to the General Services Administration pursuant to section 210(f) of the Federal Property and Administrative Services Act of 1949 shall be obligated or expended after the date of enactment of this Act for the procurement by contract of any service which, before such date, was performed by individuals in their capacity as employees of the General Services Administration in any position of guards, elevator operators, messengers, and custodians, except that such funds may be obligated or expended for the procurement by contract of the covered services with sheltered workshops employing the severely handicapped under Public Law 92-28. 40 USC 490c.

SEC. 508. No funds appropriated in this Act shall be available for administrative expenses in connection with implementing or enforcing any provisions of the rule TD ATF-66 issued June 13, 1980, by the Department of the Treasury, Bureau of Alcohol, Tobacco and Firearms on labeling and advertising of wine, distilled spirits, and malt beverages, except if the expenditure of such funds, is necessary to comply with a final order of the Federal court system.

SEC. 509. None of the funds appropriated or made available by this Act shall be used to competitively procure electric utility service, except where such procurement is expressly authorized by the Federal Power Act or by State law or regulation.

SEC. 509A. None of the funds appropriated in this Act may be used for administrative expenses to close the Federal Information Center of the General Services Administration located in Sacramento, California.

SEC. 510. None of the funds made available by this Act for the Department of the Treasury may be used for the purpose of eliminating any existing requirement for sureties on customs bonds.

SEC. 511. None of the funds made available by this Act shall be available for any activity or for paying the salary of any Government employee where funding an activity or paying a salary to a Government employee would result in a decision, determination, rule, regulation, or policy that would prohibit the enforcement of section 307 of the 1930 Tariff Act.

SEC. 512. None of the funds made available by this Act shall be available for the purpose of transferring control over the Federal

Law Enforcement Training Center located at Glynco, Georgia, and Marana, Arizona, out of the Treasury Department.

SEC. 513. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not heretofore authorized by the Congress.

SEC. 514. No part of any appropriation contained in this Act shall be available for the payment of the salary of any officer or employee of the United States Postal Service, who—

(1) prohibits or prevents, or attempts or threatens to prohibit or prevent, any officer or employee of the United States Postal Service from having any direct oral or written communication or contact with any Member or committee of Congress in connection with any matter pertaining to the employment of such officer or employee or pertaining to the United States Postal Service in any way, irrespective of whether such communication or contact is at the initiative of such officer or employee or in response to the request or inquiry of such Member or committee; or

(2) removes, suspends from duty without pay, demotes, reduces in rank, seniority, status, pay, or performance of efficiency rating, denies promotion to, relocates, reassigns, transfers, disciplines, or discriminates in regard to any employment right, entitlement, or benefit, or any term or condition of employment of, any officer or employee of the United States Postal Service, or attempts or threatens to commit any of the foregoing actions with respect to such officer or employee, by reason of any communication or contact of such officer or employee with any Member or committee of Congress as described in paragraph (1) of this subsection.

SEC. 515. Except for vehicles provided to the President, Vice President and their families, or to the United States Secret Service, none of the funds provided in this Act to any Department or Agency shall be obligated or expended to procure passenger automobiles as defined in 15 U.S.C. 2001 with an EPA estimated miles per gallon average of less than twenty-two miles per gallon. The requirements of this section may be waived by the Administrator of the General Services Administration for special purposes or special mission automobiles.

SEC. 516. No funds appropriated by this Act shall be available to pay for an abortion, or the administrative expenses in connection with any health plan under the Federal employees health benefit program which provides any benefits or coverage for abortions.

SEC. 517. The provision of section 516 shall not apply where the life of the mother would be endangered if the fetus were carried to term.

50 USC 98h note.

SEC. 518. No later than October 1, 1989, the Administrator of General Services, or any Federal officer assuming the Administrator's responsibilities with respect to management of the stockpile, shall use all funds authorized and appropriated before January 1, 1985 from the National Defense Stockpile Transaction Fund to evaluate, test, relocate, upgrade or purchase stockpile materials to meet National Defense Stockpile goals and specifications in effect on October 1, 1984.

SEC. 519. No part of any appropriation contained in this Act shall be available for the procurement of, or for the payment of, the salary of any person engaged in the procurement of stainless steel flatware not produced in the United States or its possessions, except

to the extent that the Administrator of General Services or his designee shall determine that a satisfactory quality and sufficient quantity of stainless steel flatware produced in the United States or its possessions, cannot be procured as and when needed from sources in the United States or its possessions or except in accordance with procedures provided by section 6-104.4(b) of Armed Services Procurement Regulations, dated January 1, 1969. This section shall be applicable to all solicitations for bids issued after its enactment.

SEC. 520. None of the funds appropriated by this Act may be used to solicit bids, lease space, or enter into any contract to close or consolidate executive seminar centers for the Office of Personnel Management.

SEC. 521. Not later than October 1, 1989, of the amounts obtained from the sale, transfer, or disposition of silver from the National Defense Stockpile, not less than $1,000,000 shall be obligated for a pilot project to upgrade cobalt deposited in the National Defense Stockpile to the highest purity levels required for critical military applications. The funds used in this section for upgrading shall not exceed $2,000,000.

Contracts.
Washington.

SEC. 522. The Administrator of General Services, under section 210(h) of the Federal Property and Administrative Services Act of 1949, as amended, may acquire, by means of a lease of up to thirty years duration, space for the United States Courts in Tacoma, Washington, at the site of Union Station, Tacoma, Washington.

SEC. 523. Funds under this Act shall be available as authorized by sections 4501-4506 of title 5, United States Code, when the achievement involved is certified, or when an award for such achievement is otherwise payable, in accordance with such sections. Such funds may not be used for any purpose with respect to which the preceding sentence relates beyond fiscal year 1989.

Wages.
Government organization and employees.

SEC. 524. (a) Notwithstanding any other provision of law, during fiscal year 1989, the authority to establish higher rates of pay under section 5303 of title 5, United States Code, may—

(1) in addition to positions paid under any of the pay systems referred to in subsection (a) of section 5303 of title 5, United States Code, be exercised with respect to positions paid under any other pay system established by or under Federal statute for positions within the executive branch of the Government; and

(2) in addition to the circumstance described in the first sentence of subsection (a) of section 5303 of title 5, United States Code, be exercised based on—

(A) pay rates for the positions involved being generally less than the rates payable for similar positions held—

(i) by individuals outside the Government; or

(ii) by other individuals within the executive branch of the Government;

(B) the remoteness of the area or location involved;

Hazardous materials.
Safety.

(C) the undesirability of the working conditions or the nature of the work involved, including exposure to toxic substances or other occupational hazards; or

(D) any other circumstances which the President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subparagraph) may identify.

Nothing in paragraph (2) shall be considered to permit the exercise of any authority based on any of the circumstances under such paragraph without an appropriate finding that such circumstances are significantly handicapping the Government's recruitment or retention efforts.

(b)(1) A rate of pay established during fiscal year 1989 through the exercise of any additional authority under subsection (a) of section 5303 of title 5, United States Code—

(A) shall be subject to revision or adjustment,

(B) shall be subject to reduction or termination (including pay retention), and

(C) shall otherwise be treated,

in the manner as generally applies with respect to any rate otherwise established under section 5303 of title 5, United States Code.

(2) The President (or an agency duly authorized or designated by the President in accordance with the last sentence of section 5303(a) of title 5, United States Code, for purposes of this subsection) may prescribe any regulations necessary to carry out this subsection.

(c) Any additional authority under this section may, during fiscal year 1989, be exercised only to the extent that amounts otherwise appropriated under this Act for purposes of section 5303 of title 5, United States Code, are available.

SEC. 525. None of the funds available in this Act may be used to contract out positions or downgrade the position classification of the Bureau of Engraving and Printing Police Force.

SEC. 526. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 527. (a)(1) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 per centum of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(2) The term "consulting services" shall be defined consistent with the provision of OMB Circular A-120 dated January 4, 1988.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States to comply with the provisions of section 1114 of title 31, United States Code.

Wages.
Government organization and employees.

(c) All savings to any department, agency, or instrumentality which result from the application of subsection (a), shall be used for the 4.1 per centum increase in rates of pay in such department, agency, or instumentality made under this Act.

SEC. 528. Section 509 of this Act shall have no force or effect.

Gifts and property.
Education.

SEC. 529. The Office of Personnel Management may, during the fiscal year ending September 30, 1989, accept donations of supplies and equipment for the Federal Executive Institute for the enhancement of the morale and educational experience of attendees at the Institute.

TITLE VI—GENERAL PROVISIONS

DEPARTMENTS, AGENCIES, AND CORPORATIONS

SECTION 601. Unless otherwise specifically provided, the maximum amount allowable during the current fiscal year in accordance with section 16 of the Act of August 2, 1946 (60 Stat. 810), for the purchase of any passenger motor vehicle (exclusive of buses and ambulances), is hereby fixed at $6,600 except station wagons for which the maximum shall be $7,600: *Provided,* That these limits may be exceeded by not to exceed $2,700 for police-type vehicles, and by not to exceed $4,000 for special heavy-duty vehicles: *Provided further,* That the limits set forth in this section shall not apply to electric or hybrid vehicles purchased for demonstration under the provisions of the Electric and Hybrid Vehicle Research, Development, and Demonstration Act of 1976. 31 USC 1343 note.

SEC. 602. Appropriations of the executive departments and independent establishments for the current fiscal year available for expenses of travel or for the expenses of the activity concerned, are hereby made available for quarters allowances and cost-of-living allowances, in accordance with 5 U.S.C. 5922-24.

SEC. 603. Unless otherwise specified during the current fiscal year no part of any appropriation contained in this or any other Act shall be used to pay the compensation of any officer or employee of the Government of the United States (including any agency the majority of the stock of which is owned by the Government of the United States) whose post of duty is in the continental United States unless such person (1) is a citizen of the United States, (2) is a person in the service of the United States on the date of enactment of this Act, who, being eligible for citizenship, has filed a declaration of intention to become a citizen of the United States prior to such date and is actually residing in the United States, (3) is a person who owes allegiance to the United States, (4) is an alien from Cuba, Poland, South Vietnam, or the Baltic countries lawfully admitted to the United States for permanent residence, or (5) South Vietnamese, Cambodian, and Laotian refugees paroled in the United States after January 1, 1975: *Provided,* That for the purpose of this section, an affidavit signed by any such person shall be considered prima facie evidence that the requirements of this section with respect to his status have been complied with: *Provided further,* That any person making a false affidavit shall be guilty of a felony, and, upon conviction, shall be fined no more than $4,000 or imprisoned for not more than one year, or both: *Provided further,* That the above penal clause shall be in addition to, and not in substitution for any other provisions of existing law: *Provided further,* That any payment made to any officer or employee contrary to the provisions of this section shall be recoverable in action by the Federal Government. This section shall not apply to citizens of Ireland, Israel, the Republic of the Philippines or to nationals of those countries allied with the United States in the current defense effort, or to temporary employment of translators, or to temporary employment in the field service (not to exceed sixty days) as a result of emergencies. 5 USC 3101 note.

SEC. 604. Appropriations available to any department or agency during the current fiscal year for necessary expenses, including maintenance or operating expenses, shall also be available for payment to the General Services Administration for charges for space and services and those expenses of renovation and alteration of

buildings and facilities which constitute public improvements performed in accordance with the Public Buildings Act of 1959 (73 Stat. 749), the Public Buildings Amendments of 1972 (86 Stat. 216), or other applicable law.

SEC. 605. Funds made available by this or any other Act for administrative expenses in the current fiscal year of the corporations and agencies subject to chapter 91 of title 31, United States Code, shall be available, in addition to objects for which such funds are otherwise available, for rent in the District of Columbia; services in accordance with 5 U.S.C. 3109; and the objects specified under this head, all the provisions of which shall be applicable to the expenditure of such funds unless otherwise specified in the Act by which they are made available: *Provided,* That in the event any functions budgeted as administrative expenses are subsequently transferred to or paid from other funds, the limitations on administrative expenses shall be correspondingly reduced.

SEC. 606. No part of any appropriation for the current fiscal year contained in this or any other Act shall be paid to any person for the filling of any position for which he or she has been nominated after the Senate has voted not to approve the nomination of said person.

SEC. 607. Pursuant to section 1415 of the Act of July 15, 1952 (66 Stat. 662), foreign credits (including currencies) owed to or owned by the United States may be used by Federal agencies for any purpose for which appropriations are made for the current fiscal year (including the carrying out of Acts requiring or authorizing the use of such credits), only when reimbursement therefor is made to the Treasury from applicable appropriations of the agency concerned: *Provided,* That such credits received as exchanged allowances or proceeds of sales of personal property may be used in whole or part payment for acquisition of similar items, to the extent and in the manner authorized by law, without reimbursement to the Treasury.

Gifts and property.

SEC. 608. No part of any appropriation contained in this or any other Act shall be available for interagency financing of boards, commissions, councils, committees, or similar groups (whether or not they are interagency entities) which do not have a prior and specific statutory approval to receive financial support from more than one agency or instrumentality.

SEC. 609. Funds made available by this or any other Act to (1) the General Services Administration, including the fund created by the Public Building Amendments of 1972 (86 Stat. 216), and (2) the "Postal Service Fund" (39 U.S.C. 2003), shall be available for employment of guards for all buildings and areas owned or occupied by the United States or the Postal Service and under the charge and control of the General Services Administration or the Postal Service, and such guards shall have, with respect to such property, the powers of special policemen provided by the first section of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318), but shall not be restricted to certain Federal property as otherwise required by the proviso contained in said section and, as to property owned or occupied by the Postal Service, the Postmaster General may take the same actions as the Administrator of General Services may take under the provisions of sections 2 and 3 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318a, 318b), attaching thereto penal consequences under the authority and within the limits provided in section 4 of the Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318c): *Provided,* That when the Administrator of General Services delegates responsibility to protect property under this charge and con-

trol to the head of another Federal agency, that agency may employ guards to protect the property who shall have the same powers of special policemen in same manner as the foregoing.

SEC. 610. None of the funds made available pursuant to the provisions of this Act shall be used to implement, administer, or enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 611. No part of any appropriation contained in, or funds made available by, this or any other Act shall be available for any agency to pay to the Administrator of the General Services Administration a higher rate per square foot for rental of space and services (established pursuant to section 210(j) of the Federal Property and Administrative Services Act of 1949, as amended) than the rate per square foot established for the space and services by the General Services Administration for the fiscal year for which appropriations were granted.

SEC. 612. (a)(1) Notwithstanding any other provision of law, and except as otherwise provided in this section, no part of any of the funds appropriated for the fiscal years ending September 30, 1989, or September 30, 1990, by this Act or any other Act, may be used to pay any prevailing rate employee described in section 5342(a)(2)(A) of title 5, United States Code, or any employee covered by section 5348 of that title— 5 USC 5343 note.

(1) during the period from the date of expiration of the limitation imposed by section 613 of the Treasury, Postal Service, and General Government Appropriations Act, 1988, until the first day of the first applicable pay period that begins not less than ninety days after that date, in an amount that exceeds the rate payable for the applicable grade and step of the applicable wage schedule in accordance with such section 613; and

(2) during the period consisting of the remainder, if any, of fiscal year 1989, and that portion of fiscal year 1990, that precedes the normal effective date of the applicable wage survey adjustment that is to be effective in fiscal year 1990, in an amount that exceeds, as a result of a wage survey adjustment, the rate payable under paragraph (1) of this subsection by more than the overall average percentage adjustment in the General Schedule during fiscal year 1989.

(b) Notwithstanding any other provision of law, no prevailing rate employee described in subparagraph (B) or (C) of section 5342(a)(2) of title 5, United States Code, may be paid during the periods for which subsection (a) of this section is in effect at a rate that exceeds the rates that would be payable under subsection (a) were subsection (a) applicable to such employee.

(c) For the purpose of this section, the rates payable to an employee who is covered by this section and who is paid from a schedule that was not in existence on September 30, 1988, shall be determined under regulations prescribed by the Office of Personnel Management. Regulations.

(d) Notwithstanding any other provision of law, rates of premium pay for employees subject to this section may not be changed from the rates in effect on September 30, 1988, except to the extent determined by the Office of Personnel Management to be consistent with the purpose of this section.

Wages.
Effective date.

(e) The provisions of this section shall apply with respect to pay for services performed by any affected employee on or after October 1, 1988.

Wages.

(f) For the purpose of administering any provision of law, including section 8431 of title 5, United States Code, or any rule or regulation that provides premium pay, retirement, life insurance, or any other employee benefit, that requires any deduction or contribution, or that imposes any requirement or limitation, on the basis of a rate of salary or basic pay, the rate or salary or basic pay payable after the application of this section shall be treated as the rate of salary or basic pay.

(g) Nothing in this section may be construed to permit or require the payment to any employee covered by this section at a rate in excess of the rate that would be payable were this section not in effect.

(h) The Office of Personnel Management may provide for exceptions to the limitations imposed by this section if the Office determines that such exceptions are necessary to ensure the recruitment or retention of qualified employees.

SEC. 613. None of the funds made available in this Act may be used to plan, implement, or administer (1) any reduction in the number of regions, districts or entry processing locations of the United States Customs Service; or (2) any consolidation or centralization of duty assessment or appraisement functions of any offices in the United States Customs Service.

SEC. 614. During the period in which the head of any department or agency, or any other officer or civilian employee of the Government appointed by the President of the United States, holds office, no funds may be obligated or expended in excess of $5,000 to renovate, remodel, furnish, or redecorate the office of such department head, agency head, officer, or employee, or to purchase furniture or make improvements for any such office, unless advance notice of such renovation, remodeling, furnishing, or redecoration is expressly approved by the Committees on Appropriations of the House and Senate.

SEC. 615. Funds appropriated in this or any other Act may be used to pay travel to the United States for the immediate family of employees serving abroad in cases of death or life threatening illness of said employee.

5 USC prec. 3341 note.
Reports.

SEC. 616. (a) Notwithstanding the provisions of sections 112 and 113 of title 3, United States Code, each Executive agency detailing any personnel shall submit a report on an annual basis in each fiscal year to the Senate and House Committees on Appropriations on all employees or members of the armed services detailed to Executive agencies, listing the grade, position, and offices of each person detailed and the agency to which each such person is detailed.

(b) The provisions of this section shall not apply to Federal employees or members of the armed services detailed to or from—

(1) the Central Intelligence Agency;

(2) the National Security Agency;

(3) the Defense Intelligence Agency;

(4) the offices within the Department of Defense for the collection of specialized national foreign intelligence through reconnaissance programs;

(5) the Bureau of Intelligence and Research of the Department of State;

(6) any agency, office, or unit of the Army, Navy, Air Force, and Marine Corps, the Federal Bureau of Investigation and the Drug Enforcement Administration of the Department of Justice, the Department of the Treasury, and the Department of Energy performing intelligence functions; and

(7) the Director of Central Intelligence.

(c) The exemptions in part (b) of this section are not intended to apply to information on the use of personnel detailed to or from the intelligence agencies which is currently being supplied to the Senate and House Intelligence and Appropriations Committees by the executive branch through budget justification materials and other reports.

(d) For the purposes of this section, the term "Executive agency" has the same meaning as defined under section 105 of title 5, United States Code (except that the provisions of section 104(2) of title 5, United States Code shall not apply) and includes the White House Office, the Executive Residence, and any office, council, or organizational unit of the Executive Office of the President.

SEC. 617. (a) None of the funds made available by this or any other Act with respect to any fiscal year may be used to make a contract for the manufacture of distinctive paper for United States currency and securities pursuant to section 5114 of title 31, United States Code, with any corporation or other entity owned or controlled by persons not citizens of the United States, or for the manufacture of such distinctive paper outside of the United States or its possessions. This subsection shall not apply if the Secretary of the Treasury determines that no domestic manufacturer of distinctive paper for United States currency or securities exists with which to make a contract and if the Secretary of the Treasury publishes in the Federal Register a written finding stating the basis for the determination. 31 USC 5114 note.

(b) None of the funds made available by this or any other Act with respect to any fiscal year may be used to procure paper for passports granted or issued pursuant to the first section of the Act entitled "An Act to regulate the issue and validity of passports, and for other purposes", approved July 3, 1926 (22 U.S.C. 211a), if such paper is manufactured outside of the United States or its possessions or is procured from any corporation or other entity owned or controlled by persons not citizens of the United States. This subsection shall not apply if no domestic manufacturer for passport paper exists. 22 USC 211a note.

SEC. 618. TEMPORARY AUTHORITY TO TRANSFER LEAVE.—In order to ensure that the experimental use of voluntary leave transfers established under Public Laws 99-500, 99-591, and 100-202 may continue and may cover additional employees in fiscal year 1989, the Office of Personnel Management may continue to operate by regulation, notwithstanding chapter 63 of title 5, United States Code, a program under which the unused accrued annual leave of officers or employees of the Federal Government may be transferred for use by other officers or employees who need such leave due to a personal emergency as defined in the regulations. The Office may provide by regulation for such exceptions from the provisions of section 7351 of title 5 as the Office may determine appropriate for the transfer of leave under this section. The Veterans' Administration may operate a similar program for employees subject to section 4108 of title 38, United States Code. The programs operated under this section shall expire at the end of fiscal year 1989, but any leave that has been transferred to an officer or employee under the programs shall Government organization and employees. 5 USC 6302 note. Termination date.

remain available for use until the personal emergency has ended, and any remaining unused transferred leave shall, to the extent administratively feasible, be restored to the leave accounts of the officers or employees from whose accounts it was originally transferred.

EMPLOYEE DISCLOSURE AGREEMENTS

SEC. 619. No funds appropriated in this or any other Act for fiscal year 1989 may be used to implement or enforce the agreements in Standard Forms 189 and 4193 of the Government or any other nondisclosure policy, form or agreement if such policy, form or agreement:

(1) concerns information other than that specifically marked as classified; or, unmarked but known by the employee to be classified; or, unclassified but known by the employee to be in the process of a classification determination;

(2) contains the term classifiable;

(3) directly or indirectly obstructs, by requirement of prior written authorization, limitation of authorized disclosure, or otherwise, the right of any individual to petition or communicate with Members of Congress in a secure manner as provided by the rules and procedures of the Congress;

(4) interferes with the right of the Congress to obtain executive branch information in a secure manner as provided by the rules and procedures of the Congress;

(5) imposes any obligations or invokes any remedies inconsistent with statutory law:

Provided, That nothing in this section shall affect the enforcement of those aspects of such nondisclosure policy, form or agreement that do not fall within subsection (1)–(5) of this section.

Wages.
5 USC 5305 note.

SEC. 620. (a)(1) Notwithstanding any other provision of law, in the case of fiscal year 1989, the overall percentage of the adjustment under section 5305 of title 5, United States Code, in the rates of pay under the General Schedule, and in the rates of pay under the other statutory pay systems (as defined by section 5301(c) of such title), shall be an increase of 4.1 percent.

Effective date.

(2) Each increase in a pay rate or schedule which takes effect pursuant to paragraph (1) shall, to the maximum extent practicable, be of the same percentage, and shall take effect as of the first day of the first applicable pay period commencing on or after January 1, 1989.

(b)(1) Notwithstanding any other provision of this Act or any other law, no adjustment in rates of pay under section 5305 of title 5, United States Code, which becomes effective on or after October 1, 1988, and before October 1, 1989, shall have the effect of increasing the rate of salary or basic pay for any office or position in the legislative, executive, or judicial branch or in the government of the District of Columbia—

(A) if the rate of salary or basic pay payable for that office or position as of September 30, 1988, was equal to or greater than the rate of basic pay then payable for level III of the Executive Schedule under section 5314 of title 5, United States Code; or

(B) to a rate exceeding the rate of basic pay payable for level III of the Executive Schedule under such section 5314 as of September 30, 1988, if, as of that date, the rate of salary or basic pay payable for that office or position was less than the rate of basic pay then payable for such level III.

(2) For purposes of paragraph (1), the rate of salary or basic pay payable as of September 30, 1988, for any office or position which was not in existence on such date shall be deemed to be the rate of salary or basic pay payable to individuals in comparable offices or positions on such date, as determined under regulations prescribed—

(A) by the President, in the case of any office or position within the executive branch or in the government of the District of Columbia; President of U.S.

(B) jointly by the Speaker of the House of Representatives and the President pro tempore of the Senate, in the case of any office or position within the legislative branch; or Congress.

(C) by the Chief Justice of the United States, in the case of any office or position within the judicial branch.

SEC. 621. Effective October 1, 1988, the Secretary shall sell, within fiscal year 1989, two million five hundred thousand fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act. Effective date.

SEC. 622. Effective October 1, 1989, the Secretary shall sell, within fiscal year 1990, two million five hundred thousand fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act. Effective date.

SEC. 623. Effective October 1, 1990, the Secretary shall sell, within fiscal year 1991, two million five hundred thousand fine troy ounces of silver held by the Treasury subject to Sec. 624 of this Act. Effective date.

SEC. 624. The Secretary of the Treasury may reduce the amount of silver required to be sold pursuant to this Act if he makes a written determination to the Congress that such a sale will severely disrupt the domestic market for silver. Silver. Commerce and trade.

SEC. 625. Notwithstanding any other provision of law, no executive branch agency shall purchase, construct, and/or lease any additional facilities, except within or contiguous to existing locations, to be used for the purpose of conducting Federal law enforcement training without the advance approval of the House and Senate Committees on Appropriations.

SEC. 626. Employees currently performing stockpile management and related functions in the Federal Property Resources Service, General Services Administration, pursuant to the Strategic and Critical Materials Stockpiling Act shall continue to perform these functions notwithstanding enactment of any amendments to this Act placing the direct functional responsibilities in another Federal department or agency. Any of these employees transferred from the Federal Property Resources Service, General Services Administration, to another Federal department or agency pursuant to law shall not be subject to agency reduction-in-force procedures nor shall they be reduced in classification or compensation for two years after such transfer, except for cause. A formal plan implementing these provisions shall be submitted to the House and Senate Committees on Appropriations by the recipient agency prior to any actual transfer that may be mandated. Employment and unemployment.

SEC. 627. None of the funds appropriated by this or any other Act may be expended by any Federal agency to procure any product or service that is subject to the provisions of Public Law 89-306 and that will be available under the procurement by the Administrator of General Services known as "FTS2000" unless—

(1) such product or service is procured by the Administrator of General Services as part of the procurement known as "FTS2000"; or

(2) that agency establishes to the satisfaction of the Administrator of General Services that—

(A) the agency's requirements for such procurement are unique and cannot be satisfied by property and services procured by the Administrator of General Services as part of the procurement known as "FTS2000"; and

(B) the agency procurement, pursuant to such delegation, would be cost-effective and would not adversely affect the cost-effectiveness of the FTS2000 procurement.

SEC. 628. (a) No department, agency, or instrumentality of the United States receiving appropriated funds under this Act for fiscal year 1989, or under any other Act appropriating funds for fiscal year 1989, shall obligate or expend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payment, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

SEC. 629. (a) Section 5724(a) of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (1);

(2) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following:

Transportation.

"(3) upon the separation of a career appointee (as defined in section 3132(a)(4) of this title), the travel expenses of that individual, the transportation expenses of the immediate family of such individual, and the expenses of moving (including transporting, packing, crating, temporarily storing, draying, and unpacking) the household goods of such individual and personal effects not in excess of eighteen thousand pounds net weight, to the place where the individual will reside within the United States, its territories or possessions, the Commonwealth of Puerto Rico, or the areas and installations in the Republic of Panama made available to the United States pursuant to the Panama Canal Treaty of 1977 and related agreements, as described in section 3(a) of the Panama Canal Act of 1979 (or, if the individual dies before the travel, transportation, and moving is completed, to the place where the family will reside) if such individual—

"(A) during the five years preceding eligibility to receive an annuity under subchapter III of chapter 83, or of chapter 84 of this title, and thereafter, has been transferred in the

interest of the Government from one official station to another for permanent duty as a career appointee in the Senior Executive Service; and

"(B) is eligible to receive an annuity upon such separation under the provisions of subchapter III of chapter 83 or chapter 84 of this title.".

(b) The amendments made by subsection (a) shall be carried out by agencies by the use of funds appropriated or otherwise available for the administrative expenses of each of such respective agencies. The amendments made by such subsection do not authorize the appropriation of funds in amounts exceeding the sums otherwise authorized to be appropriated for such agencies. 5 USC 5724 note.

SEC. 630. Notwithstanding any other provision of law, Public Law 89-784, 80 Stat. 1367 and Public Law 90-469, 82 Stat. 666 pertaining to the naming, maintaining and operating of the William Langer Jewel Bearing Plant are amended by striking out all references to the "General Services Administration", "the Administrator of the General Services" and "Administrator" and inserting in lieu thereof "the National Defense Stockpile Manager".

SEC. 631. For purposes of section 1886 of the Social Security Act, Missouri Baptist Hospital of Sullivan in Sullivan, Missouri is deemed to be located in Franklin County, Missouri, retroactively effective for discharges beginning on or after December 22, 1987. Missouri. Effective date.

This Act may be cited as the "Treasury, Postal Service and General Government Appropriations Act, 1989".

Approved September 22, 1988.

LEGISLATIVE HISTORY—H.R. 4775:

HOUSE REPORTS: No. 100-679 (Comm. on Appropriations) and No. 100-881 (Comm. of Conference).
SENATE REPORTS: No. 100-387 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 14, considered and passed House.
June 22, 24, 27, considered and passed Senate, amended.
Sept. 7, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Sept. 8, Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Sept. 22, Presidential statement.

Public Law 100-441
100th Congress

An Act

Sept. 22, 1988
[S. 52]

To direct the cooperation of certain Federal entities in the implementation of the Continental Scientific Drilling Program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Continental Scientific Drilling and Exploration Act".

Continental Scientific Drilling and Exploration Act.
Energy.
Minerals and mining.
Research and development.
Hazardous materials.
43 USC 31 note.

SEC. 2. PURPOSES.

43 USC 31 note.

The purpose of this Act is to—

(1) implement section 323 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", approved October 12, 1984 (Public Law 98-473; 98 Stat. 1875) which supports and encourages the development of a national Continental Scientific Drilling Program;

(2) enhance fundamental understanding of the composition, structure, dynamics, and evolution of the continental crust, and how such processes affect natural phenomena such as earthquakes, volcanic eruptions, transfer of geothermal energy, distribution of mineral deposits, the occurrence of fossil fuels, and the nature and extent of aquifers;

(3) advance basic earth sciences research and technological development;

(4) obtain critical data regarding the earth's crust relating to isolation of hazardous wastes; and

(5) develop a long-range plan for implementation of the Continental Scientific Drilling Program.

43 USC 31 note.

SEC. 3. FINDINGS.

Congress finds that—

(1) because the earth provides energy, minerals, and water, and is used as a storage medium for municipal, chemical, and nuclear waste, an understanding of the processes and structures in the earth's crust is essential to the well being of the United States;

(2) there is a need for developing long-range plans for a United States Continental Scientific Drilling Program; and

(3) the Continental Scientific Drilling Program would enhance—

(A) understanding of the crustal evolution of the earth and the mountain building processes;

(B) understanding of the mechanisms of earthquakes and volcanic eruptions and the development of improved techniques for prediction;

(C) understanding of the development and utilization of geothermal and other energy sources and the formation of and occurrence of mineral deposits;

(D) understanding of the migration of fluids in the earth's crust for evaluation of waste contamination and the development of more effective techniques for the safe subsurface disposal of hazardous wastes;

(E) understanding and definition of the size, source, and more effective use of aquifers and other water resources; and

(F) evaluation and verification of surface geophysical techniques needed for exploring and monitoring the earth's crust.

SEC. 4. IMPLEMENTATION OF CONTINENTAL SCIENTIFIC DRILLING PROGRAM. 43 USC 31 note.

The Secretary of the Department of Energy, the Secretary of the Department of the Interior through the United States Geological Survey, and the Director of the National Science Foundation shall implement the policies of section 323 of the joint resolution entitled "Joint Resolution making continuing appropriations for the fiscal year 1985, and for other purposes", approved October 12, 1984 (Public Law 98-473; 98 Stat. 1875) by—

(1) taking such action as necessary to assure an effective, cooperative effort in furtherance of the Continental Scientific Drilling Program of the United States;

(2) taking all reasonable administrative and financial measures to assure that the Interagency Accord on Continental Scientific Drilling continues to function effectively in support of such program;

(3) assuring the continuing effective operation of the Interagency Coordinating Group to further the objectives of such program;

(4) taking such action to assure that the Interagency Coordinating Group receives appropriate cooperation from any Federal agency that can contribute to the objectives of such program, without adversely affecting any program or activity of such agency;

(5) acting through the Interagency Coordinating Group, preparing and submitting to the Congress, within one hundred and eighty days after the enactment of this Act a report describing— Reports.

(A) long and short-term policy objectives and goals of the United States Continental Scientific Drilling Program;

(B) projected schedules of desirable scientific and engineering events that would advance United States objectives in the Continental Scientific Drilling Program;

(C) the levels of resources and funding for fiscal year 1989 that would be required by each participating Federal agency to carry out events pursuant to subparagraphs (A) and (B);

(D) the scientific, economic, technological, and social benefits expected to be realized through the implementation of such program at each level described in subparagraph (C);

(E) a recommended course for interaction with the international community in a cooperative effort to achieve the goals and purposes of this Act;

(F) the extent of participation or interest shown to date in the Continental Scientific Drilling Program by—

(i) any other governmental agency;
(ii) any academic institution;
(iii) any organization in the private sector; and
(iv) any governmental or other entity in the international community;

(G) a plan to develop beneficial cooperative relationships among the entities mentioned in subparagraph (F), to the extent that the Interagency Coordinating Group deems practicable; and

(H) any other information or recommendations that the Interagency Coordinating Group deems appropriate; and

Reports.

(6) submitting to the Congress annually, beginning one year after the submission of a report under paragraph (5), a report describing the levels of resources and funding that would be required by each participating Federal agency for the next fiscal year to carry out events pursuant to paragraph (5) (A) and (B).

Approved September 22, 1988.

LEGISLATIVE HISTORY—S. 52 (H.R. 2737):

HOUSE REPORTS: No. 100-580, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Science, Space, and Technology), accompanying H.R. 2737.
SENATE REPORTS: No. 100-67 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 17, considered and passed Senate.
Vol. 134 (1988): May 23, H.R. 2737 considered and passed House; proceedings vacated and S. 52, amended, passed in lieu.
June 10, Senate concurred in House amendment with an amendment.
Sept. 9, House concurred in Senate amendment.

○

Public Law 100-442
100th Congress

An Act

To amend the Indian Financing Act of 1974, and for other purposes.

Sept. 22, 1988
[S. 1360]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small business.
Securities.

LIMITATIONS ON AMOUNT OF LOANS TO INDIVIDUAL INDIANS OR ECONOMIC ENTERPRISES

SECTION 1. Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended by striking out "$350,000" and inserting in lieu thereof "$500,000".

ASSIGNMENT OF LOANS

SEC. 2. Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended to read as follows:

"SEC. 205. Any loan guaranteed under this title, including the security given for such loan, may be sold or assigned by the lender to any person.".

AGGREGATE LOANS LIMITATION

SEC. 3. Section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497) is amended by striking out "$200,000,000" in subsection (b) and inserting in lieu thereof "$500,000,000".

AUTHORIZATION OF APPROPRIATIONS

SEC. 4. (a) The last sentence of subsection (e) of section 217 of the Indian Financing Act of 1974 (25 U.S.C. 1497(e)) is amended to read as follows: "All collections and all moneys appropriated pursuant to the authority of this subsection shall remain available until expended.".

(b) Section 217 of the Indian Financing Act of 1974 is amended by adding at the end thereof the following new subsection:

"(f) If the Secretary determines that the amount in the fund is not sufficient to maintain an adequate level of reserves necessary to meet the responsibilities of the fund in connection with losses on loans or surety bonds guaranteed or insured under this title, the Secretary shall promptly submit a report notifying Congress of the deficiencies in the fund.". Reports.

(c) Any new credit authority (as defined in section 3 of the Congressional Budget and Impoundment Control Act of 1974) which is provided by amendments made by this Act shall be effective only to such extent and in such amounts as may be approved in advance in appropriation Acts. 25 USC 1497 note.

SUPPLEMENTAL SURETY BOND GUARANTEE

SEC. 5. (a) The Indian Financing Act of 1974 is amended by redesignating section 218 as section 219 and inserting the following new section 218:

25 USC 1498.

25 USC 1497a.

"SEC. 218. (a) The Secretary is authorized to provide a supplemental surety bond guarantee, not to exceed 20 percent of any loss, for any Indian individual or economic enterprise eligible for a surety guarantee under section 411 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, 694b), so that the aggregate of the two guarantees is 100 percent.

"(b) The Secretary may provide a supplemental guarantee under this section only if the Secretary determines that—

"(1) the Indian individual or economic enterprise has secured or will likely secure a surety bond guarantee under section 411 of the Small Business Investment Act of 1958, as amended;

"(2) the supplemental guarantee is necessary for the Indian individual or economic enterprise to secure a surety bond;

"(3) no more than 25 percent of the surety's business is comprised of bonds guaranteed pursuant to this section; and

"(4) the surety will provide appropriate technical assistance and advice to, and monitor the performance of, the Indian individual or economic enterprise for the prevention or mitigation of a loss.

Regulations.

"(c) The rules and regulations promulgated by the Secretary to carry out this section shall include the setting of reasonable fees to be paid by the Indian individual or economic enterprise and reasonable premium charges to be paid by sureties. In setting fees and charges, the Secretary may take into consideration the cost to the surety of providing the services required by paragraph (4) of subsection (b). The receipts from the fees and charges shall be deposited in the Fund established by section 217(a) of this Act.".

25 USC 1452.

(b) Section 3 of the Indian Financing Act of 1974 is amended by adding the following new paragraphs (h) and (i) at the end thereof:

"(h) 'Surety' has the same meaning as in section 410 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, 694a).

"(i) 'Surety Bond' means a bid bond, payment bond, or performance bond as those terms are defined in section 410 of the Small Business Investment Act of 1958, as amended (15 U.S.C. 661, 694a).".

25 USC 1496.

(c) Section 216 of the Indian Financing Act of 1974 is amended by:

(1) striking the phrase "of loans" in the first sentence and inserting, in lieu thereof, the phrase "of loans and surety bonds";

(2) striking the phrase "a loan" in paragraph (b) and inserting, in lieu thereof, the phrase "a loan or surety bond"; and

(3) striking the phrase "any loan" in paragraph (c) and inserting, in lieu thereof, the phrase "any loan or surety bond".

25 USC 1497.

(d) Section 217 of the Indian Financing Act of 1974 is amended by striking the word "loans" each time it appears and inserting, in lieu thereof, the phrase "loans or surety bonds".

SEC. 6. The Indian Financing Act of 1974 is amended by adding the following new section at the end of title II:

25 USC 1499.

"SEC. 220. (a) The Secretary may guarantee not to exceed 90 percent of the unpaid principal and interest due on an issue of bonds, debentures, or similar obligations issued by an organization satisfactory to the Secretary. Such an issue shall be deemed a loan

for purposes of sections 202, 203, 204, 205, 206, 209, 210, 211, 213, 214, 215, 216, and 217 of this Act.

"(b) The method by which an issue of bonds guaranteed under this section may be sold shall be subject to approval by the Secretary.".

SEC. 7. The Indian Financing Act of 1974 is amended by adding a new section 504 as follows:

"SEC. 504. Notwithstanding any other provision of law, a contractor of a Federal agency under any Act of Congress may be allowed an additional amount of compensation equal to 5 percent of the amount paid, or to be paid, to a subcontractor or supplier, in carrying out the contract if such subcontractor or supplier is an Indian organization or Indian-owned economic enterprise as defined in this Act.". Contracts. 25 USC 1544.

Approved September 22, 1988.

LEGISLATIVE HISTORY—S. 1360:

HOUSE REPORTS: No. 100-838 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-149 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Nov. 5, considered and passed Senate.
Nov. 17, passage vitiated; reconsidered and passed Senate.
Vol. 134 (1988): Aug. 8, considered and passed House, amended.
Sept. 9, Senate concurred in House amendments.

Public Law 100-443
100th Congress

An Act

Sept. 22, 1988
[S. 1889]

To amend the Geothermal Steam Act of 1970 with respect to requirements relating to leases, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Geothermal Steam Act Amendments of 1988.
Energy.
National parks, monuments, etc.
30 USC 1001 note.

SECTION 1. SHORT TITLE.

This Act may be known as the "Geothermal Steam Act Amendments of 1988".

SEC. 2. DEFINITIONS.

(a) Section 2 of the Geothermal Steam Act of 1970 (30 U.S.C. 1001) is amended by adding the following at the end of the section:

"(f) 'Significant thermal features within units of the National Park System' shall include, but not be limited to, the following:

"(1) Thermal features within units of the National Park System listed in Section 28(a)(1) and designated as significant in the Federal Register notice of August 3, 1987 (Vol. 52, No. 148 Fed. Reg. 28790).

"(2) Crater Lake National Park.

"(3) Thermal features within Big Bend National Park and Lake Mead National Recreation Area proposed as significant in the Federal Register notice of February 13, 1987 (Vol. 52, No. 30 Fed. Reg. 4700).

"(4) Thermal features within units of the National Park System added to the significant thermal features list pursuant to section 28(a)(2) of this Act.

(b) Section 6(d) of the Geothermal Steam Act of 1970 (30 U.S.C. 1005(d)) is amended to read as follows:

"(d) Except as otherwise provided for in this section, for purposes of this section the term 'produced or utilized in commercial quantities' means the completion of a well producing geothermal steam in commercial quantities. Such term shall also include the completion of a well capable of producing geothermal steam in commercial quantities so long as the Secretary determines that diligent efforts are being made toward the utilization of the geothermal steam.".

SEC. 3. LEASE EXTENSIONS.

Section 6 of the Geothermal Steam Act of 1970 (30 U.S.C. 1005) is amended by adding the following new subsections:

"(g)(1) Any geothermal lease issued pursuant to this Act for land on which, or for which under an approved cooperative or unit plan of development or operation, geothermal steam has not been produced or utilized in commercial quantities by the end of its primary term, or by the end of any extension provided by subsection (c), may be extended for successive 5-year periods, but totaling not more than 10 years, if the Secretary determines that the lessee has met the bona fide effort requirement of subsection (h), and either of the following:

"(A) the payment in lieu of commercial quantities production requirement of subsection (i).

"(B) The significant expenditure requirement of subsection (j).

"(2) A lease extended pursuant to paragraph (1) shall continue so long thereafter as geothermal steam is produced or utilized in commercial quantities, but such continuation shall not exceed an additional 25 years, for a total of 50 years, if such lease was also the subject of an extension under subsection (c) or an additional 30 years, for a total of 50 years, if such lease is only extended pursuant to paragraph (1).

"(3) If, at the end of either 50-year term referred to in paragraph (2), geothermal steam is being produced or utilized in commercial quantities and the lands are not needed for other purposes, the lessee shall have a preferential right to a renewal of such lease for a second term in accordance with such terms and conditions as the Secretary deems appropriate. For purposes of this paragraph only, the term 'produced or utilized in commercial quantities' means a bona fide sale or the use of geothermal steam by the lessee to generate electricity in marketable quantities.

"(h) To meet the bona fide effort requirement referred to in subsection (g)(1) the lessee must submit a report to the Secretary demonstrating bona fide efforts (as determined by the Secretary) to produce or utilize geothermal steam in commercial quantities for such lease, given the then current economic conditions. Reports.

"(i)(1) To meet the payments in lieu of commercial quantities production requirement referred to in subsection (g)(1)(A) the lessee must agree to the modification of the terms and conditions of the lease to require annual payments to the Secretary in accordance with this subsection.

"(2) Payments under this subsection shall commence with the first year of the extension. Payments shall be equal to the following:

"(A) In each of the first through the fifth payment years, at least $3.00 per acre or fraction thereof, of lands under lease.

"(B) In each of the sixth through the tenth payment years, at least $6.00 per acre or fraction thereof, of lands under lease.

"(3) Failure to make the payments required by this subsection shall subject the lease to cancellation.

"(4) No payments made pursuant to this subsection shall be required after the earlier of the following:

"(A) The date of termination of the lease.

"(B) The date of relinquishment of the lease.

"(C) The date geothermal steam is produced or utilized in commercial quantities from the lease.

"(5) No payments made pursuant to this subsection shall be used to reduce rentals or future production royalties.

"(j)(1) To meet the significant expenditure requirement referred to in subsection (g)(1)(B) the lessee must demonstrate to the Secretary on an annual basis during an extension that a significant expenditure of funds is being made on the lease.

"(2) The following expenditures made by the lessee shall qualify as meeting the requirement of this subsection:

"(A) Expenditures to conduct actual drilling operations on the lease, such as for exploratory or development wells, or geochemical or geophysical surveys for exploratory or development wells.

"(B) Expenditures for road or generating facilities construction on the lease.

"(C) Architectural or engineering services procured for the design of generating facilities to be located on the lease.

"(D) Environmental studies required by State or Federal law.

"(3) Expenditures shall be equal to the following:

"(A) In each of the first through the fifth years, at least $15.00 per acre or fraction thereof, of lands under lease.

"(B) In each of the sixth through the tenth years, at least $18.00 per acre or fraction thereof, of lands under lease.

"(4) Failure to make the expenditures required by this subsection shall subject the lease to cancellation.

"(5) No expenditures made pursuant to this subsection shall be required after the date geothermal steam is produced or utilized in commercial quantities from the lease.

"(6) Expenditures made pursuant to this subsection shall be in lieu of any minimum per acre diligent exploration expenditure requirement in effect for the lease at the end of its primary term, or at the end of any extension provided by subsection (c), as the case may be.".

SEC. 4. REVIEW OF COOPERATIVE OR UNIT PLAN OF DEVELOPMENT.

Section 18 of the Geothermal Steam Act of 1970 as amended (30 U.S.C. 1017) is amended by inserting the following new paragraph after the first full paragraph of that section:

"No more than five years after approval of any cooperative or unit plan of development or operation, and at least every five years thereafter, the Secretary shall review each such plan and, after notice and opportunity for comment, eliminate from inclusion in such plan any lease or part of a lease not regarded as reasonably necessary to cooperative or unit operations under the plan. In the case of a cooperative or unit plan approved before the enactment of the Geothermal Steam Act Amendments of 1988, the Secretary shall complete such review and elimination within 5 years after the enactment of such Act. Such elimination shall be based on scientific evidence, and shall occur only when it is determined by the Secretary to be for the purpose of conserving and properly managing the geothermal resource. Any lease or part of a lease so eliminated shall be eligible for an extension under subsection (c) or (g) of section 6 if it separately meets the requirements for such an extension.".

Conservation.

SEC. 5. CONFORMING AMENDMENTS.

(a) Section 20 of the Geothermal Steam Act of 1970 (30 U.S.C. 1019) is amended to read as follows:

"SEC. 20. All moneys received from the sales, bonuses, royalties and rentals under the provisions of this Act, including the payments referred to in section 6(i), shall be disposed of in the same manner as such moneys received pursuant to section 35 of the Mineral Leasing Act or pursuant to section 6 of the Mineral Leasing Act for Acquired Lands, as the case may be.".

(b) Section 35 of the Mineral Leasing Act (30 U.S.C. 191) is amended by striking "notwithstanding the provisions of section 20 thereof,".

(c) Section 43 of the Mineral Leasing Act (30 U.S.C. 226-3) is amended as follows:

(1) In subsection (a) strike out "oil and gas", and after "this Act" insert "or under the Geothermal Steam Act of 1970".

(2) In subsection (b) after "oil and gas" insert ", coal, oil shale, phosphate, potassium, sulphur, gilsonite or geothermal resources". Coal. Petroleum and petroleum products.

(d) The Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) is amended by adding the following new section:

"SEC. 29. The Secretary shall not issue any lease under this Act on those lands subject to the prohibition provided under section 43 of the Mineral Leasing Act.". 30 USC 1027.

SEC. 6. SIGNIFICANT THERMAL FEATURES.

The Geothermal Steam Act of 1970, as amended (30 U.S.C. 1001-1025) is amended by adding the following new section 28:

"SEC. 28. (a)(1) The Secretary shall maintain a list of significant thermal features, as defined in section 2(f), within units of the National Park System, including but not limited to the following units: Records. 30 USC 1026.

"(A) Mount Rainier National Park.
"(B) Crater Lake National Park.
"(C) Yellowstone National Park.
"(D) John D. Rockefeller, Jr. Memorial Parkway.
"(E) Bering Land Bridge National Preserve.
"(F) Gates of the Arctic National Park and Preserve.
"(G) Katmai National Park.
"(H) Aniakchak National Monument and Preserve.
"(I) Wrangell-St. Elias National Park and Preserve.
"(J) Lake Clark National Park and Preserve.
"(K) Hot Springs National Park.
"(L) Big Bend National Park (including that portion of the Rio Grande National Wild Scenic River within the boundaries of Big Bend National Park).
"(M) Lassen Volcanic National Park.
"(N) Hawaii Volcanoes National Park.
"(O) Haleakala National Park.
"(P) Lake Mead National Recreation Area.

"(2) The Secretary may, after notice and public comment, add significant thermal features within units of the National Park System to the significant thermal features list.

"(3) The Secretary shall consider the following criteria in determining the significance of thermal features:

"(A) Size, extent and uniqueness.
"(B) Scientific and geologic significance.
"(C) The extent to which such features remain in a natural, undisturbed condition.
"(D) Significance of thermal features to the authorized purposes for which the National Park System unit was established.

"(b)(1) The Secretary shall maintain a monitoring program for significant thermal features within units of the National Park System.

"(2) As part of the monitoring program required by paragraph (1), the Secretary shall establish a research program to collect and assess data on the geothermal resources within units of the National Park System with significant thermal features. Such program shall be carried out by the National Park Service in cooperation with the U.S. Geological Survey and shall begin with the collection and assessment of data for significant thermal features near current or proposed geothermal development and shall also include such features near areas of potential geothermal development.

"(c)(1) Upon receipt of an application for a lease under this Act, the Secretary shall determine on the basis of scientific evidence if exploration, development or utilization of the lands subject to the lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System. Such determination shall be subject to notice and public comment.

Public information.

"(2) If the Secretary determines that the exploration, development or utilization of the land subject to the lease application is reasonably likely to result in a significant adverse effect on a significant thermal feature within a unit of the National Park System, the Secretary shall not issue such lease.

"(3) The Secretary shall not issue any lease under this Act for those lands, or portions thereof, which are the subject of a determination made pursuant to subparagraph (2).

"(d) With respect to all leases or drilling permits issued, extended, renewed or modified under this Act, the Secretary shall include stipulations in such leases and permits necessary to protect significant thermal features within units of the National Park System where the Secretary determines that, based on scientific evidence, the exploration, development or utilization of the land subject to the lease or drilling permit is reasonably likely to adversely affect any such significant thermal feature. Stipulations shall include, but not be limited to—

"(1) requiring the lessee to reinject geothermal fluids into the rock formations from which they originate;

Reports.

"(2) requiring the lessee to report annually to the Secretary on activities taken on the lease;

"(3) requiring the lessee to continuously monitor geothermal steam and associated geothermal resources production and injection wells; and

"(4) requiring the lessee to suspend activity on the lease if the Secretary determines that ongoing exploration, development or utilization activities are having a significant adverse effect on a significant thermal feature within a unit of the National Park System until such time as the significant adverse effect is eliminated. The stipulation shall provide for the termination of the lease by the Secretary if the significant adverse effect cannot be eliminated within a reasonable period of time.

Forests and forest products. Public lands.

"(e) The Secretary of Agriculture shall consider the effects on significant thermal features within units of the National Park System in determining whether to consent to leasing under this Act on national forest lands or other lands administered by the Department of Agriculture available for leasing under this Act, including public, withdrawn, and acquired lands.

"(f) Nothing in this Act shall affect the ban on leasing under this Act with respect to the Island Park Geothermal Area, as designated by the map in the 'Final Environmental Impact Statement of the Island Park Geothermal Area' (January 15, 1980, p. XI), and provided for in Public Law 98-473.".

SEC. 7. CRATER LAKE NATIONAL PARK REPORT.

On March 1, 1989, or 6 months after the date of enactment of this section (whichever is later), the Secretary shall submit to Congress a report on the presence or absence of significant thermal features within Crater Lake National Park.

SEC. 8. CORWIN SPRINGS KGRA STUDY. 30 USC 1026 note.

(a) The United States Geological Survey, in consultation with the National Park Service, shall conduct a study on the impact of present and potential geothermal development in the vicinity of Yellowstone National Park on the thermal features within the park. The area to be studied shall be the lands within the Corwin Springs Known Geothermal Resource Area as designated in the July 22, 1975, Federal Register (Fed. Reg. Vol. 40, No. 141). The study shall be transmitted to Congress no later than December 1, 1990.

(b) Any production from existing geothermal wells or any development of new geothermal wells or other facilities related to geothermal production is prohibited in the Corwin Springs Known Geothermal Resource Area until 180 days after the receipt by Congress of the study provided for in subsection (a) of this section.

(c) The Secretary may not issue, extend, renew or modify any geothermal lease or drilling permit pursuant to the Geothermal Steam Act of 1970 (30 U.S.C. 1001-1025) in the Corwin Springs Known Geothermal Resource Area until 180 days after the receipt by Congress of the study provided for in section 8(a) of this Act. This section shall not be construed as requiring such leasing activities subsequent to the 180 days after study submittal.

(d) If the Secretary determines that geothermal drilling and related activities within the area studied pursuant to subsection (a) of this section may adversely affect the thermal features of Yellowstone National Park, the Secretary shall include in the study required under subsection (a) of this section recommendations regarding the acquisition of the geothermal rights necessary to protect such thermal resources and features. Environmental protection.

SEC. 9. CONSISTENCY PROVISION. 30 USC 1005 note.

To the extent that any provision in this Act is inconsistent with the provisions of section 115(2) of title I of section 101(h) of Public Law 99-591 (100 Stat. 3341-264 through 100 Stat. 3341-266), this Act shall be deemed to supersede the provisions of such section.

Approved September 22, 1988.

LEGISLATIVE HISTORY—S. 1889 (H.R. 2794):

HOUSE REPORTS: No. 100-664 accompanying H.R. 2794 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-283 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 16, considered and passed Senate.
June 13, H.R. 2794 considered and passed House; proceedings vacated and S. 1889, amended, passed in lieu.
Aug. 9, Senate concurred in House amendments with an amendment.
Sept. 9, House concurred in Senate amendment.

Public Law 100-444
100th Congress

Joint Resolution

Sept. 26, 1988
[H.J. Res. 518]

Designating the week of September 25, 1988, as "Religious Freedom Week".

Whereas the principle of religious liberty was an essential part of the founding of our Nation, and must be safeguarded with eternal vigilance by all men and women of good will;

Whereas religious liberty has been endangered throughout history by bigotry and indifference;

Whereas the first amendment to the Constitution of the United States guarantees the inalienable rights of individuals to worship freely or not be religious, as they choose, without interference from governmental or other agencies;

Whereas the first amendment to the Constitution ensures religious freedom to all of the people of the United States;

Whereas the bicentennial of the ratification of the Constitution occurs in 1988;

Whereas, at Touro Synagogue in 1790, President George Washington issued his famous letter declaring "to bigotry no sanction, to persecution no assistance";

Whereas the Touro Synagogue letter advocating the doctrine of mutual respect and understanding was issued more than a year before the adoption of the Bill of Rights;

Whereas the letter of President Washington and the Touro Synagogue have become symbols of the commitment of the United States to religious freedom;

Whereas, throughout our Nation's history, religion has contributed to the welfare of believers and of society generally, and has been a force for maintaining high standards for morality, ethics and justice;

Whereas religion is most free when it is observed voluntarily at private initiative, uncontaminated by Government interference and unconstrained by majority preference; and

Whereas religious liberty can be protected only through the efforts of all persons of good will in a united commitment: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 25, 1988, is hereby declared to be "Religious Freedom Week", wherein members of all faiths or of none, may join together in support of religious tolerance and religious liberty for all.

Approved September 26, 1988.

LEGISLATIVE HISTORY—H.J. Res. 518 (S.J. Res. 361):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 16, considered and passed House.
Sept. 19, S.J. Res. 361 and H.J. Res. 518 considered and passed Senate.

Public Law 100-445
100th Congress

Joint Resolution

To designate the period commencing September 25, 1988, and ending on October 1, 1988, as "National Historically Black Colleges Week".

Sept. 26, 1988
[S.J. Res. 290]

Whereas there are 107 Historically Black Colleges and Universities in the United States;

Whereas such colleges and universities provide the quality education so essential to full participation in a complex, highly technological society;

Whereas black colleges and universities have a rich heritage and have played a prominent role in American history;

Whereas such institutions have allowed many underprivileged students to attain their full potential through higher education; and

Whereas the achievements and goals of the Historically Black Colleges are deserving of national recognition: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing September 25, 1988, and ending on October 1, 1988, is designated as "National Historically Black Colleges Week" and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States and interested groups to observe such week with appropriate ceremonies, activities, and programs, thereby demonstrating support for Historically Black Colleges and Universities in the United States.

Approved September 26, 1988.

LEGISLATIVE HISTORY—S.J. Res. 290:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 16, considered and passed House.

Public Law 100-446
100th Congress

An Act

Sept. 27, 1988
[H.R. 4867]

Making appropriations for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of the Interior and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—DEPARTMENT OF THE INTERIOR

BUREAU OF LAND MANAGEMENT

MANAGEMENT OF LANDS AND RESOURCES

For expenses necessary for protection, use, improvement, development, disposal, cadastral surveying, classification, and performance of other functions, including maintenance of facilities, as authorized by law, in the management of lands and their resources under the jurisdiction of the Bureau of Land Management, including the general administration of the Bureau of Land Management, $508,462,000, of which not to exceed $1,000,000 to be derived from the special receipt account established by section 4 of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-6a(i)), $70,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1988, and $23,000,000 for the Automated Land and Mineral Record System Project shall remain available until expended: *Provided,* That appropriations herein made shall not be available for the destruction of healthy, unadopted, wild horses and burros in the care of the Bureau of Land Management or its contractors: *Provided further,* That in fiscal year 1989 all but $742,000 of receipts, and thereafter all receipts from fees established by the Secretary of the Interior for processing of actions relating to the administration of the General Mining Laws shall be available for program operations in Mining Law Administration by the Bureau of Land Management to supplement funds otherwise available, to remain available until expended.

43 USC 1474.

CONSTRUCTION AND ACCESS

For acquisition of lands and interests therein, and construction of buildings, recreation facilities, roads, trails, and appurtenant facilities, $5,431,000, to remain available until expended.

PAYMENTS IN LIEU OF TAXES

For expenses necessary to implement the Act of October 20, 1976 (31 U.S.C. 6901–07), $105,000,000, of which not to exceed $400,000 shall be available for administrative expenses. The Payments in Lieu of Taxes Act (31 U.S.C. 6901(2)) is amended by deleting the phrase "existing in the State of Alaska on the date of enactment of this Act" from the definition of a unit of Government. 31 USC 6901 note.

LAND ACQUISITION

For expenses necessary to carry out the provisions of sections 205, 206, and 318(d) of Public Law 94-579 including administrative expenses and acquisition of lands or waters, or interest therein, $12,290,000, to be derived from the Land and Water Conservation Fund, to remain available until expended.

OREGON AND CALIFORNIA GRANT LANDS

For expenses necessary for management, protection, and development of resources and for construction, operation, and maintenance of access roads, reforestation, and other improvements on the revested Oregon and California Railroad grant lands, on other Federal lands in the Oregon and California land-grant counties of Oregon, and on adjacent rights-of-way; and acquisition of lands or interests therein including existing connecting roads on or adjacent to such grant lands; $60,000,000, to remain available until expended: *Provided,* That the amount appropriated herein for road construction shall be transferred to the Federal Highway Administration, Department of Transportation: *Provided further,* That 25 per centum of the aggregate of all receipts during the current fiscal year from the revested Oregon and California Railroad grant lands is hereby made a charge against the Oregon and California land grant fund and shall be transferred to the General Fund in the Treasury in accordance with the provisions of the second paragraph of subsection (b) of title II of the Act of August 28, 1937 (50 Stat. 876).

RANGE IMPROVEMENTS

For rehabilitation, protection, and acquisition of lands and interests therein, and improvement of Federal rangelands pursuant to section 401 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701), notwithstanding any other Act, sums equal to 50 per centum of all moneys received during the prior fiscal year under sections 3 and 15 of the Taylor Grazing Act (43 U.S.C. 315, et seq.) and the amount designated for range improvements from grazing fees and mineral leasing receipts from Bankhead-Jones lands transferred to the Department of the Interior pursuant to law, but not less than $8,506,000, to remain available until expended: *Provided,* That not to exceed $600,000 shall be available for administrative expenses.

SERVICE CHARGES, DEPOSITS, AND FORFEITURES

For administrative expenses and other costs related to processing application documents and other authorizations for use and disposal of public lands and resources, for costs of providing copies of official public land documents, for monitoring construction, operation, and

termination of facilities in conjunction with use authorizations, and for rehabilitation of damaged property, such amounts as may be collected under sections 209(b), 304(a), 304(b), 305(a), and 504(g) of the Act approved October 21, 1976 (43 U.S.C. 1701), and sections 101 and 203 of Public Law 93-153, to be immediately available until expended: *Provided,* That notwithstanding any provision to the contrary of subsection 305(a) of the Act of October 21, 1976 (43 U.S.C. 1735(a)), any moneys that have been or will be received pursuant to that subsection, whether as a result of forfeiture, compromise, or settlement, if not appropriate for refund pursuant to subsection 305(c) of that Act (43 U.S.C. 1735(c)), shall be available and may be expended under the authority of this or subsequent appropriations Acts by the Secretary to improve, protect, or rehabilitate any public lands administered through the Bureau of Land Management which have been damaged by the action of a resource developer, purchaser, permittee, or any unauthorized person, without regard to whether all moneys collected from each such forfeiture, compromise, or settlement are used on the exact lands damage to which led to the forfeiture, compromise, or settlement: *Provided further,* That such moneys are in excess of amounts needed to repair damage to the exact land for which collected.

43 USC 1735 note.

MISCELLANEOUS TRUST FUNDS

In addition to amounts authorized to be expended under existing law, there is hereby appropriated such amounts as may be contributed under section 307 of the Act of October 21, 1976 (43 U.S.C. 1701), and such amounts as may be advanced for administrative costs, surveys, appraisals, and costs of making conveyances of omitted lands under section 211(b) of that Act, to remain available until expended.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Land Management shall be available for purchase, erection, and dismantlement of temporary structures, and alteration and maintenance of necessary buildings and appurtenant facilities to which the United States has title; up to $25,000 for payments, at the discretion of the Secretary, for information or evidence concerning violations of laws administered by the Bureau of Land Management; miscellaneous and emergency expenses of enforcement activities authorized or approved by the Secretary and to be accounted for solely on his certificate, not to exceed $10,000: *Provided,* That appropriations herein made for Bureau of Land Management expenditures in connection with the revested Oregon and California Railroad and reconveyed Coos Bay Wagon Road grant lands (other than expenditures made under the appropriation "Oregon and California grant lands") shall be reimbursed to the General Fund of the Treasury from the 25 per centum referred to in subsection (c), title II, of the Act approved August 28, 1937 (50 Stat. 876), of the special fund designated the "Oregon and California land grant fund" and section 4 of the Act approved May 24, 1939 (53 Stat. 754), of the special fund designated the "Coos Bay Wagon Road grant fund": *Provided further,* That appropriations herein made may be expended for surveys of Federal lands of the United States and on a reimbursable basis for surveys of Federal lands of the United States and for protection of lands for the State of Alaska: *Provided further,* That an appeal of any reductions

43 USC 1752 note.

in grazing allotments on public rangelands must be taken within thirty days after receipt of a final grazing allotment decision. Reductions of up to 10 per centum in grazing allotments shall become effective when so designated by the Secretary of the Interior. Upon appeal any proposed reduction in excess of 10 per centum shall be suspended pending final action on the appeal, which shall be completed within two years after the appeal is filed: *Provided further,* That appropriations herein made shall be available for paying costs incidental to the utilization of services contributed by individuals who serve without compensation as volunteers in aid of work of the Bureau: *Provided further,* That notwithstanding section 5901(a) of title 5, United States Code, the uniform allowance for each uniformed employee of the Bureau of Land Management shall not exceed $400 annually.

UNITED STATES FISH AND WILDLIFE SERVICE

RESOURCE MANAGEMENT

For expenses necessary for scientific and economic studies, conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, except whales, seals, and sea lions, and for the performance of other authorized functions related to such resources; for the general administration of the United States Fish and Wildlife Service; and for maintenance of the herd of long-horned cattle on the Wichita Mountains Wildlife Refuge; and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $360,688,000, of which $5,000,000, to carry out the purposes of 16 U.S.C. 1535, shall remain available until expended; and of which $6,811,000 shall be for operation and maintenance of fishery mitigation facilities constructed by the Corps of Engineers under the Lower Snake River Compensation Plan, authorized by the Water Resources Development Act of 1976 (90 Stat. 2921), to compensate for loss of fishery resources from water development projects on the Lower Snake River, and which shall remain available until expended: *Provided,* That none of the funds provided herein may be used for the planning, implementation, or financing of agreements or arrangements with entities for the management of the Wynne complex on Matagorda Island, Texas, except for agreements or arrangements existing as of the date of enactment of this Act; and of which $1,500,000 shall remain available until expended for the development and installation of displays, exhibits, films, and other educational material for an ecological center, which will display the interdependency of fish and wildlife habitat upon each other and the need for informed public stewardship of these resources, including man's impact on freshwater and coastal streams, and which will be located on non-Federal land and be constructed by non-Federal participants.

CONSTRUCTION AND ANADROMOUS FISH

For construction and acquisition of buildings and other facilities required in the conservation, management, investigations, protection, and utilization of sport fishery and wildlife resources, and the acquisition of lands and interests therein; $31,834,000, to remain

available until expended, of which $2,000,000 shall be available for expenses to carry out the Anadromous Fish Conservation Act (16 U.S.C. 757a-757g).

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the United States Fish and Wildlife Service, $57,529,000, to be derived from the Land and Water Conservation Fund, to remain available until expended: *Provided,* That of the funds provided to the United States Fish and Wildlife Service under the heading "Construction and Anadromous Fish" in Public Law 100-71, $1,200,000 shall be expended for the lease or purchase of water rights, from willing sellers, for the benefit of Stillwater Wildlife Management Area, Nevada: *Provided further,* That the lease or purchase shall be carried out pursuant to the statutory and procedural requirements of the laws of the State of Nevada, and the Secretary shall proceed with any such lease or purchase pursuant to this appropriation if and only if the Secretary receives certification from the State of Nevada that the transfer of water rights and associated change of use for the beneficial use of Stillwater Wildlife Management Area is approved by the State of Nevada.

The Secretary may acquire lands and waters or interests therein subject to the interest of the State of California, including the public trust, in lands including submerged lands which are now or at any time have been below the highest high water mark of the Sacramento River and/or its tributaries, in the event the boundary of said river has been artifically raised, or said lands are now or at any time have been below the ordinary high water mark of the Sacramento River, if said river and/or its tributaries is in its natural state; and further subject to any adverse claim based upon the assertion that (i) any portion of said lands is not now or has not at any time been below the highest high water mark of the Sacramento River and/or its tributaries, in the event the boundary of said river has been artificially raised, or is not now and has not at any time been below the ordinary high water mark, if said river and/or its tributaries is in its natural state; (ii) some portion of said lands has been created by artificial means or has accreted to such portion so created; or (iii) some portion of said lands has been brought within the boundaries thereof by an avulsive movement of the Sacramento River and/or its tributaries, or has been formed by accretion to any such portion.

NATIONAL WILDLIFE REFUGE FUND

For expenses necessary to implement the Act of October 17, 1978 (16 U.S.C. 715s), $6,645,000.

ADMINISTRATIVE PROVISIONS

Appropriations and funds available to the United States Fish and Wildlife Service shall be available for purchase of not to exceed 160 passenger motor vehicles, of which 153 are for replacement only (including 46 for police-type use); not to exceed $400,000 for payment, at the discretion of the Secretary, for information, rewards, or evidence concerning violations of laws administered by the United

States Fish and Wildlife Service, and miscellaneous and emergency expenses of enforcement activities, authorized or approved by the Secretary and to be accounted for solely on his certificate; repair of damage to public roads within and adjacent to reservation areas caused by operations of the United States Fish and Wildlife Service; options for the purchase of land at not to exceed $1 for each option; facilities incident to such public recreational uses on conservation areas as are consistent with their primary purpose; and the maintenance and improvement of aquaria, buildings, and other facilities under the jurisdiction of the United States Fish and Wildlife Service and to which the United States has title, and which are utilized pursuant to law in connection with management and investigation of fish and wildlife resources: *Provided,* That the United States Fish and Wildlife Service may accept donated aircraft as replacements for existing aircraft: *Provided further,* That hereafter the Columbian White Tail Deer Refuge shall be known as the Julia Butler Hansen Refuge for the Columbian White Tail Deer.

Gifts and property.
National Wildlife Refuge System.

NATIONAL PARK SERVICE

OPERATION OF THE NATIONAL PARK SYSTEM

For expenses necessary for the management, operation, and maintenance of areas and facilities administered by the National Park Service (including special road maintenance service to trucking permittees on a reimbursable basis), and for the general administration of the National Park Service, including not to exceed $442,000 for the Roosevelt Campobello International Park Commission and not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408, $744,835,000, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), of which not to exceed $52,200,000 to remain available until expended is to be derived from the special fee account established pursuant to title V, section 5201, of Public Law 100-203: *Provided,* That the National Park Service shall not enter into future concessionaire contracts, including renewals, that do not include a termination for cause clause that provides for possible extinguishment of possessory interests excluding depreciated book value of concessionaire investments without compensation: *Provided further,* That $85,000 shall be available to assist the town of Harpers Ferry, West Virginia, for police force use: *Provided further,* That funds appropriated to the National Park Service may be used for the purchase or hire of personnel services without regard to personnel laws as contained in title V of the United States Code, only to provide for the orderly transition from regional finance offices to a central finance office: *Provided further,* That of the funds provided herein, $250,000 is available for the National Institute for the Conservation of Cultural Property: *Provided further,* That no funds appropriated by this Act shall be available to remove, obstruct, dewater, fill, or otherwise damage the Brooks River fish ladder in the Katmai National Park, Alaska: *Provided further,* That where any Federal lands included within the boundary of the Park created by the Act of December 18, 1971 (Public Law 92-207), were legally occupied or utilized on the date of approval of that Act for grazing purposes pursuant to a lease, permit, or license issued or authorized by any department, establish-

16 USC 20b note.

16 USC 273b note.

ment, or agency of the United States, the person or persons so occupying or utilizing such lands and the heirs of such person or persons shall at that time be entitled to renew said leases, permits, or licenses under such terms and conditions as the Secretary of the Interior may prescribe, for the lifetime of the permittee or any direct descendants (sons or daughters) born on or before the enactment of Public Law 92-207 (December 18, 1971). Such grazing activities shall be subject to the following conditions:

Animals.

(a) Grazing will be based on active preference that exists on the date of this Act and no increase in animal unit months will be allowed on Park lands.

(b) No physical improvements for stock use will be established on National Park Service lands without the written concurrence of the Park Superintendent.

(c) Nothing in this section shall apply to any lease, permit, or license for mining purposes or for public accommodations and services or to any occupancy or utilization of lands for purely temporary purposes.

(d) Nothing contained in this Act shall be construed as creating any vested right, title interest, or estate in or to any Federal lands.

16 USC 273b note.

(e) The provisions of Public Law 97-341 are hereby repealed.

Environmental protection. Cultural programs.

(f) Grazing will be managed to encourage the protection of the Park's natural and cultural resources values.

NATIONAL RECREATION AND PRESERVATION

For expenses necessary to carry out recreation programs, natural programs, cultural programs, environmental compliance and review, and grant administration, not otherwise provided for, $14,608,000.

HISTORIC PRESERVATION FUND

For expenses necessary in carrying out the provisions of the Historic Preservation Act of 1966 (80 Stat. 915), as amended (16 U.S.C. 470), $30,500,000 to be derived from the Historic Preservation Fund, established by section 108 of that Act, as amended, to remain available for obligation until September 30, 1990: *Provided,* That the Trust Territory of the Pacific Islands is a State eligible for Historic Preservation Fund matching grant assistance as authorized under 16 U.S.C. 470w(2): *Provided further,* That pursuant to section 105(1) of the Compact of Free Association, Public Law 99-239, the Federated States of Micronesia and the Republic of the Marshall Islands shall also be considered States for purposes of this appropriation: *Provided further,* That $1,000,000 of the amount appropriated herein shall remain available until expended in the Bicentennial Lighthouse Fund, to be distributed on a matching grant basis after consultation among the National Park Service, the National Trust for Historic Preservation, State Historic Preservation Officers from States with resources eligible for financial assistance, and the lighthouse community. Consultation shall include such matters as a distribution formula, timing of grant awards, a redistribution procedure for grants remaining unobligated longer than two years after the award date, and related implementation policies. The distribution formula for fiscal year 1989 shall include consideration of such factors as—

Grants.

(A) the number of lighthouses on or determined to be eligible for listing on the National Register of Historic Places by March 30, 1989;

(B) the number of river lights and number of historic river sites on or determined to be eligible for listing on the National Register by March 30, 1989; and

(C) the availability of matching contributions in the State: *Provided further,* That no State shall receive more than 15 per centum of the Bicentennial Lighthouse Fund in any one fiscal year, nor more than 10 per centum of the total appropriations to the Fund in any two fiscal year period: *Provided further,* That only the light station structure, itself, shall be counted in determining the number of properties in each State eligible to participate in the Fund: *Provided further,* That the Secretary shall allocate appropriate funds from the Bicentennial Lighthouse Fund to be transferred, without the matching requirement, for use by Federal agencies, in cooperative agreements with the National Park Service and the State Office of Historic Preservation in which the property is located, for properties otherwise eligible for the National Register but owned by the Federal Government.

CONSTRUCTION

For construction, improvements, repair or replacement of physical facilities, without regard to the Act of August 24, 1912, as amended (16 U.S.C. 451), $159,108,000, to remain available until expended, including $1,450,000 to carry out the provisions of sections 302, 303, and 304 of Public Law 95-290: *Provided,* That for payment of obligations incurred for continued construction of the Cumberland Gap Tunnel, as authorized by section 160 of Public Law 93-87, $47,000,000 to be derived from the Highway Trust Fund and to remain available until expended to liquidate contract authority provided under section 104(a)(8) of Public Law 95-599, as amended, such contract authority to remain available until expended.

LAND AND WATER CONSERVATION FUND

(RESCISSION)

The contract authority provided for fiscal year 1989 by 16 U.S.C. 460l-10a is rescinded. 16 USC 460*l*-10a note.

LAND ACQUISITION AND STATE ASSISTANCE

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the National Park Service, $72,609,000 to be derived from the Land and Water Conservation Fund, to remain available until expended, including $3,300,000 to administer the State Assistance program: *Provided,* That of the amounts previously appropriated to the Secretary's contingency fund for grants to States, $357,000 shall be available in 1989 for administrative expenses of the State grant program: *Provided further,* That $3,000,000 of the funds made available herein shall be available for land acquisition at Congaree Swamp National Monument, South Caro-

lina, subject to enactment of authorizing legislation: *Provided further,* That notwithstanding the provisions of Public Law 95-625, the Secretary may initiate condemnation with the consent of the owner of property, improved or unimproved, within the boundary or at a currently authorized administrative site of the New River Gorge National River, West Virginia.

JOHN F. KENNEDY CENTER FOR THE PERFORMING ARTS

For expenses necessary for operating and maintaining the nonperforming arts functions of the John F. Kennedy Center for the Performing Arts, $5,181,000: *Provided,* That contracts hereafter awarded for environmental systems, housekeeping, protection systems, and repair or renovation of buildings of the John F. Kennedy Center for the Performing Arts may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

20 USC 76*l* note.

ILLINOIS AND MICHIGAN CANAL NATIONAL HERITAGE CORRIDOR COMMISSION

For operation of the Illinois and Michigan Canal National Heritage Corridor Commission, $250,000.

AMERICAN REVOLUTION BICENTENNIAL ADMINISTRATION

For expenses necessary to pay awards resulting from claims by licensees against the American Revolution Bicentennial Administration and its successors, $4,765,000: *Provided,* That payment of awards shall occur no later than 30 days after enactment of this Act.

NATIONAL FILM PRESERVATION BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Film Preservation Board in the Library of Congress, $250,000: *Provided,* That the following may be cited as the "National Film Preservation Act of 1988": The Congress finds that—

National Film Preservation Act of 1988.
2 USC 178 note.
2 USC 178.

(1) motion pictures are an indigenous American art form that has been emulated throughout the world;

(2) certain motion pictures represent an enduring part of our Nation's historical and cultural heritage; and

(3) it is appropriate and necessary for the Federal Government to recognize motion pictures as a significant American art form deserving of protection.

2 USC 178a.

SEC. 2. NATIONAL FILM REGISTRY.

The Librarian of Congress (hereafter in this Act referred to as the "Librarian") shall establish a National Film Registry pursuant to the provisions of this Act, for the purpose of registering films that are culturally, historically, or aesthetically significant.

2 USC 178b.

SEC. 3. DUTIES OF LIBRARIAN OF CONGRESS.

(a) POWERS.—(1) The Librarian shall, after consultation with the Board established pursuant to section 8, and pursuant to the rulemaking procedures provided in subchapter II of chapter 5 of title 5, United States Code, known as the Administrative Procedures Act—

(A) establish criteria for guidelines pursuant to which such films may be included in the National Film Registry, except that no film shall be eligible for inclusion in the National Film Registry until 10 years after such film's first theatrical release;

(B) establish a procedure whereby the general public may make recommendations to the Board regarding the inclusion of films in such National Film Registry; and

(C) establish general guidelines so that film owners and distributors are able to determine whether a version of a film registered on the National Film Registry which is in their possession has been materially altered.

(2) In addition, the Librarian shall—

(A) determine, from time to time, after consultation with the Board, which films satisfy the criteria developed pursuant to paragraph (1)(A) and qualify to be included in the National Film Registry, except that the Librarian shall not select more than 25 films per year for inclusion in such Registry;

(B) convene, from time to time, a panel of experts, as provided in subsection (b), solely to advise the Board on whether it is necessary to petition Congress to revise the definition of "material alteration";

(C) provide a seal to indicate that the film has been included in the National Film Registry as an enduring part of our national cultural heritage and such seal may then be used in the promotion of any version of such film that has not been materially altered; and

(D) have published in the Federal Register the name of each film that is selected for inclusion in the National Film Registry.

Federal Register, publication.

(3)(A) The Librarian shall submit annual reports to the appropriate Committees of the Congress listing films included on the National Film Registry and describing the criteria used in determining why specific films were included in the National Film Registry.

Reports.

(B) The first such report shall be submitted within 12 months after the date of enactment of this Act.

(b) COMPOSITION OF PANEL.—The panel provided for in subsection (a)(2)(B) shall be chosen by the Librarian. It shall be comprised of four persons, one representative each from the Motion Picture Association of America and the National Association of Broadcasters, and one representative of the Directors Guild of America and one representative of the Screen Actors Guild of America. The Presidents of these four organizations shall recommend three nominees to serve on such panel.

(c) APPEALS TO THE LIBRARIAN.—(1) The owner, exhibitor, or distributor of a film may appeal to the Librarian—

(A) objecting to the Board's recommendation of such film for inclusion in the National Film Registry; or

(B) the determination that a version of a film which is included in the National Film Registry has been materially altered.

(2) The Librarian shall refer such appeals to the Board for its recommendation.

(c) REGISTRY COLLECTION.—The Librarian shall endeavor to obtain, by gift from the owner, an archival quality copy of an original version of each film included in the National Film Registry. All films so received by the Librarian shall be maintained in a special collection in the Library of Congress to be known as the "National

Gifts and property.

Regulations.

Film Board Collection". The Librarian shall, by regulation, provide for reasonable access to films in such collection.

2 USC 178c.

SEC. 4. LABELING REQUIREMENTS.

(a) LABEL REQUIRED.—Except as otherwise provided in this section, no person shall knowingly distribute or exhibit to the public a materially altered version of a film included in the National Film Registry unless the version is labeled as required by this section.

(b) EFFECTIVE DATE OF LABEL.—Except as provided in subsection (c), any labeling requirement established pursuant to this section shall be effective 45 days after publication in the Federal Register indicating that a film has been selected for inclusion in the National Film Registry.

(c) EXCEPTIONS.—With respect to films intended for home use through either retail purchase or rental, the provisions of subsection (b) shall apply, however no requirements imposed under this section shall apply to—

(1) a film which has been packaged for distribution prior to the effective date of such requirement with respect to such film, except that the provisions of this paragraph shall not apply if the packaging has been accelerated in contemplation of imposition of such requirement; or

(2) a retail distributor of films for home use, other than a manufacturer or packager, who has in good faith relied on compliance with the provisions of this Act by the manufacturer, wholesaler, or packager of a film.

(d) REQUIREMENTS OF THE LABEL.—(1)(A) A label for a materially altered version of a film, other than a colorized version, shall consist of a panel card immediately preceding the commencement of the film which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film.".

(B) Such a label shall appear in a conspicuous and legible type.

(2)(A) A label for a colorized version of a film shall consist of a panel card immediately preceding the commencement of the film which bears the following statement:

"This is a colorized version of a film originally marketed and distributed to the public in black and white. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film.".

(B) Such a label shall appear in a conspicuous and legible type.

(3)(A) A label for a film package of a materially altered film, other than a colorized version, shall consist of—

(i) an area of a rectangle on the front of the package which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."; and

(ii) an area of a rectangle on the side of the package which bears the following statement:

"This is a materially altered version of the film originally marketed and distributed to the public. See front panel.".

(B) Such labels shall appear in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

(4)(A) A label for a film package of a colorized version of a film shall consist of—

(i) an area of a rectangle on the front of the package which bears the following statement:

"This is a colorized version of a film originally marketed and distributed to the public in black and white. It has been altered without the participation of the principal director, screenwriter, and other creators of the original film."; and

(ii) an area of a rectangle on the side of the package which bears the following statement:

"This is a colorized version of original work. See front panel.".

(B) Such labels shall appear in a conspicuous and legible type in contrast by typography, layout, or color with other printed matter on the package.

SEC. 5. MISUSE OF SEAL. 2 USC 178d.

No person shall knowingly distribute or exhibit to the public a version of a film which bears a seal as described by section 3(a)(2)(C) of this Act if such film—

(1) is not included in the National Film Registry; or

(2) is included in the National Film Registry, but such version has been materially altered.

SEC. 6. REMEDIES. 2 USC 178e.

(a) JURISDICTION AND STANDING.—The several district courts of the United States shall have jurisdiction, for cause shown, to prevent and restrain violations of sections 4 and 5 of this Act upon the application of the Librarian to the Attorney General of the United States acting through the several United States Attorneys in their several districts. Courts, U.S.

(b) RELIEF.—(1) Except as provided in paragraph (2), relief shall be limited to the prospective inclusion or application of, or removal of, a label as appropriate.

(2) In the case in which the Librarian finds a pattern or practice of the willful violation of this Act, the United States District Courts may order civil fines of not more than $10,000 and appropriate injunctive relief. Law enforcement and crime.

SEC. 7. LIMITATIONS OF REMEDIES. 2 USC 178f.

(a) The remedies provided in section 6 shall be the exclusive remedies under this Act or any other Federal or State law, regarding the use of a seal as described by section 3(a)(2)(C) or labeling of materially altered films.

(b) No remedies under section 6 of this title shall be available with respect to any film which is exempted from the labeling requirements of this Act pursuant to section 4(c).

SEC. 8. NATIONAL FILM PRESERVATION BOARD. 2 USC 178g.

(a) NUMBER AND APPOINTMENT.—(1) The Librarian shall establish in the Library of Congress a National Film Preservation Board to be comprised of thirteen members, selected by the Librarian in accordance with the provisions of this paragraph. Each organization listed in subparagraphs (A) through (M) shall submit a list of not less than 3 qualified candidates to the Librarian. The Librarian shall appoint

one member from each such list submitted by the following organizations, and shall designate from that list an alternate who may attend those meetings to which the individual appointed to the Board cannot attend:

(A) the Academy of Motion Picture Arts and Sciences;
(B) the Directors Guild of America;
(C) the Writers Guild of America;
(D) the National Society of Film Critics;
(E) the Society for Cinema Studies;
(F) the American Film Institute;
(G) the Department of Theatre, Film and Television, College of Fine Arts at the University of California, Los Angeles;
(H) the Department of Cinema Studies in the Graduate School of Arts and Science at New York University;
(I) the University Film and Video Association;
(J) the Motion Picture Association of America;
(K) the National Association of Broadcasters;
(L) the Association of Motion Picture and Television Producers; and
(M) the Screen Actors Guild of America.

(2) Before the Librarian selects nominees for such Board, such Librarian shall request that each of the entities listed in paragraph (1) who do not currently have a nominee on such Board nominate three individuals to serve on such Board. No individual may serve on the Board for more than one term and each entity shall be represented a comparable number of times.

(b) CHAIRPERSON.—The Librarian shall appoint one member to serve as Chairperson.

(c) TERM OF OFFICE.—(1) The term of each member of the Board shall be 3 years.

(2) A vacancy in the Board shall be filled in the manner prescribed by the Librarian, except that no entity listed in subsection (a) may have more than one nominee on the Board at any one time. Appointments may be made under this subsection without regard to section 5311(b) of title 5, United States Code. Any member appointed to fill a vacancy before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term.

(d) QUORUM.—Seven members of the Board shall constitute a quorum but a lesser number may hold hearings.

(e) BASIC PAY.—Members of the Board shall serve without pay. While away from their homes or regular places of business in the performance of services for the Board, members of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(f) MEETINGS.—The Board shall meet at least twice each calendar year and the first such meeting shall be within 120 days after the effective date of this Act. Meetings shall be at the call of the Chairperson or a majority of its members.

(g) CONFLICT OF INTERESTS.—The Librarian shall establish rules and procedures to address any potential conflict of interest between a member of the Board and responsibilities of the Board.

SEC. 9. STAFF OF BOARD; EXPERTS AND CONSULTANTS. 2 USC 178h.

(a) STAFF.—The Chairperson of the Board may appoint and fix the pay of such personnel as the Chairperson considers appropriate.

(b) APPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The staff of the Board may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-16 of the General Schedule.

(c) EXPERTS AND CONSULTANTS.—The Chairperson of the Board may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum rate of basic pay payable for GS-15 of the General Schedule, and in no case may a Board member be paid as an expert or consultant.

SEC. 10. POWERS OF BOARD. 2 USC 178i.

(a) IN GENERAL.—The Board may, for the purpose of carrying out its duties, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Board considers appropriate. The Board shall review nominations of films submitted to it for inclusion in the National Film Registry and consult with the Librarian with respect to the inclusion in the Registry, and with respect to the powers defined in section 3.

(b) NOMINATION OF FILMS.—The Board shall consider, for inclusion in the National Film Registry, nominations submitted by representatives of the film industry, such as the guilds and societies representing actors, directors, screenwriters, producers, and film critics, film preservation organizations and representatives of academic institutions with film study programs. The Board shall not nominate more than 25 films a year for inclusion in the Registry.

SEC. 11. DEFINITIONS. 2 USC 178j.

(a) DEFINITIONS FOR SECTIONS 1 THROUGH 13.—As used in sections 1 through 13:

(1) The term "Librarian" means the Librarian of Congress.

(2) The term "film" means a feature-length, theatrical motion picture after its first theatrical release.

(3) The term "film package" means the original box, carton or container of any kind in which a videotape or disc is offered for sale or rental.

(4) The term "Board" means the National Film Preservation Board.

(5) The term "material alteration" means to colorize or to make other fundamental post-production changes in a version of a film for marketing purposes but does not include changes made in accordance with customary practices and standards and reasonable requirements of preparing a work for distribution or broadcast.

(6) The term "to colorize" means to add color, by whatever means, to versions of motion pictures originally produced, marketed, or distributed in black and white.

(7) The term "colorization" means the process whereby a film is colorized.

(b) EXCLUSION FROM DEFINITION OF "MATERIAL ALTERATION".—Excluded from the definition of "material alteration" are practices such as the insertion of commercials and public service announcements for television broadcast.

2 USC 178k.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this Act, there are authorized to be appropriated to the Librarian of Congress, such sums as may be necessary to carry out the purposes of this Act, but in no fiscal year shall such sum exceed $250,000.

2 USC 178*l*.

SEC. 13. EFFECTIVE DATE.

The provisions of this Act shall be effective for three years beginning on the date of enactment of this Act. The provisions of this Act shall not apply to any copy of a film materially altered prior to such effective date if such copy of such film is owned by an individual for his personal use, in the inventory of the manufacturer or packager of a videocassette or already distributed to retail or wholesale distributors of videocassettes.

ADMINISTRATIVE PROVISIONS

Appropriations for the National Park Service shall be available for the purchase of not to exceed 360 passenger motor vehicles, of which 290 shall be for replacement only, including not to exceed 290 for police-type use and 26 buses; to provide, notwithstanding any other provision of law, at a cost not exceeding $100,000, transportation for children in nearby communities to and from any unit of the National Park System used in connection with organized recreation and interpretive programs of the National Park Service; options for the purchase of land at not to exceed $1 for each option; and for the procurement and delivery of medical services within the jurisdiction of units of the National Park System: *Provided,* That no funds available to the National Park Service may be used, unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714, to maintain law and order in emergency and other unforeseen law enforcement situations and conduct emergency search and rescue operations in the National Park System: *Provided further,* That none of the funds appropriated to the National Park Service may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided further,* That none of the funds appropriated to the National Park Service may be used to add industrial facilities to the list of National Historic Landmarks without the consent of the owner: *Provided further,* That the National Park Service may use helicopters and motorized equipment at Death Valley National Monument for removal of feral burros and horses: *Provided further,* That notwithstanding any other provision of law, the National Park Service may recover unbudgeted costs of providing necessary services associated with special use permits, such reimbursements to be credited to the appropriation current at that time: *Provided further,* That none of the funds appropriated to the National Park Service may be used to implement an agreement for the redevelopment of the southern end of Ellis Island until such agreement has been submitted to the Congress and shall not be implemented prior to the expiration of 30 calendar days (not includ-

Reports.

ing any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on the development of the southern end of Ellis Island, including the facts and circumstances relied upon in support of the proposed project.

No funds shall be available for the National Park Service to issue any construction permit for the Potomac Greens interchange on the George Washington Memorial Parkway unless an Environmental Impact Statement is conducted. The Environmental Impact Statement shall be commenced promptly and completed and filed within eighteen months of the date on which Public Law 100-202 was enacted. After completion and filing, the Environmental Impact Statement shall be transmitted to the appropriate Congressional Committees for a period of 60 days, during which time the National Park Service shall not issue any construction permit for the Potomac Greens interchange on the George Washington Memorial Parkway.

The Environmental Impact Statement shall review the traffic impact of only the proposed 38-acre development opposite Daingerfield Island west of the George Washington Memorial Parkway: *Provided,* That the National Park Service shall review the impact of the planned development on the visual, recreational and historical integrity of the Parkway.

The Environmental Impact Statement shall also provide an evaluation of alternative acquisition strategies to include but not be limited to appraisal estimates for the access rights, the entire 38-acre parcel, that portion of the 38-acre parcel as defined approximately by the historic district boundary line, and any other recommendations by the National Park Service to mitigate the Parkway degradation effects of the proposed development so as to adequately protect and preserve the Parkway. Such appraisals shall be prepared and filed as soon as is reasonably possible. The National Park Service solely shall determine the legal and factual sufficiency of the Environmental Impact Statement and its compliance with the National Environmental Policy Act of 1969.

The Environmental Impact Statement shall be separate from, independent of, and in no way intended to affect or modify any pending litigation. Notwithstanding any other provision of law, no court shall have jurisdiction to consider questions respecting the factual and legal sufficiency of the Environmental Impact Statement under the National Environmental Policy Act of 1969.

None of the funds in this Act may be used to issue a permit for seismic exploration of Big Cypress National Preserve, Florida, until an environmental impact statement has been completed: *Provided,* That such statement shall be completed within two years of the date of enactment of this Act.

None of the funds provided in this Act shall be available for an appeal to the February 26, 1988, special rate pay approved by the Office of Personnel Management for the United States Park Police.

Fellowships and scholarships. Pietro Antonio Bevinetto. Government organization and employees.

The Director of the National Park Service shall administer a fellowship program, within available funds, to improve mutual understanding and cooperation between Service employees, and Members and Committees of Congress. The program is dedicated to the memory of Pietro Antonio (Tony) Bevinetto, and Service em-

ployees participating in the program shall be known as "Bevinetto Fellows".

GEOLOGICAL SURVEY

SURVEYS, INVESTIGATIONS, AND RESEARCH

For expenses necessary for the Geological Survey to perform surveys, investigations, and research covering topography, geology, hydrology, and the mineral and water resources of the United States, its Territories and possessions, and other areas as authorized by law (43 U.S.C. 31, 1332 and 1340); classify lands as to their mineral and water resources; give engineering supervision to power permittees and Federal Energy Regulatory Commission licensees; administer the minerals exploration program (30 U.S.C. 641); and publish and disseminate data relative to the foregoing activities; up to $500,000 for a 50 percent cost-shared scientific project for test and observation wells near Kohala, Hawaii: *Provided,* That upon enactment of this Act and hereafter, final costs related to the National Petroleum Reserve in Alaska may be paid from available prior year balances in this account, and $451,006,000, of which $58,800,000 shall be available only for cooperation with States or municipalities for water resources investigations: *Provided further,* That no part of this appropriation shall be used to pay more than one-half the cost of any topographic mapping or water resources investigations carried on in cooperation with any State or municipality.

43 USC 50.

ADMINISTRATIVE PROVISIONS

The amount appropriated for the Geological Survey shall be available for purchase of not to exceed 19 passenger motor vehicles, for replacement only; reimbursement to the General Services Administration for security guard services; contracting for the furnishing of topographic maps and for the making of geophysical or other specialized surveys when it is administratively determined that such procedures are in the public interest; construction and maintenance of necessary buildings and appurtenant facilities; acquisition of lands for gauging stations and observation wells; expenses of the United States National Committee on Geology; and payment of compensation and expenses of persons on the rolls of the Geological Survey appointed, as authorized by law, to represent the United States in the negotiation and administration of interstate compacts: *Provided,* That activities funded by appropriations herein made may be accomplished through the use of contracts, grants, or cooperative agreements as defined in Public Law 95-224.

Contracts.
Grants.

MINERALS MANAGEMENT SERVICE

LEASING AND ROYALTY MANAGEMENT

For expenses necessary for minerals leasing and environmental studies, regulation of industry operations, and collection of royalties, as authorized by law; for enforcing laws and regulations applicable to oil, gas, and other minerals leases, permits, licenses and operating contracts; and for matching grants or cooperative agreements; including the purchase of not to exceed eight passenger motor vehicles for replacement only; $170,744,000, of which not less than $35,000 shall be used by the Secretary to enter into a cooperative

agreement with the State of Louisiana to carry out or conduct audit activities on any lease or portion of a lease subject only to section 8(g) of the Outer Continental Shelf Lands Act of 1953, as amended (43 U.S.C. 1337(g)): *Provided,* That notwithstanding the provisions of sections 201 of the Federal Oil and Gas Royalty Management Act of 1982 (30 U.S.C. 1731), sections 202 through 206 of that Act (30 U.S.C. 1732–1736) shall apply to any lease or portion of a lease subject to section 8(g) of the Outer Continental Shelf Lands Act: *Provided further,* That for purposes of those provisions and for no other purposes, such lease or portion of a lease shall be regarded as within the coastal State or States entitled to receive revenues from it under section 8(g), and of which not less than $52,302,000 shall be available for royalty management activities including general administration: *Provided further,* That notwithstanding any other provision of law, funds appropriated under this Act shall be available for the payment of interest in accordance with 30 U.S.C. 1721 (b) and (d): *Provided further,* That not to exceed $3,000 shall be available for reasonable expenses related to promoting volunteer beach and marine clean-up activities: *Provided further,* That of the above enacted amounts, $250,000 proposed for data gathering to help determine the boundary between State and Federal lands offshore of Alaska shall be available only if an equal amount is provided by the State of Alaska from State revenues to match the Federal support for this project.

Contracts.

BUREAU OF MINES

MINES AND MINERALS

For expenses necessary for conducting inquiries, technological investigations, and research concerning the extraction, processing, use, and disposal of mineral substances without objectionable social and environmental costs; to foster and encourage private enterprise in the development of mineral resources and the prevention of waste in the mining, minerals, metal, and mineral reclamation industries; to inquire into the economic conditions affecting those industries; to promote health and safety in mines and the mineral industry through research; and for other related purposes as authorized by law, $159,292,000, of which $91,010,000 shall remain available until expended: *Provided,* That none of the funds in this or any other Act may be used for the closure or consolidation of any research centers or the sale of any of the helium facilities currently in operation.

ADMINISTRATIVE PROVISIONS

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private: *Provided,* That the Bureau of Mines is authorized, during the current fiscal year, to sell directly or through any Government agency, including corporations, any metal or mineral product that may be manufactured in pilot plants operated by the Bureau of Mines, and the proceeds of such sales shall be covered into the Treasury as miscellaneous receipts.

Gifts and property.

Chemicals.
Minerals and mining.

OFFICE OF SURFACE MINING RECLAMATION AND ENFORCEMENT

REGULATION AND TECHNOLOGY

For necessary expenses to carry out the provisions of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not to exceed 14 passenger motor vehicles, of which 9 shall be for replacement only; and uniform allowances of not to exceed $400 for each uniformed employee of the Office of Surface Mining Reclamation and Enforcement; $101,095,000, and notwithstanding 31 U.S.C. 3302, an additional amount, to remain available until expended, equal to receipts to the General Fund of the Treasury from performance bond forfeitures in fiscal year 1989: *Provided,* That notwithstanding any other provision of law, the Secretary of the Interior, pursuant to regulations, may utilize directly or through grants to States, moneys collected in fiscal year 1989 pursuant to the assessment of civil penalties under section 518 of the Surface Mining Control and Reclamation Act of 1977 (30 U.S.C. 1268), to reclaim lands adversely affected by coal mining practices after August 3, 1977, to remain available until expended: *Provided further,* That the Secretary of the Interior shall abide by and adhere to the terms of the Settlement Agreement in NWR v. Miller, C.A. No. 86-99 (E.D. Ky), and not take any actions inconsistent with the provisions of footnote 3 of the Agreement with respect to any State or Federal program.

ABANDONED MINE RECLAMATION FUND

For necessary expenses to carry out the provisions of title IV of the Surface Mining Control and Reclamation Act of 1977, Public Law 95-87, including the purchase of not more than 21 passenger motor vehicles, of which 15 shall be for replacement only, $193,160,000 to be derived from receipts of the Abandoned Mine Reclamation Fund and to remain available until expended: *Provided,* That pursuant to Public Law 97-365, the Department of the Interior is authorized to utilize up to 20 per centum from the recovery of the delinquent debt owed to the United States Government to pay for contracts to collect these debts: *Provided further,* That of the funds made available to the States to contract for reclamation projects authorized in section 406(a) of Public Law 95-87, administrative expenses may not exceed 15 per centum: *Provided further,* That none of these funds shall be used for a reclamation grant to any State if the State has not agreed to participate in a nationwide data system established by the Office of Surface Mining Reclamation and Enforcement through which all permit applications are reviewed and approvals withheld if the applicants (or those who control the applicants) applying for or receiving such permits have outstanding State or Federal air or water quality violations in accordance with section 510(c) of the Act of August 3, 1977 (30 U.S.C. 1260(c)), or failure to abate cessation orders, outstanding civil penalties associated with such failure to abate cessation orders, or uncontested past due Abandoned Mine Land fees: *Provided further,* That the Secretary of the Interior may deny 50 per centum of an Abandoned Mine Reclamation Fund grant, available to a State pursuant to title IV of Public Law 95-87, in accordance with the procedures set forth in section 521(b) of the Act, when the Secretary determines that a State is systematically failing to administer ade-

State and local governments.

quately the enforcement provisions of the approved State regulatory program. Funds will be denied until such time as the State and Office of Surface Mining Reclamation and Enforcement have agreed upon an explicit plan of action for correcting the enforcement deficiency. A State may enter into such agreement without admission of culpability. If a State enters into such agreement, the Secretary shall take no action pursuant to section 521(b) of the Act as long as the State is complying with the terms of the agreement: *Provided further,* That expenditure of moneys as authorized in section 402(g)(3) of Public Law 95-87 shall be on a priority basis with the first priority being protection of public health, safety, general welfare, and property from extreme danger of adverse effects of coal mining practices, as stated in section 403 of Public Law 95-87: *Provided further,* That 23 full-time equivalent positions are to be maintained in the Anthracite Reclamation Program at the Wilkes-Barre Field Office: *Provided further,* That notwithstanding any other provisions of law, appropriations for the Office of Surface Mining Reclamation and Enforcement may, hereafter, provide for the travel and per diem expenses of State and tribal personnel attending OSMRE sponsored training: *Provided further,* That the Secretary shall conduct a thorough accounting and reconciliation of the Abandoned Mine Reclamation Fund, under title IV of the Surface Mining Control and Reclamation Act of 1977, for the period from fiscal year 1977 through fiscal year 1988. This accounting and reconciliation shall determine, by State, the source of all contributions to the fund and shall denote all fund disbursements by purpose and fiscal year including letter of credit grants to States.

30 USC 1211 note.

Funds authorized as grants to States shall be reconciled according to—

(1) the Surface Mining Control and Reclamation Act of 1977, including the 50 percent State share; and

(2) the formula for allocation of the discretionary share as expressed by the Office of Surface Mining Reclamation and Enforcement during each relevant fiscal year under review.

The findings of the Secretary shall be transmitted to the Committees on Appropriations by May 1, 1989. Such information shall not be used to amend or revise State allocations during fiscal year 1989.

BUREAU OF INDIAN AFFAIRS

OPERATION OF INDIAN PROGRAMS

For operation of Indian programs by direct expenditure, contracts, cooperative agreements, and grants including expenses necessary to provide education and welfare services for Indians, either directly or in cooperation with States and other organizations, including payment of care, tuition, assistance, and other expenses of Indians in boarding homes, institutions, or schools; grants and other assistance to needy Indians; maintenance of law and order; management, development, improvement, and protection of resources and appurtenant facilities under the jurisdiction of the Bureau of Indian Affairs, including payment of irrigation assessments and charges; acquisition of water rights; advances for Indian industrial and business enterprises; operation of Indian arts and crafts shops and museums; development of Indian arts and crafts, as authorized by law; for the general administration of the Bureau of Indian Affairs, including such expenses in field offices, $992,767,000, of which not to

exceed $71,604,000 for higher education scholarships, adult vocational training, and assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall remain available for obligation until September 30, 1990, and of which $25,000,000 for firefighting and repayment to other appropriations from which funds were transferred under the authority of section 102 of the Department of the Interior and Related Agencies Appropriations Act, 1988, shall remain available until expended, and the funds made available to tribes and tribal organizations through contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450 et seq.) shall remain available until September 30, 1990: *Provided,* That this carryover authority does not extend to programs directly operated by the Bureau of Indian Affairs unless the tribe(s) and the Bureau of Indian Affairs enter into a cooperative agreement for consolidated services; and for expenses necessary to carry out the provisions of section 19(a) of Public Law 93-531 (25 U.S.C. 640d-18(a)), $1,997,000, to remain available until expended: *Provided further,* That none of the funds appropriated to the Bureau of Indian Affairs shall be expended as matching funds for programs funded under section 103(b)(2) of the Carl D. Perkins Vocational Education Act: *Provided further,* That $250,000 of the funds made available in this Act shall be available for cyclical maintenance of tribally owned fish hatcheries and related facilities: *Provided further,* That no part of any appropriations to the Bureau of Indian Affairs shall be available to provide general assistance payments for Alaska Natives in the State of Alaska unless and until otherwise specifically provided for by Congress: *Provided further,* That the Secretary shall take no action to close the school or dispose of the property of the Phoenix Indian School until the Congress has specifically approved the school closure or provided for disposition of the property in legislation: *Provided further,* That none of the funds in this Act shall be used by the Bureau of Indian Affairs to transfer funds under a contract with any third party for the management of tribal or individual Indian trust funds until the funds held in trust for such tribe or individual have been audited and reconciled, and the tribe or individual has been provided with an accounting of such funds, and the appropriate committees of the Congress and the tribes have been consulted with as to the terms of the proposed contract or agreement: *Provided further,* That none of the funds in this Act shall be used to implement any regulations, or amendments to or revisions of regulations, relating to the Bureau of Indian Affairs' higher education grant program that were not in effect on March 1, 1987: *Provided further,* That $230,000 of the amounts provided for education program management shall be available for a grant to the Close Up Foundation: *Provided further,* That if the actual amounts required in this account for costs of the Federal Employee Retirement System in fiscal year 1989 are less than amounts estimated in budget documents, such excess funds may be transferred to "Construction" and "Miscellaneous Payments to Indians" to cover the costs of the retirement system in those accounts: *Provided further,* That notwithstanding any other provision of law, concurrent with the opening of the Western Cheyenne River Consolidated School the following schools shall be permanently closed: Bridger Day School (Howes, SD); Cherry Creek Day School (Cherry Creek, SD); and the Red Scaffold School (Faith, SD): *Provided further,* That subsection (b) of section 5 of the Cow Creek Band of Umpqua Tribe of Indians

Recognition Act (25 U.S.C. 712c) is amended by striking out "Indian individuals" and inserting in lieu thereof "Cow Creek descendants or other Indian individuals": *Provided further,* That notwithstanding any other provision of law, the amounts available for assistance to public schools under the Act of April 16, 1934 (48 Stat. 596), as amended (25 U.S.C. 452 et seq.), shall be distributed on the basis of the formula recommended by the Assistant Secretary of Indian Affairs in a letter to the Committees on Appropriations dated June 27, 1988, except that for the fiscal year ending September 30, 1989, the minimum weight factor shall be 1.1 rather than 1.3 and for the fiscal year ending September 30, 1990, the minimum weight factor shall be 1.2 rather than 1.3: *Provided further,* That for the purpose of enabling Indian reservation residents in Arizona who are eligible for General Assistance and who have dependent children to participate and succeed in Job Corps training, the Bureau shall pay general assistance support for the dependent children at the full State AFDC A-2 grant level: *Provided further,* That notwithstanding any other provision of law, any portion of the funds appropriated under the authority of Public Law 93-530 not yet obligated, but not to exceed $700,000, shall be transferred by the Secretary of the Interior to the governing body of the San Carlos Apache Tribe (hereafter referred to as the "Tribe") by no later than the date that is sixty days after the date of enactment of this Act. Amounts transferred to the Tribe under this proviso shall be used for economic development purposes in accordance with the plan which was adopted by the governing body of the Tribe on April 12, 1988, and any amendment thereto which has been approved by the Secretary of the Interior. The Tribe may expend the amounts transferred under this proviso for the purposes authorized without the prior approval of the Secretary of the Interior. None of the funds transferred to the Tribe may be used to make per capita payments to the members of the Tribe: *Provided further,* That notwithstanding any other provision of law, the funds transferred by this Act to the San Carlos Apache Tribe may be treated as non-Federal, private funds of the Tribe for purposes of any provision of Federal law which requires that non-Federal or private funds be used in a project or for a specific purpose: *Provided further,* That the Federal Government shall have no further obligation to appropriate funds for the purposes indentified in Public Law 93-530.

25 USC 452 note.

CONSTRUCTION

For construction, major repair, and improvement of irrigation and power systems, buildings, utilities, and other facilities, including architectural and engineering services by contract; acquisition of lands and interests in lands; preparation of lands for farming; and construction, repair, and improvement of Indian housing, $79,283,000, to remain available until expended: *Provided,* That $1,449,000 of the funds appropriated for use by the Secretary to construct homes and related facilities for the Navajo and Hopi Indian Relocation Commission in lieu of construction by the Commission under section 15(d)(3) of the Act of December 22, 1974 (88 Stat. 1719; 25 U.S.C. 640d-14(d)(3)), may be used for counseling, archeological clearances, and administration related to the relocation of Navajo families: *Provided further,* That $1,100,000 of the funds made available in this Act shall be available for rehabilitation of tribally owned fish hatcheries and related facilities: *Provided*

further, That such amounts as may be available for the construction of the Navajo Indian Irrigation Project may be transferred to the Bureau of Reclamation.

ROAD CONSTRUCTION

Not to exceed 5 per centum of contract authority available to the Bureau of Indian Affairs from the Federal Highway Trust Fund may be used to cover roads program management costs and construction supervision costs of the Bureau of Indian Affairs.

MISCELLANEOUS PAYMENTS TO INDIANS

For miscellaneous payments to Indian tribes and individuals pursuant to Public Laws 98-500, 99-264, and 99-503, including funds for necessary administrative expenses, $13,952,000, to remain available until expended, of which not to exceed $11,300,000 is made available to the Tohono O'Odham Nation for purposes authorized in the Gila Bend Indian Reservation Lands Replacement Act, Public Law 99-503.

REVOLVING FUND FOR LOANS

During fiscal year 1989, and within the resources and authority available, gross obligations for the principal amount of direct loans pursuant to the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), shall not exceed resources and authority available.

INDIAN LOAN GUARANTY AND INSURANCE FUND

For payment of interest subsidies on new and outstanding guaranteed loans and for necessary expenses of management and technical assistance in carrying out the provisions of the Indian Financing Act of 1974, as amended (88 Stat. 77; 25 U.S.C. 1451 et seq.), $3,370,000, to remain available until expended: *Provided*, That during fiscal year 1989, total commitments to guarantee loans pursuant to the Indian Financing Act of 1974, as amended, may be made only to the extent that the total loan principal, any part of which is to be guaranteed, shall not exceed resources and authority available.

ADMINISTRATIVE PROVISIONS

Appropriations for the Bureau of Indian Affairs (except the revolving fund for loans and the Indian loan guarantee and insurance fund) shall be available for expenses of exhibits, and purchase of not to exceed 150 passenger carrying motor vehicles, of which not to exceed 115 shall be for replacement only.

TERRITORIAL AND INTERNATIONAL AFFAIRS

ADMINISTRATION OF TERRITORIES

For expenses necessary for the administration of territories under the jurisdiction of the Department of the Interior, $92,767,000, of which (1) $89,741,000 shall be available until expended for technical assistance; late charges and payments of the annual interest rate differential required by the Federal Financing Bank, under terms of the second refinancing of an existing loan to the Guam Power Authority, as authorized by law (Public Law 98-454; 98 Stat. 1732);

grants to the judiciary in American Samoa for compensation and expenses, as authorized by law (48 U.S.C. 1661(c)); grants to the Government of American Samoa, in addition to current local revenues, for support of governmental functions; construction grants to the Government of the Virgin Islands as authorized by Public Law 97-357 (96 Stat. 1709); construction grants to the Government of Guam, as authorized by law (Public Law 98-454; 98 Stat. 1732); grants to the Government of the Northern Mariana Islands as authorized by law (Public Law 94-241; 90 Stat. 272); and (2) $3,026,000 for salaries and expenses of the Office of Territorial and International Affairs: *Provided,* That the territorial and local governments herein provided for are authorized to make purchases through the General Services Administration: *Provided further,* That all financial transactions of the territorial and local governments herein provided for, including such transactions of all agencies or instrumentalities established or utilized by such governments, shall be audited by the General Accounting Office, in accordance with chapter 35 of title 31, United States Code: *Provided further,* That Northern Mariana Islands Covenant grant funding shall be provided according to those terms of the Agreement of the Special Representatives on Future United States Financial Assistance for the Northern Mariana Islands approved by Public Law 99-396, except that should the Secretary of the Interior believe that the performance standards of such agreement are not being met, operations funds may be withheld, but only by Act of Congress as required by Public Law 99-396: *Provided further,* That $710,000 of the amounts provided for technical assistance shall be available for a grant to the Close Up Foundation.

48 USC 1401f, 1423*l*, 1665.

48 USC 1469b.

TRUST TERRITORY OF THE PACIFIC ISLANDS

For expenses necessary for the Department of the Interior in administration of the Trust Territory of the Pacific Islands pursuant to the Trusteeship Agreement approved by joint resolution of July 18, 1947 (61 Stat. 397), and the Act of June 30, 1954 (68 Stat. 330), as amended (90 Stat. 299; 91 Stat. 1159; 92 Stat. 495); grants to the Trust Territory of the Pacific Islands, in addition to local revenues, for support of governmental functions; $28,434,000 including $10,304,000 for payment of claims pursuant to the Micronesian Claims Act of 1971, to remain available until expended: *Provided,* That all financial transactions of the Trust Territory, including such transactions of all agencies or instrumentalities established or utilized by such Trust Territory, shall be audited by the General Accounting Office in accordance with chapter 35 of title 31, United States Code: *Provided further,* That the government of the Trust Territory of the Pacific Islands is authorized to make purchases through the General Services Administration: *Provided further,* That all Government operations funds appropriated and obligated for the Republic of Palau under this account for fiscal year 1989, shall be credited as an offset against fiscal year 1989 payments made pursuant to the legislation approving the Palau Compact of Free Association (Public Law 99-658), if such Compact is implemented before October 1, 1989: *Provided further,* That any unobligated balances for Palau government operations which remain available on the date of Compact implementation shall be used by the Department of the Interior to reduce the accumulated deficit of the Trust Territory Government.

48 USC 1683.

48 USC 1682.

COMPACT OF FREE ASSOCIATION

For economic assistance and necessary expenses for the Federated States of Micronesia and the Republic of the Marshall Islands as provided for in sections 122, 221, 223, 232, and 233 of the Compact of Free Association, $32,360,000, including $2,500,000 for the Enjebi Community Trust Fund, to remain available until expended, as authorized by Public Law 99-239: *Provided,* That notwithstanding the provisions of Public Laws 99-500 and 99-591, the effective date of the Palau Compact for purposes of economic assistance pursuant to the Palau Compact of Free Association, Public Law 99-658, shall be the effective date of the Palau Compact as determined pursuant to section 101(d) of Public Law 99-658: *Provided further,* That in full satisfaction of the obligation of the United States to provide funds to assist in the resettlement and rehabilitation of Bikini Atoll by the People of Bikini, to which the full faith and credit of the United States is pledged pursuant to section 103(l) of Public Law 99-239, the United States shall deposit $90,000,000 into the Resettlement Trust Fund for the People of Bikini established pursuant to Public Law 97-257, and governed pursuant to the terms of such trust instrument, such deposit to be installments of $5,000,000 on October 1, 1988; $22,000,000 on October 1, 1989; $21,000,000 on October 1, 1990; $21,000,000 on October 1, 1991; and $21,000,000 on October 1, 1992: *Provided further,* That the terms of such Resettlement Trust Fund are hereby modified to provide that corpus and income may be expended for rehabilitation and resettlement of Bikini Atoll, except that the Secretary may approve expenditures not to exceed $2,000,000 in any year from income for projects on Kili or Ejit: *Provided further,* That one year prior to completion of the rehabilitation and resettlement program, the Secretary of the Interior shall report to Congress on future funding needs on Bikini Atoll. Unless otherwise determined by Congress, following completion of the rehabilitation and resettlement program, funds remaining in the Resettlement Trust Fund in excess of the amount identified by the Secretary as required for future funding needs shall be deposited in the United States Treasury as miscellaneous receipts. Upon completion of those needs, the Resettlement Trust Fund shall be extinguished and all remaining funds shall be deposited in the United States Treasury as miscellaneous receipts. The payment and use of funds in accordance herewith is for the sole purpose of implementing and fulfilling the terms of the Section 177 Agreement referred to in section 462(d) of the Compact of Free Association between the United States and the Republic of the Marshall Islands, including Article VI, section 1, and Articles X and XII, thereof. Payments pursuant hereto shall be made only upon: One, voluntary dismissal with prejudice of Juda et al. v. the United States, No. 88-1206 (Fed. Cir.); and two, submission of written notice to the United States and the Republic of the Marshall Islands, executed by duly-authorized representatives acting on their behalf, that the People of Bikini accept the obligations and undertaking of the United States to make the payments prescribed by this Act, together with the other payments, rights, entitlements and benefits provided for under the Section 177 Agreement, as full satisfaction of all claims of the People of Bikini related in any way to the United States nuclear testing program in accordance with the terms of the Section 177 Agreement.

Effective date.

Reports.

DEPARTMENTAL OFFICES

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of the Interior, $49,067,000, of which not to exceed $10,000 may be for official reception and representation expenses: *Provided,* That the National Park Service shall reissue a Notice of Proposed Rulemaking on the mandatory use of seatbelts while traveling on National Park Service roads within 30 days after the date of enactment of this Act.

OFFICE OF THE SOLICITOR

SALARIES AND EXPENSES

For necessary expenses of the Office of the Solicitor, $24,686,000.

OFFICE OF INSPECTOR GENERAL

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General, $18,749,000.

CONSTRUCTION MANAGEMENT

For necessary expenses of the Office of Construction Management, $1,800,000.

ADMINISTRATIVE PROVISIONS

There is hereby authorized for acquisition from available resources within the Working Capital Fund, 11 aircraft, 7 of which shall be for replacement and which may be obtained by donation, purchase or through available excess surplus property: *Provided,* That no programs funded with appropriated funds in the "Office of the Secretary", "Office of the Solicitor", and "Office of Inspector General" may be augmented through the Working Capital Fund or the Consolidated Working Fund. Gifts and property.

GENERAL PROVISIONS, DEPARTMENT OF THE INTERIOR Public buildings and grounds.

SEC. 101. Appropriations made in this title shall be available for expenditure or transfer (within each bureau or office), with the approval of the Secretary, for the emergency reconstruction, replacement, or repair of aircraft, buildings, utilities, or other facilities or equipment damaged or destroyed by fire, flood, storm, or other unavoidable causes: *Provided,* That no funds shall be made available under this authority until funds specifically made available to the Department of the Interior for emergencies shall have been exhausted: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 102. The Secretary may authorize the expenditure or transfer of any no year appropriation in this title, in addition to the amounts included in the budget programs of the several agencies, for the suppression or emergency prevention of forest or range fires on or threatening lands under the jurisdiction of the Department of the

Interior; for the emergency rehabilitation of burned-over lands under its jurisdiction; for emergency actions related to potential or actual earthquakes, floods or volcanoes; for the prevention, suppression, and control of actual or potential grasshopper and Mormon Cricket outbreaks on lands under the jurisdiction of the Secretary, pursuant to the authority in section 1773(b) of Public Law 99-198 (99 Stat. 1658); for emergency reclamation projects under section 410 of Public Law 95-87; and shall transfer, from any no year funds available to the Office of Surface Mining Reclamation and Enforcement, such funds as may be necessary to permit assumption of regulatory authority in the event a primacy State is not carrying out the regulatory provisions of the Surface Mining Act: *Provided,* That appropriations made in this title for fire suppression purposes shall be available for the payment of obligations incurred during the preceding fiscal year, and for reimbursement to other Federal agencies for destruction of vehicles, aircraft, or other equipment in connection with their use for fire suppression purposes, such reimbursement to be credited to appropriations currently available at the time of receipt thereof: *Provided further,* That all funds used pursuant to this section must be replenished by a supplemental appropriation which must be requested as promptly as possible.

SEC. 103. Appropriations made in this title shall be available for operation of warehouses, garages, shops, and similar facilities, wherever consolidation of activities will contribute to efficiency or economy, and said appropriations shall be reimbursed for services rendered to any other activity in the same manner as authorized by sections 1535 and 1536 of title 31, U.S.C.: *Provided,* That reimbursements for costs and supplies, materials, equipment, and for services rendered may be credited to the appropriation current at the time such reimbursements are received.

SEC. 104. Appropriations made to the Department of the Interior in this title shall be available for services as authorized by 5 U.S.C. 3109, when authorized by the Secretary, in total amount not to exceed $500,000; hire, maintenance, and operation of aircraft; hire of passenger motor vehicles; purchase of reprints; payment for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; and the payment of dues, when authorized by the Secretary, for library membership in societies or associations which issue publications to members only or at a price to members lower than to subscribers who are not members: *Provided,* That no funds available to the Department of the Interior are available for any expenses of the Great Hall of Commerce.

SEC. 105. Appropriations available to the Department of the Interior for salaries and expenses shall be available for uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901-5902 and D.C. Code 4-204).

SEC. 106. Appropriations made in this title shall be available for obligation in connection with contracts issued by the General Services Administration for services or rentals for periods not in excess of twelve months beginning at any time during the fiscal year.

SEC. 107. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance changing the name of the mountain located 63 degrees, 04 minutes, 15 seconds west, presently named and referred to as Mount McKinley: *Provided,* That no funds made available by this or any other Act shall be expended to exchange lands located within the

boundaries of the Lake Mead National Recreation Area in Nevada in township 32 south, range 22 west, Mount Diablo Meridian.

SEC. 108. Notwithstanding any other provisions of law, appropriations in this title shall be available to provide insurance on official motor vehicles, aircraft, and boats operated by the Department of the Interior in Canada and Mexico.

SEC. 109. No funds provided in this title may be used to detail any employee to an organization unless such detail is in accordance with Office of Personnel Management regulations.

SEC. 110. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity, on lands within the Eastern Gulf of Mexico planning area of the Department of the Interior which lie south of 26 degrees North latitude and east of 86 degrees West longitude.

SEC. 111. No funds provided in this title may be expended by the Department of the Interior for the conduct of leasing, or the approval or permitting of any drilling or other exploration activity within the area identified by the Department of the Interior in the Draft Environmental Impact Statement (MMS 87-0032) for Lease Sale 91 in the Northern California planning area issued December, 1987.

SEC. 112. No funds provided in this title may be expended by the Department of the Interior for the preparation for, or conduct of, preleasing and leasing activities (including but not limited to: calls for information, tract selection, notices of sale, receipt of bids and award of leases) of lands described in, and under the same terms and conditions set forth in section 107 of the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190; or of lands within the 400 meter isobath surrounding Georges Bank, identified by the Department of the Interior as consisting of the following blocks: in protraction diagram NJ 19-2, blocks numbered 12-16, 54-55 and 57-58; in protraction diagram NK 19-5, blocks numbered 744, 788, 831-832, and 1005-1008; in protraction diagram NK 19-6, blocks numbered 489-491, 532-537, 574-576, 578-581, 618-627, 661-662, 664-671, 705-716, 749-761, 793-805, and 969-971; in protraction diagram NK 19-8, blocks numbered 37-40, 80-84, 124-127, and 168-169; in protraction diagram NK 19-9, blocks numbered 13-18, 58-63, 102-105, 107-108, 146-149, 151-152, 191-193, 195-197, 235-237, 240-242, 280-282, 284-286, 324-331, 368-376, 412-420, 456-465, 500-510, 543-554, 587-594, 596-599, 631-637, 640-644, 675-688, 718-733, 762-778, 805-821, 846-865, 887-891, 894-908, 930-950, and 972-994; in protraction diagram NK 19-10, blocks numbered 474-478, 516-524, 560-568, 604-612, 647-660, 692-704, 737-748, 787-792, 830-836, 873-880, 967-968, and 1011-1012; in protraction diagram NK 19-11, blocks numbered 621-632, 665-676, 700, 709-720, 744, 753-764, 785, 797-808, 825-827, 841-852, 856-860, 869, 890-905, 907-909, 929-931, 941-945, 947-949, 973-975, and 985-989; and in protraction diagram NK 19-12, blocks numbered 452-456, 495-499, 536-537, 539-541, 575-577, 579-582, 617-621, 623-624, 661-662, 664-665, and 705-706.

SEC. 113. Notwithstanding any other provision of this Act, nothing in this Act shall be construed to prohibit the approval of permits for the acquisition of geologic and geophysical data in Outer Continental Shelf areas, except that exploratory drilling shall not be permitted by this provision in lands within the Eastern Gulf of Mexico Planning Area which lie south of 26 degrees North latitude and east

of 86 degrees West longitude and for areas identified as the Northern California Planning Area and the Georges Bank-North Atlantic Planning Area out to 400 meters.

Nevada.
Housing.
Aged persons.
Minerals and mining.

SEC. 114. Notwithstanding any other provision of law, and subject to valid existing rights, the Secretary of the Interior shall transfer to the Housing Authority, Clark County, Nevada, without consideration, all rights, title, and interest of the United States, in and to the land described as township 21 south, range 60 east, Mount Diablo Meridian, section 24, north half southwest quarter, Clark County Nevada, for use only as a mobile home park for low income senior citizens, reserving to the United States all minerals under applicable law and such regulations as the Secretary of the Interior may prescribe, and as required by the Act of August 30, 1890 (43 U.S.C. 945), a right-of-way thereon for ditches or canals constructed by the authority of the United States: *Provided,* That if such land ceases to be used as a mobile home park for low income senior citizens, all rights, title, and interest in and to such land shall revert to the United States.

48 USC 1681 note.
Grants.
Marshall Islands.
Contracts.

SEC. 115. Section 103(h)(2) of the Compact of Free Association Act of 1985 (99 Stat. 1783, 48 U.S.C. 1681) is amended as follows: after the word "firm" insert "or by a grant to the Government of the Republic of the Marshall Islands which may further contract only with a United States firm or a Republic of the Marshall Islands firm, the owners, officers and majority of the employees of which are citizens of the United States or the Republic of the Marshall Islands"; and, after the word "Bikini" insert ", Rongelap, Utrik,".

Loans.
Guam.
Water.
Utilities.

SEC. 116. The Secretary of the Interior is authorized to guarantee a loan by the Federal Financing Bank to the Government of Guam, in amounts not to exceed $53,000,000, for water system improvements on Guam: *Provided,* That the conditions on such loan shall include but not be limited to the following: the Government of Guam shall place water rate-making authority in an independent public utility commission; a source of revenue for payment of the loan shall be identified, with such revenues placed in an escrow account in sufficient amounts to insure timely payment; and, should the Government of Guam default on the loan, the Secretary of the Interior shall deduct such sums as are in arrears from sums normally paid to the Government of Guam under section 1(c) of Public Law 95-348.

Louisiana.
Contracts.
Water.

SEC. 117. Within currently available funds, the Secretary of the Interior is directed immediately to appoint and compensate an independent third party factfinder mutually agreed upon by the Secretary and the Governor of Louisiana, to make all appropriate factual findings relating to past drainage on State and Federal leases occurring along the boundary of the State of Louisiana and Federal waters. Such factual findings shall include—

(a) whether drainage of either United States or State hydrocarbons has occurred during the time period starting April 7, 1986 and ending on the date the factfinding proceeding is completed;

(b) the areas or reservoirs from which the drainage occurred;

(c) the quantity of recoverable hydrocarbons, determined on a volumetric basis, originally in place within such areas or reservoirs prior to any production therefrom;

(d) the respective percentages of such recoverable hydrocarbons within the Federal and State portions of such areas or reservoirs;

(e) the total accumulated volume of any net drainage from each area or reservoir, including the value thereof (together with a description of the method for determining such value) and all production costs incurred during that period;

(f) the net dollar impact to the United States, United States lessees, the State of Louisiana, and the State lessees that has resulted from any such drainage from each area or reservoir;

(g) the proper allocation of production from each field from all time periods starting April 7, 1986; and

(h) the proper prospective allocation of production from the fields involved.

Within 180 days of the date of enactment of this Act, the third party factfinder shall submit a written report containing the factual findings to the Secretary, the Governor of Louisiana, and the Congressional Committees of jurisdiction. The Secretary shall then prepare a plan 60 days after receipt of the written report regarding options for the potential redistribution of royalty receipts, if warranted by the findings of this written report. Reports.

TITLE II—RELATED AGENCIES

DEPARTMENT OF AGRICULTURE

FOREST SERVICE

FOREST RESEARCH

For necessary expenses of forest research as authorized by law, $137,867,000, to remain available until September 30, 1990.

The Secretary is directed to convey by quitclaim deed, without a requirement for reimbursement, all right, title, and interest of the United States in and to all improvements (1) situated on leased land as recorded in Docket 5191, pages 258-260, Maricopa Country, Arizona, and (2) situated on leased land as recorded in Docket 4388, pages 452-455 and Docket 4673, pages 147-148, Maricopa County, Arizona. Arizona. Contracts.

The Secretary is further directed, concurrently with conveyances under this section, to relinquish, without a requirement for reimbursement, that certain lease dated October 13, 1962, as amended on May 15, 1963, and that certain related Memorandum of Understanding of like date therewith (collectively referred to herein as the "lease agreement"), which instruments cover and pertain to the real property located on the campus of Arizona State University in Tempe, Arizona: *Provided,* That the United States is hereby released from any and all liability arising from the future use of the facilities or lands affected by this Act: *Provided further,* That the Forest Service shall continue to occupy the facilities described herein, at no increased expense, until such time as replacement space which is determined to be comparable by the Forest Service is available: *Provided further,* That the Forest Service may not move from the facilities described herein unless the move is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

STATE AND PRIVATE FORESTRY

For necessary expenses of cooperating with, and providing technical and financial assistance to States, Territories, possessions, and others; and for forest pest management activities, $86,668,000, to remain available until expended, as authorized by law: *Provided,* That a grant of $2,800,000 shall be made to the State of Minnesota for the purposes authorized by section 6 of Public Law 95–495: *Provided further,* That notwithstanding any other provision of law, a grant of $3,600,000 shall be provided to the Washington State Parks and Recreation Commission for construction of the Spokane River Centennial Trail, and a grant of $1,350,000 shall be provided to the County of Kootenai, Idaho, for construction of the Idaho Centennial Trail.

NATIONAL FOREST SYSTEM

For necessary expenses of the Forest Service, not otherwise provided for, for management, protection, improvement, and utilization of the National Forest System, and for reimbursement to other appropriation accounts from which funds were transferred in the preceding fiscal years for forest firefighting and emergency rehabilitation of National Forest System lands, and for administrative expenses associated with the management of funds provided under the heads "Forest Research", "State and Private Forestry", "National Forest System", "Construction", and "Land Acquisition", $1,329,488,000 to remain available for obligation until September 30, 1990, and including 65 per centum of all monies received during the prior fiscal year as fees collected under the Land and Water Conservation Fund Act of 1965, as amended, in accordance with section 4 of the Act (16 U.S.C. 460l–6a): *Provided,* That appropriations in this account remaining unobligated at the end of the fiscal year 1988, both annual and two-year funds, and which would otherwise be returned to the general fund of the Treasury, shall be merged with and made a part of the fiscal year 1989 National Forest System appropriation, and shall remain available for obligation until September 30, 1990: *Provided further,* That funds available for forest firefighting and emergency rehabilitation of National Forest System lands are available for liquidation of obligations made in preceding fiscal years.

CONSTRUCTION

For necessary expenses of the Forest Service, not otherwise provided for, for construction, $225,518,000, to remain available until expended, of which $33,914,000 is for construction and acquisition of buildings and other facilities; and $191,604,000 is for construction of forest roads and trails by the Forest Service as authorized by 16 U.S.C. 532–538 and 23 U.S.C. 101 and 205: *Provided,* That funds becoming available in fiscal year 1989 under the Act of March 4, 1913 (16 U.S.C. 501), shall be transferred to the General Fund of the Treasury of the United States: *Provided further,* That not to exceed $75,000,000, to remain available until expended, may be obligated for the construction of forest roads by timber purchasers: *Provided further,* That notwithstanding any other provision of this Act or any other provision of law, there is authorized and appropriated out of the Highway Trust Fund (other than the Mass Transit Account), $5,333,000 of contract authority to be transferred to the Forest Service for road construction to Forest Development Road Standards

to serve the Mount St. Helens National Volcanic Monument, Washington: *Provided further,* That the funds authorized by this section shall be available for obligation in the same manner and to the same extent as if such funds were apportioned under chapter 1 of title 23, United States Code, except the Federal share of the cost of this project shall be 100 per centum, and such funds shall remain available until expended: *Provided further,* That $5,333,000 to be derived from the Highway Trust Fund (other than the Mass Transit Account) as authorized and appropriated above is hereby made available to liquidate the obligations incurred against the contract authority as provided for in this Act.

LAND ACQUISITION

For expenses necessary to carry out the provisions of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 460l-4-11), including administrative expenses, and for acquisition of land or waters, or interest therein, in accordance with statutory authority applicable to the Forest Service, $63,805,000 to be derived from the Land and Water Conservation Fund, to remain available until expended and $400,000 for acquisition of land and interests therein and near the White Salmon National Recreational River, Klickitat County, Washington, described as Government lot 2, southwest quarter of the northwest quarter, section 18, township 4 north range 11 east, Willamette Meridian, pursuant to the Department of Agriculture Organic Act of 1956 (7 U.S.C. 428(a)), to remain available until expended.

Notwithstanding any other provision of law or order based thereon, if requested by the Secretary of Agriculture, the Secretary of the Interior is authorized and directed to take such actions (including but not limited to the revocation of the Shay Creek withdrawal (Mount Diablo Meridian: township 10 north, range 19 east, section 24, southeast quarter northeast quarter, east half southeast quarter, and southwest quarter southeast quarter) under Public Land Order 2301 and the issuance of patents) as may be necessary to consummate the exchange within the Toiyabe National Forest in California of the Shay Creek parcel for private holdings of equal value.

New Hampshire Forest Management Initiatives Act of 1988. Environmental protection. Gifts and property.

The following may be cited as the "New Hampshire Forest Management Initiatives Act of 1988".

SEC. 1. (a) For the protection and management of the timber resources and the scenic, natural, recreation and other resource values associated with certain forest lands in the State of New Hampshire, and in cooperation with State and private entities as provided herein, the Secretary of Agriculture (hereafter "Secretary") is authorized and directed to acquire by purchase, donation or otherwise, lands and interests therein now or formerly owned by Diamond International Corporation in the State of New Hampshire (hereafter "Diamond lands").

(b) The Diamond lands are generally depicted on maps dated July 1988 and entitled, "New Hampshire Forest Initiatives", which maps are on file with Chief, Forest Service, Washington, D.C. The Secretary may correct technical and clerical errors on any map.

(c) Acquisitions made pursuant to this Act shall be commensurate with appropriated and donated funds and shall be completed by the Secretary notwithstanding any other provision or requirement of law or condition precedent. The Secretary may exclude from acquisi-

tion such rights-of-way, easements and other outstanding rights deemed unacceptable to the Secretary, and may also exclude from acquisition any small or isolated parcels which the Secretary deems are not manageable for Federal purposes. It is the intent of Congress that these acquisitions be completed prior to October 15, 1988.

SEC. 2. (a) To the extend deemed practical by the Secretary in furtherance of this Act, the Secretary shall cooperate and assist ongoing and future initiatives by State and private organizations (hereafter "cooperating entity(ies)" to acquire the Diamond lands. Cooperating entities include, but are not limited to, the Society for the Protection of New Hampshire Forests, The Nature Conservancy, and the State of New Hampshire or instrumentality thereof.

Classified information.

(b) Any information provided the Secretary by any cooperating entity relating to the study and acquisition of lands shall be exempt from disclosure under the Freedom of Information Act (5 U.S.C. 552).

SEC. 3. Subject to the availability of donated and appropriated funds, if by October 1, 1988, the Secretary or a cooperating entity has not acquired title or a land purchase option or contract to purchase the lands referenced in section 1, less any exclusions, the Secretary is directed to condemn such lands, or portions thereof, commensurate with available funds. Condemnation shall be as soon as possible after October 1, 1988, by a declaration of taking filed in accordance with the Act of February 26, 1931 (40 U.S.C. 258a, as amended). Nothing herein shall preclude filing of a condemnation action at any time if the Secretary deems further negotiations for the acquisition of the Diamond lands to be futile or if the condemnation is for the purpose of clearing title. No Congressional oversight or approval shall be required for the filing of a declaration of taking or any other aspect of the land acquisitions herein authorized, it being the intent of the Congress that the Diamond lands be acquired as soon as practicable.

SEC. 4. All lands acquired by the Secretary under authority of or pursuant to this Act shall be administered under the Weeks Act of March 1, 1911 (36 Stat. 961, as amended). For lands acquired by the United States located outside of and not contiguous to national forest boundaries existing as of the date of this Act, the primary management emphasis shall be the sustained yield of forest products consistent with the traditional uses, including public access, and conservation of other resource values. Within two years from the date lands are acquired pursuant to this Act, the Secretary shall report to Congress with recommendations for the permanent administration and disposition of such federally-owned lands.

Conservation.

Reports.

Contracts.
State and local governments.

SEC. 5. In furtherance of the public purposes associated with the present and future protection and management of the timber, scenic, natural, recreation and other resources of forest lands in New Hampshire, and for other similar purposes as may be authorized by Congress, the Secretary may enter into written cooperative agreements with States and their political subdivisions, and private organizations, for the study, acquisition, management and administration of forest lands. Such agreements may include provisions for limited financial assistance for such purposes.

SEC. 6. Of the amount provided herein, $5,250,000 shall be available from the Land and Water Conservation Fund, to remain available until expended, for the acquisition of lands and interests therein, and associated administrative costs.

TONGASS TIMBER SUPPLY FUND

For necessary expenses for the Tongass National Forest pursuant to section 705(a) of the Alaska National Interest Lands Conservation Act of 1980 (16 U.S.C. 539d(a)), as amended, $35,999,000, to remain available until expended.

TIMBER ROADS, PURCHASER ELECTION, FOREST SERVICE

(RESCISSION)

Of the funds currently available and unobligated in this account, $40,000,000 is hereby rescinded.

ACQUISITION OF LANDS FOR NATIONAL FORESTS

SPECIAL ACTS

For acquisition of lands within the exterior boundaries of the Cache, Uinta, and Wasatch National Forests, Utah; the Toiyabe National Forest, Nevada; and the Angeles, San Bernardino, and Cleveland National Forests, California, as authorized by law, $966,000, to be derived from forest receipts.

ACQUISITION OF LANDS TO COMPLETE LAND EXCHANGES

For acquisition of lands, to be derived from funds deposited by State, county, or municipal governments, public school districts, or other public school authorities pursuant to the Act of December 4, 1967, as amended (16 U.S.C. 484a), to remain available until expended.

RANGE BETTERMENT FUND

For necessary expenses of range rehabilitation, protection, and improvement, 50 per centum of all moneys received during the prior fiscal year, as fees for grazing domestic livestock on lands in National Forests in the sixteen Western States, pursuant to section 401(b)(1) of Public Law 94-579, as amended, to remain available until expended, of which not to exceed 6 percent shall be available for administrative expenses associated with on-the-ground range rehabilitation, protection, and improvements.

MISCELLANEOUS TRUST FUNDS

For expenses authorized by 16 U.S.C. 1643(b), $90,000 to remain available until expended, to be derived from the fund established pursuant to the above Act.

ADMINISTRATIVE PROVISIONS, FOREST SERVICE

Appropriations to the Forest Service for the current fiscal year shall be available for: (a) purchase of not to exceed 200 passenger motor vehicles of which ten will be used primarily for law enforcement purposes and of which 190 shall be for replacement only, of which acquisition of 165 passenger motor vehicles shall be from excess sources, and hire of such vehicles; operation and maintenance of aircraft, the purchase of not to exceed two for replacement only, and acquisition of 59 aircraft from excess sources; notwithstanding other provisions of law, existing aircraft being replaced may be sold,

with proceeds derived or trade-in value used to offset the purchase price for the replacement aircraft; (b) services pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; (c) uniform allowances for each uniformed employee of the Forest Service, not in excess of $400 annually; (d) purchase, erection, and alteration of buildings and other public improvements (7 U.S.C. 2250); (e) acquisition of land, waters, and interests therein, pursuant to the Act of August 3, 1956 (7 U.S.C. 428a); (f) for expenses pursuant to the Volunteers in the National Forest Act of 1972 (16 U.S.C. 558a, 558d, 558a note); and (g) for debt collection contracts in accordance with 31 U.S.C. 3718(c).

None of the funds made available under this Act shall be obligated or expended to change the boundaries of any region, to abolish any region, to move or close any regional office for research, State and private forestry, or National Forest System administration of the Forest Service, Department of Agriculture, without the consent of the House and Senate Committees on Appropriations and the Committee on Agriculture, Nutrition, and Forestry in the United States Senate and the Committee on Agriculture in the United States House of Representatives.

Any appropriations or funds available to the Forest Service may be transferred to the National Forest System appropriation for forest firefighting and the emergency rehabilitation of burned-over lands under its jurisdiction.

The appropriation structure for the Forest Service may not be altered without advance approval of the House and Senate Committees on Appropriations.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to reimburse employees for the cost of State licenses and certification fees pursuant to their Forest Service position and that are necessary to comply with State laws, regulations, and requirements.

Funds appropriated to the Forest Service shall be available for assistance to or through the Agency for International Development and the Office of International Cooperation and Development in connection with forest and rangeland research, technical information, and assistance in foreign countries.

Funds previously appropriated for timber salvage sales may be recovered from receipts deposited for use by the applicable national forest and credited to the Forest Service Permanent Appropriations to be expended for timber salvage sales from any national forest, and for sales preparation of timber sales to replace sales lost to fire or other causes, and sales preparation activities to replace sales inventory on the shelf for any national forest to a level sufficient to maintain new sales availability equal to a rolling five-year average of the total sales offerings, and for design, engineering, and supervision of construction of roads lost to fire or other causes associated with the timber sales programs described above: *Provided,* That not less than $47,561,000 shall be made available to the Forest Service for obligation in fiscal year 1989 from the Timber Salvage Sales Fund appropriation: *Provided further,* That moneys received from the timber salvage sales program in fiscal year 1989 shall be considered as money received for purposes of computing and distributing 25 per centum payments to local governments under 16 U.S.C. 500, as amended.

None of the funds made available to the Forest Service under this Act shall be subject to transfer under the provisions of section 702(b) of the Department of Agriculture Organic Act of 1944 (7 U.S.C. 2257) or 7 U.S.C. 147b unless the proposed transfer is approved in advance by the House and Senate Committees on Appropriations in compliance with the reprogramming procedures contained in House Report 99-714.

No funds appropriated to the Forest Service shall be transferred to the Working Capital Fund of the Department of Agriculture without the approval of the Chief of the Forest Service.

Notwithstanding any other provision of law, any appropriations or funds available to the Forest Service may be used to provide nonmonetary awards of nominal value to private individuals and organizations that make contributions to Forest Service programs.

Notwithstanding any other provision of the law, none of the funds available under this, or any other Act shall be obligated or expended to adjust annual recreational residence fees except on a four-year phased in basis commencing January 1, 1989.

Funds available to the Forest Service shall be available to conduct a program of not less than $1,000,000 for high priority projects within the scope of the approved budget which shall be carried out by the Youth Conservation Corps as if authorized by the Act of August 13, 1970, as amended by Public Law 93-408.

Notwithstanding the provisions under the Federal Grant and Cooperative Agreements Act of 1977 (31 U.S.C. 6301-6308), the Forest Service is authorized to negotiate and enter into cooperative arrangements with the various States, and private, nonprofit organizations to continue the recreation and wildlife and fish Challenge Cost-share Programs. Contracts.

None of the funds made available to the Forest Service in this Act shall be expended for the construction of the Gasquet-Orleans (G-O) road.

None of the funds made available to the Forest Service in this Act shall be expended for the purpose of issuing a special use authorization permitting land use and occupancy and surface disturbing activities for any project to be constructed on Lewis Fork Creek in Madera County, California, at the site above, and adjacent to, Corlieu Falls bordering the Lewis Fork Creek National Recreation Trail until the studies required in Public Law 100-202 have been submitted to the Congress: *Provided,* That any special use authorization shall not be executed prior to the expiration of thirty calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt of the required studies by the Speaker of the House of Representatives and the President of the Senate.

Notwithstanding any other provision of law, the Secretary of the Treasury is directed to make available to the Secretary of Agriculture, to remain available until expended, all National Forest Fund timber receipts received by the Treasury during fiscal year 1988 from the harvesting of National Forest Timber in excess of $791,000,000, the 1988 National Forest Fund timber receipts contained in the President's Budget proposal for fiscal year 1989: *Provided,* That this estimate of 1988 receipts shall not be adjusted for the purposes of this section: *Provided further,* That such funds shall be made available during fiscal year 1989, and shall be in addition to any funds appropriated in this Act: *Provided further,*

That this transaction will not affect, diminish, or otherwise alter the payments to be made in accordance with the provisions of the Act of May 23, 1908, as amended (16 U.S.C. 500) or the Act of July 10, 1930 (16 U.S.C. 577g): *Provided further,* That the funds associated with this section shall be scored in a manner consistent with the President's request for fiscal year 1989: *Provided further,* That funds made available to the Secretary of Agriculture pursuant to this section shall be used for the necessary expenses, including support costs of National Forest System programs as follows: 6 per centum for National Forest trail maintenance; 4 per centum for National Forest Trail construction; 20 per centum for wildlife and fish habitat management; 20 per centum for soil, water, and air management; 5 per centum for cultural resource managment; 5 per centum for wilderness management; 10 per centum for reforestation; and 30 per centum for timber sales administration and management, including all timber support costs, for advanced preparation work for fiscal year 1990 and fiscal year 1991 timber sale offerings: *Provided further,* That not later than 30 days after the submission of the President's fiscal year 1990 budget, the Chief of the Forest Service shall provide a report to the House and Senate Committees on Appropriations on the final amount and distribution of funds made available under this section and shall include an assessment of National Forest resource outputs to be produced in fiscal year 1989, fiscal year 1990, and subsequent years, using funds made available under this section, and a comparison of the outputs achieved in fiscal year 1989 and proposed for fiscal year 1990, with the output levels for the program areas listed described in the Forest Service resource management plans in effect at the time of the report required by this section.

Reports.

Notwithstanding the lack of authorization for payment from appropriated funds in older supplements to cooperative right-of-way construction and use agreements, the Forest Service is authorized and directed to make cash payments in lieu of payment through collection rights where it determines that an unreasonable delay has occurred or is likely to occur before the collection rights can be exercised or offsetting construction performed. In addition, the Service is authorized and directed to make cash payment of excess cost imbalances carried by cooperators which the Government has not repaid within a reasonable time period through the exercise of collection rights or by other means.

Any money collected from the States for fire suppression assistance rendered by the Forest Service on non-Federal lands not in the vicinity of National Forest System Lands shall be used to reimburse the applicable appropriation and shall remain available until expended as the Secretary may direct in conducting activities authorized by 16 U.S.C. 2101 (note), 2101-2110, 1606, and 2111.

Of the funds available to the Forest Service, $1,500 is available to the Chief of the Forest Service for official reception and representation expenses.

DEPARTMENT OF ENERGY

CLEAN COAL TECHNOLOGY

For necessary expenses of, and associated with, Clean Coal Technology demonstrations pursuant to 42 U.S.C. 5901 et seq., $575,000,000 shall be made available on October 1, 1989, and shall remain available until expended: *Provided,* That projects selected

pursuant to a general request for proposals issued pursuant to this appropriation shall demonstrate technologies capable of retrofitting or repowering existing facilities and shall be subject to all provisos contained under this head in Public Laws 99-190 and 100-202 as amended by this Act.

The first paragraph under this head in Public Law 100-202 is amended by striking "and $525,000,000 are appropriated for the fiscal year beginning October 1, 1988" and inserting "$190,000,000 are appropriated for the fiscal year beginning October 1, 1988, and shall remain available until expended, $135,000,000 are appropriated for the fiscal year beginning October 1, 1989, and shall remain available until expended, and $200,000,000 are appropriated for the fiscal year beginning October 1, 1990": *Provided,* That outlays in fiscal year 1989 resulting from the use of funds appropriated under this head in Public Law 100-202, as amended by this Act, may not exceed $15,500,000: *Provided further,* That these actions are taken pursuant to section 202(b)(1) of Public law 100-119 (2 U.S.C. 909). 101 Stat. 1329-240.

For the purposes of the sixth proviso under this head in Public Law 99-190, funds derived by the Tennessee Valley Authority from its power program are hereafter not to be precluded from qualifying as all or part of any cost-sharing requirement, except to the extent that such funds are provided by annual appropriations Acts: *Provided,* That unexpended balances of funds made available in the "Energy Security Reserve" account in the Treasury for The Clean Coal Technology Program by the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in section 101(d) of Public Law 99-190, shall be merged with this account: *Provided further,* That for the purposes of the sixth proviso in Public Law 99-190 under this heading, funds provided under section 306 of Public Law 93-32 shall be considered non-Federal: *Provided further,* That reports on projects selected by the Secretary of Energy pursuant to authority granted under the heading "Clean coal technology" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, which are received by the Speaker of the House of Representatives and the President of the Senate prior to the end of the second session of the 100th Congress shall be deemed to have met the criteria in the third proviso of the fourth paragraph under the heading "Administrative provisions, Department Energy" in the Department of the Interior and Related Agencies Appropriations Act, 1986, as contained in Public Law 99-190, upon expiration of 30 calendar days from receipt of the report by the Speaker of the House of Representatives and the President of the Senate. 42 USC 5903d note. Reports.

FOSSIL ENERGY RESEARCH AND DEVELOPMENT

For necessary expenses in carrying out fossil energy research and development activities, under the authority of the Department of Energy Organization Act (Public Law 95-91), including the acquisition of interest, including defeasible and equitable interests in any real property or any facility or for plant or facility acquisition or expansion, $380,595,000, to remain available until expended, of which $249,000 is for the functions of the Office of the Federal Inspector for the Alaska Natural Gas Transportation System established pursuant to the authority of Public Law 94-586 (90 Stat. 2908-2909), and pursuant to section 111(b)(1)(B) of the Energy Re-

organization Act of 1974, as amended, of the amount appropriated under this head, $3,500,000 shall be available for a grant for an energy center at the University of Oklahoma in Norman, Oklahoma, and $9,000,000 shall be available for a grant for an energy center at West Virginia University in Morgantown, West Virginia, without section 111(b)(2) of such Act being applicable, and $4,500,000 shall be available for continued construction of DOE Fossil Energy building B26: *Provided,* That no part of the sum herein made available shall be used for the field testing of nuclear explosives in the recovery of oil and gas.

Of the funds herein provided, $37,000,000 is for implementation of the June, 1984 multiyear, cost-shared magnetohydrodynamics program targeted on proof-of-concept testing: *Provided further,* That 30 per centum private sector cash or in-kind contributions shall be required for obligations in fiscal year 1989, and for each subsequent fiscal year's obligations private sector contributions shall increase by 5 per centum over the life of the proof-of-concept plan: *Provided further,* That existing facilities, equipment, and supplies, or previously expended research or development funds are not cost-sharing for the purposes of this appropriation, except as amortized, depreciated, or expensed in normal business practice: *Provided further,* That cost-sharing shall not be required for the costs of constructing or operating Government-owned facilities or for the costs of Government organizations, National Laboratories, or universities and such costs shall not be used in calculating the required percentage for private sector contributions: *Provided further,* That private sector contribution percentages need not be met on each contract but must be met in total for each fiscal year.

NAVAL PETROLEUM AND OIL SHALE RESERVES

For necessary expenses in carrying out naval petroleum and oil shale reserve activities, $185,071,000, to remain available until expended.

ENERGY CONSERVATION

For necessary expenses in carrying out energy conservation activities, $372,502,000, to remain available until expended, including, notwithstanding any other provision of law, the excess amount for fiscal year 1989 determined under the provisions of section 3003(d) of Public Law 99-509 (15 U.S.C. 4502): *Provided,* That $200,000,000 shall be for use in energy conservation programs as defined in section 3008(3) of Public Law 99-509 (15 U.S.C. 4507): *Provided further,* That pursuant to section 111(b)(1)(B) of the Energy Reorganization Act of 1974, as amended, of the amount appropriated under this head, $3,000,000 shall be available for a grant for an energy and natural resources technology development center at Brandeis University in Waltham, Massachusetts without section 111(b)(2) of such Act being applicable: *Provided further,* That notwithstanding section 3003(d)(2) of Public Law 99-509 such sums shall be allocated to the eligible programs in the same amounts for each program as in fiscal year 1988, and of which $10,000,000 shall be available for a grant for the energy demonstration and research facility at Northwestern University designated under this head in Public Law 100-202 and as authorized by section 202 of Public Law 99-412 (42 U.S.C. 8281 note): *Provided further,* That the facility may be expanded to

encompass space for life sciences in addition to that for material sciences.

ECONOMIC REGULATION

For necessary expenses in carrying out the activities of the Economic Regulatory Administration and the Office of Hearings and Appeals, $21,372,000.

EMERGENCY PREPAREDNESS

For necessary expenses in carrying out emergency preparedness activities, $6,154,000.

STRATEGIC PETROLEUM RESERVE

For expenses necessary to carry out the provisions of sections 151 through 166 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), $173,421,000, to remain available until expended.

SPR PETROLEUM ACCOUNT

For the acquisition and transportation of petroleum and for other necessary expenses under section 167 of the Energy Policy and Conservation Act of 1975 (Public Law 94-163), as amended by the Omnibus Budget Reconciliation Act of 1981 (Public Law 97-35), $242,000,000, to remain available until expended: *Provided,* That an additional $91,555,000 shall be made available until expended beginning October 1, 1989: *Provided further,* That notwithstanding 42 U.S.C. 6240(d) the United States' share of crude oil in Naval Petroleum Reserve Numbered 1 (Elk Hills) may be sold or otherwise disposed of to other than the Strategic Petroleum Reserve. Effective date.

ENERGY INFORMATION ADMINISTRATION

For necessary expenses in carrying out the activities of the Energy Information Administration, $62,856,000 of which $1,000,000 for computer operations shall remain available until September 30, 1990.

ADMINISTRATIVE PROVISIONS, DEPARTMENT OF ENERGY

Appropriations under this Act for the current fiscal year shall be available for hire of passenger motor vehicles, hire, maintenance, and operation of aircraft; purchase, repair, and cleaning of uniforms; and reimbursement to the General Services Administration for security guard services.

From appropriations under this Act, transfers of sums may be made to other agencies of the Government for the performance of work for which the appropriation is made.

None of the funds made available to the Department of Energy under this Act shall be used to implement or finance authorized price support or loan guarantee programs unless specific provision is made for such programs in an appropriations Act.

The Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, private, or foreign: *Provided,* That revenues and other moneys received by or for the account of the Department of Energy or Gifts and property.

otherwise generated by sale of products in connection with projects of the Department appropriated under this Act may be retained by the Secretary of Energy, to be available until expended, and used only for plant construction, operation, costs, and payments to cost-sharing entities as provided in appropriate cost-sharing contracts or agreements: *Provided further,* That the remainder of revenues after the making of such payments shall be covered into the Treasury as miscellaneous receipts: *Provided further,* That any contract, agreement, or provision thereof entered into by the Secretary pursuant to this authority shall not be executed prior to the expiration of 30 calendar days (not including any day in which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) from the receipt by the Speaker of the House of Representatives and the President of the Senate of a full and comprehensive report on such project, including the facts and circumstances relied upon in support of the proposed project.

Contracts. Reports.

The Secretary of Energy may transfer to the Emergency Preparedness appropriation such funds as are necessary to meet any unforeseen emergency needs from any funds available to the Department of Energy from this Act.

Notwithstanding 31 U.S.C. 3302, funds derived from the sale of assets as a result of defaulted loans made under the Department of Energy Alcohol Fuels Loan Guarantee program, or any other funds received in connection with this program, shall be credited to the Biomass Energy Development account, and shall be available solely for payment of the guaranteed portion of defaulted loans and associated costs of the Department of Energy Alcohol Fuels Loan Guarantee program for loans guaranteed prior to January 1, 1987.

Unobligated balances available in the "Alternative fuels production" account may be used for payment of the guaranteed portion of defaulted loans and associated costs of the Department of Energy Alcohol Fuels Loan Guarantee program, subject to the determination by the Secretary of Energy that such unobligated funds are not needed for carrying out the purposes of the Alternative Fuels Production program: *Provided,* That the use of these unobligated funds for payment of defaulted loans and associated costs shall be available only for loans guaranteed prior to January 1, 1987: *Provided further,* That such funds shall be used only after the unobligated balance in the Department of Energy Alcohol Fuel Loan Guarantee reserve has been exhausted.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

INDIAN HEALTH SERVICE

INDIAN HEALTH SERVICES

For expenses necessary to carry out the Act of August 5, 1954 (68 Stat. 674), the Indian Self-Determination Act, the Indian Health Care Improvement Act, and titles III and XXIII and sections 208 and 338G of the Public Health Service Act with respect to the Indian Health Service, including hire of passenger motor vehicles and aircraft; purchase of reprints; purchase and erection of portable buildings; payments for telephone service in private residences in the field, when authorized under regulations approved by the Secretary; $1,020,106,000, together with payments received during the

fiscal year pursuant to 42 U.S.C. 300cc-2 for services furnished by the Indian Health Service: *Provided,* That notwithstanding any other law or regulation, funds transferred from the Department of Housing and Urban Development to the Indian Health Service shall be administered under Public Law 86-121 (the Indian Sanitation Facilities Act): *Provided further,* That funds made available to tribes and tribal organizations through grants and contracts authorized by the Indian Self-Determination and Education Assistance Act of 1975 (88 Stat. 2203; 25 U.S.C. 450), shall remain available until expended: *Provided further,* That $15,000,000 shall remain available until expended, for the Indian Catastrophic Health Emergency Fund and contract medical care: *Provided further,* That of the funds provided, $2,000,000 shall be used to carry out a loan repayment program under which Federal, State, and commercial-type educational loans for physicians and other health professionals will be repaid at a rate not to exceed $25,000 per year of obligated service in return for full-time clinical service in the Indian Health Service. Each individual participating in this program must sign and submit to the Secretary a written contract to accept repayment of educational loans and to serve for the applicable period of service in the Indian Health Service: *Provided further,* That funds provided in this Act may be used for one-year contracts and grants which are to be performed in two fiscal years, so long as the total obligation is recorded in the year for which the funds are appropriated: *Provided further,* That the amounts collected by the Secretary of Health and Human Services under the authority of title IV of the Indian Health Care Improvement Act shall be available for two fiscal years after the fiscal year in which they were collected, for the purpose of achieving compliance with the applicable conditions and requirements of titles XVIII and XIX of the Social Security Act (exclusive of planning, design, construction of new facilities, or major renovation of existing Indian Health Service facilities): *Provided further,* That of the funds provided, $2,500,000 shall remain available until expended, for the Indian Self-Determination Fund, which shall be available for the transitional costs of initial or expanded tribal contracts, grants or cooperative agreements with the Indian Health Service under the provisions of the Indian Self-Determination Act: *Provided further,* That funding contained herein, and in any earlier appropriations Acts for scholarship programs under section 103 of the Indian Health Care Improvement Act and section 338G of the Public Health Service Act with respect to the Indian Health Service shall remain available for expenditure until September 30, 1990.

INDIAN HEALTH FACILITIES

For construction, major repair, improvement, and equipment of health and related auxiliary facilities, including quarters for personnel; preparation of plans, specifications, and drawings; acquisition of sites, purchase and erection of portable buildings, and purchases of trailers; and for provision of domestic and community sanitation facilities for Indians, as authorized by section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a), the Indian Self-Determination Act and the Indian Health Care Improvement Act, $61,668,000, to remain available until expended: *Provided,* That the Indian Heath Service may hold in reserve a sum not to exceed $600,000 as a contingency for site acquisition at the Kotzebue Hospital: *Provided further,* That of funds appropriated in the fiscal year 1987 continuing resolution for

the construction of detoxification facilities for Indian youth, not to exceed $600,000 shall be made available for planning and design of a youth alcohol and substance abuse treatment facility by the Inland Tribal Consortium, to be located in the State of Washington: *Provided further,* That the Secretary of Health and Human Services may accept ownership of the buildings offered at no cost by the Gila River Indian Tribe for use solely as the Phoenix Area Regional Youth Treatment Center for Alcohol and Substance Abuse, and may use funds appropriated to the Indian Health Service in Public Law 99-591, to renovate the buildings for that purpose.

ADMINISTRATIVE PROVISIONS, INDIAN HEALTH SERVICE

Appropriations in this Act to the Indian Health Service, available for salaries and expenses, shall be available for services as authorized by 5 U.S.C. 3109 but at rates not to exceed the per diem equivalent to the rate for GS-18, and for uniforms or allowances therefor as authorized by law (5 U.S.C. 5901-5902), and for expenses of attendance at meetings which are concerned with the functions or activities for which the appropriation is made or which will contribute to improved conduct, supervision, or management of those functions or activities: *Provided,* That none of the funds appropriated under this Act to the Indian Health Service shall be available for the initial lease of permanent structures without advance provision therefor in appropriations Acts: *Provided further,* That non-Indian patients may be extended health care at all tribally administered or Indian Health Service facilities, if such care can be extended without impairing the ability of the facility to fulfill its responsibility to provide health care to Indians served by such facilities and subject to such reasonable charges as the Secretary of Health and Human Services shall prescribe, the proceeds of which, together with funds recovered under the Federal Medical Care Recovery Act (42 U.S.C. 2651-53), shall be deposited in the fund established by sections 401 and 402 of the Indian Health Care Improvement Act or in the case of tribally administered facilities, shall be retained by the tribal organization without fiscal year limitation: *Provided further,* That funds appropriated to the Indian Health Service in this Act, except those used for administrative and program direction purposes, shall not be subject to limitations directed at curtailing Federal travel and transportation: *Provided further,* That with the exception of Indian Health Service units which currently have a billing policy, the Indian Health Service shall not initiate any further action to bill Indians in order to collect from third-party payers nor to charge those Indians who may have the economic means to pay unless and until such time as Congress has agreed upon a specific policy to do so and has directed the Indian Health Service to implement such a policy: *Provided further,* That the Secretary of Health and Human Services may authorize special retention pay under paragraph (4) of 37 U.S.C. 302(a) to any regular or reserve officer for the period during which the officer is obligated under section 338B of the Public Health Service Act and assigned and providing direct health services or serving the officer's obligation as a specialist: *Provided further,* That personnel ceilings may not be imposed on the Indian Health Service nor may any action be taken to reduce the full-time equivalent level of the Indian Health Service by the elimination of temporary employees by reduction in force, hiring freeze or any other means without the review

25 USC 1681.

42 USC 254m note.

and approval of the Committees on Appropriations: *Provided further,* That funds provided in this Act may be used to reimburse the Indian Health Service travel costs of spouses who accompany prospective Indian Health Service medical professional employees to the site of employment as part of the recruitment process: *Provided further,* That section 103(c) of the Indian Self-Determination Act (88 Stat. 2206), as amended by Public Law 100-202 (101 Stat. 1329-246), is amended by inserting after the word "claims" the words "by any person, initially filed on or after December 22, 1987, whether or not such person is an Indian or Alaska Native or is served on a fee basis or under other circumstances as permitted by Federal law or regulations", and is further amended by inserting after the word "performance" the words "prior to, including, or after December 22, 1987," and is further amended by inserting after the word "investigations," the words "an Indian tribe," and is further amended by adding after the word "agreement" and before the period the words ": *Provided,* That such employees shall be deemed to be acting within the scope of their employment in carrying out such contract or agreement when they are required, by reason of such employment, to perform medical, surgical, dental or related functions at a facility other than the facility operated pursuant to such contract or agreement, but only if such employees are not compensated for the performance of such functions by a person or entity other than such Indian tribe, tribal organization or Indian contractor": *Provided further,* That none of the funds made available to the Indian Health Service in this Act shall be used to implement the final rule published in the Federal Register on September 16, 1987, by the Department of Health and Human Services, relating to eligibility for the health care services of the Indian Health Service: *Provided further,* That notwithstanding any other provision of law, the Secretary is authorized to undertake a demonstration project at Kayenta, Arizona, on the Navajo Indian Reservation, to construct 10 housing units on Federal land, i.e., three one-bedroom, four two-bedroom, and three three-bedroom units, under an agreement with a non-profit, Indian controlled community development corporation, and in return for a Federal grant of $200,000, units which meet or exceed Federal construction standards are to be built, operated, maintained in adequate condition and, for a period of 20 years following completion of construction, offered for rent to Federal employees. First preference for rental is to be given to essential Indian Health Service (IHS) employees as determined in accordance with IHS quarters management policies. Rental rates charged by the owner shall be established by the same method as would be used if the units were federally owned. Navajo Area IHS guidelines for occupant conduct and responsibility in Federal quarters shall apply unless stricter standards are mutually adopted: *Provided further,* That notwithstanding any other provision of law, there are 170 village built clinics authorized to be operated in Alaska.

25 USC 450g.

Contracts.

Arizona.
Housing.
Contracts.
Community development.

DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

INDIAN EDUCATION

For necessary expenses to carry out, to the extent not otherwise provided, the Indian Education Act, as amended by Public Law

100-297, $71,553,000, of which $52,748,000 shall be for part A and $15,807,000 shall be for parts B and C: *Provided,* That the amounts available pursuant to section 423 of the Act shall remain available for obligation until September 30, 1990.

OTHER RELATED AGENCIES

NAVAJO AND HOPI INDIAN RELOCATION COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Navajo and Hopi Indian Relocation Commission as authorized by Public Law 93-531, $27,323,000, to remain available until expended, for operating expenses of the Commission: *Provided,* That none of the funds contained in this or any other Act may be used to evict any single Navajo or Navajo family who, as of November 30, 1985, was physically domiciled on the lands partitioned to the Hopi Tribe unless a new or replacement home is provided for such household: *Provided further,* That no relocatee will be provided with more than one new or replacement home: *Provided further,* That the Commission shall relocate any certified eligible relocatees who have selected and received an approved homesite on the Navajo reservation or selected a replacement residence off the Navajo reservation or on the land acquired pursuant to 25 U.S.C. 640d-10.

INSTITUTE OF AMERICAN INDIAN AND ALASKA NATIVE CULTURE AND ARTS DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Institute of American Indian and Alaska Native Culture and Arts Development as authorized by Public Law 99-498, $3,094,000 for payment to the Institute of American Indian and Alaska Native Culture and Arts Development to carry out the provisions of Public Law 99-498, as amended (20 U.S.C. 56, Part A), of which not to exceed $250,000 for Federal matching contributions shall be paid to the Institute endowment fund.

Section 1513 of the Higher Education Amendments of 1986 (20 U.S.C. 4420) is amended—

(1) by striking out "The Institute" and inserting in lieu thereof "(a) TAX STATUS.—The Institute",

(2) by inserting "; TORT LIABILITY" after "STATUS" in the section heading, and

(3) by adding at the end thereof the following new subsection:

"(b) TORT LIABILITY.—

Claims.

"(1) The Institute shall be subject to liability relating to tort claims only to the extent a Federal agency is subject to such liability under chapter 171 of title 28, United States Code.

"(2) For purposes of chapter 171 of title 28, United States Code, the Institute shall be treated as a Federal agency (within the meaning of section 2671 of such title).

"(3) For purposes of chapter 171 of title 28, United States Code, the President of the Institute shall be deemed the head of the Agency.".

SMITHSONIAN INSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Smithsonian Institution, as authorized by law, including research in the fields of art, science, and history; development, preservation, and documentation of the National Collections; presentation of public exhibits and performances; collection, preparation, dissemination, and exchange of information and publications; conduct of education, training, and museum assistance programs; maintenance, alteration, operation, lease (for terms not to exceed ten years), and protection of buildings, facilities, and approaches; not to exceed $100,000 for services as authorized by 5 U.S.C. 3109; up to 5 replacement passenger vehicles; purchase, rental, repair, and cleaning of uniforms for employees; $211,240,000, of which not to exceed $1,206,000 for the instrumentation program shall remain available until expended and, including such funds as may be necessary to support American overseas research centers and a total of $125,000 for the Council of American Overseas Research Centers: *Provided,* That funds appropriated herein are available for advance payments to independent contractors performing research services or participating in official Smithsonian presentations.

CONSTRUCTION AND IMPROVEMENTS, NATIONAL ZOOLOGICAL PARK

For necessary expenses of planning, construction, remodeling, and equipping of buildings and facilities at the National Zoological Park, by contract or otherwise, $5,305,000, to remain available until expended.

RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of restoration and renovation of buildings owned or occupied by the Smithsonian Institution, by contract or otherwise, as authorized by section 2 of the Act of August 22, 1949 (63 Stat. 623), including not to exceed $10,000 for services as authorized by 5 U.S.C. 3109, $20,735,000, to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or restoration of buildings of the Smithsonian Institution may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price. Contracts.

CONSTRUCTION

For necessary expenses for construction, $8,655,000, to remain available until expended: *Provided,* That notwithstanding any other provison of law, the Institution is authorized to transfer to the State of Arizona, the counties of Santa Cruz and/or Pima, a sum not to exceed $150,000 for the purpose of assisting in the construction or maintenance of an access to the Whipple Observatory.

NATIONAL GALLERY OF ART

SALARIES AND EXPENSES

For the upkeep and operations of the National Gallery of Art, the protection and care of the works of art therein, and administrative

expenses incident thereto, as authorized by the Act of March 24, 1937 (50 Stat. 51), as amended by the public resolution of April 13, 1939 (Public Resolution 9, Seventy-sixth Congress), including services as authorized by 5 U.S.C 3109; payment in advance when authorized by the treasurer of the Gallery for membership in library, museum, and art associations or societies whose publications or services are available to members only, or to members at a price lower than to the general public; purchase, repair, and cleaning of uniforms for guards, and uniforms, or allowances therefor, for other employees as authorized by law (5 U.S.C 5901-5902); purchase, or rental of devices and services for protecting buildings and contents thereof, and maintenance, alteration, improvement, and repair of buildings, approaches, and grounds; and purchase of services for restoration and repair of works of art for the National Gallery of Art by contracts made, without advertising, with individuals, firms, or organizations at such rates or prices and under such terms and conditions as the Gallery may deem proper, $37,981,000, including $2,370,000 for the special exhibition program, of which not to exceed $2,320,000 for the special exhibition program shall remain available until expended.

REPAIR, RESTORATION AND RENOVATION OF BUILDINGS

For necessary expenses of repair, restoration and renovation of buildings, grounds and facilities owned or occupied by the National Gallery of Art, by contract or otherwise, as authorized, $750,000 to remain available until expended: *Provided,* That contracts awarded for environmental systems, protection systems, and exterior repair or renovation of buildings of the National Gallery of Art may be negotiated with selected contractors and awarded on the basis of contractor qualifications as well as price.

Contracts.

WOODROW WILSON INTERNATIONAL CENTER FOR SCHOLARS

SALARIES AND EXPENSES

For expenses necessary in carrying out the provisions of the Woodrow Wilson Memorial Act of 1968 (82 Stat. 1356) including hire of passenger vehicles, and services as authorized by 5 U.S.C. 3109, $4,240,000.

PAYMENT TO ENDOWMENT CHALLENGE FUND

For payment to the Endowment Challenge Fund for the Woodrow Wilson International Center for Scholars $300,000, to reamain available until September 30, 1990: *Provided,* That such sums shall be transferred only to the extent matched on a three-to-one basis by private funds.

NATIONAL FOUNDATION ON THE ARTS AND THE HUMANITIES

NATIONAL ENDOWMENT FOR THE ARTS

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and Humanities Act of 1965, as amended, $141,890,000 shall be available to the National Endowment for the Arts for the support of projects and productions in the arts through assistance to groups

and individuals pursuant to section 5(c) of the Act, and for administering the functions of the Act: *Provided,* That none of the funds available to the National Endowment for the Arts may be used to implement a peer panel review process different from that in place as of December 31, 1987.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $27,200,000, to remain available until September 30, 1990, to the National Endowment for the Arts, of which $18,200,000 shall be available for purposes of section 5(l): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of section 10(a)(2), subsections 11(a)(2)(A) and 11(a)(3)(A) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

NATIONAL ENDOWMENT FOR THE HUMANITIES

GRANTS AND ADMINISTRATION

For necessary expenses to carry out the National Foundation on the Arts and the Humanities Act of 1965, as amended, $124,300,000 shall be available to the National Endowment for the Humanities for support of activities in the humanities, pursuant to section 7(c) of the Act, and for administering the functions of the Act.

MATCHING GRANTS

To carry out the provisions of section 10(a)(2) of the National Foundation on the Arts and the Humanities Act of 1965, as amended, $28,700,000, to remain available until September 30, 1990, of which $16,700,000 shall be available to the National Endowment for the Humanities for the purposes of section 7(h): *Provided,* That this appropriation shall be available for obligation only in such amounts as may be equal to the total amounts of gifts, bequests, and devises of money, and other property accepted by the Chairman or by grantees of the Endowment under the provisions of subsections 11(a)(2)(B) and 11(a)(3)(B) during the current and preceding fiscal years for which equal amounts have not previously been appropriated.

INSTITUTE OF MUSEUM SERVICES

GRANTS AND ADMINISTRATION

For carrying out title II of the Arts, Humanities, and Cultural Affairs Act of 1976, as amended, $22,270,000, including not to exceed $250,000 as authorized by 20 U.S.C. 965(b): *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions: *Provided further,* That the Museum Services Board shall not meet more than three times during fiscal year 1989.

ADMINISTRATIVE PROVISIONS

None of the funds appropriated to the National Foundation on the Arts and the Humanities may be used to process any grant or contract documents which do not include the text of 18 U.S.C. 1913: *Provided,* That none of the funds appropriated to the National Foundation on the Arts and the Humanities may be used for official reception and representation expenses.

COMMISSION OF FINE ARTS

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing a Commission of Fine Arts (40 U.S.C. 104), $475,000.

NATIONAL CAPITAL ARTS AND CULTURAL AFFAIRS

For necessary expenses as authorized by Public Law 99-190 (99 Stat. 1261; 20 U.S.C. 956a), as amended, $5,000,000.

ADVISORY COUNCIL ON HISTORIC PRESERVATION

SALARIES AND EXPENSES

For expenses made necessary by the Act establishing an Advisory Council on Historic Preservation, Public Law 89-665, as amended, $1,778,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions.

NATIONAL CAPITAL PLANNING COMMISSION

SALARIES AND EXPENSES

For necessary expenses, as authorized by the National Capital Planning Act of 1952 (40 U.S.C. 71-71i), including services as authorized by 5 U.S.C. 3109, $2,962,000.

FRANKLIN DELANO ROOSEVELT MEMORIAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Franklin Delano Roosevelt Memorial Commission, established by the Act of August 11, 1955 (69 Stat. 694), as amended by Public Law 92-332 (86 Stat. 401), $28,000 to remain available until September 30, 1990.

PENNSYLVANIA AVENUE DEVELOPMENT CORPORATION

SALARIES AND EXPENSES

For necessary expenses, as authorized by section 17(a) of Public Law 92-578, as amended, $2,334,000, for operating and administrative expenses of the Corporation.

PUBLIC DEVELOPMENT

For public development activities and projects in accordance with the development plan as authorized by section 17(b) of Public Law 92-578, as amended, $3,175,000, to remain available until expended.

UNITED STATES HOLOCAUST MEMORIAL COUNCIL

HOLOCAUST MEMORIAL COUNCIL

For expenses of the Holocaust Memorial Council, as authorized by Public Law 96-388 as amended, $2,244,000: *Provided,* That none of these funds shall be available for the compensation of Executive Level V or higher positions.

TITLE III—GENERAL PROVISIONS

Contracts. Records. Public information.

SEC. 301. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 302. No part of any appropriation under this Act shall be available to the Secretaries of the Interior and Agriculture for use for any sale hereafter made of unprocessed timber from Federal lands west of the 100th meridian in the contiguous 48 States which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided,* That this limitation shall not apply to specific quantities of grades and species of timber which said Secretaries determine are surplus to domestic lumber and plywood manufacturing needs.

SEC. 303. No part of any appropriation under this Act shall be available to the Secretary of the Interior or the Secretary of Agriculture for the leasing of oil and natural gas by noncompetitive bidding on publicly owned lands within the boundaries of the Shawnee National Forest, Illinois: *Provided,* That nothing herein is intended to inhibit or otherwise affect the sale, lease, or right to access to minerals owned by private individuals.

SEC. 304. No part of any appropriation contained in this Act shall be available for any activity or the publication or distribution of literature that in any way tends to promote public support or opposition to any legislative proposal on which congressional action is not complete.

SEC. 305. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 306. None of the funds provided in this Act to any department or agency shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of such department or agency except as otherwise provided by law.

Alaska. National Forest System. National Wilderness Preservation System.

SEC. 307. Except for lands described by sections 105 and 106 of Public Law 96-560, section 103 of Public Law 96-550, section 5(d)(1) of Public Law 96-312, and except for land in the State of Alaska, and lands in the National Forest System released to management for

any use the Secretary of Agriculture deems appropriate through the land management planning process by any statement or other Act of Congress designating components of the National Wilderness Preservation System now in effect or hereinafter enacted, and except to carry out the obligations and responsibilities of the Secretary of the Interior under section 17(k)(1) (A) and (B) of the Mineral Leasing Act of 1920 (30 U.S.C. 226), none of the funds provided in this Act shall be obligated for any aspect of the processing or issuance of permits or leases pertaining to exploration for or development of coal, oil, gas, oil shale, phosphate, potassium, sulfur, gilsonite, or geothermal resources on Federal lands within any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning in Executive Communication 1504, Ninety-sixth Congress (House Document numbered 96-119); or within any lands designated by Congress as wilderness study areas or within Bureau of Land Management wilderness study areas: *Provided,* That nothing in this section shall prohibit the expenditure of funds for any aspect of the processing or issuance of permits pertaining to exploration for or development of the mineral resources described in this section, within any component of the National Wilderness Preservation System now in effect or hereinafter enacted, any Forest Service RARE II areas recommended for wilderness designation or allocated to further planning, within any lands designated by Congress as wilderness study areas, or Bureau of Land Management wilderness study areas, under valid existing rights, or leases validly issued in accordance with all applicable Federal, State, and local laws or valid mineral rights in existence prior to October 1, 1982: *Provided further,* That funds provided in this Act may be used by the Secretary of Agriculture in any area of National Forest lands or the Secretary of the Interior to issue under their existing authority in any area of National Forest or public lands withdrawn pursuant to this Act such permits as may be necessary to conduct prospecting, seismic surveys, and core sampling conducted by helicopter or other means not requiring construction of roads or improvement of existing roads or ways, for the purpose of gathering information about the inventorying of energy, mineral, and other resource values of such area, if such activity is carried out in a manner compatible with the preservation of the wilderness environment: *Provided further,* That seismic activities involving the use of explosives shall not be permitted in designated wilderness areas: *Provided further,* That funds provided in this Act may be used by the Secretary of the Interior to augment recurring surveys of the mineral values of wilderness areas pursuant to section 4(d)(2) of the Wilderness Act and acquire information on other national forest and public land areas withdrawn pursuant to this Act, by conducting in conjunction with the Secretary of Energy, the National Laboratories, or other Federal agencies, as appropriate, such mineral inventories of areas withdrawn pursuant to this Act as the Secretary deems appropriate. These inventories shall be conducted in a manner compatible with the preservation of the wilderness environment through the use of methods including core sampling conducted by helicopter; geophysical techniques such as induced polarization, synthetic aperture radar, magnetic and gravity surveys; geochemical techniques including stream sediment reconnaissance and x-ray diffraction analysis; land satellites; or any other methods the Secretary deems appropriate. The Secretary of the Interior is hereby authorized to conduct inventories or segments

Hazardous materials.

Contracts.

of inventories, such as data analysis activities, by contract with private entities deemed by the Secretary to be qualified to engage in such activities whenever the Secretary has determined that such contract would decrease Federal expenditures and would produce comparable or superior results: *Provided further,* That in carrying out any such inventory or surveys, where National Forest System lands are involved, the Secretary of the Interior shall consult with the Secretary of Agriculture concerning any activities affecting surface resources.

SEC. 308. None of the funds provided in this Act shall be used to evaluate, consider, process, or award oil, gas, or geothermal leases on Federal lands in the Mount Baker-Snoqualmie National Forest, State of Washington, within the hydrographic boundaries of the Cedar River municipal watershed upstream of river mile 21.6, the Green River municipal watershed upstream of river mile 61.0, the North Fork of the Tolt River proposed municipal watershed upstream of river mile 11.7, and the South Fork Tolt River municipal watershed upstream of river mile 8.4.

SEC. 309. No assessments may be levied against any program, budget activity, subactivity, or project funded by this Act unless such assessments and the basis therefor are presented to the Committees on Appropriations and are approved by such committees.

SEC. 310. Employment funded by this Act shall not be subject to any personnel ceiling or other personnel restriction for permanent or other than permanent employment except as provided by law.

Employment and unemployment.

SEC. 311. Notwithstanding any other provision of law, the Secretary of the Interior, the Secretary of Agriculture, the Secretary of Energy, and the Secretary of the Smithsonian Institution are authorized to enter into contracts with State and local governmental entities, including local fire districts, for procurement of services in the presuppression, detection, and suppression of fires on any units within their jurisdiction.

Contracts. State and local governments. Disaster assistance.

SEC. 312. None of the funds provided by this Act to the United States Fish and Wildlife Service may be obligated or expended to plan for, conduct, or supervise deer hunting on the Loxahatchee National Wildlife Refuge.

SEC. 313. None of the funds made available to the Department of the Interior or the Forest Service during fiscal year 1989 by this or any other Act may be used to implement the proposed jurisdictional interchange program until enactment of legislation which authorizes the jurisdictional interchange.

SEC. 314. The Forest Service and Bureau of Land Management are to continue to complete as expeditiously as possible development of their respective Forest Land and Resource Management Plans to meet all applicable statutory requirements. Notwithstanding the date in section 6(c) of the NFMA (16 U.S.C. 1600), the Forest Service, and the Bureau of Land Management under separate authority, may continue the management of lands within their jurisdiction under existing land and resource management plans pending the completion of new plans. Nothing shall limit judicial review of particular activities on these lands: *Provided, however,* That there shall be no challenges to any existing plan on the sole basis that the plan in its entirety is outdated, or in the case of the Bureau of Land Management, solely on the basis that the plan does not incorporate information available subsequent to the completion of the existing

16 USC 1604 note.

plan: *Provided further,* That any and all particular activities to be carried out under existing plans may nevertheless be challenged.

Wages. Government organization and employees.

SEC. 315. (a) From funds appropriated under this Act such sums as are necessary shall be made available to pay forest or wildland firefighters premium pay under the provision of subchapter V of chapter 55 of title 5, United States Code (notwithstanding the limitations of section 5547 of such title), for all premium pay that would have been paid to such forest or wildland firefighter employees, but for the provisions of section 5547 of such title, for all pay periods (and parts thereof) occurring during the fiscal year ending September 30, 1989.

(b) Notwithstanding the provisions of subsection (a), no forest or wildland firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS–15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

(c) For purposes of this section, the term "wildland forest firefighter" means any employee of the Department of Agriculture or the Department of the Interior who is assigned to, or in support of, work on forest or wildland wildfire emergencies.

5 USC 5911 note.

SEC. 316. Section 320 of Pubic Law 98–473 (98 Stat. 1874), is amended by deleting the colon and all that follows the words "quarters of that agency" and inserting a period (.) in place of the colon.

SEC. 317. None of the funds in this Act may be used to plan, prepare, or offer for sale timber from trees classified as giant sequoia (sequoiadendron giganteum) which are located on National Forest System or Bureau of Land Management lands until an environmental assessment has been completed and the giant sequoia management implementation plan is approved. In any event, timber harvest within the identified groves only will be done to enhance and perpetuate giant sequoia. There will be no harvesting of giant sequoia specimen trees. Removal of hazard, insect, disease and fire killed giant sequoia other than specimen trees is permitted.

Forests and forest products.

Wages. Government organization and employees.

SEC. 318. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

18 USC 208 note.

SEC. 319. Notwithstanding any other provision of law, hereafter for the purposes of section 208 of title 18, United States Code, "particular matter", as applied to employees of the Department of the Interior and the Indian Health Service, shall mean "particular matter involving specific parties".

SEC. 320. Notwithstanding any other provision of law, the Final Environmental Impact Statement issued by the USDA Forest Service concerning the Silver Complex Fire Recovery Project on the Siskiyou National Forest and the Record of Decision accompanying the Environmental Impact Statement shall not be subject to judicial review, and shall be subject only to one level of administrative appeal. Existing administrative appeals and appellant's Statement of Reasons shall be immediately transferred to the Chief of the Forest Service for decision. The Chief must render his decision not later than 30 days following enactment of this Act.

Any decision of a responsible Forest Service official to undertake a specific activity, including but not limited to the preparation, advertisement and sale of timber and the preparation, advertise-

ment and contracting for the construction of related roads within the Silver Complex Fire Recovery Area, as designated on maps dated June, 1988 and entitled "Silver Complex Fire Recovery Area", which maps are on file with the Chief, Forest Service, Washington, D.C., shall not be sujbect to administrative appeal or judicial review.

No funds made available to the Forest Service under this or any other Act may be expended to extend the Bald Mountain Road on the Siskiyou National Forest beyond southwest quarter, northeast quarter of section 21, township 36 south, range 10 west, Willamette Meridian.

Forests and forest products.

SEC. 321. To ensure adequate availability of timber from the Mapleton Ranger District of the Siuslaw National Forest until the final forest land and resource management plan pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, as amended (16 U.S.C. 1604) is in effect, and notwithstanding the injunction issued pursuant to the judgment in National Wildlife Federation, et al. v. United States Forest Service, et al. (592 F. Supp. 931 (D. Ore. 1984) as modified by 801 F. 2d 360 (9th Cir. 1986)), the Secretary of Agriculture is authorized to offer up to 90 million board feet of net merchantable timber in fiscal year 1989 in the Mapleton Ranger District of the Siuslaw National Forest pursuant to the requirements of this section and until completion of the final forest plan. For purposes only of selling timber pursuant to this section (and activities related thereto), the Secretary shall utilize the Siuslaw National Forest draft land and resource management plan and accompanying draft environmental impact statement dated October 1, 1986 as if they were the final forest plan and environmental impact statement: *Provided,* That such statement, timber sales, roads and other associated activities, and their accompanying environmental assessments, prepared and offered pursuant to and consistent with such draft plan, for purposes only of this section, shall be treated as satisfying all requirements of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) and the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, as amended (16 U.S.C. 1600 et seq.) and shall not be subject to administrative or judicial review for compliance with such Acts: *Provided further,* That nothing in this section shall affect any existing right of administrative or judicial review of such timber sales for compliance with other applicable laws: *Provided further,* That this provision does not in any manner represent a judgment upon the legal adequacy of the Siuslaw National Forest final plan and environmental impact statement.

SEC. 322. Unobligated blanaces remaining from the Baca Geothermal Demonstration Powerplant Project may be used to clean out the Hulin Well in the State of Louisiana.

Minerals and mining. Arkansas. Waste disposal.

SEC. 323. (a) Subject to valid existing rights, on the date of enactment of this section deposits of quartz mineral within the Ouachita National Forest in the State of Arkansas shall no longer be subject to location and entry under the General Mining Law of 1872 (17 Stat. 91), as amended, and all such deposits shall hereafter be disposed of under the same conditions as are applicable to common varieties of mineral materials on such lands under the Materials Act of 1947 (61 Stat. 681), as amended: *Provided,* That fifty percent of the moneys received pursuant to this section shall be paid by the Secretary of the Treasury to the State of Arkansas, to be

expended as the State may prescribe for the benefit of the public schools and public roads of the counties in which the Ouachita National Forest is situated.

Regulations.

(b) The Secretary of Agriculture shall prescribe rules and regulations for the disposal of quartz mineral from the Ouachita National Forest.

SEC. 324. The Secretary of the Interior shall not recover or recoup any portion of late payment interest paid to the United States which is paid or distributed to any State or other recipient of Federal mineral lease revenues prior to September 30, 1989, except for amounts paid in connection with royalties or other revenues subsequently determined to be not owing to the United States.

Approved September 27, 1988.

LEGISLATIVE HISTORY—H.R. 4867:

HOUSE REPORTS: No. 100-713 (Comm. on Appropriations) and No. 100-862 (Comm. of Conference).
SENATE REPORTS: No. 100-410 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 29, considered and passed House.
July 13, considered and passed Senate, amended.
Sept. 8, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Sept. 27, Presidential statement.

Public Law 100-447
100th Congress

An Act

Making appropriations for military construction for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

Sept. 27, 1988
[H.R. 4586]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for military construction functions administered by the Department of Defense, and for other purposes, namely:

MILITARY CONSTRUCTION, ARMY

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Army as currently authorized by law, and for construction and operation of facilities in support of the functions of the Commander in Chief, $927,292,000, to remain available until September 30, 1993: *Provided,* That of this amount, not to exceed $95,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, NAVY

For acquisition, construction, installation, and equipment of temporary or permanent public works, naval installations, facilities, and real property for the Navy as currently authorized by law, including personnel in the Naval Facilities Engineering Command and other personal services necessary for the purposes of this appropriation, $1,576,516,000, of which amount, $38,080,000 for the TACAMO mission shall not be available for obligation or expenditure before October 15, 1988, and, of the amount appropriated, funds allocated for homeporting at Everett, Washington may be obligated and expended for any homeporting military construction activity at that installation, except actual dredging and disposal of contaminated sediment, and that such funds may be expended for actual dredging and disposal of contaminated sediments once requirements of the Federal Water Pollution Control Act have been satisfied, to remain available until September 30, 1993: *Provided,* That of this amount, not to exceed $129,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

COAST GUARD SHORE FACILITIES

For construction, rebuilding and improvement of shore facilities of the United States Coast Guard, $50,300,000 to remain available until September 30, 1993.

MILITARY CONSTRUCTION, AIR FORCE

For acquisition, construction, installation, and equipment of temporary or permanent public works, military installations, facilities, and real property for the Air Force as currently authorized by law, $1,225,926,000, to remain available until September 30, 1993: *Provided,* That of this amount, not to exceed $112,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor.

MILITARY CONSTRUCTION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

(INCLUDING RESCISSION)

For acquisition, construction, installation, and equipment of temporary or permanent public works, installations, facilities, and real property for activities and agencies of the Department of Defense (other than the military departments), as currently authorized by law, $679,533,000, to remain available until September 30, 1993: *Provided,* That such amounts of this appropriation as may be determined by the Secretary of Defense may be transferred to such appropriations of the Department of Defense available for military construction as he may designate, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided further,* That of the amount appropriated, not to exceed $55,000,000 shall be available for study, planning, design, architect and engineer services, as authorized by law, unless the Secretary of Defense determines that additional obligations are necessary for such purposes and notifies the Committees on Appropriations of both Houses of Congress of his determination and the reasons therefor: *Provided further,* That of the funds appropriated for "Military Construction, Defense Agencies" under Public Law 100-202, $19,548,000 is hereby rescinded.

101 Stat. 1329-312.

NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

For the United States share of the cost of North Atlantic Treaty Organization Infrastructure programs for the acquisition and construction of military facilities and installations (including international military headquarters) and for related expenses for the collective defense of the North Atlantic Treaty Area as authorized in military construction Acts and section 2806 of title 10, United States Code, $492,000,000, to remain available until expended.

MILITARY CONSTRUCTION, ARMY NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $229,158,000, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, AIR NATIONAL GUARD

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air National Guard, and contributions therefor, as authorized by chapter 133 of title 10, United States Code, and military construction Acts, $158,508,000, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, ARMY RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Army Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $85,958,000, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, NAVAL RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the reserve components of the Navy and Marine Corps as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $60,900,000, to remain available until September 30, 1993.

MILITARY CONSTRUCTION, AIR FORCE RESERVE

For construction, acquisition, expansion, rehabilitation, and conversion of facilities for the training and administration of the Air Force Reserve as authorized by chapter 133 of title 10, United States Code, and military construction authorization Acts, $70,600,000, to remain available until September 30, 1993.

FAMILY HOUSING, ARMY

For expenses of family housing for the Army for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $197,278,000; for Operation and maintenance, and for debt payment, $1,330,324,000; in all $1,527,602,000: *Provided*, That the amount provided for construction shall remain available until September 30, 1993.

FAMILY HOUSING, NAVY AND MARINE CORPS

For expenses of family housing for the Navy and Marine Corps for construction, including acquisition, replacement, addition, expan-

sion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $244,181,000; for Operation and maintenance, and for debt payment, $554,988,000; in all $799,169,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1993: *Provided further,* That of this amount, not to exceed $50,000 shall be available to liquidate obligations incurred for debt payment during fiscal year 1987.

FAMILY HOUSING, AIR FORCE

For expenses of family housing for the Air Force for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, including debt payment, leasing, minor construction, principal and interest charges, and insurance premiums, as authorized by law, as follows: for Construction, $175,685,000; for Operation and maintenance, and for debt payment, $735,266,000; in all $910,951,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1993.

FAMILY HOUSING, DEFENSE AGENCIES

For expenses of family housing for the activities and agencies of the Department of Defense (other than the military departments) for construction, including acquisition, replacement, addition, expansion, extension and alteration and for operation and maintenance, leasing, and minor construction, as authorized by law, as follows: for Construction, $513,000; for Operation and maintenance, $20,187,000; in all $20,700,000: *Provided,* That the amount provided for construction shall remain available until September 30, 1993.

HOMEOWNERS ASSISTANCE FUND, DEFENSE

For use in the Homeowners Assistance Fund established pursuant to section 1013(d) of the Demonstration Cities and Metropolitan Development Act of 1966 (Public Law 89-754, as amended), $2,000,000, to remain available until expended.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this Act shall be expended for payments under a cost-plus-a-fixed-fee contract for work, where cost estimates exceed $25,000, to be performed within the United States, except Alaska, without the specific approval in writing of the Secretary of Defense setting forth the reasons therefor.

SEC. 102. Funds herein appropriated to the Department of Defense for construction shall be available for hire of passenger motor vehicles.

SEC. 103. Funds appropriated to the Department of Defense for construction may be used for advances to the Federal Highway Administration, Department of Transportation, for the construction of access roads as authorized by section 210 of title 23, United States Code, when projects authorized therein are certified as important to the national defense by the Secretary of Defense.

SEC. 104. None of the funds appropriated in this Act may be used to begin construction of new bases inside the continental United States for which specific appropriations have not been made.

SEC. 105. No part of the funds provided in this Act shall be used for purchase of land or land easements in excess of 100 per centum of the value as determined by the Corps of Engineers or the Naval Facilities Engineering Command, except (a) where there is a determination of value by a Federal court, or (b) purchases negotiated by the Attorney General or his designee, or (c) where the estimated value is less than $25,000, or (d) as otherwise determined by the Secretary of Defense to be in the public interest.

SEC. 106. None of the funds appropriated in this Act shall be used to (1) acquire land, (2) provide for site preparation, or (3) install utilities for any family housing, except housing for which funds have been made available in annual military construction appropriation Acts.

SEC. 107. None of the funds appropriated in this Act for minor construction may be used to transfer or relocate any activity from one base or installation to another, without prior notification to the Committees on Appropriations.

SEC. 108. No part of the funds appropriated in this Act may be used for the procurement of steel for any construction project or activity for which American steel producers, fabricators, and manufacturers have been denied the opportunity to compete for such steel procurement.

SEC. 109. No part of the funds appropriated in this Act for dredging in the Indian Ocean may be used for the performance of the work by foreign contractors: *Provided,* That the low responsive and responsible bid of a United States contractor does not exceed the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 110. None of the funds available to the Department of Defense for military construction or family housing during the current fiscal year may be used to pay real property taxes in any foreign nation.

SEC. 111. No part of the funds appropriated in this Act may be used to pay the compensation of an officer of the Government of the United States or to reimburse a contractor for the employment of a person for work in the continental United States by any such person if such person is an alien who has not been lawfully admitted to the United States.

SEC. 112. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Contracts.
Records.
Public information.

SEC. 113. None of the funds in this Act may be used to initiate a new installation overseas without prior notification to the Committees on Appropriations.

SEC. 114. None of the funds appropriated in this Act may be obligated for architect and engineer contracts estimated by the Government to exceed $500,000 for projects to be accomplished in Japan or in any NATO member country, unless such contracts are awarded to United States firms or United States firms in joint venture with host nation firms.

SEC. 115. None of the funds appropriated in this Act for military construction in the United States territories and possessions in the Pacific and on Kwajalein Island may be used to award any contract estimated by the Government to exceed $1,000,000 to a foreign contractor: *Provided,* That this section shall not be applicable to contract awards for which the lowest responsive and responsible bid of a United States contractor exceeds the lowest responsive and responsible bid of a foreign contractor by greater than 20 per centum.

SEC. 116. The Secretary of Defense is to inform the Committees on Appropriations and Committees on Armed Services of the plans and scope of any proposed military exercise involving United States personnel 30 days prior to its occurring, if amounts expended for construction, either temporary or permanent, are anticipated to exceed $100,000.

(TRANSFER OF FUNDS)

SEC. 117. Unexpended balances in the Military Family Housing Management Account established pursuant to section 2831 of title 10, United States Code, as well as any additional amounts which would otherwise be transferred to the Military Family Housing Management Account during fiscal year 1989, shall be transferred to the appropriations for Family Housing provided in this Act, as determined by the Secretary of Defense, based on the sources from which the funds were derived, and shall be available for the same purposes, and for the same time period, as the appropriation to which they have been transferred.

SEC. 118. Not more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year.

(TRANSFER OF FUNDS)

SEC. 119. Funds appropriated to the Department of Defense for construction in prior years are hereby made available for construction authorized for each such military department by the authorizations enacted into law during the second session of the One Hundredth Congress.

Reports.

SEC. 120. The Secretary of Defense is to provide the Committees on Appropriations of the Senate and the House of Representatives with a report by February 15, 1989, containing details of the specific actions proposed to be taken by the Department of Defense during fiscal year 1989 to encourage other member nations of the North Atlantic Treaty Organization and Japan to assume a greater share of the common defense burden of such nations and the United States.

SEC. 121. For military construction or family housing projects that are being completed with funds otherwise expired or lapsed for obligation, expired or lapsed funds may be used to pay the cost of associated supervision, inspection, overhead, engineering and design on those projects and on subsequent claims, if any.

SEC. 122. Notwithstanding any other provision of law, the Secretary of the Air Force is required to maintain legislative liaison to the House and Senate Appropriations Subcommittees on Military Construction and budgetary and fiscal management of the Military Construction and Military Family Housing appropriations in a manner identical to the method employed as of September 30, 1986.

SEC. 123. None of the funds appropriated in this Act, except for North Atlantic Treaty Organization Infrastructure funds, may be used for planning, design, or construction of military facilities or family housing to support the relocation of the 401st Tactical Fighter Wing from Spain to another country.

SEC. 124. Notwithstanding any other provision of law, any funds appropriated to a military department or defense agency for the construction of military projects may be obligated for a military construction project or contract, or for any portion of such a project or contract, at any time before the end of the fourth fiscal year after the fiscal year for which funds for such project were appropriated if the funds obligated for such project (1) are obligated from funds available for military construction projects, and (2) do not exceed the amount appropriated for such project, plus any amount by which the cost of such project is increased pursuant to law. 10 USC 2860 note.

SEC. 125. Notwithstanding any other provision of law, the Secretary of Defense shall include in the fiscal year 1990 program a legislative proposal to authorize the installment purchase of family housing units, and the budget request for fiscal year 1990 shall include such sums as necessary to implement a pilot program for not to exceed 3,000 units. Housing.

SEC. 126. Of the funds appropriated in this Act for Operations and maintenance of Family Housing, no more than $30,000,000 may be obligated for contract cleaning of family housing units.

SEC. 127. None of the funds appropriated in this Act may be used for the design, construction, operation or maintenance of new family housing units in the Republic of Korea in connection with any increase in accompanied tours after June 6, 1988.

SEC. 128. None of the funds appropriated in this Act may be obligated or expended for the purpose of transferring any equipment, operation, or personnel from the Edgewood Arsenal, Maryland, to any other facility during fiscal year 1989.

SEC. 129. None of the funds appropriated in this Act for planning and design activities may be used to initiate design of the Pentagon Annex.

SEC. 130. None of the funds appropriated in this Act for the National Test Facility or any other components of the National Test Facility may be used to provide any operational battle management, command, control or communications capabilities for an early deployment of a ballistic missile defense system: *Provided*, That the goal of the National Test Bed should be to simulate, evaluate, and demonstrate architecture and technologies that are technically feasible, cost-effective at the margin, and survivable.

SEC. 131. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Approved September 27, 1988.

LEGISLATIVE HISTORY—H.R. 4586:

HOUSE REPORTS: No. 100-620 (Comm. on Appropriations) and No. 100-912 (Comm. of Conference).
SENATE REPORTS: No. 100-380 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 18, considered and passed House.
June 15, considered and passed Senate, amended.
Sept. 14, House agreed to conference report; receded and concurred in Senate amendment, in others with amendments; and insisted on disagreement to another Senate amendment. Senate agreed to conference report; concurred in certain House amendments and receded from another.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Sept. 27, Presidential statement.

Public Law 100-448
100th Congress

An Act

Sept. 28, 1988
[H.R. 2342]

To authorize appropriations for the Coast Guard for fiscal year 1988, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Coast Guard Authorization Act of 1988.
Maritime affairs.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1988".

SEC. 2. AUTHORIZATIONS OF APPROPRIATIONS.

(a) NECESSARY EXPENSES.—Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal years 1988 and 1989, as follows:

(1) OPERATION AND MAINTENANCE.—For operation and maintenance of the Coast Guard, $1,949,813,000 for fiscal year 1988 and $2,100,506,000 for fiscal year 1989.

(2) ACQUISITION AND CONSTRUCTION.—For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, $277,893,000 for fiscal year 1988 and $348,000,000 for fiscal year 1989, to remain available until expended.

(3) RESEARCH AND DEVELOPMENT.—For research, development, test, and evaluation, $20,119,000 for fiscal year 1988 and $19,000,000 for fiscal year 1989, to remain available until expended.

(4) RETIRED PAY AND MEDICAL CARE.—For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and for payments for medical care of retired personnel and their dependents under the Dependents' Medical Care Act, $386,700,000 for fiscal year 1988 and $410,800,000 for fiscal year 1989, to remain available until expended.

(5) ALTERATION OR REMOVAL OF BRIDGES.—For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation, $8,500,000 for fiscal year 1989.

(b) TRANSFER OF FUNDS APPROPRIATED.—If funds for carrying out the purposes described in subsection (a) are appropriated to an officer or agency of the United States other than the Secretary of the department in which the Coast Guard is operating or the Coast Guard, that officer or the head of that agency, respectively, may transfer to the Secretary of the department in which the Coast Guard is operating the full amount of those funds, and that Secretary shall allocate those funds to those purposes.

SEC. 3. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.

(a) STRENGTH FOR ACTIVE DUTY PERSONNEL.—The Coast Guard is authorized a strength for active duty personnel of 39,121 for fiscal year 1988 and 39,121 for fiscal year 1989. The authorized strength does not include members of the Coast Guard Ready Reserve ordered to active duty under the authority of section 712 of title 14, United States Code.

(b) AVERAGE MILITARY TRAINING STUDENT LOADS.—The Coast Guard is authorized average military training student loads as follows:

(1) RECRUIT AND SPECIAL TRAINING.—For recruit and special training, 3,600 student-years for fiscal year 1988 and 3,600 student-years for fiscal year 1989.

(2) FLIGHT TRAINING.—For flight training, 132 student-years for fiscal year 1988 and 132 student-years for fiscal year 1989.

(3) PROFESSIONAL TRAINING.—For professional training in military and civilian institutions, 430 student-years for fiscal year 1988 and 430 student-years for fiscal year 1989.

(4) OFFICER ACQUISITION.—For officer acquisition, 950 student-years for fiscal year 1988 and 950 student-years for fiscal year 1989.

SEC. 4. TRANSFER OF AMOUNTS FOR OPERATIONS AND MAINTENANCE.

(a) IN GENERAL.—Whenever the Secretary of the department in which the Coast Guard is operating determines it to be in the national interest, the Secretary may transfer not more than 5 percent of the amounts appropriated for fiscal years 1988 and 1989 for the purposes described in section 2(a)(2) to the Commandant of the Coast Guard for discretionary use in meeting unanticipated needs for Coast Guard operation and maintenance.

(b) NOTICE TO CONGRESS.—A transfer of amounts under subsection (a) may not be made until 15 days after the Secretary provides to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives written notice—

(1) describing the proposed transfers;

(2) stating the reasons for the determination under subsection (a); and

(3) describing the purposes for which the amounts to be transferred will be used.

SEC. 5. LIMITATION ON CONTRACTING PERFORMED BY COAST GUARD. 10 USC 2304 note.

(a) MAINTENANCE OF LOGISTICS CAPABILITY.—

(1) STATEMENT OF NATIONAL INTEREST.—It is in the national interest for the Coast Guard to maintain a logistics capability (including personnel, equipment, and facilities) to provide a ready and controlled source of technical competence and resources necessary to ensure the effective and timely performance of Coast Guard missions in behalf of the security, safety, and economic and environmental well-being of the United States.

(2) SUBMISSION OF LIST OF NECESSARY ACTIVITIES; LIMITATION ON CONTRACTING.—(A) Not later than January 31 of each year, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and

Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives a list of Coast Guard activities that are necessary for maintaining the logistics capability described in paragraph (1). If the Secretary does not submit such list by that date, no activity performed by Coast Guard personnel may be contracted for performance by non-Government personnel after that date until the list is submitted to such committees.

(B) The list submitted by the Secretary under this section shall not include—

(i) any activity that is being performed under contract by non-Government personnel on the date of enactment of this Act; or

(ii) any activity for which the Congress received, prior to the date of the enactment of this Act, a written notification of intent to contract pursuant to section 14(b)(2) of Public Law 98-557 (98 Stat. 2864).

(b) PROHIBITION ON CONTRACTING FOR PERFORMANCE OF LISTED ACTIVITIES.—

(1) IN GENERAL.—Except as provided in paragraph (2), performance by non-Government personnel of an activity included in a list under subsection (a)(2)(A) may not be contracted for after the date on which the list is submitted by the Secretary in accordance with subsection (a)(2).

(2) WAIVER OF PROHIBITION.—The Secretary may waive paragraph (1) with respect to any activity if the Secretary determines that the performance of that activity by Government personnel is no longer necessary to ensure the effective and timely performance of Coast Guard missions.

(3) EFFECTIVE DATE OF WAIVER; SUBMISSION OF STATEMENT.—A waiver under paragraph (2) shall not take effect until after a period of 30 days in which either the Senate or House of Representatives is in session after the Secretary submits to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a complete written statement concerning the waiver and the reasons therefor.

(c) SUBMISISON OF LIST OF ACTIVITIES CONTRACTED FOR PERFORMANCE.—At least 30 days before the beginning of each fiscal year, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a list of activities that will be contracted for performance by non-Government personnel under the procedures of Office of Management and Budget Circular A-76 during that fiscal year.

State and local governments.

(d) EMPLOYMENT OF LOCAL RESIDENTS TO PERFORM CONTRACTS.—

(1) IN GENERAL.—Notwithstanding any other provision of law, each contract awarded by the Coast Guard in fiscal years 1988 and 1989 for construction or services to be performed in whole or in part in a State which has an unemployment rate in excess of the national average rate of unemployment (as determined by the Secretary of Labor) shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in that State, individuals who are local residents and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills. The Secretary of the department in which the Coast Guard is operating may

waive this subsection in the interest of national security or economic efficiency.

(2) LOCAL RESIDENT DEFINED.—As used in this subsection, the term "local resident" means a resident of a State described in paragraph (1), and any individual who commutes daily to a State described in paragraph (1).

SEC. 6. BOAT SAFETY PROGRAM.

(a) TRANSFERS TO AND EXPENDITURES FROM BOAT SAFETY ACCOUNT.—

(1) TRANSFERS TO ACCOUNT.—

(A) INCREASE IN MAXIMUM TRANSFER AND MAXIMUM AMOUNT IN ACCOUNT.—Subclauses (I) and (II) of subsection 9503(c)(4)(A)(ii) of the Internal Revenue Code of 1986 (relating to limitations on transfers to and amounts in the Boat Safety Account) are each amended by striking "for Fiscal Year 1987 only and $45,000,000 for each Fiscal Year thereafter" and inserting in lieu thereof "for each of fiscal years 1989 and 1990 and $70,000,000 for each fiscal year thereafter". 26 USC 9503.

(B) TECHNICAL AMENDMENT.—Subparagraph (E) of section 9503(c)(4) of the Internal Revenue Code of 1986 (relating to the amount of payments to the Aquatic Resources Trust Fund) is amended by striking the second sentence.

(2) EXTENSION OF EXPENDITURE AUTHORITY.—Subsection (c) of section 9504 of the Internal Revenue Code of 1986 (relating to expenditures from the Boat Safety Account) is amended—

(A) by striking "before April 1, 1989," and inserting "before April 1, 1994,"; and

(B) by striking "(as in effect on June 1, 1984)" and inserting "(as in effect on October 1, 1988)".

(3) CORRECTION OF CLERICAL ERRORS.—Subclauses (I) and (II) of section 9503(c)(4)(A)(ii) of the Internal Revenue Code of 1986 are each amended—

(A) by striking the quotation marks following "$60,000,000"; and

(B) by striking the semicolon before the period.

(b) BOATING SAFETY PROGRAMS.—

(1) AUTHORIZATION OF CONTRACT SPENDING.—

(A) STATE RECREATIONAL BOATING SAFETY PROGRAM ASSISTANCE.—Subsection (a) of section 13106 of title 46, United States Code (relating to authorization of contract spending for recreational boating safety programs), is amended as follows:

(i) The first sentence of subsection (a) is amended to read as follows: "(1) Subject to paragraph (2), the Secretary may expend in each fiscal year, subject to amounts as are provided in appropriations laws for liquidation of contract authority, an amount equal to ½ of the amount transferred for such fiscal year to the Boat Safety Account under section 9503(c)(4) of the Internal Revenue Code of 1986 (26 U.S.C. 9503(c)(4)).".

(ii) The following is added at the end of subsection (a):

"(2) The Secretary shall use not less than one percent and not more than two percent of the amount appropriated each fiscal year for State recreational boating safety programs under this chapter to

pay the costs of investigations, personnel, and activities related to administering those programs.".

(B) CONFORMING AMENDMENT.—Subsection (d) of section 7 of the Coast Guard Authorization Act of 1986 (Public Law 99-640) is repealed.

46 USC 13103 note.

(2) EXPENDITURES FOR COAST GUARD SERVICES.—Subsection (c) of section 13106 of title 46, United States Code, is amended—

(A) in the first sentence by striking "for Fiscal Year 1987 and one-third for each Fiscal Year thereafter."; and

(B) by inserting after the first sentence the following: "Expenditures for a fiscal year under this subsection shall not exceed expenditures for the fiscal year under subsection (a).".

(3) CLARIFICATION OF MATCHING RESTRICTIONS.—Section 13102(b) is amended in the first sentence by striking "from sources (except" and inserting in lieu thereof "(except amounts from".

(4) TECHNICAL AMENDMENT.—Section 13102(a) of title 46, United States Code, is amended in the first sentence by striking "1954." and inserting in lieu thereof "1986".

(5) TECHNICAL AMENDMENT.—Paragraph (4) of section 13102(a) of title 46, United States Code, is amended to read as follows:

State and local governments. Reports.

"(4) the program submitted by that State designates a State lead authority or agency that will carry out or coordinate carrying out the State recreational boating safety program supported by financial assistance of the United States Government in that State, including the requirement that the designated State authority or agency submit required reports that are necessary and reasonable to carry out properly and efficiently the program and that are in the form prescribed by the Secretary.".

(6) TECHNICAL AMENDMENT.—Subsection (c) of section 13106 of title 46, United States Code, is amended in the first sentence by striking "1954" and inserting "1986".

16 USC 777.

(c) SPORT FISH RESTORATION PROGRAMS.—

(1) STATE ALLOCATION OF ASSISTANCE BETWEEN MARINE AND FRESHWATER FISH PROJECTS.—Subsection (b) of the first section of the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes" (64 Stat. 430; 16 U.S.C. 777 et seq.) is amended to read as follows:

"(b) ALLOCATION OF AMOUNTS BY COASTAL STATES BETWEEN MARINE FISH PROJECTS AND FRESHWATER FISH PROJECTS.—

"(1) IN GENERAL.—Subject to paragraph (2), each coastal State, to the extent practicable, shall equitably allocate amounts apportioned to such State under this Act between marine fish projects and freshwater fish projects in the same proportion as the estimated number of resident marine anglers and the estimated number of resident freshwater anglers, respectively, bear to the estimated number of all resident anglers in that State.

"(2) PRESERVATION OF FRESHWATER PROJECT ALLOCATION AT 1988 LEVEL.—(A) Subject to subparagraph (B), the amount allocated by a State pursuant to this subsection to freshwater fish projects for each fiscal year shall not be less than the amount allocated by such State to such projects for fiscal year 1988.

"(B) Subparagraph (A) shall not apply to a State with respect to any fiscal year for which the amount apportioned to the State

under this Act is less than the amount apportioned to the State under this Act for fiscal year 1988.

"(3) COASTAL STATE DEFINED.—As used in this subsection, the term 'coastal State' means any one of the States of Alabama, Alaska, California, Connecticut, Delaware, Florida, Georgia, Hawaii, Louisiana, Maine, Maryland, Massachusetts, Mississippi, New Hampshire, New Jersey, New York, North Carolina, Oregon, Rhode Island, South Carolina, Texas, Virginia, and Washington. The term also includes the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.".

(2) STATE USE OF CONTRIBUTIONS.—Such Act is further amended by adding at the end the following:

"SEC. 13. STATE USE OF CONTRIBUTIONS. 16 USC 777*l*.

"A State may use contributions of funds, real property, materials, and services to carry out an activity under this Act in lieu of payment by the State of the State share of the cost of such activity. Such a State share shall be considered to be paid in an amount equal to the fair market value of any contribution so used." Real property.

(3) EXPENDITURES FROM TRUST FUND.—Paragraph (2) of section 9504(b) of the Internal Revenue Code of 1986 is amended by striking "(as in effect on June 1, 1984)" and inserting "(as in effect on October 1, 1988)". 26 USC 9504.

(d) SURVEY OF FUEL USE BY RECREATIONAL VESSELS.— 46 USC 13101 note.

(1) IN GENERAL.—The Secretary of Transportation and the Secretary of the Interior shall jointly conduct a survey of—

(A) the number, size, and primary uses of recreational vessels operating on the waters of the United States; and

(B) the amount and types of fuel used by those vessels.

(2) AUTHORIZATION OF CONTRACTS.—The Secretary of Transportation and the Secretary of the Interior may enter into contracts for the performance of a survey pursuant to this subsection.

(3) REPORT.—The Secretary of the Interior and the Secretary of Transportation shall jointly submit a report to the Speaker of the House of Representatives and to the President pro tempore of the Senate which describes the results of the survey conducted pursuant to this section not later than November 15, 1992.

(4) FUNDING.—Activities under this subsection may be carried out—

(A) using amounts available to the Secretary of the Interior for administrative expenses under the Act entitled "An Act to provide that the United States shall aid the States in fish restoration and management projects, and for other purposes" (64 Stat. 430; 16 U.S.C. 777 et seq.); and

(B) subject to appropriations, using amounts available to the Secretary of Transportation under section 13106(a)(1) of title 46, United States Code (as amended by this Act).

(e) EFFECTIVE DATE.—This section shall take effect October 1, 1988. 16 USC 777 note.

SEC. 7. MANNING REQUIREMENTS FOR MOBILE OFFSHORE DRILLING UNITS.

Section 8301(a)(2) of title 46, United States Code, is amended to read as follows:

"(2) A vessel of at least 1,000 gross tons and propelled by machinery shall have 3 licensed mates, except—

"(A) in the case of a vessel other than a mobile offshore drilling unit, if on a voyage of less than 400 miles from port of departure to port of final destination, the vessel shall have 2 licensed mates; and

"(B) in the case of a mobile offshore drilling unit, the vessel shall have licensed individuals as provided by regulations prescribed by the Secretary under section 8101 of this title.".

SEC. 8. TRANSFER OF COAST GUARD PROPERTY AT LAKE WORTH INLET, FLORIDA.

(a) IN GENERAL.—In exchange for parcels of land, or any buildings or improvements located in and about Lake Worth Inlet in Palm Beach County, Florida, or in exchange for construction, improvements, or services to land or buildings in such area, the Secretary of the department in which the Coast Guard is operating may offer for consideration, and transfer, in whole or in part, any other parcels of land, and any buildings and improvements, located in and about Lake Worth Inlet in Palm Beach County, Florida, which have been held for the use of the Coast Guard. The exact acreage and legal description of the land to be transferred shall be as described in such surveys as may be satisfactory to the Secretary.

Contracts.

(b) PROCEDURE.—Each contracting action under this section shall be conducted in accordance with competitive bidding procedures prescribed by section 2304 of title 10, United States Code. Property may not be exchanged under this section for less than its fair market value or reasonably comparable value in property, construction, improvements, or services.

SEC. 9. COAST GUARD ACADEMY ADVISORY COMMITTEE TERMINATION DATE.

Section 193 of title 14, United States Code, is amended by adding at the end the following new sentence: "The Committee terminates on September 30, 1992.".

SEC. 10. AUTHORITY FOR CIVILIAN AGENTS TO CARRY FIREARMS.

(a) IN GENERAL.—Chapter 5 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 95. Civilian agents authorized to carry firearms

Regulations.

"Under regulations prescribed by the Secretary with the approval of the Attorney General, civilian special agents of the Coast Guard may carry firearms or other appropriate weapons while assigned to official investigative or law enforcement duties.".

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following new item:

"95. Civilian agents authorized to carry firearms.".

SEC. 11. RELOCATION ASSISTANCE FOR COAST GUARD PERSONNEL.

Section 1013 of the Demonstration Cities Metropolitan Development Act of 1966 (42 U.S.C. 3374) is amended—

(1) in subsection (k) by striking "and (c)" and inserting "(c), and (n)"; and

(2) by adding at the end the following new subsection:

"(n)(1) Assistance under this section shall be provided by the Secretary of Defense with respect to Coast Guard bases and installations ordered to be closed, in whole or in part, after January 1, 1987. Such assistance shall be provided under terms equivalent to those under which assistance is provided under this section for closings of military bases and installations which are under the jurisdiction of the Secretary of Defense.

"(2) The Secretary of the department in which the Coast Guard is operating, if other than the Department of Defense, shall reimburse the Secretary of Defense for expenditures under this section made by the Secretary of Defense with respect to closings of Coast Guard bases and installations ordered when the Coast Guard is not operating as a service in the Navy. The Secretary of Defense and the Secretary of the department in which the Coast Guard is operating shall enter into an agreement under which the Secretary of the department in which the Coast Guard is operating shall carry out such reimbursement.". Contracts.

SEC. 12. COAST GUARD ACADEMY CADET SERVICE OBLIGATION.

Section 182 of title 14, United States Code, is amended—

(1) by striking the next to the last sentence of subsection (a); and

(2) by striking subsection (b) and inserting in lieu thereof the following new subsections:

"(b) Each cadet shall sign an agreement with respect to the cadet's length of service in the Coast Guard. The agreement shall provide that the cadet agrees to the following:

"(1) That the cadet will complete the course of instruction at the Coast Guard Academy.

"(2) That upon graduation from the Coast Guard Academy the cadet—

"(A) will accept an appointment, if tendered, as a commissioned officer of the Coast Guard; and

"(B) will serve on active duty for at least five years immediately after such appointment.

"(3) That if an appointment described in paragraph (2) is not tendered or if the cadet is permitted to resign as a regular officer before the completion of the commissioned service obligation of the cadet, the cadet—

"(A) will accept an appointment as a commissioned officer in the Coast Guard Reserve; and

"(B) will remain in that reserve component until completion of the commissioned service obligation of the cadet.

"(c)(1) The Secretary may transfer to the Coast Guard Reserve, and may order to active duty for such period of time as the Secretary prescribes (but not to exceed four years), a cadet who breaches an agreement under subsection (b). The period of time for which a cadet is ordered to active duty under this paragraph may be determined without regard to section 651(a) of title 10.

"(2) A cadet who is transferred to the Coast Guard Reserve under paragraph (1) shall be transferred in an appropriate enlisted grade or rating, as determined by the Secretary.

"(3) For the purposes of paragraph (1), a cadet shall be considered to have breached an agreement under subsection (b) if the cadet is

separated from the Coast Guard Academy under circumstances which the Secretary determines constitute a breach by the cadet of the cadet's agreement to complete the course of instruction at the Coast Guard Academy and accept an appointment as a commissioned officer upon graduation from the Coast Guard Academy.

Regulations. "(d) The Secretary shall prescribe regulations to carry out this section. Those regulations shall include—

"(1) standards for determining what constitutes, for the purpose of subsection (c), a breach of an agreement under subsection (b);

"(2) procedures for determining whether such a breach has occurred; and

"(3) standards for determining the period of time for which a person may be ordered to serve on active duty under subsection (c).

"(e) In this section, 'commissioned service obligation', with respect to an officer who is a graduate of the Academy, means the period beginning on the date of the officer's appointment as a commissioned officer and ending on the sixth anniversary of such appointment or, at the discretion of the Secretary, any later date up to the eighth anniversary of such appointment.

"(f)(1) This section does not apply to a cadet who is not a citizen or national of the United States.

Children and youth. "(2) In the case of a cadet who is a minor and who has parents or a guardian, the cadet may sign the agreement required by subsection (b) only with the consent of the parent or guardian.".

SEC. 13. RETROACTIVE PAY FOLLOWING ADMINISTRATIVE ERROR.

(a) IN GENERAL.—Chapter 13 of title 14, United States Code, is amended by adding at the end the following new section:

"§ 513. Retroactive payment of pay and allowances delayed by administrative error or oversight

Regulations. "Under regulations prescribed by the Secretary, the Coast Guard may authorize retroactive payment of pay and allowances, including selective reenlistment bonuses, to enlisted members if entitlement to the pay and allowances was delayed in vesting solely because of an administrative error or oversight.".

(b) CONFORMING AMENDMENT.—The table of sections for such chapter is amended by adding at the end the following new item:

"513. Retroactive payment of pay and allowances delayed by administrative error or oversight.".

SEC. 14. TECHNICAL AMENDMENTS TO INLAND NAVIGATIONAL RULES.

Section 2 of the Inland Navigational Rules Act of 1980 (33 U.S.C. chapter 2001 et seq.) is amended—

(1) by striking "minesweeping" in Rule 3(g)(v) (33 U.S.C. 2003(g)(v)) and inserting in lieu thereof "mineclearance";

(2) by striking "minesweeping" in Rule 27(b) (33 U.S.C. 2027(b)) and inserting in lieu thereof "mineclearance"; and

(3) by striking paragraph (f) of Rule 27 (33 U.S.C. 2027(f)) and inserting in lieu thereof the following:

Safety. "(f) A vessel engaged in mineclearance operations shall, in addition to the lights prescribed for a power-driven vessel in Rule 23 or to the lights or shape prescribed for a vessel at anchor in Rule 30, as appropriate, exhibit three all-round green lights or three balls. One of these lights or shapes shall be exhibited near the foremast head

and one at each end of the fore yard. These lights or shapes indicate that it is dangerous for another vessel to approach within 1,000 meters of the mineclearance vessel.".

SEC. 15. DEFENSE OF CERTAIN SUITS ARISING OUT OF LEGAL MALPRACTICE.

(a) IN GENERAL.—Section 1054 of title 10, United States Code, is amended—

(1) in subsection (a), by inserting "or within the Coast Guard" after "title 32)"; and

(2) in subsection (g), by striking "or the Secretary of a military department" and inserting in lieu thereof ", the Secretary of a military department, or the Secretary of the department in which the Coast Guard is operating, as appropriate".

(b) AFFECTED CLAIMS.—The amendments made by subsection (a) shall apply only to claims accruing on or after the date of the enactment of this Act, regardless of when the alleged negligent act or omission occurred. 10 USC 1054 note.

SEC. 16. EXEMPTION FROM GENERAL BRIDGE ACT OF 1946. 33 USC 59x.

(a) WATERS DECLARED NONNAVIGABLE.—The waters described in subsection (b) are declared to be nonnavigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 *et seq.*).

(b) WATERS DESCRIBED.—The waters referred to in subsection (a) are a drainage canal which— New Jersey.

(1) is an unnamed tributary of the creek known as Newton Creek, located at block 641 (formerly designated as block 860) in the city of Camden, New Jersey;

(2) originates at the north bank of Newton Creek approximately 1,200 feet east of the confluence of Newton Creek and the Delaware River; and

(3) terminates at drainage culverts on the west side of Interstate Highway 676.

SEC. 17. CLARIFYING AMENDMENT TO TITLE 14.

Section 2 of title 14, United States Code, is amended by striking "on and under" the first place it appears and inserting in lieu thereof "on, under, and over".

SEC. 18. BRIDGES DEEMED UNREASONABLE OBSTRUCTIONS TO NAVIGATION.

Notwithstanding any other provision of law, each of the following bridges is deemed to be an unreasonable obstruction to navigation:

(1) EAST HANNIBAL, ILLINOIS.—The Mississippi River Railroad Bridge between East Hannibal, Illinois, and Hannibal, Missouri, mile 309.9, Upper Mississippi River. Missouri.

(2) PASCAGOULA, MISSISSIPPI.—The CSX (L&N) Railroad Bridge in Pascagoula, Mississippi.

SEC. 19. REPORT ON POSSIBLE PROCUREMENT FOR ANTISUBMARINE WARFARE MISSION.

Not later than October 1, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Congress a report on the plans to accomplish the Coast Guard's antisubmarine warfare (ASW) mission responsibilities in the Maritime Defense Zone after considering all available options, including those fully

developed by the Navy, on how ASW equipment will be installed and used on Coast Guard cutters.

SEC. 20. CLARIFICATION OF MEMBERSHIP OF NATIONAL BOATING SAFETY ADVISORY COUNCIL.

(a) IN GENERAL.—Paragraph (1) of section 13110(b) of title 46, United States Code, is amended by striking "members from" each place it appears and inserting in lieu thereof "representatives of".

46 USC 13110 note.

(b) IMPLEMENTATION.—The Secretary of the department in which the Coast Guard is operating shall carry out the amendments made by subsection (a) as vacancies in the membership of the National Boating Safety Advisory Council occur.

SEC. 21. DRAWBRIDGE OPENINGS.

Section 5(a) of the Act entitled "An Act making appropriations for the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved August 18, 1894 (33 U.S.C. 499), is amended by adding at the end the following:

Highways.

"Any rules and regulations made in pursuance of this section shall, to the extent practical and feasible, provide for regularly scheduled openings of drawbridges during seasons of the year, and during times of the day, when scheduled openings would help reduce motor vehicle traffic delays and congestion on roads and highways linked by drawbridges.".

SEC. 22. MOBILE LAW ENFORCEMENT BASE.

The Secretary of the department in which the Coast Guard is operating shall evaluate the advantages and disadvantages of acquisition by the Coast Guard of a mobile semisubmersible law enforcement base. Not later than 3 months after the date of the enactment of this Act, the Secretary shall report the results of such evaluation to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives.

Reports.

President of U.S. Defense and national security.

SEC. 23. ICEBREAKER STUDY.

Reports.

The President shall review existing national needs for polar icebreakers with respect to all appropriate national security, scientific, economic, and environmental interests of the United States. Not later than October 1, 1988, the President shall submit a report on such review to the Committee on Commerce, Science, and Transportation of the Senate and to the Committee on Merchant Marine and Fisheries of the House of Representatives. Such report may be in the form of an update of the Polar Icebreaker Requirements Study of 1984 and shall include—

(1) an assessment of the number and capabilities of polar icebreaking vessels required in the national interest with respect to national security, scientific, economic, and environmental requirements;

(2) a comparison of the advantages and disadvantages of acquiring polar icebreaking vessels built in whole or in part in foreign shipyards as opposed to acquiring polar icebreaking vessels built in whole or in part in domestic shipyards, including any national security risks and economic costs and benefits;

(3) a comparison of the operational and economic costs and benefits that can be derived from leasing polar icebreaking

vessels as opposed to the costs and benefits that can be derived from buying such icebreakers; and

(4) recommendations for such funding and legislation as may be necessary to obtain such polar icebreaking vessels as are needed to meet national requirements.

SEC. 24. TWO-YEAR BUDGET CYCLE FOR COAST GUARD.

31 USC 1105 note.

(a) OPINION OF CONGRESS.—It is the opinion of the Congress that the programs and activities of the Coast Guard could be more effectively and efficiently planned and managed if funds for the Coast Guard were provided on a 2-year cycle rather than annually.

(b) SUBMISSION OF 2-YEAR BUDGET BY PRESIDENT.—The President shall include in the budget for fiscal year 1990 submitted to the Congress pursuant to section 1105 of title 31, United States Code, a single proposed budget for the Coast Guard for fiscal years 1990 and 1991. Thereafter, the President shall submit a proposed 2-year budget for the Coast Guard every other year.

(c) REPORT.—Not later than October 1, 1988, the Secretary of the department in which the Coast Guard is operating shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives a report containing—

(1) the Secretary's views on the advantages and disadvantages of operating the Coast Guard on a 2-year budget cycle;

(2) the Secretary's plans for converting to a 2-year budget cycle; and

(3) a description of any impediments (statutory or otherwise) to converting the operations of the Coast Guard to a 2-year budget cycle beginning with fiscal year 1990.

SEC. 25. COAST GUARD BUDGET ESTIMATES.

Section 663 of title 14, United States Code, is amended by adding at the end the following new sentence: "Not later than 30 days after the date on which the President submits to the Congress a budget under section 1105 of title 31 which includes a proposed 2-year budget for the Coast Guard, the Secretary shall submit to the Committee on Commerce, Science, and Transportation and the Committee on Appropriations of the Senate, and to the Committee on Merchant Marine and Fisheries and the Committee on Appropriations of the House of Representatives, detailed Coast Guard budget estimates for the fiscal years covered by such proposed 2-year budget.".

SEC. 26. CONSTRUCTION OF CERTAIN VESSELS.

(a) IN GENERAL.—Chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"§ 665. Restriction on construction of vessels in foreign shipyards

"(a) Except as provided in subsection (b), no Coast Guard vessel, and no major component of the hull or superstructure of a Coast Guard vessel, may be constructed in a foreign shipyard.

"(b) The President may authorize exceptions to the prohibition in subsection (a) when the President determines that it is in the national security interest of the United States to do so. The President shall transmit notice to Congress of any such determination, and no contract may be made pursuant to the exception authorized

President of U.S. Contracts.

until the end of the 30-day period beginning on the date the notice of such determination is received by Congress.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 17 of title 14, United States Code, is amended by adding at the end the following:

"665. Restriction on construction of vessels in foreign shipyards.".

SEC. 27. HELICOPTER PRESENCE IN CHARLESTON, SOUTH CAROLINA.

(a) ESTABLISHMENT OF HELICOPTER PRESENCE.—Not later than three months after the date of enactment of this Act, the Secretary of the department in which the Coast Guard is operating shall have initiated action to establish a full-time permanent base at Charleston, South Carolina, for the operation of at least one HH-65 short-range recovery helicopter, together with necessary support and operational personnel. The establishment of this base shall be completed in 24 months. The Secretary shall ensure that establishing and maintaining this base shall not result in a relocation of helicopters assigned to a Coast Guard air station as of July 13, 1988.

(b) AUTHORIZATION OF APPROPRIATIONS.—In addition to the funds authorized to be appropriated under section 2 of this Act, $10,000,000 is authorized to be appropriated for fiscal year 1989 to establish and operate the Charleston, South Carolina, helicopter presence.

SEC. 28. GRANT OF RIGHT OF FIRST REFUSAL TO GRAND HAVEN, MICHIGAN, TO CERTAIN PROPERTY USED BY THE COAST GUARD.

(a) RIGHT OF FIRST REFUSAL.—The Secretary of the department in which the Coast Guard is operating shall transfer without consideration to the city of Grand Haven, Michigan, the right that, if the Coast Guard ceases to use the property described in subsection (c)(1) as a Coast Guard facility or such property is determined to be excess, the city of Grand Haven shall have the first opportunity to purchase the property described in subsection (c)(1).

(b) PURCHASE PRICE OF PROPERTY.—The right referred to in subsection (a) shall provide that the property may be purchased by the city of Grand Haven, Michigan, for fair market value less—

(1) ⅔ of the difference between—

(A) the appraised value of the property described in subsection (c)(1) after improvements are made but before occupancy by the Coast Guard, and

(B) the appraised value of the property described in subsection (c)(1), determined as of the date such property was first acquired by the United States for use by the Coast Guard but before the Coast Guard takes occupancy; less

(2) the difference between—

(A) the appraised value of the property described in subsection (c)(1), determined as of the date the property was first acquired for the use of the Coast Guard, and

(B) the appraised value of the property described in subsection (c)(2), determined as of the date the property was transferred by the United States to the city of Grand Haven, Michigan.

(c) DESCRIPTION OF PROPERTY.—

(1) PROPERTY USED AS COAST GUARD FACILITY.—The property referred to in subsections (a), (b)(1) (A) and (B), and (b)(2)(A) is that property known as the old Board of Light and Power office

and service operations facility, located at 650 Harbor Avenue, Grand Haven, Michigan.

(2) OTHER PROPERTY.—The property referred to in subsection (b)(2)(B) is that property in the city of Grand Haven, Michigan, more particularly described as: That part of Government Lot 3 in section 19, town 8 north, range 16 West, described as beginning at a point called "A" located as follows: Commence on the east line of said section 19, 2,290.35 feet south of the east quarter corner of said section, thence west 663.04 feet, thence south 2 degrees west 197.00 feet to a point of beginning "A", thence south 63 degrees 45 minutes west 200.00 feet, thence south 26 degrees 15 minutes east 200.00 feet to the north pier on the Grand River, thence north 63 degrees 45 minutes east 250.00 feet along such pier line, thence north 23 degrees 20 minutes west to a point 61.05 feet north 63 degrees 45 minutes east of point "A", thence south 63 degrees 45 minutes west to the point of beginning, called "A", also known and sometimes described as Tax Parcel No. 70-03-19-42-015, being located in the southeast quarter of said section 19, town 8 north, range 16 west, bounded on the southerly boundary thereof by the waters of the Grand River, and bounded on the northerly edge thereof by "Main Street" in the city of Grand Haven.

SEC. 29. ASSISTANCE TO FILM PRODUCERS.

(a) IN GENERAL.—Title 14, United States Code, is amended by inserting after section 658 the following:

"§ 659. Assistance to film producers

"(a) Notwithstanding any other provision of law, when the Secretary determines that it is appropriate, and that it will not interfere with Coast Guard missions, the Secretary may conduct operations with Coast Guard vessels, aircraft, facilities, or personnel, in such a way as to give assistance to film producers. As used in this section, 'film producers' includes commercial or noncommercial producers of material for cinema, television, or videotape.

"(b) The Secretary shall keep account of costs incurred as a result of providing assistance to film producers, not including costs which would otherwise be incurred in Coast Guard operations or training, or shall estimate such costs in advance, and such costs shall be paid to the Secretary by the film producers who request such assistance, on terms determined by the Secretary. The Secretary may waive costs not exceeding $200 for one production, and may waive other costs related to noncommercial productions which the Secretary determines to be in the public interest. The Secretary shall reimburse the amounts collected under this section to the Coast Guard appropriation account under which the costs were incurred.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of title 14, United States Code, is amended by inserting after the item relating to section 658 the following:

"659. Assistance to film producers.".

SEC. 30. USE OF COAST GUARD AUXILIARY FOR NONEMERGENCY ASSISTANCE.

(a) IN GENERAL.—Section 88(b) of title 14, United States Code, is amended—

(1) by striking "The Coast Guard" and inserting in lieu thereof "(1) Subject to paragraph (2), the Coast Guard"; and

(2) by adding at the end the following:

"(2) The Commandant shall make full use of all available and qualified resources, including the Coast Guard Auxiliary and individuals licensed by the Secretary pursuant to section 8904(b) of title 46, United States Code, is rendering aid under this subsection in nonemergency cases.".

(b) CONFORMING AMENDMENT.—Section 113 of the Coast Guard Authorization Act of 1982 (14 U.S.C. 88 note) is amended by inserting "(other than by the Coast Guard Auxiliary)" after "interference".

Approved September 28, 1988.

LEGISLATIVE HISTORY—H.R. 2342 (S. 1459):

HOUSE REPORTS: No. 100-154 (Comm. on Merchant Marine and Fisheries) and No. 100-855 (Comm. of Conference).

SENATE REPORTS: No. 100-98 accompanying S. 1459 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 133 (1987): July 8, considered and passed House.
Oct. 13, considered and passed Senate, amended, in lieu of S. 1459.
Dec. 18, House concurred in Senate amendment with an amendment.

Vol. 134 (1988): Sept. 14, House agreed to conference report.
Sept. 15, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Sept. 28, Presidential statement.

Public Law 100-449
100th Congress

An Act

Sept. 28, 1988
[H.R. 5090]

To implement the United States-Canada Free-Trade Agreement.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States-Canada Free-Trade Agreement Implementation Act of 1988.
Exports.
Imports.
19 USC 2112 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "United States-Canada Free-Trade Agreement Implementation Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.
Sec. 2. Purposes.

TITLE I—APPROVAL OF UNITED STATES-CANADA FREE-TRADE AGREEMENT AND RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW

Sec. 101. Approval of United States-Canada Free-Trade Agreement.
Sec. 102. Relationship of the agreement to United States law.
Sec. 103. Consultation and lay-over requirements for, and effective date of, proclaimed actions.
Sec. 104. Harmonized System.
Sec. 105. Implementing actions in anticipation of entry into force.

TITLE II—TARIFF MODIFICATIONS, RULES OF ORIGIN, USER FEES, DRAWBACK, ENFORCEMENT, AND OTHER CUSTOMS PROVISIONS

Sec. 201. Tariff modifications.
Sec. 202. Rules of origin.
Sec. 203. Customs user fees.
Sec. 204. Drawback.
Sec. 205. Enforcement.
Sec. 206. Exemption from lottery ticket embargo.
Sec. 207. Production-based duty remission programs with respect to automotive products.

TITLE III—APPLICATION OF AGREEMENT TO SECTORS AND SERVICES

Sec. 301. Agriculture.
Sec. 302. Relief from imports.
Sec. 303. Acts identified in national trade estimates.
Sec. 304. Negotiations regarding certain sectors; biennial reports.
Sec. 305. Energy.
Sec. 306. Lowered threshold for Government procurement under Trade Agreements Act of 1979 in the case of certain Canadian products.
Sec. 307. Temporary entry for business persons.
Sec. 308. Amendment to section 5136 of the Revised Statutes.
Sec. 309. Steel products.

TITLE IV—BINATIONAL PANEL DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES

Sec. 401. Amendments to section 516A of the Tariff Act of 1930.
Sec. 402. Amendments to title 28, United States Code.
Sec. 403. Conforming amendments to the Tariff Act of 1930.
Sec. 404. Amendments to antidumping and countervailing duty law.
Sec. 405. Organizational and administrative provisions regarding the implementation of chapters 18 and 19 of the Agreement.
Sec. 406. Authorization of appropriations for the Secretariat, the panels, and the committees.
Sec. 407. Testimony and production of papers in extraordinary challenges.

Sec. 408. Requests for review of Canadian antidumping and countervailing duty determinations.
Sec. 409. Subsidies.
Sec. 410. Termination of agreement.

TITLE V—EFFECTIVE DATES AND SEVERABILITY

Sec. 501. Effective dates.
Sec. 502. Severability.

19 USC 2112 note.

SEC. 2. PURPOSES.

The purposes of this Act are—

(1) to approve and implement the Free-Trade Agreement between the United States and Canada negotiated under the authority of section 102 of the Trade Act of 1974;

(2) to strengthen and develop economic relations between the United States and Canada for their mutual benefit;

(3) to establish a free-trade area between the two nations through the reduction and elimination of barriers to trade in goods and services and to investment; and

(4) to lay the foundation for further cooperation to expand and enhance the benefits of such Agreement.

19 USC 2112 note.

TITLE I—APPROVAL OF UNITED STATES-CANADA FREE-TRADE AGREEMENT AND RELATIONSHIP OF AGREEMENT TO UNITED STATES LAW

SEC. 101. APPROVAL OF UNITED STATES-CANADA FREE-TRADE AGREEMENT.

(a) APPROVAL OF AGREEMENT AND STATEMENT OF ADMINISTRATIVE ACTION.—Pursuant to sections 102 and 151 of the Trade Act of 1974 (19 U.S.C. 2112 and 2191), the Congress approves—

(1) the United States-Canada Free-Trade Agreement (hereinafter in this Act referred to as the "Agreement") entered into on January 2, 1988, and submitted to the Congress on July 25, 1988;

(2) the letters exchanged between the Governments of the United States and Canada—

(A) dated January 2, 1988, relating to negotiations regarding articles 301 (Rules of Origin) and 401 (Tariff Elimination) of the Agreement, and

(B) dated January 2, 1988, relating to negotiations regarding article 2008 (Plywood Standards) of the Agreement; and

(3) the statement of administrative action proposed to implement the Agreement that was submitted to the Congress on July 25, 1988.

President of U.S.

(b) CONDITIONS FOR ENTRY INTO FORCE OF THE AGREEMENT.—At such time as the President determines that Canada has taken measures necessary to comply with the obligations of the Agreement, the President is authorized to exchange notes with the Government of Canada providing for the entry into force, on or after January 1, 1989, of the Agreement with respect to the United States.

(c) REPORT ON CANADIAN PRACTICES.—Within 60 days after the date of the enactment of this Act (but not later than December 15, 1988), the United States Trade Representative shall submit to the

Congress a report identifying, to the maximum extent practicable, major current Canadian practices (and the legal authority for such practices) that, in the opinion of the United States Trade Representative—

(1) are not in conformity with the Agreement; and

(2) require a change of Canadian law, regulation, policy, or practice to enable Canada to conform with its international obligations under the Agreement.

SEC. 102. RELATIONSHIP OF THE AGREEMENT TO UNITED STATES LAW.

(a) UNITED STATES LAWS TO PREVAIL IN CONFLICT.—No provision of the Agreement, nor the application of any such provision to any person or circumstance, which is in conflict with any law of the United States shall have effect.

(b) RELATIONSHIP OF AGREEMENT TO STATE AND LOCAL LAW.—

(1) The provisions of the Agreement prevail over—

(A) any conflicting State law; and

(B) any conflicting application of any State law to any person or circumstance;

to the extent of the conflict.

(2) Upon the enactment of this Act, the President shall, in accordance with section 306(c)(2)(A) of the Trade and Tariff Act of 1984 (19 U.S.C. 2114c), initiate consultations with the State governments on the implementation of the obligations of the United States under the Agreement. Such consultations shall be held— President of U.S.

(A) through the intergovernmental policy advisory committees on trade established under such section for the purpose of achieving conformity of State laws and practices with the Agreement; and

(B) with the individual States as necessary to deal with particular questions that may arise.

(3) The United States may bring an action challenging any provision of State law, or the application thereof to any person or circumstance, on the ground that the provision or application is inconsistent with the Agreement.

(4) For purposes of this subsection, the term "State law" includes—

(A) any law of a political subdivision of a State; and

(B) any State law regulating or taxing the business of insurance.

(c) EFFECT OF AGREEMENT WITH RESPECT TO PRIVATE REMEDIES.—No person other than the United States shall—

(1) have any cause of action or defense under the Agreement or by virtue of congressional approval thereof, or

(2) challenge, in any action brought under any provision of law, any action or inaction by any department, agency, or other instrumentality of the United States, any State, or any political subdivision of a State on the ground that such action or inaction is inconsistent with the Agreement.

(d) INITIAL IMPLEMENTING REGULATIONS.—Initial regulations necessary or appropriate to carry out the actions proposed in the statement of administrative action submitted under section 101(a)(3) to implement the Agreement shall, to the maximum extent feasible, be issued within 1 year after the date of entry into force of the Agreement. In the case of any implementing action that takes effect after the date of entry into force of the Agreement, initial regula-

tions to carry out that action shall, to the maximum extent feasible, be issued within 1 year after such effective date.

(e) CHANGES IN STATUTES TO IMPLEMENT A REQUIREMENT, AMENDMENT, OR RECOMMENDATION.—The provisions of section 3(c) of the Trade Agreements Act of 1979 (19 U.S.C. 2504(c)) shall apply as if the Agreement were an agreement approved under section 2(a) of that Act whenever the President determines that it is necessary or appropriate to amend, repeal, or enact a statute of the United States in order to implement any requirement of, amendment to, or recommendation, finding or opinion under, the Agreement; but such provisions shall not apply to any bill to implement any such requirement, amendment, recommendation, finding, or opinion that is submitted to the Congress after the close of the 30th month after the month in which the Agreement enters into force.

SEC. 103. CONSULTATION AND LAY-OVER REQUIREMENTS FOR, AND EFFECTIVE DATE OF, PROCLAIMED ACTIONS.

(a) CONSULTATION AND LAY-OVER REQUIREMENTS.—If a provision of this Act provides that the implementation of an action by the President by proclamation is subject to the consultation and lay-over requirements of this section, such action may be proclaimed only if—

(1) the President has obtained advice regarding the proposed action from—

(A) the appropriate advisory committees established under section 135 of the Trade Act of 1974, and

(B) the United States International Trade Commission;

Reports.

(2) the President has submitted a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate that sets forth—

(A) the action proposed to be proclaimed and the reasons therefor, and

(B) the advice obtained under paragraph (1);

(3) a period of at least 60 calendar days that begins on the first day on which the President has met the requirements of paragraphs (1) and (2) with respect to such action has expired; and

(4) the President has consulted with such Committees regarding the proposed action during the period referred to in paragraph (3).

Federal Register, publication.

(b) EFFECTIVE DATE OF CERTAIN PROCLAIMED ACTIONS.—No action proclaimed by the President under the authority of this Act, if such action is not subject to the consultation and lay-over requirements under subsection (a), may take effect before the 15th day after the date on which the text of the proclamation is published in the Federal Register.

SEC. 104. HARMONIZED SYSTEM.

(a) DEFINITION.—As used in this Act, the term "Harmonized System" means the nomenclature system established under the International Convention on the Harmonized Commodity Description and Coding System (done at Brussels on June 14, 1983, and the protocol thereto, done at Brussels on June 24, 1986) as implemented under United States law.

Tariff Schedules of the U.S.

(b) INTERIM APPLICATION OF TSUS.—The following apply if the International Convention, and the protocol thereto, referred to in subsection (a) are not implemented under United States law before the Agreement enters into force:

(1) The President, subject to subsection (c), shall proclaim such modifications to the Tariff Schedules of the United States (19 U.S.C. 1202) as may be necessary to give effect, until such time as such Convention and protocol are so implemented, to the rules of origin, schedule of rate reductions, and other provisions that would, but for the absence of such implementation, be proclaimed under the authority of this Act to, or in terms of, the Harmonized System to implement the obligations of the United States under the Agreement. President of U.S.

(2) Until such time as such Convention and protocol are so implemented, any reference in this Act to the nomenclature of such Convention and protocol shall be treated as a reference to the corresponding nomenclature of the Tariff Schedules of the United States as modified under paragraph (1).

(c) RESTRICTIONS.—

(1) No modification described in subsection (b)(1) that is to take effect concurrently with the entry into force of the Agreement may be proclaimed unless the text of the modification is published in the Federal Register at least 30 days before the date of entry into force. Federal Register, publication.

(2) All modifications proclaimed under the authority of subsection (b)(1) after the Agreement enters into force with respect to the United States are subject to the consultation and lay-over requirements of section 103(a).

SEC. 105. IMPLEMENTING ACTIONS IN ANTICIPATION OF ENTRY INTO FORCE.

Subject to section 103 or 104(c), as appropriate, and any other applicable restriction or limitation in this Act on the proclaiming of actions or the issuing of regulations to carry out this Act or any amendment made by this Act, after the date of the enactment of this Act—

(1) the President may proclaim such actions; and

(2) other appropriate officers of the United States Government may issue such regulations;

as may be necessary to ensure that any provision of this Act, or amendment made by this Act, that takes effect on the date the Agreement enters into force is appropriately implemented on such date, but no such proclamation or regulation may have an effective date earlier than the date of entry into force.

TITLE II—TARIFF MODIFICATIONS, RULES OF ORIGIN, USER FEES, DRAWBACK, ENFORCEMENT, AND OTHER CUSTOMS PROVISIONS

19 USC 2112 note.

SEC. 201. TARIFF MODIFICATIONS.

(a) TARIFF MODIFICATIONS SPECIFIED IN THE AGREEMENT.—The President may proclaim—

(1) such modifications or continuance of any existing duty;

(2) such continuance of existing duty-free or excise treatment; or

(3) such additional duties;

as the President determines to be necessary or appropriate to carry out article 401 of the Agreement and the schedule of duty reductions with respect to Canada set forth in Annexes 401.2 and 401.7 to the Agreement, as approved under section 101(a)(1). For purposes of proclaiming necessary modifications under such Annex 401.2, any article covered under subheading 9813.00.05 (contained in the United States Schedule in such Annex) shall, unless such article is a drawback eligible good under section 204(a), be treated as being subject to any otherwise applicable customs duty if the article, or merchandise incorporating such article, is exported to Canada.

(b) OTHER TARIFF MODIFICATIONS.—Subject to the consultation and lay-over requirements of section 103(a), the President may proclaim—

(1) such modifications as the United States and Canada may agree to regarding the staging of any duty treatment set forth in Annexes 401.2 and 401.7 of the Agreement;

(2) such modifications or continuance of any existing duty;

(3) such continuance of existing duty-free or excise treatment; or

(4) such additional duties;

as the President determines to be necessary or appropriate to maintain the general level of reciprocal and mutually advantageous concessions with respect to Canada provided for by the Agreement.

(c) MODIFICATIONS AFFECTING PLYWOOD.—

(1) The Congress encourages the President to facilitate the preparation, and the implementation with Canada, of common performance standards for the use of softwood plywood and other structural panels in construction applications in the United States and Canada.

President of U.S. Reports.

(2) The President shall report to the Congress on the incorporation of common plywood performance standards into building codes in the United States and Canada and may implement the provisions of article 2008 of the Agreement when he determines that the necessary conditions have been met.

(3) Any tariff reduction undertaken pursuant to paragraph (2) shall be in equal annual increments ending January 1, 1998, unless those reductions commence after January 1, 1991.

SEC. 202. RULES OF ORIGIN.

(a) IN GENERAL.—

(1) For purposes of implementing the tariff treatment contemplated under the Agreement, goods originate in the territory of a Party if—

(A) they are wholly obtained or produced in the territory of either Party or both Parties; or

(B) they—

(i) have been transformed in the territory of either Party or both Parties so as to be subject to a change in tariff classification as described in the Annex rules or to such other requirements as the Annex rules may provide when no change in tariff classifications occurs, and

(ii) meet the other conditions set out in the Annex.

(2) A good shall not be considered to originate in the territory of a party under paragraph (1)(B) merely by virtue of having undergone—

(A) simple packaging or, except as expressly provided by the Annex rules, combining operations;

(B) mere dilution with water or another substance that does not materially alter the characteristics of the good; or

(C) any process or work in respect of which it is established, or in respect of which the facts as ascertained clearly justify the presumption, that the sole object was to circumvent the provisions of chapter 3 of the Agreement.

(3) Accessories, spare parts, or tools delivered with any piece of equipment, machinery, apparatus, or vehicle that form part of its standard equipment shall be treated as having the same origin as that equipment, machinery, apparatus, or vehicle if the quantities and values of such accessories, spare parts, or tools are customary for the equipment, machinery, apparatus, or vehicle. Motor vehicles.

(b) TRANSSHIPMENT.—Goods exported from the territory of one Party originate in the territory of that Party only if—

(1) the goods meet the applicable requirements of subsection (a) and are shipped to the territory of the other Party without having entered the commerce of any third country;

(2) the goods, if shipped through the territory of a third country, do not undergo any operation other than unloading, reloading, or any operation necessary to transport them to the territory of the other Party or to preserve them in good condition; and

(3) the documents related to the exportation and shipment of the goods from the territory of a Party show the territory of the other Party as their final destination.

(c) INTERPRETATION.—In interpreting this section, the following apply:

(1) Whenever the processing or assembly of goods in the territory of either Party or both Parties results in one of the changes in tariff classification described in the Annex rules, such goods shall be considered to have been transformed in the territory of that Party and shall be treated as goods originating in the territory of that Party if—

(A) such processing or assembly occurs entirely within the territory of either Party or both Parties; and

(B) such goods have not subsequently undergone any processing or assembly outside the territories of the Parties that improves the goods in condition or advances them in value.

(2) Whenever the assembly of goods in the territory of a Party fails to result in a change of tariff classification because either—

(A) the goods were imported into the territory of the Party in an unassembled or a disassembled form and were classified as unassembled or disassembled goods pursuant to General Rule of Interpretation 2(a) of the Harmonized System; or

(B) the tariff subheading for the goods provides for both the goods themselves and their parts;

such goods shall not be treated as goods originating in the territory of a Party.

(3) Notwithstanding paragraph (2), goods described in that paragraph shall be considered to have been transformed in the

territory of a Party and be treated as goods originating in the territory of the Party if—

(A) the value of materials originating in the territory of either Party or both Parties used or consumed in the production of the goods plus the direct cost of assembling the goods in the territory of either Party or both Parties constitute not less than 50 percent of the value of the goods when exported to the territory of the other Party; and

(B) the goods have not subsequent to assembly undergone processing or further assembly in a third country and they meet the requirements of subsection (b).

(4) The provisions of paragraph (3) shall not apply to goods of chapters 61-63 of the Harmonized System.

(5) In making the determination required by paragraph (3)(A) and in making the same or a similar determination when required by the Annex rules, where materials originating in the territory of either Party or both Parties and materials obtained or produced in a third country are used or consumed together in the production of goods in the territory of a Party, the value of materials originating in the territory of either Party or both Parties may be treated as such only to the extent that it is directly attributable to the goods under consideration.

(6) In applying the Annex rules, a specific rule shall take precedence over a more general rule.

President of U.S.

(d) ANNEX RULES.—

(1) The President is authorized to proclaim, as a part of the Harmonized System, the rules set forth under the heading "Rules" in Annex 301.2 of the Agreement. For purposes of carrying out this paragraph—

(A) the phrase "headings 2207-2209" in paragraph 7 of section IV of such Annex 301.2 shall be treated as a reference to headings 2203-2209; and

(B) the phrase "any other heading" in paragraph 11 of section XV in such Annex 301.2 shall be treated as a reference to any other heading of chapter 74 of the Harmonized System.

(2) Subject to the consultation and lay-over requirements of section 103, the President is authorized to proclaim such modifications to the rules as may from time-to-time be agreed to by the United States and Canada.

(e) AUTOMOTIVE PRODUCTS.—

President of U.S.

(1) The President is authorized to proclaim such modifications to the definition of Canadian articles (relating to the administration of the Automotive Products Trade Act of 1965) in the general notes of the Harmonized System as may be necessary to conform that definition with chapter 3 of the Agreement.

Regulations.

(2) For purposes of administering the value requirement (as defined in section 304(c)(3)) with respect to vehicles, the Secretary of the Treasury shall prescribe regulations governing the averaging of the value content of vehicles of the same class, or of sister vehicles, assembled in the same plant as an alternative to the calculation of the value content of each vehicle.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "Annex" means—

(A) the interpretative guidelines set forth in subsection (c); and

(B) the Annex rules.

(2) The term "Annex rules" means the rules proclaimed under subsection (d).

(3) The term "direct cost of processing or direct cost of assembling" means the costs directly incurred in, or that can reasonably be allocated to, the production of goods, including—

(A) the cost of all labor, including benefits and on-the-job training, labor provided in connection with supervision, quality control, shipping, receiving, storage, packaging, management at the location of the process or assembly, and other like labor, whether provided by employees or independent contractors;

(B) the cost of inspecting and testing the goods;

(C) the cost of energy, fuel, dies, molds, tooling, and the depreciation and maintenance of machinery and equipment, without regard to whether they originate within the territory of a Party;

(D) development, design, and engineering costs;

(E) rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, taxes and the cost of utilities for real property used in the production of goods; and

(F) royalty, licensing, or other like payments for the right to the goods;

but not including—

(i) costs relating to the general expense of doing business, such as the cost of providing executive, financial, sales, advertising, marketing, accounting and legal services, and insurance;

(ii) brokerage charges relating to the importation and exportation of goods;

(iii) the costs for telephone, mail, and other means of communication;

(iv) packing costs for exporting the goods;

(v) royalty payments related to a licensing agreement to distribute or sell the goods;

(vi) rent, mortgage interest, depreciation on buildings, property insurance premiums, maintenance, taxes, and the cost of utilities for real property used by personnel charged with administrative functions; or

(vii) profit on the goods.

(4) The term "goods wholly obtained or produced in the territory of either Party or both Parties" means—

(A) mineral goods extracted in the territory of either Party or both Parties;

(B) goods harvested in the territory of either Party or both Parties;

(C) live animals born and raised in the territory of either Party or both Parties;

(D) goods (fish, shellfish, and other marine life taken from the sea by vessels registered or recorded with a Party and flying its flag;

(E) goods produced on board factory ships from the goods referred to in subparagraph (D) provided such factory ships are registered or recorded with that Party and fly its flag;

(F) goods taken by a Party or a person of a Party from the seabed or beneath the seabed outside territorial waters, provided that Party has rights to exploit such seabed;

(G) goods taken from space, provided they are obtained by a Party or a person of a Party and not processed in a third country;

(H) waste and scrap derived from manufacturing operations and used goods, provided they were collected in the territory of either Party or both Parties and are fit only for the recovery of raw materials; and

(I) goods produced in the territory of either Party or both Parties exclusively from goods referred to in subparagraphs (A) to (H) inclusive or from their derivatives, at any stage of production.

(5) The term "materials" means goods, other than those included as part of the direct cost of processing or assembling, used or consumed in the production of other goods.

(6) The term "Party" means Canada or the United States.

(7) The term "territory" means—

(A) with respect to Canada, the territory to which its customs laws apply, including any areas beyond the territorial seas of Canada within which, in accordance with international law and its domestic laws, Canada may exercise rights with respect to the seabed and subsoil and their natural resources; and

(B) with respect to the United States—

(i) the customs territory of the United States, which includes the fifty States, the District of Columbia and the Commonwealth of Puerto Rico,

(ii) the foreign trade zones located in the United States, and the Commonwealth of Puerto Rico, and

(iii) any area beyond the territorial seas of the United States within which, in accordance with international law and its domestic laws, the United States may exercise rights with respect to the seabed and subsoil and their natural resources.

(8) The term "third country" means any country other than Canada or the United States or any territory not a part of the territory of either.

(9) The term "value of materials originating in the territory of either Party or both Parties" means the aggregate of—

(A) the price paid by the producer of an exported good for materials originating in the territory of either Party or both Parties or for materials imported from a third country used or consumed in the production of such originating materials; and

(B) when not included in that price, the following costs related thereto—

(i) freight, insurance, packing, and all other costs incurred in transporting any of the materials referred to in subparagraph (A) to the location of the producer;

(ii) duties, taxes, and brokerage fees on such materials paid in the territory of either Party or both Parties;

(iii) the cost of waste or spoilage resulting from the use or consumption of such materials, less the value of renewable scrap or byproduct; and

(iv) the value of goods and services relating to such materials determined in accordance with subparagraph 1(b) of article 8 of the Agreement on Implementation of

article VII of the General Agreement on Tariffs and Trade.

(10) The term "value of the goods when exported to the territory of the other Party" means the aggregate of—

(A) the price paid by the producer for all materials, whether or not the materials originate in either Party or both Parties, and, when not included in the price paid for the materials, the costs related to—

(i) freight, insurance, packing, and all other costs incurred in transporting all materials to the location of the producer;

(ii) duties, taxes, and brokerage fees on all materials paid in the territory of either Party or both Parties;

(iii) the cost of waste or spoilage resulting from the use or consumption of such materials, less the value of renewable scrap or byproduct; and

(iv) the value of goods and services relating to all materials determined in accordance with subparagraph 1(b) of article 8 of the Agreement on Implementation of article VII of the General Agreement on Tariffs and Trade; and

(B) the direct cost of processing or the direct cost of assembling the goods.

(g) SPECIAL PROVISION REGARDING APPLICATION OF RULES OF ORIGIN TO CERTAIN APPAREL.—The Secretary of Commerce is authorized to issue regulations governing the exportation to Canada of apparel products that are cut, or knit to shape, and sewn, or otherwise assembled, in either Party from fabric produced or obtained in a third country for the purpose of establishing which exports of such products shall be permitted to claim preferential tariff treatment under the rules of origin of the Agreement, to the extent that the Agreement provides for quantitative limits on the availability of preferential tariff treatment for such products. Regulations.

SEC. 203. CUSTOMS USER FEES.

Section 13031(b) of the Consolidated Omnibus Reconciliation Act of 1985 (19 U.S.C. 58c(b)) is amended by adding at the end thereof the following new paragraph:

"(10) The fee charged under subsection (a)(10) of this section with respect to goods of Canadian origin (as determined under section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988) shall be in accordance with article 403 of the United States-Canada Free-Trade Agreement. Any service for which an exemption from such fee is provided by reason of this paragraph may not be funded with money contained in the Customs User Fee Account.".

SEC. 204. DRAWBACK.

(a) DEFINITION.—For purposes of this section, the term "drawback eligible goods" means—

(1) goods provided for under paragraph 8 of article 404 of the Agreement;

(2) goods provided for under paragraphs 4 and 5 of such article; and

(3) goods other than those referred to in paragraphs (1) and (2) that the United States and Canada agree are not subject to paragraphs 1, 2, and 3 of such article.

No drawback may be paid with respect to countervailing duties or antidumping duties imposed on drawback eligible goods.

President of U.S.

(b) IMPLEMENTATION OF ARTICLE 404.—The President is authorized—

(1) to proclaim the identity, in accordance with the nomenclature of the Harmonized System, of goods referred to in subsection (a)(1); and

(2) subject to the consultation and lay-over requirements of section 103(a), to proclaim—

(A) the identity, in accordance with the nomenclature of the Harmonized System, of goods referred to in subsection (a)(3); and

(B) a delay in the taking effect of article 404 of the Agreement to a date later than January 1, 1994, with respect to any merchandise if the United States and Canada agree to the delay under paragraph 7 of such article.

(c) CONSEQUENTIAL AMENDMENTS.—

(1) BONDED MANUFACTURING WAREHOUSES.—Section 311 of the Tariff Act of 1930 (19 U.S.C. 1311) is amended by adding at the end thereof the following new paragraph:

"No article manufactured in a bonded warehouse, except to the extent that such article is made from an article that is a drawback eligible good under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, may be withdrawn from such warehouse for exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of such Act of 1988, without payment of a duty on such imported merchandise in its condition, and at the rate of duty in effect, at the time of importation.".

(2) BONDED SMELTING AND REFINING WAREHOUSES.—Section 312 of the Tariff Act of 1930 (19 U.S.C. 1312) is further amended—

(A) by inserting after "exportation" in each of paragraphs (1) and (4) of subsection (b) the following: "(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the metal-bearing materials were of Canadian origin as determined in accordance with section 202 of such Act of 1988)"; and

(B) by inserting after "exportation" in subsection (d) the following: "(other than exportation to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, except to the extent that the product is a drawback eligible good under section 204(a) of such Act of 1988)".

(3) DRAWBACK.—Section 313 of the Tariff Act of 1930 (19 U.S.C. 1313) is amended by adding at the end thereof the following new subsections:

"(n) For purposes of subsections (a), (b), (f), (h), and (j)(2), the shipment on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, to Canada of an article made from or substituted for, as appropriate,

a drawback eligible good under section 204(a) of such Act of 1988 does not constitute an exportation.

"(o) For purposes of subsection (g), vessels built for Canadian account and ownership, or for the Government of Canada, may not be considered to be built for any foreign account and ownership, or for the government of any foreign country, except to the extent that the materials in such vessels are drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988.". Maritime affairs.

(4) MANIPULATION IN WAREHOUSE.—The second sentence of section 562 of the Tariff Act of 1930 (19 U.S.C. 1562) is amended by striking out the proviso thereto and the colon preceding such proviso and inserting the following: "; except that upon permission therefor being granted by the Secretary of the Treasury, and under customs supervision, at the expense of the proprietor, merchandise may be cleaned, sorted, repacked, or otherwise changed in condition, but not manufactured, in bonded warehouses established for that purpose and be withdrawn therefrom without payment of duties—

"(1) for exportation to Canada, but on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, such exemption from the payment of duties applies only in the case of the exportation to Canada of merchandise that—

"(A) is only cleaned, sorted, or repacked in a bonded warehouse, or

"(B) is a drawback eligible good under section 204(a) of such Act of 1988;

"(2) for exportation to any foreign country except Canada; and

"(3) for shipment to the Virgin Islands, American Samoa, Wake Island, Midway Island, Kingman Reef, Johnston Island or the island of Guam. Territories, U.S.

Merchandise may be withdrawn from bonded warehouse for consumption, or for exportation to Canada if the duty exemption under paragraph (1) of the preceding sentence does not apply, upon the payment of duties accruing thereon, in its condition and quantity, and at its weight, at the time of withdrawal from warehouse, with such additions to or deductions from the final appraised value as may be necessary by reason of change in condition.".

(5) FOREIGN TRADE ZONES.—Section 3(a) of the Act of June 18, 1934 (commonly known as the "Foreign Trade Zones Act"; 19 U.S.C. 81c) is further amended by adding before the period at the end thereof the following: *"Provided, further*, That with the exception of drawback eligible goods under section 204(a) of the United States-Canada Free-Trade Agreement Implementation Act of 1988, no article manufactured or otherwise changed in condition (except a change by cleaning, testing or repacking) shall be exported to Canada on or after January 1, 1994, or such later date as may be proclaimed by the President under section 204(b)(2)(B) of such Act of 1988, without the payment of a duty that shall be payable on the article in its condition and quantity, and at its weight, at the time of its exportation to Canada unless the privilege in the first proviso to this subsection was requested.".

SEC. 205. ENFORCEMENT.

Records.

(a) CERTIFICATIONS OF ORIGIN.—

(1) Any person that certifies in writing that goods exported to Canada meet the rules of origin under section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988 shall provide, upon request by any customs official, a copy of that certification.

(2) Any person that fails to provide a copy of a certification requested under paragraph (1) shall be liable to the United States for a civil penalty not to exceed $10,000.

Fraud.

(3) Any person that certifies falsely that goods exported to Canada meet the rules of origin under such section 202 shall be liable to the United States for the same civil penalties provided under section 592 of the Tariff Act of 1930 (19 U.S.C. 1592) for a violation of section 592(a) of such Act by fraud, gross negligence, or negligence, as the case may be. The procedures and provisions of section 592 of such Act that are applicable to a violation under section 592(a) of such Act shall apply with respect to such false certification.

(b) RECORDKEEPING REQUIREMENTS.—Section 508 of the Tariff Act of 1930 (19 U.S.C. 1508) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively;

(2) by inserting "and (b)" after "(a)" in subsection (c), as so redesignated;

(3) by adding after subsection (a) the following new subsection:

"(b) Any person who exports, or who knowingly causes to be exported, any merchandise to Canada shall make, keep, and render for examination and inspection such records (including certifications of origin or copies thereof) which pertain to such exportations."; and

(4) by adding at the end thereof the following new subsection:

"(e) Any person who fails to retain records required by subsection (b) or the regulations issued to implement that subsection shall be liable to a civil penalty not to exceed $10,000.".

SEC. 206. EXEMPTION FROM LOTTERY TICKET EMBARGO.

Section 305(a) of the Tariff Act of 1930 (19 U.S.C. 1305(a)) is amended by striking out the period at the end of the first paragraph and inserting the following: ": *Provided further*, That effective January 1, 1993, this section shall not apply to any lottery ticket, printed paper that may be used as a lottery ticket, or advertisement of any lottery, that is printed in Canada for use in connection with a lottery conducted in the United States.".

Effective date.

SEC. 207. PRODUCTION-BASED DUTY REMISSION PROGRAMS WITH RESPECT TO AUTOMOTIVE PRODUCTS.

(a) USTR STUDY.—The United States Trade Representative shall—

(1) undertake a study to determine whether any of the production-based duty remission programs of Canada with respect to automotive products is either—

(A) inconsistent with the provisions of, or otherwise denies the benefits to the United States under, the General Agreement on Tariffs and Trade, or

(B) being implemented inconsistently with the obligations under article 1002 of the Agreement not—

(i) to expand the extent or the application, or

(ii) to extend the duration,

of such programs; and

(2) determine whether to initiate an investigation under section 302 of the Trade Act of 1974 with respect to any of such production-based duty remission programs.

(b) REPORT AND MONITORING.—

(1) The United States Trade Representative shall submit a report to Congress no later than June 30, 1989 (or no later than September 30, 1989, if the Trade Representative considers an extension to be necessary) containing—

(A) the results of the study under subsection (a)(1), as well as a description of the basis used for measuring and verifying compliance with the obligations referred to in subsection (a)(1)(B); and

(B) any determination made under subsection (a)(2) and the reasons therefor.

(2) Notwithstanding the submission of the report under paragraph (1), the Trade Representative shall continue to monitor the degree of compliance with the obligations referred to in subsection (a)(1)(B).

TITLE III—APPLICATION OF AGREEMENT TO SECTORS AND SERVICES

19 USC 2112 note.

SEC. 301. AGRICULTURE.

(a) SPECIAL TARIFF PROVISIONS FOR FRESH FRUITS AND VEGETABLES.—

(1) The Secretary of Agriculture (hereafter in this section referred to as the "Secretary") may recommend to the President the imposition of a temporary duty on any Canadian fresh fruit or vegetable entered into the United States if the Secretary determines that both of the following conditions exist at the time that imposition of the duty is recommended:

(A) For each of 5 consecutive working days the import price of the Canadian fresh fruit or vegetable is below 90 percent of the corresponding 5-year average monthly import price for such fruit or vegetable.

(B) The planted acreage in the United States for the like fresh fruit or vegetable is no higher than the average planted acreage over the preceding 5 years, excluding the years with the highest and lowest acreage. For the purposes of applying this subparagraph, any acreage increase attributed directly to a reduction in the acreage that was planted to wine grapes as of October 4, 1987, shall be excluded.

Whenever the Secretary makes a determination that the conditions referred to in subparagraphs (A) and (B) regarding any Canadian fresh fruit or vegetable exist, the Secretary shall promptly submit for publication in the Federal Register notice of the determination.

Federal Register, publication.

(2) In determining whether to recommend the imposition of a temporary duty to the President under paragraph (1), the Secretary shall consider whether the conditions in subparagraphs (A) and (B) of such paragraph have led to a distortion in trade between the United States and Canada of the fresh fruit or vegetable and, if so, whether the imposition of the duty is

appropriate, including consideration of whether it would significantly correct this distortion.

President of U.S.

(3) Not later than 7 days after receipt of a recommendation of the Secretary under paragraph (1), the President, after taking into account the national economic interests of the United States, shall determine whether to impose a temporary duty on the Canadian fresh fruit or vegetable concerned. If the determination is affirmative, the President shall proclaim the imposition and the rate of the temporary duty, but such duty shall not apply to the entry of articles that were in transit to the United States on the first day on which the temporary duty is in effect.

Termination date.

(4) A temporary duty imposed under paragraph (3) shall cease to apply with respect to articles that are entered on or after the earlier of—

(A) the day following the last of 5 consecutive working days with respect to which the Secretary determines that the point of shipment price in Canada for the Canadian fruit or vegetable concerned exceeds 90 percent of the corresponding 5-year average monthly import price; or

(B) the 180th day after the date on which the temporary duty first took effect.

(5) No temporary duty may be imposed under this subsection on a Canadian fresh fruit or vegetable during such time as import relief is provided with respect to such fresh fruit or vegetable under chapter 1 of title II of the Trade Act of 1974.

(6) For purposes of this subsection:

(A) The term "Canadian fresh fruit or vegetable" means any article originating in Canada (as determined in accordance with section 202) and classified within any of the following headings of the Harmonized System:

(i) 07.01 (relating to potatoes, fresh or chilled);

(ii) 07.02 (relating to tomatoes, fresh or chilled);

(iii) 07.03 (relating to onions, shallots, garlic, leeks and other alliaceous vegetables, fresh or chilled);

(iv) 07.04 (relating to cabbages, cauliflowers, kohlrabi, kale and similar edible brassicas, fresh or chilled);

(v) 07.05 (relating to lettuce (lactuca sativa) and chicory (cichorium spp.), fresh or chilled);

(vi) 07.06 (relating to carrots, salad beets or beetroot, salsify, celeriac, radishes and similar edible roots (excluding turnips), fresh or chilled);

(vii) 07.07 (relating to cucumbers and gherkins, fresh or chilled);

(viii) 07.08 (relating to leguminous vegetables, shelled or unshelled, fresh or chilled);

(ix) 07.09 (relating to other vegetables (excluding truffles), fresh or chilled);

(x) 08.06.10 (relating to grapes, fresh);

(xi) 08.08.20 (relating to pears and quinces, fresh);

(xii) 08.09 (relating to apricots, cherries, peaches (including nectarines), plums and sloes, fresh); and

(xiii) 08.10 (relating to other fruit (excluding cranberries and blueberries), fresh).

(B) The term "corresponding 5-year average monthly import price" for a particular day means the average import price of a Canadian fresh fruit or vegetable, for the

calendar month in which that day occurs, for that month in each of the preceding 5 years, excluding the years with the highest and lowest monthly averages.

(C) The term "import price" has the meaning given such term in article 711 of the Agreement.

(D) The rate of a temporary duty imposed under this subsection with respect to a Canadian fresh fruit or vegetable means a rate that, including the rate of any other duty in effect for such fruit or vegetable, does not exceed the lesser of—

(i) the duty that was in effect for the fresh fruit or vegetable before January 1, 1989, under column one of the Tariff Schedules of the United States for the applicable season in which the temporary duty is applied; or

Tariff Schedules of the U.S.

(ii) the duty in effect for the fresh fruit or vegetable under column one of such Schedules, or column 1 (General) of the Harmonized System, at the time the temporary duty is applied.

(7)(A) The Secretary shall, to the extent practicable, administer the provisions of this subsection to the 8-digit level of classification under the Harmonized System.

(B) The Secretary may issue such regulations as may be necessary to implement the provisions of this subsection.

(8) For purposes of assisting the Secretary in carrying out this subsection, the Commissioner of Customs and the Director of the Bureau of Census shall cooperate in providing the Secretary with timely information and data relating to the importation of Canadian fresh fruits and vegetables.

(9) The authority to impose temporary duties under this subsection expires on the 20th anniversary of the date on which the Agreement enters into force.

Termination date.

(b) MEAT IMPORT ACT OF 1979.—The Meat Import Act of 1979 (19 U.S.C. 2253 note) is amended—

(1) by inserting at the end of subsection (b)(2) the following flush sentence:

"Such term does not include any article described in subparagraph (A), (B), or (C) originating in Canada (as determined in accordance with section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988).";

(2) by striking out "1,204,600,000" in subsection (c) and inserting "1,147,600,000";

(3) by striking out "1,250,000,000 pounds" in subsection (f)(1) and inserting "(A) 1,193,000,000 pounds if no import limitation on Canadian products is in effect under subsection (l), or (B) 1,250,000,000 pounds if an import limitation on Canadian products is in effect under subsection (l)";

(4) by inserting "other than Canada" after "countries" each place it appears in subsection (i); and

(5) by amending subsection (l) to read as follows:

"(l) If the President—

"(1) has—

"(A) proclaimed limitations on meat articles under the preceding provisions of this section, or

"(B) entered into one or more agreements other than with Canada regarding meat articles pursuant to section 204 of the Agricultural Act of 1956; and

"(2) determines that the Government of Canada has not taken equivalent action;

the President may by proclamation limit the total quantities of articles described in subsection (b)(2) (A), (B), and (C) and originating in Canada (as determined in accordance with section 202 of the United States-Canada Free-Trade Agreement Implementation Act of 1988) that may enter the United States. A limitation imposed under the preceding sentence shall be only to the extent that, and only for such period of time as, the President determines sufficient to prevent frustration of the limitations placed on meat articles imported from other countries under this section or actions taken with respect to meat articles under agreements negotiated pursuant to section 204 of the Agricultural Act of 1956.".

(c) AGRICULTURAL ADJUSTMENT ACT.—Section 22(f) of the Agricultural Adjustment Act, as reenacted with amendments by the Agricultural Marketing Agreement Act of 1937 (7 U.S.C. 624(f)), is amended by inserting immediately after "section" the following: "; except that the President may, pursuant to articles 705.5 and 707 of the United States-Canada Free-Trade Agreement, exempt products of Canada from any import restriction imposed under this section".

Diseases. Hazardous materials.

(d) IMPORTATION OF ANIMAL VACCINES.—The second sentence of the eighth paragraph of the matter under the heading "BUREAU OF ANIMAL INDUSTRY" of the Act of March 4, 1913 (37 Stat. 832, chapter 145; 21 U.S.C. 152) is amended to read as follows: "The importation into the United States of any virus, serum, toxin, or analogous product for use in the treatment of domestic animals, and the importation of any worthless, contaminated, dangerous, or harmful virus, serum, toxin, or analogous product for use in the treatment of domestic animals, is prohibited without (1) a permit from the Secretary of Agriculture, or (2) in the case of an article originating in Canada, such permit or, in lieu of such permit, such certification by Canada as may be prescribed by the Secretary of Agriculture.".

(e) IMPORTATION OF SEEDS.—Subsection (e) of section 302 of the Federal Seed Act (7 U.S.C. 1582(e)) is amended to read as follows:

"(e) The provisions of this title requiring certain seeds to be stained shall not apply—

"(1) to alfalfa or clover seed originating in Canada, or

"(2) when seeds otherwise required to be stained will not be sold within the United States and will be used for seed production only by or for the importer or consignee and the importer of record or consignee files a statement in accordance with the rules and regulations prescribed under section 402 certifying that such seeds will be used only for seed production by or for the importer or consignee.".

Hazardous materials.

(f) PLANT AND ANIMAL HEALTH REGULATIONS.—

(1) Section 103 of the Federal Plant Pest Act (7 U.S.C. 150bb) is amended—

(A) in subsection (a), by striking out "No" and inserting in lieu thereof "Except as provided in subsection (c), no"; and

(B) by adding at the end thereof the following new subsection:

Pests and pesticides.

"(c) No person shall move any plant pest from Canada into or through the United States or accept delivery of any plant pest moving from Canada into or through the United States, unless such

movement is made in accordance with such regulations as the Secretary may promulgate under this section to prevent the dissemination into the United States of plant pests.".

(2) Section 104 of the Federal Plant Pest Act (7 U.S.C. 150cc) is amended—

(A) in subsection (a), by striking out "Any letter" and inserting in lieu thereof "Except as provided in subsection (b), any letter";

(B) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(C) by inserting after subsection (a) the following new subsection:

"(b) Any letter, parcel, box, or other package from Canada containing any plant pest, whether sealed as letter-rate postal matter or not, is declared to be nonmailable, and shall not knowingly be conveyed in the mail or delivered from any post office or by any mail carrier, except in accordance with such regulations as the Secretary may promulgate under this section to prevent the dissemination into the United States of plant pests.". Mail. Pests and pesticides.

(3) The Act of August 20, 1912 (37 Stat. 315, chapter 308; 7 U.S.C. 154 et seq.) is amended—

(A) in the first section (7 U.S.C. 154), by striking out "*Provided*" the first place it appears and inserting in lieu thereof "*Provided*, That the Secretary of Agriculture may waive the permit requirement for nursery stock imported or offered for entry from Canada: *Provided further*"; and

(B) by adding at the end of section 2 (7 U.S.C. 156) the following new sentence: "This section shall not apply to nursery stock that arrives from, or is imported from, Canada.".

(4) Subsection (a) of section 4 of the Federal Noxious Weed Act of 1974 (7 U.S.C. 2803(a)) is amended to read as follows:

"(a) No person shall knowingly move any noxious weed identified in a regulation promulgated by the Secretary into or through the United States or interstate, unless such movement is—

"(1) from Canada, or authorized under general or specific permit from the Secretary; and

"(2) made in accordance with such conditions as the Secretary may prescribe in the permit and in such regulations as the Secretary may prescribe under this Act to prevent the dissemination into the United States, or interstate, of such noxious weeds.".

(5) Section 306 of the Tariff Act of 1930 (19 U.S.C. 1306) is amended by inserting after subsection (a) the following new subsection:

"(b) Notwithstanding subsection (a), the Secretary of Agriculture may permit, subject to such terms and conditions as the Secretary of Agriculture determines appropriate, the importation of cattle, sheep, or other ruminants, or swine (including embryos of such animals) or the fresh, chilled, or frozen meat of such animals from a region of Canada notwithstanding the existence of rinderpest or foot-and-mouth disease in Canada, if— Meat. Diseases.

"(1) the United States and Canada have entered into an agreement delineating the criteria for recognizing that a geographical region of either country is free from rinderpest or foot-and-mouth disease; and

"(2) the appropriate official of the government of Canada certifies that the region of Canada from which the animal or meat originated is free from rinderpest and foot-and-mouth disease.".

SEC. 302. RELIEF FROM IMPORTS.

(a) RELIEF FROM IMPORTS OF CANADIAN ARTICLES.—

(1) A petition requesting action under this section for the purpose of adjusting to the obligations of the United States under the Agreement may be filed with the United States International Trade Commission (hereafter in this section referred to as the "Commission") by an entity, including a trade association, firm, certified or recognized union, or group of workers, which is representative of an industry. The Commission shall transmit a copy of any petition filed under this paragraph to the United States Trade Representative.

(2)(A) Upon the filing of a petition under paragraph (1), the Commission shall promptly initiate an investigation to determine whether, as a result of a reduction or elimination of a duty provided for under the United States-Canada Free-Trade Agreement, an article originating in Canada is being imported into the United States in such increased quantities, in absolute terms, and under such conditions, so that imports of such Canadian article, alone, constitute a substantial cause of serious injury to the domestic industry producing an article like, or directly competitive with, the imported article.

(B) The provisions of—

(i) paragraphs (2), (3), (4), (6), and (7) of subsection (b), other than paragraph (2)(B), and

(ii) subsection (c),

of section 201 of the Trade Act of 1974 (19 U.S.C. 2251), as in effect on June 1, 1988, shall apply with respect to any investigation initiated under subparagraph (A).

(C) By no later than the date that is 120 days after the date on which an investigation is initiated under subparagraph (A), the Commission shall make a determination under subparagraph (A) with respect to such investigation.

(D) If the determination made by the Commission under subparagraph (A) with respect to imports of an article is affirmative, the Commission shall find and recommend to the President the amount of import relief that is necessary to remedy the injury found by the Commission in such affirmative determination, which shall be limited to that set forth in paragraph (3)(C).

Reports.

(E)(i) By no later than the date that is 30 days after the date on which a determination is made under subparagraph (A) with respect to an investigation, the Commission shall submit to the President a report on the determination and the basis for the determination. The report shall include any dissenting or separate views and a transcript of the hearings and any briefs which were submitted to the Commission in the course of the investigation initiated under subparagraph (A).

(ii) Any finding made under subparagraph (D) shall be included in the report submitted to the President under clause (i).

Public information. Classified information. Federal Register, publication.

(F) Upon submitting a report to the President under subparagraph (E), the Commission shall promptly make public such report (with the exception of information which the Commission

determines to be confidential) and shall cause a summary thereof to be published in the Federal Register.

(G) For purposes of this subsection—

(i) The provisions of paragraphs (1), (2), and (3) of section 330(d) of the Tariff Act of 1930 (19 U.S.C. 1330(d)) shall be applied with respect to determinations and findings made under this paragraph as if such determinations and findings were made under section 201 of the Trade Act of 1974 (19 U.S.C. 2251).

(ii) The determination of whether an article originates in Canada shall be made in accordance with section 202 (including any proclamations issued under section 202).

(3)(A) By no later than the date that is 30 days after the date on which the President receives the report of the Commission containing an affirmative determination made by the Commission under paragraph (2)(A), the President shall provide relief from imports of the article originating in Canada that is the subject of such determination to the extent that, and for such time (not to exceed 3 years) as the President determines to be necessary to remedy the injury found by the Commission. President of U.S.

(B) The President is not required to provide import relief by reason of this paragraph if the President determines that the provision of such import relief is not in the national economic interest.

(C) The import relief that the President is authorized to provide by reason of this paragraph with respect to an article originating in Canada is limited to—

(i) the suspension of any further reductions provided for under the Agreement in the duty imposed on such article originating in Canada,

(ii) an increase in the rate of duty imposed on such article originating in Canada to a level that does not exceed the lesser of—

(I) the most-favored-nation rate of duty that is imposed by the United States on such article from any other foreign country at the time such import relief is provided, or

(II) the most-favored-nation rate of duty that is imposed by the United States on such article from any other foreign country on the day before the date on which the Agreement enters into force, or

(iii) in the case of a duty applied on a seasonal basis to such article originating in Canada, an increase in the rate of duty imposed on such article originating in Canada to a level that does not exceed the most-favored-nation rate of duty imposed by the United States on such article originating in Canada for the corresponding season immediately prior to the date on which the Agreement enters into force.

(4)(A) No investigation may be initiated under paragraph (2)(A) with respect to any article for which import relief has been provided under this subsection.

(B) No import relief may be provided under this subsection after the date that is 10 years after the date on which the Agreement enters into force.

(5) For purposes of section 123 of the Trade Act of 1974 (19 U.S.C. 2133), any import relief provided by the President under

paragraph (3) shall be treated as action taken under chapter I of title II of such Act.

Business and industry. Reports.

(b) RELIEF FROM IMPORTS FROM ALL COUNTRIES.—

(1)(A) If, in any investigation initiated under chapter 1 of title II of the Trade Act of 1974, the Commission makes an affirmative determination (or a determination which is treated as an affirmative determination under such chapter by reason of section 330(d) of the Tariff Act of 1930) that an article is being imported into the United States in such increased quantities as to be a substantial cause of serious injury, or the threat thereof, to the domestic industry, the Commission shall also find (and report to the President at the time such injury determination is submitted to the President), whether imports from Canada of the article that is the subject of such investigation are substantial and are contributing importantly to such injury or threat thereof.

(B)(i) In determining under subparagraph (A) whether imports of an article from Canada are substantial, the Commission shall not normally consider imports from Canada in the range of 5 to 10 percent or less of total imports of such article to be substantial.

(ii) For purposes of this paragraph, the term "contributing importantly" means an important cause, but not necessarily the most important cause, of the serious injury or threat thereof caused by imports.

(2)(A) In determining whether to take action under chapter 1 of title II of the Trade Act of 1974 with respect to imports from Canada, the President shall determine whether imports from Canada of such article are substantial and contributing importantly to the serious injury or threat of serious injury found by the Commission.

(B) In determining the nature and extent of action to be taken under chapter 1 of title II of the Trade Act of 1974, the President shall exclude from such action imports from Canada if the President has made a negative determination under subparagraph (A) regarding imports from Canada.

(3)(A) If, under paragraph (2)(B), the President excludes imports from Canada from action taken under chapter 1 of title II of the Trade Act of 1974, the President may, if the President thereafter determines that a surge in imports from Canada of the article that is the subject of the action is undermining the effectiveness of the action, take appropriate action under such chapter with respect to such imports from Canada to include such imports in such action.

(B)(i) If, under paragraph (2)(B), the President excludes imports from Canada from action taken under chapter 1 of title II of the Trade Act of 1974, any entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of an industry for which such action is being taken under such chapter may request the Commission to conduct an investigation of imports from Canada of the article that is the subject of such action.

(ii) Upon receiving a request under clause (i), the Commission shall conduct an investigation to determine whether a surge in imports from Canada of the article that is the subject of action being taken under chapter 1 of title II of the Trade Act of 1974 undermines the effectiveness of such action. The Commission

shall submit the findings of such investigation to the President by no later than the date that is 30 days after the date on which such request is received by the Commission.

(C) For purposes of this paragraph, the term "surge" means a significant increase in imports over the trend for a reasonable, recent base period for which data are available.

(c) Any entity that is representative of an industry may submit a petition for relief under subsection (a), under chapter 1 of title II of the Trade Act of 1974, or under both subsection (a) and such chapter at the same time. If petitions are submitted by such an entity under subsection (a) and such chapter at the same time, the Commission shall consider such petitions jointly.

SEC. 303. ACTS IDENTIFIED IN NATIONAL TRADE ESTIMATES.

With respect to any act, policy, or practice of Canada that is identified in the annual report submitted under section 181 of the Trade Act of 1974 (19 U.S.C. 2241), the United States Trade Representative shall include—

(1) information with respect to the action taken regarding such act, policy, or practice, including but not limited to—

(A) any action under section 301 of the Trade Act of 1974 (including resolution through appropriate dispute settlement procedures),

(B) any action under section 307 of the Trade and Tariff Act of 1984, and

(C) negotiations or consultations, whether on a bilateral or multilateral basis; or

(2) the reasons that no action was taken regarding such act, policy, or practice.

SEC. 304. NEGOTIATIONS REGARDING CERTAIN SECTORS; BIENNIAL REPORTS.

President of U.S.

(a) IN GENERAL.—

(1) The President is authorized to enter into negotiations with the Government of Canada for the purpose of concluding an agreement (including an agreement amending the Agreement) or agreements to—

(A) liberalize trade in services in accordance with article 1405 of the Agreement;

(B) liberalize investment rules;

Securities.

(C) improve the protection of intellectual property rights;

Patents and trademarks.

(D) increase the value requirement applied for purposes of determining whether an automotive product is treated as originating in Canada or the United States; and

Motor vehicles.

(E) liberalize government procurement practices, particularly with regard to telecommunications.

Contracts. Communications and telecommunications.

(2) As an exercise of the foreign relations powers of the President under the Constitution, the President will enter into immediate consultations with the Government of Canada to obtain the exclusion from the transport rates established under Canada's Western Grain Transportation Act of agricultural goods that originate in Canada and are shipped via east coast ports for consumption in the United States.

Transportation. Agriculture and agricultural commodities.

(b) NEGOTIATING OBJECTIVES REGARDING SERVICES, INVESTMENT, AND INTELLECTUAL PROPERTY RIGHTS.—

(1) The objectives of the United States in negotiations conducted under subsection (a)(1)(A) to liberalize trade in services include—

(A) with respect to developing services sectors not covered in the Agreement, the elimination of those tariff, nontariff, and subsidy trade distortions that have potential to affect significant bilateral trade;

(B) the elimination or reduction of measures grandfathered by the Agreement that deny or restrict national treatment in the provision of services;

(C) the elimination of local presence requirements; and

(D) the liberalization of government procurement of services.

In conducting such negotiations, the President shall consult with the services advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155).

(2) The objectives of the United States in any negotiations conducted under subsection (a)(1)(B) to liberalize investment rules include—

(A) the elimination of direct investment screening;

(B) the extension of the principles of the Agreement to energy and cultural industries, to the extent such industries are not currently covered by the Agreement;

(C) the elimination of technology transfer requirements and other performance requirements not currently barred by the Agreement; and

(D) the subjection of all investment disputes to dispute resolution under chapter 18 of the Agreement.

In conducting such negotiations, the President shall consult with persons representing diverse interests in the United States in investment.

(3) The objectives of the United States in any negotiations conducted under subsection (a)(1)(C) to improve the protection of intellectual property rights include—

(A) the recognition and adequate protection of intellectual property, including copyrights, patents, process patents, trademarks, mask works, and trade secrets; and

(B) the establishment of dispute resolution procedures and binational enforcement of intellectual property standards.

In conducting such negotiations, the President shall consult with persons representing diverse interests in the United States in intellectual property.

(c) NEGOTIATING OBJECTIVES REGARDING AUTOMOTIVE PRODUCTS.—

(1) In conducting negotiations under subsection (a)(1)(D) regarding the value requirement for automotive products, the President shall seek to conclude an agreement by no later than January 1, 1990, to increase the value requirement from 50 percent to at least 60 percent.

(2) The President is authorized, through January 1, 1999, to proclaim any agreed increase in the value requirement.

(3) As used in this section, the term "value requirement" means the minimum percentage of the value of an automotive product that must be accounted for by the value of the materials in the product that originated in the United States or Canada, or both, plus the direct cost of processing or assembly

performed in the United States or Canada, or both, with respect to the product.

(d) NEGOTIATION OF LIMITATION ON POTATO TRADE.—

(1) During the 5-year period beginning on the date of enactment of this Act, the President is authorized to enter into negotiations with Canada for the purpose of obtaining an agreement to limit the exportation and importation of all potatoes between the United States and Canada, including seed potatoes, fresh, chilled or frozen potatoes, dried, desiccated or dehydrated potatoes, and potatoes otherwise prepared or preserved. Any agreement negotiated under this subsection shall provide for an annual limitation divided equally into each half of the year.

(2) For the purpose of conducting negotiations under paragraph (1), the Secretary of Agriculture and the United States Trade Representative shall consult with representatives of the potato producing industry, including the Ad Hoc Potato Advisory Group and the United States/Canada Horticultural Industry Advisory Committee, to solicit their views on negotiations with Canada for reciprocal quantitative limits on the potato trade.

(3) The President is authorized to direct the Secretary of the Treasury to—

(A) carry out such actions as may be necessary or appropriate to ensure the attainment of the objectives of any agreement that is entered into under this section; and

(B) enforce any quantitative limitation, restriction, and other terms contained in the agreement.

Such actions may include, but are not limited to, requirements that valid export licenses or other documentation issued by a foreign government be presented as a condition for the entry into the United States of any article that is subject to the agreement. Records.

(4) The provisions of section 1204 of the Agriculture and Food Act of 1981 (7 U.S.C. 1736j) and the last sentence of section 812 of the Agricultural Act of 1970 (7 U.S.C. 612c-3) shall not apply in the case of actions taken pursuant to this subsection.

(e) CANADIAN CONTROLS ON FISH.—

(1) Within 30 days of the application by Canada of export controls on unprocessed fish under statutes exempted from the Agreement under article 1203, or the application of landing requirements for fish caught in Canadian waters, the President shall take appropriate action to enforce United States rights under the General Agreement on Tariffs and Trade that are retained in article 1205 of the Agreement.

(2) In enforcing the United States rights referred to in paragraph (1), the President has discretion to—

(A) bring a challenge to the offending Canadian practices before the GATT;

(B) retaliate against such offending practices;

(C) seek resolution directly with Canada;

(D) refer the matter for dispute resolution to the Canada-United States Trade Commission; or

(E) take other action that the President considers appropriate to enforce such United States rights.

(f) BIENNIAL REPORT.—The President shall submit to the Congress, at the close of each biennial period occurring after the date on which the Agreement enters into force, a report regarding—

(1) the status of the negotiations regarding agreements that the President is authorized to enter into with Canada under this section;

(2) the effectiveness and operation of any agreement entered into under section 304 that is in force with respect to the United States;

(3) the effectiveness of operation of the Agreement generally; and

(4) the actions taken by the United States and Canada to implement further the objectives of the Agreement.

SEC. 305. ENERGY.

(a) ALASKAN OIL.—Section 7(d)(1) of the Export Administration Act of 1979 (50 U.S.C. App. 2406(d)(1)) is amended—

(1) by striking "or" before "(B)"; and

Transportation. Maritime affairs.

(2) by inserting after "reenters the United States" the following: ", or (C) is transported to Canada, to be consumed therein, in amounts not to exceed an annual average of 50,000 barrels per day, in addition to exports under subparagraphs (A) and (B), except that any ocean transportation of such oil shall be by vessels documented under section 12106 of title 46, United States Code".

(b) URANIUM.—Section 161(v) of the Atomic Energy Act of 1954 (42 U.S.C. 2201(v)) is amended by inserting "For purposes of this subsection and of section 305 of Public Law 99-591 (100 Stat. 3341-209, 210), 'foreign origin' excludes source or special nuclear material originating in Canada." before "The Commission shall establish".

SEC. 306. LOWERED THRESHOLD FOR GOVERNMENT PROCUREMENT UNDER TRADE AGREEMENTS ACT OF 1979 IN THE CASE OF CERTAIN CANADIAN PRODUCTS.

Section 308(4) of the Trade Agreements Act of 1979 (19 U.S.C. 2518(4)) is amended by inserting after subparagraph (C) the following new subparagraph:

"(D) LOWERED THRESHOLD FOR CERTAIN PRODUCTS AS A CONSEQUENCE OF UNITED STATES-CANADA FREE-TRADE AGREEMENT.—Except as otherwise agreed by the United States and Canada under paragraph 3 of article 1304 of the United States-Canada Free-Trade Agreement, the term 'eligible product' includes a product or service of Canada having a contract value of $25,000 or more that would be covered for procurement by the United States under the GATT Agreement on Government Procurement, but for the SDR threshold provided for in article I(1)(b) of the GATT Agreement on Government Procurement.".

SEC. 307. TEMPORARY ENTRY FOR BUSINESS PERSONS.

(a) NONIMMIGRANT TRADERS AND INVESTORS.—Upon a basis of reciprocity secured by the United States-Canada Free-Trade Agreement, a citizen of Canada, and the spouse and children of any such citizen if accompanying or following to join such citizen, may, if otherwise eligible for a visa and if otherwise admissible into the United States under the Immigration and Nationality Act (8 U.S.C. 1101 et seq.), be considered to be classifiable as a nonimmigrant under section 101(a)(15)(E) of such Act (8 U.S.C. 1101(a)(15)(E)) if entering solely for a purpose specified in Annex 1502.1 (United States of America), Part B—Traders and Investors, of such Agree-

ment, but only if any such purpose shall have been specified in such Annex as of the date of entry into force of such Agreement.

(b) NONIMMIGRANT PROFESSIONALS.—Section 214 of the Immigration and Nationality Act (8 U.S.C. 1184) is amended by adding at the end thereof the following new subsection:

"(e) Notwithstanding any other provision of this Act, an alien who is a citizen of Canada and seeks to enter the United States under and pursuant to the provisions of Annex 1502.1 (United States of America), Part C—Professionals, of the United States-Canada Free-Trade Agreement to engage in business activities at a professional level as provided for therein may be admitted for such purpose under regulations of the Attorney General promulgated after consultation with the Secretaries of State and Labor.".

SEC. 308. AMENDMENT TO SECTION 5136 OF THE REVISED STATUTES.

Paragraph "Seventh" of section 5136 of the Revised Statutes (12 U.S.C. 24 (Seventh)) is amended by adding at the end thereof the following:

Banks and banking. Securities.

"A national banking association may deal in, underwrite, and purchase for such association's own account qualified Canadian government obligations to the same extent that such association may deal in, underwrite, and purchase for such association's own account obligations of the United States or general obligations of any State or of any political subdivision thereof. For purposes of this paragraph—

"(1) the term 'qualified Canadian government obligations' means any debt obligation which is backed by Canada, any Province of Canada, or any political subdivision of any such Province to a degree which is comparable to the liability of the United States, any State, or any political subdivision thereof for any obligation which is backed by the full faith and credit of the United States, such State, or such political subdivision, and such term includes any debt obligation of any agent of Canada or any such Province or any political subdivision of such Province if—

"(A) the obligation of the agent is assumed in such agent's capacity as agent for Canada or such Province or such political subdivision; and

"(B) Canada, such Province, or such political subdivision on whose behalf such agent is acting with respect to such obligation is ultimately and unconditionally liable for such obligation; and

"(2) the term 'Province of Canada' means a Province of Canada and includes the Yukon Territory and the Northwest Territories and their successors.".

SEC. 309. STEEL PRODUCTS.

Nothing in this Act shall preclude any discussion or negotiation between the United States and Canada in order to conclude voluntary restraint agreements or mutually agreed quantitative restrictions on the volume of steel products entering the United States from Canada.

19 USC 2112 note.

TITLE IV—BINATIONAL PANEL DISPUTE SETTLEMENT IN ANTIDUMPING AND COUNTERVAILING DUTY CASES.

SEC. 401. AMENDMENTS TO SECTION 516A OF THE TARIFF ACT OF 1930.

(a) TIME LIMITS.—Section 516A(a) of the Tariff Act of 1930 (19 U.S.C. 1516a(a)) is amended by adding at the end thereof the following new paragraph.

"(5) TIME LIMITS IN CASES INVOLVING CANADIAN MERCHANDISE.—Notwithstanding any other provision of this subsection, in the case of a determination to which the provisions of subsection (g) apply, an action under this subsection may not be commenced, and the time limits for commencing an action under this subsection shall not begin to run, until the 31st day after—

Federal Register, publication.

"(A) the date of publication in the Federal Register of—

"(i) notice of any determination described in paragraph (1)(B) or a determination described in clause (ii) or (iii) of paragraph (2)(B), or

"(ii) an antidumping or countervailing duty order based upon any determination described in clause (i) of paragraph (2)(B), or

"(B) the date on which the Government of Canada receives notice of a determination described in clause (vi) of paragraph (2)(B).".

(b) DEFINITIONS.—Section 516A(f) of the Tariff Act of 1930 (19 U.S.C. 1516a(f)) is amended by adding at the end thereof the following new paragraphs:

"(5) AGREEMENT.—The term 'Agreement' means the United States-Canada Free-Trade Agreement.

"(6) UNITED STATES SECRETARY.—The term 'United States Secretary' means the secretary provided for in paragraph 4 of article 1909 of the Agreement.

"(7) CANADIAN SECRETARY.—The term 'Canadian Secretary' means the secretary provided for in paragraph 5 of article 1909 of the Agreement.".

(c) REVIEW REGARDING CANADIAN MERCHANDISE.—Section 516A of the Tariff Act of 1930 (19 U.S.C. 1516a) is amended by adding at the end thereof the following new subsection:

"(g) REVIEW OF COUNTERVAILING DUTY AND ANTIDUMPING DUTY DETERMINATIONS INVOLVING CANADIAN MERCHANDISE.—

"(1) DEFINITION OF DETERMINATION.—For purposes of this subsection, the term 'determination' means a determination described in—

"(A) paragraph (1)(B) of subsection (a), or

"(B) clause (i), (ii), (iii), or (vi) of paragraph (2)(B) of subsection (a),

if made in connection with a proceeding regarding a class or kind of Canadian merchandise, as determined by the administering authority.

"(2) EXCLUSIVE REVIEW OF DETERMINATION BY BINATIONAL PANELS.—If binational panel review of a determination is requested pursuant to article 1904 of the Agreement, then, except as provided in paragraphs (3) and (4)—

"(A) the determination is not reviewable under subsection (a), and

"(B) no court of the United States has power or jurisdiction to review the determination on any question of law or fact by an action in the nature of mandamus or otherwise.

"(3) EXCEPTION TO EXCLUSIVE BINATIONAL PANEL REVIEW.—

"(A) IN GENERAL.—A determination is reviewable under subsection (a) if the determination sought to be reviewed is—

"(i) a determination as to which neither the United States nor Canada requested review by a binational panel pursuant to article 1904 of the Agreement,

"(ii) a revised determination issued as a direct result of judicial review, commenced pursuant to subsection (a), if neither the United States nor Canada requested review of the original determination, or

"(iii) a determination issued as a direct result of judicial review that was commenced pursuant to subsection (a) prior to the entry into force of the Agreement.

"(B) SPECIAL RULE.—A determination described in subparagraph (A)(i) is reviewable under subsection (a) only if the party seeking to commence review has provided timely notice of its intent to commence such review to the United States Secretary, the Canadian Secretary, all interested parties who were parties to the proceeding in connection with which the matter arises, and the administering authority or the Commission, as appropriate. Such notice is provided timely if the notice is delivered by no later than the date that is 20 days after the date described in subparagraph (A) or (B) of subsection (a)(5) that is applicable to such determination. Such notice shall contain such information, and be in such form, manner, and style, as the administering authority, in consultation with the Commission, shall prescribe by regulations. Regulations.

"(4) EXCEPTION TO EXCLUSIVE BINATIONAL PANEL REVIEW FOR CONSTITUTIONAL ISSUES.—

"(A) CONSTITUTIONALITY OF BINATIONAL PANEL REVIEW SYSTEM.—An action for declaratory judgment or injunctive relief, or both, regarding a determination on the grounds that any provision of, or amendment made by, the United States-Canada Free-Trade Implementation Agreement Act of 1988 implementing the binational panel dispute settlement system under chapter 19 of the Agreement violates the Constitution may be brought in the United States Court of Appeals for the District of Columbia Circuit. Any action brought under this subparagraph shall be heard and determined by a 3-judge court in accordance with section 2284 of title 28, United States Code. Courts, U.S. District of Columbia.

"(B) OTHER CONSTITUTIONAL REVIEW.—Review is available under subsection (a) with respect to a determination solely concerning a constitutional issue (other than an issue to which subparagraph (A) applies) arising under any law of the United States as enacted or applied. An action for review under this subparagraph shall be assigned to a 3-judge panel of the United States Court of International Trade. Courts, U.S.

Federal Register, publication.

"(C) COMMENCEMENT OF REVIEW.—Notwithstanding the time limits in subsection (a), within 30 days after the date of publication in the Federal Register of notice that binational panel review has been completed, an interested party who is a party to the proceeding in connection with which the matter arises may commence an action under subparagraph (A) or (B) by filing an action in accordance with the rules of the court.

"(D) TRANSFER OF ACTIONS TO APPROPRIATE COURT.—Whenever an action is filed in a court under subparagraph (A) or (B) and that court finds that the action should have been filed in the other court, the court in which the action was filed shall transfer the action to the other court and the action shall proceed as if it had been filed in the court to which it is transferred on the date upon which it was actually filed in the court from which it is transferred.

"(E) FRIVOLOUS CLAIMS.—Frivolous claims brought under subparagraph (A) or (B) are subject to dismissal and sanctions as provided under section 1927 of title 28, United States Code, and the Federal Rules of Civil Procedure.

"(F) SECURITY.—

"(i) SUBPARAGRAPH (A) ACTIONS.—The security requirements of rule 65(c) of the Federal Rules of Civil Procedure apply with respect to actions commenced under subparagraph (A).

Courts, U.S.

"(ii) SUBPARAGRAPH (B) ACTIONS.—No claim shall be heard, and no temporary restraining order or temporary or permanent injunction shall be issued, under an action commenced under subparagraph (B), unless the party seeking review first files an undertaking with adequate security in an amount to be fixed by the court sufficient to recompense parties affected for any loss, expense, or damage caused by the improvident or erroneous issuance of such order or injunction. If a court upholds the constitutionality of the determination in question in such action, the court shall award to a prevailing party fees and expenses, in addition to any costs incurred by that party, unless the court finds that the position of the other party was substantially justified or that special circumstances make an award unjust.

"(G) PANEL RECORD.—The record of proceedings before the binational panel shall not be considered part of the record for review pursuant to subparagraph (A) or (B).

"(H) APPEAL TO SUPREME COURT OF COURT ORDERS ISSUED IN SUBPARAGRAPH (A) ACTIONS.—Notwithstanding any other provision of law, any final judgment of the United States Court of Appeals for the District of Columbia Circuit which is issued pursuant to an action brought under subparagraph (A) shall be reviewable by appeal directly to the Supreme Court of the United States. Any such appeal shall be taken by a notice of appeal filed within 10 days after such order is entered; and the jurisdictional statement shall be filed within 30 days after such order is entered. No stay of an order issued pursuant to an action brought under subparagraph (A) may be issued by a single Justice of the Supreme Court.

"(5) LIQUIDATION OF ENTRIES.—

"(A) APPLICATION.—In the case of a determination for which binational panel review is requested pursuant to article 1904 of the Agreement, the rules provided in this paragraph shall apply, notwithstanding the provisions of subsection (c).

"(B) GENERAL RULE.—In the case of a determination for which binational panel review is requested pursuant to article 1904 of the Agreement, entries of merchandise covered by such determination shall be liquidated in accordance with the determination of the administering authority or the Commission, if they are entered, or withdrawn from warehouse, for consumption on or before the date of publication in the Federal Register by the administering authority of notice of a final decision of a binational panel, or of an extraordinary challenge committee, not in harmony with that determination. Such notice of a decision shall be published within 10 days of the date of the issuance of the panel or committee decision. Federal Register, publication.

"(C) SUSPENSION OF LIQUIDATION.—

"(i) IN GENERAL.—Notwithstanding the provisions of subparagraph (B), in the case of a determination described in clause (iii) or (vi) of subsection (a)(2)(B) for which binational panel review is requested pursuant to article 1904 of the Agreement, the administering authority, upon request of an interested party who was a party to the proceeding in connection with which the matter arises and who is a participant in the binational panel review, shall order the continued suspension of liquidation of those entries of merchandise covered by the determination that are involved in the review pending the final disposition of the review.

"(ii) NOTICE.—At the same time as the interested party makes its request to the administering authority under clause (i), that party shall serve a copy of its request on the United States Secretary, the Canadian Secretary, and all interested parties who were parties to the proceeding in connection with which the matter arises.

"(iii) APPLICATION OF SUSPENSION.—If the interested party requesting continued suspension of liquidation under clause (i) is a foreign manufacturer, producer, or exporter, or a United States importer, the continued suspension of liquidation shall apply only to entries of merchandise manufactured, produced, exported, or imported by that particular manufacturer, producer, exporter, or importer. If the interested party requesting the continued suspension of liquidation under clause (i) is an interested party described in subparagraph (C), (D), (E), or (F) of section 771(9), the continued suspension of liquidation shall apply only to entries which could be affected by a decision of the binational panel convened under chapter 19 of the Agreement.

"(iv) JUDICIAL REVIEW.—Any action taken by the administering authority or the United States Customs Service under this subparagraph shall not be subject to judicial review, and no court of the United States shall

have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

"(6) INJUNCTIVE RELIEF.—Except for cases under paragraph (4)(B), in the case of a determination for which binational panel review is requested pursuant to article 1904 of the Agreement, the provisions of subsection (c)(2) shall not apply.

"(7) IMPLEMENTATION OF INTERNATIONAL OBLIGATIONS UNDER ARTICLE 1904.—

"(A) IN GENERAL.—If a determination is referred to a binational panel or extraordinary challenge committee under the Agreement and the panel or committee makes a decision remanding the determination to the administering authority or the Commission, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with the decision of the panel or committee. Any action taken by the administering authority or the Commission under this paragraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

"(B) APPLICATION IF SUBPARAGRAPH (A) HELD UNCONSTITUTIONAL.—In the event that the provisions of subparagraph (A) are held unconstitutional under the provisions of subparagraphs (A) and (H) of paragraph (4), the provisions of this subparagraph shall take effect. In such event, the President is authorized on behalf of the United States to accept, as a whole, the decision of a binational panel or extraordinary challenge committee remanding the determination to the administering authority or the Commission within the period specified by the panel or committee. Upon acceptance by the President of such a decision, the administering authority or the Commission shall, within the period specified by the panel or committee, take action not inconsistent with such decision. Any action taken by the President, the administering authority, or the Commission under this subparagraph shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such action on any question of law or fact by an action in the nature of mandamus or otherwise.

"(8) REQUESTS FOR BINATIONAL PANEL REVIEW.—

"(A) INTERESTED PARTY REQUESTS FOR BINATIONAL PANEL REVIEW.—An interested party who was a party to the proceeding in which a determination is made may request binational panel review of such determination by filing a request with the United States Secretary by no later than the date that is 30 days after the date described in subparagraph (A) or (B) of subsection (a)(5) that is applicable to such determination. Receipt of such request by the United States Secretary shall be deemed to be a request for binational panel review within the meaning of article 1904(4) of the Agreement. Such request shall contain such information and be in such form, manner, and style as the administering authority, in consultation with the Commission, shall prescribe by regulations.

Regulations.

"(B) SERVICE OF REQUEST FOR BINATIONAL PANEL REVIEW.—

"(i) SERVICE BY INTERESTED PARTY.—If a request for binational panel review of a determination is filed under subparagraph (A), the party making the request shall serve a copy, by mail or personal service, on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate. Mail.

"(ii) SERVICE BY UNITED STATES SECRETARY.—If an interested party to the proceeding requests binational panel review of a determination by filing a request with the Canadian Secretary, the United States Secretary shall serve a copy of the request by mail on any other interested party who was a party to the proceeding in connection with which the matter arises, and on the administering authority or the Commission, as appropriate.

"(C) LIMITATION ON REQUEST FOR BINATIONAL PANEL REVIEW.—Absent a request by an interested party under subparagraph (A), the United States may not request binational panel review under article 1904 of the Agreement of a determination.

"(9) REPRESENTATION IN PANEL PROCEEDINGS.—In the case of binational panel proceedings convened under chapter 19 of the Agreement, the administering authority and the Commission shall be represented by attorneys who are employees of the administering authority or the Commission, respectively. Interested parties who were parties to the proceeding in connection with which the matter arises shall have the right to appear and be represented by counsel before the binational panel.

"(10) NOTIFICATION OF CLASS OR KIND RULINGS.—In the case of a determination which is described in paragraph (2)(B)(vi) of subsection (a) and which is subject to the provisions of paragraph (2), the administering authority, upon request, shall inform any interested person of the date on which the Government of Canada received notice of the determination under article 1904(4) of the Agreement.".

(d) STANDARDS OF REVIEW.—Section 516A(b) of the Tariff Act of 1930 (19 U.S.C. 1516a(b)) is amended by adding a new paragraph (3) as follows:

"(3) EFFECT OF DECISIONS BY UNITED STATES-CANADA BINATIONAL PANELS.—In making a decision in any action brought under subsection (a), a court of the United States is not bound by, but may take into consideration, a final decision of a binational panel or extraordinary challenge committee convened pursuant to article 1904 of the Agreement.". Courts, U.S.

SEC. 402. AMENDMENTS TO TITLE 28, UNITED STATES CODE.

(a) JURISDICTION OF COURT OF INTERNATIONAL TRADE.—Section 1581(i) of title 28, United States Code, is amended by adding at the end thereof the following flush sentence: "This subsection shall not confer jurisdiction over an antidumping or countervailing duty determination which is reviewable either by the Court of International Trade under section 516A(a) of the Tariff Act of 1930 or by a binational panel under article 1904 of the United States-Canada

Free-Trade Agreement and section 516A(g) of the Tariff Act of 1930.".

(b) RELIEF IN COURT OF INTERNATIONAL TRADE.—Section 2643(c) of title 28, United States Code, is amended—

(1) by striking out "and (4)" in paragraph (1) and inserting in lieu thereof "(4), and (5)"; and

(2) by adding at the end thereof the following new paragraph:

"(5) In any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of Canadian merchandise, as determined by the administering authority, the Court of International Trade may not order declaratory relief.".

(c) DECLARATORY JUDGMENTS.—Subsection (a) of section 2201 of title 28, United States Code, is amended—

(1) by striking out "1954 or" and inserting in lieu thereof "1986,"; and

(2) by inserting "or in any civil action involving an antidumping or countervailing duty proceeding regarding a class or kind of Canadian merchandise, as determined by the administering authority," after "of title 11,".

(d) ACTIONS UNDER THE AGREEMENT.—

(1) Chapter 95 of title 28, United States Code, is amended by inserting after section 1583 the following new section:

"§ 1584. Civil actions under the United States-Canada Free-Trade Agreement

"The United States Court of International Trade shall have exclusive jurisdiction of any civil action which arises under section 777(d) of the Tariff Act of 1930 and is commenced by the United States to enforce administrative sanctions levied for violation of a protective order or an undertaking.".

(2) The table of contents for chapter 95 of title 28, United States Code, is amended by inserting after the item relating to section 1583 the following new item:

"1584. Civil actions under the United States-Canada Free-Trade Agreement.".

Courts, U.S.

SEC. 403. CONFORMING AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) Section 502(b) of the Tariff Act of 1930 (19 U.S.C. 1502(b)) is amended by striking out all after "recommending the same," and inserting in lieu thereof "a final decision of the United States Court of International Trade, or a final decision of a binational panel pursuant to article 1904 of the United States-Canada Free-Trade Agreement.".

(b) Section 514(b) of the Tariff Act of 1930 (19 U.S.C. 1514(b)) is amended by inserting ", or review by a binational panel of a determination to which section 516A(g)(2) applies is commenced pursuant to section 516A(g) and article 1904 of the United States-Canada Free-Trade Agreement" after "International Trade".

(c) Section 777 of the Tariff Act of 1930 (19 U.S.C. 1677f) is amended by adding at the end thereof the following new subsection:

"(d) DISCLOSURE OF PROPRIETARY INFORMATION UNDER PROTECTIVE ORDERS ISSUED PURSUANT TO THE UNITED STATES-CANADA AGREEMENT.—

Records. Classified information.

"(1) ISSUANCE OF PROTECTIVE ORDERS.—

"(A) IN GENERAL.—If binational panel review of a determination under this title is requested pursuant to article 1904 of the United States-Canada Agreement, or an

extraordinary challenge committee is convened under Annex 1904.13 of the United States-Canada Agreement, the administering authority or the Commission, as appropriate, may make available to authorized persons, under a protective order described in paragraph (2), a copy of all proprietary material (but not privileged material as defined by the rules of procedure referred to in article 1904(14) of the United States-Canada Agreement) in the administrative record made during the proceeding in question.

"(B) AUTHORIZED PERSONS.—For purposes of this subsection, the term "authorized persons" means—

"(i) the members of, and the appropriate staff of, the binational panel or the extraordinary challenge committee, as the case may be, and the Secretariat,

"(ii) counsel for parties to such panel or committee proceeding, and employees of such counsel, and

"(iii) any officer or employee of the United States Government designated by the administering authority or the Commission, as appropriate, to whom disclosure is necessary in order to implement the United States-Canada Agreement with respect to such proceeding.

"(C) REVIEW.—A decision concerning the disclosure or nondisclosure of material under protective order by the administering authority or the Commission shall not be subject to judicial review, and no court of the United States shall have power or jurisdiction to review such decision on any question of law or fact by an action in the nature of mandamus or otherwise.

"(2) CONTENTS OF PROTECTIVE ORDER.—Each protective order issued under this subsection shall be in such form and contain such requirements as the administering authority or the Commission may determine by regulation to be appropriate. The administering authority and the Commission shall ensure that regulations issued pursuant to this paragraph shall be designed to provide an opportunity for participation in the binational panel proceeding equivalent to that available for judicial review of determinations by the administering authority or the Commission that are not subject to review by a binational panel.

"(3) PROHIBITED ACTS.—It is unlawful for any person to violate, or to induce the violation of, any provision of a protective order issued under this subsection or to violate, or to induce the violation of, any provision of an undertaking entered into with an authorized agency of Canada to protect proprietary material during binational panel review pursuant to article 1904 of the United States-Canada Agreement.

"(4) SANCTIONS FOR VIOLATION OF PROTECTIVE ORDERS.—Any person who is found by the administering authority or the Commission, as appropriate, after notice and an opportunity for a hearing in accordance with section 554 of title 5, United States Code, to have committed an act prohibited by paragraph (3) shall be liable to the United States for a civil penalty and shall be subject to such other administrative sanctions, including, but not limited to, debarment from practice before the administering authority or the Commission, as the administering authority or the Commission determines to be appropriate. The amount of the civil penalty shall not exceed $100,000 for each

violation. Each day of a continuing violation shall constitute a separate violation. The amount of such civil penalty and other sanctions shall be assessed by the administering authority or the Commission by written notice, except that assessment shall be made by the administering authority for violation, or inducement of a violation, of an undertaking entered into by any person with an authorized agency of Canada.

Mail.

"(5) REVIEW OF SANCTIONS.—Any person against whom sanctions are imposed under paragraph (4) may obtain review of such sanctions by filing a notice of appeal in the United States Court of International Trade within 30 days from the date of the order imposing the sanction and by simultaneously sending a copy of such notice by certified mail to the administering authority or the Commission, as appropriate. The administering authority or the Commission shall promptly file in such court a certified copy of the record upon which such violation was found or such sanction imposed, as provided in section 2112 of title 28, United States Code. The findings and order of the administering authority or the Commission shall be set aside by the court only if the court finds that such findings and order are not supported by substantial evidence, as provided in section 706(2) of title 5, United States Code.

Records.

"(6) ENFORCEMENT OF SANCTIONS.—If any person fails to pay an assessment of a civil penalty or to comply with other administrative sanctions after the order imposing such sanctions becomes a final and unappealable order, or after the United States Court of International Trade has entered final judgment in favor of the administering authority or the Commission, an action may be filed in such court to enforce the sanctions. In such action, the validity and appropriateness of the final order imposing the sanctions shall not be subject to review.

Records.

"(7) TESTIMONY AND PRODUCTION OF PAPERS.—

"(A) AUTHORITY TO OBTAIN INFORMATION.—For the purpose of conducting any hearing and carrying out other functions and duties under this subsection, the administering authority and the Commission, or their duly authorized agents—

"(i) shall have access to and the right to copy any pertinent document, paper, or record in the possession of any individual, partnership, corporation, association, organization, or other entity,

"(ii) may summon witnesses, take testimony, and administer oaths,

"(iii) and may require any individual or entity to produce pertinent documents, books, or records.

Any member of the Commission, and any person so designated by the administering authority, may sign subpoenas, and members and agents of the administering authority and the Commission, when authorized by the administering authority or the Commission, as appropriate, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

"(B) WITNESSES AND EVIDENCE.—The attendance of witnesses who are authorized to be summoned, and the production of documentary evidence authorized to be ordered, under subparagraph (A) may be required from any place in

the United States at any designated place of hearing. In the case of disobedience to a subpoena issued under subparagraph (A), an action may be filed in any district or territorial court of the United States to require the attendance and testimony of witnesses and the production of documentary evidence. Such court, within the jurisdiction of which such inquiry is carried on, may, in case of contumacy or refusal to obey a subpoena issued to any individual, partnership, corporation, association, organization or other entity, issue any order requiring such individual or entity to appear before the administering authority or the Commission, or to produce documentary evidence if so ordered or to give evidence concerning the matter in question. Any failure to obey such order of the court may be punished by the court as a contempt thereof.

"(C) MANDAMUS.—Any court referred to in subparagraph (B) shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of this subsection or any order of the administering authority or the Commission made in pursuance thereof.

"(D) DEPOSITIONS.—For purposes of carrying out any functions or duties under this subsection, the administering authority or the Commission may order testimony to be taken by deposition. Such deposition may be taken before any person designated by the administering authority or Commission and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under the direction of such person, and shall then be subscribed by the deponent. Any individual, partnership, corporation, association, organization or other entity may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the administering authority or Commission, as provided in this paragraph.

"(E) FEES AND MILEAGE OF WITNESSES.—Witnesses summoned before the administering authority or the Commission shall be paid the same fees and mileage that are paid witnesses in the courts of the United States.".

(d) Section 771 of the Tariff Act of 1930 (19 U.S.C. 1677) is amended by adding at the end thereof the following new paragraph (18):

"(18) UNITED STATES-CANADA AGREEMENT.—The term 'United States-Canada Agreement' means the United States-Canada Free-Trade Agreement.".

SEC. 404. AMENDMENTS TO ANTIDUMPING AND COUNTERVAILING DUTY LAW.

Any amendment enacted after the Agreement enters into force with respect to the United States that is made to—

(1) section 303 or title VII of the Tariff Act of 1930, or any successor statute, or

(2) any other statute which—

(A) provides for judicial review of final determinations under such section, title, or statute, or

(B) indicates the standard of review to be applied,

shall apply to Canada only to the extent specified in such amendment.

Establishment.

SEC. 405. ORGANIZATIONAL AND ADMINISTRATIVE PROVISIONS REGARDING THE IMPLEMENTATION OF CHAPTERS 18 AND 19 OF THE AGREEMENT.

(a) APPOINTMENT OF INDIVIDUALS TO PANELS AND COMMITTEES.—

(1)(A) There is established within the interagency organization established under section 242 of the Trade Expansion Act of 1962 (19 U.S.C. 1872) an interagency group which shall—

(i) be chaired by the United States Trade Representative (hereafter in this section referred to as the "Trade Representative"), and

(ii) consist of such officers (or the designees thereof) of the Government of the United States as the Trade Representative considers appropriate.

(B) The interagency group established under subparagraph (A) shall, in a manner consistent with chapter 19 of the Agreement—

(i) prepare by January 3 of each calendar year—

(I) a list of individuals who are qualified to serve as members of binational panels convened under chapter 19 of the Agreement, and

(II) a list of individuals who are qualified to serve on extraordinary challenge committees convened under such chapter,

(ii) if the Trade Representative makes a request under paragraph (5)(A)(i) with respect to a final candidate list during any calendar year, prepare by July 1 of such calendar year a list of those individuals who are qualified to be added to that final candidate list,

(iii) exercise oversight of the administration of the United States Secretariat that is authorized to be established under subsection (e), and

(iv) make recommendations to the Trade Representative regarding the convening of extraordinary challenge committees under chapter 19 of the Agreement.

(2)(A) The Trade Representative shall select individuals from the respective lists prepared by the interagency group under paragraph (1)(B)(i) for placement on a preliminary candidate list of individuals eligible to serve as members of binational panels under Annex 1901.2 of the Agreement and a preliminary candidate list of individuals eligible for selection as members of extraordinary challenge committees under Annex 1904.13 of the Agreement.

(B) The selection of individuals for—

(i) placement on lists prepared by the interagency group under clause (i) or (ii) of paragraph (1)(B),

(ii) placement on preliminary candidate lists under subparagraph (A),

(iii) placement on final candidate lists under paragraph (3),

(iv) placement by the Trade Representative on the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement, and

(v) appointment by the Trade Representative for service on binational panels and extraordinary challenge committees convened under chapter 19 of the Agreement,

shall be made on the basis of the criteria provided in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement and shall be made without regard to political affiliation.

(C) For purposes of applying section 1001 of title 18, United States Code, the written or oral responses of individuals to inquiries of the interagency group established under paragraph (1) or the Trade Representative regarding their personal and professional qualifications, and financial and other relevant interests, that bear on their suitability for the placements and appointments described in subparagraph (B), shall be treated as matters within the jurisdiction of an agency of the United States.

(3)(A) By no later than January 3 of each calendar year, the Trade Representative shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives (hereafter in this section referred to as the "appropriate Congressional Committees") the preliminary candidate lists of those individuals selected by the Trade Representative under paragraph (2)(A) to be candidates eligible to serve on binational panels or extraordinary challenge committees convened pursuant to chapter 19 of the Agreement during the 1-year period beginning on April 1 of such calendar year.

(B) Upon submission of the preliminary candidate lists under subparagraph (A) to the appropriate Congressional Committees, the Trade Representative shall consult with the appropriate Congressional Committees with regard to the individuals listed on the preliminary candidate lists.

(C) The Trade Representative may add or delete individuals from the preliminary candidate lists submitted under subparagraph (A) after consulting the appropriate Congressional Committees with regard to such addition or deletion. The Trade Representative shall provide to the appropriate Congressional Committees written notice of any addition or deletion of an individual from the preliminary candidate lists.

(4)(A) By no later than March 31 of each calendar year, the Trade Representative shall submit to the appropriate Congressional Committees the final candidate lists of those individuals selected by the Trade Representative to be candidates eligible to serve on binational panels and extraordinary challenge committees convened pursuant to chapter 19 of the Agreement during the 1-year period beginning on April 1 of such calendar year. An individual may be included on a final candidate list only if written notice of the addition of such individual to the preliminary candidate list was submitted to the appropriate Congressional Committees at least 15 days before the date on which that final candidate list is submitted to the appropriate Congressional Committees under this subparagraph.

(B) Except as provided in paragraph (5), no additions may be made to the final candidate lists after the final candidate lists are submitted to the appropriate Congressional Committees under subparagraph (A).

(5)(A) If, after the Trade Representative has submitted the final candidate lists to the appropriate Congressional Commit-

tees under paragraph (4)(A) for a calendar year and before July 1 of such calendar year, the Trade Representative determines that additional individuals need to be added to a final candidate list, the Trade Representative shall—

(i) request the interagency group established under paragraph (1)(A) to prepare a list of individuals who are qualified to be added to such candidate list,

(ii) select individuals from the list prepared by the interagency group under paragraph (1)(B)(ii) to be included in a proposed amendment to such final candidate list, and

(iii) by no later than July 1 of such calendar year, submit to the appropriate Congressional Committees the proposed amendments to such final candidate list developed by the Trade Representative under clause (ii).

(B) Upon submission of a proposed amendment under subparagraph (A)(iii) to the appropriate Congressional Committees, the Trade Representative shall consult with the appropriate Congressional Committees with regard to the individuals included in the proposed amendment.

(C) The Trade Representative may add or delete individuals from any proposed amendment submitted under subparagraph (A)(iii) after consulting the appropriate Congressional Committees with regard to such addition or deletion. The Trade Representative shall provide to the appropriate Congressional Committees written notice of any addition or deletion of an individual from the proposed amendment.

(D)(i) If the Trade Representative submits under subparagraph (A)(iii) in any calendar year a proposed amendment to a final candidate list, the Trade Representative shall, by no later than September 30 of such calendar year, submit to the appropriate Congressional Committees the final form of such amendment. On October 1 of such calendar year, such amendment shall take effect and the individuals included in the final form of such amendment shall be added to the final candidate list.

Effective date.

(ii) An individual may be included in the final form of an amendment submitted under clause (i) only if written notice of the addition of such individual to the proposed form of such amendment was submitted to the appropriate Congressional Committees at least 15 days before the date on which the final form of such amendment is submitted under clause (i).

Effective date.

(iii) Individuals added to a final candidate list under clause (i) shall be eligible to serve on binational panels or extraordinary challenge committees convened pursuant to chapter 19 of the Agreement, as the case may be, during the 6-month period beginning on October 1 of the calendar year in which such addition occurs.

(iv) No additions may be made to the final form of an amendment described in clause (i) after the final form of such amendment is submitted to the appropriate Congressional Committees under clause (i).

(6)(A) The Trade Representative is the only officer of the Government of the United States authorized to act on behalf of the Government of the United States in making any selection or appointment of an individual to—

(i) the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement, or

(ii) the binational panels or extraordinary challenge committees convened pursuant to chapter 19 of the Agreement,

that is to be made solely or jointly by the Government of the United States under the terms of the Agreement.

(B) Except as otherwise provided in paragraph (7)(B), the Trade Representative may—

(i) select an individual for placement on the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement during the 1-year period beginning on April 1 of any calendar year,

(ii) appoint an individual to serve as one of those members of any binational panel or extraordinary challenge committee convened pursuant to chapter 19 of the Agreement during such 1-year period who, under the terms of the Agreement, are to be appointed solely by the Government of the United States, or

(iii) act to make a joint appointment with the Government of Canada, under the terms of the Agreement, of any individual who is a citizen or national of the United States to serve as any other member of such a panel or committee,

only if such individual is on the appropriate final candidate list that was submitted to the appropriate Congressional Committees under paragraph (4)(A) during such calendar year or on such list as it may be amended under paragraph (5)(D)(i).

(7)(A) Except as otherwise provided in this paragraph, no individual may—

(i) be selected by the Government of the United States for placement on the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement, or

(ii) be appointed solely or jointly by the Government of the United States to serve as a member of a binational panel or extraordinary challenge committee convened pursuant to chapter 19 of the Agreement,

during the 1-year period beginning on April 1 of any calendar year for which the Trade Representative has not met the requirements of this subsection.

(B)(i) Notwithstanding paragraphs (3), (4), or (6)(B) (other than paragraph (3)(A)), individuals listed on the preliminary candidate lists submitted to the appropriate Congressional Committees under paragraph (3)(A) may—

(I) be selected by the Trade Representative for placement on the rosters described in Annex 1901.2(1) and Annex 1904.13(1) of the Agreement during the 3-month period beginning on the date on which the Agreement enters into force, and

(II) be appointed solely or jointly by the Trade Representative under the terms of the Agreement to serve as members of binational panels or extraordinary challenge committees that are convened pursuant to chapter 19 of the Agreement during such 3-month period.

(ii) If the Agreement enters into force after January 3, 1989, the provisions of this subsection shall be applied with respect to the calendar year in which the Agreement enters into force—

(I) by substituting "the date that is 30 days after the date on which the Agreement enters into force" for "January 3 of each calendar year" in paragraphs (1)(B)(i) and (3)(A), and

(II) by substituting "the date that is 3 months after the date on which the Agreement enters into force" for "March 31 of each calendar year" in paragraph (4)(A).

Government organization and employees.

(b) STATUS OF PANELISTS.—Notwithstanding any other provision of law, individuals appointed by the United States to serve on panels or committees convened pursuant to chapter 19 of the Agreement, and individuals designated to assist such appointed individuals, shall not be considered to be employees or special employees of, or to be otherwise affiliated with, the Government of the United States.

(c) IMMUNITY OF PANELISTS.—With the exception of acts described in section 777f(d)(3) of the Tariff Act of 1930, as added by this Act, individuals serving on panels or committees convened pursuant to chapter 19 of the Agreement, and individuals designated to assist the individuals serving on such panels or committees, shall be immune from suit and legal process relating to acts performed by such individuals in their official capacity and within the scope of their functions as such panelists or committee members or assistants to such panelists or committee members.

(d) REGULATIONS.—The administering authority under title VII of the Tariff Act of 1930, the United States International Trade Commission, and the United States Trade Representative may promulgate such regulations as are necessary or appropriate to carry out actions in order to implement their respective responsibilities under chapters 18 and 19 of the Agreement. Initial regulations to carry out such functions shall be issued prior to the date of entry into force of the Agreement.

(e) ESTABLISHMENT OF UNITED STATES SECRETARIAT.—

(1) The President is authorized to establish within any department or agency of the Federal Government a United States Secretariat which, subject to the oversight of the interagency group established under subsection (a)(1)(A), shall facilitate—

(A) the operation of chapters 18 and 19 of the Agreement, and

(B) the work of the binational panels and extraordinary challenge committees convened under chapters 18 and 19 of the Agreement.

(2) The United States Secretariat established by the President under paragraph (1) shall not be considered to be an agency for purposes of section 552 of title 5, United States Code.

SEC. 406. AUTHORIZATION OF APPROPRIATIONS FOR THE SECRETARIAT, THE PANELS, AND THE COMMITTEES.

(a) THE SECRETARIAT.—There are authorized to be appropriated to the department or agency within which the United States Secretariat described in chapter 19 of the Agreement is established the lesser of—

(1) such sums as may be necessary, or

(2) $5,000,000,

for each fiscal year succeeding fiscal year 1988 for the establishment and operations of such United States Secretariat and for the payment of the United States share of the expenses of the dispute settlement proceedings under chapter 18 of the Agreement.

(b) PANELS AND COMMITTEES.—

(1) There are authorized to be appropriated to the Office of the United States Trade Representative for fiscal year 1989 such sums as may be necessary to pay during such fiscal year the United States share of the expenses of binational panels and

extraordinary challenge committees convened pursuant to chapter 19 of the Agreement.

(2) The United States Trade Representative is authorized to transfer funds appropriated pursuant to the authorization provided under paragraph (1) to any department or agency of the United States in order to facilitate payment of the expenses described in paragraph (1).

(3) Funds appropriated for the payment of expenses described in paragraph (1) during any fiscal year may be expended only to the extent such funds do not exceed the amount authorized to be appropriated under paragraph (1) for such fiscal year. This paragraph shall apply, notwithstanding any law enacted after the date of enactment of this Act, unless such subsequent law specifically provides that this paragraph shall not apply and specifically cites this paragraph.

SEC. 407. TESTIMONY AND PRODUCTION OF PAPERS IN EXTRAORDINARY CHALLENGES. Records.

(a) AUTHORITY OF EXTRAORDINARY CHALLENGE COMMITTEE TO OBTAIN INFORMATION.—If an extraordinary challenge committee (hereinafter referred to in this section as the "committee") is convened pursuant to article 1904(13) of the Agreement, and the allegations before the committee include a matter referred to in article 1904(13)(a)(i) of the Agreement, for the purposes of carrying out its functions and duties under Annex 1904.13 of the Agreement, the committee—

(1) shall have access to, and the right to copy, any document, paper, or record pertinent to the subject matter under consideration, in the possession of any individual, partnership, corporation, association, organization, or other entity,

(2) may summon witnesses, take testimony, and administer oaths,

(3) may require any individual, partnership, corporation, association, organization, or other entity to produce documents, books, or records relating to the matter in question, and

(4) may require any individual, partnership, corporation, association, organization, or other entity to furnish in writing, in such detail and in such form as the committee may prescribe, information in its possession pertaining to the matter.

Any member of the committee may sign subpoenas, and members of the committee, when authorized by the committee, may administer oaths and affirmations, examine witnesses, take testimony, and receive evidence.

(b) WITNESSES AND EVIDENCE.—The attendance of witnesses who are authorized to be summoned, and the production of documentary evidence authorized to be ordered, under subsection (a) may be required from any place in the United States at any designated place of hearing. In the case of disobedience to a subpoena authorized under subsection (a), the committee may request the Attorney General of the United States to invoke the aid of any district or territorial court of the United States in requiring the attendance and testimony of witnesses and the production of documentary evidence. Such court, within the jurisdiction of which such inquiry is carried on, may, in case of contumacy or refusal to obey a subpoena issued to any individual, partnership, corporation, association, organization, or other entity, issue an order requiring such individual or entity to appear before the committee, or to produce docu-

Law enforcement and crime.

mentary evidence if so ordered or to give evidence concerning the matter in question. Any failure to obey such order of the court may be punished by such court as a contempt thereof.

(c) MANDAMUS.—Any court referred to in subsection (b) shall have jurisdiction to issue writs of mandamus commanding compliance with the provisions of this section or any order of the committee made in pursuance thereof.

(d) DEPOSITIONS.—The committee may order testimony to be taken by deposition at any stage of the committee review. Such deposition may be taken before any person designated by the committee and having power to administer oaths. Such testimony shall be reduced to writing by the person taking the deposition, or under the direction of such person, and shall then be subscribed by the deponent. Any individual, partnership, corporation, association, organization or other entity may be compelled to appear and depose and to produce documentary evidence in the same manner as witnesses may be compelled to appear and testify and produce documentary evidence before the committee, as provided in this section.

SEC. 408. REQUESTS FOR REVIEW OF CANADIAN ANTIDUMPING AND COUNTERVAILING DUTY DETERMINATIONS.

(a) REQUESTS FOR REVIEW BY THE UNITED STATES.—In the case of a final antidumping or countervailing duty determination of a competent investigating authority of Canada, as defined in article 1911 of the Agreement, requests by the United States for binational panel review under article 1904 of the Agreement shall be made by the United States Secretary, described in article 1909(4) of the Agreement.

(b) REQUESTS FOR REVIEW BY A PERSON.—In the case of a final antidumping or countervailing duty determination of a competent investigating authority of Canada, as defined in article 1911 of the Agreement, a person, within the meaning of article 1904(5) of the Agreement, may request a binational panel review of such determination by filing with the United States Secretary, described in article 1909(4) of the Agreement, such a request within the time limit provided for in article 1904(4) of the Agreement. The receipt of such request by the United States Secretary shall be deemed to be a request for binational panel review within the meaning of article 1904(4) of the Agreement. Such request shall contain such information and be in such form, manner, and style as the administering authority shall prescribe by regulations. The request for such panel review shall not preclude the United States, Canada, or any other person from challenging before a binational panel the basis for a particular request for review.

Regulations.

(c) SERVICE OF REQUEST FOR REVIEW.—Whenever binational panel review is requested under this section, the United States Secretary shall serve a copy of the request on all persons who would be regarded as interested parties to the proceeding if the determination in question had been made under title VII of the Tariff Act of 1930.

SEC. 409. SUBSIDIES.

(a) NEGOTIATING AUTHORITY.—

President of U.S. Contracts.

(1) The President is authorized to enter into an agreement with Canada, including an agreement to amend the Agreement, on rules applicable to trade between the United States and Canada that—

(A) deal with unfair pricing and government subsidization, and

(B) provide for increased discipline on subsidies.

(2)(A) The objectives of the United States in negotiating an agreement under paragraph (1) include (but are not limited to)—

(i) achievement, on an expedited basis, of increased discipline on government production and export subsidies that have a significant impact, directly or indirectly, on bilateral trade between the United States and Canada; and

(ii) attainment of increased and more effective discipline on those Canadian Government (including provincial) subsidies having the most significant adverse impact on United States producers that compete with subsidized products of Canada in the markets of the United States and Canada.

(B) Special emphasis should be given in negotiating an agreement under paragraph (1) to obtain discipline on Canadian subsidy programs that adversely affect United States industries which directly compete with subsidized imports. Business and industry.

(3) The United States members of the working group established under article 1907 of the Agreement shall—

(A) consult regularly with the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and advisory committees established under section 135 of the Trade Act of 1974 (19 U.S.C. 2155) regarding—

(i) the issues being considered by the working group, and

(ii) as appropriate, the objectives and strategy of the United States in the negotiations, and

(B) beginning in January 1990, submit an annual report to such Congressional Committees on the progress being made in the negotiations to obtain an agreement that meets the objectives described in paragraph (2). Reports.

(4) Notwithstanding any other provision of this Act or of any other law, the provisions of section 151 of the Trade Act of 1974 (19 U.S.C. 2191) shall not apply to any bill or joint resolution that implements an agreement entered into under paragraph (1), unless the President determines and notifies the Congress that such agreement—

(A) will provide greater discipline over government subsidies and no less discipline over unfair pricing practices by producers than that provided by the agreements described in paragraphs (5) and (6) of section 2 of the Trade Agreements Act of 1979 (the Subsidies Code and Antidumping Code), respectively, taking into account the effects of the Agreement, and

(B) will neither undermine such multilateral discipline nor detract from United States efforts to increase such discipline on a multilateral basis in, or subsequent to, the Uruguay Round of multilateral trade negotiations.

(b) IDENTIFICATION OF INDUSTRIES FACING SUBSIDIZED IMPORTS.—

(1) Any entity, including a trade association, firm, certified or recognized union, or group of workers, that is representative of a United States industry and has reason to believe that—

(A)(i) as a result of implementation of provisions of the Agreement, the industry is likely to face increased competi-

tion from subsidized Canadian imports with which it directly competes; or

(ii) the industry is likely to face increased competition from subsidized imports with which it directly competes from any other country designated by the President, following consultations with the Congress, as benefitting from a reduction of tariffs or other trade barriers under a trade agreement that enters into force after January 1, 1989; and

(B) the industry is likely to experience a deterioration of its competitive position before rules and disciplines relating to the use of government subsidies have been developed with respect to such country;

may file a petition with the United States Trade Representative (hereafter referred to in this section as the "Trade Representative") to be identified under this section.

(2) Within 90 days of receipt of a petition under paragraph (1), the Trade Representative, in consultation with the Secretary of Commerce, shall decide whether to identify the industry on the basis that there is a reasonable likelihood that the industry may face both the subsidization described in paragraph (1)(A) and the deterioration described in paragraph (1)(B).

(3) At the request of an entity that is representative of an industry identified under paragraph (2), the Trade Representative shall—

Records.

(A) compile and make available to the industry information under section 305 of the Trade Act of 1974,

(B) recommend to the President that an investigation by the United States International Trade Commission be requested under section 332 of the Tariff Act of 1930, or

(C) take actions described in both subparagraphs (A) and (B).

The industry may request the Trade Representative to take appropriate action to update (as often as annually) any information obtained under subparagraph (A) or (B), or both, as the case may be, until an agreement on adequate rules and disciplines relating to government subsidies is reached.

(4)(A) The Trade Representative and the Secretary of Commerce shall review information obtained under paragraph (3) and consult with the industry identified under paragraph (2) with a view to deciding whether any action is appropriate under section 301 of the Trade Act of 1974, including the initiation of an investigation under section 302(c) of that Act (in the case of the Trade Representative), or under subtitle A of title VII of the Tariff Act of 1930, including the initiation of an investigation under section 702(a) of that Act (in the case of the Secretary of Commerce).

(B) In determining whether to initiate any investigation under section 301 of the Trade Act of 1974 or any other trade law, other than title VII of the Tariff Act of 1930, the Trade Representative, after consultation with the Secretary of Commerce—

(i) shall seek the advice of the advisory committees established under section 135 of the Trade Act of 1974;

(ii) shall consult with the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives;

(iii) shall coordinate with the interagency committee established under section 242 of the Trade Expansion Act of 1962; and

(iv) may ask the President to request advice from the United States International Trade Commission.

President of U.S.

(C) In the event an investigation is initiated under section 302(c) of the Trade Act of 1974 as a result of a review under this paragraph and the President, following such investigation (including any applicable dispute settlement proceedings under the Agreement or any other trade agreement), determines to take action under section 301(a) of such Act, the President shall give preference to actions that most directly affect the products that benefit from governmental subsidies and were the subject of the investigation, unless there are no significant imports of such products or the President otherwise determines that application of the action to other products would be more effective.

(5) Any decision, whether positive or negative, or any action by the Trade Representative or the Secretary of Commerce under this section shall not in any way—

(A) prejudice the right of any industry to file a petition under any trade law,

(B) prejudice, affect, or substitute for, any proceeding, investigation, determination, or action by the Secretary of Commerce, the United States International Trade Commission, or the Trade Representative pursuant to such a petition,

(C) prejudice, affect, substitute for, or obviate any proceeding, investigation, or determination under section 301 of the Trade Act of 1974, title VII of the Tariff Act of 1930, or any other trade law.

(6) Nothing in this subsection may be construed to alter in any manner the requirements in effect before the enactment of this Act for standing under any law of the United States or to add any additional requirements for standing under any law of the United States.

SEC. 410. TERMINATION OF AGREEMENT.

(a) IN GENERAL.—If—

President of U.S. Reports.

(1) no agreement is entered into between the United States and Canada on a substitute system of rules for antidumping and countervailing duties before the date that is 7 years after the date on which the Agreement enters into force, and

(2) the President decides not to exercise the rights of the United States under article 1906 of the Agreement to terminate the Agreement,

the President shall submit to the Congress a report on such decision which explains why continued adherence to the Agreement is in the national economic interest of the United States.

(b) TRANSITION PROVISIONS.—

(1) If on the date on which the Agreement should cease to be in force an investigation or enforcement proceeding concerning the violation of a protective order issued under section 777(d) of the Tariff Act of 1930 (as amended by this Act) or a Canadian undertaking is pending, such investigation or proceeding shall continue and sanctions may continue to be imposed in accordance with the provisions of such section.

(2) If on the date on which the Agreement should cease to be in force a binational panel review under article 1904 of the Agreement is pending, or has been requested, with respect to a determination to which section 516A(g)(2) of the Tariff Act of 1930 (as added by this Act) applies, such determination shall be reviewable under section 516A(a) of the Tariff Act of 1930. In the case of a determination to which the provisions of this paragraph apply, the time limits for commencing an action under section 516A(a)(2)(A) of the Tariff Act of 1930 shall not begin to run until the date on which the Agreement ceases to be in force.

19 USC 2112 note.

TITLE V—EFFECTIVE DATES AND SEVERABILITY

SEC. 501. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the provisions of this Act, and the amendments made by this Act, shall take effect on the date the Agreement enters into force.

(b) EXCEPTIONS.—Sections 1 and 2, title I, section 304 (except subsection (f)), section 309, this section and section 502 shall take effect on the date of enactment of this Act.

(c) TERMINATION OF PROVISIONS AND AMENDMENTS IF AGREEMENT TERMINATES.—On the date on which the Agreement ceases to be in force, the provisions of this Act (other than this subsection and section 410(b)), and the amendments made by this Act, shall cease to have effect.

SEC. 502. SEVERABILITY.

If any provision of this Act, any amendment made by this Act, or the application of such a provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Approved September 28, 1988.

LEGISLATIVE HISTORY—H.R. 5090:

HOUSE REPORTS: No. 100-816, Pt. 1 (Comm. on Ways and Means), Pt. 2 (Comm. on Interior and Insular Affairs), Pt. 3 (Comm. on Foreign Affairs), Pt. 4 (Comm. on the Judiciary), Pt. 5 (Comm. on Banking, Finance and Urban Affairs), Pt. 6 (Comm. on Government Operations), Pt. 7 (Comm. on Energy and Commerce), and Pt. 8 (Comm. on Agriculture).

SENATE REPORTS: No. 100-509 (Comm. on Finance; Comm. on Agriculture, Nutrition, and Forestry; Comm. on Energy and Natural Resources; and Comm. on Governmental Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 9, considered and passed House.

Sept. 19, considered and passed Senate.

Public Law 100-450
100th Congress

Joint Resolution

To designate the week of September 23-30, 1988, as "National American Indian Heritage Week".

Sept. 28, 1988
[S.J. Res. 322]

Whereas American Indians were the original inhabitants of the territories that now constitute the United States of America;
Whereas American Indians and their descendents have made many essential contributions to our nation;
Whereas the citizens of the United States should be reminded of the assistance given to our Founding Fathers by the native Americans;
Whereas the citizens of the United States should be aware of the present relationship between the American Indians and the United States; and
Whereas the last week in September begins the harvest season in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of September 23-30, 1988, is designated as "National American Indian Heritage Week". The President is authorized and requested to call upon Federal, State, and local governments, interested groups and organizations, and the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved September 28, 1988.

LEGISLATIVE HISTORY—S.J. Res. 322:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 23, considered and passed House.

Public Law 100-451
100th Congress

Joint Resolution

Sept. 28, 1988
[S.J. Res. 336]

Designating October 16, 1988, as "World Food Day".

Whereas hunger and malnutrition remain daily facts of life for hundreds of millions of people throughout the world;

Whereas the children of the world suffer the most serious effects of hunger and malnutrition, with millions of children dying each year from hunger-related illness and disease, and many others suffering permanent physical or mental impairment because of vitamin or protein deficiencies;

Whereas the United States and the people of the United States have a long tradition of demonstrating humanitarian concern for the hungry and malnourished people of the world, recently manifested by the American response to African famine;

Whereas efforts to resolve the world hunger problem are critical to the maintenance of world peace and, therefore, to the security of the United States;

Whereas the Congress is particularly concerned with the continuing food problems of Africa and is supportive of the efforts being made there to reform and rationalize agricultural policies to better meet the food needs of their peoples;

Whereas the United States, as the largest producer and trader of food in the world, has a key role to play in assisting countries and people to improve their ability to feed themselves;

Whereas although progress has been made in reducing the incidence of hunger and malnutrition in the United States, certain groups, notably Native Americans, migrant workers, the elderly, and children, remain vulnerable to malnutrition and related diseases;

Whereas the Congress is acutely aware of the paradox of enormous surplus production capacity in the United States despite the desperate need for food by people throughout the world;

Whereas the United States and other countries should develop and continually evaluate national policies concerning food, farmland, and nutrition to achieve the well-being and protection of all people and particularly those most vulnerable to malnutrition and related diseases;

Whereas improved agricultural policies, including farmer incentives, are necessary in many developing countries to increase food production and economic growth;

Whereas private enterprise and the primacy of the independent family farmer have been basic to the development of an agricultural economy in the United States and have made the United States capable of meeting the food needs of most of the people of the United States;

Whereas increasing farm foreclosures threaten to destroy the independent family farmer and weaken the agricultural economy in the United States;

Whereas conservation of natural resources is necessary for the United States to remain the largest producer of food in the world

and to continue to aid hungry and malnourished people of the world;

Whereas participation by private voluntary organizations and businesses, working with national governments and the international community, is essential in the search for ways to increase food production in developing countries and improve food distribution to hungry and malnourished people;

Whereas the member nations of the Food and Agriculture Organization of the United Nations unanimously designated October 16 of each year as World Food Day because of the need to increase public awareness of world hunger problems;

Whereas past observances of World Food Day have been supported by proclamations by the Congress, the President, the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States, and by programs of the Department of Agriculture, other Federal departments and agencies, and the governments and peoples of more than 140 other nations;

Whereas more than 400 private voluntary organizations and thousands of community leaders are participating in the planning of World Food Day observances in 1988, and a growing number of these organizations and leaders are using such day as a focal point for year-round programs; and

Whereas the people of the United States can express their concern for the plight of hungry and malnourished people throughout the world by fasting and by donating food and money for them: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 16, 1988, is designated as "World Food Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities, including worship services, fasting, educational endeavors, and the establishment of year-round food and health programs and policies.

Approved September 28, 1988.

LEGISLATIVE HISTORY—S.J. Res. 336:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 16, considered and passed House.

Public Law 100-452
100th Congress

Joint Resolution

Sept. 29, 1988
[H.J. Res. 600]

To commemorate the fiftieth anniversary of the passage of the Federal Food, Drug, and Cosmetic Act.

Whereas the passage of the Federal Food, Drug, and Cosmetic Act on June 25, 1938, was a landmark event in the protection of the public health;

Whereas this Act remains the basic law enforced by the Food and Drug Administration;

Whereas the Food and Drug Administration has over the course of the last 50 years established rigorous standards for food and drug safety that have been respected and emulated throughout the world;

Whereas the Food and Drug Administration's efforts have helped make America's food supply the world's safest;

Whereas the agency has developed the world's most advanced drug review system—a system which has assured the safety and efficacy of the Nation's pharmaceutical products;

Whereas the advanced scientific approach toward drug review adopted by the Food and Drug Administration has contributed enormously to the betterment of science, medicine, and health of the American people;

Whereas the Food and Drug Administration has consistently improved this system to make it responsive to the changing needs of the American people, technology, and the marketplace;

Whereas the Food and Drug Administration has diligently protected the American public against products that have been misformulated, misbranded, or adulterated;

Whereas this effort has sustained the American public's high level of confidence in the basic safety of the marketplace over the past 50 years;

Whereas the Food and Drug Administration through its regulation of the Nation's blood networks has maintained the basic safety and efficient functioning of America's blood supply;

Whereas the Food and Drug Administration has the responsibility for regulation of products representing 25 percent of each consumer dollar spent and has successfully met its tremendous responsibilities even in the face of limited resources; and

Whereas the men and women of the Food and Drug Administration have worked tirelessly, and often at great personal sacrifice, in order to perform their vital service to the Nation: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the Congress recognizes as an important anniversary the passage of the Federal Food, Drug, and Cosmetic Act. The President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe this anniversary with appropriate ceremonies and activities.

Approved September 29, 1988.

LEGISLATIVE HISTORY—H.J. Res. 600 (S.J. Res. 320):

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 11, considered and passed House.
July 26, S.J. Res. 320 considered and passed Senate.
Sept. 14, H.J. Res. 600 considered and passed Senate.

Public Law 100-453
100th Congress

An Act

Sept. 29, 1988
[H.R. 4387]

To authorize appropriations for fiscal year 1989 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes.

Intelligence Authorization Act, Fiscal Year 1989.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1989".

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Funds are hereby authorized to be appropriated for fiscal year 1989 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

(1) The Central Intelligence Agency.
(2) The Department of Defense.
(3) The Defense Intelligence Agency.
(4) The National Security Agency.
(5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.
(6) The Department of State.
(7) The Department of the Treasury.
(8) The Department of Energy.
(9) The Federal Bureau of Investigation.
(10) The Drug Enforcement Administration.

Reports.

(b) None of the funds authorized to be appropriated by this Act may be used to procure more than three Guardrail RC-12K aircraft and sensor suites until the Department of the Army has submitted to the Permanent Select Committee on Intelligence and the Committee on Armed Services of the House of Representatives and to the Committee on Armed Services of the Senate a report detailing the long-range plans and budgetary commitments to meet the future requirements for tactical airborne reconnaissance in support of the United States Army. The report should include, but not be limited to, the contribution of remotely piloted vehicles and other reconnaissance assets.

(c) Of the funds authorized to be appropriated in this Act for the Defense Intelligence Agency, the Secretary of Defense may transfer not to exceed $15,100,000 to appropriations for the foreign counterintelligence activities of the Federal Bureau of Investigation.

Termination date.
5 USC 9101 note.

(d) The expiration date provided for in section 803(b) of the Intelligence Authorization Act for Fiscal Year 1986 (Public Law 99-169) shall be extended until December 31, 1989.

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. (a) The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1989, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the committee of conference to accompany H.R. 4387 of the One Hundredth Congress.

(b) The Schedule of Authorizations described in subsection (a) shall be made available to the Committee on Appropriations of the Senate and of the House of Representatives and to the President. The President shall provide for suitable distribution of the Schedule, or of appropriate portions of the Schedule, within the executive branch. President of U.S.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1989 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the Intelligence Community, exceed 2 per centum of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

SEC. 104. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated and expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support miltiary or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community Staff for fiscal year 1989 the sum of $23,745,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community Staff is authorized two hundred and forty-four full-time personnel as of September 30, 1989. Such personnel of the Intelligence Community Staff may be permanent employees of the Intelligence Community Staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1989, personnel of the Intelligence Community Staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

Government organization and employees. Armed Forces.

(c) During fiscal year 1989, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community Staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee or member may be detailed on a nonreimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1989, activities and personnel of the Intelligence Community Staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1989 the sum of $144,500,000.

COMPARABILITY OF CERTAIN SPOUSE PROVISIONS WITH CIVIL SERVICE RETIREMENT AND DISABILITY SYSTEM

SEC. 302. (a) Part C of title II of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by adding at the end thereof the following new section:

"SURVIVOR ANNUITIES FOR PREVIOUS SPOUSES AND SECOND CHANCE TO ELECT SURVIVOR ANNUITY FOR CERTAIN SPOUSES

Regulations.

"SEC. 226. (a) The Director shall prescribe regulations under which any previous spouse (including former spouses who are also previous spouses), divorced after the effective date of this section from a participant, former participant, or annuitant whose retirement or disability or FECA (chapter 81 of title 5, United States Code) annuity commences after the effective date of this section, shall be eligible for a survivor annuity to the same extent, and, to the greatest extent practicable, under the same conditions (including reductions to be made in the annuity of the participant) applicable to spouses of participants in the Civil Service Retirement and Disability System (CSRS) married for at least nine months with service creditable under section 8332 of title 5, United States Code.

"(b) The Director shall prescribe regulations under which participants, retired participants, and former participants who have separated from service with a deferred annuity may make an election within two years after the effective date of this section (or, if later,

at the time of retirement) to receive a reduced annuity, pay a deposit, and provide a survivor annuity for any spouse for whom survivor benefits were not elected at the time of retirement, or (if the marriage occurred after retirement) were not elected in a timely manner, and for any previous spouse (including former spouses who are also previous spouses) who is not eligible for a survivor annuity under subsection (a) of this section, under, to the greatest extent practicable, the same terms and conditions as those prescribed for participants in the Civil Service Retirement and Disability System (CSRS) by the Civil Service Retirement Spouse Equity Act of 1984.

"(c) As used in this section, the term 'previous spouse' means a former wife or husband who was married for at least nine months to a participant or former participant who had at least eighteen months of service which are creditable under sections 251, 252, and 253 of this Act.

"(d) This section shall take effect on the date of enactment of the Intelligence Authorization Act, Fiscal Year 1989.". Effective date.

(b)(1) Section 224 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended—

(A) in subsection (a)(2), by inserting "an amount equal to any survivor annuity payments made to the former spouse under section 223 and also by" after "shall be reduced by"; and

(B) in subsection (b), by striking out paragraph (1) and redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(2) The amendments made by paragraph (1) shall take effect as of October 1, 1986. Effective date. 50 USC 403 note.

(c)(1) Section 225(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by inserting "and any former spouse divorced after November 15, 1982, from a participant or former participant who retired before November 15, 1982," after "1982".

(2) The amendment made by paragraph (1) shall take effect as of December 2, 1987. Effective date. 50 USC 403 note.

(d)(1) The third sentence of section 221(n) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) is amended by striking out "one year" and inserting in lieu thereof "nine months after the date of remarriage".

(2) Section 221 of title II of such Act is amended by adding at the end thereof the following new subsection:

"(p) The election of a survivor annuity and the reduction of an annuity under subsection (f)(2) or (n) of this section shall take effect on the first day of the first month beginning nine months after the date of marriage. For the purposes of this subsection, the nine-month period shall be deemed to be satisfied in any case in which—

"(1) the annuitant dies within such period;

"(2) the surviving spouse of the annuitant had been previously married to the annuitant and subsequently divorced; and

"(3) the aggregate time married is at least nine months.".

(3) The amendment made by this subsection shall apply to marriages which occur on or after May 7, 1985. Effective date. 50 USC 403 note.

(e) Any new spending authority (within the meaning of section 401(c) of the Congressional Budget Act of 1974) provided pursuant to the amendments made by this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts. 50 USC 403 note.

TITLE IV—GENERAL PROVISIONS

RESTRICTION OF CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 401. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

INCREASES IN EMPLOYEE BENEFITS AUTHORIZED BY LAW

SEC. 402. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such benefits authorized by law.

EQUAL EMPLOYMENT OPPORTUNITY PLAN

Reports.
50 USC 403 note.

SEC. 403. Ninety days after enactment of this Act, the Director of Central Intelligence and the Secretary of Defense shall submit to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate a report setting forth an analysis of each equal employment opportunity group's representation in the Central Intelligence Agency and the National Security Agency respectively and proposing a plan for rectifying any underrepresentation of any such equal employment opportunity group by September 30, 1991.

(b) The Director of Central Intelligence and the Secretary of Defense shall each submit interim reports on February 1, 1989, 1990, and 1991 concerning the Central Intelligence Agency and the National Security Agency respectively detailing the efforts made, and the progress realized, by each such agency in achieving the objectives of each such plan, including, but not limited to, the number of applications from, and the hiring, promotion, and training of, members of each equal employment opportunity group.

(c) For purposes of this section, the term "equal employment opportunity group" means—

(A) white women,
(B) black men,
(C) black women,
(D) Hispanic men,
(E) Hispanic women,
(F) Asian American and Pacific Islander men,
(G) Asian American and Pacific Islander women,
(H) Native American and Alaskan Native men, or
(I) Native American and Alaskan Native women.

DISCLOSURE OF INFORMATION CONCERNING AMERICAN PERSONNEL LISTED AS PRISONER, MISSING, OR UNACCOUNTED FOR IN SOUTHEAST ASIA

50 USC 401 note.

SEC. 404. (a) This section is enacted to ensure that current disclosure policy is incorporated into law.

(b) Except as provided in subsection (c), the head of each department or agency—

(1) with respect to which funds are authorized under this Act, and

(2) which holds or receives live sighting reports of any United States citizen reported missing in action, prisoner of war, or unaccounted for from the Vietnam Conflict, Vietnam.

shall make available to the next-of-kin of that United States citizen all reports, or portions thereof, held by that department or agency which have been correlated or possibly correlated to that citizen. Records.

(c) Subsection (b) does not apply with respect to—

(1) information that would reveal or compromise sources and methods of intelligence collection; or

(2) specific information that previously has been made available to the next-of-kin.

(d) The head of each department or agency covered by subsection (a) shall make information available under this section in a timely manner.

TITLE V—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

ONE-TIME PERSONNEL AUTHORITY

SEC. 501. (a) Whenever the Director of Central Intelligence finds during fiscal year 1989 that a former employee of the Central Intelligence Agency has unfairly had his career with the Agency adversely affected as a result of allegations concerning the loyalty to the United States of such former employee, the Director may grant such former employee such monetary or other relief (including reinstatement and promotion) as the Director considers appropriate in the interest of fairness.

(b) Any action of the Director under this section is not reviewable in any other forum or in any court.

(c) The authority of the Director to make payments under subsection (a) is effective only to the extent that appropriated funds are available for that purpose.

(d) The Director shall report to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives any use of the authority granted by this section in advance of such use. Reports.

FERS-CIARDS SPECIAL ELECTION AUTHORITY

SEC. 502. (a) Subsection (d) of section 301 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended, is redesignated as subsection (e). 50 USC 403 note.

(b) A new subsection (d) is added after subsection (c) as follows:

"(d) An employee who has been designated as a participant in the Central Intelligence Agency Retirement System after December 31, 1987, pursuant to section 203 of this Act, may elect to become subject to chapter 84 of title 5, United States Code. An election under this paragraph—

"(1) shall not be effective unless it is made during the six-month period after the enactment of this section, or during the six-month period beginning on the date on which the employee is so designated, whichever comes later;

"(2) shall take effect beginning with the first pay period beginning after the date of the election; and

"(3) shall be irrevocable.".

AUTHORITY TO COMPENSATE RETIRED MILITARY PERSONNEL SERVING ON DCI ADVISORY COMMITTEES

Uniformed services.

SEC. 503. Subsection (a) of section 303 of the National Security Act of 1947 (50 U.S.C. 405) is amended by adding at the beginning of the last sentence "Retired members of the uniformed services employed by the Director of Central Intelligence who hold no other office or position under the United States for which they receive compensation,"; and by changing the word immediately thereafter from "Other" to "other".

REPORTS CONCERNING INSPECTOR GENERAL ACTIVITIES

SEC. 504. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding after section 16 the following new section:

"REPORTS OF INSPECTOR GENERAL ACTIVITIES

50 USC 403q.

"SEC. 17. The Director of Central Intelligence shall furnish to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives the following reports relating to the activities of the Inspector General at the Central Intelligence Agency.

"(a) A report made at the time any Inspector General is selected by the Director of Central Intelligence, specifying the name of the person selected, and certifying that such selection was made without regard to political affiliation. Such report shall also include a certification that the person selected meets Central Intelligence Agency security requirements and has had prior senior experience in the foreign intelligence field. It should also describe the background of such person as it relates to his or her experience in accounting, law, financial analysis, management analysis, public administration, or other field directly relevant to the performance of functions assigned the Inspector General.

"(b) A report made at the time any Inspector General is removed by the Director of Central Intelligence, specifying the basis for such removal.

"(c) Semiannual reports, to be furnished not later than June 30 and December 31 of each year, summarizing the activities of the Office of Inspector General for the preceding six-month period. Such reports shall include: (i) a certification that such activities have been carried out in accordance with accepted Federal standards for inspections, investigations, and audits; (ii) a certification that the Inspector General has had full and direct access to all information relevent to his activities; (iii) a description of any violation of law or willful violation of regulations, or any evidence of serious fraud, waste and abuse, identified during the reporting period; and (iv) the status of corrective actions taken during the reporting period in response to Inspector General recommendations.

"(d) A report of any decision made by the Director of Central Intelligence to prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation within the Central Intelligence Agency, to be made within seven days of such decision.

"(e) A report of any other decision made by the Director of Central Intelligence which would substantially affect the ability of the Inspector General to carry out his duties and responsibilities. Such

report shall include the position of the Inspector General with respect to such decision, and be transmitted within seven days to the committees.".

TITLE VI—FBI ENHANCED COUNTERINTELLIGENCE AUTHORITIES

DEMONSTRATION PROJECT ON MOBILITY AND RETENTION FOR THE NEW YORK FIELD DIVISION

SEC. 601. (a) Notwithstanding any other provision of law, the Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall conduct a demonstration project to ascertain the effects on the recruitment and retention of personnel, and on field operations in the New York Field Division of the Federal Bureau of Investigation of providing—

Contracts.

(1) lump-sum payments to personnel upon directed assignment to the New York Field Division from another geographical location who enter into an agreement to complete a specified minimum period of service, not to exceed three years, in the New York Field Division, except that no lump-sum payment under this paragraph may exceed $20,000, and no employee shall be eligible to receive more than one lump-sum payment under this paragraph in connection with each such assignment; and

(2) periodic payments to New York Field Division employees who are subject by policy and practice to directed geographical transfer or reassignment, except that the amounts paid under this paragraph to an employee for any period may not be less than 20 per centum nor greater than 25 per centum of the basic pay paid or payable to such employee for service performed during such period.

Any lump-sum payment under paragraph (1) and any periodic payment under paragraph (2) shall be in addition to basic pay. Any authority to make payments under this section shall be effective only to the extent of available appropriations.

Effective date. Termination date.

(b) Such demonstration project shall commence not later than ninety days after the date of enactment of this Act and shall terminate five years after such date, unless extended by law.

Reports.

(c) The Director of the Federal Bureau of Investigation and the Director of the Office of Personnel Management shall jointly provide to the President and the Congress annual interim reports and, at the conclusion of the five year period, a final evaluation concerning the results of the demonstration project.

TITLE VII—DEPARTMENT OF DEFENSE

INTELLIGENCE PROVISIONS

SEC. 701. (a) Section 421 of title 10, United States Code, is amended to read as follows:

"§ 421. Funds for foreign cryptologic support

Communications and telecommunications.

"(a) The Secretary of Defense may use appropriated funds available to the Department of Defense for intelligence and communications purposes to pay for the expenses of arrangements with foreign countries for cryptologic support.

"(b) The Secretary of Defense may use funds other than appropriated funds to pay for the expenses of arrangements with foreign countries for cryptologic support without regard for the provisions of law relating to the expenditure of United States Government funds, except that—

"(1) no such funds may be expended, in whole or in part, by or for the benefit of the Department of Defense for a purpose for which Congress had previously denied funds; and

"(2) proceeds from the sale of cryptologic items may be used only to purchase replacement items similar to the items that are sold; and

"(3) the authority provided by this subsection may not be used to acquire items or services for the principal benefit of the United States.

Reports.

"(c) Any funds expended under the authority of subsection (a) shall be reported to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House pursuant to the provisions of title V of the National Security Act of 1947, as amended, and funds expended under the authority of subsection (b) shall be reported pursuant to procedures jointly agreed upon by such committees and the Secretary of Defense.".

(b) The reference to section 421 in the sections at the beginning of chapter 21 of such title is amended to read "Funds for Foreign Cryptologic Support.".

AUTHORITY TO ESTABLISH POSITION OF ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE

SEC. 702. Paragraph (3) of section 136(b) of title 10, United States Code, is amended to read as follows:

"(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Deprtment of Defense.

"(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

"(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense.".

REQUIREMENTS TO DISCLOSE DEFENSE INTELLIGENCE AGENCY ORGANIZATIONAL AND PERSONNEL INFORMATION

SEC. 703. (a) Section 1607 of title 10, United States Code (as added by section 603 of Public Law 100-178), is transferred to the end of chapter 21, redesignated as section 424, and amended to read as follows:

"§ 424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency

"(a) Except as required by the President or as provided in subsection (b), the Secretary of Defense may not be required to disclose information with respect to—

"(1) the organization or any function of the Defense Intelligence Agency; or

"(2) the number of persons employed by or assigned or detailed to such Agency or the name, official title, occupational series, grade, or salary of any such person.

"(b) This section does not apply—

"(1) with respect to the provision of information to Congress; or

"(2) with respect to information required to be disclosed by section 552 or 552a of title 5.".

(b) The table of sections at the beginning of chapter 21 of such title is amended by adding at the end the following new item:

"424. Disclosure of organizational and personnel information: exemption for Defense Intelligence Agency.".

DEFENSE ATTACHÉ DEATH GRATUITY

Armed Forces. Terrorism.

SEC. 704. (a) During fiscal year 1989, the Secretary of Defense may pay a death gratuity identical to that payable under section 1489(b) of title 10, United States Code, to the surviving dependents of a member of the Armed Forces who, while serving on active duty assigned to a Defense attaché office outside the United States, died as a result of hostile or terrorist activities.

(b) The death gratuity referred to in subsection (a) may be paid with respect to an individual who died on or after June 15, 1988.

Reports.

(c) The Secretary of Defense shall submit to Congress no later than March 1, 1989, a report concerning the advisability of permanent law permitting the payment of death gratuities to the survivors of any member of the armed services who, while on active duty assigned to a Defense attaché office outside the United States, dies as a result of hostile or terrorist activities.

Approved September 29, 1988.

LEGISLATIVE HISTORY—H.R. 4387 (S. 2366):

HOUSE REPORTS: No. 100-591 Pt. 1 (Permanent Select Comm. on Intelligence) and Pt. 2 (Comm. on Armed Services), and No. 100-879 (Comm. of Conference).

SENATE REPORTS: No. 100-334 (Select Comm. on Intelligence) and No. 100-404 (Comm. on Armed Services) accompanying S. 2366.

CONGRESSIONAL RECORD, Vol. 134 (1988):

May 26, considered and passed House.

Aug. 5, considered and passed Senate, amended, in lieu of S. 2366.

Sept. 14, House agreed to conference report.

Sept. 15, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Sept. 29, Presidential statement.

Public Law 100-454
100th Congress

Joint Resolution

Sept. 29, 1988
[H.J. Res. 665]

Authorizing the hand enrollment of appropriations bills for fiscal year 1989 and authorizing the subsequent, post-enactment preparation of printed enrollments of those bills.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

1 USC 106 note.

SECTION 1. HAND ENROLLMENT AUTHORIZED FOR GENERAL APPROPRIATIONS BILLS.

(a) WAIVER OF CERTAIN LAWS WITH RESPECT TO PRINTING OF ENROLLED BILLS.—During the remainder of the second session of the One Hundredth Congress, the provisions of sections 106 and 107 of title 1, United States Code, are waived with respect to the printing (on parchment or otherwise) of the enrollment of any general appropriations bill making appropriations for the fiscal year ending September 30, 1989.

(b) CERTIFICATION BY COMMITTEE ON HOUSE ADMINISTRATION.—The enrollment of any such bill shall be in such form as the Committee on House Administration of the House of Representatives certifies to be a true enrollment.

1 USC 106 note.

SEC. 2. SUBSEQUENT PREPARATION AND CERTIFICATION OF PRINTED ENROLLMENTS.

(a) PREPARATION.—

(1) IN GENERAL.—Upon the enactment of a bill following presentment of such bill to the President in the form of a hand enrollment pursuant to the authority of section 1 of this resolution, the Clerk of the House of Representatives shall prepare a printed enrollment of that bill as in the case of a bill to which sections 106 and 107 of title 1, United States Code, apply.

(2) LIMITED STYLISTIC CORRECTIONS.—A printed enrollment prepared pursuant to paragraph (1) may, in order to conform to customary style for printed laws, include corrections in spelling, punctuation, indentation, type face, and type size and other necessary stylistic corrections to the hand enrollment. Such a printed enrollment shall include notations (in the margins or as otherwise appropriate) of all such corrections.

(b) TRANSMITTAL TO PRESIDENT.—A printed enrollment prepared pursuant to subsection (a) shall be signed by the presiding officer of each House of Congress as a correct printing of the hand enrollment and shall be transmitted to the President.

(c) CERTIFICATION BY PRESIDENT; LEGAL EFFECT.—Upon certification by the President that a printed enrollment transmitted pursuant to subsection (b) is a correct printing of the hand enrollment, such printed enrollment shall be considered for all purposes as the original enrollment of the bill concerned and as valid evidence of the enactment of that bill.

Historic preservation.

(d) ARCHIVES.—A printed enrollment certified by the President under subsection (c) shall be transmitted to the Archivist of the

United States, who shall preserve it with the hand enrollment. In preparing the bill concerned for publication in slip form and in the United States Statutes at Large pursuant to section 112 of title 1, United States Code, the Archivist of the United States shall use the printed enrollment certified by the President under subsection (c) in lieu of the hand enrollment.

(e) HAND ENROLLMENT DEFINED.—As used in this section, the term "hand enrollment" means the enrollment, as authorized by section 1, of a bill for presentment to the President in a form other than the printed form required by sections 106 and 107 of title 1, United States Code.

Approved September 29, 1988.

LEGISLATIVE HISTORY—H.J. Res. 665:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 28, considered and passed House and Senate.

Public Law 100-455
100th Congress

Joint Resolution

Sept. 29, 1988
[S.J. Res. 329]

To designate October 24 through October 30, 1988, as "Drug Free America Week".

Whereas illicit drug and alcohol abuse has reached epidemic proportions and is of major concern to all Americans;

Whereas illegal drug and alcohol use is a major public health threat and is one of the largest causes of preventable disease, disability, and death in the United States today;

Whereas drug and alcohol abuse cost American society nearly $100,000,000,000 a year in lost productivity;

Whereas illegal drug use does not discriminate on the basis of age, gender, or socioeconomic status as evidenced by the following statistics:

(1) twenty-three million Americans age twelve and over currently use illicit drugs,

(2) a nationwide Weekly Reader survey revealed that of the sixty-eight thousand fourth graders polled, 34 per centum reported peer pressure to try wine coolers, 41 per centum to smoke, and 24 per centum to use crack or cocaine,

(3) the fifteen-to-twenty-four-year-old age group is dying at a faster rate than any other age group because of accidents, homicides, and suicides, much of which is related to drug and alcohol abuse;

Whereas the problem is not insurmountable. Americans have begun to lay the foundation; however, we must continue to build on the important strides we have made in our efforts to prevent illegal drug and alcohol use. The most recent national polls reveal that progress has been made—

(1) since 1979, there has been a steady decline in the use of marijuana on a daily basis among high school seniors, and in 1987, marijuana use among this group was at its lowest level in eleven years,

(2) in 1987 there was a significant drop in the use of cocaine, and the number of high school seniors associating great risk with trying cocaine once or twice rose from 34 per centum in 1986 to 48 per centum in 1987, and

(3) illicit use of stimulants and sedatives continues to decline among high school seniors, college students, and young adults in general;

Whereas the American people indicate that drug abuse is one of the most serious domestic problems facing this Nation according to public opinion polls and have begun to take steps to fight it;

Whereas the National Federation of Parents for Drug-Free Youth has declared October 23 through October 30, 1988, as "National Red Ribbon Week"—a comprehensive public education and fundraising drive, involving thousands of parent groups across the country;

Whereas other outstanding groups such as the American Council for Drug Education, the Just Say No Foundation, the National Par-

ents Resource Institute for Drug Education, TARGET, the National Crime Prevention Council, the Elks, and others have demonstrated leadership, creativity, and determination in achieving a drug-free America;

Whereas we must get the message across that any use of an illegal drug is unacceptable—that there is no safe use of these drugs—and that illegal drug use will not be tolerated;

Whereas drug and alcohol abuse undermines our economy, threatens our national security, affects productivity, and ruins and destroys lives: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 24 through October 30, 1988, be designated as "Drug Free America Week". The Senate of the United States recognizes and commends the hard work and dedication of concerned parents, educators, business leaders, private sector organizations, and government leaders and urges them to continue their tenacious efforts. The Senate urges these groups to sponsor town meetings, conferences, and fundraising activities that support community drug and alcohol education and to observe "Drug Free America Week" with other appropriate activities, events, and educational campaigns.

SEC. 2. Every American is encouraged to wear red during the "Drug Free America Week" to symbolize their commitment to a healthy, drug-free lifestyle.

Approved September 29, 1988.

LEGISLATIVE HISTORY—S.J. Res. 329:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 16, considered and passed House.

Public Law 100-456
100th Congress

An Act

Sept. 29, 1988
[H.R. 4481]

To authorize appropriations for fiscal year 1989 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Defense Authorization Act, Fiscal Year 1989.

SECTION 1. SHORT TITLE

This Act may be cited as the "National Defense Authorization Act, Fiscal Year 1989".

SEC. 2. ORGANIZATION OF ACT INTO DIVISIONS

This Act is organized into two divisions as follows:

(1) Division A—Department of Defense and other National Defense Authorizations.

(2) Division B—Military Construction Authorizations.

SEC. 3. TABLE OF CONTENTS

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Sec. 2827. Transfer of land, Suitland Federal Center, Maryland.
Sec. 2828. Air Force plant at Columbus, Ohio.
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SEC. 4. STATUTORY CONSTRUCTION

(a) ORDER OF ENACTMENT WITH APPROPRIATIONS ACT.—In applying any rule of statutory construction, the provisions of this Act shall be deemed to have been enacted before the provisions of the Department of Defense Appropriations Act, 1989 (regardless of the actual dates of enactment concerned).

(b) TERMINATION OF REFERENCED AUTHORIZATION PROVISION.—If this Act is enacted after the Department of Defense Appropriations Act, 1989—

(1) section 10001 of that Act shall cease to be effective upon the enactment of this Act; and

(2) subject to subsection (a), this Act shall be deemed for all purposes to have been enacted on the date of the enactment of such Act.

DIVISION A—DEPARTMENT OF DEFENSE AND OTHER NATIONAL DEFENSE AUTHORIZATIONS

TITLE I—PROCUREMENT

PART A—FUNDING AUTHORIZATIONS

SEC. 101. ARMY

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Army as follows:

(1) For aircraft, $2,883,700,000.

(2) For missiles, $2,605,200,000.

(3) For weapons and tracked combat vehicles, $2,915,100,000.

(4) For ammunition, $2,064,036,000.

(5) For other procurement, $4,580,346,000, of which—

(A) $872,671,000 is for tactical and support vehicles;

(B) $2,811,727,000 is for communications and electronics equipment; and

(C) $895,948,000 is for other support equipment.

SEC. 102. NAVY AND MARINE CORPS

(a) AIRCRAFT.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement of aircraft for the Navy in the amount of $9,259,253,000.

(b) WEAPONS.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement of weapons (including missiles and torpedoes) for the Navy in the amount of $5,972,181,000. Amounts authorized under the preceding sentence are available as follows:

(1) For ballistic missile programs, $1,872,538,000.

(2) For other missile programs, $3,203,737,000.

(3) For torpedo programs, $700,054,000 as follows:

For the MK-48 torpedo program, $431,014,000.

For the MK-50 torpedo program, $198,547,000.

For the Vertical Launched ASROC program, $17,552,000.

For the modification of torpedoes and related equipment, $3,289,000.

For the torpedo support equipment program, $25,988,000.

For the antisubmarine warfare range support program, $22,664,000.

(4) For other weapons, $108,440,000, of which—
(A) $19,449,000 is for the MK-15 close-in weapon system; and
(B) $54,557,000 is for the close-in weapon system modification program.
(5) For spares and repair parts, $87,412,000.

(c) SHIPBUILDING AND CONVERSION.—Funds are hereby authorized to be appropriated for fiscal year 1989 for shipbuilding and conversion for the Navy in the amount of $9,056,100,000. Amounts authorized under the preceding sentence are available as follows:
For the Trident submarine program, $1,368,100,000.
For the SSN-688 nuclear attack submarine program, $1,493,600,000.
For the SSN-21 nuclear attack submarine program, $1,488,000,000.
For the aircraft carrier service life extension program (SLEP), $135,400,000.
For the DDG-51 guided missile destroyer program, $2,207,300,000.
For the LHD-1 amphibious assault ship program, $737,500,000.
For the MHC coastal minehunter program, $197,200,000.
For the TAO-187 fleet oiler program, $284,900,000.
For the AO (Jumbo) conversion program, $84,900,000.
For the TAGOS ocean surveillance ship program, $159,600,000.
For the AOE fast combat support ship program, $363,900,000.
For the landing craft, air cushion (LCAC) program, $192,600,000.
For outfitting and post delivery, $343,100,000.

(d) OTHER PROCUREMENT, NAVY.—Funds are hereby authorized to be appropriated for fiscal year 1989 for other procurement for the Navy in the amount of $4,817,750,000. Amounts authorized under the preceding sentence are available as follows:
(1) For the ship support equipment program, $649,740,000.
(2) For the communications and electronics equipment program, $1,548,164,000.
(3) For aviation support equipment, $550,692,000.
(4) For the ordnance support equipment program, $1,135,671,000.
(5) For civil engineering support equipment, $109,061,000.
(6) For supply support equipment, $126,495,000.
(7) For personnel and command support equipment, $470,731,000.
(8) For spares and repair parts, $227,196,000.

(e) MARINE CORPS.—Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Marine Corps in the amount of $1,297,265,000.

SEC. 103. AIR FORCE

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Air Force as follows:
(1) For aircraft, $16,125,024,000.
(2) For missiles, $7,716,533,000.
(3) For other procurement, $8,196,782,000, of which—
(A) $605,087,000 is for munitions and associated support equipment;

(B) $279,768,000 is for vehicular equipment;
(C) $1,893,245,000 is for electronics and telecommunications equipment; and
(D) $5,418,682,000 is for other base maintenance and support equipment.

SEC. 104. DEFENSE AGENCIES

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement for the Defense Agencies in the amount of $1,205,100,000.

SEC. 105. CHEMICAL DEMILITARIZATION PROGRAM

Funds are hereby authorized to be appropriated for fiscal year 1989 for the chemical demilitarization program under section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1521) in the amount of $179,500,000, of which—
(1) $44,300,000 is for procurement;
(2) $17,900,000 is for research, development, test, and evaluation; and
(3) $117,300,000 is for operation and maintenance.

SEC. 106. RESERVE COMPONENTS

Funds are hereby authorized to be appropriated for fiscal year 1989 for procurement of aircraft, vehicles, communications equipment, and other miscellaneous equipment for the reserve components of the Armed Forces as follows:
For the Army National Guard, $240,000,000.
For the Air National Guard, $216,500,000.
For the Army Reserve, $30,000,000.
For the Naval Reserve, $75,000,000.
For the Air Force Reserve, $232,000,000.
For the Marine Corps Reserve, $50,000,000.

SEC. 107. AUTHORIZED MULTIYEAR CONTRACTS

(a) ARMY.—Subject to subsections (d) and (e), the Secretary of the Army may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:
(1) CH-47D helicopter modification.
(2) Multiple Launch Rocket System (MLRS).
(3) T-700 helicopter engine.
(4) AH-64 Apache helicopters.
(5) M1 Abrams tanks for 3,000 tanks.

(b) NAVY AND MARINE CORPS.—Subject to subsections (d) and (e), the Secretary of the Navy may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:
(1) AV-8B aircraft.
(2) UHF Follow-On Satellite System.

(c) AIR FORCE.—Subject to subsections (d) and (e), the Secretary of the Air Force may enter into multiyear contracts in accordance with section 2306(h) of title 10, United States Code, for procurement of the following:
(1) F-16 aircraft.
(2) Defense Meteorological Satellite Program (DMSP).

(d) CONDITIONS.—A multiyear contract authorized by this section may not be entered into unless each of the following conditions is satisfied:

(1) The Secretary of Defense certifies to Congress that the current five-year defense program fully funds the support costs associated with the multiyear program.

(2) The proposed multiyear contract provides for production at not less than minimum economic rates given the existing tooling and facilities.

(3) The proposed multiyear contract—

(A) achieves a 10 percent savings as compared to the cost of current negotiated contracts, adjusted for changes in quantity and for inflation; or

(B) achieves a 12 percent savings as compared to annual contracts if no recent contract experience exists.

(e) NEGOTIATED PRICED OPTIONS.—The Secretary of Defense may instruct the Secretary of the military department concerned to incorporate into a proposed multiyear contract under this section negotiated priced options for varying the quantities of end items to be procured over the period of the contract.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 111. ARMY PROGRAMS

(a) ADATS AIR DEFENSE WEAPON.—(1) The Secretary of the Army may obligate funds appropriated for fiscal year 1989 for procurement of the ADATS Air Defense Weapon system in the amount of $85,000,000 for production of five fire units and 60 missiles to be used specifically for production qualification testing and operational testing. Funds may be obligated for such purpose only after the Director of Operational Test and Evaluation of the Department of Defense certifies to the Committees on Armed Services of the Senate and House of Representatives that he has approved the plan for the qualification testing and operational testing for such system.

(2) The Secretary of the Army may obligate funds for procurement and advanced procurement for such system for any fiscal year after fiscal year 1989 only after—

(A) the operational tests for such system are completed;

(B) the Secretary of Defense certifies to the Committees on Armed Services of the Senate and House of Representatives that the system meets or exceeds the operational performance criteria of the Army;

(C) the Director of Operational Test and Evaluation of the Department of Defense provides to those Committees his evaluation of the performance of the system; and

(D) the Comptroller General of the United States provides to those Committees his evaluation of the performance of the system.

(b) MORTARS.—The Secretary of the Army may not obligate funds appropriated for fiscal year 1989 for procurement of 120-millimeter mortars or 4.2-inch mortars (or for procurement of ammunition for either such mortar) until the Secretary does each of the following:

(1) Submits to Congress a new master plan for Army mortars, including a description of the status of 4.2-inch mortars (and the ammunition for such mortars) and the status of any proposed upgrade of such mortar or ammunition.

(2) Certifies to Congress that the current Five-Year Defense Program provides for funding for the initiatives set forth in such master plan.

(3) Completes the analysis (referred to as an "Arsenal Act analysis") of the cost-effectiveness of using domestic sources (as provided under section 4532 of title 10, United States Code) for manufacture of 120-millimeter mortars that was specified in section 122(a)(2) of Public Law 99-661.

(c) 155-MILLIMETER BASE BURN ASSEMBLY UNITS.—(1) If the contractor for low-rate initial production of base burn assembly units for the 155-millimeter M864 artillery projectile certifies to the Secretary of the Army that the contractor is willing to finance the expenses of preparing facilities and equipment at (and otherwise "facilitizing") a Government-owned contractor-operated Army ammunition plant for production of such base burn assembly units, the Secretary shall contract with that contractor for production of not less than 96,000 of such units with funds appropriated for such program for each of fiscal years 1989 and 1990 (for a production rate of not less than 8,000 units per month under the program for those fiscal years).

(2) In carrying out the program for production of such base burn assembly units, the Secretary of the Army, through the use of competitive procedures, shall select a second source producer for such base burn assembly units during fiscal year 1989.

SEC. 112. NAVY PROGRAMS

(a) AH-1W GROUND SUPPORT EQUIPMENT.—Of the amount appropriated pursuant to section 102 for the Navy for procurement, $55,000,000 may be obligated only for the procurement of AH-1W ground support equipment.

(b) TRIDENT II MISSILE PROGRAM.—(1) Of the amounts appropriated pursuant to section 102 for the Navy for the procurement of missiles for fiscal year 1989, $1,865,609,000 may be obligated only for the Trident II missile program.

(2) In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1989, no reduction may be made in the amount of funds available for the Trident II missile program.

(c) DDG-51 DESTROYER PROGRAM COMPETITION.—Notwithstanding the proviso to the item relating to the DDG-51 destroyer program in the paragraph under the heading "SHIPBUILDING AND CONVERSION, NAVY" in title III of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202), the Secretary of the Navy may limit competition for the shipbuilding portion of the DDG-51 destroyer program for any fiscal year to the two shipyard contractors to which such competition was limited on December 21, 1987 (the day before the date of the enactment of Public Law 100-202), if the Secretary certifies to the Committees on Armed Services of the Senate and House of Representatives that the limitation of such competition to those contractors either—

(1) would likely result in a lower total cost to the United States for the fiscal year 1989 program than would result from including other shipyard contractors in the competition; or

(2) is necessary to meet the cost, schedule, or performance requirements of the Navy or such other requirements of the Navy as may be determined by the Secretary.

(d) USE OF PRIOR YEAR FUNDS FOR DDG-51 DESTROYER PROGRAM.—(1) There are hereby authorized to be transferred to the shipbuilding and conversion program for the Navy for fiscal year 1988, to the extent provided in appropriation Acts, amounts that were appropriated for the Department of Defense for fiscal year 1988 or any prior fiscal year that remain available for obligation and that are no longer required for the purpose for which originally appropriated. The total amount transferred pursuant to the authority of this section may not exceed $730,000,000. Amounts transferred pursuant to this section shall be used for the procurement of one DDG-51 class guided missile destroyer.

(2) The authority to transfer amounts under this subsection is in addition to any other authority to transfer amounts provided in this or any other Act.

(3) A transfer pursuant to the authority provided by this section shall not extend the period of availability for obligation of the amounts so transferred.

(e) MARINE CORPS TACTICAL RADIOS.—Amounts previously appropriated to the Navy for procurement of TSEC/KY-67 (Bancroft) radios and that are available for obligation may be obligated only for procurement of SINCGARS radios.

(f) 5-INCH SEMIACTIVE LASER-GUIDED PROJECTILE PROGRAM.—Of the funds appropriated or otherwise made available for other procurement for the Navy for fiscal year 1989, the Secretary of the Navy shall make available such funds as necessary for the 5-inch semiactive laser-guided projectile program in order to complete production qualification of 150 of such projectiles, with 50 such projectiles to be produced by each of the three established competitive sources.

SEC. 113. AIR FORCE PROGRAMS

(a) AIR NATIONAL GUARD USE OF CERTAIN AIRCRAFT.—The Secretary of the Air Force may authorize the Air National Guard to use the eight C-130 aircraft (and support equipment related to such aircraft) that are in long-term storage at Air Force plant #6, Marietta, Georgia. Of funds appropriated for the Air Force for fiscal year 1989 for modification of C-130 aircraft, $17,500,000 shall be available only to refurbish such aircraft for full operational use.

(b) AIR FORCE LAUNCH FACILITY.—Funds appropriated or otherwise made available to the Air Force for fiscal year 1989 may not be obligated or expended in connection with the launch facility at Vandenberg Air Force Base, California (designed for the launch of Titan IV expendable launch vehicles), identified as the SLC-7 Launch Facility.

SEC. 114. INTERIM INFANTRY ANTI-TANK WEAPON

(a) DETERMINATION OF INTERIM INFANTRY ANTI-TANK WEAPON.—The Secretary of the Army shall select an interim infantry anti-tank weapon from among the Milan II weapon, the Bofors Bill weapon, Dragon Generation II weapon, and the Marine Corps Dragon Generation III weapon. The selection shall be based on the Secretary's determination of which of such weapons is the most effective weapon on the basis of all of the operational testing and evaluation of those weapons conducted as of June 1, 1989. The Secretary shall manage the program for the weapon selected so that such weapon is ready to enter into low-rate initial production during fiscal year 1990.

(b) OT&E ASSESSMENT.—The Director of Operational Test and Evaluation of the Department of Defense shall conduct an independent assessment of the operational tests and evaluations referred to in subsection (a). The Director shall submit a report on such assessment to the Committees on Armed Services of the Senate and House of Representatives not later than June 1, 1989.

Reports.

SEC. 115. SOURCE SELECTION AUTHORITY FOR THE PALLETIZED LOADING SYSTEM

Section 259(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1068) is amended by striking out "The Under Secretary of Defense for Acquisition" at the beginning of the second sentence and inserting in lieu thereof "The Acquisition Executive for the Department of the Navy".

SEC. 116. BIGEYE BINARY CHEMICAL BOMB

(a) AUTHORIZED PROCUREMENT FOR TESTING.—(1) Except as provided in paragraph (2), funds appropriated or otherwise made available to the Department of Defense for fiscal years before fiscal year 1989 for procurement under the BIGEYE binary chemical bomb program may be obligated or expended in connection with such program only for procurement of production-configured bombs. Any bombs procured under the preceding sentence may be used only in conducting required follow-on operational testing scheduled to be performed during fiscal years 1989 and 1990.

(2) Any such funds not obligated for the purpose described in paragraph (1) may be used for the purpose of maintaining program continuity for the BIGEYE bomb program.

(3) None of the funds referred to in paragraphs (1) and (2) may be used for low-rate initial production.

(b) CONDITIONS FOR OBLIGATION OF FUNDS FOR PROCUREMENT.—Except as provided in subsection (f), funds appropriated or otherwise made available to the Department of Defense after the date of the enactment of this Act may not be obligated or expended for procurement of the BIGEYE binary chemical bomb, or for any component of such bomb or the assembly of such bomb, until the reports required by subsections (c) and (d) have been submitted in accordance with those subsections and only then if neither of those reports includes a certification that one or more of the production certification conditions has not been met.

(c) CERTIFICATION BY DIRECTOR, OT&E.—Upon the completion of operational and developmental tests conducted in connection with the BIGEYE binary chemical bomb program, the Director of Operational Test and Evaluation of the Department of Defense shall submit to Congress a report certifying, with respect to each of the production certification conditions, whether or not, in the judgment of the Director, such condition has been met.

Reports.

(d) CERTIFICATION BY COMPTROLLER GENERAL.—Upon the submission of the report under subsection (c), the Comptroller General of the United States shall submit to Congress a report certifying, with respect to each of the production certification conditions, whether or not, in the judgment of the Comptroller General, such condition has been met.

Reports.

(e) PRODUCTION CERTIFICATION CONDITIONS.—For purposes of this section, the term "production certification conditions" means, with

respect to the operational and developmental tests of the BIGEYE bomb, each of the following:

(1) That the operational and developmental tests conducted in connection with such program after the date of the enactment of this Act were realistic and adequate.

(2) That the plan and objectives for those tests were clear, well defined, and properly quantifiable.

(3) That the design of those tests supports a valid statistical analysis of data.

(4) That the criteria for a no-test were adequately defined in the plan for those tests.

(5) That the performance of such bomb in those tests met or exceeded the standards established for the tests.

(6) That the BIGEYE bomb program is otherwise ready to proceed into full-scale production.

(f) FISCAL YEAR 1989 AUTHORIZED ACTIVITIES.—Of amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1989, $15,000,000 may be obligated or expended for procurement for the BIGEYE program without regard to the limitations contained elsewhere in this section, but only for the purposes of maintaining program continuity, maintaining the subcontractor base, and procuring piece parts and components. Such funds may not be obligated or expended for low-rate initial production or for final assembly.

SEC. 117. MANAGEMENT OF CERTAIN DEFENSE PROCUREMENT PROGRAMS

10 USC 2431 note.

(a) STRETCHOUT IMPACT STATEMENT.—The Secretary of Defense shall submit to Congress, at the same time the budget for any fiscal year is submitted to Congress under section 1105 of title 31, United States Code, a statement of what the effect would be during the fiscal year for which the budget is submitted of the stretchout of a major defense acquisition program if either of the following applies with respect to that program:

(1) The final year of procurement scheduled for the program at the time the statement is submitted is more than two years later than the final year of procurement for the program as specified in the most recent annual Selected Acquisition Report for that program.

(2) The proposed procurement quantity for that fiscal year is less than 90 percent of the procurement quantity proposed for the same fiscal year in the most recent annual Selected Acquisition Report for that program.

(b) CHANGES IN CERTAIN COSTS TO BE INCLUDED.—A statement under subsection (a) with respect to a major defense acquisition program shall contain an estimate of the projected increase in unit cost and the projected increase in total program cost for the system being procured under the program compared to the program specified in the most recent annual Selected Acquisition Report for that program.

(c) IDENTIFICATION OF STRETCHED OUT PROGRAMS.—The Secretary shall include in a statement under subsection (a) identification of all major acquisition programs for which the proposed procurement quantity for that fiscal year is less than 80 percent of the baseline production rate for that fiscal year, as defined by section 2432(c)(3)(C)(i) of title 10, United States Code, and an explanatory statement for the lower procurement rate for each program.

(d) LIMITATIONS.—(1) Subsection (a) shall apply only for major defense acquisition programs for which procurement is proposed at a rate of six or more units per year.

(2) Subsection (a) shall not apply if the total procurement quantity has been increased, compared to the program specified in the most recent annual Selection Acquisition Report for that program, and subsection (a)(2) does not apply.

(e) REPORT ON ESTABLISHING MAXIMUM PRODUCTION RATES.—Not later than March 15, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the feasibility and effect of establishing maximum production rates by December 1990 for certain major defense acquisition programs. The report shall identify and discuss ten programs, of which seven shall be programs for the procurement of conventional, tactical, or dual-capable systems.

(f) DEFINITION.—For purposes of this section, the term "major defense acquisition program" has the meaning given that term in section 2430 of title 10, United States Code.

SEC. 118. MODIFICATIONS IN CHEMICAL DEMILITARIZATION PROGRAM

(a) EXTENSION OF DEADLINE FOR COMPLETION OF PROGRAM.—Subsection (b) of section 1412 of the Department of Defense Authorization Act, 1986 (50 U.S.C. 1512(b)) is amended— 50 USC 1521.

(1) by striking out "September 30, 1994" in paragraphs (1) and (3)(A) and inserting in lieu thereof "the stockpile elimination deadline";

(2) in paragraph (3)(B), by striking out "within 30 days" and all that follows in that paragraph and inserting in lieu thereof "not later than the earlier of (A) 30 days after the date on which the decision to defer is made, or (B) 30 days before the stockpile elimination deadline."; and

(3) by adding at the end the following new paragraphs:

"(4) If the Secretary determines at any time that there will be a delay in meeting the requirement in paragraph (1) for the completion of the destruction of chemical weapons by the stockpile elimination deadline, the Secretary shall immediately notify the Committees on Armed Services of the Senate and House of Representatives of that projected delay.

"(5) For purposes of this section, the term 'stockpile elimination deadline' means April 30, 1997.".

(b) REQUIREMENT FOR SUCCESSFUL COMPLETION OF OPERATIONAL VERIFICATION.—Such section is further amended by striking out subsection (k) and inserting in lieu thereof the following:

"(k) OPERATIONAL VERIFICATION.—(1) Until the Secretary of the Army successfully completes (through the prove-out work to be conducted at Johnston Atoll) operational verification of the technology to be used for the destruction of live chemical agents and munitions under this section, the Secretary may not conduct any activity for equipment prove out and systems test before live chemical agents are introduced at a facility (other than the Johnston Atoll facility) at which the destruction of chemical agent and munitions weapons is to take place under this section. The limitation in the preceding sentence shall not apply with respect to the Chemical Agent Munition Disposal System in Tooele, Utah.

Reports. "(2) Upon the successful completion of the prove out of the equipment and facility at Johnston Atoll, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and

House of Representatives a report certifying that the prove out is completed.

"(3) If the Secretary determines at any time that there will be a delay in meeting the deadline of December 31, 1990, scheduled by the Department of Defense for completion of the operational verification at Johnston Atoll referred to in paragraph (1), the Secretary shall immediately notify the Committees of that projected delay.".

SEC. 119. REPORT ON NAVY AIRCRAFT REQUIREMENTS

Not later than December 1, 1988, the Secretary of Defense shall submit to Congress a detailed report on the current and projected requirements of the Navy for aircraft. The Secretary shall include in such report the following information:

(1) The plans of the Department of Defense to alleviate existing shortfalls of Navy aircraft.

(2) The plans of the Department of Defense to maintain or reduce the current average age of Navy combat aircraft.

(3) The plans of the Department of Defense to modify Navy aircraft to make such aircraft effective against current and projected threats.

(4) The level of funding required to carry out the plans referred to in paragraphs (1), (2), and (3) during fiscal years 1990 through 1994.

TITLE II—RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

PART A—AUTHORIZATIONS AND FUNDING FOR SPECIFIC PROGRAMS

SEC. 201. AUTHORIZATION OF APPROPRIATIONS

Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces for research, development, test, and evaluation, in amounts as follows:

For the Army, $5,198,444,000.

For the Navy (including the Marine Corps), $9,383,162,000.

For the Air Force, $14,680,825,000.

For the Defense Agencies, $8,707,727,000, of which—

(1) $155,900,000 is authorized for the activities of the Deputy Under Secretary of Defense, Test and Evaluation; and

(2) $123,400,000 is authorized for the Director of Operational Test and Evaluation.

SEC. 202. FUNDING FOR ICBM MODERNIZATION PROGRAMS

(a) PROGRAM FUNDS.—Of the funds appropriated pursuant to section 201 for the Air Force, the amount of $890,000,000 shall be available for ICBM modernization programs.

(b) ALLOCATION.—Of the amounts specified in subsection (a)—

(1) $40,000,000 shall be available for continued development and flight testing of the MX missile;

(2) $250,000,000 shall be available for the small ICBM program; and

(3) $600,000,000 shall be available for the MX Rail-Garrison program.

(c) LIMITATION ON OBLIGATION.—Of the amount specified in subsection (b)(3), the amount obligated before February 15, 1989, may not exceed $250,000,000.

(d) PRESIDENTIAL REPORT.—During the period beginning on January 21, 1989, and ending on February 15, 1989, the President shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on—

(1) anticipated obligations for the remainder of fiscal year 1989 for the small ICBM program, the MX Rail-Garrison program, and other ICBM modernization programs; and

(2) the purposes those obligations are intended to accomplish.

SEC. 203. DARPA NUCLEAR MONITORING PROGRAM

Of the amount appropriated pursuant to section 201 for Defense Agencies, $37,600,000 shall be available only to the Defense Advanced Research Projects Agency for the nuclear monitoring program.

SEC. 204. GRANT FOR SEMICONDUCTOR COOPERATIVE RESEARCH PROGRAM

Of the amount appropriated pursuant to section 201 for Defense Agencies, $100,000,000 shall be available only to make grants under section 272 of Public Law 100-180.

SEC. 205. AIRSHIP PROGRAM

Of the amounts appropriated pursuant to section 201, the Secretary of Defense may make available an amount not to exceed $25,000,000 for the Airship Program.

SEC. 206. EXTENDED AIR DEFENSE

Of the amount appropriated pursuant to section 201 for Defense Agencies, $25,000,000 may be obligated only upon approval of the Director of Defense Research and Engineering for the purpose of research and development in connection with anti-tactical missile systems. If any such funds are made available to a firm in an allied country, those funds may not be obligated until the Secretary of Defense enters into a cooperative program with that country for that purpose.

SEC. 207. PRODUCT EVALUATION ACTIVITY

Of the amounts appropriated pursuant to section 201, $17,500,000 shall be available only for the product evaluation activity provided for under section 2369 of title 10, United States Code, as added by section 842 of this Act.

SEC. 208. CHEMICAL WEAPONS CONVENTION COMPLIANCE MONITORING PROGRAM

Of the amounts appropriated pursuant to section 201, $6,800,000 shall be available only to conduct a program to develop and demonstrate compliance monitoring capabilities in support of the Convention on the Prohibition of Chemical Weapons proposed by the United States in the Conference on Disarmament.

SEC. 209. OPTOELECTRONICS MATERIALS CENTER

Of the amounts appropriated pursuant to section 201 for Defense Agencies, $14,500,000 shall be available only for the establishment

of an Optoelectronics Materials Center at a university in the United States and for the acquisition of associated facilities.

PART B—PROGRAM REQUIREMENTS, RESTRICTIONS, AND LIMITATIONS

SEC. 211. TRIDENT II MISSILE PROGRAM

(a) TRIDENT II MISSILE.—Of the amount appropriated pursuant to section 201 for the Navy, $580,889,000 may be obligated only for the Trident II missile program.

(b) UNDISTRIBUTED REDUCTION.—In achieving any undistributed reduction required to be made in programs, projects, or activities for which funds have been appropriated to the Department of Defense for fiscal year 1989, no reduction may be made in the amount of funds available for the Trident II missile program.

SEC. 212. BALANCED TECHNOLOGY INITIATIVE

(a) AMOUNTS AUTHORIZED.—Of the amounts appropriated pursuant to section 201—

(1) $263,000,000 may be obligated only for research and development in connection with those programs, projects, and activities initiated pursuant to section 222 of the Department of Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3845) or section 215 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 100 Stat. 1050); and

(2) $50,000,000 may be obligated only for research and development under the Balanced Technology Initiative and only for new and innovative programs, projects, and activities that have not been designated for funding under a provision of law referred to in clause (1).

(b) DETERMINATION OF SOURCE OF FUNDS.—The Director of Defense Research and Engineering shall determine the amount of the funds appropriated to the Army, Navy, Air Force, and Defense Agencies pursuant to section 201 that are to be allocated (as provided in subsection (a)) for the Balanced Technology Initiative. The Director shall make such determination on the merits of the programs, projects, and activities referred to in section 215(b) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 that are carried out by the Army, Navy, Air Force, and Defense Agencies, taking into consideration ongoing technology research and exploitation opportunities.

(c) PROHIBITION REGARDING UNDISTRIBUTED REDUCTIONS.—No portion of any undistributed reduction may be applied against the funds allocated under subsection (a) or against any funds made available for the Balanced Technology Initiative that are in addition to the funds specified in subsection (a).

(d) PROHIBITION ON USE OF FUNDS FOR SDI.—None of the funds allocated under subsection (a) may be used in connection with any program, project, or activity in support of the Strategic Defense Initiative.

(e) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on the implementation of this section. The report shall include the following:

(1) The amount allocated under subsection (a) for each program, project, or activity and the identification of the source of such amount.

(2) Identification of other ongoing research and development projects not provided for under this section that should be included in the Balanced Technology Initiative in order to improve conventional defense capabilities.

(3) For each program, project, or activity for which funds have been allocated under subsection (a) or which is identified under paragraph (2), a five-year funding plan that is sufficient to maintain significant progress in research and development under such program, project, or activity, including a description of the major milestones for each such program, project, or activity and the projected dates for achieving those milestones.

SEC. 213. ADVANCED TACTICAL AIRCRAFT AND ADVANCED TACTICAL FIGHTER PROGRAMS

(a) ADVANCED TACTICAL AIRCRAFT, NAVY.—Of the amounts made available to the Department of Defense pursuant to section 201 for the Advanced Tactical Aircraft program of the Navy, not more than 50 percent of such amounts may be obligated or expended unless the Secretary of Defense certifies to Congress that the Navy has budgeted sufficient funds for fiscal years 1990 through 1994 to participate in the demonstration and validation program (including source selection) for the Advanced Tactical Fighter of the Air Force.

(b) ADVANCED TACTICAL FIGHTER, AIR FORCE.—Of the amounts appropriated pursuant to section 201, not more than $350,000,000 may be obligated or expended for the Advanced Tactical Fighter program of the Air Force unless the Secretary of Defense certifies to Congress that the Air Force has budgeted sufficient funds for fiscal years 1990 through 1994 to participate in the full scale development of the Advanced Tactical Aircraft of the Navy.

SEC. 214. AIR-TO-AIR MISSILE PROJECT OFFICE

(a) LIMITATION.—Subject to subsection (b), amounts appropriated pursuant to section 201—

(1) may not be obligated in excess of $20,000,000 for the Advanced Air-to-Air Missile (AAAM) program; and

(2) may not be obligated in excess of $10,000,000 for the Advanced Medium-Range Air-to-Air Missile (AMRAAM) program.

(b) JOINT PROGRAM OFFICE.—Subsection (a) shall cease to apply upon the establishment by the Secretary of the Navy and the Secretary of the Air Force of a joint program office, to operate under the guidance of the Office of the Secretary of Defense, for co-development of the Advanced Air-to-Air Missile and the product improved Advanced Medium-Range Air-to-Air Missile.

SEC. 215. TRAINING IN ADVANCED MANUFACTURING TECHNOLOGIES

(a) FUNDS FOR PURCHASE AND INSTALLATION OF EQUIPMENT.—Of the amounts appropriated pursuant to section 201, not more than $15,000,000 may be obligated for the purchase of high technology manufacturing equipment and the installation of such equipment in a private, nonprofit center for advanced technologies for the purpose of training, in a production facility, machine tool operators in skills critical to the defense technology base to build, operate, and maintain such equipment.

(b) REQUIREMENTS.—Funds may not be obligated for the purpose described in subsection (a) until—

(1) the Secretary of Defense, the Secretary of Commerce, the Secretary of Labor, and the Secretary of Education enter into a memorandum of understanding concerning the participation of their respective departments in a project to demonstrate the training of machine technicians in a production facility;

(2) the Secretary of Defense approves the obligation of such funds for such purpose; and

(3) a period of 60 days elapses after the Secretary of Defense submits to the Committees on Armed Services of the Senate and House of Representatives a report that sets forth— Reports.

(A) a detailed explanation of proposed Federal expenditures,

(B) a description of the cost-sharing arrangements between the Government agencies concerned and the private sector, and

(C) a description of how the proposed program furthers the industrial and technological goals of the Department of Defense.

(c) CONFORMING AMENDMENT.—Section 219(b) of Public Law 100-180 is repealed. 101 Stat. 1054.

SEC. 216. PROHIBITION ON OBLIGATION OF FUNDS FOR CANCELLED ANTISATELLITE WEAPON PROGRAM

(a) PROHIBITION.—Residual fiscal year 1988 ASAT funds may not be obligated for the ASAT program.

(b) RESIDUAL FISCAL YEAR 1988 ASAT FUNDS DEFINED.—For purposes of this section, the term "residual fiscal year 1988 ASAT funds" means funds in the amount of $16,000,000 which were appropriated to the Department of Defense for fiscal year 1988 for research, development, test, and evaluation for the Air Force which—

(1) were originally made available for the ASAT program; and

(2) which remain available for obligation following cancellation of that program by the Secretary of Defense.

(c) ASAT PROGRAM DEFINED.—For purposes of subsections (a) and (b), the term "ASAT program" means the program of the Air Force to develop an F-15 launched miniature homing vehicle antisatellite weapon.

SEC. 217. LONG-RANGE CONVENTIONAL CRUISE MISSILE

(a) REPORT.—Not later than December 31, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the plans and projected expenditures for the Long-Range Conventional Cruise Missile program of the Department of Defense.

(b) CONTENT OF REPORT.—The Secretary shall include in such report the following:

(1) The 5-year funding plan for the program.

(2) A discussion of how the program might be carried out under a joint entity of the military services.

(3) A discussion of the military missions that a long-range conventional cruise missile would be designed to fulfill.

(4) A list of the validated military requirements prescribed for a long-range conventional cruise missile.

(5) An estimate of when a long-range conventional cruise missile system incorporating the most recent advances in guid-

ance, propulsion, mission planning, and munitions technologies would be ready for full-scale engineering development and testing of initial operating capability.

SEC. 218. SEEK SPINNER MISSILE PROGRAM

Funds appropriated or otherwise made available to the Department of Defense pursuant to this Act or any Act enacted after the date of the enactment of this Act may not be obligated or expended for the Seek Spinner Missile program in any configuration.

SEC. 219. DEPRESSED-TRAJECTORY BALLISTIC MISSILES

(a) ESTABLISHMENT OF DEFINITION.—Not later than April 1, 1989, the Secretary of Defense shall prescribe a definition of what constitutes a depressed trajectory for a strategic ballistic missile. The definition shall be prescribed in coordination with the Director of Central Intelligence. The Secretary shall prescribe such definition in specific quantitative terms so as to clearly distinguish ballistic missile trajectories which are depressed from other ballistic missile trajectories, including minimum-energy ballistic missile trajectories, so that if the United States and the Soviet Union mutually observe a policy of non-flight testing of depressed-trajectory strategic ballistic missiles, the observance of that policy—

(1) would, to the maximum possible degree, reduce the potential for a short-time-of-flight attack on strategic aircraft or other strategic assets the survivability or effectiveness of which depends on timely receipt of adequate warning of attack, but

(2) would not significantly affect present or planned practices of the United States for the testing of ballistic missiles that are not intended for development of a depressed-trajectory capability.

(b) REPORT.—Not later than April 1, 1989, the Secretary of Defense shall submit to Congress a report on depressed-trajectory strategic ballistic missiles (as defined under subsection (a)), which shall be prepared in coordination with the Director of Central Intelligence. The report shall set forth the definition prescribed under subsection (a) and shall include each of the following:

(1) An evaluation of the ability of the United States to monitor flight tests by the Soviet Union of depressed-trajectory strategic ballistic missiles (as defined under subsection (a)) on dedicated or nondedicated test ranges.

(2) A description of any past flight test of a ballistic missile by the United States or by the Soviet Union that would qualify as a test of a depressed-trajectory strategic ballistic missile as defined under subsection (a).

(3) An evaluation of the possibility that the Soviet Union could deploy depressed-trajectory ballistic missiles (as defined under subsection (a)) with sufficient confidence in the reliability of those missiles for use in an attack on the United States without further flight testing.

SEC. 220. REQUIREMENT OF COMPETITION FOR AWARD OF GRANTS AND CONTRACTS TO COLLEGES AND UNIVERSITIES FOR CERTAIN PURPOSES

(a) REQUIREMENT OF COMPETITION.—Chapter 139 of title 10, United States Code, is amended by inserting after section 2360 the following new section:

"§ 2361. Award of grants and contracts to colleges and universities: requirement of competition

"(a) The Secretary of Defense may not make a grant or award a contract to a college or university for the performance of research and development, or for the construction of any research or other facility, unless the grant or contract is made or awarded using competitive procedures.

"(b) A provision of law enacted after the date of the enactment of this section may not be construed as modifying or superseding the provisions of subsection (a) unless that provision of law specifically refers to this section and specifically states that such provision of law modifies or supersedes the provisions of this section.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2360 the following new item:

"2361. Award of grants and contracts to colleges and universities: requirement of competition.".

(c) EFFECTIVE DATE.—The limitation specified in section 2361(a) of title 10, United States Code (as added by subsection (a)), on the authority of the Secretary of Defense to make grants and award contracts shall take effect on October 1, 1989.

PART C—STRATEGIC DEFENSE INITIATIVE

SEC. 221. FUNDING FOR THE STRATEGIC DEFENSE INITIATIVE FOR FISCAL YEAR 1989

(a) AMOUNTS AUTHORIZED.—Of the amounts appropriated pursuant to section 201 or otherwise made available to the Department of Defense for research, development, test and evaluation for fiscal year 1989, not more than $3,738,000,000 may be obligated for the Strategic Defense Initiative.

(b) RESTRICTION ON USE OF FUNDS.—Amounts appropriated to or for the use of the Department of Defense for fiscal year 1989 may not be used to establish a Strategic Defense System Operational Test and Evaluation activity.

(c) REPORT BY SECRETARY OF DEFENSE.—Before the adjournment sine die of the second session of the One Hundredth Congress, the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and House of Representatives a report on the Space-Based Interceptor (SBI) program of the Strategic Defense Initiative. The report shall include a discussion of the following matters with respect to the SBI program:

(1) Role of SBI in the Phase One architecture.
(2) SBI performance in the current system concept.
(3) SBI cost projections.
(4) Technology progress and plans.
(5) Launch requirements.
(6) Other programmatic details.

SEC. 222. REPORT ON ALLOCATION OF SDI FUNDING FOR FISCAL YEAR 1989

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on the allocation of funds appropriated or otherwise made available for the

Strategic Defense Initiative for fiscal year 1989. The report shall specify the amount of such funds allocated for each program, project, or activity of the Strategic Defense Initiative within each appropriation account.

(b) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

SEC. 223. DEVELOPMENT AND TESTING OF ANTIBALLISTIC MISSILE SYSTEMS OR COMPONENTS

(a) USE OF FUNDS.—(1) Funds appropriated to the Department of Defense for fiscal year 1989, or otherwise made available to the Department of Defense from any funds appropriated for fiscal year 1989 or for any fiscal year before 1989, shall be subject to the limitations prescribed in paragraph (2).

(2) The funds described in paragraph (1) may not be obligated or expended—

(A) for any development or testing of antiballistic missile systems or components except for development and testing consistent with the development and testing described in the March 1988 SDIO Report; or

(B) for the acquisition of any material or equipment (including any long lead materials, components, piece parts, test equipment, or any modified space launch vehicle) required or to be used for the development or testing of antiballistic missile systems or components, except for material or equipment required for development or testing consistent with the development and testing described in the March 1988 SDIO Report.

(3) The limitation under paragraph (2) shall not apply to funds transferred to or for the use of the Strategic Defense Initiative for fiscal year 1989 if the transfer is made in accordance with section 1201 of this Act.

(b) DEFINITION.—As used in this section, the term "March 1988 SDIO Report" means the report entitled, "Report to Congress on the Strategic Defense Initiative", dated March 23, 1988, prepared by the Strategic Defense Initiative Organization and submitted to certain committees of the Senate and House of Representatives pursuant to section 1102 of the Department of Defense Authorization Act, 1985 (Public Law 98-525; 10 U.S.C. 2431 note).

SEC. 224. ACCIDENTAL LAUNCH PROTECTION

(a) FINDINGS.—Congress makes the following findings:

(1) The United States is a signatory to the 1972 Anti-Ballistic Missile Treaty.

(2) The Soviet Union has deployed approximately 1,400 land-based intercontinental ballistic missiles and approximately 900 sea-based ballistic missiles.

(3) There have been several accidents involving ballistic missiles, including the loss of a submarine of the Soviet Union due to inadvertent missile ignition and the inadvertent landing in China of a test missile of the Soviet Union.

(4) Proliferation of ballistic missile technology, such as the action of the People's Republic of China in providing ballistic missiles to Saudi Arabia, raises the possibility of future nuclear threats.

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the Secretary of Defense should direct the Strategic Defense Initiative Organization to give priority to development of technologies and systems for a system capable of protecting the United States from the accidental launch of a strategic ballistic missile against the continental United States; and

(2) that such development of an accidental launch protection system should be carried out with an objective of ensuring that such system is in compliance with the 1972 Anti-Ballistic Missile Treaty.

(c) REPORT.—Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the status of planning for development of a deployment option for such an accidental launch protection system.

PART D—STRATEGIC PROGRAMS

SEC. 231. B-1B BOMBER PROGRAM

(a) CONDITION ON OBLIGATION OF FUNDS.—The Secretary of Defense may not obligate funds appropriated for fiscal year 1989 for enhancements or mission-specific equipment or modifications for the B-1B aircraft until the Secretary submits to the Committees on Armed Services of the Senate and House of Representatives the report required by section 243(e)(3) of Public Law 100-180 (101 Stat. 1064). After that report is submitted, funds may be obligated for such purposes only as specifically authorized by law. Reports.

(b) REPORT ON ENHANCEMENT PROGRAM.—(1) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth—

(A) the total cost—

(i) of fixing any discrepancies in the baseline; and

(ii) of the enhancements planned or programmed for the B-1B aircraft; and

(B) a description of each type of such fix or enhancement.

(2) Such report shall be submitted in conjunction with the submission of the President's budget for fiscal year 1990 pursuant to section 1105 of title 31, United States Code.

(c) EXPLORATION OF ALTERNATIVE ELECTRONIC WARFARE SYSTEMS.—Of the amounts appropriated to the Air Force pursuant to section 201, the sum of $15,000,000 shall be available only for the purpose of conducting a preliminary evaluation of whether existing electronic warfare systems could be used to replace portions of the ALQ-161 system of the B-1B aircraft in the event that the current plan of the Air Force for recovery of that system fails to achieve the desired results.

SEC. 232. ADVANCED TECHNOLOGY B-2 BOMBER PROGRAM

(a) PROGRAM MANAGEMENT INITIATIVE.—The Secretary of Defense shall require that the cost, performance, and management initiative for the Advanced Technology B-2 Bomber program established pursuant to section 121 of Public Law 100-180 (101 Stat. 1040) include the creation of a full performance matrix.

(b) GAO COST REVIEW.—(1) The Comptroller General of the United States shall review the costs of the Advanced Technology Bomber program. In reviewing such costs, the Comptroller General shall act independently of the Department of Defense.

(2)(A) The Secretary of Defense shall ensure that the Comptroller General is given direct, full, and timely access to all information and

materials specified in subparagraph (B) in order for the Comptroller General to carry out the cost review required by paragraph (1).

(B) Information and materials referred to in subparagraph (A) are information and materials that are held by, or otherwise available to, the Department of Defense (including the Department of the Air Force) or any contractor for the Advanced Technology Bomber program (including any subcontractor) and that are required by the Secretary of the Air Force for the purpose of performing the required Independent Cost Analysis of the Advanced Technology Bomber program and by the Secretary of Defense for the purpose of performing the Cost Analysis Improvement Group review of that program.

Reports. (3) The Comptroller General shall submit a report on the program cost review under this subsection to the Armed Services Committees not later than March 1, 1989.

(c) REPORT ON TOTAL PROGRAM COST.—The Secretary of Defense shall submit to Congress a report setting forth the total program cost, in constant and in current dollars, of the Advanced Technology B-2 Bomber program. Such report shall be submitted not later than March 1, 1989.

(d) COST MONITORING AND TRACKING.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall conduct an evaluation of the current system for monitoring and tracking costs for the Advanced Technology Bomber program and

Reports. shall prepare an assessment of that system. Not later than March 1, 1989, the Secretary shall submit to the Armed Services Committees a report setting forth the Secretary's findings, based upon such evaluation and assessment, with respect to that system and any recommendations of the Secretary for improving that system.

(e) DEFINITION.—For purposes of this section, the term "Armed Services Committees" means the Committees on Armed Services of the Senate and House of Representatives.

SEC. 233. SENSE OF CONGRESS ON STRATEGIC MISSILE MODERNIZATION PROGRAMS

It is the sense of Congress that the authorization of funds in this Act for research and development for both the small intercontinental ballistic missile system (the so-called Midgetman system) and for the rail-garrison MX system does not constitute a commitment or express an intent by Congress to provide funds to procure and deploy the Midgetman missile or to deploy any MX missiles in a rail-garrison basing mode or both.

PART E—OTHER PROGRAMS

SEC. 241. ADVANCED SUBMARINE TECHNOLOGY PROGRAM

(a) FISCAL YEAR 1989 FUNDING.—(1) Of the amount appropriated pursuant to section 201 for Defense Agencies, the Secretary of Defense shall make $65,000,000 available only for the purpose of continuing the Advanced Submarine Technology Program initiated in section 211 of Public Law 100-180 (101 Stat. 1048). Amounts appropriated for such purpose for fiscal year 1989 may be used only for that program.

(2) The Secretary of Defense may use funds appropriated for fiscal year 1989 for such program only—

(A) for submarine hull, mechanical, and electrical technologies; and

(B) for nonnuclear propulsion technologies.

(3) Funds appropriated for fiscal year 1989 for such program may be used for research relating to the effect on submarine design of weapons, sensors, or communications equipment, but may not be used for research on weapons, sensors, or communications equipment.

(4) Funds appropriated for fiscal year 1989 for such program may be used only for exploratory development, advanced technology development, and (as necessary) basic research to support the overall objectives of the program.

(b) PURPOSE OF PROGRAM.—(1) Congress established the Advanced Submarine Technology Program in light of the large amount of activity by the Soviet Union in the area of naval submarines and the declining advantage of the United States in submarine technology.

(2) The purpose of the Advanced Submarine Technology Program is to explore innovative state-of-the-art technologies for advanced submarines and to augment the existing United States submarine technology base in order to establish a sound and increasing submarine technology base.

(3) Congress recognizes that research and development activities with respect to submarine weapons and sensors and high density innovative and advanced nuclear plant systems are necessary and important. However, in light of the purpose of the program to augment the submarine technology base, Congress has in this section provided separate authorization for funding to augment the technology base for submarine hull, mechanical, and electrical systems.

(4) Section 211(a) of Public Law 100-180 is amended— 101 Stat. 1048.

(A) by striking out the second and third sentences of paragraph (1); and

(B) by striking out paragraph (2).

(c) MANAGEMENT OF PROGRAM BY DARPA.—In carrying out the provisions of section 211(a) of Public Law 100-180 that the Advanced Submarine Technology Program be carried out through the Director, Defense Advanced Research Projects Agencies (DARPA), the Secretary of Defense shall provide that the overall management of the execution of such program, including the administration of funds appropriated for the program, be vested in the Director. In managing such program, the Director shall take into consideration the advice of the advisory board established pursuant to congressional direction as part of the fiscal year 1988 budget process.

(d) FIVE-YEAR PLAN.—(1) Not later than October 31, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report setting forth a detailed five-year plan for the Advanced Submarine Technology Program. The plan shall update the report submitted pursuant to section 211(b)(1) of Public Law 100-180. Reports.

(2) The report under paragraph (1) shall include the following:

(A) Identification of each of the technologies to be studied or developed under the program.

(B) With respect to each of the technologies to be developed—

(i) identification of responsibility for the execution of the program and the management of the program; and

(ii) milestones for obligating funds under the program and for major program reviews under the program.

(3) Section 211(b)(2) of Public Law 100-180 is repealed.

(e) ANNUAL REPORTS.—Not later than December 1 of each of the years 1989 through 1994, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the Advanced Submarine Technology Program. Each report shall describe—

(1) the activities carried out under the program during the preceding fiscal year;

(2) the obligation of funds for the program during that fiscal year;

(3) activities accomplished under the program during that fiscal year;

(4) ongoing activities under the program; and

(5) major decisions made by the Director of the Defense Advanced Research Projects Agency that were not supported by the advice of the advisory board referred to in subsection (c) and the reasons why the decisions were so made.

Each such report shall also describe how the matters set forth in paragraphs (1) through (4) meet the criteria established in the five-year plan for the program set out in the report under subsection (d).

(f) PROGRAM DURATION.—In providing funds under this section for the Advanced Submarine Technology Program for fiscal year 1989, Congress expects that the program will be continued in the five-year defense plan of the Secretary of Defense and that the management of the program will continue to be executed through the Defense Advanced Research Projects Agency for an additional three-to-five years.

(g) PROHIBITION ON CONTRACTOR MANAGEMENT.—The Director, Defense Advanced Research Projects Agency, may not carry out the Advanced Submarine Technology Program through obligation of all funding to a single contractor or through the use of management by a single public or private shipyard. The Director, in allocating funds under the program and in light of the purposes of the program, shall seek to obligate funds to a wide variety of recipients.

SEC. 242. PROHIBITION ON TESTING ELECTROMAGNETIC PULSE IN CHESAPEAKE BAY

The Secretary of the Navy may not carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator Program for Ships (EMPRESS II).

SEC. 243. REPORT ON SPACE CONTROL CAPABILITIES

(a) REPORT.—Not later than the date on which the President submits the budget for fiscal year 1990 to Congress under section 1105 of title 31, United States Code, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a comprehensive report on space control capabilities of the Armed Forces.

(b) CONTENT OF REPORT.—The report shall include the following matters:

(1) A description of requirements for space control capabilities related to deterrence and warfighting objectives, including space surveillance and anti-satellite capabilities, that have been validated by the Chairman of the Joint Chiefs of Staff and transmitted to the commander of the United States Space Command.

(2) A net assessment of the space control capabilities of the United States and the Soviet Union.

(3) An assessment of current deficiencies in United States space control capabilities and recommendations for overcoming those deficiencies.

(4) A 5-year plan for improving ground- and space-based surveillance systems and their associated command, control, and communications systems and the cost and schedule for implementing the plan.

SEC. 244. REPORT ON COMPETITION FOR DEVELOPMENT OF ADVANCED TACTICAL RECONNAISSANCE SYSTEM

Not later than 90 days after the date of the enactment of this Act, the Secretary of the Air Force shall submit to Congress a report outlining the plans of the Secretary for establishing, to the maximum extent practicable, competition in the development and production of components for the Advance Tactical Reconnaissance System.

TITLE III—OPERATION AND MAINTENANCE

PART A—AUTHORIZATIONS OF APPROPRIATIONS

SEC. 301. OPERATION AND MAINTENANCE FUNDING

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and agencies of the Department of Defense for expenses, not otherwise provided for, for operation and maintenance in amounts as follows:

For the Army, $22,103,900,000.
For the Navy, $24,852,100,000.
For the Marine Corps, $1,817,000,000.
For the Air Force, $21,855,600,000.
For the Defense Agencies, $7,685,400,000.
For the Army Reserve, $794,900,000.
For the Naval Reserve, $979,200,000.
For the Marine Corps Reserve, $77,500,000.
For the Air Force Reserve, $1,033,900,000.
For the Army National Guard, $1,801,200,000.
For the Air National Guard, $1,971,000,000.
For the National Board for the Promotion of Rifle Practice, $4,300,000.
For the Court of Military Appeals, $3,500,000.
For Environmental Restoration, Defense, $500,000,000.
For Humanitarian Assistance, $13,000,000.

(b) GENERAL AUTHORIZATION FOR CONTINGENCIES.—There are authorized to be appropriated for fiscal year 1989, in addition to the amounts authorized to be appropriated in subsection (a), such sums as may be necessary—

(1) for unbudgeted increases in fuel costs; and

(2) for unbudgeted increases as the result of inflation in the cost of activities authorized by subsection (a).

SEC. 302. WORKING CAPITAL FUNDS

Funds are hereby authorized to be appropriated for fiscal year 1989 for the use of the Armed Forces and other activities and

agencies of the Department of Defense for providing capital for working-capital funds in amounts as follows:

For the Army Stock Fund, $291,900,000.
For the Navy Stock Fund, $184,700,000.
For the Air Force Stock Fund, $186,900,000.
For the Defense Stock Fund, $25,000,000.

SEC. 303. HUMANITARIAN ASSISTANCE

(a) PURPOSE.—The amount authorized in section 301 for humanitarian assistance shall be used for the purpose of providing transportation for humanitarian relief for persons displaced or who are refugees because of the invasion of Afghanistan by the Soviet Union. Of the amount authorized in such section for such purpose, not more than $3,000,000 may be used for distribution of humanitarian relief supplies to the non-Communist resistance organization at or near the border between Thailand and Cambodia.

(b) AUTHORITY TO TRANSFER FUNDS.—The Secretary of Defense may transfer to the Secretary of State not more than $3,000,000 of the funds appropriated pursuant to the authorization in section 301 for humanitarian assistance to provide for (1) paying for administrative costs of providing the transportation described in subsection (a), and (2) the purchase or other acquisition of transportation assets for the distribution of relief supplies in the country of destination.

(c) TRANSPORTATION UNDER DIRECTION OF THE SECRETARY OF STATE.—Transportation provided with funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be under the direction of the Secretary of State.

(d) MEANS OF TRANSPORTATION TO BE USED.—Transportation for humanitarian relief provided with funds appropriated pursuant to the authorization in section 301 for humanitarian assistance shall be by the most economical commercial or military means available, unless the Secretary of State determines that it is in the national interest of the United States to use means other than the most economical means available. Such means may include the use of aircraft and personnel of the reserve components of the Armed Forces.

(e) AVAILABILITY OF FUNDS.—Amounts appropriated pursuant to the authorization in section 301 for humanitarian assistance shall remain available until expended, to the extent provided in appropriation Acts.

(f) REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services and Foreign Relations of the Senate and the Committees on Armed Services and Foreign Affairs of the House of Representatives a report not later than 60 days after the date of the enactment of this Act. The Secretary shall also submit a report to those committees not later than June 1, 1989, and not later than June 1 of each year thereafter, until all funds available under this section have been obligated. Each such report shall contain (as of the date on which the report is submitted) the following information:

(A) The total amount of funds obligated for humanitarian relief under the humanitarian relief laws specified in paragraph (2).

(B) The number of scheduled and completed flights for purposes of providing humanitarian relief under the humanitarian relief laws specified in paragraph (2).

(C) A description of any transfer (including to whom the transfer is made) of excess nonlethal supplies of the Department of Defense made available for humanitarian relief purposes under section 2547 of title 10, United States Code.

(2) The humanitarian relief laws referred to in paragraph (1) are the following:

(A) This section.

(B) Section 331 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3856).

(C) Section 331 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1078).

SEC. 304. TRIPLER ARMY MEDICAL CENTER

Hawaii.

The Secretary of the Army shall establish, during fiscal year 1989, a video teleconferencing center at the Tripler Army Medical Center, Hawaii.

SEC. 305. ASSISTANCE TO THE 1990 GOODWILL GAMES

Washington.

(a) AUTHORITY TO PROVIDE ASSISTANCE.—The Secretary of Defense may provide logistical support and personnel services to Federal, State, and local governmental entities in connection with the 1990 Goodwill Games to be held at Seattle, Washington. Except as provided in subsection (b), such support and services shall be provided by the Secretary on a reimbursable basis.

(b) REIMBURSEMENT WAIVER.—(1) The Secretary may waive the requirement for reimbursement for logistical support and personnel services provided under this section to ensure the security of persons and property in connection with such games if—

(A) the Attorney General of the United States certifies to the Secretary that there are significant potential threats to the security of persons or property, or both, at such games and that other Federal entities and the State and local entities concerned do not have the capability to deal adequately with such potential threats; and

(B) the Attorney General recommends that the requirement for reimbursement for assistance under this section be waived because—

(i) such assistance is necessary to provide the degree of security that is essential in the national interest; and

(ii) unusual circumstances for such assistance make it impractical for other Federal entities or the State or local entities concerned to reimburse the Secretary for such assistance.

(2) Waivers under paragraph (1) shall be made by the Secretary on a case-by-case basis.

(c) AUTHORIZATION.—There is authorized to be appropriated for fiscal year 1989 the amount of $5,000,000 for the purpose of carrying out this section.

(d) RESTRICTION ON FUNDS.—Funds made available to or for the use of the Department of Defense may not be used to provide logistical support or personnel services in connection with the Goodwill Games referred to in subsection (a) unless such funds have been specifically appropriated for such purpose.

(e) COMPUTATION OF AMOUNTS.—In computing the amount that has been expended in carrying out the provisions of this section, the Secretary shall include the pay and allowances of members of reserve components of the Armed Forces called or ordered to active

duty (including active duty for training) to provide support for the Goodwill Games referred to in subsection (a), but shall exclude the pay and nontravel related allowances of other members of the Armed Forces serving on active duty.

SEC. 306. INAUGURATION ASSISTANCE

(a) FURNISHING OF MATERIALS, SUPPLIES, AND SERVICES.—During fiscal year 1989, the Secretary of Defense may, as the Secretary determines to be appropriate and under such conditions as the Secretary may prescribe, lend materials or supplies and provide materials, supplies, or services of personnel to the Inaugural Committee established under the first section of the Presidential Inaugural Ceremonies Act (36 U.S.C. 721 et seq.) or to the joint committee described in section 9 of that Act.

(b) ADDITIONAL AUTHORITY.—The authority provided by subsection (a) is in addition to the authority provided by section 2543 of title 10, United States Code.

SEC. 307. ENHANCEMENT OF CAPABILITY TO COMBAT FRAUD, WASTE, AND ABUSE

In order to enhance the capability of the Department of Defense to combat fraud, waste, and abuse and to assist in restoring public confidence in the defense acquisition process, the Secretary of Defense, not later than September 30, 1989, shall—

(1) increase the number of audit and support personnel assigned within the Office of the Inspector General of the Department of Defense to the Assistant Inspector General for Audit from 550 personnel (as assumed in the President's amended budget request for fiscal year 1989) to not less than 657; and

(2) increase the number of audit and support personnel assigned to the Defense Contract Audit Agency from 6,439 (as assumed in the President's amended budget request for fiscal year 1989) to not less than 7,007.

PART B—LIMITATIONS

SEC. 311. PROHIBITION ON FINANCING CERTAIN ACTIVITIES BY DIRECT APPROPRIATIONS

(a) PROHIBITION.—During fiscal year 1989, the Secretary of the Navy may not take any action with respect to converting or planning the conversion of the operation of an activity specified in subsection (b) from operation as an activity financed by the Naval Industrial Fund (as authorized by section 2208 of title 10, United States Code) to operation as an activity financed by direct appropriations.

(b) ACTIVITIES COVERED.—An activity referred to in subsection (a) is any of the following:

(1) Naval Avionics Center, Indianapolis, Indiana.

(2) Naval Civil Engineering Laboratory, Port Hueneme, California.

(3) Naval Air Engineering Center, Lakehurst, New Jersey.

SEC. 312. PROHIBITION ON JOINT USE OF DOBBINS AIR FORCE BASE WITH CIVIL AVIATION

The Secretary of the Air Force may not enter into an agreement that would provide for or permit the joint use of Dobbins Air Force Base, Marietta, Georgia, by the Air Force and civil aircraft.

SEC. 313. PROHIBITION ON PURCHASE OF TOSHIBA PRODUCTS FOR RESALE IN MILITARY EXCHANGE STORES

50 USC app. 2410a note.

(a) PROHIBITION.—During the three-year period beginning on the date of the enactment of this Act, no product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to microwave ovens manufactured or assembled in the United States.

SEC. 314. LIMITATION ON FUNDING FOR UNITED STATES SOUTHERN COMMAND AIRLIFT

Funds appropriated for operation and maintenance for the Air Force for fiscal year 1989 may not be obligated or expended in connection with any contract for aircraft with short takeoff and landing capability until—

(1) the Secretary of Defense approves a requirements document and an acquisition plan, including costs and schedule information, for an aircraft with short takeoff and landing capability for the United States Southern Command; and

(2) the Secretary of Defense submits both the document and the plan to the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 315. ONE-YEAR EXTENSION OF LIMITATION ON ARMY DEPOT MAINTENANCE FUNDING

(a) ONE-YEAR EXTENSION.—Section 314 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1074) is amended—

(1) in subsection (a), by striking out "fiscal year 1988" and inserting in lieu thereof "fiscal year 1989"; and

(2) in subsection (b)(1)(C), by striking out "fiscal year 1989" and inserting in lieu thereof "fiscal year 1990".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on October 1, 1988.

SEC. 316. OPERATION OF SR-71 DEPOT REWORK FACILITY

California.

The Secretary of the Air Force shall ensure that the facility used for depot support and rework for the SR-71 fleet of aircraft at Palmdale, California, shall remain operational through September 30, 1989.

SEC. 317. MANAGEMENT OF CIVILIAN PERSONNEL DURING FISCAL YEARS 1989 AND 1990

(a) PROHIBITION ON MANAGEMENT BY END-STRENGTH.—During fiscal years 1989 and 1990, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength or any similar or related methodology, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an "end-strength") on the number of such personnel who may be employed on the last day of such fiscal year.

(b) WAIVER OF CIVILIAN PERSONNEL CEILINGS.—Section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal years 1989 and 1990 or with respect to the appropriation of funds for that year.

(c) SEMIANNUAL REPORTS.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives semiannual reports on the obligation of funds appropriated for civilian personnel of the Department of Defense for fiscal years 1989 and 1990. Each report shall include—

(1) for each appropriation account, the amounts authorized and appropriated for such personnel for fiscal years 1989 and 1990; and

(2) for each appropriation account and for the entire Department—

(A) the actual number of such personnel employed, and the amount of funds obligated for such personnel, as of the end of each six-month period described in the report; and

(B) the projected number of such personnel to be employed, and amount of funds that will be obligated for such personnel, as of the end of each of fiscal years 1989 and 1990.

SEC. 318. LIMITATION ON OPERATION OF EXISTING POSEIDON CLASS SUBMARINES U.S.S. JAMES MONROE AND U.S.S. HENRY CLAY

Effective as of September 1, 1989, no funds appropriated to the Department of Defense for fiscal year 1989 or a prior year may be obligated or expended—

(1) to overhaul, operate, or deploy the U.S.S. Henry Clay (SSBN 625), except that such funds may be obligated or expended after such date for the operation of such vessel (A) for crew training in port, and (B) for a short underway trial before such vessel proceeds to the inactivating port; or

(2) to overhaul, operate, maintain, or deploy the U.S.S. James Monroe (SSBN 622).

PART C—PERMANENT LAW CHANGES

Contracts.

SEC. 321. LIMITATION ON PRIVATE OPERATION OF COMMISSARY STORES

Section 2482 of title 10, United States Code, is amended by adding at the end the following new sentences: "A contract with a private person for the operation of any commissary store may not require or permit the contractor to carry out functions for the procurement of products to be sold in the store or to engage in functions relating to the overall management of a commissary system or the management of any such store. Such functions shall be carried out by personnel of the Department of Defense under regulations approved by the Secretary of Defense.".

SEC. 322. ALLOWABLE COSTS WITH RESPECT TO CERTAIN SERVICE CONTRACTS PERFORMED OVERSEAS

(a) CERTAIN SEVERANCE PAY COSTS NOT ALLOWABLE.—Section 2324(e)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(M) Costs of severance pay paid by the contractor to foreign nationals employed by the contractor under a service contract performed outside the United States, to the extent that the amount of severance pay paid in any case exceeds the amount

paid in the industry involved under the customary or prevailing practice for firms in that industry providing similar services in the United States, as determined under regulations prescribed by the Secretary of Defense.".

(b) EFFECTIVE DATE.—Subparagraph (M) of section 2324(e)(1) of title 10, United States Code, as added by subsection (a), shall apply with respect to any contract entered into after the end of the 180-day period beginning on the date of the enactment of this Act. 10 USC 2324 note.

SEC. 323. AUTHORITY TO CONTINUE SUPPORT OF SCOUTING ACTIVITIES OVERSEAS

(a) AUTHORITY.—Chapter 155 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2606. Scouting: cooperation and assistance in foreign areas

"(a) Subject to subsection (b), the Secretary concerned may cooperate with and assist qualified scouting organizations in establishing and providing facilities and services for members of the armed forces and their dependents, and civilian employees of the Department of Defense and their dependents, at locations outside the United States.

"(b) Cooperation and assistance under subsection (a) shall be provided under regulations prescribed by the Secretary of Defense and may be provided only if the President determines that such cooperation and assistance is necessary in the interest of the morale, welfare, and recreation of members of the armed forces. Regulations.

"(c) Personnel of a qualified scouting organization, including officials certified by that organization as representing that organization, who are performing duties in connection with cooperation and assistance provided under subsection (a) may be furnished—

"(1) transportation at the expense of the United States while traveling to and from, and while performing, such duties in the same manner as civilian employees of the United States; and

"(2) available office space (including space for recreational activities for Boy Scouts and Girl Scouts), warehousing, utilities, and a means of communication, without charge.

"(d) Supplies of a qualified scouting organization may be transported at the expense of the United States if the Secretary concerned determines, under regulations prescribed under subsection (b), that the supplies are necessary to the cooperation and assistance provided under this section.

"(e) The Secretary concerned may reimburse a qualified scouting organization for all or part of the pay of an employee of that organization for any period during which the employee was performing services under subsection (a). Any such reimbursement may not be made from appropriated funds and shall be made under regulations prescribed under subsection (b).

"(f) For the purposes of this section, employees of a qualified scouting organization performing services under subsection (a) may not be considered to be employees of the United States.

"(g) In this section, the term 'qualified scouting organization' means the Girl Scouts of the United States of America and the Boy Scouts of America.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2606. Scouting: cooperation and assistance in foreign areas.".

SEC. 324. TRANSFERS AND EXCHANGES OF CERTAIN DOCUMENTS, HISTORICAL ARTIFACTS, AND CONDEMNED AND OBSOLETE COMBAT MATERIEL

(a) AUTHORITY.—Section 2572 of title 10, United States Code, is amended to read as follows:

"§ 2572. Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange

"(a) The Secretary concerned may lend or give items described in subsection (c) that are not needed by the military department concerned (or by the Coast Guard, in the case of the Secretary of Transportation), to any of the following:

"(1) A municipal corporation.

"(2) A soldiers' monument association.

"(3) A museum, historical society, or historical institution of a State or a foreign nation.

"(4) An incorporated museum that is operated and maintained for educational purposes only and the charter of which denies it the right to operate for profit.

"(5) A post of the Veterans of Foreign Wars of the United States or of the American Legion or a unit of any other recognized war veterans' association.

"(6) A local or national unit of any war veterans' association of a foreign nation which is recognized by the national government of that nation (or by the government of one of the principal political subdivisions of that nation).

"(7) A post of the Sons of Veterans Reserve.

"(b)(1) Subject to paragraph (2), the Secretary concerned may exchange items described in subsection (c) that are not needed by the armed forces for similar items held by any individual, organization, institution, agency, or nation.

"(2) The Secretary concerned may not make an exchange under paragraph (1) unless the monetary value of property transferred to the United States under the exchange is not less than the value of the property transferred by the United States. The Secretary concerned may waive the limitation in the preceding sentence in any case in which the Secretary determines that the item to be received by the United States in the exchange will significantly enhance the historical collection of the property administered by the Secretary.

"(c) This section applies to the following types of property held by a military department or the Coast Guard: books, manuscripts, works of art, historical artifacts, drawings, plans, models, and condemned or obsolete combat materiel.

"(d)(1) A loan or gift made under this section shall be subject to regulations prescribed by the Secretary concerned and to regulations under section 205 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 486).

"(2) The United States may not incur any expense in connection with a loan or gift under subsection (a).".

(b) CLERICAL AMENDMENT.—The item relating to such section in the table of sections at the beginning of chapter 153 of such title is amended to read as follows:

"2572. Documents, historical artifacts, and condemned or obsolete combat materiel: loan, gift, or exchange.".

SEC. 325. QUALIFICATIONS FOR HEAD OF AUDITING FUNCTION IN MILITARY DEPARTMENTS

(a) DEPARTMENT OF THE ARMY.—Section 3014(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position as defined in section 3132(a)(8) of title 5.".

(b) DEPARTMENT OF THE NAVY.—Section 5014(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position as defined in section 3132(a)(8) of title 5.

"(B) The position of regional director within such office or entity, and any other position within such office or entity the primary responsibilities of which are to carry out supervisory functions, may not be held by a member of the armed forces on active duty.".

(c) DEPARTMENT OF THE AIR FORCE.—Section 8014(c) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5) The head of the office or other entity established or designated by the Secretary to conduct the auditing function shall have at least five years of professional experience in accounting or auditing. The position shall be considered to be a career reserved position as defined in section 3132(a)(8) of title 5.".

(d) EFFECTIVE DATES.—(1) The requirements of sections 3014(c)(5), 5014(c)(5)(A), and 8014(c)(5) of title 10, United States Code (as added by subsections (a), (b), and (c), respectively), shall apply with respect to any person appointed on or after the date of the enactment of this Act as the head of the office or other entity designated for conducting the auditing function in a military department. 10 USC 5014 note.

(2) Subparagraph (B) of section 5014(c)(5) of title 10, United States Code (as added by subsection (b)), shall take effect at the end of the one-year period beginning on the date of the enactment of this Act.

SEC. 326. PROHIBITION ON CERTAIN DEPOT MAINTENANCE WORKLOAD COMPETITIONS

(a) IN GENERAL.—Chapter 146 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2466. Prohibition on certain depot maintenance workload competitions

"The Secretary of Defense may not require the Secretary of the Army or the Secretary of the Air Force, in selecting an entity to perform any depot maintenance workload, to carry out a competition for such selection—

"(1) between or among maintenance activities of the Department of the Army and the Department of the Air Force; or

"(2) between a maintenance activity of either such department and a private contractor.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2466. Prohibition on certain depot maintenance workload competitions.".

SEC. 327. REPORT ON MANPOWER, MOBILITY, SUSTAINABILITY, AND EQUIPMENT

(a) REPORT REQUIREMENT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the readiness of the Armed Forces, in terms of manpower, mobility, sustainability, and equipment, to perform their assigned missions. The report shall be based on the manpower and other resources planned for the Armed Forces in the 1990–1991 biennial budget for the Department of Defense.

(b) MATTERS TO BE INCLUDED IN REPORT.—The Secretary shall include the following in the report required by subsection (a):

(1) A detailed analysis of trends in readiness and sustainability of the military forces of the United States over the five-year period 1985 to 1989 and, based on the current Five-Year Defense Program or other planning document approved by the Secretary, a projection of such trends over the succeeding five-year period.

(2) A detailed evaluation of the readiness and sustainability of the unified combatant commands and the specified combatant commands of the Armed Forces.

(3) A discussion of—

(A) the readiness and sustainability of the military forces of the United States in terms of the standards approved by the Secretary of Defense;

(B) the readiness and sustainability of allied forces of the United States; and

(C) the readiness and sustainability of potential enemy forces.

(4) A list of all improvements that need to be made in the readiness and sustainability of the manpower, mobility, and equipment of the Armed Forces to correct major shortfalls of the unified combatant commands and the specified combatant commands, the relative priority of each such improvement, and the estimated cost of each such improvement.

(5) Such other information regarding the readiness of the Armed Forces, in terms of manpower, mobility, sustainability, and equipment, as the Secretary considers appropriate.

(c) PRIORITY FOR IMPROVEMENTS.—The relative priority of the improvements referred to in subsection (b)(4) shall be determined by the Secretary on the basis of the improvements necessary to ensure the ability of the Armed Forces to perform their assigned missions and the ability of the United States to meet its military commitments.

(d) REPORT DEADLINE.—The Secretary shall submit the report required by subsection (a), together with such comments and recommendations as the Secretary considers appropriate, not later then February 15, 1989.

SEC. 328. LEASE OF AIRCRAFT FOR FLEET ELECTRONIC WARFARE SUPPORT GROUP ACTIVITIES

The Secretary of the Navy may lease aircraft for Fleet Electronic Warfare Support Group activities in accordance with section 2401 of title 10, United States Code, if the cost of such a lease is less than the cost of operating and maintaining the same number of existing aircraft of the Navy for that purpose.

PART D—CONTRACTING OUT

SEC. 331. REQUIREMENTS FOR CERTAIN CIRCULAR A-76 PROCEDURES

(a) IN GENERAL.—Chapter 146 of title 10, United States Code, as amended by section 326, is further amended by adding at the end the following new section:

"§ 2467. Cost comparisons: requirements with respect to retirement costs and consultation with employees

"(a) REQUIREMENT TO INCLUDE RETIREMENT COSTS.—(1) In any comparison conducted by the Department of Defense under Office of Management and Budget Circular A-76 (or any successor administrative regulation or policy) of the cost of performing commercial activities by Department of Defense personnel and the cost of performing such activities by contractor personnel, the Secretary of Defense shall include retirement system costs (as described in paragraphs (2) and (3)) of both the Department of Defense and the contractor.

"(2) The retirement system costs of the Department of Defense shall include (to the extent applicable) the following:

"(A) The cost of the Federal Employees' Retirement System, valued by using the normal-cost percentage (as defined by section 8401(23) of title 5, United States Code).

"(B) The cost of the Civil Service Retirement System under subchapter III of chapter 83 of such title 5.

"(C) The cost of the thrift savings plan under subchapter III of chapter 84 of such title 5.

"(D) The cost of the old age, survivors, and disability insurance taxes imposed under section 3111(a) of the Internal Revenue Code of 1986.

"(3) The retirement system costs of the contractor shall include the cost of the old age, survivors, and disability insurance taxes imposed under section 3111(a) of the Internal Revenue Code of 1986, the cost of thrift or other retirement savings plans, and other relevant retirement costs.

"(b) REQUIREMENT TO CONSULT DOD EMPLOYEES.—(1) Each officer or employee of the Department of Defense responsible for determining under Office of Management and Budget Circular A-76 whether to convert to contractor performance any commercial activity of the Department—

"(A) shall, at least monthly during the development and preparation of the performance work statement and the management efficiency study used in making that determination, consult with civilian employees who will be affected by that determination and consider the views of such employees on the development and preparation of that statement and that study; and

"(B) may consult with such employees on other matters relating to that determination.

"(2)(A) In the case of employees represented by a labor organization accorded exclusive recognition under section 7111 of title 5, United States Code, consultation with representatives of that labor organization shall satisfy the consultation requirement in paragraph (1).

"(B) In the case of employees other than employees referred to in subparagraph (A), consultation with appropriate representatives of those employees shall satisfy the consultation requirement in paragraph (1).

Regulations. "(3) The Secretary of Defense shall prescribe regulations to carry out this subsection. The regulations shall include provisions for the selection or designation of appropriate representatives of employees referred to in paragraph (2)(B) for purposes of consultation required by paragraph (1).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2467. Cost comparisons: requirements with respect to retirement costs and consultation with employees.".

SEC. 332. PERFORMANCE OF FIREFIGHTING AND SECURITY GUARD FUNCTIONS AT AMCHITKA, ALASKA

(a) AUTHORITY TO CONTRACT.—The Secretary of the Navy may contract for the performance of firefighting and security guard functions required by the Navy at the over-the-horizon radar site at Amchitka, Alaska.

(b) INAPPLICABILITY OF LIMITATION ON USE OF FUNDS.—Section 2693 of title 10, United States Code, shall not apply with respect to the authority provided in subsection (a).

PART E—DEFENSE SUPPLIES SECURITY AND CONTROL

10 USC 2891 note.

SEC. 341. DEFENSE SUPPLY MANAGEMENT STUDIES AND MODERNIZATION PLAN

(a) DEFENSE INVENTORY SECURITY AND CONTROL ENHANCEMENT STUDY.—(1) The Secretary of Defense shall carry out a study to determine the effectiveness of Department of Defense procedures for ensuring security and control of supplies at Department of Defense depots.

Reports. (2)(A) Not later than 18 months after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the results of the study. The Secretary may submit the report in both classified and unclassified forms if the Secretary considers it necessary to do so in the interest of national security.

(B) The Secretary of Defense, at the same time as the Secretary submits the report to Congress under subparagraph (A), shall transmit a copy of the report to the Comptroller General of the United States.

(3) The Comptroller General shall—

(A) review the report transmitted by the Secretary of Defense under paragraph (2)(B); and

(B) submit to the Committees on Armed Services of the Senate and the House of Representatives, within 90 days after the date on which the Comptroller General receives such report,

any findings and recommendations on procedures for ensuring the security and control of supplies at Department of Defense depots that the Comptroller General considers appropriate.

(b) ANALYSIS OF SALES OF SURPLUS MUNITIONS.—The Secretary of Defense shall—

(1) conduct a cost-benefit analysis of the practice of selling surplus Department of Defense munitions to the public and to licensed dealers; and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than 180 days after the date of the enactment of this Act, a report containing a description and discussion of each such practice. Reports.

(c) SUPPLY TRACEABILITY ENHANCEMENT.—The Secretary of Defense shall—

(1) develop improved methods for the identification of and accounting for individual items of ammunition, explosives, and other Department of Defense supplies that are susceptible to pilferage; and

(2) submit to the Committees on Armed Services of the Senate and the House of Representatives, not later than one year after the date of the enactment of this Act, a report containing a description and discussion of each such method. Reports.

(d) SUPPLY SYSTEM MODERNIZATION PLAN.—The Secretary of Defense shall—

(1) prepare a plan for the modernization of the supply facilities and supply distribution procedures of each of the military departments and Defense Agencies of the Department of Defense; and

(2) not later than one year after the date of the enactment of this Act, transmit a copy of such plan to the Committees on Armed Services of the Senate and the House of Representatives.

SEC. 342. SUPPLY SECURITY AND CONTROL IMPROVEMENTS

(a) SECURITY AND CONTROL OF SUPPLIES: REPORTS, FUNDING, PROCEDURES.—(1) Part IV of subtitle A of title 10, United States Code, is amended by adding at the end the following new chapter:

"CHAPTER 171—SECURITY AND CONTROL OF SUPPLIES

"Sec.
"2891. Security and control of supplies: annual report.
"2892. Miscellaneous procedures.

"§ 2891. Security and control of supplies: annual report

"(a) The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report for each of fiscal years 1989, 1990, and 1991 on security and control of Department of Defense supplies. Each such report shall be submitted not later than four months after the end of the fiscal year for which the report is submitted.

"(b) Each report shall include the following:

"(1) A summary of each of the physical inventory program plans of the Department of Defense, the Defense Logistics Agency, and the military departments for the fiscal year in which the report is submitted.

"(2) A discussion of the deficiencies, if any, in the security and control of Department of Defense supplies in the fiscal year preceding the year in which the report is submitted and a discussion of the extent to which such deficiencies have been corrected.

"(3) A discussion of—

"(A) research and development projects carried out by the Department of Defense in such preceding fiscal year for the improvement of the inventory and recordkeeping capabilities of the Department;

"(B) any proposals for expeditious application of any new technology resulting from such projects; and

"(C) the budget needs for research and development for such purpose in the fiscal year in which the report is submitted and any subsequent fiscal year for which the budget needs have been determined.

"(4) The budget authority made available to the Department of Defense for inventory control functions in the fiscal year in which the report is submitted and in each of the five fiscal years preceding such fiscal year.

"(5) The budget authority proposed for such purpose in the budget submitted to Congress under section 1105 of title 31 for the fiscal year following the fiscal year in which the report is submitted.

"(6) The budget authority needed for such purpose in each of the five fiscal years following the fiscal year for which such budget is submitted.

"(7) An evaluation of the effectiveness of supply inventory control in the fiscal year preceding the fiscal year in which the report is submitted, the criteria used by the Secretary to make such evaluation, and the information considered by the Department in making the evaluation, including the value of supplies lost or stolen or for which accountability has otherwise been lost.

"(8) The aggregate statistics for all incidents of theft, fraud, or breach of security involving Department of Defense supplies that were investigated by military or civilian law enforcement agencies during the fiscal year preceding the fiscal year in which the report is submitted (including incidents involving munitions), a summary description of all such incidents (including the circumstances under which the incidents occurred), and the lessons learned by the Department of Defense from such incidents.

"§ 2892. Miscellaneous procedures

"(a) The Secretary of Defense shall require an investigation of each discrepancy in an accounting for supplies of the Department of Defense involving an amount exceeding the amount determined under procedures prescribed by the Secretary. The Secretary shall prescribe procedures that provide for random investigation of physical inventory discrepancies, regardless of the value of the property involved in the discrepancy.

"(b) The Secretary shall, to the extent feasible, require that the job function of supply ordering and the job function of supply receiving be performed by different offices and individuals.

"(c) The Secretary shall ensure—

"(1) that the employees of the Department of Defense and members of the armed forces assigned to manage Department of Defense supplies are skilled in the management of such supplies; and

"(2) that no employee of the Department of Defense and no member of the armed forces is assigned to perform such function for disciplinary reasons.".

(2) The tables of chapters at the beginning of such part and such subtitle are each amended by adding at the end the following new item:

"171. Security and Control of Supplies ..... 2891".

(b) REPORT EXCEPTION.—The Secretary of Defense may omit in the report for any fiscal year under section 2891 of title 10, United States Code, as added by subsection (a), the information relating to any of fiscal years 1983 through 1988, described in subsection (b)(4) of such section, for which the Secretary determines that there are inadequate records. 10 USC 2891 note.

SEC. 343. INVENTORY INVESTIGATIONS 10 USC 2891 note.

(a) UNDERCOVER INVESTIGATIONS.—(1) Congress finds that the use of undercover investigative techniques by the Department of Defense enhances the ability of the Department of Defense to detect and investigate theft of Government property (including munitions) from the Department of Defense supply system.

(2) The Secretary of Defense is urged to continue to conduct undercover investigations to detect and investigate thefts referred to in paragraph (1).

(b) INVENTORY SECURITY INCIDENT REPOSITORY.—The Secretary of Defense shall establish and maintain a centralized computer system for recording and organizing information on theft, fraud, and breach of security and incidents involving the loss of Department of Defense supplies (including munitions).

SEC. 344. REPORTS TO THE SECRETARY OF THE TREASURY OF LOSSES OF MUNITIONS

(a) IN GENERAL.—Chapter 161 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2722. Theft or loss of ammunition, destructive devices, and explosives: report to Secretary of the Treasury

"(a) IN GENERAL.—The Secretary of Defense shall report the theft or other loss of any ammunition, destructive device, or explosive material from the stocks of the Department of Defense to the Secretary of the Treasury within 72 hours, if possible, after the discovery of such theft or loss.

"(b) EXCLUSION FOR CERTAIN ITEMS.—The Secretary of Defense may exclude from the reporting requirement under subsection (a) any item referred to in that subsection if—

"(1) the Secretary determines that the item represents a low risk of danger to the public and would be of minimal utility to any person who may illegally receive such item; and

"(2) the exclusion of such item is specified as being excluded from the reporting requirement in a memorandum of agreement between the Secretary of Defense and the Secretary of the Treasury.

"(c) DEFINITIONS.—In this section:

"(1) The term 'explosive material' means explosives, blasting agents, and detonators.

"(2) The terms 'destructive device' and 'ammunition' have the meanings given those terms by paragraphs (4) and (17), respectively, of section 921 of title 18.".

(b) CLERICAL AMENDMENTS.—(1) Chapter 161 of such title is further amended—

(A) by striking out the chapter heading at the beginning and inserting in lieu thereof the following:

"CHAPTER 161—PROPERTY RECORDS AND REPORT OF THEFT OR LOSS OF CERTAIN PROPERTY"

and

(B) by adding at the end of the table of sections at the beginning of such chapter the following new item:

"2722. Theft or loss of ammunition, destructive devices, and explosives: report to Secretary of the Treasury.".

(2) The tables of chapters at the beginning of part A, and at the beginning of part IV of part A, of such title are each amended by striking out the item relating to chapter 161 and inserting in lieu thereof the following:

"161. Property Records and Report of Theft or Loss of Certain Property..... 2721".

10 USC 2722 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect with respect to thefts and losses discovered more than 180 days after the date of the enactment of this Act.

PART F—STUDIES AND REPORTS

SEC. 351. STUDY OF DEPARTMENT OF DEFENSE SAFETY STANDARDS FOR TRANSPORTATION OF HAZARDOUS MATERIALS

Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to Congress a report on the adequacy of Department of Defense safety standards for the transportation of hazardous materials.

SEC. 352. REPORT ON THE USE OF DEGRADABLE PLASTIC ITEMS BY DEPARTMENT OF DEFENSE

(a) STUDY.—The Secretary of Defense shall conduct a study of the use of disposable plastic items by the Department of Defense during fiscal year 1989 in order to identify the types of such items used by the Department of Defense and to determine the approximate quantity of those items used annually by the Department of Defense and to identify which of those items are degradable and which are not degradable.

(b) REPORT.—Not later than March 1, 1990, the Secretary shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the results of the study required by subsection (a). The report shall include—

(1) recommendations of the Secretary concerning the feasibility of substituting degradable plastic items for nondegradable plastic items identified in the study that are needed by the Department of Defense; and

(2) a description of—

(A) the availability of degradable plastic items that are suitable substitutes for the nondegradable plastic items identified; and

(B) any additional cost to the United States that would result from conversion to the use of such degradable plastic items over the cost of continued use of the nondegradable plastic items.

SEC. 353. NAVY PARTICIPATION IN FEASIBILITY STUDY OF SUNSET HARBOR PROJECT, CALIFORNIA

(a) REQUIRED FUNDING.—The Secretary of the Navy shall obligate not less than $100,000 as the contribution by the Department of the Navy to the feasibility study by the Army Corps of Engineers of the Sunset Harbor Project, California, which was authorized by Public Law 99-662.

(b) SOURCE OF FUNDS.—For the purpose described in subsection (a), the Secretary of the Navy may use operation and maintenance funds appropriated to or for the use of the Department of the Navy for fiscal year 1989.

TITLE IV—MILITARY PERSONNEL AUTHORIZATIONS

PART A—ACTIVE FORCES

SEC. 401. END STRENGTHS FOR ACTIVE FORCES

The Armed Forces are authorized end strengths for active duty personnel as of September 30, 1989, as follows:

(1) The Army, 771,800, of which not more than 106,927 may be officers.

(2) The Navy, 593,200, of which not more than 72,610 may be officers.

(3) The Marine Corps, 197,200, of which not more than 20,120 may be officers.

(4) The Air Force, 575,100, of which not more than 105,038 may be officers.

SEC. 402. REPEAL OF MANDATORY REDUCTIONS IN STRENGTH OF ACTIVE DUTY OFFICER CORPS

(a) PUBLIC LAW 99-661.—Section 403 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3859) is amended by striking out the last line (relating to September 30, 1989) in the table in subsection (a). 10 USC 521 note.

(b) PUBLIC LAW 100-180.—Section 402(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1081) is repealed. 10 USC 521 note.

(c) LIMITATIONS FOR FISCAL YEAR 1990.—(1) The number of officers serving on active duty (excluding officers in categories specified in paragraph (2)) as of September 30, 1990, may not exceed— 10 USC 521 note.

(A) in the case of the Army, 106,427; and

(B) in the case of the Air Force, 102,438.

(2) Officers in the categories described in section 403(b) of the National Defense Authorization Act for Fiscal Year 1987 shall be excluded in counting officers under this subsection.

SEC. 403. TEMPORARY REDUCTION IN NUMBER OF AIR FORCE COLONELS 10 USC 523 note.

The number of officers that (but for this section) would be authorized under section 523 of title 10, United States Code, and

other applicable provisions of law to be serving on active duty in the Air Force in the grade of colonel during fiscal year 1989 is hereby reduced by 125, and the number of such officers that (but for this section) would be so authorized to be serving on active duty during fiscal year 1990 is hereby reduced by 250.

PART B—RESERVE FORCES

SEC. 411. END STRENGTHS FOR SELECTED RESERVE

10 USC 261 note.

(a) AUTHORIZATION.—The Armed Forces are authorized strengths for Selected Reserve personnel of the reserve components as of September 30, 1989, as follows:

(1) The Army National Guard of the United States, 457,300.
(2) The Army Reserve, 320,600.
(3) The Naval Reserve, 152,600.
(4) The Marine Corps Reserve, 43,600.
(5) The Air National Guard of the United States, 115,200.
(6) The Air Force Reserve, 83,600.
(7) The Coast Guard Reserve, 13,000.

(b) CONFORMING AMENDMENTS.—(1) Section 411(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1082) is amended by striking out "or subsection (b)" and inserting in lieu thereof "or section 411(a) of the National Defense Authorization Act, Fiscal Year 1989".

10 USC 261 note.

(2) Section 411(d) of such Act is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsection (a) and by section 411(a) of the National Defense Authorization Act, Fiscal Year 1989".

SEC. 412. END STRENGTHS FOR RESERVES ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

Within the strengths prescribed in section 411, the reserve components of the Armed Forces are authorized, as of September 30, 1989, the following number of Reserves to be serving on full-time active duty or, in the case of members of the National Guard, full-time National Guard duty for the purpose of organizing, administering, recruiting, instructing, or training the reserve components:

(1) The Army National Guard of the United States, 25,725.
(2) The Army Reserve, 13,329.
(3) The Naval Reserve, 21,991.
(4) The Marine Corps Reserve, 1,945.
(5) The Air National Guard of the United States, 7,948.
(6) The Air Force Reserve, 657.

SEC. 413. CLARIFICATION OF APPLICABILITY OF PRIOR AMENDMENTS RELATING TO NUMBER OF MEMBERS IN CERTAIN GRADES AUTHORIZED TO BE ON ACTIVE DUTY IN SUPPORT OF THE RESERVES

The provisions of section 5 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1020) may not be construed as applying to the amendments made by subsections (a)(2) and (b)(2) of section 413 of such Act.

PART C—MILITARY TRAINING

SEC. 421. AUTHORIZATION OF TRAINING STUDENT LOADS

(a) IN GENERAL.—For fiscal year 1989, the components of the Armed Forces are authorized average military training student loads as follows:

(1) The Army, 80,281.
(2) The Navy, 65,925.
(3) The Marine Corps, 18,064.
(4) The Air Force, 36,857.
(5) The Army National Guard of the United States, 19,561.
(6) The Army Reserve, 17,190.
(7) The Naval Reserve, 3,136.
(8) The Marine Corps Reserve, 3,459.
(9) The Air National Guard of the United States, 2,868.
(10) The Air Force Reserve, 1,827.

(b) ADJUSTMENTS.—The average military student loads authorized in subsection (a) shall be adjusted consistent with the end strengths authorized in parts A and B. The Secretary of Defense shall prescribe the manner in which such adjustment shall be apportioned.

PART D—AUTHORIZATION OF APPROPRIATIONS

SEC. 431. AUTHORIZATION OF APPROPRIATIONS FOR MILITARY PERSONNEL FOR FISCAL YEAR 1989

There is hereby authorized to be appropriated to the Secretary of Defense for military personnel for fiscal year 1989 a total of $78,461,000,000. The authorization in the preceding sentence supersedes any other authorization of appropriations (definite or indefinite) for such purpose for fiscal year 1989.

TITLE V—MILITARY PERSONNEL POLICY

PART A—OFFICER PERSONNEL POLICY

SEC. 501. SELECTION BOARDS

(a) INFORMATION FURNISHED TO BOARDS.—Section 615 of title 10, United States Code, is amended—

(1) in subsection (a), by striking out clause (4) and inserting in lieu thereof the following:

"(4) information or guidelines relating to the needs of the armed force concerned for officers having particular skills, including guidelines or information relating to the need for either a minimum number or a maximum number of officers with particular skills within a competitive category;"; and

(2) by adding at the end the following new subsection:

"(c) Information or guidelines furnished to a selection board under subsection (a) may not be modified, withdrawn, or supplemented after the board submits the report to the Secretary of the military department concerned pursuant to section 617(a) of this title, except that, in the case of a report returned to a board pursuant to section 618(a)(2) of this title for further proceedings because of a determination by the Secretary of the military department concerned that the board acted contrary to law, regulation, or guidelines, the Secretary may modify, withdraw, or supplement such information or guide- Reports.

lines as part of a written explanation to the board as provided in that section.".

10 USC 616.

(b) RECOMMENDATIONS FOR PROMOTION.—Section 616(a) of such title is amended by inserting "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "particular skills".

(c) REPORTS OF SELECTION BOARD.—Section 617(a)(2) of such title is amended by inserting "(as noted in the guidelines or information furnished the board under section 615(a) of this title)" after "concerned".

(d) ACTION ON REPORTS.—(1) Subsection (a) of section 618 of such title is amended to read as follows:

"(a)(1) Upon receipt of the report of a selection board submitted to him under section 617(a) of this title, the Secretary of the military department concerned shall review the report to determine whether the board has acted contrary to law or regulation or to guidelines furnished the board under section 615(a) of this title. Following such review, unless the Secretary concerned makes a determination as described in paragraph (2), the Secretary shall submit the report as required by subsection (b) or (c), as appropriate.

"(2) If, on the basis of a review of the report under paragraph (1), the Secretary of the military department concerned determines that the board acted contrary to law or regulation or to guidelines furnished the board under section 615(a) of this title, the Secretary shall return the report, together with a written explanation of the basis for such determination, to the board for further proceedings. Upon receipt of a report returned by the Secretary concerned under this paragraph, the selection board (or a subsequent selection board convened under section 611(a) of this title for the same grade and competitive category) shall conduct such proceedings as may be necessary in order to revise the report to be consistent with law, regulation, and such guidelines and shall resubmit the report, as revised, to the Secretary in accordance with section 617 of this title.".

(2) Subsection (c)(1) of such section is amended—

(A) by striking out ", modification,"; and

(B) by adding at the end the following: "If the authority of the President under this paragraph to approve or disapprove the report of a selection board is delegated to the Secretary of Defense, it may not be redelegated except to an official in the Office of the Secretary of Defense.".

10 USC 615 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect 60 days after the date of the enactment of this Act and shall apply with respect to selection boards convened under section 611(a) of title 10, United States Code, on or after that effective date.

SEC. 502. REMOVAL FROM PROMOTION LIST

(a) AUTHORITY TO REMOVE.—The first sentence of section 5905(a) of title 10, United States Code, is amended to read as follows: "The President may remove the name of any reserve officer from a promotion list established under this chapter.".

President of U.S. 10 USC 5905 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to removal actions taken by the President on or after the date of the enactment of this Act.

SEC. 503. SELECTIVE EARLY RETIREMENT FOR CERTAIN PRE-DOPMA NAVY AND MARINE CORPS OFFICERS

(a) CONFORMANCE TO ARMY AND AIR FORCE PROVISIONS.—Subsection (a)(2) of section 613 of the Defense Officer Personnel Management Act (Public Law 96-513; 10 U.S.C. 611 note) is amended—

(1) by striking out "or" at the end of clause (B);

(2) by striking out the period at the end of clause (C) and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new clause:

"(D) selected for early retirement under section 638 of title 10, United States Code.".

(b) TECHNICAL AMENDMENTS.—Such section is further amended—

(1) by striking out "on the effective date of this Act" in the matter in subsection (a)(1) preceding clause (A) and inserting in lieu thereof "on September 15, 1981"; and

(2) by striking out "on the day before the effective date of this Act" each place it appears in such section and inserting in lieu thereof "on September 14, 1981".

SEC. 504. TECHNICAL REVISION OF SECTION 638 OF TITLE 10, UNITED STATES CODE

Subsection (a) of section 638 of title 10, United States Code, is amended to read as follows:

"(a)(1) A regular officer on the active-duty list of the Army, Navy, Air Force, or Marine Corps may be considered for selective early retirement by a selection board convened under section 611(b) of this title if the officer is described in any of subparagraphs (A) through (D) as follows:

"(A) An officer holding the regular grade of lieutenant colonel or commander who has failed of selection for promotion to the grade of colonel or, in the case of an officer of the Navy, captain two or more times and whose name is not on a list of officers recommended for promotion.

"(B) An officer holding the regular grade of colonel or, in the case of an officer of the Navy, captain who has served at least four years of active duty in that grade and whose name is not on a list of officers recommended for promotion.

"(C) An officer holding the regular grade of brigadier general or rear admiral (lower half) who has served at least three and one-half years of active duty in that grade and whose name is not on a list of officers recommended for promotion.

"(D) An officer holding the regular grade of major general or rear admiral who has served at least three and one-half years of active duty in that grade.

"(2) The Secretary of the military department concerned shall specify the number of officers described in paragraphs (1)(A) and (1)(B) which a selection board convened under section 611(b) of this title may recommend for early retirement. Such number may not be more than 30 percent of the number of officers considered in each grade in each competitive category.".

PART B—JOINT OFFICER PERSONNEL POLICY

SEC. 511. WAIVER AUTHORITY WITH RESPECT TO SELECTION OF OFFICERS FOR THE JOINT SPECIALTY

The last sentence of section 661(c)(3)(D) of title 10, United States Code, is amended—

(1) by inserting "for officers in the same pay grade" after "under this paragraph";

(2) by striking out "5 percent" and inserting in lieu thereof "10 percent"; and

(3) by inserting "in that pay grade" after "number of officers".

SEC. 512. JOINT SPECIALTY OFFICERS IN CRITICAL JOINT DUTY ASSIGNMENTS

(a) FLEXIBILITY FOR CRITICAL JOINT DUTY ASSIGNMENT POSITIONS.—Section 661(d)(2) of title 10, United States Code, is amended—

(1) by inserting "(A)" after "(2)";

(2) by striking out the last sentence; and

(3) by adding at the end the following:

"(B) Until January 1, 1994, at least 80 percent of the positions designated by the Secretary under subparagraph (A) shall be held at all times by officers who have the joint specialty. On and after January 1, 1994, each position so designated may (subject to subparagraph (C)) be held only by an officer who has the joint specialty.

"(C) The Secretary of Defense may, on a case-by-case basis, waive the requirement in the second sentence of subparagraph (B) with respect to a particular assignment of an officer to a position designated as a critical joint duty assignment position. The authority of the Secretary to make such a waiver may be delegated only to the Chairman of the Joint Chiefs of Staff.

Reports.

"(D) During the period beginning on October 1, 1992, and ending on January 1, 1993, the Secretary of Defense shall submit to Congress a report on the operation, to the date of the report, of the first sentence of subparagraph (B) and on the Secretary's projection for the use of the waiver authority provided under subparagraph (C), including the Secretary's estimate of the average annual number of waivers to be provided under subparagraph (C).".

(b) REVISION OF ANNUAL REPORT.—Section 667 of such title is amended—

(1) by redesignating paragraph (16) as paragraph (17); and

(2) inserting after paragraph (15) the following new paragraph:

"(16) During the period of the applicability of the first sentence of subparagraph (B) of section 661(d)(2) of this title, information on critical positions not filled by officers with the joint specialty, including—

"(A) a listing by organization of the joint duty assignment positions which were not filled by officers with the joint specialty;

"(B) an explanation of the reasons such positions were not filled by officers with the joint specialty, described by the categories of such reasons; and

"(C) the percentage of critical joint duty assignment positions held by officers who have the joint specialty.".

SEC. 513. PROMOTION POLICY OBJECTIVES FOR OFFICERS WITH THE JOINT SPECIALTY

Section 662(a) of title 10, United States Code, is amended by inserting "to the next higher grade" in paragraphs (1) and (3) after "promoted".

SEC. 514. LENGTH OF JOINT DUTY ASSIGNMENTS

Section 664 of title 10, United States Code, is amended as follows:

(1) Subsection (a) is amended—

(A) by striking out "three years" in paragraph (1) and inserting in lieu thereof "two years"; and

(B) by striking out "three and one-half years" in paragraph (2) and inserting in lieu thereof "three years".

(2) Subsection (c)(1) is amended—

(A) by striking out "has been" and inserting in lieu thereof "is"; and

(B) by striking out "before such assignment begins".

(3) Subsection (d)(2) is amended by inserting "which is less than the applicable standard prescribed in subsection (a)" after "Hawaii".

(4) Subsection (f) is amended—

(A) by striking out "or" at the end of paragraph (2);

(B) by striking out the period at the end of paragraph (3) and inserting in lieu a semicolon; and

(C) by adding at the end the following new paragraphs:

"(4) a joint duty assignment outside the United States or in Alaska or Hawaii for which the normal accompanied-by-dependents tour of duty is prescribed by regulation to be at least two years in length, if the officer serves in the assignment for a period equivalent to the accompanied-by-dependents tour length (except that not more than 6 percent of all joint duty assignments may be considered to be under this paragraph at any time); or Alaska. Hawaii.

"(5) a joint duty assignment with respect to which the Secretary of Defense has granted a waiver under subsection (b), but only in a case in which the Secretary determines that the service completed by that officer in that duty assignment shall be considered to be a full tour of duty in a joint duty assignment.".

(5) Subsection (g)(3) is amended by striking out "shall be excluded—" and all that follows in that subsection and inserting in lieu thereof "shall be excluded if the officer served less than 10 months in that assignment.".

(6) Such section is further amended by adding at the end the following new subsection:

"(h) CONSTRUCTIVE CREDIT.—(1) The Secretary of Defense may accord constructive credit in the case of an officer (other than a general or flag officer) who, for reasons of military necessity, is reassigned from a joint duty assignment within 60 days of meeting the tour length criteria prescribed in subsection (f)(1), (f)(2), (f)(4), or (g)(2). The amount of constructive service that may be credited to such officer shall be the amount sufficient for the completion of the applicable tour of duty requirement, but in no case more than 60 days.

"(2) For the purpose of computing under subsection (e) the average length of joint duty assignments during a fiscal year, the amount of any constructive service credited under this subsection with respect

to a joint duty assignment to be counted in that computation shall be excluded.

"(3) This subsection shall not apply in the case of an officer who serves less than 10 months in the joint duty assignment.".

SEC. 515. ADDITIONAL TRANSITION PROVISIONS FOR IMPLEMENTATION OF PREREQUISITE FOR PROMOTION TO INITIAL FLAG AND GENERAL OFFICER GRADE

(a) NAVY NUCLEAR PROPULSION OFFICERS.—(1) Section 619(e) of title 10, United States Code, is amended—

(A) by striking out "January 1, 1992" in the second sentence of paragraph (1) and inserting in lieu thereof "January 1, 1994"; and

(B) by adding at the end the following new paragraph:

Reports. "(5) Not later than March 1 of each year from 1989 through 1994, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation during the preceding calendar year of the transition plan developed by the Secretary pursuant to section 1305(b) of Public Law 100-180 (101 Stat. 1173) with respect to service by qualified nuclear propulsion officers in joint duty assignments.".

10 USC 619 note. (2) Section 1305(b) of Public Law 100-180 is amended by striking out "January 1, 1992" each place it appears and inserting in lieu thereof "January 1, 1994".

10 USC 619 note. (3) The Secretary of Defense, after consultation with the Chairman of the Joint Chiefs of Staff, shall revise the transition plan developed pursuant to section 1305(b) of Public Law 100-180 to take account of the amendments made by paragraphs (1) and (2). The Secretary shall include with the first report of the Secretary under section 619(e)(5) of title 10, United States Code, as added by paragraph (1)(B), a report on the actions of the Secretary in revising such transition plan.

Reports.

(b) WAIVER AUTHORITY.—(1) Paragraph (2) of section 619(e) of title 10, United States Code, is amended—

(A) by striking out "and" at the end of subparagraph (C); and

(B) by striking out subparagraph (D) and inserting in lieu thereof the following:

"(D) in the case of an officer who served in a joint duty assignment that began before January 1, 1987, if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) for his service to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986; and

"(E) until January 1, 1994, in the case of an officer who—

"(i) served in an assignment (other than a joint duty assignment) that began before October 1, 1986, and that involved significant experience in joint matters (as determined by the Secretary) if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) for his service to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986; or

"(ii) served in a joint duty assignment for not less than two years during which the officer is selected for promotion to the grade of brigadier general or rear admiral (lower half).".

(2) Paragraph (3)(C) of such section is amended by striking out "paragraph (2)(B), (2)(C), or (2)(D)" and inserting in lieu thereof "paragraph (2) (other than under subparagraph (A) of that paragraph)".

SEC. 516. EXTENSION OF TRANSITION TO JOINT DUTY ASSIGNMENT STAFFING REQUIREMENTS

(a) GENERAL EXTENSION.—Subsection (a) of section 406 of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 1033) is amended to read as follows: 10 USC 661 note.

"(a) JOINT DUTY ASSIGNMENTS.—(1) Section 661(d) of title 10, United States Code, shall be implemented as rapidly as possible and (except as provided under paragraph (2)) not later than October 1, 1989.

"(2) The first sentence of section 661(d)(2)(B) of such title shall apply with respect to positions designated under the first sentence of section 661(d)(2)(A) of that title as critical joint duty assignment positions which become vacant after January 1, 1989.".

(b) TRANSITION.—Subsection (b)(1)(B) of such section is amended by striking out clauses (ii) and (iii) and inserting in lieu thereof the following:

"(ii) waive the requirement for the length of a joint duty assignment in the case of a joint duty assignment begun by an officer before January 1, 1987, if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986; or

"(iii) consider as a joint duty assignment any tour of duty begun by an officer before October 1, 1986, that involved significant experience in joint matters (as determined by the Secretary) if the officer served in that assignment for a period of sufficient duration (which may not be less than 12 months) for his service to have been considered a full tour of duty under the policies and regulations in effect on September 30, 1986.".

(c) DEADLINE FOR INITIAL SELECTION OF OFFICERS FOR THE JOINT SPECIALTY.—Subsection (b)(3) of such section is amended by striking out "two years after the date of the enactment of this Act" and inserting in lieu thereof "on October 1, 1989".

SEC. 517. COUNTING OF OFFICERS WITH CRITICAL OCCUPATIONAL SPECIALTY INVOLVING COMBAT OPERATIONS FOR PURPOSES OF JOINT DUTY ASSIGNMENT STAFFING AND TOUR LENGTHS

(a) STAFFING.—Section 661(d)(4) of title 10, United States Code, is amended by striking out "one-third" and inserting in lieu thereof "25 percent".

(b) TOUR LENGTHS.—Section 664(e)(2) of such title is amended by striking out "10 percent" and inserting in lieu thereof "12½ percent".

SEC. 518. SERVICE BY CAPTAINS AND NAVY LIEUTENANTS IN JOINT DUTY ASSIGNMENT TO BE COUNTED FOR ALL OFFICER PERSONNEL LAWS CONCERNING SUCH SERVICE

Section 661 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f) TREATMENT OF CERTAIN SERVICE.—Any service by an officer in the grade of captain or, in the case of the Navy, lieutenant in a joint duty assignment shall be considered to be service in a joint duty assignment for purposes of all laws (including section 619(e)(1) of this title) establishing a requirement or condition with respect to an officer's service in a joint duty assignment.".

SEC. 519. TECHNICAL AMENDMENTS

(a) AMENDMENTS RELATING TO JOINT DUTY ASSIGNMENTS.—(1) Section 154(b)(1)(B) of title 10, United States Code, is amended by striking out "served in at least one joint duty assignment (as defined under section 668(b) of this title)" and inserting in lieu thereof "completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)".

(2) Section 164(a)(1)(B) of such title is amended by striking out "served in at least one joint duty assignment (as defined under section 668(b) of this title)" and inserting in lieu thereof "completed a full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)".

(3) Sections 3033(a)(2)(B), 5033(a)(2)(B), 5043(a)(2)(B), and 8033(a)(2)(B) of such title are amended by striking out "joint duty assignment" and inserting in lieu thereof "full tour of duty in a joint duty assignment (as defined in section 664(f) of this title)".

(b) CORRECTION OF ERRONEOUS SUBSECTION DESIGNATION.—Section 668 of such title is amended by redesignating subsection (f) as subsection (c).

PART C—MISCELLANEOUS

SEC. 521. TESTING OF NEW ENTRANTS FOR DRUG AND ALCOHOL ABUSE

(a) REVISION OF MANDATORY TESTING PROGRAM.—(1) Section 978 of title 10, United States Code, is amended to read as follows:

"§ 978. Drug and alcohol abuse and dependency: testing of new entrants

"(a)(1) Except as provided in paragraph (2), the Secretary concerned shall require each member of the armed forces under the Secretary's jurisdiction, within 72 hours after the member's initial entry on active duty after enlistment or appointment, to—

"(A) undergo testing (by practicable, scientifically supported means) for drug and alcohol use; and

"(B) be evaluated for drug and alcohol dependency.

"(2) The Secretary concerned shall require an applicant for appointment as a cadet or midshipman to undergo the testing and evaluation described in paragraph (1) during the physical examination given the applicant before such appointment. The Secretary concerned shall require a person to whom a commission is offered under section 2106 of this title following completion of the program of advanced training under the Reserve Officers' Training Corps program to undergo such testing and evaluation during the precommissioning physical examination given such person.

"(b) A person who refuses to consent to testing and evaluation required by subsection (a) may not be retained in the armed forces, and any original appointment of such person as an officer shall be terminated, unless that person consents to such testing and evaluation.

"(c)(1) The enlistment or appointment of a person who is determined, as a result of an evaluation conducted under subsection (a)(1)(B), to be dependent on drugs or alcohol at the time of such enlistment or appointment shall be void.

"(2) A person whose enlistment or appointment is voided under paragraph (1) shall be referred to a civilian treatment facility.

"(d) The testing and evaluation required by subsection (a) shall be carried out under regulations prescribed by the Secretary of Defense in consultation with the Secretary of Transportation. Those regulations shall apply uniformly throughout the armed forces. Regulations.

"(e) In time of war, or time of emergency declared by Congress or the President, the President may suspend the provisions of subsection (a).".

(2) The item relating to that section in the table of sections at the beginning of chapter 49 of such title is amended to read as follows:

"978. Drug and alcohol abuse and dependency: testing of new entrants.".

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations for the implementation of section 978 of title 10, United States Code, as amended by subsection (a), not later than 60 days after the date of the enactment of this Act. 10 USC 978 note.

(c) EFFECTIVE DATE.—The testing and evaluation program prescribed by that section shall be implemented not later than October 1, 1989. 10 USC 978 note.

(d) CONFORMING AMENDMENT.—Section 513(b)(2) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1091) is repealed. 10 USC 978 note.

SEC. 522. REQUIREMENT TO ACCEPT PERSONS ENLISTING IN THE AIR FORCE ON GENDER-FREE BASIS

(a) REQUIREMENT.—(1) Chapter 833 of title 10, United States Code, is amended by inserting after section 8251 the following new section:

"§ 8252. Regular Air Force: gender-free basis for acceptance of original enlistments

"(a) Except as provided in subsection (b), in accepting persons for original enlistment in the Regular Air Force, the Secretary of the Air Force may not—

"(1) set a minimum or maximum percentage of persons who may be accepted for such an enlistment according to gender for skill categories or jobs; or

"(2) in any other way base the acceptance of a person for such an enlistment on gender.

"(b) Subsection (a) shall not apply with respect to an enlistment specified as being for training leading to designation in a skill category involving duty assignments to which, under section 8549 of this title, female members of the Air Force may not be assigned.". Women.

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 8251 the following new item:

"8252. Regular Air Force: gender-free basis for acceptance of original enlistments.".

(b) IMPLEMENTATION.—The Secretary of the Air Force shall develop a methodology for implementing section 8252 of title 10, United States Code, as added by subsection (a), not later than October 1, 1989. 10 USC 8252 note.

10 USC 8252 note.

(c) EFFECTIVE DATE.—Such section shall apply with respect to persons accepted for original enlistment in the Regular Air Force after September 30, 1989.

(d) REPEAL OF FY 89 REQUIREMENT FOR SPECIFIED PERCENTAGE OF AIR FORCE ENLISTEES TO BE WOMEN.—Section 551(a) of the Department of Defense Authorization Act, 1985 (10 U.S.C. 8251 note), is repealed.

32 USC 709 note.

SEC. 523. MILITARY EDUCATION FOR ARMY NATIONAL GUARD CIVILIAN TECHNICIANS

(a) PHASE-OUT OF PROGRAM REQUIRING OUT-OF-STATE TRAINING.—A civilian technician of the Army National Guard whose military occupational specialty has been approved by the Secretary of the Army in accordance with subsection (b) for training under the Reserve Component Noncommissioned Officers Education Program by an appropriate National Guard school (as defined in subsection (f)) shall, if such technician is not already qualified in that military occupational specialty, receive military training in that military occupational specialty through that school rather than through the Military Education Program.

(b) APPROVAL OF STATE COURSES.—(1) Each National Guard school which receives from the Department of the Army a training program for National Guard training for a military occupational specialty as part of the Reserve Component Noncommissioned Officers Education Program shall implement that training program by the end of the 45-day period beginning on the receipt of such program by the school or as soon thereafter as feasible. The Secretary of the Army shall, not later than 45 days after any such school notifies the Secretary that it has implemented such a training program, determine whether or not such school has properly implemented such program. Upon the approval by the Secretary of the implementation of such program by such school, subsection (a) shall apply with respect to military education of civilian technicians of the Army National Guard of that State in the applicable military occupational specialty.

(2) In the case of a National Guard school for which a program has not been approved under paragraph (1) with respect to a military occupational specialty, the Secretary of the Army may, subject to subsection (d), require a civilian technician of the Army National Guard in that State with that military occupational specialty to receive training through the Military Education Program.

(c) SPECIAL RULE FOR LEADERSHIP TRAINING.—A civilian technician of the Army National Guard who is required by the National Guard Bureau to receive leadership training through courses known as Primary Leadership Development courses shall receive such training through the appropriate State National Guard school.

(d) TRANSITION.—In the case of a civilian technician of the Army National Guard for whose military occupational specialty there is not, as of the date of the enactment of this Act, a program of training approved under subsection (b) for an appropriate National Guard school, the technician shall, at his request, be given the Skill Qualification Test appropriate for his military occupational specialty and skill level. If the technician passes the test and, if necessary for his military occupational specialty, successfully completes the Army National Guard Battle Skills Course for the appropriate grade, the Secretary of the Army may not require the technician to receive training through the existing Military

Education Program and may not reduce the technician in military grade, or deny the technician a military promotion, by reason of failure to receive training through the Military Education Program.

(e) REPORT.—The Secretary of the Army shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation of the Reserve Component Noncommissioned Officers Education Program. The report shall discuss the implementation of such program at each State National Guard school and shall explain, in any case in which the implementation of a training program has not been approved under subsection (b), the reasons for the withholding of such approval. Such report shall be submitted not later than December 31, 1988.

(f) DEFINITIONS.—For purposes of this section:

(1) The term "National Guard school", with respect to a civilian technician, means a National Guard school of that technician's State, or (2) a regional National Guard school designated by the Secretary of the Army for the region including that technician's State.

(2) The term "State" includes the District of Columbia and any commonwealth, territory, or possession of the United States.

SEC. 524. EXPANSION OF MILITARY SPOUSE EMPLOYMENT PREFERENCE

Section 806(b)(2) of the Military Family Act of 1985 (10 U.S.C. 113 note) is amended—

(1) by striking out "hiring" the first place it appears;

(2) by inserting "civilian" before "position" the first place it appears; and

(3) by striking out "above Grade GS-1 (or its equivalent)".

SEC. 525. MANPOWER ESTIMATES FOR MAJOR DEFENSE ACQUISITION PROGRAMS

Section 2434 of title 10, United States Code, is amended—

(1) in subsection (a)(2), by striking out "90 days" and inserting in lieu thereof "30 days";

(2) by redesignating subsection (b) as subsection (c) and in paragraph (3)(A) of that subsection striking out "both in total personnel and" and inserting in lieu thereof "in total personnel or in"; and

(3) by inserting after subsection (a) the following new subsection (b):

"(b) EXCEPTIONS.—(1) Subsection (a)(2) shall not apply during time of war or during a national emergency declared by Congress or the President.

"(2) The 30-day period specified in subsection (a)(2) shall be reduced to 10 days in the case of a major defense acquisition program if the manpower estimate submitted by the Secretary of Defense under subsection (a)(2) with respect to that program indicates that no increase in military or civilian personnel end strengths described in subsection (c)(3)(B) will be required.".

TITLE VI—COMPENSATION AND OTHER PERSONNEL BENEFITS

PART A—PAY AND ALLOWANCES

SEC. 601. MILITARY PAY RAISE FOR FISCAL YEAR 1989

37 USC 1009 note.

(a) WAIVER OF SECTION 1009 ADJUSTMENT.—Any adjustment required by section 1009 of title 37, United States Code, in elements of compensation of members of the uniformed services to become effective during fiscal year 1989 shall not be made.

Effective date.

(b) INCREASE IN BASIC PAY AND BAS.—The rates of basic pay and basic allowance for subsistence of members of the uniformed services are increased by 4.1 percent effective on January 1, 1989.

Effective date.
37 USC 403 note.

(c) INCREASE IN BAQ.—(1) The rates of basic allowance for quarters for members of the uniformed services are increased by 7 percent effective on January 1, 1989.

(2) The President may allocate the increase in the rates of basic allowance for quarters provided in paragraph (1) among pay grades and dependency categories so that the resulting rates of basic allowance for quarters, expressed in the case of each such rate as a percentage determined under paragraph (3), are as nearly as practicable the same.

(3) The percentage of the rate of basic allowance for quarters for any pay grade and dependency status to be applied for the purpose of paragraph (2) is the percentage that results from dividing such rate by the national median cost of housing (as determined by the Secretary of Defense) for members of that pay grade and dependency status.

(4) An allocation under paragraph (2) may not reduce the rate of basic allowance for quarters for members in any pay grade and dependency status below the rate in effect with respect to such members on December 31, 1988.

(5) The Secretary of Defense may establish separate rates of basic allowance for quarters for commissioned officers credited with over four years of active service as enlisted members or warrant officers.

Effective date.

(d) INCREASE IN CADET AND MIDSHIPMAN PAY.—Effective January 1, 1989, section 203(c)(1) of title 37, United States Code, is amended by striking out "$504.30" and inserting in lieu thereof "$525".

SEC. 602. ALLOWANCE FOR TRANSPORTATION OF HOUSEHOLD GOODS

(a) ALLOWANCE.—Section 406(b)(1) of title 37, United States Code, is amended—

(1) by striking out "within such weight allowances prescribed by the Secretaries concerned" in subparagraph (A) and inserting in lieu thereof "within the weight allowances listed in subparagraph (C)"; and

(2) by adding at the end the following new subparagraph:

Regulations.

"(C) Under regulations prescribed by the Secretary of Defense, the weight allowance to which a member is entitled under subparagraph (A) is determined in accordance with the following table:

"Pay Grade	Without Dependents	With Dependents
O-10 to O-6	18,000	18,000
O-5	16,000	17,500
O-4	14,000	17,000

(E) has completed any active duty service commitment incurred for undergraduate aviator training; and

(F) is in an aviation specialty designated by the Secretary concerned, and approved by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, as critical.

(2) For purposes of paragraph (1)(F), an aviation specialty shall be considered subject to designation as critical when there exists a current shortage of officers in that specialty.

(c) ADDITIONAL PAY.—A retention bonus under this section is in addition to any other pay and allowances to which an officer is entitled.

Contracts.

(d) REFUNDS.—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11, United States Code, after January 1, 1989.

Effective date.

(e) CERTAIN PAY AGREEMENTS PROHIBITED.—An agreement for special pay under section 301b of title 37, United States Code, may not be accepted by the Secretary of Defense after December 31, 1988.

(f) REGULATIONS.—This section shall be administered under regulations prescribed by the Secretaries concerned and approved by the Secretary of Defense or the Secretary of Transportation, as appropriate.

(g) DEFINITIONS.—In this section:

(1) The term "aviation service" means the service performed by an officer holding an aeronautical rating or designation (except a flight surgeon or other medical officer).

(2) The term "aviation specialty" means a community of pilots or other designated aeronautical officers identified by type of aircraft or weapon system.

(3) The term "operational flying duty" has the meaning given such term by clause (6) of section 301a(a) of title 37, United States Code.

(4) The terms "grade", "member", "pay", "Secretary concerned", and "uniformed services" have the meanings given those terms by section 101 of title 37, United States Code.

(h) REPORTS.—(1) Not later than November 15, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in this section is to be used. The report shall include a description of the relative level of payments between officers with various amounts of aviation service by aviation specialty.

(2) Not later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a comprehensive report on the retention of aviators in the Armed Forces. The report shall include, at a minimum, the following:

(A) An analysis of aviator requirements and inventories (current and projected) of the Armed Forces by grade and years of service, including a list of those aviators who are assigned to duty other than operational flying duty and a justification for such assignments.

(B) An analysis of current and projected aviator retention rates in the Armed Forces and of those current and projected retention rates actually needed to meet the requirements of the Armed Forces.

(C) Such recommendations as the Secretary considers appropriate regarding—

(i) the initial active duty service commitment of aviators;

(ii) the integration of the aviator career incentive pay under section 301a of title 37, United States Code, and the retention bonus under this section into a structure that more efficiently supports the retention requirements for aviators in the Armed Forces; and

(iii) changes in the aviator management policies of the Armed Forces that would eliminate the disincentives cited by aviators as retention detractors.

(D) Specific proposals for such legislation as the Secretary considers necessary to retain on active duty the aviators required to meet the needs of the Armed Forces.

(i) LIMITATION ON OBLIGATIONS.—The total amount of payments made to officers of the Air Force during fiscal year 1989 under this section may not exceed $36,200,000.

(j) TERMINATION OF AUTHORITY.—If both reports required by paragraphs (1) and (2) of subsection (h) are not received by the committees named in such paragraphs by the respective dates specified in such paragraphs, the authority to make payments under this section shall terminate effective December 2, 1988.

SEC. 612. MEDICAL OFFICER RETENTION BONUS

37 USC 302 note.
Contracts.

(a) BONUS AUTHORIZED.—(1) A medical officer described in subsection (b) who, during the period beginning on January 1, 1989, and ending on September 30, 1989, executes a written agreement to remain on active duty for at least two years after completion of any other active-duty service commitment may, upon acceptance of the written agreement by the Secretary concerned, be paid a retention bonus as provided in this section.

(2) The amount of such retention bonus shall be not more than $20,000 for each year covered by the agreement.

(b) COVERED OFFICERS.—This section applies to an officer of a uniformed service who—

(1) is an officer of the Medical Corps of the Army or the Navy or an officer of the Air Force designated as a medical officer;

(2) is in a pay grade below pay grade 0-7;

(3) has at least eight years of creditable service (computed as described in section 302(g) of title 37, United States Code); and

(4) has completed any active-duty service commitment incurred for medical education and training (or will have completed any such commitment before October 1, 1991).

(c) LIMITATION ON TOTAL COMPENSATION.—The Secretary of Defense shall ensure that no officer receives pay under this section which, when added to all other pay and allowances such officer receives pursuant to titles 10 and 37, United States Code, results in such officer receiving total compensation in an amount that exceeds

the total compensation paid to comparable physicians (considering age, education, experience, certification, training, and other appropriate criteria), as determined by the Secretary, who are civilian physicians employed in the private sector in employment other than self-employment. The Secretary shall target payments under this section to officers in categories in which the most severe shortages exist in the Department of Defense.

(d) ADMINISTRATION AND IMPLEMENTATION.—The provisions of subsections (a) and (b) of section 303a of title 37, United States Code, shall apply to the administration of this section as if a reference to this section were included in the list of sections referred to in such subsections.

Contracts.

(e) REFUNDS.—(1) Refunds shall be required, on a pro rata basis, of sums paid under this section if the officer who has received the payment fails to complete the total period of active duty specified in the agreement, as conditions and circumstances warrant.

(2) An obligation to reimburse the United States imposed under paragraph (1) is for all purposes a debt owed to the United States.

(3) A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the member signing such agreement from a debt arising under such agreement or under paragraph (1). This paragraph applies to any case commenced under title 11, United States Code, after January 1, 1989.

Effective date.

(f) DEFINITIONS.—In this section, the terms "grade", "member", "pay", "Secretary concerned", and "uniformed services" have the meanings given thise terms by section 101 of title 37, United States Code.

(g) REPORTS.—(1) Not later than November 15, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report describing the manner in which the authority provided in this section is to be used. The report shall include a description of the relative level of payments between officers in various categories.

(2)(A) Not later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the following:

(i) An analysis of current and projected requirements of the Armed Forces for health professionals by speciality and years of service, including a list of requirements for physicians who are assigned to duties other than duties consisting primarily of providing patient care and a justification for those requirements.

(ii) The Secretary's assessment of the adequacy of the existing compensation system for such health care professionals.

(iii) Such recommendations for legislation as the Secretary considers necessary to attract and retain on active duty the health care professionals needed to meet the needs of the Armed Forces.

(B) The Secretary shall include in his report a draft of legislation which, if enacted, would establish either—

(i) a compensation system which provides total compensation that is competitive with the compensation paid comparable health care professionals (considering age, education, experience, certification, training, and other appropriate criteria) who are health care professionals employed in the private sector in employment other than self-employment; or

(ii) a single military health care professional incentive compensation program (in lieu of special pay provided under chapter 5 of title 37, United States Code) which provides incentive compensation in sufficient amounts to ensure that the total amount of such compensation to which such health care professionals are entitled under the provisions of titles 10 and 37, United States Code, is competitive with the compensation paid comparable health care professionals (considering age, education, experience, certification, training, and other appropriate criteria) who are health care professionals employed in the private sector in employment other than self-employment.

(h) LIMITATION ON OBLIGATIONS.—The total amount of payments made during fiscal year 1989 under this section may not exceed $30,000,000.

(i) TERMINATION OF AUTHORITY.—If both reports required by paragraphs (1) and (2) of subsection (g) are not received by the committees named in such paragraphs by the respective dates specified in such paragraphs, the authority to make payments under this section shall terminate effective December 2, 1988.

SEC. 613. SPECIAL PAY FOR CRITICALLY SHORT WARTIME HEALTH SPECIALISTS IN THE SELECTED RESERVE

37 USC 302 note.

(a) IN GENERAL.—(1) An officer of a reserve component of the Armed Forces described in paragraph (2) who executes a written agreement under which the officer agrees to serve in the Selected Reserve of an armed force for a period of not less than one year nor more than three years, beginning on the date the officer accepts the award of special pay under this section, may be paid special pay at an annual rate not to exceed $10,000.

Contracts.

(2) An officer referred to in paragraph (1) is an officer in a health care profession who is qualified in a specialty designated by regulations as a critically short wartime specialty.

(3) Special pay under this section shall be paid annually at the beginning of each twelve-month period for which the officer has agreed to serve.

(b) REFUND REQUIREMENT.—An officer who voluntarily terminates service in the Selected Reserve of an armed force before the end of the period for which a payment was made to such officer under this section shall refund to the United States the full amount of the payment made for the period on which the payment was based.

(c) INAPPLICABILITY OF DISCHARGE IN BANKRUPTCY.—A discharge in bankruptcy under title 11, United States Code, that is entered less than 5 years after the termination of an agreement under this section does not discharge the person receiving such special pay from the debt arising under the agreement.

Contracts.

(d) TERMINATION OF AGREEMENT AUTHORITY.—No agreement under this section may be entered into after September 30, 1990.

(e) PURPOSE OF PROGRAM.—The authority provided under this section shall be used only for the purpose of establishing and conducting a pilot test program to determine the effect that the program provided for in this section has on the retention of officers who are qualified in specialties designated by regulation as critically short wartime specialties.

(f) REGULATIONS.—(1) This section shall be administered under regulations prescribed by the Secretary concerned and approved by the Secretary of Defense.

(2) As used in paragraph (1), the term "Secretary concerned" has the same meaning as provided in section 101(5) of title 37, United States Code.

(g) LIMITATIONS ON OBLIGATIONS.—The total amount of payments made during fiscal year 1989 as the result of agreements entered into under this section may not exceed $4,000,000.

(h) REPORT.—(1) Not later than September 1, 1988, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing a description of the manner in which the pilot test program provided for in this section is to be structured, including the minimum periods of service to be required for various levels of special pay under this section.

(2) Not later than February 1, 1990, the Secretary also shall submit to such committees an evaluation of the effectiveness of the program and recommendations for its continuation or modification.

Contracts.

(i) EFFECTIVE DATE.—The authority to enter into agreements under this section shall take effect 30 days after the date on which the committees referred to in subsection (h)(1) receive the report required by such subsection.

PART C—OTHER PERSONNEL BENEFITS

SEC. 621. HOUSING LEASE INDEMNITY PROGRAM

(a) IN GENERAL.—(1) Chapter 53 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 1055. Waiver of security deposits for members renting private housing; authority to indemnify landlord

"(a) The Secretary of Defense may carry out a program under which the Secretary of a military department agrees to indemnify a landlord who leases a rental unit to a member of the armed forces against a breach of the lease by the member or for damage to the rental unit caused by the member. In exchange for agreement for such indemnification by the Secretary, the landlord shall be required to waive any requirement for payment by the member of a security deposit that the landlord would otherwise require.

"(b)(1) For purposes of carrying out a program authorized by subsection (a), the Secretary of a military department, to the extent funds are provided in advance in appropriation Acts, may enter into an agreement with any landlord who agrees to waive the requirement for a security deposit in connection with the lease of a rental unit to a member of the armed forces under the jurisdiction of the Secretary. An agreement under this paragraph shall provide that—

"(A) the term of the agreement shall remain in effect during the term of the member's lease and during any lease renewal periods with the lessor;

"(B) the member shall not pay a security deposit;

"(C) the Secretary (except as provided in subparagraphs (D) and (E)) shall compensate the landlord for breach of the lease by the member and for damage to the rental unit caused by the member or by a guest or dependent of the member;

"(D) the total liability of the Secretary for a breach of the lease or for damage described in subparagraph (C) may not exceed an amount equal to the amount that the Secretary determines would have been required by the landlord as a

security deposit in the absence of an agreement authorized in this paragraph;

"(E) the Secretary may not compensate the landlord for any claim for breach of the lease or for damage described in subparagraph (C) until the landlord exhausts any remedies available to the landlord (including submission to binding arbitration by a panel composed of military personnel and persons from the private sector) against the member for the breach or damage; and

"(F) the Secretary shall be subrogated to the rights of the landlord in any case in which the Secretary compensates the landlord for breach of the lease or for damage described in subparagraph (C).

"(2) Any authority of the Secretary of a military department under this section shall be exercised under regulations prescribed by the Secretary of Defense. Regulations.

"(c)(1) The Secretary of a military department who compensates a landlord under subsection (b) for a breach of a lease or for damage described in subsection (b)(1)(C) may issue a special order under section 1007 of title 37 to authorize the withholding from the pay of the member of an amount equal to the amount paid by the Secretary to the landlord as compensation for the breach or damage.

"(2) Before the Secretary of a military department issues a special order under section 1007 of title 37 to authorize the withholding of any amount from the pay of a member for a breach or damage referred to in paragraph (1), the Secretary concerned shall provide the member with the same notice and opportunity for hearing and record inspection as provided an individual under section 5514(a)(2) of title 5. The Secretary concerned shall prescribe regulations, subject to the approval of the President, to carry out this paragraph. Such regulations shall be as uniform for the military departments as practicable. Records. Regulations.

"(d) In this section, the term 'landlord' means a person who leases a rental unit to a member of the armed forces.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"1055. Waiver of security deposits for members renting private housing; authority to indemnify landlord.".

(b) EFFECTIVE DATE.—Section 1055 of title 10, United States Code, as added by subsection (a), shall take effect on October 1, 1988. 10 USC 1055 note.

SEC. 622. RETIRED PAY INVERSIONS RESULTING FROM COURT-MARTIAL PUNISHMENT

(a) IN GENERAL.—Section 1401a(f) of title 10, United States Code, is amended by inserting after the second sentence the following: "However, in the case of a member who, after initially becoming eligible for retired pay, is reduced in grade pursuant to a sentence of a court-martial, such computation may not be based on a grade higher than the grade in which the member is retired.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the first day of the first month that begins after the date of the enactment of this Act and shall apply to the computation of the retired or retainer pay of members who initially become entitled to such pay on or after such effective date. 10 USC 1401a note.

SEC. 623. TRAVEL AND TRANSPORTATION ALLOWANCES FOR EMERGENCY TRAVEL

(a) IN GENERAL.—Section 411e(a) of title 37, United States Code, is amended by striking out "incident to the serious illness or injury or the death of a dependent of the member" and inserting in lieu thereof "incident to a personal emergency of the member".

37 USC 411e note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to travel performed after September 30, 1988.

SEC. 624. TRAVEL AND TRANSPORTATION ALLOWANCES INCIDENT TO VOLUNTARY EXTENSION OF OVERSEAS TOURS OF DUTY

(a) CHANGE FROM MANDATORY TO PERMISSIVE.—Section 411g(a) of title 37, United States Code, is amended by striking out "is entitled" and inserting in lieu thereof "may be paid".

37 USC 411g note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to agreements to extend overseas tours of duty made on and after the date of the enactment of this Act.

SEC. 625. CIVILIAN CLOTHING ALLOWANCE

Section 419 of title 37, United States Code, is amended—

(1) by striking out "member" each place it appears and inserting in lieu thereof "officer";

(2) by striking out "is entitled" and inserting in lieu thereof "may be paid"; and

(3) by striking out "member's" and inserting in lieu thereof "officer's".

PART D—BENEFITS RELATING TO INCAPACITATION OF CERTAIN RESERVE MEMBERS IN LINE OF DUTY

SEC. 631. COMPENSATION FOR CERTAIN RESERVE MEMBERS

(a) AUTHORIZATION OF COMPENSATION.—Subsections (g) and (h) of section 204 of title 37, United States Code, are amended to read as follows:

"(g)(1) A member of a reserve component of a uniformed service is entitled to the pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service whenever such member is physically disabled as the result of an injury, illness, or disease incurred or aggravated—

"(A) in line of duty while performing active duty;

"(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service); or

"(C) while traveling directly to or from such duty or training.

"(2) In the case of a member who receives earned income from nonmilitary employment or self-employment performed in any month in which the member is otherwise entitled to pay and allowances under paragraph (1), the total pay and allowances shall be reduced by the amount of such income. In calculating earned income for the purpose of the preceding sentence, income from an income protection plan, vacation pay, or sick leave which the member elects to receive shall be considered.

"(h)(1) A member of a reserve component of a uniformed service who is physically able to perform his military duties, is entitled, upon request, to a portion of the monthly pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for each month for which the member demonstrates a loss of earned income from nonmilitary employment or self-employment as a result of an injury, illness, or disease incurred or aggravated—

"(A) in line of duty while performing active duty;

"(B) in line of duty while performing inactive-duty training (other than work or study in connection with a correspondence course of an armed force or attendance in an inactive status at an educational institution under the sponsorship of an armed force or the Public Health Service); or

"(C) while traveling directly to or from such duty or training.

"(2) The monthly entitlement may not exceed the member's demonstrated loss of earned income from nonmilitary or self-employment. In calculating such loss of income, income from an income protection plan, vacation pay, or sick leave which the member elects to receive shall be considered.".

(b) LIMIT ON TOTAL COMPENSATION.—Such section is further amended by redesignating subsection (i) as subsection (j) and by inserting after subsection (h) the following new subsection (i):

"(i)(1) The total amount of pay and allowances paid under subsections (g) and (h) and compensation paid under section 206(a) of this title for any period may not exceed the amount of pay and allowances provided by law or regulation for a member of a regular component of a uniformed service of corresponding grade and length of service for that period.

"(2) Pay and allowances may not be paid under subsection (g) or (h) for a period of more than six months. The Secretary concerned may extend such period in any case if the Secretary determines that it is in the interests of fairness and equity to do so.

"(3) A member is not entitled to benefits under subsection (g) or (h) if the injury, illness, disease, or aggravation of an injury, illness, or disease is the result of the gross negligence or misconduct of the member.

"(4) Regulations with respect to procedures for paying pay and allowances under subsections (g) and (h) shall be prescribed— Regulations.

"(A) by the Secretary of Defense for the armed forces under the jurisdiction of the Secretary; and

"(B) by the Secretary of Transportation for the Coast Guard when the Coast Guard is not operating as a service in the Navy.".

(c) CONFORMING AMENDMENT FOR INACTIVE-DUTY TRAINING.—Section 206(a) of such title is amended by striking out "for a period of 30 days or less" in paragraph (3)(A)(i). 37 USC 206.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to persons who, after the date of enactment of this Act, incur or aggravate an injury, illness, or disease, or who die as the result of incurring or aggravating an injury, illness, or disease. 37 USC 204 note.

SEC. 632. TRAVEL FOR DEPENDENTS OF CERTAIN MEMBERS

(a) TRAVEL AUTHORIZED.—Paragraph (2) of section 411h(a) of title 37, United States Code, is amended to read as follows:

"(2) A member referred to in paragraph (1) is a member of the uniformed services who—

"(A) is serving on active duty or is entitled to pay and allowances under section 204(g) of this title (or would be so entitled were it not for offsetting earned income described in that section);

"(B) is seriously ill or seriously injured; and

"(C) is hospitalized in a medical facility in or outside the United States.".

37 USC 411.

(b) TRAVEL TO BURIAL CEREMONIES.—Section 411f(a) of such title is amended by striking out "for a period of 30 days or more in order to" and inserting in lieu thereof "or inactive duty in order that such dependents may".

37 USC 411f note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 1, 1988.

SEC. 633. INJURY, DISABILITY, AND DEATH COMPENSATION COVERAGE FOR ROTC CADETS DURING MILITARY TRAINING ACTIVITIES

(a) AUTHORITY TO PRESCRIBE TRAINING.—(1) Subsection (a) of section 2109 of title 10, United States Code, is amended to read as follows:

"(a) For the further practical instruction of members of, and designated applicants for membership in, the program, the Secretary of the military department concerned may prescribe and conduct practical military training, in addition to field training and practice cruises prescribed under section 2104(b)(6) of this title. The Secretary concerned may require that some or all of the training prescribed under this subsection must be completed by a member before the member is commissioned.".

(2) Subsection (b) of such section is amended—

(A) by striking out "may—" and inserting in lieu thereof ", with respect to practical military training prescribed under this section and field training and practice cruises prescribed under section 2104(b)(6) of this title, may—"; and

(B) by striking out "field training" each place it appears and inserting in lieu thereof "such training".

(3)(A) The heading of such section is amended to read as follows:

"§ 2109. Practical military training".

(B) The item relating to such section in the table of sections at the beginning of chapter 103 of such title is amended to read as follows:

"2109. Practical military training.".

(b) COVERAGE FOR INJURY, DISABILITY, AND DEATH.—Section 8140 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "disability or death from an injury" and inserting in lieu thereof "an injury, disability, or death"; and

(B) by striking out "field" before "training";

(2) in subsection (f), by striking out "while attending field training or a practice cruise under chapter 103 of title 10" and inserting in lieu thereof "by a military department in a facility of a military department"; and

(3) by adding at the end thereof the following new subsection:

"(g) For purposes of this section, the term 'applicant for membership' includes a student enrolled, during a semester or other enroll-

ment term, in a course which is part of Reserve Officers' Training Corps instruction at an educational institution.".

(c) TRAINING INCLUDED WITHIN CERTAIN DEFINITIONS.—(1) Paragraph (22)(D) of section 101 of title 38, United States Code, is amended—

(A) by striking out "field"; and

(B) by inserting "for a period of not less than four weeks and which must be completed by the member before the member is commissioned" after "title 10".

(2) Paragraph (23) of such section is amended—

(A) by striking out "and" at the end of clause (A);

(B) by striking out the period at the end of clause (B) and inserting in lieu thereof "; and"; and

(C) by inserting after clause (B) the following new clause:

"(C) training (other than active duty for training) by a member of, or applicant for membership (as defined in section 8140(g) of title 5) in, the Senior Reserve Officers' Training Corps prescribed under chapter 103 of title 10.".

(d) PAY STATUS WHILE IN CERTAIN TRAINING.—Section 209(c) of title 37, United States Code, is amended by striking out "field training or practice cruises under section 2109 of title 10" and inserting in lieu thereof "training or practice cruises under chapter 103 of title 10 if the training or cruise is of at least four weeks duration and must be completed before the cadet or midshipman is commissioned.".

(e) EFFECTIVE DATE.—The amendments made by this section shall apply only with respect to training performed after September 30, 1988. 10 USC 2109 note.

PART E—HEALTH CARE MANAGEMENT PROVISIONS

SEC. 641. REQUIREMENT TO SUBMIT END STRENGTHS AND MANPOWER REPORT FOR MEDICAL PERSONNEL

(a) END STRENGTH REQUIREMENT.—Section 115(b)(1) of title 10, United States Code, is amended by adding at the end the following new subparagraph:

"(D) At the same time the President submits the budget for any fiscal year to Congress pursuant to section 1105 of title 31, the Secretary of Defense shall submit to Congress recommendations for the end strength levels for medical personnel for each component of the armed forces as of the end of that fiscal year. For purposes of this subparagraph, the term 'medical personnel' includes—

"(i) in the Army, members of the Medical Corps, Dental Corps, Nurse Corps, Medical Service Corps, Veterinary Corps, and Army Medical Specialist Corps;

"(ii) in the Air Force, members designated as medical officers, dental officers, Air Force nurses, medical service officers, and biomedical science officers;

"(iii) in the Navy, members of the Medical Corps, Dental Corps, Nurse Corps, and Medical Service Corps;

"(iv) enlisted personnel engaged in or supporting medically-related activities; and

"(v) such other personnel as the Secretary considers appropriate.".

(b) MANPOWER REPORT REQUIREMENT.—Section 115(b)(3)(B) of such title is amended—

(1) by striking out "and" at the end of clause (ii);

(2) by striking out the period at the end of clause (iii) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new clause:

"(iv) the manpower required to perform the medical missions of the armed forces and the Department of Defense.".

SEC. 642. REQUIREMENTS WITH RESPECT TO CERTAIN NAVY MEDICAL PERSONNEL

Of the amount appropriated for operation and maintenance for the Navy for fiscal year 1989, $15,000,000 shall be available only for the pay and allowances of those civilian employees of the Navy—

(1) hired after September 30, 1988, to perform duties in support of Navy medical treatment facilities; and

(2) only to the extent that the number of such employees hired after that date results in a greater number of such employees performing those duties for the Navy than were performing those duties for the Navy on September 30, 1988.

SEC. 643. PROVISIONS RELATING TO NAVY HEALTH PROFESSION PERSONNEL

(a) REPEAL.—Section 723 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1116) is repealed.

(b) MINIMUM REQUIREMENTS.—(1) Of the total number of officers authorized to be serving on active duty in the Navy as of September 30, 1989, under section 401(2), 11,940 shall be available only for assignment to duties in health profession specialties.

(2) Of the total number of officers authorized to be serving on active duty in the Navy as of September 30, 1990, 12,240 shall be available only for assignment to duties in health profession specialties.

(3) Of the total number of officers authorized to be serving on active duty in the Navy as of September 30, 1991, 12,510 shall be available only for assignment to duties in health profession specialties.

SEC. 644. SHARING OF HEALTH-CARE RESOURCES BETWEEN THE DEPARTMENT OF DEFENSE AND THE VETERANS' ADMINISTRATION

Of the total amount appropriated for operation and maintenance for the Department of Defense for fiscal year 1989, $20,000,000 shall be available only for sharing health-care resources between the Department of Defense and the Veterans' Administration under section 5011 of title 38, United States Code, or under section 1535 of title 31, United States Code.

SEC. 645. EXTENSION OF TERMINATION DATE FOR FORMER PUBLIC HEALTH SERVICE HOSPITALS AND REQUIREMENT THAT SUCH HOSPITALS BE COST EFFECTIVE

Section 1252(e) of the Department of Defense Authorization Act, 1984 (42 U.S.C. 248d(e)), is amended—

(1) by striking out "1988" in the first sentence and inserting in lieu thereof "1990";

(2) by striking out "which identifies" in the second sentence and all that follows through the end of that sentence and inserting in lieu thereof the following: "which (1) identifies the facility whose status is being terminated, (2) specifies the date

on which such status is being terminated, and (3) certifies that more cost-effective medical and dental care for members and former members of the uniformed services or their dependents is available elsewhere in the same geographic area."; and

(3) by inserting after the third sentence the following: "Each such copy of the order shall include a copy of the certification required in clause (3) of the second sentence of this subsection and shall contain cost data substantiating the termination decision and identifying how more cost-effective care could be provided to the affected individuals.".

SEC. 646. ELIGIBILITY OF CERTAIN INSTITUTIONS TO RECEIVE REIMBURSEMENT UNDER CHAMPUS

(a) ACTIVE-DUTY DEPENDENTS.—(1) Section 1079(b) of title 10, United States Code, is amended by adding at the end of paragraph (1) the following: "The Secretary of Defense may exempt a patient from paying such amount if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.".

(2) Section 1079 of such title is further amended by adding at the end the following new subsection:

"(m)(1) Subject to paragraph (2), the Secretary of Defense may, upon request, make payments under this section for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) to a hospital that does not impose a legal obligation on any of its patients to pay for such services. Claims.

"(2) A payment under paragraph (1) may not exceed the average amount paid for comparable services in the geographic area in which the hospital is located or, if no comparable services are available in that area, in an area similar to the area in which the hospital is located.

"(3) The Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this subsection to ensure that the hospital's practices of not billing patients for payment are not resulting in increased costs to the Government.

"(4) The Secretary of Defense may require each hospital the Secretary approves for payment under this subsection to provide evidence that it has sources of revenue to cover unbilled costs.".

(b) RETIREES AND THEIR DEPENDENTS.—(1) Section 1086(b) of title 10, United States Code, is amended in paragraph (3) by adding at the end the following: "The Secretary of Defense may exempt a patient from paying such charges if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care.".

(2) Section 1086 of such title is further amended by adding at the end the following new subsection:

"(h)(1) Subject to paragraph (2), the Secretary of Defense may, upon request, make payments under this section for a charge for services for which a claim is submitted under a plan contracted for under subsection (a) to a hospital that does not impose a legal obligation on any of its patients to pay for such services. Claims.

"(2) A payment under paragraph (1) may not exceed the average amount paid for comparable services in the geographic area in which the hospital is located or, if no comparable services are available in that area, in an area similar to the area in which the hospital is located.

"(3) The Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this subsection to ensure that the hospital's practices of not billing patients for payment are not resulting in increased costs to the Government.

"(4) The Secretary of Defense may require each hospital the Secretary approves for payment under this subsection to provide evidence that it has sources of revenue to cover unbilled costs.".

10 USC 1079 note.

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall apply with respect to medical care received after September 30, 1988.

PART F—MISCELLANEOUS

SEC. 651. LIMITED EXTENSION OF CERTAIN MEDICAL BENEFITS FOR FORMER SPOUSES

(a) MEDICAL COVERAGE.—Section 1076 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(f)(1) A person described in paragraph (2) shall be considered a dependent for purposes of this section for a period of one year after the date of the person's final decree of divorce, dissolution, or annulment. In addition, if such a person purchases a conversion health policy within the one-year period referred to in the preceding sentence, such person shall be entitled, upon request, to medical and dental care prescribed by section 1077 of this title for a period of one year after the purchase of the policy for any condition of the person that existed on the date on which coverage under the policy begins and for which care is not provided under that policy.

"(2) A person referred to in paragraph (1) is a person who would qualify as a dependent under section 1072(2)(G) but for the fact that the person's final decree of divorce, dissolution, or annulment is dated on or after April 1, 1985.

"(3) In this subsection, the term 'conversion health policy' means a health insurance plan with a private insurer, developed through negotiations between the Secretary of Defense and a private insurer, that is available for purchase by or for the use of persons described in paragraph (2).".

Effective date.

(b) CONFORMING AMENDMENT.—Section 645(c) of the Department of Defense Authorization Act, 1985 (10 U.S.C. 1072 note) is repealed effective as of the effective date of section 1076(f) of title 10, United States Code (as added by subsection (a)).

10 USC 1076 note.

(c) TRANSITION.—Any person who qualified as a dependent under section 645(c) of the Department of Defense Authorization Act, 1985, as in effect before its repeal by subsection (b), shall remain qualified as a dependent as specified in that section and shall become eligible for benefits in accordance with section 1076(f) of title 10, United States Code (as added by subsection (a)), when no longer qualified as a dependent pursuant to such section 645(c).

10 USC 1076 note.

(d) EFFECTIVE DATE.—Section 1076(f) of title 10, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act or 30 days after the Secretary of Defense first makes available a conversion health policy (as defined in such section), whichever is later. Such section shall apply to persons whose decree of divorce, dissolution, or annulment becomes final after the date of the enactment of this Act.

SEC. 652. TECHNICAL CORRECTION TO SURVIVOR BENEFIT PLAN COVERAGE OF FORMER SPOUSES

(a) INCLUSION OF FORMER SPOUSES IN SAVINGS PROVISION.—Section 1451(e)(1) of title 10, United States Code, is amended—

(1) by striking out "widow or widower" in subparagraph (A) and inserting in lieu thereof "widow, widower, or former spouse"; and

(2) by inserting "or former spouse" in subparagraph (B) after "A spouse".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to payments under the Survivor Benefit Plan established under subchapter II of chapter 73 of title 10, United States Code, for periods after February 28, 1986. 10 USC 1451 note.

SEC. 653. ANNUITY FOR CERTAIN SURVIVING SPOUSES 10 USC 1448 note.

(a) ANNUITY.—(1) The Secretary concerned shall pay an annuity to the qualified surviving spouse of each member of the uniformed services who—

(A) died before November 1, 1953; and

(B) was entitled to retired or retainer pay on the date of death.

(2) A qualified surviving spouse for purposes of this section is a surviving spouse who has not remarried and who is eligible for an annuity under section 4 of Public Law 92-425 (10 U.S.C. 1448 note).

(b) AMOUNT OF ANNUITY.—(1) An annuity payable under this section shall be paid at the rate of $165 per month, as adjusted from time to time under subsection (c).

(2) An annuity paid to a surviving spouse under this section shall be reduced by the amount of dependency and indemnity compensation (DIC) to which the surviving spouse is entitled under section 411(a) of title 38, United States Code.

(c) COST-OF-LIVING INCREASES.—Whenever retired or retainer pay is increased under section 1401a(b)(2) of title 10, United States Code, each annuity that is payable under this section shall be increased at the same time and by the same total percent. The amount of the increase shall be based on the monthly annuity payable before any reduction under this section.

(d) RELATIONSHIP TO OTHER PROGRAMS.—An annuity paid to a surviving spouse under this section is in addition to any pension to which the surviving spouse is entitled under subchapter III of chapter 15 of title 38, United States Code, or section 306 of the Veterans' and Survivors' Pension Improvement Act of 1978 (38 U.S.C. 521 note), and any payment made under the provisions of section 4 of Public Law 92-425. An annuity paid under this section shall not be considered as income for the purposes of eligibility for any such pension.

(e) DEFINITIONS.—For purposes of this section:

(1) The terms "uniformed services" and "Secretary concerned" have the meanings given those terms in section 101 of title 37, United States Code.

(2) The term "surviving spouse" has the meaning given the terms "widow" and "widower" in paragraphs (3) and (4), respectively, of section 1447 of title 10, United States Code.

(f) EFFECTIVE DATE.—Annuities under this section shall be paid for months beginning after the month in which this Act is enacted. No benefit shall accrue to any person by reason of the enactment of this section for any period before the first month referred to in the

preceding sentence. No benefit shall be paid to any person under this section unless an application for such benefit has been filed with the Secretary concerned by or on behalf of such person.

SEC. 654. REPORT ON DEFINITION OF DEPENDENT FOR CERTAIN PURPOSES

(a) REPORT.—The Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the desirability of providing in law a more uniform and consistent definition of the term "dependent" for the purpose of determining the eligibility of a person, based upon the relationship of such person to a member or former member of the uniformed services, for various rights and benefits provided by law, including the following:

(1) Pay and allowances under title 37, United States Code.

(2) Rights and benefits (including eligibility for travel and commissary store privileges) under chapters 53 and 54 of title 10, United States Code.

(3) Medical and dental care under chapter 55 of title 10, United States Code.

(b) DEADLINE FOR REPORT.—The Secretary shall submit the report required by subsection (a) not later than March 15, 1989, together with such comments and recommendations for legislation as he considers appropriate.

TITLE VII—DEPARTMENT OF DEFENSE ORGANIZATION AND MANAGEMENT

PART A—ORGANIZATION

SEC. 701. AUTHORITY TO ESTABLISH POSITION OF ASSISTANT SECRETARY OF DEFENSE FOR INTELLIGENCE

Paragraph (3) of section 136(b) of title 10, United States Code, is amended to read as follows:

"(3)(A) One of the Assistant Secretaries shall be the Assistant Secretary of Defense for Command, Control, Communications, and Intelligence. He shall have as his principal duty the overall supervision of command, control, communications, and intelligence affairs of the Department of Defense.

"(B) Notwithstanding subparagraph (A), one of the Assistant Secretaries established by the Secretary of Defense may be an Assistant Secretary of Defense for Intelligence, who shall have as his principal duty the overall supervision of intelligence affairs of the Department of Defense.

"(C) If the Secretary of Defense establishes an Assistant Secretary of Defense for Intelligence, the Assistant Secretary provided for under subparagraph (A) shall be the Assistant Secretary of Defense for Command, Control, and Communications and shall have as his principal duty the overall supervision of command, control, and communications affairs of the Department of Defense.".

SEC. 702. DESIGNATION IN EACH MILITARY DEPARTMENT OF ASSISTANT SECRETARY WITH RESPONSIBILITY FOR FINANCIAL MANAGEMENT

(a) DEPARTMENT OF THE ARMY.—(1) Section 3016(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(4) One of the Assistant Secretaries shall be the Assistant Secretary of the Army for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Army, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Army and shall advise the Secretary of the Army on financial management.".

(2) Chapter 303 of such title is amended by adding at the end the following new section:

"§ 3022. Financial management 10 USC 3022.

"(a) The Secretary of the Army shall provide that the Assistant Secretary of the Army for Financial Management shall direct and manage financial management activities and operations of the Department of the Army, including ensuring that financial management systems of the Department of the Army comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

"(1) supervise and direct the preparation of budget estimates of the Department of the Army and otherwise carry out, with respect to the Department of the Army, the functions specified for the Comptroller of the Department of Defense in section 137(c) of this title;

"(2) approve and supervise any project to design or enhance a financial management system for the Department of the Army; and

"(3) approve the establishment and supervise the operation of any asset management system of the Department of the Army, including—

"(A) systems for cash management, credit management, and debt collection; and

"(B) systems for the accounting for the quantity, location, and cost of property and inventory.

"(b)(1) Financial management systems of the Department of the Army (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

"(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

"(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

"(2) Such systems shall provide for—

"(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

"(B) the development and reporting of cost information;

"(C) the integration of accounting and budgeting information; and

"(D) the systematic measurement of performance.

"(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Army proposes to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

"(d) The Assistant Secretary of the Army for Financial Management shall transmit to the Secretary of the Army a report each year Reports.

on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Army financial management.".

(3) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"3022. Financial management.".

10 USC 5016.

(b) DEPARTMENT OF THE NAVY.—Section 5016(b) of such title is amended by adding at the end the following new paragraph:

"(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Navy for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Navy, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Navy and shall advise the Secretary of the Navy on financial management.".

(2) Chapter 503 of such title is amended by adding at the end the following new section:

10 USC 5025.

"§ 5025. Financial management

"(a) The Secretary of the Navy shall provide that the Assistant Secretary of the Navy for Financial Management shall direct and manage financial management activities and operations of the Department of the Navy, including ensuring that financial management systems of the Department of the Navy comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

"(1) supervise and direct the preparation of budget estimates of the Department of the Navy and otherwise carry out, with respect to the Department of the Navy, the functions specified for the Comptroller of the Department of Defense in section 137(c) of this title;

"(2) approve and supervise any project to design or enhance a financial management system for the Department of the Navy; and

"(3) approve the establishment and supervise the operation of any asset management system of the Department of the Navy, including—

"(A) systems for cash management, credit management, and debt collection; and

"(B) systems for the accounting for the quantity, location, and cost of property and inventory.

"(b)(1) Financial management systems of the Department of the Navy (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

"(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

"(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

"(2) Such systems shall provide for—

"(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

"(B) the development and reporting of cost information;

"(C) the integration of accounting and budgeting information; and

"(D) the systematic measurement of performance.

"(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Navy proposes to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

"(d) The Assistant Secretary of the Navy for Financial Management shall transmit to the Secretary of the Navy a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Navy financial management.". Reports.

(3) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"5025. Financial management.".

(c) DEPARTMENT OF THE AIR FORCE.—Section 8016(b) of such title is amended by adding at the end the following new paragraph: 10 USC 8016.

"(3) One of the Assistant Secretaries shall be the Assistant Secretary of the Air Force for Financial Management. The Assistant Secretary shall have as his principal responsibility the exercise of the comptroller functions of the Department of the Air Force, including financial management functions. The Assistant Secretary shall be responsible for all financial management activities and operations of the Department of the Air Force and shall advise the Secretary of the Air Force on financial management.".

(2) Chapter 803 of such title is amended by adding at the end the following new section:

"§ 8022. Financial management 10 USC 8022.

"(a) The Secretary of the Air Force shall provide that the Assistant Secretary of the Air Force for Financial Management shall direct and manage financial management activities and operations of the Department of the Air Force, including ensuring that financial management systems of the Department of the Air Force comply with subsection (b). The authority of the Assistant Secretary for such direction and management shall include the authority to—

"(1) supervise and direct the preparation of budget estimates of the Department of the Air Force and otherwise carry out, with respect to the Department of the Air Force, the functions specified for the Comptroller of the Department of Defense in section 137(c) of this title;

"(2) approve and supervise any project to design or enhance a financial management system for the Department of the Air Force; and

"(3) approve the establishment and supervise the operation of any asset management system of the Department of the Air Force, including—

"(A) systems for cash management, credit management, and debt collection; and

"(B) systems for the accounting for the quantity, location, and cost of property and inventory.

"(b)(1) Financial management systems of the Department of the Air Force (including accounting systems, internal control systems, and financial reporting systems) shall be established and maintained in conformance with—

"(A) the accounting and financial reporting principles, standards, and requirements established by the Comptroller General under section 3511 of title 31; and

"(B) the internal control standards established by the Comptroller General under section 3512 of title 31.

"(2) Such systems shall provide for—

"(A) complete, reliable, consistent, and timely information which is prepared on a uniform basis and which is responsive to the financial information needs of department management;

"(B) the development and reporting of cost information;

"(C) the integration of accounting and budgeting information; and

"(D) the systematic measurement of performance.

"(c) The Assistant Secretary shall maintain a five-year plan describing the activities the Department of the Air Force proposes to conduct over the next five fiscal years to improve financial management. Such plan shall be revised annually.

Reports. "(d) The Assistant Secretary of the Air Force for Financial Management shall transmit to the Secretary of the Air Force a report each year on the activities of the Assistant Secretary during the preceding year. Each such report shall include a description and analysis of the status of Department of the Air Force financial management.".

(3) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"8022. Financial management.".

(d) NUMBER OF ASSISTANT SECRETARIES IN THE DEPARTMENT OF THE AIR FORCE.—Section 8016(a) of such title is amended by striking out "three" and inserting in lieu thereof "four".

10 USC 8016.

10 USC 3016 note. (e) EFFECTIVE DATES.—(1) The amendments made by subsections (a) and (b) shall take effect on January 20, 1989.

10 USC 8016 note. (2) The amendments made by subsections (c) and (d) shall take effect on July 1, 1989, except that such amendments shall take effect on such earlier date, but not before January 21, 1989, as may be prescribed by the President in advance by Executive order.

SEC. 703. GENERAL COUNSELS OF MILITARY DEPARTMENTS

(a) REQUIREMENT FOR ADVICE AND CONSENT OF SENATE.—Sections 3019, 5019, and 8019 of title 10, United States Code, are each amended by inserting ", by and with the advice and consent of the Senate" after "President".

5 USC 5316 note. (b) PAY GRADE.—Notwithstanding section 5316 of title 5, United States Code, the General Counsel of each of the military departments shall be paid at the highest rate of basic pay payable under section 5382 of title 5, United States Code, to a member of the Senior Executive Service.

10 USC 3019 note. (c) APPLICABILITY.—The amendments made by this section shall apply to appointments made under sections 3019, 5019, and 8019, respectively, of title 10, United States Code, on and after the date of the enactment of this Act.

10 USC 1251 note.

SEC. 704. DEFERRAL OF RETIREMENT DATE FOR CHAIRMAN OF THE JOINT CHIEFS OF STAFF

Notwithstanding the limitation contained in the first sentence of subsection (b) of section 1251 of title 10, United States Code, the President may defer until October 1, 1989, the retirement of the

officer serving as Chairman of the Joint Chiefs of Staff for the term which began on October 1, 1987.

PART B—FORCE STRUCTURE

SEC. 711. ASSIGNMENT OF COMBATANT FORCES

Section 162(a) of title 10, United States Code, is amended—

(1) in paragraph (1), by inserting "or to the United States element of the North American Air Defense Command" in the first sentence after "combatant commands";

(2) in paragraph (2), by inserting "or to the United States element of the North American Air Defense Command" after "combatant commands"; and

(3) in paragraph (3), by inserting "or to the United States element of the North American Air Defense Command" after "combatant command".

SEC. 712. RESPONSIBILITY AND AUTHORITY OF COMMANDER OF SPECIAL OPERATIONS COMMAND

Section 167(e) of title 10, United States Code, is amended—

(1) by striking out "activities, including the following functions:" and inserting in lieu thereof "activities.

"(2) The commander of such command shall be responsible for, and shall have the authority to conduct, the following functions relating to special operations activities (whether or not relating to the special operations command):";

(2) by striking out subparagraphs (F) and (G);

(3) by redesignating subparagraphs (B) through (E) as subparagraphs (D) through (G), respectively;

(4) by inserting after subparagraph (A) the following new subparagraphs:

"(B) Preparing and submitting to the Secretary of Defense program recommendations and budget proposals for special operations forces and for other forces assigned to the special operations command.

"(C) Exercising authority, direction, and control over the expenditure of funds—

"(i) for forces assigned to the special operations command; and

"(ii) for special operations forces assigned to unified combatant commands other than the special operations command, with respect to all matters covered by paragraph (4) and, with respect to a matter not covered by paragraph (4), to the extent directed by the Secretary of Defense.";

(5) by striking out paragraph (2) (as in effect immediately before the enactment of this Act) and inserting in lieu thereof the following:

"(3) The commander of the special operations command shall be responsible for—

"(A) ensuring the combat readiness of forces assigned to the special operations command; and

"(B) monitoring the preparedness to carry out assigned missions of special operations forces assigned to unified combatant commands other than the special operations command.

"(4)(A) The commander of the special operations command shall be responsible for, and shall have the authority to conduct, the following:

"(i) Development and acquisition of special operations-peculiar equipment.

"(ii) Acquisition of special operations-peculiar material, supplies, and services.";

(6) by striking out "(3) Subject to" and inserting in lieu thereof "(B) Subject to";

(7) by striking out "paragraph (1)(G)" and inserting in lieu thereof "subparagraph (A)"; and

(8) by designating the sentence beginning "The staff of the commander" as subparagraph (C).

SEC. 713. STRATEGIC AIR DEFENSE ALERT MISSION

National Guard.

(a) LIMITATION.—Except as provided in subsection (b)(2), the Secretary of the Air Force may not make any change in the alert status of any Air National Guard unit in the strategic air defense mission in the northern portion of the United States, or in the deployment of units assigned to that mission, from that status and deployment as in effect on April 10, 1988.

(b) REPORT.—(1) After the North Warning System and the Over-the-Horizon Backscatter Radar System are deployed and in operation as replacements for the Distant Early Warning (DEW line) system, the Secretary of Defense, acting through the Chairman of the Joint Chiefs of Staff, shall submit to Congress a report on those systems. The report shall—

(A) describe the implementation of those systems and their operational capability and effectiveness as demonstrated up to the time of the report;

(B) describe plans, in light of those new systems, for the forward deployment of the interceptor aircraft from United States bases during periods of heightened international tension; and

(C) clarify the alert status in the strategic air defense mission, under those new systems, of elements of the Air Force (including elements of the reserve components) at Air Force bases in the northern portions of the United States.

(2) The limitation in subsection (a) shall cease to apply 180 days after the date on which Congress receives the report required by paragraph (1).

(c) INTERIM REPORT.—Not later than February 1, 1989, the Secretary of Defense, acting through the Chairman of the Joint Chiefs of Staff, shall submit to Congress a report setting forth in detail each of the following:

(1) A description of the radar surveillance system and the alert and non-alert interceptor aircraft which will be available during each of fiscal years 1989, 1990, and 1991 along the northern border of the United States to carry out the strategic air defense mission.

(2) A description of the specific contributions to the strategic air defense mission expected to be made by the units identified in subsection (a) during each of those fiscal years.

(3) A specific recommendation as to whether the limitation in subsection (b) should be renewed and made permanent after fiscal year 1989.

SEC. 714. REPORTS ON BUDGETS FOR UNIFIED AND SPECIFIED COMMANDS

(a) REPORTS BY COMMANDERS OF COMBATANT COMMANDS.—(1) The commander of each of the unified and specified commands shall, not later than April 1, 1989, prepare an independent report on the implementation of the resource allocation provisions of title 10, United States Code, enacted by the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) that are specified in paragraph (2) and any other resource allocation provision enacted by that Act which the commander concerned considers appropriate.

(2) The sections of title 10, United States Code, referred to in paragraph (1) are the following:

(A) Section 153(a)(4) (A), (B), (C), and (D), relating to advice on requirements, programs, and budget.

(B) Section 163(b)(2), relating to the role of the Chairman as spokesman for the commanders of the unified and specified combatant commands.

(C) Section 166, relating to budget proposals for such commands.

(b) MATTERS TO BE INCLUDED.—Each report required by subsection (a) shall address the following matters:

(1) The status of implementation of each of the provisions referred to in subsection (a)(2) and any other related resource allocation provisions.

(2) For any provision referred to in subsection (a)(2) that is not fully implemented and for which the commander is responsible or shares responsibility, the date estimated by the commander concerned for final implementation of such provisions.

(3) An evaluation of the effect that each provision referred to in subsection (a)(2) has had or will have on (A) improving decisions within the Department of Defense with respect to the allocation of resources, and (B) improving the implementation of such decisions.

(4) With respect to section 166 of title 10, United States Code, the assessment by the commander, supported by actual examples, of what the effect would be of a small budget (in an annual amount of not more than $50,000,000) that would be managed by the Chairman of the Joint Chiefs of Staff but which would be controlled for execution by the commander and that would be available for activities to which the commander assigns a high priority, such as—

(A) JCS/non-JCS exercises (including foreign country participation);

(B) on-going contingencies;

(C) command and control;

(D) training; and

(E) selected operations.

(5) The views of the commander on the optimum role of the unified and specified commands in resource allocation decision-making and execution within the Department of Defense.

(6) The assessment of the commander concerning the degree to which that optimum role is played, as of the time of the preparation of the report, by his command.

(7) The assessment of the commander of whether current law, regulations, policies, and procedures provide the latitude for his command to play that optimum role.

(c) REPORT BY CHAIRMAN OF JOINT CHIEFS OF STAFF.—(1) The Chairman of the Joint Chiefs of Staff shall, not later than April 1, 1989, prepare a report on the implementation of the resource allocation provisions of title 10, United States Code, enacted by the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433) that are specified in paragraph (2) and any other resource allocation provision enacted by that Act which the Chairman considers appropriate.

(2) The sections of title 10, United States Code, referred to in paragraph (1) are the following:

(A) Section 113(g), relating to annual guidance by the Secretary of Defense to the heads of Department of Defense components.

(B) Section 153(a)(2)(A), relating to the preparation of strategic plans.

(C) Section 153(a)(3)(C), relating to the preparation and review of contingency plans.

(D) Section 153(a)(4), relating to advice by the Chairman to the Secretary of Defense concerning the requirements, programs, and budget of the Department of Defense.

(E) Section 163(b)(2), relating to the role of the Chairman as spokesman for the commanders of the unified and specified combatant commands.

(F) Section 166, relating to budget proposals for such commands.

(d) MATTERS TO BE INCLUDED.—The report required by subsection (c) shall address the following matters:

(1) The status of implementation of each of the provisions referred to in subsection (c)(2) and any other related resource allocation provisions.

(2) For any provision referred to in subsection (c)(2) that is not fully implemented, the date estimated by the Chairman for final implementation of such provisions.

(3) An evaluation of the effect that each provision referred to in subsection (c)(2) has had or will have on (A) improving decisions within the Department of Defense with respect to the allocation of resources, and (B) improving the implementation of such decisions.

(4) The views of the Chairman on the optimum role of the unified and specified commands, the Joint Staff, and the Chairman in resource allocation decisionmaking and execution within the Department of Defense .

(5) The assessment of the Chairman concerning the degree to which those optimum roles are played, as of the time of the preparation of the report, by the unified and specified commands, the Joint Staff, and the Chairman.

(6) The assessment of the Chairman of whether current law, regulations, policies, and procedures provide the latitude for the unified and specified commands, the Joint Staff, and the Chairman to play those optimum roles.

(e) SUBMISSION OF REPORTS.—The commanders of the unified and specified commands shall each submit the report required by subsection (a) to the Secretary of Defense. The Chairman of the Joint Chiefs of Staff shall submit the report required by subsection (c) to

the Secretary. The Secretary shall transmit those reports, without change, to the Committees on Armed Services of the Senate and House of Representatives not later than April 1, 1989, together with such comments on the reports and such recommendations as the Secretary considers appropriate.

SEC. 715. REPORT ON INITIAL REVIEW OF UNIFIED COMMAND PLAN AND INITIAL REVIEW OF SERVICE ROLES AND MISSIONS

(a) REPORT REQUIREMENT.—Not later than April 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on the implementation of sections 153(b) and 161(b) of title 10, United States Code.

(b) INITIAL REVIEW OF SERVICE ROLES AND MISSIONS.—With respect to the initial report of the Chairman of the Joint Chiefs of Staff to the Secretary of Defense under such section 153(b) (relating to the assignment of functions (or roles and missions) to the Armed Forces), the report under subsection (a) shall particularly describe how such report addressed each of the matters that the Chairman was required (under the second sentence of such section) to consider in preparing the report.

(c) INITIAL REVIEW OF THE UNIFIED COMMAND PLAN.—With respect to the initial review of the Chairman under such section 161(b) (relating to the missions, responsibilities, and force structures of the unified and specified combatant commands), the report under subsection (a) shall particularly describe how such review took into consideration each of the matters specified in paragraphs (1) through (10) of section 212(a) of the Goldwater-Nichols Department of Defense Reorganization Act of 1986 (Public Law 99-433; 100 Stat. 1017).

(d) MATTERS TO BE INCLUDED.—The report under subsection (a) shall describe, with respect to the reports referred to in subsections (b) and (c)—

(1) the Secretary's evaluation of each of the findings and conclusions of the Chairman in each such report;

(2) how the Secretary has implemented (or proposes to implement) each of the recommendations in each such report; and

(3) such recommendations for further legislative and administrative action as the Secretary considers appropriate based on his review of the reports.

PART C—PERSONNEL-RELATED PROVISIONS

SEC. 721. REGULATIONS FOR DELIVERY OF MILITARY PERSONNEL TO CIVIL AUTHORITIES WHEN CHARGED WITH CERTAIN OFFENSES

10 USC 814 note.

(a) Not later than 90 days after the date of enactment of this Act, the Secretary of Defense shall ensure that the Secretaries of the military departments have issued uniform regulations pursuant to section 814 of title 10, United States Code, to provide for the delivery of members of the Armed Forces to civilian authority when such members have been accused of offenses against civil authority. Such regulations shall specifically provide for the delivery of such members to civilian authority, in appropriate cases, when such members are accused of parental kidnapping and other similar offenses, including criminal contempt arising from such offenses and from child custody matters, and shall specifically address the special

needs for the exercise of the authority contained in section 814 of title 10, United States Code, when members of the Armed Forces assigned overseas are accused of offenses by civilian authorities.

(b) Not later than 120 days after the enactment of this Act, the Secretary of Defense shall transmit to the Committees on Armed Services of the Senate and House of Representatives a copy of all regulations promulgated under section 814 of title 10, United States Code, as a result of this section and any recommendations that the Secretary may have concerning the need for additional legislation related to the amenability of members of the Armed Forces to civil authority.

SEC. 722. ANNUITIES FOR JUDGES OF UNITED STATES COURT OF MILITARY APPEALS

(a) IN GENERAL.—Section 867 of title 10, United States Code (article 67 of the Uniform Code of Military Justice), is amended by adding at the end the following new subsection:

"(i)(1) A judge of the United States Court of Military Appeals who is separated from civilian service in the Federal Government after completing the term of service for which he was appointed as a judge of the court is eligible for an annuity under this subsection. An individual who is a former judge of the court who is separated from civilian service in the Federal Government and who completed the term of service on the court for which he was appointed is eligible for an annuity under this subsection. A judge or former judge who is eligible for an annuity under this subsection shall be paid that annuity if he elects, at the time he becomes eligible to receive that annuity, to receive that annuity in lieu of any other annuity for which he may be eligible at the time of such election (whether an immediate or a deferred annuity) under subchapter III of chapter 83 or chapter 84 of title 5 or any other retirement system for civilian employees of the Federal Government. Such an election may not be revoked.

"(2) The annuity of a judge or former judge under this subsection is 80 percent of the rate of pay for a judge in active service on the United States Court of Military Appeals as of the date on which the judge or former judge is separated from civilian service.

"(3) Nothing in this subsection affects any right of a judge or former judge to participate in the thrift savings plan under subchapter III of chapter 84 of title 5.

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"(4) The Secretary of Defense shall prescribe by regulation a program to provide annuities for survivors and former spouses of judges and former judges who receive an annuity under this subsection. That program shall, to the maximum extent practicable, provide benefits and establish terms and conditions that are similar to those provided under survivor and former spouse annuity programs under retirement systems for civilian employees of the Federal Government. The program may include provisions for the reduction in the annuity paid the judge or former judge as a condition for the annuity. An election by a judge or former judge to receive an annuity under this subsection terminates any right or interest which any individual may have to an annuity under any other retirement system for civilian employees of the Federal Government based on the service of the judge or former judge.

"(5) The Secretary of Defense shall periodically increase annuities and survivor annuities paid under this subsection in order to take account of changes in the cost of living. The Secretary shall pre-

Regulations.

scribe by regulation procedures for increases in annuities under this subsection. Such system shall, to the maximum extent appropriate, provide cost-of-living adjustments that are similar to those that are provided under other retirement systems for civilian employees of the Federal Government.

"(6) A retired judge or former judge of the court who is receiving an annuity under this subsection and who is appointed to a position in the Federal Government shall, during the period of such retired judge's or former judge's service in such position, be entitled to receive only the annuity under this subsection or the pay for that position, whichever is paid at the higher rate.

"(7) A retired judge or former judge who is entitled to an annuity under this subsection and who later is appointed as a justice or judge of the United States to hold office during good behavior and who retires from that office, or from regular active service in that office, shall be paid either (A) the annuity under this subsection, or (B) the annuity or salary to which he is entitled by reason of his service as such a justice or judge of the United States, as determined by an election by the judge or former judge at the time of such retirement from the office, or from regular active service in the office, of justice or judge of the United States. Such an election may not be revoked.

"(8) Annuities and survivor annuities paid under this subsection shall be paid out of the Department of Defense Military Retirement Fund.".

(b) DEADLINE FOR ESTABLISHMENT OF SURVIVOR PROGRAM.—The Secretary of Defense shall establish the program required by paragraph (4) of section 867(i) of title 10, United States Code, as added by subsection (a), not later than one year after the date of the enactment of this Act. 10 USC 867 note.

(c) TECHNICAL AMENDMENT.—Section 867(a)(4) of title 10, United States Code, is amended by inserting "or an annuity under subsection (i) or subchapter III of chapter 83 or chapter 84 of title 5" after "retired pay" both places it appears.

(d) EFFECTIVE DATE.—Subsection (i) of section 867 of title 10, United States Code, as added by subsection (a), shall apply with respect to judges of the United States Court of Military Appeals whose term of service on such court ends on or after the date of the enactment of this Act and to the survivors of such judges. 10 USC 867 note.

PART D—OTHER

SEC. 731. ANNUAL NET ASSESSMENTS

Section 113(j) of title 10, United States Code, is amended—

(1) by inserting "(1)" after "(j)";

(2) by striking out the second sentence; and

(3) by adding at the end the following:

"(2) Each such report shall— Reports.

"(A) include a comparison of the defense capabilities and programs of the armed forces of the United States and its allies with the armed forces of potential adversaries of the United States and allies of the United States;

"(B) include an examination of the trends experienced in those capabilities and programs during the five years immediately preceding the year in which the report is transmitted and an examination of the expected trends in those capabilities

and programs during the five years covered by the Five-Year Defense Program submitted to Congress during that year pursuant to section 114(g) of this title;

"(C) reflect, in the overall assessment and in the strategic and regional assessments, the defense capabilities and programs of the armed forces of the United States specified in the budget submitted to Congress under section 1105 of title 31 in the year in which the report is submitted and in the five-year defense program submitted in such year; and

"(D) identify the deficiencies in the defense capabilities of the armed forces of the United States in such budget and such five-year defense program.

Reports. "(3) The Secretary shall transmit to Congress the report required for each year under paragraph (1) at the same time that the President submits the budget to Congress under section 1105 of title 31 in that year. Such report shall be transmitted in both classified and unclassified form.".

Classified information. Public information.

SEC. 732. LINKAGE OF NATIONAL MILITARY STRATEGY AND WEAPON ACQUISITION PROGRAMS

(a) FINDINGS.—Congress makes the following findings:

(1) The Final Report to the President by the President's Blue Ribbon Commission on Defense Management (the "Packard Commission"), the Defense Acquisition Study of the Center for Strategic and International Studies, and the Report of the Commission on Integrated Long-Term Strategy (referred to as "Discriminate Deterrence") have separately identified significant deficiencies in the integration of weapon acquisition programs of the Department of Defense with national military strategy.

(2) There is no established process involving the Office of the Secretary of Defense and the Joint Staff in which strategy, policy, operational concepts, and resource constraints are fully debated, coordinated, and translated into weapon acquisition programs. The dominant role of setting requirements for new weapon systems remains with the headquarters staffs of the military departments, and the requirements developed by those departments often do not appear to have been rigorously evaluated in terms of their overall contribution to national military strategy.

(3) The requirements and planning process of the Department of Defense is not constrained by realistic projections of future defense budgets. Consequently, the process is fiscally unrealistic and, therefore, largely ignored in the subsequent planning and budgeting process. This process often results in disparate plans that do not optimize the potential contribution of the acquisition programs of each military department to the objectives of national military strategy.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) to ensure that the United States develops and acquires the proper mix of weapon systems to support national military strategy most effectively and efficiently, the Office of the Secretary of Defense and the Joint Staff should better define the links between national military strategy and specific acquisition programs;

(2) the Office of the Secretary of Defense, the Joint Staff, and the headquarters of the unified and specified combatant commands should more clearly define the necessary operational capabilities and concepts of operations as part of the requirements process and should explicitly consider alternative acquisition programs based on probable levels of resources likely to be approved by Congress and trade-offs among the acquisition programs of the military departments;

(3) the Secretary of Defense should ensure that resulting acquisition programs clearly reflect the objectives of national military strategy; and

(4) the Secretary of Defense should commission an independent study to assess the degree to which the development and acquisition of weapon systems is currently linked to and determined by the national military strategy and to recommend improvements where necessary or desirable.

SEC. 733. REPORT ON FUNDING FOR THE AMMUNITION PRODUCTION BASE

(a) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the maintenance of the inactive portion of the Government-owned ammunition production base is critical to the defense of the United States; and

(2) that sufficient funding should be provided to maintain this base to meet surge requirements and mobilization requirements of the military departments.

(b) STUDY OF ALTERNATIVES.—The Secretary of Defense shall study alternatives to the current method of providing funds for maintenance of the ammunition production base in order to determine if there are methods other than the current one which would better ensure that appropriate levels of funds are used for the maintenance of that production base.

(c) REPORT.—The Secretary shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the alternative methods considered by the Secretary under subsection (b) for providing funds for the ammunition production base. The Secretary shall include in the report such comments and recommendations with respect to such methods, including recommendations for legislation, as the Secretary considers appropriate. The report shall be submitted not later than December 1, 1988.

SEC. 734. SENSE OF CONGRESS CONCERNING DECLASSIFICATION OF CLASSIFIED INFORMATION

It is the sense of Congress that the Secretary of Defense should take all reasonable measures to declassify classified material under the control of the Department of Defense that the Secretary determines to be no longer required in the interest of national security to be protected from unauthorized disclosure.

SEC. 735. ADVANCE PAYMENTS OF ADMINISTRATIVE CLAIMS

(a) INCREASE IN MAXIMUM PAYMENT.—Subsection (a) of section 2736 of title 10, United States Code, is amended to read as follows:

"(a)(1) In the case of a person who is injured or killed, or whose property is damaged or lost, under circumstances for which the Secretary of a military department is authorized by law to allow a claim, the Secretary of the military department concerned may

make a payment to or for the person, or the legal representatives of the person, in advance of the submission of such a claim or, if such a claim is submitted, in advance of the final settlement of the claim. The amount of such a payment may not exceed $100,000.

"(2) Payments under this subsection are limited to payments which would otherwise be payable under section 2733 or 2734 of this title or section 715 of title 32.

"(3) The Secretary of a military department may delegate the authority to make payments under this subsection to the Judge Advocate General of an armed force under the jurisdiction of the Secretary. The Secretary may delegate such authority to any other officer or employee under the jurisdiction of the Secretary, but only with respect to the payment of amounts of $25,000 or less.

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"(4) Payments under this subsection shall be made under regulations prescribed by the Secretary of the military department concerned.".

10 USC 2736 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to any claim which would otherwise be payable under section 2733 or 2734 of title 10, United States Code, or under section 715 of title 32, United States Code, and which has not been finally settled on or before the date of the enactment of this Act.

Contracts. 42 USC 8287 note.

SEC. 736. ENERGY EFFICIENCY INCENTIVE

(a) ENERGY CONSERVATION INCENTIVE.—In order to provide additional incentive for the Secretary of a military department to enter into contracts under title VIII of the National Energy Conservation Policy Act (42 U.S.C. 8287 et seq.), the Secretary may use the first-year energy cost savings (as defined in subsection (d)) realized under any such contract in the manner provided in subsection (b). The amount of savings available for use under subsection (b) shall be determined as provided in subsection (c) and shall remain available for obligation until expended.

(b) AUTHORIZED USES OF SAVINGS.—First-year energy cost savings may be used as follows:

(1) One-half of the amount of such savings may be used for the acquisition of energy conserving measures at a military installation in addition to any such energy conserving measures provided for that installation under a contract entered into under title VIII of the National Conservation Energy Policy Act.

(2) One-half of the amount of such savings may be used for any morale, welfare, or recreation facility or service that is normally provided with appropriated funds, or for any minor military construction project (as defined in section 2805(a) of title 10, United States Code), that will enhance the quality of life of members of the Armed Forces at the military installation at which the energy cost savings were realized.

(c) DETERMINATION OF AMOUNT OF SAVINGS.—Not more than 90 days after the end of the first year during which energy savings measures have been in operation under a contract entered into by the Secretary of a military department under title VIII of the National Energy Conservation Policy Act, the Secretary of the military department concerned shall determine the amount of first-year energy cost savings realized under the terms of the contract during that year by the military department concerned by reason of the energy savings measures acquired and installed at that installation pursuant to that contract.

(d) DEFINITION.—For purposes of this section, the term "first-year energy cost savings" means the savings realized by the United States during the first year of a contract entered into by the Secretary of a military department under title VIII of the National Energy Conservation Policy Act.

TITLE VIII—ACQUISITION POLICY AND MANAGEMENT

Business and industry. Science and technology. Contracts.

PART A—ACQUISITION MANAGEMENT

SEC. 801. INTEGRATED FINANCING POLICY

(a) IN GENERAL.—(1) Chapter 137 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2330. Integrated financing policy

"(a) PLAN.—(1) The Secretary of Defense shall develop and keep current a plan that ensures that Department of Defense policies referred to in paragraph (2) are structured to meet the long-term needs of the Department of Defense for industrial resources and technology innovation.

"(2) This section applies to the following policies applicable to Department of Defense contracts:

"(A) Policies relating to progress payments or other financing by the Department of Defense under such contracts.

"(B) Policies relating to the return on contractor investment under such contracts.

"(C) Policies relating to the allocation of contract risk between the Department of Defense and a contractor.

"(b) MATTERS TO TAKE INTO CONSIDERATION.—In developing the plan under subsection (a) and keeping such plan current, the Secretary shall take into consideration the following:

"(1) The Five-Year Defense Program submitted to Congress under section 114(g) of this title each year.

"(2) Department of Defense mobilization plans.

"(3) The different characteristics of separate segments and tiers of private industry.

"(4) The profitability of contracts negotiated by the Department of Defense in each fiscal year.

"(c) REVIEW.—Each year the Secretary of Defense shall review the plan developed under subsection (a) and shall report the results of such review to the Committees on Armed Services of the Senate and the House of Representatives in conjunction with the submission of the Five-Year Defense Program in such year.

"(d) USE OF INFORMATION ON PROFITABILITY.—The Secretary of Defense, in negotiating any contract, shall use the most current information on profitability developed or obtained by the Secretary of Defense. The Secretary shall submit a report to Congress each year in conjunction with the submission of the Five-Year Defense Program on the extent to which contracts negotiated during the preceding fiscal year have prevented excessive contractor profits, determined on the basis of information obtained by the Secretary of Defense.". Reports.

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following:

"2330. Integrated financing policy.".

10 USC 2330 note.

(b) ADVISORY COMMITTEE ON STUDY METHODOLOGY.—(1) The Secretary of Defense shall appoint, in accordance with paragraph (3), an advisory committee consisting of five members for the purpose of recommending to the Secretary a financial analysis methodology for any return on investment study conducted by the Secretary.

(2) In recommending a financial analysis methodology under paragraph (1), the advisory committee shall provide recommendations on the desirability of using separate calculations for—

(A) the return on assets;

(B) the return on sales;

(C) capital-to-labor ratios;

(D) asset turnover;

(E) total investment in research and development; and

(F) such other measures of rate of return on investment as the Secretary determines to be appropriate.

(3) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall appoint the members of the committee, with representation from both the public and private sectors.

(4) The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the advisory committee appointed under this subsection.

Reports.

(5) Not later than November 1, 1989, the advisory committee shall submit to the Secretary of Defense a report containing the financial analysis methodology recommended for use in the conduct of the study referred to in paragraph (1). The committee shall cease to exist 90 days after submission of its report.

Reports.

(6) Not later than 90 days after receipt of the report from the advisory committee, the Secretary of Defense shall transmit the report to Congress, together with the Secretary's views on the committee's report.

SEC. 802. COMPETITIVE PROTOTYPE STRATEGIES

Section 2365 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) TERMINATION.—This section shall cease to be effective on September 30, 1991.".

SEC. 803. DELEGATION OF AUTHORITY TO APPROVE CERTAIN CONTRACT JUSTIFICATIONS

Section 2304(f) of title 10, United States Code, is amended—

(1) in paragraph (1)(B)(ii), by striking out "or a delegate" and all that follows through the semicolon and inserting in lieu thereof "(or the head of the procuring activity's delegate designated pursuant to paragraph (6)(A));";

(2) in paragraph (1)(B)(iii), by inserting "or in the case of the Under Secretary of Defense for Acquisition, acting in his capacity as the senior procurement executive for the Department of Defense, the Under Secretary's delegate designated pursuant to paragraph (6)(B)" after "(without further delegation)"; and

(3) by adding at the end the following:

"(6)(A) The authority of the head of a procuring activity under paragraph (1)(B)(ii) may be delegated only to an officer or employee who—

"(i) if a member of the armed forces, is a general or flag officer; or

"(ii) if a civilian, is serving in a position with a grade under the General Schedule (or any other schedule for civilian officers

or employees) that is comparable to or higher than the grade of brigadier general or rear admiral (lower half).

"(B) The authority of the Under Secretary of Defense for Acquisition under paragraph (1)(B)(iii) may be delegated only to—

"(i) an Assistant Secretary of Defense; or

"(ii) with respect to the element of the Department of Defense (as specified in section 111(b) of this title), other than a military department, carrying out the procurement action concerned, an officer or employee serving in or assigned or detailed to that element who—

"(I) if a member of the armed forces, is serving in a grade above brigadier general or rear admiral (lower half); or

"(II) if a civilian, is serving in a position with a grade under the General Schedule (or any other schedule for civilian officers or employees) that is comparable to or higher than the grade of major general or rear admiral.".

SEC. 804. EVALUATION OF CONTRACTS FOR PROFESSIONAL AND TECHNICAL SERVICES

10 USC 2304 note.

(a) ESTABLISHMENT OF CRITERIA.—Within 120 days after the date of the enactment of this Act, the Secretary of Defense shall establish criteria to ensure that proposals for contracts for professional and technical services are evaluated on a basis which does not encourage contractors to propose mandatory uncompensated overtime for professional and technical employees. In establishing such criteria, the Secretary shall consider the recommendations of the advisory committee established under subsection (b). The Secretary shall, before implementing such criteria, transmit to the Committees on Armed Services of the Senate and House of Representatives a report containing such criteria and the recommendations made by the advisory committee.

Reports.

(b) ADVISORY COMMITTEE.—(1) Within 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an advisory committee to make recommendations on the criteria to be adopted by the Secretary. The advisory committee shall be composed, at a minimum, of such representatives as the Secretary considers appropriate from the Office of the Under Secretary of Defense for Acquisition, the Office of the Comptroller of the Department of Defense, the Acquisition Executives of the military departments, the Defense Contract Audit Agency, the Office of the Inspector General of the Department of Defense, and professional and technical services industries.

(2) In developing the recommendations, the advisory committee shall address the following issues:

(A) How the Department of Defense can best be assured that it receives the best quality services for the amounts expended and that the contractors supplying such services follow sound personnel management practices and observe established labor-management policies and regulations.

(B) Whether contract competitions should be structured in a manner that requires offerors to compete on the basis of factors other than the number of hours per week its professional and technical employees of similar annual salaries work.

(C) Whether the Department of Defense can allow contractors to maintain different accounting systems (for example, 40-hour work week, full time accounting) and still allow the Department

to evaluate proposals on the basis of a work rate of 40 hours per week and 2,080 hours per year.

SEC. 805. PROCUREMENT OF CRITICAL AIRCRAFT AND SHIP SPARE PARTS

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by inserting after section 2382 the following:

"§ 2383. Procurement of critical aircraft and ship spare parts: quality control

"(a) In procuring any spare or repair part that is critical to the operation of an aircraft or ship, the Secretary of Defense shall require the contractor supplying such part to provide a part that meets all appropriate qualification and contractual quality requirements as may be specified and made available to prospective offerors. In establishing the appropriate qualification requirements, the Secretary of Defense shall utilize those requirements, if available, which were used to qualify the original production part, unless the Secretary of Defense determines in writing that any or all such requirements are unnecessary.

10 USC 2383 note.

"(b) In this section, the term 'spare or repair part' has the meaning given such term by section 2323(f) of this title.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 2382 the following new item:

"2383. Procurement of critical aircraft and ship spare parts: quality control.".

(b) EFFECTIVE DATE.—Section 2383 of title 10, United States Code, as added by subsection (a), shall apply with respect to contracts entered into after the end of the 180-day period beginning on the date of the enactment of this Act.

SEC. 806. INCENTIVES FOR INNOVATION

(a) IN GENERAL.—(1) Section 2305(d) of title 10, United States Code, is amended by adding at the end the following:

"(4)(A) Whenever the head of an agency requires that proposals described in paragraph (1)(B) or (2)(B) be submitted by an offeror in its offer, the offeror shall not be required to provide a proposal that enables the United States to acquire competitively in the future an identical item if the item was developed exclusively at private expense unless the head of the agency determines that—

"(i) the original supplier of such item will be unable to satisfy program schedule or delivery requirements; or

"(ii) proposals by the original supplier of such item to meet the mobilization requirements are insufficient to meet the agency's mobilization needs.

"(B) In considering offers in response to a solicitation requiring proposals described in paragraph (1)(B) or (2)(B), the head of an agency shall base any evaluation of items developed exclusively at private expense on an analysis of the total value, in terms of innovative design, life-cycle costs, and other pertinent factors, of incorporating such items in the system.".

(2) Section 2305(d)(3) of such title is amended by adding at the end the following: "Such objectives may not impair the rights of prospective contractors or subcontractors otherwise provided by law.".

(b) CLARIFYING AMENDMENT.—Paragraphs (1)(B) and (2)(B) of section 2305(d) of such title are each amended by striking out "The proposals" and all that follows through "contract are" and inserting

in lieu thereof "Proposals referred to in the first sentence of subparagraph (A) are".

SEC. 807. REGULATIONS ON USE OF FIXED-PRICE DEVELOPMENT CONTRACTS

10 USC 2304 note.

(a) IN GENERAL.—(1) Not later than 120 days after the date of the enactment of this Act, the Secretary of Defense shall revise the Department of Defense regulations that provide for the use of fixed-price type contracts in a development program. The regulations shall provide that a fixed-price contract may be awarded in such a program only if—

(A) the level of program risk permits realistic pricing; and

(B) the use of a fixed-price contract permits an equitable and sensible allocation of program risk between the United States and the contractor.

(2)(A) The regulations also shall provide that if a contract for development of a major system is to be awarded in an amount greater than $10,000,000, the contract may not be a firm fixed-price contract.

(B) A waiver of the requirement prescribed in regulations under subparagraph (A) may be granted by the Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, but only if the Secretary determines and states in writing that the award is consistent with the criteria specified in clauses (A) and (B) of paragraph (1) and the regulations prescribed under such paragraph. The Secretary may delegate the authority in the preceding sentence only to a person who holds a position in the Office of the Secretary of Defense at or above the level of Assistant Secretary of Defense.

(b) DEFINITIONS.—In this section, the term "major system" has the meaning given such term by section 2302(5) of such title.

(c) EXPIRATION.—Paragraph (2) of subsection (a) shall cease to be effective two years after the date of the enactment of this Act.

SEC. 808. DEPARTMENT OF DEFENSE ADVISORY PANEL ON GOVERNMENT-INDUSTRY RELATIONS

(a) ESTABLISHMENT OF ADVISORY PANEL.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall establish an advisory panel to study and make recommendations to the Secretary on ways to enhance cooperation between the Department of Defense and industry regarding matters of mutual interest, including—

(1) procedures governing the debarment and suspension of contractors from doing business with the Department of Defense;

(2) the role of self-governing oversight programs established by defense contractors;

(3) expanded use of alternative dispute resolution procedures; and

(4) the desirability of establishing a permanent advisory panel on government-industry relations.

(b) MEMBERSHIP OF ADVISORY PANEL.—The Secretary of Defense shall appoint persons to the advisory panel who are especially qualified to serve on such panel by virtue of their education, training, and experience in defense acquisition matters. The Secretary shall include on the membership of such panel an appropriate

balance of persons from government, private industry, and academia.

(c) REPORT DEADLINE.—(1) The Secretary shall require the advisory panel to submit its findings and recommendations to him not later than 180 days after the date on which the panel is appointed.

(2) The Secretary shall transmit a copy of the report of the advisory panel to Congress, together with such comments and recommendations thereon as the Secretary determines appropriate, within 30 days after the date on which the report is submitted to the Secretary.

SEC. 809. REPORT ON SIMPLIFICATION AND STREAMLINING OF ACQUISITION PROCEDURES

(a) REPORT ON ACQUISITION SIMPLIFICATION PROGRAMS.—The Under Secretary of Defense for Acquisition shall submit to Congress a report on the current programs of the Under Secretary regarding simplification of procedures governing the acquisition process of the Department of Defense. The report shall include an assessment of the results of those programs.

(b) MATTERS TO BE INCLUDED.—The report under subsection (a) shall include the following:

(1) A timetable to effectuate regulation reform measures based on the lessons learned from the conduct of the programs referred to in subsection (a).

(2) In the case of a program referred to in subsection (a) which has not been completed—

(A) the methodology to be used in evaluating such program; and

(B) a timetable for completing an assessment of the results of the program.

(3) A comprehensive analysis of the effects that existing laws, regulations, and guidelines applicable to procurement by the Department of Defense have on the capability of the Department of Defense efficiently and effectively to meet the national defense needs of the United States, including any recommendations for legislation that the Under Secretary considers appropriate to improve that capability.

(4) A description of the results of the studies undertaken by the Under Secretary in conjunction with the Inspector General of the Department of Defense and the Comptroller of the Department of Defense regarding the responsibilities of the Under Secretary under section 133(d) of title 10, United States Code, to prescribe policies for the prevention of duplicative audit and oversight of contractor activities by different elements of the Department of Defense.

(5) A discussion of the feasibility and desirability of each of the following:

(A) Structuring the audit and oversight of a contractor by the Department of Defense in a manner that reasonably relates to the extent of the risk assumed by the contractor in the type of contract that is subject to the audit and oversight.

(B) Granting authority to a senior official of the Department of Defense to receive and promptly resolve complaints of acquisition officials and contractors of the Department of Defense regarding allegations of duplicative oversight activities.

(C) Establishing a formal independent means within the Department of Defense to ensure quality, integrity, and professionalism in the performance of audit and oversight activities.

(D) Establishing and implementing a policy that prohibits an organization within the Department of Defense with responsibility for oversight of contractor activities from conducting an audit or review of an activity in the Department of Defense if another such oversight organization of the Department of Defense has conducted an audit or review of that activity within a fixed period of time preceding the proposed audit or review, unless the audit or review proposed to be conducted is substantially different in type and scope from the prior audit or review and there is a compelling reason not to rely on the prior audit or review.

(c) DEADLINE FOR REPORT.—The report required by subsection (a) shall be submitted not later than December 1, 1988.

(d) COORDINATION OF ANNUAL AUDIT PLANS BY AUDIT AND OVERSIGHT ELEMENTS OF DOD.—Section 133(d)(1) of title 10, United States Code, is amended by adding at the end the following new sentence: "Such policies shall provide for coordination of the annual plans developed by each such element for the conduct of audit and oversight functions within each contracting activity.".

PART B—DEFENSE INDUSTRIAL BASE

SEC. 821. MAINTENANCE AND IMPROVEMENT OF THE DEFENSE INDUSTRIAL BASE

10 USC 2501 note.

(a) FINDINGS.—Congress finds the following:

(1) A strong defense industrial base in the United States is essential to the national security and significantly enhances the capability of United States manufacturers and producers—

(A) to develop technologically superior defense material rapidly and to produce such material efficiently in cost-effective quantities during peacetime; and

(B) to expand productive capacity rapidly to meet the demands of a national emergency.

(2) A strong and responsive defense industrial base is a basic deterrent to aggression and, thus, helps to preserve peace.

(3) Studies conducted over a 10-year period by Congress, the General Accounting Office, the Department of Defense, and others have consistently shown a steady, unchecked erosion of the defense industrial base in the United States.

(4) Despite the uniformly adverse findings contained in the reports on such studies, the United States still lacks a coherent industrial base policy that is directly linked to national security strategy.

(5) Reliable methods for assessing the weaknesses and strengths of the defense industrial base have not been utilized.

(6) The development and implementation of an effective program for the restoration and maintenance of the defense industrial base is unlikely to occur without improved centralized policy direction and management.

(7) Existing programs and authorities designed to restore and maintain the defense industrial base have received inconsistent and, frequently, inadequate allocations of resources and

management attention from the military departments and the Defense Agencies because the Office of the Secretary of Defense has not exercised strong leadership in defense industrial base management.

(8) Procurement policies, regulations, and practices of the Department of Defense do not sufficiently encourage—

(A) investment in advanced manufacturing technology and modernization of manufacturing facilities and equipment;

(B) the entry of efficient commercial producers into the defense procurement market; and

(C) continued participation of efficient producers in defense procurement competitions.

(b) AMENDMENTS TO TITLE 10.—(1) Chapter 148 of title 10, United States Code, is amended—

(A) by redesignating sections 2501 and 2502 as sections 2506 and 2507, respectively; and

(B) by striking out the chapter heading and the table of sections and inserting in lieu thereof the following:

"CHAPTER 148—DEFENSE INDUSTRIAL BASE

"Sec.
"2501. Centralized guidance, analysis, and planning.
"2502. Policies relating to defense industrial base.
"2503. Defense industrial base office.
"2504. Defense memoranda of understanding.
"2505. Offset policy; notification.
"2506. Limitation on use of funds: procurement of goods which are other than American goods.
"2507. Miscellaneous procurement limitations.

"§ 2501. Centralized guidance, analysis, and planning

"The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall—

"(1) provide overall policy guidance and direction to the military departments and the Defense Agencies on matters relating to the maintenance, expansion, and readiness of the defense industrial base of the United States;

"(2) analyze the capabilities of the defense industrial base of the United States to fulfill the requirements of national defense strategy in time of peace and the expanded requirements of national defense strategy in time of war or national emergency;

"(3) develop clear standards for assessing military mobilization requirements and the manner in which those requirements will be met;

"(4) develop and direct the implementation of plans, programs, and policies that promote the ability of the defense industrial base of the United States to fulfill the requirements of the Department of Defense; and

"(5) identify and plan for the procurement of items of supply that—

"(A) are suitable substitutes for military standard items of supply, or suitable substitutes for subsystems or components of military standard items of supply, that are anticipated to be unavailable from existing sources in quantities that are sufficient to meet planned requirements in time of war or national emergency; and

"(B) are commercially available from domestic sources.

"§ 2502. Policies relating to defense industrial base

"(a) ACQUISITION POLICIES.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish and implement policies requiring—

"(1) for each major defense acquisition program, an analysis of the capabilities of the defense industrial base to develop, produce, maintain, and support such program;

"(2) the consideration of requirements for efficient manufacture during the design and production of the systems to be procured under the major defense acquisition program;

"(3) the use of advanced manufacturing technology, processes, and systems during the research and development and production phases of the acquisition of a weapon system under a major defense acquisition program;

"(4) to the maximum extent practicable for each major defense acquisition program, the development of an acquisition plan that provides for contract solicitations which encourage competing offerors to acquire, for use in the performance of the contract, modern technology, production equipment, and production systems (including hardware and software) that increase the productivity of the offerors and reduce life-cycle costs;

"(5) the encouragement of domestic source investment in advanced manufacturing technology production equipment and processes through—

"(A) recognition of the contractor's investment in advanced manufacturing technology production equipment and processes in the development of the contract objective; and

"(B) increased emphasis in source selections to the efficiency of production;

"(6) the expanded use of commercial manufacturing processes rather than processes specified by the Department of Defense;

"(7) elimination of barriers to, and facilitation of, the integrated manufacture of commercial items and items being produced under defense contracts; and

"(8) the expanded use of commercial products as set forth in section 2325 of this title.

"(b) ANALYSIS.—(1) In the conduct of any analysis required under subsection (a)(1), the following factors, as appropriate, may be considered:

"(A) The availability of essential raw materials, special alloys, and composite materials.

"(B) The availability of components, subsystems, production equipment, and facilities that are essential for—

"(i) the sustained production of a system that is fully capable of performing its purpose;

"(ii) the uninterrupted maintenance and repair of such system; and

"(iii) the sustained operation of such system.

"(C) The availability of required special tooling and production test equipment.

"(D) The identification of components or subsystems that are available solely from sources outside the United States.

"(E) Planned alternatives, if appropriate, for fulfilling requirements that during peacetime are fulfilled by sources outside the United States.

"(2) In the conduct of the analysis required under subsection (a)(1), the Under Secretary shall minimize the paperwork burden on the contractor, its subcontractors, and suppliers.

"(c) ASSESSMENTS.—(1) The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall ensure that, for each major defense acquisition program—

"(A) the capability of the domestic defense industrial base to meet requirements for that program has been assessed by the military department or Defense Agency carrying out such program; and

"(B) the capability of the domestic defense industrial base to meet the aggregate requirements for all such programs has been assessed in the Office of the Secretary of Defense.

"(2) For purposes of this subsection, the term 'domestic defense industrial base' means firms engaged in production in the United States and Canada.

"§ 2503. Defense industrial base office

"The Under Secretary of Defense for Acquisition may establish within the Office of the Under Secretary of Defense for Acquisition a defense industrial base office to be the principal office in the Department of Defense for the development of policies and plans regarding the conduct of programs for the improvement of the defense industrial base of the United States. Such an office shall, at a minimum—

"(1) develop and propose plans and programs for the maintenance and fostering of defense industrial readiness in the United States;

"(2) develop and propose plans and programs to encourage the use by the defense industries of the United States of advanced manufacturing technology and processes and investment in improved productivity;

"(3) propose, consistent with existing law, the repeal or amendment of the regulations of the Department of Defense prescribed as part of the Federal Acquisition Regulation (the single system of Government-wide procurement regulation as defined in section 4(4) of the Office of Federal Procurement Policy Act) and such other regulations and policies as may be necessary to eliminate any adverse effect that the regulations and policies may have on investment in improved productivity; and

"(4) evaluate and propose for testing innovative ideas for improving defense industrial readiness in the United States, including ideas for improving—

"(A) manufacturing processes; and

"(B) the acquisition procedures of the Department of Defense.".

(2) The items relating to chapter 148 in the tables of chapters at the beginning of part IV of subtitle A of title 10, United States Code, and at the beginning of such subtitle, are each amended to read as follows:

"148. Defense Industrial Base ..... 2501".

(c) ANALYSIS OF DEFENSE INDUSTRIAL BASE CAPABILITY.—(1) The Under Secretary of Defense for Acquisition shall require the Secretary of each military department to provide to the Under Secretary at least one analysis of the type described in section 2502(a)(1) of title 10, United States Code (as added by subsection (b)) for an acquisition program carried out by such department. The Under Secretary shall compile and analyze the data obtained from such analysis in order to ascertain whether the industrial base is capable of supporting each such program. 10 USC 2502 note.

(2) A program may not be selected for an analysis under this subsection if production of the system to be acquired under such program has begun.

(3) All analyses required under this subsection shall be completed not later than September 30, 1990.

(4) Not later than February 1, 1991, the Under Secretary of Defense for Acquisition shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the analyses required under this subsection. Reports.

SEC. 822. SOURCE FOR PROCUREMENT OF CERTAIN VALVES AND MACHINE TOOLS

Section 2507 of title 10, United States Code, as redesignated by section 821, is amended by adding at the end the following new subsection:

"(d) VALVES AND MACHINE TOOLS.—(1) During fiscal years 1989, 1990, and 1991, funds appropriated or otherwise made available to the Department of Defense may not be used to enter into a contract for the procurement of items described in paragraph (2) that are not manufactured in the United States or Canada.

"(2) Items covered by paragraph (1) are the following:

"(A) Powered and non-powered valves in Federal Supply Classes 4810 and 4820 used in piping for naval surface ships and submarines.

"(B) Machine tools in the Federal Supply Classes for metalworking machinery numbered 3405, 3408, 3410 through 3419, 3426, 3433, 3438, 3441 through 3443, 3445, 3446, 3448, 3449, 3460, and 3461.

"(3) The Secretary of Defense may waive the requirement of paragraph (1) with respect to the procurement of an item if the Secretary determines that any of the following apply with respect to that item:

"(A) The restriction would cause unreasonable costs or delays to be incurred.

"(B) United States producers of the item would not be jeopardized by competition from a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(C) Satisfactory quality items manufactured in the United States or Canada are not available. Canada.

"(D) The restriction would impede cooperative programs entered into between the Department of Defense and a foreign country and that country does not discriminate against defense items produced in the United States to a greater degree than the United States discriminates against defense items produced in that country.

"(E) The procurement is for an amount less than $25,000 and simplified small purchase procedures are being used.

"(F) The restriction would result in the existence of only one United States or Canadian source for the item.

"(4) The provisions of this section may be renewed with respect to any item by the Secretary of Defense at the end of fiscal year 1991 for an additional two fiscal years if the Secretary determines that a continued restriction on that item is in the national security interest.".

Arms and munitions.

SEC. 823. CRITICAL TECHNOLOGIES PLAN

(a) IN GENERAL.—(1) Chapter 139 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2368. Critical technologies plan

"(a) ANNUAL PLAN.—(1) Not later than March 15 of each year, the Under Secretary of Defense for Acquisition, in consultation with the Assistant Secretary of Energy for Defense Programs, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a plan for developing the 20 technologies considered by the Secretary of Defense and the Secretary of Energy to be the technologies most essential to develop in order to ensure the long-term qualitative superiority of United States weapon systems.

"(2) In selecting the technologies to be included in the plan, the Secretary of Defense and the Secretary of Energy shall consider both product technologies and process technologies.

Classified information. Public information.

"(3) Such plan shall be submitted in both classified and unclassified form.

"(b) CONTENT OF PLAN.—Each plan submitted under subsection (a) shall include, with respect to each technology included in the plan, the following matters:

"(1) The reasons for selecting such technology.

"(2) The milestone goals for the development of such technology.

"(3) The amounts contained in the budgets of the Department of Defense, the Department of Energy, and other departments and agencies for the support of the development of such technology for the fiscal year beginning in the year in which the plan is submitted.

"(4) A comparison of the positions of the United States and the Soviet Union in the development of such technology.

"(5) The potential contributions that the allies of the United States can make to meet the needs of the alliance for such technology.

"(6) With respect to the development of such technology, a comparison of the relative positions of the United States and other industrialized countries that are prominent in the development of such technology and the extent to which the United States should depend on other countries for the development of such technology.

"(7) The potential contributions that the private sector can be expected to make from its own resources in connection with development of civilian applications for such technology.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2368. Critical technologies plan.".

(b) FIRST REPORT.—The first report under section 2368 of title 10, United States Code (as added by subsection (a)), shall be submitted in 1989. 10 USC 2368 note.

SEC. 824. DEFENSE MEMORANDA OF UNDERSTANDING

Chapter 148 of title 10, United States Code, as amended by section 821, is further amended by inserting after section 2503 the following new section:

"§ 2504. Defense memoranda of understanding

"In the negotiation and renegotiation of each memorandum of understanding between the Secretary of Defense, acting on behalf of the United States, and one or more foreign countries (or any instrumentality of a foreign country) relating to research, development, or production of defense equipment, the Secretary of Defense shall—

"(1) consider the effect of such proposed memorandum of understanding on the defense industrial base of the United States; and

"(2) regularly solicit and consider information or recommendations from the Secretary of Commerce with respect to the effect on the United States industrial base of such memorandum of understanding.".

SEC. 825. DEPARTMENT OF DEFENSE OFFSET POLICY

(a) FINDINGS.—Congress makes the following findings: 10 USC 2505 note.

(1) Many contracts entered into by United States firms for the supply of weapon systems or defense-related items to foreign countries and foreign firms are subject to contractual arrangements under which United States firms must agree—

(A) to have a specified percentage of work under, or monetary amount of, the contract performed by one or more foreign firms;

(B) to purchase a specified amount or quantity of unrelated goods or services from domestic sources of such foreign countries; or

(C) to invest a specified amount in domestic businesses of such foreign countries.

Such contractual arrangements, known as "offsets", are a component of international trade and could have an impact on United States defense industry opportunities in domestic and foreign markets.

(2) Some United States contractors and subcontractors may be adversely affected by such contractual arrangements.

(3) Many contracts which provide for or are subject to offset arrangements require, in connection with such arrangements, the transfer of United States technology to foreign firms.

(4) The use of such transferred technology by foreign firms in conjunction with foreign trade practices permitted under the trade policies of the countries of such firms can give foreign firms a competitive advantage against United States firms in world markets for products using such technology.

(5) A purchase of defense equipment pursuant to an offset arrangement may increase the cost of the defense equipment to the purchasing country and may reduce the amount of defense equipment that a country may purchase.

(6) The exporting of defense equipment produced in the United States is important to maintain the defense industrial base of the United States, lower the unit cost of such equipment to the Department of Defense, and encourage the standardized utilization of United States equipment by the allies of the United States.

(b) AMENDMENT TO TITLE 10.—Chapter 148 of title 10, United States Code, as amended by sections 821 and 824, is further amended by inserting after section 2504 the following new section:

President of U.S.

"§ 2505. Offset policy; notification

"(a) ESTABLISHMENT OF OFFSET POLICY.—The President shall establish, consistent with the requirements of this section, a comprehensive policy with respect to contractual offset arrangements in connection with the purchase of defense equipment or supplies which addresses the following:

"(1) Transfer of technology in connection with offset arrangements.

"(2) Application of offset arrangements, including cases in which United States funds are used to finance the purchase by a foreign government.

"(3) Effects of offset arrangements on specific subsectors of the industrial base of the United States and for preventing or ameliorating any serious adverse effects on such subsectors.

"(b) TECHNOLOGY TRANSFER.—(1) No official of the United States may enter into a memorandum of understanding or other agreement with a foreign government that would require the transfer of United States defense technology to a foreign country or a foreign firm in connection with a contract that is subject to an offset arrangement if the implementation of such memorandum or agreement would significantly and adversely affect the defense industrial base of the United States and would result in a substantial financial loss to a United States firm.

"(2) Paragraph (1) shall not apply in the case of a memorandum of understanding or agreement described in paragraph (1) if the Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, determines that a transfer of United States defense technology pursuant to such understanding or agreement will result in strengthening the national security of the United States and so certifies to Congress.

"(3) If a United States firm is required under the terms of a memorandum of understanding, or other agreement entered into by the United States with a foreign country, to transfer defense technology to a foreign country, the United States firm may protest the determination to the Secretary of Defense on the grounds that the transfer of such technology would adversely affect the defense industrial base of the United States and would result in substantial financial loss to the protesting firm. The Secretary of Defense, in consultation with the Secretary of Commerce and the Secretary of State, shall make the final determination of the validity of the protesting firm's claim.

Claims.

"(c) NOTIFICATION REGARDING OFFSETS.—If at any time a United States firm enters into a contract for the sale of a weapon system or defense-related item to a foreign country or foreign firm and such contract is subject to an offset arrangement exceeding $50,000,000 in value, such firm shall notify the Secretary of Defense of the proposed sale. Notification shall be made under this subsection in

Regulations.

accordance with regulations prescribed by the Secretary of Defense in consultation with the Secretary of Commerce.

"(d) DEFINITIONS.—In this section:

"(1) The term 'United States firm' means a business entity that performs substantially all of its manufacturing, production, and research and development activities in the United States.

"(2) The term 'foreign firm' means a business entity other than a United States firm.".

(c) NEGOTIATIONS.—(1) The President shall enter into negotiations with foreign countries that have a policy of requiring an offset arrangement in connection with the purchase of defense equipment or supplies from the United States. The negotiations should be conducted with a view to achieving an agreement with the countries concerned that would limit the adverse effects that such arrangements have on the defense industrial base of each such country. President of U.S. 10 USC 2505 note.

(2) Every effort shall be made to achieve such agreements within two years after the date of the enactment of this Act.

(d) REPORTS.—(1) Not later than November 15, 1988, the President shall submit to Congress a comprehensive report on contractual offset arrangements required of United States firms for the supply of weapon systems or defense-related items to foreign countries or foreign firms. Such report shall include, at a minimum, the following: President of U.S.

(A) An analysis of the amount and type of contractual offsets required of United States firms by the governments of foreign countries or by foreign firms.

(B) An assessment of the benefits for and costs to United States manufacturers of defense products at all tiers that result from requirements of foreign governments for contractual offset arrangements in the case of products procured from United States firms.

(C) An assessment of the benefits for and the costs to United States manufacturers of defense products at all tiers that would result from restriction of the ability of foreign governments or foreign firms to require contractual offsets in the case of defense products procured from United States firms.

(D) An assessment of the benefits and costs of a United States policy that requires reciprocal offsets in the procurement of defense products from those countries whose governments have a policy of requiring contractual offsets in the case of defense products procured from United States firms.

(E) An assessment of the impact that elimination of contractual offset requirements in international sales of defense products would have on the national security of the United States.

(F) Recommendations for a national policy with respect to contractual offset arrangements.

(G) A preliminary discussion of the actions referred to in paragraph (2).

(2) Not later than March 15, 1990, the President shall transmit to Congress a report containing a discussion of appropriate actions to be taken by the United States with respect to purchases from United States firms by a foreign country (or a firm of that country) when that country or firm requires an offset arrangement in connection with the purchase of defense equipment or supplies in favor of such country. The report shall include a discussion of the following possible actions:

(A) A requirement for an offset in favor of the United States or United States firms in any case in which the Department of Defense or any other department or agency of the United States purchases goods from such foreign country or a firm of such country.

(B) A demand for offset credits from such foreign country to be used, to the extent practicable, to meet offset obligations of United States firms to such foreign country or to a firm of such country.

(C) A reduction in assistance furnished such foreign country by the United States.

(D) A requirement for alternative equivalent advantages in the case of any such foreign country or a firm of such country if the United States does not purchase a sufficient volume of goods from such country or firm for a requirement described in subparagraph (A) to be effective.

(3) The President shall report to Congress at least once each year, for a period of 4 years, on the progress of the negotiations referred to in subsection (c). The first such report shall be submitted not later than one year after the date of the enactment of this Act.

(4) In this subsection, the terms "United States firm" and "foreign firm" have the same meanings as are provided in section 2505(d) of title 10, United States Code, as added by subsection (b).

SEC. 826. ALLOWABILITY OF COSTS TO PROMOTE THE EXPORT OF DEFENSE PRODUCTS

(a) IN GENERAL.—Section 2324(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

Regulations.

"(5) The regulations shall provide that costs to promote the export of products of the United States defense industry, including costs of exhibiting or demonstrating products, shall be allowable to the extent that such costs—

"(A) are allocable, reasonable, and not otherwise unallowable;

"(B) with respect to the activities of the business segment to which such costs are being allocated, are determined by the Secretary of Defense to be likely to result in future cost advantages to the United States; and

"(C) with respect to a business segment which allocates to Department of Defense contracts $2,500,000 or more of such costs in any fiscal year of such business segment, are not in excess of the amount equal to 110 percent of such costs incurred by such business segment in the previous fiscal year.".

10 USC 2324 note.

(b) REGULATIONS.—The Secretary of Defense shall prescribe final regulations under paragraph (5) of section 2324(f) of title 10, United States Code (as added by subsection (a)), not later than 90 days after the date of the enactment of this Act. Such regulations shall apply with respect to costs referred to in such paragraph that are incurred by a Department of Defense contractor (or a subcontractor of such a contractor) on or after the first day of the contractor's (or subcontractor's) first fiscal year that begins on or after the date on which such final regulations are prescribed.

10 USC 2324 note.

(c) REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States and the Inspector General of the Department of Defense shall each submit to the Committees on Armed Services of the Senate and House of Representatives a report that includes the following:

(1) An assessment of whether the regulations required by section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), provide the appropriate incentives to stimulate exports by the United States defense industry and provide cost savings to the United States.

(2) An assessment of whether such regulations provide appropriate criteria to ensure that costs allowed are reasonably likely to provide future cost savings to the United States.

(d) TERMINATION.—Section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), shall cease to be effective three years after the date of the enactment of this Act. 10 USC 2324 note.

PART C—POLICIES RELATING TO DEFENSE CONTRACTORS

SEC. 831. ADDITIONAL PROHIBITIONS ON PERSONS CONVICTED OF FELONIES RELATED TO DEFENSE CONTRACTS

(a) IN GENERAL.—Section 2408(a) of title 10, United States Code, is amended to read as follows:

"(a) PROHIBITION.—(1) An individual who is convicted of fraud or any other felony arising out of a contract with the Department of Defense shall be prohibited from each of the following: Fraud.

"(A) Working in a management or supervisory capacity on any defense contract.

"(B) Serving on the board of directors of any defense contractor.

"(C) Serving as a consultant to any defense contractor.

"(D) Being involved in any other way, as determined under regulations prescribed by the Secretary of Defense, with a defense contract. Regulations.

"(2) Except as provided in paragraph (3), the prohibition in paragraph (1) shall apply for a period, as determined by the Secretary of Defense, of not less than five years after the date of the conviction.

"(3) The prohibition in paragraph (1) may apply with respect to an individual for a period of less than five years if the Secretary determines that the five-year period should be waived in the interests of national security. If the five-year period is waived, the Secretary shall submit to Congress a report stating the reasons for the waiver.". Reports.

(b) EFFECTIVE DATE.—Section 2408(a) of title 10, United States Code, as amended by subsection (a), shall apply with respect to individuals convicted after the date of the enactment of this Act. 10 USC 2408 note.

SEC. 832. LIMITATION ON ALLOWABILITY OF COSTS OF CONTRACTORS INCURRED IN CERTAIN PROCEEDINGS

Law enforcement and crime.

(a) LIMIT ON COSTS.—Section 2324(e) of title 10, United States Code, is amended—

(1) by adding at the end of paragraph (1), as amended by section 322(a), the following:

"(N) Except as provided in paragraph (2), costs incurred in connection with any civil, criminal, or administrative action brought by the United States that results in a determination that a contractor has violated or failed to comply with any Federal law or regulation if the action results in any of the following:

"(i) In the case of a criminal action, a conviction (including a conviction pursuant to a plea of nolo contendere).

"(ii) In the case of a civil or administrative action, (I) a determination by the Secretary of Defense that the violation or failure to comply was knowing or willful, and (II) the imposition of a monetary penalty.

"(iii) A final decision by an appropriate official of the Department of Defense to debar or suspend the contractor or to rescind, void, or terminate a contract awarded to such contractor if such decision is based on a determination by the Secretary of Defense that the violation or failure to comply was knowing or willful.";

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) (as amended by paragraph (1)) the following:

"(2) If a civil, criminal, or administrative action referred to in paragraph (1)(N) is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the contractor's costs that are otherwise not allowable under paragraph (1)(N) may be allowed to the extent provided in such agreement.".

10 USC 2324 note.

(b) REGULATIONS.—The Secretary of Defense shall prescribe regulations to implement section 2324(e)(1)(N) of title 10, United States Code, as added by subsection (a), not later than 90 days after the date of the enactment of this Act.

10 USC 2324 note.

SEC. 833. AIR TRAVEL EXPENSES OF DEFENSE CONTRACTOR PERSONNEL

(a) AIR FARE DISCOUNT AGREEMENTS.—The Administrator of General Services shall enter into negotiations with commercial air carriers with a view to achieving agreements that permit personnel of contractors who are traveling solely in the performance of covered contracts to be transported by such carriers at the same discount air passenger transportation rates as such carriers charge for travel by Federal Government employees traveling at Government expense.

Regulations.

(b) ALLOWABLE COSTS.—Not later than 120 days after the first agreement goes into effect between the Administrator of General Services and a commercial air carrier under subsection (a), the Secretary of Defense shall prescribe regulations that provide that costs for travel by commercial air carrier by an employee of a defense contractor that exceed the air passenger transportation rates established under the agreement are not allowable costs under section 2324 of title 10, United States Code, under a covered contract if—

(1) the rate was available; and

(2) travel could have reasonably been performed under the conditions required by the air carrier to qualify for such rate.

(c) COVERED CONTRACT.—In this section, the term "covered contract" has the meaning given such term by section 2324(k) of title 10, United States Code.

(d) EXPIRATION.—This section shall cease to be effective three years after the date of the enactment of this Act.

SEC. 834. STANDARDS FOR CONTRACTOR INVENTORY ACCOUNTING SYSTEMS

(a) IN GENERAL.—(1) Chapter 141 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 2410b. Contractor inventory accounting systems: standards

Regulations.

"The Secretary of Defense shall prescribe in regulations—

"(1) standards for inventory accounting systems used by contractors under contract with the Department of Defense; and

"(2) appropriate certification and enforcement requirements with respect to such standards.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"2410b. Contractor inventory accounting systems: standards.".

(b) REGULATIONS.—(1) The Secretary of Defense shall prescribe the regulations required by paragraph (1) of section 2410b of title 10, United States Code, as added by subsection (a), not later than 30 days after the date of the enactment of this Act.

10 USC 2410b note.

(2) The Secretary of Defense shall prescribe the regulations required by paragraph (2) of section 2410b of title 10, United States Code, as added by subsection (a), not later than 180 days after the date of the enactment of this Act.

SEC. 835. EQUAL EMPLOYMENT OPPORTUNITIES RELATING TO AN ARMY CONTRACT

No funds appropriated pursuant to any authorization in this Act or in any previous Act may be expended or obligated for the performance of contract number DA AJ09-88-C-A093 by a contractor outside the United States unless the Secretary of the Army secures a commitment from the contractor that it will support equal employment opportunities for all individuals irrespective of race, color, religion, sex, or national origin in its employment practices.

PART D—MISCELLANEOUS

SEC. 841. PROCUREMENT TECHNICAL ASSISTANCE COOPERATIVE AGREEMENT PROGRAM

(a) LIMITATION.—Section 2414 of title 10, United States Code, is amended to read as follows:

"§ 2414. Limitation

State and local governments.

"(a) IN GENERAL.—The value of the assistance furnished by the Secretary to any eligible entity to carry out a procurement technical assistance program under a cooperative agreement under this chapter during any fiscal year may not exceed—

"(1) in the case of a program operating on a Statewide basis, $300,000; or

"(2) in the case of a program operating on less than a Statewide basis, $150,000.

"(b) DETERMINATIONS ON SCOPE OF OPERATIONS.—A determination of whether a procurement technical assistance program is operating on a Statewide basis or on less than a Statewide basis shall be made in accordance with regulations prescribed by the Secretary of Defense.".

Regulations.

(b) PROCUREMENT TECHNICAL ASSISTANCE FOR INDIAN TRIBAL ORGANIZATIONS.—(1) Section 807(a)(2) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1128) is amended by striking out "for fiscal year 1988," and inserting in lieu thereof "for fiscal years 1988 and 1989,".

(2) Section 2411(1)(D) of title 10, United States Code, is amended by striking out the period at the end and inserting in lieu thereof

", whether or not such economic enterprise is organized for-profit, or nonprofit purposes.".

SEC. 842. PRODUCT EVALUATION

(a) IN GENERAL.—Chapter 139 of title 10, United States Code, as amended by section 823, is further amended by adding at the end the following new section:

"§ 2369. Product evaluation activity

"(a) ESTABLISHMENT.—The Secretary of Defense, acting through the Under Secretary of Defense for Acquisition, shall establish a program for the supervision and coordination of product evaluation activities within the Department of Defense.

"(b) CONDUCT OF PRODUCT EVALUATION.—(1) The Secretary of each military department and the head of each Defense Agency may, subject to supervision and coordination by the Under Secretary of Defense for Acquisition, establish and conduct appropriate product evaluation activities.

"(2) The purpose of each product evaluation activity established under paragraph (1) is to evaluate products developed by private industry independent of any contract or other arrangement with the United States in order to determine the utility of such products to the Department of Defense.

"(c) COST SHARING.—As a condition to conducting an evaluation of any product under this section, the producer of the product shall be required to pay one half of the cost of conducting such evaluation. For product development proposed by a small business concern (within the meaning of section 3 of the Small Business Act (15 U.S.C. 632)), the Secretary of Defense may pay up to 85 percent of the cost of product evaluation if the small business concern agrees to a not-for-profit contract.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter, as amended by section 823, is further amended by adding at the end the following new item:

"2369. Product evaluation activity.".

SEC 843. CONTRACT GOAL FOR MINORITIES IN PRINTING-RELATED SERVICES

44 USC 502 note.

(a) TEST PROGRAM.—The Public Printer shall establish and, during fiscal years 1989 and 1990, carry out a test program for increasing its award of contracts to small and disadvantaged businesses for the printing, binding, and related services needed by the Department of Defense. The program shall have a goal of procuring in each such fiscal year from such businesses printing, binding, and related services equivalent to not more than 5 percent of the value of the printing, binding, and related services which were procured in the preceding fiscal year by the Government Printing Office from non-Government sources for the Department of Defense. The Public Printer may use such procurement procedures as he considers necessary to facilitate achievement of such goal

(b) COVERED ENTITIES.—In this section, the term "small and disadvantaged businesses" means the small business concerns, historically Black colleges and universities, and minority institutions described in section 1207(a) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973).

(c) ENFORCEMENT.—Any person who, for the purpose of securing a contract under subsection (a), misrepresents the status of any con-

cern or person as a small business concern referred to in subsection (b), is subject to the penalties set forth in section 1207(f) of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3974).

(d) SECTION 1207 GOALS.—For the purpose of determining whether the Department of Defense has attained the goals set forth in section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973), the Secretary of Defense may count any procurements by the Public Printer in the program established under subsection (a).

SEC. 844. EXTENSION OF CONTRACT GOAL FOR SMALL AND DISADVANTAGED BUSINESSES

Section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (Public Law 99-661; 100 Stat. 3973) is amended in subsections (a) and (h) by striking out "and 1989" and inserting in lieu thereof "1989, and 1990". 10 USC 2301 note.

SEC. 845. DEADLINE FOR CERTAIN SMALL BUSINESS REGULATIONS

Section 3(a)(4)(C) of the Small Business Act (15 U.S.C. 632) is amended by inserting at the end the following: "Such regulations shall apply with respect to contracts entered into on or after October 1, 1988.".

SEC. 846. SAFEGUARDING OF MILITARY WHISTLEBLOWERS

(a) MILITARY WHISTLEBLOWER PROTECTION.—(1) Section 1034 of title 10, United States Code, is amended to read as follows:

"§ 1034. Communicating with a Member of Congress or Inspector General; prohibition of retaliatory personnel actions

"(a) RESTRICTING COMMUNICATIONS WITH MEMBERS OF CONGRESS AND INSPECTOR GENERAL PROHIBITED.—(1) No person may restrict a member of the armed forces in communicating with a Member of Congress or an Inspector General.

"(2) Paragraph (1) does not apply to a communication that is unlawful.

"(b) PROHIBITION OF RETALIATORY PERSONNEL ACTIONS.—No person may take (or threaten to take) an unfavorable personnel action, or withhold (or threaten to withhold) a favorable personnel action, as a reprisal against a member of the armed forces for making or preparing a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted. Any action prohibited by the preceding sentence (including the threat to take any action and the withholding or threat to withhold any favorable action) shall be considered for the purposes of this section to be a personnel action prohibited by this subsection.

"(c) INSPECTOR GENERAL INVESTIGATION OF CERTAIN ALLEGATIONS.—(1) If a member of the armed forces submits to the Inspector General of the Department of Defense (or the Inspector General of the Department of Transportation, in the case of a member of the Coast Guard) an allegation that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in paragraph (2), the Inspector General shall expeditiously investigate the allegation.

"(2) A communication described in this paragraph is a communication to a Member of Congress or an Inspector General that (under subsection (a)) may not be restricted in which the member of

the armed forces makes a complaint or discloses information that the member reasonably believes constitutes evidence of—

"(A) a violation of a law or regulation; or

"(B) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety.

"(3) The Inspector General is not required to make an investigation under paragraph (1) in the case of an allegation made more than 60 days after the date on which the member becomes aware of the personnel action that is the subject of the allegation.

"(4) If the Inspector General has not already done so, the Inspector General shall commence a separate investigation of the information that the member believes evidences wrongdoing as described in subparagraph (A) or (B) of paragraph (2). The Inspector General is not required to make such an investigation if the information that the member believes evidences wrongdoing relates to actions which took place during combat.

Reports.

"(5) Not later than 30 days after completion of an investigation under this subsection, the Inspector General shall submit a report on the results of the investigation to the Secretary of Defense and the member of the armed forces concerned. In the copy of the report submitted to the member, the Inspector General may exclude any information that would not otherwise be available to the member under section 552 of title 5.

"(6) If, in the course of an investigation of an allegation under this section, the Inspector General determines that it is not possible to submit the report required by paragraph (5) within 90 days after the date of receipt of the allegation being investigated, the Inspector General shall provide to the Secretary of Defense and to the member making the allegation a notice—

"(A) of that determination (including the reasons why the report may not be submitted within that time); and

"(B) of the time when the report will be submitted.

"(7) The report on the results of the investigation shall contain a thorough review of the facts and circumstances relevant to the allegation and the complaint or disclosure and shall include documents acquired during the course of the investigation, including summaries of interviews conducted. The report may include a recommendation as to the disposition of the complaint.

"(d) CORRECTION OF RECORDS WHEN PROHIBITED ACTION TAKEN.—(1) A board for the correction of military records acting under section 1552 of this title, in resolving an application for the correction of records made by a member or former member of the armed forces who has alleged a personnel action prohibited by subsection (b), on the request of the member or former member or otherwise, may review the matter.

"(2) In resolving an application described in paragraph (1), a correction board—

"(A) shall review the report of the Inspector General submitted under subsection (c)(5);

"(B) may request the Inspector General to gather further evidence; and

"(C) may receive oral argument, examine and cross-examine witnesses, take depositions, and, if appropriate, conduct an evidentiary hearing.

"(3) If the board elects to hold an administrative hearing, the member or former member who filed the application described in paragraph (1)—

"(A) may be provided with representation by a judge advocate if—

"(i) the Inspector General, in the report under subsection (c)(5), finds that there is probable cause to believe that a personnel action prohibited by subsection (b) has been taken (or threatened) against the member with respect to a communication described in subsection (c)(2);

"(ii) the Judge Advocate General concerned determines that the case is unusually complex or otherwise requires judge advocate assistance to ensure proper presentation of the legal issues in the case; and

"(iii) the member is not represented by outside counsel chosen by the member; and

"(B) may examine witnesses through deposition, serve interrogatories, and request the production of evidence, including evidence contained in the investigatory record of the Inspector General but not included in the report submitted under subsection (c)(5).

"(4) The Secretary concerned shall issue a final decision with respect to an application described in paragraph (1) within 180 days after the application is filed. If the Secretary fails to issue such a final decision within that time, the member or former member shall be deemed to have exhausted the member's or former member's administrative remedies under section 1552 of this title.

"(5) The Secretary concerned shall order such action, consistent with the limitations contained in sections 1552 and 1553 of this title, as is necessary to correct the record of a personnel action prohibited by subsection (b).

"(6) If the Board determines that a personnel action prohibited by subsection (b) has occurred, the Board may recommend to the Secretary concerned that the Secretary take appropriate disciplinary action against the individual who committed such personnel action.

"(e) REVIEW BY SECRETARY OF DEFENSE.—Upon the completion of all administrative review under subsection (d), the member or former member of the armed forces who made the allegation referred to in subsection (c)(1), if not satisfied with the disposition of the matter, may submit the matter to the Secretary of Defense. The Secretary shall make a decision to reverse or uphold the decision of the Secretary of the military department concerned in the matter within 90 days after receipt of such a submittal.

"(f) POST-DISPOSITION INTERVIEWS.—After disposition of any case under this section, the Inspector General shall, whenever possible, conduct an interview with the person making the allegation to determine the views of that person on the disposition of the matter.

"(g) REGULATIONS.—The Secretary of Defense, and the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy, shall prescribe regulations to carry out this section.

"(h) DEFINITIONS.—In this section:

"(1) The term 'Member of Congress' includes any Delegate or Resident Commissioner to Congress.

"(2) The term 'Inspector General' means—

"(A) an Inspector General appointed under the Inspector General Act of 1978; and

"(B) an officer of the armed forces assigned or detailed under regulations of the Secretary concerned to serve as an Inspector General at any command level in one of the armed forces.".

(2) The item relating to such section in the table of sections at the beginning of chapter 53 of such title is amended to read as follows:

"1034. Communicating with a Member of Congress or Inspector General; prohibition of retaliatory personnel actions.".

10 USC 1034 note.

(b) DEADLINE FOR REGULATIONS.—The Secretary of Defense and the Secretary of Transportation shall prescribe the regulations required by subsection (g) of section 1034 of title 10, United States Code, as amended by subsection (a), not later than 180 days after the date of the enactment of this Act.

10 USC 1034 note.

(c) REPORT.—(1) The Inspector General of the Department of Defense (and the Inspector General of the Department of Transportation with respect to the Coast Guard) shall submit to Congress a report on the activities of the Inspector General under section 1034 of title 10, United States Code, as amended by subsection (a). The report shall include, in the case of each case handled by the Inspector General under that section, a description of—

(A) the nature of the allegation described in subsection (c) of that section;

(B) the evaluation and recommendation of the Inspector General with respect to the allegation;

(C) any action of the appropriate board for the correction of military records with respect to the allegation;

(D) if the allegation is determined to be meritorious, any corrective action taken; and

(E) the views of the member or former member of the armed forces making the allegation (determined on the basis of the interview under subsection (f) of that section) on the disposition of the case.

(2) The Inspector General shall include with the report under this subsection copies of the individual case reports for each such allegation.

(3) The report under this subsection shall be submitted not later than February 1, 1990.

10 USC 1034 note.

(d) EFFECTIVE DATE.—The amendment to section 1034 of title 10, United States Code, made by subsection (a)(1), shall apply with respect to any personnel action taken (or threatened to be taken) on or after the date of the enactment of this Act as a reprisal prohibited by subsection (b) of that section.

TITLE IX—MATTERS RELATING TO ARMS CONTROL

SEC. 901. SENSE OF CONGRESS ON EXPANDING CONFIDENCE-BUILDING MEASURES

(a) FINDINGS.—Congress makes the following findings:

(1) Approximately two years have passed since the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) adjourned in Stockholm following the adoption of measures designed to increase openness and predictability of military activities in Europe.

(2) To date, there have been seven formal observations and challenge inspections which have been conducted in accordance with the Stockholm agreements.

(3) The military leaders of the North Atlantic Treaty Organization have concluded that the Stockholm observations and inspections have positively contributed to an improved understanding of Warsaw Pact forces and capabilities.

(4) The Conventional Stability Talks (CST), which may begin before the end of 1988, will likely require careful and potentially prolonged negotiation.

(5) New negotiations will also begin under the auspices of the Conference on Security and Cooperation in Europe (CSCE) as a follow-on to the Stockholm conference.

(6) The confidence-building measures established at Stockholm could, if expanded, contribute significantly to the success of the CDE follow-on conference and also to the establishment of a procedural framework for verifying a future CST agreement.

(b) SENSE OF CONGRESS.—It is the sense of Congress that the President should give high priority to developing, in coordination with the North Atlantic Treaty Organization allies of the United States, stabilizing and verifiable proposals for expanding the regime of confidence-building measures in conjunction with the follow-on to the Conference on Confidence- and Security-Building Measures and Disarmament in Europe (CDE) and the new Conventional Stability Talks (CST).

SEC. 902. SENSE OF CONGRESS ON START TALKS

It is the sense of Congress that any agreement negotiated by the President to achieve a reduction and limitation on strategic arms (through the strategic arms reduction talks in Geneva or otherwise)—

(1) should not prevent the United States from deploying a force structure under the agreement which emphasizes survivable strategic systems and, in particular, should not in any way compromise the security of the United States ballistic-missile carrying submarine force, and

(2) should not prohibit or limit the deployment of non-nuclear cruise missiles.

SEC. 903. SENSE OF CONGRESS CONCERNING ROLE OF CONGRESS IN ARMS CONTROL AND DEFENSE POLICIES

It is the sense of Congress—

(1) that Congress, in exercising its authority under the Constitution "to raise and support Armies" and "provide and maintain Navies" and, in the case of the Senate, to advise and consent to the ratification of treaties, has a role to play in formulating arms control and defense policies of the United States, but

(2) that Congress, in exercising that authority, should not usurp, undermine, or interfere with the authority of the President under the Constitution to negotiate and implement treaties, especially in the case of treaties which affect arms control and defense policies of the United States.

SEC. 904. SENSE OF CONGRESS ON THE FIVE-YEAR ABM TREATY REVIEW

(a) FINDINGS.—Congress makes the following findings:

(1) The Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Limitation of Anti-Ballistic Missile Systems, With Associated Protocol (hereinafter in this section referred to as the "ABM Treaty" or the "Treaty") in Article XIV, Paragraph 2, reads as follows: "Five years after entry into force of this Treaty, and at five-year intervals thereafter, the Parties shall together conduct a review of this Treaty.".

(2) Such Treaty entered into force on October 3, 1972, and the third five-year anniversary date specified for the conduct of the review contemplated in the Treaty, therefore, was October 3, 1987.

(3) As a fundamental principle of the canons of legal construction, a specified number of years after a specific and determinable date means the specified anniversary of such date and therefore the third five-year review of the ABM Treaty should have begun on or about October 3, 1987.

(4) The Parties to the Treaty have not met as required by the Treaty because the United States refused to meet on the date specified in the Treaty for such meeting (October 3, 1987) and has refused since such date to propose a date for the meeting.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the President should, without any further delay, propose an early date to conduct the overdue five-year review of the ABM Treaty. The President shall inform Congress of the results of that review immediately after it takes place.

President of U.S.

President of U.S.

SEC. 905. REVISION OF ANNUAL REPORT ON SOVIET COMPLIANCE WITH ARMS CONTROL COMMITMENTS

(a) AMENDMENT TO PUBLIC LAW 99-145.—The text of section 1002 of the Department of Defense Authorization Act, 1986 (22 U.S.C. 2592a), is amended to read as follows:

"(a) ANNUAL REPORT.—Not later than December 1 of each year, the President shall submit to Congress a report containing the findings of the President with respect to the compliance of the Soviet Union with its arms control commitments and any additional information necessary to keep Congress currently informed.

"(b) MATTERS TO BE INCLUDED.—The President shall specifically include in each such report the following:

"(1) A summary of the current status of all arms control agreements in effect between the United States and the Soviet Union.

"(2) An assessment of all violations by the Soviet Union of such agreements and the risks such violations pose to the national security of the United States and its allies.

"(3) A net assessment of the aggregate military significance of all such violations.

"(4) A statement of the compliance policy of the United States with respect to violations by the Soviet Union of those agreements.

"(5) What actions, if any, the President has taken or proposes to take to bring the Soviet Union into compliance with its commitments under those agreements.

"(c) CONTINGENT ADDITIONAL INFORMATION.—If the President in any second consecutive report submitted to Congress under this section reports that the Soviet Union is not in full compliance with all arms control agreements between the United States and the

Soviet Union, the President shall include in such report an assessment of what actions are necessary to compensate for such violations.

"(d) CLASSIFICATION OF REPORTS.—Each report under this section shall be submitted in both classified and unclassified versions.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect beginning with the report to be submitted under section 1002 of the Department of Defense Authorization Act, 1986, in 1990.

22 USC 2592a note.

SEC. 906. ANNUAL REPORT ON ARMS CONTROL STRATEGY

President of U.S. 22 USC 2592b.

(a) IN GENERAL.—The President shall submit to Congress each year, not later than December 1, a report containing a comprehensive discussion and analysis of the arms control strategy of the United States. The President shall include in each such report the following:

(1) A description of the nature and sequence of the future arms control efforts of the United States.

(2) A net assessment of the current effects of arms control agreements on the status of, and trends in, the military balance between the United States and the Soviet Union and between the North Atlantic Treaty Organization (NATO) and the Warsaw Pact.

(3) A comprehensive data base on the military balance of forces of the United States and the Soviet Union, and the balance of forces of NATO and the Warsaw Pact countries, that are affected by arms control agreements in existence as of the time of the report between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an explanation of the methodology used to analyze the effects on such forces.

(4) A net assessment of the effect that proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact would likely have on United States force plans and contingency plans, including an assessment of the effect that such proposed agreements would have on the risks and costs to the United States.

(5) An assessment of the effect that proposed treaty sublimits, asymmetries, and other factors or qualifications affecting a treaty or arms control proposal would have on the military balance between the United States and the Soviet Union and between NATO and the Warsaw Pact, including an assessment of how such factors increase deterrence and reduce the risk and cost of war.

(6) A statement of the strategy the United States and NATO will use to verify and deter noncompliance with proposed arms control treaties between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(7) A discussion of the extent to which and the manner in which the United States intends to consult with its allies regarding proposed arms control agreements between the United States and the Soviet Union and between NATO and the Warsaw Pact.

(8) A discussion of how the United States proposes to tailor its defense structure in order to ensure that the national security can be preserved with or without arms control agreements.

(b) EXPLANATION OF METHODOLOGY.—In reporting on the current effect of arms control agreements on the status of, and trends in, the military balance of power between the United States and the Soviet Union and between NATO and the Warsaw Pact (required under paragraphs (2) and (3) of subsection (a)), the President shall—

(1) specify the methodology used in analyzing the military balance between the United States and the Soviet Union and express the results of such analyses in terms of (A) static comparisons, and (B) comparisons that include dynamic factors; and

(2) discuss all major scenarios, assumptions, and contingencies, including political confrontation, full-scale war, and serious confrontations not involving full-scale war.

(c) FORM OF REPORT.—The President shall submit such report in both classified and unclassified form.

President of U.S.

SEC. 907. REPORT ON ANTIBALLISTIC MISSILE CAPABILITIES AND ACTIVITIES OF THE SOVIET UNION

(a) STUDY.—The President shall conduct a study regarding the antiballistic missile capability and activities of the Soviet Union. In conducting the study, the President shall assess each of the following:

(1) The military capabilities and significance of the extensive network of large-phased array radars of the Soviet Union.

(2) Whether the Soviet Union is developing or producing mobile or transportable engagement radars in violation of the 1972 Antiballistic Missile Treaty.

(3) The ability of the Soviet Union to develop an effective exoatmospheric antiballistic missile defense without using widespread deployments of traditional engagement radars.

(4) The ability of air defense interceptor missiles of the Soviet Union, now and in the future, to destroy warheads of ballistic missiles in flight.

(5) Whether silos or other hardened facilities of the Soviet Union located outside of the existing antiballistic missile site permitted near Moscow under the terms of the 1972 Antiballistic Missile Treaty are or could be associated with antiballistic missile defenses not permitted under that Treaty.

(6) Whether the Soviet Union is developing terminal antiballistic missile defenses.

(7) Whether the existing antiballistic missile site near Moscow that is permitted under the terms of that Treaty conceals or could conceal development, testing, or deployment by the Soviet Union of a widespread antiballistic missile system.

(8) Activities of the Soviet Union regarding boost-phase intercepts of ballistic missiles.

(9) The status of laser programs, particle-beam programs, and other advanced technology programs of the Soviet Union comparable to programs conducted by the United States under the Strategic Defense Initiative.

(10) The consequences for the United States of a successful effort by the Soviet Union to deploy an effective nationwide or limited antiballistic missile system.

(b) ASSESSMENT OF ABILITY OF UNITED STATES TO COUNTER A SOVIET ABM SYSTEM.—In conducting the study required by subsection (a), the President shall also assess the ability of the United States to counter effectively an effective antiballistic missile system

deployed by the Soviet Union. Such assessment shall consider both the deployment by the Soviet Union of a nationwide, and of a limited, antiballistic missile system. In assessing the ability of the United States to counter effectively such a system, the President—

(1) shall consider the ability of the United States to modify (A) existing strategic offensive forces (including modifications involving the development of additional penetration aids), and (B) current strategic doctrine and tactics; and

(2) shall consider whether the actions of the United States described in paragraph (1) could be accomplished over the same period of time that the Soviet Union would require to deploy such an antiballistic missile system.

(c) REPORT.—Not later than January 1, 1989, the President shall submit to Congress a report, in both a classified and an unclassified version, specifying the results of the study conducted pursuant to this section. The report shall include such recommendations as the President considers appropriate, including recommendations with regard to maintaining the deterrent value of the strategic forces of the United States in light of the antiballistic missile capability and activities of the Soviet Union described in the report.

Classified information. Public information.

SEC. 908. ANALYSIS OF ALTERNATIVE STRATEGIC NUCLEAR FORCE POSTURES FOR THE UNITED STATES UNDER A POTENTIAL START TREATY

(a) FINDINGS.—Congress makes the following findings:

(1) The United States and the Soviet Union are currently engaged in talks regarding the reduction of strategic nuclear arms.

(2) Such talks could result in a treaty requiring deep reductions in the strategic forces of the United States.

(3) Any such Strategic Arms Reduction Treaty (START) cannot be ratified without the advice and consent of the Senate.

(4) Any such START Treaty should result in a stable balance of strategic forces between the United States and the Soviet Union which enhances the security of the United States.

(5) Congress should provide funds for the forces permitted under such a treaty that are required to ensure the stability of the force balance under such a treaty.

(6) Congress faces critical resource choices for fiscal year 1989 and subsequent fiscal years, and the resource choices made by Congress for those years could substantially influence the strategic force posture of the United States in the period after such a treaty goes into effect.

(b) PRESIDENTIAL REPORT.—Before entering into any Strategic Arms Reduction Treaty or other agreement with the Soviet Union for the reduction of strategic arms, but not later than September 15, 1988, the President shall submit to Congress a comprehensive report on the implications such a treaty or agreement might have on the strategic force postures of the United States during the 1990s. The report shall include the following:

(1) A description of alternative force postures that might be permitted for the United States under such an arms reduction agreement, including the posture recommended by the President.

(2) The estimated costs, over at least a seven-year period, associated with each alternative force posture.

(3) The damage limitation capability, the survivability, and the retaliatory potential of such force posture, and the implications for strategic stability, assessed with regard to the likely force postures of the Soviet Union under such an agreement and the first-strike potential of such force postures.

(4) The likely effect of a breakout by the Soviet Union from such an arms control agreement on the survivability and of the force posture of the United States under such an agreement recommended by the President under paragraph (1).

President of U.S. Classified information. Public information.

(c) FORM OF REPORT.—The President shall submit the report under subsection (b) in both classified and unclassified form.

SEC. 909. ON-SITE INSPECTION AGENCY

Classified information. Public information.

(a) REPORT REQUIREMENTS.—(1) Not later than six months after the date of the enactment of this Act, the officers named in paragraph (2) shall each submit to the Committee on Armed Services, the Committee on Foreign Affairs, and the Permanent Select Committee on Intelligence of the House of Representatives and the Committee on Armed Services, the Committee on Foreign Relations, and the Select Committee on Intelligence of the Senate an unclassified report, with classified annexes as necessary, on the responsibility of each such officer for the monitoring and verification of arms control agreements. Each such report—

(A) shall address specifically any responsibility the officer submitting the report has with respect to on-site inspections (whether inspections of facilities of the United States or inspections of facilities of another party to the agreement); and

(B) shall set forth the organizational elements of each department or agency over which the officer submitting the report has jurisdiction which have functions related to the monitoring or verification of arms control agreements.

(2) Officers referred to in paragraph (1) are the following:

(A) The Secretary of Defense.

(B) The Secretary of State.

(C) The Director of Central Intelligence.

(D) The Director of the United States Arms Control and Disarmament Agency.

(b) MATTERS TO BE INCLUDED.—Each report under subsection (a) shall—

(1) describe in detail the monitoring and verification activities carried out with respect to the INF Treaty,

(2) evaluate the effectiveness with which these functions have been implemented, and

(3) include recommendations for any future organizational or policy changes that may be necessary in view of the experience of implementing the INF Treaty.

(c) INF TREATY DEFINED.—For purposes of subsection (b), the term "INF Treaty" means the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range and Shorter-Range Missiles (signed at Washington on December 9, 1987).

(d) BUDGET REQUESTS.—Any request submitted to Congress by the Executive Branch for authorization of appropriations for the On-Site Inspection Agency for any fiscal year shall, as a separate activity, provide details of all funding and of all military and civilian personnel requested for that Agency for that fiscal year, including the number of such personnel of the Department of Defense and other

agencies that will be assigned to on-site inspection activities and to support such activities during that fiscal year.

SEC. 910. COORDINATION OF VERIFICATION POLICY AND RESEARCH AND DEVELOPMENT ACTIVITIES

(a) REPORT.—Not later than June 30, 1989, the President shall submit to Congress a report reviewing the relationship of arms control objectives of the United States with research and development of improved monitoring systems for arms control verification. The review shall include the participation of the Secretaries of Defense, State, and Energy, the Director of Central Intelligence, and the Director of the United States Arms Control and Disarmament Agency. President of U.S.

(b) FINDINGS AND RECOMMENDATIONS.—The report shall include the findings of the President, and such recommendations for improvements as the President considers appropriate, with respect to the following:

(1) The status of coordination among the officers named in subsection (a) in the formulation of the policy of the United States regarding arms control verification.

(2) The status of efforts to ensure that such policy is formulated in a manner which takes into account available monitoring technology.

(3) The status of efforts to ensure that research and development on monitoring technology evolves concurrently with such policy.

TITLE X—MATTERS RELATING TO NATO COUNTRIES AND OTHER ALLIES

SEC. 1001. INCREASE IN ANNUAL DOLLAR LIMITATION ON ACQUISITION AND CROSS-SERVICING AGREEMENTS WITH ALLIED COUNTRIES

Section 2347(a)(1) of title 10, United States Code, is amended by striking out "$100,000,000" and inserting in lieu thereof "$150,000,000".

SEC. 1002. AUTHORITY TO WAIVE SURCHARGES ON CERTAIN SALES TO NORTH ATLANTIC TREATY ORGANIZATION

Section 21(e) of the Arms Export Control Act (22 U.S.C. 2761(e)) is amended by adding at the end the following:

"(3)(A) The President may waive the charges for administrative services that would otherwise be required by paragraph (1)(A) in connection with any sale to the Maintenance and Supply Agency of the North Atlantic Treaty Organization in support of—

"(i) a weapon system partnership agreement; or

"(ii) a NATO/SHAPE project.

"(B) The Secretary of Defense may reimburse the fund established to carry out section 43(b) of this Act in the amount of the charges waived under subparagraph (A) of this paragraph. Any such reimbursement may be made from any funds available to the Department of Defense.

"(C) As used in this paragraph—

"(i) the term 'weapon system partnership agreement' means an agreement between two or more member countries of the Maintenance and Supply Agency of the North Atlantic Treaty Organization that—

"(I) is entered into pursuant to the terms of the charter of that organization; and

"(II) is for the common logistic support of a specific weapon system common to the participating countries; and

"(ii) the term 'NATO/SHAPE project' means a common-funded project supported by allocated credits from North Atlantic Treaty Organization bodies or by host nations with NATO Infrastructure funds.".

SEC. 1003. AUTHORITY OF MILITARY DEPARTMENTS TO LOAN AND BORROW FROM CERTAIN ALLIES MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES

(a) IN GENERAL.—Chapter 6 of the Arms Export Control Act (22 U.S.C. 2796c) is amended by adding at the end the following new section:

22 USC 2796d.

"SEC. 65. LOAN OF MATERIALS, SUPPLIES, AND EQUIPMENT FOR RESEARCH AND DEVELOPMENT PURPOSES.—(a)(1) Except as provided in subsection (c), the Secretary of Defense may loan to a country that is a NATO or major non-NATO ally materials, supplies, or equipment for the purpose of carrying out a program of cooperative research, development, testing, or evaluation. The Secretary may accept as a loan or a gift from a country that is a NATO or major non-NATO ally materials, supplies, or equipment for such purpose.

Gifts and property.

Contracts.

"(2) Each loan or gift transaction entered into by the Secretary under this section shall be provided for under the terms of a written agreement between the Secretary and the country concerned.

"(3) A program of testing or evaluation for which the Secretary may loan materials, supplies, or equipment under this section includes a program of testing or evaluation conducted solely for the purpose of standardization, interchangeability, or technical evaluation if the country to which the materials, supplies, or equipment are loaned agrees to provide the results of the testing or evaluation to the United States without charge.

"(b) The materials, supplies, or equipment loaned to a country under this section may be expended or otherwise consumed in connection with any testing or evaluation program without a requirement for reimbursement of the United States if the Secretary—

"(1) determines that the success of the research, development, test, or evaluation depends upon expending or otherwise consuming the materials, supplies, or equipment loaned to the country; and

"(2) approves of the expenditure or consumption of such materials, supplies, or equipment.

"(c) The Secretary of Defense may not loan to a country under this section any material if the material is a strategic and critical material and if, at the time the loan is to be made, the quantity of the material in the National Defense Stockpile (provided for under section 3 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b)) is less than the quantity of such material to be stockpiled, as determined by the President under section 3(a) of such Act.

"(d) For purposes of this section, the term 'NATO or major non-NATO ally' means a member country of the North Atlantic Treaty Organization (other than the United States) or a foreign country other than a member nation of NATO designated as a major non-NATO ally under section 1105 of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a).".

(b) CLERICAL AMENDMENT.—The heading for such chapter is amended to read as follows:

"CHAPTER 6—LEASES OF DEFENSE ARTICLES AND LOAN AUTHORITY FOR COOPERATIVE RESEARCH AND DEVELOPMENT PURPOSES".

SEC. 1004. SENSE OF CONGRESS ON NEED FOR MODERNIZATION OF THEATER NUCLEAR CAPABILITIES OF NATO

22 USC 1928 note.

(a) FINDINGS.—Congress makes the following findings:

(1) The security of the North Atlantic Treaty Organization (NATO) alliance will continue for the foreseeable future to rely on a modern and credible nuclear deterrent.

(2) NATO should make every effort to achieve the goal of raising the threshold for the use of nuclear weapons in the event of a conflict in Europe.

(3) While recognizing that there is a critical need for improvements in conventional forces, Congress also recognizes that the United States will have to devote defense resources in the future to the continuing modernization of the theater nuclear capabilities of NATO.

(4) The modernization of the theater nuclear capabilities of NATO is a continuing process and stems from the 1983 Montebello decision by NATO to reduce the stockpile of nuclear weapons in Europe while taking steps to ensure that the remaining nuclear weapons of the alliance are responsive, survivable, and effective.

(5) Programs to modernize theater nuclear forces, which had a high priority for NATO before the ratification of the Intermediate-range Nuclear Forces (INF) Treaty, are at least as important following the ratification of that treaty in May 1988.

(6) The NATO Nuclear Planning Group recently reaffirmed its endorsement of development by the United States of a new missile for delivery of theater nuclear weapons as a follow-on to the current Lance missile, with a view toward an eventual decision on deployment of such a follow-on missile.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that—

(1) modernization of the theater nuclear capabilities of the North Atlantic Treaty Organization is essential to the deterrence strategy of the NATO alliance, particularly in light of the requirements of the Intermediate-range Nuclear Forces (INF) Treaty for the destruction of intermediate-range nuclear weapons;

(2) continued modernization by the United States of theater nuclear capabilities should be undertaken in close consultation with other NATO member nations; and

(3) the United States should proceed with ongoing activities to meet the identified requirement of the NATO alliance for development of a new missile for delivery of theater nuclear weapons as a follow-on to the Lance missile.

SEC. 1005. REPORT ON NATO DEFENSE PROGRAM FOR FISCAL YEAR 1990

(a) REPORT.—The Secretary of Defense shall submit to Congress a report setting forth in detail the programs of the Department of Defense in support of the North Atlantic Treaty Organization

(referred to as the "NATO Defense Program") for fiscal year 1990. The report shall include—

(1) an identification of each such program by program element; and

(2) a description of each such program and the level of funding requested by the President for each such program in the budget for fiscal year 1990.

(b) SUBMISSION OF REPORT.—The report under subsection (a) shall be submitted in conjunction with the submission to Congress of the President's budget for fiscal year 1990 pursuant to section 1105 of title 31, United States Code.

10 USC 133 note.

SEC. 1006. IMPROVEMENT IN DEFENSE RESEARCH AND PROCUREMENT LIAISON WITH ISRAEL

The Secretary of Defense, in consultation with the Under Secretary of Defense for Acquisition, shall designate for duty in Israel an individual or individuals to serve as the primary liaison between the procurement and research and development activities of the United States Armed Forces and those of the State of Israel.

SEC. 1007. MODIFICATION OF REQUIREMENT CONCERNING DESIGNATION OF MAJOR NON-NATO ALLIES

Section 1105(f) of the National Defense Authorization Act for Fiscal Year 1987 (22 U.S.C. 2767a) is amended—

(1) by striking out "Not later than January 1 of each year, the Secretary" and inserting in lieu thereof "The Secretary";

(2) by inserting ", whenever they consider such action to be warranted," after "Secretary of State"; and

(3) by inserting "to be added to or deleted from the existing designation of countries" in paragraph (1) after "countries".

SEC. 1008. CALL FOR CONTINUED DEFENSE BURDENSHARING DISCUSSIONS WITH ALLIES

It is the sense of Congress that the President should continue the discussions (called for by Congress in section 1254(b)(1) of Public Law 100-204) with countries which participate in mutual defense alliances with the United States, especially the member nations of the North Atlantic Treaty Organization and Japan, for the purpose of reaching an agreement for a more equitable distribution of the burden of financial support for the alliances.

SEC. 1009. CONTRIBUTIONS BY JAPAN TO GLOBAL STABILITY

(a) FINDINGS.—The Congress makes the following findings:

(1) As noted by Congress in section 1012(a)(1) of Public Law 100-180 and in section 812(a)(1) of Public Law 99-93, the alliance of the United States and Japan is the foundation for the security of Japan and peace in the Far East and is a major contributing factor to the democratic freedoms and the economic prosperity enjoyed by both the United States and Japan.

(2) In keeping with the declaration made at the 1983 meeting in Williamsburg, Virginia, of the leaders of the leading industrialized democracies that "the security of our countries is indivisible and must be approached on a global basis", the Government of Japan, in actions welcomed by the United States—

(A) continues to fulfill the pledge made by the Prime Minister of Japan in May 1981 to develop the capabilities to

defend the territory of Japan and the airspace and sealanes around Japan to a distance of 1,000 nautical miles by 1990,

(B) has increased the amount of assistance provided to other countries during fiscal year 1988 by 6.5 percent over the amount of such assistance provided during fiscal year 1987, and

(C) is, according to recent reports, actively involved in increasing its contributions to the stability of the Republic of the Philippines.

(3) Japan could, because of its recent history and economic status, best fulfill a politically acceptable and significant role in maintaining the security of the leading industrialized democracies by increasing spending for its Official Development Assistance program in the manner described by Congress in section 1012(b) of Public Law 100-180.

(4) The failure of the United States and Japan to agree on the appropriate level of the contribution by Japan to maintaining the security of the leading industrialized democracies could weaken the long-term vitality, effectiveness, and cohesion of the alliance between the United States and Japan.

(b) ANNUAL REPORT.—The Secretary of Defense shall include with the annual report submitted pursuant to section 1003 of Public Law 98-525 (22 U.S.C. 1928 note) a report on the Official Development Assistance program of the Government of Japan. Such report shall be prepared each year in coordination with the Secretary of State and the Administrator of the Agency for International Development and shall include a description of the amount and nature of spending under such program by recipient, including distinguishing between grant aid, loans, and credits. 22 USC 1928 note.

(c) POLICY ON DISCUSSIONS WITH JAPAN.—It is the sense of Congress that in the discussions with Japan referred to in section 1008 for the purpose of reaching a more equitable distribution of the burden of financial support for the security of the leading industrialized democracies, the objective of such discussions should include the establishment of a schedule for increases in spending under Japan's Official Development Assistance program and its defense programs so that, by 1992, the level of spending on those programs (stated as a percentage of gross national product) will approximate the average of the levels of spending by the member nations of the North Atlantic Treaty Organization on official development assistance and defense programs (stated as a percentage of their respective gross national products).

(d) REPORT.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the progress of the discussions described in subsection (c) with respect to Japan. President of U.S.

(e) FURTHER CONGRESSIONAL ACTION.—It is the sense of Congress that if, in the judgment of Congress, the report of the President under subsection (d) does not reflect substantial progress toward a more equitable distribution of the burden of maintaining the security of the leading industrialized democracies, Congress should review the extent of the distribution of the mutual security burden between the United States and Japan and should consider whether additional legislation is appropriate.

TITLE XI—DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT

SEC. 1101. ANNUAL GUIDELINES TO THE MILITARY DEPARTMENTS

Section 113 of title 10, United States Code, is amended by adding to the end the following new subsection:

"(1) The Secretary of Defense, with the advice and assistance of the Chairman of the Joint Chiefs of Staff, shall provide annually to the Secretaries of the military departments and to the commanders of the combatant commands written guidelines to direct the effective detection and monitoring of all potential aerial and maritime threats to the national security of the United States. Those guidelines shall include guidance on the specific force levels and specific supporting resources to be made available for the period of time for which the guidelines are to be in effect.".

10 USC 113 note.

SEC. 1102. LEAD AGENCY FOR DETECTION

(a) DEPARTMENT OF DEFENSE TO SERVE AS LEAD AGENCY.—The Department of Defense shall serve as the single lead agency of the Federal Government for the detection and monitoring of aerial and maritime transit of illegal drugs into the United States.

(b) PRESIDENTIAL DETERMINATION.—Not later than 15 days after the date of the enactment of this Act, the President may designate an agency other than the Department of Defense as the single lead agency for the purpose stated in subsection (a). Before making such a designation, the President shall notify the Committees on Armed Services of the Senate and House of Representatives of the proposed designation and shall submit to those committees a detailed report setting forth the reasons for such designation.

Reports.

President of U.S.
10 USC 374 note.

SEC. 1103. COMMUNICATIONS NETWORK

(a) INTEGRATION OF C3I ASSETS.—(1) The President shall direct that command, control, communications, and technical intelligence assets of the United States that are dedicated to the interdiction of illegal drugs be integrated by the Secretary of Defense into an effective communications network.

Reports.

(2) Not later than 90 days after the date of the enactment of this Act, the President shall submit to Congress a report setting forth the plan of the President for the integration of assets by the Secretary of Defense under paragraph (1).

Reports.

(b) PLAN FOR RESPONSIBILITY FOR OPERATING C3I NETWORK.—Not later than 120 days after submission of the report required by subsection (a)(2), the President shall develop a plan for the assignment of responsibility for operating the communications network described in subsection (a)(1) and shall submit to Congress a report on such plan. The plan shall ensure that assignment of the responsibility for operating the communications network referred to in subsection (a)(1) is made not later than 60 days after the date on which the report required by this subsection is submitted to Congress.

SEC. 1104. ENHANCED DRUG INTERDICTION AND LAW ENFORCEMENT SUPPORT BY THE DEPARTMENT OF DEFENSE

(a) REVISION OF SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES.—Chapter 18 of title 10, United States Code, is amended to read as follows:

"CHAPTER 8—MILITARY SUPPORT FOR CIVILIAN LAW ENFORCEMENT AGENCIES

State and local governments.

"Sec.
"371. Use of information collected during military operations.
"372. Use of military equipment and facilities.
"373. Training and advising civilian law enforcement officials.
"374. Maintenance and operation of equipment.
"375. Restriction on direct participation by military personnel.
"376. Support not to affect adversely military preparedness.
"377. Reimbursement.
"378. Nonpreemption of other law.
"379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes.
"380. Enhancement of cooperation with civilian law enforcement officials.

"§ 371. Use of information collected during military operations

"(a) The Secretary of Defense may, in accordance with other applicable law, provide to Federal, State, or local civilian law enforcement officials any information collected during the normal course of military training or operations that may be relevant to a violation of any Federal or State law within the jurisdiction of such officials.

"(b) The needs of civilian law enforcement officials for information shall, to the maximum extent practicable, be taken into account in the planning and execution of military training or operations.

"(c) The Secretary of Defense shall ensure, to the extent consistent with national security, that intelligence information held by the Department of Defense and relevant to drug interdiction or other civilian law enforcement matters is provided promptly to appropriate civilian law enforcement officials.

"§ 372. Use of military equipment and facilities

"The Secretary of Defense may, in accordance with other applicable law, make available any equipment (including associated supplies or spare parts), base facility, or research facility of the Department of Defense to any Federal, State, or local civilian law enforcement official for law enforcement purposes.

"§ 373. Training and advising civilian law enforcement officials

"The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available—

"(1) to train Federal, State, and local civilian law enforcement officials in the operation and maintenance of equipment, including equipment made available under section 372 of this title; and

"(2) to provide such law enforcement officials with expert advice relevant to the purposes of this chapter.

"§ 374. Maintenance and operation of equipment

"(a) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available for the maintenance of equipment for Federal, State, and local civilian law enforcement officials, including equipment made available under section 372 of this title.

"(b)(1) Subject to paragraph (2) and in accordance with other applicable law, the Secretary of Defense may, upon request from the head of a Federal law enforcement agency, make Department of

Defense personnel available to operate equipment (including equipment made available under section 372 of this title) with respect to—

"(A) a criminal violation of a provision of law specified in paragraph (4)(A); or

"(B) assistance that such agency is authorized to furnish to a State, local, or foreign government which is involved in the enforcement of similar laws.

Aircraft and air carriers. Maritime affairs.

"(2) Department of Defense personnel made available to a civilian law enforcement agency under this subsection may operate equipment for the following purposes:

"(A) Detection, monitoring, and communication of the movement of air and sea traffic.

"(B) Aerial reconnaissance.

"(C) Interception of vessels or aircraft detected outside the land area of the United States for the purposes of communicating with such vessels and aircraft to direct such vessels and aircraft to go to a location designated by appropriate civilian officials.

"(D) Operation of equipment to facilitate communications in connection with law enforcement programs specified in paragraph (4)(A).

"(E) Subject to joint approval by the Secretary of Defense, the Attorney General, and the Secretary of State, in connection with a law enforcement operation outside the land area of the United States—

"(i) the transportation of civilian law enforcement personnel; and

"(ii) the operation of a base of operations for civilian law enforcement personnel.

Maritime affairs. Aircraft and air carriers.

"(3) Department of Defense personnel made available to operate equipment for the purpose stated in paragraph (2)(C) may continue to operate such equipment into the land area of the United States in cases involving the pursuit of vessels or aircraft where the detection began outside such land area.

"(4) In this subsection:

"(A) The term 'Federal law enforcement agency' means an agency with jurisdiction to enforce any of the following:

"(i) The Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.).

"(ii) Any of sections 274 through 278 of the Immigration and Nationality Act (8 U.S.C. 1324–1328).

"(iii) A law relating to the arrival or departure of merchandise (as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401) into or out of the customs territory of the United States (as defined in general headnote 2 of the Tariff Schedules of the United States) or any other territory or possession of the United States.

"(iv) The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).

"(B) The term 'land area of the United States' includes the land area of any territory, commonwealth, or possession of the United States.

"(c) The Secretary of Defense may, in accordance with other applicable law, make Department of Defense personnel available to any Federal, State, or local civilian law enforcement agency to

operate equipment for purposes other than described in paragraph (2) only to the extent that such support does not involve direct participation by such personnel in a civilian law enforcement operation unless such direct participation is otherwise authorized by law.

"§ 375. Restriction on direct participation by military personnel Regulations.

"The Secretary of Defense shall prescribe such regulations as may be necessary to ensure that the provision of any support (including the provision of any equipment or facility or the assignment or detail of any personnel) to any civilian law enforcement official under this chapter does not include or permit direct participation by a member of the Army, Navy, Air Force, or Marine Corps in a search and seizure, an arrest, or other similar activity unless participation in such activity by such member is otherwise authorized by law.

"§ 376. Support not to affect adversely military preparedness

"Support (including the provision of any equipment or facility or the assignment or detail of any personnel) may not be provided to any civilian law enforcement official under this chapter if the provision of such support will adversely affect the military preparedness of the United States. The Secretary of Defense shall Regulations. prescribe such regulations as may be necessary to ensure that the provision of any such support does not adversely affect the military preparedness of the United States.

"§ 377. Reimbursement

"(a) To the extent otherwise required by section 1535 of title 31 (popularly known as the 'Economy Act') or other applicable law, the Secretary of Defense shall require a civilian law enforcement agency to which support is provided under this chapter to reimburse the Department of Defense for that support.

"(b) An agency to which support is provided under this chapter is not required to reimburse the Department of Defense for such support if such support—

"(1) is provided in the normal course of military training or operations; or

"(2) results in a benefit to the element of the Department of Defense providing the support that is substantially equivalent to that which would otherwise be obtained from military operations or training.

"§ 378. Nonpreemption of other law

"Nothing in this chapter shall be construed to limit the authority of the executive branch in the use of military personnel or equipment for civilian law enforcement purposes beyond that provided by law before December 1, 1981.

"§ 379. Assignment of Coast Guard personnel to naval vessels for law enforcement purposes

"(a) The Secretary of Defense and the Secretary of Transportation shall provide that there be assigned on board every appropriate surface naval vessel at sea in a drug-interdiction area members of the Coast Guard who are trained in law enforcement and have powers of the Coast Guard under title 14, including the power to make arrests and to carry out searches and seizures.

"(b) Members of the Coast Guard assigned to duty on board naval vessels under this section shall perform such law enforcement functions (including drug-interdiction functions)—

"(1) as may be agreed upon by the Secretary of Defense and the Secretary of Transportation; and

"(2) as are otherwise within the jurisdiction of the Coast Guard.

"(c) No fewer than 500 active duty personnel of the Coast Guard shall be assigned each fiscal year to duty under this section. However, if at any time the Secretary of Transportation, after consultation with the Secretary of Defense, determines that there are insufficient naval vessels available for purposes of this section, such personnel may be assigned other duty involving enforcement of laws listed in section 374(b)(4)(A) of this title.

"(d) In this section, the term 'drug-interdiction area' means an area outside the land area of the United States (as defined in section 374(b)(4)(B) of this title) in which the Secretary of Defense (in consultation with the Attorney General) determines that activities involving smuggling of drugs into the United States are ongoing.

"§ 380. Enhancement of cooperation with civilian law enforcement officials

"(a) The Secretary of Defense, in cooperation with the Attorney General, shall conduct an annual briefing of law enforcement personnel of each State (including law enforcement personnel of the political subdivisions of each State) regarding information, training, technical support, and equipment and facilities available to civilian law enforcement personnel from the Department of Defense.

"(b) Each briefing conducted under subsection (a) shall include the following:

"(1) An explanation of the procedures for civilian law enforcement officials—

"(A) to obtain information, equipment, training, expert advice, and other personnel support under this chapter; and

"(B) to obtain surplus military equipment.

"(2) A description of the types of information, equipment and facilities, and training and advice available to civilian law enforcement officials from the Department of Defense.

"(3) A current, comprehensive list of military equipment which is suitable for law enforcement officials from the Department of Defense or available as surplus property from the Administrator of General Services.

"(c) The Attorney General and the Administrator of General Services shall—

"(1) establish or designate an appropriate office or offices to maintain the list described in subsection (b)(3) and to furnish information to civilian law enforcement officials on the availability of surplus military equipment; and

Communications and telecommunications.

"(2) make available to civilian law enforcement personnel nationwide, tollfree telephone communication with such office or offices.".

(b) CLERICAL AMENDMENT.—The item relating to such chapter in the tables of chapters at the beginning of subtitle A, and at the beginning of part I of subtitle A, of title 10, United States Code, is amended to read as follows:

"18. Military Support for Civilian Law Enforcement Agencies ..... 371".

SEC. 1105. ENHANCED DRUG INTERDICTION AND ENFORCEMENT ROLE FOR THE NATIONAL GUARD

State and local governments.
10 USC 374 note.

(a) FUNDING ASSISTANCE.—(1) The Secretary of Defense may provide to the Governor of a State who submits a plan to the Secretary under paragraph (2) sufficient funds for the pay, allowances, clothing, subsistence, gratuities, travel, and related expenses of personnel of the National Guard of such State used—

(A) for the purpose of drug interdiction and enforcement operations; and

(B) for the operation and maintenance of the equipment and facilities of the National Guard of such State used for such purposes.

(2) The Secretary may provide funds under paragraph (1) to the Governor of a State who submits to the Secretary a plan specifying how personnel of the National Guard of that State are to be used in drug enforcement and interdiction operation by a National Guard of a State if—

(A) such operations are conducted at a time when personnel of the National Guard of the State are under the command and control of State authority and are not in Federal service; and

(B) participation by a National Guard personnel in such operations is service in addition to annual training required under section 502 of title 32, United States Code.

(3) Before funds are provided to the Governor of a State under this section, the Secretary of Defense shall consult with the Attorney General of the United States regarding the adequacy of the plan submitted by the Governor to the Secretary.

(4) Of the amounts appropriated pursuant to section 1106, the Secretary shall, for the purposes of paragraph (1), make available—

(A) not more than $30,000,000 for operations and maintenance for the National Guard, and

(B) not more than $30,000,000 for National Guard personnel.

(5) Nothing in this subsection shall be construed as a limitation on the authority of any unit of the National Guard of a State, when such unit is not in Federal service, to perform law enforcement functions authorized to be performed by the National Guard by the laws of the State concerned.

(b) TRAINING CRITERIA.—The Secretary of Defense shall prescribe and enforce training criteria for the National Guard to enhance the capability of the National Guard to assist in drug abuse control activities.

(c) PRESIDENTIAL REPORT.—Not later than 120 days after the date of the enactment of this Act, the President shall submit to Congress a report on the past effectiveness of using members of the National Guard for drug interdiction efforts, consistent with applicable law, along the borders and at the ports of entry of the United States and on the potential for the effective use of such members for such purpose in the future.

SEC. 1106. FUNDING OF ACTIVITIES RELATED TO DRUG INTERDICTION

(a) AUTHORIZATION OF APPROPRIATIONS.—(1) In addition to the amounts otherwise authorized to be appropriated by this Act, there is hereby authorized to be appropriated to the Department of Defense for fiscal year 1989 the sum of $210,000,000. Amounts appropriated pursuant to the preceding sentence shall be available only for transfer to other appropriations available to the Department of

Defense and may be used only for the purposes stated in paragraph (2).

(2) Funds transferred under paragraph (1) may be used only for the mission of the Department of Defense set forth in section 113(1) of title 10, United States Code, as added by section 1101, for the activities of the Department of Defense under section 1103, and for National Guard drug interdiction activities described in section 1105. Such funds shall be available for obligation for the same period, and for the same purpose, as the appropriation to which transferred.

(b) TRANSFER OF FISCAL YEAR 1987 FUNDS.—Of the amounts appropriated for the Navy for procurement of aircraft for fiscal year 1987, and which remain unobligated on the date of the enactment of this Act, the sum of $90,000,000 shall be available only for the purposes set forth in subsection (a)(2). Such amount may be transferred to any appropriation made for the Department of Defense for fiscal year 1989 and shall be merged with, and be available for the same purpose as, the appropriation to which transferred. The period of the availability for obligation of any amount so transferred shall not be extended as a result of such transfer.

Reports.

(c) NOTICE TO CONGRESS.—(1) The Secretary of Defense may not transfer any funds appropriated pursuant to subsection (a) to another appropriation for obligation pursuant to this section and may not transfer or obligate any funds made available under subsection (b) until—

(A) the Secretary submits to the Committees on Armed Services of the Senate and the House of Representatives a report with respect to that transfer described in paragraph (2); and

(B) a period of 60 days elapses after the report is received by those committees.

(2) A report under paragraph (1) with respect to a transfer of funds shall set forth in detail the Secretary's proposal for the obligation of such funds, including a statement of the following:

(A) The appropriation account or accounts to which the funds are proposed to be transferred.

(B) The activities proposed to be undertaken using those funds.

(C) The relationship between those activities and the drug interdiction strategy of the United States.

SEC. 1107. REPORTS

President of U.S.

(a) PROPOSALS.—Not later than December 1, 1988, the President shall submit to Congress a report containing—

(1) legislative proposals to enhance the capability of the Department of Defense to perform the functions provided for in this title and in the amendments made by this title; and

(2) estimates of the amounts necessary to carry out such proposals.

President of U.S. Drugs and drug abuse.

(b) RADAR COVERAGE AND SOUTHERN BORDER.—(1) The President shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report assessing the potential effect on drug interdiction and on the drug abuse problem in the United States of—

(A) carrying out radar coverage along the southern border of the United States; and

(B) pursuing drug smugglers detected by such radar coverage with rotor-wing and fixed-wing aircraft of the Department of Defense and of civilian law enforcement agencies.

(2) The President shall include in such report an assessment of the relative effectiveness—

(A) of carrying out the operations described in clauses (A) and (B) of paragraph (1) on a full-time basis;

(B) of carrying out such operations only during the hours of darkness; and

(C) the feasibility and cost of carrying out such operations under each of the conditions specified in clauses (A) and (B).

(3) The report under paragraph (1) shall be submitted not later than 30 days after the date of the enactment of this Act.

(c) PURSUIT BY AIRCRAFT.—(1) Not later than 15 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report containing the following information:

(A) The total number of times suspected drug smugglers flying aircraft into the United States have been pursued by aircraft operated by or with the support of personnel of the Department of Defense under the authority of section 374(c)(2)(B) of title 10, United States Code, as in effect on the day before the date of the enactment of this Act.

(B) The number of times civilian law enforcement officials were present at the location and at the time the suspected drug smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(C) The number of times such officials were not present at the location and at the time such suspected smugglers were forced to land their aircraft in the United States.

(2) Not later than one year after the date of the enactment of this Act, the Secretary of Defense shall submit to such committees a report containing the following information:

(A) The total number of times suspected drug smugglers described in paragraph (1) have been pursued into the United States by aircraft operated by or with the support of Department of Defense personnel under the authority of section 374(b)(2)(C) of title 10, as amended by section 1104.

(B) The number of times civilian law enforcement officials were present at the location and at the time the suspected drug smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(C) The number of times such officials were not present at the location and at the time such suspected smugglers were forced to land their aircraft in the United States as a result of the pursuit of the aircraft operated by or with the support of Department of Defense personnel.

(D) Such other information and such recommendations as the Secretary considers appropriate regarding the use of Department of Defense personnel for purposes authorized in section 374(b) of title 10, United States Code, as amended by section 1104.

TITLE XII—GENERAL PROVISIONS

PART A—FINANCIAL AND BUDGET MATTERS

SEC. 1201. TRANSFER AUTHORITY

(a) AUTHORITY TO TRANSFER AUTHORIZATIONS.—(1) Upon determination by the Secretary of Defense that such action is necessary in the national interest, the Secretary may transfer amounts of authorizations made available to the Department of Defense in title I, II, or III for any fiscal year between any such authorizations for that fiscal year (or any subdivisions thereof). Amounts of authorizations so transferred shall be merged with and be available for the same purposes as the authorization to which transferred.

(2) The total amount of authorizations for any fiscal year that the Secretary of Defense may transfer under the authority of this section may not exceed $3,000,000,000.

(b) LIMITATIONS.—The authority provided by this section to transfer authorizations—

(1) may only be used to provide authority for items that have a higher priority than the items from which authority is transferred; and

(2) may not be used to provide authority for an item that has been denied authorization by Congress.

(c) NOTICE TO CONGRESS.—The Secretary of Defense shall promptly notify Congress of transfers made under the authority of this section.

SEC. 1202. INCREASE IN FISCAL YEAR 1988 DEFENSE FUNDS TRANSFER AUTHORIZATION

Section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153) is amended—

(1) in subsection (a)—

(A) by inserting "of this Act or any prior defense authorization Act" in paragraph (1) before "for any fiscal year"; and

(B) by striking out "$2,000,000,000" in paragraph (2) and inserting in lieu thereof "$4,000,000,000"; and

(2) by striking out subsection (d) and inserting in lieu thereof the following:

"(d) SPECIFIED PURPOSES.—In determining the purposes for which the authority provided by subsection (a) will be used, the Secretary of Defense shall ensure that to the extent that the total dollar amount of transfers under such authority exceeds $2,000,000,000, an appropriate portion of that authority is used to transfer to military personnel accounts and operation and maintenance accounts of the Department of Defense for fiscal year 1988 (1) funds for depot maintenance activities in amounts sufficient to reduce service backlogs which would otherwise occur, (2) funds for pay of civilian personnel in amounts sufficient to reduce furloughs, reductions-in-force, or release of on-call employees into a nonpay status which would otherwise be required due to insufficient funding for civilian personnel of the Department of Defense for fiscal year 1988, and (3) funds for pay of military personnel.

"(e) NOTICE TO CONGRESS.—The Secretary of Defense shall submit to Congress notice of each transfer made under the authority of this section. After the total dollar amount of such transfers equals or

exceeds $2,000,000,000, the notice required by the preceding sentence with respect to any transfer shall be submitted not less than 15 days before the transfer is made, and any such notice shall then include identification of specific actions that the Secretary is taking in order to ensure that the transfer is made in compliance with subsection (f).

"(f) CONTROL OF OUTLAYS.—In the case of any transfer under the authority of this section after the total dollar amount of such transfers equals or exceeds $2,000,000,000, the Secretary of Defense may carry out such transfer only to the extent that such transfer, and the expenditure of funds so transferred, do not result in an increase in outlays by the Department of Defense during fiscal year 1988.".

PART B—FISCAL YEAR 1988 UNAUTHORIZED APPROPRIATIONS

SEC. 1211. AUTHORITY FOR OBLIGATION OF CERTAIN UNAUTHORIZED FISCAL YEAR 1988 DEFENSE APPROPRIATIONS

(a) AUTHORITY.—The amounts described in subsection (b), totaling $10,624,600,000, may be obligated and expended for programs, projects, and activities of the Department of Defense in accordance with fiscal year 1988 defense appropriations except as otherwise provided in section 1212.

(b) COVERED AMOUNTS.—The amounts referred to in subsection (a) are the amounts provided for programs, projects, and activities of the Department of Defense in fiscal year 1988 defense appropriations that are in excess of the amounts provided for such programs, projects, and activities in fiscal year 1988 defense authorizations.

(c) DEFINITIONS.—For the purposes of this part:

(1) FISCAL YEAR 1988 DEFENSE APPROPRIATIONS.—The term "fiscal year 1988 defense appropriations" means amounts appropriated or otherwise made available to the Department of Defense for fiscal year 1988 in the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202).

(2) FISCAL YEAR 1988 DEFENSE AUTHORIZATIONS.—The term "fiscal year 1988 defense authorizations" means amounts authorized to be appropriated for the Department of Defense for fiscal year 1988 in the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180).

SEC. 1212. LIMITATION ON OBLIGATION FOR CERTAIN UNAUTHORIZED APPROPRIATIONS

(a) PROGRAMS NOT AVAILABLE FOR OBLIGATION.—Amounts described in section 1211(b) may not be obligated or expended for the following programs, projects, and activities of the Department of Defense (for which amounts were provided in fiscal year 1988 defense appropriations):

(1) Satellite Systems Survivability program under research, development, test, and evaluation for the Air Force in the amount of $5,300,000.

(2) Maxicube Cargo System under research, development, test, and evaluation for the Army in the amount of $10,000,000.

(3) Coastal Defense Augmentation in the amount of $20,000,000.

(4) Defense Meteorological Satellite program under research, development, test, and evaluation for the Navy in the amount of $40,000,000.

(5) P-3C aircraft under procurement of National Guard and Reserve equipment in the amount of $193,800,000.

(6) AN/SQR-17 Acoustic Processors for the Mobile Inshore Undersea Warfare group under procurement of National Guard and Reserve equipment in the amount of $10,000,000.

(b) LIMITATION ON CERTAIN PROGRAMS.—

(1) FORWARD AREA AIR DEFENSE HEAVY SYSTEM.—Funds appropriated or otherwise made available for the Army for procurement of missiles for fiscal year 1988 may not be obligated for advance procurement for the Forward Area Air Defense Line-of-Sight Forward-Heavy (LOS-F-H) system until—

(A) the Secretary of Defense certifies to the Committees on Armed Services of the Senate and House of Representatives that it is responsible to obligate funds for such purpose before operational testing of such system; and

(B) the Director of Operational Test and Evaluation of the Department of Defense certifies to those committees that he has approved the issues and criteria associated with the operational testing of such system.

(2) A-6 AIRCRAFT CONFIGURATION.—None of the funds appropriated for the procurement of aircraft for the Navy for fiscal year 1988 or 1989 may be obligated or expended for procurement of any A-6 aircraft configured in the F model configuration (as described in connection with the A-6E/A-6F aircraft program in the Selected Acquisition report submitted to Congress for the quarter ending December 31, 1986).

(3) TANK PROCUREMENT.—Funds appropriated for procurement of weapons and tracked combat vehicles for the Army for modification of M60 tanks in the amount of $90,000,000 may be used only for procurement or modification of M1 Abrams tanks, of which $30,000,000 shall be used for facilitization of Anniston Army Depot and initiation of the retrograde and modification programs for M1 tanks.

(c) PROGRAM LIMITATIONS.—All limitations and requirements set forth in division A of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) shall apply to the obligation of funds authorized by section 1211(a) in the same manner as if the funds made available for obligation by such section had been authorized in that Act.

(d) TRANSFER AUTHORITY.—For the purposes of section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989, authorizations in section 1211(a) shall be deemed to have been made available to the Department of Defense in such Act.

(e) For purposes of section 1201 of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1153), the amount of $279,100,000 (the sum of the amounts described in subsection (a) of this section) shall be deemed to have been authorized by such Act in equal amounts for the Army, Navy, and Air Force for the following purposes:

(1) Depot maintenance activities in amounts sufficient to reduce service backlogs which would otherwise occur.

(2) Pay of civilian personnel in amounts sufficient to reduce furloughs, reductions-in-force, or release of on-call employees into a nonpay status which would otherwise be required due to

insufficient funding for civilian personnel of the Department of Defense for fiscal year 1988.

(3) Pay of military personnel in amounts sufficient to provide necessary costs of maintaining authorized end strengths.

SEC. 1213. REPEAL OF CERTAIN APPROPRIATIONS GENERAL PROVISIONS

Sections 8040, 8098, and 8122 of the Department of Defense Appropriations Act, 1988 (as contained in section 101(b) of Public Law 100-202), are repealed.

101 Stat. 1329-69, 1329-80; 10 USC 194 note.

PART C—NAVAL VESSELS AND SHIPYARDS

SEC. 1221. NAMING OF TRIDENT SUBMARINE THE U.S.S. MELVIN PRICE

(a) FINDINGS.—The Congress finds that—

(1) the late Honorable Melvin Price served the people of the United States and the 21st Congressional District of Illinois as a Member of the House of Representatives for 44 consecutive years with loyalty, dedication, and warm personal friendship until his death on April 22, 1988;

(2) Melvin Price served as a member of the Committee on Armed Services of the House of Representatives for 40 years and did so with total dedication to the goal of maintaining a strong national defense;

(3) in 1964, Melvin Price became the first chairman of the Research and Development Subcommittee of the Committee on Armed Services of the House of Representatives, and in 1975 became the first military veteran to serve as chairman of that committee, a position he held for 10 years;

(4) Melvin Price was a member of the Joint Committee on Atomic Energy from its establishment in 1946 until 1977 and served as the first chairman of that committee;

(5) Melvin Price played a major role in successfully advocating the peaceful use of nuclear energy and the military application of nuclear power for Navy ships and submarines; and

(6) Melvin Price has left an indelible mark on the history of the Nation as a result of his 44 years of unselfish efforts to maintain the strength and readiness of the Armed Forces.

(b) SENSE OF CONGRESS.—In light of the findings expressed in subsection (a), it is the sense of Congress that the Secretary of the Navy should name the next Trident ballistic missile submarine to be named after the enactment of this Act the U.S.S. Melvin Price.

SEC. 1222. NAMING A NAVY SHIP THE U.S.S. BOB HOPE

(a) FINDINGS.—The Congress finds that—

(1) Bob Hope has unselfishly dedicated his time and efforts for over 50 years to the morale and welfare of the men and women of the Armed Forces;

(2) Bob Hope has served his Nation in three wars by entertaining members of the Armed Forces aboard ships at sea and in combat zones ashore;

(3) Bob Hope has during peacetime entertained the men and women of the Armed Forces in all regions of the world and at every season of the year;

(4) Bob Hope has placed his own safety and convenience second to that of improving the morale of the members of the Armed Forces; and

(5) Bob Hope has earned the undying respect and fond esteem of all of his countrymen for his dedicated and patriotic endeavors.

(b) SENSE OF CONGRESS.—In light of the findings expressed in subsection (a), it is the sense of Congress that the Secretary of the Navy should name an appropriate ship of the United States Navy the U.S.S. Bob Hope.

SEC. 1223. RATE OF PROGRESS PAYMENTS ON NAVAL SHIP REPAIR CONTRACTS

Section 7312(a) of title 10, United States Code, is amended by inserting "not less than" after "shall be".

SEC. 1224. LIMITATION ON REPAIR OF NAVAL VESSELS IN FOREIGN SHIPYARDS

(a) IN GENERAL.—Section 7309 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(c)(1) A naval vessel (or any other vessel under the jurisdiction of the Secretary of the Navy) the homeport of which is in the United States may not be overhauled, repaired, or maintained in a shipyard outside the United States.

"(2) Paragraph (1) does not apply in the case of voyage repairs.".

(b) CLERICAL AMENDMENTS.—(1) The heading of that section is amended to read as follows:

"§ 7309. Restrictions on construction or repair of vessels in foreign shipyards".

(2) The item relating to such section in the table of sections at the beginning of chapter 633 of such title is amended to read as follows:

"7309. Restrictions on construction or repair of vessels in foreign shipyards.".

Contracts.
10 USC 7309 note.

(c) EFFECTIVE DATE.—Subsection (c) of section 7309 of title 10, United States Code, as added by subsection (a), shall apply with respect to any contract for overhaul, repair, or maintenance of a vessel that is entered into after the end of the 30-day period beginning on the date of the enactment of this Act.

SEC. 1225. COMPETITION BETWEEN PUBLIC AND PRIVATE SHIPYARDS FOR OVERHAUL OF NAVAL VESSELS

(a) IN GENERAL.—(1) Chapter 633 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 7313. Overhaul of naval vessels: competition between public and private shipyards

"The Secretary of the Navy should ensure, in any case in which the Secretary awards a project for repair, alteration, overhaul, or conversion of a naval vessel following competition between public and private shipyards, that each of the following criteria is met:

"(1) The bid of any public shipyard for the award includes—

"(A) the full costs to the United States associated with future retirement benefits of civilian employees of that shipyard consistent with computation methodology established by Office of Management and Budget Circular A-76; and

"(B) in a case in which equal access to the Navy supply system is not allowed to public and private shipyards, a pro rata share of the costs of the Navy supply system.

"(2) Costs applicable to oversight of the contract by the appropriate Navy supervisor of shipbuilding, conversion, and repair are added to the bid of any private shipyard for the purpose of comparability analysis.

"(3) The award is made using the results of the comparability analysis.".

(2) The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"7313. Overhaul of naval vessels: competition between public and private shipyards.".

(b) EFFECTIVE DATE.—Section 7313 of title 10, United States Code, as added by subsection (a), applies to any award by the Secretary of the Navy made after the end of the 30-day period beginning on the date of the enactment of this Act for repair, alteration, overhaul, or conversion of a naval vessel following competition between public and private shipyards. 10 USC 7313 note.

SEC. 1226. DEPOT-LEVEL MAINTENANCE OF SHIPS 10 USC 7291 note.

(a) REQUIREMENT THAT CERTAIN WORK BE CARRIED OUT IN THE UNITED STATES.—The Secretary of the Navy shall require that, to the extent feasible and consistent with policies of the Navy regarding family separations, not less than one-half of the depot-level maintenance work described in subsection (b) (measured in cost) shall be carried out in the United States.

(b) WORK COVERED.—Depot-level maintenance work referred to in subsection (a) is depot-level maintenance work for naval vessels that is scheduled as of October 1, 1988, to be carried out in Japan during fiscal years 1989, 1990, and 1991.

SEC. 1227. REPORTS ON EFFECTS OF NAVAL SHIPBUILDING PLANS ON MARITIME INDUSTRIES 10 USC 7291 note.

(a) ANNUAL REPORT.—The Secretary of Defense shall submit to Congress in 1989, 1990, and 1991 a report on how, under the current Five-Year Defense Program of the Department of Defense, programs for naval shipbuilding and conversion, for naval vessel repair, and for procurement of support equipment for naval vessels could be expected to affect the private-sector shipbuilding and ship repair industries of the United States in terms of the effectiveness and preparedness of those industries for mobilization in their role in the sealift component of the conventional deterrent of the United States.

(b) TIME FOR SUBMISSION.—The report under subsection (a) for any year shall be submitted to Congress at the same time that the Secretary submits his annual report to Congress for that year under section 113(c) of title 10, United States Code.

SEC. 1228. REPORT ON ENCOURAGEMENT OF CONSTRUCTION IN UNITED STATES SHIPYARDS OF COMBATANT VESSELS FOR ALLIES

(a) REPORT REQUIREMENT.—The Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report on—

(1) the manner in which the Secretary has complied, as of the date of the report, with the provisions of section 1455 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 761); and

(2) plans of the Secretary for such compliance in the future.

(b) MATTERS TO BE INCLUDED.—The report shall include information regarding the following:

(1) Instances in which the Secretary has encouraged United States shipyards to construct combatant vessels for nations friendly to the United States.

(2) Steps taken by the Secretary to ensure that no effort has been made by any element of the Department of the Navy to inhibit, delay, or halt the provision of any United States naval system which has been approved for export to an allied nation.

(3) Instances in which the Secretary has encouraged United States firms to participate in construction programs outside of the United States in shipyards of allied nations.

(4) Future plans of the Secretary for complying with the requirements of each of subsections (a)(1) through (a)(3) of that section.

(c) SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

SEC. 1229. REPORT ON SMALL PATROL BOATS OF NAVY

(a) REPORT REQUIREMENT.—The Secretary of the Navy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report regarding the capability of the Navy to carry out missions requiring the use of small patrol boats. The Secretary shall include in the report—

(1) a discussion of the contingencies that would require the use of small patrol boats rather than larger warships;

(2) an evaluation of the existing capability of the Navy to carry out missions requiring the use of small patrol boats;

(3) a discussion of any plans the Navy has for eliminating the Navy's shortage of such boats; and

(4) such recommendations as the Secretary considers appropriate to strengthen the capabilities of the Navy to carry out effectively missions that would require the use of such boats.

(b) SMALL PATROL BOAT DEFINED.—For purposes of this section, a small patrol boat is a patrol boat that is less than 150 feet in length.

(c) DEADLINE FOR SUBMISSION OF REPORT.—The report required by subsection (a) shall be submitted not later than 90 days after the date of the enactment of this Act.

PART D—MISCELLANEOUS

SEC. 1231. REPORT ON SUSCEPTIBILITY OF DEFENSE COMPUTER ASSETS TO COMPUTER VIRUSES

The Secretary of Defense shall submit to Congress a report on the susceptibility of vital Department of Defense computer systems to so-called computer viruses and shall describe the steps which have been taken and are planned to be taken to protect the Department of Defense computer systems and records against computer viruses. Such report shall be submitted not later than March 1, 1989, in classified and unclassified form.

District of Columbia.

SEC. 1232. REASSESSMENT OF SOVIET ELECTRONIC ESPIONAGE CAPABILITY FROM MOUNT ALTO EMBASSY SITE

(a) FINDING.—The Congress finds that the report submitted by the Secretary of Defense pursuant to section 1122 of the National

Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180)—

(1) contains insufficient detail (even in the classified portion) for a review and assessment of the present and potential capabilities of the Government of the Soviet Union to intercept United States communications involving diplomatic, military, and intelligence matters from facilities on Mount Alto in the District of Columbia, as required by subsection (a) of that section; and

(2) does not contain a determination of the Secretary of Defense as to whether or not the present and proposed occupation of facilities on Mount Alto by the Soviet Union is consistent with the national security of the United States, as required by subsection (b) of that section.

(b) SUBMISSION OF NEW REPORT.—Not later than 60 days after the date of the enactment of this Act, the President shall submit a report to Congress which meets the requirements of section 1122 of the National Defense Authorization Act for Fiscal Years 1988 and 1989. President of U.S.

SEC. 1233. TECHNICAL AND CLERICAL AMENDMENTS

(a) REPEAL OF OBSOLETE REFERENCE.—Section 1552 of title 10, United States Code, is amended—

(1) in subsection (b), by striking out "therefor before October 26, 1961, or within three years after he discovers the error or injustice, whichever is later" and inserting in lieu thereof "for the correction within three years after he discovers the error or injustice"; and

(2) in subsection (c), by striking out "The department concerned" and inserting in lieu thereof "The Secretary concerned".

(b) DATE OF ENACTMENT REFERENCES.—(1) Section 305a(d)(2) of title 37, United States Code, is amended by striking out "on or after the effective date specified in section 621(e)(1) of the National Defense Authorziation Act for Fiscal Year 1988" and inserting in lieu thereof "after December 31, 1988,".

(2) Section 3(c)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98b(c)(1)) is amended by striking out "the date of the enactment of the National Defense Stockpile Amendments of 1987" and inserting in lieu thereof "December 4, 1987".

(c) CORRECTION OF MISSPELLED WORD.—The table in section 1406(b) of title 10, United States Code, is amended by striking out "satisfactory" in the matter in the second column relating to section 1331 and inserting in lieu thereof "satisfactorily".

(d) REPEAL OF SURPLUS WORD.—Section 2343(b) of title 10, United States Code, is amended by striking out "section" before "2306a".

(e) PUNCTUATION CORRECTIONS.—(1) Section 1101(c) of title 10, United States Code, is amended by striking out "(1)" after "REGULATIONS.—".

(2) Paragraph (3) of section 7430(b) of such title is amended—

(A) by aligning the paragraph flush to the margin; and

(B) by striking out the comma at the end and inserting in lieu thereof a period.

(f) CAPITALIZATION CORRECTIONS.—(1) Section 801(1) of title 10, United States Code, is amended by striking out "judge" and inserting in lieu thereof "Judge".

(2) Section 101(5) of title 37, United States Code, is amended by striking out "secretary" and inserting in lieu thereof "Secretary".

(g) CROSS-REFERENCE AMENDMENTS.—(1) Section 401(c)(2) of title 10, United States Code, is amended by striking out "subsection (a)" and inserting in lieu thereof "paragraph (1)".

(2) Section 2133(b)(1) of title 10, United States Code, is amended by striking out "section 1431(e)" and inserting in lieu thereof "section 1431(f)".

(3) Section 7427 of title 10, United States Code, is amended by striking out "section 17(j)" and "30 U.S.C. 226(j)" and inserting in lieu thereof "section 17(m)" and "30 U.S.C. 226(m)", respectively.

(4) Section 1013 of title 37, United States Code, is amended by striking out "section 1051" and inserting in lieu thereof "section 1032".

(h) REPEAL OF EXPIRED REPORTING REQUIREMENT.—Section 179 of title 10, United States Code, is amended by striking out subsection (e).

(i) SECTION HEADINGS.—(1)(A) The heading of section 3965 of title 10, United States Code, is amended to read as follows:

"§ 3965. Restoration to former grade: retired warrant officers and enlisted members".

(B) The item relating to that section in the table of sections at the beginning of chapter 369 of such title is amended to read as follows:

"3965. Restoration to former grade: retired warrant officers and enlisted members.".

(2)(A) The heading of section 8965 of title 10, United States Code, is amended to read as follows:

"§ 8965. Restoration to former grade: retired warrant officers and enlisted members".

(B) The item relating to that section in the table of sections at the beginning of chapter 869 of such title is amended to read as follows:

"8965. Restoration to former grade: retired warrant officers and enlisted members.".

(j) SUBSECTION HEADING.—Section 2329(d) of title 10, United States Code, is amended by inserting after "(d)" the following: "TREATMENT OF CERTAIN COSTS AS DIRECT COSTS.—".

(k) DEFINITIONS.—(1) Section 2141(c) of title 10, United States Code, is amended by inserting "the term" after "In this chapter,".

(2) Section 9511(1) of such title is amended by striking out "The term" and inserting in lieu thereof "The terms".

(l) AMENDMENTS TO PUBLIC LAW 100-180.—(1) Section 623(a) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180; 101 Stat. 1101) is amended by inserting "in paragraphs (1) and (2)" before "and inserting".

37 USC 301c.

(2) Section 717(c) of such Act (101 Stat. 1114) is amended by striking out "on" in the quoted matter in paragraph (2) and inserting in lieu thereof "upon".

10 USC 8855.

(3) Paragraph (1) of section 802(a) of such Act (101 Stat. 1123) is amended by inserting end quotation marks and a period after "section." at the end.

10 USC 2366.

(4) Section 803(a) of such Act (101 Stat. 1125) is amended by inserting "the first place it appears" before "and inserting".

10 USC 2435.

(5) The amendments made by this subsection shall apply as if included in the enactment of Public Law 100-180.

10 USC 2366 note.

SEC. 1234. REFERENCES TO THE CANAL ZONE

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) Sections 101(3), 101(10), 101(12), 269(g), 281, 594(b), 672(d), 771a(c), 802(a)(11), 802(a)(12), 936(a), 1002(c), 3040(a), 3218, 3225, 3259, 3352(a), 3363(b), 3390(a), 3392, 3500 (first sentence), 3501(a), 3501(b), 3845, 3848(c)(1), 3851(a), 3851(d)(1), 3852(a), 4301(c), 8218, 8225, 8259, 8352(a), 8360(b), 8363(a), 8381(a), 8392, 8500 (first sentence), 8501(a), 8501(b), 8845, 8851(a), 8852(a), and 9301(c) are each amended by striking out "the Canal Zone," each place it appears.

(2) Sections 270(c) and 672(b) are each amended by striking out ", Puerto Rico, or the Canal Zone," and inserting in lieu thereof "or Puerto Rico".

(3) Sections 312(a)(2), 3500, and 8500 are each amended by striking out "Puerto Rico, and the Canal Zone" and inserting in lieu thereof "and Puerto Rico".

(4) Sections 3364(g) and 3364(j) are each amended by striking out ", Puerto Rico, the Canal Zone," and inserting in lieu thereof "or Puerto Rico".

(5) Section 3370(d) is amended by striking out "Puerto Rico, the Canal Zone" and inserting in lieu thereof "or Puerto Rico".

(6) Section 7308(a)(2) is amended by striking out "or the Canal Zone".

(b) TITLE 32.—Title 32, United States Code, is amended as follows:

(1) Sections 101(4), 101(6), 103, 104(c), 104(d), 107(b), 109, 304, 314(a), 314(d), 315(a), 315(b), 333, 501(b), 503(b), 504(b), 702(b), 702(c), 702(d), 703, 704, 708(d), 710, 711, and 712 are each amended by striking out "the Canal Zone,".

(2) Section 104(a) is amended by striking out "Each State and Territory, Puerto Rico, and the Canal Zone" and inserting in lieu thereof "Each State or Territory and Puerto Rico".

(3) Section 331 is amended by striking out "the governor of the State or Territory, Puerto Rico, or the Canal Zone," and inserting in lieu thereof "the Governor of the State or territory or Puerto Rico,".

(4) Sections 327(a), 505(a), and 702(a) are each amended by striking out "Territory, Puerto Rico, or the Canal Zone," and inserting in lieu thereof "Territory or Puerto Rico".

(5) Section 314(b) is amended—

(A) by striking out ", the Canal Zone," in the first sentence; and

(B) by striking out "or the Canal Zone" in the second sentence.

(6) Sections 324(b) and 325(a) are each amended by striking out ", the Canal Zone,".

TITLE XIII—FOREIGN RELATIONS MATTERS

SEC. 1301. SENSE OF CONGRESS CONCERNING THE PANAMA CANAL AND THE UNITED STATES SOUTHERN COMMAND

(a) FINDINGS.—The Congress finds that—

(1) the security of, and the free flow of shipping through, the Panama Canal are vital interests of the United States; and

(2) the continued ability of the United States Southern Command (which currently has its headquarters in the Republic of Panama) to carry out assigned missions, especially the mission

of defense of the Panama Canal, is essential to protecting and promoting the interests of the United States.

(b) SENSE OF CONGRESS.—In light of the findings in subsection (a), it is the sense of Congress that the President should take all steps necessary to ensure the continued ability of the United States Southern Command (or any successor command) to carry out assigned missions, especially the mission of defense of the Panama Canal.

President of U.S. 22 USC 2151 note.

SEC. 1302. LIMITATION ON ASSISTANCE TO PANAMANIAN DEFENSE FORCE

(a) LIMITATION.—The President may not use any funds appropriated to or for the use of any department, agency, or other entity of the United States for the purpose of providing assistance to the Panamanian Defense Force. The limitation in the preceding sentence shall cease to apply upon the submission by the President to Congress of a certification by the President—

(1) that no armed forces of the Soviet Union, the Republic of Cuba, or the Republic of Nicaragua are present in the Republic of Panama (other than military attachés accredited to the Republic of Panama); and

Manuel Noriega.

(2) that General Manuel Noriega has relinquished command of the Panamanian Defense Force and no longer holds any official position of leadership (either military or civilian) in the Republic of Panama.

(b) CLARIFICATION.—Subsection (a) does not prohibit the President from obligating or expending any funds necessary for—

(1) the defense of the Panama Canal,

(2) the collection of intelligence,

(3) the maintenance of United States Armed Forces in the Republic of Panama, or

(4) the protection of United States interests in the Republic of Panama.

(c) REPORT.—Not later than 30 days after the date of the enactment of this Act, the President shall submit to Congress a detailed report, in both classified and unclassified form, indicating—

(1) whether (and to what extent) military, paramilitary, or intelligence personnel of the Soviet Union, Cuba, or Nicaragua are present in the Republic of Panama; and

(2) whether (and to what extent) the Panamanian Defense Force has coordinated with, cooperated with, supported, or received support from, any such personnel.

SEC. 1303. SENSE OF CONGRESS CONCERNING INDICTMENT OF GENERAL NORIEGA OF PANAMA ON DRUG-RELATED CHARGES

(a) FINDINGS.—The Congress finds that—

(1) General Manuel Noriega, the commander of the Panamanian Defense Force, was indicted on February 5, 1988, in the United States District Courts for the Southern District and for the Middle District of Florida on a number of serious drug-related charges against the laws of the United States, including charges involving trafficking in illegal drugs, protecting and supporting drug traffickers, and laundering of drug-related money; and

(2) there have been reports in the news media and from other sources that discussions between officials of the United States and General Noriega may have occurred concerning arrange-

ments under which General Noriega would give up political power and leave the Republic of Panama in exchange for which the United States would file a motion to dismiss the indictments referred to in paragraph (1).

(b) SENSE OF CONGRESS.—It is the sense of Congress—

(1) that the United States should not conduct or authorize any negotiations or discussions, and should not make any arrangements, with General Manuel Noriega which would involve any effort by the United States to dismiss the indictments referred to in subsection (a)(1); and

(2) that any such negotiation, discussion, or arrangement—

(A) would be incompatible with the high priority that the United States places on the war on drugs;

(B) would not further the prospects for restoring noncorrupt, democratic government to the Republic of Panama; and

(C) would not serve the interests of the United States.

SEC. 1304. SENSE OF CONGRESS ON INTRODUCTION OF ARMED FORCES INTO NICARAGUA FOR COMBAT

Congress hereby reaffirms the sense of Congress expressed in the first session of the 99th Congress (in section 1451 of the Department of Defense Authorization Act, 1986 (Public Law 99-145; 99 Stat. 760)), that United States Armed Forces should not be introduced into or over Nicaragua for combat. However, nothing in this section shall be construed as affecting the authority and responsibility of the President or Congress under the Constitution, statutes, or treaties of the United States in force.

SEC. 1305. HUMAN RIGHTS VIOLATIONS BY THE GOVERNMENT OF POLAND

(a) FINDINGS.—Congress makes the following findings:

(1) The government of Poland, headed by General Wojciech Jaruzelski, has violated internationally recognized human rights of the people of Poland, including the right to peaceably assemble, the right to strike, the right to freely associate, and the right to due process. Wojciech Jaruzelski.

(2) The Jaruzelski government has retaliated against the justified, peaceful protests of workers at Nowa Huta, Poland, through the use of violence and force.

(3) The Jaruzelski government has prosecuted and imprisoned a number of persons for politically related offenses.

(4) The Jaruzelski government has to date refused to take steps which would guarantee the right of the people of Poland to participate in the management of the economy of Poland and has refused to accept the principle of pluralism in the national life of Poland.

(b) SENSE OF CONGRESS.—It is, therefore, the sense of Congress—

(1) that the use of force against the workers of Nowa Huta and intimidation against other strikers in Poland should be condemned; and

(2) that improvement in relations between the United States and Poland must be predicated on an improvement in internationally recognized human rights in Poland, including the release of political prisoners, steps toward trade union pluralism and the rights of independent trade unions to organize, and steps toward genuine national reconciliation and dialogue.

SEC. 1306. CONDITIONS FOR SALE OR OTHER TRANSFER OF F-15 AIRCRAFT TO SAUDI ARABIA

(a) Notwithstanding any other provision of law, any sale or other transfer to Saudi Arabia by the United States of F-15 aircraft shall be subject to the following conditions:

(1) Any such F-15 aircraft sold or otherwise transferred to Saudi Arabia shall be limited to models A, B, C, and D.

(2) The United States shall not sell or otherwise transfer to Saudi Arabia the F-15-E with a ground attack capability and shall not upgrade existing Saudi aircraft to that capability.

(3) Saudi Arabia shall not possess more than 60 F-15 aircraft at any time, except that additional replacement F-15 aircraft may be held in the United States, at the expense of Saudi Arabia, for shipment to Saudi Arabia only after the President notifies Congress that the existing inventory of F-15 aircraft held by Saudi Arabia is less than 60 and, then, only on a one-for-one replacement basis as each F-15 aircraft is totally removed from the inventory of Saudi Arabia.

(b) The President may waive subsection (a) if the President certifies to Congress that such action is in the national interest.

SEC. 1307. RESTRICTION ON SALE OF DEFENSE ARTICLES TO CERTAIN NATIONS

People's Republic of China.

(a) RESTRICTION.—During fiscal year 1989, the United States may not make any sale of defense articles subject to section 36(b) of the Arms Export Control Act (22 U.S.C. 2776(b)) to any nation which has acquired intermediate-range ballistic missiles made by the People's Republic of China.

(b) PRESIDENTIAL CERTIFICATION.—(1) The restriction in subsection (a) shall cease to apply with respect to any nation which has acquired such missiles upon certification by the President to Congress that that nation does not have chemical, biological, or nuclear warheads for those missiles.

(2) If the President makes a certification under paragraph (1) in the case of any nation, the President shall notify Congress promptly of any evidence that, after the date of such certification, such nation has acquired chemical, biological, or nuclear warheads for those missiles.

SEC. 1308. UNITED STATES BASES IN THE REPUBLIC OF THE PHILIPPINES

(a) CONGRESSIONAL FINDINGS.—Congress makes the following findings:

(1) The United States has maintained military bases in the Philippines since 1947 pursuant to the United States-Philippine Military Bases Agreement and maintained military bases in the Philippines for many years before that under other arrangements.

(2) Clark Air Force Base, Subic Bay Naval Base, and the other United States military installations in the Philippines significantly promote the mutual interests of the United States and the Philippines and contribute to regional and global security.

(3) These installations are also important to the development of democratic institutions and to economic progress in the Western Pacific and Southeast Asia.

(4) The United States military installations in the Philippines employ a loyal and highly skilled cadre of Filipinos and make a substantial contribution to the Philippine economy.

(5) The Military Bases Agreement as currently in effect has a fixed term lasting until September 16, 1991, after which it continues in effect subject to termination by either party on one year's notice.

(6) Pursuant to a 1979 amendment to that agreement, the President of the United States pledged to the Government of the Republic of the Philippines to undertake "best efforts" to obtain security assistance for the Philippines, and such pledge was reiterated by the President of the United States in 1983 as part of a five-year review of the agreement.

(7) The United States and the Republic of the Philippines are currently engaged in a second five-year review of the Military Bases Agreement.

(8) Officials of the Government of the Republic of the Philippines have indicated to officials of the United States that the United States should significantly increase compensation for the use by the United States of military bases in the Philippines.

(9) The provision of multilateral economic assistance to the Republic of the Philippines should be considered separately from the provision of security assistance by the United States to the Republic of the Philippines in return for United States basing rights in the Philippines.

(b) REPORT ON FACILITIES.—(1) The Secretary of Defense shall submit to Congress a report on the existing United States military facilities in the Republic of the Philippines. The report shall include analysis of the following:

(A) The costs and benefits of maintaining those facilities, including the costs to the United States of the operation and maintenance of those facilities and any other costs associated with those facilities and the economic and social benefits and other benefits of those facilities to the Republic of the Philippines.

(B) Potential alternative locations for those facilities.

(C) The strategic value to the United States of having military facilities located in the Philippines and of having such facilities at the potential alternative locations considered.

(D) The costs and benefits of relocating those facilities to the potential alternative locations, including—

(i) the cost to the United States of operation and maintenance and other costs,

(ii) the economic, social, and other costs to the Philippines, and

(iii) the economic, social, and other benefits to the government and community at each alternative location.

(E) The availability of skilled indigenous personnel at the potential alternative locations and the cost of training such personnel to work at such installations.

(2) The report shall be prepared in consultation with the Secretary of State and shall be submitted to Congress not later than six months after the date of the enactment of this Act.

SEC. 1309. ANNUAL ASSESSMENT OF SECURITY AT UNITED STATES BASES IN THE PHILIPPINES

10 USC 113 note.

The Secretary of Defense shall submit to Congress an annual report assessing security at United States military facilities in the Republic of the Philippines. Each such report shall include an

Reports.

assessment of the cooperation provided by the Philippine Government, at both the national and local level, in improving such security. The report required by this subsection shall be submitted to Congress not later than May 1 each year.

Human rights.

SEC. 1310. ECONOMIC SANCTIONS AGAINST ETHIOPIA

(a) STATEMENTS OF POLICY.—The Congress—

(1) condemns the Government of Ethiopia for its blatant disregard for human life as demonstrated by its use of food as a weapon, its forced resettlement program, and its human rights record;

(2) in the strongest terms possible, urges the Government of Ethiopia to allow foreign relief personnel to return to the north and to allow the international relief campaign to resume operations at its own risk, while retaining full control over its assets and having access to adequate aircraft and fuel;

(3) in the strongest terms possible, urges rebel groups to cease attacks upon relief vehicles and relief distribution points and to respect the impartiality of the international relief campaign;

(4) urges the President and the Secretary of State (through direct representations to the Government of Ethiopia and certain rebel groups and through sustained multilateral initiatives involving other Western donors, the United Nations, and the Organization of African Unity) to focus world pressure and opinion upon the combatants in northern Ethiopia, to press for an "open roads/own risk" policy that will facilitate the resumption of international relief efforts in the north, to press the Government of Ethiopia and the rebel groups to reach a pragmatic, enduring political settlement, and to press the Government of Ethiopia to implement genuine and effective reform of its failed agricultural policies; and

(5) urges the President and the Secretary of State to engage in direct discussion with the Soviet Union in order that the peaceful resolution of the crisis in northern Ethiopia becomes a high priority of the Soviet Union and that the approach of the Soviet Union is consistent with that of the West.

President of U.S.

(b) SANCTIONS.—(1) Notwithstanding any other provision of law, the President is authorized to, and is hereby strongly urged to, impose such economic sanctions upon Ethiopia as the President determines to be appropriate (subject to paragraphs (2) and (3)) if, at any time after the date of the enactment of this Act, the Government of Ethiopia engages in any of the following outrages:

(A) Forced resettlement.

(B) Forced confinement in any resettlement camp.

(C) Diversion of international relief to the military.

(D) Denial of international relief to any persons at risk because of famine.

(E) Seizure of international relief assets provided by the United States.

(F) Prohibition of end-use monitoring of food distribution by international relief personnel.

(2) In imposing sanctions pursuant to paragraph (1) on imports from Ethiopia, the President shall give priority consideration to those products which constitute major imports from Ethiopia, unless the President determines that sanctions against such products would have an adverse effect on economic interests of the United States.

(3) If a sanction imposed pursuant to paragraph (1) involves the prohibition or curtailment of exports to Ethiopia, that sanction may only be imposed under the authority and subject to the requirements of section 6 of the Export Administration Act of 1979.

(c) REPORTS TO CONGRESS.—Not more than 15 days after the date of the enactment of this Act and at the end of each 90-day period thereafter, the President shall submit to Congress a report stating whether or not, during the 90-day period preceding the date of the report, the Government of Ethiopia engaged in any conduct described in subsection (b). Each such report shall describe the response of the United States to any such conduct. President of U.S.

(d) REGULATION AUTHORITY.—The President shall issue such regulations, licenses, and orders as are necessary to implement any sanction imposed under this section. President of U.S.

(e) EXPIRATION.—The authority provided by subsection (b) shall expire on June 1, 1990.

TITLE XIV—DEPARTMENT OF ENERGY NATIONAL SECURITY PROGRAMS

PART A—NATIONAL SECURITY PROGRAMS AUTHORIZATIONS

SEC. 1401. OPERATING EXPENSES

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1989 for operating expenses incurred in carrying out national security programs (including scientific research and development in support of the Armed Forces, strategic and critical materials necessary for the common defense, and military applications of nuclear energy and related management and support activities) as follows:

(1) For weapons activities, $3,567,629,000, to be allocated as follows:

(A) For research and development, $1,052,546,000.

(B) For weapons testing, $524,238,000.

(C) For production and surveillance, $1,909,445,000.

(D) For program direction, $81,400,000.

(2) For defense nuclear materials production, $1,556,772,000 to be allocated as follows:

(A) For uranium enrichment for naval reactors, $169,000,000.

(B) For production reactor operations, $587,976,000.

(C) For processing of defense nuclear materials, including naval reactors fuel, $511,717,000, of which $72,300,000 shall be used for special isotope separation.

(D) For supporting services, $259,679,000.

(E) For program direction, $28,400,000.

(3) For environmental restoration and management of defense waste and transportation, $739,624,000, to be allocated as follows:

(A) For environmental restoration, $170,925,000. Such funds may also be used for plant and capital equipment.

(B) For waste operation and projects, $532,042,000.

(C) For waste research and development, $58,460,000.

(D) For hazardous waste process planning, $8,377,000.

(E) For transportation management, $9,720,000.

(F) For program direction, $3,100,000.

(4) For verification and control technology, $146,200,000.
(5) For nuclear materials safeguards and security technology development program, $75,400,000.
(6) For security investigations, $40,000,000.
(7) For naval reactors development, $555,400,000.

SEC. 1402. PLANT AND CAPITAL EQUIPMENT

Funds are authorized to be appropriated to the Department of Energy for fiscal year 1989 for plant and capital equipment (including maintenance, restoration, planning, construction, acquisition, modification of facilities, and the continuation of projects authorized in prior years, land acquisition related thereto, and acquisition and fabrication of capital equipment not related to construction) necessary for national security programs as follows:

(1) For weapons activities:

Project 89-D-101, general plant projects, various locations, $26,500,000.

Project 89-D-121, general plant projects, various locations, $29,194,000.

Project 89-D-122, production waste storage facilities, Y-12 Plant, Oak Ridge, Tennessee, $2,000,000.

Project 89-D-125, plutonium recovery modification project, Rocky Flats Plant, Golden, Colorado, $4,000,000.

Project 89-D-126, environmental, safety, and health upgrade, Phase II, Mound Plant, Miamisburg, Ohio, $800,000.

Project 88-D-102, sanitary wastewater systems consolidation, Los Alamos National Laboratory, Los Alamos, New Mexico, $7,600,000.

Project 88-D-103, seismic upgrade, Building 111, Lawrence Livermore National Laboratory, Livermore, California, $5,400,000.

Project 88-D-104, safeguards and security upgrade, Phase II, Los Alamos National Laboratory, Los Alamos, New Mexico, $7,300,000.

Project 88-D-105, special nuclear materials research and development laboratory replacement, Los Alamos National Laboratory, Los Alamos, New Mexico, $22,000,000.

Project 88-D-106, nuclear weapons research, development, and testing facilities revitalization, Phase II, various locations, $72,352,000.

Project 88-D-122, facilities capability assurance program, various locations, $79,341,000.

Project 88-D-123, security enhancements, Pantex Plant, Amarillo, Texas, $7,500,000.

Project 88-D-124, fire protection upgrade, various locations, $6,500,000.

Project 88-D-125, high explosive machining facility, Pantex Plant, Amarillo, Texas, $13,000,000.

Project 88-D-126, personnel radiological monitoring laboratories, various locations, $5,000,000.

Project 87-D-104, safeguards and security enhancement, Phase II, Lawrence Livermore National Laboratory, Livermore, California, $8,500,000.

Project 87-D-122, short-range attack missile II (SRAM II) warhead production facilities, various locations, $26,000,000.

Project 86-D-103, decontamination and waste treatment facility, Lawrence Livermore National Laboratory, Livermore, California, $12,000,000.

Project 86-D-104, strategic defenses facility, Sandia National Laboratories, Albuquerque, New Mexico, $3,237,000.

Project 86-D-123, environmental hazards elimination, various locations, $5,203,000.

Project 86-D-130, tritium loading facility replacement, Savannah River Plant, Aiken, South Carolina, $31,800,000.

Project 85-D-102, nuclear weapons research, development, and testing facilities revitalization, Phase I, various locations, $6,800,000.

Project 85-D-105, combined device assembly facility, Nevada Test Site, Nevada, $12,200,000.

Project 85-D-112, enriched uranium recovery improvements, Y-12 Plant, Oak Ridge, Tennessee, $1,281,000.

Project 84-D-124, environmental improvements, Y-12 Plant, Oak Ridge, Tennessee, $4,775,000.

Project 84-D-211, safeguards and site security upgrading, Y-12 Plant, Oak Ridge, Tennessee, $2,775,000.

(2) For materials production:

Project 89-D-140, additional separations safeguards, Savannah River, South Carolina, $5,300,000.

Project 89-D-141, M-area waste disposal, Savannah River, South Carolina, $3,600,000.

Project 89-D-142, reactor effluent cooling water thermal mitigation, Savannah River, South Carolina, $1,000,000.

Project 89-D-146, general plant projects, various locations, $35,260,000.

Project 89-D-148, improved reactor confinement system, design only, Savannah River, South Carolina, $2,000,000.

Project 88-D-153, additional reactor safeguards, Savannah River, South Carolina, $5,700,000.

Project 88-D-154, new production reactor, design only, site to be determined, $35,000,000.

Project 87-D-152, environmental protection plantwide, Savannah River, South Carolina, $2,224,000.

Project 87-D-159, environmental, health, and safety improvements, Phases I, II, and III, Feed Materials Production Center, Fernald, Ohio, $50,000,000.

Project 86-D-148, special isotope separation project, Idaho Falls, Idaho, $28,000,000.

Project 86-D-149, productivity retention program, Phases I, II, III, and IV, various locations, $72,140,000.

Project 86-D-152, reactor electrical distribution system, Savannah River, South Carolina, $6,000,000.

Project 86-D-156, plantwide safeguards systems, Savannah River, South Carolina, $12,800,000.

Project 85-D-139, fuel processing restoration, Idaho Fuels Processing Facility, Idaho National Engineering Laboratory, Idaho, $65,000,000.

Project 84-D-134, safeguards and security improvements, plantwide, Savannah River, South Carolina, $11,584,000.

Project 82-D-124, restoration of production capabilities, Phases II, III, IV, and V, various locations, $5,879,000.

(3) For defense waste and environmental restoration:

Project 89-D-170, general plant projects, waste operations and projects, and waste research and development, various locations, $28,000,000.

Project 89-D-171, Idaho National Engineering Laboratory road renovation, Idaho, $4,000,000.

Project 89-D-172, Hanford environmental compliance, Richland, Washington, $12,000,000.

Project 89-D-173, tank farm ventilation upgrade, Richland, Washington, $1,800,000.

Project 89-D-174, replacement high level waste evaporator, Savannah River, South Carolina, $3,520,000.

Project 89-D-175, hazardous waste/mixed waste disposal facility, Savannah River, South Carolina, $3,500,000.

Project 88-D-173, Hanford waste vitrification plant, Richland, Washington, $22,500,000.

Project 87-D-173, 242-A evaporator crystallizer upgrade, Richland, Washington, $1,944,000.

Project 87-D-177, test reactor area liquid radioactive waste cleanup system, Phase III, Idaho National Engineering Laboratory, Idaho, $911,000.

Project 87-D-180, burial ground expansion, Savannah River, South Carolina, $2,068,000.

Project 87-D-181, diversion box and pump pit containment buildings, Savannah River, South Carolina, $6,371,000.

Project 86-D-175, Idaho National Engineering Laboratory security upgrade, Idaho, $2,084,000.

Project 83-D-148, nonradioactive hazardous waste management, Savannah River, South Carolina, $13,000,000.

Project 81-T-105, defense waste processing facility, Savannah River, South Carolina, $92,462,000.

(4) For naval reactors development:

Project 89-N-101, general plant projects, various locations, $7,000,000.

Project 89-N-102, heat transfer test facility, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,800,000.

Project 89-N-103, advanced test reactor modifications, Test Reactor Area, Idaho National Engineering Laboratory, Idaho, $1,600,000.

Project 89-N-104, power system upgrade, Naval Reactors Facility, Idaho, $600,000.

Project 88-N-102, expended core facility receiving station, Naval Reactors Facility, Idaho, $5,900,000.

Project 88-N-103, material handling and storage modifications, Knolls Atomic Power Laboratory, Niskayuna, New York, $2,700,000.

Project 88-N-104, prototype availability facilities, Knolls Atomic Power Laboratory, Kesselring Site, West Milton, New York, $6,000,000.

(5) For capital equipment not related to construction:

(A) For weapons activities, $272,254,000, including $8,240,000 for the defense inertial confinement fusion program.

(B) For materials production, $102,500,000.

(C) For defense waste and environmental restoration, $52,716,000.

(D) For verification and control technology, $8,400,000.
(E) For nuclear safeguards and security, $4,800,000.
(F) For naval reactors development, $48,000,000.

SEC. 1403. FUNDING LIMITATIONS

(a) PROGRAMS, PROJECTS, AND ACTIVITIES OF THE DEPARTMENT OF ENERGY RELATING TO THE STRATEGIC DEFENSE INITIATIVE.—Of the funds appropriated to the Department of Energy for fiscal year 1989 for operating expenses and plant and capital equipment, not more than $262,000,000 may be obligated or expended for programs, projects, and activities of the Department of Energy relating to the Strategic Defense Initiative.

(b) INERTIAL CONFINEMENT FUSION.—Of the funds appropriated to the Department of Energy for fiscal year 1989 for operating expenses and plant and capital equipment, $163,770,000 shall be obligated or expended for the defense inertial confinement fusion program.

(c) SRAM II.—Funds appropriated to the Department of Energy for fiscal year 1989 for facilities for production of the warhead for the short-range attack missile II (SRAM II) (project 87-D-122) may be obligated only—

(1) for facilities which are suitable for production of a warhead compatible with both the SRAM-A and the SRAM II; and

(2) after the Nuclear Weapons Council certifies that the design of the warhead is compatible with both the SRAM-A and the SRAM II.

(d) SPECIAL ISOTOPE SEPARATION PROJECT.—Funds appropriated or otherwise made available to the Department of Energy for the special isotope separation project, Idaho Falls, Idaho, may not be obligated or expended for site preparation for such project before March 1, 1989.

(e) PLUTONIUM RECOVERY MODIFICATION PROJECT.—Funds appropriated or otherwise made available for the plutonium recovery modification project (project 89-D-125), Rocky Flats Plant, Golden, Colorado, may not be obligated or expended until the later of—

(1) 60 days after the President submits the report (relating to modernization of the nuclear weapons complex) required by section 3132 of the Department of Energy National Security and Military Applications of Nuclear Energy Authorization Act of 1988 (title I of division C of Public Law 100-180; 101 Stat. 1239); or

President of U.S. Reports.

(2) February 15, 1989.

PART B—RECURRING GENERAL PROVISIONS

SEC. 1421. REPROGRAMMING

(a) NOTICE TO CONGRESS.—(1) Except as otherwise provided in this part—

(A) no amount appropriated pursuant to this title may be used for any program in excess of the lesser of—

(i) 105 percent of the amount authorized for that program by this title; or

(ii) $10,000,000 more than the amount authorized for that program by this title; and

(B) no amount appropriated pursuant to this title may be used for any program which has not been presented to, or requested of, the Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) LIMITATION ON AMOUNT OBLIGATED.—In no event may the total amount of funds obligated pursuant to this title exceed the total amount authorized to be appropriated by this title.

SEC. 1422. LIMITS ON GENERAL PLANT PROJECTS

(a) IN GENERAL.—The Secretary may carry out any construction project under the general plant projects provisions authorized by this title if the total estimated cost of the construction project does not exceed $1,200,000.

(b) REPORT TO CONGRESS.—If at any time during the construction of any general plant project authorized by this title, the estimated cost of the project is revised because of unforeseen cost variations and the revised cost of the project exceeds $1,200,000, the Secretary shall immediately furnish a complete report to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives explaining the reasons for the cost variation.

SEC. 1423. LIMITS ON CONSTRUCTION PROJECTS

(a) IN GENERAL.—(1) Except as provided in paragraph (2), construction on a construction project may not be started or additional obligations incurred in connection with the project above the total estimated cost, whenever the current estimated cost of the construction project, which is authorized by section 1402 of this title, or which is in support of national security programs of the Department of Energy and was authorized by any previous Act, exceeds by more than 25 percent the higher of—

(A) the amount authorized for the project; or

(B) the amount of the total estimated cost for the project as shown in the most recent budget justification data submitted to Congress.

(2) An action described in paragraph (1) may be taken after a period of 30 calendar days (not including any day on which either House of Congress is not in session because of adjournment of more than three calendar days to a day certain) has passed after receipt by the Committees on Armed Services and on Appropriations of the Senate and House of Representatives of notice from the Secretary of Energy containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

(b) EXCEPTION.—Subsection (a) shall not apply to any construction project which has a current estimated cost of less than $5,000,000.

SEC. 1424. FUND TRANSFER AUTHORITY

(a) IN GENERAL.—Funds appropriated pursuant to this title may be transferred to other agencies of the Government for the performance of the work for which the funds were appropriated, and funds so transferred may be merged with the appropriations of the agency to which the funds are transferred.

(b) SPECIFIC TRANSFER.—The Secretary of Defense may transfer to the Secretary of Energy not more than $100,000,000 of the funds appropriated for fiscal year 1989 to the Department of Defense for research, development, test, and evaluation for the Defense Agencies for the performance of work on the Strategic Defense Initiative. Funds so transferred—

(1) may be used only for research, development, and testing for nuclear directed energy weapons, including plant and capital equipment related thereto;

(2) shall be merged with the appropriations of the Department of Energy; and

(3) may not be included in calculating the amount of funds obligated or expended for purposes of the funding limitation in section 1403(a).

SEC. 1425. AUTHORITY FOR CONSTRUCTION DESIGN

(a) IN GENERAL.—(1) Within the amounts authorized by this title for plant engineering and design, the Secretary may carry out advance planning and construction designs (including architectural and engineering services) in connection with any proposed construction project if the total estimated cost for such planning and design does not exceed $2,000,000.

(2) In any case in which the total estimated cost for such planning and design exceeds $300,000, the Secretary shall notify the Committees on Armed Services and on Appropriations of the Senate and House of Representatives in writing of the details of such project at least 30 days before any funds are obligated for design services for such project.

(b) SPECIFIC AUTHORITY REQUIRED.—In any case in which the total estimated cost for advance planning and construction design in connection with any construction project exceeds $2,000,000, funds for such design must be specifically authorized by law.

SEC. 1426. AUTHORITY FOR EMERGENCY CONSTRUCTION DESIGN

In addition to the advance planning and construction design authorized by section 1402, the Secretary may perform planning and design utilizing available funds for any Department of Energy defense activity construction project whenever the Secretary determines that the design must proceed expeditiously in order to meet the needs of national defense or to protect property or human life.

SEC. 1427. FUNDS AVAILABLE FOR ALL NATIONAL SECURITY PROGRAMS OF THE DEPARTMENT OF ENERGY

Subject to the provisions of appropriation Acts and section 1421, amounts appropriated pursuant to this title for management and support activities and for general plant projects are available for use, when necessary, in connection with all national security programs of the Department of Energy.

SEC. 1428. AVAILABILITY OF FUNDS

When so specified in an appropriation Act, amounts appropriated for operating expenses or for plant and capital equipment may remain available until expended.

PART C—MISCELLANEOUS PROVISIONS

SEC. 1431. REVIEW OF THE INERTIAL CONFINEMENT FUSION PROGRAM

(a) ESTABLISHMENT.—(1) Within 30 days after the date of the enactment of this Act, the Secretary of Energy shall establish a review body to be known as the Program Review Group on Inertial Confinement Fusion (hereafter in this section referred to as the "Review Group").

(2) It shall be the function of the Review Group to review thoroughly the accomplishments, management, goals, and anticipated contributions of the defense inertial confinement fusion program, for both the civilian and military sectors. Such review shall include—

(A) an assessment of the most promising technologies for continuation of the program; and

(B) an assessment of the potential contributions of the program under a prohibition of underground nuclear testing and under a limitation of underground nuclear testing to levels of 1 kiloton, 5 kilotons, and 10 kilotons.

(3) The Secretary of Energy shall appoint to serve on the Review Group only persons who, because of experience in the scientific disciplines associated with the development and testing of nuclear weapons, are most qualified to make findings of fact and recommendations to Congress and the Secretary concerning that program.

(b) REPORTS.—The Review Group shall submit to the Secretary and the Committees on Armed Services and on Appropriations of the Senate and House of Representatives an interim report and a final report containing the results of its review, together with such recommendations regarding priorities for future work in the inertial confinement fusion program as it determines appropriate. The interim report shall be submitted before January 15, 1990, and the final report shall be submitted before September 15, 1990.

(c) REVIEW AND COMMENT BY THE SECRETARY.—(1) The Secretary of Energy shall review both the interim and final reports of the Review Group and submit to the Committees on Armed Services and on Appropriations of the Senate and House of Representatives the following:

(A) An assessment of the budgetary priority, under current and anticipated budget restraints, that should be given to the inertial confinement fusion program of the Department of Energy in relation to the budgetary priority that should be given to core defense research and development programs of the Department to carry out the defense missions of the Department.

(B) Such additional comments regarding such reports as the Secretary considers appropriate.

(2) The Secretary shall submit his assessment and comments on each report referred to in subsection (b) not later than 30 days after receiving such report.

(d) TERMINATION.—Upon the submission of its final report, the Review Group shall cease to exist.

SEC. 1432. ASSISTANCE TO COMMUNITIES AFFECTED BY CLOSING OF N REACTOR

Grants.
Washington.

The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds made available under Federal

programs administered by agencies other than the Department of Defense in order to assist the State of Washington and local communities near Hanford Reservation, Washington, in planning community adjustments required by the closure of the N Reactor.

SEC. 1433. REVIEW OF WASTE ISOLATION PILOT PLANT IN NEW MEXICO

Energy.
Safety.
Environmental protection.

(a) CONTRACT REQUIREMENT.—The Secretary of Energy shall enter into a contract with the New Mexico Institute of Mining and Technology (hereafter in this section referred to as the "Institute") to conduct independent reviews and evaluations of the design, construction, and operations of the Waste Isolation Pilot Plant in New Mexico (hereafter in this section referred to as the "WIPP") as they relate to the protection of the public health and safety and the environment. The contract shall be for a period of one year, beginning on March 31, 1989, and shall be renewable for four additional one-year periods with the consent of the Institute and subject to the authorization and appropriation of funds for such purpose.

Science and technology.

(b) CONTENT OF CONTRACT.—A contract entered into under subsection (a) shall require the following:

Reports.

(1) The President of the Institute shall appoint a Director and Deputy Director, who shall be scientists of national eminence in the field of nuclear waste disposal, shall be free from any biases related to the activities of the WIPP, and shall be widely known for their integrity and scientific expertise. The Director shall carry out the work under the contract through a group known as the Environmental Evaluation Group and shall report directly to the President of the Institute.

(2) The Director shall appoint staff. The professional staff shall consist of scientists and engineers of recognized integrity and scientific expertise who represent scientific and engineering disciplines needed for a thorough review of the WIPP, including such disciplines as geology, hydrology, health physics, environmental engineering, probability risk analysis, mining engineering, and radiation chemistry. The disciplines represented in the staff shall change as may be necessary to meet changed needs in carrying out the contract for expertise in any certain scientific or engineering discipline. Scientists employed under the contract shall have qualifications and experience equivalent to the qualifications and experience required for scientists employed by the Federal Government in grades GS-13 through GS-16.

(3) Scientists employed under the contract shall have an appropriate support staff.

(4) The Director and Deputy Director shall each be appointed for a term of 5 years, subject to contract renewal, and may be removed only for misconduct or incompetence. The staff shall be appointed for such terms as the Director considers appropriate.

(5) The rates of pay of professional staff and the procedures for increasing the rates of pay of professional staff shall be equivalent to those rates and procedures provided for the General Schedule pay system under chapter 53 of title 5, United States Code. The fringe benefits available to the professional staff of the Institute shall also be available to professional staff under the contract.

(6) To the maximum extent practicable, preference in the hiring of staff for the Environmental Evaluation Group shall be given to persons involved in the scientific evaluation group for WIPP immediately before the date of the enactment of this Act.

(7) Offices of the Environmental Evaluation Group shall be established in Carlsbad, New Mexico, and in Albuquerque, New Mexico, for carrying out the contract. The Director shall designate one of the offices as the administrative headquarters for carrying out the contract.

Public information.

(8) The results of reviews and evaluations carried out under the contract shall be published.

(c) ADMINISTRATION.—The contract entered into under subsection (a) shall be administered under the direction of the President of the Institute. Such President shall establish general policies and guidelines to be used by the Director in carrying out the work under the contract. The Director shall be solely responsible for determining reviews and evaluations to be conducted by the Environmental Evaluation Group.

(d) FUNDING.—Funding for the contract shall be from amounts appropriated under section 1401. The amount of the initial one-year contract shall be not less than $1,060,000.

(e) CONSTRUCTION.—Nothing in this section shall be construed as affecting actions undertaken before the date of the enactment of this Act in furtherance of the requirements of this section.

SEC. 1434. AUTHORITY TO LOAN PERSONNEL AND FACILITIES TO COMMUNITY DEVELOPMENT ORGANIZATIONS NEAR HANFORD RESERVATION

Contracts. Energy. Washington.

(a) AUTHORITY TO LOAN PERSONNEL.—(1) The Secretary of Energy shall allow each contractor and subcontractor of the Department of Energy carrying out operating, engineering, research and development, or construction management at the Hanford Reservation, Washington, to loan personnel in accordance with this section to the community development organization known as the Tri City Industrial Development Council serving Benton and Franklin counties, Washington. Any such loan shall be for the purpose of assisting in the diversification of the local economy by reducing reliance by local communities on national security programs at Hanford Reservation.

(2) A contractor shall continue to compensate any personnel loaned by the contractor under paragraph (1). Any such compensation shall be allowed as a cost for which the Department of Energy may reimburse the contractor under the contract.

(3) The Secretary of Energy may not obligate or expend more than $500,000 in each of fiscal years 1989 and 1990 for loans of personnel under this section. The amount of such obligations or expenditures shall be measured by the cost of compensation paid to such personnel by the contractor and reimbursed by the Department of Energy.

(b) AUTHORITY TO LOAN FACILITIES.—The Secretary of Energy may loan facilities of the Federal Government being used by contractors of the Department of Energy at Hanford Reservation, Washington, to any community-based organization. However, any loan of a facility under this subsection may be made only if use of the facility by such an organization would not adversely affect Department of Energy programs, as determined by the Secretary.

(c) DURATION OF PROGRAM.—The authority to loan personnel and facilities under this section, and the loan of any personnel or facilities pursuant to such authority, shall terminate on September 30, 1990.

SEC. 1435. NEW PRODUCTION REACTOR

Reports.

(a) RECOMMENDATIONS REGARDING NEW PRODUCTION REACTOR.—Not later than July 31, 1988, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing the Secretary's recommendation for the site for construction of a new production reactor and the Secretary's recommendation for the preferred technology for a new production reactor.

(b) REPORT CONTAINING INFORMATION PERTAINING TO NEW PRODUCTION REACTOR.—At the same time the budget for fiscal year 1990 is submitted to Congress pursuant to section 1105 of title 31, United States Code, the Secretary of Energy shall submit to the Committees on Armed Services of the Senate and House of Representatives a report containing—

(1) a discussion of the administrative and legislative changes that would be necessary to shorten the time period necessary to attain the initial operational date of a new production reactor; and

(2) any recommendations for such additional action that the Secretary considers appropriate.

SEC. 1436. NUCLEAR TEST BAN READINESS PROGRAM

42 USC 2121 note.

(a) FINDINGS.—The Congress makes the following findings:

(1) On September 17, 1987, the United States and the Soviet Union announced that they would resume full-scale, stage-by-stage negotiations on issues relating to nuclear testing, including further intermediate limitations on nuclear testing leading to the ultimate objective of a comprehensive nuclear test ban.

(2) It was agreed that the first step in these negotiations would be to reach agreement on verification measures that will make possible the ratification of the Threshold Test Ban Treaty of 1974 and the Peaceful Nuclear Explosions Treaty of 1976.

(3) To achieve the agreement on verification measures, the United States and the Soviet Union have agreed to design and conduct a Joint Verification Experiment at the test sites of each country during the summer of 1988.

(4) At the Moscow summit in May 1988, President Reagan and General Secretary Gorbachev reaffirmed their commitment to negotiations on "effective verification measures which will make it possible to ratify the Threshold Test Ban Treaty of 1974 and Peaceful Nuclear Explosions Treaty of 1976, and proceed to negotiating further intermediate limitations on nuclear testing leading to the ultimate objective of the complete cessation of nuclear testing as part of an effective disarmament process".

(b) ESTABLISHMENT OF PROGRAM.—The Secretary of Energy shall establish and support a program to assure that the United States is in a position to maintain the reliability, safety, and continued deterrent effect of its stockpile of existing nuclear weapons designs in the event that a low-threshold or comprehensive ban on nuclear explosives testing is negotiated and ratified within the framework agreed to by the United States and the Soviet Union.

Safety.

(c) PURPOSES OF PROGRAM.—The purposes of the program under subsection (b) shall be the following:

Safety.

(1) To assure that the United States maintains a vigorous program of stockpile inspection and non-explosive testing so that, if a low-threshold or comprehensive test ban is entered into, the United States remains able to detect and identify

potential problems in stockpile reliability and safety in existing designs of nuclear weapons.

(2) To assure that the specific materials, components, processes, and personnel needed for the remanufacture of existing nuclear weapons or the substitution of alternative nuclear warheads are available to support such remanufacture or substitution if such action becomes necessary in order to satisfy reliability and safety requirements under a low-threshold or comprehensive test ban agreement.

Research and development.

(3) To assure that a vigorous program of research in areas related to nuclear weapons science and engineering is supported so that, if a low-threshold or comprehensive test ban agreement is entered into, the United States is able to maintain a base of technical knowledge about nuclear weapons design and nuclear weapons effects.

(d) CONDUCT OF PROGRAM.—The Secretary of Energy shall carry out the program provided for in subsection (b). The program shall be carried out with the participation of representatives of the Department of Defense, the nuclear weapons production facilities, and the national nuclear weapons laboratories.

Public information. Classified information.

(e) ANNUAL REPORT.—The Secretary of Energy shall submit to Congress each year an unclassified report (with a classified annex as necessary) that describes the progress made to the date of the report in achieving the purposes of the program required to be established under subsection (b).

PART D—DOE DEFENSE NUCLEAR FACILITIES SAFETY OVERSIGHT BOARD

SEC. 1441. ESTABLISHMENT OF DEFENSE NUCLEAR FACILITIES SAFETY BOARD

(a) ESTABLISHMENT.—(1) The Atomic Energy Act of 1954 (42 U.S.C. 2011 et seq.) is amended by adding at the end the following new chapter:

"CHAPTER 21. DEFENSE NUCLEAR FACILITIES SAFETY BOARD

42 USC 2286.

"SEC. 311. ESTABLISHMENT.

"(a) ESTABLISHMENT.—There is hereby established an independent establishment in the executive branch, to be known as the 'Defense Nuclear Facilities Safety Board' (hereafter in this chapter referred to as the 'Board').

President of U.S.

"(b) MEMBERSHIP.—(1) The Board shall be composed of five members appointed from civilian life by the President, by and with the advice and consent of the Senate, from among United States citizens who are respected experts in the field of nuclear safety with a demonstrated competence and knowledge relevant to the independent investigative and oversight functions of the Board. Not more than three members of the Board shall be of the same political party.

"(2) Any vacancy in the membership of the Board shall be filled in the same manner in which the original appointment was made.

"(3) No member of the Board may be an employee of, or have any significant financial relationship with, the Department of Energy or any contractor of the Department of Energy.

"(4) Not later than 180 days after the date of the enactment of this chapter, the President shall submit to the Senate nominations for appointment to the Board. In the event that the President is unable to submit the nominations within such 180-day period, the President shall submit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a report describing the reasons for such inability and a plan for submitting the nominations within the next 90 days. If the President is unable to submit the nominations within that 90-day period, the President shall again submit to such committees and the Speaker such a report and plan. The President shall continue to submit to such committees and the Speaker such a report and plan every 90 days until the nominations are submitted. President of U.S. Reports. 42 USC 2286.

"(c) CHAIRMAN AND VICE CHAIRMAN.—(1) The President shall designate a Chairman and Vice Chairman of the Board from among members of the Board. President of U.S.

"(2) The Chairman shall be the chief executive officer of the Board and, subject to such policies as the Board may establish, shall exercise the functions of the Board with respect to—

"(A) the appointment and supervision of employees of the Board;

"(B) the organization of any administrative units established by the Board; and

"(C) the use and expenditure of funds.

"(3) The Chairman may delegate any of the functions under this paragraph to any other member or to any appropriate officer of the Board.

"(4) The Vice Chairman shall act as Chairman in the event of the absence or incapacity of the Chairman or in case of a vacancy in the office of Chairman.

"(d) TERMS.—(1) Except as provided under paragraph (2), the members of the Board shall serve for terms of five years. Members of the Board may be reappointed.

"(2) Of the members first appointed—

"(A) one shall be appointed for a term of one year;

"(B) one shall be appointed for a term of two years;

"(C) one shall be appointed for a term of three years;

"(D) one shall be appointed for a term of four years; and

"(E) one shall be appointed for a term of five years,

as designated by the President at the time of appointment.

"(3) Any member appointed to fill a vacancy occurring before the expiration of the term of office for which such member's predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of that member's term until a successor has taken office.

"(e) QUORUM.—Three members of the Board shall constitute a quorum, but a lesser number may hold hearings.

"SEC. 312. FUNCTIONS OF THE BOARD. 42 USC 2286a.

"The Board shall perform the following functions:

"(1) REVIEW AND EVALUATION OF STANDARDS.—The Board shall review and evaluate the content and implementation of the standards relating to the design, construction, operation, and decommissioning of defense nuclear facilities of the Department of Energy (including all applicable Department of Energy orders, regulations, and requirements) at each Department of Energy defense nuclear facility. The Board shall recommend to

the Secretary of Energy those specific measures that should be adopted to ensure that public health and safety are adequately protected. The Board shall include in its recommendations necessary changes in the content and implementation of such standards, as well as matters on which additional data or additional research is needed.

"(2) INVESTIGATIONS.—(A) The Board shall investigate any event or practice at a Department of Energy defense nuclear facility which the Board determines has adversely affected, or may adversely affect, public health and safety.

"(B) The purpose of any Board investigation under subparagraph (A) shall be—

"(i) to determine whether the Secretary of Energy is adequately implementing the standards described in paragraph (1) of the Department of Energy (including all applicable Department of Energy orders, regulations, and requirements) at the facility;

"(ii) to ascertain information concerning the circumstances of such event or practice and its implications for such standards;

"(iii) to determine whether such event or practice is related to other events or practices at other Department of Energy defense nuclear facilities; and

"(iv) to provide to the Secretary of Energy such recommendations for changes in such standards or the implementation of such standards (including Department of Energy orders, regulations, and requirements) and such recommendations relating to data or research needs as may be prudent or necessary.

"(3) ANALYSIS OF DESIGN AND OPERATIONAL DATA.—The Board shall have access to and may systematically analyze design and operational data, including safety analysis reports, from any Department of Energy defense nuclear facility.

"(4) REVIEW OF FACILITY DESIGN AND CONSTRUCTION.—The Board shall review the design of a new Department of Energy defense nuclear facility before construction of such facility begins and shall recommend to the Secretary, within a reasonable time, such modifications of the design as the Board considers necessary to ensure adequate protection of public health and safety. During the construction of any such facility, the Board shall periodically review and monitor the construction and shall submit to the Secretary, within a reasonable time, such recommendations relating to the construction of that facility as the Board considers necessary to ensure adequate protection of public health and safety. An action of the Board, or a failure to act, under this paragraph may not delay or prevent the Secretary of Energy from carrying out the construction of such a facility.

"(5) RECOMMENDATIONS.—The Board shall make such recommendations to the Secretary of Energy with respect to Department of Energy defense nuclear facilities, including operations of such facilities, standards, and research needs, as the Board determines are necessary to ensure adequate protection of public health and safety. In making its recommendations the Board shall consider the technical and economic feasibility of implementing the recommended measures.

"SEC. 313. POWERS OF BOARD. 42 USC 2286b.

"(a) HEARINGS.—(1) The Board or a member authorized by the Board may, for the purpose of carrying out this chapter, hold such hearings and sit and act at such times and places, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such evidence as the Board or an authorized member may find advisable.

"(2)(A) Subpoenas may be issued only under the signature of the Chairman or any member of the Board designated by him and shall be served by any person designated by the Chairman, any member, or any person as otherwise provided by law. The attendance of witnesses and the production of evidence may be required from any place in the United States at any designated place of hearing in the United States.

"(B) Any member of the Board may administer oaths or affirmations to witnesses appearing before the Board.

"(C) If a person issued a subpoena under paragraph (1) refuses to obey such subpoena or is guilty of contumacy, any court of the United States within the judicial district within which the hearing is conducted or within the judicial district within which such person is found or resides or transacts business may (upon application by the Board) order such person to appear before the Board to produce evidence or to give testimony relating to the matter under investigation. Any failure to obey such order of the court may be punished by such court as a contempt of the court.

"(D) The subpoenas of the Board shall be served in the manner provided for subpoenas issued by a United States district court under the Federal Rules of Civil Procedure for the United States district courts.

"(E) All process of any court to which application may be made under this section may be served in the judicial district in which the person required to be served resides or may be found.

"(b) STAFF.—The Board may, for the purpose of performing its responsibilities under this chapter—

"(1) hire such staff as it considers necessary to perform the functions of the Board, but not more than the equivalent of 100 full-time employees; and

"(2) procure the temporary and intermittent services of experts and consultants to the extent authorized by section 3109(b) of title 5, United States Code, at rates the Board determines to be reasonable.

"(c) REGULATIONS.—The Board may prescribe regulations to carry out the responsibilities of the Board under this chapter.

"(d) REPORTING REQUIREMENTS.—The Board may establish reporting requirements for the Secretary of Energy which shall be binding upon the Secretary. The information which the Board may require the Secretary of Energy to report under this subsection may include any information designated as classified information, or any information designated as safeguards information and protected from disclosure under section 147 or 148 of this Act. Classified information.

"(e) USE OF GOVERNMENT FACILITIES, ETC.—The Board may, for the purpose of carrying out its responsibilities under this chapter, use any facility, contractor, or employee of any other department or agency of the Federal Government with the consent of and under appropriate support arrangements with the head of such depart-

42 USC 2286b.

ment or agency and, in the case of a contractor, with the consent of the contractor.

"(f) ASSISTANCE FROM CERTAIN AGENCIES OF THE FEDERAL GOVERNMENT.—With the consent of and under appropriate support arrangements with the Nuclear Regulatory Commission, the Board may obtain the advice and recommendations of the staff of the Commission on matters relating to the Board's responsibilities and may obtain the advice and recommendations of the Advisory Committee on Reactor Safeguards on such matters.

"(g) ASSISTANCE FROM ORGANIZATIONS OUTSIDE THE FEDERAL GOVERNMENT.—The Board may enter into an agreement with the National Research Council of the National Academy of Sciences or any other appropriate group or organization of experts outside the Federal Government chosen by the Board to assist the Board in carrying out its responsibilities under this chapter.

"(h) RESIDENT INSPECTORS.—The Board may assign staff to be stationed at any Department of Energy defense nuclear facility to carry out the functions of the Board.

"(i) SPECIAL STUDIES.—The Board may conduct special studies pertaining to adequate protection of public health and safety at any Department of Energy defense nuclear facility.

"(j) EVALUATION OF INFORMATION.—The Board may evaluate information received from the scientific and industrial communities, and from the interested public, with respect to—

"(1) events or practices at any Department of Energy defense nuclear facility; or

"(2) suggestions for specific measures to improve the content of standards described in section 312(1), the implementation of such standards, or research relating to such standards at Department of Energy defense nuclear facilities.

42 USC 2286c.

"SEC. 314. RESPONSIBILITIES OF THE SECRETARY OF ENERGY.

Contracts.

"(a) COOPERATION.—The Secretary of Energy shall fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information as the Board considers necessary to carry out its responsibilities under this chapter. Each contractor operating a Department of Energy defense nuclear facility under a contract awarded by the Secretary shall, to the extent provided in such contract or otherwise with the contractor's consent, fully cooperate with the Board and provide the Board with ready access to such facilities, personnel, and information of the contractor as the Board considers necessary to carry out its responsibilities under this chapter.

"(b) ACCESS TO INFORMATION.—The Secretary of Energy may deny access to information provided to the Board to any person who—

"(1) has not been granted an appropriate security clearance or access authorization by the Secretary of Energy; or

"(2) does not need such access in connection with the duties of such person.

42 USC 2286d.

"SEC. 315. BOARD RECOMMENDATIONS.

Federal Register, publication.

"(a) PUBLIC AVAILABILITY AND COMMENT.—Subject to subsections (g) and (h) and after receipt by the Secretary of Energy of any recommendations from the Board under section 312, the Board promptly shall make such recommendations available to the public in the Department of Energy's regional public reading rooms and shall publish in the Federal Register such recommendations and a

request for the submission to the Board of public comments on such recommendations. Interested persons shall have 30 days after the date of the publication of such notice in which to submit comments, data, views, or arguments to the Board concerning the recommendations.

"(b) RESPONSE BY SECRETARY.—(1) The Secretary of Energy shall transmit to the Board, in writing, a statement on whether the Secretary accepts or rejects, in whole or in part, the recommendations submitted to him by the Board under section 312, a description of the actions to be taken in response to the recommendations, and his views on such recommendations. The Secretary of Energy shall transmit his response to the Board within 45 days after the date of the publication, under subsection (a), of the notice with respect to such recommendations or within such additional period, not to exceed 45 days, as the Board may grant.

"(2) At the same time as the Secretary of Energy transmits his response to the Board under paragraph (1), the Secretary, subject to subsection (h), shall publish such response, together with a request for public comment on his response, in the Federal Register. Federal Register, publication.

"(3) Interested persons shall have 30 days after the date of the publication of the Secretary of Energy's response in which to submit comments, data, views, or arguments to the Board concerning the Secretary's response.

"(4) The Board may hold hearings for the purpose of obtaining public comments on its recommendations and the Secretary of Energy's response.

"(c) PROVISION OF INFORMATION TO SECRETARY.—The Board shall furnish the Secretary of Energy with copies of all comments, data, views, and arguments submitted to it under subsection (a) or (b).

"(d) FINAL DECISION.—If the Secretary of Energy, in a response under subsection (b)(1), rejects (in whole or part) any recommendation made by the Board under section 312, the Board shall either reaffirm its original recommendation or make a revised recommendation and shall notify the Secretary of its action. Within 30 days after receiving the notice of the Board's action under this subsection, the Secretary shall consider the Board's action and make a final decision on whether to implement all or part of the Board's recommendations. Subject to subsection (h), the Secretary shall publish the final decision and the reasoning for such decision in the Federal Register and shall transmit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a written report containing that decision and reasoning. Federal Register, publication. Reports.

"(e) IMPLEMENTATION PLAN.—The Secretary of Energy shall prepare a plan for the implementation of each Board recommendation, or part of a recommendation, that is accepted by the Secretary in his final decision. The Secretary shall transmit the implementation plan to the Board within 90 days after the date of the publication of the Secretary's final decision on such recommendation in the Federal Register. The Secretary may have an additional 45 days to transmit the plan if the Secretary submits to the Board and to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives a notification setting forth the reasons for the delay and describing the actions the Secretary is taking to prepare an implementation plan under this subsection. The Secretary may implement any such recommendation (or part of any such recommendation) before, on, or after the

date on which the Secretary transmits the implementation plan to the Board under this subsection.

"(f) IMPLEMENTATION.—(1) Subject to paragraph (2), not later than one year after the date on which the Secretary of Energy transmits an implementation plan with respect to a recommendation (or part thereof) under subsection (e), the Secretary shall carry out and complete the implementation plan. If complete implementation of the plan takes more than 1 year, the Secretary of Energy shall submit a report to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives setting forth the reasons for the delay and when implementation will be completed.

Reports.

Reports.

"(2) If the Secretary of Energy determines that the implementation of a Board recommendation (or part thereof) is impracticable because of budgetary considerations, or that the implementation would affect the Secretary's ability to meet the annual nuclear weapons stockpile requirements established pursuant to section 91 of this Act, the Secretary shall submit to the President, to the Committees on Armed Services and on Appropriations of the Senate, and to the Speaker of the House of Representatives a report containing the recommendation and the Secretary's determination.

Safety.

"(g) IMMINENT OR SEVERE THREAT.—(1) In any case in which the Board determines that a recommendation submitted to the Secretary of Energy under section 312 relates to an imminent or severe threat to public health and safety, the Board and the Secretary of Energy shall proceed under this subsection in lieu of subsections (a) through (d).

"(2) At the same time that the Board transmits a recommendation relating to an imminent or severe threat to the Secretary of Energy, the Board shall also transmit the recommendation to the President and for information purposes to the Secretary of Defense. The Secretary of Energy shall submit his recommendation to the President. The President shall review the Secretary of Energy's recommendation and shall make the decision concerning acceptance or rejection of the Board's recommendation.

President of U.S.

Public information.

"(3) After receipt by the President of the recommendation from the Board under this subsection, the Board promptly shall make such recommendation available to the public and shall transmit such recommendation to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives. The President shall promptly notify such committees and the Speaker of his decision and the reasons for that decision.

President of U.S.

"(h) LIMITATION.—Notwithstanding any other provision of this section, the requirements to make information available to the public under this section—

"(1) shall not apply in the case of information that is classified; and

"(2) shall be subject to the orders and regulations issued by the Secretary of Energy under sections 147 and 148 of this Act to prohibit dissemination of certain information.

42 USC 2286e.

"SEC. 316. REPORTS.

"(a) BOARD REPORT.—(1) The Board shall submit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to

section 1105(a) of title 31, United States Code, a written report concerning its activities under this chapter, including all recommendations made by the Board, during the year preceding the year in which the report is submitted. The Board may also issue periodic unclassified reports on matters within the Board's responsibilities. 42 USC 2286e.

"(2) The annual report under paragraph (1) shall include an assessment of—

"(A) the improvements in the safety of Department of Energy defense nuclear facilities during the period covered by the report;

"(B) the improvements in the safety of Department of Energy defense nuclear facilities resulting from actions taken by the Board or taken on the basis of the activities of the Board; and

"(C) the outstanding safety problems, if any, of Department of Energy defense nuclear facilities.

"(b) DOE REPORT.—The Secretary of Energy shall submit to the Committees on Armed Services and on Appropriations of the Senate and to the Speaker of the House of Representatives each year, at the same time that the President submits the budget to Congress pursuant to section 1105(a) of title 31, United States Code, a written report concerning the activities of the Department of Energy under this chapter during the year preceding the year in which the report is submitted.

"SEC. 317. JUDICIAL REVIEW. 42 USC 2286f.

"Chapter 7 of title 5, United States Code, shall apply to the activities of the Board under this chapter.

"SEC. 318. DEFINITION. 42 USC 2286g.

"As used in this chapter, the term 'Department of Energy defense nuclear facility' means any of the following:

"(1) A production facility or utilization facility (as defined in section 11 of this Act) that is under the control or jurisdiction of the Secretary of Energy and that is operated for national security purposes, but the term does not include—

"(A) any facility or activity covered by Executive Order No. 12344, dated February 1, 1982, pertaining to the Naval nuclear propulsion program;

"(B) any facility or activity involved with the assembly or testing of nuclear explosives or with the transportation of nuclear explosives or nuclear material; or

"(C) any facility that does not conduct atomic energy defense activities.

"(2) A nuclear waste storage facility under the control or jurisdiction of the Secretary of Energy, but the term does not include a facility developed pursuant to the Nuclear Waste Policy Act of 1982 (42 U.S.C. 10101 et seq.) and licensed by the Nuclear Regulatory Commission.

"SEC. 319. CONTRACT AUTHORITY SUBJECT TO APPROPRIATIONS. 42 USC 2286h.

"The authority of the Board to enter into contracts under this chapter is effective only to the extent that appropriations (including transfers of appropriations) are provided in advance for such purpose.

42 USC 2286i.

"SEC. 320. ANNUAL AUTHORIZATION OF APPROPRIATIONS.

"Authorizations of appropriations for the Board for fiscal years beginning after fiscal year 1989 shall be provided annually in authorization Acts.".

(2) The table of contents at the beginning of the Atomic Energy Act of 1954 is amended by adding at the end the following:

"CHAPTER 21. DEFENSE NUCLEAR FACILITIES SAFETY BOARD

"Sec. 311. Establishment.
"Sec. 312. Functions of the Board.
"Sec. 313. Powers of Board.
"Sec. 314. Responsibilities of the Secretary of Energy.
"Sec. 315. Board recommendations.
"Sec. 316. Reports.
"Sec. 317. Judicial review.
"Sec. 318. Definition.
"Sec. 319. Contract authority subject to appropriations.
"Sec. 320. Annual authorization of appropriations.".

(b) SALARY FOR BOARD MEMBERS AT EXECUTIVE SCHEDULE LEVEL III.—Section 5314 of title 5, United States Code, is amended by inserting after "Members, Nuclear Regulatory Commission." the following:

"Members, Defense Nuclear Facilities Safety Board.".

42 USC 2286e note.

(c) REQUIREMENTS FOR FIRST ANNUAL REPORT.—(1) Before submission of the first annual report by the Defense Nuclear Facilities Safety Board under section 316(a) of the Atomic Energy Act of 1954 (as added by subsection (a)), the Board shall conduct a study on whether nuclear facilities of the Department of Energy that are excluded from the definition of "Department of Energy defense nuclear facility" in section 318(1)(C) of such Act (hereafter in this subsection referred to as "non-defense nuclear facilities") should be subject to independent external oversight. The Board shall include in such first annual report the results of such study and the recommendation of the Board on whether non-defense nuclear facilities should be subject to independent external oversight.

(2) If the Board recommends in the report that non-defense nuclear facilities should be subject to such oversight, the report shall include a discussion of alternative mechanisms for implementing such oversight, including mechanisms such as a separate executive agency and oversight as a part of the Board's responsibilities. The discussion of alternative mechanisms of oversight also shall include considerations of budgetary costs, protection of the security of sensitive nuclear weapons information, and the similarities and differences in the design, construction, operation, and decommissioning of defense and non-defense nuclear facilities of the Department of Energy.

(d) REQUIREMENTS FOR FIFTH ANNUAL REPORT.—The fifth annual report submitted by the Defense Nuclear Facilities Safety Board under section 316(a) of the Atomic Energy Act of 1954 (as added by subsection (a)) shall include—

(1) an assessment of the degree to which the overall administration of the Board's activities are believed to meet the objectives of Congress in establishing the Board;

(2) recommendations for continuation, termination, or modification of the Board's functions and programs, including recommendations for transition to some other independent oversight arrangement if it is advisable; and

(3) recommendations for appropriate transition requirements in the event that modifications are recommended.

SEC. 1442. TRANSFER

The Secretary of Energy, to the extent provided in appropriations Acts, shall transfer to the Defense Nuclear Facilities Safety Board established by section 311 of the Atomic Energy Act of 1954 (as added by section 1441) from sums available for obligation for national security programs such sums as may be necessary, as determined by such Board, for the operation of the Board during fiscal year 1989, but in no case may more than $7,000,000 be transferred for such purpose. Sums transferred shall be available to such Board to carry out its responsibilities under chapter 21 of the Atomic Energy Act of 1954 (as added by section 1441) and shall remain available until expended.

TITLE XV—NATIONAL DEFENSE STOCKPILE

SEC. 1501. AUTHORIZED DISPOSALS

50 USC 98d note.

(a) AUTHORITY.—Notwithstanding section 5(b) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98d(b)) but subject to subsection (c), the President may during fiscal year 1989 dispose of materials in the National Defense Stockpile in accordance with this section. The value of the materials disposed of may not exceed $180,000,000 and may only be made as specified in subsection (b).

(b) MATERIALS AUTHORIZED TO BE DISPOSED.—Any disposal pursuant to the authority in subsection (a) shall be made from materials in the National Defense Stockpile previously authorized for disposal by law and from the following materials in the National Defense Stockpile, such materials having been determined to be excess to stockpile requirements:

Material	Quantities
Asbestos, chrysotile	2,100 short tons
Asbestos, crocidolite	36 short tons
Celestite	13,500 short dry tons
Iodine	772,000 pounds
Kyanite	1,200 short dry tons
Manganese dioxide, battery grade, natural ore	65,000 short dry tons
Mercury	7,500 flasks
Mica, muscovite block (S&L)	181,000 pounds
Mica, muscovite splittings	750,000 pounds
Mica, phlogopite splittings	589,000 pounds
Quartz	1,249,000 pounds
Silicon Carbide	44,000 short tons
Talc, block and lump	990 short tons
Talc, ground	1,100 short tons
Thorium nitrate	6,520,000 pounds
Tin	5,000 metric tons
Tungsten ores and concentrates	1,000,000 pounds
Vegetable tannin chestnut	3,500 long tons
Vegetable tannin quebracho	77,000 long tons.

(c) DISPOSALS DURING FISCAL YEAR 1989.—The President may dispose of materials under this section during fiscal year 1989 only to the extent that the total amount received (or to be received) from such disposals does not exceed the amount expended from the National Defense Stockpile Transaction Fund during fiscal year 1989 for purposes authorized under section 9(b)(2) of such Act.

SEC. 1502. AUTHORIZATION OF ACQUISITIONS

President of U.S.

(a) ACQUISITIONS.—During fiscal year 1989, the President shall obligate $180,000,000 out of the funds of the National Defense Stockpile Transaction Fund (subject to such limitations as may be provided in appropriations Acts) for the following purposes:

(1) The acquisition of strategic and critical materials under section 6(a)(1) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98e(a)(1)).

(2) Transportation, storage, and other incidental expenses related to such acquisition.

(3) The upgrading of stockpile materials under section 6(a)(3) of such Act (50 U.S.C. 98e(a)(3)) and evaluations, tests, and other incidental expenses related to such upgrades.

(4) Other authorized uses of such funds under section 9(b)(2) of such Act (50 U.S.C. 98h(b)(2)).

(b) NEW UPGRADE PROGRAMS.—Of the amount specified in subsection (a), at least $20,000,000 shall be obligated to initiate new programs for upgrading stockpile materials. The Stockpile Manager shall submit to Congress by October 1, 1988, a report containing a plan for the use of such $20,000,000 for upgrading stockpile materials.

Reports.

SEC. 1503. TECHNICAL AND CLARIFYING AMENDMENTS

(a) SEMI-ANNUAL REPORT.—Section 11(a) of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98h-2(a)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (2) the following new paragraphs:

"(3) information with respect to the activities by the Stockpile Manager to encourage the conservation, substitution, and development of strategic and critical materials within the United States;

"(4) information with respect to the research and development activities conducted under sections 2 and 8;".

(b) ANNUAL MATERIALS PLAN.—Section 11(b) of such Act (50 U.S.C. 98h-2(b)) is amended—

(1) in the first sentence, by striking out "such fiscal year" and inserting in lieu thereof "the next fiscal year";

(2) in the second sentence, by striking out "planned" and all that follows through "critical materials" and inserting in lieu thereof "all planned expenditures from the National Defense Stockpile Transaction Fund"; and

(3) by adding at the end the following new sentence: "Any proposed expenditure or disposal detailed in the annual materials plan for any such fiscal year, and any expenditure or disposal proposed in connection with any transaction submitted for such fiscal year to the appropriate committees of Congress pursuant to section 5(a)(2), that is not obligated or executed in that fiscal year may not be obligated or executed until such proposed expenditure or disposal is resubmitted in a subsequent annual materials plan or is resubmitted to the appropriate committees of Congress in accordance with section 5(a)(2), as appropriate.".

TITLE XVI—CIVIL DEFENSE

SEC. 1601. AUTHORIZATION OF APPROPRIATION

There is hereby authorized to be appropriated $147,893,000 for fiscal year 1989 for the purpose of carrying out the Federal Civil Defense Act of 1950 (50 U.S.C. App. 2251 et seq.).

DIVISION B—MILITARY CONSTRUCTION AUTHORIZATIONS

Military Construction Authorization Act, 1989.

SEC. 2001. SHORT TITLE.

This division may be cited as the "Military Construction Authorization Act, 1989".

TITLE XXI—ARMY

SEC. 2101. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Anniston Army Depot, $6,000,000.
Fort McClellan, $7,900,000.
Redstone Arsenal, $14,800,000.
Fort Rucker, $2,110,000.

ALASKA

Fort Wainwright, $29,740,000.
Fort Richardson, $6,250,000.

ARIZONA

Fort Huachuca, $1,200,000.

ARKANSAS

Pine Bluff Arsenal, $7,500,000.

CALIFORNIA

Fort Ord, $13,050,000.
Sierra Army Depot, $380,000.

COLORADO

Pueblo Army Depot, $3,200,000.

DISTRICT OF COLUMBIA

Walter Reed Army Medical Center, $1,600,000.

GEORGIA

Fort Benning, $24,350,000.

HAWAII

Fort Shafter, $7,200,000.
Schofield Barracks, $8,500,000.

ILLINOIS

Rock Island Arsenal, $10,980,000.
Savanna Army Depot, $2,270,000.
Fort Sheridan, $3,280,000.

KENTUCKY

Fort Campbell, $20,500,000.
Lexington-Bluegrass Depot, $770,000.

MARYLAND

Aberdeen Proving Ground, $17,000,000.
Fort Detrick, $6,500,000.
Fort Ritchie, $9,100,000.

NEW JERSEY

Fort Dix, $6,200,000.

NEW YORK

United States Military Academy, West Point, $11,150,000.

NORTH CAROLINA

Fort Bragg, $36,602,000.

OKLAHOMA

Fort Sill, $3,700,000.

OREGON

Umatilla Army Depot, $3,600,000.

PENNSYLVANIA

Letterkenny Army Depot, $1,900,000.

TEXAS

Fort Bliss, $3,800,000.
Corpus Christi Army Depot, $7,400,000.
Fort Hood, $15,900,000.
Red River Army Depot, $88,400,000.
Fort Sam Houston, $3,250,000.

UTAH

Dugway Proving Ground, $12,800,000.
Tooele Army Depot, $92,300,000.

VIRGINIA

Fort A.P. Hill, $9,900,000.

Fort Eustis, $5,000,000.
Fort Lee, $4,800,000.
Fort Pickett, $4,000,000.
Vint Hill Farms Station, $800,000.

WASHINGTON

Fort Lewis, $19,800,000.

WISCONSIN

Fort McCoy, $2,100,000.

VARIOUS LOCATIONS

Classified Locations, $3,600,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Army may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

GERMANY

Ansbach, $15,000,000.
Friedberg, $1,300,000.
Giessen, $6,300,000.
Grafenwoehr Training Area, $7,000,000.
Hohenfels Training Area, $36,960,000.
Karlsruhe, $2,550,000.
Mainz, $19,550,000.
Mannheim, $14,400,000.
Rheinberg, $12,400,000.
Schweinfurt, $9,700,000.
Stuttgart, $3,350,000.
Vilseck, $44,600,000.
Wiesbaden, $13,900,000.
Worms, $1,300,000.
Wuerzburg, $33,650,000.
Various Locations, $18,000,000.

HONDURAS

Site 5, $3,050,000.

ITALY

Various Locations, $1,250,000.

JAPAN

Various Locations, $7,900,000.
Various Locations, $5,300,000.

KOREA

Camp Casey, $3,700,000.
Camp Gary Owen, $1,150,000.
Camp Greaves, $1,540,000.
Camp Hovey, $3,200,000.
Camp Kittyhawk, $1,350,000.
Camp Libby, $1,150,000.

Camp Page, $670,000.
Camp Sears, $1,100,000.
Camp Stanley, $1,200,000.
Camp Stanton, $1,400,000.
K-16 Army Airfield, $670,000.
Taegu, $990,000.
Yongsan, $1,400,000.
Various Locations, $6,200,000.
Various Locations, $9,200,000.

KWAJALEIN

Kwajalein, $15,490,000.

VARIOUS LOCATIONS

Various Locations, $9,750,000.

SEC. 2102. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), construct or acquire family housing units (including land acquisition) at the following installations in the number of units shown, and in the amount shown, for each installation:

Fort Wainwright, Alaska, one hundred and fifty units, $27,000,000.
Fort Irwin, California, two hundred and sixty-three units, $24,000,000.
Helemano, Hawaii, one hundred units, $11,400,000.
Schofield Barracks, Hawaii, forty units, $4,450,000.
Fort Leavenworth, Kansas, two hundred and seventy-two units, $20,000,000.
Fort Drum, New York, one hundred units, $10,000,000.
Fort Bliss, Texas, one hundred and eight units, $9,100,000.
Augsburg, Germany, thirty-four units, as described in section 2103(b).
Hohenfels, Germany, eighty-eight units, $8,400,000.

(b) PLANNING AND DESIGN.—The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of family housing units in an amount not to exceed $10,628,000.

SEC. 2103. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(6)(A), improve existing military family housing units in an amount not to exceed $72,300,000.

(b) WAIVER OF MAXIMUM PER COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Army may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Pearl Harbor, Hawaii, eight units, $550,000.

Augsburg, Germany, convert unused attic space and upgrade fourteen units into forty-eight adequate units, as authorized in section 2102(a), $3,360,000.

Taegu, Korea, ninety-six units, $4,450,000.

SEC. 2104. DEFENSE ACCESS ROADS

The Secretary of the Army may, using amounts appropriated pursuant to section 2105(a)(4), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Fort Belvoir, Virginia, in the amount of $1,000,000.

SEC. 2105. AUTHORIZATION OF APPROPRIATIONS, ARMY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Army in the total amount of $2,417,701,000 as follows:

(1) For military construction projects inside the United States authorized by section 2101(a), $463,182,000.

(2) For military construction projects outside the United States authorized by section 2101(b), $299,620,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,200,000.

(4) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $1,000,000.

(5) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $98,328,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing facilities, $197,278,000;

(B) for support of military family housing (including the functions described in section 2833 of title 10, United States Code), $1,340,093,000, of which not more than $52,190,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $183,600,000 may be obligated or expended for the leasing of military family housing units in foreign countries; and

(C) for the Homeowners Assistance Program as authorized by section 2832 of title 10, United States Code, $2,000,000, to remain in effect until expended.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2101 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $78,000,000 (the balance of the amount authorized for the construction of the Central Distribution Center, Red River Army Depot, Texas).

SEC. 2106. EXTENSION OF CERTAIN PRIOR YEAR AUTHORIZATIONS

(a) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1985 PROJECTS.—Notwithstanding the provisions of section 607(a) of the Military Construction Authorization Act, 1985 (Public Law 98-407, 98 Stat. 1515), authorizations for the following projects authorized in section 101 of that Act, as extended by section 2107(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661) and section 2105(a) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180) shall remain in effect until October 1, 1989, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1990, whichever is later:

(1) Barracks modernization in the amount of $660,000 at Argyroupolis, Greece.

(2) Barracks modernization in the amount of $660,000 at Perivolaki, Greece.

(3) Barracks with dining facility in the amount of $11,400,000 at Presidio of San Francisco, California.

(b) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1986 PROJECTS.—Notwithstanding the provisions of section 603(a) of the Military Construction Authorization Act, 1986 (Public Law 99-167), authorizations for the following projects authorized in sections 101 and 102 of that Act as extended by section 2105(b) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 99-180), shall remain in effect until October 1, 1989, or the date of enactment of an Act authorizing funds for military construction for fiscal year 1990, whichever is later:

(1) Child care center in the amount of $470,000 at Karlsruhe, Germany.

(2) Modified record fire range in the amount of $2,850,000 at Nuernberg, Germany.

(3) Flight simulator building in the amount of $2,900,000 at Wiesbaden, Germany.

(4) Air conditioning upgrade in the amount of $5,900,000 at Schofield Barracks, Hawaii.

(5) Child care center in the amount of $1,350,000 at Camp Darby, Italy.

(6) Dining facility modernization in the amount of $4,350,000 at Fort Leavenworth, Kansas.

(7) Family housing, new construction, 6 units, in the amount of $596,000 at Fort Myer, Virginia.

(c) EXTENSION OF AUTHORIZATION OF CERTAIN FISCAL YEAR 1987 PROJECTS.—Notwithstanding the provisions of section 2701(a) of the Military Construction Authorization Act, 1987, (division B of Public Law 99-661), authorizations for the following projects authorized in sections 2101, 2102, and 2103 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1990, whichever is later:

(1) Primary water supply connection in the amount of $2,150,000 at Fort Riley, Kansas.

(2) Material test facility in the amount of $9,700,000 at Dugway Proving Ground, Utah.

(3) Barracks modernization in the amount of $3,700,000 at foreign various location 276.

(4) Dining facility in the amount of $2,100,000 at Giessen, Germany.
(5) Aircraft maintenance hangar in the amount of $7,100,000 at Hanau, Germany.
(6) Seventy manufactured home spaces in the amount of $1,100,000 at Aberdeen Proving Ground, Maryland.
(7) Family housing, new construction, 40 units in the amount of $4,100,000 at Crailsheim, Germany.

TITLE XXII—NAVY

SEC. 2201. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

ALABAMA

Naval Station, Mobile, $19,700,000.

ALASKA

David Taylor Research Center Detachment, Ketchikan, $12,000,000.
Naval Air Station, Adak, $29,000,000.

ARIZONA

Marine Corps Air Station, Yuma, $11,770,000.

CALIFORNIA

Marine Corps Air-Ground Combat Center, Twentynine Palms, $26,630,000.
Marine Corps Air Station, Camp Pendleton, $9,450,000.
Marine Corps Air Station, El Toro, $3,970,000.
Marine Corps Air Station, Tustin, $10,990,000.
Marine Corps Base, Camp Pendleton, $64,460,000.
Marine Corps Logistics Base, Barstow, $1,190,000.
Mountain Warfare Training Center, Bridgeport, $3,200,000.
Naval Air Station, Moffett Field, $650,000.
Naval Air Station, North Island, $6,150,000.
Naval Amphibious Base, Coronado, $870,000.
Naval Amphibious School, San Diego, $10,100,000.
Naval Aviation Depot, Alameda, $8,290,000.
Naval Aviation Depot, North Island, $2,110,000.
Naval Construction Battalion Center, Port Hueneme, $7,000,000.
Naval Construction Training Center, Port Hueneme, $10,080,000.
Naval Hospital, Lemoore, $2,160,000.
Naval Ocean Systems Center, San Diego, $8,660,000.
Naval Post Graduate School, Monterey, $3,140,000.
Naval Civil Engineer Corps Officers School, Port Hueneme, $7,420,000.
Naval Security Group Detachment, San Diego, $1,950,000.
Naval Shipyard, Mare Island, $6,450,000.
Naval Space Surveillance Field Station, San Diego, $3,760,000.

Naval Station, Treasure Island, San Francisco, $5,000,000.
Naval Submarine Base, San Diego, $3,150,000.
Naval Supply Center, Oakland, $1,550,000.
Naval Supply Center, San Diego Annex, North Island, $1,695,000.
Naval Training Center, San Diego, $7,980,000.
Naval Weapons Center, China Lake, $12,260,000.
Naval Weapons Station, Seal Beach, $13,890,000.
Navy Public Works Center, San Diego, $500,000.
Navy Public Works Center, San Francisco, $15,810,000.
Pacific Missile Test Center, Point Mugu, $20,470,000.
Personnel Support Activity, San Diego, $1,180,000.
Shore Intermediate Maintenance Activity, San Diego, $10,720,000.
Submarine Training Facility, San Diego, $10,301,000.

CONNECTICUT

Naval Security Group Activity, Groton, $1,170,000.
Naval Submarine Base, New London, $6,660,000.

DISTRICT OF COLUMBIA

Commandant, Naval District Washington, $38,100,000.
Naval Research Laboratory, Washington, $19,800,000.

FLORIDA

Naval Air Station, Cecil Field, $340,000.
Naval Air Station, Jacksonville, $8,810,000.
Naval Air Station, Key West, $850,000.
Naval Air Station, Pensacola, $25,600,000.
Naval Aviation Depot, Jacksonville, $14,180,000.
Naval Hospital, Pensacola, $2,250,000.
Naval Legal Service Office, Mayport, $1,450,000.
Naval Station, Mayport, $3,060,000.
Naval Supply Center, Pensacola, $2,640,000.
Naval Technical Training Center, Pensacola, $2,840,000.
Naval Training Center, Orlando, $23,810,000.

GEORGIA

Marine Corps Logistics Base, Albany, $5,740,000.
Naval Submarine Base, Kings Bay, $56,330,000.

HAWAII

Marine Corps Air Station, Kaneohe Bay, $24,270,000.
Naval Legal Service Office, Pearl Harbor, $2,380,000.
Naval Station, Pearl Harbor, $8,370,000.
Naval Submarine Base, Pearl Harbor, $11,250,000.
Naval Submarine Training Center, Pacific, Pearl Harbor, $1,780,000.
Naval Supply Center, Pearl Harbor, $8,350,000.
Navy Public Works Center, Pearl Harbor, $3,760,000.

ILLINOIS

Naval Training Center, Great Lakes, $3,440,000.
Naval Public Works Center, Great Lakes, $1,930,000.

KENTUCKY

Naval Ordnance Station, Louisville, $19,000,000.

LOUISIANA

Naval Station, Lake Charles, $3,700,000.

MAINE

Naval Air Station, Brunswick, $530,000.

MARYLAND

David Taylor Naval Ship Research Development Center, Annapolis, $1,860,000.
Naval Academy, Annapolis, $540,000.
Naval Air Test Center, Patuxent River, $1,250,000.
Naval Explosive Ordnance Disposal Technology Center, Indian Head, $7,380,000.
Naval Intelligence Command Headquarters, Suitland, $114,000,000.
Naval Medical Data Services Center, Bethesda, $5,930,000.
Naval Ordnance Station, Indian Head, $1,270,000.
Naval Surface Warfare Center Detachment, White Oak, $2,540,000.

MISSISSIPPI

Naval Air Station, Meridian, $3,100,000.
Naval Construction Training Center, Gulfport, $4,070,000.
Naval Station, Pascagoula, $25,700,000.
Supervisor of Shipbuilding, Pascagoula, $6,000,000.

NEVADA

Naval Air Station, Fallon, $9,470,000.

NEW JERSEY

Naval Weapons Station, Earle, $30,400,000.

NEW MEXICO

Naval Ordnance Missile Test Station, White Sands, $8,090,000.

NEW YORK

Naval Station, New York, $23,395,000.

NORTH CAROLINA

Marine Corps Air Station, Cherry Point, $32,380,000.
Marine Corps Air Station, New River, $8,400,000.
Marine Corps Base, Camp Lejeune, $23,450,000.

OKLAHOMA

Naval Air Detachment, Tinker Air Force Base, $38,080,000.

PENNSYLVANIA

Naval Air Development Center, Warminster, $1,270,000.
Naval Shipyard, Philadelphia, $10,300,000.
Navy Aviation Supply Office, Philadelphia, $1,400,000.
Navy Ships Parts Control Center, Mechanicsburg, $2,050,000.

RHODE ISLAND

Naval Education and Training Center, Newport, $11,560,000.
Naval Justice School, Newport, $2,060,000.
Surface Warfare Officers School Command, Newport, $4,750,000.

SOUTH CAROLINA

Naval Hospital, Beaufort, $2,260,000.
Naval Shipyard, Charleston, $640,000.
Naval Supply Center, Charleston, $1,090,000.
Naval Weapons Station, Charleston, $22,250,000.

TENNESSEE

Naval Air Station, Memphis, $10,090,000.

TEXAS

Naval Station, Galveston, $8,110,000.
Naval Station, Ingleside, $31,850,000.

VIRGINIA

Atlantic Fleet Headquarters Support Activity, Norfolk, $1,700,000.
Fleet Combat Training Center, Atlantic, Dam Neck, $4,700,000.
Marine Corps Combat Development Command, Quantico, $14,290,000.
Marine Corps Detachment, Camp Elmore, $1,690,000.
Marine Environmental Systems Facility, Dam Neck, $5,000,000.
Naval Air Station, Oceana, $2,690,000.
Naval Amphibious Base, Little Creek, $8,270,000.
Naval Amphibious School, Little Creek, $640,000.
Naval Aviation Depot, Norfolk, $8,950,000.
Naval Guided Missiles School, Dam Neck, $4,450,000.
Naval Legal Service Office, Norfolk, $1,080,000.
Naval Medical Clinic, Norfolk, $2,470,000.
Naval Ophthalmic Support and Training Activity, Yorktown, $1,970,000.
Naval Security Group Activity, Northwest, Chesapeake, $5,400,000.
Naval Supply Center, Norfolk, $6,660,000.
Naval Supply Center, Williamsburg, $3,300,000.
Naval Surface Warfare Center, Dahlgren, $25,442,000.
Naval Weapons Station, Yorktown, $12,360,000.
Navy Public Works Center, Norfolk, $4,410,000.

WASHINGTON

Naval Air Station, Whidbey Island, $11,010,000.
Naval Station, Everett, $38,400,000.
Naval Supply Center, Bremerton, $5,740,000.

Strategic Weapons Facility, Pacific, Silverdale, $15,060,000.
Trident Refit Facility, Bangor, $990,000.

VARIOUS LOCATIONS

Land Acquisition, $36,895,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Navy may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

ANTIGUA

Naval Support Facility, $6,470,000.

GUAM

Fleet Surveillance Support Group, $20,972,000.
Naval Security Group Detachment, $400,000.
Naval Supply Depot, $7,660,000.
Navy Public Works Center, $6,720,000.

ICELAND

Naval Air Station, Keflavik, $12,000,000.

ITALY

Naval Air Station, Sigonella, $7,950,000.
Naval Support Activity, Naples, $4,750,000.

JAPAN

Marine Corps Air Station, Futenma, Okinawa, $3,280,000.
Marine Corps Base, Camp Butler, Okinawa, $2,840,000.

PHILIPPINES

Navy Public Works Center, Subic Bay, $28,340,000.

SPAIN

Naval Communication Station, Rota, $400,000.

VARIOUS LOCATIONS

Classified Location, $4,990,000.
Host Nation Infrastructure Support, $500,000.

SEC. 2202. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(6)(A), construct or acquire family housing units (including land acquisition), at the following installations in the number of units shown, and in the amount shown, for each installation:

Marine Corps Air-Ground Combat Center, Twentynine Palms, California, one hundred units, $9,470,000.

Marine Corps Air Station, El Toro, California, one hundred units and eighty mobile home spaces, $10,120,000.

Marine Corps Base, Camp Pendleton, California, three hundred and thirty-two units and access roads, $28,510,000.

Naval Station, Long Beach, California, three hundred units, $26,110,000.

Naval Public Works Center, San Diego, California, three hundred and fifty-six units, $31,830,000.

Navy Public Works Center, San Francisco, California, three hundred units, $35,736,000.

Naval Submarine Base, Kings Bay, Georgia, two hundred and fifty units, $19,860,000.

Naval Air Station, Glenview, Illinois, two hundred and sixty units, $23,000,000.

Naval Station, New York, New York, one hundred and fifty units, $14,900,000.

Naval District Washington, District of Columbia, two units at 2,100 square feet each, $330,000.

(b) PLANNING AND DESIGN.—The Secretary of the Navy may carry out architectural and engineering services and construction design activities, using amounts appropriated pursuant to section 2205(a)(6)(A), with respect to the construction or improvement of military family housing units in an amount not to exceed $2,315,000.

SEC. 2203. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(6)(A), improve existing military family housing units in an amount not to exceed $61,589,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Navy may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Navy Public Works Center, San Diego, California, six units, $284,400.

Navy Public Works Center, Pensacola, Florida, one unit, $34,900.

Navy Public Works Center, Great Lakes, Illinois, three hundred and fifty-six units, $17,214,000.

Navy Public Works Center, Great Lakes, Illinois, one hundred and two units, $6,181,200.

Naval Security Group Activity, Winter Harbor, Maine, thirty units, $2,920,600.

Naval Security Group Activity, Winter Harbor, Maine, twenty units, $920,000.

Naval Air Station, Fallon, Nevada, one hundred and six units, $8,129,300.

Marine Corps Air Station, Cherry Point, North Carolina, two units, $94,300.

Marine Corps Air Station, Cherry Point, North Carolina, two hundred and eighty-two units, $11,957,200.

Navy Ships Parts Control Center, Mechanicsburg, Pennsylvania, seventy-five units, $5,415,500.

Naval Air Station, Whidbey Island, Washington, eleven units, $632,600.

Navy Public Works Center, Guam, two hundred and twelve units, $18,473,800.

SEC. 2204. DEFENSE ACCESS ROADS

The Secretary of the Navy may, using amounts appropriated pursuant to section 2205(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at the following locations and in the following amounts:

Marine Corps Air Ground Center, Twentynine Palms, California, $2,900,000.

Navy Public Works Center, San Diego, California, $719,000.

Navy Public Works Center, San Francisco, California, $800,000.

Naval Station, Everett, Washington, $4,400,000.

Naval Submarine Base, Kings Bay, Georgia, $3,000,000.

SEC. 2205. AUTHORIZATION OF APPROPRIATIONS, NAVY

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Navy in the total amount of $2,369,875,000 as follows:

(1) For military construction projects inside the United States authorized by section 2201(a), $1,296,450,000.

(2) For military construction projects outside the United States authorized by section 2201(b), $101,272,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,300,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $138,276,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $11,819,000.

(6) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $250,770,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $554,988,000 of which not more than $18,434,000 may be obligated or expended for the leasing of military family housing in the United States, the Commonwealth of Puerto Rico, and Guam, and not more than $23,982,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2201 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $55,048,000 (the balance of the amount authorized for the construction of the Headquarters Building, Naval Intelligence Command Headquarters, Suitland, Maryland).

(c) RESTRICTION ON CERTAIN FUNDING.—None of the funds appropriated pursuant to subsection (a)(1) may be obligated for use or expended at Hunters Point Annex, Naval Station, Treasure Island, San Francisco, California, until the Secretary of the Navy has transmitted to the Committees on Armed Services of the Senate and the House of Representatives a report containing (1) a description of the activities planned by the Department of the Navy at such location during fiscal years 1989 through 1993, and (2) a statement explaining the environmental impact of such activities, especially with respect to the planned porting of ships and the development of the land at such location during such fiscal years.

SEC. 2206. ACQUISITION OF HOUSING AT CERTAIN NAVAL AIR STATIONS

(a) AUTHORITY TO ACQUIRE.—(1) The Secretary of the Navy may, using funds appropriated pursuant to section 2205(a)(6)(A), acquire all right, title, and interest in and to 264 family housing units situated on the Naval Air Station at Glenview, Illinois, and constructed in 1956 with financing provided under title VIII of the National Housing Act.

Reports.

(2) The Secretary of the Navy may, using funds that remain available from savings realized in carrying out military family housing projects of the Department of the Navy during any fiscal year before fiscal year 1990, acquire all right, title, and interest in and to 72 family housing units at Sunnyvale, California, near the Naval Air Station, Moffett Field, which were constructed in 1952 with financing provided under title VIII of the National Housing Act, except that no such funds may be obligated for such purpose until the expiration of 30 days after the date on which the Secretary transmits to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the proposed obligation of such funds.

(3) The Secretary may also acquire the leasehold interests in the housing units referred to in paragraphs (1) and (2) which are held in private ownership.

(4) The amount paid by the Secretary for such units and leasehold interests may not exceed an amount equal to the fair market value of such units and interests.

(5) The authority to acquire the housing units referred to in paragraphs (1) and (2) shall include the authority to acquire other real property improvements related to such units.

(b) OCCUPANCY CHARGES.—(1) Notwithstanding any other provision of law and except as provided in paragraph (2), a charge may be made against the basic allowances for quarters of any member of the Armed Forces to whom a housing unit referred to in subsection (a) is leased after the acquisition of the privately held leasehold interest in such unit by the Secretary. Such a charge may not exceed an amount equal to 75 percent of the amount of the basic allowances for quarters to which the member is entitled.

(2) A member of the Armed Forces who, on the date on which the privately held leasehold interest referred to in subsection (a) is acquired by the Secretary, has in effect an unexpired lease on one of the housing units described in subsection (a) shall be charged rent on such unit (after such acquisition) in accordance with the terms of the lease until the lease expires.

(c) EXPIRATION OF ACQUISITION AUTHORITY.—The authority under this section for the Secretary to acquire the leasehold interests referred to in subsection (a) shall expire on October 1, 1994.

TITLE XXIII—AIR FORCE

SEC. 2301. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the installations and locations inside the United States:

ALABAMA

Gunter Air Force Base, $8,150,000.
Maxwell Air Force Base, $17,800,000.

ALASKA

Eielson Air Force Base, $7,650,000.
Elmendorf Air Force Base, $20,540,000.
King Salmon Airport, $2,850,000.
Shemya Air Force Base, $14,860,000.

ARIZONA

Davis-Monthan Air Force Base, $980,000.
Luke Air Force Base, $4,550,000.
Williams Air Force Base, $11,130,000.

ARKANSAS

Blytheville Air Force Base, $2,150,000.
Little Rock Air Force Base, $4,550,000.

CALIFORNIA

Beale Air Force Base, $8,900,000.
Castle Air Force Base, $20,400,000.
Edwards Air Force Base, $5,200,000.
George Air Force Base, $23,550,000.
March Air Force Base, $4,900,000.
Mather Air Force Base, $2,740,000.
McClellan Air Force Base, $3,080,000.
Onizuka Air Force Base, $4,300,000.
Travis Air Force Base, $10,400,000.
Vandenberg Air Force Base, $8,550,000.

COLORADO

Buckley Air National Guard Base, $25,800,000.
Cheyenne Mountain Complex, $6,500,000.
Lowry Air Force Base, $12,000,000.
Peterson Air Force Base, $13,300,000.
United States Air Force Academy, $10,240,000.

DELAWARE

Dover Air Force Base, $1,000,000.

FLORIDA

Avon Park, $3,700,000.

Cape Canaveral Air Force Station, $19,380,000.
Eglin Air Force Base, $11,020,000.
Eglin Air Force Base, Auxiliary Field 9, $27,400,000.
Homestead Air Force Base, $6,200,000.
MacDill Air Force Base, $4,580,000.
Patrick Air Force Base, $1,126,000.
Tyndall Air Force Base, $6,000,000.

GEORGIA

Moody Air Force Base, $800,000.
Robins Air Force Base, $31,500,000.

HAWAII

Hickam Air Force Base, $4,250,000.

IDAHO

Mountain Home Air Force Base, $1,400,000.

ILLINOIS

Chanute Air Force Base, $6,500,000.
Scott Air Force Base, $14,500,000.

INDIANA

Grissom Air Force Base, $1,850,000.

KANSAS

McConnell Air Force Base, $680,000.

LOUISIANA

Barksdale Air Force Base, $7,300,000.
England Air Force Base, $3,100,000.

MAINE

Loring Air Force Base, $3,000,000.

MARYLAND

Andrews Air Force Base, $2,550,000.

MASSACHUSETTS

Hanscom Air Force Base, $12,400,000.

MICHIGAN

Wurtsmith Air Force Base, $10,690,000.

MISSISSIPPI

Columbus Air Force Base, $2,950,000.
Keesler Air Force Base, $4,550,000.

MISSOURI

Whiteman Air Force Base, $64,300,000.

MONTANA

Malmstrom Air Force Base, $19,470,000.

NEBRASKA

Offutt Air Force Base, $2,450,000.

NEVADA

Indian Springs, $3,150,000.
Nellis Air Force Base, $6,700,000.

NEW HAMPSHIRE

New Boston Air Force Station, $4,500,000.
Pease Air Force Base, $10,950,000.

NEW JERSEY

McGuire Air Force Base, $3,550,000.

NEW MEXICO

Cannon Air Force Base, $4,100,000.
Holloman Air Force Base, $2,900,000.
Kirtland Air Force Base, $13,000,000.

NEW YORK

Griffiss Air Force Base, $700,000.

NORTH CAROLINA

Seymour Johnson Air Force Base, $3,050,000.

NORTH DAKOTA

Grand Forks Air Force Base, $13,290,000.
Minot Air Force Base, $6,250,000.

OHIO

Wright-Patterson Air Force Base, $11,455,000.

OKLAHOMA

Altus Air Force Base, $2,300,000.
Tinker Air Force Base, $12,650,000.

SOUTH CAROLINA

Charleston Air Force Base, $5,000,000.

SOUTH DAKOTA

Ellsworth Air Force Base, $8,650,000.

TENNESSEE

Arnold Engineering Development Center, $213,800,000.

TEXAS

Bergstrom Air Force Base, $2,800,000.
Brooks Air Force Base, $2,750,000.
Carswell Air Force Base, $3,500,000.
Dyess Air Force Base, $3,470,000.
Goodfellow Air Force Base, $2,350,000.
Kelly Air Force Base, $29,300,000.
Lackland Air Force Base, $14,039,000.
Laughlin Air Force Base, $1,910,000.
Randolph Air Force Base, $6,150,000.
Reese Air Force Base, $990,000.
Sheppard Air Force Base, $10,700,000.

UTAH

Hill Air Force Base, $10,740,000.

WASHINGTON

Fairchild Air Force Base, $17,580,000.
McChord Air Force Base, $13,100,000.

WYOMING

F.E. Warren Air Force Base, $6,000,000.

VARIOUS LOCATIONS

Base 80, $987,000.
Base 81, $2,800,000.
Classified, $4,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of the Air Force may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

BELGIUM

Kleine Brogel, $1,900,000.

CANADA

Forward Operation Locations, $600,000.

GERMANY

Bitburg Air Base, $1,060,000.
Einsiedlerhof Air Base, $1,500,000.
Hahn Air Base, $16,650,000.
Hessich-Oldendorf Air Station, $740,000.
Norvenich Air Base, $2,300,000.
Pruem Air Station, $620,000.
Ramstein Air Base, $6,000,000.
Rhein-Main Air Base, $5,000,000.
Sembach Air Base, $3,550,000.
Spangdahlem Air Base, $10,270,000.

Wenigerath Air Base, $1,700,000.
Zweibrucken Air Base, $1,300,000.

GREENLAND

Sondrestrom Air Base, $5,950,000.
Thule Air Base, $1,830,000.

GUAM

Anderson Air Force Base, $900,000.

ICELAND

Naval Air Station, Keflavik, $1,100,000.

ITALY

Aviano Air Base, $7,600,000.

JAPAN

Kadena Air Base, $1,850,000.
Misawa Air Base, $4,550,000.
Yokota Air Base, $500,000.

KOREA

Camp Humphreys, $3,350,000.
Kunsan Air Base, $17,330,000.
Osan Air Base, $10,750,000.

NETHERLANDS

Camp New Amsterdam, $10,300,000.
Volkel Air Base, $2,300,000.

OMAN

Masirah Air Base, $2,800,000.
Seeb Air Base, $7,100,000.

PANAMA

Howard Air Force Base, $2,600,000.

PHILIPPINES

Clark Air Base, $28,940,000.

PORTUGAL

Lajes Field, $4,850,000.

TURKEY

Incirlik Air Base, $9,590,000.
Pirinclik Air Station, $1,500,000.

UNITED KINGDOM

RAF Alconbury, $2,650,000.
RAF Bentwaters, $5,430,000.
RAF Feltwell, $500,000.
RAF Lakenheath, $10,170,000.

RAF Mildenhall, $7,150,000.
RAF Upper Heyford, $3,830,000.
RAF Welford, $3,720,000.

VARIOUS LOCATIONS

Base 30, $3,850,000.
Base 79, $1,900,000.
Base 82, $2,800,000.
Classified Locations, $16,473,000.

SEC. 2302. FAMILY HOUSING

(a) CONSTRUCTION AND ACQUISITION.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), construct or acquire two hundred sixty family housing units (including land acquisition) at Clark Air Base, Philippines, in the amount of $19,920,000.

(b) PLANNING AND DESIGN.—The Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), carry out architectural and engineering services and construction design activities with respect to the construction or improvement of military family housing units in an amount not to exceed $7,000,000.

SEC. 2303. IMPROVEMENT TO MILITARY FAMILY HOUSING UNITS

(a) IN GENERAL.—Subject to section 2825 of title 10, United States Code, the Secretary of the Air Force may, using amounts appropriated pursuant to section 2304(a)(5)(A), improve existing military family housing units in an amount not to exceed $153,765,000.

(b) WAIVER OF MAXIMUM PER UNIT COST FOR CERTAIN IMPROVEMENT PROJECTS.—Notwithstanding the maximum amount per unit for an improvement project under section 2825(b) of title 10, United States Code, the Secretary of the Air Force may carry out projects to improve existing military family housing units at the following installations in the number of units shown, and in the amount shown, for each installation:

Gunter Air Force Station, Alabama, twenty-three units, $1,136,000.
Maxwell Air Force Base, Alabama, fifty units, $2,722,000.
Eielson Air Force Base, Alaska, ninety-six units, $7,943,000.
Elmendorf Air Force Base, Alaska, forty-eight units, $3,818,000.
Davis-Monthan Air Force Base, Arizona, one unit, $60,000.
Luke Air Force Base, Arizona, one hundred and fifty-two units, $5,975,000.
McClellan Air Force Base, California, thirty units, $3,207,000.
Peterson Air Force Base, Colorado, one unit, $74,000; eighty units, $3,527,000.
Bolling Air Force Base, District of Columbia, one hundred and ten units, $4,018,000.
Eglin Air Force Base, Florida, fifty units, $2,138,000.
MacDill Air Force Base, Florida, four units, $279,000.
Robins Air Force Base, Georgia, one hundred and sixty units, $6,861,000.
Scott Air Force Base, Illinois, four units, $184,000.
Grissom Air Force Base, Indiana, one hundred and eighty-six units, $6,788,000.

Barksdale Air Force Base, Louisiana, two units, $185,000; one hundred and fourteen units, $6,200,000.

England Air Force Base, Louisiana, one hundred and six units, $5,830,000.

Andrews Air Force Base, Maryland, five units, $338,000.

Pease Air Force Base, New Hampshire, one unit, $121,000.

McGuire Air Force Base, New Jersey, one hundred units, $4,921,000.

Kirtland Air Force Base, New Mexico, four units, $240,000; one hundred and fifteen units, $4,894,000.

Plattsburgh Air Force Base, New York, one hundred and seventy-four units, $10,600,000.

Minot Air Force Base, North Dakota, one unit, $65,000.

Shaw Air Force Base, South Carolina, one hundred and thirty units, $4,703,000.

Carswell Air Force Base, Texas, one hundred and eighty-one units, $7,869,000; sixteen units, $600,000.

Dyess Air Force Base, Texas, one unit, $64,000.

Kelly Air Force Base, Texas, one hundred and one units, $3,381,000.

Randolph Air Force Base, Texas, two units, $199,000.

Reese Air Force Base, Texas, one hundred and eighty-eight units, $6,816,000.

Ramstein Air Base, Germany, two hundred and forty units, $16,000,000; eight units, $706,000; nine units, $1,039,000.

Andersen Air Force Base, Guam, one unit, $167,000; one hundred and twenty units, $8,000,000.

Misawa Air Base, Japan, one hundred and eighty units, $8,707,000.

Yokota Air Base, Japan, eighty-one units, $5,629,000.

Osan Air Base, Korea, ten units, $447,000.

Clark Air Base, Philippines, eighty-two units, $4,203,000.

RAF Alconbury, United Kingdom, twenty-five units, $1,119,000.

RAF Greenham Common, United Kingdom, one hundred and nineteen units, $5,588,000.

SEC. 2304. AUTHORIZATION OF APPROPRIATIONS, AIR FORCE

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of the Air Force in the total amount of $2,143,981,000, as follows:

(1) For military construction projects inside the United States authorized by section 2301(a), $855,877,000.

(2) For military construction projects outside the United States authorized by section 2301(b), $229,353,000.

(3) For unspecified minor construction projects under section 2805 of title 10, United States Code, $16,500,000.

(4) For architectural and engineering services and construction design under section 2807 of title 10, United States Code, $119,800,000.

(5) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $180,685,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code),

$741,766,000 of which not more than $16,612,500 may be obligated or expended for leasing of military family housing units in the United States, the Commonwealth of Puerto Rico, and Guam; and not more than $74,268,500 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION ON TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variation authorized by law, the total cost of all projects carried out under section 2301 of this Act may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a); and

(2) $133,000,000 (the balance of the amount authorized for the construction of the J-6 facility, Arnold Engineering Development Center, Tennessee).

(c) RESTRICTION ON CERTAIN FUNDING.—None of the funds appropriated pursuant to subsection (a)(2) may be obligated for use or expended in Panama until the Secretary of Defense transmits to the Committees on Armed Services of the Senate and the House of Representatives a copy of the plans of the activities to be carried out by the Department of Defense in Panama during the five-year period beginning on the date of the enactment of this Act.

SEC. 2305. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Notwithstanding the provisions of section 2301(a) of the Military Construction Authorization Act, 1987, (division B of Public Law 99-661), authorizations for the following projects authorized in sections 2301 and 2302 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1990, whichever is later:

(1) KC-135 CPT Simulator facility, in the amount of $890,000 at Minot Air Force Base, North Dakota.

(2) Add to and alter Avionics Maintenance Shop, in the amount of $1,150,000 at Pease Air Force Base, New Hampshire.

(3) KC-135 CPT Simulator facilities in the amount of $660,000 at Robins Air Force Base, Georgia.

(4) Land acquisition in the amount of $230,000 at the United States Air Force Academy, Colorado Springs, Colorado.

(5) Land acquisition Auxiliary Field in the amount of $3,700,000, at Laughlin Air Force Base, Texas.

(6) KC-135 CPT Simulator facility in the amount of $3,500,000, at Beale Air Force Base, California.

(7) KC-135 CPT Simulator facility in the amount of $3,000,000 at Plattsburgh Air Force Base, New York.

(8) Bitburg, Germany, three hundred and thirty-two units of family housing, $26,414,000.

(9) La Junta, Colorado, forty units of family housing $4,000,000.

(10) GEODSS Site 5, Portugal, Composite Support Facility in the amount of $2,250,000 and Spacetrack Observation Facility in the amount of $12,400,000.

TITLE XXIV—DEFENSE AGENCIES

SEC. 2401. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) INSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations inside the United States:

DEFENSE COMMUNICATIONS AGENCY

Arlington Service Center, Virginia, $742,000.

DEFENSE LOGISTICS AGENCY

Defense Fuel Support Point, Adak, Alaska, $19,000,000.
Defense Depot, Tracy, California, $590,000.
Defense Fuel Support, Pearl City, Hawaii, $1,900,000.
Defense Reutilization and Marketing Office, Fort Campbell, Kentucky, $1,600,000.
Defense Reutilization and Marketing Office, Offutt Air Force Base, Nebraska, $430,000.
Defense Depot, Mechanicsburg, Pennsylvania, $460,000.
Defense Reutilization and Marketing Office, Carswell Air Force Base, Texas, $350,000.
Defense Depot, Ogden, Utah, $6,000,000
Cheatham Annex, Virginia, $450,000.

DEFENSE MAPPING AGENCY

Hydrographic/Topographic Center, Brookmont, Maryland, $5,209,000.

DEFENSE MEDICAL FACILITIES OFFICE

Marine Corps Base, Camp Pendleton, California, $5,000,000.
March Air Force Base, California, $3,000,000.
Naval Station, North Island, California, $7,200,000.
Naval Station, Treasure Island, California, $11,000,000.
Tyndall Air Force Base, Florida, $800,000.
Fort Benning, Georgia, $700,000.
Robins Air Force Base, Georgia, $3,600,000.
Fort Leonard Wood, Missouri, $1,450,000.
Kirtland Air Force Base, New Mexico, $2,550,000.
Seymour Johnson Air Force Base, North Carolina, $3,700,000.
Fort Sill, Oklahoma, $54,000,000.
Marine Corps Recruit Depot, Parris Island, South Carolina, $4,100,000.
Corpus Christi, Texas, $6,100,000.
Dyess Air Force Base, Texas, $950,000.

NATIONAL DEFENSE UNIVERSITY

Fort McNair, District of Columbia, $28,000,000.

NATIONAL SECURITY AGENCY

Fort Meade, Maryland, $2,230,000.
Classified Locations, $20,000,000.

OFFICE OF THE SECRETARY OF DEFENSE

Fort Belvoir, Virginia, $3,000,000.
Classified Location, $4,200,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Falcon Air Force Station, Colorado, $65,000,000.

(b) OUTSIDE THE UNITED STATES.—The Secretary of Defense may acquire real property and may carry out military construction projects in the amounts shown for each of the following installations and locations outside the United States:

DEFENSE COMMUNICATIONS AGENCY

Yokota Air Base, Japan, $785,000.

DEFENSE LOGISTICS AGENCY

Defense Reutilization and Marketing Office, Bitburg, Germany, $800,000.
Defense Reutilization and Marketing Office, Kaiserslautern, Germany, $500,000.

DEFENSE MEDICAL FACILITIES OFFICE

Downs Barracks, Germany, $4,200,000.
Geilenkirchen Air Base, Germany, $450,000.
Hahn Air Base, Germany, $18,500,000.
Patch Barracks, Germany, $4,700,000.
Rhein-Main Air Base, Germany, $14,200,000.
Smith Barracks, Germany, $5,100,000.
Spangdahlem Air Base, Germany, $1,250,000.
Wildflecken, Germany, $4,800,000.
Camp Howze 2nd Infantry Division, Korea, $780,000.
Seoul, Korea, $55,000,000.
Taegu Air Base, Korea, $4,400,000.
Royal Air Force, High Wycombe, United Kingdom, $720,000.
Royal Air Force, Lakenheath, United Kingdom, $41,000,000.
Base 54, $12,800,000.
Classified Locations, $19,500,000.

DEFENSE NUCLEAR AGENCY

Headquarters, Field Command, Johnston Island, $2,644,000.

DEPARTMENT OF DEFENSE DEPENDENT SCHOOLS

Aschaffenburg, Germany, $8,151,000.
Bad Kissingen, Germany, $1,620,000.
Baumholder, Germany, $1,940,000.
Erlangen, Germany, $3,890,000.
Gelnhausen, Germany, $1,482,000.
Giessen, Germany, $7,627,000.
Wildflecken, Germany, $2,752,000.
Keflavik, Iceland, $5,434,000.
Aviano, Italy, $9,450,000.
Pusan, Korea, $1,980,000.
Seoul, Korea, $7,332,000.

Brunssum, the Netherlands, $8,863,000.

DEPARTMENT OF DEFENSE SECTION VI SCHOOLS

Fort Buchanan, Puerto Rico, $9,110,000.

NATIONAL SECURITY AGENCY

Classified Locations, $11,250,000.

STRATEGIC DEFENSE INITIATIVE ORGANIZATION

Pacific Missile Range, Kwajalein, $16,000,000.

SEC. 2402. FAMILY HOUSING

The Secretary of Defense may, using amounts appropriated pursuant to section 2407(a)(10)(A), construct or acquire three family housing units (including land acquisition) at classified locations in the total amount not to exceed $400,000. Classified information.

SEC. 2403. IMPROVEMENTS TO MILITARY FAMILY HOUSING UNITS

Subject to section 2825 of title 10, United States Code, the Secretary of Defense may, using amounts appropriated pursuant to section 2407(a)(10)(A), improve existing military family housing units in an amount not to exceed $113,000.

SEC. 2404. AFCENT SCHOOL

The Secretary of Defense may, using amounts appropriated pursuant to section 2407(a)(2), contribute funds in the amount of $8,863,000 to the Government of the Netherlands (in its capacity as construction agent) for the United States share of the cost of the International Elementary and High School project in Brunssum, the Netherlands.

SEC. 2405. CONFORMING STORAGE FACILITIES

Section 2404(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), is amended to read as follows:

"(a) AUTHORITY TO CONSTRUCT.—The Secretary of Defense may, using not more than $10,000,000 appropriated for fiscal year 1987, not more than $5,000,000 appropriated for fiscal year 1988, and not more than $9,300,000 appropriated for fiscal year 1989, carry out military construction projects not otherwise authorized by law for conforming storage facilities.".

SEC. 2406. DEFENSE ACCESS ROADS

The Secretary of Defense may, using amounts appropriated pursuant to section 2407(a)(5), make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at Fort Meade, Maryland, in the amount of $12,000,000.

SEC. 2407. AUTHORIZATION OF APPROPRIATIONS, DEFENSE AGENCIES

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction, land acquisition, and military family housing functions of the Department of Defense (other than the military departments), in the total amount of $711,550,000, as follows:

(1) For military construction projects inside the United States authorized by section 2401(a), $236,311,000.

(2) For military construction projects outside the United States authorized by section 2401(b), $262,010,000.

(3) For military construction projects at Fort Sam Houston, Texas, authorized by section 2401(a) of the Military Construction Authorization Act, 1987, $23,000,000.

(4) For military construction projects at Fort Lewis, Washington, authorized by section 101(a) of the Military Construction Authorization Act, 1985, $72,000,000.

(5) For advances to the Secretary of Transportation for construction of defense access roads under section 210 of title 23, United States Code, $12,000,000.

(6) For unspecified minor construction projects under section 2805 of title 10, United States Code, $6,000,000.

(7) For contingency construction projects of the Secretary of Defense under section 2804 of title 10, United States Code, $8,000,000.

(8) For architectural and engineering services and for construction design under section 2807 of title 10, United States Code, $62,229,000.

(9) For conforming storage facilities constructed under the authority of section 2404 of the Military Construction Authorization Act, 1987, $9,300,000.

(10) For military family housing functions—

(A) for construction and acquisition of military family housing and facilities, $513,000; and

(B) for support of military housing (including functions described in section 2833 of title 10, United States Code), $20,187,000, of which not more than $17,179,000 may be obligated or expended for the leasing of military family housing units in foreign countries.

(b) LIMITATION OF TOTAL COST OF CONSTRUCTION PROJECTS.—Notwithstanding the cost variations authorized by section 2853 of title 10, United States Code, and any other cost variations authorized by law, the total cost of all projects carried out under section 2401 may not exceed—

(1) the total amount authorized to be appropriated under paragraphs (1) and (2) of subsection (a);

(2) $27,000,000 (the balance of the amount authorized under section 2401(a) for the construction of a medical facility at Fort Sill, Oklahoma); and

(3) $27,500,000 (the balance of the amount authorized under section 2401(b) for the construction of a medical facility at Seoul, Korea).

(c) RESTRICTION ON CERTAIN FUNDING.—Of the amounts appropriated pursuant to this section or otherwise made available to the Department of Defense for fiscal year 1989, not more than $65,000,000 may be obligated or expended for use in planning and construction of a National Test Facility for the Strategic Defense Initiative at Falcon Air Force Base, Colorado.

SEC. 2408. RESITING OF OVERSEAS CONTINGENCY MEDICAL FACILITY

Section 2141(b) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1201) is amended by striking out "RAF Wethersfield, United Kingdom, $740,000." under the heading "DEFENSE MEDICAL FACILITIES OFFICE" and inserting in lieu thereof "Boscombe Downs, United Kingdom, $740,000.".

SEC. 2409. EXTENSION OF CERTAIN PREVIOUS AUTHORIZATIONS

Notwithstanding the provisions of section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661), authorizations for the following project authorized in section 2401 of that Act shall remain in effect until October 1, 1989, or the date of the enactment of an Act authorizing appropriations for military construction for fiscal year 1990, whichever is later:

DECCO Computer Center and Administrative Facility in the amount of $7,600,000 at Scott Air Force Base, Illinois.

SEC. 2410. REYNOLDS ARMY COMMUNITY HOSPITAL, FORT SILL, OKLAHOMA, AND SEOUL ARMY COMMUNITY HOSPITAL, SEOUL, KOREA

Contracts.

Subject to section 2401, the Secretary of Defense may enter into one or more contracts, in advance of appropriations therefor, for the construction of the military construction projects authorized by section 2401 at Reynolds Army Community Hospital, Fort Sill, Oklahoma, and the Seoul Army Community Hospital, Seoul, Korea, if each such contract limits the amount of payments that the Federal Government is obligated to make under such contracts to the amount of appropriations available, at the time such contract is entered into, for obligation under such contract.

TITLE XXV—NORTH ATLANTIC TREATY ORGANIZATION INFRASTRUCTURE

SEC. 2501. AUTHORIZED CONSTRUCTION AND LAND ACQUISITION PROJECTS

The Secretary of Defense may make contributions for the North Atlantic Treaty Organization Infrastructure Program as provided in section 2806 of title 10, United States Code, in an amount not to exceed the sum of the amount authorized to be appropriated for this purpose in section 2502 and the amount collected from the North Atlantic Treaty Organization as a result of construction previously financed by the United States.

SEC. 2502. AUTHORIZATION OF APPROPRIATIONS, NATO

Funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for contributions by the Secretary of Defense under section 2806 of title 10, United States Code, for the share of the United States of the cost of projects for the North Atlantic Treaty Organization Infrastructure Program, as authorized by section 2501, in the amount of $492,000,000.

TITLE XXVI—GUARD AND RESERVE FACILITIES

SEC. 2601. AUTHORIZED GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

There are authorized to be appropriated for fiscal years beginning after September 30, 1988, for the costs of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army—

(A) for the Army National Guard of the United States, $203,859,000; and

(B) for the Army Reserve, $84,411,000.

(2) For the Department of the Navy, for the Naval and Marine Corps Reserves, $54,900,000.

(3) For the Department of the Air Force—

(A) for the Air National Guard of the United States, $154,758,000; and

(B) for the Air Force Reserve, $63,600,000.

SEC. 2602. AIRCRAFT PARKING RAMP/HOLDING PAD AT YEAGER AIRPORT, CHARLESTON, WEST VIRGINIA

There is authorized to be constructed, with funds remaining available as the result of savings on construction projects of the Air National Guard of the United States for which funds were appropriated for fiscal year 1987, an aircraft parking ramp/holding pad for the Air National Guard of the United States at Yeager Airport at Charleston, West Virginia, in the amount of $3,300,000, except that no such funds may be obligated for such purpose until the expiration of 30 days after the date on which the Secretary of the Air Force transmits to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on the proposed obligation of such funds.

Reports.

SEC. 2603. CONSTRUCTION OF REPLACEMENT FACILITIES AT O'HARE AIR RESERVE FORCES FACILITY, ILLINOIS

(a) GENERAL RULE.—(1) The Secretary of the Air Force may use funds received from the transaction described in paragraph (3) for the construction of reserve component facilities on land under the jurisdiction of the Department of Defense at O'Hare International Airport, Chicago, Illinois.

(2) The Secretary may provide for the construction of such reserve component facilities with funds received from the transaction referred to in paragraph (1) or may permit the City of Chicago to construct such facilities and, upon completion of the construction, have the ownership of such facilities transferred to the United States.

Real property.
Public buildings and grounds.

(3) The transaction referred to in paragraph (1) is an exchange of lands and facilities owned by the United States and under the jurisdiction of the Department of Defense at O'Hare International Airport, Chicago, Illinois, for interests in lands owned by the City of Chicago, Illinois, at such airport. The market value of the interest in lands and the amount of funds received by the United States in such transaction shall be at least equal to the market value of the lands and facilities conveyed by the United States in such transaction.

(b) ADDITIONAL USE OF FUNDS.—The Secretary may also use the funds from the transaction referred to in subsection (a)(1) to meet expenses, other than construction expenses, incurred by the Secretary in connection with the construction of the facilities referred to in such subsection.

(c) EXCESS FUNDS.—Funds received from the transaction described in subsection (a)(3) and not expended for purposes specified in this section shall be paid into the miscellaneous receipts of the Treasury.

(d) REPORTING REQUIREMENT.—The Secretary shall transmit a report to the Committees on Armed Services of the Senate and the House of Representatives at least 21 days before taking any action under paragraph (1) or (2) of subsection (a) or under subsection (b).

Such report shall contain a description of the action which the Secretary plans to take under such paragraph or subsection.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions as the Secretary considers appropriate to protect the interest of the United States with respect to any action carried out under this section.

TITLE XXVII—EXPIRATION OF AUTHORIZATIONS; EFFECTIVE DATE

SEC. 2701. EXPIRATION OF AUTHORIZATIONS AND AMOUNTS REQUIRED TO BE SPECIFIED BY LAW

(a) EXPIRATION OF AUTHORIZATIONS AFTER TWO YEARS.—Except as provided in subsection (b), all authorizations contained in titles XXI, XXII, XXIII, XXIV, and XXV for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor) shall expire on October 1, 1990, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1991, whichever is later.

(b) EXCEPTION.—The provisions of subsection (a) do not apply to authorizations for military construction projects, land acquisition, family housing projects and facilities, and contributions to the NATO Infrastructure Program (and authorizations of appropriations therefor), for which appropriated funds have been obligated before October 1, 1990, or the date of the enactment of an Act authorizing funds for military construction for fiscal year 1991, whichever is later, for construction contracts, land acquisition, family housing projects and facilities, or contributions to the NATO Infrastructure Program.

SEC. 2702. EFFECTIVE DATE

10 USC 2391 note.

Except as otherwise specifically provided, this division shall take effect on October 1, 1988, or the date of enactment of this Act, whichever is later.

TITLE XXVIII—GENERAL PROVISIONS

PART A—PROGRAM CHANGES

SEC. 2801. LONG-TERM FACILITIES CONTRACTS

Section 2809(a)(3) of title 10, United States Code, is amended by striking out "20 years" and inserting in lieu thereof "32 years".

SEC. 2802. INCREASE IN FOREIGN HOUSING LEASING AUTHORITY

Section 2828(e)(2) of title 10, United States Code, is amended by striking out "36,000" and inserting in lieu thereof "38,000".

SEC. 2803. REPORTS ON REAL PROPERTY TRANSACTIONS

Subsections (a), (b), and (e) of section 2662 of title 10, United States Code, are amended by striking out "$100,000" each place it appears and inserting in lieu thereof "$200,000".

SEC. 2804. NOTIFICATION REQUIREMENT RELATING TO ACQUISITION OF INTEREST IN LAND

Section 2672 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking out "Subject to subsection (b), the" and inserting in lieu thereof "The";

(2) by striking out subsection (b); and

(3) by redesignating subsection (c) as subsection (b).

SEC. 2805. PLANNING ASSISTANCE FOR IMPACTED COMMUNITIES

(a) MODIFICATION OF AUTHORITY.—Paragraph (1) of section 2391(b) of title 10, United States Code, is amended to read as follows:

Grants. Contracts. State and local governments. Public information.

"(1) The Secretary of Defense may make grants, conclude cooperative agreements, and supplement funds available under Federal programs administered by agencies other than the Department of Defense in order to assist State and local governments in planning community adjustments and economic diversification required (A) by the proposed or actual establishment, realignment, or closure of a military installation, (B) by the cancellation or termination of a Department of Defense contract or the failure to proceed with an approved major weapon system program, (C) by a publicly-announced planned major reduction in Department of Defense spending that would directly and adversely affect a community, or (D) by the encroachment of a civilian community on a military installation, if the Secretary determines that an action described in clause (A), (B), or (C) is likely to have a direct and significantly adverse consequence on the affected community or, in the case of an action described in clause (D), if the Secretary determines that the encroachment of the civilian community is likely to impair the continued operational utility of the military installation.".

(b) CONDITION ON ASSISTANCE.—Section 2391(b) of such title is further amended—

(1) by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively; and

(2) by inserting after paragraph (3) the following new paragraph:

Public information. Contracts. Employment and unemployment.

"(4) In the case of a publicly-announced planned major reduction in Department of Defense spending that will directly and adversely affect a community, assistance may be made under paragraph (1) only if the publicly-announced planned major reduction will result in the loss of 1,000 or more full-time Department of Defense and contractor employee positions over a five-year period in the locality of the affected community.".

PART B—MISCELLANEOUS

SEC. 2811. PROHIBITION OF FUNDING FOR CERTAIN MILITARY CONSTRUCTION CONTRACTS ON GUAM

(a) IN GENERAL.—Except as provided in subsection (b), no funds appropriated pursuant to authorizations made by this division may be obligated or expended with respect to any contract for a military construction project on Guam if any work is carried out on such project by any person who is a nonimmigrant alien described in section 101(a)(15)(H)(ii) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(H)(ii)).

Reports.

(b) EXCEPTION.—In any case in which there is no acceptable bid made in response to a solicitation by the Secretary of a military department for bids on a contract for a military construction project on Guam and the Secretary concerned makes a determination that the prohibition contained in subsection (a) is a significant deterrent to obtaining bids on such contract, the Secretary concerned may

make another solicitation for bids on such contract and the prohibition contained in subsection (a) shall not apply to such contract after the 21-day period beginning with the date on which the Secretary concerned transmits a report concerning such contract to the Committees on Armed Services of the Senate and the House of Representatives.

(c) EFFECTIVE DATE.—The provisions of this section shall apply to contracts entered into, amended, or otherwise modified on or after the date of the enactment of this Act.

SEC. 2812. BROOKE ARMY MEDICAL CENTER

(a) INCREASE IN PROJECT AUTHORITY.—(1) Section 2401(a) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4034), is amended by striking out "$241,000,000" in the item relating to Fort Sam Houston, Texas, under the heading relating to Defense Medical Facilities Office and inserting in lieu thereof "$275,000,000".

(2) The limitation on the total cost of projects carried out under section 2401 of such Act is hereby increased by $34,000,000.

(b) CONFORMING AMENDMENT.—Section 2403(a)(2) of such Act is amended by striking out ", but the" and all that follows through "beds".

SEC. 2813. COMMUNITY PLANNING ASSISTANCE

(a) ADDITIONAL AUTHORITY.—In addition to the authority under any other provision of law, the Secretary of Defense may provide community planning assistance under section 2391(b) of title 10, United States Code, in the following amounts:

(1) Not to exceed $350,000 for communities located near newly established light infantry division posts.

(2) Not to exceed $250,000 for communities located near newly established Navy strategic dispersal program homeports.

(3) Not to exceed $150,000 for communities located near Whiteman Air Force Base, Knob Noster, Missouri.

(b) EXPIRATION OF AUTHORITY.—The authority to provide community planning assistance under subsection (a) expires on September 30, 1991.

SEC. 2814. FORT DERUSSY, HAWAII

(a) USE.—The Secretary of the Army shall administer Fort DeRussy, Hawaii, as the primary rest and recreation area for members of the Armed Forces in the Pacific. Recreation.

(b) PROHIBITION.—Notwithstanding any other provision of law, funds appropriated or otherwise available to the Department of Defense may not be used in any way, directly or indirectly, for the purpose of selling, leasing, renting, excessing, or otherwise disposing of any portion of the land constituting Fort DeRussy, Hawaii (as constituted on the date of the enactment of this Act).

(c) IMPLEMENTATION OF PLAN.—(1) Section 2740(d) of the Military Construction Authorization Act, 1987 (division B of Public Law 99-661; 100 Stat. 4051), is amended—

(A) by striking out "PAYMENT OF EXCESS INTO TREASURY" in the subsection heading and inserting in lieu thereof "EXCESS AMOUNT"; and

(B) by striking out "shall deposit" and all that follows through the period and inserting in lieu thereof "may use such amount for the implementation of the plan established by the Secretary

of the Army on March 1, 1988, for the future use and development of Fort DeRussy, Hawaii, except that such amount may not be used to pay for the construction of nonappropriated-fund projects identified in such plan. The Secretary shall deposit any part of such amount not used for such purpose at the end of the ten-year period beginning on the date of the enactment of the Military Construction Authorization Act, 1989, into the Treasury as miscellaneous receipts.".

(2) Section 2332(d) of the Military Construction Authorization Act, 1988 and 1989 (division B of Public Law 100-180; 100 Stat. 1223), is amended—

(A) by striking out "PAYMENT OF EXCESS INTO TREASURY" in the subsection heading and inserting in lieu thereof "EXCESS AMOUNT"; and

(B) by striking out "shall deposit" and all that follows through the period and inserting in lieu thereof "may use such amount for the implementation of the plan established by the Secretary of the Army on March 1, 1988, for the future use and development of Fort DeRussy, Hawaii, except that such amount may not be used to pay for the construction of nonappropriated-fund projects identified in such plan. The Secretary shall deposit any amount not used for such purpose at the end of the ten-year period beginning on the date of the enactment of the Military Construction Authorization Act, 1989, into the Treasury as miscellaneous receipts.".

Public buildings and grounds.

SEC. 2815. WURTSMITH AIR FORCE BASE, MICHIGAN

The library building located on the Wurtsmith Air Force Base, Michigan, is hereby designated as the "General Earl T. O'Loughlin Library". Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "General Earl T. O'Loughlin Library".

SEC. 2816. LOCATION OF HAZARDOUS WASTE STORAGE FACILITY AT PEARL HARBOR NAVAL SHIPYARD

The Secretary of the Navy may not construct a hazardous waste storage facility for the Pearl Harbor Naval Shipyard at a location closer than 600 feet to a public school.

SEC. 2817. SOLICITATION FOR PROPOSALS FOR OFFICE SPACE FOR NAVY

(a) IN GENERAL.—The Administrator of General Services, in coordination with the Secretary of the Navy, shall issue a solicitation for proposals for the acquisition of such office and related space within the National Capital Region as the Secretary determines necessary to meet the needs of the Navy within such region.

(b) REPORT.—The Secretary, after consultation with the Administrator, shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report regarding the proposals received in response to the solicitation issued pursuant to subsection (a). Such report shall include a comparative cost analysis of meeting the office and related space needs of the Navy within the National Capital Region by means of lease, lease-purchase, and military construction, respectively. The report shall identify, and include recommendations for meeting, the current and long-term office and related space needs of the Navy within the National Capital Region.

(c) DEADLINE FOR REPORT.—The report required by subsection (b) shall be submitted not later than 90 days after the date established by the Administrator for receiving responses to the solicitation for proposals issued pursuant to subsection (a).

SEC. 2818. THIRD INFANTRY DIVISION MEMORIAL

Public buildings and grounds.

(a) IN GENERAL.—The Society of the Third Infantry Division may establish, on grounds in Arlington National Cemetery selected pursuant to subsection (b)(1), a memorial in honor and in commemoration of the members of the "Rock of the Marne" of the Third Infantry Division, United States Army, who bravely served their country in World War I, World War II, and the Korean conflict.

(b) ADMINISTRATIVE PROVISIONS.—(1) The Secretary of the Army may select a suitable site on grounds in Arlington National Cemetery upon which may be established the memorial authorized in subsection (a).

(2) The design and plans for such memorial shall be subject to the approval of the Secretary of the Army, the American Battle Monuments Commission, the National Capital Planning Commission, and the Commission of Fine Arts.

(3) The United States shall not be liable for any expense in connection with the construction of the memorial authorized by subsection (a).

(4) The maintenance and care of the memorial authorized under this section shall be the responsibility of the Secretary of the Army.

(c) EXPIRATION OF AUTHORITY.—The authority provided in this section shall expire at the end of the 5-year period beginning on the date of the enactment of this Act unless—

(1) construction of the memorial authorized in subsection (a) is commenced within such period; and

(2) before construction of the memorial begins, the Society of the Third Infantry Division certifies to the Secretary of the Army the amount available for the construction of the memorial and the Secretary determines that such amount is sufficient to complete the memorial.

SEC. 2819. COMMISSION ON ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

10 USC 2391 note.

(a) ESTABLISHMENT OF COMMISSION.—Within 30 days after the date of the enactment of this Act, the President shall establish a Commission on Alternative Utilization of Military Facilities. The Commission shall be composed of representatives from the Department of Defense, the Bureau of Prisons of the Department of Justice, the National Institute on Drug Abuse of the Department of Health and Human Services, and the General Services Administration.

(b) REPORT REQUIREMENTS.—The Commission shall, on a biannual basis—

(1) prepare a report listing active and nonactive military facilities that the Secretary of Defense has identified as subjects for closure, as being underutilized in whole or part, or as being excess to the needs of the Department of Defense;

(2) identify those facilities, or parts of facilities, that could be effectively utilized or renovated to serve as minimum security facilities for nonviolent prisoners;

Drugs and drug abuse.

(3) identify those facilities, or parts of facilities, that could be effectively utilized or renovated to serve as drug treatment facilities for nonviolent drug abusers; and

(4) transmit a list of such facilities to the President and to the Congress.

(c) DEADLINE FOR REPORTS.—The first report required by subsection (b) shall be submitted to the President and Congress not later than October 1, 1988. Subsequent reports under such subsection shall be submitted not later than September 1 of every second year after submission of the first report through fiscal year 1996.

PART C—REAL PROPERTY TRANSACTIONS

SEC. 2821. LAND EXCHANGE, ALAMEDA COUNTY, CALIFORNIA

State and local governments.

(a) IN GENERAL.—(1) Subject to subsections (b) through (d), the Secretary of the Army may convey to the County of Alameda, California, and to the City of Dublin, California, the real properties referred to in paragraph (2) in exchange for conveyance to the United States of approximately 445 acres of real property, together with improvements thereon, of the property described in paragraph (3).

(2) The properties authorized to be conveyed by the Secretary are as follows:

(A) Approximately 35 acres of real property, together with improvements thereon, at the Reserve Forces Training Center, County of Alameda, California, to the County of Alameda, California.

(B) Approximately 12 acres of real property, together with improvements thereon, at such center to the City of Dublin, California.

(3) The property to be conveyed to the United States is a parcel of land consisting of approximately 445 acres, together with improvements thereon, located in the County of Alameda, California, which is under the jurisdiction of the East Bay Regional Park District, County of Alameda, California, and which was conveyed to such district by the United States by a deed dated February 2, 1973.

(4) The instrument of conveyance conveying the property referred to in paragraph (3) to the United States may, at the option of the East Bay Regional Park District—

(A) include a right of reversion on behalf of such district in the event that the property conveyed to the United States is no longer needed by the Department of the Army (as determined by the Secretary of the Army); and

(B) reserve to such district an easement consisting of not more than 25 acres along the most eastern boundary of the property for use by such district as a part of the Regional Trail System of such district.

(b) ADDITIONAL CONSIDERATION.—If the fair market value of the properties conveyed by the United States pursuant to subsection (a) exceeds the fair market value of the property conveyed to the United States pursuant to such subsection, the County of Alameda, California, the City of Dublin, California, or the East Bay Regional Park District, as appropriate, shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the real property to be conveyed pursuant to this section (including the easement referred to in subsection (a)(4)) shall be determined by surveys that are satisfactory to the Secretary. The cost of such surveys shall be borne by the County of Alameda or the City of Dublin.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyances made pursuant to this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2822. LAND CONVEYANCE, LOMPOC, CALIFORNIA

(a) IN GENERAL.—Subject to subsections (b) through (d), the Secretary of the Army may convey, without reimbursement, to the City of Lompoc, California, all right, title, and interest of the United States in and to a tract of real property (including improvements thereon) of approximately 100 acres located adjacent to the real property conveyed to the City pursuant to section 834 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1526).

(b) USE OF PROPERTY.—(1) The conveyance authorized by subsection (a) shall be subject to the condition that the real property conveyed shall be used only for educational purposes or the purposes provided in section 834 of the Military Construction Authorization Act, 1985 (Public Law 98-407; 98 Stat. 1526), or both.

(2) If the property conveyed pursuant to subsection (a) is not used for the purposes described in paragraph (1), all right, title, and interest in and to such property shall revert to the United States, which shall have the right of immediate entry thereon.

(c) LEGAL DESCRIPTION AND SURVEYS.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by surveys that are satisfactory to the Secretary. The cost of any such survey shall be borne by the City.

(d) OTHER TERMS AND CONDITIONS.—The Secretary may require such other terms and conditions with respect to the conveyance under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2823. LAND EASEMENT, ORANGE COUNTY, CALIFORNIA

Flood control.

(a) IN GENERAL.—Subject to subsections (b) through (e), the Secretary of the Navy may grant an easement to Orange County, California, for the construction and maintenance of flood control improvements (hereafter in this section referred to as "county improvements") on a tract of land owned by the United States, consisting of approximately 32 acres, located at the northern boundary of the Marine Corps Air Station, El Toro, California, and may grant such temporary rights to Orange County as the Secretary determines necessary for the construction of such improvements.

(b) CONSIDERATION.—(1) In consideration for the conveyance by the Secretary under subsection (a), Orange County shall convey to the United States a parcel of real property consisting of approximately one and one-half acres located adjacent to the Marine Corps Air Station, Tustin, California.

(2) The United States shall also be entitled to such flood control improvements at the Marine Corps Air Station, El Toro, California, as the Secretary and Orange County shall agree upon.

(3) The county improvements and additional flood control improvements shall be constructed at no cost to the United States.

(c) PAYMENT OF EXCESS INTO TREASURY.—If the fair market value of the easement described in subsection (a) exceeds the fair market value of the real property conveyed to the United States under subsection (b), Orange County shall pay the difference to the United States. Any such payment shall be covered into the Treasury as miscellaneous receipts.

(d) LEGAL DESCRIPTION OF PROPERTY.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by Orange County.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2824. LAND EXCHANGE, SAN DIEGO, CALIFORNIA

(a) EXCHANGE AUTHORIZED.—Subject to subsections (b) through (e), the Secretary of the Navy may convey to the San Diego Unified Port District of San Diego, California, such real property under the jurisdiction of the Navy in the City of San Diego, California, as the Secretary determines appropriate in exchange for one or more parcels of land, together with improvements thereon and consisting of approximately 32 acres, located adjacent to the San Diego Naval Station, San Diego, California, and owned by the San Diego Unified Port District.

(b) LIMITATION ON VALUE OF PROPERTY EXCHANGED.—The fair market value of the real property conveyed by the Secretary under subsection (a) may not exceed the fair market value of the real property received by the Secretary under such subsection, as determined by the Secretary.

(c) NOTICE TO COMMITTEES.—The Secretary may not enter into an exchange under this section until the Secretary has notified the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives of the details of the proposed exchange and a period of 21 days has elapsed following the day on which the committees receive the notification.

(d) LEGAL DESCRIPTION OF PROPERTY.—The exact acreages and legal descriptions of the real property to be conveyed under this section shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by San Diego Unified Port District.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2825. LAND TRANSFER, WASHINGTON, DISTRICT OF COLUMBIA

(a) IN GENERAL.—The Administrator of General Services shall transfer, without consideration, to the Secretary of the Navy approximately 6 acres of real property (including Building 197 located thereon) located at a site referred to as the Southeast Federal Center near the Washington Navy Yard, Washington, D.C., and bounded on the east by Isaac Hull Avenue, on the north by

Tingey Street, on the west by Buildings 116 and 118, and on the south by property owned by the Department of the Navy.

(b) DESIGN OF BUILDING.—The Secretary of the Navy shall use not more than $9,200,000 of the amount appropriated pursuant to section 2205(a)(4) to initiate the redesign of Building 197 referred to in subsection (a).

SEC. 2826. LAND CONVEYANCE, OKALOOSA COUNTY, FLORIDA

Section 809(c) of the Military Construction Authorization Act, 1979 (Public Law 95-356; 92 Stat. 587), is amended by inserting before the period the following: "and a third parcel containing forty-two acres".

SEC. 2827. TRANSFER OF LAND, SUITLAND FEDERAL CENTER, MARYLAND

The Administrator of General Services shall transfer, without consideration, to the Secretary of the Navy such parcel of vacant land located at the Suitland Federal Center, Suitland, Maryland, as the Administrator, after consultation with the Secretary, determines—

(1) to be excess to the present and anticipated future needs of the General Services Administration at the Suitland Federal Center; and

(2) adequate to accommodate the needs of the Navy for the construction and operation of a facility to serve as the Naval Intelligence Command Headquarters authorized by section 2201.

SEC. 2828. AIR FORCE PLANT AT COLUMBUS, OHIO

(a) IN GENERAL.—The Secretary of the Air Force may sell or lease, or issue a permit to another agency within the Department of Defense for use of, all or any portion of Air Force Plant No. 85 located in Columbus, Ohio. Any such action shall be carried out in accordance with applicable law except to the extent that such law is inconsistent with this section.

(b) AUTHORITY OF SECRETARY.—(1) The Secretary shall provide that each deed entered into for the transfer of such property shall contain a covenant warranting that all remedial action necessary to protect human health and the environment with respect to any environmental contamination at the plant at the time of the sale, including any remedial action found to be necessary with respect to such contamination after the date of such transfer, has been or will be conducted by the United States. Such covenant shall be in lieu of any other covenant or other action required by any applicable law with respect to environmental restoration to be taken by the Federal Government at the plant before such transfer.

Contracts.
Safety.
Environmental protection.

(2) In any case in which the Secretary provides a permit to another agency within the Department of Defense to use any portion of the plant, the Secretary may provide for the environmental restoration of such portion by such other agency with funds available to the Department of the Air Force for environmental restoration.

(3) To the extent that the Secretary decides to take remedial action with respect to environmental contamination in any portion of the plant before the sale or lease of such portion, the Secretary may use funds provided by the purchaser or lessor for such purpose.

(c) DEDUCTION OF EXPENSE FROM PROCEEDS OF SALE OR LEASE.—The Secretary may use the proceeds of any sale or lease of the

property described in subsection (a) to credit the accounts from which funds were expended by the Secretary for reasonable and necessary expenses, other than for environmental restoration, incurred in connection with the sale or lease. The Secretary may also use the proceeds of such sale or lease directly for the purpose of environmental restoration at the plant. The remaining proceeds of the sale or lease shall be credited to the general fund of the Treasury.

(d) ADDITIONAL TERMS.—The Secretary may require such additional terms and conditions in connection with any sale or lease entered into under this section as the Secretary considers appropriate to protect the interests of the United States.

SEC. 2829. LAND CONVEYANCE, FORT JACKSON, SOUTH CAROLINA

(a) AUTHORITY TO SELL.—Subject to subsections (b) through (e), the Secretary of the Army may sell and convey all right, title, and interest of the United States in and to a parcel of land, consisting of a total of approximately 32 acres, that comprises a portion of Fort Jackson, South Carolina, and is excess to the needs of the Army.

(b) COMPETITIVE BID REQUIREMENT; MINIMUM SALE PRICE.—(1) The Secretary shall use competitive procedures for the sale of land referred to in subsection (a).

(2) In no event may any of the land referred to in subsection (a) be sold for less than the fair market value of the land, as determined by the Secretary.

(c) USE OF PROCEEDS OF SALE.—(1) The Secretary may use the proceeds from the sale of the land referred to in subsection (a) for the rehabilitation of military family housing at Fort Jackson, South Carolina.

(2) Any proceeds of the sale not used for such purpose shall be covered into the Treasury as miscellaneous receipts.

(d) LEGAL DESCRIPTION OF LANDS.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey that is satisfactory to the Secretary.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with any transaction authorized by this section as the Secretary considers appropriate to protect the interests of the United States.

Approved September 29, 1988.

LEGISLATIVE HISTORY—H.R. 4481:

HOUSE REPORTS: No. 101-735, Pt. 1 (Comm. on Armed Services); Pt. 2 (Comm. on Government Operations); Pt. 3 (Comm. on Merchant Marine and Fisheries); and Pt. 4 (Comm. on Rules), and No. 100-989 (Comm. of Conference).

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 7, 12, considered and passed House.
Sept. 15, considered and passed Senate, amended.
Sept. 28, House and Senate agreed to conference report.

Public Law 100-457
100th Congress

An Act

Making appropriations for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Sept. 30, 1988
[H.R. 4794]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Department of Transportation and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

Department of Transportation and Related Agencies Appropriations Act, 1989.

TITLE I—DEPARTMENT OF TRANSPORTATION

OFFICE OF THE SECRETARY

SALARIES AND EXPENSES

For necessary expenses of the Office of the Secretary of Transportation, including not to exceed $30,000 for allocation within the Department of official reception and representation expenses as the Secretary may determine; $1,071,000 for the Immediate Office of the Secretary; $464,000 for the Immediate Office of the Deputy Secretary; $6,000,000 for the Office of the General Counsel; $7,950,000 for the Office of the Assistant Secretary for Policy and International Affairs; $2,241,000 for the Office of the Assistant Secretary for Budget and Programs; $2,265,000 for the Office of the Assistant Secretary for Governmental Affairs; $24,300,000 for the Office of the Assistant Secretary for Administration; $1,455,000 for the Office of the Assistant Secretary for Public Affairs; $824,000 for the Executive Secretariat; $440,000 for the Contract Appeals Board; $1,305,000 for the Office of Civil Rights; $585,000 for the Office of Commercial Space Transportation; $1,727,000 for the Office of Essential Air Service; and $3,915,000 for the Office of Small and Disadvantaged Business Utilization, of which $3,000,000 shall remain available until expended and shall be available for the purposes of the Minority Business Resource Center as authorized by 49 U.S.C. 332: *Provided,* That, notwithstanding any other provision of law, funds available for the purposes of the Minority Business Resource Center in this or any other Act may be used for business opportunities related to any mode of transportation.

TRANSPORTATION PLANNING, RESEARCH, AND DEVELOPMENT

For necessary expenses for conducting transportation planning, research, and development activities, including the collection of national transportation statistics, and university research and internships, to remain available until expended, $5,600,000.

WORKING CAPITAL FUND

Necessary expenses for operating costs and capital outlays of the Department of Transportation Working Capital Fund not to exceed $130,350,000 shall be paid, in accordance with law, from appropriations made available by this Act and prior appropriations Acts to the Department of Transportation, together with advances and reimbursements received by the Department of Transportation; for necessary expenses associated with the development of the Departmental Accounting and Financial Information System, $3,200,000 to remain available until expended.

PAYMENTS TO AIR CARRIERS

For payments to air carriers of so much of the compensation fixed and determined under section 419 of the Federal Aviation Act of 1958, as amended (49 U.S.C. 1389), as is payable by the Department of Transportation, $25,000,000, to remain available until expended.

COAST GUARD

OPERATING EXPENSES

For necessary expenses for the operation and maintenance of the Coast Guard, not otherwise provided for; purchase of not to exceed eight passenger motor vehicles for replacement only; payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), and section 229(b) of the Social Security Act (42 U.S.C. 429(b); and recreation and welfare, $2,100,616,000 is authorized to be appropriated, derived by transfer, or otherwise provided in "in kind" commodities and services for Coast Guard operating expenses in fiscal year 1989; of which $1,896,116,000 is hereby appropriated of which $30,000,000 shall be expended from the Boat Safety Account: *Provided,* That of the funds provided for operating expenses for fiscal year 1989, in this or any other Act, not less than $492,000,000 shall be available for drug enforcement activities and not less than $147,000,000 shall be available for environmental protection activities: *Provided further,* That, of the funds provided in this Act for "Acquisition, Construction, and Improvements", $4,500,000 shall be transferred to this head to reopen and maintain the Coast Guard search and rescue stations located at Shark River, New Jersey; East Port, Maine; Block Island, Rhode Island; Ashtabula, Ohio; North Superior, Minnesota; Lake Tahoe, California; Kennewick, Washington; Kauai, Hawaii; and Mare Island, California; and to reactivate the Coquille and Rogue River Patrols in Oregon: *Provided further,* That, within available funds, the Coast Guard shall maintain the Coast Guard search and rescue station located at Bayfield, Wisconsin on a year-round basis: *Provided further,* That the number of aircraft on hand at any one time shall not exceed two hundred and fourteen, exclusive of planes and parts stored to meet future attrition: *Provided further,* That none of the funds appropriated in this or any other Act shall be available for pay or administrative expenses in connection with shipping commissioners in the United States: *Provided further,* That none of the funds provided in this Act shall be available for expenses incurred for yacht documentation under 46 U.S.C. 12109 except to the extent fees are collected from yacht owners and credited to this appropriation.

14 USC 92 note.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

For necessary expenses of acquisition, construction, rebuilding, and improvement of aids to navigation, shore facilities, vessels, and aircraft, including equipment related thereto, $295,000,000, to remain available until September 30, 1993: *Provided,* That the Secretary of Transportation shall issue regulations requiring that written warranties shall be included in all contracts with prime contractors for major systems acquisitions of the Coast Guard: *Provided further,* That any such written warranty shall not apply in the case of any system or component thereof that has been furnished by the Government to a contractor: *Provided further,* That the Secretary of Transportation may provide for a waiver of the requirements for a warranty where: (1) the waiver is necessary in the interest of the national defense or the warranty would not be cost effective; and (2) the Committees on Appropriations of the Senate and the House of Representatives, the Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Merchant Marine and Fisheries of the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirements: *Provided further,* That the requirements for such written warranties shall not cover combat damage.

Regulations. Contracts. 10 USC 2403 note.

ALTERATION OF BRIDGES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for alteration or removal of obstructive bridges, $8,500,000, together with $5,000,000 to be derived from "Acquisition, construction, and improvements", to remain available until expended.

RETIRED PAY

For retired pay, including the payment of obligations therefor otherwise chargeable to lapsed appropriations for this purpose, and payments under the Retired Serviceman's Family Protection and Survivor Benefits Plans, and for payments for medical care of retired personnel and their dependents under the Dependents Medical Care Act (10 U.S.C., ch. 55), $410,800,000.

RESERVE TRAINING

For all necessary expenses for the Coast Guard Reserve, as authorized by law; maintenance and operation of facilities; and supplies, equipment, and services; $67,000,000.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

For necessary expenses, not otherwise provided for, for applied scientific research, development, test, and evaluation; maintenance, rehabilitation, lease and operation of facilities and equipment, as authorized by law, $18,800,000, to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from State and local governments, other public authorities, private sources, and foreign countries, for expenses incurred for research, development, testing, and evaluation.

OFFSHORE OIL POLLUTION COMPENSATION FUND

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations in such amounts and at such times as may be necessary to the extent that appropriations are not adequate to meet the obligations of the Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 in fiscal year 1989 for the "Offshore Oil Pollution Compensation Fund".

DEEPWATER PORT LIABILITY FUND

33 USC 1517a.

The Secretary of Transportation is authorized to issue, and the Secretary of the Treasury is authorized to purchase, without fiscal year limitation, notes or other obligations in such amounts and at such times as may be necessary to the extent that available appropriations are not adequate to meet the obligations of the Fund: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $50,000,000 in fiscal year 1989 for the "Deepwater Port Liability Fund".

BOAT SAFETY

(LIQUIDATION OF CONTRACT AUTHORIZATION)

For payment of obligations incurred for recreational boating safety assistance under Public Law 92-75, as amended, $30,000,000, to be derived from the Boat Safety Account and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $30,000,000 in fiscal year 1989 for recreational boating safety assistance.

FEDERAL AVIATION ADMINISTRATION

HEADQUARTERS ADMINISTRATION

For necessary expenses, not otherwise provided for, of providing administrative services at the headquarters location of the Federal Aviation Administration, including but not limited to accounting, budgeting, legal, public affairs, and executive direction services for the Federal Aviation Administration, $36,600,000.

OPERATIONS

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses of the Federal Aviation Administration, not otherwise provided for, including administrative expenses for research and development, and for establishment of air navigation facilities, and carrying out the provisions of the Airport and Airway Development Act, as amended, or other provisions of law authorizing the obligation of funds for similar programs of airport and airway development or improvement, purchase of four passenger motor vehicles for replacement only, $3,410,000,000, of which $471,320,000 shall be derived from the Airport and Airway Trust

Fund: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the maintenance and operation of air navigation facilities: *Provided further,* That none of these funds shall be available for new applicants for the second career training program or for a pilot test of contractor maintenance: *Provided further,* That the immediately preceding proviso shall not prohibit the augmentation of the existing field maintenance work force if it is determined to be essential for the safe operation of the air traffic control system: *Provided further,* That section 5532(f)(2) of title V, United States Code, is amended by striking "December 31, 1988" and inserting "December 31, 1989" in lieu thereof: *Provided further,* That section 8344(h) of title V, United States Code, is amended by striking "December 31, 1986" in paragraph (2) and inserting "December 31, 1987" in lieu thereof: *Provided further,* That in the event that the Federal Aviation Administrator employs annuitants subject to section 8344(h) of title V, United States Code, not to exceed $10,000,000, to be derived from the unobligated balance of any appropriation available for obligation by the Federal Aviation Administration as of the effective date of this Act, shall be available through December 31, 1989, for the purpose of funding such employment: *Provided further,* That any such funding shall be reported to the Committees on Appropriations of the Senate and the House of Representatives.

Reports.

FACILITIES AND EQUIPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for acquisition, establishment, and improvement by contract or purchase, and hire of air navigation and experimental facilities, including initial acquisition of necessary sites by lease or grant; engineering and service testing including construction of test facilities and acquisition of necessary sites by lease or grant; and construction and furnishing of quarters and related accommodations of officers and employees of the Federal Aviation Administration stationed at remote localities where such accommodations are not available; to be derived from the Airport and Airway Trust Fund and to remain available until September 30, 1993, $1,384,528,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred in the establishment and modernization of air navigation facilities: *Provided further,* That of the funds available under this head, $1,000,000 shall be available for the Secretary of Transportation to enter into grant agreements with universities or colleges having an airway science curriculum recognized by the Federal Aviation Administration, to conduct demonstration projects in the development, advancement, or expansion of airway science curriculum programs, and such funds, which shall remain available until expended, shall be made available under such terms and conditions as the Secretary of Transportation may prescribe, to such universities or colleges for the purchase or lease of buildings and associated facilities, instructional materials, or equipment to be used in conjunction with airway science curriculum programs, but in no event shall the total Federal share provided for any airway science construction project exceed 50 per centum of the

total cost of such project: *Provided further,* That upon FAA determination that a new permanent auxiliary air traffic control tower at the Orlando International Airport is needed, and upon approval by FAA of the design and location of such tower, up to $5,800,000 shall be set aside from funds made available for Facilities and Equipment for construction of the tower.

RESEARCH, ENGINEERING, AND DEVELOPMENT

(AIRPORT AND AIRWAY TRUST FUND)

For necessary expenses, not otherwise provided for, for research, engineering, and development, in accordance with the provisions of the Federal Aviation Act (49 U.S.C. 1301–1542), including construction of experimental facilities and acquisition of necessary sites by lease or grant, $160,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for research, engineering, and development.

GRANTS-IN-AID FOR AIRPORTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(AIRPORT AND AIRWAY TRUST FUND)

(INCLUDING RESCISSION)

For liquidation of obligations incurred for airport planning and development under section 14 of Public Law 91-258, as amended, and under other law authorizing such obligations, and obligations for noise compatibility planning and programs, $1,150,000,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the commitments for which are in excess of $1,400,000,000 in fiscal year 1989 for grants-in-aid for airport planning and development, and noise compatibility planning and programs, notwithstanding section 506(e)(4) of the Airport and Airway Improvement Act of 1982, as amended: *Provided further,* That $100,000,000 of unobligated contract authority available for airport development and planning pursuant to section 505(a) of the Airport and Airway Improvement Act of 1982, as amended, is rescinded: *Provided further,* That no grants-in-aid the commitments for which are subject to a limitation contained in this paragraph shall be made to the Massachusetts Port Authority subsequent to a determination by the Department of Transportation that the landing fee structure adopted by the Massachusetts Port Authority on March 16, 1988, for Logan International Airport, is inconsistent with the Federal Aviation Act of 1958 (49 U.S.C. app. 1301 et seq.), or the Airport and Airway Improvement Act of 1982, as amended (49 U.S.C. app. 2201 et seq.), or with national transportation policy, if such fee structure remains in effect more than seven days after such determination is made: *Provided further,* That the Department of Transportation shall

make a determination on the consistency of the landing fee structure prior to December 17, 1988.

AVIATION INSURANCE REVOLVING FUND

The Secretary of Transportation is hereby authorized to make such expenditures and investments, within the limits of funds available pursuant to section 1306 of the Act of August 23, 1958, as amended (49 U.S.C. 1536), and in accordance with section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program set forth in the budget for the current fiscal year for aviation insurance activities under said Act.

AIRCRAFT PURCHASE LOAN GUARANTEE PROGRAM

The Secretary of Transportation may hereafter issue notes or other obligations to the Secretary of the Treasury, in such forms and denominations, bearing such maturities, and subject to such terms and conditions as the Secretary of the Treasury may prescribe. Such obligations may be issued to pay any necessary expenses required pursuant to any guarantee issued under the Act of September 7, 1957, Public Law 85-307, as amended (49 U.S.C. 1324 note). None of the funds in this Act shall be available for the implementation or execution of programs under this head the obligations for which are in excess of $50,000,000 during fiscal year 1989. Such obligations shall be redeemed by the Secretary from appropriations authorized by this section. The Secretary of the Treasury shall purchase any such obligations, and for such purpose he may use as a public debt transaction the proceeds from the sale of any securities issued under the Second Liberty Bond Act, as now or hereafter in force. The purposes for which securities may be issued under such Act are extended to include any purchase of notes or other obligations issued under the subsection. The Secretary of the Treasury may sell any such obligations at such times and price and upon such terms and conditions as he shall determine in his discretion. All purchases, redemptions, and sales of such obligations by such Secretary shall be treated as public debt transactions of the United States.

49 USC app. 1324 note.

FEDERAL HIGHWAY ADMINISTRATION

LIMITATION ON GENERAL OPERATING EXPENSES

Necessary expenses for administration, operation, and research of the Federal Highway Administration, not to exceed $217,350,000, shall be paid in accordance with law, from appropriations made available by this Act to the Federal Highway Administration together with advances and reimbursements received by the Federal Highway Administration: *Provided,* That not to exceed $33,427,000 of the amount provided herein shall remain available until expended: *Provided further,* That, notwithstanding any other provision of law, there may be credited to this account funds received from States, counties, municipalities, other public authorities, and private sources, for training expenses incurred for non-Federal employees.

HIGHWAY SAFETY RESEARCH AND DEVELOPMENT

(HIGHWAY TRUST FUND)

For necessary expenses in carrying out the provisions of sections 307(a) and 403 of title 23, United States Code, to be derived from the Highway Trust Fund and to remain available until expended, $6,080,000.

HIGHWAY-RELATED SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of title 23, United States Code, section 402, administered by the Federal Highway Administration, to remain available until expended, $10,000,000, to be derived from the Highway Trust Fund: *Provided,* That not to exceed $100,000 of the amount appropriated herein shall be available for "Limitation on general operating expenses": *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the obligations for which are in excess of $9,405,000 in fiscal year 1989 for "Highway-related safety grants".

RAILROAD-HIGHWAY CROSSINGS DEMONSTRATION PROJECTS

For necessary expenses of certain railroad-highway crossings demonstration projects as authorized by section 163 of the Federal-Aid Highway Act of 1973, as amended, to remain available until expended, $7,560,000, of which $5,040,000 shall be derived from the Highway Trust Fund.

FEDERAL-AID HIGHWAYS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

23 USC 104 note.

None of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $12,000,000,000 for Federal-aid highways and highway safety construction programs for fiscal year 1989.

FEDERAL-AID HIGHWAYS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For carrying out the provisions of title 23, United States Code, that are attributable to Federal-aid highways, including the National Scenic and Recreational Highway as authorized by 23 U.S.C. 148, not otherwise provided, including reimbursements for sums expended pursuant to the provisions of 23 U.S.C. 308, $12,700,000,000, or so much thereof as may be available in and

derived from the Highway Trust Fund, to remain available until expended.

RIGHT-OF-WAY REVOLVING FUND

(LIMITATION ON DIRECT LOANS)

(HIGHWAY TRUST FUND)

During fiscal year 1989 and with the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $46,000,000.

MOTOR CARRIER SAFETY

For necessary expenses to carry out the motor carrier safety functions of the Secretary as authorized by the Department of Transportation Act (80 Stat. 939-940), $27,000,000, of which $1,920,000 shall remain available until expended.

MOTOR CARRIER SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out the provisions of section 402 of Public Law 97-424, $50,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That none of the funds in this Act shall be available for the implementation or execution of programs the obligations for which are in excess of $60,000,000 for "Motor carrier safety grants".

ACCESS HIGHWAYS TO PUBLIC RECREATION AREAS ON CERTAIN LAKES

Notwithstanding any other provision of law, there is appropriated $1,291,000 for necessary expenses of certain access highway projects, as authorized by section 155, title 23, United States Code, to remain available until expended.

BALTIMORE-WASHINGTON PARKWAY

(HIGHWAY TRUST FUND)

For necessary expenses, not otherwise provided, to carry out the provisions of the Federal-Aid Highway Act of 1970 for the Baltimore-Washington Parkway, to remain available until expended, $12,825,000, to be derived from the Highway Trust Fund and to be withdrawn therefrom at such times and in such amounts as may be necessary.

INTERMODAL URBAN DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses to carry out the provisions of section 124 of the Federal-Aid Highway Amendments of 1974, $8,550,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY SAFETY AND ECONOMIC DEVELOPMENT DEMONSTRATION PROJECTS

(HIGHWAY TRUST FUND)

For necessary expenses to carry out construction projects as authorized by Public Law 99-500 and Public Law 99-591, $8,550,000, to be derived from the Highway Trust Fund and to remain available until expended.

AIRPORT ACCESS DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses to carry out a demonstration project in the vicinity of the Ontario International Airport in San Bernardino County, California, for the purpose of demonstrating methods of improving highway access to an airport that is projected to incur a substantial increase in air service, $1,300,000, to remain available until expended and to be derived from the Highway Trust Fund.

HIGHWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway improvements in the vicinity of Pontiac and East Lansing, Michigan, that demonstrates methods of enhancing safety and promoting economic development through widening and resurfacing of highways on the Federal-aid primary system and on roads on the Federal-aid urban system, as authorized by Public Law 99-500 and Public Law 99-591, $1,260,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY-RAILROAD GRADE CROSSING SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a coordinated project of highway-railroad grade crossing separations in Mineola, New York, that demonstrates methods of enhancing highway-railroad crossing safety while minimizing surrounding environmental effects, as authorized by Public Law 99-500 and Public Law 99-591, $8,100,000, to be derived from the Highway Trust Fund and to remain available until expended.

NUCLEAR WASTE TRANSPORTATION SAFETY DEMONSTRATION PROJECT

(HIGHWAY TRUST FUND)

For necessary expenses for a project to construct a relief route in the Los Alamos-Santa Fe, New Mexico corridor that demonstrates methods of improving the safety of transporting nuclear waste by constructing an alternate route with specific safety features, $3,600,000, to be derived from the Highway Trust Fund and to remain available until expended.

HIGHWAY WIDENING DEMONSTRATION PROJECT

For necessary expenses to carry out a demonstration project to improve U.S. Route 202 in the vicinity of King of Prussia, Pennsylvania, as authorized by Public Law 100-202, $1,800,000, to remain available until expended.

BRIDGE IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project in the vicinity of Jacksonville, Florida, for the purpose of demonstrating methods of reducing traffic congestion and improving efficiency in the trans-shipment of military and civilian cargo by construction of a bridge to Blount Island, widening State Highway 105 (Heckscher Drive) and constructing an interchange at the intersection of Heckscher Drive and the new Blount Island Bridge, $8,550,000, to remain available until expended.

HIGHWAY WIDENING AND IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out a highway project between Paintsville and Prestonsburg, Kentucky, that demonstrates the safety and economic benefits of widening and improving highways in mountainous areas, $4,100,000, to remain available until expended.

INTERSECTION SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for the reconstruction of an intersection at Aviation Boulevard and Rosecrans Avenue to include the completion of Douglas Street in the vicinity of El Segundo, California, for the purpose of demonstrating methods of improved highway and highway safety construction, $900,000, to remain available until expended.

HIGHWAY CAPACITY IMPROVEMENT DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for U.S. Route 231 between U.S. Route 90 and the City of Campbellton in Jackson County, Florida, for the purpose of demonstrating methods of expanding a two-lane segment of a U.S. highway to four lanes, $900,000, to remain available until expended.

CLIMBING LANE SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for U.S. Route 15 in the vicinity of Tioga County, Pennsylvania, for the purpose of demonstrating methods of improved highway and highway safety construction, $450,000, to remain available until expended.

INDIANA INDUSTRIAL CORRIDOR SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for

an improved route between Wabash and Huntington, Indiana, for the purpose of demonstrating the safety and economic benefits of widening and improving rural highways, $1,000,000, to remain available until expended.

UTAH PEDESTRIAN SAFETY DEMONSTRATION PROJECT

Of the funds made available to the State of Utah by section 149 of Public Law 100-17, to remain available until expended, $1,000,000 shall be available only to carry out preliminary engineering, environmental studies, and right-of-way acquisition to widen 8400 West in Magna, Utah, for the purpose of demonstrating methods of improved highway and highway safety construction.

OKLAHOMA HIGHWAY WIDENING DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to widen Oklahoma State Route 53 from Interstate Highway 35 east to the entrance of the Ardmore Regional Industrial Airpark for the purpose of demonstrating methods of improved highway and highway safety construction, $400,000, to remain available until expended.

ALABAMA HIGHWAY BYPASS DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition for a highway bypass project in the vicinity of Jasper, Alabama, for the purpose of demonstrating methods of improved highway and highway safety construction, $3,600,000, to remain available until expended.

KENTUCKY BRIDGE DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to replace the Glover Cary Bridge in Owensboro, Kentucky, for the purpose of demonstrating methods of improved highway and highway safety construction, $3,600,000, to remain available until expended.

VIRGINIA HOV SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to construct High Occupancy Vehicle lanes on Interstate Route 66 between Interstate Route 495 and U.S. Route 50 for the purpose of demonstrating methods of increasing highway capacity and safety by the use of highway shoulders to construct HOV lanes, $500,000, to remain available until expended.

URBAN HIGHWAY CORRIDOR DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to improve and upgrade the M-59 urban highway corridor in southeast Michigan, $225,000, to remain available until expended, for the

purpose of demonstrating methods of improving congested urban corridors that have been neglected during construction of the Interstate system.

URBAN AIRPORT ACCESS SAFETY DEMONSTRATION PROJECT

For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to improve and upgrade access to Detroit Metropolitan Airport in southeast Michigan, $225,000, to remain available until expended, for the purpose of demonstrating methods of improving access to major urban airports.

CORRIDOR SAFETY IMPROVEMENT PROJECT

(HIGHWAY TRUST FUND)

For the purpose of carrying out a demonstration of methods of improving vehicular and pedestrian safety on roads on the Federal-aid primary and Federal-aid secondary systems, involving Route 1 in New Jersey, there is hereby appropriated $28,000,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

BRIDGE CAPACITY IMPROVEMENTS

(HIGHWAY TRUST FUND)

For the purpose of carrying out the Nashua River Bridge and Broad Street Parkway project in Nashua, New Hampshire, that crosses the Nashua River, there is hereby appropriated $3,763,000, to be derived from the Highway Trust Fund and to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempt from any limitation on obligations for Federal-aid highways and highway safety construction programs.

CORRIDOR H IMPROVEMENT PROJECT

For the purpose of carrying out a demonstration of methods of eliminating traffic congestion, and to promote economic benefits for the area affected by the construction of a bypass, on the Corridor H segment of the Appalachian Highway System, there is hereby appropriated $16,000,000, to remain available until expended: *Provided,* That all funds appropriated under this head shall be exempted from any limitation on obligations for Federal-aid highways and highway safety construction programs.

ROAD EXTENSION DEMONSTRATION

For 80 percent of the expenses necessary to provide for the initial planning and design of an improved and widened roadway from Prairie City, Iowa, to Burlington, Iowa, for the purpose of demonstrating the economic benefits of an improved highway to a depressed area, $600,000 is appropriated, to remain available until expended.

BRIDGE RESTORATION

For necessary expenses to carry out an historic bridge rehabilitation demonstration project, for the purpose of demonstrating the economic and transportation benefits of restoring a previously closed historic bridge, $2,000,000, to remain available until expended, shall be available to the city of Chattanooga, Tennessee, for restoration of the Walnut Street Bridge.

RESERVATION ROAD

For the purpose of carrying out a demonstration of economic growth and development benefits on approximately twenty-nine miles of Federal-aid secondary road connecting Interstate 10 and State Route 84, there is hereby appropriated $3,500,000 for the acquisition of rights-of-way, construction, and other costs incurred in the reconstruction of that portion of the road on the Gila Indian Reservation and the Maricopa Ak Chin Indian Reservation: *Provided,* That no Federal assistance shall be made available to carry out the project until: (1) an agreement is reached with the Indian Communities for the purchase of the required rights-of-way on the two reservations, (2) the road is accepted on the State Highway System, (3) not less than 75 percent of the rights-of-way needed for that portion of the road outside the reservation boundaries is donated by the landowners, and (4) Maricopa County and Pinal County agree to participate financially in the reconstruction of the road.

NATIONAL HIGHWAY TRAFFIC SAFETY ADMINISTRATION

OPERATIONS AND RESEARCH

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under the Motor Vehicle Information and Cost Savings Act (Public Law 92-513, as amended) and the National Traffic and Motor Vehicle Safety Act, $67,899,000, of which $31,000,000 shall remain available until expended: *Provided,* That of the funds available under this head, $2,000,000 shall be available to implement the recommendations of the 1985 National Academy of Sciences report on trauma research.

OPERATIONS AND RESEARCH

(HIGHWAY TRUST FUND)

For expenses necessary to discharge the functions of the Secretary with respect to traffic and highway safety under chapter 4, title 23, United States Code, to be derived from the Highway Trust Fund, $30,751,000, to remain available until expended: *Provided,* That, of the funds available under this head, $2,780,000 shall be available for light truck and van safety research and analysis.

HIGHWAY TRAFFIC SAFETY GRANTS

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred carrying out the provisions of 23 U.S.C. 402, 406, and 408, and section 209 of Public Law 95-599, as amended, to remain available until expended, $130,500,000, to be derived from the Highway Trust Fund: *Provided,* That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $115,000,000 in fiscal year 1989 for "State and community highway safety grants" authorized under 23 U.S.C. 402: *Provided further,* That none of these funds shall be used for construction, rehabilitation or remodeling costs, or for office furnishings and fixtures for State, local, or private buildings or structures: *Provided further,* That none of the funds in this Act shall be available for the planning or execution of programs the total obligations for which are in excess of $11,000,000 for "Alcohol safety incentive grants" authorized under 23 U.S.C. 408: *Provided further,* That not to exceed $4,850,000 shall be available for administering the provisions of 23 U.S.C. 402: *Provided further,* That notwithstanding any other provision of law, none of the funds in this Act shall be available for the planning or execution of programs authorized under section 209 of Public Law 95-599, as amended, the total obligations for which are in excess of $4,750,000 in fiscal years 1982 through 1989.

FEDERAL RAILROAD ADMINISTRATION

OFFICE OF THE ADMINISTRATOR

For necessary expenses of the Federal Railroad Administration, not otherwise provided for, $14,975,000, of which $2,875,000 shall remain available until expended: *Provided,* That none of the funds in this Act shall be available for the planning or execution of a program making commitments to guarantee new loans under the Emergency Rail Services Act of 1970, as amended, and that no new commitments to guarantee loans under section 211(a) or 211(h) of the Regional Rail Reorganization Act of 1973, as amended, shall be made: *Provided,* That, as part of the Washington Union Station transaction the Secretary shall assume the first deed of trust on the property and, where the Union Station Redevelopment Corporation or any successor is obligated to make payments on such deed of trust on the Secretary's behalf, including payments on and after September 30, 1988, the Secretary is authorized to receive such payments directly from the Union Station Redevelopment Corporation, credit them to the appropriation charged for the first deed of trust, and make payments on the first deed of trust with those funds: *Provided further,* That an additional amount of $10,000,000, of which $4,000,000 shall be derived from unobligated balances of "Grants to the National Railroad Passenger Corporation", is hereby made available only for the purpose of purchasing title to Washington Union Station as authorized by the Union Station Redevelopment Act of 1981.

40 USC 817 note.

RAILROAD SAFETY

For necessary expenses in connection with railroad safety, not otherwise provided for, $27,825,000, of which $1,140,000 shall remain available until expended.

RAILROAD RESEARCH AND DEVELOPMENT

For necessary expenses for railroad research and development, $9,286,000, to remain available until expended.

NORTHEAST CORRIDOR IMPROVEMENT PROGRAM

For necessary expenses related to Northeast Corridor improvements authorized by title VII of the Railroad Revitalization and Regulatory Reform Act of 1976, as amended (45 U.S.C. 851 et seq.) and the Rail Safety Improvement Act of 1988, $19,600,000, to remain available until expended.

GRANTS TO THE NATIONAL RAILROAD PASSENGER CORPORATION

To enable the Secretary of Transportation to make grants to the National Railroad Passenger Corporation for operating losses incurred by the Corporation, capital improvements, and labor protection costs authorized by 45 U.S.C. 565, to remain available until expended, $584,000,000: *Provided,* That none of the funds herein appropriated shall be used for lease or purchase of passenger motor vehicles or for the hire of vehicle operators for any officer or employee, other than the president of the Corporation, excluding the lease of passenger motor vehicles for those officers or employees while in official travel status: *Provided further,* That the Secretary shall make no commitments to guarantee new loans or loans for new purposes under 45 U.S.C. 602 in fiscal year 1989: *Provided further,* That the incurring of any obligation or commitment by the Corporation for the purchase of capital improvements prohibited by this Act or not expressly provided for in an appropriations Act shall be deemed a violation of 31 U.S.C. 1341: *Provided further,* That no funds are required to be expended or reserved for expenditure pursuant to 45 U.S.C. 601(e): *Provided further,* That none of the funds in this or any other Act shall be made available to finance the rehabilitation and other improvements (including upgrading track and the signal system, ensuring safety at public and private highway and pedestrian crossings by improving signals or eliminating such crossings, and the improvement of operational portions of stations related to intercity rail passenger service) on the main line track between Atlantic City, New Jersey, and the main line of the Northeast Corridor, unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Federal sources: *Provided further,* That, notwithstanding any other provision of law, the National Railroad Passenger Corporation shall not operate rail passenger service between Atlantic City, New Jersey, and the Northeast Corridor main line unless the Corporation's Board of Directors determines that revenues from such service have covered or exceeded 80 per centum of the short-term avoidable costs of operating such service in the first year of operation and 100 per centum of the short-term avoidable operating costs for each year thereafter: *Provided further,* That

none of the funds provided in this or any other Act shall be made available to finance the acquisition and rehabilitation of a line, and construction necessary to facilitate improved rail passenger service, between Spuyten Duyvil, New York, and the main line of the Northeast Corridor unless the Secretary of Transportation certifies that not less than 40 per centum of the costs of such improvements shall be derived from non-Amtrak sources.

RAILROAD REHABILITATION AND IMPROVEMENT FINANCING FUNDS

The Secretary of Transportation is authorized to issue to the Secretary of the Treasury notes or other obligations pursuant to section 512 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, in such amounts and at such times as may be necessary to pay any amounts required pursuant to the guarantee of the principal amount of obligations under sections 511 through 513 of such Act, such authority to exist as long as any such guaranteed obligation is outstanding: *Provided,* That no new loan guarantee commitments shall be made during fiscal year 1989: *Provided further,* That, notwithstanding any other provision of law, the Secretary of Transportation shall sell securities or promissory notes with a principal value of at least $99,000,000 that are held by the Department of Transportation under authority of sections 502, 505–507, 509, and 511–513 of the Railroad Revitalization and Regulatory Reform Act of 1976 (Public Law 94-210), as amended, by no later than September 30, 1989: *Provided further,* That such securities or promissory notes authorized to be sold in the immediately preceding proviso shall be sold only for amounts greater than or equal to the net present value to the Government of each loan as determined by the Secretary of Transportation in consultation with the Secretary of the Treasury: *Provided further,* That the Secretary of Transportation shall transmit a written certification to the Committees on Appropriations of the Senate and House of Representatives before the consummation of each sale certifying that the amount to be realized is equal to or greater than the net present value to the Government of each loan: *Provided further,* That, notwithstanding any other provision of law, for fiscal year 1989 and each fiscal year thereafter all amounts realized from the sale of notes or securities sold under authority of this section shall be considered as current year domestic discretionary outlay offsets and not as "asset sales" or "loan prepayments" as defined by section 257(12) of the Balanced Budget and Emergency Deficit Control Act of 1985, as amended: *Provided further,* That any underwriting fees and related expenses shall be derived solely from the proceeds of the sales.

CONRAIL COMMUTER TRANSITION ASSISTANCE

For necessary capital expenses of Conrail commuter transition assistance, not otherwise provided for, $4,500,000, to remain available until expended.

URBAN MASS TRANSPORTATION ADMINISTRATION

ADMINISTRATIVE EXPENSES

For necessary administrative expenses of the urban mass transportation program authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), and 23 U.S.C. chapter 1, in connection with these activities, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, $31,882,000 of which not to exceed $600,000 shall be available for the Office of the Administrator.

RESEARCH, TRAINING, AND HUMAN RESOURCES

For necessary expenses for research, training, and human resources as authorized by the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), to remain available until expended, $10,000,000: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources, for expenses incurred for training.

FORMULA GRANTS

For necessary expenses to carry out the provisions of sections 9 and 18 of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.), $1,600,000,000, together with $5,000,000 to carry out the provisions of section 18(h) of the Urban Mass Transportation Act of 1964, as amended, to remain available until expended: *Provided,* That, notwithstanding any other provision of law, of the funds provided under this Act for formula grants, no more than $804,691,892 may be used for operating assistance under section 9(k)(2) of the Urban Mass Transportation Act of 1964, as amended: *Provided further,* That, notwithstanding any other provision of law, before apportionment of these funds, $18,000,000 shall be made available for the purposes of section 18 of the Urban Mass Transportation Act of 1964, as amended.

DISCRETIONARY GRANTS

(LIMITATION ON OBLIGATIONS)

(HIGHWAY TRUST FUND)

None of the funds in this Act shall be available for the implementation or execution of programs in excess of $1,140,000,000 in fiscal year 1989 for grants under the contract authority authorized in section 21(a)(2) and (b) of the Urban Mass Transportation Act of 1964, as amended (49 U.S.C. 1601 et seq.).

MASS TRANSIT CAPITAL FUND

(LIQUIDATION OF CONTRACT AUTHORIZATION)

(HIGHWAY TRUST FUND)

For payment of obligations incurred in carrying out section 21(a)(2) and (b) of the Urban Mass Transportation Act of 1964, as

amended (49 U.S.C. 1601 et seq.), administered by the Urban Mass Transportation Administration, $400,000,000, to be derived from the Highway Trust Fund and to remain available until expended.

INTERSTATE TRANSFER GRANTS—TRANSIT

For necessary expenses to carry out the provisions of 23 U.S.C. 103(e)(4) related to transit projects, $2,000,000,000, to remain available until expended.

WASHINGTON METRO

For necessary expenses to carry out the provisions of section 14 of Public Law 96-184, $168,000,000, to remain available until expended.

SAINT LAWRENCE SEAWAY DEVELOPMENT CORPORATION

The Saint Lawrence Seaway Development Corporation is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to the Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the Corporation's budget for the current fiscal year. Contracts.

OPERATIONS AND MAINTENANCE

(HARBOR MAINTENANCE TRUST FUND)

For necessary expenses for operation and maintenance of those portions of the Saint Lawrence Seaway operated and maintained by the Saint Lawrence Seaway Development Corporation, $11,100,000, to be derived from the Harbor Maintenance Trust Fund, pursuant to Public Law 99-662.

RESEARCH AND SPECIAL PROGRAMS ADMINISTRATION

RESEARCH AND SPECIAL PROGRAMS

For expenses necessary to discharge the functions of the Research and Special Programs Administration, and for expenses for conducting research and development, $14,800,000, of which $1,650,000 shall remain available until expended: *Provided,* That there may be credited to this appropriation funds received from States, counties, municipalities, other public authorities, and private sources for expenses incurred for training and for aviation information management.

PIPELINE SAFETY

(PIPELINE SAFETY FUND)

For expenses necessary to conduct the functions of the pipeline safety program and for grants-in-aid to carry out a pipeline safety program, as authorized by section 5 of the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of

1979, $9,300,000, to be derived from the Pipeline Safety Fund, of which $5,125,000 shall remain available until expended.

OFFICE OF THE INSPECTOR GENERAL

SALARIES AND EXPENSES

For necessary expenses of the Office of the Inspector General in carrying out the provisions of the Inspector General Act of 1978, $29,000,000.

TITLE II—RELATED AGENCIES

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

SALARIES AND EXPENSES

For expenses necessary for the Architectural and Transportation Barriers Compliance Board, as authorized by section 502 of the Rehabilitation Act of 1973, as amended, $1,891,000.

NATIONAL TRANSPORTATION SAFETY BOARD

SALARIES AND EXPENSES

For necessary expenses of the National Transportation Safety Board, including hire of passenger motor vehicles and aircraft; services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS–18; uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901–5902), $25,360,000, of which not to exceed $500 may be used for official reception and representation expenses.

INTERSTATE COMMERCE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Interstate Commerce Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $1,500 for official reception and representation expenses, $43,115,000: *Provided,* That joint board members and cooperating State commissioners may use Government transportation requests when traveling in connection with their official duties as such.

49 USC 10344 note.

PAYMENTS FOR DIRECTED RAIL SERVICE

(LIMITATION ON OBLIGATIONS)

None of the funds provided in this Act shall be available for the execution of programs the obligations for which can reasonably be expected to exceed $475,000 for directed rail service authorized under 49 U.S.C. 11125 or any other Act.

PANAMA CANAL COMMISSION

PANAMA CANAL REVOLVING FUND

For administrative expenses of the Panama Canal Commission, including not to exceed $10,000 for official reception and representation expenses of the Board; not to exceed $4,000 for official reception and representation expenses of the Secretary; and not to exceed $25,000 for official reception and representation expenses of the Administrator, $50,287,000, to be derived from the Panama Canal Revolving Fund: *Provided,* That none of these funds may be used for the planning or execution of non-administrative and capital programs the obligations for which are in excess of $436,548,000 in fiscal year 1989: *Provided further,* That funds available to the Panama Canal Commission shall be available for the purchase of not to exceed forty-four passenger motor vehicles for replacement only (including large heavy-duty vehicles used to transport Commission personnel across the Isthmus of Panama, the purchase price of which shall not exceed $15,000 per vehicle).

DEPARTMENT OF THE TREASURY

REBATE OF SAINT LAWRENCE SEAWAY TOLLS

(HARBOR MAINTENANCE TRUST FUND)

For rebate of the United States portion of tolls paid for use of the Saint Lawrence Seaway, pursuant to Public Law 99-662, $10,700,000, to remain available until expended and to be derived from the Harbor Maintenance Trust Fund, of which not to exceed $300,000 shall be available for expenses of administering the rebates.

WASHINGTON METROPOLITAN AREA TRANSIT AUTHORITY

INTEREST PAYMENTS

For necessary expenses for interest payments, to remain available until expended, $51,663,569: *Provided,* That these funds shall be disbursed pursuant to terms and conditions established by Public Law 96-184 and the Initial Bond Repayment Participation Agreement.

TITLE III—GENERAL PROVISIONS

(INCLUDING TRANSFER OF FUNDS AND RESCISSION)

SEC. 301. During the current fiscal year applicable appropriations to the Department of Transportation shall be available for maintenance and operation of aircraft; hire of passenger motor vehicles and aircraft; purchase of liability insurance for motor vehicles operating in foreign countries on official department business; and uniforms, or allowances therefor, as authorized by law (5 U.S.C. 5901-5902).

SEC. 302. Funds for the Panama Canal Commission may be apportioned notwithstanding section 3679 of the Revised Statutes, as amended (31 U.S.C. 1341), to the extent necessary to permit payment of such pay increases for officers or employees as may be authorized

by administrative action pursuant to law that are not in excess of statutory increases granted for the same period in corresponding rates of compensation for other employees of the Government in comparable positions.

20 USC 241 note.

SEC. 303. Funds appropriated under this Act for expenditures by the Federal Aviation Administration shall be available (1) except as otherwise authorized by the Act of September 30, 1950 (20 U.S.C. 236-244), for expenses of primary and secondary schooling for dependents of Federal Aviation Administration personnel stationed outside the continental United States at costs for any given area not in excess of those of the Department of Defense for the same area, when it is determined by the Secretary that the schools, if any, available in the locality are unable to provide adequately for the education of such dependents, and (2) for transportation of said dependents between schools serving the area that they attend and their places of residence when the Secretary, under such regulations as may be prescribed, determines that such schools are not accessible by public means of transportation on a regular basis.

SEC. 304. Appropriations contained in this Act for the Department of Transportation shall be available for services as authorized by 5 U.S.C. 3109, but at rates for individuals not to exceed the per diem rate equivalent to the rate for a GS-18.

SEC. 305. None of the funds for the Panama Canal Commission may be expended unless in conformance with the Panama Canal Treaties of 1977 and any law implementing those treaties.

SEC. 306. None of the funds in this Act shall be used for the planning or execution of any program to pay the expenses of, or otherwise compensate, non-Federal parties intervening in regulatory or adjudicatory proceedings funded in this Act.

SEC. 307. None of the funds appropriated in this Act shall remain available for obligation beyond the current fiscal year nor may any be transferred to other appropriations unless expressly so provided herein.

SEC. 308. None of the funds in this or any previous or subsequent Act shall be available for the planning or implementation of any change in the current Federal status of the Transportation Systems Center, and none of the funds in this Act shall be available for the implementation of any change in the current Federal status of the Turner-Fairbank Highway Research Center.

Contracts.
Records.
Public information.

SEC. 309. The expenditure of any appropriation under this Act for any consulting service through procurement contract pursuant to section 3109 of title 5, United States Code, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Highways.
State and local governments.
23 USC 104 note.

SEC. 310. (a) For fiscal year 1989 the Secretary of Transportation shall distribute the obligation limitation for Federal-aid highways by allocation in the ratio which sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to each State for such fiscal year bear to the total of the sums authorized to be appropriated for Federal-aid highways and highway safety construction that are apportioned or allocated to all the States for such fiscal year.

(b) During the period October 1 through December 31, 1988, no State shall obligate more than 35 per centum of the amount distributed to such State under subsection (a), and the total of all State

obligations during such period shall not exceed 25 per centum of the total amount distributed to all States under such subsection: *Provided,* That this subsection shall not apply to funds obligated for the Dan Ryan Expressway.

(c) Notwithstanding subsections (a) and (b), the Secretary shall—

(1) provide all States with authority sufficient to prevent lapses of sums authorized to be appropriated for Federal-aid highways and highway safety construction that have been apportioned to a State, except in those instances in which a State indicates its intention to lapse sums apportioned under section 104(b)(5)(A) of title 23, United States Code;

(2) after August 1, 1989, revise a distribution of the funds made available under subsection (a) if a State will not obligate the amount distributed during that fiscal year and redistribute sufficient amounts to those States able to obligate amounts in addition to those previously distributed during that fiscal year giving priority to those States having large unobligated balances of funds apportioned under section 104 of title 23, United States Code, and giving priority to those States which, because of statutory changes made by the Surface Transportation Assistance Act of 1982 and the Federal-Aid Highway Act of 1981, have experienced substantial proportional reductions in their apportionments and allocations; and

(3) not distribute amounts authorized for administrative expenses, the Federal lands highway program, the strategic highway research program and amounts made available under sections 149(d), 158, 159, 164, 165, and 167 of Public Law 100-17.

(d) The limitation on obligations for Federal-aid highways and highway safety construction programs for fiscal year 1989 shall not apply to obligations for emergency relief under section 125 of title 23, United States Code; obligations under section 157 of title 23, United States Code; projects covered under section 147 of the Surface Transportation Assistance Act of 1978, section 9 of the Federal-Aid Highway Act of 1981, subsections 131 (b) and (j) of Public Law 97-424, section 118 of the National Visitors Center Facilities Act of 1968, section 320 of title 23, United States Code; projects authorized by Public Law 99-500, Public Law 99-591 and Public Law 100-202; or projects covered under subsections 149 (b) and (c) of Public Law 100-17.

(e) Subject to paragraph (c)(2) of this General Provision, a State which after August 1 and on or before September 30 of fiscal year 1989 obligates the amount distributed to such State in that fiscal year under paragraphs (a) and (c) of this General Provision may obligate for Federal-aid highways and highway safety construction on or before September 30, 1989, an additional amount not to exceed 5 percent of the aggregate amount of funds apportioned or allocated to such State—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which are not obligated on the date such State completes obligation of the amount so distributed.

(f) During the period August 2 through September 30, 1989, the aggregate amount which may be obligated by all States pursuant to paragraph (e) shall not exceed 2.5 percent of the aggregate amount of funds apportioned or allocated to all States—

(1) under sections 104, 130, 144, and 152 of title 23, United States Code, and

(2) for highway assistance projects under section 103(e)(4) of such title,

which would not be obligated in fiscal year 1989 if the total amount of the obligation limitation provided for such fiscal year in this Act were utilized.

(g) Paragraph (e) shall not apply to any State which on or after August 1, 1989, has the amount distributed to such State under paragraph (a) for fiscal year 1989 reduced under paragraph (c)(2).

SEC. 311. None of the funds in this Act shall be available for salaries and expenses of more than one hundred twenty political and Presidential appointees in the Department of Transportation.

SEC. 312. Not to exceed $276,000 of the funds provided in this Act for the Department of Transportation shall be available for the necessary expenses of advisory committees.

Michigan.

SEC. 313. None of the funds in this or any other Act shall be made available for the proposed Woodward light rail line in the Detroit, Michigan area until a source of operating funds has been approved in accordance with Michigan law: *Provided,* That this limitation shall not apply to alternatives analysis studies under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended.

Grants.
49 USC app. 1617 note.

SEC. 314. The limitation on obligations for the Discretionary Grants program of the Urban Mass Transportation Administration shall not apply to any authority under section 21(a)(2) of the Urban Mass Transportation Act of 1964, as amended, previously made available for obligation.

Michigan.

SEC. 315. Notwithstanding any other provision of law, none of the funds in this Act shall be available for the construction of, or any other costs related to, the Central Automated Transit System (Downtown People Mover) in Detroit, Michigan.

SEC. 316. None of the funds in this Act shall be used to implement section 404 of title 23, United States Code.

Reports.
49 USC 308 note.

SEC. 317. (a) SAFETY ENFORCEMENT PROGRAM PERFORMANCE.—The Secretary of Transportation shall on or before January 1 of each year transmit to the Congress a comprehensive report on the Federal Aviation Administration's prior fiscal year safety enforcement activities. The report shall include:

(1) a comparison of end-of-year staffing levels by inspector category (operations, maintenance, avionics) to staffing goals and a statement as to how staffing standards were applied to make allocations between air carrier and general aviation operations, maintenance and avionics inspectors;

(2) schedules showing the range of inspector experience by various inspector work force categories, and the number of inspectors in each of the categories who are considered fully qualified;

(3) schedules showing the number and percentage of inspectors who have received mandatory training by individual course, and the number of inspectors, by work force categories, who have received all mandatory training;

(4) a description of the criteria used to set annual work programs, an explanation of how these criteria differ from criteria used in the prior fiscal year and how the annual work programs ensure compliance with appropriate Federal regulations and safe operating practices;

(5) a comparison of actual inspections performed during the fiscal year to the annual work programs disaggregated to the field locations and, for any field location completing less than 80 percent of its planned number of inspections, an explanation as to why annual work program plans were not met;

(6) a statement of the adequacy of Federal Aviation Administration internal management controls available to ensure that field managers are complying with Federal Aviation Administration policies and procedures including those regarding inspector priorities, district office coordination, minimum inspection standards, and inspection followup;

(7) the status of the Federal Aviation Administration's efforts to update inspector guidance documents and Federal regulations to include technological, management, and structural changes taking place within the aviation industry, including a listing of the backlog of all proposed regulatory changes;

(8) a list of the specific operational measures of effectiveness—"best proxies" standing between the ultimate goal of accident prevention and ongoing program activities—that are being used to evaluate progress in meeting program objectives, the quality of program delivery, and the nature of emerging safety problems;

(9) a schedule showing the number of civil penalty cases closed during the two prior fiscal years, including total initial assessments, total final assessments, total dollar amount collected, range of dollar amount collected, average case processing time, and range of case processing time;

(10) a schedule showing the number of enforcement actions taken, excluding civil penalties, during the two prior fiscal years, including total number of violations cited, and the number of cited violation cases closed by certificate suspension, certification revocations, warnings, and no action taken; and

(11) schedules showing the aviation industry's safety record during the fiscal year for air carriers and general aviation, including the number of inspections performed where deficiencies were identified compared with inspections where no deficiencies were found and the frequency of safety deficiencies per carrier as well as an analysis based on the data of the general status of air carrier and general aviation compliance with Federal Aviation Regulations.

(b) LONG-RANGE NATIONAL TRANSPORTATION STRATEGIC PLANNING STUDY.—The Department of Transportation shall undertake a long-range, multi-modal national transportation strategic planning study. This study shall forecast long-term needs and costs for developing and maintaining facilities and services to achieve a desired national transportation program for moving people and goods in the year 2015. The study shall include detailed analyses of transportation needs within six to nine metropolitan areas that have diverse population, development, and demographic patterns, including at least one interstate metropolitan area. This study shall be submitted to Congress on or before October 1, 1989.

49 USC 301 note.

SEC. 318. Within seven calendar days of the obligation date, the Urban Mass Transportation Administration shall publish in the Federal Register an announcement of each grant obligated pursuant to sections 3 and 9 of the Urban Mass Transportation Act of 1964, as amended, including the grant number, the grant amount, and the transit property receiving each grant.

Federal Register, publication.
Grants.

SEC. 319. None of the funds appropriated in this Act may be used to prescribe, implement, or enforce a national policy specifying that only a single type of visual glideslope indicator can be funded under the facilities and equipment account or through the airport improvement program: *Provided,* That this prohibition shall not apply in the case of airports that are certified under part 139 of the Federal Aviation Regulations.

Contracts. Loans.

SEC. 320. Notwithstanding any other provision of law, funds appropriated in this or any other Act intended for studies, reports, or research, and related costs thereof including necessary capital expenses, are available for such purposes to be conducted through contracts or financial assistance agreements with the educational institutions that are specified in such Acts or in any report accompanying such Acts.

SEC. 321. The Secretary of Transportation shall permit the obligation of not to exceed $4,000,000, apportioned under title 23, United States Code, section 104(b)(5)(B) for the State of Florida for operating expenses of the Tri-County Commuter Rail Project in the area of Dade, Broward, and Palm Beach Counties, Florida, during each year that Interstate 95 is under reconstruction in such area.

SEC. 322. (a) Notwithstanding any provision of this or any other law, none of the funds provided by this Act for appropriation shall be available for payment to the General Services Administration for rental space and services at rates per square foot in excess of 102 percent of the rates paid during fiscal year 1988; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1988 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act.

(b) Notwithstanding any other provision of law, fiscal year 1989 obligations and outlays of "General Services Administration, Federal Buildings Fund" are reduced by an amount equal to the revenue reduction to such Fund pursuant to subsection (a).

West Virginia.

SEC. 323. Notwithstanding any other provision of law, section 144(g)(2) of title 23, United States Code, shall not apply to the Virginia Street Bridge in Charleston, West Virginia.

23 USC 130 note.

SEC. 324. Notwithstanding any other provision of law, the Secretary shall make available $250,000 per year for a national public information program to educate the public of the inherent hazard at railway-highway crossings. Such funds shall be made available out of funds authorized to be appropriated out of the Highway Trust Fund, pursuant to section 130 of title 23, United States Code.

33 USC 59x.

SEC. 325. (a) The waters described in subsection (b) are declared to be nonnavigable waters of the United States for purposes of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.).

(b) The waters referred to in subsection (a) are a drainage canal which—

New Jersey.

(1) is an unnamed tributary of the creek known as Newton Creek, located at block 641 (formerly designated as block 860) in the city of Camden, New Jersey;

(2) originates at the north bank of Newton Creek approximately 1,200 feet east of the confluence of Newton Creek and the Delaware River; and

(3) terminates at drainage culverts on the west side of Interstate Highway 676.

SEC. 326. TEXAS TOLL ROAD PILOT PROGRAM.—Section 129(j) of title 23, United States Code, is amended—

(1) in paragraph (6) by inserting "(and, in the case of the State of Texas, the Texas Turnpike Authority)" after "State highway department"; and

(2) by adding at the end of such section the following new paragraph:

"(10) SPECIAL RULE FOR FUNDING OF TEXAS PROJECT.—Upon request of the Texas Department of Highways and Public Transportation and subject to such terms and conditions as such Department and the Texas Turnpike Authority may agree, the Secretary shall reimburse the Texas Turnpike Authority for the Federal share of the costs of construction of the project carried out in the State of Texas under this subsection in the same manner and to the same extent as such Department would be reimbursed if such project was being carried out by such Department. The reimbursement of funds under this paragraph shall be from sums apportioned to the State of Texas under this chapter and available for obligation on projects on the Federal-aid primary system in such State.".

SEC. 327. (a) INTERNATIONAL ZARAGOSA BRIDGE.—For 50 per centum of the total expenses necessary to construct the International Zaragosa Bridge in El Paso, Texas, $3,000,000 is hereby appropriated to remain available until expended: *Provided*, That, notwithstanding any other provision of law, the Secretary shall make these funds available to the City of El Paso to pay for 100 per centum of the cost of the United States portion of the bridge, the construction of which shall be carried out in the same manner as other similar Federal-aid highway projects: *Provided further*, That funds appropriated under this section shall not be available until an agreement has been reached between all involved entities to repay the United States Treasury over a 30-year time period for the amount appropriated herein, plus interest, out of any tolls collected.

(b) RESCISSION.—Notwithstanding any other provision of law, there is hereby rescinded, effective October 1, 1988, $3,000,000 of the funds apportioned to the State of Texas pursuant to section 157 of title 23, United States Code: *Provided*, That this rescission shall have no effect on any takedowns or limitations already made from these funds. Effective date.

SEC. 329. This section shall expire on December 31, 1990. Notwithstanding any other provision of law, none of the funds provided by this Act or any previous or subsequent Act shall be used to plan, design, construct, or approve an interchange or any other highway facility providing access to or from I-66 between the existing United States Route 29 interchange at Gainesville (I-66 exit numbered 10) and the existing Route 234 interchange (I-66 exit numbered 11); nor shall any funds provided by this Act or any previous or subsequent Act be used to plan, design, construct, or approve an interchange or any other highway facility providing access to or from United States Route 29 between the existing I-66 interchange at Gainesville (I-66 exit numbered 10) and the existing Route 234 intersection; nor shall any funds provided by this Act or any previous or subsequent Act be used to plan, design, construct, or approve an interchange or any other highway facility that provides access to or from adjacent properties and the proposed Route 234 Bypass between I-66 and United States Route 29: *Provided*, That this section shall not apply to the use of Federal funds necessary to make safety-related improvements to existing roads. Termination date. Highways.

SEC. 330. (a) UMTA CHARTER SERVICE RULE.—Notwithstanding any other provision of law or regulation, the Urban Mass Transportation Administration charter service rule (49 CFR Part 604—charter service) and any subsequent Federal regulations governing charter service shall not apply to the Long Beach Public Transportation Company.

(b) ALABAMA FEASIBILITY STUDY.—For expenses necessary to carry out the Alabama Feasibility Study as authorized by section 350 of the Department of Transportation and Related Agencies Appropriations Act, 1988, Public Law 100-202, as amended, $675,000, to remain available until expended: *Provided,* That section 350(b) of such Act is amended by adding the following new sentence: "Such study shall include environmental assessment, economic analysis, and engineering.": *Provided further,* That section 350(d) of such Act is amended by striking out "1 year" and inserting in lieu thereof "2 years".

101 Stat. 1329-389.

(c) EXPRESSWAY SAFETY IMPROVEMENT DEMONSTRATION PROJECT.—For 80 percent of the expenses necessary to carry out preliminary engineering, environmental studies, and right-of-way acquisition to improve an interstate highway between Lake Success and Medford, New York, that demonstrates methods of enhancing safety and reducing motor vehicle congestion through widening, $2,600,000, to remain available until expended.

(d) MASS TRANSIT CAPITAL FUND (LIQUIDATION OF CONTRACT AUTHORIZATION) (HIGHWAY TRUST FUND).—Funds appropriated under this heading in the Department of Transportation and Related Agencies Appropriations Act, 1988, shall be available for payment of obligations incurred in carrying out section 317(b) of the Surface Transportation and Uniform Relocation Assistance Act of 1987.

SEC. 331. (a) Of the funds made available under "Discretionary Grants" for fiscal year 1989 the Secretary of Transportation shall, on or before January 1, 1989, transfer $7,000,000 from the Urban Mass Transportation Administration to the Federal Highway Administration to cover the cost of the Federal share of the transit element of the Acosta Bridge replacement project in Jacksonville, Florida: *Provided,* That none of these funds shall be obligated until the Jacksonville Transportation Authority commits to the Secretary in writing that it will repay to the Urban Mass Transportation Administration the amount of Federal funds transferred by this section if the Automated Skyway Express project is not extended across the Acosta Bridge for reasons other than the availability of sufficient Federal discretionary grants: *Provided further,* That the Jacksonville Transportation Authority's obligation to repay these funds shall not require any compensatory adjustment to previous or future apportionments made available to Jacksonville under "Formula Grants".

Contracts. Grants.

(b) The Secretary of Transportation shall enter into negotiations with the Jacksonville Transportation Authority to revise the existing full funding contract to provide for the expeditious release of $1,800,000 made available from "Discretionary Grants" for the Automated Skyway Express project in fiscal year 1985 (House Report 98-1159) and $4,000,000 made available from "Discretionary Grants" for such project in fiscal year 1988 (House Report 100-498) with no compensatory adjustment to previous or future apportionments made available to Jacksonville under "Formula Grants": *Provided,* That the revised contract will provide for the completion

of the 2.5 mile Automated Skyway Express project and will cover full project costs for completion of the project including Federal financial participation consisting of "Discretionary Grants" as made available by Congress: *Provided further,* That the Secretary shall commence negotiations with the Jacksonville Transportation Authority to enter into such revised contract no later than 30 days after enactment and shall conclude such negotiations no later than 90 days after enactment of this section.

SEC. 332. (a) The Federal Aviation Administration shall satisfy the following air traffic controller work force staffing requirements by September 30, 1989: 49 USC app. 1348 note.

(1) total air traffic controller work force level of not less than 16,800;

(2) total full performance level air traffic controllers of not less than 10,832; and

(3) at least 70 percent of the air traffic controller work force, at each center and level 3 and above terminal shall have achieved operational controller status.

(b) The Secretary may waive any requirement of this section by certifying that such requirement would adversely affect aviation safety: *Provided,* That such a waiver shall become effective 30 days after the Committees on Appropriations of the Senate and the House of Representatives are notified in writing of the Secretary's intention to waive and reasons for waiving such requirement.

SEC. 333. Notwithstanding any other provision of law, the Secretary of Transportation shall make payment of compensation under subsection 419 of the Federal Aviation Act of 1958, as amended, only to the extent and in the manner provided in appropriations Acts, at times and in a manner determined by the Secretary to be appropriate, and claim for such compensation shall not arise except in accordance with this provision.

SEC. 334. The authority conferred by section 513(d) of the Airport and Airway Improvement Act of 1982, as amended, to issue letters of intent shall remain in effect subsequent to September 30, 1992. Letters of intent may be issued under such subsection to applicants determined to be qualified under such Act: *Provided,* That, notwithstanding any other provision of law, all such letters of intent in excess of $10,000,000 shall be submitted for approval to the Committees on Appropriations of the Senate and House of Representatives; the Committee on Commerce, Science, and Transportation of the Senate; and the Committee on Public Works and Transportation of the House of Representatives. 49 USC app. 2212 note.

SEC. 335. Section 347(d) of Public Law 100-202 is amended by striking out "(8)" each place it appears and inserting in lieu thereof "(9)" and by striking out "State of Georgia" and inserting in lieu thereof "States of Georgia and West Virginia". Georgia. West Virginia. 23 USC 129.

SEC. 336. Section 501(c) of the Rail Passenger Service Act (45 U.S.C. 581(c)) is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of law, any commuter authority that could have contracted with Amtrak Commuter for the provision of commuter service but which elected to operate directly its own commuter service as of January 1, 1983, shall be exempt from the payment of any taxes or other fees to the same extent as the Corporation is exempt. Such exemption shall be effective as of October 1, 1981.". Railroads. Taxes. Effective date.

Railroads.

SEC. 337. Notwithstanding any other provision of law, when a commuter rail service has been suspended for safety reasons, and when a statewide or regional agency or instrumentality commits to restoring such service by the end of 1989, and when the improvements needed to restore such service are funded without Urban Mass Transportation Administration funding, the directional route miles of such service shall be included in the 1988 Section 15 Report as well as subsequent years. If such service is not restored by the end of 1989, the money received as a result of the inclusion of the directional route miles shall be returned to the disbursing agency, the Urban Mass Transportation Administration.

SEC. 338. Notwithstanding any other provision of law, discretionary bridge funds allocated by the Secretary of Transportation for the Main Avenue Bridge in Cleveland, Ohio for fiscal year 1989 and each fiscal year thereafter shall not be included in any calculations made under section 157 of title 23, United States Code.

Nevada.

SEC. 339. Notwithstanding any other provision of law, the Secretary of Transportation shall grant a request by respective local officials to redesignate funds authorized by section 149(a)(105) of Public Law 100-17 to carry out a project in the City of Las Vegas to construct interchanges at Craig Road and U.S. 95 and, Lake Mead Boulevard and U.S. 95, the Oran Gragson Expressway, and Cheyenne Avenue and U.S. 95; as well as grade separations at Vegas Drive and U.S. 95 and Smoke Ranch Road and U.S. 95.

SEC. 340. For the purpose of carrying out emergency repairs to airports sustaining storm-related damage, $100,000, to be derived from the Airport and Airway Trust Fund and to remain available until expended, to be disbursed by the Secretary of Transportation pursuant to the Federal Grant and Cooperative Agreement Act of 1977: *Provided,* That in no event shall the total Federal share provided for such repairs exceed 50 per centum of the total cost of such repairs.

SEC. 341. The Secretary of Transportation is authorized to transfer appropriated funds under "Office of the Secretary, Salaries and expenses": *Provided,* That no appropriation shall be increased or decreased by more than 2 per centum by all such transfers: *Provided further,* That any such transfer shall be submitted for approval to the House and Senate Committees on Appropriations.

SEC. 342. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded in this Act shall be absorbed within the levels appropriated in this Act.

New Jersey.

SEC. 343. Notwithstanding any other provision of law, the Secretary of the department in which the Coast Guard is operating is authorized to transfer without consideration all rights, title, and interest of the United States in six and one-half acres of land, as determined by survey to be paid for by transferees, and improvements thereon, which comprise what is known as Station Gloucester City to City of Gloucester City, New Jersey.

Grants.

SEC. 344. For the purpose of making grants under section 3 of the Urban Mass Transportation Act of 1964, as amended, the requirements of section 3(a)(2)(A)(ii) shall not apply to the Caltrain project specified in House Report 100-691, and the Urban Mass Transportation Administration shall release the amounts for that project.

Grants.

SEC. 345. (a) WISCONSIN RAIL SERVICE.—There is hereby appropriated $6,000,000 for a grant by the Secretary of Transportation to the Soo Line Railroad Company to be available only for construction, rehabilitation, renewal, replacement, or other improvements to

maintain railroad passenger service between La Crosse and Milwaukee, Wisconsin: *Provided,* That the Soo Line Railroad Company match on a dollar-for-dollar basis the monies hereby appropriated with funds not already planned to be committed relative to the 1989 construction season: *Provided further,* That the monies hereby appropriated shall be made available within 30 days of the presentation to the Secretary by the Soo Line Railroad Company of sufficient evidence of the availability of matching funds that are beyond those planned to be spent relative to the 1989 construction season: *Provided further,* That these Federal funds shall be made available on a monthly basis that is as close to conformance to a dollar-for-dollar matching arrangement as is possible.

(b) SAN JOAQUIN VALLEY RAIL SERVICE.—(1) Within 15 days of receiving adequate assurance that all necessary capital funding will be provided from a non-Amtrak source, the National Railroad Passenger Corporation shall submit an application to the Secretary of Transportation under the authority of section 402(g) of the Rail Passenger Service Act (45 U.S.C. 562) to order the operation of rail passenger service between Fresno and Stockton, California, over the rail lines of the Southern Pacific Railroad or its successors. Such application shall provide for rail service that is operated at the maximum legally permissible passenger train speeds in accordance with Federal Railroad Administration track safety standards based on the existing physical condition of the rail line. California.

(2) Notwithstanding any other provision of law, the Secretary of Transportation shall approve such application within 30 days of its receipt, and is authorized to amend the terms and conditions proposed in such application only for reasons of public safety.

(3) Notwithstanding any other provision of law, in the event the Interstate Commerce Commission receives an application to affix appropriate terms and conditions for the provision of this rail service under the authority of section 402(a) of the Rail Passenger Service Act, the Commission shall make a final determination on such application within 30 days of its receipt.

SEC. 346. Sections 1601 (a)(8) and (b)(3) of the Federal Aviation Act of 1958 (49 App. U.S.C. 1551 (a)(8) and (b)(3)) and section 4(c) of the Civil Aeronautics Board Sunset Act of 1984 (Public Law 98-443), are each amended by striking out "January 1, 1989" wherever it appears and inserting in lieu thereof "January 1, 1999". 49 USC app. 1553.

SEC 347. (a) Notwithstanding any other provision of this Act, no department, agency, or instrumentality of the United States Government receiving appropriated funds under this Act for fiscal year 1989, shall, during fiscal year 1989, obligate and expend funds for non-safety-related consulting services involving management and professional services; special studies and analyses; technical assistance; and management review of program funded organizations; in excess of an amount equal to 85 percent of the amount obligated and expended by such department, agency, or instrumentality for such services during fiscal year 1987.

(b) The Director of the Office of Management and Budget shall take such action as may be necessary, through budget instructions or otherwise, to direct each department, agency, and instrumentality of the United States Government receiving funds under this Act to comply with the provisions of section 1114 of title 31, United States Code.

(c) Notwithstanding any other provision of this Act, the aggregate amount of funds appropriated by this Act to any such department,

agency, or instrumentality for fiscal year 1989 is reduced by an amount equal to 15 percent of the amount expended by such department, agency, or instrumentality during fiscal year 1987 for purposes described under subsection (a).

(d) As used in this section, the term "consulting services" includes any service within the definition of "Advisory and Assistance Services" in Office of Management and Budget Circular A-120, dated January 4, 1988.

SEC. 348. Section 139 of the Highway Improvement Act of 1982 (23 U.S.C. 101 note) is amended by adding at the end thereof the following new subsection:

Highways.

"(c) Notwithstanding any other provision of this section or of any other provision of law, any project involving the relocation of any Interstate route or segment that is approved by the Secretary of Transportation under subsection (a) shall be eligible for discretionary funds made available under section 118(b)(2)(B) of title 23, United States Code.".

Aircraft and air carriers.

SEC. 349. Not later than 90 days after the date of enactment of this Act, the Administrator of the Federal Aviation Administration shall institute a rulemaking proceeding to consider the need for changes to the existing regulation concerning the allocation and transfer of "slots" held by air carriers and commuter operators at each of the four airports covered by the final rule regarding Slot Allocation and Transfer Methods at High Density Traffic Airports, published in the Federal Register on December 20, 1985. Included among the issues that shall be considered in this proceeding are (1) the overall effect of the existing buy-sell regulation upon new entry or limited incumbents at these four airports, (2) the effects of the recently-approved mergers and acquisitions upon the operation of the buy/sell program at these airports, (3) the competitive and fare implications of the utilization of slots for providing services to and from hub airports and on monopoly routes, (4) the effect of short-term leases of slots upon the ability of new entrants or limited incumbents to purchase slots at these airports, (5) the effect of the use of air carrier slots by commuter operators upon entry by air carriers at these airports, and (6) the variation in prices paid for slots since adoption of the buy/sell program. The Administrator shall take final action in this proceeding, including the promulgation of any resulting final regulations, not later than 270 days after the date of enactment of this Act.

Regulations.

Reports.

SEC. 350. Notwithstanding any other provision of this Act, no funds appropriated to the Department of Transportation or the United States Coast Guard by this Act shall be used to carry out the closing of any search and rescue operation of the United States Coast Guard until after the expiration of the 90-day period following the date on which the Comptroller General of the United States reports to the Congress the results of his evaluation of the criteria used by the United States Coast Guard in determining whether or not to close out or curtail such operations, and his recommendations with respect thereto.

SEC. 351. Notwithstanding sections 141(a) and 154 of title 23, United States Code, none of the funds in this or any previous or subsequent Act shall be used for the purpose of reducing or reserving any portion of a State's apportionment of Federal-aid highway funds as required by section 154(f) of title 23, United States Code, for reason of non-compliance with the criteria of that subsection during fiscal years 1986, 1987, and 1988. The Secretary shall promptly

restore any apportionments which, prior to enactment of this Act, were reduced or reserved from obligation for reason of non-compliance under section 154(f) during said fiscal years.

SEC. 352. Section 149(k)(1) of the Federal-Aid Highway Act of 1987 is amended by adding paragraph (U) as follows: 101 Stat. 203.

"(U) EASTPORT TO HOMEDALE, IDAHO.—The Secretary is authorized to carry out work on the United States Route 95 highway in the State of Idaho from Eastport, Idaho, to Homedale, Idaho.".

SEC. 353. Paragraph (1) of section 149(k) of the Federal-Aid Highway Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(V) UNITED STATES ROUTE 23 AND THE CHARLOTTE OUTER LOOP IN NORTH CAROLINA.—The Secretary is authorized to carry out highway projects in the State of North Carolina—

"(i) from the interchange of Interstate Routes 26, 40, and 240 in Asheville, North Carolina to the border of the State of Tennessee, and

"(ii) from Interstate Route 77S east to Interstate Route 85N of the Charlotte Outer Loop.".

SEC. 354. From funds appropriated to the Department of Transportation by this Act, the Secretary of Transportation is authorized, notwithstanding any other provision of this Act, to make available, not to exceed $500,000, to assist local interests in developing planning studies for the relocation of railroad tracks on college campuses to eliminate hazardous, unsafe, and adverse environmental conditions.

This Act may be cited as the "Department of Transportation and Related Agencies Appropriations Act, 1989".

Approved September 30, 1988.

LEGISLATIVE HISTORY—H.R. 4794:

HOUSE REPORTS: No. 100-691 (Comm. on Appropriations) and No. 100-957 (Comm. of Conference).
SENATE REPORTS: No. 100-411 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 28, 29, considered and passed House.
July 12, considered and passed Senate, amended.
Sept. 27, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments; and insisted on disagreement to certain Senate amendments.
Sept. 28, Senate agreed to conference report; concurred in certain House amendments; receded from amendment No. 12; insisted on amendment No. 121. House receded and concurred in Senate amendment.

Public Law 100-458
100th Congress

An Act

Oct. 1, 1988
[H.R. 4587]

Making appropriations for the Legislative Branch for the fiscal year ending September 30, 1989, and for other purposes.

Legislative Branch Appropriations Act, 1989.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Legislative Branch for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—CONGRESSIONAL OPERATIONS

Congressional Operations Appropriations Act, 1989.
2 USC 60a note.

SUBTITLE A—CONGRESSIONAL OPERATIONS

SENATE

MILEAGE OF THE VICE PRESIDENT AND SENATORS AND EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES

MILEAGE OF THE VICE PRESIDENT AND SENATORS

For mileage of the Vice President and Senators of the United States, $60,000.

EXPENSE ALLOWANCES OF THE VICE PRESIDENT, THE PRESIDENT PRO TEMPORE, MAJORITY AND MINORITY LEADERS, MAJORITY AND MINORITY WHIPS, AND CHAIRMEN OF THE MAJORITY AND MINORITY CONFERENCE COMMITTEES

For expense allowances of the Vice President, $10,000; the President Pro Tempore of the Senate, $10,000; Majority Leader of the Senate, $10,000; Minority Leader of the Senate, $10,000; Majority Whip of the Senate, $5,000; Minority Whip of the Senate, $5,000; and Chairmen of the Majority and Minority Conference Committees, $3,000 for each Chairman; in all, $56,000.

REPRESENTATION ALLOWANCES FOR THE MAJORITY AND MINORITY LEADERS

For representation allowances of the Majority and Minority Leaders of the Senate, $10,000 for each such Leader; in all, $20,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation of officers, employees, and others as authorized by law, including agency contributions, $49,255,000 which shall be paid from this appropriation without regard to the below limitations, as follows:

OFFICE OF THE VICE PRESIDENT

For the Office of the Vice President, $1,168,000.

OFFICE OF THE PRESIDENT PRO TEMPORE

For the Office of the President Pro Tempore, $156,000.

OFFICE OF THE DEPUTY PRESIDENT PRO TEMPORE

For the Office of the Deputy President Pro Tempore, $23,000.

OFFICES OF THE MAJORITY AND MINORITY LEADERS

For Offices of the Majority and Minority Leaders, $1,416,000.

OFFICES OF THE MAJORITY AND MINORITY WHIPS

For Offices of the Majority and Minority Whips, $440,000.

CONFERENCE COMMITTEES

For the Conference of the Majority and the Conference of the Minority, at rates of compensation to be fixed by the Chairman of each such committee, $567,500 for each such committee; in all, $1,135,000.

OFFICES OF THE SECRETARIES OF THE CONFERENCE OF THE MAJORITY AND THE CONFERENCE OF THE MINORITY

For Offices of the Secretaries of the Conference of the Majority and the Conference of the Minority, $279,000.

OFFICE OF THE CHAPLAIN

For Office of the Chaplain, $117,000.

OFFICE OF THE SECRETARY

For Office of the Secretary, $8,165,000.

OFFICE OF THE SERGEANT AT ARMS AND DOORKEEPER

For Office of the Sergeant at Arms and Doorkeeper, $24,987,000.

OFFICES OF THE SECRETARIES FOR THE MAJORITY AND MINORITY

For Offices of the Secretary for the Majority and the Secretary for the Minority, $944,000.

AGENCY CONTRIBUTIONS

For agency contributions for employee benefits, as authorized by law, $10,425,000.

OFFICE OF THE LEGISLATIVE COUNSEL OF THE SENATE

For salaries and expenses of the Office of the Legislative Counsel of the Senate, $1,799,000: *Provided*, That the amounts appropriated to the Office of the Legislative Counsel of the Senate for fiscal year 1988 shall remain available until September 30, 1989.

OFFICE OF SENATE LEGAL COUNSEL

For salaries and expenses of the Office of Senate Legal Counsel, $646,000.

EXPENSE ALLOWANCES OF THE SECRETARY OF THE SENATE, SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE, AND SECRETARIES FOR THE MAJORITY AND MINORITY OF THE SENATE

For expense allowances of the Secretary of the Senate, $3,000; Sergeant at Arms and Doorkeeper of the Senate, $3,000; Secretary for the Majority of the Senate, $3,000; Secretary for the Minority of the Senate, $3,000; in all, $12,000.

CONTINGENT EXPENSES OF THE SENATE

SENATE POLICY COMMITTEES

For salaries and expenses of the Majority Policy Committee and the Minority Policy Committee, $1,101,500 for each such committee; in all, $2,203,000.

INQUIRIES AND INVESTIGATIONS

For expenses of inquiries and investigations ordered by the Senate, or conducted pursuant to section 134(a) of Public Law 601, Seventy-ninth Congress, as amended, section 112 of Public Law 96-304 and Senate Resolution 281, agreed to March 11, 1980, $62,673,000.

EXPENSES OF UNITED STATES SENATE CAUCUS ON INTERNATIONAL NARCOTICS CONTROL

For expenses of the United States Senate Caucus on International Narcotics Control, $325,000.

SECRETARY OF THE SENATE

For expenses of the Office of the Secretary of the Senate, $727,200.

SERGEANT AT ARMS AND DOORKEEPER OF THE SENATE

For expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, $65,643,000.

MISCELLANEOUS ITEMS

For miscellaneous items, $6,180,000.

SENATORS' OFFICIAL PERSONNEL AND OFFICE EXPENSE ACCOUNT

For Senators' Official Personnel and Office Expense Account, $151,065,000.

STATIONERY (REVOLVING FUND)

For stationery for the President of the Senate, $4,500, for officers of the Senate and the Conference of the Majority and Conference of the Minority of the Senate, $8,500; in all, $13,000.

ADMINISTRATIVE PROVISIONS

SECTION 1. The Chairman of the Majority or Minority Conference Committee of the Senate may, during the fiscal year ending September 30, 1989, at his election, transfer not more than $50,000 from the appropriation account for salaries for the Conference of the Majority and the Conference of the Minority of the Senate, to the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6). Any transfer of funds under authority of the preceding sentence shall be made at such time or times as such chairman shall specify in writing to the Senate Disbursing Office. Any funds so transferred by the chairman of the Majority or Minority Conference Committee shall be available for expenditure by such committee in like manner and for the same purposes as are other moneys which are available for expenditure by such committee from the account, within the contingent fund of the Senate, from which expenses are payable under section 120 of Public Law 97-51 (2 U.S.C. 61g-6).

SEC. 2. Funds appropriated to the Conference of the Majority and funds appropriated to the Conference of the Minority for the fiscal year ending September 30, 1989, may be utilized in such amounts as the Chairman of each Conference deems appropriate for the specialized training of professional staff, subject to such limitations, insofar as they are applicable, as are imposed by the Committee on Rules and Administration with respect to such training when provided to professional staff of standing committees of the Senate. 2 USC 61g-8 note.

SEC. 3. (a) The Secretary of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Secretary of the Senate, such sums as he shall specify to the Senate appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Secretary"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred. 2 USC 68-6.

(b) The Sergeant at Arms and Doorkeeper of the Senate is authorized, with the approval of the Senate Committee on Appropriations, to transfer, during any fiscal year, from the appropriations account, within the contingent fund of the Senate, for expenses of the Office of the Sergeant at Arms and Doorkeeper of the Senate, such sums as he shall specify to the appropriations account, appropriated under the headings "Salaries, Officers and Employees" and "Office of the Sergeant at Arms and Doorkeeper"; and any funds so transferred shall be available in like manner and for the same purposes as are other funds in the account to which the funds are transferred.

SEC. 4. Section 101 of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h-6) is amended by inserting "President Pro Tempore," immediately before "Majority Leader" each place it appears therein.

SEC. 5. The Committee on Rules and Administration of the Senate may provide for the distribution of unused food from the Senate cafeterias under the jurisdiction of the committee to the needy of the District of Columbia through an appropriate private distribution organization selected by the committee. Disadvantaged persons. Homeless persons. District of Columbia.

SEC. 6. Effective with the fiscal year ending September 30, 1988, section 117 of the Second Supplemental Appropriations Act, 1976 40 USC 174j-1 note. Effective date.

(2 U.S.C. 61f-1a), is amended by striking out "not to exceed $167,000 during any fiscal year" and inserting in lieu thereof "not to exceed $250,000 during any fiscal year".

SEC. 7. Section 117 of Public Law 97-51 (2 U.S.C. 61f-8) is amended by striking out "from the contingent fund of the Senate an amount not to exceed $210,000 for:" and inserting in lieu thereof "from the account for the Sergeant at Arms and Doorkeeper of the Senate, within the contingent fund of the Senate, an amount not to exceed $300,000:".

SEC. 8. (a) Section 506(a)(9) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(9)) is amended by striking out "necessary" and all that follows, and inserting in lieu thereof "necessary.".

Effective date.
2 USC 58 note.

(b) The amendment made by subsection (a) shall be effective only in the case of expenses incurred on or after October 1, 1988.

SEC. 9. Section 101 of the Supplemental Appropriations Act, 1977 (2 U.S.C. 61h-6) is amended—

(1) in the first sentence thereof, by striking out "Minority Leader", and

(2) by inserting immediately after the first sentence thereof the following new sentence: "The Minority Leader of the Senate is authorized to appoint and fix the compensation of not more than four individual consultants, on a temporary or intermittent basis, at a daily rate of compensation not in excess of that specified in the preceding sentence.".

2 USC 121b.

SEC. 10. (a) The Sergeant at Arms and Doorkeeper of the Senate is authorized to employ, and fix the compensation of such employees as he determines necessary to operate the Senate Beauty Shop.

(b)(1) Section 106(a) of the Legislative Branch Appropriations Act, 1977 (2 U.S.C. 121a) is amended by deleting "Senate Barber Shops Revolving Fund" and inserting in lieu thereof "Senate Barber and Beauty Shops Revolving Fund".

(2) Section 106(b) of the Legislative Branch Appropriations Act, 1977 (2 U.S.C. 121a) is amended to read as follows:

"(b) All moneys received by the Senate Barber Shop and the Senate Beauty Shop from fees for services or from any other source shall be deposited to the credit of the revolving fund. Moneys in the revolving fund shall be available without fiscal year limitation for disbursement by the Secretary of the Senate for necessary equipment, supplies, and expenses of the Senate Barber and Beauty Shops.".

(c) Any individual who, on the date of the enactment of this section, is an employee of the Senate Building Beauty Shop and who, after having been employed by the Sergeant at Arms and Doorkeeper pursuant to subsection (a) of this section, attains 5 years of civilian service creditable under section 8411 of title 5, United States Code, other than service credited pursuant to subsection (d) of this section, may be credited under such section for any service as an employee of the Senate Building Beauty Shop prior to such date of enactment, if such employee makes a payment of the amount, determined by the Office of Personnel Management, that would have been deducted and withheld from the basic pay of such employee under section 8422 of title 5, United States Code, for such period so credited, together with interest thereon.

(d) Notwithstanding any other provision of this section, any service performed by an individual in the Senate Building Beauty Shop prior to the date of the enactment of this section is deemed to be civilian service creditable under section 8411 of title 5, United States

Code, for purposes of qualifying for survivor annuities and disability benefits under subchapters IV and V of chapter 84 of title 5, United States Code, if such individual—

(1) on the date of the enactment of this Act, is an employee of the Senate Building Beauty Shop;

(2) on or after the date of such enactment is employed by the Sergeant at Arms and Doorkeeper pursuant to subsection (a) of this section; and

(3) payment is made of an amount, determined by the Office of Personnel Management, which would have been deducted and withheld from the basic pay of such employee under section 8422 of title 5, United States Code, for such period so credited, together with interest thereon.

(e) The Office of Personnel Management shall accept the certification of the Secretary of the Senate concerning creditable service for the purpose of this section.

(f) The foregoing provisions of this section shall take effect on October 1, 1988. Effective date.

SEC. 11. Of the funds available under the head "Contingent Expenses of the Senate" for the Sergeant at Arms and Doorkeeper of the Senate, for fiscal year 1988, $3,600,000 shall remain available until September 30, 1989.

SEC. 12. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to paring facilities for the Senate issued by the Committee on Rules and Administration.

SEC. 13. Section 506(a)(3) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(3)) is amended by inserting "postage on, and fees and charges in connection with, mail matter sent through the mail under the franking privilege in excess of amounts provided from the appropriation for official mail costs, upon certification by the Senate Sergeant at Arms and subject to such regulations as may be promulgated by the Committee on Rules and Administration of the Senate, and" before "reimbursement". Mail.

SEC. 14. (a) Section 506(a)(9) of the Supplemental Appropriations Act, 1973 (2 U.S.C. 58(a)(9)) is amended by striking out "necessary" and all that follows, and inserting in lieu thereof "necessary.".

(b) The amendment made by subsection (a) shall be effective only in the case of expenses incurred on or after October 1, 1988. Effective date. 2 USC 58 note.

HOUSE OF REPRESENTATIVES

MILEAGE OF MEMBERS

For mileage of Members, as authorized by law, $210,000.

SALARIES AND EXPENSES

For salaries and expenses of the House of Representatives, $505,500,000, as follows:

HOUSE LEADERSHIP OFFICES

For salaries and expenses, as authorized by law, $4,024,000, including: Office of the Speaker, $902,000, including $18,000 for official expenses of the Speaker; Office of the Majority Floor Leader,

$828,000, including $10,000 for official expenses of the Majority Leader; Office of the Minority Floor Leader, $926,000, including $10,000 for official expenses of the Minority Leader; Office of the Majority Whip, $733,000, including $5,000 for official expenses of the Majority Whip and not to exceed $162,950, for the Chief Deputy Majority Whip; Office of the Minority Whip, $635,000, including $5,000 for official expenses of the Minority Whip and not to exceed $80,740, for the Chief Deputy Minority Whip.

MEMBERS' CLERK HIRE

For staff employed by each Member in the discharge of his official and representative duties, $178,828,000.

COMMITTEE EMPLOYEES

For professional and clerical employees of standing committees, including the Committee on Appropriations and the Committee on the Budget, $51,067,000.

COMMITTEE ON THE BUDGET (STUDIES)

For salaries, expenses, and studies by the Committee on the Budget, and temporary personal services for such committee to be expended in accordance with sections 101(c), 606, 703, and 901(e) of the Congressional Budget Act of 1974, and to be available for reimbursement to agencies for services performed, $336,000.

CONTINGENT EXPENSES OF THE HOUSE

STANDING COMMITTEES, SPECIAL AND SELECT

For salaries and expenses of standing committees, special and select, authorized by the House, $54,092,000.

ALLOWANCES AND EXPENSES

For allowances and expenses as authorized by House resolution or law, $177,163,000, including: Official Expenses of Members, $82,068,000; supplies, materials, administrative costs and Federal tort claims, $21,193,000; furniture and furnishings, $1,265,000; stenographic reporting of committee hearings, $800,000; reemployed annuitants reimbursements, $1,380,000; Government contributions to employees' life insurance fund, retirement funds, Social Security fund, Medicare fund, health benefits fund, and worker's and unemployment compensation, $69,835,000; and miscellaneous items including, but not limited to, purchase, exchange, maintenance, repair and operation of House motor vehicles, interparliamentary receptions and gratuities to heirs of deceased employees of the House, $622,000.

Such amounts as are deemed necessary for the payment of allowances and expenses under this heading may be transferred among the various categories of allowances and expenses under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

COMMITTEE ON APPROPRIATIONS (STUDIES AND INVESTIGATIONS)

For salaries and expenses, studies and examinations of executive agencies, by the Committee on Appropriations, and temporary personal services for such committee, to be expended in accordance with section 202(b) of the Legislative Reorganization Act, 1946, and to be available for reimbursement to agencies for services performed, $4,429,000.

SALARIES, OFFICERS AND EMPLOYEES

For compensation and expenses of officers and employees, as authorized by law, $35,561,000, including: Office of the Clerk, $15,905,000; Office of the Sergeant at Arms, $951,000; Office of the Doorkeeper, including overtime, as authorized by law, $7,525,000; Office of the Postmaster, $2,610,000, including $49,570 for employment of substitute messengers and extra services of regular employees when required at the salary rate of not to exceed $17,101 per annum each; Office of the Chaplain, $78,000; Office of the Parliamentarian, including the Parliamentarian and $2,000 for preparing the Digest of Rules, $746,000; for salaries and expenses of the Office for the Bicentennial of the House of Representatives, $261,000; for salaries and expenses of the Office of the Law Revision Counsel of the House, $954,000; for salaries and expenses of the Office of the Legislative Counsel of the House, $3,222,000; six minority employees, $521,000; the House Democratic Steering Committee and Caucus, $803,000; the House Republican Conference, $803,000; and other authorized employees, $1,182,000.

Such amounts as are deemed necessary for the payment of salaries of officers and employees under this heading may be transferred among the various offices and activities under this heading, upon the approval of the Committee on Appropriations of the House of Representatives.

ADMINISTRATIVE PROVISIONS

SEC. 101. Of the amounts appropriated for fiscal year 1989 for salaries and expenses of the House of Representatives, such amounts as may be necessary may be transferred among the headings "HOUSE LEADERSHIP OFFICES", "MEMBERS' CLERK HIRE", "COMMITTEE EMPLOYEES", "CONTINGENT EXPENSES OF THE HOUSE (STANDING COMMITTEES, SPECIAL AND SELECT)", "CONTINGENT EXPENSES OF THE HOUSE (ALLOWANCES AND EXPENSES)", and "SALARIES, OFFICERS AND EMPLOYEES", upon approval of the Committee on Appropriations of the House of Representatives.

SEC. 102. Effective for fiscal years beginning with fiscal year 1989, the additional amount appropriated as a joint item for the Capitol Police Board in chapter IX of title I of the Urgent Supplemental Appropriations Act, 1986, shall be transferred from the Clerk of the House to the Architect of the Capitol and disbursed by the Architect of the Capitol, subject to the review, approval, and other procedures specified with respect to such appropriation. Effective date.

SEC. 103. Effective for fiscal years beginning with fiscal year 1989, the annual rate of pay for the positions established by section 103(a) of the Legislative Branch Appropriations Act, 1986, and the positions established by section 102(a) of the Legislative Branch Appropriations Act, 1988, shall not exceed the annual rate of pay payable Effective date.

from time to time for level IV of the Executive Schedule under section 5315 of title 5, United States Code.

JOINT ITEMS

For joint committees, as follows:

JOINT COMMITTEE ON INAUGURAL CEREMONIES OF 1989

For construction of platform and seating stands and for salaries and expenses of conducting the inaugural ceremonies of the President and Vice President of the United States, January 20, 1989, in accordance with such program as may be adopted by the joint committee authorized by Senate Concurrent Resolution 105, One Hundredth Congress, agreed to March 18, 1988, $775,000, to remain available until September 30, 1989. Such funds shall be available for such salaries (when paid on a reimbursable basis) and expenses, whether incurred on, before, or after, October 1, 1988.

CONTINGENT EXPENSES OF THE SENATE

JOINT ECONOMIC COMMITTEE

For salaries and expenses of the Joint Economic Committee, $3,330,000.

JOINT COMMITTEE ON PRINTING

For salaries and expenses of the Joint Committee on Printing, $1,143,000.

CONTINGENT EXPENSES OF THE HOUSE

JOINT COMMITTEE ON TAXATION

For salaries and expenses of the Joint Committee on Taxation, $4,346,000, to be disbursed by the Clerk of the House.

For other joint items, as follows:

OFFICE OF THE ATTENDING PHYSICIAN

For medical supplies, equipment, and contingent expenses of the emergency rooms, and for the Attending Physician and his assistants, including (1) an allowance of $1,000 per month to the Attending Physician; (2) an allowance of $600 per month to one Senior Medical Officer while on duty in the Attending Physician's office; (3) an allowance of $200 per month each to two medical officers while on duty in the Attending Physician's office; (4) an allowance of $200 per month each to not to exceed twelve assistants on the basis heretofore provided for such assistance; and (5) $998,000 for reimbursement to the Department of the Navy for expenses incurred for staff and equipment assigned to the Office of the Attending Physician, such amount shall be advanced and credited to the applicable appropriation or appropriations from which such salaries, allowances, and other expenses are payable and shall be available for all the purposes thereof, $1,414,000, to be disbursed by the Clerk of the House.

CAPITOL POLICE BOARD

CAPITOL POLICE

SALARIES

For the Capitol Police Board for salaries, including overtime, and Government contributions to employees' benefits funds, as authorized by law, of officers, members, and employees of the Capitol Police, $52,922,000, of which $25,673,000 is appropriated to the Sergeant at Arms of the House of Representatives, to be disbursed by the Clerk of the House, and $27,249,000 is appropriated to the Sergeant at Arms and Doorkeeper of the Senate, to be disbursed by the Secretary of the Senate, the remainder, to be disbursed by the Architect of the Capitol.

GENERAL EXPENSES

For the Capitol Police Board for necessary expenses of the Capitol Police, including purchasing and supplying uniforms; the purchase, maintenance, and repair of police motor vehicles, including two-way police radio equipment; contingent expenses, including advance payment for travel for training or other purposes, and expenses associated with the relocation of instructor personnel to and from the Federal Law Enforcement Training Center as approved by the Chairman of the Capitol Police Board, and including $85 per month for extra services performed for the Capitol Police Board by such member of the staff of the Sergeant at Arms of the Senate or the House as may be designated by the Chairman of the Board, $1,887,000, to be disbursed by the Architect of the Capitol: *Provided*, That the funds used to maintain the petty cash fund referred to as "Petty Cash II" which is to provide for the prevention and detection of crime shall not exceed $4,000: *Provided further*, That the funds used to maintain the petty cash fund referred to as "Petty Cash III" which is to provide for the advance of travel expenses attendant to protective assignments shall not exceed $4,000: *Provided further*, That, notwithstanding any other provision of law, the cost involved in providing basic training for members of the Capitol Police at the Federal Law Enforcement Training Center for fiscal year 1989 shall be paid by the Secretary of the Treasury from funds available to the Treasury Department.

OFFICIAL MAIL COSTS

For expenses necessary for official mail costs, $53,926,000, to be disbursed by the Clerk of the House, to be available immediately upon enactment of this Act: *Provided*, That funds appropriated for such purpose for the fiscal year ending September 30, 1988, shall remain available until expended.

CAPITOL GUIDE SERVICE

For salaries and expenses of the Capitol Guide Service, $1,220,000, to be disbursed by the Secretary of the Senate: *Provided*, That none of these funds shall be used to employ more than thirty-three individuals: *Provided further*, That the Capitol Guide Board is authorized, during emergencies, to employ not more than two additional individuals for not more than one hundred twenty days each,

and not more than ten additional individuals for not more than six months each, for the Capitol Guide Service.

STATEMENTS OF APPROPRIATIONS

For the preparation, under the direction of the Committees on Appropriations of the Senate and House of Representatives, of the statements for the second session of the One Hundredth Congress, showing appropriations made, indefinite appropriations, and contracts authorized, together with a chronological history of the regular appropriations bills as required by law, $20,000, to be paid to the persons designated by the chairmen of such committees to supervise the work.

OFFICE OF TECHNOLOGY ASSESSMENT

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Technology Assessment Act of 1972 (Public Law 92-484), including reception and representation expenses (not to exceed $3,500 from the Trust Fund), and rental of space in the District of Columbia, and those necessary to carry out the duties of the Director of the Office of Technology Assessment under 42 U.S.C. 1395ww and 42 U.S.C. 1395w-1, $17,937,000: *Provided,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Office of Technology Assessment in excess of 143 staff employees: *Provided further,* That no part of this appropriation shall be available for assessments or activities not initiated and approved in accordance with section 3(d) of Public Law 92-484, except that funds shall be available for the assessment required by Public Law 96-151: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of employees of the Office of Technology Assessment in connection with any reimbursable study for which funds are provided from sources other than appropriations made under this Act, or be available for any other administrative expenses incurred by the Office of Technology Assessment in carrying out such a study.

BIOMEDICAL ETHICS BOARD

SALARIES AND EXPENSES

For the Biomedical Ethics Board and the Biomedical Ethics Advisory Committee, subject to reauthorization of section 381 of the Public Health Service Act (Public Law 99-158) or similar legislation, the amounts appropriated under this head in the Legislative Branch Appropriations Act, 1988 (as enacted by Public Law 100-202), shall remain available for obligation until September 30, 1989: *Provided,* That effective October 1, 1988, the Disbursing Officer of the Library of Congress is authorized to—

Effective date.
2 USC 142h.

(1) disburse funds appropriated for the Biomedical Ethics Board;

(2) compute and disburse the basic pay for all personnel of the Biomedical Ethics Board; and

(3) provide financial management services and support to the Biomedical Ethics Board,

in the same manner as provided with respect to the Office of Technology Assessment under section 101(c) of Public Law 97-51 (2 U.S.C. 142f).

CONGRESSIONAL BUDGET OFFICE

SALARIES AND EXPENSES

For salaries and expenses necessary to carry out the provisions of the Congressional Budget Act of 1974 (Public Law 93-344), $18,361,000: *Provided,* That none of these funds shall be available for the purchase or hire of a passenger motor vehicle: *Provided further,* That none of the funds in this Act shall be available for salaries or expenses of any employee of the Congressional Budget Office in excess of 226 staff employees: *Provided further,* That any sale or lease of property, supplies, or services to the Congressional Budget Office shall be deemed to be a sale or lease of such property, supplies, or services to the Congress subject to section 903 of Public Law 98-63. 2 USC 605.

ARCHITECT OF THE CAPITOL

OFFICE OF THE ARCHITECT OF THE CAPITOL

SALARIES

For the Architect of the Capitol; the Assistant Architect of the Capitol; the Executive Assistant; and other personal services; at rates of pay provided by law, $6,532,000.

TRAVEL

Appropriations under the control of the Architect of the Capitol shall be available for expenses of travel on official business not to exceed in the aggregate under all funds the sum of $20,000. 40 USC 166a.

CONTINGENT EXPENSES

To enable the Architect of the Capitol to make surveys and studies, and to meet unforeseen expenses in connection with activities under his care, $100,000, which shall remain available until expended.

CAPITOL BUILDINGS AND GROUNDS

CAPITOL BUILDINGS

For all necessary expenses for the maintenance, care and operation of the Capitol Building and electrical substations of the Senate and House Office Buildings, under the jurisdiction of the Architect of the Capitol, including furnishings and office equipment; not to exceed $1,000 for official reception and representation expenses, to be expended as the Architect of the Capitol may approve; purchase or exchange, maintenance and operation of a passenger motor vehicle; security installations, which are approved by the Capitol Police Board, authorized by House Concurrent Resolution 550, Ninety-second Congress, agreed to September 19, 1972, the cost limitation of which is hereby further increased by $445,000; for expenses of attendance, when specifically authorized by the Architect of the Capitol, at meetings or conventions in connection with subjects related to work under the Architect of the Capitol,

$15,471,000, of which $1,100,000 shall remain available until expended: *Provided,* That of the funds to remain available until expended, $500,000 shall be available for obligation without regard to section 3709 of the Revised Statutes, as amended.

CAPITOL GROUNDS

For all necessary expenses for care and improvement of grounds surrounding the Capitol, the Senate and House Office Buildings, and the Capitol Power Plant, $3,771,000, of which $160,000 shall remain available until expended.

SENATE OFFICE BUILDINGS

For all necessary expenses for maintenance, care and operation of Senate Office Buildings; and furniture and furnishings, to be expended under the control and supervision of the Architect of the Capitol, $24,086,000, of which $2,896,000 shall remain available until expended.

HOUSE OFFICE BUILDINGS

For all necessary expenses for the maintenance, care and operation of the House Office Buildings, including the position of Superintendent of Garages as authorized by law, $28,895,000, of which $4,453,000 shall remain available until expended: *Provided,* That upon enactment of this Act, the pay for the position of Superintendent of Garages shall be equivalent to the pay payable for positions at step 1 of level 12 of the House Employees Schedule, subject to the further increases authorized under 5 U.S.C. 5307(a)(1)(B) relating to the implementation of salary comparability policy.

40 USC 175 note.

CAPITOL POWER PLANT

For all necessary expenses for the maintenance, care and operation of the Capitol Power Plant; for lighting, heating, and power (including the purchase of electrical energy) for the Capitol, Senate and House Office Buildings, Congressional Library Buildings, and the grounds about the same, Botanic Garden, Senate garage, and for air conditioning refrigeration not supplied from plants in any of such buildings; for heating the Government Printing Office and Washington City Post Office and heating and chilled water for air conditioning for the Supreme Court Building, Union Station complex and the Folger Shakespeare Library, expenses for which shall be advanced or reimbursed upon request of the Architect of the Capitol and amounts so received shall be deposited into the Treasury to the credit of this appropriation; $24,785,000: *Provided,* That not to exceed $1,950,000 of the funds credited or to be reimbursed to this appropriation as herein provided shall be available for obligation during fiscal year 1989: *Provided further,* That appropriations under this head shall hereafter be available for maintenance, alterations, personal and other services, and for all other necessary expenses of the Government owned property, buildings and facilities located in Lot 803, Square 695, formerly known as the General Services Administration Coal Yard at 42 I Street, S.E., in the District of Columbia.

40 USC 185 note.

ADMINISTRATIVE PROVISIONS

SEC. 104. Notwithstanding any other provisions of law, the Architect of the Capitol is hereby authorized to (1) develop a pilot program to determine the economic feasibility and efficiency of centralizing certain maintenance functions, to assign and reassign, without increase or decrease in basic salary or wages, any person on the employment rolls of the Office of the Architect of the Capitol, for personal services in any buildings, facilities, or grounds under his jurisdiction for which appropriations have been made and are available; (2) maintain appropriate cost and productivity records for the program; and (3) report to appropriate authorities, including the Committees on Appropriations, on the results of the program, together with recommendations for continuation or expansion of the program. 40 USC 166b-6 note. Records. Reports.

SEC. 105. The Architect of the Capitol, under the direction of the Joint Committee on the Library, is authorized to accept donations to restore and display the Statue of Freedom model. Gifts and property.

SEC. 106. The Architect of the Capitol shall give the highest priority to expediting the installation of an alarm system to alert individuals occupying the Longworth House Office Building, the Cannon House Office Building, the Russell Senate Office Building, the Dirksen Senate Office Building, and the Capitol, of a fire or other emergency. The installation of such alarm system shall be completed not later than October 1, 1989, and the Architect of the Capitol shall submit a report to the appropriate committees of the Congress concerning such installation on October 1, 1989. Reports.

LIBRARY OF CONGRESS

CONGRESSIONAL RESEARCH SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of section 203 of the Legislative Reorganization Act of 1946, as amended by section 321 of the Legislative Reorganization Act of 1970 (2 U.S.C. 166) and to revise and extend the Annotated Constitution of the United States of America, $44,684,000: *Provided,* That no part of this appropriation may be used to pay any salary or expense in connection with any publication, or preparation of material therefor (except the Digest of Public General Bills), to be issued by the Library of Congress unless such publication has obtained prior approval of either the Committee on House Administration or the Senate Committee on Rules and Administration: *Provided further,* That, notwithstanding any other provisions of law, the compensation of the Director of the Congressional Research Service, Library of Congress, shall be at an annual rate which is equal to the annual rate of basic pay for positions at level IV of the Executive Schedule under section 5315 of title 5, United States Code. 2 USC 166 note.

GOVERNMENT PRINTING OFFICE

CONGRESSIONAL PRINTING AND BINDING

For authorized printing and binding for the Congress; for printing and binding for the Architect of the Capitol; expenses necessary for

preparing the semimonthly and session index to the Congressional Record, as authorized by law (44 U.S.C. 902); printing and binding of Government publications authorized by law to be distributed to Members of Congress; and for printing, binding, and distribution of Government publications authorized by law to be distributed without charge to the recipient, $72,000,000: *Provided,* That funds remaining from the unexpended balances from obligations made under prior year appropriations for this account shall be available for the purposes of the printing and binding account for the same fiscal year: *Provided further,* That this appropriation shall not be available for printing and binding part 2 of the annual report of the Secretary of Agriculture (known as the Yearbook of Agriculture) nor for copies of the permanent edition of the Congressional Record for individual Representatives, Resident Commissioners or Delegates authorized under 44 U.S.C. 906: *Provided further,* That, to the extent that funds remain from the unexpended balance of fiscal year 1984 funds obligated for the printing and binding costs of publications produced for the Bicentennial of the Congress, such remaining funds shall be available for the current year printing and binding cost of publications produced for the Bicentennial: *Provided further,* That this appropriation shall be available for the payment of obligations incurred under the appropriations for similar purposes for preceding fiscal years.

John C. Stennis Center for Public Service Training and Development Act.
2 USC 1101 note.

SUBTITLE B—JOHN C. STENNIS CENTER FOR PUBLIC SERVICE TRAINING AND DEVELOPMENT

SEC. 111. SHORT TITLE

This subtitle may be cited as the "John C. Stennis Center for Public Service Training and Development Act".

2 USC 1101.

SEC. 112. CONGRESSIONAL FINDINGS

The Congress makes the following findings:

(1) Senator John C. Stennis of the State of Mississippi has served his State and country with distinction for more than 60 years as a public servant, including service in the United States Senate for a period of 41 years.

(2) Senator Stennis has a distinguished record as a United States Senator, including service as the first Chairman of the Select Committee on Ethics, Chairman of the Committee on Armed Services, Chairman of the Committee on Appropriations, and President pro tempore of the Senate.

(3) Senator Stennis has long maintained a special interest in and devotion to the development of leadership and excellence in public service.

(4) There is a compelling need to encourage outstanding young people to pursue public service on a career basis and to provide public service leadership training opportunities for individuals serving in State and local governments and for individuals serving as employees of Members of Congress.

(5) It would be a fitting tribute to Senator Stennis and to his leadership, integrity, and years of devoted public service to establish in his name a center for the training and development of leadership and excellence in public service.

2 USC 1102.

SEC. 113. DEFINITIONS

In this subtitle:

(1) The term "Center" means the John C. Stennis Center for Public Service Training and Development established under section 114(a).

(2) The term "Board" means the Board of Trustees of the John C. Stennis Center for Public Service Training and Development established under section 114(b).

(3) The term "fund" means the John C. Stennis Center for Public Service Training and Development Trust Fund provided for under section 116.

SEC. 114. ESTABLISHMENT OF THE JOHN C. STENNIS CENTER FOR PUBLIC SERVICE TRAINING AND DEVELOPMENT 2 USC 1103.

(a) ESTABLISHMENT.—There is established in the legislative branch of the Government a center to be known as the "John C. Stennis Center for Public Service Training and Development".

(b) BOARD OF TRUSTEES.—The Center shall be subject to the supervision and direction of a Board of Trustees. The Board shall be composed of seven members, as follows:

(1) Two members to be appointed by the majority leader of the Senate.

(2) One member to be appointed by the minority leader of the Senate.

(3) Two members to be appointed by the Speaker of the House of Representatives.

(4) One member to be appointed by the minority leader of the House of Representatives.

(5) The Executive Director of the Center, who shall serve as an ex officio member of the Board.

(c) TERM OF OFFICE.—The term of office of each member of the Board appointed under paragraphs (1), (2), (3), and (4) of subsection (b) shall be six years, except that—

(1) the members first appointed under paragraphs (1) and (2) shall serve, as designated by the majority leader of the Senate, one for a term of two years, one for a term of four years, and one for a term of six years;

(2) the members first appointed under paragraphs (3) and (4) shall serve, as designated by the Speaker of the House of Representatives, one for a term of two years, one for a term of four years, and one for a term of six years; and

(3) a member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed and shall be appointed in the same manner as the original appointment for that vacancy was made.

(d) TRAVEL AND SUBSISTENCE PAY.—Members of the Board (other than the Executive Director) shall serve without pay, but shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of their duties.

(e) LOCATION OF CENTER.—The Center shall be located at or near Starkville, Mississippi, the location of Mississippi State University. Mississippi.

SEC. 115. PURPOSES AND AUTHORITY OF THE CENTER 2 USC 1104.

(a) PURPOSES OF CENTER.—The purposes of the Center shall be—

(1) to increase awareness of the importance of public service, to foster among the youth of the United States greater recognition and understanding of the role of public service in the development of the United States, and to promote public service as a career choice; Children and youth.

State and local governments.

(2) to provide training and development opportunities for State and local elected government officials and employees of State and local governments in order to assist such officials and employees to become more effective and more efficient in performing their public duties and develop their potential for accepting increased public service opportunities; and

(3) to provide training and development opportunities for those employees of Members of the Congress who perform key roles in helping Members of Congress serve the people of the United States.

(b) AUTHORITY OF CENTER.—The Center is authorized, consistent with this subtitle, to develop such programs, activities, and services as it considers appropriate to carry out the purpose of this subtitle. Such authority shall include the following:

Schools and colleges.

(1) The development and implementation of educational programs for secondary and post-secondary schools and colleges designed—

(A) to improve the attitude of students toward public service;

(B) to encourage students to consider public service as a career goal;

(C) to create a better understanding of the important role that people in public service have played in the growth and development of the United States; and

(D) to foster a sense of civic responsibility among the youth of the United States.

(2) The development and implementation of programs designed—

(A) to enhance skills and abilities of public service employees and elected officials at the State and local levels of government;

(B) to make such officials more productive and effective in the performance of their duties; and

(C) to help prepare such employees and officials to assume greater responsibilities in the field of public service.

(3) The development and implementation of congressional staff training programs designed to equip congressional staff personnel to perform their duties more effectively and efficiently.

Communications and telecommunications.

(4) The development and implementation of media and telecommunications production capabilities to assist the Center in expanding the reach of its programs throughout the United States.

Libraries. Research and development.

(5) The establishment of library and research facilities for the collection and compilation of research materials for use in carrying out the programs of the Center.

(c) PROGRAM PRIORITIES.—The Board of Trustees shall determine the priority of the programs to be carried out under this subtitle and the amount of funds to be allocated for such programs.

2 USC 1105.

SEC. 116. JOHN C. STENNIS CENTER FOR PUBLIC SERVICE DEVELOPMENT TRUST FUND

(a) ESTABLISHMENT OF FUND.—There is established in the Treasury of the United States a trust fund to be known as the "John C. Stennis Center for Public Service Development Trust Fund". The fund shall consist of amounts appropriated to it pursuant to section 121 and amounts credited to it under subsection (d).

(b) INVESTMENT OF FUND ASSETS.—(1) It shall be the duty of the Secretary of the Treasury to invest in full the amounts appropriated to the fund. Such investments may be made only in interest bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired on original issue at the issue price or by purchase of outstanding obligations at the marketplace.

(2) The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest bearing obligations of the United States then forming a part of the public debt, except that when such average rate is not a multiple of one-eighth of one percent, the rate of interest of such special obligations shall be the multiple of one-eighth of one percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States or original issue or at the market price, is not in the public interest.

(c) AUTHORITY TO SELL OBLIGATIONS.—Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary of the Treasury at the market price, and such special obligations may be redeemed at par plus accrued interest.

(d) PROCEEDS FROM CERTAIN TRANSACTIONS CREDITED TO FUND.—The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

SEC. 117. EXPENDITURES AND AUDIT OF TRUST FUND 2 USC 1106.

(a) IN GENERAL.—The Secretary of the Treasury is authorized to pay to the Center from the interest and earnings of the fund such sums as the Board determines are necessary and appropriate to enable the Center to carry out the provisions of this subtitle.

(b) AUDIT BY GAO.—The activities of the Center under this subtitle may be audited by the General Accounting Office under such rules and regulations as may be prescribed by the Comptroller General of the United States. Representatives of the General Accounting Office shall have access to all books, accounts, records, reports, and files and all other papers, things, or property belonging to or in use by the Center, pertaining to such activities and necessary to facilitate the audit.

SEC. 118. EXECUTIVE DIRECTOR OF CENTER 2 USC 1107.

(a) APPOINTMENT BY BOARD.—(1) There shall be an Executive Director of the Center who shall be appointed by the Board. The Executive Director shall be the chief executive officer of the Center and shall carry out the functions of the Center subject to the supervision and direction of the Board. The Executive Director shall carry out such other functions consistent with the provisions of this subtitle as the Board shall prescribe.

(2) The Executive Director shall not be eligible to serve as Chairman of the Board.

(b) COMPENSATION.—The Executive Director of the Center shall be compensated at the rate specified for employees in grade GS-18 of the General Schedule under section 5332 of title 5, United States Code.

2 USC 1108.

SEC. 119. ADMINISTRATIVE PROVISIONS

(a) IN GENERAL.—In order to carry out the provisions of this subtitle, the Center may—

(1) appoint and fix the compensation of such personnel as may be necessary to carry out the provisions of this subtitle, except that in no case shall employees other than the Executive Director be compensated at a rate to exceed the maximum rate for employees in grade GS-15 of the General Schedule under section 5332 of title 5, United States Code;

(2) procure temporary and intermittent services of experts and consultants as are necessary to the extent authorized by section 3109 of title 5, United States Code, but at rates not to exceed the rate specified at the time of such service for grade GS-18 under section 5332 of such title;

(3) prescribe such regulations as it considers necessary governing the manner in which its functions shall be carried out;

Gifts and property.

(4) solicit and receive money and other property donated, bequeathed, or devised, without condition or restriction other than it be used for the purposes of the Center, and to use, sell, or otherwise dispose of such property for the purpose of carrying out its functions;

Voluntarism.

(5) accept and utilize the services of voluntary and noncompensated personnel and reimburse them for travel expenses, including per diem, as authorized by section 5703 of title 5, United States Code;

Contracts. Grants.

(6) enter into contracts, grants, or other arrangements, or modifications thereof, to carry out the provisions of this subtitle, and such contracts or modifications thereof may, with the concurrence of two-thirds of the members of the Board, be entered into without performance or other bonds, and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); and

(7) make other necessary expenditures.

(b) ANNUAL REPORT.—The Center shall submit to Congress an annual report of its operations under this subtitle.

2 USC 1109.

SEC. 120. AUTHORIZATION FOR APPROPRIATIONS

There are authorized to be appropriated such sums as may be necessary to carry out this subtitle.

2 USC 1110.

SEC. 121. APPROPRIATIONS

There is appropriated to the fund the sum of $7,500,000 to carry out this subtitle.

This title may be cited as the "Congressional Operations Appropriations Act, 1989".

TITLE II—OTHER AGENCIES

BOTANIC GARDEN

SALARIES AND EXPENSES

For all necessary expenses for the maintenance, care and operation of the Botanic Garden and the nurseries, buildings, grounds, and collections; purchase and exchange, maintenance, repair, and operation of a passenger motor vehicle; all under the direction of the Joint Committee on the Library, $2,521,000.

LIBRARY OF CONGRESS

SALARIES AND EXPENSES

For necessary expenses of the Library of Congress, not otherwise provided for, including the Civic Achievement Award Program in Honor of the Office of Speaker of the House of Representatives, development and maintenance of the Union Catalogs; custody and custodial care of the Library Buildings; special clothing; cleaning, laundering and repair of uniforms; preservation of motion pictures in the custody of the Library; operation and maintenance of the American Folklife Center in the Library; preparation and distribution of catalog cards and other publications of the Library; and expenses of the Library of Congress Trust Fund Board not properly chargeable to the income of any trust fund held by the Board, $153,042,000, of which not more than $5,000,000 shall be derived from collections credited to this appropriation during fiscal year 1989 under the Act of June 28, 1902, as amended (2 U.S.C. 150): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $5,000,000: *Provided further,* That, of the total amount appropriated, $5,784,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other materials including subscriptions for bibliographic services for the Library, including $40,000 to be available solely for the purchase, when specifically approved by the Librarian, of special and unique materials for additions to the collections: *Provided further,* That the balance remaining from the $11,500,000 appropriation in Public Law 98-396, dated August 22, 1984, shall be used to purchase equipment, supplies and services as needed to deacidify books and other materials from the collections of the Library of Congress.

COPYRIGHT OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Copyright Office, including publication of the decisions of the United States courts involving copyrights, $19,697,000, of which not more than $7,000,000 shall be derived from collections credited to this appropriation during fiscal year 1989 under 17 U.S.C. 708(c), and not more than $1,034,000 shall be derived from collections during fiscal year 1989 under 17 U.S.C. 111(d)(3) and 116(c)(1): *Provided,* That the total amount available for obligation shall be reduced by the amount by which collections are less than the $8,034,000: *Provided further,* That $100,000 of the

amount appropriated is available for the creation and maintenance of an "International Copyright Institute" in the Copyright Office of the Library of Congress for the purpose of training nationals of developing countries in intellectual property laws and policies.

BOOKS FOR THE BLIND AND PHYSICALLY HANDICAPPED

SALARIES AND EXPENSES

For salaries and expenses to carry out the provisions of the Act approved March 3, 1931, as amended (2 U.S.C. 135a), $36,474,000.

FURNITURE AND FURNISHINGS

For necessary expenses for the purchase and repair of furniture, furnishings, office and library equipment, $3,381,000, of which $1,000,000 shall be available until expended only for the purchase and supply of furniture, shelving, furnishings, and related costs necessary for the renovation and restoration of the Thomas Jefferson and John Adams Library Buildings.

ADMINISTRATIVE PROVISIONS

SEC. 201. Appropriations in this Act available to the Library of Congress shall be available, in an amount not to exceed $128,790, of which $41,100 is for the Congressional Research Service, when specifically authorized by the Librarian, for expenses of attendance at meetings concerned with the function or activity for which the appropriation is made.

Government organization and employees. Employment and unemployment.

SEC. 202. (a) No part of the funds appropriated in this Act shall be used by the Library of Congress to administer any flexible or compressed work schedule which—

(1) applies to any manager or supervisor in a position the grade or level of which is equal to or higher than GS-15; and

(2) grants the manager or supervisor the right not to be at work for all or a portion of a workday because of time worked by the manager or supervisor on another workday.

(b) For purposes of this section, the term "manager or supervisor" means any management official or supervisor, as such terms are defined in section 7103(a) (10) and (11) of title 5, United States Code.

SEC. 203. Appropriated funds received by the Library of Congress from other Federal agencies to cover general and administrative overhead costs generated by performing reimbursable work for other agencies under the authority of 31 U.S.C. 1535 and 1536 shall not be used to employ more than 65 employees.

ARCHITECT OF THE CAPITOL

LIBRARY BUILDINGS AND GROUNDS

STRUCTURAL AND MECHANICAL CARE

For all necessary expenses for the mechanical and structural maintenance, care and operation of the Library buildings and grounds, $7,500,000, of which $500,000 shall remain available until expended.

COPYRIGHT ROYALTY TRIBUNAL

SALARIES AND EXPENSES

For necessary expenses of the Copyright Royalty Tribunal, $633,000, of which $510,000 shall be derived by collections from the appropriation "Payments to Copyright Owners" for the reasonable costs incurred in proceedings involving distribution of royalty fees as provided by 17 U.S.C. 807.

GOVERNMENT PRINTING OFFICE

OFFICE OF SUPERINTENDENT OF DOCUMENTS

SALARIES AND EXPENSES

For necessary expenses of the Office of Superintendent of Documents, including compensation of all employees in accordance with the provisions of 44 U.S.C. 305; travel expenses (not to exceed $117,000); price lists and bibliographies; repairs to buildings, elevators, and machinery; and supplying publications to the Depository Library and International Exchange Programs, $25,155,000, of which $11,424,000 representing excess receipts from the sale of publications shall be derived from the Government Printing Office revolving fund: *Provided,* That $300,000 of this appropriation shall be apportioned for use pursuant to section 3679 of the Revised Statutes, as amended (31 U.S.C. 1512), with the approval of the Public Printer, only to the extent necessary to provide for expenses (excluding permanent personal services) for workload increases not anticipated in the budget estimates and which cannot be provided for by normal budgetary adjustments.

GOVERNMENT PRINTING OFFICE REVOLVING FUND

Contracts.

The Government Printing Office is hereby authorized to make such expenditures, within the limits of funds available and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs and purposes set forth in the budget for the current fiscal year for the "Government Printing Office revolving fund": *Provided,* That not to exceed $5,000 may be expended on the certification of the Public Printer in connection with official representation and reception expenses: *Provided further,* That during the current fiscal year the revolving fund shall be available for the hire of twelve passenger motor vehicles: *Provided further,* That expenditures in connection with travel expenses of the advisory councils to the Public Printer shall be deemed necessary to carry out the provisions of title 44, United States Code: *Provided further,* That the revolving fund shall be available for services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18: *Provided further,* That the revolving fund shall be available to acquire needed land, located in Northwest D.C., which is adjacent to the present Government Printing Office, and is bounded by Massachusetts Avenue and the southern property line of the Government Printing Office, between North Capitol Street and First Street. The land to be

purchased is identified as Parcels 45-D, 45-E, 45-F, and 47-A in Square 625, and includes the alleys adjacent to these parcels, and G Street, N.W. from North Capitol Street to First Street: *Provided further,* That the revolving fund and the funds provided under the paragraph entitled "Office of Superintendent of Documents, Salaries and Expenses" together may not be available for the full-time equivalent employment of more than 5,117 workyears: *Provided further,* That the revolving fund shall be available for expenses not to exceed $500,000 for the development of plans and design of a multi-purpose facility: *Provided further,* That notwithstanding the limitations of 5 U.S.C. 5901(a), as amended, the cost of uniforms furnished or allowances paid for uniforms to each uniformed special policeman appointed under the authority of 44 U.S.C. 317, shall not exceed $400 during the first year in which the employee is required to wear a prescribed uniform.

ADMINISTRATIVE PROVISIONS

SEC. 204. Funds authorized to be expended by the Government Printing Office for fiscal year 1989, not to exceed $282,000, shall be available without regard to the 25 per centum limitation of section 322 of the Economy Act of June 30, 1932, as amended, for the repair, alteration, and improvement of rented premises.

Real property. District of Columbia.

SEC. 205. Subject to the approval of the Joint Committee on Printing, and without regard to any other provision of law, the Public Printer is authorized to dispose of the parcel of land identified as Lot 884, Square 677, in Northeast D.C., in such manner and on such terms and conditions as he determines to be in the best interests of the Government. The proceeds from this transaction shall be deposited and separately held in the Government Printing Office revolving fund pending authorization in an appropriation Act as to their disposition.

GENERAL ACCOUNTING OFFICE

SALARIES AND EXPENSES

For necessary expenses of the General Accounting Office, including not to exceed $7,000 to be expended on the certification of the Comptroller General of the United States in connection with official representation and reception expenses; services as authorized by 5 U.S.C. 3109 but at rates for individuals not to exceed the per diem rate equivalent to the rate for grade GS-18; hire of one passenger motor vehicle; advance payments in foreign countries in accordance with 31 U.S.C. 3324; benefits comparable to those payable under sections 901(5), 901(6) and 901(8) of the Foreign Service Act of 1980 (22 U.S.C. 4081(5), 4081(6) and 4081(8), respectively); and under regulations prescribed by the Comptroller General of the United States, rental of living quarters in foreign countries and travel benefits comparable with those which are now or hereafter may be granted single employees of the Agency for International Development, including single Foreign Service personnel assigned to A.I.D. projects, by the Administrator of the Agency for International Development—or his designee—under the authority of section 636(b) of the Foreign Assistance Act of 1961 (22 U.S.C. 2396(b)); $347,339,000: *Provided,* That this appropriation and appropriations for administrative expenses of any other department or agency

which is a member of the Joint Financial Management Improvement Program (JFMIP) shall be available to finance an appropriate share of JFMIP costs as determined by the JFMIP, including but not limited to the salary of the Executive Director and secretarial support: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the National Intergovernmental Audit Forum or a Regional Intergovernmental Audit Forum shall be available to finance an appropriate share of Forum costs as determined by the Forum, including necessary travel expenses of non-Federal participants. Payments hereunder to either the Forum or the JFMIP may be credited as reimbursements to any appropriation from which costs involved are initially financed: *Provided further,* That this appropriation and appropriations for administrative expenses of any other department or agency which is a member of the American Consortium on International Public Administration (ACIPA) shall be available to finance an appropriate share of ACIPA costs as determined by the ACIPA, including any expenses attributable to membership of ACIPA in the International Institute of Administrative Sciences: *Provided further,* That this appropriation shall be available to finance a portion, not to exceed $50,000, of the costs of the Governmental Accounting Standards Board: *Provided further,* That $100,000 of this appropriation shall be available for the expenses of planning the triennial Congress of the International Organization of Supreme Audit Institutions (INTOSAI) to be hosted by the United States General Accounting Office in Washington, D.C., in 1992, to the extent that such expenses cannot be met from the trust authorized below: *Provided further,* That the General Accounting Office is authorized to solicit and accept contributions (including contributions from INTOSAI), to be held in trust, which shall be available without fiscal year limitation for the planning, administration, and such other expenses as the Comptroller General deems necessary to act as the sponsor of the aforementioned triennial Congress of INTOSAI. Monies in the trust not to exceed $10,000 shall be available upon the request of the Comptroller General to be expended for the purposes of the trust.

TITLE III—GENERAL PROVISIONS

SEC. 301. No part of the funds appropriated in this Act shall be used for the maintenance or care of private vehicles, except for emergency assistance and cleaning as may be provided under regulations relating to parking facilities for the House of Representatives issued by the Committee on House Administration.

SEC. 302. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 303. Whenever any office or position not specifically established by the Legislative Pay Act of 1929 is appropriated for herein or whenever the rate of compensation or designation of any position appropriated for herein is different from that specifically established for such position by such Act, the rate of compensation and the designation of the position, or either, appropriated for or provided herein, shall be the permanent law with respect thereto: *Provided,* That the provisions herein for the various items of official expenses of Members, officers, and committees of the Senate and

House, and clerk hire for Senators and Members shall be the permanent law with respect thereto.

Contracts. Records. Public information.

SEC. 304. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

Communications and telecommunications. 40 USC 166 note.

SEC. 305. (a) The Architect of the Capitol, in consultation with the heads of the agencies of the legislative branch, shall develop an overall plan for satisfying the telecommunications requirements of such agencies, using a common system architecture for maximum interconnection capability and engineering compatibility. The plan shall be subject to joint approval by the Committee on House Administration of the House of Representatives and the Committee on Rules and Administration of the Senate, and, upon approval, shall be communicated to the Committee on Appropriations of the House of Representatives and the Committee on Appropriations of the Senate. No part of any appropriation in this Act or any other Act shall be used for acquisition of any new or expanded telecommunications system for an agency of the legislative branch, unless, as determined by the Architect of the Capitol, the acquisition is in conformance with the plan, as approved.

(b) As used in this section—

(1) the term "agency of the legislative branch" means, the Office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office; and

(2) the term "telecommunications system" means an electronic system for voice, data, or image communication, including any associated cable and switching equipment.

Communications and telecommunications. 2 USC 177f.

SEC. 306. (a) Effective upon enactment of this Act, the Clerk of the House of Representatives is authorized to receive commissions for providing public telephone service in space occupied by the United States House of Representatives.

Communications and telecommunications

(b) The Clerk is authorized to receive for deposit, amounts charged to any legislative branch entity, including but not limited to Legislative Service Organizations, the Congressional Budget Office and the Architect of the Capitol, for the provision of telephone or telecommunications services: *Provided*, That no amounts charged to the official expense allowances of Members of the House shall be deposited in accordance with this section.

(c) Receipts from the commissions and charges set forth in subsections (a) and (b) of this section shall be deposited in the United States Treasury for credit to the appropriation for "Salaries and Expenses of the United States House of Representatives", and shall be available for expenditure upon the approval of the Committee on Appropriations of the House of Representatives.

SEC. 307. Notwithstanding any other provision of this Act, including the joint item for the Capitol Police Board in the undesignated paragraph under the subheading "GENERAL EXPENSES", amounts for general expenses of the Capitol Police shall be disbursed by the Clerk of the House of Representatives.

Ruby M. Daniel. Marlene V. Howard. Geraldine M. Price. Lois S. Duncan.

SEC. 307A. For payment to Ruby M. Daniel, widow of Dan Daniel, late a Representative from the State of Virginia, $89,500. For payment to Marlene V. Howard, widow of James J. Howard, late a

Representative from the State of New Jersey, $89,500. For payment to Geraldine M. Price, widow of Charles Melvin Price, late a Representative from the State of Illinois, $89,500. For payment to Lois S. Duncan, widow of John J. Duncan, late a Representative from the State of Tennessee, $89,500.

Communications and telecommunications.
40 USC 166 note.

SEC. 307B. (a) Notwithstanding the applicable statutes described in subsection (b), an agency of the legislative branch to which those statutes apply is authorized to use telecommunications systems and services provided by the Architect of the Capitol or the House of Representatives or the Senate under the approved plan required by section 305 of Public Law 100-202 (101 Stat. 1329-308) if such systems and services—

(1) have been acquired competitively; and

(2) have been determined by the Architect of the Capitol to be at least equal in quality to, and not greater in cost than, the systems and services available under the procurement conducted by the Administrator of General Services known as "FTS2000".

(b) The applicable statutes described in this subsection are—

(1) section 111 of the Federal Property and Administrative Services Act of 1949; and

(2) section 627 of the Treasury, Postal Service and General Government Appropriations Act of 1989.

(c) As used in this section, the term "agency of the legislative branch" means the office of the Architect of the Capitol, the Botanic Garden, the General Accounting Office, the Government Printing Office, the Library of Congress, the Office of Technology Assessment, and the Congressional Budget Office.

SEC. 307C. There is established in the office of the Attending Physician one additional position of technical assistant to be appointed by the Attending Physician, subject to the approval of the Speaker of the House of Representatives.

SEC. 307D. For an additional amount for "Expenses, Presidential Transition, General Services Administration", not to exceed $2,000,000: *Provided,* That the availability of these funds shall be in accordance with sections 3(b) and 4 of the Presidential Transition Act of 1963, as amended (3 U.S.C. 102, note).

Public buildings and grounds.
40 USC 216c.

SEC. 307E. The Architect of the Capitol, subject to the direction of the Joint Committee on the Library, is authorized to—

(1) construct a National Garden demonstrating the diversity of plants, including the rose, our national flower, to be located between Maryland and Independence Avenues, S.W., and extending from the United States Botanic Garden Conservatory to Third Street, S.W., in the District of Columbia; and

Gifts and property.
Voluntarism.

(2) accept gifts, including money, plants, volunteer time, planning, construction and installation expenses, assistance and implements, and garden structures, on behalf of the United States Botanic Garden for the purpose of constructing the National Garden described in paragraph (1).

40 USC 166b-3a note.

SEC. 308. The pay for the positions described in section 308(b) of the Legislative Branch Appropriations Act, 1988, as contained in section 101(i) of Public Law 100-202—

(1) shall be subject to any applicable adjustment during fiscal year 1989 under, or by reference to any applicable adjustment during fiscal year 1989 under, subchapter I of chapter 53 of title 5, United States Code; and

(2) with respect to the positions of Assistant Architect of the Capitol and Executive Assistant, shall be subject to any recommendation of the President that, pursuant to section 225 of the Federal Salary Act of 1967 (2 U.S.C. 351 et seq.), takes effect during fiscal year 1989.

Contracts.

SEC. 309. (a) None of the funds appropriated for fiscal year 1989 by this Act or any other law may be obligated or expended by any entity of the executive branch for the procurement from commercial sources of any printing related to the production of Government publications (including forms), unless such procurement is by or through the Government Printing Office.

(b) Subsection (a) does not apply to (1) individual printing orders costing not more than $1,000, if the work is not of a continuing or repetitive nature, (2) printing for the Central Intelligence Agency, the Defense Intelligence Agency, or the National Security Agency, or (3) printing from commercial sources that is specifically authorized by law or is of a kind that has not been routinely procured by or through the Government Printing Office.

(c) As used in this section, the term "printing" means the process of composition, platemaking, presswork, binding, and microform, and the end items of such processes.

SEC. 310. (a) The first sentence of section 309(a) of title 44, United States Code, is amended by striking ", except the Office of Superintendent of Documents," after "Government Printing Office" and inserting "(except for those programs of the Superintendent of Documents which are funded by specific appropriations),".

(b) Section 309(c) of such title is amended by striking the last two sentences and inserting "This budget program shall be considered and enacted as prescribed by section 9104 of title 31.".

(c) Section 309(d) of such title is amended to read as follows:

Records.
Reports.

"(d) The Comptroller General shall audit the activities of the Government Printing Office at least once every 3 years and shall furnish reports of such audits to the Congress and the Public Printer. For these purposes the Comptroller General shall have such access to the records, files, personnel, and facilities of the Government Printing Office as he considers necessary.".

SEC. 311. None of the funds appropriated or otherwise made available by this Act shall be used by the Congressional Budget Office to add to, delete, or alter any information such Office has provided to any Member or committee of the House of Representatives or the Senate or any joint committee of the Congress, except to correct errors or to provide new or updated information.

SEC. 312. Section 202(i)(1) of the Legislative Reorganization Act of 1946 (2 U.S.C. 72a(i)(1)) is amended by inserting immediately before the period the following: "or with respect to the administration of the affairs of the committee".

SEC. 313. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

This Act may be cited as the "Legislative Branch Appropriations Act, 1989".

Approved October 1, 1988.

LEGISLATIVE HISTORY—H.R. 4587:

HOUSE REPORTS: No. 100-621 (Comm. on Appropriations) and No. 100-1000 (Comm. of Conference).
SENATE REPORTS: No. 100-382 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 19, considered and passed House.
June 14, considered and passed Senate, amended.
Sept. 29, House agreed to conference report.
Sept. 30, Senate agreed to conference report.

Public Law 100-459
100th Congress

An Act

Oct. 1, 1988
[H.R. 4782]

Making appropriations for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes.

Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989.
Department of Commerce Appropriations Act, 1989.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Commerce, Justice, and State, the Judiciary, and related agencies for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—DEPARTMENT OF COMMERCE

General Administration

SALARIES AND EXPENSES

For expenses necessary for the general administration of the Department of Commerce provided for by law, including not to exceed $2,000 for official entertainment, $40,404,000: *Provided,* That $250,000 shall be available for the Clearinghouse for State and Local Initiatives on Productivity, Technology and Innovation.

Bureau of the Census

SALARIES AND EXPENSES

For expenses necessary for collecting, compiling, analyzing, preparing, and publishing statistics, provided for by law, $96,035,000.

PERIODIC CENSUSES AND PROGRAMS

For expenses necessary to collect and publish statistics for periodic censuses and programs provided for by law, $517,304,000, to remain available until expended.

Economic and Statistical Analysis

SALARIES AND EXPENSES

For necessary expenses, as authorized by law, of economic and statistical analysis programs of the Department of Commerce, $32,899,000.

Economic Development Administration

ECONOMIC DEVELOPMENT ASSISTANCE PROGRAMS

For economic development assistance as provided by the Public Works and Economic Development Act of 1965, as amended, and

Public Law 91-304, and such laws that were in effect immediately before September 30, 1982, $182,028,000, of which (a) $1,400,000 is for a grant to the Crownpoint Institute of Technology in the State of New Mexico to assist in the rehabilitation and reconstruction of facilities, including site stabilization and drainage repairs; (b) $2,000,000 is for a grant to the Philadelphia Port Corporation in Philadelphia, Pennsylvania, for the Fruit Shed Expansion project at Tioga Marine Terminal I and Piers 82 and 84 to assist in the expansion of storage and handling facilities; (c) $4,500,000 is for a grant to the University of Kentucky in Lexington, Kentucky, to assist in the construction of the Advanced Science and Technology Commercialization Center; (d) $250,000 shall be obligated for the Center for International Trade Development at Oklahoma State University; (e) $600,000 is for a grant to Crittenden County, Arkansas, for use in replacing a health center; (f) $125,000 is for a grant to Arkansas State University, Jonesboro, Arkansas, for the establishment and first year operation of a university center under the provisions of the Public Works and Economic Development Act of 1965, as amended; (g) $1,700,000 is for a grant to the revolving loan fund established under the provisions of title XI of the Public Works and Economic Development Act of 1965, as amended, and administered by the East Arkansas Planning and Development District, Jonesboro, Arkansas, except that notwithstanding any other provision of law or regulation, no requirement for provision of matching funds shall be imposed as a condition for making this grant; (h) $2,400,000 is for a grant to the city of Beaumont, Texas, for the Spindletop Regional Development Project; (i) $200,000 is for a grant to Marshall University, Huntington, West Virginia, for the Marshall University Flexibility Manufacturing Proposal; (j) $200,000 is for a grant to Wheeling Jesuit College, Wheeling, West Virginia, for planning and technical assistance activities for establishment of a Software Development Center; (k) $2,250,000 is for grants for Projects A and B of the Special Impact Area Overall Economic Development Program for Polk County and the Cities of Des Moines and Ankeny, Iowa; and (l) $600,000 is for a grant to the Southeastern Area Technology Development Center, Inc., New London, Connecticut, for a demonstration project on the ability of a small business incubator to help diversify the economy of a defense-dependent region: *Provided,* That the Secretary of Commerce shall throughly review and evaluate each of the projects listed in subsections (a) through (l) of this paragraph and shall submit a report to the House and Senate Committees on Appropriations in March 1989 concerning the details and evaluation of each such project: *Provided further,* That the funds designated in subsections (a) through (l) of this paragraph shall be available for the national economic development assistance programs of the Economic Development Administration unless the House and Senate Appropriations Committees send letters to the Secretary of Commerce within 60 days of the submission of the report or June 1, 1989, whichever is later, on the projects listed in subsections (a) through (l) of this paragraph interposing no objection to the commencement of these projects: *Provided further,* That any sum in excess of the sum needed to comply with the House and Senate Appropriations Committees' letters for any of the projects listed in subsections (a) through (l) shall be available for the national economic development assistance programs of the Economic Development Administration: *Provided further,* That the Secretary of Commerce or his designees shall not promulgate or enforce

Reports.

any rule, regulation, or grant agreement provision affecting programs authorized by the Public Works and Economic Development Act of 1965, as amended, unless such rule, regulation, or provision is either required by statute or expressed as the explicit intent of the Congress or is in substantial conformity with those rules, regulations and provisions in effect prior to December 22, 1987: *Provided further,* That during fiscal year 1989 total commitments to guarantee loans shall not exceed $150,000,000 of contingent liability for loan principal: *Provided further,* That none of the funds appropriated or otherwise made available under this heading may be used directly or indirectly for attorneys' or consultants' fees in connection with securing grants and contracts made by the Economic Development Administration.

SALARIES AND EXPENSES

For necessary expenses of administering the economic development assistance programs as provided for by law, $24,742,000: *Provided,* That the number of Deputy Assistant Secretary positions shall not be greater than four: *Provided further,* That these funds may be used to monitor projects approved pursuant to title I of the Public Works Employment Act of 1976, as amended, title II of the Trade Act of 1974, as amended, and the Community Emergency Drought Relief Act of 1977. Notwithstanding any other provision of this Act or any other law, funds appropriated in this paragraph shall be used to fill and maintain forty-nine permanent positions designated as Economic Development Representatives out of the total number of permanent positions funded in the Salaries and Expenses account of the Economic Development Administration for fiscal year 1989, and such positions shall be maintained in the various States within the approved organizational structure in place on December 1, 1987, and where possible, with those employees who filled those positions on that date.

INTERNATIONAL TRADE ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for international trade activities of the Department of Commerce, including trade promotional activities abroad without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $300,000 for official representation expenses abroad; and purchase of passenger motor vehicles for official use abroad; $167,502,000, to remain available until expended, of which $3,300,000 is for support costs for a new materials center in Ames, Iowa, and of which $7,060,000 is for the Office of Textiles and Apparels, including $3,360,000 for a grant to the Tailored Clothing Technology Corporation: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual

Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities. Notwithstanding any other provision of law, upon the request of the Secretary of Commerce, the Secretary of State shall accord the diplomatic title of Minister-Counselor to the senior Commercial Officer assigned to any United States mission abroad: *Provided further,* That the number of Commercial Service officers accorded such diplomatic title at any time shall not exceed eight. 19 USC 2171 note.

EXPORT ADMINISTRATION

OPERATIONS AND ADMINISTRATION

For necessary expenses for export administration and national security activities of the Department of Commerce, including costs associated with the performance of export administration field activities both domestically and abroad; full medical coverage for dependent members of immediate families of employees stationed overseas; employment of Americans and aliens by contract for services abroad; rental of space abroad for periods not exceeding ten years, and expenses of alteration, repair, or improvement; payment of tort claims, in the manner authorized in the first paragraph of 28 U.S.C. 2672 when such claims arise in foreign countries; not to exceed $5,000 for official representation expenses abroad; awards of compensation to informers under the Export Administration Act of 1979, and as authorized by 22 U.S.C. 401(b); purchase of passenger motor vehicles for official use and motor vehicles for law enforcement use with special requirement vehicles eligible for purchase without regard to any price limitation otherwise established by law; $40,106,000, to remain available until expended: *Provided,* That the provisions of the first sentence of section 105(f) and all of section 108(c) of the Mutual Educational and Cultural Exchange Act of 1961 (22 U.S.C. 2455(f) and 2458(c)) shall apply in carrying out these activities.

MINORITY BUSINESS DEVELOPMENT AGENCY

MINORITY BUSINESS DEVELOPMENT

For necessary expenses of the Department of Commerce in fostering, promoting, and developing minority business enterprise, including expenses of grants, contracts, and other agreements with public or private organizations, $39,705,000, of which $25,321,000 shall remain available until expended: *Provided,* That not to exceed $14,384,000 shall be available for program management for fiscal year 1988: *Provided further,* That none of the funds appropriated in this paragraph or in this title for the Department of Commerce shall be available to reimburse the fund established by 15 U.S.C. 1521 on account of the performance of a program, project, or activity, nor shall such fund be available for the performance of a program, project, or activity, which had not been performed as a central service pursuant to 15 U.S.C. 1521 before July 1, 1982, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such action in accordance with the Committees' reprogramming procedures.

UNITED STATES TRAVEL AND TOURISM ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the United States Travel and Tourism Administration including travel and tourism promotional activities abroad for travel to the United States and its possessions without regard to the provisions of law set forth in 44 U.S.C. 3702 and 3703; and including employment of American citizens and aliens by contract for services abroad; rental of space abroad for periods not exceeding five years, and expenses of alteration, repair, or improvement; purchase or construction of temporary demountable exhibition structures for use abroad; advance of funds under contracts abroad; payment of tort claims in the manner authorized in the first paragraph of 28 U.S.C. 2672, when such claims arise in foreign countries; and not to exceed $12,000 for representation expenses abroad; $13,800,000.

NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

OPERATIONS, RESEARCH, AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of activities authorized by law for the National Oceanic and Atmospheric Administration, including acquisition, maintenance, operation, and hire of aircraft; 439 commissioned officers on the active list; construction of facilities, including initial equipment; alteration, modernization, and relocation of facilities; and acquisition of land for facilities; $1,211,652,000, to remain available until expended; of which $3,000,000 shall be available for the EROS Data Center in South Dakota pursuant to section 602 of Public Law 98-365; and of which $1,941,500, including $941,500 previously appropriated, shall be available only for construction and renovation of facilities at the Stuttgart Fish Farming Experimental Station, Stuttgart, Arkansas; and of which $377,000 shall be available only for a semitropical research facility located at Key Largo, Florida; and of which $1,700,000 is for the St. Paul Pribilof Island Trust; and in addition, $28,717,000 shall be derived from the Airport and Airways Trust Fund; and in addition, $45,600,000 shall be derived by transfer from the Fund entitled "Promote and Develop Fishery Products and Research Pertaining to American Fisheries"; and in addition, $6,500,000 shall be derived by transfer from the Coastal Energy Impact Fund: *Provided,* That grants to States pursuant to section 306 and 306(a) of the Coastal Zone Management Act, as amended, shall not exceed $2,000,000 and shall not be less than $450,000.

33 USC 851.

FISHERIES PROMOTIONAL FUND

Of the funds deposited in the Fisheries Promotional Fund pursuant to section 209 of the Fish and Seafood Promotion Act of 1986, $3,000,000, to remain available until expended, shall be made available as authorized by said Act: *Provided,* That $135,000 of this amount shall be available only for a grant to the Seafood Consumer Research and Education Center, Astoria, Oregon.

FISHERMEN'S CONTINGENCY FUND

For carrying out the provisions of title IV of Public Law 95-372, not to exceed $719,000, to be derived from receipts collected pursuant to that Act, to remain available until expended.

FOREIGN FISHING OBSERVER FUND

For expenses necessary to carry out the provisions of the Atlantic Tunas Convention Act of 1975, as amended (Public Law 96-339), the Magnuson Fishery Conservation and Management Act of 1976, as amended (Public Law 94-265), and the American Fisheries Promotion Act (Public Law 96-561), there are appropriated from the fees imposed under the foreign fishery observer program authorized by these Acts, not to exceed $1,919,000, to remain available until expended.

PATENT AND TRADEMARK OFFICE

SALARIES AND EXPENSES

For necessary expenses of the Patent and Trademark Office, including defense of suits instituted against the Commissioner of Patents and Trademarks, $109,000,000 and, in addition, such fees as shall be collected pursuant to 15 U.S.C. 1113 and 35 U.S.C. 41 and 376, to remain available until expended.

NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

SCIENTIFIC AND TECHNICAL RESEARCH AND SERVICES

For necessary expenses of the National Institute of Standards and Technology, $159,000,000, to remain available until expended, of which $250,000 shall be available for a grant to the Southwest Radiation Calibration Center at the University of Arkansas; and of which not to exceed $6,050,000 may be transferred to the "Working Capital Fund"; and of which $7,500,000 shall be for Regional Centers for Transfer of Manufacturing Technology; and of which $7,500,000 shall be used to develop and fund for the period January 1, 1989, through December 31, 1991, a cooperative agreement, with a non-Federal partner, for the establishment of a Center for Integrated Design, Non-Destructive Evaluation and Manufacturing. Of the funding provided for the Center for Integrated Design, Non-Destructive Evaluation and Manufacturing, 50 percent will be used for program operations and 50 percent for facilities development and equipment. The Institute will report to the House and Senate Committees on Appropriations on the status of the cooperative agreement with the Center for Integrated Design, Non-Destructive Evaluation and Manufacturing not later than February 1, 1989. Reports.

NATIONAL TELECOMMUNICATIONS AND INFORMATION ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses, as provided for by law, of the National Telecommunications and Information Administration, $13,630,000 of which $700,000 shall remain available until expended.

PUBLIC TELECOMMUNICATIONS FACILITIES, PLANNING AND CONSTRUCTION

For grants authorized by section 392 of the Communication Act of 1934, as amended, $20,000,000, to remain available until expended: *Provided,* That not to exceed $1,500,000 shall be available for program management as authorized by section 391 of the Communications Act of 1934, as amended: *Provided further,* That notwithstanding the provisions of section 391 of the Communications Act of 1934, as amended, the prior year unobligated balances may be made available for grants for projects for which applications have been submitted and approved during any fiscal year: *Provided further,* That notwithstanding sections 391 and 392 of the Communications Act, as amended, up to $200,000 appropriated in this paragraph shall be available for the establishment and administration of the Pan-Pacific Educational and Cultural Experiments by Satellite program (PEACESAT).

GENERAL PROVISIONS—DEPARTMENT OF COMMERCE

SEC. 101. During the current fiscal year, applicable appropriations and funds made available to the Department of Commerce by this Act shall be available for the activities specified in the Act of October 26, 1949 (15 U.S.C. 1514), to the extent and in the manner prescribed by said Act, and, notwithstanding 31 U.S.C. 3324, may be used for advanced payments not otherwise authorized only upon the certification of officials designated by the Secretary that such payments are in the public interest.

SEC. 102. During the current fiscal year, appropriations made available to the Department of Commerce by this Act for salaries and expenses shall be available for hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; services as authorized by 5 U.S.C. 3109; and uniforms or allowances therefor, as authorized by law (5 U.S.C. 5901–5902).

Contracts. Loans.

SEC. 103. No funds in this title shall be used to sell to private interests, except with the consent of the borrower, or contract with private interests to sell or administer, any loans made under the Public Works and Economic Development Act of 1965 or any loans made under section 254 of the Trade Act of 1974.

Gifts and property. Research and development.

SEC. 104. During the current fiscal year, the National Bureau of Standards is authorized to accept contributions of funds, to remain available until expended, from any public or private source to construct a facility for cold neutron research on materials, notwithstanding the limitations contained in 15 U.S.C. 278d.

This title may be cited as the "Department of Commerce Appropriations Act, 1989".

Department of Justice Appropriations Act, 1989.

TITLE II—DEPARTMENT OF JUSTICE

GENERAL ADMINISTRATION

SALARIES AND EXPENSES

For expenses necessary for the administration of the Department of Justice, $88,360,000: *Provided,* That balances previously made available for Federal Justice Research activities may be used for other activities of this account.

UNITED STATES PAROLE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the United States Parole Commission, as authorized by law, $10,893,000.

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For expenses necessary for the legal activities of the Department of Justice, not otherwise provided for, including not to exceed $20,000 for expenses of collecting evidence, to be expended under the direction of the Attorney General and accounted for solely on his certificate; and rent of private or Government-owned space in the District of Columbia; $242,994,000, of which not to exceed $6,000,000 for litigation support contracts shall remain available until September 30, 1990: *Provided,* That of the funds available in this appropriation, not to exceed $5,000,000 shall be available for office automation systems for the legal divisions covered by this appropriation, and for the United States Attorneys, the Antitrust Division, and offices funded through Salaries and expenses, General Administration, to remain available until expended: *Provided further,* That the Chief, United States National Central Bureau, INTERPOL, may establish and collect fees to process name checks and background records for noncriminal employment, licensing, and humanitarian purposes and, notwithstanding the provisions of 31 U.S.C. 3302, credit not more than $150,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.

SALARIES AND EXPENSES, ANTITRUST DIVISION

For expenses necessary for the enforcement of antitrust and kindred laws, $44,937,000.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For necessary expenses of the Offices of the United States Attorneys, $391,212,000.

UNITED STATES TRUSTEE SYSTEM FUND

For the necessary expenses of the United States Trustee Program, $47,370,000, to remain available until expended and to be derived from the Fund, for activities authorized by section 115 of the Bankruptcy Judges, United States Trustees, and Family Farmer Bankruptcy Act of 1986 (Public Law 99-554): *Provided,* That deposits to the Fund are available in such amounts as may be necessary to pay refunds due depositors: *Provided further,* That obligated balances remaining in the appropriation "Salaries and expenses, oversight of bankruptcy cases" as of September 30, 1988, be merged with the "United States Trustee System Fund".

SALARIES AND EXPENSES, FOREIGN CLAIMS SETTLEMENT COMMISSION

For expenses necessary to carry out the activities of the Foreign Claims Settlement Commission, including services as authorized by 5 U.S.C. 3109; allowances and benefits similar to those allowed

under the Foreign Service Act of 1980 as determined by the Commission; expenses of packing, shipping, and storing personal effects of personnel assigned abroad; rental or lease, for such periods as may be necessary, of office space and living quarters of personnel assigned abroad; maintenance, improvement, and repair of properties rented or leased abroad, and furnishing fuel, water, and utilities for such properties; insurance on official motor vehicles abroad; advances of funds abroad; advances or reimbursements to other Government agencies for use of their facilities and services in carrying out the functions of the Commission; hire of motor vehicles for field use only; and employment of aliens; $472,000.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For necessary expenses of the United States Marshals Service; including acquisition, lease, maintenance, and operation of vehicles and aircraft; $190,000,000: *Provided,* That notwithstanding the provisions of title 31 U.S.C. 3302, the Director of the United States Marshals Service may collect fees and expenses for the service of civil process, including: complaints, summonses, subpoenas and similar process; and seizures, levies, and sales associated with judicial orders of execution; and credit not to exceed $1,000,000 of such fees to this appropriation to be used for salaries and other expenses incurred in providing these services.

SUPPORT OF UNITED STATES PRISONERS

For support of United States prisoners in non-Federal institutions, $93,700,000, which shall remain available until expended; of which not to exceed $5,000,000 shall be available under the Cooperative Agreement Program for the purposes of renovating, constructing, and equipping State and local correctional facilities: *Provided,* That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General: *Provided further,* That following agreement on or completion of any federally assisted correctional facility construction, the availability of the space acquired for Federal prisoners with these Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

FEES AND EXPENSES OF WITNESSES

For expenses, mileage, compensation, and per diems of witnesses, for private counsel expenses, and for per diems in lieu of subsistence, as authorized by law, including advances; $52,203,000, to remain available until expended, of which not to exceed $1,350,000 may be made available for planning, construction, renovation, maintenance, remodeling, and repair of buildings and the purchase of equipment incident thereto for protected witness safesites: *Provided,* That the Attorney General may enter into reimbursable agreements with other Federal Government agencies or components within the Department of Justice to pay expenses of private counsel to defend Federal Government employees sued for actions while performing their official duties.

SALARIES AND EXPENSES, COMMUNITY RELATIONS SERVICE

For necessary expenses of the Community Relations Service, established by title X of the Civil Rights Act of 1964, $27,858,000, of which not to exceed $20,667,000 shall remain available until expended to make payments in advance for grants, contracts and reimbursable agreements and other expenses necessary under section 501(c) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1809) for the processing, care, maintenance, security, transportation and reception and placement in the United States of Cuban and Haitian entrants: *Provided,* That notwithstanding section 501(e)(2)(B) of the Refugee Education Assistance Act of 1980 (Public Law 96-422; 94 Stat. 1810), funds may be expended for assistance with respect to Cuban and Haitian entrants as authorized under section 501(c) of such Act.

ASSETS FORFEITURE FUND

For expenses authorized by 28 U.S.C. 524, as amended by the Comprehensive Forfeiture Act of 1984 and the Anti-Drug Abuse Act of 1986, $75,000,000 to be derived from the Department of Justice Assets Forfeiture Fund.

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For expenses necessary for detection, investigation, and prosecution of crimes against the United States; including purchase for police-type use of not to exceed 2,600 passenger motor vehicles of which 1,850 will be for replacement only, without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; $1,424,100,000, of which not to exceed $15,100,000 for INF treaty activities shall remain available until expended; of which not to exceed $25,000,000 for automated data processing and telecommunications and $1,000,000 for undercover operations shall remain available until September 30, 1990; of which not to exceed $3,000,000 for research related to investigative activities shall remain available until expended; and of which not to exceed $500,000 is authorized to be made available for making payments or advances for expenses arising out of contractual or reimbursable agreements with State and local law enforcement agencies while engaged in cooperative activities related to terrorism: *Provided,* That the Director of the Federal Bureau of Investigation may establish and collect fees to process fingerprint identification records for noncriminal employment and licensing purposes, and notwithstanding the provisions of 31 U.S.C. 3302, credit such fees to this appropriation to be used for salaries and other expenses incurred in providing these services: *Provided further,* That not to exceed $45,000 shall be available for official reception and representation expenses: *Provided further,* That not to exceed $11,358,000 for a language translation system shall remain available until expended.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses of the Drug Enforcement Administration, including not to exceed $70,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General, and to be accounted for solely on his certificate; purchase of not to exceed 549 passenger motor vehicles of which 489 are for replacement only for police-type use without regard to the general purchase price limitation for the current fiscal year; and acquisition, lease, maintenance, and operation of aircraft; $505,000,000, of which not to exceed $1,200,000 for research shall remain available until expended; and of which not to exceed $1,700,000 for purchase of evidence and payments for information, not to exceed $4,000,000 for contracting for ADP and telecommunications equipment, not to exceed $2,000,000 for technical equipment, and not to exceed $15,150,000 for aircraft and equipment shall remain available until September 30, 1990.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary for the administration and enforcement of the laws relating to immigration, naturalization, and alien registration, including not to exceed $50,000 to meet unforeseen emergencies of a confidential character, to be expended under the direction of the Attorney General and accounted for solely on his certificate; purchase for police-type use (not to exceed 525, of which 512 shall be for replacement only) without regard to the general purchase price limitation for the current fiscal year, and hire of passenger motor vehicles; acquisition, lease, maintenance and operation of aircraft; and research related to immigration enforcement; $800,000,000, of which not to exceed $400,000 for research shall remain available until expended: *Provided,* That none of the funds available to the Immigration and Naturalization Service shall be available for administrative expenses to pay any employee overtime pay in an amount in excess of $25,000 except in such instances when the Commissioner makes a determination that this restriction is impossible to implement: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That capital assets acquired by the Immigration Legalization account may be made available for the general use of the Immigration and Naturalization Service after they are no longer needed for immigration legalization purposes.

FEDERAL PRISON SYSTEM

SALARIES AND EXPENSES

For expenses necessary for the administration, operation, and maintenance of Federal penal and correctional institutions, including purchase (not to exceed 159 of which 109 are for replacement only) and hire of law enforcement and passenger motor vehicles; $953,012,000: *Provided,* That there may be transferred to the Health Resources and Services Administration such amounts as may be

42 USC 250a.

necessary, in the discretion of the Attorney General, for direct expenditures by that Administration for medical relief for inmates of Federal penal and correctional institutions: *Provided further,* That uniforms may be purchased without regard to the general purchase price limitation for the current fiscal year: *Provided further,* That of the amount appropriated under this heading, $4,204,000 shall be for "Federal Prison Industries" to replace equipment destroyed during the Mariel Cuban disturbances.

NATIONAL INSTITUTE OF CORRECTIONS

For carrying out the provisions of sections 4351-4353 of title 18, United States Code, which established a National Institute of Corrections, $9,590,000, to remain available until expended.

BUILDINGS AND FACILITIES

For planning, acquisition of sites and construction of new facilities; purchase and acquisition of facilities and remodeling and equipping of such facilities for penal and correctional use, including all necessary expenses incident thereto, by contract or force account; and constructing, remodeling, and equipping necessary buildings and facilities at existing penal and correctional institutions, including all necessary expenses incident thereto, by contract or force account, $203,693,000 to remain available until expended: *Provided,* That labor of United States prisoners may be used for work performed under this appropriation: *Provided further,* That not to exceed 10 per centum of the funds appropriated to "Buildings and Facilities" in this Act or any other Act may be transferred to "Salaries and Expenses", Federal Prison System upon notification by the Attorney General to the Committees on Appropriations of the House of Representatives and the Senate in compliance with provisions set forth in section 606 of this Act.

FEDERAL PRISON INDUSTRIES, INCORPORATED

The Federal Prison Industries, Incorporated, is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available, and in accord with the law, including not to exceed $20,000,000 in borrowing authority in fiscal year 1989 from the Secretary of the Treasury as authorized in legislation enacted subsequent to this Act, and to make such contracts and commitments, without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the program set forth in the budget for the current fiscal year for such corporation, including purchase of (not to exceed five for replacement only) and hire of passenger motor vehicles.

LIMITATION ON ADMINISTRATIVE AND VOCATIONAL EXPENSES, FEDERAL PRISON INDUSTRIES, INCORPORATED

Not to exceed $2,374,000 of the funds of the corporation shall be available for its administrative expenses, and not to exceed $4,677,000 for the expenses of vocational training of prisoners, both amounts to be available for services as authorized by 5 U.S.C. 3109, and to be computed on an accrual basis to be determined in accordance with the corporation's prescribed accounting system in effect

on July 1, 1946, and such amounts shall be exclusive of depreciation, payment of claims, and expenditures which the said accounting system requires to be capitalized or charged to cost of commodities acquired or produced, including selling and shipping expenses, and expenses in connection with acquisition, construction, operation, maintenance, improvement, protection, or disposition of facilities and other property belonging to the corporation or in which it has an interest.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For grants, contracts, cooperative agreements, and other assistance authorized by the Justice Assistance Act of 1984, Runaway Youth and Missing Children Act Amendments of 1984, and the Missing Children Assistance Act, including salaries and expenses in connection therewith, $89,383,000 to remain available until expended, of which $3,497,000 is provided for programs authorized under part E of the Justice Assistance Act of 1984, notwithstanding the provisions of section 407 of such Act, including $2,300,000 for the National Crime Prevention Campaign and $1,000,000 for Operational Information Systems Support.

In addition, for grants as authorized by the State and Local Law Enforcement Assistance Act of 1986 (Public Law 99-570, 100 Stat. 3207-42 to 3207-48), including salaries and expenses in connection therewith, $70,000,000, to remain available until expended, of which not less than $1,500,000 shall be made available for drug abuse demand reduction programs authorized under 42 U.S.C. 3761.

In addition, for grants, contracts, cooperative agreements, and other assistance authorized by title II of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended, including salaries and expenses in connection therewith, $64,692,000, to remain available until expended, and in addition, $2,000,000, to remain available until expended, to be derived from deobligated funds previously awarded under title II, part B, subparts I and II of the Juvenile Justice and Delinquency Prevention Act.

In addition, $5,000,000 for the purpose of making grants to States for their expenses by reason of Mariel Cubans having to be incarcerated in State facilities for terms requiring incarceration for the full period October 1, 1988, through September 30, 1989, following their conviction of a felony committed after having been paroled into the United States by the Attorney General: *Provided,* That within thirty days of enactment of this Act the Attorney General shall announce in the Federal Register that this appropriation will be made available to the States whose Governors certify by February 1, 1989, a listing of names of such Mariel Cubans incarcerated in their respective facilities: *Provided further,* That the Attorney General, not later than April 1, 1989, will complete his review of the certified listings of such incarcerated Mariel Cubans, and make grants to the States on the basis that the certified number of such incarcerated persons in a State bears to the total certified number of such incarcerated persons: *Provided further,* That the amount of reimbursements per prisoner per annum shall not exceed $12,000.

Federal Register, publication.

GENERAL PROVISIONS—DEPARTMENT OF JUSTICE

SEC. 201. A total of not to exceed $75,000 from funds appropriated to the Department of Justice in this title shall be available for official reception and representation expenses in accordance with distributions, procedures, and regulations established by the Attorney General.

SEC. 202. Notwithstanding any other provision of law, materials produced by convict labor may be used in the construction of any highways or portion of highways located on Federal-aid systems, as described in section 103 of title 23, United States Code. Highways. 23 USC 114 note.

SEC. 203. Appropriations for "Salaries and expenses, General Administration", "Salaries and expenses, United States Marshals Service", "Salaries and expenses, Federal Bureau of Investigation", "Salaries and expenses, Drug Enforcement Administration", "Salaries and expenses, Immigration and Naturalization Service", and "Salaries and expenses, Federal Prison System", shall be available for uniforms and allowances therefor as authorized by law (5 U.S.C. 5901-5902).

SEC. 204. (a) Subject to subsection (b) of this section, authorities contained in Public Law 96-132, "The Department of Justice Appropriation Authorization Act, Fiscal Year 1980", shall remain in effect until the termination date of this Act or until the effective date of a Department of Justice Appropriation Authorization Act, whichever is earlier.

(b)(1) With respect to any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration which is necessary for the detection and prosecution of crimes against the United States or for the collection of foreign intelligence or counterintelligence—

(A) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1989, may be used for purchasing property, buildings, and other facilities, and for leasing space, within the United States, the District of Columbia, and the territories and possessions of the United States, without regard to section 1341 of title 31 of the United States Code, section 3732(a) of the Revised Statutes (41 U.S.C. 11(a)), section 305 of the Act of June 30, 1949 (63 Stat. 396; 41 U.S.C. 255), the third undesignated paragraph under the heading "Miscellaneous" of the Act of March 3, 1877 (19 Stat. 370; 40 U.S.C. 34), section 3324 of title 31 of the United States Code, section 3741 of the Revised Statutes (41 U.S.C. 22), and subsections (a) and (c) of section 304 of the Federal Property and Administrative Service Act of 1949 (63 Stat. 395; 41 U.S.C. 254 (a) and (c)),

(B) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1989, may be used to establish or to acquire proprietary corporations or business entities as part of an undercover investigative operation, and to operate such corporations or business entities on a commercial basis, without regard to section 9102 of title 31 of the United States Code,

(C) sums authorized to be appropriated for the Federal Bureau of Investigation and for the Drug Enforcement Administration, for fiscal year 1989, and the proceeds from such undercover operation, may be deposited in banks or other financial institutions, without regard to section 648 of title 18 of the

United States Code and section 3302 of title 31 of the United States Code, and

(D) proceeds from such undercover operation may be used to offset necessary and reasonable expenses incurred in such operation, without regard to section 3302 of title 31 of the United States Code,

only, in operations designed to detect and prosecute crimes against the United States, upon the written certification of the Director of the Federal Bureau of Investigation (or, if designated by the Director, a member of the Undercover Operations Review Committee established by the Attorney General in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, as in effect on July 1, 1983) or the Administrator of the Drug Enforcement Administration, as the case may be, and the Attorney General (or, with respect to Federal Bureau of Investigation undercover operations, if designated by the Attorney General, a member of such Review Committee), that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation. If the undercover operation is designed to collect foreign intelligence or counterintelligence, the certification that any action authorized by subparagraph (A), (B), (C), or (D) is necessary for the conduct of such undercover operation shall be by the Director of the Federal Bureau of Investigation (or, if designated by the Director, the Assistant Director, Intelligence Division) and the Attorney General (or, if designated by the Attorney General, the Counsel for Intelligence Policy). Such certification shall continue in effect for the duration of such undercover operation, without regard to fiscal years.

(2) As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (C) and (D) of subsection (a) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited in the Treasury of the United States as miscellaneous receipts.

(3) If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value of over $50,000 is to be liquidated, sold, or otherwise disposed of, the Federal Bureau of Investigation or the Drug Enforcement Administration, as much in advance as the Director or the Administrator, or the designee of the Director or the Administrator, determines is practicable, shall report the circumstances to the Attorney General and the Comptroller General. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

28 USC 533 note.

(4)(A) The Federal Bureau of Investigation or the Drug Enforcement Administration, as the case may be, shall conduct a detailed financial audit of each undercover investigative operation which is closed in fiscal year 1989—

(i) submit the results of such audit in writing to the Attorney General, and

Reports.

(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

Reports.

(B) The Federal Bureau of Investigation and the Drug Enforcement Administration shall each also submit a report annually to the Congress specifying as to their respective undercover investigative operations—

(i) the number, by programs, of undercover investigative operations pending as of the end of the one-year period for which such report is submitted,

(ii) the number, by programs, of undercover investigative operations commenced in the one-year period preceding the period for which such report is submitted, and

(iii) the number, by programs, of undercover investigative operations closed in the one-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operations, the results obtained. With respect to each such closed undercover operation which involves any of the sensitive circumstances specified in the Attorney General's Guidelines on Federal Bureau of Investigation Undercover Operations, such report shall contain a detailed description of the operation and related matters, including information pertaining to—

(I) the results,

(II) any civil claims, and

(III) identification of such sensitive circumstances involved, that arose at any time during the course of such undercover operation.

(5) For purposes of paragraph (4)— 28 USC 533 note.

(A) the term "closed" refers to the earliest point in time at which—

(i) all criminal proceedings (other than appeals) are conducted, or

(ii) covert activities are concluded, whichever, occurs later,

(B) the term "employees" means employees, as defined in section 2105 of title 5 of the United States Code, of the Federal Bureau of Investigation, and

(C) the terms "undercover investigative operations" and "undercover operation" means any undercover investigative operation of the Federal Bureau of Investigation or the Drug Enforcement Administration (other than a foreign counterintelligence undercover investigative operation)—

(i) in which—

(I) the gross receipts (excluding interest earned) exceed $50,000, or

(II) expenditures (other than expenditures for salaries of employees) exceed $150,000, and

(ii) which is exempt from section 3302 or 9102 of title 31 of the United States Code,

except that clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of such paragraph.

SEC. 205. None of the funds appropriated by this title shall be available to pay for an abortion, except where the life of the mother would be endangered if the fetus were carried to term or in the case of rape: *Provided*, That should this prohibition be declared unconstitutional by a court of competent jurisdiction, this section shall be null and void. Abortion. Courts, U.S.

SEC. 206. None of the funds appropriated under this title shall be used to require any person to perform, or facilitate in any way the performance of, any abortion. Abortion.

SEC. 207. Nothing in the preceding section shall remove the obligation of the director of the Bureau of Prisons to provide escort services necessary for a female inmate to receive such service

outside the Federal facility: *Provided,* That nothing in this section in any way diminishes the effect of section 206 intended to address the philosophical beliefs of individual employees of the Bureau of Prisons.

State and local governments.

SEC. 208. (a) Notwithstanding subsections (c) and (d) of section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633), failure to achieve compliance with the requirements of subsection (a)(14) of such section within the five-year time limitation specified in such subsection (a)(14) shall terminate any State's eligibility for funding for fiscal year 1989 under subpart I of part B of title II of such Act unless the Administrator of the Office of Juvenile Justice and Delinquency Prevention—

(1) determines, in the discretion of the Administrator, that such State has—

(A)(i) removed not less than 75 percent of juveniles from jails and lockups for adults; or

(ii) achieved substantial compliance with such subsection (a)(14); and

(B) made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed three additional years; or

(2) waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received under such subpart for such fiscal year by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222) of such Act, only to achieve compliance with such subsection (a)(14).

(b) Except as provided in subsection (a) of this section, failure to achieve compliance with the requirements of subsection (a)(14) of section 223 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633) after December 8, 1985, shall terminate any State's eligibility for funding for fiscal year 1989 under subpart I of part B of title II of such Act unless the Administrator waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received for such fiscal year under such subpart by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222) of such Act, only to achieve compliance with section 223(a)(14) of such Act.

(c) For purposes of subsection (a)(1)(A)(ii) of this section, a State may demonstrate that it is in substantial compliance with section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(14)) by showing that it has—

(1) removed all juvenile status offenders and nonoffenders from jails and lockups for adults;

(2) made meaningful progress in removing other juveniles from jails and lockups for adults;

(3) diligently carried out the State's plan to comply with such secton 223(a)(14); and

(4) historically expended, and continues to expend, to comply with such section 223(a)(14) an appropriate and significant share of the funds received by the State under subpart I of part B of title II of such Act.

(d) Authorities contained in this section shall remain in effect until the termination date of this Act or until the effective date of

an Act to authorize appropriations for fiscal year 1989 for Juvenile Justice and Delinquency Prevention programs, whichever is earlier.

SEC. 209. (a) Title 8, United States Code, section 1356 is amended by adding the following new subsections:

"(m) Notwithstanding any other provisions of law, all adjudication fees as are designated by the Attorney General in regulations shall be deposited into a separate account entitled 'Immigration Examinations Fee Account' in the Treasury of the United States, whether collected directly by the Attorney General or through clerks of courts: *Provided, however,* That all fees received by the Attorney General from applicants residing in the Virgin Islands of the United States, and in Guam, under this subsection shall be paid over to the treasury of the Virgin Islands and to the treasury of Guam. Virgin Islands. Guam.

"(n) All deposits into the 'Immigration Examinations Fee Account' in excess of $50,000,000 shall remain available until expended to the Attorney General to reimburse any appropriation the amount paid out of such appropriation for expenses in providing immigration adjudication and naturalization services and the collection, safeguarding and accounting for fees deposited in and funds reimbursed from the 'Immigration Examinations Fee Account'. At least annually, deposits in the amount of $50,000,000 shall be transferred from the 'Immigration Examinations Fee Account' to the General Fund of the Treasury of the United States.

"(o) The Attorney General will prepare and submit annually to Congress statements of financial condition of the 'Immigration Examinations Fee Account', including beginning account balance, revenues, withdrawals, and ending account balance and projections for the ensuing fiscal year. Records.

"(p) The provisions set forth in subsections (m), (n), and (o) of this section apply to adjudication and naturalization services performed and to related fees collected on or after October 1, 1988.".

(b) Title 8, United States Code, section 1455(g) is amended by inserting after "Treasury of the United States" the following: "except that all fees collected by the Attorney General on or after October 1, 1988, under the provisions of this subchapter, shall be deposited in the 'Immigration Examinations Fee Account' in the Treasury of the United States established pursuant to the provisions of sections 286 (m), (n), (o), and (p)".

SEC. 210. (a) IN GENERAL.—Section 101(b)(2) of the Immigration and Nationality Act (8 U.S.C. 1101(b)(2)) is amended by inserting before the period at the end the following: ", except that, for purposes of paragraph (1)(F) in the case of an illegitimate child described in paragraph (1)(D) (and not described in paragraph (1)(C)), the term 'parent' does not include the natural father of the child if the father has disappeared or abandoned or deserted the child or if the father has in writing irrevocably released the child for emigration and adoption".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the enactment of section 315 of the Immigration Reform and Control Act of 1986 and shall expire on October 1, 1989. Termination date. 8 USC 1101 note.

SEC. 211. None of the funds appropriated or made available by this Act shall be used prior to October 1, 1989, to issue or implement any final rule in the rulemaking proceeding commenced August 8, 1986 (51 Fed. Reg. 28576-28589).

This title may be cited as the "Department of Justice Appropriations Act, 1989".

Department of State Appropriations Act, 1989.

TITLE III—DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

Notwithstanding section 110 of Public Law 100-204, for necessary expenses of the Department of State and the Foreign Service, not otherwise provided for, including obligations of the United States abroad pursuant to treaties, international agreements, and binational contracts (including obligations assumed in Germany on or after June 5, 1945) and expenses authorized by section 9 of the Act of August 31, 1964, as amended (31 U.S.C. 3721), and section 2 of the State Department Basic Authorities Act of 1956, as amended (22 U.S.C. 2669); telecommunications; expenses necessary to provide maximum physical security in Government-owned and leased properties and vehicles abroad; representation to certain international organizations in which the United States participates pursuant to treaties, ratified by the Senate, conventions, or specific Acts of Congress; acquisition by exchange or purchase of passenger motor vehicles as authorized by 31 U.S.C. 1343, 40 U.S.C. 481(c) and 22 U.S.C. 2674, except that passenger motor vehicles with additional systems and equipment may be purchased without regard to any price limitation otherwise established by law as authorized by 31 U.S.C. 1343(c), $1,784,000,000; and in addition not to exceed $250,000 in registration fees collected pursuant to section 38 of the Arms Export Control Act, as amended, may be used in accordance with section 38(b)(3)(A) of such Act (section 1255(c) of Public Law 100-204).

REPRESENTATION ALLOWANCES

For representation allowances as authorized by section 905 of the Foreign Service Act of 1980, as amended (22 U.S.C. 4085), $4,590,000.

PROTECTION OF FOREIGN MISSIONS AND OFFICIALS

For expenses, not otherwise provided for, to enable the Secretary of State to provide for extraordinary protective services in accordance with the provisions of section 214 of the State Department Basic Authorities Act of 1956 (22 U.S.C. 4314), and to provide for the protection of foreign missions in accordance with the provisions of 3 U.S.C. 208, $9,100,000.

ACQUISITION AND MAINTENANCE OF BUILDINGS ABROAD

For necessary expenses for carrying out the Foreign Service Buildings Act of 1926, as amended (22 U.S.C. 292-300), $240,021,000, to remain available until expended as authorized by 22 U.S.C. 2696(c): *Provided,* That none of the funds appropriated in this paragraph shall be available for acquisition of furniture and furnishings and generators for other departments and agencies.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

For expenses necessary to enable the Secretary of State to meet unforeseen emergencies arising in the Diplomatic and Consular Service pursuant to the requirement of 31 U.S.C. 3526(e), $4,500,000,

to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE AMERICAN INSTITUTE IN TAIWAN

For necessary expenses to carry out the Taiwan Relations Act, Public Law 96-8 (93 Stat. 14), $10,890,000.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the Foreign Service Retirement and Disability Fund, as authorized by law, $107,684,000.

INTERNATIONAL ORGANIZATIONS AND CONFERENCES

CONTRIBUTIONS TO INTERNATIONAL ORGANIZATIONS

Notwithstanding section 102(a) (1) through (11) of Public Law 100-204, for expenses, not otherwise provided for, necessary to meet annual obligations of membership in international multilateral organizations, pursuant to treaties ratified by the Senate, conventions or specific Acts of Congress, $485,940,000: *Provided,* That none of the funds appropriated in this paragraph shall be available for a United States contribution to an international organization for the United States share of interest costs made known to the United States Government by such organization for loans incurred on or after October 1, 1984, through external borrowings. 22 USC 269a note.

CONTRIBUTIONS FOR INTERNATIONAL PEACEKEEPING ACTIVITIES

For payments, not otherwise provided for, by the United States for expenses of the United Nations peacekeeping forces as authorized by law, $29,000,000.

INTERNATIONAL CONFERENCES AND CONTINGENCIES

For necessary expenses authorized by section 5 of the State Department Basic Authorities Act of 1956, contributions for the United States share of general expenses of international organizations and representation to such organizations as provided for by 22 U.S.C. 2656 and 2672 and personal services without regard to civil service and classification laws as authorized by 5 U.S.C. 5102, $6,000,000, to remain available until expended as authorized by 22 U.S.C. 287(e), of which not to exceed $200,000 may be expended for representation as authorized by 22 U.S.C. 2269 and 4085.

INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, to meet obligations of the United States arising under treaties ratified by the Senate, conventions or specific Acts of Congress, as follows: 22 USC 269a note.

INTERNATIONAL BOUNDARY AND WATER COMMISSION, UNITED STATES AND MEXICO

For necessary expenses for the United States Section of the International Boundary and Water Commission, United States and Mexico, and to comply with laws applicable to the United States Section, as follows:

SALARIES AND EXPENSES

For salaries and expenses, not otherwise provided for, including preliminary surveys, operations and maintenance of the interceptor system to be constructed to intercept sewage flows from Tijuana and from selected canyon areas as currently planned, and the operation and maintenance upon completion of the proposed Environmental Protection Agency and Corps of Engineers pipeline and plant project to capture Tijuana sewage flows in the event of a major breakdown in Mexico's conveyance system, $10,261,000: *Provided,* That expenditures for the Rio Grande bank protection project shall be subject to the provisions and conditions contained in the appropriation for said project as provided by the Act approved April 25, 1945 (59 Stat. 89).

CONSTRUCTION

For detailed plan preparation and construction of authorized projects, including the Rio Grande Rectification Improvement project, to remain available until expended as authorized by 22 U.S.C. 2696(c), $3,166,000.

AMERICAN SECTIONS, INTERNATIONAL COMMISSIONS

For necessary expenses, not otherwise provided for, $4,316,000; for the International Joint Commission and the International Boundary Commission, as authorized by treaties between the United States and Canada or Great Britain.

INTERNATIONAL FISHERIES COMMISSIONS

For necessary expenses for international fisheries commissions, not otherwise provided for, as authorized by law, $10,548,000: *Provided,* That the United States share of such expenses may be advanced to the respective commissions, pursuant to 31 U.S.C. 529.

OTHER

UNITED STATES BILATERAL SCIENCE AND TECHNOLOGY AGREEMENTS

For necessary expenses, not otherwise provided, for Bilateral Science and Technology Agreements, as authorized by section 105 of Public Law 100-204, $2,000,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

PAYMENT TO THE ASIA FOUNDATION

For a grant to the Asia Foundation as authorized by section 601 of Public Law 100-204, $13,700,000, to remain available until expended as authorized by 22 U.S.C. 2696(c).

SOVIET-EAST EUROPEAN RESEARCH AND TRAINING

For expenses, not otherwise provided for, to enable the Secretary of State to carry out the provisions of title VIII of Public Law 98-164, $4,600,000.

FISHERMEN'S GUARANTY FUND

For expenses necessary to carry out the provisions of section 7 of the Fishermen's Protective Act of 1967, as amended, $1,725,000, of

which $900,000 is to be derived from the receipts collected pursuant to that Act, to remain available until expended.

GENERAL PROVISIONS—DEPARTMENT OF STATE

SEC. 301. Funds appropriated under this title shall be available, except as otherwise provided, for allowances and differentials as authorized by subchapter 59 of 5 U.S.C.; for services as authorized by 5 U.S.C. 3109; and hire of passenger transportation pursuant to 31 U.S.C. 1343(b).

SEC. 302. The Secretary of State shall report to the appropriate committees of the Congress on the obligation of funds provided for diplomatic security and related expenses every month. Reports. 22 USC 4851 note.

SEC. 303. (a) Section 303 of the Department of State Appropriations Act, 1988 (as contained in section 101(a) of Public Law 100-202), is amended in the first sentence— 22 USC 276 note.

(1) by striking out "$290,000" and inserting in lieu thereof "$340,000";

(2) by striking out "and"; and

(3) by inserting after "Public Law 86-420" the following: ", and section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985.".

(b) Section 109(c) of the Department of State Authorization Act, Fiscal Years 1984 and 1985, is amended— 97 Stat. 1019.

(1) by striking out "Of the amounts" and inserting in lieu thereof "There are";

(2) by striking out "for 'International Organizations and Conferences' "; and

(3) by striking out "may be used".

(c) The amendments made by this section shall take effect on October 1, 1988. Effective date. 22 USC 276 note.

SEC. 304. (a) Section 8 of the United Nations Participation Act of 1945 is amended as follows: 22 USC 287e.

(1) by adding the words "serving abroad" after the words "in section 2 of this Act";

(2) by adding the word "abroad" after the words "such living quarters"; and

(3) by deleting the last sentence of that section.

(b) Section 9 of the United Nations Participation Act of 1945 is amended as follows: 22 USC 287e-1.

(1) by deleting all but subsection (2);

(2) by renumbering subsection (2) as (3) and deleting the word "President" therein and inserting the word "Secretary" in lieu thereof; and

(3) by inserting the following:

"SEC. 9. The Secretary of State may, under such regulations as he shall prescribe, and notwithstanding section 3648 of the Revised Statutes (31 U.S.C. 3324) and section 5536 of title 5, United States Code: Regulations. United Nations. Housing.

"(1) Make available to the Representative of the United States to the United Nations and the Deputy Permanent Representative of the United States to the United Nations living quarters leased or rented by the United States (for periods not exceeding ten years) and allowances for unusual expenses incident to the operation and maintenance of such living quarters similar to those and to be considered for all purposes as authorized by section 22 of the Administrative Expenses Act of

5 USC 73b-1.

1946, as amended by section 311 of the Overseas Differentials and Allowances Act.

New York.

"(2) Make available in New York to no more than 18 foreign service employees of the staff of the United States Mission to the United Nations, other representatives, and no more than two employees who serve at the pleasure of the Representative, living quarters leased or rented by the United States (for periods not exceeding ten years). The number of employees to which such quarters will be made available shall be determined by the Secretary and shall reflect a significant reduction over the number of persons eligible for housing benefits as of the date of enactment of this provision. No employee may occupy a unit under this provision if the unit is owned by the employee. The Secretary shall require that each employee occupying housing under this subsection contribute to the Department of State a percentage of his or her base salary, in an amount to be determined by the Secretary of State, toward the cost of such housing. The Secretary may reduce such payments to the extent of income taxes paid on the value of the leased or rented quarters any payments made by employees to the Department of State for occupancy by them of living quarters leased or rented under this section shall be credited to the appropriation, fund, or account utilized by the Secretary of State for such lease or rental or to the appropriation, fund, or account currently available for such purpose.

Taxes.
Contracts.

"(4) The Inspector General shall review the program established by this section no later than December 1989 and periodically thereafter with a view to increasing cost savings and making other appropriate recommendations.".

(c) TRANSITION PROVISIONS.—

Effective date.
22 USC 287e-1 note.

(1) Provisions set forth in this section shall be effective July 1, 1989.

Taxes.
Termination date.

(2) In the event that taxes paid by an employee on the benefit provided under subsection (2) of section 9 exceed the contribution amount computed as a percentage of base salary under that subsection, the Department of State may reimburse the employee up to the amount of such differential for the period from the date of enactment of this Act through July 1, 1989.

SEC. 305. Notwithstanding section 130 of the Foreign Relations Authorization Act, Fiscal Years 1988-89 and section 414 of the Diplomatic Security Act and any other provisions of law, such funds as are authorized, or that may be authorized, under the Diplomatic Security Act or any other statute, and appropriated to the Department of State under this or any other Act, may be hereafter obligated or expended for site acquisition, development, and construction of two new diplomatic facilities in Israel, Jerusalem, or the West Bank, provided that each facility (A) equally preserves the ability of the United States to locate its Ambassador or its Consul General at that site, consistent with United States policy; (B) shall not be denominated as the United States Embassy or Consulate until after construction of both facilities has begun, and construction of one facility has been completed, or is near completion; and (C) unless security considerations require otherwise, commences operation simultaneously.

SEC. 306. (a) FINDINGS.—The Congress finds that—

(1) The Senate in Public Law 99-399 and S. Res. 31 has twice called on the Secretary of State to review United States policy

with respect to the continued recognition of the Soviet puppet regime in Afghanistan and continued United States diplomatic presence in Kabul to determine whether such recognition and presence is in the interest of the United States and the people of Afghanistan.

(2) The majority and minority leaders of the United States Senate in a letter dated June 15, 1988, called for the appointment of an Ambassador at Large on Afghanistan to coordinate United States policies and programs with the Afghan Resistance.

(3) The Under Secretary of State for Political Affairs, appearing before the Senate Foreign Relations Committee on June 23, 1988, acknowledged that the dangers to the security of American personnel in Kabul, Afghanistan, would be expected to grow in the months ahead.

(4) After more than eight years of warfare, the Resistance continues to control eighty percent of the territory of Afghanistan and has been instrumental in delivering social services and humanitarian resources inside Afghanistan.

(5) The Administration has never responded in a comprehensive manner to the requests enumerated in paragraphs (1) and (2).

(b) IT IS THE SENSE OF THE CONGRESS THAT.—

(1) The Administration should intensify its political dialogue with the Afghan Resistance and interact positively with their political and economic institutions.

(2) The United States should actively seek first-hand information on military and political developments in Afghanistan from the Afghan Resistance and should not rely solely on other countries for such information.

(3) The President should confer diplomatic recognition at an appropriate time on an Afghan Government constituted by the Afghan Resistance that is broad based and genuinely representative of the Afghan people or a government that is directly elected by the Afghan people in a free and fair election.

(c)(1) There is established in the Department of State the position of special envoy to the Afghan Resistance who shall be appointed by the President. President of U.S.

(2) The special envoy shall hold the personal rank of Ambassador, and shall coordinate United States policies and programs with the Afghan Resistance.

(3) It is the sense of the Congress that not later than 30 days after the date of enactment of this Act, the President should exercise the authority under section 302(a)(2)(B) of the Foreign Service Act of 1980 to confer the rank of Ambassador on an individual who shall serve as the special envoy to the Afghan Resistance.

This title may be cited as the "Department of State Appropriations Act, 1989".

TITLE IV—THE JUDICIARY

The Judiciary Appropriations Act, 1989.

SUPREME COURT OF THE UNITED STATES

SALARIES AND EXPENSES

For expenses necessary for the operation of the Supreme Court, as required by law, excluding care of the building and grounds, including purchase or hire, driving, maintenance and operation of an

automobile for the Chief Justice, not to exceed $10,000 for the purpose of transporting Associate Justices, and hire of passenger motor vehicles as authorized by 31 U.S.C. 1343 and 1344; not to exceed $10,000 for official reception and representation expenses; and for miscellaneous expenses, to be expended as the Chief Justice may approve; $15,901,000.

CARE OF THE BUILDING AND GROUNDS

For such expenditures as may be necessary to enable the Architect of the Capitol to carry out the duties imposed upon him by the Act approved May 7, 1934 (40 U.S.C. 13a-13b), including improvements, maintenance, repairs, equipment, supplies, materials, and appurtenances; special clothing for workmen; and personal and other services (including temporary labor without regard to the Classification and Retirement Acts, as amended), and for snow removal by hire of men and equipment or under contract, without compliance with section 3709 of the Revised Statutes, as amended (41 U.S.C. 5), $2,131,000, of which $75,000 shall remain available until expended.

UNITED STATES COURT OF APPEALS FOR THE FEDERAL CIRCUIT

SALARIES AND EXPENSES

For salaries of the chief judge, judges, and other officers and employees, and for necessary expenses of the court, as authorized by law, $8,300,000.

UNITED STATES COURT OF INTERNATIONAL TRADE

SALARIES AND EXPENSES

For salaries of the chief judge and eight judges; salaries of the officers and employees of the court; services as authorized by 5 U.S.C. 3109; and necessary expenses of the court, as authorized by law, $8,000,000.

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For the salaries of circuit and district judges (including judges of the territorial courts of the United States), justices and judges retired from office or from regular active service, judges of the Claims Court, bankruptcy judges, magistrates, and all other officers and employees of the Federal Judiciary not otherwise specifically provided for, and necessary expenses of the courts, as authorized by law, including the purchase of firearms and ammunition, $1,135,000,000: *Provided,* That of the total amount appropriated, $500,000 is to remain available until expended for acquisition of books, periodicals, and newspapers, and all other legal reference materials, including subscriptions: *Provided further,* That the number of staff attorneys to be appointed in each of the courts of appeals shall not exceed the ratio of one attorney for each authorized judgeship, exclusive of the seven attorneys assigned preargument conference duties: *Provided further,* That, notwith-

standing any other provision of law, not to exceed $1,500,000 for expenses of the Claims Court associated with processing cases under the National Childhood Vaccine Injury Act of 1986 shall be reimbursed from the special fund established to pay judgments awarded under the Act: *Provided further,* That any funds hereafter collected by the Judiciary as a charge for services rendered in administering accounts kept in a court's registry shall be deposited into a separate account entitled "Registry Administration Account" in the Treasury of the United States. Such funds shall remain available to the Judiciary until expended to reimburse any appropriation for the amount paid out of such appropriation for expenses of the Courts of Appeals, District Courts and Other Judicial Services and the Administrative Office of the United States Courts: *Provided further,* That such sums as may be available in the fund established pursuant to 28 U.S.C. 1931 may be credited to this appropriation as authorized by section 407(c) of the Judiciary Appropriation Act, 1987 (Public Law 99-591; 100 Stat. 3341-64).

28 USC 2041 note.

DEFENDER SERVICES

For the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act (18 U.S.C. 3006A(e)), and the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, and the compensation of attorneys appointed to represent jurors in civil actions for the protection of their employment, as authorized by 28 U.S.C. 1875(d); $95,100,000, to remain available until expended as authorized by 18 U.S.C. 3006A(i).

FEES OF JURORS AND COMMISSIONERS

For fees and expenses of jurors as authorized by 28 U.S.C. 1871 and 1876; refreshments of jurors; compensation of jury commissioners as authorized by 28 U.S.C. 1863; and compensation of commissioners appointed in condemnation cases pursuant to rule 71A(h) of the Federal Rules of Civil Procedure (28 U.S.C. Appendix Rule 71A(h)); $43,135,000, to remain available until expended: *Provided,* That the compensation of land commissioners shall not exceed the daily equivalent of the highest rate payable under section 5332 of title 5, United States Code.

COURT SECURITY

For necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities; $41,423,000, to be expended directly or transferred to the United States Marshals Service which shall be responsible for administering elements of the Judicial Security Program consistent with standards or guidelines agreed to by the Director of the

Administrative Office of the United States Courts and the Attorney General.

ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS

SALARIES AND EXPENSES

For necessary expenses of the Administrative Office of the United States Courts as authorized by law, including travel, as authorized by 31 U.S.C. 1345 hire of a passenger motor vehicle as authorized by 31 U.S.C. 1343(b), advertising and rent in the District of Columbia and elsewhere, $33,600,000, of which an amount not to exceed $5,000 is authorized for official reception and representation expenses.

FEDERAL JUDICIAL CENTER

SALARIES AND EXPENSES

For necessary expenses of the Federal Judicial Center, as authorized by Public Law 90-219, $11,200,000.

UNITED STATES SENTENCING COMMISSION

SALARIES AND EXPENSES

For the salaries and expenses necessary to carry out the provisions of chapter 58 of title 28, United States Code, $5,183,000.

GENERAL PROVISIONS—THE JUDICIARY

SEC. 401. Appropriations and authorizations made in this title which are available for salaries and expenses shall be available for services as authorized by 5 U.S.C. 3109.

SEC. 402. Appropriations made in this title shall be available for salaries and expenses of the Temporary Emergency Court of Appeals authorized by Public Law 92-210 and the Special Court established under the Regional Rail Reorganization Act of 1973, Public Law 93-236.

SEC. 403. The position of Trustee Coordinator in the Bankruptcy Courts of the United States shall not be limited to persons with formal legal training.

SEC. 404. Notwithstanding any other provision of law, the Administrative Office of the United States Courts, or any other agency or instrumentality of the United States, is prohibited from restricting solely to staff of the Clerks of the United States Bankruptcy Courts the issuance of notices to creditors and other interested parties. The Administrative Office shall permit and encourage the preparation and mailing of such notices to be performed by or at the expense of the debtors, trustees or such other interested parties as the Court may direct and approve. The Director of the Administrative Office of the United States Courts shall make appropriate provisions for the use of and accounting for any postage required pursuant to such directives. The provisions of this paragraph shall terminate on October 1, 1989.

Mail.

Termination date.

Mail.

SEC. 405. Such fees as shall be collected for the preparation and mailing of notices in bankruptcy cases as prescribed by the Judicial Conference of the United States pursuant to 28 U.S.C. 1930(b) shall be deposited to the "Courts of Appeals, District Courts, and Other

Judicial Services, Salaries and Expenses" appropriation to be used for salaries and other expenses incurred in providing these services.

SEC. 406. Section 603 of title 28, United States Code, is amended by striking "three" and inserting in lieu thereof "six".

SEC. 407. The second paragraph of section 332(f) of title 28, United States Code, is amended by striking "level V" and inserting in lieu thereof "level IV".

This title may be cited as "The Judiciary Appropriations Act, 1989".

TITLE V—RELATED AGENCIES

DEPARTMENT OF TRANSPORTATION

MARITIME ADMINISTRATION

READY RESERVE FORCE

For necessary expenses to acquire and maintain a surge shipping capability in the National Defense Reserve Fleet in an advanced state of readiness and related programs, $110,751,000, to remain available until expended, of which $3,000,000 shall be available for maintenance and related expenses of the National Defense Reserve Fleet: *Provided,* That reimbursement may be made to the Operations and Training appropriation for expenses related to this program.

OPERATING-DIFFERENTIAL SUBSIDIES (LIQUIDATION OF CONTRACT AUTHORITY)

For the payment of obligations incurred for operating-differential subsidies as authorized by the Merchant Marine Act, 1936, as amended, $248,900,000, to remain available until expended.

OPERATIONS AND TRAINING

For necessary expenses of operations and training activities authorized by law, $66,250,000, to remain available until expended: *Provided,* That reimbursements may be made to this appropriation from receipts to the "Federal Ship Financing Fund" for administrative expenses in support of that program in addition to any amount heretofore appropriated.

ADMINISTRATIVE PROVISIONS—MARITIME ADMINISTRATION

Utilities. Contracts.

Notwithstanding any other provision of this Act, the Maritime Administration is authorized to furnish utilities and services and make necessary repairs in connection with any lease, contract, or occupancy involving Government property under control of the Maritime Administration and payments received by the Maritime Administration for utilities, services, and repairs so furnished or made shall be credited to the appropriation charged with the cost thereof: *Provided,* That rental payments under any such lease, contract, or occupancy on account of items other than such utilities, services or repairs shall be covered into the Treasury as miscellaneous receipts.

No obligations shall be incurred during the current fiscal year from the construction fund established by the Merchant Marine Act, 1936, or otherwise, in excess of the appropriations and limitations

contained in this Act, or in any prior appropriation Act and all receipts which otherwise would be deposited to the credit of said fund shall be covered into the Treasury as miscellaneous receipts.

ARMS CONTROL AND DISARMAMENT AGENCY

ARMS CONTROL AND DISARMAMENT ACTIVITIES

For necessary expenses, not otherwise provided for, for arms control and disarmament activities, including not to exceed $55,000 for official reception and representation expenses, authorized by the Act of September 26, 1961, as amended (22 U.S.C. 2551 et seq.), $31,030,000.

BOARD FOR INTERNATIONAL BROADCASTING

GRANTS AND EXPENSES

For expenses of the Board for International Broadcasting, including grants to Radio Free Europe/Radio Liberty, Incorporated as authorized by the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2871–2880), $194,900,000, of which not to exceed $52,000 may be made available for official reception and representation expenses as authorized by section 304(a)(8) of the Board for International Broadcasting Act of 1973, as amended (22 U.S.C. 2873(a)(8)).

ISRAEL RELAY STATION

For an additional amount for the Board for International Broadcasting for the purpose of making and overseeing grants to Radio Free Europe/Radio Liberty, Incorporated, and its subsidiaries and of making payments as necessary in order to implement the agreement signed on June 18, 1987, between the United States Government and the Government of Israel to establish and operate a radio relay station in Israel for use by Radio Free Europe/Radio Liberty and the Voice of America, $33,000,000, to remain available until expended.

CHRISTOPHER COLUMBUS QUINCENTENARY JUBILEE COMMISSION

SALARIES AND EXPENSES

For the necessary expenses of the Christopher Columbus Quincentenary Jubilee Commission as authorized by Public Law 98–375, $212,000, to remain available until November 15, 1992, as authorized by section 11(b) of Public Law 98–375.

COMMISSION ON AGRICULTURAL WORKERS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Agricultural Workers as authorized by section 304 of Public Law 99–603 (100 Stat. 3431–3434), $500,000.

COMMISSION ON THE BICENTENNIAL OF THE UNITED STATES CONSTITUTION

SALARIES AND EXPENSES

For necessary expenses of the Commission on the Bicentennial of the United States Constitution authorized by Public Law 98-101 (97 Stat. 719-723), $11,436,000, to remain available until expended, of which $4,500,000 is to be derived from unobligated balances made available under this heading in previous appropriations Acts, and of which $7,500,000 is for carrying out the provisions of Public Law 99-194, including $2,992,000 for implementation of the National Bicentennial Competition on the Constitution and the Bill of Rights and $4,508,000 for educational programs about the Constitution and the Bill of Rights below the university level as authorized by such Act.

COMMISSION ON CIVIL RIGHTS

SALARIES AND EXPENSES

For necessary expenses of the Commission on Civil Rights, including hire of passenger motor vehicles, $5,707,000, of which $2,000,000 is for regional offices and $700,000 is for civil rights monitoring activities: *Provided,* That not to exceed $20,000 may be used to employ consultants: *Provided further,* That not to exceed $185,000 may be used to employ temporary or special needs appointees: *Provided further,* That none of the funds shall be used to employ in excess of four full-time individuals under Schedule C of the Excepted Service, exclusive of one special assistant for each Commissioner whose compensation shall not exceed the equivalent of 150 billable days at the daily rate of a level 11 salary under the General Schedule: *Provided further,* That not to exceed $40,000 shall be available for new, continuing or modifications of contracts for performance of mission-related external services: *Provided further,* That none of the funds shall be used to reimburse Commissioners for more than 75 billable days, with the exception of the Chairman who is permitted 125 billable days: *Provided further,* That the General Accounting Office shall audit the Commission's use of this appropriation under such terms and conditions as deemed appropriate by the Comptroller General and shall report its findings to the Appropriations Committees of the Senate and House of Representatives. Reports.

COMMISSION ON SECURITY AND COOPERATION IN EUROPE

SALARIES AND EXPENSES

For necessary expenses of the Commission on Security and Cooperation in Europe, as authorized by Public Law 94-304, $741,000, to remain available until expended as authorized by section 3 of Public Law 99-7.

COMMISSION FOR THE STUDY OF INTERNATIONAL MIGRATION AND COOPERATIVE ECONOMIC DEVELOPMENT

SALARIES AND EXPENSES

For necessary expenses of the Commission for the Study of International Migration and Cooperative Economic Development as authorized by title VI of Public Law 99-603, $1,290,000.

EQUAL EMPLOYMENT OPPORTUNITY COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Equal Employment Opportunity Commission as authorized by title VII of the Civil Rights Act of 1964, as amended (29 U.S.C. 206(d) and 621-634), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; not to exceed $20,000,000 for payments to State and local enforcement agencies for services to the Commission pursuant to title VII of the Civil Rights Act, as amended, and sections 6 and 14 of the Age Discrimination in Employment Act; $180,712,000, of which $900,000 shall be used to conduct a study in cooperation with the National Academy of Sciences to analyze the potential consequences of the elimination of mandatory retirement on institutions of higher education, as authorized by Public Law 99-592 (100 Stat. 3344): *Provided,* That the final rule regarding unsupervised waivers under the Age Discrimination in Employment Act, issued by the Commission on August 27, 1987 (29 CFR sections 1627.16(c) (1)-(3)), shall not have effect during fiscal year 1989: *Provided further,* That none of the funds may be obligated or expended by the Commission to give effect to any policy or practice pertaining to unsupervised waivers under the Age Discrimination in Employment Act, except that this proviso shall not preclude the Commission from investigating or processing claims of age discrimination, and pursuing appropriate relief in Federal court, regardless of whether an unsupervised waiver of rights has been sought or signed.

FEDERAL COMMUNICATIONS COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Communications Commission, as authorized by law, including uniforms and allowances therefor, as authorized by law (5 U.S.C. 5901-02); not to exceed $300,000, for land and structures; not to exceed $300,000 for improvement and care of grounds and repair to buildings; not to exceed $4,000 for official reception and representation expenses; purchase (not to exceed ten) and hire of motor vehicles; special counsel fees; and services as authorized by 5 U.S.C. 3109; $99,613,000, of which not to exceed $300,000 of the foregoing amount shall remain available until September 30, 1990, for research and policy studies: *Provided,* That none of the funds appropriated by this Act shall be used to repeal, to retroactively apply changes in, or to continue a reexamination of, the policies of the Federal Communications Commission with respect to comparative licensing, distress sales and tax certificates granted under 26 U.S.C. 1071, to expand minority and women ownership of broadcasting licenses, including those

established in the Statement of Policy on Minority Ownership of Broadcasting Facilities, 68 F.C.C. 2d 979 and 69 F.C.C. 2d 1591, as amended 52 R.R. 2d 1313 (1982) and Mid-Florida Television Corp., 60 F.C.C. 2d 607 Rev. Bd. (1978), which were effective prior to September 12, 1986, other than to close MM Docket No. 86-484 with a reinstatement of prior policy and a lifting of suspension of any sales, licenses, applications, or proceedings, which were suspended pending the conclusion of the inquiry: *Provided further,* That none of the funds appropriated to the Federal Communications Commission by this Act may be used to diminish the number of VHF channel assignments reserved for noncommercial educational television stations in the Television Table of Assignments (section 73.606 of title 47, Code of Federal Regulations): *Provided further,* That none of the funds appropriated by this Act may be used to repeal, to retroactively apply changes in, or to begin or continue a reexamination of the rules and the policies established to administer such rules of the Federal Communications Commission as set forth at section 73.3555(c) of title 47 of the Code of Federal Regulations: *Provided further,* That the authority under the Supplemental Appropriations Act, 1985 (Public Law 99-88) with respect to the relocation of the Fort Lauderdale Monitoring Station shall extend through fiscal year 1989 and under the same terms and conditions of Public Law 99-88. 99 Stat. 300.

FEDERAL MARITIME COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Maritime Commission as authorized by section 201(d) of the Merchant Marine Act of 1936, as amended (46 App. U.S.C. 1111), including services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles as authorized by 31 U.S.C. 1343(b); and uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-02; $13,585,000: *Provided,* That not to exceed $1,500 shall be available for official reception and representation expenses.

FEDERAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Federal Trade Commission, including uniforms or allowances therefor, as authorized by 5 U.S.C. 5901-5902; services as authorized by 5 U.S.C. 3109; hire of passenger motor vehicles; and not to exceed $2,000 for official reception and representation expenses; $66,243,000: *Provided,* That the funds appropriated in this paragraph are subject to the limitations and provisions of sections 10(a) and 10(c) (notwithstanding section 10(e)), 11(b), 18, and 20 of the Federal Trade Commission Improvements Act of 1980 (Public Law 96-252; 94 Stat. 374).

INTERNATIONAL TRADE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the International Trade Commission, including hire of passenger motor vehicles and services as authorized by 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $35,958,000.

JAPAN-UNITED STATES FRIENDSHIP COMMISSION

JAPAN-UNITED STATES FRIENDSHIP TRUST FUND

For expenses of the Japan-United States Friendship Commission as authorized by Public Law 94-118, as amended, from the interest earned on the Japan-United States Friendship Trust Fund, $1,415,000; and an amount of Japanese currency not to exceed the equivalent of $1,700,000 based on exchange rates at the time of payment of such amounts as authorized by Public Law 94-118.

LEGAL SERVICES CORPORATION

PAYMENT TO THE LEGAL SERVICES CORPORATION

For payment to the Legal Services Corporation to carry out the purposes of the Legal Services Corporation Act of 1974, as amended, $308,555,000 of which $264,349,000 is for basic field programs, $7,022,000 is for Native American programs, $9,698,000 is for migrant programs, $1,100,000 is for law school clinics, $1,000,000 is for supplemental field programs, $624,000 is for regional training centers, $7,228,000 is for national support, $7,843,000 is for State support, $865,000 is for the Clearinghouse, $510,000 is for computer assisted legal research regional centers, and $8,316,000 is for Corporation management and administration.

MARINE MAMMAL COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Marine Mammal Commission as authorized by title II of Public Law 92-522, as amended, $953,000.

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

SALARIES AND EXPENSES

For necessary expenses of the Office of the United States Trade Representative, including the hire of passenger motor vehicles and the employment of experts and consultants as authorized by 5 U.S.C. 3109, $15,229,000, of which $1,000,000 shall remain available until expended: *Provided,* That not to exceed $69,000 shall be available for official reception and representation expenses.

SECURITIES AND EXCHANGE COMMISSION

SALARIES AND EXPENSES

For necessary expenses of the Securities and Exchange Commission, including services as authorized by 5 U.S.C. 3109, and not to exceed $3,000 for official reception and representation expenses, $142,640,000, of which not to exceed $10,000 may be used toward funding a permanent secretariat for the International Association of Securities Commissioners.

SMALL BUSINESS ADMINISTRATION

SALARIES AND EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses, not otherwise provided for, of the Small Business Administration, including hire of passenger motor vehicles and not to exceed $2,500 for official reception and representation expenses, $228,490,000, of which $45,000,000 shall be available for grants for performance in fiscal year 1989 or fiscal year 1990 for Small Business Development Centers as authorized by section 21(a) of the Small Business Act, as amended: *Provided,* That not more than $350,000 of this amount shall be made available to pay the expenses of the National Small Business Development Center Advisory Board and to reimburse centers for participating in evaluations as provided in section 20(a) of such Act, and to maintain a clearinghouse as provided in section 21(g)(2) of such Act: *Provided further,* That none of the funds appropriated or made available by this Act or otherwise appropriated or made available to the Small Business Administration shall be used to adopt, implement, or enforce any rule or regulation with respect to the Small Business Development Center program authorized by section 21 of the Small Business Act, as amended (15 U.S.C. 648) nor may any of such funds be used to impose any restrictions, conditions or limitations on such program whether by standard operating procedure, audit guidelines or otherwise, unless such restrictions, conditions or limitations were in effect on October 1, 1987, unless specifically approved by the Committees on Appropriations under reprogramming procedures except that this provision shall not apply to uniform common rules applicable to multiple Federal departments and agencies including the Small Business Administration; nor may any of such funds be used to restrict in any way the right of association of participants in such program: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased loan guaranty fee or debenture guaranty fee unless specifically permitted by subsequently enacted authorizing legislation: *Provided further,* That none of the funds appropriated for the Small Business Administration under this Act may be used to impose any new or increased user fee or management assistance fee unless the Administration notifies the Appropriations Committees of the Senate and the House of Representatives and the Committees on Small Business of the Senate and the House of Representatives at least 30 days prior to the imposition of such fee. In addition, such sums as may be necessary for disaster loan-making activities, including loan servicing, shall be transferred to this appropriation from the "Disaster Loan Fund".

REVOLVING FUNDS

The Small Business Administration is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to its revolving funds, and in accord with the law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal

year for the "Disaster Loan Fund", the "Business Loan and Investment Fund", the "Lease Guarantees Revolving Fund", the "Pollution Control Equipment Contract Guarantees Revolving Fund", and the "Surety Bond Guarantees Revolving Fund".

BUSINESS LOAN AND INVESTMENT FUND

For additional capital for the "Business Loan and Investment Fund", $85,500,000, to remain available without fiscal year limitation; and for additional capital for new direct loan obligations to be incurred by the "Business Loan and Investment Fund", $82,000,000, to remain available without fiscal year limitation: *Provided,* That no funds appropriated under this Act may be used to sell direct loans which are held by the Small Business Administration or any loan guaranty or debenture guaranty made by the Small Business Administration under the authority contained in the Small Business Investment Act of 1958, and which was held by the Federal Financing Bank on September 30, 1987: *Provided further,* That up to $5,000,000 of the unobligated balances available in the "Business Loan and Investment Fund" may be transferred to "Salaries and Expenses", Small Business Administration upon notification by the Administrator to the Committees on Appropriations of the House and Senate in compliance with provisions set forth in section 606 of this Act.

SURETY BOND GUARANTEES REVOLVING FUND

For additional capital for the "Surety Bond Guarantees Revolving Fund", authorized by the Small Business Investment Act, as amended, $9,497,000, to remain available without fiscal year limitation.

POLLUTION CONTROL EQUIPMENT CONTRACT

GUARANTEE REVOLVING FUND

For additional capital for the "Pollution control equipment contract guarantee revolving fund" authorized by the Small Business Investment Act, as amended, $13,656,000, to remain available without fiscal year limitation.

STATE JUSTICE INSTITUTE

SALARIES AND EXPENSES

For necessary expenses of the State Justice Institute, as authorized by Public Law 98-620, $10,980,000, to remain available until expended: *Provided,* That authorities contained in Public Law 98-620, The State Justice Institute Act of 1984, shall remain in effect until the termination date of this Act or until the effective date of a State Justice Institute Authorization Act, whichever is earlier.

Termination date.

UNITED STATES INFORMATION AGENCY

SALARIES AND EXPENSES

For expenses, not otherwise provided for, necessary to enable the United States Information Agency, as authorized by the Mutual

Educational and Cultural Exchange Act of 1961, as amended (22 U.S.C. 2451 et seq.), and the United States Information and Educational Exchange Act of 1948, as amended (22 U.S.C. 1431 et seq.), to carry out international communication, educational and cultural activities; and to carry out related activities authorized by law, including employment, without regard to civil service and classification laws, of persons on a temporary basis (not to exceed $270,000, of this appropriation), as authorized by 22 U.S.C. 1471, expenses authorized by the Foreign Service Act of 1980 (22 U.S.C. 3901 et seq.), living quarters as authorized by 5 U.S.C. 5912, and allowances as authorized by 5 U.S.C. 5921-5928 and 22 U.S.C. 287e-1; and entertainment, including official receptions, within the United States, not to exceed $20,000 as authorized by 22 U.S.C. 1474(3); $620,347,000, none of which shall be restricted from use for the purposes appropriated herein and of which $38,500,000 shall be available for the Television and Film Service: *Provided,* That not to exceed $1,132,000 may be used for representation abroad as authorized by 22 U.S.C. 1452 and 4085: *Provided further,* That not to exceed $9,546,300 of the amounts allocated by the United States Information Agency to carry out section 102(a)(3) of the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2452(a)(3)), shall remain available until expended: *Provided further,* That not to exceed $500,000 shall remain available until expended as authorized by 22 U.S.C. 1477(b), for expenses (including those authorized by the Foreign Service Act of 1980) and equipment necessary for maintenance and operation of data processing and administrative services as authorized by 31 U.S.C. 1535-1536: *Provided further,* That not to exceed $4,650,000 may be credited to this appropriation from fees or other payments received from or in connection with English teaching, library, motion picture, and television programs as authorized by section 810 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That the funds appropriated by this paragraph shall be available notwithstanding section 201(2) and 301(a)(6) of Public Law 100-204 and notwithstanding section 701 of the United States Information and Educational Exchange Act of 1948, as amended: *Provided further,* That the funds appropriated in this paragraph shall be available as authorized by Reorganization Plan No. 2 of 1977 (91 Stat. 1636).

EDUCATIONAL AND CULTURAL EXCHANGE PROGRAMS

For expenses of Fulbright, International Visitor, Humphrey Fellowship, Private Sector, and Congress-Bundestag Exchange Programs, as authorized by the Mutual Educational and Cultural Exchange Act, as amended (22 U.S.C. 2451 et seq.), Reorganization Plan No. 2 of 1977 (91 Stat. 1636) $150,040,000, of which $9,290,000 is for Private Sector programs including up to $1,500,000, to remain available until expended, for the Eisenhower Exchange Fellowship Program.

RADIO CONSTRUCTION

For an additional amount for the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $65,000,000, to remain available until expended as authorized by 22

U.S.C. 1477b(a): *Provided,* That not to exceed $7,500,000 of these funds may be available for the purchase, rent, construction, improvement and equipping of facilities for and startup operations including a test of television broadcasting to Cuba: *Provided further,* That in conducting such startup operations the United States Information Agency shall use a tethered aerostat operated and located at Cudjoe Key Air Force Base in Key West, Florida, if feasible and subject to reimbursement, for both the United States Customs Service's drug interdiction efforts and the United States Information Agency's test of television broadcasting to Cuba: *Provided further,* That the Department of Defense shall provide the necessary military support required to support this effort to the maximum extent possible: *Provided further,* That all such television broadcasting activities shall be conducted for the same purposes and, to the extent feasible, under the same conditions, direction and controls as the radio broadcasting activities authorized by the Radio Broadcasting to Cuba Act: *Provided further,* That notwithstanding the preceding proviso, section 7 of the Radio Broadcasting to Cuba Act shall not apply to television broadcasting station licensees.

RADIO BROADCASTING TO CUBA

For an additional amount, necessary to enable the United States Information Agency to carry out the Radio Broadcasting to Cuba Act (providing for the Radio Marti Program or Cuba Service of the Voice of America), including the purchase, rent, construction, and improvement of facilities for radio transmission and reception and purchase and installation of necessary equipment for radio transmission and reception as authorized by 22 U.S.C. 1471, $11,175,000.

EAST-WEST CENTER

To enable the Director of the United States Information Agency to provide for carrying out the provisions of the Center for Cultural and Technical Interchange Between East and West Act of 1960, by grant to any appropriate recipient in the State of Hawaii, $20,000,000: *Provided,* That none of the funds appropriated herein shall be used to pay any salary, or to enter into any contract providing for the payment thereof, in excess of the rate authorized for GS-18 of the Classification Act of 1949, as amended, exclusive of any cap on such rate.

NATIONAL ENDOWMENT FOR DEMOCRACY

For grants made by the United States Information Agency to the National Endowment for Democracy as authorized by the National Endowment for Democracy Act, $15,800,000.

TITLE VI—GENERAL PROVISIONS

SEC. 601. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 602. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

Contracts. Records. Public information.

SEC. 603. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5

U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 604. If any provision of this Act or the application of such provision to any person or circumstances shall be held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

Disadvantaged persons.

SEC. 605. Funds appropriated to the Legal Services Corporation and distributed to each grantee funded in fiscal year 1989 pursuant to the number of poor people determined by the Bureau of the Census to be within its geographical area shall be distributed in the following order:

Grants. Contracts.

(1) grants from the Legal Services Corporation and contracts entered into with the Legal Services Corporation under section 1006(a)(1) shall be maintained in fiscal year 1989 at not less than $8.58 per poor person within the geographical area of each grantee or contractor under the 1980 census or 2 cents per poor person more than the annual per-poor-person level at which each grantee and contractor was funded in fiscal year 1988, whichever is greater; and

(2) each such grantee shall be increased by an equal percentage of the amount by which such grantee's funding, including the increase under (1) above, falls below $15.75 per poor person within its geographical area under the 1980 census:

Provided, That none of the funds appropriated in this Act for the Legal Services Corporation shall be used to bring a class action suit against the Federal Government or any State or local government unless—

(1) the project director of a recipient has expressly approved the filing of such an action in accordance with policies established by the governing body of such recipient;

(2) the class relief which is the subject of such an action is sought for the primary benefit of individuals who are eligible for legal assistance; and

(3) that prior to filing such an action, the recipient project director has determined that the government entity is not likely to change the policy or practice in question, that the policy or practice will continue to adversely affect eligible clients, that the recipient has given notice of its intention to seek class relief and that responsible efforts to resolve without litigation the adverse effects of the policy or practice have not been successful or would be adverse to the interest of the clients:

except that this proviso may be superseded by regulations governing the bringing of class action suits promulgated by a majority of the Board of Directors of the Corporation who have been confirmed in accordance with section 1004(a) of the Legal Services Corporation Act: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used—

(1) to pay for any publicity or propaganda intended or designed to support or defeat legislation pending before Congress or State or local legislative bodies or intended or designed to influence any decision by a Federal, State, or local agency;

(2) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or

other device, intended or designed to influence any decision by a Federal, State, or local agency, except when legal assistance is provided by an employee of a recipient to an eligible client on a particular application, claim, or case, which directly involves the client's legal rights or responsibilities;

(3) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official—

(A) to favor or oppose any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council or any similar governing body acting in a legislative capacity,

(B) to favor or oppose an authorization or appropriation directly affecting the authority, function, or funding of the recipient or the Corporation, or

(C) to influence the conduct of oversight proceedings of the recipient or the Corporation;

(4) to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or any other device intended or designed to influence any Member of Congress or any other Federal, State, or local elected official to favor or oppose any Act, bill, resolution, or similar legislation, except that this proviso shall not preclude funds from being used to provide communication directly to a Federal, State, or local elected official on a specific and distinct matter where the purpose of such communication is to bring the matter to the official's attention if—

(A) the project director of a recipient has expressly approved in writing the undertaking of such communication to be made on behalf of a client or class of clients in accordance with policy established by the governing body of the recipient; and

(B) the project director of a recipient has determined prior to the undertaking of such communication, that—

(i) the client and each client is in need of relief which can be provided by the legislative body involved;

(ii) appropriate judicial and administrative relief have been exhausted; and

(iii) documentation has been secured from each eligible client that includes a statement of the specific legal interests of the client, except that such communication may not be the result of participation in a coordinated effort to provide such communications under this proviso; and

(C) the project director of a recipient maintains documentation of the expense and time spent under this proviso as part of the records of the recipient; or

(D) the project director of a recipient has approved the submission of a communication to a legislator requesting introduction of a private relief bill:

Communications and telecommunications. State and local governments.

except that nothing in this proviso shall prohibit communications made in response to a request from a Federal, State, or local official: *Provided further,* That none of the funds appropriated in this Act made available by the Legal Services Corporation may be used to pay for any administrative or related costs associated with an

activity prohibited in clause (1), (2), (3), or (4) of the previous proviso: *Provided further,* That none of the funds appropriated under this Act for the Legal Services Corporation will be expended to provide legal assistance for or on behalf of any alien unless the alien is present in the United States and is—

(1) an alien lawfully admitted for permanent residence as defined in section 101(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(20));

(2) an alien who is either married to a United States citizen or is a parent or an unmarried child under the age of twenty-one years of such a citizen and who has filed an application for adjustment of status to permanent resident under the Immigration and Nationality Act, and such application has not been rejected;

(3) an alien who is lawfully present in the United States pursuant to an admission under section 207 of the Immigration and Nationality Act (8 U.S.C. 1157, relating to refugee admissions) or who has been granted asylum by the Attorney General under such Act; or

(4) an alien who is lawfully present in the United States as a result of the Attorney General's withholding of deportation pursuant to section 243(h) of the Immigration and Nationality Act (8 U.S.C. 1253(h)):

Provided further, That an alien who is lawfully present in the United States as a result of being granted conditional entry pursuant to section 203(a)(7) of the Immigration and Nationality Act (8 U.S.C. 1153(a)(7)) before April 1, 1980, because of persecution or fear of persecution on account of race, religion, or political opinion or because of being uprooted by catastrophic natural calamity shall be deemed, for purposes of the previous proviso, to be an alien described in clause (3) of the previous proviso: *Provided further,* That none of the funds appropriated for the Legal Services Corporation may be used to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, including the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients or to advise any eligible client as to the nature of the legislative process or inform any eligible client of his rights under statute, order, or regulation: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to insure that financial assistance under this Act shall not be terminated, and a suspension of financial assistance shall not be continued for more than thirty days, unless the grantee, contractor, or person or entity receiving financial assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing and, when requested, such hearing shall be conducted by an independent hearing examiner, subject to the following conditions—

(1) such request for a hearing shall be made to the Corporation within thirty days after receipt of notice to terminate financial assistance, deny an application for refunding, or sus-

pend financial assistance and such hearing shall be conducted within thirty days of receipt of such request for a hearing;

(2) the Corporation shall make such final decision within thirty days after completion of such hearing; and

(3) hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation:

Provided further, That none of the funds appropriated in this Act for the Legal Services Corporation may be used to carry out the procedures established pursuant to section 1011(2) of the Legal Services Corporation Act unless the Corporation prescribes procedures to ensure that an application for refunding shall not be denied unless the grantee, contractor, or person or entity receiving assistance under this Act has been afforded reasonable notice and opportunity for a timely, full, and fair hearing to show cause why such action should not be taken and subject to all other conditions of the previous proviso: *Provided further,* That none of the funds appropriated in this Act for the Legal Services Corporation shall be used by the Corporation in making grants or entering into contracts for legal assistance unless the Corporation insures that the recipient is either (1) a private attorney or attorneys (for the sole purpose of furnishing legal assistance to eligible clients) or (2) a qualified nonprofit organization chartered under the laws of one of the States, a purpose of which is furnishing legal assistance to eligible clients, the majority of the board of directors or other governing body of which organization is comprised of attorneys who are admitted to practice in one of the States and who are appointed to terms of office on such board or body by the governing bodies of State, county, or municipal bar associations the membership of which represents a majority of the attorneys practicing law in the locality in which the organization is to provide legal assistance: *Provided further,* That none of the funds appropriated in this Act for the Corporation shall be used, directly or indirectly, by the Corporation to promulgate new regulations or to enforce, implement, or operate in accordance with regulations effective after April 27, 1984, unless the Appropriations Committees of both Houses of Congress have been notified fifteen days prior to such use of funds as provided for in section 606 of this Act: *Provided further,* That none of the funds appropriated to the Legal Services Corporation for fiscal years prior to fiscal year 1986 and carried over into fiscal year 1989, either by the Corporation itself or by any recipient of such funds, may be expended, unless such funds are expended in accordance with the preceding restrictions and provisos, except that such funds may be expended for the continued representation of aliens prohibited by said provisos where such representation commenced prior to January 1, 1983, or as approved by the Corporation: *Provided further,* That if a Presidential Order pursuant to Public Law 100-119, the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987, is issued for fiscal year 1989, funds provided to each grantee of the Legal Services Corporation shall be reduced by the percentage specified in the Presidential Order: *Provided further,* That if funds become available to the Legal Services Corporation because a national support center has been defunded or denied refunding pursuant to section 1011(2) of the Legal Services Corporation Act, as amended by this Act, such funds may be transferred to basic field programs to be distributed in the manner specified by this Act: *Provided further,* That none of the funds appropriated by this Act or prior Acts or any

other funds available to the Corporation or a recipient may be used by an officer, board member, employee or consultant of the Corporation or by any recipient to implement or enforce the 1984 and 1986 regulations on legislative and administrative advocacy (Part 1612) or to implement, enforce or keep in effect provisions in the regulation regarding legislative and administrative advocacy and training (Part 1612, 52 FR 28434 (July 29, 1987)) which impose restrictions on private funds except to the extent that such restrictions are explicity set forth in sections 1007 (a)(5), (b)(6), (b)(7), and 1010(c) of the Legal Services Corporation Act, as amended: *Provided further,* That the Corporation shall not impose requirements on governing bodies of the recipients that are additional to, or more restrictive than, the provisions of this Act and section 1007(c) of the Legal Services Corporation Act, as amended, including, but not limited to (1) the procedures of appointment, including the political affiliation and the length of terms of board members and (2) the size, quorum requirements and committee operations of such governing bodies: *Provided further,* That none of the funds appropriated under this Act to the Legal Services Corporation may be used by the Corporation or any recipient to participate in any litigation with respect to abortion: *Provided further,* That the Corporation shall utilize the same formula for distribution of fiscal year 1989 migrant funds as was used in fiscal year 1988: *Provided further,* That the fourteenth and fifteenth provisos of this section (relating to Parts 1607 and 1612 of the Corporation's regulations) shall expire upon action by the United States Senate confirming a Board of Directors of the Legal Services Corporation composed of individuals who are nominated by the President after January 20, 1989: *Provided further,* That a Board of Directors of the Legal Services Corporation, composed of individuals nominated by the President after January 20, 1989 and subsequently confirmed by the United States Senate, shall develop and implement a system for the competitive award of all grants and contracts, including support centers, to take effect after September 30, 1989.

Termination date.

42 USC 2996f note.
President of U.S.
Grants.
Contracts.
Effective date.

SEC. 606. (a) None of the funds provided under this Act shall be available for obligation or expenditure through a reprogramming of funds which: (1) creates new programs; (2) eliminates a program, project, or activity; (3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted; (4) relocates an office or employees; (5) reorganizes offices, programs, or activities; or (6) contracts out or privatizes any functions or activities presently performed by Federal employees; unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

(b) None of the funds provided under this Act shall be available for obligation or expenditure for activities, programs, or projects through a reprogramming of funds in excess of $250,000 or 10 per centum, whichever is less, that: (1) augments existing programs, projects, or activities; (2) reduces by 10 per centum funding for any existing program, project, or activity, or numbers of personnel by 10 per centum as approved by Congress; or (3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress, unless the Appropriations Committees of both Houses of Congress are notified fifteen days in advance of such reprogramming of funds.

Wages. Government organization and employees. Regulations. 47 USC 303 note.

SEC. 607. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

SEC. 608. By January 31, 1989, the Federal Communications Commission shall promulgate regulations in accordance with section 1464, title 18, United States Code, to enforce the provisions of such section on a 24 hour per day basis.

SEC. 609. No funds appropriated under this Act may be expended by the United States Civil Rights Commission, directly or indirectly, for the purpose of enforcing subpoenas issued in conjunction with any investigations by the Commission into implementation by Indian tribal governments of title II of the Civil Rights Act of 1968, also known as the Indian Civil Rights Act (Act of April 11, 1968; 82 Stat. 77; 25 U.S.C. 1301, et seq.), until sixty days following the receipt by this Committee and the Select Committee on Indian Affairs of an opinion by the Comptroller General of the United States regarding the scope of authority and jurisdiction of the United States Civil Rights Commission over Indian tribal government officials pursuant to the Indian Civil Rights Act.

SEC. 610. Public Law 98-101 is amended by inserting at the end of section 5 the following subsections— 97 Stat. 720.

"(m) Amounts received under subsection (h) and subsection (j) of this section shall be available to the Commission for official reception and representation expenses.

Printing.

"(n) An income account shall be available to the Commission without fiscal year limitation for printing, without regard to section 501 of title 44, and for distribution of Commission publications. The capital for the account shall consist of receipts from sales of Commission publications bearing the Bicentennial logo, including receipts received prior to the date of enactment of this subsection. Any unobligated and unexpended balance in the account which the Commission determines to be in excess of amounts needed for printing and distribution of publications, and any unobligated balance remaining in the account on December 31, 1991, shall be deposited in the Treasury of the United States.".

This Act may be cited as the "Departments of Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Act, 1989".

Approved October 1, 1988.

LEGISLATIVE HISTORY— H.R. 4782:

HOUSE REPORTS: No. 100-688 (Comm. on Appropriations) and No. 100-979 (Comm. of Conference).
SENATE REPORTS: No. 100-388 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 15, considered and passed House.
July 26, 27, considered and passed Senate, amended.
Sept. 27, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.

Public Law 100-460
100th Congress

An Act

Making appropriations for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes.

Oct. 1, 1988
[H.R. 4784]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for Rural Development, Agriculture, and Related Agencies programs for the fiscal year ending September 30, 1989, and for other purposes; namely:

Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989.

TITLE I—AGRICULTURAL PROGRAMS

PRODUCTION, PROCESSING AND MARKETING

OFFICE OF THE SECRETARY

For necessary expenses of the Office of the Secretary of Agriculture, including the direct supervision of the Soil Conservation Service and the Forest Service, and not to exceed $50,000 for employment under 5 U.S.C. 3109, $1,762,000: *Provided,* That not to exceed $8,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Secretary.

OFFICE OF THE DEPUTY SECRETARY

For necessary expenses of the Office of the Deputy Secretary of Agriculture, including not to exceed $25,000 for employment under 5 U.S.C. 3109, $363,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses, not otherwise provided for, as determined by the Deputy Secretary.

OFFICE OF THE ASSISTANT TO THE SECRETARY FOR SPECIAL SERVICES

For necessary salaries and expenses to continue the Office of the Assistant to the Secretary for purposes of providing special services to the Department, $150,000: *Provided,* That none of these funds shall be available for the supervision or management of Natural Resources and Environmental activities, the Soil Conservation Service, or the Forest Service, or any other activities or functions associated therewith.

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION

For necessary expenses of the Office of the Assistant Secretary for Administration to carry out the programs funded in this Act, $467,000.

RENTAL PAYMENTS (USDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Department of Agriculture which are included in this Act, $50,659,000, of which $3,000,000 shall be retained by the Department of Agriculture for non-recurring repairs as determined by the Department of Agriculture: *Provided*, That in the event an agency within the Department of Agriculture should require modification of space needs, the Secretary of Agriculture may transfer a share of that agency's appropriation made available by this Act to this appropriation, or may transfer a share of this appropriation to that agency's appropriation, but such transfers shall not exceed 10 per centum of the funds made available for space rental and related costs to or from this account.

BUILDING OPERATIONS AND MAINTENANCE

For the operation, maintenance, and repair of Agriculture buildings pursuant to the delegation of authority from the Administrator of General Services authorized by 40 U.S.C. 486, $21,297,000.

ADVISORY COMMITTEES (USDA)

For necessary expenses for activities of Advisory Committees of the Department of Agriculture which are included in this Act, $1,494,000: *Provided*, That no other funds appropriated to the Department of Agriculture in this Act shall be available to the Department of Agriculture for support of activities of Advisory Committees.

HAZARDOUS WASTE MANAGEMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Department of Agriculture, except for expenses of the Commodity Credit Corporation, to comply with the requirement of section 107g of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, 42 U.S.C. 9607g, and section 6001 of the Resource Conservation and Recovery Act, as amended, 42 U.S.C. 6961, $5,000,000, to remain available until expended: *Provided*, That appropriations and funds available herein to the Department of Agriculture for hazardous waste management may be transferred to any agency of the Department for its use in meeting all requirements pursuant to the above Acts on Federal and non-Federal lands.

DEPARTMENTAL ADMINISTRATION

(INCLUDING TRANSFERS OF FUNDS)

For Budget and Program Analysis, $4,389,000; for Personnel, Finance and Management, Operations, Information Resources Management, Advocacy and Enterprise, and Administrative Law Judges and Judicial Officer, $21,271,000 and in addition, for payment of the USDA share of the National Communications System, $262,000; making a total of $25,922,000 for Departmental Administration to provide for necessary expenses for management support

services to offices of the Department of Agriculture and for general administration and emergency preparedness of the Department of Agriculture, repairs and alterations, and other miscellaneous supplies and expenses not otherwise provided for and necessary for the practical and efficient work of the Department of Agriculture, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 is for employment under 5 U.S.C. 3109: *Provided,* That this appropriation shall be reimbursed from applicable appropriations in this Act for travel expenses incident to the holding of hearings as required by 5 U.S.C. 551-558.

WORKING CAPITAL FUND

An amount of $4,708,000 is hereby appropriated to the Departmental Working Capital Fund to increase the Government's equity in this fund and to provide for the purchase of automated data processing, data communication, and other related equipment necessary for the provision of Departmental centralized services to the agencies.

OFFICE OF THE ASSISTANT SECRETARY FOR GOVERNMENTAL AND PUBLIC AFFAIRS

For necessary expenses of the Office of the Assistant Secretary for Governmental and Public Affairs to carry out the programs funded in this Act, $408,000.

PUBLIC AFFAIRS

For necessary expenses to carry on services relating to the coordination of programs involving public affairs, and for the dissemination of agricultural information and the coordination of information, work and programs authorized by Congress in the Department, $7,883,000 including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), of which not to exceed $10,000 shall be available for employment under 5 U.S.C. 3109, and not to exceed $2,000,000, may be used for farmers' bulletins and not fewer than two hundred thirty-two thousand two hundred and fifty copies for the use of the Senate and House of Representatives of part 2 of the annual report of the Secretary (known as the Yearbook of Agriculture) as authorized by 44 U.S.C. 1301: *Provided,* That in the preparation of motion pictures or exhibits by the Department, this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

CONGRESSIONAL RELATIONS

For necessary expenses for liaison with the Congress on legislative matters, $497,000.

INTERGOVERNMENTAL AFFAIRS

For necessary expenses for programs involving intergovernmental affairs and liaison within the executive branch, $479.000.

OFFICE OF THE INSPECTOR GENERAL

For necessary expenses of the Office of the Inspector General, including employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), $50,491,000 including such sums as may be necessary for contracting and other arrangements with public agencies and private persons pursuant to section 6(a)(8) of the Inspector General Act of 1978 (Public Law 95-452), and including a sum not to exceed $50,000 for employment under 5 U.S.C. 3109; and including a sum not to exceed $95,000 for certain confidential operational expenses including the payment of informants, to be expended under the direction of the Inspector General pursuant to Public Law 95-452 and section 1337 of Public Law 97-98.

OFFICE OF THE GENERAL COUNSEL

For necessary expenses of the Office of the General Counsel, $20,836,000.

OFFICE OF THE ASSISTANT SECRETARY FOR ECONOMICS

For necessary expenses of the Office of the Assistant Secretary for Economics to carry out the programs funded in this Act, $447,000.

ECONOMIC RESEARCH SERVICE

For necessary expenses of the Economic Research Service in conducting economic research and service relating to agricultural production, marketing, and distribution, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and other laws, including economics of marketing; analyses relating to farm prices, income and population, and demand for farm products, use of resources in agriculture, adjustments, costs and returns in farming, and farm finance; research relating to the economic and marketing aspects of farmer cooperatives; and for analyses of supply and demand for farm products in foreign countries and their effect on prospects for United States exports, progress in economic development and its relation to sales of farm products, assembly and analysis of agricultural trade statistics and analysis of international financial and monetary programs and policies as they affect the competitive position of United States farm products, $49,336,000; of which $500,000 shall be available for investigation, determination and finding as to the effect upon the production of food and upon the agricultural economy of any proposed action affecting such subject matter pending before the Administrator of the Environmental Protection Agency for presentation, in the public interest, before said Administrator, other agencies or before the courts: *Provided,* That this appropriation shall be available to continue to gather statistics and conduct a special study on the price spread between the farmer and the consumer: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225): *Provided further,* That this appropriation shall be available for analysis of statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

NATIONAL AGRICULTURAL STATISTICS SERVICE

For necessary expenses of the National Agricultural Statistics Service in conducting statistical reporting and service work, including crop and livestock estimates, statistical coordination and improvements, and marketing surveys, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627) and other laws, $63,588,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109.

WORLD AGRICULTURAL OUTLOOK BOARD

For necessary expenses of the World Agricultural Outlook Board to coordinate and review all commodity and aggregate agricultural and food data used to develop outlook and situation material within the Department of Agriculture, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1622g), $1,820,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

OFFICE OF THE ASSISTANT SECRETARY FOR SCIENCE AND EDUCATION

For necessary salaries and expenses of the Office of the Assistant Secretary for Science and Education to administer the laws enacted by the Congress for the Agricultural Research Service, Cooperative State Research Service, Extension Service, and National Agricultural Library, $432,000.

AGRICULTURAL RESEARCH SERVICE

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to enable the Agricultural Research Service to perform agricultural research and demonstration relating to production, utilization, marketing, and distribution (not otherwise provided for), home economics or nutrition and consumer use, and for acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100, $561,581,000: *Provided,* That appropriations hereunder shall be available for temporary employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $115,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That funds appropriated herein can be used to provide financial assistance to the organizers of national and international conferences, if such conferences are in support of agency programs: *Provided further,* That appropriations hereunder shall be available for the operation and maintenance of aircraft and the purchase of not to exceed one for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Agricultural Research Service shall not be in excess of $400 annually: *Provided further,* That appropriations hereunder shall be available to conduct marketing research: *Provided further,* That appropriations hereunder shall be available pursuant to 7 U.S.C. 2250 for the construction, alteration, and repair of buildings and improvements, but unless otherwise provided the cost of constructing any one building shall not exceed $175,000,

7 USC 2254.

7 USC 2254.

except for headhouses connecting greenhouses which shall each be limited to $500,000, and except for ten buildings to be constructed or improved at a cost not to exceed $300,000 each, and the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building or $175,000 whichever is greater: *Provided further,* That the limitations on alterations contained in this Act shall not apply to a total of $300,000 for facilities at Beltsville, Maryland: *Provided further,* That the foregoing limitations shall not apply to replacement of buildings needed to carry out the Act of April 24, 1948 (21 U.S.C. 113a): *Provided further,* That the foregoing limitations on purchase of land shall not apply to the purchase of land at the Grand Forks Human Nutrition Center, Grand Forks, North Dakota: *Provided further,* That not to exceed $190,000 of this appropriation may be transferred to and merged with the appropriation for the Office of the Assistant Secretary for Science and Education for the scientific review of international issues involving agricultural chemicals and food additives.

Special fund: To provide for additional labor, subprofessional, and junior scientific help to be employed under contracts and cooperative agreements to strengthen the work at Federal research installations in the field, $1,800,000.

BUILDINGS AND FACILITIES

(INCLUDING TRANSFERS OF FUNDS)

For acquisition of land, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities and for grants to States and other eligible recipients for such purposes, as necessary to carry out the agricultural research, extension and teaching programs of the Department of Agriculture, where not otherwise provided, $28,350,000: *Provided,* That these funds may be transferred to such other accounts in this Act as may be appropriate to carry out these purposes: *Provided further,* That facilities to house Bonsai collections at the National Arboretum may be constructed with funds accepted under the provisions of Public Law 94-129 (20 U.S.C. 195) and the limitation on construction contained in the Act of August 24, 1912 (40 U.S.C. 68) shall not apply to the construction of such facilities: *Provided further,* That funds recovered in satisfaction of judgment at the Plum Island Animal Disease Center shall be available and augment funds appropriated in a prior fiscal year for construction at Plum Island Animal Disease Center and be used for construction necessary to consolidate research and operations at the Center and for renovation of the Beltsville Agricultural Research Center.

20 USC 191 note.

COOPERATIVE STATE RESEARCH SERVICE

For payments to agricultural experiment stations, for cooperative forestry and other research, for facilities, and for other expenses, including $155,545,000 to carry into effect the provisions of the Hatch Act approved March 2, 1887, as amended by the Act approved August 11, 1955 (7 U.S.C. 361a-361i), and further amended by Public Law 92-318 approved June 23, 1972, and further amended by Public Law 93-471 approved October 26, 1974, including administration by the United States Department of Agriculture, and penalty mail

costs of agricultural experiment stations under section 6 of the Hatch Act of 1887, as amended, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $17,500,000 for grants for cooperative forestry research under the Act approved October 10, 1962 (16 U.S.C. 582a—582a-7), as amended by Public Law 92-318 approved June 23, 1972, including administrative expenses, and payments under section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.); $24,333,000 for payments to the 1890 land-grant colleges, including Tuskegee University, for research under section 1445 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (Public Law 95-113), as amended, including administration by the United States Department of Agriculture, and penalty mail costs of the 1890 land-grant colleges, including Tuskegee University; $41,886,000 for contracts and grants for agricultural research under the Act of August 4, 1965, as amended (7 U.S.C. 450i); $39,716,000 for competitive research grants, including administrative expenses; $5,476,000 for the support of animal health and disease programs authorized by section 1433 of Public Law 95-113, including administrative expenses; $1,025,000 for supplemental and alternative crops and products as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3319d); $3,668,000 for grants for research and construction of facilities to conduct research pursuant to the Critical Agricultural Materials Act of 1984 (7 U.S.C. 178); and section 1472 of the Food and Agriculture Act of 1977, as amended (7 U.S.C. 3318), to remain available until expended; $475,000 for rangeland research grants as authorized by subtitle M of the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended; $4,754,000 for higher education grants under section 1417(a) of Public Law 95-113, as amended (7 U.S.C. 3152(a)); $3,750,000 for grants as authorized by section 1475 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 and other Acts; $3,000,000 for a groundwater quality program; $3,152,000 for grants to States for the establishment and operation of international trade development centers, as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977, as amended (7 U.S.C. 3292); $4,450,000 for low-input agriculture as authorized by the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 4701-4710); and $6,377,000 for necessary expenses of Cooperative State Research Service activities, including coordination and program leadership for higher education work of the Department, administration of payments to State agricultural experiment stations, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 for employment under 5 U.S.C. 3109; in all, $315,107,000.

EXTENSION SERVICE

(INCLUDING TRANSFERS OF FUNDS)

Payments to States, Puerto Rico, Guam, the Virgin Islands, Micronesia, Northern Marianas and American Samoa: For payments for cooperative agricultural extension work under the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962 (7 U.S.C. 341-349), section 506 of the Act of June 23, 1972, and the Act of September 29, 1977 (7 U.S.C.

341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), to be distributed under sections 3(b) and 3(c) of said Act, for retirement and employees' compensation costs for extension agents and for costs of penalty mail for cooperative extension agents and State extension directors, $241,594,000; payments for the nutrition and family education program for low-income areas under section 3(d) of the Act, $58,635,000; payments for the urban gardening program under section 3(d) of the Act, $3,500,000; payments for the pest management program under section 3(d) of the Act, $7,164,000; payments for the farm safety program under section 3(d) of the Act, $970,000; payments for the pesticide impact assessment program under section 3(d) of the Act, $1,633,000; grants to upgrade 1890 land-grant college extension facilities as authorized by section 1416 of Public Law 99-198, $9,508,000, to remain available until expended; payments for an integrated reproductive management program under section 3(d) of the Act, $47,000; payments for the rural development centers under section 3(d) of the Act, $950,000; payments for extension work under section 209(c) of Public Law 93-471, $953,000; payments for a groundwater quality program under section 3(d) of the Act, $1,500,000; payments for a financial management assistance program under section 3(d) of the Act, $1,427,000; for special grants for financially stressed farmers and dislocated farmers as authorized by Public Law 100-219, $3,350,000; payments for carrying out the provisions of the Renewable Resource Extension Act of 1978 under 3(d) of the Act, $2,765,000; and payments for extension work by the colleges receiving the benefits of the second Morrill Act (7 U.S.C. 321-326, 328) and Tuskegee University, $18,291,000; in all, $352,287,000, of which not less than $79,400,000 is for Home Economics: *Provided,* That funds hereby appropriated pursuant to section 3(c) of the Act of June 26, 1953, and section 506 of the Act of June 23, 1972, as amended, shall not be paid to any State, Puerto Rico, Guam, or the Virgin Islands, Micronesia, Northern Marianas, and American Samoa prior to availability of an equal sum from non-Federal sources for expenditure during the current fiscal year.

Federal administration and coordination: For administration of the Smith-Lever Act, as amended by the Act of June 26, 1953, the Act of August 11, 1955, the Act of October 5, 1962, section 506 of the Act of June 23, 1972, section 209(d) of Public Law 93-471, and the Act of September 29, 1977 (7 U.S.C. 341-349), as amended, and section 1361(c) of the Act of October 3, 1980 (7 U.S.C. 301n.), and to coordinate and provide program leadership for the extension work of the Department and the several States and insular possessions, $9,083,000, of which not less than $2,300,000 is for Home Economics.

National Agricultural Library

For necessary expenses of the National Agricultural Library, $13,268,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $35,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $775,000 shall be available pursuant to 7 U.S.C. 2250 for the alteration and repair of buildings and improvements: *Provided further,* That $370,000 shall be available for a grant pursuant to section 1472 of the National Agricultural Research, Extension, and Teaching Policy Act of 1977 (7 U.S.C. 3318).

OFFICE OF THE ASSISTANT SECRETARY FOR MARKETING AND INSPECTION SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Marketing and Inspection Services to administer programs under the laws enacted by the Congress for the Animal and Plant Health Inspection Service, Food Safety and Inspection Service, Federal Grain Inspection Service, Agricultural Cooperative Service, Agricultural Marketing Service (including Office of Transportation) and Packers and Stockyards Administration, $421,000.

ANIMAL AND PLANT HEALTH INSPECTION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For expenses, not otherwise provided for, including those pursuant to the Act of February 28, 1947, as amended (21 U.S.C. 114b–c), necessary to prevent, control, and eradicate pests and plant and animal diseases; to carry out inspection, quarantine, and regulatory activities; to discharge the authorities of the Secretary of Agriculture under the Act of March 2, 1931 (46 Stat. 1468; 7 U.S.C. 426–426b); and to protect the environment, as authorized by law, $331,207,000; of which $4,500,000 shall be available for the control of outbreaks of insects, plant diseases, animal diseases and for control of pest animals and birds to the extent necessary to meet emergency conditions: *Provided,* That $1,000,000 of the funds for control of the fire ant shall be placed in reserve for matching purposes with States which may come into the program: *Provided further,* That no funds shall be used to formulate or administer a brucellosis eradication program for the current fiscal year that does not require minimum matching by the States of at least 40 per centum: *Provided further,* That this appropriation shall be available for field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $40,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available for the operation and maintenance of aircraft and the purchase of not to exceed two, of which one shall be for replacement only: *Provided further,* That uniform allowances for each uniformed employee of the Animal and Plant Health Inspection Service shall not be in excess of $400 annually: *Provided further,* That, in addition, in emergencies which threaten any segment of the agricultural production industry of this country, the Secretary may transfer from other appropriations or funds available to the agencies or corporations of the Department such sums as he may deem necessary, to be available only in such emergencies for the arrest and eradication of contagious or infectious disease or pests of animals, poultry, or plants, and for expenses in accordance with the Act of February 28, 1947, as amended, and section 102 of the Act of September 21, 1944, as amended, and any unexpended balances of funds transferred for such emergency purposes in the next preceding fiscal year shall be merged with such transferred amounts.

21 USC 129.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities, as authorized by 7 U.S.C. 2250, and acquisition of land as authorized by 7 U.S.C. 428a, $2,546,000.

FOOD SAFETY AND INSPECTION SERVICE

For necessary expenses to carry on services authorized by the Federal Meat Inspection Act, as amended, and the Poultry Products Inspection Act, as amended, $404,954,000: *Provided,* That this appropriation shall be available for field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $75,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

FEDERAL GRAIN INSPECTION SERVICE

SALARIES AND EXPENSES

For necessary expenses to carry out the provisions of the United States Grain Standards Act, as amended, and the standardization activities related to grain under the Agricultural Marketing Act of 1946, as amended, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $8,115,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building: *Provided further,* That none of the funds provided by this Act may be used to pay the salaries of any person or persons who require, or who authorize payments from fee-supported funds to any person or persons who require nonexport, nonterminal interior elevators to maintain records not involving official inspection or official weighing in the United States under Public Law 94-582 other than those necessary to fulfill the purposes of such Act.

INSPECTION AND WEIGHING SERVICES

LIMITATION ON INSPECTION AND WEIGHING SERVICES EXPENSES

Not to exceed $36,856,000 (from fees collected) shall be obligated during the current fiscal year for Inspection and Weighing Services.

AGRICULTURAL COOPERATIVE SERVICE

For necessary expenses to carry out the Cooperative Marketing Act of July 2, 1926 (7 U.S.C. 451-457), and for activities relating to the marketing aspects of cooperatives, including economic research and analysis and the application of economic research findings, as authorized by the Agricultural Marketing Act of 1946 (7 U.S.C. 1621-1627), and for activities with institutions or organizations

throughout the world concerning the development and operation of agricultural cooperatives (7 U.S.C. 3291), $4,655,000; of which $99,000 shall be available for a field office in Hawaii: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $15,000 shall be available for employment under 5 U.S.C. 3109.

AGRICULTURAL MARKETING SERVICE

MARKETING SERVICES

For necessary expenses to carry on services related to consumer protection, agricultural marketing and distribution and regulatory programs as authorized by law, and for administration and coordination of payments to States; including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $70,000 for employment under 5 U.S.C. 3109, $33,373,000; of which not less than $1,591,000, shall be available for the Wholesale Market Development Program for the design and development of wholesale and farmer market facilities for the major metropolitan areas of the country: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $34,000,000 (from fees collected) shall be obligated during the current fiscal year for administrative expenses.

FUNDS FOR STRENGTHENING MARKETS, INCOME, AND SUPPLY (SECTION 32)

(INCLUDING TRANSFERS OF FUNDS)

Funds available under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c) shall be used only for commodity program expenses as authorized therein, and other related operating expenses, except for: (1) transfers to the Department of Commerce as authorized by the Fish and Wildlife Act of August 8, 1956; (2) transfers otherwise provided in this Act; and (3) not more than $7,811,000 for formulation and administration of Marketing Agreements and Orders pursuant to the Agricultural Marketing Agreement Act of 1937, as amended, and the Agricultural Act of 1961.

PAYMENTS TO STATES AND POSSESSIONS

For payments to departments of agriculture, bureaus and departments of markets, and similar agencies for marketing activities under section 204(b) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1623(b)), $942,000.

OFFICE OF TRANSPORTATION

For necessary expenses to carry on services related to agricultural transportation programs as authorized by law; including field

employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $20,000 for employment under 5 U.S.C. 3109, $2,397,000: *Provided,* That this appropriation shall be available pursuant to law (7 U.S.C. 2250) for the alteration and repair of buildings and improvements, but, unless otherwise provided, the cost of altering any one building during the fiscal year shall not exceed 10 per centum of the current replacement value of the building.

PACKERS AND STOCKYARDS ADMINISTRATION

For necessary expenses for administration of the Packers and Stockyards Act, as authorized by law, and for certifying procedures used to protect purchasers of farm products, including field employment pursuant to section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $5,000 for employment under 5 U.S.C. 3109, $9,562,000.

FARM INCOME STABILIZATION

OFFICE OF THE UNDER SECRETARY FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS

For necessary salaries and expenses of the Office of the Under Secretary for International Affairs and Commodity Programs to administer the laws enacted by Congress for the Agricultural Stabilization and Conservation Service, Office of International Cooperation and Development, Foreign Agricultural Service, and the Commodity Credit Corporation, $413,000.

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary administrative expenses of the Agricultural Stabilization and Conservation Service, including expenses to formulate and carry out programs authorized by title III of the Agricultural Adjustment Act of 1938, as amended (7 U.S.C. 1301–1393); the Agricultural Act of 1949, as amended (7 U.S.C. 1421 et seq.); sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act, as amended and supplemented (16 U.S.C. 590g–590o, 590p(a), 590p(f), and 590q); sections 1001 to 1004, 1006 to 1008, and 1010 of the Agricultural Act of 1970 as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501 to 1504, 1506 to 1508, and 1510); the Water Bank Act, as amended (16 U.S.C. 1301–1311); the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101); sections 202(c) and 205 of title II of the Colorado River Basin Salinity Control Act of 1974, as amended (43 U.S.C. 1592(c), 1595); sections 401, 402, and 404 to 406 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201 to 2205); the United States Warehouse Act, as amended (7 U.S.C. 241–273); and laws pertaining to the Commodity Credit Corporation, not to exceed $580,000,000, to be derived by transfer from the Commodity Credit Corporation fund: *Provided,* That other funds made available to the Agricultural Stabilization and Conservation Service for authorized activities may be advanced to and merged with this account: *Provided further,* That these funds

shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $100,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That no part of the funds made available under this Act shall be used (1) to influence the vote in any referendum; (2) to influence agricultural legislation, except as permitted in 18 U.S.C. 1913; or (3) for salaries or other expenses of members of county and community committees established pursuant to section 8(b) of the Soil Conservation and Domestic Allotment Act, as amended, for engaging in any activities other than advisory and supervisory duties and delegated program functions prescribed in administrative regulations.

DAIRY INDEMNITY PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses involved in making indemnity payments to dairy farmers for milk or cows producing such milk and manufacturers of dairy products who have been directed to remove their milk or dairy products from commercial markets because it contained residues of chemicals registered and approved for use by the Federal Government, and in making indemnity payments for milk, or cows producing such milk, at a fair market value to any dairy farmer who is directed to remove his milk from commercial markets because of (1) the presence of products of nuclear radiation or fallout if such contamination is not due to the fault of the farmer, or (2) residues of chemicals or toxic substances not included under the first sentence of the Act of August 13, 1968, as amended (7 U.S.C. 450j), if such chemicals or toxic substances were not used in a manner contrary to applicable regulations or labeling instructions provided at the time of use and the contamination is not due to the fault of the farmer, $5,000: *Provided,* That none of the funds contained in this Act shall be used to make indemnity payments to any farmer whose milk was removed from commercial markets as a result of his willful failure to follow procedures prescribed by the Federal Government: *Provided further,* That this amount shall be transferred to the Commodity Credit Corporation: *Provided further,* That the Secretary is authorized to utilize the services, facilities, and authorities of the Commodity Credit Corporation for the purpose of making dairy indemnity disbursement.

CORPORATIONS

The following corporations and agencies are hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to each such corporation or agency and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out the programs set forth in the budget for the current fiscal year for such corporation or agency, except as hereinafter provided: Contracts.

FEDERAL CROP INSURANCE CORPORATION

ADMINISTRATIVE AND OPERATING EXPENSES

For administrative and operating expenses, as authorized by the Federal Crop Insurance Act, as amended (7 U.S.C. 1516), $201,992,000: *Provided,* That not to exceed $700 shall be available for official reception and representation expenses, as authorized by 7 U.S.C. 1506(i).

FEDERAL CROP INSURANCE CORPORATION FUND

For payments as authorized by section 508(b) of the Federal Crop Insurance Act, as amended, $112,000,000.

COMMODITY CREDIT CORPORATION

REIMBURSEMENT FOR NET REALIZED LOSSES

For fiscal year 1989, such sums as may be necessary to reimburse the Commodity Credit Corporation for net realized losses sustained or anticipated, but not previously reimbursed, but not to exceed $8,828,286,000, pursuant to section 2 of the Act of August 17, 1961, as amended (15 U.S.C. 713a-11).

SHORT-TERM EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $5,000,000,000 in credit guarantees under its export credit guarantee program for short-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1125(b) of the Food Security Act of 1985 (Public Law 99-198).

INTERMEDIATE EXPORT CREDIT

The Commodity Credit Corporation shall make available not less than $500,000,000 in credit guarantees under its export guarantee program for intermediate-term credit extended to finance the export sales of United States agricultural commodities and the products thereof, as authorized by section 1131(3)(B) of the Food Security Act of 1985 (Public Law 99-198).

GENERAL SALES MANAGER

(INCLUDING TRANSFERS OF FUNDS)

Not to exceed $7,200,000 may be transferred from the Commodity Credit Corporation funds to support the General Sales Manager, of which up to $4,000,000 shall be available only for the purpose of selling surplus agricultural commodities from Commodity Credit Corporation inventory in world trade at competitive prices for the purpose of regaining and retaining our normal share of world markets. The General Sales Manager shall report directly to the Secretary of Agriculture. The General Sales Manager shall obtain, assimilate, and analyze all available information on developments related to private sales, as well as those funded by the Corporation, including grade and quality as sold and as delivered, including information relating to the effectiveness of greater reliance by the

Reports.
Loans.
Exports.

General Sales Manager upon loan guarantees as contrasted to direct loans for financing commercial export sales of agricultural commodities out of private stocks on credit terms, as provided in titles I and II of the Agricultural Trade Act of 1978, Public Law 95-501, and shall submit quarterly reports to the appropriate committees of Congress concerning such developments.

TITLE II—RURAL DEVELOPMENT PROGRAMS

RURAL DEVELOPMENT ASSISTANCE

OFFICE OF THE UNDER SECRETARY FOR SMALL COMMUNITY AND RURAL DEVELOPMENT

For necessary salaries and expenses of the Office of the Under Secretary for Small Community and Rural Development to administer programs under the laws enacted by the Congress for the Farmers Home Administration, Rural Electrification Administration, Federal Crop Insurance Corporation, and rural development activities of the Department of Agriculture, $418,000.

FARMERS HOME ADMINISTRATION

RURAL HOUSING INSURANCE FUND

From funds in the Rural Housing Insurance Fund, and for insured loans as authorized by title V of the Housing Act of 1949, as amended, $1,844,990,000, of which not less than $1,794,420,000 shall be for subsidized interest loans to low-income borrowers, as determined by the Secretary, and for subsequent loans to existing borrowers or to purchasers under assumption agreements or credit sales, and for loans to finance sales or transfers to nonprofit organizations or public agencies of not more than 5,000 rental units related to prepayment; and not to exceed $10,000,000 to enter into collection and servicing contracts pursuant to the provisions of section 3(f)(3) of the Federal Claims Act of 1966 (31 U.S.C. 3718).

For rental assistance agreements entered into or renewed pursuant to the authority under section 521(a)(2) of the Housing Act of 1949, as amended, total new obligations shall not exceed $275,310,000, to be added to and merged with the authority provided for this purpose in prior fiscal years: *Provided,* That of this amount not to exceed $109,918,000 is available for newly constructed units financed by section 515 of the Housing Act of 1949, as amended, and not less than $5,082,000 is for newly constructed units financed under sections 514 and 516 of the Housing Act of 1949: *Provided further,* That $160,310,000 is available for expiring agreements and for servicing of existing units without agreements: *Provided further,* That agreements entered into or renewed during fiscal year 1989 shall be funded for a five-year period, although the life of any such agreement may be extended to fully utilize amounts obligated: *Provided further,* That agreements entered into or renewed during fiscal years 1985, 1986, 1987, and 1988, may also be extended beyond five years to fully utilize amounts obligated.

For an additional amount to reimburse the Rural Housing Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of title V of the Housing Act of 1949, as amended (42 U.S.C. 1483, 1487(e),

and 1490a(c)), including $1,381,000 as authorized by section 521(c) of the Act, also including not to exceed $15,000,000 for debt forgiveness or payments for eligible households as authorized by section 502(c)(5)(D) of the Act, and not to exceed $10,000 per project for advances to nonprofit organizations or public agencies to cover direct costs (other than purchase price) incurred in purchasing projects pursuant to section 502(c)(5)(C) of the Act; $3,660,061,000. For an additional amount as authorized by section 521(c) of the Act such sums as may be necessary to reimburse the fund to carry out a rental assistance program under section 521(a)(2) of the Housing Act of 1949, as amended.

CITY OF LINCOLN

North Dakota. Loans.

Hereafter, the area within the present city limits of the city of Lincoln, Burleigh County, State of North Dakota, and the southeast quarter (SE¼) of section eighteen (18), township one hundred thirty-eight (138) north, range seventy-nine (79) west, Burleigh County, North Dakota, shall continue to be eligible for loans and payments administered by the Farmers Home Administration through the Rural Housing Insurance Fund.

SELF-HELP HOUSING LAND DEVELOPMENT FUND

For direct loans pursuant to section 523(b)(1)(B) of the Housing Act of 1949, as amended (42 U.S.C. 1490c), $500,000 shall be available from funds in the Self-Help Housing Land Development Fund.

AGRICULTURAL CREDIT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928-1929, to be available from funds in the Agricultural Credit Insurance Fund, as follows: farm ownership loans, $569,000,000, of which $474,000,000 shall be guaranteed loans; $14,000,000 for water development, use, and conservation loans, of which $3,000,000 shall be guaranteed loans; operating loans, $3,200,000,000, of which $2,300,000,000 shall be guaranteed loans; Indian tribe land acquisition loans as authorized by 25 U.S.C. 488, $2,000,000; for emergency insured and guaranteed loans, $600,000,000 to meet the needs resulting from natural disasters; and for matching grants authorized by section 502(b) of the Agricultural Credit Act of 1987 (7 U.S.C. 5101-5106), $3,000,000.

For an additional amount to reimburse the Agricultural Credit Insurance Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $3,467,596,000.

RURAL DEVELOPMENT INSURANCE FUND

For direct and guaranteed loans as authorized by 7 U.S.C. 1928 and 86 Stat. 661-664, to be available from funds in the Rural Development Insurance Fund, as follows: insured water and sewer facility loans, $330,380,000; guaranteed industrial development loans, $95,700,000; and insured community facility loans, $95,700,000.

For an additional amount to reimburse the Rural Development Insurance Fund for interest subsidies and losses sustained in prior

years, but not previously reimbursed, in carrying out the provisions of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1988(a)), $1,607,047,000.

RURAL DEVELOPMENT LOAN FUND

For direct loans to intermediary borrowers, $14,000,000, as authorized under the Rural Development Loan Fund (42 U.S.C. 9812(a)), to be available from funds in the Rural Development Loan Fund, $3,000,000 and from funds transferred from the Rural Development Insurance Fund, $11,000,000.

RURAL WATER AND WASTE DISPOSAL GRANTS

For grants pursuant to sections 306(a)(2) and 306(a)(6) of the Consolidated Farm and Rural Development Act, as amended (7 U.S.C. 1926), $109,395,000, to remain available until expended, pursuant to section 306(d) of the above Act.

VERY LOW-INCOME HOUSING REPAIR GRANTS

For grants to the very low-income elderly for essential repairs to dwellings pursuant to section 504 of the Housing Act of 1949, as amended, $12,500,000, to remain available until expended.

RURAL HOUSING FOR DOMESTIC FARM LABOR

For financial assistance to eligible nonprofit organizations for housing for domestic farm labor, pursuant to section 516 of the Housing Act of 1949, as amended (42 U.S.C. 1486), $9,513,000, to remain available until expended.

MUTUAL AND SELF-HELP HOUSING

For grants and contracts pursuant to section 523(b)(1)(A) of the Housing Act of 1949 (42 U.S.C. 1490c), $8,000,000.

RURAL COMMUNITY FIRE PROTECTION GRANTS

For grants pursuant to section 7 of the Cooperative Forestry Assistance Act of 1978 (Public Law 95-313), $3,091,000 to fund up to 50 per centum of the cost of organizing, training, and equipping rural volunteer fire departments.

COMPENSATION FOR CONSTRUCTION DEFECTS

For compensation for construction defects as authorized by section 509(c) of the Housing Act of 1949, as amended, $500,000, to remain available until expended.

RURAL HOUSING PRESERVATION GRANTS

For grants for rural housing preservation as authorized by section 552 of the Housing and Urban-Rural Recovery Act of 1983 (Public Law 98-181), $19,140,000.

RURAL DEVELOPMENT GRANTS

For grants authorized under section 310(B)(c) (7 U.S.C. 1932) to any qualified public or private nonprofit organization, $6,500,000: *Provided,* That $500,000 shall be available for grants to qualified nonprofit organizations to provide technical assistance for rural communities needing improved passenger transportation systems or facilities in order to promote economic development.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Farmers Home Administration, $600,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Farmers Home Administration, not otherwise provided for, in administering the programs authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-2000), as amended; title V of the Housing Act of 1949, as amended (42 U.S.C. 1471-1490o); the Rural Rehabilitation Corporation Trust Liquidation Act, approved May 3, 1950 (40 U.S.C. 440-444), for administering the loan program authorized by title III A of the Economic Opportunity Act of 1964 (Public Law 88-452 approved August 20, 1964), as amended, and such other programs which the Farmers Home Administration has the responsibility for administering, $414,734,000, together with not more than $3,000,000 of the charges collected in connection with the insurance of loans as authorized by section 309(a) of the Consolidated Farm and Rural Development Act, as amended, and section 517(i) of the Housing Act of 1949, as amended, or in connection with charges made on borrowers under section 502(a) of the Housing Act of 1949, as amended: *Provided,* That, in addition, not to exceed $1,000,000 of the funds available for the various programs administered by this agency may be transferred to this appropriation for temporary field employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), to meet unusual or heavy workload increases: *Provided further,* That not to exceed $500,000 of this appropriation may be used for employment under 5 U.S.C. 3109: *Provided further,* That not to exceed $2,868,000 of this appropriation shall be available for contracting with the National Rural Water Association or other equally qualified national organization for a circuit rider program to provide technical assistance for rural water systems: *Provided further,* That notwithstanding any other provision of law, $2,000,000 of this appropriation shall be available solely to carry out H.R. 5378 and S. 2836, the Lower Mississippi Delta Development Act, as introduced in the House of Representatives on September 26, 1988, and in the Senate on September 27, 1988, and the provisions of such bills are hereby incorporated by reference and made a part of this Act: *Provided further,* That, in addition to any other authority that the Secretary may have to defer principal and interest and forego foreclosure, the Secretary may permit, at the request of the borrowers, the deferral of principal and interest on any outstanding loan made, insured, or held by the Secretary under this title, or under the provisions of any other law administered by the Farmers Home

42 USC 3121 note.

Loans.
7 USC 1981 note.

Administration, and may forego foreclosure of any such loan, for such period as the Secretary deems necessary upon a showing by the borrower that due to circumstances beyond the borrower's control, the borrower is temporarily unable to continue making payments of such principal and interest when due without unduly impairing the standard of living of the borrower. The Secretary may permit interest that accrues during the deferral period on any loan deferred under this section to bear no interest during or after such period: *Provided,* That, if the security instrument securing such loan is foreclosed, such interest as is included in the purchase price at such foreclosure shall become part of the principal and draw interest from the date of foreclosure at the rate prescribed by law.

RURAL ELECTRIFICATION ADMINISTRATION

To carry into effect the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), as follows:

RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND LOAN AUTHORIZATIONS

Insured loans pursuant to the authority of section 305 of the Rural Electrification Act of 1936, as amended (7 U.S.C. 935), shall be made as follows: rural electrification loans, not less than $622,050,000 nor more than $933,075,000; and rural telephone loans, not less than $239,250,000 nor more than $311,025,000; to remain available until expended: *Provided,* That loans made pursuant to section 306 of that Act are in addition to these amounts but during fiscal year 1989 total commitments to guarantee loans pursuant to section 306 shall be not less than $933,075,000 nor more than $2,100,615,000 of contingent liability for total loan principal: *Provided further,* That as a condition of approval of insured electric loans during fiscal year 1989, borrowers shall obtain concurrent supplemental financing in accordance with the applicable criteria and ratios in effect as of July 15, 1982: *Provided further,* That no funds appropriated in this Act may be used to deny or reduce loans or loan advances based upon a borrower's level of general funds.

REIMBURSEMENT TO THE RURAL ELECTRIFICATION AND TELEPHONE REVOLVING FUND

For an additional amount to reimburse the rural electrification and telephone revolving fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in carrying out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), $341,000,000.

RURAL TELEPHONE BANK

For the purchase of Class A stock of the Rural Telephone Bank, $28,710,000, to remain available until expended (7 U.S.C. 901-950(b)).

The Rural Telephone Bank is hereby authorized to make such expenditures, within the limits of funds and borrowing authority available to such corporation in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended, as may be necessary in carrying out its authorized programs for the current fiscal year. During fiscal year 1989 and

Contracts.

within the resources and authority available, gross obligations for the principal amount of direct loans shall be not less than $177,045,000 nor more than $210,540,000.

RURAL COMMUNICATION DEVELOPMENT FUND

To reimburse the Rural Communication Development Fund for interest subsidies and losses sustained in prior years, but not previously reimbursed, in making Community Antenna Television loans and loan guarantees under sections 306 and 310B of the Consolidated Farm and Rural Development Act, as amended, $1,447,000.

RURAL ECONOMIC DEVELOPMENT SUBACCOUNT

For grants and loans authorized under section 313 of the Rural Electrification Act for the purpose of promoting rural economic development and job creation projects, $540,000: *Provided,* That this amount will be in addition to any amounts generated by the interest differential on voluntary cushion of credit payments made by REA borrowers.

OFFICE OF THE ADMINISTRATOR

For necessary salaries and expenses of the Office of the Administrator of the Rural Electrification Administration, $160,000: *Provided,* That no other funds in this Act shall be available for this Office.

SALARIES AND EXPENSES

For administrative expenses to carry out the provisions of the Rural Electrification Act of 1936, as amended (7 U.S.C. 901-950(b)), and to administer the loan and loan guarantee programs for Community Antenna Television facilities as authorized by the Consolidated Farm and Rural Development Act (7 U.S.C. 1921-1995), and for which commitments were made prior to fiscal year 1989, including not to exceed $7,000 for financial and credit reports, funds for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $103,000 for employment under 5 U.S.C. 3109, $31,124,000: *Provided,* That none of the funds in this Act may be used to authorize the transfer of funds to this account from the Rural Telephone Bank.

CONSERVATION

OFFICE OF THE ASSISTANT TO THE SECRETARY FOR NATURAL RESOURCES AND ENVIRONMENT

For necessary salaries and expenses of the Office of the Assistant to the Secretary for Natural Resources and Environment to administer the laws enacted by the Congress for the Forest Service and the Soil Conservation Service, $266,000: *Provided,* That the position of the Assistant to the Secretary for Natural Resources and Environment, for maximum results, should be filled by an experienced employee of the Soil Conservation Service or the Forest Service.

SOIL CONSERVATION SERVICE

CONSERVATION OPERATIONS

For necessary expenses for carrying out the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-590f) including preparation of conservation plans and establishment of measures to conserve soil and water (including farm irrigation and land drainage and such special measures for soil and water management as may be necessary to prevent floods and the siltation of reservoirs and to control agricultural related pollutants); operation of conservation plant materials centers; classification and mapping of soil; dissemination of information; acquisition of lands by donation, exchange, or purchase at a nominal cost not to exceed $100; purchase and erection or alteration or improvement of permanent and temporary buildings; and operation and maintenance of aircraft, $403,262,000, of which not less than $5,494,000 is for snow survey and water forecasting and not less than $5,043,000 is for operation and establishment of the plant materials centers: *Provided,* That of the foregoing amounts not less than $310,000,000 is for personnel compensation and benefits: *Provided further,* That the cost of any permanent building purchased, erected, or as improved, exclusive of the cost of constructing a water supply or sanitary system and connecting the same to any such building and with the exception of buildings acquired in conjunction with land being purchased for other purposes, shall not exceed $10,000, except for one building to be constructed at a cost not to exceed $100,000 and eight buildings to be constructed or improved at a cost not to exceed $50,000 per building and except that alterations or improvements to other existing permanent buildings costing $5,000 or more may be made in any fiscal year in an amount not to exceed $2,000 per building: *Provided further,* That when buildings or other structures are erected on non-Federal land that the right to use such land is obtained as provided in 7 U.S.C. 2250a: *Provided further,* That no part of this appropriation may be expended for soil and water conservation operations under the Act of April 27, 1935 (16 U.S.C. 590a-590f) in demonstration projects: *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225) and not to exceed $25,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That qualified local engineers may be temporarily employed at per diem rates to perform the technical planning work of the Service (16 U.S.C. 590e-2): *Provided further,* That none of the funds in this Act shall be used for the purpose of consolidating equipment, personnel, or services of the Soil Conservation Service's national technical centers in Portland, Oregon; Lincoln, Nebraska; Chester, Pennsylvania; and Fort Worth, Texas, into a single national technical center.

16 USC 590e-1.

16 USC 590e-2.

RIVER BASIN SURVEYS AND INVESTIGATIONS

For necessary expenses to conduct research, investigations, and surveys of the watersheds of rivers and other waterways, in accordance with section 6 of the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1006-1009), $12,051,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the

Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $60,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED PLANNING

For necessary expenses for small watershed investigations and planning, in accordance with the Watershed Protection and Flood Prevention Act, as amended (16 U.S.C. 1001-1008), $8,651,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

WATERSHED AND FLOOD PREVENTION OPERATIONS

For necessary expenses to carry out preventive measures, including but not limited to research, engineering operations, methods of cultivation, the growing of vegetation, rehabilitation of existing works and changes in use of land, in accordance with the Watershed Protection and Flood Prevention Act approved August 4, 1954, as amended (16 U.S.C. 1001-1005, 1007-1009), the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and in accordance with the provisions of laws relating to the activities of the Department, $172,373,000 (of which $26,271,000 shall be available for the watersheds authorized under the Flood Control Act approved June 22, 1936 (33 U.S.C. 701, 16 U.S.C. 1006a), as amended and supplemented): *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $10,000,000 shall be available for emergency measures as provided by sections 403-405 of the Agricultural Credit Act of 1978 (16 U.S.C. 2203-2205), and not to exceed $200,000 shall be available for employment under 5 U.S.C. 3109: *Provided further,* That $7,949,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That not to exceed $1,000,000 of this appropriation is available to carry out the purposes of the Endangered Species Act of 1973 (Public Law 93-205), as amended, including cooperative efforts as contemplated by that Act to relocate endangered or threatened species to other suitable habitats as may be necessary to expedite project construction.

RESOURCE CONSERVATION AND DEVELOPMENT

For necessary expenses in planning and carrying out projects for resource conservation and development and for sound land use pursuant to the provisions of section 32(e) of title III of the Bankhead-Jones Farm Tenant Act, as amended (7 U.S.C. 1010-1011; 76 Stat. 607), and the provisions of the Act of April 27, 1935 (16 U.S.C. 590a-f), and the provisions of the Agriculture and Food Act of 1981 (16 U.S.C. 3451-3461), $25,120,000: *Provided,* That $1,207,000 in loans may be insured, or made to be sold and insured, under the Agricultural Credit Insurance Fund of the Farmers Home Administration (7 U.S.C. 1931): *Provided further,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $50,000 shall be available for employment under 5 U.S.C. 3109.

GREAT PLAINS CONSERVATION PROGRAM

For necessary expenses to carry into effect a program of conservation in the Great Plains area, pursuant to section 16(b) of the Soil Conservation and Domestic Allotment Act, as added by the Act of August 7, 1956, as amended (16 U.S.C. 590p(b)), $20,474,000, to remain available until expended (16 U.S.C. 590p(b)(7)).

AGRICULTURAL STABILIZATION AND CONSERVATION SERVICE

AGRICULTURAL CONSERVATION PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry into effect the program authorized in sections 7 to 15, 16(a), 16(f), and 17 of the Soil Conservation and Domestic Allotment Act approved February 29, 1936, as amended and supplemented (16 U.S.C. 590g-590o, 590p(a), 590p(f), and 590q), and sections 1001-1004, 1006-1008, and 1010 of the Agricultural Act of 1970, as added by the Agriculture and Consumer Protection Act of 1973 (16 U.S.C. 1501-1504, 1506-1508, and 1510), and including not to exceed $15,000 for the preparation and display of exhibits, including such displays at State, interstate, and international fairs within the United States, $176,935,000, to remain available until expended (16 U.S.C. 590o) for agreements, excluding administration but including technical assistance and related expenses, except that no participant in the Agricultural Conservation Program shall receive more than $3,500 per year, except where the participants from two or more farms or ranches join to carry out approved practices designed to conserve or improve the agricultural resources of the community, or where a participant has a long-term agreement, in which case the total payment shall not exceed the annual payment limitation multiplied by the number of years of the agreement: *Provided,* That no portion of the funds for the current year's program may be utilized to provide financial or technical assistance for drainage on wetlands now designated as Wetlands Types 3 (III) through 20 (XX) in United States Department of the Interior, Fish and Wildlife Circular 39, Wetlands of the United States, 1956: *Provided further,* That such amounts shall be available for the purchase of seeds, fertilizers, lime, trees, or any other conservation materials, or any soil-terracing services, and making grants thereof to agricultural producers to aid them in carrying out approved farming practices as authorized by the Soil Conservation and Domestic Allotment Act, as amended, as determined and recommended by the county committees, approved by the State committees and the Secretary, under programs provided for herein: *Provided further,* That such assistance will not be used for carrying out measures and practices that are primarily production-oriented or that have little or no conservation or pollution abatement benefits: *Provided further,* That not to exceed 5 per centum of the allocation for the current year's program for any county may, on the recommendation of such county committee and approval of the State committee, be withheld and allotted to the Soil Conservation Service for services of its technicians in formulating and carrying out the Agricultural Conservation Program in the participating counties, and shall not be utilized by the Soil Conservation Service for any purpose other than technical and other assistance in such

counties, and in addition, on the recommendation of such county committee and approval of the State committee, not to exceed 1 per centum may be made available to any other Federal, State, or local public agency for the same purpose and under the same conditions: *Provided further,* That for the current year's program $2,500,000 shall be available for technical assistance in formulating and carrying out rural environmental practices: *Provided further,* That no part of any funds available to the Department, or any bureau, office, corporation, or other agency constituting a part of such Department, shall be used in the current fiscal year for the payment of salary or travel expenses of any person who has been convicted of violating the Act entitled "An Act to prevent pernicious political activities" approved August 2, 1939, as amended, or who has been found in accordance with the provisions of title 18 U.S.C. 1913 to have violated or attempted to violate such section which prohibits the use of Federal appropriations for the payment of personal services or other expenses designed to influence in any manner a Member of Congress to favor or oppose any legislation or appropriation by Congress except upon request of any Member or through the proper official channels.

FORESTRY INCENTIVES PROGRAM

For necessary expenses, not otherwise provided for, to carry out the program of forestry incentives, as authorized in the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101), including technical assistance and related expenses, $12,446,000, to remain available until expended, as authorized by that Act.

WATER BANK PROGRAM

For necessary expenses to carry into effect the provisions of the Water Bank Act (16 U.S.C. 1301–1311), $9,000,000, to remain available until expended.

EMERGENCY CONSERVATION PROGRAM

For necessary expenses to carry into effect the program authorized in sections 401, 402, and 404 of title IV of the Agricultural Credit Act of 1978 (16 U.S.C. 2201–2205), $5,000,000, to remain available until expended, as authorized by 16 U.S.C. 2204.

COLORADO RIVER BASIN SALINITY CONTROL PROGRAM

For necessary expenses for carrying out the purposes of section 202 of title II of the Colorado River Basin Salinity Control Act, as amended (43 U.S.C. 1592), to be used to reduce salinity in the Colorado River and to enhance the supply and quality of water available for use in the United States and the Republic of Mexico, $5,452,000, for investigations and surveys, for technical assistance in developing conservation practices and in the preparation of salinity control plans, for the establishment of on-farm irrigation management systems, including related lateral improvement measures, for making cost-share payments to agricultural landowners and operators, Indian tribes, irrigation districts and associations, local governmental and nongovernmental entities, and other landowners to aid them in carrying out approved conservation practices as determined and recommended by the county committees, approved by the State committees and the Secretary, and for associated costs of program

planning, information and education, and program monitoring and evaluation: *Provided,* That the Soil Conservation Service shall provide technical assistance and the Agricultural Stabilization and Conservation Service shall provide administrative services for the program, including but not limited to, the negotiation and administration of agreements and the disbursement of payments: *Provided further,* That such program shall be coordinated with the regular Agricultural Conservation Program and with research programs of other agencies.

CONSERVATION RESERVE PROGRAM

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the conservation reserve program pursuant to the Food Security Act of 1985 (16 U.S.C. 3831-3845), $1,864,000,000, to remain available until expended, to be used for Commodity Credit Corporation expenditures for cost-share assistance for the establishment of conservation practices, for annual rental payments, and for technical assistance: *Provided,* That 4 per centum of the funds available for the conservation reserve program in this Act, but not to exceed $61,461,000, shall be available for payment to technicians of the Soil Conservation Service for services in carrying out the conservation programs of the Food Security Act of 1985: *Provided further,* That none of the funds in this Act may be used to enter into new contracts that are in excess of the prevailing local rental rates for an acre of comparable land: *Provided further,* That not to exceed $385,000,000 of the funds in this Act, or otherwise made available by this Act, shall be available to provide cost share assistance on crop year 1989 acreage during fiscal year 1989; for the purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119, September 29, 1987), to the extent that this proviso has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, such transfer is a necessary (but secondary) result of a significant policy change.

TITLE III—DOMESTIC FOOD PROGRAMS

OFFICE OF THE ASSISTANT SECRETARY FOR FOOD AND CONSUMER SERVICES

For necessary salaries and expenses of the Office of the Assistant Secretary for Food and Consumer Services to administer the laws enacted by the Congress for the Food and Nutrition Service and the Human Nutrition Information Service, $406,000.

FOOD AND NUTRITION SERVICE

CHILD NUTRITION PROGRAMS

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the National School Lunch Act (42 U.S.C. 1751-1769b), and the applicable provisions other than sections 3 and 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1773-1785, and 1788-1789); $4,590,816,000, to remain available through September 30, 1990, of which $497,544,000 is hereby appropriated and $4,093,272,000 shall be derived by transfer from funds available

under section 32 of the Act of August 24, 1935 (7 U.S.C. 612c): 42 USC 1776a. *Provided,* That funds appropriated for the purpose of section 7 of the Child Nutrition Act of 1966 shall be allocated among the States but the distribution of such funds to an individual State is contingent upon that State's agreement to participate in studies and surveys of programs authorized under the National School Lunch Act and the Child Nutrition Act of 1966, when such studies and surveys have been directed by the Congress and requested by the Secretary of 42 USC 1776b. Agriculture: *Provided further,* That if the Secretary of Agriculture determines that a State's administration of any program under the National School Lunch Act or the Child Nutrition Act of 1966 (other than section 17), or the regulations issued pursuant to these Acts, is seriously deficient, and the State fails to correct the deficiency within a specified period of time, the Secretary may withhold from the State some or all of the funds allocated to the State under section 7 of the Child Nutrition Act of 1966 and under section 13(k)(1) of the National School Lunch Act; upon a subsequent determination by the Secretary that the programs are operated in an acceptable manner some or all of the funds withheld may be allo- Claims. cated: *Provided further,* That only final reimbursement claims for service of meals, supplements, and milk submitted to State agencies by eligible schools, summer camps, institutions, and service institutions within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act for meals, supplements, and milk served during any month only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary: *Provided further,* That up to $5,200,000 shall be available to develop a system for independent verification of school food service claims.

SPECIAL MILK PROGRAM

For necessary expenses to carry out the special milk program, as authorized by section 3 of the Child Nutrition Act of 1966 (42 U.S.C. 1772), $19,925,000, to remain available through September 30, 1990. Claims. Only final reimbursement claims for milk submitted to State agencies within sixty days following the month for which the reimbursement is claimed shall be eligible for reimbursement from funds appropriated under this Act. States may receive program funds appropriated under this Act only if the final program operations report for such month is submitted to the Department within ninety days following that month. Exceptions to these claims or reports submission requirements may be made at the discretion of the Secretary.

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC)

For necessary expenses to carry out the special supplemental food program as authorized by section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786), $1,929,362,000, to remain available through September 30, 1990, of which $2,000,000 may be used to carry out the farmers' market coupon demonstration project.

COMMODITY SUPPLEMENTAL FOOD PROGRAM

For necessary expenses to carry out the commodity supplemental food program as authorized by section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), including not less than $8,000,000 for the projects in Detroit, New Orleans, and Des Moines, $50,000,000: *Provided,* That funds provided herein shall remain available through September 30, 1990: *Provided further,* That none of these funds shall be available to reimburse the Commodity Credit Corporation for commodities donated to the program.

FOOD STAMP PROGRAM

For necessary expenses to carry out the Food Stamp Act (7 U.S.C. 2011-2027, 2028, 2029), $13,598,955,000: *Provided,* That funds provided herein shall remain available through September 30, 1989, in accordance with section 18(a) of the Food Stamp Act: *Provided further,* That up to 5 per centum of the foregoing amount may be placed in reserve to be apportioned pursuant to section 3679 of the Revised Statutes, as amended, for use only in such amounts and at such times as may become necessary to carry out program operations: *Provided further,* That funds provided herein shall be expended in accordance with section 16 of the Food Stamp Act: *Provided further,* That this appropriation shall be subject to any work registration or work fare requirements as may be required by law: *Provided further,* That $345,000,000 of the funds provided herein shall be available only to the extent necessary after the Secretary has employed the regulatory and administrative methods available to him under the law to curtail fraud, waste, and abuse in the program: *Provided further,* That $10,000,000 of the funds provided herein shall be available for the purchase of equipment to improve the processing of food coupons: *Provided further,* That $908,250,000 of the foregoing amount shall be available for Nutrition Assistance for Puerto Rico as authorized by 7 U.S.C. 2028.

FOOD DONATIONS PROGRAMS FOR SELECTED GROUPS

For necessary expenses to carry out section 4(a) of the Agriculture and Consumer Protection Act of 1973 (7 U.S.C. 612c (note)), section 4(b) of the Food Stamp Act (7 U.S.C. 2013), and section 311 of the Older Americans Act of 1965, as amended (42 U.S.C. 3030a), $199,147,000.

For necessary expenses to carry out section 110 of the Hunger Prevention Act of 1988 (S. 2560), $40,000,000.

TEMPORARY EMERGENCY FOOD ASSISTANCE PROGRAM

For necessary expenses to carry out the Temporary Emergency Food Assistance Act of 1983, as amended, $50,000,000: *Provided,* That, in accordance with section 202 of Public Law 98-92, these funds shall be available only if the Secretary determines the existence of excess commodities.

For purchases of commodities to carry out the Temporary Emergency Food Assistance Act of 1983, as amended by section 104 of the Hunger Prevention Act of 1988, $120,000,000.

FOOD PROGRAM ADMINISTRATION

For necessary administrative expenses of the Domestic Food Programs funded under this Act, $89,223,000; of which $5,000,000 shall be available only for simplifying procedures, reducing overhead costs, tightening regulations, improving food stamp coupon handling, and assistance in the prevention, identification, and prosecution of fraud and other violations of law: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), and not to exceed $150,000 shall be available for employment under 5 U.S.C. 3109.

HUMAN NUTRITION INFORMATION SERVICE

For necessary expenses to enable the Human Nutrition Information Service to perform applied research and demonstrations relating to human nutrition and consumer use and economics of food utilization, $8,823,000: *Provided,* That this appropriation shall be available for employment pursuant to the second sentence of section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225).

TITLE IV—INTERNATIONAL PROGRAMS

FOREIGN AGRICULTURAL SERVICE

For necessary expenses of the Foreign Agricultural Service, including carrying out title VI of the Agricultural Act of 1954, as amended (7 U.S.C. 1761-1768), market development activities abroad, and for enabling the Secretary to coordinate and integrate activities of the Department in connection with foreign agricultural work, including not to exceed $110,000 for representation allowances and for expenses pursuant to section 8 of the Act approved August 3, 1956 (7 U.S.C. 1766), $95,017,000: *Provided,* That this appropriation shall be available to obtain statistics and related facts on foreign production and full and complete information on methods used by other countries to move farm commodities in world trade on a competitive basis.

AGRICULTURAL TRADE MISSIONS

For necessary expenses for agricultural aid and trade missions as authorized by Public Law 100-202, $400,000.

PUBLIC LAW 480

(INCLUDING TRANSFERS OF FUNDS)

For expenses during the current fiscal year, not otherwise recoverable, and unrecovered prior years' costs, including interest thereon, under the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1691, 1701-1715, 1721-1726, 1727-1727f, 1731-1736g), as follows: (1) financing the sale of agricultural commodities for convertible foreign currencies and for dollars on credit terms pursuant to titles I and III of said Act, or for convertible foreign currency for use under 7 U.S.C. 1708, and for furnishing commodities to carry out the Food for Progress Act of 1985, not more than $851,900,000, of which $468,100,000 is hereby appropriated and the balance derived from proceeds from sales of foreign currencies

and dollar loan repayments, repayments on long-term credit sales, carryover balances and commodities made available from the inventories of the Commodity Credit Corporation by the Secretary of Agriculture pursuant to sections 102 and 403(b) of said Act, and (2) commodities supplied in connection with dispositions abroad, pursuant to title II of said Act, not more than $630,000,000, of which $630,000,000 is hereby appropriated: *Provided,* That not to exceed 10 per centum of the funds made available to carry out any title to this paragraph may be used to carry out any other title of this paragraph.

OFFICE OF INTERNATIONAL COOPERATION AND DEVELOPMENT

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses of the Office of International Cooperation and Development to coordinate, plan, and direct activities involving international development, technical assistance and training, and international scientific and technical cooperation in the Department of Agriculture, including those authorized by the Food and Agriculture Act of 1977 (7 U.S.C. 3291), $5,319,000: *Provided,* That not to exceed $3,000 of this amount shall be available for official reception and representation expenses as authorized by 7 U.S.C. 1766: *Provided further,* That in addition, funds available to the Department of Agriculture shall be available to assist an international organization in meeting the costs, including salaries, fringe benefits and other associated costs, related to the employment by the organization of Federal personnel that may transfer to the organization under the provisions of 5 U.S.C. 3581-3584, or of other well-qualified United States citizens, for the performance of activities that contribute to increased understanding of international agricultural issues, with transfer of funds for this purpose from one appropriation to another or to a single account authorized, such funds remaining available until expended: *Provided further,* That the Office may utilize advances of funds, or reimburse this appropriation for expenditures made on behalf of Federal agencies, public and private organizations and institutions under agreements executed pursuant to the agricultural food production assistance programs (7 U.S.C. 1736) and the foreign assistance programs of the International Development Cooperation Administration (22 U.S.C. 2392).

SCIENTIFIC ACTIVITIES OVERSEAS (FOREIGN CURRENCY PROGRAM)

For payments in foreign currencies owed to or owned by the United States for market development research authorized by section 104(b)(1) and for agricultural and forestry research and other functions related thereto authorized by section 104(b)(3) of the Agricultural Trade Development and Assistance Act of 1954, as amended (7 U.S.C. 1704(b)(1), (3)), $1,000,000: *Provided,* That this appropriation shall be available, in addition to other appropriations for these purposes, for payments in the foregoing currencies: *Provided further,* That funds appropriated herein shall be used for payments in such foreign currencies as the Department determines are needed and can be used most effectively to carry out the purposes of this paragraph: *Provided further,* That not to exceed $25,000 of this appropriation shall be available for payments in foreign currencies for expenses of employment pursuant to the second sentence of

section 706(a) of the Organic Act of 1944 (7 U.S.C. 2225), as amended by 5 U.S.C. 3109.

TITLE V—RELATED AGENCIES

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

SALARIES AND EXPENSES

For necessary expenses of the Food and Drug Administration; for rental of special purpose space in the District of Columbia or elsewhere; and for miscellaneous and emergency expenses of enforcement activities, authorized and approved by the Secretary and to be accounted for solely on the Secretary's certificate, not to exceed $25,000; $481,844,000: *Provided,* That none of these funds shall be used to develop, establish, or operate any program of user fees authorized by 31 U.S.C. 9701: *Provided further,* That this appropriation shall be available to employ persons or organizations, on a temporary basis, by contract or otherwise without regard to chapter 51 and subchapter III of chapter 53, and section 2105(a) of chapter 21 of title 5, United States Code.

For purposes of establishing and implementing a demonstration project that authorizes the Secretary to use the facilities of any public or private cooperative, with the permission of any such cooperative, up to $3,000,000 may be made available.

BUILDINGS AND FACILITIES

For plans, construction, repair, improvement, extension, alteration, and purchase of fixed equipment or facilities of or used by the Food and Drug Administration, where not otherwise provided, $23,950,000.

Rental Payments (FDA)

(INCLUDING TRANSFERS OF FUNDS)

For payment of space rental and related costs pursuant to Public Law 92-313 for programs and activities of the Food and Drug Administration which are included in this Act, $25,612,000: *Provided,* That in the event the Food and Drug Administration should require modification of space needs, a share of the salaries and expenses appropriation may be transferred to this appropriation, or a share of this appropriation may be transferred to the salaries and expenses appropriation, but such transfers shall not exceed 10 per centum of the funds made available for rental payments (FDA) to or from this account.

DEPARTMENT OF THE TREASURY

Payments to the Farm Credit System Financial Assistance Corporation

For necessary payments to the Farm Credit System Financial Assistance Corporation by the Secretary of the Treasury, as authorized by section 6.28(c) of the Farm Credit Act of 1971, as amended, for reimbursement of interest expenses incurred by the

Financial Assistance Corporation on obligations issued in fiscal years 1988 and 1989, as authorized, $175,000,000: *Provided,* That not to exceed $2,000,000 of the assistance fund shall be available for administrative expenses of the Farm Credit System Assistance Board: *Provided further,* That officers and employees of the Farm Credit System Assistance Board shall be hired, promoted, compensated, and discharged in accordance with title 5, United States Code.

INDEPENDENT AGENCIES

COMMODITY FUTURES TRADING COMMISSION

For necessary expenses to carry out the provisions of the Commodity Exchange Act, as amended (7 U.S.C. 1 et seq.), including the purchase and hire of passenger motor vehicles; the rental of space (to include multiple year leases) in the District of Columbia and elsewhere; and not to exceed $25,000 for employment under 5 U.S.C. 3109; $34,723,000, including not to exceed $700 for official reception and representation expenses.

FARM CREDIT ADMINISTRATION

LIMITATION ON REVOLVING FUND FOR ADMINISTRATIVE EXPENSES

Not to exceed $35,000,000 (from assessments collected from farm credit system banks and the Federal Agricultural Mortgage Corporation), of which not to exceed $1,500 shall be available for official reception and representation expenses, shall be obligated during the current fiscal year for administrative expenses as authorized under 12 U.S.C. 2249.

TITLE VI—GENERAL PROVISIONS

SEC. 601. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law. Contracts. Records. Public information.

SEC. 602. Within the unit limit of cost fixed by law, appropriations and authorizations made for the Department of Agriculture for the fiscal year 1989 under this Act shall be available for the purchase, in addition to those specifically provided for, of not to exceed 694 passenger motor vehicles, of which 689 shall be for replacement only, and for the hire of such vehicles.

SEC. 603. Funds in this Act available to the Department of Agriculture shall be available for uniforms or allowances therefore as authorized by law (5 U.S.C. 5901-5902).

SEC. 604. Not less than $1,500,000 of the appropriations of the Department of Agriculture in this Act for research and service work authorized by the Acts of August 14, 1946 and July 28, 1954, and (7 U.S.C. 427, 1621-1629), and by chapter 63 of title 31, United States Code, shall be available for contracting in accordance with said Acts and chapter. 7 USC 1623a.

SEC. 605. No part of the funds contained in this Act may be used to make production or other payments to a person, persons, or corporations upon a final finding by court of competent jurisdiction that Drugs and drug abuse.

such party is guilty of growing, cultivating, harvesting, processing or storing marijuana, or other such prohibited drug-producing plants on any part of lands owned or controlled by such persons or corporations.

SEC. 606. Advances of money to chiefs of field parties from any appropriation in this Act for the Department of Agriculture may be made by authority of the Secretary of Agriculture.

SEC. 607. The cumulative total of transfers to the Working Capital Fund for the purpose of accumulating growth capital for data services and National Finance Center operations shall not exceed $2,000,000: *Provided,* That no funds in this Act appropriated to an agency of the Department shall be transferred to the Working Capital Fund without the approval of the agency administrator.

SEC. 608. New obligational authority provided for the following appropriation items in this Act shall remain available until expended: Public Law 480; Mutual and Self-Help Housing; Watershed and Flood Prevention Operations; Resource Conservation and Development; Colorado River Basin Salinity Control Program; Animal and Plant Health Inspection Service, $4,500,000 for the contingency fund to meet emergency conditions, and buildings and facilities; Agricultural Stabilization and Conservation Service, salaries and expenses funds made available to county committees; the Federal Crop Insurance Corporation Fund; Agricultural Research Service, buildings and facilities; Scientific Activities Overseas (Foreign Currency Program); Dairy Indemnity Program; $5,000,000 for the grasshopper and Mormon cricket control program, Animal and Plant Health Inspection Service; $2,852,000 for higher education training grants under section 1417(a)(3)(B) of Public Law 95-113, as amended (7 U.S.C 3152(a)(3)(B)); and buildings and facilities, Food and Drug Administration.

SEC. 609. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 610. Not to exceed $50,000 of the appropriation available to the Department of Agriculture in this Act shall be available to provide appropriate orientation and language training pursuant to Public Law 94-449.

Employment and unemployment. Disaster assistance.

SEC. 611. Notwithstanding any other provision of law, employees of the agencies of the Department of Agriculture, including employees of the Agricultural Stabilization and Conservation county committees, may be utilized to provide part-time and intermittent assistance to other agencies of the Department, without reimbursement, during periods when they are not otherwise fully utilized, and ceilings on full-time equivalent staff years established for or by the Department of Agriculture shall exclude overtime as well as staff years expended as a result of carrying out programs associated with natural disasters, such as forest fires, droughts, floods, and other acts of God.

SEC. 612. Funds provided by this Act for personnel compensation and benefits shall be available for obligation for that purpose only.

SEC. 613. No part of any appropriation contained in this Act shall be expended by any executive agency, as referred to in the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.), pursuant to any obligation for services by contract, unless such executive agency has awarded and entered into such contract as provided by law.

SEC. 614. None of the funds appropriated or otherwise made available by this Act shall be available to implement, administer, or

enforce any regulation which has been disapproved pursuant to a resolution of disapproval duly adopted in accordance with the applicable law of the United States.

SEC. 615. Certificates of beneficial ownership sold by the Farmers Home Administration in connection with the Agricultural Credit Insurance Fund, Rural Housing Insurance Fund, and the Rural Development Insurance Fund shall be not less than 65 per centum of the value of the loans closed during the fiscal year.

SEC. 616. No funds appropriated by this Act may be used to pay negotiated indirect cost rates on cooperative agreements or similar arrangements between the United States Department of Agriculture and nonprofit institutions in excess of 10 per centum of the total direct cost of the agreement when the purpose of such cooperative arrangements is to carry out programs of mutual interest between the two parties. This does not preclude appropriate payment of indirect costs on grants and contracts with such institutions when such indirect costs are computed on a similar basis for all agencies for which appropriations are provided in this Act.

SEC. 617. None of the funds in this Act shall be used to carry out any activity related to phasing out the Resource Conservation and Development Program.

SEC. 618. None of the funds in this Act shall be used to prevent or interfere with the right and obligation of the Commodity Credit Corporation to sell surplus agricultural commodities in world trade at competitive prices as authorized by law.

SEC. 619. Notwithstanding any other provision of this Act, commodities acquired by the Department in connection with Commodity Credit Corporation and section 32 price support operations may be used, as authorized by law (15 U.S.C. 714c and 7 U.S.C. 612c), to provide commodities to individuals in cases of hardship as determined by the Secretary of Agriculture. 7 USC 612c note.

SEC. 620. During fiscal year 1989, notwithstanding any other provision of law, no funds may be paid out of the Treasury of the United States or out of any fund of a Government corporation to any private individual or corporation in satisfaction of any assurance agreement or payment guarantee or other form of loan guarantee entered into by any agency or corporation of the United States Government with respect to loans made and credits extended to the Polish People's Republic, unless the Polish People's Republic has been declared to be in default of its debt to such individual or corporation or unless the President has provided a monthly written report to the Speaker of the House of Representatives and the President of the Senate explaining the manner in which the national interest of the United States has been served by any payments during the previous month under loan guarantee or credit assurance agreement with respect to loans made or credits extended to the Polish People's Republic in the absence of a declaration of default. Corporations. Loans. Polish People's Republic President of U.S. Reports.

SEC. 621. None of the funds in this Act shall be available to reimburse the General Services Administration for payment of space rental and related costs in excess of the amounts specified in this Act; nor shall this or any other provision of law require a reduction in the level of rental space or services below that of fiscal year 1988 or prohibit an expansion of rental space or services with the use of funds otherwise appropriated in this Act. Further, no agency of the Department of Agriculture, from funds otherwise available, shall reimburse the General Services Administration for

payment of space rental and related costs provided to such agency at a percentage rate which is greater than is available in the case of funds appropriated in this Act.

SEC. 622. In fiscal year 1989, the Secretary of Agriculture shall initiate construction on not less than twenty new projects under the Watershed Protection and Flood Prevention Act (Public Law 566) and not less than five new projects under the Flood Control Act (Public Law 534).

SEC. 623. Funds provided by this Act may be used for translation of publications of the Department of Agriculture into foreign languages when determined by the Secretary to be in the public interest.

SEC. 624. None of the funds appropriated by this Act may be used to relocate the Hawaii State Office of the Farmers Home Administration from Hilo, Hawaii, to Honolulu, Hawaii.

Contracts. Animals.

SEC. 625. Provisions of law prohibiting or restricting personal services contracts shall not apply to veterinarians employed by the Department to take animal blood samples, test and vaccinate animals, and perform branding and tagging activities on a fee-for-service basis.

SEC. 626. None of the funds provided in this Act may be used to reduce programs by establishing an end-of-year employment ceiling on full-time equivalent staff years below the level set herein for the following agencies: Food and Drug Administration, 7,350; Farmers Home Administration, 12,675; Agricultural Stabilization and Conservation Service, 2,550; Rural Electrification Administration, 550; and Soil Conservation Service, 14,177.

SEC. 627. Funds provided in this Act may be used for one-year contracts which are to be performed in two fiscal years so long as the total amount for such contracts is obligated in the year for which the funds are appropriated.

SEC. 628. Funds appropriated by this Act shall be applied only to the objects for which appropriations were made except as otherwise provided by law, as required by 31 U.S.C. 1301.

SEC. 629. None of the funds in this Act shall be available to restrict the authority of the Commodity Credit Corporation to lease space for its own use or to lease space on behalf of other agencies of the Department of Agriculture when such space will be jointly occupied.

SEC. 630. None of the funds provided in this Act may be expended to release information acquired from any handler under the Agricultural Marketing Agreement Act of 1937, as amended: *Provided,* That this provision shall not prohibit the release of information to other Federal agencies for enforcement purposes: *Provided further,* That this provision shall not prohibit the release of aggregate statistical data used in formulating regulations pursuant to the Agricultural Marketing Agreement Act of 1937, as amended: *Provided further,* That this provision shall not prohibit the release of information submitted by milk handlers.

SEC. 631. Unless otherwise provided in this Act, none of the funds appropriated or otherwise made available in this Act may be used by the Farmers Home Administration to employ or otherwise contract with private debt collection agencies to collect delinquent payments from Farmers Home Administration borrowers.

SEC. 632. Hereafter, none of the funds appropriated in this or any other Act shall be used to alter the method of computing normalized prices for agricultural commodities for use by any Federal agency in

evaluating water resources development projects to be undertaken in whole or in part with Federal funds that was in effect as of January 1, 1986.

SEC. 633. None of the funds in this Act, or otherwise made available by this Act, shall be used to sell loans made by the Agricultural Credit Insurance Fund. Also, none of the funds in this Act, or otherwise made available by this Act, shall be used to sell or offer for borrower prepayment more loans from the Rural Development Insurance Fund than needed to realize net proceeds of $584,000,000, the total level authorized by the Omnibus Reconciliation Act of 1986, Public Law 99-509, and the Continuing Appropriations Act of 1987, Public Law 99-591. Further, Rural Development Insurance Fund loans offered for sale in fiscal year 1989 shall be first offered to the borrowers for prepayment. Borrowers who rejected prepayment offers in fiscal year 1988 shall remain eligible for prepayment in fiscal year 1989.

SEC. 634. (a) Effective beginning with the 1989 crop year for honey, section 405 of the Agricultural Act of 1949 (7 U.S.C. 1425) is amended, in the text of subsection (a) (as so designated by section 1004(1) of the Food Security Act of 1985 effective for the 1986 through 1990 crops), by striking out "No producer" and inserting in lieu thereof "Except as otherwise provided in section 405A, no producer". Effective date.

(b) The Agricultural Act of 1949 is amended by inserting after section 405 the following new section:

"SEC. 405A. (a) A producer of honey may satisfy the producer's obligation to repay a loan, or a portion of a loan, made to the producer under section 201(b) of this Act by forfeiting the collateral for the loan, or portion of the loan, only if the value of the collateral forfeited, when taken together with the value of the collateral forfeited on any other loan or loans of the producer for such crop of honey under section 201(b), does not exceed $250,000: *Provided, however,* That the loan forfeiture limitation provided by this section shall not be applicable for any crop year for which the Secretary does not permit producers of honey to repay the price support loans at a level determined under section 201(b)(2)(B). Loans. 7 USC 1425a.

"(b) The producer of honey shall be personally liable for the repayment of a loan or loans made to the producer under the program for the crop of honey involved, with respect to that portion of the loan or loans for which satisfaction of the loan by forfeiture, as provided in subsection (a), is prohibited.

"(c) The loan contracts of the Commodity Credit Corporation entered into with producers of honey shall clearly indicate the extent to which a producer of honey may be personally liable for repayment of a loan under this section. Contracts.

"(d) The Commodity Credit Corporation may issue such regulations as the Corporation deems necessary to carry out this section.".

SEC. 635. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out a targeted export assistance program under section 1124 of the Food Security Act of 1985 if the aggregate amount of funds and/or commodities under such program exceeds $200,000,000: *Provided,* That $30,000,000 shall be held in reserve to be released by the Secretary of Agriculture only if required.

SEC. 636. None of the funds appropriated or otherwise made available by this Act shall be used to pay the salaries of personnel who carry out an export enhancement program (estimated to be

$900,000,000 in the President's fiscal year 1989 Budget Request) if the aggregate amount of funds and/or commodities under such programs exceeds $770,000,000.

SEC. 637. No later than 30 days after enactment of this Act, funds provided in this Act shall be used to implement section 633 of the "Rural Development, Agriculture and Related Agencies Appropriations Act, 1988", and, within the authorities provided in such section, shall allocate $150,000,000 in prepayments to telephone program borrowers and $350,000,000 in prepayments to electric program borrowers.

SEC. 638. None of the funds in this Act, or otherwise made available by this Act, shall be used to regulate the order or sequence of advances of funds to a borrower under any combination of approved telephone loans from the Rural Electrification Administration, the Rural Telephone Bank or the Federal Financing Bank.

SEC. 639. In fiscal years 1989 and 1990, $20,000,000 of section 32 funds shall be used to purchase sunflower and cottonseed oil, as authorized by law, such purchases to facilitate additional sales of such oils in world markets at competitive prices, so as to compete with other countries: *Provided,* That these funds shall be in addition to funds made available for this purpose by the Rural Development, Agriculture, and Related Agencies Appropriations Act, 1988 (Public Law 100-202).

Philippines.
Exports.
Tariff Schedules of the U.S.

SEC. 640. Within 30 days of the enactment of this section the Secretary of Agriculture may establish and operate a program for fiscal year 1989 as follows:

(a) The Secretary shall make available to sugar refiners, operators and processors commodities acquired by the Commodity Credit Corporation at such levels as the Secretary determines necessary to permit such refiners, operators or processors to purchase in the amounts specified below raw sugar grown in the Republic of the Philippines and countries designated as beneficiary countries pursuant to section 212 of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2702) at prices equivalent to the market price for raw cane sugar in the United States on the condition that an equivalent amount of sugar refined in the United States is exported to world markets within 60 days. The Secretary shall make such commodities available on the basis of competitive bids and shall have discretion to accept or reject bids under such criteria as the Secretary determines appropriate. Generic certificates shall be issued in lieu of commodities acquired by the Commodity Credit Corporation under the program established under this section.

Imports.

(b) The Secretary shall make available sufficient commodities to permit the importation of no less than 290,000 short tons of sugar, raw value, from the beneficiary countries specified in subsection (a), and no less than 110,000 short tons of sugar, raw value, from the Republic of the Philippines. Sugar imported under the program authorized under this section shall be in addition to any sugar quota level established for the countries specified in subsection (a) pursuant to headnote 3 of schedule 1, part 10, subpart A of the Tariff Schedules of the United States (9 U.S.C. 1202).

(c) In order to maximize the number of competing bidders, the Secretary shall, in determining the low bidders in the program established under this section, make appropriate adjustments in bids received from sugar refiners, operators and processors to reflect differing transportation costs based on refinery and factory location.

(d) The program authorized under this section shall be in addition to, and not in place of, any authority granted to the Secretary or the Commodity Credit Corporation under any other provision of law.

(e) The Secretary shall carry out the program authorized by this section through the Commodity Credit Corporation.

(f) Nothing in this section shall be deemed to increase the appropriation for any program administered by the United States Department of Agriculture.

(g) The Secretary may provide such other terms and conditions as the Secretary determines appropriate to carry out this section.

School lunches. Disadvantaged persons.

SEC. 641. (a) Section 17(p) of the National School Lunch Act (42 U.S.C. 1766(p)) is amended by adding at the end thereof the following new paragraph:

"(4) For the purpose of establishing eligibility for free or reduced-price meals or supplements under this subsection, income shall include only the income of an eligible person and, if any, the spouse and dependents with whom the eligible person resides.".

(b) Section 17(p) of such Act (as amended by subsection (a) of this section) is amended by adding at the end thereof the following new paragraph:

"(5) A person described in paragraph (1) shall be considered automatically eligible for free meals or supplements under this subsection, without further application or eligibility determination, if the person is—

"(A) a member of a household receiving assistance under the Food Stamp Act of 1977 (7 U.S.C. 2011 et seq.); or

"(B) a recipient of assistance under title XVI or XIX of the Social Security Act (42 U.S.C. 1381 et seq.).".

(c) Subparagraph (A) of section 17(p)(3) of such Act is amended to read as follows:

"(A) The Secretary, in consulation with the Commissioner of Aging, shall establish, within 6 months of enactment, separate guidelines for reimbursement of institutions described in this subsection. Such reimbursement shall take into account the nutritional requirements of eligible persons, as determined by the Secretary on the basis of tested nutritional research, except that such reimbursement shall not be less than would otherwise be required under this section.".

Research and development.

SEC. 642. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Records. State and local governments.

SEC. 644. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

Effective date. State and local governments. Women. Children and youth.

SEC. 645. Effective August 30, 1989, none of the funds available in this Act for the Special Supplemental Food Program for Women, Infants, and Children (WIC) may be used by a State if that State has not examined the feasibility of implementing cost containment procedures described in section 3 of the Commodity Distribution Reform Act and WIC Amendments of 1988 (7 U.S.C. 612c note) (including infant formula rebates) for acquiring infant formula and, where practicable, other foods that are necessary to carry out such

program, and if the State has determined that such a procedure would lower costs and enable more eligible persons to be served (without interference with the delivery of nutritious foods to recipients) and has not initiated action to implement such procedures. The Secretary may extend the effective date of implementation on a case-by-case basis where necessary.

Effective date.

SEC. 646. Effective October 1, 1989, section 6.29 of the Farm Credit Act of 1971 (12 U.S.C. 2278b-9) is amended by—

(1) in subsection (a)(1), striking out "Except as provided in paragraph (2)," and inserting in lieu thereof "Except as provided in paragraphs (2) and (3),",

(2) adding at the end of subsection (a) the following new paragraph:

Securities.

"(3) PERIODIC PURCHASES.—(A) Notwithstanding any other provision of this section, the Financial Assistance Corporation shall establish a program under which System institutions shall purchase, as debt obligations are issued under section 6.26(a), stock of the Corporation in amounts described in this paragraph.

"(B) The program shall provide, with respect to each issuance of debt obligations under section 6.26(a), that each System institution originally required to purchase stock under paragraph (1), or the successor thereto, shall purchase Corporation stock in an amount determined by multiplying the amount of stock such institution was originally required to purchase under that paragraph by a percentage equal to the percentage which the amount of the issuance bears to $4,000,000,000.

"(C) The Financial Assistance Corporation shall promptly rescind purchases of stock of the Corporation made under paragraph (1) or (2) by System institutions and refund to such institutions, or their successors, the purchase price for the stock, except that, with respect to each issuance of debt obligations that occurs before October 1, 1988, the Corporation shall deduct from any refund due any System institution, and retain, the amount payable by such institution.",

(3) in subsection (c)—

(A) striking out "Within" and inserting in lieu thereof "(1) Within",

(B) striking out "(1) the" and inserting in lieu thereof "(A) the ", and

(C) striking out "(2) in the case" and inserting in lieu thereof "(B) in the case", and

(4) adding at the end thereof the following new paragraph:

"(2) Not later than 15 days before each issuance of debt obligations under section 6.26(a) occurring after September 30, 1988, the Financial Assistance Corporation shall notify each System institution required to purchase Corporation stock under subsection (a)(3) of the amount of the stock it is required to purchase.".

This Act may be cited as the "Rural Development, Agriculture, and Related Agencies Appropriations Act, 1989".

Approved October 1, 1988.

LEGISLATIVE HISTORY—H.R. 4784:

HOUSE REPORTS: No. 100-690 (Comm. on Appropriations) and 100-990 (Comm. of Conference).
SENATE REPORTS: No. 100-389 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 16, considered and passed House.
July 28, 29, considered and passed Senate, amended.
Sept. 29, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments; and insisted on disagreement to certain Senate amendments.
Sept. 30, Senate concurred in House amendments; receded from its amendments; and agreed to conference report.

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*Public Law 100-461
100th Congress

An Act

Oct. 1, 1988
[H.R. 4637]

Making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes.

Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for foreign operations, export financing, and related programs for the fiscal year ending September 30, 1989, and for other purposes, namely:

TITLE I—MULTILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTIONS FOR ARREARAGES

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $43,333,334, for the United States contribution to the replenishments, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE INTERNATIONAL FINANCE CORPORATION

For payment to the International Finance Corporation by the Secretary of the Treasury, $4,891,528, for the United States share of the increase in subscriptions to capital stock, to remain available until expended.

ENROLLMENT ERRATA

Pursuant to the provisions of H.J. Res. 665, authorizing the hand enrollment of appropriations bills for fiscal year 1989, and authorizing the subsequent, post-enactment of preparation of printed enrollment of those bills, any changes made in this printed version will be footnoted.

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*Note: For information on the printing of this law and a related Presidential memorandum, see the editorial note at the end.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $100,000,000, to remain available until expended: *Provided,* That no such payment may be made while the United States Director of the Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

ANNUAL CONTRIBUTIONS TO INTERNATIONAL FINANCIAL INSTITUTIONS

CONTRIBUTION TO THE INTERNATIONAL BANK FOR RECONSTRUCTION AND DEVELOPMENT

For payment to the International Bank for Reconstruction and Development by the Secretary of the Treasury, for the United States share of the paid-in share portion of the increases in capital stock, for the General Capital Increase, $50,000,795, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the International Bank for Reconstruction and Development may subscribe without fiscal year limitation to the callable capital portion of the United States share of increases in capital stock in an amount not to exceed $2,292,972,540.

CONTRIBUTION TO THE INTERNATIONAL DEVELOPMENT ASSOCIATION

For payment to the International Development Association by the Secretary of the Treasury, $951,666,666, for the United States contribution to the replenishment, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the International Bank for Reconstruction and Development is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V

of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE ASIAN DEVELOPMENT FUND

For the United States contribution by the Secretary of the Treasury to the increases in resources of the Asian Development Fund, as authorized by the Asian Development Bank Act, as amended (Public Law 89-369), $52,392,036, to remain available until expended: *Provided,* That no such contribution may be made while the United States Director of the Asian Development Bank is compensated by the Bank at a rate which, together with whatever compensation such Director receives from the United States, is in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while any alternate United States Director to the Bank is compensated by the Bank in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT FUND

For payment to the African Development Fund by the Secretary of the Treasury, $105,000,000, for the United States contribution to the fifth replenishment of the African Development Fund, to remain available until expended.

CONTRIBUTION TO THE AFRICAN DEVELOPMENT BANK

For payment to the African Development Bank by the Secretary of the Treasury, for the paid-in share portion of the United States share of the increase in capital stock, $8,999,371, to remain available until expended: *Provided,* That no such payment may be made while the United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level IV of the Executive Schedule under section 5315 of title 5, United States Code, or while the alternate United States Executive Director to the Bank is compensated by the Bank at a rate in excess of the rate provided for an individual occupying a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

LIMITATION ON CALLABLE CAPITAL SUBSCRIPTIONS

The United States Governor of the African Development Bank may subscribe without fiscal year limitation to the callable capital portion of the United States share of such capital stock in an amount not to exceed $135,062,946.

INTERNATIONAL ORGANIZATIONS AND PROGRAMS

For necessary expenses to carry out the provisions of sections 301 and 103(g) of the Foreign Assistance Act of 1961, and of section 2 of the United Nations Environment Program Participation Act of 1983, $226,115,000, of which $2,650,334 shall be made available for the Organization of American States which amount shall be in addition to funds earmarked elsewhere under this heading for that organization: *Provided,* That no funds shall be available for the United Nations Fund for Science and Technology: *Provided further,*

That the total amount of funds appropriated under this heading shall be made available only as follows: $111,000,000 for the United Nations Development Program; $60,400,000 for the United Nations Children's Fund of which $3,000,000 shall be made available to UNICEF as funds in trust for the activities of Childhope or similar organizations to help homeless or street children: *Provided further,* That the funds made available for UNICEF (less amounts withheld consistent with section 307 of the Foreign Assistance Act of 1961 and section 526 of this Act) shall be obligated and expended no later than 30 days after the date of enactment of this Act: *Provided further,* That if the previous proviso has not been complied with, none of the funds appropriated by this Act remaining unobligated or unexpended at that time shall be obligated or expended until funds appropriated under this heading are made available to UNICEF (less amounts withheld pursuant to the previous proviso); $980,000 for the World Food Program; $1,500,000 for the United Nations Capital Development Fund; $800,000 for the United Nations Voluntary Fund for the Decade for Women; $200,000 for the United Nations International Research and Training Institute for the Advancement of Women; $2,000,000 for the International Convention and Scientific Organization Contributions; $1,960,000 for the World Meteorological Organization Voluntary Cooperation Program; $22,000,000 for the International Atomic Energy Agency; $9,500,000 for the United Nations Environment Program; $800,000 for the United Nations Educational and Training Program for Southern Africa; $500,000 for the United Nations Trust Fund for South Africa; $110,000 for the United Nations Institute for Namibia; $650,000 for the Convention on International Trade in Endangered Species; $220,000 for the World Heritage Fund; $100,000 for the United Nations Voluntary Fund for Victims of Torture; $245,000 for the United Nations Fellowship Program; $400,000 for the United Nations Center on Human Settlements; $250,000 for the UNIDO Investment Promotion Service; $7,349,666 for the Organization of American States; and $2,500,000 for the International Fund for Agricultural Development: *Provided further,* That the Department of State shall provide a report to the Committees on Appropriations, not later than June 1, 1989, analyzing the effectiveness of the United Nations Environment Program (UNEP) and detailing how UNEP has spent or intends to spend the funds appropriated under the heading. The State Department shall make this report immediately available to the Appropriations Committees: *Provided further,* That funds appropriated under this heading may be made available for the International Atomic Energy Agency only if the Secretary of State determines (and so reports to the Congress) that Israel is not being denied its right to participate in the activities of that Agency.

Reports.

TITLE II—BILATERAL ECONOMIC ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

For expenses necessary to enable the President to carry out the provisions of the Foreign Assistance Act of 1961, and for other purposes, to remain available until September 30, 1989, unless otherwise specified herein, as follows:

AGENCY FOR INTERNATIONAL DEVELOPMENT

AGRICULTURE, RURAL DEVELOPMENT, AND NUTRITION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 103, $493,715,000: *Provided,* That up to $5,000,000 shall be provided for new development projects of private entities and cooperatives utilizing surplus dairy products: *Provided further,* That not less than $8,000,000 shall be provided for the Vitamin A Deficiency Program: *Provided further,* That, notwithstanding any other provision of law, up to $10,000,000 of the funds appropriated under this heading shall be made available, and remain available until expended, for agricultural activities in Poland which are managed by the Polish Catholic Church or other nongovernmental organizations.

POPULATION, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(b), $197,940,000: *Provided,* That none of the funds made available in this Act nor any unobligated balances from prior appropriations may be made available to any organization or program which, as determined by the President of the United States, supports or participates in the management of a program of coercive abortion or involuntary sterilization: *Provided further,* That none of the funds made available under this heading may be used to pay for the performance of abortion as a method of family planning or to motivate or coerce any person to practice abortions; and that in order to reduce reliance on abortion in developing nations, funds shall be available only to voluntary family planning projects which offer, either directly or through referral to, or information about access to, a broad range of family planning methods and services: *Provided further,* That in awarding grants for natural family planning under section 104 of the Foreign Assistance Act no applicant shall be discriminated against because of such applicant's religious or conscientious commitment to offer only natural family planning; and, additionally, all such applicants shall comply with the requirements of the previous proviso: *Provided further,* That nothing in this subsection shall be construed to alter any existing statutory prohibitions against abortion under section 104 of the Foreign Assistance Act.

Abortion.

Grants.
Discrimination, prohibition.

HEALTH, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 104(c), $122,459,000: *Provided,* That of this amount $2,500,000 shall be made available for the River Blindness Program of the World Health Organization.

INTERNATIONAL AIDS PREVENTION AND CONTROL PROGRAM

For necessary expenses to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, $40,000,000, which shall be made available only for activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome (AIDS) in developing countries: *Provided,* That of the funds made available under this heading $25,500,000 shall be provided directly to the World Health Organization for its use in financing the Global

Program on AIDS, including activities implemented by the Pan American Health Organization.

CHILD SURVIVAL FUND

For necessary expenses to carry out the provisions of section 104(c)(2), $71,000,000.

EDUCATION AND HUMAN RESOURCES DEVELOPMENT, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 105, $129,541,000: *Provided,* That $1,500,000 of the funds appropriated under this heading shall be made available for the Caribbean Law Institute: *Provided further,* That not less than $64,770,500 of the funds appropriated under this heading and under the heading "Sub-Saharan Africa, Development Assistance" shall be available only for programs in basic primary and secondary education: *Provided further,* That in fiscal year 1989, the Agency for International Development shall initiate two new bilateral projects in basic primary and secondary education, at least one of which shall be initiated in countries in Sub-Saharan Africa: *Provided further,* That in each of fiscal years 1990 and 1991, such agency shall initiate three new bilateral projects in basic primary and secondary education, at least two of which in each fiscal year shall be initiated in Sub-Saharan Africa: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for the International Student Exchange Program: *Provided further,* That not less than $1,200,000 of the funds appropriated under this heading shall be made available for the Leadership Center for the Americas program.

PRIVATE SECTOR, ENVIRONMENT, AND ENERGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $120,709,000: *Provided,* That not less than $5,000,000 shall be made available only for cooperative projects among the United States, Israel and developing countries: *Provided further,* That not less than $5,000,000 shall be made available only for the Central American Rural Electrification Support project.

SCIENCE AND TECHNOLOGY, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of section 106, $8,662,270.

MICRO-ENTERPRISE DEVELOPMENT

Of the funds appropriated by this Act to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961, not less than $75,000,000 shall be made available for programs of credit and other assistance for micro-enterprises in developing countries: *Provided,* That local currencies which accrue as a result of assistance provided to carry out the provisions of the Foreign Assistance Act of 1961 and the Agricultural Trade Development and Assistance Act of 1954 may be used for assistance for micro-enterprises: *Provided further,* That such local currencies which are used for this purpose shall be in lieu of funds earmarked under this heading and shall

reduce the amount earmarked for assistance for micro-enterprises by an equal amount.

SUB-SAHARAN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 and section 121 of the Foreign Assistance Act of 1961, $500,000,000, for assistance only for Sub-Saharan Africa, which shall be in addition to any amounts otherwise made available for such purposes: *Provided,* That any of the funds which are appropriated under this heading may be used for assistance for Sub-Saharan Africa to carry out any economic development assistance activities under the Foreign Assistance Act of 1961: *Provided further,* That assistance made available under this heading shall be used to help the poor majority in Sub-Saharan Africa through a process of long-term development and economic growth that is equitable, participatory, environmentally sustainable, and self-reliant: *Provided further,* That these objectives may, in part, be achieved through the integration of women in the development process, appropriate consultation with private voluntary organizations, African and other organizations with a local perspective on the development process, and inclusion of the perspectives and participation of those affected by the provision of assistance: *Provided further,* That assistance made available under this heading shall be provided in accordance with the policies contained in section 102 of the Foreign Assistance Act of 1961: *Provided further,* That assistance made available under this heading should be provided, when consistent with the objectives of such assistance, through African, United States and other private and voluntary organizations which have demonstrated effectiveness in the promotion of local grassroots activities on behalf of long-term development in Sub-Saharan Africa: *Provided further,* That assistance made available under this heading should be used to help overcome shorter-term constraints to long-term development; to promote reform of sectoral economic policies to support the critical sector priorities of agricultural production and natural resources, health, voluntary family planning services, education, and income generating opportunities; to bring about appropriate sectoral restructuring of the Sub-Saharan African economies; to support reform in public administration and finances and to establish a favorable environment for individual enterprise and self-sustaining development: *Provided further,* That assisted policy reforms should take into account the need to protect vulnerable groups: *Provided further,* That assistance made available under this heading shall be used to increase agricultural production in ways which protect and restore the natural resource base, especially food production; to maintain and improve basic transportation and communication networks; to maintain and restore the renewable natural resource base in ways which increase agricultural production; to improve health conditions with special emphasis on meeting the health needs of mothers and children, including the establishment of self-sustaining primary health care systems that give priority to preventive care; to provide increased access to voluntary family planning services; to improve basic literacy and mathematics especially to those outside the formal educational system and to improve primary education; and to develop income-generating opportunities for the unemployed and underemployed in urban and rural areas: *Provided further,* That the Administrator of the Agency

for International Development should target the equivalent of 10 percent of the funds appropriated under this heading for each of the following: (1) maintaining and restoring the renewable natural resource base in ways which increase agricultural production, including components of agriculture activities which are consistent with this objective, (2) health activities, and (3) voluntary family planning: *Provided further,* That local currencies generated by the sale of imports or foreign exchange by the government of a country in Sub-Saharan Africa from funds appropriated under this heading shall be deposited in a special account established by that government: *Provided further,* That these local currencies shall be available only for use, in accordance with an agreement with the United States, for development activities which are consistent with the policy directions of section 102 of the Foreign Assistance Act of 1961 and for necessary administrative requirements of the United States Government: *Provided further,* That in order to carry out the purposes of this heading, section 604(a) of the Foreign Assistance Act of 1961, and similar provisions of law, shall not apply with respect to the implementation of assistance activities consistent with the purposes of this heading: *Provided further,* That the funds made available under this heading shall be provided only on a grant basis. Grants.

SOUTHERN AFRICA, DEVELOPMENT ASSISTANCE

For necessary expenses to carry out the provisions of sections 103 through 106 of the Foreign Assistance Act of 1961, $50,000,000, which shall be made available, without regard to section 518 of this Act and section 620(q) of the Foreign Assistance Act of 1961, only to assist sector projects supported by the Southern Africa Development Coordination Conference (SADCC) to enhance the economic development of the nine member states forming that regional institution: *Provided,* That this amount shall be made available for one or more of the following sectors: transportation; manpower development; agriculture and natural resources; energy (including the improved utilization of electrical power sources which already exist in the member states and offer the potential to swiftly reduce the dependence of those states on South Africa for electricity); and industrial development and trade (including private sector initiatives): *Provided further,* That amounts made available under this heading shall be in addition to any amounts otherwise made available for such purposes and shall be in addition to amounts made available for Africa under the heading "Sub-Saharan Africa, Development Assistance": *Provided further,* That none of the funds appropriated under this heading may be made available for activities in Angola: *Provided further,* That none of the funds appropriated under this heading may be made available for activities in Mozambique unless the President certifies that it is in the national interest of the United States to do so.

ASSISTANCE FOR JAMAICA

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $35,000,000 shall be made available, notwithstanding any other provision of law, for relief, rehabilitation and reconstruction assistance, which amount shall be in addition to funds otherwise made

available for Jamaica to carry out the provisions of part I of such Act.

ASSISTANCE FOR VICTIMS OF WAR

Of the aggregate of the funds appropriated by this Act to carry out part I and chapter 4 of part II of the Foreign Assistance Act of 1961, up to $5,000,000 may be made available, notwithstanding any other provision of law, for assistance for the provision of prostheses for civilians who have been injured as a result of civil strife and warfare.

ASSISTANCE FOR DISPLACED CHILDREN

Of the aggregate of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, not less than $1,500,000 shall be made available for programs and activities for children who have become orphans as a result of the effects of drought, civil strife, and other natural and man-made disasters: *Provided,* That assistance under this heading shall be made available in accordance with the policies and general authorities contained in section 491 of the Foreign Assistance Act of 1961.

WOMEN IN DEVELOPMENT

In recognition that the full participation of women in, and the full contribution of women to, the development process are essential to achieving economic growth, a higher quality of life, and sustainable development in developing countries, not less than $5,000,000 of the funds appropriated by this Act to carry out part I of the Foreign Assistance Act of 1961, in addition to funds otherwise available for such purposes, shall be used to encourage and promote the participation and integration of women as equal partners in the development process in developing countries, of which not less than $3,000,000 shall be made available as matching funds to support the activities of the Agency for International Development's field missions to integrate women into their programs: *Provided,* That the Agency for International Development shall seek to ensure that country strategies, projects, and programs are designed so that the percentage of women participants will be demonstrably increased.

PHILIPPINES, DEVELOPMENT ASSISTANCE

Of the aggregate of the funds appropriated by this Act to carry out sections 103 through 106 of the Foreign Assistance Act of 1961, not less than $40,000,000 shall be made available only for the Philippines for project and sector assistance primarily in support of the Government of the Philippines' efforts to promote economic recovery and attain sustained growth through increased rural productivity in both farm and off-farm enterprises, and other activities consistent with the purposes of chapter 1 of part I of the Foreign Assistance Act of 1961: *Provided,* That of the funds made available for the Philippines under section 103 of the Foreign Assistance Act of 1961, as amended, not less than $1,000,000 shall be made available to fund technical assistance to strengthen nonprofit private organizations and cooperatives in conjunction, where possible, with projects using local currencies generated by sale of Public Law 480 and section 416 commodities.

PRIVATE AND VOLUNTARY ORGANIZATIONS

22 USC 2151u note.

None of the funds appropriated or otherwise made available by this Act for development assistance may be made available to any United States private and voluntary organization, except any cooperative development organization, which obtains less than 20 per centum of its total annual funding for international activities from sources other than the United States Government: *Provided,* That the requirements of the provisions of section 123(g) of the Foreign Assistance Act of 1961 and the provisions on private and voluntary organizations in title II of the "Foreign Assistance and Related Programs Appropriations Act, 1985" (as enacted in Public Law 98-473) shall be superseded by the provisions of this section.

PRIVATE SECTOR REVOLVING FUND

(INCLUDING TRANSFERS OF FUNDS)

For necessary expenses to carry out the provisions of section 108 of the Foreign Assistance Act of 1961, not to exceed $9,000,000 to be derived by transfer from funds appropriated to carry out the provisions of chapter 1 of part I of such Act, to remain available until expended. During fiscal year 1989, obligations for assistance from amounts in the revolving fund account under section 108 shall not exceed $12,000,000.

During fiscal year 1989, total commitments to guarantee loans shall not exceed $25,000,000 of contingent liability for loan principal.

AMERICAN SCHOOLS AND HOSPITALS ABROAD

For necessary expenses to carry out the provisions of section 214, $35,000,000.

INTERNATIONAL DISASTER ASSISTANCE

For necessary expenses to carry out the provisions of section 491, $25,000,000, to remain available until expended: *Provided,* That not less the $500,000 of the funds appropriated under this heading may be made available for assistance for children who have become orphans as a result of natural disasters.

PAYMENT TO THE FOREIGN SERVICE RETIREMENT AND DISABILITY FUND

For payment to the "Foreign Service Retirement and Disability Fund", as authorized by the Foreign Service Act of 1980, $40,532,000.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT

For necessary expenses to carry out the provisions of section 667, $414,000,000: *Provided,* That not more than $15,000,000 of this amount shall be for Foreign Affairs Administrative Support: *Provided further,* That except to the extent that the Administrator of the Agency for International Development determines otherwise, not less than 10 per centum of the aggregate of the funds made available for the fiscal year 1989 to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be made available only for activities of economically and socially disadvantaged enterprises (within the meaning of section 133(c)(5) of the International Develop-

ment and Food Assistance Act of 1977), historically black colleges and universities, colleges and universities having a student body in which more than 40 percent of the students are Hispanic Americans, and private and voluntary organizations which are controlled by individuals who are black Americans, Hispanic Americans, or Native Americans, or who are economically and socially disadvantaged (within the meaning of section 133(c)(5) (B) and (C) of the International Development and Food Assistance Act of 1977). For purposes of this proviso, economically and socially disadvantaged individuals shall be deemed to include women.

OPERATING EXPENSES OF THE AGENCY FOR INTERNATIONAL DEVELOPMENT OFFICE OF INSPECTOR GENERAL

For necessary expenses to carry out the provisions of section 667, $28,500,000, which sum shall be available only for the operating expenses of the Office of the Inspector General notwithstanding sections 451 or 614 of the Foreign Assistance Act of 1961 or any other provision of law: *Provided,* That up to three percent of the amount made available under the heading "Operating Expenses of the Agency for International Development" may be transferred to and merged and consolidated with amounts made available under this heading: *Provided further,* That except as may be required by an emergency evacuation affecting the United States diplomatic missions of which they are a component element, none of the funds in this Act, or any other Act, may be used to relocate the overseas Regional Offices of the Inspector General to a location within the United States without the express approval of the Inspector General: *Provided further,* That the total number of positions authorized for the Office of Inspector General in Washington and overseas shall be not less than 240 at September 30, 1989: *Provided further,* That section 103(b) of the Omnibus Diplomatic Security and Antiterrorism Act of 1986 is amended by (1) striking out subsection (b)(3); (2) inserting, in subsection (b)(2), "or regional inspector general offices under the jurisdiction of the inspector General, Agency for International Development" after "commander"; and (3) striking out "; and" at the end of subsection (b)(2) and inserting in lieu thereof a period.

22 USC 4802.

HOUSING AND OTHER CREDIT GUARANTY PROGRAMS

During the fiscal year 1989, total commitments to guarantee loans shall not exceed $125,000,000 of contingent liability for loan principal: *Provided,* That the President shall enter into commitments to guarantee such loans in the full amount provided under this heading, subject only to the availability of qualified applicants for such guarantees: *Provided further,* That pursuant to section 223(e)(2) of the Foreign Assistance Act of 1961 borrowing authority provided therein may be exercised in such amounts as may be necessary to retain an adequate level of contingency reserves for the fiscal year 1989.

President of U.S. Loans.

ECONOMIC SUPPORT FUND

For necessary expenses to carry out the provisions of chapter 4 of part II, $3,258,500,000: *Provided,* That of the funds appropriated under this heading, not less than $1,200,000,000 shall be available only for Israel, which sum shall be available on a grant basis as a

cash transfer and shall be disbursed within 30 days of enactment of this Act or by October 31, 1988, whichever is later: *Provided further,* That not less than $815,000,000 shall be available only for Egypt, which sum shall be provided on a grant basis, of which not more than $115,000,000 may be provided as a cash transfer with the understanding that Egypt will undertake significant economic reforms which are additional to those which were undertaken in previous fiscal years, and not less than $200,000,000 shall be provided as Commodity Import Program assistance: *Provided further,* That in exercising the authority to provide cash transfer assistance for Israel and Egypt, the President shall ensure that the level of such assistance does not cause an adverse impact on the total level of nonmilitary exports from the United States to each such country: *Provided further,* That it is the sense of the Congress that the recommended levels of assistance for Egypt and Israel are based in great measure upon their continued participation in the Camp David Accords and upon the Egyptian-Israeli peace treaty: *Provided further,* That of the funds appropriated under this heading not less than $215,000,000 shall be available for Pakistan: *Provided further,* That not less than $124,000,000 of the funds appropriated under this heading shall be available for the Philippines: *Provided further,* That not less than $2,500,000 of the funds appropriated under this heading shall be available for Thailand: *Provided further,* That not less than $20,000,000 of the funds appropriated under this heading shall be available for Morocco: *Provided further,* That not less than $11,250,000 of the funds appropriated under this heading shall be available for Tunisia: *Provided further,* That not less than $60,000,000 of the funds appropriated under this heading shall be available for Turkey: *Provided further,* That not less than $50,000,000 of the funds appropriated under this heading shall be available for Portugal: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be available for Cyprus: *Provided further,* That of the funds appropriated under this heading up to $35,000,000 but not less than $10,000,000 shall be available for the United States contribution to the International Fund for Ireland and shall be made available in accordance with the provisions of the Anglo-Irish Agreement Support Act of 1986 (Public Law 99-415): *Provided further,* That of the funds appropriated under this heading $185,000,000 only shall be available for El Salvador, $80,000,000 only shall be available for Guatemala, $90,000,000 only shall be available for Costa Rica, and not less than $85,000,000 shall be available for Honduras: *Provided further,* That of the funds provided under this heading for Central American countries, not less than $5,000,000 shall be available only to develop energy self-sufficiency, to identify and utilize indigenous resources to improve economic development, and to reduce reliance on imported energy: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for Jordan, of which not less than $15,000,000 is for programs in Jordan: *Provided further,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for the West Bank and Gaza Program through the Asia and Near East regional program: *Provided further,* That of the funds appropriated under this heading, not less than $85,750,000 shall be available for Sub-Saharan Africa: *Provided further,* That notwithstanding section 660 of the Foreign Assistance Act of 1961 up to $1,000,000 of the funds appropriated under this heading may be made available to

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assist the Government of El Salvador's Special Investigative Unit for the purpose of bringing to justice those responsible for the murders of United States citizens in El Salvador: *Provided further,* That a report of the investigation shall be provided to the Congress: *Provided further,* That $20,000,000 of the funds appropriated under this heading shall be made available to carry out the Administration of Justice program pursuant to section 534 of the Foreign Assistance Act of 1961: *Provided further,* That if funds made available under this heading are provided to a foreign country as cash transfer assistance, that country shall be required to maintain these funds in a separate account and not commingle them with any other funds: *Provided further,* That such funds may be obligated and expended notwithstanding provisions of law which are inconsistent with the cash transfer nature of this assistance or which are referenced in the Joint Explanatory Statement of the Committee of Conference accompanying House Joint Resolution 648 (H. Rept. No. 98-1159): *Provided further,* That all local currencies that may be generated with such funds provided as a cash transfer shall be deposited in a special account to be used in accordance with section 609 of the Foreign Assistance Act of 1961: *Provided further,* That at least 15 days prior to obligating any such cash transfer assistance to a foreign country under this heading, the President shall submit a notification to the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, which shall include a detailed description of how the funds proposed to be made available will be used, with a discussion of the United States interests that will be served by the assistance (including, as appropriate, a description of the economic policy reforms that will be promoted by the cash transfer assistance): *Provided further,* That not more than $5,000,000 of the funds made available under this heading may be available to finance tied aid credits, unless the President determines it is in the national interest to provide in excess of $5,000,000 and so notifies the Committees on Appropriations through the regular notification procedures: *Provided further,* That notwithstanding any other provision of law, none of the funds appropriated under this heading may be used for tied aid credits without the prior approval of the Administrator of the Agency for International Development: *Provided further,* That, except as provided by this Act, none of the funds appropriated under this heading by this Act or the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, shall be made available for tied credits in accordance with any provision of law enacted after May 19, 1988: *Provided further,* That $2,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, only for the independent Polish trade union "Solidarity" of which $1,000,000 is to support its Social Fund project, and $1,000,000 is to support Solidarity through the AFL-CIO's Free Trade Union Institute to promote democratic activities in Poland: *Provided further,* That not to exceed $2,000,000 of the funds appropriated under this heading shall be made available notwithstanding any other provision of law to the National Endowment for Democracy for the promotion of democracy in Nicaragua: *Provided further,* That these funds are to be administered consistent with the Agreement between the Government of Nicaragua and the Nicaraguan Resistance signed March 23, 1988 at Sapoa, Nicaragua ("Sapoa Agreement") and the Guatemala Peace Accords of August 7, 1987: *Provided*

Reports.

22 USC 2346 note.

President of U.S.

further, That such assistance (1) shall be provided to internal groups that have renounced violence and support a negotiated settlement to the conflict in Nicaragua, including independent elements of the press, independent labor unions, independent business groups, and independent human rights groups, and (2) may not be provided to any group that is affiliated with or supportive of any armed opposition group: *Provided further,* That the manner in which these funds are used shall not be inconsistent with the Sapoa Agreement, as its terms are applied and monitored for acceptability by the Verification Commission established by that Agreement: *Provided further,* That $1,000,000 of the funds appropriated under this heading shall be made available, notwithstanding any other provision of law, for the provision of medical supplies and hospital equipment for Poland through private and voluntary organizations, including the expenses of purchasing, transporting, and distributing such supplies and equipment: *Provided further,* That funds made available under this heading shall remain available until September 30, 1990.

INDEPENDENT AGENCIES

AFRICAN DEVELOPMENT FOUNDATION

For necessary expenses to carry out the provisions of title V of the International Security and Development Cooperation Act of 1980, Public Law 96-533, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $8,000,000: *Provided,* That, when, with the permission of the Foundation, funds made available to a grantee under this heading are invested pending disbursement, the resulting interest is not required to be deposited in the United States Treasury if the grantee uses the resulting interest for the purpose for which the grant was made. This provision applies with respect to both interest earned before and interest earned after the enactment of this provision: *Provided further,* That section 505(a)(1) of the International Security and Development Cooperation Act of 1980 is amended by inserting "(including public international organizations)" after "public group". 22 USC 290h-3.

INTER-AMERICAN FOUNDATION

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary to carry out the functions of the Inter-American Foundation in accordance with the provisions of section 401 of the Foreign Assistance Act of 1969, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104, title 31, United States Code, $16,600,000.

OVERSEAS PRIVATE INVESTMENT CORPORATION

The Overseas Private Investment Corporation is authorized to make such expenditures within the limits of funds available to it and in accordance with law (including not to exceed $35,000 for official reception and representation expenses), and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 9104 of title 31, United States Code, as

may be necessary in carrying out the program set forth in the budget for the current fiscal year.

During the fiscal year 1989 and within the resources and authority available, gross obligations for the amount of direct loans shall not exceed $23,000,000.

During the fiscal year 1989, total commitments to guarantee loans shall not exceed $200,000,000 of contingent liability for loan principal.

Loans.

Except as provided in this Act, no provision of any other Act not enacted into law by May 19, 1988, shall be construed to require the exercise of authority to provide direct loans or to make commitments to guarantee loans contrary to the limitations contained under this heading.

PEACE CORPS

For expenses necessary to carry out the provisions of the Peace Corps Act (75 Stat. 612), $153,500,000, including the purchase of not to exceed five passenger motor vehicles for administrative purposes for use outside of the United States: *Provided,* That none of the funds appropriated under this heading shall be used to pay for abortions.

Abortion.

DEPARTMENT OF STATE

INTERNATIONAL NARCOTICS CONTROL

For necessary expenses to carry out the provisions of section 481 of the Foreign Assistance Act of 1961, $101,000,000: *Provided,* That not less than $15,000,000 of the funds appropriated under this heading shall be made available for narcotics interdiction and control programs for Bolivia: *Provided further,* That in addition to amounts made available pursuant to the previous proviso, not less than $7,000,000 of the funds appropriated under this heading shall be available for Latin America regional programs: *Provided further,* That in carrying out the provisions of section 481, increased emphasis should be placed on (1) further intensifying United States efforts in the eradication and interdiction of illicit narcotics, and (2) seeking international cooperation on narcotics enforcement matters such as in the areas of extradition treaties, mutual legal assistance to combat money laundering, sharing of evidence, and other initiatives for cooperative narcotics enforcement efforts.

MIGRATION AND REFUGEE ASSISTANCE

For expenses, not otherwise provided for, necessary to enable the Secretary of State to provide, as authorized by law, a contribution to the International Committee of the Red Cross and assistance to refugees, including contributions to the Intergovernmental Committee for Migration and the United Nations High Commissioner for Refugees; salaries and expenses of personnel and dependents as authorized by the Foreign Service Act of 1980; allowances as authorized by sections 5921 through 5925 of title 5, United States Code; hire of passenger motor vehicles; and services as authorized by section 3109 of title 5, United States Code; $361,950,000: *Provided,* That not less than $28,000,000 shall be available for Soviet, Eastern European and other refugees resettling in Israel: *Provided further,* That funds appropriated under this heading shall be administered in a manner that ensures equity in the treatment of all refugees

receiving Federal assistance: *Provided further,* That no funds herein appropriated shall be used to assist directly in the migration to any nation in the Western Hemisphere of any person not having a security clearance based on reasonable standards to ensure against Communist infiltration in the Western Hemisphere: *Provided further,* That of the funds appropriated under this heading not less than $140,000,000 shall be made available for the refugee admissions program, including AIDS screening, of which (1) not less than $46,000,000 shall be made available for first asylum refugees from East Asia and, (2) not less than $15,000,000 shall be available for costs of the expedited resettlement of Vietnamese Amerasians and their family members eligible for refugee benefits: *Provided further,* That of the funds appropriated under this heading not less than $20,000,000 shall be made available to the United Nations High Commissioner for Refugees for assistance for Afghan refugees: *Provided further,* That of the funds appropriated under this heading not less than $1,500,000 shall be made available for a Thailand-Cambodia border refugee protection program: *Provided further,* That of the funds appropriated under this heading not less than $1,500,000 shall be made available for the anti-piracy program, none of which funds may be used by any government to deny asylum to individuals seeking asylum: *Provided further,* That of the funds appropriated under this heading not less than $1,500,000 shall be made available for a Thailand border refugee education program: *Provided further,* That the provisions of subsection (c) of section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, as contained in section 101(e) of Public Law 100-202, shall apply to an individual who (1) departs from Vietnam after the date of the enactment of this Act and before the end of the two-year period described in subsection (a)(1)(B) of such section, and (2) is described in subsection (b) of such section, but who is issued an immigrant visa under section 201(b) or 203(a) of the Immigration and Nationality Act (rather than under subsection (a) of such section), or would be described in subsection (b) of such section if such section also applied to principal aliens who were citizens of the United States (rather than merely to aliens): *Provided further,* That not more than $8,000,000 of the funds appropriated under this heading shall be available for the administrative expenses of the Office of Refugee Programs of the Department of State.

8 USC 1101 note.

UNITED STATES EMERGENCY REFUGEE AND MIGRATION ASSISTANCE FUND

For necessary expenses to carry out the provisions of section 2(c) of the Migration and Refugee Assistance Act of 1962, as amended (22 U.S.C. 260(c)), $50,000,000, to remain available until expended: *Provided,* That of the funds appropriated under this heading not less than $23,000,000 shall be made available only for Afghan refugees to be administered by the cross-border humanitarian assistance program: *Provided further,* That the funds made available under this heading are appropriated notwithstanding the provisions contained in section 2(c)(2) of the Migration and Refugee Assistance Act of 1962 which would limit the amount of funds which could be appropriated for this purpose: *Provided further,* That funds appropriated under this heading shall be available for obligation and expenditure for Afghan refugees only after funds appropriated or otherwise earmarked for assistance for the Afghan people under section 537 of

this Act and under the heading "Migration and Refugee Assistance" have been obligated.

ANTI-TERRORISM ASSISTANCE

For necessary expenses to carry out the provisions of chapter 8 of part II of the Foreign Assistance Act of 1961, $9,840,000.

TITLE III—MILITARY ASSISTANCE

FUNDS APPROPRIATED TO THE PRESIDENT

MILITARY ASSISTANCE

For necessary expenses to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, including administrative expenses and purchase of passenger motor vehicles for replacement only for use outside of the United States, $467,000,000: *Provided*, That of the funds appropriated under this heading not less than $125,000,000 shall be made available only for the Philippines: *Provided further*, That not less than $9,000,000 shall be available for non-lethal military assistance for Guatemala, of which not less than $2,000,000 shall be available only for civic action programs and for the construction of military barracks: *Provided further*, That not less than $15,000,000 shall be available for Kenya: *Provided further*, That if any of the funds appropriated under this heading are made available for Turkey, then not less than $30,000,000 of such funds shall be available for Greece: *Provided further*, That of the funds appropriated under this heading not more than $40,000,000 shall be used for general costs of administering the Military Assistance program: *Provided further*, That any material assistance provided with funds appropriated under this heading for Haiti shall be limited to non-lethal items such as transportation and communications equipment and uniforms: *Provided further*, That funds made available under this heading for Haiti shall be made available only through the regular notification procedures of the Committees on Appropriations: *Provided further*, That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further*, That the proviso under this heading in the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, prohibiting the use of military assistance funds after September 30, 1989, for the purposes of section 503(a)(3) of the Foreign Assistance Act of 1961, is repealed: *Provided further*, That any military assistance funds appropriated by this Act that have not been committed for the payment of any sale under the Arms Export Control Act during the period ending at the end of the second fiscal year after the fiscal year for which such funds were appropriated shall not be committed for such purpose thereafter unless the Committees on Appropriations are given a fifteen-day prior notification of the amount of funds involved, the reasons why no commitment was made thereof, and the proposed sales to be financed with such funds: *Provided further*, That military assistance funds appropriated by this or any other Act that have been expended into the account designated in section 503(a)(3) of the Foreign Assistance Act of 1961 to finance particular sales shall be available, subject to all applicable reprogramming provisions, to finance other sales in the

101 Stat. 1329-147.

event of sales cancellations, reductions, excess funds at case close-out, or other reasons relating to the implementation of sales programs: *Provided further,* That the Committees on Appropriations shall be furnished on March 1 of each year a complete report of the status of military assistance funds appropriated by this or any future Act committed for the payment of any sales under the Arms Export Control Act as regards the individual sale, item description, and estimated sales price.

Reports.
22 USC 2311 note.

INTERNATIONAL MILITARY EDUCATION AND TRAINING

For necessary expenses to carry out the provisions of section 541, $47,400,000: *Provided,* That none of the funds appropriated under this heading shall be made available for grant financed military education and training for any country whose annual per capita GNP exceeds $2,349 unless that country agrees to fund from its own resources the transportation cost and living allowances of its students.

FOREIGN MILITARY FINANCING PROGRAM

For expenses necessary for grants to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $3,862,750,000: *Provided,* That of the funds appropriated by this paragraph not less than $1,800,000,000 shall be available for grants only for Israel, not less than $1,300,000,000 shall be available for grants only for Egypt, not less than $230,000,000 shall be available for grants only for Pakistan, not less than $52,000,000 shall be available for grants only for Morocco, and not less than $30,000,000 shall be available for grants only for Tunisia: *Provided further,* That to the extent that the Government of Israel requests that funds be used for such purposes, grants made available for Israel by this paragraph shall, as agreed by Israel and the United States, be available for advanced fighter aircraft programs or for other advanced weapons systems, as follows: (1) up to $150,000,000 shall be available for research and development in the United States; and (2) not less than $400,000,000 shall be available for the procurement in Israel of defense articles and defense services, including research and development: *Provided further,* That grants shall be provided with the funds appropriated by this paragraph notwithstanding any requirement in section 23 of the Arms Export Control Act for repayment and shall be implemented by grant documents which do not include a requirement to repay the United States Government with respect to any funds provided under this paragraph.

For expenses necessary for loans to enable the President to carry out the provisions of section 23 of the Arms Export Control Act, $410,000,000: *Provided,* That any funds made available by this paragraph except as otherwise specified, may be made available at concessional rates of interest: *Provided further,* That the concessional rate of interest on foreign military credit sales loans shall be not less than 5 percent per year: *Provided further,* That all country and funding level changes in requested concessional financing allocations shall be submitted through the regular notification procedures of the Committees on Appropriations: *Provided further,* That during fiscal year 1989, gross obligations for the principal amount of direct loans under this heading, exclusive of loan guarantee defaults, shall not exceed $410,000,000.

Of the funds appropriated under both the "Military Assistance" heading and this heading $500,000,000 only shall be available for Turkey and $350,000,000 only shall be available for Greece: *Provided,* That funds previously obligated for the Philippines under the heading "Foreign Military Credit Sales" but uncommitted on the date of enactment of this Act shall be used only to finance sales made under the Arms Export Control Act: *Provided further,* That of the funds appropriated under this heading, not less than $409,750,000 shall be available only for use in financing the procurement of defense articles, defense services, or design and construction services that are sold by the United States Government under the Arms Export Control Act to countries other than Israel and Egypt: *Provided further,* That funds appropriated under this heading shall be expended at the minimum rate necessary to make timely payment for defense articles and services: *Provided further,* That the Department of Defense shall conduct during the current fiscal year nonreimbursable audits of private firms whose contracts are made directly with foreign governments and are financed with funds made available under this heading (as well as subcontractors thereunder) as requested by the Defense Security Assistance Agency: *Provided further,* That any reference in title V of this Act to "Foreign Military Credit Sales" shall be deemed to be a reference to grants and loans pursuant to the Foreign Military Finance Program under this heading.

Contracts.

FOREIGN MILITARY SALES DEBT REFORM

22 USC 2764 note.

Funds made available by the Foreign Operations, Export Financing and Related Programs, Appropriations Act, 1988, for obligation and expenditure after October 1, 1988, subject to a Presidential budget request, under the heading "Foreign Military Sales Debt Reform", subsection (b) "Interest Rate Reduction" shall be available, subject to the same conditions and provisos, only after October 1, 1989.

GUARANTY RESERVE FUND

If during fiscal year 1989 the funds available in the Guaranty Reserve Fund (Fund) are insufficient to enable the Secretary of Defense (Secretary) to discharge his responsibilities, as guarantor of loans guaranteed pursuant to section 24 of the Arms Export Control Act (AECA) or pursuant to the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, under the heading "Foreign Military Sales Debt Reform", the Secretary shall issue to the Secretary of the Treasury notes or other obligations in such forms and denominations, bearing such maturities, and subject to such terms and conditions, as may be prescribed by the Secretary of the Treasury. Such notes or obligations may be redeemed by the Secretary from appropriations and other funds available, including repayments by the borrowers of amounts paid pursuant to guarantees issued under section 24 of the AECA. Such notes or other obligations shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the average market yield on outstanding marketable obligations of the United States of comparable maturities during the month preceding the issuance of the notes or other obligations. The Secretary of the Treasury shall purchase any notes or other obligations issued hereunder and for that purpose he is authorized to use as a public debt transaction the

proceeds from the sale of any securities issued under the Second Liberty Bond Act, and the purposes for which securities may be issued under the Second Liberty Bond Act are extended to include any purchase of such notes or obligations. The Secretary of the Treasury may at any time sell any of the notes or other obligations acquired by him under this heading. All redemptions, purchases, and sales by the Secretary of the Treasury of such notes or other obligations shall be treated as public debt transactions of the United States.

SPECIAL DEFENSE ACQUISITION FUND

(LIMITATION ON OBLIGATIONS)

Not to exceed $236,865,000 may be obligated pursuant to section 51(c)(2) of the Arms Export Control Act for the purposes of the Special Defense Acquisition Fund during fiscal year 1989, to remain available for obligation until September 30, 1991: *Provided,* That section 632(d) of the Foreign Assistance Act of 1961 shall be applicable to the transfer to countries pursuant to chapter 2 of part II of that Act of defense articles and defense services acquired under chapter 5 of the Arms Export Control Act.

PEACEKEEPING OPERATIONS

For necessary expenses to carry out the provisions of section 551, $31,689,000: *Provided,* That, notwithstanding sections 451, 492(b), or 614 of the Foreign Assistance Act of 1961, or any other provision of law, these funds may be used only as justified in the Congressional Presentation Document for fiscal year 1989: *Provided further,* That, to the extent that these funds cannot be used to provide for such assistance, they shall revert to the Treasury as miscellaneous receipts.

TITLE IV—EXPORT ASSISTANCE

EXPORT-IMPORT BANK OF THE UNITED STATES

The Export-Import Bank of the United States is authorized to make such expenditures within the limits of funds and borrowing authority available to such corporation, and in accordance with law, and to make such contracts and commitments without regard to fiscal year limitations, as provided by section 104 of the Government Corporation Control Act, as may be necessary in carrying out the program for the current fiscal year for such corporation: *Provided,* That none of the funds available during the current fiscal year may be used to make expenditures, contracts, or commitments for the export of nuclear equipment, fuel, or technology to any country other than a nuclear-weapon State as defined in article IX of the Treaty on the Non-Proliferation of Nuclear Weapons eligible to receive economic or military assistance under this Act that has detonated a nuclear explosive after the date of enactment of this Act. Contracts.

LIMITATION ON PROGRAM ACTIVITY

During the fiscal year 1989 and within the resources and authority available, gross obligations for the principal amount of direct loans shall not exceed $695,000,000: *Provided,* That at the discretion of the Chairman of the Export-Import Bank, up to $110,000,000 of

that amount may be available, subject to the regular notification procedures of the Committees on Appropriations of the Senate and House of Representatives, as tied-aid credits in accordance with the provisions of the Export-Import Bank Act Amendments of 1986: *Provided further,* That there is appropriated to the Export-Import Bank of the United States an amount equal to the grant amount of tied-aid credits which are made available from time to time, but not to exceed $110,000,000, which shall be subject to the limitation on gross obligations for the principal amount of direct loans specified under this heading: *Provided further,* That during the fiscal year 1989, total commitments to guarantee loans shall not exceed $10,200,000,000 of contingent liability for loan principal: *Provided further,* That the direct loan and guaranty authority provided under this heading shall remain available until September 30, 1990.

LIMITATION ON ADMINISTRATIVE EXPENSES

Not to exceed $20,390,000 (to be computed on an accrual basis) shall be available during fiscal year 1989 for administrative expenses, including hire of passenger motor vehicles and services as authorized by section 3109 of title 5, United States Code, and not to exceed $16,000 for official reception and representation expenses for members of the Board of Directors: *Provided,* That (1) fees or dues to international organizations of credit institutions engaged in financing foreign trade, (2) necessary expenses (including special services performed on a contract or a fee basis, but not including other personal services) in connection with the acquisition, operation, maintenance, improvement, or disposition of any real or personal property belonging to the Export-Import Bank or in which it has an interest, including expenses of collections of pledged collateral, or the investigation or appraisal of any property in respect to which an application for a loan has been made, and (3) expenses (other than internal expenses of the Export-Import Bank) incurred in connection with the issuance and servicing of guarantees, insurance, and reinsurance, shall be considered as nonadministrative expenses for the purposes of this heading.

FUNDS APPROPRIATED TO THE PRESIDENT

TRADE AND DEVELOPMENT PROGRAM

For necessary expenses to carry out the provisions of section 661 of the Foreign Assistance Act of 1961, $25,000,000: *Provided,* That except as provided in this or any other Act appropriating funds for foreign operations, export financing, and related programs, no provision of law enacted after May 19, 1988, may transfer funds to, or otherwise make available funds for, the Trade and Development Program: *Provided,* That notwithstanding any other provision of law, any funds contained in any previously enacted Act appropriating funds for foreign operations, export financing, and related programs which are transferred or otherwise made available to carry out the purposes of section 661 of the Foreign Assistance Act of 1961 may be deobligated and thereafter reobligated for the purposes for which such funds were originally appropriated: *Provided further,* That of the amounts appropriated under this heading up to $5,000,000 may be used for joint financing with individual State trade promotion organizations of activities directed at the expansion

of trade with developing and middle income countries, including such activities as trade fairs, seminars, targeting and feasibility studies, and activities directed at enhancing the use of exports from the United States in bilateral and multilateral projects.

AGENCY FOR INTERNATIONAL DEVELOPMENT

TRADE CREDIT INSURANCE PROGRAM

During fiscal year 1989, total commitments to guarantee or insure loans for the "Trade Credit Insurance Program" shall not exceed $200,000,000 of contingent liability for loan principal.

TITLE V—GENERAL PROVISIONS

COST BENEFIT STUDIES

SEC. 501. None of the funds appropriated in this Act (other than funds appropriated for "International Organizations and Programs") shall be used to finance the construction of any new flood control, reclamation, or other water or related land resource project or program which has not met the standards and criteria used in determining the feasibility of flood control, reclamation, and other water and related land resource programs and projects proposed for construction within the United States of America under the principles, standards and procedures established pursuant to the Water Resources Planning Act (42 U.S.C. 1962, et seq.) or Acts amendatory or supplementary thereto.

OBLIGATIONS DURING LAST MONTH OF AVAILABILITY

SEC. 502. Except for the appropriations entitled "International Disaster Assistance", and "United States Emergency Refugee and Migration Assistance Fund", not more than 15 per centum of any appropriation item made available by this Act shall be obligated during the last month of availability.

PROHIBITION AGAINST PAY TO FOREIGN ARMED SERVICE MEMBER

SEC. 503. None of the funds appropriated in this Act nor any of the counterpart funds generated as a result of assistance hereunder or any prior Act shall be used to pay pensions, annuities, retirement pay, or adjusted service compensation for any person heretofore or hereafter serving in the armed forces of any recipient country.

TERMINATION FOR CONVENIENCE

SEC. 504. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961, may be used for making payments on any contract for procurement to which the United States is a party entered into after the date of enactment of this Act which does not contain a provision authorizing the termination of such contract for the convenience of the United States. Contracts.

PROHIBITION OF PAYMENTS TO UNITED NATIONS MEMBERS

SEC. 505. None of the funds appropriated or made available pursuant to this Act for carrying out the Foreign Assistance Act of 1961,

may be used to pay in whole or in part any assessments, arrearages, or dues of any member of the United Nations.

PROHIBITION OF BILATERAL FUNDING FOR MULTILATERAL PROGRAMS

SEC. 506. None of the funds contained in title II of this Act may be used to carry out the provisions of section 209(d) of the Foreign Assistance Act of 1961.

AID RESIDENCE EXPENSES

SEC. 507. Of the funds appropriated or made available pursuant to this Act, not to exceed $126,500 shall be for official residence expenses of the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars.

AID ENTERTAINMENT EXPENSES

SEC. 508. Of the funds appropriated or made available pursuant to this Act, not to exceed $11,500 shall be for entertainment expenses of the Agency for International Development during the current fiscal year.

REPRESENTATIONAL ALLOWANCES

SEC. 509. Of the funds appropriated or made available pursuant to this Act, not to exceed $115,000 shall be available for representation allowances for the Agency for International Development during the current fiscal year: *Provided,* That appropriate steps shall be taken to assure that, to the maximum extent possible, United States-owned foreign currencies are utilized in lieu of dollars: *Provided further,* That of the total funds made available by this Act under the headings "Military Assistance" and "Foreign Military Credit Sales", not to exceed $2,875 shall be available for entertainment expenses and not to exceed $75,000 shall be available for representation allowances: *Provided further,* That of the funds made available by this Act under the heading "International Military Education and Training", not to exceed $125,000 shall be available for entertainment allowances: *Provided further,* That of the funds made available by this Act for the Inter-American Foundation, not to exceed $2,875 shall be available for entertainment and representation allowances: *Provided further,* That of the funds made available by this Act for the Peace Corps, not to exceed a total of $4,600 shall be available for entertainment expenses: *Provided further,* That of the funds made available by this Act under the heading "Trade and Development Program", not to exceed $2,300 shall be available for representation and entertainment allowances.

PROHIBITION ON FINANCING NUCLEAR GOODS

SEC. 510. None of the funds appropriated or made available (other than funds for "International Organizations and Programs") pursuant to this Act, for carrying out the Foreign Assistance Act of 1961, may be used to finance the export of nuclear equipment, fuel, or technology.

HUMAN RIGHTS

SEC. 511. Funds appropriated by this Act may not be obligated or expended to provide assistance to any country for the purpose of aiding the efforts of the government of such country to repress the legitimate rights of the population of such country contrary to the Universal Declaration of Human Rights.

PROHIBITION AGAINST DIRECT FUNDING FOR CERTAIN COUNTRIES

SEC. 512. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria.

MILITARY COUPS

SEC. 513. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to any country whose duly elected Head of Government is deposed by military coup or decree: *Provided,* That assistance may be resumed to such country if the President determines and reports to the Committees on Appropriations that subsequent to the termination of assistance a democratically elected government has taken office.

TRANSFERS BETWEEN ACCOUNTS

SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated without the prior written approval of the Committees on Appropriations.

DEOBLIGATION/REOBLIGATION AUTHORITY

SEC. 515. Amounts certified pursuant to section 1311 of the Supplemental Appropriations Act, 1955, as having been obligated against appropriations heretofore made under the authority of the Foreign Assistance Act of 1961 for the same general purpose as any of the headings under the "Agency for International Development" are, if deobligated, hereby continued available for the same period as the respective appropriations under such headings or until September 30, 1989, whichever is later, and for the same general purpose, and for countries within the same region as originally obligated: *Provided,* That the Appropriations Committees of both Houses of the Congress are notified fifteen days in advance of the deobligation and reobligation of such funds: *Provided further,* That the authority of this section may be used to continue the availability of any of the funds deobligated under any of such headings in order to provide relief, rehabilitation, and reconstruction assistance for Jamaica and Bangladesh: *Provided further,* That any such funds reobligated for Jamaica and Bangladesh shall be made available in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961: *Provided further,* That the authority of this section may not be exercised to deobligate and reobligate funds previously obligated for the "Economic Support Fund"

PROHIBITION ON PUBLICITY OR PROPAGANDA

SEC. 516. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes within the United States not authorized before the date of enactment of this Act by the Congress.

AVAILABILITY OF FUNDS

SEC. 517. No part of any appropriation contained in this Act shall remain available for obligation after the expiration of the current fiscal year unless expressly so provided in this Act: *Provided,* That funds appropriated for the purposes of chapter 1 of part I and chapter 4 of part II of the Foreign Assistance Act of 1961, as amended, shall remain available until expended if such funds are initially obligated before the expiration of their respective periods of availability contained in this Act.

LIMITATION ON ASSISTANCE TO COUNTRIES IN DEFAULT

Loans.

SEC. 518. No part of any appropriation contained in this Act shall be used to furnish assistance to any country which is in default during a period in excess of one calendar year in payment to the United States of principal or interest on any loan made to such country by the United States pursuant to a program for which funds are appropriated under this Act.

FINANCIAL INSTITUTIONS—NAMES OF BORROWERS

Loans.

SEC. 519. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain the amounts and the names of borrowers for all loans of the international financial institution, including loans to employees of the institution, or the compensation and related benefits of employees of the institution.

FINANCIAL INSTITUTIONS—DOCUMENTATION

Classified information.

SEC. 520. None of the funds appropriated or made available pursuant to this Act shall be available to any international financial institution whose United States governor or representative cannot upon request obtain any document developed by or in the possession of the management of the international financial institution, unless the United States governor or representative of the institution certifies to the Committees on Appropriations that the confidentiality of the information is essential to the operation of the institution.

COMMERCE AND TRADE

SEC. 521. None of the funds appropriated or made available pursuant to this Act for direct assistance and none of the funds otherwise made available pursuant to this Act to the Export-Import Bank and the Overseas Private Investment Corporation shall be obligated or expended to finance any loan, any assistance or any other financial commitments for establishing or expanding production of any commodity for export by any country other than the United States, if the commodity is likely to be in surplus on world markets at the time the resulting productive capacity is expected to become opera-

tive and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity: *Provided,* That such prohibition shall not apply to the Export-Import Bank if in the judgment of its Board of Directors the benefits to industry and employment in the United States are likely to outweigh the injury to United States producers of the same, similar, or competing commodity.

SURPLUS COMMODITIES

SEC. 522. The Secretary of the Treasury shall instruct the United States Executive Directors of the International Bank for Reconstruction and Development, the International Development Association, the International Finance Corporation, the Inter-American Development Bank, the International Monetary Fund, the Asian Development Bank, the Inter-American Investment Corporation, the African Development Bank, and the African Development Fund to use the voice and vote of the United States to oppose any assistance by these institutions, using funds appropriated or made available pursuant to this Act, for the production or extraction of any commodity or mineral for export, if it is in surplus on world markets and if the assistance will cause substantial injury to United States producers of the same, similar, or competing commodity.

Minerals and mining. Exports. 22 USC 262h.

NOTIFICATION REQUIREMENTS

SEC. 523. For the purposes of providing the Executive Branch with the necessary administrative flexibility, none of the funds made available under this Act for "Agriculture, rural development, and nutrition, Development Assistance", "Population, Development Assistance", "Child Survival Fund", "Health, Development Assistance", "International AIDS Prevention and Control Program", "Education and human resources development, Development Assistance", "Private Sector, environment, and energy, Development Assistance", "Science and technology, Development Assistance", "Sub-Saharan Africa, Development Assistance", "Southern Africa, Development Assistance", "International organizations and programs", "American schools and hospitals abroad", "Trade and development program", "International narcotics control", "Economic support fund", "Peacekeeping operations", "Operating expenses of the Agency for International Development", "Operating expenses of the Agency for International Development Office of Inspector General", "Anti-terrorism assistance", "Military Assistance", "Foreign Military Credit Sales", "International military education and training", "Inter-American Foundation", "African Development Foundation", "Peace Corps", or "Migration and refugee assistance", shall be available for obligation for activities, programs, projects, type of materiel assistance, countries, or other operation not justified or in excess of the amount justified to the Appropriations Committees for obligation under any of these specific headings for the current fiscal year unless the Appropriations Committees of both Houses of Congress are previously notified fifteen days in advance: *Provided,* That the President shall not enter into any commitment of funds appropriated for the purposes of chapter 2 of part II of the Foreign Assistance Act of 1961 or of funds appropriated for the purposes of section 23 of the Arms Export Control Act for the provision of major defense equipment, other

than conventional ammunition, not previously justified to Congress or 20 per centum in excess of the quantities justified to Congress unless the Committees on Appropriations are notified fifteen days in advance of such commitment: *Provided further,* That this section shall not apply to any reprogramming for an activity, program, or project under chapter 1 of part I of the Foreign Assistance Act of 1961 of less than 20 per centum of the amount previously justified to the Congress for obligation for such activity, program, or project for the current fiscal year.

CONSULTING SERVICES

Contracts. Records. Public information.

SEC. 524. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspection, except where otherwise provided under existing law, or under existing Executive order pursuant to existing law.

PROHIBITION ON ABORTION LOBBYING

SEC. 525. None of the funds appropriated under this Act may be used to lobby for abortion.

LIMITATION ON AVAILABILITY OF FUNDS FOR INTERNATIONAL ORGANIZATIONS AND PROGRAMS

SEC. 526. Notwithstanding any other provision of law or of this Act, none of the funds provided for "International Organizations and Programs" shall be available for the United States proportionate share for any programs for the Palestine Liberation Organization, the Southwest African Peoples Organization, Libya, Iran, or, at the discretion of the President, Communist countries listed in section 620(f) of the Foreign Assistance Act of 1961, as amended.

UNITED NATIONS VOTING RECORD

President of U.S. Reports. 22 USC 2414a.

SEC. 527. (a) Not later than January 31 of each year, or at the time of the transmittal by the President to the Congress of the annual presentation materials on foreign assistance, whichever is earlier, the President shall transmit to the Speaker of the House of Representatives and the President of the Senate a full and complete report which assesses, with respect to each foreign country, the degree of support by the government of each such country during the preceding twelve-month period for the foreign policy of the United States. Such report shall include, with respect to each such country which is a member of the United Nations, information to be compiled and supplied by the Permanent Representative of the United States to the United Nations, consisting of a comparison of the overall voting practices in the principal bodies of the United Nations during the preceding twelve-month period of such country and the United States, with special note of the voting and speaking records of such country on issues of major importance to the United States in the General Assembly and the Security Council, and shall also include a report on actions with regard to the United States in important related documents such as the Non-Aligned Communique. A full compilation of the information supplied by the Permanent Representative of the United States to the United Nations for

inclusion in such report shall be provided as an addendum to such report.

(b) None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended to finance directly any assistance to a country which the President finds, based on the contents of the report required to be transmitted under subsection (a), is engaged in a consistent pattern of opposition to the foreign policy of the United States.

(c) The report required by subsection (a) of this section shall continue to include the same type of information as is contained in the "Report to Congress on Voting Practices in the United Nations" which was submitted pursuant to Public Law 99-190 and Public Law 98-164 on June 6, 1986 and shall be in a format to be developed in consultation with the appropriate congressional committees: *Provided,* That any such changes are approved by legislation.

LOANS TO ISRAEL UNDER ARMS EXPORT CONTROL ACT

SEC. 528. Notwithstanding any other provision of law, Israel may utilize any loan which is or was made available under the Arms Export Control Act and for which repayment is or was forgiven before utilizing any other loan made available under the Arms Export Control Act.

PROHIBITION AGAINST UNITED STATES EMPLOYEES RECOGNIZING OR NEGOTIATING WITH PLO

SEC. 529. In reaffirmation of the 1975 memorandum of agreement between the United States and Israel, and in accordance with section 1302 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83), no employee of or individual acting on behalf of the United States Government shall recognize or negotiate with the Palestine Liberation Organization or representatives thereof, so long as the Palestine Liberation Organization does not recognize Israel's right to exist, does not accept Security Council Resolutions 242 and 338, and does not renounce the use of terrorism.

ECONOMIC SUPPORT FUNDS FOR ISRAEL

SEC. 530. The Congress finds that progress on the peace process in the Middle East is vitally important to United States security interests in the region. The Congress recognizes that, in fulfilling its obligations under the Treaty of Peace Between the Arab Republic of Egypt and the State of Israel, done at Washington on March 26, 1979, Israel incurred severe economic burdens. Furthermore, the Congress recognizes that an economically and militarily secure Israel serves the security interests of the United States, for a secure Israel is an Israel which has the incentive and confidence to continue pursuing the peace process. Therefore, the Congress declares that it is the policy and the intention of the United States that the funds provided in annual appropriations for the Economic Support Fund which are allocated to Israel shall not be less than the annual debt repayment (interest and principal) from Israel to the United States Government in recognition that such a principle serves United States interests in the region.

CEILINGS AND EARMARKS

SEC. 531. Ceilings and earmarks contained in this Act shall not be applicable to funds or authorities appropriated or otherwise made available by any subsequent Act unless such Act specifically so directs.

NOTIFICATION REQUIREMENT ON FUNDING FOR LEBANON

SEC. 532. None of the funds appropriated or otherwise made available pursuant to this Act for the "Economic Support Fund" or for "Foreign Military Credit Sales" shall be obligated or expended for Lebanon except as provided through the regular notification procedures of the Committees on Appropriations.

NOTIFICATION CONCERNING AIRCRAFT IN CENTRAL AMERICA

SEC. 533. (a) During the current fiscal year, the authorities of part II of the Foreign Assistance Act of 1961 and the Arms Export Control Act may not be used to make available any helicopters or other aircraft for military use, and licenses may not be issued under section 38 of the Arms Export Control Act for the export of any such aircraft, to any country in Central America unless the Committees on Appropriations, the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified in writing at least 15 days in advance.

(b) During the current fiscal year, the Secretary of State shall promptly notify the committees designated in subsection (a) whenever any helicopters or other aircraft for military use are provided to any country in Central America by any foreign country.

GUATEMALA—RESETTLEMENT PROGRAM

SEC. 534. Funds provided in this Act for Guatemala may not be provided to the Government of Guatemala for use in its rural resettlement program, except through the regular notification procedures of the Committees on Appropriations.

ENVIRONMENTAL CONCERNS

Energy. Conservation. 22 USC 262*l*.

SEC. 535. (a) It is the policy of the United States that sustainable economic growth must be predicated on sustainable use of natural resources. The Secretary of the Treasury shall instruct the United States Executive Directors of the Multilateral Development Banks (MDB's) to—

(1) promote the adoption of internal guidelines requiring the use of least-cost planning techniques in evaluating proposed energy loans, and consider refusal to support power generation, utilization or energy sector loans unless cost-effective conservation measures have been fully evaluated and considered;

(2) encourage each MDB to offer technical assistance to borrower nations in preparing national energy plans. Special emphasis shall be given to least-cost analysis in making decisions on energy use and development, and such analyses shall take into account all demand-side as well as supply-side options;

(3) promote expansion of MDB expertise in the areas of energy conservation and renewable energy sources;

(4) promote the adoption of lending strategies which place increased emphasis on energy conservation and efficiency as opposed to merely increasing generating capacity;

(5) promote adoption of policies which minimize emissions of greenhouse gases;

(6) promote the adoption of lending strategies that place increased emphasis on energy efficient transportation programs. Such strategies shall consider alternatives to conventional mechanized transport such as nonmotorized vehicles, public transport and increased energy and cost efficiency of transportation systems; and

(7) promote the use of existing and the development of new mechanisms to promote conservation of biological diversity. Existing resources to be consulted shall include but not be limited to Conservation Data Centers.

(b) The Secretary of the Treasury and the Secretary of State, in cooperation with the Administrator of the Agency for International Development, shall conduct bilateral and multilateral discussions with other members of the MDB's to further strengthen the environmental performance of each bank. These discussions shall include, but not be limited to organizational, administrative and procedural arrangements to remove impediments to the efficient and effective management of assistance programs necessary to protect and ensure the sustainable use of natural resources and to carry out such assistance programs in consultation with affected local communities.

(c) The Administrator of the Agency for International Development shall—

(1) in the submission of future "early warning system" reports, as required by the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, make use of resources that promote the conservation of biological diversity, such as Conservation Data Centers;

(2) submit a report to the Committees on Appropriations, by January 15, 1989, on the Agency's activities and practices which encourage or discourage the use of renewable energy technologies overseas, and on ways to correct or refocus those efforts. This report shall include but is not limited to Agency activities which could be directed to develop a stronger interface with the private sector through the establishment of a United States Renewable Energy Industry Advisory Council; Reports.

(3) issue guidance to all Agency missions stating that renewable energy resources and conservation are to be the centerpiece of its energy efforts, and meeting energy needs through these means shall be discussed in every Country Development Strategy Statement; and

(4) take steps to implement recommendations set forth by a report of the Committee on Health and Environment on opportunities for the Agency to assist developing countries in the proper use of agricultural and industrial chemicals.

PROHIBITION CONCERNING ABORTIONS AND INVOLUNTARY STERILIZATION

SEC. 536. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of abortions as a method of family planning or

to motivate or coerce any person to practice abortions. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for the performance of involuntary sterilization as a method of family planning or to coerce or provide any financial incentive to any person to undergo sterilizations. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be used to pay for any biomedical research which relates in whole or in part, to methods of, or the performance of, abortions or involuntary sterilization as a means of family planning. None of the funds made available to carry out part I of the Foreign Assistance Act of 1961, as amended, may be obligated or expended for any country or organization if the President certifies that the use of these funds by any such country or organization would violate any of the above provisions related to abortions and involuntary sterilizations. The Congress reaffirms its commitments to Population, Development Assistance and to the need for informed voluntary family planning.

AFGHANISTAN—HUMANITARIAN ASSISTANCE

SEC. 537. Not less than $45,000,000 of the aggregate amount of funds appropriated by this Act, to be derived in equal parts from the funds appropriated to carry out the provisions of chapter 1 of part I of the Foreign Assistance Act of 1961, and chapter 4 of part II of that Act, shall be available for the provision of food, medicine, or other humanitarian assistance to the Afghan people, notwithstanding any other provision of law.

PRIVATE VOLUNTARY ORGANIZATIONS—DOCUMENTATION

SEC. 538. None of the funds appropriated or made available pursuant to this Act shall be available to a private voluntary organization which fails to provide upon timely request any document, file, or record necessary to the auditing requirements of the Agency for International Development, nor shall any of the funds appropriated by this Act be made available to any private voluntary organization which is not registered with the Agency for International Development.

EL SALVADOR—INVESTIGATION OF MURDERS

President of U.S.
Michael Hammer.
Mark Pearlman.
Jose Rodolfo Viera.

SEC. 539. Of the amounts made available by this Act for military assistance and financing for El Salvador under chapters 2 and 5 of part II of the Foreign Assistance Act of 1961 and under the Arms Export Control Act, $5,000,000 may not be expended until the President reports, following the conclusion of the Appeals process in the case of Captain Avila, to the Committees on Appropriations that the Government of El Salvador has (1) substantially concluded all investigative action with respect to those responsible for the January 1981 deaths of the two United States land reform consultants Michael Hammer and Mark Pearlman and the Salvadoran Land Reform Institute Director Jose Rodolfo Viera, and (2) pursued all legal avenues to bring to trial and obtain a verdict of those who ordered and carried out the January 1981 murders.

REFUGEE RESETTLEMENT

SEC. 540. It is the sense of the Congress that all countries receiving United States foreign assistance under the "Economic Support

Fund", "Foreign Military Credit Sales", "Military Assistance", "International Military Education and Training", the Agricultural Trade Development and Assistance Act of 1954 (Public Law 480), development assistance programs, or trade promotion programs should fully cooperate with the international refugee assistance organizations, the United States, and other governments in facilitating lasting solutions to refugee situations. Further, where resettlement to other countries is the appropriate solution, such resettlement should be expedited in cooperation with the country of asylum without respect to race, sex, religion, or national origin.

IMMUNIZATIONS FOR CHILDREN

SEC. 541. (a) The Congress finds that—

(1) the United Nations Children's Fund (UNICEF) reports that four million children die annually because they have not been immunized against the six major childhood diseases: polio, measles, whooping cough, diphtheria, tetanus, and tuberculosis;

(2) at present less than 20 percent of children in the developing world are fully immunized against these diseases;

(3) each year more than five million additional children are permanently disabled and suffer diminished capacities to contribute to the economic, social and political development of their countries because they have not been immunized;

(4) ten million additional childhood deaths from immunizable and potentially immunizable diseases could be averted annually by the development of techniques in biotechnology for new and cost-effective vaccines;

(5) the World Health Assembly, the Executive Board of the United Nations Children's Fund, and the United Nations General Assembly are calling upon the nations of the world to commit the resources necessary to meet the challenge of universal access to childhood immunization by 1990;

(6) the United States, through the Centers for Disease Control and the Agency for International Development, joined in a global effort by providing political and technical leadership that made possible the eradication of smallpox during the 1970's;

(7) the development of national immunization systems that can both be sustained and also serve as a model for a wide range of primary health care actions is a desired outcome of our foreign assistance policy;

(8) the United States Centers for Disease Control headquartered in Atlanta is uniquely qualified to provide technical assistance for a worldwide immunization and eradication effort and is universally respected;

(9) at the 1984 Bellagio Conference it was determined that the goal of universal childhood immunization by 1990 is indeed achievable;

(10) the Congress, through authorizations and appropriations for international health research and primary health care activities and the establishment of the Child Survival Fund, has played a vital role in providing for the well-being of the world's children;

(11) the Congress has expressed its expectation that the Agency for International Development will set as a goal the immunization by 1990 of at least 80 percent of all the children in those countries in which the Agency has a program; and

(12) the United States private sector and public at large have responded generously to appeals for support for national immunization campaigns in developing countries.

(b)(1) The Congress calls upon the President to direct the Agency for International Development, working through the Centers for Disease Control and other appropriate Federal agencies, to work in a global effort to provide enhanced support toward achieving the goal of universal access to childhood immunization by 1990 by—

(A) assisting in the delivery, distribution, and use of vaccines, including—

(i) the building of locally sustainable systems and technical capacities in developing countries to reach, by the appropriate age, not less than 80 per centum of their annually projected target population with the full schedule of required immunizations, and

(ii) the development of a sufficient network of indigenous professionals and institutions with responsibility for developing, monitoring, and assessing immunization programs and continually adapting strategies to reach the goal of preventing immunizable diseases; and

(B) performing, supporting, and encouraging research and development activities, both in the public and private sector, that will be targeted at developing new vaccines and at modifying and improving existing vaccines to make them more appropriate for use in developing countries.

(2) In support of this global effort, the President should appeal to the people of the United States and the United States private sector to support public and private efforts to provide the resources necessary to achieve universal access to childhood immunization by 1990.

ETHIOPIA—FORCED RESETTLEMENT, VILLAGIZATION

SEC. 542. None of the funds appropriated in this Act shall be made available for any costs associated with the Government of Ethiopia's forced resettlement or villagization programs.

SUDAN, SOMALIA, BURUNDI, LIBERIA, UGANDA, AND JAMAICA NOTIFICATION REQUIREMENTS

SEC. 543. None of the funds appropriated in this Act shall be obligated or expended for Sudan, Burundi, Liberia, Uganda, Jamaica or Somalia except as provided through the regular notification procedures of the Committees on Appropriations.

DEFINITION OF PROGRAM, PROJECT, AND ACTIVITY

SEC. 544. For the purpose of this Act, "program, project, and activity" shall be defined at the Appropriations Act account level and shall include all Appropriations and Authorizations Acts earmarks, ceilings, and limitations with the exception that for the following accounts: Economic Support Fund; Military Assistance; and Foreign Military Credit Sales, "program, project, and activity" shall also be considered to include country, regional, and central program level funding within each such account; for the functional development assistance accounts of the Agency for International Development "program, project, and activity" shall also be considered to include central program level funding, either as (1) justified

to the Congress, or (2) allocated by the executive branch in accordance with a report, to be provided to the Committees on Appropriations within thirty days of enactment of this Act, as required by section 653(a) of the Foreign Assistance Act of 1961, as amended.

CHILD SURVIVAL AND AIDS ACTIVITIES

SEC. 545. Of the funds made available by this Act and appropriated for the "Child Survival Fund" and "Health, Development Assistance", up to $6,000,000 may be used to reimburse United States Government agencies, agencies of State governments, and institutions of higher learning for the full cost of employees detailed or assigned, as the case may be, to the Agency for International Development for the purpose of carrying out child survival activities and activities relating to research on, and the treatment and control of, acquired immune deficiency syndrome in developing countries: *Provided,* That personnel which are detailed or assigned for the purposes of this section shall not be included within any personnel ceiling applicable to any United States Government agency during the period of detail or assignment.

INTER-AMERICAN DEVELOPMENT BANK—COORDINATION OF PROJECTS

SEC. 546. The Secretary of the Treasury shall instruct the United States Executive Director of the Inter-American Development Bank to work with the representatives, and with the ministries from which they receive their instructions, of other donor nations to the Inter-American Development Bank, to develop a coordinated economic development program for the assistance activities of the Bank. Such program should be developed in cooperation with the Department of State and the Agency for International Development to ensure that the bilateral economic assistance programs of the United States are effectively coordinated with the activities of the Inter-American Development Bank.

CHILE—LOANS FROM MULTILATERAL DEVELOPMENT INSTITUTIONS

SEC. 547. (a) It is the sense of Congress that pursuant to section 701 of the International Financial Institutions Act of 1977, the United States Government should oppose all loans to Chile from international financial institutions, except for those for basic human needs, until—

(1) the Government of Chile has ended its practice and pattern of gross abuse of internationally recognized human rights;

(2) significant steps have been taken by the Government of Chile to restore democracy, including—

(A) the implementation of political reforms which are essential to the development of democracy, such as the legalization of political parties, the enactment of election laws, the establishment of freedom of speech and the press, and the fair and prompt administration of justice; and

(B) a precise and reasonable timetable has been established for the transition to democracy.

(b) Except for programs under section 534(b) (4) or (6) of the Foreign Assistance Act of 1961 to support the efforts of private groups and individuals seeking to develop a national consensus on the importance of an independent judiciary and the administration of justice generally in a democratic society, assistance for which

programs may be made available notwithstanding section 726 of the International Security and Development Cooperation Act of 1981, none of the funds made available by this Act for the "Economic Support Fund" or for title III shall be obligated or expended for Chile.

COMMODITY COMPETITION

SEC. 548. None of the funds appropriated by this or any other Act to carry out chapter 1 of part I of the Foreign Assistance Act of 1961 shall be available for any testing or breeding feasibility study, variety improvement or introduction, consultancy, publication, conference, or training in connection with the growth or production in a foreign country of an agricultural commodity for export which would compete with a similar commodity grown or produced in the United States: *Provided,* That this section shall not prohibit:

(1) activities designed to increase food security in developing countries where such activities will not have a significant impact in the export of agricultural commodities of the United States; or

(2) research activities intended primarily to benefit American producers.

PROHIBITION OF FUNDING RELATED TO COMPETITION WITH UNITED STATES EXPORTS

SEC. 549. None of the funds provided in this Act to the Agency for International Development, other than funds made available to carry out Caribbean Basin Initiative programs under the Tariff Schedules of the United States, 19 U.S.C. 1202, schedule 8, part I, subpart B, item 807.00, shall be obligated or expended—

(1) to procure directly feasibility studies or prefeasibility studies for, or project profiles of potential investment in, the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined by section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)); or

(2) to assist directly in the establishment of facilities specifically designed for the manufacture, for export to the United States or to third country markets in direct competition with United States exports, of import-sensitive articles as defined in section 503(c)(1) (A) and (E) of the Tariff Act of 1930 (19 U.S.C. 2463(c)(1) (A) and (E)).

PROHIBITION AGAINST INDIRECT FUNDING TO CERTAIN COUNTRIES

SEC. 550. None of the funds appropriated or otherwise made available pursuant to this Act shall be obligated to finance indirectly any assistance or reparations to Angola, Cambodia, Cuba, Iraq, Libya, the Socialist Republic of Vietnam, South Yemen, Iran, or Syria unless the President of the United States certifies that the withholding of these funds is contrary to the national interest of the United States.

ASSISTANCE FOR LIBERIA

SEC. 551. (a) Funds appropriated by this Act under the heading "Military Assistance" or "Economic Support Fund" may be made

available for assistance for Liberia only if the Secretary of State certifies to the Congress that the Government of Liberia—

(1) has taken significant steps to: reduce extra-budgetary expenditures; reduce borrowing from any source (whether local or foreign) in anticipation of future tax receipts, profit sharing, maritime revenues, or other revenues; reduce the use of off-shore funds for the financing of domestic expenditures; and reduce the extent to which public expenditures exceed allocations;

(2) has ceased diverting and misusing United States assistance, and has paid all amounts owed to the local currency accounts (established pursuant to the Agricultural Trade Development and Assistance Act of 1954) for the shortfalls in its payments for the fiscal years 1983 and 1984; and

(3) is making significant progress toward—

(A) permitting all political parties to freely organize, assemble, and disseminate their views as provided for by the Liberian constitution;

(B) respecting constitutional guarantees of freedom of the press and freedom of speech;

(C) maintaining the independence of the legislative branch in accordance with the Liberian constitution;

(D) establishing and maintaining an independent judiciary;

(E) providing full access to all political prisoners by internationally respected human rights organizations for the purpose of investigating human rights abuses;

(F) improving the human rights situation; and

(G) satisfying Liberia's undisputed debts to United States citizens.

(b) None of the funds appropriated in this Act shall be obligated or expended for Liberia except as provided through the regular notification procedures of the Committees on Appropriations.

(c) The requirements of this section are in addition to any other statutory requirements applicable to assistance for Liberia.

RECIPROCAL LEASING

SEC. 552. Section 61(a) of the Arms Export Control Act is amended by striking out "1988" and inserting in lieu thereof "1989". 22 USC 2796.

LIMITATION ON DEFENSE EQUIPMENT DRAWDOWN

SEC. 553. Defense articles, services and training drawn down under the authority of section 506(a) of the Foreign Assistance Act of 1961, shall not be furnished to a recipient unless such articles are delivered to, and such services and training initiated for, the recipient country or international organization not more than one hundred and twenty days from the date on which Congress received notification of the intention to exercise the authority of that section: *Provided,* That if defense articles have not been delivered or services and training initiated by the period specified in this section, a new notification pursuant to section 506(b) of such Act shall be provided, which shall include an explanation for the delay in furnishing such articles, services, and training, before such articles, services, or training may be furnished.

NOTIFICATION ON EXCESS DEFENSE EQUIPMENT

SEC. 554. Prior to providing excess Department of Defense articles in accordance with section 516(a) of the Foreign Assistance Act of 1961, the Department of Defense shall notify the Committees on Appropriations to the same extent and under the same conditions as are other committees pursuant to subsection (c) of that section: *Provided,* That such Committees shall also be informed of the original acquisition cost of such defense articles.

AUTHORIZATION REQUIREMENT

SEC. 555. Funds appropriated by this Act may be obligated and expended notwithstanding section 10 of Public Law 91-672 and section 15 of the State Department Basic Authorities Act of 1956: *Provided,* That section 514 of the Foreign Assistance Act of 1961 is amended by amending subsection (b)(2) to read as follows: "(2) The value of such additions to stockpiles in foreign countries shall not exceed $77,000,000 for fiscal year 1989.": *Provided further,* That the amendment in the nature of a substitute to the text of H.R. 4645, as ordered reported from the Committee on Banking, Finance and Urban Affairs on September 22, 1988, is hereby enacted into law: *Provided further,* That title I of H.R. 5263 as passed by the House of Representatives on September 20, 1988, is hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of H.R. 5263 as hereby enacted are limited to such amounts as may be provided in advance in appropriations Acts: *Provided further,* [1] That notwithstanding any other provision of this Act, titles [2] I and III of S. 2757 as reported by the Senate Committee on Foreign Relations on September 7, 1988, are hereby enacted into law: *Provided further,* That purchases, investments or other acquisitions of equity by the fund created by section 104 of S. 2757 as hereby enacted are limited to such amounts as may be provided in advance in appropriations [3] Acts: *Provided further,* That section 901(a) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

[4] "(a) GENERAL.—Notwithstanding any other provision of law, no nonimmigrant alien may be denied a visa or excluded from admission into the United States, or subject to deportation because of any past, current or expected beliefs, statements or associations which, if engaged in by a United States citizen in the United States, would be protected under the Constitution of the United [5] States.": *Provided further,* That subsection [6] (b) of section 901 of such Act is amended—

(1) by inserting "to deny adjustment of status of," after "deny issuance of a visa to,";

(2) by inserting in paragraph (1) before the semicolon, ", unless such alien is seeking issuance of a visa, adjustment of status, or admission to the United States as an [7] immigrant.": *Provided further,* That subsection (d) of section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (8 U.S.C. 1182 note) is amended to read as follows:

[8] "(d) EFFECTIVE PERIOD.—Subsection (a) shall only apply to—

22 USC 2321h.

22 USC 262p-4a—262p-4f, 262p-5, 286e-1k, 286hh-286jj, 290-14.
22 USC 2151 note, 2191, 2194, 2194b, 2195, 2197, 2199, 2200a.
Securities.
22 USC 2194 note.
22 USC 2151 note, 2191, 2194, 2194b, 2195, 2197, 2199, 2200a.
Securities.
22 USC 2194 note.

Aliens.

[1] Copy read "that".
[2] Copy read "I,".
[3] Copy read "Acts".
[4] Copy read "(a) IN GENERAL.—"
[5] Copy read "States:".
[6] Copy read "((b)".
[7] Copy read "immigrant." ".
[8] Copy read " "(d) Effective Period.—".

"(1) applications for [9] nonimmigrant visas submitted before January 1, 1991;

"(2) admissions sought before March 1, 1991;

"(3) deportations based on activities occurring before January 1, 1991, or for which deportation proceedings (including judicial review with respect to such a proceeding) are pending at any time between December 31, 1987 and January 1, 1991.":

8 USC 1182 note.

Provided further, That the amendment made in the [10] preceding sentence shall not require the deportation of aliens admitted for permanent resident status under section 901 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989, as in effect before the date of enactment of this Act: *Provided further,* That title III of S. 2757 shall be in effect for fiscal years 1989 and 1990: *Provided further,* That the Comptroller General of the United States shall examine the use of nonimmigrant visas under section 101(a)(15)(J) of the Immigration and Nationality Act for current programs of educational and cultural exchange and shall, not later than 30 days before the end of fiscal year 1989, submit to the Committees on the Judiciary of the Senate and House of Representatives, a report on whether the participants in programs of cultural exchange receiving visas under that section are performing activities consistent with the congressional intent for the implementation of that section: *Provided further,* That notwithstanding section 208 of the United States Information Agency Authorization Act, Fiscal Years 1986 and 1987 and the second sentence of section 501 of the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1461)—

Reports.

(1) the Director of the United [11] States Information Agency shall make available to the Archivist of the United States a master copy of the film entitled "Land of Enchantment"; and

Historic preservation.

(2) upon evidence that necessary United States rights and licenses have been secured and paid for by the person seeking domestic release of the film, the Archivist shall reimburse the Director for any expenses of the Agency in making that master copy available, shall deposit that film in the National Archives of the United States, and shall make copies of that film available for purchase and public viewing within the United States.

Public information.

Any reimbursement to the Director pursuant to this section shall be credited to the applicable appropriation of the United States Information [12] Agency.

NOTIFICATION CONCERNING EL SALVADOR

SEC. 556. (a) The Congress expects that—

(1) the Government of El Salvador and the armed opposition forces and their political representatives will be willing to pursue a dialogue for the purposes of achieving an equitable political settlement of the conflict, including free and fair elections;

(2) the elected civilian government will be in control of the Salvadoran military and security forces, and those forces will comply with applicable rules of international law and with Presidential directives pertaining to the protection of civilians during combat operations, including Presidential directive C-111-03-984 (relating to aerial fire support);

[9] Copy read "non-immigrant".
[10] Copy read "preceeding".
[11] Copy read "Sates".
[12] Copy read "Agency".

(3) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in ending the activities of the death squads;

(4) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in establishing an effective judicial system; and

(5) the Government of El Salvador will make demonstrated progress, during the period covered by each report pursuant to subsection (b), in implementing the land reform program.

(b) REPORTS.—On April 1, 1989, and September 30, 1989, the President shall report to the Speaker of the House of Representatives, the Committees on Appropriations and the chairman of the Committee on Foreign Relations of the Senate on the extent to which the objectives described in subsection (a) are being met. With respect to the objective described in paragraph (4) of that subsection, each report shall specify the status of all cases presented to the Salvadoran courts involving human rights violations against civilians by members of the Salvadoran security forces, including military officers and other military personnel and civil patrolmen.

NOTIFICATION TO CONGRESS ON DEBT RELIEF AGREEMENTS

22 USC 2395a note.

SEC. 557. The Secretary of State shall transmit to the Appropriations Committees of the Congress and to such other Committees as appropriate, a copy of the text of any agreement with any foreign government which would result in any debt relief no less than thirty days prior to its entry into force, other than one entered into pursuant to this Act, together with a detailed justification of the interest of the United States in the proposed debt relief: *Provided,* That the term "debt relief" shall include any and all debt prepayment, debt rescheduling, and debt restructuring proposals and agreements.

MIDDLE EAST REGIONAL COOPERATION

SEC. 558. Middle East regional cooperative programs which have been carried out in accordance with section 202(c) of the International Security and Development Cooperation Act of 1985 shall continue to be funded at a level of not less than $5,000,000 from funds appropriated under the heading "Economic Support Fund": *Provided,* That the provisos contained in section 564 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, are hereby repealed.

101 Stat. 1329-172.

ASSISTANCE FOR THE PEOPLE OF LEBANON

SEC. 559. The Congress recognizes that the people of Lebanon have suffered greatly during much of the past two decades from the effects of natural disasters and civil strife. The Congress further recognizes that assistance provided through nongovernmental organizations has had a significant impact in mitigating the adverse consequences of these unfortunate events on the Lebanese people. Therefore, up to $5,000,000 of the funds appropriated by this Act to carry out the provisions of chapter 4 of part II of the Foreign Assistance Act of 1961 shall be made available to provide assistance for the people of Lebanon. Such assistance shall be made available only through the United Nations Children's Fund, indigenous nongovernmental organizations, or international organizations, and

shall be provided in accordance with the general authorities contained in section 491 of the Foreign Assistance Act of 1961.

MEMBERSHIP DESIGNATION IN ASIAN DEVELOPMENT BANK

SEC. 560. It is the sense of the Congress that the United States Government should use its influence in the Asian Development Bank to secure reconsideration of that institution's decision to designate Taiwan (the Republic of China) as "Taipei, China". It is further the sense of the Congress, that the Asian Development Bank should resolve this dispute in a fashion that is acceptable to Taiwan (the Republic of China).

DEPLETED URANIUM

SEC. 561. None of the funds provided in this or any other Act may be made available to facilitate in any way the sale of M-833 antitank shells or any comparable antitank shells containing a depleted uranium penetrating component to any country other than (1) countries which are members of NATO, (2) countries which have been designated as a major non-NATO ally for purposes of section 1105 of the National Defense Authorization Act for Fiscal Year 1987 or, (3) countries for which repayment, in whole or in part, of foreign military credits provided in fiscal year 1988 is forgiven.

EARMARKS

SEC. 562. Funds appropriated by this Act which are earmarked may be reprogrammed for other programs within the same account notwithstanding the earmark if compliance with the earmark is made impossible by operation of any provision of this or any other Act or, with respect to a country with which the United States has an agreement providing the United States with base rights or base access in that country, if the President determines that the recipient for which funds are earmarked has significantly reduced its military or economic cooperation with the United States since enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988; however, before exercising the authority of this section with regard to a base rights or base access country which has significantly reduced its military or economic cooperation with the United States, the President shall consult with, and shall provide a written policy justification to the Committees on Appropriations: *Provided,* That any such reprogramming shall be subject to the regular notification procedures of the Committees on Appropriations: *Provided further,* That assistance that is reprogrammed pursuant to this section shall be made available under the same terms and conditions as originally provided.

President of U.S.

HAITI

SEC. 563. (a) SUSPENSION OF ASSISTANCE.—During fiscal year 1989, none of the funds made available by this Act or by any other Act or joint resolution may be obligated or expended to provide United States assistance (including any such assistance appropriated and previously obligated) for Haiti (other than the assistance described in subsection (b) of this section) unless the democratic process set forth in the Haitian Constitution approved by the Haitian people on March 29, 1987, especially those provisions relating to the provi-

sional Electoral Council, is being fully and faithfully adhered to by the Government of Haiti.

(b) EXCEPTIONS.—The term "United States assistance" does not include—

(1) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies;

(2) assistance which involves the donations of food or medicine;

(3) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961);

(4) assistance for refugees;

(5) assistance under the Inter-American Foundation Act;

(6) assistance necessary for the continued financing of education for Haitians in the United States;

(7) assistance provided in order to enable the continuation of migrant and narcotics interdiction operations;

(8) activities under the National Endowment for Democracy Act;

(9) assistance under title IV, chapter 2 of part I of the Foreign Assistance Act of 1961 (relating to the Overseas Private Investment Corporation); or

(10) assistance under the Peace Corps Act.

(c) OTHER SANCTIONS.—It is the sense of the Congress that, in order to further encourage the Government of Haiti to adhere to the constitutionally mandated transition to democracy, the President should—

(1) suspend Haiti's eligibility for benefits under the Caribbean Basin Economic Recovery Act; and

(2) seek international cooperation to encourage such adherence by the Government of Haiti through the imposition of an international arms embargo and comprehensive trade and financial sanctions.

(d) EFFECT OF FISCAL YEAR 1988 PROGRAMS.—Assistance may be provided for Haiti during fiscal year 1988 under title IV, chapter 2 of part I of the Foreign Assistance Act of 1961, or under the Peace Corps Act notwithstanding section 569 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988.

ASSISTANCE FOR PANAMA

22 USC 2151 note.

SEC. 564. (a) Unless the President certifies to Congress that—

(1) the Government of Panama has demonstrated substantial progress in assuring civilian control of the armed forces and that the Panama Defense Forces and its leaders have been removed from non-military activities and institutions;

(2) an impartial investigation into allegations of illegal actions by members of the Panama Defense Force is being conducted;

(3) a satisfactory agreement has been reached between the governing authorities and representatives of the opposition forces on conditions for free and fair elections; and

(4) freedom of the press and other constitutional guarantees, including due process of law, are being restored to the Panamanian people;

then no United States assistance (including any such assistance appropriated and previously obligated) shall be obligated or expended for programs, projects, or activities which assist or lend support for the Noriega regime, or ministries of government under the control of the Noreiga regime, or any successor regime that does not meet the criteria specified in subsection (a) of this section in this fiscal year and any fiscal year thereafter, and none of the funds appropriated or otherwise made available in this Act, or any other Act, shall be used to finance any participation of the United States in joint military exercises conducted in Panama during the fiscal year 1989.

(b) It is the sense of the Congress that if the conditions described in paragraphs (1) through (4) of subsection (a) have been certified as having been met, then not only will United States assistance be restored, but increased levels of such assistance should be considered for Panama.

(c) For purposes of this section, the term "United States assistance" means assistance of any kind which is provided by grant, sale, loan, lease, credit, guaranty, or insurance, or by any other means, by any agency or instrumentality of the United States Government, including—

(1) assistance under the Foreign Assistance Act of 1961 (including programs under title IV of chapter 2 of part I of such Act);

(2) sales, credits, and guarantees under the Arms Export Control Act;

(3) sales under title I or III and donations under title II of the Agricultural Trade Development and Assistance Act of 1954 of nonfood commodities;

(4) other financing programs of the Commodity Credit Corporation for export sales of nonfood commodities;

(5) financing under the Export-Import Bank Act of 1945; and

(6) assistance provided by the Central Intelligence Agency or assistance provided by any other entity or component of the United States Government if such assistance is carried out in connection with, or for purposes of conducting, intelligence or intelligence-related activities except that this shall not include activities undertaken solely to collect necessary intelligence;

except that the term "United States assistance" does not include (A) assistance under chapter 1 of part I of the Foreign Assistance Act of 1961 insofar as such assistance is provided through private and voluntary organizations or other nongovernmental agencies, (B) assistance which involves the donations of food or medicine, (C) disaster relief assistance (including any assistance under chapter 9 of part I of the Foreign Assistance Act of 1961), (D) assistance for refugees, (E) assistance under the Inter-American Foundation Act, (F) assistance necessary for the continued financing of education for Panamanians in the United States, or (G) assistance made available for termination costs arising from the requirements of this section.

(d) The Secretary of the Treasury shall instruct the United States Executive Directors to the International Financial Institutions (the International Bank for Reconstruction and Development, the International Finance Corporation, and the Inter-American Development Bank) to vote against any loan to Panama, unless the President has certified in advance that the conditions set forth in subsection (a) of this section have been met.

ELIMINATION OF THE SUGAR QUOTA ALLOCATION OF PANAMA

7 USC 3602 note.

SEC. 565. (a) IN GENERAL.—Notwithstanding any other provision of law, no sugars, sirups, or molasses that are products of Panama may be imported into the United States after the date of enactment of this Act during any period for which a limitation is imposed by authorities provided under any other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States: *Provided,* That such products may be imported after the beginning of the last week of any quota year if the President certifies that for the entire duration of the quota year, freedom of the press and other constitutional guarantees, including due process of law, have been restored to the Panamanian people.

(b) REALLOCATION OF QUOTA AMOUNTS.—For any quota year for which the President does not certify for the entire duration of the quota year, freedom of the press and all other constitutional guarantees, including due process of law, have been restored to the Panamanian people, no later than the last week of such quota year, the United States Trade Representative shall reallocate among other foreign countries the quantity of sugar, sirup, and molasses products of Panama that could have been imported into the United States before the date of enactment of this Act under any limitation imposed by other law on the total quantity of sugars, sirups, and molasses that may be imported into the United States during any period.

(c) CERTIFICATION.—The provisions of subsections (a) and (b), and the amendments made by subsection (c) of section 571 of the Foreign Operations, Export Financing, and Related Programs, Appropriations Act, 1988, shall cease to apply if the President certifies to Congress pursuant to section 564(a) of this Act.

STINGERS IN THE PERSIAN GULF REGION

SEC. 566. (a) PROHIBITION.—Except as provided in subsection (b), no Stinger antiaircraft missiles may be provided, directly or indirectly, by sale, lease, grant or otherwise, during fiscal year 1989 to any country in the Persian Gulf region.

(b) EXCEPTION.—Notwithstanding the prohibition in subsection (a), such missiles may be provided to Bahrain if the President certifies to Congress that—

(1) such missiles are needed by the recipient country to counter an immediate air threat and/or to contribute to the protection of United States personnel, facilities or operations;

(2) no other appropriate system is available from the United States;

(3) the recipient agrees to safeguards as required in the Letter of Offer and Acceptance by the United States Government to protect against diversion; and

(4) the recipient country has agreed to a United States buyback of all the remaining missiles and components which have not been destroyed or fired in order to return them to the possession and control of the United States when another United States air defense system which meets the military requirements can be made available or not more than 18 months from the date of enactment of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988.

(c) NOTIFICATION.—Before issuing any letter of offer to sell or provide Stinger missiles (without regard to the amount of the sale or transfer) the President shall notify the Speaker of the House of Representatives and the Majority Leader of the Senate. Any such notification shall contain the information required in a certification under section 36(b) of the Arms Export Control Act. President of U.S.

(d) ILLEGAL ACQUISITION.—Effective April 1, 1989, before issuing any letter of offer to sell any defense article or defense service to Qatar, Qatar shall have returned all Stinger antiaircraft missiles illegally acquired or purchased. The President shall notify the Committees on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate when all such missiles have been returned. Effective date. President of U.S.

OPPOSITION TO ASSISTANCE TO TERRORIST COUNTRIES BY INTERNATIONAL FINANCIAL INSTITUTIONS

SEC. 567. (a) INSTRUCTIONS FOR UNITED STATES EXECUTIVE DIRECTORS.—The Secretary of the Treasury shall instruct the United States Executive Director of each international financial institution to vote against any loan or other use of the funds of the respective institution to or for a country for which the Secretary of State has made a determination under section 6(j) of the Export Administration Act of 1979. Loans.

(b) DEFINITION.—For purposes of this section, the term "international financial institution" includes—

(1) the International Bank for Reconstruction and Development, the International Development Association, and the International Monetary Fund; and

(2) wherever applicable, the Inter-American Development Bank, the Asian Development Bank, the African Development Bank, and the African Development Fund.

PROHIBITION ON BILATERAL ASSISTANCE TO TERRORIST COUNTRIES

SEC. 568. Notwithstanding any other provision of law, funds appropriated for bilateral assistance under any heading of this Act and funds appropriated under any such heading in a provision of law enacted prior to fiscal year 1989—

(1) shall not be obligated or expended for assistance to a country listed in section 6(j) of the Export Administration Act of 1979 on the date of enactment of this Act or placed on that list thereafter,

(2) if obligated before such date as assistance for such country, shall not be disbursed, and

(3) if expended before such date for assistance to be delivered to such country from the United States or by United States nationals, then no such delivery shall be made,

unless such assistance is for humanitarian purposes.

MAINTENANCE OF MILITARY BALANCE OF EASTERN MEDITERRANEAN

SEC. 569. (a) UNITED STATES POLICY.—The Congress intends that excess defense articles be made available under this section consistent with the United States policy, established by section 620C of the Foreign Assistance Act of 1961, of maintaining the military balance in the eastern Mediterranean. 22 USC 2373 note.

President of U.S.

(b) MAINTENANCE OF BALANCE.—Accordingly, the President shall ensure that, for each fiscal year, the ratio of—

(1) the value of excess defense articles made available for Turkey under this section, to

(2) the value of excess defense articles made available for Greece under this section, closely approximates the ratio of—

(A) the amount of military assistance and financing provided for Turkey, to

(B) the amount of military assistance and financing provided for Greece.

(c) EXCEPTION TO REQUIREMENT.—Subsection (b) shall not apply if either Greece or Turkey ceases to be eligible to receive excess defense articles.

DETENTION OF CHILDREN

SEC. 570. It is the sense of the Congress that the practice of detaining children without charge or trial is unjust, inhumane, and is an affront to civilized principles. The Congress further believes that it should be the policy of the United States to make the ending of the practice of detaining children without charge or trial a matter of the highest priority. Therefore, the Congress believes the Secretary of State should convey to all international organizations that ending the practice of detaining children without charge or trial should be a policy of the highest priority for those organizations.

MILITARY ASSISTANCE TO MOZAMBIQUE

SEC. 571. Notwithstanding any other provision of law, none of the funds appropriated or otherwise made available pursuant to this Act may be used to provide military assistance to Mozambique.

RELATIVELY LEAST DEVELOPED COUNTRIES

22 USC 2151 note.

SEC. 572. During fiscal years 1990 and 1991, the President may use the authority of paragraphs (A) and (B) of section 124(c)(1) of the Foreign Assistance Act of 1961 with respect to such aggregate amounts of principal and interest payable during each of these fiscal years as the President may determine, or at any time after September 30, 1989, the President may, if he determines it is in the national interest to do so, use the authority of those paragraphs with respect to such aggregate amounts of outstanding principal and interest payable at any time after that date as the President may determine. The authority provided in this section may be exercised with respect to any country described in the last sentence of this section and may be exercised notwithstanding section 124(c)(2) of that Act. In exercising the authority provided in this section, the President may waive the requirement that equivalent amounts of local currencies be deposited into local currency accounts in accordance with paragraph (A) of section 124(c)(1) of that Act, to the extent that the President determines that sufficient local currencies are otherwise available to achieve development objectives. This section applies with respect to any relatively least developed country, or any country in Sub-Saharan Africa (without regard to whether that country is a relatively least developed country within the meaning of section 124(a) of that Act), if—

(1) an International Monetary Fund standby agreement is in effect with respect to that country; or

(2) a structural adjustment program of the International Bank for Reconstruction and Development or of the International Development Association is in effect with respect to that country; or

(3) a structural adjustment facility or enhanced structural adjustment facility with the International Monetary Fund is in effect with respect to that country.

HONDURAS—RAMIREZ CASE

SEC. 574. It is the sense of the Congress that, pursuant to the procedures contained in section (j) under the heading "Assistance for Central America" enacted in Public Law 100-71, the Honduran Government appears to have made a reasonable and good faith settlement offer based on a factual analysis by third parties, and the owner of the property in question is strongly encouraged to accept the proposed settlement. Therefore, notwithstanding the provisions of such section, $5,000,000 of the Economic Support Funds made available by Public Law 100-71 for Honduras but withheld from expenditure shall be available for expenditure upon enactment of this Act: *Provided,* That if a settlement is reached on the property in question, then the additional $15,000,000 withheld from expenditure pursuant to such section shall then be available for expenditure.

CONGRESSIONAL PRESENTATION FOR SECURITY ASSISTANCE PROGRAMS

SEC. 575. Unless the fully printed final version of the fiscal year 1990 Congressional Presentation for Security Assistance Programs is received by the Congress by March 1, 1989, $10,000,000 of the funds appropriated by this Act for the Military Assistance Program shall be returned immediately to the General Fund of the United States Treasury.

SOUTH AFRICA—SCHOLARSHIPS

SEC. 576. Of the funds made available by this Act under the heading "Economic Support Fund", not less than $10,000,000 shall be made available for scholarships for disadvantaged South Africans: *Provided,* That these funds shall be in addition to funds earmarked under such heading for Sub-Saharan Africa.

THIRD PARTY TRANSFER

SEC. 577. Section 3(d) of the Arms Export Control Act is amended— 22 USC 2753.

(1) in paragraph (2)(A), by striking out "law" and inserting in lieu thereof "joint resolution, as provided for in sections 36(b)(2) and 36(b)(3) of this Act"; and

(2) in paragraph (3), by adding at the end thereof "Such consent shall become effective then only if the Congress does not enact, within a 30-day period, a joint resolution, as provided for in sections 36(c)(2) and 36(c)(3) of this Act prohibiting the proposed transfer.".

NARCOTICS CONTROL PROGRAM

SEC. 578. (a)(1) Of the funds appropriated by this Act under the heading "Economic Support Fund" $61,000,000 shall be made avail-

able only for Bolivia, Ecuador, Jamaica, and Peru; but not more than $25,000,000 shall be available to any one country.

(2) Of the funds appropriated by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961 (relating to the military assistance program) $16,500,000 shall be made available only for Bolivia, Ecuador, Jamaica, and Colombia, but not more than $5,000,000 shall be available for any one country.

(3) Of the funds appropriated by this Act to carry out the provisions of section 503 of the Foreign Assistance Act of 1961, $3,500,000 shall be made available in accordance with the general authorities contained in section 481(a) of the Foreign Assistance Act of 1961, only for the procurement of weapons or ammunition for foreign law enforcement agencies, and paramilitary units organized for the specific purposes of narcotics enforcement, for use in narcotics control, eradication, and interdiction efforts, notwithstanding section 482(b) of such Act: *Provided,* That funds made available under this paragraph shall be made available only for Bolivia, Peru, Colombia, Ecuador, and for the regional air wing pursuant to sections 482 and 484 of the Foreign Assistance Act of 1961, and shall be in addition to amounts earmarked for the countries contained in paragraph (2) of this subsection.

(4) Funds made available under this subsection shall be available for obligation consistent with the provisions of section 481(h) of the Foreign Assistance Act of 1961 (relating to International Narcotics Control) except as provided in paragraph (3) of this subsection.

President of U.S. (b) None of the funds appropriated or otherwise made available under this Act may be available for any country during any three-month period beginning on or after October 1, 1988, immediately following a certification by the President to the Congress that the government of such country is failing to take adequate measures (including satisfying the goals agreed to in applicable bilateral narcotics agreements as defined in section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1961) to prevent narcotic drugs or other controlled substances (as listed in the schedules in section 202 of the Comprehensive Drug Abuse and Prevention Control Act of 1971 (21 U.S.C. 812)) which are cultivated, produced, or processed illicitly, in whole or in part, in such country, or transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from entering the United States unlawfully.

President of U.S. (c) In making determinations with respect to Bolivia, Colombia, Ecuador, and Peru pursuant to section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of each country is sufficiently responsive to United States Government concerns on coca control and whether the provision of assistance for that country is in the national interest of the United States.

(d) If any funds appropriated by this Act for "Economic Support Fund", "Military Assistance", "International Military Education and Training", or "Foreign Military Credit Sales" are not used for assistance for the country for which those funds were allocated because that country has not taken adequate steps to halt illicit drug production or trafficking, those funds shall be reprogrammed for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking: *Provided,* That

any such reprogramming shall be subject to the notification procedures of the Committees on Appropriations.

(e)(1) Of the funds appropriated under title II of this Act for the Agency for International Development, up to $10,000,000 should be made available for narcotics education and awareness programs (including public diplomacy programs), of the Agency for International Development, and up to $15,000,000 of the funds appropriated under title II of this Act should be made available for narcotics related economic assistance activities.

(2) Section 481(i)(4)(E) of the Foreign Assistance Act of 1961 is amended by— 22 USC 2291.

(A) inserting "(vii) assistance for narcotics education and awareness activities under section 126 of this Act;" after "this Act,"; and

(B) redesignating clause (vii) as clause (viii).

(f) In order to maximize the participation of other countries in the effort to promote international narcotics control, the Secretary of State is directed to urge the United Nations Fund for Drug Abuse Control to develop a more comprehensive program for enlisting greater multilateral support for coca control programs and related development activities in South America.

(g)(1) Section 481(h)(2)(A)(ii) of the Foreign Assistance Act of 1961 is amended to read as follows:

"(ii) A bilateral narcotics agreement referred to in clause (i)(I) is an agreement between the United States and a foreign country whereby the foreign country agrees to undertake specific activities including, where applicable, efforts to reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution; drug interdiction and enforcement; drug consumption and treatment; identification and elimination of illicit drug laboratories; identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs; cooperation with United States drug enforcement officials; and, where applicable, participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.".

(2) Section 585(c) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in Public Law 100-202) is amended to read as follows: 22 USC 2291 note.

"(c) Beginning with certifications with respect to fiscal year 1989 and each subsequent year, a country which in the previous year was designated a major drug producing or drug transit country may not be deemed as cooperating fully unless it has in place a bilateral narcotics agreement with the United States, or a multilateral agreement which achieves the objectives of this section.".

(3) Section 481(h)(2)(A)(i)(I) of the Foreign Assistance Act of 1961 is amended by inserting "or multilateral agreement which achieves the objectives of this subsection," after "(ii))".

(h) Section 481(h)(1) of the Foreign Assistance Act of 1961 is amended by inserting before "Subject" the following: "Not later than October 1 of each year, the Secretary of State shall submit a report to the Congress of those countries identified by the Secretary as being major drug producing or major drug transit countries (including the definition used to determine such drug transit countries) for purposes of the withholding requirements contained in Reports.

subparagraph (A) of this paragraph and the certification requirements contained in paragraph (2) of this subsection.".

22 USC 2291. (i) Section 481(h)(2)(B) of the Foreign Assistance Act of 1961 is amended by striking out "clause (A)(ii)" and inserting in lieu thereof "subparagraph (A)(i)(II)".

TURKISH AND GREEK MILITARY FORCES ON CYPRUS

22 USC 2373 note. SEC. 579. Any agreement for the sale or provision of any article on the United States Munitions List (established pursuant to section 38 of the Arms Export Control Act) entered into by the United States after the enactment of this section shall expressly state that the article is being provided by the United States only with the understanding that it will not be transferred to Cyprus or otherwise used to further the severance or division of Cyprus. The President shall report to Congress any substantial evidence that equipment provided under any such agreement has been used in a manner inconsistent with the purposes of this section.

President of U.S. Reports.

COMMERCIAL LEASING OF DEFENSE ARTICLES

22 USC 2763 note. SEC. 580. Notwithstanding any other provision of law, and subject to the regular notification requirements of the Committees on Appropriations, the authority of section 23(a) of the Arms Export Control Act may be used to provide financing to Israel and Egypt and NATO and major non-NATO allies for the procurement by leasing (including leasing with an option to purchase) of defense articles from United States commercial suppliers, not including Major Defense Equipment (other than helicopters and other types of aircraft having possible civilian application), if the President determines that there are compelling foreign policy or national security reasons for those defense articles being provided by commercial lease rather than by government-to-government sale under such Act.

CAMBODIAN NON-COMMUNIST RESISTANCE FORCES

SEC. 581. If the President makes available funds appropriated by this Act for the Cambodian non-Communist resistance forces, not to exceed $5,000,000 may be made available for such purpose, and such funds shall be derived from funds appropriated under the headings "Military Assistance" and "Economic Support Fund", and shall be made available notwithstanding any other provision of law: *Provided,* That funds made available for this purpose shall be obligated in accordance with the provisions of section 906 of the International Security and Development Cooperation Act of 1985 (Public Law 99-83).

HUMAN RIGHTS IN CUBA

SEC. 582. It is the sense of the Congress that—

(1) the United Nations, the United Nations Human Rights Commission, and the Chairman of the Commission are to be commended for Decision 1988/106 as interpreted by the Chairman which establishes a working group on Cuba to conduct an on-site investigation on Cuban human rights conditions and prepare a report for consideration under agenda item 12(h) at the 45th session of the Commission in 1989;

(2) the President, the Secretary of State, the Permanent Representative of the United States to the United Nations, and the Representative of the United States to the United Nations Human Rights Commission are to be commended for their efforts to place Cuba on the agenda of the Commission and are strongly encouraged to continue to support and assist the Commission in its implementation of Decision 1988/106;

(3) the following countries are to be commended for their courageous support for an independent investigation of the human rights situation in Cuba under the auspices of the United Nations and consideration of Cuba under agenda item 12 at the 45th session of the Commission: Bangladesh, Belgium, Costa Rica, France, the Gambia, Federal Republic of Germany, Ireland, Japan, Mozambique, Norway, the Philippines, Sao Tome and Principe, Portugal, Senegal, Somalia, Togo, the United Kingdom, and Venezuela;

(4) the following countries, despite overwhelming evidence of serious human rights abuses in Cuba, failed to support the efforts of the United States to establish an independent working group on Cuba and to provide for consideration of the report of this group under agenda item 12, a nonconfidential procedure reserved for countries with records of serious human rights violations: Algeria, Argentina, Botswana, Bulgaria, People's Republic of China, Colombia, Cyprus, Ethiopia, German Democratic Republic, India, Iraq, Mexico, Nicaragua, Nigeria, Pakistan, Peru, Rwanda, Spain, Sri Lanka, Union of Soviet Socialist Republics, and Yugoslavia;

(5) in accordance with section 574 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988, the United States should continue to take into account whether countries support an independent investigation of human rights violations in Cuba under the auspices of the United Nations and consideration of Cuba under agenda item 12 at the 45th session of the Commission when considering bilateral assistance and the financial contribution to the United Nations; and

(6) the Congress strongly objects to the election of Cuba and Panama to the Commission and strongly urges the Secretary General and Chairman, and the other members of the Commission to insure that Cuba and Panama do not in any way interfere with the independence of the pending investigation, the preparation of the resulting report, or the consideration of this report under agenda item 12(h) at the Commission's 45th session.

ASSISTANCE FOR POLAND

SEC. 583. Up to the equivalent of $500,000 of the non-convertible and convertible Polish currencies (after satisfaction of preexisting commitments to use such currencies for other purposes specified by law) held by the United States which have been generated by the sale to Poland of United States agricultural products may be made available for the reconstruction, renovation, and maintenance of the Research Center on Jewish History and Culture of the Jagiellonian University of Krakow, Poland, established for the study of events related to the Holocaust in Poland: *Provided,* That such currencies shall be made available notwithstanding 31 U.S.C. 1306.

COMPETITIVE INSURANCE

Contracts.
Maritime affairs.

SEC. 584. All Agency for International Development contracts and solicitations, and subcontracts entered into under such contracts, shall include a clause requiring that United States marine insurance companies have a fair opportunity to bid for marine insurance when such insurance is necessary or appropriate.

PAY RAISES

SEC. 585. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

FAIR PRICING

22 USC 2311.

SEC. 586. (a) The last sentence of paragraph (3) of section 503(a) of the Foreign Assistance Act of 1961 is amended by inserting immediately after the phrase "under paragraph (3)" the phrase "or from funds made available on a non-repayable basis under section 23 of the Arms Export Control Act", and by inserting after "Armed Forces of the United States" the phrase "(other than the Coast Guard)".

Israel.
Egypt.
Aircraft and air carriers.

(b) The Secretary of Defense shall waive collection of the following amounts of surcharges otherwise due on the letter of offer and acceptance (without amendment) for the sale to Israel of aircraft known as Peace Marble III and on the letter of offer and acceptance (without amendment) for the sale to Egypt of aircraft known as Peace Vector III:

(1) $20,000,000 of administrative surcharges under section 21(e)(1)(A) of the Arms Export Control Act for the letter of offer and acceptance with Israel and $11,700,000 of administrative surcharges under that section for the letter of offer and acceptance with Egypt: *Provided,* That the Secretary shall reimburse the fund established to carry out section 43(b) of the Arms Export Control Act in the amount of the surcharges waived pursuant to this paragraph from any funds available to the Department of Defense, as he determines; and

(2) $70,000,000 of nonrecurring cost recoupment surcharges under section 21(e)(1)(C) of the Arms Export Control Act for the letter of offer and acceptance with Israel and $38,000,000 of nonrecurring cost recoupment surcharges under that section for the letter of offer and acceptance with Egypt.

Effective date.
22 USC 2311 note.

(c) This section shall be effective on October 1, 1989.

IRELAND

SEC. 587. It is the sense of the Congress that of the funds appropriated or otherwise made available for the International Fund for Ireland, the Board of the International Fund for Ireland should give great weight in the allocation of such funds to projects which will create permanent, full-time jobs in the areas that have suffered most severely from the consequences of the instability of recent years. Areas that have suffered most severely from the consequences of the instability of recent years shall be defined as areas that have high rates of unemployment.

NOTICE TO CONGRESS REGARDING POSSIBLE MISSILES SALES

SEC. 588. (a) PRICE AND AVAILABILITY REPORTS.—Section 28 of the Arms Export Control Act is amended— 22 USC 2768.

(1) in the first sentence of subsection (a)—

(A) by striking out "or" after "$7,000,000 or more" and inserting in lieu thereof a comma, and

(B) by inserting ", or of any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the possible sale)," after "$25,000,000 or more"; and

(2) in clause (2) of subsection (b)—

(A) by striking out "or" after "$7,000,000 or more" and inserting in lieu thereof a comma, and

(B) by inserting ", or of any Air-to-Ground or Ground-to-Air missiles or associated launchers (without regard to the amount of the proposed sale)," after "$25,000,000 or more".

(b) NOTIFICATIONS IN THE ABSENCE OF RECENT PRICE AND AVAILABILITY REPORT LISTING.—

(1) SALES SUBJECT TO NOTIFICATION REQUIREMENT.—Paragraph (2) of this subsection applies with respect to any letter of offer to sell any Air-to-Ground or Ground-to-Air missiles, or associated launchers (without regard to the amount of the sale) if, within the preceding 6 months, a listing has not been transmitted to the Congress pursuant to section 28 of the Arms Export Control Act with respect to that sale and if section 36(b) of that Act does not apply.

(2) REQUIREMENT FOR NOTIFICATION.—Before issuing any letter of offer described in paragraph (1), the President shall notify the Speaker of the House of Representatives and the Chairman of the Committee on Foreign Relations of the Senate. Any such notification shall contain the information required in a certification under section 36(b) of the Arms Export Control Act. President of U.S.

(3) TIME FOR NOTIFICATION.—The notification required by paragraph (2) shall be submitted not less than 30 days before the letter of offer is issued, unless the President states in the notification that an emergency exists which requires the proposed sale in the national security interests of the United States. If the President states that such an emergency exists, he shall include a detailed justification for his determination, including a description of the emergency circumstances which necessitate the immediate issuance of the letter of offer and a discussion of the national security issues involved.

FUNDING ADJUSTMENTS

SEC. 589. Notwithstanding any other provision of this Act, the following amount is hereby appropriated in lieu of the amount contained previously herein for payment to the African Development Bank, $7,345,371: *Provided,* That notwithstanding any other provision of this Act, during fiscal year 1989, total commitments by the Overseas Private Investment Corporation to guarantee loans shall not exceed $175,000,000 of contingent liability for loan principal: *Provided further,* That section 514 of this Act is amended to read as follows:

"TRANSFERS BETWEEN ACCOUNTS

"SEC. 514. None of the funds made available by this Act may be obligated under an appropriation account to which they were not appropriated.".

OLD EXECUTIVE OFFICE BUILDING

3 USC 101 note.

SEC. 590. (a) ACCEPTANCE OF GIFTS OF MONEY AND PROPERTY.—The Director of the Office of Administration is authorized to—

(1) accept, hold, administer, utilize and sell gifts and bequests of property, both real and personal, and loans of personal property other than money; and

(2) accept and utilize voluntary and uncompensated services; for the purpose of aiding, benefiting, or facilitating the work of preservation, restoration, renovation, rehabilitation, or historic furnishing of the Old Executive Office Building and the grounds thereof.

(b) ESTABLISHMENT OF FUND.—There is established in the Treasury a fund for use in accordance with the provisions of this section. Amounts of money and proceeds from the sale of property accepted under subsection (a) shall be deposited in the fund, which shall be available to the Director of the Office of Administration. Such funds shall be held in trust by the Secretary of the Treasury.

(c) USE OF FUND.—Property accepted pursuant to this section or the proceeds from the sale thereof, shall be used as nearly as possible in accordance with the terms of the gift or bequest. Any use or sale of property accepted pursuant to this section, and any use of proceeds from such sale, shall be subject to the disapproval of the Administrator of General Services within 30 days after the Administrator receives notice of such use or sale. The Director of the Office of Administration shall not accept any gift under this section that is expressly conditioned on any expenditure not to be met from the gift itself unless such expenditure has been approved by an Act of Congress.

(d) TAXES.—For the purpose of the Federal income, estate, and gift tax laws, property accepted under this section shall be considered as a gift, bequest, or devise to the United States.

EL SALVADOR ECONOMIC SUPPORT FUNDS

SEC. 591. Not less than 25 percent of the Economic Support Funds made available for El Salvador by this Act shall be used for projects and activities in accordance with the provisions applicable to assistance under chapter 1 of part I of the Foreign Assistance Act of 1961.

ASSISTANCE TO AFGHANISTAN

SEC. 592. Funds appropriated by this Act may not be made available, directly or for the United States proportionate share of programs funded under the heading "International Organizations and Programs", for assistance to be provided inside Afghanistan if that assistance would be provided through the Soviet-controlled government of Afghanistan. This section shall not be construed as limiting the United States contributions to international organizations for humanitarian assistance.

COSTA RICA

SEC. 593. The Department of State shall select an independent factfinder to investigate the legal and financial issues related to the case involving the Government of Costa Rica and an American citizen concerning property and businesses in the vicinity of Limon Province, Costa Rica. The Department of State shall report, no later than March 1, 1989, the findings made by the factfinder to the parties involved and to the Committees on Appropriations and the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate. The costs of the factfinder shall be paid from unearmarked funds provided under the heading "Economic Support Fund". Reports.

This Act may be cited as the "Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989".

Approved October 1, 1988.

Certified December 14, 1988.

Editorial note: This printed version of the original hand enrollment is published pursuant to Public Law 100-454. The following memorandum for the Archivist of the United States was signed by the President on December 12, 1988, and was printed in the *Federal Register* on December 15, 1988:

By the authority vested in me as President by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I hereby authorize you to ascertain whether the printed enrollments of H.R. 4637, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), H.R. 4776, the District of Columbia Appropriations Act, 1989 (Public Law 100-462), and H.R. 4781, the Department of Defense Appropriations Act, 1989 (Public Law 100-463), are correct printings of the hand enrollments, which were approved on October 1, 1988, and if so to make on my behalf the certifications required by Section 2(c) of H.J. Res. 665 (Public Law 100-454).

Attached are the printed enrollments of H.R. 4637, H.R. 4776, and H.R. 4781, which were received at the White House on December 1, 1988.

This memorandum shall be published in the *Federal Register*.

The Archivist on December 14, 1988, certified this to be a correct printing of the hand enrollment of Public Law 100-461.

LEGISLATIVE HISTORY—H.R. 4637:

HOUSE REPORTS: No. 100-641 (Comm. on Appropriations) and No. 100-983 (Comm. of Conference).
SENATE REPORTS: No. 100-395 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 25, considered and passed House.
July 7, considered and passed Senate, amended.
Sept. 28, 29, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments.
Sept. 30, Senate agreed to conference report; concurred in certain House amendments, in others with amendments. House concurred in certain Senate amendments and disagreed to others. Senate receded from its amendments.

*Public Law 100-462
100th Congress

An Act

Making appropriations for the government of the District of Columbia and other activities chargeable in whole or in part against the revenues of said District for the fiscal year ending September 30, 1989, and for other purposes.

Oct. 1, 1988
[H.R. 4776]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the District of Columbia for the fiscal year ending September 30, 1989, and for other purposes, namely:

District of Columbia Appropriations Act, 1989.

TITLE I—FISCAL YEAR 1989 APPROPRIATIONS

FEDERAL PAYMENT TO THE DISTRICT OF COLUMBIA

For payment to the District of Columbia for the fiscal year ending September 30, 1989, $430,500,000: *Provided,* That none of these funds shall be made available to the District of Columbia until the number of full-time uniformed officers in permanent positions in the Metropolitan Police Department is at least 3,880, excluding any such officer appointed after August 19, 1982, under qualification standards other than those in effect on such date.

FEDERAL PAYMENT FOR WATER AND SEWER SERVICES

For payment to the District of Columbia for the fiscal year ending September 30, 1989, in lieu of reimbursement for charges for water and water services and sanitary sewer services furnished to facilities of the United States Government, $32,040,000, as authorized by the Act of May 18, 1954, as amended (D.C. Code, secs. 43-1552 and 43-1612).

FEDERAL CONTRIBUTION TO RETIREMENT FUNDS

For the Federal contribution to the Police Officers and Fire Fighters', Teachers', and Judges' Retirement Funds as authorized by the District of Columbia Retirement Reform Act, approved November 17, 1979 (93 Stat. 866; Public Law 96-122), $52,070,000.

TRANSITIONAL PAYMENT FOR SAINT ELIZABETHS HOSPITAL

For a Federal contribution to the District of Columbia, as authorized by the Saint Elizabeths Hospital and District of Columbia Mental Health Services Act, approved November 8, 1984 (98 Stat. 3369; Public Law 98-621), $20,000,000.

CRIMINAL JUSTICE INITIATIVE

The $50,000,000 previously appropriated under "Criminal Justice Initiative" for the fiscal years ending September 30, 1986, September 30, 1987, and September 30, 1989, for the design and construc-

ENROLLMENT ERRATA

Pursuant to the provisions of H.J. Res. 665, authorizing the hand enrollment of appropriations bills for fiscal year 1989, and authorizing the subsequent, post-enactment of preparation of printed enrollment of those bills, any changes made in this printed version will be footnoted.

*Note: For information on the printing of this law and a related Presidential memorandum, see the editorial note at the end.

tion of a prison within the District of Columbia shall remain in the United States Treasury and shall be transferred to the District of Columbia government only to the extent that outstanding obligations are due and payable to entities other than agencies and organizations of the District of Columbia government, and payments to such agencies and organizations may be made only in reimbursement for amounts actually expended in furtherance of the design and construction of the prison: *Provided,* That construction may not commence unless access and parking for construction vehicles are provided solely at a location other than city streets: *Provided further,* That District officials meet monthly with neighborhood representatives to inform them of current plans and discuss problems: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding the new prison, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the new prison.

Public information.

INAUGURAL EXPENSES PAYMENT

For payment to the District of Columbia in lieu of reimbursements for expenses incurred in connection with Presidential inauguration activities, $2,300,000, as authorized by section 737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, as amended (D.C. Code, sec. 1-1803).

DIVISION OF EXPENSES

The following amounts are appropriated for the District of Columbia for the current fiscal year out of the general fund of the District of Columbia, except as otherwise specifically provided.

GOVERNMENTAL DIRECTION AND SUPPORT

Governmental direction and support, $118,439,000: *Provided,* That not to exceed $2,500 for the Mayor, $2,500 for the Chairman of the Council of the District of Columbia, and $2,500 for the City Administrator shall be available from this appropriation for expenditures for official purposes: *Provided further,* That any program fees collected from the issuance of debt shall be available for the payment of expenses of the debt management program of the District of Columbia: *Provided further,* That notwithstanding any other provision of law, there is hereby appropriated $6,948,000 to pay legal, management, investment, and other fees and administrative expenses of the District of Columbia Retirement Board, of which $807,000 shall be derived from the general fund and not to exceed $6,141,000 shall be derived from the earnings of the applicable retirement funds: *Provided further,* That the District of Columbia Retirement Board shall provide to the Congress and the Council of the District of Columbia a quarterly report of the allocations of charges by fund and of expenditures of all funds: *Provided further,* That the District of Columbia Retirement Board shall provide the Mayor for transmittal to the Council of the District of Columbia an item accounting of the planned use of appropriated funds in time for each annual budget

Reports.

submission and the actual use of such funds in time for each annual audited financial report: *Provided further*, That of the $150,000 appropriated for fiscal year 1989 for Admission to Statehood, $75,000 shall be for the Statehood Commission and $75,000 shall be for the Statehood Compact Commission: *Provided further*, That the District of Columbia shall identify the sources of funding for Admission to Statehood from its own locally-generated revenues: *Provided further*, That no revenues from Federal sources shall be used to support the operations or activities of the Statehood Commission and Statehood Compact Commission: *Provided further*, That no part of these funds shall be used for lobbying to support or defeat legislation pending before Congress or any State legislature.

ECONOMIC DEVELOPMENT AND REGULATION

Economic development and regulation, $144,616,000: *Provided*, That the District of Columbia Housing Finance Agency, established by section 201 of the District of Columbia Housing Finance Agency Act, effective March 3, 1979 (D.C. Law 2-135; D.C. Code, sec. 45-2111), based upon its capability of repayments as determined each year by the Council of the District of Columbia from the Agency's annual audited financial statements to the Council of the District of Columbia, shall repay to the general fund an amount equal to the appropriated administrative costs plus interest at a rate of four percent per annum for a term of 15 years, with a deferral of payments for the first three years: *Provided further*, That notwithstanding the foregoing provision, the obligation to repay all or part of the amounts due shall be subject to the rights of the owners of any bonds or notes issued by the Agency and shall be repaid to the District of Columbia only from available operating revenues of the Agency that are in excess of the amounts required for debt service, reserve funds, and operating expenses: *Provided further*, That upon commencement of the debt service payments, such payments shall be deposited into the general fund of the District of Columbia: *Provided further*, That up to $270,000 within the 15 percent set-aside for special programs within the Tenant Assistance Program shall be targeted for the single-room occupancy initiative.

PUBLIC SAFETY AND JUSTICE

Public Safety and justice, including purchase of not to exceed 135 passenger-carrying vehicles for replacement only (including 130 for police-type use and five for fire-type use) without regard to the general purchase price limitation for the current fiscal year, $734,207,000: *Provided*, That the Metropolitan Police Department is authorized to replace not to exceed 25 passenger-carrying vehicles and the Fire Department is authorized to replace not to exceed five passenger-carrying vehicles annually whenever the cost of repair to any damaged vehicle exceeds three-fourths of the cost of the replacement: *Provided further*, That not to exceed $500,000 shall be available from this appropriation for the Chief of Police for the prevention and detection of crime: *Provided further*, That funds appropriated for expenses under the District of Columbia Criminal Justice Act, approved September 3, 1974 (88 Stat. 1090: Public Law 93-412; D.C. Code, sec. 11-2601 et seq.), for the fiscal year ending September 30, 1989, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1975: *Provided*

further, That funds appropriated for expenses under the District of Columbia Neglect Representation Equity Act of 1984, effective March 13, 1985 (D.C. Law 5-129; D.C. Code, sec. 16-2304), for the fiscal year ending September 30, 1989, shall be available for obligations incurred under that Act in each fiscal year since inception in fiscal year 1985: *Provided further,* That $50,000 of any appropriation available to the District of Columbia may be used to match financial contributions from the Department of Defense to the District of Columbia Office of Emergency Preparedness for the purchase of civil defense equipment and supplies approved by the Department of Defense, when authorized by the Mayor: *Provided further,* That not to exceed $1,500 for the Chief Judge of the District of Columbia Court of Appeals, $1,500 for the Chief Judge of the Superior Court of the District of Columbia, and $1,500 for the Executive Officer of the District of Columbia Courts shall be available from this appropriation for official purposes: *Provided further,* That the District of Columbia shall operate and maintain a free, 24-hour telephone information service whereby residents of the area surrounding Lorton prison in Fairfax County, Virginia, can promptly obtain information from District officials on all disturbances at the prison, including escapes, fires, riots, and similar incidents: *Provided further,* That the District of Columbia shall also take steps to publicize the availability of that service among the residents of the area surrounding the Lorton prison: *Provided further,* That not to exceed $100,000 of this appropriation shall be used to reimburse Fairfax County and Prince William County, Virginia for expenses incurred by the counties during fiscal year 1989 in relation to the Lorton prison complex. Such reimbursements shall be paid in all instances in which the District requests the counties to provide police, fire, rescue, and related services to help deal with escapes, riots, and similar disturbances involving the prison: *Provided further,* That none of the funds appropriated by this Act may be used to implement any plan that includes the closing of Engine Company 3, located at 439 New Jersey Avenue, Northwest: *Provided further,* That the staffing levels of two piece engine companys within the Fire Department shall be maintained in accordance with the provisions of article III, section 18 of the Fire Department Rules and Regulations as then in effect, until final adjudication by the relevant courts: *Provided further,* That none of the funds provided in this Act may be used to implement District of Columbia Board of Parole notice of emergency and proposed rulemaking as filed with the District of Columbia Register July 25, 1986: *Provided further,* That the Mayor shall reimburse the District of Columbia National Guard for expenses incurred in connection with services which are performed in emergencies by the National Guard in a militia status and which are requested by the Mayor, in amounts that shall be jointly determined and certified as due and payable for these services by the Mayor and the Commanding General of the District of Columbia National Guard: *Provided further,* That such sums as may be necessary for reimbursement to the District of Columbia National Guard under the preceding proviso shall be available from this appropriation, and their availability shall be deemed as constituting payment in advance for the emergency services involved.

Public information.

PUBLIC EDUCATION SYSTEM

Public education system, including the development of national defense education programs, $623,924,000, to be allocated as follows: $452,403,000 for the public schools of the District of Columbia; $70,100,000 for the District of Columbia Teachers' Retirement Fund; $76,310,000 for the University of the District of Columbia; $18,515,000 for the Public Library; $4,192,000 for the Commission on the Arts and Humanities; $1,948,000 for the District of Columbia School of Law; and $456,000 for the Educational Institution Licensure Commission: *Provided,* That the public schools of the District of Columbia are authorized to accept not to exceed 31 motor vehicles for exclusive use in the driver education program: *Provided further,* That not to exceed $2,500 for the Superintendent of Schools, $2,500 for the President of the University of the District of Columbia, and $2,000 for the Public Librarian shall be available from this appropriation for expenditures for official purposes: *Provided further,* That this appropriation shall not be available to subsidize the education of nonresidents of the District of Columbia at the University of the District of Columbia, unless the Board of Trustees of the University of the District of Columbia adopts, for the fiscal year ending September 30, 1989, a tuition rate schedule that will establish the tuition rate for nonresident students at a level no lower than the nonresident tuition rate charged at comparable public institutions of higher education in the metropolitan area.

HUMAN SUPPORT SERVICES

Human support services, $744,901,000: *Provided,* That $17,000,000 of this appropriation, to remain available until expended, shall be available solely for District of Columbia employees' disability compensation: *Provided further,* That of the funds provided for the D.C. General Hospital subsidy, $646,000 shall be used for providing health care to homeless persons.

PUBLIC WORKS

Public works, including rental of one passenger-carrying vehicle for use by the Mayor and three passenger-carrying vehicles for use by the Council of the District of Columbia and purchase of passenger-carrying vehicles for replacement only, $218,925,000, of which not to exceed $3,900,000 shall be available for the School Transit Subsidy: *Provided,* That this appropriation shall not be available for collecting ashes or miscellaneous refuse from hotels and places of business: *Provided further,* That the Taxicab Commission shall report to the Committees on Appropriations of the Senate and House of Representatives by January 15, 1989 on a plan as outlined in Senate Report 100-162 to issue and implement regulations including but not limited to the age of vehicles, frequency of inspection, and cleanliness of vehicles. Reports.

WASHINGTON CONVENTION CENTER FUND

For the Washington Convention Center Fund, $7,274,000: *Provided,* That the Convention Center Board of Directors, established by section 3 of the Washington Convention Center Management Act of 1979, effective November 3, 1979 (D.C. Law 3-36; D.C. Code, sec. 9-

602), shall reimburse the Auditor of the District of Columbia for all reasonable costs for performance of the annual convention center audit.

REPAYMENT OF LOANS AND INTEREST

For reimbursement to the United States of funds loaned in compliance with an Act to provide for the establishment of a modern, adequate, and efficient hospital center in the District of Columbia, approved August 7, 1946 (60 Stat. 896; Public Law 79-648); section 1 of an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, sec. 9-219); section 4 of an Act to authorize the Commissioners of the District of Columbia to plan, construct, operate, and maintain a sanitary sewer to connect the Dulles International Airport with the District of Columbia system, approved June 12, 1960 (74 Stat. 211; Public Law 86-515); and section 723 of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 821; Public Law 93-198; D.C. Code, sec. 47-321, note); and section 743(f) of the District of Columbia Self-Government and Governmental Reorganization Act amendments, approved October 13, 1977 (91 Stat. 1156; Public Law 95-131; D.C. Code, sec. 9-219, note), including interest as required thereby, $235,796,000.

REPAYMENT OF GENERAL FUND DEFICIT

For the purpose of reducing the $204,593,000 general fund accumulated deficit as of September 30, 1987, $20,000,000, of which not less than $19,000,000 shall be funded and apportioned by the Mayor from amounts otherwise available to the District of Columbia government (including amounts appropriated by this Act or revenues otherwise available, or both): *Provided*, That if the Federal payment to the District of Columbia for fiscal year 1989 is reduced pursuant to an order issued by the President under section 252 of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177, approved December 12, 1985), the percentage (if any) by which the $20,000,000 set aside for repayment of the general fund accumulated deficit under this appropriation title is reduced as a consequence shall not exceed the percentage by which the Federal payment is reduced pursuant to such order.

SHORT-TERM BORROWINGS

For the purpose of funding interest related to borrowing funds for short-term cash needs, $4,570,000.

OPTICAL AND DENTAL BENEFITS

For optical and dental costs for nonunion employees, $2,569,000.

INAUGURAL EXPENSES

For reimbursement for necessary expenses incurred in connection with Presidential inauguration activities as authorized by section

737(b) of the District of Columbia Self-Government and Governmental Reorganization Act, Public Law 93-198, approved December 24, 1973 (87 Stat. 824; D.C. Code, sec. 1-1803), $2,300,000, which shall be apportioned by the Mayor within the various appropriation headings in this Act.

ENERGY ADJUSTMENT

The Mayor shall reduce authorized energy appropriations and expenditures within object class 30a (energy) in the amount of $2,070,000, within one or several of the various appropriation headings in this Act.

PERSONAL SERVICES ADJUSTMENT

The Mayor shall reduce appropriations and expenditures for personal services within object classes 11, 12, 13, and 14 in the amount of $2,747,000 through a selective hiring freeze within one or several of the various appropriation headings in this Act.

CAPITAL OUTLAY

For construction projects, $138,336,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, secs. 43-1512 to 43-1519); the District of Columbia Public Works Act of 1954, approved May 18, 1954 (68 Stat. 101; Public Law 83-364); an Act to authorize the Commissioners of the District of Columbia to borrow funds for capital improvement programs and to amend provisions of law relating to Federal Government participation in meeting costs of maintaining the Nation's Capital City, approved June 6, 1958 (72 Stat. 183; Public Law 85-451; D.C. Code, secs. 9-219 and 47-3402); section 3(g) of the District of Columbia Motor Vehicle Parking Facility Act of 1942, approved August 20, 1958 (72 Stat. 686; Public Law 85-692; D.C. Code, sec. 40-805(7)); and the National Capital Transportation Act of 1969, approved December 9, 1969 (83 Stat. 320; Public Law 91-143; D.C. Code, secs. 1-2451, 1-2452, 1-2454, 1-2456, and 1-2457); including acquisition of sites, preparation of plans and specifications, conducting preliminary surveys, erection of structures, including building improvement and alteration and treatment of grounds, to remain available until expended: *Provided,* That $10,276,000 shall be available for project management and $7,298,000 for design by the Director of the Department of Public Works or by contract for architectural engineering services, as may be determined by the Mayor: *Provided further,* That funds for use of each capital project implementing agency shall be managed and controlled in accordance with all procedures and limitations established under the Financial Management System: *Provided further,* That $950,000 for the Department of Recreation and $4,703,000 for the Department of Public Works for pay-as-you-go capital projects shall be financed from general fund operating revenues: *Provided further,* That all funds provided by this appropriation title shall be available only for the specific projects and purposes intended: *Provided further,* That notwithstanding the foregoing, all authorizations for capital outlay projects, except those projects covered by the first sentence of section 23(a) of the Federal-Aid Highway Act of 1968, approved August 23, 1968 (82 Stat. 827; Public Law 90-495; D.C. Code, sec. 7-134, note), for which funds are provided by this appropriation title,

shall expire on September 30, 1990, except authorizations for projects as to which funds have been obligated in whole or in part prior to September 30, 1990: *Provided further,* That upon expiration of any such project authorization the funds provided herein for the project shall lapse.

WATER AND SEWER ENTERPRISE FUND

For the Water and Sewer Enterprise Fund, $200,805,000, of which $34,085,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects.

For construction projects, $24,200,000, as authorized by An Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.): *Provided,* That the requirements and restrictions which are applicable to general fund capital improvement projects and are set forth in this Act under the Capital Outlay appropriation title shall apply to projects approved under this appropriation title: *Provided further,* That of the $29,652,000 in water and sewer enterprise fund operating revenues for pay-as-you-go capital projects, $10,500,000 shall fund new authority in the fiscal year 1989 capital budget, $15,110,000 shall fund prior year capital project authority, and $4,042,000 shall provide a cash reserve in the capital projects fund in order to meet financing needs caused by the time lag in securing bond financing.

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For the Lottery and Charitable Games Enterprise Fund, established by the District of Columbia Appropriation Act for fiscal year 1982, approved December 4, 1981, as amended (95 Stat. 1174, 1175; Public Law 97-91), for the purpose of implementing the Law to Legalize Lotteries, Daily Numbers Games, and Bingo and Raffles for Charitable Purposes in the District of Columbia, effective March 10, 1981 (D.C. Law 3-172; D.C. Code, secs. 2-2501 et seq. and 22-1516 et seq.), $8,050,000, to be derived from non-Federal District of Columbia revenues: *Provided,* That the District of Columbia shall identify the sources of funding for this appropriation title from its own locally-generated revenues: *Provided further,* That no revenues from Federal sources shall be used to support the operations or activities of the Lottery and Charitable Games Control Board.

CABLE TELEVISION ENTERPRISE FUND

For the Cable Television Enterprise Fund, established by the Cable Television Communications Act of 1981, effective October 22, 1983 (D.C. Law 5-36; D.C. Code, sec. 43-1801 et seq.), $1,000,000.

GENERAL PROVISIONS

Contracts. Records. Public information.

SEC. 101. The expenditure of any appropriation under this Act for any consulting service through procurement contract, pursuant to 5 U.S.C. 3109, shall be limited to those contracts where such expenditures are a matter of public record and available for public inspec-

tion, except where otherwise provided under existing law, or under existing Executive order issued pursuant to existing law.

SEC. 102. Except as otherwise provided in this Act, all vouchers covering expenditures of appropriations contained in this Act shall be audited before payment by the designated certifying official and the vouchers as approved shall be paid by checks issued by the designated disbursing official.

SEC. 103. Whenever in this Act an amount is specified within an appropriation for particular purposes or objects of expenditure, such amount, unless otherwise specified, shall be considered as the maximum amount that may be expended for said purpose or object rather than an amount set apart exclusively therefor, except for those funds and programs for the Metropolitan Police Department under the heading "Public Safety and Justice" which shall be considered as the amounts set apart exclusively for and shall be expended solely by that Department; and the appropriation under the heading "Repayment of General Fund Deficit" which shall be considered as the amount set apart exclusively for and shall be expended solely for that purpose.

SEC. 104. Appropriations in this Act shall be available, when authorized by the Mayor, for allowances for privately owned automobiles and motorcycles used for the performance of official duties at rates established by the Mayor: *Provided*, That such rates shall not exceed the maximum prevailing rates for such vehicles as prescribed in the Federal Property Management Regulations 101-7 (Federal Travel Regulations).

SEC. 105. Appropriations in this Act shall be available for expenses of travel and for the payment of dues of organizations concerned with the work of the District of Columbia government, when authorized by the Mayor: *Provided*, That the Council of the District of Columbia and the District of Columbia Courts may expend such funds without authorization by the Mayor.

SEC. 106. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making refunds and for the payment of judgments that have been entered against the District of Columbia government: *Provided*, That nothing contained in this section shall be construed as modifying or affecting the provisions of section 11(c)(3) of title XII of the District of Columbia Income and Franchise Tax Act of 1947, approved March 31, 1956 (70 Stat. 78; Public Law 84-460; D.C. Code, sec. 47-1812.11(c)(3)).

SEC. 107. Appropriations in this Act shall be available for the payment of public assistance without reference to the requirement of section 544 of the District of Columbia Public Assistance Act of 1982, effective April 6, 1982 (D.C. Law 4-101; D.C. Code, sec. 3-205.44), and for the non-Federal share of funds necessary to qualify for Federal assistance under the Juvenile Delinquency Prevention and Control Act of 1968, approved July 31, 1968 (82 Stat. 462; Public Law 90-445; 42 U.S.C. 3801 et seq.).

SEC. 108. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 109. Not to exceed 4½ per centum of the total of all funds appropriated by this Act for personal compensation may be used to pay the cost of overtime or temporary positions.

SEC. 110. Appropriations in this Act shall not be available, during the fiscal year ending September 30, 1989, for the compensation of

any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 38,471, the number of positions authorized by this Act.

SEC. 111. No funds appropriated in this Act for the District of Columbia government for the operation of educational institutions, the compensation of personnel, or for other educational purposes may be used to permit, encourage, facilitate, or further partisan political activities. Nothing herein is intended to prohibit the availability of school buildings for the use of any community or partisan political group during nonschool hours.

SEC. 112. The annual budget for the District of Columbia government for the fiscal year ending September 30, 1990, shall be transmitted to the Congress by no later than April 15, 1989.

SEC. 113. None of the funds appropriated in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name, title, grade, salary, past work experience, and salary history are not available for inspection by the House and Senate Committees on Appropriations, the House Committee on the District of Columbia, the Subcommittee on Governmental Efficiency, Federalism and the District of Columbia of the Senate Committee on Governmental Affairs, and the Council of the District of Columbia, or their duly authorized representative.

SEC. 114. There are appropriated from the applicable funds of the District of Columbia such sums as may be necessary for making payments authorized by the District of Columbia Revenue Recovery Act of 1977, effective September 23, 1977 (D.C. Law 2-20; D.C. Code, sec. 47-421 et seq.).

SEC. 115. None of the funds contained in this Act shall be made available to pay the salary of any employee of the District of Columbia government whose name and salary are not available for public inspection.

SEC. 116. No part of this appropriation shall be used for publicity or propaganda purposes or implementation of any policy including boycott designed to support or defeat legislation pending before Congress or any State legislature.

Abortion.

SEC. 117. None of the funds contained in this Act shall be used to perform abortions except where the life of the mother would be endangered if the fetus were carried to term.

SEC. 118. At the start of the fiscal year, the Mayor shall develop an annual plan, by quarter and by project, for capital outlay borrowings: *Provided,* That within a reasonable time after the close of each quarter, the Mayor shall report to the Council of the District of Columbia and the Congress the actual borrowing and spending progress compared with projections.

Reports.

SEC. 119. The Mayor shall not borrow any funds for capital projects unless he has obtained prior approval from the Council of the District of Columbia, by resolution, identifying the projects and amounts to be financed with such borrowings.

SEC. 120. The Mayor shall not expend any moneys borrowed for capital projects for the operating expenses of the District of Columbia government.

SEC. 121. None of the funds appropriated in this Act may be used for the implementation of a personnel lottery with respect to the hiring of fire fighters or police officers.

SEC. 122. None of the funds appropriated by this Act may be obligated or expended by reprogramming except pursuant to

advance approval of the reprogramming granted according to the procedure set forth in the Joint Explanatory Statement of the Committee of Conference (House Report No. 96-443) which accompanied the District of Columbia Appropriation Act, 1980, approved October 30, 1979 (93 Stat. 713; Public Law 96-93), as modified in House Report No. 98-265, and in accordance with the Reprogramming Policy Act of 1980, effective September 16, 1980 (D.C. Law 3-100; D.C. Code, sec. 47-361 et seq.).

SEC. 123. None of the Federal funds provided in this Act shall be obligated or expended to provide a personal cook, chauffeur, or other personal servants to any officer or employee of the District of Columbia.

SEC. 124. None of the Federal funds provided in this Act shall be obligated or expended to procure passenger automobiles as defined in the Automobile Fuel Efficiency Act of 1980, approved October 10, 1980 (94 Stat. 1824; Public Law 96-425; 15 U.S.C. 2001(2)), with an Environmental Protection Agency estimated miles per gallon average of less than 22 miles per gallon: *Provided,* That this section shall not apply to security, emergency rescue, or armored vehicles.

SEC. 125. (a) Notwithstanding section 422(7) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(7)), the City Administrator shall be paid, during any fiscal year, a salary at a rate established by the Mayor, not to exceed the rate established for level IV of the Executive Schedule under 5 U.S.C. 5315.

(b) For purposes of applying any provision of law limiting the availability of funds for payment of salary or pay in any fiscal year, the highest rate of pay established by the Mayor under subsection (a) for any position for any period during the last quarter of calendar year 1988 shall be deemed to be the rate of pay payable for that position for September 30, 1988.

(c) Notwithstanding section 4(a) of the District of Columbia Redevelopment Act of 1945, approved August 2, 1946 (60 Stat. 793; Public Law 79-592; D.C. Code, sec. 5-803(a)), the Board of Directors of the District of Columbia Redevelopment Land Agency shall be paid, during any fiscal year, per diem compensation at a rate established by the Mayor.

SEC. 126. Notwithstanding any other provisions of law, the provisions of the District of Columbia Government Comprehensive Merit Personnel Act of 1978, effective March 3, 1979 (D.C. Law 2-139; D.C. Code, sec. 1-601.1 et seq.), enacted pursuant to section 422(3) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 790; Public Law 93-198; D.C. Code, sec. 1-242(3)), shall apply with respect to the compensation of District of Columbia employees: *Provided,* That for pay purposes, employees of the District of Columbia government shall not be subject to the provisions of title 5 of the United States Code.

SEC. 127. The Director of the Department of Administrative Services may pay rentals and repair, alter, and improve rented premises, without regard to the provisions of section 322 of the Economy Act of 1932 (Public Law 72-212; 40 U.S.C. 278a), upon a determination by the Director, that by reason of circumstances set forth in such determination, the payment of these rents and the execution of this work, without reference to the limitations of section 322, is advan-

tageous to the District in terms of economy, efficiency and the District's best interest.

SEC. 128. No later than 30 days after the end of the first quarter of fiscal year 1989, the Mayor of the District of Columbia shall submit to the Council of the District of Columbia the new fiscal year 1989 revenue estimates as of the end of the first quarter of fiscal year 1989. These estimates shall be used in the fiscal year 1990 annual budget request. The officially revised estimates at midyear shall be used for the midyear report.

SEC. 129. Section 466(b) of the District of Columbia Self-Government and Governmental Reorganization Act, approved December 24, 1973 (87 Stat. 806; Public Law 93-198; D.C. Code, sec. 47-326), is amended by striking out "sold before October 1, 1988" and inserting in lieu thereof "sold before October 1, 1989".

Contracts.

SEC. 130. No sole source contract with the District of Columbia government or any agency thereof may be renewed or extended without opening that contract to the competitive bidding process as set forth in section 303 of the District of Columbia Procurement Practices Act of 1985, effective February 21, 1986 (D.C. Law 6-85), except that the District of Columbia Public Schools may renew or extend sole source contracts for which competition is not feasible or practical, provided that the determination as to whether to invoke the competitive bidding process has been made in accordance with duly promulgated Board of Education rules and procedures.

SEC. 131. For purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended, the term "program, project, and activity" shall be synonymous with and refer specifically to each account appropriating Federal funds in this Act and any sequestration order shall be applied to each of the accounts rather than to the aggregate total of those accounts: *Provided,* That sequestration orders shall not be applied to any account that is specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (99 Stat. 1037; Public Law 99-177), as amended.

SEC. 132. In the event a sequestration order is issued pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended, after the amounts appropriated to the District of Columbia for the fiscal year involved have been paid to the District of Columbia, the Mayor of the District of Columbia shall pay to the Secretary of the Treasury, within 15 days after receipt of a request therefor from the Secretary of the Treasury, such amounts as are sequestered by the order: *Provided,* That the sequestration percentage specified in the order shall be applied proportionately to each of the Federal appropriation accounts in this Act which are not specifically exempted from sequestration by the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177), as amended.

Real property.

SEC. 133. (a) Within 30 days after the date of the enactment of this Act, the United States, acting through a duly authorized official, shall convey to the District of Columbia, without consideration, all right, title, and interest of the United States, in the real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property which is described in the Maryland Department of Assessments and Taxation, Prince George's County, tax map #45 grid C-2, parcel 153, and tax map #45 grid C-3, parcel 124.

SEC. 134. None of the funds available to the District of Columbia government shall be used for any purpose involved in billing individual agencies or establishments for water and water services and sanitary sewer services traditionally funded under the account "Federal Payment for Water and Sewer Services" unless and until existing statutes (sections 106 and 212 of the District of Columbia Public Works Act of 1954, as amended, Public Law 364, approved May 18, 1954; 68 Stat. 101; D.C. Code, sections 43-1552 and 43-1612), are amended to specifically provide for such billing.

SEC. 135. (a) Section 11-1563(d), D.C. Code is amended—

(A) by inserting "or while receiving retirement salary under this subchapter but before having recouped all contributions," before "the lump-sum credit for retirement"; and

(B) by inserting "or the balance after deduction of retirement salary paid prior to death, if applicable," before "shall be paid,".

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply fully with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, D.C. Code, secs. 1-722(d) and 1-724(d)).

Real property.

SEC. 136. (a) Within 30 days after the date of enactment of this Act, the United States, acting through a duly authorized official, shall convey to the District of Columbia without consideration, all right, title, and interest of the United States, in the real property described in subsection (b) (and any improvements thereon).

(b) The real property referred to in subsection (a) is that property (commonly known as the District of Columbia Employment Security Building at 500 C Street, Northwest) located in the District of Columbia in Square 491 described in a deed from the District of Columbia to the United States dated April 20, 1961, and recorded on April 26, 1961, as instrument number 11232 in liber 11589, folio 135 of the District of Columbia.

(c) If for any reason the District of Columbia should dispose of the real property described in subsection (b) (and any improvements thereon), such disposition shall be in accordance with procedures established by the Federal Department of Labor as are applicable to any of the 50 States.

SEC. 137. Section 147 of the Surface Transportation and Uniform Reallocation Assistance Act of 1987 (Public Law 100-17, approved April 2, 1987) is repealed.

101 Stat. 180.

SEC. 138. Notwithstanding section 110 of this Act, appropriations in this Act shall not be available, during the fiscal year ending September 30, 1989, for the compensation of any person appointed to a permanent position in the District of Columbia government during any month in which the number of employees exceeds 38,512, the number of positions authorized by this Act.

SEC. 139. (a) Up to 118 officers or members of the Metropolitan Police Department who were hired before February 14, 1980, and who retire on disability before the end of calendar year 1989 shall be excluded from the computation of the rate of disability retirement under subsection 145(a) of the District of Columbia Retirement Reform Act, as amended, approved September 30, 1983 (97 Stat. 727; D.C. Code, sec. 1-725(a)), for purposes of reducing the authorized Federal payment to the District of Columbia Police Officers and Fire Fighters' Retirement Fund pursuant to subsection 145(c) of the District of Columbia Retirement Reform Act.

(b) The Mayor, within 30 days after the enactment of this Act, shall engage an enrolled actuary, to be paid by the District of Columbia Retirement Board, and shall comply with the requirements of section 142(d) and section 144(d) of the District of Columbia Retirement Reform Act of 1979 (Public Law 96-122, D.C. Code, secs. 1-722(d) and 1-724(d)).

(c) If any of the 118 light duty positions that may become vacant under subsection (a) are filled, a civilian employee shall be hired to fill that position.

SEC. 140. (a) Notwithstanding any other provision of law, for purposes of zoning regulations of the District of Columbia, the premises on squares 4302 through 4305, and parcels 167/64, 167/65, 167/67 and 167/68 in the District of Columbia shall be considered to be an eleemosynary institution in accordance with the decision of the Deputy Zoning Administrator on December 23, 1986, as authorized by the Certificate of Occupancy Number B-26019 dated November 8, 1960, and that the current use of the premises is within the non-conforming use of rights as permitted by such Certificate of Occupancy.

(b) Subsection (a) shall not be construed to require any new license unless such was required by District of Columbia law prior to the adoption of Zoning Commission Order Number 347 dated July 9, 1981.

Employment and unemployment.

SEC. 141. (a) If by May 1, 1989, the District of Columbia government has not adopted, and implemented no later than September 30, 1989, a preference system that does not preclude the hiring of noncity residents, none of the funds provided or otherwise made available by this Act may be used to pay the salary or expenses of any officer, employee, or agent who is engaged in implementing, administering, or enforcing a District of Columbia residency requirement with respect to employees of the Government of the District of Columbia.

(b) After the date of enactment of this section, the District shall not dismiss any employees currently facing adverse job action for failure to comply with the residency requirement.

SEC. 142. Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

Insurance. AIDS.

SEC. 143. None of the Federal funds appropriated by this Act shall be obligated or expended after December 31, 1988, if on that date the District of Columbia has not repealed District of Columbia Law 6-170, the Prohibition of Discrimination in the Provision of Insurance Act of 1986 (D.C. Law 6-170), amended the law to allow testing for the human immunodeficiency virus as a condition for acquiring all health, life and disability insurance without regard to the face value of such policies. Eligibility for coverage and premium costs shall be determined in accordance with ordinary practices.

Abortion.

SEC. 144. None of the funds appropriated under this Act for the Mayor of the District of Columbia shall be expended after January 1, 1989, if on that date, using existing powers, the Department of Human Services has not implemented a system of mandatory reporting of individual abortions performed in the District of Columbia; and categories of data collected under such system shall be substantially similar to those collected by the National Center for Health Statistics: *Provided*, That the Department of Human Services shall not require reporting of the identity of the aborting woman or the abortion provider, and shall ensure that the identity

of the aborting woman and abortion provider remain strictly confidential, and data be used for statistical purposes only.

NATION'S CAPITAL RELIGIOUS LIBERTY AND ACADEMIC FREEDOM ACT

Nation's Capital Religious Liberty and Academic Freedom Act. Schools and colleges. Homosexuality.

SEC. 145. (a) This section may be cited as the [1] "Nation's Capital Religious Liberty and Academic Freedom Act".

(b) None of the funds appropriated by this Act shall be obligated or expended after December 31, 1988, if on that date the District of Columbia has not adopted subsection (c) of this section.

(c) Section 1-2520 of the District of Columbia Code (1981 edition) is amended by adding after subsection (2) the following new subsection:

"(3) Notwithstanding any other provision of the laws of the District of Columbia, it shall not be an unlawful discriminatory practice in the District of Columbia for any educational institution that is affiliated with a religious organization or closely associated with the tenets of a religious organization to deny, restrict, abridge, or condition—

"(A) the use of any fund, service, facility, or benefit; or

"(B) the granting of any endorsement, approval, or recognition,

to any person or persons that are organized for, or engaged in, promoting, encouraging, or condoning any homosexual act, lifestyle, orientation, or belief.".

TITLE II—FISCAL YEAR 1988

SUPPLEMENTAL APPROPRIATIONS

DISTRICT OF COLUMBIA FUNDS

GOVERNMENTAL DIRECTION AND SUPPORT

(INCLUDING RESCISSION)

For an additional amount for "Governmental direction and support", $2,168,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-91 to 1329-92), $3,525,000 are rescinded.

ECONOMIC DEVELOPMENT AND REGULATION

(INCLUDING RESCISSION)

For an additional amount for "Economic development and regulation", $143,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-92), $15,779,000 are rescinded.

PUBLIC SAFETY AND JUSTICE

(INCLUDING RESCISSION)

For an additional amount for "Public safety and justice", $33,253,000: *Provided,* That of the funds appropriated under this

[1] Copy read "Nation's Capital Religious Liberty and Academic Freedom Act".".

heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-92 to 1329-93), $2,000 are rescinded.

PUBLIC EDUCATION SYSTEM

(INCLUDING RESCISSION)

For an additional amount for "Public education system", $13,900,000 which shall be allocated for the public schools of the District of Columbia: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-93 to 1329-94), $210,000 for the District of Columbia School of Law, $549,000 for the Public Library, and $355,000 for the Commission on the Arts and Humanities are rescinded.

HUMAN SUPPORT SERVICES

(INCLUDING RESCISSION)

For an additional amount for "Human support services", $24,467,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-94), $8,578,000 are rescinded: *Provided further,* That an additional $2,545,000, to remain available until expended, shall be available solely for the District of Columbia employees' disability compensation: *Provided further,* That the $990,000 appropriated in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c)) shall be solely for Project Volta and shall remain available until expended: *Provided further,* That $746,054 in funds made available to the District of Columbia pursuant to the Employment Security Administrative Financing Act of 1954, approved August 5, 1954 (68 Stat. 668; 42 U.S.C. 1103), shall be appropriated for the purpose of providing $39,210 towards the purchase of an optical character reader and $706,844 to pay unemployment insurance staff salaries and benefits: *Provided further,* That the $746,054 referred to in the preceding proviso shall be withdrawn and expenses incurred after the enactment date of this Act and shall not be available for obligation after the close of a 12-month period which begins on the date of the enactment of this Act.

PUBLIC WORKS

(INCLUDING RESCISSION)

For an additional amount for "Public works", $2,783,000: *Provided,* That of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-94), $2,625,000, including $241,000 from the school transit subsidy are rescinded.

REPAYMENT OF LOANS AND INTEREST

(RESCISSION)

Of the funds appropriated under this heading for fiscal year 1988 in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-95), $1,005,000 are rescinded.

REPAYMENT OF GENERAL FUND DEFICIT

For an additional amount for "Repayment of general fund deficit", $118,000.

OPTICAL AND DENTAL BENEFITS

For an additional amount for "Optical and dental benefits", $1,080,000.

PERSONAL SERVICES

For "Personal services", for pay increases and related costs, to be transferred by the Mayor of the District of Columbia to the various appropriation titles for fiscal year 1988 from which employees are properly payable, $34,150,000, which includes a 12 percent pay absorption to be apportioned among the various appropriation titles by the Mayor.

ADJUSTMENTS

Of the funds appropriated under the various appropriation titles in the District of Columbia Appropriations Act, 1988, approved December 22, 1987 (Public Law 100-202, sec. 101(c); 101 Stat. 1329-90 to 1329-104), $911,000, as determined by the Mayor, are rescinded.

CAPITAL OUTLAY

For an additional amount for "Capital outlay", $6,340,000, to remain available until expended.

WATER AND SEWER ENTERPRISE FUND

For an additional amount for "Water and sewer enterprise fund", $39,750,000, of which $8,385,000 shall be apportioned and payable to the debt service fund for repayment of loans and interest incurred for capital improvement projects and $31,365,000 shall be for pay-as-you-go capital projects, of which $10,500,000 shall be for new capital project authority for fiscal year 1988 and $20,865,000 shall be for prior-year capital project authority.

For an additional amount for construction projects, $10,500,000, as authorized by an Act authorizing the laying of water mains and service sewers in the District of Columbia, the levying of assessments therefor, and for other purposes, approved April 22, 1904 (33 Stat. 244; Public Law 58-140; D.C. Code, sec. 43-1512 et seq.).

LOTTERY AND CHARITABLE GAMES ENTERPRISE FUND

For an additional amount for "Lottery and charitable games enterprise fund", $764,000.

GENERAL PROVISION

SEC. 201. Notwithstanding any other provision of law, appropriations made and authority granted pursuant to this title shall be deemed to be available for the fiscal year ending September 30, 1988.

This Act may be cited as the "District of Columbia Appropriations Act, 1989".

Approved October 1, 1988.

Certified December 14, 1988.

Editorial note: This printed version of the original hand enrollment is published pursuant to Public Law 100-454. The following memorandum for the Archivist of the United States was signed by the President on December 12, 1988, and was printed in the *Federal Register* on December 15, 1988:

By the authority vested in me as President by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I hereby authorize you to ascertain whether the printed enrollments of H.R. 4637, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), H.R. 4776, the District of Columbia Appropriations Act, 1989 (Public Law 100-462), and H.R. 4781, the Department of Defense Appropriations Act, 1989 (Public Law 100-463), are correct printings of the hand enrollments, which were approved on October 1, 1988, and if so to make on my behalf the certifications required by Section 2(c) of H.J. Res. 665 (Public Law 100-454).

Attached are the printed enrollments of H.R. 4637, H.R. 4776, and H.R. 4781, which were received at the White House on December 1, 1988.

This memorandum shall be published in the *Federal Register*.

The Archivist on December 14, 1988, certified this to be a correct printing of the hand enrollment of Public Law 100-462.

LEGISLATIVE HISTORY—H.R. 4776 (S. 2562):

HOUSE REPORTS: No. 100-680 (Comm. on Appropriations) and Nos. 100-988, 100-1010, and 100-1013 (all from Comm. of Conference).
SENATE REPORTS: No. 100-398 accompanying S. 2562 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 28, considered and passed House.
July 7, 8, 11, considered and passed Senate, amended.
Sept. 28, 29, House recommitted conference report.
Sept. 30, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in House amendments.

O

*Public Law 100-463
100th Congress

An Act

Oct. 1, 1988
[H.R. 4781]

Making appropriations for the Department of Defense for the fiscal year ending September 30, 1989, and for other purposes.

Department of Defense Appropriations Act, 1989.
Arms and munitions.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 1989, for military functions administered by the Department of Defense, and for other purposes, namely:

TITLE I

MILITARY PERSONNEL

MILITARY PERSONNEL, ARMY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Army on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $24,484,745,000.

MILITARY PERSONNEL, NAVY

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Navy on active duty (except members of the Reserve provided for elsewhere), midshipmen, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $18,962,456,000.

MILITARY PERSONNEL, MARINE CORPS

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Marine Corps on active duty (except members of the Reserve provided for elsewhere); and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to

ENROLLMENT ERRATA

Pursuant to the provisions of H.J. Res. 665, authorizing the hand enrollment of appropriations bills for fiscal year 1989, and authorizing the subsequent, post-enactment of preparation of printed enrollment of those bills, any changes made in this printed version will be footnoted.

*Note: For information on the printing of this law and a related Presidential memorandum, see the editorial note at the end.

section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $5,716,200,000.

MILITARY PERSONNEL, AIR FORCE

For pay, allowances, individual clothing, subsistence, interest on deposits, gratuities, permanent change of station travel (including all expenses thereof for organizational movements), and expenses of temporary duty travel between permanent duty stations, for members of the Air Force on active duty (except members of reserve components provided for elsewhere), cadets, and aviation cadets; and for payments pursuant to section 156 of Public Law 97-377, as amended (42 U.S.C. 402 note), to section 229(b) of the Social Security Act (42 U.S.C. 429(b)), and to the Department of Defense Military Retirement Fund; $20,066,403,000: *Provided,* That in addition to the funds appropriated in this paragraph, $36,200,000 is appropriated for Aviation Continuation Pay.

RESERVE PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army Reserve on active duty under sections 265, 3021, and 3038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $2,261,200,000.

RESERVE PERSONNEL, NAVY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Navy Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,621,400,000.

RESERVE PERSONNEL, MARINE CORPS

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Marine Corps Reserve on active duty under section 265 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty, and for members of the Marine Corps platoon leaders class, and expenses authorized by section 2131 of title 10, United States Code, as au-

thorized by law; and for payments to the Department of Defense Military Retirement Fund; $315,700,000.

RESERVE PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air Force Reserve on active duty under sections 265, 8021, and 8038 of title 10, United States Code, or while serving on active duty under section 672(d) of title 10, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing reserve training, or while performing drills or equivalent duty or other duty, and for members of the Air Reserve Officers' Training Corps, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $657,964,000.

NATIONAL GUARD PERSONNEL, ARMY

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Army National Guard while on duty under section 265, 3021, or 3496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $3,334,000,000.

NATIONAL GUARD PERSONNEL, AIR FORCE

For pay, allowances, clothing, subsistence, gratuities, travel, and related expenses for personnel of the Air National Guard on duty under section 265, 8021, or 8496 of title 10 or section 708 of title 32, United States Code, or while serving on duty under section 672(d) of title 10 or section 502(f) of title 32, United States Code, in connection with performing duty specified in section 678(a) of title 10, United States Code, or while undergoing training, or while performing drills or equivalent duty, or other duty, and expenses authorized by section 2131 of title 10, United States Code, as authorized by law; and for payments to the Department of Defense Military Retirement Fund; $1,033,686,000.

TITLE II

OPERATION AND MAINTENANCE

OPERATION AND MAINTENANCE, ARMY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Army, as authorized by law; and not to exceed $18,487,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Army, and payments may be made on his certificate of necessity for confidential military purposes; $22,083,496,000: *Provided,* That of the funds appropriated in this paragraph, $900,000

shall be available only to support the 1989 World Ski Championships.

OPERATION AND MAINTENANCE, NAVY

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Navy and the Marine Corps, as authorized by law; and not to exceed $4,014,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Navy, and payments may be made on his certificate of necessity for confidential military purposes; $24,852,100,000, of which $60,000,000 shall be transferred to the Coast Guard: *Provided,* That from the amounts of this appropriation for the alteration, overhaul and repair of naval vessels and aircraft, funds shall be available to acquire the alteration, overhaul and repair by competition between public and private shipyards and air rework facilities. The Navy shall certify that successful bids include comparable estimates of all direct and indirect costs for both public and private shipyards and air rework facilities. Competitions shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76: *Provided further,* That funds appropriated or made available in this Act shall be obligated and expended to restore and maintain the facilities, activities and personnel levels, including specifically the medical facilities, activities and personnel levels, at the Memphis Naval Complex, Millington, Tennessee, to the fiscal year 1984 levels: *Provided further,* That of the amount appropriated, $40,000,000 shall be available after August 15, 1989, for repair of blister modification of the USS MIDWAY: *Provided further,* That blister modification of the USS MIDWAY may be accomplished at a shipyard in Japan only if such costs are assumed by the Government of Japan, or if the Government of Japan agrees to increase its share of U.S. labor costs or operational costs in the Japanese fiscal year by an amount equal to or greater than $40,000,000, and that such increase will be in addition to any increase already agreed to by the Governments of the United States and Japan at the time of enactment of this Act: *Provided further,* Notwithstanding section 2805 of title 10, of the funds appropriated herein, $3,500,000 shall be available for a grant to the Naval Undersea Museum Foundation for the completion of the Naval Undersea Museum at Keyport, Washington. These funds shall be available solely for project costs and none of the funds are for remuneration of any entity or individual associated with fund raising for the project: *Provided further,* That of the funds appropriated herein, not to exceed $980,000 shall be available to pay Ukpeavic Inupiat Corporation for expenses related to the conveyance of the Navy Arctic Research Laboratory: *Provided further,* That, notwithstanding any other provision of law, the lease of the United States Navy repair ship HECTOR is hereby authorized in accordance with chapter 6 of the Arms Export Control Act and subject to the reporting requirements of section 62 of the Arms Export Control Act, as provided for in Executive Communication 4362, subject to a separate authorization bill being enacted or on or after October 18, 1988, whichever comes first.

OPERATION AND MAINTENANCE, MARINE CORPS

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Marine Corps, as authorized by law; $1,817,000,000.

OPERATION AND MAINTENANCE, AIR FORCE

Classified information.

For expenses, not otherwise provided for, necessary for the operation and maintenance of the Air Force, as authorized by law; and not to exceed $7,690,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of the Air Force, and payments may be made on his certificate of necessity for confidential military purposes; $21,721,673,000 of which $1,500,000 shall be available only for repair and maintenance of Decker Field, Utah: *Provided,* That $26,000,000 shall be available only for the operation of the SR-71 Base in the Pacific area and, these funds shall be available for obligation and expenditure for this purpose: *Provided further,* That in fiscal year 1989, not less than $15,000,000 shall be available only for the cleanup of uncontrolled hazardous waste contamination at Hamilton Air Force Base, in Novato, in the State of California, sufficient to permit the unrestricted use of the property, subject to the resolution of procedural and technical issues to meet such standard which shall be established by the relevant State and Federal regulatory agencies in consultation with the Department of Defense, in accordance with the agreement between the Federal Government and the purchaser.

OPERATION AND MAINTENANCE, DEFENSE AGENCIES

For expenses, not otherwise provided for, necessary for the operation and maintenance of activities and agencies of the Department of Defense (other than the military departments), as authorized by law; $7,635,973,000, of which not to exceed $11,691,000 can be used for emergencies and extraordinary expenses, to be expended on the approval or authority of the Secretary of Defense, and payments may be made on his certificate of necessity for confidential military purposes: *Provided,* That $1,400,000 is available to the Office of Economic Adjustment for making community planning assistance grants pursuant to section 2391 of title 10, United States Code, and joint community/military planning assistance grants for mitigation of operational impacts from encroachment.

OPERATION AND MAINTENANCE, ARMY RESERVE

Classified information.

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Army Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $794,900,000.

OPERATION AND MAINTENANCE, NAVY RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Navy Reserve; repair of facilities and equip-

ment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $979,200,000.

OPERATION AND MAINTENANCE, MARINE CORPS RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Marine Corps Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $77,500,000.

OPERATION AND MAINTENANCE, AIR FORCE RESERVE

For expenses, not otherwise provided for, necessary for the operation and maintenance, including training, organization, and administration, of the Air Force Reserve; repair of facilities and equipment; hire of passenger motor vehicles; travel and transportation; care of the dead; recruiting; procurement of services, supplies, and equipment; and communications; $1,033,900,000.

OPERATION AND MAINTENANCE, ARMY NATIONAL GUARD

For expenses of training, organizing, and administering the Army National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, and repairs to structures and facilities; hire of passenger motor vehicles; personnel services in the National Guard Bureau; travel expenses (other than mileage), as authorized by law for Army personnel on active duty, for Army National Guard division, regimental, and battalion commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; supplying and equipping the Army National Guard as authorized by law; and expenses of repair, modification, maintenance, and issue of supplies and equipment (including aircraft); $1,801,200,000.

OPERATION AND MAINTENANCE, AIR NATIONAL GUARD

For operation and maintenance of the Air National Guard, including medical and hospital treatment and related expenses in non-Federal hospitals; maintenance, operation, repair, and other necessary expenses of facilities for the training and administration of the Air National Guard, including repair of facilities, maintenance, operation, and modification of aircraft; transportation of things; hire of passenger motor vehicles; supplies, materials, and equipment, as authorized by law for the Air National Guard; and expenses incident to the maintenance and use of supplies, materials, and equipment, including such as may be furnished from stocks under the control of agencies of the Department of Defense; travel expenses (other than mileage) on the same basis as authorized by law for Air National Guard personnel on active Federal duty, for Air National Guard commanders while inspecting units in compliance with National Guard Bureau regulations when specifically authorized by the Chief, National Guard Bureau; $1,971,000,000.

NATIONAL BOARD FOR THE PROMOTION OF RIFLE PRACTICE, ARMY

For the necessary expenses and personnel services (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the national matches) in accordance with law, for construction, equipment, and maintenance of rifle ranges; the instruction of citizens in marksmanship; the promotion of rifle practice; the conduct of the national matches; the issuance of ammunition under the authority of title 10, United States Code, sections 4308 and 4311; the travel of rifle teams, military personnel, and individuals attending regional, national, and international competitions; and the payment to competitors at national matches under section 4312 of title 10, United States Code, of subsistence and travel allowances in excess of the amounts provided under section 4313 of title 10, United States Code; not to exceed $4,300,000, of which not to exceed $7,500 shall be available for incidental expenses of the National Board.

COURT OF MILITARY APPEALS, DEFENSE

For salaries and expenses necessary for the United States Court of Military Appeals; $3,500,000, and not to exceed $1,500 can be used for official representation purposes.

ENVIRONMENTAL RESTORATION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense; $500,000,000, to remain available until transferred: *Provided,* That the Secretary of Defense shall, upon determining that such funds are required for environmental restoration, reduction and recycling of hazardous waste, research and development associated with hazardous wastes and removal of unsafe buildings and debris of the Department of Defense, or for similar purposes (including programs and operations at sites formerly used by the Department of Defense), transfer the funds made available by this appropriation to other appropriations made available to the Department of Defense as the Secretary may designate, to be merged with and to be available for the same purposes and for the same time period as the appropriations of funds to which transferred: *Provided further,* That upon a determination that all or part of the funds transferred pursuant to this provision are not necessary for the purposes provided herein, such amounts may be transferred back to this appropriation.

GOODWILL GAMES

For logistical support and personnel services including initial planning for security needs (other than pay and non-travel related allowances of members of the Armed Forces of the United States, except for members of the Reserve components thereof called or ordered to active duty to provide support for the Goodwill Games) provided by any component of the Department of Defense to the Goodwill Games; $5,000,000.

HUMANITARIAN ASSISTANCE

For transportation for humanitarian relief for refugees of Afghanistan, acquisition and shipment of transportation assets to assist in the distribution of such relief, and for transportation and distribution of humanitarian and excess nonlethal supplies for worldwide humanitarian relief, as authorized by law; $13,000,000, to remain available for obligation until September 30, 1990: *Provided,* That the Department of Defense shall notify the Committees on Appropriations and Armed Services of the Senate and House of Representatives 21 days prior to the shipment of humanitarian relief which is intended to be transported and distributed to countries not previously authorized by Congress.

TITLE III

PROCUREMENT

AIRCRAFT PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,883,700,000, to remain available for obligation until September 30, 1991.

MISSILE PROCUREMENT, ARMY

For construction, procurement, production, modification, and modernization of missiles, equipment, including ordnance, ground handling equipment, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,602,800,000, to remain available for obligation until September 30, 1991: *Provided,* That funds may be obligated and expended for procurement and advance procurement of the Forward Area Air Defense System, Line-of-Sight Forward-Heavy system without regard to the restrictions contained in section 111(d) of the National Defense Authorization Act for fiscal years 1988 and 1989 (Public Law 100-180): *Provided further,* That notwithstanding sections 138 and 2366 of title 10, United States Code, the Secretary of the Army may obligate advance procurement funds provided for the Forward Area Air Defense System, Line-of-Sight Forward-Heavy system.

PROCUREMENT OF WEAPONS AND TRACKED COMBAT VEHICLES, ARMY

For construction, procurement, production, and modification of weapons and tracked combat vehicles, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,830,921,000, to remain available for obligation until September 30, 1991.

PROCUREMENT OF AMMUNITION, ARMY

For construction, procurement, production, and modification of ammunition, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including ammunition facilities authorized in military construction authorization Acts or authorized by section 2854, title 10, United States Code, and the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $2,012,970,000, to remain available for obligation until September 30, 1991.

OTHER PROCUREMENT, ARMY

For construction, procurement, production, and modification of vehicles, including tactical, support, and nontracked combat vehicles; the purchase of not to exceed 185 passenger motor vehicles for replacement only; communications and electronic equipment; other support equipment; spare parts, ordnance, and accessories therefor; specialized equipment and training devices; expansion of public and private plants, including the land necessary therefor, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes; $4,568,011,000, to remain available for obligation until September 30, 1991.

AIRCRAFT PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of aircraft, equipment, including ordnance, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public

and private plants; reserve plant and Government and contractor-owned equipment layaway; $9,415,311,000, to remain available for obligation until September 30, 1991: *Provided,* That the provisions in Public Laws 100-180 and 100-202 which provide that funds are available in specific dollar amounts only for specific programs, projects, or activities funded by the appropriation "Aircraft Procurement, Navy" shall have no force or effect which would limit the application of a proportionate share of the general reduction of $250,000,000 allocated within the appropriation account against these specific programs, projects or activities.

WEAPONS PROCUREMENT, NAVY

For construction, procurement, production, modification, and modernization of missiles, torpedoes, other weapons, and related support equipment including spare parts, and accessories therefor; expansion of public and private plants, including the land necessary therefor, and such lands and interest therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway, as follows:

Ballistic Missile Programs, $1,872,538,000;
Other Missile Programs, $3,245,154,000;
Mark-48 ADCAP Torpedo, $485,000,000;
Mark-50 Torpedo, $198,547,000;
Vertical Launched ASROC, $105,000,000;
Modification of Torpedoes, $3,289,000;
Torpedo Support Programs, $48,652,000;
Other Weapons, $108,440,000;
Spares and Repair Parts, $87,412,000;

In all: $6,154,032,000, to remain available for obligation until September 30, 1991.

SHIPBUILDING AND CONVERSION, NAVY

For expenses necessary for the construction, acquisition, or conversion of vessels as authorized by law, including armor and armament thereof, plant equipment, appliances, and machine tools and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; procurement of critical, long leadtime components and designs for vessels to be constructed or converted in the future; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title, as follows:

TRIDENT ballistic missile submarine program, $1,261,100,000;
SSN-688 attack submarine program, $1,365,100,000;
SSN-21 attack submarine program, $1,488,000,000;
Aircraft carrier service life extension program, $62,743,000;
DDG-51 destroyer program, $2,062,200,000;
LHD-1 amphibious assault ship program, $737,500,000;
MHC coastal mine hunter program, $197,200,000;
T-AO fleet oiler program, $689,900,000: *Provided,* That the Navy shall first execute the remaining options for the low bidder's current contract: *Provided further,* That the remaining

funds may not be obligated or expended until the Secretary of the Navy conducts an independent assessment of the shipbuilding mobilization base and determines whether or not the remaining three T-AO fleet oilers should be awarded to a second source shipyard and submits for approval to the Committees on Appropriations its T-AO fleet oiler procurement strategy;

AO conversion program, $84,900,000;

T-AGOS surveillance ship program, $159,600,000;

AOE combat support ship program, $363,900,000;

LCAC landing craft air cushion program, $306,600,000;

For outfitting, and post delivery, $276,800,000;

In all: $9,055,543,000, to remain available for obligation until September 30, 1993: *Provided,* That additional obligations may be incurred after September 30, 1993, for engineering services, tests, evaluations, and other such budgeted work that must be performed in the final stage of ship construction: *Provided further,* That none of the funds herein provided for the construction or conversion of any naval vessel to be constructed in shipyards in the United States shall be expended in foreign shipyards for the construction of major components of the hull or superstructure of such vessel: *Provided further,* That none of the funds herein provided shall be used for the construction of any naval vessel in foreign shipyards.

Other Procurement, Navy

For procurement, production, and modernization of support equipment and materials not otherwise provided for, Navy ordnance and ammunition (except ordnance for new aircraft, new ships, and ships authorized for conversion); the purchase of not to exceed 492 passenger motor vehicles of which 434 shall be for replacement only; expansion of public and private plants, including the land necessary therefor, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; and procurement and installation of equipment, appliances, and machine tools in public and private plants; reserve plant and Government and contractor-owned equipment layaway; $4,813,969,000, to remain available for obligation until September 30, 1991: *Provided,* That funds appropriated for procurement of TSEC/KY-67 (Bancroft) radios shall be available only for procurement of SINCGARS radios.

Procurement, Marine Corps

For expenses necessary for the procurement, manufacture, and modification of missiles, armament, ammunition, military equipment, spare parts, and accessories therefor; plant equipment, appliances, and machine tools, and installation thereof in public and private plants; reserve plant and Government and contractor-owned equipment layaway; vehicles for the Marine Corps, including purchase of not to exceed 150 passenger motor vehicles for replacement only; and expansion of public and private plants, including land necessary therefor, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; $1,297,265,000, to remain available for obligation until September 30, 1991.

AIRCRAFT PROCUREMENT, AIR FORCE

For construction, procurement, and modification of aircraft and equipment, including armor and armament, specialized ground handling equipment, and training devices, spare parts, and accessories therefor; specialized equipment; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $15,922,499,000, to remain available for obligation until September 30, 1991: *Provided,* That none of the funds provided in this Act may be obligated on B-1B bomber contracts which would cause the Air Force's $20,500,000,000 cost estimate for the B-1B bomber baseline program expressed in fiscal year 1981 constant dollars to be exceeded.

MISSILE PROCUREMENT, AIR FORCE

For construction, procurement, and modification of missiles, spacecraft, rockets, and related equipment, including spare parts and accessories therefor, ground handling equipment, and training devices; expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; and other expenses necessary for the foregoing purposes including rents and transportation of things; $7,219,683,000, to remain available for obligation until September 30, 1991.

OTHER PROCUREMENT, AIR FORCE

For procurement and modification of equipment (including ground guidance and electronic control equipment, and ground electronic and communication equipment), and supplies, materials, and spare parts therefor, not otherwise provided for; for the purchase of not to exceed 517 passenger motor vehicles of which 403 shall be for replacement only; and expansion of public and private plants, Government-owned equipment and installation thereof in such plants, erection of structures, and acquisition of land, for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon, prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $8,188,638,000, to remain available for obligation until September 30, 1991.

NATIONAL GUARD AND RESERVE EQUIPMENT

For procurement of aircraft, missiles, tracked combat vehicles, ammunition, other weapons, and other procurement for the reserve components of the Armed Forces; $1,138,900,000, to remain available for obligation until September 30, 1991.

PROCUREMENT, DEFENSE AGENCIES

For expenses of activities and agencies of the Department of Defense (other than the military departments) necessary for procurement, production, and modification of equipment, supplies, materials, and spare parts therefor, not otherwise provided for; the purchase of not to exceed 79 passenger motor vehicles of which 72 shall be for replacement only; expansion of public and private plants, equipment, and installation thereof in such plants, erection of structures, and acquisition of land for the foregoing purposes, and such lands and interests therein, may be acquired, and construction prosecuted thereon prior to approval of title; reserve plant and Government and contractor-owned equipment layaway; $1,186,100,000, to remain available for obligation until September 30, 1991.

DEFENSE PRODUCTION ACT PURCHASES

For purchases or commitments to purchase metals, minerals, or other materials by the Department of Defense pursuant to section 303 of the Defense Production Act of 1950, as amended (50 U.S.C. App. 2093); $33,500,000, of which $27,500,000 shall remain available for obligation until September 30, 1991, and of which $6,000,000 for a project to develop a reliable supply of titanium ore from ilemenite shall remain available until September 30, 1993.

TITLE IV

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $5,130,166,000, to remain available for obligation until September 30, 1990: *Provided,* That $7,300,000 shall be available only for type classification and operational testing of the 120 millimeter mortar system and development of a family of enhanced 120 millimeter ammunition: *Provided further,* That $2,500,000 shall be available only for the vehicular intercommunications system: *Provided further,* That $5,000,000 shall be available only for development of fluidtronics technology for use in ground combat or support vehicles: *Provided further,* That $2,000,000 shall be made available until expended, as a grant, only for continued development of a medical research institute directed at basic and clinical research in immunology, for associated facilities, and for related purposes.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, NAVY

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $9,382,312,000, to remain available for obligation until September 30, 1990: *Provided,* That $1,000,000 shall be made available for personnel and other expenses for the Institute for Technology Development, as a grant, for the National Center for Physical Acoustics.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE

For expenses necessary for basic and applied scientific research, development, test, and evaluation, including maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $14,502,347,000, to remain available for obligation until September 30, 1990: *Provided,* That $2,000,000 shall be available only for development of high thermal stability and/or endothermic jet fuels, including studies on coal based fuels: *Provided further,* That of the funds appropriated in this paragraph, $890,000,000 shall be available for ICBM modernization programs as follows:

(1) $40,000,000 shall be available for continued development and flight testing of the MX missile;

(2) $250,000,000 shall be available for the Small ICBM program; and

(3) $600,000,000 shall be available for the MX Rail-Garrison program and of the $600,000,000 available for the MX Rail-Garrison program, the amount obligated before February 15, 1989, may not exceed $250,000,000: *Provided further,* That during the period beginning on January 21, 1989, and ending on February 15, 1989, the President shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives a report on—

President of U.S. Reports.

(A) anticipated obligations for the remainder of fiscal year 1989 for the small ICBM program, the MX Rail-Garrison program, and other ICBM modernization programs; and

(B) the purposes those obligations are intended to accomplish.

RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, DEFENSE AGENCIES

(INCLUDING TRANSFER OF FUNDS)

For expenses of activities and agencies of the Department of Defense (other than the military departments), necessary for basic and applied scientific research, development, test, and evaluation; advanced research projects as may be designated and determined by the Secretary of Defense, pursuant to law; maintenance, rehabilitation, lease, and operation of facilities and equipment, as authorized by law; $8,427,908,000, to remain available for obligation until September 30, 1990: *Provided,* That $95,000,000 shall be made available only for the Advanced Submarine Technology Program as described in section 241 of the National Defense Authorization Act for Fiscal Year 1989 (H.R. 4264), as provided in the conference agreement included in House Report 100-753: *Provided further,* That the Secretary of Defense shall award the funds made available in this Act for the University Research Initiative Program on the basis of competition; and, that none of the funds may be obligated or expended until the Appropriations and Armed Services Committees of the House and Senate approve a plan submitted by the Secretary of Defense to provide for broader geographic distribution of funds under such program in comparison to the distribution of such funds during fiscal year 1986 and 1987; and sets aside a portion of the funds available for such program for fiscal year 1989 to implement

such a plan: *Provided further,* That section 215(c) of the National Defense Authorization Act for Fiscal Years 1988 and 1989 (Public Law 100-180) is repealed: *Provided further,* That of funds made available for the Experimental Evaluation of Major Innovative Technologies program, $34,000,000 is available only for the purposes of research, development, launch, and on-orbit functional demonstrations with military forces of LIGHTSAT systems and their required low-cost transportable space launch vehicles: *Provided further,* That of the funds made available for the ALS Program, not less than $96,500,000 shall be transferred to the National Aeronautics and Space Administration only for ALS propulsion activities: *Provided further,* That the funds appropriated by this Act for any activities associated directly or indirectly with the Advanced Launch System or any ALS variant shall be subject to the terms and conditions of section 5 of chapter II of title I of Public Law 100-71 (Supplemental Appropriations Act, 1987): *Provided further,* That of the total amount available for obligation, $16,500,000 shall be made available through the Office of the Under Secretary of Defense for Acquisition only for bioenvironmental hazards research activities at universities, for associated facilities, and for other related purposes: *Provided further,* That of the amounts available for obligation, an additional $100,000,000 shall be transferred to the National Aeronautics and Space Administration: *Provided further,* That of the total amount available for obligation for the Strategic Technology Program, $20,000,000 shall be made available only for the Defense Advanced Research Projects Agency Initiative in Concurrent Engineering: *Provided further,* That of the amounts available for obligation, in addition to the funds previously appropriated to the National Defense Stockpile Transaction Fund, notwithstanding the provisions of 50 U.S.C. 98h, there is hereby appropriated $3,500,000 from the Strategic Technology Program only to the Fund, to remain available until expended for the South Carolina Research Authority pursuant to 50 U.S.C. 98a and 98g(a), for a grant to construct and equip a strategic materials research facility: *Provided further,* That not later than February 1, 1989, the Secretary of Defense shall submit to the Committees on Appropriations and on Armed Services of the Senate and the House of Representatives a report setting forth (1) each program, project, or activity for which funds were not requested in the budget submitted to Congress pursuant to section 1105 of title 31, United States Code, for fiscal year 1989 and are made available under this Act for only one educational institution, or organization affiliated with an educational institution, which is identified, either directly or indirectly, by the terms of this Act (or the Joint Statement of Managers accompanying the conference report on H.R. 4781 of the One Hundredth Congress) as the institution or organization to perform the program, project, or activity for which such funds are provided, and (2) the name of the institution and the amount of funds made available for such program, project, or activity: *Provided further,* That the funds appropriated by this Act to carry out a program, project, or activity by any such educational institution or organization may not be obligated or expended for such purpose before February 1, 1989, and such funds may be obligated or expended on or after such date for such purpose only after a period of 90 days has expired after the date on which the committees named in the preceding proviso have received the report referred to in such proviso.

101 Stat. 1050.

Reports.

DEVELOPMENTAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, of independent activities of the Deputy Under Secretary of Defense, Developmental Test and Evaluation in the direction and supervision of developmental test and evaluation, including performance and joint developmental testing and evaluation; and administrative expenses in connection therewith; $149,900,000, to remain available for obligation until September 30, 1990.

OPERATIONAL TEST AND EVALUATION, DEFENSE

For expenses, not otherwise provided for, necessary for the independent activities of the Director, Operational Test and Evaluation in the direction and supervision of operational test and evaluation, including initial operational test and evaluation which is conducted prior to, and in support of, production decisions; joint operational testing and evaluation; and administrative expenses in connection therewith; $71,234,000, to remain available for obligation until September 30, 1990.

TITLE V

REVOLVING AND MANAGEMENT FUNDS

ARMY STOCK FUND

For the Army stock fund; $291,900,000, of which $20,000,000 is available only for paying administrative expenses associated with directing and performing studies, surveys, engineering analyses, requests for proposals, contracting and associated contract administration functions that have as their sole objective the increased use of coal by the United States Department of Defense facilities in the United States.

NAVY STOCK FUND

For the Navy stock fund; $184,700,000.

AIR FORCE STOCK FUND

For the Air Force stock fund; $186,900,000.

DEFENSE STOCK FUND

For the Defense stock fund; $25,000,000.

TITLE VI

CHEMICAL AGENTS AND MUNITIONS DESTRUCTION, DEFENSE

For expenses, not otherwise provided for, necessary for the destruction of the United States stockpile of lethal chemical agents and munitions in accordance with the provisions of section 1412 of the Department of Defense Authorization Act, 1986; $179,500,000, of which $117,300,000 shall remain available for obligation until September 30, 1989, $17,900,000 shall remain available for obligation until September 30, 1990, $44,300,000 shall remain available for obligation until September 30, 1991.

TITLE VII

RELATED AGENCIES

CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM FUND

For payment to the Central Intelligence Agency Retirement and Disability System Fund, to maintain proper funding level for continuing the operation of the Central Intelligence Agency Retirement and Disability System; $144,500,000.

INTELLIGENCE COMMUNITY STAFF

For necessary expenses of the Intelligence Community Staff; $23,645,000.

DRUG INTERDICTION, DEFENSE

(INCLUDING TRANSFER OF FUNDS)

For the Department of Defense, $210,000,000 and by transfer from Aircraft Procurement, Navy, 1987/89, $90,000,000 for transfer to "Military Personnel" and "Operation and Maintenance" appropriations for operating costs of the Department of Defense related to the detection and monitoring of aerial and maritime transit of illegal drugs into the United States. Not less than $40,000,000 of such amount shall be available only for drug interdiction activities of the Army National Guard and the Air National Guard. Funds appropriated by this paragraph in excess of $30,000,000 may not be obligated or expended until—

Reports.

(1) the Secretary submits to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report on how the funds are proposed to be used; and

(2) a period of 30 days has elapsed after the date on which the report is received by such committees.

Such report shall be submitted not later than 60 days after the date of the enactment of this Act and should set forth in detail the plans of the Secretary for the obligation of such funds, including a statement of the following:

(A) The appropriation account or accounts to which the funds are proposed to be transferred.

(B) The activities proposed to be undertaken using those funds.

(C) The relationship between those activities and the drug interdiction strategy of the United States.

Funds appropriated by this paragraph shall be available for obligation for the same period, and for the same purpose, as the appropriation to which transferred. The transfer authority provided in this paragraph is in addition to any transfer authority contained elsewhere in this Act. The restrictions contained in the third sentence of this paragraph shall not apply to the obligation of any amount not in excess of $30,000,000 which is obligated for drug interdiction activities.

SPECIAL OPERATIONS FORCES FUND

(INCLUDING TRANSFER OF FUNDS)

For expenses, not otherwise provided for, necessary for equipping and operating Special Operations Forces; $286,000,000, of which $108,000,000 shall be transferred to and merged with Other Procurement, Army; $35,000,000 shall be transferred to and merged with Operation and Maintenance, Navy; $100,000,000 shall be transferred to and merged with Shipbuilding and Conversion, Navy; $25,000,000 shall be transferred to and merged with Other Procurement, Navy; and $18,000,000 shall be transferred to and merged with Operation and Maintenance, Army.

TITLE VIII

GENERAL PROVISIONS

SEC. 8001. No part of any appropriation contained in this Act shall be used for publicity or propaganda purposes not authorized by the Congress.

SEC. 8002. During the current fiscal year, the Secretary of Defense and the Secretaries of the Army, Navy, and Air Force, respectively, if they should deem it advantageous to the national defense, and if in their opinions the existing facilities of the Department of Defense are inadequate, are authorized to procure services in accordance with section 3109 of title 5, United States Code, under regulations prescribed by the Secretary of Defense, and to pay in connection therewith travel expenses of individuals, including actual transportation and per diem in lieu of subsistence while traveling from their homes or places of business to official duty stations and return as may be authorized by law: *Provided*, That such contracts may be renewed annually.

Contracts.
Transportation.

SEC. 8003. During the current fiscal year, provisions of law prohibiting the payment of compensation to, or employment of, any person not a citizen of the United States shall not apply to personnel of the Department of Defense.

Wages.
Employment and unemployment.
Government organization and employees.
10 USC 1584 note.

SEC. 8004. The Secretary of Defense and each purchasing and contracting agency of the Department of Defense shall assist American small and minority-owned business to participate equitably in the furnishing of commodities and services financed with funds appropriated under this Act by increasing, to an optimum level, the resources and number of personnel jointly assigned to promoting both small and minority business involvement in purchases financed with funds appropriated herein, and by making available or causing to be made available to such businesses, information, as far in advance as possible, with respect to purchases proposed to be financed with funds appropriated under this Act, and by assisting small and minority business concerns to participate equitably as subcontractors on contracts financed with funds appropriated herein, and by otherwise advocating and providing small and minority business opportunities to participate in the furnishing of commodities and services financed with funds appropriated by this Act.

Small business.
Contracts.
Minorities.

SEC. 8005. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year, unless expressly so provided herein.

Aircraft and air carriers. Regulations.

SEC. 8006. No part of the appropriations in this Act shall be available for any expense of operating aircraft under the jurisdiction of the armed forces for the purpose of proficiency flying, as defined in Department of Defense Directive 1340.4, except in accordance with regulations prescribed by the Secretary of Defense. Such regulations (1) may not require such flying except that required to maintain proficiency in anticipation of a member's assignment to combat operations and (2) such flying may not be permitted in cases of members who have been assigned to a course of instruction of ninety days or more.

SEC. 8007. No part of any appropriation contained in this Act shall be available for expense of transportation, packing, crating, temporary storage, drayage, and unpacking of household goods and personal effects in any one shipment having a net weight in excess of eighteen thousand pounds.

SEC. 8008. No more than 20 per centum of the appropriations in this Act which are limited for obligation during the current fiscal year shall be obligated during the last two months of the fiscal year: *Provided*, That this section shall not apply to obligations for support of active duty training of civilian components or summer camp training of the Reserve Officers' Training Corps, or the National Board for the Promotion of Rifle Practice, Army.

Real property. International agreements.

SEC. 8009. During the current fiscal year, the agencies of the Department of Defense may accept the use of real property from foreign countries for the United States in accordance with mutual defense agreements or occupational arrangements and may accept services furnished by foreign countries as reciprocal international courtesies or as services customarily made available without charge; and such agencies may use the same for the support of the United States forces in such areas without specific appropriation therefor.

Gifts and property.

In addition to the foregoing, agencies of the Department of Defense may accept real property, services, and commodities from foreign countries for the use of the United States in accordance with mutual defense agreements or occupational arrangements and such agencies may use the same for the support of the United States forces in such areas, without specific appropriations therefor: *Provided*, That except as provided in 10 U.S.C. 2690, the foregoing authority shall not be available for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe: *Provided further*, That within thirty days after the end of each quarter the Secretary of Defense shall render to Congress and to the Office of Management and Budget a full report of such property, supplies, and commodities received during such quarter.

Reports.

SEC. 8010. No part of any appropriation contained in this Act, except for small purchases in amounts not exceeding $25,000, shall be available for the procurement of any article or item of food, clothing, tents, tarpaulins, covers, cotton and other natural fiber products, woven silk or woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, or wool (whether in the form of fiber or yarn or contained in fabrics, materials, or manufactured articles), or any item of individual equipment manufactured from or containing such fibers, yarns, fabrics, or materials, or specialty metals including stainless steel flatware, or hand or measuring tools, not grown, reprocessed, reused, or produced in the United States or its possessions, except to the extent that the Secretary of the Department concerned shall determine that satisfactory quality and sufficient quantity of any

articles or items of food, individual equipment, tents, tarpaulins, covers, or clothing or any form of cotton or other natural fiber products, woven silk and woven silk blends, spun silk yarn for cartridge cloth, synthetic fabric or coated synthetic fabric, canvas products, wool, or specialty metals including stainless steel flatware, grown, reprocessed, reused, or produced in the United States or its possessions cannot be procured as and when needed at United States market prices and except procurements outside the United States in support of combat operations, procurements by vessels in foreign waters, and emergency procurements or procurements of perishable foods by establishments located outside the United States for the personnel attached thereto: *Provided*, That nothing herein shall preclude the procurement of specialty metals or chemical warfare protective clothing produced outside the United States or its possessions when such procurement is necessary to comply with agreements with foreign governments requiring the United States to purchase supplies from foreign sources for the purposes of offsetting sales made by the United States Government or United States firms under approved programs serving defense requirements or where such procurement is necessary in furtherance of the standardization and interoperability of equipment requirements within NATO and the State of Israel so long as such agreements with foreign governments comply, where applicable, with the requirements of section 36 of the Arms Export Control Act and with section 2457 of title 10, United States Code: *Provided further*, That nothing herein shall preclude the procurement of foods manufactured or processed in the United States or its possessions: *Provided further*, That no funds herein appropriated shall be used for the payment of a price differential on contracts hereafter made for the purpose of relieving economic dislocations: *Provided further*, That none of the funds appropriated in this Act shall be used except that, so far as practicable, all contracts shall be awarded on a formally advertised competitive bid basis to the lowest responsible bidder.

International agreements. Imports. Commerce and trade. Israel.

Contracts. Marketing.

SEC. 8011. During the current fiscal year, appropriations available to the Department of Defense for pay of civilian employees shall be available for uniforms, or allowances therefor, as authorized by section 5901 of title 5, United States Code.

SEC. 8012. No appropriation contained in this Act may be used to pay for the cost of legislative liaison activities of the Department of Defense in excess of $15,000,000: *Provided*, That costs for military retired pay accrual shall be included within this limitation.

SEC. 8013. Of the funds made available by this Act for the services of the Military Airlift Command, $100,000,000 shall be available only for procurement of commercial transportation service from carriers participating in the civil reserve air fleet program; and the Secretary of Defense shall utilize the services of such carriers which qualify as small businesses to the fullest extent found practicable: *Provided*, That the Secretary of Defense shall specify in such procurement, performance characteristics for aircraft to be used based upon modern aircraft operated by the civil reserve air fleet.

Aircraft and air carriers. Small business.

(TRANSFER OF FUNDS)

SEC. 8014. Upon determination by the Secretary of Defense that such action is necessary in the national interest, he may, with the approval of the Office of Management and Budget, transfer not to exceed $3,000,000,000 of working capital funds of the Department of

Defense or funds made available in this Act to the Department of Defense for military functions (except military construction) between such appropriations or funds or any subdivision thereof, to be merged with and to be available for the same purposes, and for the same time period, as the appropriation or fund to which transferred: *Provided,* That such authority to transfer may not be used unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which funds are requested has been denied by Congress: *Provided further,* That the Secretary of Defense shall notify the Congress promptly of all transfers made pursuant to this authority.

(TRANSFER OF FUNDS)

SEC. 8015. During the current fiscal year, cash balances in working capital funds of the Department of Defense established pursuant to section 2208 of title 10, United States Code, may be maintained in only such amounts as are necessary at any time for cash disbursements to be made from such funds: *Provided,* That transfers may be made between such funds in such amounts as may be determined by the Secretary of Defense, with the approval of the Office of Management and Budget, except that transfers between a stock fund account and an industrial fund account may not be made unless the Secretary of Defense has notified the Congress of the proposed transfer. Except in amounts equal to the amounts appropriated to working capital funds in this Act, no obligations may be made against a working capital fund to procure war reserve material inventory, unless the Secretary of Defense has notified the Congress prior to any such obligation.

SEC. 8016. Except as provided in 10 U.S.C. 2690, none of the funds available to the Department of Defense in this Act shall be utilized for the conversion of heating plants from coal to oil or coal to natural gas at defense facilities in Europe.

SEC. 8017. Funds appropriated by this Act may not be used to initiate a special access program without prior notification 30 days in advance to the Committees on Appropriations and Armed Services of the Senate and House of Representatives.

SEC. 8018. No part of the funds in this Act shall be available to prepare or present a request to the Committees on Appropriations for reprogramming of funds, unless for higher priority items, based on unforeseen military requirements, than those for which originally appropriated and in no case where the item for which reprogramming is requested has been denied by the Congress.

SEC. 8019. None of the funds contained in this Act available for the Civilian Health and Medical Program of the Uniformed Services under the provisions for section 1079(a) of title 10, United States Code, shall be available for reimbursement of any physician or other authorized individual provider of medical care in excess of the lower of: (a) the eightieth percentile of the customary charges made for similar services in the same locality where the medical care was furnished, as determined for physicians in accordance with section 1079(h) of title 10, United States Code; or (b) the allowable amounts in effect during fiscal year 1988 increased to the extent justified by economic changes as reflected in appropriate economic index data similar to that used pursuant to title XVIII of the Social Security Act.

SEC. 8020. No appropriation contained in this Act may be used to pay for the cost of public affairs activities of the Department of Defense in excess of $51,600,000: *Provided,* That costs for military retired pay accrual shall be included within this limitation.

SEC. 8021. None of the funds provided in this Act shall be available for the planning or execution of programs which utilize amounts credited to Department of Defense appropriations or funds pursuant to the provisions of section 37(a) of the Arms Export Control Act representing payment for the actual value of defense articles specified in section 21(a)(1)(A) of that Act: *Provided,* That such amounts shall be credited to the Special Defense Acquisition Fund, as authorized by law, or, to the extent not so credited shall be deposited in the Treasury as miscellaneous receipts as provided in section 3302(b) of title 31, United States Code.

SEC. 8022. No appropriation contained in this Act shall be available to fund any costs of a Senior Reserve Officers' Training Corps unit—except to complete training of personnel enrolled in Military Science 4—which in its junior year class (Military Science 3) has for the four preceding academic years, and as of September 30, 1983, enrolled less than (a) seventeen students where the institution prescribes a four-year or a combination four- and two-year program; or (b) twelve students where the institution prescribes a two-year program: *Provided,* That, notwithstanding the foregoing limitation, funds shall be available to maintain one Senior Reserve Officers' Training Corps unit in each State and at each State-operated maritime academy: *Provided further,* That units under the consortium system shall be considered as a single unit for purposes of evaluation of productivity under this provision: *Provided further,* That enrollment standards contained in Department of Defense Directive 1215.8 for Senior Reserve Officers' Training Corps units, as revised during fiscal year 1981, may be used to determine compliance with this provision, in lieu of the standards cited above.

SEC. 8023. None of the funds appropriated by this Act for programs of the Central Intelligence Agency shall remain available for obligation beyond the current fiscal year, except for funds appropriated for the Reserve for Contingencies, which shall remain available until September 30, 1990.

SEC. 8024. None of the funds appropriated by this Act may be used to support more than 6,113 full-time and 1,570 part-time military personnel assigned to or used in the support of Morale, Welfare, and Recreation activities as described in Department of Defense Instruction 7000.12 and its enclosures, dated September 4, 1980.

SEC. 8025. All obligations incurred in anticipation of the appropriations and authority provided in this Act are hereby ratified and confirmed if otherwise in accordance with the provisions of this Act.

SEC. 8026. During the current fiscal year, the Department of Defense may enter into contracts to recover indebtedness to the United States pursuant to section 3718 of title 31, United States Code. Contracts.

SEC. 8027. None of the funds appropriated by this Act shall be available for a contract for studies, analyses, or consulting services entered into without competition on the basis of an unsolicited proposal unless the head of the activity responsible for the procurement determines: Contracts.

(a) as a result of thorough technical evaluation, only one source is found fully qualified to perform the proposed work, or

(b) the purpose of the contract is to explore an unsolicited proposal which offers significant scientific or technological promise, represents the product of original thinking, and was submitted in confidence by one source, or

(c) where the purpose of the contract is to take advantage of unique and significant industrial accomplishment by a specific concern, or to insure that a new product or idea of a specific concern is given financial support:

Provided, That this limitation shall not apply to contracts in an amount of less than $25,000, contracts related to improvements of equipment that is in development or production, or contracts as to which a civilian official of the Department of Defense, who has been confirmed by the Senate, determines that the award of such contract is in the interest of the national defense.

Health and medical care.

SEC. 8028. None of the funds appropriated by this Act shall be available to provide medical care in the United States on an inpatient basis to foreign military and diplomatic personnel or their dependents unless the Department of Defense is reimbursed for the costs of providing such care: *Provided,* That reimbursements for medical care covered by this section shall be credited to the appropriations against which charges have been made for providing such care, except that inpatient medical care may be provided in the United States without cost to military personnel and their dependents from a foreign country if comparable care is made available to a comparable number of United States military personnel in that foreign country.

SEC. 8029. None of the funds appropriated by this Act shall be obligated for the second career training program authorized by Public Law 96-347.

SEC. 8030. None of the funds appropriated or otherwise made available in this Act shall be obligated or expended for salaries or expenses during the current fiscal year for the purposes of demilitarization of surplus nonautomatic firearms less than .50 caliber.

Contracts.

SEC. 8031. None of the funds provided in this Act shall be available to initiate (1) a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year of the contract or that includes an unfunded contingent liability in excess of $20,000,000, or (2) a contract for advance procurement leading to a multiyear contract that employs economic order quantity procurement in excess of $20,000,000 in any one year, unless the Committees on Appropriations and Armed Services of the Senate and House of Representatives have been notified at least thirty days in advance of the proposed contract award: *Provided,* That no part of any appropriation contained in this Act shall be available to initiate a multiyear contract for which the economic order quantity advance procurement is not funded at least to the limits of the Government's liability: *Provided further,* That no part of any appropriation contained in this Act shall be available to initiate multiyear procurement contracts for any systems or component thereof if the value of the multiyear contract would exceed $500,000,000 unless specifically provided in this Act: *Provided further,* That no multiyear procurement contract can be terminated without 10-day prior notification to the Committees on Appropriations and Armed Services of the House of Representatives and the Senate: *Provided further,* That the execution of multiyear authority shall require the use of a present value analysis to determine lowest cost compared to an annual procure-

ment. Funds appropriated in title III of this Act may be used for multiyear procurement contracts as follows:

H-60 series helicopter engines;
CH-47 helicopter modifications;
Multiple Launch Rocket System;
AV-8B aircraft;
UHF follow-on satellite system;
Defense Meteorological Satellite;
F-16 aircraft;
AH-64 helicopters;
M-1 tank chassis;
TOW 2 Missile: *Provided,* That any requirement that a multiyear contract may not be entered into unless the anticipated cost over the period of the contract is not more than 88 percent of the average cost incurred for the same system procured under an annual contract shall not apply to multiyear contracts for TOW 2.

SEC. 8032. None of the funds appropriated by this Act which are available for payment of travel allowances for per diem in lieu of subsistence to enlisted personnel shall be used to pay such an allowance to any enlisted member in an amount that is more than the amount of per diem in lieu of subsistence that the enlisted member is otherwise entitled to receive minus the basic allowance for subsistence, or pro rata portion of such allowance, that the enlisted member is entitled to receive during any day, or portion of a day, that the enlisted member is also entitled to be paid a per diem in lieu of subsistence.

SEC. 8033. None of the funds appropriated by this Act shall be available to approve a request for waiver of the costs otherwise required to be recovered under the provisions of section 21(e)(1)(C) of the Arms Export Control Act unless the Committees on Appropriations have been notified in advance of the proposed waiver.

SEC. 8034. None of the funds in this Act may be used to transfer any article of military equipment or data related to the manufacture of such equipment to a foreign country prior to the approval in writing of such transfer by the Secretary of the military service involved.

(TRANSFER OF FUNDS)

SEC. 8035. None of the funds appropriated in this Act may be made available through transfer, reprogramming, or other means between the Central Intelligence Agency and the Department of Defense for any intelligence or special activity different from that previously justified to the Congress unless the Director of Central Intelligence or the Secretary of Defense has notified the House and Senate Appropriations Committees of the intent to make such funds available for such activity.

SEC. 8036. None of the funds available to the Department of Defense in this Act shall be used by the Secretary of a military department to purchase coal or coke from foreign nations for use at United States defense facilities in Europe when coal from the United States is available.

SEC. 8037. None of the funds appropriated by this Act may be used to appoint or compensate more than 39 individuals in the Department of Defense in positions in the Executive Schedule (as provided in sections 5312-5316 of title 5, United States Code).

SEC. 8038. None of the funds appropriated by this Act shall be available to convert a position in support of the Army Reserve, Air Force Reserve, Army National Guard, and Air National Guard occupied by, or programmed to be occupied by, a (civilian) military technician to a position to be held by a person in an active Guard or Reserve status if that conversion would reduce the total number of positions occupied by, or programmed to be occupied by, (civilian) military technicians of the component concerned, below 70,325: *Provided,* That none of the funds appropriated by this Act shall be available to support more than 47,292 positions in support of the Army Reserve, Army National Guard or Air National Guard occupied by, or programmed to be occupied by, persons in an active Guard or Reserve status: *Provided further,* That none of the funds appropriated by this Act may be used to include (civilian) military technicians in computing civilian personnel ceilings, including statutory or administratively imposed ceilings, on activities in support of the Army Reserve, Air Force Reserve, Army National Guard or Air National Guard.

SEC. 8039. (a) The provisions of section 115(b)(2) of title 10, United States Code, shall not apply with respect to fiscal year 1989 or with respect to the appropriation of funds for that year.

(b) During fiscal year 1989, the civilian personnel of the Department of Defense may not be managed on the basis of any end-strength, and the management of such personnel during that fiscal year shall not be subject to any constraint or limitation (known as an end-strength) on the number of such personnel who may be employed on the last day of such fiscal year.

(c) The fiscal year 1990 budget request for the Department of Defense as well as all justification material and other documentation supporting the fiscal year 1990 Department of Defense budget request shall be prepared and submitted to the Congress as if subsections (a) and (b) of this provision were effective with regard to fiscal year 1990.

SEC. 8040. None of the funds made available by this Act shall be used in any way for the leasing to non-Federal agencies in the United States aircraft or vehicles owned or operated by the Department of Defense when suitable aircraft or vehicles are commercially available in the private sector: *Provided,* That nothing in this section shall affect authorized and established procedures for the sale of surplus aircraft or vehicles: *Provided further,* That nothing in this section shall prohibit the leasing of helicopters authorized by section 1463 of the Department of Defense Authorization Act of 1986.

SEC. 8041. None of the funds made available by this Act shall be used in any way, directly or indirectly, to influence congressional action on any legislation or appropriation matters pending before the Congress.

SEC. 8042. No funds available to the Department of Defense during the current fiscal year may be used to enter into any contract with a term of eighteen months or more or to extend or renew any contract for a term of eighteen months or more, for any vessel, aircraft or vehicles, through a lease, charter, or similar agreement without previously having been submitted to the Committees on Appropriations of the House of Representatives and the Senate in the budgetary process: *Provided,* That any contractual agreement which imposes an estimated termination liability (excluding the estimated value of the leased item at the time of

termination) on the Government exceeding 50 per centum of the original purchase value of the vessel, aircraft, or vehicle must have specific authority in an appropriation Act for the obligation of 10 per centum of such termination liability.

SEC. 8043. None of the funds made available by this Act shall be available to operate in excess of 245 commissaries in the contiguous United States.

SEC. 8044. None of the funds provided in this Act shall be used to procure aircraft ejection seats manufactured in any foreign nation that does not permit United States manufacturers to compete for ejection seat procurement requirements in that foreign nation. This limitation shall apply only to ejection seats procured for installation on aircraft produced or assembled in the United States.

SEC. 8045. None of the funds appropriated by this Act shall be obligated for the pay of any individual who is initially employed after the date of enactment of this Act as a technician in the administration and training of the Army Reserve and the maintenance and repair of supplies issued to the Army Reserve unless such individual is also a military member of the Army Reserve troop program unit that he or she is employed to support. Those technicians employed by the Army Reserve in areas other than Army Reserve troop program units need only be members of the Selected Reserve.

SEC. 8046. None of the funds appropriated by this Act shall be used to purchase dogs or cats or otherwise fund the use of dogs or cats for the purpose of training Department of Defense students or other personnel in surgical or other medical treatment of wounds produced by any type of weapon: *Provided,* That the standards of such training with respect to the treatment of animals shall adhere to the Federal Animal Welfare Law and to those prevailing in the civilian medical community.

SEC. 8047. None of the funds made available by this Act shall be used to initiate full-scale engineering development of any major defense acquisition program until the Secretary of Defense has provided to the Committees on Appropriations of the House and Senate—

(a) a certification that the system or subsystem being developed will be procured in quantities that are not sufficient to warrant development of two or more production sources, or

(b) a plan for the development of two or more sources for the production of the system or subsystem being developed.

SEC. 8048. None of the funds available to the Department of Defense may be used for the floating storage of petroleum or petroleum products except in vessels of or belonging to the United States.

SEC. 8049. Of the funds made available to the Department of the Air Force in this Act, not less than $11,749,000 shall be available for the Civil Air Patrol.

SEC. 8050. Funds available to the Department of Defense may be used by the Department of Defense for the use of helicopters and motorized equipment at Defense installations for removal of feral burros and horses.

SEC. 8051. Within the funds appropriated for the operation and maintenance of the Armed Forces, funds are hereby appropriated pursuant to section 403(a) of title 10, United States Code, for humanitarian and civic assistance costs under chapter 20 of title 10, United States Code. Such funds may also be obligated for humani- 10 USC 401 note. Reports.

tarian and civic assistance costs incidental to authorized operations and pursuant to authority granted in section 403(b) of chapter 20 of title 10, United States Code, and these obligations shall be reported to Congress on September 30 of each year: *Provided,* That funds available for operation and maintenance shall be available for providing humanitarian and similar assistance by using Civic Action Teams in the Trust Territories of the Pacific Islands and freely associated states of Micronesia, pursuant to the Compact of Free Association as authorized by Public Law 99-239.

National Guard. Employment and unemployment.

SEC. 8052. Notwithstanding any other provision of law, the Secretaries of the Army and Air Force may authorize the retention in an active status until age sixty of any officer who would otherwise be removed from an active status and who is employed as a National Guard or Reserve technician in a position in which active status in a reserve component of the Army or Air Force is required as a condition of that employment.

SEC. 8053. It is the sense of the Congress that competition, which is necessary to enhance innovation, effectiveness, and efficiency, and which has served our Nation so well in other spheres of political and economic endeavor, should be expanded and increased in the provision of our national defense.

SEC. 8054. None of the funds appropriated by this Act shall be available to pay a dislocation allowance pursuant to section 407 of title 37, United States Code, in excess of one month's basic allowance for quarters.

SEC. 8055. None of the funds available to the Department of Defense shall be obligated or expended to contract out any activity currently performed by the Defense Personnel Support Center in Philadelphia, Pennsylvania: *Provided,* That this provision shall not apply after notification to the Committees on Appropriations of the House of Representatives and the Senate of the results of the cost analysis of contracting out any such activity.

SEC. 8056. Funds available for operation and maintenance under this Act, may be used in connection with demonstration projects and other activities authorized by section 1092 of title 10, United States Code.

SEC. 8057. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of enactment of this Act, receives an enlistment bonus under section 308a or 308f of title 37, United States Code; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans' Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member.

Health and medical care. Handicapped persons.

SEC. 8058. Notwithstanding any other provision of law, during fiscal year 1989, the Department of Defense shall conduct an expanded pilot project of providing home health care as part of an individualized case-managed range of benefits that may reasonably deviate from otherwise payable types, amounts and levels of care, in up to four geographic areas containing no more than one-fourth of the Department's beneficiaries, for dependents entitled to health care under sections 1079 and 1086 of title 10, United States Code, with the patients selected from those with exceptionally serious,

long-range, costly and incapacitating physical or mental conditions defined by the Secretary of Defense as likely to benefit from the range of demonstration benefits: *Provided,* That although the cost may be greater in a specific case, the net benefit cost to the Department of Defense shall not exceed that which could reasonably have been expected to occur in the absence of the demonstration: *Provided further,* That outside of the areas selected, the home health care pilot project as directed and implemented in fiscal years 1986 and 1987 shall be continued.

SEC. 8059. Funds appropriated in this Act shall be available for the payment of not more than 75 percent of the charges of a postsecondary educational institution for the tuition or expenses of an officer in the Ready Reserve of the Army National Guard or Army Reserve for education or training during his off-duty periods, except that no part of the charges may be paid unless the officer agrees to remain a member of the Ready Reserve for at least four years after completion of such training or education.

SEC. 8060. Notwithstanding any other provision of law, none of the funds appropriated by this Act shall be available to pay more than 50 percent of an amount paid to any person under section 308 of title 37, United States Code, in a lump sum.

SEC. 8061. None of the funds appropriated by this Act shall be available to convert to contractor performance an activity or function of the Department of Defense that, on or after the date of enactment of this Act, is performed by more than ten Department of Defense civilian employees until a most efficient and cost-effective organization analysis is completed on such activity or function and certification of the analysis is made to the Committees on Appropriations of the House of Representatives and the Senate.

(TRANSFER OF FUNDS)

SEC. 8062. Upon a determination by the Secretary of Defense that such action will result in a more economical acquisition of automatic data processing equipment, funds provided in this Act under one appropriation account for the lease or purchase of such equipment may be transferred through the Automatic Data Processing Equipment Management Fund to another appropriation account in this Act for the lease or purchase of automatic data processing equipment to be merged with and to be available for the same purposes, and for the same time period, as the appropriation to which transferred: *Provided,* That within thirty days after the end of each quarter the Secretary of Defense shall report transfers made under this section to the Committees on Appropriations of the Senate and the House of Representatives: *Provided further,* That the authority to transfer funds under this section shall be in addition to any other transfer authority contained in this Act. Reports.

SEC. 8063. Appropriations available to the Department of Defense during the current fiscal year shall be available, under such regulations as the Secretary of Defense may deem appropriate, to exchange or furnish mapping, charting, and geodetic data, supplies or services to a foreign country pursuant to an agreement for the production or exchange of mapping, charting, and geodetic data.

SEC. 8064. None of the funds appropriated in this Act to the Department of the Army may be obligated for procurement of 120mm mortars or 120mm mortar ammunition manufactured outside of the United States: *Provided,* That this limitation shall not

apply to procurement of such mortars or ammunition required for testing, evaluation, type classification or equipping the Army's Ninth Infantry Division (Motorized).

SEC. 8065. Appropriations made available to the Department of Defense by this Act may be used at sites formerly used by the Department of Defense for removal of unsafe buildings or debris of the Department of Defense: *Provided,* That such removal must be completed before the property is released from Federal Government control, other than property conveyed to State or local government entities or native corporations.

SEC. 8066. None of the funds appropriated in this Act may be obligated or expended to carry out a program to paint any naval vessel with paint known as organotin or with any other paint containing the chemical compound tributyltin until such time as the Environmental Protection Agency certifies to the Department of Defense that whatever toxicity as generated by organotin paints as included in Navy specifications does not pose an unacceptable hazard to the marine environment: *Provided,* That the Navy may use these funds to paint aluminum-hulled craft as necessary, and, in addition, the Navy may paint no more than fifteen steel-hulled ships to conduct research as described in the "Navy Organotin Program Plan for Two Case Study Harbors".

SEC. 8067. Notwithstanding any other provision of law, funds available in this Act shall be available to the Department of Defense to grant civilian employees participating in productivity-based incentive award programs paid administrative time off in lieu of cash payment as compensation for increased productivity.

SEC. 8068. None of the funds appropriated in this Act to the Department of the Army may be obligated for depot maintenance of equipment unless such funds provide for civilian personnel strengths at the Army depots performing communications-electronics depot maintenance at an amount above the strengths assigned to those depots on September 30, 1985: *Provided,* That the foregoing limitation shall not apply to civilian personnel who perform caretaker-type functions at these installations: *Provided further,* That nothing in this provision shall cause undue reductions of other Army depots, as determined by the Secretary of the Army.

SEC. 8069. (a) None of the funds made available by this Act to the Department of Defense may be used to procure the Federal Supply Classes of machine tools set forth in subsection (b) of this section, for use in any government-owned facility or property under control of the Department of Defense, which machine tools were not manufactured in the United States or Canada.

(b) The procurement restrictions contained in subsection (a) shall apply to Federal Supply Classes of metalworking machinery in categories numbered 3405, 3408, 3410-3419, 3426, 3433, 3438, 3441-3443, 3445, 3446, 3448, 3449, 3460, and 3461.

(c) When adequate domestic supplies of the classifications of machine tools identified in subsection (b) are not available to meet Department of Defense requirements on a timely basis, the procurement restrictions contained in subsection (a) may be waived on a case-by-case basis by the Secretary of the Service responsible for the procurement.

(d) Subsection (a) shall not apply to contracts which are binding as of the date of enactment of this Act.

SEC. 8070. None of the funds appropriated or made available by this Act may be obligated for acquisition of major automated

information systems which have not successfully completed oversight reviews required by Defense Department regulations: *Provided,* That none of the funds appropriated or made available by this Act may be obligated on Composite Health Care System acquisition contracts if such contracts would cause the total life cycle cost estimate of $1,100,000,000 expressed in fiscal year 1986 constant dollars to be exceeded.

SEC. 8071. None of the funds appropriated in this Act may be obligated or expended for the procurement, modification, product-improvement, or production qualification or prove-out of the five inch semi-active laser guided projectile (Deadeye).

SEC. 8072. Except where specifically increased or decreased elsewhere in this Act, the restrictions contained within appropriations, or provisions affecting appropriations or other funds, available during fiscal year 1989, limiting the amount which may be expended for personnel services, and including pay and allowances of military personnel and civilian employees, or for purposes involving personal services are hereby increased to the extent necessary to meet increased pay costs authorized by or pursuant to law.

SEC. 8073. None of the funds provided by this Act may be used to pay the salaries of any person or persons who authorize the transfer of unobligated and deobligated appropriations into the Reserve for Contingencies of the Central Intelligence Agency.

SEC. 8074. Funds appropriated by this Act for construction projects of the Central Intelligence Agency, which are transferred to another Agency for execution, shall remain available until expended.

Alcohol and alcoholic beverages. Health and medical care. Reports.

SEC. 8075. (a) The Secretary of Defense shall conduct through the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) a demonstration project on the treatment of alcoholism designed to compare the use of chemical aversion therapy with the use of other treatments. At the conclusion of the demonstration project, the Secretary shall submit to the Committees on Appropriations and Armed Services of the Senate and House of Representatives a report on the results of the project: *Provided,* That the demonstration project shall be conducted at only one location: *Provided further,* That coverage for chemical aversion therapy under this demonstration project is extended to those beneficiaries referred for such treatment by a physician, psychiatrist or psychologist recognized as an authorized provider under CHAMPUS.

(b) Until the report required by subsection (a) is submitted, the Secretary of Defense shall ensure that coverage of beneficiaries under section 1079(a) or 1086(a) of title 10, United States Code, shall continue under the provisions of subsection (a).

SEC. 8076. None of the funds appropriated by this Act shall be available for the operation and maintenance of contractor-owned, contractor-operated primary health care facilities unless the Department of Defense Inspector General agrees to conduct an inspection, audit and evaluation of these clinics.

SEC. 8077. Notwithstanding any other provision of law, the Secretary of the Navy may use funds appropriated to charter ships to be used as auxiliary minesweepers providing that the owner agrees that these ships may be activated as Navy Reserve ships with Navy Reserve crews used in training exercises conducted in accordance with law and policies governing Naval Reserve forces.

SEC. 8078. (a) None of the funds in this Act may be used to execute a contract for the Civilian Health and Medical Program of the

Uniformed Services (CHAMPUS) Reform Initiative that exceeds the total fiscal year 1987 costs for CHAMPUS care provided in California and Hawaii, plus normal and reasonable adjustments for price and program growth.

Contracts. Insurance. State and local governments. Health and medical care. 10 USC 1103 note. Taxes. Hawaii.

(b) Notwithsanding section 725 of Public Law 100-180, the preemption provisions of title 10, United States Code, chapter 55, section 1103, shall not be limited to contractual provisions relating to coverage of benefits, but shall apply to any and all contracts entered into pursuant to Solicitation Number MDA-903-87-R-0047 and shall preempt any and all State and local laws or regulations which relate to health insurance or to prepaid health care plans: *Provided further,* That any and all funds derived from contracts or subcontracts issued pursuant to this solicitation shall not be subject to any Hawaii State or local sales, general excise, or similar taxes imposed upon gross sales, gross income, or gross receipts, except to the extent that such taxes are uniformly imposed upon physicians, hospitals, and all similar direct providers of health care services.

SEC. 8079. None of the funds appropriated by this Act may be used by the Defense Logistics Agency to assign a supervisor's title or grade when the number of people he or she supervises is considered as a basis for this determination: *Provided,* That savings that result from this provision are represented as such in future budget proposals.

SEC. 8080. None of the funds appropriated by this Act shall be used to make contributions to the Department of Defense Education Benefits Fund pursuant to section 2006(g) of title 10, United States Code, representing the normal cost for future benefits under section 1415(c) of title 38, United States Code, for any member of the armed services who, on or after the date of the enactment of this Act, enlists in the armed services for less than three years; nor shall any amounts representing the normal cost of such future benefits be transferred from the Fund by the Secretary of the Treasury to the Administrator of Veterans Affairs pursuant to section 2006(d) of title 10, United States Code; nor shall the Administrator pay such benefits to any such member: *Provided,* That these limitations shall not apply to members in combat arms skills.

SEC. 8081. None of the funds appropriated by this Act shall be available for the basic pay and allowances of any member of the Army participating as a full-time student and receiving benefits paid by the Administrator of Veterans Affairs from the Department of Defense Education Benefits Fund when the time spent as a full-time student is credited toward completion of a service commitment: *Provided,* That this provision shall not apply to those members who have reenlisted with this option prior to October 1, 1987: *Provided further,* That this provision applies to active components of the Army.

SEC. 8082. Funds appropriated or made available in this Act shall be obligated and expended to continue to fully utilize the facilities at the United States Army Engineer's Waterways Experiment Station, including the continued availability of the supercomputer capability and the planned upgrade of this capability: *Provided,* That none of the funds in this Act may be used to purchase any supercomputer which is not manufactured in the United States, unless the Secretary of Defense certifies to the Armed Services and Appropriations Committees of Congress that such an acquisition must be made in order to acquire capability for national security purposes that is not available from United States manufacturers: *Provided further,*

That of the funds appropriated for "Other Procurement, Army" for fiscal year 1988, those funds provided for a supercomputer may only be obligated to purchase a system to be installed at a competitively selected independent academic institution: *Provided further,* That of the funds appropriated for "Other Procurement, Army" in fiscal year 1989, $27,400,000 shall be obligated to purchase a supercomputer system to be installed at the United States Army Engineer Waterways Experiment Station.

SEC. 8083. For the purposes of the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), the term program, project, and activity for appropriations contained in this Act shall be defined as the most specific level of budget items identified in the Department of Defense Appropriations Act, 1989, the accompanying House and Senate Committee reports, the conference report and accompanying joint explanatory statement of the managers of the Committee of Conference, the related classified annexes, and the P-1 and R-1 budget justification documents as subsequently modified by Congressional action: *Provided, however,* That the following exception to the above definition shall apply:

For the Military Personnel and the Operation and Maintenance accounts, the term "program, project, and activity" is defined as the appropriations accounts contained in the Department of Defense Appropriations Act.

SEC. 8084. (a) Of the funds appropriated to the Army, $109,895,000 shall be available only for the Reserve Component Automation System (RCAS): *Provided,* That none of these funds can be expended:

(1) except as approved by the Chief of the National Guard Bureau;

(2) unless RCAS resource management functions are performed by the National Guard Bureau;

(3) unless the RCAS contract source selection official is the Chief of the National Guard Bureau;

(4) to pay the salary of an RCAS program manager who has not been selected and approved by the Chief of the National Guard Bureau and chartered by the Chief of the National Guard Bureau and the Secretary of the Army;

(5) unless the Program Manager (PM) charter makes the PM accountable to the source selection official and fully defines his authority, responsibility, reporting channels and organizational structure;

(6) to pay the salaries of individuals assigned to the RCAS program management office, source selection evaluation board, and source selection advisory board unless such organizations are comprised of personnel chosen jointly by the Chiefs of the National Guard Bureau and the Army Reserve;

(7) to award a contract for development or acquisition of RCAS unless such contract is competitively awarded under procedures of OMB Circular A-109 for an integrated system consisting of software, hardware, and communications equipment and unless such contract precludes the use of Government furnished equipment, operating systems, and executive and applications software; and

(8) unless RCAS performs its own classified information processing.

(b) None of the funds appropriated or made available in this Act are available for procurement of Tactical Army Combat Service Support Computer Systems (TACCS) unless at least 50 percent of the TACCS computers procured with Army fiscal year 1989 funds are provided to the Reserve Component.

(c) None of the funds appropriated in this Act are available for procurement of mini- and micro-computers for the Army Reserve Component which duplicate functions to be included in the RCAS contract.

SEC. 8085. None of the funds provided for the Department of Defense in this Act may be obligated or expended for fixed price-type contracts in excess of $10,000,000 for the development of a major system or subsystem unless the Under Secretary of Defense for Acquisition determines, in writing, that program risk has been reduced to the extent that realistic pricing can occur, and that the contract type permits an equitable and sensible allocation of program risk between the contracting parties: *Provided,* That the Under Secretary may not delegate this authority to any persons who hold a position in the Office of the Secretary of Defense below the level of Assistant Secretary of Defense: *Provided further,* That at least thirty days before making a determination under this section the Secretary of Defense will notify the Committees on Appropriations of the Senate and House of Representatives in writing of his intention to authorize such a fixed price-type developmental contract and shall include in the notice an explanation of the reasons for the determination.

SEC. 8086. Monetary limitations on the purchase price of a passenger motor vehicle shall not apply to vehicles purchased for intelligence activities conducted pursuant to Executive Order 12333 or successor orders.

SEC. 8087. Not to exceed $35,000,000 of the funds available to the Department of the Army during the current fiscal year may be used to fund the construction of classified military projects within the Continental United States, including design, architecture, and engineering services.

SEC. 8088. From the amounts appropriated in this Act, funds shall be available for Naval Aviation Depots to perform manufacturing in order to compete for production contracts of Defense articles: *Provided,* That the Navy shall certify that successful bids between Naval Aviation Depots and private companies for such production contracts include comparable estimates of all direct and indirect costs: *Provided further,* That competitions conducted under this authority shall not be subject to section 502 of the Department of Defense Authorization Act, 1981, as amended, section 307 of the Department of Defense Authorization Act, 1985, or Office of Management and Budget Circular A-76.

SEC. 8089. None of the funds in this Act may be available for the purchase by the Department of Defense (and its departments and agencies) of welded shipboard anchor and mooring chain 4 inches in diameter and under manufactured outside the United States.

SEC. 8090. (a) None of the funds available to the Department of Defense shall be used to enter into any agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel until ninety days after a study by the United States Departments of Defense, State, and Commerce on the economic benefits of using United States coal at defense installations in Europe is completed and

forwarded to Members of Congress: *Provided,* That this study should determine the extent of, and justification for, the economic benefits accruing to the Soviet Union from all prior and anticipated conversions of United States military installations in Europe to district heat and direct natural gas systems which utilize Soviet-supplied natural gas: *Provided further,* That this study should also address the issues raised by the economic analysis prepared by the Ambassador at Large on burdensharing negotiations to be appointed by the President as delineated by subsection (c) of section 8125 of this Act: *Provided further,* That the study also include a review of the modernization plan for the needed updating of the heating systems in the Kaiserslautern military community and the usage of United States produced coal: *Provided further,* That this study should be completed no later than July 1, 1989.

(b) Notwithstanding subsection (a), funds available to the Department of Defense may be used to enter into an agreement or contract to convert a heating facility at military installations in Europe to district heat, direct natural gas, or other sources of fuel if the Secretary of Defense certifies in writing and provides a copy to the Committees on Appropriations of the House and Senate that such conversion is in the best interest of the Nation.

Health and medical care. Children and youth.

SEC. 8091. During the current fiscal year, notwithstanding any other provision of law, the Department of Defense shall exclude from diagnosis related groups regulations: (a) inpatient hospital services in a hospital whose patients are predominantly under 18 years of age and (b) such services in any hospital with respect to (1) discharges involving newborns and infants who are less than 29 days old upon admission (other than discharges classified to diagnosis related group 391), (2) discharges involving pediatric bone marrow transplants, (3) discharges involving children who have been determined to be HIV seropositive, and (4) discharges involving pediatric cystic fibrosis. The Department of Defense may include the hospital and neonatal services identified in subsections (a) and (b) in diagnosis related group regulations during fiscal year 1989 when the Department of Defense has adopted special measures to assure equitable and adequate payment for such services, such special measures including: (1) a "children's hospital differential" adjustment for each discharge of a CHAMPUS patient from a children's hospital that will assure that had the regulations been in effect for fiscal year 1988 they would have resulted in estimated aggregate CHAMPUS payments to children's hospitals not less than estimated aggregate CHAMPUS payments to such hospitals for discharges occurring during that fiscal year under the regulations in effect during fiscal year 1988 (recognizing that payments in subsequent years will vary based on volume, case mix intensity, and other factors); for a transitional period of three years the children's hospital differential will be computed on a hospital specific basis for children's hospitals with 50 or more CHAMPUS discharges in fiscal year 1988 and will be computed in aggregate for children's hospitals with less than 50 discharges in a year; (2) a children's hospital differential hold harmless provision, providing for retrospective and prospective corrections; (3) a special outlier policy for children's hospitals and neonatal services that combines the thresholds in effect under CHAMPUS DRG regulations for fiscal year 1988 with the higher marginal cost factors proposed by 53 Fed. Reg. 20580 (June 3, 1988); (4) a refinement to the DRGs for neonatal services to account for birthweight, surgery, and the presence of multiple,

major, and other neonatal problems; (5) incorporation of annual updates to the classification features included in the regulation for neonatal services; (6) a provision for making interim payments for cases that are especially lengthy or expensive; and (7) a commitment to examine possible further uses of Pediatric Modified DRGs in the future: *Provided,* That the Department of Defense shall ensure that beneficiaries not be required to pay more in cost-shares under the foregoing exclusions than those which would have been imposed if the diagnosis related group system had been instituted: *Provided further,* That notwithstanding any other provision of law, appropriations available to the Department of Defense may be used to pay the difference between the cost-shares paid by beneficiaries under the foregoing and the billed charges for services covered by this provision.

PROHIBITION ON PURCHASE OF TOSHIBA PRODUCTS FOR RESALE IN MILITARY EXCHANGE STORES

Effective date. 50 USC app. 2410a note.

SEC. 8092. (a) PROHIBITION.—During the three-year period beginning on the date of the enactment of this Act, no product manufactured or assembled by Toshiba America, Incorporated, or Toshiba Corporation (or any of its affiliates or subsidiaries) may be purchased by the Department of Defense for the purpose of resale of such product in a military exchange store or in any other morale, welfare, recreation, or resale activity operated by the Department of Defense (either directly or by concessionaire).

(b) EXCEPTION.—The prohibition in subsection (a) shall not apply to microwave ovens manufactured or assembled in the United States.

SEC. 8093. Notwithstanding any other provision of law, the Secretary of the Air Force shall, from existing prior year funds, make available $18,000,000 for the next generation trainer (F-109) engine over the next three-year period: *Provided,* That none of the funds may be obligated or expended until the Secretary of the Air Force submits a certification to the Committees on Appropriations which identifies a specific United States military requirement for the F-109 engine or which demonstrates that these funds can be fully recouped under a contractual arrangement with the manufacturer through commercial sales of the engine.

(TRANSFER OF FUNDS)

SEC. 8094. Notwithstanding any other provision of law, the Department of Defense may transfer prior year unobligated balances and funds appropriated in this Act to the operation and maintenance appropriations of the reserve components for the purpose of providing military technician pay the same exemption from sequestration set forth in the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119) as that granted the other military personnel accounts: *Provided,* That any transfer made pursuant to any use of the authority provided by this provision shall be limited so that the amounts reprogrammed to the operation and maintenance appropriations of the reserve components do not exceed the amounts sequestered under the Balanced Budget and Emergency Deficit Control Act of 1985 (Public Law 99-177) as amended by the

Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119): *Provided further,* That the authority to make transfers pursuant to this section is in addition to the authority to make transfers under other provisions of this Act: *Provided further,* That the Secretary of Defense may proceed with such transfer after notifying the Appropriations Committees of the House of Representatives and the Senate twenty legislative days before any such transfer of funds under this provision and if no objection is expressed within that twenty legislative day period.

SEC. 8095. None of the funds available to the Department of the Navy may be used to enter into any contract for the overhaul, repair, or maintenance of any naval vessel on the West Coast of the United States which includes charges for interport differential as an evaluation factor for award.

SEC. 8096. No naval vessel or any vessel owned and operated by the Department of Defense homeported in the United States may be overhauled, repaired, or maintained in a foreign owned and operated shipyard located outside of the United States, except for voyage repairs.

SEC. 8097. None of the funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States Government may be obligated or expended during fiscal year 1989 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance unless in accordance with the terms and conditions specified by section 104 of the Intelligence Authorization Act for fiscal year 1989.

SEC. 8098. During the current fiscal year and hereafter, appropriations available to the Department of Defense for operation and maintenance shall be available for payment of claims authorized by law to be paid by the Department of Defense (except for civil functions), including claims for damages arising under training contracts with carriers, and repayment of amounts determined by the Secretary concerned, or officers designated by him, to have been erroneously collected from military and civilian personnel of the Department of Defense, or from States, territories, or the District of Columbia, or members of the National Guard units thereof. 10 USC 2241 note.

SEC. 8099. None of the funds provided in this Act may be obligated or expended for the procurement of LANDSAT or SPOT remote sensing data except by the Defense Mapping Agency, in its role as primary action office for such purchases by Department of Defense agencies and military departments.

SEC. 8100. None of the funds appropriated or made available by this Act may be obligated for any procurement or product improvement of the M30 (4.2 inch) heavy mortar, or for development or product improvement of 4.2 inch mortar ammunition.

SEC. 8101. The designs of the Army LHX helicopter, the Navy Advanced Tactical Aircraft, the Air Force Advanced Tactical Fighter, and any variants of these aircraft, must incorporate Joint Integrated Avionics Working Group standard avionics specifications no later than 1998. Aircraft and air carriers.

SEC. 8102. Of the funds appropriated in fiscal year 1988 to the Navy for Project 7000, $7,000,000 shall be provided to the Air Force for Project Have Gaze.

SEC. 8103. (a) None of the funds appropriated or made available by this Act shall be expended to award a contract pursuant to a solicitation issued on or after the date of the enactment of this Act under the Department of Defense overseas fuel procurement pro-

Business and industry.

grams, including procurements in American Samoa and Guam, to a contractor other than a United States firm: *Provided,* That the foregoing limitation shall not apply unless the United States firm—

(1) has a crude oil refining capacity of not more than 85,000 barrels a day;

(2) participates in the Department of Defense overseas fuel procurement program;

(3) agrees to the contract on the terms proposed by the foreign firm to which the contract would otherwise be awarded; and

(4) does not use processing agreements in order to fulfill the contract, although exchange agreements are specifically permitted.

(b) This provision shall not apply if the total cost of supplies offered by the United States firm, including transportation as specified in the solicitation, would exceed the total evaluated cost to the Government if the contract were awarded to the foreign firm.

(c) This provision shall not supersede any status of forces agreement and shall not apply to acquisitions subject to the Agreement on Government Procurement of 1979 and the Trade Agreements Act of 1979 (19 U.S.C. 2501-2582) and including acquisitions from countries designated under the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701, et seq.).

(d) For the purpose of this section, the term "United States firm" means a corporation, partnership, association, joint stock company, business trust, unincorporated organization, or sole proprietorship which has its principal place of business in the United States, or which is organized under the laws of a State of the United States or a territory, possession, or commonwealth of the United States.

Reports.

SEC. 8104. Not later than December 31, 1988, the Secretary of Defense shall submit to Congress a report on the causes and circumstances of all deaths of Navy personnel during Navy training since January 1, 1986, and on the actions taken by the Secretary of Defense and the Secretary of the Navy to prevent further such deaths.

ALLOWABILITY OF COSTS TO PROMOTE THE EXPORT OF DEFENSE PRODUCTS

SEC. 8105. (a) IN GENERAL.—Section 2324(f) of title 10, United States Code, is amended by adding at the end the following new paragraph:

Business and industry.

"(5) The regulations shall provide that costs to promote the export of products of the United States defense industry, including costs of exhibiting or demonstrating products, shall be allowable to the extent that such costs—

"(A) are allocable, reasonable, and not otherwise unallowable;

"(B) with respect to the activities of the business segment to which such costs are being allocated, are determined by the Secretary of Defense to be likely to result in future cost advantages to the United States; and

"(C) with respect to a business segment which allocates to Department of Defense contracts $2,500,000 or more of such costs in any fiscal year of such business segment, are not in excess of the amount equal to 110 percent of such costs incurred by such business segment in the previous fiscal year.".

(b) REGULATIONS.—The Secretary of Defense shall prescribe final regulations under paragraph (5) of section 2324(f) of title 10, United States Code (as added by subsection (a)), not later than 90 days after the date of the enactment of this Act. Such regulations shall apply with respect to costs referred to in such paragraph that are incurred by a Department of Defense contractor (or a subcontractor of such a contractor) on or after the first day of the contractor's (or subcontractor's) first fiscal year that begins on or after the date on which such final regulations are prescribed. 10 USC 2324 note.

(c) REPORT.—Not later than two years after the date of the enactment of this Act, the Comptroller General of the United States and the Inspector General of the Department of Defense shall each submit to the Committees on Armed Services and Appropriations of the Senate and House of Representatives a report that includes the following:

(1) An assessment of whether the regulations required by section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), provide the appropriate incentives to stimulate exports by the United States defense industry and provide cost savings to the United States.

(2) An assessment of whether such regulations provide appropriate criteria to ensure that costs allowed are reasonably likely to provide future cost savings to the United States.

(d) TERMINATION.—Section 2324(f)(5) of title 10, United States Code (as added by subsection (a)), shall cease to be effective three years after the date of the enactment of this Act.

SEC. 8106. (a) Such sums as may be necessary for fiscal year 1989 pay raises for programs funded by this Act shall be absorbed within the levels appropriated in this Act.

(b) Sums appropriated in title I of this Act, Military Personnel, are reduced by $150,000,000 which will be realized by absorbing a portion of the pay raise requirements. Wages.

SEC. 8107. Notwithstanding any other provision of law, the Secretary of Defense shall require that a provider of services under the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) also provide services to members of the armed forces pursuant to section 1074(c), title 10, in accordance with the same reimbursement rules, subject to modifications deemed appropriate by the Secretary of Defense, as apply under CHAMPUS. Health and medical care.

SEC. 8108. Of the funds made available in this Act for military personnel appropriations, $2,000,000 shall be available for the payment of bonuses to officers of the Army Nurse Corps, the Navy Nurse Corps and officers designated as Air Force nurses. A bonus, in an amount not to exceed $3,000, may be paid, under such regulations and conditions as the Secretary of Defense deems appropriate, to such an officer: *Provided,* That the officer is on active duty under a call or order to active duty for a period of not less than one year: *Provided further,* That the officer is qualified and performing as an anesthetist: *And provided further,* That this provision shall not be effective unless specifically authorized.

SEC. 8109. None of the funds available to the Department of Defense shall be obligated or expended during fiscal year 1989 for the purpose of converting the Naval Avionics Center, Indianapolis, the Naval Civil Engineering Laboratory, Port Hueneme, and the Naval Air Engineering Center, Lakehurst, from operation under the Navy Industrial Fund as authorized by 10 U.S.C. 2208 to operation as a direct appropriation financed authority.

(TRANSFER OF FUNDS)

SEC. 8110. Notwithstanding any other provision of law, during fiscal year 1989, the Secretary of Defense shall make available to the United States Coast Guard without reimbursement not less than $140,000,000 in supplies, fuel, training assistance, medical support, and other operational support, exclusive of administrative costs; and from funds made available in this Act, $60,000,000 shall be transferred to Coast Guard "Operating Expenses".

SEC. 8111. Of the funds appropriated by this Act, not more than $1,163,200,000 may be obligated for morale, welfare, and recreation activities: *Provided,* That nonappropriated funds may be used to reimburse appropriated funds for expenses of civilian employees employed on January 1, 1987, by revenue-generating recreation activities and such reimbursed expenses shall not be included in the dollar limitation of this section.

SEC. 8112. Notwithstanding any other provision of law, none of the funds made available by this Act shall be used by the Department of Defense to exceed, outside the fifty United States and the District of Columbia, 182,011 civilian workyears: *Provided,* That workyears shall be applied as defined in the Federal Personnel Manual Supplement 298-2, Book IV: *Provided further,* That workyears expended in dependent student hiring programs or hiring programs for disadvantaged youth shall not be included in this workyear limitation.

Reports.

SEC. 8113. (a) No later than December 1, 1988, the Secretary of Defense shall submit to the Committees on Appropriations of the House and Senate, his evaluation of the Deputy Inspector General, Department of Defense, study team report titled "Review of Unified and Specified Command Headquarters, February 1988": *Provided,* That the evaluation shall specifically include a list of the report recommendations, by command, that the Secretary intends to implement and those recommendations that he does not intend to implement, together with the reasons for rejecting those recommendations not adopted.

(b) The Secretary shall provide for the implementation of those recommendations included in the list submitted under subsection (a) in the five-year defense program submitted to Congress for fiscal years 1990 through 1994 under section 114(g) of title 10, United States Code.

Wages.
Employment and unemployment.
Government organization and employees.
10 USC 1584 note.

SEC. 8114. During the current fiscal year and thereafter, the Secretary of Defense shall notify the House and Senate Committees on Appropriations when salary increases granted to direct and indirect hire foreign national employees are at a rate in excess of the percentage pay increase authorized by law for civilian employees of the Department of Defense whose pay is computed under the provisions of section 5332 of title 5, United States Code, or at a rate in excess of the percentage increase provided to National Government employees of the host nation, whichever is higher.

(TRANSFER OF FUNDS)

SEC. 8115. In addition to any other transfer authority contained in this Act, amounts from the Defense Stock Fund shall be transferred to the Operation and Maintenance appropriations contained in this Act to be merged with and to be available for the same purposes and for the same time period as the appropriations to which transferred: *Provided,* That such transfers shall not be less than $40,000,000 for

Operation and Maintenance, Army Reserve; $40,000,000 for Operation and Maintenance, Air Force Reserve; $50,000,000 for Operation and Maintenance, Army National Guard; and $50,000,000 for Operation and Maintenance, Air National Guard: *Provided further,* That $80,000,000 may be transferred from the Navy Industrial Fund to Operation and Maintenance, Navy, to refund excess asset capitalization charges.

Health care facilities.

SEC. 8116. During the current fiscal year, the Secretary of Defense may exempt a patient from paying an amount required by section 1079(b)(1) or 1086(b)(3) of title 10, United States Code, if the hospital to which the patient is admitted does not impose a legal obligation on any of its patients to pay for inpatient care: *Provided,* That the Secretary of Defense may, upon request, make payments under section 1079 or 1086 of title 10, United States Code, for a charge for services (which shall not exceed the average amount paid for comparable services in the geographic area in which the hospital is located, or if no comparable services are available in that area, in an area similar to the area in which the hospital is located) for which a claim is submitted under a plan contracted for under section 1079(a) or 1086(a) of title 10, United States Code, to a hospital that does not impose a legal obligation on any of its patients to pay for such services: *Provided further,* That the Secretary of Defense shall periodically review the billing practices of each hospital the Secretary approves for payment under this section, to ensure that the hospital's practice of not billing patients for payment does not result in increased costs to the Government and the Secretary may require each hospital approved for payment under this section to provide evidence that it has sources of revenue to cover un-billed costs.

SEC. 8117. None of the funds appropriated by this or any other Act with respect to any fiscal year for the Navy may be used to carry out an electromagnetic pulse program in the Chesapeake Bay area in connection with the Electromagnetic Pulse Radiation Environment Simulator for Ships (EMPRESS) program unless or until the Secretary of Defense certifies to the Congress that conduct of the EMPRESS program is essential to the national security of the United States and to achieving requisite military capability for United States naval vessels, and that the economic, environmental, and social costs to the United States of conducting the EMPRESS program in the Chesapeake Bay area are far less than the economic, environmental, and social costs caused by conducting the EMPRESS program elsewhere.

Health and medical care. Louisiana.

SEC. 8118. Funds provided by this Act for the Civilian Health and Medical Program of the Uniformed Services (CHAMPUS) may be used by the Office of CHAMPUS to conduct a pilot project to provide program modifications and efficiencies by amending up to two existing fiscal intermediary contracts: *Provided,* That the Secretary of Defense conducts a separate health care demonstration project, if it is in the best interests of the Government, in the New Orleans, Louisiana area (the area described in Solicitation Number MDA 903-87-R-0047) that uses a managed health care network, including health care enrollment (as provided for in section 1099, title 10, United States Code): *Provided further,* That the Secretary shall implement this demonstration project no later than September 30, 1989.

SEC. 8119. Notwithstanding section 213(b) of the Joint Chiefs of Staff Reorganization Act of 1985 or any other provision of law, none

of the funds in this or any other Act may be used to alter the command structure for military forces in Alaska.

State and local governments. Employment and unemployment. Contracts.

SEC. 8120. Notwithstanding any other provision of law, each contract awarded by the Department of Defense in fiscal year 1989 for construction or service performed in whole or in part in a State which is not contiguous with another State and has an unemployment rate in excess of the national average rate of unemployment as determined by the Secretary of Labor shall include a provision requiring the contractor to employ, for the purpose of performing that portion of the contract in such State that is not contiguous with another State, individuals who are residents of such State and who, in the case of any craft or trade, possess or would be able to acquire promptly the necessary skills: *Provided,* That the Secretary of Defense may waive the requirements of this section in the interest of national security.

SEC. 8121. No more than $183,179,000 of the funds appropriated by this Act shall be available for the payment of unemployment compensation benefits.

10 USC 2488 note.

SEC. 8122. None of the funds appropriated by this Act shall be used for the support of any nonappropriated fund activity of the Department of Defense that procures malt beverages and wine with nonappropriated funds for resale (including such alcoholic beverages sold by the drink) on a military installation located in the United States, unless such malt beverages and wine are procured in that State, or in the case of the District of Columbia, within the District of Columbia, in which the military installation is located: *Provided,* That in a case in which the military installation is located in more than one State, purchases may be made in any State in which the installation is located: *Provided further,* That such local procurement requirements for malt beverages and wine shall apply to all alcoholic beverages for military installations in States which are not contiguous with another State: *Provided further,* That alcoholic beverages other than wine and malt beverages in contiguous States and the District of Columbia shall be procured from the most competitive source, price and other factors considered.

Union of Soviet Socialist Republics. International agreements.

SEC. 8123. Whereas the Congress supports the President's goal of reducing United States and Soviet conventional forces in Europe and reducing United States and Soviet strategic nuclear forces;

Whereas it is important the Congress and the President be in agreement on United States national security goals and objectives in order for the United States to be in the strongest possible position to negotiate with the Soviet Union future reductions in conventional and strategic nuclear forces;

Whereas the Congress strongly opposes the undercutting of these arms reduction negotiations by either the United States or the Soviet Union through unnecessary military initiatives or counterproductive arms control proposals;

Whereas no decision has been made on the development or deployment of strategic defenses:

Research and development.

Therefore, it is the sense of the Congress that—

(1) in order to maintain the basis for strong deterrence, the Strategic Defense Initiative (SDI) should be a long-term and robust research program to provide the United States with expanded options for responding to a Soviet breakout from the 1972 Anti-Ballistic Missile Treaty and to respond to other future Soviet arms initiatives that might pose a grave threat to United States national security;

(2) by expanding potential United States strategic options the SDI research program can enhance United States leverage in the United States-Soviet arms reduction negotiations and serve as a safeguard for ensuring that negotiated agreements are kept;

(3) future research plans and budgets for SDI must be established using realistic projections of available resources in the overall defense budget and must not undercut other important Department of Defense programs; and

(4) in matching research priorities against available resources, the primary emphasis of SDI should be to explore promising new technologies, such as directed energy technologies, which might have long-term potential to defend against a responsive Soviet offensive nuclear threat.

Housing. Uniformed services.

SEC. 8124. (a) If a reduction in variable housing allowance (VHA) rates was required subsequent to January 1, 1988, to comply with section 8047 of the Department of Defense Appropriations Act, 1988, a member of the uniformed services who received reduced rates and who, on the effective date of this Act, is still a member of the uniformed services, shall be paid the difference between the VHA rate as reduced subsequent to January 1, 1988, and the VHA rate to which the member would have been entitled under the rates established on January 1, 1988: *Provided,* That such payments shall be made from appropriations provided by this Act.

(b) None of the funds appropriated to the Department of Defense by this or any other Act for fiscal year 1989 shall be available to pay the variable housing allowance authorized members of the uniformed services under section 403a of title 37, United States Code, and the payments authorized by subsection (a) of this section in a total amount in excess of $1,220,000,000: *Provided,* That any reduction in the rates of the variable housing allowance necessitated by the foregoing limitation shall be made as provided in section 403a of title 37, United States Code.

Reports. 10 USC 113 note.

SEC. 8125. (a)(1) Not later than March 1, 1989, the Secretary of Defense shall submit to Congress a report on the assignment of military missions among the member countries of North Atlantic Treaty Organization (NATO) and on the prospects for the more effective assignment of such missions among such countries.

(2) The report shall include a discussion of the following:

(A) The current assignment of military missions among the member countries of NATO.

(B) Military missions for which there is duplication of capability or for which there is inadequate capability within the current assignment of military missions within NATO.

(C) Alternatives to the current assignment of military missions that would maximize the military contributions of the member countries of NATO.

(D) Any efforts that are underway within NATO or between individual member countries of NATO at the time the report is submitted that are intended to result in a more effective assign ment of military missions within NATO.

(b) The Secretary of Defense and the Secretary of State shall (1) conduct a review of the long-term strategic interests of the United States overseas and the future requirements for the assigment of members of the Armed Forces of the United States to permanent duty ashore outside the United States, and (2) determine specific actions that, if taken, would result in a more balanced sharing of

Reports.

defense and foreign assistance spending burdens by the United States and its allies. Not later than August 1, 1989, the Secretary of Defense and the Secretary of State shall transmit to Congress a report containing the findings resulting from the review and their determinations.

President of U.S. Japan. Korea.

(c) The President shall appoint an Ambassador at Large responsible to the President who shall have the responsibility for ensuring a more balanced sharing of defense costs by the NATO members, Japan, the Republic of Korea, and other countries allied to the United States. Such responsibilities shall incude negotiations for burdensharing including increased in-kind and financial support by such countries for Department of Defense military units and personnel assigned to permanent duty ashore outside the United States in support of the security of such countries, and multi-lateral foreign assistance costs: *Provided,* That the Ambassador at Large should review (1) trade restrictions that require German utilities to purchase German-produced coal to the exclusion of foreign coal, including United States coal, and (2) the extent to which the tax on electricity used to subsidize German coal producers is borne by American military installations, American military dependents, or American civilians who support our military installations. The Ambassador at Large should prepare an economic analysis on the comparison of using German versus United States coal at defense facilities in Europe. This analysis should address the issues of all direct subsidies provided on German coal and restrictions imposed on imported coal and should be submitted to the Department of Defense, State, and Commerce for use in their study on the economic benefits of using coal at defense facilities in Europe.

Germany. Energy. Coal.

Imports.

President of U.S.

(d) The President shall specify (separately by appropriation account) in the Department of Defense items included in the budgets submitted to Congress under section 1105 of title 31, United States Code, for fiscal years after fiscal year 1989 the amounts necessary for payment of all personnel, operations, maintenance, facilities, and support costs for Department of Defense overseas military units, and the costs for all dependents who accompany Department of Defense personnel outside the Unied States.

Reports.

(e) Not later than May 1, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and on Appropriations of the Senate and the House of Representatives a report that sets forth the total costs required to support the dependents who accompany Department of Defense personnel assigned to permanent duty overseas.

(f) As of September 30 of each fiscal year after fiscal year 1989, the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea may not exceed 94,450 (the number of members of the Armed Forces on active duty assigned to permanent duty ashore in Japan and the Republic of Korea on September 30, 1987). The limitation provided for the preceding sentence may be increased if and when a major reduction of United States forces in the Republic of the Philippines is required because of a loss of basing rights in that nation, and the President determines and certifies to Congress that, as a consequence of such loss, an increase in United States forces stationed in Japan and the Republic of Korea is necessary.

Philippines. Japan. Korea.

(g)(1) After fiscal year 1990, Department of Defense budget submissions to Congress under section 1105 of title 31, United States Code, shall identify funds requested for Department of Defense

personnel and units in permanent duty stations ashore outside the United States that exceed the amount of such costs incurred in fiscal year 1989, and shall detail: (A) a description of the types of expenditures increased, by appropriation account, activity and program; and (B) specific efforts to obtain allied host nations' financing for these cost increases.

(2) The Secretary of Defense shall notify in advance the Committees on Appropriations and Armed Services of the House and Senate through existing notification procedures, when costs of maintaining Department of Defense personnel and units in permanent duty stations ashore will exceed the amounts as defined in the Department of Defense budget as enacted for that fiscal year. Such notification shall describe: (A) the type of expenditures that increased; and (B) the source of funds (including prior year unobligated balances) by appropriation account, activity and program, proposed to finance these costs. Government organization and employees.

(3) In computing the costs incurred for maintaining Department of Defense personnel and forces in permanent duty stations ashore outside the United States compared with the amount of such costs incurred in fiscal year 1989, the Secretary shall—

(A) exclude increased costs resulting from increases in the rates of pay provided for members of the Armed Forces and civilian employees of the United States Government and exclude any cost increases in supplies and services resulting from inflation; and Wages.

(B) include (i) the costs of operation and maintenance and of facilities for the support of Department of Defense overseas personnel, and (ii) increased costs resulting from any decline in the foreign exchange rate of the United States dollar.

(h) The provisions of subsections (f) and (g) shall not apply in time of war or during a national emergency declared by the President or Congress.

(i) In this section—

(1) the term "personnel" means members of the Armed Forces of the United States and civilian employees of the Department of Defense;

(2) the term "Department of Defense overseas personnel" means those Department of Defense personnel who are assigned to permanent duty ashore outside the United States; and

(3) the term "United States" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

SEC. 8126. The Secretary of Defense shall take such action as may be necessary to implement at the earliest practicable date and with funds provided for such purpose under the heading "Army Stock Fund" in title V of this Act, the program proposed by the Department of Defense in a letter, dated August 30, 1985, from the Assistant Secretary of Defense for Acquisition and Logistics to rehabilitate and convert current steam generating plants at defense facilities in order to achieve a coal consumption target of 1,600,000 short tons of coal per year (including at least 300,000 short tons of anthracite coal) above current consumption levels at Department of Defense facilities in the United States by fiscal year 1994: *Provided,* That such action shall be subject to use of only the most cost-effective fuel system in the construction of new plants or the conversion of existing plants; however, this cost-effectiveness requirement is not applicable to a comparison between bituminous and anthracite coal: Coal. Energy.

Contracts.

Provided further, That the requirement to purchase 300,000 short tons of anthracite coal expressed in the Department of Defense Appropriations Act, 1988, section 8113, must be complied with: *Provided further,* That, if the Department does not execute contracts to purchase the anthracite coal mandated in the fiscal year 1988 Defense Appropriations Act by September 30, 1988, it shall use such funds as are necessary from appropriations made available in this Act to complete this purchase.

SEC. 8127. (a) Not more than $3,000,000 of the funds appropriated in this Act may be used to carry out the provisions of section 430 of title 37, United States Code.

(b) Of the amount appropriated in this Act for Other Procurement, Air Force, the sum of $18,200,000 may be obligated only for the procurement of 20 Mobile Armored Reconnaissance Vehicles (MARV).

(TRANSFER OF FUNDS)

SEC. 8128. Of the funds made available by this Act to the Department of the Army, $5,500,000 shall be transferred to the Bureau of Land Management for the relocation of the smokejumper facility at Ft. Wainwright, Alaska: *Provided,* That such sum shall remain available until expended.

(TRANSFER OF FUNDS)

SEC. 8129. Upon enactment of this Act, the Secretary of Defense shall make the following transfer of funds: *Provided,* That the amounts transferred shall be available for the same purposes as the appropriations to which transferred, but shall be available only for the time period of the appropriation from which transferred: *Provided further,* That funds shall be transferred between the following appropriations in the amounts specified:

(1) From:

Under the heading, "Shipbuilding and Conversion, Navy, 1985/89":

Trident submarine program, $89,200,000;

T-ACS auxiliary crane ship program, $500,000; and

Outfitting and Post Delivery programs, $7,200,000;

Aircraft Procurement, Navy, 1987/89, $28,000,000;

Research, Development, Test, and Evaluation, Navy, 1988/89, $40,000,000; and

Research, Development, Test, and Evaluation, Air Force, 1988/89, $31,000,000;

To: Under the heading, "Shipbuilding and Conversion, Navy, 1985/89":

T-AO fleet oiler ship program, $54,400,000;

MCM mine countermeasures ship program, $30,500,000;

DDG-51 guided missile destroyer program, $105,000,000;

T-AGS ocean survey ship program, $6,000,000;

(2) Under the heading, "Shipbuilding and Conversion, Navy, 1986/90":

From: TRIDENT ballistic missile submarine program, $8,900,000;

To: Mine countermeasures ship program, $8,900,000; and

(3) From:
Aircraft Procurement, Army, 1987/89, $14,800,000;
Missile Procurement, Army, 1987/89, $75,200,000;
Weapons and Tracked Combat Vehicles, Army, 1987/89, $77,600,000;
Other Procurement, Army, 1987/89, $43,100,000;
Weapons Procurement, Navy, 1987/89, $71,900,000;
Other Procurement, Navy, 1987/89, $99,900,000;
Other Procurement, Navy, 1988/90, $10,000,000;
Coastal Defense Augmentation, 1988, $20,000,000;
Aircraft Procurement, Air Force, 1987/89, $110,500,000;
Missile Procurement, Air Force, 1987/89, $103,000,000;
Other Procurement, Air Force, 1987/89, $32,500,000;
National Guard and Reserve Equipment, 1988/90, $82,300,000;
Research, Development, Test, and Evaluation, Army, 1988/89, $10,000,000;
Research, Development, Test, and Evaluation, Air Force, 1988/89, $5,300,000;
To: Under the heading, "Shipbuilding and Conversion, Navy, 1987/91":
DDG-51 destroyer program, $666,000,000;
SSN-688 attack submarine program, $68,600,000;
AO conversion program, $8,000,000;
For craft outfitting and post delivery, $13,500,000; and

(4) From: National Guard and Reserve Equipment, 1988/90, $110,700,000;
To: Other Procurement, Navy, 1989/91, $110,700,000.

(INCLUDING TRANSFER OF FUNDS)

SEC. 8130. In addition to the amounts appropriated or otherwise made available to this Act, $438,800,000 is appropriated for the DDG-51 destroyer program, and in addition, $349,200,000 shall be available by transfer for this program from the following appropriations: Aircraft Procurement, Army, 1988/90, $30,000,000; Missile Procurement, Army, 1988/90, $3,800,000; Weapons and Tracked Combat Vehicles, Army, 1988/90, $71,500,000; Aircraft Procurement, Navy, 1988/90, $61,700,000; Shipbuilding and Conversion, Navy, 1988/92, $126,300,000; Other Procurement, Navy, 1988/90, $53,900,000; and Other Procurement, Air Force, 1988/90, $2,000,000: *Provided,* That the amounts transferred shall remain available for obligation only for the time period provided when originally appropriated.

SEC. 8131. (a) Of the funds made available in this Act to the Department of the Navy, $6,000,000 shall only be available for dredging and emplacement of a portion of dredge material at the critical zone Sandy Hook, New Jersey.

(b) Under the heading entitled "construction, general", in the Energy and Water Development Appropriations Act of 1988, title I (Public Law 100-202; 101 Stat. 1329, 1329-108), amend the paragraph that begins "The Secretary of the Army" and deals with Saxon Harbor, Wisconsin, by deleting the words "wood cribs as".

(c) Section 628 of "An Act making appropriations for the Treasury Department, the United States Postal Service, the Executive Office of the President and certain independent agencies, for the fiscal

92 Stat. 1758.

year ending September 30, 1989, and for other purposes", is hereby amended to add the following at the end thereof:

Effective date.

"(c) This section shall be effective on January 16, 1989.".

SEC. 8132. In applying any rule of statutory construction, the provisions of titles I through IX of this Act shall be deemed to have been enacted after the provisions of the Department of Defense Authorization Act, fiscal year 1989 as set forth in title X of this Act or as set forth in H.R. 4481 (regardless of the actual dates of enactment concerned).

Chemicals.
Business and industry.

SEC. 8133. The Secretary of Defense shall take such action as necessary to assure that a minimum of 50 percent of the polyacrylonitrile (PAN) carbon fiber requirement be procured from domestic sources by 1992: *Provided,* That the annual goals to achieve this requirement be as follows: 15 percent of the total DOD requirement by 1988; 15 percent of total DOD requirement by 1989; 20 percent of the total DOD requirement by 1990; 25 percent of the total DOD requirement by 1991; and 50 percent of the total DOD requirement by 1992.

SEC. 8134. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $30,000,000. The Secretary of Defense shall allocate the amount of the reduction made by the preceding sentence in the procurement and research, development, test, and evaluation accounts of the Army, Navy, Air Force, Marine Corps, and Defense Agencies as the Secretary determines appropriate to reflect savings resulting from increased use of discount air fares that (1) are granted by commercial air carriers for travel of Federal Government employees on official Government business under agreements entered into between the Administrator of General Services and such carriers, and (2) are available to contractor personnel traveling in connection with the performance of cost-reimbursable contracts awarded by the Department of Defense.

SEC. 8135. None of the funds made available to the Department of Defense in this Act may be used to plan, design, or procure more than one type of Air Force trainer aircraft.

State and local governments.
Records.

SEC. 8136. When issuing statements, press releases, requests for proposals, bid solicitations, and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds, including but not limited to State and local governments, shall clearly state (1) the percentage of the total cost of the program or project which will be financed with Federal money, and (2) the dollar amount of Federal funds for the project or program.

SEC. 8137. The total amount appropriated to or for the use of the Department of Defense by this Act is reduced by $150,000,000 to reflect savings resulting from the decreased use of consulting services by the Department of Defense. The Secretary of Defense shall allocate the amount reduced in the preceding sentence and not later than March 1, 1989, report to the Senate and House Committees on Appropriations how this reduction was allocated among the Services and Defense Agencies.

Reports.

International agreements.
Union of Soviet Socialist Republics.

SEC. 8138. Of the funds appropriated, reimbursable expenses incurred by the Department of Defense on behalf of the Soviet Union in monitoring United States implementation of the Treaty Between the United States of America and the Union of Soviet Socialist Republics on the Elimination of Their Intermediate-Range or Shorter-Range Missiles ("INF Treaty"), concluded December 8, 1987,

may be treated as orders received and obligation authority for the applicable appropriation, account, or fund increased accordingly. Likewise, any reimbursements received for such costs may be credited to the same appropriation, account, or fund to which the expenses were charged: *Provided,* That reimbursements which are not received within one hundred and eighty days after submission of an appropriate request for payment shall be subject to interest at the current rate established pursuant to section 2(b)(1)(B) of the Export-Import Bank Act of 1945 (59 Stat. 526). Interest shall begin to accrue on the one hundred and eighty first day following submission of an appropriate request for payment.

SEC. 8139. Section 3554 of title 31, United States Code, is amended in subsection (a)(1), by striking out "unless the Comptroller General determines and states in writing the reasons that the specific circumstances of the protest require a longer period".

SEC. 8140. Section 2345 of the Military Construction Act, 1988 and 1989 (division B of Public Law 100-180; 101 Stat. 1230), is amended to read as follows:

"SEC. 2345. USE OF SEWAGE FACILITIES AT FORT CHAFFEE, ARKANSAS

"(a) IN GENERAL.—The Secretary of the Army shall permit the City of Barling, Arkansas, to use the sewage treatment facilities at Fort Chaffee under an agreement that would require the city to pay a reasonable cost for the use of such facilities and to pay any reasonable costs incurred by the Army in increasing the capacity of the sewage treatment facilities at Fort Chaffee in order to accommodate the use of such facilities by the city. An agreement entered into under this section shall be for such period, not less than 20 years, as may be agreed upon by the Secretary and the city. Contracts.

"(b) REQUIREMENT FOR COMPLETION OF ALL ASSESSMENTS, STUDIES, AND REPORTS.—(1) The Secretary of the Army shall complete all necessary environmental assessments, studies, and reports and all baseline studies that may be required in connection with the increased use and expansion of the sewage treatment facilities at Fort Chaffee as a result of the enactment of this section not later than 120 days after the date of the enactment of this Act.

"(2) The city shall be required to reimburse the United States for all costs incurred by the Secretary in carrying out such assessments, studies, and reports. Such costs shall be amortized over the period of the agreement entered into by the Secretary and the city pursuant to subsection (a).

"(c) DEADLINE FOR AGREEMENT.—The Secretary shall enter into negotiations with the City of Barling at the earliest practicable date after the date of the enactment of this Act regarding the use of the sewage treatment facilities at Fort Chaffee and shall make every effort to conclude negotiations and sign an agreement with the city not later than 150 days after the date of the enactment of this Act.

"(d) ADDITIONAL TERMS AND CONDITIONS.—Any agreement entered into under this section shall be subject to such other terms and conditions as the Secretary of the Army determines necessary or appropriate to protect the interests of the United States.".

SEC. 8141. (a) Not later than 90 days after the date of enactment of this Act, the Administrator of the Office of Federal Procurement Policy shall issue a policy, and not later than 180 days thereafter Government-wide regulations shall be issued under the Office of Federal Procurement Policy Act which set forth— Regulations. 41 USC 405b.

(1) conflict of interest standards for persons who provide consulting services described in subsection (b); and

(2) procedures, including such registration, certification, and enforcement requirements as may be appropriate, to promote compliance with such standards.

(b) The regulations required by subsection (a) shall apply to the following types of consulting services:

(1) advisory and assistance services provided to the Government to the extent necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States;

Contracts.

(2) services related to support of the preparation or submission of bids and proposals for Federal contracts to the extent that inclusion of such services in such regulations is necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States; and

Contracts.

(3) such other services related to Federal contracts as may be specified in the regulations prescribed under subsection (a) to the extent necessary to identify and evaluate the potential for conflicts of interest that could be prejudicial to the interests of the United States.

Reports.

(c) The Comptroller General shall report to Congress not later than one year after the date of enactment of this Act his assessment of the effectiveness of the regulations prescribed under this section.

(d) Intelligence activities as defined in section 3.4(e) of Executive order 12333 or a comparable definitional section in any successor order may be exempt from the regulations required by subsection (a): *Provided,* That the Director of Central Intelligence shall report to the Intelligence and Appropriations Committees of the Congress no later than January 1, 1990, and annually thereafter delineating those activities and organizations which have been exempted from the regulations required by subsection (a) in accordance with the provisions of this subsection.

Reports.

President of U.S.

(e) The President shall, before issuance of the regulations required by subsection (a), determine if the promulgation of such regulations would have a significantly adverse effect on the accomplishment of the mission of the Department of Defense or other Federal Government agencies: *Provided,* That if the President determines that the regulations required by subsection (a) would have such an adverse effect, the President shall so report to the appropriate committees of the Senate and the House of Representatives, stating in full the reasons for such a determination: *Provided further,* That in the event of submission of a report to the committees containing an adverse effect determination, the requirement for the regulations prescribed by subsection (a) shall be null and void.

SEC. 8142. (a) Of the amounts available to the Department of Defense for fiscal year 1989, not less than $10,000,000 shall be available for National Defense Science and Engineering Graduate Fellowships to be awarded on a competitive basis by the Secretary of Defense to United States citizens or nationals pursuing advanced degrees in fields of primary concern and interest to the Department.

(b) Fellowships awarded pursuant to subsection (a) above shall not be restricted on the basis of the geographical locations in the United States of the institutions at which the recipients are pursuing the aforementioned advanced degrees.

(c) Not less than 50 per centum of the funds necessary to carry out this section shall be derived from the amounts available for the University Research Initiative Program in "Research, Development, Test, and Evaluation, Defense Agencies", and the balance necessary shall be derived from amounts available for Defense Research Sciences under title IV of this Act.

SEC. 8143. Of the amounts available for obligation for research, development, test, and evaluation, no more than $2,500,000 shall be made available in equal amounts to the Army and the Air Force for the testing and evaluation of low-profile antenna systems for ground level communications: *Provided,* That whatever total amount made available by this section shall only be available if it is matched on an equal basis by any industrial participant in the testing and evaluation: *Provided further,* That the Secretary of the Army and the Secretary of the Air Force shall report the result of these tests and evaluation to the Committees on Appropriations of the Senate and House of Representatives by June 30, 1989.

Reports.

SEC. 8144. (a) The Congress finds that—

Union of Soviet Socialist Republics.
Charles E. Thornton.
Lee Shapiro.
Jim Lindelof.

(1) the armed forces of the Soviet Union have waged a brutal war of conquest against the people of Afghanistan for 8 years;

(2) foreign correspondents attempting to cover the war in Afghanistan have always been subject to extreme danger;

(3) the danger to foreign correspondents became even greater in 1984 when the Soviet Ambassador to Pakistan explicitly threatened foreign journalists entering Afghanistan in the company of the Afghan resistance, known as the mujaheddin;

(4) on September 19, 1985, Charles E. Thornton, a medical reporter for the Arizona Republic, was killed by Soviet troops while preparing a story about volunteer doctors in Afghanistan;

(5) on October 9, 1987, Lee Shapiro, of North Bergen, New Jersey, and Jim Lindelof, of California, were ambushed and murdered by Soviet troops while filming a documentary on the war in Afghanistan;

Abdul Malik.

(6) the statements of Abdul Malik, the Afghan interpreter and guide who accompanied Lee Shapiro and Jim Lindelof and who witnessed their deaths, demonstrate that the two Americans were straffed by helicopter gunships of the Soviet Union and shot by Soviet soldiers who then confiscated their equipment and film; and

(7) Charles E. Thornton, Lee Shapiro, and Jim Lindelof displayed great courage by facing the perils of war and the lethal threat directed against correspondents and ultimately gave their lives to inform the world of the struggle for liberty taking place in Afghanistan.

Decorations, medals, awards.

(b) It is the sense of the Congress that the President should posthumously award the Presidential Medal of Freedom to Charles E. Thornton, Lee Shapiro, and Jim Lindelof in honor of their brave efforts to document the Afghan struggle for freedom.

TITLE IX—ASSISTANCE FOR THE NICARAGUAN RESISTANCE

SEC. 9001. POLICY.

It is the policy of the United States to advance peace and democracy in Central America and to protect American security interests in the region. In pursuing that policy it is the objective of the United

States to seek a just and lasting peace for the region in a manner compatible with the Esquipulas Accord of August 7, 1987, the declaration of the Central American presidents at San Jose, Costa Rica, on January 16, 1988, the Sapoa Agreement of March 23, 1988, and United States national security interests in the region.

SEC. 9002. SPECIAL CONDITIONS WARRANTING EXPEDITED PROCEDURES FOR LEGISLATION CONCERNING TRANSPORTATION OF PREVIOUSLY APPROPRIATED ASSISTANCE HELD IN TITLE BY THE NICARAGUAN RESISTANCE.

If, at any time after enactment of this Act and before the adjournment sine die of the second session of the One Hundredth Congress—

(1) the President finds that the Government of Nicaragua has caused an emergency situation in Central America which is having a critical impact on peace and stability of that region, and

(2) the President has consulted with the presidents of Costa Rica, El Salvador, Honduras, and Guatemala regarding that emergency situation, and

(3) the President submits to the Congress the report described in section 9004(a), and

(4) the President requests the Congress to consider legislation which would authorize the transportation to the Nicaraguan Resistance of previously appropriated assistance held in title by the Nicaraguan Resistance and, if necessary, provide authority for (a) the interchangeability of such assistance with equipment of comparable value and purpose which is owned by the United States, and (b) the transportation of humanitarian and military assistance in the same transportation system, and

(5) the House of Representatives has passed legislation, with or without amendments, with respect to the request under paragraph (4),

then a joint resolution described in section 9013(a)(1), shall be considered in the Senate in accordance with the procedures specified in section 9013 of this title.

SEC. 9003. RESTRICTIONS REGARDING THE EMERGENCY TRANSPORT OF PREVIOUSLY APPROPRIATED ASSISTANCE HELD IN TITLE BY THE NICARAGUAN RESISTANCE.

(a) IN GENERAL.—This section shall only apply upon the enactment of legislation, considered in the Senate in accordance with section 9013, authorizing the transportation to the Nicaraguan Resistance of previously appropriated assistance not to exceed $16,500,000 held in title by the Nicaraguan Resistance and, if necessary, providing authority for the interchangeability of such assistance with equipment of comparable value and purpose which is owned by the United States.

(b) FUNDS FOR TRANSPORTATION.—(1) There shall be transferred to the Secretary of State from unobligated funds from appropriations accounts specified in section 9011—

(A) such sums as are necessary to carry out the transportation requirements described in subsection (a), but not to exceed $5,000,000; and

(B) such sums as are necessary to provide for the indemnification of aircraft leased with funds transferred under clause (A), but not to exceed $20,000,000.

(2) The Secretary of State shall transfer the balance, if any, remaining of funds transferred under paragraph (1)(B) to the appropriations accounts from which such funds were transferred under such paragraph when the transportation requirements described in subsection (a) have been met.

(c) MONITORING BY CONGRESSIONAL COMMITTEES.—(1) The chairmen and ranking minority members of the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate shall be kept fully and currently informed regarding the transportation or exchange of any assistance described in subsection (a), including the value and purpose of the items transported or exchanged and the costs of such transportation.

(2) For purposes of this subsection, the term "fully and currently informed" includes the provision of all records, data, and other information necessary to carry out the monitoring of activities described in this subsection.

(d) ROLE OF THE SECRETARY OF STATE.—The Secretary of State (or his designee) shall be responsible for support, coordination, and supervision of the transportation of assistance described in subsection (a). Such support shall involve the provision of funds as well as the provision and transportation of materiel and other assistance.

(e) The authority granted by this section expires upon delivering of previously appropriated assistance and interchanged assistance authorized by this section. Termination date.

SEC. 9004. REPORTS.

(a) PRESIDENTIAL REPORT.—At the time of the submission to the Congress by the President of any request for the authority described in section 9002(4), the President shall submit to the Congress a report containing—

(1) a detailed discussion and substantial evidence of the nature of the emergency situation in or adjacent to Nicaragua caused by actions taken by the Government of Nicaragua having a critical impact on peace and stability of the Central American region,

(2) a description of the recommendations made by the presidents of the Central American democracies consulted in accordance with section 9002(2), and

(3) the justification for the transport to the Nicaraguan Resistance of previously appropriated assistance held in title by the Nicaraguan Resistance,

including specific information pertaining to at least two of the following three actions:

(A) Sandinista initiation of an unprovoked military attack and any other hostile action directed against the forces of the Nicaraguan Resistance, as well as participation or support of any hostile actions against such forces by any other foreign country or organized group;

(B) Other blatant violations of the Esquipulas Accord of August 7, 1987, such as suppression of the media and the internal political opposition, including a denial of its rights to assemble and to hold peaceful demonstrations, and other human rights violations against the people of Nicaragua; and

(C) A continued unacceptable level of military assistance by Soviet-bloc countries, including Cuba.

(b) MONTHLY REPORT BY THE SECRETARY OF STATE.—The Secretary of State shall, not less than once every 30 days after the date of enactment of this Act until the funds provided under this title are expended, submit to the intelligence committees and foreign relations committees of the Congress a report—

(1) describing the conditions in Nicaragua and the use of the funds provided under this title;

(2) a detailed statement of any progress toward a negotiated settlement of the armed conflict in Central America, as agreed to under the Esquipulas Accord of August 7, 1987;

(3) a detailed discussion of United States efforts since the signing of the Sapoa agreement to encourage the Soviet Union to restrict the shipment of Soviet arms to the Government of Nicaragua and specifying Soviet reaction to such efforts;

(4) a discussion reviewing the status of United States national security interests in Central America, with particular attention to the advisability of entering into bilateral negotiations with the Government of Nicaragua concerning—

(A) the termination of the presence of Soviet and Soviet-bloc (including Cuban) military and security advisors in Nicaragua;

(B) the termination of Soviet and Soviet-bloc (including Cuban) assistance to the Government of Nicaragua; and

(C) a prohibition on the establishment or use of bases in Nicaragua by the Soviet Union or any Soviet-bloc country, including Cuba;

(5) a description of United States diplomatic efforts in support of the Esquipulas Accord of August 7, 1987, and the Sapoa Agreement of March 23, 1988, and an analysis of the actions taken by the Nicaraguan Resistance and the Government of Nicaragua to negotiate a settlement under the provisions of these agreements;

(6) an evaluation of the effect that additional military assistance for the Nicaraguan Resistance would have on political and economic stability in Honduras, Costa Rica, and El Salvador, as well as how such assistance would advance the process of negotiation and political settlement in Nicaragua;

(7) a description of the progress made by economic development programs that have been implemented in Honduras, El Salvador, and Costa Rica since the Esquipulas Accord of August 7, 1987, was signed and what effect renewed fighting in Nicaragua would have on these programs; and

(8) a discussion of the policies of the European allies of the United States and the Latin American democracies (outside Central America) toward Central America, and the extent of their support for and cooperation with United States policies regarding the Nicaraguan Resistance.

(c) DEFINITIONS.—For purposes of this section—

(1) the term "intelligence committees" refers to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate; and

(2) the term "foreign relations committees" refers to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives.

SEC. 9005. PROHIBITION.

Except as provided in this title, no additional assistance may be provided to the Nicaraguan Resistance unless the Congress enacts a law specifically authorizing such assistance.

SEC. 9006. ADDITIONAL HUMANITARIAN ASSISTANCE.

(a) TRANSFER OF FUNDS.—The President shall transfer to the Agency for International Development, from unobligated funds from the appropriations accounts specified in section 9011— President of U.S.

(1) $27,140,000, to provide humanitarian assistance to the Nicaraguan Resistance, to remain available through March 31, 1989, except that funds provided by this subsection shall not be obligated for humanitarian assistance prior to October 1, 1988; and

(2) such funds as may be necessary to provide transportation in accordance with section 9007 for assistance authorized by paragraph (1).

(b) DEFINITION.—For purposes of this section and section 9007, the term "humanitarian assistance" means—

(1) food, clothing, and shelter;

(2) medical services, medical supplies, and nonmilitary training for health and sanitation;

(3) nonmilitary training of the recipients with respect to their treatment of civilians and other armed forces personnel, in accordance with internationally accepted standards of human rights;

(4) payment for such items, services, and training; and

(5) replacement batteries for existing communications equipment.

[1] SEC. 9007. TRANSPORTATION OF HUMANITARIAN ASSISTANCE.

(a) IN GENERAL.—The transportation of humanitarian assistance on or after the date of enactment of this Act which, before such date, was specifically authorized by law to be provided to the Nicaraguan Resistance, or which is authorized to be provided by section 9006, shall be arranged—

(1) in the case of the forces of the Nicaraguan resistance outside Nicaragua, solely by the Agency for International Development; and

(2) in the case of the forces of the Nicaraguan resistance in Nicaragua, solely by the Agency for International Development, acting through the Nicaraguan resistance, the Pan American Development Foundation, or a similar nongovernmental organization, consistent with the provisions of the Sapoa Agreement and any subsequent agreement between the parties to the armed conflict in Nicaragua.

(b) PROHIBITION ON MIXED LOADS.—Transportation of any military assistance, or of any assistance other than that specified in section 9006(b), is prohibited.

SEC. 9008. MEDICAL ASSISTANCE.

There are hereby transferred to the Administrator of the Agency for International Development from unobligated funds from appropriations accounts specified in section 9011, $5,000,000, to be used only for the provision of medical assistance for the civilian victims of the Nicaraguan civil strife to be transported and administered by the Catholic Church in Nicaragua.

[1] Copy read "SEC. 9007. (a) IN GENERAL.—".

SEC. 9009. UNITED STATES POLICY CONCERNING ECONOMIC ASSISTANCE FOR CENTRAL AMERICA.

As part of an effort to promote democracy and address on a long-term basis the economic causes of regional and political instability in Central America—

(1) in recognition of the recommendations of groups such as the National Bipartisan Commission on Central America, the Inter-American Dialogue, and the Sanford Commission,

(2) to assist in the implementation of these economic plans and to encourage other countries in other parts of the world to join in extending assistance to Central America,

(3) and in the context of an agreement to end military conflict in the region,

the Congress encourages the President to submit proposals for bilateral and multilateral action—

(A) to provide additional economic assistance to the democratic countries of Central America to promote economic stability, expand educational opportunity, foster progress in human rights, bolster democratic institutions, and strengthen institutions of justice;

(B) to facilitate the ability of Central American economies to grow through the development of their infrastructure, expansion of exports, and the strengthening of increased investment opportunities;

(C) to provide a more realistic plan to assist Central American countries in managing their foreign debt; and

(D) to develop these initiatives in concert with Western Europe, Japan, and other democratic allies.

SEC. 9010. ECONOMIC INCENTIVES FOR DEMOCRACY IN NICARAGUA SIMILAR TO THOSE AVAILABLE TO CENTRAL AMERICAN DEMOCRACIES.

President of U.S.

(a) CONDITION ON TERMINATION OF TRADE EMBARGO AND PROVISION OF RELOCATION ASSISTANCE.—(1) If the Government of Nicaragua and the Nicaraguan Resistance sign a comprehensive final agreement to provide for peace and democracy in Nicaragua, then—

(A) the President shall terminate the trade embargo imposed against Nicaragua by Executive order 12513 of May 1, 1985; and

(B) there shall be transferred to the President from unobligated funds from the appropriations accounts specified in section 9011, $10,000,000, to remain available for a period of twelve months after the signing of the agreement, to provide assistance for the relocation in Nicaragua and the reintegration into Nicaraguan civil society of members of the Nicaraguan Resistance, and the Nicaraguans outside Nicaragua displaced by the conflict.

(2) Nothing in this section shall be construed to limit the authority of the President under the International Emergency Economic Powers Act.

(b) TRADE BENEFITS.—On or after the date which is 180 days after the date of signing of the agreement described in subsection (a), if the President certifies to the Congress that the Government of Nicaragua is continuing to comply with that agreement, then the President may, notwithstanding any other provision of law—

(1) designate Nicaragua a beneficiary country for purposes of proposals referred to in section 9009 and for purposes of the Caribbean Basin Economic Recovery Act (19 U.S.C. 2701 et seq.);

(2) designate Nicaragua a beneficiary developing country for purposes of title V of the Trade Act of 1974 (relating to the generalized system of preferences); and

(3) authorize loan assistance to Nicaragua under the Export-Import Bank Act of 1945.

(c) INTERPRETATION.—Authority granted by subsections (a) and (b) shall be in addition to, and shall not be construed to limit, authority otherwise available to the President by law.

SEC. 9011. AVAILABLE APPROPRIATIONS ACCOUNTS.

The appropriations accounts referred to in sections 9003(b), 9006, 9008, and 9010(a)(1)(B) are non-ammunition procurement accounts in any of the following:

(1) the Department of Defense Appropriations Act, 1986, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1986 (Public Law 99-190);

(2) the Department of Defense Appropriations Act, 1987, as contained in section 101(c) of the further continuing appropriations resolution for the fiscal year 1987 (Public Laws 99-500 and 99-591); and

(3) the Department of Defense Appropriations Act, 1988, as contained in section 101(b) of the further continuing appropriations resolution for the fiscal year 1988 (Public Law 100-202).

SEC. 9012. PROHIBITION ON THE USE OF CERTAIN FUNDS.

Except as provided in this title, no funds available to any agency or entity of the United States Government under this title may be obligated or expended pursuant to section 502(a)(2) of the National Security Act of 1947 for the purpose of providing funds, materiel, or other assistance to the Nicaraguan Resistance to support military or paramilitary operations in Nicaragua.

SEC. 9013. CONGRESSIONAL PRIORITY PROCEDURES FOR JOINT RESOLUTIONS.

(a) DEFINITIONS.—For purposes of this section—

(1) the term "joint resolution" means, except as otherwise provided, only a joint resolution or bill described in section 9002(5) which originated in the House of Representatives and is received in the Senate;

(2) the term "session days" means days on which the Senate is in session.

(b) REFERRAL OF JOINT RESOLUTION.—A joint resolution referred in the Senate shall be referred to the Committee on Foreign Relations of the Senate.

(c) COMMITTEE ACTION.—(1) If the Committee on Foreign Relations has not reported such joint resolution (or an identical joint resolution) at the end of 3 session days after its introduction, such Committee shall be discharged from further consideration of such joint resolution, and such joint resolution shall be placed on the appropriate calendar of the Senate.

(2) After the Committee on Foreign Relations reports or is discharged from a joint resolution, no other joint resolution with respect to the same matter may be reported by or be discharged from such Committee while the first joint resolution is before the Senate (including remaining on the calendar), a committee of conference, or the President.

(d) FLOOR ACTION.—(1) When the Committee on Foreign Relations has reported, or has been discharged under subsection (c) from further consideration of such joint resolution, notwithstanding any rule or precedent of the Senate, including Rule 22, it is at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) for the Majority Leader, after consultation with the Minority Leader, to move to proceed to the consideration of the joint resolution and, except as provided in paragraph (2) of this subsection (insofar as it relates to germaneness and relevancy of amendments), all points of order against the joint resolution and consideration of the joint resolution are waived. The motion is privileged in the Senate and is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall be in order, except that such motion may not be entered for future disposition. If a motion to proceed to the consideration of the joint resolution is agreed to, the joint resolution shall remain the unfinished business of the Senate, to the exclusion of all other business, until disposed of.

(2)(A) Consideration in the Senate of the joint resolution, and all amendments and debatable motions in connection therewith, shall be limited to not more than 10 hours, which, except as otherwise provided in this section, shall be equally divided between, and controlled by, the Majority Leader and the Minority Leader, or by their designees. The Majority Leader or the Minority Leader or their designees may, from the time under their control on the joint resolution, allot additional time to any Senator during the consideration of any amendment, debatable motion, or appeal.

(B)(i) Subject to subparagraph (ii), only amendments which are germane and relevant to the joint resolution are in order. Debate on any amendment to the joint resolution shall be limited to 2 hours, except that debate on any amendment to an amendment shall be limited to 1 hour. The time of debate for each amendment shall be equally divided between, and controlled by, the mover of the amendment and the manager of the joint resolution, except that in the event the manager is in favor of any such amendment, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

(ii) It shall be in order for the Majority Leader or the Minority Leader to offer one amendment to strike out the text of the House originated measure and insert in lieu thereof the following text: "That the Congress hereby authorizes the President to transport to the Nicaraguan Resistance all previously appropriated assistance held in title by the Nicaraguan Resistance and provides, if requested, (A) the authority for the interchangeability of the assistance with certain equipment, and (B) the transportation of humanitarian and military assistance in the same transportation system.".

(C) A motion to postpone the joint resolution is not in order. A motion to reconsider the vote by which the joint resolution is agreed to or disagreed to is in order, except that such motion may not be entered for future disposition, and debate on such motion shall be limited to 1 hour.

(3) Whenever all the time for debate on a joint resolution has been used or yielded back, no further amendments may be proposed, and the vote on the adoption of the joint resolution shall occur, except that a single quorum call at the conclusion of the debate if requested in accordance with the rules of the Senate may occur immediately before such vote.

(4) Appeals from the decisions of the Chair relating to the application of the Rules of the Senate to the procedure relating to a joint resolution shall be limited to one-half hour of debate, equally divided between, and controlled by, the Senator making the appeal and the manager of the joint resolution, except that in the event the manager is in favor of any such appeal, the time in opposition thereto shall be controlled by the Minority Leader or his designee.

(e) RESOLUTION OF DIFFERENCES BETWEEN THE HOUSE AND THE SENATE.—(1)(A) The time for debate in a House of Congress on all motions required for the disposition of amendments between the Houses shall not exceed 2 hours, equally divided between, and controlled by, the mover of the motion and the manager of the joint resolution at each stage of the proceedings between the two Houses, except that in the event the manager is in favor of any such motion, the time in opposition thereto shall be controlled by the Minority Leader or his designee. In the case of any disagreement between the two Houses of Congress with respect to a joint resolution which is not resolved, any Member of Congress may make any motion or motions referred to in this subparagraph within 2 session days after action by the second House or before the appointment of conferees, whichever comes first. In the event the conferees are unable to agree within 72 hours after the second House is notified that the first House has agreed to conference, they shall report back to their respective House in disagreement. Reports.

(B) Notwithstanding any rule in either House of Congress concerning the printing of conference reports in the Congressional Record or concerning any delay in the consideration of such reports, such report, including a report filed or returned in disagreement, shall be acted on in the House of Representatives and the Senate not later than 2 session days after the first House files the report or, in the case of the Senate acting first, the report is first made available on the desks of the Senators. Debate in a House of Congress on a conference report or a report filed or returned in disagreement on any such joint resolution shall be limited to 3 hours, equally divided between, and controlled by, the Majority Leader and the Minority Leader, and their designees.

(2) If a joint resolution is vetoed by the President, the time for debate in consideration of the veto message on such measure shall be limited to 6 hours in each House of Congress, equally divided between, and controlled by, the Majority Leader and the Minority Leader, or their designees.

(f) CONGRESSIONAL RULEMAKING POWERS.—This section is enacted by the Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, (insofar as it applies to that House), but applicable only with respect to the procedure to be followed in that House in the case of legislation described in this section, and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 9014. STANDARDS, PROCEDURES, CONTROLS AND OVERSIGHT.

(a) ACCOUNTABILITY STANDARDS, PROCEDURES, AND CONTROL.—In implementing this title, the Agency for International Development, and any other agency of the United States Government authorized to carry out activities under this title, shall adopt the standards, procedures, and controls for the accountability of funds comparable to those applicable with respect to the assistance for the Nicaraguan Resistence provided under section 111 of the joint resolution making further continuing appropriations for the fiscal year 1988 (Public Law 100-202), any changes in such standards, procedures, and controls shall be developed and adopted in consultation with the Committees on Intelligence and Foreign Relations pursuant to subsection (b).

(b) CONGRESSIONAL OVERSIGHT.—Oversight within the House of Representatives and the Senate with respect to activities under this title shall be—

(1) with respect to nonlethal assistance, within the jurisdiction of the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate;

(2) with respect to lethal assistance, the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate; and

(3) with respect to both lethal and non-lethal assistance, the Committees on Appropriations of the House and Senate.

(c) DEFINITION.—For purposes of subsection (a), the term "intelligence committees of the Congress" refers to the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate.

(d) The provisions of the Act of April 1, 1988 (Public Law 100-276) contained in subsections (b), (d), and (e) of section 4 and section 5 shall apply to the provision of assistance under this title except that section 4(d) shall not apply to the Intelligence Community.

(e) AID ADMINISTRATIVE EXPENSES.—There shall be transferred from unobligated funds from appropriations accounts specified in section 9011 not to exceed $4,000,000 to "Operating Expenses of the Agency for International Development" to meet the necessary administrative expenses to carry out this title.

TITLE X—DEFENSE AUTHORIZATIONS

SEC. 10001. ENACTMENT OF FISCAL YEAR 1989 DEFENSE AUTHORIZATION BILL.

The provisions of the bill H.R. 4481 of the One Hundredth Congress, as contained in the conference report filed in the House of Representatives on September 28, 1988 (House Report 100-989), are hereby enacted into law.

Ante, p. 1918.

SEC. 10002. TERMINATION OF PROVISIONS UPON ENACTMENT OF AUTHORIZATION BILL.

Section 10001 shall not take effect if the bill H.R. 4481 of the One Hundreth Congress is enacted before this Act. If that bill is enacted after this Act, the provisions of section 10001 shall cease to be effective upon the enactment of that bill.

SEC. 10003. INCREASE IN CERTAIN AUTHORIZATION AMOUNTS.

(a) PROCUREMENT.—Title I of the National Defense Authorization Act, [2] fiscal year 1989, is amended as follows:

(1) AIRCRAFT PROCUREMENT, NAVY.—Section 102(a) is amended by striking out "$9,259,253,000" and inserting in lieu thereof "$9,415,311,000.". *Ante*, p. 1926.

(2) WEAPONS PROCUREMENT, NAVY.—Section 102(b) is amended—

(A) by striking out "$5,972,181,000" in the matter preceding the colon and inserting in lieu thereof "$6,154,032,000";

(B) by striking out "$3,203,737,000" in paragraph (2) and inserting in lieu thereof "$3,245,154,000"; and

(C) in paragraph (3)—

(i) by striking out "$700,054,000" in the matter preceding the colon and inserting in lieu thereof "$840,488,000";

(ii) by striking out "$431,014,000" in the item relating to the MK-48 torpedo program and inserting in lieu thereof "$485,000,000"; and

(iii) by striking out "$17,552,000" in the item relating to the Vertical Launched ASROC torpedo program and inserting in lieu thereof "$105,000,000".

(3) SHIPBUILDING AND CONVERSION, NAVY.—Section 102(c) is amended—

(A) by striking out "$9,056,100,000" in the matter preceding the colon and inserting in lieu thereof "$10,013,900,000";

(B) by striking out "$2,207,300,000" in the item relating to the DDG-51 program and inserting in lieu thereof "$2,646,100,000";

(C) by striking out "$284,900,000" in the item relating to the TAO-187 fleet oiler program and inserting in lieu thereof "$689,900,000"; and

(D) by striking out "$192,600,000" in the item relating to the landing craft, air cushion program and inserting in lieu thereof "$306,600,000".

(4) RESERVE COMPONENTS.—Section 106 is amended— *Ante*, p. 1928.

(A) in the matter relating to the Army National Guard, by striking out "$240,000,000" and inserting in lieu thereof [3] "$256,000,000";

(B) in the matter relating to the Air National Guard, by striking out "$216,500,000" and inserting in lieu thereof "$399,500,000";

(C) in the matter relating to the Naval Reserve, by striking out "$75,000,000" and inserting in lieu thereof "$144,600,000"; and

(D) in the matter relating to the Marine Corps Reserve, by striking out "$50,000,000" and inserting in lieu thereof "$81,800,000".

(b) SPECIAL OPERATIONS ENHANCEMENT.—Part B of title VII is amended by adding at the end the following new section:

"SEC. 716. SPECIAL OPERATIONS FORCES ENHANCEMENT.

"In addition to the amounts otherwise authorized to be appropriated by this Act, there is hereby authorized to be appropriated to the Department of Defense for fiscal year 1989 the sum of $286,000,000. Amounts appropriated pursuant to the preceding sen-

[2] Copy read "Fiscal Year".
[3] Copy read " "$256,000,000;".

tence shall be available only for equipping and operating Special Operations Forces.".

This Act may be cited as the "Department of Defense Appropriations Act, 1989".

Approved October 1, 1988.

Certified December 14, 1988.

Editorial note: This printed version of the original hand enrollment is published pursuant to Public Law 100-454. The following memorandum for the Archivist of the United States was signed by the President on December 12, 1988, and was printed in the *Federal Register* on December 15, 1988:

By the authority vested in me as President by the Constitution and laws of the United States, including Section 301 of Title 3 of the United States Code, I hereby authorize you to ascertain whether the printed enrollments of H.R. 4637, the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), H.R. 4776, the District of Columbia Appropriations Act, 1989 (Public Law 100-462), and H.R. 4781, the Department of Defense Appropriations Act, 1989 (Public Law 100-463), are correct printings of the hand enrollments, which were approved on October 1, 1988, and if so to make on my behalf the certifications required by Section 2(c) of H.J. Res. 665 (Public Law 100-454).

Attached are the printed enrollments of H.R. 4637, H.R. 4776, and H.R. 4781, which were received at the White House on December 1, 1988.

This memorandum shall be published in the *Federal Register*.

The Archivist on December 14, 1988, certified this to be a correct printing of the hand enrollment of Public Law 100-463.

LEGISLATIVE HISTORY—H.R. 4781:

HOUSE REPORTS: No. 100-681 (Comm. on Appropriations) and No. 100-1002 (Comm. o Conference).
SENATE REPORTS: No. 100-402 (Comm. on Appropriations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 21, considered and passed House.
Aug. 4, 5, 8-11, considered and passed Senate, amended.
Sept. 30, House agreed to conference report; receded and concurred in certain Senate amendments, in others with amendments. Senate agreed to conference report; concurred in certain House amendments, in others with amendments House concurred in Senate amendments.

Public Law 100-464
100th Congress

An Act

To designate Soldier Creek Diversion Unit in Topeka, Kansas, as the "Lewis M. Paramore Diversion Unit".

Oct. 3, 1988
[H.R. 517]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Soldier Creek Diversion Unit in Topeka, Kansas, shall be known and designated as the "Lewis M. Paramore Diversion Unit".

SEC. 2. LEGAL REFERENCES.

Each reference in a law, map, regulation, document, record, or other paper of the United States to such diversion unit shall be deemed to be a reference to the "Lewis M. Paramore Diversion Unit".

Approved October 3, 1988.

LEGISLATIVE HISTORY—H.R. 517:

HOUSE REPORTS: No. 100-130 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 100-501 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 15, considered and passed House.
Vol. 134 (1988): Sept. 20, considered and passed Senate.

Public Law 100-465
100th Congress

An Act

Oct. 3, 1988
[H.R. 2046]

To authorize the Secretary of State to conclude agreements with the appropriate representative of the Government of Mexico to correct pollution of the Rio Grande.

Be it enacted by the Senate and House of Represenatatives of the United States of America in Congress assembled,

Rio Grande Pollution Correction Act of 1987.
22 USC 277 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Grande Pollution Correction Act of 1987".

22 USC 277g.

SEC. 2. AGREEMENTS TO CORRECT POLLUTION OF RIO GRANDE.

Texas.

(a) IN GENERAL.—The Secretary of State, acting through the United States Commissioner, International Boundary and Water Commission, United States and Mexico (hereafter in this Act referred to as the "Commissioner"), is authorized to conclude agreements with the appropriate representative of the Ministry of Foreign Relations of Mexico for the purpose of correcting the international problem of pollution of the Rio Grande caused by discharge of raw and inadequately treated sewage and other wastes into such river from the border cities including but not limited to Ciudad Acuna, Nuevo Laredo, and Reynosa, Mexico, and Del Rio, Laredo, and Hidalgo, Texas.

Safety.

(b) CONTENT OF AGREEMENTS.—Agreements concluded under subsection (a) should consist of recommendations to the Governments of the United States and Mexico of measures to protect the health and welfare of persons along the Rio Grande from the effects of pollution, including—

(1) facilities that should be constructed, operated, and maintained in each country;

(2) estimates of the cost of plans, construction, operation, and maintenance of the facilities referred to in paragraph (1);

(3) formulas for the initial division between the United States and Mexico of the cost of plans, constructions, operation, and maintenance of the facilities referred to in paragraph (1);

(4) a method for review and adjustment of the formulas referred to in paragraph (3) at intervals of five years which recognizes that such initial formulas should not be used as a precedent in their subsequent review and adjustment; and

(5) dates for the beginning and completion of construction of the facilities referred to in paragraph (1).

22 USC 277g-1.

SEC. 3. AUTHORITY OF SECRETARY OF STATE TO PLAN, CONSTRUCT, OPERATE, AND MAINTAIN FACILITIES.

The Secretary of State, acting through the Commissioner, is authorized to act jointly with the appropriate representative of the Government of Mexico and to—

(1) supervise the planning of, and

(2) supervise construction, operation, and maintenance of,

the facilities recommended in agreements concluded pursuant to section 2 and approved by the Governments of the United States and Mexico.

SEC. 4. CONSULTATION WITH THE ADMINISTRATOR OF ENVIRONMENTAL PROTECTION AGENCY AND OTHER AUTHORITIES. 22 USC 277g-2.

The Secretary of State shall consult with the Administrator of the Environmental Protection Agency and other concerned Federal, State, and local government officials in implementing this Act.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS. 22 USC 277g-3.

There is authorized to be appropriated such sums as may be necessary for the United States to fund its share of the cost of the plans, construction, operation, and maintenance of the facilities recommended in agreements concluded pursuant to section 2 and approved by the Governments of the United States and Mexico.

Approved October 3, 1988.

LEGISLATIVE HISTORY—H.R. 2046:

CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 19, considered and passed House.
Vol. 134 (1988): Sept. 19, considered and passed Senate.

Public Law 100-466
100th Congress

Joint Resolution

Oct. 3, 1988
[H.J. Res. 580]

To designate the month of September 1988 as "National Sewing Month".

Whereas the sewing industry annually honors the approximately ninety million people who sew at home and the approximately forty million people who sew at least part of their wardrobe;
Whereas the home sewing industry generates over $3,500,000,000 annually for the economy of the United States; and
Whereas innumerable careers in fashion, retail merchandising, design, pattern making, and textiles have had their beginnings in the home and in elementary school home economics classes: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of September 1988 is designated "National Sewing Month", and the President is requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate ceremonies and activities.

Approved October 3, 1988.

LEGISLATIVE HISTORY—H.J. Res. 580:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 9, considered and passed House.
Sept. 23, considered and passed Senate.

Public Law 100-467
100th Congress

An Act

To require the Secretary of the Treasury to mint and issue one-dollar coins in commemoration of the 100th anniversary of the birth of Dwight David Eisenhower.

Oct. 3, 1988
[S. 2789]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Dwight David Eisenhower Commemorative Coin Act of 1988. 31 USC 5112 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Dwight David Eisenhower Commemorative Coin Act of 1988".

31 USC 5112 note.

SEC. 2. DWIGHT DAVID EISENHOWER COMMEMORATIVE COINS.

(a) AUTHORIZATION.—Subject to subsection (b), the Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue one-dollar coins in commemoration of the one hundredth anniversary of the birth of Dwight David Eisenhower.

(b) LIMITATION ON THE NUMBER OF COINS.—The Secretary may not mint more than four million of the coins referred to in subsection (a).

(c) SPECIFICATIONS AND DESIGN OF COINS.—Each coin referred to in subsection (a) shall—

(1) weigh 26.73 grams;
(2) have a diameter of 1.500 inches;
(3) contain 90 percent silver and 10 percent copper;
(4) designate the value of such coin;
(5) have an inscription of—
  (A) the year "1990"; and
  (B) the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum";
(6) have the likeness of Dwight David Eisenhower on the obverse side of such coin; and
(7) have an illustration of the home of Dwight David Eisenhower located in the Gettysburg National Historic Site on the reverse side of such coin.

(d) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, the coins referred to in subsection (a) shall be considered to be numismatic items.

(e) LEGAL TENDER.—The coins referred to in subsection (a) shall be legal tender as provided in section 5103 of title 31, United States Code.

31 USC 5112 note.

SEC. 3. SOURCES OF BULLION.

The Secretary shall obtain silver for the coins referred to in section 1(a) only from stockpiles established under the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98 et seq.).

31 USC 5112 note.

SEC. 4. MINTING AND ISSUANCE OF COINS.

(a) UNCIRCULATED AND PROOF QUALITIES.—The Secretary may mint and issue the coins referred to in section 1(a) in uncirculated and proof qualities.

(b) USE OF THE UNITED STATES MINT.—The Secretary may not use more than 1 facility of the United States Mint to strike each such quality of the coins referred to in section 1(a).

(c) COMMENCEMENT OF AUTHORITY TO SELL COINS.—The Secretary may begin selling the coins referred to in section 1(a) on January 1, 1990.

(d) TERMINATION OF AUTHORITY TO MINT COINS.—The Secretary may not mint the coins referred to in section 1(a) after December 31, 1990.

31 USC 5112 note.

SEC. 5. SALE OF COINS.

(a) IN GENERAL.—Subject to subsections (b) and (c), and notwithstanding any other provision of law, the Secretary shall sell the coins referred to in section 1(a) at a price equal to—

(1) the face value of such coins; and

(2) the cost of designing, minting, dies, use of machinery, and overhead expenses.

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins referred to in section 1(a) at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—Before January 1, 1990, the Secretary shall accept prepaid orders for the coins referred to in section 1(a). The Secretary shall make sales with respect to such prepaid orders at a reasonable discount to reflect the benefit to the Federal Government of prepayment.

(d) SURCHARGES.—The Secretary shall include a surcharge of $7 per coin on all sales of the coins referred to in section 1(a).

31 USC 5112 note.

SEC. 6. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that the minting and issuance of the coins referred to in section 1(a) shall result in no net costs to the Federal Government.

(b) PAYMENT FOR THE COINS.—The Secretary may not sell a coin referred to in section 1(a) unless the Secretary has received—

(1) full payment for such coin;

(2) security satisfactory to the Secretary to indemnify the Federal Government for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

31 USC 5112 note.

SEC. 7. PROCUREMENT OF GOODS AND SERVICES.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods or services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not apply with respect to any law relating to equal employment opportunity.

SEC. 8. REDUCTION OF FEDERAL DEBT.

31 USC 5112 note.

The Secretary shall deposit in the general fund of the Treasury for the purpose of reducing the Federal debt an amount equal to the amount of all surcharges that are received by the Secretary from the sale of the coins referred to in section 1(a).

Approved October 3, 1988.

LEGISLATIVE HISTORY—S. 2789 (H.R. 3654):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 14, considered and passed Senate.
Sept. 16, H.R. 3654 considered and passed House; proceedings vacated and S. 2789 passed in lieu.

Public Law 100-468
100th Congress

Joint Resolution

Oct. 3, 1988
[S.J. Res. 169]

Designating October 2, 1988, as a national day of recognition for Mohandas K. Gandhi.

Whereas Mohandas K. Gandhi sought to apply the values of truth and love, which are regarded as most precious moral values in personal life, in the difficult domain of political and social action;

Whereas Gandhi remained a relentless champion of human rights and human dignity for all people, including women and minorities, throughout his lifetime;

Whereas Gandhi was one of the leading figures in the effort to win freedom for his people in India and thereby helped sow the seeds of freedom and liberation in Asia and Africa;

Whereas Gandhi's unmovable faith in the power of nonviolent struggle was a powerful inspiration for Dr. Martin Luther King and the civil rights movement in the United States;

Whereas Gandhi identified himself totally with the oppressed and sought to change their lives through the moral persuasion of the oppressor;

Whereas Gandhi proclaimed that all humans are equal and that life is sacred, and treated that belief with an inviolable trust, thus echoing Abraham Lincoln;

Whereas Gandhi used truth and the moral force it carried to guide both his personal and public life;

Whereas Gandhi drew inspiration from Ralph Waldo Emerson and Henry David Thoreau, two of Americas great thinkers, in formulating his philosophy of civil disobedience, and proclaimed that the right to participate in civil disobedience was an inherent right of all citizens;

Whereas Gandhi believed that the true democrat is one who by purely nonviolent means defends his liberty and therefore, the liberty of his country, and ultimately that of the whole of mankind;

Whereas Gandhi believed that the arms race placed an unbearable burden on all of humanity;

Whereas Gandhi staunchly supported the claim that no society can possibly be built on the denial of individual freedom;

Whereas Gandhi believed that a society that allows double standards for its citizens and its leaders is self-destructive, that political and personal morality must coincide and extend to human beings in all walks of life, and that the purification of politics requires that men and women of courage and integrity remove all taint of double standards; and

Whereas Gandhi was one of those truly rare individuals who combined so admirably in word and deed the highest moral aspirations of mankind: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 2, 1988, is designated as a national day of recognition for Mohandas K. Gandhi, and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Approved October 3, 1988.

LEGISLATIVE HISTORY—S.J. Res. 169:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 16, considered and passed House.

Public Law 100-469
100th Congress

Joint Resolution

Oct. 3, 1988
[S.J. Res. 333]

To designate the week of October 9, 1988, through October 15, 1988, as "National Job Skills Week".

Whereas the ability to maintain an internationally competitive and productive economy and a high standard of living depends on the development and utilization of new technologies;

Whereas these technologies require skills that are currently lacking in the national workforce;

Whereas experts in both the public and private sectors predict that a shortage of skilled entry-level workers will exist through the remainder of this century;

Whereas young people in the United States are experiencing higher than normal unemployment rates because many of them lack the skills necessary to perform the entry-level jobs that are currently available;

Whereas these young people will continue to experience higher than normal unemployment rates unless they develop the skills necessary to perform the entry-level jobs that become available;

Whereas American workers facing dislocation due to plant closures and industrial relocation need special training and education to prepare for new jobs and new opportunities; and

Whereas a National Job Skills Week can serve to focus attention on present and future workforce needs, to encourage public and private cooperation in job training and educational efforts, and to highlight the technological changes underway in the workplace: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 9, 1988, through October 15, 1988, is designated as "National Job Skills Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 3, 1988.

LEGISLATIVE HISTORY—S.J. Res. 333:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Sept. 16, considered and passed House.

Public Law 100-470
100th Congress

An Act

To amend the National Trails System Act to provide for cooperation with State and local governments for the improved management of certain Federal lands, and for other purposes.

Oct. 4, 1988
[S. 1544]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Trails System Improvements Act of 1988.
Conservation.
Public lands.
Recreation.
16 USC 1241 note.
16 USC 1248 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Trails System Improvements Act of 1988".

SEC. 2. FINDINGS.

Congress hereby finds that—

(1) State and local governments have a special role to play under the National Trails System Act in acquiring and developing trails for recreation and conservation purposes.

(2) Many miles of public land rights-of-way have been granted to the railroads by the United States, and much of this mileage could be suitable for trail use at such time as it may be abandoned.

(3) The United States should retain any residual interest it may have in such public land rights-of-way and relinquish it, where appropriate, in favor of State and local governments or other nonprofit entities for trail purposes.

SEC. 3. NATIONAL TRAILS SYSTEM ACT AMENDMENTS.

Section 9 of the National Trails System Act (16 U.S.C. 1248) is amended by adding the following new subsections after subsection (b):

Highways.

"(c) Commencing upon the date of enactment of this subsection, any and all right, title, interest, and estate of the United States in all rights-of-way of the type described in the Act of March 8, 1922 (43 U.S.C. 912), shall remain in the United States upon the abandonment or forfeiture of such rights-of-way, or portions thereof, except to the extent that any such right-of-way, or portion thereof, is embraced within a public highway no later than one year after a determination of abandonment or forfeiture, as provided under such Act.

National Forest System.

"(d)(1) All rights-of-way, or portions thereof, retained by the United States pursuant to subsection (c) which are located within the boundaries of a conservation system unit or a National Forest shall be added to and incorporated within such unit or National Forest and managed in accordance with applicable provisions of law, including this Act.

"(2) All such retained rights-of-way, or portions thereof, which are located outside the boundaries of a conservation system unit or a National Forest but adjacent to or contiguous with any portion of the public lands shall be managed pursuant to the Federal Land

Policy and Management Act of 1976 and other applicable law, including this section.

"(3) All such retained rights-of-way, or portions thereof, which are located outside the boundaries of a conservation system unit or National Forest which the Secretary of the Interior determines suitable for use as a public recreational trail or other recreational purposes shall be managed by the Secretary for such uses, as well as for such other uses as the Secretary determines to be appropriate pursuant to applicable laws, as long as such uses do not preclude trail use.

National Forest System.

"(e)(1) The Secretary of the Interior is authorized where appropriate to release and quitclaim to a unit of government or to another entity meeting the requirements of this subsection any and all right, title, and interest in the surface estate of any portion of any right-of-way to the extent any such right, title, and interest was retained by the United States pursuant to subsection (c), if such portion is not located within the boundaries of any conservation system unit or National Forest. Such release and quitclaim shall be made only in response to an application therefor by a unit of State or local government or another entity which the Secretary of the Interior determines to be legally and financially qualified to manage the relevant portion for public recreational purposes. Upon receipt of such an application, the Secretary shall publish a notice concerning such application in a newspaper of general circulation in the area where the relevant portion is located. Such release and quitclaim shall be on the following conditions:

Public information.

"(A) If such unit or entity attempts to sell, convey, or otherwise transfer such right, title, or interest or attempts to permit the use of any part of such portion for any purpose incompatible with its use for public recreation, then any and all right, title, and interest released and quitclaimed by the Secretary pursuant to this subsection shall revert to the United States.

"(B) Such unit or entity shall assume full responsibility and hold the United States harmless for any legal liability which might arise with respect to the transfer, possession, use, release, or quitclaim of such right-of-way.

"(C) Notwithstanding any other provision of law, the United States shall be under no duty to inspect such portion prior to such release and quitclaim, and shall incur no legal liability with respect to any hazard or any unsafe condition existing on such portion at the time of such release and quitclaim.

"(2) The Secretary is authorized to sell any portion of a right-of-way retained by the United States pursuant to subsection (c) located outside the boundaries of a conservation system unit or National Forest if any such portion is—

"(A) not adjacent to or contiguous with any portion of the public lands; or

"(B) determined by the Secretary, pursuant to the disposal criteria established by section 203 of the Federal Land Policy and Management Act of 1976, to be suitable for sale.

Prior to conducting any such sale, the Secretary shall take appropriate steps to afford a unit of State or local government or any other entity an opportunity to seek to obtain such portion pursuant to paragraph (1) of this subsection.

"(3) All proceeds from sales of such retained rights of way shall be deposited into the Treasury of the United States and credited to the

Land and Water Conservation Fund as provided in section 2 of the Land and Water Conservation Fund Act of 1965.

"(4) The Secretary of the Interior shall annually report to the Congress the total proceeds from sales under paragraph (2) during the preceding fiscal year. Such report shall be included in the President's annual budget submitted to the Congress. Reports.

"(f) As used in this section—

"(1) The term 'conservation system unit' has the same meaning given such term in the Alaska National Interest Lands Conservation Act (Public Law 96-487; 94 Stat. 2371 et seq.), except that such term shall also include units outside Alaska.

"(2) The term 'public lands' has the same meaning given such term in the Federal Land Policy and Management Act of 1976.".

SEC. 4. IDITAROD HISTORIC TRAIL ADVISORY COUNCIL.

Section 5 of the National Trails System Act (16 U.S.C. 1241), as amended, is further amended as follows: In subsection 5(d) after the phrase "each of which councils shall expire ten years from the date of its establishment." insert "establishment, except that the Advisory Council established for the Iditarod Historic Trail shall expire twenty years from the date of its establishment.". Termination date. 16 USC 1244.

SEC. 5. CONDEMNATION.

(a) Nothing in this Act shall be construed as authorizing the Secretary of the Interior to use condemnation proceedings to retain or acquire all or any portion of a right-of-way described in this Act. 12 USC 1248 note.

(b) Nothing in this Act shall be construed to expand or diminish existing condemnation authorities contained in the National Trails System Act, as amended.

Approved October 4, 1988.

LEGISLATIVE HISTORY—S. 1544 (H.R. 2641):

HOUSE REPORTS: No. 100-572 accompanying H.R. 2641 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-408 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 19, H.R. 2641 considered and passed House.
July 6, S. 1544 considered and passed Senate.
Aug. 2, considered and passed House, amended.
Sept. 19, Senate concurred in House amendments.

Public Law 100-471
100th Congress

An Act

Oct. 4, 1988
[S. 2846]

To provide for the awarding of grants for the purchase of drugs used in the treatment of AIDS.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Part B of title III of the Public Health Service Act (42 U.S.C. 243 et seq.) is amended by inserting after section 314 the following new section:

42 USC 247.

"SEC. 315. GRANTS FOR TREATMENT DRUGS FOR ACQUIRED IMMUNE DEFICIENCY SYNDROME.

State and local governments.

"(a) AUTHORITY.—The Secretary, may make grants to the States for the purpose of assisting grantees in the provision of drugs determined to prolong the life of individuals found to have acquired immune deficiency syndrome and related conditions.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there is authorized to be appropriated $15,000,000.

"(c) PERIOD FOR GRANTS.—No grant may be made under this section after March 31, 1989.

Termination date.

"(d) REPEALER.—This section shall cease to exist on March 31, 1989.".

Approved October 4, 1988.

LEGISLATIVE HISTORY—S. 2846:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 29, considered and passed Senate.
Sept. 30, considered and passed House.

○

Public Law 100-472
100th Congress

An Act

Entitled the "Indian Self-Determination Amendments of 1987".

Oct. 5, 1988
[H.R. 1223]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Indian Self-Determination and Education Assistance Act Amendments of 1988.
Contracts.
25 USC 450 note.

TITLE I—ADMINISTRATIVE PROVISIONS

SEC. 101. SHORT TITLE AND TABLE OF CONTENTS.

This Act may be cited as the "Indian Self-Determination and Education Assistance Act Amendments of 1988".

TABLE OF CONTENTS

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TITLE II—INDIAN SELF-DETERMINATION ACT AMENDMENTS

Sec. 201. Self-determination contracts.
Sec. 202. Technical assistance and grants to tribal organizations.
Sec. 203. Personnel.
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Sec. 206. Contract appeals.
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Sec. 210. Savings provisions.
Sec. 211. Severability.

SEC. 102. DECLARATION OF POLICY.

Section 3 of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203, 25 U.S.C. 450 et seq.) is amended by striking subsection (b) and inserting the following new subsection in lieu thereof: 25 USC 450a.

"(b) The Congress declares its commitment to the maintenance of the Federal Government's unique and continuing relationship with, and responsibility to, individual Indian tribes and to the Indian people as a whole through the establishment of a meaningful Indian self-determination policy which will permit an orderly transition from the Federal domination of programs for, and services to, Indians to effective and meaningful participation by the Indian people in the planning, conduct, and administration of those programs and services. In accordance with this policy, the United States is committed to supporting and assisting Indian tribes in the development of strong and stable tribal governments, capable of

administering quality programs and developing the economies of their respective communities.".

SEC. 103. DEFINITIONS.

Section 4 of the Indian Self-Determination and Education Assistance Act is amended to read as follows— 25 USC 450b.

"SEC. 4. For purposes of this Act, the term—

"(a) 'construction programs' means programs for the planning, design, construction, repair, improvement, and expansion of buildings or facilities, including, but not limited to, housing, law enforcement and detention facilities, sanitation and water systems, roads, schools, administration and health facilities, irrigation and agricultural work, and water conservation, flood control, or port facilities;

"(b) 'contract funding base' means the base level from which contract funding needs are determined, including all contract costs;

"(c) 'direct program costs' means costs that can be identified specifically with a particular contract objective;

"(d) 'Indian' means a person who is a member of an Indian tribe;

"(e) 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (85 Stat. 688) which is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians;

"(f) 'indirect costs' means costs incurred for a common or joint purpose benefiting more than one contract objective, or which are not readily assignable to the contract objectives specifically benefited without effort disproportionate to the results achieved;

"(g) 'indirect costs rate' means the rate arrived at through negotiation between an Indian tribe or tribal organization and the appropriate Federal agency;

"(h) 'mature contract' means a self-determination contract that has been continuously operated by tribal organization for three or more years, and for which there are no significant and material audit exceptions in the annual financial audit of the tribal organization: *Provided,* That upon the request of a tribal organization or tribal governing body, a contract of the tribal organization in existence on the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988 which meets this definition shall be considered to be a mature contract;

"(i) 'Secretary', unless otherwise designated, means either the Secretary of Health and Human Services or the Secretary of the Interior or both;

"(j) 'self-determination contract' means a contract entered into pursuant to this Act between a tribal organization and the appropriate Secretary the planning, conduct and administration of programs or services which are otherwise provided to Indian tribes and their members pursuant to Federal law: *Provided,* That no contract entered into pursuant to this Act shall be construed to be a procurement contract;

"(k) 'State education agency' means the State board of education or other agency or officer primarily responsible for supervision by the State of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law; and

"(l) 'tribal organization' means the recognized governing body of any Indian tribe; any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body or which is democratically elected by the adult members of the Indian community to be served by such organization and which includes the maximum participation of Indians in all phases of its activities: *Provided,* That in any case where a contract is let or grant made to an organization to perform services benefiting more than one Indian tribe, the approval of each such Indian tribe shall be a prerequisite to the letting or making of such contract or grant.".

SEC. 104. REPORTING AND AUDIT REQUIREMENTS.

(a) Subsection (a) of section 5 of the Indian Self-Determination and Education Assistance Act is amended to read as follows:

25 USC 450c. Records. Regulations. Public information.

"(a)(1) Each recipient of Federal financial assistance under this Act shall keep such records as the appropriate Secretary shall prescribe by regulation promulgated under sections 552 and 553 of title 5, United States Code, including records which fully disclose—

"(A) the amount and disposition by such recipient of the proceeds of such assistance,

"(B) the cost of the project or undertaking in connection with which such assistance is given or used,

"(C) the amount of that portion of the cost of the project or undertaking supplied by other sources, and

"(D) such other information as will facilitate an effective audit.

"(2) For the purposes of this subsection, such records for a mature contract shall consist of quarterly financial statements for the purpose of accounting for Federal funds, the annual single-agency audit required by the Single Audit Act of 1984 (98 Stat. 2327, 31 U.S.C. 7501 et seq.), and a brief annual program report.".

(b) Section 5 of the Indian Self-Determination and Education Assistance Act is further amended by adding the following new subsection:

"(e) The Secretary shall report annually in writing to tribes regarding projected and actual staffing levels, funding obligations, and expenditures for programs operated directly by the Secretary serving that tribe.".

SEC. 105. CARRYOVER FUNDING.

Section 8 of the Indian Self-Determination and Education Assistance Act is amended to read as follows:

25 USC 13a.

"CARRYOVER FUNDING

"SEC. 8. Notwithstanding any other provision of law, any funds appropriated pursuant to the Act of November 2, 1921 (42 Stat. 208), for any fiscal year which are not obligated or expended prior to the beginning of the fiscal year succeeding the fiscal year for which such funds were appropriated shall remain available for obligation or expenditures during such succeeding fiscal year. In the case of

amounts made available to a tribal organization under a self-determination contract, if the funds are to be expended in the succeeding fiscal year for the purpose for which they were originally appropriated, contracted or granted, or for which they are authorized to be used pursuant to the provisions of section 106(a)(3), no additional justification or documentation of such purposes need be provided by the tribal organization to the Secretary as a condition of receiving or expending such funds.".

TITLE II—INDIAN SELF-DETERMINATION ACT AMENDMENTS

SEC. 201. SELF-DETERMINATION CONTRACTS.

25 USC 450f.

(a) Section 102 of the Indian Self-Determination Act is amended to read as follows:

"SEC. 102. (a)(1) The Secretary is directed, upon the request of any Indian tribe by tribal resolution, to enter into a self-determination contract or contracts with a tribal organization to plan, conduct, and administer programs or portions thereof, including construction programs—

"(A) provided for in the Act of April 16, 1934 (48 Stat. 596), as amended;

"(B) which the Secretary is authorized to administer for the benefit of Indians under the Act of November 2, 1921 (42 Stat. 208), and any Act subsequent thereto;

"(C) provided by the Secretary of Health and Human Services under the Act of August 5, 1954 (68 Stat. 674), as amended;

"(D) administered by the Secretary for the benefit of Indians for which appropriations are made to agencies other than the Department of Health and Human Services or the Department of the Interior; and

"(E) for the benefit of Indians because of their status as Indians without regard to the agency or office of the Department of Health and Human Services or the Department of the Interior within which it is performed.

"(2) If so authorized by an Indian tribe under paragraph (1) of this subsection, a tribal organization may submit a proposal for a self-determination contract to the Secretary for review. The Secretary shall, within ninety days after receipt of the proposal, approve the proposal unless, within sixty days of receipt of the proposal, a specific finding is made that—

"(A) the service to be rendered to the Indian beneficiaries of the particular program or function to be contracted will not be satisfactory;

"(B) adequate protection of trust resources is not assured; or

"(C) the proposed project or function to be contracted for cannot be properly completed or maintained by the proposed contract.

"(3) Upon the request of a tribal organization that operates two or more mature self-determination contracts, those contracts may be consolidated into one single contract.

"(b) Whenever the Secretary declines to enter into a self-determination contract or contracts pursuant to subsection (a) of this section, the Secretary shall—

"(1) state any objections in writing to the tribal organization,

"(2) provide assistance to the tribal organization to overcome the stated objections, and

"(3) provide the tribal organization with a hearing on the record and the opportunity for appeal on the objections raised, under such rules and regulations as the Secretary may promulgate. Records.

"(c)(1) Beginning in 1990, the Secretary shall be responsible for obtaining or providing liability insurance or equivalent coverage, on the most cost-effective basis, for Indian tribes, tribal organizations, and tribal contractors carrying out contracts, grant agreements and cooperative agreements pursuant to this Act. In obtaining or providing such coverage, the Secretary shall take into consideration the extent to which liability under such contracts or agreements are covered by the Federal Tort Claims Act. Insurance. Grants.

"(2) In obtaining or providing such coverage, the Secretary shall, to the greatest extent practicable, give a preference to coverage underwritten by Indian-owned economic enterprises as defined in section 1425, title 25, United States Code, except that, for the purposes of this subsection, such enterprises may include non-profit corporations.

"(3)(A) Any policy of insurance obtained or provided by the Secretary pursuant to this subsection shall contain a provision that the insurance carrier shall waive any right it may have to raise as a defense the sovereign immunity of an Indian tribe from suit, but that such waiver shall extend only to claims the amount and nature of which are within the coverage and limits of the policy and shall not authorize or empower such insurance carrier to waive or otherwise limit the tribe's sovereign immunity outside or beyond the coverage or limits of the policy of insurance.

"(B) No waiver of the sovereign immunity of an Indian tribe pursuant to this paragraph shall include a waiver to the extent of any potential liability for interest prior to judgment or for punitive damages or for any other limitation on liability imposed by the law of the State in which the alleged injury occurs.".

(b)(1) Subsections (a) and (b) and the first sentence of subsection (c) of section 103 of the Indian Self-Determination Act are hereby repealed. Subsection (c) of section 103 of the Indian Self-Determination Act is redesignated as subsection (d) of section 102 of that Act and is amended by striking out "103 and 104(b)" and inserting, in lieu thereof, "102 or 103". 25 USC 450f, 450g. 25 USC 450f note.

(2) Any reference to section 103(c) contained in an Act making appropriations for the Department of the Interior and Related Agencies for fiscal year 1989 shall be deemed to apply to section 102(d) of such Act as amended by this Act. 25 USC 450f note.

SEC. 202. TECHNICAL ASSISTANCE AND GRANTS TO TRIBAL ORGANIZATIONS.

Section 104 of the Indian Self-Determination Act is amended— 25 USC 450h.

(a) by redesignating such section as section 103;

(b) by inserting the word "or" at the end of paragraph (2) of subsection (a) of such section, striking the semicolon and the word "or" at the end of paragraph (3) of such subsection and inserting, in lieu thereof, a period, and by striking all of paragraph (4);

(c) by striking the phrase "Health, Education, and Welfare" in subsection (b) of such section and inserting, in lieu thereof, the phrase "Health and Human Services"; and

(d) by adding the following new subsections (d) and (e) at the end thereof:

"(d) The Secretary is directed, upon the request of any tribal organization and subject to the availability of appropriations, to provide technical assistance on a nonreimbursable basis to such tribal organization—

"(1) to develop any new self-determination contract authorized pursuant to this Act;

"(2) to provide for the assumption by such tribal organization of any program, or portion thereof, provided for in section 102(a)(1) of this Act; or

"(3) to develop modifications to any proposal for a self-determination contract which the Secretary has declined to approve pursuant to section 102 of the Act.

"(e) The Secretary is authorized, upon the request of an Indian tribe, to make a grant to any tribal organization for—

"(1) obtaining technical assistance from providers designated by the tribal organization, including tribal organizations that operate mature contracts, for the purposes of program planning and evaluation, including the development of any management systems necessary for contract management, and the development of cost allocation plans for indirect cost rates; and

"(2) the planning, designing, monitoring, and evaluating of Federal programs serving the tribe, including Federal administrative functions.".

Government organization and employees.
25 USC 450i.

SEC. 203. PERSONNEL.

Section 105 of the Indian Self-Determination Act is amended by—

(a) redesignating such section as section 104;

(b) striking the phrase "section 4(c)" in subsection (a) of such section, amending section 3371(2) of title 5, United States Code, and inserting, in lieu thereof, the phrase "section 4(m)";

42 USC 2004b.

(c) striking the phrase "sections 102, 103, and 104" in subsection (b) of such section, amending section 8 of the Act of August 5, 1954 (68 Stat. 674), and inserting, in lieu thereof, the phrase "sections 102 and 103";

25 USC 450i.

(d) deleting the words "on or before December 31, 1988" in subsection (e) of such section;

(e) in paragraph (2) of subsection (e) of such section—

(1) inserting "or chapter 84 ('Federal Employees Retirement System')" after "chapter 83 ('Retirement')" and before "of title 5"; and

(2) striking out "Notwithstanding any other law," and inserting in lieu thereof "Notwithstanding the provisions of sections 8347(o), 8713, and 8914 of title 5, United States Code,"; and

(f) by adding the following new subsections (k), (l), and (m).

"(k) Section 3372(a) of title 5, United States Code, is further amended to add the following to the end thereof: 'If the assigned employee fails to complete the period of assignment and there is another employee willing and available to do so, the Secretary may assign the employee to complete the period of assignment and may execute an agreement with the tribal organization with respect to the replacement employee. That agreement may provide for a different period of assignment as may be agreed to by the Secretary and the tribal organization.'.

"(l) Section 3372 of title 5, United States Code, is further amended by adding a new subsection (d) as follows:

'(d) Where the employee is assigned to a tribal organization, the employee shall be eligible for promotions, periodic step-increases, additional step-increases, merit pay, and cash awards, as defined in chapters 53 and 54 of this title, on the same basis as other Federal employees.'.

"(m) The status of an Indian appointed to the Federal service under an excepted appointment under the authority of section 12 of the Act of June 18, 1934 (25 U.S.C. 472), or any other provision of law granting a preference to Indians in personnel actions, shall be converted to a career appointment in the competitive service after three years of continuous service and satisfactory performance. The conversion shall not alter the Indian's eligibility for preference in personnel actions.".

SEC. 204. ADMINISTRATIVE PROVISIONS.

Section 106 of the Indian Self-Determination Act is amended— 25 USC 450j.

(a) by redesignating such section as section 105;

(b) by striking the phrase "sections 102 and 103" in subsection (a) of such section and inserting, in lieu thereof, the phrase "section 102";

(c) by changing the period at the end of subsection (a) of such section to a colon and adding the following new proviso at the end thereof: "*Provided further,* That, except for construction contracts (or sub-contracts in such cases where the tribal contractor has sub-contracted the activity), the Office of Federal Procurement Policy Act (88 Stat. 796; 41 U.S.C. 401 et seq.) and Federal acquisition regulations promulgated thereunder shall not apply to self-determination contracts.";

(d) by striking the phrase "sections 102, 103, and 104" in subsection (b) of such section and inserting, in lieu thereof, the phrase "sections 102 and 103";

(e) by striking subsections (c), (d), and (e) of such section and inserting, in lieu thereof, the following:

"(c)(1) A self-determination contract shall be—

"(A) for a term not to exceed three years in the case of other than a mature contract, unless the appropriate Secretary and the tribe agree that a longer term would be advisable, and

"(B) for an indefinite term in the case of a mature contract. The amounts of such contracts shall be subject to the availability of appropriations.

"(2) The amounts of such contracts may be renegotiated annually to reflect changed circumstances and factors, including, but not limited to, cost increases beyond the control of the tribal organization.

"(d)(1) No later than fiscal year 1990, the Secretary shall begin using the calendar year as the basis for contracts and agreements under this Act except for instances where the Secretary and the Indian tribe or tribal organization agree on a different period.

"(2) The Secretary shall submit a report to the Congress within ninety days of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988 on the amounts of any additional obligational authority needed to implement this subsection in fiscal year 1989. Reports.

"(e) Whenever an Indian tribe requests retrocession of the appropriate Secretary for any contract entered into pursuant to this Act, Effective date.

such retrocession shall become effective one year from the date of the request by the Indian tribe or at such date as may be mutually agreed by the Secretary and the Indian tribe.

Grants.
Gifts and property.

"(f) In connection with any self-determination contract or grant made pursuant to section 102 or 103 of this Act, the appropriate Secretary may—

Public buildings and grounds.

"(1) permit an Indian tribe or tribal organization in carrying out such contract or grant, to utilize existing school buildings, hospitals, and other facilities and all equipment therein or appertaining thereto and other personal property owned by the Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for their use and maintenance;

"(2) donate to an Indian tribe or tribal organization the title to any personal property found to be excess to the needs of the Bureau of Indian Affairs, the Indian Health Service, or the General Services Administration, including property and equipment purchased with funds under any self-determination contract or grant agreement; and

"(3) acquire excess or surplus Government personal property for donation to an Indian tribe or tribal organization if the Secretary determines the property is appropriate for use by the tribe or tribal organization for a purpose for which a self-determination contract or grant agreement is authorized under this Act.";

(f) by redesignating subsection (f) of such section as subsection (g) and by striking the phrase "sections 102 and 103 of this Act and grants pursuant to section 104 of this Act" in such subsection and by inserting, in lieu thereof, the phrase "section 102 of this Act and grants pursuant to section 103 of this Act";

(g) by redesignating subsection (g) of such section as subsection (h); by striking the phrase "sections 102, 103, and 104" in such subsection and inserting, in lieu thereof, the phrase "sections 102 and 103"; and by striking the phrase "Health, Education, and Welfare" and inserting, in lieu thereof, the phrase "Health and Human Services"; and

(h) by striking all of the existing subsection (h) of such section.

25 USC 450j-1.

SEC. 205. CONTRACT FUNDING AND INDIRECT COSTS.

Title I of the Indian Self-Determination and Education Assistance Act is further amended by adding the following new section 106:

"SEC. 106. (a)(1) The amount of funds provided under the terms of self-determination contracts entered into pursuant to this Act shall not be less than the appropriate Secretary would have otherwise provided for the operation of the programs or portions thereof for the period covered by the contract.

"(2) There shall be added to the amount required by paragraph (1) contract support costs which shall consist of the reasonable costs for activities which must be carried on by a tribal organization as a contractor to ensure compliance with the terms of the contract and prudent management, but which—

"(A) normally are not carried on by the respective Secretary in his direct operation of the program; or

"(B) are provided by the Secretary in support of the contracted program from resources other than those under contract.

"(3) Any savings in operation under a self-determination contract shall be utilized to provide additional services or benefits under the contract or be expended in the succeeding fiscal year as provided in section 8 of this Act.

"(b) The amount of funds required by subsection (a)—

"(1) shall not be reduced to make funding available for contract monitoring or administration by the Secretary;

"(2) shall not be reduced by the Secretary in subsequent years except pursuant to—

"(A) a reduction in appropriations from the previous fiscal year for the program or function to be contracted;

"(B) a directive in the statement of the managers accompanying a conference report on an appropriation bill or continuing resolution;

"(C) a tribal authorization;

"(D) a change in the amount of pass-through funds needed under a contract; or

"(E) completion of a contracted project, activity, or program;

"(3) shall not be reduced by the Secretary to pay for Federal functions, including, but not limited to, Federal pay costs, Federal employee retirement benefits, automated data processing, contract technical assistance or contract monitoring;

"(4) shall not be reduced by the Secretary to pay for the costs of Federal personnel displaced by a self-determination contract; and

"(5) may, at the request of the tribal organization, be increased by the Secretary if necessary to carry out this Act or as provided in section 105(c).

Notwithstanding any other provision in this Act, the provision of funds under this Act is subject to the availability of appropriations and the Secretary is not required to reduce funding for programs, projects, or activities serving a tribe to make funds available to another tribe or tribal organization under this Act.

"(c) The Secretary shall provide an annual report in writing on or before March 15 of each year to the Congress on the implementation of this Act. Such report shall include— Reports.

"(1) an accounting of the total amounts of funds provided for each program and budget activity for direct program costs and indirect costs of tribal organizations under self-determination contracts during the previous fiscal year;

"(2) an accounting of any deficiency of funds needed to provide required indirect costs to all contractors for the current fiscal year;

"(3) the indirect costs rate and type of rate for each tribal organization negotiated with the appropriate Secretary;

"(4) the direct cost base and type of base from which the indirect cost rate is determined for each tribal organization; and

"(5) the indirect cost pool amounts and the types of costs included in the indirect cost pools.

"(d)(1) Where a tribal organization's allowable indirect cost recoveries are below the level of indirect costs that the tribal organizations should have received for any given year pursuant to its approved indirect cost rate, and such shortfall is the result of lack of full indirect cost funding by any Federal, State, or other agency, such shortfall in recoveries shall not form the basis for any theoretical over-recovery or other adverse adjustment to any future

years' indirect cost rate or amount for such tribal organization, nor shall any agency seek to collect such shortfall from the tribal organization.

"(2) Nothing in this subsection shall be construed to authorize the Secretary to fund less than the full amount of need for indirect costs associated with a self-determination contract.

"(e) Indian tribes and tribal organizations shall not be held liable for amounts of indebtedness attributable to theoretical or actual under-recoveries or theoretical over-recoveries of indirect costs, as defined in Office of Management and Budget Circular A-87, incurred for fiscal years prior to fiscal year 1988.

"(f) Any right of action or other remedy (other than those relating to a criminal offense) relating to any disallowance of costs shall be barred unless the Secretary has given notice of any such disallowance within three hundred and sixty-five days of receiving any required annual single agency audit report or, for any period covered by law or regulation in force prior to enactment of the Single Agency Audit Act of 1984 (chapter 75 of title 31, United States Code), any other required final audit report. Such notice shall set forth the right of appeal and hearing to the board of contract appeals pursuant to section 110. Nothing in this subsection shall be deemed to enlarge the rights of the Secretary with respect to section 16 of the Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 476).

"(g) Upon the approval of a self-determination contract and at the request of an Indian tribe or tribal organization, the Secretary shall add the indirect cost funding amount awarded for a self-determination contract to the amount awarded for direct program funding for the first year and, subject to adjustments in the amount of direct program costs for the contract, for each subsequent year that the program remains continuously under contract.

"(h) In calculating the indirect costs associated with a self-determination contract for a construction program, the Secretary shall take into consideration only those costs associated with the administration of the contract and shall not take into consideration those moneys actually passed on by the tribal organization to construction contractors and subcontractors.

Government organization and employees. Reports.

"(i) Within one month after enactment of this section, the Secretary is mandated to establish a team in each area of the Bureau of Indian Affairs which consists of agency personnel and tribal representatives for the purpose of analyzing the 'Indian Priority System' and other aspects of the budgeting and funding allocation process of the Bureau of Indian Affairs for the purpose of making a report to Congress with appropriate recommendations for changes and legislative actions to achieve greater tribal decision-making authority over the use of funds appropriated for the benefit of the tribes and their members. The report along with the analysis, findings and recommendations of the area teams shall be submitted to Congress within six months of enactment of this provision. The Secretary may submit to Congress separate comments on the information and recommendations on the report.".

SEC. 206. CONTRACT APPEALS.

Title I of the Indian Self-Determination and Education Assistance Act is further amended—

(a) by adding the following new section 110:

"SEC. 110. (a) The United States district courts shall have original jurisdiction over any civil action or claim against the appropriate Secretary arising under this Act and, subject to the provisions of subsection (d) of this section and concurrent with the United States Court of Claims, over civil action or claim against the Secretary for money damages arising under contracts authorized by this Act. In an action brought under this paragraph, the district courts may order appropriate relief including money damages, injunctive relief against any action by an officer of the United States or any agency thereof contrary to this Act or regulations promulgated thereunder, or mandamus to compel an officer or employee of the United States, or any agency thereof, to perform a duty provided under this Act or regulations promulgated hereunder. Courts, U.S. Claims. 25 USC 450m-1.

"(b) Unless otherwise agreed to by the resolution of an Indian tribe, the Secretary shall not revise or amend a self-determination contract with such tribe.

"(c) The Equal Access to Justice Act (Public Law 96-481, Act of October 1, 1980; 94 Stat. 2325, as amended) shall apply to administrative appeals by tribal organizations regarding self-determination contracts.

"(d) The Contract Disputes Act (Public Law 95-563, Act of November 1, 1978; 92 Stat. 2383, as amended) shall apply to self-determination contracts.

"(e) Subsection (d) of this section shall apply to any case pending or commenced on or after March 17, 1986, before the Boards of Contract Appeals of the Department of the Interior or the Department of Health and Human Services except that in any such cases finally disposed of before the date of enactment of these amendments, the thirty-day period referred to in section 504(a)(2) of title 5, United States Code, shall be deemed to commence on the date of enactment of this subsection."; and Effective date.

(b) by redesignating existing section 110 as section 111. 25 USC 450n.

SEC. 207. PROMULGATION OF RULES AND REGULATIONS.

(a) Section 107(a) of the Indian Self-Determination Act is amended by— 25 USC 450k.

(1) striking the phrase "Health, Education, and Welfare" and inserting, in lieu thereof, the phrase "Health and Human Services"; and

(2) striking the period at the end thereof and inserting, in lieu thereof, a colon and the following: "*Provided, however,* That all Federal requirements for self-determination contracts and grants under this Act shall be promulgated as regulations in conformity with sections 552 and 553 of title 5, United States Code.". Grants.

(b) Section 107(b) of the Indian Self-Determination Act is amended to read as follows:

"(b)(1) Within three months from the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, the Secretary shall consider and formulate appropriate regulations to implement the provisions of this Act, with the participation of Indian tribes. Such proposed regulations shall contain all Federal requirements applicable to self-determination contracts and grants under this Act. Grants.

"(2) Within six months from the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, the Secretary shall present the proposed regulations to the

Select Committee on Indian Affairs of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

Federal Register, publication.

"(3) Within seven months from the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, the Secretary shall publish proposed regulations in the Federal Register for the purpose of receiving comments from tribes and other interested parties.

"(4) Within ten months from the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988, the Secretary shall promulgate regulations to implement the provisions of such Act.".

SEC. 208. REPORTS.

Section 108 of the Indian Self-Determination Act is redesignated as subsection 5(f) of the Indian Self-Determination and Education Assistance Act and is amended by deleting the period at the end and inserting, in lieu thereof, the following: "through regulations promulgated under sections 552 and 553 of title 5, United States Code.".

25 USC 450c, 450*l*.

Research and development.

SEC. 209. TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT.

The Indian Self-Determination and Education Assistance Act is further amended by adding a new title III, as follows:

"TITLE III—TRIBAL SELF-GOVERNANCE DEMONSTRATION PROJECT

25 USC 450f note.

"SEC. 301. The Secretary of the Interior shall, for a period not to exceed five years following enactment of this title, conduct a research and demonstration project to be known as the Tribal Self-Governance Project according to the provisions of this title.

"SEC. 302. (a) The Secretary shall select twenty tribes to participate in the demonstration project, as follows:

"(1) a tribe that successfully completes a Self-Governance Planning Grant, authorized by Conference Report 100-498 to accompany H.J. Res. 395, One Hundredth Congress, first session shall be selected to participate in the demonstration project; and

"(2) the Secretary shall select, in such a manner as to achieve geographic representation, the remaining tribal participants from the pool of qualified applicants. In order to be in the pool of qualified applicants—

"(A) the governing body of the tribe shall request participation in the demonstration project;

"(B) such tribe shall have operated two or more mature contracts; and

"(C) such tribe shall have demonstrated, for the previous three fiscal years, financial stability and financial management capability as evidenced by such tribe having no significant and material audit exceptions in the required annual audit of such tribe's self-determination contracts.

"SEC. 303. (a) The Secretary is directed to negotiate, and to enter into, an annual written funding agreement with the governing body of a participating tribal government which—

"(1) shall authorize the tribe to plan, conduct, consolidate, and administer programs, services and functions authorized under

the Act of April 16, 1934 (48 Stat. 596), as amended, and the Act of November 2, 1921 (42 Stat. 208);

"(2) subject to the terms of the written agreement authorized by this title, shall authorize the tribe to redesign programs, activities, functions or services and to reallocate funds for such programs, activities, functions or services;

"(3) shall not include funds provided pursuant to the Tribally Controlled Community College Assistance Act (Public Law 95-471), for elementary and secondary schools under the Indian School Equalization Formula pursuant to title XI of the Education Amendments of 1978 (Public Law 95-561, as amended), or for either the Flathead Agency Irrigation Division or the Flathead Agency Power Division: *Provided,* That nothing in this section shall affect the contractability of such divisions under section 102 of this Act;

"(4) shall specify the services to be provided, the functions to be performed, and the responsibilities of the tribe and the Secretary pursuant to this agreement;

"(5) shall specify the authority of the tribe and the Secretary, and the procedures to be used, to reallocate funds or modify budget allocations within any project year;

"(6) shall, except as provided in paragraphs (1) and (2), provide for payment by the Secretary to the tribe of funds from one or more programs, services, functions, or activities in an amount equal to that which the tribe would have been eligible to receive under contracts and grants under this Act, including direct program costs and indirect costs, and for any funds which are specifically related to the provision by the Secretary of services and benefits to the tribe and its members: *Provided, however,* That funds for trust services to individual Indians are available under this written agreement only to the extent that the same services which would have been provided by the Secretary are provided to individual Indians by the tribe;

"(7) shall not allow the Secretary to waive, modify or diminish in any way the trust responsibility of the United States with respect to Indian tribes and individual Indians which exists under treaties, Executive orders, and Acts of Congress;

"(8) shall allow for retrocession of programs or portions thereof pursuant to section 105(e) of this Act; and

"(9) shall be submitted by the Secretary ninety days in advance of the proposed effective date of the agreement to each tribe which is served by the agency which is serving the tribe which is a party to the funding agreement and to the Congress for review by the Select Committee on Indian Affairs of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

"(b) For the year for which, and to the extent to which, funding is provided to a tribe pursuant to this title, such tribe—

"(1) shall not be entitled to contract with the Secretary for such funds under section 102, except that such tribe shall be eligible for new programs on the same basis as other tribes; and

"(2) shall be responsible for the administration of programs, services and activities pursuant to agreements under this title.

"(c) At the request of the governing body of the tribe and under the terms of an agreement pursuant to subsection (a), the Secretary shall provide funding to such tribe to implement the agreement.

"(d) For the purpose of section 110 of this Act the term 'contract' shall also include agreements authorized by this title.

"(e) To the extent feasible, the Secretary shall interpret Federal laws and regulations in a manner that will facilitate the agreements authorized by this title.

"SEC. 304. The Secretary shall identify, in the President's annual budget request to the Congress, any funds proposed to be included in the Tribal Self-Governance Project. The use of funds pursuant to this title shall be subject to specific directives or limitations as may be included in applicable appropriations Acts.

Reports.

"SEC. 305. The Secretary shall submit to the Congress a written report on July 1 and January 1 of each of the five years following the date of enactment of this title on the relative costs and benefits of the Tribal Self-Governance Project. Such report shall be based on mutually determined baseline measurements jointly developed by the Secretary and participating tribes, and shall separately include the views of the tribes.

"SEC. 306. Nothing in this title shall be construed to limit or reduce in any way the services, contracts or funds that any other Indian tribe or tribal organization is eligible to receive under section 102 or any other applicable Federal law and the provisions of section 110 of this Act shall be available to any tribe or Indian organization which alleges that a funding agreement is in violation of this section.".

25 USC 450 note.

SEC. 210. SAVINGS PROVISIONS.

Nothing in this Act shall be construed as—

(1) affecting, modifying, diminishing, or otherwise impairing the sovereign immunity from suit enjoyed by an Indian tribe; or

(2) authorizing or requiring the termination of any existing trust responsibility of the United States with respect to Indian people.

25 USC 450 note.

SEC. 211. SEVERABILITY.

If any provision of this Act or the application thereof to any Indian tribe, entity, person or circumstance is held invalid, neither the remainder of this Act, nor the application of any provisions herein to other Indian tribes, entities, persons, or circumstances, shall be affected thereby.

Approved October 5, 1988.

LEGISLATIVE HISTORY—H.R. 1223 (S. 1703):

HOUSE REPORTS: No. 100-393 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-274 accompanying S. 1703 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 27, considered and passed House.
Vol. 134 (1988): May 27, H.R. 1223 considered and passed Senate, amended.
Sept. 9, House concurred in Senate amendment with an amendment.
Sept. 15, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Oct. 5, Presidential statement.

Public Law 100-473
100th Congress

An Act

To provide for refunds pursuant to rate decreases under the Federal Power Act.

Oct. 6, 1988
[H.R. 2858]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Regulatory Fairness Act. Utilities. 16 USC 791a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Regulatory Fairness Act".

SEC. 2. REFUNDS IN PROCEEDINGS UNDER SECTION 206 OF THE FEDERAL POWER ACT.

Section 206 of the Federal Power Act (16 U.S.C. 824e) is amended as follows:

(1) At the end of subsection (a) insert: "Any complaint or motion of the Commission to initiate a proceeding under this section shall state the change or changes to be made in the rate, charge, classification, rule, regulation, practice, or contract then in force, and the reasons for any proposed change or changes therein. If, after review of any motion or complaint and answer, the Commission shall decide to hold a hearing, it shall fix by order the time and place of such hearing and shall specify the issues to be adjudicated.". Contracts.

(2) Designate subsection (b) as (d) and insert the following new subsections after subsection (a):

"(b) Whenever the Commission institutes a proceeding under this section, the Commission shall establish a refund effective date. In the case of a proceeding instituted on complaint, the refund effective date shall not be earlier than the date 60 days after the filing of such complaint nor later than 5 months after the expiration of such 60-day period. In the case of a proceeding instituted by the Commission on its own motion, the refund effective date shall not be earlier than the date 60 days after the publication by the Commission of notice of its intention to initiate such proceeding nor later than 5 months after the expiration of such 60-day period. Upon institution of a proceeding under this section, the Commission shall give to the decision of such proceeding the same preference as provided under section 205 of this Act and otherwise act as speedily as possible. If no final decision is rendered by the refund effective date or by the conclusion of the 180-day period commencing upon initiation of a proceeding pursuant to this section, whichever is earlier, the Commission shall state the reasons why it has failed to do so and shall state its best estimate as to when it reasonably expects to make such decision. In any proceeding under this section, the burden of proof to show that any rate, charge, classification, rule, regulation, practice, or contract is unjust, unreasonable, unduly discriminatory, or preferential shall be upon the Commission or the complainant. At the conclusion of any proceeding under this section, the Commission may order the public utility to make refunds of any amounts paid, for the period subsequent to the refund effective date through a date fifteen months after such refund effective date, in Contracts.

excess of those which would have been paid under the just and reasonable rate, charge, classification, rule, regulation, practice, or contract which the Commission orders to be thereafter observed and in force: *Provided,* That if the proceeding is not concluded within fifteen months after the refund effective date and if the Commission determines at the conclusion of the proceeding that the proceeding was not resolved within the fifteen-month period primarily because of dilatory behavior by the public utility, the Commission may order refunds of any or all amounts paid for the period subsequent to the refund effective date and prior to the conclusion of the proceeding. The refunds shall be made, with interest, to those persons who have paid those rates or charges which are the subject of the proceeding.

"(c) Notwithstanding subsection (b), in a proceeding commenced under this section involving two or more electric utility companies of a registered holding company, refunds which might otherwise be payable under subsection (b) shall not be ordered to the extent that such refunds would result from any portion of a Commission order that (1) requires a decrease in system production or transmission costs to be paid by one or more of such electric companies; and (2) is based upon a determination that the amount of such decrease should be paid through an increase in the costs to be paid by other electric utility companies of such registered holding company: *Provided,* That refunds, in whole or in part, may be ordered by the Commission if it determines that the registered holding company would not experience any reduction in revenues which results from an inability of an electric utility company of the holding company to recover such increase in costs for the period between the refund effective date and the effective date of the Commission's order. For purposes of this subsection, the terms 'electric utility companies' and 'registered holding company' shall have the same meanings as provided in the Public Utility Holding Company Act of 1935, as amended.".

16 USC 824e note.

SEC. 3. LIMITATION ON AUTHORITY PROVIDED.

Nothing in subsection (c) of section 206 of the Federal Power Act, as amended (16 U.S.C. 824e(c)) shall be interpreted to confer upon the Federal Energy Regulatory Commission any authority not granted to it elsewhere in such Act to issue an order that (1) requires a decrease in system production or transmission costs to be paid by one or more electric utility companies of a registered holding company; and (2) is based upon a determination that the amount of such decrease should be paid through an increase in the costs to be paid by other electric utility companies of such registered holding company. For purposes of this section, the terms "electric utility companies" and "registered holding company" shall have the same meanings as provided in the Public Utility Holding Company Act of 1935, as amended.

16 USC 824e note.

SEC. 4. EFFECTIVE DATE.

The amendments made by this Act are not applicable to complaints filed or motions initiated before the date of enactment of this Act pursuant to section 206 of the Federal Power Act: *Provided, however,* That such complaints may be withdrawn and refiled without prejudice.

SEC. 5. STUDY.

16 USC 824e note.

No earlier than three years and no later than four years after the date of enactment of this Act, the Federal Energy Regulatory Commission shall perform a study of the effect of the amendments to section 206 of the Federal Power Act made by this Act. The study shall analyze (1) the impact, if any, of such amendments on the cost of capital paid by public utilities; (2) any change in the average time taken to resolve proceedings under section 206; and (3) such other matters as the Commission may deem appropriate in the public interest. Upon completion the study shall be sent to the Committee on Energy and Natural Resources of the Senate and the Committee on Energy and Commerce of the House of Representatives.

Approved October 6, 1988.

LEGISLATIVE HISTORY—H.R. 2858:

HOUSE REPORTS: No. 100-384 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-491 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 27, considered and passed House.
Vol. 134 (1988): Sept. 8, considered and passed Senate, amended.
Sept. 23, House concurred in Senate amendment.

Public Law 100-474
100th Congress

An Act

Oct. 6, 1988
[H.R. 2884]

To assure uniformity in the exercise of regulatory jurisdiction pertaining to the transportation of natural gas and to clarify that the local transportation of natural gas by a distribution company is a matter within State jurisdiction and subject to regulation by State commissions, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Uniform Regulatory Jurisdiction Act of 1988.
15 USC 717w note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Uniform Regulatory Jurisdiction Act of 1988".

SEC. 2. JURISDICTION OVER TRANSPORTATION OF NATURAL GAS.

Section 7 of the Natural Gas Act (15 U.S.C. 717f) is amended—

(a) by redesignating section "7(f)" as section "7(f)(1)";

(b) by striking the period at the end thereof and inserting "; and"; and

(c) by adding a new section 7(f)(2) to read as follows:

"(2) If the Commission has determined a service area pursuant to this subsection, transportation to ultimate consumers in such service area by the holder of such service area determination, even if across State lines, shall be subject to the exclusive jurisdiction of the State commission in the State in which the gas is consumed. This section shall not apply to the transportation of natural gas to another natural gas company.".

15 USC 717f note.

SEC. 3. EFFECTIVE DATE.

The provisions of this Act shall become effective one hundred and twenty days after the date of enactment.

Approved October 6, 1988.

LEGISLATIVE HISTORY—H.R. 2884:

HOUSE REPORTS: No. 100-683 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-486 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 13, considered and passed House.
Sept. 20, considered and passed Senate, amended.
Sept. 23, House concurred in Senate amendment.

Public Law 100-475
100th Congress

An Act

To increase the amount authorized to be appropriated for acquisition at the Women's Rights National Historical Park.

Oct. 6, 1988
[H.R. 2952]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORIZATION OF APPROPRIATIONS FOR ACQUISITION.

Subsection (i) of section 1601 of the Act entitled "An Act to provide, with respect to the national park system: for the establishment of new units; for adjustments in boundaries; for increases in appropriation authorizations for land acquisition and development; and for other purposes" (16 U.S.C. 410ll(i)) is amended by striking out "$490,000" and inserting in lieu thereof "$700,000".

Approved October 6, 1988.

LEGISLATIVE HISTORY—H.R. 2952:

HOUSE REPORTS: No. 100-395 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-532 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 27, considered and passed House.
Vol. 134 (1988): Sept. 28, considered and passed Senate.

Public Law 100-476
100th Congress

An Act

Oct. 6, 1988
[H.R. 4419]

To authorize appropriations for activities under the Federal Fire Prevention and Control Act of 1974.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 17 of the Federal Fire Prevention and Control Act of 1974 (15 U.S.C. 2216) is amended by adding at the end the following new subsection:

"(g)(1) Except as otherwise specifically provided with respect to the payment of claims under section 11 of this Act, there are authorized to be appropriated to carry out the purposes of this Act—

"(A) $17,039,000 for the fiscal year ending September 30, 1989;

"(B) $17,737,000 for the fiscal year ending September 30, 1990; and

"(C) $18,464,000 for the fiscal year ending September 30, 1991.

"(2) Of the amounts referred to in paragraph (1), not more than $4,150,000 is authorized to be appropriated for each fiscal year for National Emergency Training Center site administration.".

Safety.
Deaf persons.

SEC. 2. (a) The Administrator of the United States Fire Administration shall conduct a study concerning the quality, availability, and degree of use of fire prevention systems for the hearing impaired population. In particular such study shall—

(1) evaluate the quality of equipment for the hearing impaired;

(2) assess the extent, adequacy, and status of research on ways to improve the quality of such equipment;

(3) evaluate the availability of such equipment and the extent to which it is being used in houses, apartments, hotels, and public buildings; and

(4) determine the degree to which such equipment is required by States and model codes.

Reports.

(b) The Administrator shall, not later than January 1, 1989, complete such study and transmit to the Congress a report on the results of the study, together with recommendations on how fire alarm and detection systems for the hearing impaired can be improved and how the use of such systems can be encouraged, including the appropriate Federal role in doing so.

Approved October 6, 1988.

LEGISLATIVE HISTORY—H.R. 4419:

HOUSE REPORTS: No. 100-589 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-435 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 24, considered and passed House.
Aug. 10, considered and passed Senate, amended.
Sept. 26, House concurred in Senate amendment.

Public Law 100-477
100th Congress

An Act

To amend the Second Supplemental Appropriation Act, 1961, relating to the lease of certain lands from the Isleta Indian Tribe for a seismological laboratory.

Oct. 6, 1988
[S. 1945]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the authorization contained in the Second Supplemental Appropriation Act, 1961 (Public Law 86-722; 74 Stat. 821), under the headings "Department of Commerce, Coast and Geodetic Survey, Construction and Equipment", is amended by adding a new sentence at the end thereof to read "Any lease renewal entered into hereunder after September 25, 1985, shall provide for payment of an annual rental equal to fair market rental value, based on an independent appraisal approved by the Secretary of the Interior or his designee, provided that such rental shall be reviewed every five years and readjusted thereafter, based on an approved reappraisal of the land. For the first such renewal, the payment of fair market value shall be made retroactive to September 26, 1985.".

Approved October 6, 1988.

LEGISLATIVE HISTORY—S. 1945:

HOUSE REPORTS: No. 100-839 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-353 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, considered and passed Senate.
Sept. 22, considered and passed House.

Public Law 100-478
100th Congress

An Act

Oct. 7, 1988
[H.R. 1467]

To authorize appropriations to carry out the Endangered Species Act of 1973 during fiscal years 1988, 1989, 1990, 1991, and 1992, and for other purposes.

Wildlife.
Conservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—ENDANGERED SPECIES ACT AMENDMENTS OF 1988

SEC. 1001. DEFINITIONS.

(a) DEFINITION OF PERSON.—Paragraph (13) of section 3 of the Endangered Species Act (16 U.S.C. 1532) is amended to read as follows:

"(13) The term 'person' means an individual, corporation, partnership, trust, association, or any other private entity; or any officer, employee, agent, department, or instrumentality of the Federal Government, of any State, municipality, or political subdivision of a State, or of any foreign government; any State, municipality, or political subdivision of a State; or any other entity subject to the jurisdiction of the United States.".

(b) DEFINITION OF SECRETARY.—Paragraph (15) of section 3 of the Endangered Species Act (16 U.S.C. 1532) is amended by inserting "also" before "means the Secretary of Agriculture".

SEC. 1002. LISTING.

(a) CANDIDATE SPECIES.—Subparagraph (C) of section 4(b)(3) of the Endangered Species Act of 1973 (16 U.S.C. 1533(b)(3)(C)) is amended by adding at the end thereof the following clause:

"(iii) The Secretary shall implement a system to monitor effectively the status of all species with respect to which a finding is made under subparagraph (B)(iii) and shall make prompt use of the authority under paragraph 7 to prevent a significant risk to the well being of any such species.".

(b) SIMILARITY OF APPEARANCE.—Subsection (e) of such section 4 (16 U.S.C. 1533(e)) is amended by striking out "regulation," and inserting in lieu thereof "regulation of commerce or taking,".

SEC. 1003. RECOVERY PLANS.

Section 4(f) of the Endangered Species Act (16 U.S.C. 1533(f)) is amended to read as follows:

"(f)(1) RECOVERY PLANS.—The Secretary shall develop and implement plans (hereinafter in this subsection referred to as 'recovery plans') for the conservation and survival of endangered species and threatened species listed pursuant to this section, unless he finds that such a plan will not promote the conservation of the species. The Secretary, in developing and implementing recovery plans, shall, to the maximum extent practicable—

"(A) give priority to those endangered species or threatened species, without regard to taxonomic classification, that are most likely to benefit from such plans, particularly those species that are, or may be, in conflict with construction or other development projects or other forms of economic activity;

"(B) incorporate in each plan—

"(i) a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species;

"(ii) objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this section, that the species be removed from the list; and

"(iii) estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

"(2) The Secretary, in developing and implementing recovery plans, may procure the services of appropriate public and private agencies and institutions, and other qualified persons. Recovery teams appointed pursuant to this subsection shall not be subject to the Federal Advisory Committee Act.

"(3) The Secretary shall report every two years to the Committee on Environment and Public Works of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on the status of efforts to develop and implement recovery plans for all species listed pursuant to this section and on the status of all species for which such plans have been developed. Reports.

"(4) The Secretary shall, prior to final approval of a new or revised recovery plan, provide public notice and an opportunity for public review and comment on such plan. The Secretary shall consider all information presented during the public comment period prior to approval of the plan. Public information.

"(5) Each Federal agency shall, prior to implementation of a new or revised recovery plan, consider all information presented during the public comment period under paragraph (4).".

SEC. 1004. MONITORING OF RECOVERED SPECIES.

Section 4 of the Endangered Species Act (16 U.S.C. 1533) is amended by redesignating subsections (g) and (h) as subsections (h) and (i) and by inserting the following new subsection:

"(g) MONITORING.—(1) The Secretary shall implement a system in cooperation with the States to monitor effectively for not less than five years the status of all species which have recovered to the point at which the measures provided pursuant to this Act are no longer necessary and which, in accordance with the provisions of this section, have been removed from either of the lists published under subsection (c).

"(2) The Secretary shall make prompt use of the authority under paragraph 7 of subsection (b) of this section to prevent a significant risk to the well being of any such recovered species.".

SEC. 1005. COOPERATION WITH THE STATES.

(a) MONITORING OF RECOVERED SPECIES.—Paragraph (1) of section 6(d) of the Endangered Species Act (16 U.S.C. 1535(d)(1)) is amended to read as follows:

"(d) ALLOCATION OF FUNDS.—(1) The Secretary is authorized to provide financial assistance to any State, through its respective

State agency, which has entered into a cooperative agreement pursuant to subsection (c) of this section to assist in development of programs for the conservation of endangered and threatened species or to assist in monitoring the status of candidate species pursuant to subparagraph (C) of section 4(b)(3) and recovered species pursuant to section 4(g). The Secretary shall allocate each annual appropriation made in accordance with the provisions of subsection (i) of this section to such States based on consideration of—

"(A) the international commitments of the United States to protect endangered species or threatened species;

"(B) the readiness of a State to proceed with a conservation program consistent with the objectives and purposes of this Act;

"(C) the number of endangered species and threatened species within a State;

"(D) the potential for restoring endangered species and threatened species within a State;

"(E) the relative urgency to initiate a program to restore and protect an endangered species or threatened species in terms of survival of the species;

"(F) the importance of monitoring the status of candidate species within a State to prevent a significant risk to the well being of any such species; and

"(G) the importance of monitoring the status of recovered species within a State to assure that such species do not return to the point at which the measures provided pursuant to this Act are again necessary.

So much of the annual appropriation made in accordance with provisions of subsection (i) of this section allocated for obligation to any State for any fiscal year as remains unobligated at the close thereof is authorized to be made available to that State until the close of the succeeding fiscal year. Any amount allocated to any State which is unobligated at the end of the period during which it is available for expenditure is authorized to be made available for expenditure by the Secretary in conducting programs under this section.".

(b) APPROPRIATIONS.—Section 6 of the Endangered Species Act (16 U.S.C. 1535) is amended by adding the following new subsection:

"(i) APPROPRIATIONS.—(1) To carry out the provisions of this section for fiscal years after September 30, 1988, there shall be deposited into a special fund known as the cooperative endangered species conservation fund, to be administered by the Secretary, an amount equal to 5 percent of the combined amounts covered each fiscal year into the Federal aid to wildlife restoration fund under section 3 of the Act of September 2, 1937, and paid, transferred, or otherwise credited each fiscal year to the Sport Fishing Restoration Account established under 1016 of the Act of July 18, 1984.

"(2) Amounts deposited into the special fund are authorized to be appropriated annually and allocated in accordance with subsection (d) of this section.".

SEC. 1006. PROTECTION OF PLANTS.

Section 9(a)(2)(B) of the Endangered Species Act (16 U.S.C. 1538(a)(2)(B)) is amended to read as follows:

"(B) remove and reduce to possession any such species from areas under Federal jurisdiction; maliciously damage or destroy any such species on any such area; or remove, cut, dig up, or damage or destroy any such species on any

other area in knowing violation of any law or regulation of any State or in the course of any violation of a State criminal trespass law;".

SEC. 1007. PENALTIES AND ENFORCEMENT.

(a) CIVIL PENALTIES.—Paragraph (1) of subsection (a) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by striking "$10,000" and inserting in lieu thereof "$25,000", and by striking "$5,000" and inserting in lieu thereof "$12,000".

(b) CRIMINAL VIOLATIONS.—Paragraph (1) of subsection (b) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by striking "$20,000" and inserting in lieu thereof "$50,000", and by striking "$10,000" and inserting in lieu thereof "$25,000".

(c) REWARDS.—Subsection (d) of section 11 of the Endangered Species Act (16 U.S.C. 1540) is amended by adding at the end thereof the following sentence; "Whenever the balance of sums received under this section and section 6(d) of the Act of November 16, 1981 (16 U.S.C. 3375(d)), as penalties or fines, or from forfeitures of property, exceed $500,000, the Secretary of the Treasury shall deposit an amount equal to such excess balance in the cooperative endangered species conservation fund established under section 6(i) of this Act.".

SEC. 1008. SEA TURTLE CONSERVATION.

(a) DELAY OF REGULATIONS.—The Secretary of Commerce shall delay the effective date of regulations promulgated on June 29, 1987, relating to sea turtle conservation, until May 1, 1990, in inshore areas, and until May 1, 1989, in offshore areas, with the exception that regulations already in effect in the Canaveral area of Florida shall remain in effect. The regulations for the inshore area shall go into effect beginning May 1, 1990, unless the Secretary determines that other conservation measures are proving equally effective in reducing sea turtle mortality by shrimp trawling. If the Secretary makes such a determination, the Secretary shall modify the regulations accordingly. Effective date. Florida.

(b) STUDY.—

(1) IN GENERAL.—The Secretary of Commerce shall contract for an independent review of scientific information pertaining to the conservation of each of the relevant species of sea turtles to be conducted by the National Academy of Sciences with such individuals not employed by Federal or State government other than employees of State universities and having scientific expertise and special knowledge of sea turtles and activities that may affect adversely sea turtles. Contracts.

(2) PURPOSES OF REVIEW.—The purposes of such independent review are—

(i) to further long-term conservation of each of the relevant species of sea turtles which occur in the waters of the United States;

(ii) to further knowledge of activities performed in the waters and on the shores of the United States, Mexico and other nations which adversely affect each of the relevant species of sea turtles;

(iii) to determine the relative impact which each of the activities found to be having an adverse effect on each of the relevant species of turtles has upon the status of each such species;

(iv) to assist in identifying appropriate conservation and recovery measures to address each of the activities which affect adversely each of the relevant species of sea turtles;

(v) to assist in identifying appropriate reproductive measures which will aid in the conservation of each of the relevant species of sea turtles;

(vi) in particular to assist in determining whether more or less stringent measures to reduce the drowning of sea turtles in shrimp nets are necessary and advisable to provide for the conservation of each of the relevant species of sea turtles and whether such measures should be applicable to inshore and offshore areas as well as to various geographical locations; and

(vii) to furnish information and other forms of assistance to the Secretary for his use in reviewing the status of each of the relevant species of sea turtles and in carrying out other responsibilities contained under this Act and law.

(3) SCOPE OF REVIEW.—The terms and outlines of such independent review shall be determined by a panel to be appointed by the President of the National Academy of Sciences, except that such review shall include, at a minimum, the following information:

(i) estimates of the status, size, age structure and, where possible, sex structure of each of the relevant species of sea turtles;

(ii) the distribution and concentration, in terms of United States geographic zones, of each of the relevant species of sea turtles;

(iii) the distribution and concentration of each of the relevant species of sea turtles, in the waters of the United States, Mexico and other nations during the developmental, migratory and reproductive phases of their lives;

(iv) identification of all causes of mortality, in the waters and on the shores of the United States, Mexico and other nations for each of the relevant species of sea turtles;

(v) estimates of the magnitude and significance of each of the identified causes of turtle mortality;

(vi) estimates of the magnitude and significance of present or needed head-start or other programs designed to increase the production and population size of each of the relevant species of sea turtles;

(vii) description of the measures taken by Mexico and other nations to conserve each of the relevant species of sea turtles in their waters and on their shores, along with a description of the efforts to enforce these measures and an assessment of the success of these measures;

(viii) the identification of nesting and/or reproductive locations for each of the relevant species of sea turtles in the waters and on the shores of the United States, Mexico and other nations and measures that should be undertaken at each location as well as a description of worldwide efforts to protect such species of turtles.

(4) COMPLETION AND SUBMISSION OF REVIEW.—Such independent review shall be completed after an opportunity is provided for individuals with scientific and special knowledge of sea turtles and activities that may affect adversely sea turtles to present relevant information to the panel. It shall then be

submitted by the Secretary, together with recommendations by the Secretary in connection therewith, to the Committee on Environment and Public Works of the United States Senate and the Committee on Merchant Marine and Fisheries of the United States House of Representatives on or before April 1, 1989. In the event the independent review cannot be completed by April 1, 1989, then the panel shall give priority to completing the independent review as it applies to the Kemp's ridley sea turtle and submitting the same to the Secretary by that date, or as expeditiously as possible, and thereafter shall complete as expeditiously as possible the remaining work of the independent review.

(5) REVIEW OF STATUS.—After receipt of any portion of the independent review from the panel, the Secretary shall review the status of each of the relevant species of sea turtles.

(6) RECOMMENDATIONS OF SECRETARY.—The Secretary, after receipt of any portion of the independent review from the panel, shall consider, along with the requirements of existing law, the following before making recommendations:

(i) reports from the panel conducting the independent review;

(ii) written views and information of interested parties;

(iii) the review of the status of each of the relevant species of sea turtles;

(iv) the relationship of any more or less stringent measures to reduce the drowning of each of the relevant species of sea turtles in shrimp nets to the overall conservation plan for each such species;

(v) whether increased reproductive or other efforts in behalf of each of the relevant species of sea turtles would make no longer necessary and advisable present or proposed conservation regulations regarding shrimping nets;

(vi) whether certain geographical areas such as, but not limited to, inshore areas and offshore areas, should have more stringent, less stringent or different measures imposed upon them in order to reduce the drowning of each of the relevant species of sea turtles in shrimp nets;

(vii) other reliable information regarding the relationship between each of the relevant species of sea turtles and shrimp fishing and other activities in the waters of the United States, Mexico and other nations of the world; and

(viii) the need for improved cooperation among departments, agencies and entities of Federal and State government, the need for improved cooperation with other nations and the need for treaties or international agreements on a bilateral or multilateral basis.

(7) MODIFICATION OF REGULATIONS.—For good cause, the Secretary may modify the regulations promulgated on June 29, 1987, relating to sea turtle conservation, in whole or part, as the Secretary deems advisable.

(8) SECRETARY AND EDUCATIONAL EFFORTS.—The Secretary shall undertake an educational effort among shrimp fishermen, either directly or by contract with competent persons or entities, to instruct fishermen in the usage of the turtle excluder device or any other device which might be imposed upon such fishermen;

Fish and fishing.
Contracts.

(9) SEA TURTLE COORDINATION.—In order to coordinate the protection, conservation, reproductive, educational and recovery efforts with respect to each of the relevant species of sea turtles in accordance with existing law, the National Marine Fisheries Service shall designate an individual as Sea Turtle Coordinator to establish and carry out an effective, long-term sea turtle recovery program.

(10) PURPOSE OF THIS SECTION.—Section 8 is intended to assist the Secretary in making recommendations and in carrying out his duties under law, including the Endangered Species Act (16 U.S.C. 1531 et seq.), and nothing herein affects, modifies or alters the Secretary's powers or responsibilities to review, determine or redetermine, at any time, his obligations under law.

(11) DEFINITIONS.—For the purposes of this section, the terms:

(i) "relevant species of sea turtles" means the Kemp's ridley sea turtle, United States breeding populations of the loggerhead, the leatherback, and the green sea turtle, and other significant breeding populations of the loggerhead, the leatherback and the green sea turtle;

(ii) "status" means whether a given species of turtle is endangered, threatened or recovered;

(iii) "size" means the size of a given species of sea turtle; and

(iv) "age and sex structure" shall be considered to mean the distribution of juveniles, subadults and adults within a given species or population of sea turtles, and males and females within a given species or population of sea turtles.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Department of Commerce $1,500,000 through fiscal year 1989 to carry out this section.

SEC. 1009. AUTHORIZATION OF APPROPRIATIONS.

Section 15 of the Endangered Species Act of 1973 (16 U.S.C. 1542) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 15. (a) IN GENERAL.—Except as provided in subsections (b), (c), and (d), there are authorized to be appropriated—

"(1) not to exceed $35,000,000 for fiscal year 1988, $36,500,000 for fiscal year 1989, $38,000,000 for fiscal year 1990, $39,500,000 for fiscal year 1991, and $41,500,000 for fiscal year 1992 to enable the Department of the Interior to carry out such functions and responsibilities as it may have been given under this Act;

"(2) not to exceed $5,750,000 for fiscal year 1988, $6,250,000 for each of fiscal years 1989 and 1990, and $6,750,000 for each of fiscal years 1991 and 1992 to enable the Department of Commerce to carry out such functions and responsibilities as it may have been given under this Act; and

"(3) not to exceed $2,200,000 for fiscal year 1988, $2,400,000 for each of fiscal years 1989 and 1990, and $2,600,000 for each of fiscal years 1991 and 1992, to enable the Department of Agriculture to carry out its functions and responsibilities with respect to the enforcement of this Act and the Convention which pertain to the importation or exportation of plants.

"(b) EXEMPTIONS FROM ACT.—There are authorized to be appropriated to the Secretary to assist him and the Endangered Species Committee in carrying out their functions under sections 7 (e), (g), and (h) not to exceed $600,000 for each of fiscal years 1988, 1989, 1990, 1991, and 1992.

"(c) CONVENTION IMPLEMENTATION.—There are authorized to be appropriated to the Department of the Interior for purposes of carrying out section 8A(e) not to exceed $400,000 for each of fiscal years 1988, 1989, and 1990, and $500,000 for each of fiscal years 1991 and 1992, and such sums shall remain available until expended.".

SEC. 1010. EDUCATION, STUDY AND REPORT.

Agriculture and agricultural commodities.
Pests and pesticides.
7 USC 136a note.

(a) EDUCATION.—The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior, promptly upon enactment of this Act, shall conduct a program to inform and educate fully persons engaged in agricultural food and fiber commodity production of any proposed pesticide labeling program or requirements that may be imposed by the Administrator in compliance with the Endangered Species Act (16 U.S.C. 1531 et seq.). The Administrator also shall provide the public with notice of, and opportunity for comment on, the elements of any such program and requirements based on compliance with the Endangered Species Act, including (but not limited to) an identification of any pesticides affected by the program; an explanation of the restriction or prohibition on the user or applicator of any such pesticide; an identification of those geographic areas affected by any pesticide restriction or prohibition; an identification of the effects of any restricted or prohibited pesticide on endangered or threatened species; and an identification of the endangered or threatened species along with a general description of the geographic areas in which such species are located wherein the application of a pesticide will be restricted, prohibited, or its use otherwise limited, unless the Secretary of the Interior determines that the disclosure of such information may create a substantial risk of harm to such species or its habitat.

Public information.

(b) STUDY.—The Administrator of the Environmental Protection Agency, jointly with the Secretary of Agriculture and the Secretary of the Interior, shall conduct a study to identify reasonable and prudent means available to the Administrator to implement the endangered species pesticides labeling program which would comply with the Endangered Species Act of 1973, as amended, and which would allow persons to continue production of agricultural food and fiber commodities. Such study shall include investigation by the Administrator of the best available methods to develop maps and the best available alternatives to mapping as means of identifying those circumstances in which use of pesticides may be restricted; identification of alternatives to prohibitions on pesticide use, including, but not limited to, alternative pesticides and application methods and other agricultural practices which can be used in lieu of any pesticides whose use may be restricted by the labeling program; examination of methods to improve coordination among the Environmental Protection Agency, Department of Agriculture, and Department of the Interior in administration of the labeling program; and analysis of the means of implementing the endangered species pesticides labeling program or alternatives to such a program, if any, to promote the conservation of endangered or threatened species and to minimize the impacts to persons engaged in

agricultural food and fiber commodity production and other affected pesticide users and applicators.

(c) REPORT.—The Administrator of the Environmental Protection Agency in cooperation with the Secretary of Agriculture and the Secretary of the Interior shall submit a report within one year of the date of enactment of this Act, presenting the results of the study conducted pursuant to subsection (b) of this section to the Committee on Merchant Marine and Fisheries and the Committee on Agriculture of the United States House of Representatives, and the Committee on Environment and Public Works and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate.

SEC. 1011. SCRIMSHAW CERTIFICATES.

(a) Section 10(f)(8)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(A)) is amended to read as follows:

"(8)(A)(i) Any valid certificate of exemption which was renewed after October 13, 1982, and was in effect on March 31, 1988, shall be deemed to be renewed for a six-month period beginning on the date of enactment of the Endangered Species Act Amendments of 1988. Any person holding such a certificate may apply to the Secretary for one additional renewal of such certificate for a period not to exceed 5 years beginning on the date of such enactment.".

(b) Section 10(f)(8)(B) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)(b)) is amended by striking "original" and inserting "previous".

(c) Section 10(f)(8) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)(8)) is amended by adding at the end thereof the following subparagraph:

Commerce and trade.

"(D) No person may, after January 31, 1984, sell or offer for sale in interstate or foreign commerce, any pre-Act finished scrimshaw product unless such person holds a valid certificate of exemption issued by the Secretary under this subsection, and unless such product or the raw material for such product was held by such person on October 13, 1982.".

(d) Section 10(f) of the Endangered Species Act of 1973 (16 U.S.C. 1539(f)) is amended by striking paragraph (9).

SEC. 1012. FEDERAL COST OF PROTECTING ENDANGERED SPECIES.

The Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) is amended by adding at the end thereof the following new section:

"ANNUAL COST ANALYSIS BY THE FISH AND WILDLIFE SERVICE

Reports. 16 USC 1544.

"SEC. 18. On or before January 15, 1990, and each January 15 thereafter, the Secretary of the Interior, acting through the Fish and Wildlife Service, shall submit to the Congress an annual report covering the preceding fiscal year which shall contain—

"(1) an accounting on a species by species basis of all reasonably identifiable Federal expenditures made primarily for the conservation of endangered or threatened species pursuant to this Act; and

"(2) an accounting on a species by species basis of all reasonably identifiable expenditures made primarily for the conservation of endangered or threatened species pursuant to this Act by States receiving grants under section 6.".

SEC. 1013. TECHNICAL AMENDMENTS.

(a) In section 2 of the Endangered Species Act of 1973 (16 U.S.C. 1531), strike "(G) other international agreements." and insert "(G) other international agreements; and".

(b) In section 10(c) of the Endangered Species Act of 1973 (16 U.S.C. 1539), strike "notice," in the second sentence and insert "notice, of".

(c) In section 10(e)(3)(ii) of the Endangered Species Act of 1973 (16 U.S.C. 1539), strike "lacking," and insert "lacing,".

TITLE II—AFRICAN ELEPHANT CONSERVATION

African Elephant Conservation Act.

SEC. 2001. SHORT TITLE.

16 USC 4201 note.

This title may be cited as the "African Elephant Conservation Act".

SEC. 2002. STATEMENT OF PURPOSE.

16 USC 4201.

The purpose of this title is to perpetuate healthy populations of African elephants.

SEC. 2003. FINDINGS.

16 USC 4202.

The Congress finds the following:

(1) Elephant populations in Africa have declined at an alarming rate since the mid-1970's.

(2) The large illegal trade in African elephant ivory is the major cause of this decline and threatens the continued existence of the African elephant.

(3) The African elephant is listed as threatened under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) and its continued existence will be further jeopardized if this decline is not reversed.

(4) Because African elephant ivory is indistinguishable from Asian elephant ivory, there is a need to ensure that the trade in African elephant ivory does not further endanger the Asian elephant, which is listed as endangered under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1533) and under Appendix I of CITES.

(5) In response to the significant illegal trade in African elephant ivory, the parties to CITES established the CITES Ivory Control System to curtail the illegal trade and to encourage African countries to manage, conserve, and protect their African elephant populations.

(6) The CITES Ivory Control System entered into force recently and should be allowed to continue in force for a reasonable period of time to assess its effectiveness in curtailing the illegal trade in African elephant ivory.

(7) Although some African countries have effective African elephant conservation programs, many do not have sufficient resources to properly manage, conserve, and protect their elephant populations.

(8) The United States, as a party to CITES and a large market for worked ivory, shares responsibility for supporting and implementing measures to stop the illegal trade in African ele-

phant ivory and to provide for the conservation of the African elephant.

(9) There is no evidence that sport hunting is part of the poaching that contributes to the illegal trade in African elephant ivory, and there is evidence that the proper utilization of well-managed elephant populations provides an important source of funding for African elephant conservation programs.

16 USC 4203.

SEC. 2004. STATEMENT OF POLICY.

It is the policy of the United States—

(1) to assist in the conservation and protection of the African elephant by supporting the conservation programs of African countries and the CITES Secretariat; and

(2) to provide financial resources for those programs.

Research and development.

PART I—AFRICAN ELEPHANT CONSERVATION ASSISTANCE

16 USC 4211.

SEC. 2101. PROVISION OF ASSISTANCE.

(a) IN GENERAL.—The Secretary may provide financial assistance under this part from the African Elephant Conservation Fund for approved projects for research, conservation, management, or protection of African elephants.

(b) PROJECT PROPOSAL.—Any African government agency responsible for African elephant conservation and protection, the CITES Secretariat, and any organization or individual with experience in African elephant conservation may submit to the Secretary a project proposal under this section. Each such proposal shall contain—

(1) the name of the person responsible for conducting the project;

(2) a succinct statement of the need for and purposes of the project;

(3) a description of the qualifications of the individuals who will be conducting the project;

(4) an estimate of the funds and time required to complete the project;

(5) evidence of support of the project by governmental entities of countries within which the project will be conducted, if such support may be important for the success of the project; and

(6) any other information the Secretary considers to be necessary or appropriate for evaluating the eligibility of the project for funding under this title.

(c) PROJECT REVIEW AND APPROVAL.—The Secretary shall review each project proposal to determine if it meets the criteria set forth in subsection (d) and otherwise merits assistance under this title. Not later than six months after receiving a project proposal, and subject to the availability of funds, the Secretary shall approve or disapprove the proposal and provide written notification to the person who submitted the proposal and to each country within which the project is proposed to be conducted.

(d) CRITERIA FOR APPROVAL.—The Secretary may approve a project under this section if the project will enhance programs for African elephant research, conservation, management, or protection by—

(1) developing in a usable form sound scientific information on African elephant habitat condition and carrying capacity,

total elephant numbers and population trends, or annual reproduction and mortality; or

(2) assisting efforts—

(A) to ensure that any taking of African elephants in the country is effectively controlled and monitored;

(B) to implement conservation programs to provide for healthy, sustainable African elephant populations; or

(C) to enhance compliance with the CITES Ivory Control System. Ivory.

(e) PROJECT REPORTING.—Each entity that receives assistance under this section shall provide such periodic reports to the Director of the United States Fish and Wildlife Service as the Director considers relevant and appropriate. Each report shall include all information requested by the Director for evaluating the progress and success of the project.

SEC. 2102. AFRICAN ELEPHANT CONSERVATION FUND. 16 USC 4212.

(a) ESTABLISHMENT.—There is established in the general fund of the Treasury a separate account to be known as the "African Elephant Conservation Fund", which shall consist of amounts deposited into the Fund by the Secretary of the Treasury under subsection (b).

(b) DEPOSITS INTO FUND.—The Secretary of the Treasury shall deposit into the Fund—

(1) subject to appropriations, all amounts received by the United States in the form of penalties under section 2204 which are not used to pay rewards under section 2205;

(2) amounts received by the Secretary of the Interior in the form of donations under subsection (d); and

(3) other amounts appropriated to the Fund to carry out this part.

(c) USE.—

(1) IN GENERAL.—Subject to paragraph (2), amounts in the Fund may be used by the Secretary, without further appropriation, to provide assistance under this part.

(2) ADMINISTRATION.—Not more than three percent of amounts appropriated to the Fund for a fiscal year may be used by the Secretary to administer the Fund for that fiscal year.

(d) ACCEPTANCE AND USE OF DONATIONS.—The Secretary may accept and use donations of funds to provide assistance under this part. Amounts received by the Secretary in the form of such donations shall be transferred by the Secretary to the Secretary of the Treasury for deposit into the Fund.

SEC. 2103. ANNUAL REPORTS.

The Secretary shall submit an annual report to the Congress not later than January 31 of each year regarding the Fund and the status of the African elephant. Each such report shall include with respect to the year for which the report is submitted a description of—

(1) the total amounts deposited into and expended from the Fund;

(2) the costs associated with the administration of the Fund;

(3) a summary of the projects for which the Secretary has provided assistance under this part and an evaluation of those projects; and

(4) an evaluation of African elephant populations and whether the CITES Ivory Control System is functioning effectively to control the illegal trade in African elephant ivory.

Exports.
Imports.
Ivory.
16 USC 4221.

PART II—MORATORIA AND PROHIBITED ACTS

SEC. 2201. REVIEW OF AFRICAN ELEPHANT CONSERVATION PROGRAMS.

(a) IN GENERAL.—Within one month after the date of the enactment of this title, the Secretary shall issue a call for information on the African elephant conservation program of each ivory producing country by—

Federal Register, publication.

(1) publishing a notice in the Federal Register requesting submission of such information to the Secretary by all interested parties; and

(2) submitting a written request for such information through the Secretary of State to each ivory producing country.

(b) REVIEW AND DETERMINATION.—

Federal Register, publication.

(1) IN GENERAL.—The Secretary shall review the African elephant conservation program of each ivory producing country and, not later than one year after the date of the enactment of this title, shall issue and publish in the Federal Register a determination of whether or not the country meets the following criteria:

(A) The country is a party to CITES and adheres to the CITES Ivory Control System.

(B) The country's elephant conservation program is based on the best available information, and the country is making expeditious progress in compiling information on the elephant habitat condition and carrying capacity, total population and population trends, and the annual reproduction and mortality of the elephant populations within the country.

(C) The taking of elephants in the country is effectively controlled and monitored.

(D) The country's ivory quota is determined on the basis of information referred to in subparagraph (B) and reflects the amount of ivory which is confiscated or consumed domestically by the country.

(E) The country has not authorized or allowed the export of amounts of raw ivory which exceed its ivory quota under the CITES Ivory Control System.

(2) DELAY IN ISSUING DETERMINATION.—If the Secretary finds within one year after the date of the enactment of this title that there is insufficient information upon which to make the determination under paragraph (1), the Secretary may delay issuing the determination until no later than December 31, 1989. The Secretary shall issue and publish in the Federal Register at the time of the finding a statement explaining the reasons for any such delay.

Federal Register, publication.

16 USC 4222.

SEC. 2202. MORATORIA.

(a) IVORY PRODUCING COUNTRIES.—

(1) IN GENERAL.—The Secretary shall establish a moratorium on the importation of raw and worked ivory from an ivory producing country immediately upon making a determination that the country does not meet all the criteria set forth in section 2201(b)(1).

(2) LATER ESTABLISHMENT.—With regard to any ivory producing country for which the Secretary has insufficient information to make a determination pursuant to section 2201(b), the Secretary shall establish a moratorium on the importation of raw and worked ivory from such country not later than January 1, 1990, unless, based on new information, the Secretary concludes before that date that the country meets all of the criteria set forth in section 2201(b)(1).

(b) INTERMEDIARY COUNTRIES.—The Secretary shall establish a moratorium on the importation of raw and worked ivory from an intermediary country immediately upon making a determination that the country—

(1) is not a party to CITES;

(2) does not adhere to the CITES Ivory Control System;

(3) imports raw ivory from a country that is not an ivory producing country;

(4) imports raw or worked ivory from a country that is not a party to CITES;

(5) imports raw or worked ivory that originates in an ivory producing country in violation of the laws of that ivory producing country;

(6) substantially increases its imports of raw or worked ivory from a country that is subject to a moratorium under this title during the first three months of that moratorium; or

(7) imports raw or worked ivory from a country that is subject to a moratorium under this title after the first three months of that moratorium, unless the ivory is imported by vessel during the first six months of that moratorium and is accompanied by shipping documents which show that it was exported before the establishment of the moratorium.

(c) SUSPENSION OF MORATORIUM.—The Secretary shall suspend a moratorium established under this section if, after notice and public comment, the Secretary determines that the reasons for establishing the moratorium no longer exist.

(d) PETITION.—

(1) IN GENERAL.—Any person may at any time submit a petition in writing requesting that the Secretary establish or suspend a moratorium under this section. Such a petition shall include such substantial information as may be necessary to demonstrate the need for the action requested by the petition.

(2) CONSIDERATION AND RULING.—The Secretary shall publish a notice of receipt of a petition under this subsection in the Federal Register and shall provide an opportunity for the public to comment on the petition. The Secretary shall rule on such petition not later than 90 days after the close of the public comment period.

Federal Register, publication.

(e) SPORT-HUNTED TROPHIES.—Individuals may import sport-hunted elephant trophies that they have legally taken in an ivory producing country that has submitted an ivory quota. The Secretary shall not establish any moratorium under this section, pursuant to a petition or otherwise, which prohibits the importation into the United States of sport-hunted trophies from elephants that are legally taken by the importer or the importer's principal in an ivory producing country that has submitted an ivory quota.

(f) CONFISCATED IVORY.—Trade in raw or worked ivory that is confiscated by an ivory producing country or an intermediary country and is disposed of pursuant to the CITES Ivory Control System

shall not be the sole cause for the establishment of a moratorium under this part if all proceeds from the disposal of the confiscated ivory are used solely to enhance wildlife conservation programs or conservation purposes of CITES. With respect to any country that was not a party to CITES at the time of such confiscation, this subsection shall not apply until such country develops appropriate measures to assure that persons with a history of illegal dealings in ivory shall not benefit from the disposal of confiscated ivory.

16 USC 4223.

SEC. 2203. PROHIBITED ACTS.

Except as provided in section 2202(e), it is unlawful for any person—

(1) to import raw ivory from any country other than an ivory producing country;

(2) to export raw ivory from the United States;

(3) to import raw or worked ivory that was exported from an ivory producing country in violation of that country's laws or of the CITES Ivory Control System;

(4) to import worked ivory, other than personal effects, from any country unless that country has certified that such ivory was derived from legal sources; or

(5) to import raw or worked ivory from a country for which a moratorium is in effect under section 2202.

16 USC 4224.

SEC. 2204. PENALTIES AND ENFORCEMENT.

(a) CRIMINAL VIOLATIONS.—Whoever knowingly violates section 2203 shall, upon conviction, be fined under title 18, United States Code, or imprisoned for not more than one year, or both.

(b) CIVIL VIOLATIONS.—Whoever violates section 2203 may be assessed a civil penalty by the Secretary of not more than $5,000 for each such violation.

(c) PROCEDURES FOR ASSESSMENT OF CIVIL PENALTY.—Proceedings for the assessment of a civil penalty under this section shall be conducted in accordance with the procedures provided for in section 11(a) of the Endangered Species Act of 1973 (16 U.S.C. 1540(a)).

(d) USE OF PENALTIES.—Subject to appropriations, penalties collected under this section may be used by the Secretary of the Treasury to pay rewards under section 2205 and, to the extent not used to pay such rewards, shall be deposited by the Secretary of the Treasury into the Fund.

(e) ENFORCEMENT.—The Secretary, the Secretary of the Treasury, and the Secretary of the department in which the Coast Guard is operating shall enforce this part in the same manner such Secretaries carry out enforcement activities under section 11(e) of the Endangered Species Act of 1973 (16 U.S.C. 1540(e)). Section 11(c) of the Endangered Species Act of 1973 (16 U.S.C. 1540(c)) shall apply to actions arising under this part.

16 USC 4225.

SEC. 2205. REWARDS.

(a) IN GENERAL.—Upon the recommendation of the Secretary, the Secretary of the Treasury may pay a reward to any person who furnishes information which leads to a civil penalty or a criminal conviction under this title.

(b) AMOUNT.—The amount of a reward under this section shall be equal to not more than one-half of any criminal or civil penalty or fine with respect to which the reward is paid, or $25,000, whichever is less.

(c) LIMITATION ON ELIGIBILITY.—An officer or employee of the United States or of any State or local government who furnishes information or renders service in the performance of his or her official duties shall not be eligible for a reward under this section.

PART III—MISCELLANEOUS

SEC. 2301. PERMISSION TO IMPORT OR EXPORT AFRICAN ELEPHANT IVORY.

Section 9(d) of the Endangered Species Act of 1973 (16 U.S.C. 1538(d)) is amended to read as follows:

"(d) IMPORTS AND EXPORTS.— Fish and fishing.

"(1) IN GENERAL.—It is unlawful for any person, without first having obtained permission from the Secretary, to engage in business—

"(A) as an importer or exporter of fish or wildlife (other than shellfish and fishery products which (i) are not listed pursuant to section 4 of this Act as endangered species or threatened species, and (ii) are imported for purposes of human or animal consumption or taken in waters under the jurisdiction of the United States or on the high seas for recreational purposes); or

"(B) as an importer or exporter of any amount of raw or worked African elephant ivory.

"(2) REQUIREMENTS.—Any person required to obtain permission under paragraph (1) of this subsection shall— Records.

"(A) keep such records as will fully and correctly disclose each importation or exportation of fish, wildlife, plants, or African elephant ivory made by him and the subsequent disposition made by him with respect to such fish, wildlife, plants, or ivory;

"(B) at all reasonable times upon notice by a duly authorized representative of the Secretary, afford such representative access to his place of business, an opportunity to examine his inventory of imported fish, wildlife, plants, or African elephant ivory and the records required to be kept under subparagraph (A) of this paragraph, and to copy such records; and

"(C) file such reports as the Secretary may require.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as are necessary and appropriate to carry out the purposes of this subsection.

"(4) RESTRICTION ON CONSIDERATION OF VALUE OR AMOUNT OF AFRICAN ELEPHANT IVORY IMPORTED OR EXPORTED.—In granting permission under this subsection for importation or exportation of African elephant ivory, the Secretary shall not vary the requirements for obtaining such permission on the basis of the value or amount of ivory imported or exported under such permission.".

SEC. 2302. RELATIONSHIP TO ENDANGERED SPECIES ACT OF 1973. 16 USC 4241.

The authority of the Secretary under this title is in addition to and shall not affect the authority of the Secretary under the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.) or diminish the Secretary's authority under the Lacey Act Amendments of 1981 (16 U.S.C. 3371 et seq.).

SEC. 2303. CERTIFICATION UNDER PELLY AMENDMENT.

If the Secretary finds in administering this title that a country does not adhere to the CITES Ivory Control System, that country is deemed, for purposes of section 8(a)(2) of the Act of August 27, 1954 (22 U.S.C. 1978), to be diminishing the effectiveness of an international program for endangered or threatened species.

Imports.
Ivory.
16 USC 4243.

SEC. 2304. EFFECTIVENESS OF CITES.

Within 3 months after the completion of the 8th Conference of the Parties to CITES, the Secretary shall determine whether this title, together with the CITES Ivory Control System, has substantially stopped the importation of illegally harvested ivory into the United States. If the Secretary determines that the importation of illegally harvested ivory has not been substantially stopped, the Secretary shall recommend to the Congress amendments to this title or other actions that may be necessary to achieve the purposes of this title, including the establishment of a complete moratorium on the importation of elephant ivory into the United States.

16 USC 4244.

SEC. 2305. DEFINITIONS.

In this title—

(1) the term "African elephant" means any animal of the species loxodonta africana;

(2) the term "CITES" means the Convention on the International Trade in Endangered Species of Wild Fauna and Flora;

(3) the term "CITES Ivory Control System" means the ivory quota and marking system established by CITES to curtail illegal trade in African elephant ivory;

(4) the term "Fund" means the African Elephant Conservation Fund established by section 2102;

(5) the terms "import" and "importation" have the meanings such terms have in the Endangered Species Act of 1973 (16 U.S.C. 1531 et seq.);

(6) the term "intermediary country" means a country that exports raw or worked ivory that does not originate in that country;

(7) the term "ivory producing country" means any African country within which is located any part of the range of a population of African elephants;

(8) the term "ivory quota" means a quota submitted by an ivory producing country to the CITES Secretariat in accordance with the CITES Ivory Control System;

(9) the term "personal effects" means articles which are not intended for sale and are part of a shipment of the household effects of a person who is moving his or her residence to or from the United States, or are included in personal accompanying baggage;

(10) the term "raw ivory" means any African elephant tusk, and any piece thereof, the surface of which, polished or unpolished, is unaltered or minimally carved;

(11) the term "Secretary" means the Secretary of the Interior;

(12) the term "United States" means the fifty States, the District of Columbia, Guam, the Commonwealth of the Northern Mariana Islands, the Commonwealth of Puerto Rico, and the territories and possessions of the United States; and

(13) the term "worked ivory" means any African elephant tusk, and any piece thereof, which is not raw ivory.

SEC. 2306. AUTHORIZATION OF APPROPRIATIONS. 16 USC 4245.

There are authorized to be appropriated to the Fund and to the Secretary a total of not to exceed $5,000,000 for each of fiscal years 1989, 1990, 1991, 1992, and 1993 to carry out this title, to remain available until expended.

Approved October 7, 1988.

LEGISLATIVE HISTORY—H.R. 1467 (S. 675):

HOUSE REPORTS: No. 100-467 (Comm. on Merchant Marine and Fisheries) and No. 100-928 (Comm. of Conference).
SENATE REPORTS: No. 100-240 accompanying S. 675 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 11, 17, considered and passed House.
Vol. 134 (1988): July 25, S. 675 considered in Senate.
July 28, H.R. 1467 considered and passed Senate, amended, in lieu of S. 675.
Sept. 15, Senate agreed to conference report.
Sept. 26, House agreed to conference report.

Public Law 100-479
100th Congress

An Act

Oct. 7, 1988
[H.R. 4457]

To create a national park at Natchez, Mississippi.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Historic preservation. Conservation. 16 USC 410*oo*.

SECTION 1. PURPOSES.

The purposes of this Act are to—

(1) preserve and interpret the history of Natchez, Mississippi, as a significant city in the history of the American South;

(2) preserve and interpret the sites and structures associated with all the peoples of Natchez and its surrounding area from earliest inhabitants to the modern era, and including blacks both slave and free;

(3) preserve and interpret the region's social, political, and economic development, with particular emphasis on the pre- and post-Civil War eras; and

(4) preserve and interpret the region's commercial and agricultural history, especially in relation to the Mississippi River and cotton.

16 USC 410*oo*-1.

SEC. 2. ESTABLISHMENT OF NATCHEZ NATIONAL HISTORICAL PARK.

(a) IN GENERAL.—In order to provide for the benefit, inspiration, and education of the American people, there is hereby established the Natchez National Historical Park (hereinafter in this Act referred to as the "park") in the State of Mississippi.

(b) AREA INCLUDED.—The park shall consist of the historic districts established under this Act and the following properties:

(1) The lands and structures known as Melrose, together with all personal property located on such lands.

(2) The lands and improvements thereon known as, or associated with, Fort Rosalie.

The property referred to in paragraph (2) shall be included within the park only if the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") determines that the historic resources of Fort Rosalie are of sufficient national significance and integrity to warrant inclusion in the National Park System. The Secretary shall make such determination after receiving from the Governor of the State of Mississippi and the mayor of the city of Natchez, in consultation with the State Historic Preservation Officer, a recommendation based on scholarly research as to the national significance and integrity of such historic resources.

Public information. District of Columbia.

(c) BOUNDARIES; MAP.—The Secretary shall prepare a map of the lands included within the park. Such map shall be on file and available for public inspection in the offices of the National Park Service at the park and at the Department of the Interior in the District of Columbia. The Secretary may from time to time make minor revisions in the boundary of the park in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 and following).

SEC. 3. ACQUISITION OF PROPERTY. 16 USC 410oo-2.

Except as otherwise provided in this section, the Secretary may acquire, by donation, purchase with donated or appropriated funds, or exchange, land or interests in land, together with structures and other improvements thereon and personal property, which is included within the park. In addition the Secretary may acquire by any such means such personal property associated with the park as he deems appropriate for interpretation of the park and such additional lands and properties as may be necessary for purposes of an administrative headquarters and administrative site. Any land, interests in land, structures, improvements, or personal property owned by the State of Mississippi or any political subdivision thereof, may be acquired only by donation. The Secretary may not acquire fee title to any property other than the property he deems necessary for an administrative site and headquarters and the property referred to in paragraph (1) or (2) of section 2, and the Secretary may not acquire the property referred to in paragraph (1) of section 2 unless at least 25 per centum of the fair market value of such property (as determined by the Secretary) is donated to the United States in connection with such acquisition.

SEC. 4. ADMINISTRATION OF PARK. 16 USC 410oo-3.

(a) IN GENERAL.—The Secretary shall administer the park in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). Properties acquired under this Act for purposes of inclusion in the park shall be available for visitor inspection and enjoyment as promptly as practicable after the date of acquisition notwithstanding the absence of a park management plan. Public information.

(b) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept and expend donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this Act.

(c) HISTORIC DISTRICTS.—

(1) STUDY OF HISTORIC PROPERTIES.—The Secretary shall prepare and transmit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a study of the properties in the city of Natchez and its immediate environs that preserve and interpret the history contained in the purposes of this Act. Such report shall consider which properties best exemplify such purposes and appropriate means for providing technical assistance to, and interpretation of, such properties. The study and report shall include consideration of Natchez-Under-the-Hill and the Briars. Reports.

(2) ESTABLISHMENT OF DISTRICTS.—Following completion of the study under paragraph (1), but not later than one year after the date of enactment of this Act, the Secretary shall establish historic districts in the city of Natchez and its immediate environs for the preservation and interpretation of the resources that contribute to the understanding of the purposes of this Act.

(3) COOPERATIVE AGREEMENTS WITH OWNERS.—In furtherance of the purposes of this Act, and after consultation with the Advisory Commission established by this Act, the Secretary is authorized to enter into cooperative agreements with the owners of properties of historical or cultural significance (as determined by the Secretary) within any historic district established under this subsection. Such agreements shall permit the Secretary to mark, interpret, improve, restore, and provide technical assistance with respect to the preservation and interpretation of such properties. Such agreements shall contain, but need not be limited to, provisions that the Secretary shall have the right of access at reasonable times to public portions of any property covered by such agreement for purposes of conducting visitors through such properties and interpreting them to the public, and that no changes or alterations shall be made in the property except by mutual agreement between the Secretary and other parties to the agreement.

(d) GENERAL MANAGEMENT PLAN.—Within three complete fiscal years after the enactment of this Act, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a general management plan for the park. The plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. 1a-1 through 1a-7). Such plan shall identify appropriate facilities for proper interpretation of the site for visitors.

Gifts and property.
16 USC 410oo-4.

SEC. 5. NATCHEZ TRACE STUDY.

The Secretary shall prepare, in consultation with the city of Natchez, a study of the feasibility of extending the Natchez Trace within the city of Natchez, including the acceptance of donations of rights-of-way. The Secretary shall transmit the study to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate within one year after the date of enactment of this Act.

16 USC 410oo-5.

SEC. 6. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Natchez National Historical Park Advisory Commission (hereinafter in this Act referred to as the "Advisory Commission"). The Advisory Commission shall be composed of six members appointed by the Secretary. Two of such members shall be appointed from among individuals nominated by the mayor of Natchez and one from among individuals nominated by the Governor of Mississippi. Two of the members shall have expertise in historic preservation and one shall have expertise in architectural history. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Advisory Commission shall designate one of its members as Chairperson.

(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the management and development of the park.

(c) MEETINGS.—The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the

Public information.

area affected by the park. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

(d) EXPENSES.—Members of the Advisory Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(e) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Commission.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS. 16 USC 410*oo*-6.

There are hereby authorized to be appropriated not to exceed $12,000,000 to carry out this Act.

Approved October 7, 1988.

LEGISLATIVE HISTORY—H.R. 4457:

HOUSE REPORTS: No. 100-793 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-538 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
Sept. 27, considered and passed Senate.

Public Law 100-480
100th Congress

An Act

Oct. 7, 1988
[S. 1934]

Pursuant to the report ordered by Public Law 99-229 which directed the Architect of the Capitol and the Secretary of Transportation to undertake a study of the needs of the Federal judiciary for additional Federal office space, to authorize the Architect of the Capitol to contract for the design and construction of a building adjacent to Union Station in the District of Columbia to house agencies offices in the judicial branch of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Judiciary Office Building Development Act.
40 USC 1201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judiciary Office Building Development Act".

40 USC 1201.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress makes the following findings and declarations:

(1) Space for consolidation of activities of the Administrative Office of the United States Courts and other offices of the judicial branch of Government and for providing office space for retired justices of the Supreme Court is necessary and should be located in the vicinity of the Supreme Court building.

(2) Orderly development of the Capitol Grounds should be consistent with the Master Plan for the United States Capitol, dated 1981.

(3) The cost of leasing space by the judicial branch of the Government is high.

(4) Development of squares 721 and 722 in the District of Columbia is necessary to achieve the objectives of the Union Station Redevelopment Act and the revitalization of the Union Station area.

(5) The Judicial Conference of the United States endorsed by resolution the construction of an office building on the Capitol Grounds to house the Administrative Office of the United States Courts and related judicial branch offices.

(b) PURPOSES.—The purposes of this Act are as follows:

(1) To implement the report submitted to Congress by the Architect and the Secretary of Transportation under the Act of December 28, 1985 (99 Stat. 1749-1750), relating to the needs of the Federal judiciary for additional Federal office space.

(2) To authorize the Architect to acquire by lease space primarily for use by the judicial branch of the Government by entering into contracts for the design and construction of a building adjacent to Union Station.

(3) To ensure that the design and construction of such building will insofar as practicable result in a building which is efficient and economical and which provides visual testimony to the dignity, enterprise, vigor, and stability of the Federal Government.

SEC. 3. CONSTRUCTION OF BUILDING. 40 USC 1202.

(a) SELECTION PROCESS.—

(1) GENERAL RULE.—The Architect, under the direction of the Commission and in accordance with such policies and procedures as the Architect shall establish, shall select in accordance with provision of this subsection a person to develop squares 721 and 722 (bounded by F Street, 2nd Street, Massachusetts Avenue, and Columbia Plaza, Northeast) in the District of Columbia.

(2) REVISION OF PROPOSALS.—Not later than 90 days after the date of the enactment of this Act, each of the 5 persons who submitted a proposal for development of squares 721 and 722 under the study conducted under the Act of December 28, 1985 (99 Stat. 1749-1750), which is one of the 5 proposals under consideration by the Architect may revise such proposal to take into account the objectives of this Act and resubmit such proposal to the Architect.

(3) SELECTION OF REVISED PROPOSAL.—Subject to paragraph (4), not later than 120 days after the date of the enactment of this Act, the Architect shall select one of the persons resubmitting a proposal under paragraph (2) to develop squares 721 and 722 in the District of Columbia.

(4) NONSUBMISSION OF REVISED PROPOSALS; PROTECTION OF UNITED STATES INTEREST.—If no proposal is resubmitted to the Architect under paragraph (2) in the 90-day period or if the Architect determines that none of the proposals resubmitted under paragraph (2) is in the best interests of the United States, the Architect shall conduct a competition for selection of a person to develop squares 721 and 722 in the District of Columbia. Such competition shall be conducted in accordance with such policies and procedures as the Architect may establish for a development competition.

(5) PURPOSE OF DEVELOPMENT.—The purpose of development of squares 721 and 722 is to provide office space for the Administrative Office of the United States Courts, the Federal Judicial Center, the Judicial Panel of Multidistrict Litigation, and the United States Sentencing Commission, chambers for retired justices of the Supreme Court, and other related offices of the judicial branch of the United States and other persons (including governmental entities).

(6) APPROVAL OF CHIEF JUSTICE.—All final decisions regarding architectural design of the building to be constructed under this Act shall be subject to the approval of the Chief Justice of the United States.

(7) PROHIBITION ON PAYMENTS FOR BIDS AND DESIGNS.—The Architect may not make any payment to any person for any bid or design proposal under any competition conducted under this subsection.

(8) LIMITATIONS.—

(A) SIZE OF BUILDING.—The building (excluding parking facilities) to be constructed under this Act may not exceed 520,000 gross square feet in size above the level of Columbia Plaza in the District of Columbia.

(B) HEIGHT OF BUILDING.—The height of the building and other improvements shall be compatible with the height of surrounding Government and historic buildings and con-

form to the provisions of the Act of June 1, 1910, commonly known as the Building Height Act of 1910 (36 Stat. 452).

(C) DESIGN.—The building and other improvements shall be designed in harmony with historical and Government buildings in the vicinity, shall reflect the symbolic importance and historic character of the United States Capitol and other buildings on the United States Capitol grounds, and shall represent the dignity and stability of the Federal Government.

(b) DEVELOPMENT AGREEMENT.—

(1) AUTHORITY TO ENTER.—The Architect may enter into with the person selected to develop squares 721 and 722 under subsection (a) an agreement for the development of such squares. Except as otherwise provided in this Act, such agreement shall provide for development of such squares substantially in accordance with (A) alternative D of the report to Congress entitled "The Study of Alternatives for the Construction of an Office Building(s) for the Administrative Office of the United States Courts", submitted to Congress on August 10, 1987, by the Architect and the Secretary of Transportation, and (B) the Master Plan for the United States Capitol, dated 1981.

(2) CONTENTS.—The development agreement under paragraph (1) shall at a minimum provide for the following:

(A) Except to the extent otherwise provided by this Act, all design, development, and construction costs incurred with respect to the building to be constructed under the agreement will be at no cost to the United States.

(B) Title to squares 721 and 722 will remain in the United States.

(C) Title to the building and other improvements constructed or otherwise made on or to squares 721 and 722 will immediately revert to the United States at the expiration of not more than 30 years from the effective date of the lease agreement entered into under section 4 without payment of any compensation by the United States.

(D) The building and other improvements constructed on or to squares 721 and 722 to be leased to the United States will be in accordance with the provisions of this Act and the lease agreement will contain such terms and conditions as may be prescribed by the Architect to carry out the objectives of this Act.

The agreement shall include a copy of the lease agreement entered into under section 4 by the Architect and the person selected to develop squares 721 and 722.

(c) CHILLED WATER AND STEAM FROM THE CAPITOL POWER PLANT.—

(1) AUTHORITY FOR HOOKUP TO CAPITOL POWER PLANT.—The building to be constructed under this Act may be connected to the Capitol Power Plant through construction of extensions to the chilled water and steam lines which serve Union Station. If such building is to be connected to the Capitol Power Plant, the agreement under subsection (b) between the Architect and the person selected to construct such building shall provide that such person will bear all costs associated with the installation of chilled water and steam lines to the building and shall reimburse the Union Station Redevelopment Corporation for an equitable share of the costs incurred by the Union Station Redevelopment Corporation in the construction of extensions of

the chilled water and steam lines from such Plant to Union Station.

(2) FURNISHING OF CHILLED WATER AND STEAM FROM CAPITOL POWER PLANT.—If the building to be constructed under this Act is connected with the Capitol Power Plant pursuant to paragraph (1), the Architect shall furnish, on a reimbursable basis, chilled water and steam from such Plant to such building.

(d) CONSTRUCTION STANDARDS AND INSPECTIONS.—The building and other improvements constructed under this Act shall meet all standards applicable to construction of a Federal building. During construction, the Architect shall conduct periodic inspections of such building for the purpose of assuring that such standards are being met. Such building shall not be subject to any law of the District of Columbia relating to building codes, permits, or inspection (including any such law enacted by Congress).

(e) APPLICABILITY OF CERTAIN LAWS.—The building and other improvements constructed under this Act shall not be subject to any law of the District of Columbia relating to real estate and personal property taxes, special assessments, or other taxes (including any such law enacted by Congress). Taxes.

SEC. 4. LEASE OF BUILDING BY ARCHITECT OF THE CAPITOL. 40 USC 1203.

(a) ENTRY INTO LEASE AGREEMENT.—Before the development agreement is entered into under section 3, the Architect shall enter into with the person selected to construct the building under this Act an agreement for the lease of such building by the Architect to carry out the objectives of this Act.

(b) TERMS OF LEASE AGREEMENT.—The agreement entered into under this section shall include at a minimum the following terms:

(1) The Architect will lease the building and other improvements for a term not to exceed 30 years from the effective date of such lease agreement.

(2) The rental rate per square foot of occupiable space for all space in the building and other improvements will be in the best interest of the United States and carry out the objectives of this Act, but in no case may the aggregate rental rate for all space in the building and other improvements produce an amount less than the amount necessary to amortize the cost of development of squares 721 and 722 over the term of the lease.

(3) Authority for the Architect to make space available and to sublease space in the building and other improvements in accordance with section 6 of this Act.

(c) ACCOUNTING SYSTEM.—The Architect shall maintain an accounting system for operation and maintenance of the building and other improvements to be constructed under this Act which will permit accurate projections of the dates and the costs of major repairs, improvements, reconstructions, and replacements of such building and improvements and other capital expenditures on such building and improvements.

(d) OBLIGATION OF FUNDS.—Obligation of funds for lease payments under this section may only be made on an annual basis and may only be made from the account established by section 9.

SEC. 5. STRUCTURAL AND MECHANICAL CARE AND SECURITY. 40 USC 1204.

(a) STRUCTURAL AND MECHANICAL CARE.—Upon occupancy by the United States of the building and other improvements constructed under this Act, the structural and mechanical care and mainte-

nance of such building and improvements (including the care and maintenance of the grounds of such building) shall be the responsibility of the Architect, under the direction of the Commission, in the same manner and to the same extent as the structural and mechanical care and maintenance of the United States Supreme Court Building under the Act of May 7, 1934 (48 Stat. 668; 40 U.S.C. 13a), and all other duties and work required for the operation and domestic care of such building and improvements shall be performed by the Architect, under the direction of the Commission.

(b) SECURITY.—

(1) GENERAL RULE.—The United States Capitol Police shall be responsible for all exterior and interior security of the building and other improvements constructed under this Act.

(2) AUTHORITY OF SUPREME COURT MARSHAL.—Nothing in this Act shall be construed to interfere with the obligation of the Marshal of the Supreme Court of the United States to protect justices, officers, employees, or other personnel of the Supreme Court who may occupy the building and other improvements.

(3) REIMBURSEMENT.—The Architect shall transfer from the account established by section 9 such amounts as may be necessary to reimburse the United States Capitol Police for expenses incurred in providing exterior and interior security under this subsection. The United States Capitol Police may accept amounts transferred by the Architect under this paragraph, and such amounts shall be credited to the appropriation account charged by the United States Capitol Police in executing the performance of security duties.

40 USC 1205.

SEC. 6. ALLOCATION OF SPACE.

(a) GOVERNMENTAL ENTITIES.—

(1) JUDICIAL BRANCH.—Subject to the provisions of this section, the Architect shall make available, on a reimbursable basis, all space in the building and other improvements constructed under this Act to the judicial branch of the United States substantially in accordance with the report referred to in section 3(b)(1).

(2) OTHER.—Any space in the building and other improvements constructed under this Act which the Chief Justice determines is not needed by the judicial branch of the United States may be made available by the Architect, on a reimbursable basis, to Federal governmental entities which are not part of the judicial branch and which are not staff of Members of Congress or Congressional Committees.

(3) TERMS AND CONDITIONS.—Space made available under this subsection shall be subject to such terms and conditions as are necessary to carry out the objectives of this Act.

(4) REIMBURSEMENT RATE.—All space made available by the Architect under this subsection shall be subject to reimbursement at the rate established under section 4(b)(2) plus such amount as the Architect and—

(A) in the case of the judicial branch, the Director of the Administrative Office of the United States Courts, or

(B) in the case of any governmental entity not a part of the judicial branch, such entity,

determine is necessary to pay on an annual basis for the cost of administering the building and other improvements (including costs of operation, maintenance, rehabilitation, security, and

structural, mechanical, and domestic care) which are attributable to such space.

(5) MEETING JUDICIAL BRANCH NEEDS.—

(A) IN GENERAL.—Whenever the Chief Justice notifies the Architect that the judicial branch of the United States requires additional space in the building and other improvements constructed under this Act, the Architect shall accommodate those requirements (i) in the case of space made available to the Administrator of General Services, by a date agreed upon under subparagraph (B), or (ii) in the case of space made available to any person or governmental entity (other than the General Services Administration), within 90 days after the date of such notification.

(B) SPACE AVAILABLE TO GSA.—In any case in which such additional space is provided from space in the building made available to the Administrator of General Services, the space shall be vacated expeditiously by not later than a date mutually agreed upon by the Chief Justice and the Administrator of General Services.

(C) UNOCCUPIED SPACE.—Whenever any space in the building is unoccupied, the Chief Justice shall have a right of first refusal to use such space to meet the needs of the judicial branch in accordance with this subsection.

(6) ASSIGNMENT OF SPACE WITHIN THE JUDICIAL BRANCH.—The Director of the Administrative Office of the United States Courts may assign and reassign space made available to the judicial branch of the United States under this subsection among offices of the judicial branch as the Director deems appropriate.

(b) NONGOVERNMENTAL TENANTS.—

(1) GENERAL RULE.—Any space in the building and other improvements constructed under this Act which the Chief Justice determines is not needed by the judicial branch of the United States shall first be offered to other Federal governmental entities which are not staff of Members of Congress or Congressional Committees; and then, if any space remains, it may be subleased by the Architect, under the direction of the Commission, to any person.

(2) RENTAL RATE.—All space subleased by the Architect under this subsection shall be subject to reimbursement at a rate which is comparable to prevailing rental rates for similar facilities in the area but not less than the rate established under section 4(b)(2) plus such amount as the Architect and the person subleasing such space agree is necessary to pay on an annual basis for the cost of administering the building (including costs of operation, maintenance, rehabilitation, security, and structural, mechanical, and domestic care) which are attributable to such space.

(3) LIMITATION.—Subleases under this subsection must be compatible with the dignity and functions of the judicial branch offices housed in the building and must not unduly interfere with the activities and operations of the judicial branch agencies housed in the building. The provisions of section 4 of the Act of July 31, 1946 (60 Stat. 718; 40 U.S.C. 193d), and section 451 of the Legislative Reorganization Act of 1970 (84 Stat. 1193; 40 U.S.C. 193m-1) shall not apply to any space in the building

and other improvements subleased to a non-Government tenant under this subsection.

(4) COLLECTION OF RENT.—The Architect shall collect rent for space subleased under this subsection.

(c) DEPOSIT OF RENT AND REIMBURSEMENTS.—All funds received under this subsection (including lease payments and reimbursements) shall be deposited into the account established by section 9.

40 USC 1206.

SEC. 7. COMMISSION FOR JUDICIARY OFFICE BUILDING.

(a) ESTABLISHMENT.—There is established a Commission to be known as the Commission for the Judiciary Office Building.

(b) MEMBERSHIP.—The Commission shall be composed of the following 13 members:

(1) Two individuals appointed by the Chief Justice from among justices of the Supreme Court and other judges of the United States (or their designees).

(2) The members of the House Office Building Commission (or their designees).

(3) The majority leader and minority leader of the Senate (or their designees).

(4) The Chairman and the ranking minority member of the Senate Committee on Rules and Administration (or their designees).

(5) The Chairman and the ranking minority member of the Senate Committee on Environment and Public Works (or their designees).

(6) The Chairman and ranking minority member of the Committee on Public Works and Transportation of the House of Representatives (or their designees).

(c) DUTIES.—The Commission shall be responsible for supervision of design, construction, operation, maintenance, structural, mechanical, and domestic care and security of the building to be constructed under this Act. The Commission shall from time to time prescribe rules and regulations to govern the actions of the Architect under this Act and to govern the use and occupancy of all space in such building.

Regulations.

(d) QUORUM.—Seven members of the Commission shall constitute a quorum.

SEC. 8. REPEAL OF DOT AUTHORITY.

Section 116(a)(2) of the National Visitor Center Facilities Act of 1968 (40 U.S.C. 816(a)(2)), relating to assignment of squares 721 and 722 to the Secretary of Transportation, is repealed.

40 USC 1207.

SEC. 9. FUNDING.

(a) SEPARATE ACCOUNT.—There is established in the Treasury of the United States a separate account. Such account shall include all amounts deposited therein under section 6(c) and such amounts as may be appropriated thereto but not to exceed $2,000,000. Amounts in the account shall be available to the Architect for paying expenses for structural, mechanical, and domestic care, maintenance, operation, and utilities of the building and other improvements constructed under this Act, for reimbursing the United States Capitol Police for expenses incurred in providing exterior and interior security for the building and other improvements, for making lease payments under section 4, and for necessary personnel (including consultants).

(b) UNEXPENDED BALANCES OF FUNDS.—The unexpended balance of funds appropriated by the Urgent Supplemental Appropriations Act, 1986 under the heading "Study of Construction of Office Building" (100 Stat. 717) are transferred to the Architect on the date of the enactment of this Act. Such unexpended balance shall be available for design review, construction inspection, contract administration, and such other project related costs under this Act as the Architect may deem appropriate.

SEC. 10. DEFINITIONS. 40 USC 1208.

As used in this Act—

(1) ARCHITECT.—The term "Architect" means the Architect of the Capitol.

(2) CHIEF JUSTICE.—The term "Chief Justice" means the Chief Justice of the United States or his designee; except that in any case in which there is a vacancy of the office of the Chief Justice of the United States, the most senior associate justice of the Supreme Court shall be treated as the Chief Justice of the United States for purposes of this Act until such time as such vacancy is filled.

(3) COMMISSION.—The term "Commission" means the Commission for the Judiciary Office Building established by section 7.

Approved October 7, 1988.

LEGISLATIVE HISTORY—S. 1934:

HOUSE REPORTS: No. 100-884 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 100-358 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, considered and passed Senate.
Sept. 20, considered and passed House, amended.
Sept. 23, Senate concurred in House amendment.

Public Law 100-481
100th Congress

An Act

Oct. 11, 1988
[H.R. 4998]

To amend the Food Stamp Act of 1977 to make technical corrections in the Family Independence Demonstration Project.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL AMENDMENT TO FAMILY INDEPENDENCE DEMONSTRATION PROJECT.—Section 21(d)(3) of the Food Stamp Act of 1977 (7 U.S.C. 2030(d)(3)) is amended to read as follows:

"(3) For households eligible to participate in the food stamp program that contain some members who participate in the Project and other members who do not participate in the Project, those members who do not participate in the Project shall receive a separate benefit in food coupons under the food stamp program that is not less than the amount of food stamp benefits that such members would have received were the Project not implemented.".

7 USC 2030 note.

SEC. 2. EFFECTIVE DATE.—The amendment made by this Act shall become effective on July 1, 1988.

Approved October 11, 1988.

LEGISLATIVE HISTORY—H.R. 4998:

HOUSE REPORTS: No. 100-840 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 100-482
100th Congress

Joint Resolution

Commemorating the bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen.

Oct. 11, 1988
[S.J. Res. 317]

Whereas the Treaty of Commerce and Amity concluded February 6, 1778, between France and the United States was the first alliance entered into by the United States;

Whereas the independence of the United States was achieved with significant assistance from France and from individual citizens of France;

Whereas the ideals of liberty and freedom which animated the people of the United States during the American Revolution were shared by many of the people of France and are held sacred by both peoples today;

Whereas the year 1789 was of particular significance in the history of both France and the United States, marking the opening chapter of the French Revolution and the concluding chapter of the American Revolution;

Whereas within a period of 31 days, the National Assembly of France approved the Declaration of the Rights of Man and of the Citizen on August 26, 1789, and the Congress of the United States approved the Bill of Rights on September 25, 1789, thereby proclaiming the sanctity of human rights on both sides of the Atlantic Ocean and guaranteeing them for future generations;

Whereas the Government of France has established a Commission for the Bicentennial of the French Revolution and the Declaration of the Rights of Man and of the Citizen; and

Whereas an American Committee on the French Revolution has been organized to plan an appropriate commemoration in the United States of the bicentennial of the historic events of 1789 and of the shared aspirations, ideals, and experiences of the French and American peoples: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Congress and people of the United States extend to the people of France an expression of friendship and high regard on the occasion of the bicentennial of the French Revolution.

(b) The Congress hereby—

(1) urges the people of the United States to observe the bicentennial of the French Revolution as may be appropriate to the occasion; and

(2) finds with pride and satisfaction that France and the United States remain fully committed to the principles of the Declaration of the Rights of Man and of the Citizen, and the Bill of Rights, respectively.

(c)(1) There shall be printed as a Senate document during the bicentennial year 1989 the Declaration of the Rights of Man and of the Citizen, and the Bill of Rights, with accompanying historical notes, including

(2) bound volumes suitable for presentation to the President of the French Republic, the President of the Senate of France, and the President of the National Assembly of France.

Approved October 11, 1988.

LEGISLATIVE HISTORY—S.J. Res. 317:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 23, considered and passed Senate.
Sept. 20, considered and passed House, amended.
Sept. 23, Senate concurred in House amendments.

Public Law 100-483
100th Congress

An Act

To authorize appropriations for the Mining and Mineral Resources Research Institute Act for fiscal years 1990 through 1993.

Oct. 12, 1988
[H.R. 3977]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Mining and Mineral Resources Research Institute Amendments of 1988.

SECTION 1. REFERENCES.

Any reference in this Act to the "Mining and Mineral Resources Research Institute Act of 1984" is a reference to the Act of August 29, 1984, entitled "To establish a State Mining and Mineral Resources Research Institute program, and for other purposes" (30 U.S.C. 1221 through 1230).

SEC. 2. ALLOTMENT GRANTS AUTHORIZATION PERIOD; LIMITATION.

Section 1(a)(1) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221(a)(1)) is amended by striking "$300,000 for the fiscal year ending September 30, 1985, and $400,000 to each participating State for each fiscal year thereafter for a total of five years" and inserting in lieu thereof the following: "$400,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994".

SEC. 3. MATCHING FUNDS REQUIREMENT.

Grants.

Section 1(a)(2)(A) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221(a)(2)(A)) is amended to read as follows:

"(A) Funds appropriated under this section shall be made available for grants to be matched on a basis of no less than 2 non-Federal dollars for each Federal dollar.".

SEC. 4. RESEARCH SUBJECT.

The second sentence of section 1(b) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1221(b)) is amended by inserting "fuel and nonfuel" immediately after "production of".

SEC. 5. RESEARCH GRANTS AUTHORIZATION PERIOD.

Section 2(a) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1222(a)) is amended as follows:

(1) The first sentence is amended to read as follows: "There is authorized to be appropriated to the Secretary not more than $15,000,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994, which shall remain available until expended.".

(2) The second sentence is deleted.

(3) In the third sentence, strike "institutes" and insert "an institute or to institutes participating in a generic mineral technology center".

SEC. 6. ADMINISTRATION.

The first sentence of section 4(a) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1224(a)) is amended by inserting ", acting through the Director of the Bureau of Mines," immediately after "The Secretary".

SEC. 7. ADMINISTRATIVE EXPENSES.

Section 6(d) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1226(d)) is amended to read as follows:

"(d)(1) There is authorized to be appropriated to the Secretary $450,000 for each of the fiscal years ending September 30, 1990, through September 30, 1994, to administer this Act. No funds may be withheld by the Secretary for administrative expenses from those authorized to be appropriated by sections 1 and 2 of this Act.

"(2) There are authorized to be appropriated to the Secretary such sums as are necessary for the printing and publishing of the results of activities carried out by institutes and generic mineral technology centers under this Act, but such appropriations shall not exceed $550,000 in any single fiscal year.".

SEC. 8. ADVISORY COMMITTEE.

Section 9(a)(7) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1229(a)(7)) is amended by striking "six" in the first and last sentences and inserting in lieu thereof "7", and by striking "section 301 of the Surface Mining Control and Reclamation Act of 1977, two" and inserting in lieu thereof "this Act, 3".

SEC. 9. PLAN UPDATE.

Section 9(e) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1229(e)) is amended by striking "update the plan annually thereafter" in the second sentence and inserting in lieu thereof "submit an annual update of such plan by January 15 of each calendar year".

SEC. 10. ELIGIBILITY.

Section 10(b) of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1230(b)) is amended to read as follows:

Schools and colleges.

"(b)(1) Notwithstanding the provisions of subsection (a), those colleges or universities which, on the date of enactment of the Mining and Mineral Resources Research Institute Amendments of 1988, have a mining or mineral resources research institute program which has been found to be eligible pursuant to this Act shall continue to be eligible subject to review at least once during the period authorized by the Mining and Mineral Resources Research Institute Amendments of 1988, under the provisions of subsection (a). The results of such review shall be submitted by January 15, 1992, pursuant to section 11(a)(2) of the Mining and Mineral Resources Research Institute Amendments of 1988.

"(2) Generic mineral technology centers established by the Secretary under this Act are to be composed of institutes eligible pursuant to subsection (a). Existing generic mineral technology centers shall continue to be eligible under this Act subject to at least one review prior to January 15, 1992, pursuant to section 11(a)(3) of the Mining and Mineral Resources Research Institute Amendments of 1988.".

SEC. 11. REPORTS.

30 USC 1229 note.

(a) REPORT ON PROGRAMS.—The Committee on Mining and Mineral Resources Research established under section 9 of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1229) shall submit a report by January 15, 1992, to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate on the programs established under that Act. Such report may be submitted in conjunction with the annual plan update required by section 9(e) of such Act (30 U.S.C. 1229(e)) and shall include, but not necessarily be limited to, each of the following:

(1) A review of the activities of the institutes and generic mineral technology centers established under the Mining and Mineral Resources Research Institute Act of 1984.

(2) A review of each institute's eligibility pursuant to section 10 of the Mining and Mineral Resources Research Institute Act of 1984 (30 U.S.C. 1230).

(3) A review of each generic mineral technology center's eligibility. In conducting such review the committee shall consider the following criteria:

(A) Relevance and effectiveness of the research conducted.

(B) Need for further research in the generic area.

(4) Recommendations on establishing a mechanism by which new generic mineral technology centers can be established and existing centers can be phased-out or consolidated upon the completion of their mission.

(b) REPORT ON PROPOSAL FOR CENTER.—The committee shall submit a proposal to establish a Generic Mineral Technology Center on Strategic and Critical Minerals to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate by January 15, 1990.

SEC. 12. SHORT TITLE OF ACT.

The Mining and Mineral Resources Research Institute Act of 1984 is amended by inserting the following new section after section 10:

"SEC. 11. SHORT TITLE OF ACT.

Mining and Mineral Resources Research Institute Act of 1984.

"This Act may be cited as the Mining and Mineral Resources Research Institute Act of 1984.".

SEC. 13. SHORT TITLE OF AMENDMENTS.

30 USC 1201 note.

This Act may be cited as the Mining and Mineral Resources Research Institute Amendments of 1988.

30 USC 1201 note.

Approved October 12, 1988.

LEGISLATIVE HISTORY—H.R. 3977:

HOUSE REPORTS: No. 100-581 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-473 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 23, considered and passed House.
Aug. 11, considered and passed Senate, amended.
Sept. 23, House concurred in Senate amendment with an amendment.
Sept. 28, Senate concurred in House amendment.

Public Law 100-484
100th Congress

Joint Resolution

Oct. 13, 1988
[S.J. Res. 364]

To designate the week of October 2 through October 8, 1988, as "National Paralysis Awareness Week".

Whereas between 250,000 and 500,000 men, women, and children are currently victims of paralysis;

Whereas 10,000 to 12,000 Americans experience traumatic injuries to the spinal cord each year;

Whereas scientists and physicians worldwide are joining in the fight to find a cure for paralysis: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 2 through October 8, 1988, is designated as "National Paralysis Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved October 13, 1988.

LEGISLATIVE HISTORY—S.J. Res. 364:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 30, considered and passed Senate.
Oct. 6, considered and passed House.

Public Law 100-485
100th Congress

An Act

To revise the AFDC program to emphasize work, child support, and family benefits, to amend title IV of the Social Security Act to encourage and assist needy children and parents under the new program to obtain the education, training, and employment needed to avoid long-term welfare dependence, and to make other necessary improvements to assure that the new program will be more effective in achieving its objectives.

Oct. 13, 1988
[H.R. 1720]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Family Support Act of 1988.
State and local governments.
42 USC 1305 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Family Support Act of 1988".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

SUBTITLE A—CHILD SUPPORT

Sec. 101. Immediate income withholding.
Sec. 102. Disregard applicable to timely child support payments.
Sec. 103. State guidelines for child support award amounts.
Sec. 104. Timing of notice of support payment collections.

SUBTITLE B—ESTABLISHMENT OF PATERNITY

Sec. 111. Performance standards for State paternity establishment programs.
Sec. 112. Increased Federal assistance for paternity establishment.

SUBTITLE C—IMPROVED PROCEDURES FOR CHILD SUPPORT ENFORCEMENT AND ESTABLISHMENT OF PATERNITY

Sec. 121. Requirement of prompt State response to requests for child support assistance.
Sec. 122. Requirement of prompt State distribution of amounts collected as child support.
Sec. 123. Automated tracking and monitoring systems made mandatory.
Sec. 124. Additional information source for parent locator service.
Sec. 125. Use of social security number to establish identity of parents.
Sec. 126. Commission on Interstate Child Support.
Sec. 127. Costs of interstate enforcement demonstrations excluded in computing incentive payments.
Sec. 128. Study of child-rearing costs.
Sec. 129 Collection and reporting of child support enforcement data.

TITLE II—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

Sec. 201 Establishment and operation of program.
Sec. 202. Technical and conforming amendments.
Sec. 203 Regulations; performance standards; studies.
Sec. 204. Effective date.

TITLE III—SUPPORTIVE SERVICES FOR FAMILIES

Sec. 301. Child care during participation in education, employment, and training.
Sec. 302 Extended eligibility for child care.
Sec. 303. Extended eligibility for medical assistance.
Sec 304. Effective dates.

TITLE IV—RELATED AFDC AMENDMENTS

Sec. 401. Benefits for two-parent families.
Sec. 402. Changes in earned income disregards.
Sec. 403. Households headed by minor parents.
Sec. 404. Periodic reevaluation of need and payment standards.
Sec. 405 CBO study on implementation of national minimum payment standard.
Sec. 406. Study of new national approaches to welfare benefits for low-income families with children.

TITLE V—DEMONSTRATION PROJECTS

Sec. 501. Family support demonstration projects.
Sec. 502. Demonstration projects to test the effect of early childhood development programs.
Sec. 503. Demonstration projects to test alternative definitions of unemployment.
Sec. 504. Demonstration projects to address child access problems.
Sec. 505. Demonstration projects to expand the number of job opportunities available to certain low-income individuals.
Sec 506. Demonstration projects to provide counseling and services to high-risk teenagers.
Sec. 507. Eighteen-month extension of Minnesota prepaid medicaid demonstration project.

TITLE VI—MISCELLANEOUS PROVISIONS

Sec. 601. Inclusion of American Samoa as a State under title IV.
Sec 602. Increase in amount available for payment to Puerto Rico, the Virgin Islands, and Guam.
Sec. 603. Assistant Secretary for Family Support.
Sec. 604. Responsibilities of the State.
Sec. 605. Establishment of preeligibility fraud detection measures.
Sec. 606. Uniform reporting requirements.
Sec. 607. State reports on expenditure and use of social services funds.
Sec 608. Miscellaneous technical corrections to Medicare Catastrophic Coverage Act of 1988.
Sec. 609. Extension of quality control penalty moratorium.

TITLE VII—FUNDING PROVISIONS

Sec. 701. Temporary extension of provisions relating to collection of nontax debts owed to Federal agencies.
Sec. 702. Limitation on use of reimbursement arrangements to avoid 2-percent floor.
Sec. 703 Modifications to dependent care credit and exclusion for dependent care assistance.
Sec. 704. Taxpayer identification number required for dependents who have attained age 2.

TITLE I—CHILD SUPPORT AND ESTABLISHMENT OF PATERNITY

Subtitle A—Child Support

SEC. 101. IMMEDIATE INCOME WITHHOLDING.

42 USC 666.

(a) IN GENERAL.—Section 466(b)(3) of the Social Security Act is amended to read as follows:

"(3)(A) The wages of an absent parent shall be subject to such withholding, regardless of whether support payments by such parent are in arrears, in the case of a support order being enforced under this part that is issued or modified on or after the first day of the 25th month beginning after the date of the enactment of this paragraph, on the effective date of the order; except that such wages shall not be subject to such withholding under this subparagraph in any case where (i) one of the parties demonstrates, and the court (or administrative process) finds,

that there is good cause not to require immediate income withholding, or (ii) a written agreement is reached between both parties which provides for an alternative arrangement.

"(B) The wages of an absent parent shall become subject to such withholding, in the case of wages not subject to withholding under subparagraph (A), on the date on which the payments which the absent parent has failed to make under a support order are at least equal to the support payable for one month or, if earlier, and without regard to whether there is an arrearage, the earliest of—

"(i) the date as of which the absent parent requests that such withholding begin,

"(ii) the date as of which the custodial parent requests that such withholding begin, if the State determines, in accordance with such procedures and standards as it may establish, that the request should be approved, or

"(iii) such earlier date as the State may select.".

(b) APPLICATION TO ALL CHILD SUPPORT ORDERS.—Section 466(a)(8) of such Act is amended— 42 USC 666.

(1) by inserting "(A)" before "Procedures";

(2) by striking "which are issued or modified in the State" and inserting in lieu thereof "not described in subparagraph (B)"; and

(3) by adding at the end the following new subparagraph:

"(B) Procedures under which all child support orders which are initially issued in the State on or after January 1, 1994, and are not being enforced under this part will include the following requirements:

"(i) The wages of an absent parent shall be subject to withholding, regardless of whether support payments by such parent are in arrears, on the effective date of the order; except that such wages shall not be subject to withholding under this clause in any case where (I) one of the parties demonstrates, and the court (or administrative process) finds, that there is good cause not to require immediate income withholding, or (II) a written agreement is reached between both parties which provides for an alternative arrangement.

"(ii) The requirements of subsection (b)(1) (which shall apply in the case of each absent parent against whom a support order is or has been issued or modified in the State, without regard to whether the order is being enforced under the State plan).

"(iii) The requirements of paragraphs (2), (5), (6), (7), (8), (9), and (10) of subsection (b), where applicable.

"(iv) Withholding from income of amounts payable as support must be carried out in full compliance with all procedural due process requirements of the State.".

(c) STUDY ON MAKING IMMEDIATE INCOME WITHHOLDING MANDATORY IN ALL CASES.—The Secretary of Health and Human Services shall conduct a study of the administrative feasibility, cost implications, and other effects of requiring immediate income withholding with respect to all child support awards in a State and shall report on the results of such study not later than 3 years after the date of the enactment of this Act. Reports. 42 USC 666 note.

42 USC 666 note.

(d) EFFECTIVE DATE.—(1) The amendment made by subsection (a) shall become effective on the first day of the 25th month beginning after the date of the enactment of this Act.

(2) The amendments made by subsection (b) shall become effective on January 1, 1994.

(3) Subsection (c) shall become effective on the date of the enactment of this Act.

SEC. 102. DISREGARD APPLICABLE TO TIMELY CHILD SUPPORT PAYMENTS.

42 USC 602.

(a) IN GENERAL.—Section 402(a)(8)(A)(vi) of the Social Security Act is amended by striking "of any child support payments received in such month" and inserting in lieu thereof "of any child support payments for such month received in that month, and the first $50 of child support payments for each prior month received in that month if such payments were made by the absent parent in the month when due,".

42 USC 657.

(b) CONFORMING AMENDMENT.—Section 457(b)(1) of such Act is amended by striking "the first $50 of such amounts as are collected periodically which represent monthly support payments" and inserting in lieu thereof "of such amounts as are collected periodically which represent monthly support payments, the first $50 of any payments for a month received in that month, and the first $50 of payments for each prior month received in that month which were made by the absent parent in the month when due,".

42 USC 602 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the first calendar quarter which begins after the date of the enactment of this Act.

SEC. 103. STATE GUIDELINES FOR CHILD SUPPORT AWARD AMOUNTS.

(a) GUIDELINES TO CREATE REBUTTABLE PRESUMPTION.—Section 42 USC 667. 467(b) of the Social Security Act is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking ", but need not be binding upon such judges or other officials"; and

(3) by adding at the end the following new paragraph:

Courts, U.S.

"(2) There shall be a rebuttable presumption, in any judicial or administrative proceeding for the award of child support, that the amount of the award which would result from the application of such guidelines is the correct amount of child support to be awarded.

Records.

A written finding or specific finding on the record that the application of the guidelines would be unjust or inappropriate in a particular case, as determined under criteria established by the State, shall be sufficient to rebut the presumption in that case.".

(b) GUIDELINES TO BE REVIEWED EVERY 4 YEARS.—Section 467(a) of such Act is amended by inserting ", and shall be reviewed at least once every 4 years to ensure that their application results in the determination of appropriate child support award amounts" after "action".

(c) STATE LAW REQUIREMENTS FOR REVIEW OF INDIVIDUAL AWARDS.—Section 466(a) of such Act is amended by inserting after 42 USC 666. paragraph (9) the following new paragraph:

Effective date.

"(10)(A) Procedures to ensure that, beginning 2 years after the date of the enactment of this paragraph, if the State determines (pursuant to a plan indicating how and when child support orders in effect in the State are to be periodically reviewed and adjusted) that a child support order being enforced under this

part should be reviewed, the State must, at the request of either parent subject to the order, or of a State child support enforcement agency, initiate a review of such order, and adjust such order, as appropriate, in accordance with the guidelines established pursuant to section 467(a).

"(B) Procedures to ensure that, beginning 5 years after the date of the enactment of this paragraph or such earlier date as the State may select, the State must implement a process for the periodic review and adjustment of child support orders being enforced under this part under which the order is to be reviewed not later than 36 months after the establishment of the order or the most recent review, and adjusted, as appropriate, in accordance with the guidelines established pursuant to section 467(a), unless—

"(i) in the case of an order with respect to an individual with respect to whom an assignment under section 402(a)(26) is in effect, the State has determined, in accordance with regulations of the Secretary, that such a review would not be in the best interests of the child and neither parent has requested review; and

"(ii) in the case of any other order being enforced under this part, neither parent has requested review.

"(C) Procedures to ensure that the State notifies each parent subject to a child support order in effect in the State that is being enforced under this part—

"(i) of any review of such order, at least 30 days before the commencement of such review; and

"(ii) of the right of such parent under subparagraph (B) to request the State to review such order; and

"(iii) of a proposed adjustment (or determination that there should be no change) in the child support award amount, and such parent is afforded not less than 30 days after such notification to initiate proceedings to challenge such adjustment (or determination).".

(d) STUDY OF IMPACT OF EXTENDING PERIODIC REVIEW REQUIREMENT TO ALL OTHER CASES.—Within 2 years after the date of the enactment of this Act, the Secretary of Health and Human Services shall conduct and complete a study to determine the impact on child support awards and the courts of requiring each State to periodically review all child support orders in effect in the State. 42 USC 666 note.

(e) DEMONSTRATION PROJECTS FOR EVALUATING MODEL PROCEDURES FOR REVIEWING CHILD SUPPORT AWARDS.—(1) Not later than April 1, 1989, the Secretary of Health and Human Services (in this subsection referred to as the "Secretary") shall enter into an agreement with each of 4 States submitting applications under this subsection for the purpose of conducting a demonstration project under part D of title IV of the Social Security Act in the State to test and evaluate model procedures for reviewing child support award amounts. Contracts. 42 USC 666 note.

(2) Notwithstanding section 454(1) of the Social Security Act, a demonstration project conducted under this subsection may be conducted in one or more political subdivisions of the State.

(3) An agreement under this subsection shall be entered into between the Secretary and the State agency designated by the Governor of the State involved. Under such agreement, the Secretary shall pay to the State, as an additional payment under part D of title IV of the Social Security Act, an amount equal to 90 percent of the reasonable costs incurred by the State in conducting a dem-

onstration project under this subsection. Such costs shall not be taken into account for purposes of computing the incentive payment under section 458 of such Act.

(4) A demonstration project under this subsection shall be commenced not later than September 30, 1989, and shall be conducted for a 2-year period unless the Secretary determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into with the State under paragraph (1).

(5)(A) Any State with an agreement under this subsection shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

Reports. (B) The Secretary shall report the results of the demonstration projects conducted under this subsection to Congress not later than 6 months after all such projects are completed.

42 USC 666 note. (f) EFFECTIVE DATE.—The amendments made by subsections (a), (b), and (c) shall become effective one year after the date of the enactment of this Act.

SEC. 104. TIMING OF NOTICE OF SUPPORT PAYMENT COLLECTIONS.

42 USC 654. (a) IN GENERAL.—Section 454(5)(A) of the Social Security Act is amended by striking "at least annually" and inserting in lieu thereof "on a monthly basis (or on a quarterly basis for so long as the Secretary determines with respect to a State that requiring such notice on a monthly basis would impose an unreasonable administrative burden)".

42 USC 654 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the first day of the first calendar quarter which begins 4 or more years after the date of the enactment of this Act.

Subtitle B—Establishment of Paternity

SEC. 111. PERFORMANCE STANDARDS FOR STATE PATERNITY ESTABLISHMENT PROGRAMS.

42 USC 652. (a) STANDARDS FOR STATE PROGRAMS.—Section 452 of the Social Security Act is amended by adding at the end the following new subsection:

"(g)(1) A State's program under this part shall be found, for purposes of section 403(h), not to have complied substantially with the requirements of this part unless, for any fiscal year beginning on or after October 1, 1991, its paternity establishment percentage for such fiscal year equals or exceeds—

"(A) 50 percent;

"(B) the paternity establishment percentage of the State for the fiscal year 1988, increased by the applicable number of percentage points; or

"(C) the paternity establishment percentage determined with respect to all States for such fiscal year.

"(2) For purposes of this section—

"(A) the term 'paternity establishment percentage' means, with respect to a State (or all States, as the case may be) for a fiscal year, the ratio (expressed as a percentage) that the total number of children—

"(i) who have been born out of wedlock,

"(ii)(I) except as provided in the last sentence of this paragraph, with respect to whom aid is being paid under the State's plan approved under part A (or under all such plans) for such fiscal year, or (II) with respect to whom services are being provided under the State's plan approved under this part (or under all such plans) for the fiscal year pursuant to an application submitted under section 454(6), and

"(iii) the paternity of whom has been established,

bears to the total number of children who have been born out of wedlock and (except as provided in such last sentence) with respect to whom aid is being paid under the State's plan approved under part A (or under all such plans) for such fiscal year or with respect to whom services are being provided under the State's plan approved under this part (or under all such plans) for the fiscal year pursuant to an application submitted under section 454(6); and

"(B) the applicable number of percentage points means, with respect to a fiscal year (beginning with the fiscal year 1991), 3 percentage points multiplied by the number of fiscal years after the fiscal year 1989 and before the beginning of such fiscal year.

For purposes of subparagraph (A), the total number of children shall not include any child who is a dependent child by reason of the death of a parent or any child with respect to whom an applicant or recipient is found to have good cause for refusing to cooperate under section 402(a)(26).

"(3)(A) The requirements of this subsection are in addition to and shall not supplant any other requirement (that is not inconsistent with such requirements) established in regulations by the Secretary for the purpose of determining (for purposes of section 403(h)) whether the program of a State operated under this part shall be treated as complying substantially with the requirements of this part.

"(B) The Secretary may modify the requirements of this subsection to take into account such additional variables as the Secretary identifies (including the percentage of children born out-of-wedlock in a State) that affect the ability of a State to meet the requirements of this subsection.

"(C) The Secretary shall submit an annual report to the Congress that sets forth the data upon which the paternity establishment percentages for States for a fiscal year are based, lists any additional variables the Secretary has identified under subparagraph (A), and describes State performance in establishing paternity.". Reports.

(b) GENETIC TESTS MAY BE REQUIRED BY CONTESTING PARTY.—Section 466(a)(5) of such Act is amended— 42 USC 666.

(1) by inserting "(A)" after "(5)"; and

(2) by adding at the end the following new subparagraph:

"(B) Procedures under which the State is required (except in cases where the individual involved has been found under section 402(a)(26)(B) to have good cause for refusing to cooperate) to require the child and all other parties, in a contested paternity case, to submit to genetic tests upon the request of any such party.".

(c) STATES MAY CHARGE INDIVIDUALS NOT RECEIVING AFDC FOR COSTS OF GENETIC TESTS TO ESTABLISH PATERNITY.—Section 454(6) of such Act is amended— 42 USC 654.

(1) by redesignating clause (D) as clause (E); and

(2) by inserting "(D) a fee (in accordance with regulations of the Secretary) for performing genetic tests may be imposed on any individual who is not a recipient of aid under a State plan approved under part A," after "section 464(a)(2),".

(d) ENCOURAGEMENT OF CIVIL PROCESSES.—Part D of title IV of such Act is amended by adding at the end the following new section:

"ENCOURAGEMENT OF STATES TO ADOPT SIMPLE CIVIL PROCESS FOR VOLUNTARILY ACKNOWLEDGING PATERNITY AND A CIVIL PROCEDURE FOR ESTABLISHING PATERNITY IN CONTESTED CASES

42 USC 668. "SEC. 468. In the administration of the child support enforcement program under this part, each State is encouraged to establish and implement a simple civil process for voluntarily acknowledging paternity and a civil procedure for establishing paternity in contested cases.".

(e) REQUIREMENT TO PERMIT PATERNITY ESTABLISHMENT FOR CHILD UNDER 18.—Section 466(a)(5)(A) of such Act (as so designated by subsection (b) of this section) is amended—

(1) by inserting "(i)" before "(A)"; and

(2) by inserting at the end the following new clause:

Effective date. "(ii) As of August 16, 1984, the requirement of clause (i) shall also apply to any child for whom paternity has not yet been established and any child for whom a paternity action was brought but dismissed because a statute of limitations of less than 18 years was then in effect in the State.".

42 USC 652 note. (f) EFFECTIVE DATE; IMPLEMENTATION.—(1) The amendments made by subsections (a), (d), and (e) shall become effective on the date of the enactment of this Act.

42 USC 654 note. (2) The amendments made by subsections (b) and (c) shall become effective on the first day of the first month beginning one year or more after the date of the enactment of this Act.

42 USC 652 note. (3) The Secretary of Health and Human Services shall collect the data necessary to implement the requirements of section 452(g) of the Social Security Act (as added by subsection (a) of this section) and may, in carrying out the requirement of determining a State's paternity establishment percentage for the fiscal year 1988, compute such percentage on the basis of data collected with respect to the last quarter of such fiscal year (or, if such data are not available, the first quarter of the fiscal year 1989) if the Secretary determines that data for the full year are not available.

SEC. 112. INCREASED FEDERAL ASSISTANCE FOR PATERNITY ESTABLISHMENT.

(a) INCREASED PAYMENTS TO STATES.—Section 455(a)(1) of the 42 USC 655. Social Security Act is amended—

(1) by striking "and" at the end of subparagraph (A);

(2) by striking the semicolon at the end of subparagraph (B) and inserting in lieu thereof ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) equal to 90 percent (rather than the percentage specified in subparagraph (A)) of so much of the sums expended during such quarter as are attributable to laboratory costs incurred in determining paternity;".

42 USC 655 note. (b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply with respect to laboratory costs incurred on or after October 1, 1988.

Subtitle C—Improved Procedures for Child Support Enforcement and Establishment of Paternity

SEC. 121. REQUIREMENT OF PROMPT STATE RESPONSE TO REQUESTS FOR CHILD SUPPORT ASSISTANCE.

(a) IN GENERAL.—Section 452 of the Social Security Act (as amended by section 111(a) of this Act) is further amended by adding at the end the following new subsection:

"(h) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must accept and respond to requests (from States, jurisdictions thereof, or individuals who apply for services furnished by the State agency under this part or with respect to whom an assignment under section 402(a)(26) is in effect) for assistance in establishing and enforcing support orders, including requests to locate absent parents, establish paternity, and initiate proceedings to establish and collect child support awards.".

(b) ADVISORY COMMITTEE; REGULATIONS.—(1) Not later than 60 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall establish an advisory committee. The committee shall include representatives of organizations representing State governors, State welfare administrators, and State directors of programs under part D of title IV of the Social Security Act. The Secretary shall consult with the advisory committee before issuing any regulations with respect to the standards required by the amendment made by subsection (a) (including regulations regarding what constitutes an adequate response on the part of a State to the request of an individual, State, or jurisdiction). 42 USC 652 note.

(2) Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to the standards required by the amendment made by subsection (a), and, after allowing not less than 60 days for public comment, shall issue final regulations not later than the first day of the 10th month beginning after such date of enactment.

SEC. 122. REQUIREMENT OF PROMPT STATE DISTRIBUTION OF AMOUNTS COLLECTED AS CHILD SUPPORT.

(a) IN GENERAL.—Section 452 of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end the following new subsection:

"(i) The standards required by subsection (a)(1) shall include standards establishing time limits governing the period or periods within which a State must distribute, in accordance with section 457, amounts collected as child support pursuant to the State's plan approved under this part.".

(b) REGULATIONS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall issue a notice of proposed rulemaking with respect to the standards required by the amendment made by subsection (a), and, after allowing not less than 60 days for public comment, shall issue final regulations not later than the first day of the 10th month to begin after such date of enactment. 42 USC 652 note.

SEC. 123. AUTOMATED TRACKING AND MONITORING SYSTEMS MADE MANDATORY.

42 USC 654.

(a) PLAN REQUIREMENT.—(1) Section 454 of the Social Security Act is amended—

(A) by striking "and" after the semicolon at the end of paragraph (22);

(B) by striking the period at the end of paragraph (23) and inserting in lieu thereof "; and"; and

(C) by inserting after paragraph (23) the following new paragraph:

"(24) provide that if the State, as of the date of the enactment of this paragraph, does not have in effect an automated data processing and information retrieval system meeting all of the requirements of paragraph (16), the State—

"(A) will submit to the Secretary by October 1, 1991, for review and approval by the Secretary within 9 months after submittal an advance automated data processing planning document of the type referred to in such paragraph; and

"(B) will have in effect by October 1, 1995, an operational automated data processing and information retrieval system, meeting all the requirements of that paragraph, which has been approved by the Secretary.".

(2) Section 454(16) of such Act is amended by striking "an automatic" and inserting in lieu thereof "a statewide automated".

42 USC 652.

(b) WAIVER AUTHORITY.—Section 452(d) of such Act is amended—

(1) by striking "The" in paragraph (1) and inserting in lieu thereof "Except as provided in paragraph (3), the"; and

(2) by adding at the end the following new paragraph:

"(3) The Secretary may waive any requirement of paragraph (1) or any condition specified under section 454(16) with respect to a State if—

"(A) the State demonstrates to the satisfaction of the Secretary that the State has an alternative system or systems that enable the State, for purposes of section 403(h), to be in substantial compliance with other requirements of this part; and

"(B)(i) the waiver meets the criteria of paragraphs (1), (2), and (3) of section 1115(c), or

"(ii) the State provides assurances to the Secretary that steps will be taken to otherwise improve the State's child support enforcement program.".

Effective date.

(c) REPEAL OF 90-PERCENT FEDERAL REIMBURSEMENT RATE FOR AUTOMATED DATA SYSTEMS.—Effective September 30, 1995, section 455(a)(1) of such Act (as amended by section 112(a) of this Act) is amended—

(1) by striking subparagraphs (A) and (B);

(2) by redesignating subparagraph (C) as subparagraph (A);

(3) in subparagraph (A) (as so redesignated)—

(A) by striking "(rather than the percentage specified in subparagraph (A))"; and

(B) by inserting "and" after the semicolon; and

(4) by inserting after subparagraph (A) (as so redesignated) the following new subparagraph:

"(B) equal to the percent specified in paragraph (2) of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454;".

(d) CONFORMING AMENDMENTS.—Sections 402(e), 452(d)(1), and 454(16) of such Act are each amended by striking "automatic" each place it appears and inserting in lieu thereof "automated". 42 USC 602, 652, 654.

SEC. 124. ADDITIONAL INFORMATION SOURCE FOR PARENT LOCATOR SERVICE.

(a) IN GENERAL.—Section 453(e) of the Social Security Act is amended by adding at the end the following new paragraph: 42 USC 653.

"(3) The Secretary of Labor shall enter into an agreement with the Secretary to provide prompt access for the Secretary (in accordance with this subsection) to the wage and unemployment compensation claims information and data maintained by or for the Department of Labor or State employment security agencies.". Contracts.

(b) STATE REQUIREMENT TO ASSIST SECRETARY IN OBTAINING INFORMATION.—(1) Section 303 of such Act is amended by adding at the end the following new subsection: 42 USC 503.

"(h)(1) The State agency charged with the administration of the State law shall take such actions (in such manner as may be provided in the agreement between the Secretary of Health and Human Services and the Secretary of Labor under section 453(e)(3)) as may be necessary to enable the Secretary of Health and Human Services to obtain prompt access to any wage and unemployment compensation claims information (including any information that might be useful in locating an absent parent or such parent's employer) for use by the Secretary of Health and Human Services, for purposes of section 453, in carrying out the child support enforcement program under title IV.

"(2) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirement of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until such Secretary is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, such Secretary shall make no further certification to the Secretary of the Treasury with respect to such State.".

(2) Section 304(a)(2) of such Act is amended by striking "or (e)" and inserting in lieu thereof "(e), or (h)". 42 USC 504.

(c) EFFECTIVE DATE; IMPLEMENTATION.—(1) Except as provided in paragraph (2), the amendments made by subsections (a) and (b) shall become effective on the first day of the first calendar quarter which begins one year or more after the date of the enactment of this Act. 42 USC 653 note.

(2) The Secretary of Health and Human Services and the Secretary of Labor shall enter into the agreement required by the amendment made by subsection (a) not later than 90 days after the date of the enactment of this Act. Contracts.

SEC. 125. USE OF SOCIAL SECURITY NUMBER TO ESTABLISH IDENTITY OF PARENTS.

(a) DISCLOSURE OF SOCIAL SECURITY NUMBER AT TIME OF CHILD'S BIRTH.—Section 205(c)(2)(C) of the Social Security Act is amended— 42 USC 405.

(1) in clause (i)—

(A) by inserting "(I)" after "(i)"; and

(B) by adding at the end the following new subclause:

"(II) In the administration of any law involving the issuance of a birth certificate, each State shall require each parent to furnish to Regulations.

such State (or political subdivision thereof) or any agency thereof having administrative responsibility for the law involved, the social security account number (or numbers, if the parent has more than one such number) issued to the parent unless the State (in accordance with regulations prescribed by the Secretary) finds good cause for not requiring the furnishing of such number. The State shall make numbers furnished under this subclause available to the agency administering the State's plan under part D of title IV in accordance with Federal or State law and regulation. Such numbers shall not be recorded on the birth certificate. A State shall not use any social security account number, obtained with respect to the issuance by the State of a birth certificate, for any purpose other than for the enforcement of child support orders in effect in the State, unless section 7(a) of the Privacy Act of 1974 does not prohibit the State from requiring the disclosure of such number, by reason of the State having adopted, before January 1, 1975, a statute or regulation requiring such disclosure."; and

(2) in clause (ii)—

(A) by striking "clause (i) of this subparagraph" and inserting in lieu thereof "subclause (I) of clause (i)"; and

(B) by adding at the end the following new sentence: "If and to the extent that any such provision is inconsistent with the requirement set forth in subclause (II) of clause (i), such provision shall, on and after the date of the enactment of such subclause, be null, void, and of no effect.".

42 USC 405 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the first day of the 25th month which begins on or after the date of the enactment of this Act.

SEC. 126. COMMISSION ON INTERSTATE CHILD SUPPORT.

42 USC 666 note.

(a) ESTABLISHMENT OF COMMISSION.—There is hereby established a Commission to be known as the Commission on Interstate Child Support (in this section referred to as the "Commission") to be composed of 15 members appointed in accordance with subsection (b)(1).

(b) APPOINTMENT AND TERM OF MEMBERS; VACANCIES; TRANSACTION OF BUSINESS.—(1) Members of the Commission shall be appointed as follows from among individuals knowledgeable in matters involving interstate child support:

(A) Four members shall be appointed jointly by the Majority and Minority Leaders of the Senate, in consultation with the chairman and ranking minority member of the Committee on Finance of the Senate.

(B) Four members shall be appointed jointly by the Speaker of the House and the Minority Leader of the House, in consultation with the chairman and ranking minority member of the Committee on Ways and Means of the House of Representatives.

(C) Seven members shall be appointed by the Secretary of Health and Human Services (in this section referred to as the "Secretary").

(2) Members of the Commission shall serve for the life of the Commission. A vacancy on the Commission shall be filled in the manner in which the original appointment was made and shall not affect the powers or duties of the Commission.

(3) A majority of the members of the Commission shall constitute a quorum for the transaction of business. Decisions of the Commis-

sion shall be according to the vote of a simple majority of those present and voting at a properly called meeting.

(4) The members of the Commission shall be appointed by July 1, 1989. The first meeting of the Commission shall be called by the Secretary as promptly as possible after all such members are appointed. At such meeting, the members of the Commission shall select a chairman from among such members and shall meet thereafter at the call of the chairman or of a majority of the members.

(c) BASIC PAY.—(1) Members of the Commission shall serve as such without pay.

(2) Members of the Commission shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons serving intermittently in the government service are allowed travel expenses under section 5703 of title 5 of the United States Code.

(d) DUTIES OF THE COMMISSION.—(1) During the fiscal year 1990, the Commission shall hold one or more national conferences on interstate child support reform for the purpose of assisting the Commission in preparing the report required under paragraph (2).

(2) Not later than May 1, 1991, the Commission shall submit a report to the Congress that contains recommendations for— Reports.

(A) improving the interstate establishment and enforcement of child support awards, and

(B) revising the Uniform Reciprocal Enforcement of Support Act.

(e) POWERS OF THE COMMISSION.—(1) The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States Government.

(2) The Commission may accept, use, and dispose of donations of money and property and may accept such volunteer services of individuals as it deems appropriate.

(3) The Commission may procure supplies, services, and property, and make contracts (but only to the extent or in such amounts as are provided in appropriation Acts).

(4) For purposes of carrying out its duties under subsection (d), the Commission may adopt such rules for its organization and procedures as it deems appropriate.

(f) TERMINATION OF THE COMMISSION.—(1) The Commission shall terminate on July 1, 1991.

(2) Any funds held by the Commission on the date of termination of the Commission shall be deposited in the general fund of the Treasury of the United States and credited as miscellaneous receipts. Any property (other than funds) held by the Commission on such date shall be disposed of as excess or surplus property.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there is authorized to be appropriated $2,000,000.

SEC. 127. COSTS OF INTERSTATE ENFORCEMENT DEMONSTRATIONS EXCLUDED IN COMPUTING INCENTIVE PAYMENTS.

Section 458(d) of the Social Security Act is amended by inserting immediately before the period at the end the following: ", and any amounts expended by the State in carrying out a special project assisted under section 455(e) shall be excluded". 42 USC 658.

42 USC 667 note.

SEC. 128. STUDY OF CHILD-REARING COSTS.

Grants. Contracts.

The Secretary of Health and Human Services shall, by grant or contract, conduct a study of the patterns of expenditures on children in 2-parent families, in single-parent families following divorce or separation, and in single-parent families in which the parents were never married, giving particular attention to the relative standards of living in households in which both parents and all of the children do not live together. The Secretary shall submit to the Congress no later than 2 years after the date of the enactment of this Act a full and complete report of the results of such study, including such recommendations as the Secretary may have for legislative, administrative, and other actions. There are authorized to be appropriated such sums as may be necessary to carry out this section.

Reports.

Appropriation authorization.

SEC. 129. COLLECTION AND REPORTING OF CHILD SUPPORT ENFORCEMENT DATA.

Part D of title IV of the Social Security Act is amended by adding at the end the following new section:

"COLLECTION AND REPORTING OF CHILD SUPPORT ENFORCEMENT DATA

42 USC 669.

"SEC. 469. (a) The Secretary of Health and Human Services shall collect and maintain, on a fiscal year basis, up-to-date statistics, by State, with respect to each of the services specified in subsection (b) (separately stated in the case of each such service for families receiving aid under plans approved under part A of title IV of the Social Security Act and for families not receiving such aid), on—

"(1) the number of cases in the child support enforcement agency caseload under part D of title IV of such Act which need the service involved; and

"(2) the number of such cases in which the service has actually been provided.

"(b) The services referred to in subsection (a) are—

"(1) paternity determination;

"(2) location of an absent parent for the purpose of establishing a child support obligation;

"(3) establishment of a child support obligation; and

"(4) location of an absent parent for the purpose of enforcing or modifying an established child support obligation.

"(c) For purposes of subsection (a)(2), a service has actually been provided when the task described by the service has been accomplished.".

TITLE II—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

SEC. 201. ESTABLISHMENT AND OPERATION OF PROGRAM.

42 USC 602.

(a) STATE PLAN REQUIREMENT.—Section 402(a)(19) of the Social Security Act is amended to read as follows:

"(19) provide—

"(A) that the State has in effect and operation a job opportunities and basic skills training program which meets the requirements of part F;

"(B) that—

"(i) the State will (except as otherwise provided in this paragraph or part F), to the extent that the program is available in the political subdivision involved and State resources otherwise permit—

"(I) require all recipients of aid to families with dependent children in such subdivision with respect to whom the State guarantees child care in accordance with section 402(g) to participate in the program; and

"(II) allow applicants for and recipients of aid to families with dependent children who are not required under subclause (I) to participate in the program to do so on a voluntary basis;

"(ii) in determining the priority of participation by individuals from among those groups described in clauses (i), (ii), (iii), and (iv) of section 403(l)(2)(B), the State will give first consideration to applicants for or recipients of aid to families with dependent children within any such group who volunteer to participate in the program;

"(iii) if an exempt participant drops out of the program without good cause after having commenced participation in the program, he or she shall thereafter not be given priority so long as other individuals are actively seeking to participate; and

"(iv) the State need not require or allow participation of an individual in the program if as a result of such participation the amount payable to the State for quarters in a fiscal year with respect to the program would be reduced pursuant to section 403(l)(2);

"(C) that an individual may not be required to participate in the program if such individual—

"(i) is ill, incapacitated, or of advanced age;

"(ii) is needed in the home because of the illness or incapacity of another member of the household;

"(iii) subject to subparagraph (D)—

"(I) is the parent or other relative of a child under 3 years of age (or, if so provided in the State plan, under any age that is less than 3 years but not less than one year) who is personally providing care for the child, or

"(II) is the parent or other relative personally providing care for a child under 6 years of age, unless the State assures that child care in accordance with section 402(g) will be guaranteed and that participation in the program by the parent or relative will not be required for more than 20 hours a week;

"(iv) works 30 or more hours a week;

"(v) is a child who is under age 16 or attends, full-time, an elementary, secondary, or vocational (or technical) school;

"(vi) is pregnant if it has been medically verified that the child is expected to be born in the month in which such participation would otherwise be required or within the 6-month period immediately following such month; or

"(vii) resides in an area of the State where the program is not available;

"(D) that, in the case of a family eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner, subparagraph (C)(iii) shall apply only to one parent, except that, in the case of such a family, the State may at its option make such subparagraph inapplicable to both of the parents (and require their participation in the program) if child care in accordance with section 402(g) is guaranteed with respect to the family;

"(E) that—

"(i) to the extent that the program is available in the political subdivision involved and State resources otherwise permit, in the case of a custodial parent who has not attained 20 years of age, has not successfully completed a high-school education (or its equivalent), and is required to participate in the program (including an individual who would otherwise be exempt from participation in the program solely by reason of subparagraph (C)(iii)), the State agency (subject to clause (ii)) will require such parent to participate in an educational activity; and

"(ii) the State agency may—

"(I) require a parent described in clause (i) (notwithstanding the part-time requirement in subparagraph (C)(iii)(II)) to participate in educational activities directed toward the attainment of a high school diploma or its equivalent on a full-time (as defined by the educational provider) basis,

"(II) establish criteria in accordance with regulations of the Secretary under which custodial parents described in clause (i) who have not attained 18 years of age may be exempted from the school attendance requirement under such clause, or

"(III) require a parent described in clause (i) who is age 18 or 19 to participate in training or work activities (in lieu of the educational activities under such clause) if such parent fails to make good progress in successfully completing such educational activities or if it is determined (prior to any assignment of the individual to such educational activities) pursuant to an educational assessment that participation in such educational activities is inappropriate for such parent;

"(F) that—

"(i) if the parent or other caretaker relative or any dependent child in the family is attending (in good standing) an institution of higher education (as defined in section 481(a) of the Higher Education Act of 1965), or a school or course of vocational or technical training (not less than half time) consistent with the individual's employment goals, and is making satisfactory progress in such institution, school, or course, at the time he or she would otherwise commence participation in the program under this section, such attendance may constitute satisfactory participation in the pro-

gram (by that caretaker or child) so long as it continues and is consistent with such goals;

"(ii) any other activities in which an individual described in clause (i) participates may not be permitted to interfere with the school or training described in that clause;

"(iii) the costs of such school or training shall not constitute federally reimbursable expenses for purposes of section 403; and

"(iv) the costs of day care, transportation, and other services which are necessary (as determined by the State agency) for such attendance in accordance with section 402(g) are eligible for Federal reimbursement;

Day care.
Transportation.

"(G) that—

"(i) if an individual who is required by the provisions of this paragraph to participate in the program or who is so required by reason of the State's having exercised the option under subparagraph (D) fails without good cause to participate in the program or refuses without good cause to accept employment in which such individual is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined to be a bona fide offer of employment—

"(I) the needs of such individual (whether or not section 407 applies) shall not be taken into account in making the determination with respect to his or her family under paragraph (7) of this subsection, and if such individual is a parent or other caretaker relative, payments of aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (D) thereof) will be made unless the State agency, after making reasonable efforts, is unable to locate an appropriate individual to whom such payments can be made; and

"(II) if such individual is a member of a family which is eligible for aid to families with dependent children by reason of section 407, and his or her spouse is not participating in the program, the needs of such spouse shall also not be taken into account in making such determination;

"(ii) any sanction described in clause (i) shall continue—

"(I) in the case of the individual's first failure to comply, until the failure to comply ceases;

"(II) in the case of the individual's second failure to comply, until the failure to comply ceases or 3 months (whichever is longer); and

"(III) in the case of any subsequent failure to comply, until the failure to comply ceases or 6 months (whichever is longer);

"(iii) the State will promptly remind any individual whose failure to comply has continued for 3 months, in

writing, of the individual's option to end the sanction by terminating such failure; and

"(iv) no sanction shall be imposed under this subparagraph—

"(I) on the basis of the refusal of an individual described in subparagraph (C)(iii)(II) to accept employment, if the employment would require such individual to work more than 20 hours a week, or

"(II) on the basis of the refusal of an individual to participate in the program or accept employment, if child care (or day care for any incapacitated individual living in the same home as a dependent child) is necessary for an individual to participate in the program or accept employment, such care is not available, and the State agency fails to provide such care; and

"(H) the State agency may require a participant in the program to accept a job only if such agency assures that the family of such participant will experience no net loss of cash income resulting from acceptance of the job; and any costs incurred by the State agency as a result of this subparagraph shall be treated as expenditures with respect to which section 403(a)(1) or 403(a)(2) applies;".

(b) ESTABLISHMENT AND OPERATION OF PROGRAM.—Title IV of such Act is further amended by adding at the end the following new part:

"PART F—JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAM

"PURPOSE AND DEFINITIONS

42 USC 681.

"SEC. 481. (a) PURPOSE.—It is the purpose of this part to assure that needy families with children obtain the education, training, and employment that will help them avoid long-term welfare dependence.

"(b) MEANING OF TERMS.—Except to the extent otherwise specifically indicated, terms used in this part shall have the meanings given them in or under part A.

"ESTABLISHMENT AND OPERATION OF STATE PROGRAMS

42 USC 682.
Regulations.

"SEC. 482. (a) STATE PLANS FOR JOB OPPORTUNITIES AND BASIC SKILLS TRAINING PROGRAMS.—(1)(A) As a condition of its participation in the program of aid to families with dependent children under part A, each State shall establish and operate a job opportunities and basic skills training program (in this part referred to as the 'program') under a plan approved by the Secretary as meeting all of the requirements of this part and section 402(a)(19), and shall, in accordance with regulations prescribed by the Secretary, periodically (but not less frequently than every 2 years) review and update its plan and submit the updated plan for approval by the Secretary.

"(B) A State plan for establishing and operating the program must describe how the State intends to implement the program during the period covered by the plan, and must indicate, through cross-references to the appropriate provisions of this part and part A, that the program will be operated in accordance with such provision of law. In addition, such plan must contain (i) an estimate of the

number of persons to be served by the program, (ii) a description of the services to be provided within the State and the political subdivisions thereof, the needs to be addressed through the provision of such services, the extent to which such services are expected to be made available by other agencies on a nonreimbursable basis, and the extent to which such services are to be provided or funded by the program, and (iii) such additional information as the Secretary may require by regulation to enable the Secretary to determine that the State program will meet all of the requirements of this part and part A.

"(C) The Secretary shall consult with the Secretary of Labor on general plan requirements and on criteria to be used in approving State plans under this section.

"(D)(i) Not later than October 1, 1992, each State shall make the program available in each political subdivision of such State where it is feasible to do so, after taking into account the number of prospective participants, the local economy, and other relevant factors.

"(ii) If a State determines that it is not feasible to make the program available in each such subdivision, the State plan must provide appropriate justification to the Secretary.

"(2) The State agency that administers or supervises the administration of the State's plan approved under section 402 shall be responsible for the administration or supervision of the administration of the State's program.

"(3) Federal funds made available to a State for purposes of the program shall not be used to supplant non-Federal funds for existing services and activities which promote the purpose of this part. State or local funds expended for such purpose shall be maintained at least at the level of such expenditures for the fiscal year 1986.

"(b) ASSESSMENT AND REVIEW OF NEEDS AND SKILLS OF PARTICIPANTS; EMPLOYABILITY PLAN.—(1)(A) The State agency must make an initial assessment of the educational, child care, and other supportive services needs as well as the skills, prior work experience, and employability of each participant in the program under this part, including a review of the family circumstances. The agency may also review the needs of any child of the participant.

"(B) On the basis of such assessment, the State agency, in consultation with the participant, shall develop an employability plan for the participant. The employability plan shall explain the services that will be provided by the State agency and the activities in which the participant will take part under the program, including child care and other supportive services, shall set forth an employment goal for the participant, and shall, to the maximum extent possible and consistent with this section, reflect the respective preferences of such participant. The plan must take into account the participant's supportive services needs, available program resources, and local employment opportunities. The employability plan shall not be considered a contract.

"(2) Following the initial assessment and review and the development of the employability plan with respect to any participant in the program, the State agency may require the participant (or the adult caretaker in the family of which the participant is a member) to negotiate and enter into an agreement with the State agency that specifies such matters as the participant's obligations under the program, the duration of participation in the program, and the activities to be conducted and the services to be provided in the

course of such participation. If the State agency exercises the option under the preceding sentence, the State agency must give the participant such assistance as he or she may require in reviewing and understanding the agreement.

"(3) The State agency may assign a case manager to each participant and the participant's family. The case manager so assigned must be responsible for assisting the family to obtain any services which may be needed to assure effective participation in the program.

"(c) PROVISION OF PROGRAM AND EMPLOYMENT INFORMATION.—(1) The State agency must ensure that all applicants for and recipients of aid to families with dependent children are encouraged, assisted, and required to fulfill their responsibilities to support their children by preparing for, accepting, and retaining such employment as they are capable of performing.

"(2) The State agency must inform all applicants for and recipients of aid to families with dependent children of the education, employment, and training opportunities, and the support services (including child care and health coverage transition options), for which they are eligible, the obligations of the State agency, and the rights, responsibilities, and obligations of participants in the program.

"(3) The State agency must—

"(A) provide (directly or through arrangements with others) information on the types and locations of child care services reasonably accessible to participants in the program,

"(B) inform participants that assistance is available to help them select appropriate child care services, and

"(C) on request, provide assistance to participants in obtaining child care services.

"(4) The State agency must inform applicants for and recipients of aid to families with dependent children of the grounds for exemption from participation in the program and the consequences of refusal to participate if not exempt, and provide other appropriate information with respect to such participation.

"(5) Within one month after the State agency gives a recipient of aid to families with dependent children the information described in the preceding provisions of this paragraph, the State agency must notify such recipient of the opportunity to indicate his or her desire to participate in the program, including a clear description of how to enter the program.

"(d) SERVICES AND ACTIVITIES UNDER THE PROGRAM.—(1)(A) In carrying out the program, each State shall make available a broad range of services and activities to aid in carrying out the purpose of this part. Such services and activities—

"(i) shall include—

"(I) educational activities (as appropriate), including high school or equivalent education (combined with training as needed), basic and remedial education to achieve a basic literacy level, and education for individuals with limited English proficiency;

"(II) job skills training;

"(III) job readiness activities to help prepare participants for work; and

"(IV) job development and job placement; and

"(ii) must also include at least 2 of the following:

"(I) group and individual job search as described in subsection (g);

"(II) on-the-job training;

"(III) work supplementation programs as described in subsection (e); and

"(IV) community work experience programs as described in subsection (f) or any other work experience program approved by the Secretary.

"(B) The State may also offer to participants under the program (i) postsecondary education in appropriate cases, and (ii) such other education, training, and employment activities as may be determined by the State and allowed by regulations of the Secretary.

"(2) If the State requires an individual who has attained the age of 20 years and has not earned a high school diploma (or equivalent) to participate in the program, the State agency shall include educational activities consistent with his or her employment goals as a component of the individual's participation in the program, unless the individual demonstrates a basic literacy level, or the employability plan for the individual identifies a long-term employment goal that does not require a high school diploma (or equivalent). Any other services or activities to which such a participant is assigned may not be permitted to interfere with his or her participation in an appropriate educational activity under this subparagraph.

"(3) Notwithstanding any other provision of this section, the Secretary shall permit up to 5 States to provide services under the program, on a voluntary or mandatory basis, to non-custodial parents who are unemployed and unable to meet their child support obligations. Any State providing services to non-custodial parents pursuant to this paragraph shall evaluate the provision of such services, giving particular attention to the extent to which the provision of such services to those parents is contributing to the achievement of the purpose of this part, and shall report the results of such evaluation to the Secretary. Reports.

"(e) WORK SUPPLEMENTATION PROGRAM.—(1) Any State may institute a work supplementation program under which such State, to the extent it considers appropriate, may reserve the sums that would otherwise be payable to participants in the program as aid to families with dependent children and use such sums instead for the purpose of providing and subsidizing jobs for such participants (as described in paragraph (3)(C) (i) and (ii)), as an alternative to the aid to families with dependent children that would otherwise be so payable to them.

"(2)(A) Notwithstanding section 406 or any other provision of law, Federal funds may be paid to a State under part A, subject to this subsection, with respect to expenditures incurred in operating a work supplementation program under this subsection.

"(B) Nothing in this part, or in any State plan approved under part A, shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a work supplementation program in accordance with this subsection and section 484.

"(C) Notwithstanding section 402(a)(23) or any other provision of law, a State may adjust the levels of the standards of need under the State plan as the State determines to be necessary and appropriate for carrying out a work supplementation program under this subsection.

"(D) Notwithstanding section 402(a)(1) or any other provision of law, a State operating a work supplementation program under this subsection may provide that the need standards in effect in those areas of the State in which such program is in operation may be different from the need standards in effect in the areas in which such program is not in operation, and such State may provide that the need standards for categories of recipients may vary among such categories to the extent the State determines to be appropriate on the basis of ability to participate in the work supplementation program.

"(E) Notwithstanding any other provision of law, a State may make such further adjustments in the amounts of the aid to families with dependent children paid under the plan to different categories of recipients (as determined under subparagraph (D)) in order to offset increases in benefits from needs-related programs (other than the State plan approved under part A) as the State determines to be necessary and appropriate to further the purposes of the work supplementation program.

"(F) In determining the amounts to be reserved and used for providing and subsidizing jobs under this subsection as described in paragraph (1), the State may use a sampling methodology.

"(G) Notwithstanding section 402(a)(8) or any other provision of law, a State operating a work supplementation program under this subsection (i) may reduce or eliminate the amount of earned income to be disregarded under the State plan as the State determines to be necessary and appropriate to further the purposes of the work supplementation program, and (ii) during one or more of the first 9 months of an individual's employment pursuant to a program under this section, may apply to the wages of the individual the provisions of subparagraph (A)(iv) of section 402(a)(8) without regard to the provisions of subparagraph (B)(ii)(II) of such section.

"(3)(A) A work supplementation program operated by a State under this subsection may provide that any individual who is an eligible individual (as determined under subparagraph (B)) shall take a supplemented job (as defined in subparagraph (C)) to the extent that supplemented jobs are available under the program. Payments by the State to individuals or to employers under the work supplementation program shall be treated as expenditures incurred by the State for aid to families with dependent children except as limited by paragraph (4).

"(B) For purposes of this subsection, an eligible individual is an individual who is in a category which the State determines should be eligible to participate in the work supplementation program, and who would, at the time of placement in the job involved, be eligible for aid to families with dependent children under an approved State plan if such State did not have a work supplementation program in effect.

"(C) For purposes of this section, a supplemented job is—

"(i) a job provided to an eligible individual by the State or local agency administering the State plan under part A; or

"(ii) a job provided to an eligible individual by any other employer for which all or part of the wages are paid by such State or local agency.

A State may provide or subsidize under the program any job which such State determines to be appropriate.

"(D) At the option of the State, individuals who hold supplemented jobs under a State's work supplementation program shall be

exempt from the retrospective budgeting requirements imposed pursuant to section 402(a)(13)(A)(ii) (and the amount of the aid which is payable to the family of any such individual for any month, or which would be so payable but for the individual's participation in the work supplementation program, shall be determined on the basis of the income and other relevant circumstances in that month).

"(4) The amount of the Federal payment to a State under section 403 for expenditures incurred in making payments to individuals and employers under a work supplementation program under this subsection shall not exceed an amount equal to the amount which would otherwise be payable under such section if the family of each individual employed in the program established in such State under this subsection had received the maximum amount of aid to families with dependent children payable under the State plan to such a family with no income (without regard to adjustments under paragraph (2)) for the lesser of (A) 9 months, or (B) the number of months in which such individual was employed in such program.

"(5)(A) Nothing in this subsection shall be construed as requiring the State or local agency administering the State plan to provide employee status to an eligible individual to whom it provides a job under the work supplementation program (or with respect to whom it provides all or part of the wages paid to the individual by another entity under such program), or as requiring any State or local agency to provide that an eligible individual filling a job position provided by another entity under such program be provided employee status by such entity during the first 13 weeks such individual fills that position.

"(B) Wages paid under a work supplementation program shall be considered to be earned income for purposes of any provision of law. Wages.

"(6) Any State that chooses to operate a work supplementation program under this subsection shall provide that any individual who participates in such program, and any child or relative of such individual (or other individual living in the same household as such individual) who would be eligible for aid to families with dependent children under the State plan approved under part A if such State did not have a work supplementation program, shall be considered individuals receiving aid to families with dependent children under the State plan approved under part A for purposes of eligibility for medical assistance under the State plan approved under title XIX.

"(7) No individual receiving aid to families with dependent children under a State plan shall be excused by reason of the fact that such State has a work supplementation program from any requirement of this part relating to work requirements, except during periods in which such individual is employed under such work supplementation program.

"(f) COMMUNITY WORK EXPERIENCE PROGRAM.—(1)(A) Any State may establish a community work experience program in accordance with this subsection. The purpose of the community work experience program is to provide experience and training for individuals not otherwise able to obtain employment, in order to assist them to move into regular employment. Community work experience programs shall be designed to improve the employability of participants through actual work experience and training and to enable individuals employed under community work experience programs to move promptly into regular public or private employment. The facilities of the State public employment offices may be utilized to find

employment opportunities for recipients under this program. Community work experience programs shall be limited to projects which serve a useful public purpose in fields such as health, social service, environmental protection, education, urban and rural development and redevelopment, welfare, recreation, public facilities, public safety, and day care. To the extent possible, the prior training, experience, and skills of a recipient shall be used in making appropriate work experience assignments.

"(B)(i) A State that elects to establish a community work experience program under this subsection shall operate such program so that each participant (as determined by the State) either works or undergoes training (or both) with the maximum number of hours that any such individual may be required to work in any month being a number equal to the amount of the aid to families with dependent children payable with respect to the family of which such individual is a member under the State plan approved under this part, divided by the greater of the Federal minimum wage or the applicable State minimum wage (and the portion of a recipient's aid for which the State is reimbursed by a child support collection shall not be taken into account in determining the number of hours that such individual may be required to work).

"(ii) After an individual has been assigned to a position in a community work experience program under this subsection for 9 months, such individual may not be required to continue in that assignment unless the maximum number of hours of participation is no greater than (I) the amount of the aid to families with dependent children payable with respect to the family of which such individual is a member under the State plan approved under this part (excluding any portion of such aid for which the State is reimbursed by a child support payment), divided by (II) the higher of (a) the Federal minimum wage or the applicable State minimum wage, whichever is greater, or (b) the rate of pay for individuals employed in the same or similar occupations by the same employer at the same site.

"(C) Nothing contained in this subsection shall be construed as authorizing the payment of aid to families with dependent children as compensation for work performed, nor shall a participant be entitled to a salary or to any other work or training expense provided under any other provision of law by reason of his participation in a program under this subsection.

"(D) Nothing in this part or in any State plan approved under this part shall be construed to prevent a State from operating (on such terms and conditions and in such cases as the State may find to be necessary or appropriate) a community work experience program in accordance with this subsection and subsection (d).

"(E) Participants in community work experience programs under this subsection may perform work in the public interest (which otherwise meets the requirements of this subsection) for a Federal office or agency with its consent, and, notwithstanding section 1342 of title 31, United States Code, or any other provision of law, such agency may accept such services, but such participants shall not be considered to be Federal employees for any purpose.

"(2) After each 6 months of an individual's participation in a community work experience program under this subsection, and at the conclusion of each assignment of the individual under such program, the State agency must provide a reassessment and revision, as appropriate, of the individual's employability plan.

"(3) The State agency shall provide coordination among a community work experience program operated pursuant to this subsection, any program of job search under subsection (g), and the other employment-related activities under the program established by this section so as to insure that job placement will have priority over participation in the community work experience program, and that individuals eligible to participate in more than one such program are not denied aid to families with dependent children on the grounds of failure to participate in one such program if they are actively and satisfactorily participating in another. The State agency may provide that part-time participation in more than one such program may be required where appropriate.

"(4) In the case of any State that makes expenditures in the form described in paragraph (1) under its State plan approved under section 482(a)(1), expenditures for the operation and administration of the program under this section may not include, for purposes of section 403, the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in paragraph (1) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.

"(g) JOB SEARCH PROGRAM.—(1) The State agency may establish and carry out a program of job search for individuals participating in the program under this part.

"(2) Notwithstanding section 402(a)(19)(B)(i), the State agency may require job search by an individual applying for or receiving aid to families with dependent children (other than an individual described in section 402(a)(19)(C) who is not an individual with respect to whom section 402(a)(19)(D) applies)—

"(A) subject to the next to last sentence of this paragraph, beginning at the time such individual applies for aid to families with dependent children and continuing for a period (prescribed by the State) of not more than 8 weeks (but this requirement may not be used as a reason for any delay in making a determination of an individual's eligibility for such aid or in issuing a payment to or on behalf of any individual who is otherwise eligible for such aid); and

"(B) at such time or times after the close of the period prescribed under subparagraph (A) as the State agency may determine but not to exceed a total of 8 weeks in any period of 12 consecutive months.

In no event may an individual be required to participate in job search for more than 3 weeks before the State agency conducts the assessment and review with respect to such individual under subsection (b)(1)(A). Job search activities in addition to those required under the preceding provisions of this paragraph may be required only in combination with some other education, training, or employment activity which is designed to improve the individual's prospects for employment.

"(3) Job search by an individual under this subsection shall in no event be treated, for any purpose, as an activity under the program if the individual has participated in such job search for 4 months out of the preceding 12 months.

"(h) DISPUTE RESOLUTION PROCEDURES.—Each State shall establish a conciliation procedure for the resolution of disputes involving an individual's participation in the program and (if the dispute involved is not resolved through conciliation) shall provide an oppor-

tunity for a hearing with respect to the dispute, which hearing may be provided through a hearing process established for purposes of resolving disputes with respect to the program or through the provision of a hearing pursuant to section 402(a)(4); but in no event shall aid to families with dependent children be suspended, reduced, discontinued, or terminated as a result of a dispute involving an individual's participation in the program until such individual has an opportunity for a hearing that meets the standards set forth by the United States Supreme Court in Goldberg v. Kelly, 397 U.S. 254 (1970).

Alaska.

"(i) SPECIAL PROVISIONS RELATING TO INDIAN TRIBES.—(1) Within 6 months after the date of the enactment of the Family Support Act of 1988, an Indian tribe or Alaska Native organization may apply to the Secretary to conduct a job opportunities and basic skills training program to carry out the purpose of this subsection. If the Secretary approves such tribe's or organization's application, the maximum amount that may be paid to the State under section 403(l) in which such tribe or organization is located shall be reduced by the Secretary in accordance with paragraph (2) and an amount equal to the amount of such reduction shall be paid directly to such tribe or organization (without the requirement of any nonfederal share) for the operation of such program. In determining whether to approve an application from an Alaska Native organization, the Secretary shall consider whether approval of the application would promote the efficient and nonduplicative administration of job opportunities and basic skills training programs in the State.

"(2) The amount of the reduction under paragraph (1) with respect to any State in which is located an Indian tribe or Alaska Native organization with an application approved under such paragraph shall be an amount equal to the amount that bears the same ratio to the maximum amount that could be paid under section 403(l) to the State as—

"(A) the number of adult members of such Indian tribe receiving aid to families with dependent children bears to the number of all such adult recipients in the State, or

"(B) the number of adult Alaska Natives receiving aid to families with dependent children who reside within the boundaries of such Alaska Native organization bears to the number of all such adult recipients in the State of Alaska.

"(3) The job opportunities and basic skills training program set forth in the application of an Indian tribe or Alaska Native organization under paragraph (1) need not meet any requirement of the program under this part or under section 402(a)(19) that the Secretary determines is inappropriate with respect to such job opportunities and basic skills training program.

"(4) The job opportunities and basic skills training program of any Indian tribe or Alaska Native organization may be terminated voluntarily by such tribe or Alaska Native organization or may be terminated by the Secretary upon a finding that the tribe or Alaska Native organization is not conducting such program in substantial conformity with the terms of the application approved by the Secretary, and the maximum amount that may be paid under section 403(l) to the State within which the tribe or Alaska Native organization is located (as reduced pursuant to paragraph (1)) shall be increased by any portion of the amount retained by the Secretary with respect to such program (and not payable to such tribe or Alaska Native organization for obligations already incurred). The

reduction under paragraph (1) shall in no event apply to a State for any fiscal year beginning after such program is terminated if no other such program remains in operation in the State.

"(5) For purposes of this subsection, an Indian tribe is any tribe, band, nation, or other organized group or community of Indians that—

"(A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians; and

"(B) for which a reservation (as defined in paragraph (6)) exists.

"(6) For purposes of this subsection, a reservation includes Indian reservations, public domain Indian allotments, and former Indian reservations in Oklahoma.

"(7) For purposes of this subsection—

"(A) an Alaska Native organization is any organized group of Alaska Natives eligible to operate a Federal program under Public Law 93-638 or such group's designee;

"(B) the boundaries of an Alaska Native organization shall be those of the geographical region, established pursuant to section 7(a) of the Alaska Native Claims Settlement Act, within which the Alaska Native organization is located (without regard to the ownership of the land within the boundaries);

"(C) the Secretary may approve only one application from an Alaska Native organization for each of the 12 geographical regions established pursuant to section 7(a) of the Alaska Native Claims Settlement Act; and

"(D) any Alaska Native, otherwise eligible or required to participate in a job opportunities and basic skills training program, residing within the boundaries of an Alaska Native organization whose application has been approved by the Secretary, shall be eligible to participate in the job opportunities and basic skills training program administered by such Alaska Native organization.

"(8) Nothing in this subsection shall be construed to grant or defer any status or powers other than those expressly granted in this subsection or to validate or invalidate any claim by Alaska Natives of sovereign authority over lands or people.

"COORDINATION REQUIREMENTS

"SEC. 483. (a)(1) The Governor of each State shall assure that program activities under this part are coordinated in that State with programs operated under the Job Training Partnership Act and with any other relevant employment, training, and education programs available in that State. Appropriate components of the State's plan developed under section 482(a)(1) which relate to job training and work preparation shall be consistent with the coordination criteria specified in the Governor's coordination and special services plan required under section 121 of the Job Training Partnership Act. 42 USC 683.

"(2) The State plan so developed shall be submitted to the State job training coordinating council not less than 60 days before its submission to the Secretary, for the purpose of review and comment by the council. Concurrent with submission of the plan to the State job training coordinating council, the proposed State plan shall be published and made reasonably available to the general public Public information.

through local news facilities and public announcements, in order to provide the opportunity for review and comment.

"(3) The comments and recommendations of the State job training coordinating council under paragraph (2) shall be transmitted to the Governor of the State.

"(b) The Secretary of Health and Human Services shall consult with the Secretaries of Education and Labor on a continuing basis for the purpose of assuring the maximum coordination of education and training services in the development and implementation of the program under this part.

"(c) The State agency responsible for administering or supervising the administration of the State plan approved under part A shall consult with the State education agency and the agency responsible for administering job training programs in the State in order to promote coordination of the planning and delivery of services under the program with programs operated under the Job Training Partnership Act and with education programs available in the State (including any program under the Adult Education Act or Carl D. Perkins Vocational Education Act).

"PROVISIONS GENERALLY APPLICABLE TO PROVISION OF SERVICES

42 USC 684.

"SEC. 484. (a) In assigning participants in the program under this part to any program activity, the State agency shall assure that—

"(1) each assignment takes into account the physical capacity, skills, experience, health and safety, family responsibilities, and place of residence of the participant;

"(2) no participant will be required, without his or her consent, to travel an unreasonable distance from his or her home or remain away from such home overnight;

Discrimination, prohibition.

"(3) individuals are not discriminated against on the basis of race, sex, national origin, religion, age, or handicapping condition, and all participants will have such rights as are available under any applicable Federal, State, or local law prohibiting discrimination;

"(4) the conditions of participation are reasonable, taking into account in each case the proficiency of the participant and the child care and other supportive services needs of the participant; and

"(5) each assignment is based on available resources, the participant's circumstances, and local employment opportunities.

Wages. Claims.

"(b) Appropriate workers' compensation and tort claims protection must be provided to participants on the same basis as they are provided to other individuals in the State in similar employment (as determined under regulations of the Secretary).

Contracts. Wages.

"(c) No work assignment under the program shall result in—

"(1) the displacement of any currently employed worker or position (including partial displacement such as a reduction in the hours of nonovertime work, wages, or employment benefits), or result in the impairment of existing contracts for services or collective bargaining agreements;

"(2) the employment or assignment of a participant or the filling of a position when (A) any other individual is on layoff from the same or any equivalent position, or (B) the employer has terminated the employment of any regular employee or otherwise reduced its workforce with the effect of filling the

vacancy so created with a participant subsidized under the program; or

"(3) any infringement of the promotional opportunities of any currently employed individual.

Funds available to carry out the program under this part may not be used to assist, promote, or deter union organizing. No participant may be assigned under section 482 (e) or (f) to fill any established unfilled position vacancy.

"(d)(1) The State shall establish and maintain (pursuant to regulations jointly issued by the Secretary and the Secretary of Labor) a grievance procedure for resolving complaints by regular employees or their representatives that the work assignment of an individual under the program violates any of the prohibitions described in subsection (c). A decision of the State under such procedure may be appealed to the Secretary of Labor for investigation and such action as such Secretary may find necessary.

"(2) The State shall hear complaints with respect to working conditions and workers' compensation, and wage rates in the case of individuals participating in community work experience programs described in section 482(f), under the State's fair hearing process. A decision of the State under such process may be appealed to the Secretary of Labor under such conditions as the joint regulations issued under subsection (f) may provide. Wages.

"(e) The provisions of this section apply to any work-related programs and activities under this part, and under any other work-related programs and activities authorized (in connection with the AFDC program) under section 1115.

"(f) The Secretary of Health and Human Services and the Secretary of Labor shall jointly prescribe and issue regulations for the purpose of implementing and carrying out the provisions of this section, in accordance with the timetable established in section 203(a) of the Family Support Act of 1988. Regulations.

"CONTRACT AUTHORITY

"SEC. 485. (a) The State agency that administers or supervises the administration of the State's plan approved under section 402 shall carry out the programs under this part directly or through arrangements or under contracts with administrative entities under section 4(2) of the Job Training Partnership Act, with State and local educational agencies, and with other public agencies or private organizations (including community-based organizations as defined in section 4(5) of such Act). 42 USC 685.

"(b) Arrangements and contracts entered into under subsection (a) may cover any service or activity (including outreach) to be made available under the program to the extent that the service or activity is not otherwise available on a nonreimbursable basis.

"(c) The State agency and private industry councils (as established under section 102 of the Job Training Partnership Act) shall consult on the development of arrangements and contracts under the program established under a plan approved under section 482(a)(1), and under programs established under such Act.

"(d) In selecting service providers, the State agency shall take into account appropriate factors which may include past performance in providing similar services, demonstrated effectiveness, fiscal accountability, ability to meet performance standards, and such other factors as the State may determine to be appropriate.

"(e) The State agency shall use the services of each private industry council to identify and provide advice on the types of jobs available or likely to become available in the service delivery area (as defined in the Job Training Partnership Act) of the council, and shall ensure that the State program provides training in any area for jobs of a type which are, or are likely to become, available in the area.

"INITIAL STATE EVALUATIONS

42 USC 686.

"SEC. 486. (a) With the objective of—

"(1) providing an in-depth assessment of potential participants in the program under this part in each State, so as to furnish an accurate picture on which to base estimates of future demands for services in conducting such program and to improve the efficiency of targeting under such program,

"(2) assuring that training for recipients of aid under such program will be realistically geared to labor market demands and that the program will produce individuals with marketable skills, while avoiding duplication and redundancy in the delivery of services, and

Effective date.

"(3) otherwise assuring that States will have the information needed to carry out the purposes of the program,

each State may undertake and carry out an evaluation of demographic characteristics of potential participants in the program under this part within the 12-month period beginning on the date of the enactment of the Family Support Act of 1988. Such evaluation shall be carried out in each State by the agency which administers the State's program approved under section 402.

"(b) In carrying out the evaluation under subsection (a) the State shall give particular attention to the current and anticipated demands of the labor market or markets within the State, the types of training which are needed to meet those demands, and any changes in the current service delivery systems which may be needed to satisfy the requirements of the program under this part.

"(c) The evaluation shall be structured so as to produce accurate and usable information on the age, family status, educational and literacy levels, duration of eligibility for aid to families with dependent children, and work experience of the individuals and families who are potential participants in the program under this part, including the actual numbers of such individuals and families in each such category.

"(d) The Secretary of Health and Human Services, in consultation with the Secretary of Labor, shall provide each State with such technical assistance and data as it may need in order to carry out its evaluation under subsection (a); and each State shall transmit its evaluation to the Secretary by the close of the 12-month period specified in such subsection. The Secretary of Health and Human Services shall take such evaluations into account in developing performance standards.

"(e) As used in this section, the term 'potential participants' with respect to any State's program under this part means collectively all individuals in such State who are recipients of aid to families with dependent children under part A and who are members of the target populations identified in section 403(l)(2).".

42 USC 603.

(c) SEPARATE FUNDING FOR JOBS PROGRAM; FEDERAL FINANCIAL PARTICIPATION.—(1) Section 403 of such Act is amended by adding at the end the following new subsection:

"(k)(1) Each State with a plan approved under part F shall be entitled to payments under subsection (l) for any fiscal year in an amount equal to the sum of the applicable percentages (specified in such subsection) of its expenditures to carry out the program under part F (subject to limitations prescribed by or pursuant to such part or this section on expenditures that may be included for purposes of determining payment under subsection (l)), but such payments for any fiscal year in the case of any State may not exceed the limitation determined under paragraph (2) with respect to the State.

"(2) The limitation determined under this paragraph with respect to a State for any fiscal year is—

"(A) the amount allotted to the State for fiscal year 1987 under part C of this title as then in effect, plus

"(B) the amount that bears the same ratio to the amount specified in paragraph (3) for such fiscal year as the average monthly number of adult recipients (as defined in paragraph (4)) in the State in the preceding fiscal year bears to the average monthly number of such recipients in all the States for such preceding year.

"(3) The amount specified in this paragraph is—

"(A) $600,000,000 in the case of the fiscal year 1989,

"(B) $800,000,000 in the case of the fiscal year 1990,

"(C) $1,000,000,000 in the case of each of the fiscal years 1991, 1992, and 1993,

"(D) $1,100,000,000 in the case of the fiscal year 1994,

"(E) $1,300,000,000 in the case of the fiscal year 1995, and

"(F) $1,000,000,000 in the case of the fiscal year 1996 and each succeeding fiscal year,

reduced by the aggregate amount allotted to all the States for fiscal year 1987 pursuant to part C of this title as then in effect.

"(4) For purposes of this subsection, the term 'adult recipient' in the case of any State means an individual other than a dependent child (unless such child is the custodial parent of another dependent child) whose needs are met (in whole or in part) with payments of aid to families with dependent children.

"(5) None of the funds available to a State for purposes of the programs or activities conducted under part F shall be used for construction.".

(2) Section 403 of such Act (as amended by paragraph (1) of this subsection) is further amended by adding at the end the following new subsection:

"(l)(1)(A) In lieu of any payment under subsection (a), the Secretary shall pay to each State with a plan approved under section 482(a) (subject to the limitation determined under section 482(i)(2)) with respect to expenditures by the State to carry out a program under part F (including expenditures for child care under section 402(g)(1)(A), but only in the case of a State with respect to which section 1108 applies), an amount equal to—

"(i) with respect to so much of such expenditures in a fiscal year as do not exceed the State's expenditures in the fiscal year 1987 with respect to which payments were made to such State from its allotment for such fiscal year pursuant to part C of this title as then in effect, 90 percent; and

"(ii) with respect to so much of such expenditures in a fiscal year as exceed the amount described in clause (i)—

"(I) 50 percent, in the case of expenditures for administrative costs made by a State in operating such a program for

such fiscal year (other than the personnel costs for staff employed full-time in the operation of such program) and the costs of transportation and other work-related supportive services under section 402(g)(2), and

"(II) the greater of 60 percent or the Federal medical assistance percentage (as defined in section 1118 in the case of any State to which section 1108 applies, or as defined in section 1905(b) in the case of any other State), in the case of expenditures made by a State in operating such a program for such fiscal year (other than for costs described in subclause (I)).

"(B) With respect to the amount for which payment is made to a State under subparagraph (A)(i), the State's expenditures for the costs of operating a program established under part F may be in cash or in kind, fairly evaluated.

"(2)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in operating its program established under part F (in lieu of any different percentage specified in paragraph (1)(A)) if less than 55 percent of such expenditures are made with respect to individuals who are described in subparagraph (B).

"(B) An individual is described in this paragraph if the individual—

"(i)(I) is receiving aid to families with dependent children, and

"(II) has received such aid for any 36 of the preceding 60 months;

"(ii)(I) makes application for aid to families with dependent children, and

"(II) has received such aid for any 36 of the 60 months immediately preceding the most recent month for which application has been made;

"(iii) is a custodial parent under the age of 24 who (I) has not completed a high school education and, at the time of application for aid to families with dependent children, is not enrolled in high school (or a high school equivalency course of instruction), or (II) had little or no work experience in the preceding year; or

"(iv) is a member of a family in which the youngest child is within 2 years of being ineligible for aid to families with dependent children because of age.

"(C) This paragraph may be waived by the Secretary with respect to any State which demonstrates to the satisfaction of the Secretary that the characteristics of the caseload in that State make it infeasible to meet the requirements of this paragraph, and that the State is targeting other long-term or potential long-term recipients.

"(D) The Secretary shall biennially submit to the Congress any recommendations for modifications or additions to the groups of individuals described in subparagraph (B) that the Secretary determines would further the goal of assisting long-term or potential long-term recipients of aid to families with dependent children to achieve self-sufficiency, which recommendations shall take into account the particular characteristics of the populations of individual States.

"(3)(A) Notwithstanding paragraph (1), the Secretary shall pay to a State an amount equal to 50 percent of the expenditures made by such State in a fiscal year in operating its program established under part F (in lieu of any different percentage specified in para-

graph (1)(A)) if the State's participation rate (determined under subparagraph (B)) for the preceding fiscal year does not exceed or equal—

"(i) 7 percent if the preceding fiscal year is 1990;
"(ii) 7 percent if such year is 1991;
"(iii) 11 percent if such year is 1992;
"(iv) 11 percent if such year is 1993;
"(v) 15 percent if such year is 1994; and
"(vi) 20 percent if such year is 1995.

"(B)(i) The State's participation rate for a fiscal year shall be the average of its participation rates for computation periods (as defined in clause (ii)) in such fiscal year.

"(ii) The computation periods shall be—

"(I) the fiscal year, in the case of fiscal year 1990,
"(II) the first six months, and the seventh through twelfth months, in the case of fiscal year 1991,
"(III) the first three months, the fourth through sixth months, the seventh through ninth months, and the tenth through twelfth months, in the case of fiscal years 1992 and 1993, and
"(IV) each month, in the case of fiscal years 1994 and 1995.

"(iii) The State's participation rate for a computation period shall be the number, expressed as a percentage, equal to—

"(I) the average monthly number of individuals required or allowed by the State to participate in the program under part F who have participated in such program in months in the computation period, plus the number of individuals required or allowed by the State to participate in such program who have so participated in that month in such period for which the number of such participants is the greatest, divided by
"(II) twice the average monthly number of individuals required to participate in such period (other than individuals described in subparagraph (C)(iii)(I) or (D) of section 402(a)(19) with respect to whom the State has exercised its option to require their participation).

For purposes of this subparagraph, an individual shall not be considered to have satisfactorily participated in the program under part F solely by reason of such individual being registered to participate in such program.

"(C) Notwithstanding any other provision of this paragraph, no State shall be subject to payment under this paragraph (in lieu of paragraph (1)(A)) for failing to meet any participation rate required under this paragraph with respect to any fiscal year before 1991.

"(D) For purposes of this paragraph, an individual shall be determined to have participated in the program under part F, if such individual has participated in accordance with such requirements, consistent with regulations of the Secretary, as the State shall establish.

"(E) If the Secretary determines that the State has failed to achieve the participation rate for any fiscal year specified in the numbered clauses of subparagraph (A), he may waive, in whole or in part, the reduction in the payment rate otherwise required by such subparagraph if he finds that—

"(i) the State is in conformity with section 402(a)(19) and part F;
"(ii) the State has made a good faith effort to achieve the applicable participation rate for such fiscal year; and

"(iii) the State has submitted a proposal which is likely to achieve the applicable participation rate for the current fiscal year and the subsequent fiscal years (if any) specified therein.

"(4)(A)(i) Subject to subparagraph (B), in the case of any family eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner, the State agency shall require that at least one parent in any such family participate, for a total of at least 16 hours a week during any period in which either parent is required to participate in the program, in a work supplementation program, a community work experience or other work experience program, on-the-job training, or a State designed work program approved by the Secretary, as such programs are described in section 482(d)(1). In the case of a parent under age 25 who has not completed high school or an equivalent course of education, the State may require such parent to participate in educational activities directed at the attainment of a high school diploma (or equivalent) or another basic education program in lieu of one or more of the programs specified in the preceding sentence.

"(ii) For purposes of clause (i), an individual participating in a community work experience program under section 482 shall be considered to have met the requirement of such clause if he participates for the number of hours in any month equal to the monthly payment of aid to families with dependent children to the family of which he is a member, divided by the greater of the Federal or the applicable State minimum wage (and the portion of such monthly payment for which the State is reimbursed by a child support collection shall not be taken into account in determining the number of hours that such individual may be required to work).

"(B) The requirement under subparagraph (A) shall not be considered to have been met by any State if the requirement is not met with respect to the following percentages of all families in the State eligible for aid to families with dependent children by reason of the unemployment of the parent who is the principal earner:

"(i) 40 percent, in the case of the average of each month in fiscal year 1994,

"(ii) 50 percent, in the case of the average of each month in fiscal year 1995,

"(iii) 60 percent, in the case of the average of each month in fiscal year 1996, and

"(iv) 75 percent in the case of the average of each month in each of the fiscal years 1997 and 1998.

"(C) The percentage of participants for any month in a fiscal year for purposes of the preceding sentence shall equal the average of—

"(i) the number of individuals described in subparagraph (A)(i) who have met the requirement prescribed therein, divided by

"(ii) the total number of principal earners described in such subparagraph (but excluding those in families who have been recipients of aid for 2 months or less if, during the period that the family received aid, at least one parent engaged in intensive job search).

"(D) If the Secretary determines that the State has failed to meet the requirement under subparagraph (A) (determined with respect to the percentages prescribed in subparagraph (B)), he may waive, in whole or in part, any penalty if he finds that—

"(i) the State is operating a program in conformity with section 402(a)(19) and part F,

"(ii) the State has made a good faith effort to meet the requirement of subparagraph (A) but has been unable to do so because of economic conditions in the State (including significant numbers of recipients living in remote locations or isolated rural areas where the availability of work sites is severely limited), or because of rapid and substantial increases in the caseload that cannot reasonably be planned for, and Rural areas.

"(iii) the State has submitted a proposal which is likely to achieve the required percentage of participants for the subsequent fiscal years.".

(d) STATE EXPENDITURES TO CARRY OUT INITIAL EVALUATIONS.—Section 403(a)(3)(D) of such Act (as amended by section 202(b)(4) of this Act) is further amended by inserting "(including any amounts expended by the State to carry out initial evaluations under section 486(a))" after "such expenditures". 42 USC 603.

SEC. 202. TECHNICAL AND CONFORMING AMENDMENTS.

(a) REPEAL OF PART C OF TITLE IV.—Part C of title IV of the Social Security Act is repealed. 42 USC 630 *et seq.*

(b) CHANGES IN PART A OF TITLE IV.—(1) Section 402(a)(8)(A)(iv) of such Act is amended by striking "(but excluding" and all that follows and inserting in lieu thereof a semicolon. 42 USC 602.

(2) Section 402(a)(9)(A) of such Act is amended—

(A) by inserting "(including activities under part F)" after "this part"; and

(B) by striking "B, C, or D" and inserting in lieu thereof "B or D".

(3) Section 402(a)(35) of such Act is repealed.

(4) Section 403(a)(3) of such Act is amended—

(A) by striking all of subparagraph (D) that follows "such expenditures" and inserting in lieu thereof "; and"; and

(B) in the matter immediately following subparagraph (D), by striking "services furnished" and all that follows through the semicolon and inserting in lieu thereof "services furnished pursuant to section 402(g);".

(5) Section 403(c) of such Act is repealed.

(6) Section 403(d) of such Act is repealed.

(7) Section 407(b)(2)(A) of such Act is amended by striking "will be certified" and all that follows through "within 30 days" and inserting in lieu thereof "will participate or apply for participation in a program under part F (unless the program is not available in the area where the parent is living) within 30 days". 42 USC 607.

(8) Section 407(b)(2)(C)(i) of such Act is amended—

(A) by striking "section 402(a)(19)(A)" and all that follows through "part C of this title," and inserting in lieu thereof "section 409(a)(19)(C), is not currently participating (or available for participation) in a program under part F,";

(B) by striking "clause (iii)" and inserting in lieu thereof "clause (vii)"; and

(C) by striking "section 432(a)" and inserting in lieu thereof "part F".

(9) Section 407(c) of such Act is amended by striking "to certify such parent" and all that follows and inserting in lieu thereof "to undertake appropriate steps directed toward the participation of such parent in a program under part F.".

42 USC 607.

(10) Section 407(d)(1) of such Act is amended by striking "participated" and all that follows and inserting in lieu thereof "participated in a program under part F".

(11) Section 407(e) of such Act is amended—

(A) by striking "registering pursuant to section 402(a)(19) for the work incentive program established by part C of this title" in clause (1) and inserting in lieu thereof "participating in a program under part F";

(B) by inserting "participate in or" before "register for"; and

(C) by striking "the work incentive program" in clause (2) and inserting in lieu thereof "part F".

42 USC 609.

(12) Section 409 of such Act is repealed.

42 USC 614.

(13) Section 414 of such Act is repealed.

42 USC 671.

(c) IN OTHER PROVISIONS.—(1) Section 471(a)(8)(A) of such Act is amended by striking "part A, B, C, or D of this title" and inserting in lieu thereof "part A, B, or D of this title (including activities under part F)".

(2) Section 1108(a) of such Act (42 U.S.C. 1308(a)) is amended by inserting "or, in the case of part A of title IV, section 403(k)" before "applies" in the matter preceding paragraph (1).

(3) Section 1108(b) of such Act (42 U.S.C. 1308(b)) is amended by striking "and services provided under section 402(a)(19)".

(4) Section 1902(a)(10)(A)(i)(I) of such Act (42 U.S.C. 1396a(a)(10)(A)(i)(I)) is amended by striking "414(g)" and inserting in lieu thereof "482(e)(6)".

42 USC 1396s.

(5) Section 1926(a)(1)(D) of such Act, as redesignated by section 303(a) of this Act, is amended by striking "414(g)" and inserting in lieu thereof "482(e)(6)".

26 USC 51.

(6) Section 51(c)(2)(B) of the Internal Revenue Code of 1986 is amended by striking "section 414" and inserting "section 482(e)".

SEC. 203. REGULATIONS; PERFORMANCE STANDARDS; STUDIES.

42 USC 681 note.

(a) REGULATIONS.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall issue proposed regulations for the purpose of implementing the amendments made by this title, including regulations establishing uniform data collection requirements. The Secretary shall publish final regulations for such purpose not later than one year after the date of the enactment of this Act. Regulations issued under this subsection shall be developed by the Secretary in consultation with the Secretary of Labor and with the responsible State agencies described in section 482(a)(2) of the Social Security Act.

(b) PERFORMANCE STANDARDS.—Part F of title IV of the Social Security Act (as added by section 201(b) of this Act) is amended by adding at the end the following new section:

"PERFORMANCE STANDARDS

42 USC 687.

"SEC. 487. (a) Not later than 3 years after the effective date specified in section 204(a) of the Family Support Act of 1988, the Secretary shall—

"(1) in consultation with the Secretary of Labor, representatives of organizations representing Governors, State and local program administrators, educators, State job training coordinating councils, community-based organizations, recipients, and other interested persons, develop performance standards with

respect to the programs established pursuant to this part that are based, in part, on the results of the studies conducted under section 203(c) of such Act, and the initial State evaluations (if any) performed under section 486 of this Act; and

"(2) submit his recommendations for performance standards developed under paragraph (1) to the appropriate committees of jurisdiction of the Congress, which recommendations shall be made with respect to specific measurements of outcomes and be based on the degree of success which may reasonably be expected of States in helping individuals to increase earnings, achieve self-sufficiency, and reduce welfare dependency, and shall not be measured solely by levels of activity or participation.

Performance standards developed under this subsection shall be reviewed periodically by the Secretary and modified to the extent necessary.

"(b) The Secretary may collect information from the States to assist in the development of performance standards under subsection (a), and shall include in his regulations (issued pursuant to section 203(a) of the Family Support Act of 1988 with respect to the program under this part) provisions establishing uniform reporting requirements under which States must furnish periodically information and data, including information and data (for each program activity) on the average monthly number of families assisted, the types of such families, the amounts spent per family, the length of their participation, and such other matters as the Secretary may determine.

"(c) The Secretary shall develop and transmit to the Congress, for appropriate legislative action, a proposal for measuring State progress, providing technical assistance to enable States to meet performance standards, and modifying the Federal matching rate to reflect the relative effectiveness of the various States in carrying out the program.".

(c) IMPLEMENTATION AND EFFECTIVENESS STUDIES.—(1)(A) The Secretary shall conduct an implementation study in accordance with subparagraph (B). 42 USC 681 note.

(B) The implementation study conducted under subparagraph (A) shall be based on a representative sample of States and localities and shall document with respect to the programs established pursuant to part F of title IV the Social Security Act—

(i) the types, mix, and costs of services offered,

(ii) participation rates or activity levels,

(iii) the characteristics of the individuals in the different type of activities,

(iv) the provisions made for child and day care and the extent to which limitations exist with respect to the availability of such care, Day care.

(v) the institutional arrangements and operating procedures under which activities are offered in the different locations, and

(vi) such other factors as the Secretary deems appropriate.

(C) There is authorized to be appropriated $500,000 for each of the fiscal years 1989, 1990, and 1991 for the purpose of conducting the implementation study under this paragraph. Appropriation authorization.

(2)(A) The Secretary shall conduct a study in accordance with this paragraph to determine the relative effectiveness of the different approaches for assisting long-term and potentially long-term recipi-

ents developed by States pursuant to the programs established under part F of title IV of the Social Security Act.

(B)(i) The study required under subparagraph (A) shall be based on data gathered from demonstration projects conducted in 5 States chosen by the Secretary from among applications submitted by interested States. Such projects shall be conducted for a period of not less than 3 years upon such terms and conditions (including those involving payments to the participating States) as the Secretary may provide.

(ii) A demonstration project conducted under this subparagraph shall use specific outcome measures to test the effectiveness of particular programs. Such measures shall include educational status, employment status, earnings, receipt of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act, receipt of other transfer payments, and, to the extent possible, the poverty status of participating families.

(iii) A demonstration project conducted under this subparagraph shall use experimental and control groups that are composed of a random sample of participants in the program established under part F of title IV of the Social Security Act. The Secretary shall assure that the experimental design is comparable among localities.

(C) Participating States shall provide to the Secretary in such form and with such frequency as he requires interim data from the demonstration projects conducted under this paragraph. The Secretary shall report to the Congress annually on the progress of such projects and shall, not later than one year after the date of final data collection, submit to the Congress the study required under subparagraph (A).

Reports.

(D) There is authorized to be appropriated $5,000,000 for each of the fiscal years 1990 and 1991 for the purpose of making payments to States conducting demonstration projects under this section.

Appropriation authorization.

(3) The Secretary shall establish such uniform reporting requirements as the Secretary determines are appropriate for the purpose of conducting the demonstration projects required under this section.

(4) Within 3 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall convene an advisory panel which may include representatives from the Office of Management and Budget, the Congressional Budget Office, the Congressional Research Service, and the General Accounting Office, and such other individuals and organizations as the Secretary may determine. The panel shall meet periodically to design, implement, and monitor a series of implementation and evaluation studies to assess the methods and effects of the programs initiated under this Act. Insofar as possible, the panel shall work in a collegial fashion; but if consensus cannot be reached among panel members on particular decisions the Secretary of Health and Human Services is authorized to make all final decisions about program design, use of contractors, conduct of particular studies, and any other matters which may come before the panel.

42 USC 681 note.

(d) STUDY ON APPLICATION OF JOBS PROGRAMS TO INDIANS.—The Secretary of Health and Human Services, in cooperation with the Secretary of the Interior, shall conduct a study of—

(1) the effectiveness of such employment, training, and education programs for low-income individuals as are specifically

directed toward Indians in responding to the needs of Indians on reservations;

(2) the effectiveness of such programs as are not specifically directed toward Indians in responding to such needs;

(3) the extent to which such needs are not met by such programs;

(4) how such programs could be better coordinated in responding to such needs;

(5) how such programs could be improved or restructured to more effectively meet such needs;

(6) what sustainable job markets exist in Indian communities (assessed by tribe and region); and

(7) the availability of such support services (as transportation and child care) as are necessary to assist Indians on reservations in participating in such programs and obtaining permanent employment. Transportation.

The Secretary of Health and Human Services and the Secretary of the Interior shall report to the Congress on the results of the study under this subsection not later than October 1, 1989 (or, if later, one year after the date of the enactment of this Act). Reports.

SEC. 204. EFFECTIVE DATE. 42 USC 681 note.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this title shall become effective on October 1, 1990.

(b) SPECIAL RULES.—(1)(A) If any State makes the changes in its State plan approved under section 402 of the Social Security Act that are required in order to carry out the amendments made by this title and formally notifies the Secretary of Health and Human Services of its desire to become subject to such amendments as of the first day of any calendar quarter beginning on or after the date on which the proposed regulations of the Secretary of Health and Human Services are published under section 203(a) (or, if earlier, the date on which such regulations are required to be published under such section) and before October 1, 1990, such amendments shall become effective with respect to that State as of such first day.

(B) In the case of any State in which the amendments made by this title become effective (in accordance with subparagraph (A)) with respect to any quarter of a fiscal year beginning before October 1, 1990, the limitation applicable to the State for the fiscal year under section 403(k)(2) of the Social Security Act (as added by section 201(c)(1) of this Act) shall be an amount that bears the same ratio to such limitation (as otherwise determined with respect to the State for the fiscal year) as the number of quarters in the fiscal year throughout which such amendments apply to the State bears to 4.

(2) Section 403(l)(3) of the Social Security Act (as added by section 201(c)(2) of this Act) is repealed effective October 1, 1995 (except that subparagraph (A) of such section 403(l)(3) shall remain in effect for purposes of applying any reduction in payment rates required by such subparagraph for any of the fiscal years specified therein); and section 403(l)(4) of such Act (as so added) is repealed effective October 1, 1998.

(3) Subsections (a), (c), and (d) of section 203 of this Act, and section 486 of the Social Security Act (as added by section 201(b) of this Act), shall become effective on the date of the enactment of this Act.

TITLE III—SUPPORTIVE SERVICES FOR FAMILIES

SEC. 301. CHILD CARE DURING PARTICIPATION IN EMPLOYMENT, EDUCATION, AND TRAINING.

42 USC 602.

Section 402 of the Social Security Act is amended by adding at the end the following new subsection:

"(g)(1)(A) Each State agency must guarantee child care in accordance with subparagraph (B)—

"(i) for each family with a dependent child requiring such care, to the extent that such care is determined by the State agency to be necessary for an individual in the family to accept employment or remain employed; and

"(ii) for each individual participating in an education and training activity (including participation in a program that meets the requirements of subsection (a)(19) and part F) if the State agency approves the activity and determines that the individual is satisfactorily participating in the activity.

"(B) The State agency may guarantee child care by—

"(i) providing such care directly;

Contracts.

"(ii) arranging the care through providers by use of purchase of service contracts, or vouchers;

"(iii) providing cash or vouchers in advance to the caretaker relative in the family;

"(iv) reimbursing the caretaker relative in the family; or

"(v) adopting such other arrangements as the agency deems appropriate.

When the State agency arranges for child care, the agency shall take into account the individual needs of the child.

"(C)(i) Subject to clause (ii), the State agency shall make payment for the cost of child care provided with respect to a family in an amount that is the lesser of—

"(I) the actual cost of such care; and

"(II) the dollar amount of the child care disregard for which the family is otherwise eligible under subsection (a)(8)(A)(iii), or (if higher) an amount established by the State.

"(ii) The State agency may not reimburse the cost of child care provided with respect to a family in an amount that is greater than the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary).

"(D) The State may not make any change in its method of reimbursing child care costs which has the effect of disadvantaging families receiving aid under the State plan on the date of the enactment of this section, by reducing their income or otherwise.

"(E) The value of any child care provided or arranged (or any amount received as payment for such care or reimbursement for costs incurred for the care) under this paragraph—

"(i) shall not be treated as income for purposes of any other Federal or federally-assisted program that bases eligibility for or the amount of benefits upon need, and

"(ii) may not be claimed as an employment-related expense for purposes of the credit under section 21 of the Internal Revenue Code of 1986.

"(2) In the case of any individual participating in the program under part F, each State agency (in addition to guaranteeing child

care under paragraph (1)) shall provide payment or reimbursement for such transportation and other work-related expenses (including other work-related supportive services), as the State determines are necessary to enable such individual to participate in such program.

"(3)(A) In the case of amounts expended for child care pursuant to paragraph (1)(A) by any State to which section 1108 does not apply, the applicable rate for purposes of section 403(a) shall be the Federal medical assistance percentage (as defined in section 1905(b)).

"(B) In the case of any amounts expended by the State agency for child care under this subsection, only such amounts as are within such limits as the State may prescribe (subject to the limitations of paragraph (1)(C)) shall be treated as amounts for which payment may be made to a State under this part and they may be so treated only to the extent that—

"(i) such amounts do not exceed the applicable local market rate (as determined by the State in accordance with regulations issued by the Secretary);

"(ii) the child care involved meets applicable standards of State and local law; and

"(iii) in the case of child care, the entity providing such care allows parental access.

"(4) The State must establish procedures to ensure that center-based child care will be subject to State and local requirements designed to ensure basic health and safety, including fire safety, protections. The State must also endeavor to develop guidelines for family day care. The State must provide the Secretary with a description of such State and local requirements and guidelines. Safety.

"(5) By October 1, 1992, the Secretary shall report to the Congress on the nature and content of State and local standards for health and safety. Reports. Safety.

"(6)(A) The Secretary shall make grants to States to improve their child care licensing and registration requirements and procedures, and to monitor child care provided to children receiving aid under the State plan approved under subsection (a). Grants.

"(B) Subject to subparagraph (C), the Secretary shall make grants to each State under subparagraph (A) in proportion to the number of children in the State receiving aid under the State plan approved under subsection (a).

"(C) The Secretary may not make grants to a State under subparagraph (A) unless the State provides matching funds in an amount that is not less than 10 percent of the amount of the grant.

"(D) For grants under this paragraph, there is authorized to be appropriated to the Secretary $13,000,000 for each of the fiscal years 1990 and 1991. Appropriation authorization.

"(7) Activities under this subsection shall be coordinated in each State with existing early childhood education programs in that State, including Head Start programs, preschool programs funded under chapter 1 of the Education Consolidation and Improvement Act of 1981, and school and nonprofit child care programs (including community-based organizations receiving funds designated for preschool programs for handicapped children).". Handicapped persons.

SEC. 302. EXTENDED ELIGIBILITY FOR CHILD CARE.

(a) IN GENERAL.—Section 402(g)(1)(A) of the Social Security Act (as added by section 301 of this Act) is amended—

(1) by inserting "(i)" after "(A)";

(2) by redesignating clauses (i) and (ii) as subclauses (I) and (II), respectively; and

(3) by adding at the end the following new clause:

"(ii) Each State agency must guarantee child care, subject to the limitations described in this section, to the extent that such care is determined by the State agency to be necessary for an individual's employment in any case where a family has ceased to receive aid to families with dependent children as a result of increased hours of, or increased income from, such employment or by reason of subsection (a)(8)(B)(ii)(II).".

(b) PAYMENT.—(1) Section 402(g)(3)(A) of such Act (as added by section 301 of this Act) is amended—

(A) by inserting "(i)" after "(A)"; and

(B) by adding at the end the following new clause:

"(ii) In the case of amounts expended for child care pursuant to paragraph (1)(A)(ii) (relating to the provision of child care for certain families which cease to receive aid under this part) by any State to which section 1108 applies, the applicable rate for purposes of section 403(a) shall be the Federal medical assistance percentage (as defined in section 1118).".

(2) Section 403(l)(1)(A) of such Act (as added by section 201(c)(2) of this Act) is amended by striking "402(g)(1)(A)" in the matter preceding clause (i) and inserting in lieu thereof "402(g)(1)(A)(i)".

(c) LIMITATIONS ON ELIGIBILITY.—Section 402(g)(1)(A) of the Social Security Act (as added by section 301 of this Act and as amended by subsection (a)(3) of this section) is amended by adding after clause (ii) the following new clauses:

"(iii) A family shall only be eligible for child care provided under clause (ii) for a period of 12 months after the last month for which the family received aid to families with dependent children under this part.

"(iv) A family shall not be eligible for child care provided under clause (ii) unless the family includes a child who is (or, if needy, children in at least 3 of the 6 months immediately preceding the month in which the family became ineligible for such aid.

"(v) A family shall not be eligible for child care provided under clause (ii) unless the family includes a child who is, (or, if needy, would be) a dependent child.

"(vi) A family shall not be eligible for child care provided under clause (ii) for any month beginning after the caretaker relative who is a member of the family has—

"(I) without good cause, terminated his or her employment; or

"(II) failed to cooperate with the State in establishing and enforcing his or her child support obligations.

"(vii) A family shall contribute to child care provided under clause (ii) in accordance with a sliding scale formula which shall be established by the State agency based on the family's ability to pay.".

42 USC 602 note.

(d) STUDY OF WELFARE REQUALIFICATION; REGULATIONS BASED ON RESULTS OF STUDY.—The Secretary of Health and Human Services shall conduct a study to determine whether individuals who ceased receiving aid under the State program of aid to families with dependent children approved under this part have begun again to receive such aid in order to requalify for additional months of transition benefits, and if the study reveals that such is the case, the Secretary shall, not earlier than October 1, 1991, issue regulations which restrict such requalification.

(e) STUDY ON EFFECTS OF EXTENDING ELIGIBILITY FOR CHILD CARE.—The Secretary of Health and Human Services shall conduct a study on the effectiveness of the amendments made by this section in reducing welfare dependence and assisting families in making the transition from welfare to employment, and such other effects of such amendments as the Secretary may find appropriate, and shall report the results of such study not later than September 30, 1997. Reports. 42 USC 602 note.

SEC. 303. EXTENDED ELIGIBILITY FOR MEDICAL ASSISTANCE.

(a) IN GENERAL.—(1) Title XIX of the Social Security Act, as amended by section 303(a)(1) of the Medicare Catastrophic Coverage Act of 1988, is amended by redesignating section 1925 as section 1926 and by inserting after section 1924 the following new section: 42 USC 1396s.

"EXTENSION OF ELIGIBILITY FOR MEDICAL ASSISTANCE

"SEC. 1925. (a) INITIAL 6-MONTH EXTENSION.— 42 USC 1396r-6.

"(1) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under this title must provide that each family which was receiving aid pursuant to a plan of the State approved under part A of title IV in at least 3 of the 6 months immediately preceding the month in which such family becomes ineligible for such aid, because of hours of, or income from, employment of the caretaker relative (as defined in subsection (e)) or because of section 402(a)(8)(B)(ii)(II) (providing for a time-limited earned income disregard), shall, subject to paragraph (3) and without any reapplication for benefits under the plan, remain eligible for assistance under the plan approved under this title during the immediately succeeding 6-month period in accordance with this subsection.

"(2) NOTICE OF BENEFITS.—Each State, in the notice of termination of aid under part A of title IV sent to a family meeting the requirements of paragraph (1)—

"(A) shall notify the family of its right to extended medical assistance under this subsection and include in the notice a description of the reporting requirement of subsection (b)(2)(B)(i) and of the circumstances (described in paragraph (3)) under which such extension may be terminated; and

"(B) shall include a card or other evidence of the family's entitlement to assistance under this title for the period provided in this subsection.

"(3) TERMINATION OF EXTENSION.—

"(A) NO DEPENDENT CHILD.—Subject to subparagraphs (B) and (C), extension of assistance during the 6-month period described in paragraph (1) to a family shall terminate (during such period) at the close of the first month in which the family ceases to include a child who is (or would if needy be) a dependent child under part A of title IV.

"(B) NOTICE BEFORE TERMINATION.—No termination of assistance shall become effective under subparagraph (A) until the State has provided the family with notice of the grounds for the termination.

"(C) CONTINUATION IN CERTAIN CASES UNTIL REDETERMINATION.—With respect to a child who would cease to receive medical assistance because of subparagraph (A) but who may be eligible for assistance under the State plan because

the child is described in clause (i) or (v) of section 1905(a), the State may not discontinue such assistance under such subparagraph until the State has determined that the child is not eligible for assistance under the plan.

"(4) SCOPE OF COVERAGE.—

"(A) IN GENERAL.—Subject to subparagraph (B), during the 6-month extension period under this subsection, the amount, duration, and scope of medical assistance made available with respect to a family shall be the same as if the family were still receiving aid under the plan approved under part A of title IV.

"(B) STATE MEDICAID 'WRAP-AROUND' OPTION.—A State, at its option, may pay a family's expenses for premiums, deductibles, coinsurance, and similar costs for health insurance or other health coverage offered by an employer of the caretaker relative or by an employer of the absent parent of a dependent child. In the case of such coverage offered by an employer of the caretaker relative—

"(i) the State may require the caretaker relative, as a condition of extension of coverage under this subsection for the caretaker and the caretaker's family, to make application for such employer coverage, but only if—

"(I) the caretaker relative is not required to make financial contributions for such coverage (whether through payroll deduction, payment of deductibles, coinsurance, or similar costs, or otherwise), and

"(II) the State provides, directly or otherwise, for payment of any of the premium amount, deductible, coinsurance, or similar expense that the employee is otherwise required to pay; and

"(ii) the State shall treat the coverage under such an employer plan as a third party liability (under section 1902(a)(25)).

Payments for premiums, deductibles, coinsurance, and similar expenses under this subparagraph shall be considered, for purposes of section 1903(a), to be payments for medical assistance.

"(b) ADDITIONAL 6-MONTH EXTENSION.—

"(1) REQUIREMENT.—Notwithstanding any other provision of this title, each State plan approved under this title shall provide that the State shall offer to each family, which has received assistance during the entire 6-month period under subsection (a) and which meets the requirement of paragraph (2)(B)(i), in the last month of the period the option of extending coverage under this subsection for the succeeding 6-month period, subject to paragraph (3).

"(2) NOTICE AND REPORTING REQUIREMENTS.—

"(A) NOTICES.—

"(i) NOTICE DURING INITIAL EXTENSION PERIOD OF OPTION AND REQUIREMENTS.—Each State, during the 3rd and 6th month of any extended assistance furnished to a family under subsection (a), shall notify the family of the family's option for additional extended assistance under this subsection. Each such notice shall include (I) in the 3rd month notice, a statement of the reporting requirement under subparagraph (B)(i), and,

in the 6th month notice, a statement of the reporting requirement under subparagraph (B)(ii), (II) a statement as to whether any premiums are required for such additional extended assistance, and (III) a description of other out-of-pocket expenses, benefits, reporting and payment procedures, and any pre-existing condition limitations, waiting periods, or other coverage limitations imposed under any alternative coverage options offered under paragraph (4)(D). The 6th month notice under this subparagraph shall describe the amount of any premium required of a particular family for each of the first 3 months of additional extended assistance under this subsection.

"(ii) NOTICE DURING ADDITIONAL EXTENSION PERIOD OF REPORTING REQUIREMENTS AND PREMIUMS.—Each State, during the 3rd month of any additional extended assistance furnished to a family under this subsection, shall notify the family of the reporting requirement under subparagraph (B)(ii) and a statement of the amount of any premium required for such extended assistance for the succeeding 3 months.

"(B) REPORTING REQUIREMENTS.—

"(i) DURING INITIAL EXTENSION PERIOD.—Each State shall require (as a condition for additional extended assistance under this subsection) that a family receiving extended assistance under subsection (a) report to the State, not later than the 21st day of the 4th month in the period of extended assistance under subsection (a), on the family's gross monthly earnings and on the family's costs for such child care as is necessary for the employment of the caretaker relative in each of the first 3 months of that period.

"(ii) DURING ADDITIONAL EXTENSION PERIOD.—Each State shall require that a family receiving extended assistance under this subsection report to the State, not later than the 21st day of the 1st month and of the 4th month in the period of additional extended assistance under this subsection, on the family's gross monthly earnings and on the family's costs for such child care as is necessary for the employment of the caretaker relative in each of the 3 preceding months.

"(3) TERMINATION OF EXTENSION.—

"(A) IN GENERAL.—Subject to subparagraphs (B) and (C), extension of assistance during the 6-month period described in paragraph (1) to a family shall terminate (during the period) as follows:

"(i) NO DEPENDENT CHILD.—The extension shall terminate at the close of the first month in which the family ceases to include a child who is (or would if needy be) a dependent child under part A of title IV.

"(ii) FAILURE TO PAY ANY PREMIUM.—If the family fails to pay any premium for a month under paragraph (5) by the 21st day of the following month, the extension shall terminate at the close of that following month, unless the family has established, to the satisfaction of the State, good cause for the failure to pay such premium on a timely basis.

"(iii) QUARTERLY INCOME REPORTING AND TEST.—The extension under this subsection shall terminate at the close of the 1st or 4th month of the 6-month period if—

"(I) the family fails to report to the State, by the 21st day of such month, the information required under paragraph (2)(B)(ii), unless the family has established, to the satisfaction of the State, good cause for the failure to report on a timely basis;

"(II) the caretaker relative had no earnings in one or more of the previous 3 months, unless such lack of any earnings was due to an involuntary loss of employment, illness, or other good cause, established to the satisfaction of the State; or

"(III) the State determines that the family's average gross monthly earnings (less such costs for such child care as is necessary for the employment of the caretaker relative) during the immediately preceding 3-month period exceed 185 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

Classified information.

Information described in clause (iii)(I) shall be subject to the restrictions on use and disclosure of information provided under section 402(a)(9). Instead of terminating a family's extension under clause (iii)(I), a State, at its option, may provide for suspension of the extension until the month after the month in which the family reports information required under paragraph (2)(B)(ii), but only if the family's extension has not otherwise been terminated under subclause (II) or (III) of clause (iii). The State shall make determinations under clause (iii)(III) for a family each time a report under paragraph (2)(B)(ii) for the family is received.

"(B) NOTICE BEFORE TERMINATION.—No termination of assistance shall become effective under subparagraph (A) until the State has provided the family with notice of the grounds for the termination, which notice shall include (in the case of termination under subparagraph (A)(iii)(II), relating to no continued earnings) a description of how the family may reestablish eligibility for medical assistance under the State plan.

"(C) CONTINUATION IN CERTAIN CASES UNTIL REDETERMINATION.—

"(i) DEPENDENT CHILDREN.—With respect to a child who would cease to receive medical assistance because of subparagraph (A)(i) but who may be eligible for assistance under the State plan because the child is described in clause (i) or (v) of section 1905(a), the State may not discontinue such assistance under such subparagraph until the State has determined that the child is not eligible for assistance under the plan.

"(ii) MEDICALLY NEEDY.—With respect to an individual who would cease to receive medical assistance because of clause (ii) or (iii) of subparagraph (A) but who may be eligible for assistance under the State plan because the individual is within a category of person

for which medical assistance under the State plan is available under section 1902(a)(10)(C) (relating to medically needy individuals), the State may not discontinue such assistance under such subparagraph until the State has determined that the individual is not eligible for assistance under the plan.

"(4) COVERAGE.—

"(A) IN GENERAL.—During the extension period under this subsection—

"(i) the State plan shall offer to each family medical assistance which (subject to subparagraphs (B) and (C)) is the same amount, duration, and scope as would be made available to the family if it were still receiving aid under the plan approved under part A of title IV; and

"(ii) the State plan may offer alternative coverage described in subparagraph (D).

"(B) ELIMINATION OF MOST NON-ACUTE CARE BENEFITS.—At a State's option and notwithstanding any other provision of this title, a State may choose not to provide medical assistance under this subsection with respect to any (or all) of the items and services described in paragraphs (4)(A), (6), (7), (8), (11), (13), (14), (15), (16), (18), (20), and (21) of section 1905(a).

"(C) STATE MEDICAID 'WRAP-AROUND' OPTION.—At a State's option, the State may elect to apply the option described in subsection (a)(4)(B) (relating to 'wrap-around' coverage) for families electing medical assistance under this subsection in the same manner as such option applies to families provided extended eligibility for medical assistance under subsection (a).

"(D) ALTERNATIVE ASSISTANCE.—At a State's option, the State may offer families a choice of health care coverage under one or more of the following, instead of the medical assistance otherwise made available under this subsection:

"(i) ENROLLMENT IN FAMILY OPTION OF EMPLOYER PLAN.—Enrollment of the caretaker relative and dependent children in a family option of the group health plan offered to the caretaker relative.

"(ii) ENROLLMENT IN FAMILY OPTION OF STATE EMPLOYEE PLAN.—Enrollment of the caretaker relative and dependent children in a family option within the options of the group health plan or plans offered by the State to State employees.

"(iii) ENROLLMENT IN STATE UNINSURED PLAN.—Enrollment of the caretaker relative and dependent children in a basic State health plan offered by the State to individuals in the State (or areas of the State) otherwise unable to obtain health insurance coverage.

"(iv) ENROLLMENT IN HMO.—Enrollment of the caretaker relative and dependent children in a health maintenance organization (as defined in section 1903(m)(1)(A)) less than 50 percent of the membership (enrolled on a prepaid basis) of which consists of individuals who are eligible to receive benefits under this title (other than because of the option offered under this clause). The option of enrollment under this clause is in addition to, and not in lieu of, any enroll-

ment option that the State might offer under subparagraph (A)(i) with respect to receiving services through a health maintenance organization in accordance with section 1903(m).

If a State elects to offer an option to enroll a family under this subparagraph, the State shall pay any premiums and other costs for such enrollment imposed on the family and may pay deductibles and coinsurance imposed on the family. A State's payment of premiums for the enrollment of families under this subparagraph (not including any premiums otherwise payable by an employer and less the amount of premiums collected from such families under paragraph (5)) and payment of any deductibles and coinsurance shall be considered, for purposes of section 1903(a)(1), to be payments for medical assistance.

"(E) PROHIBITION ON COST-SHARING FOR MATERNITY AND PREVENTIVE PEDIATRIC CARE.—

"(i) IN GENERAL.—If a State offers any alternative option under subparagraph (D) for families, under each such option the State must assure that care described in clause (ii) is available without charge to the families through—

"(I) payment of any deductibles, coinsurance, and other cost-sharing respecting such care, or

"(II) providing coverage under the State plan for such care without any cost-sharing,

or any combination of such mechanisms.

"(ii) CARE DESCRIBED.—The care described in this clause consists of—

"(I) services related to pregnancy (including prenatal, delivery, and post partum services), and

"(II) ambulatory preventive pediatric care (including ambulatory early and periodic screening, diagnosis, and treatment services under section 1905(a)(4)(B)) for each child who meets the age and date of birth requirements to be a qualified child under section 1905(n)(2).

"(5) PREMIUM.—

"(A) PERMITTED.—Notwithstanding any other provision of this title (including section 1916), a State may impose a premium for a family for additional extended coverage under this subsection for a premium payment period (as defined in subparagraph (D)(i)), but only if the family's average gross monthly earnings (less the average monthly costs for such child care as is necessary for the employment of the caretaker relative) for the premium base period exceed 100 percent of the official poverty line (as defined by the Office of Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981) applicable to a family of the size involved.

"(B) LEVEL MAY VARY BY OPTION OFFERED.—The level of such premium may vary, for the same family, for each option offered by a State under paragraph (4)(D).

"(C) LIMIT ON PREMIUM.—In no case may the amount of any premium under this paragraph for a family for a month in either of the premium payment periods described

in subparagraph (D)(i) exceed 3 percent of the family's average gross monthly earnings during the premium base period (as defined in subparagraph (D)(ii)).

"(D) DEFINITIONS.—In this paragraph:

"(i) A 'premium payment period' described in this clause is a 3-month period beginning with the 1st or 4th month of the 6-month additional extension period provided under this subsection.

"(ii) The term 'premium base period' means, with respect to a particular premium payment period, the period of 3 consecutive months the last of which is 4 months before the beginning of that premium payment period.

"(c) APPLICABILITY IN STATES AND TERRITORIES.—

"(1) STATES OPERATING UNDER DEMONSTRATION PROJECTS.—In the case of any State which is providing medical assistance to its residents under a waiver granted under section 1115(a), the Secretary shall require the State to meet the requirements of this section in the same manner as the State would be required to meet such requirement if the State had in effect a plan approved under this title.

"(2) INAPPLICABILITY IN COMMONWEALTHS AND TERRITORIES.— The provisions of this section shall only apply to the 50 States and the District of Columbia. District of Columbia.

"(d) GENERAL DISQUALIFICATION FOR FRAUD.—

"(1) INELIGIBILITY FOR AID.—This section shall not apply to an individual who is a member of a family which has received aid under part A of title IV if the State makes a finding that, at any time during the last 6 months in which the family was receiving such aid before otherwise being provided extended eligibility under this section, the individual was ineligible for such aid because of fraud.

"(2) GENERAL DISQUALIFICATIONS.—For additional provisions relating to fraud and program abuse, see sections 1128, 1128A, and 1128B. Fraud.

"(e) CARETAKER RELATIVE DEFINED.—In this section, the term 'caretaker relative' has the meaning of such term as used in part A of title IV.

"(f) SUNSET.—This section shall not apply with respect to families that cease to be eligible for aid under part A of title IV after September 30, 1998.".

(2) Section 1902(a) of such Act (42 U.S.C. 1396a(a)), as amended by section 303(e) of the Medicare Catastrophic Coverage Act of 1988, is amended—

(A) by striking "and" at the end of paragraph (50),

(B) by striking the period at the end of paragraph (51) and inserting "; and", and

(C) by inserting after paragraph (51) the following new paragraph:

"(52) meet the requirements of section 1925 (relating to extension of eligibility for medical assistance).".

(b) CONFORMING AMENDMENTS.—(1) Section 1902(e)(1) of such Act (42 U.S.C. 1396a(e)(1)) is amended—

(A) by inserting "subject to subparagraph (B)" after "January 1, 1974,",

(B) by inserting "(A)" after "(e)(1)", and

(C) by adding at the end the following new subparagraph:

"(B) Subparagraph (A) shall not apply with respect to families that cease to be eligible for aid under part A of title IV during the period beginning on April 1, 1990, and ending on September 30, 1998. During such period, for provisions relating to extension of eligibility for medical assistance for certain families who have received aid pursuant to a State plan approved under part A of title IV and have earned income, see section 1925.".

(2) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended by striking "or" at the end of clause (vii), by inserting "or" at the end of clause (viii), and by inserting after clause (viii) the following new clause:

"(ix) individuals provided extended benefits under section 1925,".

42 USC 602.

(3) Paragraph (37) of section 402(a) of such Act is amended to read as follows:

"(37) provide that if any family becomes ineligible to receive aid to families with dependent children because of hours of or income from employment of the caretaker relative or because of paragraph (8)(B)(ii)(II), having received such aid in at least 3 of the 6 months immediately preceding the month in which such ineligibility begins, the family shall remain eligible for medical assistance under the State's plan approved under title XIX for an extended period or periods as provided in section 1925, and that the family will be appropriately notified of such extension (in the State agency's notice to the family of the termination of its eligibility for such aid) as required by section 1925(a)(2);".

42 USC 1396r-6 note.

(c) STUDY AND REPORT.—(1) The Secretary of Health and Human Services shall conduct a study of the impact of the medicaid extension provisions under section 1925 of the Social Security Act, with particular focus on the costs of such provisions and the impact on welfare dependency, and shall report to Congress on the results of such study not later than April 1, 1993.

(2) The study under paragraph (1) shall include an examination of—

(A) the extent to which the availability of extended medicaid benefits affects access to and use of medical services,

(B) the relative effectiveness of different types of coverage provided by States,

(C) the effect of requiring families to pay premiums or incur any other expenses with respect to such extended benefits, and

(D) whether individuals who have exhausted such benefits recycle onto welfare for short periods of time in order to requalify for such extended benefits.

(d) CONFORMING AMENDMENT TO SECTION 403 AMENDMENTS.—Section 1902(e) of the Social Security Act (42 U.S.C. 1396a(e)) is amended by adding at the end the following new paragraph:

"(10)(A) The fact that an individual, child, or pregnant woman may be denied aid under part A of title IV pursuant to section 402(a)(43) shall not be construed as denying (or permitting a State to deny) medical assistance under this title to such individual, child, or woman who is eligible for assistance under this title on a basis other than the receipt of aid under such part.

"(B) If an individual, child, or pregnant woman is receiving aid under part A of title IV and such aid is terminated pursuant to section 402(a)(43), the State may not discontinue medical assistance under this title for the individual, child, or woman until the State has determined that the individual, child, or woman is not eligible

for assistance under this title on a basis other than the receipt of aid under such part.".

(e) 1-YEAR EXTENSION OF MEDICAID ELIGIBILITY EXTENSION DUE TO COLLECTION OF CHILD OR SPOUSAL SUPPORT.—Section 20(b) of the Child Support Amendments of 1984 (Public Law 98-378) is amended by striking "October 1, 1988" and inserting "October 1, 1989". 42 USC 606 note.

(f) EFFECTIVE DATE.—(1) The amendments made by this section (other than subsections (b)(3), (d), and (e)) shall apply to payments under title XIX of the Social Security Act for calendar quarters beginning on or after April 1, 1990 (or, in the case of the Commonwealth of Kentucky, October 1, 1990) (without regard to whether regulations to implement such amendments are promulgated by such date), with respect to families that cease to be eligible for aid under part A of title IV of the Social Security Act on or after such date. Kentucky. 42 USC 602 note.

(2)(A) The amendment made by subsection (b)(3) shall become effective on April 1, 1990.

(B) Effective September 30, 1998, the amendment made by subsection (b)(3) is repealed.

(C) Section 402(a)(37) of the Social Security Act, as in effect immediately before April 1, 1990, shall become effective on September 30, 1998. 42 USC 602.

(3) The amendment made by subsection (d) shall become effective on the effective date of section 402(a)(43) of the Social Security Act, as inserted by section 403(a) of this Act.

(4) The amendment made by subsection (e) shall take effect on October 1, 1988.

SEC. 304. EFFECTIVE DATES. 42 USC 602 note.

(a) CHILD CARE FOR PARTICIPANTS IN EMPLOYMENT, EDUCATION, AND TRAINING.—The amendment made by section 301 shall become effective with respect to a State on the date the amendments made by title II become effective with respect to the State.

(b) TRANSITIONAL CHILD CARE.—(1) The amendments made by section 302 shall become effective on April 1, 1990.

(2) Effective September 30, 1998, the amendments made by section 302 are repealed.

TITLE IV—RELATED AFDC AMENDMENTS

SEC. 401. BENEFITS FOR TWO-PARENT FAMILIES.

(a) MANDATORY EXPANSION OF COVERAGE.—(1) Section 402(a) of the Social Security Act (as amended by section 201(a) of this Act) is amended—

(A) by striking "and" after the semicolon at the end of paragraph (39);

(B) by striking the period at the end of paragraph (40) and inserting in lieu thereof "; and"; and

(C) by inserting immediately after paragraph (40) the following new paragraph:

"(41) provide that aid to families with dependent children will be provided under the plan with respect to dependent children of unemployed parents in accordance with section 407.".

(2)(A) Section 402(a)(38)(B) of such Act is amended by striking "(if such section is applicable to the State)".

42 USC 607.

(B) Section 407(b) of such Act is amended by striking "(b) The provisions" and all that follows through "(1) requires" and inserting in lieu thereof the following:

"(b) In providing for the provision of aid to families with dependent children under the State's plan approved under section 402, in the case of families that include dependent children within the meaning of subsection (a) of this section, as required by section 402(a)(41), the State's plan—

"(1) shall require".

(C) Section 407(b)(2) of such Act is amended by striking "provides—" and inserting in lieu thereof "shall provide—".

(b) STATE FLEXIBILITY IN STRUCTURING TWO-PARENT FAMILY PROGRAM.—(1) Section 407(b) of such Act (as amended by subsection (a) of this section) is amended—

(A)(i) by inserting "(1)" after "(b)";

(ii) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(iii) by redesignating subparagraphs (A), (B), and (C) of such paragraph (1) as clauses (i), (ii), and (iii), respectively;

(iv) by redesignating subparagraphs (A), (B), (C), and (D) of such paragraph (2) as clauses (i), (ii), (iii), and (iv), respectively; and

(v) by redesignating clauses (i) and (ii) of subparagraph (C) of both such paragraphs (1) and (2) as subclauses (I) and (II), respectively;

(B) in paragraph (1)(A) (as so redesignated by subparagraph (A) of this paragraph, and as amended by subsection (a)(2)(A) of this section before such redesignation), by inserting "subject to paragraph (2)," before "shall require"; and

(C) by adding at the end the following new paragraph:

"(2)(A) In carrying out the program under this section, a State may design its program to reflect the individual needs of the State and to emphasize education, training, and employment services for unemployed parents and their spouses who are eligible for aid to families with dependent children by reason of this section, to the extent provided under this paragraph.

"(B)(i) Subject to clauses (ii) and (iii), with respect to the requirement under section 402(a)(41), a State may, at its option, limit the number of months with respect to which a family receives aid to families with dependent children to the extent determined appropriate by the State for the operation of its program under this section.

"(ii)(I) A State may not limit the number of months under clause (i) for which a family may receive aid to families with dependent children unless it provides in its plan assurances to the Secretary that it has a program (that meets such requirements as the Secretary may in regulation prescribe) for providing education, training, and employment services (including any activity authorized under section 402(a)(19) or under part F) in order to assist parents of children described in subsection (a) in preparing for and obtaining employment.

"(II) In exercising the option under clause (i), a State plan may not provide for the denial of aid to families with dependent children to a family otherwise eligible for such aid for any month unless the family has received such aid (on the basis of the unemployment of the parent who is the principal earner) in at least 6 of the preceding 12 months.

"(iii) Each State which, on September 26, 1988, has a program in effect under this section shall continue to operate such program without a time limitation.

"(C) With respect to the participation in the program under section 402(a)(19) and part F of a family eligible for aid to families with dependent children by reason of this section, a State may, at its option—

"(i) except as otherwise provided in such section and such part, require that any parent participating in such program engage in program activities for up to 40 hours per week; and

"(ii) provide for the payment of aid to families with dependent children at regular intervals of no greater than one month but after the performance of assigned program activities.".

(2) Section 402(a)(19)(B)(i)(II) of such Act (as added by the amendment made by section 201(a) of this Act) is amended by inserting "(and individuals who would be recipients of such aid if the State had not exercised the option under section 407(b)(2)(B)(i))" after "children". 42 USC 602.

(3)(A) Section 407(b)(1)(B) of such Act (as so redesignated by paragraph (1)(A) of this subsection) is amended by striking "paragraph (1)(A)" each place it appears and inserting in lieu thereof "subparagraph (A)(i)". 42 USC 607.

(B) Section 407(c) of such Act is amended—

(i) by striking "subparagraph (A) of subsection (b)(1)" and inserting in lieu thereof "subsection (b)(1)(A)(i)";

(ii) by striking "subparagraph (B) of such subsection" and inserting in lieu thereof "subsection (b)(1)(A)(ii)"; and

(iii) by striking "subparagraph (A) of subsection (b)(2)" and inserting in lieu thereof "subsection (b)(1)(B)(i)".

(C) Section 407(d)(3) of such Act is amended by striking "section 407(b)(1)(C)" and inserting in lieu thereof "subsection (b)(1)(A)(iii)".

(c) PARTICIPATION IN TRAINING AND EDUCATION PROGRAMS AS A QUARTER OF WORK.—(1) Section 407(d)(1) of such Act is amended—

(A) by inserting "(A)" after "means a calendar quarter"; and

(B) by inserting before the semicolon at the end the following: ", or (B) at the option of the State, a calendar quarter in which such individual attended, full-time, an elementary school, a secondary school, or a vocational or technical training course (approved by the Secretary) that is designed to prepare the individual for gainful employment, or in which such individual participated in an education or training program established under the Job Training Partnership Act".

(2) Section 407(d) of such Act is amended by adding at the end the following new sentence:

"Notwithstanding section 402(a)(1), a State that chooses to exercise the option provided under paragraph (1)(B) may provide that the definition of calendar quarter under such option apply in one or more political subdivisions of the State.".

(3) Section 407(b)(1)(A)(iii)(I) of such Act (as so redesignated by subsection (b)(1)(A) of this section) is amended by inserting ", no more than 4 of which may be quarters of work defined in subsection (d)(1)(B)," after "(d)(1))".

(4)(A) Section 407(b)(2)(B)(ii) of such Act (as added by the amendment made by subsection (b)(1)(C) of this section) is amended by adding at the end the following new subclause:

"(III) Any family that is otherwise eligible for aid to families with dependent children that does not receive such aid in any month

solely by reason of the State exercising the option under clause (i) shall be deemed, for purposes of determining the period under paragraph (1)(A)(iii)(I), to be receiving such aid in such month.".

(B) Section 407(d)(1) of such Act (as amended by paragraph (1) of this subsection) is amended by striking "a community work experience" and all that follows through the semicolon and inserting in lieu thereof "the program under section 402(a)(19) and part F;".

42 USC 607.

(d) EXPANSION OF MEDICAID COVERAGE FOR TWO-PARENT FAMILIES.—(1) Section 1902(a)(10)(A)(i) of such Act is amended—

42 USC 1396a.

(A) by striking "or" at the end of subclause (III),

(B) by adding "or" at the end of subclause (IV), and

(C) by adding at the end the following new subclause:

"(V) who are qualified family members as defined in section 1905(m)(1);".

42 USC 1396d.

(2) Section 1905 of such Act is amended by inserting after subsection (l) the following new subsection:

"(m)(1) Subject to paragraph (2), the term 'qualified family member' means an individual (other than a qualified pregnant woman or child, as defined in subsection (n)) who is a member of a family that would be receiving aid under the State plan under part A of title IV pursuant to section 407 if the State had not exercised the option under section 407(b)(2)(B)(i).

"(2) No individual shall be a qualified family member for any period after September 30, 1998.".

42 USC 607 note.

(e) EVALUATION AND REPORT.—(1) The Secretary of Health and Human Services shall evaluate the time-limited and conventional State programs conducted under section 407 of the Social Security Act (as amended by this section), including the effects of the work requirement applicable to families receiving benefits under such section.

(2) The Secretary shall, not later than July 1, 1996, submit to the Congress an interim report containing the findings of such evaluation together with recommendations for any changes in such program, and shall, not later than July 1, 1998, submit to the Congress a final report containing such findings and recommendations.

(f) Section 402(a) of such Act (as amended by sections 201(a) and 401(a) of this Act) is amended—

42 USC 602.

(1) by striking "and" at the end of paragraph (40);

(2) by striking the period at the end of paragraph (41) and inserting "; and"; and

(3) by inserting immediately after paragraph (41) the following new paragraph:

"(42) provide that if, under section 407(b)(2)(B)(i), the State limits the number of months for which a family may receive aid to families with dependent children, the State shall provide medical assistance to all members of the family under the State's plan approved under title XIX, without time limitation.

42 USC 602 note.

(g) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), and in section 1905(m)(2) of the Social Security Act (as added by subsection (d)(2) of this section), the amendments made by this section shall become effective on October 1, 1990.

Territories, U.S.

(2) The amendments made by this section shall not become effective with respect to Puerto Rico, American Samoa, Guam, or the Virgin Islands, until October 1, 1992.

42 USC 602 and note, 607.

(h) TERMINATION.—Effective September 30, 1998, the amendments made by this section (other than by subsection (d)) are repealed, and the provisions of law so amended (as in effect immediately before

the effective date of such amendments) shall apply as if such amendments had never been made.

SEC. 402. CHANGES IN EARNED INCOME DISREGARDS.

(a) LIMIT ON DISREGARD OF CHILD CARE COSTS INCREASED; CHILD CARE DISREGARD TO BE APPLIED LAST.—Section 402(a)(8)(A)(iii) of the Social Security Act is amended— 42 USC 602.

(1) by inserting "after applying the other clauses of this subparagraph," before "shall disregard";

(2) by striking "$160" and inserting in lieu thereof "$175"; and

(3) by inserting before the semicolon ", or, in the case such child is under age 2, $200".

(b) STANDARD DISREGARD INCREASED.—Section 402(a)(8)(A)(ii) of such Act is amended by striking "$75" and inserting in lieu thereof "$90".

(c) DISREGARD OF ADVANCE PAYMENTS OR REFUND OF EARNED INCOME TAX CREDIT.—(1) Section 402(a)(8)(A) of such Act is amended—

(A) by striking "and" at the end of clause (vi); and

(B) by adding at the end the following new clause:

"(viii) shall disregard any refund of Federal income taxes made to a family receiving aid to families with dependent children by reason of section 32 of the Internal Revenue Code of 1986 (relating to earned income tax credit) and any payment made to such a family by an employer under section 3507 of such Code (relating to advance payment of earned income credit); and".

(2)(A) Section 402(d) of such Act is repealed.

(B) Section 402(a)(30) of such Act is amended by striking "subsection (d)" and inserting in lieu thereof "subsection (e)".

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1989. 42 USC 602 note.

SEC. 403. HOUSEHOLDS HEADED BY MINOR PARENTS.

(a) IN GENERAL.—Section 402(a) of the Social Security Act (as amended by sections 201(a), 401(a), and 401(f) of this Act) is amended—

(1) by striking "and" at the end of paragraph (41);

(2) by striking the period at the end of paragraph (42) and inserting "; and"; and

(3) by inserting immediately after paragraph (42) the following new paragraph:

"(43) at the option of the State, provide that—

"(A) subject to subparagraph (B), in the case of any individual who is under the age of 18 and has never married, and who has a dependent child in his or her care (or is pregnant and is eligible for aid to families with dependent children under the State plan)—

"(i) such individual may receive aid to families with dependent children under the plan for the individual and such child (or for herself in the case of a pregnant woman) only if such individual and child (or such pregnant woman) reside in a place of residence maintained by a parent, legal guardian, or other adult relative of such individual as such parent's, guardian's, or adult relative's own home, or reside in a foster home,

maternity home, or other adult-supervised supportive living arrangement; and

"(ii) such aid (where possible) shall be provided to the parent, legal guardian, or other adult relative on behalf of such individual and child; and

"(B) subparagraph (A) does not apply in the case where—

"(i) such individual has no parent or legal guardian of his or her own who is living and whose whereabouts are known;

"(ii) no living parent or legal guardian of such individual allows the individual to live in the home of such parent or guardian;

"(iii) the State agency determines that the physical or emotional health or safety of such individual or such dependent child would be jeopardized if such individual and such dependent child lived in the same residence with such individual's own parent or legal guardian;

"(iv) such individual lived apart from his or her own parent or legal guardian for a period of at least one year before either the birth of any such dependent child or the individual having made application for aid to families with dependent children under the plan; or

"(v) the State agency otherwise determines (in accordance with regulations issued by the Secretary) that there is good cause for waiving such subparagraph.".

42 USC 602 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall become effective on the first day of the first calendar quarter to begin one year or more after the date of the enactment of this Act.

SEC. 404. PERIODIC REEVALUATION OF NEED AND PAYMENT STANDARDS.

(a) IN GENERAL.—Section 402 of the Social Security Act (as amended by section 301 of this Act) is amended by adding at the end the following new subsection:

Reports. Public information.

"(h)(1) Each State shall reevaluate the need standard and payment standard under its plan at least once every 3 years, in accordance with a schedule established by the Secretary, and report the results of the reevaluation to the Secretary and the public at such time and in such form and manner as the Secretary may require.

"(2) The report required by paragraph (1) shall include a statement of—

"(A) the manner in which the need standard of the State is determined,

"(B) the relationship between the need standard and the payment standard (expressed as a percentage or in any other manner determined by the Secretary to be appropriate), and

"(C) any changes in the need standard or the payment standard in the preceding 3-year period.

Reports.

"(3) The Secretary shall report promptly to the Congress the results of the reevaluations required by paragraph (1).".

42 USC 602 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective on the date of the enactment of this Act.

SEC. 405. CBO STUDY ON IMPLEMENTATION OF NATIONAL MINIMUM PAYMENT STANDARD.

(a) IN GENERAL.—The Congressional Budget Office shall conduct a study on the implementation of the amendments proposed by section 101 of the bill introduced in the Senate of the United States during the 100th Congress and designated S. 862 (relating to the requirement of a minimum payment standard under part A of title IV of the Social Security Act with a Federal matching rate of 90 percent).

(b) DESCRIPTION OF STUDY.—The study conducted under subsection (a) shall assess the extent to which—

(1) the goal of budget neutrality may be preserved by repealing the programs included in, but not limited to, the programs described in the amendments proposed by section 301 of the bill described in subsection (a) over a more gradual period of time in conjunction with corresponding increases (up to 90 percent) in the Federal matching rates under part A of title IV, and title XIX, of the Social Security Act; and

(2) the effects on local governments of repealing Federal programs could be mitigated by providing, over a period of time that corresponds with more gradual increases in the Federal matching rates under such part A and title XIX, general revenue supplements to those localities with the lowest levels of fiscal capacity and pass-throughs to units of local government.

(c) REPORT TO CONGRESS.—The Congressional Budget Office shall report on the results of the study conducted under this section not later than 12 months after the date of the enactment of this Act.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

SEC. 406. STUDY OF NEW NATIONAL APPROACHES TO WELFARE BENEFITS FOR LOW-INCOME FAMILIES WITH CHILDREN.

42 USC 602 note.

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract or arrangement with the National Academy of Sciences for the study of a new national system of welfare benefits for low-income families with children, giving particular attention to what an appropriate national minimum benefit might be and how it should be calculated. The study shall give consideration to alternative minimum benefit proposals including proposals for benefits based on a family living standard, on weighted national median income, on State median income, and on the poverty level, and shall take into account the probable impact of a national minimum benefit on individuals and on State and local governments.

Contracts.

(b) METHODOLOGY.—(1) The study under this section shall include the development of a uniform national methodology which could be used to calculate State-specific family living standards and benefits based on other minimum benefit proposals.

(2) The methodology so developed shall be designed to identify a single uniform measure suitable for application in each State, and shall—

(A) take into account actual living costs in each State while permitting variances in such costs as between the different geographic areas of the State;

(B) take into account variations in actual living costs in each State for families of different sizes and composition; and

(C) specify an effective process for reassessing and updating both the methodology and the resulting family living standards and benefits based on other minimum benefit policies at least once every 4 years.

(3) The methodology so developed shall reflect the costs of basic necessities including housing, furnishings, food, clothing, transportation, utilities, and other maintenance items; and the study shall take into account variations in costs for different geographic areas of the State where such costs may be substantially different, and variations in costs for families of different sizes and composition.

(c) OTHER CONSIDERATIONS; PROGRESSION TO PROPOSED MINIMUM BENEFIT LEVELS.—In order to assess the implications of States moving to a new system of welfare benefits, the study shall include an analysis of the relationship between a State's fiscal capacity and other circumstances and constraints and the application of a full family living standard or other minimum benefit policy. The study shall propose a formula designed to achieve a uniform progression from the level of assistance currently being provided for low-income families with children under the AFDC program, the food stamp program, and the low-income energy assistance program, by each State, to a level based on the full family living standard or other minimum benefit policy for that State. For this purpose the Secretary shall define the term "low-income families with children" in a manner which reflects all families that include dependent children as defined for purposes of the AFDC program.

(d) REPORT AND RECOMMENDATIONS.—The Academy shall report its recommendations resulting from the study under this section to the Secretary no later than 24 months after the date of the enactment of this Act; and the Secretary shall promptly transmit such recommendations to the Congress.

(e) AUTHORIZATION OF FUNDS.—There are authorized to be appropriated such sums as may be necessary to carry out this section.

TITLE V—DEMONSTRATION PROJECTS

Grants.
42 USC 1315 note.

SEC. 501. FAMILY SUPPORT DEMONSTRATION PROJECTS.

(a) DEMONSTRATION PROJECTS TO TEST THE EFFECT OF EARLY CHILDHOOD DEVELOPMENT PROGRAMS.—(1) In order to test the effect of in-home early childhood development programs and pre-school center-based development programs (emphasizing the use of volunteers and including academic credit for student volunteers) on families receiving aid under State plans approved under section 402 of the Social Security Act and participating in the job opportunities and basic skills training program under part F of title IV of such Act, up to 10 States may undertake and carry out demonstration projects utilizing such development programs to enhance the cognitive skills and linguistic ability of children under the age of 5, to improve the communications skills of such children, and to develop their ability to read, write, and speak the English language effectively. Such projects may include parents along with their eligible children in family-centered education programs that assist children directly in achieving the goals stated in the preceding sentence and also help parents contribute to the proper development and education of their young children. Demonstration projects under this subsection shall meet such conditions and requirements as the Secretary of Health and Human Services (in this section referred to as the "Secretary")

shall prescribe, and no such project shall be conducted for a period of more than 3 years.

(2) The Secretary shall consider all applications received from States desiring to conduct demonstration projects under this subsection, shall approve up to 10 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this subsection, and shall make grants to the States whose applications are approved to assist them in carrying out such projects.

(3) The Secretary shall submit to the Congress with respect to each project undertaken by a State under this subsection, after such project has been carried out for one year and again when such project is completed, a detailed evaluation of the project and of its contribution to the achievement of the purpose of this subsection.

(b) STATE DEMONSTRATION PROJECTS TO ENCOURAGE INNOVATIVE EDUCATION AND TRAINING PROGRAMS FOR CHILDREN.—In order to encourage States to develop innovative education and training programs for children receiving aid under State plans approved under section 402 of the Social Security Act, any State may establish and conduct one or more demonstration projects, targeted to such children, designed to test financial incentives and interdisciplinary approaches to reducing school dropouts, encouraging skill development, and avoiding welfare dependence; and the Secretary may make grants to States to assist in financing such projects. Demonstration projects under this subsection shall meet such conditions and requirements as the Secretary shall prescribe, and no such project shall be conducted for a period of less than one year or more than 5 years.

(c) DEMONSTRATIONS TO ENSURE LONG TERM FAMILY SELF-SUFFICIENCY THROUGH COMMUNITY-BASED SERVICES.—Any State, using funds made available to it from appropriations made pursuant to subsection (d) in conjunction with its other resources, may conduct demonstrations to test more effective methods of providing coordination and services to ensure long term family self-sufficiency through community-based comprehensive family support services involving a partnership between the State agency administering or supervising the administrating of the State's plan under section 402 of the Social Security Act and community-based organizations having experience and demonstrated effectiveness in providing services.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants to States to conduct demonstration projects under this section, there is authorized to be appropriated not to exceed $6,000,000 for each of the fiscal years 1990, 1991, and 1992.

SEC. 502. DEMONSTRATION PROJECTS TO ENCOURAGE STATES TO EMPLOY PARENTS RECEIVING AFDC AS PAID CHILD CARE PROVIDERS.

Grants.
42 USC 1315 note.

(a) IN GENERAL.—In order to encourage States to employ or arrange for the employment of parents of dependent children receiving aid under State plans approved under section 402(a) of the Social Security Act as providers of child care for other children receiving such aid, up to 5 States may undertake and carry out demonstration projects designed to test whether such employment will effectively facilitate the conduct of the job opportunities and basic skills training program under part F of title IV of such Act by making additional child care services available to meet the requirements of section 402(g)(1)(A) of such Act while affording significant numbers

of families receiving such aid a realistic opportunity to avoid welfare dependence through employment as a child care provider.

(b) CONSIDERATION OF APPLICATIONS.—The Secretary of Health and Human Services shall consider all applications received from States desiring to conduct demonstration projects under this section, shall approve up to 5 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this section, and shall make grants to those States the applications of which are approved to assist them in carrying out such projects. Each project conducted under this section shall meet such conditions and requirements as the Secretary shall prescribe.

(c) LIMITATION ON AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants to States to carry out demonstration projects under this section, there is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal years 1990, 1991, and 1992.

(d) EFFECTIVE DATE.—This section shall become effective on October 1, 1989.

Contracts.

SEC. 503. DEMONSTRATION PROJECTS TO TEST ALTERNATIVE DEFINITIONS OF UNEMPLOYMENT.

42 USC 1315.

Section 1115 of the Social Security Act is amended by adding at the end the following new subsection:

"(d)(1)(A) The Secretary shall enter into agreements with up to 8 States submitting applications under this subsection for the purpose of conducting demonstration projects in such States to test and evaluate the use, with respect to individuals who received aid under part A of title IV in the preceding month (on the basis of the unemployment of the parent who is the principal earner), of a number greater than 100 for the number of hours per month that such individuals may work and still be considered to be unemployed for purposes of section 407. If any State submits an application under this subsection for the purpose of conducting a demonstration project to test and evaluate the total elimination of the 100-hour rule, the Secretary shall approve at least one such application.

"(B) If any State with an agreement under this subsection so requests, the demonstration project conducted pursuant to such agreement may test and evaluate the complete elimination of the 100-hour rule and of any other durational standard that might be applied in defining unemployment for purposes of determining eligibility under section 407.

"(2) Notwithstanding section 402(a)(1), a demonstration project conducted under this subsection may be conducted in one or more political subdivisions of the State.

"(3) An agreement under this subsection shall be entered into between the Secretary and the State agency designated under section 402(a)(3). Such agreement shall provide for the payment of aid under the applicable State plan under part A of title IV as though section 407 had been modified to reflect the definition of unemployment used in the demonstration project but shall also provide that such project shall otherwise be carried out in accordance with all of the requirements and conditions of section 407 (and, except as provided in paragraph (2), any related requirements and conditions under part A of title IV).

"(4) A demonstration project under this subsection may be commenced any time after September 30, 1990, and shall be conducted for such period of time as the agreement with the Secretary may

provide; except that, in no event may a demonstration project under this section be conducted after September 30, 1995.

"(5)(A) Any State with an agreement under this subsection shall evaluate the comparative cost and employment effects of the use of the definition of unemployment in its demonstration project under this section by use of experimental and control groups comprised of a random sample of individuals receiving aid under section 407 and shall furnish the Secretary with such information as the Secretary determines to be necessary to evaluate the results of the project conducted by the State.

"(B) The Secretary shall report the results of the demonstration projects conducted under this subsection to the Congress not later than 6 months after all such projects are completed.". Reports.

SEC. 504. DEMONSTRATION PROJECTS TO ADDRESS CHILD ACCESS PROBLEMS. 42 USC 1315 note.

(a) IN GENERAL.—Any State may establish and conduct one or more demonstration projects (in accordance with such terms, conditions, and requirements as the Secretary of Health and Human Services shall prescribe, except that no such project may include the withholding of aid to families with dependent children pending visitation) to develop, improve, or expand activities designed to increase compliance with child access provisions of court orders.

(b) ACTIVITIES UNDER PROJECT.—Activities that may be funded by a grant under this section include (whether conducted through the executive, legislative, or judicial branches of the State) the development of systematic procedures for enforcing access provisions of court orders, the establishment of special staffs to deal with and mediate disputes involving access (both before and after a court order has been issued), and the dissemination of information to parents. Grants. Public information.

(c) OTHER REQUIREMENTS.—In the case of any experimental, pilot, or demonstration project undertaken under this section, the project—

(1) must be designed to improve the financial well-being of families with children or otherwise improve the operation of the program or programs involved; and

(2) may not permit modifications in any program which would have the effect of disadvantaging children in need.

(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants to States to assist in financing the projects established under this section, there is authorized to be appropriated not to exceed $4,000,000 for each of the fiscal years 1990 and 1991. Grants.

(e) REPORT.—Not later than July 1, 1992, the Secretary of Health and Human Services shall submit to the Congress a report on the effectiveness of the demonstration projects established under this section in—

(1) decreasing the time required for the resolution of disputes related to child access,

(2) reducing litigation relating to access disputes, and

(3) improving compliance with court-ordered child support payments.

Contracts.
42 USC 1315 note.

SEC. 505. DEMONSTRATION PROJECTS TO EXPAND THE NUMBER OF JOB OPPORTUNITIES AVAILABLE TO CERTAIN LOW-INCOME INDIVIDUALS.

(a) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into agreements with not less than 5 nor more than 10 nonprofit organizations (including community development corporations) submitting applications under this section for the purpose of conducting demonstration projects in accordance with subsection (b) to create employment opportunities for certain low-income individuals.

(b) NATURE OF PROJECT.—(1) Each nonprofit organization conducting a demonstration project under this section shall provide technical and financial assistance to private employers in the community to assist them in creating employment and business opportunities for those individuals eligible to participate in the projects as described in this subsection.

(2) For purposes of this section, a nonprofit organization is any organization (including a community development corporation) exempt from taxation under section 501(a) of the Internal Revenue Code of 1986 by reason of paragraph (3) or (4) of section 501(c) of such Code.

(3) A low-income individual eligible to participate in a project conducted under this section is any individual eligible to receive aid to families with dependent children under part A of title IV of the Social Security Act and any other individual whose income level does not exceed 100 percent of the official poverty line as defined by the Office of Management and Budget and revised in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981.

(c) CONTENT OF APPLICATIONS; SELECTION PRIORITY.—(1) Each nonprofit organization submitting an application under this section shall, as part of such application, describe—

(A) the technical and financial assistance that will be made available under the project conducted under this section;

(B) the geographic area to be served by the project;

(C) the percentage of low-income individuals (as described in subsection (b)) and individuals receiving aid to families with dependent children under title IV of the Social Security Act in the area to be served by the project; and

(D) unemployment rates in the geographic areas to be served and (to the extent practicable) the jobs available and skills necessary to fill those vacancies in such areas.

(2) In approving applications under this section, the Secretary shall give priority to applications proposing to serve those areas containing the highest percentage of individuals receiving aid to families with dependent children under title IV of such Act.

(d) ADMINISTRATION.—Each nonprofit organization participating in a demonstration project conducted under this section shall provide assurances in its agreement with the Secretary that it has or will have a cooperative relationship with the agency responsible for administering the job opportunities and basic skills training program (as provided for under title IV of the Social Security Act) in the area served by the project.

(e) DURATION.—Each demonstration project conducted under this section shall be commenced not later than September 30, 1989, and shall be conducted for a 3-year period; except that the Secretary

may terminate a project before the end of such period if he determines that the nonprofit organization conducting the project is not in substantial compliance with the terms of the agreement entered into with the Secretary under this section.

(f) EVALUATION AND REPORT.—(1) The Secretary shall conduct an evaluation of the success of each demonstration project conducted under this section in creating job opportunities and may require each nonprofit organization conducting such a project to provide the Secretary with such information as the Secretary determines is necessary to prepare the report described in paragraph (2).

(2) Not later than January 1, 1993, the Secretary shall submit to the Congress a report containing a summary of the evaluations conducted under paragraph (1), together with such recommendations as the Secretary determines are appropriate.

(g) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants to conduct demonstration projects under this section, there is authorized to be appropriated not to exceed $6,500,000 for each of the fiscal years 1990, 1991, and 1992. Grants.

SEC. 506. DEMONSTRATION PROJECTS TO PROVIDE COUNSELING AND SERVICES TO HIGH-RISK TEENAGERS. 42 USC 1315 note.

(a) FINDINGS AND PURPOSE.—(1) The Congress finds that—

(A) the incidences of teenage pregnancy, suicide, substance abuse, and school dropout are increasing;

(B) research to date has established a link between low self-esteem, perceived limited life options and the risk of teenage pregnancy, suicide, substance abuse, and school dropout;

(C) little data currently exists on how to improve the self-image of and expand the life options available to high-risk teenagers; and

(D) there currently is no Federal program in place to address the unique and significant problems faced by today's teenagers.

(2) It is the purpose of the demonstration projects conducted under this section to provide programs in which a range of non-academic services (sports, recreation, the arts) and self-image counseling are provided to high-risk teenagers in order to reduce the rates of pregnancy, suicide, substance abuse, and school dropout among such teenagers.

(b) IN GENERAL.—The Secretary of Health and Human Services (in this section referred to as the "Secretary") shall enter into an agreement with each of 4 States submitting applications under this section for the purpose of conducting demonstration projects in accordance with this section to provide counseling and services to certain high-risk teenagers. Contracts.

(c) NATURE OF PROJECT.—Under each demonstration project conducted under this section—

(1) The State shall establish a "Teen Care Plan" that shall consist of the following:

(A) A clearing house where high-risk teenagers will be referred to and encouraged to participate in non-academic activities (arts, recreation, sports) which are already in place in the community.

(B) A survey of the area to be targeted by the project to determine the need to fund and create new non-academic activities in the area.

(C) Counseling services utilizing qualified, locally licensed psychologists, social psychologists, or other mental health

professionals or related experts to provide individual and group counseling to participating high-risk teenagers.

Transportation.

(D) A program to provide participants in the project (to the extent practicable) with such transportation, child care, and equipment as is necessary to carry out the purposes of the project.

(2) The State shall designate two geographical areas within the State to be targeted by the project. One area will serve as the "home base" for the project, where services will be concentrated and in which a local school system will be selected to receive services and provide facilities for resource referral and counseling. The second geographical area will serve as a "peripheral" participant, receiving assistance and services from the home base.

(3) A high-risk teenager is any male or female who has reached the age of 10 years and whose age does not exceed 20 years, and who—

(A) has a history of academic problems;

(B) has a history of behavioral problems both in and out of school;

(C) comes from a one-parent household; or

(D) is pregnant or is a mother of a child.

(d) APPLICATIONS; SELECTION CRITERIA.—(1) In selecting States to conduct demonstration projects under this section, the Secretary—

(A) shall consult with the Consortium on Adolescent Pregnancy;

(B) shall consider—

(i) the rate of teenage pregnancy in each State,

(ii) the teenage school dropout rate in each State,

(iii) the incidence of teenage substance abuse in each State, and

(iv) the incidence of teenage suicide in each State; and

(C) shall give priority to States whose applications—

(i) demonstrate a current strong State commitment aimed at reducing teenage pregnancy, suicide, drug abuse, and school dropout;

(ii) contain a "State support agreement" signed by the Governor, the State School Commissioner, the State Department of Human Services, and the State Department of Education, pledging their commitment to the project;

(iii) describe facilities and services to be made available by the State to assist in carrying out the project; and

(iv) indicate a demonstrably high rate of alcoholism among its residents.

(2) Of the States selected to participate in the demonstration projects conducted under this section—

(A) one shall be a geographically small State with a population of less than 1,250,000;

(B) one shall be a State with a population of over 20,000,000; and

(C) two shall be States with populations of more than 1,000,000 but less than 20,000,000.

(e) EVALUATION AND REPORT.—(1) Each State conducting a demonstration project under this section shall submit to the Secretary for his approval an evaluation plan that provides for examining the effectiveness of the project in both the home base and peripheral area of the State.

(2) Not later than October 1, 1992, the Secretary shall submit to the Congress a report containing a summary of the evaluations conducted by States pursuant to the plans described in paragraph (1).

(f) FUNDING.—(1) Three-fifths of the total amount appropriated pursuant to this section for any fiscal year for each State conducting a demonstration project shall be expended by such State for the provision of services and facilities within the State's designated project home base, and 5 percent of such three-fifths shall be set aside for the conduct of the State's evaluation as provided for in subsection (e).

(2) Two-fifths of the total amounts appropriated pursuant to this section for any fiscal year for each State conducting a demonstration project shall be expended by such State for the provision of services and facilities within the State's designated peripheral area, and 5 percent of such two-fifths shall be set aside for the conduct of the State's evaluation as provided for in subsection (e).

(g) DURATION.—A demonstration project conducted under this section shall be commenced not later than September 30, 1989, and shall be conducted for a 3-year period; except that the Secretary may terminate a project before the end of such period if he determines that the State conducting the project is not in substantial compliance with the terms of the agreement entered into with the Secretary under this section. Contracts.

(h) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of funding in equal amounts each State demonstration project conducted under this section, there is authorized to be appropriated not to exceed $1,500,000 for each of the fiscal years 1990, 1991, and 1992.

SEC. 507. EXTENSION OF MINNESOTA PREPAID MEDICAID DEMONSTRATION PROJECT.

Upon application by the State of Minnesota, the Secretary of Health and Human Services shall extend until June 30, 1990, the waiver granted to such State under section 1115(a) of the Social Security Act to conduct a prepaid medicaid demonstration project.

TITLE VI—MISCELLANEOUS PROVISIONS

SEC. 601. INCLUSION OF AMERICAN SAMOA AS A STATE UNDER TITLE IV.

(a) IN GENERAL.—The last sentence of section 1101(a)(1) of the Social Security Act (42 U.S.C. 1301(a)(1)) is amended to read as follows: "Such term when used in title IV also includes American Samoa.".

(b) LIMITATION ON PAYMENTS TO AMERICAN SAMOA.—Section 1108 of such Act (42 U.S.C. 1308) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

"(d) The total amount certified by the Secretary under parts A and E of title IV with respect to a fiscal year for payment to American Samoa (exclusive of any amounts on account of services and items to which, in the case of part A of such title, section 403(k) applies) shall not exceed $1,000,000.".

(c) CONFORMING AMENDMENTS.—(1) Section 403 of such Act (42 U.S.C. 603) is amended—

(A) in paragraphs (1) and (2) of subsection (a), by striking "and Guam," each place it appears and inserting in lieu thereof "Guam, and American Samoa,"; and

(B) in subsections (i)(4) and (j), by striking "or the Virgin Islands" and inserting in lieu thereof "the Virgin Islands, or American Samoa".

(2) The heading of section 1108 of such Act (42 U.S.C. 1308) is amended to read as follows:

"LIMITATION ON PAYMENTS TO PUERTO RICO, THE VIRGIN ISLANDS, GUAM, AND AMERICAN SAMOA".

(3) The last sentence of section 1118 of such Act (42 U.S.C. 1318) is amended by inserting before the period the following: ", and shall, in the case of American Samoa, mean 75 per centum with respect to part A of title IV".

42 USC 603 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall become effective on October 1, 1988.

SEC. 602. INCREASE IN AMOUNT AVAILABLE FOR PAYMENT TO PUERTO RICO, THE VIRGIN ISLANDS, AND GUAM.

(a) IN GENERAL.—Section 1108(a) of the Social Security Act (42 U.S.C. 1308(a)) is amended—

(1) in paragraph (1)—

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) $72,000,000 with respect to each of the fiscal years 1979 through 1988, or

"(G) $82,000,000 with respect to the fiscal year 1989 and each fiscal year thereafter;";

(2) in paragraph (2)—

(A) by striking "or" at the end of subparagaph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) $2,400,000 with respect to each of the fiscal years 1979 through 1988, or

"(G) $2,800,000 with respect to the fiscal year 1989 and each fiscal year thereafter;"; and

(3) in paragraph (3)—

(A) by striking "or" at the end of subparagraph (E); and

(B) by striking subparagraph (F) and inserting in lieu thereof the following:

"(F) $3,300,000 with respect to each of the fiscal years 1979 through 1988, or

"(G) $3,800,000 with respect to the fiscal year 1989 and each fiscal year thereafter.".

42 USC 1308 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on October 1, 1988.

SEC. 603. ASSISTANT SECRETARY FOR FAMILY SUPPORT.

(a) IN GENERAL.—Part A of title IV of the Social Security Act (as amended by the preceding provisions of this Act) is further amended by adding at the end the following new section:

"ASSISTANT SECRETARY FOR FAMILY SUPPORT

"SEC. 418. The programs under this part, part D, and part F shall be administered by an Assistant Secretary for Family Support within the Department of Health and Human Services, who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall be in addition to any other Assistant Secretary of Health and Human Services provided for by law.". President of U.S. 42 USC 617.

(b) COMPENSATION.—Section 5315 of title 5, United States Code, is amended by striking "(4)" at the end of the item relating to Assistant Secretaries of Health and Human Services and inserting in lieu thereof "(5)".

(c) EFFECTIVE DATE.—The amendments made by this section shall become effective on February 1, 1989. 42 USC 617 note.

SEC. 604. RESPONSIBILITIES OF THE STATE.

(a) IN GENERAL.—Section 402(a) of the Social Security Act (as amended by sections 201(a), 401(a), 401(f), and 403(a) of this Act) is amended—

(1) by striking "and" at the end of paragraph (42);

(2) by striking the period at the end of paragraph (43) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (43) the following new paragraph:

"(44) provide that the State agency shall—

"(A) be responsible for assuring that the benefits and services under the programs under this part, part D, and part F are furnished in an integrated manner, and

"(B) consistent with the provisions of this title, ensure that all applicants for and recipients of aid to families with dependent children are encouraged, assisted, and required to cooperate in the establishment of paternity and the enforcement of child support obligations, and are notified of the paternity establishment and child support services for which they may be eligible.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on July 1, 1989. 42 USC 602 note.

SEC. 605. ESTABLISHMENT OF PREELIGIBILITY FRAUD DETECTION MEASURES.

(a) IN GENERAL.—Section 402(a) of the Social Security Act (as amended by sections 201(a), 401(a), 401(f), 403(a), and 604(a) of this Act) is amended—

(1) by striking "and" at the end of paragraph (43);

(2) by striking the period at the end of paragraph (44) and inserting in lieu thereof "; and"; and

(3) by inserting immediately after paragraph (44) the following new paragraph:

"(45) provide (in accordance with regulations issued by the Secretary) for appropriate measures to detect fraudulent applications for aid to families with dependent children prior to the establishment of eligibility for such aid.".

(b) EFFECTIVE DATE; REGULATIONS.—(1) The amendments made by subsection (a) shall become effective on October 1, 1989. 42 USC 602 note.

(2) The Secretary of Health and Human Services shall issue final regulations with respect to the requirement added by the amend-

ment made by subsection (a) not later than 6 months after the date of the enactment of this Act.

SEC. 606. UNIFORM REPORTING REQUIREMENTS.

42 USC 603.

Section 403 of the Social Security Act is amended by inserting immediately before subsection (f) the following new subsection:

"(e) In order to assist in obtaining the information needed to carry out subsection (b)(1) and otherwise to perform his duties under this part, the Secretary shall establish uniform reporting requirements under which each State will be required periodically to furnish such information and data as the Secretary may determine to be necessary to ensure that sections 402(a)(37), 402(a)(43), and 402(g)(1)(A), are being effectively implemented, including at a minimum the average monthly number of families assisted under each such section, the types of such families, the amounts expended with respect to such families, and the length of time for which such families are assisted. The information and data so furnished with respect to families assisted under section 402(g) shall be separately stated with respect to families who have earnings and those who do not, and with respect to families who are receiving aid under the State plan and those who are not.".

SEC. 607. STATE REPORTS ON EXPENDITURE AND USE OF SOCIAL SERVICES FUNDS.

42 USC 1397e.

Section 2006 of the Social Security Act is amended—

(1) by striking that part of the second sentence of subsection (a) which precedes "as the State finds necessary" and inserting in lieu thereof "Reports shall be prepared annually, covering the most recently completed fiscal year, and shall be in such form and contain such information (including but not limited to the information specified in subsection (c))";

(2) by redesignating subsection (c) as subsection (d); and

(3) by inserting after subsection (b) the following new subsection:

"(c) Each report prepared and transmitted by a State under subsection (a) shall set forth (with respect to the fiscal year covered by the report)—

"(1) the number of individuals who received services paid for in whole or in part with funds made available under this title, showing separately the number of children and the number of adults who received such services, and broken down in each case to reflect the types of services and circumstances involved;

"(2) the amount spent in providing each such type of service, showing separately for each type of service the amount spent per child recipient and the amount spent per adult recipient;

"(3) the criteria applied in determining eligibility for services (such as income eligibility guidelines, sliding fee scales, the effect of public assistance benefits, and any requirements for enrollment in school or training programs); and

"(4) the methods by which services were provided, showing separately the services provided by public agencies and those provided by private agencies, and broken down in each case to reflect the types of services and circumstances involved.

The Secretary shall establish uniform definitions of services for use by the States in preparing the information required by this subsection, and make such other provision as may be necessary or appro-

priate to assure that compliance with the requirements of this subsection will not be unduly burdensome on the States.".

SEC. 608. MISCELLANEOUS TECHNICAL CORRECTIONS TO MEDICARE CATASTROPHIC COVERAGE ACT OF 1988.

(a) MODIFICATION OF PROVISIONS RELATING TO EMPLOYMENT MAINTENANCE OF EFFORT.—Section 421 of the Medicare Catastrophic Coverage Act of 1988 is amended— 42 USC 1395b note.

(1) in subsection (a)(1)—

(A) by striking "(c)(1)" and inserting "(c)(1)(A)", and

(B) by striking "during the period described in subsection (c)(1)(A)" and inserting "(determined as if they were provided in that period)";

(2) in subsection (a)(2)—

(A) by striking "(c)(2)" and inserting "(c)(1)(B)", and

(B) by striking "during the period described in subsection (c)(1)(B)" and inserting "(determined as if they were provided in that period)";

(3) in subsections (a)(3)(A) and (a)(3)(B), by inserting "provided as of the date of the enactment of this Act" after "means benefits";

(4) in subsection (b)(1)—

(A) by inserting "1989" after "50 percent of the", and

(B) by striking "of the duplicative part A benefits" and inserting "of the benefits under part A of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1989) which were not covered under part A of title XVIII of the Social Security Act as such part was in effect on the day before the date of the enactment of this Act";

(5) in subsection (b)(2)—

(A) by inserting "1990" after "50 percent of the", and

(B) by striking "of the duplicative part B benefits" and inserting "of the benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs) which were not covered under part B of title XVIII of the Social Security Act as such part was in effect on the day before the date of the enactment of this Act."; and

(6) in subsection (b)(3)—

(A) in subparagraph (A), by striking "the actuarial value of duplicative part A benefits and duplicative part B benefits" and inserting "the amount of the additional benefits or refunds to be provided under subsections (a)(1) and (a)(2)";

(B) in subparagraph (A)(i), by striking "on the basis of" and inserting "as being equal to the respective national";

(C) in subparagraph (B), by striking "COMPUTATION OF ACTUARIAL VALUE" and inserting "PUBLICATION OF GUIDELINES AND NATIONAL AVERAGE ACTUARIAL VALUES FOR MINIMUM ADDITIONAL BENEFITS AND REFUNDS"; and

(D) by striking clause (i) of subparagraph (B) and all that follows through "shall include instructions" and inserting the following:

"(i) calculate and publish—

"(I) the national average actuarial value for the following year of the benefits under part A of title XVIII of the Social Security Act (as amended by

this Act as of January 1, 1989) which were not covered under such part as such part was in effect before the date of the enactment of this Act, and

"(II) the national average actuarial value for the following year of the benefits under part B of title XVIII of the Social Security Act (as amended by this Act as of January 1, 1990, but excluding any such benefits with respect to covered outpatient drugs) which were not covered under such part as such part was in effect before the date of the enactment of this Act,

to be used by employers who exercise the option under subparagraph (A)(i) in determining the minimum amount of additional benefits or refunds to be provided under subsections (a)(1) and (a)(2), respectively; and

"(ii) publish guidelines to be used by employers who exercise the option under subparagraph (A)(ii) in determining the minimum amount of additional benefits or refunds to be provided under subsections (a)(1) and (a)(2), respectively.

Public information.

The Secretary shall publish, before the beginning of 1989 with respect to part A benefits and before the beginning of 1990 with respect to part B benefits, guidelines".

(b) INCLUSION OF PROVISIONS REPEALING AUTHORITY TO ADMINISTER PROFICIENCY EXAMINATIONS.—The Medicare Catastrophic Coverage Act of 1988 is amended by inserting after section 429 the following new section (and by inserting a corresponding item in the table of contents of such Act):

"SEC. 430. REPEAL OF AUTHORITY TO ADMINISTER PROFICIENCY EXAMINATIONS.

"(a) REPEAL.—Section 1123 of the Social Security Act (42 U.S.C. 1320a-2) is repealed.

Health and medical care. 42 USC 1320a-2 note.

"(b) EFFECT OF REPEAL.—Nothing in the amendment made by subsection (a) shall be construed as affecting the qualification of any individual, who has been determined under the program established under section 1123 of the Social Security Act to be qualified to perform the duties and functions of a health care specialty, to perform such duties and functions.".

(c) CONTINUATION OF COST PASS-THROUGH FOR CERTIFIED REGISTERED NURSE ANESTHETISTS.—Section 9320 of the Omnibus Budget Reconciliation Act of 1986 is amended—

42 USC 1395k note.

(1) in subsection (i), by striking "The amendments" and inserting "Except as provided in subsection (k), the amendments", and

(2) by adding at the end the following new subsection:

"(k) AUTHORIZATION OF CONTINUATION OF PASS-THROUGH.—

Rural areas. Health care facilities. 42 USC 1395k note.

"(1) Subject to paragraph (2), the amendments made by this section shall not apply during 1989, 1990, and 1991 to a hospital located in a rural area (as defined for purposes of section 1886(d) of the Social Security Act) if the hospital establishes, before April 1, 1989, to the satisfaction of the Secretary of Health and Human Services that—

Contracts.

"(A) as of January 1, 1988, the hospital employed or contracted with a certified registered nurse anesthetist (but not more than one full-time equivalent certified registered nurse anesthetist),

"(B) in 1987 the hospital had a volume of surgical procedures (including inpatient and outpatient procedures) requiring anesthesia services that did not exceed 250 (or such higher number as the Secretary determines to be appropriate), and

"(C) each certified registered nurse anesthetist employed by, or under contract with, the hospital has agreed not to bill under part B of title XVIII of such Act for professional services furnished by the anesthetist at the hospital. Contracts.

"(2) Paragraph (1) shall not apply in 1990 or 1991 to a hospital unless the hospital establishes, before the beginning of each respective year, that the hospital has had a volume of surgical procedures (including inpatient and outpatient procedures) requiring anesthesia services in the previous year that did not exceed 250 (or such higher number as the Secretary determines to be appropriate).

"(3) The Secretary shall implement this subsection in such a manner as to maintain budget neutrality consistent with section 1833(l)(3) of the Social Security Act.".

(d) MISCELLANEOUS TECHNICAL CORRECTIONS TO VARIOUS PROVISIONS IN THE MEDICARE CATASTROPHIC COVERAGE ACT OF 1988 ("MCCA").—

(1) ABBREVIATIONS USED.—In this subsection:

(A) The term "MCCA" refers to the Medicare Catastrophic Coverage Act of 1988 (Public Law 100-360).

(B) The term "OBRA" refers to the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203).

(2) SECTION 103.—The second sentence of section 1818(d)(1) of the Social Security Act, as amended by section 103 of MCCA, is amended by striking "entire".

(3) SECTION 104.—Section 104 of MCCA is amended—

(A) in subsection (a)(1), by striking "paragraphs (2) and (3)" and inserting "paragraph (2) and subsection (b)"; 42 USC 1395d note.

(B) in subsection (b)(1)— 42 USC 1395e note.

(i) by striking "(1) the amendment made to section 1813(a)(1) of such Act" and inserting "(1)(A) section 1813(a)(1) of such Act (as amended by this subtitle)", and

(ii) by adding at the end the following new subparagraph:

"(B) if that individual begins a period of hospitalization (as defined in such section) during 1989 or 1990 after the end of that spell of illness, the first period of hospitalization during 1989 or 1990 that begins after that spell of illness shall be considered to be (for purposes of such section) the first period of hospitalization that begins during that year; and"; Health and medical care.

(C) in subsections (c)(1) and (c)(2), by striking "by medicare beneficiaries" and inserting "by (or on behalf of) medicare beneficiaries"; 42 USC 1395ww note.

(D) in subsection (c)(2), by striking "cost reporting periods beginning on or after October 1, 1988" and inserting "portions of cost reporting periods occurring on or after January 1, 1989";

(E) in subsection (c)(2), by inserting before the period at the end the following: ", without regard to whether such a hospital is paid on the basis described in subparagraph (A) or (B) of section 1886(b)(1) of such Act";

42 USC 1395cc.

(F) in subsection (d)(5), by striking "each place it appears"; and

(G) by adding at the end of subsection (d) the following new paragraph:

Health and medical care.

"(7) Section 1833(b) (42 U.S.C. 1395l(b)) is amended by adding at the end the following new sentence: 'The deductible under the previous sentence for blood or blood cells furnished an individual in a year shall be reduced to the extent that a deductible has been imposed under section 1813(a)(2) to blood or blood cells furnished the individual in the year.'.".

42 USC 1395*l*.

(4) SECTION 201.—Section 201(a)(1)(A) of MCCA is amended by striking "subsection" and inserting "subsections".

(5) SECTION 202.—(A) Section 1842(o)(1) of the Social Security Act, as added by section 202(c)(1)(C) of MCCA, is amended—

(i) in subparagraph (A)(i), by striking "subparagraph (D)(i)" and inserting "paragraph (4)", and

(ii) in subparagraph (B)(ii), by inserting "an" before "eligible organization".

(B) Section 1842(f)(3) of the Social Security Act, as added by section 202(e)(1) of MCCA, is amended by inserting ", including claims processing functions" after "and related functions".

(C) Section 1842(b)(3)(K) of the Social Security Act, as inserted by section 202(e)(2)(B) of MCCA, is amended by inserting ", including claims processing functions," after "and for related functions".

(D) Section 1842(c)(1)(A)(ii) of the Social Security Act, as added by section 202(e)(3)(A)(iii) of MCCA, is amended by inserting ", including claims processing functions" after "and related functions".

42 USC 1395u note.

(E) Section 202(e)(3)(B) of MCCA is amended by inserting ", including claims processing functions" after "and related functions".

42 USC 1395u.

(F) Section 202(e)(3)(C) of MCCA is amended by striking "Section 1842(b)(2)" and inserting "Section 1842(b)(2)(A)".

(G) Section 1842(b)(2)(A) of the Social Security Act, as amended by section 202(e)(3)(C) of MCCA, as revised by the previous amendment, is amended by inserting ", including claims processing functions" after "and related functions".

(H) Section 202(e)(5)(A) of MCCA is amended by—

(i) by striking "paragraph (3)" and inserting "paragraph (4)", and

(ii) by adding "and" after the semicolon at the end.

(I) Section 1847(b)(3) of the Social Security Act, as added by section 202(j) of MCCA, is amended by striking "the contingency margin (established under section 1841A(d) for the following year)" and inserting "the contingency margin required for the following year".

42 USC 1395x.

(6) SECTION 203.—(A) Section 1861 of the Social Security Act is amended by adding immediately before subsection (jj), as added by section 203(b) of MCCA, the following new heading:

"Home Intravenous Drug Therapy Services".

102 Stat. 724.

(B) Section 203(c)(3) of MCCA is amended by adding at the end the following new sentence: "Chapter 35 of title 44, United States Code, shall not apply to information required for purposes of carrying out this paragraph.".

(7) SECTION 205.—Section 205(e)(1)(A) of MCCA is amended by redesignating clause (iv) as clause (iii). 42 USC 1395y.

(8) SECTION 208.—The second sentence of section 208(b) of MCCA is amended by striking "shall include in the report" and inserting "shall report, not later than 2 years after the date of the enactment of this Act,". Reports. 42 USC 1395ll note.

(9) SECTION 211.—(A) Section 1839(g) of the Social Security Act, as added by section 211(a) of MCCA, is amended—

(i) in paragraph (1)(B)(iii)(I), by striking "and" and inserting "over",

(ii) in paragraph (1)(B)(iii)(II), by inserting "premium" after "supplemental", and

(iii) in paragraph (7)(A)(ii), by inserting "each" before "such year,".

(B) Section 1839(f) of the Social Security Act, as amended by section 211(b) of MCCA, is amended by striking "for that January below the amount of benefits payable to that individual for that December" and inserting "for that December below the amount of benefits payable to that individual for that November".

(10) SECTION 212.—(A) Section 1841A(a)(1) of the Social Security Act, as inserted by section 212(a) of MCCA, is amended by striking "1841(j)" and inserting "1840(i)".

(B) Section 1840(i) of the Social Security Act, as added by section 212(b)(1) of MCCA, is amended by striking "Supplemental" and inserting "Supplementary".

(11) SECTION 213.—Section 213 of MCCA is amended by striking "(a) IN GENERAL.—". 42 USC 1395t-2.

(12) SECTION 221.—Section 221(g)(2) of MCCA is amended by striking "subsection (c)" and inserting "subsection (d)". 42 USC 1395ss note.

(13) SECTION 222.—Section 222 of MCCA is amended— 42 USC 1395mm note.

(A) in paragraph (1), by striking "sections 1833(a)(1)(A) and 1876" and inserting "section 1876", and

(B) in paragraph (2), by inserting "and organizations paid under section 1833(a)(1)(A) of such Act" after "organizations".

(14) SECTION 301.—Section 301 of MCCA is amended—

(A) in subsection (b)(1), by striking "clause (ii)" and inserting "subparagraph (B)" and by adding "and" at the end; 42 USC 1396d.

(B) by striking paragraph (2) of subsection (b) and by redesignating paragraph (3) of such subsection as paragraph (2);

(C) in subsection (b)(2), as so redesignated, by striking "by adding at the end the following new clause" and inserting "by striking subparagraph (B) and inserting the following";

(D) in the matter inserted by subsection (b)(2), as so redesignated and amended—

(i) by redesignating subclauses (I) through (IV) of clause (ii) and subclauses (I) through (V) of clause (iii) as clauses (i) through (iv) of subparagraph (B) and clauses (i) through (v) of subparagraph (C), respectively;

(ii) in subparagraph (B), as so redesignated, by striking "in clause (iii)" and inserting "in subparagraph (C)"; and

(iii) in subparagraph (C), as so redesignated, by striking "under clause (ii)" and inserting "under subparagraph (B)";

42 USC 1396d.

(E) in subsection (c)—

(i) by adding "and" at the end of paragraph (1),

(ii) by striking "; and" at the end of paragraph (2), and inserting a period, and

(iii) by striking paragraph (3);

42 USC 1396d.

(F) in subsection (d)(2), in the subparagraph (C) amended by such paragraph, by inserting "section" before "1833(b)";

(G) in subsection (d)—

(i) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively, and

(ii) by inserting before paragraph (2), as so redesignated, the following new paragraph:

"(1) in paragraph (3), by inserting ', without regard to whether the costs incurred were for items and services for which medical assistance is otherwise available under the plan' after 'qualified medicare beneficiary' the first place it appears;";

42 USC 1395v.

(H) in subsection (e)(1)—

(i) by inserting "(A)" before "Section", and

(ii) by adding at the end the following new subparagraphs:

42 USC 1396a note.

"(B) Subsection (h)(1) of such section is further amended by inserting '(A)' after 'include' and by inserting before the period at the end the following: ', or (B) qualified medicare beneficiaries (as defined in section 1905(p)(1))'.

"(C) The second sentence of subsection (h)(2) of such section is amended by inserting '(except in the case of qualified medicare beneficiaries, as defined in section 1905(p)(1))' after 'shall be applied' the second place it appears.";

42 USC 1396a.

(I) in subsection (e)(2)—

(i) in subparagraph (C), by striking "and" at the end and by redesignating such subparagraph as subparagraph (D);

(ii) in subparagraph (D), by striking the period at the end and inserting ", and" and by redesignating such subparagraph as subparagraph (E); and

(iii) by inserting after subparagraph (B) the following new subparagraph:

"(C) in subsection (a), by striking paragraph (15);";

42 USC 1396d.

(J) in paragraph (5)(B) of the matter added by subsection (g)(2)—

(i) by striking "paragraph (2)(A)" and inserting "paragraph (2)", and

(ii) by striking "clause (ii)" and inserting "subparagraph (B)"; and

42 USC 1396a note.

(K) in subsection (h)(2), by inserting "first calendar quarter beginning after the close of the" after "additional requirements before the first day of the".

42 USC 1396a.

(15) SECTION 302.—(A) Section 302(a)(2)(B) of MCCA is amended—

(i) in clause (i), by striking "not more" the first place it appears and inserting "(not more", and

(ii) in clause (iii), by striking "clause" and inserting "clauses".

(B) Section 1902(l)(2)(A) of the Social Security Act, as amended by section 302(a)(2)(B)(iii) of MCCA, is amended—

(i) in clause (ii)—

(I) by striking "Subject to clause (iii), the" and inserting "The",

(II) in subclause (I), by inserting "or, if greater, the percentage provided under clause (iii)," after "75 percent,"; and

(ii) in clause (iii), by striking "(ii)" each place it appears and inserting "(ii)(I)".

(C) Section 1923(a)(2) of the Social Security Act is amended by indenting the subparagraph (C) added by section 302(b)(2) of MCCA 2 ems. 42 USC 1396r-4.

(16) SECTION 303.—(A) Section 1924 of the Social Security Act, as inserted by section 303(a)(1)(B) of MCCA, is amended—

(i) in the last sentence of subsection (c)(1)(B), by striking "has right to a fair hearing" and all that follows through "needs allowance" and inserting "will have a right to a fair hearing under subsection (e)(2)";

(ii) in subsection (c)(2)(B), by striking "resources shall not" and all that follows through "does not exceed" and inserting "resources shall be considered to be available to an institutionalized spouse, but only to the extent that the amount of such resources exceeds";

(iii) in subsection (d)(3)(A)(i), by striking "nonfarm";

(iv) in subsection (d)(4), by striking "subparagraph (C)" and inserting "subparagraph (B)";

(v) in the first sentence of subsection (e)(2)(A), by inserting before the period at the end the following: "if an application for benefits under this title has been made on behalf of the institutionalized spouse";

(vi) in subsection (f)(1)—

(I) by striking "to the community spouse (or to another for the sole benefit of the community spouse)", and

(II) by striking "pacticable" and inserting "practicable"; and

(vii) in subsection (f)(3), by striking "spouse of a family member" and inserting "spouse or a family member".

(B) Section 1917(c) of the Social Security Act, as amended by section 303(b) of MCCA, is amended— Health and medical care. Health care facilities.

(i) in paragraph (1)—

(I) by inserting "for nursing facility services and for a level of care in a medical institution equivalent to that of nursing facility services and for services under section 1915(c)" after "period of ineligibility" the first place it appears,

(II) by inserting "or after" after "during", and

(III) by striking "the individual's application for medical assistance under the State plan" and inserting "the date the individual becomes an institutionalized individual (if the individual is entitled to medical assistance under the State plan on such date) or, if the individual is not so entitled, the date the individual applies for such assistance while an institutionalized individual";

(ii) in paragraph (2)(A)(ii), by inserting "(I)" after "who" and by inserting "(II)" after "or" the first place it appears;

(iii) in paragraph (2)(A)(iii), by striking "of the individual's admission to the medical institution or nursing

facility" and inserting "the individual becomes an institutionalized individual";

(iv) in paragraph (2)(A)(iv), by striking "of such individual's admission to the medical institution or nursing facility" and inserting "the individual becomes an institutionalized individual";

(v) in paragraph (2)(B)—

(I) by inserting "(i)" after "transferred", and

Blind persons. Handicapped persons.

(II) by striking "or the individual's child who is blind or permanently and totally disabled" and inserting ", (ii) to the individual's child described in subparagraph (A)(ii)(II), or (iii) to (or to another for the sole benefit of) the individual's spouse if such spouse does not transfer such resources to another person other than the spouse for less than fair market value";

Health care facilities.

(vi) in paragraph (3), by striking "in a medical institution or nursing facility" and inserting "in a nursing facility, who is an inpatient in a medical institution and with respect to whom payment is made based on a level of care provided in a nursing facility, or who is described in section 1902(a)(10)(A)(ii)(VI)"; and

(vii) by adding at the end the following new paragraph:

"(5) In this subsection, the term 'resources' has the meaning given such term in section 1613, without regard to the exclusion described in subsection (a)(1) thereof.".

(C) Section 1902(r)(2)(A) of the Social Security Act, as added by section 303(e)(5)(C) of MCCA, is amended by striking "or under subsection (f)" and inserting "or (f) or under section 1905(p)".

42 USC 1396r-5 note.

(D) Section 303(g) of MCCA is amended—

(i) in paragraph (2)(B), by inserting before the period at the end the following: ", except that such section shall not apply with respect to inter-spousal transfers occurring before October 1, 1989";

Termination date.

(ii) in paragraph (2)(C), by inserting before the period at the end the following: ", and the laws and policies established by the State as of June 30, 1988, or provided for before July 1, 1988, shall continue to apply through September 30, 1989, (and may, at a State's option continue after such date) to inter-spousal transfers occurring before October 1, 1989"; and

(iii) in paragraph (5), by striking "other than subsection (e)" and inserting "other than paragraphs (1) and (5) of subsection (e)".

(17) SECTION 411(a).—Section 1842(n)(1)(A) of the Social Security Act, as clarified by section 411(a)(3)(C) of MCCA, is amended by striking "the the supplier's" and inserting "the supplier's".

(18) SECTION 411(b).—(A) Subclauses (III) and (IV) of section 1886(b)(3)(B)(i) of the Social Security Act, as amended by section 411(b)(1)(A) of MCCA, are amended by striking "for for hospitals" and inserting "for hospitals".

42 USC 1395ww.

(B) Section 411(b)(1)(E) of MCCA is amended by designating subparagraph (E) as clause (ii) and by inserting immediately before such subparagraph the following:

"(E)(i) Section 1886(d)(3)(A)(i) of the Social Security Act, as amended by section 4002(c)(1)(B)(i) of OBRA, is amended by striking 'occuring' and inserting 'occurring'.".

(C) Section 411(b)(4) of MCCA is amended by adding at the end the following new subparagraph: 42 USC 1395ww.

"(E) Section 4005(b)(3)(B) of OBRA is amended by striking 'on' after '(B)'.".

(D) Section 411(b)(6)(C) of MCCA is amended— 42 USC 1395ww note.

(i) in clause (ix)(I), by striking "payors" and inserting "payers",

(ii) in clause (ix)(III), by striking "and" before "other persons", and

(iii) in clause (x)(II), by striking "operation" and inserting "operations".

(E) Section 411(b)(8)(A)(i) of MCCA is amended, in paragraph (1)(A)(ii) of the amendment inserted by such section, by inserting "the" immediately before "previous". 42 USC 1395dd.

(19) SECTION 411(c).—Section 411(c) of MCCA is amended—

(A) in paragraph (2), by adding at the end the following new subparagraph: 42 USC 1395cc.

"(C) Section 1866(a)(1) of the Social Security Act, as amended by section 4012(a) of OBRA, is amended—

"(i) by striking 'and' at the end of subparagraph (M), and

"(ii) by striking the period at the end of subparagraph (N) and inserting ', and'.";

(B) in paragraph (4)— 42 USC 1395mm.

(i) by striking "and" at the end of subparagraph (A),

(ii) by redesignating subparagraph (B) as subparagraph (C), and

(iii) by inserting after subparagraph (A) the following new subparagraph:

"(B) in subparagraph (B)(i), by inserting 'of such subparagraph' after '(v)(I)', and"; and

(C) by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph: 42 USC 1395mm.

"(5) SECTION 4015.—Section 4015(a) of OBRA is amended— 42 USC 1395mm note.

"(A) in the first sentence of paragraph (7) by striking 'the the' and inserting 'the', and

"(B) in paragraph (10), by striking 'affect' and inserting 'effect'.".

(20) SECTION 411(d).—(A) Section 411(d)(2)(A) of MCCA is amended by striking "by inserting" and all that follows and inserting the following: "to read as follows: 'The provisions of section 1128A (other than subsections (a) and (b)) shall apply to a civil money penalty under this paragraph in the same manner as such provisions apply to a penalty or proceeding under section 1128A.'.". 42 USC 1395bbb.

(B) Section 411(d)(4)(A) of MCCA is amended— 42 USC 1395aa.

(i) in clause (i)—

(I) by striking "accreditation" the first place it appears and inserting "certification", and

(II) by striking "accreditation survey conducted by a State agency or" and inserting "certification survey conducted by a State agency or accreditation survey conducted by a"; and

(ii) in clause (ii), amend subclause (II) to read as follows:

"(II) by striking 'pursuant to an agreement with the Secretary under section 1864' and inserting 'utilized by the Secretary under section 1865'.". Contracts.

42 USC 1395aa.

(C) Section 411(d)(4)(A)(ii)(I) of MCCA is amended by striking "such".

42 USC 1395bb.

(D) The subsection inserted by section 411(d)(4)(B)(ii) of MCCA is amended by striking "agency" and inserting "agency)".

(21) SECTION 411(f).—(A) Section 1842(i)(3) of the Social Security Act, as redesignated by section 4042(b)(1)(C)(iii) of OBRA as amended by section 411(f)(2)(C) of MCCA, is amended by striking "paragraph (3)" and inserting "subsection (b)(3)".

42 USC 1395u.

(B) Section 411(f)(2)(F)(i) of MCCA is amended, in the matter inserted by such section—

(i) by striking "139u(b)(4)(A)" and inserting "1395u(b)(4)(A)", and

(ii) by striking the closing single quotation mark and the period that follows it.

42 USC 1395m.

(C) Section 411(f)(8)(D) of MCCA is amended by redesignating clauses (ii) through (v) as clauses (iii) through (vi), respectively, and by inserting after clause (i) the following new clause:

"(ii) in paragraph (4)(C), by striking 'Radiologist' and inserting 'For radiologist', and by striking '1842(b)(4)(E)(ii)' and inserting '1842(i)(3)';".

42 USC 1395u.

(D) Section 411(f)(9)(B) of MCCA is amended by inserting "and inserting '(or other applicable limit)' " before the semicolon at the end.

42 USC 1395ccc.

(E) Section 411(f)(10)(A)(iii) of MCCA is amended by striking "physician" and inserting "individual".

(F) Section 411(f)(10)(C)(i) of MCCA is amended—

(i) by striking "and" at the end of subclause (V),

(ii) by striking the period at the end of subclause (VI) and inserting ", and", and

(iii) by adding at the end the following new subclause:

"(VII) in subsection (d)(2), by striking 'continued' and inserting 'continues'.".

(G) Subclause (II) of section 411(f)(10)(C)(i) of MCCA is amended to read as follows:

"(II) by striking 'physician' and 'a physician' each place either appears (other than the third place either appears in subsection (a)(4)) and inserting 'individual' and 'an individual', respectively;".

(H) Section 411(f)(10)(C)(i)(IV) of MCCA is amended—

(i) by striking "paragraph (1)(A)" and inserting "subsection (a)(1)(A)", and

(ii) by striking the comma after "Loan Program".

42 USC 1395m.

(22) SECTION 411(g).—(A) Section 411(g)(1)(B) of MCCA is amended—

(i) by amending clause (xi) to read as follows:

"(xi) in paragraphs (8)(B) and (9)(B), by striking '(as defined in section 1886(d)(2)(D))' and inserting '(as defined by the Secretary)' and, in clause (i) of such paragraphs, by striking the comma after '1991';" and

(ii) by amending clause (xv) to read as follows:

"(xv) in paragraph (12), by striking 'for each region (as defined in section 1886(d)(2)(D))' and inserting 'for one or more entire regions defined for purposes of paragraphs (8)(B) and (9)(B)'; and".

(B) Section 1833(i)(6) of the Social Security Act, as added by section 4063(e)(1) of OBRA as amended by section 411(g)(2)(E) of

MCCA, is amended by striking "other than" the first place it appears and inserting "including".

(C) Section 411(g)(3)(G)(i)(I) of MCCA is amended by striking "and 'certification' " and by striking "and 'approval', respectively". 42 USC 1395w-2.

(D) Section 411(g)(4)(C)(i) of MCCA is amended by striking the comma after "1988" the first place it appears. 42 USC 1395*l*.

(23) SECTION 411(h).—(A) Section 411(h)(3)(B) of MCCA is amended by redesignating clauses (i) and (ii) as clauses (ii) and (iii), respectively, and by inserting before clause (ii), as so redesignated, the following new clause: 42 USC 1395*l*.

"(i) by striking '1395' and inserting '1395l',".

(B) Section 1861(s)(2)(K)(i)(I) of the Social Security Act, as designated by the amendment made by section 411(h)(6) of MCCA, is amended by striking "intermediate care facility (as defined in section 1905(c))" and inserting "nursing facility (as defined in section 1919(a))".

(24) SECTION 411(i).—(A) Section 411(i)(1)(E) of MCCA is amended by striking the comma after "1988". 42 USC 1395ss note.

(B) The paragraph (26) added by section 411(i)(4)(C)(vi) of MCCA is amended— 42 USC 1395u.

(i) by striking "and" at the end of subparagraph (A),

(ii) by adding "and" at the end of clause (i) of subparagraph (B), and

(iii) by redesignating clause (iii) of subparagraph (B) as subparagraph (C) and by moving the indentation of such subparagraph 2 ems to the left.

(C) Section 411(i)(4) of MCCA is amended— 42 USC 1395y.

(i) in subparagraph (D)(i)(I), by striking ", 1842(j)(2), or 1867(d)" and inserting "or 1842(j)(2)", and

(ii) in subparagraph (D)(ii)—

(I) by inserting "and" at the end of subclause (III), 42 USC 1395aaa.

(II) by striking subclause (IV), and

(III) by redesignating subclause (V) as subclause (IV). 42 USC 1395y.

(25) SECTION 411(j).—(A) Section 411(j)(3) of MCCA is amended by adding at the end the following new subparagraph:

"(C) Section 4094(e) of OBRA is amended by striking 'feasability' and inserting 'feasibility'.". 42 USC 1320c-5 note.

(B) Section 411(j)(4)(C) of MCCA is amended by striking "before 'paragraph (2)' ". 42 USC 1320c-3.

(26) SECTION 411(k).—(A) Section 411(k)(6)(A)(vi)(IV) of MCCA is amended by striking "the election made by a State under" and inserting "whether the hospital is described in subparagraph (A) or (B) of". 42 USC 1396r-4.

(B) Section 411(k)(6)(A)(vii)(II) of MCCA is amended by inserting "the first place it appears" before the comma.

(C) The paragraph added by section 411(k)(6)(A)(vii)(III) of MCCA is amended by striking "Statewide" and inserting "statewide".

(D) Section 1923(b)(3)(B)(i) of the Social Security Act, as designated by section 411(k)(6)(B)(i) of MCCA and as amended by section 411(k)(6)(A)(v) of MCCA, is amended by inserting "of subparagraph (A)" after "clause (i)(II)".

(E) Section 1923(c) of the Social Security Act, as designated by section 411(k)(6)(B)(i) of MCCA, by striking "subsection (c)" and inserting "this subsection".

42 USC 1396r-4.

(F) Section 411(k)(6)(B)(vi) of MCCA is amended by striking "(c)" and inserting "(d)".

102 Stat. 794.

(G) Section 411(k)(9) of MCCA is amended by striking "(A)" immediately after ".—".

42 USC 1320a-7, 1320a-7a.

(H) Section 411(k)(10)(B)(ii)(II) of MCCA is amended by striking "1128(a)" and "1320a-7(a)" and inserting "1128A(a)" and "1320a-7a(a)", respectively.

(I) Section 1128A(l) of the Social Security Act, as added by section 4118(e)(1)(B) of OBRA and as amended by section 411(k)(10)(B)(ii)(III) of MCCA, is amended by inserting "for penalties, assessments, and an exclusion" after "liable".

(J) Section 4118(e)(10)(C) of OBRA, as inserted by section 411(k)(10)(D) of MCCA, is amended by inserting "of subsection (i)" after "at the end".

(K) Section 411(k)(10)(D) of MCCA is amended—

42 USC 1320a-7a.

(i) in the paragraph (6)(B) inserted by such section, by striking "or section 1867(d)(2)", and

42 USC 704, 1396b, 1396d.

(ii) in subparagraphs (A) and (B) of the paragraph (11) inserted by such section and in the paragraphs (12) and (13) inserted by such section, by striking "1842(j)(2), or 1867(d)(2)" and inserting "or 1842(j)(2)".

42 USC 1396r-1.

(L) Section 411(k)(16)(B) of MCCA is amended—

(i) by striking "and" at the end of clause (ii),

(ii) by redesignating clause (iii) as clause (iv), and

(iii) by inserting after clause (ii) the following new clause:

"(iii) in clause (iii), by striking the period at the end and inserting '; or', and".

42 USC 1396n.

(M) Section 411(k)(17)(A)(iv) of MCCA is amended by inserting a comma immediately before "(d)" the second place it appears.

42 USC 1395i-3.

(27) SECTION 411(l).—(A) Section 411(l)(1)(A) of MCCA is amended by redesignating clauses (iv) through (xi) as clauses (v) through (xii), respectively, and by inserting after clause (iii) the following new clause:

"(iv) in subsection (c)(1), by adding at the end the following new subparagraph:

" '(D) USE OF PSYCHOPHARMACOLOGIC DRUGS.—Psychopharmacologic drugs may be administered only on the orders of a physician and only as part of a plan (included in the written plan of care described in paragraph (2)) designed to eliminate or modify the symptoms for which the drugs are prescribed and only if, at least annually, an independent, external consultant reviews the appropriateness of the drug plan of each resident receiving such drugs.';".

(B) Section 411(l)(1) of MCCA is amended by adding at the end the following new subparagraph:

"(C) Section 4201(d) of OBRA, as amended by subparagraph (B), is further amended by adding at the end the following new paragraphs:

" '(3) Section 1883(f) of such Act (42 U.S.C. 1395tt(f)) is amended by striking "section 1861(j)(15)" and inserting "section 1819".

" '(4) The third sentence of section 1864(a) of such Act (42 U.S.C. 1395aa(a)) is amended by striking "1861(j)" and inserting "1819(a)"

" '(5) Section 1861(n) of such Act (42 U.S.C. 1395x(n)) is amended by striking "or (j)(1) of this section" and inserting "of this section or section 1819(a)(1)".'.".

(C) Section 411(l)(2)(A) of MCCA is amended by inserting a comma immediately after "this title" and immediately after "title XVIII". 42 USC 1395i-3, 1396r.

(D) Section 411(l)(2)(D)(i) of MCCA is amended by striking "care".

(E) Section 411(l)(3)(C) of MCCA is amended by inserting "(i)" after "(C)" and by adding at the end the following new clauses: 42 USC 1396d note.

"(ii) Section 4211 of OBRA (101 Stat. 1330-196) is amended by striking the following (and the immediately preceding quotation marks and period): 42 USC 1396r.

" '(c) STATE REQUIREMENTS RELATING TO NURSING FACILITY REQUIREMENTS.—Section 1919 of such Act is further amended by adding at the end the following new subsection:'.

"(iii) Section 1919(c)(2)(B)(iii)(III) of the Social Security Act, as inserted by section 4211(a)(3) of OBRA, is amended by striking 'responsibile' and inserting 'responsible'.".

(F) Section 411(l)(3)(H)(i) of MCCA is amended by striking "each place it appears". 42 USC 1396a.

(G) Section 411(l)(3)(H)(iii) of MCCA is amended by inserting "services" immediately after "nursing facility" the first place it appears.

(H) Section 411(l)(3) of MCCA is amended by adding at the end the following new subparagraph: 42 USC 1396a.

"(J) Section 4211(h)(2)(B) of OBRA is amended by inserting a comma before 'nursing facility,' the second place it appears.".

(I) Section 411(l)(5) of MCCA is amended by redesignating subparagraphs (F) and (G) as subparagraphs (G) and (H), respectively, and by inserting after subparagraph (E) the following new subparagraph: 42 USC 1395i-3, 1396r.

"(F) in paragraph (2)(B)(ii), by striking 'practical' and inserting 'practicable';".

(J) Section 411(l)(6) of MCCA is amended by adding at the end the following new subparagraph: 42 USC 1396i.

"(F) Section 1910(b)(1) of the Social Security Act, as redesignated by section 4212(e)(3)(C) of OBRA, is amended by inserting 'or section 1919' after '1902(a)(28)'.".

(K) Section 411(l)(9)(B)(ii) of MCCA is amended by striking "(c) as subsection (d)" and inserting "(b) as subsection (c)". 42 USC 1395i-3 note.

(L) Section 411(l) of MCCA is further amended by adding at the end the following new paragraph: 42 USC 1395i-3.

"(11) SECTION 4203.—Section 1819(h)(5) of the Social Security Act, as added by section 4203(a)(2) of OBRA, is amended by striking '(iii), and (iv) of paragraph (2)(A)' and inserting 'and (iii) of paragraph (2)(B)'.".

(28) SECTION 411(n).—Section 411(n) of MCCA is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph: 42 USC 1396a and note.

"(3) SECTION 9116.—Subsection (d) of section 9116 of OBRA is amended to read as follows:

" '(d) CONFORMING AMENDMENT.—Section 1923(a)(2) of the Social Security Act, as amended by section 4118(p)(9) of this Act, is amended by adding at the end the following new subparagraph:

" ' "(E) Section 1634(d) of this Act (relating to individuals who lose eligibility for SSI benefits due to entitlement to early widow's or widower's insurance benefits under section 202 (e) or (f) of this Act)." '.". Insurance.

(29) SECTION 411(p).—Section 411 of MCCA is amended by adding at the end the following new subsection:

"(p) MISCELLANEOUS.—Section 2312(c) of the Deficit Reduction Act of 1984, as amended by section 9320(a) of the Omnibus Budget Reconciliation Act of 1986, is amended by striking 'end' and inserting 'ends'.".

(30) SECTION 428.—(A) Subsection (c)(1) of section 1140 of the Social Security Act, as added by section 428(a) of MCCA, is amended to read as follows:

"(c)(1) The provisions of section 1128A (other than subsections (a), (b), (f), (h), and (i)) shall apply to civil money penalties under subsection (b) in the same manner as such provisions apply to a penalty or proceeding under section 1128A(a).".

(B) Section 428(b) of MCCA is amended by striking "MEDICAL" and inserting "MEDICARE".

(e) EXTENSION OF PILOT PROGRAM.—The Secretary of Health and Human Services shall extend through December 31, 1989, the pilot test program, being conducted by States under the Annual Grant Award Study established by the Joint State/Federal Cash Management Reform Task Force, on the same terms and conditions that existed as of September 30, 1988.

(f) MISCELLANEOUS CORRECTIONS.—

(1) Section 1866 of the Social Security Act (42 U.S.C. 1395cc) is amended by striking subsection (f).

(2) Section 1915(a)(2) of the Social Security Act, as amended by section 8(h)(2) of Public Law 100-93, is amended by striking "Restricts" and inserting "restricts".

42 USC 1396d. (3) Section 1905(o) of the Social Security Act is amended by moving the indentation of paragraph (3), as added by section 9435(b)(2) of Public Law 99-509, 2 ems to the left.

42 USC 1396b. (4) Section 1903(m)(2)(B)(i)(II) of the Social Security Act is amended by striking "1902(a)(13)(A)(ii)" and inserting "1902(a)(10)(D)".

Effective date. (5) Effective as of the date of the enactment of Public Law 95-292, section 226(a) of the Social Security Act (42 U.S.C. 426(a)) is amended by striking "condition specified in paragraph (1)" and inserting "condition specified in paragraph (2)".

42 USC 704 note. (g) EFFECTIVE DATE.—(1) The amendments made by subsections (a), (b), and (d) shall be effective as if included in the enactment of the Medicare Catastrophic Coverage Act of 1988.

(2) The amendments made by subsection (c) and subsection (f) (other than paragraph (5)) shall take effect on the date of the enactment of this Act.

42 USC 1396b note. (h) QUALITY CONTROL TRANSITION.—There shall not be taken into account, for purposes of section 1903(u) of the Social Security Act, payments and expenditures for medical assistance which are made on or after January 1, 1989, and before July 1, 1989, and which are attributable to medicare-cost sharing for qualified medicare beneficiaries (as defined in section 1905(p) of such Act).

SEC. 609. EXTENSION OF QUALITY CONTROL PENALTY MORATORIUM.

(a) MORATORIUM EXTENDED.—Section 403 of the Social Security Act (as amended by section 201(c)(2) of this Act) is further amended by adding at the end the following new subsection:

Territories, U.S. "(m)(1) During the 12-month period beginning on July 1, 1988 (in this subsection referred to as the 'moratorium period'), the Secretary shall not impose any reductions in payments to States pursu-

ant to subsection (i) (or prior regulations), or pursuant to any comparable provision of law relating to the programs under this part in Puerto Rico, Guam, the Virgin Islands, American Samoa, or the Northern Mariana Islands.

"(2) During the moratorium period—

"(A) the Secretary and the States shall continue to operate the quality control systems in effect under this part, and to calculate the error rates under the provisions referred to in paragraph (1), including the process of requesting and reviewing waivers; and

"(B) the Departmental Grant Appeals Board shall, notwithstanding paragraph (1), review disallowances for fiscal year 1981 and thereafter and hear appeals with respect thereto (but collection of disallowances owed as a result of Departmental Grant Appeals Board decisions shall not occur).".

(b) CONFORMING AMENDMENTS.—(1) Subparagraph (A) of section 12301(c)(1) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (Public Law 99-272) is amended by striking "title IV-A and" and inserting in lieu thereof "title". 42 USC 603 note.

(2) Paragraph (2) of section 12301(c) of such Act is amended by inserting "under title XIX" before ", and shall reduce payments".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect on July 1, 1988.

TITLE VII—FUNDING PROVISIONS

SEC. 701. TEMPORARY EXTENSION OF PROVISIONS RELATING TO COLLECTION OF NONTAX DEBTS OWED TO FEDERAL AGENCIES.

(a) GENERAL RULE.—Subsection (c) of section 2653 of the Deficit Reduction Act of 1984 is amended by striking "before July 1, 1988" and inserting "on or before January 10, 1994". 26 USC 6402 note.

(b) COORDINATION OF DISCLOSURE PROVISIONS.—

(1) IN GENERAL.—Paragraph (10) of section 6103(l) of the Internal Revenue Code of 1986 (relating to disclosure of certain information to agencies requesting a reduction under section 6402(c) or 6402(d)) is amended to read as follows:

"(10) DISCLOSURE OF CERTAIN INFORMATION TO AGENCIES REQUESTING A REDUCTION UNDER SECTION 6402(c) OR 6402(d).—

"(A) RETURN INFORMATION FROM INTERNAL REVENUE SERVICE.—The Secretary may, upon receiving a written request, disclose to officers and employees of any agency seeking a reduction under subsection (c) or (d) of section 6402—

"(i) taxpayer identity information with respect to the taxpayer against whom such a reduction was made or not made and with respect to any other person filing a joint return with such taxpayer,

"(ii) the fact that a reduction has been made or has not been made under such subsection with respect to such taxpayer,

"(iii) the amount of such reduction,

"(iv) whether such taxpayer filed a joint return, and

"(v) the fact that a payment was made (and the amount of the payment) to the spouse of the taxpayer on the basis of a joint return.

"(B) RESTRICTION ON USE OF DISCLOSED INFORMATION.—Any officers and employees of an agency receiving return information under subparagraph (A) shall use such information only for the purposes of, and to the extent necessary in, establishing appropriate agency records, locating any person with respect to whom a reduction under subsection (c) or (d) of section 6402 is sought for purposes of collecting the debt with respect to which the reduction is sought, or in the defense of any litigation or administrative procedure ensuing from a reduction made under subsection (c) or (d) of section 6402."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (l) of section 6103 of such Code is amended by striking paragraph (11) and by redesignating paragraph (12) as paragraph (11).

(B) Paragraphs (3)(A) and (4) of section 6103(p) of such Code are each amended by striking "(10), (11), or (12)" each place it appears and inserting "(10), or (11)".

(C) Paragraph (2) of section 7213(a) of such Code is amended by striking "(9), (10), or (11)" and inserting "(9), or (10)".

26 USC 6103 note.

(3) EFFECTIVE DATES.—

(A) IN GENERAL.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(B) SPECIAL RULE.—Nothing in section 2653(c) of the Deficit Reduction Act of 1984 shall be construed to limit the application of paragraph (10) of section 6103(l) of the Internal Revenue Code of 1986 (as amended by this subsection).

SEC. 702. LIMITATION ON USE OF REIMBURSEMENT ARRANGEMENTS TO AVOID 2-PERCENT FLOOR.

(a) GENERAL RULE.—Section 62 of the Internal Revenue Code of 1986 (defining adjusted gross income) is amended by adding at the end thereof the following new subsection:

"(c) CERTAIN ARRANGEMENTS NOT TREATED AS REIMBURSEMENT ARRANGEMENTS.—For purposes of subsection (a)(2)(A), an arrangement shall in no event be treated as a reimbursement or other expense allowance arrangement if—

"(1) such arrangement does not require the employee to substantiate the expenses covered by the arrangement to the person providing the reimbursement, or

"(2) such arrangement provides the employee the right to retain any amount in excess of the substantiated expenses covered under the arrangement.

The substantiation requirements of the preceding sentence shall not apply to any expense to the extent that substantiation is not required under section 274(d) for such expense by reason of the regulations prescribed under the 2nd sentence thereof."

26 USC 62 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

SEC. 703. MODIFICATIONS TO DEPENDENT CARE CREDIT AND EXCLUSION FOR DEPENDENT CARE ASSISTANCE.

(a) REDUCTION IN MAXIMUM AGE OF NONHANDICAPPED QUALIFYING INDIVIDUAL.—Subsections (b)(1)(A) and (e)(5)(B) of section 21 of the

Internal Revenue Code of 1986 are each amended by striking "age of 15" and inserting "age of 13".

(b) LIMITATION ON CREDIT REDUCED BY AMOUNT OF EXCLUSION.—Subsection (c) of section 21 of such Code is amended by adding at the end thereof the following new sentence:

"The amount determined under paragraph (1) or (2) (whichever is applicable) shall be reduced by the aggregate amount excludable from gross income under section 129 for the taxable year."

(c) REQUIREMENT OF FURNISHING IDENTIFYING INFORMATION WITH RESPECT TO SERVICE PROVIDER.—

(1) CREDIT.—Subsection (e) of section 21 of such Code is amended by adding at the end thereof the following new paragraph:

"(9) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO SERVICE PROVIDER.—No credit shall be allowed under subsection (a) for any amount paid to any person unless—

"(A) the name, address, and taxpayer identification number of such person are included on the return claiming the credit, or

"(B) if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the name and address of such person are included on the return claiming the credit.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required."

(2) EXCLUSION.—Subsection (e) of section 129 of such Code is amended by adding at the end thereof the following new paragraph:

"(9) IDENTIFYING INFORMATION REQUIRED WITH RESPECT TO SERVICE PROVIDER.—No amount paid or incurred by an employer for dependent care assistance provided to an employee shall be excluded from the gross income of such employee unless—

"(A) the name, address, and taxpayer identification number of the person performing the services are included on the return to which the exclusion relates, or

"(B) if such person is an organization described in section 501(c)(3) and exempt from tax under section 501(a), the name and address of such person are included on the return to which the exclusion relates.

In the case of a failure to provide the information required under the preceding sentence, the preceding sentence shall not apply if it is shown that the taxpayer exercised due diligence in attempting to provide the information so required."

(3) CONFORMING AMENDMENT.—Paragraph (2) of section 6109(a) of such Code is amended by striking "shall furnish" and inserting "or whose identifying number is required to be shown on a return of another person shall furnish".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988. 26 USC 21 note.

SEC. 704. TAXPAYER IDENTIFICATION NUMBER REQUIRED FOR DEPENDENTS WHO HAVE ATTAINED AGE 2.

(a) GENERAL RULE.—Paragraph (2) of section 6109(e) of the Internal Revenue Code of 1986 (relating to furnishing number for

certain dependents) is amended by striking "age of 5" and inserting "age of 2".

26 USC 6109 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1989.

Approved October 13, 1988.

LEGISLATIVE HISTORY—H.R. 1720 (S. 1511):

HOUSE REPORTS: No. 100-159, Pt. 1 (Comm. on Ways and Means), Pt. 2 (Comm. on Education and Labor), and Pt. 3 (Comm. on Energy and Commerce) and No. 100-998 (Comm. of Conference).
SENATE REPORTS: No. 100-377 accompanying S. 1511 (Comm. on Finance).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 15, 16, considered and passed House.
Vol. 134 (1988): June 13, 14, 16, S. 1511 considered in Senate; proceedings vacated and H.R. 1720, amended, passed in lieu.
Sept. 29, Senate agreed to conference report.
Sept. 30, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Oct. 13, Presidential remarks.

Public Law 100-486
100th Congress

An Act

To authorize the Secretary of the Interior to provide for the development and operation of a visitor and environmental education center in the Pinelands National Reserve, in the State of New Jersey.

Oct. 13, 1988
[S. 1165]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PINELANDS INTERPRETATIVE AND EDUCATIONAL PROGRAM; INTERIOR DEPARTMENT STUDY AND RECOMMENDATIONS.

Section 502 of the National Parks and Recreation Act of 1978 (Public Law 95-625; 16 U.S.C. 471i) is amended by adding at the end the following new subsection:

"(l) PINELANDS INTERPRETATIVE AND EDUCATIONAL PROGRAM; INTERIOR DEPARTMENT STUDY AND RECOMMENDATIONS.—

"(1) STUDY AND RECOMMENDATIONS FOR INTERPRETATIVE AND EDUCATIONAL PROGRAM.—For the purpose of enhancing public understanding, awareness, and appreciation with respect to the natural and cultural resources of the Pine Barrens area of New Jersey, the Secretary shall, within 9 months after the enactment of this subsection, study and recommend appropriate initiatives to provide an educational and interpretative program for the Reserve. The Secretary shall conduct such study in consultation with the planning entity and the appropriate departments and agencies of the State of New Jersey.

"(2) ITEMS INCLUDED.—The study and recommendations required by this subsection shall include, but not be limited to each of the following:

"(A) Interpretative and informational materials, exhibits, films, lectures, and other devices and educational methods.

"(B) A plan to provide for educational and interpretative programs for the Reserve, considering among other things the improvement of existing facilities and interpretative programs in the Reserve, including the possible use of existing facilities such as Whitesbog, Batsto, Double Trouble State Park and Stockton State College.

"(C) The use and enhancement of existing fire towers in the Reserve to serve as observation platforms.

"(D) The appropriate role for departments and agencies of the State of New Jersey and the Federal Government in implementing the program.

"(3) STUDY OF DEVELOPMENT CREDIT BANK AND DEVELOPMENT CREDIT SYSTEM.—The Secretary is authorized and directed to study the State of New Jersey Pinelands Development Credit Bank and Pinelands Development Credit System, and to submit to the Congress within 9 months after enactment of this subsection such recommendations as the Secretary determines appropriate for improvements of the operation of the State Pinelands Development Credit Bank and the overall Pinelands Development Credit Program.

"(4) STUDY OF MUNICIPAL COUNCIL.—The Secretary shall study the Pinelands Municipal Council, and submit to the Congress within 9 months after enactment of this subsection such recommendations as the Secretary determines appropriate for improvements of the operation of the council.

"(5) CONTRACTS AND AGREEMENTS.—The Secretary may enter into such contracts and agreements with the State of New Jersey and other public and private entities as may be necessary and appropriate to carry out the authorities and responsibilities of the Secretary under this subsection. For purposes of this subsection, there is authorized to be appropriated not more than $500,000 to prepare and complete the study pursuant to paragraph (1) and $3,000,000 to implement the recommendations of such study upon its approval by the Congress, the Federal share of which may not exceed 75 percent of the total cost.".

Appropriation authorization.

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

16 USC 471i.

Section 502(k) of the National Parks and Recreation Act of 1978 is amended by inserting "(1)" before the first full sentence thereof, and adding at the end thereof the following new paragraph:

"(2) In addition to other funds authorized pursuant to this subsection, there are hereby authorized to be appropriated not to exceed $14,500,000 for land acquisition, the Federal share of which may not exceed 50 percent of the total cost. Land acquisition pursuant to this subsection shall be carried out in accordance with the requirements of subsection (h) of this section insofar as such requirements are not inconsistent with this paragraph. Such acquisitions shall also be carried out in a manner consistent with the management plan and shall include—

"(A) lands located within the preservation area of the National Reserve which is designated in the management plan;

"(B) lands that are within the areas protected by the management plan and that are threatened by adverse development or have critical ecological values; or

"(C) lands that have limited practical use because of their location in the Reserve and that are held by landowners who both own less than 50 acres in the Reserve and have exhausted existing remedies to secure relief.

Additional funds contributed by the State to the Pinelands Development Bank after enactment of this Act, not to exceed $5,000,000, may be counted as part of the State share of land acquisition funds.".

Approved October 13, 1988.

LEGISLATIVE HISTORY—S. 1165:

HOUSE REPORTS: No. 100-933 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-244 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 11, considered and passed Senate.
Vol. 134 (1988): Sept. 20, considered and passed House, amended.
Sept. 30, Senate concurred in House amendment.

Public Law 100-487
100th Congress

An Act

To amend title 28, United States Code, to create two divisions in the Judicial District of Maryland.

Oct. 14, 1988
[H.R. 1596]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CREATION OF TWO DIVISIONS.

Section 100 of title 28, United States Code, is amended to read as follows:

"§ 100. Maryland

"Maryland constitutes one judicial district comprising two divisions.

"(1) The Northern Division comprises the counties of Allegany, Anne Arundel, Baltimore, Caroline, Carroll, Cecil, Dorchester, Frederick, Garrett, Harford, Howard, Kent, Queen Anne's, Somerset, Talbot, Washington, Wicomico, and Worcester, and the City of Baltimore.

"Court for the Northern Division shall be held at Baltimore, Cumberland, and Denton.

"(2) The Southern Division comprises the counties of Calvert, Charles, Montgomery, Prince George's, and St. Mary's.

"Court for the Southern Division shall be held at a suitable site in Montgomery or Prince George's County not more than five miles from the boundary of Montgomery and Prince George's Counties.".

SEC. 2. EFFECTIVE DATE.

28 USC 100 note.

(a) IN GENERAL.—This Act and the amendments made by this Act shall take effect 180 days after the date of the enactment of this Act.

(b) PENDING CASES NOT AFFECTED.—This Act and the amendments made by this Act shall not affect any action commenced before the effective date of this Act and pending in the United States District Court for the District of Maryland on such date.

(c) JURIES NOT AFFECTED.—This Act and the amendments made by this Act shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving in the Judicial District of Maryland on the effective date of this Act.

Approved October 14, 1988.

LEGISLATIVE HISTORY—H.R. 1596:

HOUSE REPORTS: No. 100-973 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Sept. 30, considered and passed Senate.

Public Law 100-488
100th Congress

An Act

Oct. 14, 1988
[H.R. 4028]

To authorize the Secretary of Agriculture to exchange certain National Forest System lands in the Targhee National Forest.

Wyoming.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

EXCHANGE AUTHORITY

SECTION 1. Notwithstanding the requirements contained in section 1 of the Act of March 20, 1922, and that portion of section 206(b) of the Act of October 21, 1976, which provides that when the Secretary of Agriculture exchanges lands, the lands exchanged must be located in the same State, and must be included within the exterior boundaries of a National Forest—

(a) the Secretary of Agriculture (hereinafter referred to as "the Secretary") is authorized to exchange those federally owned lands within the Targhee National Forest depicted on the map entitled "Targhee Exchange, Wyoming—Proposed", dated April 15, 1988, comprising approximately two hundred and seventy acres, for nonfederally owned lands within, adjacent, or in close proximity to the Targhee National Forest, including lands outside the exterior boundary of the forest;

(b) the values of lands exchanged by the Secretary under this Act shall be equal, or if they are not equal, the values shall be equalized by the payment of money to the grantor or to the Secretary as the circumstances require so long as payment does not exceed 25 per centum of the total values of the lands or interests transferred out of Federal ownership. The Secretary shall try to reduce the amount of payment of money to as small an amount as possible;

Public information. District of Columbia.

(c) the map described in subsection (a) and a legal description of such lands depicted therein, shall be on file and available for public inspection in the office of the Chief of the Forest Service, Department of Agriculture, Washington, District of Columbia. Such map and legal description shall have the same force and effect as if included in this Act: *Provided,* That actual acreage and boundaries may be adjusted to equalize values and the correction of clerical and typographical errors in such legal description may be made by the Secretary; and

(d) any lands acquired by the Secretary under this Act shall become part of the Targhee National Forest and the exterior boundary of the Targhee National Forest shall be revised to include such lands.

SAVINGS CLAUSE

SEC. 2. Except as specified in section 1, this Act shall not be construed as modifying any other requirements of existing law or regulations.

TIME LIMIT

SEC. 3. As soon as practicable, but not later than nine months after the date of enactment of this Act, the Secretary shall carry out the exchange authorized by section 1.

Approved October 14, 1988.

LEGISLATIVE HISTORY—H.R. 4028:

HOUSE REPORTS: No. 100-629, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).
SENATE REPORTS: No. 100-513 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 24, considered and passed House.
Sept. 28, considered and passed Senate, amended.
Oct. 4, House concurred in Senate amendments.

19-194 O—91—Part 3——16 : QL 3

Public Law 100-489
100th Congress

An Act

Oct. 14, 1988
[H.R. 4188]

To designate the United States courthouse located at 445 Broadway in Albany, New York, as the "James T. Foley United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The United States courthouse located at 445 Broadway in Albany, New York, shall be known and designated as the "James T. Foley United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the courthouse referred to in section 1 shall be deemed to be a reference to the "James T. Foley United States Courthouse".

Approved October 14, 1988.

LEGISLATIVE HISTORY—H.R. 4188:

HOUSE REPORTS: No. 100-859 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 22, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 100-490
100th Congress

An Act

To authorize additional appropriations for the WEB Rural Water Development Project, South Dakota, authorize the use of Pick-Sloan Missouri Basin electric power by the Lower Brule Sioux Indian Tribe, and to rename certain facilities of the Central Valley Project, California.

Oct. 14, 1988
[H.R. 4267]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—WEB PIPELINE PROJECT, SOUTH DAKOTA

SEC. 101. INCREASE IN AUTHORIZATION OF APPROPRIATIONS.

In addition to the funds authorized to be appropriated for the construction of the WEB Rural Water Development project, authorized by section 9 of the Rural Development Policy Act of 1980 (Public Law 96-355, 94 Stat. 1175), as amended by section 2 of Public Law 97-273 (96 Stat. 1181), there are authorized to be appropriated therefor an additional sum of $18,500,000 (March 1988 price levels), plus or minus such amounts, if any, as may be required by engineering cost indices applicable to such construction.

SEC. 102. USE OF PICK-SLOAN POWER.

Section 5 of Public Law 97-273 (96 Stat. 1182) is amended by inserting: (1) after "Omaha" the phrase "Lower Brule, including the Clark Ranch irrigation development," and (2) a period after the phrase "irrigation developments" and deleting the remainder of the sentence.

TITLE II—NAME CHANGE

SEC. 201. B.F. SISK SAN LUIS DAM.

(a) The San Luis Dam of the San Luis Unit, Central Valley project, California, constructed, operated, and maintained under the Act of June 3, 1960 (Public Law 86-488, 74 Stat. 156), hereafter shall be known and designated as the "B.F. Sisk San Luis Dam".

(b) Any reference in any law, regulation, document, record, map, or other paper of the United States to the dam referred to in subsection (a) is hereby deemed to be a reference to the "B.F. Sisk San Luis Dam".

SEC. 202. WILLIAM R. GIANELLI PUMPING-GENERATING PLANT.

(a) The San Luis Pumping-Generating Plant of the San Luis Unit, Central Valley project, California, constructed, operated, and maintained under the Act of June 3, 1960 (Public Law 86-488, 74 Stat. 156), hereafter shall be known and designated as the "William R. Gianelli Pumping-Generating Plant".

(b) Any reference in any law, regulation, document, record, map, or other paper of the United States to the plant referred to in subsection (a) is hereby deemed to be a reference to the "William R. Gianelli Pumping-Generating Plant".

SEC. 203. CLAIR A. HILL WHISKEYTOWN DAM.

(a) The Whiskeytown Dam of the Central Valley project, California, constructed, operated, and maintained under the Act of August 26, 1937 (50 Stat. 850), and Acts supplementary and amendatory thereto, hereafter shall be known and designated as the "Clair A. Hill Whiskeytown Dam".

(b) Any reference in any law, regulation, document, record, map, or other paper of the United States to the plant referred to in subsection (a) is hereby deemed to be a reference to the "Clair A. Hill Whiskeytown Dam".

Approved October 14, 1988.

LEGISLATIVE HISTORY—H.R. 4267:

HOUSE REPORTS: No. 100-582, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-474 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 10, considered and passed House.
Aug. 11, considered and passed Senate, amended.
Oct. 3, 4, House concurred in Senate amendment.

Public Law 100-491
100th Congress

An Act

To designate the United States Post Office Building located at 1105 Moss Street in Lafayette, Louisiana, as the "James Domengeaux Post Office Building"

Oct. 14, 1988
[H.R. 4276]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office Building located at 1105 Moss Street in Lafayette, Louisiana, is hereby designated as the "James Domengeaux Post Office Building". Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "James Domengeaux Post Office Building".

Approved October 14, 1988.

LEGISLATIVE HISTORY—H.R. 4276:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 100-492
100th Congress

An Act

Oct. 14, 1988
[H.R. 4433]

To designate the United States Post Office Building in Jeannette, Pennsylvania, as the "John Dent Post Office Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office Building in Jeannette, Pennsylvania, is designated as the "John Dent Post Office Building". Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "John Dent Post Office Building".

Approved October 14, 1988.

LEGISLATIVE HISTORY—H.R. 4433:

CONGRESSIONAL RECORD, Vol. 134 (1988):
May 9, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 100-493
100th Congress

Joint Resolution

Designating February 19 through 25, 1989, as "National Visiting Nurse Associations Week".

Oct. 14, 1988
[H.J. Res. 576]

Whereas Visiting Nurse Associations have served homebound Americans since 1885;
Whereas such Associations annually provide home care and support services to nearly 1,000,000 men, women, children, and infants;
Whereas such Associations serve 504 urban and rural communities in 47 States;
Whereas such Associations adhere to high standards of quality and provide personalized and cost-effective home health care and support regardless of the individual's ability to pay;
Whereas such Associations are voluntary in nature, independently operated, and community-based;
Whereas such Associations ensure a high quality of care through oversight provided by professional advisory committees composed of local physicians and nurses;
Whereas such Associations enable hundreds of thousands of Americans to recover from illness and injury in the comfort and security of their homes;
Whereas such Associations ensure that individuals who are chronically ill or who have physical and mental handicaps receive the therapeutic benefits of care and support services provided in the home;
Whereas in the absence of such Associations, thousands of patients with mental or physical handicaps or with chronically disabling illnesses would have to be institutionalized;
Whereas such Associations provide a wide range of services, including health care, hospice care, personal care, homemaking, occupational therapy, physical therapy, speech therapy, friendly visiting services, social services, nutritional counseling, specialized nursing services, and meals on wheels;
Whereas such Associations offer nursing care by registered nurses, homemaking, therapy, and social services by qualified specialists, and friendly visiting services by volunteers;
Whereas in each community served by such an Association, local volunteers support the Association by serving on the board of directors, by raising funds, by visiting patients in their homes, by assisting patients and nurses at wellness clinics, by delivering meals on wheels to patients, by running errands for patients, by working in the Association's office, and by providing tender loving care;
Whereas the need for home health care for young and old alike continues to grow annually; and
Whereas on February 22, 1989, a national meeting of Visiting Nurse Associations from throughout the United States will be held in Ft. Lauderdale, Florida: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 19 through 25, 1989, is designated as "National Visiting Nurse Associations Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved October 14, 1988.

LEGISLATIVE HISTORY—H.J. Res. 576:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 16, considered and passed House.
Sept. 28, considered and passed Senate.

Public Law 100-494
100th Congress

An Act

To amend the Motor Vehicle Information and Cost Savings Act to provide for the appropriate treatment of methanol and ethanol, and for other purposes.

Oct. 14, 1988
[S. 1518]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Alternative Motor Fuels Act of 1988.
Chemicals.
Energy.
42 USC 6201 note.
42 USC 6374 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alternative Motor Fuels Act of 1988".

SEC. 2. FINDINGS.

The Congress finds and declares that—

(1) the achievement of long-term energy security for the United States is essential to the health of the national economy, the well-being of our citizens, and the maintenance of national security;

(2) the displacement of energy derived from imported oil with alternative fuels will help to achieve energy security and improve air quality;

(3) transportation uses account for more than 60 percent of the oil consumption of the Nation;

(4) the Nation's security, economic, and environmental interests require that the Federal Government should assist clean-burning, nonpetroleum transportation fuels to reach a threshold level of commercial application and consumer acceptability at which they can successfully compete with petroleum-based fuels;

(5) methanol, ethanol, and natural gas are proven transportation fuels that burn more cleanly and efficiently than gasoline and diesel fuel;

(6) the production and use as transportation fuels of ethanol, methanol made from natural gas or biomass, and compressed natural gas have been estimated in some studies to release less carbon dioxide than comparable quantities of petroleum-based fuel;

(7) the amount of carbon dioxide released with methanol from a coal-to-methanol industry using currently available technologies has been estimated in some studies to be significantly greater than the amount released with a comparable quantity of petroleum-based fuel;

(8) there exists evidence that manmade pollution—the release of carbon dioxide, chlorofluorocarbons, methane, and other trace gases into the atmosphere—may be producing a long term and substantial increase in the average temperature on Earth, a phenomenon known as global warming through the greenhouse effect; and

(9) ongoing pollution and deforestation may be contributing now to an irreversible process producing unacceptable global climate changes; necessary actions must be identified and implemented in time to protect the climate, including the development of technologies to control increased carbon dioxide emissions that result with methanol from a coal-to-methanol industry.

42 USC 6374 note.

SEC. 3. PURPOSE.

The purpose of this Act is to encourage—

(1) the development and widespread use of methanol, ethanol, and natural gas as transportation fuels by consumers; and

(2) the production of methanol, ethanol, and natural gas powered motor vehicles.

SEC. 4. AMENDMENT OF ENERGY POLICY AND CONSERVATION ACT.

(a) AMENDMENT.—Title III of the Energy Policy and Conservation Act is amended by adding at the end the following new part:

"PART J—ENCOURAGING THE USE OF ALTERNATIVE FUELS

42 USC 6374.

"SEC. 400AA. ALTERNATIVE FUEL USE BY LIGHT DUTY FEDERAL VEHICLES.

"(a) DEPARTMENT OF ENERGY PROGRAM.—(1) Beginning in the fiscal year ending September 30, 1990, the Secretary shall ensure, with the cooperation of other appropriate agencies and consistent with other Federal law, that the maximum number practicable of the passenger automobiles and light duty trucks acquired annually for use by the Federal Government shall be alcohol powered vehicles, dual energy vehicles, natural gas powered vehicles, or natural gas dual energy vehicles.

"(2) In any determination of whether the acquisition of a vehicle is practicable under paragraph (1), the initial cost of such vehicle to the United States shall not be considered as a factor unless the initial cost of such vehicle exceeds the initial cost of a comparable gasoline or diesel fueled vehicle by at least 5 percent.

"(3) The Secretary shall, to the extent practicable and consistent with this part, ensure that the number of dual energy vehicles acquired under this subsection is at least as great as the number of alcohol powered vehicles acquired under this subsection, and that the number of natural gas dual energy vehicles acquired under this subsection is at least as great as the number of natural gas powered vehicles acquired under this subsection. To the extent practicable, both vehicles capable of operating on alcohol and vehicles capable of operating on natural gas shall be acquired in carrying out this subsection, and such vehicles shall be supplied by original equipment manufacturers.

"(b) STUDIES.—(1)(A) The Secretary, in cooperation with the Environmental Protection Agency and the National Highway Traffic Safety Administration, shall conduct a study of the vehicles acquired under subsection (a), which shall at a minimum address—

"(i) the performance of such vehicles, including performance in cold weather and at high altitude;

"(ii) the fuel economy, safety, and emissions of such vehicles; and

"(iii) a comparison of the operation and maintenance costs of such vehicles to the operation and maintenance costs of other passenger automobiles and light duty trucks.

"(B) The Secretary shall provide a report on the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, within one year after the first such vehicles are acquired, and annually thereafter. Reports.

"(2)(A) The Secretary and the Administrator of the General Services Administration shall conduct a study of the advisability, feasibility, and timing of the disposal of vehicles acquired under subsection (a) and any problems of such disposal. Such study shall take into account existing laws governing the sale of Government vehicles and shall specifically focus on when to sell such vehicles and what price to charge, without compromising studies of the use of such vehicles authorized under this part.

"(B) The Secretary and the Administrator of the General Services Administration shall report the results of the study conducted under subparagraph (A) to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, within 12 months after funds are appropriated for carrying out this section. Reports.

"(c) AVAILABILITY TO THE PUBLIC.—To the extent practicable, at locations where vehicles acquired under subsection (a) are supplied with alcohol or natural gas, alcohol or natural gas shall be offered for sale to the public. The head of the Federal agency responsible for such a location shall consider whether such sale is practicable, taking into account, among other factors—

"(1) whether alcohol or natural gas is commercially available for vehicles in the vicinity of such location;

"(2) security and safety considerations; Safety.

"(3) whether such sale is in accordance with applicable local, State, and Federal law;

"(4) the ease with which the public can access such location; and

"(5) the cost to the United States of such sale.

"(d) FEDERAL AGENCY USE OF DEMONSTRATION VEHICLES.—(1) Upon the request of the head of any agency of the Federal Government, the Secretary shall ensure that such Federal agency be provided with vehicles acquired under subsection (a) to the maximum extent practicable.

"(2)(A) Funds appropriated under this section for the acquisition of vehicles under subsection (a) shall be applicable only to the portion of the cost of vehicles acquired under subsection (a) which exceeds the cost of comparable gasoline or diesel fueled vehicles.

"(B) The Secretary shall ensure that the cost to any Federal agency receiving a vehicle under paragraph (1) shall not exceed the cost to such agency of a comparable gasoline or diesel fueled vehicle.

"(3) Only one-half of the vehicles acquired under this section by an agency of the Federal Government shall be counted against any limitation under law, Executive order, or executive or agency policy on the number of vehicles which may be acquired by such agency.

"(4) Any Federal agency receiving a vehicle under paragraph (1) shall cooperate with studies undertaken by the Secretary under subsection (b).

"(e) DETAIL OF PERSONNEL.—Upon the request of the Secretary, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Department of Energy to assist the Secretary in carrying out the Secretary's duties under this section.

"(f) EXEMPTIONS.—(1) Vehicles acquired under this section shall not be counted in any calculation of the average fuel economy of the fleet of passenger automobiles acquired in a fiscal year by the United States.

"(2) The incremental cost of vehicles acquired under this section over the cost of comparable gasoline or diesel fueled vehicles shall not be applied to any calculation with respect to a limitation under law on the maximum cost of individual vehicles which may be acquired by the United States.

"(g) DEFINITIONS.—For purposes of this part—

"(1) the term 'acquired' means leased for a period of sixty continuous days or more, or purchased;

"(2) the term 'alcohol' means a mixture containing 85 percent or more by volume methanol, ethanol, or other alcohols, in any combination;

"(3) the term 'alcohol powered vehicle' means a vehicle designed to operate exclusively on alcohol;

"(4) the term 'dual energy vehicle' means a vehicle which is capable of operating on alcohol and on gasoline or diesel fuel;

"(5) the term 'natural gas dual energy vehicle' means a vehicle which is capable of operating on natural gas and on gasoline or diesel fuel; and

"(6) the term 'natural gas powered vehicle' means a vehicle designed to operate exclusively on natural gas.

"(i) FUNDING.—(1) For the purposes of this section, there are authorized to be appropriated for the fiscal year ending September 30, 1990, $5,000,000, for the fiscal year ending September 30, 1991, $3,000,000, for the fiscal year ending September 30, 1992, $2,000,000, and for the fiscal year ending September 30, 1993, $2,000,000.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

42 USC 6374a.

"SEC. 400BB. ALTERNATIVE FUELS TRUCK COMMERCIAL APPLICATION PROGRAM.

"(a) ESTABLISHMENT.—The Secretary, in cooperation with manufacturers of heavy duty engines and with other Federal agencies, shall establish a commercial application program to study the use of alcohol and natural gas in heavy duty trucks and, if appropriate, other heavy duty applications.

"(b) FUNDING.—(1) There are authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1990, September 30, 1991, and September 30, 1992, a total of $2,000,000 for alcohol powered vehicles and dual energy vehicles, and a total of $2,000,000 for natural gas powered vehicles and natural gas dual energy vehicles, to carry out the purposes of this section.

"(2) The authority of the Secretary to obligate amounts to be expended under this section shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance by appropriation Acts.

"SEC. 400CC. ALTERNATIVE FUELS BUS PROGRAM. 42 USC 6374b.

"(a) TESTING.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency and the Administrator of the National Highway Traffic Safety Administration, shall, beginning in the fiscal year ending September 30, 1990, assist State and local government agencies in the testing in urban settings of buses capable of operating on alcohol and buses capable of operating on natural gas for the emissions levels, durability, safety, and fuel economy of such buses, comparing the different types with each other and with diesel powered buses, as such buses will be required to operate under Federal safety and environmental standards applicable to such buses for the model year 1991. To the extent practicable, testing assisted under this section shall apply to both buses capable of operating on alcohol and buses capable of operating on natural gas. State and local governments. Safety. Urban areas.

"(b) FUNDING.—There are authorized to be appropriated for the period encompassing the fiscal years ending September 30, 1990, September 30, 1991, and September 30, 1992, a total of $2,000,000 to carry out the purposes of this section.

"(c) DEFINITION.—For purposes of this section, the term 'bus' means a vehicle which is designed to transport 30 individuals or more.

"SEC. 400DD. INTERAGENCY COMMISSION ON ALTERNATIVE MOTOR FUELS. 42 USC 6374c.

"(a) ESTABLISHMENT.—There is established a Commission to be known as the Interagency Commission on Alternative Motor Fuels.

"(b) MEMBERSHIP.—The Commission shall be composed of members as follows:

"(1) the Secretary of Energy, or the designee of the Secretary, who shall be the chairperson of the Commission;

"(2) the Secretary of Defense or the designee of such Secretary;

"(3) the Administrator of the Environmental Protection Agency or the designee of such Administrator;

"(4) the Secretary of Transportation or the designee of such Secretary;

"(5) the Postmaster General or the designee of the Postmaster General;

"(6) the Administrator of the General Services Administration or the designee of such Administrator;

"(7) the Administrator of the Occupational Safety and Health Administration or the designee of such Administrator; and

"(8) such other officers and employees of the Federal Government as may be appointed to the Commission by the President.

"(c) OPERATIONS.—(1) The Commission shall meet regularly as necessary to carry out the purposes of this section. Meetings shall be at the call of the chairperson of the Commission. The Commission shall meet to consider any report of the Commission before such report is submitted to the Congress. Reports.

"(2) The Secretary shall provide the Commission with such staff and office facilities as the Secretary, following consultation with the Commission, considers necessary to permit the Commission to carry out its functions under this section.

"(3) Subject to applicable law, all expenses of the Commission shall be paid from funds available to the Secretary, except that

salaries of Commission members shall be paid by their home agencies.

"(d) FUNCTIONS.—(1) The Commission shall coordinate Federal agency efforts to develop and implement a national alternative motor fuels policy.

"(2) The Commission shall ensure the development of a long-term plan for the commercialization of alcohols, natural gas, and other potential alternative motor fuels.

"(3) The Commission shall ensure communication among representatives of all Federal agencies that are involved in alternative motor fuels projects or that have an interest in such projects.

"(4) The Commission shall provide for the exchange of information among persons working with, or interested in working with, the commercialization of alternative motor fuels.

"(e) UNITED STATES ALTERNATIVE FUELS COUNCIL.—(1) The chairperson of the Commission shall, consistent with the Federal Advisory Committee Act, establish a United States Alternative Fuels Council to report to the Commission about matters related to alternative motor fuels.

"(2) The Council shall be composed of members as follows:

"(A) one Member of the House of Representatives appointed by the Speaker of the House of Representatives;

"(B) one Member of the House of Representatives appointed by the Minority Leader of the House of Representatives;

"(C) one Member of the Senate appointed by the Majority Leader of the Senate;

"(D) one Member of the Senate appointed by the Minority Leader of the Senate; and

"(E) 16 persons from the private sector or from State or local government who are knowledgeable about alternative motor fuels and their possible uses and the production of alternative motor fuels and vehicles powered by such fuels, to be appointed by the chairperson of the Commission.

"(3) The Council shall meet at the call of the chairperson of the Commission.

"(f) DETAIL OF FEDERAL PERSONNEL.—Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this section.

"(g) REPORTS.—(1) The Commission shall, not later than September 30 of each of the years 1990 and 1991, submit an interim report to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, setting forth the actions taken by the Commission under this section.

"(2) The Commission shall, not later than September 30, 1992, submit a final report to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, setting forth the actions taken by the Commission under this section.

"(h) TERMINATION.—The Commission and the Council shall terminate upon submission of the final report of the Commission under subsection (g)(2).

"(i) DEFINITIONS.—For purposes of this section—

"(1) the term 'Commission' means the Interagency Commission on Alternative Motor Fuels established in subsection (a); and

"(2) the term 'Council' means the United States Alternative Fuels Council established under subsection (e)(1).

"SEC. 400EE. STUDIES AND REPORTS. 42 USC 6374d.

"(a) METHANOL STUDY.—(1) The Secretary shall study methanol plants, including the costs and practicability of such plants, that are—

"(A) capable of utilizing current domestic supplies of unutilized natural gas;

"(B) relocatable; or

"(C) suitable for natural gas to methanol conversion by natural gas distribution companies.

"(2) For purposes of this subsection, the term 'unutilized natural gas' means gas that is available in small remote fields and cannot be economically transported to natural gas pipelines, or gas the quality of which is so poor that extensive and uneconomic pretreatment is required prior to its introduction into the natural gas distribution system.

"(3) The Secretary shall submit a report under this subsection to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, no later than September 30, 1990.

"(b) INDEPENDENT ENVIRONMENTAL STUDY.—(1) The Administrator of the Environmental Protection Agency shall submit to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, in December of 1990, and once every two years thereafter, a report which includes—

"(A) a comprehensive analysis of the air quality, global climate change, and other positive and negative environmental impacts, if any, including fuel displacement effects, associated with the production, storage, distribution, and use of all alternative motor vehicle fuels under the Alternative Motor Fuels Act of 1988, as compared to gasoline and diesel fuels; and

"(B) an extended reasonable forecast of the change, if any, in air quality, global climate change, and other environmental effects of producing, storing, distributing, and using alternative motor vehicle fuels, utilizing such reasonable energy security, policy, economic, and other scenarios as may be appropriate.

"(2) In carrying out the study under this subsection, the Administrator of the Environmental Protection Agency shall consult with the Secretaries of Energy and Transportation. Nothing in this paragraph shall be construed to require such Administrator to obtain the approval of the Secretary of Energy or the Secretary of Transportation for any actions taken under this subsection.

"(3) There are authorized to be appropriated to carry out the purposes of this subsection $500,000. Appropriation authorization.

"(c) PUBLIC PARTICIPATION.—Adequate opportunity shall be provided for public comment on the reports required by this section before they are submitted to the Congress, and a summary of such comments shall be attached to such reports.".

42 USC 6374 note.

(b) CESSATION OF EFFECT.—This section, and the amendments made by this section, shall cease to be effective after September 30, 1997.

42 USC 6374 note.

SEC. 5. USE OF NONSTANDARD FUELS.

No guaranty or warranty with respect to any passenger automobile or light-duty truck acquired by the United States after October 1, 1989, shall be voided or reduced in effect by reason of the operation of such vehicle with any fuel for which a currently effective waiver, which includes a limitation regarding Reid vapor pressure with respect to such fuel, has been issued by the Administrator of the Environmental Protection Agency under section 211(f) of the Clean Air Act (42 U.S.C. 7545(f)).

SEC. 6. AMENDMENT OF THE MOTOR VEHICLE INFORMATION AND COST SAVINGS ACT.

(a) FUEL ECONOMY OF ALTERNATIVE FUEL AUTOMOBILES.—Title V of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001 et seq.) is amended by adding at the end the following new section:

"MANUFACTURING INCENTIVES FOR AUTOMOBILES

15 USC 2013.

"SEC. 513. (a) ALCOHOL POWERED AUTOMOBILE.—If a manufacturer manufactures any model type of alcohol powered automobile, the fuel economy measured for that model type shall be based on the fuel content of the alcohol used to operate such automobile. For purposes of this section, a gallon of alcohol used to operate such automobile shall be considered to contain 15 one-hundredths of a gallon of fuel.

"(b) DUAL ENERGY AUTOMOBILE.—If a manufacturer manufactures any model type of dual energy automobile, the fuel economy measured for that model type shall be measured by the EPA Administrator by dividing 1.0 by the sum of—

"(1) 0.5 divided by the fuel economy as measured under section 503(d) while operating such model type on gasoline or diesel fuel; and

"(2) 0.5 divided by the fuel economy as measured under subsection (a) of this section while operating such model type on alcohol.

"(c) NATURAL GAS POWERED AUTOMOBILE.—If a manufacturer manufactures any model type of natural gas powered automobile, the fuel economy measured for that model type shall be based on the fuel content of the natural gas used to operate such automobile. For purposes of this section, 100 cubic feet of natural gas shall be considered to contain 0.823 gallons equivalent of natural gas, and a gallon equivalent of natural gas shall be considered to have a fuel content of 15 one-hundredths of a gallon of fuel.

"(d) NATURAL GAS DUAL ENERGY AUTOMOBILE.—If a manufacturer manufactures any model type of natural gas dual energy automobile, the fuel economy measured for that model type shall be measured by the EPA Administrator by dividing 1.0 by the sum of—

"(1) 0.5 divided by the fuel economy as measured under section 503(d) while operating such model type on gasoline or diesel fuel; and

"(2) 0.5 divided by the fuel economy as measured under subsection (c) of this section while operating such model type on natural gas.

"(e) FUEL ECONOMY CALCULATION.—The EPA Administrator shall calculate, subject to the provisions of this section, the manufacturer's average fuel economy under section 503(a) (1) and (2) by including as the denominator of the term for each model type of alcohol powered automobile, dual energy automobile, natural gas powered automobile, or natural gas dual energy automobile, the fuel economy measured pursuant to subsections (a) through (d) of this section.

"(f) APPLICABILITY.—

"(1) Except as otherwise provided in this subsection, subsections (b) and (d) shall apply only to automobiles manufactured in model year 1993 through model year 2004. Subsections (a) and (c) shall apply only to automobiles manufactured after model year 1992.

"(2)(A) Not later than September 30, 2000, the Secretary, in consultation with the Secretary of Energy and the EPA Administrator, shall complete and submit to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, a report containing the results of a study of the success of the policy contained in subsections (b) and (d), along with preliminary conclusions as to whether the application of such subsections should be extended for up to four additional model years. Such study and conclusions shall be prepared taking into consideration— Reports.

"(i) the availability to the public of alcohol powered automobiles, natural gas powered automobiles, and alternative fuels;

"(ii) energy conservation and security;

"(iii) environmental considerations; and

"(iv) other relevant factors.

"(B) The Secretary shall—

"(i) promulgate a rule to extend the applicability of subsections (b) and (d) for 4 or fewer consecutive model years immediately after model year 2004; or

"(ii) publish a notice explaining the reasons for not promulgating such rule. Such rule or notice shall be promulgated before January 1, 2002.

Any such promulgated rule shall explain the basis on which any such extension has been granted.

"(g) MAXIMUM INCREASE.—

"(1)(A) For each of the model years 1993 through 2004, for each category of automobiles the maximum increase in average fuel economy for a manufacturer attributable to dual energy automobiles and natural gas dual energy automobiles shall be 1.2 miles per gallon.

"(B) If the application of subsections (b) and (d) is extended under subsection (f)(2), for each category of automobiles the maximum increase in average fuel economy for a manufacturer for each of the model years 2005 through 2008 attributable to dual energy automobiles and natural gas dual energy automobiles shall be 0.9 miles per gallon.

"(C) For purposes of applying subparagraph (A) or (B), the EPA Administrator shall compute the increase in a manufacturer's average fuel economy attributable to dual energy automobiles and natural gas dual energy automobiles by subtracting from the manufacturer's average fuel economy calculated under subsection (e) the number equal to what the manufacturer's

average fuel economy would be if it were calculated by the formula in section 503(a) (1) and (2) by including as the denominator for each model type of dual energy automobile or natural gas dual energy automobile the fuel economy when such automobiles are operated on gasoline or diesel fuel. If the increase attributable to dual energy automobiles and natural gas dual energy automobiles for any model year described in subparagraph (A) is more than 1.2 miles per gallon, the limitation in subparagraph (A) shall apply, and if the increase attributable to such automobiles for any model year described in subparagraph (B) is more than 0.9 miles per gallon, the limitation in subparagraph (B) shall apply.

"(2)(A) Notwithstanding any other provision of this section, if the Secretary reduces the average fuel economy standard applicable to passenger automobiles for any model year below 27.5 miles per gallon, any increase in average fuel economy for passenger automobiles of more than 0.7 miles per gallon to which a manufacturer of dual energy passenger automobiles or natural gas dual energy passenger automobiles would otherwise be entitled in that year under this section shall be reduced by an amount equal to the amount of such reduction in the standard, except that such increase shall not be reduced to less than 0.7 miles per gallon.

"(B) In carrying out section 502 (a)(4) and (f), the Secretary shall not consider the fuel economy of alcohol powered automobiles or natural gas powered automobiles, and the Secretary shall consider dual energy automobiles and natural gas dual energy automobiles to be operated exclusively on gasoline or diesel fuel.

"(h) DEFINITIONS.—(1) For purposes of this title—

"(A) the term 'alcohol' means a mixture containing 85 percent or more by volume methanol, ethanol, or other alcohols, in any combination;

"(B) the term 'alcohol powered automobile' means an automobile designed to operate exclusively on alcohol;

"(C) the term 'dual energy automobile' means an automobile—

"(i) which is capable of operating on alcohol and on gasoline or diesel fuel;

"(ii) which provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Federal Government, while operating on alcohol as it does while operating on gasoline or diesel fuel;

"(iii) which, for model years 1993 through 1995, and, if the Administrator of the Environmental Protection Agency determines that an extension of this clause is warranted, for an additional period ending not later than the end of the last model year for which section 513 (b) and (d) applies, provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Federal Government, while operating on a mixture of alcohol and gasoline or diesel fuel containing exactly 50 percent gasoline or diesel fuel as it does while operating on gasoline or diesel fuel; and

"(iv) which, in the case of passenger automobiles, meets or exceeds the minimum driving range established pursuant to paragraph (2);

"(D) the term 'natural gas dual energy automobile' means an automobile—

"(i) which is capable of operating on natural gas and on gasoline or diesel fuel;

"(ii) which provides equal or superior energy efficiency, as calculated for the applicable model year during fuel economy testing for the Federal Government, while operating on natural gas as it does while operating on gasoline or diesel fuel; and

"(iii) which, in the case of passenger automobiles, meets or exceeds the minimum driving range established pursuant to paragraph (2); and

"(E) the term 'natural gas powered automobile' means an automobile designed to operate exclusively on natural gas.

"(2)(A) For purposes of the definitions in paragraphs (1) (C) and (D), the Secretary shall, within 18 months after the date of enactment of this section, establish by rule of general applicability for all manufacturers a minimum driving range which must be met by dual energy automobiles when operating on alcohol, and by natural gas dual energy automobiles when operating on natural gas, if such automobiles are to be considered dual energy automobiles or natural gas dual energy automobiles under this section. Subject to the provisions of this paragraph, the rule may be amended from time to time. Any determination of whether dual energy automobiles or natural gas dual energy automobiles meet the minimum driving range requirement under this paragraph shall be based on the combined EPA city/highway fuel economy as determined for average fuel economy purposes for such automobiles. The rule issued under this subparagraph shall apply only to dual energy automobiles and natural gas dual energy automobiles that are passenger automobiles.

"(B)(i) The general rule established under subparagraph (A) shall allow the Secretary to determine that a specific model type or types may have a lower range than that established by the general rule, and shall allow a manufacturer to petition for a specific model type or types to have a lower range than that established by the general rule.

"(ii) If, with respect to dual energy automobiles, the Secretary establishes under subparagraph (A) 200 miles as the generally applicable minimum driving range under this paragraph, clause (i) shall not apply to dual energy automobiles.

"(C) Under no circumstances shall the general rule established under subparagraph (A) establish a minimum driving range of less than 200 miles for dual energy automobiles, nor shall the Secretary approve under the procedure referred to in subparagraph (B) a minimum driving range of less than 200 miles for dual energy automobiles.

"(D) In establishing the general rule under subparagraph (A), and in taking any action under the procedure referred to in subparagraph (B), the Secretary shall take into account the purposes of the Alternative Motor Fuels Act of 1988, consumer acceptability, economic practicability, technology, environmental impact, safety, driveability, performance, and any other factors the Secretary considers relevant.".

(b) DEFINITION OF AUTOMOBILE.—Section 501(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(1)) is amended by inserting ", or by alcohol or natural gas," after "fuel" the first time it appears.

(c) CONFORMING AMENDMENT.—Section 502(e) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2002(e)) is amended by adding at the end the following: "For purposes of this subsection, the Secretary shall not consider the fuel economy of alcohol powered automobiles or natural gas powered automobiles, and the Secretary shall consider dual energy automobiles and natural gas dual energy automobiles to be operated exclusively on gasoline or diesel fuel.".

15 USC 2512 note.

SEC. 7. ELECTRIC VEHICLES.

(a) STUDY.—The Secretary of Transportation, in consultation with the Secretary of Energy, shall conduct a comprehensive study and investigation regarding whether regulations in effect on the date of enactment of this Act should be amended or additional regulations should be promulgated to stimulate the production and introduction of electric vehicles into commerce. The Secretary of Transportation, in consultation with the Administrator of the Environmental Protection Agency, shall include as part of the comprehensive study, information regarding the effect of electric vehicles on air quality. Such study shall also consider the feasibility and desirability of regulations to stimulate the production and introduction of solar powered vehicles into commerce. The Secretary of Transportation shall transmit the results of such study to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, not later than one year after the date of enactment of this Act.

(b) REGULATIONS.—If, as a result of the study conducted under subsection (a), the Secretary of Transportation, the Secretary of Energy, or the Administrator of the Environmental Protection Agency determines that regulations under their respective jurisdictions should be amended, or that additional regulations should be promulgated, such Secretary or Administrator shall, if so authorized, commence a rulemaking proceeding for such purpose.

Public information. Consumer protection.

SEC. 8. AUTOMOBILE LABELING.

(a) AMENDMENTS.—(1) Section 506(a) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2006(a)) is amended by adding at the end the following new paragraph:

"(4)(A) In the case of alcohol powered automobiles or natural gas powered automobiles, the fuel economy of such automobiles for purposes of paragraph (1)(A)(i) shall be the fuel economy for such automobiles when operated on alcohol or natural gas, as the case may be, measured under section 513 (a) or (c), multiplied by 0.15.

"(B) In the case of dual energy automobiles or natural gas dual energy automobiles, each label required under paragraph (1) shall—

"(i) indicate the fuel economy of such automobile when operated on gasoline or diesel fuel;

"(ii) clearly identify such automobile as a dual energy automobile or natural gas dual energy automobile, as the case may be;

"(iii) clearly identify the fuels on which such automobile may be operated; and

"(iv) contain a statement informing the consumer that the additional information required by subsection (b)(3) is published and distributed by the Department of Energy.".

(2) Section 506(b) of such Act (15 U.S.C. 2006(b)) is amended by adding at the end the following new paragraph:

"(3)(A) In the case of dual energy automobiles and natural gas dual energy automobiles, additional information shall be contained in the booklet published under paragraph (1) indicating—

"(i) the energy efficiency and cost of operation of such automobiles when operated on gasoline or diesel fuel as compared to such automobiles when operated on alcohol or natural gas, as the case may be; and

"(ii) the driving range of such automobiles when operated on gasoline or diesel fuel as compared to such automobiles when operated on alcohol or natural gas, as the case may be.

"(B) In the case of dual energy automobiles, the booklet published under paragraph (1) shall also contain—

"(i) information regarding the miles per gallon achieved by such automobiles when operated on alcohol; and

"(ii) a statement of explanation of how the information made available pursuant to this paragraph can be expected to change when such automobile is operated on mixtures of alcohol and gasoline or diesel fuel.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall not apply with respect to any model year, as such term is defined in section 501(12) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 2001(12)), before model year 1993. 15 USC 2006 note.

SEC. 9. STUDY ON RESIDENTIAL ENERGY PRICING. Reports. 15 USC 2013 note.

The Secretary of Energy, in consultation with the Secretary of Transportation, shall study and report to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, not later than December 1, 1989, on whether calculating the average fuel economy of vehicles as provided in this Act and the amendments made by this Act is likely to result in a significant increase in the average price of home heating to residential consumers. Such report shall be updated and submitted to the Committees on Commerce, Science, and Transportation and Governmental Affairs of the Senate, and the Committee on Energy and Commerce of the House of Representatives, not later than December 1, 1994.

Approved October 14, 1988.

LEGISLATIVE HISTORY—S. 1518 (*See* H.R. 3399):

HOUSE REPORTS: No. 100-476 accompanying H.R. 3399 (Comm. on Energy and Commerce) and No. 100-929 (Comm. of Conference).

SENATE REPORTS: No. 100-271 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Dec. 14, H.R. 3399 considered and passed House.

Vol. 134 (1988): Apr. 15, S. 1518 considered and passed Senate.
June 28, considered and passed House, amended.
Sept. 20, Senate agreed to conference report.
Sept. 23, House agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Oct. 14, Presidential remarks.

Public Law 100-495
100th Congress

An Act

Oct. 17, 1988
[H.R. 4857]

To amend the Job Training Partnership Act to make a technical change.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 161(b) of the Job Training Partnership Act is amended—

29 USC 1571.

(1) by inserting "(1)" after "(b)"; and

(2) by adding at the end thereof the following new paragraph:

"(2) Notwithstanding paragraph (1), funds obligated for any program year for programs authorized by sections 452 through 455 of part D of title IV of this Act shall remain available until expended.".

Effective date.
29 USC 1571 note.

SEC. 2. The amendments made by this Act shall apply with respect to funds available for expenditure on or after June 30, 1988.

Approved October 17, 1988.

LEGISLATIVE HISTORY—H.R. 4857:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Sept. 23, considered and passed Senate, amended.
Oct. 3, House concurred in Senate amendment.

Public Law 100-496
100th Congress

An Act

To amend chapter 39 of title 31, United States Code, to require the Federal Government to pay interest on overdue payments, and for other purposes.

Oct. 17, 1988
[S. 328]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Prompt Payment Act Amendments of 1988.
Contracts.
31 USC 3901 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Prompt Payment Act Amendments of 1988".

DEFINITIONS AND APPLICATION

SEC. 2. (a) Section 3901(a)(4) of title 31, United States Code, is amended to read as follows:

"(4) for the purposes of determining a payment due date and the date upon which any late payment interest penalty shall begin to accrue, the head of the agency is deemed to receive an invoice—

"(A) on the later of—

"(i) the date on which the place or person designated by the agency to first receive such invoice actually receives a proper invoice; or

"(ii) on the 7th day after the date on which, in accordance with the terms and conditions of the contract, the property is actually delivered or performance of the services is actually completed, as the case may be, unless—

"(I) the agency has actually accepted such property or services before such 7th day; or

"(II) the contract (except in the case of a contract for the procurement of a brand-name commercial item for authorized resale) specifies a longer acceptance period, as determined by the contracting officer to be required to afford the agency a practicable opportunity to inspect and test the property furnished or evaluate the services performed; or

"(B) on the date of the invoice, if the agency has failed to annotate the invoice with the date of receipt at the time of actual receipt by the place or person designated by the agency to first receive such invoice.".

(b) Section 3901(a)(5) of title 31, United States Code, is amended to read as follows:

"(5) a payment is deemed to be made on the date a check for payment is dated or an electronic fund transfer is made.".

(c)(1) Section 3901 of such title is further amended by adding at the end the following new subsection:

"(c) This chapter, except section 3906 of this title, applies to the United States Postal Service. However, the Postmaster General shall be responsible for issuing the implementing procurement regulations, solicitation provisions, and contract clauses for the United States Postal Service.".

(2) Section 410(b) of title 39, United States Code, is amended by inserting after paragraph (8) the following new paragraph:

"(9) Chapter 39 of title 31.".

INTEREST PENALTIES: ELIMINATION OF GRACE PERIODS; INCREASED PENALTIES; OBLIGATION TO PAY PENALTIES

Federal Register, publication.

SEC. 3. (a)(1) Section 3902(a) of title 31, United States Code, is amended by striking the second and third sentences thereof and inserting the following: "The interest shall be computed at the rate of interest established by the Secretary of the Treasury, and published in the Federal Register, for interest payments under section 12 of the Contract Disputes Act of 1978 (41 U.S.C. 611), which is in effect at the time the agency accrues the obligation to pay a late payment interest penalty.".

(2) Section 3902(b) of title 31, United States Code, is amended by striking out the second sentence.

(b) Section 3902 of such title is further amended by redesignating subsections (c) through (e) as subsections (e) through (g), respectively, and by inserting after subsection (b) the following new subsections (c) and (d):

Business and industry.

"(c)(1) A business concern shall be entitled to an interest penalty of $1.00 or more which is owed such business concern under this section, and such penalty shall be paid without regard to whether the business concern has requested payment of such penalty.

"(2) Each payment subject to this chapter for which a late payment interest penalty is required to be paid shall be accompanied by a notice stating the amount of the interest penalty included in such payment and the rate by which, and period for which, such penalty was computed.

"(3) If a business concern—

"(A) is owed an interest penalty by an agency;

"(B) is not paid the interest penalty in a payment made to the business concern by the agency on or after the date on which the interest penalty becomes due;

"(C) is not paid the interest penalty by the agency within 10 days after the date on which such payment is made; and

"(D) makes a written demand, not later than 40 days after the date on which such payment is made, that the agency pay such a penalty,

such business concern shall be entitled to an amount equal to the sum of the late payment interest penalty to which the contractor is entitled and an additional penalty equal to a percentage of such late payment interest penalty specified by regulation by the Director of the Office of Management and Budget, subject to such maximum as may be specified in such regulations.

"(d) The temporary unavailability of funds to make a timely payment due for property or services does not relieve the head of an agency from the obligation to pay interest penalties under this section.".

(c) Section 3902 (as amended in subsection (b) of this section) is further amended by adding at the end thereof the following new subsection:

"(h)(1) This section shall apply to contracts for the procurement of property or services entered into pursuant to section 4(h) of the Act of June 29, 1948 (15 U.S.C. 714b(h)).

"(2)(A) In the case of a payment to which producers on a farm are entitled under the terms of an agreement entered into under the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.), an interest penalty shall be paid to the producers if the payment has not been made by the required payment or loan closing date. The interest penalty shall be paid—

"(i) on the amount of payment or loan due; and

"(ii) for the period beginning on the first day beginning after the required payment or loan closing date and ending on the date the amount is paid or loaned.

"(B) As used in this subsection, the 'required payment or loan closing date' means—

"(i) for a purchase agreement, the 30th day after delivery of the warehouse receipt for the commodity subject to the purchase agreement;

"(ii) for a loan agreement, the 30th day beginning after the date of receipt of an application with all requisite documentation and signatures, unless the applicant requests that the disbursement be deferred;

"(iii) for refund of amounts received greater than the amount required to repay a commodity loan, the first business day after the Commodity Credit Corporation receives payment for such loan;

"(iv) for land diversion payments (other than advance payments), the 30th day beginning after the date of completion of the production adjustment contract by the producer;

"(v) for an advance land diversion payment, 30 days after the date the Commodity Credit Corporation executes the contract with the producer;

"(vi) for a deficiency payment (other than advance payments) based upon a 12-month or 5-month period, 91 days after the end of such period; or

"(vii) for an advance deficiency payment, 30 days after the date the Commodity Credit Corporation executes the contract with the producer.

"(3) Payment of the interest penalty under this subsection shall be made out of funds available under section 8 of the Act of June 29, 1948 (15 U.S.C. 714f).

"(4) Section 3907 of this title shall not apply to interest penalty payments made under this subsection.".

PAYMENTS FOR DAIRY AND CERTAIN OTHER PRODUCTS

SEC. 4. Section 3903(4) of title 31, United States Code, is amended to read as follows:

"(4) for the acquisition of dairy products (as defined in section 111(e) of the Dairy Production Stabilization Act of 1983 (7 U.S.C. 4502(e)), the acquisition of edible fats or oils, and the acquisition of food products prepared from edible fats or oils, provide a required payment date of not later than 10 days after the date on which a proper invoice for the amount due has been received by the agency acquiring such dairy products, fats, oils, or food products;".

PERIODIC PAYMENTS UNDER PROPERTY AND SERVICE CONTRACTS

SEC. 5. Section 3903 of title 31, United States Code, is further amended—

(1) by redesignating paragraph (5) as paragraph (7); and

(2) by inserting after paragraph (4) the following:

"(5) require periodic payments, in the case of a property or service contract which does not prohibit periodic payments for partial deliveries or other contract performance during the contract period, upon—

"(A) submission of an invoice for property delivered or services performed during the contract period, if an invoice is required by the contract; and

"(B) either—

"(i) acceptance of the property or services by an employee of an agency authorized to accept the property or services; or

"(ii) the making of a determination by such an employee, that the performance covered by the payment conforms to the terms and conditions of the contract;".

INTEREST PENALTIES ON PROGRESS PAYMENTS AND RETAINED AMOUNTS UNDER CONSTRUCTION CONTRACTS

SEC. 6. Section 3903 of title 31, United States Code, is amended—

(1) by inserting "(a)" before "The Director";

(2) by inserting after paragraph (5) (as added by section 5) the following new paragraph:

"(6) in the case of a construction contract, provide for the payment of interest on—

"(A) a progress payment (including a monthly percentage-of-completion progress payment or milestone payments for completed phases, increments, or segments of any project) that is approved as payable by the agency pursuant to subsection (b) of this section and remains unpaid for—

"(i) a period of more than 14 days after receipt of the payment request by the place or person designated by the agency to first receive such requests; or

"(ii) a longer period, specified in the solicitation, if required to afford the Government a practicable opportunity to adequately inspect the work and to determine the adequacy of the contractor's performance under the contract; and

"(B) any amounts which the agency has retained pursuant to a prime contract clause providing for retaining a percentage of progress payments otherwise due to a contractor and that are approved for release to the contractor, if such retained amounts are not paid to the contractor by a date specified in the contract or, in the absence of such a specified date, by the 30th day after final acceptance;"; and

(3) by adding at the end of such subsection the following new subsection:

"(b)(1) A payment request may not be approved under subsection (a)(6)(A) of this section unless the application for such payment includes—

"(A) substantiation of the amounts requested; and

"(B) a certification by the prime contractor, to the best of the contractor's knowledge and belief, that—

"(i) the amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

"(ii) payments to subcontractors and suppliers have been made from previous payments received under the contract, and timely payments will be made from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this chapter; and

"(iii) the application does not include any amounts which the prime contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract.

"(2) The agency shall return any such payment request which is defective to the contractor within 7 days after receipt, with a statement identifying the defect.

"(c)(1) The contracting officer shall—

"(A) compute the interest which a contractor shall be obligated to pay under sections 3905(a)(2) and 3905(e)(6) of this title on the basis of the average bond equivalent rates of 91-day Treasury bills auctioned at the most recent auction of such bills prior to the date the contractor received the unearned amount; and

"(B) deduct the interest amount determined under subparagraph (A) of this paragraph from the next available payment to the contractor.

"(2) Amounts deducted from payments to contractors under paragraph (1)(B) shall revert to the Treasury.".

ADDITIONAL REQUIREMENTS OF REGULATIONS

SEC. 7. Section 3903(a) of title 31, United States Code, is further amended by striking out paragraph (7), as redesignated by section 5, and inserting the following:

"(7) require that—

"(A) each invoice be reviewed as soon as practicable after receipt for the purpose of determining that such an invoice is a proper invoice within the meaning of section 3901(a)(3) of this title;

"(B) any invoice determined not to be such a proper invoice suitable for payment shall be returned as soon as practicable, but not later than 7 days, after receipt, specifying the reasons that the invoice is not a proper invoice; and

"(C) the number of days available to an agency to make a timely payment of an invoice without incurring an interest penalty shall be reduced by the number of days by which an agency exceeds the requirements of subparagraph (B) of this paragraph;

"(8) permit an agency to make payment up to 7 days prior to the required payment date, or earlier as determined by the agency to be necessary on a case-by-case basis; and

"(9) prescribe the methods for computing interest under section 3903(c) of this title.".

LIMITATIONS ON DISCOUNT PAYMENTS

SEC. 8. Section 3904 of title 31, United States Code, is amended by inserting after the first sentence the following: "For the purpose of the preceding sentence, the specified time shall be determined from the date of the invoice.".

PAYMENT PROVISIONS RELATING TO CONSTRUCTION CONTRACTS

SEC. 9. (a) Chapter 39 of title 31, United States Code, is amended—

(1) by redesignating sections 3905 and 3906 as sections 3906 and 3907, respectively; and

(2) by inserting after section 3904 the following:

"§ 3905. Payment provisions relating to construction contracts

"(a) In the event that a contractor, after making a certified payment request to an agency pursuant to section 3903(b) of this title, discovers that a portion or all of such payment request constitutes a payment for performance by such contractor that fails to conform to the specifications, terms, and conditions of its contract (hereafter in this subsection referred to as the 'unearned amount'), then the contractor shall—

"(1) notify the agency of such performance deficiency; and

"(2) be obligated to pay the Government an amount equal to interest on the unearned amount (computed in the manner provided in section 3903(c) of this title), from the date of the contractor's receipt of such unearned amount until—

"(A) the date the contractor notifies the agency that the performance deficiency has been corrected; or

"(B) the date the contractor reduces the amount of any subsequent certified application for payment to such agency by an amount equal to the unearned amount.

"(b) Each construction contract awarded by an agency shall include a clause that requires the prime contractor to include in each subcontract for property or services entered into by the prime contractor and a subcontractor (including a material supplier) for the purpose of performing such construction contract—

"(1) a payment clause which obligates the prime contractor to pay the subcontractor for satisfactory performance under its subcontract within 7 days out of such amounts as are paid to the prime contractor by the agency under such contract; and

"(2) an interest penalty clause which obligates the prime contractor to pay to the subcontractor an interest penalty on amounts due in the case of each payment not made in accordance with the payment clause included in the subcontract pursuant to paragraph (1) of this subsection—

"(A) for the period beginning on the day after the required payment date and ending on the date on which payment of the amount due is made; and

"(B) computed at the rate specified by section 3902(a) of this title.

"(c) The construction contract awarded by the agency shall further require the prime contractor to include in each of its subcontracts (for the purpose of performance of such construction contract) a provision requiring the subcontractor to include a payment clause and an interest penalty clause conforming to the standards of subsection (b) of this section in each of its subcontracts

and to require each of its subcontractors to include such clauses in their subcontracts with each lower-tier subcontractor or supplier.

"(d) The clauses required by subsections (b) and (c) of this section shall not be construed to impair the right of a prime contractor or a subcontractor at any tier to negotiate, and to include in their subcontract, provisions which—

"(1) permit the prime contractor or a subcontractor to retain (without cause) a specified percentage of each progress payment otherwise due to a subcontractor for satisfactory performance under the subcontract, without incurring any obligation to pay a late payment interest penalty, in accordance with terms and conditions agreed to by the parties to the subcontract, giving such recognition as the parties deem appropriate to the ability of a subcontractor to furnish a performance bond and a payment bond;

"(2) permit the contractor or subcontractor to make a determination that part or all of the subcontractor's request for payment may be withheld in accordance with the subcontract agreement; and

"(3) permit such withholding without incurring any obligation to pay a late payment penalty if—

"(A) a notice conforming to the standards of subsection (g) of this section has been previously furnished to the subcontractor; and

"(B) a copy of any notice issued by a prime contractor pursuant to subparagraph (A) of this paragraph has been furnished to the Government.

"(e) If a prime contractor, after making application to an agency for payment under a contract but before making a payment to a subcontractor for the subcontractor's performance covered by such application, discovers that all or a portion of the payment otherwise due such subcontractor is subject to withholding from the subcontractor in accordance with the subcontract agreement, then the prime contractor shall—

"(1) furnish to the subcontractor a notice conforming to the standards of subsection (g) of this section as soon as practicable upon ascertaining the cause giving rise to a withholding, but prior to the due date for subcontractor payment;

"(2) furnish to the Government, as soon as practicable, a copy of the notice furnished to the subcontractor pursuant to paragraph (1) of this subsection;

"(3) reduce the subcontractor's progress payment by an amount not to exceed the amount specified in the notice of withholding furnished under paragraph (1) of this subsection;

"(4) pay the subcontractor as soon as practicable after the correction of the identified subcontract performance deficiency, and—

"(A) make such payment within—

"(i) 7 days after correction of the identified subcontract performance deficiency (unless the funds therefor must be recovered from the Government because of a reduction under paragraph (5)(A)); or

"(ii) 7 days after the contractor recovers such funds from the Government; or

"(B) incur an obligation to pay a late payment interest penalty computed at the rate specified by section 3902(a) of this title;

"(5) notify the Government, upon—

"(A) reduction of the amount of any subsequent certified application for payment; or

"(B) payment to the subcontractor of any withheld amounts of a progress payment, specifying—

"(i) the amounts of the progress payments withheld under paragraph (1) of this subsection; and

"(ii) the dates that such withholding began and ended; and

"(6) be obligated to pay to the Government an amount equal to interest on the withheld payments (computed in the manner provided in section 3903(c) of this title), from the 8th day after receipt of the withheld amounts from the Government until—

"(A) the day the identified subcontractor performance deficiency is corrected; or

"(B) the date that any subsequent payment is reduced under paragraph (5)(A).

"(f)(1) If a prime contractor, after making payment to a first-tier subcontractor, receives from a supplier or subcontractor of the first-tier subcontractor (hereafter referred to as a 'second-tier subcontractor') a written notice in accordance with section 2 of the Act of August 24, 1935 (40 U.S.C. 270b), asserting a deficiency in such first-tier subcontractor's performance under the contract for which the prime contractor may be ultimately liable, and the prime contractor determines that all or a portion of future payments otherwise due such first-tier subcontractor is subject to withholding in accordance with the subcontract agreement, then the prime contractor may, without incurring an obligation to pay an interest penalty under subsection (e)(6) of this section—

"(A) furnish to the first-tier subcontractor a notice conforming to the standards of subsection (g) of this section as soon as practicable upon making such determination; and

"(B) withhold from the first-tier subcontractor's next available progress payment or payments an amount not to exceed the amount specified in the notice of withholding furnished under subparagraph (A) of this paragraph.

"(2) As soon as practicable, but not later than 7 days after receipt of satisfactory written notification that the identified subcontract performance deficiency has been corrected, the prime contractor shall pay the amount withheld under paragraph (1)(B) of this subsection to such first-tier subcontractor, or shall incur an obligation to pay a late payment interest penalty to such first-tier subcontractor computed at the rate specified by section 3902(a) of this title.

"(g) A written notice of any withholding shall be issued to a subcontractor (with a copy to the Government of any such notice issued by a prime contractor), specifying—

"(1) the amount to be withheld;

"(2) the specific causes for the withholding under the terms of the subcontract; and

"(3) the remedial actions to be taken by the subcontractor in order to receive payment of the amounts withheld.

"(h) A prime contractor may not request payment from the agency of any amount withheld or retained in accordance with subsection (d) of this section until such time as the prime contractor has determined and certified to the agency that the subcontractor is entitled to the payment of such amount.

"(i) A dispute between a contractor and subcontractor relating to the amount or entitlement of a subcontractor to a payment or a late payment interest penalty under a clause included in the subcontract pursuant to subsection (b) or (c) of this section does not constitute a dispute to which the United States is a party. The United States may not be interpleaded in any judicial or administrative proceeding involving such a dispute.

"(j) Except as provided in subsection (i) of this section, this section shall not limit or impair any contractual, administrative, or judicial remedies otherwise available to a contractor or a subcontractor in the event of a dispute involving late payment or nonpayment by a prime contractor or deficient subcontract performance or nonperformance by a subcontractor.

"(k) A contractor's obligation to pay an interest penalty to a subcontractor pursuant to the clauses included in a subcontract under subsection (b) or (c) of this section may not be construed to be an obligation of the United States for such interest penalty. A contract modification may not be made for the purpose of providing reimbursement of such interest penalty. A cost reimbursement claim may not include any amount for reimbursement of such interest penalty.". Claims.

(b) The table of sections at the beginning of such chapter is amended by striking out the items relating to sections 3905 and 3906 and inserting in lieu thereof the following:

"3905. Payment provisions relating to construction contracts.
"3906. Reports.
"3907. Relationship to other laws.".

REPORTS

SEC. 10. Section 3906(a) of title 31, United States Code (as redesignated by section 9(a)(1)), is amended to read as follows:

"(a)(1) By the 60th day after the end of the fiscal year, the head of each agency shall submit to the Director of the Office of Management and Budget a report on the agency's payment practices during that fiscal year, including a description of the extent to which those practices satisfy the requirements of this chapter.

"(2) In addition to such other information as may be required by the Director, the report required by paragraph (1) shall include—

"(A) the number, dollar value, and percentage of invoices for which interest or other late payment penalties were paid, the amount of such late payment interest and other penalties, and the reasons the interest penalties were not avoided by prompt payment; and

"(B) the number, dollar value, and percentage of invoices paid after the required payment date without payment of an interest penalty or other late payment penalty, and the reasons no obligation to pay such penalties was incurred with respect to such invoices or no amount for such penalties were included in the payments of such invoices.".

IMPLEMENTATION THROUGH THE FEDERAL ACQUISITION REGULATION

SEC. 11. (a) The Federal Acquisition Regulation shall be modified to provide appropriate solicitation provisions and contract clauses that implement chapter 39 of title 31, United States Code, as amended by this Act, and the regulations prescribed under section 3903 of such title (as amended). 31 USC 3903 note.

(b) The solicitation provisions and contract clauses required by subsection (a) of this section shall include (but not be limited to) the following matters:

(1) Authority for a contracting officer to specify for a contract or class of contracts a specific payment period, which—

(A) in the case of payments for commercial items or services, is similar to the payment period or periods permitted in prevailing private industry contracting practices;

(B) in the case of payments for noncommercial items and services, does not exceed 30 days unless the circumstances of the procurement action is determined to require a longer period for payment and such determination is approved above the level of the contracting officer;

(C) in the case of payments for items of property or services in an amount less than the amount specified as a small purchase in section 303(g)(2) of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253(g)(2)), does not exceed 15 days after the date of receipt of the invoice, if—

(i) the contract provides for such "fast payment" terms;

(ii) title to any property will vest in the Government upon delivery (including delivery to a common carrier); and

(iii) the business concern offers appropriate warranties to furnish property or services conforming to the requirements of the contract or purchase order, if payment will be due prior to acceptance of the items or services; and

(D) in the case of progress payments under construction contracts, does not exceed 14 days, unless the solicitation specifies a longer period which the contracting officer has determined is required to afford the Government a practicable opportunity to adequately inspect the work and to evaluate the adequacy of the contractor's performance under the contract.

(2) Requirements to make periodic payments, in the case of a property or service contract which does not prohibit periodic payments for partial deliveries or other contract performance during the contract period, upon—

(A) submission of an invoice for property delivered or services performed during the contract period, if an invoice is required by the contract; and

(B) either—

(i) acceptance of the property or services by an employee of the contracting agency authorized to accept the property or services; or

(ii) the making of a determination by such an employee, that the performance covered by the payment conforms to the terms and conditions of the contract.

(3) A conclusive presumption, exclusively for the purposes of determining when an agency becomes obligated to pay a late payment interest penalty (other than under construction contracts), that the Federal Government has accepted property or services by the 7th day after the date on which, in accordance with the terms and conditions of the contract, the property is delivered or final performance of the services is completed,

unless the solicitation specifies a longer period which is determined by the contracting officer to be required to afford the agency a practicable opportunity to inspect and test the property furnished or evaluate the services performed.

(4) The limitation that the Federal Government may take a discount offered by a contractor for early payment by the Federal Government only in accordance with the time limits specified by the contractor, determined in accordance with the second sentence of section 3904 of title 31, United States Code.

(5) The requirements of section 3902(c) of title 31, United States Code.

(6) The requirements of section 3903(a)(6) of title 31, United States Code.

(7) The requirements of section 3905 of title 31, United States Code.

(c) The regulations required by subsection (a) of this section shall be published as proposed regulations for public comment as provided in section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b) within 120 days after the date of the enactment of this Act.

ASSISTANCE TO SMALL BUSINESS

SEC. 12. Section 15(k) of the Small Business Act (15 U.S.C. 644(k)) is amended by—

(1) renumbering paragraphs (5), (6), and (7) as paragraphs (6), (7), and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) assist small business concerns to obtain payments, late payment interest penalties, or information due to such concerns, in conformity with chapter 39 of title 31, United States Code;".

CODIFICATION OF A DEFINITION PROVIDED IN AN APPROPRIATION LAW

SEC. 13. (a) Section 3903(a)(2) of title 31, United States Code, is amended by inserting "including any edible fresh or frozen poultry meat, any perishable poultry meat food product, fresh eggs, and any perishable egg product," after "182(3))),".

(b) Section 2002 of the Supplemental Appropriations Act, 1984 (Public Law 98-181; 97 Stat. 1297) is amended by striking out "the terms 'meat' and 'meat food products' as used in the Prompt Payment Act (Public Law 97-177; 96 Stat. 85) in section 2(a)(2)(B)(i) thereof shall include also edible fresh or frozen poultry meat, perishable poultry meat food products, fresh eggs and perishable egg products; and". 31 USC 3903 note.

EFFECTIVE DATES

SEC. 14. (a) The amendments made by sections 2(a), 2(b), 3(a), 4 through 9, 12, and 13 of this Act shall apply to payments under contracts awarded, contracts renewed, and contract options exercised during or after the first fiscal quarter which begins more than 90 days after the date of the enactment of this Act. 31 USC 3902 note.

(b) The requirements of section 3902(c)(2) of title 31, United States Code, as added by section 3(b) of this Act, shall apply to payments under contracts awarded on or after October 1, 1989. 31 USC 3902 note.

31 USC 3902 note.

(c) The amendments made by sections 2(c) and 3(c) of this Act shall be applicable with respect to all obligations incurred on or after January 1, 1989.

31 USC 3906 note.

(d) The amendment made by section 10 of this Act shall apply to the report required by section 3906 of title 31, United States Code, for each fiscal year beginning after September 30, 1988.

Approved October 17, 1988.

LEGISLATIVE HISTORY—S. 328:

HOUSE REPORTS: No. 100-784 (Comm. on Government Operations).
SENATE REPORTS: No. 100-78 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 9, considered and passed Senate.
Vol. 134 (1988): July 26, considered and passed House, amended.
Sept. 23, Senate concurred in House amendments.

Public Law 100-497
100th Congress

An Act

Oct. 17, 1988
[S. 555]

To regulate gaming on Indian lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

That this Act may be cited as the "Indian Gaming Regulatory Act".

Indian Gaming Regulatory Act.
25 USC 2701 note.

FINDINGS

SEC. 2. The Congress finds that— 25 USC 2701.

(1) numerous Indian tribes have become engaged in or have licensed gaming activities on Indian lands as a means of generating tribal governmental revenue;

(2) Federal courts have held that section 2103 of the Revised Statutes (25 U.S.C. 81) requires Secretarial review of management contracts dealing with Indian gaming, but does not provide standards for approval of such contracts;

(3) existing Federal law does not provide clear standards or regulations for the conduct of gaming on Indian lands;

(4) a principal goal of Federal Indian policy is to promote tribal economic development, tribal self-sufficiency, and strong tribal government; and

(5) Indian tribes have the exclusive right to regulate gaming activity on Indian lands if the gaming activity is not specifically prohibited by Federal law and is conducted within a State which does not, as a matter of criminal law and public policy, prohibit such gaming activity.

DECLARATION OF POLICY

SEC. 3. The purpose of this Act is— 25 USC 2702.

(1) to provide a statutory basis for the operation of gaming by Indian tribes as a means of promoting tribal economic development, self-sufficiency, and strong tribal governments;

(2) to provide a statutory basis for the regulation of gaming by an Indian tribe adequate to shield it from organized crime and other corrupting influences, to ensure that the Indian tribe is the primary beneficiary of the gaming operation, and to assure that gaming is conducted fairly and honestly by both the operator and players; and

(3) to declare that the establishment of independent Federal regulatory authority for gaming on Indian lands, the establishment of Federal standards for gaming on Indian lands, and the establishment of a National Indian Gaming Commission are necessary to meet congressional concerns regarding gaming and to protect such gaming as a means of generating tribal revenue.

DEFINITIONS

SEC. 4. For purposes of this Act— 25 USC 2703.

(1) The term "Attorney General" means the Attorney General of the United States.

(2) The term "Chairman" means the Chairman of the National Indian Gaming Commission.

(3) The term "Commission" means the National Indian Gaming Commission established pursuant to section 5 of this Act.

(4) The term "Indian lands" means—

(A) all lands within the limits of any Indian reservation; and

(B) any lands title to which is either held in trust by the United States for the benefit of any Indian tribe or individual or held by any Indian tribe or individual subject to restriction by the United States against alienation and over which an Indian tribe exercises governmental power.

(5) The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians which—

(A) is recognized as eligible by the Secretary for the special programs and services provided by the United States to Indians because of their status as Indians, and

(B) is recognized as possessing powers of self-government.

(6) The term "class I gaming" means social games solely for prizes of minimal value or traditional forms of Indian gaming engaged in by individuals as a part of, or in connection with, tribal ceremonies or celebrations.

(7)(A) The term "class II gaming" means—

(i) the game of chance commonly known as bingo (whether or not electronic, computer, or other technologic aids are used in connection therewith)—

(I) which is played for prizes, including monetary prizes, with cards bearing numbers or other designations,

(II) in which the holder of the card covers such numbers or designations when objects, similarly numbered or designated, are drawn or electronically determined, and

(III) in which the game is won by the first person covering a previously designated arrangement of numbers or designations on such cards,

including (if played in the same location) pull-tabs, lotto, punch boards, tip jars, instant bingo, and other games similar to bingo, and

(ii) card games that—

(I) are explicitly authorized by the laws of the State, or

(II) are not explicitly prohibited by the laws of the State and are played at any location in the State,

but only if such card games are played in conformity with those laws and regulations (if any) of the State regarding hours or periods of operation of such card games or limitations on wagers or pot sizes in such card games.

(B) The term "class II gaming" does not include—

(i) any banking card games, including baccarat, chemin de fer, or blackjack (21), or

(ii) electronic or electromechanical facsimiles of any game of chance or slot machines of any kind.

(C) Notwithstanding any other provision of this paragraph, the term "class II gaming" includes those card games played in the State of Michigan, the State of North Dakota, the State of South Dakota, or the State of Washington, that were actually operated in such State by an Indian tribe on or before May 1, 1988, but only to the extent of the nature and scope of the card games that were actually operated by an Indian tribe in such State on or before such date, as determined by the Chairman.

(D) Notwithstanding any other provision of this paragraph, the term "class II gaming" includes, during the 1-year period beginning on the date of enactment of this Act, any gaming described in subparagraph (B)(ii) that was legally operated on Indian lands on or before May 1, 1988, if the Indian tribe having jurisdiction over the lands on which such gaming was operated requests the State, by no later than the date that is 30 days after the date of enactment of this Act, to negotiate a Tribal-State compact under section 11(d)(3).

(8) The term "class III gaming" means all forms of gaming that are not class I gaming or class II gaming.

(9) The term "net revenues" means gross revenues of an Indian gaming activity less amounts paid out as, or paid for, prizes and total operating expenses, excluding management fees.

(10) The term "Secretary" means the Secretary of the Interior.

NATIONAL INDIAN GAMING COMMISSION

SEC. 5. (a) There is established within the Department of the Interior a Commission to be known as the National Indian Gaming Commission. Establishment. 25 USC 2704.

(b)(1) The Commission shall be composed of three full-time members who shall be appointed as follows:

(A) a Chairman, who shall be appointed by the President with the advice and consent of the Senate; and President of U.S.

(B) two associate members who shall be appointed by the Secretary of the Interior.

(2)(A) The Attorney General shall conduct a background investigation on any person considered for appointment to the Commission.

(B) The Secretary shall publish in the Federal Register the name and other information the Secretary deems pertinent regarding a nominee for membership on the Commission and shall allow a period of not less than thirty days for receipt of public comment. Federal Register, publication.

(3) Not more than two members of the Commission shall be of the same political party. At least two members of the Commission shall be enrolled members of any Indian tribe.

(4)(A) Except as provided in subparagraph (B), the term of office of the members of the Commission shall be three years.

(B) Of the initial members of the Commission—

(i) two members, including the Chairman, shall have a term of office of three years; and

(ii) one member shall have a term of office of one year.

(5) No individual shall be eligible for any appointment to, or to continue service on, the Commission, who—

(A) has been convicted of a felony or gaming offense;

(B) has any financial interest in, or management responsibility for, any gaming activity; or

(C) has a financial interest in, or management responsibility for, any management contract approved pursuant to section 12 of this Act.

President of U.S.

(6) A Commissioner may only be removed from office before the expiration of the term of office of the member by the President (or, in the case of associate member, by the Secretary) for neglect of duty, or malfeasance in office, or for other good cause shown.

(c) Vacancies occurring on the Commission shall be filled in the same manner as the original appointment. A member may serve after the expiration of his term of office until his successor has been appointed, unless the member has been removed for cause under subsection (b)(6).

(d) Two members of the Commission, at least one of which is the Chairman or Vice Chairman, shall constitute a quorum.

(e) The Commission shall select, by majority vote, one of the members of the Commission to serve as Vice Chairman. The Vice Chairman shall serve as Chairman during meetings of the Commission in the absence of the Chairman.

(f) The Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least once every 4 months.

(g)(1) The Chairman of the Commission shall be paid at a rate equal to that of level IV of the Executive Schedule under section 5315 of title 5, United States Code.

(2) The associate members of the Commission shall each be paid at a rate equal to that of level V of the Executive Schedule under section 5316 of title 5, United States Code.

(3) All members of the Commission shall be reimbursed in accordance with title 5, United States Code, for travel, subsistence, and other necessary expenses incurred by them in the performance of their duties.

POWERS OF THE CHAIRMAN

25 USC 2705.

SEC. 6. (a) The Chairman, on behalf of the Commission, shall have power, subject to an appeal to the Commission, to—

(1) issue orders of temporary closure of gaming activities as provided in section 14(b);

(2) levy and collect civil fines as provided in section 14(a);

(3) approve tribal ordinances or resolutions regulating class II gaming and class III gaming as provided in section 11; and

(4) approve management contracts for class II gaming and class III gaming as provided in sections 11(d)(9) and 12.

(b) The Chairman shall have such other powers as may be delegated by the Commission.

POWERS OF THE COMMISSION

25 USC 2706.

SEC. 7. (a) The Commission shall have the power, not subject to delegation—

(1) upon the recommendation of the Chairman, to approve the annual budget of the Commission as provided in section 18;

(2) to adopt regulations for the assessment and collection of civil fines as provided in section 14(a);

(3) by an affirmative vote of not less than 2 members, to establish the rate of fees as provided in section 18;

(4) by an affirmative vote of not less than 2 members, to authorize the Chairman to issue subpoenas as provided in section 16; and

(5) by an affirmative vote of not less than 2 members and after a full hearing, to make permanent a temporary order of the Chairman closing a gaming activity as provided in section 14(b)(2).

(b) The Commission—

(1) shall monitor class II gaming conducted on Indian lands on a continuing basis;

(2) shall inspect and examine all premises located on Indian lands on which class II gaming is conducted;

(3) shall conduct or cause to be conducted such background investigations as may be necessary;

(4) may demand access to and inspect, examine, photocopy, and audit all papers, books, and records respecting gross revenues of class II gaming conducted on Indian lands and any other matters necessary to carry out the duties of the Commission under this Act;

(5) may use the United States mail in the same manner and under the same conditions as any department or agency of the United States;

(6) may procure supplies, services, and property by contract in accordance with applicable Federal laws and regulations;

(7) may enter into contracts with Federal, State, tribal and private entities for activities necessary to the discharge of the duties of the Commission and, to the extent feasible, contract the enforcement of the Commission's regulations with the Indian tribes;

(8) may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Commission deems appropriate;

(9) may administer oaths or affirmations to witnesses appearing before the Commission; and

(10) shall promulgate such regulations and guidelines as it deems appropriate to implement the provisions of this Act. Regulations.

(c) The Commission shall submit a report with minority views, if any, to the Congress on December 31, 1989, and every two years thereafter. The report shall include information on— Reports.

(1) whether the associate commissioners should continue as full or part-time officials;

(2) funding, including income and expenses, of the Commission;

(3) recommendations for amendments to the Act; and

(4) any other matter considered appropriate by the Commission.

COMMISSION STAFFING

SEC. 8. (a) The Chairman shall appoint a General Counsel to the Commission who shall be paid at the annual rate of basic pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code. 25 USC 2707.

(b) The Chairman shall appoint and supervise other staff of the Commission without regard to the provisions of title 5, United States Code, governing appointments in the competitive service. Such staff shall be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification

and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-17 of the General Schedule under section 5332 of that title.

(c) The Chairman may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(d) Upon the request of the Chairman, the head of any Federal agency is authorized to detail any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this Act, unless otherwise prohibited by law.

(e) The Secretary or Administrator of General Services shall provide to the Commission on a reimbursable basis such administrative support services as the Commission may request.

COMMISSION—ACCESS TO INFORMATION

25 USC 2708.

SEC. 9. The Commission may secure from any department or agency of the United States information necessary to enable it to carry out this Act. Upon the request of the Chairman, the head of such department or agency shall furnish such information to the Commission, unless otherwise prohibited by law.

INTERIM AUTHORITY TO REGULATE GAMING

25 USC 2709.

SEC. 10. Notwithstanding any other provision of this Act, the Secretary shall continue to exercise those authorities vested in the Secretary on the day before the date of enactment of this Act relating to supervision of Indian gaming until such time as the Commission is organized and prescribes regulations. The Secretary shall provide staff and support assistance to facilitate an orderly transition to regulation of Indian gaming by the Commission.

TRIBAL GAMING ORDINANCES

25 USC 2710.

SEC. 11. (a)(1) Class I gaming on Indian lands is within the exclusive jurisdiction of the Indian tribes and shall not be subject to the provisions of this Act.

(2) Any class II gaming on Indian lands shall continue to be within the jurisdiction of the Indian tribes, but shall be subject to the provisions of this Act.

(b)(1) An Indian tribe may engage in, or license and regulate, class II gaming on Indian lands within such tribe's jurisdiction, if—

(A) such Indian gaming is located within a State that permits such gaming for any purpose by any person, organization or entity (and such gaming is not otherwise specifically prohibited on Indian lands by Federal law), and

(B) the governing body of the Indian tribe adopts an ordinance or resolution which is approved by the Chairman.

A separate license issued by the Indian tribe shall be required for each place, facility, or location on Indian lands at which class II gaming is conducted.

(2) The Chairman shall approve any tribal ordinance or resolution concerning the conduct, or regulation of class II gaming on the Indian lands within the tribe's jurisdiction if such ordinance or resolution provides that—

(A) except as provided in paragraph (4), the Indian tribe will have the sole proprietary interest and responsibility for the conduct of any gaming activity;

(B) net revenues from any tribal gaming are not to be used for purposes other than—

(i) to fund tribal government operations or programs;

(ii) to provide for the general welfare of the Indian tribe and its members;

(iii) to promote tribal economic development;

(iv) to donate to charitable organizations; or

(v) to help fund operations of local government agencies;

(C) annual outside audits of the gaming, which may be encompassed within existing independent tribal audit systems, will be provided by the Indian tribe to the Commission;

(D) all contracts for supplies, services, or concessions for a contract amount in excess of $25,000 annually (except contracts for professional legal or accounting services) relating to such gaming shall be subject to such independent audits; Contracts.

(E) the construction and maintenance of the gaming facility, and the operation of that gaming is conducted in a manner which adequately protects the environment and the public health and safety; and Environmental protection. Safety.

(F) there is an adequate system which—

(i) ensures that background investigations are conducted on the primary management officials and key employees of the gaming enterprise and that oversight of such officials and their management is conducted on an ongoing basis; and

(ii) includes—

(I) tribal licenses for primary management officials and key employees of the gaming enterprise with prompt notification to the Commission of the issuance of such licenses;

(II) a standard whereby any person whose prior activities, criminal record, if any, or reputation, habits and associations pose a threat to the public interest or to the effective regulation of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming shall not be eligible for employment; and Law enforcement and crime.

(III) notification by the Indian tribe to the Commission of the results of such background check before the issuance of any of such licenses.

(3) Net revenues from any class II gaming activities conducted or licensed by any Indian tribe may be used to make per capita payments to members of the Indian tribe only if—

(A) the Indian tribe has prepared a plan to allocate revenues to uses authorized by paragraph (2)(B);

(B) the plan is approved by the Secretary as adequate, particularly with respect to uses described in clause (i) or (iii) of paragraph (2)(B);

(C) the interests of minors and other legally incompetent persons who are entitled to receive any of the per capita payments are protected and preserved and the per capita payments are disbursed to the parents or legal guardian of such minors or legal incompetents in such amounts as may be necessary for the health, education, or welfare, of the minor or other legally Children and youth.

incompetent person under a plan approved by the Secretary and the governing body of the Indian tribe; and

Taxes.

(D) the per capita payments are subject to Federal taxation and tribes notify members of such tax liability when payments are made.

(4)(A) A tribal ordinance or resolution may provide for the licensing or regulation of class II gaming activities owned by any person or entity other than the Indian tribe and conducted on Indian lands, only if the tribal licensing requirements include the requirements described in the subclauses of subparagraph (B)(i) and are at least as restrictive as those established by State law governing similar gaming within the jurisdiction of the State within which such Indian lands are located. No person or entity, other than the Indian tribe, shall be eligible to receive a tribal license to own a class II gaming activity conducted on Indian lands within the jurisdiction of the Indian tribe if such person or entity would not be eligible to receive a State license to conduct the same activity within the jurisdiction of the State.

(B)(i) The provisions of subparagraph (A) of this paragraph and the provisions of subparagraphs (A) and (B) of paragraph (2) shall not bar the continued operation of an individually owned class II gaming operation that was operating on September 1, 1986, if—

(I) such gaming operation is licensed and regulated by an Indian tribe pursuant to an ordinance reviewed and approved by the Commission in accordance with section 13 of the Act,

(II) income to the Indian tribe from such gaming is used only for the purposes described in paragraph (2)(B) of this subsection,

(III) not less than 60 percent of the net revenues is income to the Indian tribe, and

(IV) the owner of such gaming operation pays an appropriate assessment to the National Indian Gaming Commission under section 18(a)(1) for regulation of such gaming.

(ii) The exemption from the application of this subsection provided under this subparagraph may not be transferred to any person or entity and shall remain in effect only so long as the gaming activity remains within the same nature and scope as operated on the date of enactment of this Act.

Federal Register, publication.

(iii) Within sixty days of the date of enactment of this Act, the Secretary shall prepare a list of each individually owned gaming operation to which clause (i) applies and shall publish such list in the Federal Register.

(c)(1) The Commission may consult with appropriate law enforcement officials concerning gaming licenses issued by an Indian tribe and shall have thirty days to notify the Indian tribe of any objections to issuance of such license.

(2) If, after the issuance of a gaming license by an Indian tribe, reliable information is received from the Commission indicating that a primary management official or key employee does not meet the standard established under subsection (b)(2)(F)(ii)(II), the Indian tribe shall suspend such license and, after notice and hearing, may revoke such license.

(3) Any Indian tribe which operates a class II gaming activity and which—

(A) has continuously conducted such activity for a period of not less than three years, including at least one year after the date of the enactment of this Act; and

(B) has otherwise complied with the provisions of this section

may petition the Commission for a certificate of self-regulation.

(4) The Commission shall issue a certificate of self-regulation if it determines from available information, and after a hearing if requested by the tribe, that the tribe has—

(A) conducted its gaming activity in a manner which—

(i) has resulted in an effective and honest accounting of all revenues;

(ii) has resulted in a reputation for safe, fair, and honest operation of the activity; and

(iii) has been generally free of evidence of criminal or dishonest activity;

(B) adopted and is implementing adequate systems for—

(i) accounting for all revenues from the activity;

(ii) investigation, licensing, and monitoring of all employees of the gaming activity; and

(iii) investigation, enforcement and prosecution of violations of its gaming ordinance and regulations; and

Law enforcement and crime.

(C) conducted the operation on a fiscally and economically sound basis.

(5) During any year in which a tribe has a certificate for self-regulation—

(A) the tribe shall not be subject to the provisions of paragraphs (1), (2), (3), and (4) of section 7(b);

(B) the tribe shall continue to submit an annual independent audit as required by section 11(b)(2)(C) and shall submit to the Commission a complete resume on all employees hired and licensed by the tribe subsequent to the issuance of a certificate of self-regulation; and

(C) the Commission may not assess a fee on such activity pursuant to section 18 in excess of one quarter of 1 per centum of the gross revenue.

(6) The Commission may, for just cause and after an opportunity for a hearing, remove a certificate of self-regulation by majority vote of its members.

(d)(1) Class III gaming activities shall be lawful on Indian lands only if such activities are—

(A) authorized by an ordinance or resolution that—

(i) is adopted by the governing body of the Indian tribe having jurisdiction over such lands,

(ii) meets the requirements of subsection (b), and

(iii) is approved by the Chairman,

(B) located in a State that permits such gaming for any purpose by any person, organization, or entity, and

(C) conducted in conformance with a Tribal-State compact entered into by the Indian tribe and the State under paragraph (3) that is in effect.

(2)(A) If any Indian tribe proposes to engage in, or to authorize any person or entity to engage in, a class III gaming activity on Indian lands of the Indian tribe, the governing body of the Indian tribe shall adopt and submit to the Chairman an ordinance or resolution that meets the requirements of subsection (b).

(B) The Chairman shall approve any ordinance or resolution described in subparagraph (A), unless the Chairman specifically determines that—

(i) the ordinance or resolution was not adopted in compliance with the governing documents of the Indian tribe, or

(ii) the tribal governing body was significantly and unduly influenced in the adoption of such ordinance or resolution by any person identified in section 12(e)(1)(D).

Federal Register, publication.

Upon the approval of such an ordinance or resolution, the Chairman shall publish in the Federal Register such ordinance or resolution and the order of approval.

Effective date.

(C) Effective with the publication under subparagraph (B) of an ordinance or resolution adopted by the governing body of an Indian tribe that has been approved by the Chairman under subparagraph (B), class III gaming activity on the Indian lands of the Indian tribe shall be fully subject to the terms and conditions of the Tribal-State compact entered into under paragraph (3) by the Indian tribe that is in effect.

(D)(i) The governing body of an Indian tribe, in its sole discretion and without the approval of the Chairman, may adopt an ordinance or resolution revoking any prior ordinance or resolution that authorized class III gaming on the Indian lands of the Indian tribe. Such revocation shall render class III gaming illegal on the Indian lands of such Indian tribe.

Federal Register, publication.

(ii) The Indian tribe shall submit any revocation ordinance or resolution described in clause (i) to the Chairman. The Chairman shall publish such ordinance or resolution in the Federal Register and the revocation provided by such ordinance or resolution shall take effect on the date of such publication.

(iii) Notwithstanding any other provision of this subsection—

(I) any person or entity operating a class III gaming activity pursuant to this paragraph on the date on which an ordinance or resolution described in clause (i) that revokes authorization for such class III gaming activity is published in the Federal Register may, during the 1-year period beginning on the date on which such revocation ordinance or resolution is published under clause (ii), continue to operate such activity in conformance with the Tribal-State compact entered into under paragraph (3) that is in effect, and

Law enforcement and crime.

(II) any civil action that arises before, and any crime that is committed before, the close of such 1-year period shall not be affected by such revocation ordinance or resolution.

(3)(A) Any Indian tribe having jurisdiction over the Indian lands upon which a class III gaming activity is being conducted, or is to be conducted, shall request the State in which such lands are located to enter into negotiations for the purpose of entering into a Tribal-State compact governing the conduct of gaming activities. Upon receiving such a request, the State shall negotiate with the Indian tribe in good faith to enter into such a compact.

Federal Register, publication.

(B) Any State and any Indian tribe may enter into a Tribal-State compact governing gaming activities on the Indian lands of the Indian tribe, but such compact shall take effect only when notice of approval by the Secretary of such compact has been published by the Secretary in the Federal Register.

(C) Any Tribal-State compact negotiated under subparagraph (A) may include provisions relating to—

Law enforcement and crime.

(i) the application of the criminal and civil laws and regulations of the Indian tribe or the State that are directly related to, and necessary for, the licensing and regulation of such activity;

(ii) the allocation of criminal and civil jurisdiction between the State and the Indian tribe necessary for the enforcement of such laws and regulations;

(iii) the assessment by the State of such activities in such amounts as are necessary to defray the costs of regulating such activity;

(iv) taxation by the Indian tribe of such activity in amounts comparable to amounts assessed by the State for comparable activities; Taxes.

(v) remedies for breach of contract; Contracts.

(vi) standards for the operation of such activity and maintenance of the gaming facility, including licensing; and

(vii) any other subjects that are directly related to the operation of gaming activities.

(4) Except for any assessments that may be agreed to under paragraph (3)(C)(iii) of this subsection, nothing in this section shall be interpreted as conferring upon a State or any of its political subdivisions authority to impose any tax, fee, charge, or other assessment upon an Indian tribe or upon any other person or entity authorized by an Indian tribe to engage in a class III activity. No State may refuse to enter into the negotiations described in paragraph (3)(A) based upon the lack of authority in such State, or its political subdivisions, to impose such a tax, fee, charge, or other assessment. State and local governments.

(5) Nothing in this subsection shall impair the right of an Indian tribe to regulate class III gaming on its Indian lands concurrently with the State, except to the extent that such regulation is inconsistent with, or less stringent than, the State laws and regulations made applicable by any Tribal-State compact entered into by the Indian tribe under paragraph (3) that is in effect.

(6) The provisions of section 5 of the Act of January 2, 1951 (64 Stat. 1135) shall not apply to any gaming conducted under a Tribal-State compact that—

(A) is entered into under paragraph (3) by a State in which gambling devices are legal, and

(B) is in effect.

(7)(A) The United States district courts shall have jurisdiction over- Courts, U.S.

(i) any cause of action initiated by an Indian tribe arising from the failure of a State to enter into negotiations with the Indian tribe for the purpose of entering into a Tribal-State compact under paragraph (3) or to conduct such negotiations in good faith,

(ii) any cause of action initiated by a State or Indian tribe to enjoin a class III gaming activity located on Indian lands and conducted in violation of any Tribal-State compact entered into under paragraph (3) that is in effect, and

(iii) any cause of action initiated by the Secretary to enforce the procedures prescribed under subparagraph (B)(vii).

(B)(i) An Indian tribe may initiate a cause of action described in subparagraph (A)(i) only after the close of the 180-day period beginning on the date on which the Indian tribe requested the State to enter into negotiations under paragraph (3)(A).

(ii) In any action described in subparagraph (A)(i), upon the introduction of evidence by an Indian tribe that—

(I) a Tribal-State compact has not been entered into under paragraph (3), and

(II) the State did not respond to the request of the Indian tribe to negotiate such a compact or did not respond to such request in good faith,

the burden of proof shall be upon the State to prove that the State has negotiated with the Indian tribe in good faith to conclude a Tribal-State compact governing the conduct of gaming activities.

(iii) If, in any action described in subparagraph (A)(i), the court finds that the State has failed to negotiate in good faith with the Indian tribe to conclude a Tribal-State compact governing the conduct of gaming activities, the court shall order the State and the Indian Tribe to conclude such a compact within a 60-day period. In determining in such an action whether a State has negotiated in good faith, the court—

(I) may take into account the public interest, public safety, criminality, financial integrity, and adverse economic impacts on existing gaming activities, and

(II) shall consider any demand by the State for direct taxation of the Indian tribe or of any Indian lands as evidence that the State has not negotiated in good faith.

(iv) If a State and an Indian tribe fail to conclude a Tribal-State compact governing the conduct of gaming activities on the Indian lands subject to the jurisdiction of such Indian tribe within the 60-day period provided in the order of a court issued under clause (iii), the Indian tribe and the State shall each submit to a mediator appointed by the court a proposed compact that represents their last best offer for a compact. The mediator shall select from the two proposed compacts the one which best comports with the terms of this Act and any other applicable Federal law and with the findings and order of the court.

(v) The mediator appointed by the court under clause (iv) shall submit to the State and the Indian tribe the compact selected by the mediator under clause (iv).

(vi) If a State consents to a proposed compact during the 60-day period beginning on the date on which the proposed compact is submitted by the mediator to the State under clause (v), the proposed compact shall be treated as a Tribal-State compact entered into under paragraph (3).

(vii) If the State does not consent during the 60-day period described in clause (vi) to a proposed compact submitted by a mediator under clause (v), the mediator shall notify the Secretary and the Secretary shall prescribe, in consultation with the Indian tribe, procedures—

(I) which are consistent with the proposed compact selected by the mediator under clause (iv), the provisions of this Act, and the relevant provisions of the laws of the State, and

(II) under which class III gaming may be conducted on the Indian lands over which the Indian tribe has jurisdiction.

(8)(A) The Secretary is authorized to approve any Tribal-State compact entered into between an Indian tribe and a State governing gaming on Indian lands of such Indian tribe.

(B) The Secretary may disapprove a compact described in subparagraph (A) only if such compact violates—

(i) any provision of this Act,

(ii) any other provision of Federal law that does not relate to jurisdiction over gaming on Indian lands, or

(iii) the trust obligations of the United States to Indians.

(C) If the Secretary does not approve or disapprove a compact described in subparagraph (A) before the date that is 45 days after the date on which the compact is submitted to the Secretary for approval, the compact shall be considered to have been approved by

the Secretary, but only to the extent the compact is consistent with the provisions of this Act.

(D) The Secretary shall publish in the Federal Register notice of any Tribal-State compact that is approved, or considered to have been approved, under this paragraph. Federal Register, publication.

(9) An Indian tribe may enter into a management contract for the operation of a class III gaming activity if such contract has been submitted to, and approved by, the Chairman. The Chairman's review and approval of such contract shall be governed by the provisions of subsections (b), (c), (d), (f), (g), and (h) of section 12. Contracts.

(e) For purposes of this section, by not later than the date that is 90 days after the date on which any tribal gaming ordinance or resolution is submitted to the Chairman, the Chairman shall approve such ordinance or resolution if it meets the requirements of this section. Any such ordinance or resolution not acted upon at the end of that 90-day period shall be considered to have been approved by the Chairman, but only to the extent such ordinance or resolution is consistent with the provisions of this Act.

MANAGEMENT CONTRACTS

SEC. 12. (a)(1) Subject to the approval of the Chairman, an Indian tribe may enter into a management contract for the operation and management of a class II gaming activity that the Indian tribe may engage in under section 11(b)(1), but, before approving such contract, the Chairman shall require and obtain the following information: 25 USC 2711.

(A) the name, address, and other additional pertinent background information on each person or entity (including individuals comprising such entity) having a direct financial interest in, or management responsibility for, such contract, and, in the case of a corporation, those individuals who serve on the board of directors of such corporation and each of its stockholders who hold (directly or indirectly) 10 percent or more of its issued and outstanding stock;

(B) a description of any previous experience that each person listed pursuant to subparagraph (A) has had with other gaming contracts with Indian tribes or with the gaming industry generally, including specifically the name and address of any licensing or regulatory agency with which such person has had a contract relating to gaming; and

(C) a complete financial statement of each person listed pursuant to subparagraph (A).

(2) Any person listed pursuant to paragraph (1)(A) shall be required to respond to such written or oral questions that the Chairman may propound in accordance with his responsibilities under this section.

(3) For purposes of this Act, any reference to the management contract described in paragraph (1) shall be considered to include all collateral agreements to such contract that relate to the gaming activity.

(b) The Chairman may approve any management contract entered into pursuant to this section only if he determines that it provides at least—

(1) for adequate accounting procedures that are maintained, and for verifiable financial reports that are prepared, by or for the tribal governing body on a monthly basis;

(2) for access to the daily operations of the gaming to appropriate tribal officials who shall also have a right to verify the daily gross revenues and income made from any such tribal gaming activity;

(3) for a minimum guaranteed payment to the Indian tribe that has preference over the retirement of development and construction costs;

(4) for an agreed ceiling for the repayment of development and construction costs;

(5) for a contract term not to exceed five years, except that, upon the request of an Indian tribe, the Chairman may authorize a contract term that exceeds five years but does not exceed seven years if the Chairman is satisfied that the capital investment required, and the income projections, for the particular gaming activity require the additional time; and

(6) for grounds and mechanisms for terminating such contract, but actual contract termination shall not require the approval of the Commission.

(c)(1) The Chairman may approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity if the Chairman determines that such percentage fee is reasonable in light of surrounding circumstances. Except as otherwise provided in this subsection, such fee shall not exceed 30 percent of the net revenues.

(2) Upon the request of an Indian tribe, the Chairman may approve a management contract providing for a fee based upon a percentage of the net revenues of a tribal gaming activity that exceeds 30 percent but not 40 percent of the net revenues if the Chairman is satisfied that the capital investment required, and income projections, for such tribal gaming activity require the additional fee requested by the Indian tribe.

(d) By no later than the date that is 180 days after the date on which a management contract is submitted to the Chairman for approval, the Chairman shall approve or disapprove such contract on its merits. The Chairman may extend the 180-day period by not more than 90 days if the Chairman notifies the Indian tribe in writing of the reason for the extension. The Indian tribe may bring an action in a United States district court to compel action by the Chairman if a contract has not been approved or disapproved within the period required by this subsection.

(e) The Chairman shall not approve any contract if the Chairman determines that—

(1) any person listed pursuant to subsection (a)(1)(A) of this section—

(A) is an elected member of the governing body of the Indian tribe which is the party to the management contract;

(B) has been or subsequently is convicted of any felony or gaming offense;

(C) has knowingly and willfully provided materially important false statements or information to the Commission or the Indian tribe pursuant to this Act or has refused to respond to questions propounded pursuant to subsection (a)(2); or

(D) has been determined to be a person whose prior activities, criminal record if any, or reputation, habits, and associations pose a threat to the public interest or to the

effective regulation and control of gaming, or create or enhance the dangers of unsuitable, unfair, or illegal practices, methods, and activities in the conduct of gaming or the carrying on of the business and financial arrangements incidental thereto;

(2) the management contractor has, or has attempted to, unduly interfere or influence for its gain or advantage any decision or process of tribal government relating to the gaming activity;

(3) the management contractor has deliberately or substantially failed to comply with the terms of the management contract or the tribal gaming ordinance or resolution adopted and approved pursuant to this Act; or

(4) a trustee, exercising the skill and diligence that a trustee is commonly held to, would not approve the contract.

(f) The Chairman, after notice and hearing, shall have the authority to require appropriate contract modifications or may void any contract if he subsequently determines that any of the provisions of this section have been violated.

(g) No management contract for the operation and management of a gaming activity regulated by this Act shall transfer or, in any other manner, convey any interest in land or other real property, unless specific statutory authority exists and unless clearly specified in writing in said contract. Real property.

(h) The authority of the Secretary under section 2103 of the Revised Statutes (25 U.S.C. 81), relating to management contracts regulated pursuant to this Act, is hereby transferred to the Commission.

(i) The Commission shall require a potential contractor to pay a fee to cover the cost of the investigation necessary to reach a determination required in subsection (e) of this section.

REVIEW OF EXISTING ORDINANCES AND CONTRACTS

SEC. 13. (a) As soon as practicable after the organization of the Commission, the Chairman shall notify each Indian tribe or management contractor who, prior to the enactment of this Act, adopted an ordinance or resolution authorizing class II gaming or class III gaming or entered into a management contract, that such ordinance, resolution, or contract, including all collateral agreements relating to the gaming activity, must be submitted for his review within 60 days of such notification. Any activity conducted under such ordinance, resolution, contract, or agreement shall be valid under this Act, or any amendment made by this Act, unless disapproved under this section. 25 USC 2712.

(b)(1) By no later than the date that is 90 days after the date on which an ordinance or resolution authorizing class II gaming or class III gaming is submitted to the Chairman pursuant to subsection (a), the Chairman shall review such ordinance or resolution to determine if it conforms to the requirements of section 11(b) of this Act.

(2) If the Chairman determines that an ordinance or resolution submitted under subsection (a) conforms to the requirements of section 11(b), the Chairman shall approve it.

(3) If the Chairman determines that an ordinance or resolution submitted under subsection (a) does not conform to the requirements of section 11(b), the Chairman shall provide written notification of

necessary modifications to the Indian tribe which shall have not more than 120 days to bring such ordinance or resolution into compliance.

(c)(1) Within 180 days after the submission of a management contract, including all collateral agreements, pursuant to subsection (a), the Chairman shall subject such contract to the requirements and process of section 12.

(2) If the Chairman determines that a management contract submitted under subsection (a), and the management contractor under such contract, meet the requirements of section 12, the Chairman shall approve the management contract.

(3) If the Chairman determines that a contract submitted under subsection (a), or the management contractor under a contract submitted under subsection (a), does not meet the requirements of section 12, the Chairman shall provide written notification to the parties to such contract of necessary modifications and the parties shall have not more than 120 days to come into compliance. If a management contract has been approved by the Secretary prior to the date of enactment of this Act, the parties shall have not more than 180 days after notification of necessary modifications to come into compliance.

CIVIL PENALTIES

25 USC 2713.

SEC. 14. (a)(1) Subject to such regulations as may be prescribed by the Commission, the Chairman shall have authority to levy and collect appropriate civil fines, not to exceed $25,000 per violation, against the tribal operator of an Indian game or a management contractor engaged in gaming for any violation of any provision of this Act, any regulation prescribed by the Commission pursuant to this Act, or tribal regulations, ordinances, or resolutions approved under section 11 or 13.

Regulations.

(2) The Commission shall, by regulation, provide an opportunity for an appeal and hearing before the Commission on fines levied and collected by the Chairman.

(3) Whenever the Commission has reason to believe that the tribal operator of an Indian game or a management contractor is engaged in activities regulated by this Act, by regulations prescribed under this Act, or by tribal regulations, ordinances, or resolutions, approved under section 11 or 13, that may result in the imposition of a fine under subsection (a)(1), the permanent closure of such game, or the modification or termination of any management contract, the Commission shall provide such tribal operator or management contractor with a written complaint stating the acts or omissions which form the basis for such belief and the action or choice of action being considered by the Commission. The allegation shall be set forth in common and concise language and must specify the statutory or regulatory provisions alleged to have been violated, but may not consist merely of allegations stated in statutory or regulatory language.

(b)(1) The Chairman shall have power to order temporary closure of an Indian game for substantial violation of the provisions of this Act, of regulations prescribed by the Commission pursuant to this Act, or of tribal regulations, ordinances, or resolutions approved under section 11 or 13 of this Act.

(2) Not later than thirty days after the issuance by the Chairman of an order of temporary closure, the Indian tribe or management contractor involved shall have a right to a hearing before the

Commission to determine whether such order should be made permanent or dissolved. Not later than sixty days following such hearing, the Commission shall, by a vote of not less than two of its members, decide whether to order a permanent closure of the gaming operation.

(c) A decision of the Commission to give final approval of a fine levied by the Chairman or to order a permanent closure pursuant to this section shall be appealable to the appropriate Federal district court pursuant to chapter 7 of title 5, United States Code.

(d) Nothing in this Act precludes an Indian tribe from exercising regulatory authority provided under tribal law over a gaming establishment within the Indian tribe's jurisdiction if such regulation is not inconsistent with this Act or with any rules or regulations adopted by the Commission.

JUDICIAL REVIEW

SEC. 15. Decisions made by the Commission pursuant to sections 11, 12, 13, and 14 shall be final agency decisions for purposes of appeal to the appropriate Federal district court pursuant to chapter 7 of title 5, United States Code. 25 USC 2714.

SUBPOENA AND DEPOSITION AUTHORITY

SEC. 16. (a) By a vote of not less than two members, the Commission shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, and documents relating to any matter under consideration or investigation. Witnesses so summoned shall be paid the same fees and mileage that are paid witnesses in the courts of the United States. 25 USC 2715.

(b) The attendance of witnesses and the production of books, papers, and documents, may be required from any place in the United States at any designated place of hearing. The Commission may request the Secretary to request the Attorney General to bring an action to enforce any subpoena under this section.

(c) Any court of the United States within the jurisdiction of which an inquiry is carried on may, in case of contumacy or refusal to obey a subpoena for any reason, issue an order requiring such person to appear before the Commission (and produce books, papers, or documents as so ordered) and give evidence concerning the matter in question and any failure to obey such order of the court may be punished by such court as a contempt thereof.

(d) A Commissioner may order testimony to be taken by deposition in any proceeding or investigation pending before the Commission at any stage of such proceeding or investigation. Such depositions may be taken before any person designated by the Commission and having power to administer oaths. Reasonable notice must first be given to the Commission in writing by the party or his attorney proposing to take such deposition, and, in cases in which a Commissioner proposes to take a deposition, reasonable notice must be given. The notice shall state the name of the witness and the time and place of the taking of his deposition. Any person may be compelled to appear and depose, and to produce books, papers, or documents, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Commission, as hereinbefore provided.

(e) Every person deposing as herein provided shall be cautioned and shall be required to swear (or affirm, if he so requests) to testify to the whole truth, and shall be carefully examined. His testimony shall be reduced to writing by the person taking the deposition, or under his direction, and shall, after it has been reduced to writing, be subscribed by the deponent. All depositions shall be promptly filed with the Commission.

(f) Witnesses whose depositions are taken as authorized in this section, and the persons taking the same, shall severally be entitled to the same fees as are paid for like services in the courts of the United States.

Law enforcement and crime. Classified information. 25 USC 2716.

INVESTIGATIVE POWERS

SEC. 17. (a) Except as provided in subsection (b), the Commission shall preserve any and all information received pursuant to this Act as confidential pursuant to the provisions of paragraphs (4) and (7) of section 552(b) of title 5, United States Code.

(b) The Commission shall, when such information indicates a violation of Federal, State, or tribal statutes, ordinances, or resolutions, provide such information to the appropriate law enforcement officials.

(c) The Attorney General shall investigate activities associated with gaming authorized by this Act which may be a violation of Federal law.

COMMISSION FUNDING

25 USC 2717.

SEC. 18. (a)(1) The Commission shall establish a schedule of fees to be paid to the Commission annually by each class II gaming activity that is regulated by this Act.

(2)(A) The rate of the fees imposed under the schedule established under paragraph (1) shall be—

(i) no less than 0.5 percent nor more than 2.5 percent of the first $1,500,000, and

(ii) no more than 5 percent of amounts in excess of the first $1,500,000,

of the gross revenues from each activity regulated by this Act.

(B) The total amount of all fees imposed during any fiscal year under the schedule established under paragraph (1) shall not exceed $1,500,000.

(3) The Commission, by a vote of not less than two of its members, shall annually adopt the rate of the fees authorized by this section which shall be payable to the Commission on a quarterly basis.

(4) Failure to pay the fees imposed under the schedule established under paragraph (1) shall, subject to the regulations of the Commission, be grounds for revocation of the approval of the Chairman of any license, ordinance, or resolution required under this Act for the operation of gaming.

(5) To the extent that revenue derived from fees imposed under the schedule established under paragraph (1) are not expended or committed at the close of any fiscal year, such surplus funds shall be credited to each gaming activity on a pro rata basis against such fees imposed for the succeeding year.

(6) For purposes of this section, gross revenues shall constitute the annual total amount of money wagered, less any amounts paid out as prizes or paid for prizes awarded and less allowance for amortization of capital expenditures for structures.

(b)(1) The Commission, in coordination with the Secretary and in conjunction with the fiscal year of the United States, shall adopt an annual budget for the expenses and operation of the Commission.

(2) The budget of the Commission may include a request for appropriations, as authorized by section 19, in an amount equal the amount of funds derived from assessments authorized by subsection (a) for the fiscal year preceding the fiscal year for which the appropriation request is made.

(3) The request for appropriations pursuant to paragraph (2) shall be subject to the approval of the Secretary and shall be included as a part of the budget request of the Department of the Interior.

AUTHORIZATION OF APPROPRIATIONS

SEC. 19. (a) Subject to the provisions of section 18, there are hereby authorized to be appropriated such sums as may be necessary for the operation of the Commission. 25 USC 2718.

(b) Notwithstanding the provisions of section 18, there are hereby authorized to be appropriated not to exceed $2,000,000 to fund the operation of the Commission for each of the fiscal years beginning October 1, 1988, and October 1, 1989.

GAMING ON LANDS ACQUIRED AFTER ENACTMENT OF THIS ACT

SEC. 20. (a) Except as provided in subsection (b), gaming regulated by this Act shall not be conducted on lands acquired by the Secretary in trust for the benefit of an Indian tribe after the date of enactment of this Act unless— 25 USC 2719.

(1) such lands are located within or contiguous to the boundaries of the reservation of the Indian tribe on the date of enactment of this Act; or

(2) the Indian tribe has no reservation on the date of enactment of this Act and—

(A) such lands are located in Oklahoma and— Oklahoma.

(i) are within the boundaries of the Indian tribe's former reservation, as defined by the Secretary, or

(ii) are contiguous to other land held in trust or restricted status by the United States for the Indian tribe in Oklahoma; or

(B) such lands are located in a State other than Oklahoma and are within the Indian tribe's last recognized reservation within the State or States within which such Indian tribe is presently located.

(b)(1) Subsection (a) will not apply when—

(A) the Secretary, after consultation with the Indian tribe and appropriate State and local officials, including officials of other nearby Indian tribes, determines that a gaming establishment on newly acquired lands would be in the best interest of the Indian tribe and its members, and would not be detrimental to the surrounding community, but only if the Governor of the State in which the gaming activity is to be conducted concurs in the Secretary's determination; or

(B) lands are taken into trust as part of—

(i) a settlement of a land claim, Claims.

(ii) the initial reservation of an Indian tribe acknowledged by the Secretary under the Federal acknowledgment process, or

(iii) the restoration of lands for an Indian tribe that is restored to Federal recognition.

(2) Subsection (a) shall not apply to—

(A) any lands involved in the trust petition of the St. Croix Chippewa Indians of Wisconsin that is the subject of the action filed in the United States District Court for the District of Columbia entitled St. Croix Chippewa Indians of Wisconsin v. United States, Civ. No. 86-2278, or

(B) the interests of the Miccosukee Tribe of Indians of Florida in approximately 25 contiguous acres of land, more or less, in Dade County, Florida, located within one mile of the intersection of State Road Numbered 27 (also known as Krome Avenue) and the Tamiami Trail.

(3) Upon request of the governing body of the Miccosukee Tribe of Indians of Florida, the Secretary shall, notwithstanding any other provision of law, accept the transfer by such Tribe to the Secretary of the interests of such Tribe in the lands described in paragraph (2)(B) and the Secretary shall declare that such interests are held in trust by the Secretary for the benefit of such Tribe and that such interests are part of the reservation of such Tribe under sections 5 and 7 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465, 467), subject to any encumbrances and rights that are held at the time of such transfer by any person or entity other than such Tribe. The Secretary shall publish in the Federal Register the legal description of any lands that are declared held in trust by the Secretary under this paragraph.

Federal Register, publication.

(c) Nothing in this section shall affect or diminish the authority and responsibility of the Secretary to take land into trust.

(d)(1) The provisions of the Internal Revenue Code of 1986 (including sections 1441, 3402(q), 6041, and 6050I, and chapter 35 of such Code) concerning the reporting and withholding of taxes with respect to the winnings from gaming or wagering operations shall apply to Indian gaming operations conducted pursuant to this Act, or under a Tribal-State compact entered into under section 11(d)(3) that is in effect, in the same manner as such provisions apply to State gaming and wagering operations.

(2) The provisions of this subsection shall apply notwithstanding any other provision of law enacted before, on, or after the date of enactment of this Act unless such other provision of law specifically cites this subsection.

DISSEMINATION OF INFORMATION

25 USC 2720.

SEC. 21. Consistent with the requirements of this Act, sections 1301, 1302, 1303 and 1304 of title 18, United States Code, shall not apply to any gaming conducted by an Indian tribe pursuant to this Act.

SEVERABILITY

25 USC 2721.

SEC. 22. In the event that any section or provision of this Act, or amendment made by this Act, is held invalid, it is the intent of Congress that the remaining sections or provisions of this Act, and amendments made by this Act, shall continue in full force and effect.

CRIMINAL PENALTIES

SEC. 23. Chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following new sections:

"§ 1166. Gambling in Indian country

"(a) Subject to subsection (c), for purposes of Federal law, all State laws pertaining to the licensing, regulation, or prohibition of gambling, including but not limited to criminal sanctions applicable thereto, shall apply in Indian country in the same manner and to the same extent as such laws apply elsewhere in the State.

"(b) Whoever in Indian country is guilty of any act or omission involving gambling, whether or not conducted or sanctioned by an Indian tribe, which, although not made punishable by any enactment of Congress, would be punishable if committed or omitted within the jurisdiction of the State in which the act or omission occurred, under the laws governing the licensing, regulation, or prohibition of gambling in force at the time of such act or omission, shall be guilty of a like offense and subject to a like punishment.

"(c) For the purpose of this section, the term 'gambling' does not include—

"(1) class I gaming or class II gaming regulated by the Indian Gaming Regulatory Act, or

"(2) class III gaming conducted under a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act that is in effect.

"(d) The United States shall have exclusive jurisdiction over criminal prosecutions of violations of State gambling laws that are made applicable under this section to Indian country, unless an Indian tribe pursuant to a Tribal-State compact approved by the Secretary of the Interior under section 11(d)(8) of the Indian Gaming Regulatory Act, or under any other provision of Federal law, has consented to the transfer to the State of criminal jurisdiction with respect to gambling on the lands of the Indian tribe. Law enforcement and crime.

"§ 1167. Theft from gaming establishments on Indian lands Fraud.

"(a) Whoever abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any money, funds, or other property of a value of $1,000 or less belonging to an establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission shall be fined not more than $100,000 or be imprisoned for not more than one year, or both.

"(b) Whoever abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any money, funds, or other property of a value in excess of $1,000 belonging to a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission shall be fined not more than $250,000, or imprisoned for not more than ten years, or both.

"§ 1168. Theft by officers or employees of gaming establishments on Indian lands Fraud.

"(a) Whoever, being an officer, employee, or individual licensee of a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission, embezzles, abstracts, purloins,

willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such establishment of a value of $1,000 or less shall be fined not more than $250,000 and be imprisoned for not more than five years, or both;

"(b) Whoever, being an officer, employee, or individual licensee of a gaming establishment operated by or for or licensed by an Indian tribe pursuant to an ordinance or resolution approved by the National Indian Gaming Commission, embezzles, abstracts, purloins, willfully misapplies, or takes and carries away with intent to steal, any moneys, funds, assets, or other property of such establishment of a value in excess of $1,000 shall be fined not more than $1,000,000 or imprisoned for not more than twenty years, or both.".

CONFORMING AMENDMENT

SEC. 24. The table of contents for chapter 53 of title 18, United States Code, is amended by adding at the end thereof the following:

"1166. Gambling in Indian country.
"1167. Theft from gaming establishments on Indian lands.
"1168. Theft by officers or employees of gaming establishments on Indian lands.".

Approved October 17, 1988.

LEGISLATIVE HISTORY—S. 555:

SENATE REPORTS: No. 100-446 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 15, considered and passed Senate.
Sept. 26, 27, considered and passed House.

○

Public Law 100-498
100th Congress

An Act

To direct the Secretary of Agriculture to release certain restrictions on a parcel of land located in Henderson, Tennessee.

Oct. 18, 1988
[H.R. 2835]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF REVERSIONARY INTEREST.

(a) RELEASE.—In order to facilitate a land exchange between the Bethel Baptist Church of Henderson, Tennessee, and the State of Tennessee, the Secretary of Agriculture shall release the restriction described in subsection (b) if, in consideration of such release, the State of Tennessee agrees to transfer to the United States a vested future interest, similar to such restriction, in the land identified as "Lands Subject to Future Vested Interest" on the map referred to in subsection (c).

(b) RESTRICTION.—The restriction referred to in subsection (a) is a reversionary interest of the United States in the two parcels of land identified as "Lands Divested of Reversionary Interest and Mineral Interests" on the map referred to in subsection (c) that—

(1) requires that such land be used for public purposes; and

(2) is contained in a deed—

(A) granting such land from the United States to the State of Tennessee;

(B) dated August 12, 1955; and

(C) registered on page 588 of book 48 of the record of deeds for Chester County, Tennessee.

(c) MAP AND LEGAL DESCRIPTION.—The lands and interests in lands that are subject to this Act are those lands identified as "Lands Divested of Reversionary Interest and Mineral Interests" and "Lands Subject to Future Vested Interest" as generally depicted on a map entitled "Chickasaw State Park Exchange, Chester County, Tennessee", dated May 27, 1988, numbered page 1 of 3, and filed, together with a legal description of such lands, in the Office of the Chief of the Forest Service, United States Department of Agriculture. Such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such legal description and map may be made by the Secretary of Agriculture.

SEC. 2. SALE OF MINERAL RIGHTS.

(a) IN GENERAL.—Subject to any valid existing rights of third parties, the Secretary of the Interior shall convey to the State of Tennessee all of the undivided mineral interests of the United States in the land identified as "Lands Divested of Reversionary Interest and Mineral Interests" on the map referred to in section 1(c) as soon as practicable after the date of the compliance by the State of Tennessee with the provisions of subsection (b)(2).

(b) TERMS OF CONVEYANCE.—(1) Within ninety days after the date of the enactment of this Act, the Secretary of the Interior shall determine—

(A) the mineral character of the land identified as "Lands Divested of Reversionary Interest and Mineral Interests" on the map referred to in section 1(c); and

(B) the fair market value of the mineral interests referred to in subsection (a).

(2) The State of Tennessee shall pay to the United States—

(A) any administrative costs incurred by the United States in conveying such mineral interests to the State of Tennessee, including the costs of making the determinations required by paragraph (1); and

(B)(i) the fair market value of such mineral interests; or

(ii) $1, in the case of the mineral interests in any land determined by the Secretary of the Interior to have no value and to be under no active mineral development or leasing.

Approved October 18, 1988.

LEGISLATIVE HISTORY—H.R. 2835:

HOUSE REPORTS: No. 100-614 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 10, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 100-499
100th Congress

An Act

To designate certain National Forest System lands in the State of Oklahoma for inclusion in the National Wilderness Preservation System, create the Winding Stair Mountain National Recreation and Wilderness Area, and for other purposes.

Oct. 18, 1988
[H.R. 4354]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Winding Stair Mountain National Recreation and Wilderness Area Act.
Conservation.
Environmental protection.
Historic preservation.
16 USC 460vv note.
16 USC 460vv.

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Winding Stair Mountain National Recreation and Wilderness Area Act".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) select areas of undeveloped National Forest System lands in the State of Oklahoma possess outstanding natural characteristics which give them high values as wilderness and will, if properly preserved, contribute as an enduring resource of wilderness for the benefit of the American people;

(2) the Department of Agriculture's second roadless area review and evaluation (RARE II) and other studies of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have identified areas which, on the basis of their landform, ecosystem, associated wildlife, and location, will help to fulfill the National Forest System's share of a quality National Wilderness Preservation System;

(3) the Department of Agriculture's second roadless area review and evaluation, of National Forest System lands in the State of Oklahoma and the related congressional review of such lands have also identified areas which do not possess outstanding wilderness attributes or which possess outstanding energy, mineral, timber, grazing, dispersed recreation and other values, and which should not be designated as components of the National Wilderness Preservation System but should be available for nonwilderness multiple uses under the land management planning process and other applicable laws;

(4) many areas of the Ouachita National Forest possess qualities that can only be expressed and utilized in such a manner that designation of such areas as a national recreation area is appropriate for the maximum potential and enjoyment of the area by the American people;

(5) select areas possess unique plant and tree species and plant communities that are significant in their occurrence, variety and location and warrant designation as botanical areas; and

(6) select areas possess unique scenic and wildlife qualities that designation of such areas as a national scenic area and a national scenic and wildlife area is appropriate for the preservation of the natural beauty and wildlife habitat for the enjoyment of the American people.

(b) PURPOSES.—The purposes of this Act are to—

(1) designate certain National Forest System lands in the State of Oklahoma as components of the National Wilderness Preservation System, in order to promote, perpetuate, and preserve the wilderness character of the lands, protect watersheds and wildlife habitat, preserve scenic and historic resources, and promote scientific research, primitive recreation, solitude, physical and mental challenge, and inspiration for the benefit of all the American people, to a greater extent than is possible in the absence of wilderness designation; and to ensure that certain other National Forest System lands in the State of Oklahoma be available for nonwilderness multiple uses; and

(2) designate certain National Forest System lands in the State of Oklahoma as a national recreation area, 2 botanical areas, a national scenic area, and a national scenic and wildlife area in order to enhance and further certain natural resources characteristics.

16 USC 460vv-1.

SEC. 3. ADDITIONS TO NATIONAL WILDERNESS PRESERVATION SYSTEM.

In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890, 16 U.S.C. 1131 et seq.) the following lands in the State of Oklahoma are hereby designated as wilderness and, therefore, as components of the National Wilderness Preservation System:

16 USC 1132 note.

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 4,583 acres, as generally depicted on a map entitled "Black Fork Mountain Wilderness—Proposed", dated March 1988, and which shall be known as the Black Fork Mountain Wilderness.

16 USC 1132 note.

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately 9,371 acres, as generally depicted on a map entitled "Upper Kiamichi River Wilderness—Proposed", dated March 1988, and which shall be known as the Upper Kiamichi River Wilderness.

16 USC 460vv-2.

SEC. 4. MAPS AND DESCRIPTIONS.

As soon as practicable after this Act takes effect, the Secretary of Agriculture shall file the maps referred to in section 3 of this Act and legal descriptions of each wilderness area designated by section 3 of this Act with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal descriptions and maps may be made. Each such map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

16 USC 460vv-3.

SEC. 5. ADMINISTRATION.

Subject to valid existing rights, each wilderness area designated by section 3 of this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964 governing areas designated by that Act as wilderness areas, except that with respect to any area designated in section 3 of this Act, any reference in such provisions to the effective date of the

Wilderness Act of 1964 shall be deemed to be a reference to the effective date of this Act.

SEC. 6. WILDERNESS REVIEW. 16 USC 460vv-4.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in Oklahoma and of the environmental impacts associated with alternative allocations of such areas.

(b) CONGRESSIONAL DETERMINATION AND DIRECTION.—On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the questions of the legal and factual sufficiency of the RARE II Final Environmental Impact Statement (dated January 1979) with respect to National Forest System lands in States other than Oklahoma, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Oklahoma;

(2) with respect to the National Forest System lands in the State of Oklahoma which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be an adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plans, but shall review the wilderness option when the plans are revised, which revisions will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary of Agriculture finds that conditions in a unit have significantly changed;

(3) areas in the State of Oklahoma reviewed in such final environmental statement or referenced in subsection (d) and not designated wilderness upon enactment of this Act shall be managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, except that such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Oklahoma are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources

Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of the National Forest System lands in the State of Oklahoma for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) USE OF TERM.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) APPLICATION OF PROVISIONS.—The provisions of this section shall also apply to:

(1) those National Forest System roadless lands in the State of Oklahoma in the Ouachita National Forest which were evaluated in the Rich Mountain and Beech Creek unit plans; and

(2) National Forest System roadless lands in the State of Oklahoma which are less than five thousand acres in size.

16 USC 460vv-5.

SEC. 7. ADJACENT MANAGEMENT.

Congress does not intend that designation of wilderness areas in the State of Oklahoma lead to the creation of protective perimeters or buffer zones around each wilderness area. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

16 USC 460vv-6.

SEC. 8. WINDING STAIR MOUNTAIN NATIONAL RECREATION AREA.

Fish and fishing.

(a) ESTABLISHMENT.—In order to ensure the conservation and protection of certain natural, scenic, historic, pastoral, and fish and wildlife values and to provide for the enhancement of the recreational values associated therewith, there is hereby established the Winding Stair Mountain National Recreation Area located in the Ouachita National Forest, Oklahoma.

Public information.

(b) AREA INCLUDED.—The Winding Stair Mountain National Recreation Area (hereafter in this Act referred to as the "recreation area") shall comprise approximately 26,445 acres as generally depicted on the map entitled "Winding Stair Mountain National Recreation Area—Proposed", dated March 1988, which shall be on file and available for public inspection in the Office of the Chief, Forest Service, Department of Agriculture.

(c) MAPS AND DESCRIPTION.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the recreation area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate and each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

(d) ADMINISTRATION.—The Secretary shall administer the recreation area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Management and utilization of natural resources within the recreation area shall be permitted to the extent such management and utilization is compatible with and does not impair the purposes for which the recreation area is established.

(e) TIMBER MANAGEMENT.—Any sales of timber from within the recreation area shall be designed so as to not detract from the scenic values of the recreation area. Management practices that would detract from the scenic quality and natural beauty within view from the Talimena Drive or the Holson Valley Road shall not be conducted in the recreation area. Unevenaged timber management shall be the timber management practice in the recreation area, except that the Secretary may use evenaged management practices in order to promote public safety, mitigate the effects of fire, insects, and disease, or allow scenic vistas and recreational development or if such practices result in irregular cuts behind geographic barriers blocking the view from the Talimena Drive and the Holson Valley Road.

Safety.
Pests and pesticides.

SEC. 9. BOTANICAL AREAS.

16 USC 460vv-7.

(a) DESIGNATION.—In order to protect and interpret to the public area within the Ouachita National Forest which contain unique plant species and unique plant communities that are significant in their occurrence, variety and location, the following lands are hereby designated as botanical areas:

(1) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately eight thousand and twenty-six acres as generally depicted on a map entitled "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area—Proposed", dated March 1988, which shall be known as the "Robert S. Kerr Memorial Arboretum, Nature Center and Botanical Area".

(2) Certain lands in the Ouachita National Forest, Oklahoma, which comprise approximately four hundred acres as generally depicted on a map entitled "Beech Creek Botanical Area—Proposed", dated March 1988, which shall be known as the "Beech Creek Botanical Area".

(b) MAP AND DESCRIPTION.—The Secretary of Agriculture shall, as soon as practicable after the date of enactment of this Act, file a map and a legal description of the botanical areas with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

(c) ADMINISTRATION.—The Secretary shall administer the botanical areas in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Except as provided in section 16 of this Act, vegetative manipulation, includ-

ing the cutting of trees, shall be permitted in such areas only when necessary for the protection and interpretation of the unique plant species and unique plant communities within the area. The Secretary may permit expansion of roads, improvements, and other facilities in the vicinity of the Robert S. Kerr Nature Center.

16 USC 460vv-8.

SEC. 10. INDIAN NATIONS NATIONAL SCENIC AND WILDLIFE AREA.

(a) DESIGNATION.—In order to protect and enhance certain scenery and wildlife within the Ouachita National Forest, Oklahoma, certain lands within such national forest, as generally depicted on a map entitled "Indian Nations National Scenic and Wildlife Area—Proposed", dated March 1988, are hereby designated as the "Indian Nations National Scenic and Wildlife Area" (hereinafter in this Act referred to as the "national scenic and wildlife area").

(b) MAP AND DESCRIPTION.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall, as soon as practicable after the enactment of this Act, file a map and a legal description of the national scenic and wildlife area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

(c) ADMINISTRATION.—The Secretary shall administer the national scenic and wildlife area in accordance with the laws, rules and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Management practices within the national scenic and wildlife area that would detract from the scenic quality and natural beauty of the Talimena Drive and Holson Valley Road viewsheds shall be prohibited. Timber management practices within the national scenic and wildlife area shall promote a mixed hardwood and conifer forest with species and age class diversity approximating natural succession and with significant mast production and den trees for wildlife. Unevenaged timber management shall be the timber management practice in the national scenic and wildlife area, except that the Secretary may use evenaged management practices in order to promote public safety, mitigate the effects of fire, insects, and disease, or if such practices result in irregular cuts behind geographic barriers blocking the view from the Talimena Drive and the Holson Valley Road.

Safety. Pests and pesticides.

16 USC 460vv-9.

SEC. 11. BEECH CREEK NATIONAL SCENIC AREA.

(a) DESIGNATION.—In order to protect and enhance certain scenery and wildlife within the Ouachita National Forest, Oklahoma, certain lands within such national forest, as generally depicted on a map entitled "Beech Creek National Scenic Area—Proposed", dated March 1988, are hereby designated as the "Beech Creek National Scenic Area" (hereinafter in this Act referred to as the "national scenic area").

(b) MAP AND DESCRIPTION.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall, as soon as practicable after the enactment of this Act, file a map and a legal

description of the national scenic area with the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act; except that correction of clerical and typographical errors in such legal description and map may be made. The map and legal description shall be on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

Public information.

(c) ADMINISTRATION.—The Secretary shall administer the national scenic area in accordance with the laws, rules, and regulations applicable to the national forests in such manner as will best further the purposes of this section, as set forth in subsection (a). Timber management practices within the area shall promote a mixed hardwood and conifer forest with species and age class diversity approximating natural succession and with significant mast production and den trees for wildlife. Unevenaged management shall be the timber management practice in the area, except that the Secretary is authorized to use evenaged management practices in order to promote public safety or to mitigate the effects of fire, insects, and disease.

Safety. Pests and pesticides.

SEC. 12. NOMENCLATURE.

16 USC 460vv-10.

The wilderness areas, the national recreation area, the national scenic and wildlife area, the national scenic area, and the botanical areas designated in this Act shall be referred to as the "Winding Stair Mountain National Recreation and Wilderness Area".

SEC. 13. TIMBER MANAGEMENT REPORT.

16 USC 460vv-11.

The Secretary of Agriculture shall submit to the Committee on Interior and Insular Affairs and the Committee on Agriculture of the United States House of Representatives and the Committee on Energy and Natural Resources and the Committee on Agriculture, Nutrition, and Forestry of the United States Senate a report on the timber management program on those lands of the Ouachita National Forest located in Le Flore County, Oklahoma, each year after the enactment of this Act for a period of 20 years. Each such report shall include information on timber management practices, sale preparation, harvest levels, reforestation, forest pest and damage problems, multiple use mitigation practices, including wildlife enhancement, recreation, protection of scenery, vegetation conversion, roads, and vegetative cover along streams, roads and trails. The report shall also include an economic impact statement of the Ouachita National Forest in Le Flore County, Oklahoma, on the timber industry and the tourism and recreation industry.

SEC. 14. ADVISORY COMMITTEE.

16 USC 460vv-12.

Pursuant to the Federal Advisory Committee Act (Public Law 92-463), no later than 90 days after the date of enactment of this Act, the Secretary is directed to establish an advisory committee for Ouachita National Forest lands in Le Flore County, Oklahoma. The Committee's purpose shall be advisory in nature and the Committee shall provide information and recommendations to the Secretary regarding the operation of the Ouachita National Forest in Le Flore County. The Committee shall be composed of representatives from the local area in which the Ouachita National Forest is located

equally divided among conservation, timber, fish and wildlife, tourism and recreation, and economic development interests.

16 USC 460vv-13.

SEC. 15. PLANNING.

(a) FOREST MANAGEMENT PLAN.—The Secretary shall amend the Ouachita National Forest land and resource management plan to include provisions regarding the wilderness areas, the botanical areas, the national recreation area, the national scenic and wildlife area, and the national scenic area designated by this Act. The amendment shall further the purposes for these areas as specified in this Act and shall be developed in accordance with the provisions of the National Forest Management Act, including provisions for public involvement. The Secretary shall consult with the local advisory committee established under section 14 of this Act regarding the development and implementation of the amendment required under this subsection.

(b) TOURISM AND RECREATION.—The plan shall include a section with provisions to promote tourism and recreation in ways consistent with the purposes for which the wilderness areas, the botanical areas, the national recreation area, the national scenic and wildlife area and the national scenic area are designated.

(c) LOCAL ADVISORY GROUP.—No later than 90 days after the date of enactment of this Act the Secretary shall designate a special advisory group from the local area in which the Ouachita National Forest is located to assist in the preparation of the tourism and recreation section of the amendment as required under subsection (b). The Secretary shall request the group to submit to the Secretary, within 12 months after its designation as an advisory group, a draft for such section. No later than 90 days after receiving such draft, the Secretary shall make any revisions and provide them to the group for review. The Secretary shall allow at least 60 days for the group to submit to the Secretary its comments on the revisions. The Secretary shall attempt to resolve any differences prior to his approval or disapproval of the amendment to the forest plan.

(d) AUTHORIZATION.—There are hereby authorized to be appropriated not to exceed $15,000,000 for tourism and recreation improvements related to the Winding Stair Mountain National Recreation and Wilderness Area in Ouachita National Forest in Le Flore County, Oklahoma.

Corporations.

(e) IMPLEMENTATION.—The Secretary is authorized and encouraged to seek local nonprofit entities and the private sector for development of tourism and recreation initiatives in implementing the tourism and recreation section of the plan.

16 USC 460vv-14.

SEC. 16. FIRE, INSECT, AND DISEASE.

Nothing in this Act shall preclude the Secretary of Agriculture from carrying out such measures in the recreation area, the national scenic and wildlife area, the national scenic area, or in the botanical areas established by this Act as the Secretary, in his discretion, deems necessary in the event of fire, or infestation of insects or disease or for public health and safety. As provided in section 4(d)(1) of the Wilderness Act, the Secretary may take such measures as may be necessary to control fire, insects, and diseases within the wilderness areas designated by this Act.

SEC. 17. GRAZING.

16 USC 460vv-15.

Subject to such limitations, conditions, or regulations as he may prescribe, the Secretary of Agriculture shall permit grazing on lands within the Ouachita National Forest, Le Flore County, Oklahoma.

SEC. 18. FISHING AND WILDLIFE.

16 USC 460vv-16.

Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State with respect to wildlife and fish in the areas designated by this Act.

SEC. 19. PERMITS.

State and local governments. Corporations. 16 USC 460vv-17.

The Secretary shall cooperate with other Federal agencies, with State and local public agencies and bodies, and with private individuals and organizations in the issuance of permits for facilities, services, and recreational facilities in the Winding Stair Mountain National Recreation and Wilderness Area. In issuing such permits, the Secretary is authorized and encouraged to consider local nonprofit entities and the private sector.

SEC. 20. LAND ACQUISITION.

16 USC 460vv-18. Gifts and property.

(a) AUTHORITY.—The Secretary of Agriculture is authorized to acquire by donation, purchase with donated or appropriated funds, or exchange, any lands or interests therein, which the Secretary determines are needed to establish and manage the Winding Stair Mountain National Recreation and Wilderness Area.

(b) OFFERS.—In exercising the authority conferred by this section to acquire lands, the Secretary of Agriculture shall give prompt and careful consideration to any offer made by an individual owning any land, or interest in land, within the Winding Stair Mountain National Recreation and Wilderness Area. In considering any such offer, the Secretary shall take into consideration any hardship to the owner which might result from any undue delay in acquiring the property.

(c) ADDITIONAL FACILITIES.—The Secretary of Agriculture may acquire sites at locations outside such boundaries of the Winding Stair Mountain National Recreation and Wilderness Area, as he determines necessary, for visitor orientation and the establishment of a lodge and additional facilities to enhance the quality of the area.

(d) ADDITIONAL LANDS.—Notwithstanding the limitations contained in section 7(a)(1) of the Land and Water Conservation Fund Act of 1965, the Secretary of Agriculture may acquire by purchase, exchange, donation or otherwise any right, title, and interest in lands in Le Flore County, Oklahoma, which are outside the boundaries of the Ouachita National Forest. No such right, title or interest may be acquired without the consent of the owner thereof. All lands and interests therein acquired under this subsection shall be administered by the Secretary of Agriculture in accordance with the Act of March 1, 1911, commonly referred to as the Weeks Act (36 Stat. 961) and in accordance with the laws, rules, and regulations generally applicable to units of the national forest system. The Secretary of Agriculture shall extend the boundaries of the Ouachita National Forest to include such lands.

Gifts and property.

16 USC 460vv-19.

SEC. 21. ACREAGES.

The acreage specified in this Act is approximate and in the event of discrepancies between cited acreage and the lands depicted on reference maps, the maps shall control.

Approved October 18, 1988.

LEGISLATIVE HISTORY—H.R. 4354 (S. 2571):

HOUSE REPORTS: No. 100-792, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).

SENATE REPORTS: No. 100-576 accompanying S. 2571 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug. 8, considered and passed House.

Sept. 30, considered and passed Senate, amended, in lieu of S. 2571.

Oct. 3, 4, House concurred in Senate amendment.

○

Public Law 100-500
100th Congress

An Act

To designate the Sunderland National Salmon Station located in Sunderland, Massachusetts, as the "Richard Cronin National Salmon Station".

Oct. 18, 1988
[H.R. 4365]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Sunderland National Salmon Station located in Sunderland, Massachusetts, shall be known and designated as the "Richard Cronin National Salmon Station".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Richard Cronin National Salmon Station".

Approved October 18, 1988.

LEGISLATIVE HISTORY—H.R. 4365:

HOUSE REPORTS: No. 100-671 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, 8, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 100-501
100th Congress

An Act

Oct. 18, 1988
[H.R. 5291]

To provide the Secretary of the Air Force with authority to convey certain land.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Real property.

SECTION 1. LAND EXCHANGE, OKALOOSA COUNTY, FLORIDA

(a) TRANSFER.—Subject to subsections (b) through (h), the Secretary of the Air Force may convey to the State of Florida all right, title, and interest of the United States in and to four contiguous parcels of real property (and improvements thereon) described as parcels 5 through 8, respectively, in Air Force Final Disposal Directive AF/RED 84-171 and consisting of approximately 156 acres located in Okaloosa County, Florida.

Claims.
Waste disposal.

(b) CONSIDERATION.—(1) In consideration for the conveyance by the Secretary under subsection (a), the State of Florida shall convey to the United States all right, title, and interest of such State in and to a tract of real property (and improvements thereon) consisting of approximately 85.8 acres and located south of United States Highway 98 near the west end of the Destin Bridge, Destin, Florida, adjacent to the property of Eglin Air Force Base. Such conveyance shall specifically include any claim of the State of Florida to any lands included in such tract as may have been created by natural accretion or dumping of dredge spoil, and the State shall specifically covenant not to claim any lands abutting such tract that may be created by natural accretion or dumping of dredge spoil in the future.

(2) In addition to the consideration described in paragraph (1), Okaloosa County, Florida, shall convey to the United States all right, title, and interest it may have in the property described in such paragraph, including claims based on natural accretion or dumping of dredge spoil in the past or that may occur in the future.

(c) CONTINUED PUBLIC ACCESS.—The Secretary may take appropriate action to ensure that public access for recreational purposes to the property described in subsection (b) is continued in the manner and to the extent permitted on the date of the enactment of this Act.

Highways.
Utilities.

(d) EXISTING EASEMENTS.—Existing easements for roads and public utilities may be excepted from any conveyance under this Act, as determined by the Secretary.

(e) EXACT DESCRIPTION OF LAND.—The exact acreages and legal descriptions of the real property to be conveyed under this Act shall be determined by surveys which are satisfactory to the Secretary. The cost of any such survey shall be borne by the State of Florida.

(f) REVERSION FOR NONUSE.—(1) The Secretary shall, as part of the conveyance of the property described in subsection (a), provide that, at the end of the 10-year period beginning on the date of such conveyance, all of such property not being used for educational purposes at the end of such period shall revert to the United States.

(2) Any property that reverts as described in paragraph (1) shall be transferred to the Department of Agriculture, United States Forest Service, without reimbursement.

(g) TRANSFER TO NATIONAL PARK SERVICE.—Any of the land, or land accreting thereto, conveyed to the United States under subsection (b) that the Secretary determines is not needed by any department or other agency of the Department of Defense shall be transferred to the Department of the Interior, National Park Service, without reimbursement, for incorporation into the Gulf Islands National Seashore.

(h) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

Approved October 18, 1988.

LEGISLATIVE HISTORY—H.R. 5291:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 100-502
100th Congress

Joint Resolution

Oct. 18, 1988
[H.J. Res. 602]

In support of the restoration of a free and independent Cambodia, the withdrawal of Vietnamese forces, and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge.

Whereas the people of Cambodia suffered terribly under the despotic regime of the Khmer Rouge and subsequently during the occupation by the Socialist Republic of Vietnam;

Whereas the people of Cambodia have been victims of genocide, enslavement, starvation, and other deliberate acts of cruelty perpetrated by the Khmer Rouge, resulting in the deaths of over one million Cambodian people;

Whereas the Socialist Republic of Vietnam has maintained armed forces within Cambodia, thereby perpetuating their domination and forestalling the realization of self-determination by the Cambodian people;

Whereas the Vietnamese-installed Government of the People's Republic of Kampuchea has seriously abused the human and civil rights of the Cambodian people;

Whereas due to fears of persecution in their homeland, hundreds of thousands of Cambodians have become refugees or displaced persons, seeking first asylum in other Southeast Asian nations and subsequent resettlement in third countries;

Whereas the United States has supported the non-Communist resistance led by Prince Norodom Sihanouk and Son Sann in order to end the Vietnamese occupation of Cambodia and recover for the Cambodian people their sovereign rights;

Whereas Prince Norodom Sihanouk has with courage and conviction devoted his energies to restoring his homeland to independence, neutrality, peace, and harmony;

Whereas the Socialist Republic of Vietnam has declared its intention to withdraw forces from Cambodia by the end of 1990 and has pledged to join negotiations for a resolution of the Cambodian question;

Whereas dialogue and diplomatic discussions have increased on a regional and international basis concerning the future of Cambodia;

Whereas the stability of Southeast Asia can only be assured once peace is restored to Cambodia and the rights of the Cambodian people are universally respected; and

Whereas it is a moral imperative of all nations that the people of Cambodia no longer be made to suffer at the hands of the Khmer Rouge or any other force that would do further harm to the Khmer people or further endanger their cultural and religious heritage: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States—

(1) declares that all parties seeking a settlement of the conflict in Cambodia, including the United States, should have among their highest priorities the restoration of a free and

independent Cambodia and the protection of the Cambodian people from a return to power by the genocidal Khmer Rouge;

(2) calls on the Socialist Republic of Vietnam to fully withdraw its armed forces from Cambodia, and further calls on all parties to respect the territorial integrity of Cambodia and to deny safe haven to Khmer Rouge forces seeking the overthrow of a newly formed sovereign Cambodian government;

(3) should seek a Cambodian settlement which contains workable measures to prevent a Khmer Rouge return to power, including a cessation of the flow of war materiel and the accumulation of caches of arms that might ultimately be used to terrorize the Cambodian people and to threaten a legitimate government of Cambodia;

(4) declares that the United States must remain vigilant to ensure that genocide is never tolerated or forgotten anywhere in the world and that those responsible for such heinous crimes should be held accountable under international law, as prescribed by the Convention on the Prevention and Punishment of the Crime of Genocide;

(5) declares that the United States in cooperation with the international community should use all appropriate means available to prevent a return to power of Pol Pot, the top echelon of the Khmer Rouge, and their armed forces, so that the Cambodian people might genuinely be free to pursue self-determination without the spectre of the coercion, intimidation, and torture that are known elements of the Khmer Rouge ideology;

(6) should seek the support of the member nations of the Association of Southeast Asian Nations (ASEAN) and other nations for the inclusion, in declarations and resolutions promulgated by the United Nations pertaining to the Cambodian conflict, of the principle that those responsible for acts of genocide and massive violations of internationally recognized human rights shall not return to positions of political power in Cambodia upon withdrawal of the foreign occupation forces;

(7) declares that the United States, in conjunction with the member nations of the Association of Southeast Asia Nations (ASEAN), should continue to provide assistance, support, and encouragement to the non-Communist Cambodian forces, particularly their efforts to achieve a negotiated settlement that would permit self-determination for the Cambodian people and the return of refugees in safety and dignity to their homeland;

(8) declares that the United States, in consultation with the member nations of the Association of Southeast Asia Nations, should consider whether such a settlement could be facilitated by the convening of an international conference on Cambodia and the provision of an international peacekeeping force that, in addition to performing other appropriate peacekeeping duties, could also supervise the withdrawal of Vietnamese forces and the holding of free and fair elections in Cambodia;

(9) should seek to ensure—

(A) that the refugee camps controlled by the Khmer Rouge are opened to inspection by international organizations, and

(B) that those within those camps have the freedom to move to non-Khmer Rouge controlled camps if they desire to do so; and

(10) should attempt to halt the flow of arms and military equipment to the Khmer Rouge by urging those nations providing assistance to the Khmer Rouge to cease doing so.

Approved October 18, 1988.

LEGISLATIVE HISTORY—H.J. Res. 602:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed House.
Sept. 16, considered and passed Senate.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Oct. 18, Presidential statement.

Public Law 100-503
100th Congress

An Act

To amend title 5 of the United States Code, to ensure privacy, integrity, and verification of data disclosed for computer matching, to establish Data Integrity Boards within Federal agencies, and for other purposes.

Oct. 18, 1988
[S. 496]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Computer Matching and Privacy Protection Act of 1988.
5 USC 552a note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Computer Matching and Privacy Protection Act of 1988".

SEC. 2. MATCHING AGREEMENTS.

Section 552a of title 5, United States Code, is amended—

(1) by redesignating subsections (o), (p), and (q) as subsections (r), (s), and (t), respectively, and

(2) by inserting after subsection (n) the following new subsections:

"(o) MATCHING AGREEMENTS.—(1) No record which is contained in a system of records may be disclosed to a recipient agency or non-Federal agency for use in a computer matching program except pursuant to a written agreement between the source agency and the recipient agency or non-Federal agency specifying—

"(A) the purpose and legal authority for conducting the program;

"(B) the justification for the program and the anticipated results, including a specific estimate of any savings;

"(C) a description of the records that will be matched, including each data element that will be used, the approximate number of records that will be matched, and the projected starting and completion dates of the matching program;

"(D) procedures for providing individualized notice at the time of application, and notice periodically thereafter as directed by the Data Integrity Board of such agency (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)), to—

"(i) applicants for and recipients of financial assistance or payments under Federal benefit programs, and

"(ii) applicants for and holders of positions as Federal personnel,

that any information provided by such applicants, recipients, holders, and individuals may be subject to verification through matching programs;

"(E) procedures for verifying information produced in such matching program as required by subsection (p);

"(F) procedures for the retention and timely destruction of identifiable records created by a recipient agency or non-Federal agency in such matching program;

"(G) procedures for ensuring the administrative, technical, and physical security of the records matched and the results of such programs;

"(H) prohibitions on duplication and redisclosure of records provided by the source agency within or outside the recipient agency or the non-Federal agency, except where required by law or essential to the conduct of the matching program;

"(I) procedures governing the use by a recipient agency or non-Federal agency of records provided in a matching program by a source agency, including procedures governing return of the records to the source agency or destruction of records used in such program;

"(J) information on assessments that have been made on the accuracy of the records that will be used in such matching program; and

"(K) that the Comptroller General may have access to all records of a recipient agency or a non-Federal agency that the Comptroller General deems necessary in order to monitor or verify compliance with the agreement.

"(2)(A) A copy of each agreement entered into pursuant to paragraph (1) shall—

"(i) be transmitted to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives; and

Public information.

"(ii) be available upon request to the public.

"(B) No such agreement shall be effective until 30 days after the date on which such a copy is transmitted pursuant to subparagraph (A)(i).

"(C) Such an agreement shall remain in effect only for such period, not to exceed 18 months, as the Data Integrity Board of the agency determines is appropriate in light of the purposes, and length of time necessary for the conduct, of the matching program.

"(D) Within 3 months prior to the expiration of such an agreement pursuant to subparagraph (C), the Data Integrity Board of the agency may, without additional review, renew the matching agreement for a current, ongoing matching program for not more than one additional year if—

"(i) such program will be conducted without any change; and

"(ii) each party to the agreement certifies to the Board in writing that the program has been conducted in compliance with the agreement.

"(p) VERIFICATION AND OPPORTUNITY TO CONTEST FINDINGS.—(1) In order to protect any individual whose records are used in matching programs, no recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to such individual, or take other adverse action against such individual as a result of information produced by such matching programs, until an officer or employee of such agency has independently verified such information. Such independent verification may be satisfied by verification in accordance with (A) the requirements of paragraph (2); and (B) any additional requirements governing verification under such Federal benefit program.

"(2) Independent verification referred to in paragraph (1) requires independent investigation and confirmation of any information used as a basis for an adverse action against an individual including, where applicable—

"(A) the amount of the asset or income involved,

"(B) whether such individual actually has or had access to such asset or income for such individual's own use, and

"(C) the period or periods when the individual actually had such asset or income.

"(3) No recipient agency, non-Federal agency, or source agency may suspend, terminate, reduce, or make a final denial of any financial assistance or payment under a Federal benefit program to any individual described in paragraph (1), or take other adverse action against such individual as a result of information produced by a matching program, (A) unless such individual has received notice from such agency containing a statement of its findings and informing the individual of the opportunity to contest such findings, and (B) until the subsequent expiration of any notice period provided by the program's law or regulations, or 30 days, whichever is later. Such opportunity to contest may be satisfied by notice, hearing, and appeal rights governing such Federal benefit program. The exercise of any such rights shall not affect any rights available under this section.

"(4) Notwithstanding paragraph (3), an agency may take any appropriate action otherwise prohibited by such paragraph if the agency determines that the public health or public safety may be adversely affected or significantly threatened during the notice period required by such paragraph. Safety.

"(q) SANCTIONS.—(1) Notwithstanding any other provision of law, no source agency may disclose any record which is contained in a system of records to a recipient agency or non-Federal agency for a matching program if such source agency has reason to believe that the requirements of subsection (p), or any matching agreement entered into pursuant to subsection (o), or both, are not being met by such recipient agency.

"(2) No source agency may renew a matching agreement unless—

"(A) the recipient agency or non-Federal agency has certified that it has complied with the provisions of that agreement; and

"(B) the source agency has no reason to believe that the certification is inaccurate.".

SEC. 3. NOTICE OF MATCHING PROGRAMS.

(a) NOTICE IN FEDERAL REGISTER.—Subsection (e) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (10),

(2) by striking out the period at the end of paragraph (11) and inserting in lieu thereof "; and", and

(3) by adding at the end thereof the following new paragraph:

"(12) if such agency is a recipient agency or a source agency in a matching program with a non-Federal agency, with respect to any establishment or revision of a matching program, at least 30 days prior to conducting such program, publish in the Federal Register notice of such establishment or revision.".

(b) REPORT TO CONGRESS AND OFFICE OF MANAGEMENT AND BUDGET.—Subsection (r) of section 552a of title 5, United States Code, as redesignated by section 2(b)(1) of this Act, is amended to read as follows:

"(r) REPORT ON NEW SYSTEMS AND MATCHING PROGRAMS.—Each agency that proposes to establish or make a significant change in a system of records or a matching program shall provide adequate advance notice of any such proposal (in duplicate) to the Committee on Government Operations of the House of Representatives, the Committee on Governmental Affairs of the Senate, and the Office of Management and Budget in order to permit an evaluation of the

probable or potential effect of such proposal on the privacy or other rights of individuals.".

Contracts.

SEC. 4. DATA INTEGRITY BOARD.

Section 552a of title 5, United States Code, as amended by section 2(b)(1) of this Act, is amended by adding at the end thereof the following new subsection:

"(u) DATA INTEGRITY BOARDS.—(1) Every agency conducting or participating in a matching program shall establish a Data Integrity Board to oversee and coordinate among the various components of such agency the agency's implementation of this section.

"(2) Each Data Integrity Board shall consist of senior officials designated by the head of the agency, and shall include any senior official designated by the head of the agency as responsible for implementation of this section, and the inspector general of the agency, if any. The inspector general shall not serve as chairman of the Data Integrity Board.

"(3) Each Data Integrity Board—

"(A) shall review, approve, and maintain all written agreements for receipt or disclosure of agency records for matching programs to ensure compliance with subsection (o), and all relevant statutes, regulations, and guidelines;

"(B) shall review all matching programs in which the agency has participated during the year, either as a source agency or recipient agency, determine compliance with applicable laws, regulations, guidelines, and agency agreements, and assess the costs and benefits of such programs;

"(C) shall review all recurring matching programs in which the agency has participated during the year, either as a source agency or recipient agency, for continued justification for such disclosures;

Reports.
Public information

"(D) shall compile an annual report, which shall be submitted to the head of the agency and the Office of Management and Budget and made available to the public on request, describing the matching activities of the agency, including—

"(i) matching programs in which the agency has participated as a source agency or recipient agency;

"(ii) matching agreements proposed under subsection (o) that were disapproved by the Board;

"(iii) any changes in membership or structure of the Board in the preceding year;

"(iv) the reasons for any waiver of the requirement in paragraph (4) of this section for completion and submission of a cost-benefit analysis prior to the approval of a matching program;

"(v) any violations of matching agreements that have been alleged or identified and any corrective action taken; and

"(vi) any other information required by the Director of the Office of Management and Budget to be included in such report;

"(E) shall serve as a clearinghouse for receiving and providing information on the accuracy, completeness, and reliability of records used in matching programs;

"(F) shall provide interpretation and guidance to agency components and personnel on the requirements of this section for matching programs;

"(G) shall review agency recordkeeping and disposal policies and practices for matching programs to assure compliance with this section; and

"(H) may review and report on any agency matching activities that are not matching programs.

"(4)(A) Except as provided in subparagraphs (B) and (C), a Data Integrity Board shall not approve any written agreement for a matching program unless the agency has completed and submitted to such Board a cost-benefit analysis of the proposed program and such analysis demonstrates that the program is likely to be cost effective. Contracts.

"(B) The Board may waive the requirements of subparagraph (A) of this paragraph if it determines in writing, in accordance with guidelines prescribed by the Director of the Office of Management and Budget, that a cost-benefit analysis is not required.

"(C) A cost-benefit analysis shall not be required under subparagraph (A) prior to the initial approval of a written agreement for a matching program that is specifically required by statute. Any subsequent written agreement for such a program shall not be approved by the Data Integrity Board unless the agency has submitted a cost-benefit analysis of the program as conducted under the preceding approval of such agreement.

"(5)(A) If a matching agreement is disapproved by a Data Integrity Board, any party to such agreement may appeal the disapproval to the Director of the Office of Management and Budget. Timely notice of the filing of such an appeal shall be provided by the Director of the Office of Management and Budget to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives.

"(B) The Director of the Office of Management and Budget may approve a matching agreement notwithstanding the disapproval of a Data Integrity Board if the Director determines that—

"(i) the matching program will be consistent with all applicable legal, regulatory, and policy requirements;

"(ii) there is adequate evidence that the matching agreement will be cost-effective; and

"(iii) the matching program is in the public interest.

"(C) The decision of the Director to approve a matching agreement shall not take effect until 30 days after it is reported to committees described in subparagraph (A).

"(D) If the Data Integrity Board and the Director of the Office of Management and Budget disapprove a matching program proposed by the inspector general of an agency, the inspector general may report the disapproval to the head of the agency and to the Congress.

"(6) The Director of the Office of Management and Budget shall, annually during the first 3 years after the date of enactment of this subsection and biennially thereafter, consolidate in a report to the Congress the information contained in the reports from the various Data Integrity Boards under paragraph (3)(D). Such report shall include detailed information about costs and benefits of matching programs that are conducted during the period covered by such consolidated report, and shall identify each waiver granted by a Data Integrity Board of the requirement for completion and submission of a cost-benefit analysis and the reasons for granting the waiver. Reports.

"(7) In the reports required by paragraphs (3)(D) and (6), agency matching activities that are not matching programs may be reported on an aggregate basis, if and to the extent necessary to protect ongoing law enforcement or counterintelligence investigations.".

SEC. 5. DEFINITIONS.

Subsection (a) of section 552a of title 5, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6),

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon, and

(3) by adding at the end thereof the following new paragraphs:

"(8) the term 'matching program'—

"(A) means any computerized comparison of—

"(i) two or more automated systems of records or a system of records with non-Federal records for the purpose of—

"(I) establishing or verifying the eligibility of, or continuing compliance with statutory and regulatory requirements by, applicants for, recipients or beneficiaries of, participants in, or providers of services with respect to, cash or in-kind assistance or payments under Federal benefit programs, or

"(II) recouping payments or delinquent debts under such Federal benefit programs, or

"(ii) two or more automated Federal personnel or payroll systems of records or a system of Federal personnel or payroll records with non-Federal records,

"(B) but does not include—

"(i) matches performed to produce aggregate statistical data without any personal identifiers;

"(ii) matches performed to support any research or statistical project, the specific data of which may not be used to make decisions concerning the rights, benefits, or privileges of specific individuals;

"(iii) matches performed, by an agency (or component thereof) which performs as its principal function any activity pertaining to the enforcement of criminal laws, subsequent to the initiation of a specific criminal or civil law enforcement investigation of a named person or persons for the purpose of gathering evidence against such person or persons;

"(iv) matches of tax information (I) pursuant to section 6103(d) of the Internal Revenue Code of 1986, (II) for purposes of tax administration as defined in section 6103(b)(4) of such Code, (III) for the purpose of intercepting a tax refund due an individual under authority granted by section 464 or 1137 of the Social Security Act; or (IV) for the purpose of intercepting a tax refund due an individual under any other tax refund intercept program authorized by statute which has been determined by the Director of the Office of Management and Budget to contain verification, notice, and hearing requirements that are substantially similar to the procedures in section 1137 of the Social Security Act;

"(v) matches—

"(I) using records predominantly relating to Federal personnel, that are performed for routine administrative purposes (subject to guidance provided by the Director of the Office of Management and Budget pursuant to subsection (v)); or

"(II) conducted by an agency using only records from systems of records maintained by that agency;

if the purpose of the match is not to take any adverse financial, personnel, disciplinary, or other adverse action against Federal personnel; or

"(vi) matches performed for foreign counterintelligence purposes or to produce background checks for security clearances of Federal personnel or Federal contractor personnel;

"(9) the term 'recipient agency' means any agency, or contractor thereof, receiving records contained in a system of records from a source agency for use in a matching program;

"(10) the term 'non-Federal agency' means any State or local government, or agency thereof, which receives records contained in a system of records from a source agency for use in a matching program;

"(11) the term 'source agency' means any agency which discloses records contained in a system of records to be used in a matching program, or any State or local government, or agency thereof, which discloses records to be used in a matching program;

"(12) the term 'Federal benefit program' means any program administered or funded by the Federal Government, or by any agent or State on behalf of the Federal Government, providing cash or in-kind assistance in the form of payments, grants, loans, or loan guarantees to individuals; and

"(13) the term 'Federal personnel' means officers and employees of the Government of the United States, members of the uniformed services (including members of the Reserve Components), individuals entitled to receive immediate or deferred retirement benefits under any retirement program of the Government of the United States (including survivor benefits).".

SEC. 6. FUNCTIONS OF THE DIRECTOR OF THE OFFICE OF MANAGEMENT AND BUDGET.

(a) AMENDMENT.—Section 552a of title 5, United States Code, is further amended by adding at the end thereof the following:

"(v) OFFICE OF MANAGEMENT AND BUDGET RESPONSIBILITIES.—The Director of the Office of Management and Budget shall—

"(1) develop and, after notice and opportunity for public comment, prescribe guidelines and regulations for the use of agencies in implementing the provisions of this section; and Regulations.

"(2) provide continuing assistance to and oversight of the implementation of this section by agencies.".

(b) IMPLEMENTATION GUIDANCE FOR AMENDMENTS.—The Director shall, pursuant to section 552a(v) of title 5, United States Code, develop guidelines and regulations for the use of agencies in implementing the amendments made by this Act not later than 8 months after the date of enactment of this Act. Regulations. 5 USC 552a note.

(c) CONFORMING AMENDMENT.—Section 6 of the Privacy Act of 1974 is repealed. 5 USC 552a note.

SEC. 7. COMPILATION OF RULES AND NOTICES.

Section 552a(f) of title 5, United States Code, is amended by striking out "annually" in the last sentence and inserting "biennially".

SEC. 8. ANNUAL REPORT.

Subsection (s) of section 552a of title 5, United States Code (as redesignated by section 2 of this Act), is amended—

(1) by striking out "ANNUAL" in the heading of such subsection and inserting "BIENNIAL";

(2) by striking out "annually submit" and inserting "biennially submit";

(3) by striking out "preceding year" and inserting "preceding 2 years"; and

(4) by striking out "such year" and inserting "such years".

5 USC 552a note.

SEC. 9. RULES OF CONSTRUCTION.

Nothing in the amendments made by this Act shall be construed to authorize—

(1) the establishment or maintenance by any agency of a national data bank that combines, merges, or links information on individuals maintained in systems of records by other Federal agencies;

(2) the direct linking of computerized systems of records maintained by Federal agencies;

(3) the computer matching of records not otherwise authorized by law; or

(4) the disclosure of records for computer matching except to a Federal, State, or local agency.

5 USC 552a note.

SEC. 10. EFFECTIVE DATES.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect 9 months after the date of enactment of this Act.

(b) EXCEPTIONS.—The amendment made by sections 3(b), 6, 7, and 8 of this Act shall take effect upon enactment.

Approved October 18, 1988.

LEGISLATIVE HISTORY—S. 496 (H.R. 4699):

HOUSE REPORTS: No. 100-802 accompanying H.R. 4699 (Comm. on Government Operations).
SENATE REPORTS: No. 100-516 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): May 21, considered and passed Senate.
Vol. 134 (1988): Aug. 1, H.R. 4699 considered and passed House; proceedings vacated and S. 496, amended, passed in lieu.
Sept. 20, Senate concurred in House amendment with an amendment.
Oct. 3, House concurred in Senate amendment.

Public Law 100-504
100th Congress

An Act

To amend the Inspector General Act of 1978 to establish offices of inspector general in certain departments, and for other purposes.

Oct. 18, 1988
[S. 908]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INSPECTOR GENERAL ACT AMENDMENTS

Inspector General Act Amendments of 1988.
Government organization and employees.
5 USC app.

SEC. 101. SHORT TITLE.

This title may be cited as the "Inspector General Act Amendments of 1988".

5 USC app.

SEC. 102. ESTABLISHMENT OF OFFICES OF INSPECTOR GENERAL.

(a) PURPOSE.—Section 2(1) of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3) is amended to read as follows:

"(1) to conduct and supervise audits and investigations relating to the programs and operations of the establishments listed in section 11(2);".

(b) TECHNICAL AMENDMENT.—The last clause of section 2 is amended by striking out "thereby" and inserting in lieu thereof "there".

(c) ADDITION OF DEPARTMENTS OF ENERGY, HEALTH AND HUMAN SERVICES, JUSTICE AND TREASURY, FEDERAL EMERGENCY MANAGEMENT AGENCY, NUCLEAR REGULATORY COMMISSION, OFFICE OF PERSONNEL MANAGEMENT, AND RAILROAD RETIREMENT BOARD TO LIST OF COVERED ESTABLISHMENTS.—Section 11 of such Act is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

5 USC app.

"(1) the term 'head of the establishment' means the Secretary of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Labor, State, Transportation, or the Treasury; the Attorney General; the Administrator of the Agency for International Development, Environmental Protection, General Services, National Aeronautics and Space, Small Business, or Veterans' Affairs; the Director of the Federal Emergency Management Agency, the Office of Personnel Management or the United States Information Agency; the Chairman of the Nuclear Regulatory Commission or the Railroad Retirement Board; as the case may be;

"(2) the term 'establishment' means the Department of Agriculture, Commerce, Defense, Education, Energy, Health and Human Services, Housing and Urban Development, the Interior, Justice, Labor, State, Transportation, or the Treasury; the Agency for International Development, the Environmental Protection Agency, the Federal Emergency Management

Agency, the General Services Administration, the National Aeronautics and Space Administration, the Nuclear Regulatory Commission, the Office of Personnel Management, the Railroad Retirement Board, the Small Business Administration, the United States Information Agency, or the Veterans' Administration; as the case may be;".

(d) TRANSFERS OF EXISTING AUDIT AND INVESTIGATION UNITS.—
5 USC app. Section 9(a)(1) of such Act is amended—

(1) by striking out subparagraph (I), relating to the Community Services Administration;

(2) by redesignating subparagraphs (E) and (F) as subparagraphs (G) and (H), respectively;

(3) by redesignating subparagraphs (G) and (H) as subparagraphs (J) and (K), respectively;

(4) by redesignating subparagraph (J) as subparagraph (M);

(5) by redesignating subparagraphs (K) and (L) as subparagraphs (O) and (P), respectively;

(6) by redesignating subparagraphs (M) and (N) as subparagraphs (T) and (U), respectively;

(7) by inserting after subparagraph (D) the following new subparagraphs:

"(E) of the Department of Energy, the Office of Inspector General (as established by section 208 of the Department of Energy Organization Act);

"(F) of the Department of Health and Human Services, the Office of Inspector General (as established by title II of Public Law 94-505);";

(8) by inserting after subparagraph (H) (as redesignated by paragraph (2) of this subsection) the following new subparagraph:

"(I) of the Department of Justice, the offices of that Department referred to as (i) the 'Audit Staff, Justice Management Division', (ii) the 'Policy and Procedures Branch, Office of the Comptroller, Immigration and Naturalization Service', the 'Office of Professional Responsibility, Immigration and Naturalization Service', and the 'Office of Program Inspections, Immigration and Naturalization Service', (iii) the 'Office of Internal Inspection, United States Marshals Service', (iv) the 'Financial Audit Section, Office of Financial Management, Bureau of Prisons' and the 'Office of Inspections, Bureau of Prisons', and (v) from the Drug Enforcement Administration, that portion of the 'Office of Inspections' which is engaged in internal audit activities, and that portion of the 'Office of Planning and Evaluation' which is engaged in program review activities;";

(9) by inserting after subparagraph (K) (as redesignated by paragraph (3) of this subsection) the following new subparagraph:

"(L) of the Department of the Treasury, the office of that department referred to as the 'Office of Inspector General', and, notwithstanding any other provision of law, that portion of each of the offices of that department referred to as the 'Office of Internal Affairs, Bureau of Alcohol, Tobacco, and Firearms', the 'Office of Internal Affairs, United States Customs Service', and the 'Office of Inspections, United

States Secret Service' which is engaged in internal audit activities;";

(10) by inserting after subparagraph (M) (as redesignated by paragraph (4) of this subsection) the following new subparagraph:

"(N) of the Federal Emergency Management Agency, the office of that agency referred to as the 'Office of Inspector General';"; and

(11) by inserting after subparagraph (P) (as redesignated by paragraph (5) of this subsection) the following new subparagraphs:

"(Q) of the Nuclear Regulatory Commission, the office of that commission referred to as the 'Office of Inspector and Auditor';

"(R) of the Office of Personnel Management, the offices of that agency referred to as the 'Office of Inspector General', the 'Insurance Audits Division, Retirement and Insurance Group', and the 'Analysis and Evaluation Division, Administration Group';

"(S) of the Railroad Retirement Board, the Office of Inspector General (as established by section 23 of the Railroad Retirement Act of 1974);".

(e) TECHNICAL AND CONFORMING AMENDMENTS.—

(1)(A) Section 208 of the Department of Energy Organization Act is repealed. 42 USC 7138.

(B) The table of contents in the first section of such Act is amended by striking out the item relating to section 208.

(2) Title II of Public Law 94-505 is repealed. 42 USC 3521-3527.

(3) Section 23 of the Railroad Retirement Act of 1974 is repealed. 45 USC 231v.

(4) Any individual who, on the date of enactment of this Act, is serving as the Inspector General of the Department of Energy, the Department of Health and Human Services, or the Railroad Retirement Board, shall continue to serve in such position until such individual dies, resigns, or is removed from office in accordance with section 3(b) of the Inspector General Act of 1978. 5 USC app.

(f) SPECIAL PROVISIONS WITH RESPECT TO THE INSPECTORS GENERAL OF THE NUCLEAR REGULATORY COMMISSION, THE DEPARTMENT OF THE TREASURY, AND THE DEPARTMENT OF JUSTICE.—The Inspector General Act of 1978 is amended by inserting after section 8A the following new sections:

"SPECIAL PROVISIONS CONCERNING THE NUCLEAR REGULATORY COMMISSION

"SEC. 8B. (a) The Chairman of the Commission may delegate the authority specified in the second sentence of section 3(a) to another member of the Nuclear Regulatory Commission, but shall not delegate such authority to any other officer or employee of the Commission. 5 USC app.

"(b) Notwithstanding sections 6(a) (7) and (8), the Inspector General of the Nuclear Regulatory Commission is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject

to the applicable laws and regulations that govern such selections, appointments and employment, and the obtaining of such services, within the Nuclear Regulatory Commission.

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF THE TREASURY

Classified information. 5 USC app.

"SEC. 8C. (a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Secretary of the Treasury with respect to audits or investigations, or the issuance of subpenas, which require access to sensitive information concerning—

"(A) ongoing criminal investigations or proceedings;

"(B) undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) deliberations and decisions on policy matters, including documented information used as a basis for making policy decisions, the disclosure of which could reasonably be expected to have a significant influence on the economy or market behavior;

"(E) intelligence or counterintelligence matters; or

"(F) other matters the disclosure of which would constitute a serious threat to national security or to the protection of any person or property authorized protection by section 3056 of title 18, United States Code, section 202 of title 3, United States Code, or any provision of the Presidential Protection Assistance Act of 1976 (18 U.S.C. 3056 note; Public Law 94-524).

"(2) With respect to the information described under paragraph (1), the Secretary of the Treasury may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpena, if the Secretary determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent significant impairment to the national interests of the United States.

"(3) If the Secretary of the Treasury exercises any power under paragraph (1) or (2), the Secretary of the Treasury shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

"(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of the Treasury shall have oversight responsibility for the internal investigations performed by the Office of Internal Affairs of the Bureau of Alcohol, Tobacco and Firearms, the Office of Internal Affairs of the United States Customs Service, and the Office of Inspections of the United States Secret Service, and the internal audits and internal investigations performed by the Office of Assistant Commissioner (Inspection) of the Internal Revenue Service. The head of each such office shall promptly report to the Inspector General the significant activities being carried out by such office.

Reports.

"(c) Notwithstanding subsection (b), the Inspector General may initiate, conduct and supervise such audits and investigations in the Department of the Treasury (including the bureaus and services referred to in subsection (b)) as the Inspector General considers appropriate.

"(d) If the Inspector General initiates an audit or investigation under subsection (c) concerning a bureau or service referred to in subsection (b), the Inspector General may provide the head of the office of such bureau or service referred to in subsection (b) with written notice that the Inspector General has initiated such an audit or investigation. If the Inspector General issues a notice under the preceding sentence, no other audit or investigation shall be initiated into the matter under audit or investigation by the Inspector General and any other audit or investigation of such matter shall cease.

"(e)(1) The Inspector General shall have access to returns and return information, as defined in section 6103(b) of the Internal Revenue Code of 1986, only in accordance with the provisions of section 6103 of such Code and this Act.

"(2) Access by the Inspector General to returns and return information under section 6103(h)(1) of such Code shall be subject to the following additional requirements:

"(A) In order to maintain internal controls over access to returns and return information, the Inspector General, or in the absence of the Inspector General, the Acting Inspector General, the Deputy Inspector General, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations, shall provide to the Assistant Commissioner (Inspection) of the Internal Revenue Service written notice of the Inspector General's intent to access returns and return information. If the Inspector General determines that the Inspection Service of the Internal Revenue Service should not be made aware of a notice of access to returns and return information, such notice shall be provided to the Senior Deputy Commissioner of Internal Revenue.

"(B) Such notice shall clearly indicate the specific returns or return information being accessed, contain a certification by the Inspector General, or in the absence of the Inspector General, the Acting Inspector General, the Deputy Inspector General, the Assistant Inspector General for Audits, or the Assistant Inspector General for Investigations, that the returns or return information being accessed are needed for a purpose described under section 6103(h)(1) of the Internal Revenue Code of 1986, and identify those employees of the Office of Inspector General of the Department of the Treasury who may receive such returns or return information.

"(C) The Internal Revenue Service shall maintain the same system of standardized records or accountings of all requests from the Inspector General for inspection or disclosure of returns and return information (including the reasons for and dates of such requests), and of returns and return information inspected or disclosed pursuant to such requests, as described under section 6103(p)(3)(A) of the Internal Revenue Code of 1986. Such system of standardized records or accountings shall also be available for examination in the same manner as provided under section 6103(p)(3) of the Internal Revenue Code of 1986.

"(D) The Inspector General shall be subject to the same safeguards and conditions for receiving returns and return information as are described under section 6103(p)(4) of the Internal Revenue Code of 1986.

"(f) An audit or investigation conducted by the Inspector General shall not affect a final decision of the Secretary of the Treasury or his delegate under section 6406 of the Internal Revenue Code of 1986.

Reports.

"(g) Notwithstanding section 4(d), in matters involving chapter 75 of the Internal Revenue Code of 1986, the Inspector General shall report expeditiously to the Attorney General only offenses under section 7214 of such Code, unless the Inspector General obtains the consent of the Commissioner of Internal Revenue to exercise additional reporting authority with respect to such chapter.

Reports.

"(h) Any report required to be transmitted by the Secretary of the Treasury to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on Governmental Affairs and Finance of the Senate and the Committees on Government Operations and Ways and Means of the House of Representatives.

"SPECIAL PROVISIONS CONCERNING THE DEPARTMENT OF JUSTICE

Classified information. 5 USC app.

"SEC. 8D. (a)(1) Notwithstanding the last two sentences of section 3(a), the Inspector General shall be under the authority, direction, and control of the Attorney General with respect to audits or investigations, or the issuance of subpenas, which require access to sensitive information concerning—

"(A) ongoing civil or criminal investigations or proceedings;

"(B) undercover operations;

"(C) the identity of confidential sources, including protected witnesses;

"(D) intelligence or counterintelligence matters; or

"(E) other matters the disclosure of which would constitute a serious threat to national security.

"(2) With respect to the information described under paragraph (1), the Attorney General may prohibit the Inspector General from carrying out or completing any audit or investigation, or from issuing any subpena, after such Inspector General has decided to initiate, carry out, or complete such audit or investigation or to issue such subpena, if the Attorney General determines that such prohibition is necessary to prevent the disclosure of any information described under paragraph (1) or to prevent the significant impairment to the national interests of the United States.

"(3) If the Attorney General exercises any power under paragraph (1) or (2), the Attorney General shall notify the Inspector General in writing stating the reasons for such exercise. Within 30 days after receipt of any such notice, the Inspector General shall transmit a copy of such notice to the Committees on Governmental Affairs and Judiciary of the Senate and the Committees on Government Operations and Judiciary of the House of Representatives, and to other appropriate committees or subcommittees of the Congress.

"(b) In carrying out the duties and responsibilities specified in this Act, the Inspector General of the Department of Justice—

"(1) may initiate, conduct and supervise such audits and investigations in the Department of Justice as the Inspector General considers appropriate;

"(2) shall give particular regard to the activities of the Counsel, Office of Professional Responsibility of the Department and the audit, internal investigative, and inspection units outside the Office of Inspector General with a view toward avoiding duplication and insuring effective coordination and cooperation; and

"(3) shall refer to the Counsel, Office of Professional Responsibility of the Department for investigation, information or allegations relating to the conduct of an officer or employee of the Department of Justice employed in an attorney, criminal investigative, or law enforcement position that is or may be a violation of law, regulation, or order of the Department or any other applicable standard of conduct, except that no such referral shall be made if the officer or employee is employed in the Office of Professional Responsibility of the Department.

"(c) Any report required to be transmitted by the Attorney General to the appropriate committees or subcommittees of the Congress under section 5(d) shall also be transmitted, within the seven-day period specified under such section, to the Committees on the Judiciary and Governmental Affairs of the Senate and the Committees on the Judiciary and Government Operations of the House of Representatives.". Reports.

(g) DISCLOSURE OF TAX RETURNS AND RETURN INFORMATION.—Section 5(e)(3) of the Inspector General Act of 1978 is amended by striking out "Nothing" in the first sentence and inserting in lieu thereof "Except to the extent and in the manner provided under section 6103(f) of the Internal Revenue Code of 1986, nothing". 5 USC app.

(h) TRANSFER OF 20 INVESTIGATION POSITIONS WITHIN THE DEPARTMENT OF JUSTICE.—No later than 90 days after the date of appointment of the Inspector General of the Department of Justice, the Inspector General shall designate 20 full-time investigation positions which the Attorney General may transfer from the Office of Inspector General of the Department of Justice to the Office of Professional Responsibility of the Department of Justice for the performance of functions described under section 8D(b)(3) of the Inspector General Act of 1978. Any personnel who are transferred pursuant to this subsection, and who, at the time of being so transferred, are protected from reduction in classification or compensation under section 9(c) of such Act, shall continue to be so protected for 1 year after the date of transfer pursuant to this subsection. 5 USC app.

SEC. 103. UNIFORM SALARIES FOR INSPECTORS GENERAL.

(a) UNIFORM SALARIES.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following new paragraphs:

"Inspector General, Department of Commerce.

"Inspector General, Department of the Interior.

"Inspector General, Department of Justice.

"Inspector General, Department of the Treasury.

"Inspector General, Agency for International Development.

"Inspector General, Environmental Protection Agency.

"Inspector General, Federal Emergency Management Agency.

"Inspector General, General Services Administration.
"Inspector General, National Aeronautics and Space Administration.
"Inspector General, Nuclear Regulatory Commission.
"Inspector General, Office of Personnel Management.
"Inspector General, Railroad Retirement Board.
"Inspector General, Small Business Administration.".

(b) CONFORMING AMENDMENTS.—Section 5316 of such title is amended by striking out the paragraphs relating to—

(1) the Inspector General of the Department of Commerce;
(2) the Inspector General of the Department of the Interior;
(3) the Inspector General of the Agency for International Development;
(4) the Inspector General of the Community Services Administration;
(5) the Inspector General of the Environmental Protection Agency;
(6) the Inspector General of the General Services Administration;
(7) the Inspector General of the National Aeronautics and Space Administration;
(8) the Inspector General of the Small Business Administration;
(9) the Deputy Inspector General of the Department of Energy; and
(10) the Deputy Inspector General of the Department of Health and Human Services.

SEC. 104. EXTENSION OF INSPECTOR GENERAL ACT PROTECTIONS AND REQUIREMENTS TO CERTAIN DESIGNATED FEDERAL ENTITIES.

(a) REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES.—The Inspector General Act of 1978 (as amended by section 102(f) of this title) is further amended by inserting after section 8D the following new section:

"REQUIREMENTS FOR FEDERAL ENTITIES AND DESIGNATED FEDERAL ENTITIES

5 USC app.

"SEC. 8E. (a) Notwithstanding section 11 of this Act, as used in this section—

"(1) the term 'Federal entity' means any Government corporation (within the meaning of section 103(1) of title 5, United States Code), any Government controlled corporation (within the meaning of section 103(2) of such title), or any other entity in the Executive branch of the Government, or any independent regulatory agency, but does not include—

"(A) an establishment (as defined under section 11(2) of this Act) or part of an establishment;
"(B) a designated Federal entity (as defined under paragraph (2) of this subsection) or part of a designated Federal entity;
"(C) the Executive Office of the President;
"(D) the Central Intelligence Agency;
"(E) the General Accounting Office; or
"(F) any entity in the judicial or legislative branches of the Government, including the Administrative Office of the

United States Courts and the Architect of the Capitol and any activities under the direction of the Architect of the Capitol;

"(2) the term 'designated Federal entity' means ACTION, Amtrak, the Appalachian Regional Commission, the Board of Governors of the Federal Reserve System, the Board for International Broadcasting, the Commodity Futures Trading Commission, the Consumer Product Safety Commission, the Corporation for Public Broadcasting, the Equal Employment Opportunity Commission, the Farm Credit Administration, the Federal Communications Commission, the Federal Deposit Insurance Corporation, the Federal Election Commission, the Federal Home Loan Bank Board, the Federal Labor Relations Authority, the Federal Maritime Commission, the Federal Trade Commission, the Interstate Commerce Commission, the Legal Services Corporation, the National Archives and Records Administration, the National Credit Union Administration, the National Endowment for the Arts, the National Endowment for the Humanities, the National Labor Relations Board, the National Science Foundation, the Panama Canal Commission, the Peace Corps, the Pension Benefit Guaranty Corporation, the Securities and Exchange Commission, the Smithsonian Institution, the Tennessee Valley Authority, the United States International Trade Commission, and the United States Postal Service;

"(3) the term 'head of the Federal entity' means any person or persons designated by statute as the head of a Federal entity, and if no such designation exists, the chief policymaking officer or board of a Federal entity as identified in the list published pursuant to subsection (h)(1) of this section;

"(4) the term 'head of the designated Federal entity' means any person or persons designated by statute as the head of a designated Federal entity and if no such designation exists, the chief policymaking officer or board of a designated Federal entity as identified in the list published pursuant to subsection (h)(1) of this section, except that with respect to the National Science Foundation, such term means the National Science Board;

"(5) the term 'Office of Inspector General' means an Office of Inspector General of a designated Federal entity; and

"(6) the term 'Inspector General' means an Inspector General of a designated Federal entity.

Establishment.

"(b) No later than 180 days after the date of the enactment of this section, there shall be established and maintained in each designated Federal entity an Office of Inspector General. The head of the designated Federal entity shall transfer to such office the offices, units, or other components, and the functions, powers, or duties thereof, that such head determines are properly related to the functions of the Office of Inspector General and would, if so transferred, further the purposes of this section. There shall not be transferred to such office any program operating responsibilities.

"(c) Except as provided under subsection (f) of this section, the Inspector General shall be appointed by the head of the designated Federal entity in accordance with the applicable laws and regulations governing appointments within the designated Federal entity.

"(d) Each Inspector General shall report to and be under the general supervision of the head of the designated Federal entity, but

shall not report to, or be subject to supervision by, any other officer or employee of such designated Federal entity. The head of the designated Federal entity shall not prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or from issuing any subpena during the course of any audit or investigation.

"(e) If an Inspector General is removed from office or is transferred to another position or location within a designated Federal entity, the head of the designated Federal entity shall promptly communicate in writing the reasons for any such removal or transfer to both Houses of the Congress.

"(f)(1) The Chief Postal Inspector of the United States Postal Service shall also hold the position of Inspector General of the United States Postal Service, and for purposes of this section, shall report to, and be under the general supervision of, the Postmaster General of the United States Postal Service. The Postmaster General, in consultation with the Governors of the United States Postal Service, shall appoint the Chief Postal Inspector. The Postmaster General, with the concurrence of the Governors of the United States Postal Service, shall have power to remove the Chief Postal Inspector or transfer the Chief Postal Inspector to another position or location within the United States Postal Service. If the Chief Postal Inspector is removed or transferred in accordance with this subsection, the Postmaster General shall promptly notify both Houses of the Congress in writing of the reasons for such removal or transfer.

"(2) For purposes of paragraph (1), the term 'Governors' has the same meaning as such term is defined under section 102(3) of title 39, United States Code.

"(g)(1) Sections 4, 5, 6 (other than subsections (a)(7) and (a)(8) thereof), and 7 of this Act shall apply to each Inspector General and Office of Inspector General of a designated Federal entity and such sections shall be applied to each designated Federal entity and head of the designated Federal entity (as defined under subsection (a)) by substituting—

"(A) 'designated Federal entity' for 'establishment'; and

"(B) 'head of the designated Federal entity' for 'head of the establishment'.

"(2) In addition to the other authorities specified in this Act, an Inspector General is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General and to obtain the temporary or intermittent services of experts or consultants or an organization thereof, subject to the applicable laws and regulations that govern such selections, appointments, and employment, and the obtaining of such services, within the designated Federal entity.

"(3) Notwithstanding the last sentence of subsection (d) of this section, the provisions of subsection (a) of section 8C (other than the provisions of subparagraphs (A), (B), (C), and (E) of subsection (a)(1)) shall apply to the Inspector General of the Board of Governors of the Federal Reserve System and the Chairman of the Board of Governors of the Federal Reserve System in the same manner as such provisions apply to the Inspector General of the Department of the Treasury and the Secretary of the Treasury, respectively.

Federal Register, publication.

"(h)(1) No later than April 30, 1989, and annually thereafter, the Director of the Office of Management and Budget, after consultation with the Comptroller General of the United States, shall publish in

the Federal Register a list of the Federal entities and designated Federal entities and the head of each such entity (as defined under subsection (a) of this section).

"(2) Beginning on October 31, 1989, and on October 31 of each succeeding calendar year, the head of each Federal entity (as defined under subsection (a) of this section) shall prepare and transmit to the Director of the Office of Management and Budget and to each House of the Congress a report which— Reports.

"(A) states whether there has been established in the Federal entity an office that meets the requirements of this section;

"(B) specifies the actions taken by the Federal entity otherwise to ensure that audits are conducted of its programs and operations in accordance with the standards for audit of governmental organizations, programs, activities, and functions issued by the Comptroller General of the United States, and includes a list of each audit report completed by a Federal or non-Federal auditor during the reporting period and a summary of any particularly significant findings; and

"(C) summarizes any matters relating to the personnel, programs, and operations of the Federal entity referred to prosecutive authorities, including a summary description of any preliminary investigation conducted by or at the request of the Federal entity concerning these matters, and the prosecutions and convictions which have resulted.".

(b) CONFORMING AMENDMENT.—Section 410(b) of title 39, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (6);

(2) by striking out the period at the end of paragraph (7) and inserting in lieu thereof a semicolon;

(3) by striking out "The" in paragraph (8) and inserting in lieu thereof "the";

(4) by striking out the period at the end of paragraph (8) and inserting in lieu thereof a semicolon and "and"; and

(5) by adding at the end thereof the following new paragraph:

"(9) the provisions of section 8E of the Inspector General Act of 1978.".

SEC. 105. RULE OF CONSTRUCTION OF SPECIAL PROVISIONS.

The Inspector General Act of 1978 (as amended by sections 102(f) and 104 of this title) is further amended by inserting after section 8E the following new section:

"RULE OF CONSTRUCTION OF SPECIAL PROVISIONS

"SEC. 8F. The special provisions under section 8, 8A, 8B, 8C, or 8D of this Act relate only to the establishment named in such section and no inference shall be drawn from the presence or absence of a provision in any such section with respect to an establishment not named in such section or with respect to a designated Federal entity as defined under section 8E(a).". 5 USC app.

SEC. 106. PROVISIONS TO ENSURE UNIFORMITY AND RELIABILITY OF REPORTS.

(a) REPORT INFORMATION REQUIRED ON AUDITS.—Section 5(a) of the Inspector General Act of 1978 is amended by striking out "and" at the end of paragraph (5) and by striking out paragraph (6) and inserting in lieu thereof: 5 USC app.

"(6) a listing, subdivided according to subject matter, of each audit report issued by the Office during the reporting period and for each audit report, where applicable, the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs) and the dollar value of recommendations that funds be put to better use;

"(7) a summary of each particularly significant report;

"(8) statistical tables showing the total number of audit reports and the total dollar value of questioned costs (including a separate category for the dollar value of unsupported costs), for audit reports—

"(A) for which no management decision had been made by the commencement of the reporting period;

"(B) which were issued during the reporting period;

"(C) for which a management decision was made during the reporting period, including—

"(i) the dollar value of disallowed costs; and

"(ii) the dollar value of costs not disallowed; and

"(D) for which no management decision has been made by the end of the reporting period;

"(9) statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management, for audit reports—

"(A) for which no management decision had been made by the commencement of the reporting period;

"(B) which were issued during the reporting period;

"(C) for which a management decision was made during the reporting period, including—

"(i) the dollar value of recommendations that were agreed to by management; and

"(ii) the dollar value of recommendations that were not agreed to by management; and

"(D) for which no management decision has been made by the end of the reporting period;

"(10) a summary of each audit report issued before the commencement of the reporting period for which no management decision has been made by the end of the reporting period (including the date and title of each such report), an explanation of the reasons such management decision has not been made, and a statement concerning the desired timetable for achieving a management decision on each such report;

"(11) a description and explanation of the reasons for any significant revised management decision made during the reporting period; and

"(12) information concerning any significant management decision with which the Inspector General is in disagreement.".

5 USC app.

(b) REPORT ON FINAL ACTION.—Section 5(b) of such Act is amended by striking out "head of the establishment containing any comments such head deems appropriate." and inserting in lieu thereof the following: "head of the establishment containing—

"(1) any comments such head determines appropriate;

"(2) statistical tables showing the total number of audit reports and the dollar value of disallowed costs, for audit reports—

"(A) for which final action had not been taken by the commencement of the reporting period;

"(B) on which management decisions were made during the reporting period;

"(C) for which final action was taken during the reporting period, including—

"(i) the dollar value of disallowed costs that were recovered by management through collection, offset, property in lieu of cash, or otherwise; and

"(ii) the dollar value of disallowed costs that were written off by management; and

"(D) for which no final action has been taken by the end of the reporting period;

"(3) statistical tables showing the total number of audit reports and the dollar value of recommendations that funds be put to better use by management agreed to in a management decision, for audit reports—

"(A) for which final action had not been taken by the commencement of the reporting period;

"(B) on which management decisions were made during the reporting period;

"(C) for which final action was taken during the reporting period, including—

"(i) the dollar value of recommendations that were actually completed; and

"(ii) the dollar value of recommendations that management has subsequently concluded should not or could not be implemented or completed; and

"(D) for which no final action has been taken by the end of the reporting period; and

"(4) a statement with respect to audit reports on which management decisions have been made but final action has not been taken, other than audit reports on which a management decision was made within the preceding year, containing—

"(A) a list of such audit reports and the date each such report was issued;

"(B) the dollar value of disallowed costs for each report;

"(C) the dollar value of recommendations that funds be put to better use agreed to by management for each report; and

"(D) an explanation of the reasons final action has not been taken with respect to each such audit report,

except that such statement may exclude such audit reports that are under formal administrative or judicial appeal or upon which management of an establishment has agreed to pursue a legislative solution, but shall identify the number of reports in each category so excluded.".

(c) ISSUANCE OF REPORT ON FINAL ACTION.—Section 5(c) of such Act is amended by adding at the end thereof the following new sentence: "Within 60 days after the transmission of the semiannual reports of each establishment head to the Congress, the head of each establishment shall make copies of such report available to the public upon request and at a reasonable cost.". Public information. 5 USC app.

(d) CONFORMING AMENDMENT; DEFINITIONS.—Section 5 of such Act is further amended by adding at the end thereof the following new subsection:

"(f) As used in this section—

"(1) the term 'questioned cost' means a cost that is questioned by the Office because of—

"(A) an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds;

"(B) a finding that, at the time of the audit, such cost is not supported by adequate documentation; or

"(C) a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable;

"(2) the term 'unsupported cost' means a cost that is questioned by the Office because the Office found that, at the time of the audit, such cost is not supported by adequate documentation;

"(3) the term 'disallowed cost' means a questioned cost that management, in a management decision, has sustained or agreed should not be charged to the Government;

"(4) the term 'recommendation that funds be put to better use' means a recommendation by the Office that funds could be used more efficiently if management of an establishment took actions to implement and complete the recommendation, including—

"(A) reductions in outlays;

"(B) deobligation of funds from programs or operations;

"(C) withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds;

"(D) costs not incurred by implementing recommended improvements related to the operations of the establishment, a contractor or grantee;

"(E) avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or

"(F) any other savings which are specifically identified;

"(5) the term 'management decision' means the evaluation by the management of an establishment of the findings and recommendations included in an audit report and the issuance of a final decision by management concerning its response to such findings and recommendations, including actions concluded to be necessary; and

"(6) the term 'final action' means—

"(A) the completion of all actions that the management of an establishment has concluded, in its management decision, are necessary with respect to the findings and recommendations included in an audit report; and

"(B) in the event that the management of an establishment concludes no action is necessary, final action occurs when a management decision has been made.".

SEC. 107. OATH ADMINISTRATION AUTHORITY.

5 USC app.

Section 6(a) of the Inspector General Act of 1978 is amended—

(1) by redesignating paragraphs (5) through (8) as paragraphs (6) through (9), respectively, and

(2) by inserting after paragraph (4) the following new paragraph:

"(5) to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of the functions assigned by this Act, which oath, affirmation, or affidavit when administered or taken by or before an employee of an Office of Inspector General designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal;".

SEC. 108. APPROPRIATION ACCOUNTS.

Section 1105(a)(25) of title 31, United States Code, is amended to read as follows:

"(25) a separate appropriation account for appropriations for each Office of Inspector General of an establishment defined under section 11(2) of the Inspector General Act of 1978.".

SEC. 109. EXTERNAL REVIEWS.

Section 4(b) of the Inspector General Act of 1978 is amended— 5 USC app.

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting "(1)" after "(b)"; and

(3) by adding at the end thereof the following:

"(2) For purposes of determining compliance with paragraph (1)(A) with respect to whether internal quality controls are in place and operating and whether established audit standards, policies, and procedures are being followed by Offices of Inspector General of establishments defined under section 11(2), Offices of Inspector General of designated Federal entities defined under section 8E(a)(2), and any audit office established within a Federal entity defined under section 8E(a)(1), reviews shall be performed exclusively by an audit entity in the Federal Government, including the General Accounting Office or the Office of Inspector General of each establishment defined under section 11(2), or the Office of Inspector General of each designated Federal entity defined under section 8E(a)(2).".

SEC. 110. TECHNICAL AMENDMENTS.

(a) SENIOR EXECUTIVE SERVICE POSITIONS.—Section 6 of the Inspector General Act of 1978 is amended by adding at the end thereof the following: 5 USC app.

"(d) For purposes of the provisions of title 5, United States Code, governing the Senior Executive Service, any reference in such provisions to the 'appointing authority' for a member of the Senior Executive Service or for a Senior Executive Service position shall, if such member or position is or would be within the Office of an Inspector General, be deemed to be a reference to such Inspector General.".

(b) COAST GUARD OPERATION AS PART OF DEPARTMENT OR AGENCY.—Section 8(e) of the Inspector General Act of 1978 is amended by inserting before the period at the end thereof the following: ", except that, when the Coast Guard operates as a service of another department or agency of the Federal Government, a member of the Coast Guard shall be deemed to be an employee of such department or agency". 5 USC app.

SEC. 111. REPORT ON IMPLEMENTATION. 5 USC app.

On October 31, 1989, the head of each designated Federal entity (as defined under section 8E(a)(2) of the Inspector General Act of 1978) shall submit to the Director of the Office of Management and Budget and to each House of the Congress a report on the status of the implementation by that designated Federal entity of the requirements of section 8E of such Act. Such report shall identify any area in which implementation is not complete and state the reasons for that failure.

5 USC app.

SEC. 112. PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS.

Any authority to make payments under this title shall be effective only to such extent as provided in appropriations Acts.

5 USC app.

SEC. 113. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of the enactment of this title, except that section 5(a) (6) through (12) of the Inspector General Act of 1978 (as amended by section 106(a) of this title) and section 5(b) (1) through (4) of the Inspector General Act of 1978 (as amended by section 106(b) of this title) shall take effect 1 year after the date of the enactment of this title.

Government Printing Office Inspector General Act of 1988.
44 USC 101 note.

TITLE II—GOVERNMENT PRINTING OFFICE INSPECTOR GENERAL

SEC. 201. SHORT TITLE.

This title may be cited as the "Government Printing Office Inspector General Act of 1988".

SEC. 202. OFFICE OF INSPECTOR GENERAL.

Title 44 of the United States Code is amended by adding at the end thereof the following new chapter:

"CHAPTER 39—GOVERNMENT PRINTING OFFICE: OFFICE OF INSPECTOR GENERAL

"Sec.
"3901. Purpose and establishment of the Office of Inspector General.
"3902. Appointment of Inspector General; supervision; removal.
"3903. Duties, responsibilities, authority, and reports.

"§ 3901. Purpose and establishment of the Office of Inspector General

"In order to create an independent and objective office—

"(1) to conduct and supervise audits and investigations relating to the Government Printing Office;

"(2) to provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness; and

"(3) to provide a means of keeping the Public Printer and the Congress fully and currently informed about problems and deficiencies relating to the administration and operations of the Government Printing Office;

there is hereby established an Office of Inspector General in the Government Printing Office.

"§ 3902. Appointment of Inspector General; supervision; removal

"(a) There shall be at the head of the Office of Inspector General, an Inspector General who shall be appointed by the Public Printer without regard to political affiliation and solely on the basis of integrity and demonstrated ability in accounting, auditing, financial analysis, law, management analysis, public administration, or investigations. The Inspector General shall report to, and be under the general supervision of, the Public Printer. The Public Printer shall have no authority to prevent or prohibit the Inspector General from initiating, carrying out, or completing any audit or investigation, or

from issuing any subpena during the course of any audit or investigation.

"(b) The Inspector General may be removed from office by the Public Printer. The Public Printer shall, promptly upon such removal, communicate in writing the reasons for any such removal to each House of the Congress.

"§ 3903. Duties, responsibilities, authority, and reports

"(a) Sections 4, 5, 6 (other than subsection (a) (7) and (8) thereof), and 7 of the Inspector General Act of 1978 (Public Law 95-452; 5 U.S.C. App. 3) shall apply to the Inspector General of the Government Printing Office and the Office of such Inspector General and such sections shall be applied to the Government Printing Office and the Public Printer by substituting—

"(1) 'Government Printing Office' for 'establishment'; and

"(2) 'Public Printer' for 'head of the establishment'.

"(b) The Inspector General, in carrying out the provisions of this chapter, is authorized to select, appoint, and employ such officers and employees as may be necessary for carrying out the functions, powers, and duties of the Office of Inspector General subject to the provisions of this title governing selections, appointments, and employment in the Government Printing Office (and any regulations thereunder).".

SEC. 203. TRANSFER OF OFFICE.

44 USC 3901 note.

(a) IN GENERAL.—There is transferred to the Office of Inspector General established pursuant to this title, the office of the Government Printing Office referred to as the "Office of Inspector General".

(b) RELATED PROVISIONS.—With respect to such transferred office—

(1) sections 9 (b) and (c) of the Inspector General Act of 1978 shall apply; and

(2) all the functions, powers, and duties of the office transferred by subsection (a) shall lapse.

(c) PERSONNEL.—Any person who, on the effective date of this title, held a position compensated in accordance with the applicable laws and regulations that govern selections, appointments, and employment within the Government Printing Office, and who, without a break in service, is appointed in the Office of Inspector General established by this title to a position having duties comparable to those performed immediately preceding such appointment shall continue to be compensated in the new position at not less than the rate provided for the previous position, for the duration of service in the new position.

SEC. 204. AMENDMENT TO TABLE OF CHAPTERS.

The table of chapters for title 44, United States Code, is amended by adding at the end thereof the following new item:

"39. Government Printing Office: Office of Inspector General..... 3901".

SEC. 205. PAYMENT AUTHORITY SUBJECT TO APPROPRIATIONS.

44 USC 3901 note.

Any authority to make payments under this title shall be effective only to such extent as provided in appropriations Acts.

44 USC 3901 note.

SEC. 206. EFFECTIVE DATE.

The provisions of this title and the amendments made by this title shall take effect 180 days after the date of the enactment of this title.

Approved October 18, 1988.

LEGISLATIVE HISTORY—S. 908 (H.R. 4054):

HOUSE REPORTS: No. 100-771 accompanying H.R. 4054 (Comm. on Government Operations) and No. 100-1020 (Comm. of Conference).
SENATE REPORTS: No. 100-150 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Feb. 2, considered and passed Senate.
July 26, H.R. 4054 considered and passed House; proceedings vacated and S. 908, amended, passed in lieu.
Oct. 4, Senate agreed to conference report.
Oct. 5, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Oct. 18, Presidential statement.

Public Law 100-505
100th Congress

An Act

To authorize the Secretary of Health and Human Services to make grants for demonstration projects for foster care and residential care of infants and young children abandoned in hospitals, and for other purposes.

Oct. 18, 1988
[S. 945]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Abandoned Infants Assistance Act of 1988.
42 USC 670 note.

This Act may be cited as the "Abandoned Infants Assistance Act of 1988".

SEC. 2. FINDINGS.

42 USC 670 note.

The Congress finds that—

(1) throughout the Nation, the number of infants and young children who have been exposed to drugs taken by their mothers during pregnancy has increased dramatically;

(2) the inability of parents who abuse drugs to provide adequate care for such infants and young children and a lack of suitable shelter homes for such infants and young children have led to the abandonment of such infants and young children in hospitals for extended periods;

(3) the vast majority of these infants and young children will be medically cleared for discharge, yet remain in hospitals as boarder babies;

(4) hospital-based child care for these infants and young children is extremely costly and deprives them of an adequate nurturing environment;

(5) training is inadequate for foster care personnel working with medically fragile infants and young children and infants and young children exposed to drugs;

(6) a particularly devastating development is the increase in the number of cases of acquired immune deficiency syndrome in infants and young children, and the number of such cases has doubled within the last 13 months;

(7) more than 80 percent of infants and young children with acquired immune deficiency syndrome have at least one parent who is an intravenous drug abuser;

(8) infants and young children with acquired immune deficiency syndrome are particularly difficult to place in foster homes, and are being abandoned in hospitals in increasing numbers by mothers dying of acquired immune deficiency syndrome, or by parents incapable of providing adequate care;

(9) there is a need for comprehensive services for such infants and young children, including foster family care services, case management services, family support services, respite and crisis intervention services, counseling services, and group residential home services; and

(10) there is a need for the development of funding strategies that coordinate and make the optimal use of all private re-

sources, and Federal, State, and local resources, to establish and maintain such services.

42 USC 670 note.

TITLE I—FOSTER CARE AND RESIDENTIAL CARE OF INFANTS AND YOUNG CHILDREN ABANDONED IN HOSPITALS

SEC. 101. ESTABLISHMENT OF PROGRAM OF DEMONSTRATION PROJECTS.

Corporations.
AIDS.

(a) IN GENERAL.—The Secretary of Health and Human Services may make grants to public and nonprofit private entities for the purpose of developing, implementing, and operating projects to demonstrate methods—

(1) to prevent the abandonment of infants and young children;

(2) to identify and address the needs of abandoned infants and young children, particularly those with acquired immune deficiency syndrome;

(3) to assist abandoned infants and young children, particularly those with acquired immune deficiency syndrome, to reside with their natural families or in foster care, as appropriate;

(4) to recruit, train, and retain foster families for abandoned infants and young children, particularly those with acquired immune deficiency syndrome;

(5) to carry out residential care programs for abandoned infants and young children, particularly those with acquired immune deficiency syndrome;

(6) to carry out programs of respite care for families and foster families of infants and young children with acquired immune deficiency syndrome; and

(7) to recruit and train health and social services personnel to work with families, foster care families, and residential care programs for abandoned infants and young children, particularly those with acquired immune deficiency syndrome.

(b) CASE PLAN WITH RESPECT TO FOSTER CARE.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, if the applicant expends the grant to carry out any program of providing care to infants and young children in foster homes or in other nonmedical residential settings away from their parents, the applicant will ensure that—

(1) a case plan of the type described in paragraph (1) of section 475 of the Social Security Act is developed for each such infant and young child (to the extent that such infant and young child is not otherwise covered by such a plan); and

(2) the program includes a case review system of the type described in paragraph (5) of such section (covering each such infant and young child who is not otherwise subject to such a system).

(c) ADMINISTRATION OF GRANT.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees—

(1) to use the funds provided under this section only for the purposes specified in the application submitted to, and approved by, the Secretary pursuant to subsection (d);

(2) to establish such fiscal control and fund accounting procedures as may be necessary to ensure proper disbursement and accounting of Federal funds paid to the applicant under this section;

(3) to report to the Secretary annually on the utilization, cost, and outcome of activities conducted, and services furnished, under this section; and Reports.

(4) that if, during the majority of the 180-day period preceding the date of the enactment of this Act, the applicant has carried out any program with respect to the care of abandoned infants and young children, the applicant will expend the grant only for the purpose of significantly expanding, in accordance with subsection (a), activities under such program above the level provided under such program during the majority of such period.

(d) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(e) TECHNICAL ASSISTANCE TO GRANTEES.—The Secretary may, without charge to any grantee under subsection (a), provide technical assistance (including training) with respect to the planning, development, and operation of projects described in such subsection. The Secretary may provide such technical assistance directly, through contracts, or through grants. Contracts.

(f) TECHNICAL ASSISTANCE WITH RESPECT TO PROCESS OF APPLYING FOR GRANT.—The Secretary may provide technical assistance (including training) to public and nonprofit private entities with respect to the process of applying to the Secretary for a grant under subsection (a). The Secretary may provide such technical assistance directly, through contracts, or through grants. Corporations. Contracts.

SEC. 102. EVALUATIONS, STUDIES, AND REPORTS BY SECRETARY.

(a) EVALUATIONS OF DEMONSTRATION PROJECTS.—The Secretary shall, directly or through contracts with public and nonprofit private entities, provide for evaluations of projects carried out under section 101 and for the dissemination of information developed as result of such projects. Contracts. Corporations.

(b) STUDY AND REPORT ON NUMBER OF ABANDONED INFANTS AND YOUNG CHILDREN.—

(1) The Secretary shall conduct a study for the purpose of determining—

(A) an estimate of the number of infants and young children abandoned in hospitals in the United States and the number of such infants who have acquired immune deficiency syndrome; and

(B) an estimate of the annual costs incurred by the Federal Government and by State and local governments in providing housing and care for such infants and young children.

(2) The Secretary shall, not later than 12 months after the date of the enactment of this Act, complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

(c) STUDY AND REPORT ON EFFECTIVE CARE METHODS.—

(1) The Secretary shall conduct a study for the purpose of determining the most effective methods for responding to the needs of abandoned infants and young children.

(2) The Secretary shall, not later than April 1, 1991, complete the study required in paragraph (1) and submit to the Congress a report describing the findings made as a result of the study.

SEC. 103. DEFINITION.

For purposes of this title, the term "abandoned infants and young children" means infants and young children who are medically cleared for discharge from acute care hospital setting, but who remain hospitalized because of a lack of appropriate out-of-hospital placement alternatives.

SEC. 104. AUTHORIZATION OF APPROPRIATIONS.

For the purpose of making grants under section 101, there are authorized to be appropriated $10,000,000 for fiscal year 1989, $12,000,000 for fiscal year 1990, and $15,000,000 for fiscal year 1991.

SEC. 105. TERMINATION OF PROGRAM.

No grant may be made under section 101 after September 30, 1991.

42 USC 670 note.

TITLE II—MEDICAL COSTS OF TREATMENT WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

SEC. 201. STUDY AND REPORT ON ASSISTANCE.

(a) STUDY.—The Secretary shall conduct a study for the purpose of—

(1) determining cost-effective methods for providing assistance to individuals for the medical costs of treatment of conditions arising from infection with the etiologic agent for acquired immune deficiency syndrome, including determining the feasibility of risk-pool health insurance for individuals at risk of such infection;

(2) determining the extent to which Federal payments under title XIX of the Social Security Act are being expended for medical costs described in paragraph (1); and

(3) providing an estimate of the extent to which such Federal payments will be expended for such medical costs during the 5-year period beginning on the date of the enactment of this Act.

(b) REPORT.—The Secretary shall, not later than 12 months after the date of the enactment of this Act, complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study.

TITLE III—GENERAL PROVISIONS

42 USC 670 note.

SEC. 301. DEFINITIONS.

For purposes of this Act:

(1) The term "acquired immune deficiency syndrome" includes infection with the etiologic agent for such syndrome, any condition indicating that an individual is infected with such etiologic agent, and any condition arising from such etiologic agent.

(2) The term "Secretary" means the Secretary of Health and Human Services.

Approved October 18, 1988.

LEGISLATIVE HISTORY—S. 945 (H.R. 4843):

HOUSE REPORTS: No. 100-821, Pt. 1, accompanying H.R. 4843 (Comm. on Energy and Commerce).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Aug. 5, considered and passed Senate.

Vol. 134 (1988): Sept. 13, considered and passed House, amended.

Oct. 4, Senate concurred in House amendments.

Public Law 100-506
100th Congress

An Act

Oct. 18, 1988
[S. 1626]

To keep secure the rights of intellectual property licensors and licensees which come under the protection of title 11 of the United States Code, the bankruptcy code.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO TITLE 11 OF THE UNITED STATES CODE.

(a) DEFINITION.—Section 101 of title 11, United States Code, is amended—

(1) in paragraph (50) by striking "and" at the end, and

(2) in paragraph (51) by striking the period at the end and inserting in lieu thereof a semicolon, and

(3) by adding at the end the following:

"(52) 'intellectual property' means—

"(A) trade secret;

"(B) invention, process, design, or plant protected under title 35;

"(C) patent application;

"(D) plant variety;

"(E) work of authorship protected under title 17; or

"(F) mask work protected under chapter 9 of title 17; to the extent protected by applicable nonbankruptcy law; and

"(53) 'mask work' has the meaning given it in section 901(a)(2) of title 17.".

(b) EXECUTORY CONTRACTS LICENSING RIGHTS TO INTELLECTUAL PROPERTY.—Section 365 of title 11, United States Code, is amended by adding at the end the following:

"(n)(1) If the trustee rejects an executory contract under which the debtor is a licensor of a right to intellectual property, the licensee under such contract may elect—

"(A) to treat such contract as terminated by such rejection if such rejection by the trustee amounts to such a breach as would entitle the licensee to treat such contract as terminated by virtue of its own terms, applicable nonbankruptcy law, or an agreement made by the licensee with another entity; or

"(B) to retain its rights (including a right to to enforce any exclusivity provision of such contract, but excluding any other right under applicable nonbankruptcy law to specific performance of such contract) under such contract and under any agreement supplementary to such contract, to such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law), as such rights existed immediately before the case commenced, for—

"(i) the duration of such contract; and

"(ii) any period for which such contract may be extended by the licensee as of right under applicable nonbankruptcy law.

"(2) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, under such contract—

"(A) the trustee shall allow the licensee to exercise such rights;

"(B) the licensee shall make all royalty payments due under such contract for the duration of such contract and for any period described in paragraph (1)(B) of this subsection for which the licensee extends such contract; and

"(C) the licensee shall be deemed to waive—

"(i) any right of setoff it may have with respect to such contract under this title or applicable nonbankruptcy law; and

"(ii) any claim allowable under section 503(b) of this title arising from the performance of such contract.

"(3) If the licensee elects to retain its rights, as described in paragraph (1)(B) of this subsection, then on the written request of the licensee the trustee shall—

"(A) to the extent provided in such contract, or any agreement supplementary to such contract, provide to the licensee any intellectual property (including such embodiment) held by the trustee; and

"(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment) including any right to obtain such intellectual property (or such embodiment) from another entity.

"(4) Unless and until the trustee rejects such contract, on the written request of the licensee the trustee shall—

"(A) to the extent provided in such contract or any agreement supplementary to such contract—

"(i) perform such contract; or

"(ii) provide to the licensee such intellectual property (including any embodiment of such intellectual property to the extent protected by applicable nonbankruptcy law) held by the trustee; and

"(B) not interfere with the rights of the licensee as provided in such contract, or any agreement supplementary to such contract, to such intellectual property (including such embodiment), including any right to obtain such intellectual property (or such embodiment) from another entity.".

SEC. 2. EFFECTIVE DATES; APPLICATION OF AMENDMENTS. 11 USC 101 note.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to any case commenced under title 11 of the United States Code before the date of the enactment of this Act.

Approved October 18, 1988.

LEGISLATIVE HISTORY—S. 1626 (H.R. 5348):

HOUSE REPORTS: No. 100-1012 accompanying H.R. 5348 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-505 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 20, considered and passed Senate.
Oct. 3, 4, H.R. 5348 considered and passed House; proceedings vacated and S. 1626 passed in lieu.

Public Law 100-507
100th Congress

An Act

To amend the Nuclear Waste Policy Act of 1982 with respect to the Office of the Nuclear Waste Negotiator and the Monitored Retrievable Storage Commission.

Oct. 18, 1988
[S. 2800]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NUCLEAR WASTE NEGOTIATOR.

Section 402(a) of the Nuclear Waste Policy Act of 1982 is amended to read as follows: 42 USC 10242.

"SEC. 402. (a) ESTABLISHMENT.—There is established the Office of the Nuclear Waste Negotiator that shall be an independent establishment in the executive branch.".

SEC. 2. MONITORED RETRIEVABLE STORAGE COMMISSION.

Section 143(a)(3) of the Nuclear Waste Policy Act of 1982 is amended to read as follows: 42 USC 10163.

"(3) The report under this subsection, together with the recommendation of the MRS Commission, shall be transmitted to Congress on November 1, 1989.".

Approved October 18, 1988.

LEGISLATIVE HISTORY—S. 2800 (H.R. 4689):

HOUSE REPORTS: No. 100-869, Pt. 1, accompanying H.R. 4689 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-517 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 20, considered and passed Senate.
Oct. 3, 4, considered and passed House.

Public Law 100-508
100th Congress

An Act

Oct. 20, 1988
[H.R. 5186]

To designate the Federal building and United States courthouse located at 109 South Highland, Jackson, Tennessee, as the "Ed Jones Federal Building and United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building and United States Courthouse located at 109 South Highland, Jackson, Tennessee, shall be known and designated as the "Ed Jones Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Ed Jones Federal Building and United States Courthouse".

Approved October 20, 1988.

LEGISLATIVE HISTORY—H.R. 5186:

HOUSE REPORTS: No. 100-1006 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 4, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 100-509
100th Congress

An Act

To amend the Protection and Advocacy for Mentally Ill Individuals Act of 1986 to reauthorize such Act, and for other purposes.

Oct. 20, 1988
[S. 2393]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988. 42 USC 10801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Protection and Advocacy for Mentally Ill Individuals Amendments Act of 1988".

SEC. 2. REFERENCES.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Protection and Advocacy for Mentally Ill Individuals Act of 1986 (42 U.S.C. 10801 et seq.).

SEC. 3. SCOPE OF COVERAGE.

Section 102 (42 U.S.C. 10802) is amended—

(1) in paragraph (1), by inserting "or death" after "caused, injury";

(2) in paragraph (3)—

(A) by inserting "(i)" after the subparagraph designation in subparagraph (B);

(B) by striking out the period at the end of subparagraph (B) and inserting in lieu thereof the following: ", even if the whereabouts of such inpatient or resident are unknown;"; and

(C) by adding at the end thereof the following new clauses:

"(ii) who is in the process of being admitted to a facility rendering care or treatment, including persons being transported to such a facility; or";

Health care facilities.

"(iii) who is involuntarily confined in a municipal detention facility for reasons other than serving a sentence resulting from conviction for a criminal offense."; and

(3) in paragraph (4)—

(A) by inserting "or death" after "injury" each place such word occurs; and

(B) by inserting before the period at the end thereof the following: ", including the failure to maintain adequate numbers of appropriately trained staff".

SEC. 4. ESTABLISHMENT OF A GOVERNING AUTHORITY.

Section 105 (42 U.S.C. 10805) is amended—

(1) in subsection (a)(6), by striking out "a board" and inserting in lieu thereof "an advisory council"; and

(2) by adding at the end thereof the following new subsection:

State and local governments.

"(c)(1)(A) Each system established in a State, through allotments received under section 103, to protect and advocate the rights of mentally ill individuals shall have a governing authority.

"(B) In States in which the governing authority is organized as a private non-profit entity with a multi-member governing board, or a public system with a multi-member governing board, such governing board shall be selected according to the policies and procedures of the system. The governing board shall be composed of—

"(i) members (to be selected no later than October 1, 1990) who broadly represent or are knowledgeable about the needs of the clients served by the system; and

"(ii) in the case of a governing authority organized as a private non-profit entity, members who broadly represent or are knowledgeable about the needs of the clients served by the system including the chairperson of the advisory council of such system.

"(2) The governing authority established under paragraph (1) shall—

"(A) be responsible for the planning, design, implementation, and functioning of the system; and

"(B) consistent with subparagraph (A), jointly develop the annual priorities of the system with the advisory council.".

SEC. 5. ADVISORY COUNCIL REPORT.

Section 105(a)(7) (42 U.S.C. 10805(a)(7)) is amended by striking out the period and inserting in lieu thereof the following: ", including a section prepared by the advisory council that describes the activities of the council and its assessment of the operations of the system;".

SEC. 6. ACCESS TO RECORDS.

(a) SYSTEM REQUIREMENT.—Section 105(a)(4)(B) (42 U.S.C. 10805(a)(4)(B)) is amended by striking out "any individual" and inserting in lieu thereof "any individual (including an individual who has died or whose whereabouts are unknown)".

(b) DEFINITION OF RECORDS.—Section 106(b) (42 U.S.C. 10806(b)) is amended by adding at the end thereof the following new paragraph:

"(3)(A) As used in this section, the term 'records' includes reports prepared by any staff of a facility rendering care and treatment or reports prepared by an agency charged with investigating reports of incidents of abuse, neglect, and injury occurring at such facility that describe incidents of abuse, neglect, and injury occurring at such facility and the steps taken to investigate such incidents, and discharge planning records.

"(B) An eligible system shall have access to the type of records described in subparagraph (A) in accordance with the provisions of subsection (a) and paragraphs (1) and (2) of subsection (b).".

SEC. 7. MISCELLANEOUS PROVISIONS.

Health and medical care.

(a) SUBCONTRACTING.—Section 104(a)(2) (42 U.S.C. 10804(a)(2)) is amended by striking out "which, on the date of enactment of this Act" and inserting in lieu thereof "including, in particular, groups run by individuals who have received or are receiving mental health services, or the family members of such individuals, which".

(b) TECHNICAL ASSISTANCE LIMITATIONS.—

(1) STATE ASSISTANCE.—Section 104(b)(2) (42 U.S.C. 10804(b)(2)) is amended by striking out "5 percent" and inserting in lieu thereof "10 percent".

(2) ASSISTANCE BY THE SECRETARY.—Section 10 (42 U.S.C. 10825) is amended to read as follows:

"TECHNICAL ASSISTANCE

"SEC. 115. The Secretary shall use not more than 2 percent of the amounts appropriated under section 117 to provide technical assistance to eligible systems with respect to activities carried out under this title, consistent with requests by such systems for such assistance.".

(c) ADDITIONAL SYSTEM REQUIREMENTS.—Section 105(a) (42 U.S.C. 10805(a)) (as amended by section 5), is further amended by adding at the end thereof the following new paragraphs:

"(8) on an annual basis, provide the public with an opportunity to comment on the priorities established by, and the activities of, the system; and

"(9) establish a grievance procedure for clients or prospective clients of the system to assure that mentally ill individuals have full access to the services of the system.".

(d) APPLICATIONS.—Section 111 (42 U.S.C. 10821) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end thereof the following new subsection:

"(b) Applications submitted under this section shall remain in effect for a 3-year period, and the assurances required under this section shall be for the same 3-year period.".

(e) ALLOTMENT FORMULA.—Section 112(a) (42 U.S.C. 10822(a)) is amended—

(1) in paragraph (2) to read as follows:

"(2) Notwithstanding paragraph (1) and subject to the availability of appropriations under section 117—

"(A) if the total amount appropriated in a fiscal year is at least $13,000,000—

"(i) the amount of the allotment of the eligible system of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall be the greater of— District of Columbia. Puerto Rico.

"(I) $140,000; or

"(II) $125,000 in addition to the amount determined under paragraph (3); and

"(ii) the amount of the allotment of the eligible system of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands shall be the greater of— Territories, U.S.

"(I) $75,000; or

"(II) $67,000 in addition to the amount determined under paragraph (3); and

"(B) if the total amount appropriated in a fiscal year is less than $13,000,000, the amount of the allotment of the eligible system—

"(i) of each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico shall not be less than $125,000 in addition to the amount determined under paragraph (3); and District of Columbia. Puerto Rico.

"(ii) of Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and the Virgin Islands shall not be less than $67,000 in addition to the amount determined under paragraph (3)."; and Territories, U.S.

(2) by adding at the end thereof the following new paragraph:

"(3) In any case in which the total amount appropriated under section 117 for a fiscal year exceeds the total amount appropriated under such section, as in effect on the day before the date of enactment of this paragraph, for the preceding fiscal year by a percentage greater than the most recent percentage change in the Consumer Price Index published by the Secretary of Labor under section 100(c)(1) of the Rehabilitation Act of 1973, the Secretary shall increase each of the allotments under clauses (i)(II) and (ii)(II) of subparagraph (A) and clauses (i) and (ii) of subparagraph (B) of paragraph (2) by an amount which bears the same ratio to the amount of such minimum allotment (including any increases in such minimum allotment under this paragraph for prior fiscal years) as the amount which is equal to the difference between—

"(A) the total amount appropriated under section 117 for the fiscal year for which the increase in minimum allotment is made, minus;

"(B) the total amount appropriated under section 117 for the immediately preceding fiscal year,

bears to the total amount appropriated under section 117 for such preceding fiscal year.".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 117 (42 U.S.C. 10827) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 117. For allotments under this title, there are authorized to be appropriated $14,300,000 for fiscal year 1989, and such sums as may be necessary for fiscal year 1990 and fiscal year 1991.".

42 USC 10827 note.

SEC. 8. EFFECTIVE DATE.

(a) IN GENERAL.—The amendments made by this Act, other than the amendment made by section 7(f), shall become effective on the date of the enactment of this Act.

(b) AUTHORIZATION OF APPROPRIATIONS.—The amendment made by section 7(f) shall become effective on October 1, 1988.

Approved October 20, 1988.

LEGISLATIVE HISTORY—S. 2393 (H.R. 5155):

HOUSE REPORTS: No. 100-903 accompanying H.R. 5155 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-454 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 9, considered and passed Senate.
Sept. 20, H.R. 5155 considered and passed House; proceedings vacated and S. 2393, amended, passed in lieu.
Oct. 4, Senate concurred in certain House amendment with an amendment and disagreed to another.
Oct. 5, House receded and concurred in Senate amendment.

Public Law 100-510
100th Congress

An Act

To designate the facility of the United States Postal Service located at 850 Newark Turnpike in Kearny, New Jersey, as the "Dominick V. Daniels Postal Facility".

Oct. 20, 1988
[H.R. 2985]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the facility of the United States Postal Service located at 850 Newark Turnpike in Kearny, New Jersey, is hereby designated as the "Dominick V. Daniels Postal Facility". Any reference to such facility in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "Dominick V. Daniels Postal Facility".

Approved October 20, 1988.

LEGISLATIVE HISTORY—H.R. 2985:

CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 13, considered and passed House.
Vcl. 134 (1988): Oct. 11, considered and passed Senate.

Public Law 100-511
100th Congress

An Act

Oct. 20, 1988
[H.R. 3029]

To designate the new Post Office Building in Gretna, Louisiana, as the "William W. Pares, Jr., Post Office Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) the United States Postal Service has constructed a new Post Office Building in Gretna, Louisiana;

(2) the late William W. Pares, Jr., a native of Gretna and its Postmaster for 19 years until his death in October 1984, was instrumental in choosing the site for this new Post Office; and

(3) it would be fitting and proper to honor William W. Pares, Jr., and his many years of dedication to the Postal Service by dedicating the new Gretna Post Office Building in his honor.

SEC. 2. DESIGNATION.

The United States Post Office Building located at 406 Gretna Boulevard, Gretna, Louisiana, shall be known and designated as the "William W. Pares, Jr., Post Office Building".

SEC. 3. LEGAL REFERENCE.

Any reference to such building in any law, map, document, record, or other paper of the United States shall be deemed to be a reference to the "William W. Pares, Jr., Post Office Building".

Approved October 20, 1988.

LEGISLATIVE HISTORY—H.R. 3029:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 27, considered and passed House.
Oct. 7, considered and passed Senate.

○

Public Law 100-512
100th Congress

An Act

To provide for the settlement of the water rights claims of the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona, and for other purposes.

Oct. 20, 1988
[H.R. 4102]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988.
Public lands.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Salt River Pima-Maricopa Indian Community Water Rights Settlement Act of 1988".

SEC. 2. CONGRESSIONAL FINDINGS.

(a) The Congress finds and declares that—

(1) it is the policy of the United States, in fulfillment of its trust responsibility to Indian tribes, to promote Indian self-determination and economic self-sufficiency, and to settle, wherever possible, the water rights claims of Indian tribes without lengthy and costly litigation;

(2) meaningful Indian self-determination and economic self-sufficiency largely depend on development of viable Indian reservation economies;

(3) quantification of rights to water and development of facilities needed to utilize tribal water supplies effectively is essential to the development of viable Indian reservation economies, particularly in arid western States;

(4) on June 14, 1879, the United States Government established a reservation for the Salt River Pima-Maricopa Indian Community in Maricopa County, Arizona, at the confluence of the Salt and Verde Rivers tributary to the Gila River;

(5) the United States, as trustee for the Community, obtained water entitlements for the Community pursuant to the Kent Decree of 1910 and the Bartlett Dam Agreement of 1935; however, continued uncertainty as to the full extent of the Community's entitlement to water has severely limited the Community's access to the water and financial resources necessary to develop its valuable agricultural lands and frustrated its efforts to reduce its dependence on Federal program funding and achieve meaningful self-determination and economic self-sufficiency;

(6) litigation to determine the full extent and nature of the Community's water rights and those of its allotted land owners, and damages thereto, is currently pending before the United States District Court in Arizona and in the United States Claims Court. The United States, as trustee for the Community, also has filed claims for the Community's water rights in the General Adjudication of the Gila River System and Source currently pending in the Superior Court of the State of Arizona in and for the County of Maricopa;

(7) recognizing that final resolution of pending litigation will take many years and entail great expense to all parties, continue economically and socially damaging limits to the Community's access to water, prolong uncertainty as to the availability of water supplies and seriously impair the long-term economic planning and development of all parties, the Community and neighboring non-Indian communities have sought to settle their disputes to water and reduce the burdens of litigation;

(8) after more than two years of negotiations, which included participation by representatives of the United States Government, the Community and neighboring non-Indian communities of the Salt River Valley, who all are party to the General Adjudication of the Gila River System and Source, the parties have entered into an agreement to resolve all water rights claims between and among themselves, to quantify the Community's entitlement to water, to provide for the orderly development of the Community's lands, and to prescribe a procedure for resolving such remaining claims which the Community and its allottees may have against the United States;

(9) pursuant to the agreement, the neighboring non-Indian communities will transfer rights to approximately thirty-two thousand acre-feet of surface water to the Community, provide for the means of firming existing water supplies of the Community, and make substantial additional contributions to carry out the agreement's provisions; and

(10) to advance the goals of Federal Indian policy and to fulfill the trust responsibility of the United States to the Community, it is appropriate that the United States participate in the implementation of the agreement and contribute funds for the rehabilitation and expansion of existing reservation irrigation facilities so as to enable the Community to utilize fully its water entitlements in developing a diverse, efficient reservation economy.

(b) Therefore, it is the purpose of this Act (1) to approve, ratify and confirm the agreement entered into by the Community and its neighboring non-Indian communities, (2) to authorize and direct the Secretary to execute and perform such agreement, and (3) to authorize the actions and appropriations necessary for the United States to fulfill its legal and trust obligations to the Community as provided in the agreement and this Act.

SEC. 3. DEFINITIONS.

For the purposes of this Act—

(a) "Agreement" means that agreement dated February 12, 1988, among the Salt River Pima Maricopa Indian Community; the State of Arizona; the Salt River Project Agricultural Improvement and Power District; the Salt River Valley Water Users' Association; the Roosevelt Water Conservation District; the Roosevelt Irrigation District; the Arizona cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe, and the Arizona town of Gilbert; and the Central Arizona Water Conservation District, together with all exhibits thereto.

(b) "Allottees" means owners of allotted land within the Salt River Pima-Maricopa Indian Reservation.

(c) "Bartlett Dam Agreement" means the agreement between the United States and the Salt River Valley Water Users'

Association dated June 3, 1935, relating to Verde River storage works.

(d) "CAP" means the Central Arizona Project, a reclamation project authorized under title III of the Colorado River Basin Project Act of 1968 (43 U.S.C. 1521 et seq.).

(e) "CAWCD" means the Central Arizona Water Conservation District, organized under the laws of the State of Arizona, which is the contractor under a contract with the United States, dated December 15, 1972, for the delivery of water and repayment of costs of the Central Arizona Project.

(f) "Community" means the Salt River Pima-Maricopa Indian Community, a community of Pima and Maricopa Indians organized pursuant to Section 16 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 461 et seq.).

(g) "Kent Decree" means the decree dated March 1, 1910, entered in Patrick T. Hurley versus Charles F. Abbott, and others, Case Numbered 4564, in the District Court of the Third Judicial District of the Territory of Arizona, in and for the County of Maricopa, and all decrees supplemental thereto.

(h) "Plan 6 Agreement" means the agreement among the United States; the CAWCD; the Flood Control District of Maricopa County; SRP; the Arizona cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe; the State of Arizona; and the City of Tucson, for funding of Plan 6 facilities of the CAP, and for other purposes, dated April 15, 1986, together with Exhibits A, B, C, and D thereto.

(i) "RID" means the Roosevelt Irrigation District, an irrigation district organized under the laws of Arizona.

(j) "RWCD" means the Roosevelt Water Conservation District, an irrigation district organized under the laws of the State of Arizona.

(k) "Secretary" means the Secretary of the United States Department of the Interior.

(l) "SRP" means the Salt River Project Agricultural Improvement and Power District, a political subdivision of the State of Arizona, and the Salt River Valley Water Users' Association, an Arizona corporation.

SEC. 4. KENT DECREE REREGULATION.

Conservation.

(a) The Secretary is authorized and directed to designate seven thousand acre-feet (hereinafter referred to as "Designated Space") of the additional active conservation capacity which will result from the modifications to Roosevelt Dam on the Salt River previously authorized by the Reclamation Safety of Dams Act of 1978, as amended (43 U.S.C. 506 et seq.), the Colorado River Basin Project Act of 1968 (43 U.S.C. 1501 et seq.), and the relevant provisions relating to "Construction Program" contained in title II of the Act making appropriations for energy and water development for the fiscal year ending September 30, 1988, and for other purposes (Public Law 100-202), to be used for the reregulation of the Community's entitlement to water under the Kent Decree. The Designated Space shall be used for seasonal reregulation only, with no annual carry-over past October 1.

(b) The costs associated with the Designated Space shall be nonreimbursable, and the non-Federal funding obligation associated with the Designated Space under the Plan 6 Agreement and any supplement thereto is hereby forgiven.

SEC. 5. BARTLETT DAM AGREEMENT.

(a) The Secretary is directed to amend the Bartlett Dam Agreement to provide that the Salt River Valley Water Users' Association shall increase the total Community allotment of developed water to twenty thousand acre-feet on December 31 of any calendar year in which all of the following three conditions occur:

(1) for at least two hundred and ninety-two days of the calendar year the total water stored in Salt River Valley Water Users' Association reservoirs on the Verde River is more than the storage capacity of Bartlett Dam Reservoir, which, for the purposes of this Act, is deemed to be one hundred seventy-eight thousand, one hundred eighty-six acre-feet, as periodically adjusted by the Salt River Valley Water Users' Association for silt losses;

(2) the total Community allotment of developed water under the Bartlett Dam Agreement generated during the calendar year is less than seven thousand acre-feet;

(3) the total Community allotment of developed water under the Bartlett Dam Agreement existing at the end of the calendar year is less than twenty thousand acre-feet.

(b) Article 4 of the Bartlett Dam Agreement shall be deleted and replaced with the following language: "ARTICLE 4. OPERATION OF STORAGE WORKS 'The works to be constructed upon Verde River shall be operated and maintained by the Association. The Association may at any time store any part or all of Flow of Verde River in the reservoir, and may at any time release any quantity of water from the reservoir or it may permit the river to flow through the reservoir without regulation.' ".

(c) Except as provided in subsections (a) and (b), all terms of the Bartlett Dam Agreement shall remain unchanged and in full force and effect.

SEC. 6. RATIFICATION AND CONFIRMATION OF CONTRACTS.

(a) The contract between the Salt River Valley Water Users' Association and the Carrick and Mangham Aqua Fria Lands and Irrigation Company (the predecessor of the Roosevelt Irrigation District) dated August 25, 1921, together with the modifications thereto dated February 3, 1927, and May 31, 1950, is ratified, confirmed, and declared to be valid.

(b) The contract between the Salt River Valley Water Users' Association and the Roosevelt Water Conservation District dated October 24, 1924, together with all amendments thereto and any extension thereto entered into pursuant to the Agreement is ratified, confirmed, and declared to be valid.

(c) The Secretary is authorized and directed to revise the subcontract of the Roosevelt Water Conservation District for agricultural water service from the CAP to include an addendum substantially in the form of exhibit "3.1" to the Agreement and to execute the subcontract as revised. Notwithstanding any other provision of law, the Secretary shall approve the conversions of agricultural water to municipal and industrial uses authorized by the addendum at such time or times as the conditions authorizing such conversions, as set forth in the addendum, are found to exist.

(d) The Secretary is authorized and directed to execute and perform that agreement among the United States, the CAWCD, the RWCD, the Arizona cities of Chandler, Glendale, Scottsdale, Tempe, Mesa, Phoenix, and the Arizona town of Gilbert providing for the

assignment of a portion of the RWCD's entitlement to agricultural water service from the CAP and other matters in substantially the form of exhibit "12.3" to the Agreement, and such agreement is hereby ratified, confirmed, and declared to be valid.

(e) The Secretary is authorized and directed, at such time as the authorizations in section 10(b)(1) become effective, to certify that the lands within the RWCD are free from the ownership and full cost pricing limitations of Federal reclamation law.

SEC. 7. COLORADO RIVER WATER EXCHANGE. Contracts.

(a) On or before December 31, 1990, the Secretary shall acquire, from willing irrigation districts and their landowners (hereinafter "sellers"), rights to twenty-two thousand acre-feet of annual consumptive use of water from the main stream of the Colorado River in the State of Arizona with a contractual priority predating September 30, 1968, and which was not included by the Secretary, the Arizona Water Commission, or the Arizona Department of Water Resources in the determination of the water supplies available to the CAP for the purpose of establishing the initial allocations to non-Indian entities. Nothing in this Act shall alter the responsibilities of the United States under article V of the March 9, 1964, Decree of the United States Supreme Court in Arizona versus California, 376 U.S. 340.

(b) The Secretary is authorized, as part of consideration to willing sellers for the acquisition of water pursuant to subsection (a), to amend existing repayment contracts with the United States to which such sellers are subject to provide for the discharge of any remaining repayment obligation which the irrigation districts owe the United States as of May 30, 1987, and to certify that the lands within the irrigation districts are free from the ownership and full cost pricing limitations of Federal reclamation law.

(c) The Secretary shall contract to deliver such water to the Arizona cities of Chandler, Glendale, Scottsdale, Tempe, Mesa, and Phoenix, and the Arizona town of Gilbert, in exchange for water provided by these cities and the town to the Community, in the amounts set forth in the Agreement. Such water shall increase the supply available for delivery to CAP non-Indian municipal and industrial subcontractors of CAP water service. The terms of each water delivery contract shall be in a form mutually acceptable to the respective parties thereto and substantially similar to exhibits "3.h.1" through "3.h.7" to the Agreement, which exhibits substantially conform to the terms of the CAP municipal and industrial water service subcontracts to which each of such cities and the town are parties on the effective date of this Act, except that:

(1) there shall be no water service capital charges associated with water deliveries made pursuant to the contracts authorized by this section, except as otherwise provided in the Agreement;

(2) for the purpose of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14-06-W-245 between the United States of America and the Central Arizona Water Conservation District dated December 15, 1972, and any amendment or revision thereof, the costs associated with the delivery of water to cities and the town pursuant to the contracts authorized by this section shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation;

(3) notwithstanding the provisions of section 9(e) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(e)) and section 304(b)(2) of the Colorado River Basin Project Act (43 U.S.C. 1524(b)(2)), the term of the contracts authorized by this section shall be perpetual.

(d) Within one year of the date of enactment of this Act the cities and the town shall deposit $9,000,000 in an escrow account as provided in the Agreement for the purposes of funding the acquisition of the rights to water referred to in subsection (a). On or after the date the waiver referred to in section 10(b)(1) becomes effective, monies shall be paid out of the escrow account to the United States in accordance with the Agreement: *Provided,* That such payment shall not exceed the costs incurred by the Secretary pursuant to subsection (a) or $9,000,000, whichever amount is less. Any monies remaining in escrow account after payment to the United States shall be returned to cities and the town. If the waiver referred to in section 10(b)(1) do not become effective by December 31, 1991, all monies in the escrow account shall be returned to the cities and the town in accordance with the Agreement.

(e) Neither the Salt River Valley Water Users' Association nor the Salt River Project Agricultural Improvement and Power District shall become subject to the provisions of the Reclamation Reform Act of 1982 (43 U.S.C. 390aa et seq.) by virtue of either its participation in the settlement or its execution and performance of the Agreement, including but not limited to the exchange provided for in this section.

SEC. 8. WATER DELIVERY CONTRACT AMENDMENTS; WATER LEASE.

(a) The Secretary is authorized and directed to amend the CAP water delivery contract between the United States and the Community dated December 11, 1980 (herein referred to as the "Community CAP Delivery Contract"), as follows:

(1) to extend the term of such contract to December 31, 2098, and to provide for its subsequent renewal upon terms and conditions to be agreed upon by the parties prior to the expiration of the extended term thereof;

(2) to authorize the Community to lease the CAP water to which the Community is entitled under the Community CAP Delivery Contract to the Arizona cities of Chandler, Glendale, Mesa, Phoenix, Scottsdale, and Tempe and the Arizona town of Gilbert under the terms and conditions of the Project Water Lease set forth in exhibits "3.m.1" through "3.m.7" to the Agreement for a term commencing January 1, 2000, and ending December 30, 2098;

(3) to perform the specific terms and conditions set forth in exhibit "3.j." to the Agreement.

(b) Notwithstanding any other provision of law, the amendments to the Community CAP Delivery Contract set forth in exhibit "3.j." to the Agreement and the terms and conditions of the Project Water Leases set forth in exhibits "3.m.1" through "3.m.7" to the Agreement are hereby authorized, approved, and confirmed.

(c) Consistent with subsection (d)(1) of this section, the United States shall not impose upon the Community the operation, maintenance and replacement charges described and set forth in section 7(b) of the Community CAP Delivery Contract or any other charge with respect to CAP water delivered or required to be delivered to

the cities and the town pursuant to the Community CAP Delivery Contract and the Project Water Leases herein authorized.

(d) The Community and the Secretary shall lease to the cities and the town, for a term commencing on January 1, 2000, and ending December 30, 2098, and for the total consideration of $16,000,000 to be paid by the cities and the town to the Community, upon those terms reflected in the Project Water Leases set forth in exhibits "3.m.1" through "3.m.7" to the Agreement, up to thirteen thousand three hundred acre-feet of CAP water to which the Community is entitled under the Community CAP Delivery Contract. The Project Water Leases shall specifically provide that—

(1) the cities and the town, each in accordance with its obligations under the Project Water Leases, shall pay all operation, maintenance and replacement costs of such water to the United States, or, if directed by the Secretary, to the Central Arizona Water Conservation District: *Provided,* That such payments shall not be commenced earlier than October 1, 1998;

(2) except as otherwise provided in the Project Water Leases, the cities and the town shall not be obligated to pay water service capital charges or municipal and industrial subcontract charges or any other charges or payment for such CAP water other than the operation, maintenance, and replacement costs and lease payments as set forth in this subsection.

(e) For the purpose of determining the allocation and repayment of costs of the CAP as provided in Article 9.3 of Contract Numbered 14-06-W-245 between the United States of America and the Central Arizona Water Conservation District dated December 15, 1972, and any amendment or revision thereof, the costs associated with the delivery of CAP water pursuant to the Project Water Leases referred to in subsection (d) shall be nonreimbursable, and such costs shall be excluded from CAWCD's repayment obligation.

(f) Except as authorized by this section, no water received by the Community pursuant to the Agreement may be sold, leased, transferred, or in any way used off the Community's reservation.

SEC. 9. CONSTRUCTION AND REHABILITATION; TRUST FUND.

(a) The Secretary is directed—

(1) pursuant to the existing authority of the Colorado River Basin Project Act (43 U.S.C. 1501 et seq.), to design and construct new facilities for the delivery of water from the Community's turnout on the CAP Granite Reef Aqueduct and from the Arizona Canal to the irrigable Community reservation lands lying north of the Arizona Canal and west of the Parker Dam Power Project power transmission line easement and to irrigable Community reservation lands south of the Arizona Canal at a cost which shall not exceed the cost for such design and construction which would have been incurred by the Secretary in the absence of the Agreement and this Act;

(2) pursuant to existing authority and obligation of the Snyder Act (25 U.S.C. 13), to deposit into the Community Trust Fund established under subsection (b)(1) $17,000,000 for the rehabilitation and improvement of the Community's existing facilities for the delivery of water to irrigable Community reservation lands lying south of the Arizona Canal and west of the Parker Dam Power Project power transmission line easement; and

(3) to deposit into the Community Trust Fund the funds authorized to be appropriated by subsection (c) for the Commu- Community development.

nity to use in the design and construction of facilities to put to beneficial use the Community's water entitlement, to defray the cost to the Community of CAP operation, maintenance and replacement charges, and for other economic and community development on the Salt River Indian Reservation.

(b)(1) As soon as practicable, the Community shall establish the Salt River Community Trust Fund into which shall be deposited—

(A) by the Secretary, the funds provided in paragraphs (2) and (3) of subsection (a), and

(B) by the State of Arizona, $3,000,000 required by paragraph 20.2(b) of the Agreement.

Appropriation authorization.

(c) There is hereby authorized to be appropriated $30,470,000 to carry out the provisions of paragraph (3) of subsection (a).

(d) Upon the completion of the actions described in section 12(a), the Trust Fund, principal and income, may be used by the Community, in its discretion, to fulfill the purposes of the Agreement and this Act, but no part of such fund may be used to make per capita payments to members of the Community.

(e) Effective with the payments into the Trust Fund by the Secretary of the amounts required under paragraph (A) of subsection (b)—

(A) the Secretary shall have no further duties or responsibilities with respect to the administration of, or expenditures from the Trust Fund, and

(B) the United States shall not be liable for any claim or cause of action arising from the Community's use and expenditure of moneys from the Trust Fund.

SEC. 10. CLAIMS EXTINGUISHMENT; WAIVERS AND RELEASES.

(a)(1) There are extinguished—

(A) all Allottees' claims against the United States for damages for deprivation of water rights through December 31, 1991;

(B) all Allottees' claims against all persons other than the United States for damages for deprivation of water rights through December 31, 1991, for which damages are not recoverable under subparagraph (a)(1)(A) of this section; and

(C) all rights of Allottees to assert claims against the United States and all other persons for declaratory, injunctive or other relief for the determination or enforcement of water rights for allotted lands, including rights to surface water, ground water, and effluent.

(2) For purposes of paragraph (a)(1) of this section claims for water rights include all claims under Federal and State laws (including claims for water rights in ground water, surface water, and effluent) which may otherwise have been enforceable by money damages, declaratory relief, injunction, or other relief.

(3) The benefits realized by the Allottees under this Act shall constitute full and complete satisfaction of all Allottees' claims for water rights under Federal and State laws (including claims for water rights in ground water, surface water, and effluent) that may accrue after the authorizations contained in paragraph (b)(1) of this section have become effective and which would otherwise have been enforceable by money damages, declaratory relief, injunction, or other relief.

(4) Consent is given to Allottees to maintain actions, individually or as a class, against the United States in the United States Claims Court pursuant to section 1491 of title 28, United States Code, to

recover damages, if any, for the extinguishment of claims effected by subparagraphs (a)(1)(A) and (a)(1)(B) of this section: *Provided, however,* That any claim for damages for rights extinguished by subparagraph (a)(1)(B) of this section shall not be joined in the same action as a claim for damages for rights extinguished by subparagraph (a)(1)(A) of this section.

(5) The United States shall have a claim only against the Community for any judgment entered against it in any action for damages for water rights extinguished by subparagraph (a)(1)(B) of this section, and the Community shall not have sovereign immunity with respect to such claim.

(6)(A) With respect to any claim against the United States which is extinguished by subparagraphs (a)(1)(A) and (a)(1)(B), the United States may assert as a defense in any action brought pursuant to paragraph (a)(4) of this section the limitation of section 2501 of title 28, United States Code, as to damages incurred more than six years before the commencement of the action, but it shall not assert a timeliness defense as to damages incurred within six years before the commencement of the action.

(B) With respect to any claim for damages for rights extinguished by subparagraph (a)(1)(B) of this section, the United States may assert as a defense any defense which the person whose liability was extinguished might have asserted in an action brought by the Allottees against him prior to the effective date of this Act.

(b)(1) The Community is authorized, as part of the performance of its obligations under the Agreement, to execute a waiver and release of all present and future claims of water rights or injuries to water rights (including water rights in ground water, surface water, and effluent), from time immemorial to the effective date of this Act, and any and all future claims of water rights (including water rights in ground water, surface water, and effluent), from and after the effective date of this Act, which the Community may have, or which it may have standing to assert on behalf of its members and Allottees, against the United States; the State of Arizona or any agency or political subdivision thereof; or any other person, corporation, or municipal corporation, arising under the laws of the United States or the State of Arizona.

(2) In any action asserted within two years after the date of enactment of this Act by the Community against the United States in the United States Claims Court for monetary damages based upon loss or impairment of water rights the United States may assert a limitation as to damages incurred more than eight years before the commencement of the action instead of the six year limitation of section 2501 of title 28, United States Code, and it shall not assert a timeliness defense as to damages incurred within eight years before the commencement of the action.

(c) The benefits realized by the Community under this Act shall constitute full and complete satisfaction of all monetary claims against the United States for any damages alleged to accrue after completion of the requirements of section 12(a).

(d) Except as provided in paragraph (a)(5) of this section and paragraphs 17.2 and 17.5 of the Agreement, the United States shall not assert any claim against any person in its own right or on behalf of the Community based upon—

(1) water rights or injuries to water rights of the Community, its members or Allottees; or

(2) water rights or injuries to water rights held by the United States on behalf of the Community, its members or Allottees.

(e) In the event the authorizations contained in paragraph (b)(1) of this section do not become effective pursuant to section 12(a), the Community shall retain the right to assert past and future water rights claims as to all reservation lands.

SEC. 11. MISCELLANEOUS PROVISIONS.

Claims.

(a) In the event any party to the Agreement should file a lawsuit in Federal District Court only relating directly to the interpretation or enforcement of the Agreement, naming the United States of America or the Communities as parties, authorization is hereby granted to join the United States of America and/or the Community in any such litigation, and any claim by the United States of America or the Community to sovereign immunity from such suit is hereby waived.

Claims.

(b) From and after the effective date of this Act, the Salt River Valley Water Users' Association and the Salt River Project Agricultural Improvement and Power District collectively are authorized to assert, on behalf of the Community, the Community's claims to spill water, as defined in the Agreement, in the General Adjudication of the Gila River System and Source currently pending in the Superior Court of the State of Arizona in and for the County of Maricopa (hereinafter referred to as the "Gila River Adjudication"). From and after such effective date, the United States shall not prosecute a separate claim or claims for spill water on behalf of the Community in the Gila River Adjudication or in any other administrative or judicial proceeding. The United States shall not challenge any claims to spill water on behalf of the Community in the Gila River Adjudication or in any other administrative or judicial proceeding.

43 USC 1522 note.

(c) Upon the effective date of this Act as set forth in section 12, section 302 of the Colorado River Basin Project Act (43 U.S.C. 1522) shall no longer apply to the Community.

(d) The United States of America shall make no claims for reimbursement of costs arising out of the implementation of this Act or the Agreement against any Indian-owned land within the Community's reservation, and no assessment shall be made in regard to such costs against such lands.

(e) Water received by the Cities and Town pursuant to paragraphs 10.3, 11.0, 12.2, and 19.0 of the Agreement shall not affect any future allocation or reallocation of the CAP supply.

(f) To the extent the Agreement does not conflict with the provisions of this Act, such Agreement is hereby approved, ratified, and confirmed. The Secretary is authorized and directed to execute and perform such Agreement. The Secretary is further authorized to execute any amendments to the Agreement and perform any actions required by any amendments to the Agreement which may be mutually agreed upon by the parties.

(g) Effective as of the date of enactment of this Act, and, notwithstanding the provisions of section 177 of title 25 United States Code, the Salt River Pima-Maricopa Indian Community may, as to any land outside of the Salt River Pima-Maricopa Indian Reservation to which it holds fee title, leasehold interest or any other interest, sell, encumber, hypothecate, lease or otherwise deal with such land or interest in such land as any other owner, lessor or interest holder might, subject to the laws of the state within which the land is situated.

(h) Within thirty days after the date of enactment of this Act, the Secretary shall request the Arizona Department of Water Resources to recommend a reallocation of non-Indian agricultural CAP water that has been offered to but not contracted for by potential non-Indian agricultural subcontractors. Within one hundred and eighty days of receipt of such recommendations, the Secretary shall reallocate such water for non-Indian agricultural use, and the Secretary and CAWCD shall thereafter offer amendatory or new subcontracts for such water to non-Indian agricultural users.

Agriculture and agricultural commodities.

SEC. 12. EFFECTIVE DATE.

Contracts.

(a) The authorizations contained in section 10(b)(1) of this Act shall not be effective until such time as—

(1) the Secretary has fulfilled the requirements of sections 4 and 7;

(2) the Bartlett Dam Agreement has been amended as provided in section 5;

(3) the Roosevelt Water Conservation District subcontract for agricultural water service from CAP has been revised and executed as provided in section 6(c) and the assignment described in section 6(d) has been executed;

(4) the funds required for the purpose of section 9(a)(1) have been appropriated;

(5) the funds authorized by sections 9(a)(2) and 9(c) have been appropriated and deposited into the Community Trust Fund;

(6) the State of Arizona has appropriated and deposited into the Community Trust Fund the $3,000,000 required by paragraph 20.2(b) of the Agreement;

(7) the stipulation which is attached to the Agreement as exhibit "3.e." has been approved; and

(8) the Agreement has been modified to the extent it is in conflict with this Act and has been executed by the Secretary.

(b) If the actions described in paragraphs (1), (2), (3), (4), (5), (6), (7), and (8) of subsection (a) have not all occurred by December 31, 1991, sections 4, 5, 6, 7(b), 7(c), 8, 9(a)(2), 9(a)(3), 9(b), 9(c), 10(a)(1)(c), 10(d), and 11(a), 11(b), 11(c), 11(d), 11(e), and 11(f), and any contracts entered into pursuant to those provisions, shall not thereafter be effective, any funds appropriated pursuant to sections 9(a)(2) and 9(c) shall revert to the Treasury, and any funds appropriated pursuant to paragraph 20.2(b) of the Agreement shall revert to the State of Arizona.

SEC. 13. OTHER CLAIMS.

Nothing in the Agreement or this Act shall be construed in any way to quantify or otherwise affect the water rights, claims or entitlements to water of any Arizona Indian tribe, band or community, other than the Community.

SEC. 14. AK-CHIN.

Loans.

(a) The Ak-Chin Indian Community of Arizona may make repayment of the Ak-Chin West supplemental loan by a discounted prepayment in lieu of the repayment terms and provisions contained in section 5(c) of Public Law 89-984, the Small Reclamation Projects Act. The Secretary of the Interior shall determine such amount in a manner that will result in an equitable repayment based on the current applicable interest rate.

(b) The Ak-Chin West supplemental loan is hereby exempt from the 1986 amendments (Public Law 99-546) to the Small Reclamation Projects Act, and the requirement contained in section 4(e) of Small Reclamation Projects Act for a sixty-day congressional review of the approved loan application is hereby waived.

Approved October 20, 1988.

LEGISLATIVE HISTORY—H.R. 4102:

HOUSE REPORTS: No. 100-868 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Oct. 3, 4, House concurred in Senate amendment.

Public Law 100-513
100th Congress

An Act

Extending permission for the President's Commission on White House Fellows to accept certain donations.

Oct. 20, 1988
[H.R. 4529]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the President's Commission on White House Fellowships, established by Executive Order Numbered 11183, dated October 3, 1964, may accept donations of money, property, or personal services. The Commission shall take such actions as may be necessary to ensure that no conflict of interest, or appearance of a conflict of interest, arises from any such donation, including—

(1) ensuring that donations to the Commission do not have any effect on the selection of White House Fellows; and

(2) ensuring that donors do not receive any commercial advantage or benefit from any such donation.

The Commission shall keep records of all donations made to the Commission and shall make such records available for public inspection.

Records.
Public information.

Approved October 20, 1988.

LEGISLATIVE HISTORY—H.R. 4529:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 4, considered and passed Senate.

Public Law 100-514
100th Congress

Joint Resolution

Oct. 20, 1988
[H.J. Res. 488]

Designating November 6-12, 1988, as "National Women Veterans Recognition Week".

Whereas there are more than 1,200,000 women veterans in the Nation, representing 4.2 percent of the total veteran population;
Whereas the number of women serving in the Armed Forces and the number of women veterans continue to increase;
Whereas women veterans have contributed greatly to the Nation's security through honorable military service which in many cases involved great hardship and danger;
Whereas the contributions and sacrifices of women veterans on behalf of the Nation deserve greater public recognition and appreciation;
Whereas the special needs of women veterans, especially in the area of health care, have often been overlooked or inadequately addressed by the Federal Government;
Whereas this lack of attention to the special needs of women veterans has discouraged or prevented many women veterans from taking full advantage of the benefits and services to which they are entitled; and
Whereas designating a week to recognize women veterans in November 1988 will help further important gains made by women veterans following National Women Veterans Recognition Week in November 1984, 1985, 1986, and 1987: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 6-12, 1988, is designated as "National Women Veterans Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved October 20, 1988.

LEGISLATIVE HISTORY—H.J. Res. 488 (S.J. Res. 361):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 2, considered and passed House.
Oct. 7, considered and passed Senate.

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Public Law 100-515
100th Congress

An Act

To provide for the establishment of the Coastal Heritage Trail Route in the State of New Jersey, and for other purposes.

Oct. 20, 1988
[S. 2057]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.

SECTION 1. DESIGNATION OF NEW JERSEY COASTAL HERITAGE TRAIL ROUTE.

16 USC 1244 note.

In order to provide for public appreciation, education, understanding, and enjoyment, through a coordinated interpretive program of certain nationally significant natural and cultural sites associated with the coastal area of the State of New Jersey that are accessible generally by public road, the Secretary of the Interior (hereinafter referred to as the "Secretary"), acting through the Director of the National Park Service, with the concurrence of the agency having jurisdiction over such roads, is authorized to designate, by publication of a map or other description thereof in the Federal Register, a vehicular tour route along existing public roads linking such natural and cultural sites in New Jersey. Such route shall be known as the New Jersey Coastal Heritage Trail Route (hereinafter referred to as the "route").

Federal Register, publication.
Highways.

SEC. 2. LOCATION; ADDITIONAL SEGMENTS.

16 USC 1244 note.

The route shall follow public roads, which are generally located to the east of the Garden State Parkway, linking the New Jersey portion of Gateway National Recreation Area, known generally as the Sandy Hook Unit, with the national historic landmark in Cape May and that area north and west of Cape May in the vicinity of Deepwater, New Jersey. The Secretary may, in the manner set forth in section 1, designate additional segments of the route from time to time as appropriate to link the foregoing sites with other natural and cultural sites when such sites are designated and protected by Federal, State, or local governments, or other public or private entities.

SEC. 3. INVENTORY AND PLAN.

16 USC 1244 note.

(a) PREPARATION.—Within one year after the date of availability of funds, the Secretary shall prepare a comprehensive inventory of sites along the route and general plan which shall include but not be limited to the location and description of each of the following:

(1) Significant fish and wildlife habitat and other natural areas.

Fish and fishing.
Wildlife.

(2) Unique geographic or geologic features and significant landforms.

(3) Important cultural resources, including historical and archeological resources.

Historic preservation.

(4) Migration routes for raptors and other migratory birds, marine mammals, and other wildlife.

Birds.

(b) INTERPRETIVE PROGRAM.—The general plan shall include proposals for a comprehensive interpretive program of the area and it shall identify alternatives for appropriate levels of protection of significant resources.

(c) TRANSMISSION TO CONGRESS.—The Secretary shall transmit the comprehensive inventory and the general plan to the Committee on Energy and Natural Resources of the United States Senate and to the Committee on Interior and Insular Affairs of the United States House of Representatives.

(d) CONSULTATION; PUBLIC PARTICIPATION.—The inventory and plan shall be prepared in consultation with other Federal agencies, the State of New Jersey, units of local government, and public and private entities. In addition, the Secretary shall ensure that there are ample opportunities for public involvement and participation in the preparation of the inventory and plan.

16 USC 1244 note.

SEC. 4. PUBLIC APPRECIATION.

With respect to sites linked by segments of the route which are administered by other Federal, State, local nonprofit or private entities, the Secretary is authorized, pursuant to cooperative agreements with such entities, to provide technical assistance in the development of interpretive devices and materials and conservation methods regarding the resources enumerated in section 3 in order to contribute to public appreciation, understanding and conservation of the natural and cultural resources of the sites along the route. The Secretary, in cooperation with State and local governments, and other public and private entities, shall prepare and distribute informational material for the public appreciation of sites along the route.

16 USC 1244 note.

SEC. 5. MARKERS.

The route is to be marked with appropriate markers to guide the public. With the concurrence and assistance of the State or local entity having jurisdiction over the roads designated as part of the route, the Secretary may erect thereon signs and other informational devices displaying the New Jersey Coastal Heritage Trail Route marker. The Secretary is authorized to accept the donation of suitable signs and other informational devices for placement at appropriate locations.

Gifts and property.

16 USC 1244 note.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary not more than $250,000 to carry out the purposes of this Act. No funds made available under this Act shall be used for the operation, maintenance, or repair of any road or related structure.

16 USC 1244 note.

SEC. 7. REVITALIZATION OF OFFICERS ROW, SANDY HOOK, NEW JERSEY.

Public buildings and grounds.

(a) AGREEMENT WITH STATE.—To further the revitalization, rehabilitation, and utilization of the area known as "Officers Row" located within the Sandy Hook Unit of the Gateway National Recreation Area, the Secretary of the Interior, or his designee, shall enter into an agreement to permit the State of New Jersey to use and occupy the property depicted on the map numbered 646/80,003, entitled "Marine Science Laboratory Land Assignment", dated September 1988, for the express purpose of constructing, developing, and operating, without cost to the National Park Service, a marine sciences laboratory to be known as the "James J. Howard Marine

Sciences Laboratory". The design of the new facility, the rehabilitation of Building 74, the design and location of landscaping modifications thereto, shall be reviewed by, and subject to the approval of, the Director of the National Park Service or his designee using the standards for rehabilitation and National Park Service guidelines and policies approved by the Secretary of the Interior.

(b) REVERSION.—If the improvements described in subsection (a) are not used as a marine sciences laboratory by the State of New Jersey, all use of the property and the improvements thereon shall revert, without consideration, to the National Park Service.

Approved October 20, 1988.

LEGISLATIVE HISTORY—S. 2057:

HOUSE REPORTS: No. 100-905 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-372 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 8, considered and passed Senate.
Sept. 13, considered and passed House, amended.
Sept. 30, Senate concurred in House amendments with amendments.
Oct. 3, 4, House concurred in Senate amendments.

Public Law 100-516
100th Congress

An Act

Oct. 24, 1988
[H.R. 2772]

To authorize construction of the Mni Wiconi Rural Water Supply Project, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Mni Wiconi Project Act of 1988.
Fish and fishing.
Wildlife.
South Dakota.
Indians.
Conservation.

SECTION 1. SHORT TITLE.

Sections 1 through 12 of this Act may be cited as the "Mni Wiconi Project Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) there are insufficient water supplies available to residents of the Pine Ridge Indian Reservation in South Dakota, and the water supplies that are available do not meet minimum health and safety standards, thereby posing a threat to public health and safety;

(2) Shannon County, South Dakota, one of the counties where the Pine Ridge Indian Reservation is located, is the poorest county in the United States, and the lack of water supplies on the Pine Ridge Indian Reservation restricts efforts to promote economic development on the reservation;

(3) serious problems in water quantity and water quality exist in the rural counties of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota;

(4) the United States has a trust responsibility to ensure that adequate and safe water supplies are available to meet the economic, environmental, water supply, and public health needs of the Pine Ridge Indian Reservation; and

(5) the best available, reliable, and safe rural and municipal water supply to serve the needs of the Pine Ridge Indian Reservation, and the residents of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties is the Missouri River.

(b) PURPOSE.—The Congress declares that the purposes of sections 1 through 12 are to—

(1) ensure a safe and adequate municipal, rural, and industrial water supply for the residents of the Pine Ridge Indian Reservation in South Dakota;

(2) assist the citizens of Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, to develop safe and adequate municipal, rural, and industrial water supplies;

(3) promote the implementation of water conservation programs on the Pine Ridge Indian Reservation and in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota;

(4) provide certain benefits to fish, wildlife, and the natural environment of South Dakota, including the Pine Ridge Indian Reservation; and

(5) repeal the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program.

SEC. 3. OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.

(a) AUTHORIZATION.—The Secretary of the Interior (hereafter in sections 1 through 12 referred to as the "Secretary") is authorized and directed to plan, design, construct, operate, maintain, and replace a municipal, rural, and industrial water system, to be known as the Oglala Sioux Rural Water Supply System, as generally described in the report entitled "1988 Planning Report and Environmental Assessment" and dated February 1988. The Oglala Sioux Rural Water Supply System shall consist of—

(1) pumping and treatment facilities located along the Missouri River near Fort Pierre, South Dakota;

(2) pipelines extending from the Missouri River near Fort Pierre, South Dakota, to the Pine Ridge Indian Reservation;

(3) facilities to allow for interconnections with the West River Rural Water System and Lyman-Jones Rural Water System;

(4) distribution and treatment facilities to serve the needs of the Pine Ridge Indian Reservation, including but not limited to the purchase, improvement and repair of existing water systems, including systems owned by individual tribal members and other residents on the Pine Ridge Indian Reservation;

(5) appurtenant buildings and access roads;

(6) necessary property and property rights;

(7) electrical power transmission and distribution facilities necessary for services to water systems facilities; and

Highways.
Real property.
Utilities.
Energy.

(8) such other pipelines, pumping plants, and facilities as the Secretary deems necessary or appropriate to meet the water supply, economic, public health, and environmental needs of the reservation, including (but not limited to) water storage tanks, water lines, and other facilities for the Oglala Sioux Tribe and reservation villages, towns, and municipalities.

(b) AGREEMENT WITH NON-FEDERAL ENTITY TO PLAN, CONSTRUCT, OPERATE AND MAINTAIN THE OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.—

(1) In carrying out subsection (a), the Secretary, with the concurrence of the Oglala Sioux Tribal Council, shall enter into agreements with the appropriate non-Federal entity or entities for planning, designing, constructing, operating, maintaining, and replacing the Oglala Sioux Rural Water Supply System.

(2) Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the responsibilities of the parties for needs assessment, feasibility, and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(3) Such cooperative agreements may include purchase, improvement, and repair of existing water systems, including

systems owned by individual tribal members and other residents located on the Pine Ridge Indian Reservation.

(4) The Secretary may unilaterally terminate any cooperative agreement entered into pursuant to this section if the Secretary determines that the quality of construction does not meet all standards established for similar facilities constructed by the Secretary or that the operation and maintenance of the system does not meet conditions acceptable to the Secretary for fulfilling the obligations of the United States to the Oglala Sioux Tribe.

(5) Upon execution of any cooperative agreement authorized under this section, the Secretary is authorized to transfer to the appropriate non-Federal entity, on a nonreimbursable basis, the funds authorized to be appropriated by section 10 for the Oglala Sioux Rural Water Supply System.

(c) SERVICE AREA.—The service area of the Oglala Sioux Rural Water Supply System shall be the boundaries of the Pine Ridge Indian Reservation.

(d) CONSTRUCTION REQUIREMENTS.—The pumping plants, pipelines, treatment facilities, and other appurtenant facilities for the Oglala Sioux Rural Water Supply System shall be planned and constructed to a size sufficient to meet the municipal, rural, and industrial water supply requirements of the Pine Ridge Indian Reservation, the West River Rural Water System, and the Lyman-Jones Rural Water System, taking into account the effects of the conservation plans described in section 5. All three systems may be interconnected and provided with water service from common facilities. Any joint costs associated with common facilities shall be allocated to the Oglala Sioux Rural Water Supply System.

(e) TITLE TO SYSTEM.—Title to the Oglala Sioux Rural Water Supply System shall be held in trust for the Oglala Sioux Tribe by the United States and shall not be transferred without a subsequent Act of Congress.

(f) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the Oglala Sioux Rural Water Supply System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and

Reports.

(2) a final engineering report has been prepared and submitted to the Congress for a period of not less than ninety days.

(g) TECHNICAL ASSISTANCE.—The Secretary is authorized and directed to provide such technical assistance as may be necessary to the Oglala Sioux Tribe to plan, develop, construct, operate, maintain, and replace the Oglala Sioux Rural Water Supply System, including (but not limited to) operation and management training.

(h) APPLICATION OF INDIAN SELF-DETERMINATION ACT.—Planning, design, construction and operation of the Oglala Sioux Rural Water Supply System within the Pine Ridge Reservation shall be subject to the provisions of the Indian Self-Determination Act (Public Law 93-638; 25 U.S.C. 450).

SEC. 4. WEST RIVER RURAL WATER SYSTEM AND LYMAN-JONES RURAL WATER SYSTEM.

(a) PLANNING AND CONSTRUCTION.—

Contracts.

(1) The Secretary is authorized and directed to enter into cooperative agreements with appropriate non-Federal entities to provide Federal funds for the planning and construction of

the West River Rural Water System and the Lyman-Jones Rural Water System in Haakon, Jackson, Jones, Lyman, Mellette, Pennington, and Stanley Counties, South Dakota, as described in the report entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(2) The Secretary may not provide more than 65 per centum of the total cost of—

(A) the West River Rural Water System, and

(B) the Lyman-Jones Rural Water System. Such Federal funds may be obligated and expended only through cooperative agreements described in subsection (b).

(3) The non-Federal share of the costs allocated to the West River and Lyman-Jones Rural Water Systems shall be 35 per centum.

(b) COOPERATIVE AGREEMENTS.—

(1) The Secretary, with the concurrence of the Lyman-Jones and West River Rural Water Systems, shall execute cooperative agreements with the appropriate non-Federal entities to provide Federal assistance for the planning, design, and construction of the West River Rural Water System and the Lyman-Jones Rural Water System. Such cooperative agreements shall set forth, in a manner acceptable to the Secretary—

(A) the reponsibilities of the parties for needs assessment, feasibility and environmental studies; engineering and design; construction; water conservation measures; and administration of any contracts with respect to this subparagraph;

(B) the procedures and requirements for approval and acceptance of such design and construction; and

(C) the rights, responsibilities, and liabilities of each party to the agreement.

(c) FACILITIES ON WHICH FEDERAL FUNDS MAY BE EXPENDED.—The facilities on which Federal funds may be obligated and expended under this section shall include—

(1) water intake, pumping, treatment, storage, interconnection, and pipeline facilities;

(2) appurtenant buildings and access roads;

(3) necessary property and property rights;

(4) electrical power transmission and distribution facilities necessary for service to water system facilities;

Highways.
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Utilities.
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(5) planning and design services for all facilities; and

(6) other facilities and services customary to the development of rural water distribution systems in South Dakota.

(d) SERVICE AREA.—The service area of the West River Rural Water System and the Lyman-Jones Rural Water System shall be as described in the engineering study entitled "1988 Planning Report and Environmental Assessment" and dated February 1988.

(e) LIMITATION ON AVAILABILITY OF CONSTRUCTION FUNDS.—The Secretary shall not obligate funds for the construction of the West River Rural Water System and the Lyman-Jones Rural Water System until—

(1) the requirements of the National Environmental Policy Act of 1969 have been met; and

(2) final engineering reports have been prepared and submitted to the Congress for a period of not less than ninety days.

Reports.

(f) PROHIBITIONS ON USE OF FEDERAL FUNDS.—The Secretary may not obligate or expend any Federal funds for the operation, mainte-

nance, or replacement of either the West River or Lyman-Jones Rural Water System.

SEC. 5. WATER CONSERVATION.

Public information.

In order to reduce costs to consumers and to reduce water consumption, the Secretary, prior to obligating any construction funds, shall issue a public notice finding that plans for the rural water systems include prudent and responsible water conservation measures for the operation of such systems where such measures are shown to be economically and financially feasible. The non-Federal parties (including the Oglala Sioux Tribe) participating in the systems shall develop a water conservation plan containing definite goals, appropriate water conservation measures, and a time schedule for meeting the water conservation objectives. The provisions of section 210(c) of Public Law 97-293 (96 Stat. 1268) shall apply with respect to the systems.

SEC. 6. MITIGATION OF FISH AND WILDLIFE LOSSES.

(a) OGLALA SIOUX RURAL WATER SUPPLY SYSTEM AND THE WEST RIVER AND LYMAN-JONES RURAL WATER SYSTEMS.—Mitigation for fish and wildlife losses incurred as a result of the construction and operation of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System shall be on an acre-for-acre basis, based on ecological equivalency, concurrent with project construction.

(b) OAHE AND BIG BEND DAMS AND RESERVOIRS.—The Secretary, in cooperation with the State of South Dakota and other Federal agencies, shall develop and submit recommendations to the Congress for financing and implementing mitigation plans for fish and wildlife losses incurred as a result of the construction and operation of the Oahe Dam Reservoir and Big Bend Dam and Reservoir. Such plans shall incorporate the proposal of the United States Army Chief of Engineers as outlined in Design Memorandum M (Gen)-19 of December 1987 for improved management of existing Federal lands, and purchase of single-purpose mitigation lands, such as the Olson and Mudon Ranches, from willing sellers.

SEC. 7. PROHIBITION ON USE OF FUNDS FOR IRRIGATION PURPOSES.

None of the funds made available to the Secretary for planning or construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, or the Lyman-Jones Rural Water System may be used to plan or construct facilities used to supply water for the purpose of irrigation.

SEC. 8. RULE OF CONSTRUCTION.

Nothing in sections 1 through 12 is intended, nor shall be construed, to preclude the State of South Dakota or the Oglala Sioux Tribe from seeking congressional authorization to plan, design, operate, or construct additional federally assisted water resource development projects.

SEC. 9. USE OF PICK-SLOAN POWER.

(a) IN GENERAL.—The Systems authorized by sections 3 and 4 of this Act shall utilize power from Pick-Sloan for their operation. This power shall be deemed to be a project use pumping requirement of Pick-Sloan.

(b) POWER TO BE USED.—As of the date of enactment of this Act, power identified for future project use pumping at the Pollock-

Herreid Unit of the Pick-Sloan shall be reserved for and utilized by the Systems and made available for the purpose authorized by subsection (a).

(c) RATE.—The rate for project use power made available pursuant to subsection (a) shall be the wholesale firm power rate for Pick-Sloan (Eastern Division) in effect at the time the power is sold.

(d) ADDITIONAL POWER.—If additional power beyond that made available through subsection (b) is required to meet the pumping requirements of the Systems, the Administrator of the Western Area Power Administration is authorized to purchase the additional power needed under such terms and conditions the Administrator deems appropriate. Expenses associated with such power purchases shall be recovered through a separate power charge, sufficient to recover these expenses, applied to the Systems.

(e) DEFINITIONS.—For purposes of this section—

(1) the term "Systems" means the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System; and

(2) the term "Pick-Sloan" means the Pick-Sloan Missouri Basin Program authorized by section 9 of the Act of December 22, 1944 (58 Stat. 891; commonly referred to as the Flood Control Act of 1944).

SEC. 10. AUTHORIZATION OF APPROPRIATIONS.

(a) PLANNING, DESIGN, AND CONSTRUCTION.—There are authorized to be appropriated $87,500,000 for the planning, design, and construction of the Oglala Sioux Rural Water Supply System, the West River Rural Water System, and the Lyman-Jones Rural Water System under the provisions of sections 3 and 4. Such funds are authorized to be appropriated only through the end of the ninth fiscal year after which construction funds are first made available. The funds authorized to be appropriated by the first sentence of this section, less any amounts previously obligated for the Systems, may be increased or decreased by such amounts as may be justified by reason of ordinary fluctuations in development costs incurred after January 1, 1987, as indicated by engineering costs indices applicable for the type of construction involved.

(b) OPERATION AND MAINTENANCE OF OGLALA SIOUX RURAL WATER SUPPLY SYSTEM.—There are authorized to be appropriated such sums as may be necessary for the operation and maintenance of the Oglala Sioux Rural Water Supply System.

SEC. 11. WATER RIGHTS.

State and local governments.

Nothing in sections 1 through 12 shall be construed to—

(1) impair the validity of or preempt any provision of State water law, or of any interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body or surface or ground water, whether determined by past or future interstate compacts, or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

(5) affect any water rights or claims thereto of the Oglala Sioux Tribe, whether located within or without the external

Claims.

boundaries of the Pine Ridge Indian Reservation, based on treaty, Executive order, agreement, Act of Congress, aboriginal title, the Winter's doctrine (Winter's v. United States, 207 U.S. 564 (1908)), or otherwise. Nothing contained in this section or in section 1 through 12, however, is intended to validate or invalidate any assertion of the existence, nonexistence or extinguishment of any water rights, or claims thereto, held by the Oglala Sioux Tribe, or any other Indian tribe or individual Indian under Federal or State law.

SEC. 12. REPEAL OF AUTHORIZATION OF APPROPRIATIONS.

(a) POLLOCK-HERREID UNIT.—Section 407 of the Reclamation Authorization Act of 1975 (Public Law 94-228; 90 Stat. 209) relating to the authorization of appropriations for the Pollock-Herreid Unit of the Pick-Sloan Missouri Basin Program is hereby repealed. The Pollock-Herreid Unit shall remain an authorized feature of the Pick-Sloan Missouri Basin Program.

(b) FEASIBILITY STUDIES.—Delete section 3 of Public Law 97-273 (96 Stat. 1181) and substitute in lieu thereof the following:

Reports.

"SEC. 3. The Secretary is authorized, in cooperation with the State of South Dakota, to conduct a feasibility investigation of the alternate uses of facilities constructed for use in conjunction with the Oahe Unit, initial stage, James Division, Pick-Sloan Missouri Basin Program, South Dakota, and to report to the Congress the findings of such study along with his recommendations.".

SEC. 13. GRAND VALLEY PROJECT, COLORADO.

The Secretary of the Interior is authorized to extend the Grand Valley Project Contract Numbered 6-07-40-P0080, dated April 10, 1986, among the United States, the Grand Valley Water Users Association, Public Service Company of Colorado, and the Orchard Mesa Irrigation District, for a period not to exceed two years to provide for the continued operation of the Grand Valley Power Project.

Public lands.

SEC. 14. VETERAN, WYOMING TOWNSITE.

(a) Notwithstanding any law or court order to the contrary, the Secretary of the Interior shall amend, subject to valid existing rights, the official subdivision survey and plat for the town site of Veteran, Wyoming, to take into account the actual and common use of streets and alleys on such lands for designation as public reservations in accordance with the Act of April 16, 1906 (34 Stat. 116, as amended).

Patents and trademarks.

(b) After completion of the work required to amend the town site survey and plat, the title of the United States in and to the public reservation lands shall be patented to Goshen County, Wyoming. Title of the United States in and to a 90 feet by 75 feet lot of approximately 0.15 acres which is described in the records of the Goshen County, Wyoming, clerk's office as "a tract in southwest corner of town of Veteran, Block 40 in the original town of Veteran," shall be patented to Goshen County Unified School District Number One.

(c) The Secretary is authorized to dispose of Federal lands within the town site area by negotiated sale at fair market value or by public sale.

SEC. 15. CONTRACTS WITH THE REDWOOD VALLEY COUNTY WATER DISTRICT, CALIFORNIA. Loans.

(a) RENEGOTIATION OF CONTRACTS.—(1) Notwithstanding any other provision of law, the Secretary of the Interior shall renegotiate the schedules of payment for the loans to the Redwood Valley County Water District which are numbered 14-06-200-8423A and 14-06-200-8423A Amendatory.

(2) Such renegotiated schedules of payment may not take effect until October 1, 1989.

(b) The obligation to repay amounts loaned to the Redwood Valley County Water District, California, pursuant to the original negotiated schedule of payment of a loan specified in subsection (a) is suspended until the renegotiated schedule of payment for that loan takes effect. Any obligation to repay amounts under any such loan which is due, but not paid as of the date of enactment of this Act, is suspended. The renegotiated schedules of payment referred to in subsection (a) shall take into account any obligation suspended by this subsection.

(c) No interest may be charged on any payment under either of the loans specified in subsection (a) which is due but not paid before the renegotiated schedule of payment for such loan takes effect.

SEC. 16. WATER PURCHASE BY LAKEVIEW IRRIGATION DISTRICT, WYOMING.

(a) OPTION TO PURCHASE WATER.—The Secretary of the Interior is hereby authorized and directed to offer annually to the Lakeview Irrigation District, Wyoming, an option to purchase up to 15,000 acre-feet of storage in the Buffalo Bill Dam and Reservoir, Shoshone Project, Pick-Sloan Missouri Basin Program, Wyoming, of which 3,200 acre-feet shall be a firm water supply and the remainder shall be available as needed pending completion of the Polecat Bench Reclamation Project.

(b) EXERCISE OF OPTION.—The Lakeview Irrigation District may exercise its purchase option only in those water years when there is insufficent yield for the District only after the primary flow rights of the Shoshone Project have been satisfied. Any water purchased by the district pursuant to this section shall be provided through exchange by the Bureau of Reclamation in return for the district's right to continue upstream withdrawals of Shoshone Project water.

(c) WAIVER OF CERTAIN REQUIREMENTS.—The Secretary of the Interior is authorized and directed to waive land classification and related study requirements in connection with any contract entered into pursuant to this section. Contracts.

(d) STATE LAW.—Any allocation or reallocation from existing uses of water stored in the Buffalo Bill Dam and Reservoir resulting from this section shall be pursuant to the laws of the State of Wyoming.

SEC. 17. NAVY LAND, CALIFORNIA.

Section 2 of the Act entitled "An Act to provide for deferment of construction charges payable by Westlands Water District attributable to lands of the Naval Air Station: Lemoore, California, included in said district, and for other purposes", approved August 10, 1972 (86 Stat. 380), is amended by inserting: "Proceeds from the leases in excess of these needs and from lease parcels not within Westlands Water District may be utilized by the Secretary of the Navy to acquire easements in Kings County, California." after "are fully paid.". Contracts.

SEC. 18. ENERGY PURCHASE FROM SHOSHONE IRRIGATION DISTRICT, WYOMING.

(a) EXTENSION.—The Secretary of Energy, acting through the Western Area Power Administration, is directed to offer an extension of the energy purchase provisions of article 9 of the contract numbered 2-07-70-PO287 and dated March 15, 1982, to the Shoshone Irrigation District, an irrigation district and municipal corporation organized under the laws of the State of Wyoming. Such extension, if accepted, shall take effect as of April 15, 1988, shall remain in force and effect for a period of five years thereafter, and shall be subject to all of the original conditions, terms, and rates specified in such contract. At the end of the five-year extension, purchases of electric energy under article 9 of such contract may be extended by mutual agreement between the Western Area Power Administration and the Shoshone Irrigation District for successive one-year intervals at rates for purchase which may not be less than the rates specified in article 9.

(b) LIMITATION.—In no event shall sales of electric energy to the United States pursuant to subsection (a) be made after September 30, 1999.

SEC. 19. COLORADO COASTAL PLAINS PROJECT, TEXAS, SHAWS BEND DAMSITE.

(a) FINDINGS.—The Congress finds that—

(1) there have been five studies of the Shaws Bend site of the Colorado Coastal Plains project, authorized as part of the study for the Texas Basins project under the Act entitled "An Act to authorize the Secretary of the Interior to engage in feasibility investigations of certain water resource development proposals", approved September 7, 1966 (80 Stat. 707), and

(2) there is no need for the construction of a dam at the Shaws Bend site.

(b) PROHIBITION ON APPROPRIATIONS.—Notwithstanding the first section of such Act and effective after the date of enactment of this Act, no funds may be appropriated for the analysis and study of the Shaws Bend site of the Colorado Coastal Plains project, authorized as part of the study for the Texas Basin project.

SEC. 20. FRANKLIN COUNTY, WASHINGTON ROADS STUDY.

(a) For the purposes of taking actions necessary to protect the county road system in irrigated portions of Franklin County, Washington, within the Federal Columbia Basin reclamation project and which are underlain or adjacent to lands underlain by the unique geological setting identified as the Ringold Formation, the Secretary of the Interior is directed to investigate road instability problems caused by high water tables and landslides, to design corrective actions, and to make recommendations for action.

Appropriation authorization. Reports.

(b) Funds not to exceed $500,000 are authorized to be appropriated for the investigations directed in subsection (a) of this section, which shall be nonreimbursable, and the Secretary shall submit a report of his findings and recommendations for corrective action to the President and the Congress within three years after the date of enactment of this Act and availability of funds.

SEC. 21. DISTRIBUTION SYSTEM CONTRACTS.

To expedite completion of construction of the irrigation distribution systems of the Maricopa-Stanfield and Central Arizona Irriga-

tion and Drainage Districts, Central Arizona Project, pursuant to Contract Numbered 4-07-30-W0047, as supplemented, and Contract Numbered 4-07-30-W0048, as supplemented, the sixty-day congressional review period provided for in the Act of June 13, 1956 (70 Stat. 274) is hereby waived.

SEC. 22. CLOSED BASIN PROJECT AMENDMENTS. Colorado.

The Reclamation Project Authorization Act of 1972 (Public Law 92-514, 86 Stat. 964), as amended by the Act of October 3, 1980 (Public Law 96-375, 94 Stat. 1505), and by the Act of October 30, 1984 (Public Law 98-570, 98 Stat. 2941), is further amended as follows:

(1) Section 101(a) is amended by striking the phrase "including channel rectification of the Rio Grande between the uppermost point of discharge into the river of water salvaged by the project, and the Colorado-New Mexico State line, so as to provide for the carriage of water so salvaged without flooding of surrounding lands, to minimize losses of waters through evaporation, transpiration, and seepage, and to provide a conduit for the reception of water salvaged by drainage projects undertaken in the San Luis Valley below Alamosa, Colorado,". New Mexico.

(2) Section 101(c) is amended by striking the phrase "Water Quality Act of 1965 (79 Stat. 903)" and inserting in lieu thereof the phrase "Clean Water Act (Public Law 92-500), as amended.".

(3) Section 102(a) is amended by striking the phrase "except channel rectification,".

(4) Section 102 is amended by adding a new subsection (c) at the end thereof to read as follows:

"(c) The Secretary is authorized to acquire water pursuant to the procedural and substantive laws of the State of Colorado from within the Rio Grande Basin in the State of Colorado by purchase, lease, or exchange from willing sellers for the purposes of this Act, provided that— Contracts.

"(1) such water is obtained, made available, and delivered for project purposes at less cost for operation and maintenance than the same amounts of water can be made available by operation of project pumping facilities and without necessitating the construction of additional physical facilities by the Secretary;

"(2) such water may be used in lieu of water pumped from the project only if the Secretary has complied with all Federal, State, and local laws, rules, and regulations which apply to such water or the facilities other than those of the project which develop such water;

"(3) such water is subject to all of the limitations, conditions, and requirements of this Act to the same extent and in the same manner as water pumped by the project; and

"(4) this authorization shall not entitle the Secretary to obtain such water or any water rights by condemnation or by exercising the power of eminent domain.".

(5) Section 104(b)(2) is amended by adding a new sentence at the end thereof to read as follows: "The Secretary is authorized to negotiate and enter into an agreement with the Rio Grande Water Conservation District which provides for the temporary delivery of project salvaged water to the refuge and the habitat area in those years in which there is not sufficient water to fully satisfy the purposes of both paragraphs (1) and (2) of this subsection.". Contracts.

(6) Section 104(b)(4) is amended to read as follows:

Contracts.

"(4) For irrigation or other beneficial uses in Colorado: *Provided,* That no water shall be delivered until contracts between the United States and water users in Colorado, or the Rio Grande Water Conservation District acting for them, have been executed providing for the repayment of such construction costs as in the opinion of the Secretary are appropriate and within the ability of the users to pay and for the payment of all of the costs of operation and maintenance which are allocable to the production of this priority 4 water.".

(7) Section 109 is amended to read as follows:

Appropriation authorization.

"SEC. 109. There is hereby authorized to be appropriated the sum of $94,000,000 (October 1988 prices) for the construction of the Closed Basin Division of the San Luis Valley project, of which amount not more than $31,000,000 may be adjusted plus or minus such amounts, if any, as may be justified by reason of ordinary fluctuations in construction costs as indicated by engineering cost indices applicable to the types of construction involved herein, and such additional sums for the operation and maintenance of the project as may be required: *Provided,* That none of the funds authorized herein for construction in excess of $75,000,000 may be expended by the Secretary unless and until the State of Colorado or a political subdivision thereof has entered into a binding agreement with the Secretary to contribute during construction one-third of the costs of construction in excess of $75,000,000, or $6,000,000, whichever is less. Such agreement shall include a reasonable limitation on administrative overhead expenses charged by the Secretary.".

SEC. 23. BESSEMER DITCH, COLORADO.

The Act of July 9, 1980 (Public Law 96-309, 94 Stat. 940), is amended by adding a section 4 as follows:

Appropriation authorization.

"SEC. 4. The Secretary is hereby authorized to undertake the design and construction of approximately 11,000 feet of gunite lining of the Bessemer Ditch in addition to that lining which was constructed pursuant to section 1 of this Act. There is hereby authorized to be appropriated as the Federal share of costs for the purpose of this section the sum of $1,170,000 (based on August 1988 prices), plus or minus such amounts, if any, as may be justified by reason of changes in construction cost indices applicable to the type of construction involved: *Provided,* That non-Federal interests shall contribute during construction of the additional gunite lining an amount equal to 22 per centum of the total cost of the design and construction of such additional lining. The non-Federal contribution

may include cash and in kind contributions and shall not be subject to the conditions of section 2 of this Act. The Secretary is authorized to contract with the Bessemer Irrigation Ditch Company for the construction at cost of the additional gunite lining authorized by this section.". Contracts.

Approved October 24, 1988.

LEGISLATIVE HISTORY—H.R. 2772:

HOUSE REPORTS: No. 100-733 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-490 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 27, 28, considered and passed House.
Sept. 8, considered and passed Senate, amended.
Oct. 3, 4, House disagreed to certain Senate amendments and concurred in another with an amendment.
Oct. 7, Senate concurred in House amendment.

Public Law 100-517
100th Congress

An Act

Oct. 24, 1988
[H.R. 3235]

To amend the Public Health Service Act to revise the program of assistance for health maintenance organizations.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Health Maintenance Organization Amendments of 1988.
42 USC 201 note.

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Health Maintenance Organization Amendments of 1988".

(b) REFERENCE.—Whenever in this Act (other than in section 6(a)) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 2. ORGANIZATIONAL STRUCTURE.

Section 1301(a) (42 U.S.C. 300e(a)) is amended by striking out "legal entity" and inserting in lieu thereof "public or private entity which is organized under the laws of any State and".

SEC. 3. DEDUCTIBLES.

Section 1301(b)(1) (42 U.S.C. 300e(b)(1)) is amended by adding after the second sentence the following: "If a health maintenance organization offers to its members the opportunity to obtain basic health services through a physician not described in subsection (b)(3)(A), the organization may require, in addition to payments described in clause (D) of this paragraph, a reasonable deductible to be paid by a member when obtaining a basic health service from such a physician.".

SEC. 4. PHYSICIAN SERVICES.

(a) GENERAL RULE.—Section 1301(b)(3)(A) (42 U.S.C. 300e(b)(3)(A)) is amended by striking out "the services of a physician which are provided as basic health services shall be provided" and insert in lieu thereof "at least 90 percent of the services of a physician which are provided as basic health services shall be provided".

(b) DUAL-CHOICE.—Section 1310(b) (42 U.S.C. 300e-9(b)) is amended—

(1) in paragraph (1), by inserting before the comma at the end the following: "and provides at least 90 percent of such services through physicians described in section 1301(b)(3)(A)", and

(2) in paragraph (2), by inserting before the comma at the end the following: "and provides no more than 10 percent of such services through physicians who are not described in section 1301(b)(3)(A)".

SEC. 5. ORGANIZATION.

(a) FISCAL OPERATION.—

(1) Section 1301(c)(1)(A) (42 U.S.C. 300e(c)(1)(A)) is amended to read as follows:

"(1)(A) have—

"(i) a fiscally sound operation, and

"(ii) adequate provision against the risk of insolvency, which is satisfactory to the Secretary, and".

(2) Section 1301(c) (42 U.S.C. 300e(c)) is amended by adding after and below paragraph (9) the following: "The Secretary shall issue regulations stating the circumstances under which the Secretary, in administering paragraph (1)(A), will consider the resources of an organization which owns or controls a health maintenance organization. Such regulations shall require as a condition to consideration of resources that an organization which owns or controls a health maintenance organization shall provide satisfactory assurances that it will assume the financial obligations of the health maintenance organization.". Regulations.

(3) During the period prior to the effective date of regulations issued under section 1301(c) of the Public Health Service Act (as amended by paragraph (2)), the Secretary of Health and Human Services shall consider the application for qualification under section 1301(c)(1)(A) of such Act of a health maintenance organization— 42 USC 300e note.

(A) which is owned or controlled by another organization, and

(B) which requests that the resources of the other organization be considered in determining its qualification under such section,

if the Secretary receives satisfactory assurances from the other organization that it will assume the financial obligations of the health maintenance organization and if the Secretary determines that the other organization meets such other requirements as the Secretary determines are necessary.

(b) BOARD OF DIRECTORS.—Paragraph (5) of section 1301(c) (42 U.S.C. 300e(c)) is repealed and paragraphs (6) through (9) are redesignated as paragraphs (5) through (8), respectively.

SEC. 6. DEFINITIONS.

(a) ORGAN TRANSPLANTS.—Subsection (b) of section 812 of the Health Maintenance Organization Amendments of 1986 (42 U.S.C. 300e–1 note) is repealed.

(b) COMMUNITY RATING.—

(1) The third sentence of section 1302(8)(C) (42 U.S.C. 300e–1(8)(C)) is amended to read as follows: "If a health maintenance organization is to fix rates of payment for individuals and families by groups, it shall—

"(i)(I) classify all of the members of the organization into classes based on factors which the health maintenance organization determines predict the differences in the use of health services by the individuals or families in each class and which have not been disapproved by the Secretary,

"(II) determine its revenue requirements for providing services to the members of each class established under subclause (I), and

"(III) fix the rates of payments for the individuals and families of a group on the basis of a composite of the

organization's revenue requirements determined under subclause (II) for providing services to them as members of the classes established under subclause (I), or

"(ii) fix the rates of payments for the individuals and families of a group on the basis of the organization's revenue requirements for providing services to the group, except that the rates of payments for the individuals and families of a group of less than 100 persons may not be fixed at rates greater than 110 percent of the rate that would be fixed for such individuals and families under subparagraph (B) or clause (i) of this subparagraph.".

(2) Section 1302(8)(C) (42 U.S.C. 300e-1(8)(C)) is amended by adding at the end the following: "If a health maintenance organization is to fix rates of payment for a group under clause (ii), it shall, upon request of the entity with which it contracts to provide services to such group, disclose to that entity the method and data used in calculating the rates of payment.".

SEC. 7. EMPLOYEES' HEALTH BENEFIT PLANS.

(a) REVISIONS.—

(1) STATES AND POLITICAL SUBDIVISIONS.—

(A) Section 1310(b) (42 U.S.C. 300e-9(b)) is amended (i) by striking out "subject to subsection (a)" and inserting in lieu thereof "or a State or political subdivision", and (ii) by striking out "employer pursuant" and inserting in lieu thereof "employer or State or political subdivision pursuant".

(B) Section 1310(c) (42 U.S.C. 300e-9(c)) is amended by inserting "or State or political subdivision" after "employer" each place it occurs.

(2) DISCRIMINATION.—Section 1310(c) (42 U.S.C. 300e-9(c)) is amended by adding at the end the following: "If a health benefits plan offered by an employer or a State or political subdivision under subsection (a) includes contributions for services offered under the plan, the employer or State or political subdivision shall make a contribution under the plan for services offered by a qualified health maintenance organization in an amount which does not financially discriminate against an employee who enrolls in such organization. For purposes of the preceding sentence, an employer's or a State's or political subdivision's contribution does not financially discriminate if the employer's or State's or political subdivision's method of determining the contributions on behalf of all employees is reasonable and is designed to assure employees a fair choice among health benefits plans.".

(3) APPLICATION.—Nothing in section 1310 of the Public Health Service Act (42 U.S.C. 300e-9), as amended by this Act, shall be construed to supersede any provision of a collective bargaining agreement in effect on the date of enactment of this Act.

Effective date.

(b) REPEAL OF DUAL CHOICE.—Effective 7 years after the date of the enactment of this Act, section 1310 (42 U.S.C. 300e-9) is amended to read as follows:

EMPLOYEES' HEALTH BENEFITS PLANS

"SEC. 1310. (a) In accordance with regulations which the Secretary shall prescribe— Regulations.

"(1) each employer—

"(A) which is required during any calendar quarter to pay its employees the minimum wage prescribed by section 6 of the Fair Labor Standards Act of 1938 (or would be required to pay its employees such wage but for section 13(a) of such Act), and

"(B) which during such calendar quarter employed an average number of employees of not less than 25, and

"(2) any State and each political subdivision thereof which during any calendar quarter employed an average number of employees of not less than 25, as a condition of payment to the State of funds under section 317, 318, or 1002,

which offers to its employees in the calendar year beginning after such calendar quarter the option of membership in a qualified health maintenance organization which is engaged in the provision of basic health services in a health maintenance organization service area in which at least 25 of such employees reside shall meet the requirements of subsection (b) with respect to any qualified health maintenance organization offered by the employer or State or political subdivision.

"(b)(1) If a health benefits plan offered by an employer or a State or political subdivision includes contributions for services offered under the plan, the employer or State or political subdivision shall make a contribution under the plan for services offered by a qualified health maintenance organization in an amount which does not financially discriminate against an employee who enrolls in such organization. For purposes of the preceding sentence, an employer's or a State's or political subdivision's contribution does not financially discriminate if the employer's or State's or political subdivision's method of determining the contributions on behalf of all employees is reasonable and is designed to assure employees a fair choice among health benefits plans.

"(2) Each employer or State or political subdivision which provides payroll deductions as a means of paying employees' contributions for health benefits or which provides a health benefits plan to which an employee contribution is not required shall, with the consent of an employee who exercises option of membership in a qualified health maintenance organization, arrange for the employee's contribution for membership in the organization to be paid through payroll deductions.

"(3) No employer or State or political subdivision shall be required to pay more for health benefits as a result of the application of this subsection than would otherwise be required by any prevailing collective bargaining agreement or other legally enforceable contract for the provision of health benefits between the employer or State or political subdivision and its employees.

"(c) For purposes of this section, the term 'qualified health maintenance organization' means (1) a health maintenance organization which has provided assurances satisfactory to the Secretary that it provides basic and supplemental health services to its members in the manner prescribed by section 1301(b) and that it is organized and operated in the manner prescribed by section 1301(c), and (2) an entity which proposes to become a health maintenance

organization and which the Secretary determines will when it becomes operational provide basic and supplemental health services to its members in the manner prescribed by section 1301(b) and will be organized and operated in the manner prescribed by section 1301(c).

"(d)(1) Any employer who knowingly does not comply with one or more of the requirements of paragraph (1) or (2) of subsection (b) shall be subject to a civil penalty of not more than $10,000. If such noncompliance continues, a civil penalty may be assessed and collected under this subsection for each thirty-day period such noncompliance continues. Such penalty may be assessed by the Secretary and collected in a civil action brought by the United States in a United States district court.

"(2) In any proceeding by the Secretary to assess a civil penalty under this subsection, no penalty shall be assessed until the employer charged shall have been given notice and an opportunity to present its views on such charge. In determining the amount of the penalty, or the amount agreed upon in compromise, the Secretary shall consider the gravity of the noncompliance and the demonstrated good faith of the employer charged in attempting to achieve rapid compliance after notification by the Secretary of a noncompliance.

"(3) In any civil action brought to review the assessment of a civil penalty assessed under this subsection, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty and in any civil action to collect such a civil penalty, the court shall, at the request of any party to such action, hold a trial de novo on the assessment of such civil penalty unless in a prior civil action to review the assessment of such penalty the court held a trial de novo on such assessment.

"(e) For purposes of this section, the term "employer" does not include (1) the Government of the United States, the government of the District of Columbia or any territory or possession of the United States, a State or any political subdivision thereof, or any agency or instrumentality (including the United States Postal Service and Postal Rate Commission) of any of the foregoing, except that such term includes nonappropriated fund instrumentalities of the Government of the United States; or (2) a church, convention or association of churches, or any organization operated, supervised or controlled by a church, convention or association of churches which organization (A) is an organization described in section 501(c)(3) of the Internal Revenue Code of 1986, and (B) does not discriminate (i) in the employment, compensation, promotion, or termination of employment of any personnel, or (ii) in the extension of staff or other privileges to any physician or other health personnel, because such persons seek to obtain or obtained health care, or participate in providing health care, through a health maintenance organization.

"(f) If the Secretary, after reasonable notice and opportunity for a hearing to a State, finds that it or any of its political subdivisions has failed to comply with paragraph (1) or (2) of subsection (b), the Secretary shall terminate payments to such State under sections 317, 318, and 1002 and notify the Governor of such State that further payments under such sections will not be made to the State until the Secretary is satisfied that there will no longer be any such failure to comply.".

SEC. 8. RESTRICTIVE STATE LAWS.

Section 1311(a)(1) (42 U.S.C. 300e-10(a)(1)) is amended by striking out "or" at the end of subparagraph (C), by striking out ", and" at the end of subparagraph (D) and inserting in lieu thereof ", or", and by adding at the end the following:

"(E) imposes requirements which would prohibit the entity from complying with the requirements of this title, and".

SEC. 9. PROHIBITION ON CERTAIN POLICY CHANGES.

Abortion.
42 USC 1302 note.

With respect to abortion services, the Secretary of Health and Human Services shall not promulgate or issue any regulations, policy statements, or interpretations or develop any practices concerning the performance of medically necessary procedures if such regulations, policy statements, interpretations, or practices would be inconsistent with regulations, policy statements, interpretations, or practices in effect on the date of the enactment of this Act.

Approved October 24, 1988.

LEGISLATIVE HISTORY—H.R. 3235:

HOUSE REPORTS: No. 100-417 (Comm. on Energy and Commerce) and No. 100-1056 (Comm. of Conference).
SENATE REPORTS: No. 100-304 (Comm. on Labor and Human Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Nov. 3, considered and passed House.
Vol. 134 (1988): Aug. 11, considered and passed Senate, amended.
Oct. 5, House agreed to conference report.
Oct. 7, Senate agreed to conference report.

○

Public Law 100-518
100th Congress

An Act

Oct. 24, 1988
[H.R. 4345]

To amend the United States Grain Standards Act to extend through September 30, 1993, the authority contained in section 155 of the Omnibus Reconciliation Act of 1981 and Public Law 98-469 to charge and collect inspection and weighing fees, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

United States Grain Standards Act Amendments of 1988.
7 USC 71 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Grain Standards Act Amendments of 1988".

SEC. 2. GRAIN STANDARDS ACT.

Effective for the period October 1, 1988, through September 30, 1993, inclusive, the United States Grain Standards Act is amended—

(1) by amending subsection (j) of section 7 (7 U.S.C. 79(j)) to read as follows:

"(j)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable inspection fees to cover the estimated cost to the Service incident to the performance of official inspection except when the official inspection is performed by a designated official agency or by a State under a delegation of authority. The fees authorized by this subsection shall, as nearly as practicable and after taking into consideration any proceeds from the sale of samples, cover the costs of the Service incident to its performance of official inspection services in the United States and on United States grain in Canadian ports, including administrative and supervisory costs related to such official inspection of grain. Such fees, and the proceeds from the sale of samples obtained for purposes of official inspection which become the property of the United States, shall be deposited into a fund which shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act.

Canada.

"(2) Each designated official agency and each State agency to which authority has been delegated under subsection (e) of this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the estimated costs incurred by the Service relating to supervision of official agency personnel and supervision by Service personnel of its field office personnel, except costs incurred under paragraph (3) of subsection (g) of this section and sections 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in paragraph (1) of this subsection. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any fur-

ther expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary and adjusted to the nearest one-eighth of 1 per centum.

"(3) Any sums collected or received by the Administrator under this Act and deposited to the fund created in paragraph (1) of this subsection and any late payment penalties collected by the Administrator and credited to such fund may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments. The interest earned on such sums and any late payment penalties collected by the Administrator shall be credited to the fund and shall be available without fiscal year limitation for the expenses of the Service incident to providing services under this Act."; Securities.

(2) by amending subsection (l) of section 7A (7 U.S.C. 79(a)(l)) to read as follows: 7 USC 79a.

"(l)(1) The Administrator shall, under such regulations as the Administrator may prescribe, charge and collect reasonable fees to cover the estimated costs to the Service incident to the performance of the functions provided for under this section except as otherwise provided in paragraph (2) of this subsection. The fees authorized by this paragraph shall, as nearly as practicable, cover the costs of the Service incident to performance of its functions related to weighing, including administrative and supervisory costs directly related thereto. Such fees shall be deposited into the fund created in section 7(j) of this Act.

"(2) Each agency to which authority has been delegated under this section and each agency or other person which has been designated to perform functions related to weighing under this section shall pay to the Administrator fees in such amount as the Administrator determines fair and reasonable and as will cover the costs incurred by the Service relating to supervision of the agency personnel and supervision by Service personnel of its field office personnel incurred as a result of the functions performed by such agencies, except costs incurred under sections 7(g)(3), 9, 10, and 14 of this Act. The fees shall be payable after the services are performed at such times as specified by the Administrator and shall be deposited in the fund created in section 7(j) of this Act. Failure to pay the fee within thirty days after it is due shall result in automatic termination of the delegation or designation, which shall be reinstated upon payment, within such period as specified by the Administrator, of the fee currently due plus interest and any further expenses incurred by the Service because of such termination. The interest rate on overdue fees shall be as prescribed by the Secretary, but not less than the current average market yield on outstanding marketable obligations of the United States of comparable maturity, plus an additional charge of not to exceed 1 per centum per annum as determined by the Secretary, and adjusted to the nearest one-eighth of 1 per centum.";

(3) by adding before section 8 (7 U.S.C. 84) the following new section:

"LIMITATION ON ADMINISTRATIVE AND SUPERVISORY COSTS

7 USC 79d. "SEC. 7D. The total administrative and supervisory costs which may be incurred under this Act for inspection and weighing (excluding standardization, compliance, and foreign monitoring activities) for each of the fiscal years 1989 through 1993 shall not exceed 40 per centum of the total costs for such activities carried out by the Service for such year.";

(4) by amending section 19 (7 U.S.C. 87h) to read as follows:

"APPROPRIATIONS

"SEC. 19. There are hereby authorized to be appropriated such sums as are necessary for standardization and compliance activities, monitoring in foreign ports grain officially inspected and weighed under this Act, and any other expenses necessary to carry out the provisions of this Act for each of the fiscal years during the period beginning October 1, 1988, and ending September 30, 1993, to the extent that financing is not obtained from fees and sales of samples as provided for in sections 7, 7A, and 17A of this Act."; and

(5) by adding at the end thereof the following new section:

"ADVISORY COMMITTEE

7 USC 87j. "SEC. 21. (a)(1) Not later than ninety days after the date of enactment of this section, the Secretary shall establish an advisory committee to provide advice to the Administrator with respect to implementation of this Act consistent with the declarations of policy in section 2 of this Act. The advisory committee shall consist of fifteen members, appointed by the Secretary, who represent the interests of all segments of the grain producing, processing, storing, merchandising, consuming, and exporting industries, including grain inspection and weighing agencies and scientists with expertise in research related to the policies established in section 2 of this Act. Members of the advisory committee shall be appointed to three-year terms, except that of the initial fifteen members of the advisory committee first appointed following the enactment of this section, five shall be appointed for terms of one year and five shall be appointed for terms of two years. No member of the advisory committee may serve successive terms.

"(2) To ensure a smooth transition, the advisory committee established under section 20 (as in effect prior to October 1, 1988) shall continue in existence until all members of the advisory committee established under this section are appointed; and the Secretary may appoint members of the advisory committee established under section 20 to serve on the advisory committee established under this section, without regard to the time of service of such members on the advisory committee established under section 20.

"(b) The advisory committee shall be governed by the provisions of the Federal Advisory Committee Act (5 U.S.C. App. 2).

"(c) The Administrator shall provide the advisory committee with necessary clerical assistance and staff personnel.

"(d) Members of the advisory committee shall serve without compensation, if not otherwise officers or employees of the United States, except that members shall, while away from their homes or regular places of business in the performance of services under this Act, be allowed travel expenses, including per diem in lieu of

subsistence, as authorized under section 5703 of title 5, United States Code.".

SEC. 3. PILOT PROJECT ON CLEAN GRAIN PREMIUMS. 7 USC 1421 note.

(a) STUDY OF PREMIUMS AND DISCOUNTS.—

(1) AUTHORITY.—The Secretary of Agriculture (hereinafter in this section referred to as the "Secretary") shall conduct a study of the schedule of premiums and discounts applied to loans made in accordance with the Agricultural Act of 1949 (7 U.S.C. 1421 et seq.) in order to determine how premiums and discounts can be used to encourage the production, marketing, and exporting of high quality, clean grain. Marketing. Exports.

(2) REPORT BY SECRETARY.—Not later than May 1, 1989, the Secretary shall prepare and submit, to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate, a report on the results of the study conducted under paragraph (1).

(3) RECOMMENDATIONS.—The Secretary shall include recommendations with respect to a schedule of premiums and discounts in the report prepared under paragraph (2).

(b) PILOT PROJECT.—

(1) ESTABLISHMENT BY SECRETARY.—The Secretary shall establish a pilot project for the 1989 crops of wheat, soybeans, and feed grains to test the effectiveness of the recommendations contained in the report prepared under subsection (a) in encouraging the production, marketing, and exporting of high quality, clean grain. Marketing. Exports.

(2) SIX MULTI-COUNTY AREAS.—The pilot project established under paragraph (1) shall be conducted in no less than six multi-county areas, of which—

(A) two shall be areas that are predominantly wheat-producing areas;

(B) two shall be areas that are predominantly corn-producing areas; and

(C) two shall be areas that are predominantly soybean-producing areas.

(3) CONSULTATION.—The Secretary, prior to the implementation of the pilot project, shall consult with the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

(c) REVIEW OF PILOT PROJECT.—Not later than one hundred and eighty days after the end of the 1989 marketing year for feed grains, the Secretary shall conduct a review of the pilot project established under subsection (b) and prepare and submit to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate a report that describes the result of the project. The report shall include recommendations for further encouraging the production, marketing, and exporting of high quality, clean grain. Reports.

SEC. 4. COTTON STANDARDS.

Subsection (a) of section 5 of the United States Cotton Standards Act (7 U.S.C. 55(a)) is amended—

(1) by striking out the second sentence; and

(2) by adding at the end thereof the following new sentences: "Any fees or charges, late payment penalties, or proceeds from the sales of samples collected under this subsection, and any

interest earned through the investment of such funds shall be credited to the current appropriation account that incurs the costs of the services provided under this Act, and shall remain available without fiscal year limitation to pay the expenses of the Secretary incident to providing services and standards under this Act and the United States Cotton Futures Act (7 U.S.C. 15b). Such funds may be invested by the Secretary in insured or fully collateralized, interest-bearing accounts or, at the discretion of the Secretary, by the Secretary of the Treasury in United States Government debt instruments.".

Securities.

SEC. 5. STUDY OF EFFECTS OF INCLUDING DOCKAGE WITH FOREIGN MATERIAL AS A GRADING FACTOR FOR WHEAT.

Not later than June 1, 1989, the Secretary of Agriculture, through the Federal Grain Inspection Service, shall—

(1) conduct a study of the effects of including dockage with foreign material as a grading factor for wheat; and

Reports.

(2) submit a report on the results of such study to the Committee on Agriculture of the House of Representatives and the Committee on Agriculture, Nutrition, and Forestry of the Senate.

Approved October 24, 1988.

LEGISLATIVE HISTORY—H.R. 4345 (S. 2337):

HOUSE REPORTS: No. 100-644 (Comm. on Agriculture).
SENATE REPORTS: No. 100-455 accompanying S. 2337 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 23, considered and passed House.
Sept. 28, considered and passed Senate, amended, in lieu of S. 2337.
Oct. 3, 4, House concurred in Senate amendment with an amendment.
Oct. 7, Senate concurred in House amendment.

Public Law 100-519
100th Congress

An Act

To authorize appropriations to the Secretary of Commerce for the programs of the National Bureau of Standards for fiscal year 1989, and for other purposes.

Oct. 24, 1988
[H.R. 4417]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY AUTHORIZATION

National Institute of Standards and Technology Authorization Act for Fiscal Year 1989.

SECTION 101. SHORT TITLE.

This title may be cited as the "National Institute of Standards and Technology Authorization Act for Fiscal Year 1989".

SEC. 102. AUTHORIZATIONS FOR PROGRAM ACTIVITIES.

(a) AUTHORIZATIONS.—There are authorized to be appropriated to the Secretary of Commerce (hereafter in this Act referred to as the "Secretary"), for fiscal year 1989, to carry out activities performed by the National Institute of Standards and Technology, the sums set forth in the following line items:

(1) Measurement Research and Standards, $43,220,000.
(2) Materials Science and Engineering, $24,054,000.
(3) Engineering Measurements and Standards, $49,098,000.
(4) Computer Science and Technology, $11,000,000.
(5) Research Support Activities, $20,867,000.
(6) Cold Neutron Source Facility, $6,500,000 (for a total authorization of $19,500,000).
(7) Technology Services, $3,300,000.

(b) LIMITATIONS.—Notwithstanding any other provision of this or any other Act—

(1) of the total of the amounts authorized under subsection (a), $2,000,000 is authorized only for steel technology;
(2) of the total amount authorized under paragraph (3) of subsection (a)—
(A) $4,000,000 is authorized only for the Center for Building Technology, and
(B) $6,000,000 is authorized only for the Center for Fire Research,
and the two Centers shall not be merged;
(3) of the total amount authorized under paragraph (5) of subsection (a), $7,500,000 is authorized only for the technical competence fund; and
(4) of the amount authorized under paragraph (7) of subsection (a)—

(A) $3,000,000 is authorized only for the support of Regional Centers for the Transfer of Manufacturing Technology, and Assistance to State Technology Programs;

(B) $300,000 is authorized only for the evaluation of non-energy-related inventions and related technology extension activities; and

(C) funds authorized under subparagraph (A) shall be used only to award, amend, or renew research cooperative agreements entered into pursuant to the competitive process established by the National Bureau of Standards for this program (53 Fed. Reg. 27060; July 18, 1988).

(c) TRANSFERS.—(1) Funds may be transferred among the line items listed in subsection (a), so long as the net funds transferred to or from any line item do not exceed 10 percent of the amount authorized for that line item in such subsection and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives are notified in advance of any such transfer.

(2) In addition, the Secretary may propose transfers to or from any line item exceeding 10 percent of the amount authorized for the line item in subsection (a); but such proposed transfer may not be made—

(A) unless a full and complete explanation of any such proposed transfer and the reason therefore are transmitted in writing to the Speaker of the House of Representatives, the President of the Senate, and the appropriate authorizing committees of the House of Representatives and the Senate, and

(B) 30 calendar days have passed following the transmission of such written explanation.

15 USC 278k note.

(d) PUBLICATION IN FEDERAL REGISTER.—The requirement of section 25(c)(2) of the Act of March 3, 1901, shall be considered to have been met by the publication made by the National Bureau of Standards on July 18, 1988 (53 Fed. Reg. 27060).

SEC. 103. UNDER SECRETARY FOR TECHNOLOGY.

In addition to any sums otherwise authorized by this title, there are authorized to be appropriated to the Secretary for fiscal year 1989—

(1) $1,000,000 for the activities of the Office of the Under Secretary of Commerce for Technology, as established in section 201(a); and

(2) $2,000,000 for the activities of the Office of Technology Policy, as established in such section.

SEC. 104. JAPANESE TECHNICAL LITERATURE.

In addition to any sums otherwise authorized by this title, there is authorized to be appropriated to the Secretary for fiscal year 1989 the sum of $1,000,000 to carry out the purposes of the Japanese Technical Literature Act of 1986 (Public Law 99-382; 100 Stat. 811).

SEC. 105. SALARY ADJUSTMENTS.

In addition to any sums otherwise authorized by this title, there are authorized to be appropriated to the Secretary for fiscal year 1989 such additional sums as may be necessary to make any adjustments in salary, pay, retirement, and other employee benefits which may be provided for by law.

SEC. 106. AVAILABILITY OF APPROPRIATIONS.

Appropriations made under the authority provided in this title shall remain available for obligation, for expenditure, or for obligation and expenditure for periods specified in the Acts making such appropriations.

SEC. 107. RESEARCH INFORMATION CENTER.

The Research Information Center of the National Bureau of Standards shall be maintained as a governmental activity under the National Institute of Standards and Technology.

SEC. 108. EVALUATED ENGINEERING DATA STUDY.

Reports.

Within 6 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall conduct a study of needs within the private and public sectors for evaluated engineering data, and shall submit a report to the Congress making recommendations concerning the appropriate roles of the National Institute of Standards and Technology, other government agencies, professional societies, and trade associations in the collection, evaluation, and dissemination of such data. Such recommendations shall, among other things, address plans for the dissemination of the results of the study through data bases, and plans for incorporating high quality results from other countries.

SEC. 109. TECHNOLOGY SERVICES.

Small business.
State and local governments.
15 USC 272a.

In addition to such other technology services and technology extension activities which may be mandated or authorized by law, and in order to help improve the use of technology by small and medium-sized industrial firms within the United States, the Director of the National Institute of Standards and Technology, as appropriate, shall—

(1) work directly with States, local governments, and other appropriate organizations to provide for extended distribution of Standard Reference Materials, Standard Reference Data, calibrations, and related technical services and to help transfer other expertise and technology to the States and to small businesses and other businesses within the States;

(2) evaluate those inventions from small businesses or individuals which have a significant potential for improving competitiveness;

(3) provide support for workshops on technical and entrepreneurial topics and share information developed through the Malcolm Baldrige Quality Award Program; and

(4) work with other Federal agencies to provide technical and related assistance to the States and businesses within the States.

SEC. 110. TECHNOLOGY TRANSFER.

Reports.

Within 6 months after the date of the enactment of this Act, the Director of the National Institute of Standards and Technology shall report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on domestic technology transfer accomplishments, trends, and plans since 1986 at the National Bureau of Standards and the National Institute of Standards and Technology. Such report shall describe with examples the types of technology transfer undertaken by the National Bureau of Stand-

ards or the National Institute of Standards and Technology, the amount of funds devoted to these efforts, and patent and licensing activities related to the National Bureau of Standards and the National Institute of Standards and Technology research results. The report shall describe the division of technology transfer activities between the Gaithersburg, Maryland, and Boulder, Colorado, sites of the National Institute of Standards and Technology. The merits of establishing a technology transfer office in Boulder or of giving the Boulder laboratories increased technology transfer responsibilities shall also be considered.

15 USC 272b.

SEC. 111. ANNUAL BUDGET SUBMISSION.

The National Institute of Standards and Technology shall annually submit to the Congress, at the time of the release of the President's budget, a three year budget estimate for the Institute, including funding estimates for each major account and new initiative.

15 USC 272 note.

SEC. 112. INTERNATIONAL STANDARDS.

(a) PROGRAM.—The Secretary, acting through the Director of the National Institute of Standards and Technology and other appropriate officials, shall seek funding for and establish, within 6 months after the date of the enactment of this Act, a program to assist other countries in the development of their domestic standards which are compatible with standards in general use in the United States. After the program is established, it shall be funded through voluntary contributions from the private sector to fully reimburse the United States for expenses incurred during fiscal years 1989 and 1990. The program shall begin on a pilot basis focusing on one or two countries or groups of countries which are major United States trading partners and have expressed interest in such program. The Secretary shall ensure that contributions which are earmarked by country are spent to assist the development of standards by that country or group of countries.

Gifts and property.

(b) LONG-TERM PLAN.—No later than June 30, 1989, the Secretary shall submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a long-term plan for assistance under this section for each nation or group of nations which annually has imports of at least $1,000,000,000 from the United States (or has the potential for being a major importer from the United States) and which desires such assistance. The plan shall include a description of the resources needed to provide such assistance, the appropriate and likely sources of such funds, and the appropriate relationship between the program established under this section and private sector standards organizations. Special consideration is to be given to the feasibility of establishing a data base and other methods for making standards information developed in cooperation with one country available to other countries.

TITLE II—TECHNOLOGY ADMINISTRATION IN THE DEPARTMENT OF COMMERCE

Subtitle A—Technology Administration

SEC. 201. TECHNOLOGY ADMINISTRATION.

(a) ESTABLISHMENT.—Section 5(a) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(a)) is amended to read as follows:

"(a) ESTABLISHMENT.—There is established in the Department of Commerce a Technology Administration, which shall operate in accordance with the provisions, findings, and purposes of this Act. The Technology Administration shall include—

"(1) the National Institute of Standards and Technology;

"(2) the National Technical Information Service; and

"(3) a policy analysis office, which shall be known as the Office of Technology Policy.".

(b) UNDER SECRETARY AND ASSISTANT SECRETARY.—Section 5(b) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(b)) is amended to read as follows:

"(b) UNDER SECRETARY AND ASSISTANT SECRETARY.—The President shall appoint, by and with the advice and consent of the Senate, to the extent provided for in appropriations Acts— President of U.S.

"(1) an Under Secretary of Commerce for Technology, who shall be compensated at the rate provided for level III of the Executive Schedule in section 5314 of title 5, United States Code; and

"(2) an Assistant Secretary of Commerce for Technology Policy, who shall serve as policy analyst for the Under Secretary.".

(c) DUTIES.—Section 5(c) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(c)) is amended—

(1) by redesignating paragraphs (1) through (10) as paragraphs (5) through (14), respectively;

(2) by striking "Assistant Secretary, on a continuing basis, shall—" and inserting in lieu thereof "Under Secretary, as appropriate, shall—

"(1) manage the Technology Administration and supervise its agencies, programs, and activities;

"(2) conduct technology policy analyses to improve United States industrial productivity, technology, and innovation, and cooperate with United States industry in the improvement of its productivity, technology, and ability to compete successfully in world markets;

"(3) carry out any functions formerly assigned to the Office of Productivity, Technology, and Innovation;

"(4) assist in the implementation of the Metric Conversion Act of 1975;"; and

(3) in paragraph (10), as redesignated by paragraph (1) of this subsection, by striking "Assistant Secretary" and inserting in lieu thereof "Under Secretary".

(d) CONFORMING AMENDMENTS.—(1) Section 4 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3703) is amended—

(A) in paragraph (1), by striking "Productivity, Technology, and Innovation" and inserting in lieu thereof "Technology Policy"; and

(B) by amending paragraph (3) to read as follows:

"(3) 'Under Secretary' means the Under Secretary of Commerce for Technology appointed under section 5(b)(1).".

(2) Section 5(d)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3704(d)(1)) is amended by striking "shall establish and, through the National Technical Information Service and" and inserting in lieu thereof "and the Under Secretary shall establish, and through the National Technical Information Service and with the cooperation of".

(3) Section 11(g)(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710(g)(1)) is amended by inserting "through the Under Secretary, and" after "Secretary,".

(4) Section 5314 of title 5, United States Code, is amended by adding at the end the following item:

"Under Secretary of Commerce for Technology.".

15 USC 3704 note.

(e) TRANSITION.—The individual serving as the Assistant Secretary of Commerce for Productivity, Technology, and Innovation immediately before the date of enactment of this Act shall serve as Acting Assistant Secretary of Commerce for Technology Policy until the Assistant Secretary takes office.

National Technical Information Act of 1988.

Subtitle B—National Technical Information Service

15 USC 3701 note.

SEC. 211. SHORT TITLE.

This subtitle may be cited as the "National Technical Information Act of 1988".

15 USC 3704b.

SEC. 212. NATIONAL TECHNICAL INFORMATION SERVICE.

(a) POWERS.—(1) The Secretary of Commerce, acting through the Director of the National Technical Information Service (hereafter in this subtitle referred to as the "Director") is authorized to do the following:

Contracts.

(A) Enter into such contracts, cooperative agreements, joint ventures, and other transactions, in accordance with all relevant provisions of Federal law applicable to such contracts and agreements, and under reasonable terms and conditions, as may be necessary in the conduct of the business of the National Technical Information Service (hereafter in this subtitle referred to as the "Service").

(B) In addition to the authority regarding fees contained in section 2 of the Act entitled "An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes" enacted September 9, 1950 (15 U.S.C. 1152), retain and, subject to appropriations Acts, utilize its net revenues to the extent necessary to implement the plan submitted under subsection (f)(3)(D).

(C) Enter into contracts for the performance of part or all of the functions performed by the Promotion Division of the Service prior to the date of the enactment of this Act. The details of any such contract, and a statement of its effect on the operations and personnel of the Service, shall be provided to the appropriate committees of the Congress 30 days in advance of the execution of such contract. Contracts.

(D) Employ such personnel as may be necessary to conduct the business of the Service.

An increase or decrease in the personnel of the Service shall not affect or be affected by any ceilings on the number or grade of personnel.

(2) The functions and activities of the Service specified in subsection (e) (1) through (6) are permanent Federal functions to be carried out by the Secretary through the Service and its employees, and shall not be transferred from the Service, by contract or otherwise, to the private sector on a permanent or temporary basis without express approval of the Congress. Functions or activities—

(A) for the procurement of supplies, materials, and equipment by the Service;

(B) referred to in paragraph (1)(C); or

(C) to be performed through joint ventures or cooperative agreements which do not result in a reduction in the Federal workforce of the affected programs of the service,

shall not be considered functions or activities for purposes of this paragraph.

(3) For the purposes of this subsection, the term "net revenues" means the excess of revenues and receipts from any source, other than royalties and other income described in section 13(a)(4) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(4)), over operating expenses.

(4) Section 11(h) of the Stevenson-Wydler Technology Innovation Act of 1980 is repealed. 15 USC 3710.

(b) DIRECTOR OF THE SERVICE.—The management of the Service shall be vested in a Director who shall report to the Under Secretary of Commerce for Technology and the Secretary of Commerce.

(c) ADVISORY BOARD.—(1) There is established the Advisory Board of the National Technical Information Service, which shall be composed of a chairman and four other members appointed by the Secretary. Establishment.

(2) In appointing members of the Advisory Board the Secretary shall solicit recommendations from the major users and beneficiaries of the Service's activities and shall select individuals experienced in providing or utilizing technical information.

(3) The Advisory Board shall review the general policies and operations of the Service, including policies in connection with fees and charges for its services, and shall advise the Secretary and the Director with respect thereto.

(4) The Advisory Board shall meet at the call of the Secretary, but not less often than once each six months.

(d) AUDITS.—The Secretary of Commerce shall provide for annual independent audits of the Service's financial statements beginning with fiscal year 1988, to be conducted in accordance with generally accepted accounting principles.

(e) FUNCTIONS.—The Secretary of Commerce, acting through the Service, shall—

Records. Public information.

(1) establish and maintain a permanent repository of nonclassified scientific, technical, and engineering information;

(2) cooperate and coordinate its operations with other Government scientific, technical, and engineering information programs;

Libraries.

(3) make selected bibliographic information products available in a timely manner to depository libraries as part of the Depository Library Program of the Government Printing Office;

(4) in conjunction with the private sector as appropriate, collect, translate into English, and disseminate unclassified foreign scientific, technical, and engineering information;

(5) implement new methods or media for the dissemination of scientific, technical, and engineering information; and

(6) carry out the functions and activities of the Secretary under the Act entitled "An Act to provide for the dissemination of technological, scientific, and engineering information to American business and industry, and for other purposes" enacted September 9, 1950, and the functions and activities of the Secretary performed through the National Technical Information Service as of the date of enactment of this Act under the Stevenson-Wydler Technology Innovation Act of 1980.

(f) NOTIFICATION OF CONGRESS.—(1) The Secretary of Commerce and the Director shall keep the appropriate committees of Congress fully and currently informed about all activities related to the carrying out of the functions of the Service, including changes in fee policies.

Reports.

(2) Within 90 days after the date of the enactment of this Act, the Secretary of Commerce shall submit to the Congress a report on the current fee structure of the Service, including an explanation of the basis for the fees, taking into consideration all applicable costs, and the adequacy of the fees, along with reasons for the declining sales at the Service of scientific, technical, and engineering publications. Such report shall explain any actions planned or taken to increase such sales at reasonable fees.

Reports.

(3) The Secretary shall submit an annual report to the Congress which shall—

(A) summarize the operations of the Service during the preceding year, including financial details and staff levels broken down by major activities;

(B) detail the operating plan of the Service, including specific expense and staff needs, for the upcoming year;

(C) set forth details of modernization progress made in the preceding year;

(D) describe the long-term modernization plans of the Service; and

(E) include the results of the most recent annual audit carried out under subsection (d).

(4) The Secretary shall also give the Congress detailed advance notice of not less than 30 calendar days of—

(A) any proposed reduction-in-force;

(B) any joint venture or cooperative agreement which involves a financial incentive to the joint venturer or contractor; and

(C) any change in the operating plan submitted under paragraph (3)(B) which would result in a variation from such plan with respect to expense levels of more than 10 percent.

TITLE III—MISCELLANEOUS AMENDMENTS TO STEVENSON-WYDLER TECHNOLOGY INNOVATION ACT OF 1980

SEC. 301. COOPERATIVE RESEARCH AND DEVELOPMENT AGREEMENTS.

Patents and trademarks.

Section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a) is amended—

(1) in subsection (a)(2), by striking "at the laboratory and other inventions" and inserting in lieu thereof "or other intellectual property developed at the laboratory and other inventions or other intellectual property"; and

(2) in subsection (b)—

(A) by striking "and" at the end of paragraphs (2) and (3);

(B) by redesignating paragraph (4) as paragraph (5); and

(C) by inserting after paragraph (3) the following new paragraph:

"(4) determine rights in other intellectual property developed under an agreement entered into under subsection (a)(1); and".

SEC. 302. REWARDS.

Section 13(1) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710b(1)) is amended by inserting "computer software," after "inventions, innovations,".

SEC. 303. DISTRIBUTION OF ROYALTIES.

(a) Section 14(a)(1)(A) of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710c(a)(1)(A)) is amended—

(1) in clause (i), by striking "was an employee of the agency at the time the invention was made" and inserting in lieu thereof "has assigned his or her rights in the invention to the United States"; and

(2) in clause (ii), by striking "who were employed by the agency at the time the invention was made and whose names appear on licensed inventions" and inserting in lieu thereof "under clause (i)".

(b) This section shall be effective as of October 20, 1986.

Effective date. 15 USC 3710c note.

TITLE IV—DRUG-FREE WORKPLACE

SEC. 401. DRUG-FREE WORKPLACE.

(a) No department, agency, or instrumentality of the United States receiving funds authorized to be appropriated under this Act for fiscal year 1989 or under any other Act authorizing appropriations for fiscal year 1989 for the National Institute of Standards and Technology (hereafter in this section referred to as the "Institute"), shall obligate or expend any such funds, unless the Institute has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of the Institute.

(b) No funds so authorized to be appropriated to the Institute for fiscal year 1989 shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such

grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the Director of the Institute, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

Approved October 24, 1988.

LEGISLATIVE HISTORY—H.R. 4417 (S. 2701):

HOUSE REPORTS: No. 100-673, Pt. 1 (Comm. on Science, Space, and Technology) and Pt. 2 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-466 accompanying S. 2701 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 5, considered and passed Senate.

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Public Law 100-520
100th Congress

An Act

To direct the Secretary of Agriculture to release a reversionary interest of the United States in certain land located in Oktibbeha County, Mississippi.

Oct. 24, 1988
[H.R. 4724]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. RELEASE OF REVERSIONARY INTEREST.

(a) RELEASE.—The Secretary of Agriculture (subject to the provisions of subsection (c)) shall take such actions as are necessary to release the restriction on the land described in subsection (b) that—

(1) requires that such land be used for public purposes; and

(2) is contained in a deed—

(A) granting such land from the United States to Mississippi State College (University),

(B) dated July 20, 1955, and

(C) recorded at page 293 of book 274 of the record of deeds at Oktibbeha County, Mississippi.

(b) LEGAL DESCRIPTION.—The lands that are subject to this Act are—

(1) the East half (E½) of the Southeast Quarter (SE¼) of Section 9, Township 17 North, Range 13 East in Oktibbeha County, Mississippi, containing 80 acres more or less; and

(2) a strip of approximately 42.37 acres in section 10, T 17 N, R 13 E, Oktibbeha County, Mississippi, being located on part of the W½ of the W½ of the NE¼ and part of the E½ of the E½ of the NW¼ of said section, township, and range.

(c) AGREEMENT.—The Secretary of Agriculture, prior to releasing any of the restrictions contained in the deed described in subsection (a), shall enter into an agreement with Mississippi State College (University) which provides that the release of the restrictions contained in such deed shall be conditioned on the placing of identical restrictions on acceptable property of equal value acquired by the College (University) in exchange for the property described in subsection (b).

SEC. 2. SALE OF MINERAL RIGHTS.

(a) IN GENERAL.—Subject to any valid existing rights of third parties, the Secretary of the Interior shall convey to Mississippi State College (University) all of the undivided mineral interests of the United States in the lands described in section 1(b) as soon as practicable after the date of the compliance by Mississippi State College (University) with the provisions of subsection (b)(2).

(b) TERMS OF CONVEYANCE.—(1) Within 90 days after the date of the enactment of this Act, the Secretary of the Interior shall determine—

(A) the mineral character of the lands described in section 1(b); and

(B) the fair market value of the mineral interests referred to in subsection (a).

(2) Mississippi State College (University) shall pay to the United States—

(A) any administrative costs incurred by the United States in conveying such mineral interests to Mississippi State College (University), including costs of making the determinations required by paragraph (1); and

(B)(i) the fair market value of such mineral interests, or

(ii) $1, in the case of mineral interests in any land determined by the Secretary of the Interior to have no value and to be under no active mineral development or leasing.

Approved October 24, 1988.

LEGISLATIVE HISTORY—H.R. 4724 (S. 2437):

HOUSE REPORTS: No. 100-1025 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, 4, considered and passed House.
Oct. 5, considered and passed Senate.

Public Law 100-521
100th Congress

An Act

To provide for study and research on the decline in United States forest productivity and to determine the effects of atmospheric pollutants on forest environments, and for other purposes.

Oct. 24, 1988
[H.R. 2399]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Forest Ecosystems and Atmospheric Pollution Research Act of 1988.
16 USC 1600 note.
16 USC 1642 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Forest Ecosystems and Atmospheric Pollution Research Act of 1988".

SEC. 2. FINDINGS.

Congress finds that—

(1) the health and productivity of forests in certain regions of the United States are declining;

(2) there is a special concern about the decline of certain hardwood species, particularly sugar maples and oaks, in the eastern United States and the effects of atmospheric pollutants on the health and productivity of these forests;

(3) declines in the productivity of certain commercially important Southern pine species have been measured;

(4) existing research indicates that atmospheric pollution, including ozone, acidic deposition, and heavy metals, may contribute to this decline;

(5) there is an urgent need to expand and better coordinate existing Federal, State, and private research, including research by private industry, to determine the cause of changes in the health and productivity of domestic forest ecosystems and to monitor and evaluate the effects of atmospheric pollutants on such ecosystems; and

(6) such research and monitoring should not impede efforts to control atmospheric pollutants.

SEC. 3. ESTABLISHMENT OF RESEARCH PROGRAM.

Section 3 of the Forest and Rangeland Renewable Resources Research Act of 1978 (16 U.S.C. 1642) is amended by adding at the end the following:

"(c)(1) The Secretary, acting through the United States Forest Service, shall establish not later than 180 days after the date of the enactment of this subsection a 10-year program (hereinafter in this subsection referred to as the 'Program') to—

"(A) increase the frequency of forest inventories in matters that relate to atmospheric pollution and conduct such surveys as are necessary to monitor long-term trends in the health and productivity of domestic forest ecosystems;

"(B) determine the scope of the decline in the health and productivity of domestic forest ecosystems;

"(C) accelerate and expand existing research efforts (including basic forest ecosystem research) to evaluate the effects of at-

mospheric pollutants on forest ecosystems and their role in the decline in domestic forest health and productivity;

"(D) study the relationship between atmospheric pollution and other climatological, chemical, physical, and biological factors that may affect the health and productivity of domestic forest ecosystems;

"(E) develop recommendations for solving or mitigating problems related to the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems;

"(F) foster cooperation among Federal, State, and private researchers and encourage the exchange of scientific information on the effects of atmospheric pollutants on forest ecosystems among the United States, Canada, European nations, and other nations;

"(G) support the long-term funding of research programs and related efforts to determine the causes of declines in the health and productivity of domestic forest ecosystems and the effects of atmospheric pollutants on the health and productivity of domestic forest ecosystems; and

"(H) enlarge the Eastern Hardwood Cooperative by devoting additional resources to field analysis of the response of hardwood species to atmospheric pollution, and other factors that may affect the health and productivity of these ecosystems.

"(2) The Secretary shall establish a committee to advise the Secretary in developing and carrying out the Program, which shall be composed of scientists with training and experience in various disciplines, including atmospheric, ecological, and biological sciences. Such scientists shall be selected from among individuals who are actively performing research for Federal or State agencies or for private industries, institutions, or organizations.

"(3) The Secretary shall coordinate the Program with existing research efforts of Federal and State agencies and private industries, institutions, or organizations.

Reports.

"(4) The Secretary shall submit to the President and to Congress the following reports:

"(A) Not less than 30 days before establishing the Program, the Secretary shall submit an initial program report—

"(i) discussing existing information about declining health and productivity of forest ecosystems on public and private lands in North America and Europe;

"(ii) outlining the findings and status of all current research and monitoring efforts in North America and Europe on the causes and effects of atmospheric pollution on the health and productivity of forest ecosystems;

"(iii) describing the Program; and

"(iv) estimating the cost of implementing the Program for each fiscal year of its duration.

"(B) Not later than January 15, 1990, and January 15 of each year thereafter, during which the Program is in operation following the year in which the initial program report is submitted, the Secretary shall submit an annual report—

"(i) updating information about declining health and productivity of forest ecosystems on public and private lands in North America and Europe;

"(ii) updating the findings and status of all current research and monitoring efforts in North America and Europe on the causes and effects of atmospheric pollution

on the health and productivity of forest ecosystems, including efforts conducted under the Program;

"(iii) recommending additional research and monitoring efforts to be undertaken under the Program to determine the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems; and

"(iv) recommending methods for solving or mitigating problems stemming from the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems.

"(C) Not later than 10 years after the date on which the initial program report is submitted, the Secretary shall submit a final report—

"(i) reviewing existing information about declining health and productivity of forest ecosystems on public and private lands in North America and Europe;

"(ii) reviewing the nature and findings of all research and monitoring efforts conducted under the Program and any other relevant research and monitoring efforts related to the effects of atmospheric pollution on forest ecosystem; and

"(iii) making final recommendations for solving or mitigating problems stemming from the effects of atmospheric pollution on the health and productivity of domestic forest ecosystems.".

Approved October 24, 1988.

LEGISLATIVE HISTORY—H.R. 2399:

HOUSE REPORTS: No. 100-241 (Comm. on Agriculture).
CONGRESSIONAL RECORD:
Vol. 133 (1987): July 27, considered and passed House.
Vol. 134 (1988): Oct. 5, considered and passed Senate, amended.
Oct. 6, House concurred in Senate amendment.

Public Law 100-522
100th Congress

An Act

Oct. 24, 1988
[H.R. 5423]

To authorize continued storage of water at Abiquiu Dam in New Mexico.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

43 USC 620a note.

SECTION 1. WATER STORAGE.

Notwithstanding any other provision of law, the Secretary of the Army, acting through the Chief of Engineers, is authorized to store 200,000 acre-feet of Rio Grande system water at Abiquiu Dam, New Mexico, in lieu of the water storage authorized by section 5 of Public Law 97-140, to the extent that contracting entities under section 5 of Public Law 97-140 no longer require such storage. The Secretary is authorized further to acquire lands adjacent to Abiquiu Dam on which the Secretary holds easements as of the date of enactment of this Act if such acquisition is necessary to assure proper recreational access at Abiquiu Dam. The Secretary is further directed to report to Congress as soon as possible with recommendations on additional easements that may be required to assure implementation of this Act.

Reports.

43 USC 620a note.

SEC. 2. LIMITATION.

The authorization to store water and to acquire lands under section 1 is subject to the provisions of the Rio Grande Compact and the resolutions of the Rio Grande Compact Commission.

Approved October 24, 1988.

LEGISLATIVE HISTORY—H.R. 5423:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 6, considered and passed House.
Oct. 7, considered and passed Senate.

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Public Law 100-523
100th Congress

An Act

To amend title 5, United States Code, to allow all forest fire fighting employees to be paid overtime without limitation while serving on forest fire emergencies.

Oct. 24, 1988
[S. 1911]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Forest Wildfire Emergency Pay Equity Act of 1988".

Forest Wildfire Emergency Pay Equity Act of 1988.
5 USC 5547 note.

SEC. 2. Section 5547 of title 5, United States Code, is amended to read as follows:

"§ 5547. Limitation on premium pay

"(a) An employee may be paid premium pay under sections 5542, 5545 (a), (b), and (c), and 5546 (a) and (b) of this title only to the extent that the payment does not cause his aggregate rate of pay for any pay period to exceed the maximum rate for GS-15. The first sentence of this subsection shall not apply to any employee of the Federal Aviation Administration or the Department of Defense who is paid premium pay under section 5546a of this title.

"(b)(1) The provisions of subsection (a) shall not apply to the pay of any forest firefighter for any pay period in which such firefighter is assigned to work on, or in support of, forest wildfire emergencies.

"(2) Notwithstanding the provisions of paragraph (1), no forest firefighter employee may be paid premium pay to the extent that the aggregate rate of pay of such employee for the aggregate of all pay periods in any calendar year exceeds the maximum rate for GS-15 as provided under the General Schedule pursuant to subchapter III of chapter 53 of title 5, United States Code.

"(3) For purposes of this subsection, the term—

"(A) 'forest firefighter' means any employee of the Department of Agriculture or the Department of the Interior who is assigned to work on, or in support of, forest wildfire emergencies; and

"(B) 'in support of' means duties performed during a temporary assignment to work on a wildland fire suppression for which the salary costs of employees shall be paid from funds provided to the Forest Service, Bureau of Land Management, National Park Service, United States Fish and Wildlife Service or the Bureau of Indian Affairs for fire fighting.".

Approved October 24, 1988.

LEGISLATIVE HISTORY—S. 1911:

SENATE REPORTS: No. 100-546 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 30, considered and passed Senate.
Oct. 6, considered and passed House.

Public Law 100-524
100th Congress

An Act

Oct. 24, 1988
[S. 2018]

To expand the boundaries of the Congaree Swamp National Monument, to designate wilderness therein, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Congaree Swamp National Monument Expansion and Wilderness Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congaree Swamp National Monument Expansion and Wilderness Act".

SEC. 2. NATIONAL MONUMENT WILDERNESS.

National Wilderness Preservation System. 16 USC 1132 note.

(a) DESIGNATION OF WILDERNESS.—Certain lands comprising approximately 15,010 acres as generally depicted on a map entitled "Congaree Swamp National Monument Wilderness—Proposed", and dated July 1988, are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Congaree Swamp National Monument Wilderness.

(b) POTENTIAL WILDERNESS ADDITIONS.—Certain lands comprising approximately 6,840 acres as depicted on the map referenced in subsection (a) are hereby designated as potential wilderness additions. Such lands shall be managed by the Secretary of the Interior (hereinafter referred to as the "Secretary") insofar as practicable as wilderness until such time as said lands are designated as wilderness. Any lands designated as potential wilderness additions shall, upon acquisition of any non-Federal interests in land and publication in the Federal Register of a notice by the Secretary that all uses thereon prohibited by the Wilderness Act have ceased, thereby be designated wilderness, shall be part of the Congaree Swamp National Monument Wilderness, and shall be managed in accordance with the Wilderness Act.

SEC. 3. MAP AND LEGAL DESCRIPTION.

Public information.

As soon as practicable after the date of enactment of this Act, the map referenced in section 2 and a legal description of the boundaries of the wilderness and potential wilderness addition designated by this Act shall be on file and available for public inspection in the Office of the Director of the National Park Service, Department of the Interior, in the Office of the Superintendent of the Congaree Swamp National Monument and with the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Each such map and legal description shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map and legal description may be made.

SEC. 4. ADMINISTRATION.

Subject to valid existing rights, the lands designated as wilderness pursuant to this Act shall be administered by the Secretary in accordance with the applicable provisions of the Wilderness Act governing areas designated by that Act as wilderness, except that any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act, and where appropriate, any reference to the Secretary of Agriculture shall be deemed to be a reference to the Secretary.

SEC. 5. ADDITION TO CONGAREE SWAMP NATIONAL MONUMENT. 16 USC 431 note.

The first section of the Act approved October 18, 1976 (90 Stat. 2517), is amended by—

(1) inserting "(a)" after "That";

(2) striking all after "Federal Register" and inserting in lieu thereof a period; and

(3) adding at the end thereof the following:

"(b) In addition to the lands described in subsection (a), the monument shall consist of the additional lands within the boundary as generally depicted on the map entitled 'Citizens Boundary Proposal for Congaree Swamp National Monument', numbered 178-80,009A, dated July 1988, which shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The map may be revised as provided in subsection (a). The total acreage of the monument including lands described in subsection (a) and this subsection shall not exceed 22,200 acres.". Public information.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS. 16 USC 431 note.

(a) LAND ACQUISITION FUNDS.—Section 5(a) of the Act approved October 18, 1976 (90 Stat. 2518), is amended by adding at the end thereof the following: "The Secretary may expend such additional sums as are necessary from the Land and Water Conservation Fund for acquisition of lands described in subsection (b) of the first section.".

(b) DEVELOPMENT FUNDS.—Section 5 of the Act approved October 18, 1976 (90 Stat. 2518), is amended by adding at the end thereof the following:

"(c) Notwithstanding subsection (a), there are hereby authorized to be appropriated $3,000,000 for construction and development within the monument.".

SEC. 7. LATE PAYMENT CHARGES UNDER FEDERAL MINERAL LEASES. 30 USC 191a.

(a) DISTRIBUTION OF LATE PAYMENT CHARGES.—Any interest or other charges paid to the United States by reason of the late payment of any royalty, rent, bonus, or other amount due to the United States under any lease issued by the United States for the extraction of oil, gas, coal, or any other mineral, or for geothermal steam, shall be deposited in the same account and distributed to the same recipients, in the same manner, as such royalty, rent, bonus, or other amount.

(b) EFFECTIVE DATE.—Subsection (a) shall apply with respect to any interest, or other charge referred to in subsection (a), which is paid to the United States on or after July 1, 1988.

(c) PROHIBITION AGAINST RECOUPMENT.—Any interest, or other charge referred to in subsection (a), which was paid to the United States before July 1, 1988, and distributed to any State or other

recipient is hereby deemed to be authorized and approved as of the date of payment or distribution, and no part of any such payment or distribution shall be recouped from the State or other recipient. This subsection shall not apply to interest or other charges paid in connection with any royalty, rent, bonus, or other amount determined not to be owing to the United States.

Approved October 24, 1988.

LEGISLATIVE HISTORY—S. 2018:

HOUSE REPORTS: No. 100-977 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-449 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 9, considered and passed Senate.
Sept. 26, considered and passed House, amended.
Oct. 7, Senate concurred in House amendment.

Public Law 100-525
100th Congress

An Act

To amend the Immigration and Nationality Act to make technical corrections in immigration-related laws.

Oct. 24, 1988
[S. 2479]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Immigration Technical Corrections Act of 1988.
8 USC 1101 note.

SECTION 1. SHORT TITLE; SHORT REFERENCES TO ACTS.

(a) SHORT TITLE.—This Act may be cited as the "Immigration Technical Corrections Act of 1988".

(b) ABBREVIATED REFERENCES USED IN ACT.—In this Act:

(1) The term "IRCA" refers to the Immigration Reform and Control Act of 1986 (Public Law 99-603).

(2) The term "DOJAA" refers to the Department of Justice Appropriation Act, 1987 (as contained in section 101(b) of Public Law 99-500).

(3) The term "IMFA" refers to the Immigration Marriage Fraud Amendments of 1986 (Public Law 99-639).

(4) The term "INAA" refers to the Immigration and Nationality Act Amendments of 1986 (Public Law 99-653).

SEC. 2. CORRECTIONS RELATING TO THE IMMIGRATION REFORM AND CONTROL ACT OF 1986 (PUBLIC LAW 99-603).

(a) SECTION 101 OF IRCA.—

(1) Section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a), added by section 101(a) of IRCA, is amended as follows:

(A) In the third sentence of subsection (b)(1)(A), strike "such sentence" and insert "the first sentence of this paragraph" and strike "such a document" and insert "such another document".

(B) In subsection (d)(3)(D), strike "REQUIRING TWO YEARS NOTICE AND CONGRESSIONAL REVIEW" and insert "DEFINED".

(C) In subsection (e)—

(i) in paragraphs (1) and (3), insert "or (g)(1)" after "subsection (a)" each place it appears,

(ii) in paragraph (3), strike "or (5)" each place it appears and insert ", (5), or (6)",

(iii) redesignate paragraphs (6) through (8) as paragraphs (7) through (9), respectively, and

(iv) insert after paragraph (5) the following new paragraph:

"(6) ORDER FOR PROHIBITED INDEMNITY BONDS.—With respect to a violation of subsection (g)(1), the order under this subsection may provide for the remedy described in subsection (g)(2).".

(D) In subsection (e)(4)(A), strike "subparagraph" each place it appears in clauses (ii) and (iii) and insert "paragraph".

(E) In subsection (g)(2), insert "under subsection (e)" after "administrative hearing".

(F) In subsection (i)(3)(B)(iii)—
(i) strike "a order" and insert "an order", and
(ii) strike "paragraph (1)(A)" and insert "subsection (a)(1)(A)".
(G) In subsection (j)(1), strike "Act" and insert "section" and strike "of the United States".
(H) In subsection (j)(2), strike "that section" and insert "this section".

29 USC 1802 note.

(2) Section 101(b)(2) of IRCA is amended by inserting before the period the following: "; except that if the provisions of section 274A of the Immigration and Nationality Act are terminated as of a date under subsection (l) of such section, then such amendments shall no longer apply as of such date".

(b) SECTION 102 OF IRCA.—Section 274B of the Immigration and Nationality Act (8 U.S.C. 1324b), added by section 102(a) of IRCA, is amended—

(1) in subsection (a)(1), by inserting ", as defined in section 274A(h)(3)" after "unauthorized alien";
(2) in subsection (e)(3), by striking "said";
(3) in subsection (g)(2)(A), by striking "that that" and inserting "that";
(4) in subsection (g)(2)(B)(ii), by striking "274(b)(5)" and inserting "274A(b)(5)";
(5) in subsection (g)(3), by striking "has not engaged or" and inserting "has not engaged and"; and
(6) in subsection (h), by striking "ATTORNEYS' " and inserting "ATTORNEY'S".

18 USC 1546.

(c) SECTION 103 OF IRCA.—Section 103(a)(4) of IRCA is amended by inserting "not more than" immediately before "$2,000".

(d) SECTION 112 OF IRCA.—

(1) Section 274(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1324(a)(1)), as amended by section 112(a) of IRCA, is amended—
(A) by striking "this subsection" and inserting "this paragraph", and
(B) by inserting "or" after "Code,".
(2) Section 112(b) of IRCA is amended—
(A) in paragraph (5)—
(i) by striking "Federal Maritime Commission" and inserting "Maritime Administration", and
(ii) by inserting "(40 U.S.C. 484(i))" after "1949"; and
(B) in paragraph (8)—
(i) by inserting "(A)" after "(8)", and
(ii) by adding at the end the following new subparagraph:

"(B) by striking out 'was not entitled to enter, or reside within, the United States' in paragraph (5)(C) and inserting in lieu thereof 'had not received prior official authorization to come to, enter, or reside in the United States or that such alien had come to, entered, or remained in the United States in violation of law', and".

100 Stat. 3384.

(e) SECTION 116 OF IRCA.—Section 116 of IRCA is amended-

(1) by inserting ", as amended by section 1751(d) of the Anti-Drug Abuse Act of 1986," after "1357)", and
(2) by redesignating the subsection added by such section as subsection (e).

(f) SECTION 117 OF IRCA.—(1) Section 245(c)(2) of the Immigration and Nationality Act (8 U.S.C. 1255(c)(2)), as amended by section 117 of IRCA, is amended—

(A) by inserting "or (I)" after "101(a)(27)(H)",

(B) by inserting "or" after "no fault of his own",

(C) by striking "not in legal" and inserting "in unlawful", and

(D) by striking "legal status" and inserting "lawful status".

(2) The amendments made by paragraph (1) and by section 117 of IRCA shall apply to applications for adjustment of status filed on or after November 6, 1986. 8 USC 1255 note.

(g) SECTION 121 OF IRCA.—Section 484 of the Higher Education Act of 1965 (20 U.S.C. 1091), as amended by section 121(a)(3) of IRCA, is amended—

(1) by redesignating the subsections (c) through (e) added by section 121(a)(3) of IRCA as subsections (h) through (j), respectively;

(2) by inserting the following headings after the subsection designation of each such redesignated subsection:

(A) subsection (h): "IMMIGRATION STATUS VERIFICATION REQUIRED.—";

(B) subsection (i): "LIMITATIONS OF ENFORCEMENT ACTIONS AGAINST INSTITUTIONS.—"; and

(C) subsection (j): "VALIDITY OF LOAN GUARANTEES FOR LOAN PAYMENTS MADE BEFORE IMMIGRATION STATUS VERIFICATION COMPLETED.—";

(3) in subsection (i), as so redesignated, by striking "(c)(4)(A)(ii)", "(c)(4)(B)(ii)", and "(c)(5)(B)" in paragraphs (2), (3), and (4), respectively, and inserting "(h)(4)(A)(ii)", "(h)(4)(B)(ii)", and "(h)(5)(B)", respectively; and

(4) in subsection (j), as so redesignated—

(A) by striking "subsection (c)" both places it appears and inserting "subsection (h)", and

(B) by striking "date of" and inserting "date".

(h) SECTION 201 OF IRCA.—

(1) Section 245A of the Immigration and Nationality Act (8 U.S.C. 1255a), as added by section 201 of IRCA, is amended—

(A) in subsection (a)(1)(B), by striking "18-month" and inserting "12-month";

(B) in subsection (b)(1)(D)(ii)—

(i) by inserting "OR DEVELOPMENTALLY DISABLED" after "ELDERLY" in the heading, and

(ii) by inserting "or who is developmentally disabled" after "65 years of age or older";

(C) in subsection (c)(1), by amending the second sentence to read as follows: "As used in this section, the term 'qualified designated entity' means an organization or person designated under paragraph (2).";

(D) in the first sentence of subsection (c)(5)—

(i) in subparagraph (A), by inserting "or for the preparation of reports to Congress under section 404 of the Immigration Reform and Control Act of 1986" after "paragraph (6)"; and

(ii) by striking the period at the end and inserting a semicolon and the following:

"except that the Attorney General may provide, in the Attorney General's discretion, for the furnishing of information furnished under this section in the same manner and circumstances as

census information may be disclosed by the Secretary of Commerce under section 8 of title 13, United States Code."; and

(E) in subsection (d)(2)(B)(ii)—

(i) in subclause (II), by striking "by an alien other than" and all that follows through "subsection (a)"; and

(ii) by adding at the end the following: "Subclause (II) (prohibiting the waiver of section 212(a)(15)) shall not apply to an alien who is or was an aged, blind, or disabled individual (as defined in section 1614(a)(1) of the Social Security Act).".

8 USC 1255a note.

(2) The first sentence of section 201(c)(2) of IRCA is amended by striking "annuity" and inserting "pay and annuity".

8 USC 1255a note.

(i) SECTION 202 OF IRCA.—Section 202(a)(2) of IRCA is amended by inserting before the semicolon the following: "and the Attorney General may, in his discretion, waive the grounds for exclusion specified in paragraph (19) of such section".

8 USC 1259.

(j) SECTION 203 OF IRCA.—Section 203(a) of IRCA is amended—

(1) by striking "and" at the end of paragraph (1),

(2) by redesignating paragraph (2) as paragraph (3), and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) by inserting 'under section 212(a)(33) or' after 'inadmissible', and".

8 USC 1255a note.

(k) SECTION 204 OF IRCA.—Section 204 of IRCA is amended as follows:

(1) In subsection (a)(2)(D), strike "for that year" the second place it appears.

(2) In subsection (b)(2), strike "the succeeding fiscal year" and insert "any succeeding fiscal year (before fiscal year 1995)".

(3) In subsection (b)(3), strike "(1)(A)" and insert "(1)".

(4) In subsection (b)(4), strike "any of the following fiscal years" and insert "a fiscal year".

(5) In subsection (c)(1)(B), strike "under section 245A(a) of such Act".

(6) In subsection (c)(2)(B), insert ", subject to subparagraph (C)," after "shall".

(7) In subsection (c)(3)(A), strike "section 245A(a) of".

(8) In subsection (e)(1)(A)(ii), strike the first comma.

(9) In subsection (f)(2), inserting "of" before "public health".

(10) In subsection (j)(4)—

(A) by inserting "210, 210A, or" before "245A", and

(B) by inserting "first" before "granted such status".

8 USC 1184.

(l) SECTION 301 OF IRCA.—(1) Section 301(b) of IRCA is amended by striking "section 216" and inserting "section 218".

8 USC 1186, 1188.

(2) Section 301(c) of IRCA is amended—

(A) by striking "by adding after section 215" and inserting "by adding at the end", and

(B) by striking "Sec. 216." and inserting "Sec. 218.".

8 USC 1188.

(3) Section 216(c)(4) of the Immigration and Nationality Act (as added by section 301(c) of IRCA) is amended by striking "accomodations" each place it appears and inserting "accommodations".

8 USC 1188 note.

(4) Subsections (d), (e), and (f) of section 301 of IRCA are amended by striking "216" and inserting "218".

100 Stat. 3417.

(5) Section 301(g) of IRCA is amended—

(A) by striking "after the item relating to section 215" and inserting "at the end of the items relating to chapter 2 of title II", and

(B) by striking "Sec. 216." and inserting "Sec. 218.".

(m) SECTION 302 OF IRCA.—Section 210(g) of the Immigration and Nationality Act (8 U.S.C. 1160(g)), added by section 302 of IRCA, is amended by striking "(b)(3)" and inserting "(a)(5)".

(n) SECTION 303 OF IRCA.—(1) Section 210A(a)(8) of the Immigration and Nationality Act (8 U.S.C. 1161(a)(8)), as added by section 303(a) of IRCA, is amended by striking "OVER-SUPPLY" in the heading and inserting "OVERSUPPLY".

(2) Section 241(a)(20) of the Immigration and Nationality Act (8 U.S.C. 1251(a)(20)), added by section 303(b)(3) of IRCA, is amended by striking "who becomes".

(3) Section 303 of IRCA is amended by striking subsection (c) and by redesignating subsection (d) as subsection (c). 8 USC 1255a note.

(o) SECTION 312 OF IRCA.—(1) Section 101(a)(27)(I) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(27)(I)), as added by section 312(a) of IRCA, is amended—

(A) by striking "the date this subparagraph is enacted" each place it appears and inserting "the date of the enactment of the Immigration Technical Corrections Act of 1988", and

(B) by striking "applies for admission" each place it appears and inserting "applies for a visa or adjustment of status".

(2) Only for purposes of section 101(a)(27)(I) of the Immigration and Nationality Act, an alien who is or was an officer or employee of an international organization (or is the unmarried son or daughter or surviving spouse of such an officer or employee or former officer or employee) is considered to be residing and physically present in the United States during a period in which the alien is residing in the United States but is absent from the United States because of the officer's or employee's need to conduct official business on behalf of the organization or because of customary leave, but only if during the period of the absence the officer or employee continues to have a duty station in the United States and, in the case of such an unmarried son or daughter, the son or daughter is not enrolled in a school outside the United States. International organizations. 8 USC 1101 note.

(p) SECTION 313 OF IRCA.—(1) Section 313(a) of IRCA is amended by striking ", as amended by section 301(c), is further amended by adding after section 216" and inserting "is amended by inserting after section 215". 8 USC 1187.

(2) Section 217(a) of the Immigration and Nationality Act (8 U.S.C. 1187(a)), as added by section 313(a) of IRCA, is amended by striking "hereafter" and inserting "hereinafter".

(3) Section 313(c) of IRCA is amended— 8 USC 1255.

(A) by striking ", as amended by section 312(b), is further" and inserting "is", and

(B) by striking "(4)" and "(5)" and inserting "(3)" and "(4)", respectively.

(4) Section 313(e) of IRCA is amended by striking "216" and inserting "215".

(q) SECTION 315 OF IRCA.—Section 315 of IRCA is amended—

(1) in subsection (b)—

(A) by striking "244(b)" and all that follows through "(3)" and inserting "244 (8 U.S.C. 1254) is amended—

"(1) in subsection (b), by inserting '(1)' after '(b)' and by adding at the end of subsection (b) the following new paragraph:

" '(2)"; and

(B) by striking the period at the end and inserting "; and" and the following:

"(2) in subsection (c), by striking '(1)' in paragraph (1) and by striking all that follows the first sentence of paragraph (1).."; and

(2) by adding at the end the following new subsection:

8 USC 1254 note. "(e) The amendment made by subsection (b)(1) shall apply to applications submitted under section 244 of the Immigration and Nationality Act before, on, or after the date of the enactment of this Act; but shall not apply to aliens removed from the United States before the date of the enactment of this Act.".

8 USC 1101 note. (r) SECTION 601 OF IRCA.—Section 601(d)(1) of IRCA is amended by adding at the end the following sentence: "Not more than 1 percent of the amounts appropriated for the Commission may be used, at the sole discretion of the Chairman, for official entertainment.".

8 USC 1101 note. (s) EFFECTIVE DATE.—The amendments made by this section shall be effective as if they were included in the enactment of the Immigration Reform and Control Act of 1986.

SEC. 3. PUBLIC LAW 99-396.

Effective date. Effective as if included in the enactment of Public Law 99-396:

8 USC 1182. (1) Section 14 of such Act is amended—

(A) by inserting closing quotation marks and a period at the end of the paragraph designated (3),

8 USC 1182 note. (B) by striking quotation marks before "(b)" and before "(c)", and

8 USC 1182 note. (C) by striking the closing quotation marks and period that follows "Senate.".

8 USC 1408. (2) Section 15 of such Act is amended by inserting after "is amended" the following: "by striking out 'and' at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof '; and', and".

SEC. 4. DEPARTMENT OF JUSTICE APPROPRIATION ACT, 1987 (PUBLIC LAW 99-500).

(a) SECTION 205 OF DOJAA.—

(1) Section 286 of the Immigration and Nationality Act (8 U.S.C. 1356), as amended by section 205 of the Department of Justice Appropriation Act, 1987 (as contained in section 101(b) of Public Law 99-500), is amended as follows:

(A) In subsection (f)(3), strike "1954" and insert "1986".

(B) In subsection (g), strike "section 1353(a) of this title" and insert "the Act of March 2, 1931, 46 Stat. 1467 (8 U.S.C. 1353b)".

(C) In subsection (h)—

(i) in paragraph (1)(A), strike "Treasury of the United States" and all the follows through "Such account" and insert "Treasury of the United States, to remain available until expended. Such account",

(ii) in paragraph (1)(A), strike "Account.' " and insert "Account'.",

(iii) in paragraph (1)(B), strike "fines, penalties, liquidated damages or expenses" and insert "civil fines or penalties",

(iv) in paragraph (1)(B), insert after "this title" the following: "and all liquidated damages and expenses collected pursuant to this Act",

(v) in paragraph (1)(B), strike " 'Immigration User Fee Account.' " and insert "Immigration User Fee Account."; and

(vi) in paragraph (2)(A), strike the colon and insert "in—" and insert "and" at the end of clause (iv).

(D) In subsection (i), insert after "(i)" the following: "REIMBURSEMENT.—".

(E) Strike subsection (l).

(2) Section 205 of the Department of Justice Appropriation Act, 1987 (as contained in section 101(b) of Public Law 99-500) is amended— 8 USC 1356.

(A) by inserting "(a)" after "SEC. 205.", and

(B) by adding at the end the following new subsection:

"(b)(1) The amendments made by subsection (a) shall apply with respect to immigration inspection services rendered after November 30, 1986. 8 USC 1356 note.

"(2) Fees may be charged under section 286(d) of the Immigration and Nationality Act only with respect to immigration inspection services rendered in regard to arriving passengers using transportation for which documents or tickets were issued after November 30, 1986.".

(b) SECTION 206 OF DOJAA.—Section 206 of the Department of Justice Appropriation Act, 1987 (as contained in section 101(b) of Public Law 99-500) is amended— 8 USC 1222, 1223.

(1) by inserting "(a)" after "SEC. 206.",

(2) by inserting "of the Immigration and Nationality Act" after "232",

(3) by inserting "of such Act" after "233", and

(4) by adding at the end the following new subsection:

"(b)(1) The item in the table of contents of the Immigration and Nationality Act relating to section 233 is repealed.

"(2) Section 237(b) of the Immigration and Nationality Act (8 U.S.C. 1227(b)) is amended by striking 'or section 233 of this title' and 'or of section 233 of this title'.".

(c) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall be effective as if they were included in the enactment of the Department of Justice Appropriation Act, 1987 (as contained in section 101(b) of Public Law 99-500). 8 USC 1227 note.

(d) CLARIFICATION OF DUPLICATE ENACTMENT.—Effective as of the date of the enactment of Public Law 99-591, sections 205 and 206 of the Department of Justice Appropriation Act, 1987 (as contained in section 101(b) of such Public Law), which were also contained in identical form in section 101(b) of Public Law 99-500, are repealed. Effective date.

SEC. 5. NARCOTICS TRAFFICKERS DEPORTATION ACT (PUBLIC LAW 99-570).

The subsection (d) of section 287 of the Immigration and Nationality Act (8 U.S.C. 1357), added by section 1751(d) of Public Law 99-570, is amended by amending the matter following paragraph (2) to read as follows:

"(3) requests the Service to determine promptly whether or not to issue a detainer to detain the alien,

the officer or employee of the Service shall promptly determine whether or not to issue such a detainer. If such a detainer is issued

and the alien is not otherwise detained by Federal, State, or local officials, the Attorney General shall effectively and expeditiously take custody of the alien.".

SEC. 6. REFUGEE ASSISTANCE EXTENSION ACT OF 1986 (PUBLIC LAW 99-605).

(a) SECTION 2.—Section 414(a)(1) of the Immigration and Nationality Act (8 U.S.C. 1524(a)(1)), as amended by section 2(b)(1) of the Refugee Assistance Extension Act of 1986, is amended by striking "through (5)" and inserting "through (4)".

(b) SECTION 13.—The paragraph designated as "(g)" in section 412 of the Immigration and Nationality Act (8 U.S.C. 1522), as amended by section 13 of the Refugee Assistance Extension Act of 1986, is amended—

(1) by redesignating such paragraph as paragraph (5);

(2) by striking "all appropriate Federal, State, and county officials referred to in section 13 of this Act" and inserting "all other appropriate Federal officials and all appropriate State and county officials referred to in paragraph (2)";

(3) by striking "such persons defined in subsection (f)(1)" and inserting "Cuban nationals described in paragraph (1)"; and

(4) by striking "hereafter authorized by this section" and inserting "authorized to carry out this subsection".

8 USC 1522 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as if they were included in the enactment of the Refugee Assistance Extension Act of 1986.

SEC. 7. IMMIGRATION MARRIAGE FRAUD AMENDMENTS OF 1986 (PUBLIC LAW 99-639).

(a) SECTION 2 OF IMFA.—Section 2 of the Immigration Marriage Fraud Amendments of 1986 is amended—

8 USC 1186a.

(1) in subsection (a), by striking "adding at the end" and inserting "inserting after section 215", and

(2) in subsection (c)(3)(A) of the section added by subsection (a), by striking "90-days" and inserting "90 days".

8 USC 1255.

(b) SECTION 3(b) OF IMFA.—Section 3(b) of IMFA is amended by striking all that follows "is amended" and inserting the following: "by adding at the end the following: 'The Attorney General may not adjust, under subsection (a), the status of a nonimmigrant alien described in section 101(a)(15)(K) (relating to an alien fiancee or fiance or the minor child of such alien) except to that of an alien lawfully admitted to the United States on a conditional basis under section 216 as a result of the marriage of the nonimmigrant (or, in the case of a minor child, the parent) to the citizen who filed the petition to accord that alien's nonimmigrant status under section 101(a)(15)(K).'.".

Children and youth.

(c) SECTION 6 OF IMFA.—Section 6 of IMFA is amended—

8 USC 1182.

(1) in subsection (a), by striking "1152(a)" and inserting "1182(a)";

8 USC 1182 note.

(2) in subsection (b)—

(A) by striking "subsection (a)" and inserting "this section", and

(B) by redesignating the subsection as subsection (c); and

(3) by inserting after subsection (a) the following new subsection:

"(b) CONFORMING AMENDMENT.—Section 212(i) of such Act (8 U.S.C. 1182(i)) is amended by inserting 'or other benefit under this Act' after 'United States,'.".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective as if they were included in the enactment of the Immigration Marriage Fraud Amendments of 1986. 8 USC 1182 note.

SEC. 8. IMMIGRATION AND NATIONALITY ACT AMENDMENTS OF 1986 (PUBLIC LAW 99-653).

(a) FIRST SECTION OF INAA.—The first section of the Immigration and Nationality Act Amendments of 1986 is amended—

(1) by inserting "(a)" after "That", and 8 USC 1101 note.

(2) by adding at the end the following new subsection:

"(b) Except as otherwise specifically provided, whenever in this Act a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Immigration and Nationality Act.".

(b) SECTION 3 OF INAA.—Section 3 of INAA is repealed and the language stricken by such section is revived as of November 14, 1986. Effective date. 8 USC 1101 and note.

(c) SECTION 4 OF INAA.—Section 4 of the INAA is amended by inserting "and" immediately before "(4) an alien born". 8 USC 1152.

(d) SECTION 5 OF INAA.—Section 4 of INAA is amended—

(1) by redesignating paragraphs (a) through (c) as paragraphs (1) through (3), and 8 USC 1201.

(2) by redesignating paragraph (d) as subsection (b). 8 USC 1201a.

(e) SECTION 6 OF INAA.—Section 6 of the INAA is amended— 8 USC 1202.

(1) by striking the period before paragraph (b) and inserting ", and",

(2) by striking "(e)" before "Except".

(f) SECTION 7 OF INAA.—Section 7 of the INAA is amended by adding at the end the following:

"(d)(1) Section 286(a) (8 U.S.C. 1356(a)) is amended by striking '238(c)' and inserting '238(b)'.

"(2) Section 212(d)(4) (8 U.S.C. 1182(d)(4)) is amended by striking '238(d)' and inserting '238(c)'.".

(g) SECTION 8 OF INAA.—Section 8 of INAA is amended by striking "Section" and inserting "The text of section". 8 USC 1301.

(h) SECTION 9 OF INAA.—Section 9 of INAA is amended to read as follows:

"SEC. 9. Section 262 (8 U.S.C. 1302) is amended by adding at the end the following new subsection:

" '(c) The Attorney General may, in his discretion and on the basis of reciprocity pursuant to such regulations as he may prescribe, waive the requirement of fingerprinting specified in subsection (a) and (b) in the case of any nonimmigrant.'.".

(i) SECTION 10 OF INAA.—Section 10 of INAA is amended by striking "(a)" before "The". 8 USC 1304.

(j) SECTION 11 OF INAA.—Section 11 of INAA is amended— 8 USC 1153 notes.

(1) by striking "Sections (1) and (2)" and inserting "The first section and section 2", and

(2) by striking "section 25(a)" and inserting "subsection (a) of section 25".

(k) SECTION 13 OF INAA.—Section 13 of INAA is amended by striking the dash and all that follows through the end and inserting the following: "to read as follows: 8 USC 1409.

" '(a) The provisions of paragraphs (c), (d), (e), and (g) of section 301, and of paragraph (2) of section 308, shall apply as of the date of birth to a person born out of wedlock if—

" '(1) a blood relationship between the person and the father is established by clear and convincing evidence,

" '(2) the father had the nationality of the United States at the time of the person's birth,

" '(3) the father (unless deceased) has agreed in writing to provide financial support for the person until the person reaches the age of 18 years, and

" '(4) while the person is under the age of 18 years—

" '(A) the person is legitimated under the law of the person's residence or domicile,

" '(B) the father acknowledges paternity of the person in writing under oath, or

" '(C) the paternity of the person is established by adjudication of a competent court.'.".

(l) SECTIONS 14, 15, AND 16 OF INAA.—Sections 14, 15, and 16 of INAA are repealed. 8 USC 1431-1433.

(m) SECTION 18 OF INAA.—Section 18 of INAA is amended— 8 USC 1481.

(1) in paragraph (a), by striking the colon inserted by such paragraph,

(2) in paragraph (d), by striking "(a)" and "(b)" (inserted by such paragraph) and inserting "(A)" and "(B)", respectively, instead, and

(3) by inserting "and" at the end of paragraph (e).

(n) SECTION 19 OF INAA.—Section 19 of INAA is amended to read as follows:

"SEC. 19. Section 349 (8 U.S.C. 1481) is further amended—

"(1) by striking subsection (b), and

"(2) in subsection (c)—

"(A) by striking 'Except as otherwise provided in subsection (b), any' and inserting 'Any', and

"(B) by redesignating such subsection as subsection (b).". 8 USC 1483.

(o) SECTION 20 OF INAA.—Section 20 of INAA is amended by striking "paragraph" and inserting "paragraphs".

(p) SECTION 21 OF INAA.—Section 21 of INAA is amended to read as follows:

"SEC. 21. Section 1709 of the Revised Statutes of the United States, as amended by the Act of July 12, 1940 (54 Stat. 758; 22 U.S.C. 4195) is amended, in the paragraph designated 'Second.', by striking ', article by article,'.". 8 USC 1452.

(q) SECTION 22 OF INAA.—Section 22 of INAA is amended—

(1) by striking "is amended" and all that follows through "(b)(1)" and inserting the following: "is amended by adding at the end the following new subsection:

" '(c)(1)", and

(2) by indenting by two ems the left margins of subparagraphs (A) through (C) of the paragraph (2) added by such section.

(r) EFFECTIVE DATES.—INAA is further amended by adding at the end the following new section:

"EFFECTIVE DATES

"SEC. 23. (a) The amendments made by sections 2, 4, and 7 apply to visas issued, and admissions occurring, on or after November 14, 1986. 8 USC 1101 note.

"(b) The amendments made by sections 5, 6, 8, 9, and 10 apply to applications for immigrant visas made, and visas issued, on or after November 14, 1986. 8 USC 1201 note.

"(c) The amendments made by section 11 take effect on November 14, 1986. 8 USC 1153 note.

"(d) The amendment made by section 12 shall apply to persons born on or after November 14, 1986. 8 USC 1401 note.

"(e)(1) Except as provided in paragraph (2)(B), the new section 309(a) (as defined in paragraph (4)(A)) shall apply to persons who have not attained 18 years of age as of the date of the enactment of this Act. 8 USC 1409 note.

"(2) The old section 309(a) shall apply—

"(A) to any individual who has attained 18 years of age as of the date of the enactment of this Act, and

"(B) any individual with respect to whom paternity was established by legitimation before such date.

"(3) An individual who is at least 15 years of age, but under 18 years of age, as of the date of the enactment of this Act, may elect to have the old section 309(a) apply to the individual instead of the new section 309(a).

"(4) In this subsection:

"(A) The term 'new section 309(a)' means section 309(a) of the Immigration and Nationality Act, as amended by section 13 of this Act and as in effect after the date of the enactment of this Act.

"(B) The term 'old section 309(a)' means section 309(a) of the Immigration and Nationality Act, as in effect before the date of the enactment of this Act.

"(f) The amendment made by section 17 shall not apply to individuals who have taken up permanent residence outside the United States before November 14, 1986. 8 USC 1451 note.

"(g) The amendments made by sections 18, 19, and 20 shall apply to actions taken before, on, or after November 14, 1986. 8 USC 1481 note.

"(h) The amendment made by section 21 shall apply to individuals who die on or after November 14, 1986.". 22 USC 4195 note.

SEC. 9. MISCELLANEOUS TECHNICAL CORRECTIONS.

(a) Section 101 of the Immigration and Nationality Act (8 U.S.C. 1101) is amended—

(1) in subsection (a)(15)(J), by striking "Secretary of State" and inserting "Director of the United States Information Agency",

(2) by striking the second sentence of subsection (a)(38), and

(3) by striking subsection (d).

(b) Section 102(2) of such Act (8 U.S.C. 1102(2)) is amended by striking "documentaion" and inserting "documentation".

(c) Section 103 of such Act (8 U.S.C. 1103) is amended—

(1) in subsection (a)—

(A) by striking "intructions" and inserting "instructions", and

(B) by amending the fourth sentence to read as follows: "He may require or authorize any employee of the Service or the Department of Justice to perform or exercise any of the powers, privileges, or duties conferred or imposed by this Act or regulations issued thereunder upon any other employee of the Service."; and

(2) in subsection (b), by striking ", and shall receive compensation at the rate of $17,500 per annum".

(d) Section 104 of such Act (8 U.S.C. 1104) is amended by striking "SECURITY AND" in the heading, and the item in the table of contents relating to section 104 is amended by striking "Security and".

(e) Section 106(a) of such Act (8 U.S.C. 1105a) is amended—

(1) in the matter before paragraph (1), by striking "the Act of December 29, 1950, as amended (64 Stat. 1129; 68 Stat. 961; 5 U.S.C. 1031 et seq.)" and inserting "chapter 158 of title 28, United States Code", and

(2) in paragraph (1), by striking "or from the effective date of this section, whichever is the later".

(f) Section 202 of such Act (8 U.S.C. 1152) is amended—

(1) in subsection (c), by striking "section 202(a)" and inserting "subsection (a)", and

(2) in subsection (e), by striking "section 202" and inserting "this section".

(g) Section 204 of such Act (8 U.S.C. 1154) is amended—

(1) in subsection (c), by striking "a nonquota" and inserting "an immediate relative", and

(2) in subsection (g)(3)(A), by striking "(C)(i) of paragraph 2" and inserting "(C)(ii) of paragraph (2)".

8 USC 1157.

(h) Section 207(c)(1) of such Act (8 U.S.C. 1182) is amended by striking "otherwide" and inserting "otherwise".

(i) Section 212 of such Act (8 U.S.C. 1182) is amended—

(1) in subsection (a)(32), by striking "Commissioner of Education" and "Secretary of Health, Education, and Welfare" and inserting "Secretary of Education" and "Secretary of Health and Human Services", respectively;

(2) in subsection (e)—

(A) by striking "Secretary of State" the first place it appears and inserting "Director of the United States Information Agency", and

(B) by striking "Secretary of State" each subsequent place it appears and inserting "Director";

(3) in subsection (g), by striking "Surgeon General of the United States Public Health Service" each place it appears and inserting "Secretary of Health and Human Services"; and

(4) in subsection (h), by striking "paragraphs" and inserting "paragraph".

(j) Section 222(a) of such Act (8 U.S.C. 1202(a)) is amended by striking "whether or not be intends" and inserting "whether or not he intends".

(k) Section 234 of such Act (8 U.S.C. 1224) is amended by striking "Surgeon General of the United States Public Health Service" each place it appears and inserting "Secretary of Health and Human Services".

(l) Section 237(b)(5) of such Act (8 U.S.C. 1227(b)(5)) is amended by striking "to ke kept" and inserting "to be kept".

(m) Section 241(a)(17) of such Act (8 U.S.C. 1251(a)(17)) is amended by striking "amendment thereof; the Trading" and inserting "amendment, thereof, known as the Trading".

(n) Section 242(e) of such Act (8 U.S.C. 1252(e)) is amended by striking "or from the date of the enactment of the Subversive Activities Control Act of 1950, whichever is the later,".

(o) Section 265 of such Act (8 U.S.C. 1305) is amended by inserting above the text the following heading:

"NOTICES OF CHANGE OF ADDRESS".

(p) Section 283 of such Act (8 U.S.C. 1353) is amended by striking "the Act of August 2, 1946 (60 Stat. 806; 5 U.S.C., sec. 73b–1)" and inserting "subchapter II of chapter 57 of title 5, United States Code".

(q) Section 290(c) of such Act (8 U.S.C. 1360(c)) is amended by striking "Federal Security Administrator" and "The Administrator" and inserting "Secretary of Health and Human Services" and "The Secretary", respectively.

(r) Section 309 of such Act (8 U.S.C. 1409) is amended—

(1) in subsection (b)—

(A) by striking "prior to the effective date of this Act" and inserting "before December 24, 1952", and

(B) by striking "before or after the effective date of this Act and" and inserting "at any time"; and

(2) in subsection (c), by striking "on or after the effective date of this Act" and inserting "after December 23, 1952".

(s) Section 310 of such Act (8 U.S.C. 1421) is amended by striking subsection (e).

(t) Section 311 of such Act (8 U.S.C. 1422) is amended by striking the last sentence.

(u) Section 313(a)(2)(D) of such Act (8 U.S.C. 1424(a)(2)(D)) is amended by striking "totalitarian party or" and inserting "totalitarian party of".

(v) Section 315(b) of such Act (8 U.S.C. 1426(b)) is amended by striking "National Military Establishment" and inserting "Department of Defense".

(w) Section 320(b) of such Act (8 U.S.C. 1431(b)) is amended by striking "(a)(1)" and inserting "(a)".

(x) Section 324(a)(4) of such Act (8 U.S.C. 1435(a)(4)) is amended by striking "and the witnesses have" and inserting "has".

(y) Section 329 of such Act (8 U.S.C. 1440) is amended by striking subsection (d).

(z) Section 330 of such Act (8 U.S.C. 1441) is amended by striking subsection (b), paragraphs (2) and (3) of subsection (a), and "(a)(1)".

(aa) Section 335(d) of such Act (8 U.S.C. 1446(d)) is amended by striking "approve" in the fourth sentence and inserting "approves".

(bb) Section 335(f)(2) of such Act (8 U.S.C. 1446(f)(2)) is amended by striking ", except that" and all that follows through "date of such transfer".

(cc) Section 336 of such Act (8 U.S.C. 1447) is amended by striking "AND WITNESSES" in the heading.

(dd) Section 340 of such Act (8 U.S.C. 1451) is amended—

(1) in subsection (c), by striking "the effective date of this Act" and inserting "December 24, 1952",

(2) by striking subsection (e), and

(3) by redesignating subsections (f) through (j) as subsections (e) through (i), respectively.

(ee) Section 343 of such Act (8 U.S.C. 1454) is amended—

(1) by striking subsection (a), and

(2) by redesignating subsections (b) through (e) as subsections (a) through (d), respectively.

(ff) Section 344(a) of such Act (8 U.S.C. 1455(a)) is amended by striking "title V of the Independent Offices Appropriation Act, 1952 (65 Stat. 290)" and inserting "section 9701 of title 31, United States Code".

(gg) Section 348 of such Act (8 U.S.C. 1459) is amended—

(1) by striking subsection (a), and

(2) by redesignating subsections (b) and (c) as subsections (a) and (b), respectively.

(hh) Section 349(a) of such Act (8 U.S.C. 1481(a)) is amended by striking "From and after the effective date of this Act a" and inserting "A".

(ii) Section 357 of such Act (8 U.S.C. 1489) is amended by striking "upon the effective date of this title" and inserting "before December 25, 1952".

(jj) Section 413 of such Act (8 U.S.C. 1523) is amended—

(1) by striking subsections (b), (c), and (d), and

(2) in subsection (a)—

(A) in subparagraphs (D) and (E) of paragraph (2), by redesignating clauses (i) and (ii) as clauses (A) and (B), respectively,

(B) in paragraph (2), by redesignating subparagraphs (A) through (H) as paragraphs (1) through (8), respectively,

(C) by redesignating paragraph (2) as subsection (b), and

(D) in paragraph (1), by striking "(a)(1)" and inserting "(a)".

(kk) Section 13(b) of the Act of September 11, 1957 (8 U.S.C. 1255b(b)) is amended by striking "of" after "as of the date".

Approved October 24, 1988.

LEGISLATIVE HISTORY—S. 2479:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, considered and passed Senate.
Oct. 6, considered and passed House.

Public Law 100-526
100th Congress

An Act

To provide certain additional fiscal year 1989 defense authorization policies, to provide procedures to facilitate the closure and realignment of obsolete or unnecessary military installations, and for other purposes.

Oct. 24, 1988
[S. 2749]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Defense Authorization Amendments and Base Closure and Realignment Act.
10 USC 2687 note.

SECTION 1. SHORT TITLE

This Act may be cited as the "Defense Authorization Amendments and Base Closure and Realignment Act".

TITLE I—ADDITIONAL FISCAL YEAR 1989 AUTHORIZATION PROVISIONS

SEC. 101. ADDITIONAL AUTHORIZATIONS FOR MILITARY CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) ARMY.—(1) In addition to projects otherwise authorized by law, the Secretary of the Army may acquire real property and may carry out a military construction project for the construction of a barracks modernization at Fort Bliss, Texas, in an amount not exceed $7,100,000.

(2) In addition to projects otherwise authorized by law, the Secretary of the Army may make advances to the Secretary of Transportation for the construction of defense access roads under section 210 of title 23, United States Code, at New Cumberland Army Depot, Pennsylvania, in an amount not to exceed $5,300,000.

(3) In addition to any other authorization of appropriations for the Department of the Army, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for projects of the Department of the Army described in paragraphs (1) and (2) in the amount of $12,400,000.

(4) The forty units of military family housing authorized to be constructed at Schofield Barracks, Hawaii, by section 2101 of the Military Construction Authorization Act, 1989, may be constructed at Helemano Military Reservation, Hawaii.

(b) AIR FORCE.—(1) In addition to projects otherwise authorized by law, the Secretary of the Air Force may acquire real property and may carry out military construction projects at Blytheville Air Force Base, Arkansas, in an amount not to exceed $4,086,000.

(2) In addition to any other authorization of appropriations for the Department of the Air Force, funds are hereby authorized to be appropriated for fiscal years beginning after September 30, 1988, for military construction and land acquisition projects of the Department of the Air Force authorized by paragraph (1) in the amount of $4,086,000.

SEC. 102. ADDITIONAL AUTHORIZATIONS FOR GUARD AND RESERVE CONSTRUCTION AND LAND ACQUISITION PROJECTS

(a) AUTHORIZATIONS OF APPROPRIATIONS.—In addition to funds otherwise authorized by law, there are authorized to be appropriated for fiscal years beginning after September 30, 1988, for cost of acquisition, architectural and engineering services, and construction of facilities for the Guard and Reserve Forces, and for contributions therefor, under chapter 133 of title 10, United States Code (including the cost of acquisition of land for those facilities), the following amounts:

(1) For the Department of the Army, $17,506,000 for the Army National Guard of the United States.

(2) For the Department of the Air Force, $2,300,000 for the Air National Guard of the United States.

(b) AUTHORIZATION OF USE OF FUNDS FOR CERTAIN PROJECTS.—Construction and acquisition projects for the Air National Guard of the United States at the following locations and in the following amounts are authorized to be carried out using unexpended funds from amounts appropriated for fiscal years beginning before October 1, 1988:

(1) Anchorage Kulis Air National Guard Base, Alaska, $3,500,000.

(2) Allen C. Thompson Field, Mississippi, $2,000,000.

SEC. 103. ARMY AIR DEFENSE SYSTEM

(a) LIMITATION.—The Secretary of the Army may obligate fiscal year 1989 missile procurement funds that are available for advance procurement for the Air Defense Anti-Tank (ADATS) System only to support continued low-rate production of such system.

(b) FUNDS COVERED.—For purposes of subsection (a), fiscal year 1989 missile procurement funds are funds appropriated to or for the use of the Army for fiscal year 1989 for procurement of missiles and funds otherwise made available to the Army for fiscal year 1989 for that purpose.

SEC. 104. MULTIYEAR PROCUREMENT AUTHORITY

Contracts. President of U.S. 10 USC 2306 note.

(a) REQUESTS FOR RELIEF.—If for any fiscal year a multiyear contact to be entered into under section 2306(h) of title 10, United States Code, is authorized by law for a particular procurement program and that authorization is subject to certain conditions established by law (including a condition as to cost savings to be achieved under the multiyear contract in comparison to specified other contracts) and if it appears (after negotiations with contractors) that such savings cannot be achieved, but that substantial savings could nevertheless be achieved through the use of a multiyear contract rather than specified other contracts, the President may submit to Congress a request for relief from the specified cost savings that must be achieved through multiyear contracting for that program. Any such request by the President shall include details about the request for a multiyear contract, including details about the negotiated contract terms and conditions.

Ante, p. 2270-22.

(b) TOW II MISSILE PROGRAM.—Section 8031 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463), is amended by striking out the last proviso.

SEC. 105. FIXED-PRICE DEVELOPMENT CONTRACTS

Section 8085 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463), relating to fixed-price development type contracts, is amended by— *Ante*, p. 2270-32.

(1) striking out "fixed price-type contracts" and inserting in lieu thereof "firm fixed-price contracts"; and

striking out ": *Provided further,*" and all that follows through the end of the section and inserting in lieu thereof a period.

SEC. 106. TECHNICAL AMENDMENTS

(a) CONFORMANCE OF AUTHORIZATION AND APPROPRIATION PROVISIONS.—(1) Section 826(c) of the National Defense Authorization Act, Fiscal Year 1989 (Public Law 100-456), is amended— 10 USC 2324 note.

(A) in subsection (c), by inserting "and the Committees on Appropriations" after "Committees on Armed Services"; and

(B) in subsection (d), by striking out "three years after the date of the enactment of this Act" and inserting in lieu thereof "on September 30, 1991".

(2) Section 8105 of the Department of Defense Appropriations Act, 1989 (Public Law 100-463), and the amendment made by that section, shall cease to be effective. 10 USC 2324 and note.

(b) DEFINITIONS.—(1) Section 1095a(c) of title 10, United States Code, is amended—

(A) in paragraph (1), by striking out "(1) 'Captive" and inserting in lieu thereof "(1) The terms 'captive"; and

(B) in paragraph (2), by striking out "(2) 'Dependent" and inserting in lieu thereof "(2) The term 'dependent".

(2) Section 2683(c) of such title is amended—

(A) in paragraph (2)(B), by inserting "the term" after "In subparagraph (A),"; and

(B) in paragraph (4)—

(i) by inserting "The term" after "(A)"; and

(ii) by striking out "(B) 'Minimum" and inserting in lieu thereof "(B) The term 'minimum".

(c) CORRECTION OF REFERENCE TO SCHOOL OF THE AMERICAS.—Section 4415 of title 10, United States Code, is amended by striking out "School for the Americas" in subsections (b) and (c) and inserting in lieu thereof "School of the Americas".

SEC. 107. TERM OF OFFICE OF VICE CHAIRMAN OF JOINT CHIEFS OF STAFF 10 USC 154 note.

Notwithstanding the term of office stated in the first sentence of section 154(a)(3) of title 10, United States Code, the President may extend until June 1, 1989, the term of office of the officer serving as Vice Chairman of the Joint Chiefs of Staff for the term which began on February 6, 1987.

SEC. 108. REPORT ON CLOSE AIR SUPPORT ALTERNATIVES

(a) ASSESSMENT.—(1) The Secretary of Defense shall conduct an independent assessment of Army and Air Force studies and analyses of close air support aircraft alternatives for meeting the military requirements of the United States (A) for the interim period between the date of the completion of the assessment and the year 2000, and (B) for the period after such year.

(2) In conducting such assessment, the Secretary shall consider both the development of new aircraft and the modification of exist-

ing aircraft, including the A-7 Plus Strikefighter, the F/A-16, the AV-8B, and the A-10 aircraft in current or modified configuration.

(3) In conducting such assessment, the Secretary shall also address the following issues:

(A) Cost.
(B) Development and production schedules.
(C) Technical risks.
(D) Manpower requirements.
(E) Force structure.
(F) Five-year funding profiles.
(G) Cost effectiveness.
(H) Military effectiveness.

(b) OPERATIONAL TEST PLAN.—The Director of Defense Operational Test and Evaluation shall develop an operational test plan for a competitive fly-off of alternative aircraft for the close air support mission. The Director shall complete the development of such plan no later than March 31, 1989. In developing such plan, the Director shall consult with the Air Force Test and Evaluation Center, the Army Operational Testing and Evaluation Activity, and the Marine Corps Operational Test and Evaluation Activity.

(c) TRANSFER FEASIBILITY.—The Secretary of Defense shall assess the feasibility of transferring, no later than fiscal year 1992, the close air support mission from the Air Force to the Army. In conducting such assessment, the Secretary shall consider the cost, schedules, five-year funding profiles, manpower requirements, and force structure implications of such a transfer.

(d) REPORTS.—Not later than March 31, 1989, the Secretary of Defense shall submit to the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives an interim report on the matters referred to in subsections (a) through (c). The Secretary shall submit a final report on such matters to those Committees not later than December 31, 1989. Such reports shall be submitted in both classified and unclassified form.

Classified information. Public information.

SEC. 109. EXTENSION OF DATE FOR REPORT ON POTENTIAL START TREATY

Section 908 of the National Defense Authorization Act, Fiscal Year 1989, is amended—

Ante, p. 2035.

(1) in subsection (b), by striking out "September 15, 1988" and inserting in lieu thereof "March 15, 1989"; and

(2) by striking out subsection (c) and inserting in lieu thereof the following:

President of U.S.

"(c) INTERIM REPORT.—The President shall submit an interim report to Congress containing the information described in subsection (b) not later than December 15, 1988.

President of U.S. Classified information. Public information

"(d) FORM OF REPORT.—The President shall submit the reports under subsections (b) and (c) in both classified and unclassified form.".

Maryland. New York.

SEC. 110. TRANSFER OF CERTAIN OBSOLETE SUBMARINES

Clauses (2) and (3) of section 7308(c) of title 10, United States Code, shall not apply with respect to transfers, under section 7308(a) of such title, of obsolete vessels by the Secretary of the Navy as follows:

(1) Transfer of the obsolete submarine United States ship Blenny to the town of Ocean City, Maryland.

(2) Transfer of the obsolete submarine ex-Croaker (ex-SS-246) to the Buffalo and Erie County Naval and Servicemen's Park, a nonprofit corporation organized under the laws of the State of New York.

TITLE II—CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

10 USC 2687 note.

SEC. 201. CLOSURE AND REALIGNMENT OF MILITARY INSTALLATIONS

The Secretary shall—

(1) close all military installations recommended for closure by the Commission on Base Realignment and Closure in the report transmitted to the Secretary pursuant to the charter establishing such Commission;

(2) realign all military installations recommended for realignment by such Commission in such report; and

(3) initiate all such closures and realignments no later than September 30, 1991, and complete all such closures and realignments no later than September 30, 1995, except that no such closure or realignment may be initiated before January 1, 1990.

SEC. 202. CONDITIONS

(a) IN GENERAL.—The Secretary may not carry out any closure or realignment of a military installation under this title unless—

(1) no later than January 16, 1989, the Secretary transmits to the Committees on Armed Services of the Senate and the House of Representatives a report containing a statement that the Secretary has approved, and the Department of Defense will implement, all of the military installation closures and realignments recommended by the Commission in the report referred to in section 201(1); Reports.

(2) the Commission has recommended, in the report referred to in section 201(1), the closure or realignment, as the case may be, of the installation, and has transmitted to the Committees on Armed Services of the Senate and the House of Representatives a copy of such report and the statement required by section 203(b)(2); and

(3) the Secretary of Defense has transmitted to the Commission the study required by section 206(b).

(b) JOINT RESOLUTION.—The Secretary may not carry out any closure or realignment under this title if, within the 45-day period beginning on March 1, 1989, a joint resolution is enacted, in accordance with the provisions of section 208, disapproving the recommendations of the Commission. The days on which either House of Congress is not in session because of an adjournment of more than 3 days to a day certain shall be excluded in the computation of such 45-day period.

(c) TERMINATION OF AUTHORITY.—The authority of the Secretary to carry out any closure or realignment under this title shall terminate on October 1, 1995.

SEC. 203. THE COMMISSION

(a) MEMBERSHIP.—The Commission shall consist of 12 members appointed by the Secretary of Defense.

(b) DUTIES.—The Commission shall—

Reports.

(1) transmit the report referred to in section 201(1) to the Secretary no later than December 31, 1988, and shall include in such report a description of the Commission's recommendations of the military installations to which functions will be transferred as a result of the closures and realignments recommended by the Commission; and

Reports.

(2) on the same date on which the Commission transmits such report to the Secretary, transmit to Committees on Armed Services of the Senate and the House of Representatives—

(A) a copy of such report; and

(B) a statement certifying that the Commission has identified the military installations to be closed or realigned by reviewing all military installations inside the United States, including all military installations under construction and all those planned for construction.

(c) STAFF.—Not more than one-half of the professional staff of the Commission shall be individuals who have been employed by the Department of Defense during calendar year 1988 in any capacity other than as an employee of the Commission.

SEC. 204. IMPLEMENTATION

(a) IN GENERAL.—In closing or realigning a military installation under this title, the Secretary—

(1) subject to the availability of funds authorized for and appropriated to the Department of Defense for use in planning and design, minor construction, or operation and maintenance and the availability of funds in the Account, may carry out actions necessary to implement such closure or realignment, including the acquisition of such land, the construction of such replacement facilities, the performance of such activities, and the conduct of such advance planning and design as may be required to transfer functions from such military installation to another military installation;

Community development.

(2) subject to the availability of funds authorized for and appropriated to the Department of Defense for economic adjustment assistance or community planning assistance and the availability of funds in the Account, shall provide—

(A) economic adjustment assistance to any community located near a military installation being closed or realigned; and

(B) community planning assistance to any community located near a military installation to which functions will be transferred as a result of such closure or realignment,

if the Secretary determines that the financial resources available to the community (by grant or otherwise) for such purposes are inadequate; and

Environmental protection. Waste disposal. Hazardous materials.

(3) subject to the availability of funds authorized for and appropriated to the Department of Defense for environmental restoration and the availability of funds in the Account, may carry out activities for the purpose of environmental restoration, including reducing, removing, and recycling hazardous wastes and removing unsafe buildings and debris.

(b) MANAGEMENT AND DISPOSAL OF PROPERTY.—(1) The Administrator of General Services shall delegate to the Secretary, with respect to excess and surplus real property and facilities located at a military installation closed or realigned under this title—

(A) the authority of the Administrator to utilize excess property under section 202 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 483);

(B) the authority of the Administrator to dispose of surplus property under section 203 of that Act (40 U.S.C. 484); and

(C) the authority of the Administrator to grant approvals and make determinations under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

(2)(A) Subject to subparagraph (B), the Secretary shall exercise authority delegated to the Secretary pursuant to paragraph (1) in accordance with—

(i) all regulations in effect on the date of the enactment of this title governing utilization of excess property and disposal of surplus property under the Federal Property and Administrative Services Act of 1949; and

(ii) all regulations in effect on the date of the enactment of this title governing the conveyance and disposal of property under section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)).

(B) The Secretary, after consulting with the Administrator of General Services, may issue regulations that are necessary to carry out the delegation of authority required by paragraph (1).

(C) The authority required to be delegated by paragraph (1) to the Secretary by the Administrator of General Services shall not include the authority to prescribe general policies and methods for utilizing excess property and disposing of surplus property.

State and local governments.

(D) Before any action may be taken with respect to the disposal of any surplus real property or facility located at any military installation to be closed or realigned under this title, the Secretary shall consult with the Governor of the State and the heads of the local governments concerned for the purpose of considering any plan for the use of such property by the local community concerned.

(E) The provisions of this paragraph and paragraph (1) are subject to paragraphs (3) and (4).

(3) Before any action is taken with respect to the disposal or transfer of any real property or facility located at a military installation to be closed or realigned under this title, the Secretary shall notify all departments and other instrumentalities (including nonappropriated fund instrumentalities) within the Department of Defense of the availability of such property or facility, or portion thereof, and may transfer such property, facility, or portion, without reimbursement, to any such department or instrumentality. In carrying out this paragraph, the Secretary shall give a priority, and shall transfer, to any such department or other instrumentality that agrees to pay fair market value for the property or facility, or portion thereof. For purposes of this paragraph, fair market value shall be determined on the basis of the use of the property or facility on December 31, 1988. This paragraph shall take precedence over any other provision of this title or other provision of law with respect to the disposal or transfer of real property or facility located at a military installation to be closed or realigned under this title.

(4)(A) Except as provided in subparagraph (B), all proceeds—

(i) from any transfer under paragraph (3); and

(ii) from the transfer or disposal of any other property or facility made as a result of a closure or realignment under this title,

shall be deposited into the Account established by section 207(a)(1).

(B) In any case in which the General Services Administration is involved in the management or disposal of such property or facility, the Secretary shall reimburse the Administrator of General Services from the proceeds of such disposal, in accordance with section 1535 of title 31, United States Code, for any expenses incurred in such activities.

(c) APPLICABILITY OF OTHER LAW.—(1) The provisions of the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.) shall not apply to—

(A) the actions of the Commission, including selecting the military installations which the Commission recommends for closure or realignment under this title, recommending any military installation to receive functions from an installation to be closed or realigned, and making its report to the Secretary and the committees under section 203(b); and

(B) the actions of the Secretary in establishing the Commission, in determining whether to accept the recommendations of the Commission, in selecting any military installation to receive functions from an installation to be closed or realigned, and in transmitting the report to the Committees referred to in section 202(a)(1).

(2) The provisions of the National Environmental Policy Act of 1969 shall apply to the actions of the Secretary (A) during the process of the closing or realigning of a military installation after such military installation has been selected for closure or realignment but before the installation is closed or realigned and the functions relocated, and (B) during the process of the relocating of functions from a military installation being closed or realigned to another military installation after the receiving installation has been selected but before the functions are relocated. In applying the provisions of such Act, the Secretary shall not have to consider—

(i) the need for closing or realigning a military installation which has been selected for closure or realignment by the Commission;

(ii) the need for transferring functions to another military installation which has been selected as the receiving installation; or

(iii) alternative military installations to those selected.

Claims.

(3) A civil action for judicial review, with respect to any requirement of the National Environmental Policy Act of 1969 to the extent such Act is applicable under paragraph (2), or with respect to any requirement of the Commission made by this title, of any action or failure to act by the Secretary during the closing, realigning, or relocating referred to in clauses (A) and (B) of paragraph (2), or of any action or failure to act by the Commission under this title, may not be brought later than the 60th day after the date of such action or failure to act.

SEC. 205. WAIVER

The Secretary may carry out this title without regard to—

(1) any provision of law restricting the use of funds for closing or realigning military installations included in any appropriation or authorization Act; and

(2) the procedures set forth in sections 2662 and 2687 of title 10, United States Code.

SEC. 206. REPORTS

(a) IN GENERAL.—As part of each annual budget request for the Department of Defense, the Secretary shall transmit to the appropriate committees of Congress—

(1) a schedule of the closure and realignment actions to be carried out under this title in the fiscal year for which the request is made and an estimate of the total expenditures required and cost savings to be achieved by each such closure and realignment and of the time period in which these savings are to be achieved in each case, together with the Secretary's assessment of the environmental effects of such actions; and

(2) a description of the military installations, including those under construction and those planned for construction, to which functions are to be transferred as a result of such closures and realignments, together with the Secretary's assessment of the environmental effects of such transfers.

(b) STUDY.—(1) The Secretary shall conduct a study of the military installations of the United States outside the United States to determine if efficiencies can be realized through closure or realignment of the overseas base structure of the United States. Not later than October 15, 1988, the Secretary shall transmit a report of the findings and conclusions of such study to the Commission and to the Committees on Armed Services of the Senate and the House of Representatives. In developing its recommendations to the Secretary under this title, the Commission shall consider the Secretary's study.

(2) Upon request of the Commission, the Secretary shall provide the Commission with such information about overseas bases as may be helpful to the Commission in its deliberations.

(3) The Commission, based on its analysis of military installations in the United States and its review of the Secretary's study of the overseas base structure, may provide the Secretary with such comments and suggestions as it considers appropriate regarding the Secretary's study of the overseas base structure.

SEC. 207. FUNDING

(a) ACCOUNT.—(1) There is hereby established on the books of the Treasury an account to be known as the "Department of Defense Base Closure Account" which shall be administered by the Secretary as a single account.

(2) There shall be deposited into the Account—

(A) funds authorized for and appropriated to the Account with respect to fiscal year 1990 and fiscal years beginning thereafter;

(B) any funds that the Secretary may, subject to approval in an appropriation Act, transfer to the Account from funds appropriated to the Department of Defense for any purpose, except that such funds may be transferred only after the date on which the Secretary transmits written notice of, and justification for, such transfer to the appropriate committees of Congress; and

(C) proceeds described in section 204(b)(4)(A).

(3)(A) The Secretary may use the funds in the Account only for the purposes described in section 204(a).

(B) When a decision is made to use funds in the Account to carry out a construction project under section 204(a)(1) and the cost of the project will exceed the maximum amount authorized by law for a minor construction project, the Secretary shall notify in writing the appropriate committees of Congress of the nature of, and justifica-

tion for, the project and the amount of expenditures for such project. Any such construction project may be carried out without regard to section 2802(a) of title 10, United States Code.

Reports. (4) No later than 60 days after the end of each fiscal year in which the Secretary carries out activities under this title, the Secretary shall transmit a report to the appropriate committees of Congress of the amount and nature of the deposits into, and the expenditures from, the Account during such fiscal year and of the amount and nature of other expenditures made pursuant to section 204(a) during such fiscal year.

(5) Unobligated funds which remain in the Account after the termination of the authority of the Secretary to carry out a closure or realignment under this title shall be held in the Account until transferred by law after the appropriate committees of Congress receive the report transmitted under paragraph (6).

Reports. (6) No later than 60 days after the termination of the authority of the Secretary to carry out a closure or realignment under this title, the Secretary shall transmit to the appropriate committees of Congress a report containing an accounting of—

(A) all the funds deposited into and expended from the Account or otherwise expended under this title; and

(B) any amount remaining in the Account.

SEC. 208. CONGRESSIONAL CONSIDERATION OF COMMISSION REPORT

(a) TERMS OF THE RESOLUTION.—For purposes of section 202(b), the term "joint resolution" means only a joint resolution which is introduced before March 15, 1989, and—

(1) which does not have a preamble;

(2) the matter after the resolving clause of which is as follows: "That Congress disapproves the recommendations of the Commission on Base Realignment and Closure established by the Secretary of Defense as submitted to the Secretary of Defense on ", the blank space being appropriately filled in; and

(3) the title of which is as follows: "Joint resolution disapproving the recommendations of the Commission on Base Realignment and Closure.".

(b) REFERRAL.—A resolution described in subsection (a), introduced in the House of Representatives shall be referred to the Committee on Armed Services of the House of Representatives. A resolution described in subsection (a) introduced in the Senate shall be referred to the Committee on Armed Services of the Senate.

(c) DISCHARGE.—If the committee to which a resolution described in subsection (a) is referred has not reported such resolution (or an identical resolution) before March 15, 1989, such committee shall be, as of March 15, 1989, discharged from further consideration of such resolution, and such resolution shall be placed on the appropriate calendar of the House involved.

(d) CONSIDERATION.—(1) On or after the third day after the date on which the committee to which such a resolution is referred has reported, or has been discharged (under subsection (c)) from further consideration of, such a resolution, it is in order (even though a previous motion to the same effect has been disagreed to) for any Member of the respective House to move to proceed to the consideration of the resolution (but only on the day after the calendar day on which such Member announces to the House concerned the Member's intention to do so). All points of order against the resolution

(and against consideration of the resolution) are waived. The motion is highly privileged in the House of Representatives and is privileged in the Senate and is not debatable. The motion is not subject to amendment, or to a motion to postpone, or to a motion to proceed to the consideration of other business. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. If a motion to proceed to the consideration of the resolution is agreed to, the respective House shall immediately proceed to consideration of the joint resolution without intervening motion, order, or other business, and the resolution shall remain the unfinished business of the respective House until disposed of.

(2) Debate on the resolution, and on all debatable motions and appeals in connection therewith, shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing the resolution. An amendment to the resolution is not in order. A motion further to limit debate is in order and not debatable. A motion to postpone, or a motion to proceed to the consideration of other business, or a motion to recommit the resolution is not in order. A motion to reconsider the vote by which the resolution is agreed to or disagreed to is not in order.

(3) Immediately following the conclusion of the debate on a resolution described in subsection (a) and a single quorum call at the conclusion of the debate if requested in accordance with the rules of the appropriate House, the vote on final passage of the resolution shall occur.

(4) Appeals from the decisions of the Chair relating to the application of the rules of the Senate or the House of Representatives, as the case may be, to the procedure relating to a resolution described in subsection (a) shall be decided without debate.

(e) CONSIDERATION BY OTHER HOUSE.—(1) If, before the passage by one House of a resolution of that House described in subsection (a), that House receives from the other House a resolution described in subsection (a), then the following procedures shall apply:

(A) The resolution of the other House shall not be referred to a committee and may not be considered in the House receiving it except in the case of final passage as provided in subparagraph (B)(ii).

(B) With respect to a resolution described in subsection (a) of the House receiving the resolution—

(i) the procedure in that House shall be the same as if no resolution had been received from the other House; but

(ii) the vote on final passage shall be on the resolution of the other House.

(2) Upon disposition of the resolution received from the other House, it shall no longer be in order to consider the resolution that originated in the receiving House.

(f) RULES OF THE SENATE AND HOUSE.—This section is enacted by Congress—

(1) as an exercise of the rulemaking power of the Senate and House of Representatives, respectively, and as such it is deemed a part of the rules of each House, respectively, but applicable only with respect to the procedure to be followed in that House in the case of a resolution described in subsection (a), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(2) with full recognition of the constitutional right of either House to change the rules (so far as relating to the procedure of

that House) at any time, in the same manner, and to the same extent as in the case of any other rule of that House.

SEC. 209. DEFINITIONS

In this title:

(1) The term "Account" means the Department of Defense Base Closure Account established by section 207(a)(1).

(2) The term "appropriate committees of Congress" means the Committees on Armed Services and the Committees on Appropriations of the Senate and the House of Representatives.

(3) The terms "Commission on Base Realignment and Closure" and "Commission" mean the Commission established by the Secretary of Defense in the charter signed by the Secretary on May 3, 1988, and as altered thereafter with respect to the membership and voting.

(4) The term "charter establishing such Commission" means the charter referred to in paragraph (3).

(5) The term "initiate" includes any action reducing functions or civilian personnel positions but does not include studies, planning, or similar activities carried out before there is a reduction of such functions or positions.

(6) The term "military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Secretary of a military department.

(7) The term "realignment" includes any action which both reduces and relocates functions and civilian personnel positions.

(8) The term "Secretary" means the Secretary of Defense.

(9) The term "United States" means the 50 States, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and any other commonwealth, territory, or possession of the United States.

Approved October 24, 1988.

LEGISLATIVE HISTORY—S. 2749 (H.R. 4264):

HOUSE REPORTS: No. 100-1076 (Comm. of Conference); No. 100-563 (Comm. on Armed Services) and No. 100-753 (Comm. of Conference), both accompanying H.R. 4264.

CONGRESSIONAL RECORD, Vol. 134 (1988):

Apr. 26-29, May 2-5, 11, H.R. 4264 considered and passed House.

May 27, considered and passed Senate, amended, in lieu of S. 2355.

July 14, House and Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Aug. 3, Presidential veto message of H.R. 4264.

CONGRESSIONAL RECORD, Vol. 134 (1988):

Aug, 11, S. 2749 considered and passed Senate.

Oct. 3, considered and passed House, amended.

Oct. 12, Senate and House agreed to conference report to S. 2749.

Public Law 100-527
100th Congress

An Act

To establish the Veterans' Administration as an executive department, and for other purposes.

Oct. 25, 1988
[H.R. 3471]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Department of Veterans Affairs Act.
Government organization and employees.
38 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Department of Veterans Affairs Act".

38 USC 201 note.

SEC. 2. ESTABLISHMENT OF VETERANS' ADMINISTRATION AS AN EXECUTIVE DEPARTMENT.

The Veterans' Administration is hereby redesignated as the Department of Veterans Affairs and shall be an executive department in the executive branch of the Government. There shall be at the head of the Department a Secretary of Veterans Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate. The Department shall be administered under the supervision and direction of the Secretary.

President of U.S.

SEC. 3. PRINCIPAL OFFICERS.

38 USC 201 note.

(a) DEPUTY SECRETARY.—There shall be in the Department of Veterans Affairs a Deputy Secretary of Veterans Affairs, who shall be appointed by the President, by and with the advice and consent of the Senate. The Deputy Secretary shall perform such functions as the Secretary shall prescribe.

President of U.S.

(b) CHIEF MEDICAL DIRECTOR.—(1) There shall be in the Department a Chief Medical Director, who shall be a doctor of medicine and shall, subject to subsection (f), be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation or activity and solely on the basis of integrity and demonstrated ability in the medical profession, in health-care administration and policy formulation, and in health-care fiscal management, and on the basis of substantial experience in connection with the programs of the Veterans Health Services and Research Administration or programs of similar content and scope. The Chief Medical Director shall be the head of, and shall be directly responsible to the Secretary for the operations of, the Veterans Health Services and Research Administration. The Chief Medical Director shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Chief Medical Director prior to the completion of the term for which the Chief Medical Director is appointed, the President shall communicate the reasons for such removal to both Houses of Congress.

(2)(A) Whenever a vacancy in the position of Chief Medical Director occurs or is anticipated, the Secretary of Veterans Affairs shall establish a commission to recommend individuals to the President for appointment to the position.

(B) A commission established under this paragraph shall be composed of the following members appointed by the Secretary:

(i) Three persons representing clinical care and medical research and education activities affected by the Veterans Health Services and Research Administration.

(ii) Two persons representing veterans served by the Veterans Health Services and Research Administration.

(iii) Two persons who have experience in the management of veterans health services and research programs, or programs of similar content and scope.

(iv) The Deputy Secretary of Veterans Affairs.

(v) The Chairman of the Special Medical Advisory Group established under section 4112 of title 38, United States Code.

(vi) One person who has held the position of Chief Medical Director, if the Secretary determines that it is desirable for such person to be a member of the Commission.

(C) A commission established under this paragraph shall recommend at least three individuals for appointment to the position of Chief Medical Director. Such commission shall submit all recommendations to the Secretary. The Secretary shall forward such recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request such commission to recommend additional individuals for appointment.

(D) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this paragraph.

President of U.S.

(c) CHIEF BENEFITS DIRECTOR.—(1) There shall be in the Department a Chief Benefits Director, who shall be appointed by the President, by and with the advice and consent of the Senate, without regard to political affiliation or activity and solely on the basis of integrity and demonstrated ability in fiscal management and the administration of programs within the Veterans Benefits Administration or programs of similar content and scope. The Chief Benefits Director shall be the head of, and shall be directly responsible to the Secretary for the operations of, the Veterans Benefits Administration. The Chief Benefits Director shall be appointed for a period of four years, with reappointment permissible for successive like periods. If the President removes the Chief Benefits Director prior to the completion of the term for which the Chief Benefits Director is appointed, the President shall communicate the reasons for such removal to both Houses of Congress.

(2)(A) Whenever a vacancy in the position of Chief Benefits Director occurs or is anticipated, the Secretary of Veterans Affairs shall establish a commission to recommend individuals to the President for appointment to the position.

(B) A commission established under this paragraph shall be composed of the following members appointed by the Secretary:

(i) Three persons representing education and training, real estate, mortgage finance, and related industries, and survivor benefits activities affected by the Veterans Benefits Administration.

(ii) Two persons representing veterans served by the Veterans Benefits Administration.

(iii) Two persons who have experience in the management of veterans benefits programs or programs of similar content and scope.

(iv) The Deputy Secretary of Veterans Affairs.

(v) The Chairman of the Veterans' Advisory Committee on Education formed under section 1792 of title 38, United States Code.

(vi) One person who has held the position of Chief Benefits Director, if the Secretary determines that it is desirable for such person to be a member of the Commission.

(C) A commission established under this paragraph shall recommend at least three individuals for appointment to the position of Chief Benefits Director. Such commission shall submit all recommendations to the Secretary. The Secretary shall forward such recommendations to the President with any comments the Secretary considers appropriate. Thereafter, the President may request such commission to recommend additional individuals for appointment.

(D) The Assistant Secretary or Deputy Assistant Secretary of Veterans Affairs who performs personnel management and labor relations functions shall serve as the executive secretary of a commission established under this paragraph.

(d) DIRECTOR OF NATIONAL CEMETERY SYSTEM.—There shall be in the Department of Veterans Affairs a Director of the National Cemetery System, who—

(1) shall be appointed by the President, by and with the advice and consent of the Senate; President of U.S.

(2) shall serve as the head of the National Cemetery System provided for in section 1000 of title 38, United States Code; and

(3) shall perform such functions as may be assigned by the Secretary.

(e) CONTINUATION OF SERVICE OF ADMINISTRATOR AND DEPUTY ADMINISTRATOR.—The individuals serving as Administrator and Deputy Administrator of Veterans' Affairs on the effective date of this Act may act as Secretary and Deputy Secretary of the Department, respectively, until the date an individual is appointed under this Act to the office concerned, or until the end of the 120-day period provided for in section 3348 of title 5, United States Code (relating to limitations on the period of time a vacancy may be filled temporarily), whichever is earlier.

(f) CONTINUATION OF SERVICE OF CHIEF MEDICAL DIRECTOR.—The individual serving as Chief Medical Director on the effective date of this Act may continue to serve in that capacity until the expiration of the term prescribed by section 4103(b)(1) of title 38, United States Code, unless removed by the Secretary of Veterans Affairs for cause in accordance with section 4103(b)(3) of such title.

(g) CONTINUATION OF SERVICE OF CHIEF BENEFITS DIRECTOR.—The individual serving as Chief Benefits Director on the effective date of this Act may continue to serve in that capacity until an individual is appointed under this Act to that office.

(h) CONTINUATION OF SERVICE OF DIRECTOR, NATIONAL CEMETERY SYSTEM.—The individual serving as Director, National Cemetery System on the effective date of this Act may act as the Director of the National Cemetery System until an individual is appointed under this Act to that office.

38 USC 201 note.

SEC. 4. ASSISTANT SECRETARIES.

President of U.S.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Veterans Affairs not more than 6 Assistant Secretaries, each of whom shall be appointed by the President, by and with the advice and consent of the Senate.

(b) FUNCTIONS OF ASSISTANT SECRETARIES.—The Secretary shall assign to Assistant Secretaries such functions as the Secretary considers appropriate, including the following functions:

(1) Budgetary and financial functions.

(2) Personnel management and labor relations functions.

(3) Planning, studies, and evaluations.

(4) Management, productivity, and logistic support functions.

(5) Information management functions as required by section 3506 of title 44, United States Code.

(6) Capital facilities and real property program functions.

(7) Equal opportunity functions.

(8) Functions regarding the investigation and adjudication of complaints of employment discrimination within the Department.

(9) Functions regarding intergovernmental, public, and consumer information and affairs.

(10) Procurement functions.

(c) CHIEF FINANCIAL OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose functions include budgetary and financial functions as the Chief Financial Officer of the Department.

(2) The Chief Financial Officer shall—

(A) advise the Secretary on financial management of the Department;

(B) develop and maintain a financial management system for the Department (including accounting and related transaction systems, internal control systems, and financial reporting systems) which provides for—

(i) development and maintenance of consistent, compatible, and useful data;

(ii) development and reporting of cost information; and

(iii) integration of accounting and budgeting information;

(C) supervise and coordinate all financial management system activities and operations of the Department; and

(D) direct and manage financial management activities and operations of the Department, including—

(i) the development of financial management budgets; and

(ii) the approval and management of financial management system design or enhancement projects.

(d) CHIEF INFORMATION RESOURCES OFFICER.—(1) The Secretary shall designate the Assistant Secretary whose functions include information management functions as required by section 3506 of title 44, United States Code, as the Chief Information Resources Officer of the Department.

(2) The Chief Information Resources Officer shall—

(A) advise the Secretary on information management activities of the Department as required by section 3506 of title 44, United States Code;

(B) develop and maintain an information resources management system for the Department which provides for—

(i) the conduct of and accountability for any acquisitions made pursuant to a delegation of authority under section 759 of title 40, United States Code;

(ii) the implementation of all applicable government-wide and Department information policies, principles, standards, and guidelines with respect to information collection, paperwork reduction, privacy and security of records, sharing and dissemination of information, acquisition and use of information technology, and other information resource management functions;

(iii) the periodic evaluation of and, as needed, the planning and implementation of improvements in the accuracy, completeness, and reliability of data and records contained within Department information systems; and

(iv) the development and annual revision of a five-year plan for meeting the Department's information technology needs; and

(C) report to the Secretary as required by section 3506 of title 44, United States Code. Reports.

(e) DESIGNATION OF FUNCTIONS PRIOR TO CONFIRMATION.—Whenever the President submits the name of an individual to the Senate for confirmation as Assistant Secretary under this section, the President shall state the particular functions of the Department such individual will exercise upon taking office. President of U.S.

(f) CONTINUING PERFORMANCE OF ASSISTANT SECRETARY FUNCTIONS PENDING CONFIRMATION.—An individual who, on the effective date of this Act, is performing any of the functions required by this section to be performed by an Assistant Secretary of the Department may continue to perform such functions until such functions are assigned to an individual appointed under this Act as an Assistant Secretary of the Department.

SEC. 5. DEPUTY ASSISTANT SECRETARIES. 38 USC 201 note.

(a) ESTABLISHMENT OF POSITIONS.—There shall be in the Department of Veterans Affairs such number of Deputy Assistant Secretaries, not exceeding 18, as the Secretary may determine.

(b) APPOINTMENTS.—Each Deputy Assistant Secretary—

(1) shall be appointed by the Secretary; and

(2) shall perform such functions as the Secretary shall prescribe.

(c) MINIMUM NUMBER OF DEPUTY ASSISTANT SECRETARIES WITH CONTINUOUS SERVICE IN CIVIL SERVICE.—(1) At least two-thirds of the number of positions established under subsection (a) and filled under subsection (b) shall be filled by individuals who have at least 5 years of continuous service in the Federal civil service in the executive branch immediately preceding their appointment under subsection (b) as a Deputy Assistant Secretary.

(2) For purposes of determining the continuous service of an individual pursuant to paragraph (1), there shall not be included any service by such individual in a position—

(A) of a confidential, policy-determining, policy-making, or policy-advocating character;

(B) in which such individual served as a noncareer appointee in the Senior Executive Service, as such term is defined in section 3132(a)(7) of title 5, United States Code; or

(C) to which such individual was appointed by the President, with or without the advice and consent of the Senate.

38 USC 201 note.

SEC. 6. VETERANS HEALTH SERVICES AND RESEARCH ADMINISTRATION.

The establishment within the Veterans' Administration known as the Department of Medicine and Surgery is hereby redesignated as the Veterans Health Services and Research Administration of the Department of Veterans Affairs.

38 USC 201 note.

SEC. 7. VETERANS BENEFITS ADMINISTRATION.

The establishment within the Veterans' Administration known as the Department of Veterans' Benefits is hereby redesignated as the Veterans Benefits Administration of the Department of Veterans Affairs. The primary function of the Veterans Benefits Administration shall be to administer nonmedical benefits programs which provide assistance to veterans, their dependents, and their survivors.

38 USC 201 note.

SEC. 8. OFFICE OF THE GENERAL COUNSEL.

President of U.S.

(a) IN GENERAL.—There shall be in the Department of Veterans Affairs the Office of the General Counsel. There shall be at the head of such office a General Counsel who shall be appointed by the President, by and with the advice and consent of the Senate. The General Counsel shall be the chief legal officer of the Department and shall provide legal assistance to the Secretary concerning the programs and policies of the Department.

(b) CONTINUATION OF SERVICE OF GENERAL COUNSEL.—The individual serving on the effective date of this Act as the General Counsel of the Veterans' Administration may act as the General Counsel of the Department of Veterans Affairs until a person is appointed under this Act to that office.

38 USC 201 note.

SEC. 9. OFFICE OF THE INSPECTOR GENERAL.

(a) REDESIGNATION.—The Office of Inspector General of the Veterans' Administration, established in accordance with the Inspector General Act of 1978, is hereby redesignated as the Office of Inspector General of the Department of Veterans Affairs.

(b) STAFF LEVEL.—(1) The Secretary shall provide for not less than 40 full-time positions in the Office of Inspector General in addition to the number of such positions in that office on the effective date of this Act.

(2) Of the number of additional full-time positions in the Office of Inspector General required by paragraph (1), the Secretary shall provide for one-half by not later than September 30, 1990, and shall provide for the remainder by not later than September 30, 1991.

President of U.S.

(3) The President shall include in the budget transmitted to the Congress for each fiscal year after fiscal year 1989 pursuant to section 1105 of title 31, United States Code, an estimate of the amount for the Office of Inspector General that is sufficient to provide for not less than the number of full-time positions in that office on the effective date of this Act and the additional number of such positions required by paragraph (1) to be provided for by the Secretary.

38 USC 201 note.

SEC. 10. REFERENCES.

Reference in any other Federal law, Executive order, rule, regulation, or delegation of authority, or any document of or pertaining to the Veterans' Administration—

(1) to the Administrator of Veterans' Affairs shall be deemed to refer to the Secretary of Veterans Affairs;

(2) to the Veterans' Administration shall be deemed to refer to the Department of Veterans Affairs;

(3) to the Deputy Administrator of Veterans' Affairs shall be deemed to refer to the Deputy Secretary of Veterans Affairs;

(4) to the Chief Medical Director of the Veterans' Administration shall be deemed to refer to the Chief Medical Director of the Department of Veterans Affairs;

(5) to the Department of Medicine and Surgery of the Veterans' Administration shall be deemed to refer to the Veterans Health Services and Research Administration of the Department of Veterans Affairs;

(6) to the Chief Benefits Director of the Veterans' Administration shall be deemed to refer to the Chief Benefits Director of the Department of Veterans Affairs;

(7) to the Department of Veterans' Benefits of the Veterans' Administration shall be deemed to refer to the Veterans Benefits Administration of the Department of Veterans Affairs;

(8) to the Chief Memorial Affairs Director of the Veterans' Administration shall be deemed to refer to the Director of the National Cemetery System of the Department of Veterans Affairs; and

(9) to the Department of Memorial Affairs of the Veterans' Administration shall be deemed to refer to the National Cemetery System of the Department of Veterans Affairs.

SEC. 11. SAVINGS PROVISIONS.

38 USC 201 note.

(a) CONTINUING EFFECT OF LEGAL DOCUMENTS.—All orders, determinations, rules, regulations, permits, grants, contracts, certificates, licenses, and privileges—

(1) which have been issued, made, granted, or allowed to become effective by the President, by the Administrator of Veterans' Affairs, or by a court of competent jurisdiction, in the performance of functions of the Administrator or the Veterans' Administration; and

(2) which are in effect on the effective date of this Act; shall continue in effect according to their terms until modified, terminated, superseded, set aside, or revoked in accordance with law by the President, the Secretary, or other authorized official, by a court of competent jurisdiction, or by operation of law.

(b) PROCEEDINGS NOT AFFECTED.—The provisions of this Act shall not affect any proceedings or any application for any benefits, service, license, permit, certificate, or financial assistance pending before the Veterans' Administration at the time this Act takes effect, but such proceedings and applications shall be continued. Orders shall be issued in such proceedings, appeals shall be taken therefrom, and payments shall be made pursuant to such orders, as if this Act had not been enacted, and orders issued in any such proceedings shall continue in effect until modified, terminated, superseded, or revoked by a duly authorized official, by a court of competent jurisdiction, or by operation of law. Nothing in this subsection shall be deemed to prohibit the discontinuance or modification of any such proceeding under the same terms and conditions and to the same extent that such proceeding could have been discontinued or modified if this Act had not been enacted.

(c) SUITS NOT AFFECTED.—The provisions of this Act shall not affect suits commenced before the effective date of this Act, and in all such suits, proceedings shall be had, appeals taken, and judg-

ments rendered in the same manner and with the same effect as if this Act had not been enacted.

(d) NONABATEMENT OF ACTIONS.—No suit, action, or other proceeding commenced by or against the Veterans' Administration, or by or against any individual in the official capacity of such individual as an officer of the Veterans' Administration, shall abate by reason of the enactment of this Act.

(e) PROPERTY AND RESOURCES.—The contracts, liabilities, records, property, and other assets and interests of the Veterans' Administration shall, after the effective date of this Act, be considered to be the contracts, liabilities, records, property, and other assets and interests of the Department of Veterans Affairs.

(f) COMPENSATION FOR CONTINUED SERVICE.—Any person—

(1) who acts as Secretary or Deputy Secretary of the Department of Veterans Affairs under section 3(e);

(2) who continues to serve as Chief Medical Director or Chief Benefits Director of such department under section 3 (f) or (g), respectively;

(3) who acts as the Director of the National Cemetery System under section 3(h); or

(4) who acts as General Counsel of the Department of Veterans Affairs under section 8(b);

after the effective date of this Act and before the first appointment of a person to such position after such date shall continue to be compensated for so serving or acting at the rate at which such person was compensated before the effective date of this Act.

38 USC 201 note.

SEC. 12. MISCELLANEOUS EMPLOYMENT RESTRICTIONS.

(a) LIMITATION ON NUMBER OF NONCAREER SENIOR EXECUTIVES.—(1) Notwithstanding section 3134(d) of title 5, United States Code, the number of Senior Executive Service positions in the Department of Veterans Affairs which are filled by noncareer appointees in any fiscal year may not at any time exceed 5 percent of the average number of senior executives employed in Senior Executive Service positions in the Department during the preceding fiscal year.

(2) For purposes of this subsection, the average number of senior executives employed in Senior Executive Service positions in the Department during a fiscal year shall be equal to 25 percent of the sum of the total number of senior executives employed in Senior Executive Service positions in the Department on the last day of each quarter of such fiscal year.

(b) LIMITATION ON NUMBER OF SCHEDULE C EMPLOYEES.—The number of positions in the Department of Veterans Affairs which may be excepted from the competitive service, on a temporary or permanent basis, because of their confidential or policy-determining character may not at any time exceed the equivalent of 15 positions.

(c) PROHIBITED EMPLOYMENT AND ADVANCEMENT CONSIDERATIONS.—(1) Political affiliation or activity may not be taken into account in connection with the appointment of any person to any position in or to perform any service for the Department of Veterans Affairs, or in the assignment or advancement of any employee in the Department.

(2) Paragraph (1) shall not apply to the appointment of any person by the President under this Act, other than the appointment of the Chief Medical Director, the Chief Benefits Director, and the Inspector General of the Department of Veterans Affairs.

SEC. 13. CONFORMING AMENDMENTS.

(a) PRESIDENTIAL SUCCESSION.—Section 19(d)(1) of title 3, United States Code, is amended by inserting before the period at the end thereof the following: ", Secretary of Veterans Affairs".

(b) DEFINITION OF DEPARTMENT, CIVIL SERVICE LAWS.—Section 101 of title 5, United States Code, is amended by adding at the end thereof the following:

"The Department of Veterans Affairs.".

(c) COMPENSATION, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Secretary of Veterans Affairs.".

(d) COMPENSATION, LEVEL II.—Section 5313 of title 5, United States Code, is amended by striking out "Administrator of Veterans' Affairs" and inserting in lieu thereof "Deputy Secretary of Veterans Affairs".

(e) COMPENSATION, LEVEL III.—Section 5314 of title 5, United States Code, is amended—

(1) by striking out "Deputy Administrator of Veterans' Affairs."; and

(2) by adding at the end thereof the following:

"Chief Medical Director, Department of Veterans Affairs.

"Chief Benefits Director, Department of Veterans Affairs.".

(f) COMPENSATION, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Inspector General, Veterans' Administration" and inserting in lieu thereof "Inspector General, Department of Veterans Affairs"; and

(2) by adding at the end thereof the following:

"Assistant Secretaries, Department of Veterans Affairs (6).

"General Counsel, Department of Veterans Affairs.

"Director of the National Cemetery System.".

(g) COMPENSATION, LEVEL V.—Section 5316 of title 5, United States Code, is amended—

(1) by striking out "Associate Deputy Administrator of Veterans' Affairs.";

(2) by striking out "Chief Benefits Director, Veterans' Administration.";

(3) by striking out "General Counsel of the Veterans' Administration."; and

(4) by striking out "Director, National Cemetery System, Veterans' Administration.".

(h) INSPECTOR GENERAL ACT.—The Inspector General Act of 1978 is amended—

(1) in section 2(1)— 5 USC app.

(A) by inserting "the Department of Veterans Affairs," after "Transportation,"; and

(B) by striking out "the Veterans' Administration,";

(2) in section 11(1)— 5 USC app.

(A) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or Veterans' Affairs,"; and

(B) by striking out "Small Business, or Veterans' Affairs" and inserting in lieu thereof "or Small Business"; and

(3) in section 11(2)—

(A) by striking out "or Transportation" and inserting in lieu thereof "Transportation, or Veterans Affairs,"; and

(B) by striking out "the United States Information Agency or the Veterans' Administration" and inserting in lieu thereof "or the United States Information Agency".

(i) NATIONAL CEMETERY SYSTEM.—Section 1000 of title 38, United States Code, is amended in subsection (a) by striking out the second sentence and inserting in lieu thereof the following: "Such system shall be headed by the Director of the National Cemetery System, who shall perform such functions as may be assigned by the Secretary.".

38 USC 201 note.

SEC. 14. ADDITIONAL CONFORMING AMENDMENTS.

After consultation with the appropriate committees of the Congress, the Secretary of Veterans Affairs shall prepare and submit to the Congress proposed legislation containing technical and conforming amendments to title 38, United States Code, and to other provisions of law, which reflect the changes made by this Act. Such legislation shall be submitted not later than 6 months after the date of enactment of this Act.

SEC. 15. ADMINISTRATIVE REORGANIZATIONS.

(a) MODIFICATIONS OF COVERAGE.—Section 210(b)(2) of title 38, United States Code, is amended—

(1) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) An administrative reorganization described in this subparagraph is an administrative reorganization of—

"(i) a covered field office or facility which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such office or facility—

"(I) by 10 percent or more, or

"(II) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such office or facility during the preceding fiscal year, is 15 percent or more; or

"(ii) a covered Central Office unit which involves a reduction during any fiscal year in the number of full-time equivalent employees with permanent duty stations at such unit—

"(I) by 25 percent or more, or

"(II) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty stations at such unit during the preceding fiscal year, is 30 percent or more.";

(2) in subparagraph (C)—

(A) by striking out "(C) For" and inserting in lieu thereof "(D) For";

(B) by redesignating division (iii) as division (iv); and

(C) by striking out division (ii) and inserting in lieu thereof the following new divisions:

"(ii) The term 'covered Central Office unit' means an office in the Veterans' Administration's Central Office that is the permanent duty station for 100 or more employees.

"(iii) The term 'covered field office or facility' means a Veterans' Administration office or facility outside the Veterans' Administration Central Office that is the permanent duty station for 25 or more employees or that is a free-standing outpatient clinic."; and

(3) by inserting after subparagraph (B) the following new subparagraph (C):

"(C) Not less than 30 days before the date on which the implementation of any reorganization described in this subparagraph is to begin, the Administrator shall transmit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a notification regarding the reorganization. This subparagraph applies to the reorganization of any unit of the Central Office of the Veterans' Administration that is the duty station for more than 25 but less than 100 employees if the reorganization involves a reduction in any fiscal year in the number of full-time equivalent employees with permanent duty station in such unit—

"(i) by 10 percent or more, or

"(ii) by a percent which, when added to the percent reduction made in the number of such employees with permanent duty station in such unit during the preceding fiscal year, is 15 percent or more.".

(b) INAPPLICABILITY OF RESTRICTIONS.—Section 210(b) of title 38, United States Code (as amended by subsection (a)), shall not apply to a reorganization of a unit of the Central Office of the Department of Veterans' Affairs if the reorganization— 38 USC 210 note.

(1) is necessary in order to carry out the provisions of or amendments made by this Act; and

(2) is initiated within 6 months after the effective date of this Act.

(c) CONSTRUCTION.—References to the Administrator of Veterans' Affairs and the Veterans' Administration are used in the amendments made by subsection (a) in order to maintain conformity with the references appearing in the provisions of section 210 of title 38, United States Code, that are not amended by subsection (a). The references appearing in such amendments are subject to the reference rules provided in section 10 of this Act. 38 USC 210 note.

SEC. 16. SPENDING AUTHORITY SUBJECT TO APPROPRIATIONS. 38 USC 201 note.

The authority to make payments or to enter into other obligations under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriations Acts.

SEC. 17. NATIONAL COMMISSION ON EXECUTIVE ORGANIZATION. 5 USC 901 note.

(a) ESTABLISHMENT.—(1) Within 30 days after the effective date of this Act, the President shall make a determination as to whether the national interest would be served by the establishment of a commission to review the structural organization of the executive branch of the Federal Government. If the President makes a determination that such establishment is in the national interest, the President shall transmit to the Congress written notification of his intent to establish the National Commission on Executive Organization under this section. President of U.S.

(2) If the President fails to transmit notification under paragraph (1), this section shall cease to be effective 30 days after the effective date of this Act. Termination date.

(b) MEMBERSHIP OF THE COMMISSION.—A commission established under this section shall be composed of 16 members appointed not later than 90 days after the effective date of this Act. The members shall be appointed as follows:

(1) Six citizens of the United States appointed by the President, one of whom shall be designated by the President to be the President of U.S.

Chairman of the Commission. Not more than four of the members appointed by the President may be from the same political party as the President.

(2) Two members of the Senate and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the majority leader of the Senate.

(3) One Member of the Senate and one citizen of the United States appointed by the President pro tempore of the Senate upon the recommendation of the minority leader of the Senate.

(4) Two members of the House of Representatives and one citizen of the United States appointed by the Speaker of the House of Representatives upon the recommendation of the majority leader of the House of Representatives.

(5) One Member of the House of Representatives and one citizen of the United States appointed by the Speaker of the House of Representatives upon the recommendation of the minority leader of the House of Representatives.

(c) RESTRICTIONS ON PAY AND ALLOWANCES.—(1) Except as provided in paragraph (2), members of the Commission shall receive no pay, allowances, or benefits by reason of service on the Commission.

(2) Members of the Commission appointed from among private citizens of the United States may be allowed travel expenses, including per diem, in lieu of subsistence, as authorized by law for persons serving intermittently in the Federal Government.

(d) FUNCTIONS OF COMMISSION.—The Commission shall examine and make recommendations with respect to—

(1) criteria for use by the President and Congress in evaluating proposals for changes in the structure of the executive branch of the Federal Government, including criteria for use by the President and Congress in evaluating and overseeing Government-sponsored enterprises and Government corporations;

(2) the organization of the executive branch, including the number of departments and the organizational structure of each such department, the advisability of reorganizing or abolishing any such department, and the advisability of establishing any new executive department;

(3) the most effective and practicable structure of the Executive Office of the President for conducting oversight of the executive branch, and criteria for use by such Office in evaluating and overseeing the performance of the executive branch; and

(4) the most effective and practicable structure of the President's cabinet and means of operation of such cabinet, including recommendations concerning the number, composition, and duties of the members of such cabinet.

(e) REPORT.—(1) Not later than 12 months after the completion of appointment of the members of the Commission, the Commission shall submit to the President, the Senate, and the House of Representatives a report which contains a detailed statement of the recommendations of the Commission.

(2) The date on which the report is due may be extended to such date as the President may prescribe in an Executive order, except that such date may not be later than six months after the date on which such report is otherwise due under paragraph (1).

(f) POWERS OF COMMISSION.—(1) The Commission may, for the purpose of carrying out this section, hold such hearings and sit and

act at such times and places, as the Commission considers appropriate.

(2) The Commission may adopt such rules and regulations as may be necessary to establish procedures and to govern the manner of the operation, organization, and personnel of the Commission.

(3)(A) The Commission may request from the head of any department, agency, or other instrumentality of the Federal Government such information as the Commission may require for the purpose of carrying out this section. The head of such department, agency, or instrumentality shall, to the extent otherwise permitted by law, furnish such information to the Commission upon request made by the Chairman.

(B) Upon request of the Chairman of the Commission, the head of any department, agency, or other instrumentality of the Federal Government shall, to the extent possible and subject to the discretion of such head—

(i) make any of the facilities and services of such department, agency, or instrumentality available to the Commission; and

(ii) detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out the duties of the Commission under this section.

(4) The Commission may use the United States mails in the same manner and under the same conditions as the departments and agencies of the Federal Government.

(5) The Commission may, to such extent and in such amounts as are provided in appropriations Acts, enter into contracts with State agencies, private firms, institutions, and individuals for the purpose of conducting research or surveys necessary to enable the Commission to discharge the duties of the Commission under this section.

(6) Subject to such rules and regulations as may be adopted by the Commission, the Chairman of the Commission may appoint, terminate, and fix the pay of an Executive Director and of such additional staff as the Chairman considers appropriate to assist the Commission. The Chairman may fix the pay of personnel appointed under this paragraph without regard to the provisions of chapter 51 and subchapter III of chapter 53 of title 5, United States Code (relating to the number or classification of employees and to rates of pay), the provisions of such title governing appointments in the competitive service, and any other similar provision of law; except that no rate of pay fixed under this paragraph may exceed a rate equal to the rate of pay payable for grade GS-18 of the General Schedule under section 5332 of such title.

(g) APPLICABILITY OF THE FEDERAL ADVISORY COMMITTEE ACT.—The Commission shall be an advisory committee for purposes of the Federal Advisory Committee Act (5 U.S.C. App. 2).

(h) TERMINATION OF COMMISSION.—The Commission shall cease to exist on the date that is 30 days after the date on which the Commission submits the report required under subsection (e).

(i) PREPARATION FOR THE COMMISSION.—Not later than 90 days after the effective date of this Act, the Comptroller General of the United States, the Director of the Congressional Research Service, the Director of the Congressional Budget Office, and the Director of the Office of Technology Assessment shall each submit to the Commission established under this section an index to and synopses of materials of the organization of the official that such official considers useful to the Commission. Subject to laws governing the

Classified information.

disclosure of classified or otherwise restricted information, such materials may include reports, analyses, recommendations, and results of research of such organization.

(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Commission not more than $1,500,000 for carrying out this section.

38 USC 201 note.

SEC. 18. EFFECTIVE DATE.

(a) IN GENERAL.—Except as provided in subsection (b), this Act shall take effect on March 15, 1989.

(b) APPOINTMENT OF SECRETARY.—Notwithstanding any other provision of law or of this Act, the President may, any time after January 21, 1989, appoint an individual to serve as Secretary of the Department of Veterans Affairs.

Approved October 25, 1988.

LEGISLATIVE HISTORY—H.R. 3471 (S. 533):

HOUSE REPORTS: No. 100-435 (Comm. on Government Operations) and No. 100-1036 (Comm. of Conference).
SENATE REPORTS: No. 100-342 accompanying S. 533 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Nov. 16, 17, considered and passed House.
Vol. 134 (1988): July 11, S. 533 considered in Senate.
July 12, H.R. 3471 considered and passed Senate, amended, in lieu of S. 533.
Oct. 6, House agreed to conference report.
Oct. 18, Senate agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Oct. 25, Presidential remarks.

Public Law 100-528
100th Congress

An Act

To remove certain restrictions on land acquisitions for Antietam National Battlefield.

Oct. 25, 1988
[H.R. 4554]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REMOVAL OF CERTAIN RESTRICTIONS ON LAND ACQUISITIONS FOR ANTIETAM NATIONAL BATTLEFIELD.

Maryland.

(a) ACREAGE LIMITATION.—The first section of the Act entitled "An Act to provide for the protection and preservation of the Antietam Battlefield in the State of Maryland", approved April 22, 1960 (16 U.S.C. 430oo) is amended by striking out "Not more than 600 acres of land, however, shall be acquired in fee by purchase or condemnation, but neither this limitation nor any other provision of law shall preclude such acquisition of the fee title to other lands and its immediate reconveyance to the former owner with such covenants, restrictions, or conditions as will accomplish the purposes of this section: *Provided,* That the cost to the Government of any such transaction shall not exceed the reasonable value of the covenants, restrictions, or conditions thereby imposed on the property.".

(b) SCENIC EASEMENT LIMITATION.—Section 319(a) of the National Parks and Recreation Act of 1978 (16 U.S.C. 430oo note) is amended by striking out "only scenic easements over".

(c) SITE REDESIGNATION.—Section 319(b) of the National Parks and Recreation Act of 1978 (16 U.S.C. 430nn note) is amended by striking out ", including only scenic easements acquired pursuant to subsection (a) of this section,".

Approved October 25, 1988.

LEGISLATIVE HISTORY—H.R. 4554 (S. 2565):

HOUSE REPORTS: No. 100-909 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-529 accompanying S. 2565 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 100-529
100th Congress

An Act

Oct. 25, 1988
[H.R. 5059]

To quiet title and possession with respect to a certain private land claim in Sumter County, Alabama.

Patents and trademarks.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, the limitation provision of section 1 of the Act of December 22, 1928 (45 Stat. 1069; 43 U.S.C. 1068), popularly known as the Color-of-Title Act, that restricts conveyances under that Act to not more than 160 acres, shall not apply to any claim for a patent that may be filed under the Color-of-Title Act for a parcel of land described as section 33, township 20 north, range 1 west, Sumter County, Alabama.

SEC. 2. Except as otherwise provided in section 1 of this Act, all provisions of the Color-of-Title Act shall apply to any claim for a patent under the Color-of-Title Act for the parcel of land described in the first section of this Act.

Approved October 25, 1988.

LEGISLATIVE HISTORY—H.R. 5059 (S. 2586):

HOUSE REPORTS: No. 100-902 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-530 accompanying S. 2586 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 22, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 100-530
100th Congress

Joint Resolution

To encourage increased international cooperation to protect biological diversity.

Oct. 25, 1988
[H.J. Res. 648]

Whereas habitat destruction is a main cause of the accelerating extinction of animal and plant species;
Whereas increased international cooperation is essential to protect species threatened with extinction and to halt the loss of unique and irreplaceable ecosystems; and
Whereas the United States has strongly supported efforts to convene an international convention for preservation of the Earth's biological diversity: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STATEMENT OF POLICIES.

22 USC 2151q note.

The Congress—

(1) supports the United States efforts, consistent with section 119(g) of the Foreign Assistance Act of 1961, to initiate discussions to develop an international agreement to preserve biological diversity; and

(2) calls upon the President to continue exerting United States leadership in order to achieve the earliest possible negotiation of an international convention to conserve the Earth's biological diversity, including the protection of a representative system of ecosystems adequate to conserve biological diversity.

SEC. 2. REPORT.

22 USC 2151q note.
President of U.S.

Not later than one year after the date of the enactment of this joint resolution, the President shall submit a report to the Congress on progress toward the goal of negotiating the international convention described in paragraph (2) of section 1.

Approved October 25, 1988.

LEGISLATIVE HISTORY—H.J. Res. 648:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 20, 22, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 100-531
100th Congress

An Act

To amend the Department of Energy Organization Act to authorize protective force personnel who guard the strategic petroleum reserve or its storage and related facilities to carry firearms while discharging their official duties and in certain instances to make arrests without warrant; to establish the offense of trespass on property of the strategic petroleum reserve, and for other purposes.

Oct. 25, 1988
[S. 836]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROTECTION OF STRATEGIC PETROLEUM RESERVE.

(a) IN GENERAL.—Title VI of the Department of Energy Organization Act (42 U.S.C. 7211-7270) is amended by adding at the end the following new sections:

"GUARDS FOR STRATEGIC PETROLEUM RESERVE FACILITIES

42 USC 7270a.

"SEC. 661. Under guidelines prescribed by the Secretary and concurred with by the Attorney General, employees of the Department of Energy and employees of contractors and subcontractors (at any tier) of the Department of Energy, while discharging their official duties of protecting the Strategic Petroleum Reserve (established under part B of title I of the Energy Policy and Conservation Act) or its storage or related facilities or of protecting persons upon the Strategic Petroleum Reserve or its storage or related facilities, may—

"(1) carry firearms, if designated by the Secretary and qualified for the use of firearms under the guidelines; and

"(2) arrest without warrant any person for an offense against the United States—

"(A) in the case of a felony, if the employee has reasonable grounds to believe that the person—

"(i) has committed or is committing a felony; and

"(ii) is in or is fleeing from the immediate area of the felony; and

"(B) in the case of a felony or misdemeanor, if the violation is committed in the presence of the employee.

"TRESPASS ON STRATEGIC PETROLEUM RESERVE FACILITIES

Real property.
42 USC 7270b.

"SEC. 662. (a) The Secretary may issue regulations relating to the entry upon or carrying, transporting, or otherwise introducing or causing to be introduced any dangerous weapon, explosive, or other dangerous instrument or material likely to produce substantial injury or damage to persons or property into or onto the Strategic Petroleum Reserve, its storage or related facilities, or real property subject to the jurisdiction, administration, or in the custody of the Secretary under part B of title I of the Energy Policy and Conservation Act (42 U.S.C. 6231-6247). The Secretary shall post conspicuously, on the property subject to the regulations, notification that the property is subject to the regulations.

"(b) Whoever willfully violates a regulation of the Secretary issued under subsection (a) shall be guilty of a misdemeanor and punished upon conviction by a fine of not more than $5,000, imprisonment for not more than one year, or both.".

(b) CONFORMING AMENDMENT.—The table of contents for the Department of Energy Organization Act is amended by adding after the item relating to section 660 the following new items:

"Sec. 661. Guards for Strategic Petroleum Reserve facilities.
"Sec. 662. Trespass on Strategic Petroleum Reserve facilities.".

Approved October 25, 1988.

LEGISLATIVE HISTORY—S. 836:

HOUSE REPORTS: No. 100-980, Pt. 1 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-79 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 25, considered and passed Senate.
Vol. 134 (1988): Oct. 5, considered and passed House, amended.
Oct. 7, Senate concurred in House amendment.

Public Law 100-532
100th Congress

An Act

Oct. 25, 1988
[S. 659]

To amend the Federal Insecticide, Fungicide, and Rodenticide Act, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988.
7 USC 136 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Federal Insecticide, Fungicide, and Rodenticide Act Amendments of 1988".

(b) TABLE OF CONTENTS.—The table of contents is as follows:

Sec. 1. Short title and table of contents.
Sec. 2. References to the Federal Insecticide, Fungicide, and Rodenticide Act.

TITLE I—REGISTRATION

Sec. 101. Definition of outstanding data requirement.
Sec. 102. Reregistration of registered pesticides.
Sec. 103. Expedited registration of similar applications.

TITLE II—REVIEW AND CANCELLATION

Sec. 201. Administrative changes.

TITLE III—RECORDS AND INSPECTIONS

Sec. 301. Records.
Sec. 302. Inspections.

TITLE IV—DISPOSAL AND TRANSPORTATION

Sec. 401. Storage, disposal, transportation, and recall.
Sec. 402. Containers, rinsates, and other materials.
Sec. 403. Pesticide containers.
Sec. 404. Notice for stored pesticides with canceled or suspended registrations.

TITLE V—INDEMNITIES

Sec. 501. Indemnities.

TITLE VI—GENERAL

Sec. 601. Definitions.
Sec. 602. Scientific Advisory Panel.
Sec. 603. Unlawful acts.
Sec. 604. Penalties.
Sec. 605. Congressional review.

TITLE VII—AUTHORIZATION FOR APPROPRIATIONS

Sec. 701. Authorization for appropriations.

TITLE VIII—TECHNICAL AMENDMENTS

Sec. 801. Technical amendments.
Sec. 802. Table of contents amendment.

TITLE IX—EFFECTIVE DATE

Sec. 901. Effective date.

SEC. 2. REFERENCES TO THE FEDERAL INSECTICIDE, FUNGICIDE, AND RODENTICIDE ACT.

Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Insecticide, Fungicide, and Rodenticide Act (7 U.S.C. 136 et seq.).

TITLE I—REGISTRATION

SEC. 101. DEFINITION OF OUTSTANDING DATA REQUIREMENT.

Section 2 (7 U.S.C. 136) is amended by adding at the end thereof the following new subsection:

"(ff) OUTSTANDING DATA REQUIREMENT.—

"(1) IN GENERAL.—The term 'outstanding data requirement' means a requirement for any study, information, or data that is necessary to make a determination under section 3(c)(5) and which study, information, or data—

"(A) has not been submitted to the Administrator; or

"(B) if submitted to the Administrator, the Administrator has determined must be resubmitted because it is not valid, complete, or adequate to make a determination under section 3(c)(5) and the regulations and guidelines issued under such section.

"(2) FACTORS.—In making a determination under paragraph (1)(B) respecting a study, the Administrator shall examine, at a minimum, relevant protocols, documentation of the conduct and analysis of the study, and the results of the study to determine whether the study and the results of the study fulfill the data requirement for which the study was submitted to the Administrator.".

SEC. 102. REREGISTRATION OF REGISTERED PESTICIDES.

(a) AMENDMENT.—The Act is amended by inserting after section 3 (7 U.S.C. 136a) the following new section:

"SEC. 3A. REREGISTRATION OF REGISTERED PESTICIDES. 7 USC 136a-1.

"(a) GENERAL RULE.—The Administrator shall reregister, in accordance with this section, each registered pesticide containing any active ingredient contained in any pesticide first registered before November 1, 1984, except for any pesticide as to which the Administrator has determined, after November 1, 1984, and before the effective date of this section, that—

"(1) there are no outstanding data requirements; and

"(2) the requirements of section 3(c)(5) have been satisfied.

"(b) REREGISTRATION PHASES.—Reregistrations of pesticides under this section shall be carried out in the following phases:

"(1) The first phase shall include the listing under subsection (c) of the active ingredients of the pesticides that will be reregistered.

"(2) The second phase shall include the submission to the Administrator under subsection (d) of notices by registrants respecting their intention to seek reregistration, identification by registrants of missing and inadequate data for such pesticides, and commitments by registrants to replace such missing or inadequate data within the applicable time period.

"(3) The third phase shall include submission to the Administrator by registrants of the information required under subsection (e).

"(4) The fourth phase shall include an independent, initial review by the Administrator under subsection (f) of submissions under phases two and three, identification of outstanding data requirements, and the issuance, as necessary, of requests for additional data.

"(5) The fifth phase shall include the review by the Administrator under subsection (g) of data submitted for reregistration and appropriate regulatory action by the Administrator.

"(c) PHASE ONE.—

Agriculture and agricultural commodities.

"(1) PRIORITY FOR REREGISTRATION.—For purposes of the reregistration of the pesticides described in subsection (a), the Administrator shall list the active ingredients of pesticides and shall give priority to, among others, active ingredients (other than active ingredients for which registration standards have been issued before the effective date of this section) that—

"(A) are in use on or in food or feed and may result in postharvest residues;

Water. Fish and fishing.

"(B) may result in residues of potential toxicological concern in potable ground water, edible fish, or shellfish;

"(C) have been determined by the Administrator before the effective date of this section to have significant outstanding data requirements; or

"(D) are used on crops, including in greenhouses and nurseries, where worker exposure is most likely to occur.

"(2) REREGISTRATION LISTS.—For purposes of reregistration under this section, the Administrator shall by order—

"(A) not later than 70 days after the effective date of this section, list pesticide active ingredients for which registration standards have been issued before such effective date;

"(B) not later than 4 months after such effective date, list the first 150 pesticide active ingredients, as determined under paragraph (1);

"(C) not later than 7 months after such effective date, list the second 150 pesticide active ingredients, as determined under paragraph (1); and

"(D) not later than 10 months after such effective date, list the remainder of the pesticide active ingredients, as determined under paragraph (1).

Each list shall be published in the Federal Register.

Federal Register, publication.

"(3) JUDICIAL REVIEW.—The content of a list issued by the Administrator under paragraph (2) shall not be subject to judicial review.

Mail.

"(4) NOTICE TO REGISTRANTS.—On the publication of a list of pesticide active ingredients under paragraph (2), the Administrator shall send by certified mail to the registrants of the pesticides containing such active ingredients a notice of the time by which the registrants are to notify the Administrator under subsection (d) whether the registrants intend to seek or not to seek reregistration of such pesticides.

"(d) PHASE TWO.—

"(1) IN GENERAL.—The registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) shall submit to the Administrator, within the time period prescribed by paragraph (4), the notice described in

paragraph (2) and any information, commitment, or offer described in paragraph (3).

"(2) NOTICE OF INTENT TO SEEK OR NOT TO SEEK REREGISTRATION.—

"(A) The registrant of a pesticide containing an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) shall notify the Administrator by certified mail whether the registrant intends to seek or does not intend to seek reregistration of the pesticide. Mail.

"(B) If a registrant submits a notice under subparagraph (A) of an intention not to seek reregistration of a pesticide, the Administrator shall publish a notice in the Federal Register stating that such a notice has been submitted. Federal Register, publication.

"(3) MISSING OR INADEQUATE DATA.—Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) and for which the registrant submitted a notice under paragraph (2) of an intention to seek reregistration of such pesticide shall submit to the Administrator—

"(A) in accordance with regulations issued by the Administrator under section 3, an identification of—

"(i) all data that are required by regulation to support the registration of the pesticide with respect to such active ingredient;

"(ii) data that were submitted by the registrant previously in support of the registration of the pesticide that are inadequate to meet such regulations; and

"(iii) data identified under clause (i) that have not been submitted to the Administrator; and

"(B) either—

"(i) a commitment to replace the data identified under subparagraph (A)(ii) and submit the data identified under subparagraph (A)(iii) within the applicable time period prescribed by paragraph (4)(B); or

"(ii) an offer to share in the cost to be incurred by a person who has made a commitment under clause (i) to replace or submit the data and an offer to submit to arbitration as described by section 3(c)(2)(B) with regard to such cost sharing.

For purposes of a submission by a registrant under subparagraph (A)(ii), data are inadequate if the data are derived from a study with respect to which the registrant is unable to make the certification prescribed by subsection (e)(1)(G) that the registrant possesses or has access to the raw data used in or generated by such study. For purposes of a submission by a registrant under such subparagraph, data shall be considered to be inadequate if the data are derived from a study submitted before January 1, 1970, unless it is demonstrated to the satisfaction of the Administrator that such data should be considered to support the registration of the pesticide that is to be reregistered.

"(4) TIME PERIODS.—

"(A) A submission under paragraph (2) or (3) shall be made—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B), not later

than 3 months after the date of publication of the listing of such active ingredient;

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C), not later than 3 months after the date of publication of the listing of such active ingredient; and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D), not later than 3 months after the date of publication of the listing of such active ingredient.

On application, the Administrator may extend a time period prescribed by this subparagraph if the Administrator determines that factors beyond the control of the registrant prevent the registrant from complying with such period.

"(B) A registrant shall submit data in accordance with a commitment entered into under paragraph (3)(B) within a reasonable period of time, as determined by the Administrator, but not more than 48 months after the date the registrant submitted the commitment. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(5) CANCELLATION AND REMOVAL.—

Federal Register, publication.

"(A) If the registrant of a pesticide does not submit a notice under paragraph (2) or (3) within the time prescribed by paragraph (4)(A), the Administrator shall issue a notice of intent to cancel the registration of such registrant for such pesticide and shall publish the notice in the Federal Register and allow 60 days for the submission of comments on the notice. On expiration of such 60 days, the Administrator, by order and without a hearing, may cancel the registration or take such other action, including extension of applicable time periods, as may be necessary to enable reregistration of such pesticide by another person.

"(B)(i) If—

"(I) no registrant of a pesticide containing an active ingredient listed under subsection (c)(2) notifies the Administrator under paragraph (2) that the registrant intends to seek reregistration of any pesticide containing that active ingredient;

"(II) no such registrant complies with paragraph (3)(A); or

"(III) no such registrant makes a commitment under paragraph (3)(B) to replace or submit all data described in clauses (ii) and (iii) of paragraph (3)(A);

Federal Register, publication.

the Administrator shall publish in the Federal Register a notice of intent to remove the active ingredient from the list established under subsection (c)(2) and a notice of intent to cancel the registrations of all pesticides containing such active ingredient and shall provide 60 days for comment on such notice.

"(ii) After the 60-day period has expired, the Administrator, by order, may cancel any such registration without

hearing, except that the Administrator shall not cancel a registration under this subparagraph if—

"(I) during the comment period a person acquires the rights of the registrant in that registration;

"(II) during the comment period that person furnishes a notice of intent to reregister the pesticide in accordance with paragraph (2); and

"(III) not later than 120 days after the publication of the notice under this subparagraph, that person has complied with paragraph (3) and the fee prescribed by subsection (i)(1) has been paid.

"(6) SUSPENSIONS AND PENALTIES.—The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 3(c)(2)(B)(iv) if the Administrator determines that (A) progress is insufficient to ensure the submission of the data required for such pesticide under a commitment made under paragraph (3)(B) within the time period prescribed by paragraph (4)(B) or (B) the registrant has not submitted such data to the Administrator within such time period.

"(e) PHASE THREE.—

"(1) INFORMATION ABOUT STUDIES.—Each registrant of a pesticide that contains an active ingredient listed under subparagraph (B), (C), or (D) of subsection (c)(2) who has submitted a notice under subsection (d)(2) of an intent to seek the reregistration of such pesticide shall submit, in accordance with the guidelines issued under paragraph (4), to the Administrator—

"(A) a summary of each study concerning the active ingredient previously submitted by the registrant in support of the registration of a pesticide containing such active ingredient and considered by the registrant to be adequate to meet the requirements of section 3 and the regulations issued under such section;

"(B) a summary of each study concerning the active ingredient previously submitted by the registrant in support of the registration of a pesticide containing such active ingredient that may not comply with the requirements of section 3 and the regulations issued under such section but which the registrant asserts should be deemed to comply with such requirements and regulations;

"(C) a reformat of the data from each study summarized under subparagraph (A) or (B) by the registrant concerning chronic dosing, oncogenicity, reproductive effects, mutagenicity, neurotoxicity, teratogenicity, or residue chemistry of the active ingredient that were submitted to the Administrator before January 1, 1982;

"(D) where data described in subparagraph (C) are not required for the active ingredient by regulations issued under section 3, a reformat of acute and subchronic dosing data submitted by the registrant to the Administrator before January 1, 1982, that the registrant considers to be adequate to meet the requirements of section 3 and the regulations issued under such section;

"(E) an identification of data that are required to be submitted to the Administrator under section 6(a)(2) indicating an adverse effect of the pesticide;

"(F) an identification of any other information available that in the view of the registrant supports the registration;

"(G) a certification that the registrant or the Administrator possesses or has access to the raw data used in or generated by the studies that the registrant summarized under subparagraph (A) or (B);

"(H) either—

"(i) a commitment to submit data to fill each outstanding data requirement identified by the registrant; or

"(ii) an offer to share in the cost of developing such data to be incurred by a person who has made a commitment under clause (i) to submit such data, and an offer to submit to arbitration as described by section 3(c)(2)(B) with regard to such cost sharing; and

"(I) evidence of compliance with section 3(c)(1)(D)(ii) and regulations issued thereunder with regard to previously submitted data as if the registrant were now seeking the original registration of the pesticide.

A registrant who submits a certification under subparagraph (G) that is false shall be considered to have violated this Act and shall be subject to the penalties prescribed by section 14.

"(2) TIME PERIODS.—

"(A) The information required by paragraph (1) shall be submitted to the Administrator—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B), not later than 12 months after the date of publication of the listing of such active ingredient;

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C), not later than 12 months after the date of publication of the listing of such active ingredient; and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D), not later than 12 months after the date of publication of the listing of such active ingredient.

"(B) A registrant shall submit data in accordance with a commitment entered into under paragraph (1)(H) within a reasonable period of time, as determined by the Administrator, but not more than 48 months after the date the registrant submitted the commitment under such paragraph. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(3) CANCELLATION.—

"(A) If the registrant of a pesticide fails to submit the information required by paragraph (1) within the time prescribed by paragraph (2), the Administrator, by order and without hearing, shall cancel the registration of such pesticide.

"(B)(i) If the registrant of a pesticide submits the information required by paragraph (1) within the time prescribed by paragraph (2) and such information does not conform to the guidelines for submissions established by the Adminis-

trator, the Administrator shall determine whether the registrant made a good faith attempt to conform its submission to such guidelines.

"(ii) If the Administrator determines that the registrant made a good faith attempt to conform its submission to such guidelines, the Administrator shall provide the registrant a reasonable period of time to make any necessary changes or corrections.

"(iii)(I) If the Administrator determines that the registrant did not make a good faith attempt to conform its submission to such guidelines, the Administrator may issue a notice of intent to cancel the registration. Such a notice shall be sent to the registrant by certified mail. Mail.

"(II) The registration shall be canceled without a hearing or further notice at the end of 30 days after receipt by the registrant of the notice unless during that time a request for a hearing is made by the registrant.

"(III) If a hearing is requested, a hearing shall be conducted under section 6(d), except that the only matter for resolution at the hearing shall be whether the registrant made a good faith attempt to conform its submission to such guidelines. The hearing shall be held and a determination made within 75 days after receipt of a request for hearing.

"(4) GUIDELINES.—

"(A) Not later than 1 year after the effective date of this section, the Administrator, by order, shall issue guidelines to be followed by registrants in—

"(i) summarizing studies;

"(ii) reformatting studies;

"(iii) identifying adverse information; and

"(iv) identifying studies that have been submitted previously that may not meet the requirements of section 3 or regulations issued under such section,

under paragraph (1).

"(B) Guidelines issued under subparagraph (A) shall not be subject to judicial review.

"(5) MONITORING.—The Administrator shall monitor the progress of registrants in acquiring and submitting the data required under paragraph (1).

"(f) PHASE FOUR.—

"(1) INDEPENDENT REVIEW AND IDENTIFICATION OF OUTSTANDING DATA REQUIREMENTS.—

"(A) The Administrator shall review the submissions of all registrants of pesticides containing a particular active ingredient under subsections (d)(3) and (e)(1) to determine if such submissions identified all the data that are missing or inadequate for such active ingredient. To assist the review of the Administrator under this subparagraph, the Administrator may require a registrant seeking reregistration to submit complete copies of studies summarized under subsection (e)(1).

"(B) The Administrator shall independently identify and publish in the Federal Register the outstanding data requirements for each active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) and that is contained in a pesticide to be reregistered under this sec- Federal Register, publication.

tion. The Administrator, at the same time, shall issue a notice under section 3(c)(2)(B) for the submission of the additional data that are required to meet such requirements.

"(2) TIME PERIODS.—

"(A) The Administrator shall take the action required by paragraph (1)—

"(i) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(B), not later than 18 months after the date of the listing of such active ingredient;

"(ii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(C), not later than 24 months after the date of the listing of such active ingredient; and

"(iii) in the case of a pesticide containing an active ingredient listed under subsection (c)(2)(D), not later than 33 months after the date of the listing of such active ingredient.

"(B) If the Administrator issues a notice to a registrant under paragraph (1)(B) for the submission of additional data, the registrant shall submit such data within a reasonable period of time, as determined by the Administrator, but not to exceed 48 months after the issuance of such notice. The Administrator, on application of a registrant, may extend the period prescribed by the preceding sentence by no more than 2 years if extraordinary circumstances beyond the control of the registrant prevent the registrant from submitting data within such prescribed period.

"(3) SUSPENSIONS AND PENALTIES.—The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by section 3(c)(2)(B)(iv) if the Administrator determines that (A) tests necessary to fill an outstanding data requirement for such pesticide have not been initiated within 1 year after the issuance of a notice under paragraph (1)(B), or (B) progress is insufficient to ensure submission of the data referred to in clause (A) within the time period prescribed by paragraph (2)(B) or the required data have not been submitted to the Administrator within such time period.

"(g) PHASE FIVE.—

"(1) DATA REVIEW.—The Administrator shall conduct a thorough examination of all data submitted under this section concerning an active ingredient listed under subsection (c)(2) and of all other available data found by the Administrator to be relevant.

"(2) REREGISTRATION AND OTHER ACTIONS.—

"(A) Within 1 year after the submission of all data concerning an active ingredient of a pesticide under subsection (f), the Administrator shall determine whether pesticides containing such active ingredient are eligible for reregistration. For extraordinary circumstances, the Administrator may extend such period for not more than 1 additional year.

"(B) Before reregistering a pesticide, the Administrator shall obtain any needed product-specific data regarding the

pesticide by use of section 3(c)(2)(B) and shall review such data within 90 days after its submission. The Administrator shall require that data under this subparagraph be submitted to the Administrator not later than 8 months after a determination of eligibility under subparagraph (A) has been made for each active ingredient of the pesticide, unless the Administrator determines that a longer period is required for the generation of the data.

"(C) After conducting the review required by paragraph (1) for each active ingredient of a pesticide and the review required by subparagraph (B) of this paragraph, the Administrator shall determine whether to reregister a pesticide by determining whether such pesticide meets the requirements of section 3(c)(5). If the Administrator determines that a pesticide is eligible to be reregistered, the Administrator shall reregister such pesticide within 6 months after the submission of the data concerning such pesticide under subparagraph (B).

"(D) If after conducting a review under paragraph (1) or subparagraph (B) of this paragraph the Administrator determines that a pesticide should not be reregistered, the Administrator shall take appropriate regulatory action.

"(h) COMPENSATION OF DATA SUBMITTER.—If data that are submitted by a registrant under subsection (d), (e), (f), or (g) are used to support the application of another person under section 3, the registrant who submitted such data shall be entitled to compensation for the use of such data as prescribed by section 3(c)(1)(D). In determining the amount of such compensation, the fees paid by the registrant under this section shall be taken into account.

"(i) FEES.—

"(1) INITIAL FEE FOR FOOD OR FEED USE PESTICIDE ACTIVE INGREDIENTS.—The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $50,000 on submission of information under paragraphs (2) and (3) of subsection (d) for such ingredient.

"(2) FINAL FEE FOR FOOD OR FEED USE PESTICIDE ACTIVE INGREDIENTS.—

"(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $100,000—

"(i) on submission of information for such ingredient under subsection (e)(1) if data are reformatted under subsection (e)(1)(C); or

"(ii) on submission of data for such ingredient under subsection (e)(2)(B) if data are not reformatted under subsection (e)(1)(C).

"(B) The registrants of pesticides that contain an active ingredient that is listed under subsection (c)(2)(A) and that is an active ingredient of any pesticide registered for a major food or feed use shall collectively pay a fee of $150,000 at such time as the Administrator shall prescribe.

"(3) FEES FOR OTHER PESTICIDE ACTIVE INGREDIENTS.—

"(A) The registrants of pesticides that contain an active ingredient that is listed under subparagraph (B), (C), or (D) of subsection (c)(2) and that is not an active ingredient of any pesticide registered for a major food or feed use shall collectively pay fees in amounts determined by the Administrator. Such fees may not be less than one-half of, nor greater than, the fees required by paragraphs (1) and (2). A registrant shall pay such fees at the times corresponding to the times fees prescribed by paragraphs (1) and (2) are to be paid.

"(B) The registrants of pesticides that contain an active ingredient that is listed under subsection (c)(2)(A) and that is not an active ingredient of any pesticide that is registered for a major food or feed use shall collectively pay a fee of not more than $100,000 and not less than $50,000 at such time as the Administrator shall prescribe.

"(4) REDUCTION OR WAIVER OF FEES FOR MINOR USE AND OTHER PESTICIDES.—

Agriculture and agricultural commodities.

"(A) An active ingredient that is contained only in pesticides that are registered solely for agricultural or nonagricultural minor uses, or a pesticide the value or volume of use of which is small, shall be exempt from the fees prescribed by paragraph (3).

"(B) An antimicrobial active ingredient, the production level of which does not exceed 1,000,000 pounds per year, shall be exempt from the fees prescribed by paragraph (3). For purposes of this subparagraph, the term 'antimicrobial active ingredient' means any active ingredient that is contained only in pesticides that are not registered for any food or feed use and that are—

"(i) sanitizers intended to reduce the number of living bacteria or viable virus particles on inanimate surface or in water or air;

"(ii) bacteriostats intended to inhibit the growth of bacteria in the presence of moisture;

"(iii) disinfectants intended to destroy or irreversibly inactivate bacteria, fungi, or viruses on surfaces or inanimate objects;

"(iv) sterilizers intended to destroy viruses and all living bacteria, fungi, and their spores on inanimate surfaces; or

"(v) fungicides or fungistats.

Small business.

"(C)(i) Notwithstanding any other provision of this subsection, in the case of a small business registrant of a pesticide, the registrant shall pay a fee for the reregistration of each active ingredient of the pesticide that does not exceed an amount determined in accordance with this subparagraph.

"(ii) If during the 3-year period prior to reregistration the average annual gross revenue of the registrant from pesticides containing such active ingredient is—

"(I) less than $5,000,000, the registrant shall pay 0.5 percent of such revenue;

"(II) $5,000,000 or more but less than $10,000,000, the registrant shall pay 1 percent of such revenue; or

"(III) $10,000,000 or more, the registrant shall pay 1.5 percent of such revenue, but not more than $150,000.

"(iii) For the purpose of this subparagraph, a small business registrant is a corporation, partnership, or unincorporated business that—

"(I) has 150 or fewer employees; and

"(II) during the 3-year period prior to reregistration, had an average annual gross revenue from chemicals that did not exceed $40,000,000.

"(5) MAINTENANCE FEE.—

"(A) Subject to other provisions of this paragraph, each registrant of a pesticide shall pay an annual fee by March 1 of each year of—

"(i) in the case of a registrant holding not more than 50 pesticide registrations, $425 for each registration; and

"(ii) in the case of a registrant holding more than 50 pesticide registrations—

"(I) $425 for each registration up to 50 registrations; and

"(II) $100 for each registration over 50 registrations, except that no fee shall be charged for more than 200 registrations held by any registrant.

"(B) The amount of each fee prescribed under subparagraph (A) shall be adjusted by the Administrator to a level that will result in the collection under this paragraph of, to the extent practicable, an aggregate amount of $14,000,000 each fiscal year.

"(C)(i) The maximum annual fee payable by a registrant under clause (i) of subparagraph (A) (as adjusted under subparagraph (B)) shall be $20,000.

"(ii) The maximum annual fee payable by a registrant under clause (ii) of subparagraph (A) (as adjusted under subparagraph (B)) shall be $35,000.

"(D) If any fee prescribed by this paragraph with respect to the registration of a pesticide is not paid by a registrant by the time prescribed, the Administrator, by order and without hearing, may cancel the registration.

"(E) The authority provided under this paragraph shall terminate on September 30, 1997. Termination date.

"(6) OTHER FEES.—During the period beginning on the date of enactment of this section and ending on September 30, 1997, the Administrator may not levy any other fees for the registration of a pesticide under this Act except as provided in paragraphs (1) through (5).

"(7) APPORTIONMENT.—

"(A) If two or more registrants are required to pay any fee prescribed by paragraph (1), (2), or (3) with respect to a particular active ingredient, the fees for such active ingredient shall be apportioned among such registrants on the basis of the market share in United States sales of the active ingredient for the 3 calendar years preceding the date of payment of such fee, except that—

"(i) small business registrants that produce the active ingredient shall pay fees in accordance with paragraph (4)(C); and Small business.

"(ii) registrants who have no market share but who choose to reregister a pesticide containing such active ingredient shall pay the lesser of—

"(I) 15 percent of the reregistration fee; or

"(II) a proportionate amount of such fee based on the lowest percentage market share held by any registrant active in the marketplace.

In no event shall registrants who have no market share but who choose to reregister a pesticide containing such active ingredient collectively pay more than 25 percent of the total active ingredient reregistration fee.

"(B) The Administrator, by order, may require any registrant to submit such reports as the Administrator determines to be necessary to allow the Administrator to determine and apportion fees under this subsection or to determine the registrant's eligibility for a reduction or waiver of a fee.

"(C) If any such report is not submitted by a registrant after receiving notice of such report requirement, or if any fee prescribed by this subsection (other than paragraph (5)) for an active ingredient is not paid by a registrant to the Administrator by the time prescribed under this subsection, the Administrator, by order and without hearing, may cancel each registration held by such registrant of a pesticide containing the active ingredient with respect to which the fee is imposed. The Administrator shall reapportion the fee among the remaining registrants and notify the registrants that the registrants are required to pay to the Administrator any unpaid balance of the fee within 30 days after receipt of such notice.

"(j) EXEMPTION OF CERTAIN REGISTRANTS.—The requirements of subsections (d), (e), (f), and (i) (other than subsection (i)(5)) regarding data concerning an active ingredient and fees for review of such data shall not apply to any person who is the registrant of a pesticide to the extent that, under section 3(c)(2)(D), the person would not be required to submit or cite such data to obtain an initial registration of such pesticide.

"(k) REREGISTRATION AND EXPEDITED PROCESSING FUND.—

"(1) ESTABLISHMENT.—There shall be established in the Treasury of the United States a reregistration and expedited processing fund.

"(2) SOURCE AND USE.—All fees collected by the Administrator under subsection (i) shall be deposited into the fund and shall be available to the Administrator, without fiscal year limitation, to carry out reregistration and expedited processing of similar applications.

"(3) EXPEDITED PROCESSING OF SIMILAR APPLICATIONS.—

"(A) The Administrator shall use each fiscal year not more than $2,000,000 of the amounts in the fund to obtain sufficient personnel and resources to assure the expedited processing and review of any application that—

Environmental protection.

"(i) proposes the initial or amended registration of an end-use pesticide that, if registered as proposed, would be identical or substantially similar in composition and labeling to a currently-registered pesticide identified in the application, or that would differ in composition and labeling from any such currently-registered pesticide only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment; or

"(ii) proposes an amendment to the registration of a registered pesticide that does not require scientific review of data.

"(B) Any amounts made available under subparagraph (A) shall be used to obtain sufficient personnel and resources to carry out the activities described in such subparagraph that are in addition to the personnel and resources available to carry out such activities on the date of enactment of this section.

"(4) UNUSED FUNDS.—Money in the fund not currently needed to carry out this section shall be—

"(A) maintained on hand or on deposit;

"(B) invested in obligations of the United States or guaranteed thereby; or

"(C) invested in obligations, participations, or other instruments that are lawful investments for fiduciary, trust, or public funds.

"(5) ACCOUNTING.—The Administrator shall—

"(A) provide an annual accounting of the fees collected and disbursed from the fund; and

"(B) take all steps necessary to ensure that expenditures from such fund are used only to carry out this section.

"(l) JUDICIAL REVIEW.—Any failure of the Administrator to take any action required by this section shall be subject to judicial review under the procedures prescribed by section 16(b).".

(b) CONFORMING AMENDMENT.—

(1) Section 3(c)(2)(B) (7 U.S.C. 136a(c)(2)(B)) is amended by adding at the end of clauses (ii) and (iii) the following: "The Administrator shall issue a notice of intent to suspend the registration of a pesticide in accordance with the procedures prescribed by clause (iv) if a registrant fails to comply with this clause.".

(2) Section 3(c)(2)(D) (7 U.S.C. 136a(c)(2)(D)) is amended—

(A) in the matter preceding clause (i), by striking out "an end use product" and inserting in lieu thereof "the pesticide that is the subject of the application"; and

(B) in clause (i), by striking out "the safety of".

SEC. 103. EXPEDITED REGISTRATION OF SIMILAR APPLICATIONS.

Section 3(c)(3) (7 U.S.C. 136a(c)(3)) is amended—

(1) by striking out "APPLICATION.—The Administrator" and inserting in lieu thereof "APPLICATION.—

"(A) The Administrator"; and

(2) by adding at the end thereof the following new subparagraph:

"(B)(i) The Administrator shall, as expeditiously as possible, review and act on any application received by the Administrator that—

"(I) proposes the initial or amended registration of an end-use pesticide that, if registered as proposed, would be identical or substantially similar in composition and labeling to a currently-registered pesticide identified in the application, or that would differ in composition and labeling from such currently-registered pesticide only in ways that would not significantly increase the risk of unreasonable adverse effects on the environment; or

"(II) proposes an amendment to the registration of a registered pesticide that does not require scientific review of data.

"(ii) In expediting the review of an application for an action described in clause (i), the Administrator shall—

"(I) within 45 days after receiving the application, notify the registrant whether or not the application is complete and, if the application is found to be incomplete, reject the application;

"(II) within 90 days after receiving a complete application, notify the registrant if the application has been granted or denied; and

"(III) if the application is denied, notify the registrant in writing of the specific reasons for the denial of the application.".

TITLE II—REVIEW AND CANCELLATION

SEC. 201. ADMINISTRATIVE CHANGES.

Section 6 (7 U.S.C. 136d) is amended by redesignating subsection (f) as subsection (h) and by inserting after subsection (e) the following new subsection:

Federal Register, publication.

"(f) GENERAL PROVISIONS.—

"(1) VOLUNTARY CANCELLATION.—A registrant at any time may request that any of its pesticide registrations be canceled or be amended to delete one or more uses. Before acting on such request, the Administrator shall publish in the Federal Register a notice of the receipt of the request. Thereafter, the Administrator may approve such a request.

Mail.

"(2) PUBLICATION OF NOTICE.—A notice of denial of registration, intent to cancel, suspension, or intent to suspend issued under this Act or a notice issued under subsection (c)(4) or (d)(5)(A) of section 3A shall be published in the Federal Register and shall be sent by certified mail, return receipt requested, to the registrant's or applicant's address of record on file with the Administrator. If the mailed notice is returned to the Administrator as undeliverable at that address, if delivery is refused, or if the Administrator otherwise is unable to accomplish delivery of the notice to the registrant or applicant after making reasonable efforts to do so, the notice shall be deemed to have been received by the registrant or applicant on the date the notice was published in the Federal Register.".

TITLE III—RECORDS AND INSPECTIONS

SEC. 301. RECORDS.

Section 8(a) (7 U.S.C. 136f(a)) is amended—

(1) by inserting after "requiring producers" the following: ", registrants, and applicants for registration"; and

Public information.

(2) by inserting before the period in the first sentence the following: "and to make the records available for inspection and copying in the same manner as provided in subsection (b)".

SEC. 302. INSPECTIONS.

(a) IN GENERAL.—Section 9(a) (7 U.S.C. 136g(a)) is amended—

(1) in the first sentence—

(A) by inserting "(1)" before "For",

(B) by inserting after "employees" the following: "of the Environmental Protection Agency or of any State",

(C) by striking out "at reasonable times," and inserting in lieu thereof the following: "at reasonable times (A)", and

(D) by inserting before the period at the end the following: ", or (B) any place where there is being held any pesticide the registration of which has been suspended or canceled for the purpose of determining compliance with section 19"; and

(2) in the second sentence, by inserting "(2)" before "Before".

(b) WARRANTS.—Section 9(b) (7 U.S.C. 136g(b)) is amended by amending paragraph (1) to read as follows:

"(1) entry, inspection, and copying of records for purposes of this section or section 8;".

TITLE IV—DISPOSAL AND TRANSPORTATION

SEC. 401. STORAGE, DISPOSAL, TRANSPORTATION, AND RECALL.

Section 19 (7 U.S.C. 136q) is amended to read as follows:

"SEC. 19. STORAGE, DISPOSAL, TRANSPORTATION, AND RECALL.

"(a) STORAGE, DISPOSAL, AND TRANSPORTATION.—

"(1) DATA REQUIREMENTS AND REGISTRATION OF PESTICIDES.—The Administrator may require under section 3 or 6 that—

"(A) the registrant or applicant for registration of a pesticide submit or cite data or information regarding methods for the safe storage and disposal of excess quantities of the pesticide to support the registration or continued registration of a pesticide;

"(B) the labeling of a pesticide contain requirements and procedures for the transportation, storage, and disposal of the pesticide, any container of the pesticide, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide; and

"(C) the registrant of a pesticide provide evidence of sufficient financial and other resources to carry out a recall plan under subsection (b), and provide for the disposition of the pesticide, in the event of suspension and cancellation of the pesticide.

"(2) PESTICIDES.—The Administrator may by regulation, or as part of an order issued under section 6 or an amendment to such an order—

"(A) issue requirements and procedures to be followed by any person who stores or transports a pesticide the registration of which has been suspended or canceled;

"(B) issue requirements and procedures to be followed by any person who disposes of stocks of a pesticide the registration of which has been suspended; and

"(C) issue requirements and procedures for the disposal of any pesticide the registration of which has been canceled.

"(b) RECALLS.—

Safety.
Environmental protection.

"(1) IN GENERAL.—If the registration of a pesticide has been suspended and canceled under section 6, and if the Administrator finds that recall of the pesticide is necessary to protect health or the environment, the Administrator shall order a recall of the pesticide in accordance with this subsection.

"(2) VOLUNTARY RECALL.—If, after determining under paragraph (1) that a recall is necessary, the Administrator finds that voluntary recall by the registrant and others in the chain of distribution may be as safe and effective as a mandatory recall, the Administrator shall request the registrant of the pesticide to submit, within 60 days of the request, a plan for the voluntary recall of the pesticide. If such a plan is requested and submitted, the Administrator shall approve the plan and order the registrant to conduct the recall in accordance with the plan unless the Administrator determines, after an informal hearing, that the plan is inadequate to protect health or the environment.

Regulations.

"(3) MANDATORY RECALL.—If, after determining under paragraph (1) that a recall is necessary, the Administrator does not request the submission of a plan under paragraph (2) or finds such a plan to be inadequate, the Administrator shall issue a regulation that prescribes a plan for the recall of the pesticide. A regulation issued under this paragraph may apply to any person who is or was a registrant, distributor, or seller of the pesticide, or any successor in interest to such a person.

"(4) RECALL PROCEDURE.—A regulation issued under this subsection may require any person that is subject to the regulation to—

"(A) arrange to make available one or more storage facilities to receive and store the pesticide to which the recall program applies, and inform the Administrator of the location of each such facility;

"(B) accept and store at such a facility those existing stocks of such pesticide that are tendered by any other person who obtained the pesticide directly or indirectly from the person that is subject to such regulation;

"(C) on the request of a person making such a tender, provide for proper transportation of the pesticide to a storage facility; and

"(D) take such reasonable steps as the regulation may prescribe to inform persons who may be holders of the pesticide of the terms of the recall regulation and how those persons may tender the pesticide and arrange for transportation of the pesticide to a storage facility.

"(5) CONTENTS OF RECALL PLAN.—A recall plan established under this subsection shall include—

"(A) the level in the distribution chain to which the recall is to extend, and a schedule for recall; and

"(B) the means to be used to verify the effectiveness of the recall.

"(6) REQUIREMENTS OR PROCEDURES.—No requirement or procedure imposed in accordance with paragraph (2) of subsection (a) may require the recall of existing stocks of the pesticide except as provided by this subsection.

"(c) STORAGE COSTS.—

"(1) SUBMISSION OF PLAN.—A registrant who wishes to become eligible for reimbursement of storage costs incurred as a result

of a recall prescribed under subsection (b) for a pesticide whose registration has been suspended and canceled shall, as soon as practicable after the suspension of the registration of the pesticide, submit to the Administrator a plan for the storage and disposal of the pesticide that meets criteria established by the Administrator by regulation.

"(2) REIMBURSEMENT.—Within a reasonable period of time after such storage costs are incurred and paid by the registrant, the Administrator shall reimburse the registrant, on request, for—

"(A) none of the costs incurred by the registrant before the date of submission of the plan referred to in paragraph (1) to the Administrator;

"(B) 100 percent of the costs incurred by the registrant after the date of submission of the plan to the Administrator or the date of cancellation of the registration of the pesticide, whichever is later, but before the approval of the plan by the Administrator;

"(C) 50 percent of the costs incurred by the registrant during the 1-year period beginning on the date of the approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later;

"(D) none of the costs incurred by the registrant during the 3-year period beginning on the 366th day following approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later; and

"(E) 25 percent of the costs incurred by the registrant during the period beginning on the first day of the 5th year following the date of the approval of the plan by the Administrator or the date of cancellation of the registration of the pesticide, whichever is later, and ending on the date that a disposal permit for the pesticide is issued by a State or an alternative plan for disposal of the pesticide in accordance with applicable law has been developed.

"(d) ADMINISTRATION OF STORAGE, DISPOSAL, TRANSPORTATION, AND RECALL PROGRAMS.—

"(1) VOLUNTARY AGREEMENTS.—Nothing in this section shall be construed as preventing or making unlawful any agreement between a seller and a buyer of any pesticide or other substance regarding the ultimate allocation of the costs of storage, transportation, or disposal of a pesticide.

"(2) RULE AND REGULATION REVIEW.—Section 25(a)(4) shall not apply to any regulation issued under subsection (a)(2) or (b).

"(3) LIMITATIONS.—No registrant shall be responsible under this section for a pesticide the registration of which is held by another person. No distributor or seller shall be responsible under this section for a pesticide that the distributor or seller did not hold or sell.

"(4) SEIZURE AND PENALTIES.—If the Administrator finds that a person who is subject to a regulation or order under subsection (a)(2) or (b) has failed substantially to comply with that regulation or order, the Administrator may take action under section 13 or 14 or obtain injunctive relief under section 16(c) against such person or any successor in interest of any such person.".

SEC. 402. CONTAINERS, RINSATES, AND OTHER MATERIALS.

Section 19(a) (7 U.S.C. 136q(a)) (as amended by section 401 of this Act) is further amended by adding at the end thereof the following new paragraph:

"(3) CONTAINERS, RINSATES, AND OTHER MATERIALS.—The Administrator may by regulation, or as part of an order issued under section 6 or an amendment to such an order—

"(A) issue requirements and procedures to be followed by any person who stores or transports any container of a pesticide the registration of which has been suspended or canceled, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide;

"(B) issue requirements and procedures to be followed by any person who disposes of stocks of any container of a pesticide the registration of which has been suspended, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide; and

"(C) issue requirements and procedures for the disposal of any container of a pesticide the registration of which has been canceled, any rinsate containing the pesticide, or any other material used to contain or collect excess or spilled quantities of the pesticide.".

SEC. 403. PESTICIDE CONTAINERS.

Section 19 (7 U.S.C. 136q) (as amended by section 401 of this Act) is further amended by adding at the end thereof the following new subsections:

"(e) CONTAINER DESIGN.—

"(1) PROCEDURES.—

Regulations.

"(A) Not later than 3 years after the effective date of this subsection, the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations for the design of pesticide containers that will promote the safe storage and disposal of pesticides.

"(B) The regulations shall ensure, to the fullest extent practicable, that the containers—

"(i) accommodate procedures used for the removal of pesticides from the containers and the rinsing of the containers;

"(ii) facilitate the safe use of the containers, including elimination of splash and leakage of pesticides from the containers;

"(iii) facilitate the safe disposal of the containers; and

"(iv) facilitate the safe refill and reuse of the containers.

"(2) COMPLIANCE.—The Administrator shall require compliance with the regulations referred to in paragraph (1) not later than 5 years after the effective date of this subsection.

"(f) PESTICIDE RESIDUE REMOVAL.—

"(1) PROCEDURES.—

Regulations.

"(A) Not later than 3 years after the effective date of this subsection, the Administrator shall, in consultation with the heads of other interested Federal agencies, promulgate regulations prescribing procedures and standards for the removal of pesticides from containers prior to disposal.

"(B) The regulations may—

"(i) specify, for each major type of pesticide container, procedures and standards providing for, at a minimum, triple rinsing or the equivalent degree of pesticide removal;

"(ii) specify procedures that can be implemented promptly and easily in various circumstances and conditions;

"(iii) provide for reuse, whenever practicable, or disposal of rinse water and residue; and

"(iv) be coordinated with requirements for the rinsing of containers imposed under the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

"(C) The Administrator may, at the discretion of the Administrator, exempt products intended solely for household use from the requirements of this subsection.

"(2) COMPLIANCE.—Effective beginning 5 years after the effective date of this subsection, a State may not exercise primary enforcement responsibility under section 26, or certify an applicator under section 4, unless the Administrator determines that the State is carrying out an adequate program to ensure compliance with this subsection.

"(3) SOLID WASTE DISPOSAL ACT.—Nothing in this subsection shall affect the authorities or requirements concerning pesticide containers under the Solid Waste Disposal Act (42 U.S.C. 6901).

"(g) PESTICIDE CONTAINER STUDY.—

"(1) STUDY.—

"(A) The Administrator shall conduct a study of options to encourage or require—

"(i) the return, refill, and reuse of pesticide containers;

"(ii) the development and use of pesticide formulations that facilitate the removal of pesticide residues from containers; and

"(iii) the use of bulk storage facilities to reduce the number of pesticide containers requiring disposal.

"(B) In conducting the study, the Administrator shall—

"(i) consult with the heads of other interested Federal agencies, State agencies, industry groups, and environmental organizations; and

"(ii) assess the feasibility, costs, and environmental benefits of encouraging or requiring various measures or actions.

"(2) REPORT.—Not later than 2 years after the effective date of this subsection, the Administrator shall submit to Congress a report describing the results of the study required under paragraph (1).

"(h) RELATIONSHIP TO SOLID WASTE DISPOSAL ACT.—Nothing in this section shall diminish the authorities or requirements of the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).".

SEC. 404. NOTICE FOR STORED PESTICIDES WITH CANCELED OR SUSPENDED REGISTRATIONS.

Section 6 (7 U.S.C. 136d) (as amended by section 201(a) of this Act) is amended by adding after subsection (f) the following:

"(g) NOTICE FOR STORED PESTICIDES WITH CANCELED OR SUSPENDED REGISTRATIONS.—

Business and industry. Exports. Commerce and trade.

"(1) IN GENERAL.—Any producer or exporter of pesticides, registrant of a pesticide, applicant for registration of a pesticide, applicant for or holder of an experimental use permit, commercial applicator, or any person who distributes or sells any pesticide, who possesses any pesticide which has had its registration canceled or suspended under this section shall notify the Administrator and appropriate State and local officials of—

"(A) such possession,

"(B) the quantity of such pesticide such person possesses, and

"(C) the place at which such pesticide is stored.

"(2) COPIES.—The Administrator shall transmit a copy of each notice submitted under this subsection to the regional office of the Environmental Protection Agency which has jurisdiction over the place of pesticide storage identified in the notice.".

TITLE V—INDEMNITIES

SEC. 501. INDEMNITIES.

Effective date.

(a) IN GENERAL.—Effective 180 days after the date of enactment of this Act, section 15 (7 U.S.C. 136m) is amended to read as follows:

"SEC. 15. INDEMNITIES.

"(a) GENERAL INDEMNIFICATION.—

"(1) IN GENERAL.—Except as otherwise provided in this section, if—

"(A) the Administrator notifies a registrant under section 6(c)(1) that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 6(c)(3) has been issued;

"(B) the registration in question is suspended under section 6(c), and thereafter is canceled under section 6(b), 6(d), or 6(f); and

"(C) any person who owned any quantity of the pesticide immediately before the notice to the registrant under subparagraph (A) suffered losses by reason of suspension or cancellation of the registration;

the Administrator shall make an indemnity payment to the person.

"(2) EXCEPTION.—Paragraph (1) shall not apply if the Administrator finds that the person—

"(A) had knowledge of facts that, in themselves, would have shown that the pesticide did not meet the requirements of section 3(c)(5) for registration; and

"(B) continued thereafter to produce the pesticide without giving timely notice of such facts to the Administrator.

"(3) REPORT.—If the Administrator takes an action under paragraph (1) that requires the payment of indemnification, the Administrator shall report to the Committee on Agriculture of the House of Representatives, the Committee on Agriculture, Nutrition, and Forestry of the Senate, and the Committees on Appropriations of the House of Representatives and the Senate on—

"(A) the action taken that requires the payment of indemnification;

"(B) the reasons for taking the action;

"(C) the estimated cost of the payment; and

"(D) a request for the appropriation of funds for the payment.

"(4) APPROPRIATION.—The Administrator may not make a payment of indemnification under paragraph (1) unless a specific line item appropriation of funds has been made in advance for the payment.

"(b) INDEMNIFICATION OF END USERS, DEALERS, AND DISTRIBUTORS.—

"(1) END USERS.—If—

"(A) the Administrator notifies a registrant under section 6(c)(1) that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 6(c)(3) has been issued;

"(B) the registration in question is suspended under section 6(c), and thereafter is canceled under section 6(b), 6(d), or 6(f); and

"(C) any person who, immediately before the notice to the registrant under subparagraph (A), owned any quantity of the pesticide for purposes of applying or using the pesticide as an end user, rather than for purposes of distributing or selling it or further processing it for distribution or sale, suffered a loss by reason of the suspension or cancellation of the pesticide;

the person shall be entitled to an indemnity payment under this subsection for such quantity of the pesticide.

"(2) DEALERS AND DISTRIBUTORS.—

"(A) Any registrant, wholesaler, dealer, or other distributor (hereinafter in this paragraph referred to as a 'seller') of a registered pesticide who distributes or sells the pesticide directly to any person not described as an end user in paragraph (1)(C) shall, with respect to any quantity of the pesticide that such person cannot use or resell as a result of the suspension or cancellation of the pesticide, reimburse such person for the cost of first acquiring the pesticide from the seller (other than the cost of transportation, if any), unless the seller provided to the person at the time of distribution or sale a notice, in writing, that the pesticide is not subject to reimbursement by the seller.

"(B) If—

"(i) the Administrator notifies a registrant under section 6(c)(1) that the Administrator intends to suspend a registration or that an emergency order of suspension of a registration under section 6(c)(3) has been issued;

"(ii) the registration in question is suspended under section 6(c), and thereafter is canceled under section 6(b), 6(d), or 6(f);

"(iii) any person who, immediately before the notice to the registrant under clause (i)—

"(I) had not been notified in writing by the seller, as provided under subparagraph (A), that any quantity of the pesticide owned by such person is not subject to reimbursement by the seller in the

event of suspension or cancellation of the pesticide; and

"(II) owned any quantity of the pesticide for purposes of—

"(aa) distributing or selling it; or

"(bb) further processing it for distribution or sale directly to an end user;

suffered a loss by reason of the suspension or cancellation of the pesticide; and

"(iv) the Administrator determines on the basis of a claim of loss submitted to the Administrator by the person, that the seller—

"(I) did not provide the notice specified in subparagraph (A) to such person; and

"(II) is and will continue to be unable to provide reimbursement to such person, as provided under subparagraph (A), for the loss referred to in clause (iii), as a result of the insolvency or bankruptcy of the seller and the seller's resulting inability to provide such reimbursement;

the person shall be entitled to an indemnity payment under this subsection for such quantity of the pesticide.

"(C) If an indemnity payment is made by the United States under this paragraph, the United States shall be subrogated to any right that would otherwise be held under this paragraph by a seller who is unable to make a reimbursement in accordance with this paragraph with regard to reimbursements that otherwise would have been made by the seller.

"(3) SOURCE.—Any payment required to be made under paragraph (1) or (2) shall be made from the appropriation provided under section 1304 of title 31, United States Code.

"(4) ADMINISTRATIVE SETTLEMENT.—An administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28, United States Code, and shall be regarded as if it were made under that section for purposes of section 1304 of title 31, United States Code.

"(c) AMOUNT OF PAYMENT.—

"(1) IN GENERAL.—The amount of an indemnity payment under subsection (a) or (b) to any person shall be determined on the basis of the cost of the pesticide owned by the person (other than the cost of transportation, if any) immediately before the issuance of the notice to the registrant referred to in subsection (a)(1)(A), (b)(1)(A), or (b)(2)(B)(i), except that in no event shall an indemnity payment to any person exceed the fair market value of the pesticide owned by the person immediately before the issuance of the notice.

"(2) SPECIAL RULE.—Notwithstanding any other provision of this Act, the Administrator may provide a reasonable time for use or other disposal of the pesticide. In determining the quantity of any pesticide for which indemnity shall be paid under this section, proper adjustment shall be made for any pesticide used or otherwise disposed of by the owner.".

7 USC 136m note.

(b) INTERIM PAYMENTS.—

(1) SOURCE.—Any obligation of the Administrator to pay an indemnity arising under section 15, as it existed prior to the

effective date of the amendment made by this section, shall be made from the appropriation provided under section 1304 of title 31, United States Code.

(2) ADMINISTRATIVE SETTLEMENT.—An administrative settlement of a claim for such indemnity may be made in accordance with the third paragraph of section 2414 of title 28, United States Code, and shall be regarded as if it were made under that section for purposes of section 1304 of title 31, United States Code.

TITLE VI—GENERAL

SEC. 601. DEFINITIONS.

(a) IN GENERAL.—

(1) TO USE ANY REGISTERED PESTICIDE IN A MANNER INCONSISTENT WITH ITS LABELING.—The first proviso of section 2(ee) (7 U.S.C. 136(ee)) is amended—

(A) in clause (1), by inserting before the comma at the end thereof the following: "unless the labeling specifically prohibits deviation from the specified dosage, concentration, or frequency"; and

(B) in clause (3), by inserting before the comma at the end thereof the following: "unless the labeling specifically states that the product may be applied only by the methods specified on the labeling".

(2) TO DISTRIBUTE OR SELL.—Section 2 (as amended by section 101 of this Act) is further amended by adding at the end thereof the following new subsection:

"(gg) TO DISTRIBUTE OR SELL.—The term 'to distribute or sell' means to distribute, sell, offer for sale, hold for distribution, hold for sale, hold for shipment, ship, deliver for shipment, release for shipment, or receive and (having so received) deliver or offer to deliver. The term does not include the holding or application of registered pesticides or use dilutions thereof by any applicator who provides a service of controlling pests without delivering any unapplied pesticide to any person so served.".

(b) CONFORMING AMENDMENTS.—

(1) REGISTRATION OF PESTICIDES.—Subsection (a) of section 3 (7 U.S.C. 136a(a)) is amended to read as follows:

"(a) REQUIREMENT OF REGISTRATION.—Except as provided by this Act, no person in any State may distribute or sell to any person any pesticide that is not registered under this Act. To the extent necessary to prevent unreasonable adverse effects on the environment, the Administrator may by regulation limit the distribution, sale, or use in any State of any pesticide that is not registered under this Act and that is not the subject of an experimental use permit under section 5 or an emergency exemption under section 18.". Environmental protection.

(2) UNLAWFUL ACTS.—Section 12(a) (7 U.S.C. 136j(a)) is amended—

(A) in paragraph (1), by striking out "distribute, sell, offer for sale, hold for sale, ship, deliver for shipment, or receive and (having so received) deliver or offer to deliver, to any person—" and inserting in lieu thereof "distribute or sell to any person—"; and

(B) in paragraph (2)(F), by striking out "to make" and inserting in lieu thereof "to distribute or sell, or to make".

SEC. 602. SCIENTIFIC ADVISORY PANEL.

The sentence beginning "The advisory panel established" in section 25(d) (7 U.S.C. 136w(d)) is amended to read as follows: "The advisory panel established under this section shall be permanent.".

SEC. 603. UNLAWFUL ACTS.

Section 12(a) (7 U.S.C. 136j(a)) (as amended by section 601(b)(2) of this Act) is further amended—

(1) in paragraph (1), by striking out subparagraph (A) and inserting in lieu thereof the following new subparagraph:

"(A) any pesticide that is not registered under section 3 or whose registration has been canceled or suspended, except to the extent that distribution or sale otherwise has been authorized by the Administrator under this Act;"; and

(2) in paragraph (2)—

(A) by striking out subparagraph (B) and inserting in lieu thereof the following new subparagraph:

"(B) to refuse to—

Records. "(i) prepare, maintain, or submit any records required by or under section 5, 7, 8, 11, or 19;

Reports. "(ii) submit any reports required by or under section 5, 6, 7, 8, 11, or 19; or

"(iii) allow any entry, inspection, copying of records, or sampling authorized by this Act;";

(B) by striking out subparagraphs (J) and (K) and inserting in lieu thereof the following new subparagraphs:

"(J) to violate any suspension order issued under section 3(c)(2)(B), 3A, or 6;

"(K) to violate any cancellation order issued under this Act or to fail to submit a notice in accordance with section 6(g);";

(C) in subparagraph (M), by striking out "section 8" and inserting in lieu thereof "this Act"; and

(D) by adding at the end thereof the following new subparagraphs:

Records. "(Q) to falsify all or part of any information relating to the testing of any pesticide (or any ingredient, metabolite, or degradation product thereof), including the nature of any protocol, procedure, substance, organism, or equipment used, observation made, or conclusion or opinion formed, submitted to the Administrator, or that the person knows will be furnished to the Administrator or will become a part of any records required to be maintained by this Act;

"(R) to submit to the Administrator data known to be false in support of a registration; or

"(S) to violate any regulation issued under section 3(a) or 19.".

SEC. 604. PENALTIES.

Paragraph (1) of section 14(b) (7 U.S.C. 136l(b)) is amended to read as follows:

"(1) IN GENERAL.—

"(A) Any registrant, applicant for a registration, or producer who knowingly violates any provision of this Act shall be fined not more than $50,000 or imprisoned for not more than 1 year, or both.

"(B) Any commercial applicator of a restricted use pesticide, or any other person not described in subparagraph (A) who distributes or sells pesticides or devices, who knowingly violates any provision of this Act shall be fined not more than $25,000 or imprisoned for not more than 1 year, or both.".

SEC. 605. CONGRESSIONAL REVIEW.

Paragraph (4) of section 25(a) (7 U.S.C. 136w(a)(4)) is amended to read as follows:

"(4) CONGRESSIONAL REVIEW OF REGULATIONS.—Simultaneously with the promulgation of any rule or regulation under this Act, the Administrator shall transmit a copy thereof to the Secretary of the Senate and the Clerk of the House of Representatives. The rule or regulation shall not become effective until the passage of 60 calendar days after the rule or regulation is so transmitted.".

TITLE VII—AUTHORIZATION FOR APPROPRIATIONS

SEC. 701. AUTHORIZATION FOR APPROPRIATIONS.

Effective October 1, 1988, section 31 (7 U.S.C. 136y) is amended to read as follows: Effective date.

"SEC. 31. AUTHORIZATION FOR APPROPRIATIONS.

"There is authorized to be appropriated to carry out this Act (other than section 23(a))—

"(1) $83,000,000 for fiscal year 1989, of which not more than $13,735,500 shall be available for research under this Act;

"(2) $95,000,000 for fiscal year 1990, of which not more than $14,343,600 shall be available for research under this Act; and

"(3) $95,000,000 for fiscal year 1991, of which not more than $14,978,200 shall be available for research under this Act.".

TITLE VIII—TECHNICAL AMENDMENTS

SEC. 801. TECHNICAL AMENDMENTS.

(a) SECTION 2.—Section 2 (7 U.S.C. 136) is amended—

(1) in subsection (c), by striking out "if:" and inserting in lieu thereof "if—";

(2) in subsection (p)(2), by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services";

(3) in subsection (q)(2)(A), by striking out "if:" and inserting in lieu thereof "if—";

(4) in subsection (q)(2)(C)(iii), by striking out ": *Provided,* That" and inserting in lieu thereof ", except that";

(5) in subsection (u)—

(A) by striking out ": *Provided,* That" and inserting in lieu thereof ", except that";

(B) by striking out "(1)(a)";

(C) by striking out "or (b)";

(D) by striking out "Health, Education, and Welfare" and inserting in lieu thereof "Health and Human Services";

(E) by striking out "(2) that" and inserting in lieu thereof "that"; and

(F) by striking out "an article covered by clause (1) of this proviso" and inserting in lieu thereof "a new animal drug"; and

(6) in subsection (ee)—

(A) by striking out ": *Provided,* That the term" and inserting in lieu thereof ", except that the term";

(B) by striking out "or" before clause (4);

(C) by striking out ": *Provided further,* That the term also shall not include" and inserting in lieu thereof ", (5)";

(D) by striking out "or any use" and inserting in lieu thereof "or (6) any use"; and

(E) by striking out ": *And provided further,* That after" and inserting in lieu thereof a period and "After".

(b) SECTION 3.—Section 3 (7 U.S.C. 136a) is amended—

(1) in subsection (c)(1)(D), by striking out "subsection (c)(2)(D) of this section" and inserting in lieu thereof "paragraph (2)(D)";

(2) in subsection (c)(1)(D)(i)—

(A) by striking out "With" and inserting in lieu thereof "with", and

(B) by striking out ": *Provided,* That" and inserting in lieu thereof ", except that";

(3) in subsection (c)(1)(D)(ii), by striking out "subparagraph (D)(i) of this paragraph" and inserting in lieu thereof "clause (i)";

(4) in subsection (c)(1)(D)(iii), by striking out "subparagraphs (D)(i) and (D)(ii) of this paragraph" and inserting in lieu thereof "clauses (i) and (ii)";

(5) in subsection (c)(2)—

(A) by striking out "(2)(A) DATA IN SUPPORT OF REGISTRATION.—The" and inserting in lieu thereof the following: "(2) DATA IN SUPPORT OF REGISTRATION.—

"(A) The";

(B) by indenting all of subparagraph (A) (as amended by the preceding provisions of this Act) two ems, so as to align its left margin with the margin of subparagraph (A) of section 3(d)(1);

(C) in subparagraph (B), by striking out "(B)" and all that follows through "(i) If" and inserting in lieu thereof the following:

"(B)(i) If";

(D) by realigning clauses (ii), (iii), (iv), and (v) of subparagraph (B) (as amended by the preceding provisions of this Act) two ems to the left, so as to align the left margin of

each clause with the margin of subparagraph (A) (as amended by subparagraph (B) of this paragraph);

(E) in the fourth sentence of subparagraph (B)(iv), by striking out ": *Provided,* That the" and inserting in lieu thereof a period and "The";

(F) in the first sentence of subparagraph (B)(v), by striking out "subsection (c)(1)(D) of this section" and inserting in lieu thereof "paragraph (1)(D)";

(G) in subparagraph (C), by striking out "SIMPLIFIED PROCEDURES.—"; and

(H) by indenting all of subparagraph (C) two ems, so as to align its left margin with the margin of subparagraph (A) (as amended by subparagraph (B) of this paragraph);

(6) in subsection (c)(7)—

(A) by striking out "subsection (c)(5) of this section" each place it appears and inserting in lieu thereof "paragraph (5)";

(B) in the second sentence of subparagraph (A), by striking out ": *Provided,* That, if" and inserting in lieu thereof a period and "If";

(C) in subparagraph (B), by striking out ": *Provided,* That, if" and inserting in lieu thereof a period and "If"; and

(D) in subparagraph (C), by striking out ": *Provided,* That a" and inserting in lieu thereof a period and "A";

(7) in subsection (d)(1)(A)—

(A) in the first sentence, by striking out ", provided that if" and inserting in lieu thereof a period and "If";

(B) in the last sentence, by striking out ": *Provided, however,* That the" and inserting in lieu thereof a period and "The";

(8) in subsection (f)(2), by striking out ": *Provided,* That as" and inserting in lieu thereof a period and "As"; and

(9) by striking out subsection (g).

(c) SECTION 4.—Section 4(a)(1) (7 U.S.C. 136b(a)(1)) is amended—

(1) by striking out ": *Provided,* That such" and inserting in lieu thereof a period and "Such"; and

(2) by striking out ": *Provided, however,* That the" and inserting in lieu thereof a period and "The".

(d) SECTION 5.—The last sentence of section 5(g) (7 U.S.C. 136c(g)) is amended by striking out ": *Provided,* That such" and inserting in lieu thereof a period and "Such".

(e) SECTION 6.—Section 6 (7 U.S.C. 136d) is amended—

(1) in subsection (a), by striking out ": *Provided,* That the" and inserting in lieu thereof a period and "The";

(2) in subsection (c), by striking out "Agency" each place it appears and inserting in lieu thereof "Administrator";

(3) in subsection (c)(1), by running into the second sentence the undesignated paragraph in that subsection;

(4) in the second sentence of subsection (c)(3)—

(A) by striking out "(i)" and inserting in lieu thereof "(A)"; and

(B) by striking out "(ii)" and inserting in lieu thereof "(B)";

(5) in subsection (e)(1), by striking out ": *Provided,* That the" and inserting in lieu thereof a period and "The"; and

(6) in the second sentence of subsection (e)(2), by striking out ": *Provided,* That the" and inserting in lieu thereof a period and "The".

(f) SECTION 10.—Section 10(d) (7 U.S.C. 136h(d)) is amended—

(1) in paragraph (1)—

(A) by striking out ": *Provided,* That the" and inserting in lieu thereof a period and "The"; and

(B) by striking out ": *Provided further,* That this" and inserting in lieu thereof a period and "This"; and

(2) in the second sentence of paragraph (3), by striking out ": *Provided,* That where" and inserting in lieu thereof a period and "Where".

(g) SECTION 12.—Section 12(a)(2)(F) (7 U.S.C. 136j(a)(2)(F)) is amended by striking out ": *Provided,* That it" and inserting in lieu thereof a period and "It".

(h) SECTION 13.—Section 13 (7 U.S.C. 136k) is amended—

(1) in subsection (b), by moving the last sentence in paragraph (3) after such paragraph as a full measure sentence; and

(2) in the first sentence of subsection (c) by striking out ": *Provided,* That upon" and inserting in lieu thereof a period and "On".

(i) SECTION 16.—Subsection (a) of section 16 (7 U.S.C. 136n) is amended to read as follows:

"(a) DISTRICT COURT REVIEW.—Except as otherwise provided in this Act, the refusal of the Administrator to cancel or suspend a registration or to change a classification not following a hearing and other final actions of the Administrator not committed to the discretion of the Administrator by law are judicially reviewable by the district courts of the United States.".

(j) SECTION 17.—Section 17(c) (7 U.S.C. 136o(c)) is amended—

(1) by striking out ": *Provided,* That the" and inserting in lieu thereof a period and "The"; and

(2) by striking out ": *And provided further,* That all" and inserting in lieu thereof a period and "All".

(k) SECTION 18.—Section 18 (7 U.S.C. 136p) is amended—

(1) in the heading, by inserting "AND STATE" after "FEDERAL"; and

(2) by running in the second sentence after the first sentence.

(l) SECTION 21.—Section 21 (7 U.S.C. 136s) is amended—

(1) in subsection (a), by inserting "SECRETARY OF AGRICULTURE.—" after the subsection designation;

(2) in subsection (b), by inserting "VIEWS.—" after the subsection designation; and

(3) in subsection (c), by inserting "NOTICE.—" after the subsection designation.

(m) SECTION 24.—Section 24 (7 U.S.C. 136v) is amended—

(1) in subsection (a), by inserting "IN GENERAL.—" after the subsection designation;

(2) in subsection (b), by inserting "UNIFORMITY.—" after the subsection designation; and

(3) in subsection (c)—

(A) by striking out "(c)(1) A" and inserting in lieu thereof the following:

"(c) ADDITIONAL USES.—

"(1) A"; and

(B) by indenting each paragraph two ems, so as to align the left margin of each paragraph with the margin of paragraph (1) of section 25(c).

(n) SECTION 25.—Section 25 (7 U.S.C. 136w) is amended—

(1) in subsection (a)—

(A) by striking out "(a)(1) REGULATIONS.—The" and inserting in lieu thereof the following:

"(a) IN GENERAL.—

"(1) REGULATIONS.—The";

(B) by indenting paragraphs (1), (2), and (3) two ems, so as to align the left margin of each paragraph with the margin of paragraph (1) of section 25(c) and by indenting each subparagraph of paragraph (2) two ems; and

(C) in paragraph (3), by striking out "Committee on Agriculture and Forestry" and inserting in lieu thereof "Committee on Agriculture, Nutrition, and Forestry"; and

(2) in the second sentence of subsection (e) by striking out ": *Provided,* That whenever" and inserting in lieu thereof a period and "Whenever".

(o) SECTION 26.—Section 26 (7 U.S.C. 136w-1) is amended—

(1) in subsection (a), by inserting "IN GENERAL.—" after the subsection designation;

(2) in subsection (a)(1), by striking out "; *Provided,* That the" and inserting in lieu thereof ", except that the";

(3) in subsection (b), by inserting "SPECIAL RULES.—" after the subsection designation; and

(4) in subsection (c), by inserting "ADMINISTRATOR.—" after the subsection designation.

(p) SECTION 27.—Section 27 (7 U.S.C. 136w-2) is amended—

(1) in subsection (a), by inserting "REFERRAL.—" after the subsection designation;

(2) in subsection (b), by inserting "NOTICE.—" after the subsection designation; and

(3) in subsection (c), by inserting "CONSTRUCTION.—" after the subsection designation.

(q) REDESIGNATION OF SECTIONS 3A AND 4.—

(1) SECTION 4 INTO SECTION 11.—

(A) Subsections (a), (b), and (c) of section 4 (7 U.S.C. 136b) are transferred to section 11 and inserted at the beginning and subsections (a) and (b) of section 11 (7 U.S.C. 136i) are redesignated as subsections (d) and (e), respectively.

(B) Section 4 is amended by striking out

"SEC. 4. USE OF RESTRICTED USE PESTICIDES; CERTIFIED APPLICATORS.".

(C) The section heading for section 11 is amended to read as follows: "**USE OF RESTRICTED USE PESTICIDES; APPPLICATORS.**".

(D) Sections 5(f), 19(f)(2) (as added by section 401 of this Act), and 26(b) are each amended by striking out "section 4" and inserting in lieu thereof "section 11". 7 USC 136c, 136q, 136w-1.

(2) REDESIGNATION OF SECTION 3A AS SECTION 4.—

(A) IN GENERAL.—Section 3A (as added by section 102 of this Act) is redesignated as section 4. 7 USC 136a-1.

(B) CONFORMING AMENDMENTS.—Sections 6(f)(2) (as added by section 201 of this Act) and 12(a)(2)(J) (as amended by

7 USC 136d, 136j.

section 603 of this Act) are each amended by striking out "3A" and inserting in lieu thereof "4".

SEC. 802. TABLE OF CONTENTS AMENDMENT.

Subsection (b) of section 1 (7 U.S.C. prec. 121) is amended to read as follows:

"(b) TABLE OF CONTENTS.—

"Section 1. Short title and table of contents.
"(a) Short title.
"(b) Table of contents.
"Sec. 2. Definitions.
"(a) Active ingredient.
"(b) Administrator.
"(c) Adulterated.
"(d) Animal.
"(e) Certified applicator, etc.
"(1) Certified applicator.
"(2) Private applicator.
"(3) Commercial applicator.
"(4) Under the direct supervision of a certified applicator.
"(f) Defoliant.
"(g) Desiccant.
"(h) Device.
"(i) District court.
"(j) Environment.
"(k) Fungus.
"(l) Imminent hazard.
"(m) Inert ingredient.
"(n) Ingredient statement.
"(o) Insect.
"(p) Label and labeling.
"(1) Label.
"(2) Labeling.
"(q) Misbranded.
"(r) Nematode.
"(s) Person.
"(t) Pest.
"(u) Pesticide.
"(v) Plant regulator.
"(w) Producer and produce.
"(x) Protect health and the environment.
"(y) Registrant.
"(z) Registration.
"(aa) State.
"(bb) Unreasonable adverse effects on the environment.
"(cc) Weed.
"(dd) Establishment.
"(ee) To use any registered pesticide in a manner inconsistent with its labeling.
"(ff) Outstanding data requirement.
"(gg) To distribute or sell.
"Sec. 3. Registration of pesticides.
"(a) Requirement of registration.
"(b) Exemptions.
"(c) Procedure for registration.
"(1) Statement required.
"(2) Data in support of registration.
"(3) Time for acting with respect to application.
"(4) Notice of application.
"(5) Approval of registration.
"(6) Denial of registration.
"(7) Registration under special circumstances.
"(8) Interim administrative review.
"(d) Classification of pesticides.
"(1) Classification for general use, restricted use, or both.
"(2) Change in classification.
"(3) Change in classification from restricted use to general use.
"(e) Products with same formulation and claims.
"(f) Miscellaneous.

"(1) Effect of change of labeling or formulation.
"(2) Registration not a defense.
"(3) Authority to consult other Federal agencies.
"Sec. 4. Reregistration of registered pesticides.
"(a) General rule.
"(b) Reregistration phases.
"(c) Phase one.
"(1) Priority for reregistration.
"(2) Reregistration lists.
"(3) Judicial review.
"(4) Notice to registrants.
"(d) Phase two.
"(1) In general.
"(2) Notice of intent to seek or not to seek reregistration.
"(3) Missing or inadequate data.
"(4) Time periods.
"(5) Cancellation and removal.
"(6) Suspensions and penalties.
"(e) Phase three.
"(1) Information about studies.
"(2) Time periods.
"(3) Cancellation.
"(4) Guidelines.
"(5) Monitoring.
"(f) Phase four.
"(1) Independent review and identification of outstanding data requirements.
"(2) Time periods.
"(3) Suspensions and penalties.
"(g) Phase five.
"(1) Data review.
"(2) Reregistration and other actions.
"(h) Compensation of data submitter.
"(i) Fees.
"(1) Initial fee for food or feed use pesticide active ingredients.
"(2) Final fee for food or feed use pesticide active ingredients.
"(3) Fees for other pesticide active ingredients.
"(4) Reduction or waiver of fees for minor use and other pesticides.
"(5) Maintenance fee.
"(6) Other fees.
"(7) Apportionment.
"(j) Exemption of certain registrants.
"(k) Reregistration and expedited processing fund.
"(1) Establishment.
"(2) Source and use.
"(3) Expedited processing of similar applications.
"(4) Unused funds.
"(5) Accounting.
"(l) Judicial review.
"Sec. 5. Experimental use permits.
"(a) Issuance.
"(b) Temporary tolerance level.
"(c) Use under permit.
"(d) Studies.
"(e) Revocation.
"(f) State issuance of permits.
"(g) Exemption for agricultural research agencies.
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"(2) Expedite hearing.
"(3) Emergency order.
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"(2) Publication of notice.

"(g) Notice for stored pesticides with canceled or suspended registrations.
"(1) In general.
"(2) Copies.
"(h) Judicial review.
"Sec. 7. Registration of establishments.
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"(b) Registration.
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"(d) Confidential records and information.
"Sec. 8. Records.
"(a) Requirement.
"(b) Inspection.
"Sec. 9. Inspection of establishments, etc.
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"(b) Warrants.
"(c) Enforcement.
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"(2) Notice not required.
"(3) Warning notices.
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"(c) Disputes.
"(d) Limitations.
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"(f) Penalty for disclosure by Federal employees.
"(g) Disclosure to foreign and multinational pesticide producers.
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"(e) Regulations.
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"(1) In general.
"(2) Voluntary recall.
"(3) Mandatory recall.
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"(5) Contents of recall plan.
"(6) Requirements or procedures.
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"(1) Submission of plan.
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"(c) Additional uses.
"Sec. 25. Authority of Administrator.
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TITLE IX—EFFECTIVE DATE

7 USC 136 note.

SEC. 901. EFFECTIVE DATE.

Except as otherwise provided in this Act, the amendments made by this Act shall take effect on the expiration of 60 days after the date of enactment of this Act.

Approved October 25, 1988.

LEGISLATIVE HISTORY—S. 659 (H.R. 3108):

HOUSE REPORTS: No. 100-939, Pt. 1 (Comm. on Agriculture).
SENATE REPORTS: No. 100-33 (Comm. on Agriculture, Nutrition, and Forestry).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Apr. 9, considered and passed Senate.
Nov. 30, H.R. 3108 considered and passed House.
Vol. 134 (1988): Sept. 20, S. 659 considered and passed House, amended.
Sept. 28, Senate concurred in House amendments.

Public Law 100-533
100th Congress

An Act

To amend the Small Business Act to establish programs and initiate efforts to assist the development of small business concerns owned and controlled by women, and for other purposes.

Oct. 25, 1988
[H.R. 5050]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act, together with the following table of contents, may be cited as the "Women's Business Ownership Act of 1988".

Women's Business Ownership Act of 1988.
15 USC 631 note.

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TITLE I—CONGRESSIONAL FINDINGS AND PURPOSES

SEC. 101. FINDINGS AND PURPOSES.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding at the end thereof the following new subsection:

"(h)(1) With respect to the programs and activities authorized by this Act, the Congress finds that—

"(A) women owned business has become a major contributor to the American economy by providing goods and services, revenues, and jobs;

"(B) over the past two decades there have been substantial gains in the social and economic status of women as they have sought economic equality and independence;

"(C) despite such progress, women, as a group, are subjected to discrimination in entrepreneurial endeavors due to their gender;

"(D) such discrimination takes many overt and subtle forms adversely impacting the ability to raise or secure capital, to acquire managerial talents, and to capture market opportunities;

"(E) it is in the national interest to expeditiously remove discriminatory barriers to the creation and development of small business concerns owned and controlled by women;

"(F) the removal of such barriers is essential to provide a fair opportunity for full participation in the free enterprise system by women and to further increase the economic vitality of the Nation;

"(G) increased numbers of small business concerns owned and controlled by women will directly benefit the United States Government by expanding the potential number of suppliers of goods and services to the Government; and

"(H) programs and activities designed to assist small business concerns owned and controlled by women must be implemented in such a way as to remove such discriminatory barriers while not adversely affecting the rights of socially and economically disadvantaged individuals.

Discrimination, prohibition.

"(2) It is, therefore, the purpose of those programs and activities conducted under the authority of this Act that assist women entrepreneurs to—

"(A) vigorously promote the legitimate interests of small business concerns owned and controlled by women;

"(B) remove, insofar as possible, the discriminatory barriers that are encountered by women in accessing capital and other factors of production; and

"(C) require that the Government engage in a systematic and sustained effort to identify, define and analyze those discriminatory barriers facing women and that such effort directly involve the participation of women business owners in the public/private sector partnership.".

TITLE II—DEMONSTRATION PROJECTS

SEC. 201. ESTABLISHMENT.

Subsection (c) of section 8 of the Small Business Act (15 U.S.C. 637(c)) is amended to read as follows:

"(c)(1) Subject to the requirements of paragraph (2), the Administration shall provide financial assistance to private organizations to conduct demonstration projects for the benefit of small business concerns owned and controlled by women.

"(2) No amount of financial assistance shall be provided pursuant to this subsection unless the recipient organization agrees, as a condition of receiving such assistance, that—

"(A) it will obtain, after its application has been approved but prior to the disbursement of funds pursuant to this subsection, cash contributions from private sector sources in an amount at least equal to the amount of funds such organization will receive under this subsection; and

"(B) it will provide the types of services and assistance to present and potential women owners of small business concerns

as are described in paragraph (3). For the purposes of this subsection such concerns may be either 'start-up' businesses or established 'on-going' concerns.

"(3) The types of services and assistance referred to in paragraph (2)(B) shall include the following:

"(A) Financial assistance, which assistance shall include training and counseling in how to apply for and secure business credit and investment capital; prepare and present financial statements; manage cash-flow and otherwise manage the financial operations of a business concern.

"(B) Management assistance, which assistance shall include training and counseling in how to plan, organize, staff, direct, and control each major activity and function of a small business concern; and

"(C) Marketing assistance, which assistance shall include training and counseling in how to identify and segment domestic and international market opportunities; prepare and execute marketing plans; develop pricing strategies; locate contract opportunities; negotiate contracts; and utilize varying public relations and advertising techniques.

"(4) Applications for financial assistance pursuant to this subsection shall be evaluated and ranked in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. Such criteria shall include— Public information.

"(A) a criterion that specifically refers to the experience of the offering organization in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(B) a criterion that specifically refers to the present ability of the offering organization to commence a demonstration project within a minimum amount of time; and

"(C) a criterion that specifically refers to the ability of the applicant organization to provide training and services to a representative number of women who are both socially and economically disadvantaged.

"(5) The financial assistance authorized pursuant to this subsection shall be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way of reimbursement. Grants. Contracts.

"(6)(A) The Administration shall prepare and transmit a report to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects conducted under the authority of this subsection. Such report shall provide information concerning— Reports.

"(i) the number of individuals receiving assistance;

"(ii) the number of start-up business concerns formed;

"(iii) the gross receipts of assisted concerns;

"(iv) increases or decreases in profits of assisted concerns; and

"(v) the employment increases or decreases of assisted concerns.

"(B) The report required pursuant to subparagraph (A) shall cover at least a twenty-four-month period and shall be submitted not later than thirty months after the effective date of this paragraph.

Termination date.

"(7) This subsection shall cease to be effective after September 30, 1991.".

SEC. 202. TECHNICAL.

Subsection (b) of section 8 of the Small Business Act (15 U.S.C. 637(b)) is amended by—

(1) striking out "and" at the end of paragraph (14);

(2) striking out "public." at the end of paragraph (15) and inserting in lieu thereof "public; and"; and

(3) by adding the following new paragraph:

"(16) to make studies of matters materially affecting the competitive strength of small business, and of the effect on small business of Federal laws, programs, and regulations, and to make recommendations to the appropriate Federal agency or agencies for the adjustment of such programs and regulations to the needs of small business.".

15 USC 637 note.

SEC. 203. AUTHORIZATION.

There is authorized to be appropriated $10,000,000 to carry out the demonstration projects required pursuant to section 201. The initial projects authorized to be financed by this title shall be funded by January 31, 1989. Notwithstanding any other provision of law, the Small Business Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this section, except that it shall ensure that all eligible sources are provided a reasonable opportunity to submit proposals.

15 USC 637 note.

SEC. 204. DEFINITION.

For the purposes of this title, the term "small business concern owned and controlled by women" means any small business concern—

(1) that is at least 51 per centum owned by one or more women; and

(2) whose management and daily business operations are controlled by one or more of such women.

TITLE III—ACCESS TO CAPITAL

SEC. 301. AMENDMENTS TO THE CONSUMER CREDIT PROTECTION ACT.

Subsection (a) of section 703 of the Consumer Credit Protection Act (15 U.S.C. 1691b(a)) is amended to read as follows:

Regulations.

"(a)(1) The Board shall prescribe regulations to carry out the purposes of this title. These regulations may contain but are not limited to such classifications, differentiation, or other provision, and may provide for such adjustments and exceptions for any class of transactions, as in the judgment of the Board are necessary or proper to effectuate the purposes of this title, to prevent circumvention or evasion thereof, or to facilitate or substantiate compliance therewith.

"(2) Such regulations may exempt from the provisions of this title any class of transactions that are not primarily for personal, family, or household purposes, or business or commercial loans made available by a financial institution, except that a particular type within a class of such transactions may be exempted if the Board determines, after making an express finding that the application of this title or of any provision of this title of such transaction would not contribute substantially to effecting the purposes of this title.

"(3) An exemption granted pursuant to paragraph (2) shall be for no longer than five years and shall be extended only if the Board makes a subsequent determination, in the manner described by such paragraph, that such exemption remains appropriate.

"(4) Pursuant to Board regulations, entities making business or commercial loans shall maintain such records or other data relating to such loans as may be necessary to evidence compliance with this subsection or enforce any action pursuant to the authority of this Act. In no event shall such records or data be maintained for a period of less than one year. The Board shall promulgate regulations to implement this paragraph in the manner prescribed by chapter 5 of title 5, United States Code. Loans. Records. Regulations.

"(5) The Board shall provide in regulations that an applicant for a business or commercial loan shall be provided a written notice of such applicant's right to receive a written statement of the reasons for the denial of such loan.". Loans.

SEC. 302. FORM SIMPLIFICATION AND PREFERRED FINANCING.

(a) CERTIFIED LOAN PROGRAM.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding to subsection (a) the following new paragraph:

"(19) During fiscal years 1989, 1990, and 1991, in addition to the preferred lenders program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a certified loan program for lenders who establish their knowledge of Administration laws and regulations concerning the loan guarantees program and their proficiency in program requirements. In order to encourage certified lenders and preferred lenders to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, the Administration (A) shall develop and shall allow participating lenders in the certified loan program and in the preferred loan program to solely utilize a uniform and simplified loan form for such loans and (B) shall allow such lenders to retain one-half of the fee collected pursuant to section 7(a)(16) on such loans: *Provided,* That a participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless such excess amount was not approved under the provisions of this paragraph. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or if the Administration determines that the loss experience of the lender is excessive as compared to other lenders: *Provided further,* That any suspension or revocation of the designation shall not affect any outstanding guarantee: *And provided further,* That the Administration may not reduce the per centum of guarantee as a criterion of eligibility for participation in this program, except as otherwise provided by law.".

(b) REPORTS.—The Administration shall take appropriate steps to expand participation in the certified loan program and shall report to the Small Business Committees of the Senate and the House of Representatives on the amount of loans approved and the amount of losses sustained under the provisions of section 7(a)(19) of the Small Business Act. An interim report shall be submitted not later than one year after date of enactment of this Act and a final report shall 15 USC 636 note.

be submitted not later than eighteen months after the date of enactment.

15 USC 631 note.

TITLE IV—NATIONAL WOMEN'S BUSINESS COUNCIL

SEC. 401. ESTABLISHMENT.

There is established a Council to be known as the "National Women's Business Council" (hereinafter in this title referred to as the Council).

SEC. 402. DUTIES OF THE COUNCIL.

(a) The Council shall review—

(1) the status of women owned business nationwide, including progress made and barriers that remain in order to assist such businesses to enter the mainstream of the American economy;

(2) the role of the Federal Government and State and local governments in assisting and promoting aid to, and the promotion of, women owned business;

(3) data collection procedures and the availability of data relating to (A) women owned businesses; (B) women owned small business, and (C) small business owned and controlled by socially and economically disadvantaged women; and

(4) such other government initiatives as may exist relating to women owned business including, but not limited to, those relating to Federal procurements.

(b) Based upon its review, the Council shall, by December 31, 1989, and every twelve months thereafter, recommend to the Congress and the President—

(1) new private sector initiatives that would provide management and technical assistance to women owned small business;

(2) ways to promote greater access to public and private sector financing and procurement opportunities for such businesses; and

(3) detailed multiyear plans of action, with specific goals and timetables, for both public and private sector actions needed to overcome discriminatory barriers to full participation in the economic mainstream.

(c) For the purposes of this title the term "small business concern owned and controlled by women" shall have the same meaning as that term is given in section 204 of this Act.

SEC. 403. MEMBERSHIP.

(a) The Council shall be composed of nine members to be selected as follows:

(1) the Administrator of the Small Business Administration, the Secretary of Commerce (or such Secretary's deputy) and the Chairman of the Federal Reserve Board (or such Chairman's designee, who shall be a member of the Board);

(2) two members shall be appointed by the majority leader, and one member shall be appointed by the minority leader of the Senate; and

(3) two members shall be appointed by the Speaker, and one member shall be appointed by the minority leader of the House of Representatives.

(b)(1) Appointments under section (a) (2) and (3) shall be made from individuals who are specially qualified to serve on the Council by virtue of their education, training, and experience and who are

not officers or employees of the Federal Government nor of the Congress.

(2)(A) Of the individuals to be appointed under subsection (a) (2) and (3)—

(i) no more than two members to be appointed under each such paragraph of such subsection shall be of the same political party;

(ii) at least two members appointed under each such paragraph of such subsection shall be women; and

(iii) at least two members to be appointed under each such paragraph of such subsection shall be owners of small business concerns as defined pursuant to section 3 of the Small Business Act and relevant regulations promulgated pursuant thereto.

(B) Appointments made pursuant to subsection (a) (2) and (3) shall be made in the following sequence—

(i) appointments under (a)(2) shall be made within ninety days of the effective date of this title; and

(ii) appointments under (a)(3) shall be made within one hundred and twenty days of the effective date of this title.

(3) In making appointments under subsection (a), the appointing authorities shall give due consideration to achieving balanced geographical representation.

(C) Members appointed under subsection (a) (2) and (3) shall be appointed for a three-year term, except if any such appointee becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Council for not longer than the thirty-day period beginning on the date such individual becomes such an officer or employee.

(D) A vacancy on the Council shall be filled in the manner in which the original appointment was made.

(E) Members of the Council shall serve without pay for such membership, except members of the Council shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Council, in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

(F)(1) Two members of the Council shall constitute a quorum for the receipt of testimony and other evidence.

(2) A majority of the Council shall constitute a quorum for the approval of a recommendation or report submitted pursuant to section 402 or section 406.

(G) The Chairperson and Vice Chairperson of the Council shall be designated by the President. The term of office of the Chairperson and Vice Chairperson shall be at the discretion of the President. President of U.S.

(H) The Council shall meet not less than four times a year. Meetings shall be at the call of the Chairperson.

SEC. 404. DIRECTOR AND STAFF OF THE COUNCIL.

(a)(1) The Council shall have a Director who shall be appointed by the Chairperson. Upon recommendation by the Director, the Chairperson may appoint and fix the pay of four additional personnel.

(2) The Director and staff of the Council may be appointed without regard to section 5311(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title

relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS–18 of the General Schedule.

(b) The Council may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS–18 of the General Schedule.

(c) Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council to assist the Council in carrying out its duties under this title without regard to section 3341 of title 5 of the United States Code.

SEC. 405. POWERS OF THE COUNCIL.

(a) The Council may, for the purpose of carrying out this title sit and act at such times and places, hold such hearings, take such testimony, receive such evidence, and consider such information, as the Council considers appropriate. The Council may administer oaths or affirmations for the receipt of such testimony.

(b) Any member or person within the employ of the Council may, if so authorized by the Council, take any action which the Council is authorized to take by this section.

(c) Except as otherwise prohibited by law, the Council may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon the request of the Chairperson of the Council, the head of such department or agency shall promptly furnish such information to the Council.

Mail. (d) The Council may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States.

(e) The Administrator of the General Services Administration shall provide to the Council, on a reimbursable basis, such administrative support services as the Council may request. In addition, the Administrator shall, as appropriate, provide to the Council, upon its request, access to and use of such Federal facilities as may be necessary for the conduct of its business.

SEC. 406. REPORTS.

The Council shall transmit to the President and to each House of the Congress a report no less than once in every twelve-month period. The first such report shall be submitted no later than December 31, 1989. Such reports shall contain a detailed statement on the activities of the Council, and the findings and conclusions of the Council, together with its recommendations for such legislation and administrative actions as it considers appropriate based upon its reviews conducted under section 402.

SEC. 407. AUTHORIZATION.

There are authorized to be appropriated such sums as may be necessary to carry out this title and they may remain available until expended. New spending authority or authority to enter into contracts as authorized in this Act shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts. This title shall cease to be effective five years after the date of enactment.

Contracts.

Termination date.

TITLE V—STATISTICAL DATA AND EFFECT ON OTHER PROGRAMS

SEC. 501. CENSUS DATA.

13 USC 131 note.

(a) BUREAU OF LABOR STATISTICS.—The Bureau of Labor Statistics of the Department of Labor shall include in any census report it may prepare on women owned business data on—

(1) sole proprietorships;

(2) partnerships; and

(3) corporations.

(b) BUREAU OF THE CENSUS.—The Bureau of the Census of the Department of Commerce shall include in its Business Census for 1992 and each such succeeding census data on the number of corporations which are 51 per centum or more owned by women.

(c) COMBINED STUDY.—Not later than one hundred and eighty days after the effective date of this section, the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this subsection as the "Office") shall conduct a study and prepare a report recommending the most cost effective and accurate means to gather and present the data required to be collected pursuant to subsections (a) and (b). The Department of Commerce and the Department of Labor shall provide the Office such assistance and cooperation as may be necessary and appropriate to achieve the purposes of this subsection.

Reports.

SEC. 502. PROCUREMENT DATA.

41 USC 4717a.

(a) REPORTING.—Each Federal agency shall report to the Office of Federal Procurement Policy the number of small businesses owned and controlled by women and the number of small business concerns owned and controlled by socially and economically disadvantaged businesses, by gender, that are first time recipients of contracts from such agency. The Office of Federal Procurement Policy shall take such actions as may be appropriate to ascertain for each fiscal year the number of such small businesses that have newly entered the Federal market.

(b) DEFINITIONS.—For purposes of this section the terms "small business concern owned and controlled by women" and "small business concerns owned and controlled by socially and economically disadvantaged individuals" shall be given the same meaning as those terms are given under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) and section 204 of this Act.

SEC. 503. STATE OF SMALL BUSINESS REPORT.

15 USC 631b.

Section 303 of Public Law 96-302 (15 U.S.C. 631(b)) is amended by adding the following new subsection:

"(e) The information and data required to be reported pursuant to subsection (a) shall separately detail those portions of such information and data that are relevant to—

"(1) small business concerns owned and controlled by socially and economically disadvantaged individuals, by gender, as defined pursuant to section 8(d) of the Small Business Act; and

"(2) small business concerns owned and controlled by women.".

15 USC 631 note.

SEC. 504. DISADVANTAGED SMALL BUSINESSES.

Nothing contained in this Act is intended to reduce or limit any programs, benefit, or activity that is authorized by law to assist small business concerns owned and controlled by socially and economically disadvantaged individuals as defined pursuant to section 8(d)(3) of the Small Business Act (15 U.S.C. 637(d)(3)).

Approved October 25, 1988.

LEGISLATIVE HISTORY—H.R. 5050:

HOUSE REPORTS: No. 100-955 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, considered and passed House.
Oct. 11, considered and passed Senate, amended.
Oct. 12, House concurred in Senate amendment.

Public Law 100-534
100th Congress

An Act

To protect and enhance the natural, scenic, cultural, and recreational values of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia for the benefit of present and future generations, and for other purposes.

Oct. 26, 1988
[H.R. 900]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

West Virginia National Interest River Conservation Act of 1987. National Park System. 16 USC 460m-15 note.

This Act may be cited as the "West Virginia National Interest River Conservation Act of 1987".

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Sec. 501. Acreage limitations.

SEC. 2. FINDINGS AND PURPOSE.

16 USC 460m-15 note.

(a) FINDINGS.—The Congress finds that—

(1) The outstanding natural, scenic, cultural and recreational values of the segment of the New River in West Virginia within the boundaries of the New River Gorge National River have been preserved and enhanced by its inclusion in the National Park System.

(2) The establishment of the New River Gorge National River has provided the basis for increased recreation and tourism

activities in southern West Virginia due to its nationally recognized status and has greatly contributed to the regional economy.

(3) Certain boundary modifications to the New River Gorge National River are necessary to further protect the scenic resources within the river's visual corridor and to provide for better management of the national park unit.

(4) Several tributaries of the New River in West Virginia also possess remarkable and outstanding features of national significance. The segment of the Gauley River below Summersville Dam has gained national recognition as a premier whitewater recreation resource. The lower section of the Bluestone River and the lower section of the Meadow River possess remarkable and outstanding natural, scenic, and recreational values due to their predominantly undeveloped condition.

(5) Portions of several of the New River tributaries, including segments of the Gauley River, the Meadow River, and the Bluestone River are suitable for inclusion in the National Park System or the National Wild and Scenic Rivers System.

(6) It is in the national interest to preserve the natural condition of certain segments of the New, Gauley, Meadow, and Bluestone Rivers in West Virginia and to enhance recreational opportunities available on the free-flowing segments.

(b) PURPOSE.—The purpose of this Act is to provide for the protection and enhancement of the natural, scenic, cultural, and recreational values on certain free-flowing segments of the New, Gauley, Meadow, and Bluestone Rivers in the State of West Virginia for the benefit and enjoyment of present and future generations.

TITLE I—NEW RIVER GORGE NATIONAL RIVER

SEC. 101. BOUNDARY MODIFICATION.

Section 1101 of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15) is amended by striking out "NERI-20,002, dated July 1978" and substituting "NERI-80,023, dated January 1987".

SEC. 102. COOPERATIVE AGREEMENTS WITH STATE.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

16 USC 460m-26.

"SEC. 1113. COOPERATIVE AGREEMENTS WITH STATE.

Law enforcement and crime.

"In administering the national river, the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable or non-reimbursable basis, of rescue, fire fighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.".

SEC. 103. IMPROVEMENT OF ACCESS AT CUNARD.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end thereof:

16 USC 460m-27.

"SEC. 1114. IMPROVEMENT OF ACCESS AT CUNARD.

Real property. Safety.

"(a) DEVELOPMENT AND IMPROVEMENT.—The Secretary shall expeditiously acquire such lands, and undertake such developments and improvements, as may be necessary to provide for commercial and noncommercial access to the river near Cunard. No restriction

shall be imposed on such access based on the time of day, except to the extent required to protect public health and safety.

"(b) INTERIM MEASURES.—Pending completion of the developments and improvements referred to in subsection (a), the Secretary shall permit the motorized towing of whitewater rafts in the section of the national river between Thurmond and Cunard when the volume of flow in the river is less than three thousand cubic feet per second.".

SEC. 104. FLOW MANAGEMENT.

Title XI of the National Parks and Recreation Act of 1978 is amended by adding the following new section at the end:

"SEC. 1115. FLOW MANAGEMENT. 16 USC 460m-28.

"(a) FINDINGS.—The Congress finds that adjustments of flows from Bluestone Lake project during periods of low flow are necessary to respond to the congressional mandate contained in section 1110 of this Act and that such adjustments could enhance the quality of the recreational experience in the segments of the river below the lake during those periods as well as protect the biological resources of the river.

"(b) REPORT TO CONGRESS REQUIRED.—The Secretary of the Army, in conjunction with the Secretary of the Interior, shall conduct a study and prepare a report under this section. The report shall be submitted to the Committee on Energy and Natural Resources of the United States Senate and the Committee on Interior and Insular Affairs of the United States House of Representatives not later than December 31, 1989. Before submission of the report to these Committees, a draft of the report shall be made available for public comment. The final report shall include the comments submitted by the Secretary of the Interior and the public, together with the response of the Secretary of the Army to those comments. Public information.

"(c) CONTENTS OF STUDY.—The study under this section shall examine the feasibility of adjusting the timing of daily releases from Bluestone Lake project during periods when flows from the lake are less than three thousand cubic feet per second. The purpose of such adjustment shall be to improve recreation (including, but not limited to, fishing and whitewater recreation) in the New River Gorge National River. Any such adjustments in the timing of flows which are proposed in such report shall be consistent with other project purposes and shall not have significant adverse effects on fishing or on any other form of recreation in Bluestone Lake or in any segment of the river below Bluestone Lake. The study shall assess the effects of such flow adjustments on the quality of recreation on the river in the segments of the river between Hinton and Thurmond and between Thurmond and the downstream boundary of the New River Gorge National River, taking into account the levels of recreational visitation in each of such segments. Fish and fishing.

"(d) TEST PROCEDURES.—As part of the study under this section, the Secretary of the Army shall conduct test releases from Bluestone Lake project during twenty-four-hour periods during the summer of 1989 when flows are less than three thousand cubic feet per second from the project. All such adjustments shall conform to the criteria specified in subsection (c). The tests shall provide adjustments in the timing of daily flows from Bluestone Lake project which permit flows higher than the twenty-four-hour average to reach downstream recreational segments of the river during morning and afternoon hours. The tests shall develop specific data on the

effects of flow adjustments on the speed of the current and on water surface levels in those segments. No test shall be conducted when flows from the lake are less than one thousand seven hundred cubic feet per second and no test shall reduce flows below that level.".

SEC. 105. VISITOR FACILITY.

Title XI of the National Parks and Recreation Act of 1978 (16 U.S.C. 460m-15 and following) is amended by adding the following new section at the end thereof:

16 USC 460m-29.

"SEC. 1116. GLADE CREEK VISITOR FACILITY.

Public information.

"In order to provide for public use and enjoyment of the scenic and natural resources of the New River Gorge National River and in order to provide public information to visitors with respect to the national river and associated State parklands, the Secretary is authorized and directed to construct a scenic overlook and visitor information facility at a suitable location accessible from Interstate 64 in the vicinity of Glade Creek within the boundary of the national river. There is authorized to be appropriated such sums as may be necessary to carry out construction (including all related planning and design) of the scenic overlook and visitor information facility.".

Appropriation authorization.

TITLE II—GAULEY RIVER NATIONAL RECREATION AREA

16 USC 460ww.

SEC. 201. ESTABLISHMENT.

(a) IN GENERAL.—In order to protect and preserve the scenic, recreational, geological, and fish and wildlife resources of the Gauley River and its tributary, the Meadow River, there is hereby established the Gauley River National Recreation Area (hereinafter in this Act referrred to as the "recreation area").

(b) AREA INCLUDED.—The recreation area shall consist of the land, waters, and interests therein generally depicted on the boundary map entitled "Gauley River National Recreation Area", numbered NRA-GR/20,000A and dated July 1987 and on the boundary map depicting the Meadow River, numbered WSR-MEA/20,000A and dated July 1988. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Public information.

Reports.

(c) BOUNDARY MODIFICATIONS.—Within five years after the enactment of this Act, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate a report containing any boundary modifications which the Secretary recommends, together with the reasons therefor.

16 USC 460ww-1.

SEC. 202. ADMINISTRATION.

(a) IN GENERAL.—The recreation area shall be administered by the Secretary in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (16 U.S.C. 1-4).

(b) HUNTING AND FISHING; FISH STOCKING.—The Secretary shall permit hunting, trapping and fishing on lands and waters within the recreation area in accordance with applicable Federal and State

laws. The Secretary may, after consultation with the State of West Virginia Department of Natural Resources, designate zones where, and establish periods when, such activities will not be permitted for reasons of public safety, administration, fish and wildlife habitat or public use and enjoyment subject to such terms and conditions as he deems necessary in the furtherance of this Act. The Secretary shall permit the State of West Virginia to undertake or continue fish stocking activities carried out by the State in consultation with the Secretary on waters within the boundaries of the recreation area. Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of West Virginia with respect to fish and wildlife

Safety.

(c) COOPERATIVE AGREEMENTS WITH STATE.—In administering the recreation area the Secretary is authorized to enter into cooperative agreements with the State of West Virginia, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and fire preventive agencies.

Law enforcement and crime.

(d) APPLICATION OF OTHER PROVISIONS.—The provisions of section 7(a) of the Act of October 2, 1968 (16 U.S.C. 1278(a)), shall apply to the recreation area in the same manner and to the same extent as such provisions apply to river segments referred to in such provisions.

(e) RECREATIONAL ACCESS.—

(1) EXISTING PUBLIC ROADS.—The Secretary may enter into a cooperative agreement with the State of West Virginia under which the Secretary shall be authorized to maintain and improve existing public roads and public rights-of-way within the boundaries of the national recreation area to the extent necessary to facilitate and improve reasonable access to the recreation area at existing access points where such actions would not unreasonably diminish the scenic and natural values of the area.

Contracts.

(2) FACILITIES ADJACENT TO DAM.—In order to accommodate visitation to the recreation area, the Secretary shall construct such facilities as necessary to enhance and improve access, vehicle parking and related facilities, and provide river access for whitewater recreation and for other recreational activities, immediately downstream of the Summersville Dam, to the extent that such facilities are not provided pursuant to section 205 and such facilities are within the boundaries of the recreation area. Such construction shall be subject to the memorandum of understanding referred to in subsection (f).

(3) OTHER LOCATIONS.—In addition, in order to provide reasonable public access and vehicle parking for public use and enjoyment of the recreation area, consistent with the preservation and enhancement of the natural and scenic values of the recreation area, the Secretary may, with the consent of the owner thereof, acquire such lands and interests in lands to construct such parking and related facilities at other appropriate locations outside the boundaries of, but within one mile of the recreation area as may be necessary and appropriate. Any such lands shall be managed in accordance with the management provisions for the recreation area as defined in subsection (a).

(f) PROPERTIES AND FACILITIES OF FEDERAL AGENCIES.—After consultation with any other Federal agency managing lands and waters within or contiguous to the recreation area, the Secretary shall

enter into a memorandum of understanding with such other Federal agency to identify those areas within the recreation area which are (1) under the administrative jurisdiction of such other agency; (2) directly related to the operation of the Summersville project; and (3) essential to the operation of such project. The memorandum of understanding shall also include provisions regarding the management of all such lands and waters in a manner consistent with the operation of such project and the management of the recreation area.

16 USC 460ww-2. Gifts and property.

SEC. 203. MISCELLANEOUS.

(a) LANDS AND WATERS.—The Secretary may acquire lands or interests in lands within the boundaries of the recreation area by donation, purchase with donated or appropriated funds, or exchange. When any tract of land is only partly within such boundaries, the Secretary may acquire all or any portion of the land outside of such boundaries in order to minimize the payment of severance costs.

(b) JURISDICTION.—Lands, waters and interests therein within the recreation area which are administered by any other agency of the United States and which are not identified under section 202 as directly related to the Summersville project and essential to the operation of that project shall be transferred without reimbursement to the administrative jurisdiction of the Secretary.

(c) PROTECTION OF EXISTING PROJECT.—Nothing in this Act shall impair or affect the requirements of section 1102 of Public Law 99-662 or otherwise affect the authorities of any department or agency of the United States to carry out the project purposes of the Summersville project, including recreation. In releasing water from such project, in order to protect public health and safety and to provide for enjoyment of the resources within the recreation area, other departments and agencies of the United States shall cooperate with the Secretary to facilitate and enhance whitewater recreational use and other recreational use of the recreation area.

16 USC 460ww-3.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated such sums as may be necessary to carry out the purpose of this title.

16 USC 460ww-4. Dams.

SEC. 205. SPECIAL CONDITIONS.

(a) NEW PROJECT CONSTRUCTION.—If, after the enactment of this Act, any department, agency, instrumentality or person commences construction of any dam, water conduit, reservoir, powerhouse, transmission line or other project at or in conjunction with the Summersville project, the department, agency, instrumentality or other person which constructs or operates such new project shall comply with such terms and conditions as the Secretary deems necessary, in his discretion, to protect the resources of the recreation area, including such terms and conditions as the Secretary deems necessary to ensure that such new project will not adversely affect whitewater recreation and other recreation activities during or after project construction.

(b) ADVERSE EFFECTS ON THE RECREATION AREA.—If any such new project referred to in subsection (a) will create a direct, physical, adverse effect on access to the recreation area immediately downstream of the Summersville Dam during or after project construction, including vehicle parking, related facilities, and river access for

whitewater recreation and other recreational use of the recreation area, the department, agency, instrumentality or person constructing such project shall replace and enhance the adversely affected facilities in such manner as may be appropriate to accommodate visitation, as determined by the Secretary.

(c) NEW PROJECT PERMITS.—The terms and conditions referred to in this section shall be included in any license, permit, or exemption issued for any such new project. Any such new project shall be subject to all provisions of this Act, including section 202(d), except that during the four-year period after the enactment of this Act, nothing in this Act shall prohibit the licensing of a project adjacent to Summersville Dam as proposed by the city of Summersville, or by any competing project applicant with a permit or license application on file as of August 8, 1988, if such project complies with this section. If such project is licensed within such four-year period, the Secretary shall modify the boundary map referred to in section 201 to relocate the upstream boundary of the recreation area along a line perpendicular to the river crossing the point five hundred and fifty feet downstream of the existing valve house and one thousand two hundred feet (measured along the river bank) upstream of United States Geological Survey Gauge Numbered 03189600, except in making the modification the Secretary shall maintain within the boundary of the recreation area those lands identified in the boundary map referred to in section 201 which are not necessary to the operation of such project.

SEC. 206. ADVISORY COMMITTEE. 16 USC 460ww-5.

(a) ESTABLISHMENT.—There is hereby established the Gauley River National Recreation Area Advisory Committee (hereinafter in this Act referred to as the "Advisory Committee"). The Advisory Committee shall be composed of fifteen members appointed by the Secretary to serve for terms of two years. Any member of the Advisory Committee may serve after the expiration of his term until a successor is appointed. Any member of the Advisory Committee may be appointed to serve more than one term. The Secretary or his designee shall serve as Chairman.

(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, or his designee, shall meet on a regular basis and consult with the Advisory Committee on matters relating to development of a management plan for the recreation area and on implementation of such plan.

(c) EXPENSES.—Members of the Advisory Committee shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(d) MEMBERSHIP.—The Secretary shall appoint members to the Advisory Committee as follows:

(1) one member to represent other departments or agencies of the United States administering lands affected by the recreation area, to be appointed from among persons nominated by the head of such department or agency;

(2) two members to represent the State Department of Natural Resources, to be appointed from among persons nominated by the Governor of the State of West Virginia;

(3) one member to represent the State Department of Commerce to be appointed from among persons nominated by the Governor of West Virginia;

(4) three members to represent the commercial whitewater rafting industry in West Virginia;

(5) one member to represent noncommercial whitewater boating organizations;

(6) one member to represent conservation organizations in West Virginia;

(7) one member to represent individuals engaged in game fishing in West Virginia;

(8) one member to represent the Nicholas County Chamber of Commerce;

(9) one member to represent the Fayette County Chamber of Commerce;

(10) one member to represent recreational users of Summersville Lake; and

(11) two members to represent local citizens or citizens groups which are concerned with the Gauley River or own lands included within the boundaries of the recreation area.

(e) TERMINATION; CHARTER.—The Advisory Committee shall terminate on the date ten years after the enactment of this Act notwithstanding the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776). The provisions of section 14(b) of such Act (relating to the charter of the Committee) are hereby waived with respect to this Advisory Committee.

TITLE III—BLUESTONE NATIONAL SCENIC RIVER

SEC. 301. DESIGNATION OF LOWER BLUESTONE RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) BLUESTONE, WEST VIRGINIA.—The segment in Mercer and Summers Counties, West Virginia, from a point approximately two miles upstream of the Summers and Mercer County line down to the maximum summer pool elevation (one thousand four hundred and ten feet above mean sea level) of Bluestone Lake as depicted on the boundary map entitled 'Bluestone Wild and Scenic River', numbered WSR-BLU/20,000, and dated January 1987; to be administered by the Secretary of the Interior as a scenic river. In carrying out the requirements of subsection (b) of this section, the Secretary shall consult with State and local governments and the interested public. The Secretary shall not be required to establish detailed boundaries of the river as provided under subsection (b) of this section. Nothing in this Act shall preclude the improvement of any existing road or right-of-way within the boundaries of the segment designated under this paragraph. Jurisdiction over all lands and improvements on such lands owned by the United States within the boundaries of the segment designated under this paragraph is hereby transferred without reimbursement to the administrative jurisdiction of the Secretary of the Interior, subject to leases in effect on the date of enactment of this paragraph (or renewed thereafter) between the United States and the State of West Virginia with respect to the Bluestone State Park and the Bluestone Public Hunting and Fishing Area. Nothing in this Act shall affect the management by the State of hunting and fishing within the segment designated under this paragraph. Nothing in this Act shall affect or impair the management by the State of West Virginia of other wildlife activities in the Bluestone Public Hunting and Fishing Area to the extent permitted

in the lease agreement as in effect on the enactment of this paragraph, and such management may be continued pursuant to renewal of such lease agreement. If requested to do so by the State of West Virginia, the Secretary may terminate such leases and assume administrative authority over the areas concerned. Nothing in the designation of the segment referred to in this paragraph shall affect or impair the management of the Bluestone project or the authority of any department, agency, or instrumentality of the United States to carry out the project purposes of that project as of the date of enactment of this paragraph. Nothing in this Act shall be construed to affect the continuation of studies relating to such project which were commenced before the enactment of this paragraph.".

TITLE IV—GENERAL PROVISIONS

16 USC 460m-15 note.

SEC. 401. COORDINATION AMONG RECREATIONAL RESOURCES.

Subject to existing authority, the Secretary of the Interior shall cooperate with, and assist, any regional authority comprised of representatives of West Virginia State authorities and local government authorities in or any combination of the foregoing Nicholas, Fayette, Raleigh, Summers, Greenbrier, and Mercer Counties, West Virginia, for the purposes of providing for coordinated development and promotion of recreation resources of regional or national significance which are located in southern West Virginia and management by State or Federal agencies, including State, local and National Park System units, State and National Forest System units, and historic sites.

16 USC 460m-15 note.
Contracts.

SEC. 402. SPECIAL PROVISIONS.

Subject to his responsibilities to protect the natural resources of the National Park System, the Secretary of the Interior shall enter into a cooperative agreement with the State of West Virginia providing for the State's regulation, in accordance with State law, of persons providing commercial recreational watercraft services on units of the National Park System and components of the National Wild and Scenic Rivers System subject to this Act.

16 USC 1274 note.

SEC. 403. PUBLIC AWARENESS PROGRAM.

The Secretary of the Interior shall establish a public awareness program to be carried out in Mercer, Nicholas, and Greenbrier Counties, West Virginia, in cooperation with State and local agencies, landowners, and other concerned organizations. The program shall be designed to further public understanding of the effects of designation as components of the National Wild and Scenic Rivers System of segments of the Bluestone and Meadow Rivers which were found eligible in the studies completed by the National Park Service in August 1983 but which were not designated by this Act as units of such system. By December 31, 1992, the Secretary shall submit a report to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate describing the program undertaken pursuant to this section. Section 7(b) of the Wild and Scenic Rivers Act shall continue to apply to the segments subject to this section until December 31, 1992.

Reports.

Termination date.

16 USC 460m-15 note.

SEC. 404. CONSOLIDATED MANAGEMENT.

In order to achieve the maximum economy and efficiency of operations in the administration of the National Park System units established or expanded pursuant to this Act, the Secretary shall consolidate offices and personnel administering all such units to the extent practicable and shall utilize the existing facilities of the New River Gorge National River to the extent practicable.

16 USC 460m-15 note.

SEC. 405. NEW SPENDING AUTHORITY SUBJECT TO APPROPRIATIONS.

Any new spending authority which is provided under this Act shall be effective for any fiscal year only to the extent or in such amounts as provided in appropriation Acts.

TITLE V—TECHNICAL CHANGE TO WILD AND SCENIC RIVERS ACT

SEC. 501. ACREAGE LIMITATIONS.

Notwithstanding the provisions of section 501(b)(1)(B) of Public Law 99-590, section 3(b) of the Wild and Scenic River Act (16 U.S.C. 1274(b)) is amended to read as follows:

"(b) The agency charged with the administration of each component of the national wild and scenic rivers system designated by subsection (a) of this section shall, within one year from the date of designation of such component under subsection (a) (except where a different date if provided in subsection (a)), establish detailed boundaries therefor (which boundaries shall include an average of not more than 320 acres of land per mile measured from the ordinary high water mark on both sides of the river); and determine which of the classes outlined in section 2, subsection (b), of this Act best fit the river or its various segments.

Federal Register, publication.

"Notice of the availability of the boundaries and classification, and of subsequent boundary amendments shall be published in the Federal Register and shall not become effective until ninety days after they have been forwarded to the President of the Senate and the Speaker of the House of Representatives.".

Approved October 26, 1988.

LEGISLATIVE HISTORY—H.R. 900:

HOUSE REPORTS: No. 100-106 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-481 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): May 27, considered and passed House.
Vol. 134 (1988): Sept. 8, considered and passed Senate, amended.
Oct. 3, 4, House concurred in Senate amendment with an amendment.
Oct. 7, Senate concurred in House amendment.

Public Law 100-535
100th Congress

An Act

To direct the Secretary of the Interior to convey a certain parcel of land located near Ocotillo, California.

Oct. 28, 1988
[H.R. 990]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) the Secretary of the Interior shall convey, without consideration, to Imperial Valley College Barker Museum of El Centro, California, all right, title, and interest of the United States in and to the parcel of real property located near Ocotillo, California, and described in subsection (b). It is intended that such parcel be used for the purpose of constructing and maintaining a public museum.

Imperial Valley College Barker Museum Land Transfer Act of 1988.

(b) Lands to be conveyed pursuant to this Act are the lands generally depicted on the map entitled "Transfer to Imperial Valley College Barker Museum", dated August 1986 and available for inspection in the office of the California State Director, Bureau of Land Management.

(c) The lands conveyed under this Act shall continue to be reserved, maintained, and utilized for public park (including museum) and recreational purposes. If any of such lands is used for any other purpose, the title to such land, together with all improvements thereon, shall revert to the United States.

National parks, monuments, etc. Recreation.

(d) This Act may be cited as the "Imperial Valley College Barker Museum Land Transfer Act of 1988".

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 990:

HOUSE REPORTS: No. 100-20 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-180 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Mar. 10, considered and passed House.
Dec. 21, considered and passed Senate, amended.
Vol. 134 (1988): Oct. 6, House concurred in Senate amendment with an amendment.
Oct. 7, Senate concurred in House amendment.

○

Public Law 100-536
100th Congress

An Act

Oct. 28, 1988
[H.R. 4209]

To authorize appropriations to carry out title I of the Marine Protection, Research, and Sanctuaries Act of 1972 during fiscal years 1989, 1990, and 1991.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 111 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1420) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 111. There are authorized to be appropriated, for purposes of carrying out this title, not to exceed $12,000,000 for each of fiscal years 1989, 1990, and 1991.".

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 4209 (S. 2761):

SENATE REPORTS: No. 100-595 accompanying S. 2761 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 100-537
100th Congress

An Act

To improve the management of certain public lands in the State of Michigan.

Oct. 28, 1988
[H.R. 4375]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Michigan Public Lands Improvement Act of 1988.

SECTION 1. SHORT TITLE; FINDINGS AND PURPOSES; DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Michigan Public Lands Improvement Act of 1988".

(b) FINDINGS.—Congress hereby finds and declares that—

(1) within the State of Michigan there are a number of small scattered islands and upland tracts that are in Federal ownership and under the jurisdiction of the Bureau of Land Management;

(2) the public interest would be best served if these Federal islands and upland tracts continue to be managed for public recreation; preservation of open space; and for the protection of their fish, wildlife, and plants and their scientific, historic, cultural, geologic, and other resources and values;

(3) many such islands and upland tracts are not suitable for inclusion in the National Park System, National Forest System, National Wildlife Refuge System, or other Federal conservation system or for efficient management by the Bureau of Land Management;

(4) the State of Michigan is prepared and willing to undertake to manage such islands and upland tracts for such purposes and subject to appropriate conditions, but existing mechanisms for enabling the State to undertake such management are cumbersome and inefficient as applied to such small, scattered islands and tracts;

(5) elsewhere in Michigan there are unpatented lands which for many years have been in the possession of parties other than the United States but the title to which is clouded because of claims arising under public land laws or otherwise involving possible Federal residual interests;

(6) existing authorities for Federal resolution of such conflicts, and for removal of such clouds on title, are often not well suited for efficient, expeditious action that appropriately protects the interests of all parties, including the United States; and

(7) legislation to facilitate appropriate management by the State of such islands and upland tracts and to facilitate resolution of such claims and removal of such clouds would be in the public interest and would be a suitable recognition of the completion of Michigan's one hundred and fiftieth year of statehood.

(c) PURPOSES.—This Act is intended to provide for better management of public lands located in the State of Michigan by—

(1) transferring certain specified unclaimed islands and uplands and certain other public lands to such State for purposes

of public recreation, protection of fish, wildlife, and plants, and the protection of resources and values; and

Claims.

(2) authorizing the Secretary of the Interior to resolve claims to certain other public lands in Michigan and to transfer such lands to claimants thereof on terms that recognize the equities of such claimants in such lands.

(d) DEFINITIONS.—As used in this Act—

(1) the term "listed uplands and islands" means those vacant, unappropriated, and unreserved public lands located in the State of Michigan which are specified in the list entitled "Michigan Uplands and Islands Appropriate for State Management" dated June 1988, on file in the Office of the Secretary of the Interior;

(2) the term "public lands" has the same meaning as specified in section 103(e) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1702(e));

(3) the term "claim" means an assertion by a party other than the United States that such party has title to a parcel or tract of land;

(4) the term "Recreation and Public Purposes Act" means the Act of June 14, 1926, as amended (43 U.S.C. 869 et seq.);

(5) the term "Secretary" means the Secretary of the Interior; and

(6) the term "State" means the State of Michigan.

SEC. 2. GRANT TO STATE.

(a) UNCLAIMED AREAS.—Effective one hundred and eighty days after the date of enactment of this Act and subject to its terms and conditions, the right, title, and interest of the United States in and to all listed uplands and islands, surveyed and unsurveyed, in the Great Lakes, inland lakes and rivers, and other bodies of water within the State which as of January 1, 1988, were not subject to any claim identified on the records of the Bureau of Land Management, are hereby granted to the State.

(b) CLAIMED AREAS.—Any listed uplands and islands which were subject to a claim identified on the records of the Bureau of Land Management on January 1, 1988, may be sold by the Secretary to the claimant or claimants thereof under section 3 of this Act. No later than one hundred and eighty days after the date of enactment of this Act, the Secretary shall notify such claimant or claimants concerning the Secretary's authority for such sales. The right, title, and interest of the United States in and to any such listed uplands and islands not purchased by such claimant or claimants within ten years after the date of enactment of this Act shall be transferred by the Secretary to the State under and subject to this Act at the end of such ten years, and any claim to any such listed uplands and islands by any party other than the State shall not thereafter be enforceable in any court of the United States.

(c) PRIOR TRANSFERS.—

(1) Title to the surface estate in all public land which on the date of enactment of this Act was subject to leases issued under the authority of the Recreation and Public Purposes Act to the State, its departments, agencies, and bureaus, shall be deemed to have been granted to and vested in the State under this Act on such date and shall thereafter be exempt from the requirements of the regulations of the Department of the Interior

governing leases under the Recreation and Public Purposes Act, but shall be subject to the provisions of this Act.

(2) Upon reversion and acceptance of public land in Michigan which prior to the date of enactment of this Act was leased or patented under the Recreation and Public Purposes Act to entities other than the State, its departments, agencies, and bureaus, the surface estate in such lands shall be transferred by the Secretary to the State pursuant to and subject to the provisions of this Act.

(3) If, in order to bring lands under the provisions of this Act, the State notifies the Secretary that the State desires to relinquish to the United States the right, title, and interest of the State in and to any lands which prior to the date of enactment of this Act were patented to the State (or to any department, agency, or bureau of the State) under the authority of the Recreation and Public Purposes Act, the Secretary shall transfer such relinquished lands to the State under and subject to the provisions of this Act. Such transfer shall be effective at the same time that the State's relinquishment is effective.

SEC. 3. RESOLUTION OF CLAIMS.

Patents and trademarks.

(a) SALES.—In accordance with the provisions of this section, the Secretary is authorized to sell and issue a patent to a tract of public land located in Michigan to an applicant for such sale where the Secretary determines that—

(1) such tract does not exceed one thousand five hundred acres and, because of its location or other characteristics, is difficult and uneconomic to manage as part of the public lands and is not suitable for management by another Federal department or agency, and

(2) such sale would not be inconsistent with land use plans developed in accordance with section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712).

(b) PRICE ADJUSTMENTS.—Notwithstanding any other provision of law, following adjudication of any claims the Secretary may, at the Secretary's discretion, convey land pursuant to this section at fair market value, less equities presented by an applicant for such conveyance and less the value of any improvements that the applicant or the applicant's predecessors in interest have placed on the land. Such equities may include (but are not limited to)—

(1) the amount paid for the land by the applicant;

(2) longevity of applicant's claim;

(3) taxes paid on the land; and

(4) other equities as the Secretary may determine relevant.

(c) DESCRIPTIONS.—Any tract of public land conveyed pursuant to this section shall be described in accordance with the Public Land Survey System as reflected on the approval Federal plat of survey. Where a tract does not conform to an existing survey plat, the Secretary may either—

(1) convey title to a trustee, qualified under the laws of the State to act as a trustee and acceptable to the Secretary, acting on behalf of more than one applicant to whom such trustee shall be required to transfer such tract, in order to conform the legal description to such plat; or

(2) require an applicant to reimburse the United States for the cost of preparing a plat of survey.

No costs incurred by a trustee in implementing this subsection shall be borne by the United States.

(d) APPLICABILITY AND PROCEDURE.—

(1) This section shall apply only to tracts specified in section 2(b) of this Act and to other tracts of public lands in Michigan whose sale is requested by persons or entities asserting claims thereto.

(2) No sale under this section shall take place before thirty days after the Secretary has published in a newspaper of general circulation in the county where a tract proposed for sale is located a notice of the Secretary's determination that such tract is eligible for sale under this section and that the Secretary intends to offer such tract for sale. Such notice shall indicate the size and general location of the tract and the name or names of the claimant or claimants to whom the Secretary intends to sell such tract.

SEC. 4. RESERVATIONS AND CONDITIONS.

(a) MINERAL RESERVATION.—All lands granted by, and any patent or document of conveyance or other transfer issued pursuant to, this Act shall be subject to the reservations to the United States of all minerals in the lands granted, conveyed, or otherwise transferred, together with the right to prospect for, mine, and remove the minerals under applicable law and such regulations as the Secretary may prescribe, except that in the case of sales under section 3 of this Act the Secretary may convey the minerals together with the surface in accordance with section 209 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1719).

(b) OTHER CONDITIONS.—

(1) The lands granted or otherwise transferred to the State under this Act shall not be conveyed or otherwise transferred by the State to any person or entity other than a political subdivision of the State.

Recreation.
Environmental protection.

(2) The lands granted or otherwise transferred to the State under this Act shall be used only for purposes of—

(A) public recreation;

(B) protection of fish and wildlife (including habitat) and plants; or

(C) the protection of the scenic, scientific, historic, cultural, geologic, and other resources and values of such lands.

(3)(A) If the State attempts to convey or otherwise transfer title to any part of the lands granted or otherwise transferred to the State under this Act to any person or entity other than a political subdivision of the State, all right, title, and interest in and to all such lands so granted or otherwise transferred to the State, together with all improvements thereon, shall revert to the United States.

(B) If any political subdivision of the State attempts to convey or otherwise transfer title to any part of any lands granted or otherwise transferred to the State under this Act (and conveyed or otherwise transferred to such subdivision by the State) to any person or entity other than the State, all right, title, and interest in and to all such lands so conveyed or otherwise transferred to such subdivision, together with all improvements thereon, shall revert to the United States.

(4)(A) If any part of the lands granted or otherwise transferred to the State under this Act (and not further conveyed or otherwise transferred by the State to a political subdivision thereof) are used for any purpose incompatible with the purposes specified in paragraph (2) of this subsection, all right, title, and interest in and to all such lands in the ownership of the State, together with all improvements thereon, shall revert to the United States.

(B) If any of the lands granted or otherwise transferred to the State under this Act are conveyed or otherwise transferred by the State to a political subdivision of the State, use of part of any such lands for any purpose incompatible with the purposes specified in paragraph (2) of this subsection shall cause all right, title, and interest in and to all such lands to conveyed or otherwise transferred to such political subdivision, together with all improvements thereon, to revert to the United States.

SEC. 5. NOTICE AND ENFORCEMENT.

(a) PUBLIC NOTICE.—

(1) As soon as practicable after the date of enactment of this Act, the Secretary, in consultation with appropriate officials of the State, shall take steps to notify residents of the State as to the nature and location of the listed uplands and islands to be granted or otherwise transferred to the State under this Act.

(2)(A) The State shall provide notice in writing to the Secretary with regard to any conveyance or other transfer by the State to a political subdivision thereof of any of the lands granted or otherwise transferred to the State under this Act. In the event that the State fails to provide such notice within one year after any such conveyance or transfer, such conveyance or transfer by the State shall be void ab initio and all right, title, and interest in and to the land covered by such attempted conveyance or transfer shall revert to the United States.

(B) No later than five years after the date of enactment of this Act, and every five years thereafter, the State shall submit to the Secretary a report as to the present ownership, management, and use of the lands granted or otherwise transferred to the State pursuant to this Act. Reports.

(3) The Secretary shall maintain in the Secretary's offices in the District of Columbia and in an appropriate office in the State a current listing of the lands granted or otherwise transferred to the State under this Act, including a record of which if any of such lands have been conveyed or otherwise transferred by the State to a political subdivision thereof. Records.

(b) ENFORCEMENT.—

(1) Any person may submit to the Secretary a complaint alleging that the State or a political subdivision thereof has failed to comply with the requirements of this Act or that actions have occurred which have had the effect of causing the reversion to the United States of some or all of the lands granted or otherwise transferred to the State under this Act.

(2) In the event that the Secretary determines that a complaint received under this subsection is supported by evidence sufficient to warrant further investigation, the Secretary shall investigate the matter.

(3) If, as a result of an investigation under paragraph (2) or for any other reason, the Secretary determines that title to some or

all of the lands granted or otherwise transferred to the State under this Act has reverted to the United States pursuant to this Act, the Secretary shall take all necessary steps to enforce such reversion and to stop use of any part of such lands for any purpose incompatible with the purposes specified in section 4(b)(2) of this Act.

(4) Any lands which may revert to the United States under this Act shall be retained and managed by the Secretary for the purposes specified in section 4(b)(2) of this Act.

SEC. 6. HUNTING AND FISHING.

Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the State of Michigan with respect to fish and wildlife (including the regulation of hunting, fishing, and trapping) in any lands granted or otherwise transferred to the State under this Act.

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 4375:

HOUSE REPORTS: No. 100-758 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-537 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 11, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 100-538
100th Congress

An Act

To designate the Federal Building at Spring and High Streets in Columbus, Ohio, as the "John W. Bricker Federal Building".

Oct. 28, 1988
[H.R. 4410]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal Building located at 200 North High Street, Columbus, Ohio, shall be known and designated as the "John W. Bricker Federal Building".

SEC. 2. REFERENCE.

Any reference in a law, map, regulation, document, record, or other paper of the United States to that building shall be deemed to be a reference to the "John W. Bricker Federal Building".

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 4410:

HOUSE REPORTS: No. 100-787 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 1, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 100-539
100th Congress

An Act

Oct. 28, 1988
[H.R. 4480]

To change the name of the Pacific Tropical Botanical Garden, a federally chartered organization, to the National Tropical Botanical Garden, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CHANGE OF NAME.

Upon the enactment of this Act, the Pacific Tropical Botanical Garden, created by the Act entitled "An Act to charter by Act of Congress the Pacific Tropical Botanical Garden", approved August 19, 1964 (Public Law 88-449; 78 Stat. 496), shall be known as the "National Tropical Botanical Garden", and any reference in that Act to the Pacific Tropical Botanical Garden shall be deemed to be a reference to the National Tropical Botanical Garden.

SEC. 2. ACTIVITIES PERMITTED IN TERRITORIES AND POSSESSIONS OF THE UNITED STATES.

78 Stat. 498.

Section 7(a) of the Act of August 19, 1964 is amended by adding at the end thereof the following: "For purposes of this subsection, the term 'United States' includes any commonwealth, territory, or possession of the United States.".

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 4480 (S. 2781):

HOUSE REPORTS: No. 100-1034 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 5, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 100-540
100th Congress

An Act

To amend title 46, United States Code, to require alerting and locating equipment on manned uninspected vessels, to provide for exemption of uninspected vessels from certain requirements of that title, and to increase penalties for violations of certain uninspected vessel requirements.

Oct. 28, 1988
[H.R. 4557]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. ALERTING AND LOCATING EQUIPMENT.

(a) IN GENERAL.—Subsection (e) of section 4102 of title 46, United States Code, is amended to read as follows:

"(e) Each manned uninspected vessel operating on the high seas or beyond three nautical miles from the coastline of the Great Lakes shall be equipped with the number and type of alerting and locating equipment, including emergency position indicating radio beacons, prescribed by the Secretary.".

SEC. 2. EXEMPTIONS FROM UNINSPECTED VESSEL REQUIREMENTS.

Section 4103 of title 46, United States Code, is amended—

(1) by inserting "(b)" before "Section"; and

(2) by inserting before subsection (b) (as so designated) the following:

"(a) The Secretary may exempt a vessel from any part of this chapter if, under regulations prescribed by the Secretary (including regulations on special operating conditions), the Secretary finds that—

"(1) good cause exists for granting an exemption; and

"(2) the safety of the vessel and individuals on board will not be adversely affected.".

SEC. 3. PENALTY FOR VIOLATION OF UNINSPECTED VESSEL REQUIREMENTS.

Section 4106 of title 46, United States Code, is amended by striking "$100" and inserting "not more than $5,000".

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 4557:

HOUSE REPORTS: No. 100-967 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 100-541
100th Congress

An Act

Oct. 28, 1988
[H.R. 4777]

To modify the boundary of the Guadalupe Mountains National Park, and for other purposes.

Texas.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOUNDARY MODIFICATION.

The first section of the Act entitled "An Act to provide for the establishment of the Guadalupe Mountains National Park in the State of Texas, and for other purposes" (16 U.S.C. 283) is amended—

(1) by changing "in" after "That" to "(a) In"; and

(2) by adding at the end thereof the following:

Public information.

"(b) The boundary of Guadalupe Mountains National Park is hereby modified to include the area which comprises approximately 10,123 acres as generally depicted on the map entitled 'Boundary Proposal' and dated August 1986, which shall be on file and available for public inspection in the office of the Director of the National Park Service and in the office of the Superintendent of the Guadalupe Mountains National Park.".

SEC. 2. AUTHORIZATION OF APPROPRIATIONS.

(a) PROTECTION OF AREA.—Section 6 of the Act entitled "An Act to provide for the establishment of the Guadalupe Mountains National Park in the State of Texas, and for other purposes" (16 U.S.C. 283) is amended—

16 USC 283e.

(1) by inserting "(a)" after "SEC. 6"; and

(2) by inserting at the end thereof the following:

"(b) In addition to amounts authorized to be appropriated under subsection (a), there is authorized to be appropriated such sums as may be necessary for the construction of a fence to protect the natural and cultural resources of the area added to Guadalupe Mountains National Park by section 2(b).".

(b) LAND ACQUISITION.—Subsection (a) of section 6 of such Act (as redesignated by subsection (a) of this section) is amended by striking out "sums," and all that follows through "all," and inserting in lieu thereof "sums".

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 4777:

HOUSE REPORTS: No. 100-837 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 100-542
100th Congress

An Act

To expand our national telecommunications system for the benefit of the hearing-impaired and speech-impaired populations, and for other purposes.

Oct. 28, 1988
[H.R. 4992]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Telecommunications Accessibility Enhancement Act of 1988.
40 USC 762 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Telecommunications Accessibility Enhancement Act of 1988".

SEC. 2. DEFINITIONS.

40 USC 762.

As used in this Act—

(1) The term "TDD" means a Telecommunications Device for the Deaf, a machine which employs graphic communications in the transmission of coded signals through the nationwide telecommunications system.

(2) The term "Federal agency" has the meaning given such term by section 3(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(b)).

SEC. 3. FEDERAL TELECOMMUNICATIONS SYSTEM REQUIREMENTS.

40 USC 762a.

(a) ACCESSIBILITY OF TELECOMMUNICATIONS SYSTEMS.—The Administrator of General Services, after consultation with the Architectural and Transportation Barriers Compliance Board, the Interagency Committee on Computer Support of Handicapped Employees, the Federal Communications Commission, and affected Federal agencies, shall, by regulation, take such actions in accordance with this section as may be necessary to assure that the Federal telecommunications system is fully accessible to hearing-impaired and speech-impaired individuals, including Federal employees, for communications with and within Federal agencies.

Regulations.

(b) SPECIFIC REQUIREMENT.—In carrying out subsection (a), the Administrator shall—

(1) provide for the continuation of the existing Federal relay system for users of TDD's;

(2) within 90 days after the date of enactment of this Act, expand such relay system by employing at least one additional operator;

(3) within 180 days after such date of enactment—

(A) conduct, as part of the rulemaking proceeding required by subsection (a), an analysis of modifications to the Federal telecommunications system that the Administrator, in his discretion, determines to be necessary to achieve the objectives of subsection (a); and

(B) submit a report on the results of such analysis to each House of the Congress;

Reports.

(4) within 180 days after completion of such analysis, prescribe the regulations required by subsection (a);

Regulations.

(5) assemble, publish, and maintain a directory of TDD and other devices used by Federal agencies to comply with such regulations, and publish, in Federal agency directories, access numbers of TDD's and such other devices; and

(6) after consultation with the Architectural and Transportation Barriers Compliance Board, adopt the design of a standard logo to signify the presence of a TDD or other device used by a Federal agency to comply with such regulations.

(c) CONGRESSIONAL OVERSIGHT.—The Administrator shall not prescribe the regulation required by subsection (a) before the end of the 90-day period beginning on the date the Administrator submits the report required by subsection (b)(3)(B).

40 USC 762b.

SEC. 4. ADDITIONAL REQUIREMENTS.

(a) SUPPORT FOR RESEARCH.—The Administrator shall, in consultation with the Federal Communications Commission, seek to promote research by Federal agencies, State agencies, and private entities to reduce the cost and improve the capabilities of telecommunications devices and systems that provide accessibility to hearing-impaired and speech-impaired individuals.

(b) PLANNING TO ASSIMILATE TECHNOLOGICAL DEVELOPMENTS.—The Administrator, in planning future alterations to and modifications of the Federal telecommunications system, shall take into account results of the analysis required by section 3(b)(3) and any technological improvements in telecommunications devices and systems that provide accessibility to hearing-impaired and speech-impaired individuals.

40 USC 762c.

SEC. 5. INQUIRY REGARDING INTERSTATE TDD RELAY SYSTEM.

The Federal Communications Commission shall, within 9 months after the date of enactment of this Act, complete its existing inquiry regarding an interstate relay system for users of TDD's.

40 USC 762d.

SEC. 6. TDD INSTALLATION BY CONGRESS.

As soon as practicable, each House of the Congress shall establish a policy under which Members of the House of Representatives and the Senate, as the case may be, may obtain TDD's for use in communicating with hearing-impaired and speech-impaired individuals, and for the use of hearing-impaired and speech-impaired employees.

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 4992 (S. 2221):

HOUSE REPORTS: No. 100-1058, Pt. 1 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-464 accompanying S. 2221 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 10, S. 2221 considered and passed Senate.
Oct. 12, H.R. 4992 considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 100-543
100th Congress

An Act

To designate the United States Courthouse at 620 Southwest Main Street, Portland, Oregon, as the "Gus J. Solomon United States Courthouse".

Oct. 28, 1988
[H.R. 5007]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The United States Courthouse located at 620 Southwest Main Street, Portland, Oregon, shall be known and designated as the "Gus J. Solomon United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Gus J. Solomon United States Courthouse".

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 5007:

HOUSE REPORTS: No. 100-860 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 22, considered and passed House.
Oct. 7, 11, 12, considered and passed Senate, amended; proceedings vitiated and reconsidered and passed Senate.

Public Law 100-544
100th Congress

An Act

Oct. 28, 1988
[H.R. 5066]

To add additional land to the Salt River Pima-Maricopa Indian Reservation in Arizona, and for other purposes.

Public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS AND POLICY.

(a) The Congress hereby finds that—

(1) the Salt River Pima-Maricopa Indian Reservation was established on Federal lands for the purpose of providing a place for members of the Salt River Pima-Maricopa Indian community to live in peace and prosperity with other persons in Arizona;

(2) the use of lands within the Salt River Pima-Maricopa Indian Reservation will be lost to the community through location of a regional freeway if an agreement is reached between the State of Arizona and the Salt River Pima-Maricopa Indian community; and

(3) the State of Arizona will compensate the Bureau of Land Management for land described in section 2 with lands of approximately equivalent value.

(b) The Congress hereby declares that it is the policy of the Congress to expedite these land exchanges and upon transfer of title from the State of Arizona to the Salt River Pima-Maricopa Indian community add this additional land to the Salt River Pima-Maricopa Indian Reservation.

SEC. 2. AUTHORIZATION FOR EXCHANGE.

The Secretary of the Interior is authorized and directed to exchange a tract of land known as Red Mountain located in section 24, township 2 north, range 6 east, Gila and Salt River meridian.

SEC. 3. REVOCATION OF RECLAMATION WITHDRAWALS.

(a) Notwithstanding any other provision of law, in order to facilitate the transfer of certain Federal lands:

(1) Secretarial orders dated July 2, 1902, and February 10, 1906, which withdraw lands in aid of the Salt River project, are hereby revoked on the following described lands:

Lots 7, 9, 11, 13 through 15, and 17 through 29 of section 24, township 2 north, range 6 east, Gila and Salt River meridian.

The effective date of the revocation shall be the date of patent.

(b) Reserving to the Salt River project an easement for electric transmission and distribution lines and access purposes as to a portion of the east half of section 24, township 2 north, range 6 east of the Gila and Salt River meridian, Maricopa County, Arizona, as authorized by virtue of this Act.

Said easement being that portion of the east 300.0 feet of said section 24 lying west of a line extending northerly from a point on the south section line of said section 24 being 51.0 feet west of the southeast corner of said section 24 to a point on the north section line of said section 24 being 129.0 feet west of the northeast corner of said section 24 as hereby referenced and depicted on drawing C-675-439.90. Said easement establishes a priority right of the Salt River Project to the Bureau of Land Management Right of Way Number A.R. 020234.

(c) The United States of America and the Salt River project shall not be liable whatsoever for damages to any lands revoked under section 3(1) of this Act which may be caused by flooding in conjunction with any of the United States or Salt River project existing or future facilities or protective works.

(d) Any future patentee, its heirs, executors, administrators, successors, and assigns shall be held liable to the United States or the Salt River project for damages caused by their activities which alter drainage and adversely affect adjacent lands, project facilities, or protective works of the United States or Salt River project.

(e) Reserving to the United States a right of way for road purposes, as described in the Bureau of Land Management A.R. 020234.

SEC. 4. ADDITION OF LANDS TO THE SALT RIVER PIMA-MARICOPA INDIAN RESERVATION.

The boundary of the Salt River Pima-Maricopa Indian Reservation in Arizona, created by Executive order issued on June 14, 1879, as amended, shall be modified in accordance with the provisions of section 5 of this Act at such time as the reservation acquires title to the lands. Any portion of such boundary established by this Act shall be fixed and permanent and not ambulatory.

SEC. 5. RESERVATION LANDS.

(a) Upon acquisition by the Salt River Pima-Maricopa Indian Community the following lands containing approximately 594 acres lying southerly of the present reservation shall be added to the reservation:

(1) That portion of section 23, township 2 north, range 6 east, Gila and Salt River meridian, Maricopa County, Arizona, described as follows:

Beginning at a witness point on the east line of said section 23, which is south 2 degrees 15 minutes west, 9.58 chains distance from the northeast corner of said section, said point being on the southerly right of way of the Southern Canal as shown on the official Bureau of Land Management plat of the metes-and-bounds survey in section 23, accepted September 26, 1983.

Thence by metes-and-bounds along the southerly right of way of the Southern Canal as shown of said plat,

south 55 degrees 56 minutes west, 3.31 chains, to AP 1;
south 61 degrees 16 minutes west, 4.875 chains, to AP 2;
south 69 degrees 42 minutes west, 3.695 chains, to AP 3;
south 75 degrees 02 minutes west, 4.095 chains, to AP 4;
south 57 degrees 16 minutes west, 3.235 chains, to AP 5;
south 68 degrees 03 minutes west, 9.22 chains, to AP 6;
south 76 degrees 29 minutes west, 8.265 chains, to AP 7;
south 65 degrees 41 minutes west, 6.30 chains, to AP 8;
south 59 degrees 46 minutes west, 2.815 chains, to AP 9;
south 45 degrees 35 minutes west, 29.64 chains, to AP 10;

south 28 degrees 23 minutes west, 18.72 chains, to AP 11;
south 41 degrees 06 minutes west, 88.44 feet to a point;

Thence leave the southerly right of way of the Southern Canal and continue by metes-and-bounds through said section 23.

south 88 degrees 49 minutes 55 seconds east, 418.10 feet;
north 15 degrees 54 minutes 15 seconds east, 662.12 feet;
south 88 degrees 49 minutes 55 seconds east, 675.00 feet;
south 0 degree 34 minutes 46 seconds west, 640.38 feet;
south 88 degrees 49 minutes 55 seconds east, 3,477.03 feet

to a point on the east line of section 23, which is north 0 degree 37 minutes west, 945.29 feet from the southeast corner of section 23;

Thence northerly along the east line of section 23 3,788.97 feet, more or less, to the witness point on the southerly right of way of the Southern Canal and the point of beginning, containing approximately 251 acres, and

(2) Lots 7, 9, 11, 13, 14, 15, 17, 18, 20, 22, and 24, section 24, township 2 north, range 6 east, Gila and Salt River meridian, containing approximately 343 acres and subject to conditions, reservations and easements of section 3 (a), (b), (c), and (d) as authorized by virtue of this Act.

(b) Any lands added to the reservation under this Act shall become a part of the reservation in all respects and upon all the same terms as if such lands had been included in the Executive order issued by the President on June 14, 1879, as amended, except that such lands shall remain tribal lands and shall not be subject to allotment to individual Indians.

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 5066:

HOUSE REPORTS: No. 100-921 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 22, considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 100-545
100th Congress

An Act

To amend title 31 of the United States Code to provide for a transfer of control of the General Accounting Office Building and to improve the administration of the General Accounting Office.

Oct. 28, 1988
[H.R. 5052]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROPERTY MANAGEMENT AUTHORITY OF THE COMPTROLLER GENERAL.

Chapter 7 of title 31, United States Code, is amended by adding at the end thereof the following new subchapter:

"Subchapter VI—Property Management

"§ 781. Authority over the General Accounting Office Building

"(a) The Comptroller General shall have exclusive custody and control over the building located at 441 G Street, N.W., in the District of Columbia, that is generally known as the General Accounting Office Building, including operation, maintenance, protection, alteration, repair, and assignment of space therein. Such custody and control shall also extend to any machinery, equipment, spare parts and tools located in and usable for the operation and maintenance of the General Accounting Office Building. For the purposes of securing approval of any prospectus detailing proposed alterations of the General Accounting Office Building, as required by section 7 of the Public Buildings Act of 1959, as amended (40 U.S.C. 606), the Comptroller General shall perform the functions assigned to the Administrator of General Services by that section.

District of Columbia.

"(b) Upon request of the Comptroller General, the Administrator of General Services shall provide, to the extent resources are available, any necessary services for the protection of the property and persons in the General Accounting Office Building, including the provision of special police, responding to and investigating incidents, and the monitoring of the perimeter security system. Such services may be provided with or without reimbursement as the Comptroller General and the Administrator may agree.

"(c)(1) The Comptroller General is authorized to enter into agreements or contracts to acquire property or services on such terms and conditions and in such a manner as he deems necessary and without regard to section 3709 of the Revised Statutes (41 U.S.C. 5); except that the Comptroller General may not acquire real property unless specifically authorized by law. In exercising the authority granted by this section, the Comptroller General shall obtain full and open competition in accordance with the principles and purposes of the Competition in Contracting Act of 1984.

Contracts.

"(2) To the extent that funds are otherwise available for obligation, agreements or contracts for utility services may be made for periods not exceeding 10 years.

"(3) The Comptroller General may make advance, progress, and other payments which relate to agreements or contracts entered into under authority of this section, without regard to the provisions of section 3324 (a) and (b) of this title.

"§ 782. Leasing of space in the General Accounting Office Building

"The Comptroller General is authorized to lease or otherwise provide space and services within the General Accounting Office Building to persons, both public and private, or to any department, agency or instrumentality of the United States Government upon such terms and conditions as the Comptroller General deems necessary to protect the public interest. The Comptroller General shall establish a rental rate for such leased space equivalent to the prevailing commercial rate for comparable space devoted to a similar purpose in the vicinity of the General Accounting Office Building. Additionally, the Comptroller General may make available, on occasion, or may lease at such rates and on such other terms and conditions as the Comptroller General deems to be in the public interest, auditoriums, meeting rooms, and lobbies of the General Accounting Office Building to persons, firms, or organizations engaged in cultural, educational, or recreational activities (as defined in section 105 of the Public Buildings Cooperative Use Act of 1976 (40 U.S.C. 612a). The Comptroller General will consult with the Administrator of General Services and will give priority to Federal agencies in filling available space within the General Accounting Office Building. Payments for space or services may be made in advance or by way of reimbursement and shall be deposited to a special account and shall be available for expenditure for operation, maintenance, protection, alteration, or repair of the General Accounting Office Building in such amounts as are specified in annual appropriation Acts without regard to fiscal year limitations.

"§ 783. Rules and regulations

"(a) The Comptroller General is authorized to make all needful rules and regulations for the Government of the General Accounting Office Building, and to annex to such rules and regulations such reasonable penalties, within the limits prescribed in subsection (b), as will ensure their enforcement. Such rules and regulations shall be posted and kept posted in a conspicuous place on such Federal property.

Law enforcement and crime.

"(b) Whoever shall violate any rule or regulation promulgated pursuant to subsection (a) shall be fined not more than $500 or imprisoned not more than 6 months, or both.".

SEC. 2. CLERICAL AND CONFORMING AMENDMENTS.

(a) CLERICAL AMENDMENT.—The table of subchapters for chapter 7 of title 31, United States Code, is amended by inserting after the item relating to subchapter V the following new subchapter:

"Subchapter VI—Property Management

"Sec.
"781. Authority over the General Accounting Office Building.
"782. Leasing of space in the General Accounting Office Building.
"783. Rules and regulations.".

(b) CONFORMING AMENDMENTS.—Section 702 of title 31, United States Code, is amended—

(1) by striking out subsection (c); and

(2) by redesignating subsection (d) as subsection (c).

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 5052:

HOUSE REPORTS: No. 100-898, Pt. 1 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 100-546
100th Congress

An Act

Oct. 28, 1988
[H.R. 5325]

To establish a commission to review and make recommendations for the improvement of the Federal crop insurance program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Crop Insurance Commission Act of 1988.
7 USC 1508 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Crop Insurance Commission Act of 1988".

7 USC 1508 note.

SEC. 2. FINDINGS, POLICY, AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Federal crop insurance program was established to promote the national welfare by improving the economic stability of agriculture through a sound and comprehensive system of nationwide crop insurance that would allow the phasing out of disaster payments programs as part of farm price support and income protection programs;

(2) despite recent increases in the acreage covered by Federal crop insurance, the level of farmer participation in the Federal crop insurance program in most agricultural areas is below what the Congress anticipated when the Federal Crop Insurance Act of 1980 (Public Law 96-365) was enacted into law; and

(3) low levels of participation in the Federal crop insurance program, from time to time, have contributed to the need to continue disaster payment programs in response to recurring natural disasters that threaten farmers, crop production, and the food supply of the United States.

(b) STATEMENT OF POLICY.—It is hereby declared to be the policy of the Congress, in order to further the improvement of national farm policy, to determine why the Federal crop insurance program has not developed into a fully effective substitute for ad hoc disaster payment programs.

(c) PURPOSE.—The purpose of this Act is to ensure the thorough review of the Federal crop insurance program and the development of recommendations for such changes as are needed to improve the program so as to lessen, if not eliminate, the need for additional disaster payment programs, and thereby reduce the burden such programs impose on the Federal budget while providing to producers of agricultural commodities more equitable, efficient, and predictable protection from natural disasters.

7 USC 1508 note.

SEC. 3. ESTABLISHMENT OF COMMISSION.

There is hereby established a commission to be known as the Commission for the Improvement of the Federal Crop Insurance Program (in this Act referred to as the "Commission"), which shall review and make recommendations concerning the authorization

and administration of the crop insurance program established under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) (in this Act referred to as the "program"), as provided in section 5.

SEC. 4. MEMBERSHIP OF COMMISSION. 7 USC 1508 note.

(a) IN GENERAL.—The Commission shall be composed of 25 members, 21 of whom shall be voting members and 4 of whom shall be nonvoting members.

(b) VOTING MEMBERS.—The 21 voting members of the Commission shall be the Manager of the Federal Crop Insurance Corporation and 20 other members who shall be appointed by the Secretary, as follows:

(1) APPOINTEES.—Within 30 days after the date of the enactment of this Act, the Secretary shall appoint to the Commission—

(A) 4 individuals who will represent the views of the companies (or managing general agencies which write crop insurance through other companies) that—

(i) have a 1989 reinsurance agreement under the Federal Crop Insurance Act; and

(ii) for the 1987 crop year, wrote the greatest dollar volume of federally reinsured crop insurance;

(B) 2 individuals who will represent the views of companies writing lesser dollar volumes of federally reinsured crop insurance, and 1 of whom will represent the views of the companies writing Federal crop insurance whose primary business is the writing of crop insurance for losses due to hail;

(C) 2 individuals who will represent the views of the 2 largest agencies selling non-reinsured Federal crop insurance;

(D) 2 individuals who will represent the views of national organizations of insurance agents;

(E) 1 individual who will represent the views of the largest national association representing wheat producers;

(F) 1 individual who will represent the views of the largest national association representing corn producers;

(G) 1 individual who will represent the views of the largest national association representing cotton producers;

(H) 1 individual who will represent the views of the largest national association representing soybean producers;

(I) 3 individuals who will represent the views of the 3 largest national general farm organizations; and

(J) 3 individuals who will represent the views of producers of fruits, vegetables, specialty crops, and other crops not specified in subparagraph (E), (F), (G), or (H).

(2) CONSIDERATION OF NOMINATIONS.—

(A) In making appointments under subparagraph (A) of paragraph (1), the Secretary shall consider nominations submitted by the 4 companies described in such subparagraph.

(B) In making appointments under subparagraphs (B), (C), and (D) of paragraph (1), the Secretary shall consider nominations submitted by the organizations and associations representing the insurance companies and agents that participate in the program.

(C) In making appointments under subparagraphs (E), (F), (G), and (H) of paragraph (1), the Secretary shall consider nominations submitted by the 4 associations described in such subparagraphs.

(D) In making appointments under subparagraph (I) of paragraph (1), the Secretary shall consider nominations submitted by the organizations described in such subparagraph.

(E) In making appointments under subparagraph (J) of paragraph (1), the Secretary shall consider nominations submitted by organizations representing producers of the commodities specified in such subparagraph.

(c) NONVOTING MEMBERS.—The 4 nonvoting members of the Commission shall be—

(1) the Chairman of the Committee on Agriculture, Nutrition, and Forestry of the Senate (or the designee of such Chairman), and the ranking minority member of such Committee (or the designee of such minority member); and

(2) the Chairman of the Committee on Agriculture of the House of Representatives (or the designee of such Chairman), and the ranking minority member of such Committee (or the designee of such minority member).

(d) ELECTION OF CO-CHAIRMEN.—At the first Commission meeting, the Commission shall elect 2 members to be the co-chairmen of the Commission, 1 of whom shall be chosen from among members appointed under subparagraph (A), (B), (C), or (D) of subsection (b)(1), and the other of whom shall be chosen from among members appointed under subparagraph (E), (F), (G), (H), (I), or (J) of subsection (b)(1).

(e) VACANCIES.—A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

7 USC 1508 note.

SEC. 5. DUTIES OF COMMISSION.

(a) STUDY OF FEDERAL CROP INSURANCE PROGRAM.—

(1) IN GENERAL.—The Commission shall—

(A) study and determine why participation in the program has not reached the levels anticipated when the Federal Crop Insurance Act of 1980 was enacted;

(B) identify the States and commodities with respect to which the lack of participation in the program is most serious; and

(C) prepare findings and recommendations setting forth means by which—

(i) participation in such program, in such States and throughout the United States, and by producers of the commodities identified under subparagraph (B), may be increased; and

(ii) natural disaster protection for producers of agricultural commodities may be improved.

(2) PARTICULAR AREAS TO BE EXAMINED.—In particular, the Commission shall examine—

(A) the reasons why more producers of agricultural commodities do not participate in the program;

(B) the adequacy of the insurance coverage provided by the program;

(C) the adequacy of the development and use by the Federal Crop Insurance Corporation of yield data in the

program, including the yields used to establish insurance coverage;

(D) the effects of the crop insurance premiums charged such producers on the level of participation in, and the cost of, the program, and the actuarial soundness of such premiums;

(E) the nature and extent of all government subsidies associated with the program;

(F) whether the sales commission rates and Federal payments for services performed by crop insurance companies and agencies are at the proper levels, taking into consideration, among other things, commission rates and payment levels charged in other property insurance programs in which the Federal Government participates;

(G) the efficiency of sales and claims adjustment services provided to such producers who purchase insurance under the program, and the effectiveness of the educational efforts to inform such producers about the program;

(H) the ways in which the provision of Federal crop insurance information and the procedures for obtaining such insurance may be made simpler, more uniform, and stable;

(I) the adequacy of compliance efforts by insurance companies, agencies, and the Federal Crop Insurance Corporation to ensure program integrity;

(J) the extent to which financial institutions require such producers to purchase crop insurance as a prerequisite to making credit available to such producers;

(K) the effect of the crop insurance requirements imposed under section 207 of the Disaster Assistance Act of 1988 (7 U.S.C. 1421 note) on participation in the program;

(L) the feasibility of adopting "premium pools" that would set a single, nationwide "group" premium for each agricultural commodity, including the impact of such pools on the premiums paid by such producers and on government subsidies of premiums charged under the program; and

(M) any other aspect of the program that the Commission determines has an impact on participation in, or the effectiveness of, the program.

(b) INTERIM REPORT.—Not later than April 1, 1989, the Commission shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Secretary of Agriculture (in this Act referred to as the "Secretary") an interim report containing findings and recommendations for immediate administrative improvement in the program, aimed at improving the program in the 1990 sales year.

(c) FINAL REPORT.—Not later than July 1, 1989, the Commission shall submit to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Secretary a report that shall include—

(1) recommendations for legislation including alternative methods for achieving the desired goals;

(2) a status report on the improvement of program administration by the Secretary based on the recommendations contained in the interim report and subsequent findings; and

(3) the findings and recommendations required to be prepared pursuant to subsection (a)(1)(C).

(d) CONTINUED MONITORING OF PROGRAM; MONTHLY REPORTS.—Beginning July 1, 1989, and ending December 31, 1990, the Commission shall continue to monitor the program and shall report on a monthly basis to the Committee on Agriculture, Nutrition, and Forestry of the Senate, the Committee on Agriculture of the House of Representatives, and the Secretary on—

(1) the extent to which the recommendations of the Commission have been implemented; and

(2) the level of participation in the program by producers of agricultural commodities.

7 USC 1508 note.

SEC. 6. TERM OF OFFICE.

Appointment to the Commission shall be for the life of the Commission.

7 USC 1508 note.

SEC. 7. COMPENSATION OF COMMISSION MEMBERS.

Commission members shall not receive pay by reason of their service on the Commission, except that the Commission shall reimburse Commission members for reasonable and necessary travel expenses incurred by such members to carry out the duties and functions of the Commission.

7 USC 1508 note.

SEC. 8. POWERS OF COMMISSION.

(a) HEARINGS.—The Commission may, for the purpose of carrying out this Act, hold such hearings, sit and act at such times and places, take such testimony, and receive such information, as the Commission considers appropriate.

(b) OBTAINING OFFICIAL INFORMATION.—Subject to other law, the Commission may secure directly from any department or agency of the United States information necessary to enable the Commission to carry out the duties and functions of the Commission under this Act. On joint request of the co-chairmen of the Commission, the head of such department or agency shall furnish such information to the Commission.

(d) USE OF OTHER FEDERAL PERSONNEL AND SUPPORT SERVICES.—The head of each executive agency and the General Accounting Office shall furnish the Commission such personnel and support services as the head of such agency or Office, as the case may be, and the co-chairmen of the Commission agree are necessary to assist the Commission to carry out the duties and functions of the Commission under this Act. The Commission shall not be required to pay or reimburse such agency or Office for personnel and support services provided under this subsection.

(e) INAPPLICABILITY OF FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Commission.

(f) EXPERTS AND CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Commission may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(g) LEASING OF OFFICE SPACE.—The Commission may lease office space in the District of Columbia.

SEC. 9. DIRECTOR AND STAFF OF COMMISSION. 7 USC 1508 note.

(a) APPOINTMENT.—Subject to such rules as may be prescribed by the Commission, the co-chairmen of the Commission may jointly appoint a staff director and such additional personnel as such co-chairmen agree are necessary to assist the Commission to carry out the duties and functions of the Commission.

(b) COMPENSATION.—Subject to such rules as may be prescribed by the Commission, the co-chairmen of the Commission may jointly fix the compensation of the staff director at a rate not to exceed the rate of basic pay payable for level IV of the Executive Schedule, and the compensation of additional personnel at a rate not to exceed the maximum rate of basic pay payable for GS-16 of the General Schedule.

(c) INAPPLICABILITY OF CERTAIN CIVIL SERVICE LAWS.—The Director and staff of the Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

SEC. 10. RULES GOVERNING COMMISSION MEETINGS. 7 USC 1508 note.

(a) QUORUM.—11 Commission members with the right to vote at Commission meetings shall constitute a quorum. Any number of Commission members may hold hearings and receive reports but only if such proceedings are conducted by a co-chairman of the Commission.

(b) INITIAL MEETING.—Within 60 days after the date of the enactment of this Act, the Secretary or the delegate of the Secretary shall conduct the first Commission meeting.

(c) SUBSEQUENT MEETINGS.—After the first Commission meeting, the Commission shall meet at the call of either co-chairman or of a majority of the Commission members.

(d) PROHIBITION ON PROXY VOTING.—Voting by proxy shall not be allowed.

SEC. 11. TERMINATION. 7 USC 1508 note.

The Commission shall cease to exist on December 31, 1990, except that the Secretary may, in the discretion of the Secretary, extend the life of the Commission beyond such date.

SEC. 12. FUNDING. 7 USC 1508 note.

From amounts appropriated to the Federal Crop Insurance Corporation for administrative and operating expenses for fiscal year 1989, the Corporation shall make available to the Commission not to exceed $1,500,000 to carry out this Act. Amounts so made available shall remain available to the Commission until expended.

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 5325:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 7, considered and passed Senate.

Public Law 100-547
100th Congress

An Act

To designate the Sipsey River as a component of the National Wild and Scenic Rivers System, to designate certain areas as additions to the Sipsey Wilderness, to designate certain areas as conditions to the Cheaha Wilderness, and to preserve over thirty thousand acres of pristine natural treasures in the Bankhead National Forest for the aesthetic and recreational benefit of future generations of Alabamians, and for other purposes.

Oct. 28, 1988
[H.R. 5395]

Sipsey Wild and Scenic River and Alabama Addition Act of 1988.
Public lands.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Sipsey Wild and Scenic River and Alabama Addition Act of 1988".

TITLE I—WILD AND SCENIC RIVER DESIGNATION

SEC. 101. DESIGNATION.

Section 3(a) of the Wild and Scenic Rivers Act (82 Stat. 906, as amended; 16 U.S.C. 1274(a)) is amended by adding the following new paragraph:

"( )(A) SIPSEY FORK OF THE WEST FORK, ALABAMA.—Segments of the Sipsey Fork and several tributaries; to be administered by the Secretary of Agriculture in the classifications indicated, as follows:

"(1) Sipsey Fork from the confluence of Sandy Creek upstream to Forest Highway 26, as a scenic river; and

"(2) Sipsey Fork from Forest Highway 26 upstream to it origin at the confluence of Thompson Creek and Hubbard Creek, as a wild river; and

"(3) Hubbard Creek from its confluence with Thompson Creek upstream to Forest Road 210, as a wild river; and

"(4) Thompson Creek from its confluence with Hubbard Creek upstream to its origin in section 4, township 8 south, range 9 west, as a wild river; and

"(5) Tedford Creek from its confluence with Thompson Creek upstream to section 17, township 8 south, range 9 west, as a wild river; and

"(6) Mattox Creek from it confluence with Thompson Creek upstream to section 36 of township 7 south, range 9 west, as a wild river; and

"(7) Borden Creek from its confluence with the Sipsey Fork upstream to Forest Road 208, as a wild river; and

"(8) Borden Creek from Forest Road 208 upstream to its confluence with Montgomery Creek, as a scenic river; and

"(9) Montgomery Creek from its confluence with Borden Creek upstream to the southwest quarter of the southwest quarter of section 36, township 7 south, range 8 west, as a scenic river; and

"(10) Flannigan Creek from its confluence with Borden Creek upstream to Forest Road 208, as a wild river; and

"(11) Flannigan Creek from Forest Road 208 upstream to section 4, township 8 south, range 8 west, as a scenic river; and

"(12) Braziel Creek from its confluence with Borden Creek upstream to section 12, township 8 south, range 9 west, as a wild river; and

"(13) Hogood Creek from its confluence with Braziel Creek upstream to the confluence with an unnamed tributary in section 7, township 8 south, range 8 west, as a wild river.

"(B) A map entitled 'Sipsey Fork of the West Fork Wild and Scenic River', generally depicting the Sipsey Fork and the tributaries, shall be on file and remain available for public inspections in the office of the Chief of the Forest Service, Department of Agriculture.".

SEC. 102. STUDY.

The Secretary of Agriculture shall conduct a study to determine the feasibility of constructing a dam to establish a substantial lake, suitable for all types of recreational uses, to be located in the northeast portion of the Bankhead National Forest.

SEC. 103. LEWIS SMITH LAKE.

The Secretary is authorized and directed to monitor the waters flowing towards and into Lewis Smith Lake to take actions, including preventative maintenance, necessary to prevent any national forest management activities from causing injurious water quality. Pollution.

TITLE II—WILDERNESS DESIGNATION

SEC. 201. DESIGNATION AND ADMINISTRATION.

(a) DESIGNATION.—In furtherance of the purposes of the Wilderness Act of 1964 (78 Stat. 890), the following National Forest System lands in the State of Alabama, comprising approximately thirteen thousand nine hunded and seventy acres, as generally depicted on maps appropriately referenced and on file in the Office of the Chief of the Forest Service, Department of Agriculture, are hereby designated as wilderness, and, therefore, as components of the National Wilderness Preservation System: 16 USC 1132 note.

(1) certain lands in the William B. Bankhead National Forest which comprise approximately thirteen thousand two hundred and sixty acres as generally depicted on a map entitled "Sipsey Wilderness Additions—Proposed", dated September 1988, and which are hereby incorporated in and shall be deemed to be part of the Sipsey Wilderness;

(2) certain lands in the Talladega National Forest which comprise approximately seven hundred ten acres as generally depicted on a map entitled "Cheaha Wilderness Additions—Proposed", dated June 1988, and which are hereby incorporated in and shall be deemed to be a part of the Cheaha Wilderness.

(b) ADMINISTRATION.—Subject to valid existing rights, wilderness designated by this Act shall be administered by the Secretary of Agriculture in accordance with the provisions of the Wilderness Act of 1964: *Provided,* That any reference in such provisions to the effective date of the Wilderness Act shall be deemed to be a reference to the effective date of this Act.

(c) FIRE, INSECT, AND DISEASE CONTROL.—Consistent with section 4(d)(1) of the Wilderness Act of 1964 (Public Law 93-622), and the United States Forest Service policy, the Secretary of Agriculture may take such measures as may be necessary in the control of fire, insects (including the Southern Pine Beetle), and diseases within the

Sipsey Wilderness, and Sipsey Wilderness additions, including any areas within the designated boundaries of the Wild and Scenic Rivers, subject to conditions as the Secretary deems desirable: *Provided,* That such measures in the Secretary's judgment are deemed necessary to protect threatened resources on Federal, State or private adjacent lands. Within five years from the date of enactment of this Act, or sooner for good cause in the judgment of the Secretary, the Secretary shall evaluate the dangers and potential dangers created by the Southern Pine Beetle and other insects in the Bankhead National Forest and adjacent State and private lands. If his evaluation of such dangers and potential dangers justifies a review of present United States Forest Service policy regarding such insects, then he shall review such policy for the Sipsey Wilderness additions, including any areas within designated boundaries of Wild and Scenic Rivers, and adjacent Federal lands relative to the control of such insects. Thereafter, he shall monitor the dangers and potential dangers of such insects and such policy, closely.

(d) HIKING AND HORSE TRAILS.—The Secretary of Agriculture, at his discretion, shall convert existing roads within the Sipsey Wilderness Addition into suitable hiking or horse trails.

SEC. 202. FINDINGS AND DETERMINATIONS.

(a) FINDINGS.—The Congress finds that—

(1) the Department of Agriculture has completed the second roadless area review and evaluation program (RARE II); and

(2) the Congress has made its own review and examination of National Forest System roadless areas in Alabama and of the environmental impacts associated with alternative allocations of such areas.

(b) DETERMINATIONS.—On the basis of such review, the Congress hereby determines and directs that—

(1) without passing on the question of the legal and factual sufficiency of the RARE II final environmental statement (dated January 1979) with respect to National Forest System lands in States other than Alabama, such statement shall not be subject to judicial review with respect to National Forest System lands in the State of Alabama; and

(2) with respect to the National Forest System lands in the State of Alabama which were reviewed by the Department of Agriculture in the second roadless area review and evaluation (RARE II) and those lands referred to in subsection (d), that review and evaluation or reference shall be deemed for the purposes of the initial land management plans required for such lands by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, to be adequate consideration of the suitability of such lands for inclusion in the National Wilderness Preservation System and the Department of Agriculture shall not be required to review the wilderness option prior to the revision of the plan, but shall review the wilderness option when the plans are revised, which revision will ordinarily occur on a ten-year cycle, or at least every fifteen years, unless, prior to such time the Secretary finds that conditions in a unit have significantly changed;

(3) areas in the State of Alabama reviewed in such final environmental statement, or referenced in subsection (d), and not designated wilderness upon enactment of this Act shall be

managed for multiple use in accordance with land management plans pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976: *Provided*, That such areas need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of the initial land management plans;

(4) in the event that revised land management plans in the State of Alabama are implemented pursuant to section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law, areas not recommended for wilderness designation need not be managed for the purpose of protecting their suitability for wilderness designation prior to or during revision of such plans, and areas recommended for wilderness designation shall be managed for the purpose of protecting their suitability for wilderness designation as may be required by the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, and other applicable law; and

(5) unless expressly authorized by Congress, the Department of Agriculture shall not conduct any further statewide roadless area review and evaluation of National Forest System lands in the State of Alabama for the purpose of determining their suitability for inclusion in the National Wilderness Preservation System.

(c) LIMITATION.—As used in this section, and as provided in section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, as amended by the National Forest Management Act of 1976, the term "revision" shall not include an "amendment" to a plan.

(d) APPLICABILITY OF SECTION 202.—The provisions of this section shall also apply to National Forest System roadless lands in the State of Alabama which are less than five thousand acres in size.

SEC. 203. MAPS AND LEGAL DESCRIPTIONS.

As soon as practicable after enactment of this Act, the maps and legal descriptions of the Sipsey Wilderness and the Cheaha Wilderness, as modified by section 201(a), shall be filed with the Committees on Agriculture and Interior and Insular Affairs of the House of Representatives and the Committees on Energy and National Resources and Agriculture, Nutrition, and Forestry of the Senate, and such maps and legal descriptions shall have the same force and effect as if included in this Act: *Provided, however*, That corrections of clerical and typographical errors in such legal descriptions and maps may be made.

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.R. 5395 (S. 2838):

HOUSE REPORTS: No. 100-1057, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).

SENATE REPORTS: No. 100-578 accompanying S. 2838 (Comm. on Agriculture, Nutrition, and Forestry).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Oct. 5, S. 2838 considered and passed Senate.

Oct. 6, H.R. 5395 considered and passed House.

Oct. 11, considered and passed Senate.

Public Law 100-548
100th Congress

Joint Resolution

Oct. 28, 1988
[H.J. Res. 629]

Designating October 22, 1988, as "National Chester F. Carlson Recognition Day".

Whereas Chester F. Carlson invented xerography, a dry process for duplicating that involves no chemical reactions, on October 22, 1938;

Whereas the invention of xerography represented a dramatic breakthrough in the duplicating industry and the fields of photography, engineering, and physics;

Whereas the development of the new technology of xerography was publicly announced in Rochester, New York, on the 10th anniversary of the invention of xerography by Chester F. Carlson, and the 1st office copier utilizing the process of xerography was offered for sale 2 years later;

Whereas the research and development of xerography has resulted in a multimillion dollar industry that produces billions of copies each year in offices around the world;

Whereas xerography has become an indispensable tool for the dissemination of information and communication, and has increased efficiency and productivity in millions of offices;

Whereas Chester F. Carlson was a 2d generation American who overcame poverty to obtain a degree in physics from the California Institute of Technology and a law degree while conducting experiments with electrophotography in the hope of solving the problem of creating an inexpensive method of making high quality duplicates of documents;

Whereas Chester F. Carlson is renowned not only for his genius as an inventor but also for his philanthropy, donating most of his fortune from royalties for the achievement of world peace and the support of the United Nations, the civil rights movement, and many colleges and universities; and

Whereas October 22, 1988, is the 50th anniversary of the invention of xerography by Chester F. Carlson: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 22, 1988, is designated as "National Chester F. Carlson Recognition Day", and the President of the United States is authorized and requested to

issue a proclamation calling upon the people of the United States to observe the day with appropriate ceremonies and activities.

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.J. Res. 629:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 16, considered and passed House.
Oct. 19, considered and passed Senate.

Public Law 100-549
100th Congress

Joint Resolution

Oct. 28, 1988
[H.J. Res. 644]

Granting the consent of Congress to the compact entered into between the State of North Carolina and the State of South Carolina establishing the Lake Wylie Marine Commission.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CONSENT OF CONGRESS TO COMPACT.

The Congress consents to the compact entered into between the State of North Carolina and the State of South Carolina establishing the Lake Wylie Marine Commission. The compact is substantially as follows:

"SECTION 1. For purposes of this act:

"(1) 'Board' means the board of commissioners of Mecklenburg and Gaston Counties, North Carolina and the county council of York County, South Carolina.

"(2) 'Commission' means the Lake Wylie Marine Commission or its governing board as the case may be.

"(3) 'Commissioner' means a member of the governing board of the Lake Wylie Marine Commission.

"(4) 'Three counties' means Mecklenburg and Gaston Counties, North Carolina, and York County, South Carolina.

"(5) 'Joint ordinance' means an ordinance substantially identical in content adopted separately by the board in each of the three counties.

"(6) 'Lake Wylie' means the impounded body of water along the Catawba River in the three counties extending from the base of Mountain Island Dam downstream to the Catawba Dam.

"(7) 'Shoreline area' means, except as restricted by a joint ordinance, the area within the three counties lying within 1000 feet of the mean high-water line (570 feet) on Lake Wylie. In addition, the shoreline area includes all islands within Lake Wylie and all peninsulas extending into the waters of Lake Wylie.

"(8) 'Wildlife Commission' means the North Carolina Wildlife Resources Commission and the South Carolina Department of Wildlife and Marine Resources.

"SEC. 2. The three counties may by joint ordinance create the Lake Wylie Marine Commission. Upon its creation, the Commission has the powers, duties and responsibilities conferred upon it by joint ordinance subject to the laws of each applicable state. The provisions of any joint ordinance may be modified, amended, or rescinded by a subsequent joint ordinance. A county may unilaterally withdraw from participation as required by any joint ordinance or the provisions of this act, once the commission has been created. Any county may, by ordinance, unilaterally withdraw from the commission at the end of any budget period upon ninety days prior written notice. Upon the effectuation of the withdrawal, the Commission is

dissolved and all property of the Commission must be distributed to or divided among the three counties and any other public agency or agencies serving the Lake Wylie area in a manner considered equitable by the Commission by resolution adopted prior to dissolution.

"SEC. 3. Upon its creation, the commission shall have a governing board of seven. Except as otherwise provided for the first four-year period, each commissioner shall serve either a three or a four-year term, with commissioners to serve overlapping terms so that two commissioner appointments are made each year. Upon creation of the Commission, the Board of Commissioners of Gaston County shall appoint three commissioners and the boards of the other two counties shall appoint two each. These initial appointees shall serve until September thirtieth following their appointment. Thereafter, appointments must be made for terms beginning each October first by the respective boards of the three counties as follows:

"(1) First Year: Three commissioners from Gaston, one appointed for a one-year term, one appointed for a three-year term and one appointed for a four-year term; two commissioners from Mecklenburg, one appointed for a one-year term and one appointed for a two-year term; two commissioners from York, one appointed for a two-year term and one appointed for a three-year term.

"(2) Second Year: Two commissioners from Mecklenburg, one appointed for a three-year term and one appointed for a four-year term.

"(3) Third Year: Two commissioners from York, one appointed for a three-year term and one appointed for a four-year term.

"(4) Fourth Year: Two commissioners from Gaston, one appointed for a three-year term and one appointed for a four-year term.

"(5) Fifth and Succeeding Years: Appointments for one three-year and one four-year term in rotation by county in the order set out above.

"On the death of a commissioner, resignation, incapacity, or inability to serve, as determined by the board appointing the commissioner, or removal of the commissioner for cause, as determined by the board appointing the commissioner, the board affected may appoint another commissioner to fill the unexpired term.

"SEC. 4. The joint ordinance shall state the terms relating to compensation to commissioners, if any, compensation of consultants and staff members employed by the Commission, and reimbursement of expenses incurred by commissioners, consultants, and employees. The Commission is governed by these budgetary and accounting procedures as may be specified by joint ordinance. Wages.

"SEC. 5. Upon creation of the Commission, its governing board shall meet at a time and place agreed upon by the boards of the three counties concerned. The commissioners shall elect a chairman and such officers as they may choose. All officers shall serve one-year terms. The governing board shall adopt such rules and regulations as it may consider necessary, not inconsistent with the provisions of this act or of any joint ordinance or the laws of the appropriate state, for the proper discharge of its duties and for the governance of the commission. In order to conduct business, a quorum must be present. The chairman may adopt those committees as may be authorized by such rules and regulations. The commission shall meet regularly at those times and places as may

be specified in its rules and regulations or in any joint ordinance. However, meetings of the commission must be held in all three counties on a rotating basis so that an equal number of meetings is held in each county. Special meetings may be called as specified in the rules and regulations. As to meetings held within South Carolina, the provisions of Chapter 4 of Title 30, Code of Laws of South Carolina, 1976, (Freedom of Information Act) apply. As to meetings held within North Carolina, the provisions of that State's Open Meetings Law, Article 33C of Chapter 143 of the North Carolina General Statutes apply.

Contracts.

"SEC. 6. (a) Within the limits of funds available to it and subject to the provisions of this act and of any joint ordinance the Commission may:

Wages.

"(1) Hire and fix the compensation of permanent and temporary employees and staff as it may consider necessary in carrying out its duties;

"(2) Contract with consultants for such services as it may require;

"(3) Contract with the States of North Carolina, South Carolina, or the federal government, or any agency, department, or subdivision of them for property or services as may be provided to or by these agencies and carry out the provisions of these contracts;

"(4) Contract with persons, firms, and corporations generally as to all matters over which it has a proper concern and carry out the provisions of contracts;

"(5) Lease, rent, purchase, or otherwise obtain suitable quarters and office space for its employees and staff, and lease, rent, purchase, or otherwise obtain furniture, fixtures, vessels, vehicles, firearms, uniforms, and other supplies and equipment necessary or desirable for carrying out the duties imposed in or under the authority of this act;

Safety.

"(6) Lease, rent, purchase, construct, otherwise obtain, maintain, operate, repair, and replace, either on its own or in cooperation with other public or private agencies or individuals, any of the following: boat docks, navigation aids, waterway markers, public information signs and notices, and other items of real and personal property designed to enhance public safety in Lake Wylie and its shoreline area, or protection of property in the shoreline area subject however to the provisions of Title 50 Code of Laws of South Carolina, 1976, or regulations promulgated under that title as to property within South Carolina, and Chapter 113 of the General Statutes of North Carolina and rules promulgated under that Chapter as to property within North Carolina.

Grants.

"(b) The Commission may accept, receive, and disburse in furtherance of its functions any funds, grants, services, or property made available by the federal government or its agencies or subdivisions, by the States of North Carolina or South Carolina or their agencies or subdivisions, or by private and civic sources.

"(c) The governing bodies of the three counties may appropriate funds to the Commission out of surplus funds or funds derived from

Taxes.

nontax sources. They may appropriate funds out of tax revenues and may also levy annually taxes for the payments of such appropriation as a special purpose, in addition to any allowed by the Constitution or in North Carolina as provided by G.S. 153A-149.

"(d) The Commission is subject to those audit requirements as may be specified in any joint ordinance.

"(e) In carrying out its duties and either in addition to or in lieu of exercising various provisions of the above authorization, the Commission may, with the agreement of the governing board of the county concerned, utilize personnel and property of or assign responsibilities to any officer or employee of any of the three counties. Such contribution in kind, if substantial, may with the agreement of the other two counties be considered to substitute in whole or in part for the financial contribution required of that county in support of the Commission.

"(f) Unless otherwise specified by joint ordinance, each of the three counties shall annually contribute an equal financial contribution to the Commission in an amount appropriate to support the activities of the Commission in carrying out its duties.

"SEC. 7. (a) A copy of the joint ordinance creating the Commission and of any joint ordinance amending or repealing the joint ordinance creating the Commission must be filed with the Executive Director of the North Carolina Wildlife Resources Commission and the Executive Director of the South Carolina Department of Wildlife and Marine Resources. When the Executive Directors receive ordinances that are in substance identical from all three counties concerned, they, in accordance with procedures agreed upon, shall, within 10 days, certify this fact and distribute a certified single ordinance text to the following:

"(1) The Secretary of State of North Carolina and the Secretary of State of South Carolina;

"(2) The clerk to the governing board of each of the three counties;

"(3) The clerk of superior court of Mecklenburg and Gaston Counties and the clerk of court of York County. Upon request, the Executive Directors also shall send a certified single copy of any and all applicable joint ordinances to the chairman of the Commission;

"(4) A newspaper of general circulation in the three counties.

"(b) Unless a joint ordinance specifies a later date, it shall take effect when the Executive Directors' certified text has been submitted to the Secretaries of State for filing. Certifications of the Executive Directors under the seal of the Commission as to the text or amended text of any joint ordinance and of the date or dates of submission to the Secretaries of State is admissible in evidence in any court. Certifications by any clerk of superior court or county clerk of court of the text of any certified ordinance filed with him by the Executive Directors is admissible in evidence and the Executive Directors' submission of the ordinance for filing to the clerk shall constitute prima facie evidence that the ordinance was on the date of submission also submitted for filing with the Secretary of State. Except for the certificate of a clerk as to receipt and date of submission, no evidence may be admitted in court concerning the submission of the certified text of any ordinance by the Executive Directors to any person other than the Secretary of State. Courts, U.S.

"SEC. 8. (a) Except as limited in subsection (b) of this section, by restrictions in any joint ordinance and by other supervening provisions of law, the Commission may make regulations applicable to Lake Wylie and its shoreline area concerning all matters relating to or affecting the use of Lake Wylie. These regulations may not conflict with or supersede provisions of general or special acts or of Regulations.

Public information.

regulations of state agencies promulgated under the authority of general law. No regulations adopted under the provisions of this section may be adopted by the Commission except after public hearing, with publication of notice of the hearing in a newspaper of general circulation in the three counties at least 10 days before the hearing. In lieu of or in addition to passing regulations supplementary to state law and regulations concerning the operation of vessels on Lake Wylie, the Commission may, after public notice, request that the North Carolina Wildlife Resources Commission and the South Carolina Department of Wildlife and Marine Resources pass local regulations on this subject in accordance with the procedure established by appropriate state law.

Law enforcement and crime.

"(b) Violation of any regulation of the Commission commanding or prohibiting an act is a misdemeanor punishable by a fine not to exceed two hundred dollars or 30 days imprisonment.

"(c) The regulations promulgated under this section take effect upon passage or upon such dates as may be stipulated in the regulations except that no regulation may be enforced unless adequate notice of the regulation has been posted in or on Lake Wylie or its shoreline area. Adequate notice as to a regulation affecting only a particular location may be by a sign, uniform waterway marker, posted notice, or other effective method of communicating the essential provisions of the regulation in the immediate vicinity of the location in question. Where a regulation applies generally as to Lake Wylie or its shoreline area, or both, there must be a posting of notices, signs, or markers communicating the essential provisions in at least three different places throughout the area and it must be printed in a newspaper of general circulation in the three counties.

"(d) A copy of each regulation promulgated under this section must be filed by the Commission with the following persons:

"(1) The Secretaries of State of North and South Carolina;

"(2) The clerk of superior court of Mecklenburg and Gaston Counties and the clerk of court of York County;

"(3) The Executive Directors of the Wildlife Resources Commission of North Carolina and South Carolina Wildlife and Marine Resources Department.

"(e) Any official designated in subsection (d) above may issue certified copies of regulations filed with him under the seal of his office. These certified copies may be received in evidence in any proceeding.

"(f) Publication and filing of regulations promulgated under this section as required above is for informational purposes and is not a prerequisite to their validity if they in fact have been duly promulgated, the public has been notified as to the substance of regulations, a copy of the text of all regulations is in fact available to any person who may be affected and no party to any proceeding has been prejudiced by any defect that may exist with respect to publication and filing. Rules and regulations promulgated by the Commission under the provisions of other sections of this act relating to internal governance of the Commission need not be filed or published. Where posting of any sign, notice, or marker or the making of other communication is essential to the validity of a regulation duly promulgated, it is presumed in any proceeding that prior notice was given and maintained and the burden lies upon the party asserting to the contrary to prove lack of adequate notice of any regulation.

Law enforcement and crime.

"SEC. 9. (a) Where a joint ordinance so provides, all law enforcement officers, or those officers as may be designated in the joint

ordinance, with territorial jurisdiction as to any part of Lake Wylie or its shoreline area, within the limitations of their subject matter jurisdiction, have the authority of peace officers in enforcing the laws over all of Lake Wylie and its shoreline area.

"(b) Where a joint ordinance provides it, the Commission may hire special officers to patrol and enforce the laws on Lake Wylie and its shoreline area. These special officers have and may exercise all the powers of peace officers generally within the area in question and shall take the oaths and are subject to all provisions of law relating to law enforcement officers. Law enforcement and crime.

"(c) Every criminal violation must be tried in the county where it occurred. However, a certificate of training by the South Carolina Criminal Justice Academy, or a similar certificate issued by the North Carolina Criminal Justice Education and Training Standards Commission or the North Carolina Sheriffs' Education and Training Standards Commission will suffice for certification in both states for the purposes of this act.

"(d) Where a law enforcement officer with jurisdiction over any part of Lake Wylie or its shoreline area is performing duties relating to the enforcement of the laws on Lake Wylie or in its shoreline area, he has such extraterritorial jurisdiction as may be necessary to perform his duties. These duties include investigation of crimes an officer reasonably believes have been, or are about to be, committed within the area in question. This includes traversing by reasonable routes from one portion of this area to another although across territory not within the boundaries of Lake Wylie and its shoreline area; conducting prisoners in custody to a court or detention facilities as may be authorized by law, although this may involve going outside the area in question; execution of process connected with any criminal offense alleged to have been committed within the boundaries in question, except that this process may not be executed by virtue of this provision beyond the boundaries of the three counties. This also includes continuing pursuit of and arresting any violator or suspected violator as to which grounds for arrest arose within the area in question. Prisoners.

"(e) Where law enforcement officers are given additional territorial jurisdiction under the provisions of this section, this is considered an extension of the duties of the office held and no officer shall take any additional oath or title of office.

"SEC. 10. This act shall become effective upon enactment by the State of South Carolina and upon approval by the Congress of the United States. Effective date.

"Either North Carolina or South Carolina may withdraw from this Compact by enacting a statute repealing the same, but no withdrawal is effective until the Governor of the withdrawing state has sent formal notice in writing to the Governor of each other party state informing the Governors of the action of the legislature in repealing the Compact and declaring an intention to withdraw. This withdrawal is effective on a date set by the withdrawing state, but not less than 90 days after enactment of the withdrawal statute. In case of the withdrawal, the property of the Commission must be divided in an equitable manner by the Commission as if dissolution had occurred under Section 2 of this act.".

SEC. 2. RESERVATION.

The right of Congress to alter, amend, or repeal this joint resolution is hereby expressly reserved.

Approved October 28, 1988.

LEGISLATIVE HISTORY—H.J. Res. 644:

HOUSE REPORTS: No. 100-1039 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 5, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 100-550
100th Congress

An Act

Entitled the "National Forest and Public Lands Nevada Enhancement Act of 1988".

Oct. 28, 1988
[S. 59]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Forest and Public Lands of Nevada Enhancement Act of 1988.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Forest and Public Lands of Nevada Enhancement Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) the public lands transferred by this Act contain valuable natural resources (such as watershed, range, outdoor recreation and wildlife habitat) which will be enhanced by the professional, multiple-use management of the Forest Service; and that certain national forest lands would be enhanced by the professional multiple-use management of the Bureau of Land Management;

(2) the public which uses these natural resources will be benefited by such adjustments in management;

(3) the public lands transferred by this Act to the jurisdiction of the Forest Service are adjacent to existing national forests and, in many cases, are part of the same watersheds and mountain ranges, and placing the management of these lands under the administration of one agency, the Forest Service, will improve efficency and be cost effective; that similar efficiency and cost effectiveness will result from transferring jurisdiction of certain National Forest lands to the Bureau of Land Management; and

(4) there is a consensus in Nevada that certain lands should be added to the National Forest System and that certain National Forest System lands should be transferred to the Bureau of Land Management for management.

(b) PURPOSES.—The purposes of this Act are—

(1) to transfer to the jurisdiction of the Forest Service, United States Department of Agriculture, certain public lands in Nevada currently administered by the Bureau of Land Management, United States Department of the Interior. These public lands are contiguous to the Toiyabe and Inyo National Forests and will become National Forest System lands; and

(2) to transfer to the jurisdiction of the Bureau of Land Management, United States Department of the Interior, certain lands in Nevada currently administered by the Forest Service, United States Department of Agriculture. These lands are contiguous to other public lands and will be managed as such.

SEC. 3. DEFINITIONS.

As used in this Act—

(a) the term "public lands" means the lands administered by the Bureau of Land Management, United States Department of the Interior, as defined in section 103(3) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701(e)); and

(b) the term "National Forest lands" or "National Forest System lands" means the lands administered by the Forest Service, United States Department of Agriculture, as defined in section 11 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1609(a)).

SEC. 4. TRANSFER OF LANDS.

(a) TRANSFER OF PUBLIC LANDS TO THE FOREST SERVICE.—Effective one hundred and eighty days after the enactment of this Act, the approximately six hundred sixty-two thousand acres of public lands designated for inclusion in the National Forest System on three maps entitled "Nevada Interchange-A", dated January 1987, "Nevada Interchange-B", dated February 1988, and "Nevada Interchange-C", dated August 1988, are hereby withdrawn from the public domain, transferred to the jurisdiction of the Secretary of Agriculture, and shall become part of the Toiyabe National Forest or the Inyo National Forest, as appropriate.

(b) BOUNDARIES OF TOIYABE AND INYO NATIONAL FORESTS.—(1) The boundaries of the Toiyabe National Forest and the Inyo National Forest are hereby modified to reflect the transfer of lands under subsection (a).

(2) For the purpose of section 7 of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9), the boundaries of the Toiyabe National Forest and the Inyo National Forest, as modified by this subsection, shall be treated as if they were the boundaries of those National Forests as of January 1, 1965.

(c) TRANSFER OF FOREST SERVICE LANDS TO THE BUREAU OF LAND MANAGEMENT.—Effective one hundred and eighty days after the enactment of this Act, the approximately twenty-three thousand acres of National Forest lands identified for management by the Bureau of Land Management on a map entitled "Nevada Interchange-A" and dated January 1987, are hereby transferred to the Secretary of the Interior.

(d) MAPS.—The maps referred to in subsection (a) and subsection (c) shall be on file and available for public inspection in the offices of the Governor of Nevada, the Supervisors of the Toiyabe and Inyo National Forests, the Nevada State Director of the Bureau of Land Management, the Chief of the Forest Service, and the Director of the Bureau of Land Management. The Secretaries of Agriculture and the Interior may make minor changes to the maps to correct technical errors.

(e) Effective one hundred and eighty days after enactment of this Act, lands transferred by subsection (a) of this section to the jurisdiction of the Secretary of Agriculture shall be subject to the planning requirements of section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974, and lands transferred by subsection (c) of this section to the jurisdiction of the Secretary of the Interior shall be subject to the planning requirements of the Federal Land Policy and Management Act of 1976. All transferred lands shall continue to be managed in accordance with plans in effect on the date of enactment of this Act until considered in plans developed under applicable provisions of law. If no plans are in effect on the date of enactment of this Act, the respective transferred lands shall

be managed in a manner consistent with other National Forest or public lands, as the case may be, in the vicinity until a plan is developed under applicable provisions of law. Nothing in this Act shall of itself require the amendment or revision of the existing plans governing public lands or National Forest lands affected by the addition of or deletion of lands transferred by this Act.

SEC. 5. WILDERNESS SUITABILITY.

(a) BLM WILDERNESS STUDY AREAS.—Any area or portion thereof designated as a Bureau of Land Management Wilderness Study Area, which is made a part of the National Forest System by this Act, shall be managed by the Secretary of Agriculture in accordance with the provisions of section 603(c) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1782), to protect its wilderness character until Congress designates it as wilderness or releases it from further wilderness consideration. At the same time that the Secretary of the Interior submits wilderness recommendations to the Congress with regard to public lands in the State of Nevada, he shall also recommend to the Congress whether any wilderness study area or portion thereof transferred to the jurisdiction of the Forest Service by this Act should be included in the National Wilderness Preservation System.

(b) ROADLESS AREAS NOT RECOMMENDED AS WILDERNESS.—Any roadless area or portion thereof which is made a part of the National Forest System by this Act and which has been considered but not recommended for designation as wilderness pursuant to section 202 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1712) shall be deemed to have been adequately considered for wilderness for the purposes of the initial land management plans hereafter required for such lands by section 6 of the Forest and Rangeland Renewable Resources Planning Act of 1974 (16 U.S.C. 1604). The Secretary of Agriculture shall not be required to review the wilderness option for such area prior to the next regular revision of such plans for the National Forest in question, but the Secretary of Agriculture shall review the wilderness option for such area when such plans are revised.

(c) If at any time after the date of enactment of this Act, Congress releases all or any portion of the one hundred and sixty acres of land described in this subsection from the requirements of section 603(c) of the Federal Land Policy and Management Act, the Secretary of Agriculture is authorized to offer for sale all or any portion of the released lands at fair market value. If the Secretary of Agriculture decides to sell such land, he shall give public notice of such sale and shall establish a date within six months of such notice for the receipt of bids on such land. The Secretary of Agriculture shall sell such land to the party submitting the highest bid (at least equal to fair market value) on or before such date. The land is described as follows:

Public information.

MOUNT DIABLO MERIDIAN

Township 20 South, Range 57 East,

Section 28
Southeast quarter of Southeast quarter
Northwest quarter of Southeast quarter
Northeast quarter of Northeast quarter
Section 34, Southwest quarter of Northwest quarter

(d) NO ADDITION TO THE NATIONAL WILDERNESS PRESERVATION SYSTEM.—Nothing in the Act shall be construed to add lands to the National Wilderness Preservation System.

SEC. 6. MANAGEMENT OF MINERAL RESOURCES.

Nothing in this Act shall be construed to change the laws governing the management of mineral resources.

SEC. 7. ADMINISTRATION OF RECEIPTS.

The acreage added to the Toiyabe and Inyo National Forests in the State of Nevada by this Act shall not be counted in determining the distribution of the Twenty-Five Percent Fund between the States of California and Nevada under the Act of May 23, 1908, as amended: *Provided, however,* That the acreage added to these forests shall be counted in the distribution of the Twenty-Five Percent Fund among the affected counties in Nevada.

SEC. 8. WATER RIGHTS.

(a) Congress hereby expressly reserves the minimum quantity of water necessary to achieve the primary purposes for which the lands transferred pursuant to section 4(a) are withdrawn. Those purposes are hereby declared to be solely and exclusively the primary purpose for which the National Forests within which the lands are to be included were established. The priority date for such reserved rights shall be the date of transfer pursuant to this Act.

(b) Congress hereby expressly relinquishes all Federal reserved water rights created by the initial withdrawal from the public domain in the lands transferred pursuant to section 4(c) effective on the date of such transfer.

(c) Nothing in this Act shall create an implied reservation of water.

(d) Nothing in this Act shall affect the right of the United States or of any person to acquire or dispose of water or water rights pursuant to the substantive and procedural requirements of the laws of the State of Nevada.

SEC. 9. VALID EXISTING RIGHTS.

(a) Nothing in this Act shall affect valid existing rights of any person under any authority of law.

(b) Authorizations to use lands transferred by this Act which were issued prior to the date of transfer shall remain subject to the laws and regulations under which they were issued. Such authorization shall be administered by the Secretary to whom jurisdiction over affected lands has been transferred by this Act. Any renewal or extension of such authorization shall be subject to the laws and regulations pertaining to the agency which has jurisdiction over the land at the time the renewal or extension is requested. The change of administrative jurisdiction resulting from the enactment of this Act shall not in itself constitute a basis for denying or approving the renewal or reissuance of any such authorization.

SEC. 10. ADMINISTRATIVE APPEALS.

With respect to the lands transferred by section 4, any formal administrative appeal, adjudication, or review pending on the date of transfer of jurisdiction under this Act shall be completed by the Secretary, or his designee, of the Department in which it was initiated.

SEC. 11. TRANSFER OF BUREAU OF RECLAMATION'S WILBUR SQUARE RESPONSIBILITIES TO THE CITY OF BOULDER CITY.

Contracts.

(a) Notwithstanding any other provision of law, the Secretary of the Interior is authorized and directed to enter into an agreement with the City of Boulder City, Nevada (hereinafter referred to as the "City"), which will provide that, upon acceptance by the City of title to and financial responsibility for continued maintenance of the parcel of land described in this subsection, all remaining repayment obligations owing to the United States, pursuant to contract numbered 14-06-300-978, dated January 4, 1960, between the United States and the City, as of the date of enactment of this Act, shall be discharged. The land shall be maintained as a public park by the City at its own cost and expense, and shall be conveyed to the City, without consideration, by quit claim deed subject to the conditions, restrictions, and protective covenants as established in the Guidelines of the Advisory Council on Historic Preservation (36 Code of Federal Regulations, part 800). Title shall revert to the United States if the land ceases to be used for park purposes. The agreement shall also stipulate that the City shall provide, without cost to the United States, the water supply required to water the Federal grounds surrounding the Bureau of Reclamation's administration building in the City, for as long as Federal ownership is retained, or through the year 2010, which ever occurs first. The land to be conveyed to the City is described as follows: approximately 3.25 acres, comprising all of block six, according to sheet 1 of 20, block plats of Boulder City, Nevada, drawing numbered X-300-460, dated July 15, 1959, and known as Wilbur Square or Government Park.

(b) The Secretary of the Interior is authorized to enter into an agreement for the City to provide gardening services on Bureau of Reclamation land within the City; and in partial payment for this gardening service to transfer to the City any or all lawn and garden equipment owned and used by the Bureau of Reclamation as of the date of enactment of this Act, which is used to maintain the Bureau's grounds within the City.

(c) The Secretary of the Interior is authorized to transfer title to the City to all or any portion of the City water supply system which remains in Federal ownership and located outside of the Hoover Dam security area, and to provide the City with a permanent easement across all Federal lands necessary to properly operate and maintain any facility so transferred. The agreement referred to in this section shall also provide that all obligations to make payments to the United States for operation, maintenance, and replacement for works transferred to the City shall be discharged as of the date

or dates of said transfer of title or operations and maintenance responsibility to the City.

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 59:

SENATE REPORTS: No. 100-511 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 12, considered and passed Senate.
Oct. 13, considered and passed House.

Public Law 100-551
100th Congress

An Act

To amend the Toxic Substances Control Act to assist States in responding to the threat to human health posed by exposure to radon.

Oct. 28, 1988
[S. 744]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INDOOR RADON ABATEMENT.

(a) AMENDMENT OF TOXIC SUBSTANCES CONTROL ACT.—The Toxic Substances Control Act (15 U.S.C. 2601 and following) is amended by adding after title II the following new title:

"TITLE III—INDOOR RADON ABATEMENT

"SEC. 301. NATIONAL GOAL. 15 USC 2661.

"The national long-term goal of the United States with respect to radon levels in buildings is that the air within buildings in the United States should be as free of radon as the ambient air outside of buildings.

"SEC. 302. DEFINITIONS. 15 USC 2662.

"For purposes of this title:

"(1) The term 'local educational agency' means—

"(A) any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381);

"(B) the owner of any nonprofit elementary or secondary school building; and

"(C) the governing authority of any school operated pursuant to section 6 of the Act of September 30, 1950 (64 Stat. 1107), relating to impact aid for children who reside on Federal property.

"(2) The term 'nonprofit elementary or secondary school' has the meaning given such term by section 202(8).

"(3) The term 'radon' means the radioactive gaseous element and its short-lived decay products produced by the disintegration of the element radium occurring in air, water, soil, or other media.

"(4) The term 'school building' has the meaning given such term by section 202(13).

"SEC. 303. EPA CITIZEN'S GUIDE. 15 USC 2663.

"(a) PUBLICATION.—In order to make continuous progress toward the long-term goal established in section 301 of this title, the Administrator of the Environmental Protection Agency shall, not later than June 1, 1989, publish and make available to the public an updated version of its document titled 'A Citizen's Guide to Radon'. The Administrator shall revise and republish the guide as necessary thereafter.

"(b) INFORMATION INCLUDED.—

"(1) ACTION LEVELS.—The updated citizen's guide published as provided in subsection (a) shall include a description of a series of action levels indicating the health risk associated with different levels of radon exposure.

"(2) OTHER INFORMATION.—The updated citizen's guide shall also include information with respect to each of the following:

"(A) The increased health risk associated with the exposure of potentially sensitive populations to different levels of radon.

"(B) The increased health risk associated with the exposure to radon of persons engaged in potentially risk-increasing behavior.

"(C) The cost and technological feasibility of reducing radon concentrations within existing and new buildings.

"(D) The relationship between short-term and long-term testing techniques and the relationship between (i) measurements based on both such techniques, and (ii) the actions levels set forth as provided in paragraph (1).

"(E) Outdoor radon levels around the country.

15 USC 2664.

"SEC. 304. MODEL CONSTRUCTION STANDARDS AND TECHNIQUES.

"The Administrator of the Environmental Protection Agency shall develop model construction standards and techniques for controlling radon levels within new buildings. To the maximum extent possible, these standards and techniques should be developed with the assistance of organizations involved in establishing national building construction standards and techniques. The Administrator shall make a draft of the document containing the model standards and techniques available for public review and comment. The model standards and techniques shall provide for geographic differences in construction types and materials, geology, weather, and other variables that may affect radon levels in new buildings. The Administrator shall make final model standards and techniques available to the public by June 1, 1990. The Administrator shall work to ensure that organizations responsible for developing national model building codes, and authorities which regulate building construction within States or political subdivisions within States, adopt the Agency's model standards and techniques.

15 USC 2665.

"SEC. 305. TECHNICAL ASSISTANCE TO STATES FOR RADON PROGRAMS.

"(a) REQUIRED ACTIVITIES.—The Administrator (or another Federal department or agency designated by the Administrator) shall develop and implement activities designed to assist State radon programs. These activities may include, but are not limited to, the following:

Public information.

"(1) Establishment of a clearinghouse of radon related information, including mitigation studies, public information materials, surveys of radon levels, and other relevant information.

"(2) Operation of a voluntary proficiency program for rating the effectiveness of radon measurement devices and methods, the effectiveness of radon mitigation devices and methods, and the effectiveness of private firms and individuals offering radon-related architecture, design, engineering, measurement, and mitigation services. The proficiency program under this subparagraph shall be in operation within one year after the date of the enactment of this section.

"(3) Design and implementation of training seminars for State and local officials and private and professional firms dealing with radon and addressing topics such as monitoring, analysis, mitigation, health effects, public information, and program design.

"(4) Publication of public information materials concerning radon health risks and methods of radon mitigation.

"(5) Operation of cooperative projects between the Environmental Protection Agency's Radon Action Program and the State's radon program. Such projects shall include the Home Evaluation Program, in which the Environmental Protection Agency evaluates homes and States demonstrate mitigation methods in these homes. To the maximum extent practicable, consistent with the objectives of the evaluation and demonstration, homes of low-income persons should be selected for evaluation and demonstration.

"(6) Demonstration of radon mitigation methods in various types of structures and in various geographic settings and publication of findings. In the case of demonstration of such methods in homes, the Administrator should select homes of low-income persons, to the maximum extent practicable and consistent with the objectives of the demonstration.

"(7) Establishment of a national data base with data organized by State concerning the location and amounts of radon.

"(8) Development and demonstration of methods of radon measurement and mitigation that take into account unique characteristics, if any, of nonresidential buildings housing child care facilities.

"(b) DISCRETIONARY ASSISTANCE.—Upon request of a State, the Administrator (or another Federal department or agency designated by the Administrator) may provide technical assistance to such State in development or implementation of programs addressing radon. Such assistance may include, but is not limited to, the following:

"(1) Design and implementation of surveys of the location and occurrence of radon within a State.

"(2) Design and implementation of public information and education programs.

"(3) Design and implementation of State programs to control radon in existing or new structures.

"(4) Assessment of mitigation alternatives in unusual or unconventional structures.

"(5) Design and implementation of methods for radon measurement and mitigation for nonresidential buildings housing child care facilities.

"(c) INFORMATION PROVIDED TO PROFESSIONAL ORGANIZATIONS.—The Administrator, or another Federal department or agency designated by the Administrator, shall provide appropriate information concerning technology and methods of radon assessment and mitigation to professional organizations representing private firms involved in building design, engineering, and construction.

"(d) PLAN.—Within 9 months after the date of the enactment of this section and annually thereafter, the Administrator shall submit to Congress a plan identifying assistance to be provided under this section and outlining personnel and financial resources necessary to implement this section. Prior to submission to Congress, this plan shall be reviewed by the advisory groups provided for in section

403(c) of the Superfund Amendments and Reauthorization Act of 1986 (42 U.S.C. 7401 note).

"(e) PROFICIENCY RATING PROGRAM AND TRAINING SEMINAR.—

"(1) AUTHORIZATION.—There is authorized to be appropriated not more than $1,500,000 for the purposes of initially establishing the proficiency rating program under subsection (a)(2) and the training seminars under subsection (a)(3).

"(2) CHARGE IMPOSED.—To cover the operating costs of such proficiency rating program and training seminars, the Administrator shall impose on persons applying for a proficiency rating and on private and professional firms participating in training seminars such charges as may be necessary to defray the costs of the program or seminars. No such charge may be imposed on any State or local government.

"(3) SPECIAL ACCOUNT.—Funds derived from the charges imposed under paragraph (2) shall be deposited in a special account in the Treasury. Amounts in the special account are authorized to be appropriated only for purposes of administering such proficiency rating program or training seminars or for reimbursement of funds appropriated to the Administrator to initially establish such program or seminars.

"(4) REIMBURSEMENT OF GENERAL FUND.—During the first three years of the program and seminars, the Administrator shall make every effort, consistent with the goals and successful operation of the program and seminars, to set charges imposed under paragraph (2) so that an amount in excess of operation costs is collected. Such excess amount shall be used to reimburse the General Fund of the Treasury for the full amount appropriated to initially establish the program and seminars.

"(f) AUTHORIZATION.—(1) There is authorized to be appropriated for the purposes of carrying out sections 303, 304, and this section an amount not to exceed $3,000,000 for each of fiscal years 1989, 1990, and 1991.

"(2) No amount appropriated under this subsection may be used by the Environmental Protection Agency to administer the grant program under section 306.

"(3) No amount appropriated under this subsection may be used to cover the costs of the proficiency rating program under subsection (a)(2).

15 USC 2666.

"SEC. 306. GRANT ASSISTANCE TO STATES FOR RADON PROGRAMS.

"(a) IN GENERAL.—For each fiscal year, upon application of the Governor of a State, the Administrator may make a grant, subject to such terms and conditions as the Administrator considers appropriate, under this section to the State for the purpose of assisting the State in the development and implementation of programs for the assessment and mitigation of radon.

"(b) APPLICATION.—An application for a grant under this section in any fiscal year shall contain such information as the Administrator shall require, including each of the following:

"(1) A description of the seriousness and extent of radon exposure in the State.

"(2) An identification of the State agency which has the primary responsibility for radon programs and which will receive the grant, a description of the roles and responsibilities of the lead State agency and any other State agencies involved in radon programs, and description of the roles and responsibilities

of any municipal, district, or areawide organization involved in radon programs.

"(3) A description of the activities and programs related to radon which the State proposes in such year.

"(4) A budget specifying Federal and State funding of each element of activity of the grant application.

"(5) A 3-year plan which outlines long range program goals and objectives, tasks necessary to achieve them, and resource requirements for the entire 3-year period, including anticipated State funding levels and desired Federal funding levels. This clause shall apply only for the initial year in which a grant application is made.

"(c) ELIGIBLE ACTIVITIES.—Activities eligible for grant assistance under this section are the following:

"(1) Survey of radon levels, including special surveys of geographic areas or classes of buildings (such as, among others, public buildings, school buildings, high-risk residential construction types).

"(2) Development of public information and educational materials concerning radon assessment, mitigation, and control programs.

"(3) Implementation of programs to control radon in existing and new structures.

"(4) Purchase by the State of radon measurement equipment or devices.

"(5) Purchase and maintenance of analytical equipment connected to radon measurement and analysis, including costs of calibration of such equipment.

"(6) Payment of costs of Environmental Protection Agency-approved training programs related to radon for permanent State or local employees.

"(7) Payment of general overhead and program administration costs.

"(8) Development of a data storage and management system for information concerning radon occurrence, levels, and programs.

"(9) Payment of costs of demonstration of radon mitigation methods and technologies as approved by the Administrator, including State participation in the Environmental Protection Agency Home Evaluation Program.

"(10) A toll-free radon hotline to provide information and technical assistance.

"(d) PREFERENCE TO CERTAIN STATES.—Beginning in fiscal year 1991, the Administrator shall give a preference for grant assistance under this section to States that have made reasonable efforts to ensure the adoption, by the authorities which regulate building construction within that State or political subdivisions within States, of the model construction standards and techniques for new buildings developed under section 304.

"(e) PRIORITY ACTIVITIES AND PROJECTS.—The Administrator shall support eligible activities contained in State applications with the full amount of available funds. In the event that State applications for funds exceed the total funds available in a fiscal year, the Administrator shall give priority to activities or projects proposed by States based on each of the following criteria:

"(1) The seriousness and extent of the radon contamination problem to be addressed.

"(2) The potential for the activity or project to bring about reduction in radon levels.

"(3) The potential for development of innovative radon assessment techniques, mitigation measures as approved by the Administrator, or program management approaches which may be of use to other States.

"(4) Any other uniform criteria that the Administrator deems necessary to promote the goals of the grant program and that the Administrator provides to States before the application process.

"(f) FEDERAL SHARE.—The Federal share of the cost of radon program activities implemented with Federal assistance under this section in any fiscal year shall not exceed 75 percent of the costs incurred by the State in implementing such program in the first year of a grant to such State, 60 percent in the second year, and 50 percent in the third year. Federal assistance shall be made on the condition that the non-Federal share is provided from non-Federal funds.

"(g) ASSISTANCE TO LOCAL GOVERNMENTS.—States may, at the Governor's discretion, use funds from grants under this section to assist local governments in implementation of activities eligible for assistance under paragraphs (2), (3), and (6) of subsection (c).

"(h) INFORMATION.—(1) The Administrator may request such information, data, and reports developed by the State as he considers necessary to make the determination of continuing eligibility under this section.

"(2) Any State receiving funds under this section shall provide to the Administrator all radon-related information generated in its activities, including the results of radon surveys, mitigation demonstration projects, and risk communication studies.

"(3) Any State receiving funds under this section shall maintain, and make available to the public, a list of firms and individuals within the State that have received a passing rating under the Environmental Protection Agency proficiency rating program referred to in section 305(a)(2). The list shall also include the address and phone number of such firms and individuals, together with the proficiency rating received by each. The Administrator shall make such list available to the public at appropriate locations in each State which does not receive funds under this section unless the State assumes such responsibility.

"(i) LIMITATIONS.—(1) No grant may be made under this section in any fiscal year to a State which in the preceding fiscal year received a grant under this section unless the Administrator determines that such State satisfactorily implemented the activities funded by the grant in such preceding fiscal year.

"(2) The costs of implementing paragraphs (4) and (9) of subsection (c) shall not in the aggregate exceed 50 percent of the amount of any grant awarded under this section to a State in a fiscal year. In implementing such paragraphs, a State should make every effort, consistent with the goals and successful operation of the State radon program, to give a preference to low-income persons.

"(3) The costs of general overhead and program administration under subsection (c)(7) shall not exceed 25 percent of the amount of any grant awarded under this section to a State in a fiscal year.

"(4) A State may use funds received under this section for financial assistance to persons only to the extent such assistance is

related to demonstration projects or the purchase and analysis of radon measurement devices.

"(j) AUTHORIZATION.—(1) There is authorized to be appropriated for grant assistance under this section an amount not to exceed $10,000,000 for each of fiscal years 1989, 1990, and 1991.

"(2) There is authorized to be appropriated for the purpose of administering the grant program under this section such sums as may be necessary for each of such fiscal years.

"(3) Notwithstanding any other provision of this section, not more than 10 percent of the amount appropriated to carry out this section may be used to make grants to any one State.

"(4) Funds not obligated to States in the fiscal year for which funds are appropriated under this section shall remain available for obligation during the next fiscal year.

"(5) No amount appropriated under this subsection may be used to cover the costs of the proficiency rating program under section 305(a)(2).

"SEC. 307. RADON IN SCHOOLS. 15 USC 2667.

"(a) STUDY OF RADON IN SCHOOLS.—

"(1) AUTHORITY.—The Administrator shall conduct a study for the purpose of determining the extent of radon contamination in the Nation's school buildings.

"(2) LIST OF HIGH PROBABILITY AREAS.—In carrying out such study, the Administrator shall identify and compile a list of areas within the United States which the Administrator determines have a high probability of including schools which have elevated levels of radon.

"(3) BASIS OF LIST.—In compiling such list, the Administrator shall make such determinations on the basis of, among other things, each of the following:

"(A) Geological data.

"(B) Data on high radon levels in homes and other structures nearby any such school.

"(C) Physical characteristics of the school buildings.

"(4) SURVEY.—In conducting such study the Administrator shall design a survey which when completed allows Congress to characterize the extent of radon contamination in schools in each State. The survey shall include testing from a representative sample of schools in each high-risk area identified in paragraph (1) and shall include additional testing, to the extent resources are available for such testing. The survey also shall include any reliable testing data supplied by States, schools, or other parties.

"(5) ASSISTANCE.—(A) The Administrator shall make available to the appropriate agency of each State, as designated by the Governor of such State, a list of high risk areas within each State, including a delineation of such areas and any other data available to the Administrator for schools in that State. To assist such agencies, the Administrator also shall provide guidance and data detailing the risks associated with high radon levels, technical guidance and related information concerning testing for radon within schools, and methods of reducing radon levels.

"(B) In addition to the assistance authorized by subparagraph (A), the Administrator is authorized to make available to the appropriate agency of each State, as designated by the Governor

of such State, devices suitable for use by such agencies in conducting tests for radon within the schools under the jurisdiction of any such State agency. The Administrator is authorized to make available to such agencies the use of laboratories of the Environmental Protection Agency, or to recommend laboratories, to evaluate any such devices for the presence of radon levels.

"(6) DIAGNOSTIC AND REMEDIAL EFFORTS.—The Administrator is authorized to select, from high-risk areas identified in paragraph (2), school buildings for purposes of enabling the Administrator to undertake diagnostic and remedial efforts to reduce the levels of radon in such school buildings. Such diagnostic and remedial efforts shall be carried out with a view to developing technology and expertise for the purpose of making such technology and expertise available to any local educational agency and the several States.

"(7) STATUS REPORT.—On or before October 1, 1989, the Administrator shall submit to the Congress a status report with respect to action taken by the Administrator in conducting the study required by this section, including the results of the Administrator's diagnostic and remedial work. On or before October 1, 1989, the Administrator shall submit a final report setting forth the results of the study conducted pursuant to this section, including the results of the Administrator's diagnostic and remedial work, and the recommendations of the Administrator.

"(b) AUTHORIZATION.—For the purpose of carrying out the provisions of paragraph (6) of subsection (a), there are authorized to be appropriated such sums, not to exceed $500,000, as may be necessary. For the purpose of carrying out the provisions of this section other than such paragraph (6), there are authorized to be appropriated such sums, not to exceed $1,000,000, as may be necessary.

15 USC 2668.

"SEC. 308. REGIONAL RADON TRAINING CENTERS.

Schools and colleges. Grants.

"(a) FUNDING PROGRAM.—Upon application of colleges, universities, institutions of higher learning, or consortia of such institutions, the Administrator may make a grant or cooperative agreement, subject to such terms and conditions as the Administrator considers appropriate, under this section to the applicant for the purpose of establishing and operating a regional radon training center.

"(b) PURPOSE OF THE CENTERS.—The purpose of a regional radon training center is to develop information and provide training to Federal and State officials, professional and private firms, and the public regarding the health risks posed by radon and demonstrated methods of radon measurement and mitigation.

Schools and colleges.

"(c) APPLICATIONS.—Any colleges, universities, institutions of higher learning or consortia of such institutions may submit an application for funding under this section. Such applications shall be submitted to the Administrator in such form and containing such information as the Administrator may require.

"(d) SELECTION CRITERIA.—The Administrator shall support at least 3 eligible applications with the full amount of available funds. The Administrator shall select recipients of funding under this section to ensure that funds are equitably allocated among regions of the United States, and on the basis of each of the following criteria:

"(1) The extent to which the applicant's program will promote the purpose described in subsection (b).

"(2) The demonstrated expertise of the applicant regarding radon measurement and mitigation methods and other radon-related issues.

"(3) The demonstrated expertise of the applicant in radon training and in activities relating to information development and dissemination.

"(4) The seriousness of the radon problem in the region.

"(5) The geographical coverage of the proposed center.

"(6) Any other uniform criteria that the Administrator deems necessary to promote the purpose described in subsection (b) and that the Administrator provides to potential applicants prior to the application process.

"(e) TERMINATION OF FUNDING.—No funding may be given under this section in any fiscal year to an applicant which in the preceding fiscal year received funding under this section unless the Administrator determines that the recipient satisfactorily implemented the activities that were funded in the preceding year.

"(f) AUTHORIZATION.—There is authorized to be appropriated to carry out the program under this section not to exceed $1,000,000 for each of fiscal years 1989, 1990, and 1991.

"SEC. 309. STUDY OF RADON IN FEDERAL BUILDINGS.

15 USC 2669.

Water.

"(a) STUDY REQUIREMENT.—The head of each Federal department or agency that owns a Federal building shall conduct a study for the purpose of determining the extent of radon contamination in such buildings. Such study shall include, in the case of a Federal building using a nonpublic water source (such as a well or other groundwater), radon contamination of the water.

"(b) HIGH-RISK FEDERAL BUILDINGS.—(1) The Administrator shall identify and compile a list of areas within the United States which the Administrator, in consultation with Federal departments and agencies, determines have a high probability of including Federal buildings which have elevated levels of radon.

"(2) In compiling such list, the Administrator shall make such determinations on the basis of, among other things, the following:

"(A) Geological data.

"(B) Data on high radon levels in homes and other structures near any such Federal building.

"(C) Physical characteristics of the Federal buildings.

"(c) STUDY DESIGNS.—Studies required under subsection (a) shall be based on design criteria specified by the Administrator. The head of each Federal department or agency conducting such a study shall submit, not later than July 1, 1989, a study design to the Administrator for approval. The study design shall follow the most recent Environmental Protection Agency guidance documents, including 'A Citizen's Guide to Radon'; the 'Interim Protocol for Screening and Follow Up: Radon and Radon Decay Products Measurements'; the 'Interim Indoor Radon & Radon Decay Product Measurement Protocol'; and any other recent guidance documents. The study design shall include testing data from a representative sample of Federal buildings in each high-risk area identified in subsection (b). The study design also shall include additional testing data to the extent resources are available, including any reliable data supplied by Federal agencies, States, or other parties.

"(d) INFORMATION ON RISKS AND TESTING.—(1) The Administrator shall provide to the departments or agencies conducting studies under subsection (a) the following:

"(A) Guidance and data detailing the risks associated with high radon levels.

"(B) Technical guidance and related information concerning testing for radon within Federal buildings and water supplies.

"(C) Technical guidance and related information concerning methods for reducing radon levels.

"(2) In addition to the assistance required by paragraph (1), the Administrator is authorized to make available, on a cost reimbursable basis, to the departments or agencies conducting studies under subsection (a) devices suitable for use by such departments or agencies in conducting tests for radon within Federal buildings. For the purpose of assisting such departments or agencies in evaluating any such devices for the presence of radon levels, the Administrator is authorized to recommend laboratories or to make available to such departments or agencies, on a cost reimbursable basis, the use of laboratories of the Environmental Protection Agency.

"(e) STUDY DEADLINE.—Not later than June 1, 1990, the head of each Federal department or agency conducting a study under subsection (a) shall complete the study and provide the study to the Administrator.

"(f) REPORT TO CONGRESS.—Not later than October 1, 1990, the Administrator shall submit a report to the Congress describing the results of the studies conducted pursuant to subsection (a).

15 USC 2670.

"SEC. 310. REGULATIONS.

"The Administrator is authorized to issue such regulations as may be necessary to carry out the provisions of this title.

15 USC 2671.

"SEC. 311. ADDITIONAL AUTHORIZATIONS.

"Amounts authorized to be appropriated in this title for purposes of carrying out the provisions of this title are in addition to amounts authorized to be appropriated under other provisions of law for radon-related activities.".

(b) TECHNICAL AMENDMENTS.—The Toxic Substances Control Act (15 U.S.C. 2601 and following) is amended by adding at the end of the table of contents in section 1 the following:

"TITLE III—INDOOR RADON ABATEMENT

"Sec. 301. National goal.
"Sec. 302. Definitions.
"Sec. 303. EPA Citizen's guide.
"Sec. 304. Model construction standards and techniques.
"Sec. 305. Technical assistance to States for radon programs.
"Sec. 306. Grant assistance to States for radon programs.
"Sec. 307. Radon in schools.
"Sec. 308. Regional radon training centers.
"Sec. 309. Study of radon in Federal buildings.
"Sec. 310. Regulations.
"Sec. 311. Additional authorizations.".

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 744 (H.R. 2837):

HOUSE REPORTS: No. 100-1047 accompanying H.R. 2837 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-91 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 133 (1987): July 8, considered and passed Senate.
Vol. 134 (1988): Oct. 5, H.R. 2837 considered and passed House; proceedings vacated and S. 744, amended, passed in lieu.
Oct. 7, Senate concurred in House amendments.

Public Law 100-552
100th Congress

An Act

Oct. 28, 1988
[S. 1704]

To authorize the establishment of the Lewis and Clark National Historic Trail Interpretive Center in the State of Montana, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 1244 note.

SECTION 1. FINDINGS.

The Congress finds that—

(1) the site at which the historic Lewis and Clark Expedition commenced in St. Louis, Missouri, and the site at which the expedition terminated at Fort Clatsop in Oregon have been recognized as sites of historic significance on the Lewis and Clark National Historic Trail; and

(2) the historic significance of the travels of Lewis and Clark on the High Plains and their portage around the Great Falls of the Missouri requires additional recognition and interpretation.

16 USC 1244 note.

SEC. 2. ESTABLISHMENT.

(a) LEWIS AND CLARK NATIONAL HISTORIC TRAIL INTERPRETIVE CENTER.—That to further the public's understanding and provide appropriate interpretation of the scope and accomplishments of the Lewis and Clark Expedition, within the State of Montana and along the Lewis and Clark National Historic Trail, the Secretary of Agriculture (hereinafter in this Act referred to as the "Secretary") is authorized to establish the Lewis and Clark National Historic Trail Interpretive Center (hereinafter in this Act referred to as the "Center"). The Secretary shall establish the Center upon the transfer by the State of Montana to the United States of the lands described in subsection (b) and such additional easements and other rights as the Secretary deems necessary to ensure adequate public access to the Center.

Public information.

(b) MAP.—The Center shall consist of those lands, located in the vicinity of Great Falls, Montana, donated by the State of Montana, not to exceed fifty acres, as generally depicted on the map entitled "Boundary Map, Proposed Lewis and Clark National Historic Trail Interpretive Center", dated June 1980. The map shall be on file and available for public inspection in the offices of the Chief, United States Forest Service, Department of Agriculture, and the State of Montana Department of Fish, Wildlife, and Parks.

(c) REVERSION OF LANDS.—Any lands or portions of lands granted to the Secretary by the State of Montana for use in connection with the Center shall revert to the State of Montana if, at any time, the Secretary uses such lands for any purpose other than those authorized under this Act.

16 USC 1244 note.

SEC. 3. ADMINISTRATION.

(a) AUTHORIZATION.—The Secretary shall administer the Center in accordance with this Act and the laws, rules, and regulations applicable to the national forests in such manner as will best provide

for the interpretation of the scope and accomplishments of the Lewis and Clark Expedition, along the Lewis and Clark National Historic Trail within the State of Montana. In no event shall the Center be used for purposes other than those provided for by this Act.

(b) PLAN.—Within two years after the establishment of the Center, the Secretary shall prepare and submit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate, a plan for the development and interpretation of the Center. Such plan shall include but not be limited to provisions for—

(1) interpretation to the public of available historic resources, documents, and artifacts associated with the Lewis and Clark Expedition, and

(2) development of facilities for public use and enjoyment of the area.

(c) DONATIONS.—Notwithstanding any other provision of law, the Secretary may accept donations of funds, property, or services from individuals, foundations, corporations, or public entities for the purpose of providing services and facilities which he deems consistent with the purposes of this Act.

(d) COOPERATIVE AGREEMENTS.—In administering the Center, the Secretary is authorized to enter into cooperative agreements with the State of Montana, or any political subdivision thereof, for the rendering, on a reimbursable basis, of rescue, firefighting, and law enforcement services and cooperative assistance by nearby law enforcement and firefighting departments or agencies. The Secretary is also authorized to enter into cooperative agreements with other Federal agencies, and with State or local public agencies for the development and operation of facilities and services in furtherance of the purposes of this Act. The Secretary is encouraged to develop, in conjunction with the State of Montana, a cooperative management plan for the entire Giant Springs Park which will enhance the general public's opportunity to use and enjoy the Center as well as the nearby historical sites, and other State and Federal lands.

Safety.
Law enforcement and crime.

(e) COOPERATING ASSOCIATION.—The Secretary is authorized and directed to enter into an agreement with the Portage Route chapter of the Lewis and Clark Heritage Foundation or a similarly affiliated organization to provide educational and interpretive materials to the public that highlight the travels of Lewis and Clark, High Plains Indians, explorers, or other historical features of the area, that are compatible with the purposes of the Center. Such agreement shall include but not be limited to each of the following:

Education.

(1) Provisions requiring the Foundation to obtain and maintain its status as a nonprofit tax-exempt organization.

(2) A provision permitting the Secretary to have access to the documents and records of the Foundation that involve the Center.

(3) The Foundation shall agree to return to the Center the profits earned from the sale of educational and interpretive materials.

(4) Minimum operating requirements and procedures for the sale of educational and interpretive materials at the Center.

(5) A procedure to settle disagreements between the Foundation and the Secretary.

(6) Reasonable rent and maintenance costs for the use of an area within the Center.

(7) Other items of mutual agreement.

The Secretary may terminate the agreement for good cause.

16 USC 1244 note.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), there is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act, including such sums as may be necessary for the planning and designing of, and site preparation for, the Center and associated structures and improvements.

(b) CONSTRUCTION OF INTERPRETIVE CENTER.—There is hereby authorized to be appropriated not more than $3,500,000 for the construction of the Lewis and Clark National Historic Trail Interpretive Center and associated structures and improvements.

(c) Any new spending authority described in subsection (c)(2)(A) of section 401 of the Congressional Budget Act of 1974 which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

SEC. 5. MISSOURI RIVER WILD AND SCENIC RIVER.

16 USC 1274 note.

Subsection (g) of section 203 of the Act approved October 12, 1976 (90 Stat. 2327, 2329), is amended as follows:

(1) Strike out "except" in paragraph (1)(G) and insert in lieu thereof "including".

(2) Strike out "National Park Service" in paragraph (2) and insert in lieu thereof "Bureau of Land Management".

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 1704 (H.R. 1982):

HOUSE REPORTS: No. 100-788 accompanying H.R. 1982 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-526 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, H.R. 1982 considered and passed House.
Oct. 11, S. 1704 considered and passed Senate.
Oct. 12, considered and passed House.

Public Law 100-553
100th Congress

An Act

To amend the Public Health Service Act to establish within the National Institutes of Health a National Institute on Deafness and Other Communication Disorders.

Oct. 28, 1988
[S. 1727]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Deafness and Other Communication Disorders Act of 1988.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act shall be cited as the "National Deafness and Other Communication Disorders Act of 1988".

SEC. 2. ESTABLISHMENT AND TRANSFER OF FUNCTIONS.

Title IV of the Public Health Service Act (42 U.S.C. 281 et seq.) is amended—

(1) in section 401(b)(1)—

(A) by striking "and Communicative" in subparagraph (J); and

(B) by adding at the end the following new subparagraph:

"(M) The National Institute on Deafness and Other Communication Disorders.";

(2) in the heading for subpart 10 of part C, by striking "and Communicative";

(3) in section 457—

(A) by striking "and Communicative"; and

(B) by striking "disorder, stroke," and all that follows and inserting "and disorder and stroke."; and

(4) in Part C, by adding at the end the following new subpart:

"Subpart 13—National Institute on Deafness and Other Communication Disorders

Education.
Research and development.
Public information.

"PURPOSE OF THE INSTITUTE

"SEC. 464. The general purpose of the National Institute on Deafness and Other Communication Disorders (hereafter referred to in this subpart as the 'Institute') is the conduct and support of research and training, the dissemination of health information, and other programs with respect to disorders of hearing and other communication processes, including diseases affecting hearing, balance, voice, speech, language, taste, and smell.

42 USC 285m.

"NATIONAL DEAFNESS AND OTHER COMMUNICATION DISORDERS PROGRAM

"SEC. 464A. (a) The Director of the Institute, with the advice of the Institute's advisory council, shall establish a National Deafness and Other Communication Disorders Program (hereafter in this section referred to as the 'Program'). The Director or the Institute shall, with respect to the Program, prepare and transmit to the Director of NIH a plan to initiate, expand, intensify and coordinate activities of the Institute respecting disorders of hearing (including tinnitus) and

42 USC 285m-1.

other communication processes, including diseases affecting hearing, balance, voice, speech, language, taste, and smell. The plan shall include such comments and recommendations as the Director of the Institute determines appropriate. The Director of the Institute shall periodically review and revise the plan and shall transmit any revisions of the plan to the Director of NIH.

"(b) Activities under the Program shall include—

"(1) investigation into the etiology, pathology, detection, treatment, and prevention of all forms of disorders of hearing and other communication processes, primarily through the support of basic research in such areas as anatomy, audiology, biochemistry, bioengineering, epidemiology, genetics, immunology, microbiology, molecular biology, the neurosciences, otolaryngology, psychology, pharmacology, physiology, speech and language pathology, and any other scientific disciplines that can contribute important knowledge to the understanding and elimination of disorders of hearing and other communication processes;

"(2) research into the evaluation of techniques (including surgical, medical, and behavioral approaches) and devices (including hearing aids, implanted auditory and nonauditory prosthetic devices and other communication aids) used in diagnosis, treatment, rehabilitation, and prevention of disorders of hearing and other communication processes;

"(3) research into prevention, and early detection and diagnosis, of hearing loss and speech and language disturbances (including stuttering) and research into preventing the effects of such disorders on learning and learning disabilities with extension of programs for appropriate referral and rehabilitation;

"(4) research into the detection, treatment, and prevention of disorders of hearing and other communication processes in the growing elderly population with extension of rehabilitative programs to ensure continued effective communication skills in such population;

"(5) research to expand knowledge of the effects of environmental agents that influence hearing or other communication processes; and

"(6) developing and facilitating intramural programs on clinical and fundamental aspects of disorders of hearing and all other communication processes.

"DATA SYSTEM AND INFORMATION CLEARINGHOUSE

42 USC 285m-2.

"SEC. 464B. (a) The Director of the Institute shall establish a National Deafness and Other Communication Disorders Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with disorders of hearing or other communication processes, including where possible, data involving general populations for the purpose of identifying individuals at risk of developing such disorders.

"(b) The Director of the Institute shall establish a National Deafness and Other Communication Disorders Information Clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of disorders of hearing and other communication processes by health professionals, patients, industry, and the public.

"MULTIPURPOSE DEAFNESS AND OTHER COMMUNICATION DISORDERS CENTER

"SEC. 464C. (a) The Director of the Institute shall, after consultation with the advisory council for the Institute, provide for the development, modernization, and operation (including care required for research) of new and existing centers for studies of disorders of hearing and other communication processes. For purposes of this section, the term 'modernization' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence. 42 USC 285m-3.

"(b) Each center assisted under this section shall—

"(1) use the facilities of a single institution or a consortium of cooperating institutions; and

"(2) meet such qualifications as may be prescribed by the Secretary.

"(c) Each center assisted under this section shall, at least, conduct—

"(1) basic and clinical research into the cause diagnosis, early detection, prevention, control and treatment of disorders of hearing and other communication processes and complications resulting from such disorders, including research into rehabilitative aids, implantable biomaterials, auditory speech processors, speech production devices, and other otolaryngologic procedures;

"(2) training programs for physicians, scientists, and other health and allied health professionals; Health care professionals.

"(3) information and continuing education programs for physicians and other health and allied health professionals who will provide care for patients with disorders of hearing or other communication processes; and

"(4) programs for the dissemination to the general public of information—

"(A) on the importance of early detection of disorders of hearing and other communication processes, of seeking prompt treatment, rehabilitation, and of following an appropriate regimen; and

"(B) on the importance of avoiding exposure to noise and other environmental toxic agents that may affect disorders of hearing or other communication processes.

"(d) A center may use funds provided under subsection (a) to provide stipends for health professionals enrolled in training programs described in subsection (c)(2).

"(e) Each center assisted under this section may conduct programs—

"(1) to establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals at risk of developing disorders of hearing or other communication processes; and

"(2) to disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping.

"(f) The Director of the Institute shall, to the extent practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration Aged persons. Children and youth.

to the need for centers especially suited to meeting the needs of the elderly, and of children (particularly with respect to their education and training), affected by disorders of hearing or other communication processes.

"(g) Support of a center under this section may be for a period not to exceed seven years. Such period may be extended by the Director of the Institute for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director, with the advice of the Institute's advisory council, if such group has recommended to the Director that such period should be extended.

"NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS ADVISORY BOARD

42 USC 285m-4.

"SEC. 464D. (a) The Secretary shall establish in the Institute the National Deafness and Other Communication Disorders Advisory Board (hereafter in this section referred to as the 'Advisory Board').

"(b) The Advisory Board shall be composed of eighteen appointed members and nonvoting ex officio members as follows:

"(1) The Secretary shall appoint—

"(A) twelve members from individuals who are scientists, physicians, and other health and rehabilitation professionals, who are not officers or employees of the United States, and who represent the specialties and disciplines relevant to deafness and other communication disorders, including not less than two persons with a communication disorder; and

"(B) six members from the general public who are knowledgeable with respect to such disorders, including not less than one person with a communication disorder and not less than one person who is a parent of an individual with such a disorder.

Of the appointed members, not less than five shall by virtue of training or experience be knowledgeable in diagnoses and rehabilitation of communication disorders, education of the hearing, speech, or language impaired, public health, public information, community program development, occupational hazards to communications senses, or the aging process.

"(2) The following shall be ex officio members of each Advisory Board:

"(A) The Assistant Secretary for Health, the Director of NIH, the Director of the National Institute on Deafness and Other Communication Disorders, the Director of the Centers for Disease Control, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers).

"(B) Such other officers and employees of the United States as the Secretary determines necessary for the Advisory Board to carry out its functions.

"(c) Members of an Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of

the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board.

"(d) The term of office of an appointed member of the Advisory Board is four years, except that no term of office may extend beyond the expiration of the Advisory Board. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office. If a vacancy occurs in the Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than 90 days from the date the vacancy occurred.

"(e) The members of the Advisory Board shall select a chairman from among the appointed members.

"(f) The Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with such additional professional staff members, such clerical staff members, such services of consultants, such information, and (through contracts or other arrangements) such administrative support services and facilities, as the Secretary determines are necessary for the Advisory Board to carry out its functions.

"(g) The Advisory Board shall meet at the call of the chairman or upon request of the Director of the Institute, but not less often than four times a year.

"(h) The Advisory Board shall—

"(1) review and evaluate the implementation of the plan prepared under section 464A(a) and periodically update the plan to ensure its continuing relevance;

"(2) for the purpose of assuring the most effective use and organization of resources respecting deafness and other communication disorders, advise and make recommendations to the Congress, the Secretary, the Director of NIH, the Director of the Institute, and the heads of other appropriate Federal agencies for the implementation and revision of such plan; and

"(3) maintain liaison with other advisory bodies related to Federal agencies involved in the implementation of such plan and with key non-Federal entities involved in activities affecting the control of such disorders.

"(i) In carrying out its functions, the Advisory Board may establish subcommittees, convene workshops and conferences, and collect data. Such subcommittees may be composed of Advisory Board members and nonmember consultants with expertise in the particular area addressed by such subcommittees. The subcommittees may hold such meetings as are necessary to enable them to carry out their activities.

"(j) The Advisory Board shall prepare an annual report for the Secretary which— Reports.

"(1) describes the Advisory Board's activities in the fiscal year for which the report is made;

"(2) describes and evaluates the progress made in such fiscal year in research, treatment, education, and training with respect to the deafness and other communication disorders;

"(3) summarizes and analyzes expenditures made by the Federal Government for activities respecting such disorders in such fiscal year; and

"(4) contains the Advisory Board's recommendations (if any) for changes in the plan prepared under section 464A(a).

"(k) The National Deafness and Other Communication Disorders Advisory Board shall be established not later than 90 days after the date of the enactment of the National Institute on Deafness and Other Communication Disorders Act.

"INTERAGENCY COORDINATING COMMITTEE

42 USC 285m-5.

"SEC. 464E. (a) The Secretary may establish a committee to be known as the Deafness and Other Communication Disorders Interagency Coordinating Committee (hereafter in this section referred to as the 'Coordinating Committee').

"(b) The Coordinating Committee shall, with respect to deafness and other communication disorders—

"(1) provide for the coordination of the activities of the national research institutes; and

"(2) coordinate the aspects of all Federal health programs and activities relating to deafness and other communication disorders in order to assure the adequacy and technical soundness of such programs and activities and in order to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

"(c) The Coordinating Committee shall be composed of the directors of each of the national research institutes and divisions involved in research with respect to deafness and other communication disorders and representatives of all other Federal departments and agencies whose programs involve health functions or responsibilities relevant to deafness and other communication disorders.

"(d) The Committee shall be chaired by the Director of NIH (or the designee of the Director). The Committee shall meet at the call of the chair, but not less often than four times a year.

Reports.

"(e) Not later than 120 days after the end of each fiscal year, the Committee shall prepare and transmit to the Secretary, the Director of NIH, the Director of the Institute, and the advisory council for the Institute a report detailing the activities of the Committee in such fiscal year in carrying out subsection (b).

"LIMITATION ON ADMINISTRATIVE EXPENSES

42 USC 285m-6.

"SEC. 464F. With respect to amounts appropriated for a fiscal year for the National Institutes of Health, the limitation established in section 408(b)(1) on the expenditure of such amounts for administrative expenses shall apply to administrative expenses of the National Institute on Deafness and Other Communication Disorders.".

42 USC 285m note.
Gifts and property.
Contracts.
Records.

SEC. 3. TRANSITIONAL AND SAVINGS PROVISIONS.

(a) TRANSFER OF PERSONNEL, ASSETS, AND LIABILITIES.—Personnel employed by the National Institutes of Health in connection with the functions vested under section 2 in the Director of the National Institute on Deafness and Other Communication Disorders, and assets, property, contracts, liabilities, records, unexpended balances of appropriations, authorizations, allocations, and other funds of the National Institutes of Health, arising from or employed, held, used,

available to, or to be made available, in connection with such functions shall be transferred to the Director for appropriate allocation. Unexpended funds transferred under this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(b) SAVINGS PROVISIONS.—With respect to functions vested under section 1 in the Director of the National Institute on Deafness and Other Communication Disorders, all orders, rules, regulations, grants, contracts, certificates, licenses, privileges, and other determinations, actions, or official documents, that have been issued, made, granted, or allowed to become effective, and that are effective on the date of the enactment of this Act, shall continue in effect according to their terms unless changed pursuant to law.

Grants.
Contracts.

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 1727 (H.R. 3361):

HOUSE REPORTS: No. 100-761 accompanying H.R. 3361 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 11, 12, H.R. 3361 considered and passed House.
Aug. 3, considered and passed Senate, amended.
Oct. 7, S. 1727 considered and passed Senate.
Oct. 13, considered and passed House.

Public Law 100-554
100th Congress

An Act

Oct. 28, 1988
[S. 1914]

To designate a segment of the Wildcat River in the State of New Hampshire as a component of the National Wild and Scenic Rivers System, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF WILDCAT RIVER.

In order to preserve and protect for present and future generations the outstanding scenic, natural, recreational, scientific, historic, and ecological values of the Wildcat River in the State of New Hampshire, section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) as amended, by adding the following new paragraph at the end thereof:

Contracts.

"(65) WILDCAT RIVER, NEW HAMPSHIRE.—(A) A 14.51 mile segment including the following tributaries: Wildcat Brook, Bog Brook, and Great Brook (all as generally depicted on a map entitled 'Wildcat River', dated October 1987) to be administered as follows: those segments of the Wildcat River and its tributaries located within the boundary of the White Mountain National Forest (hereinafter in this paragraph referred to as 'the forest') shall be administered by the Secretary of Agriculture (hereinafter in this paragraph referred to as the 'Secretary'); those segments located outside the boundary of the forest shall be administered by the Secretary through a cooperative agreement with the Board of Selectmen of the town of Jackson and the State of New Hampshire pursuant to section 10(e) of this Act. Such agreement shall provide for the long-term protection, preservation, and enhancement of the river segments located outside the boundary of the forest and shall be consistent with the comprehensive management plan to be prepared by the Secretary pursuant to section 3(d) of this Act and with the July 1987 River Conservation Plan prepared by the Wildcat Brook Advisory Committee in conjunction with the National Park Service.

"(B)(i) To assist in the implementation of this paragraph, the Secretary shall establish, within 3 months after the date of enactment of this subparagraph, a Wildcat River Advisory Commission (hereinafter in this paragraph referred to as the 'Commission').

"(ii) The Commission shall be composed of 7 members appointed by the Secretary as follows: one member from recommendations submitted by the Governor of the State of New Hampshire; 4 members from recommendations submitted by the Jackson Board of Selectmen, of which at least 2 members shall be riparian property owners, and at least one member shall be on the Board of Selectmen; one member from recommendations submitted by the Jackson Conservation Commission; and one member selected by the Secretary. Members of the Commission shall be appointed for terms of 3 years. A vacancy in the Commission shall be filled in the manner in which the original appointment was made. Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder

of such term. Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. The Commission shall designate one of its members as Chairman.

"(iii) The Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the designation of the segments described in this paragraph. Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement. Public information.

"(iv) Members of the Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this paragraph on vouchers signed by the Chairman.

"(v) Four members of the Commission shall constitute a quorum but a lesser number may hold hearings.

"(vi) The Commission shall cease to exist on the date 10 years after the enactment of this paragraph.

"(vii) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to the Commission.

"(C) The authority of the Secretary to acquire lands outside the boundary of the White Mountain National Forest for purposes of this paragraph shall be limited to acquisition by donation or acquisition with the consent of the owner thereof. The Secretary may also acquire scenic easements for purposes of this paragraph as provided in section 6 of this Act.

"(D) There are hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this paragraph.". Appropriation authorization.

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 1914:

HOUSE REPORTS: No. 100-904 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-369 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, considered and passed Senate.
Sept. 13, considered and passed House, amended.
Oct. 12, Senate concurred in House amendment.

Public Law 100-555
100th Congress

An Act

Oct. 28, 1988
[S. 1985]

To improve the protection and management of archeological resources on Federal land.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Archeological Resources Protection Act of 1979 (Public Law 96-95; 16 U.S.C. 470ii) be amended to add the following new section after section 13:

16 USC 470mm.

"SEC. 14. The Secretaries of the Interior, Agriculture, and Defense and the Chairman of the Board of the Tennessee Valley Authority shall—

"(a) develop plans for surveying lands under their control to determine the nature and extent of archeological resources on those lands;

"(b) prepare a schedule for surveying lands that are likely to contain the most scientifically valuable archeological resources; and

"(c) develop documents for the reporting of suspected violations of this Act and establish when and how those documents are to be completed by officers, employees, and agents of their respective agencies.".

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 1985:

SENATE REPORTS: No. 100-569 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 11, considered and passed Senate.
Oct. 13, considered and passed House.

Public Law 100-556
100th Congress

An Act

To require that plastic ring carrier devices be degradable, and for other purposes.

Oct. 28, 1988
[S. 1986]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—DEGRADABLE PLASTIC RING CARRIERS

SEC. 101. FINDINGS.

42 USC 6914b note.

The Congress finds that—

(1) plastic ring carrier devices have been found in large quantities in the marine environment;

(2) fish and wildlife have been known to have become entangled in plastic ring carriers;

(3) nondegradable plastic ring carrier devices can remain intact in the marine environment for decades, posing a threat to fish and wildlife; and

(4) 16 States have enacted laws requiring that plastic ring carrier devices be made from degradable material in order to reduce litter and to protect fish and wildlife.

SEC. 102. DEFINITIONS.

42 USC 6914b.

As used in this title—

(1) the term "regulated item" means any plastic ring carrier device that contains at least one hole greater than 1¾ inches in diameter which is made, used, or designed for the purpose of packaging, transporting, or carrying multipackaged cans or bottles, and which is of a size, shape, design, or type capable, when discarded, of becoming entangled with fish or wildlife; and

(2) the term "naturally degradable material" means a material which, when discarded, will be reduced to environmentally benign subunits under the action of normal environmental forces, such as, among others, biological decomposition, photodegradation, or hydrolysis.

SEC. 103. REGULATION.

42 USC 6914b-1.

Not later than 24 months after the date of the enactment of this title (unless the Administrator of the Environmental Protection Agency determines that it is not feasible or that the byproducts of degradable regulated items present a greater threat to the environment than nondegradable regulated items), the Administrator of the Environmental Protection Agency shall require, by regulation, that any regulated item intended for use in the United States shall be made of naturally degradable material which, when discarded, decomposes within a period established by such regulation. The period within which decomposition must occur after being discarded shall be the shortest period of time consistent with the intended use

of the item and the physical integrity required for such use. Such regulation shall allow a reasonable time for affected parties to come into compliance, including the use of existing inventories.

TITLE II—SAN FRANCISCO BAY NATIONAL WILDLIFE REFUGE

SEC. 201. ENLARGEMENT OF REFUGE.

Section 2 of the Act entitled "An Act to provide for the establishment of the San Francisco Bay National Wildlife Refuge", approved June 30, 1972 (16 U.S.C. 668dd note), is amended to read as follows:

"SEC. 2. There shall be included within the boundaries of the refuge the following:

"(1) Those lands, marshes, tidal flats, salt ponds, submerged lands, and open waters in the south San Francisco Bay area generally depicted on the map entitled 'Boundary Map, Proposed San Francisco Bay National Wildlife Refuge', dated July 1971, and which comprise approximately twenty-one thousand six hundred and sixty-two acres within four distinct units to be known as Fremont (five thousand five hundred and twenty acres), Mowry Slough (seven thousand one hundred and seventy-five acres), Alviso (three thousand and eighty acres), and Greco Island (five thousand eight hundred and eighty seven acres). Said boundary map shall be on file and available for public inspection in the offices of the United States Fish and Wildlife Service, Department of the Interior.

Public information.

Fish and fishing.

"(2) Up to 20,000 acres in the vicinity of the areas described in paragraph (1), and similar to the areas described in paragraph (1), which the Secretary determines are necessary to protect fish and wildlife resources.".

SEC. 202. TOTAL AREA OF REFUGE.

16 USC 668dd note.

Subsection (a) of section 3 of such Act is amended in the second sentence by striking "twenty-three thousand acres" and inserting "43,000 acres".

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

16 USC 668dd note.

Section 5 of such Act is amended—

(1) by inserting "(a)" before "There"; and

(2) by adding at the end the following new subsection:

"(b) There are authorized to be appropriated to the Secretary to acquire areas described in section 2(2) such sums as may be necessary, which shall remain available until expended.".

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 1986 (H.R. 940) (H.R. 5117):

HOUSE REPORTS: No. 100-360, Pt. 1 accompanying H.R. 940 (Comm. on Merchant Marine and Fisheries), and No. 100-946, Pt. 1 (Comm. on Merchant Marine and Fisheries) and Pt. 2 (Comm. on Energy and Commerce) accompanying H.R. 5117.

SENATE REPORTS: No. 100-270 (Comm. on Environment and Public Works) and No. 100-266 accompanying H.R. 940 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Oct. 13, H.R. 940 considered and passed House.

Vol. 134 (1988): May 13, S. 1986 considered and passed Senate.

Oct. 4, H.R. 5117 considered and passed House; proceedings vacated and S. 1986, amended, passed in lieu.

Oct. 14, Senate concurred in House amendments.

Public Law 100-557
100th Congress

An Act

Oct. 28, 1988
[S. 2148]

To amend the Wild and Scenic Rivers Act of 1968, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Oregon Wild and Scenic Rivers Act of 1988.

TITLE I—OMNIBUS OREGON WILD AND SCENIC RIVERS ACT OF 1988

16 USC 1271 note.

SEC. 101. SHORT TITLE.

This title may be referred to as the "Omnibus Oregon Wild and Scenic Rivers Act of 1988".

16 USC 1274.

SEC. 102. AMENDMENTS TO THE WILD AND SCENIC RIVERS ACT.

Section 3(a) of the Wild and Scenic Rivers Act (Public Law 90-542, 82 Stat. 907), as amended, is further amended by adding the following new paragraphs at the end thereof:

"( ) BIG MARSH CREEK, OREGON.—The 15-mile segment from the northeast quarter of section 15, township 26 south, range 6 east, to its confluence with Crescent Creek in the northeast quarter of section 20, township 24 south, range 7 east, as a recreational river; to be administered by the Secretary of Agriculture: *Provided*, That nothing in this Act shall prohibit the Secretary from undertaking construction activities to enhance and restore wetland resources associated with Big Marsh Creek.

"( ) CHETCO, OREGON.—The 44.5-mile segment from its headwaters to the Siskiyou National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 25.5-mile segment from its headwaters to Boulder Creek at the Kalmiopsis Wilderness boundary as a wild river;

"(B) the 8-mile segment from Boulder Creek to Steel Bridge as a scenic river; and

"(C) the 11-mile segment from Steel Bridge to the Siskiyou National Forest boundary, one mile below Wilson Creek, as a recreational river.

"( ) CLACKAMAS, OREGON.—The 47-mile segment from Big Springs to Big Cliff; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 4-mile segment from Big Springs to the Forest Service Road 4690 bridge as a scenic river;

"(B) the 3.5-mile segment from the Forest Service Road 4690 bridge to the junction with Oregon State Highway 224 as a recreational river;

"(C) the 10.5-mile segment from Oregon State Highway 224 to the June Creek Bridge as a scenic river;

"(D) the 9-mile segment from June Creek Bridge to Tar Creek as a recreational river;

"(E) the 5.5-mile segment from Tar Creek to just south of Indian Henry Campground as a scenic river; and

"(F) the 14.5-mile segment just south of Indian Henry Campground to Big Cliff as a recreational river.

"( ) CRESCENT CREEK, OREGON.—The 10-mile segment from the southwest quarter of section 11, township 24 south, range 6 east, to the west section line of section 13, township 24 south, range 7 east, as a recreational river; to be administered by the Secretary of Agriculture.

"( ) CROOKED, OREGON.—The 15-mile segment from the National Grassland boundary to Dry Creek; to be administered by the Secretary of the Interior in the following classes:

"(A) The 7-mile segment from the National Grassland boundary to River Mile 8 south of Opal Spring as a recreational river; and

"(B) the 8-mile segment from Bowman Dam to Dry Creek as a recreational river.

"( ) DESCHUTES, OREGON.—Those portions as follows:

"(A) The 40.4-mile segment from Wickiup Dam to northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east as a recreational river; to be administered by the Secretary of Agriculture;

"(B) the 11-mile segment from the northern boundary of Sunriver at the southwest quarter of section 20, township 19 south, range 11 east, to Lava Island Camp as a scenic river; to be administered by the Secretary of Agriculture;

"(C) the 3-mile segment from Lava Island Camp to the Bend Urban Growth Boundary at the southwest corner of section 13, township 18 south, range 11 east, as a recreational river; to be administered by the Secretary of Agriculture;

"(D) the 19-mile segment from Oden Falls to the Upper End of Lake Billy Chinook as a scenic river; to be administered by the Secretary of the Interior;

"(E) the 100-mile segment from the Pelton Reregulating Dam to its confluence with the Columbia River as a recreational river; to be administered by the Secretary of the Interior through a cooperative management agreement between the Confederated Tribes of the Warm Springs Reservation, and the State of Oregon as provided in section 10(e) of this Act and section 105 of the Omnibus Oregon Wild and Scenic Rivers Act of 1988.

"( ) DONNER UND BLITZEN, OREGON.—Those segments, including its major tributaries, as a wild river; to be administered by the Secretary of the Interior as follows:

"(A) The 16.75-mile segment of the Donner und Blitzen from its confluence with the South Fork Blitzen and Little Blitzen;

"(B) the 12.5-mile segment of the Little Blitzen from its headwaters to its confluence with the South Fork Blitzen;

"(C) the 16.5-mile segment of the South Fork Blitzen from its headwaters to its confluence with the South Fork Blitzen;

"(D) the 10-mile segment of Big Indian Creek from its headwaters to its confluence with the South Fork Blitzen;

"(E) the 3.7-mile segment of Little Indian Creek from its headwaters to its confluence with Big Indian Creek; and

"(F) the 13.25-mile segment of Fish Creek from its headwaters to its confluence with the Donner und Blitzen.

"( ) EAGLE CREEK, OREGON.—The 27-mile segment from its headwaters below Eagle Lake to the Wallowa-Whitman National Forest

boundary at Skull Creek; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 4-mile segment from its headwaters below Eagle Lake to the Eagle Cap Wilderness boundary at Hummingbird Mountain as a wild river;

"(B) the 15.5-mile segment from the Eagle Cap Wilderness boundary at Hummingbird Mountain to Paddy Creek as a recreational river;

"(C) the 6-mile segment from Paddy Creek to Little Eagle Creek as a scenic river; and

"(D) the 1.5-mile segment from Little Eagle Creek to the Wallowa-Whitman National Forest boundary as a recreational river.

"( ) ELK, OREGON.—The 19-mile segment to be administered by the Secretary of Agriculture in the following classes:

"(A) The 17-mile segment from the confluence of the North and South Forks of the Elk to Anvil Creek as a recreational river; and

"(B) the 2-mile segment of the North Fork Elk from the falls to its confluence with the South Fork as a wild river.

"( ) GRANDE RONDE, OREGON.—The 43.8-mile segment from its confluence with the Wallowa River to the Oregon-Washington State line in the following classes:

"(A) The 1.5-mile segment from its confluence with the Wallowa River to the Umatilla National Forest boundary in section 11, township 3 north, range 40 east, as a recreational river; to be administered by the Secretary of Agriculture;

"(B) the 17.4-mile segment from the Umatilla National Forest boundary in section 11, township 3 north, range 40 east, to the Wallowa-Whitman National Forest boundary approximately one-half mile east of Grossman Creek as a wild river; to be administered by the Secretary of Agriculture;

"(C) the 9-mile segment from the Wallowa-Whitman National Forest boundary approximately one-half mile east of Grossman Creek to Wildcat Creek as a wild river; to be administered by the Secretary of the Interior; and

"(D) the 15.9-mile segment from Wildcat Creek to the Oregon-Washington State line as a recreational river; to be administered by the Secretary of the Interior.

"( ) IMNAHA, OREGON.—Those segments, including the South Fork Imnaha; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 6-mile segment from its confluence with the North and South Forks of the Imnaha River to Indian Crossing as a wild river;

"(B) the 58-mile segment from Indian Crossing to Cow Creek as a recreational river;

"(C) the 4-mile segment from Cow Creek to its mouth as a scenic river; and

"(D) the 9-mile segment of the South Fork Imnaha from its headwaters to its confluence with the Imnaha River as a wild river.

"( ) JOHN DAY, OREGON.—The 147.5-mile segment from Service Creek to Tumwater Falls as a recreational river; to be administered through a cooperative management agreement between the State of Oregon and the Secretary of the Interior as provided in section 10(e) of this Act.

"( ) JOSEPH CREEK, OREGON.—The 8.6-mile segment from Joseph Creek Ranch, one mile downstream from Cougar Creek, to the Wallowa-Whitman National Forest boundary as a wild river; to be administered by the Secretary of Agriculture.

"( ) LITTLE DESCHUTES, OREGON.—The 12-mile segment from its source in the northwest quarter of section 15, township 26 south, range 6½ east to the north section line of section 12, township 26 south, range 7 east as a recreational river; to be administered by the Secretary of Agriculture.

"( ) LOSTINE, OREGON.—The 16-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 5-mile segment from its headwaters to the Eagle Cap Wilderness boundary as a wild river; and

"(B) the 11-mile segment from the Eagle Cap Wilderness boundary to the Wallowa-Whitman National Forest boundary at Silver Creek as a recreational river.

"( ) MALHEUR, OREGON.—The 13.7-mile segment from Bosonberg Creek to the Malheur National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 7-mile segment from Bosonberg Creek to Malheur Ford as a scenic river; and

"(B) the 6.7-mile segment from Malheur Ford to the Malheur National Forest boundary as a wild river.

"( ) MCKENZIE, OREGON.—The 12.7-mile segment from Clear Lake to Scott Creek; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 1.8-mile segment from Clear Lake to the head of maximum pool at Carmen Reservoir as a recreational river;

"(B) the 4.3-mile segment from a point 100 feet downstream from Carmen Dam to the maximum pool at Trail Bridge Reservoir as a recreational river; and

"(C) the 6.6-mile segment from the developments at the base of the Trail Bridge Reservoir Dam to Scott Creek as a recreational river.

"( ) METOLIUS, OREGON.—The 28.6-mile segment from the south Deschutes National Forest boundary to Lake Billy Chinook in the following classes:

"(A) The 11.5-mile segment from the south Deschutes National Forest boundary (approximately 2,055.5 feet from Metolius Springs) to Bridge 99 as a recreational river; to be administered by the Secretary of Agriculture;

"(B) the 17.1-mile segment from Bridge 99 to Lake Billy Chinook as a scenic river; by the Secretary of Agriculture, through a cooperative management agreement between the Secretary of the Interior and the Confederated Tribes of the Warm Springs Reservation, as provided in section 10(e) of this Act and section 105 of the Omnibus Oregon Wild and Scenic Rivers Act of 1988: *Provided,* That the river and its adjacent land area will be managed to provide a primitive recreational experience as defined in the ROS User's Guide.

"( ) MINAM, OREGON.—The 39-mile segment from its headwaters at the south end of Minam Lake to the Eagle Cap Wilderness boundary, one-half mile downstream from Cougar Creek, as a wild river; to be administered by the Secretary of Agriculture.

"( ) NORTH FORK CROOKED, OREGON.—The 32.3-mile segment from its source at Williams Prairie to one mile from its confluence with the Crooked River in the following classes:

"(A) The 3-mile segment from its source at Williams Prairie to the Upper End of Big Summit Prairie as a recreational river; to be administered by the Secretary of Agriculture;

"(B) the 3.7-mile segment from the Lower End of Big Summit Prairie to the bridge across from the Deep Creek Campground as a recreational river; to be administered by the Secretary of Agriculture;

"(C) the 8-mile segment from the bridge across from the Deep Creek Campground to the Ochoco National Forest boundary, one-half mile from Lame Dog Creek as a scenic river; to be administered by the Secretary of Agriculture;

"(D) the 1.5-mile segment from the Ochoco National Forest boundary to Upper Falls as a scenic river; to be administered by the Secretary of the Interior;

"(E) the 11.1-mile segment from Upper Falls to Committee Creek as a wild river; to be administered by the Secretary of the Interior; and

"(F) the 5-mile segment from Committee Creek to one mile from its confluence with the Crooked River as a recreational river; to be administered by the Secretary of the Interior.

"( ) NORTH FORK JOHN DAY, OREGON.—The 54.1-mile segment from its headwaters in the North Fork of the John Day Wilderness Area at section 13, township 8 south, range 36 east, to its confluence with Camas Creek in the following classes:

"(A) The 3.5-mile segment from its headwaters in the North Fork of the John Day Wilderness at section 13, township 8 south, range 36 east, to the North Fork of the John Day Wilderness boundary as a wild river; to be administered by the Secretary of Agriculture;

"(B) the 7.5-mile segment from the North Fork of the John Day Wilderness boundary to Trail Creek as a recreational river; to be administered by the Secretary of Agriculture;

"(C) the 24.3-mile segment from Trail Creek to Big Creek as a wild river; to be administered by the Secretary of Agriculture;

"(D) the 10.5-mile segment from Big Creek to Texas Bar Creek as a scenic river; to be administered by the Secretary of Agriculture; and

"(E) the 8.3-mile segment from Texas Bar Creek to its confluence with Camas Creek as a recreational river; to be administered by the Secretary of Agriculture.

"( ) NORTH FORK MALHEUR, OREGON.—The 25.5-mile segment from its headwaters to the Malheur National Forest boundary as a scenic river; to be administered by the Secretary of Agriculture.

"( ) NORTH FORK OF THE MIDDLE FORK OF THE WILLAMETTE, OREGON.—The 42.3-mile segment from Waldo Lake to the Willamette National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 8.8-mile segment from Waldo Lake to the south section line of section 36, township 19 south, range 5½ east as a wild river;

"(B) the 6.5-mile segment from the south section line of section 36, township 19 south, range 5½ east to Fisher Creek as a scenic river; and

"(C) the 27-mile segment from Fisher Creek to the Willamette National Forest boundary as a recreational river.

"( ) NORTH FORK OWYHEE, OREGON.—The 8-mile segment from the Oregon-Idaho State line to its confluence with the Owyhee River as a wild river; to be administered by the Secretary of the Interior.

"( ) NORTH FORK SMITH, OREGON.—The 13-mile segment from its headwaters to the Oregon-California State line; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 6.5-mile segment from its headwaters to Horse Creek as a wild river;

"(B) the 4.5-mile segment from Horse Creek to Baldface Creek as a scenic river; and

"(C) the 2-mile segment from Baldface Creek to the Oregon-California State line as a wild river.

"( ) NORTH FORK SPRAGUE, OREGON.—The 15-mile segment from the head of River Spring in the southwest quarter of section 15, township 35 south, range 16 east, to the northwest quarter of the southwest quarter of section 11, township 35 south, range 15 east, as a scenic river; to be administered by the Secretary of Agriculture.

"( ) NORTH POWDER, OREGON.—The 6-mile segment from its headwaters to the Wallowa-Whitman National Forest boundary at River Mile 20 as a scenic river; to be administered by the Secretary of Agriculture.

"( ) NORTH UMPQUA, OREGON.—The 33.8-mile segment from the Soda Springs Powerhouse to Rock Creek in the following classes:

"(A) The 25.4-mile segment from the Soda Springs Powerhouse to the Umpqua National Forest boundary as a recreational river; to be administered by the Secretary of Agriculture; and

"(B) the 8.4-mile segment from the Umpqua National Forest boundary to its confluence with Rock Creek as a recreational river; to be administered by the Secretary of the Interior.

"( ) POWDER, OREGON.—The 11.7-mile segment from Thief Valley Dam to the Highway 203 bridge as a scenic river; to be administered by the Secretary of the Interior.

"( ) QUARTZVILLE CREEK, OREGON.—The 12-mile segment from the Willamette National Forest boundary to slack water in Green Peter Reservoir as a recreational river; to be administered by the Secretary of the Interior.

"( ) ROARING, OREGON.—The 13.7-mile segment from its headwaters to its confluence with the Clackamas River; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 13.5-mile segment from its headwaters to one-quarter mile upstream of the mouth as a wild river; and

"(B) the 0.2-mile segment from one-quarter mile upstream of the mouth to its confluence with the Clackamas River as a recreational river.

"( ) SALMON, OREGON.—The 33.5-mile segment from its headwaters to its confluence with the Sandy River in the following classes:

"(A) The 7-mile segment from its headwaters to the south boundary line of section 6, township 4 south, range 9 east as a recreational river; to be administered by the Secretary of Agriculture: *Provided,* That designation and classification shall not preclude the Secretary from exercising discretion to approve the construction, operation, and maintenance of ski lifts, ski runs, and associated facilities for the land comprising the Timberline

Lodge Winter Sports Area insofar as such construction does not involve water resources projects;

"(B) the 15-mile segment from the south boundary line at section 6, township 4 south, range 9 east to the junction with the South Fork of the Salmon River as a wild river; to be administered by the Secretary of Agriculture;

"(C) the 3.5-mile segment from the junction with the south fork of the Salmon River to the Mt. Hood National Forest boundary as a recreational river; to be administered by the Secretary of Agriculture;

"(D) the 3.2-mile segment from the Mt. Hood National Forest boundary to Lymp Creek as a recreational river; to be administered by the Secretary of the Interior; and

"(E) the 4.8-mile segment from Lymp Creek to its confluence with the Sandy River as a scenic river; to be administered by the Secretary of the Interior.

"( ) SANDY, OREGON.—Those portions as follows:

"(A) The 4.5-mile segment from its headwaters to the section line between sections 15 and 22, township 2 south, range 8 east as a wild river; to be administered by the Secretary of Agriculture;

"(B) the 7.9-mile segment from the section line between sections 15 and 22, township 2 south, range 8 east to the Mt. Hood National Forest boundary at the west section line of section 26, township 2 south, range 7 east as a recreational river; to be administered by the Secretary of Agriculture; and

"(C) the 12.5-mile segment from the east boundary of sections 25 and 36, township 1 south, range 4 east in Clackamas County near Dodge Park, downstream to the west line of the east half of the northeast quarter of section 6, township 1 south, range 4 east, in Multnomah County at Dabney State Park, the upper 3.8 miles as a scenic river and the lower 8.7 miles as a recreational river; both to be administered through a cooperative management agreement between the State of Oregon, the Secretary of the Interior and the Counties of Multnomah and Clackamas in accordance with section 10(e) of this Act.

"( ) SOUTH FORK JOHN DAY, OREGON.—The 47-mile segment from the Malheur National Forest to Smokey Creek as a recreational river; to be administered by the Secretary of the Interior.

"( ) SQUAW CREEK, OREGON.—The 15.4-mile segment from its source to the hydrologic Gaging Station 800 feet upstream from the intake of the McAllister Ditch, including the Soap Fork Squaw Creek, the North Fork, the South Fork, the East and West Forks of Park Creek, and Park Creek Fork; to be administered by the Secretary of Agriculture as follows:

"(A) The 6.6-mile segment and its tributaries from the source to the Three Sisters Wilderness boundary as a wild river; and

"(B) the 8.8-mile segment from the boundary of the Three Sisters Wilderness Area to the hydrologic Gaging Station 800 feet upstream from the intake of the McAllister Ditch as a scenic river: *Provided*, That nothing in this Act shall prohibit the construction of facilities necessary for emergency protection for the town of Sisters relative to a rapid discharge of Carver Lake if no other reasonable flood warning or control alternative exists.

"( ) SYCAN, OREGON.—The 59-mile segment from the northeast quarter of section 5, township 34 south, range 17 east to Coyote

Bucket at the Fremont National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 26.4-mile segment from the northeast quarter of section 5, township 34 south, range 17 east to the west section line of section 22, township 32 south, range 14½ east, as a scenic river;

"(B) the 8.6-mile segment from the west section line of section 22, township 32 south, range 14 east, to the Fremont National Forest boundary in the southeast quarter of section 10, township 33 south, range 13 east, as a recreational river; and

"(C) the 24-mile segment from the Fremont National Forest boundary in the southwest quarter of section 10, township 33 south, range 13 east, to Coyote Bucket at the Fremont National Forest boundary, as a scenic river.

"( ) UPPER ROGUE, OREGON.—The 40.3-mile segment from the Crater Lake National Park boundary to the Rogue River National Forest boundary; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 0.5-mile segment from the Crater Lake National Park boundary to approximately 0.1-mile downstream from the forest road 6530760 (West Lake Road) crossing as a scenic river;

"(B) the 6.1-mile segment from approximately 0.1-mile downstream from the forest road 6530760 (West Lake Road) crossing to Minehaha Creek as a wild river; and

"(C) the 33.7-mile segment from Minehaha Creek to the Rogue River National Forest boundary as a scenic river.

"( ) WENAHA, OREGON.—The 21.55-mile segment from the confluence of the North Fork and the South Fork to its confluence with the Grande Ronde River; to be administered by the Secretary of Agriculture in the following classes:

"(A) The 18.7-mile segment from the confluence of the North Fork and South Fork to the Umatilla National Forest as a wild river;

"(B) the 2.7-mile segment from the Umatilla National Forest boundary to the easternmost boundary of the Wenaha State Wildlife Area as a scenic area; and

"(C) the 0.15-mile segment from the easternmost boundary of the Wenaha State Wildlife Area to the confluence with the Grande Ronde River as a recreational river.

"( ) WEST LITTLE OWYHEE, OREGON.—The 51-mile segment from its headwaters to its confluence with Owyhee River as a wild river; to be administered by the Secretary of the Interior.

"( ) WHITE, OREGON.—The 46.5-mile segment from its headwaters to its confluence with the Deschutes River in the following classes:

"(A) The 2-mile segment from its headwaters to the section line between sections 9 and 16, township 3 south, range 9 east, as a recreational river; to be administered by the Secretary of Agriculture: *Provided,* That designation and classification shall not preclude the Secretary from exercising discretion to approve construction, operation, and from exercising discretion to approve construction, operation, and maintenance of ski lifts, ski runs, and associated facilities for the land comprising the Mt. Hood Winter Sports Area insofar as such construction does not involve water resource projects and is consistent with protecting the values for which the river was designated.

"(B) the 13.6-mile segment from the section line between sections 9 and 16, township 3 south, range 9 east, to Deep Creek as a recreational river; to be administered by the Secretary of Agriculture;

"(C) the 6.5-mile segment from Deep Creek to the Mt. Hood National Forest boundary as a scenic river; to be administered by the Secretary of Agriculture;

"(D) the 17.5-mile segment from the Mt. Hood National Forest boundary to Three Mile Creek as a scenic river; to be administered by the Secretary of the Interior;

"(E) the 5.3-mile segment from Three Mile Creek to River Mile 2.2 as a recreational river; to be administered by the Secretary of the Interior; and

"(F) the 1.6-mile segment from River Mile 1.6 to its confluence with the Deschutes River as a recreational river; to be administered by the Secretary of the Interior.".

SEC. 103. WILD AND SCENIC RIVER STUDIES.

16 USC 1276.

Section 5(a) of the Wild and Scenic Rivers Act (Public Law 90-542, 82 Stat. 910), as amended, is further amended by adding the following new paragraphs at the end thereof:

"( ) BLUE, OREGON.—The segment from its headwaters to the Blue River Reservoir; by the Secretary of Agriculture.

"( ) CHEWAUCAN, OREGON.—The segment from its headwaters to the Paisley Urban Growth boundary to be studied in cooperation with, and integrated with, the Klamath River Basin Plan; by the Secretary of Agriculture.

"( ) NORTH FORK MALHEUR, OREGON.—The segment from the Malheur National Forest boundary to Beulah Reservoir; by the Secretary of the Interior.

"( ) SOUTH FORK MCKENZIE, OREGON.—The segments from its headwaters to the upper end of Cougar Reservoir and from the lower end of Cougar Reservoir to its confluence with the McKenzie River; by the Secretary of Agriculture.

"( ) STEAMBOAT CREEK, OREGON.—The entire creek; by the Secretary of Agriculture.

"( ) WALLOWA, OREGON.—The segment from its confluence with the Minam River to its confluence with the Grande Ronde River; by the Secretary of Agriculture.".

SEC. 104. UPPER KLAMATH RIVER STUDY.

Section 5(d) of the Wild and Scenic Rivers Act (Public Law 90-542, 82 Stat. 910) is amended by inserting "(1)" after "(d)" and by inserting the following new paragraph at the end thereof:

"(2) The Congress finds that the Secretary of the Interior, in preparing the Nationwide Rivers Inventory as a specific study for possible additions to the National Wild and Scenic Rivers System, identified the Upper Klamath River from below the John Boyle Dam to the Oregon-California State line. The Secretary, acting through the Bureau of Land Management, is authorized under this subsection to complete a study of the eligibility and suitability of such segment for potential addition to the National Wild and Scenic Rivers System. Such study shall be completed, and a report containing the results of the study shall be submitted to Congress by April 1, 1990. Nothing in this paragraph shall affect the authority or responsibilities of

Reports.

any other Federal agency with respect to activities or actions on this segment and its immediate environment.".

SEC. 105. INDIAN TREATY LANDS AND ADMINISTRATIVE PROVISIONS. 16 USC 1274 note.

(a)(1) Lands now or hereafter held in trust by the United States for the benefit of an Indian tribe or individual Indian shall not be included within the boundaries of the Deschutes or Metolius Rivers as designated by this title without the consent of the applicable tribal council.

(2) When Indian treaty lands exist in association with lands included in the National Wild and Scenic Rivers System under this title, the Secretaries of the Interior and Agriculture, as appropriate, shall fully consult and enter into written cooperative management agreements with the affected Indian tribe for planning, administration, and management of such areas as provided in section 10(e) of this Act. Contracts.

(b) Nothing in this title shall affect:

(1) The jurisdiction or responsibilities of an Indian tribe with respect to fish, wildlife, land, and water management;

(2) the treaty or other rights of an Indian tribe;

(3) the water and land claims, present or future, of an Indian tribe;

(4) the relicensing or amending the license of the Pelton Hydroelectric Project, FERC Project No. 2030 so long as such project does not adversely affect the values for which the Deschutes River was designated;

(5) the rights or jurisdiction of Indian tribes over waters or any river or stream within the affected river area or stream, or over any ground water resource; or

(6) the beneficial ownership interest of land held in trust, now or hereafter, by the United States for Indian Tribes or individual Indians.

(c) Nothing in this title shall preclude or impair the use by the City of Portland, Oregon, of water in the Bull Run and Little Sandy Rivers to the extent that such water is necessary for the purpose of municipal water supply.

SEC. 106. AUTHORIZATION OF APPROPRIATIONS. 16 USC 1274 note.

There are authorized to be appropriated for fiscal years after the fiscal year 1988—

(a) for the purpose of acquisition of lands, waters, and interests therein pursuant to this title, not to exceed $5,000,000;

(b) for the purpose of preparing the studies for the rivers and river segments listed in section 103 of this title, not to exceed $2,500,000; and

(c) for the purpose of preparing the study of the river segment listed in section 104 of this title, not to exceed $200,000.

TITLE II—UMATILLA BASIN PROJECT, OREGON

Umatilla Basin Project Act. Fish and fishing.

SEC. 201. SHORT TITLE.

This title may be cited as the "Umatilla Basin Project Act".

SEC. 202. AUTHORIZATION OF PROJECT.

(a) For purposes of mitigating losses to anadromous fishery resources and continuing water service to the Hermiston, West Exten-

sion, Westland, and Stanfield Irrigation Districts, for the project water exchange, the Secretary of the Interior, acting pursuant to the Federal reclamation laws (Act of June 17, 1902, and Acts amendatory thereof and supplementary thereto), is authorized to construct, operate, and maintain the Umatilla Basin Project, Oregon, substantially in accordance with the report entitled: "Umatilla Basin Project, Oregon, Planning Report" dated February 12, 1988, in the manner specified by this title. The principal work of the project shall consist of—

(1) lands, water rights, or interests therein acquired for the benefit of fishery resources;

(2) measures to conserve water and improve the efficiency of the existing conveyance, distribution, and drainage systems of the Umatilla Project, where such measures are found to make water available for the benefit of fishery resources;

(3) pumping plants and related diversion, conveyance, and distribution features;

(4) works incidental to the rehabilitation or modification of existing irrigation systems necessary to accomplish a water exchange required to fulfill the purposes of this title;

(5) fish passage and protective facilities and other necessary mitigation measures;

(6) a program to monitor and regulate project operations; and

(7) a program to evaluate fishery resource mitigation measures.

SEC. 203. INTEGRATION AND OPERATION OF PROJECT.

Project facilities and features authorized by this title shall be integrated and coordinated, from an operational standpoint, into existing features of the Umatilla Project, and shall be operated in a manner consistent with Federal reclamation laws and water rights established pursuant to State law including the contract rights of water users. Prior to the initiation of project construction, the Secretary shall secure the necessary State and local permits and other authorities for the operation of project facilities, and through the conclusion of appropriate agreements with the State of Oregon, the relevant irrigation districts, and the Confederated Tribes of the Umatilla Indian Reservation provide for the monitoring and regulation of project-related water supplies for the purposes herein identified.

SEC. 204. POWER FOR PROJECT PUMPING.

The Administrator of the Bonneville Power Administration, consistent with provisions of the Columbia River Basin Fish and Wildlife Program established pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697), shall provide for project power needed to effect the water exchange with irrigation districts for purposes of mitigating anadromous fishery resources. The cost of power shall be credited to fishery restoration goals of the Columbia River Basin Fish and Wildlife Program.

SEC. 205. OPERATION AND MAINTENANCE COSTS.

Non-Federal interests shall be responsible for the cost of operating and maintaining the project, except for those costs associated with implementation of section 204 of this title, and to fulfill the purpose of mitigating losses to anadromous fisheries resources.

SEC. 206. INTERIM FLOW AUGMENTATION.

Appropriation authorization.

Until the facilities authorized in this title are constructed and in operation, and as an interim measure to provide flow augmentation of the Umatilla River for anadromous fishery resources, funds are authorized to be appropriated to the Secretary, through the end of fiscal year 1998, to provide for interim operation and maintenance of existing pumps or other facilities for the purpose of providing flow augmentation for anadromous fish.

SEC. 207. NON-FEDERAL COSTS.

(a) CREDIT FOR NON-FEDERAL FISHERY RESOURCE IMPROVEMENTS.—The Umatilla Basin Project authorized by this title is a Federal action to improve streamflow and fish passage conditions and shall be considered part of a comprehensive program to restore the Umatilla River basin anadromous fishery resource. Related fishery resource improvement facilities which utilize funding sources under the Pacific Northwest Electric Power Planning and Conservation Act of 1980 (94 Stat. 2697) and programs of the State of Oregon and other entities shall be consolidated in any final calculation of required cost sharing.

(b) TREATMENT OF NON-FEDERAL COSTS INCURRED IN IMPLEMENTING PROJECT FEATURES BEFORE APPROPRIATIONS.—To the extent any public or private entity shares in the cost of or constructs any feature of the project or portion thereof prior to the appropriation of funds for construction of such feature, the costs incurred shall be credited to the total amount of any cost sharing required for the project. The Secretary is authorized to accept title to facilities appropriate to the project without compensation and thereafter to operate and maintain such facilities.

SEC. 208. CONJUNCTIVE USE OF PUMPING FACILITIES.

When project pumping capacity is available in excess of that needed for fishery resource benefits as determined by the Secretary of the Interior, such project pumping capacity may be made available for use on presently irrigated lands eligible for service within the irrigation districts that participate in the project authorized in this title at a rate based on the operation and maintenance costs related to such conjunctive use and an appropriate share of capital costs for such use as specified by an agreement between the Secretary of the Interior and the irrigation districts: *Provided,* That (a) boundaries of the irrigation districts may be modified, upon approval of the Secretary of the Interior, to include such lands that received irrigation water service from those districts prior to October 1, 1988; and (b) that such use shall be considered as secondary to the purpose of providing water for fishery resource purposes. Pumping power for this purpose shall be provided to the Bureau of Reclamation by the Administrator of the Bonneville Power Administration. The Administrator's rate for this service during the peak period shall be the forecasted average rate to be paid by public agencies for irrigation loads during peak periods. The rate during the off peak period shall be the rate paid by public agencies for irrigation loads during off peak periods. The cost of power for such pumping, and the cost of transmitting power from the Federal Columbia River Power System to the project pumping facilities shall be borne by irrigation districts receiving the benefit of such water.

SEC. 209. LEASE AND PURCHASE OF WATER.

The Secretary is authorized to acquire from willing parties land, water rights, or interests therein for benefit of fishery resources consistent with the purpose of this title: *Provided,* That acquisition of water rights shall be in accordance with applicable State law. There is hereby authorized to be appropriated not more than $1,000,000 to accomplish the purposes of this section.

Appropriation authorization.

SEC. 210. AUTHORIZATION OF APPROPRIATIONS.

(a) There is hereby authorized to be appropriated for construction of the Umatilla Basin Project and the study authorized by section 213 of this title the sum of $42,400,000 (April 1987 prices), less any amounts previously appropriated for the project, plus or minus such amounts as may be required by reason of changes in the cost of construction work of the types involved therein as shown by applicable engineering cost indices and exclusive of facilities indicated in section 210(b) of this title: *Provided,* That such funds are authorized to be appropriated only through the tenth fiscal year after which construction funds are first made available: *Provided further,* That all costs, including operation and maintenance costs, allocated to the mitigation of anadromous fish species and the study authorized in section 213 of this title shall be nonreimbursable. There are also authorized to be appropriated such sums as may be required for the Federal share of operation and maintenance of the project, including the monitoring and evaluation of project accomplishments.

(b) Related fish passage and protective facilities constructed or to be constructed by the Bonneville Power Administration that are features of the Columbia River Fish and Wildlife Program established pursuant to the Pacific Northwest Electric Power Planning and Conservation Act (94 Stat. 2697) shall be consolidated into calculations of project costs and benefits: *Provided,* That the Secretary shall not request an appropriation of funds to construct any such facilities.

SEC. 211. WATER RIGHTS.

Nothing in this title shall be construed to—

(1) impair the validity of or preempt any provision of State water law, or of any interstate compact governing water;

(2) alter the rights of any State to any appropriated share of the waters of any body or surface or ground water, whether determined by past or future interstate compacts, or by past or future legislative or final judicial allocations;

(3) preempt or modify any State or Federal law or interstate compact dealing with water quality or disposal;

(4) confer upon any non-Federal entity the ability to exercise any Federal right to the waters of any stream or to any ground water resources; or

(5) affect any water rights of any Indian or Indian tribe if such rights were established by the setting aside of a reservation by treaty, Executive order, agreements, or Act of Congress.

SEC. 212. REHABILITATION AND BETTERMENT AUTHORIZATION.

Conservation.

For purposes of encouraging water conservation and improvements to water supply systems of the irrigation districts participating in the project authorized by this title, Stanfield and Westland Irrigation Districts shall be eligible to receive financial assistance,

in an amount not to exceed $2,000,000 each, as deemed appropriate by the Secretary, under provisions of the Rehabilitation and Betterment Act of October 7, 1949 (63 Stat. 724), as amended.

SEC. 213. REVIEW OF UMATILLA PROJECT OPERATIONS.

Within one year from the date of enactment of this title, the Secretary shall complete a review of current operations of the Umatilla Project, for the purpose of identifying opportunities to further mitigate losses to anadromous fishery resources. Within 90 days of the completion of this review, the Secretary shall transmit a report thereon, together with any conclusions and recommendations to improve the management of the existing project, including measures that may require additional legislation, to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate. The review shall include, but not be limited to the following: Reports.

(a) Contract negotiation and administration;

(b) water conservation plans and activities required by section 210 of the Reclamation Reform Act of 1982 (Public Law 97-293);

(c) allocation of reservoir storage space;

(d) water deliveries outside the authorized service area; and

(e) water rights held by the United States.

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 2148 (H.R. 4164):

HOUSE REPORTS: No. 100-1053, Pt. 1, accompanying H.R. 4164 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-570 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 7, considered and passed Senate.
Oct. 12, considered and passed House.

Public Law 100-558
100th Congress

An Act

Oct. 28, 1988
[S. 2436]

To reauthorize the Sleeping Bear Dunes National Lakeshore Advisory Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4 of
16 USC 460x-3. Public Law 91-479, relating to the establishment of Sleeping Bear Dunes National Lakeshore, is amended—

(1) in subsection (a) striking "ten" and inserting "twenty"; and

(2) by amending subsection (e) to read as follows:

"(e) The Secretary or his designee shall consult with the Commission with respect to—

"(1) matters relating to the development of the lakeshore and with respect to the provisions of sections 9, 12, and 13 of this Act; and

"(2) matters relating to the implementation of the General Management Plan provided for in section 6(b).".

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 2436:

SENATE REPORTS: No. 100-472 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 11, considered and passed Senate.
Oct. 12, considered and passed House.

Public Law 100-559
100th Congress

An Act

To redesignate Salinas National Monument in the State of New Mexico, and for other purposes.

Oct. 28, 1988
[S. 2545]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation. Historic preservation.

TITLE I—SALINAS NATIONAL MONUMENT

SEC. 101. SALINAS PUEBLO MISSION NATIONAL MONUMENT.

(a) The Salinas National Monument, as designated by section 601 of the Act of December 19, 1980 (94 Stat. 3231), is hereby redesignated as Salinas Pueblo Missions National Monument. 16 USC 431 note.

(b) Any reference in any record, map, or other document of the United States of America to Salinas National Monument shall hereafter be deemed to be a reference to Salinas Pueblo Missions National Monument.

TITLE II—CORONADO NATIONAL TRAIL STUDY

Coronado National Trail Study Act of 1988. 16 USC 1241 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Coronado National Trail Study Act of 1988".

SEC. 202. FINDINGS.

The Congress finds that—

(1) Francisco Vasquez de Coronado led an expedition from Compostela on the Southwest Coast of Mexico, into the American Southwest in search of the legendary Seven Cities of Cibola between 1540 and 1542;

(2) Coronado's expedition of approximately 300 Spanish soldiers and 1,000 Indian allies and servants marched through the State of Arizona, then through the States of New Mexico, Texas, Oklahoma, and Kansas;

(3) Coronado and his troops found Pueblo Indian settlements, including the Zuni villages of western New Mexico, Acoma along the Rio Grande River, as far north as Taos, and east to Pecos, as well as those of the Hopi in Arizona and Plains groups in Texas, Oklahoma, and Kansas; and

(4) members of the Coronado expedition became the first Europeans to see the Grand Canyon in Arizona, the Palo Duro Canyon in Texas, and many other Southwestern landmarks.

SEC. 203. DESIGNATION OF TRAIL.

Section 5(c) of the National Trails System Act (82 Stat. 919; 16 U.S.C. 1244(c)) is amended by adding at the end thereof the following new paragraph:

"(32) Coronado Trail, the approximate route taken by the expedition of the Spanish explorer Francisco Vasquez de Coronado be-

tween 1540 and 1542, extending through portions of the States of Arizona, New Mexico, Texas, Oklahoma, and Kansas. The study under this paragraph shall be prepared in accordance with subsection (b) of this section. In conducting the study under this paragraph, the Secretary shall provide for (A) the review of all original Spanish documentation on the Coronado Trail, (B) the continuing search for new primary documentation on the trail, and (C) the examination of all information on the archeological sites along the trail.".

Records.

National Mimbres Culture Study Act of 1988.

TITLE III—NATIONAL MIMBRES CULTURE STUDY

SEC. 301. SHORT TITLE.

This title may be cited as the "National Mimbres Culture Study Act of 1988".

SEC. 302. AUTHORIZATION OF STUDY.

(a) AUTHORIZATION.—The Secretary of the Interior is authorized to conduct a study of the Mimbres culture to determine its significance in illustrating and commemorating the prehistory of the Southwest. The study shall include an analysis of the significance of the culture as it relates to the Mogollon, Salado, and Casas Grandes cultures and shall include a list of appropriate sites for interpreting the culture.

(b) RECOMMENDATIONS.—The study shall include recommendations with respect to—

(1) measures for the preservation of resources associated with the Mimbres culture located in and around the vicinity of Silver City, New Mexico; and

(2) indications of types and general intensities of development, including a visitor facility with sufficient space to accommodate exhibits of Mimbres pottery and information regarding the Masau Trail, that would be associated with public enjoyment and use of the sites, including general location and anticipated costs.

(c) COMPLETION OF STUDY.—The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than one year after the date on which funds are appropriated for the study.

SEC. 303. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

Spanish Colonization Commemorative Act of 1988.

TITLE IV—SPANISH COLONIZATION COMMEMORATIVE STUDY

SEC. 401. SHORT TITLE.

This title may be cited as the "Spanish Colonization Commemorative Act of 1988".

SEC. 402. AUTHORIZATION OF STUDY.

(a) AUTHORIZATION.—The Secretary of the Interior is authorized to conduct a study of the Spanish Frontier culture and Spanish Borderlands story to determine their significance in illustrating and commemorating the Spanish colonization of the Southwest, the

Spanish colonial frontier culture, and Spanish colonialism in New Mexico. The study shall include an analysis of the significance of the San Gabriel Historic Landmark and the Los Luceros Hacienda as they relate to the Spanish Borderlands story of the Southwest.

(b) RECOMMENDATIONS.—The study shall include recommendations with respect to—

(1) measures for the preservation and interpretation of resources associated with the Spanish colonization of the Southwest; and

(2) indications of types and general intensities of development, including the feasibility of visitor facilities, that would be associated with public enjoyment and use of the sites, including general location and anticipated costs.

(c) COMPLETION OF STUDY.—The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate not later than two years after the date on which funds are appropriated for the study.

SEC. 403. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE V—"A" MOUNTAIN LAND EXCHANGE

SEC. 501. SOUTHERN RIO GRANDE LAND EXCHANGE.

Minerals and mining. Claims.

The Secretary of the Interior is authorized to exchange certain lands as identified for disposal in the Southern Rio Grande Plan Amendment for certain mining claims on lands withdrawn for the National Aeronautic and Space Administration and New Mexico A and M College (now New Mexico State University) under P.L.O. 3685 and P.L.O. 2051. Once the United States determines the claims are valid under existing law, the exchange authorized by the preceding sentence shall be made on an equal value basis as determined by an independent appraisal.

SEC. 502. LAND EXCHANGE.

(a) The Secretary of the Interior is authorized and directed to make available for exchange the Federal interests in the lands described in subsection (b) for the private interests in the lands described in subsection (c). The exchange shall be made in a manner consistent with applicable provisions of law and shall be on the basis of equal value as provided in section 206 of the Federal Land Management Act of 1976 (43 U.S.C. 1716).

(b) The Federal interests to be made available for exchange under this section are those lands in sections 14, 22, 23, 26, and 35 of township 23 south, range 2 east, New Mexico Principal Meridian which are encompassed by P.L.O. 2051.

(c) The private interests to be exchanged pursuant to this section are those lands owned by New Mexico State University in sections 19, 29, 30, and 31 of township 22 south, range 4 east, and section 6 of township 23 south, range 4 east, New Mexico Principal Meridian. The exchange may be made regardless of the reverter provision contained in the patent of those lands to the Regents of the Agricultural College of New Mexico and shall not be deemed to constitute the basis for reversion.

(d) Lands not acquired by New Mexico State University pursuant to this section and which are encompassed by P.L.O. 2051 may be disposed of, when available for disposition, by sale to or exchange with the State of New Mexico, New Mexico State University, or other public entities in accordance with the Recreation and Public Purposes Act (43 U.S.C. 869 et seq.): *Provided, however,* That New Mexico State University is given a right of first refusal on any proposed disposition.

Education. Science and technology. Research and development. Energy.

(e) None of the lands transferred to New Mexico State University pursuant to this section shall be sold by New Mexico State University. All such lands shall be used for the purposes of promoting directly or indirectly educational, scientific, and research activities, including those activities currently authorized under P.L.O. 2051, or promoting the utilization of the natural geothermal resources located within the boundaries of the lands transferred. In the event that the lands transferred to New Mexico State University pursuant to this section are used for any purpose other than those for which conveyance is authorized by this subsection, title to that portion of the lands upon which there is an unauthorized use shall immediately revert to the United States without the necessity for further action to accomplish the reversion of title to the United States.

(f) Notwithstanding any other provision of law or court order, the Secretary of the Interior, if the Secretary determines it is necessary and appropriate for the purpose of consummating a conveyance of lands or interests therein under this Act, is hereby authorized and directed to revoke P.L.O. 2051 or any portion thereof necessary to consummate the transaction authorized by this title.

16 USC 431 note.

TITLE VI—AZTEC RUINS NATIONAL MONUMENT

SEC. 601. REVISION OF BOUNDARY.

Public information.

The boundary of Aztec Ruins National Monument is hereby revised to include the area generally depicted on the map entitled "Aztec Ruins, Addition, Aztec Ruins National Monument", numbered 319/80,015, and dated October 16, 1987. Such map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior

SEC. 602. LAND ACQUISITION.

Gifts and property.

The Secretary of the Interior is authorized to acquire lands, interests in lands, and improvements thereon within the boundary of the national monument as amended by section 601 by donation, exchange, or purchase with donated or appropriated funds.

SEC. 603. ADMINISTRATION.

National Park System.

The Secretary of the Interior shall administer the Aztec Ruins National Monument in accordance with the provisions of law generally applicable to units of the National Park System including the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666).

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

TITLE VII—GEORGIA O'KEEFFE STUDY

SEC. 701. GEORGIA O'KEEFFE STUDY.

Art.

(a) In recognition of the significant impact Georgia O'Keefee had on the world of art, the Secretary of the Interior is authorized and directed to conduct a study of the most appropriate way to interpret these nationally significant contributions. The study shall include but not be limited to an evaluation of the feasibility of marking and interpreting the landscapes consisting of the scenes and physical features from which Georgia O'Keeffe drew much of her inspiration.

(b) The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within one year of the date on which funds are appropriated for the study.

SEC. 702. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE VIII—WARM SPRINGS STUDY

Warm Springs Study Act of 1988.

SEC. 801. SHORT TITLE.

This title may be cited as the "Warm Springs Study Act of 1988".

SEC. 802. STUDY OF WARM SPRINGS CULTURE.

Indians.

(a) IN GENERAL.—The Secretary of the Interior is authorized and directed to conduct a study of the culture that evolved around Warm Springs in Southwestern, New Mexico, to determine its significance in illustrating and commemorating American frontier military history and the development of American Indian policy.

(b) SPECIFICS OF STUDY.—The study shall include—

(1) an evaluation of the history of the people from the Warm Springs area in Victorio's War in relation to American frontier military history and the development of American Indian policy; and

(2) an evaluation of historic and prehistoric resources surrounding the Warm Springs at the headwaters of Canada de Alamosa and the potential for preservation and public use.

(c) COMPLETION OF STUDY.—The study shall be completed and transmitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate within 1 year of the date on which funds are appropriated for the study.

SEC. 803. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

Approved October 28, 1988.

LEGISLATIVE HISTORY—S. 2545 (H.R. 3541):

HOUSE REPORTS: No. 100-790 accompanying H.R. 3541 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-572 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, H.R. 3541 considered and passed House.
Oct. 7, S. 2545 considered and passed Senate.
Oct. 12, considered and passed House.

Public Law 100-560
100th Congress

An Act

To provide for the establishment of the Poverty Point National Monument, and for other purposes.

Oct. 31, 1988
[H.R. 775]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
Louisiana.
16 USC 431 note.

SECTION 1. ESTABLISHMENT.

(a) IN GENERAL.—In order to preserve the archaeological area known as Poverty Point, Louisiana, and to interpret and conduct further research on such area, its people and their culture, there is hereby established the Poverty Point National Monument (hereafter in this Act referred to as the "monument").

(b) AREA INCLUDED.—The monument shall consist of the lands and interests in lands within the area generally depicted on the map entitled "Boundary Map, Poverty Point National Monument", numbered PO-PT 80,000, and dated August 1988. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior, and at the monument. The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") may, from time to time, make minor revisions in the boundary of the monument.

SEC. 2. ADMINISTRATION.

16 USC 431 note.

(a) IN GENERAL.—The Secretary shall administer the monument in accordance with this Act and with the provisions of law generally applicable to units of the national park system, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461-467). The Secretary is authorized to acquire personal property for the purpose of administering the monument.

Gifts and property.

(b) MANAGEMENT PLAN.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop and implement a management plan for the monument. The Secretary shall promptly submit such plan to the appropriate committees of the Congress.

(c) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with institutions of higher education and professional societies to conduct further research on Poverty Point, its people and their culture.

(d) EMPLOYMENT.—The Secretary shall utilize existing authority, to the extent practicable, to employ those persons managing the State commemorative area at Poverty Point, Louisiana.

SEC. 3. ACQUISITION OF LAND.

16 USC 431 note.

The Secretary may acquire land or interests in land within the boundaries of the monument by donation, purchase from a willing seller with donated or appropriated funds, or exchange. Lands, and interests in lands, within the boundaries of the monument which

are owned by the State of Louisiana, or any political subdivision thereof, may be acquired only by donation.

16 USC 431 note.

SEC. 4. ADVISORY COMMISSION.

(a) ESTABLISHMENT.—(1) There is hereby established the Poverty Point National Monument Advisory Commission (hereafter in this section referred to as the "Advisory Commission"). The Advisory Commission shall be composed of 7 members appointed by the Secretary as follows:

(A) 3 members from those nominated by the Governor of Louisiana, including the State of Louisiana Historic Preservation Officer;

(B) 2 members from professional archaeologists in the archaeology community; and

(C) 2 members from the public with particular interests in Poverty Point.

(2) Members of the Advisory Commission shall be appointed for terms of 3 years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed.

(3) The Advisory Commission shall designate one of its members as Chairperson.

(b) MANAGEMENT AND DEVELOPMENT ISSUES.—The Secretary, or his designee, shall from time to time, but at least semiannually, meet and consult with the Advisory Commission on matters relating to the management and development of the monument.

(c) MEETINGS.—The Advisory Commission shall meet on a regular basis. Notice of meetings and agenda shall be published in local newspapers which have a distribution which generally covers the area affected by the monument. Advisory Commission meetings shall be held at locations and in such a manner as to ensure adequate public involvement.

Public information.

(d) EXPENSES.—Members of the Advisory Commission shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson.

(e) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Commission.

16 USC 431 note.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated such sums as may be necessary to carry out the purposes of this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 775:

HOUSE REPORTS: No. 100-907 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 100-561
100th Congress

An Act

To amend the Natural Gas Pipeline Safety Act of 1968 and the Hazardous Liquid Pipeline Safety Act of 1979 to authorize appropriations for fiscal years 1988 and 1989, and for other purposes.

Oct. 31, 1988
[H.R. 2266]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Pipeline Safety Reauthorization Act of 1988.
State and local governments.
49 USC app. 1671 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pipeline Safety Reauthorization Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—NATURAL GAS PIPELINE SAFETY

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Sec. 102. State notification and pipeline inventory.
Sec. 103. State enforcement.
Sec. 104. Qualifications for State grant programs.
Sec. 105. Federal-State cooperation in case of accident.
Sec. 106. Increased civil penalties.
Sec. 107. Destruction of signs or markers.
Sec. 108. Additional inspection and testing.
Sec. 109. State prenotification of testing.
Sec. 110. Authorization for appropriations.

TITLE II—HAZARDOUS LIQUID PIPELINE SAFETY

Sec. 201. Certification authority.
Sec. 202. State notification and pipeline inventory.
Sec. 203. State enforcement.
Sec. 204. Qualifications for State grant programs.
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TITLE III—GENERALLY APPLICABLE PIPELINE SAFETY PROVISIONS

Sec. 301. Grants-in-aid authorization.
Sec. 302. Additional hirings.
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Sec. 304. Internal inspection of pipelines.
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Sec. 306. Feasibility of regulating excavation activities.
Sec. 307. Pipeline safety instructors.
Sec. 308. Clarification of congressional intent.

TITLE IV—MOTOR VEHICLE INFORMATION AND COST SAVINGS

Sec. 401. Transfer of titles held by lienholders.

TITLE I—NATURAL GAS PIPELINE SAFETY

SEC. 101. CERTIFICATION AUTHORITY.

Section 3(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672(a)(1)) is amended by inserting after the second sentence the following: "Such standards may include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to perform such functions.".

SEC. 102. STATE NOTIFICATION AND PIPELINE INVENTORY.

Section 3 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1672) is amended by adding at the end the following new subsections:

Regulations. "(e) NOTIFICATION STANDARDS.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall establish by regulation minimum Federal standards requiring operators of pipeline facilities subject to this Act (to the extent practicable) to provide, and revise as necessary, information relating to the operation of such facilities. Such information shall be completed and maintained and be provided, upon request, to the Secretary and an appropriate official of a State, as the case may be. Such information shall include the following:

"(1) The business name, address, and telephone number, including an operations emergency telephone number, of the operator.

"(2) An accurate map or maps, along with an appropriate supplementary geographic description, showing the location of major pipeline facilities, including all transmission lines and significant distribution lines, of such operator in the State.

"(3) A description of the characteristics of the operator's pipelines within the State.

"(4) A description of all products transported through the operator's pipelines within the State.

"(5) The manual which governs operations and maintenance of the pipeline facilities located in the State.

"(6) An emergency response plan describing the operator's procedures for responding to and containing releases, including—

"(A) an identification of specific actions which will be taken by the operator on discovery of a release;

"(B) liaison procedures with State and local government agencies for emergency response; and

"(C) communication and alert procedures for immediate notification of State and local officials at the time of any release.

"(7) Any other information the Secretary considers useful and necessary to inform the States of the presence of pipeline facilities and operations within their boundaries.

Regulations. "(f) PIPELINE INVENTORY STANDARDS.—The Secretary shall, by regulation, establish minimum Federal standards to require, not later than 1 year after the date of the enactment of this subsection, operators of pipeline facilities subject to this Act, to the extent practicable, to complete and maintain for the Secretary, and to

revise as appropriate thereafter, an inventory with appropriate information with respect to all types of pipe used for the transmission of gas in such operator's system, along with additional information such as the material history and the leak history of such pipe. Such inventory shall exclude equipment used with the compression of gas.".

SEC. 103. STATE ENFORCEMENT.

Section 5(a)(3) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)(3)) is amended by inserting "through means which include inspections conducted by State employees who meet qualifications established by the Secretary under subsection (d)" after "each such standard".

SEC. 104. QUALIFICATIONS FOR STATE GRANT PROGRAMS.

Section 5(d) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(d)) is amended by adding at the end the following new paragraph:

"(5) QUALIFICATIONS FOR STATE GRANT PROGRAMS.—The Secretary may establish by regulation qualifications for States to meet in order to participate in the pipeline safety grant program under this subsection, including qualifications for State employees who perform inspection activities pursuant to either an annual certification by a State agency or an agreement relating to inspection between a State agency and the Secretary. Such regulations may take into account the experience and training of the State employee, may mandate training or other requirements, and may provide for conditional approval of qualifications pending satisfaction of specified requirements.".

SEC. 105. FEDERAL-STATE COOPERATION IN CASE OF ACCIDENT.

Section 9 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1676) is amended—

(1) by inserting "(a) GENERAL RULE.—" before "Whenever"; and

(2) by adding at the end the following new subsection:

"(b) COORDINATION PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the agencies of the United States and of the States with regulatory authority over pipeline facilities with respect to responses to pipeline accidents.".

SEC. 106. INCREASED CIVIL PENALTIES.

Section 11(a)(1) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(a)(1)) is amended—

(1) by inserting ", after notice and an opportunity for a hearing," after "Secretary";

(2) by striking out "$1,000" and inserting in lieu thereof "$10,000"; and

(3) by striking out "$200,000" and inserting in lieu thereof "$500,000".

SEC. 107. DESTRUCTION OF SIGNS OR MARKERS.

Section 11(c) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1679a(c)) is amended by adding at the end the following new paragraph:

Law enforcement and crime.

"(3) DESTRUCTION OF SIGNS OR MARKERS.—Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by Federal law or regulation shall, upon conviction, be subject, for each offense, to a fine of not more than $5,000, imprisonment for a term not to exceed 1 year, or both.".

SEC. 108. ADDITIONAL INSPECTION AND TESTING.

(a) INSPECTION AND TESTING.—Section 13 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1680) is amended—

(1) by inserting "(a) PIPELINE OPERATOR'S RESPONSIBILITIES.—" before "Each person who engages"; and

(2) by adding at the end the following new subsection:

"(b) SECRETARY'S RESPONSIBILITIES.—

"(1) IN GENERAL.—The Secretary shall inspect and, as appropriate, shall require testing of pipeline facilities subject to this Act and not covered by an agreement or certification under section 5 to ensure the safety of such pipeline facilities. To the extent and in such amounts as are provided in advance by appropriation Acts, such inspections shall be at intervals determined under paragraph (2) but no less frequently than once every 2 years thereafter; except that the Secretary may reduce the frequency of such inspections with respect to master meter systems. Such inspections shall begin as soon as feasible, but in no event more than 1 year after the date of the enactment of this subsection. Such testing shall be performed using the most appropriate technology practicable.

"(2) CRITERIA FOR FREQUENCY AND TYPE.—The frequency and type of inspection and testing under this subsection shall be determined by the Secretary on a case-by-case basis after consideration of the following factors:

"(A) The location of the pipeline facilities.

"(B) The type, size, age, manufacturer, method of construction, and condition of the pipeline facilities.

"(C) The nature and volume of the materials transported through the pipeline facilities and the pressure at which they are transported.

"(D) The climatic, geologic, and seismic characteristics of, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas.

"(E) The frequency of leaks, if any.

"(F) Any other factors determined by the Secretary to be relevant to the safety of pipeline facilities.".

(b) INSTRUMENTED INTERNAL INSPECTION DEVICES.—Section 3 of such Act (49 U.S.C. App. 1672) is amended by adding at the end the following new subsection:

Regulations.

"(g) INSTRUMENTED INTERNAL INSPECTION DEVICES.—The Secretary shall, by regulation, establish minimum Federal safety standards requiring that—

"(1) the design and construction of new transmission facilities, and

"(2) when replacement of existing transmission facilities or equipment is required, the replacement of such existing facilities,

be carried out, to the extent practicable, in a manner so as to accommodate the passage through such transmission facilities of instrumented internal inspection devices (commonly referred to as 'smart pigs').".

(c) IMPROVEMENT OF MASTER METER INSPECTION PROGRAM.— 49 USC app. 1680 note.

(1) STUDY.—The Secretary of Transportation shall undertake a study to assess the need for an improved inspection program for master meter systems.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report detailing the Secretary's findings under paragraph (1) together with any recommendations of the Secretary for appropriate legislation.

SEC. 109. STATE PRENOTIFICATION OF TESTING.

Section 14(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1681(a)) is amended by inserting after the first sentence the following new sentence: "Prior to requiring such testing, the Secretary shall notify the appropriate State official in the State in which the affected pipeline facility is located.".

SEC. 110. AUTHORIZATION FOR APPROPRIATIONS.

Section 17(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) $3,733,000 for the fiscal year ending September 30, 1988;

"(7) $3,978,000 for the fiscal year ending September 30, 1989;

"(8) $4,086,000 for the fiscal year ending September 30, 1990; and

"(9) $4,270,000 for the fiscal year ending September 30, 1991.

The Secretary may credit to any appropriation authorized under this subsection funds received from non-Federal sources for reimbursement for expenses incurred by the Secretary in providing training. The Secretary may expend in fiscal year 1989 or fiscal year 1990 not to exceed $50,000 of funds appropriated pursuant to this subsection for such fiscal year for establishing a training program for persons who install, operate, and maintain a system of providing natural gas for more than one unit in a definable area (including a building or series of buildings, a mobile home park, a housing project, or an apartment complex) through use of a master metering system in lieu of separate meters."

TITLE II—HAZARDOUS LIQUID PIPELINE SAFETY

SEC. 201. CERTIFICATION AUTHORITY.

Section 203(c) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002(c)) is amended by inserting after the first sentence the following: "Such standards may include a requirement that all individuals responsible for the operation and maintenance of pipeline facilities be tested for qualifications and certified to perform such functions ".

SEC. 202. STATE NOTIFICATION AND PIPELINE INVENTORY.

Section 203 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2002) is amended by adding at the end the following new subsections:

Regulations. "(i) NOTIFICATION STANDARDS.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall establish by regulation minimum Federal standards requiring operators of pipeline facilities subject to this title (to the extent practicable) to provide, and revise as necessary, information relating to operation of such facilities. Such information shall be completed and maintained and be provided, upon request, to the Secretary and an appropriate official of a State, as the case may be. Such information shall include the following:

"(1) The business name, address, and telephone number, including an operations emergency telephone number, of the operator.

"(2) An accurate map or maps, along with any appropriate supplementary geographic description, showing the location of major pipeline facilities of such operator in the State.

"(3) A description of the characteristics of the operator's pipelines within the State.

"(4) A description of all products transported through the operator's pipelines within the State.

"(5) The manual which governs operations and maintenance of the pipeline facilities located in the State.

"(6) An emergency response plan describing the operator's procedures for responding to and containing releases, including—

"(A) an identification of specific actions which will be taken by the operator on discovery of a release;

"(B) liaison procedures with State and local government agencies for emergency response; and

"(C) communication and alert procedures for immediate notification of State and local officials at the time of any release.

"(7) Any other information the Secretary considers useful and necessary to inform the States of the presence of pipeline facilities and operations within their boundaries.

Regulations. "(j) PIPELINE INVENTORY STANDARDS.—The Secretary shall, by regulation, establish minimum Federal standards to require, not later than 1 year after the date of the enactment of this subsection, operators of pipeline facilities subject to this title, to the extent practicable, to complete and maintain for the Secretary, and revise as appropriate thereafter, an inventory with appropriate information with respect to all types of pipe used for the transmission of hazardous liquids in such operator's system, along with additional information such as the material history and the leak history of such pipe. Such inventory shall exclude equipment associated only with the pipeline pumps or storage facilities.".

SEC. 203. STATE ENFORCEMENT.

Section 205(a)(3) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(a)(3)) is amended by inserting "through means which include inspections conducted by State employees who meet qualifications established by the Secretary under subsection (d)" after "each such standard".

SEC. 204. QUALIFICATIONS FOR STATE GRANT PROGRAMS.

Section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)) is amended by adding at the end the following new paragraph:

"(5) QUALIFICATIONS FOR STATE GRANT PROGRAMS.—The Secretary may establish by regulation qualifications for States to meet in order to participate in the pipeline safety grant program under this subsection, including qualifications for State employees who perform inspection activities pursuant to either an annual certification by a State agency or an agreement relating to inspection between a State agency and the Secretary. Such regulations may take into account the experience and training of the State employee, may mandate training or other requirements, and may provide for conditional approval of qualifications pending satisfaction of specified requirements.".

SEC. 205. INCREASED CIVIL PENALTIES.

Section 208(a)(1) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(a)(1)) is amended—

(1) by inserting ", after notice and an opportunity for a hearing," after "Secretary";

(2) by striking out "$1,000" and inserting in lieu thereof "$10,000"; and

(3) by striking out "$200,000" and inserting in lieu thereof "$500,000".

SEC. 206. DESTRUCTION OF SIGNS OR MARKERS.

Section 208(c) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2007(c)) is amended by adding at the end the following new paragraph:

"(3) DESTRUCTION OF SIGNS OR MARKERS.—Any person who willfully and knowingly defaces, damages, removes, or destroys any pipeline sign or right-of-way marker required by Federal law or regulation shall, upon conviction, be subject, for each offense, to a fine of not more than $5,000, imprisonment for a term not to exceed 1 year, or both.". Law enforcement and crime.

SEC. 207. ADDITIONAL INSPECTION AND TESTING.

(a) INSPECTION AND TESTING.—Section 210 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2009) is amended by adding at the end the following new subsection:

"(d) SECRETARY'S RESPONSIBILITIES.—

"(1) IN GENERAL.—The Secretary shall inspect and, as appropriate, shall require testing of pipeline facilities subject to this title and not covered by an agreement or certification under section 205 to ensure the safety of such pipeline facilities. To the extent and in such amounts as are provided in advance by appropriation Acts, such inspections shall be at intervals determined under paragraph (2) but no less frequently than once every 2 years thereafter. Such inspections shall begin as soon as feasible, but in no event more than 1 year after the date of the enactment of this subsection. Such testing shall be performed using the most appropriate technology practicable.

"(2) CRITERIA FOR FREQUENCY AND TYPE.—The frequency and type of inspection and testing under this subsection shall be determined by the Secretary on a case-by-case basis after consideration of the following factors:

"(A) The location of the pipeline facilities.

"(B) The type, size, age, manufacture, method of construction, and condition of the pipeline facilities.

"(C) The nature and volume of the materials transported through the pipeline facilities and the pressure at which they are transported.

"(D) The climatic, geologic, and seismic characteristics of, and conditions (including soil characteristics) associated with the areas in which the pipeline facilities are located, and the existing and projected population and demographic characteristics associated with such areas.

"(E) The frequency of leaks, if any.

"(F) Any other factors determined by the Secretary to be relevant to the safety of pipeline facilities.".

(b) INSTRUMENTED INTERNAL INSPECTION DEVICES.—Section 203 of such Act (49 U.S.C. App. 2002) is amended by inserting at the end the following new subsection:

Regulations.

"(k) INSTRUMENTED INTERNAL INSPECTION DEVICES.—The Secretary shall, by regulation, establish minimum Federal safety standards requiring that—

"(1) the design and construction of new pipeline facilities, and

"(2) when the replacement of existing pipeline facilities or equipment is required, the replacement of such existing facilities,

be carried out, to the extent practicable, in a manner so as to accommodate the passage through such pipeline facilities of instrumented internal inspection devices (commonly referred to as 'smart pigs').".

(c) TECHNICAL CORRECTION.—Section 210 of such Act (49 U.S.C. App. 2009) is amended by striking the last sentence of subsection (c)(3) and inserting such sentence at the end of subsection (a).

SEC. 208. STATE PRENOTIFICATION OF TESTING.

Section 211(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2010(a)) is amended by inserting after the first sentence the following new sentence: "Prior to requiring such testing, the Secretary shall notify the appropriate State official in the State in which the affected pipeline facility is located.".

SEC. 209. FEDERAL-STATE COOPERATION IN CASE OF ACCIDENT.

Section 212 of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2011) is amended by adding at the end the following new subsection:

"(d) COORDINATION PROCEDURES.—Not later than 1 year after the date of the enactment of this subsection, the Secretary, after consultation with appropriate State officials, shall establish procedures to promote more effective coordination between the agencies of the United States and of the States with regulatory authority over pipeline facilities with respect to responses to pipeline accidents.".

SEC. 210. AUTHORIZATION FOR APPROPRIATIONS.

Section 214(a) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2013(a)) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting in lieu thereof a semicolon; and

(3) by adding at the end the following:

"(6) $921,000 for the fiscal year ending September 30, 1988;
"(7) $995,000 for the fiscal year ending September 30, 1989;
"(8) $1,021,000 for the fiscal year ending September 30, 1990; and
"(9) $1,067,000 for the fiscal year ending September 30, 1991.
The Secretary may credit to any appropriation authorized under this subsection funds received from non-Federal sources for reimbursement for expenses incurred by the Secretary in providing training.".

SEC. 211. CARBON DIOXIDE.

49 USC app. 2015.

(a) REGULATION.—The Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2001 et seq.) is further amended by adding at the end the following new section:

"SEC. 219. CARBON DIOXIDE.

"(a) GENERAL RULE.—In addition to hazardous liquids, the Secretary shall regulate under this title carbon dioxide which is transported by pipeline facilities.

"(b) REGULATIONS.—The Secretary, as necessary and appropriate, shall amend regulations issued with respect to hazardous liquids under this title and shall issue new regulations to ensure the safe transportation of carbon dioxide by pipeline facilities.".

(b) CONFORMING AMENDMENT.—The table of contents in section 1(b) of the Hazardous Liquid Pipeline Safety Act of 1979 is amended by inserting

"Sec. 219. Carbon dioxide."

after

"Sec. 218. Savings provisions.".

49 USC app. 2015 note.

(c) EFFECTIVE DATE.—Section 219(a) of the Hazardous Liquid Pipeline Safety Act of 1979, as added by subsection (a) of this section, shall take effect 18 months after the date of the enactment of this Act.

TITLE III—GENERALLY APPLICABLE PIPELINE SAFETY PROVISIONS

SEC. 301. GRANTS-IN-AID AUTHORIZATION.

(a) IN GENERAL.—Subsection (c) of section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684) is amended—

(1) by striking "and" after "September 30, 1986,"; and

(2) by inserting ", $5,000,000 for the fiscal year ending September 30, 1988, $5,500,000 for the fiscal year ending September 30, 1989, $5,500,000 for the fiscal year ending September 30, 1990, and $5,500,000 for the fiscal year ending September 30, 1991" after "September 30, 1987".

(b) MAXIMUM ALLOCATION ON INDIRECT EXPENSES.—

(1) IN GENERAL.—Subsection (d) of such section is amended by inserting "(1) SET ASIDE FOR HAZARDOUS LIQUID GRANTS-IN-AID PROGRAM.—" before "Not less than" and by adding at the end thereof the following new paragraph:

"(2) MAXIMUM ALLOCATION TO INDIRECT EXPENSES.—Not more than 20 percent of the amount of a pipeline safety grant made to a State under section 5(d) of this Act and section 205(d) of the Hazardous Pipeline Safety Act of 1979 may be allocated to indirect expenses.".

(2) CONFORMING AMENDMENTS.—Such subsection is further amended—

(A) by inserting "LIMITATION ON GRANTS-IN-AID FUNDS.—" after "(d)" the first place it appears; and

(B) by indenting paragraph (1), as designated by this subsection, and aligning such paragraph with paragraph (2) of such section, as added by this subsection.

(c) ADDITIONAL FUNDING.—Such section is further amended by adding at the end the following new subsection:

"(e) ADDITIONAL FUNDING.—

"(1) ADDITIONAL GRANT FUNDS.—The Secretary shall make available for grants to the States any funds appropriated for fiscal years 1986 and 1987 which have not been expended in making grants under section 5(d) of this Act and section 205(d) of the Hazardous Liquid Pipeline Safety Act of 1979 (49 U.S.C. App. 2004(d)).

"(2) ELIGIBILITY.—Grants made under this subsection shall be available to States which in 1988 or thereafter (A) undertake new responsibilities under section 5(a) of this Act or section 205(a) of the Hazardous Liquid Pipeline Safety Act of 1979, or (B) implement a one-call damage prevention program established under State law.

"(3) LIMITATIONS.—Nothing in this subsection shall result in any State receiving grant funds under this Act or under the Hazardous Liquid Pipeline Safety Act of 1979 in excess of 50 percent of its allowable pipeline safety costs. No State shall receive funds under this subsection in excess of $75,000.

"(4) AVAILABILITY.—Funds made available under this subsection shall remain available until expended.".

SEC. 302. ADDITIONAL HIRINGS.

Section 17 of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1684) is amended by adding at the end thereof the following new subsection:

Appropriation authorization.

"(f) ADDITIONAL HIRING.—For purposes of hiring 8 additional inspectors to carry out inspections under section 13(b) of this Act and section 210(d) of the Hazardous Liquid Pipeline Safety Act of 1979 and necessary support staff, there is authorized to be appropriated $500,000 for fiscal year 1989. For purposes of retaining the persons hired under the preceding sentence and for hiring 8 additional inspectors to carry out such inspections and necessary support staff, there is authorized to be appropriated $1,000,000 for fiscal year 1990. For purposes of retaining the persons hired under the two preceding sentences, there is authorized to be appropriated $1,000,000 for fiscal year 1991.".

SEC. 303. MINIMUM REQUIREMENTS FOR ONE-CALL NOTIFICATION SYSTEMS.

(a) REQUIREMENT AND GRANT PROGRAM.—The Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1671-1686) is amended by adding at the end thereof the following new section:

"SEC. 20. MINIMUM REQUIREMENTS FOR ONE-CALL NOTIFICATION SYSTEMS. 49 USC app. 1687.

"(a) STATE ADOPTION OF SYSTEM.—In making allocations under section 5 of this Act, and under section 205 of the Hazardous Liquid Pipeline Safety Act of 1979, the Secretary shall consider whether a State has adopted or is seeking adoption of a one-call notification system under subsection (b). If the Secretary determines that any State has not adopted, and is not seeking adoption of, such a system, such State may not receive the full reimbursement under such sections to which it would otherwise be entitled.

"(b) ONE-CALL NOTIFICATION SYSTEMS.—Not later than 18 months after the date of the enactment of this section, the Secretary shall issue regulations establishing minimum Federal requirements for establishment and operation of one-call notification systems for adoption by States as described in subsection (a) relating to notification of operators of pipeline facilities of activities in the vicinity of a pipeline facility which could threaten the safety of such facility. Such regulations shall include, but not be limited to, the following: Regulations.

"(1) A requirement that the system or systems apply to all areas of the State containing underground pipeline facilities.

"(2) A requirement that any person intending to engage in any activity, as determined by the Secretary, which could cause physical damage to an underground pipeline facility must contact the appropriate one-call notification system to determine if there are underground pipeline facilities present in the area of the intended activity.

"(3) A requirement that all operators of underground pipeline facilities participate in an appropriate one-call notification system.

"(4) Qualifications for operation of such a system whether by operators of pipeline facilities, private contractors, or State or local agencies.

"(5) Procedures for advertisement and notice of the availability of such a system.

"(6) Requirements for the information to be provided by persons contacting the system under paragraph (2).

"(7) Requirements for the response of the operator of such notification system and of the operator of the pipeline facility after contact by a person under this subsection.

"(8) A requirement that each State determine whether the notification system will be toll free or not.

"(9) Requirements for sanctions substantially the same as are provided under sections 11 and 12 of this Act.

"(c) GRANTS TO STATES.—The Secretary may make grants to States for development and establishment of one-call notification systems which are consistent with all of the requirements established under subsection (b).

"(d) LIMITATION.—Nothing in this section or any regulation issued under this section shall alter any liability established under Federal or State law for damages caused by activities described in subsection (b)(2).

"(e) PIPELINE FACILITY DEFINED.—As used in this section, the term 'pipeline facility' includes, in addition to pipeline facilities as defined by this Act, any pipeline facility which is described in section 202(4) of the Hazardous Liquid Pipeline Safety Act of 1979.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out subsection (c), there is authorized to be appropriated $1,000,000 per fiscal year for each of fiscal years 1990 and 1991. Such sums shall remain available until expended.".

(b) CONFORMING AMENDMENTS.—(1) Section 5(a) of the Natural Gas Pipeline Safety Act of 1968 (49 U.S.C. App. 1674(a)) is amended by striking "section 19" and inserting in lieu thereof "sections 19 and 20".

(2) Section 17(a) of such Act (49 U.S.C. 1684(a)) is amended by inserting "or section 20" after "subsection (b) or (c)".

49 USC app. 1680 note.

SEC. 304. INTERNAL INSPECTION OF PIPELINES.

(a) STUDY.—The Secretary of Transportation shall undertake a study assessing the feasibility of requiring the inspection of transmission facilities with instrumented internal inspection devices at periodic intervals determined after consideration of the factors set forth in section 13(b)(2) of the Natural Gas Pipeline Safety Act of 1968 and section 210(d)(2) of the Hazardous Liquid Pipeline Safety Act of 1979.

(b) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report detailing the Secretary's findings under subsection (a) together with any recommendations of the Secretary for appropriate legislation.

49 USC app. 1672 note.

SEC. 305. EMERGENCY FLOW RESTRICTING DEVICES.

(a) STUDY.—The Secretary of Transportation shall undertake a study of the safety, cost, feasibility, and effectiveness of requiring operators of pipeline facilities subject to the Natural Gas Pipeline Safety Act of 1968 and operators of pipeline facilities subject to the Hazardous Liquid Pipeline Safety Act of 1979 to install emergency flow restricting devices in existing and future pipeline systems in varying circumstances and locations. The Secretary of Transportation shall also assess the cost and effectiveness of initiating a demonstration project of such emergency flow restricting devices.

(b) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall submit to Congress a report detailing the Secretary's findings under subsection (a) together with any recommendations of the Secretary for appropriate legislation.

49 USC app. 1672 note.

SEC. 306. FEASIBILITY OF REGULATING EXCAVATION ACTIVITIES.

(a) ASSESSMENT AND REPORT.—The Secretary of Transportation shall assess the feasibility of regulating persons whose excavation activities may result in damage to pipeline facilities (as defined under section 2 of the Natural Gas Pipeline Safety Act of 1968 and under section 202 of the Hazardous Liquid Pipeline Safety Act of 1979) and, not later than 1 year after the date of the enactment of this Act, transmit to Congress a report on the results of such assessment together with any legislative recommendations of the Secretary concerning regulation of such persons.

(b) FUNDING.—The Secretary of Transportation may use such sums as may be necessary of funds appropriated pursuant to section 17(a) of the Natural Gas Pipeline Safety Act of 1968 and section 214(a) of the Hazardous Liquid Pipeline Safety Act to carry out this section.

SEC. 307. PIPELINE SAFETY INSTRUCTORS.

To the extent and in such amounts as are provided in advance by appropriation Acts, the Secretary of Transportation shall increase by not less than 2 the number of instructors of pipeline safety at the Transportation Safety Institute of the Department of Transportation.

SEC. 308. CLARIFICATION OF CONGRESSIONAL INTENT.

49 USC prec. 101 note.

The Act entitled "An Act to revise, codify, and enact without substantive change the Interstate Commerce Act and related laws as subtitle IV of title 49, United States Code, 'Transportation' ", approved October 17, 1978 (92 Stat. 1337; Public Law 95-473) does not repeal and has no substantive effect on any rights, obligations, liabilities, or remedies of oil pipelines, including those arising under any provisions of the Interstate Commerce Act (49 U.S.C. App. 1 et seq.) or the Pomerene Bills of Lading Act (49 U.S.C. App. 81 et seq.), before any Federal department or agency or official thereof or a court of competent jurisdiction.

TITLE IV—MOTOR VEHICLE INFORMATION AND COST SAVINGS

SEC. 401. TRANSFER OF TITLES HELD BY LIENHOLDERS.

Section 408(d)(1) of the Motor Vehicle Information and Cost Savings Act (15 U.S.C. 1988(d)(1)) is amended by adding at the end thereof the following new subparagraph:

"(C) In the case of a transferor to whom title to a motor vehicle has been issued by any State and such title is, at the time of a transfer of such motor vehicle, physically held by a lienholder, nothing in this subsection shall be construed to prohibit for purposes of the mileage disclosure requirements of this section the use of a written power of attorney (if otherwise permitted by State law) in a form, and under reasonable conditions, prescribed by rule by the Secretary before February 1, 1989. The rule shall (i) ensure disclosure on the power of attorney document of the actual mileage at the time of the transfer, and (ii) ensure that such mileage will be restated exactly by the person exercising the power of attorney in the space referred to in paragraph (2)(A)(iii). The rule, consistent with the purposes of this Act and the need to facilitate enforcement thereof, shall prescribe that the form be issued by the State to the transferee in accordance with paragraph (2)(A)(i) and shall provide for retention of a copy of such power of attorney and for the original to be submitted back to the State by the person granted such power of attorney. The provisions of sections 412 and 413 shall apply to any person granting or granted such power of attorney.".

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 2266 (S. 2424):

HOUSE REPORTS: No. 100-445, Pt. 1 (Comm. on Energy and Commerce) and Pt. 2 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 100-436 accompanying S. 2424 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 19, considered and passed House.
Sept. 30, considered and passed Senate, amended, in lieu of S. 2424.
Oct. 12, House concurred in Senate amendment with an amendment.
Oct. 14, Senate concurred in House amendment.

Public Law 100-562
100th Congress

An Act

Oct. 31, 1988
[H.R. 2628]

To amend the National Traffic and Motor Vehicle Safety Act of 1966 respecting the importation of motor vehicles in anticipation of compliance with safety standards under such Act.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Imported Vehicle Safety Compliance Act of 1988.
15 USC 1381 note.

SECTION 1. SHORT TITLE, REFERENCE.

(a) SHORT TITLE.—This Act may be cited as the "Imported Vehicle Safety Compliance Act of 1988".

(b) REFERENCE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the National Traffic and Motor Vehicle Safety Act of 1966.

SEC. 2. CONTROL OF IMPORTATION OF CERTAIN VEHICLES TO ENSURE COMPLIANCE WITH SAFETY STANDARDS.

(a) REPEAL OF GENERAL AUTHORITY FOR IMPORTATION IN ANTICIPATION OF COMPLIANCE.—Section 108(b) (15 U.S.C. 1397(b)) is amended by striking out paragraphs (3) and (4) and by redesignating paragraph (5) as paragraph (3).

(b) LIMITED AUTHORIZATION FOR IMPORTATION IN ANTICIPATION OF COMPLIANCE.—Section 108 (15 U.S.C. 1397) is amended by redesignating subsection (c) as subsection (k) and by inserting after subsection (b) the following new subsections:

"(c)(1) Except as provided in this subsection and subsections (e), (f), (g), (h), (i), and (j) a motor vehicle offered for importation in violation of subsection (a)(1)(A) shall be refused entry into the United States.

"(2) In the case of any motor vehicle imported under paragraph (3), the person importing the motor vehicle shall furnish to the Secretary of the Treasury (acting on behalf of the Secretary) an appropriate bond and shall comply with such terms and conditions as it appears to the Secretary appropriate to ensure that any such motor vehicle—

"(A) will be brought into conformity with all applicable Federal motor vehicle safety standards prescribed under this title within a reasonable time after such importation, as specified by the Secretary, or

Exports.

"(B) will be exported (at no cost to the United States) by the Secretary of the Treasury or abandoned to the United States.

The amount of the bond furnished under this paragraph shall not be less than the dutiable value, as determined by the Secretary of the Treasury, of the motor vehicle with respect to which the bond was furnished, except that the amount of such bond may not exceed 150 percent of such value.

"(3)(A) Subsection (a)(1)(A) and paragraph (1) of this subsection shall not apply to any motor vehicle if—

"(i)(I) the motor vehicle is determined to be substantially similar to a motor vehicle originally manufactured for importation into and sale in the United States, certified under section 114, and of the same model year (as defined by regulation by the Secretary) as the model of the motor vehicle to be compared, and is capable of being readily modified to conform to all applicable Federal motor vehicle safety standards; or

"(II) where there is no substantially similar United States motor vehicle, the Secretary determines that the safety features of the vehicle comply with or are capable of being modified to comply with all applicable Federal motor vehicle safety standards based on destructive test data or such other evidence as the Secretary determines to be adequate,

"(ii) the motor vehicle is imported by an importer registered under subparagraph (D), and

"(iii) the registered importer pays (I) such annual fee as the Secretary establishes to cover the cost of administering the registration program, and (II) such other annual fee or fees as the Secretary reasonably establishes to cover the cost of processing the bond furnished to the Secretary of the Treasury under paragraph (2) and making the determinations under this section.

"(B) The amount or rate of fees under subparagraph (A)(iii) shall be reviewed and, if appropriate, adjusted by the Secretary at least every 2 years. The fee applicable in any fiscal year shall be established by the Secretary before the beginning of such year. All fees collected shall be available until expended, without fiscal year limit, to the extent provided in advance by appropriation Acts, solely for use by the Secretary—

"(i) in the administration of all of the requirements of this subsection (other than subparagraph (E)(iv)) and subsection (d)(2), and

"(ii) to advance to the Secretary of the Treasury amounts for costs that will be incurred under this subsection and to reimburse the Secretary of the Treasury for such costs.

"(C)(i) The Secretary shall make the determination under paragraph (3)(A)(i)—

"(I) on the petition of any registered importer or any manufacturer, or

"(II) on the Secretary's own initiative.

"(ii) The Secretary shall establish by regulation (I) the information required to be provided by the petitioner to clearly show that the vehicle is capable of being brought into compliance with all applicable Federal motor vehicle safety standards and (II) the procedures for considering such petitions. In establishing such procedures, the Secretary shall provide for a minimum period for public notice and written comment consistent with ensuring expeditious, but full, consideration of the petition and avoiding delay by any person. In considering any petition under this subparagraph, the Secretary shall give due consideration to any test data or other information available to the Secretary, including any information provided by the manufacturer (whether or not confidential). If the Secretary makes a negative determination, another petition may not be considered for the same model of motor vehicles until the end of 3 calendar months after such negative determination. Regulations.

"(iii) The Secretary shall establish by regulation the procedures for determinations made on the Secretary's initiative. Such procedures shall include a minimum period for public notice and written Regulations.

comment consistent with ensuring expeditious, but full, consideration and avoiding delay by any person. In making a determination under such procedures, the Secretary shall give due consideration to any test data or other information available to the Secretary, including any information provided by the manufacturer (whether or not confidential). If the Secretary makes a negative determination, the Secretary may not make another determination for the same model of motor vehicle until the end of 3 calendar months after such negative determination.

Federal Register, publication.

"(iv) The Secretary shall annually publish in the Federal Register a list of all determinations under this subparagraph. Each determination published in the Federal Register shall apply to the same model of motor vehicle with respect to which the determination was made. A positive determination shall be sufficient authority for any other registered importer to import a vehicle of the same model under this subsection provided such registered importer complies with all the terms and conditions of such determination.

"(D)(i) The Secretary shall establish procedures under which the Secretary shall register any person who complies with the requirements of clause (ii) and who has not previously had a registration revoked under clause (iii). The Secretary may deny registration to any person who is or was, directly or indirectly, owned or controlled by, or under common ownership or control with, a person who has had a registration revoked under clause (iii).

Regulations.

Records.

"(ii) In order to acquire and maintain registration under clause (i), an importer shall comply with all requirements which the Secretary shall prescribe by regulation. Such regulation shall include, as a minimum, requirements for recordkeeping, inspection of records and facilities relating to the motor vehicles which such person has imported, modified, or both, and provision for ensuring that the importer (or any successor in interest) will be able technically and financially to carry out the importer's responsibilities under part B of this title (relating to discovery, notification, and remedy of defects).

"(iii) The Secretary shall establish procedures for (I) the revocation or suspension of a registration issued under clause (i) for failure to comply with any requirement of this section or the regulations issued under this section, (II) automatic suspensions of registrations for failure to pay any fee referred to in subparagraph (A)(iii) in a timely manner or for knowingly filing a false or misleading certification under subparagraph (E), and (III) reinstatement of suspended registrations.

"(E)(i) A registered importer shall not release custody of any motor vehicle—

"(I) imported by the registered importer, or

"(II) imported by an individual referred to in subsection (f) and which the registered importer is modifying to meet Federal motor vehicle safety standards,

to any person for license or registration for use on public roads, streets, or highways or license or register an imported motor vehicle for use on public roads, streets, or highways until 30 calendar days after the registered importer certifies to the Secretary, in such form as the Secretary shall require, that such motor vehicle complies with each Federal motor vehicle safety standard which was prescribed under this title in the year that vehicle was manufactured and which applies in such year to such vehicle, except that no such release shall be permitted if the Secretary gives written notice,

before the expiration of such 30 days, that an inspection will be required under clause (iii). If the Secretary gives such notice, such release shall be permitted at any time but only upon the completion of the inspection showing no failure to comply with applicable Federal motor vehicle safety standards for which the inspection was made and the release by the Secretary. The Secretary and the Secretary of the Treasury shall by rule establish procedures to ensure the release of a motor vehicle and bond at the expiration of such 30 days unless the notice under this clause or clause (vi) is issued. Such rule shall provide that, if such notice is issued, the motor vehicle and bond shall be promptly released after the completion of the inspection showing no such failure to comply.

"(ii) In making a certification under clause (i) with respect to safety features of a motor vehicle, the registered importer may rely on the manufacturer's certification for the model for which the motor vehicle involved is substantially similar if the importer certifies that any modification undertaken by the importer did not affect the compliance of the motor vehicle's safety features and the importer retains records verifying such certification for such period as the Secretary shall prescribe. Records.

"(iii) The Secretary may require that such certification be accompanied by such evidence of compliance as the Secretary considers appropriate or that the certified motor vehicle be inspected by the Secretary, or both.

"(iv) The Secretary shall periodically inspect a representative number of motor vehicles for which certifications have been filed under clause (i). In conducting any program under this title for the testing of motor vehicles, the Secretary shall include a representative number of vehicles for which certifications have been filed under clause (i).

"(v) Any release of a bond required under paragraph (2) shall constitute acceptance of any certification or completion of an inspection but not a determination by the Secretary under section 152 of compliance with all applicable Federal motor vehicle safety standards.

"(vi) Notwithstanding clause (i), no motor vehicle or bond may be released if the Secretary believes or has reason to believe that a certification made under clause (i) is false or contains any misrepresentation and the Secretary gives written notice of such belief or reason to believe to the registered importer before the expiration of 30 days after the date such certification is received by the Secretary. If such notice is provided, the motor vehicle involved and the bond required for the motor vehicle involved may not be released until the Secretary is satisfied with the certification and any modification thereof. Fraud.

"(vii) Each registered importer shall include on each motor vehicle released by it under this subsection a label, in such form as the Secretary may prescribe, on which the registered importer is identified and which states that the vehicle has been modified by such importer to comply with all applicable Federal motor vehicle safety standards for that model.

"(d)(1) For purposes of part B of this title (relating to discovery, notification, and remedy of motor vehicle defects)—

"(A) in the case of any defect or failure to comply with any applicable Federal motor vehicle safety standard in, or regarding, any motor vehicle which was originally manufactured for importation to the United States, any imported motor vehicle

that has a valid certification under subsection (c)(3)(E) and that is determined to be substantially similar to such motor vehicle shall be treated as having the same defect or failure unless the manufacturer or registered importer demonstrates otherwise to the Secretary,

Federal Register, publication.

"(B) the Secretary shall publish in the Federal Register notice of the defect or failure referred to in subparagraph (A), and

"(C) the registered importer shall be treated as the manufacturer with respect to any motor vehicle that it—

"(i) imports, or

"(ii) brings into conformity with applicable Federal motor vehicle safety standards on behalf of an individual under subsection (f).

Regulations.

"(2) The Secretary shall, by regulation, require each registered importer (and any successor in interest) to provide and maintain evidence, satisfactory to the Secretary, of sufficient financial responsibility to meet its obligations under part B of this title (relating to discovery, notification, and remedy of motor vehicle defects).

"(e) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle or item of motor vehicle equipment if—

"(1) the motor vehicle or item of equipment requires further manufacturing to perform its intended function (as determined under regulations prescribed by the Secretary), and

"(2) it is accompanied at the time of entry by a written statement which is issued by the manufacturer of the incomplete motor vehicle or item of equipment which indicates the applicable Federal motor vehicle safety standard with which such motor vehicle or item is not in compliance.

"(f)(1) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle that is imported—

"(A) after the effective date of the regulations initially issued to implement the amendments made to this section by the Imported Vehicle Safety Compliance Act of 1988, and

"(B) for personal use, and not for purposes of resale,

by any individual (other than an individual described in subsections (g) and (h)), if that individual takes the actions required by paragraph (2).

"(2) To receive an exemption under paragraph (1) an individual shall—

"(A) furnish to the Secretary of the Treasury (acting on behalf of the Secretary)—

"(i) an appropriate bond in an amount determined under subsection (c)(2),

Contracts.

"(ii) a copy of a contract or other agreement with an importer registered under subsection (c) for bringing such vehicle into conformity with applicable Federal motor vehicle safety standards, and

"(iii) a certification that such vehicle meets the requirement set forth in clause (i) (I) or (II) of subsection (c)(3)(A), and

"(B) comply with such terms and conditions as the Secretary shall impose as being appropriate to ensure that such motor vehicle—

"(i) will be brought into conformity with all applicable Federal motor vehicle safety standards within a reasonable time, as specified by the Secretary, after such importation, or

"(ii) will be exported (at no cost to the United States) by the Secretary of the Treasury or abandoned to the United States. Exports.

The Secretary, for good cause shown, may allow an individual additional time, but not more than 30 days after the day on which the motor vehicle is offered for importation, to comply with subparagraph (A)(ii).

"(g) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle if the motor vehicle is imported for personal use, and not for purposes of resale, by any individual (including any member of the uniformed services)—

"(1) whose assigned place of employment is outside the United States as of the date of the enactment of the Imported Vehicle Safety Compliance Act of 1988, and who has not had an assigned place of employment in the United States between that date and the date of entry of such motor vehicle,

"(2) who has not previously imported a motor vehicle into the United States under the authority of this subsection (or subsection (b)(3) with respect to periods before the date of the enactment of the Imported Vehicle Safety Compliance Act of 1988),

"(3) who had acquired (or had entered into a binding contract to acquire) such motor vehicle before the date of enactment of this subsection,

"(4) who enters such motor vehicle not later than 4 years after such date of enactment, and

"(5) who meets the terms, conditions, and other requirements in effect under subsection (b)(3) on the day before the date of the enactment of this subsection.

Paragraphs (1) through (5) shall be carried out by certification in such form as either the Secretary or the Secretary of the Treasury may prescribe. As used in this subsection, the term 'assigned place of employment' means the principal location at which an individual is permanently or indefinitely assigned to work. In the case of a member of the uniformed services, such term means the individual's permanent duty station.

"(h) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle if the motor vehicle is imported on a temporary basis for personal use by any individual—

"(1) who is (A) a member of the personnel of a foreign government on assignment in the United States or a member of the Secretariat of a public international organization so designated under the International Organization Immunities Act, and (B) within the class of persons for whom free entry of motor vehicles has been authorized by the Secretary of State, or

"(2) who is a member of the armed forces of a foreign country on assignment in the United States.

The Secretary or the Secretary of the Treasury may require such verification of such status as the Secretary considers appropriate. The Secretary shall ensure that any motor vehicle entered under this subsection will be exported (at no cost to the United States) or abandoned to the United States when the individual involved ceases to reside in the United States and hold such status. No motor vehicle imported under this subsection may be sold while within the United States. Exports.

"(i) Subsections (a)(1)(A) and (c)(1) shall not apply to any motor vehicle that is 25 or more years old.

Research and development. Racing.

"(j) The Secretary may exempt any motor vehicle or item of motor vehicle equipment from subsections (a)(1)(A) and (c)(1) upon such terms and conditions as the Secretary may find necessary solely for the purpose of research, investigations, studies, demonstrations or training, or competitive racing events.".

(c) MANUFACTURER'S CERTIFICATION REQUIRED.—Section 108(a)(1)(A) (15 U.S.C. 1397(a)(1)(A)) is amended by inserting after "conformity with such standard" the following: "and is covered by a certification issued under section 114,".

(d) TECHNICAL AMENDMENTS.—Section 108(a)(1)(A) (15 U.S.C. 1397(a)(1)(A)) is amended by striking out "subsection (b) of".

15 USC 1397 note.

(e) EFFECTIVE DATE, NOTICE, REVIEW, REPORT.—

(1) EFFECTIVE DATE.—

(A) GENERAL RULE.—

(i) Except as provided in clause (ii), the amendments made by this section shall take effect upon the expiration of 15 months after the date of the enactment of this Act, except that the Secretary of Transportation may after the effective date of regulations promulgated under subparagraph (B)—

(I) register persons under section 108(c)(3)(D) of the National Traffic and Motor Vehicle Safety Act of 1966, as added by subsection (b) of this section, and

(II) receive petitions and make determinations of motor vehicle similarity under section 108(c)(3)(C) of the National Traffic and Motor Vehicle Safety Act of 1966, as added by subsection (b) of this section.

(ii) The amendments made by this section shall take effect upon the expiration of 12 months after the date of the enactment of this Act if the Secretary of Transportation does not issue a notice of proposed rulemaking under subparagraph (B) within 6 months of the date of enactment of this Act.

(B) REGULATIONS.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Transportation shall promulgate and place in effect regulations to implement subsections (c) through (j) of section 108 of the National Traffic and Motor Vehicle Safety Act of 1966, as added by subsection (b) of this section.

(C) REVIEW.—If upon judicial review of the regulations of the Secretary promulgated under subparagraph (B) the court stays the regulations, the amendments made by this section shall not take effect for any person—

(i) during such stay, or

(ii) until such regulations become final.

(2) NOTICE.—As soon as possible after the date of the enactment of this Act, the Secretary of Transportation shall take reasonable steps designed to encourage notification to the extent feasible regarding the provisions of subsections (f), (g), and (h) of section 108 of such Act (as added by this section) to be promptly made to individuals who may be affected by such amendments.

(3) GAO REVIEW.—The Comptroller General of the United States shall conduct a review of the program authorized by the amendments made by this section. The review shall be based on

not more than 3 years of experience under the program and shall consider all aspects of the program with emphasis on—

(A) the extent to which motor vehicles imported under the program are fully in compliance with applicable Federal motor vehicle safety standards when released to operate on public roads, streets, and highways,

(B) whether safety considerations warrant extension of the program, and

(C) the administration and enforcement of the program (including actions relating to discovery, notification, and remedy of defects required by such program and the adequacy of the fees) by the Secretary of Transportation.

Promptly upon the completion of the review the Comptroller General shall submit a report on the review to Congress. Reports.

(4) REPORT.—Not later than 18 months after the initial regulations required after this section are promulgated, the Secretary shall provide to Congress a report of the actions taken under this section and the effectiveness of such actions, including the results of any testing by the Secretary under this section. Thereafter, the Secretary shall report by July of each year on such actions.

(f) EXEMPTIONS PROHIBITED.—Notwithstanding any provision of law authorizing exemptions from energy conservation requirements for manufacturers of fewer than 10,000 motor vehicles, a registered importer under section 108(c) of the National Traffic and Motor Vehicle Safety Act of 1966 shall not be treated as such a manufacturer for purpose of such exemptions with respect to any motor vehicle that it— 15 USC 1397 note.

(1) imports, or

(2) brings into conformity with applicable Federal motor vehicle safety standards on behalf of an individual under section 108(f) of such Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 2628:

HOUSE REPORTS: No. 100-431 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 14, considered and passed House.
Vol. 134 (1988): Oct. 5, considered and passed Senate, amended.
Oct. 12, House concurred in Senate amendments.

Public Law 100-563
100th Congress

An Act

Oct. 31, 1988
[H.R. 3408]

To authorize additional appropriations for the Central Utah Project, to implement a settlement with the Strawberry Water Users, to expand the John Muir Historic Site, to prohibit the expansion of any reservoir within the boundaries of Yosemite National Park, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

43 USC 620k note.

SECTION 1. AUTHORIZATION OF ADDITIONAL AMOUNTS FOR THE COLORADO RIVER STORAGE PROJECT.

In order to provide for the continued construction of the Colorado River Storage Project, and for the continued construction of the municipal and industrial water features of the Bonneville Unit of the Central Utah Project, the amount which section 12 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620k), authorizes to be appropriated, which was increased by the Act of August 10, 1972 (86 Stat. 525; 43 U.S.C. 620k note), is hereby further increased by $45,456,000 plus or minus such amounts, if any, as may be required by reason of changes in construction costs as indicated by engineering cost indexes applicable to the type of construction involved. This additional sum shall be available solely for continuing construction of the previously authorized units and projects named in such Act of August 10, 1972.

SEC. 2. ENVIRONMENTAL IMPACT STATEMENT FOR IRRIGATION AND DRAINAGE SYSTEM.

Not later than December 31, 1989, the Secretary shall complete an environmental impact statement under section 102 of the National Environmental Policy Act of 1969 (42 U.S.C. 4332) for the Irrigation and Drainage System of the Bonneville Unit of the Central Utah Project and submit such statement to the Congress.

SEC. 3. FISH AND WILDLIFE MITIGATION AND RECREATION.

Of the amounts appropriated for fiscal year 1990 for the construction of the Colorado River Storage Project, including funds previously authorized for fiscal year 1989, such funds in the manner previously scheduled by the Upper Colorado River Basin Office, Bureau of Reclamation, shall be available only for fish and wildlife mitigation and recreation in accordance with the schedule contained in the report of the Committee on Interior and Insular Affairs accompanying this Act (H. Rept. 100-915).

SEC. 4. STRAWBERRY VALLEY LAND COMPENSATION AND EXCHANGE.

(a) PURPOSES.—The purposes of this section are—

(1) to modify the boundary of the Uinta National Forest to include certain Strawberry Valley Project lands currently administered by the Bureau of Reclamation, in order to provide more efficient management for public benefit;

(2) to transfer certain lands, and to compensate the Association for the loss of certain contractual surface rights and interests; and

(3) to provide for rehabilitation of certain of those lands to be administered by the Forest Service for public benefit.

(b) DEFINITIONS.—For the purposes of this section—

(1) the term "Association" means the Strawberry Water Users Association,

(2) the term "Secretary" means the Secretary of the Interior, and

(3) the term "Project Lands" means approximately 56,870 acres of Strawberry Valley Project Lands and includes 95 acres to be transferred to the Association, 25,990 acres of recreation lands associated with the Bonneville Unit of the Central Utah Project, and 30,785 acres of remaining Strawberry Valley Project Lands.

(c) BOUNDARY MODIFICATION OF UINTA NATIONAL FOREST.—

(1) The exterior boundary of the Uinta National Forest shall be modified to include 56,775 acres of the original 56,870 acres of Strawberry Valley Project lands as generally depicted on a map entitled "Boundary Modification, Uinta National Forest", and dated May 1988. The effective date of such modification shall be the date upon which administrative jurisdiction is transferred to the Secretary of Agriculture in accordance with subsection (e)(1)(B). Those lands encompassed by the modified boundary include 25,990 acres of recreation lands associated with the Bonneville Unit of the Central Utah Project and 30,785 acres of remaining Project Lands. Such lands shall be administered by the Forest Service in accordance with applicable laws except that the 25,990 acres shall continue to be managed by the Forest Service as recreation lands in accordance with the purposes set forth in the Memorandum of Agreement between the Department of the Interior, Bureau of Reclamation, Upper Colorado Region, and the United States Forest Service (Contract No. 2-07-40-L3016) dated February 2, 1982.

(2) A map depicting the modified boundary of the Uinta National Forest shall be on file and available for public inspection in the office of the Chief of the Forest Service and appropriate field offices and the House Interior and Insular Affairs Committee and the Senate Energy and Natural Resources Committee. Public information.

(d) VALID EXISTING RIGHTS.—

(1) Notwithstanding any other provision of this section, the administration by the Forest Service of the lands described in subsection (c) shall not—

(A) affect or interfere with the authority of the Bureau of Reclamation to construct, operate, maintain, replace, or improve, as necessary, project facilities and access thereto associated with the Strawberry Valley Reclamation Project and Bonneville Unit of the Central Utah Project; or

(B) diminish any other authorized uses of the lands for water resource and power development under Federal law.

(2) The association shall relinquish all of its contractual surface rights and interests, including sand and gravel, in the 56,775 acres of the Project Lands in accordance with subsection (e)(2). Notwithstanding any other provision of this section, all other contractual rights and interests of the Association in the

Strawberry Valley Reclamation Project shall remain unchanged. The Association shall be exempt from fees or charges for licenses or permits, other than grazing fees, for project related facilities on Project Lands.

(e) STRAWBERRY VALLEY LAND TRANSFERS, AND OTHER CONSIDERATIONS.—

(1)(A) The Secretary is hereby authorized and directed to convey to the Association 95 acres in fee title of Project Lands, together with all improvements, as shown on a plat appended to the map referred to in subsection (c)(1). This action is consistent with the intent of the Act of April 4, 1910 (chapter 140, 36 Stat. 269).

(B) Within 15 days of payment of compensation to the Association in accordance with subsection (e)(2), the Secretary shall transfer administrative jurisdiction to the Secretary of Agriculture over the 30,785 acres of remaining Project Lands and the 25,990 acres of recreation lands. Management of the surface shall be subject to applicable law.

Contracts.

(C) Notwithstanding any other provision of this section, the association shall retain its contractual rights to issue oil, gas, coal and mineral leases, excluding sand and gravel, on the Project Lands. The authority of the Association to issue such leases and to utilize revenues therefrom as set forth in Interior Solicitor's opinion M-36863 dated August 8, 1972 (79 I.D. 513) is hereby confirmed. All such revenues shall be used and applied to Strawberry Valley Reclamation Project purposes.

(2) COMPENSATION.—There is authorized to be appropriated under Section 8, of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g), $15,000,000 as compensation to the Association which shall be available only for such compensation and must be used for Strawberry Valley Reclamation Project purposes. Of the amounts appropriated hereafter under section 8 of such Act,

Contracts.

the first $15,000,000 shall be paid to the Association. Upon receipt of such compensation, the Association shall relinquish all of its contractual surface rights and interests, including sand and gravel, in the 56,775 acres of Project Lands.

(3) OTHER CONSIDERATIONS.—The Association shall be entitled to retain the first right of refusal to grazing privileges on the 30,785 acres of remaining Project Lands, and if permitted under the grazing rehabilitation plan pursuant to subsection (f), on the 25,990 acres of recreation lands.

(f) REHABILITATION OF LANDS.—The Forest Service shall, in coordination with the State of Utah and other appropriate agencies begin long-term rehabilitation of Project Lands. Such rehabilitation shall be five years in duration and shall permit continued grazing uses consistent with such rehabilitation. There is authorized to be appropriated under section 8 of the Act of April 11, 1956 (70 Stat. 110; 43 U.S.C. 620g), $3,000,000 which shall be available only for such rehabilitation. The Association shall be held harmless for any costs associated with rehabilitation.

(g) INTERIM RECREATION MANAGEMENT BY FOREST SERVICE.—

Until administrative jurisdiction of the 25,990 acres of recreation lands is transferred to the Secretary of Agriculture in accordance with subsection (e)(1)(B), the Congress authorizes and directs the Secretary of Agriculture to expend National Forest System appropriated funds in lieu of Department of Interior, Bureau of Reclamation funds to manage the 25,990 acres of recreation lands for the

Strawberry Reservoir adjacent to the Uinta National Forest in Utah. Such expenditures shall be in accordance with the provisions of the Memorandum of Agreement (Contract No. 2-07-40-L3016) dated February 2, 1982.

(h) LAND EXCHANGE.—

(1) AUTHORIZATION.—The Secretary of Agriculture may exchange or sell the National Forest system lands, including any administrative sites and improvements thereon, described in subsection (h)(2). Disposal or exchange of these properties is intended to facilitate the acquisition of administrative sites and offices together with improvements thereon at either Provo, Utah County, Utah or near Heber City, Wasatch County, Utah, as specified by the Secretary of Agriculture. If the sale option is exercised, moneys collected shall be held in a special account intended for this purpose and are hereby authorized for expenditure without further appropiation.

(2) LANDS.—The lands referred to in subsection (h)(1) are those lands which are depicted on a plat, entitled Heber City, Utah, dated April 17, 1978, and May 7, 1978. The plat shall be on file and available for public inspection in the office of the Chief of the Forest Service and appropriate field offices.

Public information.

(3) REQUIREMENT OF EQUAL VALUE.—If the lands are exchanged, the values, as determined by the Secretary of Agriculture, of the lands and building to be exchanged under this section shall be equal, or if not equal, shall be equalized by the payment of money to the grantor or the Secretary of Agriculture as the circumstances require so long as the payment does not exceed 25 percent of the total value of the land (including any improvements thereon) transferred out of Federal ownership. The Secretary of Agriculture shall make every reasonable effort to keep any such payment to the minimum amount necessary to equalize the values involved.

SEC. 5. BOUNDARY CHANGE FOR JOHN MUIR NATIONAL HISTORIC SITE CALIFORNIA.

16 USC 461 note.

(a) MAP; LAND ACQUISITION.—The Secretary of the Interior is authorized to acquire (by donation, purchase with donated or appropriated funds, or exchange) lands and interests in land within the area generally depicted on the map entitled "Boundary Map, John Muir National Historic Site" numbered 426-80,015B and dated July 1988. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. Lands and interests in lands, within the boundaries of such area which are owned by the State of California or any political subdivision thereof, may be acquired only by donation or exchange. The Secretary of the Interior shall acquire only such interests in the John Muir grave site (as depicted on the map referred to in this subsection) as may be necessary to preserve the site in its present undeveloped condition and to provide all maintenance of the site by the Secretary of the Interior.

Gifts and property.

Public information.

(b) INCLUSION WITHIN HISTORIC SITE.—The lands and interests in lands within the boundaries of the area depicted on the map referred to in subsection (a) shall be administered as part of the John Muir National Historic Site established by the Act of August 31, 1964 (78 Stat. 753; 16 U.S.C. 461 note).

(c) AUTHORIZATION OF APPROPRIATIONS.—For purposes of acquiring the lands and interests in lands within the area depicted on the map

referred to in subsection (a), there are authorized to be appropriated such sums as may be necessary.

(d) COOPERATIVE AGREEMENT.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized to enter into a cooperative agreement with the East Bay Regional Park District of Oakland, California, for the operation and maintenance by such District of trails on lands within the John Muir National Historic Site.

16 USC 79-1.

SEC. 6. YOSEMITE NATIONAL PARK.

Notwithstanding any other provision of law, no Federal lands may be used for the expansion of the capacity of any reservoir which is located within the boundaries of Yosemite National Park unless Congress enacts specific statutory authorization after the date of the enactment of this Act for such expansion.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 3408:

HOUSE REPORTS: No. 100-915 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Oct. 6, House concurred in Senate amendment with amendments.
Oct. 11, Senate concurred in House amendments with amendments.
Oct. 12, House concurred in Senate amendments.

Public Law 100-564
100th Congress

An Act

To authorize and direct the acquisition of lands for Canaveral National Seashore, and for other purposes.

Oct. 31, 1988
[H.R. 3559]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Florida.

SECTION 1. ADDITIONS TO CANAVERAL NATIONAL SEASHORE.

16 USC 459j-1 note.

(a) SEMINOLE REST AND STUCKEY'S.—

(1) The Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") is authorized and directed to acquire approximately 25 acres of land in the State of Florida known as Seminole Rest and approximately 10 acres of land known as Stuckey's. Both areas are depicted on a map entitled "Additions to Canaveral National Seashore" numbered NS-CAN-40000-C and dated May 1988.

(2) The Secretary shall manage the lands known as Seminole Rest for the primary purpose of protecting and interpreting their archaeological and historic resources and the lands known as Stuckey's for the primary purpose of establishing an administrative headquarters and visitor center within Volusia County, Florida.

Historic preservation.

(b) ACQUISITION AUTHORITY.—Land acquired under this section may only be acquired in accordance with section 2 of the Act entitled "An Act to establish the Canaveral National Seashore in the State of Florida, and for other purposes" (16 U.S.C. 459j-1).

SEC. 2. AUTHORIZATION OF APPROPRIATIONS RELATING TO DEVELOPMENT OF ESSENTIAL PUBLIC FACILITIES.

Section 9(b) of the Act entitled "An Act to establish the Canaveral National Seashore in the State of Florida, and for other purposes" (16 U.S.C. 459j-8) is amended by striking out "not more than $500,000." and inserting in lieu thereof "$2.6 million in addition to the sums previously appropriated.".

SEC. 3. MISCELLANEOUS PROVISIONS.

16 USC 459j-1 note.

(a) MAP.—The Secretary shall file the map referred to in this Act with the Committee on Interior and Insular Affairs, House of Representatives, and the Committee on Energy and Natural Resources, Senate, and the map shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in such map may be made. The map shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior.

Public information.

(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the acquisitions authorized by this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 3559:

HOUSE REPORTS: No. 100-695 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-534 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 100-565
100th Congress

An Act

To amend title 31, United States Code, to increase from $25,000 to $40,000 the maximum amount that the United States may pay in settlement of a claim against the United States made by a member of the uniformed services or by an officer or employee of the Government.

Oct. 31, 1988
[H.R. 3685]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. INCREASE IN SETTLEMENT AUTHORITY.

Section 3721 of title 31, United States Code, is amended—

(1) in subsection (b) by striking out "$25,000" and inserting in lieu thereof "$40,000"; and

(2) by amending subsection (c) to read as follows:

"(c) On paying a claim under this section, the Government is subrogated for the amount of the payment to a right or claim that the claimant may have against a foreign country for the damage or loss for which the Government made the payment.".

SEC. 2. EFFECTIVE DATE.

31 USC 3721 note.

The amendments made by this Act shall apply only to claims arising on or after the date of the enactment of this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 3685:

HOUSE REPORTS: No. 100-1037 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 5, considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 100-566
100th Congress

An Act

Oct. 31, 1988
[H.R. 3757]

To amend title 5, United States Code, to permit voluntary transfers of leave by Federal employees where needed because of a medical or other emergency situation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Employees Leave Sharing Act of 1988.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Leave Sharing Act of 1988".

SEC. 2. VOLUNTARY TRANSFERS OF LEAVE.

(a) IN GENERAL.—Chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following new subchapters:

"SUBCHAPTER III—VOLUNTARY TRANSFERS OF LEAVE

"§ 6331. Definitions

"For the purpose of this subchapter—

"(1) the term 'employee' means an employee as defined by section 6301(2), excluding an individual employed by the government of the District of Columbia;

"(2) the term 'leave recipient' means an employee whose application to receive donations of leave under this subchapter is approved;

"(3) the term 'leave donor' means an employee whose application to make 1 or more donations of leave under this subchapter is approved; and

"(4) 'medical emergency' means a medical condition of an employee or a family member of such employee that is likely to require the prolonged absence of such employee from duty and to result in a substantial loss of income to such employee because of the unavailability of paid leave.

"§ 6332. General authority

"Notwithstanding any provision of subchapter I, and subject to the provisions of this subchapter, the Office of Personnel Management shall establish a program under which annual leave accrued or accumulated by an employee may be transferred to the annual leave account of any other employee if such other employee requires additional leave because of a medical emergency.

"§ 6333. Receipt and use of transferred leave

"(a)(1) An application to receive donations of leave under this subchapter, whether submitted by or on behalf of an employee—

"(A) shall be submitted to the employing agency of the proposed leave recipient; and

"(B) shall include—

"(i) the name, position title, and grade or pay level of the proposed leave recipient;

"(ii) the reasons why transferred leave is needed, including a brief description of the nature, severity, anticipated duration, and, if it is a recurring one, the approximate frequency of the medical emergency involved;

"(iii) if the employing agency so requires, certification from 1 or more physicians, or other appropriate experts, with respect to any matter under clause (ii); and

"(iv) any other information which the employing agency may reasonably require.

"(2) If an agency requires that an employee obtain certification under paragraph (1)(B)(iii) from 2 or more sources, the agency shall ensure, either by direct payment to the expert involved or by reimbursement, that the employee is not required to pay for the expenses associated with obtaining certification from more than 1 of such sources.

"(3) An employing agency shall approve or disapprove an application of a proposed leave recipient for leave under this subchapter, and, to the extent practicable, shall notify the proposed leave recipient (or other person acting on behalf of the proposed recipient, if appropriate) of the decision of the agency, in writing, within 10 days (excluding Saturdays, Sundays, and legal public holidays) after receiving such application.

"(b) A leave recipient may use annual leave received under this subchapter in the same manner and for the same purposes as if such leave recipient had accrued that leave under section 6303, except that any annual leave, and any sick leave, accrued or accumulated by the leave recipient and available for the purpose involved must be exhausted before any transferred annual leave may be used.

"(c) Transferred annual leave—

"(1) may accumulate without regard to any limitation under section 6304; and

"(2) may be substituted retroactively for any period of leave without pay, or used to liquidate an indebtedness for any period of advanced leave, which began on or after a date fixed by the employing agency of the employee as the beginning of the medical emergency involved.

"§ 6334. Donations of leave

"(a) An employee may, by written application to the employing agency of such employee, request that a specified number of hours be transferred from the annual leave account of such employee to the annual leave account of a leave recipient in accordance with section 6332.

"(b)(1) In any one leave year, a leave donor may donate no more than a total of one-half of the amount of annual leave such donor would be entitled to accrue during the leave year in which the donation is made.

"(2) A leave donor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year under section 6304(a) may donate no more than the number of hours remaining in the leave year (as of the date of the transfer) for which the leave donor is scheduled to work and receive pay.

"(3) The employing agency of a leave donor may waive the limitation under paragraphs (1) and (2). Any such waiver shall be made in writing.

Regulations.

"(c) The Office of Personnel Management shall prescribe regulations to include procedures to carry out this subchapter when the leave donor and the leave recipient are employed by different agencies.

"§ 6335. Termination of medical emergency

"(a) The medical emergency affecting a leave recipient shall, for purposes of this subchapter, be considered to have terminated on the date as of which—

"(1) the leave recipient notifies the employing agency of such leave recipient, in writing, that the medical emergency no longer exists;

"(2) the employing agency of such leave recipient determines, after written notice and opportunity for the leave recipient (or, if appropriate, another person acting on behalf of the leave recipient) to answer orally or in writing, that the medical emergency no longer exists; or

"(3) the leave recipient is separated from service.

"(b)(1) The employing agency of a leave recipient shall, consistent with guidelines prescribed by the Office of Personnel Management, establish procedures to ensure that a leave recipient is not permitted to use or receive any transferred leave under this subchapter after the medical emergency terminates.

"(2) Nothing in section 5551, 5552, or 6306 shall apply with respect to any annual leave transferred to a leave recipient under this subchapter.

"§ 6336. Restoration of transferred leave

"(a)(1) The Office of Personnel Management shall establish procedures under which, except as provided in paragraph (2), any transferred leave remaining to the credit of a leave recipient when the medical emergency affecting the leave recipient terminates shall be restored on a prorated basis by transfer to the appropriate accounts of the respective leave donors.

"(2) Nothing in paragraph (1) shall require the restoration of leave to a leave donor—

"(A) if the amount of leave which would be restored to such donor would be less than 1 hour or any other shorter period of time which the Office may by regulation prescribe;

"(B) if such donor retires, dies, or is otherwise separated from service, before the date on which such restoration would otherwise be made; or

"(C) if such restoration is not administratively feasible, as determined under regulations prescribed by the Office.

"(b) At the election of the leave donor, transferred annual leave restored to such leave donor under subsection (a) may be restored by—

"(1) crediting such leave to the leave donor's annual leave account in the then current leave year;

"(2) crediting such leave to the leave donor's annual leave account, effective as of the first day of the first leave year beginning after the date of the election; or

"(3) donating such leave in whole or part to another leave recipient; if a leave donor elects to donate only part of restored leave to another recipient, the donor may elect to have the remaining leave credited to the donor's annual leave account in accordance with paragraph (1) or (2).

"(c) The Office shall prescribe regulations under which this section shall be applied in the case of an employee who is paid other than on the basis of biweekly pay periods. Regulations.

"(d) Restorations of leave under this section shall be carried out in a manner consistent with regulations prescribed to carry out section 6334(c), if applicable.

"§ 6337. Accrual of leave

"(a) For the purpose of this section—

"(1) the term 'paid leave status under subchapter I', as used with respect to an employee, means the administrative status of such employee while such employee is using sick leave, or annual leave, accrued or accumulated under subchapter I; and

"(2) the term 'transferred leave status', as used with respect to an employee, means the administrative status of such employee while such employee is using transferred leave under this subchapter.

"(b)(1) Except as otherwise provided in this section, while an employee is in a transferred leave status, annual leave and sick leave shall accrue to the credit of such employee at the same rate as if such employee were then in a paid leave status under subchapter I, except that—

"(A) the maximum amount of annual leave which may be accrued by an employee while in transferred leave status in connection with any particular medical emergency may not exceed 5 days; and

"(B) the maximum amount of sick leave which may be accrued by an employee while in transferred leave status in connection with any particular medical emergency may not exceed 5 days.

"(2) Any annual or sick leave accrued by an employee under this section—

"(A) shall be credited to an annual leave or sick leave account, as appropriate, separate from any leave account of such employee under subchapter I; and

"(B) shall not become available for use by such employee, and may not otherwise be taken into account under subchapter I, until, in accordance with subsection (c), it is transferred to the appropriate leave account of such employee under subchapter I.

"(c)(1) Any annual or sick leave accrued by an employee under this section shall be transferred to the appropriate leave account of such employee under subchapter I, effective as of the beginning of the first applicable pay period beginning after the date on which the employee's medical emergency terminates as described in paragraph (1) or (2) of section 6335(a).

"(2) If the employee's medical emergency terminates as described in section 6335(a)(3), no leave shall be credited to such employee under this section.

"§ 6338. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to contributing, receiving, or using annual leave under this subchapter.

"(b) For the purpose of subsection (a), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any

benefit (such as an appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6339. Additional leave transfer programs

"(a) For the purpose of this section—

"(1) the term 'excepted agency' means—

"(A) the Central Intelligence Agency;

"(B) the Defense Intelligence Agency;

"(C) the National Security Agency;

"(D) the Federal Bureau of Investigation; and

"(E) as determined by the President, any Executive agency or unit thereof, the principal function of which is the conduct of foreign intelligence or counterintelligence activities; and

"(2) the term 'head of an excepted agency' means—

"(A) with respect to the Central Intelligence Agency, the Director of Central Intelligence;

"(B) with respect to the Defense Intelligence Agency, the Director of the Defense Intelligence Agency;

"(C) with respect to the National Security Agency, the Director of the National Security Agency;

"(D) with respect to the Federal Bureau of Investigation, the Director of the Federal Bureau of Investigation; and

"(E) with respect to an Executive agency designated under paragraph (1)(E), the head of such Executive agency, and with respect to a unit of an Executive agency designated under paragraph (1)(E), such individual as the President may determine.

"(b) Notwithstanding any other provision of this subchapter, neither an excepted agency nor any individual employed in or under an excepted agency may be included in a leave transfer program established under any of the preceding provisions of this subchapter.

Regulations.

"(c)(1) The head of an excepted agency shall, by regulation, establish a program under which annual leave accrued or accumulated by an employee of such agency may be transferred to the annual leave account of any other employee of such agency if such other employee requires additional leave because of a medical emergency.

"(2) To the extent practicable, and consistent with the protection of intelligence sources and methods (if applicable), each program under this section shall be established—

"(A) in a manner consistent with the provisions of this subchapter applicable to the program; and

"(B) without regard to any provisions relating to transfers or restorations of leave between employees in different agencies.

"(d) The Office of Personnel Management shall provide the head of an excepted agency with such advice and assistance as the head of such agency may request in order to carry out the purposes of this section.

"§ 6340. Inapplicability of certain provisions

"Except to the extent that the Office of Personnel Management may prescribe regulations, nothing in section 7351 shall apply with respect to a solicitation, donation, or acceptance of leave under this subchapter.

"SUBCHAPTER IV—VOLUNTARY LEAVE BANK PROGRAM

"§ 6361. Definitions

"For the purpose of this subchapter the term—

"(1) 'employee' means an employee as defined by section 6301(2), but shall exclude any individual employed by the government of the District of Columbia;

"(2) 'executive agency' means any executive agency or any administrative unit thereof;

"(3) 'leave bank' means a leave bank established under section 6363;

"(4) 'leave contributor' means an employee who contributes leave to an agency leave bank under section 6365;

"(5) 'leave recipient' means an employee whose application under section 6367 to receive contributions of leave from a leave bank is approved; and

"(6) 'medical emergency' means a medical condition of an employee or a family member of such employee that is likely to require the prolonged absence of such employee from duty and to result in a substantial loss of income to such employee because of the unavailability of paid leave.

"§ 6362. General authority

"(a) Notwithstanding any provision of subchapter I, and subject to the provisions of this subchapter, the Office of Personnel Management shall establish a program under which—

"(1) annual leave accrued or accumulated by an employee may be contributed to a leave bank established by the employing agency of such employee; and

"(2) leave from such a leave bank may be made available to an employee who requires such leave because of a medical emergency.

"(b) To test voluntary leave bank programs under the provisions of this subchapter, the Office of Personnel Management shall establish a demonstration project in at least 3 Executive agencies, of which—

"(1) one such agency shall include approximately, but not less than, the equivalent of 100,000 full-time positions;

"(2) one such agency shall include approximately, but not less than, the equivalent of 25,000 full-time positions; and

"(3) one such agency shall include approximately, but not less than, the equivalent of 1,000 full-time positions.

"§ 6363. Establishment of leave banks

"Each agency that establishes a leave bank program under section 6362 shall establish 1 or more leave banks in accordance with regulations prescribed by the Office of Personnel Management.

"§ 6364. Establishment of Leave Bank Boards

"(a)(1) Each agency that establishes a leave bank shall establish a Leave Bank Board consisting of 3 members, at least one of whom shall represent a labor organization or employee group, to administer the leave bank under the provisions of this subchapter, in consultation with the Office of Personnel Management.

"(2) An agency may establish more than 1 Leave Bank Board based upon the administrative units within the agency. No more than 1 board may be established for each leave bank.

"(b) Each such Board shall—

"(1) review and approve applications to the leave bank under section 6367;

"(2) monitor each case of a leave recipient;

"(3) monitor the amount of leave in the leave bank and the number of applications for use of leave from the bank; and

"(4) maintain an adequate amount of leave in the leave bank to the greatest extent practicable.

"§ 6365. Contributions of annual leave

"(a)(1) An employee may, by written application to the Leave Bank Board, request that a specified number of hours be transferred from the annual leave account of such employee to the leave bank established by such agency.

"(2) An employee may state a concern and desire to aid a specified proposed leave recipient or a leave recipient in the application filed under paragraph (1).

"(b)(1) Upon approving an application under subsection (a), the employing agency of the leave contributor may transfer all or any part of the number of hours requested for transfer, except that the number of hours so transferred may not exceed the limitations under paragraph (2).

"(2)(A) In any one leave year, a leave contributor may contribute no more than a total of one-half of the amount of annual leave such contributor would be entitled to accrue during the leave year in which the contribution is made.

"(B) A leave contributor who is projected to have annual leave that otherwise would be subject to forfeiture at the end of the leave year under section 6304(a) may contribute no more than the number of hours remaining in the leave year (as of the date of the contribution) for which the leave contributor is scheduled to work and receive pay.

"(c) The Leave Bank Board of a leave contributor may waive the limitations under subsection (b)(2). Any such waiver shall be in writing.

Regulations.

"(d) The Office of Personnel Management shall prescribe regulations establishing an open enrollment period during which an employee may contribute leave under subsection (a) for a leave year.

"§ 6366. Eligibility for leave recipients

"(a) An employee is eligible to be a leave recipient if such employee—

"(1) experiences a medical emergency and submits an application pursuant to section 6367(a); and

"(2)(A) contributes the minimum number of hours as required under subsection (b) of accrued or accumulated annual leave to the leave bank of the employing agency of such employee, in the leave year (beginning in and including any part of a leave year in which such leave bank is established) that such employee submits an application to be a leave recipient under section 6367(a); and

"(B) such contribution is made before such employee submits an application under section 6367(a).

"(b)(1) An employee shall contribute the minimum number of hours required under subsection (a)(2)(A), if such employee is an employee—

"(A) for less than 3 years of service and contributes a minimum of 4 hours;

"(B) for between 3 years and less than 15 years of service and contributes a minimum of 6 hours; or

"(C) for 15 years or more of service and contributes a minimum of 8 hours.

"(2) Notwithstanding the provisions of paragraph (1), the Leave Bank Board of an agency, after consultation with the Office of Personnel Management, may—

"(A) reduce the minimum number of hours required under paragraph (1) for any leave year, if such Board determines there is a surplus of leave in the leave bank; and

"(B) increase the number of minimum hours required under paragraph (1) for the succeeding leave year, in any leave year in which the Board determines there is a shortage of leave in the leave bank.

"(c) An employee shall meet the requirements of subsection (a)(2)(A) if such employee contributes the minimum number of hours as required under subsection (b) of accrued or accumulated annual leave to the leave bank with which such employee submits an application to be a leave recipient under section 6367(a).

"(d) The provisions of subsection (a) may not be construed to limit the amount of the voluntary contribution of annual leave to a leave bank, which does not exceed the limitations of section 6365(b).

"§ 6367. Receipt and use of leave from a leave bank

"(a) An application to receive contributions of leave from a leave bank, whether submitted by or on behalf of an employee—

"(1) shall be submitted to the Leave Bank Board of the employing agency of the proposed leave recipient; and

"(2) shall include—

"(A) the name, position title, and grade or pay level of the proposed leave recipient;

"(B) the reasons why leave is needed, including a brief description of the nature, severity, anticipated duration, and, if it is a recurring one, the approximate frequency of the medical emergency involved;

"(C) if such Board so requires, certification from 1 or more physicians, or other appropriate experts, with respect to any matter under subparagraph (B); and

"(D) any other information which such Board may reasonably require.

If a Board requires that an employee obtain certification under paragraph (2)(C) from 2 or more sources, the agency shall ensure, either by direct payment to the expert involved or by reimbursement, that the employee is not required to pay for the expenses associated with obtaining certification from more than 1 of such sources.

"(b) The Leave Bank Board of an employing agency may approve an application submitted under subsection (a).

"(c) A leave recipient may use annual leave received from the leave bank established by the employing agency of such employee under this subchapter in the same manner and for the same purposes as if such leave recipient had accrued such leave under section

6303, except that any annual leave and, if applicable, any sick leave accrued or accumulated to the leave recipient shall be used before any leave from the leave bank may be used.

"(d) Transferred annual leave—

"(1) may accumulate without regard to any limitation under section 6304; and

"(2) may be substituted retroactively for any period of leave without pay, or used to liquidate an indebtedness for any period of advanced leave, which began on or after a date fixed by the employing agency of the employee as the beginning of the medical emergency involved.

"(e) Except to the extent that the Office of Personnel Management may prescribe regulations, nothing in the provisions of section 7351 shall apply to any solicitation, contribution, or use of leave to or from a leave bank under this subchapter.

"§ 6368. Termination of medical emergency

"(a) The medical emergency affecting a leave recipient shall, for purposes of this subchapter, be considered to have terminated on the date as of which—

"(1) the leave recipient notifies the Leave Bank Board in writing, that the medical emergency no longer exists;

"(2) the Leave Bank Board of such leave recipient determines, after written notice and opportunity for the leave recipient (or, if appropriate, another person acting on behalf of the leave recipient) to answer orally or in writing, that the medical emergency no longer exists; or

"(3) the leave recipient is separated from service.

"(b)(1) The Leave Bank Board of a recipient shall, consistent with guidelines prescribed by the Office of Personnel Management, establish procedures to ensure that a leave recipient is not permitted to use or receive any transferred leave under this subchapter after the medical emergency terminates.

"(2) Nothing in section 5551, 5552, or 6306 shall apply with respect to any annual leave transferred to a leave recipient under this subchapter.

"§ 6369. Restoration of transferred leave

"The Office of Personnel Management shall establish procedures under which any transferred leave remaining to the credit of a leave recipient when the medical emergency affecting the leave recipient terminates, shall be restored to the leave bank.

"§ 6370. Prohibition of coercion

"(a) An employee may not directly or indirectly intimidate, threaten, or coerce, or attempt to intimidate, threaten, or coerce, any other employee for the purpose of interfering with any right which such employee may have with respect to contributing, receiving, or using annual leave under this subchapter.

"(b) For the purpose of subsection (a), the term 'intimidate, threaten, or coerce' includes promising to confer or conferring any benefit (such as an appointment, promotion, or compensation), or effecting or threatening to effect any reprisal (such as deprivation of appointment, promotion, or compensation).

"§ 6371. Accrual of leave

"While using leave made available to an employee from a leave bank, annual and sick leave shall accrue to the credit of such employee and shall become available for use by such employee in the same manner as provided for under section 6337.

"§ 6372. Additional leave bank programs

"(a) For the purpose of this section—

"(1) the term 'excepted agency' has the same meaning as such term is defined under section 6339(a)(1) of this title; and

"(2) the term 'head of an excepted agency' has the same meaning as such term is defined under section 6339(a)(2) of this title.

"(b) Notwithstanding any other provision of this subchapter, neither an excepted agency nor any individual employed in or under an excepted agency may be included in a leave bank program established under any of the preceding provisions of this subchapter.

"(c)(1) The head of an excepted agency may, by regulation, establish a voluntary leave bank program under which annual leave accrued or accumulated by an employee of such agency may be contributed to a leave bank, and any other employee of such agency may receive additional leave from such leave bank because of a medical emergency.

"(2) To the extent practicable, and consistent with the protection of intelligence sources and methods (if applicable), each program under this section shall be established in a manner consistent with the provisions of this subchapter applicable to the program.

"(d) The Office of Personnel Management shall provide the head of an excepted agency with such advice and assistance as the head of such agency may request in order to carry out the purposes of this section.

"§ 6373. Limitation on employee participation

"An employee in a unit of an agency that establishes a leave bank program under the provisions of this subchapter may not participate in a leave transfer program under the provisions of subchapter III.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 63 of title 5, United States Code, is amended by adding at the end thereof the following:

"SUBCHAPTER III—VOLUNTARY TRANSFERS OF LEAVE

"Sec.
"6331. Definitions.
"6332. General authority.
"6333. Receipt and use of transferred leave.
"6334. Donations of leave.
"6335. Termination of medical emergency.
"6336. Restoration of transferred leave.
"6337. Accrual of leave.
"6338. Prohibition of coercion.
"6339. Additional leave transfer programs.
"6340. Inapplicability of certain provisions.

"SUBCHAPTER IV—VOLUNTARY LEAVE BANK PROGRAM

"6361. Definitions.
"6362. General authority.
"6363. Establishment of leave banks.
"6364. Establishment of Leave Bank Boards.
"6365. Contributions of annual leave.

"6366. Eligibility for leave recipients.
"6367. Receipt and use of leave from a leave bank.
"6368. Termination of medical emergency.
"6369. Restoration of transferred leave.
"6370. Prohibition of coercion.
"6371. Accrual of leave.
"6372. Additional leave bank programs.
"6373. Limitation on employee participation.".

(c) IMPLEMENTATION OF LEAVE TRANSFER AND LEAVE BANK PROGRAMS.—(1) No later than 3 months after the date of the enactment of this Act, the Office of Personnel Management shall prescribe regulations to implement leave transfer programs pursuant to the amendments made by this Act.

Regulations.

(2) No later than 6 months after the date of the enactment of this Act—

(A) the head of each agency involved under sections 6332 and 6339 of title 5, United States Code, shall establish and begin operating a leave transfer program in accordance with applicable provisions of subchapter III of chapter 63 of title 5, United States Code, and applicable regulations prescribed by the Office; and

(B) the Office of Personnel Management shall prescribe regulations to implement leave bank programs pursuant to the amendments made by this Act.

Regulations.

(3) No later than 9 months after the date of the enactment of this Act, the head of each agency involved under section 6362 of title 5, United States Code, shall establish and begin operating a leave bank in accordance with subchapter IV of chapter 63 of title 5, United States Code, and applicable regulations prescribed by the Office.

(d) TERMINATION OF LEAVE TRANSFER AND LEAVE BANK PROGRAMS AFTER 5 YEARS.—(1)(A) Subchapters III and IV of chapter 63 of title 5, United States Code, are repealed effective 5 years after the date of the enactment of this Act.

(B) The table of sections for subchapter III and the table of sections for subchapter IV of chapter 63 of title 5, United States Code, are repealed effective 5 years after the date of the enactment of this Act.

(2) If a leave transfer program under subchapter III of chapter 63 of title 5, United States Code, or the leave bank program under subchapter IV of such chapter, terminates before the termination of the medical emergency affecting a leave recipient under such program, any leave which was transferred to the leave recipient before the termination of the program shall remain available for use (including by restoration to leave donors or leave contributors, as the case may be, and if applicable) as if the program had remained in effect.

(3)(A) Any annual leave remaining in an agency's leave bank under subchapter IV of chapter 63 of title 5, United States Code, shall, upon the repeal of such subchapter be dispensed in accordance with subparagraph (B).

(B) If there are any employees who, based on applications submitted before the effective date of the repeal of such subchapter, are found (before, on, or after that date) to be eligible to receive leave in connection with any medical emergency, annual leave contributed to the leave bank before such date shall, until the last such emergency has terminated, remain available for use by any such employee under the same terms and conditions as if the program had remained in effect.

(4) For the purpose of this subsection, "medical emergency", "leave recipient", "leave bank", and "employee" each has the meaning given that term under subchapter III or subchapter IV of chapter 63 of title 5, United States Code, as applicable.

(e) REPORT TO THE CONGRESS.—(1)(A) Within 2 years after the date of the enactment of this Act and again no later than 6 months before the scheduled termination date of any program under subchapter III or subchapter IV of chapter 63 of title 5, United States Code (excluding any program under sections 6339 and 6372 of such chapter) the Office of Personnel Management shall submit a written report to the Congress with respect to the operations of such programs.

(B) The Office of Personnel Management may require agencies to maintain such records and to provide such information as the Office may need to carry out subparagraph (A). Records.

(2) The excepted agencies that establish programs under sections 6339 and 6372 of title 5, United States Code, shall report to the Congress on the operation of such programs within 2 years after the date of the enactment of this Act and again no later than 6 months before the scheduled termination of any such programs.

(f) CONTINUATION OF TEMPORARY LEAVE TRANSFER PROGRAMS.—Any temporary program allowing for transfers of leave among officers or employees of the Federal Government may, if such program is being implemented with respect to an agency (or any unit thereof) as of the date of the enactment of this Act, continue to be implemented with respect to such agency (or unit), notwithstanding any provision of law which would otherwise terminate the authority for such program, pending the commencement of a leave transfer program with respect to such agency pursuant to amendments made by this Act. The Office of Personnel Management (or, in the case of a program established by another agency, such other agency) shall prescribe regulations to ensure that any leave which has been transferred to the credit of an officer or employee and which remains unused as of the date on which any such temporary program terminates (and a successor program commences pursuant to amendments made by this Act) shall not be lost by reason of that termination. Regulations.

SEC. 3. TRAVEL EXPENSES OF CAREER APPOINTEES.

Section 5724(a)(3)(A) of title 5, United States Code, is amended by striking out "during the five years preceding eligibility to receive an annuity under subchapter III of chapter 83, or of chapter 84 of this title, and thereafter" and inserting in lieu thereof "during or after the five years preceding eligibility to receive an annuity under subchapter III of chapter 83, or of chapter 84 of this title".

SEC. 4. EFFECTIVE DATE.

Section 6 of the Civil Service Miscellaneous Amendments Act of 1983 (Public Law 98-224; 98 Stat. 49) is amended by striking out "September 30, 1990," and inserting in lieu thereof "September 30, 1995,".

SEC. 5. DISABILITY FROM ASSASSINATION ATTEMPT.

Section 8112 of title 5, United States Code, is amended—

(1) by redesignating such section as subsection (a) of section 8112; and

(2) by adding at the end thereof the following new subsection:

"(b) The provisions of subsection (a) shall not apply to any employee whose disability is a result of an assault which occurs during an assassination or attempted assassination of a Federal official described under section 351(a) or 1751(a) of title 18, and was sustained in the performance of duty.".

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 3757 (S. 2140):

HOUSE REPORTS: No. 100-519 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 100-437 accompanying S. 2140 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 22, considered and passed House.
Oct. 5, considered and passed Senate, amended.
Oct. 12, House concurred in Senate amendment.

Public Law 100-567
100th Congress

An Act

To authorize the establishment of the Zuni-Cibola National Historical Park in the State of New Mexico, and for other purposes.

Oct. 31, 1988
[H.R. 4182]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Zuni-Cibola National Historical Park Establishment Act of 1988.
Historic preservation.
16 USC 410pp note.
Contracts.
16 USC 410pp.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Zuni-Cibola National Historical Park Establishment Act of 1988".

SEC. 2. ESTABLISHMENT OF PARK.

(a) ESTABLISHMENT.—In order to preserve and protect for the benefit of present and future generations certain nationally significant historical, archeological, cultural, and natural sites and resources associated with the Zuni Tribe, and in order to assist members of the Zuni Tribe in preserving and interpreting their tribal culture, there is hereby established the Zuni-Cibola National Historical Park. The park shall consist of lands with respect to which the Secretary of the Interior has accepted a leasehold pursuant to section 3 of this Act.

(b) EFFECTIVE DATE.—This section shall take effect on the date of publication by the Secretary, pursuant to section 3 of this Act, of a notice that the Secretary has accepted a leasehold interest that meets the requirements of this Act.

(c) TERMINATION.—This section shall terminate and shall be ineffective 24 months after the date of enactment of this Act unless prior to the end of such 24-month period the Secretary has published a notice of acceptance of a leasehold pursuant to section 3 of this Act.

16 USC 410pp-1.

SEC. 3. ACQUISITION OF LEASEHOLD.

Federal Register, publication.

(a) AUTHORITY OF SECRETARY.—If, no later than 18 months after the date of enactment of this Act, the Zuni Tribe, after consultation with the Bureau of Indian Affairs, offers to the Secretary a leasehold interest in trust lands of the Zuni Indian Reservation, in New Mexico, meeting the requirements of this Act, the Secretary is authorized and directed to accept such leasehold on behalf of the National Park Service and to publish in the Federal Register a notice of such acceptance.

(b) REQUIREMENTS.—The Secretary shall accept a leasehold under subsection (a) of this section if such leasehold—

(1) would continue for a period of at least 99 years;

(2) would require no rentals or other payments by the United States to the Zuni Tribe or any other party;

(3) would be applicable to no more than 800 acres of lands within the Zuni Indian Reservation that the Director of the National Park Service, after consultation with the Zuni Tribe and the Bureau of Indian Affairs, has determined to be nec-

essary and adequate to carry out the purposes specified in section 4(a) of this Act; and

(4) would not be inconsistent with any of the provisions of this Act.

(c) MAP.—As soon as possible after publication of a notice of acceptance pursuant to subsection (a) of this section, the Secretary shall prepare a map of the park and shall provide copies of such map to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate.

(d) BOUNDARY ADJUSTMENTS.—The Secretary, after consultation with the Advisory Commission and with the agreement of the Zuni Tribe, may make minor revisions in the boundary of the park. Prior to making any such revision, the Secretary shall provide notice of the proposed change in the boundary to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources and Select Committee on Indian Affairs of the Senate. No such revision shall take effect sooner than 60 days after such notice has been provided to such Committees. After the effective date of any such revision, the Secretary shall prepare a revised map of the park, copies of which shall be provided to such Committees.

16 USC 410pp-2.

SEC. 4. MANAGEMENT.

National Park System.

(a) PURPOSES.—(1) The Secretary, acting through the Director of the National Park Service, and in consultation with the Advisory Commission established pursuant to section 6 of this Act, shall manage the lands covered by any leasehold accepted by the Secretary pursuant to section 3 as a unit of the National Park System consistent with the provisions of this Act, and the Act of August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented, and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461), as amended.

(2) The Secretary shall protect, manage, and administer the park for the purposes of preserving the historical, archeological, natural, scientific, cultural, and other resources and values of the park and providing for the public understanding and enjoyment of the same in such a manner as to perpetuate these resources and values for future generations.

(3) In implementing this Act, the Secretary shall cooperate with the Zuni Tribe.

(b) JURISDICTION.—The Secretary is authorized to accept concurrent jurisdiction from the Zuni Tribe for the purpose of law enforcement.

(c) CONSULTATION.—The Secretary, acting through the Director of the National Park Service, shall consult regularly with the Commission established pursuant to section 6 of this Act. The Commission shall advise the Secretary on the management and operation of the park.

(d) FEES.—All enrolled members of the Zuni Tribe shall be exempt from the payment of fees for admission into the park.

Contracts.

(e) TRAINING.—In furtherance of the purposes specified in subsection (a)(2), and after consultation with the Advisory Commission established by section 6, the Secretary is authorized to enter into cooperative agreements with the Zuni Tribe, its subordinate boards, committees and enterprises, and individual members of the Zuni Tribe for the purpose of providing training of Zuni tribal members

on the interpretation, management, protection, and preservation of archaeological and historical properties and in the provision of public services on the Zuni Indian Reservation needed for the fulfillment of the purposes specified in subsection (a)(2).

(f) PREFERENCE.—To the extent feasible, the Secretary shall exercise existing authorities so as to give preference to employing qualified members of the Zuni Tribe in the development, interpretation, and management of the park and in carrying out other activities related to the park.

SEC. 5. FEDERAL CONSISTENCY. 16 USC 410pp-3.

(a) FEDERAL ACTIONS.—The head of any Federal agency conducting or supporting activities directly or indirectly affecting the park shall—

(1) consult with, cooperate with, and, to the maximum extent practicable, coordinate its activities with the Secretary and with the Advisory Commission; and

(2) conduct or support such activities in a manner which—

(A) to the maximum extent practicable is consistent with the standards and criteria established pursuant to the plan required in section 7 of this Act, and

(B) will not have a significant adverse effect on the resources or values of the park, as determined by the Secretary.

(b) PERMITS.—No Federal agency may issue any license or permit to any person to conduct any activity within the park or which could affect the resources or values of the park unless the Secretary determines that any such proposed activity within the park will be conducted in a manner consistent with the standards and criteria established pursuant to the plan required in section 7 of this Act and wherever occurring will not have a significant adverse effect on the resources or values of the park.

(c) LIMITATION.—The provisions of this section shall apply only with respect to activities begun and licenses or permits issued after the date of enactment of this Act.

SEC. 6. ESTABLISHMENT OF ZUNI-CIBOLA ADVISORY COMMISSION. 16 USC 410pp-4.

(a) ESTABLISHMENT.—(1) There is established within the Department of the Interior a commission to be known as the Zuni-Cibola National Historical Park Advisory Commission which shall advise regularly the Director of the National Park Service on the planning, management, and administration of the park. The Advisory Commission shall consist of the Governor of the Zuni Tribe, the Director of the National Park Service, the Secretary of the Smithsonian Institution, the State Historic Preservation Officer of New Mexico (or their designees), and three members appointed by the Secretary from recommendations made by the Governor of the Zuni Tribe.

(2) The Advisory Commission is authorized to employ an administrative director who shall be appointed by the Advisory Commission and who shall be paid at a rate not to exceed the rate of pay payable for grade GS-12 of the General Schedule.

(3) The administrative director of the Advisory Commission may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51, and subchapter III of chapter 53 of such title relating to classification

and General Schedule pay rates, except that the individual so appointed may not receive pay in excess of the annual rate of basic pay payable for grade GS-12 of the General Schedule.

(4) The Administrator of the General Services Administration shall provide to the Advisory Commission on a reimbursable basis such administrative support services as the Advisory Commission may request.

(b) TERMS.—The initial terms of members of the Advisory Commission appointed by the Secretary pursuant to subsection (a) shall be staggered, as determined by the Secretary, in order to assure continuity in the administration of the Advisory Commission. Thereafter the term shall be four years. Any member of the Advisory Commission appointed for a definite term may serve after the expiration of such member's term until a successor is appointed. A vacancy in the Advisory Commission shall be filled in the manner in which the original appointment was made. The advisory Commission shall exist for the duration of a leasehold accepted by the Secretary pursuant to section 3, and any extensions or renewals thereof.

(c) EXPENSES.—The non-Federal members of the Advisory Commission appointed pursuant to subsection (a) while away from their homes or regular places of business in the performance of services for the Advisory Commission, shall be allowed travel and all other related expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(d) CHAIR.—The Governor of the Zuni Tribe shall be the Chair of the Advisory Commission. Other officers of the Advisory Commission shall be elected by a majority of the members of the Advisory Commission to serve for terms established by the Advisory Commission.

Public information.

(e) MEETINGS.—The Advisory Commission shall meet at the call of the Chair or a majority of its members. Consistent with the public meeting requirements of the Federal Advisory Committee Act, the Advisory Commission shall from time to time meet with persons concerned with park issues relating to the Zuni Tribe.

(f) APPLICATION OF FEDERAL ADVISORY COMMITTEE ACT.—Except with respect to any requirement for reissuance of a charter and except as otherwise provided in this Act, the provisions of the Federal Advisory Committee Act shall apply to the Advisory Commission established by this section.

16 USC 410pp-5.

SEC. 7. PARK PLAN.

(a) DEADLINE.—No later than 3 years after the date of the publication of a notice pursuant to section 3(a), the Secretary, acting through the Director of the National Park Service and in consultation with the Advisory Commission, shall develop and transmit to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate, a general management plan for the park which shall describe the appropriate uses and development of the park consistent with the purposes of this Act.

(b) ELEMENTS.—The park plan shall include (but not be limited to) the following:

(1) Plans for implementation of a continuing program of interpretation and visitor education about the resources and values of the park.

(2) Proposals for visitor use facilities to be developed for the park.

(3) Plans for management of the natural and cultural resources of the park in order to carry out the purposes specified in section 4(a)(2) of this Act, with particular emphasis on the preservation and long-term scientific use of archeological resources, giving high priority to the enforcement of the provisions of the Archeological Resources Protection Act of 1979 (16 U.S.C. 470aa et seq.) and the National Historic Preservation Act (16 U.S.C. 470 et seq.) within the park. The natural and cultural resources management plans shall be prepared in close consultation with the New Mexico State Historic Preservation Office and the Zuni Tribe and their traditional cultural and religious authorities.

(4) Proposals for training members of the Zuni Tribe in such fields as interpretation, management, and artifact curation.

(5) A plan to implement the provisions of section 8 of this Act so as to ensure the protection of the right of the Zuni people to practice traditional Zuni religious activities within the park boundaries in a manner consistent with the purpose and intent of the American Indian Religious Freedom Act of August 11, 1978 (42 U.S.C. 1996).

(6) Proposals for cooperative research and interpretive programs within the park to be carried out by the Zuni Tribe through its archeology program, with technical assistance from the National Park Service.

(7) Proposals for implementing the provisions of this Act relating to the operation and supply of park concessions by qualified Zuni-owned businesses.

SEC. 8. CULTURAL AND RELIGIOUS USES. 16 USC 410pp-6.

In furtherance of the American Indian Religious Freedom Act, the Secretary, upon the request of an appropriate official of the Zuni Tribe, may, from time to time, temporarily close to general public use one or more specific portions of the park in order to protect the privacy of religious activities in such areas by Indian people. Any such closure shall be made so as to affect the smallest practicable area for the minimum period necessary for such purposes. Not later than 7 days after the first day on which any such closure takes effect, the Secretary shall provide written notification of such action to the Energy and Natural Resources Committee and Select Committee on Indian Affairs of the United States Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

SEC. 9. DEFINITIONS. 16 USC 410pp-7.

As used in this Act—

(1) the term "Advisory Commission" means the Zuni-Cibola National Historical Park Advisory Commission established under section 6;

(2) the term "park" means lands constituting a Zuni-Cibola National Historical Park established under section 2;

(3) the term "park plan" means the general management plan developed pursuant to section 7; and

(4) the term "Secretary" means the Secretary of the Interior.

SEC. 10. ADDITION TO MASAU TRAIL.

16 USC 460uu-12.

The first sentence of section 202 of the Act of December 31, 1987 (Public Law 100-225; 101 Stat. 1540) is amended by striking out "and Gila Cliff Dwelling National Monument." and inserting in lieu thereof "Gila Cliff Dwellings National Monument, and Zuni-Cibola National Historical Park.".

16 USC 410pp-8.

SEC. 11. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as may be necessary for the purposes of this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4182 (S. 2162):

HOUSE REPORTS: No. 100-942 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-354 accompanying S. 2162 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 20, considered and passed House. S. 2162 considered and passed Senate.
Oct. 11, H.R. 4182 considered and passed Senate, amended.
Oct. 12, House concurred in Senate amendment.

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Public Law 100-568
100th Congress

An Act

To amend title 17, United States Code, to implement the Berne Convention for the Protection of Literary and Artistic Works, as revised at Paris on July 24, 1971, and for other purposes.

Oct. 31, 1988
[H.R. 4262]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Berne Convention Implementation Act of 1988. Copyrights. 17 USC 101 note.

SECTION 1. SHORT TITLE AND REFERENCES TO TITLE 17, UNITED STATES CODE.

(a) SHORT TITLE.—This Act may be cited as the "Berne Convention Implementation Act of 1988".

(b) REFERENCES TO TITLE 17, UNITED STATES CODE.—Whenever in this Act an amendment or repeal is expressed in terms of an amendment to or a repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 17, United States Code.

SEC. 2. DECLARATIONS. 17 USC 101 note.

The Congress makes the following declarations:

(1) The Convention for the Protection of Literary and Artistic Works, signed at Berne, Switzerland, on September 9, 1886, and all acts, protocols, and revisions thereto (hereafter in this Act referred to as the "Berne Convention") are not self-executing under the Constitution and laws of the United States.

(2) The obligations of the United States under the Berne Convention may be performed only pursuant to appropriate domestic law.

(3) The amendments made by this Act, together with the law as it exists on the date of the enactment of this Act, satisfy the obligations of the United States in adhering to the Berne Convention and no further rights or interests shall be recognized or created for that purpose.

SEC. 3. CONSTRUCTION OF THE BERNE CONVENTION. 17 USC 101 note.

(a) RELATIONSHIP WITH DOMESTIC LAW.—The provisions of the Berne Convention—

(1) shall be given effect under title 17, as amended by this Act, and any other relevant provision of Federal or State law, including the common law; and

(2) shall not be enforceable in any action brought pursuant to the provisions of the Berne Convention itself.

(b) CERTAIN RIGHTS NOT AFFECTED.—The provisions of the Berne Convention, the adherence of the United States thereto, and satisfaction of United States obligations thereunder, do not expand or reduce any right of an author of a work, whether claimed under Federal, State, or the common law—

(1) to claim authorship of the work; or

(2) to object to any distortion, mutilation, or other modification of, or other derogatory action in relation to, the work, that would prejudice the author's honor or reputation.

SEC. 4. SUBJECT MATTER AND SCOPE OF COPYRIGHTS.

(a) SUBJECT AND SCOPE.—Chapter 1 is amended—

(1) in section 101—

(A) in the definition of "Pictorial, graphic, and sculptural works" by striking out in the first sentence "technical drawings, diagrams, and models" and inserting in lieu thereof "diagrams, models, and technical drawings, including architectural plans";

(B) by inserting after the definition of "Audiovisual works", the following:

"The 'Berne Convention' is the Convention for the Protection of Literary and Artistic Works, signed at Berne, Switzerland, on September 9, 1886, and all acts, protocols, and revisions thereto.

"A work is a 'Berne Convention work' if—

"(1) in the case of an unpublished work, one or more of the authors is a national of a nation adhering to the Berne Convention, or in the case of a published work, one or more of the authors is a national of a nation adhering to the Berne Convention on the date of first publication;

"(2) the work was first published in a nation adhering to the Berne Convention, or was simultaneously first published in a nation adhering to the Berne Convention and in a foreign nation that does not adhere to the Berne Convention;

"(3) in the case of an audiovisual work—

"(A) if one or more of the authors is a legal entity, that author has its headquarters in a nation adhering to the Berne Convention; or

"(B) if one or more of the authors is an individual, that author is domiciled, or has his or her habitual residence in, a nation adhering to the Berne Convention; or

"(4) in the case of a pictorial, graphic, or sculptural work that is incorporated in a building or other structure, the building or structure is located in a nation adhering to the Berne Convention.

For purposes of paragraph (1), an author who is domiciled in or has his or her habitual residence in, a nation adhering to the Berne Convention is considered to be a national of that nation. For purposes of paragraph (2), a work is considered to have been simultaneously published in two or more nations if its dates of publication are within 30 days of one another."; and

(C) by inserting after the definition of "Copyright owner", the following:

"The 'country of origin' of a Berne Convention work, for purposes of section 411, is the United States if—

"(1) in the case of a published work, the work is first published—

"(A) in the United States;

"(B) simultaneously in the United States and another nation or nations adhering to the Berne Convention, whose law grants a term of copyright protection that is the same as or longer than the term provided in the United States;

"(C) simultaneously in the United States and a foreign nation that does not adhere to the Berne Convention; or

"(D) in a foreign nation that does not adhere to the Berne Convention, and all of the authors of the work are nationals, domiciliaries, or habitual residents of, or in the case of an audiovisual work legal entities with headquarters in, the United States;

"(2) in the case of an unpublished work, all the authors of the work are nationals, domiciliaries, or habitual residents of the United States, or, in the case of an unpublished audiovisual work, all the authors are legal entities with headquarters in the United States; or

"(3) in the case of a pictorial, graphic, or sculptural work incorporated in a building or structure, the building or structure is located in the United States.

For the purposes of section 411, the 'country of origin' of any other Berne Convention work is not the United States.";

(2) in section 104(b)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph:

"(4) the work is a Berne Convention work; or";

(3) in section 104 by adding at the end thereof the following:

"(c) EFFECT OF BERNE CONVENTION.—No right or interest in a work eligible for protection under this title may be claimed by virtue of, or in reliance upon, the provisions of the Berne Convention, or the adherence of the United States thereto. Any rights in a work eligible for protection under this title that derive from this title, other Federal or State statutes, or the common law, shall not be expanded or reduced by virtue of, or in reliance upon, the provisions of the Berne Convention, or the adherence of the United States thereto."; and

(4) by inserting after section 116 the following new section:

"§ 116A. Negotiated licenses for public performances by means of coin-operated phonorecord players

"(a) APPLICABILITY OF SECTION.—This section applies to any nondramatic musical work embodied in a phonorecord.

"(b) LIMITATION ON EXCLUSIVE RIGHT IF LICENSES NOT NEGOTIATED.—

"(1) APPLICABILITY.—In the case of a work to which this section applies, the exclusive right under clause (4) of section 106 to perform the work publicly by means of a coin-operated phonorecord player is limited by section 116 to the extent provided in this section.

"(2) DETERMINATION BY COPYRIGHT ROYALTY TRIBUNAL.—The Copyright Royalty Tribunal, at the end of the 1-year period beginning on the effective date of the Berne Convention Implementation Act of 1988, and periodically thereafter to the extent necessary to carry out subsection (f), shall determine whether or not negotiated licenses authorized by subsection (c) are in effect so as to provide permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the 1-year period ending on the effective date of that Act. If the Copyright Royalty Tribunal determines that such negotiated licenses are not so in effect, the Tribunal shall, upon

Federal Register, publication.

making the determination, publish the determination in the Federal Register. Upon such publication, section 116 shall apply with respect to musical works that are not the subject of such negotiated licenses.

"(c) NEGOTIATED LICENSES.—

"(1) AUTHORITY FOR NEGOTIATIONS.—Any owners of copyright in works to which this section applies and any operators of coin-operated phonorecord players may negotiate and agree upon the terms and rates of royalty payments for the performance of such works and the proportionate division of fees paid among copyright owners, and may designate common agents to negotiate, agree to, pay, or receive such royalty payments.

"(2) ARBITRATION.—Parties to such a negotiation, within such time as may be specified by the Copyright Royalty Tribunal by regulation, may determine the result of the negotiation by arbitration. Such arbitration shall be governed by the provisions of title 9, to the extent such title is not inconsistent with this section. The parties shall give notice to the Copyright Royalty Tribunal of any determination reached by arbitration and any such determination shall, as between the parties to the arbitration, be dispositive of the issues to which it relates.

"(d) LICENSE AGREEMENTS SUPERIOR TO COPYRIGHT ROYALTY TRIBUNAL DETERMINATIONS.—License agreements between one or more copyright owners and one or more operators of coin-operated phonorecord players, which are negotiated in accordance with subsection (c), shall be given effect in lieu of any otherwise applicable determination by the Copyright Royalty Tribunal.

"(e) NEGOTIATION SCHEDULE.—Not later than 60 days after the effective date of the Berne Convention Implementation Act of 1988, if the Chairman of the Copyright Royalty Tribunal has not received notice, from copyright owners and operators of coin-operated phonorecord players referred to in subsection (c)(1), of the date and location of the first meeting between such copyright owners and such operators to commence negotiations authorized by subsection (c), the Chairman shall announce the date and location of such meeting. Such meeting may not be held more than 90 days after the effective date of such Act.

"(f) COPYRIGHT ROYALTY TRIBUNAL TO SUSPEND VARIOUS ACTIVITIES.—The Copyright Royalty Tribunal shall not conduct any ratemaking activity with respect to coin-operated phonorecord players unless, at any time more than one year after the effective date of the Berne Convention Implementation Act of 1988, the negotiated licenses adopted by the parties under this section do not provide permission to use a quantity of musical works not substantially smaller than the quantity of such works performed on coin-operated phonorecord players during the one-year period ending on the effective date of such Act.

"(g) TRANSITION PROVISIONS; RETENTION OF COPYRIGHT ROYALTY TRIBUNAL JURISDICTION.—Until such time as licensing provisions are determined by the parties under this section, the terms of the compulsory license under section 116, with respect to the public performance of nondramatic musical works by means of coin-operated phonorecord players, which is in effect on the day before the effective date of the Berne Convention Implementation Act of 1988, shall remain in force. If a negotiated license authorized by this section comes into force so as to supersede previous determinations of the Copyright Royalty Tribunal, as provided in subsection (d), but

thereafter is terminated or expires and is not replaced by another licensing agreement, then section 116 shall be effective with respect to musical works that were the subject of such terminated or expired licenses.".

(b) TECHNICAL AMENDMENTS.—(1) Section 116 is amended—

(A) by amending the section heading to read as follows:

"**§ 116. Scope of exclusive rights in nondramatic musical works: Compulsory licenses for public performances by means of coin-operated phonorecord players**";

(B) in subsection (a) in the matter preceding paragraph (1), by inserting after "in a phonorecord," the following: "the performance of which is subject to this section as provided in section 116A,"; and

(C) in subsection (e), by inserting "and section 116A" after "As used in this section".

(2) The table of sections at the beginning of chapter 1 is amended by striking out the item relating to section 116, and inserting in lieu thereof the following:

"116. Scope of exclusive rights in nondramatic musical works: Compulsory licenses for public performances by means of coin-operated phonorecord players.

"116A. Negotiated licenses for public performances by means of coin-operated phonorecord players.".

SEC. 5. RECORDATION.

Section 205 is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

SEC. 6. PREEMPTION WITH RESPECT TO OTHER LAWS NOT AFFECTED.

Section 301 is amended by adding at the end thereof the following:

"(e) The scope of Federal preemption under this section is not affected by the adherence of the United States to the Berne Convention or the satisfaction of obligations of the United States thereunder.".

SEC. 7. NOTICE OF COPYRIGHT.

(a) VISUALLY PERCEPTIBLE COPIES.—Section 401 is amended—

(1) in subsection (a), by amending the subsection heading to read as follows:

"(a) GENERAL PROVISIONS.—";

(2) in subsection (a), by striking out "shall be placed on all" and inserting in lieu thereof "may be placed on";

(3) in subsection (b), by striking out "The notice appearing on the copies" and inserting in lieu thereof "If a notice appears on the copies, it"; and

(4) by adding at the end the following:

"(d) EVIDENTIARY WEIGHT OF NOTICE.—If a notice of copyright in the form and position specified by this section appears on the published copy or copies to which a defendant in a copyright infringement suit had access, then no weight shall be given to such a defendant's interposition of a defense based on innocent infringement in mitigation of actual or statutory damages, except as provided in the last sentence of section 504(c)(2).".

(b) PHONORECORDS OF SOUND RECORDINGS.—Section 402 is amended—

(1) in subsection (a), by amending the subsection heading to read as follows:

"(a) GENERAL PROVISIONS.—";

(2) in subsection (a), by striking out "shall be placed on all" and inserting in lieu thereof "may be placed on";

(3) in subsection (b), by striking out "The notice appearing on the phonorecords" and inserting in lieu thereof "If a notice appears on the phonorecords, it"; and

(4) by adding at the end thereof the following new subsection:

"(d) EVIDENTIARY WEIGHT OF NOTICE.—If a notice of copyright in the form and position specified by this section appears on the published phonorecord or phonorecords to which a defendant in a copyright infringement suit had access, then no weight shall be given to such a defendant's interposition of a defense based on innocent infringement in mitigation of actual or statutory damages, except as provided in the last sentence of section 504(c)(2).".

(c) PUBLICATIONS INCORPORATING UNITED STATES GOVERNMENT WORKS.—Section 403 is amended to read as follows:

"Sections 401(d) and 402(d) shall not apply to a work published in copies or phonorecords consisting predominantly of one or more works of the United States Government unless the notice of copyright appearing on the published copies or phonorecords to which a defendant in the copyright infringement suit had access includes a statement identifying, either affirmatively or negatively, those portions of the copies or phonorecords embodying any work or works protected under this title.".

(d) NOTICE OF COPYRIGHT; CONTRIBUTIONS TO COLLECTIVE WORKS.—Section 404 is amended—

(1) in subsection (a), by striking out "to satisfy the requirements of sections 401 through 403", and inserting in lieu thereof "to invoke the provisions of section 401(d) or 402(d), as applicable"; and

(2) in subsection (b), by striking out "Where" and inserting in lieu thereof "With respect to copies and phonorecords publicly distributed by authority of the copyright owner before the effective date of the Berne Convention Implementation Act of 1988, where".

(e) OMISSION OF NOTICE.—Section 405 is amended—

(1) in subsection (a), by striking out "The omission of the copyright notice prescribed by" and inserting in lieu thereof "With respect to copies and phonorecords publicly distributed by authority of the copyright owner before the effective date of the Berne Convention Implementation Act of 1988, the omission of the copyright notice described in";

(2) in subsection (b), by striking out "omitted," in the first sentence and inserting in lieu thereof "omitted and which was publicly distributed by authority of the copyright owner before the effective date of the Berne Convention Implementation Act of 1988,"; and

(3) by amending the section heading to read as follows:

"§ 405. Notice of copyright: Omission of notice on certain copies and phonorecords"

(f) ERROR IN NAME OR DATE.—Section 406 is amended—

(1) in subsection (a) by striking out "Where" and inserting in lieu thereof "With respect to copies and phonorecords publicly distributed by authority of the copyright owner before the

effective date of the Berne Convention Implementation Act of 1988, where";

(2) in subsection (b) by inserting "before the effective date of the Berne Convention Implementation Act of 1988" after "distributed";

(3) in subsection (c)—

(A) by inserting "before the effective date of the Berne Convention Implementation Act of 1988" after "publicly distributed"; and

(B) by inserting after "405" the following: "as in effect on the day before the effective date of the Berne Convention Implementation Act of 1988"; and

(4) by amending the section heading to read as follows:

"§ 406. Notice of copyright: Error in name or date on certain copies and phonorecords".

(g) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 4 is amended by striking out the items relating to sections 405 and 406 and inserting in lieu thereof the following:

"405. Notice of copyright: Omission of notice on certain copies and phonorecords.
"406. Notice of copyright: Error in name or date on certain copies and phonorecords.".

SEC. 8. DEPOSIT OF COPIES OR PHONORECORDS FOR LIBRARY OF CONGRESS.

Section 407(a) is amended by striking out "with notice of copyright".

SEC. 9. COPYRIGHT REGISTRATION.

(a) REGISTRATION IN GENERAL.—Section 408 is amended—

(1) in subsection (a), by striking out "Subject to the provisions of section 405(a), such" in the second sentence and inserting in lieu thereof "Such";

(2) in subsection (c)(2)—

(A) by striking out "all of the following conditions—" and inserting in lieu thereof "the following conditions:";

(B) by striking out subparagraph (A); and

(C) by redesignating subparagraphs (B) and (C) as subparagraphs (A) and (B), respectively.

(b) INFRINGEMENT ACTIONS.—

(1) REGISTRATION AS A PREREQUISITE.—Section 411 is amended—

(A) by amending the section heading to read as follows:

"§ 411. Registration and infringement actions";

(B) in subsection (a) by striking out "Subject" and inserting in lieu thereof "Except for actions for infringement of copyright in Berne Convention works whose country of origin is not the United States, and subject"; and

(C) in subsection (b)(2) by inserting ", if required by subsection (a)," after "work".

(2) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 4 is amended by striking out the item relating to section 411 and inserting in lieu thereof the following:

"411. Registration and infringement actions.".

SEC. 10. COPYRIGHT INFRINGEMENT AND REMEDIES.

(a) INFRINGEMENT.—Section 501(b) is amended by striking out "sections 205(d) and 411," and inserting in lieu thereof "section 411,".

(b) DAMAGES AND PROFITS.—Section 504(c) is amended—

(1) in paragraph (1)—

(A) by striking out "$250", and inserting in lieu thereof "$500"; and

(B) by striking out "$10,000", and inserting in lieu thereof "$20,000"; and

(2) in paragraph (2)—

(A) by striking out "$50,000.", and inserting in lieu thereof "$100,000."; and

(B) by striking out "$100.", and inserting in lieu thereof "$200.".

SEC. 11. COPYRIGHT ROYALTY TRIBUNAL.

Chapter 8 is amended—

(1) in section 801, by adding at the end of subsection (b) the following: "In determining whether a return to a copyright owner under section 116 is fair, appropriate weight shall be given to—

"(i) the rates previously determined by the Tribunal to provide a fair return to the copyright owner, and

"(ii) the rates contained in any license negotiated pursuant to section 116A of this title."; and

(2) by amending section 804(a)(2)(C) to read as follows:

"(C)(i) In proceedings under section 801(b)(1) concerning the adjustment of royalty rates as provided in section 115, such petition may be filed in 1990 and in each subsequent tenth calendar year, and at any time within 1 year after negotiated licenses authorized by section 116A are terminated or expire and are not replaced by subsequent agreements.

"(ii) If negotiated licenses authorized by section 116A come into force so as to supersede previous determinations of the Tribunal, as provided in section 116A(d), but thereafter are terminated or expire and are not replaced by subsequent agreements, the Tribunal shall, upon petition of any party to such terminated or expired negotiated license agreement, promptly establish an interim royalty rate or rates for the public performance by means of a coin-operated phonorecord player of nondramatic musical works embodied in phonorecords which had been subject to the terminated or expired negotiated license agreement. Such interim royalty rate or rates shall be the same as the last such rate or rates and shall remain in force until the conclusion of proceedings to adjust the royalty rates applicable to such works, or until superseded by a new negotiated license agreement, as provided in section 116A(d).".

17 USC 101 note.

SEC. 12. WORKS IN THE PUBLIC DOMAIN.

Title 17, United States Code, as amended by this Act, does not provide copyright protection for any work that is in the public domain in the United States.

SEC. 13. EFFECTIVE DATE; EFFECT ON PENDING CASES. 17 USC 101 note.

(a) EFFECTIVE DATE.—This Act and the amendments made by this Act take effect on the date on which the Berne Convention (as defined in section 101 of title 17, United States Code) enters into force with respect to the United States.

(b) EFFECT ON PENDING CASES.—Any cause of action arising under title 17, United States Code, before the effective date of this Act shall be governed by the provisions of such title as in effect when the cause of action arose.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4262 (S. 1301):

HOUSE REPORTS: No. 100-609 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-352 accompanying S. 1301 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 10, considered and passed House.
Oct. 5, S. 1301 considered and passed Senate; proceedings vacated and H.R. 4262, amended, passed in lieu.
Oct. 12, House concurred in Senate amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Oct. 31, Presidential remarks.

Public Law 100-569
100th Congress

An Act

Oct. 31, 1988
[H.R. 4416]

To extend the authorization of appropriations for titles V and VI of the Library Services and Construction Act through fiscal year 1989.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—LIBRARY SERVICES AND CONSTRUCTION REAUTHORIZATION

SEC. 101. PROGRAM REAUTHORIZED.

Section 4(a) of the Library Services and Construction Act (20 U.S.C. 351b(a)) is amended by striking out "1988" each place it appears in paragraphs (4) and (5) and inserting "1989".

TITLE II—NATIONAL GEOGRAPHY STUDIES

National Geography Studies Centers Act.
20 USC 2701 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "National Geography Studies Centers Act".

SEC. 202. PROGRAM AUTHORIZED.

Part F of title IV of the Elementary and Secondary Education Act of 1965 is amended—

20 USC 3157.

(1) by redesignating section 4607 as section 4608;

(2) by striking out "section 4606" in section 4608(a) (as redesignated by paragraph (1)) and inserting in lieu thereof "sections 4606 and 4607"; and

(3) by adding after section 4606 the following new section:

20 USC 3156a.
Contracts.

"SEC. 4607. NATIONAL GEOGRAPHY STUDIES CENTERS.

"(a) PROGRAM AUTHORIZED.—(1) The Secretary is authorized to enter into a contract with the Education Foundation of the National Geographic Society in order to pay the Federal share of the cost of the establishment and operation of National Geography Studies Centers. Each Center shall be for the study of geography in elementary and secondary schools.

"(2) For the purpose of this section—

"(A) the term 'contractor' means the Education Foundation of the National Geographic Society; and

"(B) the term 'Centers' mean the National Geography Studies Centers assisted under this section.

"(b) REQUIREMENTS OF CONTRACT.—The contract described in subsection (a)(1) shall provide that—

"(1) funds made available to the contractor pursuant to any contract entered into under this section will be used to pay the

Federal share of the cost of establishing and operating the Centers in accordance with this section; and

"(2) the contractor will carry out the provisions of this section.

"(c) ESTABLISHMENT OF CENTERS.—In carrying out the provisions of this section, the contractor may enter into contracts with or make grants to local educational agencies, State educational agencies, State higher educational agencies, institutions of higher education, or consortia thereof, to establish and operate the Centers.

Contracts. State and local governments. Schools and colleges.

"(d) FUNCTIONS OF THE CENTERS.—(1) Each Center assisted under this section shall—

"(A) support programs for the study of geography for elementary and secondary school students, that may include laboratory schools and summer institutes;

"(B) support programs which provide elementary and secondary school teacher retraining and inservice training in geography and may make provision for teacher stipends for the period of participation in the program; and

"(C) establish procedures, through an advisory panel, for selecting elementary and secondary school students and teachers for the programs supported through the centers.

The selection procedures under subparagraph (C), to the extent practicable, shall take into account geographic distribution and the needs for greater access to, and participation in, geography studies by students and teachers from historically underrepresented groups including females, minorities, and individuals with handicaps.

"(2) Each Center may—

"(A) support the development and dissemination of innovative curriculum in geography;

"(B) develop geography curriculum to be used in other subject areas such as environmental studies, science, international culture and politics, history, and foreign language studies; and

"(C) provide technical and resource assistance in geography to elementary and secondary schools in the region served by the Center.

"(e) FEDERAL SHARE.—The Federal share for each fiscal year shall be 75 percent.".

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

20 USC 3157.

Section 4608 of the Elementary and Secondary Education Act of 1965 (as redesignated by section 202) is amended by adding at the end thereof the following new subsection:

"(d) There are authorized to be appropriated $5,000,000 for the fiscal year 1989, and each succeeding fiscal year ending prior to October 1, 1993, to carry out section 4607.".

TITLE III—UNITED STATES INSTITUTE OF PEACE

SEC. 301. REAUTHORIZATION.

Section 1710(a) of the Department of Defense Authorization Act, 1985 (22 U.S.C. 4609(a)) is amended to read as follows:

"SEC. 1710. (a)(1) For the purpose of carrying out this title (except for paragraph (9) of section 1705(b)), there are authorized to be appropriated $10,000,000 for fiscal year 1989; $10,000,000 for fiscal

Appropriation authorization.

year 1990; $10,000,000 for fiscal year 1991; $15,000,000 for fiscal year 1992; and $15,000,000 for fiscal year 1993.

"(2) Funds appropriated pursuant to paragraph (1) are authorized to remain available until expended.".

(b) Section 1707(f)(2) of the United States Institute of Peace Act (22 U.S.C. 4606(f)(2)) is amended by striking out the first sentence thereof.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4416:

HOUSE REPORTS: No. 100-666 (Comm. on Education and Labor).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, considered and passed House.
Oct. 4, considered and passed Senate, amended.
Oct. 13, House concurred in Senate amendment.

Public Law 100-570
100th Congress

An Act

To authorize appropriations for the National Science Foundation, and for other purposes.

Oct. 31, 1988
[H.R. 4418]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Science Foundation Authorization Act of 1988.

SHORT TITLE

SECTION 1. This Act may be cited as the "National Science Foundation Authorization Act of 1988".

42 USC 1861 note.

TITLE I—NATIONAL SCIENCE FOUNDATION AUTHORIZATION

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. (a) Congress finds that to strengthen basic research and human resources in science and engineering the programs of the National Science Foundation (hereinafter referred to as the "Foundation") should be adequately funded.

(b) There is authorized to be appropriated to the Foundation $2,050,000,000 for fiscal year 1989, which shall be available for the following categories:

(1) Research and Related Activities, $1,653,500,000, which shall be available for the following subcategories:

(A) Mathematical and Physical Sciences, $507,800,000.

(B) Engineering, $198,000,000.

(C) Biological, Behavioral, and Social Sciences, $288,700,000.

(D) Geosciences, $320,900,000.

(E) Computer and Information Science and Engineering, $162,100,000.

(F) Science and Technology Research Centers, $25,000,000.

(G) Scientific, Technological, and International Affairs, $56,000,000.

(H) Program Development and Management, $95,000,000.

(2) Science and Engineering Education, $175,500,000, of which $17,500,000 shall be available for College Science Instrumentation.

(3) United States Antarctic Program, $141,000,000.

(4) Academic Research Facilities Modernization, $80,000,000.

(c) There is authorized to be appropriated to the Foundation $2,388,000,000 for fiscal year 1990, which shall be available for the following categories:

(1) Research and Related Activities, $1,910,700,000, which shall be available for the following subcategories:

(A) Mathematical and Physical Sciences, $588,500,000.

(B) Engineering, $229,500,000.

(C) Biological, Behavioral, and Social Sciences, $334,600,000.

(D) Geosciences, $372,000,000.

(E) Computer and Information Science and Engineering, $188,000,000.

(F) Science and Technology Research Centers, $30,000,000.

(G) Scientific, Technological, and International Affairs, $65,000,000.

(H) Program Development and Management, $103,100,000.

(2) Science and Engineering Education, $205,300,000.

(3) United States Antarctic Program, $147,000,000.

(4) Academic Research Facilities Modernization, $125,000,000.

(d) There is authorized to be appropriated to the Foundation $2,782,000,000 for fiscal year 1991, which shall be available for the following categories:

(1) Research and Related Activities, $2,200,200,000, which shall be available for the following subcategories:

(A) Mathematical and Physical Sciences, $681,500,000.

(B) Engineering, $265,800,000.

(C) Biological, Behavioral, and Social Sciences, $387,400,000.

(D) Geosciences, $430,800,000.

(E) Computer and Information Science and Engineering, $217,600,000.

(F) Science and Technology Research Centers, $30,000,000.

(G) Scientific, Technological, and International Affairs, $75,200,000.

(H) Program Development and Management, $111,900,000.

(2) Science and Engineering Education, $240,200,000.

(3) United States Antarctic Program, $154,100,000.

(4) Academic Research Facilities Modernization, $187,500,000.

(e) There is authorized to be appropriated to the Foundation $3,245,000,000 for fiscal year 1992, which shall be available for the following categories:

(1) Research and Related Activities, $2,552,000,000.

(2) Science and Engineering Education, $281,000,000.

(3) United States Antarctic Program, $162,000,000.

(4) Academic Research Facilities Modernization, $250,000,000.

(f) There is authorized to be appropriated to the Foundation $3,505,000,000 for fiscal year 1993, which shall be available for the following categories:

(1) Research and Related Activities, $2,772,000,000.

(2) Science and Engineering Education, $308,000,000.

(3) United States Antarctic Program, $175,000,000.

(4) Academic Research Facilities Modernization, $250,000,000.

(g) Notwithstanding any other provision of this Act—

(1) not less than $5,000,000 of the amount authorized in subsection (b)(2) is authorized only for purposes of teacher training and enhancement and for development of model curriculum tailored for science and mathematics instruction, and instruction in technician training programs, in two-year and community colleges; and

(2) in allocating funds authorized under this section for planning grants for Science and Technology Centers, the Director of the Foundation (hereinafter referred to as the "Director") shall give due consideration to the need to establish centers in geographic areas of the United States in which there is no nationally recognized research university.

(h)(1) If the total amount appropriated for a program category specified in subsections (b) through (f) of this section is less than the total amount authorized to be appropriated for such category under this section, the portion of such appropriated amount that shall be available for spending for each subcategory of such category, and for each program of such category or subcategory for which a funding floor is specified, shall be determined as follows:

(A) For each subcategory, the amount available for spending shall be equal to the amount specified in subsections (b) through (f) for that subcategory, as multiplied by the funding availability percentage.

(B) For each program of any category or subcategory for which a funding floor is specified, the amount available for spending shall be equal to the amount specified in this section as the floor for that program, as multiplied by the funding availability percentage.

(2) For the purposes of this subsection, the term "funding availability percentage" means the percentage determined by dividing—

(A) the total amount appropriated for a program category specified in subsection (b), (c), (d), (e), or (f) of this section by

(B) the total amount authorized under subsection (b), (c), (d), (e), or (f) for that category.

AVAILABILITY OF APPROPRIATIONS

SEC. 102. Appropriations made under authority provided in section 101 of this Act shall remain available for obligation for periods specified in the Acts making the appropriations.

CONSULTATION AND REPRESENTATION EXPENSES

SEC. 103. From appropriations made under authorizations provided in this Act, not more than $7,500 may be used in each fiscal year for official consultation, representation, or other extraordinary expenses at the discretion of the Director. The determination of the Director will be final and conclusive upon the accounting officers of the Government.

TRANSFER OF FUNDS

SEC. 104. (a) In any given fiscal year, funds may be transferred among the categories listed in section 101, and among subcategories listed in section 101, so long as the net funds transferred to or from any category, or to or from any subcategory, do not exceed 10 percent of the amount authorized for that category or subcategory.

(b) In addition, the Director may propose transfers to or from any category exceeding 10 percent of the amount authorized for that category in section 101, and to or from any subcategory in which the net funds transferred exceed 10 percent of the amount authorized for that subcategory. An explanation of any such proposed transfer must be transmitted in writing to the Committee on Science, Space, and Technology of the House of Representatives, and the Com-

mittees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate. The proposed transfer may be made only when 30 calendar days have passed after transmission of such written explanation.

ADMINISTRATIVE AMENDMENTS

SEC. 105. (a) Section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) is amended by adding at the end thereof the following:

Classified information.

"(k) Portions of Board meetings in which the Board considers proposed Foundation budgets for a particular fiscal year may be closed to the public until the President's budget for that fiscal year has been submitted to the Congress.".

(b) Subsection (c) of section 15 of the National Science Foundation Act of 1950 (42 U.S.C. 1874) is repealed.

(c) Section 36(f) of the Science and Technology Equal Opportunities Act (42 U.S.C. 1885c(f)) is amended to read as follows:

Reports.

"(f) Every two years, the Committee shall prepare and transmit to the Director a report on its activities during the previous two years and proposed activities for the next two years. The Director shall transmit to Congress the report, unaltered, together with such comments as the Director deems appropriate.".

TEMPORARY PERSONNEL

SEC. 106. Section 14(a) of the National Science Foundation Act of 1950 (42 U.S.C. 1873(a)) is amended by inserting "(1)" immediately after "(a)", and by adding at the end the following new paragraphs:

"(2) The Director may, under the authority provided by paragraph (1) of this subsection and in accordance with such policies as the Board chooses to prescribe, appoint for a limited term, or on a temporary basis, scientists, engineers, and other technical and professional personnel on leave of absence from academic, industrial, or research institutions to work for the Foundation.

Wages.

"(3) The Foundation may pay, to the extent authorized for certain other Federal employees by section 5723 of title 5, United States Code, travel expenses for any individual appointed for a limited term or on a temporary basis and transportation expenses of his or her immediate family and his or her household goods and personal effects from that individual's residence at the time of selection or assignment to his or her duty station. The Foundation may pay such travel expenses and transportation expenses to the same extent for such an individual's return to the former place of residence from his or her duty station, upon separation from the Federal service following an agreed period of service. The Foundation may also pay a per diem allowance at a rate not to exceed the daily amounts prescribed under section 5702 of title 5, United States Code, to such an individual, in lieu of and when less than transportation expenses of the immediate family and household goods and personal effects, for the period of his or her employment with the Foundation. Notwithstanding any other provision of law, the employer's contribution to any retirement, life insurance, or health benefit plan for an individual appointed for a term of one year or less, which could be extended for no more than one additional year, may be made or reimbursed from appropriations available to the Foundation.".

BUDGET ESTIMATES

SEC. 107. Section 14 of the National Science Foundation Act of 1950 (42 U.S.C. 1873) is amended by adding at the end the following new subsection:

"(j) Starting with fiscal year 1990, the Foundation shall submit to the Congress in each fiscal year, at the time of the release of the President's budget, a three-year budget estimate for the Foundation. The three-year budget shall include funding estimates for each major activity, including each scientific directorate, the United States Antarctic Program, the Science and Engineering Education Directorate, and the Program Development and Management activity.".

FINANCIAL DISCLOSURE REPORT FOR BOARD MEMBERS

SEC. 108. Section 4 of the National Science Foundation Act of 1950 (42 U.S.C. 1863) is amended by adding at the end the following new subsection:

"(k) Members of the Board shall be required to file a financial disclosure report under title II of the Ethics in Government Act of 1978 (5 U.S.C. App. 92 Stat. 1836), except that such reports shall be held confidential and exempt from any law otherwise requiring their public disclosure.". Classified information.

EVALUATIONS OF RESEARCH CENTERS

SEC. 109. In carrying out performance reviews of research centers by the Foundation, the Director shall take such action as may be necessary, consistent with the merit review process of the Foundation, to ensure that— 42 USC 1862e.

(1) members of review panels are free from any conflict of interest; and

(2) the conditions of each award to such centers have been fulfilled.

RESEARCH CENTER CONSORTIA

SEC. 110. In Foundation programs making grants to research centers, the Director shall encourage the formation of consortia that include research universities, two-year and four-year colleges, and the private sector. Grants. 42 USC 1862f.

BUY-AMERICAN REQUIREMENTS

SEC. 111. (a) The Director shall, to the maximum extent practicable and consistent with current law, award to domestic firms any contracts for the purchase of goods and services intended for direct use by the Foundation. Contracts. 42 USC 1870a.

(b) The Director shall, as soon as possible after the date of enactment of this Act, prepare a report on— Reports.

(1) the number of Foundation contracts entered into with foreign firms in fiscal year 1988;

(2) the number of such contracts entered into with domestic firms in that fiscal year;

(3) the number of contracts entered into with foreign firms where the Foundation also received a technically acceptable bid from a domestic firm; and

(4) any steps the Foundation will take to increase the number of contracts awarded to domestic firms.

Such report shall be submitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committees on Labor and Human Resources and Commerce, Science, and Transportation of the Senate.

(c) For the purposes of this section—

(1) the term "domestic firm" means a business entity which is organized under the laws of the United States or the laws of a State, district, commonwealth, territory, or possession of the United States, and which conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

UNDERGRADUATE SCIENCE IMPROVEMENT

20 USC 3911 note.

SEC. 112. (a) The Congress finds that the support of undergraduate science and engineering education is a critical component in a comprehensive national policy intended to ensure the Nation's future supply of scientists and engineers.

Women. Minorities. Handicapped persons.

(b) In accordance with the provisions of this Act, the Foundation shall support undergraduate science and engineering activities in instrumentation and laboratory improvement, undergraduate faculty enhancement, undergraduate research opportunities, undergraduate curriculum development, and efforts to encourage the participation of women, minorities, and the disabled in such fields.

(c) In carrying out the provisions of this section, the Foundation shall take into account the special needs of two-year and four-year colleges and universities.

EXPERIMENTAL PROGRAM TO STIMULATE COMPETITIVE RESEARCH

42 USC 1862g.

SEC. 113. (a) The Director shall operate an Experimental Program to Stimulate Competitive Research, the purpose of which is to assist those States that—

(1) historically have received relatively little Federal research and development funding; and

(2) have demonstrated a commitment to develop their research bases and improve science and engineering research and education programs at their universities and colleges.

(b) A State which has received an initial award under such Program, whether or not the award was received before or after the date of enactment of this Act, shall be eligible for up to 5 years of additional support under the program if that State provides assurances of new matching funds and submits an acceptable new plan for using Program funds and matching funds to build the research capabilities of the State.

COLLEGE AND UNIVERSITY INNOVATION RESEARCH

Reports.

SEC. 114. The Director shall prepare and submit, not later than March 1, 1989, a report to the Committee on Labor and Human Resources and Committee on Commerce, Science, and Transportation of the Senate, and the Committee on Science, Space, and Technology of the House of Representatives on assisting academic researchers at a wide range of colleges and universities, including smaller institutions and institutions which do not traditionally

receive Federal research funds, to pursue high-quality research of economic potential. The report shall—

(1) describe the procedures, terms, and conditions necessary for the establishment of a program patterned after the Small Business Innovation Research program to assist college and university faculty to pursue research of economic potential;

(2) analyze the feasibility of establishing funding recoupment mechanisms to offset the cost of such assistance; and

(3) state whether such a program is appropriate and feasible and, if so, the steps the Director shall take to establish and carry out such a program.

EARTHQUAKE ENGINEERING RESEARCH

SEC. 115. (a) The National Academy of Sciences shall conduct a study of earthquake engineering activities being carried out by the Foundation and other Federal agencies under the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7701 et seq.). Such study shall include— 42 USC 7704 note.

(1) an assessment of the adequacy of each agency's current Federal earthquake engineering efforts, including those designed to increase the implementation of new techniques; the need for specialized research facilities, including large-scale facilities; the division of responsibilities among the various Federal agencies; and recommended levels of funding that the Foundation and other agencies should provide, in the form of grants to individuals, groups, and centers, to non-Federal researchers principally engaged in earthquake engineering research; and

(2) recommendations, if any, of the National Academy of Sciences for improvements in the current Federal efforts in the area of earthquake engineering research.

(b) The results of the study required by subsection (a) of this section shall be reported to the Congress on or before the expiration of the 12-month period following the date of enactment of this Act. Reports.

(c) In carrying out such study, the National Academy of Sciences is authorized to call upon any agency, department, or other instrumentality or entity of the United States for cooperation, and such agency, department, instrumentality, or entity shall provide such cooperation.

DESALINATION REPORT

SEC. 116. The Office of Science and Technology Policy shall prepare and submit a report to the Congress not later than December 1, 1988, on desalination research and technology. The report shall—

(1) describe the state of desalination research and technology being conducted by agencies of the Federal Government;

(2) recommend an agency of the Federal Government to be the lead agency on desalination research and technology;

(3) recommend ways to spur research and technology to decrease the cost of desalination; and

(4) recommend how desalination research and technology can be used as a component of the foreign assistance program of the United States.

PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE

42 USC 1881b.

SEC. 117. (a)(1)(A) The President is authorized to make Presidential Awards for Excellence in Mathematics and Science Teaching to kindergarten through grade 12 school teachers of mathematics and science who have demonstrated outstanding teaching ability in the field of teaching mathematics or science.

(B) Each year the President is authorized to make no fewer than 108 awards under subparagraph (A). In selecting teachers for an award authorized by this subsection, the President shall select at least two teachers—

(i) from each of the several States;

(ii) from the District of Columbia;

(iii) from the Commonwealth of Puerto Rico;

(iv) from among the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and other commonwealths, territories, and possessions of the United States; and

(v) from the United States Department of Defense Dependents' School.

(2) The President shall carry out this subsection, including the establishment of the selection procedures, after consultation with the Director and other appropriate officials of Federal agencies.

(3)(A) Funds to carry out this subsection for any fiscal year shall be made available from amounts appropriated pursuant to annual authorization of appropriations for the Foundation for Science and Engineering Education.

(B) Amounts made available pursuant to subparagraph (A) shall be available for making awards under this subsection, for administrative expenses, for necessary travel by teachers selected under this subsection, and for special activities related to carrying out this subsection.

(b)(1) Part C of title II of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.), as amended by the Augustus F. Hawkins-Robert T. Stafford Elementary and Secondary School Improvement Amendments of 1988, is amended to read as follows:

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN FOREIGN LANGUAGES

20 USC 3011.

"SEC. 2201. PRESIDENTIAL AWARDS.

"(a) GENERAL AUTHORITY.—The President is authorized to make Presidential Awards for Teaching Excellence in Foreign Languages to elementary and secondary school teachers of foreign languages who have demonstrated outstanding teaching ability in the field of teaching foreign languages.

"(b) LIMITATIONS.—Each year the President is authorized to make 108 awards under subsection (a). In selecting elementary and secondary school teachers for an award authorized by this section, the President shall select at least one elementary school teacher and one secondary school teacher—

"(1) from each of the several States;

"(2) from the District of Columbia;

"(3) from the Commonwealth of Puerto Rico;

"(4) from among the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, and other

commonwealths, territories, and possessions of the United States; and

"(5) from the United States Department of Defense Dependents' School.

"SEC. 2202. ADMINISTRATIVE PROVISIONS. 20 USC 3012.

"(a) IN GENERAL.—There are authorized to be appropriated $1,000,000 for each fiscal year to carry out this part.

"(b) AVAILABILITY.—Amounts appropriated pursuant to subsection (a) shall be available for making awards under this part, for administrative expenses, for necessary travel by teachers selected under this part, and for special activities related to carrying out this part.".

(2) The items in the table of contents of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2701 et seq.) relating to part C of title II are amended to read as follows:

"PART C—PRESIDENTIAL AWARDS FOR TEACHING EXCELLENCE IN FOREIGN LANGUAGES

"Sec. 2201. Presidential awards.
"Sec. 2202. Administrative provisions.".

DRUG-FREE WORKPLACE

SEC. 118. (a) No funds authorized to be appropriated under this Act, or under any other Act authorizing appropriations for fiscal year 1989 through 1993 for the Foundation, shall be obligated or expended unless the Foundation has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of the Foundation. 42 USC 1875 note.

(b) No funds authorized to be appropriated to the Foundation for fiscal years 1989 through 1993 shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by the board of directors or other governing authority of such recipient, contractor, or party, satisfactory to the Director of the Foundation, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

TITLE II—ACADEMIC RESEARCH FACILITIES MODERNIZATION

Academic Research Facilities Modernization Act of 1988.

SHORT TITLE

SEC. 201. This title may be cited as the "Academic Research Facilities Modernization Act of 1988". 42 USC 1861 note.

FINDINGS AND PURPOSE

SEC. 202. (a) The Congress finds that— 42 USC 1862a.

(1) the fundamental research and related education program supported by the Federal Government and conducted by the Nation's universities and colleges are essential to our national security, and to our health, economic welfare, and general well-being;

(2) many national research and related education programs conducted by universities and colleges are now hindered by obsolete research buildings and equipment, and many institutions lack sufficient resources to repair, renovate, or replace their laboratories;

(3) the Nation's capacity to conduct high quality research and education programs and to maintain its competitive position at the forefront of modern science, engineering, and technology is threatened by this research capital deficit, which poses serious and adverse consequences to our future national security, health, welfare, and ability to compete in the international marketplace;

(4) a national effort to spur reinvestment in research facilities is needed, and national, State, and local policies and cooperative programs are required that will yield maximum return on the investment of scarce national resources and sustain a commitment to excellence in research and education; and

(5) the Foundation, as part of its responsibility for maintaining the vitality of the Nation's academic research, and in partnership with the States, industry, and universities and colleges, must assist in enhancing the historic linkages between Federal investment in academic research and training and investment in the research capital base by reinvesting in the capital facilities which modern research and education programs require.

(b) It is the purpose of this title to assist in modernizing and revitalizing the Nation's research facilities at institutions of higher education, independent non-profit research institutions and research museums, and consortia thereof, through capital investment.

ESTABLISHMENT OF PROGRAM

42 USC 1862b.

SEC. 203. (a)(1) To carry out this title, the Director shall establish and carry out a new Academic Research Facilities Modernization Program (hereafter in this title referred to as the "Program"), under which awards are made to institutions of higher education, independent nonprofit research institutions, and research museums, and consortia thereof, for the repair, renovation, or, in exceptional cases, replacement of obsolete science and engineering facilities primarily devoted to research.

(2) Such awards shall, consistent with the functions of the Foundation set forth in section 3 of the National Science Foundation Act of 1950 (42 U.S.C. 1862) and through established Foundation selection procedures, serve to—

(A) promote the modernization of graduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines;

(B) assist those academic institutions that historically have received relatively little Federal research and development funds to improve their academic science and engineering infrastructures and broaden and strengthen the Nation's science and engineering base; and

(C) promote the modernization of undergraduate academic science and engineering research laboratories and related facilities so as to facilitate and support research in the scientific and engineering disciplines.

(b)(1) The Program shall be carried out through projects which involve the repair, renovation, or, in exceptional cases, replacement of specific science and engineering facilities devoted primarily to research at eligible institutions, or consortia thereof, and for which funds are awarded in response to specific proposals submitted by such eligible institutions or consortia in accordance with procedures prescribed by the Director pursuant to section 204 of this Act.

(2) Awards made under the Program shall not exceed $7,000,000 to any institution or consortium over any period of 5 years for the repair, renovation, or, in exceptional cases, replacement of academic research facilities.

(3) The Director shall, in making awards under the Program, consider the extent to which that institution or consortium has received funds for the repair, renovation, construction, or replacement of academic facilities from any other Federal funding source within the 5-year period immediately preceding the application. The Director shall give priority to institutions or consortia that have not received such funds in the preceding 5 years.

(4) The Director shall, in awarding funds under this title, consider the distribution of funds among institutions of different sizes and geographical locations.

(c) Criteria for the award of funds to any institution for a project under the Program shall include—

(1) the quality of the research and training to be carried out in the facility or facilities involved;

(2) the need for the proposed repair, renovation, or, in exceptional cases, replacement based on an analysis of the age and condition of existing research facilities and equipment;

(3) the congruence of the institution's research and training activities with the future research needs of the Nation and the research mission of the Foundation;

(4) the contribution that the project will make toward meeting national, regional, and institutional research and related training needs;

(5) in the case of an institution that historically has received relatively little Federal research and development funding, the contribution the proposed project will make to improving the institution's academic scientific and engineering infrastructure and broadening the Nation's science and engineering base; and

(6) the impact of the award on the overall geographic distribution of awards made under the Program, with the objective of avoiding undue concentration of awards.

PROCEDURES, GUIDELINES, AND PLANNING ACTIVITIES

SEC. 204. (a)(1) The Director shall, consistent with the objectives of the Program and the criteria set forth in section 203(c) of this Act, set forth procedures for the Program. 42 USC 1862c.

(2) The procedures so prescribed shall contain such terms, conditions, and guidelines as may be necessary in the light of Program objectives, but shall in any event provide that—

(A) funds to carry out the Program will be awarded only on the basis of merit after a comprehensive review using established Foundation procedures;

(B) the membership of merit review panels that assess proposals will be broadly representative of eligible institutions, including research universities and predominantly undergraduate and minority institutions;

(C) the institution receiving an award shall provide at least 50 percent of the cost, in cash or in kind, fairly evaluated, of the repair, renovation, or replacement involved and shall provide this contribution from private or non-Federal public sources, except that the Director may accept a match of less than 50 percent, but at least 30 percent, for institutions which are not ranked among the top 100 of the institutions receiving Federal research and development funding, as documented in the latest annual report of the Foundation entitled "Federal Support to Universities, Colleges, and Selected Nonprofit Institutions"; and

(D) to the extent practicable, eligible institutions of a given type will compete against similar institutions for Program awards.

(b) The Director shall conduct comprehensive planning activities, including surveys of research facility needs and other information-gathering activities, necessary to implement the Program and to develop the procedures called for under subsection (a) of this section.

Federal Register, publication.

(c) Prior to the issuance of the comprehensive plan required by subsection (d) of this section, and consistent with the Program criteria set forth in section 203(c) of this Act, the Director shall publish in the Federal Register proposed Program guidelines for public review for a comment period of 30 days. Such guidelines shall provide detailed information on eligibility, criteria, terms, and conditions and shall include, but not be limited to—

(1) definitions for the terms "institutions of higher education", "private non-profit research organizations", "research museums", "consortia", "facilities", "facilities primarily devoted to research", "instrumentation", "equipment", "repair", "renovation", and "replacement";

(2) selection criteria to be used by the Foundation in evaluating proposals from institutions and consortia thereof, including criteria for evaluating scientific merit and for evaluating the age and condition of existing research facilities; and

(3) requirements for matching a Program award with contributions from non-Federal sources.

(d) The Director, after gathering appropriate information and after considering comments on the proposed Program guidelines published in the Federal Register pursuant to subsection (c) of this section, shall develop a comprehensive plan for the Program that—

(1) defines the appropriate roles and responsibilities of the Federal Government, institutions of higher education, State governments, private foundations, and other appropriate organizations;

(2) states what procedures will be used to ensure that predominantly undergraduate institutions and colleges and universities that historically have received little Federal research and development funding will receive substantial percentages of the funds awarded under this title;

(3) states the estimated percentage of Program funds available for each category of eligible institutions, including

predominantly undergraduate institutions and colleges and universities that historically have received little Federal research and development funding as well as research universities; and

(4) evaluates and addresses, to the maximum extent possible, a variety of factors which include—

(A) the unique circumstances and research facilities needs of research universities, undergraduate institutions, and other institutions whose enrollment includes substantial percentages of minorities underrepresented in science and engineering research;

(B) innovative approaches in the management of the Program that address both short-term and long-term aspects of the renovation, repair, and replacement of academic research facilities;

(C) programmatic approaches that recognize and support excellence, strengthen scientific and engineering research potential and, to the maximum extent possible and consistent with the purposes of this Act, assure an equitable distribution of resources with respect to institutions and geographical areas; and

(D) any recommendations necessary to improve the Program and further meet the purposes of this title.

(e) The Director shall prepare and submit, not later than June 15, 1989, a report containing the comprehensive plan required by subsection (d) of this section to the Committee on Labor and Human Resources and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives. Reports.

(f) Final guidelines shall be published in the Federal Register not later than 45 days after the submission of the report required under subsection (e). Federal Register, publication.

(g) The Director shall, from amounts available to the Foundation under section 101(b) of this Act for fiscal year 1989, make available an amount, not to exceed $1,000,000, to carry out the provisions of this section. None of the funds authorized to be appropriated in section 101 of this Act may be used for grant or contract awards under the Program prior to completion and submission to Congress of the comprehensive plan required by subsection (d) of this section.

(h) In conducting the activities under the Program, the Director shall consult with the Secretary of Education and the heads of other related agencies.

SET-ASIDE FOR CERTAIN INSTITUTIONS

SEC. 205. Of the amounts appropriated to the Foundation for the Program, as authorized under section 101 of this Act, in each fiscal year, at least 12 percent shall be reserved for historically Black 42 USC 1862d.

colleges or universities defined as "part B institutions" by section 322(2) of the Higher Education Act of 1965 (20 U.S.C. 1061(2)) and other institutions of higher education whose enrollment includes a substantial percentage of students who are Black Americans, Hispanic Americans, or Native Americans.

CONFORMING AMENDMENT

42 USC 1861 note, 1862a, 1862b.

SEC. 206. Subtitle E of title IV (sections 6401–6403) of the Omnibus Trade and Competitiveness Act of 1988 is repealed.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4418 (S. 1632):

HOUSE REPORTS: No. 100-649 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-148 (Comm. on Labor and Human Resources) and No. 100-331 (Comm. on Commerce, Science, and Transportation) both accompanying S. 1632.
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 9, considered and passed House.
June 17, S. 1632 considered in Senate; proceedings vacated and H.R. 4418, amended, passed in lieu.
Sept. 27, House concurred in certain Senate amendment, in another with an amendment.
Oct. 14, Senate concurred in House amendment.

Public Law 100-571
100th Congress

An Act

To establish the National Park of American Samoa.

Oct. 31, 1988
[H.R. 4818]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation. Environmental protection. Forests and forest products. Historic preservation. Wildlife. 16 USC 410qq.

SECTION 1. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that:

(1) Tropical forests are declining worldwide.

(2) Tropical forests contain 50 percent of the world's plant and animal species, contribute significantly to the advancement of science, medicine, and agriculture and produce much of the earth's oxygen. The loss of these forests leads to the extinction of species, lessening the world's biological diversity, reduces the potential for new medicines and crops and increases carbon dioxide levels in the atomosphere contributing to the greenhouse effect that is altering the global climate.

(3) The tropical forest of American Samoa is one of the last remaining undisturbed paleotropical forests.

(4) The tropical forest in American Samoa is the largest such forest under direct control of the United States.

(5) The tropical forest of American Samoa contains the habitat of one of the last remaining populations of Pacific flying foxes.

(6) The flying foxes of American Samoa are responsible for a large part of the pollination which maintains a significant portion of the species which inhabit the Samoan tropical forest.

(7) Information presently available indicates the existence of extensive archaeological evidence related to the development of the Samoan culture which needs to be examined and protected.

(8) The people of American Samoa have expressed a desire to have a portion of the tropical forest protected as a unit of the National Park System.

(b) PURPOSE.—The purpose of this Act is to preserve and protect the tropical forest and archaeological and cultural resources of American Samoa, and of associated reefs, to maintain the habitat of flying foxes, preserve the ecological balance of the Samoan tropical forest, and, consistent with the preservation of these resources, to provide for the enjoyment of the unique resources of the Samoan tropical forest by visitors from around the world.

SEC. 2. ESTABLISHMENT.

16 USC 410qq-1.

(a) IN GENERAL.—In order to carry out the purposes expressed in section 1(b), the Secretary of the Interior (hereinafter in this Act referred to as the "Secretary") shall establish the National Park of American Samoa (hereinafter in this Act referred to as the "park"). The Secretary shall establish the park only when the Governor of American Samoa has entered into a lease with the Secretary under which the Secretary will lease for a period of 50 years the lands and waters generally referred to in subsection (b) for use solely for

Contracts.

purposes of the park. Immediately after enactment of the Act, the Secretary shall commence negotiations with the Governor of American Samoa respecting such a lease agreement. On or before the expiration of the lease agreement as set forth in this subsection, the Governor of American Samoa is encouraged to extend the lease to maintain the area as a unit of the National Park System. At such time as the lease may terminate the Government of American Samoa is urged to provide assurances to the Secretary that the lands and waters generally referred to in subsection (b) will be protected and preserved to the same standards as are applicable to national parks.

(b) AREA INCLUDED.—The park shall consist of three units as generally depicted on the following maps entitled "Boundary Map, National Park of American Samoa": (1) map number NP-AS 80,000A, dated August 1988, (2) map number NP-AS 80,000B, dated August 1988, and (3) map number NP-AS 80,000C, dated August 1988. Before publication of the maps, the Secretary, after consultation with the Governor of American Samoa and other appropriate leaders, may adjust the boundaries of the park to correspond with the appropriate village boundaries and modify the maps accordingly. The maps shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior. The Secretary may at any time make revisions of the boundary of the park in accordance with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 and following), pursuant to agreement with the Governor of American Samoa, and contingent upon the lease to the Secretary of lands within the new boundaries.

Public information.

Contracts.

(c) MANAGEMENT BY AMERICAN SAMOA.—Notwithstanding section 3(a), after 50 years after the enactment of this Act, the Secretary shall, if requested by the Governor of American Samoa, enter into an extension of the lease referred to in subsection (a). If the Governor does not request such an extension the Secretary shall transfer to the Governor the sole authority to administer the park. Whenever the Secretary makes such a transfer he shall also transfer any improvements constructed by the Secretary in the park to the Governor without compensation.

(d) COMPENSATION UNDER LEASE AGREEMENT.—(1) Notwithstanding any other provision of law, the Secretary is authorized and directed to negotiate with the Governor of American Samoa the amount of the payments to be made by the United States under the 50-year lease referred to in subsection (a). The Secretary shall make such payments as may be mutually agreed to by the Secretary and the Governor pursuant to such negotiations.

(2) The Secretary shall place all lease payments made by the United States under the lease in an interest bearing escrow account in American Samoa. Funds in such account may be disbursed only by the Governor, in amounts determined by the High Court of American Samoa, to those villages and families located within the boundaries of the park. The High Court of American Samoa shall have exclusive jurisdiction to determine the amount to be disbursed under this section to any person.

(3) If the amount of the lease payments to be made under the lease is not agreed upon within 1 year after the enactment of this Act, the Secretary shall establish the escrow account referred to in paragraph (2) within 30 days after the expiration of such 1-year period and shall make monthly payments of $25,000 per month into the

account until such time as the full value of the lease payments is agreed to and deposited. Such deposits, together with the interest thereon, may be used only to cover the amounts of the lease payments due and payable pursuant to an agreement under this subsection. If the amounts deposited in such account, together with interest thereon, exceeds the amount of the lease payments due and payable at the time the agreement is entered into, notwithstanding any other provision of law, the excess shall be transferred to the accounts provided to the Secretary for operation and maintenance and for development of the park.

SEC. 3. ADMINISTRATION. 16 USC 410qq-2.

(a) IN GENERAL.—The Secretary shall administer the park in accordance with this Act and with the provisions of law generally applicable to units of the National Park System, including the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1-4). In the administration of the park, the Secretary may utilize such statutory authority available to him for the conservation of wildlife and natural and cultural resources as he deems necessary to carry out the purposes of this Act, except that he may not acquire any lands or waters or interests therein for purposes of the park other than by lease.

(b) TRADITIONAL SUBSISTENCE USES.—(1) Agricultural, cultural, and gathering uses shall be permitted in the park for subsistence purposes if such uses are generally prior existing uses conducted in areas used for such purposes as of the date of enactment of this Act and if such uses are conducted in the traditional manner and by traditional methods. No such uses shall be permitted in the park for other than subsistence purposes.

(2) Subsistence uses of the marine areas of the park shall also be permitted in accordance with paragraph (1), and no fishing or gathering shall be permitted in such marine areas for other than subsistence purposes. Fish and fishing.

(c) INTERPRETIVE FACILITIES, ETC.—Interpretative activities and interpretative facilities for the park (including maps) shall be in at least the following languages: English and Samoan.

(d) EMPLOYEES AND CONTRACTS.—In addition to the Secretary's authority to employ persons to carry out provisions of this Act in accordance with the civil service laws, and notwithstanding any other provision of law, the Secretary is authorized to—

(1) hire employees for such purposes who shall not be subject to the civil service laws, including quotas, and

(2) enter into contracts with individuals for purposes of exercising any authority of the Secretary within the park.

(e) NATIVE AMERICAN SAMOAN PERSONNEL.—The Secretary shall establish a program to train native American Samoan personnel to function as professional park service employees, to provide services to visitors (including the interpretation of park resources), and operate and maintain park facilities. Notwithstanding any other provision of law, and to the extent practicable the Secretary shall extend a preference for the hiring of native American Samoans to carry out the Secretary's authorities under this Act (including both employees and persons operating under contract).

(f) MANAGEMENT PLAN.—The Secretary, in cooperation with the Governor of American Samoa, shall prepare a general management plan for the park. The plan shall comply with section 12(b) of the

Act of August 18, 1970 (16 U.S.C. 1a-1 through 1a-7) and shall contain specific measures for the protection and preservation of tropical forest resources and archaeological and cultural resources within the park, including, but not limited to, protection of flying foxes and measures to enhance visitation to the park from throughout the world, to the extent consistent with the protection and preservation of such resources.

(g) ADVISORY BOARD.—(1) The Secretary shall establish an Advisory Board to provide advice to the Secretary regarding the management of the park. The Advisory Board shall be comprised of 5 members, 3 of whom shall be nominated by the Governor of American Samoa. The Advisory Board shall designate one of its members as Chairman.

(2) The Advisory Board shall meet on a regular basis. Notice of meetings and agenda shall be announced in advance and meetings shall be held at locations and in such a manner as to insure adequate public involvement.

(3) Members of the Advisory Board shall serve without compensation as such, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairman.

(4) The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Board.

(h) REVIEW.—At least every 10 years, the Secretary and the Governor, or their designees, shall review the operation and management of the park. Such review shall include, but need not be limited to, consideration of how the objectives of the park can better be achieved, the need for additional technical or other assistance, cooperative arrangements between the Government of American Samoa and the National Park Service in the interpretation and management of the park, and the desirability of extension of the lease arrangement.

(i) TECHNICAL ASSISTANCE.—The Secretary, in providing technical or other assistance to the Government of American Samoa may use any authority otherwise provided to him, including requesting assistance from other Federal agencies.

16 USC 410qq-3.

SEC. 4. DEFINITION.

For purposes of this Act the term "native American Samoan" means a person who is a citizen or national of the United States and who is a lineal descendant of an inhabitant of the Samoan Islands on April 18, 1900. For purposes of this Act, Swains Island shall be considered part of the Samoan Islands.

SEC. 5. FUNDING. 16 USC 410qq-4.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4818:

HOUSE REPORTS: No. 100-916 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 100-572
100th Congress

An Act

Oct. 31, 1988
[H.R. 4939]

To amend the Safe Drinking Water Act to control lead in drinking water.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Lead Contamination Control Act of 1988.
Consumer protection.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Lead Contamination Control Act of 1988".

SEC. 2. LEAD IN DRINKING WATER COOLERS AND IN SCHOOL DRINKING WATER.

(a) ADDITIONAL REQUIREMENTS TO REGULATE THE SAFETY OF DRINKING WATER.—The Safe Drinking Water Act (title XIV of the Public Health Service Act; 42 U.S.C. 300f and following) is amended by adding the following new part at the end thereof:

"PART F—ADDITIONAL REQUIREMENTS TO REGULATE THE SAFETY OF DRINKING WATER

42 USC 300j-21.

"SEC. 1461. DEFINITIONS.

"As used in this part—

"(1) DRINKING WATER COOLER.—The term 'drinking water cooler' means any mechanical device affixed to drinking water supply plumbing which actively cools water for human consumption.

"(2) LEAD FREE.—The term 'lead free' means, with respect to a drinking water cooler, that each part or component of the cooler which may come in contact with drinking water contains not more than 8 percent lead, except that no drinking water cooler which contains any solder, flux, or storage tank interior surface which may come in contact with drinking water shall be considered lead free if the solder, flux, or storage tank interior surface contains more than 0.2 percent lead. The Administrator may establish more stringent requirements for treating any part or component of a drinking water cooler as lead free for purposes of this part whenever he determines that any such part may constitute an important source of lead in drinking water.

"(3) LOCAL EDUCATIONAL AGENCY.—The term 'local educational agency' means—

"(A) any local educational agency as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3381),

"(B) the owner of any private, nonprofit elementary or secondary school building, and

"(C) the governing authority of any school operating under the defense dependent's education system provided for under the Defense Dependent's Education Act of 1978 (20 U.S.C. 921 and following).

"(4) REPAIR.—The term 'repair' means, with respect to a drinking water cooler, to take such corrective action as is necessary to ensure that water cooler is lead free.

"(5) REPLACEMENT.—The term 'replacement', when used with respect to a drinking water cooler, means the permanent removal of the water cooler and the installation of a lead free water cooler.

"(6) SCHOOL.—The term 'school' means any elementary school or secondary school as defined in section 198 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 2854) and any kindergarten or day care facility.

"(7) LEAD-LINED TANK.—The term 'lead-lined tank' means a water reservoir container in a drinking water cooler which container is constructed of lead or which has an interior surface which is not lead free.

"SEC. 1462. RECALL OF DRINKING WATER COOLERS WITH LEAD-LINED TANKS. 42 USC 300j-22.

"For purposes of the Consumer Product Safety Act, all drinking water coolers identified by the Administrator on the list under section 1463 as having a lead-lined tank shall be considered to be imminently hazardous consumer products within the meaning of section 12 of such Act (15 U.S.C. 2061). After notice and opportunity for comment, including a public hearing, the Consumer Product Safety Commission shall issue an order requiring the manufacturers and importers of such coolers to repair, replace, or recall and provide a refund for such coolers within 1 year after the enactment of the Lead Contamination Control Act of 1988. For purposes of enforcement, such order shall be treated as an order under section 15(d) of that Act (15 U.S.C. 2064(d)). Business and industry.

"SEC. 1463. DRINKING WATER COOLERS CONTAINING LEAD. 42 USC 300j-23.

"(a) PUBLICATION OF LISTS.—The Administrator shall, after notice and opportunity for public comment, identify each brand and model of drinking water cooler which is not lead free, including each brand and model of drinking water cooler which has a lead-lined tank. For purposes of identifying the brand and model of drinking water coolers under this subsection, the Administrator shall use the best information available to the Environmental Protection Agency. Within 100 days after the enactment of this section, the Administrator shall publish a list of each brand and model of drinking water cooler identified under this subsection. Such list shall separately identify each brand and model of cooler which has a lead-lined tank. The Administrator shall continue to gather information regarding lead in drinking water coolers and shall revise and republish the list from time to time as may be appropriate as new information or analysis becomes available regarding lead contamination in drinking water coolers. Public information.

"(b) PROHIBITION.—No person may sell in interstate commerce, or manufacture for sale in interstate commerce, any drinking water cooler listed under subsection (a) or any other drinking water cooler which is not lead free, including a lead-lined drinking water cooler.

"(c) CRIMINAL PENALTY.—Any person who knowingly violates the prohibition contained in subsection (b) shall be imprisoned for not more than 5 years, or fined in accordance with title 18 of the United States Code, or both.

"(d) CIVIL PENALTY.—The Administrator may bring a civil action in the appropriate United States District Court (as determined under the provisions of title 28 of the United States Code) to impose a civil penalty on any person who violates subsection (b). In any such action the court may impose on such person a civil penalty of not more than $5,000 ($50,000 in the case of a second or subsequent violation).

42 USC 300j-24.

"SEC. 1464. LEAD CONTAMINATION IN SCHOOL DRINKING WATER.

"(a) DISTRIBUTION OF DRINKING WATER COOLER LIST.—Within 100 days after the enactment of this section, the Administrator shall distribute to the States a list of each brand and model of drinking water cooler identified and listed by the Administrator under section 1463(a).

Public information.

"(b) GUIDANCE DOCUMENT AND TESTING PROTOCOL.—The Administrator shall publish a guidance document and a testing protocol to assist schools in determining the source and degree of lead contamination in school drinking water supplies and in remedying such contamination. The guidance document shall include guidelines for sample preservation. The guidance document shall also include guidance to assist States, schools, and the general public in ascertaining the levels of lead contamination in drinking water coolers and in taking appropriate action to reduce or eliminate such contamination. The guidance document shall contain a testing protocol for the identification of drinking water coolers which contribute to lead contamination in drinking water. Such document and protocol may be revised, republished and redistributed as the Administrator deems necessary. The Administrator shall distribute the guidance document and testing protocol to the States within 100 days after the enactment of this section.

State and local governments.

"(c) DISSEMINATION TO SCHOOLS, ETC.—Each State shall provide for the dissemination to local educational agencies, private nonprofit elementary or secondary schools and to day care centers of the guidance document and testing protocol published under subsection (b), together with the list of drinking water coolers published under section 1463(a).

"(d) REMEDIAL ACTION PROGRAM.—

State and local governments.

"(1) TESTING AND REMEDYING LEAD CONTAMINATION.—Within 9 months after the enactment of this section, each State shall establish a program, consistent with this section, to assist local educational agencies in testing for, and remedying, lead contamination in drinking water from coolers and from other sources of lead contamination at schools under the jurisdiction of such agencies.

"(2) PUBLIC AVAILABILITY.—A copy of the results of any testing under paragraph (1) shall be available in the administrative offices of the local educational agency for inspection by the public, including teachers, other school personnel, and parents. The local educational agency shall notify parent, teacher, and employee organizations of the availability of such testing results.

"(3) COOLERS.—In the case of drinking water coolers, such program shall include measures for the reduction or elimination of lead contamination from those water coolers which are not lead free and which are located in schools. Such measures shall be adequate to ensure that within 15 months after the enactment of this subsection all such water coolers in

schools under the jurisdiction of such agencies are repaired, replaced, permanently removed, or rendered inoperable unless the cooler is tested and found (within the limits of testing accuracy) not to contribute lead to drinking water.

"SEC. 1465. FEDERAL ASSISTANCE FOR STATE PROGRAMS REGARDING LEAD CONTAMINATION IN SCHOOL DRINKING WATER. 42 USC 300j-25.

"(a) SCHOOL DRINKING WATER PROGRAMS.—The Administrator shall make grants to States to establish and carry out State programs under section 1464 to assist local educational agencies in testing for, and remedying, lead contamination in drinking water from drinking water coolers and from other sources of lead contamination at schools under the jurisdiction of such agencies. Such grants may be used by States to reimburse local educational agencies for expenses incurred after the enactment of this section for such testing and remedial action.

"(b) LIMITS.—Each grant under this section shall be used as by the State for testing water coolers in accordance with section 1464, for testing for lead contamination in other drinking water supplies under section 1464, or for remedial action under State programs under section 1464. Not more than 5 percent of the grant may be used for program administration.

"(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not more than $30,000,000 for fiscal year 1989, $30,000,000 for fiscal year 1990, and $30,000,000 for fiscal year 1991.".

SEC. 3. LEAD POISONING PREVENTION PROGRAMS.

The Public Health Service Act is amended by adding the following new section after section 317:

"SEC. 317A. LEAD POISONING PREVENTION. 42 USC 247b-1.

"(a) GRANTS TO STATES.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to States and agencies of units of local governments for the initiation and expansion of community programs designed to (1) screen infants and children for elevated blood lead levels, (2) assure referral for treatment of, and environmental intervention for, infants and children with such blood lead levels, and (3) provide education about childhood lead poisoning. In making grants under this paragraph, the Secretary shall give priority to applications for programs which will serve areas with a high incidence of elevated blood lead levels in infants and children. Children and youth.

"(b) GRANT APPLICATIONS.—(1) No grant may be made under subsection (a), unless an application therefor has been submitted to, and approved by, the Secretary. Such an application shall be in such form and shall be submitted in such manner as the Secretary shall prescribe and shall include each of the following:

"(A) A complete description of the program which is to be provided by or through the applicant.

"(B) Assurances satisfactory to the Secretary that the program to be provided under the grant applied for will include educational programs designed to communicate to parents, educators, and local health officials the significance and prevalence of lead poisoning in infants and children which the program is designed to detect and prevent.

Children and youth.

"(C) Assurances satisfactory to the Secretary that the applicant will report on a quarterly basis the number of infants and children screened for elevated blood lead levels, the number of infants and children who were found to have elevated blood lead levels, the number and type of medical referrals made for such infants and children, the outcome of such referrals, and other information to measure program effectiveness as required under paragraph (2).

"(D) Assurances satisfactory to the Secretary that the applicant will make such reports respecting the program involved as the Secretary may require.

"(E) Such other information as the Secretary may prescribe.

Reports.

"(2) The Secretary shall prepare and submit a report to the Committee on Energy and Commerce of the United States House of Representatives and to the Committee on Labor and Human Resources of the United States Senate not later than one year after the enactment of this section, and annually thereafter, on the effectiveness during the period reported on of the programs assisted under grants under subsection (a).

"(c) MAINTENANCE OF EFFORT.—No grant may be made under subsection (a) unless the Secretary determines that there is satisfactory assurance that Federal funds made available under such a grant for any period will be so used as to supplement and, to the extent practical, increase the level of State, local, and other non-Federal funds that would, in the absence of such Federal funds, be made available for the program for which the grant is to be made and will in no event supplant such State, local, and other non-Federal funds.

"(d) COORDINATION.—No grant may be made under subsection (a) unless the Secretary determines that there will be coordination between the recipient of the grant and activities within the State in which the grantee is located under titles V and XIX of the Social Security Act relating to lead poisoning prevention.

"(e) METHOD AND AMOUNT OF PAYMENT.—The Secretary shall determine the amount of a grant made under subsection (a). Payments under such grants may be made in advance on the basis of estimates or by way of reimbursement, with necessary adjustments on account of underpayments or overpayments, and in such installments and on such terms and conditions as the Secretary finds necessary to carry out the purposes of such grants. Not more than 10 percent of any grant may be obligated for administrative costs.

"(f) SUPPLIES, EQUIPMENT, AND EMPLOYEE DETAIL.—The Secretary, at the request of a recipient of a grant under subsection (a), may reduce the amount of such grant by—

"(1) the fair market value of any supplies or equipment furnished the grant recipient, and

"(2) the amount of the pay, allowances, and travel expenses of any officer or employee of the Government when detailed to the grant recipient and the amount of any other costs incurred in connection with the detail of such officer or employee,

when the furnishing of such supplies or equipment or the detail of such an officer or employee is for the convenience of and at the request of such grant recipient and for the purpose of carrying out a program with respect to which the grant under subsection (a) is made. The amount by which any such grant is so reduced shall be available for payment by the Secretary of the costs incurred in furnishing the supplies or equipment, or in detailing the personnel,

on which the reduction of such grant is based, and such amount shall be deemed as part of the grant and shall be deemed to have been paid to the grant recipient.

"(g) RECORDS.—Each recipient of a grant under subsection (a) shall keep such records as the Secretary shall prescribe, including records which fully disclose the amount and disposition by such recipient of the proceeds of such grant, the total cost of the undertaking in connection with which such grant was made, and the amount of that portion of the cost of the undertaking supplied by other sources, and such other records as will facilitate an effective audit. Public information.

"(h) AUDIT AND EXAMINATION OF RECORDS.—The Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of the recipient of a grant under subsection (a), that are pertinent to such grant.

"(i) INDIAN TRIBES.—For purposes of this section, the term 'units of local government' includes Indian tribes.

"(j) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section not more than $20,000,000 for fiscal year 1989, $22,000,000 for fiscal year 1990, and $24,000,000 for fiscal year 1991.".

SEC. 4. CERTIFICATION OF TESTING LABORATORIES. 42 USC 300j-26.

The Administrator of the Environmental Protection Agency shall assure that programs for the certification of testing laboratories which test drinking water supplies for lead contamination certify only those laboratories which provide reliable accurate testing. The Administrator (or the State in the case of a State to which certification authority is delegated under this subsection) shall publish and make available to the public upon request the list of laboratories certified under this subsection. Public information.

SEC. 5. CONFORMING AMENDMENT.

Section 1445 of the Safe Drinking Water Act (title XIV of the Public Health Service Act) is amended by adding the following new subsection at the end thereof: 42 USC 300j-4.

"(f) INFORMATION REGARDING DRINKING WATER COOLERS.—The Administrator may utilize the authorities of this section for purposes of part F. Any person who manufactures, imports, sells, or distributes drinking water coolers in interstate commerce shall be treated as a supplier of water for purposes of applying the provisions of this section in the case of persons subject to part F.". Business and industry.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 4939:

HOUSE REPORTS: No. 100-1041 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 5, considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 100-573
100th Congress

An Act

Oct. 31, 1988
[H.R. 5001]

To establish the Delaware Water Gap National Recreation Area Citizen Advisory Commission.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 460o note.

SECTION 1. ESTABLISHMENT OF COMMISSION.

There is established a commission to be known as the "Delaware Water Gap National Recreation Area Citizen Advisory Commission" (hereafter in this Act referred to as the "Commission"). The Commission shall advise the Secretary of the Interior on matters pertaining to the management and operation of the Delaware Water Gap National Recreation Area, as well as on other matters affecting the recreation area and its surrounding communities.

16 USC 460o note.
New Jersey.
Pennsylvania.

SEC. 2. MEMBERSHIP OF COMMISSION.

(a) APPOINTMENT.—The Commission shall be composed of the following 11 members appointed not later than 60 days after the date of the enactment of this Act from among persons with knowledge of the recreation area:

(1) 2 members appointed by the Secretary of the Interior (hereafter in this Act referred to as the "Secretary").

(2) 2 members appointed by the Secretary from among residents of New Jersey nominated by the Governor of New Jersey.

(3) 2 members appointed by the Secretary from among residents of Pennsylvania nominated by the Governor of Pennsylvania.

(4) 1 member appointed by the Secretary from among the residents of each of the following counties nominated by the county administrator of each such county: Sussex County, New Jersey, Warren County, New Jersey, Pike County, Pennsylvania, Monroe County, Pennsylvania, and Northampton County, Pennsylvania.

The Secretary shall ensure that the membership of the Commission is fairly balanced in terms of the points of view represented and the functions to be performed by the Commission.

(b) TERMS.—Members shall be appointed to the Commission for a term of 4 years. A member may serve after the expiration of his term until his successor has taken office.

(c) VACANCIES.—Any vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(d) PROHIBITION OF ADDITIONAL PAY.—Members of the Commission shall receive no additional pay, allowances, or benefits by reason of their service on the Commission, but the Secretary may pay expenses reasonably incurred in carrying out their responsibilities under this Act on vouchers signed by the Chairperson.

(e) CHAIRPERSON.—The Commission shall elect a chairperson from among the members of the Commission.

(f) QUORUM.—A majority of the members of the Commission shall constitute a quorum but a lesser number may hold hearings.

(g) VOTING.—Each member of the Commission shall be entitled to 1 vote, which shall be equal to the vote of every other member of the Commission.

(h) CHARTER.—The provisions of section 14(b) of the Federal Advisory Committee Act (Act of October 6, 1972; 86 Stat. 776), are hereby waived with respect to this Advisory Commission.

SEC. 3. POWERS OF COMMISSION. 16 USC 460*o* note.

(a) HEARINGS.—The Commission may, for the purpose of carrying out its functions under section 1, hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(b) MEETINGS WITH SECRETARY OF THE INTERIOR.—Members of the Commission shall meet with the Secretary of the Interior or his designee at least once every 6 months. Such meetings shall be open to the public and shall be held at such times and in such places as to encourage public participation. The Commission shall provide the public with adequate notice of such meetings. Public information.

(c) RULES AND REGULATIONS.—The Commission may adopt such rules and regulations as may be necessary to establish its procedures and to govern the manner of its operation.

(d) ASSISTANCE FROM FEDERAL AGENCIES.—Upon request of the chairperson of the Commission, the head of any Federal agency or instrumentality shall, to the extent possible and subject to the discretion of such head make any of the facilities and services of such agency or instrumentality available to the Commission.

(e) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other Federal agencies.

SEC. 4. REPORTS. 16 USC 460*o* note.

The Commission each year shall transmit to the Secretary of the Interior and to each House of the Congress a report containing a detailed statement of the findings and conclusions of the Commission, together with its recommendations for such legislation and administrative actions as it considers appropriate.

SEC. 5. TERMINATION OF COMMISSION. 16 USC 460*o* note.

The Commission shall terminate on the date that is 10 years after the date of the enactment of this Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS. 16 USC 460*o* note.

There are authorized to be appropriated such sums as may be necessary to carry out this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 5001:

HOUSE REPORTS: No. 100-975 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 100-574
100th Congress

An Act

Oct. 31, 1988
[H.R. 5199]

To make nonmailable any plant, fruit, vegetable, or other matter, the movement of which in interstate commerce has been prohibited or restricted by the Secretary of Agriculture in order to prevent the dissemination of dangerous plant diseases or pests, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NONMAILABLE PLANTS.

(a) AMENDMENTS TO TITLE 39.—

(1) IN GENERAL.—Chapter 30 of title 39, United States Code, is amended by adding at the end the following:

"§ 3014. Nonmailable plants

"(a)(1) Whenever the Secretary of Agriculture establishes a quarantine under section 8 of the Plant Quarantine Act, prohibiting the transportation by common carrier of any plant from any State or other geographic area, the Secretary shall give notice of the establishment of such quarantine to the Postal Service in writing.

"(2) Upon receiving any such notice under paragraph (1), the Postal Service shall ensure that copies of such notice are prominently displayed at post offices located within each State or area covered by the quarantine, and shall take any other measures which the Postal Service considers necessary in order to inform the public both of the establishment of such quarantine and of relevant provisions of this section and sections 1716B and 1716C of title 18 in connection therewith.

"(b) Any plant, the transportation of which by common carrier from any State or other area is prohibited or restricted under any quarantine referred to in subsection (a), is nonmailable matter, and may not be accepted by the Postal Service or conveyed in the mails, if the matter involved is tendered for transmission through the mails from such State or area or if such matter first enters the mails within such State or area.

Regulations.

"(c) The Postal Service shall, after consultation with the Secretary of Agriculture, prescribe rules and regulations permitting the mailing of a plant, and otherwise making subsection (b) of this section inapplicable with respect to such plant, if the method or manner of mailing such plant would be consistent with the procedures set forth in the rules and regulations prescribed under the fourth sentence of section 8 of the Plant Quarantine Act (relating to the inspection, disinfection, and certification of, and other conditions for, the delivery and shipment of plants otherwise subject to quarantine).

"(d) For the purposes of this section—

"(1) 'Plant Quarantine Act' means the Act entitled 'An Act to regulate the importation of nursery stock and other plants and plant products; to enable the Secretary of Agriculture to establish and maintain quarantine districts for plant diseases and insect pests; to permit and regulate the movement of fruits,

plants, and vegetables therefrom, and for other purposes', enacted August 20, 1912 (37 Stat. 315 et seq.); and

"(2) 'plant' means any class of plants, fruits, vegetables, roots, bulbs, seeds, or other plant products, any class of nursery stock (as defined by section 6 of the Plant Quarantine Act), and any other article or matter which is capable of carrying any dangerous plant disease or pest.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 30 of title 39, United States Code, is amended by adding after the item relating to section 3013 the following:

"3014. Nonmailable plants.".

(b) AMENDMENTS TO TITLE 18.—

(1) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 1716A the following: Law enforcement and crime.

"§ 1716B. Nonmailable plants

"Whoever knowingly deposits for mailing or delivery, or knowingly causes to be delivered by mail, according to the direction thereon, or at any place at which it is directed to be delivered by the person to whom it is addressed, anything declared nonmailable by section 3014(b) of title 39, unless in accordance with the rules and regulations prescribed by the Postal Service under section 3014(c) of such title, shall be fined under this title, or imprisoned not more than one year, or both.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716A the following:

"1716B. Nonmailable plants.".

SEC. 2. FORGED AGRICULTURAL CERTIFICATIONS.

(a) IN GENERAL.—Title 18, United States Code, is amended by inserting after section 1716B, as added by section 1(b)(1), the following: Law enforcement and crime.

"§ 1716C. Forged agricultural certifications

"Whoever forges or counterfeits any certification authorized under any rules or regulations prescribed under section 3014(c) of title 39 with intent to make it appear that such is a genuine certification, or makes or knowingly uses or sells, or possesses with intent to use or sell, any forged or counterfeited certification so authorized, or device for imprinting any such certification, shall be fined under this title, or imprisoned not more than one year, or both.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 83 of title 18, United States Code, is amended by inserting after the item relating to section 1716B, as added by section 2(b)(2), the following:

"1716C. Forged agricultural certifications.".

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress that the United States Postal Service and the Department of Agriculture should, using the resources and methods available to each, engage in a joint effort to educate the public as to the types of harm which can result from the transmission to different parts of the country of plants, fruits,

vegetables, and other matter which may be carrying dangerous plant diseases or pests. To that end, particular emphasis should be placed on such matters as—

(1) the potential for injury to crops and other agricultural products, and the economic consequences to farmers, the consumer, and the Nation's balance of trade, likely to result therefrom;

(2) the environmental impact associated with the spread of plant diseases and pests, including the potentially catastrophic consequences which can result if a natural predator or other inhibiting factor which is present in one area is absent in an area to which the disease or pest has spread; and

(3) the economic and other costs associated with attempting to eliminate or control plant diseases and pests.

39 USC 3014 note.

SEC. 4. EFFECTIVE DATE.

(a) IN GENERAL.—This Act and the amendments made by this Act shall become effective on the earlier of—

(1) the 366th day after the date of the enactment of this Act; or

(2) the first date as of which all rules and regulations required to be prescribed under the amendments made by this Act have first been published in the Federal Register.

(b) REGULATIONS.—Nothing in this section shall prevent the United States Postal Service from taking any action which may be necessary to prepare and issue, as soon as possible after the date of the enactment of this Act, any rules and regulations which the Postal Service is required to prescribe under any of the amendments made by this Act.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 5199:

HOUSE REPORTS: No. 100-954, Pt. 1 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, 4, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 100-575
100th Congress

An Act

To amend the Egg Research and Consumer Information Act to limit the total costs that may be incurred by the Egg Board in collecting producer assessments and having an administrative staff, to eliminate egg producer refunds, and to delay the conducting of any referendum by egg producers on the elimination of such refunds.

Oct. 31, 1988
[H.R. 5318]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Egg Research and Consumer Information Act Amendments of 1988.
7 USC 2701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Egg Research and Consumer Information Act Amendments of 1988".

SEC. 2. LIMITING CERTAIN COSTS INCURRED BY THE EGG BOARD.

Section 8 of the Egg Research and Consumer Information Act (7 U.S.C. 2707) is amended by adding at the end thereof the following:

"(j) Providing that the total costs incurred by the Egg Board for a fiscal year in collecting producer assessments and having an administrative staff shall not exceed an amount of the projected total assessments to be collected by the Egg Board for such fiscal year that the Secretary determines to be reasonable.".

SEC. 3. EGG PRODUCER REFUND REFERENDUM.

Section 13 of the Egg Research and Consumer Information Act (7 U.S.C. 2712) is amended by—

(1) inserting "(a)" after "SEC. 13.";

(2) inserting "except as provided in subsection (b)" after "Notwithstanding any other provisions of this Act"; and

(3) adding at the end thereof the following:

"(b)(1) With regard to each order issued under this Act that provides for a producer refund, the Secretary shall amend such order to eliminate such refund.

"(2) Notwithstanding sections 9 and 11 of this Act, an amendment made by the Secretary pursuant to paragraph (1)—

"(A) shall take effect on the date that the Secretary issues the amendment; and

Effective date.

"(B) shall not be subject to a referendum under section 9 or 10(b) until the end of the 18-month period beginning on such effective date.

"(3) During the period prior to the referendum of an amendment issued pursuant to paragraph (1) and beginning on the effective date of such amendment, the Egg Board shall—

"(A) establish an escrow account to be used for assessment refunds; and

"(B) place funds in such account in accordance with paragraph (4).

"(4) The Egg Board shall place in such account, from assessments collected during the period referred to in paragraph (3), an amount equal to the product obtained by multiplying the total amount of assessments collected during such period by 10 percent.

"(5) Subject to paragraphs (6), (7), and (8), any producer shall have the right to demand and receive from the Egg Board a one-time refund of assessments collected from such producer during the period referred to in paragraph (3) if—

"(A) such producer is responsible for paying such assessments;

"(B) such producer does not support the program established under this Act; and

"(C) the amendment issued pursuant to paragraph (1) is not approved pursuant to a referendum under section 9 or 10(b).

"(6) Such demand shall be made in accordance with regulations, on a form, and within a time period prescribed by the Egg Board.

"(7) Such refund shall be made on submission of proof satisfactory to the Egg Board that such producer paid the assessment for which refund is demanded.

"(8) If the amount in the escrow account required to be established by paragraph (3) is not sufficient to refund the total amount of assessments demanded by all eligible producers under this subsection and the amendment issued pursuant to paragraph (1) is not approved pursuant to a referendum under section 9 or 10(b), the Egg Board shall prorate the amount of such refunds among all eligible producers who demand such refund.".

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 5318:

HOUSE REPORTS: No. 100-1024 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, 4, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 100-576
100th Congress

An Act

Concerning disaster assistance for Bangladesh.

Oct. 31, 1988
[H.R. 5389]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Bangladesh Disaster Assistance Act of 1988.
7 USC 1691 note.

This Act may be cited as the "Bangladesh Disaster Assistance Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) as a result of the 1988 floods, two-thirds of Bangladesh has been inundated with flood waters;

(2) over 30 million people in Bangladesh are homeless, over 2,000 dead, tens of thousands ill, and potentially millions at risk of waterborne disease and epidemic because of lack of safe water and overcrowding;

(3) transportation, communications, and normal commerce in Bangladesh have been seriously interrupted, with a potential cost for replacing destroyed or damaged infrastructure of $500,000,000;

(4) agricultural lands have been flooded, with a potential crop loss of nearly $1,000,000,000;

(5) the people of the United States have respected and generously supported the efforts of the people of Bangladesh to maintain their independence, promote equitable economic growth, and strive for political pluralism and greater democracy; and

(6) the Government of Bangladesh has taken quick action to cope with this disaster, one of the most serious in the history of Bangladesh, but must rely on a generous response from the international community for emergency assistance and, even more importantly, for the expertise and resources needed to prevent the continual recurrence of such disastrous floods.

SEC. 3. COMMENDATION OF AND SUPPORT FOR THE PEOPLE OF BANGLADESH.

The Congress—

(1) commends the courage and resourcefulness demonstrated by the people of Bangladesh in response to the 1988 floods;

(2) commends the President for the generous provision by the United States of emergency assistance for Bangladesh;

(3) commends United States private and voluntary organizations, international organizations, foreign governments, and others for their compassionate response to this natural disaster;

(4) expresses its support for the people of Bangladesh at this most critical time;

(5) declares its willingness to work with the President to provide generous levels of emergency humanitarian assistance to the people of Bangladesh;

(6) declares its willingness to work with the Government of Bangladesh and with private and voluntary organizations to ensure that emergency assistance quickly reaches those most in need; and

(7) declares its willingness to work with the international community to seek the means to prevent a recurrence of such natural disasters, and urges the President to promote a regional solution designed to prevent a recurrence of such natural disasters.

SEC. 4. EMERGENCY ASSISTANCE FOR BANGLADESH.

(a) USE OF FOOD FOR DEVELOPMENT LOCAL CURRENCIES FOR DISASTER ASSISTANCE.—(1) Section 301 of the Agricultural Trade Development and Assistance Act of 1954 is amended by adding at the end the following:

7 USC 1727.

Rural areas.
Urban areas.

"(c) In the event of a serious natural disaster in a country participating in a Food for Development Program, funds accruing from the sale of commodities made available under this title may be used, with the approval of the United States Government, for disaster relief, rehabilitation, and reconstruction assistance in any rural or urban area of that country adversely affected by the disaster. Such assistance may include (but is not limited to) food, medicine and medical supplies, shelter, and in-country transportation.".

Health and medical care.

7 USC 1727 note.

(2) Food for Development agreements entered into under title III of that Act before the date of enactment of this Act may be amended in order to implement the amendment made by paragraph (1).

7 USC 1727 note.

(3) Pending amendment pursuant to paragraph (2) of Food for Development agreements with the Government of Bangladesh, the use of funds accruing under those agreements, with the approval of the United States Government, for flood-related disaster assistance authorized by the amendment made by paragraph (1) shall be deemed to be consistent with the applicable agreement.

(b) ADDITIONAL FUNDS FOR DISASTER ASSISTANCE FOR BANGLADESH.—It is the sense of the Congress that, in order to provide additional resources for disaster assistance for the victims of the 1988 floods in Bangladesh, not less than $100,000,000 of the local currencies generated under Food for Development agreements with the Government of Bangladesh should be used for the disaster relief, rehabilitation, and reconstruction assistance purposes authorized by the amendment made by subsection (a)(1).

(c) REGULAR ASSISTANCE PROGRAMS TO BE MAINTAINED.—Disaster assistance provided for Bangladesh by the United States because of the 1988 floods should be in addition to the regularly programmed assistance for that country for fiscal year 1989 under chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) and titles I, II, and III of the Agriculture Trade Development and Assistance Act of 1954 (relating to food assistance); and the level of such regularly programmed assistance should not be reduced because of such disaster assistance.

(d) EXTENSION OF PERIOD FOR USE OF FOOD FOR DEVELOPMENT LOCAL CURRENCIES.—It is the sense of the Congress that the period, during which funds accruing under Food for Development agree-

ments with the Government of Bangladesh must be used, should be extended from September 30, 1989, to at least September 30, 1990.

SEC. 5. REPORT TO CONGRESS.

President of U.S.

(a) IN GENERAL.—Not later than 6 months after the date of enactment of this Act, the President shall submit to the Congress a report on efforts by the international community and the governments of the region to develop regional programs for the Ganges basin and the Brahmaputra basin that are designed—

(1) to ensure an equitable and predictable supply of water in the dry season; and

(2) to promote better flood control mechanisms to mitigate in the mid-term, and prevent in the long-term, floods as severe as the 1988 floods in Bangladesh.

(b) SPECIFIC REQUIREMENTS.—The report required by subsection (a)—

(1) shall describe what efforts have been made by international organizations and other international institutions, by bilateral and multilateral assistance donors, and by countries in the region, to achieve the objectives set forth in subsection (a);

(2) shall describe the feasibility studies, planning studies, or actual projects that are in preparation or have been completed to achieve those objectives;

(3) shall analyze the potential costs, the technology obstacles (such as those presented by the earthquakes to which the region is prone), and the political problems that stand in the way of effective flood control in the Ganges basin and the Brahmaputra basin;

(4) shall describe the environmental causes of the flood, particularly deforestation and soil erosion; and

(5) shall describe the efforts made, and the efforts proposed to be made, by the President to promote a regional approach to achieving the objectives set forth in subsection (a).

SEC. 6. OFFICE OF TECHNOLOGY ASSESSMENT.

It is the sense of the Congress that the Office of Technology Assessment—

(1) should cooperate in the effort described in section 5; and

(2) in particular, should provide to the Department of State and the Congress—

(A) a synopsis of all current studies and reports—

(i) on flood control in the Ganges basin and the Brahmaputra basin, or

(ii) on state-of-the-art technology available for the construction and maintenance of flood control projects, and

(B) any cost benefit analysis of efforts to improve water availability in the dry season and to mitigate or prevent severe flooding.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 5389:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 4, 6, considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 100-577
100th Congress

An Act

To provide the Environmental Protection Agency and the public with additional information about asbestos products.

Oct. 31, 1988
[H.R. 5442]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Asbestos Information Act of 1988.
15 USC 2607 note.

This Act may be cited as the "Asbestos Information Act of 1988".

SEC. 2. SUBMISSION OF INFORMATION BY MANUFACTURERS.

15 USC 2607 note.

Within 90 days after the date of the enactment of this Act, any person who manufactured or processed, before the date of the enactment of this Act, asbestos or asbestos-containing material that was prepared for sale for use as surfacing material, thermal system insulation, or miscellaneous material in buildings (or whose corporate predecessor manufactured or processed such asbestos or material) shall submit to the Administrator of the Environmental Protection Agency the years of manufacture, the types or classes of product, and, to the extent available, other identifying characteristics reasonably necessary to identify or distinguish the asbestos or asbestos-containing material. Such person also may submit to the Administrator protocols for samples of asbestos and asbestos-containing material.

SEC. 3. PUBLICATION OF INFORMATION.

15 USC 2607 note.
Federal Register, publication.

Within 30 days after the date of the enactment of this Act, the Administrator shall publish a notice in the Federal Register that explains how, when, and where the information specified in section 2 is to be submitted. The Administrator shall receive and organize the information submitted under section 2 and, within 180 days after the date of the enactment of this Act, shall publish the information. In carrying out this section, the Administrator may not—

(1) review the information submitted under section 2 for accuracy, or

(2) analyze such information to determine whether it is reasonably necessary to identify or distinguish the particular asbestos or asbestos-containing material.

SEC. 4. DEFINITIONS.

15 USC 2607 note.

In this Act:

(1) The term "asbestos" means—

(A) chrysotile, amosite, or crocidolite, or

(B) in fibrous form, tremolite, anthophyllite, or actinolite.

(2) The term "asbestos-containing material" means any material containing more than one percent asbestos by weight.

(3) The term "identifying characteristics" means a description of asbestos or asbestos-containing material, including—

(A) the mineral or chemical constituents (or both) of the asbestos or material by weight or volume (or both),

(B) the types or classes of the product in which the asbestos or material is contained,

(C) the designs, patterns, or textures of the product in which the asbestos or material is contained, and

(D) the means by which the product in which the asbestos or material is contained may be distinguishable from other products containing asbestos or asbestos-containing material.

(4) The term "miscellaneous material" means building material on structural components, structural members, or fixtures, such as floor and ceiling tiles. The term does not include surfacing material or thermal system insulation.

(5) The term "protocol" means any procedure for taking, handling, and preserving samples of asbestos and asbestos-containing material and for testing and analyzing such samples for the purpose of determining the person who manufactured or processed for sale such samples and the identifying characteristics of such samples.

(6) The term "surfacing material" means material in a building that is sprayed on surfaces, troweled on surfaces, or otherwise applied to surfaces for acoustical, fireproofing, or other purposes, such as acoustical plaster on ceilings and fireproofing material on structural members.

(7) The term "thermal system insulation" means material in a building applied to pipes, fittings, boilers, breeching, tanks, ducts, or other structural components to prevent heat loss or gain or water condensation, or for other purposes.

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 5442:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 4, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 100-578
100th Congress

An Act

To amend the Public Health Service Act to revise the authority for the regulation of clinical laboratories.

Oct. 31, 1988
[H.R. 5471]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Clinical Laboratory Improvement Amendments of 1988.
42 USC 201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Clinical Laboratory Improvement Amendments of 1988".

SEC. 2. REVISION OF AUTHORITY.

Section 353 of the Public Health Service Act (42 U.S.C. 263a) is amended to read as follows:

"CERTIFICATION OF LABORATORIES

"SEC. 353. (a) DEFINITION.—As used in this section, the term 'laboratory' or 'clinical laboratory' means a facility for the biological, microbiological, serological, chemical, immuno-hematological, hematological, biophysical, cytological, pathological, or other examination of materials derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the health of, human beings.

"(b) CERTIFICATE REQUIREMENT.—No person may solicit or accept materials derived from the human body for laboratory examination or other procedure unless there is in effect for the laboratory a certificate issued by the Secretary under this section applicable to the category of examinations or procedures which includes such examination or procedure.

"(c) ISSUANCE AND RENEWAL OF CERTIFICATES.—

"(1) IN GENERAL.—The Secretary may issue or renew a certificate for a laboratory only if the laboratory meets the requirements of subsection (d).

"(2) TERM.—A certificate issued under this section shall be valid for a period of 2 years or such shorter period as the Secretary may establish.

"(d) REQUIREMENTS FOR CERTIFICATES.—

"(1) IN GENERAL.—A laboratory may be issued a certificate or have its certificate renewed if—

"(A) the laboratory submits (or if the laboratory is accredited under subsection (e), the accreditation body which accredited the laboratory submits), an application—

"(i) in such form and manner as the Secretary shall prescribe,

"(ii) that describes the characteristics of the laboratory examinations and other procedures performed by the laboratory including—

"(I) the number and types of laboratory examinations and other procedures performed,

"(II) the methodologies for laboratory examinations and other procedures employed, and

"(III) the qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the laboratory examinations and other procedures, and

"(iii) that contains such other information as the Secretary may require to determine compliance with this section, and

the laboratory agrees to provide to the Secretary (or if the laboratory is accredited, to the accreditation body which accredited it) a description of any change in the information submitted under clause (ii) not later than 6 months after the change was put into effect,

"(B) the laboratory provides the Secretary—

"(i) with satisfactory assurances that the laboratory will be operated in accordance with standards issued by the Secretary under subsection (f), or

"(ii) with proof of accreditation under subsection (e),

"(C) the laboratory agrees to permit inspections by the Secretary under subsection (g),

"(D) the laboratory agrees to make records available and submit reports to the Secretary as the Secretary may reasonably require, and

"(E) the laboratory agrees to treat proficiency testing samples in the same manner as it treats materials derived from the human body referred to it for laboratory examinations or other procedures in the ordinary course of business.

"(2) REQUIREMENTS FOR CERTIFICATES OF WAIVER.—

"(A) IN GENERAL.—A laboratory which only performs laboratory examinations and procedures described in paragraph (3) shall be issued a certificate of waiver or have its certificate of waiver renewed if—

"(i) the laboratory submits an application—

"(I) in such form and manner as the Secretary shall prescribe,

"(II) that describes the characteristics of the laboratory examinations and other procedures performed by the laboratory, including the number and types of laboratory examinations and other procedures performed, the methodologies for laboratory examinations and other procedures employed, and the qualifications (educational background, training, and experience) of the personnel directing and supervising the laboratory and performing the laboratory examinations and other procedures, and

"(III) that contains such other information as the Secretary may reasonably require to determine compliance with this section, and

"(ii) the laboratory agrees to make records available and submit reports to the Secretary as the Secretary may require.

Reports.

"(B) CHANGES.—If a laboratory makes changes in the examinations and other procedures performed by it only

with respect to examinations and procedures which are described in paragraph (3), the laboratory shall report such changes to the Secretary not later than 6 months after the change has been put into effect. If a laboratory proposes to make changes in the examinations and procedures performed by it such that the laboratory will perform an examination or procedure not described in paragraph (3), the laboratory shall report such change to the Secretary before the change takes effect.

"(C) EFFECT.—Subsections (f) and (g) shall not apply to a laboratory to which has been issued a certificate of waiver.

"(3) EXAMINATIONS AND PROCEDURES.—The examinations and procedures identified in paragraph (2) are simple laboratory examinations and procedures which, as determined by the Secretary, have an insignificant risk of an erroneous result, including those which—

"(A) have been approved by the Food and Drug Administration for home use,

"(B) employ methodologies that are so simple and accurate as to render the likelihood of erroneous results negligible, or

"(C) the Secretary has determined pose no reasonable risk of harm to the patient if performed incorrectly.

"(4) DEFINITION.—As used in this section, the term 'certificate' includes a certificate of waiver issued under paragraph (2).

"(e) ACCREDITATION.—

"(1) IN GENERAL.—A laboratory may be accredited for purposes of obtaining a certificate if the laboratory—

"(A) meets the standards of an approved accreditation body, and

"(B) authorizes the accreditation body to submit to the Secretary (or such State agency as the Secretary may designate) such records or other information as the Secretary may require.

"(2) APPROVAL OF ACCREDITATION BODIES.—

"(A) IN GENERAL.—The Secretary may approve a private nonprofit organization to be an accreditation body for the accreditation of laboratories if—

"(i) using inspectors qualified to evaluate the methodologies used by the laboratories in performing laboratory examinations and other procedures, the accreditation body agrees to inspect a laboratory for purposes of accreditation with such frequency as determined by Secretary,

"(ii) the standards applied by the body in determining whether or not to accredit a laboratory are equal to or more stringent than the standards issued by the Secretary under subsection (f),

"(iii) there is adequate provision for assuring that the standards of the accreditation body continue to be met by the laboratory,

"(iv) in the case of any laboratory accredited by the body which has had its accreditation denied, suspended, withdrawn, or revoked or which has had any other action taken against it by the accrediting body, the accrediting body agrees to submit to the Secretary the

name of such laboratory within 30 days of the action taken,

"(v) the accreditation body agrees to notify the Secretary at least 30 days before it changes its standards, and

"(vi) if the accreditation body has its approval withdrawn by the Secretary, the body agrees to notify each laboratory accredited by the body of the withdrawal within 10 days of the withdrawal.

"(B) CRITERIA AND PROCEDURES.—The Secretary shall promulgate criteria and procedures for approving an accreditation body and for withdrawing such approval if the Secretary determines that the accreditation body does not meet the requirements of subparagraph (A).

"(C) EFFECT OF WITHDRAWAL OF APPROVAL.—If the Secretary withdraws the approval of an accreditation body under subparagraph (B), the certificate of any laboratory accredited by the body shall continue in effect for 60 days after the laboratory receives notification of the withdrawal of the approval, except that the Secretary may extend such period for a laboratory if it determines that the laboratory submitted an application for accreditation or a certificate in a timely manner after receipt of the notification of the withdrawal of approval. If an accreditation body withdraws or revokes the accreditation of a laboratory, the certificate of the laboratory shall continue in effect—

"(i) for 45 days after the laboratory receives notice of the withdrawal or revocation of the accreditation, or

"(ii) until the effective date of any action taken by the Secretary under subsection (i).

"(D) EVALUATIONS.—The Secretary shall evaluate annually the performance of each approved accreditation body by—

"(i) inspecting under subsection (g) a sufficient number of the laboratories accredited by such body to allow a reasonable estimate of the performance of such body, and

"(ii) such other means as the Secretary determines appropriate.

"(3) REPORT.—The Secretary shall annually prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that describes the results of the evaluation conducted under paragraph (2)(D).

"(f) STANDARDS.—

"(1) IN GENERAL.—The Secretary shall issue standards to assure consistent performance by laboratories issued a certificate under this section of valid and reliable laboratory examinations and other procedures. Such standards shall require each laboratory issued a certificate under this section—

"(A) to maintain a quality assurance and quality control program adequate and appropriate for the validity and reliability of the laboratory examinations and other procedures of the laboratory and to meet requirements relating to the proper collection, transportation, and storage of specimens and the reporting of results,

"(B) to maintain records, equipment, and facilities necessary for the proper and effective operation of the laboratory, Records.

"(C) in performing and carrying out its laboratory examinations and other procedures, to use only personnel meeting such qualifications as the Secretary may establish for the direction, supervision, and performance of examinations and procedures within the laboratory, which qualifications shall take into consideration competency, training, experience, job performance, and education and which qualifications shall, as appropriate, be different on the basis of the type of examinations and procedures being performed by the laboratory and the risks and consequences of erroneous results associated with such examinations and procedures,

"(D) to qualify under a proficiency testing program meeting the standards established by the Secretary under paragraph (3), and

"(E) to meet such other requirements as the Secretary determines necessary to assure consistent performance by such laboratories of accurate and reliable laboratory examinations and procedures.

"(2) CONSIDERATIONS.—In developing the standards to be issued under paragraph (1), the Secretary shall, within the flexibility provided under subparagraphs (A) through (E) of paragraph (1), take into consideration—

"(A) the examinations and procedures performed and the methodologies employed,

"(B) the degree of independent judgment involved,

"(C) the amount of interpretation involved,

"(D) the difficulty of the calculations involved,

"(E) the calibration and quality control requirements of the instruments used,

"(F) the type of training required to operate the instruments used in the methodology, and

"(G) such other factors as the Secretary considers relevant.

"(3) PROFICIENCY TESTING PROGRAM.—

"(A) IN GENERAL.—The Secretary shall establish standards for the proficiency testing programs for laboratories issued a certificate under this section which are conducted by the Secretary, conducted by an organization approved under subparagraph (C), or conducted by an approved accrediting body. The standards shall require that a laboratory issued a certificate under this section be tested for each examination and procedure conducted within a category of examinations or procedures for which it has received a certificate, except for examinations and procedures for which the Secretary has determined that a proficiency test cannot reasonably be developed. The testing shall be conducted on a quarterly basis, except where the Secretary determines for technical and scientific reasons that a particular examination or procedure may be tested less frequently (but not less often than twice per year).

"(B) CRITERIA.—The standards established under subparagraph (A) shall include uniform criteria for acceptable performance under a proficiency testing program,

based on the available technology and the clinical relevance of the laboratory examination or other procedure subject to such program. The criteria shall be established for all examinations and procedures and shall be uniform for each examination and procedure. The standards shall also include a system for grading proficiency testing performance to determine whether a laboratory has performed acceptably for a particular quarter and acceptably for a particular examination or procedure or category of examination or procedure over a period of successive quarters.

"(C) APPROVED PROFICIENCY TESTING PROGRAMS.—For the purpose of administering proficiency testing programs which meet the standards established under subparagraph (A), the Secretary shall approve a proficiency testing program offered by a private nonprofit organization or a State if the program meets the standards established under subparagraph (A) and the organization or State provides technical assistance to laboratories seeking to qualify under the program. The Secretary shall evaluate each program approved under this subparagraph annually to determine if the program continues to meet the standards established under subparagraph (A) and shall withdraw the approval of any program that no longer meets such standards.

"(D) ON-SITE TESTING.—The Secretary shall perform, or shall direct a program approved under subparagraph (C) to perform, onsite proficiency testing to assure compliance with the requirements of subsection (d)(5). The Secretary shall perform, on an onsite or other basis, proficiency testing to evaluate the performance of a proficiency testing program approved under subparagraph (C) and to assure quality performance by a laboratory.

"(E) TRAINING, TECHNICAL ASSISTANCE, AND ENHANCED PROFICIENCY TESTING.—The Secretary may, in lieu of or in addition to actions authorized under subsection (h), (i), or (j), require any laboratory which fails to perform acceptably on an individual examination and procedure or a category of examination and procedures—

"(i) to undertake training and to obtain the necessary technical assistance to meet the requirements of the proficency testing program,

"(ii) to enroll in a program of enhanced proficiency testing, or

"(iii) to undertake any combination of the training, technical assistance, or testing described in clauses (i) and (ii).

Public information.

"(F) TESTING RESULTS.—The Secretary shall establish a system to make the results of the proficiency testing programs subject to the standards established by the Secretary under subparagraph (A) available, on a reasonable basis, upon request of any person. The Secretary shall include with results made available under this subparagraph such explanatory information as may be appropriate to assist in the interpretation of such results.

"(4) NATIONAL STANDARDS FOR QUALITY ASSURANCE IN CYTOLOGY SERVICES.—

(A) ESTABLISHMENT.—The Secretary shall establish national standards for quality assurance in cytology services

designed to assure consistent performance by laboratories of valid and reliable cytological services.

"(B) STANDARDS.—The standards established under subparagraph (A) shall include—

"(i) the maximum number of cytology slides that any individual may screen in a 24-hour period,

"(ii) requirements that a clinical laboratory maintain a record of (I) the number of cytology slides screened during each 24-hour period by each individual who examines cytology slides for the laboratory, and (II) the number of hours devoted during each 24-hour period to screening cytology slides by such individual, Records.

"(iii) criteria for requiring rescreening of cytological preparations, such as (I) random rescreening of cytology specimens determined to be in the benign category, (II) focused rescreening of such preparations in high risk groups, and (III) for each abnormal cytological result, rescreening of all prior cytological specimens for the patient, if available,

"(iv) periodic confirmation and evaluation of the proficiency of individuals involved in screening or interpreting cytological preparations, including announced and unannounced on-site proficiency testing of such individuals, with such testing to take place, to the extent practicable, under normal working conditions,

"(v) procedures for detecting inadequately prepared slides, for assuring that no cytological diagnosis is rendered on such slides, and for notifying referring physicians of such slides,

"(vi) requirements that all cytological screening be done on the premises of a laboratory that is certified under this section,

"(vii) requirements for the retention of cytology slides by laboratories for such periods of time as the Secretary considers appropriate, and

"(viii) standards requiring periodic inspection of cytology services by persons capable of evaluating the quality of cytology services.

"(g) INSPECTIONS.—

"(1) IN GENERAL.—The Secretary may, on an announced or unannounced basis, enter and inspect, during regular hours of operation, laboratories which have been issued a certificate under this section. In conducting such inspections the Secretary shall have access to all facilities, equipment, materials, records, and information that the Secretary determines have a bearing on whether the laboratory is being operated in accordance with this section. As part of such an inspection the Secretary may copy any such material or require to it be submitted to the Secretary. An inspection under this paragraph may be made only upon presenting identification to the owner, operator, or agent in charge of the laboratory being inspected.

"(2) COMPLIANCE WITH REQUIREMENTS AND STANDARDS.—The Secretary shall conduct inspections of laboratories under paragraph (1) to determine their compliance with the requirements of subsection (d) and the standards issued under subsection (f). Inspections of laboratories not accredited under subsection (e) shall be conducted on a biennial basis or with such other

frequency as the Secretary determines to be necessary to assure compliance with such requirements and standards. Inspections of laboratories accredited under subsection (e) shall be conducted on such basis as the Secretary determines is necessary to assure compliance with such requirements and standards.

"(h) INTERMEDIATE SANCTIONS.—

"(1) IN GENERAL.—If the Secretary determines that a laboratory which has been issued a certificate under this section no longer substantially meets the requirements for the issuance of a certificate, the Secretary may impose intermediate sanctions in lieu of the actions authorized by subsection (i).

"(2) TYPES OF SANCTIONS.—The intermediate sanctions which may be imposed under paragraph (1) shall consist of—

"(A) directed plans of correction,

"(B) civil money penalties in an amount not to exceed $10,000 for each violation listed in subsection (i)(1) or for each day of substantial noncompliance with the requirements of this section,

"(C) payment for the costs of onsite monitoring, or

"(D) any combination of the actions described in subparagraphs (A), (B), and (C).

"(3) PROCEDURES.—The Secretary shall develop and implement procedures with respect to when and how each of the intermediate sanctions is to be imposed under paragraph (1). Such procedures shall provide for notice to the laboratory and a reasonable opportunity to respond to the proposed sanction and appropriate procedures for appealing determinations relating to the imposition of intermediate sanctions

"(i) SUSPENSION, REVOCATION, AND LIMITATION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the certificate of a laboratory issued under this section may be suspended, revoked, or limited if the Secretary finds, after reasonable notice and opportunity for hearing to the owner or operator of the laboratory, that such owner or operator or any employee of the laboratory—

Fraud.

"(A) has been guilty of misrepresentation in obtaining the certificate,

"(B) has performed or represented the laboratory as entitled to perform a laboratory examination or other procedure which is not within a category of laboratory examinations or other procedures authorized in the certificate,

"(C) has failed to comply with the requirements of subsection (d) or the standards prescribed by the Secretary under subsection (f),

"(D) has failed to comply with reasonable requests of the Secretary for—

"(i) any information or materials, or

"(ii) work on materials,

that the Secretary concludes is necessary to determine the laboratory's continued eligibility for its certificate or continued compliance with the Secretary's standards under subsection (f),

"(E) has refused a reasonable request of the Secretary, or any Federal officer or employee duly designated by the Secretary, for permission to inspect the laboratory and its

operations and pertinent records during the hours the laboratory is in operation,

"(F) has violated or aided and abetted in the violation of any provisions of this section or of any regulation promulgated thereunder, or

"(G) has not complied with an intermediate sanction imposed under subsection (h).

"(2) ACTION BEFORE A HEARING.—If the Secretary determines that—

"(A) the failure of a laboratory to comply with the standards of the Secretary under subsection (f) presents an imminent and serious risk to human health, or Safety.

"(B) a laboratory has engaged in an action described in subparagraph (D) or (E) of paragraph (1),

the Secretary may suspend or limit the certificate of the laboratory before holding a hearing under paragraph (1) regarding such failure or refusal. The opportunity for a hearing shall be provided no later than 60 days from the effective date of the suspension or limitation. A suspension or limitation under this paragraph shall stay in effect until the decision of the Secretary made after the hearing under paragraph (1).

"(3) INELIGIBILITY TO OWN OR OPERATE LABORATORIES AFTER REVOCATION.—No person who has owned or operated a laboratory which has had its certificate revoked may, within 2 years of the revocation of the certificate, own or operate a laboratory for which a certificate has been issued under this section. The certificate of a laboratory which has been excluded from participation under the medicare program under title XVIII of the Social Security Act because of actions relating to the quality of the laboratory shall be suspended for the period the laboratory is so excluded.

"(4) IMPROPER REFERRALS.—Any laboratory that the Secretary determines intentionally refers its proficiency testing samples to another laboratory for analysis shall have its certificate revoked for at least one year and shall be subject to appropriate fines and penalties as provided for in subsection (h).

"(j) INJUNCTIONS.—Whenever the Secretary has reason to believe that continuation of any activity by a laboratory would constitute a significant hazard to the public health the Secretary may bring suit in the district court of the United States for the district in which such laboratory is situated to enjoin continuation of such activity. Upon proper showing, a temporary injunction or restraining order against continuation of such activity pending issuance of a final order under this subsection shall be granted without bond by such court. Safety.

"(k) JUDICIAL REVIEW.—

"(1) PETITION.—Any laboratory which has had an intermediate sanction imposed under subsection (h) or has had its certificate suspended, revoked, or limited under subsection (i) may, at any time within 60 days after the date the action of the Secretary under subsection (i) or (h) becomes final, file a petition with the United States court of appeals for the circuit wherein the laboratory has its principal place of business for judicial review of such action. As soon as practicable after receipt of the petition, the clerk of the court shall transmit a copy of the petition to the Secretary or other officer designated by the Secretary for that purpose. As soon as practicable after receipt Records.

of the copy, the Secretary shall file in the court the record on which the action of the Secretary is based, as provided in section 2112 of title 28, United States Code.

"(2) ADDITIONAL EVIDENCE.—If the petitioner applies to the court for leave to adduce additional evidence, and shows to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the Secretary, the court may order such additional evidence (and evidence in rebuttal of such additional evidence) to be taken before the Secretary, and to be adduced upon the hearing in such manner and upon such terms and conditions as the court may deem proper. The Secretary may modify the findings of the Secretary as to the facts, or make new findings, by reason of the additional evidence so taken, and the Secretary shall file such modified or new findings, and the recommendations of the Secretary, if any, for the modification or setting aside of his original action, with the return of such additional evidence.

"(3) JUDGMENT OF COURT.—Upon the filing of the petition referred to in paragraph (1), the court shall have jurisdiction to affirm the action, or to set it aside in whole or in part, temporarily or permanently. The findings of the Secretary as to the facts, if supported by substantial evidence, shall be conclusive.

"(4) FINALITY OF JUDGMENT.—The judgment of the court affirming or setting aside, in whole or in part, any such action of the Secretary shall be final, subject to review by the Supreme Court of the United States upon certiorari or certification as provided in section 1254 of title 28, United States Code.

"(l) SANCTIONS.—Any person who intentionally violates any requirement of this section or any regulation promulgated thereunder shall be imprisoned for not more than one year or fined under title 18, United States Code or both, except that if the conviction is for a second or subsequent violation of such a requirement such person shall be imprisoned for not more than 3 years or fined in accordance with title 18, United States Code or both.

"(m) FEES.—

"(1) CERTIFICATE FEES.—The Secretary shall require payment of fees for the issuance and renewal of certificates, except that the Secretary shall only require a nominal fee for the issuance and renewal of certificates of waiver.

"(2) ADDITIONAL FEES.—The Secretary shall require the payment of fees for inspections of laboratories which are not accredited and for the cost of performing proficiency testing on laboratories which do not participate in proficiency testing programs approved under subsection (f)(3)(C).

"(3) CRITERIA.—

"(A) FEES UNDER PARAGRAPH (1).—Fees imposed under paragraph (1) shall be sufficient to cover the general costs of administering this section, including evaluating and monitoring proficiency testing programs approved under subsection (f) and accrediting bodies and implementing and monitoring compliance with the requirements of this section.

"(B) FEES UNDER PARAGRAPH (2).—Fees imposed under paragraph (2) shall be sufficient to cover the cost of the Secretary in carrying out the inspections and proficiency testing described in paragraph (2).

"(C) FEES IMPOSED UNDER PARAGRAPHS (1) AND (2).—Fees imposed under paragraphs (1) and (2) shall vary by group or classification of laboratory, based on such considerations as the Secretary determines are relevant, which may include the dollar volume and scope of the testing being performed by the laboratories.

"(n) INFORMATION.—On April 1, 1990 and annually thereafter, the Secretary shall compile and make available to physicians and the general public information, based on the previous calendar year, which the Secretary determines is useful in evaluating the performance of a laboratory, including— Health care professionals.

"(1) a list of laboratories which have been convicted under Federal or State laws relating to fraud and abuse, false billings, or kickbacks,

"(2) a list of laboratories—

"(A) which have had their certificates revoked, suspended, or limited under subsection (i), or

"(B) which have been the subject of a sanction under subsection (l),

together with a statement of the reasons for the revocation, suspension, limitation, or sanction,

"(3) a list of laboratories subject to intermediate sanctions under subsection (h) together with a statement of the reasons for the sanctions,

"(4) a list of laboratories whose accreditation has been withdrawn or revoked together with a statement of the reasons for the withdrawal or revocation,

"(5) a list of laboratories against which the Secretary has taken action under subsection (j) together with a statement of the reasons for such action, and

"(6) a list of laboratories which have been excluded from participation under title XVIII or XIX of the Social Security Act.

The information to be compiled under paragraphs (1) through (6) shall be information for the calendar year preceding the date the information is to be made available to the public and shall be accompanied by such explanatory information as may be appropriate to assist in the interpretation of the information compiled under such paragraphs.

"(o) DELEGATION.—In carrying out this section, the Secretary may, pursuant to agreement, use the services or facilities of any Federal or State or local public agency or nonprofit private organization, and may pay therefor in advance or by way of reimbursement, and in such installments, as the Secretary may determine.

"(p) STATE LAWS.—

"(1) Except as provided in paragraph (2), nothing in this section shall be construed as affecting the power of any State to enact and enforce laws relating to the matters covered by this section to the extent that such laws are not inconsistent with this section or with the regulations issued under this section.

"(2) If a State enacts laws relating to matters covered by this section which provide for requirements equal to or more stringent than the requirements of this section or than the regulations issued under this section, the Secretary may exempt clinical laboratories in that State from compliance with this section.

"(q) CONSULTATIONS.—In carrying out this section, the Secretary shall consult with appropriate private organizations and public agencies.".

42 USC 263a note.

SEC. 3. EFFECTIVE DATE.

Subsections (g)(1), (h), (i), (j), (k), (l), and (m) of section 353 of the Public Health Service Act, as amended by section 101, shall take effect January 1, 1989, except that any reference in such subsections to the standards established under subsection (f) shall be considered a reference to the standards established under subsection (d) of such section 353, as in effect on December 31, 1988. During the period beginning January 1, 1989, and ending December 31, 1989, subsections (a) through (d) and subsections (i) through (l) of such section 353 as in effect on December 31, 1988, shall continue to apply to clinical laboratories. The remaining subsections of such section 353, as so amended, shall take effect January 1, 1990, except that subsections (f)(1)(C) and (g)(2) shall take effect July 1, 1991, with respect to laboratories which were not subject to the requirements of such section 353 as in effect on December 31, 1988.

42 USC 263a note.

SEC. 4. STUDIES.

(a) STUDIES.—The Secretary of Health and Human Services, acting through the Public Health Service, shall conduct studies of—

(1) the validity, reliability, and accuracy of proficiency testing of clinical laboratories under section 353 of the Public Health Service Act (as amended by section 2 of this Act),

(2) the correlation between established standards for personnel employed in clinical laboratories and the accuracy and reliability of the results of the tests performed by the laboratories which are subject to such standards,

(3) the correlation between internal quality assurance and quality control programs for clinical laboratories and the accuracy and reliability of the results of the tests performed by the laboratories,

(4) the extent and nature of problems in the diagnosis and treatment of patients caused by inaccurate laboratory test results, and

(5) the effect on laboratory test accuracy of errors in each of the components of the clinical testing process, including the communication between the attending physician and the clinical laboratory which is to conduct the tests, the selection of the tests to be performed, the limits applicable to the tests selected, the acquisition of the material to be tested, the transportation of the material to the laboratory, the storage of the material by the laboratory, the analysis of the material by the laboratory, and the reporting of the results by the laboratory.

(b) REPORT.—Not later than May 1, 1990, the Secretary shall report to the Congress the results of the studies conducted under subsection (a).

Approved October 31, 1988.

LEGISLATIVE HISTORY—H.R. 5471:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 6, considered and passed House.
Oct. 11, considered and passed Senate.

Public Law 100-579
100th Congress

An Act

Oct. 31, 1988
[S. 136]

To improve the health status of Native Hawaiians, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Native Hawaiian Health Care Act of 1988.
42 USC 11701 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Native Hawaiian Health Care Act of 1988".

42 USC 11701.

SEC. 2. FINDINGS.

The Congress finds that—

(1) the United States retains the legal responsibility to enforce the administration of the public trust responsibility of the State of Hawaii for the betterment of the conditions of Native Hawaiians under section 5(f) of Public Law 86-3 (73 Stat. 6; commonly referred to as the "Hawaii Statehood Admissions Act");

(2) in furtherance of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians, contributions by the United States to the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of Native Hawaiians are consistent with the historical and unique legal relationship of the United States with the government that represented the indigenous native people of Hawaii; and

(3) it is the policy of the United States to raise the health status of Native Hawaiians to the highest possible level and to encourage the maximum participation of Native Hawaiians in order to achieve this objective.

42 USC 11702.

SEC. 3. COMPREHENSIVE HEALTH CARE MASTER PLAN FOR NATIVE HAWAIIANS.

Grants.
Contracts.

(a) DEVELOPMENT.—The Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of developing a Native Hawaiian comprehensive health care master plan designed to promote comprehensive health promotion and disease prevention services and to maintain and improve the health status of Native Hawaiians. The master plan shall be based upon an assessment of the health care status and health care needs of Native Hawaiians. To the extent practicable, assessments made as of the date of such grant or contract shall be used by Papa Ola Lokahi, except that any such assessment shall be updated as appropriate.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $700,000 for fiscal year 1990 to carry out subsection (a).

42 USC 11703.

SEC. 4. NATIVE HAWAIIAN HEALTH CENTERS.

Grants.
Contracts.

(a) COMPREHENSIVE HEALTH PROMOTION, DISEASE PREVENTION, AND PRIMARY HEALTH SERVICES.—(1)(A) The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into contracts with, any qualified entity for the purpose of providing comprehen-

sive health promotion and disease prevention services as well as primary health services to Native Hawaiians.

(B) In making grants and entering into contracts under this paragraph, the Secretary shall give preference to Native Hawaiian health centers and Native Hawaiian organizations, and, to the extent feasible, health promotion and disease prevention services shall be performed through Native Hawaiian health centers.

(2) In addition to paragraph (1), the Secretary may make a grant to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health centers to serve the health needs of Native Hawaiian communities on each of the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i, and Ni'ihau in the State of Hawaii.

(b) QUALIFIED ENTITY.—An entity is a qualified entity for purposes of subsection (a)(1) if the entity is—

(1) a Native Hawaiian health center;

(2) a Native Hawaiian organization; or

(3) a public or nonprofit private health provider.

(c) SERVICES TO BE PROVIDED.—(1) Each recipient of funds under subsection (a)(1) shall provide the following services:

(A) Outreach services to inform Native Hawaiians of the availability of health services.

(B) Education in health promotion and disease prevention of the Native Hawaiian population by (wherever possible) Native Hawaiian health care practitioners, community outreach workers, counselors, and cultural educators.

(C) Services of physicians, physicians' assistants, or nurse practitioners.

(D) Immunizations.

(E) Prevention and control of diabetes, high blood pressure, and otitis media.

(F) Pregnancy and infant care.

(G) Improvement of nutrition.

(2) In addition to the mandatory services under paragraph (1), the following services may be provided pursuant to subsection (a)(1):

(A) Identification, treatment, control, and reduction of the incidence of preventable illnesses and conditions endemic to Native Hawaiians.

(B) Collection of data related to the prevention of diseases and illnesses among Native Hawaiians.

(C) Services within the meaning of the terms "health promotion", "disease prevention", and "primary health services", as such terms are defined in section 8, which are not specifically referred to in paragraph (1) of this subsection.

(3) The health care services referred to in paragraphs (1) and (2) which are provided under grants or contracts under subsection (a)(1) may be provided by traditional Native Hawaiian healers.

(d) LIMITATION ON NUMBER OF ENTITIES.—During a fiscal year, the Secretary under this Act may make a grant to, or hold a contract with, not more than nine qualified entities in the State of Hawaii, as follows: Grants. Contracts.

(1) Two entities serving individuals on Kaua'i, from which individuals on Ni'ihau shall also be served.

(2) Two entities serving individuals on O'ahu.

(3) One entity serving individuals on Moloka'i, from which individuals on Lana'i shall also be served.

(4) Two entities serving individuals on Maui.

(5) Two entities serving individuals on Hawai'i.

(e) MATCHING FUNDS.—(1) The Secretary may not make a grant or provide funds pursuant to a contract under subsection (a)(1) to an entity—

(A) in an amount exceeding 75 percent of the costs of providing health services under the grant or contract; and

(B) unless the entity agrees that the entity will make available, directly or through donations to the entity, non-Federal contributions toward such costs in an amount equal to not less than $1 (in cash or in kind under paragraph (2)) for each $3 of Federal funds provided in such grant or contract.

(2) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government or services assisted or subsidized to any significant extent by the Federal Government may not be included in determining the amount of such non-Federal contributions.

(3) The Secretary may waive the requirement established in paragraph (1) if—

(A) the entity involved is a nonprofit private entity described in subsection (b); and

(B) the Secretary, in consultation with Papa Ola Lokahi, determines that it is not feasible for the entity to comply with such requirement.

(f) RESTRICTION ON USE OF GRANT AND CONTRACT FUNDS.—The Secretary may not make a grant to, or enter into a contract with, an entity under subsection (a)(1) unless the entity agrees that amounts received pursuant to such subsection will not, directly or through contract, be expended—

(1) for any purpose other than the purposes described in subsection (c);

(2) to provide inpatient services;

(3) to make cash payments to intended recipients of health services; or

(4) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment.

(g) LIMITATION ON CHARGES FOR SERVICES.—The Secretary may not make a grant, or enter into a contract with, an entity under subsection (a)(1) unless the entity agrees that, whether health services are provided directly or through contract—

(1) health services under the grant or contract will be provided without regard to ability to pay for the health services; and

(2) the entity will impose a charge for the delivery of health services, and such charge—

Public information.

(A) will be made according to a schedule of charges that is made available to the public, and

(B) will be adjusted to reflect the income of the individual involved.

(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated $5,000,000 for fiscal year 1991 and $10,000,000 for fiscal year 1992 to carry out subsection (a)(1).

(2) There is authorized to be appropriated for fiscal year 1990 $900,000 to carry out subsection (a)(2).

SEC. 5. ADMINISTRATIVE GRANT FOR PAPA OLA LOKAHI. 42 USC 11704.

(a) IN GENERAL.—In addition to any other grant or contract under this Act, the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for— Contracts.

(1) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed pursuant to section 3;

(2) training for the persons described in section 4(c)(1)(B); or

(3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services. Research and development. Diseases.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1990, 1991, and 1992 to carry out subsection (a).

SEC. 6. ADMINISTRATION OF GRANTS AND CONTRACTS. 42 USC 11705.

(a) TERMS AND CONDITIONS.—The Secretary shall include in any grant made or contract entered into under this Act such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of such grant or contract are achieved.

(b) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this Act.

(c) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not make a grant or enter into a contract under this Act with an entity unless the entity—

(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant or contract;

(2) agrees to ensure the confidentiality of records maintained on individuals receiving health services under the grant or contract; Classified information. Records.

(3) with respect to providing health services to any population of Native Hawaiians a substantial portion of which has a limited ability to speak the English language—

(A) has developed and has the ability to carry out a reasonable plan to provide health services under the grant or contract through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

(B) has designated at least one individual, fluent in both English and the appropriate language, to assist in carrying out the plan;

(4) with respect to health services that are covered in the plan of the State of Hawaii approved under title XIX of the Social Security Act—

(A) if the entity will provide under the grant or contract any such health services directly—

(i) the entity has entered into a participation agreement under such plan; and

(ii) the entity is qualified to receive payments under such plan; and

(B) if the entity will provide under the grant or contract any such health services through a contract with an organization—

(i) the organization has entered into a participation agreement under such plan; and

(ii) the organization is qualified to receive payments under such plan; and

Reports.

(5) agrees to submit to the Secretary and to Papa Ola Lokahi an annual report that describes the utilization and costs of health services provided under the grant or contract (including the average cost of health services per user) and that provides such other information as the Secretary determines to be appropriate.

(d) CONTRACT EVALUATION.—(1) If, as a result of evaluations conducted by the Secretary, the Secretary determines that an entity has not complied with or satisfactorily performed a contract entered into under section 4, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such entity and is authorized to enter into a contract under section 4 with another entity referred to in section 4(b) that provides services to the same population of Native Hawaiians which is served by the entity whose contract is not renewed by reason of this subsection.

(2) In determining whether to renew a contract entered into with an entity under this Act, the Secretary shall consider the results of evaluation under this section.

(3) All contracts entered into by the Secretary under this Act shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and may be exempted from the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.).

(4) Payments made under any contract entered into under this Act may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this section.

(e) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Except for grants and contracts under section 5, the Secretary may not make a grant to, or enter into a contract with, an entity under this Act unless the entity agrees that the entity will not expend more than 10 percent of amounts received pursuant to this Act for the purpose of administering the grant or contract.

(f) REPORT.—(1) For each fiscal year during which an entity receives or expends funds pursuant to a grant or contract under this Act, such entity shall submit to the Secretary and to Papa Ola Lokahi a quarterly report on—

(A) activities conducted by the entity under the grant or contract;

(B) the amounts and purposes for which Federal funds were expended; and

(C) such other information as the Secretary may request.

Records.

(2) The reports and records of any entity which concern any grant or contract under this Act shall be subject to audit by the Secretary, the Inspector General of Health and Human Services, and the Comptroller General of the United States.

(g) ANNUAL PRIVATE AUDIT.—The Secretary shall allow as a cost of any grant made or contract entered into under this Act the cost of an annual private audit conducted by a certified public accountant.

SEC. 7. ASSIGNMENT OF PERSONNEL. 42 USC 11706.

(a) IN GENERAL.—The Secretary is authorized to enter into an agreement with any entity under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such entity to such entity on detail for the purposes of providing comprehensive health promotion and disease prevention services to Native Hawaiians. Contracts. Diseases.

(b) APPLICABLE FEDERAL PERSONNEL PROVISIONS.—Any assignment of personnel made by the Secretary under any agreement entered into under the authority of paragraph (1) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

SEC. 8. DEFINITIONS. 42 USC 11707.

For purposes of this Act:

(1) DISEASE PREVENTION.—The term "disease prevention" includes—

(A) immunizations,
(B) control of high blood pressure,
(C) control of sexually transmittable diseases,
(D) prevention and control of diabetes,
(E) control of toxic agents,
(F) occupational safety and health,
(G) accident prevention,
(H) fluoridation of water,
(I) control of infectious agents, and
(J) provision of mental health care.

(2) HEALTH PROMOTION.—The term "health promotion" includes—

(A) pregnancy and infant care, including prevention of fetal alcohol syndrome,
(B) cessation of tobacco smoking,
(C) reduction in the misuse of alcohol and drugs,
(D) improvement of nutrition,
(E) improvement in physical fitness,
(F) family planning, and
(G) control of stress.

(3) NATIVE HAWAIIAN.—The term "Native Hawaiian" means any individual who has any ancestors that were natives, prior to 1778, of the area that is now the State of Hawaii as evidenced by—

(A) genealogical records,
(B) Kupuna (elders) or Kama'aina (long-term community residents) verification, or
(C) birth records of the State of Hawaii.

(4) NATIVE HAWAIIAN HEALTH CENTER.—The term "Native Hawaiian health center" means an entity—

(A) which is organized under the laws of the State of Hawaii,
(B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,
(C) which is a public or nonprofit private entity, and
(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services.

(5) NATIVE HAWAIIAN ORGANIZATION.—The term "Native Hawaiian organization" means any organization—

(A) which serves the interests of Native Hawaiians,

(B) which is—

(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portions of programs) authorized under this Act for the benefit of Native Hawaiians, and

(ii) certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization enters into with, or grant the organization receives from, the Secretary under this Act,

(C) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services, and

(D) which is a public or nonprofit private entity.

(6) PAPA OLA LOKAHI.—The term "Papa Ola Lokahi" means an organization composed of—

(A) E Ola Mau;

(B) the Office of Hawaiian Affairs of the State of Hawaii;

(C) Alu Like Inc.;

(D) the University of Hawaii; and

(E) the Office of Hawaiian Health of the Hawaii State Department of Health.

(7) PRIMARY HEALTH SERVICES.—The term "primary health services" means—

(A) services of physicians, physicians' assistants and nurse practitioners;

(B) diagnostic laboratory and radiologic services;

(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well child services, and family planning services);

(D) emergency medical services;

(E) transportation services as required for adequate patient care;

(F) preventive dental services; and

(G) pharmaceutical services, as may be appropriate for particular health centers.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) TRADITIONAL NATIVE HAWAIIAN HEALER.—The term "traditional Native Hawaiian healer" means a practitioner—

(A) who—

(i) is of Hawaiian ancestry, and

(ii) has the knowledge, skills, and experience in direct personal health care of individuals, and

(B) whose knowledge, skills, and experience are based on a demonstrated learning of Native Hawaiian healing practices acquired by—

(i) direct practical association with Native Hawaiian elders, and

(ii) oral traditions transmitted from generation to generation.

SEC. 9. RULE OF CONSTRUCTION. 42 USC 11708.

Nothing in this Act shall be construed to restrict the authority of the State of Hawaii to license health practitioners.

SEC. 10. REPEAL OF DEMONSTRATION PROJECT.

Section 205 of the Indian Health Care Improvement Act, as added by section 203(c) of the Indian Health Care Amendments of 1988, is repealed. 25 USC 1621d.

SEC. 11. COMPLIANCE WITH BUDGET ACT. 42 USC 11709.

Any new spending authority (described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

SEC. 12. SEVERABILITY. 42 USC 11710.

If any provision of this Act, or the application of any such provision to any person or circumstances is held to be invalid, the remainder of this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Approved October 31, 1988.

LEGISLATIVE HISTORY—S. 136:

SENATE REPORTS: No. 100-580 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 30, considered and passed Senate.
Oct. 12, considered and passed House, amended.
Oct. 14, Senate concurred in House amendment.

○

Public Law 100-580
100th Congress

An Act

Oct. 31, 1988
[S. 2723]

To partition certain reservation lands between the Hoopa Valley Tribe and the Yurok Indians, to clarify the use of tribal timber proceeds, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Hoopa-Yurok Settlement Act.
25 USC 1300i.

SECTION 1. SHORT TITLE AND DEFINITIONS.

(a) SHORT TITLE.—This Act may be cited as the "Hoopa-Yurok Settlement Act".

(b) DEFINITIONS.—For the purposes of this Act, the term—

(1) "Escrow funds" means the moneys derived from the joint reservation which are held in trust by the Secretary in the accounts entitled—

(A) "Proceeds of Labor-Hoopa Valley Indians-California 70 percent Fund, account number J52-561-7197";

(B) "Proceeds of Labor-Hoopa Valley Indians-California 30 percent Fund, account number J52-561-7236";

(C) "Proceeds of Klamath River Reservation, California, account number J52-562-7056";

(D) "Proceeds of Labor-Yurok Indians of Lower Klamath River, California, account number J52-562-7153";

(E) "Proceeds of Labor-Yurok Indians of Upper Klamath River, California, account number J52-562-7154";

(F) "Proceeds of Labor-Hoopa Reservation for Hoopa Valley and Yurok Tribes, account number J52-575-7256"; and

(G) "Klamath River Fisheries, account number 5628000001";

(2) "Hoopa Indian blood" means that degree of ancestry derived from an Indian of the Hunstang, Hupa, Miskut, Redwood, Saiaz, Sermalton, Tish-Tang-Atan, South Fork, or Grouse Creek Bands of Indians;

(3) "Hoopa Valley Reservation" means the reservation described in section 2(b) of this Act;

(4) "Hoopa Valley Tribe" means the Hoopa Valley Tribe, organized under the constitution and amendments approved by the Secretary on November 20, 1933, September 4, 1952, August 9, 1963, and August 18, 1972;

(5) "Indian of the Reservation" shall mean any person who meets the criteria to qualify as an Indian of the Reservation as established by the United States Court of Claims in its March 31, 1982, May 17, 1987, and March 1, 1988, decisions in the case of Jesse Short et al. v. United States, (Cl. Ct. No. 102-63);

(6) "Joint reservation" means the area of land defined as the Hoopa Valley Reservation in section 2(b) and the Yurok Reservation in section 2(c) of this Act.

(7) "Karuk Tribe" means the Karuk Tribe of California, organized under its constitution on April 6, 1985;

(8) "Secretary" means the Secretary of the Interior;

(9) "Settlement Fund" means the Hoopa-Yurok Settlement Fund established pursuant to section 4;

(10) "Settlement Roll" means the final roll prepared and published in the Federal Register by the Secretary pursuant to section 5;

(11) "Short cases" means the cases entitled Jesse Short et al. v. United States, (Cl. Ct. No. 102-63); Charlene Ackley v. United States, (Cl. Ct. No. 460-78); Bret Aanstadt v. United States, (Cl. Ct. No. 146-85L); and Norman Giffen v. United States, (Cl. Ct. No. 746-85L);

(12) "Short plaintiffs" means named plaintiffs in the Short cases;

(13) "trust land" means an interest in land the title to which is held in trust by the United States for an Indian or Indian tribe, or by an Indian or Indian tribe subject to a restriction by the United States against alienation;

(14) "unallotted trust land, property, resources or rights" means those lands, property, resources, or rights reserved for Indian purposes which have not been allotted to individuals under an allotment Act;

(15) "Yurok Reservation" means the reservation described in section 2(c) of this Act; and

(16) "Yurok Tribe" means the Indian tribe which is recognized and authorized to be organized pursuant to section 9 of this Act.

SEC. 2. RESERVATIONS; PARTITION AND ADDITIONS. 25 USC 1300i-1.

(a) PARTITION OF THE JOINT RESERVATION.—(1) Effective with the publication in the Federal Register of the Hoopa tribal resolution as provided in paragraph (2), the joint reservation shall be partitioned as provided in subsections (b) and (c).

(2)(A) The partition of the joint reservation as provided in this subsection, and the ratification and confirmation as provided by section 8, shall not become effective unless, within 60 days after the date of the enactment of this Act, the Hoopa Valley Tribe shall adopt, and transmit to the Secretary, a tribal resolution:

(i) waiving any claim such tribe may have against the United States arising out of the provisions of this Act, and

(ii) affirming tribal consent to the contribution of Hoopa Escrow monies to the Settlement Fund, and for their use as payments to the Yurok Tribe, and to individual Yuroks, as provided in this Act.

(B) The Secretary, after determining the validity of the resolution transmitted pursuant to subparagraph (A), shall cause such resolution to be printed in the Federal Register. Federal Register, publication.

(b) HOOPA VALLEY RESERVATION.—Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "square" (defined as the Hoopa Valley Reservation established under section 2 of the Act of April 8, 1864 (13 Stat. 40), the Executive Order of June 23, 1876, and Executive Order 1480 of February 17, 1912) shall thereafter be recognized and established as the Hoopa Valley Reservation. The unallotted trust land and assets of the Hoopa Valley Reservation shall thereafter be held in trust by the United States for the benefit of the Hoopa Valley Tribe.

(c) YUROK RESERVATION.—(1) Effective with the partition of the joint reservation as provided in subsection (a), the area of land known as the "extension" (defined as the reservation extension under the Executive Order of October 16, 1891, but excluding the Resighini Rancheria) shall thereafter be recognized and established as the Yurok Reservation. The unallotted trust land and assets of the Yurok Reservation shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe.

National Forest System.

(2) Subject to all valid existing rights and subject to the adoption of a resolution of the Interim Council of the Yurok Tribe as provided in section 9(d)(2), all right, title, and interest of the United States—

(A) to all national forest system lands within the Yurok Reservation, and

(B) to that portion of the Yurok Experimental Forest described as Township 14 N., Range 1 E., Section 28, Lot 6: that portion of Lot 6 east of U.S. Highway 101 and west of the Yurok Experimental Forest, comprising 14 acres more or less and including all permanent structures thereon, shall thereafter be held in trust by the United States for the benefit of the Yurok Tribe and shall be part of the Yurok Reservation.

(3)(A) Pursuant to the authority of sections 5 and 7 of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 465, 467), the Secretary may acquire from willing sellers lands or interests in land, including rights-of-way for access to trust lands, for the Yurok Tribe or its members, and such lands may be declared to be part of the Yurok Reservation.

(B) From amounts authorized to be appropriated by the Act of November 2, 1921 (42 Stat. 208; 25 U.S.C. 13), the Secretary shall use not less than $5,000,000 for the purpose of acquiring lands or interests in lands pursuant to subparagraph (A). No lands or interests in lands may be acquired outside the Yurok Reservation with such funds except lands adjacent to and contiguous with the Yurok Reservation or for purposes of exchange for lands within the reservation.

(4) The—

(A) apportionment of funds to the Yurok Tribe as provided in sections 4 and 7;

(B) the land transfers pursuant to paragraph (2);

(C) the land acquisition authorities in paragraph (3); and

(D) the organizational authorities of section 9 shall not be effective unless and until the Interim Council of the Yurok Tribe has adopted a resolution waiving any claim such tribe may have against the United States arising out of the provisions of this Act.

(d) BOUNDARY CLARIFICATIONS OR CORRECTIONS.—(1) The boundary between the Hoopa Valley Reservation and the Yurok Reservation,

after the partition of the joint reservation as provided in this section, shall be the line established by the Bissel-Smith survey.

(2) Upon the partition of the joint reservation as provided in this section, the Secretary shall publish a description of the boundaries of the Hoopa Valley Reservation and Yurok Reservation in the Federal Register. Federal Register, publication.

(e) MANAGEMENT OF THE YUROK RESERVATION.—The Secretary shall be responsible for the management of the unallotted trust land and assets of the Yurok Reservation until such time as the Yurok Tribe has been organized pursuant to section 9. Thereafter, those lands and assets shall be administered as tribal trust land and the Yurok reservation governed by the Yurok Tribe as other reservations are governed by the tribes of those reservations.

(f) CRIMINAL AND CIVIL JURISDICTION.—The Hoopa Valley Reservation and Yurok Reservation shall be subject to section 1360 of title 28, United States Code; section 1162 of title 18, United States Code, and section 403(a) of the Act of April 11, 1968 (82 Stat. 79; 25 U.S.C. 1323(a)).

SEC. 3. PRESERVATION OF SHORT CASES. 25 USC 1300i-2.

Nothing in this Act shall affect, in any manner, the entitlement established under decisions of the United States Claims Court in the Short cases or any final judgment which may be rendered in those cases.

SEC. 4. HOOPA-YUROK SETTLEMENT FUND. 25 USC 1300i-3.

(a) ESTABLISHMENT.—(1) There is hereby established the Hoopa-Yurok Settlement Fund. Upon enactment of this Act, the Secretary shall cause all the funds in the escrow funds, together with all accrued income thereon, to be deposited into the Settlement Fund.

(2) Until the distribution is made to the Hoopa Valley Tribe pursuant to section (c), the Secretary may distribute to the Hoopa Valley Tribe, pursuant to the provision of title I of the Department of the Interior and related Agencies Appropriations Act, 1985, under the heading "Bureau of Indian Affairs" and subheading "Tribal Trust Funds" at 98 Stat. 1849 (25 U.S.C. 123c), not to exceed $3,500,000 each fiscal year out of the income or principal of the Settlement Fund for tribal, non per capita purposes: *Provided, however,* That the Settlement Fund apportioned under subsections (c) and (d) shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Hoopa Valley Tribe pursuant to subsection (c).

(3) Until the distribution is made to the Yurok Tribe pursuant to section (d), the Secretary may, in addition to providing Federal funding, distribute to the Yurok Transition Team, pursuant to provision of title I of the Department of the Interior and Related Agencies Appropriations Act, 1985, under the heading "Bureau of Indian Affairs" and subheading "Tribal Trust Funds" at 98 Stat. 1849 (25 U.S.C. 123c), not to exceed $500,000 each fiscal year out of the income and principal of the Settlement Fund for tribal, non per capita purposes: *Provided, however,* That the Settlement Fund apportioned under subsections (c) and (d) shall be calculated without regard to this subparagraph, but any amounts distributed under this subparagraph shall be deducted from the payment to the Yurok Tribe pursuant to subsection (d).

(b) DISTRIBUTION; INVESTMENT.—The Secretary shall make distribution from the Settlement Fund as provided in this Act and, pending payments under section 6 and dissolution of the fund as provided in section 7, shall invest and administer such fund as Indian trust funds pursuant to the first section of the Act of June 24, 1938 (52 Stat. 1037; 25 U.S.C. 162a).

(c) HOOPA VALLEY TRIBE PORTION.—Effective with the publication of the option election date pursuant to section 6(a)(4), the Secretary shall immediately pay out of the Settlement Fund into a trust account for the benefit of the Hoopa Valley Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of enrolled members of the Hoopa Valley Tribe as of the date of the promulgation of the Settlement Roll, including any persons enrolled pursuant to section 6, by the sum of the number of such enrolled Hoopa Valley tribal members and the number of persons on the Settlement Roll.

(d) YUROK TRIBE PORTION.—Effective with the publication of the option election date pursuant to section 6(a)(4), the Secretary shall pay out of the Settlement Fund into a trust account for the benefit of the Yurok Tribe a percentage of the Settlement Fund which shall be determined by dividing the number of persons on the Settlement Roll electing the Yurok Tribal Membership Option pursuant to section 6(c) by the sum of the number of the enrolled Hoopa Valley tribal members established pursuant to subsection (c) and the number of persons on the Settlement Roll, less any amount paid out of the Settlement Fund pursuant to section 6(c)(3).

Appropriation authorization.

(e) FEDERAL SHARE.—There is hereby authorized to be appropriated the sum of $10,000,000 which shall be deposited into the Settlement Fund after the payments are made pursuant to subsections (c) and (d) and section 6(c). The Settlement Fund, including the amount deposited pursuant to this subsection and all income earned subsequent to the payments made pursuant to subsections (c) and (d) and section 6(c), shall be available to make the payments authorized by section 6(d).

25 USC 1300i-4.

SEC. 5. HOOPA-YUROK SETTLEMENT ROLL.

(a) PREPARATION; ELIGIBILITY CRITERIA.—(1) The Secretary shall prepare a roll of all persons who can meet the criteria for eligibility as an Indian of the Reservation and—

(A) who were born on or prior to, and living upon, the date of enactment of this Act;

(B) who are citizens of the United States; and

(C) who were not, on August 8, 1988, enrolled members of the Hoopa Valley Tribe.

(2) The Secretary's determination of eligibility under this subsection shall be final except that any Short plaintiff determined by the United States Claims Court to be an Indian of the Reservation shall be included on the Settlement Roll if they meet the other requirements of this subsection and any Short plaintiff determined by the United States Claims Court not to be an Indian of the Reservation shall not be eligible for inclusion on such roll.

(b) RIGHT TO APPLY; NOTICE.—Within thirty days after the date of enactment of this Act, the Secretary shall give such notice of the right to apply for enrollment as provided in subsection (a) as he deems reasonable except that such notice shall include, but shall not be limited to—

(1) actual notice by registered mail to every plaintiff in the Short cases at their last known address;

(2) notice to the attorneys for such plaintiffs; and

(3) publication in newspapers of general circulation in the vicinity of the Hoopa Valley Reservation and elsewhere in the State of California.

Contemporaneous with providing the notice required by this subsection, the Secretary shall publish such notice in the Federal Register. Federal Register, publication.

(c) APPLICATION DEADLINE.—The deadline for application pursuant to this section shall be established at one hundred and twenty days after the publication of the notice by the Secretary in the Federal Register as required by subsection (b).

(d) ELIGIBILITY DETERMINATION; FINAL ROLL.—(1) The Secretary shall make determinations of eligibility of applicants under this section and publish in the Federal Register the final Settlement Roll of such persons one hundred and eighty days after the date established pursuant to subsection (c). Federal Register, publication.

(2) The Secretary shall develop such procedures and times as may be necessary for the consideration of appeals from applicants not included on the roll published pursuant to paragraph (1). Successful appellants shall be added to the Settlement Roll and shall be afforded the right to elect options as provided in section 6, with any payments to be made to such successful appellants out of the remainder of the Settlement Fund after payments have been made pursuant to section 6(d) and prior to division pursuant to section 7.

(3) Persons added to the Settlement Roll pursuant to appeals under this subsection shall not be considered in the calculations made pursuant to section 4.

(e) EFFECT OF EXCLUSION FROM ROLL.—No person whose name is not included on the Settlement Roll shall have any interest in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Tribe, the Hoopa Valley Reservation, the Yurok Tribe, or the Yurok Reservation or in the Settlement Fund unless such person is subsequently enrolled in the Hoopa Valley Tribe or the Yurok Tribe under the membership criteria and ordinances of such tribes.

SEC. 6. ELECTION OF SETTLEMENT OPTIONS. 25 USC 1300i-5.

(a) NOTICE OF SETTLEMENT OPTIONS.—(1) Within sixty days after the publication of the Settlement Roll as provided in section 5(d), the Secretary shall give notice by certified mail to each person eighteen years or older on such roll of their right to elect one of the settlement options provided in this section. Mail.

(2) The notice shall be provided in easily understood language, but shall be as comprehensive as possible and shall provide an objective assessment of the advantages and disadvantages of each of the options offered. The notice shall also provide information about the counseling services which will be made available to inform individuals about the respective rights and benefits associated with each option presented under this section. It shall also clarify that on election the Lump Sum Payment option requires the completion of a sworn affidavit certifying that the individual has been provided with complete information about the effects of such an election.

(3) With respect to minors on the Settlement Roll the notice shall state that minors shall be deemed to have elected the option of section 6(c), except that if the parent or guardian furnishes proof satisfactory to the Secretary that a minor is an enrolled member of Children and youth.

a tribe that prohibits members from enrolling in other tribes, the parent or guardian shall make the election for such minor. A minor subject to the provisions of section 6(c) shall, notwithstanding any other law, be deemed to be a child of a member of an Indian tribe regardless of the option elected pursuant to this Act by the minor's parent. With respect to minors on the Settlement Roll whose parent or guardian is not also on the roll, notice shall be given to the parent or guardian of such minor. The funds to which such minors are entitled shall be held in trust by the Secretary until the minor reaches age 18. The Secretary shall notify and provide payment to such person including all interest accrued.

(4)(A) The notice shall also establish the date by which time the election of an option under this section must be made. The Secretary shall establish that date as the date which is one hundred and twenty days after the date of the publication in the Federal Register as required by section 5(d).

(B) Any person on the Settlement Roll who has not made an election by the date established pursuant to subparagraph (A) shall be deemed to have elected the option provided in subsection (c).

(b) HOOPA TRIBAL MEMBERSHIP OPTION.—(1) Any person on the Settlement Roll, eighteen years or older, who can meet any of the enrollment criteria of the Hoopa Valley Tribe set out in the decision of the United States Court of Claims in its March 31, 1982, decision in the Short case (No. 102-63) as "Schedule A", "Schedule B", or "Schedule C" and who—

(A) maintained a residence on the Hoopa Valley Reservation on the date of enactment of this Act;

(B) had maintained a residence on the Hoopa Valley Reservation at any time within the five year period prior to the enactment of this Act; or

(C) owns an interest in real property on the Hoopa Valley Reservation on the date of enactment of this Act,

may elect to be, and, upon such election, shall be entitled to be, enrolled as a full member of the Hoopa Valley Tribe.

(2) Notwithstanding any provision of the constitution, ordinances or resolutions of the Hoopa Valley Tribe to the contrary, the Secretary shall cause any entitled person electing to be enrolled as a member of the Hoopa Valley Tribe to be so enrolled and such person shall thereafter be entitled to the same rights, benefits, and privileges as any other member of such tribe.

Claims. Jesse Short.

(3) The Secretary shall determine the quantum of "Indian blood" or "Hoopa Indian blood", if any, of each person enrolled in the Hoopa Valley Tribe under this subsection pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jesse Short et al. v. United States, (Cl. Ct. No. 102-63).

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Yurok Indian Reservation or the Yurok Tribe or in the Settlement Fund.

(c) YUROK TRIBAL MEMBERSHIP OPTION.—(1) Any person on the Settlement Roll may elect to become a member of the Yurok Tribe and shall be entitled to participate in the organization of such tribe as provided in section 9.

Claims. Jesse Short.

(2) All persons making an election under this subsection shall form the base roll of the Yurok Tribe for purposes of organization

pursuant to section 9 and the Secretary shall determine the quantum of "Indian blood" if any pursuant to the criteria established in the March 31, 1982, decision of the United States Court of Claims in the case of Jesse Short et al. v. United States, (Cl. Ct. No. 102-63).

(3) The Secretary, subject to the provisions of section 7 of the Act of October 19, 1973 (87 Stat. 466), as amended (25 U.S.C. 1407), shall pay to each person making an election under this subsection, $5,000 out of the Settlement Fund for those persons who are, on the date established pursuant to section 6(a)(4), below the age of 50 years, and $7,500 out of the Settlement Fund for those persons who are, on that date, age 50 or older.

(4) Any person making an election under this subsection shall no longer have any right or interest whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation or the Hoopa Valley Tribe or, except to the extent authorized by paragraph (3), in the Settlement Fund. Any such person shall also be deemed to have granted to members of the Interim Council established under section 9 an irrevocable proxy directing them to approve a proposed resolution waiving any claim the Yurok Tribe may have against the United States arising out of the provisions of this Act, and granting tribal consent as provided in section 9(d)(2).

(d) LUMP SUM PAYMENT OPTION.—(1) Any person on the Settlement Roll may elect to receive a lump sum payment from the Settlement Fund and the Secretary shall pay to each such person the amount of $15,000 out of the Settlement Fund: *Provided,* That such individual completes a sworn affidavit certifying that he or she has been afforded the opportunity to participate in counseling which the Secretary, in consultation with the Hoopa Tribal Council or Yurok Transition Team, shall provide. Such counseling shall provide a comprehensive explanation of the effects of such election on the individual making such election, and on the tribal enrollment rights of that persons children and descendants who would otherwise be eligible for membership in either the Hoopa or Yurok Tribe.

(2) The option to elect a lump sum payment under this section is provided solely as a mechanism to resolve the complex litigation and other special circumstances of the Hoopa Valley Reservation and the tribes of the reservation, and shall not be construed or treated as a precedent for any future legislation.

(3) Any person making an election to receive, and having received, a lump sum payment under this subsection shall not thereafter have any interest or right whatsoever in the tribal, communal, or unallotted land, property, resources, or rights within, or appertaining to, the Hoopa Valley Reservation, the Hoopa Valley Tribe, the Yurok Reservation, or the Yurok Tribe or, except authorized by paragraph (1), in the Settlement Fund.

SEC. 7. DIVISION OF SETTLEMENT FUND REMAINDER. 25 USC 1300i-6.

(a) Any funds remaining in the Settlement Fund after the payments authorized to be made therefrom by subsections (c) and (d) of section 6 and any payments made to successful appellants pursuant to section 5(d) shall be paid to the Yurok Tribe and shall be held by the Secretary in trust for such tribe.

(b) Funds divided pursuant to this section and any funds apportioned to the Hoopa Valley Tribe and the Yurok Tribe pursuant to subsections (c) and (d) of section 4 shall not be distributed per capita to any individual before the date which is 10 years after the date on

which the division is made under this section: *Provided, however,* That if the Hoopa Valley Business Council shall decide to do so it may distribute from the funds apportioned to it a per capita payment of $5,000 per member, pursuant to the Act of August 2, 1983 (25 U.S.C. 117a et seq.).

25 USC 1300i-7.

SEC. 8. HOOPA VALLEY TRIBE; CONFIRMATION OF STATUS.

The existing govening documents of the Hoopa Valley Tribe and the governing body established and elected thereunder, as heretofore recognized by the Secretary, are hereby ratified and confirmed.

25 USC 1300i-8.

SEC. 9. RECOGNITION AND ORGANIZATION OF THE YUROK TRIBE.

(a) YUROK TRIBE.—(1) Those persons on the Settlement Roll who made a valid election pursuant to subsection (c) of section 6 shall constitute the base membership roll for the Yurok Tribe whose status as an Indian tribe, subject to the adoption of the Interim Council resolution as required by subsection (d)(2), is hereby ratified and confirmed.

(2) The Indian Reorganization Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 461 et seq.), as amended, is hereby made applicable to the Yurok Tribe and the tribe may organize under such Act as provided in this section.

(3) Within thirty days (30) after the enactment of this Act the Secretary, after consultation with the appropriate committees of Congress, shall appoint five (5) individuals who shall comprise the Yurok Transition Team which, pursuant to a budget approved by the Secretary, shall provide counseling, promote communication with potential members of the Yurok Tribe concerning the provisions of this Act, and shall study and investigate programs, resources, and facilities for consideration by the Interim Council. Any property acquired for or on behalf of the Yurok Transition Team shall be held in the name of the Yurok Tribe.

(b) INTERIM COUNCIL; ESTABLISHMENT.—There shall be established an Interim Council of the Yurok Tribe to be composed of five members. The Interim Council shall represent the Yurok Tribe in the implementation of provisions of this Act, including the organizational provisions of this section, and subject to subsection (d) shall be the governing body of the tribe until such time as a tribal council is elected under a constitution adopted pursuant to subsection (e).

(c) GENERAL COUNCIL; ELECTION OF INTERIM COUNCIL.—(1) Within 30 days after the date established pursuant to section 6(a)(4), the Secretary shall prepare a list of all persons eighteen years of age or older who have elected the Yurok Tribal Membership Option pursuant to section 6(c), which persons shall constitute the eligible voters of the Yurok Tribe for the purposes of this section, and shall provide written notice to such persons of the date, time, purpose, and order of procedure for the general council meeting to be scheduled pursuant to paragraph (2) for the consideration of the nomination of candidates for election to the Interim Council.

(2) Not earlier than 30 days before, nor later than 45 days after, the notice provided pursuant to paragraph (1), the Secretary shall convene a general council meeting of the eligible voters of the Yurok Tribe on or near the Yurok Reservation, to be conducted under such order of procedures as the Secretary determines appropriate, for the nomination of candidates for election of members of the Interim

Council. No person shall be eligible for nomination who is not on the list prepared pursuant to this section.

(3) Within 45 days after the general council meeting held pursuant to paragraph (2), the Secretary shall hold an election by secret ballot, with absentee balloting and write-in voting to be permitted, to elect the five members of the Interim Council from among the nominations submitted to him from such general council meeting. The Secretary shall assure that notice of the time and place of such election shall be provided to eligible voters at least fifteen days before such election.

(4) The Secretary shall certify the results of such election and, as soon as possible, convene an organizational meeting of the newly-elected members of the Interim Council and shall provide such advice and assistance as may be necessary for such organization.

(5) Vacancies on the Interim Council shall be filled by a vote of the remaining members.

(d) INTERIM COUNCIL; AUTHORITIES AND DISSOLUTION.—(1) The Interim Council shall have no powers other than those given to it by this Act.

(2) The Interim Council shall have full authority to adopt a resolution—

(i) waiving any claim the Yurok Tribe may have against the United States arising out of the provision of this Act, and

(ii) affirming tribal consent to the contribution of Yurok Escrow monies to the Settlement Fund, and for their use as payments to the Hoopa Tribe, and to individual Hoopa members, as provided in this Act, and

(iii) to receive grants from, and enter into contracts for, Federal programs, including those administered by the Secretary and the Secretary of Health and Human Services, with respect to Federal services and benefits for the tribe and its members.

(3) The Interim Council shall have such other powers, authorities, functions, and responsibilities as the Secretary may recognize, except that any contract or legal obligation that would bind the Yurok Tribe for a period in excess of two years from the date of the certification of the election by the Secretary shall be subject to disapproval and cancellation by the Secretary if the Secretary determines that such a contract or legal obligation is unnecessary to improve housing conditions of members of the Yurok Tribe, or to obtain other rights, privileges or benefits that are in the long-term interest of the Yurok Tribe.

(4) The Interim Council shall appoint, as soon as practical, a drafting committee which shall be responsible, in consultation with the Interim Council, the Secretary and members of the tribe, for the preparation of a draft constitution for submission to the Secretary pursuant to subsection (e).

(5) The Interim Council shall be dissolved effective with the election and installation of the initial tribe governing body elected pursuant to the constitution adopted under subsection (e) or at the end of two years after such installation, whichever occurs first.

(e) ORGANIZATION OF YUROK TRIBE.—Upon written request of the Interim Council or the drafting committee and the submission of a draft constitution as provided in paragraph (4) of subsection (d), the Secretary shall conduct an election, pursuant to the provisions of the Indian Reorganization Act of June 18, 1934 (25 U.S.C. 461 et seq.) and rules and regulations promulgated thereunder, for the adoption

of such constitution and, working with the Interim Council, the election of the initial tribal governing body upon the adoption of such constitution.

25 USC 1300i-9.

SEC. 10. ECONOMIC DEVELOPMENT.

(a) PLAN FOR ECONOMIC SELF-SUFFICIENCY.—The Secretary shall—

(1) enter into negotiations with the Yurok Transition Team and the Interim Council of the Yurok Tribe with respect to establishing a plan for economic development for the tribe; and

(2) in accordance with this section and not later than two years after the date of enactment of this Act, develop such a plan.

(3) upon the approval of such plan by the Interim Council or tribal governing body (and after consultation with the State and local officials pursuant to subsection (b) of this section), the Secretary shall submit such plan to the Congress.

(b) CONSULTATION WITH STATE AND LOCAL OFFICIALS REQUIRED.—To assure that legitimate State and local interests are not prejudiced by the proposed economic self-sufficiency plan, the Secretary shall notify and consult with the appropriate officials of the State and all appropriate local governmental officials in the State. The Secretary shall provide complete information on the proposed plan to such officials, including the restrictions on such proposed plan imposed by subsection (c) of this section. During any consultation by the Secretary under this subsection, the Secretary shall provide such information as the Secretary may possess, and shall request comments and additional information on the extent of any State or local service to the tribe.

(c) RESTRICTIONS TO BE CONTAINED IN PLAN.—Any plan developed by the Secretary under subsection (a) of this section shall provide that—

(1) any real property transferred by the tribe or any member to the Secretary shall be taken and held in the name of the United States for the benefit of the tribe;

(2) any real property taken in trust by the Secretary pursuant to such plan shall be subject to—

(A) all legal rights and interests in such land existing at the time of the acquisition of such land by the Secretary, including any lien, mortgage, or previously levied and outstanding State or local tax;

(B) foreclosure or sale in accordance with the laws of the State pursuant to the terms of any valid obligation in existence at the time of the acquisition of such land by the Secretary; and

(3) any real property transferred pursuant to such plan shall be exempt from Federal, State, and local taxation of any kind.

(d) APPENDIX TO PLAN SUBMITTED TO THE CONGRESS.—The Secretary shall append to the plan submitted to the Congress under subsection (a) of this section a detailed statement—

(1) naming each individual and official consulted in accordance with subsection (b) of this section;

(2) summarizing the testimony received by the Secretary pursuant to any such consultation; and

(3) including any written comments or reports submitted to the Secretary by any party named in paragraph (1).

SEC. 11. SPECIAL CONSIDERATIONS. 25 USC 1300i-10.

(a) ESTATE FOR SMOKERS FAMILY.—The 20 acre land assignment on the Hoopa Valley Reservation made by the Hoopa Area Field Office of the Bureau of Indian Affairs on August 25, 1947, to the Smokers family shall continue in effect and may pass by descent or devise to any blood relative or relatives of one-fourth or more Indian blood of those family members domiciled on the assignment on the date of enactment of this Act.

(b) RANCHERIA MERGER WITH YUROK TRIBE.—If a majority of the adult members of any of the following Rancherias at Resighini, Trinidad, or Big Lagoon, vote to merge with the Yurok Tribe in an election which shall be conducted by the Secretary within ninety days after the date of enactment of this Act, the tribes and reservations of those rancherias so voting shall be extinguished and the lands and members of such reservations shall be part of the Yurok Reservation with the unallotted trust land therein held in trust by the United States for the Yurok Tribe: *Provided, however,* That the existing governing documents and the elected governing bodies of any rancherias voting to merge shall continue in effect until the election of the Interim Council pursuant to section 9. The Secretary shall publish in the Federal Register a notice of the effective date of the merger. Federal Register, publication.

(c) PRESERVATION OF LEASEHOLD AND ASSIGNMENT RIGHTS OF RANCHERIA RESIDENTS.—Real property on any rancheria that merges with the Yurok Reservation pursuant to subsection (b) that is, on the date of enactment of this Act, held by any individual under a lease shall continue to be governed by the terms of the lease, and any land assignment existing on the date of the enactment of this Act shall continue in effect and may pass by descent or devise to any blood relative or relatives of Indian blood of the assignee.

SEC. 12. KLAMATH RIVER BASIN FISHERIES TASK FORCE.

(a) IN GENERAL.—Section 4(c) of the Act entitled "An Act to provide for the restoration of the fishery resources in the Klamath River Basin, and for other purposes" (16 U.S.C. 460ss-3) is amended—

(A) in the matter preceding paragraph (1), by striking out "12" and inserting in lieu thereof "14"; and

(B) by inserting at the end thereof the following new paragraphs:

"(11) A representative of the Karuk Tribe, who shall be appointed by the governing body of the Tribe,

"(12) A representative of the Yurok Tribe, who shall be appointed by the Secretary until such time as the Yurok Tribe is organized upon which time the Yurok Tribe shall appoint such representative beginning with the first appointment ordinarily occurring after the Yurok Tribe is organized".

(b) SPECIAL RULE.—The initial term of the representative appointed pursuant to section 4(c) (11) and (12) of such Act (as added by the amendment made by subsection (a)) shall be for that time which is the remainder of the terms of the members of the Task Force then serving. Thereafter, the term of such representatives shall be as provided in section 4(e) of such Act. 16 USC 460ss-3 note.

SEC. 13. TRIBAL TIMBER SALES PROCEEDS USE.

Section 7 of the Act of June 25, 1910 (36 Stat. 857; 25 U.S.C. 407) is amended to read as follows:

"SEC. 7. Under regulations prescribed by the Secretary of the Interior, the timber on unallotted trust land in Indian reservations or on other land held in trust for tribes may be sold in accordance with the principles of sustained-yield management or to convert the land to a more desirable use. After deduction, if any, for administrative expenses under the Act of February 14, 1920 (41 Stat. 415; 25 U.S.C. 413), the proceeds of the sale shall be used—

"(1) as determined by the governing bodies of the tribes concerned and approved by the Secretary, or

"(2) in the absence of such a governing body, as determined by the Secretary for the tribe concerned.".

25 USC 1300i-11.

SEC. 14. LIMITATIONS OF ACTIONS; WAIVER OF CLAIMS.

(a) Any claim challenging the partition of the joint reservation pursuant to section 2 or any other provision of this Act as having effected a taking under the fifth amendment of the United States Constitution or as otherwise having provided inadequate compensation shall be brought, pursuant to 28 U.S.C. 1491 or 28 U.S.C. 1505, in the United States Claims Court.

(b)(1) Any such claim by any person or entity, other than the Hoopa Valley Tribe or the Yurok Tribe, shall be forever barred if not brought within the later of 210 days from the date of the partition of the joint reservation as provided in section 2 or 120 days after the publication in the Federal Register of the option election date as required by section 6(a)(4).

(2) Any such claim by the Hoopa Valley Tribe shall be barred 180 days after the date of enactment of this Act or such earlier date as may be established by the adoption of a resolution waiving such claims pursuant to section 2(a)(2).

(3) Any such claim by the Yurok Tribe shall be barred 180 days after the general council meeting of the Yurok Tribe as provided in section 9 or such earlier date as may be established by the adoption of a resolution waiving such claims as provided in section 9(d)(2).

Reports.

(c)(1) The Secretary shall prepare and submit to the Congress a report describing the final decision in any claim brought pursuant to subsection (b) against the United States or its officers, agencies, or instrumentalities.

(2) Such report shall be submitted no later than 180 days after the entry of final judgment in such litigation. The report shall include any recommendations of the Secretary for action by Congress, including, but not limited to, any supplemental funding proposals necessary to implement the terms of this Act and any modifications to the resource and management authorities established by this Act. Notwithstanding the provisions of 28 U.S.C. 2517, any judgment

entered against the United States shall not be paid for 180 days after the entry of judgment; and, if the Secretary of the Interior submits a report to Congress pursuant to this section, then payment shall be made no earlier than 120 days after submission of the report.

Approved October 31, 1988.

LEGISLATIVE HISTORY—S. 2723 (H.R. 4469):

HOUSE REPORTS: No. 100-938, Pt. 1, accompanying H.R. 4469 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-564 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 30, considered and passed Senate.
Oct. 3, 4, considered and passed House.

Public Law 100-581
100th Congress

An Act

Nov. 1, 1988
[H.R. 2677]

To establish procedures for review of tribal constitutions and bylaws or amendments thereto pursuant to the Act of June 18, 1934 (48 Stat. 987).

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—INDIAN REORGANIZATION ACT AMENDMENTS

SEC. 101. Section 16 of the Act of June 18, 1934 (48 Stat. 984; 25 U.S.C. 476) is amended to read as follows:

"SEC. 16. (a) Any Indian tribe shall have the right to organize for its common welfare, and may adopt an appropriate constitution and bylaws, and any amendments thereto, which shall become effective when—

(1) ratified by a majority vote of the adult members of the tribe or tribes at a special election authorized and called by the Secretary under such rules and regulations as the Secretary may prescribe; and

(2) approved by the Secretary pursuant to subsection (d) of this section.

(b) Any constitution or bylaws ratified and approved by the Secretary shall be revocable by an election open to the same voters and conducted in the same manner as provided in subsection (a) for the adoption of a constitution or bylaws.

(c)(1) The Secretary shall call and hold an election as required by subsection (a)—

(A) within one hundred and eighty days after the receipt of a tribal request for an election to ratify a proposed constitution and bylaws, or to revoke such constitution and bylaws; or

(B) within ninety days after receipt of a tribal request for election to ratify an amendment to the constitution and bylaws.

(2) During the time periods established by paragraph (1), the Secretary shall—

(A) provide such technical advice and assistance as may be requested by the tribe or as the Secretary determines may be needed; and

(B) review the final draft of the constitution and bylaws, or amendments thereto to determine if any provision therein is contrary to applicable laws.

(3) After the review provided in paragraph (2) and at least thirty days prior to the calling of the election, the Secretary shall notify the tribe, in writing, whether and in what manner the Secretary has found the proposed constitution and bylaws or amendments thereto to be contrary to applicable laws.

(d)(1) If an election called under subsection (a) results in the adoption by the tribe of the proposed constitution and bylaws or amendments thereto, the Secretary shall approve the constitution and bylaws or amendments thereto within forty-five days after the

election unless the Secretary finds that the proposed constitution and bylaws or any amendments are contrary to applicable laws.

(2) If the Secretary does not approve or disapprove the constitution and bylaws or amendments within the forty-five days, the Secretary's approval shall be considered as given. Actions to enforce the provisions of this section may be brought in the appropriate Federal district court.

(e) In addition to all powers vested in any Indian tribe or tribal council by existing law, the constitution adopted by said tribe shall also vest in such tribe or its tribal council the following rights and powers: To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary; to prevent the sale, disposition, lease, or encumbrance of tribal lands, interests in lands, or other tribal assets without the consent of the tribe; and to negotiate with the Federal, State, and local governments. The Secretary shall advise such tribe or its tribal council of all appropriation estimates or Federal projects for the benefit of the tribe prior to the submission of such estimates to the Office of Management and Budget and the Congress.

State and local governments.

SEC. 102. For the purpose of this Act, the term— 25 USC 476 note.

(1) "applicable laws" means any treaty, Executive order or Act of Congress or any final decision of the Federal courts which are applicable to the tribe, and any other laws which are applicable to the tribe pursuant to an Act of Congress or by any final decision of the Federal courts;

(2) "appropriate tribal request" means receipt in the Area Office of the Bureau of Indian Affairs having administrative jurisdiction over the requesting tribe, of a duly enacted tribal resolution requesting a Secretarial election as well as a copy of the proposed tribal constitution and bylaws, amendment, or revocation action;

(3) "Secretary" means the Secretary of the Interior.

SEC. 103. Nothing in this Act is intended to amend, revoke, or affect any tribal constitution, bylaw, or amendment ratified and approved prior to this Act. 25 USC 476 note.

TITLE II—MISCELLANEOUS AMENDMENTS TO EXISTING LAWS

SEC. 201. Subsection (b) of section 3 of the Old Age Assistance Claims Settlement Act (98 Stat. 2317; 25 U.S.C. 2302(b)) is amended to read as follows:

"(b) No payment shall be made to a person under subsection (a) with respect to any unauthorized disbursement from the trust estate of a deceased Indian if—

"(1) the total amount of unauthorized disbursements from such trust estate was less than $50; or

"(2) the payment (not including interest) would be less than $10.".

SEC. 202. Section 4(b) of the Act of September 9, 1988 (Public Law 100-425) entitled "An Act to establish a reservation for the Confederated Tribes of the Grand Ronde Community of Oregon, and for other purposes" is amended by striking out "4" in the first column of the description of the thirty-eighth tract of land listed in that subsection and inserting in lieu thereof "2". 25 USC 713f note.

SEC. 203. Notwithstanding any other provision of law, the plan dated July 7, 1988, that was submitted by the Assistant Secretary of

the Interior for Indian Affairs to the Congress pursuant to the Indian Tribal Judgment Funds Use or Distribution Act, 87 Stat. 466, as amended (25 U.S.C. 1401 et seq.) for the division and use of the judgment funds awarded the Choctaw and Chickasaw Indians in Docket Numbered 387-85L of the United States Claims Court shall take effect upon enactment of this Act: *Provided,* That in the case of the Chickasaw portion of the Plan, instead of the action by the tribal governing body or of the Chickasaw electorate, the Plan shall be deemed to require the proposal of a budget in accordance with the tribe's governing documents, subject to the approval of the Secretary of the Interior.

SEC. 204. Section 4 of Public Law 99-283 (100 Stat. 404) is amended by striking out all that precedes paragraph (1) and inserting in lieu thereof the following:

"SEC. 4. The balance of the income derived by the Secretary of the Interior from the interests in the land described in section 1 that was transferred to the Treasury of the United States as miscellaneous receipts shall be transferred from the General Fund of the Treasury of the United States to, and held in trust by, the Secretary of the Interior for use as follows:".

SEC. 205. Paragraph (1) of section 2(c) of Public Law 96-135 (25 U.S.C. 472a(c)(1)) is amended by striking out "an employee" and inserting in lieu thereof "an applicant or employee".

SEC. 206. Section 23 of the Act of June 25, 1910 (36 Stat. 861; 25 U.S.C. 47) is amended by striking out "products" and inserting in lieu thereof "products (including, but not limited to printing, notwithstanding any other law)".

SEC. 207. Subsection (c) of section 518 of the Federal Water Pollution Control Act is amended by striking out the period at the end thereof and inserting in lieu thereof the following: ", as defined in subsection (h) and former Indian reservations in Oklahoma (as determined by the Secretary of the Interior) and Alaska Native Villages as defined in Public Law 92-203.". 33 USC 1377.

SEC. 208. (a) Subsection (h) of section 4 of the Indian Self-Determination and Education Assistance Act as amended by section 103 of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended— 25 USC 450b.

(1) by striking out "by tribal organization" and inserting in lieu thereof "by a tribal organization"; and

(2) by striking out "a tribal organization or a tribal governing body" and inserting in lieu thereof "a tribal organization or the tribal organization's Indian tribe for purposes of section 102(a) of this Act".

(b) Subsection (j) of section 4 of the Indian Self-Determination and Education Assistance Act as amended by section 103 of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended—

(1) by striking out "Secretary the planning" and inserting in lieu thereof "the Secretary for the planning"; and

(2) by striking out "no contract" and inserting in lieu thereof "except as provided the last proviso in section 105(a) of this Act, no contract".

SEC. 209. Subsection (e) of section 5 of the Indian Self-Determination and Education Assistance Act as amended by section 104(b) of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended by striking out "to tribes" and inserting in lieu thereof "to each tribe". 25 USC 450c.

SEC. 210. Subsection (c)(2) of section 102 of the Indian Self-Determination and Education Assistance Act as amended by section 201 of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended by striking out "section 1425 of title 25, United States Code" and inserting in lieu thereof "section 3 of the Indian Financing Act of 1974 (88 Stat. 77; 25 U.S.C. 1451 et seq.)". 25 USC 450f.

SEC. 211. Section 109 of the Indian Self-Determination and Education Assistance Act is amended by striking out "after providing notice and hearing to such tribal organization" and inserting in lieu thereof "after providing notice and hearing on the record to such tribal organization" and by striking out "in such cases, he shall hold a hearing within ten days thereof" and inserting in lieu thereof "in such cases, he shall provide the tribal organization with a hearing on the record within ten days or such later date as the tribal organization may approve.". 25 USC 450m.

SEC. 212. (a) Subsection (a) of section 110 of the Indian Self-Determination and Education Assistance Act as amended by section 201 of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended by striking out "over civil action" and inserting in lieu thereof "over any civil action". 25 USC 450m-1.

(b) Subsection (b) of section 100 of the Indian Self-Determination and Education Assistance Act as amended by section 201 of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended by striking out "an Indian tribe" and inserting in lieu thereof "tribal organization" and by striking out "such tribe" and inserting in lieu thereof "such tribal organization".

(c) Subsection (c) of section 110 of the Indian Self-Determination and Education Assistance Act as amended by section 201 of the Indian Self-Determination and Education Assistance Act Amendments of 1988 is further amended to read as follows: 25 USC 450m-1.

"(c) The Equal Access to Justice Act (Public Law 96-481, Act of October 1, 1980; 92 Stat. 2325, as amended), section 504 of title 5, United States Code, and section 2412 of title 28, United States Code shall apply to administrative appeals pending on or filed after the date of enactment of the Indian Self-Determination and Education Assistance Act Amendments of 1988 by tribal organizations regarding self-determination contracts.".

SEC. 213. Subsection (c) of the Act of August 31, 1964 (Public Law 88-540; 78 Stat. 747, 25 U.S.C. 608(c)) is amended to read as follows:

"(c) Lands and interests in lands acquired by the Secretary pursuant to section (a)(1) of this Act and for the benefit of the Yakima Indian Nation pursuant to section 5 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465) shall be held in trust by the United States for the benefit of the Yakima Indian Nation.".

SEC. 214. Section 5 of the Act of June 18, 1934 (48 Stat. 985; 25 U.S.C. 465) is amended by striking out "this Act" and inserting in lieu thereof "this Act or the Act of July 28, 1955 (69 Stat. 392), as amended (25 U.S.C. 608 et seq.)".

SEC. 215. Section 816 of the Native American Programs Act of 1974 is amended by striking out "the preceding fiscal year" in subsection (c)(2) and inserting in lieu thereof "fiscal year 1987". 42 USC 2992d.

SEC. 216. Subsection (b) of section 5 of Public Law 86-339 (73 Stat. 604; 25 U.S.C. 955) is amended by the following new sentence at the end thereof: "A payment and the income derived therefrom heretofore or hereafter made to an allottee as compensation for the

acquisition of part or all of the allottee's allotment for a public purpose is—

(1) deemed a cash payment in lieu of an allotment for purposes of this subsection;

(2) deemed a right under subsection (a) of this section; and

(3) subject to the Act of March 2, 1931, ch. 374, 46 Stat. 1471 (25 U.S.C. 409a) and the undesignated provision added to the Act of Febraury 8, 1887, ch. 119, by the Act of June 21, 1906, ch. 3504, 34 Stat. 327 (25 U.S.C. 410).".

SEC. 217. The Secretary of the Interior shall pay to the Tiospa Zina Tribal School from lapsed balances of funds appropriated for the Bureau of Indian Affairs for fiscal year 1987 the amount that the Director of the Office of Indian Education Programs of the Bureau determines that the School should have received that year for start-up costs.

43 USC 1613 note.

SEC. 218. Subsection (a)(1) of section 2 of Public Law 94-204 (89 Stat. 1148), as amended by section 1411(a) of Public Law 96-487 (94 Stat. 2497), is amended by inserting in the first paragraph after "resources of lands" and before "withdrawn" the following: ", including wildlife proceeds received between the date of withdrawal and the date of conveyance from harvests on lands conveyed pursuant to the Act,".

TITLE III—TO TRANSFER OWNERSHIP OF CERTAIN LANDS HELD IN TRUST FOR THE BLACKFEET TRIBE, AND FOR OTHER PURPOSES

Claims.
Garret White.
Many Whitehorse.
John Benedict Renville.
Mary Lois Peterson Munoz.

SEC. 301. (a) As compensation for and in settlement of all claims arising as the result of alleged errors in the Secretary of the Interior's approval of purported conveyances of land involved in the will of Garret White (also known as Many Whitehorse), upon certification by the Secretary of the Interior that the conditions precedent in subsection (c) have been met, the Secretary of the Treasury is directed to pay as a settlement under 1304(a)(1) of title 31, United States Code, not to exceed the following sums—

(1) $50,000.00 to John Benedict Renville of the Blackfeet Indian Reservation;

(2) $58,500.00 to be held in trust by the Secretary of the Interior for the Blackfeet Tribe of the Blackfeet Indian Reservation of Montana;

(3) $127,000.00 to Mary Lois Peterson Munoz of Cut Bank, Montana; and

(4) $165,535.00, to the Secretary of the Interior to be held in trust for John Benedict Renville, less attorney fees paid to the attorney for John Benedict Renville as provided in this title.

(b) The payment and acceptance of such compensation shall be in full satisfaction of all claims that the receiving party has against the United States or any employee or officer thereof, and against any other party, in connection with the purported sale of some five hundred and forty acres of trust land involved in the will of Garret White to the Blackfeet Tribe approved October 28, 1946, the purported exchange of some two hundred and eighty acres of the land by the Tribe for other land, and the purported acquisition of the two hundred and eighty acres by Mary Lois Peterson Munoz.

(c) Each of the following is a condition precedent to any payment under subsection (a) of this Act:

(1) Each of the parties shall execute such releases, conveyances, or other documents as the Secretary of the Interior determines are necessary to carry out this Act by settling the claims and transferring interests in and clearing titles to the land involved. The execution of such documents on behalf of the Blackfeet Tribe is hereby authorized and is deemed approved under Resolution 250-87 of the Blackfeet Tribal Business Council and such documents may be executed by the Chairman. The Secretary of the Interior may approve and execute on behalf of the United States such documents as are necessary to carry out this Act.

(2) The Blackfeet Tribe shall transfer its interests in the remaining approximately two hundred and forty acres of land acquired by the Tribe on October 28, 1946, to the Secretary of the Interior who shall take the interests in trust for John Benedict Renville.

(3) Mary Lois Peterson Munoz shall transfer to the Secretary of the Interior all of her interests in the approximately two hundred and eighty acres of land which had been acquired by the Blackfeet Tribe on October 28, 1946, to the Secretary of the Interior who shall take the interests in trust for John Benedict Renville.

(4) A final order has been entered in the civil action entitled John Benedict Renville v. Blackfeet Tribe of Indians, et al., No. CV-84-41-6F, in the United States District Court for the District of Montana dismissing with prejudice all claims, crossclaims, counterclaims, third-party claims, and all other claims arising out of such civil action.

(d) The land and the interests therein acquired in trust by the Secretary of the Interior under this title shall be subject to the laws that would apply if the sale of October 28, 1946, had not taken place.

(e) The amounts paid under subsection (a) of this title to John Benedict Renville are subject to section 7 of the Act of October 19, 1973 (87 Stat. 468; 25 U.S.C. 1407), as amended.

(f) The amounts paid under subsection (a) of this Act to Mary Lois Peterson Munoz shall be considered as funds for condemnation proceedings as provided for in section 1033 of the Internal Revenue Code.

(g) No part of any amount paid under this Act in excess of 10 percent of such amount, including the value of the land returned, shall be paid or delivered to, or received by, any agent or attorney on account of services rendered John Benedict Renville in connection with any claim settled under this Act and the same shall be unlawful, any contract to the contrary notwithstanding. Violation of this subsection shall be a misdemeanor punishable by a fine of no more than $1,000. Law enforcement and crime.

(h) The Secretary of the Interior shall cause to be made an appraisal of the value of the lands described in subsection (b) as of the date of enactment of this Act; and the sums paid to the Blackfeet Tribe and Mary Lois Peterson Munoz under subsection (a) of this Act shall not exceed such appraisal values, plus a reasonable attorney's fee, not to exceed 10 percent of such award, any contract to the contrary notwithstanding. Violation of this subsection shall be a misdemeanor punishable by a fine of no more than $1,000. Law enforcement and crime.

TITLE IV—COLUMBIA RIVER TREATY FISHING ACCESS SITES

Public lands.

SEC. 401. (a) All Federal lands within the area described on maps numbered HR2677 sheets 1 through 12, dated September 21, 1988, and on file in the offices of the Secretary of the Interior, the Secretary of the Army and the Columbia River Gorge Commission shall, on and after the date of enactment of this Act, be administered to provide access to usual and accustomed fishing areas and ancillary fishing facilities for members of the Nez Perce Tribe, the Confederated Tribes of Umatilla Indian Reservation, the Confederated Tribes of the Warm Springs Reservation of Oregon, and the Confederated Tribes and Bands of the Yakima Indian Nation.

(b) Notwithstanding any other provision of law, the Secretary of the Army shall—

(1) identify and acquire additional lands adjacent to the Bonneville Pool from willing sellers until such time that at least six sites have been acquired adjacent to the Bonneville Pool for the purpose of providing access and ancillary fishing facilities for the members of the Indian tribes referred to in subsection (a); and

Conservation.

(2) improve the lands referred to in subsections (a) and paragraph (1) of subsection (b) and maintain such lands until such time as the lands are transferred to the Department of the Interior for the purpose of maintaining the sites. Such improvements shall include, but not be limited to, camping and park facilities to the same standards as those provided in the National Park System; all weather access roads and boat ramps; docks; sanitation; fish cleaning, curing, and ancillary fishing facilities; electrical and sewage facilities; and landscaping; and

Recreation.

Washington.
Oregon.
Conservation.
Recreation.

(3) make improvements at existing sites, including but not limited to dredging at the site at Wind River, Washington, and constructing a boat ramp on or near the site at Cascade Locks, Oregon.

(c) The Secretary of the Army shall treat the costs of implementation of paragraphs (2) and (3) of subsection (b) as project costs of the Army Corps of Engineers Columbia River projects, and such costs shall be allocated in accordance with existing principles of allocating Columbia River project costs. Funds heretofore and hereafter appropriated to the Secretary of the Army for maintenance and development of Columbia River projects may be used to defray the costs of accomplishing the purposes of this Act.

Appropriation authorization.

(d) There is hereby authorized to be appropriated a sum not to exceed $2,000,000 to implement the purposes of subsection (b)(1).

(e) The Secretary of the Interior shall be vested with the right of first refusal, after consultation with the Indian entities in subsection (a), to acccept any lands adjacent to the Columbia River within the Bonneville, Dalles, and John Day Pools now owned or subsequently acquired by any Federal agency and declared to be excess lands or otherwise offered for sale or lease by such Federal agency, and upon such acceptance, such Federal agency shall transfer such lands to the Secretary for the purpose of Indian treaty fishing: *Provided however,* That total acreage of sites provided under this section adjacent to the Bonneville Pool of the Columbia River not exceed three hundred and sixty acres.

(f) Nothing in this Act shall be construed as repealing, superseding, or modifying any right, privilege, or immunity granted, re-

served, or established pursuant to treaty, statute, or Executive order pertaining to any Indian tribe, band, or community.

TITLE V—POTAWATOMI JUDGMENT FUNDS

SEC. 501. That, notwithstanding any provision of the Act of October 19, 1973 (87 Stat. 466; 25 U.S.C. 1401, et seq.), or any other law, regulation, or plan promulgated pursuant thereto, the funds appropropriated in satisfaction of the judgment awarded to the Wisconsin Band of Potawatomi in docket 28 of the United States Claims Court (including all interests and investment income accrued thereon) shall be used and distributed as provided in this title.

SEC. 502. (a) The funds appropriated with respect to the judgment awarded the Wisconsin Band of Potawatomi in docket 28 of the United States Claims Court (less attorney fees and litigation expenses), including all interest and investment income accrued thereon, are allocated as follows:

(1) $^{14}/_{451}$ of such funds are allocated to the Hannahville Indian Community, and

(2) $^{31}/_{451}$ of such funds shall be allocated to the Forest County Potawatomi.

(b)(1) The funds allocated to each Indian tribe under subsection (a), and any interest and investment income accrued on such funds, are hereby declared to be held in trust by the United States for the benefit of such Indian tribe and shall be invested by the Secretary of the Interior for the benefit of such Indian tribe. Securities.

(2) The funds held in trust by the United States under paragraph (1) for the benefit of an Indian tribe shall be available to the governing body of such Indian tribe, on a budgetary basis and subject to the approval of the Secretary of the Interior, for tribal, social, and economic development programs for such Indian tribe.

SEC. 503. None of the funds held in trust by the United States under this title (including interest and investment income accrued on such funds while such funds are held in trust by the United States), and none of the funds made available under this title for programs or for distributions under any programs, shall be subject to Federal, State, or local income taxes, nor shall such funds nor their availability be considered as income or resources or otherwise utilized as the basis for denying or reducing the financial assistance or other benefits to which any household or individual would otherwise be entitled under the Social Security Act or, except for per capita payments in excess of $2,000, any other Federal or federally assisted program. Taxes.

TITLE VI—POTAWATOMI TRUST LANDS

SEC. 601. (a) All rights, title and interests of the United States in the surface and mineral estate of approximately 11,300 acres of land located in Forest County and Oconto County, Wisconsin, that was acquired by the United States by reason of section 24 of the Act of June 30, 1913 (38 Stat. 102), including any improvements on such land, are hereby declared to be held by the United States in trust for the benefit and use of the Forest County Potawatomi Community of Wisconsin and such land is hereby declared to be the reservation of the Forest County Potawatomi Community of Wisconsin. Wisconsin.

(b) All rights, title, and interests of the United States in the surface and mineral estates of approximately 3,359 acres of land Michigan.

located in Menominee County, Michigan, that was acquired by the United States by reason of section 24 of the Act of June 30, 1913 (38 Stat. 102), including any improvements on such lands, are hereby declared to be held by the United States in trust for the benefit and use of the Hannahville Indian Community of Michigan, and such land is hereby declared to be the reservation of the Hannahville Indian Community of Michigan.

Federal Register, publication. Minerals and mining.

SEC. 602. The Secretary of the Interior shall publish in the Federal Register a detailed description of the lands referred to in this title.

SEC. 603. Nothing in this title shall deprive any person (other than the United States) of any lease, right-of-way, mining claim, grazing permit, water right, or other right or interest which such person may have in the surface or mineral estate of any land referred to in section 1 on the day before the date of enactment of this Act.

Southern California Indian Land Transfer Act.

TITLE VII—SOUTHERN CALIFORNIA INDIAN LAND TRANSFER

SEC. 701. SHORT TITLE.

This title may be cited as the "Southern California Indian Land Transfer Act".

SEC. 702. LANDS HELD IN TRUST FOR VARIOUS GROUPS AND BANDS OF MISSION INDIANS.

(a) IN GENERAL.—Subject to section 3, all right, title, and interest of the United States in and to the lands described in subsection (b) in connection with each band or group of Mission Indians listed in the table contained in such subsection (including all improvements on such land and appurtenances to such land) are hereby declared—

(1) to be held in trust by the United States for the benefit of such band or group listed in such table, and

(2) to be part of the reservation listed in connection with each such band or group in such table.

(b) LAND DESCRIBED.—

(1) The lands referred to in subsection (a) are the lands which are described in paragraph (2) and are adjacent to the reservation of a band or group of Mission Indians, as listed in the following table and generally described as "Lands identified in the Proposed So. California Indian Land Transfer Act" and depicted on the map entitled "Southern California Indian Land Transfer Act Map", May 1988:

Band or group of Mission Indians	Approximate acreage	Reservation
Barona Group of Capitan Grande Band	722.86	Barona Ranch
Cahuilla Band	611.88	Cahuilla
Campo Band	470.28	Campo
La Jolla Band	355.51	La Jolla
La Posta	84.20	La Posta
Mesa Grande Band	800.00	Mesa Grande
Morongo Band	107.00	Morongo
Pala Band	415.00	Pala
Pechanga Band	302.64	Pechanga
Rincon Band	320.00	Rincon
Soboba	880.00	Soboba.

(2) The lands described in this paragraph are as follows:
(A) Lands with respect to the Barona Group of Capitan Grande Band:
T. 14S., R. 1E., SBM
Section 13, NE¼, N½SE¼;
T. 14S., R. 2E., SBM
Section 7, Lots 5, 6, 10, 11, 12, 21 and 22, E½NE¼, NE¼SW¼, SE¼;
Section 18, Lot 1, W½NE¼, NE¼NW¼;
(B) Lands with respect to the Cahuilla Band:
T. 8S., R. 2E., SBM
Section 11, Lots 5 through 8, 11, and 12;
Section 12, Lots 17 through 19;
T. 8S., R. 3E., SBM
Section 7, Lots 8 through 15;
Section 8, Lots 7, 8, and 12;
(C) Lands with respect to the Campo Band:
T. 17S., R. 6E., SBM
Section 17, S½NE¼, SE¼;
Section 35, Lots 3, 5, and 7, N½S½;
Section 36, Lots 6 and 9;
(D) Lands with respect to the La Jolla Band:
T. 11S., R. 1E., SBM
Section 2, Lots 1 through 4, S½NW¼;
Section 3, Lots 1 through 3;
(E) Lands with respect to the La Posta Band:
T. 17S., R. 6E., SBM
Section 6, Lots 6 through 8, SW¼NW¼;
(F) Lands with respect to the Mesa Grande Band:
T. 12S., R. 2E., SBM
Section 23, NE¼, N½SE¼, E½NW¼;
Section 24, NW¼NW¼, S½NW¼, NW¼SW¼, S½SW¼;
Section 25, E½NW¼, W½NE¼, W½SE¼;
(G) Lands with respect to the Morongo Band:
T. 3S., R. 1E., SBM
Section 34, S½NW¼NW¼;
T. 3S., R. 2E., SBM
Section 20, Lot 10;
Section 32, W½NW¼NE¼, N½SE¼NW¼, SW¼SE¼NW¼;
(H) Lands with respect to the Pala Band:
T. 9S., R. 2W., SBM
Section 13, SW¼SW¼ (excepting the patented portions of MS 6452 and MS 6848 and excepting those portions of public land not contiguous to the Indian Reservation);
Section 14, W½W½ (excepting the patented portion of MS 6458), SE¼SE¼ (excepting the patented portion of MS 6452 and excepting those portions of public land not contiguous to the Indian Reservation);

Section 15, NE¼NE¼, S½NE¼, E½W½, SE¼ (excepting the patented portions of MS 4886, MS 4926, and MS 6458);

(I) Lands with respect to the Pechanga Band:

T. 8S., R. 2W., SBM

Section 23, Lots 4 and 5, S½SW¼, SE¼;

(J) Lands with respect to the Rincon Band:

T. 10S., R. 1W., SBM

Section 28, SE¼, E½SW¼;

Section 33, N½NE¼;

(K) Lands with respect to the Soboba Band:

T. 4S., R. 1E., SBM

Section 20, SE¼SW¼;

Section 33, S½;

Section 34, W½NE¼, W½, W½SE¼, SE¼SE¼.

SEC. 703. EXISTING RIGHTS PRESERVED; RIGHT OF CERTAIN CURRENT LESSEES TO PURCHASE; MISCELLANEOUS PROVISIONS.

(a) EXISTING RIGHTS PRESERVED.—The declarations contained in section 702 shall not affect—

(1) any right or interest of any person in any land described in such section under any legal right-of-way, mining claim, or grazing permit in effect on the day before the date of the enactment of this Act, or

(2) any other right, title, or interest which such person may have in such land on such day.

(b) RIGHT OF HOLDER OF GRAZING PERMIT TO PURCHASE LANDS.—

(1) IN GENERAL.—Any person who holds a valid grazing permit and lease (as such term is defined in section 103(p) of the Federal Land Policy and Management Act of 1976) with respect to any land described in section 702 shall have the right to purchase such land before the end of the 1-year period beginning on the date of the enactment of this title for the fair market value of such land (determined as of the date of purchase) on such terms and conditions as the Secretary of the Interior may prescribe. The declarations in section 602 relating to the trust and reservation status of such land shall take effect subject to the right of purchase established under this paragraph.

(2) NOTICE BY SECRETARY REQUIRED.—Before the end of the 30-day period beginning on the date of the enactment of this Act, the Secretary of the Interior shall notify each person referred to in paragraph (1) of the right of purchase established under such paragraph.

(3) PROCEEDS OF SALE TO BE HELD IN TRUST FOR INDIANS.—In the case of any sale of land under paragraph (1), the proceeds of such sale shall be held in trust by the Secretary of the Interior for the benefit of the band or group of Mission Indians for whose benefit such land is held after the date of the enactment of this Act and before such sale. The net income on the amount held in trust by such Secretary shall be available for use or obligation by such band or group in such manner and for such purposes as the Secretary may approve.

(c) PROCEEDS FROM RENTS AND ROYALTIES TRANSFERRED TO INDIANS.—Amounts which accrue to the United States after the date of the enactment of this Act from sales, bonuses, royalties, and rentals relating to any land described in section 602 shall be avail-

able for use or obligation, in such manner and for such purposes as the Secretary may approve, by the band or group of Mission Indians for whose benefit such land is held after the date of the enactment of this Act.

(d) ADDITIONS TO RESERVATIONS SUBJECT TO LAWS GOVERNING EXISTING RESERVATIONS.—Any lands which are held in trust for the benefit of any band or group of Indians pursuant to this title shall be subject to the laws of the United States relating to Indian land in the same manner and to the same extent as the lands comprising the reservation of such group or band on the day before the date of the enactment of this Act.

Approved November 1, 1988.

LEGISLATIVE HISTORY—H.R. 2677:

HOUSE REPORTS: No. 100-453 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-577 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 7, considered and passed House.
Vol. 134 (1988): Sept. 30, considered and passed Senate, amended.
Oct. 6, House concurred in Senate amendment.

○

Public Law 100-582
100th Congress

An Act

Nov. 1, 1988
[H.R. 3515]

To amend the Solid Waste Disposal Act to require the Administrator of the Environmental Protection Agency to promulgate regulations on the management of infectious waste.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Medical Waste Tracking Act of 1988.
Safety.
State and local governments.
42 USC 6901 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medical Waste Tracking Act of 1988".

SEC. 2. TRACKING OF MEDICAL WASTE.

(a) AMENDMENT OF SOLID WASTE DISPOSAL ACT.—The Solid Waste Disposal Act is amended by adding the following new subtitle at the end:

"Subtitle J—Demonstration Medical Waste Tracking Program

42 USC 6992.

"SEC. 11001. SCOPE OF DEMONSTRATION PROGRAM FOR MEDICAL WASTE.

State listing.

"(a) COVERED STATES.—The States within the demonstration program established under this subtitle for tracking medical wastes shall be New York, New Jersey, Connecticut, the States contiguous to the Great Lakes and any State included in the program through the petition procedure described in subsection (c), except for any of such States in which the Governor notifies the Administrator under subsection (b) that such State shall not be covered by the program.

"(b) OPT OUT.—(1) If the Governor of any State covered under subsection (a) which is not contiguous to the Atlantic Ocean notifies the Administrator that such State elects not to participate in the demonstration program, the Administrator shall remove such State from the program.

"(2) If the Governor of any other State covered under subsection (a) notifies the Administrator that such State has implemented a medical waste tracking program that is no less stringent than the demonstration program under this subtitle and that such State elects not to participate in the demonstration program, the Administrator shall, if the Administrator determines that such State program is no less stringent than the demonstration program under this subtitle, remove such State from the demonstration program.

Regulations.

"(3) Notifications under paragraphs (1) or (2) shall be submitted to the Administrator no later than 30 days after the promulgation of regulations implementing the demonstration program under this subtitle.

"(c) PETITION IN.—The Governor of any State may petition the Administrator to be included in the demonstration program and the Administrator may, in his discretion, include any such State. Such petition may not be made later than 30 days after promulgation of regulations establishing the demonstration program under this sub-

title, and the Administrator shall determine whether to include the State within 30 days after receipt of the State's petition.

"(d) EXPIRATION OF DEMONSTRATION PROGRAM.—The demonstration program shall expire on the date 24 months after the effective date of the regulations under this subtitle.

"SEC. 11002. LISTING OF MEDICAL WASTES.

42 USC 6992a.

"(a) LIST.—Not later than 6 months after the enactment of this subtitle, the Administrator shall promulgate regulations listing the types of medical waste to be tracked under the demonstration program. Except as provided in subsection (b), such list shall include, but need not be limited to, each of the following types of solid waste:

Regulations.

"(1) Cultures and stocks of infectious agents and associated biologicals, including cultures from medical and pathological laboratories, cultures and stocks of infectious agents from research and industrial laboratories, wastes from the production of biologicals, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures.

"(2) Pathological wastes, including tissues, organs, and body parts that are removed during surgery or autopsy.

"(3) Waste human blood and products of blood, including serum, plasma, and other blood components.

"(4) Sharps that have been used in patient care or in medical, research, or industrial laboratories, including hypodermic needles, syringes, pasteur pipettes, broken glass, and scalpel blades.

"(5) Contaminated animal carcasses, body parts, and bedding of animals that were exposed to infectious agents during research, production of biologicals, or testing of pharmaceuticals.

"(6) Wastes from surgery or autopsy that were in contact with infectious agents, including soiled dressings, sponges, drapes, lavage tubes, drainage sets, underpads, and surgical gloves.

"(7) Laboratory wastes from medical, pathological, pharmaceutical, or other research, commercial, or industrial laboratories that were in contact with infectious agents, including slides and cover slips, disposable gloves, laboratory coats, and aprons.

"(8) Dialysis wastes that were in contact with the blood of patients undergoing hemodialysis, including contaminated disposable equipment and supplies such as tubing, filters, disposable sheets, towels, gloves, aprons, and laboratory coats.

"(9) Discarded medical equipment and parts that were in contact with infectious agents.

"(10) Biological waste and discarded materials contaminated with blood, excretion, excudates or secretion from human beings or animals who are isolated to protect others from communicable diseases.

"(11) Such other waste material that results from the administration of medical care to a patient by a health care provider and is found by the Administrator to pose a threat to human health or the environment.

"(b) EXCLUSIONS FROM LIST.—The Administrator may exclude from the list under this section any categories or items described in paragraphs (6) through (10) of subsection (a) which he determines do not pose a substantial present or potential hazard to human health

or the environment when improperly treated, stored, transported, disposed of, or otherwise managed.

42 USC 6992b.

"SEC. 11003 TRACKING OF MEDICAL WASTE.

Regulations.

"(a) DEMONSTRATION PROGRAM.—Not later than 6 months after the enactment of this subtitle, the Administrator shall promulgate regulations establishing a program for the tracking of the medical waste listed in section 11002 which is generated in a State subject to the demonstration program. The program shall (1) provide for tracking of the transportation of the waste from the generator to the disposal facility, except that waste that is incinerated need not be tracked after incineration, (2) include a system for providing the generator of the waste with assurance that the waste is received by the disposal facility, (3) use a uniform form for tracking in each of the demonstration States, and (4) include the following requirements:

"(A) A requirement for segregation of the waste at the point of generation where practicable.

"(B) A requirement for placement of the waste in containers that will protect waste handlers and the public from exposure.

"(C) A requirement for appropriate labeling of containers of the waste.

"(b) SMALL QUANTITIES.—In the program under subsection (a), the Administrator may establish an exemption for generators of small quantities of medical waste listed under section 11002, except that the Administrator may not exempt from the program any person who, or facility that, generates 50 pounds or more of such waste in any calendar month.

Records.

"(c) ON-SITE INCINERATORS.—Concurrently with the promulgation of regulations under subsection (a), the Administrator shall promulgate a recordkeeping and reporting requirement for any generator in a demonstration State of medical waste listed in section 11002 that (1) incinerates medical waste listed in section 11002 on site and (2) does not track such waste under the regulations promulgated under subsection (a). Such requirement shall require the generator to report to the Administrator on the volume and types of medical waste listed in section 11002 that the generator incinerated on site during the 6 months following the effective date of the requirements of this subsection.

Reports.

"(d) TYPE OF MEDICAL WASTE AND TYPES OF GENERATORS.—For each of the requirements of this section, the regulations may vary for different types of medical waste and for different types of medical waste generators.

42 USC 6992c.

"SEC. 11004. INSPECTIONS.

Records.

"(a) REQUIREMENTS FOR ACCESS.—For purposes of developing or assisting in the development of any regulation or report under this subtitle or enforcing any provision of this subtitle, any person who generates, stores, treats, transports, disposes of, or otherwise handles or has handled medical waste shall, upon request of any officer, employee, or representative of the Environmental Protection Agency duly designated by the Administrator, furnish information relating to such waste, including any tracking forms required to be maintained under section 11003, conduct monitoring or testing, and permit such person at all reasonable times to have access to, and to copy, all records relating to such waste. For such purposes, such officers, employees, or representatives are authorized to—

"(1) enter at reasonable times any establishment or other place where medical wastes are or have been generated, stored, treated, disposed of, or transported from;

"(2) conduct monitoring or testing; and

"(3) inspect and obtain samples from any person of any such wastes and samples of any containers or labeling for such wastes.

"(b) PROCEDURES.—Each inspection under this section shall be commenced and completed with reasonable promptness. If the officer, employee, or representative obtains any samples, prior to leaving the premises he shall give to the owner, operator, or agent in charge a receipt describing the sample obtained and, if requested, a portion of each such sample equal in volume or weight to the portion retained if giving such an equal portion is feasible. If any analysis is made of such samples, a copy of the results of such analysis shall be furnished promptly to the owner, operator, or agent in charge of the premises concerned.

"(c) AVAILABILITY TO PUBLIC.—The provisions of section 3007(b) of this Act shall apply to records, reports, and information obtained under this section in the same manner and to the same extent as such provisions apply to records, reports, and information obtained under section 3007.

"SEC. 11005. ENFORCEMENT. 42 USC 6992d.

"(a) COMPLIANCE ORDERS.—

"(1) VIOLATIONS.—Whenever on the basis of any information the Administrator determines that any person has violated, or is in violation of, any requirement or prohibition in effect under this subtitle (including any requirement or prohibition in effect under regulations under this subtitle) (A) the Administrator may issue an order (i) assessing a civil penalty for any past or current violation, (ii) requiring compliance immediately or within a specified time period, or (iii) both, or (B) the Administrator may commence a civil action in the United States district court in the district in which the violation occurred for appropriate relief, including a temporary or permanent injunction. Any order issued pursuant to this subsection shall state with reasonable specificity the nature of the violation.

"(2) ORDERS ASSESSING PENALTIES.—Any penalty assessed in an order under this subsection shall not exceed $25,000 per day of noncompliance for each violation of a requirement or prohibition in effect under this subtitle. In assessing such a penalty, the Administrator shall take into account the seriousness of the violation and any good faith efforts to comply with applicable requirements.

"(3) PUBLIC HEARING.—Any order issued under this subsection shall become final unless, not later than 30 days after issuance of the order, the persons named therein request a public hearing. Upon such request, the Administrator shall promptly conduct a public hearing. In connection with any proceeding under this section, the Administrator may issue subpoenas for the production of relevant papers, books, and documents, and may promulgate rules for discovery procedures.

"(4) VIOLATION OF COMPLIANCE ORDERS.—In the case of an order under this subsection requiring compliance with any requirement of or regulation under this subtitle, if a violator fails to take corrective action within the time specified in an

order, the Administrator may assess a civil penalty of not more than $25,000 for each day of continued noncompliance with the order.

"(b) CRIMINAL PENALTIES.—Any person who—

"(1) knowingly violates the requirements of or regulations under this subtitle;

"(2) knowingly omits material information or makes any false material statement or representation in any label, record, report, or other document filed, maintained, or used for purposes of compliance with this subtitle or regulations thereunder; or

"(3) knowingly generates, stores, treats, transports, disposes of, or otherwise handles any medical waste (whether such activity took place before or takes place after the date of the enactment of this paragraph) and who knowingly destroys, alters, conceals, or fails to file any record, report, or other document required to be maintained or filed for purposes of compliance with this subtitle or regulations thereunder

shall, upon conviction, be subject to a fine of not more than $50,000 for each day of violation, or imprisonment not to exceed 2 years (5 years in the case of a violation of paragraph (1)). If the conviction is for a violation committed after a first conviction of such person under this paragraph, the maximum punishment under the respective paragraph shall be doubled with respect to both fine and imprisonment.

"(c) KNOWING ENDANGERMENT.—Any person who knowingly violates any provision of subsection (b) who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, shall upon conviction be subject to a fine of not more than $250,000 or imprisonment for not more than 15 years, or both. A defendant that is an organization shall, upon conviction under this subsection, be subject to a fine of not more than $1,000,000. The terms of this paragraph shall be interpreted in accordance with the rules provided under section 3008(f) of this Act.

"(d) CIVIL PENALTIES.—Any person who violates any requirement of or regulation under this subtitle shall be liable to the United States for a civil penalty in an amount not to exceed $25,000 for each such violation. Each day of such violation shall, for purposes of this section, constitute a separate violation.

"(e) CIVIL PENALTY POLICY.—Civil penalties assessed by the United States or by the States under this subtitle shall be assessed in accordance with the Administrator's 'RCRA Civil Penalty Policy', as such policy may be amended from time to time.

42 USC 6992e.
Law enforcement and crime.

"SEC. 11006. FEDERAL FACILITIES.

"(a) IN GENERAL.—Each department, agency, and instrumentality of the executive, legislative, and judicial branches of the Federal Government in a demonstration State (1) having jurisdiction over any solid waste management facility or disposal site at which medical waste is disposed of or otherwise handled, or (2) engaged in any activity resulting, or which may result, in the disposal, management, or handling of medical waste shall be subject to, and comply with, all Federal, State, interstate, and local requirements, both substantive and procedural (including any requirement for permits or reporting or any provisions for injunctive relief and such sanctions as may be imposed by a court to enforce such relief), respecting control and abatement of medical waste disposal and management

in the same manner, and to the same extent, as any person is subject to such requirements, including the payment of reasonable service charges. The Federal, State, interstate, and local substantive and procedural requirements referred to in this subsection include, but are not limited to, all administrative orders, civil, criminal, and administrative penalties, and other sanctions, including injunctive relief, fines, and imprisonment. Neither the United States, nor any agent, employee, or officer thereof, shall be immune or exempt from any process or sanction of any State or Federal court with respect to the enforcement of any such order, penalty, or other sanction. For purposes of enforcing any such substantive or procedural requirement (including, but not limited to, any injunctive relief, administrative order, or civil, criminal, administrative penalty, or other sanction), against any such department, agency, or instrumentality, the United States hereby expressly waives any immunity otherwise applicable to the United States. The President may exempt any department, agency, or instrumentality in the executive branch from compliance with such a requirement if he determines it to be in the paramount interest of the United States to do so. No such exemption shall be granted due to lack of appropriation unless the President shall have specifically requested such appropriation as a part of the budgetary process and the Congress shall have failed to make available such requested appropriation. Any exemption shall be for a period not in excess of one year, but additional exemptions may be granted for periods not to exceed one year upon the President's making a new determination. The President shall report each January to the Congress all exemptions from the requirements of this section granted during the preceding calendar year, together with his reason for granting each such exemption.

President of U.S. Reports.

"(b) DEFINITION OF PERSON.—For purposes of this Act, the term 'person' shall be treated as including each department, agency, and instrumentality of the United States.

"SEC. 11007. RELATIONSHIP TO STATE LAW.

42 USC 6992f.

"(a) STATE INSPECTIONS AND ENFORCEMENT.—A State may conduct inspections under 11004 and take enforcement actions under section 11005 against any person, including any person who has imported medical waste into a State in violation of the requirements of, or regulations under, this subtitle, to the same extent as the Administrator. At the time a State initiates an enforcement action under section 11005 against any person, the State shall notify the Administrator in writing.

"(b) RETENTION OF STATE AUTHORITY.—Nothing in this subtitle shall—

"(1) preempt any State or local law; or

"(2) except as provided in subsection (c), otherwise affect any State or local law or the authority of any State or local government to adopt or enforce any State or local law.

"(c) STATE FORMS.—Any State or local law which requires submission of a tracking form from any person subject to this subtitle shall require that the form be identical in content and format to the form required under section 11003, except that a State may require the submission of other tracking information which is supplemental to the information required on the form required under section 11003 through additional sheets or such other means as the State deems appropriate.

42 USC 6992g.

"SEC. 11008. REPORT TO CONGRESS.

"(a) FINAL REPORT.—Not later than 3 months after the expiration of the demonstration program, the Administrator shall report to Congress on the following topics:

"(1) The types, number, and size of generators of medical waste (including small quantity generators) in the United States, the types and amounts of medical waste generated, and the on-site and off-site methods currently used to handle, store, transport, treat, and dispose of the medical waste, including the extent to which such waste is disposed of in sewer systems.

"(2) The present or potential threat to human health and the environment posed by medical waste or the incineration thereof.

"(3) The present and potential costs (A) to local economies, persons, and the environment from the improper handling, storage, transportation, treatment or disposal of medical waste and (B) to generators, transporters, and treatment, storage, and disposal facilities from regulations establishing requirements for tracking, handling, storage, transportation, treatment, and disposal of medical waste.

"(4)(A) The success of the demonstration program established under this subtitle in tracking medical waste,

"(B) changes in incineration and storage practices attributable to the demonstration program, and

"(C) other available and potentially available methods for tracking medical waste and their advantages and disadvantages, including the advantages and disadvantages of extending tracking requirements to (i) rural areas and (ii) small quantity generators.

"(5) Available and potentially available methods for handling, storing, transporting, and disposing of medical waste and their advantages and disadvantages.

"(6) Available and potentially available methods for treating medical waste, including the methods of incineration, sterilization, chemical treatment, and grinding, and their advantages, including their ability to render medical waste noninfectious or less infectious, and unrecognizable and otherwise protect human health and the environment, and disadvantages.

"(7) Factors affecting the effectiveness of the treatment methods identified in subsection (a)(5), including quality control and quality assurance procedures, maintenance procedures, and operator training.

"(8) Existing State and local controls on the handling, storage, transportation, treatment, and disposal of medical waste, including the enforcement and regulatory supervision thereof.

"(9) The appropriateness of using any existing State requirements or the requirements contained in subtitle C as nationwide requirements to monitor and control medical waste.

"(10) The appropriateness of the penalties provided in section 11006 for insuring compliance with the requirements of this subtitle, including a review of the level of penalties imposed under this subtitle.

"(11)(A) The effect of excluding households and small quantity generators from any regulations governing the handling, storage, transportation, treatment, and disposal of medical waste, and

"(B) potential guidelines for the handling, storage, treatment, and disposal of medical waste by households and small quantity generators.

"(12) Available and potentially available methods for the reuse or reduction of the volume of medical waste generated.

"(b) INTERIM REPORTS.—The Administrator shall submit two interim reports to Congress on the topics listed in subsection (a). The interim reports shall contain the information on the topics available to the Administrator at the time of submission. One interim report shall be due 9 months after enactment of this subtitle and one shall be due 12 months after the effective date of regulations under this subtitle.

"(c) CONSULTATION.—In preparing the reports under this section, the Administrator shall consult with appropriate State and local agencies.

"SEC. 11009. HEALTH IMPACTS REPORT. 42 USC 6992h.

"Within 24 months after the enactment of this section, the Administrator of the Agency for Toxic Substances and Disease Registry shall prepare for Congress a report on the health effects of medical waste, including each of the following—

"(1) A description of the potential for infection or injury from the segregation, handling, storage, treatment, or disposal of medical wastes.

"(2) An estimate of the number of people injured or infected annually by sharps, and the nature and seriousness of those injuries or infections.

"(3) An estimate of the number of people infected annually by other means related to waste segregation, handling, storage, treatment, or disposal, and the nature and seriousness of those infections.

"(4) For diseases possibly spread by medical waste, including Acquired Immune Deficiency Syndrome and hepatitis B, an estimate of what percentage of the total number of cases nationally may be traceable to medical wastes.

"SEC. 11010. GENERAL PROVISIONS. 42 USC 6992i.

"(a) CONSULTATION.—(1) In promulgating regulations under this subtitle, the Administrator shall consult with the affected States and may consult with other interested parties.

"(2) The Administrator shall also consult with the International Joint Commission to determine how to monitor the disposal of medical waste emanating from Canada. Canada.

"(b) PUBLIC COMMENT.—In the case of the regulations required by this subtitle to be promulgated within 9 months after the enactment of this subtitle, the Administrator may promulgate such regulations in interim final form without prior opportunity for public comment, but the Administrator shall provide an opportunity for public comment on the interim final rule. The promulgation of such regulations shall not be subject to the Paperwork Reduction Act of 1980.

"(c) RELATIONSHIP TO SUBTITLE C.—Nothing in this subtitle shall affect the authority of the Administrator to regulate medical waste, including medical waste listed under section 11002, under subtitle C of this Act.

42 USC 6992j. "SEC. 11011. EFFECTIVE DATE.

"The regulations promulgated under this subtitle shall take effect within 90 days after promulgation, except that, at the time of promulgation, the Administrator may provide for a shorter period prior to the effective date if he finds the regulated community does not need 90 days to come into compliance.

42 USC 6992k. "SEC. 11012. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to the Administrator such sums as may be necessary for each of the fiscal years 1989 through 1991 for purposes of carrying out activities under this subtitle.".

(b) TABLE OF CONTENTS.—The table of contents for the Solid Waste Disposal Act is amended by inserting the following after the items relating to subtitle I:

"Subtitle J—Demonstration Medical Waste Tracking Program

"Sec. 11001. Scope of demonstration program for medical waste.
"Sec. 11002. Listing of medical wastes.
"Sec. 11003. Tracking of medical waste.
"Sec. 11004. Inspections.
"Sec. 11005. Enforcement.
"Sec. 11006. Federal facilities.
"Sec. 11007. Relationship to State law.
"Sec. 11008. Report to Congress.
"Sec. 11009. Health impact report.
"Sec. 11010. General provisions.
"Sec. 11011. Effective date.
"Sec. 11012. Authorization of appropriations.".

SEC. 3. DEFINITION.

Section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903) is amended by adding the following at the end thereof:

"(40) Except as otherwise provided in this paragraph, the term 'medical waste' means any solid waste which is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. Such term does not include any hazardous waste identified or listed under subtitle C or any household waste as defined in regulations under subtitle C.".

SEC. 4. EPA LAW ENFORCEMENT POWERS.

(a) CONFERRAL OF LAW ENFORCEMENT POWERS.—Chapter 203 of title 18, United States Code, is amended by adding at the end the following:

"§ 3063. Powers of Environmental Protection Agency

"(a) Upon designation by the Administrator of the Environmental Protection Agency, any law enforcement officer of the Environmental Protection Agency with responsibility for the investigation of criminal violations of a law administered by the Environmental Protection Agency, may—

"(1) carry firearms;

"(2) execute and serve any warrant or other processes issued under the authority of the United States; and

"(3) make arrests without warrant for—

"(A) any offense against the United States committed in such officer's presence; or

"(B) any felony offense against the United States if such officer has probable cause to believe that the person to be arrested has committed or is committing that felony offense.

"(b) The powers granted under subsection (a) of this section shall be exercised in accordance with guidelines approved by the Attorney General.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 203 of title 18, United States Code, is amended by adding at the end the following:

"3063. Powers of Environmental Protection Agency.".

Approved November 1, 1988.

LEGISLATIVE HISTORY—H.R. 3515:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 4, 6, considered and passed House.
Oct. 7, considered and passed Senate, amended.
Oct. 12, House concurred in Senate amendments.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 2, Presidential statement.

○

Public Law 100-583
100th Congress

An Act

Nov. 3, 1988
[H.R. 515]

To provide for more detailed and uniform disclosure by credit and charge card issuers with respect to information relating to interest rates and other fees which may be incurred by consumers through the use of any credit or charge card.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Fair Credit and Charge Card Disclosure Act of 1988.
15 USC 1601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Credit and Charge Card Disclosure Act of 1988".

SEC. 2. CREDIT AND CHARGE CARD DISCLOSURE REQUIREMENTS.

(a) DISCLOSURE IN CONNECTION WITH CREDIT CARD AND CHARGE CARD APPLICATIONS AND SOLICITATIONS.—Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by adding at the end thereof the following new subsections:

"(c) DISCLOSURE IN CREDIT AND CHARGE CARD APPLICATIONS AND SOLICITATIONS.—

"(1) DIRECT MAIL APPLICATIONS AND SOLICITATIONS.—

"(A) INFORMATION IN TABULAR FORMAT.—Any application to open a credit card account for any person under an open end consumer credit plan, or a solicitation to open such an account without requiring an application, that is mailed to consumers shall disclose the following information, subject to subsection (e) and section 122(c):

"(i) ANNUAL PERCENTAGE RATES.—

"(I) Each annual percentage rate applicable to extensions of credit under such credit plan.

"(II) Where an extension of credit is subject to a variable rate, the fact that the rate is variable, the annual percentage rate in effect at the time of the mailing, and how the rate is determined.

"(III) Where more than one rate applies, the range of balances to which each rate applies.

"(ii) ANNUAL AND OTHER FEES.—

"(I) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of a credit card, including any account maintenance fee or other charge imposed based on activity or inactivity for the account during the billing cycle.

"(II) Any minimum finance charge imposed for each period during which any extension of credit which is subject to a finance charge is outstanding.

"(III) Any transaction charge imposed in connection with use of the card to purchase goods or services.

"(iii) GRACE PERIOD.—

"(I) The date by which or the period within which any credit extended under such credit plan for purchases of goods or services must be repaid to avoid incurring a finance charge, and, if no such period is offered, such fact shall be clearly stated.

"(II) If the length of such 'grace period' varies, the card issuer may disclose the range of days in the grace period, the minimum number of days in the grace period, or the average number of days in the grace period, if the disclosure is identified as such.

"(iv) BALANCE CALCULATION METHOD.—

"(I) The name of the balance calculation method used in determining the balance on which the finance charge is computed if the method used has been defined by the Board, or a detailed explanation of the balance calculation method used if the method has not been so defined.

"(II) In prescribing regulations to carry out this clause, the Board shall define and name not more than the 5 balance calculation methods determined by the Board to be the most commonly used methods.

"(B) OTHER INFORMATION.—In addition to the information required to be disclosed under subparagraph (A), each application or solicitation to which such subparagraph applies shall disclose clearly and conspicuously the following information, subject to subsections (e) and (f):

"(i) CASH ADVANCE FEE.—Any fee imposed for an extension of credit in the form of cash.

"(ii) LATE FEE.—Any fee imposed for a late payment.

"(iii) OVER-THE-LIMIT FEE.—Any fee imposed in connection with an extension of credit in excess of the amount of credit authorized to be extended with respect to such account.

"(2) TELEPHONE SOLICITATIONS.—

"(A) IN GENERAL.—In any telephone solicitation to open a credit card account for any person under an open end consumer credit plan, the person making the solicitation shall orally disclose the information described in paragraph (1)(A).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any telephone solicitation if—

"(i) the credit card issuer—

"(I) does not impose any fee described in paragraph (1)(A)(ii)(I); or

"(II) does not impose any fee in connection with telephone solicitations unless the consumer signifies acceptance by using the card;

"(ii) the card issuer discloses clearly and conspicuously in writing the information described in paragraph (1) within 30 days after the consumer requests the card, but in no event later than the date of delivery of the card; and

"(iii) the card issuer discloses clearly and conspicuously that the consumer is not obligated to accept the card or account and the consumer will not be obligated

to pay any of the fees or charges disclosed unless the consumer elects to accept the card or account by using the card.

"(3) APPLICATIONS AND SOLICITATIONS BY OTHER MEANS.—

"(A) IN GENERAL.—Any application to open a credit card account for any person under an open end consumer credit plan, and any solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications shall meet the disclosure requirements of subparagraph (B), (C), or (D).

"(B) SPECIFIC INFORMATION.—An application or solicitation described in subparagraph (A) meets the requirement of this subparagraph if such application or solicitation contains—

"(i) the information—

"(I) described in paragraph (1)(A) in the form required under section 122(c) of this chapter, subject to subsection (e), and

"(II) described in paragraph (1)(B) in a clear and conspicuous form, subject to subsections (e) and (f);

"(ii) a statement, in a conspicuous and prominent location on the application or solicitation, that—

"(I) the information is accurate as of the date the application or solicitation was printed;

"(II) the information contained in the application or solicitation is subject to change after such date; and

"(III) the applicant should contact the creditor for information on any change in the information contained in the application or solicitation since it was printed;

"(iii) a clear and conspicuous disclosure of the date the application or solicitation was printed; and

"(iv) a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided in the application or solicitation since it was printed.

"(C) GENERAL INFORMATION WITHOUT ANY SPECIFIC TERM.—An application or solicitation described in subparagraph (A) meets the requirement of this subparagraph if such application or solicitation—

"(i) contains a statement, in a conspicuous and prominent location on the application or solicitation, that—

"(I) there are costs associated with the use of credit cards; and

"(II) the applicant may contact the creditor to request disclosure of specific information of such costs by calling a toll free telephone number or by writing to an address, specified in the application;

"(ii) contains a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number and a mailing address at

which the applicant may contact the creditor to obtain such information; and

"(iii) does not contain any of the items described in paragraph (1).

"(D) APPLICATIONS OR SOLICITATIONS CONTAINING SUBSECTION (a) DISCLOSURES.—An application or solicitation meets the requirement of this subparagraph if it contains, or is accompanied by—

"(i) the disclosures required by paragraphs (1) through (6) of subsection (a);

"(ii) the disclosures required by subparagraphs (A) and (B) of paragraph (1) of this subsection included clearly and conspiciously (except that the provisions of section 122(c) shall not apply); and

"(iii) a toll free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided.

"(E) PROMPT RESPONSE TO INFORMATION REQUESTS.—Upon receipt of a request for any of the information referred to in subparagraph (B), (C), or (D), the card issuer or the agent of such issuer shall promptly disclose all of the information described in paragraph (1).

"(4) CHARGE CARD APPLICATIONS AND SOLICITATIONS.—

"(A) IN GENERAL.—Any application or solicitation to open a charge card account shall disclose clearly and conspicuously the following information in the form required by section 122(c) of this chapter, subject to subsection (e):

"(i) Any annual fee, other periodic fee, or membership fee imposed for the issuance or availability of the charge card, including any account maintenance fee or other charge imposed based on activity or inactivity for the account during the billing cycle.

"(ii) Any transaction charge imposed in connection with use of the card to purchase goods or services.

"(iii) A statement that charges incurred by use of the charge card are due and payable upon receipt of a periodic statement rendered for such charge card account.

"(B) OTHER INFORMATION.—In addition to the information required to be disclosed under subparagraph (A), each written application or solicitation to which such subparagraph applies shall disclose clearly and conspicuously the following information, subject to subsections (e) and (f):

"(i) CASH ADVANCE FEE.—Any fee imposed for an extension of credit in the form of cash.

"(ii) LATE FEE.—Any fee imposed for a late payment.

"(iii) OVER-THE-LIMIT FEE.—Any fee imposed in connection with an extension of credit in excess of the amount of credit authorized to be extended with respect to such account.

"(C) APPLICATIONS AND SOLICITATIONS BY OTHER MEANS.—Any application to open a charge card account, and any solicitation to open such an account without requiring an application, that is made available to the public or contained in catalogs, magazines, or other publications shall contain—

"(i) the information—

"(I) described in subparagraph (A) in the form required under section 122(c) of this chapter, subject to subsection (e), and

"(II) described in subparagraph (B) in a clear and conspicuous form, subject to subsections (e) and (f);

"(ii) a statement, in a conspicuous and prominent location on the application or solicitation, that—

"(I) the information is accurate as of the date the application or solicitation was printed;

"(II) the information contained in the application or solicitation is subject to change after such date; and

"(III) the applicant should contact the creditor for information on any change in the information contained in the application or solicitation since it was printed;

"(iii) a clear and conspicuous disclosure of the date the application or solicitation was printed; and

"(iv) a disclosure, in a conspicuous and prominent location on the application or solicitation, of a toll free telephone number or a mailing address at which the applicant may contact the creditor to obtain any change in the information provided in the application or solicitation since it was printed.

"(D) ISSUERS OF CHARGE CARDS WHICH PROVIDE ACCESS TO OPEN END CONSUMER CREDIT PLANS.—If a charge card permits the card holder to receive an extension of credit under an open end consumer credit plan, which is not maintained by the charge card issuer, the charge card issuer may provide the information described in subparagraphs (A) and (B) in the form required by such subparagraphs in lieu of the information required to be provided under paragraph (1), (2), or (3) with respect to any credit extended under such plan, if the charge card issuer discloses clearly and conspicuously to the consumer in the application or solicitation that—

"(i) the charge card issuer will make an independent decision as to whether to issue the card;

"(ii) the charge card may arrive before the decision is made with respect to an extension of credit under an open end consumer credit plan; and

"(iii) approval by the charge card issuer does not constitute approval by the issuer of the extension of credit.

The information required to be disclosed under paragraph (1) shall be provided to the charge card holder by the creditor which maintains such open end consumer credit plan before the first extension of credit under such plan.

"(E) CHARGE CARD DEFINED.—For the purposes of this subsection, the term 'charge card' means a card, plate, or other single credit device that may be used from time to time to obtain credit which is not subject to a finance charge.

"(5) REGULATORY AUTHORITY OF THE BOARD.—The Board may, by regulation, require the disclosure of information in addition to that otherwise required by this subsection or subsection (d), and modify any disclosure of information required by this

subsection or subsection (d), in any application to open a credit card account for any person under an open end consumer credit plan or any application to open a charge card account for any person, or a solicitation to open any such account without requiring an application, if the Board determines that such action is necessary to carry out the purposes of, or prevent evasions of, any paragraph of this subsection.

"(d) DISCLOSURE PRIOR TO RENEWAL.—

"(1) IN GENERAL.—Except as provided in paragraph (2), a card issuer that imposes any fee described in subsection (c)(1)(A)(ii)(I) or (c)(4)(A)(i) shall transmit to a consumer at least 30 days prior to the scheduled renewal date of the consumer's credit or charge card account a clear and conspicuous disclosure of—

"(A) the date by which, the month by which, or the billing period at the close of which, the account will expire if not renewed;

"(B) the information described in subsection (c)(1)(A) or (c)(4)(A) that would apply if the account were renewed, subject to subsection (e); and

"(C) the method by which the consumer may terminate continued credit availability under the account.

"(2) SPECIAL RULE FOR CERTAIN DISCLOSURES.—

"(A) IN GENERAL.—The disclosures required by this subsection may be provided—

"(i) prior to posting a fee described in subsection (c)(1)(A)(ii)(I) or (c)(4)(A)(i) to the account, or

"(ii) with the periodic billing statement first disclosing that the fee has been posted to the account.

"(B) LIMITATION ON USE OF SPECIAL RULE.—Disclosures may be provided under subparagraph (A) only if—

"(i) the consumer is given a 30-day period to avoid payment of the fee or to have the fee recredited to the account in any case where the consumer does not wish to continue the availability of the credit; and

"(ii) the consumer is permitted to use the card during such period without incurring an obligation to pay such fee.

"(3) SHORT-TERM RENEWALS.—The Board may by regulation provide for fewer disclosures than are required by paragraph (1) in the case of an account which is renewable for a period of less than 6 months.

"(e) OTHER RULES FOR DISCLOSURES UNDER SUBSECTIONS (c) AND (d).—

"(1) FEES DETERMINED ON THE BASIS OF A PERCENTAGE.—If the amount of any fee required to be disclosed under subsection (c) or (d) is determined on the basis of a percentage of another amount, the percentage used in making such determination and the identification of the amount against which such percentage is applied shall be disclosed in lieu of the amount of such fee.

"(2) DISCLOSURE ONLY OF FEES ACTUALLY IMPOSED.—If a credit or charge card issuer does not impose any fee required to be disclosed under any provision of subsection (c) or (d), such provision shall not apply with respect to such issuer.

"(f) DISCLOSURE OF RANGE OF CERTAIN FEES WHICH VARY BY STATE ALLOWED.—If the amount of any fee required to be disclosed by a credit or charge card issuer under paragraph (1)(B), (3)(B)(i)(II), (4)(B), or (4)(C)(i)(II) of subsection (c) varies from State to State, the

card issuer may disclose the range of such fees for purposes of subsection (c) in lieu of the amount for each applicable State, if such disclosure includes a statement that the amount of such fee varies from State to State.".

(b) CERTAIN INFORMATION REQUIRED TO BE DISCLOSED IN TABULAR FORM.—Section 122 of the Truth in Lending Act (15 U.S.C. 1632) is amended—

(1) in the third sentence of subsection (a), by striking out "Regulations" and inserting in lieu thereof "Except as provided in subsection (c), regulations"; and

(2) by adding at the end thereof the following new subsection:

"(c) TABULAR FORMAT REQUIRED FOR CERTAIN DISCLOSURES UNDER SECTION 127(c).—

"(1) IN GENERAL.—The information described in paragraphs (1)(A), (3)(B)(i)(I), (4)(A), and (4)(C)(i)(I) of section 127(c) shall be—

Regulations.

"(A) disclosed in the form and manner which the Board shall prescribe by regulations; and

"(B) placed in a conspicuous and prominent location on or with any written application, solicitation, or other document or paper with respect to which such disclosure is required.

"(2) TABULAR FORMAT.—

"(A) FORM OF TABLE TO BE PRESCRIBED.—In the regulations prescribed under paragraph (1)(A) of this subsection, the Board shall require that the disclosure of such information shall, to the extent the Board determines to be practicable and appropriate, be in the form of a table which—

"(i) contains clear and concise headings for each item of such information; and

"(ii) provides a clear and concise form for stating each item of information required to be disclosed under each such heading.

"(B) BOARD DISCRETION IN PRESCRIBING ORDER AND WORDING OF TABLE.—In prescribing the form of the table under subparagraph (A), the Board may—

"(i) list the items required to be included in the table in a different order than the order in which such items are set forth in paragraph (1)(A) or (4)(A) of section 127(c); and

"(ii) subject to subparagraph (C), employ terminology which is different than the terminology which is employed in section 127(c) if such terminology conveys substantially the same meaning.

"(C) GRACE PERIOD.—Either the heading or the statement under the heading which relates to the time period referred to in section 127(c)(1)(A)(iii) shall contain the term 'grace period'.".

SEC. 3. CIVIL LIABILITY.

Section 130(a) of the Truth in Lending Act (15 U.S.C. 1640) is amended—

(1) by striking out "in section 127" in the third sentence and inserting in lieu thereof "in subsections (a) and (b) of section 127"; and

(2) by inserting after the third sentence the following: "In connection with the disclosures referred to in subsection (c) or (d) of section 127, a card issuer shall have a liability under this

section only to a cardholder who pays a fee described in section 127(c)(1)(A)(ii)(I) or section 127(c)(4)(A)(i) or who uses the credit card or charge card.".

SEC. 4. COORDINATION WITH OTHER LAWS.

State and local governments.

Section 111 of the Truth in Lending Act (15 U.S.C. 1610) is amended—

(1) in subsection (a)(1), by striking out "Chapters 1, 2, and 3" and inserting in lieu thereof "Except as provided in subsection (e), chapters 1, 2, and 3"; and

(2) by adding at the end thereof the following new subsection:

"(e) CERTAIN CREDIT AND CHARGE CARD APPLICATION AND SOLICITATION DISCLOSURE PROVISIONS.—The provisions of subsection (c) of section 122 and subsections (c), (d), (e), and (f) of section 127 shall supersede any provision of the law of any State relating to the disclosure of information in any credit or charge card application or solicitation which is subject to the requirements of section 127(c) or any renewal notice which is subject to the requirements of section 127(d), except that any State may employ or establish State laws for the purpose of enforcing the requirements of such sections.".

SEC. 5. REPORTING TO THE BOARD OF GOVERNORS.

Section 136 of the Truth in Lending Act (15 U.S.C. 1646) is amended—

(1) by redesignating subsection (b) as subsection (c);

(2) by inserting after subsection (a) the following new subsection:

"(b) CREDIT CARD PRICE AND AVAILABILITY INFORMATION.—

Banks and banking.

"(1) COLLECTION REQUIRED.—The Board shall collect, on a semiannual basis, credit card price and availability information, including the information required to be disclosed under section 127(c) of this chapter, from a broad sample of financial institutions which offer credit card services.

"(2) SAMPLE REQUIREMENTS.—The broad sample of financial institutions required under paragraph (1) shall include—

"(A) the 25 largest issuers of credit cards; and

"(B) not less than 125 additional financial institutions selected by the Board in a manner that ensures—

"(i) an equitable geographical distribution within the sample; and

"(ii) the representation of a wide spectrum of institutions within the sample.

"(3) REPORT OF INFORMATION FROM SAMPLE.—Each financial institution in the broad sample established pursuant to paragraph (2) shall report the information to the Board in accordance with such regulations or orders as the Board may prescribe.

"(4) PUBLIC AVAILABILITY OF COLLECTED INFORMATION, REPORT TO CONGRESS.—The Board shall—

"(A) make the information collected pursuant to this subsection available to the public upon request; and

"(B) report such information semiannually to Congress."; and

(3) by striking out "subsection (a)" in subsection (c), as redesignated, and inserting in lieu thereof "subsections (a) and (b)".

SEC. 6. INSURANCE PROVIDED IN CONNECTION WITH CERTAIN OPEN END CREDIT CARD PLANS.

Section 127 of the Truth in Lending Act (15 U.S.C. 1637) is amended by inserting after subsection (f) (as added by section 2(a) of this Act) the following new subsection:

"(g) INSURANCE IN CONNECTION WITH CERTAIN OPEN END CREDIT CARD PLANS.—

"(1) CHANGE IN INSURANCE CARRIER.—Whenever a card issuer that offers any guarantee or insurance for repayment of all or part of the outstanding balance of an open end credit card plan proposes to change the person providing that guarantee or insurance, the card issuer shall send each insured consumer written notice of the proposed change not less than 30 days prior to the change, including notice of any increase in the rate or substantial decrease in coverage or service which will result from such change. Such notice may be included on or with the monthly statement provided to the consumer prior to the month in which the proposed change would take effect.

"(2) NOTICE OF NEW INSURANCE COVERAGE.—In any case in which a proposed change described in paragraph (1) occurs, the insured consumer shall be given the name and address of the new guarantor or insurer and a copy of the policy or group certificate containing the basic terms and conditions, including the premium rate to be charged.

"(3) RIGHT TO DISCONTINUE GUARANTEE OR INSURANCE.—The notices required under paragraphs (1) and (2) shall each include a statement that the consumer has the option to discontinue the insurance or guarantee.

"(4) NO PREEMPTION OF STATE LAW.—No provision of this subsection shall be construed as superseding any provision of State law which is applicable to the regulation of insurance.

"(5) BOARD DEFINITION OF SUBSTANTIAL DECREASE IN COVERAGE OR SERVICE.—The Board shall define, in regulations, what constitutes a 'substantial decrease in coverage or service' for purposes of paragraph (1).".

15 USC 1637 note.

SEC. 7. EFFECTIVE DATE.

Any regulation required to be prescribed by the Board under the amendments made by section 2 shall—

(1) take effect not later than the end of the 150-day period beginning on the date of the enactment of this Act; and

(2) apply only with respect to applications, solicitations, and other material distributed after the end of the 150-day period beginning after the end of the period referred to in paragraph (1), except that—

(A) in the case of applications and solicitations subject to paragraph (3) or (4)(C) of section 127(c) of the Truth in Lending Act (as added by section 2), such period shall be 240 days; and

(B) any card issuer may, at its option, comply with the requirements of the amendments made by this Act prior to the applicable effective date, in which case the amendments made by this Act shall be fully applicable to such card issuer.

SEC. 8. REPORTS TO THE CONGRESS.

15 USC 1637 note.

Not later than 1 year after the regulations prescribed under section 7 of this Act become effective and annually thereafter, the Board of Governors of the Federal Reserve System shall transmit to the Congress a report containing an assessment by the Board of the profitability of credit card operations of depository institutions, including an analysis of any impact of the amendments made by this Act on such profitability.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 515:

HOUSE REPORTS: No. 100-323 (Comm. on Banking, Finance and Urban Affairs) and No. 100-1069 (Comm. of Conference).
SENATE REPORTS: No. 100-259 (Comm. on Banking, Housing, and Urban Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 28, considered and passed House.
Dec. 21, considered and passed Senate, amended.
Vol. 134 (1988): Oct. 11, Senate agreed to conference report.
Oct. 19, House agreed to conference report.

Public Law 100-584
100th Congress

An Act

Nov. 3, 1988
[H.R. 2472]

To provide authorization of appropriations for activities of the National Telecommunications and Information Administration.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That there are authorized to be appropriated for activities of the National Telecommunications and Information Administration $14,718,000 for fiscal year 1988 and $15,000,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989.

Minorities.
Women.

SEC. 2. (a) The Administrator of the National Telecommunications and Information Administration (hereinafter referred to as the "Administrator") shall establish semiannual goals for recruiting and hiring minority members and women to the staff of the Administration. Such goals shall be published in the Federal Register not later than thirty days after the date of enactment of this Act.

Federal Register, publication.

Reports.

(b) The Administrator shall, not later than September 30, 1988, March 31, 1989, and September 30, 1989, submit a report on the success of the Administration in achieving the goals established under subsection (a) of this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives.

Grants.
47 USC 390 note.

SEC. 3. The Administrator shall enter into discussions with the Federal Communications Commission for the purposes of determining the feasibility of awarding public telecommunications facilities program grants for low-power television stations and television translator stations on a conditional basis pending the award by the Commission of licenses for such stations. The Administrator shall also work with the Commission to establish a schedule for the expedited and coordinated consideration, on a regular basis, of future grant requests and license applications for low-power television stations and television translator stations. The Administrator shall, within ninety days after the date of enactment of this Act, report to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives on the progress made in carrying out the requirements of this section.

Reports.

SEC. 4. (a) The Congress finds that—

(1) the Pacific Ocean region is of strategic importance to the United States, and other nations are seeking to establish their influence in this region;

(2) the Pacific Basin communities are important economically to the United States, and have sought a close relationship with the United States;

(3) because the Pacific Basin communities are geographically isolated and because many of such communities are relatively poor, they are in great need of quality, low cost communications services to maintain contact among themselves and with other countries; and

(4) since August 1985, the Pacific Basin communities have been without a vital communications service because the ATS-1 satellite of the National Aeronautics and Space Administration ceased operation.

Community development.

(b) It is the purpose of this section to assist in the acquisition of satellite communications services until commercially viable alternatives are available and to provide initial funding in order that the Pan-Pacific Educational and Cultural Experiments by Satellite Program again serves the educational, medical, and cultural needs of the Pacific Basin communities.

(c)(1) The Secretary of Commerce shall expeditiously negotiate and acquire satellite space segment capacity for communications services for the Pacific Ocean region for former users of the ATS-1 satellite of the National Aeronautics and Space Administration.

Defense and national security.

(2)(A) Such satellite space segment capacity may, for a period of three years from the time it is acquired, operate in those portions of the UHF frequency band (225-400 Megahertz) assigned to the Department of the Navy, unless the President finds that the use of such spectrum solely by the Department of Defense is essential to the national security of the United States.

(B) The Secretary of the Navy shall join with the Secretary of Commerce in the negotiation and acquisition of satellite space segment capacity under this section in any case where the capacity to be used is the capacity specified in subparagraph (A) of this paragraph.

(3)(A) The Secretary of Commerce shall provide to the managers of the Pan-Pacific Educational and Cultural Experiments by Satellite Program such funds as the Secretary of Commerce considers necessary to manage the operation of satellite communications services acquired under this subsection.

Records.

(B) The recipient of funds under subparagraph (A) of this paragraph shall keep such records as may reasonably be necessary to enable the Secretary of Commerce to conduct an effective audit of such funds.

(C) The Secretary of Commerce and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access for the purpose of audit and examination to any books, documents, papers, and records of such recipient that are pertinent to the funds received under subparagraph (A) of this paragraph.

(d) There are authorized to be appropriated $1,700,000 for each of the fiscal years 1988 and 1989 for use by the Secretary of Commerce in the development, including the acquisition, of satellite communications services under subsection (c) of this section. Sums appropriated pursuant to this subsection may be used by the Secretary of Commerce to cover administrative costs associated with the provisions of this section.

(e) The Secretary of Commerce shall consult with appropriate departments and agencies of the Federal Government, representatives of the Pan-Pacific Educational and Cultural Experiments by Satellite Program, and other affected parties regarding the development of a long-term commercial solution to the communication

Reports.

needs of the Pacific Ocean region. Within one year after the date of enactment of this Act, the Secretary of Commerce shall report to the Congress regarding such consultation.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 2472 (S. 828):

HOUSE REPORTS: No. 100-362 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-93 accompanying S. 828 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 13, considered and passed House.
Vol. 134 (1988): Aug. 4, H.R. 2472 considered and passed Senate, amended, in lieu of S. 828.
Oct. 19, House concurred in Senate amendment.

Public Law 100-585
100th Congress

An Act

To facilitate and implement the settlement of Colorado Ute Indian reserved water rights claims in southwest Colorado, and for other purposes.

Nov. 3, 1988
[H.R. 2642]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Colorado Ute Indian Water Rights Settlement Act of 1988.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Colorado Ute Indian Water Rights Settlement Act of 1988".

SEC. 2. FINDINGS.

The Congress finds that—

(1) The Federal reserved water rights claims of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe are the subject of existing and prospective lawsuits involving the United States, the State of Colorado, and numerous parties in southwestern Colorado.

(2) These lawsuits will prove expensive and time consuming to the Indian and non-Indian communities of southwestern Colorado.

(3) The major parties to the lawsuits and others interested in the settlement of the water rights claims of the Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe have worked diligently to settle these claims, resulting in the June 30, 1986, Binding Agreement for Animas-La Plata Project Cost Sharing which was executed in compliance with the cost sharing requirements of chapter IV of Public Law 99-88 (99 Stat. 293), and the December 10, 1986, Colorado Ute Indian Water Rights Final Settlement Agreement.

(4) The Ute Mountain Ute Indian Tribe and the Southern Ute Indian Tribe, by resolution of their respective tribal councils, which are the duly recognized governing bodies of each Tribe, have approved the December 10, 1986, Agreement and sought Federal implementation of its terms.

(5) This Act is required to implement portions of the above two agreements.

SEC. 3. DEFINITIONS.

For purposes of this Act—

(1) The term "Agreement" means the Colorado Ute Indian Water Rights Final Settlement Agreement dated December 10, 1986, among the State of Colorado, the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, the United States, and other participating parties.

(2) The term "Animas-La Plata Project" means the Animas-La Plata Project, Colorado and New Mexico, a participating project under the Act of April 11, 1956 (70 Stat. 105; 43 U.S.C. 620; commonly referred to as the "Colorado River Storage

Project Act") and the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.).

(3) The term "Dolores Project" means the Dolores Project, Colorado, a participating project under the Act of April 11, 1956 (70 Stat. 105; 43 U.S.C. 620; commonly referred to as the "Colorado River Storage Project Act"), the Colorado River Basin Project Act (82 Stat. 885; 43 U.S.C. 1501 et seq.), and as further authorized by the Colorado River Basin Salinity Control Act (98 Stat. 2933; 43 U.S.C. 1591).

(4) The term "final consent decree" means the consent decree contemplated to be entered after the date of enactment of this Act in the District Court, Water Division No. 7, State of Colorado, which will implement certain provisions of the Agreement.

(5) The term "Secretary" means the Secretary of the Interior.

(6) The terms "Tribe" and "Tribes" mean the Ute Mountain Ute Indian Tribe, the Southern Ute Indian Tribe, or both Tribes, as the context may require.

(7) The term "water year" means a year commencing on October 1 each year and running through the following September 30.

SEC. 4. PROVISION OF WATER TO TRIBES.

(a) WATER FROM THE ANIMAS-LA PLATA AND DOLORES PROJECTS.—The Secretary is authorized to supply water to the Tribes from the Animas-La Plata and Dolores Projects in accordance with the Agreement: *Provided,* That nothing in this subsection or in the authorized purposes of the projects may be construed to permit or prohibit the sale, exchange, lease, use, or other disposal of such water by the Tribes. Any such sale, exchange, lease, use, or other disposal of water from these projects shall be governed solely by the other provisions of this Act and the Agreement as modified pursuant to section 11 of this Act.

(b) APPLICATION OF FEDERAL RECLAMATION LAWS.—Except as provided in section 5 of this Act, the water supplied to the Tribes from the Animas-La Plata Project and the Dolores Project shall be subject to Federal reclamation laws only to the extent needed to effectuate the terms and conditions contained in Article III, section A, subsections 1 and 2 and Article III, section B of subsection 1 of the Agreement.

SEC. 5. DISPOSAL OF WATER.

(a) INDIAN INTERCOURSE ACT.—The provisions of section 2116 of the Revised Statutes (25 U.S.C. 177) shall not apply to any water rights confirmed in the Agreement and the final consent decree: *Provided,* That nothing in this subsection shall be considered to amend, construe, supersede, or preempt any State law, Federal law, interstate compact, or international treaty that pertains to the Colorado River or its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters.

Courts, U.S.

(b) RESTRICTION ON DISPOSAL OF WATERS INTO LOWER COLORADO RIVER BASIN.—None of the waters from the Animas-La Plata or Dolores Projects may be sold, exchanged, leased, used, or otherwise disposed of into or in the Lower Colorado River Basin unless water within the Colorado River Basin held by non-Federal, non-Indian holders of that water pursuant to any water rights could be so sold,

exchanged, leased, used, or otherwise disposed of under State law, Federal law, interstate compacts, or international treaty pursuant to a final, nonappealable order of a Federal court or pursuant to an agreement of the seven States signatory to the Colorado River Compact.

(c) USE OF WATER RIGHTS.—(1) The use of the rights referred to in subsection (a) within the State of Colorado shall be governed solely as provided in the Agreement as modified pursuant to section 11 of this Act and this subsection. The Agreement is hereby modified to provide that a Tribe may voluntarily elect to sell, exchange, lease, use, or otherwise dispose of any portion of a water right confirmed in the Agreement and final consent decree off its reservation. If either the Southern Ute Indian Tribe or the Ute Mountain Ute Indian Tribe so elects, and as a condition precedent to such sale, exchange, lease, use, or other disposition, that portion of the Tribe's water right shall be changed to a Colorado State water right, but be such a State water right only during the use of that right off the reservation, and shall be fully subject to State laws, Federal laws, interstate compacts, and international treaties applicable to the Colorado River and its tributaries, including the appropriation, use, development, storage, regulation, allocation, conservation, exportation, or quality of those waters. Contracts.

(2) The characterizations in the Agreement of any water rights which may be used off the reservation of the respective Tribe as either "project reserved water right" or "nonproject reserved water right" are hereby expressly disapproved and any claim to water rights so characterized shall be extinguished when the final consent decree is entered.

(d) RULES OF CONSTRUCTION.—Nothing in this Act or in the Agreement shall—

(1) constitute authority for the sale, exchange, lease, use, or other disposal of any Federal reserved water right off the reservations;

(2) constitute authority for the sale, exchange, lease, use, or other disposal of any water held pursuant to a Colorado State water right, or of any Colorado State water right, outside the State of Colorado; or

(3) be deemed a congressional determination that any holders of water rights do or do not have authority under existing law to sell, exchange, lease, use, or otherwise dispose of such water or water rights outside the State of Colorado.

SEC. 6. REPAYMENT OF PROJECT COSTS. Contracts.

(a) MUNICIPAL AND INDUSTRIAL WATER.—(1) The Secretary shall defer, without interest, the repayment of the construction costs allocable to each Tribe's municipal and industrial water allocation from the Animas-La Plata and Dolores Projects until water is first used either by the Tribe or pursuant to a water use contract with the Tribe. Until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe, the Secretary shall bear the annual operation, maintenance, and replacement costs allocable to the Tribe's municipal and industrial water allocation from the Animas-La Plata and Dolores Projects, which costs shall not be reimbursable by the Tribe.

(2) As an increment of such water is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, repayment of that increment's pro rata share of such allocable construction costs shall commence by the Tribe and the Tribe shall commence bearing that increment's pro rata share of the allocable annual operation, maintenance, and replacement costs.

(b) AGRICULTURAL IRRIGATION WATER.—(1) The Secretary shall defer, without interest, the repayment of the construction costs

within the capability of the land to repay, which are allocable to each Tribe's agricultural irrigation water allocation from the Animas-La Plata and Dolores Projects in accordance with the Act of July 1, 1932 (25 U.S.C. 386a; commonly referred to as the "Leavitt Act"), and section 4 of the Act of April 11, 1956 (70 Stat. 107; 43 U.S.C. 620c; commonly referred to as the "Colorado River Storage Project Act"). Such allocated construction costs which are beyond the capability of the land to repay shall be repaid as provided in subsection (g) of this section. Until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe, the Secretary shall bear the annual operation, maintenance, and replacement costs allocable to the Tribe's agricultural irrigation allocation from the Animas-La Plata Project, which costs shall not be reimbursable by the Tribe.

(2) As an increment of such water is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, the Tribe shall commence bearing that increment's pro rata share of the allocable annual operation, maintenance, and replacement costs.

Agriculture and agricultural commodities.

During any period in which water is used by a tribal lessee on land owned by non-Indians, the Tribe shall bear that increment's pro rata share of the allocated agricultural irrigation construction costs within the capability of the land to repay as established in subsection (b)(1).

(c) ANNUAL COSTS WITH RESPECT TO RIDGES BASIN PUMPING PLANT.—(1) The Secretary shall bear any increased annual operation, maintenance, and replacement costs to Animas-La Plata Project water users occasioned by a decision of either Tribe not to take delivery of its Animas-La Plata Project water allocations from Ridges Basin Pumping Plant through the Long Hollow Tunnel and the Dry Side Canal pursuant to Article III, section A, subsection 2.i and Article III, section B, subsection 1.i of the Agreement until such water is first used either by a Tribe or pursuant to a water use contract with the Tribe. Such costs shall not be reimbursable by the Tribe.

(2) As an increment of its water from the Animas-La Plata Project is first used by a Tribe or is first used pursuant to the terms of a water use contract with the Tribe, the Tribe shall commence bearing that increment's pro rata share of such increased annual operation, maintenance, and replacement costs, if any.

(d) SECRETARIAL DEFERRAL.—The Secretary may further defer all or a part of the tribal construction cost obligations and bear all or a part of the tribal operation, maintenance, and replacement obligations described in this section in the event a Tribe demonstrates that it is unable to satisfy those obligations in whole or in part from the gross revenues which could be generated from a water use contract for the use of its water either from the Dolores or the Animas-La Plata Projects or from the Tribe's own use of such water.

(e) USE OF WATER.—For the purpose of this section, use of water shall be deemed to occur in any water year in which a Tribe actually uses water or during the term of any water use contract. A water use contract pursuant to which the only income to a Tribe is in the nature of a standby charge is deemed not to be a use of water for the purposes of this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated such funds as may be necessary for the Secretary to pay the annual operation, maintenance, and replacement costs as provided in this section.

(g) COSTS IN EXCESS OF ABILITY OF THE IRRIGATORS TO REPAY.—The portion of the costs of the Animas-La Plata Project in excess of the ability of the irrigators to repay shall be repaid from the Upper Colorado River Basin Fund pursuant to the Colorado River Storage Project Act and the Colorado River Basin Project Act.

(h) DEFERRAL OF CERTAIN CONSTRUCTION COSTS.—Repayment of the portion of the construction costs of the Florida Project which have been allocated to the 563 acre-feet of agricultural irrigation water for which the Southern Ute Tribe is responsible shall be deferred by the Secretary pursuant to the Act of July 1, 1932 (25 U.S.C. 386a; 47 Stat. 564) as provided in section 4(d) of the Act of April 11, 1956 (43 U.S.C. 620c; 70 Stat. 107), and the Florida Water Conservancy District's current repayment obligation shall not change.

SEC. 7. TRIBAL DEVELOPMENT FUNDS.

(a) ESTABLISHMENT.—There is hereby authorized to be appropriated the total amount of $49,500,000 for three annual installment payments to the Tribal Development Funds which the Secretary is authorized and directed to establish for each Tribe. Subject to appropriation, and within 60 days of availability of the appropriation to the Secretary, the Secretary shall allocate and make payment to the Tribal Development Funds as follows: Appropriation authorization.

(1) To the Southern Ute Tribal Development Fund, in the first year, $7,500,000; in the two succeeding years, $5,000,000 and $5,000,000, respectively.

(2) To the Ute Mountain Ute Tribal Development Fund, in the first year, $12,000,000; in the two succeeding years, $10,000,000 and $10,000,000, respectively.

(b) ADJUSTMENT.—To the extent that any portion of such amount is contributed after the period described above or in amounts less than described above, the Tribes shall, subject to appropriation Acts, receive, in addition to the full contribution to the Tribal Development Funds, an adjustment representing the interest income as determined by the Secretary in his sole discretion that would have been earned on any unpaid amount had that amount been placed in the fund as set forth in section 7(a).

(c) TRIBAL DEVELOPMENT.—(1) The Secretary shall, in the absence of an approved tribal investment plan provided for in paragraph (2), invest the moneys in each Tribal Development Fund in accordance with the Act entitled "An Act to authorize the deposit and investment of Indian funds" approved June 24, 1938 (25 U.S.C. 162a). Separate accounts shall be maintained for each Tribe's development fund. The Secretary shall disburse, at the request of a Tribe, the principal and income in its development fund, or any part thereof, in accordance with an economic development plan approved under paragraph (3). Securities.

(2) Each Tribe may submit a tribal investment plan for all or part of its Tribal Development Fund as an alternative to the investment provided for in paragraph (1). The Secretary shall approve such investment plan within 60 days of its submission if the Secretary finds the plan to be reasonable and sound. If the Secretary does not approve such investment plan, the Secretary shall set forth in writing and with particularity the reasons for such disapproval. If such investment plan is approved by the Secretary, the Tribal Development Fund shall be disbursed to the Tribe to be invested by the Tribe in accordance with the approved investment plan. The

Secretary may take such steps as he deems necessary to monitor compliance with the approved investment plan. The United States shall not be responsible for the review, approval, or audit of any individual investment under the plan. The United States shall not be directly or indirectly liable with respect to any such investment, including any act or omission of the Tribe in managing or investing such funds. The principal and income from tribal investments under an approved investment plan shall be subject to the provisions of this section and shall be expended in accordance with an economic development plan approved under paragraph (3).

(3) Each Tribe shall submit an economic development plan for all or any portion of its Tribal Development Fund to the Secretary. The Secretary shall approve such plan within 60 days of its submission if the Secretary finds that it is reasonably related to the economic development of the Tribe. If the Secretary does not approve such plan, the Secretary shall, at the time of decision, set forth in writing and with particularity the reasons for such disapproval. Each Tribe may alter the economic development plan, subject to the approval of the Secretary as set forth in this subsection. The Secretary shall not be directly or indirectly liable for any claim or cause of action arising from the approval of an economic development plan or from the use and expenditure by the Tribe of the principal of the funds and income accruing to the funds, or any portion thereof, following the approval by the Secretary of an economic development plan.

(d) PER CAPITA DISTRIBUTIONS.—Under no circumstances shall any part of the principal of the funds, or of the income accruing to such funds, or the revenue from any water use contract, be distributed to any member of either Tribe on a per capita basis.

(e) LIMITATION ON SETTING ASIDE FINAL CONSENT DECREE.—Neither the Tribes nor the United States shall have the right to set aside the final consent decree solely because subsection (c) is not satisfied or implemented.

SEC. 8. WAIVER OF CLAIMS.

(a) GENERAL AUTHORITY.—The Tribes are authorized to waive and release claims concerning or related to water rights as described in the Agreement.

(b) CONDITION ON PERFORMANCE BY SECRETARY.—Performance by the Secretary of his obligations under this Act and payment of the moneys authorized to be paid to the Tribes by this Act shall be required only when the Tribes execute a waiver and release as provided in the Agreement.

SEC. 9. ADMINISTRATION.

In exercising his authority to administer water rights on the Ute Mountain Ute and Southern Ute Indian Reservations, the Secretary, on behalf of the United States, shall comply with the administrative procedures governing the water rights confirmed in the Agreement and the Final Consent Decree to the extent provided in Article IV of the Agreement.

SEC. 10. INDIAN SELF-DETERMINATION ACT.

(a) IN GENERAL.—The design and construction functions of the Bureau of Reclamation with respect to the Dolores and Animas-La Plata Projects shall be subject to the provisions of the Indian Self-Determination and Education Assistance Act (88 Stat. 2203; 25

U.S.C. 450 et seq.) to the same extent as if such functions were performed by the Bureau of Indian Affairs.

(b) APPLICATION.—This section shall not apply if the application of this section would detrimentally affect the construction schedules of the Dolores and Animas-La Plata Projects.

SEC. 11. MODIFICATION OF AGREEMENT; RULE OF CONSTRUCTION.

(a) MODIFICATION.—The Agreement shall be deemed to have been modified to conform to this Act.

(b) RULE OF CONSTRUCTION.—The Agreement shall be construed in a manner consistent with this Act. This Act is intended solely to permit settlement of existing and prospective litigation among the signatory parties to the Agreement. This Act is the result of a voluntary compromise agreement between the Southern Ute Indian Tribe, the Ute Mountain Ute Indian Tribe, the State of Colorado, local water districts and municipalities, and the United States. Accordingly, no provision of this Act, the Agreement, or the final consent decree shall be construed as altering or affecting the determination of any questions relating to the reserved water rights belonging to other Indian tribes.

SEC. 12. INDIVIDUAL MEMBERS OF TRIBES.

Any entitlement to reserved water of any individual member of either Tribe shall be satisfied from the water secured to that member's Tribe.

SEC. 13. EFFECTIVE DATE.

(a) Sections 4(b), 5, and 6 of this Act shall take effect on the date on which the final consent decree contemplated by the Agreement is entered by the District Court, Water Division No. 7, State of Colorado. Any moneys appropriated under section 7 of this Act shall be placed into the Ute Mountain Ute and Southern Ute Tribal Development Funds in the Treasury of the United States together with other parties' contributions to the Tribal Development Funds, but shall not be available for disbursement pursuant to section 7 until such time as the final consent decree is entered. If the final consent decree is not entered by December 31, 1991, the moneys so deposited shall be returned, together with a ratable share of accrued interest, to the respective contributors and the Ute Mountain Ute and Southern Ute Tribal Development Funds shall be terminated and the Agreement may be voided by any party to the Agreement. Upon such termination, the amount contributed thereto by the United States shall be deposited in the general fund of the Treasury.

(b) No provision of this Act shall be of any force or effect if the final consent decree is not executed and approved by the court.

SEC. 14. VOIDING OF AGREEMENT.

The United States shall not exercise its right to void the Agreement pursuant to Article VI, section C, subsection 2 thereof.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 2642 (S. 1415):

HOUSE REPORTS: No. 100-932 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-555 accompanying S. 1415 (Select Comm. on Indian Affairs and Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, considered and passed House.
Oct. 14, considered and passed Senate.

Public Law 100-586
100th Congress

An Act

Nov. 3, 1988
[H.R. 2806]

To amend the Federal Land Policy and Management Act of 1976, to permit temporary use for military purposes of public lands in Alaska managed by the Bureau of Land Management, Department of the Interior, and for other purposes.

Conservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 302 of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1732) is hereby amended by the addition at the end thereof of a new subsection, as follows:

"(d)(1) The Secretary of the Interior, after consultation with the Governor of Alaska, may issue to the Secretary of Defense or to the Secretary of a military department within the Department of Defense or to the Commandant of the Coast Guard a nonrenewable general authorization to utilize public lands in Alaska (other than within a conservation system unit or the Steese National Conservation Area or the White Mountains National Recreation Area) for purposes of military maneuvering, military training, or equipment testing not involving artillery firing, aerial or other gunnery, or other use of live ammunition or ordnance.

Environmental protection.

"(2) Use of public lands pursuant to a general authorization under this subsection shall be limited to areas where such use would not be inconsistent with the plans prepared pursuant to section 202. Each such use shall be subject to a requirement that the using department shall be responsible for any necessary cleanup and decontamination of the lands used, and to such other terms and conditions (including but not limited to restrictions on use of off-road or all-terrain vehicles) as the Secretary of the Interior may require to—

"(A) minimize adverse impacts on the natural, environmental, scientific, cultural, and other resources and values (including fish and wildlife habitat) of the public lands involved; and

"(B) minimize the period and method of such use and the interference with or restrictions on other uses of the public lands involved.

"(3)(A) A general authorization issued pursuant to this subsection shall not be for a term of more than three years and shall be revoked in whole or in part, as the Secretary of the Interior finds necessary, prior to the end of such term upon a determination by the Secretary of the Interior that there has been a failure to comply with its terms and conditions or that activities pursuant to such an authorization have had or might have a significant adverse impact on the resources or values of the affected lands.

"(B) Each specific use of a particular area of public lands pursuant to a general authorization under this subsection shall be subject to specific authorization by the Secretary and to appropriate terms and conditions, including such as are described in paragraph (2) of this subsection.

"(4) Issuance of a general authorization pursuant to this subsection shall be subject to the provisions of section 202(f) of this Act, section 810 of the Alaska National Interest Lands Conservation Act, and all other applicable provisions of law. The Secretary of a military department (or the Commandant of the Coast Guard) requesting such authorization shall reimburse the Secretary of the Interior for the costs of implementing this paragraph. An authorization pursuant to this subsection shall not authorize the construction of permanent structures or facilities on the public lands.

"(5) To the extent that public safety may require closure to public use of any portion of the public lands covered by an authorization issued pursuant to this subsection, the Secretary of the military department concerned or the Commandant of the Coast Guard shall take appropriate steps to notify the public concerning such closure and to provide appropriate warnings of risks to public safety. Safety.

"(6) For purposes of this subsection, the term 'conservation system unit' has the same meaning as specified in section 102 of the Alaska National Interest Lands Conservation Act.".

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 2806:

HOUSE REPORTS: No. 100-587, Pt. 1 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 23, considered and passed House.
Oct. 21, considered and passed Senate.

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Public Law 100-587
100th Congress

An Act

Nov. 3, 1988
[H.R. 4064]

To amend title 28 of the United States Code to authorize the appointment of additional bankruptcy judges.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 152(a) of title 28, United States Code, is amended—

(1) in the item relating to the district of Alaska by striking "1" and inserting "2",

(2) in the item relating to the district of Colorado by striking "4" and inserting "5",

(3) in the item relating to the district of Kansas by striking "3" and inserting "4",

(4) in the item relating to the eastern district of Kentucky by striking "1" and inserting "2",

(5) in the item relating to the eastern district of Texas by striking "1" and inserting "2",

(6) in the item relating to the western district of Texas, by striking "3" and inserting "4", and

(7) in the item relating to the district of Arizona, by striking "4" and inserting "5".

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 4064:

HOUSE REPORTS: No. 100-756, Pt. 1 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 19, House concurred in Senate amendment.

Public Law 100-588
100th Congress

An Act

To amend the Archaeological Resources Protection Act of 1979 to strengthen the enforcement provisions of that Act, and for other purposes.

Nov. 3, 1988
[H.R. 4068]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AMENDMENTS TO ARCHAEOLOGICAL RESOURCES PROTECTION ACT OF 1979.

(a) Section 3(3) of such Act is amended by striking out the semicolon at the end thereof and substituting a period. 16 USC 470bb.

(b) Section 6(a) of such Act is amended by inserting after "deface" the following: ", or attempt to excavate, remove, damage, or otherwise alter or deface". 16 USC 470ee.

(c) Section 6(d) of such Act is amended by striking "$5,000" and inserting in lieu thereof "$500".

(d) Section 10 of such Act is amended by adding the following new subsection at the end thereof: 16 USC 470ii.

"(c) Each Federal land manager shall establish a program to increase public awareness of the significance of the archaeological resources located on public lands and Indian lands and the need to protect such resources. Each such land manager shall submit an annual report to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate regarding the actions taken under such program.". Public lands. Reports.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 4068:

HOUSE REPORTS: No. 100-791, Pt. 1 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-566 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 19, House concurred in Senate amendment.

○

Public Law 100-589
100th Congress

An Act

Nov. 3, 1988
[H.R. 4124]

To authorize appropriations to carry out the Atlantic Striped Bass Conservation Act for fiscal years 1989 through 1991, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 1851 note.

SECTION 1. AUTHORIZATION OF APPROPRIATIONS.

Section 7 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851) is amended by striking "and 1988," and inserting in lieu thereof "1988, 1989, 1990, and 1991,".

16 USC 1851 note.

SEC. 2. EFFECTIVE PERIOD.

Section 9 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851) is amended by striking "1988." and inserting in lieu thereof "1991.".

SEC. 3. FUNDING OF STRIPED BASS STUDIES.

Section 7(d) of the Anadramous Fish Conservation Act (16 U.S.C. 757g(d)) is amended by striking "the fiscal year ending September 30, 1980," and all that follows through "September 30, 1988" and inserting in lieu thereof "each of the fiscal years 1988, 1989, 1990, and 1991".

SEC. 4. COMMISSION FUNCTIONS.

Section 4(a)(1) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended by inserting "and at any other time it deems necessary," immediately after "thereafter,".

16 USC 1851 note.

SEC. 5. STUDY OF STRIPED BASS IN ALBEMARLE SOUND AND ROANOKE RIVER BASIN.

(a) FINDINGS.—The Congress finds that:

(1) The anadromous stock of striped bass in the Albemarle Sound-Roanoke River Basin area of North Carolina sustained important commercial and recreational fisheries as recently as the 1960's and 1970's.

(2) This stock has been declining for some time and is severely depressed at present, and may soon reach a level from which recovery will be exceptionally difficult.

(3) The reasons for this decline are thought to include fishing; other human activities and environmental factors, such as unsuitable water flow before, during, and after critical spawning periods; degradation of water quality by pollutants; the impact of eutrophication on the food chain, and the impact of changing land use activities.

(4) Current Federal and interstate efforts to conserve the Atlantic striped bass, while effective in identifying factors contributing to the decline of other important Atlantic coastal migratory stocks of striped bass and steps that will be effective in reversing that decline, have not made a major contribution to

the protection and restoration of the Albemarle Sound-Roanoke River stock of striped bass.

(5) Because the striped bass and the aquatic environment of the Albemarle Sound-Roanoke River basin presently are being significantly affected by combined but not fully understood causes, a study should be undertaken to obtain additional biological information to understand the significance of fishing, water flows, and other factors in the decline of the striped bass populations in the Albemarle Sound-Roanoke River basin and, if feasible, develop an effective course of action for restoring these important stocks of striped bass.

(b) STUDY.—

(1) IN GENERAL.—The Director of the United States Fish and Wildlife Service, in consultation with the Assistant Administrator for Fisheries of the National Oceanic and Atmospheric Administration shall—

(A) immediately undertake a biological study of the striped bass fishery resources and habitats of the Albemarle Sound-Roanoke River basin area;

(B) develop short-term and long-term recommendations for Federal and State government agencies for restoring and conserving such resources and habitats; and

(C) submit the results of such study and such recommendations to the Congress and to the States of North Carolina and Virginia as soon as practicable, but not later than 36 months after the date of the enactment of this Act.

North Carolina. Virginia.

(2) CONTENTS OF THE STUDY.—The study conducted under this subsection shall, to the extent existing data are adequate, use such existing data and shall include—

(A) a description of the Albemarle Sound-Roanoke River basin area, and an investigation and analysis of the effects of land and water use practices on the striped bass population and habitats of the area;

(B) an investigation and analysis of the abundance and age and geographic distribution of the Albemarle Sound-Roanoke River stock of striped bass, including the amount and geographical location of migration and spawning habitat;

(C) an investigation and analysis of factors that may affect the abundance and age and geographic distribution of the Albemarle Sound-Roanoke River stock of striped bass, including—

(i) the extent and causes of mortality at successive stages in the life cycle of striped bass, including mortality due to recreational and commercial fishing; and

(ii) the combined effects of pollution and other natural and human alterations of the physical environment, including the effects of water withdrawals, discharges, and flows, on striped bass migration and spawning and on the viability and condition of eggs and larval fish;

(D) an investigation and analysis of the status and effectiveness of current striped bass management measures implemented by State and Federal authorities, including State fishing regulations and Federal fish stocking activities, reservoir management and water flow regulation, and an analysis of whether any additional State or Federal measures would be effective in halting the decline and

initiating the recovery of the Albemarle Sound-Roanoke River stock of striped bass; and

(E) a recommendation of whether conservation of the Albermarle Sound-Roanoke River stocks of striped bass could be improved by management of these stocks under the provisions of the Atlantic States Marine Fisheries Commission's Interstate Fisheries Management Plan for Striped Bass and the Atlantic Striped Bass Conservation Act.

(c) PARTICIPATION BY STATE AGENCIES.—

(1) The Director of the North Carolina Division of Marine Fisheries, the Executive Director of the North Carolina Wildlife Resources Commission, the Secretary of the Virginia Department of Natural Resources, and the District Engineer for the Wilmington District of the United States Army Corps of Engineers shall be invited to have their agencies participate in conducting the study and developing recommendations pursuant to subsection (b).

(2) To facilitate participation by the agencies referred to in paragraph (1), should they decide to participate, a Memorandum of Understanding will be executed with such officials setting forth the respective responsibilities of the entities involved in conducting the study and developing those recommendations.

(d) CONSULTATION.—In carrying out the study under subsection (b), the Atlantic States Marine Fisheries Commission, other Federal agencies, the Albermarle-Pamlico Estuarine Study, Dominion Resources, Inc./Virginia Power/North Carolina Power, affected local governments in North Carolina and Virginia, appropriate commercial and recreational fishing interests, and other interests shall be consulted, to the maximum extent practicable.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated the sum of $1,000,000 to carry out the requirements of this section. These appropriations will remain available until expended.

(f) STATE AUTHORITY.—Nothing in this section shall be construed as authorizing any State to manage fisheries within the jurisdiction of another State.

(g) RESTRICTION ON USE OF OTHER FUNDS.—Amounts appropriated pursuant to the authorization contained in section 7(d) of the Anadromous Fish Conservation Act (16 U.S.C. 757g(d)) shall not be used to carry out this section.

16 USC 1851 note.

SEC. 6. PROTECTION OF STRIPED BASS IN THE EXCLUSIVE ECONOMIC ZONE.

(a) REGULATION OF FISHING IN EXCLUSIVE ECONOMIC ZONE.—The Secretary of Commerce shall promulgate regulations governing the fishing for Atlantic striped bass in the exclusive economic zone that the Secretary determines to be consistent with the national standards set forth in section 301 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851) and necessary and appropriate to—

(1) ensure the effectiveness of State regulations or a Federal moratorium on fishing for Atlantic striped bass within the coastal waters of a coastal State; and

(2) achieve conservation and management goals for the Atlantic striped bass resource.

State and local governments.

(b) CONSULTATION; PERIODIC REVIEW OF REGULATIONS.—In preparing regulations under subsection (a), the Secretary shall consult with the Atlantic States Marine Fisheries Commission, the appropriate Regional Fishery Management Councils, and each affected Federal, State, and local government entity. The Secretary shall periodically review regulations promulgated under subsection (a), and if necessary to ensure their continued consistency with the requirements of subsection (a), shall amend those regulations.

(c) FISHERY MANAGEMENT PLAN ON STRIPED BASS.—

(1) The appropriate Regional Fishery Management Councils may prepare a fishery management plan on Atlantic striped bass, which if approved and implemented by the Secretary shall supersede any regulations promulgated under subsection (a). Such plan shall—

(A) meet the requirements of sections 301 and 303 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1851 and 1853);

(B) apply to all fishing for Atlantic striped bass within the exclusive economic zone; and

(C) ensure the effectiveness of the Plan of the Atlantic States Marine Fisheries Commission defined under section 3(7) of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note).

(2) The Secretary shall review such fishery management plan pursuant to section 304 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1854) and shall approve the plan if it meets the requirements of paragraph (1) and other provisions of this section. The Secretary shall implement the plan by promulgating regulations in accordance with section 305 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1855). No regulation promulgated under subsection (a) shall have force and effect during any period in which regulations implementing such plan are in effect.

(d) APPLICABILITY OF MAGNUSON ACT PROVISIONS.—The provisions of sections 307, 308, 309, 310, and 311 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857, 1858, 1859, 1860, and 1861) regarding prohibited acts, civil penalties, criminal offenses, civil forfeitures, and enforcement shall apply with respect to regulations and any plan issued under subsection (a) or (c) of this section as if such regulations or plan were issued under the Magnuson Fishery Conservation and Management Act.

(e) DEFINITION.—As used in this section, the term "exclusive economic zone" has the meaning given such term in section 3(6) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(6)).

(f) EFFECTIVE PERIOD.—Subsections (a) through (e) of this section shall cease to have force and effect at the close of September 30, 1991.

(g) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 3 of the Atlantic Striped Bass Conservation Act (16 U.S.C. 1851 note) is amended to read as follows:

"(1) The term 'Magnuson Act' means the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.).".

16 USC 1851 note.

(2) Section 5 of such Act is amended by striking "Act of 1976" each place it appears and inserting in lieu thereof "Magnuson Act".

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 4124 (S. 2384):

HOUSE REPORTS: No. 100-766 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 100-558 accompanying S. 2384 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
Oct. 14, considered and passed Senate, amended, in lieu of S. 2384.
Oct. 19, House concurred in Senate amendment.

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Public Law 100-590
100th Congress

An Act

To amend the Small Business Act and the Small Business Investment Act of 1958, and for other purposes.

Nov. 3, 1988
[H.R. 4174]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Small Business Administration Reauthorization and Amendment Act of 1988.
15 USC 631 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Small Business Administration Reauthorization and Amendment Act of 1988".

(b) TABLE OF CONTENTS.—

TITLE I—GENERAL REAUTHORIZATION PROVISIONS

Sec. 101. Program levels and authorizations.
Sec. 102. Form simplification and preferred financing.
Sec. 103. Guarantee percentages for preferred lenders.
Sec. 104. Examinations of small business investment companies.
Sec. 105. Minimum life of limited partnership small business investment companies.
Sec. 106. Periodic small business investment company debenture sales.
Sec. 107. General Accounting Office evaluation of the service corps of retired executives.
Sec. 108. Participation in the small business innovation and research program.
Sec. 109. SBA program data and evaluation.
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Sec. 111. Amendments relating to revolving funds.
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Sec. 113. Secondary market in development company loans.
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Sec. 119. Definition of disasters.
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Sec. 122. Unsecured disaster loans.
Sec. 123. National directory of small businesses.
Sec. 124. Women-owned business.
Sec. 125. Analysis of financing sources.
Sec. 126. Effective data collection on women-owned business.
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Sec. 130. Increased contract opportunities.
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Sec. 132. Background check policy—fingerprinting.
Sec. 133. Amendments relating to program for blind and handicapped.
Sec. 134. Miscellaneous amendments.
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Sec. 136. Promulgation of rules.
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TITLE II—PREFERRED SURETY BOND GUARANTEE PROGRAM

Sec. 201. Short title.
Sec. 202. Authority of the administration.
Sec. 203. Indemnification.
Sec. 204. Reports and audits of participating sureties.

Sec. 205. Regulations.
Sec. 206. Evaluation and report.
Sec. 207. Sunset.
Sec. 208. Revolving fund.
Sec. 209. Effective date.

TITLE I—GENERAL REAUTHORIZATION PROVISIONS

SEC. 101. PROGRAM LEVELS AND AUTHORIZATIONS.

Loans.

Section 20 of the Small Business Act (15 U.S.C. 631 note) is amended by striking the first sentence of subsection (a), by striking subsections (b) through (x), by redesignating subsections (y) and (z) as subsections (b) and (c), and by adding the following new subsections:

"(d) The following program levels are authorized for fiscal year 1989—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $62,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $17,000,000 in loans as provided in paragraph (10), $24,000,000 in loans as provided in paragraph (11), and $21,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of section 7(a) of this Act;

"(2) for the programs authorized by secton 7(a) of this Act and section 504 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,407,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $65,000,000 in loans as provided in paragraph (11), $60,000,000 in loans as provided in paragraph (12), and $460,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 504;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $39,000,000 in direct purchases of debentures and preferred securities and to make $272,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Busness Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,500,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is not authorized to enter into any guarantees.

"(e) There are authorized to be appropriated to the Administration for fiscal year 1989 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958, including $228,000,000 for salaries and expenses of the Administration, of which up to $2,600,000 may be available for the operations of the Service Corps of Retired Executives. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and

7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(f) The following program levels are authorized for fiscal year 1990—

"(1) for the programs authorized by section 7(a) of this Act, the Administration is authorized to make $65,000,000 in direct and immediate participation loans; and of such sum, the Administration is authorized to make $18,000,000 in loans as provided in paragraph (10), $25,000,000 in loans as provided in paragraph (11), and $22,000,000 in loans to disabled veterans and Vietnam era veterans as defined in section 1841, title 38, United States Code, under the general terms and conditions of section 7(a) of this Act;

"(2) for the programs authorized by section 7(a) of this Act and section 504 of the Small Business Investment Act of 1958, the Administration is authorized to make $3,543,000,000 in deferred participation loans and guarantees of debentures; and of such sum, the Administration is authorized to make $5,000,000 in loans as provided in paragraph (10), $68,000,000 in loans as provided in paragraph (11), $62,000,000 in loans as provided in paragraph (12), and $478,000,000 in loans as provided in paragraph (13) and guarantees of debentures as provided in section 504;

"(3) for the programs authorized by title III of the Small Business Investment Act of 1958, the Administration is authorized to make $41,000,000 in direct purchases of debentures and preferred securities and to make $283,000,000 in guarantees of debentures;

"(4) for the programs authorized by part B of title IV of the Small Business Investment Act of 1958, the Administration is authorized to enter into guarantees not to exceed $1,560,000,000; and

"(5) for the programs authorized in sections 404 and 405 of the Small Business Investment Act of 1958, the Administration is not authorized to enter into any guarantees.

"(g) There are authorized to be appropriated to the Administration for fiscal year 1990 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958, including $238,000,000 for salaries and expenses of the Administration, of which $2,700,000 shall be available for the operations of the Service Corps of Retired Executives. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.

"(h) There are authorized to be appropriated to the Administration for fiscal year 1991 such sums as may be necessary to carry out the provisions of this Act and the Small Business Investment Act of 1958. There also are hereby authorized to be appropriated such sums as may be necessary and appropriate for the carrying out of the provisions and purposes, including administrative expenses, of sections 7(b)(1) and 7(b)(2) of this Act; and there are authorized to be transferred from the disaster loan revolving fund such sums as may be necessary and appropriate for such administrative expenses.".

SEC. 102. FORM SIMPLIFICATION AND PREFERRED FINANCING.

(a) CERTIFIED LOAN PROGRAM.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by adding to subsection (a) the following new paragraph:

"(19) During fiscal years 1989, 1990, and 1991, in addition to the preferred lenders program authorized by the proviso in section 5(b)(7), the Administration is authorized to establish a certified loan program for lenders who establish their knowledge of Administration laws and regulations concerning the loan guarantees program and their proficiency in program requirements. In order to encourage certified lenders and preferred lenders to provide loans of $50,000 or less in guarantees to eligible small business loan applicants, the Administration (A) shall develop and shall allow participating lenders in the certified loan program and in the preferred loan program to solely utilize a uniform and simplified loan form for such loans and (B) shall allow such lenders to retain one-half of the fee collected pursuant to section 7(a)(16) on such loans: *Provided,* That a participating lender may not retain any fee pursuant to this paragraph if the amount committed and outstanding to the applicant would exceed $50,000 unless such excess amount was not approved under the provisions of this paragraph. The designation of a lender as a certified lender shall be suspended or revoked at any time that the Administration determines that the lender is not adhering to its rules and regulations or if the Administration determines that the loss experience of the lender is excessive as compared to other lenders: *Provided further,* That any suspension or revocation of the designation shall not affect any outstanding guarantee: *And, provided further,* That the Administration may not reduce the per centum of guarantee as a criterion of eligibility for participation in this program, except as otherwise provided by law.".

15 USC 636 note.

(b) REPORTS.—The Administration shall take appropriate steps to expand participation in the certified loan program and shall report to the Small Business Committees of the Senate and the House of Representatives on the amount of loans approved and the amount of losses sustained under the provisions of section 7(a)(19) of the Small Business Act. An interim report shall be submitted not later than one year after date of enactment of this Act and a final report shall be submitted not later than 18 months after the date of enactment.

SEC. 103. GUARANTEE PERCENTAGES FOR PREFERRED LENDERS.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by inserting after the word "thereto" in the second proviso, ", but any such reduction shall not exceed five points".

SEC. 104. EXAMINATIONS OF SMALL BUSINESS INVESTMENT COMPANIES.

Section 310 of the Small Business Investment Act of 1958 (15 U.S.C. 687b) is amended by striking the second sentence of subsection (b) and by adding the following new subsection to such section:

Law enforcement and crime.

"(c) Each small business investment company shall be examined at least every two years in such detail so as to determine whether or not—

"(1) it has engaged solely in lawful activities and those contemplated by this title;

"(2) it has engaged in prohibited conflicts of interest;

"(3) it has acquired or exercised illegal control of an assisted small business;

"(4) it has made investments in small businesses for not less than four years in the case of section 301(d) licensees and in all other cases, not less than five years;

"(5) it has invested more than 20 per centum of its capital in any individual small business;

"(6) it has engaged in relending, foreign investments, or passive investments; or

"(7) it has charged an interest rate in excess of the maximum permitted by law:

Provided, That the Administration may waive the examination (A) for up to one additional year if, in its discretion, it determines such a delay would be appropriate, based upon the amount of debentures being issued by the company and its repayment record, the prior operating experience of the company, the contents and results of the last examination and the management expertise of the company, or (B) if it is a company whose operations have been suspended while the company is involved in litigation or is in receivership.".

SEC. 105. MINIMUM LIFE OF LIMITED PARTNERSHIP SMALL BUSINESS INVESTMENT COMPANIES.

Section 301 of the Small Business Investment Act of 1958 (15 U.S.C. 681) is amended by striking from subsection (a) "has succession for a period of not less than thirty years unless sooner dissolved by its shareholders or partners" and inserting in lieu thereof ", if incorporated, has succession for a period of not less than thirty years unless sooner dissolved by its shareholders, and if a limited partnership, has succession for a period of not less than ten years,".

SEC. 106. PERIODIC SMALL BUSINESS INVESTMENT COMPANY DEBENTURE SALES.

(a) IN GENERAL.—Title III of the Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"PERIODIC ISSUANCE OF GUARANTEES AND TRUST CERTIFICATES

"SEC. 322. The Administration shall issue guarantees under section 303 and trust certificates under section 321 at periodic intervals of not less than every three months and shall do so at such shorter intervals as its deems appropriate, taking into consideration the amount and number of such guarantees or trust certificates.". 15 USC 687m.

(b) CLERICAL AMENDMENT.—The table of sections for title III is amended by adding the following new item:

"Sec. 322. Periodic issuance of guarantees and trust certificates.".

SEC. 107. GENERAL ACCOUNTING OFFICE EVALUATION OF THE SERVICE CORPS OF RETIRED EXECUTIVES. 15 USC 637 note.

The Comptroller General shall, not later than December 1, 1989, transmit a report to the Small Business Committees of the Senate and the House of Representatives on the functions being performed by volunteers in the Service Corps of Retired Executives and the Active Corps of Executives. Such report shall include his evaluation of the programs and shall include conclusions and recommendations concerning the efficiency and cost effectiveness of such volunteers. Reports.

SEC. 108. PARTICIPATION IN THE SMALL BUSINESS INNOVATION AND RESEARCH PROGRAM.

Subsection (j) of section 9 of the Small Business Act (15 U.S.C. 638(j)) is amended as follows:

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting a semicolon; and

(3) by adding the following new paragraphs:

"(6) standardized and orderly withdrawal from program participation by an agency having a SBIR program; at the discretion of the Administration, such directives may require a phased withdrawal over a period of time sufficient in duration to minimize any adverse impact on small business concerns; and

"(7) the voluntary participation in a SBIR program by a Federal agency not required to establish such a program pursuant to subsection (f).".

15 USC 639 note.

SEC. 109. SBA PROGRAM DATA AND EVALUATION.

The Small Business Administration shall develop a comprehensive system to systematically acquire data on the number of small businesses which participate in Administration programs, the nature and extent of their participation, the type of business, the results of such participation, and such other information as the Administration deems appropriate. It shall also include the number and dollar amount of guaranteed loans by lender, and the interest rate thereon, and the number and dollar amount of sales in the secondary market both by lender and by purchaser. The data shall be compiled and maintained to permit a statistically valid analysis and computation and evaluation of costs and benefits. The Administration shall submit a report to the Small Business Committees of the Senate and the House of Representatives not later than March 31, 1989, such report to include its conclusions and recommendations and estimate of the costs involved in implementing such a program and shall implement the system for all program assistance made available on or after October 1, 1989.

Reports.

SEC. 110. BREAKOUT PROCUREMENT CENTER REPRESENTATIVES.

Subsection (l) of section 15 of the Small Business Act (15 U.S.C. 644) is amended—

(1) by striking the term "unrestricted" from subparagraph (D) of paragraph (2) each place such term appears;

(2) by amending subparagraph (E) of paragraph (2) to read as follows:

"(E) have access to procurement records and other data of the procurement center commensurate with the level of such representative's approved security clearance classification;";

(3) by amending paragraph (3) to read as follows:

"(3) A breakout procurement center representative is authorized to appeal the failure to act favorably on any recommendation made pursuant to paragraph (2). Such appeal shall be filed and processed in the same manner and subject to the same conditions and limitations as an appeal filed by the Administrator pursuant to subsection (a).";

(4) by amending paragraph (6) to read as follows:

"(6) For purposes of this subsection, the term 'major procurement center' means a procurement center that, in the opinion of the Administrator, purchases substantial dollar amounts of other than

commercial items and which has the potential to incur significant savings as the result of the placement of a breakout procurement center representative"; and

(5) by adding the following new paragraph:

"(7)(A) At such times as the Administrator deems appropriate, the breakout procurement center representative shall conduct familiarization sessions for contracting officers and other appropriate personnel of the procurement center to which such representative is assigned. Such sessions shall acquaint the participants with the provisions of this subsection and shall instruct them in methods designed to further the purposes of such subsection.

"(B) The breakout procurement center representative shall prepare and personally deliver an annual briefing and report to the head of the procurement center to which such representative is assigned. Such briefing and report shall detail the past and planned activities of the representative and shall contain such recommendations for improvement in the operation of the center as may be appropriate. The head of such center shall personally receive such briefing and report and shall, within sixty calendar days after receipt, respond, in writing, to each recommendation made by such representative.". Reports.

SEC. 111. AMENDMENTS RELATING TO REVOLVING FUNDS.

(a) TECHNICAL AMENDMENT.—Section 4(c) of the Small Business Act (15 U.S.C. 633(c)) is amended—

(1) by striking from paragraph (1) "III" and inserting in lieu thereof "III, IV"; and

(2) by striking from paragraph (2) "III" and inserting in lieu thereof "III, IV"; and

(b) REPEALER.—Section 403 of the Small Business Investment Act of 1958 (15 U.S.C. 694) is hereby repealed. Any moneys remaining in the Lease Guarantee Fund on the date of enactment of this Act shall be transferred to the Small Business Administration's business loan and investment fund. 15 USC 694 note.

(c) POLLUTION CONTROL GUARANTEED LOANS.—Section 7(a)(12) of the Small Business Act (15 U.S.C. 636(a)(12)) is amended—

(1) by inserting "(A)" after "(12)"; and

(2) by adding at the end thereof the following new subparagraph:

"(b) The Administration may provide deferred participation loans under this subsection to finance the planning, design, or installation of pollution control facilities for the purposes set forth in section 404 of the Small Business Investment Act of 1958. Notwithstanding the limitation expressed in paragraph (3) of this subsection, a loan made under this paragraph may not result in a total amount outstanding and committed to a borrower from the business loan and investment fund of more than $1,000,000.". Environmental protection.

(d) TECHNICAL AMENDMENTS TO SECTION 505.—(1) Section 505 of the Small Business Investment Act of 1958 is amended by striking from subsection (a) "all of a" and by inserting in lieu thereof "all or a". 15 USC 697b.

(2) Such section is further amended by inserting the following title at the beginning of such section:

"POOLING OF DEBENTURES".

(3) The table of contents for title V of such Act is amended by adding after the item relating to section 504 the following new item:

"Sec. 505. Pooling of debentures.".

SEC. 112. DEVELOPMENT COMPANY LOAN PROGRAM.

(a) PERMANENT EXTENSION OF PILOT PROGRAM.—Section 504 of the Small Business Investment Act of 1958 (15 U.S.C. 697a) is amended to read as follows:

"PRIVATE DEBENTURE SALES

"SEC. 504. (a) Notwithstanding any other law, rule, or regulation, the Administration shall sell to investors, either publicly or by private placement, debentures pursuant to section 503 of this title as follows:

"(1) Of the program levels otherwise authorized by law for fiscal year 1986, an amount not to exceed $200,000,000.

"(2) Of the program levels otherwise authorized by law for each of fiscal years 1987 and 1988, an amount not to exceed $425,000,000.

"(3) All of the program levels authorized for fiscal year 1989 and subsequent fiscal years.

"(b) Nothing in any provision of law shall be construed to authorize the Federal Financing Bank to acquire—

"(1) any obligation the payment of principal or interest on which at any time has been guaranteed in whole or in part under section 503 of this title and which is being sold pursuant to the provisions of the program authorized in this section;

"(2) any obligation which is an interest in any obligation described in paragraph (1); or

"(3) any obligation which is secured by, or substantially all of the value of which is attributable to, any obligation described in paragraph (1) or (2).".

(b) The table of contents for title V of such Act is amended by adding after the item relating to section 503 the following new item:

"Sec. 504. Private debenture sales.".

(c) COMMERCIAL LOAN INTEREST RATE.—

(1) IN GENERAL.—Section 503 of the Small Business Investment Act of 1958 (15 U.S.C. 697) is amended—

(A) by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and

(B) by inserting after subsection (b) the following new subsection:

"(c)(1) The purpose of this subsection is to facilitate the orderly and necessary flow of long-term loans from certified development companies to small business concerns.

"(2) Notwithstanding the provisions of the constitution or laws of any State limiting the rate or amount of interest which may be charged, taken, received, or reserved, the maximum legal rate of interest on any commercial loan which funds any portion of the cost of the project financed pursuant to this section or section 504 which is not funded by a debenture guaranteed under this section shall be a rate which is established by the Administrator of the Small Business Administration under the authority of this section.

"(3) The Administrator is authorized and directed to establish and publish quarterly a maximum legal interest rate for any commercial

loan which funds any portion of the cost of the project financed pursuant to this section or section 504 which is not funded by a debenture guaranteed under this section.".

(2) REPEALER.—The amendment made by paragraph (1) shall be repealed on October 1, 1990. 15 USC 697 note.

SEC. 113. SECONDARY MARKET IN DEVELOPMENT COMPANY LOANS.

Section 5 of the Small Business Act (15 U.S.C. 634) is amended by striking from subsection (g) "except those" and by inserting in lieu thereof "except separate trust certificates shall be issued for loans approved".

SEC. 114. DEVELOPMENT COMPANY DEBENTURES.

Section 503(a)(2) of the Small Business Investment Act of 1958 (15 U.S.C. 697(a)(2)) is amended by inserting before the period at the end thereof the following: ": *Provided*, That the Administration shall not decline to issue such guarantee when the ownership interests of the small business concern and the ownership interests of the property to be financed with the proceeds of a loan made pursuant to subsection (b)(1) are not identical because one or more of the following classes of relatives have an ownership interest in either the small business concern or the property: father, mother, son, daughter, wife, husband, brother, or sister: *Provided further*, That the Administrator or his designee has determined on a case-by-case basis that such ownership interest, such guarantee, and the proceeds of such loan, will substantially benefit the small business concern".

SEC. 115. DEVELOPMENT COMPANY LOANS—POLICY.

(a) POLICY.—Section 501 of the Small Business Investment Act of 1958 (15 U.S.C. 695) is amended by redesignating subsections (a) and (b) as subsections (b) and (c), respectively, and by adding the following new subsection prior thereto: Urban areas. Rural areas.

"(a) The Congress hereby finds and declares that the purpose of this title is to foster economic development in both urban and rural areas by providing long term financing for small business concerns through the development company program authorized by this title. In order to carry out this objective, the Administration is hereby directed to place greater emphasis on the needs of rural areas and the promotion of the development company program in such areas, and is further directed to develop a plan for greater outreach of procurement and export trade seminars in such areas. As used in this title, the term 'rural areas' means those localities with populations of less than 20,000.".

(b) TECHNICAL AMENDMENTS TO THE SECTION.—(1) Title V of such Act is further amended by inserting the following heading at the beginning of section 501:

"STATE DEVELOPMENT COMPANIES".

(2) The table of contents of such Act is amended by inserting before the item relating to section 502 the following new item:

"Sec. 502. State development companies.".

SEC. 116. DEVELOPMENT COMPANY LOANS—LEASED PREMISES.

(a) IN GENERAL.—Section 502 of the Small Business Investment Act of 1958 (15 U.S.C. 696) is further amended by adding the following at the end thereof:

"(4) If the project is to construct a new facility, up to 33 per centum of the total project may be leased, if reasonable projections of growth demonstrate that the assisted small business concern will need additional space within three years and will fully utilize such additional space within ten years.".

(b) TECHNICAL AMENDMENTS TO THE SECTION.—(1) Title V of such Act is further amended by inserting the following heading at the beginning of section 502:

"LOANS FOR PLANT ACQUISITION, CONSTRUCTION, CONVERSION, AND EXPANSION".

(2) The table of contents of such Act is amended by inserting before the item relating to section 503 the following new item:

"Sec. 502. Loans for plant acquisition, construction, conversion, and expansion.".

SEC. 117. DEVELOPMENT COMPANIES—STAFF AND OVERHEAD.

(a) STAFF.—Section 503(d) of the Small Business Investment Act of 1958 (15 U.S.C. 697(d)) is amended—

(1) by inserting "(1)" after "(d)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end thereof the following new paragraph:

Rural areas.

"(2) A company in a rural area shall be deemed to have satisfied the requirements of a full-time professional staff and professional management ability if it contracts with another certified development company which has such staff and management ability and which is located in the same general area to provide such services.".

(b) OVERHEAD.—The Small Business Investment Act of 1958 is amended by adding at the end thereof the following new section:

"RESTRICTIONS ON DEVELOPMENT COMPANY ASSISTANCE

15 USC 697c.

"SEC. 506. NOTWITHSTANDING ANY OTHER PROVISION OF LAW: (1) on or after May 1, 1991, no development company may accept funding from any source, including but not limited to any department or agency of the United States Government, if such funding includes any conditions, priorities or restrictions upon the types of small businesses to which they may provide financial assistance under this title or if it includes any conditions or imposes any requirements, directly or indirectly, upon any recipient of assistance under this title; and (2) before such date, no department or agency of the United States Government which provides funding to any development company shall impose any condition, priority or restriction upon the type of small business which receives financing under this title nor shall it include any condition or impose any requirement, directly or indirectly, upon any recipient of assistance under this title: *Provided,* That the foregoing shall not affect any such conditions, priorities or restrictions if the department or agency also provides all of the financial assistance to be delivered by the development company to the small business and such conditions, priorities or restrictions are limited solely to the financial assistance so provided.".

(c) REPORT.—Not later than one hundred and eighty days after the effective date of this Act, the Small Business Administration shall report to the Small Business Committees of the Senate and the House of Representatives on the amount and nature of all financial

assistance or income being received by certified development companies from sources other than the Small Business Administration or those being assisted by the programs authorized in title V of the Small Business Investment Act of 1958. The report shall include any conditions or restrictions imposed on the development companies due to such financial assistance, a comparison of all sources of income which comprise the development companies' budgets, an analysis of the financial impact of various sources of financial assistance, and the feasibility of restricting assistance received from the Federal Government solely to Small Business Administration funding.

(d) The table of contents of such Act is amended by inserting the following new item at the end thereof:

"Sec. 506. Restrictions on development company assistance.".

SEC. 118. DISASTER LOAN POLICY.

Section 2 of the Small Business Act (15 U.S.C. 631) is amended by adding the following new subsection:

"(g) In administering the disaster loan program authorized by section 7 of this Act, to the maximum extent possible, the Administration shall provide assistance and counseling to disaster victims in filing applications, providing information relevant to loan processing, and in loan closing and prompt disbursement of loan proceeds and shall give the disaster program a high priority in allocating funds for administrative expenses.".

SEC. 119. DEFINITION OF DISASTERS.

(a) NATURAL DISASTERS.—Section 7 of the Small Business Act (15 U.S.C. 636) is amended by striking from paragraph (1) of subsection (b) "floods, riots or civil disorders, or other catastrophes:" and inserting in lieu thereof "natural or other disasters:".

(b) IN GENERAL.—Section 3 of the Small Business Act (15 U.S.C. 632) is amended—

(1) by adding the following new subsection:

"(k) For the purposes of this Act, the term 'disaster' means a sudden event which causes severe damage including, but not limited to, floods, hurricanes, tornadoes, earthquakes, fires, explosions, volcanoes, windstorms, landslides or mudslides, tidal waves, ocean conditions resulting in the closure of customary fishing waters, riots, civil disorders or other catastrophes, except it does not include economic dislocations."; and

(2) by redesignating the second subsection "(j)" as subsection "(l)".

SEC. 120. DISASTER ASSISTANCE.

(a) ECONOMIC INJURY.—Section 7(c) of the Small Business Act (15 U.S.C. 636(c)) is amended by adding the following new paragraph:

"(7) The Administration shall not withhold disaster assistance pursuant to this paragraph to nurseries who are victims of drought disasters. As used in section 7(b)(2) the term "an area affected by a disaster" includes any county, or county contiguous thereto, determined to be a disaster by the President, the Secretary of Agriculture or the Administrator of the Small Business Administration.".

(b) INTEREST RATES.—Section 7(c) of the Act is further amended by striking "business concern" from paragraph (5)(C) and inserting in lieu thereof "business or other concern, including agricultural cooperatives,".

SEC. 121. DISASTER MITIGATION ACTIONS.

Section 7 of the Small Business Act (15 U.S.C. 636) is further amended by inserting prior to the semicolon at the end of subsection (b)(1)(A) the following:

": *And provided further,* That the Administration may increase the amount of the loan by up to an additional 20 per centum if it determines such increase to be necessary or appropriate in order to protect the damaged or destroyed property from possible future disasters by taking mitigating measures, including, but not limited to, construction of retaining walls and sea walls, grading and contouring land, relocating utilities and modifying structures".

SEC. 122. UNSECURED DISASTER LOANS.

Section 7(c) of the Small Business Act (15 U.S.C. 636(c)) is further amended by striking from paragraph (6) "refinancing." and inserting in lieu thereof "refinancing: *Provided further,* That the Administration shall not require collateral for loans of $10,000 or less which are made under paragraph (1) of subsection (b).".

SEC. 123. NATIONAL DIRECTORY OF SMALL BUSINESSES.

The Small Business Administration shall undertake a study to determine the feasibility and need for developing an expanded national directory of small businesses to effectuate fully the purposes of section 15(a) of the Small Business Act. The Agency shall examine existing resources such as the PASS system, the advocacy data base, and other resources to ascertain the costs and other requirements necessary to effectuate such a directory, including a concern's capability, standard industrial codes and Federal supply numbers identifying such capability, and other data deemed relevant. The Small Business Administration shall submit a report to the Small Business Committees of the Senate and the House of Representatives not later than June 1, 1989. This report shall include conclusions and recommendations and an estimate of the costs involved in implementing such a system.

Reports.

SEC. 124. WOMEN-OWNED BUSINESS.

Section 303 of Public Law 96-302 (15 U.S.C. 631b) is amended by adding the following new subsection:

"(e) The information and data required to be reported pursuant to subsection (a) shall separately detail those portions of such information and data that are relevant to—

"(1) small business concerns owned and controlled by socially and economically disadvantaged individuals as defined pursuant to section 8(d) of the Small Business Act; and

"(2) small business concerns owned and controlled by women.".

SEC. 125. ANALYSIS OF FINANCING SOURCES.

(a) STUDY.—Not later than June 1, 1989, or one hundred and eighty days after the effective date of this section (whichever is later), the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this section as the "Office") shall conduct and complete a study to determine, with respect to the service sector of the economy—

(1) the level of demand for debt capital by small business concerns;

(2) the level of availability of such capital for such concerns; and

(3) how new or innovative financing techniques or the improvement of existing techniques can be used to satisfy the unmet demand for such capital by such concerns consistent with acceptable standards of safety and soundness for loans and investments made by commercial and business lenders and institutional investors.

(b) CONSULTATION AND COOPERATION.—In performing such study, the Office shall consult with the Federal Reserve Board, the Comptroller of the Currency, the Department of Commerce, other relevant agencies and departments of Government, trade and professional associations, and other organizations representing the interest of such business and service sector business concerns. Each department and agency shall afford the Office such assistance and cooperation as may be necessary to achieve the purposes of this subsection.

(c) REPORT.—The study performed pursuant to subsection (a) shall be reported to the Committees on Small Business of the Senate and House of Representatives within one hundred and eighty days after the effective date of this section.

SEC. 126. EFFECTIVE DATA COLLECTION ON WOMEN-OWNED BUSINESS.

(a) STUDY.—Not later than June 1, 1989, or one hundred and eighty days after the effective date of this section (whichever is later), the Office of the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to in this section as the "Office") shall conduct and complete a study to determine the most cost effective and accurate means to gather and present data on women-owned businesses, including data on sole proprietorship, partnership, Sub S corporations and regular corporations.

(b) CONSULTATION AND COOPERATION.—In performing such study, the Office shall consult with the Department of Labor, including the Bureau of Labor Statistics, the Department of Commerce, including the Bureau of the Census, the Internal Revenue Service, other relevant agencies and departments of Government, trade and professional associations, and other organizations representing the interest of women-owned businesses. Each department and agency shall afford the Office such assistance and cooperation as may be necessary to achieve the purposes of this subsection.

(c) REPORT.—The study performed pursuant to subsection (a), together with such recommendations for legislative or administrative change as may be appropriate, shall be reported to the Committees on Small Business of the Senate and House of Representatives within one hundred and eighty days after the effective date of this section.

SEC. 127. MANAGEMENT AND TECHNICAL ASSISTANCE FOR WOMEN-OWNED SMALL BUSINESS.

(a) ESTABLISHMENT.—Subsection (c) of section 8 of the Small Business Act (15 U.S.C. 637(c)) is amended to read as follows:

"(c)(1) Subject to the requirements of paragraph (2), the Administration shall provide financial assistance to private organizations to

conduct demonstration projects for the benefit of small business concerns owned and controlled by women.

"(2) No amount of financial assistance shall be provided pursuant to this subsection unless the recipient organization agrees, as a condition of receiving such assistance, that—

"(A) it will obtain, after its application has been approved but prior to the disbursement of funds pursuant to this subsection, cash contributions from private sector sources in an amount at least equal to the amount of funds such organization will receive under this subsection; and

"(B) it will provide the types of services and assistance to present and potential women owners of small business concerns as are described in paragraph (3). For the purposes of this subsection such concerns may be either 'start-up' businesses or established 'on-going' concerns.

"(3) The types of services and assistance referred to in paragraph (2)(B) shall include the following:

"(A) financial assistance, which assistance shall include training and counseling in how to apply for and secure business credit and investment capital; prepare and present financial statements; manage cash flow and otherwise manage the financial operations of a business concern;

"(B) management assistance, which assistance shall include training and counseling in how to plan, organize, staff, direct and control each major activity and function of a small business concern; and

"(C) marketing assistance, which assistance shall include training and counseling in how to identify and segment domestic and international market opportunities; prepare and execute marketing plans; develop pricing strategies; locate contract opportunities; negotiate contracts; and utilize varying public relations and advertising techniques.

"(4) Applications for financial assistance pursuant to this subsection shall be evaluated and ranked in accordance with predetermined selection criteria that shall be stated in terms of relative importance. Such criteria and their relative importance shall be made publicly available and stated in each solicitation for applications made by the Administration. Such criteria shall include—

Public information.

"(A) a criterion that specifically refers to the experience of the offering organization in conducting programs or on-going efforts designed to impart or upgrade the business skills of women business owners or potential owners;

"(B) a criterion that specifically refers to the present ability of the offering organization to commence a demonstration project within a minimum amount of time; and

"(C) a criterion that specifically refers to the ability of the applicant organization to provide training and services to a representative number of women who are both socially and economically disadvantaged.

Grants.
Contracts.

"(5) The financial assistance authorized pursuant to this subsection shall be made by grant, contract, or cooperative agreement and may contain such provision, as necessary, to provide for payments in lump sum or installments, and in advance or by way or reimbursement.

Reports.

"(6)(A) The Administration shall prepare and transmit a report to the Committees on Small Business of the Senate and House of Representatives on the effectiveness of all demonstration projects

conducted under the authority of this subsection. Such report shall provide information concerning—

"(i) the number of individuals receiving assistance;

"(ii) the number of start-up business concerns formed;

"(iii) the gross receipts of assisted concerns;

"(iv) increases or decreases in profits of assisted concerns; and

"(v) the employment increases or decreases of assisted concerns.

"(B) The report required pursuant to paragraph (A) shall cover at least a twenty-four month period and shall be submitted not later than thirty months after the effective date of this paragraph.

"(7) This subsection shall cease to be effective after September 30, 1991.". Termination date.

(b) TECHNICAL AMENDMENT.—Subsection (b) of section 8 of the Small Business Act (15 U.S.C. 637(b)) is amended by—

(1) striking out "and" at the end of paragraph (14);

(2) striking out "public." at the end of paragraph (15) and inserting in lieu thereof "public; and"; and

(3) by adding the following new paragraph:

"(16) to make studies of matters materially affecting the competitive strength of small business, and of the effect on small business of Federal laws, programs, and regulations, and to make recommendations to the appropriate Federal agency or agencies for the adjustment of such programs and regulations to the needs of small business.".

(c) AUTHORIZATION.—There is authorized to be appropriated $10,000,000 to carry out the demonstration projects required pursuant to subsection (a). The initial projects authorized to be financed by this section shall be funded by January 31, 1989. Notwithstanding any other provision of law, the Small Business Administration may use such expedited acquisition methods as it deems appropriate to achieve the purposes of this subsection, except that it shall insure that all eligible sources are provided a reasonable opportunity to submit proposals. 15 USC 637 note.

(d) DEFINITION.—For the purposes of this section, the term "small business concern owned and controlled by women" means any small business concern— 15 USC 637 note.

(1) that is at least 51 per centum owned by one or more women; and

(2) whose management and daily business operations are controlled by one or more of such women.

(e) New spending authority or authority to enter into contracts as authorized in this section shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts. 15 USC 637 note.

SEC. 128. NEW PROCUREMENT CENTER REPRESENTATIVES.

(a) EMPLOYMENT OF REPRESENTATIVE.—(1) Within one hundred and eighty days after the effective date of this title, the Small Business Administration shall have completed such measures as may be necessary to employ seven procurement center representatives to be stationed in States where no such representatives are stationed or designated to be stationed as of such effective date.

(2) The representatives employed pursuant to paragraph (1) shall be in addition to and not in lieu of any representatives that may be employed pursuant to any other provision of law or under any exercise of administrative discretion and stationed in such States at the present time.

15 USC 637 note.

SEC. 129. RURAL AREA BUSINESS DEVELOPMENT PLANS.

Within six months of the effective date of this Act, the Administrator shall identify each Federal agency having substantial procurement or grantmaking authority and shall notify each agency so identified. Within six months of notification, each agency shall develop rural area business enterprise development plans. Such plans shall establish rural area enterprise development objectives for the agency and methods for encouraging prime contractors, subcontractors and grant recipients to use small business concerns located in rural areas as subcontractors, suppliers, and otherwise. Such plans shall, to the extent the agency deems appropriate and feasible, include incentive techniques as encouragement.

SEC. 130. INCREASED CONTRACT OPPORTUNITIES.

(1) REPORT.—Not later than one hundred and eighty days after the effective date of this section, the Chief Counsel for Advocacy of the Small Business Administration (hereinafter referred to as the "Chief Counsel") shall report to the Small Business Committees of the Senate and the House of Representatives, including—

(a) an assessment (based on information available to him) of the extent to which the employees of Federal agencies and departments are performing professional and technical services for foreign governments (or other non-domestic entities) for which there are responsible domestic sources, and

(b) recommendations for specific steps by the Administration or other agencies to develop further information with respect to the foregoing issue.

(2) COOPERATION.—In preparing the report, the Chief Counsel shall consult with the Office of Management and Budget, the Department of Commerce, Department of the Interior, other relevant agencies of the Government, and trade and professional associations representing the interests of small business concerns. Each agency and department head shall afford the Chief Counsel assistance and cooperation to facilitate compilation and submission of his report.

SEC. 131. PRIVATE SECTOR COOPERATION.

(a) EXTENSION OF EFFECTIVE DATE.—Section 7(b) of the Small Business Computer Security and Education Act of 1984 (15 U.S.C. 633 note) is amended by striking the first sentence and inserting the following: "The amendments made to section 4(b)(3) of the Small Business Act by section 3 of this Act are repealed on October 1, 1988. The amendments made to section 8(b)(1)(A) of the Small Business Act by section 5(a)(2) of this Act are repealed on October 1, 1990.".

(b) COSPONSORED EVENTS.—Section 8(b)(1)(A) of the Small Business Act (15 U.S.C. 637(b)(1)(A)) is amended—

(1) by inserting after "*Provided*, That the Administration shall take such actions as it deems appropriate to ensure" the following: "that any Administration program participating in such cosponsored activities receives appropriate recognition and publicity, and";

(2) by adding at the end thereof the following: "In the case of cosponsored activities which include the participation of a Federal, State, or local public official or agency, the Administration shall take such actions as it deems necessary to ensure that the cooperation does not constitute or imply an endorsement by the Administration of or give undue recognition to the public offi-

cial or agency, and that the Administration is given primary recognition in all cosponsored printed materials, whether the participant is a profit-making concern or a governmental agency or official."; and

(3) by inserting in clause (i) after "agreement" the following: ", executed on behalf of the agency by an employee of the agency in Washington, District of Columbia, and who shall also approve, in advance, any printed materials to be distributed at the conference,". District of Columbia.

SEC. 132. BACKGROUND CHECK POLICY—FINGERPRINTING. 15 USC 637 note.

The Small Business Administration shall not require fingerprints to be obtained for background check purposes from any participant in any Administration program who is serving on a voluntary basis and without compensation unless the Administration has reasonable grounds to believe that the participant's record or background is such as to make the participant ineligible to participate in the relevant program.

SEC. 133. AMENDMENTS RELATING TO PROGRAMS FOR BLIND AND HANDICAPPED.

(a) IN GENERAL.—Section 15(c) of the Small Business Act (15 U.S.C. 644(c)) is amended to read as follows:

"(c)(1) As used in this subsection:

"(A) The term 'Committee' means the Committee for Purchase from the Blind and Other Severely Handicapped established under the first section of the Act entitled 'An Act to create a Committee on Purchases of Blind-made Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 46).

"(B) The term 'public or private organization for the handicapped' has the same meaning given such term in section 3(e).

"(C) The term 'handicapped individual' has the same meaning given such term in section 3(f).

"(2)(A) During each of fiscal years 1989 through 1993, public or private organizations for the handicapped shall be eligible to participate in programs authorized under this section in an aggregate amount for each year as follows: In 1989 not more than $30,000,000, in 1990 not more than $40,000,000, and in each of 1991, 1992 and 1993 not more than $50,000,000. Appropriation authorization.

"(B) None of the amounts authorized for participation by subparagraph (A) may be placed on the procurement list maintained by the Committee pursuant to section 2 of the Act entitled 'An Act to create a Committee on Purchases of Blindmade Products, and for other purposes', approved June 25, 1938 (41 U.S.C. 47).

"(3) The Administrator shall monitor and evaluate such participation.

"(4)(A) Not later than ten days after the announcement of a proposed award of a contract by an agency or department to a public or private organization for the handicapped, a for-profit small business concern that has experienced or is likely to experience severe economic injury as the result of the proposed award may file an appeal of the proposed award with the Administrator.

"(B) If such a concern files an appeal of a proposed award under subparagraph (A) and the Administrator, after consultation with the Executive Director of the Committee, finds that the concern has experienced or is likely to experience severe economic injury as the result of the proposed award, not later than thirty days after the

filing of the appeal, the Administration shall require each agency and department having procurement powers to take such action as may be appropriate to alleviate economic injury sustained or likely to be sustained by the concern.

Reports. "(5) Each agency and department having procurement powers shall report to the Office of Federal Procurement Policy each time a contract subject to paragraph (2)(A) is entered into, and shall include in its report the amount of the next higher bid submitted by a Records. for-profit small business concern. The Office of Federal Procurement Policy shall collect data reported under the preceding sentence through the Federal procurement data system and shall report to the Administration which shall notify all such agencies and departments when the maximum amount of awards authorized under paragraph (2)(A) has been made during any fiscal year.

Contracts. "(6) For the purpose of this subsection, a contract may be awarded only if at least 75 per centum of the direct labor performed on each item being produced under the contract in the sheltered workshop or performed in providing each type of service under the contract by the sheltered workshop is performed by handicapped individuals.".

15 USC 644 note. (b) REPORT.—Not later than September 30, 1992, the General Accounting Office shall prepare a report describing the impact that contracts awarded under section 15(c) of the Small Business Act have had on for-profit small business concerns for fiscal years 1989 through 1991. The report shall be transmitted to the Committees on Small Business of the Senate and the House of Representatives.

15 USC 644 note. (c) TASK FORCE.—There is established within the Small Business Administration a task force on purchases from the blind and severely handicapped which shall consist of one representative of the small business community appointed by the Administrator of the Small Business Administration and one individual knowledgeable in the affiars of or experienced in the work of sheltered workshops appointed by the Executive Director of the Committee for Purchase from the Blind and Other Severely Handicapped established under the first section of the Act entitled "An Act to create a Committee on Purchases of Blind-made Products, and for other purposes", approved June 25, 1938 (41 U.S.C. 46). The task force shall meet at least once every six months for the purpose of reviewing the award of contracts under section 15(c) of the Small Business Act and recommending to the Small Business Administration such administrative or statutory changes as it deems appropriate.

SEC. 134. MISCELLANEOUS AMENDMENTS.

Section 21 of the Small Business Act (15 U.S.C. 648) is amended—

(1) by striking "Deputy Associate Administrator for Management Assistance" each place it appears in subsection (g) and inserting in lieu thereof "Associate Administrator for Small Business Development Centers";

(2) by striking in subsection (g) "the Associate Administrator for Management Assistance" and inserting "an official who is not more than one level below the Office of the Administrator"; and

Contracts. (3) by inserting the following at the end of subsection (k): "After the administration has entered a contract, either as a grant or a cooperative agreement, with any applicant under this section, it shall not suspend, terminate or fail to renew or extend any such contract unless the Administration provides the applicant with written notification setting forth the reasons

therefor and affording the applicant an opportunity for a hearing, appeal or other administrative proceeding under the provisions of the Administrative Procedures Act.".

SEC. 135. FUNDING EXTENSIONS.

The Small Business Act is amended as follows:

(1) by striking from subsection (z) of section 20 "1988 and 1989, $3,500,000" and by inserting in lieu thereof "1988 through 1990, $3,500,000"; 15 USC 631 note.

(2) by striking from subsection (z) "1988 and 1989, $5,000,000" and by inserting in lieu thereof "1988 through 1990, $5,000,000"; and

(3) by inserting in section 21(c)(5) after "to such center" the following: "or the date the Administration notifies the grantee funded under subsection (a)(1) that funds are available for grant applications pursuant to subsection (a)(6), which ever date occurs last,". 15 USC 648.

SEC. 136. PROMULGATION OF RULES. Regulations. 15 USC 631 note.

Notwithstanding any law, rule or regulation, the Small Business Administration shall promulgate final regulations to be effective on publication to carry out the provisions of this title within six months after the date of enactment.

SEC. 137. EFFECTIVE DATE. 15 USC 631 note.

This title shall be effective on the date of enactment, except that sections 118 through 122 shall be effective for all loan applications resulting from disaster declarations made on or after August 1, 1988, or from disaster declarations whose filing periods were open on October 1, 1988. Any new credit authority provided for in this Act is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts.

TITLE II—PREFERRED SURETY BOND GUARANTEE PROGRAM

Preferred Surety Bond Guarantee Program Act of 1988. 15 USC 661 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Preferred Surety Bond Guarantee Program Act of 1988".

SEC. 202. AUTHORITY OF THE ADMINISTRATION.

Section 411(a) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)) is amended to read as follows:

"(a)(1) The Administration may, upon such terms and conditions as it may prescribe, guarantee and enter into commitments to guarantee any surety against loss resulting from a breach of the terms of a bid bond, payment bond, performance bond, or bonds ancillary thereto, by a principal on any contract up to $1,250,000.

"(2) The terms and conditions of said guarantees and commitments may vary from surety to surety on the basis of the Administration's experience with the particular surety.

"(3) The Administration may authorize any surety, without further administration approval, to issue, monitor, and service such bonds subject to the Administration's guarantee.

"(4) No such guarantee may be issued, unless—

"(A) the person who would be principal under the bond is a small business concern;

"(B) the bond is required in order for such person to bid on a contract, or to serve as a prime contractor or subcontractor thereon;

"(C) such person is not able to obtain such bond on reasonable terms and conditions without a guarantee under this section; and

"(D) there is a reasonable expectation that such principal will perform the covenants and conditions of the contract with respect to which such bond is required, and the terms and conditions of such bond are reasonable in the light of the risks involved and the extent of the surety's participation.".

SEC. 203. INDEMNIFICATION.

(a) IN GENERAL.—Section 411(b) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(b)) is amended—

(1) by striking paragraph (3),

(2) by striking "; and" and inserting a period at the end of paragraph (2),

(3) by redesignating paragraph (2) as paragraph (3),

(4) by inserting after paragraph (1) the following new paragraph:

"(2) a surety must obtain approval from the Administration prior to making any payments pursuant to this subsection unless the surety is participating under the authority of subsection (a)(3); and", and

(5) by inserting at the end the following new sentence:

"In no event shall the Administration pay a surety pursuant to this subsection an amount exceeding the guaranteed share of the bond available to such surety pursuant to subsection (a).".

(b) AMOUNT OF INDEMNIFICATION.—Section 411(c) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(c)) is amended to read as follows:

"(c) Any guarantee or agreement to indemnify under this section shall obligate the Administration to pay to the surety a sum—

"(1) not to exceed 70 per centum of the loss incurred and paid by a surety authorized to issue bonds subject to the Administration's guarantee under subsection (a)(3);

"(2) not to exceed 90 per centum of the loss incurred and paid in the case of a surety requiring the Administration's specific approval for the issuance of such bond, but in no event may the Administration make any duplicate payment pursuant to subsection (b) or any other subsection;

"(3) equal to 90 per centum of the loss incurred and paid in the case of a surety requiring the administration's specific approval for the issuance of a bond, if—

"(A) the total amount of the contract at the time of execution of the bond or bonds is $100,000 or less, or

Disadvantaged persons.

"(B) the bond was issued to a small business concern owned and controlled by socially and economically disadvantaged individuals as defined by section 8(d) of the Small Business Act; or

"(4) determined pursuant to subsection (b), if applicable.".

(c) LIMITATION OF ADMINISTRATION'S LIABILITY.—Section 411(e) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(e)) is amended—

(1) by striking "or" at the end of paragraph (1),

(2) by striking the period at the end of paragraph (2) and inserting a comma, and

(3) by adding at the end thereof the following new paragraphs:

"(3) the surety has breached a material term or condition of such guarantee agreement, or

"(4) the surety has substantially violated the regulations promulgated by the Administration pursuant to subsection (d).".

SEC. 204. REPORTS AND AUDITS OF PARTICIPATING SURETIES.

Section 411(g) of the Small Business Investment Act (15 U.S.C. 694b(g)) is amended to read as follows:

"(g)(1) Each participating surety shall make reports to the Administration at such times and in such form as the Administration may require.

"(2) The Administration may at all reasonable times audit, in the offices of a participating surety, all documents, files, books, records, and other material relevant to the Administration's guarantee, commitments to guarantee, or agreements to indemnify any surety pursuant to this section.

"(3) Each surety participating under the authority of paragraph (3) of subsection (a) shall be audited at least once each year by examiners selected and approved by the Administration.".

SEC. 205. REGULATIONS.

15 USC 694b note.

The Administration shall promulgate final regulations to implement the amendments made by this title not later than one hundred and eighty days after the date of the enactment of this Act.

SEC. 206. EVALUATION AND REPORT.

15 USC 694b note.

Not later than three years after the date of enactment of this Act the Comptroller General of the United States shall transmit a report to the Small Business Committees of the Senate and House of Representatives, which evaluates—

(1) the amendments made by this title,

(2) whether participation in the program by standard surety firms has been expanded, and

(3) whether access to bonds by small business concerns especially small business concerns owned and controlled by socially and economically disadvantaged individuals has been improved.

The report shall cover the first two full fiscal years following the date of enactment of this Act.

SEC. 207. SUNSET.

15 USC 694b note.

The provisions contained in section 411(a)(3) of the Small Business Investment Act of 1958 (15 U.S.C. 694b(a)(3)), shall cease to be effective on September 30, 1991, or on the last day of the third full fiscal year after the date of enactment of this Act, whichever is later.

SEC. 208. REVOLVING FUND.

Section 412 of the Small Business Investment Act of 1958 (15 U.S.C. 694c) is amended)—

(1) by inserting "(a)" before "There", and

(2) by adding at the end of subsection (a), the following new subsection:

"(b) Such sums as may be appropriated to the Fund to carry out the programs authorized by this part shall be without fiscal year limitation.".

15 USC 694b note.

SEC. 209. EFFECTIVE DATE.

Except as otherwise provided in this title, the provisions of this title shall become effective upon expiration of one hundred and eighty days after the date of its enactment.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 4174 (S. 2619):

HOUSE REPORTS: No. 100-694 (Comm. on Small Business) and No. 100-1029 (Comm. of Conference).
SENATE REPORTS: No. 100-416 accompanying S. 2619 (Comm. on Small Business).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 6, considered and passed House.
July 14, S. 2619 considered in Senate; proceedings vacated and H.R. 4174, amended, passed in lieu.
Oct. 5, House agreed to conference report.
Oct. 20, Senate agreed to conference report.

Public Law 100-591
100th Congress

An Act

Nov. 3, 1988
[H.R. 4686]

To amend the Federal Aviation Act of 1958 relating to aviation research.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Aviation Safety Research Act of 1988.
49 USC app. 1301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Aviation Safety Research Act of 1988".

SEC. 2. AVIATION MAINTENANCE AND FIRE SAFETY RESEARCH.

Section 312(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(b)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop technologies and to conduct data analyses for predicting the effects of aircraft design, maintenance, testing, wear, and fatigue on the life of aircraft and on air safety, to develop methods of analyzing and improving aircraft maintenance technology and practices (including nondestructive evaluation of aircraft structures), to assess the fire and smoke resistance of aircraft materials, to develop improved fire and smoke resistant materials for aircraft interiors, to develop and improve fire and smoke containment systems for in-flight aircraft fires, and to develop advanced aircraft fuels with low flammability and technologies for containment of aircraft fuels for the purpose of minimizing post-crash fire hazards.".

SEC. 3. RESEARCH ON RELATIONSHIP BETWEEN HUMAN FACTORS AND AIR SAFETY AND ON DYNAMIC SIMULATION MODELING.

Section 312(c) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353(c)) is amended by inserting after the first sentence the following: "The Administrator shall undertake or supervise research to develop a better understanding of the relationship between human factors and aviation accidents and between human factors and air safety, to enhance air traffic controller and mechanic and flight crew performance, to develop a human-factor analysis of the hazards associated with new technologies to be used by air traffic controllers, mechanics, and flight crews, and to identify innovative and effective corrective measures for human errors which adversely affect air safety. The Administrator shall undertake or supervise a research program to develop dynamic simulation models of the air traffic control system and airport design and operating procedures which will provide analytical technology for predicting airport and air traffic control safety and capacity problems, for evaluating planned research projects, and for testing proposed revisions in airport and air traffic control operations programs."

SEC. 4. RESEARCH PLAN AND REPORTS.

(a) IN GENERAL.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353) is amended by adding at the end the following new subsection:

"RESEARCH PLAN AND REPORTS

"(d)(1) The Administrator shall prepare, review, revise, publish, and transmit a national aviation research plan to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives not later than the date of the submission to Congress of the President's budget for fiscal year 1990, and for each fiscal year thereafter. The plan shall describe, for a 15-year period, the research, engineering, and development considered by the Administrator necessary to ensure the continued capacity, safety, and efficiency of aviation in the United States, considering emerging technologies and forecasted needs of civil aeronautics, and provide the highest degree of safety in air travel. The plan shall cover all research conducted under this section and section 316 of this Act and shall identify complementary and coordinated research efforts conducted by the National Aeronautics and Space Administration with funds specifically appropriated to such Administration. In addition, for projects for which the Administrator anticipates requesting funding, such plan shall set forth—

"(A) for the first 2 years the plan, detailed annual estimates of the schedule, cost, and manpower levels for each research project, including a description of the scope and content of each major contract, grant, or interagency agreement;

"(B) for the 3d, 4th, and 5th years of the plan, estimates of the total cost of each major project for such years and any additional major research projects which may be required to meet long-term objectives and which may have significant impact on future funding requirements;

"(C) for the 6th and subsequent years of the plan, the long-term objectives which the Administrator considers to be necessary to ensure that aviation safety will be given the highest priority; and

"(D) details of a program to disseminate to the private sector the results of aviation research conducted by the Administrator, including any new technologies developed.

"(2) Subject to section 316(d)(2) of this Act and the regulations prescribed to carry out such section, the Administrator shall report annually, beginning with the date of transmission of the first aviation research plan as required by paragraph (1), to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives on the accomplishments of the research completed during the preceding fiscal year. The report shall be transmitted together with each plan transmittal required under paragraph (1) and shall be organized so as to allow comparison with the plan in effect for such year under this subsection.".

(b) CONFORMING AMENDMENT.—That portion of the table of contents contained in the first section of such Act which appears under the heading:

"Sec. 312. Development planning."

is amended by adding at the end the following:

"(d) Research plan and reports.
"(e) Civil aeromedical research.
"(f) Research advisory committee.".

SEC. 5. CIVIL AEROMEDICAL RESEARCH.

(a) ESTABLISHMENT OF CIVIL AEROMEDICAL INSTITUTE.—Section 106 of title 49, United States Code, relating to the Federal Aviation Administration, is amended by adding at the end thereof the following new subsection:

"(j) There is established within the Federal Aviation Administration an institute to conduct civil aeromedical research under section 312(e) of the Federal Aviation Act of 1958. Such institute shall be known as the 'Civil Aeromedical Institute'. Research conducted by the institute should take appropriate advantage of capabilities of other government agencies, universities, or the private sector.".

(b) CIVIL AEROMEDICAL RESEARCH.—Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"CIVIL AEROMEDICAL RESEARCH

"(e) The Civil Aeromedical Institute established by section 106(j) of title 49, United States Code, is authorized—

"(1) to conduct civil aeromedical research, including, but not limited to, research related to—

"(A) protection and survival of aircraft occupants;

"(B) medical accident investigation and airman medical certification;

"(C) toxicology and the effects of drugs on human performance;

"(D) the impact of disease and disability on human performance;

"(E) vision and its relationship to human performance and equipment design;

"(F) human factors of flight crews, air traffic controllers, mechanics, inspectors, airway facility technicians, and other persons involved in the operation and maintenance of aircraft and air traffic control equipment; and

"(G) agency work force optimization, including training, equipment design, reduction of errors, and identification of candidate tasks for automation;

"(2) to make comments to the Administrator on human factors aspects of proposed air safety rules;

"(3) to make comments to the Administrator on human factors aspects of proposed training programs, equipment requirements, standards, and procedures for aviation personnel;

"(4) to advise, assist, and represent the Federal Aviation Administration in the human factors aspects of joint projects between such Administration and the National Aeronautics and Space Administration, other Government agencies, industry, and foreign governments; and

"(5) to provide medical consultation services to the Administrator with respect to medical certification of airmen.".

SEC. 6. ADVISORY COMMITTEE.

Section 312 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1353), as amended by this Act, is further amended by adding at the end the following new subsection:

"RESEARCH ADVISORY COMMITTEE

"(f)(1) Not later than 180 days after the date of the enactment of this subsection, the Administrator shall establish in the Federal Aviation Administration a research advisory committee.

"(2) The advisory committee shall provide advice and recommendations to the Administrator regarding needs, objectives, plans, approaches, content, and accomplishments with respect to the aviation research program carried out under this section and section 316. The committee shall also assist in assuring that such research is coordinated with similar research being conducted outside of the Federal Aviation Administration.

"(3) The advisory committee shall be composed of not more than 20 members appointed by the Administrator from among persons who are not employees of the Federal Aviation Administration and who are specially qualified to serve on the committee by virtue of their education, training, or experience. The Administrator in appointing the members of the committee shall ensure that universities, corporations, associations, consumers, and other government agencies are represented.

"(4) The chairman of the advisory committee shall be designated by the Administrator.

"(5) Members of the advisory committee shall serve without pay; except that the Administrator may allow any member, while attending meetings of the advisory committee or a subordinate committee, travel or transportation expenses in accordance with section 5703 of title 5, United States Code.

"(6) The Administrator shall provide support staff for the advisory committee. The Administrator may establish subordinate committees to the advisory committee to provide advice on specific areas of research conducted under this section and section 316.

"(7) Upon request of the advisory committee, the Administrator shall provide such information, administrative services, and supplies as the Administrator determines are necessary for the advisory committee to carry out its functions.

"(8) Section 14 of the Federal Advisory Committee Act shall not apply to the advisory committee established under this subsection.

"(9)(A) Not more than one-tenth of 1 percent of the funds made available to carry out research under this section and section 316 for fiscal years beginning after September 30, 1988, may be used by the Administrator to carry out this subsection.

"(B) No limitation on the amount of funds available for obligation by or for the advisory committee shall be applicable with respect to the funds made available to carry out this subsection.".

SEC. 7. FUNDING.

(a) FISCAL YEAR 1989.—Section 506(b)(2)(B) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(B)) is amended—

(1) in clause (vii), by striking "; and" and inserting in lieu thereof a comma; and

(2) by adding at the end, flush with the margin, the following: "except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects; and".

(b) FISCAL YEAR 1990.—Section 506(b)(2)(C) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)(C)) is amended to read as follows:

"(C) for fiscal year 1990—

"(i) $25,000,000 solely for human factors research projects and activities; and

"(ii) $221,530,000 for all other research projects and activities,

except that not less than 15 percent of the amount appropriated pursuant to this subparagraph shall be for long-term research projects.".

(c) DEFINITION.—Section 506(b)(2) of the Airport and Airway Improvement Act of 1982 (49 U.S.C. App. 2205(b)(2)) is amended by adding at the end the following:

"As used in this paragraph, the term 'long-term research project means a research project which is identified as a discrete project in the aviation research plan required by section 312(d)(1) of the Federal Aviation Act of 1958 and which is unlikely to result in a final rulemaking action within 5 years, or in initial installation of operational equipment within 10 years, after the date of the commencement of such project.".

SEC. 8. AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH.

49 USC app. 1353 note.

(a) FINDINGS.—The Congress finds as follows:

(1) Research is needed to establish a more scientific approach for—

(A) identifying future staffing requirements for the air traffic control system; and

(B) developing tools needed for meeting those requirements.

(2) The Federal Aviation Administration and the National Aeronautics and Space Administration each have unique expertise and facilities for conducting research into the man-machine interface problems associated with a highly automated air traffic control system.

(b) STUDY ON INCREASED AUTOMATION.—

(1) IN GENERAL.—In order to develop the tools necessary for establishing appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system.

(2) CONTENT.—Research conducted under paragraph (1) shall include investigation of the following:

(A) Methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including use of simulation technology.

(B) The role of future automation in the air traffic control system and its physical and psychological effects on air traffic controllers.

(C) The attributes and aptitudes needed to function well in a highly automated air traffic control system, and development of appropriate testing methods for identifying individuals possessing those attributes and aptitudes.

(D) Innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system.

(E) New technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Congress the Administrator's plans for conducting research under this section.

(c) AGREEMENT WITH ADMINISTRATOR OF NASA.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into an agreement with the Administrator of the National Aeronautics and Space Administration for use of their unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers.

(2) CONTENT.—Research under this section shall include investigation of the following:

(A) Human perceptual capabilities and the effect of computer-aided decisionmaking on the workload and performance of air traffic controllers.

(B) Information management techniques for advanced air traffic control display systems.

(C) Air traffic controller workload and performance measures, including development of predictive models.

(d) AUTHORIZATION OF APPROPRIATIONS.—For conducting research under this section there are authorized to be appropriated, from amounts in the Airport and Airway Trust Fund which are available for research and development, such sums as may be necessary.

49 USC app. 1353 note.

SEC. 9. CRASHWORTHY FUSELAGE FUEL TANKS AND FUEL LINES.

(a) ADVANCE NOTICE OF PROPOSED RULEMAKING.—In order to ensure greater air safety to passengers of air carriers and reduce the incidence of post-crash fires, the Administrator of the Federal Aviation Administration shall, within 90 days following the date of enactment of this Act, issue an advance notice of proposed rulemaking to determine the feasibility of installing in all air carrier aircraft crashworthy fuselage fuel tanks and fuselage fuel lines which are rupture resistant and which disconnect and seal in the event of an accident.

(b) RESEARCH.—Within 60 days following the date of enactment of this Act, the Administrator shall undertake or supervise research to

develop technologies which will prevent the spraying or free flow or significant quantities of fuel after an air crash or develop fuels and fuel additives which can reduce rapid fuel dispersal and combustibility, or both.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.R. 4686 (S. 2746):

HOUSE REPORTS: No. 100-894 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-584 accompanying S. 2746 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 20, considered and passed House.
Oct. 20, considered and passed Senate, amended.
Oct. 21, House concurred in Senate amendment.

Public Law 100-592
100th Congress

Joint Resolution

Nov. 3, 1988
[H.J. Res. 446]

Designating October 30 through November 5, 1988, as "National Jukebox Week".

Whereas the jukebox has played an important role in the musical and artistic heritage of America;
Whereas the jukebox holds a unique place in the annals of American music;
Whereas the jukebox has contributed to the development of the Nation's contemporary culture;
Whereas the jukebox has brought widespread entertainment to millions of Americans over many generations; and
Whereas the jukebox is about to celebrate its 100th anniversary: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 30 through November 5, 1988, is designated as "National Jukebox Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs, ceremonies, and activities.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.J. Res. 446:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 21, considered and passed House and Senate.

Public Law 100-593
100th Congress

Joint Resolution

Designating November 28 through December 2, 1988, as "Vocational-Technical Education Week".

Nov. 3, 1988
[H.J. Res. 572]

Whereas vocational education prepares the Nation's work force by providing students with basic academic and occupational skills;
Whereas vocational education stresses the importance of positive work attitudes and values;
Whereas vocational education builds the leadership skills of students by encouraging them to participate in student organizations;
Whereas vocational education stimulates the growth and vitality of the Nation's businesses and industries by preparing workers for the majority of occupations forecasted to experience the largest and fastest growth in the next decade;
Whereas vocational education encourages entrepreneurship among students through units of study and courses designed to prepare them to start and manage their own businesses;
Whereas a strong vocational education program planned and carried out by trained vocational educators is vital to the future economic development of the Nation and to the well-being of its citizens;
Whereas the Future Business Leaders of America, the Future Homemakers of America and Home Economics Related Occupations, the Future Farmers of America, the Distributive Education Clubs of America, the Vocational Industrial Clubs of America, the American Industrial Arts Student Association, the Health Occupation Students of America, the National Association of State Councils on Vocational Education, and the American Vocational Association have joined efforts to give added definition to vocational education;
Whereas the American Vocational Association, the major professional association for the field of vocational education, will convene its annual convention in St. Louis, Missouri, on December 2, 1988; and
Whereas the planned theme for Vocational-Technical Education Week is "Vocational Education: Building Tomorrow's Leaders": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 28 through December 2, 1988, is designated as "Vocational-Technical Education Week", and the President is authorized and requested to issue a

proclamation calling upon the people of the United States to observe such period with appropriate programs, ceremonies, and activities.

Approved November 3, 1988.

LEGISLATIVE HISTORY—H.J. Res. 572 (S.J. Res. 363):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 16, considered and passed House.
Oct. 7, S.J. Res. 363 considered and passed Senate.
Oct. 19, H.J. Res. 572 considered and passed Senate.

O

Public Law 100-594
100th Congress

An Act

To amend the Communications Act of 1934 to provide authorization of appropriations for the Federal Communications Commission, and for other purposes.

Nov. 3, 1988
[S. 1048]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Communications Commission Authorization Act of 1988.
47 USC 609 note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Federal Communications Commission Authorization Act of 1988".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. (a) Section 6 of the Communications Act of 1934 (47 U.S.C. 156) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 6. There are authorized to be appropriated for the administration of this Act by the Commission $107,250,000 for fiscal year 1988 and $109,250,000 for fiscal year 1989, together with such sums as may be necessary for increases resulting from adjustments in salary, pay, retirement, other employee benefits required by law, and other nondiscretionary costs, for each of the fiscal years 1988 and 1989.".

(b) The amendment made by subsection (a) of this section shall apply with respect to fiscal years beginning after September 30, 1987.

47 USC 156 note.

TRAVEL REIMBURSEMENT PROGRAM

SEC. 3. Section 4(g)(2)(D) of the Communications Act of 1934 (47 U.S.C. 154(g)(2)(D)) is amended by striking "1987" and inserting in lieu thereof "1989".

ANNUAL MANAGEMENT REPORT

SEC. 4. Subsection (g) of section 5 of the Communications Act of 1934 (47 U.S.C. 155) is repealed.

FEE SCHEDULE

SEC. 5. Section 8(b)(1) of the Communications Act (47 U.S.C. 158(b)(1)) is amended by striking "the date of enactment of this section" the first time it appears and inserting in lieu thereof "April 1, 1987,".

OLDER AMERICANS PROGRAM

SEC. 6. (a) During fiscal years 1988 and 1989, the Federal Communications Commission is authorized to make grants to, or enter into cooperative agreements with, private nonprofit organizations to

Grants.
Contracts.
47 USC 154 note.

utilize the talents of older Americans in programs authorized by other provisions of law administered by the Commission (and consistent with such provisions of law) in providing technical and administrative assistance for projects related to the implementation, promotion, or enforcement of the regulations of the Commission.

(b) Prior to awarding any grant or entering into any agreement under subsection (a), the Office of the Managing Director of the Commission shall certify to the Commission that such grant or agreement will not—

(1) result in the displacement of individuals currently employed by the Commission;

(2) result in the employment of any individual when any other individual is on layoff status from the same or a substantially equivalent job within the jurisdiction of the Commission;

(3) result in filling a position prior to (A) publicly announcing the availability of such position, and (B) attempting to fill such position in accordance with regular employment procedures; or

(4) affect existing contracts for services.

(c) Participants in any program under a grant or cooperative agreement pursuant to this section shall—

(1) execute a signed statement with the Commission in which such participants certify that they will adhere to the standards of conduct prescribed for regular employees of the Commission, as set forth in part 19 of title 47, Code of Federal Regulations; and

(2) execute a confidential statement of employment and financial interest (Federal Communications Commission Form A-54) prior to commencement of work under the program.

Failure to comply with the terms of the signed statement described in paragraph (1) shall result in termination of the individual under the grant or agreement.

(d) Nothing in this section shall be construed to permit employment of any such participant in any decisionmaking or policymaking position.

(e) Grants or agreements under this section shall be subject to prior appropriation Acts.

CONGRESSIONAL COMMUNICATIONS

SEC. 7. (a) The prohibition in section 1.1203(a) of title 47, Code of Federal Regulations, shall not apply to any of the types of presentations listed in section 1.1204(b) of such title nor to any presentation made by a member or officer of Congress, or a staff person of any such member or officer, acting in his or her official capacity, in—

(1) any non-restricted proceeding under section 1.1206(b) of such title;

(2) any exempt proceeding under section 1.1204(a)(2) of such title not involving the allotment of a channel in the radio broadcast or television broadcast services; or

(3) any exempt proceeding under section 1.1204 (a)(4) through (a)(6) of such title.

(b) Each reference in subsection (a) of this section to a provision of title 47, Code of Federal Regulations, applies to such provision as in effect on the date of enactment of this Act. No subsequent amendment of the rules or regulations in such title shall have the effect of prohibiting any presentation of the kind that would be permitted

under subsection (a) of this section on the date of enactment of this Act.

TARIFF REVIEW

SEC. 8. (a) Section 5(c)(1) of the Communications Act of 1934 (47 U.S.C. 155(c)(1)) is amended, in the first sentence, by inserting immediately after "this subsection" the following: "and except any action referred to in sections 204(a)(2), 208(b), and 405(b)".

(b) Section 204(a) of the Communications Act of 1934 (47 U.S.C. 204(a)) is amended—

(1) by inserting "(1)" immediately before "Whenever"; and

(2) by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), the Commission shall, with respect to any hearing under this section, issue an order concluding such hearing within 12 months after the date that the charge, classification, regulation, or practice subject to the hearing becomes effective, or within 15 months after such date if the hearing raises questions of fact of such extraordinary complexity that the questions cannot be resolved within 12 months.

"(B) The Commission shall, with respect to any such hearing initiated prior to the date of enactment of this paragraph, issue an order concluding the hearing not later than 12 months after such date of enactment.

"(C) Any order concluding a hearing under this section shall be a final order and may be appealed under section 402(a).".

(c) Section 208 of the Communications Act of 1934 (47 U.S.C. 208) is amended—

(1) by redesignating the existing text as subsection (a); and

(2) by adding at the end the following new subsection:

"(b)(1) Except as provided in paragraph (2), the Commission shall, with respect to any investigation under this section of the lawfulness of a charge, classification, regulation, or practice, issue an order concluding such investigation within 12 months after the date on which the complaint was filed, or within 15 months after such date if the investigation raises questions of fact of such extraordinary complexity that the questions cannot be resolved within 12 months.

"(2) The Commission shall, with respect to any such investigation initiated prior to the date of enactment of this subsection, issue an order concluding the investigation not later than 12 months after such date of enactment.

"(3) Any order concluding an investigation under paragraph (1) or (2) shall be a final order and may be appealed under section 402(a).".

(d) Section 405 of the Communications Act of 1934 (47 U.S.C. 405) is amended—

(1) by redesignating the existing text as subsection (a);

(2) in subsection (a), as so redesignated, by striking "section 5(d)(1)" each place it appears and inserting in lieu thereof "section 5(c)(1)"; and

(3) by adding at the end the following new subsection:

"(b)(1) Within 90 days after receiving a petition for reconsideration of an order concluding a hearing under section 204(a) or concluding an investigation under section 208(b), the Commission shall issue an order granting or denying such petition.

"(2) Any order issued under paragraph (1) shall be a final order and may be appealed under section 402(a).".

HAWAII MONITORING STATION

Real property.

SEC. 9. (a) The Federal Communications Commission is authorized to expend such funds as may be required in fiscal years 1989 and 1990, out of its appropriations for such fiscal years, to relocate within the State of Hawaii the Hawaii Monitoring Station presently located in Honolulu (Waipahu), including all necessary expenses for—

(1) acquisition of real property;
(2) options to purchase real property;
(3) architectural and engineering services;
(4) construction of a facility at the new location;
(5) transportation of equipment and personnel;
(6) lease-back of real property and related personal property at the present location of the Monitoring Station pending acquisition of real property and construction of a facility at a new location; and
(7) the re-establishment, if warranted by the circumstances, of a downtown office to serve the residents of Honolulu.

(b) The Federal Communications Commission shall declare as surplus property, for disposition by the General Services Administration, the real property (including the structures and fixtures) and related personal property which are at the present location of the Hawaii Monitoring Station and which will not be relocated. Notwithstanding sections 203 and 204 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484 and 485), the General Services Administration shall sell such real and related personal property on an expedited basis, including provisions for leaseback as required, and shall reimburse the Commission from the net proceeds of the sale for all of the expenditures of the Commission associated with such relocation of the Monitoring Station. Any such reimbursed funds received by the Commission shall remain available until expended.

(c) The net proceeds of the sale of such real and related property, less any funds reimbursed to the Federal Communications Commission pursuant to subsection (b), and less normal and reasonable charges by the General Services Administration for costs associated with such sale, shall be deposited in the general funds of the Treasury.

(d) The Hawaii Monitoring Station shall continue its full operations at its present location until a new facility has been built and is fully operational at a new location.

(e) The Federal Communications Commission and the General Services Administration shall not take any action under this section committing any funds disposing of any property in connection with the relocation of the Hawaii Monitoring Station until—

(1) the Chairman of the Commission and the Administrator of General Services have jointly prepared and submitted, to the Committee on Appropriations, the Committee on Commerce, Science, and Transportation, and the Committee on Governmental Affairs of the Senate, and the Committee on Appropriations, the Committee on Energy and Commerce, and the Committee on Government Operations of the House of Representatives, a letter or other document setting forth in detail the plan and procedures for such relocation which will reasonably carry out, in an expeditious manner, the provisions of this section but will not disrupt or defer any programs or regulatory

activities of the Commission or adversely affect any employee of the Commission (other than those at the Monitoring Station who may be required to transfer to another location) through the use of appropriations for the Commission, in fiscal years 1989 and 1990; and

(2) at least 30 calendar days have passed since the receipt of such document by such committees.

SENSE OF CONGRESS

SEC. 10. (a) The Congress finds that—

(1) more than four hundred and thirty-five thousand four hundred radio amateurs in the United States are licensed by the Federal Communications Commission upon examination in radio regulations, technical principles, and the international Morse code;

(2) by international treaty and the Federal Communications Commission regulation, the amateur is authorized to operate his or her station in a radio service of intercommunications and technical investigations solely with a personal aim and without pecuniary interest;

(3) among the basic purposes for the Amateur Radio Service is the provision of voluntary, noncommercial radio service, particularly emergency communications; and

(4) volunteer amateur radio emergency communications services have consistently and reliably been provided before, during, and after floods, tornadoes, forest fires, earthquakes, blizzards, train wrecks, chemical spills, and other disasters.

(b) It is the sense of the Congress that—

(1) it strongly encourages and supports the Amateur Radio Service and its emergency communications efforts; and

(2) Government agencies shall take into account the valuable contributions made by amateur radio operators when considering actions affecting the Amateur Radio Service.

Approved November 3, 1988.

LEGISLATIVE HISTORY—S. 1048 (H.R. 2961):

HOUSE REPORTS: No. 100-363 accompanying H.R. 2961 (Comm. on Energy and Commerce).

SENATE REPORTS: No. 100-142 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD:

Vol. 133 (1987): Oct. 13, H.R. 2961 considered and passed House.

Vol. 134 (1988): Oct. 7, S. 1048 considered and passed Senate.
Oct. 19, considered and passed House.

Public Law 100-595
100th Congress

An Act

Nov. 3, 1988
[S. 1476]

To designate the Federal Records Center Extension Building 109 under construction in Overland, Missouri, as the "Charles F. Prevedel Federal Building".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The building under construction in Overland, Missouri, known as the "Federal Records Center Extension Building 109", shall be known and designated as the "Charles F. Prevedel Federal Building".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Charles F. Prevedel Federal Building".

Approved November 3, 1988.

LEGISLATIVE HISTORY—S. 1476:

HOUSE REPORTS: No. 100-1007 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 16, considered and passed Senate.
Oct. 4, considered and passed House, amended.
Oct. 19, Senate concurred in House amendment.

Public Law 100-596
100th Congress

An Act

To designate the Federal building and United States courthouse located at 300 Booth Street in Reno, Nevada, as the "C. Clifton Young Federal Building and United States Courthouse".

Nov. 3, 1988
[S. 1827]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION.

The Federal building and United States courthouse located at 300 Booth Street in Reno, Nevada, shall be known and designated as the "C. Clifton Young Federal Building and United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "C. Clifton Young Federal Building and United States Courthouse".

Approved November 3, 1988.

LEGISLATIVE HISTORY—S. 1827:

HOUSE REPORTS: No. 100-945 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 22, considered and passed Senate.
Oct. 3, considered and passed House, amended.
Oct. 19, Senate concurred in House amendment.

Public Law 100-597
100th Congress

An Act

Nov. 3, 1988
[S. 1863]

To amend the bankruptcy law to provide for special revenue bonds, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DEFINITION OF MUNICIPALITY.

Section 101(31) of title 11, United States Code, is amended—

(1) in subparagraph (A)—

(A) by inserting "and a municipality" after "partnership"; and

(B) in clause (ii) by striking "and" at the end;

(2) in subparagraph (B)(ii) by adding "and" at the end; and

(3) by adding at the end the following:

"(C) with reference to a municipality, financial condition such that the municipality is—

"(i) generally not paying its debts as they become due unless such debts are the subject of a bona fide dispute; or

"(ii) unable to pay its debts as they become due;".

SEC. 2. WHO MAY BE A DEBTOR.

Section 109(c)(3) of title 11, United States Code, is amended by striking "or unable to meet such entity's debts as such debts mature".

SEC. 3. APPLICABILITY OF SECTIONS.

Section 901(a) of title 11, United States Code, is amended by inserting "1129(a)(6)," after "1129(a)(3),".

SEC. 4. DEFINITION OF SPECIAL REVENUES.

Section 902 of title 11, United States Code, is amended—

(1) by redesignating paragraphs (2), (3), and (4) as paragraphs (3), (4), and (5), respectively; and

(2) by inserting after paragraph (1) the following:

"(2) 'special revenues' means—

"(A) receipts derived from the ownership, operation, or disposition of projects or systems of the debtor that are primarily used or intended to be used primarily to provide transportation, utility, or other services, including the proceeds of borrowings to finance the projects or systems;

"(B) special excise taxes imposed on particular activities or transactions;

"(C) incremental tax receipts from the benefited area in the case of tax-increment financing;

"(D) other revenues or receipts derived from particular functions of the debtor, whether or not the debtor has other functions; or

"(E) taxes specifically levied to finance one or more projects or systems, excluding receipts from general property, sales, or income taxes (other than tax-increment financing) levied to finance the general purposes of the debtor;".

SEC. 5. AUTOMATIC STAY.

Section 922 of title 11, United States Code, is amended by adding at the end the following:

"(c) If the debtor provides, under section 362, 364, or 922 of this title, adequate protection of the interest of the holder of a claim secured by a lien on property of the debtor and if, notwithstanding such protection such creditor has a claim arising from the stay of action against such property under section 362 or 922 of this title or from the granting of a lien under section 364(d) of this title, then such claim shall be allowable as an administrative expense under section 503(b) of this title. Claims.

"(d) Notwithstanding section 362 of this title and subsection (a) of this section, a petition filed under this chapter does not operate as a stay of application of pledged special revenues in a manner consistent with section 927 of this title to payment of indebtedness secured by such revenues.".

SEC. 6. AVOIDING POWERS.

Section 926 of title 11, United States Code, is amended—

(1) by inserting "(a)" before "If"; and

(2) by adding at the end the following:

"(b) A transfer of property of the debtor to or for the benefit of any holder of a bond or note, on account of such bond or note, may not be avoided under section 547 of this title.".

SEC. 7. CLAIMS PAYABLE SOLELY FROM SPECIAL REVENUES.

Chapter 9 of title 11, United States Code, is amended—

(1) by redesignating section 927 as section 930; and

(2) by inserting after section 926 the following:

"§ 927. Limitation on recourse

"The holder of a claim payable solely from special revenues of the debtor under applicable nonbankruptcy law shall not be treated as having recourse against the debtor on account of such claim pursuant to section 1111(b) of this title.".

SEC. 8. POST PETITION EFFECT OF SECURITY INTEREST.

Title 11 of the United States Code is amended by inserting after section 927, as added by section 7, the following:

"§ 928. Post petition effect of security interest

"(a) Notwithstanding section 552(a) of this title and subject to subsection (b) of this section, special revenues acquired by the debtor after the commencement of the case shall remain subject to any lien resulting from any security agreement entered into by the debtor before the commencement of the case.

"(b) Any such lien on special revenues, other than municipal betterment assessments, derived from a project or system shall be subject to the necessary operating expenses of such project or system, as the case may be.".

SEC. 9. MUNICIPAL LEASES.

Title 11 of the United States Code is amended by inserting after section 928, as added by section 8, the following:

"§ 929. Municipal leases

"A lease to a municipality shall not be treated as an executory contract or unexpired lease for the purposes of section 365 or 502(b)(6) of this title solely by reason of its being subject to termination in the event the debtor fails to appropriate rent.".

SEC. 10. CONFIRMATION.

Section 943(b) of title 11, United States Code, is amended—

(1) in paragraph (5) by striking "and" at the end;

(2) by redesignating paragraph (6) as paragraph (7); and

(3) by inserting after paragraph (5) the following:

"(6) any regulatory or electoral approval necessary under applicable nonbankruptcy law in order to carry out any provision of the plan has been obtained, or such provision is expressly conditioned on such approval; and".

SEC. 11. TECHNICAL AMENDMENT.

The table of sections of chapter 9 of title 11, United States Code, is amended by striking the item relating to section 927 and inserting the following:

"927. Limitation on recourse.
"928. Post petition effect of security interest.
"929. Municipal leases.
"930. Dismissal.".

11 USC 101 note.

SEC. 12. EFFECTIVE DATE; APPLICATION OF AMENDMENTS.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICATION OF AMENDMENTS.—The amendments made by this Act shall not apply with respect to cases commenced under title 11 of the United States Code before the date of the enactment of this Act.

Approved November 3, 1988.

LEGISLATIVE HISTORY—S. 1863 (H.R. 5347):

HOUSE REPORTS: No. 100-1011 accompanying H.R. 5347 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-506 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 20, considered and passed Senate.
Oct. 3, 4, H.R. 5347 considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 19, S. 1863 considered and passed House, amended.
Oct. 20, Senate concurred in House amendment.

Public Law 100-598
100th Congress

An Act

To reauthorize the Office of Government Ethics, and for other purposes.

Nov. 3, 1988
[S. 2344]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Government organization and employees.

SECTION 1. REFERENCES.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Ethics in Government Act of 1978 (5 U.S.C. App.).

SEC. 2. REAUTHORIZATION.

Appropriation authorization. 5 USC app.

Section 405 is amended to read as follows:

"There are authorized to be appropriated to carry out the provisions of this title and for no other purpose—

"(1) not to exceed $2,500,000 for the fiscal year ending September 30, 1989; and

"(2) not to exceed $3,500,000 for each of the 5 fiscal years thereafter.".

SEC. 3. OFFICE OF GOVERNMENT ETHICS TO FUNCTION INDEPENDENTLY.

5 USC app.

(a) ESTABLISHMENT AS A SEPARATE EXECUTIVE AGENCY.—Section 401(a) is amended by striking out "in the Office of Personnel Management an office to be known as" and inserting "an executive agency to be known as".

(b) APPOINTMENT AND CONTRACTING AUTHORITY.—Section 401 is amended by adding at the end the following:

"(c) The Director may—

"(1) appoint officers and employees, including attorneys, in accordance with chapter 51 and subchapter III of chapter 53 of title 5, United States Code; and

"(2) contract for financial and administrative services (including those related to budget and accounting, financial reporting, personnel, and procurement) with the General Services Administration, or such other Federal agency as the Director determines appropriate, for which payment shall be made in advance, or by reimbursement, from funds of the Office of Government Ethics in such amounts as may be agreed upon by the Director and the head of the agency providing such services.

Contract authority under paragraph (2) shall be effective for any fiscal year only to the extent that appropriations are available for that purpose.".

SEC. 4. REPORTS TO CONGRESS.

5 USC app.

The Ethics in Government Act of 1978 is amended by adding after section 407 the following:

"REPORTS TO CONGRESS

"SEC. 408. The Director shall, no later than March 31 of each year in which the second session of a Congress begins, submit to the Congress a report containing—

"(1) a summary of the actions taken by the Director during a 2-year period ending on December 31 of the preceding year in order to carry out the Director's functions and responsibilities under this title; and

"(2) such other information as the Director may consider appropriate.".

SEC. 5. AGENCY PROCEDURES RELATING TO FINANCIAL DISCLOSURE STATEMENTS.

5 USC app.

Section 402 is amended by adding after subsection (c) the following:

"(d)(1) The Director shall, by the exercise of any authority otherwise available to the Director under this title, ensure that each executive agency has established written procedures relating to how the agency is to collect, review, evaluate, and, if applicable, make publicly available, financial disclosure statements filed by any of its officers or employees.

"(2) In carrying out paragraph (1), the Director shall ensure that each agency's procedures are in conformance with all applicable requirements, whether established by law, rule, regulation, or Executive order.".

SEC. 6. INFORMATION TO BE REPORTED BY EXECUTIVE AGENCIES.

Section 402 is amended by adding after subsection (d) (as added by section 5) the following:

Regulations.

"(e) In carrying out subsection (b)(10), the Director shall prescribe regulations under which—

Reports.

"(1) each executive agency shall be required to submit to the Office an annual report containing—

"(A) a description and evaluation of the agency's ethics program, including any educational, counseling, or other services provided to officers and employees, in effect during the period covered by the report; and

"(B) the position title and duties of—

"(i) each official who was designated by the agency head to have primary responsibility for the administration, coordination, and management of the agency's ethics program during any portion of the period covered by the report; and

"(ii) each officer or employee who was designated to serve as an alternate to the official having primary responsibility during any portion of such period; and

"(C) any other information that the Director may require in order to carry out the responsibilities of the Director under this title; and

"(2) each executive agency shall be required to inform the Director upon referral of any alleged violation of Federal conflict of interest law to the Attorney General pursuant to section 535 of title 28, United States Code, except that nothing under this paragraph shall require any notification or disclosure which would otherwise be prohibited by law.".

SEC. 7. CORRECTIVE ACTION.

Section 402 is amended by adding after subsection (e) (as added by section 6) the following: 5 USC app.

"(f)(1) In carrying out subsection (b)(9) with respect to executive agencies, the Director—

"(A) may—

"(i) order specific corrective action on the part of an agency based on the failure of such agency to establish a system for the collection, filing, review, and, when applicable, public inspection of financial disclosure statements, in accordance with applicable requirements, or to modify an existing system in order to meet applicable requirements; or Public information.

"(ii) order specific corrective action involving the establishment or modification of an agency ethics program (other than with respect to any matter under clause (i)) in accordance with applicable requirements; and

"(B) shall, if an agency has not complied with an order under subparagraph (A) within a reasonable period of time, notify the President and the Congress of the agency's noncompliance in writing (including, with the notification, any written comments which the agency may provide).

"(2)(A) In carrying out subsection (b)(9) with respect to individual officers and employees—

"(i) the Director may make such recommendations and provide such advice to such officers and employees as the Director considers necessary to ensure compliance with rules, regulations, and Executive orders relating to conflicts of interest or standards of conduct;

"(ii) if the Director has reason to believe that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may recommend to the head of the officer's or employee's agency that such agency head investigate the possible violation and, if the agency head finds such a violation, that such agency head take any appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) against the officer or employee, except that, if the officer or employee involved is the agency head, any such recommendation shall instead be submitted to the President; and

"(II) shall notify the President in writing if the Director determines that the head of an agency has not conducted an investigation pursuant to subclause (I) within a reasonable time after the Director recommends such action;

"(iii) if the Director finds that an officer or employee is violating any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may order the officer or employee to take specific action (such as divestiture, recusal, or the establishment of a blind trust) to end such violation; and

"(II) shall, if the officer or employee has not complied with the order under subclause (I) within a reasonable period of time, notify, in writing, the head of the officer's or employee's agency of the officer's or employee's noncompli-

ance, except that, if the officer or employee involved is the agency head, the notification shall instead be submitted to the President; and

"(iv) if the Director finds that an officer or employee is violating, or has violated, any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct, the Director—

"(I) may recommend to the head of the officer's or employee's agency that appropriate disciplinary action (such as reprimand, suspension, demotion, or dismissal) be brought against the officer or employee, except that if the officer or employee involved is the agency head, any such recommendations shall instead be submitted to the President; and

"(II) may notify the President in writing if the Director determines that the head of an agency has not taken appropriate disciplinary action within a reasonable period of time after the Director recommends such action.

"(B)(i) In order to carry out the Director's duties and responsibilities under subparagraph (A) (iii) or (iv) with respect to individual officers and employees, the Director may conduct investigations and make findings concerning possible violations of any rule, regulation, or Executive order relating to conflicts of interest or standards of conduct applicable to officers and employees of the executive branch.

"(ii)(I) Subject to clause (iv) of this subparagraph, before any finding is made under subparagraphs (A) (iii) or (iv), the officer or employee involved shall be afforded notification of the alleged violation, and an opportunity to comment, either orally or in writing, on the alleged violation.

"(II) The Director shall, in accordance with section 553 of title 5, United States Code, establish procedures for such notification and comment.

"(iii) Subject to clause (iv) of this subparagraph, before any action is ordered under subparagraph (A)(iii), the officer or employee involved shall be afforded an opportunity for a hearing, if requested by such officer or employee, except that any such hearing shall be conducted on the record.

"(iv) The procedures described in clauses (ii) and (iii) of this subparagraph do not apply to findings or orders for action made to obtain compliance with the financial disclosure requirements in title 2 of this Act. For those findings and orders, the procedures in section 206 of this Act shall apply.

"(3) The Director shall send a copy of any order under paragraph (2)(A)(iii) to—

"(A) the officer or employee who is the subject of such order; and

"(B) the head of officer's or employee's agency or, if such officer or employee is the agency head, to the President.

"(4) For purposes of paragraphs (2)(A) (ii), (iii), (iv), and (3)(B), in the case of an officer or employee within an agency which is headed by a board, committee, or other group of individuals (rather than by a single individual), any notification, recommendation, or other matter which would otherwise be sent to an agency head shall instead be sent to the officer's or employee's appointing authority.

"(5) Nothing in this title shall be considered to allow the Director (or any designee) to make any finding that a provision of title 18,

United States Code, or any criminal law of the United States outside of such title, has been or is being violated.

"(6) Notwithstanding any other provision of law, no record developed pursuant to the authority of this section concerning an investigation of an individual for a violation of any rule, regulation, or Executive order relating to a conflict of interest shall be made available pursuant to section 552(a)(3) of title 5, United States Code, unless the request for such information identifies the individual to whom such records relate and the subject matter of any alleged violation to which such records relate, except that nothing in this subsection shall affect the application of the provisions of section 552(b) of title 5, United States Code, to any record so identified.". Records.

SEC. 8. ANNUAL PAY OF DIRECTOR.

Section 407 is amended to read as follows: 5 USC app.

"ANNUAL PAY OF DIRECTOR

"SEC. 407. Chapter 53 of title 5, United States Code, is amended—

"(1) in section 5316 by striking out: 'Director of the Office of Government Ethics.'; and

"(2) in section 5314 by adding at the end thereof: 'Director of the Office of Government Ethics.' ".

SEC. 9. ADMINISTRATIVE PROVISIONS.

Section 403 is amended by striking out "pursuant to subsections (b)(3) and (b)(4) of section 402." and inserting in lieu thereof "pursuant to the Office of Government Ethics responsibilities under this Act. The head of any agency may detail such personnel and furnish such services, with or without reimbursement, as the Director may request to carry out the provisions of this Act". 5 USC app.

SEC. 10. EFFECTIVE DATE. 5 USC app.

(a) IN GENERAL.—Except as provided in subsection (b), the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) EXCEPTION.—The amendments made by section 3 shall take effect on October 1, 1989.

Approved November 3, 1988.

LEGISLATIVE HISTORY—S. 2344 (H.R. 4712):

HOUSE REPORTS: No. 100-1017, Pt. 1, accompanying H.R. 4712 (Comm. on Post Office and Civil Service).
SENATE REPORTS: No. 100-392 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 28, considered and passed Senate.
Oct. 3, 4, considered and passed House, amended, in lieu of H.R. 4712.
Oct. 20, Senate concurred in House amendment with an amendment. House concurred in Senate amendment.

Public Law 100-599
100th Congress

An Act

Nov. 3, 1988
[S. 2835]

To designate the United States Post Office and Courthouse located at 151 West Street in Rutland, Vermont, as the "Robert T. Stafford United States Courthouse and Post Office".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the United States Post Office and Courthouse located at 151 West Street in Rutland, Vermont, shall be known and designated as the "Robert T. Stafford United States Courthouse and Post Office".

SEC. 2. LEGAL REFERENCES TO BUILDING.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 is deemed to be a reference to the "Robert T. Stafford United States Courthouse and Post Office".

SEC. 3. EFFECTIVE DATE.—The provisions of this Act shall be effective on January 4, 1989.

Approved November 3, 1988.

LEGISLATIVE HISTORY—S. 2835:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 28, considered and passed Senate.
Oct. 19, considered and passed House.

Public Law 100-600
100th Congress

Joint Resolution

To designate the week of November 27, 1988 through December 3, 1988 as "National Home Care Week."

Nov. 3, 1988
[S.J. Res. 280]

Whereas organized home health care services to the elderly and disabled have existed in this country since the last quarter of the eighteenth century;

Whereas home health care, including skilled nursing services, physical therapy, speech therapy, social services, occupational therapy, health counseling and education, and homemaker-home health aide services, is recognized as an effective and economical alternative to unnecessary institutionalization;

Whereas caring for the ill and disabled in their homes places emphasis on the dignity and independence of the individual receiving such services;

Whereas the Federal Government has supported home health services since the enactment of the medicare program, with the number of home health agencies providing services increasing from less than five hundred to more than five thousand; and

Whereas many private, public, and charitable organizations provide these and similar services to millions of patients each year preventing, postponing, and limiting the need for institutionalization and enabling such patients to remain independent: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 27, 1988 through December 3, 1988 is designated as "National Home Care Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate programs, ceremonies, and activities.

Approved November 3, 1988.

LEGISLATIVE HISTORY—S.J. Res. 280:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 7, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-601
100th Congress

Joint Resolution

Nov. 3, 1988
[S.J. Res. 302]

To designate October 1988 as "National Down Syndrome Month".

Whereas the past decade and a half has brought a greater and more enlightened attitude in the care and training of the developmentally disabled;

Whereas one such condition which has undergone considerable reevaluation is that of Down syndrome—a problem which, just a short time ago, was often stigmatized as a mentally retarded condition which relegated its victims to lives of passivity in institutions and back rooms;

Whereas through the efforts of concerned physicians, teachers and parent groups such as the National Down Syndrome Congress, programs are being put in place to educate new parents of babies with Down syndrome, to develop special education classes within mainstreamed programs in schools, to provide for vocational training in preparation for entering the work force, and to prepare young adults with Down syndrome for independent living in the community;

Whereas the cost of such services designed to help individuals with Down syndrome move into their rightful place in our society is but a tiny fraction of the cost of institutionalization;

Whereas not only the improvement in educational opportunities for those with Down syndrome, but also the advancement in medical science is adding to a brighter outlook for individuals born with this chromosomal configuration; and

Whereas public awareness and acceptance of the capabilities of children with Down syndrome can greatly facilitate their being mainstreamed in our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1988 is designated as "National Down Syndrome Month" and that the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the designated month with appropriate programs, ceremonies, and activities.

Approved November 3, 1988.

LEGISLATIVE HISTORY—S.J. Res. 302:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-602
100th Congress

Joint Resolution

To designate February 1989 as "America Loves Its Kids Month".

Nov. 3, 1988
[S.J. Res. 324]

Whereas all of the children in the United States, including newborn infants, toddlers, kids who attend preschool, nursery school, kindergarten, elementary school, junior high school, high school, open school, alternative school, and private school, out-of-school kids, and kids of every race, creed, and color, deserve the recognition and support of the people of the United States;

Whereas the adults in the United States should recognize their duty to protect children by reporting any suspicion of child abuse or neglect, the selling of alcoholic beverages to minors, or the dealing of drugs by or for children;

Whereas children in the United States who are achieving success deserve to be highly complimented and given special recognition for their accomplishments;

Whereas the people of the United States should help to raise the self-esteem of children, especially children who have experienced hardship and hurt in their lives, by making an effort to communicate with and to support children;

Whereas adults in the United States should frequently offer to children hugs, smiles, pats on the back, and words of kindness and encouragement, to help children become more confident and successful; and

Whereas the Congress and the President can help children of the United States by designating a month for a united effort of the people of the United States to show their love and appreciation of the children of the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 1989 is designated as "America Loves Its Kids Month", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved November 3, 1988.

LEGISLATIVE HISTORY—S.J. Res. 324:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-603
100th Congress

Joint Resolution

Nov. 3, 1988
[S.J. Res. 335]

To designate the last full week of October, October 23 through October 29, 1988, as "National Adult Immunization Awareness Week".

Whereas the Surgeon General of the United States has declared as a major health initiative the reduction of vaccine-preventable death and disease among adults in the United States;

Whereas the reduction of these infectious diseases could save as many as 70,000 lives annually and more than $1 billion in direct costs annually;

Whereas the Surgeon General has declared the goal of immunizing 60 percent of America's elderly and chronically ill against influenza and pneumococcal pneumonia, yet only 18 percent of susceptible adults are immunized against influenza and 10 percent against pneumococcal pneumonia;

Whereas hepatitis B has grown to epidemic proportions in this country despite the availability of a highly effective vaccine;

Whereas childhood diseases like measles and mumps are on the rise among young adults;

Whereas newborn infants in America are at risk of congenital deformities or death because 9-15 percent of women of childbearing age are not adequately protected against rubella;

Whereas the Congress has authorized through the Omnibus Reconciliation Act of 1987 a $25 million-a-year demonstration project to prove the cost-effectiveness of influenza vaccinations among Medicare recipients;

Whereas efforts should be made to alert Medicare participants to enroll in this project;

Whereas public awareness in the field of adult immunization has been conducted primarily by the voluntary sector; and

Whereas the Congress and the President have consistently declared the last week of October as "National Adult Immunization Awareness Week": Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the last full week of October, October 23 through October 29, 1988, is designated as

"National Adult Immunization Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people, the Surgeon General, and other Federal health officials of the United States to observe such week with appropriate ceremonies and activities.

Approved November 3, 1988.

LEGISLATIVE HISTORY—S.J. Res. 335:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-604
100th Congress

Joint Resolution

Nov. 3, 1988
[S.J. Res. 381]

To designate October 30, 1988, as "Fire Safety at Home Day—Change Your Clock, Change Your Battery".

Whereas every year, five hundred thousand fires ravage the homes of Americans, resulting in over six thousand deaths and three hundred thousand injuries;

Whereas home fires are the leading cause of death and serious injury among children in the United States;

Whereas senior citizens, families in substandard housing, and the physically and mentally disabled are at high risk to be victims of fire;

Whereas three out of four homes have at least one smoke detector, but an estimated one-half are inoperable because of worn or missing batteries;

Whereas the International Association of Fire Chiefs estimates that the annual practice of changing batteries in smoke detectors would save thousands of lives and billions of dollars in property damage;

Whereas the Congressional Fire Services Caucus, with its broad-based bipartisan membership, reflects the concern of Congress for fire safety and its dedication to making it an important national priority;

Whereas the designation of a special day to remind Americans to properly maintain their smoke detectors, timed to coincide with the fall ritual of resetting clocks, would greatly diminish this human tragedy; and

Whereas October 30, 1988, is the day Americans change their clocks from daylight saving time: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, **That the thirtieth day of October 1988 is hereby designated as "Fire Safety at Home Day—Change Your Clock, Change Your Battery". The President is requested to issue a proclamation calling upon the people of the United States to observe that day by maintaining their first line of defense against fire by changing the batteries in their smoke detectors when they reset their clocks from daylight saving time.**

Approved November 3, 1988.

LEGISLATIVE HISTORY—S.J. Res. 381:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 20, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-605
100th Congress

An Act

To authorize a study of the Hanford Reach of the Columbia River, and for other purposes.

Nov. 4, 1988
[H.R. 3614]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. COMPREHENSIVE RIVER CONSERVATION STUDY.

The Secretary of the Interior ("Secretary"), in consultation with the Secretary of Energy, shall prepare a comprehensive river conservation study for that segment of the Columbia River extending from one mile below Priest Rapids Dam downstream approximately fifty-one miles to the McNary Pool north of Richland, Washington, as generally depicted on the map entitled "Proposed Columbia River Wild and Scenic River Boundary" dated May 17, 1988, hereinafter referred to as the "study area" which is on file with the United States Department of the Interior. The study shall identify and evaluate the outstanding features of the study area and its immediate environment, including fish and wildlife, geologic, scenic, recreational, natural, historical, and cultural values, and examine alternatives for their preservation. In examining alternatives means for the preservation of such values, the Secretary shall, among other things, consider the potential addition of all or a portion of the study area to the National Wild and Scenic Rivers System, and recommend a preferred alternative for the protection and preservation of the values identified. The Secretary shall cooperate and consult with the State and political subdivisions thereof, local, and tribal governments, and other interested entities in preparation of such a study and provide for public comment. The study shall be completed and presented to Congress within three years after the date of enactment of this Act.

Washington.

State and local governments.

SEC. 2. INTERIM PROTECTION.

(a) For a period of eight years after the enactment of this Act, within the study area identified in section 1 of this Act:

(1) No Federal agency may construct any dam, channel, or navigation project.

(2) All other new Federal and non-Federal projects and activities shall, to the greatest extent practicable:

(A) be planned, designed, located and constructed to minimize direct and adverse effects on the values for which the river is under study; and

(B) utilize existing structures and facilities including, but not limited to, pipes, pipelines, transmission towers, water conduits, powerhouses, and reservoirs to accomplish the purposes of the project or activity.

(3) Federal and non-Federal entities planning new projects or activities in the study area shall consult and coordinate with the Secretary to minimize and provide mitigation for any direct

and adverse effects on the values for which the river is under study.

(4) Upon receiving notice from the entity planning the new project or activity, the Secretary shall, no later than ninety days after receiving such notice and consulting with the entity:

(A) review the proposed project or activity and make a determination as to whether there will be a direct and adverse effect on the values for which the river segment is under study; and

(B) review proposals to mitigate such effects and make such recommendations for mitigation as he deems necessary.

(5) If the Secretary determines that there will be a direct and adverse effect that has not been adequately mitigated, he shall notify the sponsoring entity and the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate of his determination and any proposed recommendations.

(b) During the eight year interim protection period, provided by this section, all existing projects that affect the study area shall be operated and maintained to minimize any direct and adverse effects on the values for which the river is under study, taking into account any existing and relevant license, permit, or agreement affecting the project.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated not more than $150,000 for the purpose of conducting the study pursuant to section 1 of this Act.

Approved November 4, 1988.

LEGISLATIVE HISTORY—H.R. 3614:

HOUSE REPORTS: No. 100-960 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 12, considered and passed Senate, amended.
Oct. 19, House concurred in Senate amendment.

Public Law 100-606
100th Congress

An Act

To implement the International Convention on the Prevention and Punishment of Genocide.

Nov. 4, 1988
[S. 1851]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Genocide Convention Implementation Act of 1987 (the Proxmire Act). 18 USC 1091 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Genocide Convention Implementation Act of 1987 (the Proxmire Act)".

SEC. 2. TITLE 18 AMENDMENTS.

(a) IN GENERAL.—Part I of title 18, United States Code, is amended by inserting after chapter 50 the following:

"CHAPTER 50A—GENOCIDE

"Sec.
1091. Genocide.
1092. Exclusive remedies.
1093. Definitions.

"§ 1091. Genocide

"(a) BASIC OFFENSE.—Whoever, whether in time of peace or in time of war, in a circumstance described in subsection (d) and with the specific intent to destroy, in whole or in substantial part, a national, ethnic, racial, or religious group as such—

"(1) kills members of that group;

"(2) causes serious bodily injury to members of that group;

"(3) causes the permanent impairment of the mental faculties of members of the group through drugs, torture, or similar techniques;

"(4) subjects the group to conditions of life that are intended to cause the physical destruction of the group in whole or in part;

"(5) imposes measures intended to prevent births within the group; or

"(6) transfers by force children of the group to another group;

or attempts to do so, shall be punished as provided in subsection (b).

"(b) PUNISHMENT FOR BASIC OFFENSE.—The punishment for an offense under subsection (a) is—

"(1) in the case of an offense under subsection (a)(1), a fine of not more than $1,000,000 and imprisonment for life; and

"(2) a fine of not more than $1,000,000 or imprisonment for not more than twenty years, or both, in any other case.

"(c) INCITEMENT OFFENSE.—Whoever in a circumstance described in subsection (d) directly and publicly incites another to violate subsection (a) shall be fined not more than $500,000 or imprisoned not more than five years, or both.

"(d) REQUIRED CIRCUMSTANCE FOR OFFENSES.—The circumstance referred to in subsections (a) and (c) is that—

"(1) the offense is committed within the United States; or

"(2) the alleged offender is a national of the United States (as defined in section 101 of the Immigration and Nationality Act (8 U.S.C. 1101)).

"(e) NONAPPLICABILITY OF CERTAIN LIMITATIONS.—Notwithstanding section 3282 of this title, in the case of an offense under subsection (a)(1), an indictment may be found, or information instituted, at any time without limitation.

"§ 1092. Exclusive remedies

"Nothing in this chapter shall be construed as precluding the application of State or local laws to the conduct proscribed by this chapter, nor shall anything in this chapter be construed as creating any substantive or procedural right enforceable by law by any party in any proceeding.

"§ 1093. Definitions

"As used in this chapter—

"(1) the term 'children' means the plural and means individuals who have not attained the age of eighteen years;

"(2) the term 'ethnic group' means a set of individuals whose identity as such is distinctive in terms of common cultural traditions or heritage;

"(3) the term 'incites' means urges another to engage imminently in conduct in circumstances under which there is a substantial likelihood of imminently causing such conduct;

"(4) the term 'members' means the plural;

"(5) the term 'national group' means a set of individuals whose identity as such is distinctive in terms of nationality or national origins;

"(6) the term 'racial group' means a set of individuals whose identity as such is distinctive in terms of physical characteristics or biological descent;

"(7) the term 'religious group' means a set of individuals whose identity as such is distinctive in terms of common religious creed, beliefs, doctrines, practices, or rituals; and

"(8) the term 'substantial part' means a part of a group of such numerical significance that the destruction or loss of that part would cause the destruction of the group as a viable entity within the nation of which such group is a part.".

(b) CLERICAL AMENDMENT.—The table of chapters at the beginning of part I of title 18, United States Code, is amended by inserting after the item relating to chapter 50 the following new item:

"50A. Genocide ..... 1091".

Approved November 4, 1988.

LEGISLATIVE HISTORY—S. 1851 (H.R. 4243):

HOUSE REPORTS: No. 100-566 accompanying H.R. 4243 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-333 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 25, H.R. 4243 considered and passed House.
Oct. 14, S. 1851 considered and passed Senate.
Oct. 19, considered and passed House.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 4, Presidential remarks.

Public Law 100-607
100th Congress

An Act

Nov. 4, 1988
[S. 2889]

To amend the Public Health Service Act to establish certain health programs, to revise and extend certain health programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Health Omnibus Programs Extension of 1988.
42 USC 201 note.

SECTION 1. SHORT TITLE; TABLE OF TITLES.

(a) SHORT TITLE.—This Act may be cited as the "Health Omnibus Programs Extension of 1988".

(b) TABLE OF TITLES.—

Title I—National Institute on Deafness and Other Communication Disorders and Health Research Extension Act of 1988
Title II—Programs with Respect to Acquired Immune Deficiency Syndrome
Title III—Preventive Health, Health Services, and Health Promotion
Title IV—Organ Transplant Amendments of 1988
Title V—Food and Drug Administration
Title VI—Health Professions Reauthorization Act of 1988
Title VII—Nursing Shortage Reduction and Education Extension Act of 1988
Title VIII—Revision and Extension of Programs of Health Care for the Homeless
Title IX—Testing of Convicted Felons

National Institute on Deafness and Other Communication Disorders and Health Research Extension Act of 1988.
42 USC 201 note.

TITLE I—NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS AND HEALTH RESEARCH EXTENSION ACT OF 1988

SEC. 100. SHORT TITLE; REFERENCES.

(a) SHORT TITLE.—This title may be cited as the "National Institute on Deafness and Other Communication Disorders and Health Research Extension Act of 1988".

(b) REFERENCES TO PUBLIC HEALTH SERVICE ACT.—Except as otherwise specifically provided, any reference made in this title to an amendment or repeal of a section or other provision shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

Subtitle A—National Institute on Deafness and Other Communication Disorders

SEC. 101. ESTABLISHMENT AND TRANSFER OF FUNCTIONS.

Title IV (42 U.S.C. 281 et seq.) is amended—

42 USC 281.

(1) in section 401(b)(1)—

(A) by striking "and Communicative" in subparagraph (J); and

(B) by adding at the end the following new subparagraph:

"(M) The National Institute on Deafness and Other Communication Disorders.";

(2) in the heading for subpart 10 of part C, by striking "and Communicative";

(3) in section 457— 42 USC 285j.

(A) by striking "and Communicative"; and

(B) by striking "disorder, stroke," and all that follows and inserting "and disorder and stroke."; and

(4) in Part C, by adding at the end the following new subpart:

"Subpart 13—National Institute on Deafness and Other Communication Disorders

"PURPOSE OF THE INSTITUTE

"SEC. 464. The general purpose of the National Institute on Deafness and Other Communication Disorders (hereafter referred to in this subpart as the 'Institute') is the conduct and support of research and training, the dissemination of health information, and other programs with respect to disorders of hearing and other communication processes, including diseases affecting hearing, balance, voice, speech, language, taste, and smell. Research and development. 42 USC 285m.

"NATIONAL DEAFNESS AND OTHER COMMUNICATION DISORDERS PROGRAM

"SEC. 464A. (a) The Director of the Institute, with the advice of the Institute's advisory council, shall establish a National Deafness and Other Communication Disorders Program (hereafter in this section referred to as the 'Program'). The Director or the Institute shall, with respect to the Program, prepare and transmit to the Director of NIH a plan to initiate, expand, intensify and coordinate activities of the Institute respecting disorders of hearing (including tinnitus) and other communication processes, including diseases affecting hearing, balance, voice, speech, language, taste, and smell. The plan shall include such comments and recommendations as the Director of the Institute determines appropriate. The Director of the Institute shall periodically review and revise the plan and shall transmit any revisions of the plan to the Director of NIH. 42 USC 285m-1.

"(b) Activities under the Program shall include—

"(1) investigation into the etiology, pathology, detection, treatment, and prevention of all forms of disorders of hearing and other communication processes, primarily through the support of basic research in such areas as anatomy, audiology, biochemistry, bioengineering, epidemiology, genetics, immunology, microbiology, molecular biology, the neurosciences, otolaryngology, psychology, pharmacology, physiology, speech and language pathology, and any other scientific disciplines that can contribute important knowledge to the understanding and elimination of disorders of hearing and other communication processes;

"(2) research into the evaluation of techniques (including surgical, medical, and behavioral approaches) and devices (including hearing aids, implanted auditory and nonauditory prosthetic devices and other communication aids) used in diagnosis, treatment, rehabilitation, and prevention of disorders of hearing and other communication processes;

Research and development.

"(3) research into prevention, and early detection and diagnosis, of hearing loss and speech and language disturbances (including stuttering) and research into preventing the effects of such disorders on learning and learning disabilities with extension of programs for appropriate referral and rehabilitation;

"(4) research into the detection, treatment, and prevention of disorders of hearing and other communication processes in the growing elderly population with extension of rehabilitative programs to ensure continued effective communication skills in such population;

"(5) research to expand knowledge of the effects of environmental agents that influence hearing or other communication processes; and

"(6) developing and facilitating intramural programs on clinical and fundamental aspects of disorders of hearing and all other communication processes.

"DATA SYSTEM AND INFORMATION CLEARINGHOUSE

42 USC 285m-2.

"SEC. 464B. (a) The Director of the Institute shall establish a National Deafness and Other Communication Disorders Data System for the collection, storage, analysis, retrieval, and dissemination of data derived from patient populations with disorders of hearing or other communication processes, including where possible, data involving general populations for the purpose of identifying individuals at risk of developing such disorders.

"(b) The Director of the Institute shall establish a National Deafness and Other Communication Disorders Information Clearinghouse to facilitate and enhance, through the effective dissemination of information, knowledge and understanding of disorders of hearing and other communication processes by health professionals, patients, industry, and the public.

"MULTIPURPOSE DEAFNESS AND OTHER COMMUNICATION DISORDERS CENTER

42 USC 285m-3.

"SEC. 464C. (a) The Director of the Institute shall, after consultation with the advisory council for the Institute, provide for the development, modernization, and operation (including care required for research) of new and existing centers for studies of disorders of hearing and other communication processes. For purposes of this section, the term 'modernization' means the alteration, remodeling, improvement, expansion, and repair of existing buildings and the provision of equipment for such buildings to the extent necessary to make them suitable for use as centers described in the preceding sentence.

"(b) Each center assisted under this section shall—

"(1) use the facilities of a single institution or a consortium of cooperating institutions; and

"(2) meet such qualifications as may be prescribed by the Secretary.

"(c) Each center assisted under this section shall, at least, conduct—

"(1) basic and clinical research into the cause, diagnosis, early detection, prevention, control and treatment of disorders of hearing and other communication processes and complications resulting from such disorders, including research into rehabili-

tative aids, implantable biomaterials, auditory speech processors, speech production devices, and other otolaryngologic procedures;

"(2) training programs for physicians, scientists, and other health and allied health professionals; Health care professionals.

"(3) information and continuing education programs for physicians and other health and allied health professionals who will provide care for patients with disorders of hearing or other communication processes; and Education.

"(4) programs for the dissemination to the general public of information—

"(A) on the importance of early detection of disorders of hearing and other communication processes, of seeking prompt treatment, rehabilitation, and of following an appropriate regimen; and

"(B) on the importance of avoiding exposure to noise and other environmental toxic agents that may affect disorders of hearing or other communication processes.

"(d) A center may use funds provided under subsection (a) to provide stipends for health professionals enrolled in training programs described in subsection (c)(2).

"(e) Each center assisted under this section may conduct programs—

"(1) to establish the effectiveness of new and improved methods of detection, referral, and diagnosis of individuals at risk of developing disorders of hearing or other communication processes; and

"(2) to disseminate the results of research, screening, and other activities, and develop means of standardizing patient data and recordkeeping.

"(f) The Director of the Institute shall, to the extent practicable, provide for an equitable geographical distribution of centers assisted under this section. The Director shall give appropriate consideration to the need for centers especially suited to meeting the needs of the elderly, and of children (particularly with respect to their education and training), affected by disorders of hearing or other communication processes. Aged persons. Children and youth.

"(g) Support of a center under this section may be for a period not to exceed seven years. Such period may be extended by the Director of the Institute for one or more additional periods of not more than five years if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director, with the advice of the Institute's advisory council, if such group has recommended to the Director that such period should be extended.".

Subtitle B—Biotechnology Information

SEC. 105. ESTABLISHMENT OF NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION.

Part D of title IV (42 U.S.C. 286 et seq.) is amended by adding at the end the following new subpart:

"Subpart 3—National Center for Biotechnology Information

"PURPOSE, ESTABLISHMENT, FUNCTIONS, AND FUNDING OF THE NATIONAL CENTER FOR BIOTECHNOLOGY INFORMATION

Research and development. 42 USC 286c.

"SEC. 478. (a) In order to focus and expand the collection, storage, retrieval, and dissemination of the results of biotechnology research by information systems, and to support and enhance the development of new information technologies to aid in the understanding of the molecular processes that control health and disease, there is established the National Center for Biotechnology Information (hereinafter in this section referred to as the 'Center') in the National Library of Medicine.

"(b) The Secretary, through the Center and subject to section 465(d), shall—

"(1) design, develop, implement, and manage automated systems for the collection, storage, retrieval, analysis, and dissemination of knowledge concerning human molecular biology, biochemistry, and genetics;

"(2) perform research into advanced methods of computer-based information processing capable of representing and analyzing the vast number of biologically important molecules and compounds;

"(3) enable persons engaged in biotechnology research and medical care to use systems developed under paragraph (1) and methods described in paragraph (2); and

"(4) coordinate, as much as is practicable, efforts to gather biotechnology information on an international basis.

Appropriation authorization.

"(c) For the purpose of performing the duties specified in subsection (b), there are authorized to be appropriated $8,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990. Funds appropriated under this subsection shall remain available until expended.".

Subtitle C—National Institutes of Health

SEC. 111. APPOINTMENT AND AUTHORITY OF THE DIRECTOR.

Section 402(b)(6) (42 U.S.C. 282(b)(6)) is amended by inserting "and scientific program advisory committees" after "scientific peer review groups".

SEC. 112. REPORT OF DIRECTOR OF NIH.

Section 403 (42 U.S.C. 283) is amended—

(1) in paragraph (3), by striking out "and";

(2) by redesignating paragraph (4) as paragraph (5); and

(3) by inserting after paragraph (3), the following new paragraph:

"(4) a description of the health related behavioral research that has been supported by the National Institutes of Health in the preceding 2-year period, and a description of any plans for future activity in such area; and".

Subtitle D—General Provisions Respecting National Research Institutes

SEC. 116. APPOINTMENT AND AUTHORITY OF THE DIRECTORS.

Section 405 (42 U.S.C. 284) is amended—

(1) in subsection (b), in the matter preceding subparagraph (A) of paragraph (1), by striking "the human diseases" and inserting "human diseases"; and

(2) in subsection (c)—

(A) by amending paragraph (3) to read as follows:

"(3) may, in consultation with the advisory council for the Institute and the approval of the Director of NIH, establish technical and scientific peer review groups in addition to those established under section 402(b)(6); and";

(B) by striking "and" at the end of paragraph (2); and

(C) by adding at the end the following new paragraph:

"(4) may publish, or arrange for the publication of, information with respect to the purpose of the Institute without regard to section 501 of title 44, United States Code.".

SEC. 117. ADVISORY COUNCILS.

(a) VOTING STATUS.—Section 406(b)(1) (42 U.S.C. 284a(b)(1)) is amended by adding at the end the following: "The ex officio members shall be nonvoting members.".

(b) APPOINTMENT OF MEMBERS.—Section 406(b)(3)(A) (42 U.S.C. 284a(b)(3)(A)) is amended by inserting after "(including" the following: "not less than two individuals who are leaders in the fields of".

(c) TERMINATION OF MEMBERSHIPS.—Section 406(h)(2)(A)(v) (42 U.S.C. 284a(h)(2)(A)(v)) is amended—

(1) by inserting "shall be nonvoting members and" after "the Board"; and

(2) by striking out "and the Assistant Secretary of Defense for Health Affairs" and inserting in lieu thereof "the Assistant Secretary of Defense for Health Affairs, and the Director of the Office of Energy Research of the Department of Energy".

SEC. 118. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 408(a) (42 U.S.C. 284c(a)) are amended to read as follows:

"(1)(A) For the National Cancer Institute (other than its programs under section 412), there are authorized to be appropriated $1,500,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.

"(B) For the programs under section 412, there are authorized to be appropriated $100,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.

"(2)(A) For the National Heart, Lung, and Blood Institute (other than its program under section 419), there are authorized to be appropriated $1,100,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990. Of the amounts appropriated for the National Heart, Lung, and Blood Institute (other than its program under section 419) for a fiscal year, the Secretary shall make available not less than 15 percent for programs respecting diseases of the lung and not less than 15

percent for programs respecting blood diseases and blood resources.

"(B) For the program of the National Heart, Lung, and Blood Institute under section 419 there is authorized to be appropriated $101,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.".

(b) APPLICABILITY OF CERTAIN PROVISIONS TO NURSES AND ALLIED HEALTH PROFESSIONALS.—Section 408(b) (42 U.S.C. 284c(b)) is amended by adding at the end the following new paragraph:

"(5) For fiscal year 1989 and subsequent fiscal years, amounts made available to the National Institutes of Health shall be available for payment of nurses and allied health professionals in accordance with payment authorities, scheduling options, benefits, and other authorities provided under chapter 73 of title 38, United States Code, for nurses of the Veterans' Administration.".

Subtitle E—National Cancer Institute

SEC. 121. PURPOSE.

Section 410 (42 U.S.C. 285) is amended by inserting ", rehabilitation from cancer," after "treatment of cancer".

SEC. 122. SPECIAL AUTHORITIES OF THE DIRECTOR.

Section 413 (42 U.S.C. 285a-2(b)) is amended—

(1) in subsection (a)—

(A)(i) in the first sentence, by striking "information and education center" and inserting "information and education program"; and

(ii) in the second sentence, by inserting after "between the Institute" the following: "and the public and between the Institute and"; and

(B) by inserting "(1)" after the subsection designation and adding at the end the following new paragraph:

"(2) In carrying out paragraph (1), the Director of the Institute shall—

Public information.

"(A) provide public and patient information and education programs, providing information that will help individuals take personal steps to reduce their risk of cancer, to make them aware of early detection techniques and to motivate appropriate utilization of those techniques, to help individuals deal with cancer if it strikes, and to provide information to improve long-term survival;

"(B) continue and expand programs to provide physicians and the public with state-of-the-art information on the treatment of particular forms of cancers, and to identify those clinical trials that might benefit patients while advancing knowledge of cancer treatment;

"(C) assess the incorporation of state-of-the-art cancer treatments into clinical practice and the extent to which cancer patients receive such treatments and include the results of such assessments in the biennial reports required under section 407;

"(D) maintain and operate the International Cancer Research Data Bank, which shall collect, catalog, store, and disseminate insofar as feasible the results of cancer research and treatment undertaken in any country for the use of any person involved in cancer research and treatment in any country; and

"(E) to the extent practicable, in disseminating the results of such cancer research and treatment, utilize information systems available to the public."; and

(2) in subsection (b)—

(A) in paragraph (5), by striking "with the approval of" and inserting "after consultation with"; and

(B)(i) by adding "and" at the end of paragraph (8); and

(ii) by striking paragraph (9) and redesignating paragraph (10) as paragraph (9).

SEC. 123. NATIONAL CANCER RESEARCH AND DEMONSTRATION CENTERS.

Section 414(a)(1) (42 U.S.C. 285a-3(a)(1)) is amended by inserting "control," after "prevention,".

Subtitle F—National Heart, Lung, and Blood Institute

SEC. 126. INFORMATION AND EDUCATION.

The second sentence of section 420 (42 U.S.C. 285b-2) is amended to read as follows: "In carrying out this section, the Director of the Institute shall place special emphasis upon the utilization of collaborative efforts with both the public and private sectors to—

"(1) increase the awareness and knowledge of health care professionals and the public regarding the prevention of heart and blood vessel, lung, and blood diseases and the utilization of blood resources; and

"(2) develop and disseminate to health professionals, patients and patient families, and the public information designed to encourage adults and children to adopt healthful practices concerning the prevention of such diseases.". Health care professionals.

SEC. 127. RESOURCES PROGRAM.

Section 421 (42 U.S.C. 285b-3) is amended—

(1) in subsection (a)(1)(D), by inserting "and rehabilitation from" after "treatment of"; and

(2) in subsection (b), by striking out ", after approval of" in paragraph (1) and inserting "after consultation with";

SEC. 128. NATIONAL RESEARCH AND DEMONSTRATION CENTERS.

Section 422(a)(1) (42 U.S.C. 285b-4(a)(1)) is amended—

(1) in subparagraph (A), by inserting "and rehabilitation" after "treatment"; and

(2) in subparagraph (B), by inserting "and rehabilitation" after "treatment".

SEC. 129. INTERAGENCY TECHNICAL COMMITTEE.

Subpart 2 of part C of title IV (42 U.S.C. 285b et seq.) is amended by striking section 423 and redesignating section 424 as section 423. 42 USC 288b-5, 285b-6.

Subtitle G—National Institute of Diabetes and Digestive and Kidney Diseases

SEC. 131. ADVISORY BOARDS.

Section 430 (42 U.S.C. 285c-4) is amended by striking subsection (k) and redesignating subsection (l) as subsection (k).

Subtitle H—National Institute of Arthritis and Musculoskeletal and Skin Diseases

SEC. 136. NATIONAL ARTHRITIS AND MUSCULOSKELETAL DISEASES PROGRAMS.

Section 436 (42 U.S.C. 285d-1) is amended—

(1) in the section heading, by inserting "AND SKIN" after "MUSCULOSKELETAL";

(2) in the first sentence of subsection (a), by inserting "and skin" after "musculoskeletal" each place it appears;

(3) in subsection (b)—

(A) in the matter preceding paragraph (1), by inserting "and skin" after "musculoskeletal" each place it appears;

(B) in paragraph (1), by inserting "and skin" after "musculoskeletal" each place it appears; and

(C) in paragraph (2), by inserting "and skin" after "musculoskeletal"; and

(4) in subsection (c), by inserting "and skin" after "musculoskeletal".

SEC. 137. MULTIPURPOSE DISEASE CENTERS.

Section 441(b)(2)(A) (42 U.S.C. 285d-6(b)(2)(A)) is amended by inserting "and rehabilitation from" after "treatment of".

Subtitle I—National Institute on Aging

SEC. 141. CENTERS OF GERIATRIC RESEARCH AND TRAINING.

Subpart 5 of part C of title IV (42 U.S.C. 285e et seq.) is amended by adding at the end the following new section:

"CENTERS OF GERIATRIC RESEARCH AND TRAINING

Contracts.
Grants.
42 USC 285e-3.

"SEC. 445A. (a) The Director of the Institute shall enter into cooperative agreements with, and make grants to, public and private nonprofit entities for the development or expansion of centers of excellence in geriatric research and training of researchers.

"(b) Each center developed or expanded under this section shall—

"(1) utilize the facilities of a single institution, or be formed from a consortium of cooperating institutions, meeting such research and training qualifications as may be prescribed by the Director; and

"(2) conduct—

"(A) research into the aging processes and into the diagnosis and treatment of diseases, disorders, and complications related to aging; and

"(B) programs to develop individuals capable of conducting research concerning aging and concerning such diseases, disorders, and complications.

"(c) In making cooperative agreements and grants under this section for the development or expansion of centers, the Director of the Institute shall ensure that, to the extent practicable, any such centers are distributed equitably among the principal geographic regions of the United States.".

SEC. 142. TRANSFER OF CERTAIN PROVISIONS WITH RESPECT TO ALZHEIMER'S DISEASE AND RELATED DEMENTIAS.

(a) IN GENERAL.—Sections 931, 941, 942, 951, and 952 of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11201 et seq.) are— 42 USC 11231, 11241, 11242, 11281, 11282.

(1) transferred to subpart 5 of part C of title IV (42 U.S.C. 285e et seq.);

(2) redesignated as sections 445B through 445F, respectively; and 42 USC 285e-4—285e-8.

(3) in the appropriate sequence, inserted after section 445A (42 U.S.C. 285e-2).

(b) AVAILABILITY OF APPROPRIATIONS.—With respect to amounts made available in appropriation Acts for the purpose of carrying out the programs transferred by subsection (a) to the Public Health Service Act, such subsection may not be construed to affect the availability of such funds for such purpose. 42 USC 285e-4 note.

(c) TECHNICAL AND CONFORMING AMENDMENTS TO ALZHEIMER'S DISEASE AND RELATED DEMENTIAS SERVICES RESEARCH ACT OF 1986.—

(1) The Alzheimer's Disease and Related Dementias Services Research Act of 1986 (42 U.S.C. 11201 et seq.) is amended—

(A) by striking sections 932 and 953; 42 USC 11232, 11283.

(B) by striking the part designation and the heading for part D;

(C) by striking the part designation and the heading for part F;

(D) by redesignating parts E and G as parts D and E, respectively; and

(E) in section 912(b)(1), in the first sentence, by striking "part E" and inserting "part D". 42 USC 11212.

(2) Part D of of the Alzheimer's Disease and Related Dementias Services Research Act of 1986 (as redesignated by paragraph (1)(D) of this subsection) is amended—

(A) by striking section 943; 42 USC 11243.

(B) by redesignating sections 944 through 949C as sections 931 through 939, respectively; 42 USC 11251 *et seq.*, 11261 *et seq.*, 11271 *et seq.*

(C) by striking the subpart designation and the heading for subpart 1; and

(D) by redesignating subparts 2 through 4 as subparts 1 through 3, respectively.

(d) TECHNICAL AND CONFORMING AMENDMENTS TO PUBLIC HEALTH SERVICE ACT.—Subpart 5 of part C of title IV (42 U.S.C. 285e et seq.), as amended by subsection (a), is further amended—

(1) in section 445B— 42 USC 285e-4.

(A) in subsection (a), in the first sentence, by striking "the National Institute on Aging" and inserting "the Institute";

(B) in subsection (b)—

(i) by striking "the National Institute on Aging" and inserting "the Institute"; and

(ii) by striking "of the Public Health Service Act";
(C) in subsection (c), by striking "the National Institute on Aging" and inserting "the Institute"; and
(D) in subsection (d), by striking "the National Institute on Aging" and inserting "the Institute";

42 USC 285e-5.

(2) in section 445C—
(A) in subsection (a), by striking "the National Institute on Aging" and inserting "the Institute";
(B) in subsection (b)—
(i) in paragraph (1), in the first sentence—
(I) by striking "this Act" and inserting "the Alzheimer's Disease and Related Dementias Services Research Act of 1986"; and
(II) by striking "the National Institute on Aging" and inserting "the Institute";
(ii) in paragraph (1), in subparagraph (B), by striking "of the Public Health Service Act"; and
(iii) in paragraph (2), by striking "the National Institute on Aging" and inserting "the Institute"; and
(C) in subsection (c), by striking "the National Institute on Aging" and inserting "the Institute";

42 USC 285e-6.

(3) in section 445D—
(A) by striking "the National Institute on Aging" and inserting "the Institute"; and
(B) by striking "this subpart" and inserting "section 445C and this section";

42 USC 285e-7.

(4) in section 445E—
(A) in subsection (a), by striking "the National Institute on Aging" and inserting "the Institute"; and
(B) in subsection (c)—
(i) by striking "the National Institute on Aging" and inserting "the Institute"; and
(ii) by striking "part E" and inserting "part D"; and

42 USC 285e-8.

(5) in section 445F—
(A) in subsection (a), by striking "the National Institute on Aging" and inserting "the Institute"; and
(B) in subsection (d), in the first sentence, by striking "the National Institute on Aging" and inserting "the Institute".

Subtitle J—National Library of Medicine

SEC. 146. AUTHORIZATION OF APPROPRIATIONS.

Grants.
Contracts.

(a) IN GENERAL.—The first sentence of section 469 (42 U.S.C. 286b) is amended to read as follows: "For the purpose of grants and contracts under sections 472 through 476, there are authorized to be appropriated $14,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990.".

(b) GRANT AMOUNT.—Section 474(b)(2) (42 U.S.C. 286b-5(b)(2)) is amended by striking out "$500,000" and inserting in lieu thereof "$750,000".

Subtitle K—Awards and Training

SEC. 151. NATIONAL RESEARCH SERVICE AWARDS.

Section 487(d) (42 U.S.C. 288(d)) is amended—

(1) in the matter preceding paragraph (1), by amending the first sentence to read as follows: "For the purpose of making payments under National Research Service Awards and under grants for such Awards, there are authorized to be appropriated $300,000,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990."; and

(2) in paragraph (3), by inserting after "made available" the first place it appears the following: "to the Secretary, acting through the Administrator of the Health Resources and Services Administration,".

Grants. Appropriation authorization.

Subtitle L—Fetal Research Moratorium

SEC. 156. EXTENSION OF MORATORIUM.

Section 498(c) (42 U.S.C. 289g(c)) is amended—

(1) in paragraph (2), by striking "thirty-six month period beginning on the date of enactment of this section" and inserting "24-month period beginning on the date of the enactment of the National Institute on Deafness and Other Communication Disorders and Health Research Extension Act of 1988"; and

(2) in paragraph (3), by striking "1988" and inserting "1990".

SEC. 157. BOARD AND STUDY.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 381(e) (42 U.S.C. 275(e)) is amended by striking "and" after "1987," and inserting before the period the following: ", $2,000,000 for fiscal year 1989, and $2,500,000 for fiscal year 1990".

(b) STUDY.—Section 498(c)(1) (42 U.S.C. 289g(c)(1)) is amended by striking "thirty months after the date of enactment of this section" and inserting "24 months after the date of the enactment of the National Institute on Deafness and Other Communication Disorders and Health Research Extension Act of 1988".

Subtitle M—Miscellaneous

SEC. 161. STUDY OF THYROID MORBIDITY FOR HANFORD, WASHINGTON. 42 USC 241 note.

(a) IN GENERAL.—In carrying out the purposes of section 301 of the Public Health Service Act (42 U.S.C. 241), the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control (hereafter referred to in this section as the "Director"), shall conduct a study of thyroid morbidity of the population (including Indian tribes and tribal organizations) in the vicinity of Hanford, in the State of Washington, during the years 1944 through 1957.

(b) PEER REVIEW.—As soon as is practicable after the date of the enactment of this Act, the Director shall establish a peer review committee that shall, along with the Centers for Disease Control, make any determinations as to the conduct of the study required under this section.

(c) CONTRACTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the Director may contract out any portion of the study required under this section if the Director considers such appropriate, except that such contractor shall not have any direct or indirect

interest in the outcome of such study including, contracts with the Department of Energy.

Contracts.

(2) RELATIONSHIPS.—Contractors that currently are parties to contracts with the Department of Energy (or who have previously been parties to such) shall be given consideration pursuant to paragraph (1), except that the Director shall make a determination in each such circumstance that the relationship of the contractor with the Department of Energy does not represent a conflict of interest or the appearance of such a conflict regarding the conduct of the study required under this section.

Oregon.
Washington.

(d) REPORT.—Not later than 42 months after the date of enactment of this section, the Director shall transmit a report including such study to the Congress, the chief executive officers of the States of Oregon and Washington, and the governing officials of the Indian tribes in the vicinity of Hanford, Washington.

42 USC 241 note.

SEC. 162. NATIONAL COMMISSION ON SLEEP DISORDERS RESEARCH.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this Act, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary"), after consultation with the Director of the National Institutes of Health, shall establish a National Commission on Sleep Disorders Research (hereafter in this section referred to as the "Commission").

(b) COMPOSITION.—

(1) APPOINTED MEMBERS.—The Commission shall be composed of 10 members to be appointed as follows:

(A) Six members shall be appointed by the Secretary from among scientists, physicians, and other health professionals who are not in the employment of the Federal Government, and who have primary expertise in sleep disorders research or medicine.

(B) Two members shall be appointed by the Secretary from the general public, of whom one of which shall have personal or close family experience with sleep disorders.

(C) Two members shall be appointed by the Secretary from among the personnel of the National Institutes of Health, and such members interest shall be in the field of sleep disorders research.

(2) EX OFFICIO MEMBERS.—The Director of the National Institutes of Health, the Director of the National Institute of Neurological and Communicative Disorders and Stroke, the Directors of the National Heart, Lung and Blood Institute, the National Institute on Mental Health, the National Institute on Aging, the National Institute on Child Health and Human Development, the Director of the Center for Disease Control, the Chief Medical Director of the Veterans' Administration, and the Secretary of Defense shall be ex officio members of the Commission, or their designees.

(c) CHAIRPERSON.—The members of the Commission shall select a Chairperson from among the appointed members of the Commission.

(d) MEETINGS.—Not later than 60 days after the establishment of the Commission, the Commission shall meet as directed by the Secretary, and thereafter shall meet at the call of the Chairperson of the Commission, but in no event shall the Commission meet less often than three times during the life of the Commission. The

Commission may hold such hearings, take such testimony, and sit and act at such time and places as the Commission considers appropriate.

(e) PERSONNEL.—

(1) EXECUTIVE SECRETARY.—

(A) APPOINTMENT.—The Commission may appoint and fix the compensation of an executive secretary to effectively carry out the functions of the Commission.

(B) COMPENSATION.—The executive secretary shall be appointed subject to title 5, United States Code, governing appointments in the competitive service, and shall receive compensation in accordance with chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(2) ADDITIONAL PERSONNEL.—The Secretary shall, to the extent practicable, provide the Commission with such additional professional and clerical staff, such information, and the services of such consultants as the Commission determines to be necessary to carry out its functions effectively.

(f) COMPENSATION.—

(1) OFFICERS OR EMPLOYEES OF THE FEDERAL GOVERNMENT.—Members of the Commission who are officers or employees of the Federal Government shall serve as members of the Commission without compensation in addition to that received in their regular public employment.

(2) NON-FEDERAL GOVERNMENT MEMBERS.—Members of the Commission who are not officers or employees of the Federal Government shall receive compensation at a rate not to exceed the daily equivalent of the annual rate in effect for Grade GS-18 of the General Schedule for each day (including traveltime) that such members are engaged in the performance of their duties as members of the Commission.

(3) EXPENSES.—All members of the Commission, while serving away from their homes or regular places of business in the performance of services for the Commission, shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as such expenses are authorized by section 5703 of title 5, United States Code, for persons in Government Service employed intermittently.

(g) DUTIES.—

(1) STUDY.—The Commission shall—

(A) conduct a comprehensive study of the present state of knowledge of the incidence, prevalence, morbidity, and mortality resulting from sleep disorders, and of the social and economic impact of such disorders;

(B) evaluate the public and private facilities and resources (including trained personnel and research activities) available for the diagnosis, prevention, and treatment of, and research into, such disorders; and

(C) identify programs (including biological, physiological, behavioral, environmental, and social programs) by which improvement in the management and research into sleep disorders can be accomplished.

(2) DEVELOPMENT OF PLAN.—Based on the study conducted under paragraph (1), the Commission shall develop a long-range plan for the use and organization of national resources to effectively deal with sleep disorders research and medicine.

(3) COOPERATION.—Each Federal entity administering programs and activities related to sleep disorders shall, on request, assist the Commission in carrying out its duties under this subsection.

(h) DEVELOPMENT OF ESTIMATES.—The Commission shall recommend, for each of the Institutes of the National Institutes of Health whose activities are to be affected by the long-range plan, estimates of the expenditures needed to carry out each Institute's part of the overall program. Such estimates shall be prepared for the fiscal year beginning immediately after completion of the plan under subsection (g)(2) and for each of the next 2 fiscal years.

(i) REPORT.—Not later than 18 months after the initial meeting of the Commission (as prescribed by subsection (d)), the Commission shall prepare and submit to the appropriate Committees of Congress, a final report describing—

(1) the long-range plan developed under subsection (g);

(2) the expenditure estimates required under subsection (h); and

(3) any recommendations of the Commission for legislation.

(j) TERMINATION.—The Commission shall cease to exist on the 30th day following the date of the submission of the final report under subsection (i).

SEC. 163. MISCELLANEOUS AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

42 USC 242a, 241.

(1)(A) with respect to section 303(a), by transferring the matter after and below paragraph (2) of such section to section 301;

(B) by designating such matter as subsection (d); and

(C) by adding subsection (d) (as so designated) at the end of section 301;

(2) in section 301(d) (as so designated)—

(A) in the first sentence, by striking "research on mental health, including" and inserting the following: "biomedical, behavioral, clinical, or other research (including research on mental health, including"; and

(B) by striking "drugs," and inserting "drugs)"; and

42 USC 254c.

(3) in section 330, by redesignating the second subsection (j) (as added by section 4 of Public Law 100-386) as subsection (k).

AIDS Amendments of 1988.

TITLE II—PROGRAMS WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

42 USC 201 note.

SEC. 200. SHORT TITLE.

This title may be cited as the "AIDS Amendments of 1988".

Subtitle A—Research Programs

SEC. 201. ESTABLISHMENT OF CERTAIN PROGRAMS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) by redesignating title XXIII as title XXV;

42 USC 300cc—300cc-2, 300aaa—300aaa-2.

(2) by redesignating sections 2301 through 2303 as sections 2501 through 2503, respectively;

(3) by redesignating sections 2306 through 2316 as sections 2504 through 2514, respectively; and

(4) by inserting after title XXII the following new title: 42 USC 300cc-15, 300aaa-3—300aaa-13.

"TITLE XXIII—RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"PART A—ADMINISTRATION OF RESEARCH PROGRAMS

"SEC. 2301. REQUIREMENT OF ANNUAL COMPREHENSIVE REPORT ON ALL EXPENDITURES BY SECRETARY WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME. 42 USC 300cc.

"(a) IN GENERAL.—Not later than December 1 of each fiscal year, the Secretary shall prepare and submit to the Congress a report on the expenditures by the Secretary of amounts appropriated for the preceding fiscal year with respect to acquired immune deficiency syndrome.

"(b) INCLUSION OF CERTAIN INFORMATION.—The report required in subsection (a) shall, with respect to acquired immune deficiency syndrome, include—

"(1) for each program, project, or activity with respect to such syndrome, a specification of the amount obligated by each office and agency of the Department of Health and Human Services;

"(2) a summary description of each such program, project, or activity;

"(3) a list of such programs, projects, or activities that are directed towards members of minority groups; Minorities.

"(4) a description of the extent to which programs, projects, and activities described in paragraph (3) have been coordinated between the Director of the Office of Minority Health and the Director of the Centers for Disease Control;

"(5) a summary of the progress made by each such program, project, or activity with respect to the prevention and control of acquired immune deficiency syndrome;

"(6) a summary of the evaluations conducted under this title; and

"(7) any report required in this Act to be submitted to the Secretary for inclusion in the report required in subsection (a).

"SEC. 2302. REQUIREMENT OF EXPEDITING AWARDS OF GRANTS AND CONTRACTS FOR RESEARCH. 42 USC 300cc-1.

"(a) IN GENERAL.—The Secretary shall expedite the award of grants, contracts, and cooperative agreements for research projects relating to acquired immune deficiency syndrome (including such research projects initiated independently of any solicitation by the Secretary for proposals for such research projects).

"(b) TIME LIMITATIONS WITH RESPECT TO CERTAIN APPLICATIONS.—

"(1) With respect to programs of grants, contracts, and cooperative agreements described in subsection (a), any application submitted in response to a solicitation by the Secretary for proposals pursuant to such a program—

"(A) may not be approved if the application is submitted after the expiration of the 3-month period beginning on the date on which the solicitation is issued; and

"(B) shall be awarded, or otherwise finally acted upon, not later than the expiration of the 6-month period begin-

ning on the expiration of the period described in subparagraph (A).

"(2) If the Secretary makes a determination that it is not practicable to administer a program referred to in paragraph (1) in accordance with the time limitations described in such paragraph, the Secretary may adjust the time limitations accordingly.

"(c) REQUIREMENTS WITH RESPECT TO ADJUSTMENTS IN TIME LIMITATIONS.—With respect to any program for which a determination described in subsection (b)(2) is made, the Secretary shall—

"(1) if the determination is made before the Secretary issues a solicitation for proposals pursuant to the program, ensure that the solicitation describes the time limitations as adjusted by the determination; and

"(2) if the determination is made after the Secretary issues such a solicitation for proposals, issue a statement describing the time limitations as adjusted by the determination and individually notify, with respect to the determination, each applicant whose application is submitted before the expiration of the 3-month period beginning on the date on which the solicitation was issued.

"(d) ANNUAL REPORTS TO CONGRESS.—Except as provided in subsection (e), the Secretary shall annually prepare, for inclusion in the comprehensive report required in section 2301, a report—

"(A) summarizing programs for which the Secretary has made a determination described in subsection (b)(2), including a description of the time limitations as adjusted by the determination and including a summary of the solicitation issued by the Secretary for proposals pursuant to the program; and

"(B) summarizing applications that—

"(i) were submitted pursuant to a program of grants, contracts, or cooperative agreements referred to in paragraph (1) of subsection (b) for which a determination described in paragraph (2) of such subsection has not been made; and

"(ii) were not processed in accordance with the time limitations described in such paragraph (1).

"(e) QUARTERLY REPORTS FOR FISCAL YEAR 1989.—For fiscal year 1989, the report required in subsection (d) shall, not less than quarterly, be prepared and submitted to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate.

42 USC 300cc-2.

"SEC. 2303. REQUIREMENTS WITH RESPECT TO PROCESSING OF REQUESTS FOR PERSONNEL AND ADMINISTRATIVE SUPPORT.

"(a) IN GENERAL.—The Director of the Office of Personnel Management or the Administrator of General Services, as the case may be, shall respond to any priority request made by the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, or the Director of the National Institutes of Health, not later than 21 days after the date on which such request is made. If the Director of the Office of Personnel Management or the Administrator of General Services, as the case may be, does not disapprove a priority request during the 21-day period, the request shall be deemed to be approved.

"(b) NOTICE TO SECRETARY AND TO ASSISTANT SECRETARY FOR HEALTH.—The Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, and the Director of the National Institutes of Health, shall, respectively, transmit to the Secretary and the Assistant Secretary for Health a copy of each priority request made under this section by the agency head involved. The copy shall be transmitted on the date on which the priority request involved is made.

"(c) DEFINITION OF PRIORITY REQUEST.—For purposes of this section, the term 'priority request' means any request that—

"(1) is designated as a priority request by the Administrator of the Alcohol, Drug Abuse, and Mental Health Administration, the Director of the Centers for Disease Control, the Commissioner of Food and Drugs, or the Director of the National Institutes of Health; and

"(2)(A) is made to the Director of the Office of Personnel Management for the allocation of personnel to carry out activities with respect to acquired immune deficiency syndrome; or

"(B) is made to the Administrator of General Services for administrative support or space in carrying out such activities.

"SEC. 2304. ESTABLISHMENT OF CLINICAL RESEARCH REVIEW COMMITTEE. 42 USC 300cc-3.

"(a) IN GENERAL.—After consultation with the Commissioner of Food and Drugs, the Secretary, acting through the Director of the National Institute of Allergy and Infectious Diseases, shall establish within such Institute an advisory committee to be known as the AIDS Clinical Research Review Committee (hereafter in this section referred to as the 'Committee').

"(b) COMPOSITION.—The Committee shall be composed of physicians whose clinical practice includes a significant number of patients with acquired immune deficiency syndrome.

"(c) DUTIES.—The Committee shall—

"(1) advise the Director of such Institute on appropriate research activities to be undertaken with respect to clinical treatment of such syndrome, including advice with respect to—

"(A) research on drugs for preventing or minimizing the development of symptoms or conditions arising from infection with the etiologic agent for such syndrome; and

"(B) research on the effectiveness of treating such symptoms or conditions with drugs that—

"(i) are not approved by the Commissioner of Food and Drugs for the purpose of treating such symptoms or conditions; and

"(ii) are being utilized for such purpose by individuals infected with such etiologic agent;

"(2)(A) review ongoing publicly and privately supported research on clinical treatment for acquired immune deficiency syndrome, including research on drugs described in paragraph (1); and

"(B) periodically issue, and make available to health care professionals, reports describing and evaluating such research. Reports.

"(3) conduct studies and convene meetings for the purpose of determining the recommendations among physicians in clinical practice on clinical treatment of acquired immune deficiency

syndrome, including treatment with the drugs described in paragraph (1); and

"(4) conduct a study for the purpose of developing, with respect to individuals infected with the etiologic agent for acquired immune deficiency syndrome, a consensus among health care professionals on clinical treatments for preventing or minimizing the development of symptoms or conditions arising from infection with such etiologic agent.

"PART B—RESEARCH AUTHORITY

42 USC 300cc-11.

"SEC. 2311. CLINICAL EVALUATION UNITS AT NATIONAL INSTITUTES OF HEALTH.

"(a) IN GENERAL.—The Secretary, acting through the Director of the National Cancer Institute and the Director of the National Institute of Allergy and Infectious Diseases, shall for each such Institute establish a clinical evaluation unit at the Clinical Center at the National Institutes of Health. Each of the clinical evaluation units—

"(1) shall conduct clinical evaluations of experimental treatments for acquired immune deficiency syndrome developed within the preclinical drug development program; and

"(2) may conduct clinical evaluations of experimental treatments for such syndrome that are developed by any other national research institute of the National Institutes of Health or by any other entity.

"(b) PERSONNEL AND ADMINISTRATIVE SUPPORT.—

"(1) For the purposes described in subsection (a), the Secretary, acting through the Director of the National Institutes of Health, shall provide each of the clinical evaluation units required in such subsection—

"(A)(i) with not less than 50 beds; or

"(ii) with an outpatient clinical capacity equal to not less than twice the outpatient clinical capacity, with respect to acquired immune deficiency syndrome, possessed by the Clinical Center of the National Institutes of Health on June 1, 1988; and

"(B) with such personnel, such administrative support, and such other support services as may be necessary.

"(2) Facilities, personnel, administrative support, and other support services provided pursuant to paragraph (1) shall be in addition to the number or level of facilities, personnel, administrative support, and other support services that otherwise would be available at the Clinical Center at the National Institutes of Health for the provision of clinical care for individuals with diseases or disorders.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

42 USC 300cc-12.

"SEC. 2312. USE OF INVESTIGATIONAL NEW DRUGS WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) ENCOURAGEMENT OF APPLICATIONS WITH RESPECT TO CLINICAL TRIALS.—

Federal Register, publication.

"(1) If, in the determination of the Secretary, there is preliminary evidence that a new drug has effectiveness in humans with respect to the prevention or treatment of acquired immune

deficiency syndrome, the Secretary shall, through statements published in the Federal Register—

"(A) announce the fact of such determination; and

"(B) with respect to the new drug involved, encourage an application for an exemption for investigational use of the new drug under regulations issued under section 505(i) of the Federal Food, Drug, and Cosmetic Act.

"(2)(A) The AIDS Clinical Research Review Committee established pursuant to section 2304 shall make recommendations to the Secretary with respect to new drugs appropriate for determinations described in paragraph (1).

"(B) The Secretary shall, as soon as is practicable, determine the merits of recommendations received by the Secretary pursuant to subparagraph (A).

"(b) ENCOURAGEMENT OF APPLICATIONS WITH RESPECT TO TREATMENT USE IN CIRCUMSTANCES OTHER THAN CLINICAL TRIALS.—

"(1) In the case of a new drug with respect to which the Secretary has made a determination described in subsection (a) and with respect to which an exemption is in effect for purposes of section 505(i) of the Federal Food, Drug, and Cosmetic Act, the Secretary shall—

"(A) as appropriate, encourage the sponsor of the investigation of the new drug to submit to the Secretary, in accordance with regulations issued under such section, an application to use the drug in the treatment of individuals—

"(i) who are infected with the etiologic agent for acquired immune deficiency syndrome; and

"(ii) who are not participating in the clinical trials conducted pursuant to such exemption; and

"(B) if such an application is approved, encourage, as appropriate, licensed medical practitioners to obtain, in accordance with such regulations, the new drug from such sponsor for the purpose of treating such individuals.

"(2) If the sponsor of the investigation of a new drug described in paragraph (1) does not submit to the Secretary an application described in such paragraph (relating to treatment use), the Secretary shall, through statements published in the Federal Register, encourage, as appropriate, licensed medical practitioners to submit to the Secretary such applications in accordance with regulations described in such paragraph.

Federal Register, publication.

"(c) TECHNICAL ASSISTANCE WITH RESPECT TO TREATMENT USE.—In the case of a new drug with respect to which the Secretary has made a determination described in subsection (a), the Secretary may, directly or through grants or contracts, provide technical assistance with respect to the process of—

Grants. Contracts.

"(1) submitting to the Secretary applications for exemptions described in paragraph (1)(B) of such subsection;

"(2) submitting to the Secretary applications described in subsection (b); and

"(3) with respect to sponsors of investigations of new drugs, facilitating the transfer of new drugs from such sponsors to licensed medical practitioners.

"(d) DEFINITION.—For purposes of this section, the term "new drug" has the meaning given such term in section 201 of the Federal Food, Drug, and Cosmetic Act.

42 USC 300cc-13.

"SEC. 2313. COMMUNITY-BASED EVALUATIONS OF EXPERIMENTAL THERAPIES.

Grants. Contracts.

"(a) IN GENERAL.—After consultation with the Commissioner of Food and Drugs, the Director of the National Institutes of Health, acting through the National Institute of Allergy and Infectious Diseases, may make grants to public entities and nonprofit private entities concerned with acquired immune deficiency syndrome, and may enter into contracts with public and private such entities, for the purpose of planning and conducting, in the community involved, clinical trials of experimental treatments for infection with the etiologic agent for such syndrome that are approved by the Commissioner of Food and Drugs for investigational use under regulations issued under section 505 of the Federal Food, Drug, and Cosmetic Act.

"(b) REQUIREMENT OF CERTAIN PROJECTS.—

"(1) Financial assistance under subsection (a) shall include such assistance to community-based organizations and community health centers for the purpose of—

"(A) retaining appropriate medical supervision;

"(B) assisting with administration, data collection and record management; and

Health care professionals.

"(C) conducting training of community physicians, nurse practitioners, physicians' assistants and other health professionals for the purpose of conducting clinical trials.

Minorities. Women. Children and youth.

"(2)(A) Financial assistance under subsection (a) shall include such assistance for demonstration projects designed to implement and conduct community-based clinical trials in order to provide access to the entire scope of communities affected by infections with the etiologic agent for acquired immune deficiency syndrome, including minorities, hemophiliacs and transfusion-exposed individuals, women, children, users of intravenous drugs, and individuals who are asymptomatic with respect to such infection.

"(B) The Director of the National Institutes of Health may not provide financial assistance under this paragraph unless the application for such assistance is approved—

"(i) by the Commissioner of Food and Drugs;

"(ii) by a duly constituted Institutional Review Board that meets the requirements of part 56 of title 21, Code of Federal Regulations; and

"(iii) by the Director of the National Institute of Allergy and Infectious Diseases.

"(c) PARTICIPATION OF PRIVATE INDUSTRY AND SCHOOLS OF MEDICINE.—Programs carried out with financial assistance provided under subsection (a) shall be designed to encourage private industry and schools of medicine to participate in, and to support, the clinical trials conducted pursuant to the programs.

"(d) REQUIREMENT OF APPLICATION.—The Secretary may not provide financial assistance under subsection (a) unless—

"(1) an application for the assistance is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the assistance is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and

information as the Secretary determines to be necessary to carry out this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) For the purpose of carrying out subsection (b)(1), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"(2) For the purpose of carrying out subsection (b)(2), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"SEC. 2314. EVALUATION OF CERTAIN TREATMENTS. 42 USC 300cc-14.

"(a) ESTABLISHMENT OF PROGRAM.—

"(1) After consultation with the Clinical Research Review Committee established pursuant to section 2304, the Secretary shall establish a program for the evaluation of drugs that—

"(A) are not approved by the Commissioner of Food and Drugs for the purpose of treatments with respect to acquired immune deficiency syndrome; and

"(B) are being utilized for such purpose by individuals infected with the etiologic agent for such syndrome.

"(2) The program established under paragraph (1) shall include evaluations of the effectiveness and the risks of the treatment involved, including the risks of foregoing treatments with respect to acquired immune deficiency syndrome that are approved by the Commissioner of Food and Drugs.

"(b) AUTHORITY WITH RESPECT TO GRANTS AND CONTRACTS.—

"(1) For the purpose of conducting evaluations required in subsection (a), the Secretary may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities.

"(2) Nonprofit private entities under paragraph (1) may include nonprofit private organizations that—

"(A) are established for the purpose of evaluating treatments with respect to acquired immune deficiency syndrome; and

"(B) consist primarily of individuals infected with the etiologic agent for such syndrome.

"(c) SCIENTIFIC AND ETHICAL GUIDELINES.—

"(1) The Secretary shall establish appropriate scientific and ethical guidelines for the conduct of evaluations carried out pursuant to this section. The Secretary may not provide financial assistance under subsection (b)(1) unless the applicant for such assistance agrees to comply with such guidelines.

"(2) The Secretary may establish the guidelines described in paragraph (1) only after consulting with—

"(A) physicians whose clinical practice includes a significant number of individuals with acquired immune deficiency syndrome;

"(B) individuals who are infected with the etiologic agent for such syndrome; and

"(C) other individuals with appropriate expertise or experience.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

42 USC 300cc-15.

"SEC. 2315. SUPPORT OF INTERNATIONAL EFFORTS.

"(a) GRANTS AND CONTRACTS FOR RESEARCH.—

"(1) Under section 307, the Secretary, acting through the Director of the National Institutes of Health—

"(A) shall, for the purpose described in paragraph (2), make grants to, enter into cooperative agreements and contracts with, and provide technical assistance to, international organizations concerned with public health; and

"(B) may, for such purpose, provide technical assistance to foreign governments.

"(2) The purpose referred to in paragraph (1) is promoting and expediting international research concerning the development and evaluation of vaccines and treatments for acquired immune deficiency syndrome.

"(b) GRANTS AND CONTRACTS FOR ADDITIONAL PURPOSES.—After consultation with the Administrator of the Agency for International Development, the Secretary, acting through the Director of the Centers for Disease Control, shall under section 307 make grants to, enter into contracts with, and provide technical assistance to, international organizations concerned with public health and may provide technical assistance to foreign governments, in order to support—

"(1) projects for training individuals with respect to developing skills and technical expertise for use in the prevention, diagnosis, and treatment of acquired immune deficiency syndrome; and

"(2) epidemiological research relating to acquired immune deficiency syndrome.

"(c) SPECIAL PROGRAMME OF WORLD HEALTH ORGANIZATION.—Support provided by the Secretary pursuant to this section shall be in furtherance of the global strategy of the World Health Organization Special Programme on Acquired Immunodeficiency Syndrome.

"(d) PREFERENCES.—In providing grants, cooperative agreements, contracts, and technical assistance under subsections (a) and (b), the Secretary shall—

"(1) give preference to activities under such subsections conducted by, or in cooperation with, the World Health Organization; and

"(2) with respect to activities carried out under such subsections in the Western Hemisphere, give preference to activities conducted by, or in cooperation with, the Pan American Health Organization or the World Health Organization.

"(e) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant or enter into a cooperative agreement or contract under this section unless—

"(1) an application for such assistance is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which such assistance is to be provided, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated

$40,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"SEC. 2316. RESEARCH CENTERS.

42 USC 300cc-16.

"(a) IN GENERAL.—

Grants. Contracts.

"(1) The Secretary, acting through the Director of the National Institute of Allergy and Infectious Diseases, may make grants to, and enter into contracts with, public and nonprofit private entities to assist such entities in planning, establishing, or strengthening, and providing basic operating support for, centers for basic and clinical research into, and training in, advanced diagnostic, prevention, and treatment methods for acquired immune deficiency syndrome.

"(2) A grant or contract under paragraph (1) shall be provided in accordance with policies established by the Secretary, acting through the Director of the National Institutes of Health, and after consultation with the advisory council for the National Institute of Allergy and Infectious Diseases.

"(3) The Secretary shall ensure that, as appropriate, clinical research programs carried out under paragraph (1) include as research subjects women, children, hemophiliacs, and minorities.

"(b) USE OF FINANCIAL ASSISTANCE.—

"(1) Financial assistance under subsection (a) may be expended for—

"(A) the renovation or leasing of space;

"(B) staffing and other basic operating costs, including such patient care costs as are required for clinical research;

"(C) clinical training with respect to acquired immune deficiency syndrome (including such training for allied health professionals); and

"(D) demonstration purposes, including projects in the long-term monitoring and outpatient treatment of individuals infected with the etiologic agent for such syndrome.

"(2) Financial assistance under subsection (a) may not be expended to provide research training for which National Research Service Awards may be provided under section 487.

"(c) DURATION OF SUPPORT.—Support of a center under subsection (a) may be for not more than five years. Such period may be extended by the Director for additional periods of not more than five years each if the operations of such center have been reviewed by an appropriate technical and scientific peer review group established by the Director and if such group has recommended to the Director that such period should be extended.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary.

"SEC. 2317. INFORMATION SERVICES.

42 USC 300cc-17.

"(a) ESTABLISHMENT OF PROGRAM.—The Secretary shall establish, maintain, and operate a program with respect to information on research, treatment, and prevention activities relating to infection with the etiologic agent for acquired immune deficiency syndrome. The program shall, with respect to the agencies of the Department of Health and Human Services, be integrated and coordinated.

"(b) TOLL-FREE TELEPHONE COMMUNICATIONS FOR HEALTH CARE ENTITIES.—

"(1) After consultation with the Director of the Office of AIDS Research, the Administrator of the Health Resources and Services Administration, and the Director of the Centers for Disease Control, the Secretary shall provide for toll-free telephone communications to provide medical and technical information with respect to acquired immune deficiency syndrome to health care professionals, allied health care providers, and to professionals providing emergency health services.

"(2) Information provided pursuant to paragraph (1) shall include—

"(A) information on prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome; and

"(B) information contained in the data banks established in subsections (c) and (d).

"(c) DATA BANK ON RESEARCH INFORMATION.—

"(1) After consultation with the Director of the Office of AIDS Research, the Director of the Centers for Disease Control, and the National Library of Medicine, the Secretary shall establish a data bank of information on the results of research with respect to acquired immune deficiency syndrome conducted in the United States and other countries.

"(2) In carrying out paragraph (1), the Secretary shall collect, catalog, store, and disseminate the information described in such paragraph. To the extent practicable, the Secretary shall make such information available to researchers, physicians, and other appropriate individuals, of countries other than the United States.

"(d) DATA BANK ON CLINICAL TRIALS AND TREATMENTS.—

"(1) After consultation with the Commissioner of Food and Drugs, the Clinical Research Review Committee, and the Director of the Office of AIDS Research, the Secretary shall, in carrying out subsection (a), establish a data bank of information on clinical trials and treatments with respect to infection with the etiologic agent for acquired immune deficiency syndrome (hereafter in this section referred to as the 'Data Bank').

"(2) In carrying out paragraph (1), the Secretary shall collect, catalog, store, and disseminate the information described in such paragraph. The Secretary shall disseminate such information through information systems available to individuals infected with the etiologic agent for acquired immune deficiency syndrome, to other members of the public, to health care providers, and to researchers.

"(e) REQUIREMENTS WITH RESPECT TO DATA BANK.—The Data Bank shall include the following:

"(1) A registry of clinical trials of experimental treatments for acquired immune deficiency syndrome and related illnesses conducted under regulations promulgated pursuant to section 505 of the Federal Food, Drug and Cosmetic Act that provides a description of the purpose of each experimental drug protocol either with the consent of the protocol sponsor, or when a trial to test efficacy begins. Information provided shall include eligibility criteria and the location of trial sites, and must be forwarded to the Data Bank by the sponsor of the trial not later than 21 days after the approval by the Food and Drug Administration.

"(2) Information pertaining to experimental treatments for acquired immune deficiency syndrome that may be available under a treatment investigational new drug application that has been submitted to the Food and Drug Administration pursuant to part 312 of title 21, Code of Federal Regulations. The Data Bank shall also include information pertaining to the results of clinical trials of such treatments, with the consent of the sponsor, of such experimental treatments, including information concerning potential toxicities or adverse effects associated with the use or administration of such experimental treatment.

"SEC. 2318. DEVELOPMENT OF MODEL PROTOCOLS FOR CLINICAL CARE OF INFECTED INDIVIDUALS.

42 USC 300cc-18.

"(a) IN GENERAL.—

"(1) The Secretary may make grants to public and nonprofit private entities for the establishment of projects to develop model protocols for the clinical care of individuals infected with the etiologic agent for acquired immune deficiency syndrome.

Grants.

"(2) The Secretary may not make a grant under paragraph (1) unless—

"(A) the applicant for the grant is a provider of comprehensive primary care; or

"(B) the applicant for the grant agrees, with respect to the project carried out pursuant to paragraph (1), to enter into a cooperative arrangement with an entity that is a provider of comprehensive primary care.

"(b) REQUIREMENT OF PROVISION OF CERTAIN SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, with respect to patients participating in the project carried out with the grant, services provided pursuant to the grant will include—

"(1) monitoring, in clinical laboratories, of the condition of such patients;

"(2) clinical intervention for infection with the etiologic agent for acquired immune deficiency syndrome, including measures for the prevention of conditions arising from the infection;

"(3) information and counseling on the availability of treatments for such infection approved by the Commissioner of Food and Drugs, on the availability of treatments for such infection not yet approved by the Commissioner, and on the reports issued by the Clinical Research Review Committee under section 2304(c)(2)(B);

"(4) support groups; and

"(5) information on, and referrals to, entities providing appropriate social support services.

"(c) LIMITATION ON IMPOSITION OF CHARGES FOR SERVICES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, if the applicant will routinely impose a charge for providing services pursuant to the grant, the applicant will not impose the charge on any individual seeking such services who is unable to pay the charge.

"(d) EVALUATION AND REPORTS.—

"(1) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the project carried out pursuant to subsection (a), to submit to the Secretary—

"(A) information sufficient to assist in the replication of the model protocol developed pursuant to the project; and

"(B) such reports as the Secretary may require.

"(2) The Secretary shall provide for evaluations of projects carried out pursuant to subsection (a) and shall annually submit to the Congress a report describing such projects. The report shall include the findings made as a result of such evaluations and may include any recommendations of the Secretary for appropriate administrative and legislative initiatives with respect to the program established in this section.

"(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

42 USC 300cc-19. Research and development.

"SEC. 2319. NATIONAL BLOOD RESOURCE EDUCATION PROGRAM.

"After consultation with the Director of the National Heart, Lung, and Blood Institute and the Commissioner of Food and Drugs, the Secretary shall establish a program of research and education regarding blood donations and transfusions to maintain and improve the safety of the blood supply. Education programs shall be directed at health professionals, patients, and the community to—

"(1) in the case of the public and patients undergoing treatment—

"(A) increase awareness that the process of donating blood is safe;

"(B) promote the concept that blood donors are contributors to a national need to maintain an adequate and safe blood supply;

"(C) encourage blood donors to donate more than once a year; and

"(D) encourage repeat blood donors to recruit new donors;

"(2) in the case of health professionals—

"(A) improve knowledge, attitudes, and skills of health professionals in the appropriate use of blood and blood components;

"(B) increase the awareness and understanding of health professionals regarding the risks versus benefits of blood transfusion; and

"(C) encourage health professionals to consider alternatives to the administration of blood or blood components for their patients; and

"(3) in the case of the community, increase coordination, communication, and collaboration among community, professional, industry, and government organizations regarding blood donation and transfusion issues.

42 USC 300cc-20. Contracts. Grants.

"SEC. 2320. ADDITIONAL AUTHORITY WITH RESPECT TO RESEARCH.

"(a) DATA COLLECTION WITH RESPECT TO NATIONAL PREVALENCE.—

"(1) The Secretary, acting through the Director of the Centers for Disease Control, may, through representative sampling and other appropriate methodologies, provide for the continuous collection of data on the incidence in the United States of cases of acquired immune deficiency syndrome and of cases of infection with the etiologic agent for such syndrome. The Secretary may carry out the program of data collection directly or

through cooperative agreements and contracts with public and nonprofit private entities.

"(2) The Secretary shall encourage each State to enter into a cooperative agreement or contract under paragraph (1) with the Secretary in order to facilitate the prompt collection of the most recent accurate data on the incidence of cases described in such paragraph.

"(3) The Secretary shall ensure that data collected under paragraph (1) includes data on the demographic characteristics of the population of individuals with cases described in paragraph (1), including data on specific subpopulations at risk of infection with the etiologic agent for acquired immune deficiency syndrome.

"(4) In carrying out this subsection, the Secretary shall, for the purpose of assuring the utility of data collected under this section, request entities with expertise in the methodologies of data collection to provide, as soon as is practicable, assistance to the Secretary and to the States with respect to the development and utilization of uniform methodologies of data collection.

"(5) The Secretary shall provide for the dissemination of data collected pursuant to this section. In carrying out this paragraph, the Secretary may publish such data as frequently as the Secretary determines to be appropriate with respect to the protection of the public health. The Secretary shall publish such data not less than once each year.

"(b) EPIDEMIOLOGICAL AND DEMOGRAPHIC DATA.—

"(1) The Secretary, acting through the Director of the Centers for Disease Control, shall develop an epidemiological data base and shall provide for long-term studies for the purposes of—

"(A) collecting information on the demographic characteristics of the population of individuals infected with the etiologic agent for acquired immune deficiency syndrome; and

"(B) developing models demonstrating the long-term domestic and international patterns of the transmission of such etiologic agent.

"(2) The Secretary may carry out paragraph (1) directly or through grants to, or cooperative agreeements or contracts with, public and nonprofit private entities, including Federal agencies.

"(c) LONG-TERM RESEARCH.—The Secretary may make grants to public and nonprofit private entities for the purpose of assisting grantees in conducting long-term research into treatments for acquired immune deficiency syndrome developed from knowledge of the genetic nature of the etiologic agent for such syndrome.

"(d) SOCIAL SCIENCES RESEARCH.—The Secretary, acting through the Director of the National Institute of Mental Health, may make grants to public and nonprofit private entities for the purpose of assisting grantees in conducting scientific research into the psychological and social sciences as such sciences relate to acquired immune deficiency syndrome.

"(e) AUTHORIZATION OF APPROPRIATIONS.—

"(1) For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"(2) Amounts appropriated pursuant to paragraph (1) to carry out subsection (c) shall remain available until expended.

"PART C—RESEARCH TRAINING

42 USC 300cc-31. Health care professionals.

"SEC. 2341. FELLOWSHIPS AND TRAINING.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, shall establish fellowship and training programs to be conducted by the Centers for Disease Control to train individuals to develop skills in epidemiology, surveillance, testing, counseling, education, information, and laboratory analysis relating to acquired immune deficiency syndrome. Such programs shall be designed to enable health professionals and health personnel trained under such programs to work, after receiving such training, in national and international efforts toward the prevention, diagnosis, and treatment of acquired immune deficiency syndrome.

"(b) PROGRAMS CONDUCTED BY NATIONAL INSTITUTE OF MENTAL HEALTH.—The Secretary, acting through the Director of the National Institute of Mental Health, shall conduct or support fellowship and training programs for individuals pursuing graduate or postgraduate study in order to train such individuals to conduct scientific research into the psychological and social sciences as such sciences relate to acquired immune deficiency syndrome.

"(c) RELATIONSHIP TO LIMITATION ON NUMBER OF EMPLOYEES.—Any individual receiving a fellowship or receiving training under subsection (a) or (b) shall not be included in any determination of the number of full-time equivalent employees of the Department of Health and Human Services for the purpose of any limitation on the number of such employees established by law prior to, on, or after the date of the enactment of the AIDS Federal Policy Act of 1988.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"PART D—SPECIAL AUTHORITIES OF THE DIRECTOR OF THE NATIONAL INSTITUTES OF HEALTH

42 USC 300cc-41.

"SEC. 2351. ESTABLISHMENT OF AUTHORITIES.

"(a) IN GENERAL.—In carrying out research with respect to acquired immune deficiency syndrome, the Secretary, acting through the Director of the National Institutes of Health—

"(1)(A) shall establish an office to be known as the Office of AIDS Research, which Office shall be headed by a Director appointed by the Director of the National Institutes of Health; and

"(B) shall provide administrative support and support services to the Director of such Office;

"(2) shall coordinate activities relating to acquired immune deficiency syndrome conducted by the national research institutes and the agencies of the National Institutes of Health;

"(3) shall develop and expand clinical trials of treatments and therapies for infection with the etiologic agent for acquired immune deficiency syndrome, including such clinical trials for women, infants, children, hemophiliacs, and minorities;

"(4) may establish or support the large-scale development and preclinical screening, production, or distribution of specialized biological materials and other therapeutic substances for

research relating to acquired immune deficiency syndrome and set standards of safety and care for persons using such materials;

"(5) may, in consultation with the advisory council for the appropriate national research institute of the National Institutes of Health, support—

"(A) research relating to acquired immune deficiency syndrome conducted outside the United States by qualified foreign professionals if such research can reasonably be expected to benefit the people of the United States;

"(B) collaborative research involving American and foreign participants; and

"(C) the training of American scientists abroad and foreign scientists in the United States;

"(6) may encourage and coordinate research relating to acquired immune deficiency syndrome conducted by any industrial concern that evidences a particular capability for the conduct of such research;

"(7)(A) may, in consultation with such advisory council, acquire, improve, repair, operate, and maintain laboratories, other research facilities, equipment, and such other real or personal property as the Director of the National Institutes of Health determines necessary; Real property.

"(B) may, in consultation with such advisory council, make grants for the construction or renovation of facilities; and Grants.

"(C) may, in consultation with such advisory council, acquire, without regard to the Act of March 3, 1877 (40 U.S.C. 34) by lease or otherwise through the Administrator of General Services, buildings or parts of buildings in the District of Columbia or communities located adjacent to the District of Columbia for the use of the National Institutes of Health for a period not to exceed ten years; and District of Columbia. Public buildings and grounds.

"(8) subject to section 405(b)(2) and without regard to section 3324 of title 31, United States Code, and section 3709 of the Revised Statutes (41 U.S.C. 5), may enter into such contracts and cooperative agreements with any public agency, or with any person, firm, association, corporation, or educational institution, as may be necessary to expedite and coordinate research relating to acquired immune deficiency syndrome. Contracts.

"(b) REPORT TO SECRETARY.—The Director of the National Institutes of Health, acting through the Director of the Office of AIDS Research, shall each fiscal year prepare and submit to the Secretary, for inclusion in the comprehensive report required in section 2301(a), a report—

"(1) describing and evaluating the progress made in such fiscal year in research, treatment, and training with respect to acquired immune deficiency syndrome conducted or supported by the Institutes;

"(2) summarizing and analyzing expenditures made in such fiscal year for activities with respect to acquired immune deficiency syndrome conducted or supported by the National Institutes of Health; and

"(3) containing such recommendations as the Director considers appropriate.

"(c) PROJECTS FOR COOPERATION AMONG PUBLIC AND PRIVATE HEALTH ENTITIES.—In carrying out subsection (a), the Director of the National Institutes of Health shall establish projects to promote State and local governments. Research and development.

cooperation among Federal agencies, State, local, and regional public health agencies, and private entities, in research concerning the diagnosis, prevention, and treatment of acquired immune deficiency syndrome.

"PART E—GENERAL PROVISIONS

42 USC 300cc-51.

"SEC. 2361. DEFINITION.

"For purposes of this title, the term 'infection with the etiologic agent for acquired immune deficiency syndrome' includes any condition arising from infection with such etiologic agent.".

SEC. 202. AUTHORIZATION OF ADDITIONAL PERSONNEL.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary of Health and Human Services, shall, in accordance with the civil service and classification laws, appoint and fix the compensation of not less than 780 employees for the Public Health Service in addition to the number of employees assigned to such Service as of December 31, 1987.

(b) REPORT.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall report to the Congress on the allocation among the agencies of the Public Health Service of the 780 additional employees required in subsection (a).

(c) LIMITATION OF AVAILABILITY OF APPROPRIATIONS.—The requirement established in subsection (a) shall be carried out only to the extent of amounts made available in appropriations Acts for such purpose.

(d) EXPIRATION OF REQUIREMENT.—Effective October 1, 1990, this section is repealed.

42 USC 300cc note.

SEC. 203. REQUIREMENT OF CERTAIN RESEARCH STUDIES.

(a) MORTALITY RATES.—After consultation with the Director of the National Center for Health Services Research and Health Care Technology Assessment, the Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall conduct a study for the purpose of determining the mortality rates with respect to acquired immune deficiency syndrome among individuals of various groups at risk of such syndrome, among various geographic areas, and among individuals with varying financial resources for the payment of health care services.

(b) USE OF CONSORTIA FOR RESEARCH AND DEVELOPMENT.—The Secretary of Health and Human Services shall request the National Academy of Sciences and other similar appropriate nonprofit institutions to report to the Secretary findings made by such institutions with respect to—

(1) the manner in which research on, and the development of, vaccines and drugs for the prevention and treatment of acquired immune deficiency syndrome and related conditions can be enhanced by the establishment of consortia—

(A) designed to combine and share resources needed for such research and development; and

(B) consisting of businesses involved in such research and development, of nonprofit research institutions, or of combinations of such businesses and such institutions; and

(2) the appropriate participation, if any, of the Federal Government in such consortia.

(c) REPORTS TO CONGRESS.—The Secretary of Health and Human Services shall submit to the Congress a report describing the findings made as a result of each of the studies required or requested in this section. The report for the study required in subsection (a) shall be submitted not later than 18 months after the date of the enactment of this Act. The report for the study requested in subsection (b) shall be submitted not later than 1 year after such date.

SEC. 204. CONFORMING AMENDMENTS.

The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

(1) in section 305(i), by striking "2313" each place it appears and inserting "2511";

(2) in section 465(f), by striking "2301" and inserting "2501"; and

(3) in section 497, by striking "2301" and inserting "2501".

Subtitle B—Health Services

SEC. 211. STATE FORMULA GRANTS, SUBACUTE CARE, AND COUNSELING AND TESTING.

The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 201, is further amended by inserting after title XXIII the following new title:

"TITLE XXIV—HEALTH SERVICES WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME

"PART A—FORMULA GRANTS TO STATES FOR HOME AND COMMUNITY-BASED HEALTH SERVICES

"SEC. 2401. ESTABLISHMENT OF PROGRAM. 42 USC 300dd.

"(a) ALLOTMENTS FOR STATES.—For the purpose described in subsection (b), the Secretary shall for each of the fiscal years 1989 and 1990 make an allotment for each State in an amount determined in accordance with section 2408. The Secretary shall make payments each such fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 2407.

"(b) PURPOSE OF GRANTS.—The Secretary may not make payments under subsection (a) for a fiscal year unless the State involved agrees to expend the payments only for the purpose of providing services in accordance with section 2402.

"(c) ELIGIBLE INDIVIDUAL DEFINED.—For purposes of this part:

"(1) The term 'eligible individual' means an individual infected with the etiologic agent for acquired immune deficiency syndrome who either is medically dependent or chronically dependent.

"(2) The term 'medically dependent' means, with respect to an individual, that the individual has been certified by a physician as—

"(A) requiring the routine use of appropriate medical services (which may include home intravenous drug therapy) to prevent or compensate for the individual's serious deterioration, arising from infection with the etiologic agent for acquired immune deficiency syndrome, of physical health or cognitive function, and

"(B) being able to avoid long-term or repeated care as an inpatient or resident in a hospital, nursing facility, or other institution if home and community-based health services are provided to the individual.

"(3) The term 'chronically dependent' means, with respect to an individual, that the individual has been certified by a physician as—

"(A) being unable to perform, because of physical or cognitive impairment (without substantial assistance from another individual) arising from infection with the etiologic agent for acquired immune deficiency syndrome, at least 2 of the following activities of daily living: bathing, dressing, toileting, transferring, and eating, or

"(B) having a similar level of disability due to cognitive impairment (as defined by the Secretary).

"(d) HOME AND COMMUNITY-BASED HEALTH SERVICES DEFINED.—For purposes of this part, the term 'home and community-based health services'—

"(1) means, with respect to an eligible individual, skilled health services furnished to the individual in the individual's home pursuant to a written plan of care established by a health care professional for the provision of such services and items and services described in paragraph (2);

"(2) includes—

"(A) durable medical equipment,

"(B) homemaker/home health aide services and personal care services furnished in the individual's home,

"(C) day treatment or other partial hospitalization services,

"(D) home intravenous drug therapy (including prescription drugs administered intravenously as part of such therapy), and

"(E) routine diagnostic tests administered in the individual's home,

furnished pursuant to such plan of care; but

"(3) does not include, except as specifically provided in paragraph (2)—

"(A) diagnostic tests,

"(B) inpatient hospital services,

"(C) nursing facility services, and

"(D) prescription drugs.

42 USC 300dd-1.

"SEC. 2402. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF GRANTS.

"(a) REQUIRED USES OF FUNDS.—The Secretary may not make payments under section 2401(a) unless the State involved agrees that the State will—

"(1) provide for home and community-based health services for eligible individuals pursuant to written plans of care established by health care professionals for providing such services to such individuals;

"(2) provide for the identification, location, and provision of outreach to eligible individuals;

"(3) provide for coordinating the provision of services under this part with the provision of similar or related services by public and private entities; and

"(4) give priority to the provision of outreach and home and community-based services to eligible individuals with low incomes.

"(b) AUTHORITY FOR GRANTS AND CONTRACTS.—A State may make payment for services under subsection (a) through grants to public and nonprofit private entities and through contracts with public and private entities. In providing such financial assistance, a State shall give priority to public and nonprofit private entities that have demonstrated experience in delivering home and community-based health services to individuals with the etiologic agent for acquired immune deficiency syndrome.

"SEC. 2403. REQUIREMENT OF SUBMISSION OF DESCRIPTION OF INTENDED USES OF GRANT. 42 USC 300dd-2.

"The Secretary may not make payments under section 2401(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary a description of the purposes for which the State intends to expend such payments for the fiscal year;

"(2) such description provides information relating to the services and activities to be provided, including a description of the manner in which such services and activities will be coordinated with any similar services and activities of public and private entities; and

"(3) such description includes information relating to (A) the process for determining which eligible individuals are medically dependent or chronically dependent and (B) the process for establishing written plans of care for the provision of home and community-based health services under this part.

"SEC. 2404. RESTRICTIONS ON USE OF GRANT. 42 USC 300dd-3.

"(a) IN GENERAL.—The Secretary may not make payments under section 2401(a) for a fiscal year to a State unless the State agrees that the payments will not be expended—

"(1) to provide for items or services described in section 2401(d)(3);

"(2) to make cash payments to intended recipients of services;

"(3) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment; or Real property.

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make payments under section 2401(a) for a fiscal year unless the State involved agrees that the State will not expend more than 5 percent of the payments made to the State under such section for administrative expenses with respect to carrying out the purpose of this part.

"(c) LIMITATION ON TOTAL PAYMENTS.—

"(1) Before March 1, 1989, for fiscal year 1989 and before September 1 of 1989 for fiscal year 1990, the Secretary shall determine and publish the national average monthly payments, for extended care services under part A of title XVIII of the Social Security Act, for each resident of a skilled nursing facility the Secretary estimates will be paid in the fiscal year.

"(2) The Secretary may not make payments under section 2401(a) for a fiscal year to a State to the extent that the average

monthly payments for eligible individuals provided home and community-based health services under this part in the State exceeds 65 percent of the national average monthly payments determined and published for the fiscal year under paragraph (1).

42 USC 300dd-4.

"SEC. 2405. REQUIREMENT OF REPORTS AND AUDITS BY STATES.

"(a) REPORTS.—

"(1) The Secretary may not make payments under section 2401(a) for a fiscal year unless the State involved agrees to prepare and submit to the Secretary, by not later than January 1 following the fiscal year, an annual report in such form and containing such information as the Secretary determines (after consultation with the States and the Comptroller General of the United States) to be necessary for—

"(A) securing a record and a description of the purposes for which payments received by the State pursuant to section 2401(a) were expended and of the recipients of such payments;

"(B) determining whether the payments were expended in accordance with the purpose of this part; and

"(C) determining the percentage of payments received pursuant to section 2401(a) that were expended by the State for administrative expenses during the fiscal year involved.

"(2) Each report by a State under paragraph (1) for a fiscal year also shall include—

"(A) information on the number and type of eligible individuals provided home and community-based health services by the State under this part for the fiscal year;

"(B) information on the types of home and community-based health services so provided;

"(C) information on the average monthly costs of such services and a comparison of such costs with costs of providing services in hospitals, nursing facilities, and similar institutions; and

"(D) such other information as the Secretary may require to provide for an evaluation of the program under this part and its cost-effectiveness.

"(b) AUDITS.—

"(1) The Secretary may not make payments under section 2401(a) for a fiscal year unless the State involved agrees to establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received by the State under such section.

"(2) The Secretary may not make payments under section 2401(a) for a fiscal year unless the State involved agrees that—

"(A) the State will provide for—

"(i) a financial and compliance audit of such payments; or

"(ii) a single financial and compliance audit of each entity administering such payments;

"(B) the audit will be performed biennially and will cover expenditures in each fiscal year; and

"(C) the audit will be conducted in accordance with standards established by the Comptroller General of the United

States for the audit of governmental organizations, programs, activities, and functions.

"(3) The Secretary may not make payments under section 2401(a) for a fiscal year unless the State involved agrees that, not later than 30 days after the completion of an audit under paragraph (2), the State will provide a copy of the audit report to the State legislature.

"(4) For purposes of paragraph (2), the term 'financial and compliance audit' means an audit to determine whether the financial statements of an audited entity present fairly the financial position, and the results of financial operations, of the entity in accordance with generally accepted accounting principles, and whether the entity has complied with laws and regulations that may have a material effect upon the financial statements.

"(c) AVAILABILITY TO PUBLIC.—The Secretary may not make payments under section 2401(a) unless the State involved agrees to make copies of the reports and audits described in this section available for public inspection.

"(d) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall, from time to time, evaluate the expenditures by the States of payments under section 2401(a) in order to assure that expenditures are consistent with the provisions of this part.

"SEC. 2406. ADDITIONAL REQUIRED AGREEMENTS. 42 USC 300dd-5.

"(a) IN GENERAL.—The Secretary may not make payments under section 2401(a) for a fiscal year unless the State involved agrees that—

"(1) the legislature of the State will conduct public hearings on the proposed use and distribution of the payments to be received from the allotments for each such fiscal year;

"(2)(A) the State will, to the maximum extent practicable, ensure that services provided to an individual pursuant to the program involved will be provided without regard to the ability of the individual to pay for such services and without regard to the current or past health condition of the individual;

"(B) if any charges are imposed for the provision of home and community-based health services for which assistance is provided under this part, such charges (i) will be pursuant to a public schedule of charges, (ii) will not be imposed on any eligible individual with an income that does not exceed 100 percent of the official poverty line, and (iii) for an eligible individual with an income that exceeds 100 percent of the official poverty line, will be adjusted to reflect the income of the individual;

"(3) the State will provide for periodic independent peer review to assess the quality and appropriateness of home and community-based health services provided by entities that receive funds from the State pursuant to section 2401(a);

"(4) the State will permit and cooperate with Federal investigations undertaken under section 2409(e);

"(5) the State will maintain State expenditures for home and community-based health services for individuals infected with the etiologic agent for acquired immune deficiency syndrome at a level equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding

the fiscal year for which the State is applying to receive payments; and

"(6) the State will not make payments from allotments made under section 2401(a) for any item or service to the extent that payment has been made, or can reasonably be expected to be made, with respect to that item or service (i) under any State compensation program, under an insurance policy, under any Federal or State health benefits program, or (ii) by an entity that provides health services on a prepaid basis.

42 USC 300dd-6.

"SEC. 2407. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

"The Secretary may not make payments under section 2401(a) to a State for a fiscal year unless—

"(1) the State submits to the Secretary an application for the payments containing agreements in accordance with sections 2401 through 2406;

"(2) the agreements are made through certification from the chief executive officer of the State;

"(3) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary;

"(4) the application contains the description of intended expenditures required in section 2403; and

"(5) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

42 USC 300dd-7.

"SEC. 2408. DETERMINATION OF AMOUNT OF ALLOTMENTS FOR STATES.

"(a) MINIMUM ALLOTMENT.—Subject to the extent of amounts made available in appropriations Acts, the amount of an allotment under section 2401(a) for—

District of Columbia. Puerto Rico.

"(1) each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico, for a fiscal year shall be the greater of—

"(A) $100,000, and

"(B) an amount determined under subsection (b); and

"(2) each territory of the United States (as defined in section 2413(5)) shall be $25,000.

"(b) DETERMINATION UNDER FORMULA.—

"(1) The amount referred to in subsection (a)(1)(B) for a State is the product of—

"(A) an amount equal to the amount appropriated pursuant to section 2414(a) for the fiscal year involved; and

"(B) the ratio of the distribution factor for the State to the sum of the distribution factors for all the States.

"(2) In paragraph (1)(B), the term 'distribution factor' means, for a State, the product of—

"(A) the number in the State of additional cases of acquired immune deficiency syndrome, as indicated by the number of such cases reported to and confirmed by the Secretary for the most recent fiscal year for which such data are available, and

"(B) the ratio (based on the most recent available data) of (i) the average per capita income of individuals in the United States to (ii) the average per capita income of individuals in the State;

except that the distribution factors for all the States and territories shall be proportionally reduced to the extent necessary to assure that the total of the allotments under subsection (a) for all the States and territories for each fiscal year does not exceed the amount appropriated pursuant to section 2414(a) for the fiscal year.

"(c) INDIAN TRIBES.—

"(1) Upon the request of the governing body of an Indian tribe or tribal organization within a State to the Secretary, the Secretary shall—

"(A) reserve from the amount that otherwise would be allotted for the fiscal year to the State under subsection (a) an amount determined in accordance with paragraph (2); and

"(B) grant the amount reserved under subparagraph (A) to the Indian tribe or tribal organization serving eligible individuals who are members of the Indian tribe or tribal organization.

"(2) The amount reserved under paragraph (1)(A) shall be an amount equal to the product of—

"(A) the amount that otherwise would be allotted to the State under subsection (a) for the fiscal year; and

"(B) the Secretary's estimate of the proportion of the number of additional cases described in subsection (b)(2)(A) that are attributable to members of the Indian tribe or tribal organization.

"(3) The Secretary may not make a grant under paragraph (1)(B) to an Indian tribe or tribal organization unless the Indian tribe or tribal organization submits to the Secretary an application meeting the requirements of such an application under section 2407.

"(d) DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.—

"(1) Amounts described in paragraph (2) shall, in accordance with paragraph (3), be allotted by the Secretary to States receiving payments under section 2401(a) for the fiscal year (other than any State referred to in paragraph (2)(B)).

"(2) The amounts referred to in paragraph (1) are any amounts that are not paid to States or territories under section 2401(a) as a result of—

"(A) the failure of any State or territory to submit an application under section 2407 within a reasonable time period established by the Secretary; or

"(B) any State or territory informing the Secretary that the State or territory does not intend to expend the full amount of the allotment made to the State or territory.

"(3) The amount of an allotment under paragraph (1) for a State for a fiscal year shall be an amount equal to the product of—

"(A) an amount equal to the amount described in paragraph (2) for the fiscal year involved; and

"(B) the ratio determined under subsection (b)(1)(B) for the State.

"SEC. 2409. FAILURE TO COMPLY WITH AGREEMENTS. 42 USC 300dd-8.

"(a) REPAYMENT OF PAYMENTS.—

"(1) The Secretary may, subject to subsection (c), require a State to repay any payments received by the State under section 2401(a) that the Secretary determines were not expended by the State in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 2407.

"(2) If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under section 2401(a).

"(b) WITHHOLDING.—

"(1) The Secretary may, subject to subsection (c), withhold payments due under section 2401(a) if the Secretary determines that the State involved is not expending amounts received under such section in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 2407.

"(2) The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under section 2401(a) in accordance with the agreements referred to in such paragraph.

"(c) OPPORTUNITY FOR HEARING.—Before requiring repayment of payments under subsection (a)(1), or withholding payments under subsection (b)(1), the Secretary shall provide to the State an opportunity for a hearing conducted within the State.

"(d) TECHNICAL VIOLATIONS.—The Secretary may not require repayment under subsection (a)(1), or withhold payments under subsection (b)(1), for a technical violation, as determined by the Secretary, of any agreement required to be contained in the application submitted by the State pursuant to section 2407.

"(e) INVESTIGATIONS.—

"(1) The Secretary shall conduct in the several States in each fiscal year investigations of the expenditure of payments received by the States under section 2401(a) in order to evaluate compliance with the agreements required to be contained in the applications submitted to the Secretary pursuant to section 2407.

Records.

"(2) Each State, and each entity receiving funds from payments made to a State under section 2401(a), shall make appropriate books, documents, papers, and records available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

"(3)(A) In conducting any investigation in a State, the Secretary and the Comptroller General of the United States may not make a request for any information not readily available to the State, or to an entity receiving funds from payments made to the State under section 2401(a), or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

"(B) Subparagraph (A) shall not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

"SEC. 2410. PROHIBITION AGAINST CERTAIN FALSE STATEMENTS. 42 USC 300dd-9.

"(a) IN GENERAL.—A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which amounts may be paid by a State from payments received by the State under section 2401(a).

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates a prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"SEC. 2411. TECHNICAL ASSISTANCE AND PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS. 42 USC 300dd-10.

"(a) TECHNICAL ASSISTANCE.—Upon the request of a State receiving payments under section 2401(a), the Secretary may, without charge to the State, provide to the State (or to any public or private entity designated by the State) technical assistance with respect to the planning, development, and operation of this part. The Secretary may provide such technical assistance directly, through contract, or through grants.

"(b) PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) Upon the request of a State receiving payments under section 2401(a), the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out this part and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under section 2401(a) to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 2412. REPORT BY SECRETARY. 42 USC 300dd-11.

"Not later than March 1, 1990, the Secretary shall report to the Congress on the activities of the States under this part. Such report shall include a recommendation as to whether or not the program under this part should be extended beyond fiscal year 1990 and may include any recommendations of the Secretary for appropriate administrative and legislative initiatives.

"SEC. 2413. DEFINITIONS. 42 USC 300dd-12.

"For purposes of this part:

"(1) The terms 'Indian tribe' and 'tribal organization' have the same meaning given such terms in sections 4(b) and 4(c) of the Indian Self-Determination and Education Assistance Act.

"(2) The term 'infected with the etiologic agent for acquired immune deficiency syndrome' includes any condition arising from infection with such etiologic agent.

"(3)(A) An individual is considered to have low income if the individual's income does not exceed 200 percent of the official poverty line.

"(B) The term 'official poverty line' refers, with respect to an individual, to the official poverty line defined by the Office of

Management and Budget, and revised annually in accordance with section 673(2) of the Omnibus Budget Reconciliation Act of 1981, applicable to a family of the size involved.

"(4)(A) The term 'State' means, except as provided in subparagraph (B), each of the several States, the District of Columbia, the Commonwealth of Puerto Rico, and each territory of the United States.

"(B) For purposes of section 2408(d), the term 'State' means each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(5) The term 'territory of the United States' means each of the following: the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

42 USC 300dd-13.

"SEC. 2414. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making grants under section 2401, there are authorized to be appropriated $100,000,000 for each of the fiscal years 1989 and 1990.

"(b) AVAILABILITY TO STATES.—Any amounts paid to a State or territory under section 2401(a) shall remain available to the State or territory until the expiration of the 1-year period beginning on the date on which the State or territory receives such amounts.

42 USC 300dd-14.

"SEC. 2415. SUNSET.

"Effective with respect to appropriations made for any period after fiscal year 1990, part A of title XXIV of the Public Health Service Act is repealed.

"PART B—SUBACUTE CARE

42 USC 300dd-21.

"SEC. 2421. DEMONSTRATION PROJECTS.

"(a) As used in this section:

"(1) The term 'patients infected with the human immunodeficiency virus' means persons who have a disease, or are recovering from a disease, attributable to the infection of such person with the human immunodeficiency virus, and as a result of the effects of such disease, are in need of subacute-care services.

"(2) The term 'subacute care' means medical and health care services that are required for persons recovering from acute care episodes that are less intensive than the level of care provided in acute-care hospitals, and includes skilled nursing care, hospice care, and other types of health services provided in other long-term-care facilities.

"(b) The Secretary shall conduct three demonstration projects to determine the effectiveness and cost of providing the subacute-care services described in subsection (b) to patients infected with the human immunodeficiency virus, and the impact of such services on the health status of such patients.

"(c)(1) The services provided under each demonstration project shall be designed to meet the specific needs of patients infected with the human immunodeficiency virus, and shall include—

"(A) the care and treatment of such patients by providing—

"(i) subacute care;

"(ii) emergency medical care and specialized diagnostic and therapeutic services as needed and where appropriate,

either directly or through affiliation with a hospital that has experience in treating AIDS patients; and

"(iii) case management services to ensure, through existing services and programs whenever possible, appropriate discharge planning for patients; and

"(B) technical assistance, to other facilities in the region served by such facility, that is directed toward education and training of physicians, nurses, and other health-care professionals in the subacute care and treatment of patients infected with the human immunodeficiency virus.

"(2) Services provided under each demonstration project may also include—

"(A) hospice services;

"(B) outpatient care; and

"(C) outreach activities in the surrounding community to hospitals and other health-care facilities that serve patients infected with the human immunodeficiency virus.

"(d) The demonstration projects shall be conducted—

"(1) during a 4-year period beginning not later than 9 months after the date of enactment of this section; and

"(2) at sites that—

"(A) are geographically diverse and located in areas that are appropriate for the provision of the required and authorized services; and

"(B) have the highest incidence of AIDS cases and the greatest need for subacute-care services.

"(e) The Secretary shall evaluate the operations of the demonstration projects and shall submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate— Reports.

"(1) not later than 18 months after the beginning of the first project, a preliminary report that contains—

"(A) a description of the sites at which the projects are being conducted and of the services being provided in each project; and

"(B) a preliminary evaluation of the experience of the projects in the first 12 months of operation; and

"(2) not later than 6 months after the completion of the last project, a final report that contains—

"(A) an assessment of the costs of subacute care for patients infected with the human immunodeficiency virus, including a breakdown of all other sources of funding for the care provided to cover subacute care; and

"(B) recommendations for appropriate legislative changes.

"(f) Each demonstration project shall provide for other research to be carried out at the site of such demonstration project including— Research and development.

"(1) clinical research on the acquired immunodeficiency syndrome, concentrating on research on the neurological manifestations resulting from infection with the human immunodeficiency virus; and

"(2) the study of the psychological and mental health issues related to the acquired immunodeficiency syndrome.

"(g)(1) To carry out this section, there are authorized to be appropriated $10,000,000 for fiscal year 1988 and such sums as are necessary for each of the fiscal years 1989 through 1991. Appropriation authorization.

"(2) Amounts appropriated pursuant to paragraph (1) shall remain available until September 10, 1992.

Contracts. Veterans.

"(h) The Secretary shall enter into an agreement with the Administrator of the Veterans' Administration to ensure that appropriate provision will be made for the furnishing, through demonstration projects, of services to eligible veterans, under contract with the Veterans' Administration pursuant to section 620 of title 38, United States Code.

"PART C—OTHER HEALTH SERVICES

"Subpart I—Counseling and Testing

42 USC 300dd-31.

"SEC. 2431. GRANTS FOR ANONYMOUS TESTING.

"The Secretary may make grants to the States for the purpose of providing opportunities for individuals—

"(1) to undergo counseling and testing with respect to the etiologic agent for acquired immune deficiency syndrome without being required to provide any information relating to the identity of the individuals; and

"(2) to undergo such counseling and testing through the use of a pseudonym.

42 USC 300dd-32.

"SEC. 2432. REQUIREMENT OF PROVISION OF CERTAIN COUNSELING SERVICES.

"(a) COUNSELING BEFORE TESTING.—The Secretary may not make a grant under section 2431 to a State unless the State agrees that, before testing an individual pursuant to such section, the State will provide to the individual appropriate counseling with respect to acquired immune deficiency syndrome (based on the most recent scientific data relating to such syndrome), including—

"(1) measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome;

"(2) the accuracy and reliability of the results of such testing;

"(3) the significance of the results of such testing, including the potential for developing acquired immune deficiency syndrome; and

"(4) encouraging individuals, as appropriate, to undergo testing for such etiologic agent and providing information on the benefits of such testing.

"(b) COUNSELING OF INDIVIDUALS WITH NEGATIVE TEST RESULTS.—The Secretary may not make a grant under section 2431 to a State unless the State agrees that, if the results of testing conducted pursuant to such section indicate that an individual is not infected with the etiologic agent for acquired immune deficiency syndrome, the State will review for the individual the information provided pursuant to subsection (a) with respect to such syndrome, including—

"(1) the information described in paragraphs (1) through (3) of such subsection; and

"(2) the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome.

"(c) COUNSELING OF INDIVIDUALS WITH POSITIVE TEST RESULTS.—The Secretary may not make a grant under section 2431 to a State unless the State agrees that, if the results of testing conducted pursuant to such section indicate that the individual is infected with

the etiologic agent for acquired immune deficiency syndrome, the State will provide to the individual appropriate counseling with respect to such syndrome, including—

"(1) reviewing the information described in paragraphs (1) through (3) of subsection (a);

"(2) reviewing the appropriateness of further counseling, testing, and education of the individual with respect to acquired immune deficiency syndrome;

"(3) the importance of not exposing others to the etiologic agent for acquired immune deficiency syndrome;

"(4) the availability in the geographic area of any appropriate services with respect to health care, including mental health care and social and support services;

"(5) the benefits of locating and counseling any individual by whom the infected individual may have been exposed to the etiologic agent for acquired immune deficiency syndrome and any individual whom the infected individual may have exposed to such etiologic agent; and

"(6) the availability, if any, of the services of public health authorities with respect to locating and counseling any individual described in paragraph (4).

"(d) RULE OF CONSTRUCTION WITH RESPECT TO COUNSELING WITHOUT TESTING.—Agreements entered into pursuant to subsections (a) through (c) may not be construed to prohibit any grantee under section 2431 from expending the grant for the purpose of providing counseling services described in such subsections to an individual who will not undergo testing described in such section as a result of the grantee or the individual determining that such testing of the individual is not appropriate.

"(e) USE OF FUNDS.—

"(1) The purpose of this part is to provide for counseling and testing services to prevent and reduce exposure to, and transmission of, the etiologic agent for acquired immune deficiency syndrome.

"(2) All individuals receiving counseling pursuant to this part are to be counseled about the harmful effects of promiscuous sexual activity and intravenous substance abuse, and the benefits of abstaining from such activities.

"(3) None of the fund appropriated to carry out this part may be used to provide counseling that is designed to promote or encourage, directly, homosexual or heterosexual sexual activity or intravenous drug abuse.

"(4) Paragraph (3) may not be construed to prohibit a counselor who has already performed the counseling of an individual required by paragraph (2), to provide accurate information about means to reduce an individual's risk of exposure to, or the transmission of, the etiologic agent for acquired immune deficiency syndrome, provided that any informational materials used are not obscene.

"SEC. 2433. FUNDING.

42 USC 300dd-33.

"For the purpose of grants under section 2431, there are authorized to be appropriated $100,000,000 for each of the fiscal years 1989 and 1990.

"Subpart II—Counseling and Mental Health Services

42 USC 300dd-41.

"SEC. 2441. DEMONSTRATION PROJECTS FOR INDIVIDUALS WITH POSITIVE TEST RESULTS.

Grants.

"(a) IN GENERAL.—The Secretary may make grants to public and nonprofit private entities for demonstration projects for the development, establishment, or expansion of programs to provide counseling and mental health treatment—

"(1) for individuals who experience serious psychological reactions as a result of being informed that the results of testing for the etiologic agent for acquired immune deficiency syndrome indicate that the individuals are infected with such etiologic agent; and

"(2) for the families of such individuals, and for others, who experience serious psychological reactions as a result of being informed of the results of such testing of such individuals.

"(b) PREFERENCES IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to applicants that are based at, or have relationships with, entities providing comprehensive health services to individuals who are infected with the etiologic agent for acquired immune deficiency syndrome.

"(c) REQUIREMENT OF PROVISION OF INFORMATION ON PREVENTION.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that counseling provided pursuant to such subsection will include counseling relating to measures for the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

"(d) AUTHORITY FOR TRAINING.—A grantee under subsection (a) may expend the grant to train individuals to provide the services described in such subsection.

"(e) REQUIREMENT OF IDENTIFICATION OF NEEDS AND OBJECTIVES.—The Secretary may not make a grant under subsection (a) unless the applicant for the grant submits to the Secretary—

"(1) information demonstrating that the applicant has, with respect to mental health treatment related to the etiologic agent for acquired immune deficiency syndrome, identified the need for such treatment in the area in which the program will be developed, established, or expanded; and

"(2) a description of—

"(A) the objectives established by the applicant for the conduct of the program; and

"(B) the method the applicant will use to evaluate the activities conducted under the program and to determine the extent to which such objectives have been met.

"(f) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary;

"(3) the application contains the information required to be submitted under subsection (e); and

"(4) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(g) REQUIREMENT OF MINIMUM NUMBER OF GRANTS FOR FISCAL YEAR 1989.—Subject to the extent of amounts made available in appropriations Acts, the Secretary shall, for fiscal year 1989, make not less than 6 grants under subsection (a).

"(h) TECHNICAL ASSISTANCE AND ADMINISTRATIVE SUPPORT.—The Secretary, acting through the Director of the National Institute of Mental Health, may provide technical assistance and administrative support to grantees under subsection (a).

"(i) DEFINITION.—For purposes of this section, the term 'mental health treatment' means individual, family or group services designed to alleviate distress, improve functional ability, or assist in changing dysfunctional behavior patterns.

"(j) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.".

Subtitle C—Prevention

SEC. 221. FORMULA GRANTS TO STATES.

The Public Health Service Act (42 U.S.C. 201 et seq.), as amended by section 211, is further amended by inserting after title XXIV the following new title:

"TITLE XV—PREVENTION OF ACQUIRED IMMUNE DEFICIENCY SYNDROME

"SEC. 2500. USE OF FUNDS. 42 USC 300ee.

"(a) IN GENERAL.—The purpose of this part is to provide for the establishment of education and information programs to prevent and reduce exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

"(b) CONTENTS OF PROGRAMS.—All programs of education and information receiving funds under this title shall include information about the harmful effects of promiscuous sexual activity and intravenous substance abuse, and the benefits of abstaining from such activities.

"(c) LIMITATION.—None of the funds appropriated to carry out this title may be used to provide education or information designed to promote or encourage, directly, homosexual or heterosexual sexual activity or intravenous substance abuse.

"(d) CONSTRUCTION.—Subsection (c) may not be construed to restrict the ability of an education program that includes the information required in subsection (b) to provide accurate information about various means to reduce an individual's risk of exposure to, or the transmission of, the etiologic agent for acquired immune deficiency syndrome, provided that any informational materials used are not obscene.

"PART A—FORMULA GRANTS TO STATES

"SEC. 2501. ESTABLISHMENT OF PROGRAM. 42 USC 300ee-11.

"(a) ALLOTMENTS FOR STATES.—For the purpose described in subsection (b), the Secretary shall for each of the fiscal years 1989 through 1991 make an allotment for each State in an amount determined in accordance with section 2507. The Secretary shall

make payments each such fiscal year to each State from the allotment for the State if the Secretary approves for the fiscal year involved an application submitted by the State pursuant to section 2503.

Public information.

"(b) PURPOSE OF GRANTS.—The Secretary may not make payments under subsection (a) for a fiscal year unless the State involved agrees to expend the payments only for the purpose of carrying out, in accordance with section 2502, public information activities with respect to acquired immune deficiency syndrome.

42 USC 300ee-12.

"SEC. 2502. PROVISIONS WITH RESPECT TO CARRYING OUT PURPOSE OF GRANTS.

"A State may expend payments received under section 2501(a)—

Public information.

"(1) to develop, establish, and conduct public information activities relating to the prevention and diagnosis of acquired immune deficiency syndrome for those populations or communities in the State in which there are a significant number of individuals at risk of infection with the etiologic agent for such syndrome;

Public information.

"(2) to develop, establish, and conduct such public information activities for the general public relating to the prevention and diagnosis of such syndrome;

Research and development.

"(3) to develop, establish, and conduct activities to reduce risks relating to such syndrome, including research into the prevention of such syndrome;

"(4) to conduct demonstration projects for the prevention of such syndrome;

"(5) to provide technical assistance to public entities, to nonprofit private entities concerned with such syndrome, to schools, and to employers, for the purpose of developing information programs relating to such syndrome;

Health care professionals. Education.

"(6) with respect to education and training programs for the prevention of such syndrome, to conduct such programs for health professionals (including allied health professionals), public safety workers (including emergency response employees), teachers, school administrators, and other appropriate education personnel;

"(7) to conduct appropriate programs for educating school-aged children with respect to such syndrome, after consulting with local school boards;

"(8) to make available to physicians and dentists in the State information with respect to acquired immune deficiency syndrome, including measures for the prevention of exposure to, and the transmission of, the etiologic agent for such syndrome (which information is updated not less than annually with the most recently available scientific date relating to such syndrome);

"(9) to carry out the initial implementation of recommendations contained in the guidelines and the model curriculum developed under section 2525; and

Grants. Education.

"(10) to make grants to public entities, and to nonprofit private entities concerned with acquired immune deficiency syndrome, for the purpose of the development, establishment, and expansion of programs for education directed toward individuals at increased risk of infection with the etiologic agent for such syndrome and activities to reduce the risks of exposure to such etiologic agent, with preference to programs directed

toward populations in which there is significant evidence of such infection.

"SEC. 2503. REQUIREMENT OF SUBMISSION OF APPLICATION CONTAINING CERTAIN AGREEMENTS AND ASSURANCES.

42 USC 300ee-13.

"(a) IN GENERAL.—The Secretary may not make payments under section 2501(a) for a fiscal year unless—

"(1) the State involved submits to the Secretary a description of the purposes for which the State intends to expend the payments for the fiscal year;

"(2) the description identifies the populations, areas, and localities in the State with a need for the services for which amounts may be provided by the State under this part;

"(3) the description provides information relating to the programs and activities to be supported and services to be provided, including a description of the manner in which such programs and activities will be coordinated with any similar programs and activities of public and private entities; and

"(4) the State submits to the Secretary an application for the payments containing agreements in accordance with this part;

"(5) the agreements are made through certification from the chief executive officer of the State;

"(6) with respect to such agreements, the application provides assurances of compliance satisfactory to the Secretary; and

"(7) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this part.

"(b) OPPORTUNITY FOR PUBLIC COMMENT.—The Secretary may not make payments under section 2501(a) for a fiscal year unless the State involved agrees that, in developing and carrying out the description required in subsection (a), the State will provide public notice with respect to the description (including any revisions) and will facilitate comments from interested persons.

"SEC. 2504. RESTRICTIONS ON USE OF GRANT.

42 USC 300ee-14.

"(a) IN GENERAL.—The Secretary may not make payments under section 2501(a) for a fiscal year unless the State involved agrees that the payments will not be expended—

"(1) to provide inpatient services;

"(2) to make cash payments to intended recipients of services;

"(3) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment; or

Real property.

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(b) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make payments under section 2501(a) for a fiscal year unless the State involved agrees that the State will not expend more than 5 percent of the payments for administrative expenses with respect to carrying out the purpose described in section 2501(b).

"SEC. 2505. REQUIREMENT OF REPORTS AND AUDITS BY STATES.

42 USC 300ee-15.

"(a) REPORTS.—The Secretary may not make payments under section 2501(a) for a fiscal year unless the State involved agrees to prepare and submit to the Secretary an annual report in such form

and containing such information as the Secretary determines to be necessary for—

Records.

"(1) securing a record and a description of the purposes for which payments received by the State pursuant to such section were expended and of the recipients of such payments;

"(2) determining whether the payments were expended in accordance with the needs within the State required to be identified pursuant to section 2503(a)(2);

"(3) determining whether the payments were expended in accordance with the purpose described in section 2501(b); and

"(4) determining the percentage of payments received pursuant to such section that were expended by the State for administrative expenses during the preceding fiscal year.

"(b) AUDITS.—

"(1) The Secretary may not payments under section 2501(a) for a fiscal year unless the State involved agrees to establish such fiscal control and fund accounting procedures as may be necessary to ensure the proper disbursal of, and accounting for, amounts received by the State under such section.

"(2) The Secretary may not payments under section 2501(a) for a fiscal year unless the State involved agrees that—

"(A) the State will provide for—

"(i) a financial and compliance audit of such payments; or

"(ii) a single financial and compliance audit of each entity administering such payments;

"(B) the audit will be performed biennially and will cover expenditures in each fiscal year; and

"(C) the audit will be conducted in accordance with standards established by the Comptroller General of the United States for the audit of governmental organizations, programs, activities, and functions.

"(3) The Secretary may not make payments under section 2501(a) for a fiscal year unless the State involved agrees that, not later than 30 days after the completion of an audit under paragraph (2), the State will provide a copy of the audit report to the State legislature.

"(4) For purposes of paragraph (2), the term 'financial and compliance audit' means an audit to determine whether the financial statements of an audited entity present fairly the financial position, and the results of financial operations, of the entity in accordance with generally accepted accounting principles, and whether the entity has complied with laws and regulations that may have a material effect upon the financial statements.

Reports.

"(c) AVAILABILITY TO PUBLIC.—The Secretary may not make payments under section 2501(a) for a fiscal year unless the State involved agrees to make copies of the reports and audits described in this section available for public inspection.

"(d) EVALUATIONS BY COMPTROLLER GENERAL.—The Comptroller General of the United States shall, from time to time, evaluate the expenditures by States of payments received under section 2501(a) in order to ensure that expenditures are consistent with the provisions of this part.

"SEC. 2506. ADDITIONAL REQUIRED AGREEMENTS. 42 USC 300ee-16.

"The Secretary may not, except as provided in subsection (b), make payments under section 2501(a) for a fiscal year unless the State involved agrees that—

"(1) all programs conducted or supported by the State with such payments will establish objectives for the program and will determine the extent to which the objectives are met;

"(2) information provided under this part will be scientifically accurate and factually correct;

"(3) in carrying out section 2501(b), the State will give priority to programs described in section 2502(10) for individuals described in such section;

"(4) with respect to a State in which there is a substantial number of individuals who are intravenous substance abusers, the State will place priority on activities under this part directed at such substance abusers;

"(5) with respect to a State in which there is a significant incidence of reported cases of acquired immune deficiency syndrome, the State will—

"(A) for the purpose described in subsection (b) of section 2501, expend not less than 50 percent of payments received under subsection (a) of such section for a fiscal year—

"(i) to make grants to public entities, to migrant health centers (as defined in section 329(a)), to community health centers (as defined in section 330(a)), and to nonprofit private entities concerned with acquired immune deficiency syndrome; or Grants.

"(ii) to enter into contracts with public and private entities; and Contracts.

"(B) of the amounts reserved for a fiscal year by the State for expenditures required in subparagraph (A), expend not less than 50 percent to carry out section 2502(10) through grants to nonprofit private entities, including minority entities, concerned with acquired immune deficiency syndrome located in and representative of communities and subpopulations reflecting the local incidence of such syndrome;

(For purposes of this section, the term 'significant percentage' means at least a percentage of 1 percent of the number of reported cases of such syndrome in the United States);

"(6) with respect to programs carried out pursuant to section 2502(10), the State will ensure that any applicant for a grant under such section agrees—

"(A) that any educational or informational materials developed with a grant pursuant to such section will contain material, and be presented in a manner, that is specifically directed toward the group for which such materials are intended; Education.

"(B) to provide a description of the manner in which the applicant has planned the program in consultation with, and of the manner in which such applicant will consult during the conduct of the program with—

"(i) appropriate local officials and community groups for the area to be served by the program;

"(ii) organizations comprised of, and representing, the specific population to which the education or prevention effort is to be directed; and

"(iii) individuals having expertise in health education and in the needs of the population to be served;

"(C) to provide information demonstrating that the applicant has continuing relationships, or will establish continuing relationships, with a portion of the population in the service area that is at risk of infection with the etiologic agent for acquired immune deficiency syndrome and with public and private entities in such area that provide health or other support services to individuals with such infection;

"(D) to provide a description of—

"(i) the objectives established by the applicant for the conduct of the program; and

"(ii) the methods the applicant will use to evaluate the activities conducted under the program to determine if such objectives are met; and

"(E) such other information as the Secretary may prescribe;

"(7) with respect to programs carried out pursuant to section 2502(10), the State will give preference to any applicant for a grant pursuant to such section that is located in, has a history of service in, and will serve under the program, any geographic area in which—

"(A) there is a significant incidence of acquired immune deficiency syndrome;

"(B) there has been a significant increase in the incidence of such syndrome; or

"(C) there is a significant risk of becoming infected with the etiologic agent for such syndrome;

"(8) the State will establish reasonable criteria to evaluate the effective performance of entities that receive funds from to payments made to the State under section 2501(a) and will establish procedures for procedural and substantive independent State review of the failure by the State to provide funds for any such entity; and

"(9) the State will permit and cooperate with Federal investigations undertaken in accordance with section 2509(e);

"(10) the State will maintain State expenditures for services provided pursuant to section 2501 at a level equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments.

42 USC 300ee-17.

"SEC. 2507. DETERMINATION OF AMOUNT OF ALLOTMENTS FOR STATES.

"(a) MINIMUM ALLOTMENT.—The allotment for a State under section 2501(a) for a fiscal year shall be the greater of—

"(1) the amount described in subsection (b); or

"(2) the amount determined in accordance with subsection (c).

"(b) DETERMINATION OF MINIMUM ALLOTMENT.—

"(1) If the total amount appropriated under section 2516(a) for a fiscal year exceeds $100,000,000, the amount referred to in subsection (a)(1) is $300,000 for the fiscal year.

"(2) If the total amount appropriated under section 2514(a) for a fiscal year equals or exceeds $50,000,000, but is less than

$100,000,000, the amount referred to in subsection (a)(1) is $200,000 for the fiscal year.

"(3) If the total amount appropriated under section 2514(a) for a fiscal year is less than $50,000,000, the amount referred to in subsection (a)(1) is $100,000 for the fiscal year.

"(c) DETERMINATION UNDER FORMULA.—

"(1) The amount referred to in subsection (a)(2) is the sum of—

"(A) the amount determined under paragraph (2); and

"(B) the amount determined under paragraph (3).

"(2) The amount referred to in paragraph (1)(A) is the product of—

"(A) an amount equal to 50 percent of the amounts appropriated pursuant to section 2514(a); and

"(B) a percentage equal to the quotient of—

"(i) the population of the State involved; divided by

"(ii) the population of the United States.

"(3) The amount referred to in paragraph (1)(B) is the product of—

"(A) an amount equal to 50 percent of the amounts appropriated pursuant to section 2514(a); and

"(B) a percentage equal to the quotient of—

"(i) the number of additional cases of acquired immune deficiency syndrome reported to and confirmed by the Secretary for the State involved for the most recent fiscal year for which such data is available; divided by

"(ii) the number of additional cases of such syndrome reported to and confirmed by the Secretary for the United States for such fiscal year.

"(d) DISPOSITION OF CERTAIN FUNDS APPROPRIATED FOR ALLOTMENTS.—

"(1) Amounts described in paragraph (2) shall be allotted by the Secretary to States receiving payments under section 2501(a) for the fiscal year (other than any State referred to in paragraph (2)(C)). Such amounts shall be allotted according to a formula established by the Secretary. The formula shall be equivalent to the formula described in this section under which the allotment for the State for the fiscal year involved was determined.

"(2) The amounts referred to in paragraph (1) are any amounts that are not paid to States under section 2501(a) as a result of—

"(A) the failure of any State to submit an application under section 2507;

"(B) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(C) any State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"SEC. 2508. FAILURE TO COMPLY WITH AGREEMENTS.

42 USC 300ee-18.

"(a) REPAYMENT OF PAYMENTS.—

"(1) The Secretary may, subject to subsection (c), require a State to repay any payments received by the State under section 2501(a) that the Secretary determines were not expended by the State in accordance with the agreements required to be con-

tained in the application submitted by the State pursuant to section 2507.

"(2) If a State fails to make a repayment required in paragraph (1), the Secretary may offset the amount of the repayment against the amount of any payment due to be paid to the State under section 2501(a).

"(b) WITHHOLDING.—

"(1) The Secretary may, subject to subsection (c), withhold payments due under section 2501(a) if the Secretary determines that the State involved is not expending amounts received under such section in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 2507.

"(2) The Secretary shall cease withholding payments from a State under paragraph (1) if the Secretary determines that there are reasonable assurances that the State will expend amounts received under section 2501(a) in accordance with the agreements referred to in such paragraph.

"(3) The Secretary may not withhold funds under paragraph (1) from a State for a minor failure to comply with the agreements referred to in such paragraph.

"(c) OPPORTUNITY FOR HEARING.—Before requiring repayment of payments under subsection (a)(1), or withholding payments under subsection (b)(1), the Secretary shall provide to the State an opportunity for a hearing conducted within the State.

"(d) PROMPT RESPONSE TO SERIOUS ALLEGATIONS.—The Secretary shall promptly respond to any complaint of a substantial or serious nature that a State has failed to expend amounts received under section 2501(a) in accordance with the agreements required to be contained in the application submitted by the State pursuant to section 2507.

"(e) INVESTIGATIONS.—

"(1) The Secretary shall conduct in several States in each fiscal year investigations of the expenditure of payments received by the States under section 2501(a) in order to evaluate compliance with the agreements required to be contained in the applications submitted to the Secretary pursuant to section 2507.

"(2) The Comptroller General of the United States may conduct investigations of the expenditure of funds received under section 2501(a) by a State in order to ensure compliance with the agreements referred to in paragraph (1).

Records.

"(3) Each State, and each entity receiving funds from payments made to a State under section 2501(a), shall make appropriate books, documents, papers, and records available to the Secretary and the Comptroller General of the United States, or any of their duly authorized representatives, for examination, copying, or mechanical reproduction on or off the premises of the appropriate entity upon a reasonable request therefor.

"(4)(A) In conducting any investigation in a State, the Secretary and the Comptroller General of the United States may not make a request for any information not readily available to the State, or to an entity receiving funds from payments made to the State under section 2501(a), or make an unreasonable request for information to be compiled, collected, or transmitted in any form not readily available.

"(B) Subparagraph (A) shall not apply to the collection, compilation, or transmittal of data in the course of a judicial proceeding.

"SEC. 2509. PROHIBITION AGAINST CERTAIN FALSE STATEMENTS. 42 USC 300ee-19.

"(a) IN GENERAL.—

"(1) A person may not knowingly make or cause to be made any false statement or representation of a material fact in connection with the furnishing of items or services for which amounts may be paid by a State from payments received by the State under section 2501(a).

"(2) A person with knowledge of the occurrence of any event affecting the right of the person to receive any amounts from payments made to the State under section 2501(a) may not conceal or fail to disclose any such event with the intent of fraudulently securing such amounts.

"(b) CRIMINAL PENALTY FOR VIOLATION OF PROHIBITION.—Any person who violates a prohibition established in subsection (a) may for each violation be fined in accordance with title 18, United States Code, or imprisoned for not more than 5 years, or both.

"SEC. 2510. TECHNICAL ASSISTANCE AND PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS. 42 USC 300ee-20.

"(a) TECHNICAL ASSISTANCE.—The Secretary may provide training and technical assistance to States with respect to the planning, development, and operation of any program or service carried out pursuant to this part. The Secretary may provide such technical assistance directly or through grants or contracts. Contracts.

"(b) PROVISION BY SECRETARY OF SUPPLIES AND SERVICES IN LIEU OF GRANT FUNDS.—

"(1) Upon the request of a State receiving payments under this part, the Secretary may, subject to paragraph (2), provide supplies, equipment, and services for the purpose of aiding the State in carrying out such part and, for such purpose, may detail to the State any officer or employee of the Department of Health and Human Services.

"(2) With respect to a request described in paragraph (1), the Secretary shall reduce the amount of payments under the program involved to the State by an amount equal to the costs of detailing personnel and the fair market value of any supplies, equipment, or services provided by the Secretary. The Secretary shall, for the payment of expenses incurred in complying with such request, expend the amounts withheld.

"SEC. 2511. EVALUATIONS. 42 USC 300ee-21.

"The Secretary shall, directly or through grants or contracts, evaluate the services provided and activities carried out with payments to States under this part. Grants. Contracts.

"SEC. 2512. REPORT BY SECRETARY. 42 USC 300ee-22.

"The Secretary shall annually prepare a report on the activities of the States carried out pursuant to this part. Such report may include any recommendations of the Secretary for appropriate administrative and legislative initiatives. The report shall be submitted to the Congress through inclusion in the comprehensive report required in section 2301.

42 USC 300ee-23.

"SEC. 2513. DEFINITION.

"For purposes of this part, the term 'infection with the etiologic agent for acquired immune deficiency syndrome' includes any condition arising from such etiologic agent.

42 USC 300ee-24.

"SEC. 2514. FUNDING.

"(a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making allotments under section 2501(a), there are authorized to be appropriated $165,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"(b) AVAILABILITY TO STATES.—Any amounts paid to a State under section 2501(a) shall remain available to the State until the expiration of the 1-year period beginning on the date on which the State receives such amounts.

"PART B—NATIONAL INFORMATION PROGRAMS

42 USC 300ee-31.

"SEC. 2521. AVAILABILITY OF INFORMATION TO GENERAL PUBLIC.

"(a) COMPREHENSIVE INFORMATION PLAN.—The Secretary, acting through the Director of the Centers for Disease Control, shall annually prepare a comprehensive plan, including a budget, for a National Acquired Immune Deficiency Syndrome Information Program. The plan shall contain provisions to implement the provisions of this title. The Director shall submit such plan to the Secretary. The authority established in this subsection may not be construed to be the exclusive authority for the Director to carry out information activities with respect to acquired immune deficiency syndrome.

"(b) CLEARINGHOUSE.—

"(1) The Secretary, acting through the Director of the Centers for Disease Control, may establish a clearinghouse to make information concerning acquired immune deficiency syndrome available to Federal agencies, States, public and private entities, and the general public.

"(2) The clearinghouse may conduct or support programs—

"(A) to develop and obtain educational materials, model curricula, and methods directed toward reducing the transmission of the etiologic agent for acquired immune deficiency syndrome;

"(B) to provide instruction and support for individuals who provide instruction in methods and techniques of education relating to the prevention of acquired immune deficiency syndrome and instruction in the use of the materials and curricula described in subparagraph (A); and

"(C) to conduct, or to provide for the conduct of, the materials, curricula, and methods described in paragraph (1) and the efficacy of such materials, curricula, and methods in preventing infection with the the etiologic agent for acquired immune deficiency syndrome.

"(c) TOLL-FREE TELEPHONE COMMUNICATIONS.—The Secretary shall provide for the establishment and maintenance of toll-free telephone communications to provide information to, and respond to queries from, the public concerning acquired immune deficiency syndrome. Such communications shall be available on a 24-hour basis.

"SEC. 2522. PUBLIC INFORMATION CAMPAIGNS.

42 USC 300ee-32. Grants. Contracts.

"(a) IN GENERAL.—The Secretary, acting through the Director of the Centers for Disease Control, may make grants to public entities, and to nonprofit private entities concerned with acquired immune deficiency syndrome, and shall enter into contracts with public and private entities, for the development and delivery of public service announcements and paid advertising messages that warn individuals about activities which place them at risk of infection with the etiologic agent for such syndrome.

"(b) REQUIREMENT OF APPLICATION.—The Secretary may not provide financial assistance under subsection (a) unless—

"(1) an application for such assistance is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the assistance is to be provided, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"SEC. 2523. PROVISION OF INFORMATION TO UNDERSERVED POPULATIONS.

42 USC 300ee-33.

"(a) IN GENERAL.—The Secretary may make grants to public entities, to migrant health centers (as defined in section 329(a)), to community health centers (as defined in section 330(a)), and to nonprofit private entities concerned with acquired immune deficiency syndrome, for the purpose of assisting grantees in providing services to populations of individuals that are underserved with respect to programs providing information on the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome.

Grants.

"(b) PREFERENCES IN MAKING GRANTS.—In making grants under subsection (a), the Secretary shall give preference to any applicant for such a grant that has the ability to disseminate rapidly the information described in subsection (a) (including any national organization with such ability).

"SEC. 2524. AUTHORIZATION OF APPROPRIATIONS.

42 USC 300ee-34.

"(a) IN GENERAL.—For the purpose of carrying out sections 2521 through 2523, there are authorized to be appropriated $105,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"(b) ALLOCATIONS.—

"(1) Of the amounts appropriated pursuant to subsection (a), the Secretary shall make available $45,000,000 to carry out section 2522 and $30,000,000 to carry out this part through financial assistance to minority entities for the provision of services to minority populations.

"(2) After consultation with the Director of the Office of Minority Health and with the Indian Health Service, the Secretary, acting through the Director of the Centers for Disease Control, shall, not later than 90 days after the date of the enactment of this section, publish guidelines to provide procedures for applications for funding pursuant to paragraph (1) and for public comment.".

National Commission on Acquired Immune Deficiency Syndrome Act. 42 USC 300cc note.

Subtitle D—National Commission on Acquired Immune Deficiency Syndrome

SEC. 241. SHORT TITLE.

This subtitle may be cited as the "National Commission on Acquired Immune Deficiency Syndrome Act".

SEC. 242. ESTABLISHMENT.

There is established a commission to be known as the "National Commission on Acquired Immune Deficiency Syndrome" (hereinafter in this Act referred to as the "Commission").

SEC. 243. DUTIES OF COMMISSION.

(a) GENERAL PURPOSE OF THE COMMISSION.—The Commission shall carry out activities for the purpose of promoting the development of a national consensus on policy concerning acquired immune deficiency syndrome (hereinafter in this subtitle referred to as "AIDS") and of studying and making recommendations for a consistent national policy concerning AIDS.

(b) SUCCESSION.—The Commission shall succeed the Presidential Commission on the Human Immunodeficiency Virus Epidemic, established by Executive Order 12601, dated June 24, 1987.

(c) FUNCTIONS.—The Commission shall perform the following functions:

(1) Monitor the implementation of the recommendations of the Presidential Commission on the Human Immunodeficiency Virus Epidemic, modifying those recommendations as the Commission considers appropriate.

(2) Evaluate the adequacy of, and make recommendations regarding, the financing of health care and research needs relating to AIDS, including the allocation of resources to various Federal agencies and State and local governments and the roles for and activities of private and public financing.

(3) Evaluate the adequacy of, and make recommendations regarding, the dissemination of information that is essential to the prevention of the spread of AIDS, and that recognizes the special needs of minorities and the important role of the family, educational institutions, religion, and community organizations in education and prevention efforts.

(4) Address any necessary behavioral changes needed to combat AIDS, taking into consideration the multiple moral, ethical, and legal concerns involved, and make recommendations regarding testing and counseling concerning AIDS, particularly with respect to maintaining confidentiality.

(5) Evaluate the adequacy of, and make recommendations regarding, Federal and State laws on civil rights relating to AIDS.

(6) Evaluate the adequacy of, and make recommendations, regarding the capability of the Federal Government to make and implement policy concerning AIDS (and, to the extent feasible to do so, other diseases, known and unknown, in the future), including research and treatment, the availability of clinical trials, education and the financing thereof, and including specifically—

(A) the streamlining of rules, regulations, and administrative procedures relating to the approval by the Food and Drug Administration of new drugs and medical devices, including procedures for the release of experimental drugs; and

(B) the advancement of administrative consideration by the Health Care Financing Administration relating to reimbursement for new drugs and medical devices approved by the Food and Drug Administration.

(7) Evaluate the adequacy of, and make recommendations regarding, international coordination and cooperation concerning data collection, treatment modalities, and research concerning AIDS.

SEC. 244. MEMBERSHIP.

(a) NUMBER AND APPOINTMENT.—

(1) APPOINTMENT.—The Commission shall be composed of 15 members as follows:

(A) Five members shall be appointed by the President— President of U.S.

(i) three of whom shall be—

(I) the Secretary of Health and Human Services;

(II) the Administrator of Veterans' Affairs; and

(III) the Secretary of Defense;

who shall be nonvoting members, except that, in the case of a tie vote by the Commission, the Secretary of Health and Human Services shall be a voting member; and

(ii) two of whom shall be selected from the general public on the basis of such individuals being specially qualified to serve on the Commission by reason of their education, training, or experience.

(B) Five members shall be appointed by the Speaker of the House of Representatives on the joint recommendation of the Majority and Minority Leaders of the House of Representatives.

(C) Five members shall be appointed by the President pro tempore of the Senate on the joint recommendation of the Majority and Minority Leaders of the Senate.

(2) CONGRESSIONAL COMMITTEE RECOMMENDATIONS.—In making appointments under subparagraphs (B) and (C) of paragraph (1), the Majority and Minority Leaders of the House of Representatives and the Senate shall duly consider the recommendations of the Chairmen and Ranking Minority Members of committees with jurisdiction over laws contained in chapter 17 of title 38, United States Code (relating to veterans' health care), title XIX of the Social Security Act (42 U.S.C. 1901 et seq.) (relating to Medicaid), and the Public Health Service Act (42 U.S.C. 201 et seq.) (relating to the Public Health Service).

(3) REQUIREMENTS OF APPOINTMENTS.—The Majority and Minority Leaders of the Senate and the House of Representatives shall—

(A) select individuals who are specially qualified to serve on the Commission by reason of their education, training, or experience; and

(B) engage in consultations for the purpose of ensuring that the expertise of the 10 members appointed by the Speaker of the House of Representatives and the President

pro tempore of the Senate shall provide as much of a balance as possible and, to the greatest extent possible, cover the fields of medicine, science, law, ethics, health-care economics, and health-care and social services.

(4) TERM OF MEMBERS.—Members of the Commission (other than members appointed under paragraph (1)(A)(i)) shall serve for the life of the Commission.

(5) VACANCY.—A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(b) CHAIRMAN.—Not later than 15 days after the members of the Commission are appointed, such members shall select a Chairman from among the members of the Commission.

(c) QUORUM.—Seven members of the Commission shall constitute a quorum, but a lesser number may be authorized by the Commission to conduct hearings.

(d) MEETINGS.—The Commission shall hold its first meeting on a date specified by the Chairman, but such date shall not be earlier than September 1, 1988, and not be later than 60 days after the date of the enactment of this Act, or September 30, 1988, whichever is later. After the initial meeting, the Commission shall meet at the call of the Chairman or a majority of its members, but shall meet at least three times each year during the life of the Commission.

(e) PAY.—Members of the Commission who are officers or employees or elected officials of a government entity shall receive no additional compensation by reason of their service on the Commission.

(f) PER DIEM.—While away from their homes or regular places of business in the performance of duties for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(g) DEADLINE FOR APPOINTMENT.—Not earlier than July 11, 1988, and not later than 45 days after the date of the enactment of this Act, or August 1, 1988, whichever is later, the members of the Commission shall be appointed.

SEC. 245. REPORTS.

(a) INTERIM REPORTS.—

(1) IN GENERAL.—Not later than 1 year after the date on which the Commission is fully constituted under section 244(a), the Commission shall prepare and submit to the President and to the appropriate committees of Congress a comprehensive report on the activities of the Commission to that date.

(2) CONTENTS.—The report submitted under paragraph (1) shall include such findings, and such recommendations for legislation and administrative action, as the Commission considers appropriate based on its activities to that date.

(3) OTHER REPORTS.—The Commission shall transmit such other reports as it considers appropriate.

(b) FINAL REPORT.—

(1) IN GENERAL.—Not later than 2 years after the date on which the Commission is fully constituted under section 244(a), the Commission shall prepare and submit a final report to the President and to the appropriate committees of Congress.

(2) CONTENTS.—The final report submitted under paragraph (1) shall contain a detailed statement of the activities of the Commission and of the findings and conclusions of the Commis-

sion, including such recommendations for legislation and administrative action as the Commission considers appropriate.

SEC. 246. EXECUTIVE DIRECTOR AND STAFF.

(a) EXECUTIVE DIRECTOR.—

(1) APPOINTMENT.—The Commission shall have an Executive Director who shall be appointed by the Chairman, with the approval of the Commission, not later than 30 days after the Chairman is selected.

(2) COMPENSATION.—The Executive Director shall be compensated at a rate not to exceed the maximum rate of basic pay payable under GS-18 of the General Schedule as contained in title 5, United States Code.

(b) STAFF.—With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(c) APPLICABILITY OF CIVIL SERVICE LAWS.—The Executive Director and the additional personnel of the Commission appointed under subsection (b) may be appointed without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(d) CONSULTANTS.—Subject to such rules as may be prescribed by the Commission, the Executive Director may procure temporary or intermittent services under section 3109(b) of title 5, United States Code, at rates for individuals not to exceed $200 per day.

(e) DETAILED PERSONNEL AND SUPPORT SERVICES.—Upon the request of the Commission for the detail of personnel, or for administrative and support services, to assist the Commission in carrying out its duties under this Act, the Secretary of Health and Human Services and the Administrator of Veterans' Affairs, either jointly or separately, may on a reimbursable basis (1) detail to the Commission personnel of the Department of Health and Human Services or the Veterans' Administration, respectively, or (2) provide to the Commission administrative and support services. The Secretary and the Administrator shall consult for the purpose of determining and implementing an appropriate method for jointly or separately detailing such personnel and providing such services.

SEC. 247. POWERS OF COMMISSION.

(a) HEARINGS.—For the purpose of carrying out this Act, the Commission may conduct such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(b) DELEGATION.—Any member or employee of the Commission may, if authorized by the Commission, take any action that the Commission is authorized to take under this Act.

(c) ACCESS TO INFORMATION.—The Commission may secure directly from any executive department or agency such information as may be necessary to enable the Commission to carry out this Act, except to the extent that the department or agency is expressly prohibited by law from furnishing such information. On the request of the Chairman of the Commission, the head of such department or agency shall furnish nonprohibited information to the Commission.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

SEC. 248. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated for fiscal year 1989 $2,000,000, and such sums as may be necessary in any subsequent fiscal year, to carry out the purposes of this Act. Amounts appropriated pursuant to such authorization shall remain available until expended.

SEC. 249. TERMINATION.

The Commission shall cease to exist 30 days after the date on which its final report is submitted under section 245(b). The President may extend the life of the Commission for a period of not to exceed 2 years.

Subtitle E—General Provisions

42 USC 300ee-1 note.

SEC. 251. REQUIREMENT OF STUDY WITH RESPECT TO MINORITY HEALTH AND ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) IN GENERAL.—The Secretary of Health and Human Services, acting through the Director of the Office of Minority Health, shall conduct a study for the purpose of determining—

(1) the level of knowledge within minority communities concerning acquired immune deficiency syndrome, the risks of the transmission of the etiologic agent for such syndrome, and the means of reducing such risk; and

(2) the effectiveness of Federal, State, and local prevention programs with respect to acquired immune deficiency syndrome in minority communities.

(b) REPORT.—The Secretary shall, not later than 12 months after the date of enactment of this Act, complete the study required in subsection (a) and submit to the Congress a report describing the findings made as a result of the study.

42 USC 300ee-1.

SEC. 252. ESTABLISHMENT OF OFFICE WITH RESPECT TO MINORITY HEALTH AND ACQUIRED IMMUNE DEFICIENCY SYNDROME.

The Secretary of Health and Human Services, acting through the Director of the Centers for Disease Control, shall establish an office for the purpose of ensuring that, in carrying out the duties of the Secretary with respect to prevention of acquired immune deficiency syndrome, the Secretary develops and implements prevention programs targeted at minority populations and provides appropriate technical assistance in the implementation of such programs.

42 USC 300ee-2.

SEC. 253. INFORMATION FOR HEALTH AND PUBLIC SAFETY WORKERS.

(a) DEVELOPMENT AND DISSEMINATION OF GUIDELINES.—Not later than 90 days after the date of the enactment of this title, the Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary"), acting through the Director of the Centers for Disease Control, shall develop, issue, and disseminate emergency guidelines to all health workers, public safety workers (including emergency response employees) in the United States concerning—

(1) methods to reduce the risk in the workplace of becoming infected with the etiologic agent for acquired immune deficiency syndrome; and

(2) circumstances under which exposure to such etiologic agent may occur.

(b) USE IN OCCUPATIONAL STANDARDS.—The Secretary shall transmit the guidelines issued under subsection (a) to the Secretary of Labor for use by the Secretary of Labor in the development of standards to be issued under the Occupational Safety and Health Act of 1970.

(c) DEVELOPMENT AND DISSEMINATION OF MODEL CURRICULUM FOR EMERGENCY RESPONSE EMPLOYEES.—

(1) Not later than 90 days after the date of the enactment of this title, the Secretary, acting through the Director of the Centers for Disease Control, shall develop a model curriculum for emergency response employees with respect to the prevention of exposure to the etiologic agent for acquired immune deficiency syndrome during the process of responding to emergencies.

(2) In carrying out paragraph (1), the Secretary shall consider the guidelines issued by the Secretary under subsection (a).

(3) The model curriculum developed under paragraph (1) shall, to the extent practicable, include—

(A) information with respect to the manner in which the etiologic agent for acquired immune deficiency syndrome is transmitted; and

(B) information that can assist emergency response employees in distinguishing between conditions in which such employees are at risk with respect to such etiologic agent and conditions in which such employees are not at risk with respect such etiologic agent.

(4) The Secretary shall establish a task force to assist the Secretary in developing the model curriculum required in paragraph (1). The Secretary shall appoint to the task force representatives of the Centers for Disease Control, representatives of State governments, and representatives of emergency response employees.

(5) The Secretary shall—

(A) transmit to State public health officers copies of the guidelines and the model curriculum developed under paragraph (1) with the request that such officers disseminate such copies as appropriate throughout the State; and

(B) make such copies available to the public. Public information.

SEC. 254. CONTINUING EDUCATION FOR HEALTH CARE PROVIDERS. 42 USC 300ee-3.

(a) IN GENERAL.—The Secretary of Health and Human Services (hereafter in this section referred to as the "Secretary") may make grants to nonprofit organizations composed of, or representing, health care providers to assist in the payment of the costs of projects to train such providers concerning— Grants.

(1) appropriate infection control procedures to reduce the transmission of the etiologic agent for acquired immune deficiency syndrome; and

(2) the provision of care and treatment to individuals with such syndrome or related illnesses.

(b) LIMITATION.—The Secretary may make a grant under subsection (a) to an entity only if the entity will provide services under the Grants.

grant in a geographic area, or to a population of individuals, not served by a program substantially similar to the program described in subsection (a).

(c) REQUIREMENT OF MATCHING FUNDS.—

(1) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees, with respect to the costs to be incurred by the applicant in carrying out the purpose described in such subsection, to make available, directly or through donations from public or private entities, non-Federal contributions (in cash or in kind under paragraph (2)) toward such costs in an amount equal to not less than $2 for each $1 of Federal funds provided in such payments.

(2) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government, or services assisted or subsidized to any significant extent by the Federal Government, may not be included in determining the amount of such non-Federal contributions.

(d) REQUIREMENT OF APPLICATION.—The Secretary may not make a grant under subsection (a) unless—

(1) an application for the grant is submitted to the Secretary;

(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

(e) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

42 USC 300ee-4.

SEC. 255. TECHNICAL ASSISTANCE.

The Secretary of Health and Human Services shall provide technical assistance to public and nonprofit private entities carrying out programs, projects, and activities relating to acquired immune deficiency syndrome.

SEC. 256. MISCELLANEOUS PROVISIONS.

(a) PUBLIC HEALTH EMERGENCY FUND.—Section 319 of the Public Health Service Act (42 U.S.C. 247d) is amended—

(1) in subsection (a), by inserting "the Administrator of Health Resources and Services," before "or the Director"; and

(2) in subsection (b)(1), by striking "$30,000,000" the second place it appears and inserting in lieu thereof "$45,000,000".

Drugs and drug abuse.
42 USC 300ee-5.

(b) CERTAIN USE OF FUNDS.—None of the funds provided under this Act or an amendment made by this Act shall be used to provide individuals with hypodermic needles or syringes so that such individuals may use illegal drugs, unless the Surgeon General of the United States determines that a demonstration needle exchange program would be effective in reducing drug abuse and the risk that the public will become infected with the etiologic agent for acquired immune deficiency syndrome.

42 USC 275 note.

(c) REPORT ON CERTAIN ETHICAL ISSUES.—The Congressional Biomedical Ethics Board shall report to Congress within eighteen months from the effective date of this Act on the ethical issues

connected with the administration of nutrition and hydration to dying patients. This report shall include a review of State laws, regulations and court decisions on this topic. The report shall also discuss the arguments concerning the appropriate roles of the patient, the patient's family, the care provider, the State and the appropriate Federal role.

(d) STUDY OF STATE LAWS.—

(1) The Secretary of Health and Human Services shall conduct a study for the purpose of determining—

(A) the laws and policies of the States relating to confidentiality and disclosure of information with respect to records of the counseling and testing of individuals regarding the etiologic agent for acquired immune deficiency syndrome; and

(B) the laws and policies of the States relating to discrimination against individuals infected with such etiologic agent or regarded as being so infected.

(2) Not later than 6 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the study required in subsection (a) and submit to the Congress a report describing the findings made as a result of the study. Reports.

TITLE III—PREVENTIVE HEALTH, HEALTH SERVICES, AND HEALTH PROMOTION

Subtitle A—Preventive Health and Health Services

SEC. 301. BLOCK GRANTS.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 1901(a) of the Public Health Service Act (42 U.S.C. 300w(a)) is amended by striking "and" after "1986," and by inserting before the period the following: ", $110,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991".

(b) USE OF ALLOTMENTS.—Section 1904(a)(1) of the Public Health Service Act (42 U.S.C. 300w-3(a)(1)) is amended—

(1) in subparagraph (B), by inserting before the period the following: "and elevated serum cholesterol";

(2) in subparagraph (C), by inserting before the period the following: ", including programs designed to reduce the incidence of chronic diseases";

(3) in subparagraph (D), by inserting before the period the following: ", including immunization services";

(4) in subparagraph (F), in the second sentence, by striking "systems (other" and all that follows and inserting the following: "systems, except that such amounts may be used for the payment of not more than 50 percent of the costs of purchasing communications equipment for the systems."; and

(5) by inserting after subparagraph (G) the following new subparagraph:

"(H) Establishing and maintaining preventive health service programs for screening for, the detection, diagnosis, prevention, and referral for treatment of, and follow-up on compliance with treatment prescribed for, uterine cancer and breast cancer.".

(c) APPLICATION AND DESCRIPTION OF ACTIVITIES.—Section 1905(d) of the Public Health Service Act (42 U.S.C. 300w–4(d)) is amended by adding at the end the following new sentence: "The description shall include a statement of the public health objectives expected to be achieved by the State through the use of the payments the State will receive under section 1903.".

(d) REPORTS AND AUDITS.—

(1) Section 1906(a) of the Public Health Service Act (42 U.S.C. 300w–5(a)) is amended by adding at the end the following new paragraph:

"(3) Each annual report required in paragraph (1) shall include—

"(A) information and data on the number of individuals who received services provided through the use of payments under section 1903, the types of such services provided, the types of health care providers that delivered such services, and the cost of each type of such service;

"(B) such other information and data as the Secretary may require; and

"(C) an evaluation of the extent to which such services have been effective toward meeting the public health objectives described in the statement submitted to the Secretary pursuant to section 1905(d).".

(2) Section 1906(b)(6) of the Public Health Service Act (42 U.S.C. 300w–5(b)(6)) is amended by striking "1983," and inserting "1990,".

SEC. 302. GRANTS FOR EMERGENCY MEDICAL SERVICES FOR CHILDREN.

(a) DURATION OF GRANT.—Section 1910(a) of the Public Health Service Act (42 U.S.C. 300w–9(a)) is amended in the second sentence by striking "shall be for" and all that follows and inserting the following: "shall be for not more than a two-year period, subject to annual evaluation by the Secretary.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 1910(d) of the Public Health Service Act (42 U.S.C. 300w–9(d)) is amended by inserting before the period the following: ", $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, and $5,000,000 for fiscal year 1991".

SEC. 303. REPEAL OF PROGRAM OF STATE PLANNING GRANTS.

42 USC 300w–10.

Part A of title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by striking section 1910A.

Subtitle B—Programs With Respect to Sexually Transmitted Diseases, Health Information, and Health Promotion

SEC. 311. GRANTS FOR PREVENTION OF SEXUALLY TRANSMITTED DISEASES.

Section 318 of the Public Health Service Act (42 U.S.C. 247c) is amended—

(1) in the title, by striking "and acquired immune deficiency syndrome";

(2) by striking subsections (d) and (f);

(3) by redesignating subsection (e) as subsection (d) and subsection (g) as subsection (e); and

(4) in subsection (d)(1) (as so redesignated)—

(A) in the first sentence—

(i) by striking "(b), (c), and (d)" and inserting "(b) and (c)";

(ii) by striking "and" after "1986,";

(iii) by striking the period and inserting a comma; and

(iv) by adding at the end the following: "$78,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991.";

(B) in the third sentence, by striking "(b), (c), or (d)" and inserting "(b) or (c)"; and

(C) by striking the last sentence.

SEC. 312. HEALTH INFORMATION AND HEALTH PROMOTION.

(a) AUTHORIZATION OF APPROPRIATIONS.—Title XVII of the Public Health Service Act (42 U.S.C. 300u et seq.) is amended—

(1) in section 1701(b)— 42 USC 300u.

(A) by striking "this title," and inserting "sections 1701 through 1705,"; and

(B) by striking "and" after "1986," and inserting before the period the following: ", and $10,000,000 for each of the fiscal years 1989 through 1991"; and

(2) in section 1706(e), by striking "and" after "1986," and inserting before the period the following: ", $6,000,000 for fiscal year 1989, $8,000,000 for fiscal year 1990, and $10,000,000 for fiscal year 1991". 42 USC 300u-5.

(b) MODEL PROGRAMS FOR EMPLOYEE HEALTH PROMOTION AND DISEASE PREVENTION.—

(1) Section 1701(a) of the Public Health Service Act (42 U.S.C. 300u(a)) is amended—

(A) by redesignating paragraphs (7) through (10) as paragraphs (8) through (11), respectively; and

(B) by inserting after paragraph (6) the following new paragraph:

"(7)(A) develop model programs through which employers in the public sector, and employers that are small businesses (as defined in section 3 of the Small Business Act), can provide for their employees a program to promote healthy behaviors and to discourage participation in unhealthy behaviors; Small business.

"(B) provide technical assistance to public and private employers in implementing such programs (including private employers that are not small businesses and that will implement programs other than the programs developed by the Secretary pursuant to subparagraph (A)); and

"(C) in providing such technical assistance, give preference to small businesses;".

(2) Not later than 18 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the development of the model programs required in section 1701(a)(7)(A) of the Public Health Service Act (as added by paragraph (1)(B) of this subsection). 42 USC 300u note.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1701(a) of the Public Health Service Act (42 U.S.C. 300u) is amended—

(1) in paragraph (9) (as redesignated by subsection (b)(1)(A) of this section), by striking "paragraph (7)" and inserting "paragraph (8)"; and

(2) in the matter after and below paragraph (11)(D) (as so redesignated)—

(A) by striking the first sentence; and

(B) by striking "paragraph (10)" and inserting "paragraph (11)".

Organ Transplant Amendments Act of 1988.

TITLE IV—ORGAN TRANSPLANT AMENDMENTS OF 1988

SEC. 401. SHORT TITLE AND REFERENCE.

42 USC 201 note.

(a) SHORT TITLE.—This title may be cited as the "Organ Transplant Amendments Act of 1988".

(b) REFERENCE.—Whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 402. ASSISTANCE FOR ORGAN PROCUREMENT ORGANIZATIONS.

(a) ADDITIONAL GRANT AUTHORITY.—Section 371(a) (42 U.S.C. 273(a)) is amended—

(1) in paragraph (2), by inserting "consolidation," after "operation,";

(2) by redesignating paragraph (3) as paragraph (4) and inserting after paragraph (2) the following new paragraph:

"(3) The Secretary may make grants for special projects designed to increase the number of organ donors."; and

(3) in paragraph (4) (as redesignated in paragraph (2) of this subsection)—

(A) by striking "and" at the end of subparagraph (A);

(B) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(C) with respect to carrying out paragraph (3), give special consideration to proposals from existing organ procurement organizations.".

(b) LIMITATIONS ON ADDITIONAL GRANT AUTHORITY.—Section 374(b)(3) (42 U.S.C. 274b(b)(3)) is amended in the first sentence by striking "section 371" and all that follows through "organizations" and inserting "paragraphs (2) and (3) of section 371(a)".

(c) DESCRIPTION OF ORGAN PROCUREMENT ORGANIZATION.—

(1) Section 371(b) (42 U.S.C. 273(b)) is amended—

(A) in paragraph (1)(E)—

(i) by striking "size which" and inserting "size such that"; and

(ii) by striking "will include" and all that follows through "year" and inserting the following: "the organization can reasonably expect to procure organs from not less than 50 donors each year";

(B) in paragraph (2)(C), by striking "372(b)(2)(D)," and inserting the following: "372(b)(2)(E), including arranging

for testing with respect to preventing the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome,";

(C) in paragraph (2)(E)—

(i) by inserting "equitably" after "organs"; and

(ii) by striking "centers and"; and

(D) in paragraph (2)—

(i) by striking "and" at the end of subparagraph (I);

(ii) by striking the period at the end and inserting ", and"; and

(iii) by adding at the end the following new subparagraph:

"(K) assist hospitals in establishing and implementing protocols for making routine inquiries about organ donations by potential donors.".

(2) Section 371(b)(1)(G)(i)(III) is amended by inserting before the comma the following: "or an individual with a doctorate degree in a biological science with knowledge, experience, or skill in the field of histocompatibility".

(3) The amendment made by paragraph (1)(A) shall not apply to an organ procurement organization designated under section 1138(b) of the Social Security Act until 2 years after the initial designation of the organization under such section. 42 USC 273 note.

(d) AUTHORIZATIONS OF APPROPRIATIONS.—Section 371(c) (42 U.S.C. 273(c)) is amended to read as follows:

"(c) For grants under subsection (a), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.".

SEC. 403. ORGAN PROCUREMENT AND TRANSPLANTATION NETWORK.

(a) DUTIES.—Section 372(b)(2) (42 U.S.C. 274(b)(2)) is amended—

(1)(A) by redesignating subparagraphs (B) through (H) as subparagraphs (C) through (I), respectively; and

(B) by adding after subparagraph (A) the following new subparagraph:

"(B) establish membership criteria and medical criteria for allocating organs and provide to members of the public an opportunity to comment with respect to such criteria,";

(2) in subparagraph (D) (as redesignated in paragraph (1)(A) of this subsection), by striking "organs which" and all that follows and inserting "organs,";

(3) in subparagraph (E) (as redesignated in paragraph (1)(A) of this subsection), strike "organs," and insert the following: "organs, including standards for preventing the acquisition of organs that are infected with the etiologic agent for acquired immune deficiency syndrome,";

(4) in subparagraph (F) (as redesignated in paragraph (1)(A) of this subsection), by striking "basis," and inserting the following: "basis (and, to the extent practicable, among regions or on a national basis),"; and

(5)(A) by striking "and" at the end of subparagraph (H) (as redesignated in paragraph (1)(A) of this subsection);

(B) by striking the period at the end and inserting ", and"; and

(C) by adding at the end the following new subparagraph:

"(J) carry out studies and demonstration projects for the purpose of improving procedures for organ procurement and allocation.".

(b) CONSIDERATION OF CRITICAL COMMENTS.—Section 372 (42 U.S.C. 274) is amended by adding at the end the following new subsection:

"(c) The Secretary shall establish procedures for—

"(1) receiving from interested persons critical comments relating to the manner in which the Organ Procurement and Transplantation Network is carrying out the duties of the Network under subsection (b); and

"(2) the consideration by the Secretary of such critical comments.".

SEC. 404. REQUIREMENT OF ESTABLISHMENT OF BONE MARROW REGISTRY.

(a) IN GENERAL.—Section 373 (42 U.S.C. 274a) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsection:

Grants. Contracts.

"(b)(1) Not later than October 1, 1988, the Secretary shall, by grant or contract, establish a registry of voluntary bone marrow donors.

Appropriation authorization.

"(2) For the purpose of carrying out paragraph (1), there are authorized to be appropriated $1,500,000 for fiscal year 1989 and $1,600,000 for fiscal year 1990.".

(b) CONFORMING AMENDMENT.—Section 373 (42 U.S.C. 274a) is amended in the title by inserting "AND BONE MARROW REGISTRY" after "REGISTRY".

SEC. 405. ADMINISTRATION.

Section 375 (42 U.S.C. 274c) is amended—

(1) in the matter preceding paragraph (1), by striking "1985, 1986, 1987, and 1988," and inserting "1985 through 1990,"; and

Reports.

(2) in paragraph (4), by striking "one year" and all that follows through "annual report" and inserting the following: "not later than April 1 of each of the years 1989 and 1990, submit to the Congress a report".

SEC. 406. REPORT.

Section 376 (42 U.S.C. 274d) is amended by striking "shall annually" and inserting the following: "shall, not later than October 1 of each year,".

SEC. 407. FETAL ORGAN TRANSPLANTS.

Section 301(c)(1) of the National Organ Transplant Act (42 U.S.C. 274e(c)(1)) is amended to read as follows:

"(1) The term 'human organ' means the human (including fetal) kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin or any subpart thereof and any other human organ (or any subpart thereof, including that derived from a fetus) specified by the Secretary of Health and Human Services by regulation.".

SEC. 408. ESTABLISHMENT OF BLOCK GRANT PROGRAM.

(a) IN GENERAL.—Title XIX of the Public Health Service Act (42 U.S.C. 300w et seq.) is amended by adding at the end thereof the following new part:

"PART D—IMMUNOSUPPRESSIVE DRUG THERAPY BLOCK GRANT

"SEC. 1931. DEFINITIONS. 42 USC 300y-21.

"For purposes of this part:

"(1) ELIGIBLE PATIENT.—The term 'eligible patient' means an organ transplant patient who is not eligible to receive reimbursement for the cost of immunosuppressive drug therapy under title XVIII of the Social Security Act (42 U.S.C. 1395 et seq.), under the State's medicaid plan under title XIX of such Act (42 U.S.C. 1396 et seq.), or under private insurance.

"(2) IMMUNOSUPPRESSIVE DRUG THERAPY.—The term 'immunosuppressive drug therapy' means drugs and biologicals that are to be used for the purpose of preventing the rejection of transplanted organs and tissues and that can be administered by the transplant patient.

"(3) TRANSPLANT CENTER.—The term 'transplant center' means a transplant center that is a member of the Organ Procurement and Transplantation Network established under section 372.

"SEC. 1932. AUTHORIZATION OF APPROPRIATIONS. 42 USC 300y-22.

"For the purpose of making allotments to States to carry out this part, there are authorized to be appropriated $5,000,000 for each of the fiscal years 1988 through 1990.

"SEC. 1933. ALLOTMENTS. 42 USC 300y-23.

"(a) AMOUNT.—

"(1) IN GENERAL.—From amounts appropriated under section 1932 for each of the fiscal years 1988 through 1990, the Secretary shall allot to each State an amount that bears the same ratio to the total amount appropriated under such section for such fiscal year as the total number of eligible patients in the State bears to the total number of eligible patients in the United States. State and local governments.

"(2) MINIMUM ALLOTMENT.—Notwithstanding paragraph (1), the allotment of any State in any fiscal year under this subsection shall not be less than $50,000. If, under paragraph (1), the allotment of any State in any fiscal year will be less than $50,000, the Secretary shall increase the allotment of such State to $50,000 and shall proportionately reduce the allotments of all other States whose allotment exceeds $50,000 in a manner that will insure that the allotment of each State in such fiscal year is at least $50,000.

"(b) UNALLOTTED FUNDS.—

"(1) IN GENERAL.—Subject to paragraph (2), to the extent that all the funds appropriated under section 1932 for a fiscal year and available for allotment in such fiscal year are not otherwise allotted to States because—

"(A) one or more States have not submitted an application or description of activities in accordance with section 1936 for such fiscal year;

"(B) one or more States have notified the Secretary that they do not intend to use the full amount of their allotment; or

"(C) some State allotments are offset or repaid under section 1906(b)(3) (as such section applies to this part pursuant to section 1936(d));

such excess shall be allotted among each of the remaining States in proportion to the amount otherwise allotted to such States for such fiscal year without regard to this subsection.

"(2) ORGAN TRANSPLANT CENTERS.—

"(A) APPLICATION.—If a State does not submit an application for an allotment or description of activities in accordance with section 1936 for a fiscal year or notifies the Secretary that the State does not intend to use the full amount of the allotment of the State, an organ transplant center in the State may submit an application in accordance with section 1936 for the amount of the allotment not allocated to the State.

"(B) ALLOTMENT.—Subject to subparagraph (C), if an applicant center complies with the requirements imposed on the State by this part, the Secretary shall provide to the center the amount of the allotment not allocated to the State.

"(C) MULTIPLE APPLICANTS.—If two or more applicant centers in a State meet the requirements of subparagraph (B), the Secretary shall divide among the eligible applicant centers in an equitable manner the amount of the allotment not allocated to the State.

"(D) DISTRIBUTION TO OTHER STATES.—If one or more centers in a State receive an allotment under this paragraph for a fiscal year, the allotment shall not be made available to remaining States under paragraph (1).

42 USC 300y-24.

"SEC. 1934. PAYMENTS UNDER ALLOTMENTS TO STATES.

"(a) IN GENERAL.—For each fiscal year, the Secretary shall make payments, as provided by section 6503(a) of title 31, United States Code, to each State from its allotments under section 1933 from amounts appropriated for that fiscal year.

"(b) CARRYOVER FUNDS.—Any amount paid to a State for a fiscal year and remaining unobligated at the end of such year shall remain available for the next fiscal year to such State for the purposes for which it was made.

42 USC 300y-25.

"SEC. 1935. USE OF ALLOTMENTS.

"(a) IN GENERAL.—

"(1) USE.—Except as provided in subsections (b) and (c), amounts paid to a State under section 1934 from its allotment under section 1933 for any fiscal year shall be used by the State to provide immunosuppressive drug therapy for eligible patients.

"(2) METHODS.—A State may use amounts paid to the State under section 1934 from its allotment under section 1933 to provide immunosuppressive drug therapy for eligible patients—

"(A) by purchasing the drugs and biologicals for such therapy and distributing such drugs and biologicals to transplant centers or eligible patients;

"(B) by certifying that an individual is an eligible patient for purposes of this part and by reimbursing a transplant center for the costs of immunosuppressive drug therapy provided by such center to such individual;

"(C) by any other method prescribed by the Secretary by regulation (other than the method described in subsection (b)(1)).

"(3) COPAYMENTS.—A State may require an eligible patient to whom immunosuppressive drug therapy is provided with amounts paid to the State under this part to make copayments for part of the costs of such therapy, without regard to section 1916 of the Social Security Act (42 U.S.C. 1396o).

"(b) LIMITATIONS.—A State may not use amounts paid to it under section 1934 to—

"(1) make direct payments to organ transplant patients; or

"(2) satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds.

"(c) ADMINISTRATIVE COSTS.—Not more than 10 percent of the total amount paid to any State under section 1934 from its allotment under section 1933 for any fiscal year may be used for administering the funds made available under section 1934. The State will pay from non-Federal sources the remaining costs of administering such funds.

"SEC. 1936. APPLICATION AND DESCRIPTION OF ACTIVITIES; REQUIREMENTS. 42 USC 300y-26.

"(a) APPLICATION REQUIRED.—In order to receive an allotment for a fiscal year under section 1933, each State shall submit an application to the Secretary. Each such application shall be in such form and submitted by such date as the Secretary shall require. Each such application shall contain assurances that the State will meet the requirements of subsection (b). State and local governments.

"(b) REQUIREMENTS.—As part of the annual application required by subsection (a), the chief executive officer of each State shall—

"(1) certify that the State agrees to use the funds allotted to the State under section 1933 in accordance with the requirements of this part;

"(2) agrees to cooperate with Federal investigations undertaken in accordance with section 1907 (as such section applies to this part pursuant to subsection (d) of this section); and

"(3) certify that the State agrees that Federal funds made available under section 1934 for any period will be so used as to supplement and increase the level of State, local, and other non-Federal funds that would in the absence of such Federal funds be made available for the activities for which funds are provided under such section and will in no event supplant such State, local, and other non-Federal funds.

"(c) DESCRIPTION OF ACTIVITIES.—

"(1) IN GENERAL.—The chief executive officer of a State shall, as part of the application required by subsection (a), also prepare and furnish the Secretary (in accordance with such form as the Secretary shall provide) with a description of the intended use of the payments the State will receive under section 1934 for the fiscal year for which the application is submitted, including information on the programs and activities to be supported.

"(2) PUBLIC COMMENT.—The description shall be made public within the State in such manner as to facilitate comment from any person (including any Federal or other public agency) during development of the description and after its transmittal.

"(3) REVISIONS.—The description shall be revised (consistent with this section) throughout the year as may be necessary to reflect substantial changes in the programs and activities assisted by the State under this part. Any revision shall be subject to paragraph (2).

"(d) ADMINISTRATION.—Unless inconsistent with this part, section 1903(b), section 1906(a), paragraphs (1) through (5) of section 1906(b), and sections 1907, 1908, and 1909 shall apply to this part in the same manner as such provisions apply to part A of this title.

"(e) ADDITIONAL INFORMATION.—Each annual report submitted by a State to the Secretary under section 1906(a) (as such section applies to this part pursuant to subsection (d) of this section) with respect to its activities under this part shall contain—

"(1) a specification of the number of eligible patients in the State receiving immunosuppressive drug therapy with amounts paid to the State under this part;

"(2) a description of the amount of any copayment required by the State under section 1935(a)(3); and

"(3) a certification that amounts paid to the State under this part are being used in accordance with this part.

42 USC 300y-27.

"SEC. 1937. TERMINATION DATE.

"The amendments made under part D of this Act shall terminate effective January 1, 1991.".

42 USC 300y-21 note.

(b) REPORT.—

(1) IN GENERAL.—Not later than 24 months after the date of enactment of this Act, the Secretary of Health and Human Services shall prepare and transmit to the Congress a report concerning the impact of part D of title XIX of the Public Health Service Act (as added by section 407 of this title).

(2) CONTENTS.—The report shall contain—

(A) a description of the effect of the program established under such part on organ transplants in the United States;

(B) an analysis of the effects of such program on the costs of organ transplants and renal dialysis;

(C) an analysis of the extent to which amounts paid to States under such part are used for purposes other than the purposes specified by such part, including an analysis of the extent to which drugs and biologicals purchased with such amounts are provided to individuals who are not eligible patients under such part; and

(D) such recommendations as the Secretary considers appropriate, including recommendations as to whether financial assistance under such program should be continued during fiscal years after fiscal year 1990.

Food and Drug Administration Act of 1988.

TITLE V—FOOD AND DRUG ADMINISTRATION

21 USC 301 note.

SEC. 501. SHORT TITLE.

This title may be cited as the "Food and Drug Administration Act of 1988".

21 USC 393 note.

SEC. 502. FINDINGS.

Congress finds that—

(1) the public health has been effectively protected by the presence of the Food and Drug Administration during the last eighty years;

(2) the presence and importance of the Food and Drug Administration must be guaranteed; and

(3) the independence and integrity of the Food and Drug Administration need to be enhanced in order to ensure the continuing protection of the public health.

SEC. 503. ESTABLISHMENT OF ADMINISTRATION BY LAW.

(a) ESTABLISHMENT.—Chapter IX of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 391 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 903. FOOD AND DRUG ADMINISTRATION. 21 USC 393.

"(a) IN GENERAL.—There is established in the Department of Health and Human Services the Food and Drug Administration (hereinafter in this section referred to as the "Administration").

"(b) COMMISSIONER.—

"(1) APPOINTMENT.—There shall be in the Administration a Commissioner of Food and Drugs (hereinafter in this section referred to as the "Commissioner") who shall be appointed by the President by and with the advice and consent of the Senate. President of U.S.

"(2) GENERAL POWERS.—The Secretary, through the Commissioner, shall be responsible for—

"(A) providing overall direction to the Food and Drug Administration and establishing and implementing general policies respecting the management and operation of programs and activities of the Food and Drug Administration;

"(B) coordinating and overseeing the operation of all administrative entities within the Administration;

"(C) research relating to foods, drugs, cosmetics, and devices in carrying out this Act; Research and development.

"(D) conducting educational and public information programs relating to the responsibilities of the Food and Drug Administration; and

"(E) performing such other functions as the Secretary may prescribe.

"(c) TECHNICAL AND SCIENTIFIC REVIEW GROUPS.—The Secretary through the Commissioner of Food and Drugs may, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service and without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, establish such technical and scientific review groups as are needed to carry out the functions of the Administration, including functions under the Federal Food, Drug, and Cosmetic Act, and appoint and pay the members of such groups, except that officers and employees of the United States shall not receive additional compensation for service as members of such groups.".

(b) CONFORMING AMENDMENTS.—Title 5, United States Code, is amended—

(1) in section 5316, by striking out the item relating to the Commissioner of Food and Drugs, Department of Health and Human Services; and

(2) in section 5315, by adding at the end thereof the following new item:

"Commissioner of Food and Drugs, Department of Health and Human Services".

(c) EFFECTIVE DATE.— 21 USC 393 note.

(1) Except as provided in paragraph (2), the amendments made by this title shall take effect on the date of enactment of this Act.

(2) Section 903(b)(1) of the Federal Food, Drug, and Cosmetic Act (as added by subsection (a) of this section) shall apply to the appointments of Commissioners of Food and Drugs made after the date of enactment of this Act.

Health Professions Reauthorization Act of 1988.

TITLE VI—HEALTH PROFESSIONS REAUTHORIZATION ACT OF 1988

SEC. 601. SHORT TITLE; REFERENCE.

42 USC 201 note.

(a) SHORT TITLE.—This Act may be cited as the "Health Professions Reauthorization Act of 1988".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

SEC. 602. FEDERAL PROGRAM OF INSURED LOANS TO GRADUATE STUDENTS IN HEALTH PROFESSIONS SCHOOLS.

(a) ESTABLISHMENT OF ADDITIONAL CREDIT AUTHORITY.—Section 728(a) (42 U.S.C. 294a(a)) is amended in the first sentence by striking "and" after "1987;" and by inserting before the period the following: "; $325,000,000 for fiscal year 1989; $375,000,000 for fiscal year 1990; and $400,000,000 for fiscal year 1991".

(b) EXTENSION OF PERIOD FOR INSURANCE OF NEW LOANS.—Section 728(a) (42 U.S.C. 294a(a)) is amended—

(1) by inserting before the period at the end of the second sentence the following: ", and if in any fiscal year no ceiling has been established, any difference carried over shall constitute the ceiling for making new loans and paying installments for such fiscal year."; and

(2) in the third sentence by striking "1991," and inserting "1994,".

(c) PROHIBITION AGAINST APPORTIONMENTS OF CREDIT AUTHORITY.—Section 728(a) (42 U.S.C. 294a(a)) is amended by adding at the end the following new sentence: "The total principal amount of Federal loan insurance available under this subsection shall be granted by the Secretary without regard to any apportionment for the purpose of chapter 15 of title 31, United States Code, and without regard to any similar limitation.".

(d) PRIORITY IN PROVISION OF INSURANCE.—Section 728(b) (42 U.S.C. 294a(b)) is amended by inserting "(1)" after the subsection designation and by adding at the end the following new paragraph:

"(2) In providing certificates of insurance under section 732 through comprehensive contracts, the Secretary shall give priority to eligible lenders that agree—

"(A) to make loans to students at interest rates below the rates prevailing, during the period involved, for loans covered by Federal loan insurance pursuant to this subpart; or

"(B) to make such loans under terms that are otherwise favorable to the student relative to the terms under which

eligible lenders are generally making such loans during such period.".

(e) FREQUENCY OF COMPOUNDING OF INTEREST.—Section 731(a)(2)(D)) (42 U.S.C. 294d(a)(2)(D)) is amended by inserting "not more frequently than" after "compounded".

(f) DETERMINATION OF FINANCIAL NEED OF STUDENTS.—Section 731 (42 U.S.C. 294d) is amended by adding at the end the following new subsection:

"(e) With respect to any determination of the financial need of a student for a loan covered by Federal loan insurance under this subpart, this subpart may not be construed to limit the authority of any school to make such allowances for students with special circumstances as the school determines appropriate.".

(g) AUTHORITY FOR ASSIGNMENT OF LOANS WITH RESPECT TO SECONDARY MARKET.—Section 732(d) (42 U.S.C. 294e(d)) is amended by striking "eligible lender, or" and inserting the following: "eligible lender (including a public entity in the business of purchasing student loans), or".

(h) CLARIFICATION WITH RESPECT TO REFERENCE TO HOLDERS OF FEDERALLY INSURED LOANS.—Section 733(d) (42 U.S.C. 294f(d)) is amended in the first sentence by inserting "eligible lender or" before "holder";

(i) AMOUNT OF LOSS PURSUANT TO DEFAULT.—Section 733(e)(2) (42 U.S.C. 294f(e)(2)) is amended by inserting before the semicolon the following: ", less the amount of any judgment collected pursuant to default proceedings commenced by the eligible lender or holder involved".

(j) CLARIFICATION WITH RESPECT TO EFFECT OF BANKRUPTCY.—Section 733(g) (42 U.S.C. 294f(g)) is amended by inserting "any chapter of" before "title 11,".

(k) PROVISIONS WITH RESPECT TO ACTIONS FOR DEFAULT.—

(1) Section 733(a) (42 U.S.C. 294f(a)) is amended by striking "(including, if appropriate, commencement of a suit)" and inserting the following: "(including, subject to subsection (h), commencement and prosecution of an action)".

(2) Section 733 (42 U.S.C. 294f) is amended—

(A) in subsection (b), by adding at the end thereof the following new sentence: "The Secretary may sell without recourse to eligible lenders (or other entities that the Secretary determines are capable of dealing in such loans) notes or other evidence of loans received through assignment under the first sentence."; and

(B) by adding at the end the following new subsections:

"(h)(1) With respect to the default by a borrower on any loan covered by Federal loan insurance under this subpart, the Secretary shall, under subsection (a), require an eligible lender or holder to commence and prosecute an action for such default unless—

"(A) in the determination of the Secretary—

"(i) the eligible lender or holder has made reasonable efforts to serve process on the borrower involved and has been unsuccessful with respect to such efforts, or

"(ii) prosecution of such an action would be fruitless because of the financial or other circumstances of the borrower;

"(B) for such loans made before the date of the enactment of the Health Professions Reauthorization Act of 1988, the loan involved was made in an amount of less than $5,000; or

"(C) for such loans made after such date, the loan involved was made in an amount of less than $2,500.

"(2) With respect to an eligible institution that has commenced an action pursuant to subsection (a), the Secretary shall make the payment required in such subsection, or deny the claim for such payment, not later than 60 days after the date on which the eligible institution notifies the Secretary that judgment has been entered with respect to the action.

"(i) The Secretary may establish reasonable limits for default rates for borrowers in each of the health professions identified in section 737(1). If the eligible institutions within any of the health professions, taken as a group, exceed such limits, the Secretary may suspend, terminate, or otherwise restrict the eligibility of such group of schools for borrowing under this section.".

(l) STATE DESIGNATIONS OF ELIGIBLE LENDERS.—Section 737(2) (42 U.S.C. 294j(2)) is amended—

(1) by striking "or" after "State," the second place such term appears; and

(2) by inserting before the period the following: ", or a non-profit private entity designated by the State, regulated by the State, and approved by the Secretary".

(m) REISSUANCE AND REFINANCING AGREEMENTS AUTHORIZED.—Subpart I of part C of title VII (42 U.S.C. 294 et seq.) is amended by adding at the end thereof the following new section:

42 USC 294*l*-1. "SEC. 739A. REISSUANCE AND REFINANCING OF CERTAIN LOANS.

"(a) IN GENERAL.—Any borrower who received a loan insured under this subpart bearing an interest rate that is fixed at a rate in excess of 12 percent per year may enter into an agreement with the eligible lender that made such loan for the reissuance of such loan in order to permit the borrower to obtain for such loan the interest rate in effect for loans insurable under this subpart on the date the borrower submits an application to such lender for such reissuance.

"(b) PROCEDURES.—

"(1) DISCHARGE BY OBTAINING LOAN.—Any borrower who received a loan under this subpart bearing an interest rate that is fixed at a rate in excess of 12 percent per year may obtain a loan from an eligible lender (other than the original lender) for the purpose of discharging the loan from such original eligible lender. A loan made for such purpose—

"(A) shall bear interest at the interest rate in effect for loans insurable under this subpart on the date the borrower submits an application for a loan under this subsection; and

"(B) shall be applied to discharge the borrower from any remaining obligation to the original eligible lender with respect to the original loan.

"(2) CERTIFICATION.—Each new eligible lender may accept certification from the original eligible lender to the borrower's original loan in lieu of presentation of the original promissory note.

"(c) TIME OF PAYMENT.—Any loan reissued under subsection (a) or refinanced under subsection (b) shall be payable during the repayment period applicable to the loan made under this subpart prior to the date of enactment of this section, and such reissuance or refinancing shall not result in the extension of the duration of the loan.

"(d) ADMINISTRATIVE COSTS.—An eligible lender reissuing a loan under subsection (a) or refinancing a loan under subsection (b) may charge a borrower an amount not in excess of $100 to cover the administrative costs of such reissuance or refinancing.

"(e) INSURANCE.—The reissuance of a loan under subsection (a) or the refinancing of a loan under subsection (b) shall not affect any insurance applicable to such loan, and no additional insurance premium may be charged with respect to such loan.

"(f) NOTIFICATION.—Each holder of a loan made under this subpart shall, not later than January 1, 1989, in the case of loans made before the date of enactment of this section, notify the borrower of such loan—

"(1) of the reissuance or refinancing options for which the borrower is eligible under this section;

"(2) of those options which will be made available by the holder; and

"(3) that, with respect to any option that the holder will not make available, the holder will, to the extent practicable, refer the borrower to an eligible lender offering such option.

"(g) REGULATIONS.—The Secretary shall promulgate regulations to implement this section.

"(h) DEFINITION.—For purposes of this section, the term 'eligible lender' includes the Student Loan Marketing Association.".

SEC. 603. FEDERAL CAPITAL CONTRIBUTIONS INTO STUDENT LOAN FUNDS.

(a) STANDARDS WITH RESPECT TO LOAN COLLECTION.—Section 740(c)(1) (42 U.S.C. 294m(c)(1)) is amended by adding at the end the following new sentence: "This subsection may not be construed to require such schools to reimburse the student loan fund under this subpart for loans that became uncollectible prior to August 1985 or to penalize such schools with respect to such loans.".

(b) REDUCTION IN INTEREST RATE.—Section 741(e) (42 U.S.C. 294n(e)) is amended by striking "9" and inserting "5".

(c) GRACE PERIOD FOR ALL FULL-TIME STUDENTS.—Section 741(c)(1) (42 U.S.C. 294n(c)(1)) is amended by striking "and" at the end of subparagraph (B) and by adding at the end the following new subparagraph:

"(D) during which the borrower is pursuing a full-time course of study at such a school; and".

(d) STRIKING OF DATE CERTAIN WITH RESPECT TO DISTRIBUTION OF ASSETS OF LOAN FUNDS.—Section 743 (42 U.S.C. 294p) is amended—

(1) in subsection (a), by amending the matter preceding paragraph (1) to read as follows: "If a school terminates a loan fund established under an agreement pursuant to section 740(b), or if the Secretary for good cause terminates the agreement with the school, there shall be a capital distribution as follows:"; and

(2) by amending subsection (b) to read as follows:

"(b) If a capital distribution is made under subsection (a), the school involved shall, after the capital distribution, pay to the Secretary, not less often than quarterly, the same proportionate share of amounts received by the school in payment of principal or interest on loans made from the loan fund established pursuant to section 740(b) as was determined by the Secretary under subsection (a).".

SEC. 604. LOAN REPAYMENT PROGRAM FOR ALLIED HEALTH PERSONNEL.

Part C of title VII (42 U.S.C. 294 et seq.) is amended by inserting after subpart II the following new subpart:

"Subpart III—Loan Repayment Program for Allied Health Personnel

42 USC 294r.

"SEC. 751. ESTABLISHMENT OF PROGRAM.

"(a) IN GENERAL.—The Secretary shall establish a program of entering into agreements with allied health personnel and with allied health professions students under which such individuals agree, in consideration of the agreement described in subsection (b) (relating to loan repayment), to serve as an allied health professional for a period of not less than two years in an Indian Health Service health center, in a Native Hawaiian health center, in a rural health clinic, in a rural health facility that is a sole community provider, in any other rural hospital, in a rural home health agency, in a rural or urban hospital that serves a substantial number of patients pursuant to title XIX of the Social Security Act, in a private nursing facility 60 percent of whose patients are patients pursuant to title XIX of such Act, in a public nursing facility, in a migrant health center, in a community health center, or in a health facility determined by the Secretary to have a critical shortage of nurses.

"(b) PAYMENTS BY FEDERAL GOVERNMENT.—The agreement referred to in subsection (a) is an agreement, made by the Federal Government in consideration of the agreement described in paragraph (1) with respect to service as an allied health professional, under which the Federal Government agrees to pay—

"(1) for the first year of such service, 30 percent of the balance of the principal and interest of the educational loans of the individual;

"(2) for the second year of such service, 30 percent of such balance; and

"(3) for the third year of such service, 25 percent of such balance.

"(c) ADMINISTRATION.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with this section, apply to the program established in this section in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $2,000,000 for each of the fiscal years 1989 through 1991.".

SEC. 605. SCHOLARSHIPS FOR FIRST-YEAR STUDENTS OF EXCEPTIONAL FINANCIAL NEED.

(a) SCHOLARSHIPS FOR STUDENTS OF EXCEPTIONAL FINANCIAL NEED.—Section 758 (42 U.S.C. 294z) is amended—

(1) in subsection (a), by striking out "and who are in their first year of study at such school"; and

(2) in subsection (b)—

(A) in paragraph (1), by striking out "in their first year of study at such school";

(B) in paragraph (2)—

(i) by striking out "shall consist" and inserting in lieu thereof "may consist of all or part"; and

(ii) by inserting "not in excess" before "of $400" in subparagraph (B);

(C) in paragraph (5), by inserting "maximum allowable" before "monthly stipend"; and

(D) by striking out paragraph (6).

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 758(d) (42 U.S.C. 294z(d)) is amended by striking "and" after "1987," and inserting before the period the following: ", $7,300,000 for fiscal year 1989, $30,000,000 for fiscal year 1990, and $30,000,000 for fiscal year 1991".

SEC. 606. CAPITATION GRANTS FOR SCHOOLS OF PUBLIC HEALTH.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 770(e) (42 U.S.C. 295f) is amended by striking "and" after "1987," and by inserting before the period the following: ", $4,700,000 for fiscal year 1989, and $3,000,000 for fiscal year 1990".

(b) SUNSET PROVISION.—Part E of title VII (42 U.S.C. 295f et seq.) is amended by adding at the end the following new section:

"SEC. 773. SUNSET PROVISION.

"Effective October 1, 1990, this part is repealed.".

SEC. 607. AUTHORIZATION OF APPROPRIATIONS FOR PROJECT GRANTS FOR ESTABLISHMENT OF DEPARTMENTS OF FAMILY MEDICINE.

Section 780(d) (42 U.S.C. 295g(d)) is amended—

(1) by striking "There" and inserting "For the purpose of carrying out this section, there";

(2) by striking "and" after "1987," and inserting after "1988" the following: ", and $7,000,000 for each of the fiscal years 1989 through 1991"; and

(3) by striking "for payments under grants under subsection (a)".

SEC. 608. AREA HEALTH EDUCATION CENTERS.

(a) MINIMUM NUMBER OF INDIVIDUALS IN CERTAIN INTERNSHIPS.—Section 781(d)(2)(C) (42 U.S.C. 295g-1(d)(2)(C)) is amended by striking "six" and inserting "four".

(b) AUTHORIZATION OF APPROPRIATIONS FOR GENERAL PROGRAM OF AREA HEALTH EDUCATION CENTERS.—(1) Section 781(a) (42 U.S.C. 295g-1(a)) is amended by adding at the end of paragraph (2) the following new subparagraph:

"(C) In the case of the requirement that an area health education center be neither a school of medicine or osteopathy, the parent institution of such a school, nor a branch campus or other subunit of a school of medicine or osteopathy or its parent institution, or a consortium of such entities, to be eligible to enter into a contract under this section, the Secretary shall waive such requirement with respect to an area health education center having, at the time of initial application to enter into such contract under this section or a previous authorizing law, an operating program supported by both appropriations of a State legislature and local resources.". Contracts.

(2) Section 781(d)(2)(F) is amended by striking out "and nurse practitioners" and inserting in lieu thereof ", nurse practitioners, and nurse midwives".

(3) Section 781(h) (as redesignated by subsection (c)(1) of this section) is amended in the first sentence—

(A) by striking "There are authorized" and all that follows through "this section" and inserting the following: "For the purpose of carrying out this section other than subsection (f), there are authorized to be appropriated"; and

(B) by striking "and" after "1987," and inserting before the period the following: ", $18,700,000 for the fiscal year 1989, and $20,000,000 for each of the fiscal years 1990 and 1991".

(c) HEALTH EDUCATION AND TRAINING CENTERS.—Section 781 (42 U.S.C. 295g-1) is amended—

(1) by redesignating subsections (f) and (g) as subsections (g) and (h), respectively; and

(2) by adding after subsection (e) the following new subsection:

Contracts. "(f)(1) The Secretary shall enter into contracts with schools of medicine and osteopathy for the purpose of planning, developing, establishing, maintaining, and operating health education and training centers—

Mexico. "(A) to improve the supply, distribution, quality, and efficiency of personnel providing (in the United States) health services along the border between the United States and Mexico;

Minorities. Urban areas. Rural areas. "(B) to improve the supply, distribution, quality, and efficiency of personnel providing, in other urban and rural areas (including frontier areas) of the United States, health services to any population group, including Hispanic individuals, that has demonstrated serious unmet health care needs; and

"(C) to encourage health promotion and disease prevention through public education in the areas described.

"(2) The Secretary may not enter into a contract under paragraph (1) unless the applicant for such assistance agrees, in carrying out the purpose described in such paragraph, to enter into arrangements with one or more public or nonprofit private entities in the State that have expertise in providing health education to the public.

Mexico. "(3) The Secretary shall, after consultation with health education and training centers, designate the geographic area in which each such center will carry out the purpose described in paragraph (1). The service area of such a center shall be located entirely within the State in which the center is located. Each border health education and training center shall be located in a county (or other political subdivision) of the State in close proximity to the border between the United States and Mexico.

"(4) The Secretary may not enter into a contract under paragraph (1) unless the applicant for such assistance agrees—

"(A) to establish an advisory group comprised of health service providers, educators and consumers from the service area and of faculty from participating schools;

"(B) after consultation with such advisory group, to develop a plan for carrying out the purpose described in paragraph (1) in the service area;

"(C) to enter into contracts, as needed, with other institutions or entities to carry out such plan; and

"(D) to be responsible for the evaluation of the program.

"(5) The Secretary may not make a grant or enter into a contract under paragraph (1) unless the applicant for such assistance agrees—

"(A) to evaluate the specific service needs for health care personnel in the service area;

"(B) to assist in the planning, development, and conduct of training programs to meet the needs identified pursuant to subparagraph (A);

"(C) to conduct or support not less than one training and education program for physicians and one program for nurses for at least a portion of the clinical training of such students;

"(D) to conduct or support training in health education services, including training to prepare community health workers to implement health education programs in communities, health departments, health clinics, and public schools that are located in the service area;

"(E) to conduct or support continuing medical education programs for physicians and other health professionals (including allied health personnel) practicing in the service area;

"(F) to support health career educational opportunities designed to provide students residing in the service area with counseling, education, and training in the health professions;

"(G) with respect to border health education and training centers, to assist in coordinating its activities and programs carried out pursuant to paragraph (1)(A) with any similar programs and activities carried out in Mexico along the border between the United States and Mexico; and Mexico.

"(H) to make available technical assistance in the service area in the aspects of health care organization, financing and delivery.

"(6) In carrying out this subsection, the Secretary shall ensure that—

"(A) not less than 75 percent of the total funds provided to a school or schools of medicine or osteopathy will be expended in the development and operation of the health education and training center in the service area of such program;

"(B) to the maximum extent feasible, the school of medicine or osteopathy will obtain from nongovernmental sources the amount of the total operating funds for such program which are not provided by the Secretary;

"(C) no grant or contract shall provide funds solely for the planning or development of a health education and training center program for a period in excess of two years;

"(D) not more than 10 percent of the annual budget of each program may be utilized for the renovation and equipping of clinical teaching sites; and

"(E) no grant or contract shall provide funds to be used outside the United States except as the Secretary may prescribe for travel and communications purposes related to the conduct of a border health education and training center.

"(7) For purposes of this subsection:

"(A) The term 'border health education and training center' means an entity that is a recipient of a contract under paragraph (1) and that is carrying out (or will carry out) the purpose described in subparagraph (A) of such paragraph.

"(B) The term 'health education and training center' means an entity that is a recipient of a contract under paragraph (1).

"(C) The term 'service area' means, with respect to a health education and training center, the geographic area designated for the center under paragraph (3).

"(8)(A) Of the amounts appropriated pursuant to subsection (h)(2) for a fiscal year, the Secretary shall make available 50 percent for allocations each fiscal year for applications approved by the Secretary for border health education and training centers. The amount of the allocation for each such center shall be determined in accordance with subparagraph (B).

"(B) The amount of an allocation under subparagraph (A) for a fiscal year shall be determined in accordance with a formula prescribed by the Secretary, which formula shall be based—

"(i) with respect to the service area of the border health education and training center involved, on the low-income population, including Hispanic individuals, along the border between the United States and Mexico and the growth rate of such population;

"(ii) on the need of such population for additional personnel to provide health care services along such border; and

"(iii) on the most current information concerning mortality and morbidity and other indicators of health status for such population.".

(d) AUTHORIZATION OF APPROPRIATIONS FOR HEALTH EDUCATION AND TRAINING CENTERS.—Section 781(h) (as redesignated by subsection (c)(1) of this section) is amended by inserting "(1)" after the subsection designation and by adding at the end the following new paragraph:

42 USC 295g-1.

"(2) For the purpose of carrying out subsection (f), there are authorized to be appropriated $4,000,000 for fiscal year 1989, $8,000,000 for fiscal year 1990, and $12,000,000 for fiscal year 1991.".

SEC. 609. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS FOR TRAINING, TRAINEESHIPS, AND FELLOWSHIPS IN GENERAL INTERNAL MEDICINE AND GENERAL PEDIATRICS.

(a) COORDINATION CRITERIA.—Section 784(b) (42 U.S.C. 295g-4(b)) is amended by inserting before the period the following: ", and coordination of curriculum development and resident teaching activities with departments of family medicine where there is a department within the same school".

(b) AUTHORIZATIONS.—Section 784(c) (42 U.S.C. 295g-4(c)) is amended—

(1) by striking "There" and all that follows through "section" and inserting "For the purpose of carrying out this section, there are authorized to be appropriated"; and

(2) by striking "and" after "1987," and by inserting before the period the following: ", $23,000,000 for fiscal year 1989, $23,000,000 for fiscal year 1990, and $25,000,000 for fiscal year 1991".

SEC. 610. FAMILY MEDICINE AND GENERAL PRACTICE OF DENTISTRY.

(a) GENERAL PRACTICE OF DENTISTRY.—Part F of title VII (42 U.S.C. 295g et seq.) is amended—

42 USC 295g-6.

(1) in section 786—

(A) in the title, by striking "AND GENERAL PRACTICE OF DENTISTRY"; and

(B) by striking subsection (b) and redesignating subsections (c) and (d) as subsections (b) and (c), respectively; and

(2) by inserting after section 784 the following new section:

"SEC. 785. RESIDENCY PROGRAMS IN GENERAL PRACTICE OF DENTISTRY. 42 USC 295g-5.

"(a) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, any public or nonprofit private school of dentistry or accredited postgraduate dental training institution— Grants. Contracts.

"(1) to plan, develop, and operate an approved residency program in the general practice of dentistry or an approved advanced educational program in the general practice of dentistry; and

"(2) to provide financial assistance (in the form of traineeships and fellowships) to participants in such a program who are in need of financial assistance and who plan to specialize in the practice of general dentistry.

"(b) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this section, there are authorized to be appropriated $4,000,000 for fiscal year 1989, $6,000,000 for fiscal year 1990, and $8,000,000 for fiscal year 1991.".

(b) AUTHORIZATION OF APPROPRIATIONS FOR FAMILY MEDICINE.—Section 786(c) (as redesignated by subsection (a)(1)(B) of this section) is amended to read as follows: 42 USC 295g-6.

"(c) For the purpose of carrying out this section, there are authorized to be appropriated $37,900,000 for fiscal year 1989, $40,000,000 for fiscal year 1990, and $40,000,000 for fiscal year 1991.".

SEC. 611. EDUCATIONAL ASSISTANCE TO INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS. Schools and colleges.

(a) AUTHORITY FOR STIPENDS FOR ADDITIONAL CATEGORIES OF STUDENTS.—Section 787(a)(2) (42 U.S.C. 295g-7(a)(2)) is amended—

(1) by striking "and" at the end of subparagraph (E);

(2) by striking the period at the end of subparagraph (F) and inserting "; and"; and

(3) by inserting after subparagraph (F) the following new paragraph:

"(G) paying such stipends as the Secretary may approve for such individuals for any period of education at any school described in subsection (a)(1), except schools of medicine, osteopathy, or dentistry.".

(b) INCREASED ENROLLMENTS.—Section 787 (42 U.S.C. 295g-7) is amended by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and by adding after subsection (a) the following:

"(b)(1) Schools of medicine, osteopathy, public health, dentistry, veterinary medicine, optometry, pharmacy, allied health, chiropractic, podiatry, and public and nonprofit schools that offer graduate programs in clinical psychology that receive a grant under subsection (a) shall, during a period of 3 years commencing on the date of the award of the grant, increase their first year enrollments of individuals from disadvantaged backgrounds by at least 20 percent over enrollments in the base year 1987.

"(2) The Secretary shall give priority for funding, in years subsequent to the expiration of the 3-year period described in paragraph (1)—

"(A) to schools that attain such increase in their first year enrollment by the end of such 3-year period, and

"(B) to schools that attain a 20 percent increase over such base year enrollment.

"(3) The requirement for at least a 20 percent increase in such enrollment shall apply only to those schools referred to in paragraph (1) that have a total enrollment of such individuals from disadvantaged backgrounds that is less than 200 percent of the national average total enrollment of such individuals in all schools of each health professions discipline.

"(4) Determination of both first year and total enrollment of such individuals shall be made by the Secretary in accordance with section 708.".

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 787(c) (42 U.S.C. 295g–7(c)) (as so redesignated) is amended in the first sentence by striking "and" after "1987," and by inserting before the period the following: ", $31,200,000 for fiscal year 1989, $34,000,000 for fiscal year 1990, and $36,000,000 for fiscal year 1991".

(d) SET-ASIDES.—Section 787(c) (42 U.S.C. 295g–7(c)) (as so redesignated) is amended in the second sentence by striking "Not less" and all that follows through "fiscal year" and inserting the following: "Of the amounts appropriated under this section for any fiscal year, 10 percent shall be obligated for community-based programs and 70 percent".

(e) STIPENDS.—Section 787(c) (42 U.S.C. 295g–7(c)) (as so redesignated) is amended by adding at the end the following: "Such stipends shall be administered and awarded in the same manner and subject to the same regulations as scholarships under section 758.".

42 USC 295g–7 note.

(f) REPORT.—Not later than September 30, 1991, the Secretary shall prepare and submit, to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that develops a tracking system to evaluate—

(1) the success of the programs established under section 787 of the Public Health Service Act in enhancing the professional education of individuals from disadvantaged backgrounds; and

(2) the gains experienced by institutions in the retention of students from disadvantaged backgrounds.".

SEC. 612. RETENTION PROGRAM FOR HEALTH PROFESSIONS SCHOOLS WITH INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Part F of title VII is amended by inserting after section 787 (42 U.S.C. 295g–7) the following new section:

42 USC 295g–7a.

"SEC. 787A. RETENTION PROGRAM FOR HEALTH PROFESSIONS SCHOOLS WITH INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.

Grants.

"(a) ESTABLISHMENT.—The Secretary shall establish a supplemental grant program to award grants to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, podiatry, pharmacy, or public health that demonstrate sufficient graduation of students from disadvantaged backgrounds.

"(b) PAYMENT FORMULA.—

"(1) IN GENERAL.—Payments to an eligible institution under this section shall be calculated in accordance with this subsection.

"(2) ELIGIBLE INSTITUTIONS.—An institution shall be eligible for funds under this section for a fiscal year in an amount determined under paragraph (5), if the disadvantaged graduate figure for the institution (as determined under paragraph (3))

exceeds the nondisadvantaged graduate figure for the institution (as determined under paragraph (4)).

"(3) DISADVANTAGED GRADUATE FIGURE.—For each fiscal year, the Secretary shall determine the disadvantaged graduate figure for the institution by dividing—

"(A) the number of students from disadvantaged backgrounds who graduated from the institution as part of such class; by

"(B) the number of students from disadvantaged backgrounds who matriculated into the institution as part of a class.

"(4) NONDISADVANTAGED GRADUATE FIGURE.—For each fiscal year, the Secretary shall determine the nondisadvantaged graduate figure for the institution by multiplying—

"(A) the quotient determined by dividing—

"(i) the number of students from nondisadvantaged backgrounds who graduated from the institution as part of such class; by

"(ii) the number of students from nondisadvantaged backgrounds who matriculated into the institution as part of a class; by

"(B) .9.

"(5) AMOUNT OF GRANT.—An institution determined to be eligible to receive a grant under this subsection shall be entitled to an amount determined by multiplying—

"(A) the quotient determined by dividing—

"(i) the total amount of funds made available to carry out this section during such preceding fiscal year; by

"(ii) the number of students from disadvantaged backgrounds who graduated from eligible institutions during the preceding fiscal year; by

"(B) the number of students from disadvantaged backgrounds who graduated from the eligible institution during such preceding fiscal year.

"(c) USE OF FUNDS.—Payment received by the institution under subsection (b) shall be used to provide—

"(1) financial aid services for individuals from disadvantaged backgrounds who choose to attend such institution;

"(2) retention services or for other retention purposes for individuals for disadvantaged backgrounds.

"(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $2,000,000 in each of the fiscal years 1990 and 1991.".

SEC. 613. TWO-YEAR SCHOOLS OF MEDICINE, INTERDISCIPLINARY TRAINING, AND CURRICULUM DEVELOPMENT.

(a) SPECIAL PROJECTS.—Section 788 (42 U.S.C. 295g-8(e)) is amended to read as follows:

"SEC. 788. SPECIAL PROJECTS.

"(a) TWO-YEAR SCHOOLS.—

"(1) IN GENERAL.—The Secretary may make grants to maintain and improve schools that provide the first or last 2 years of education leading to the degree of doctor of medicine or osteopathy. Grants provided under this paragraph to schools that were in existence on September 30, 1985, may be used for construction and the purchase of equipment. Grants.

"(2) ELIGIBILITY.—To be eligible to apply for a grant under paragraph (1), the applicant must be a public or nonprofit school providing the first or last 2 years of education leading to the degree of doctor of medicine or osteopathy and be accredited by or be operated jointly with a school that is accredited by a recognized body or bodies approved for such purpose by the Secretary of Education.

Schools and colleges.

"(b) FACULTY AND CURRICULUM DEVELOPMENT AND CLINICAL TRAINING SITES.—

"(1) GRANTS AND CONTRACTS.—

"(A) IN GENERAL.—The Secretary may make grants to and enter into contracts with any health professions institution or any other public or private nonprofit entity for the development and implementation of model projects in areas such as faculty and curriculum development, and development of new clinical training sites.

"(B) ALLOCATION OF FUNDS.—Priority shall be given to schools of medicine, osteopathy, dentistry, veterinary medicine, optometry, pharmacy, podiatry, public health, chiropractic, allied health, and to graduate programs at public and nonprofit private schools in health administration and clinical psychology in the allocation of funds under this subsection. Funds shall be allocated to each profession for award within that profession on the basis of competitive applications. Investigator-initiated projects should be encouraged. Funding priorities may be determined by the Secretary on consultation with the health professions schools and the National Advisory Council on the Health Professions Education.

"(C) PEER REVIEW.—Any application for a grant to institutions described in subparagraph (A) shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts. The Secretary may not approve an application unless a peer review group has recommended it for approval.

"(2) HEALTH PROFESSIONS INSTITUTIONS AND ALLIED HEALTH INSTITUTIONS.—

"(A) SET-ASIDE.—At least 75 percent of the amounts available for grants and contracts under this subsection from amounts appropriated under subsection (e) shall be obligated for grants to and contracts with health professions institutions and allied health institutions.

"(B) PEER REVIEW.—Any application for a grant to institutions described in subparagraph (A) shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(C) PREREQUISITES.—The Secretary may not approve or disapprove an application for a grant to an institution described in subparagraph (A) unless the appropriate peer review group required under subparagraph (B) has recommended such approval and the Secretary has consulted with the National Advisory Council on Health Professions Education with respect to such application.

"(c) TRAINING IN PREVENTIVE MEDICINE.—

Grants. Contracts.

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with schools of medicine, osteopathy, and public health to meet the costs of projects—

"(A) to plan and develop new residency training programs and to maintain or improve existing residency training programs in preventive medicine; and

"(B) to provide financial assistance to residency trainees enrolled in such programs.

"(2) ADMINISTRATION.—

"(A) AMOUNT.—The amount of any grant under paragraph (1) shall be determined by the Secretary.

"(B) APPLICATION.—No grant may be made under paragraph (1) unless an application therefor is submitted to and approved by the Secretary. Such an application shall be in such form, submitted in such manner, and contain such information, as the Secretary shall by regulation prescribe. Regulations.

"(C) ELIGIBILITY.—To be eligible for a grant under paragraph (1), the applicant must demonstrate to the Secretary that it has or will have available full-time faculty members with training and experience in the fields of preventive medicine and support from other faculty members trained in public health and other relevant specialties and disciplines.

"(D) OTHER FUNDS.—Schools of medicine, osteopathy, and public health may use funds committed by State, local, or county public health officers as matching amounts for Federal grant funds for residency training programs in preventive medicine.

"(d) PROGRAMS FOR PHYSICIAN ASSISTANTS.—

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with public or nonprofit private schools of medicine and osteopathy and other public or nonprofit private entities to meet the costs of projects to plan, develop, and operate or maintain programs for the training of physician assistants (as defined in section 701(8)). Grants. Contracts.

"(2) APPLICATIONS.—No grant or contract may be made under paragraph (1) unless the application therefor contains or is supported by assurances satisfactory to the Secretary that the school or entity receiving the grant or contract has appropriate mechanisms for placing graduates of the training program with respect to which the application is submitted in positions for which they have been trained.

"(e) CERTAIN PROJECTS WITH RESPECT TO HOSPITALS AND SCHOOLS OF PODIATRIC MEDICINE.—The Secretary may make grants to, and enter into contracts with, public and nonprofit private hospitals and schools of podiatric medicine for the purpose of planning and implementing projects in primary care training for podiatric physicians in approved or provisionally approved residency programs which shall provide financial assistance in the form of traineeships to residents who participate in such projects and who plan to specialize in primary care.

"(f) AUTHORIZATIONS.—(1)(A) For the purpose of carrying out subsections (a), (b), and (e), there are authorized to be appropriated $2,400,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, and $4,000,000 for fiscal year 1991.

"(B) Of the amounts appropriated pursuant to subparagraph (A) for each of the fiscal years 1989 through 1991, the Secretary shall make available 20 percent of such amounts to carry out subsection (a) and 25 percent of such amounts to carry out subsection (e).

"(2)(A) For the purpose of carrying out subsection (c), there are authorized to be appropriated $1,500,000 for fiscal year 1989, $2,500,000 for fiscal year 1990, and $4,000,000 for fiscal year 1991.

"(B) For the purpose of carrying out subsection (d), there are authorized to be appropriated $4,500,000 for fiscal year 1989, $5,200,000 for fiscal year 1990, and $5,400,000 for fiscal year 1991.".

SEC. 614. GRANTS FOR MINORITY EDUCATION.

42 USC 295g-8a, 295g-2.

(a) REORGANIZATION.—Section 778A (42 U.S.C. 295g-8a) is transferred to immediately after section 781 (42 U.S.C. 295g-1) and redesignated as section 782.

42 USC 295g-2.

(b) PERIOD OF GRANTS.—Subsection (b) of section 782 (as transferred and redesignated by subsection (a)) is amended by inserting after "(b)", the following new sentence: "The Secretary may award grants for periods not to exceed 3 years.".

(c) ELIGIBILITY.—Subsection (c) of section 782 (as transferred and redesignated by subsection (a)) is amended to read as follows:

"(c) Only health professions schools shall be eligible for a grant under this section, and to be eligible such schools must—

(1) be a school described in section 701(4); and

(2) have received a contract under section 788A for fiscal year 1987.".

SEC. 615. GERIATRIC PROGRAMS.

(a) GERIATRIC EDUCATION CENTERS AND GERIATRIC TRAINING.—Part F of title VII is amended by inserting after section 788B (42 U.S.C. 295g-8b) the following new section:

42 USC 295g-9.

"SEC. 789. GERIATRIC EDUCATION CENTERS AND GERIATRIC TRAINING.

"(a) GERIATRIC EDUCATION CENTERS.—

Grants.
Contracts.

"(1) IN GENERAL.—The Secretary may make grants to and enter into contracts with accredited health professions schools, including schools of allied health, referred to in section 701(4) or 701(10) and programs referred to in section 701(8) to assist in meeting the costs of such schools or programs of providing projects to—

"(A) improve the training of health professionals in geriatrics;

"(B) develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

"(C) expand and strengthen instruction in methods of such treatment;

"(D) support the training and retraining of faculty to provide such instruction;

"(E) support continuing education of health professionals and allied health professionals who provide such treatment; and

"(F) establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric medicine.

"(2) APPROVAL OF APPLICATIONS.—

"(A) PEER REVIEW.—Any application for a grant or contract under this subsection shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(B) PREREQUISITES.—The Secretary may not approve or disapprove an application for a grant or contract under this subsection unless the Secretary has received recommendations with respect to such application from the appropriate peer review group required under subparagraph (A) and has consulted with the National Advisory Council on Health Professions Education with respect to such application.

"(b) GERIATRIC TRAINING.—

"(1) IN GENERAL.—The Secretary may make grants to, and enter into contracts with, schools of medicine, schools of osteopathy, teaching hospitals, and graduate medical education programs, for the purpose of providing support (including residencies, traineeships, and fellowships) for geriatric training projects to train physicians and dentists who plan to teach geriatric medicine or geriatric dentistry. Grants. Contracts.

"(2) REQUIREMENTS.—Each project for which a grant or contract is made under this subsection shall—

"(A) be staffed by full-time teaching physicians who have experience or training in geriatric medicine;

"(B) be staffed, or enter into an agreement with an institution staffed by full-time or part-time teaching dentists who have experience or training in geriatric dentistry;

"(C) be based in a graduate medical education program in internal medicine or family medicine, or in a department of geriatrics in existence as of December 1, 1987;

"(D) provide participants in the project with exposure to a population of elderly individuals;

"(E) provide training in geriatrics and exposure to the physical and mental disabilities of elderly individuals through a variety of service rotations, such as geriatric consultation services, acute care services, dental services, geriatric psychiatry units, day and home care programs, rehabilitation services, extended care facilities, geriatric ambulatory care and comprehensive evaluation units, and community care programs for elderly mentally retarded individuals; and

"(F) provide training in geriatrics through one or both of the training options described in subparagraphs (A) and (B) of paragraph (3).

"(3) TRAINING OPTIONS.—The training options referred to in subparagraph (F) of paragraph (2) shall be as follows:

"(A) A 1-year retraining program in geriatrics for—

"(i) physicians who are faculty members in departments of internal medicine, family medicine, gynecology, geriatrics, and psychiatry at schools of medicine and osteopathy; and

"(ii) dentists who are faculty members at schools of dentistry or at hospital departments of dentistry.

"(B) A 1-year or 2-year internal medicine or family medicine fellowship program providing emphasis in geriatrics, which shall be designed to provide training in clinical geriatrics and geriatrics research for—

"(i) physicians who have completed graduate medical education programs in internal medicine, family medicine, psychiatry, neurology, gynecology, or rehabilitation medicine; and

"(ii) dentists who have completed post-doctoral dental education programs.

"(4) DEFINITIONS.—For purposes of this subsection:

"(A) GRADUATE MEDICAL EDUCATION PROGRAM.—The term 'graduate medical education program' means a program sponsored by a school of medicine, a school of osteopathy, a hospital, or a public or private institution that—

"(i) offers postgraduate medical training in the specialties and subspecialties of medicine; and

"(ii) has been accredited by the Accreditation Council for Graduate Medical Education or the American Osteopathic Association through its Committee on Postdoctoral Training.

"(B) POST-DOCTORAL DENTAL EDUCATION PROGRAM.—The term 'post-doctoral dental education program' means a program sponsored by a school of dentistry, a hospital, or a public or private institution that—

"(i) offers post-doctoral training in the specialties of dentistry, advanced education in general dentistry, or a dental general practice residency; and

"(ii) has been accredited by the Commission on Dental Accreditation.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) GERIATRIC EDUCATION CENTERS.—For grants and contracts under subsection (a), there are authorized to be appropriated $7,000,000 for fiscal year 1989, $10,000,000 for fiscal year 1990, and $13,000,000 for fiscal year 1991.

"(2) GERIATRIC TRAINING.—For grants and contracts under subsection (b), there are authorized to be appropriated $7,000,000 for fiscal year 1989, $10,000,000 for fiscal year 1990, and $13,000,000 for fiscal year 1991.".

(b) CONFORMING AMENDMENTS.—Section 783 (42 U.S.C. 295g-3) is repealed.

SEC. 616. GENERAL PROVISIONS.

(a) MINIMUM AMOUNT OF GRANT FOR CERTAIN GRANTEES.—Section 790 (42 U.S.C. 295g-10) is amended—

(1) in paragraph (3), by striking "The amount" and inserting the following: "Except as provided in paragraph (4), the amount"; and

(2) by adding at the end the following new paragraph:

"(4) With respect to grants under any of sections 780, 784, 785, and 786 for fiscal year 1989 and subsequent fiscal years, if an entity has been a grantee under the section involved for two consecutive fiscal years and the Secretary approves an application under such section from the entity for any subsequent consecutive fiscal year, the amount of the grant for such fiscal year may not be less than an amount equal to 20 percent of the average of the amounts received under such section by the entity for the consecutively preceding fiscal years.".

(b) REQUIREMENT OF PEER REVIEW FOR CERTAIN PROGRAMS.—Section 790 (42 U.S.C. 295g-10), as amended by subsection (a) of this section, is further amended by adding at the end the following new paragraph:

"(5)(A) Each application for a grant under any of sections 784 through 786 shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the evalua-

tion. Each application for a grant under section 780 may be submitted to such peer review group for such an evaluation.

"(B) The Secretary shall establish such peer review groups as may be necessary to carry out subparagraph (A). The Secretary shall make appointments to the peer review groups from among appropriately qualified persons who are not officers or employees of the United States.

"(C) With respect to applications referred to in subparagraph (A), a peer review group established pursuant to such subparagraph shall report its findings and recommendations to the Secretary. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

"(D) This paragraph shall be carried out by the Secretary, acting through the Administrator of the Health Resources and Services Administration.".

(c) CERTAIN PROVISIONS WITH RESPECT TO HISPANIC INDIVIDUALS AND OTHER MEMBERS OF MINORITY GROUPS.—

(1) Section 708(b)(2) (42 U.S.C. 292h(b)(2)) is amended by adding at the end the following new sentence: "Such studies shall include studies determining by specialty and geographic location the number of health professionals (including allied health professionals and health care administration personnel) who are members of minority groups, including Hispanics, and studies providing by specialty and geographic location evaluations and projections of the supply of, and requirements for, health professionals (including allied health professionals and health care administration personnel) to serve minority groups, including Hispanics.".

(2)(A) The Secretary of Health and Human Services shall conduct a study for the purpose of determining— 42 USC 292h note.

(i)(I) the extent to which health care is being provided to Hispanic individuals in medically underserved areas by health care professionals who are unable to communicate with such individuals in the most appropriate language and cultural context; and

(II) whether the extent of the provision of health care to Hispanic individuals by such health care professionals is detrimental to the health of such individuals; and

(ii)(I) the extent to which Hispanic individuals in medically underserved areas rely on allied health personnel as the primary source of health care;

(II) whether the extent of such reliance is detrimental to the health of such individuals; and

(III) if the extent of such reliance is detrimental to such individuals, whether area health education center programs (as defined in section 781(g), as redesignated by section 608(c)(1) of this Act) can be utilized with respect to providing appropriate health care to such individuals.

(B) The Secretary of Health and Human Services shall, not later than 1 year after the date of the enactment of this Act, complete the study required in subparagraph (A) and submit to the Congress a report describing the findings made as a result of the study. Reports.

SEC. 617. SPECIAL PROJECTS.

Part F of title VII (42 U.S.C. 295f-2 et seq.) is amended by adding at the end the following new section:

42 USC 295g-11.

"SEC. 790A. SPECIAL PROJECTS.

Contracts.

"(a) GRANTS.—The Secretary may make grants to, and enter into contracts with, schools of public health for the costs of planning, developing, demonstrating, operating, and evaluating projects—

"(1) for preventive medicine;

"(2) for health promotion and disease prevention;

"(3) for increasing the enrollment in such schools of individuals from disadvantaged backgrounds (as determined in accordance with criteria established by the Secretary under section 787(a)); and

"(4) to improve access and quality in health care.

"(b) PROHIBITIONS.—The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(c) LIMITATIONS.—The Secretary may make a grant under this subsection only—

"(1) pursuant to the issuance of solicitations for such grants; and

"(2) if the application for such a grant has been recommended for approval by an appropriate peer review group.

"(d) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $1,500,000 for fiscal year 1989, $3,500,000 for fiscal year 1990, and $5,000,000 for fiscal year 1991.".

SEC. 618. GRANTS FOR GRADUATE PROGRAMS IN HEALTH ADMINISTRATION.

(a) MINIMUM NUMBER OF STUDENTS.—Section 791(c)(2)(A)(i) (42 U.S.C. 295h(c)(2)(A)(i)) is amended—

(1) by striking "25" and inserting "15"; and

(2) by striking "except that" and all that follows through "in such school year".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 791(d) (42 U.S.C. 295h(d)) is amended by striking "and" after "1987," and by inserting before the period the following: ", $1,420,000 for fiscal year 1989, $1,420,000 for fiscal year 1990, and $1,700,000 for fiscal year 1991".

SEC. 619. AUTHORIZATION OF APPROPRIATIONS FOR TRAINEESHIPS FOR STUDENTS IN OTHER GRADUATE PROGRAMS.

Section 791A(c) (42 U.S.C. 295h-1a(c)) is amended by striking "and" before "$500,000" and by inserting before the period the following: "; and $500,000 for each of the fiscal years 1989 through 1991".

SEC. 620. PROVISIONS WITH RESPECT TO GRADUATE PROGRAMS IN CLINICAL PSYCHOLOGY.

(a) DEFINITION OF GRADUATE PROGRAM IN CLINICAL PSYCHOLOGY.—

(1) Section 701(4) (42 U.S.C. 292a(4)) is amended by inserting at the end the following new sentence: "The term 'graduate program in clinical psychology' means an accredited graduate program in a public or nonprofit private institution in a State which provides training leading to a doctoral degree in clinical psychology or an equivalent degree.".

(2) Section 701 (42 U.S.C. 292a) is amended by striking paragraph (14).

(b) NATIONAL ADVISORY COUNCIL ON HEALTH PROFESSIONS EDUCATION.—Section 702(a) (42 U.S.C. 292b(a)) is amended—

(1) in the first sentence, by striking "twenty members appointed" and inserting "twenty-one members appointed"; and

(2) in paragraph (1)—

(A) in the matter preceding subparagraph (A), by striking "twelve" and inserting "thirteen"; and

(B) in subparagraph (A), by inserting before the semicolon the following: "and graduate programs in clinical psychology".

(c) DISCRIMINATION ON BASIS OF SEX.—Section 704 (42 U.S.C. 292d) is amended—

(1) in the first sentence, by inserting after "allied health personnel" the following: ", or graduate program in clinical psychology,"; and

(2) in the second sentence, by striking "school or training center" and inserting "school, training center, or graduate program".

SEC. 621. AUTHORIZATION OF APPROPRIATIONS FOR PUBLIC HEALTH TRAINEESHIPS.

Section 792(c) (42 U.S.C. 295h–1b(c)) is amended by striking "and" after "1987;" and by inserting before the period the following: "; $4,100,000 for fiscal year 1989; $4,200,000 for fiscal year 1990; and $4,300,000 for fiscal year 1991".

SEC. 622. TRAINING OF HEALTH PROFESSIONALS WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

Section 788B is amended to read as follows:

"SEC. 788B. TRAINING WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME. 42 USC 295g–8b.

"(a) GRANTS.—The Secretary may make grants and enter into contracts to assist schools and academic health science centers in meeting the costs of projects— Contracts. Health care professionals.

"(1) to train the faculty of schools and graduate departments of medicine, nursing, osteopathy, dentistry, public health, psychology, and allied health to teach health professions students to provide for the health care needs of individuals with acquired immune deficiency syndrome;

"(2) with respect to improving clinical skills in the diagnosis, treatment, and prevention of such syndrome, to educate and train the health professionals and clinical staff of schools of medicine, osteopathy, and dentistry; and

"(3) to develop and disseminate curricula relating to the care and treatment of individuals with acquired immune deficiency syndrome.

Minorities.

"(b) PREFERENCE.—In making grants under subsection (a), the Secretary shall give preference to projects which will—

"(1) train, or result in the training of, health professionals who will provide treatment for minority individuals with acquired immune deficiency syndrome and other individuals who are at high risk of contracting such syndrome; and

"(2) train, or result in the training of, minority health professionals and minority allied health professionals to provide treatment for individuals with acquired immune deficiency syndrome.

"(c) APPLICATION.—No grant or contract may be made under subsection (a) unless an application is submitted to the Secretary in such form, at such time, and containing such information, as the Secretary may prescribe.

"(d) PEER REVIEW.—

"(1) IN GENERAL.—An application for a grant or contract under subsection (a) shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(2) LIMITATION.—The Secretary may not approve an application for a grant or contract under subsection (a) unless the appropriate peer review group required under paragraph (1) has recommended such approval and the Secretary has consulted with the National Advisory Council on Health Professions Education with respect to such application.

"(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for grants under subsection (a), such sums as may be necessary for each of the fiscal years 1989 through 1991.

"(f) DENTAL SCHOOLS.—

Grants.

"(1) IN GENERAL.—The Secretary may make grants to assist dental schools and programs described in section 788(e)(4)(B) with respect to oral health care to AIDS patients.

"(2) APPLICATION.—Each dental school or program described in section 788(e)(4)(B) may annually submit an application documenting the unreimbursed costs of oral health care provided to AIDS patients by that school or hospital during the prior year.

"(3) DISTRIBUTION.—The Secretary shall distribute the available funds among all eligible applicants, taking into account the number of AIDS patients served and the unreimbursed oral health care costs incurred by each institution as compared with the total number of patients served and costs incurred by all eligible applicants.

"(4) The Secretary shall not make a grant under this subsection if doing so would result in any reduction in State funding allocation for such purposes.

"(5) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this subsection, there is authorized to be appropriated such sums as may be necessary in fiscal year 1990 and fiscal year 1991.".

SEC. 623. DEFINITIONS.

(a) SCHOOL OF ALLIED HEALTH.—Section 701(10) (42 U.S.C. 292a(10)) is amended—

(1) in the matter preceding subparagraph (A), by striking "university—" and inserting "university or hospital-based educational entity—"; and

(2) in subparagraph (B), by inserting before the semicolon the following: "(except that this subparagraph shall not apply to any hospital-based educational entity)".

(b) ALLIED HEALTH PROFESSIONALS.—Section 701(13)(C) (42 U.S.C. 292a(13)(C)) is amended—

(1) by striking out "an individual" and inserting in lieu thereof "a health professional";

(2) by striking out "or" before "a doctoral degree in clinical psychology"; and

(3) by inserting before the period the following: ", or a degree in social work or an equivalent degree".

SEC. 624. ALLIED HEALTH PROJECT GRANTS AND CONTRACTS.

Section 796 (42 U.S.C. 295h-5) is amended—

(1) by striking out subsection (a) and inserting in lieu thereof the following new subsection:

"(a) The Secretary shall make grants to and enter into contracts with eligible entities to assist them in meeting the costs of planning, developing, establishing, operating, and evaluating projects relating to:

"(1) Improving and strengthening the effectiveness of allied health administration, program directors, facility, and clinical faculty.

"(2) Improving and expanding program enrollments in those professions in greatest demand and whose services are most needed by the elderly.

"(3) Interdisciplinary training programs that promote the effectiveness of allied health practitioners in geriatric assessment and the rehabilitation of the elderly.

"(4) Demonstration centers to emphasize innovative models to link allied health clinical practice, education, and research. Research and development.

"(5) Adding and strengthening curriculum units in allied health programs to include knowledge and practice concerning prevention and health promotion, geriatrics, long-term care, home health and hospice care, and ethics.

"(6) The recruitment of individuals into allied health professions, including projects for—

"(A) the identification and recruitment of highly qualified individuals, including the provision of educational and work experiences for recruits at the secondary and collegiate levels; Schools and colleges.

"(B) the identification and recruitment of minority and disadvantaged students, including the provision of remedial and tutorial services prior and subsequent to admission, the provision of work-study programs for secondary students, and recruitment activities directed toward primary school students; and Minorities. Disadvantaged persons.

"(C) the coordination and improvement of recruitment efforts among official and voluntary agencies and institutions, including official departments of education, at the city, county, and State, or regional level.";

(2) by striking out subsection (c) and inserting in lieu thereof the following new subsection:

"(c) For purposes of subsection (a), the term 'eligible entities' means entities which are—

Schools and colleges.

"(1) schools, universities, or other educational entities which provide for allied health personnel education and training and which meet such standards as the Secretary may by regulation prescribe; or

"(2) other public or nonprofit private entities capable, as determined by the Secretary, of carrying out projects described in subsection (a)."; and

(3) by striking out subsection (d) and inserting in lieu thereof the following new subsection:

Appropriation authorization.

"(d) For the purpose of making payments under grants and contracts under subsection (a), there are authorized to be appropriated $2,000,000 for each of the fiscal years 1990 and 1991.".

SEC. 625. TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

Section 797 (42 U.S.C. 295h-6) is amended to read as follows:

"SEC. 797. TRAINEESHIPS FOR ADVANCED TRAINING OF ALLIED HEALTH PERSONNEL.

Contracts.

"(a) GRANTS.—The Secretary may make grants to and enter into contracts with training centers for allied health professions to meet the costs of projects designed to—

"(1) plan, develop, establish, expand, and operate doctoral programs for the advanced speciality training of allied health professionals who plan to teach and conduct research in an allied health training program; and

"(2) provide financial assistance in the form of traineeships or fellowships to doctoral students who are participants in any such program and who plan to teach and conduct research in an allied health discipline or to post doctoral students who are continuing specialized study and research in an allied health discipline.

"(b) LIMITATION.—The Secretary shall limit grants and contracts made or entered into under subsection (a) to those allied health fields or specialities as the Secretary shall, from time to time, determine to have—

"(1) the most significant national or regional shortages of practitioners;

"(2) insufficient numbers of qualified faculty in entry level or advanced educational programs; and

"(3) a significant role in the care and rehabilitation of patients and clients who are elderly or disabled.

"(c) AUTHORIZATION OF APPROPRIATIONS.—For the purposes of making payments under grants under subsection (a), there are authorized to be appropriated $2,000,000 for each of the fiscal years 1990 and 1991.

"(d) AVAILABILITY OF FUNDS.—Funds appropriated under this section for any fiscal year shall remain available until expended or through fiscal year 1991.".

SEC. 626. ALLIED HEALTH PROFESSIONS DATA.

Section 708 (42 U.S.C. 292h) is amended by adding at the end the following:

Grants. Contracts.

"(h)(1) In carrying out subsection (a), the Secretary may make grants, or enter into contracts and cooperative agreements with, and

provide technical assistance to, any nonprofit entity in order to establish a uniform allied health professions data reporting system to collect, compile, and analyze data on the allied health professions personnel.

"(2) In the first report under subsection (d) made 2 years after the date of enactment of this Act and in each biennial report thereafter, the Secretary include a description and analysis of data collected pursuant to paragraph (1).".

SEC. 627. COUNCIL ON GRADUATE MEDICAL EDUCATION.

Section 799 (42 U.S.C. 295i) is amended by adding at the end the following:

"(k) There is authorized to be appropriated $1,000,000 for each of the fiscal years 1989, 1990, and 1991 to carry out this section.". Appropriation authorization.

SEC. 628. REFERENCES WITH RESPECT TO PODIATRIC MEDICINE.

Title VII (42 U.S.C. 292a et seq.) is amended—

(1) in section 701— 42 USC 292a.

(A) in paragraph (4), by striking "'school of podiatry'" and inserting "'school of podiatric medicine'" and by striking "'doctor of podiatry'" and inserting "doctor of podiatric medicine"; and

(B) in paragraph 13(C), by striking "podiatry" and inserting "podiatric medicine";

(2) in section 702(a)(1)(A), by striking "podiatry," and inserting "podiatric medicine,"; 42 USC 292b.

(3) in section 704, in the first sentence, by striking "podiatry," and inserting "podiatric medicine,"; 42 USC 292d.

(4) in section 721— 42 USC 293a.

(A) in subsection (c)(3), in subparagraphs (A) and (B), by striking "podiatry," each place it appears and inserting "podiatric medicine,";

(B) in subsection (d)(1)(A), by striking "podiatry," and inserting "podiatric medicine,"; and

(C) in subsection (f)—

(i) in paragraph (1), in the first sentence, by striking "podiatry," and inserting "podiatric medicine,"; and

(ii) in paragraph (3)(A), by striking "podiatry," and inserting "podiatric medicine,";

(5) in section 729(a), in the first and second sentences, by striking "podiatry," each place it appears and inserting "podiatric medicine,"; 42 USC 294b.

(6) in section 737(1), by striking "podiatry," and inserting "podiatric medicine,"; 42 USC 294j.

(7) in section 740— 42 USC 294m.

(A) in subsection (a), by striking "podiatry," and inserting "podiatric medicine,";

(B) in subsection (b)(4), by striking "podiatry" and inserting "podiatric medicine"; and

(C) in subsection (c)—

(i) in paragraph (1), by striking "podiatry," and inserting "podiatric medicine,"; and

(ii) in paragraph (3)(C), by striking "podiatry," and inserting "podiatric medicine,";

(8) in section 741— 42 USC 294n.

(A) in subsection (b)(1), by striking "podiatry" and inserting "podiatric medicine";

(B) in subsection (f)(1)(A), by striking "podiatry" and inserting "podiatric medicine"; and

(C) in subsection (l)(4), by striking "podiatry," and inserting "podiatric medicine,";

42 USC 294z. (9) in section 758(a), by striking "podiatry," and inserting "podiatric medicine,";

42 USC 295g-7. (10) in section 787(a)(1), by striking "podiatry," and inserting "podiatric medicine,"; and

42 USC 295g-8. (11) in section 788—

(A) in subsection (c)(1), in the first sentence, by striking "podiatry," and inserting "podiatric medicine,"; and

(B) in subsection (f), by striking "podiatry" and inserting "podiatric medicine".

Schools and colleges.

SEC. 629. REFERENCES WITH RESPECT TO OSTEOPATHIC MEDICINE.

(a) TECHNICAL AMENDMENTS TO TITLE III.—Title III (42 U.S.C. 241 et seq.) is amended—

(1) in section 327A(b)(1), by inserting "schools of osteopathic medicine," after "schools of medicine," and by inserting "professions" after "health";

(2) by striking "osteopathy" each place such term appears and inserting "osteopathic medicine"; and

(3) by striking "osteopaths" each place such term appears.

(b) TECHNICAL AMENDMENTS TO TITLE VII.—Title VII (42 U.S.C. 292a et seq.) is amended—

(1) by striking "school of osteopathy" and "schools of osteopathy" each place such terms appear and inserting "school of osteopathic medicine" and "schools of osteopathic medicine", respectively;

(2) by striking "school of medicine, osteopathy" and "schools of medicine, osteopathy" each place such terms appear and inserting "school of medicine, osteopathic medicine" and "schools of medicine, osteopathic medicine", respectively; and

(3) by striking "medical or osteopathic" each place it precedes "school", "student", or "clinical education" and by inserting "medical (M.D. and D.O.)".

SEC. 630. STUDY BY GENERAL ACCOUNTING OFFICE OF STATE PRACTICES IN ENDORSEMENT LICENSING OF FOREIGN PHYSICIANS.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study for the purpose of determining the practices and policies of the States in licensing by endorsement physicians who are graduates of schools of medicine located in countries other than the United States. In carrying out the study, the Comptroller General shall—

(1) with respect to such licensing of such physicians—

(A) make a comparison with the practices and policies of the States in licensing by endorsement physicians who are graduates of American schools of medicine; and

(B) determine the merits of any additional requirements imposed on physicians who are graduates of medical schools of other countries, including a determination of the relative proficiency of such physicians and a determination of the relevancy of any requirement of producing additional information or records;

(2) determine whether the graduates of schools of medicine located in other countries are being discriminated against with respect to licensing by endorsement in the United States; and

(3) if such discrimination is occurring, determine the geographic areas in which the discrimination is occurring and the circumstances under which the discrimination is occurring.

(b) CONSULTATION WITH APPROPRIATELY QUALIFIED INDIVIDUALS.—In carrying out the study required in subsection (a), the Comptroller General of the United States shall consult with individuals with appropriate expertise.

(c) TIME FOR COMPLETION.—Not later than 9 months after the date of the enactment of this Act, the Comptroller General of the United States shall complete the study required in subsection (a) and submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report describing the findings made as a result of the study. Reports.

SEC. 631. IDENTIFICATION AND NOTIFICATION OF POTENTIAL GRANTEES UNDER CERTAIN PROGRAMS. 42 USC 295g-8 note.

The Secretary of Health and Human Services shall identify entities that would be appropriate applicants for grants under section 788(a) of the Public Health Service Act (42 U.S.C. 295g-8(a)) and shall notify such entities of such fact.

SEC. 632. RESEARCH WITH RESPECT TO HEALTH RESOURCES AND SERVICES ADMINISTRATION. 42 USC 241 note.

With respect to any program of research pursuant to the Public Health Service Act, any such program carried out in fiscal year 1987 by an agency other than the Health Resources and Services Administration (or appropriate to be carried out by such an agency) may not, for each of the fiscal years 1989 through 1991, be carried out by such Administration.

SEC. 633. REQUIREMENTS WITH RESPECT TO APPLICATION AND AWARD PROCESS FOR CERTAIN PROGRAMS. 42 USC 295g-10a.

(a) SEMIANNUAL GRANT SOLICITATIONS.—With respect to grants under any of sections 780, 784, 785, and 786 for fiscal year 1990 or subsequent fiscal years, the Secretary of Health and Human Services shall, not less than twice each fiscal year, issue solicitations for applications for such grants if amounts appropriated for such grants, and remaining unobligated at the end of the first solicitation period, are sufficient with respect to issuing a second solicitation.

(b) PRELIMINARY REVIEW FOR TECHNICAL SUFFICIENCY.—In reviewing applications for grants referred to in subsection (a), the Secretary shall—

(1) make a preliminary review of each such application in order to determine whether the application involved is sufficient with respect to the minimum technical requirements established by the Secretary for applications under the program involved; and

(2) if the Secretary determines pursuant to the preliminary review that any such application is not sufficient with respect to such requirements—

(A) prepare a statement explaining the insufficiencies of the application; and

(B) return the application, together with such statement, by a date that permits the applicant involved a sufficient period of time in which to prepare a timely second application for submission pursuant to the solicitation with respect to which the first application is being returned.

SEC. 634. ESTABLISHMENT OF LOAN REPAYMENT PROGRAM FOR RESEARCH AT NATIONAL INSTITUTES OF HEALTH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

(a) IN GENERAL.—Part F of title IV is amended by inserting after section 487 the following new section:

42 USC 288-1.

"SEC. 487A. LOAN REPAYMENT PROGRAM FOR RESEARCH WITH RESPECT TO ACQUIRED IMMUNE DEFICIENCY SYNDROME.

"(a) IMPLEMENTATION OF PROGRAM.—

"(1) IN GENERAL.—Not later than one year after the date of the enactment of the Health Professions Reauthorization Act of 1988, the Secretary shall, subject to paragraph (2), establish and implement a program of entering into agreements with appropriately qualified health professionals under which such health professionals agree to conduct, as employees of the National Institutes of Health, research with respect to acquired immune deficiency syndrome in consideration of the Federal Government agreeing to repay, for each year of such service, not more than $20,000 of the principal and interest of the educational loans of such health professionals.

"(2) LIMITATION.—The Secretary may not enter in an agreement with a health professional pursuant to paragraph (1) unless such professional—

"(A) has a substantial amount of educational loans relative to income; and

"(B) was not employed at the National Institutes of Health during the 1-year period preceding the date of the enactment of the Health Professions Reauthorization Act of 1988.

"(b) APPLICATION.—With respect to the National Health Service Corps Loan Repayment Program established in subpart III of part D of title III, the provisions of such subpart shall, except as inconsistent with subsection (a) of this section, apply to the program established in such subsection (a) in the same manner and to the same extent as such provisions apply to the National Health Service Corps Loan Repayment Program established in such subpart.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—For the purpose of carrying out subsection (a), there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1989 through 1991.

"(2) AVAILABILITY.—Amounts appropriated pursuant to paragraph (1) for a fiscal year shall remain available until the expiration of the second fiscal year beginning after the fiscal year for which the amounts were appropriated.".

SEC. 635. NATIONAL RESEARCH SERVICE AWARDS WITH RESPECT TO TITLE VII PROGRAMS.

Section 487(d)(3) (42 U.S.C. 288) is amended by inserting after "made available", the first time such appears, the following: "to the Secretary, acting through the Administrator of the Health Resources and Services Administration,".

SEC. 636. CLARIFICATION WITH RESPECT TO APPLICABILITY OF CERTAIN FEDERAL REGULATIONS TO SECONDARY MARKETS FOR STUDENT LOANS.

Section 728(c) (42 U.S.C. 294a(c)) is amended by adding at the end the following new paragraph:

"(3) With respect to Federal regulations for lenders, this subpart may not be construed to preclude the applicability of such regulations to the Student Loan Marketing Association or to any other entity in the business of purchasing student loans, including such regulations with respect to applications, contracts, and due diligence.".

SEC. 637. HEALTH CARE FOR RURAL AREAS.

(a) HEALTH CARE FOR RURAL AREAS.—Title VII of the Public Health Service Act is amended by adding at the end thereof the following:

"PART I—HEALTH CARE FOR RURAL AREAS

"SEC. 799A. HEALTH CARE FOR RURAL AREAS.

42 USC 295j.

"(a) GRANTS.—The Secretary may make grants to, or enter into contracts with, any eligible applicant to help such applicant fund authorized activities under an application approved under subsection (d).

Contracts.

"(b) USE OF AMOUNTS.—

"(1) IN GENERAL.—Amounts provided under subsection (a) shall be used by the recipients to fund interdisciplinary training projects designed to—

"(A) use new and innovative methods to train health care practitioners to provide services in rural areas;

"(B) demonstrate and evaluate innovative interdisciplinary methods and models designed to provide access to cost-effective comprehensive health care;

"(C) deliver health care services to individuals residing in rural areas;

"(D) enhance the amount of relevant research conducted concerning health care issues in rural areas; and

"(E) increase the recruitment and retention of health care practitioners in rural areas and make rural practice a more attractive career choice for health care practitioners.

"(2) METHODS.—A recipient of funds under subsection (a) may use various methods in carrying out the projects described in paragraph (1), including—

"(A) the distribution of stipends to students of eligible applicants;

"(B) the establishment of a post-doctoral fellowship program;

"(C) the training of faculty in the economic and logistical problems confronting rural health care delivery systems; or

"(D) the purchase or rental of transportation and telecommunication equipment where the need for such equipment due to unique characteristics of the rural area is demonstrated by the recipient.

"(3) ADMINISTRATION.—

"(A) IN GENERAL.—An applicant shall not use more than 10 percent of the funds made available to such applicant under subsection (a) for administrative expenses.

"(B) TRAINING.—Not more than 10 percent of the individuals receiving training with funds made available to an applicant under subsection (a) shall be trained as doctors of medicine or doctors of osteopathy.

Schools and colleges.

"(c) ELIGIBLE APPLICANTS.—Applicants eligible to obtain funds under subsection (a) shall include local health departments, nonprofit organizations and public or nonprofit colleges, universities, or schools of, or programs that specialize in, nursing, psychology, social work, optometry, public health, dentistry, osteopathy, physicians assistants, pharmacy, podiatry, medicine, chiropractic, and allied health professions if such applicants submit applications approved by the Secretary under subsection (d). Applicants eligible to obtain funds under subsection (a) shall not include for-profit entities, either directly or through a subcontract or subgrant.

"(d) APPLICATIONS.—

"(1) SUBMISSION.—In order to receive a grant under subsection (a) an entity shall submit an application to the Secretary.

"(2) FORMS.—An application submitted under this subsection shall be in such form, be submitted by such date, and contain such information as the Secretary shall require.

"(3) REQUIREMENTS.—Applications submitted under this subsection shall—

"(A) be jointly submitted by at least two eligible applicants with the express purpose of assisting individuals in academic institutions in establishing long-term collaborative relationships with health care providers in rural areas;

"(B) designate a rural health care agency or agencies for clinical treatment or training, including hospitals, community health centers, migrant health centers, rural health clinics, community mental health centers, long-term care facilities, facilities operated by the Indian Health Service or an Indian tribe or tribal organization or Indian organization under a contract with the Indian Health Service under the Indian Self-Determination Acts, or Native Hawaiian health centers; and

"(C) provide any additional information required by the Secretary.

"(e) STUDY.—

Contracts.

"(1) IN GENERAL.—The Secretary shall enter into a contract to conduct a study of manpower training needs in rural areas, with attention focused on the supply of health professionals and whether such supply is adequate to meet the demands for health care services in rural communities.

"(2) CONTENTS.—

"(A) STATISTICS.—The study conducted under paragraph (1) shall include statistics and projections on—

"(i) the supply of health care practitioners in rural areas; and

"(ii) suggested methods of improving access to health care services in rural areas.

The study shall pay particular attention to the needs of the elderly in rural areas as well as the individuals in the rural areas who are not eligible for Medicare.

"(B) EVALUATION.—The study conducted under paragraph (1) shall evaluate existing models for health care training and service delivery and propose innovative alternative models to enhance the quality and availability of health care services in rural areas and to increase the retention of health professionals in rural areas.

"(3) HEALTH CARE TRAINING AND SERVICE DELIVERY MODELS.—The Secretary shall evaluate the effectiveness of the health care training and service delivery models developed with funds made available under this section and compare such models with programs designed to increase the availability of health care providers in rural areas, including the National Health Service Corps program authorized by subpart II of part D of the Public Health Service Act (42 U.S.C. 254d et seq.) and the area health education center program authorized under section 781 of such Act (42 U.S.C. 295g-1).

"(4) SUBMISSION TO CONGRESS.—Not later than 18 months after the date of the signing of the contract for the health care study under paragraph (1), the Secretary shall submit to the appropriate committees of the Congress a report that describes the results of the study conducted under paragraph (1). Reports.

"(f) PEER REVIEW.—

"(1) IN GENERAL.—Each application for a grant or contract under this section shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application.

"(2) ESTABLISHMENT.—The Secretary shall establish such peer review groups as may be necessary to carry out paragraph (1). The Secretary shall make appointments to the peer review groups from among appropriately qualified persons who are not officers or employees of the United States.

"(3) REPORT OF FINDINGS.—With respect to applications referred to in paragraph (1), a peer review group established pursuant to such subparagraph shall report its findings and recommendations to the Secretary. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

"(4) ADMINISTRATION.—This paragraph shall be carried out by the Secretary, acting through the Director of the Indian Health Service.

"(g) DEFINITION.—For the purposes of this section, the term 'rural area' includes a frontier area, which is an area in which the population density is less than 7 individuals per square mile.

"(h) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There is authorized to be appropriated to carry out this section, other than subsection (e), $5,000,000 for each of the fiscal years 1989, 1990, and 1991.

"(2) SUBSECTION (e).—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1989, 1990, and 1991 to carry out subsection (e).".

(b) REPEAL.—Section 714 of the Indian Health Care Amendments of 1988 is repealed upon the date of the enactment of this Act. 42 USC 295j.

SEC. 638. ADVANCEMENT OF HEALTH CARE SERVICES.

(a) IN GENERAL.—Of the amounts appropriated in each of the fiscal years 1989 through 1991 to carry out title VII of the Public Health Service Act, the Secretary of Health and Human Services

shall, for each such fiscal year, make available $500,000 for the purpose of advancing the health care services furnished by qualified hospitals. For purposes of this subsection, the term "qualified hospital" means a hospital located in a rural county that—

(1) is adjacent to three counties, one of which is a central county of a Metropolitan Statistical Area, and all of which are classified as urban;

(2) has a workforce of which at least 12.2 percent of such workers commute from the rural county to the central counties of the two immediately adjacent Metropolitan Statistical Areas (out-commuting), and the total in-commuting rate from the two immediately adjacent Metropolitan Statistical Areas to the rural county is at least 6.1 percent, so that when added to the out-commuting rate from the rural county the total in/out-commuting rate is at least 18 percent;

(3) is also impacted by a third Metropolitan Statistical Area with an out-commuting rate from the rural county to that Metropolitan Statistical Area that is at least .15 percent and the in-commuting rate from the Metropolitan Statistical Area to such rural county is at least .15 percent;

(4) has more than 73,500 residents but less than 74,000 residents according to the 1980 census; and

(5) that has a health-related labor pool that is competitively impacted by, in addition to the normal competitive pressures of an urban labor market, the location in one of the adjacent Metropolitan Statistical Areas of at least three large health-related facilities, each with more than 375 beds, including a State-owned medical school/hospital complex with more than 4,000 employees, and a large Veterans' Administration hospital with more than 400 beds.

(b) PRO RATA DETERMINATION.—In making available amounts for a fiscal year for purposes of subsection (a), the Secretary of Health and Human Services may not reduce the amounts available for each program authorized under title VII of the Public Health Service Act by more than the amount equal to the product of—

(1) the amounts appropriated, after the date of the enactment of this Act, for carrying out the program involved for the fiscal year; and

(2) a percentage equal to the quotient of—

(A) $500,000; divided by

(B) the amounts appropriated, after the date of the enactment of this Act, for carrying out such title VII.

42 USC 292h note.
State and local governments.
Territories, U.S.

SEC. 639. ASSESSMENTS OF HEALTH MANPOWER SHORTAGES.

(a) REQUEST FOR INFORMATION.—Not later than 18 months after the date of enactment of this Act, the Secretary of Health and Human Services shall contact the chief executive officer of each State, the Mayor of the District of Columbia, and the chief executive officer of the Virgin Islands, the Commonwealth of Puerto Rico, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands, and request that each such individual submit to the Secretary an assessment of the greatest health manpower shortages by discipline of health care providers and by allopathic and osteopathic speciality, of such individuals State, District, Commonwealth, or Territory.

(b) REPORT.—The Secretary of Health and Human Services shall compile and analyze the information obtained under subsection (a)

and prepare and submit, to the appropriate Committees of Congress, as part of the October 1, 1991, report required under section 708(d)(1) of the Public Health Service Act (42 U.S.C. 292h(d)(1)), a report comtaining such information and analysis.

TITLE VII—NURSING SHORTAGE REDUCTION AND EDUCATION EXTENSION ACT OF 1988

Nursing Shortage Reduction and Education Extension Act of 1988.

SEC. 700. SHORT TITLE.

42 USC 201.

(a) SHORT TITLE.—This title may be cited as the "Nursing Shortage Reduction and Education Extension Act of 1988".

(b) REFERENCE.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Public Health Service Act.

Subtitle A—Special Projects

SEC. 701. SPECIAL PROJECT GRANTS AND CONTRACTS.

(a) TRANSFER OF PROGRAM FOR INDIVIDUALS FROM DISADVANTAGED BACKGROUNDS.—Part A of title VIII (42 U.S.C. 296k et seq.) is amended—

(1) by inserting after the heading for such part the following new heading:

"Subpart I—Special Projects in General",

(2) by striking section 820(a)(1), and

42 USC 296k.

(3) by adding at the end the following new subpart:

"Subpart II—Nursing Education Opportunities for Individuals From Disadvantaged Backgrounds

"SPECIAL PROJECTS

"SEC. 827. (a) The Secretary may make grants to public and nonprofit private schools of nursing and other public or nonprofit private entities, and enter into contracts with any public or private entity, to meet the costs of special projects to increase nursing education opportunities for individuals from disadvantaged backgrounds, as determined in accordance with criteria prescribed by the Secretary—

Schools and colleges. 42 USC 296r.

"(1) by identifying, recruiting, and selecting such individuals,

"(2) by facilitating the entry of such individuals into schools of nursing,

"(3) by providing counseling or other services designed to assist such individuals to complete successfully their nursing education,

"(4) by providing, for a period prior to the entry of sucn individuals into the regular course of education at a school of nursing, preliminary education designed to assist them to complete successfully such regular course of education,

"(5) by paying such stipends (including allowances for travel and dependents) as the Secretary may determine for such individuals for any period of nursing education,

"(6) by publicizing, especially to licensed vocational or practical nurses, existing sources of financial aid available to persons enrolled in schools of nursing or who are undertaking training necessary to qualify them to enroll in such schools, and

"(7) by providing training, information, or advice to the faculty of such schools with respect to encouraging such individuals to complete the programs of nursing education in which the individuals are enrolled.

"(b) No grant or contract may be made under this section unless an application therefor has been submitted to and approved by the Secretary. The Secretary may not approve or disapprove such an application except after consultation with the National Advisory Council on Nurse Education. Such an application shall provide for such fiscal control and accounting procedures and reports, and access to the records of the applicant, as the Secretary may require to assure proper disbursement of and accounting for Federal funds paid to the applicant under this section.

Reports.
Records.

"(c) For payments under grants and contracts under subsection (a), there are authorized to be appropriated $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, and $5,000,000 for fiscal year 1991.".

(b) STRIKING OF CERTAIN PROGRAMS.—Section 820(a) (42 U.S.C. 296k(a)) is amended—

(1) by striking paragraphs (3), (7), and (9), and

(2) by redesignating paragraphs (2), (4), (5), (6), and (8) as paragraphs (1) through (5), respectively.

(c) GERIATRIC TRAINING.—Section 820(a)(2) (as redesignated by subsection (b)(2) of this section) is amended to read as follows—

"(2) demonstrate, through geriatric health education centers and other entities, improved geriatric training in preventive care, acute care, and long-term care (including home health care and institutional care);".

(d) UPGRADING SKILLS.—Section 820(a) (42 U.S.C. 296k(a)) is amended—

(1) by amending paragraph (3) (as redesignated by subsection (b)(2) of this section) to read as follows:

Rural areas.

"(3)(A) increase the supply of adequately trained nursing personnel (including bilingual nursing personnel) to meet the health needs of rural areas; and

"(B) provide nursing education courses to rural areas through telecommunications via satellite;", and

(2) by amending paragraph (4) (as so redesignated) to read as follows:

"(4) provide training and education—

"(A) to upgrade the skills of licensed vocational or practical nurses, nursing assistants, and other paraprofessional nursing personnel with priority given to rapid transition programs toward achievement of professional nursing degrees; and

"(B) to develop curricula for the achievement of baccalaureate degrees in nursing by registered nurses and by individuals with baccalaureate degrees in other fields;".

(e) COORDINATION PROJECTS WITH RESPECT TO LOAN REPAYMENTS FOR SERVICE IN HEALTH FACILITIES.—Section 820(a) (42 U.S.C.

296k(a)) is amended by adding after paragraph (5) (as redesignated by subsection (b)(2) of this section) the following new paragraph:

"(6)(A) collect the names and addresses of health facilities willing to enter into agreements with nursing students and nursing personnel under which such individuals agree to serve as nurses in the health facilities in consideration of the health facilities agreeing to repay the principal and interest of the educational loans of such individuals;

"(B) collect data on the specific terms of such agreements offered by health facilities;

"(C) collect the names and addresses of nursing students identified pursuant to section 827(a), of other nursing students, and of nursing personnel, willing to enter into such agreements; and

"(D) coordinate and facilitate communications between health facilities and such individuals with respect to such agreements.".

(f) GERIATRIC HEALTH EDUCATION CENTERS.—Section 820 (42 U.S.C. 296k) is amended—

(1) by redesignating subsections (b) through (d) as subsections (e) through (g), respectively, and

(2) by adding after subsection (a) the following new subsection:

"(b)(1) The Secretary may make grants to, and enter into contracts with, accredited schools of nursing to assist in meeting the costs of such schools in providing projects—

"(A) to improve the training of nurses in geriatrics;

"(B) to develop and disseminate curricula relating to the treatment of the health problems of elderly individuals;

"(C) to expand and strengthen instruction in methods of such treatment;

"(D) to support the training and retraining of faculty to provide such instruction;

"(E) to support continuing education of nurses who provide such treatment; and

"(F) to establish new affiliations with nursing homes, chronic and acute disease hospitals, ambulatory care centers, and senior centers in order to provide students with clinical training in geriatric health care.

"(2)(A) Any application for a grant or contract under this subsection shall be subject to appropriate peer review by peer review groups composed principally of non-Federal experts.

"(B) The Secretary may not approve or disapprove an application for a grant or contract under this subsection unless the Secretary has received recommendations with respect to such application from the appropriate peer review group required under paragraph (1) and has consulted with the Advisory Council on Nurses Education with respect to such application.

"(C) For the purpose of carrying out this subsection, the Secretary may obligate each fiscal year not more than $2,000,000 of the amounts made available for such purpose pursuant to subsection (g)(2).".

(g) INNOVATIVE HOSPITAL NURSING PRACTICE MODELS.—Section 820 (42 U.S.C. 296k), as amended by subsection (f) of this section, is further amended by inserting after subsection (b) the following new subsection:

"(c)(1) The Secretary may make grants to public and nonprofit private entities for the purpose of demonstrating innovative hospital

nursing practice models designed to reduce vacancies in professional nursing positions and to make such positions a more attractive career choice.

"(2) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees that hospital nursing practice models demonstrated pursuant to such subsection will include initiatives—

"(A) to restructure the role of the professional nurse, through changes in the composition of hospital staffs and through innovative approaches for interaction between hospital administration and nursing personnel, in order to ensure that the particular expertise of such nurses is efficiently utilized and that such nurses are engaged in direct patient care during a larger proportion of their work time;

Wages.

"(B) to test innovative wage structures for professional nurses in order to—

"(i) reduce vacancies in work shifts during unpopular work hours; and

"(ii) provide financial recognition based upon experience and education; and

"(C) to evaluate the effectiveness of providing benefits for professional nurses, such as pensions, sabbaticals, and payment of educational expenses, as a means of developing increased loyalty of such nurses to health care institutions and reducing turnover in nursing positions.".

(h) LONG-TERM CARE NURSING PRACTICE DEMONSTRATIONS.—Section 820 (42 U.S.C. 296k), as amended by subsection (g) of this section, is further amended by inserting after subsection (c) the following new subsection:

"(d)(1) The Secretary may make grants to public and nonprofit private entities accredited for the training of nurses for the purpose of—

"(A) demonstrating innovative nursing practice models for—

"(i) the provision of case-managed health care services (including adult day care) and health care services in the home; or

"(ii) the provision of health care services in long-term care facilities; or

"(B) developing projects to increase the exposure of nursing students to clinical practice in nursing home, home health, and gerontologic settings through collaboration between such accredited entities and entities that provide health care in such settings.

"(2) The Secretary may not make a grant under paragraph (1) unless the applicant for the grant agrees that models demonstrated pursuant to such paragraph will be designed—

"(A) to increase the recruitment and retention of nurses to provide nursing care for individuals needing long-term care; and

"(B) to improve nursing care in home health care settings and nursing homes.".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 820(g) (as redesignated by subsection (b)(2) of this section) is amended to read as follows:

"(g)(1) For payments under grants and contracts under this section, there are authorized to be appropriated $13,000,000 for fiscal

year 1989, $16,000,000 for fiscal year 1990, and $20,000,000 for fiscal year 1991.

"(2) Of the amounts appropriated pursuant to paragraph (1), the Secretary shall obligate not less than 20 percent to carry out subsection (a)(2) and subsection (b) (subject to subsection (b)(2)(C)), not less than 20 percent to carry out paragraph (3) of subsection (a), and not less than 10 percent to carry out paragraph (4) of such subsection. Of the amounts appropriated pursuant to paragraph (1) for fiscal year 1989, the Secretary shall obligate not less than 20 percent to carry out section 827.".

SEC. 702. ADVANCED NURSE EDUCATION.

Section 821(b) (42 U.S.C. 296l(b)) is amended to read as follows:

"(b) For payments under grants and contracts under this section, there are authorized to be appropriated $13,000,000 for fiscal year 1989, $13,000,000 for fiscal year 1990, and $20,000,000 for fiscal year 1991.". Appropriation authorization.

SEC. 703. NURSE PRACTITIONER AND NURSE MIDWIFE PROGRAMS.

(a) REQUIRED NUMBER OF STUDENTS IN TRAINING PROGRAMS.—Section 822(a)(2)(B)(ii) (42 U.S.C. 296m(a)(2)(B)(ii)) is amended by striking "not less than eight students" and inserting "not less than six full-time equivalent students".

(b) COMMITMENT UNDER TRAINEESHIP PROGRAM TO SERVE IN CERTAIN AREAS OR FACILITIES.—Section 822(b)(3) (42 U.S.C. 296m(b)(3)) is amended by striking "332)" and all that follows and inserting the following: "332), in an Indian Health Service health center, in a Native Hawaiian health center, in a public health care facility, in a migrant health center (as defined in section 329(a)(1)), in a rural health clinic (as defined in section 1861(aa)(2) of the Social Security Act), or in a community health center (as defined in section 330(a))".

(c) ASSURANCES OF COMPLIANCE WITH GUIDELINES.—Section 822(c) (42 U.S.C. 296m(c)) is amended—

(1) by inserting "under subsection (a) or (b)" after "operate a program"; and

(2) by striking "midwives unless this application" and inserting "midwives unless the application".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 822(d) (42 U.S.C. 296m(d)) is amended to read as follows:

"(d) For payments under grants and contracts under subsections (a) and (b), there are authorized to be appropriated $12,000,000 for fiscal year 1989, $17,000,000 for fiscal year 1990, and $21,000,000 for fiscal year 1991.".

SEC. 704. ENHANCEMENT OF QUALITY CARE.

(a) IN GENERAL.—Of the amounts appropriated for each of the fiscal years 1989 through 1991 to carry out titles VII and VIII of the Public Health Service Act, the Secretary of Health and Human Services shall, for each of such fiscal years, make available $650,000 for the purpose of enhancing the ability of a qualified hospital to provide high-quality inpatient services. For purposes of this subsection, the term "qualified hospital" means a hospital that, as of the date of the enactment of this Act, is the only general short-term acute care hospital located in a rural county that is adjacent to 7 counties, of which 1 such adjacent county is a county described in paragraph (8)(B) of section 1886(d) of the Act referred to in section 371(b)(1)(C) of the Public Health Service Act and, of the remaining 6

such adjacent counties, 5 such counties are (or are treated as) urban counties for purposes of such section 1886(d) and 1 such county is not (or is not treated as) an urban county for purposes of such section.

(b) PRO RATA DETERMINATION.—In making available amounts for a fiscal year for purposes of subsection (a), the Secretary of Health and Human Services may not reduce the amounts available for each program of titles VII and VIII of the Public Health Service Act by more than an amount equal to the product of—

(1) the amounts appropriated, after the date of the enactment of this Act, for carrying out the program involved for the fiscal year; and

(2) a percentage equal to the quotient of—

(A) $650,000; divided by

(B) the amounts appropriated, after the date of the enactment of this Act, for carrying out such titles VII and VIII.

SEC. 705. IMPROVING HEALTH CARE SERVICES.

(a) IN GENERAL.—Of the amounts appropriated for each of the fiscal years 1989 through 1991 to carry out titles VII and VIII of the Public Health Service Act, the Secretary of Health and Human Services shall, for each of such fiscal years, make available $210,000 for the purpose of improving the health care services furnished by a qualified hospital. For purposes of this subsection, the term "qualified hospital" means a hospital located in a rural county—

(1) that is adjacent to 6 counties, of which 3 adjacent counties are urban (2 of the urban counties being located in another State), and of which 2 of the adjacent rural counties are without hospital facilities,

(2) that is located within 7 miles of another urban county in a separate Metropolitan Statistical Area from the Metropolitan Statistical Area in which the urban counties adjacent to the rural counties are located,

(3) that has more than 17,500 residents but less than 17,550 residents according to the 1980 census,

(4) that has a workforce of which more than 39.5 percent of those reporting workplace commute to the adjacent urban counties to the 1980 census, and

(5) that has a health-related labor pool which is competitively impacted by, in addition to the normal competitive pressures of an urban labor market, the location in 1 of the adjacent urban counties (in another State) of several large health-related facilities, including that State's sole State-owned medical school/hospital complex with more than 5,500 employees, a large Veterans' Administration hospital with more than 1,000 beds, and a United States Army hospital with more than 350 beds.

(b) PRO RATA DETERMINATION.—In making available amounts for a fiscal year for purposes of subsection (a), the Secretary of Health and Human Services may not reduce the amounts available for each program of titles VII and VIII of the Public Health Service Act by more than an amount equal to the product of—

(1) the amounts appropriated, after the date of the enactment of this Act, for carrying out the program involved for the fiscal year; and

(2) a percentage equal to the quotient of—

(A) $210,000; divided by

(B) the amounts appropriated, after the date of the enactment of this Act, for carrying out such titles VII and VIII.

SEC. 706. INCENTIVE SPECIAL PAY FOR PUBLIC HEALTH SERVICE NURSES.

Uniformed services.

Subsection (a) of section 208 (42 U.S.C. 210(a)) is amended by adding at the end the following new paragraph:

"(3) Commissioned nurse officers in the Regular and Reserve Corps shall, while in active duty, be paid incentive special pay in the same amounts as, and under the same terms and conditions which apply to, the incentive special pay now or hereafter paid to commissioned nurse officers of the Armed Forces under chapter 5 of title 37, United States Code.".

SEC. 707. EXTENSION OF PERIOD FOR INSURANCE OF NEW LOANS.

Section 728(a) (42 U.S.C. 294a(a)) is amended—

(1) by inserting before the period at the end of the second sentence the following: ", and if in any fiscal year no ceiling has been established, any difference carried over shall constitute the ceiling for making new loans (including loans to new borrowers) and paying installments for such fiscal year."; and

(2) in the third sentence by striking "1991," and inserting "1994,".

Subtitle B—Assistance to Nursing Students

SEC. 711. TRAINEESHIPS FOR ADVANCED EDUCATION OF PROFESSIONAL NURSES.

(a) TRAINEESHIPS FOR CERTAIN PART-TIME STUDENTS IN ADVANCED NURSING PROGRAMS.—Section 830 (42 U.S.C. 297) is amended by redesignating subsection (c) as subsection (d) and inserting after subsection (b) the following new subsection:

"(c)(1) The Secretary may make grants to public and nonprofit private schools of nursing to cover the costs of traineeships for students—

Grants. Schools and colleges.

"(A) who are enrolled at least half-time in programs offering a masters degree in nursing; and

"(B) who agree to complete the requirements for degrees from such programs not later than the end of the academic year during which the student is to receive the traineeship.

"(2) In making grants under paragraph (1), the Secretary shall give special consideration to applications for traineeship programs that educate nursing students to serve in and prepare for practice as nurse practitioners, clinical specialists, or nurse midwives.".

(b) AUTHORIZATION OF APPROPRIATIONS FOR TRAINEESHIP PROGRAMS.—Section 830 (42 U.S.C. 297) is amended by amending subsection (d) (as redesignated by subsection (a) of this section) to read as follows:

"(d)(1)(A) For the purposes of subsections (a) and (c), there are authorized to be appropriated $13,000,000 for fiscal year 1989, $15,000,000 for fiscal year 1990, and $16,000,000 for fiscal year 1991.

"(B) Of the amounts made available pursuant to subparagraph (A), the Secretary shall make available not less than 25 percent to carry out subsection (c).

"(2) For the purposes of subsection (b), there is authorized to be appropriated $1,100,000 for each of the fiscal years 1989 through 1991.".

SEC. 712. NURSE ANESTHETISTS.

(a) TRAINEESHIPS AND OTHER PROGRAMS.—

(1) Section 831(a)(1) (42 U.S.C. 297-1(a)(1)) is amended to read as follows:

Grants.

"(1) The Secretary may make grants to public or private nonprofit institutions to cover the costs of traineeships for licensed registered nurses to become nurse anesthetists and to cover the costs of projects to develop and operate programs for the education of nurse anesthetists. In order to be eligible for such a grant, the program of an institution must be accredited by an entity or entities designated by the Secretary of Education and must meet such requirements as the Secretary shall by regulation prescribe.".

Regulations.

(2) Section 831(a)(2) (42 U.S.C. 297-1(a)(2)) is amended by amending the second sentence to read as follows: "Payments for traineeships shall be limited to such amounts as the Secretary determines to be necessary to cover the costs of tuition and fees and a stipend and allowances (including travel and subsistence expenses) for trainees.".

(b) AUTHORIZATION OF APPROPRIATIONS.—The first sentence of section 831(c) (42 U.S.C. 297-1(c)) is amended to read as follows: "For the purpose of making grants under this section, there is authorized to be appropriated $1,800,000 for each of the fiscal years 1989 through 1991.".

SEC. 713. LOAN PROVISIONS.

(a) RULE OF CONSTRUCTION WITH RESPECT TO CERTAIN UNCOLLECTABLE LOANS.—Section 835(c)(1) (42 U.S.C. 297a(c)(1)) is amended by adding at the end the following new sentence: "With respect to the student loan fund established pursuant to such agreements, this subsection may not be construed to require such schools to reimburse such loan fund for loans that became uncollectable prior to 1983.".

(b) INCREASES WITH RESPECT TO ANNUAL AND AGGREGATE LOAN TOTALS.—Section 836(a) (42 U.S.C. 297b(a)) is amended—

(1) in the first sentence, by inserting before the period the following: ", except that for the final two academic years of the program involved, such total may not exceed $4,000"; and

(2) in the second sentence, by striking "$10,000" and inserting "$13,000".

(c) PREFERENCE CATEGORY OF EXCEPTIONAL FINANCIAL NEED.—Section 836(a) (42 U.S.C. 297b(a)) is amended in the third sentence by striking "practical nurses and" and inserting "practical nurses, to persons with exceptional financial need, and".

(d) REDUCTION OF ELIGIBILITY STANDARD OF NEED.—Section 836(b)(1)(C) (42 U.S.C. 297b(b)(1)(C)) is amended to read as follows: "(C) with respect to any student enrolling in the school after June 30, 1986, is of financial need (as defined in regulations issued by the Secretary).".

(e) DEFERRAL PERIOD FOR HALF-TIME PROFESSIONAL TRAINING.—Section 836(b)(2)(B) (42 U.S.C. 297b(b)(2)(B)) is amended—

(1) by striking "(up to five years)" and inserting "(up to ten years)"; and

(2) by inserting after "full-time" the following: "or half-time".

(f) REDUCTION IN INTEREST RATE.—Section 836(b)(5) (42 U.S.C. 297b(b)(5)) is amended by striking "6 per centum" and inserting "5 percent".

(g) STRIKING OF LOW-INCOME PROVISIONS WITH RESPECT TO LOAN REPAYMENT.—Section 836(j) (42 U.S.C. 297b(j)) is amended by adding "and" at the end of paragraph (2), by striking paragraph (3), and by redesignating paragraph (4) as paragraph (3).

(h) USE OF CERTAIN UNEXPENDED FUNDS FOR ALLOTMENTS.—

(1) Section 838(a)(3) (42 U.S.C. 297d(a)(3)) is amended—

(A) by inserting "(A)" after the paragraph designation; and

(B) by adding at the end the following new subparagraph:

"(B) With respect to funds available pursuant to subparagraph (A), any such funds returned to the Secretary and not allotted by the Secretary, during the period of availability specified in such subparagraph, shall be available to carry out section 843 and, for such purpose, shall remain available until expended.".

(2) Except as provided in Public Law 100-436, the amendment made by paragraph (1) shall take effect as if such amendment had been effective on September 30, 1988, and as if section 843 of the Public Health Service Act, as added by section 715 of this title, had been effective on such date.

Effective date. 42 USC 297d note.

(i) EXTENSION OF DATE CERTAIN FOR CAPITAL DISTRIBUTION.—Section 839 (42 U.S.C. 297e) is amended—

(1) in subsection (a)—

(A) in the matter preceding paragraph (1), by striking "1991" and inserting "1994"; and

(B) in paragraph (1), by striking "1991" and inserting "1994"; and

(2) in subsection (b), by striking "1991" each place it appears and inserting "1994".

SEC. 714. LOAN REPAYMENTS FOR SERVICE IN CERTAIN HEALTH FACILITIES.

(a) AGREEMENTS FOR LOAN REPAYMENTS.—Section 836(h)(1)(C) (42 U.S.C. 297b(h)(1)(C)) is amended to read as follows:

"(C) who enters into an agreement with the Secretary to serve as nurse for a period of not less than two years in an Indian Health Service health center, in a Native Hawaiian health center, in a public hospital, in a migrant health center, in a community health center, in a nursing facility, in a rural health clinic, or in a health facility determined by the Secretary to have a critical shortage of nurses;".

(b) PRIORITIES WITH RESPECT TO AGREEMENTS.—Section 836(h) (42 U.S.C. 297b(h)) is amended by adding at the end the following new paragraph:

"(5) In entering into agreements under paragraph (1), the Secretary shall give priority—

"(A) to applicants with the greatest financial need; and

"(B) to applicants that, with respect to health facilities described in such paragraph, agree to serve in such health facilities located in geographic areas with a shortage of and need for nurses, as determined by the Secretary.".

(c) DEFINITIONS.—Section 836(h) (42 U.S.C. 297b(h)), as amended by subsection (b) of this section, is further amended by adding at the end the following new paragraph:

"(6) For purposes of this subsection:

"(A) The term 'community health center' has the meaning given such term in section 330(a).

"(B) The term 'migrant health center' has the meaning given such term in section 329(a)(1).

"(C) The term 'nursing facility' has the meaning given such term in section 1919(a) of the Social Security Act (as such section is in effect during fiscal year 1991 and subsequent fiscal years), except that for fiscal years 1989 and 1990, such term means an intermediate care facility and a skilled nursing facility, as such terms are defined in subsections (c) and (i), respectively, of section 1905 of the Social Security Act.

"(D) The term 'rural health clinic' has the meaning given such term in section 1861(aa)(2) of the Social Security Act.".

(d) AUTHORIZATION OF APPROPRIATIONS FOR LOAN REPAYMENTS.—Subpart II of part B of title VIII (42 U.S.C. 297a et seq.) is amended by inserting after section 837 the following new section:

"AUTHORIZATION OF APPROPRIATIONS FOR LOAN REPAYMENTS FOR SERVICE IN CERTAIN HEALTH FACILITIES

42 USC 297o-1.

"SEC. 837A. For the purpose of payments under agreements entered into under section 836(h), there is authorized to be appropriated $5,000,000 for each of the fiscal years 1989 through 1991.".

SEC. 715. NURSING SCHOLARSHIPS.

Part B of title VIII (42 U.S.C. 297 et seq.) is amended by adding at the end the following new subpart:

"Subpart III—Scholarships

"UNDERGRADUATE EDUCATION OF PROFESSIONAL NURSES

Grants.
42 USC 297j.

"SEC. 843. (a) The Secretary may make grants to public and nonprofit private schools accredited for the training of professional nurses for the purpose of providing scholarships to individuals who are enrolled (or accepted for enrollment) as nursing students of such schools and who are in financial need with respect to attending such schools.

"(b) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in providing scholarships pursuant to the grant, the applicant will give preference to individuals from disadvantaged backgrounds (as determined in accordance with criteria prescribed by the Secretary under section 844(a)).

"(c) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that, in providing scholarships pursuant to the grant, the applicant will provide a scholarship to an individual only if the individual agrees that, upon graduating from the program of nursing education offered by the applicant, the individual will serve as nurse for a period of not less than two years in an Indian Health Service health center, in a Native Hawaiian health center, in a public hospital, in a migrant health center, in a community health center, in a nursing facility, in a rural health clinic, or in a health facility determined by the Secretary to have a critical shortage of nurses.

"(d) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that a scholarship provided pursuant to such subsection for attendance at a school described in such subsection may not, for any year of such attendance for which the scholarship is made, provide an amount exceeding an amount

equal to the amount of the tuition and any fees for the year involved.

"(e) For purposes of this section:

"(1) The term 'community health center' has the meaning given such term in section 330(a).

"(2) The term 'migrant health center' has the meaning given such term in section 329(a)(1).

"(3) The term 'nursing facility' has the meaning given such term in section 1919(a) of the Social Security Act (as such section is in effect during fiscal year 1991 and subsequent fiscal years), except that for fiscal years 1989 and 1990, such term means an intermediate care facility and a skilled nursing facility, as such terms are defined in subsections (c) and (i), respectively, of section 1905 of the Social Security Act.

"(4) The term 'rural health clinic' has the meaning given such term in section 1861(aa)(2) of the Social Security Act.

"(f) For the purpose of making grants under this section, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and $30,000,000 for each of the fiscal years 1990 and 1991.". Appropriation authorization.

SEC. 716. ESTABLISHMENT OF DEMONSTRATION PROGRAM FOR STUDENT LOANS WITH RESPECT TO SERVICE IN CERTAIN HEALTH CARE FACILITIES IN UNDERSERVED AREAS.

Part B of title VIII (42 U.S.C. 297 et seq.), as amended by section 715 of this title, is further amended by adding at the end the following new subpart:

"Subpart IV—Demonstration Program For Student Loans With Respect to Service in Certain Health Care Facilities in Underserved Areas

"SEC. 847. ESTABLISHMENT OF PROGRAM. 42 USC 297.

"(a) IN GENERAL.—The Secretary may, subject to subsections (c) and (d), make loans to individuals to assist the individuals in attending schools of nursing if the individuals enter into contracts with health facilities to engage, in consideration of the agreements made pursuant to subsection (d) (relating to loan repayments), in full-time employment as nurses for a period of time equal to not more than the period of time during which the individuals receive loan assistance under this section.

"(b) PREFERENCES IN MAKING LOANS.—In making loans under subsection (a), the Secretary shall give preference to disadvantaged and minority individuals underrepresented in the nursing profession, as determined in accordance with criteria established by the Secretary. Contracts. Disadvantaged persons. Minorities.

"(c) CERTAIN REQUIREMENTS WITH RESPECT TO STUDENTS.—The Secretary may not make a loan under subsection (a) unless—

"(1) the applicant for the loan is enrolled (or accepted for enrollment) as a full-time student in a public or nonprofit school accredited for the training of professional nurses;

"(2) the applicant agrees to expend the loan only for the payment of the costs of tuition, reasonable living expenses, books, fees, and necessary transportation; and

"(3) the applicant agrees that, if the applicant is dismissed from the school for academic reasons, voluntarily terminates academic training as a nurse, or violates the contract entered into pursuant to subsection (a), the applicant will be liable to

the United States in an amount equal to 100 percent of the principal and interest due on the loan.

"(d) CERTAIN REQUIREMENTS WITH RESPECT TO HEALTH CARE FACILITIES.—The Secretary may not make a loan under subsection (a) unless, with respect to contracts referred to in such subsection—

"(1) the applicant for the loan has entered into such a contract with a health care facility that is a nonprofit hospital or a long-term care facility certified under title XVIII or XIX of the Social Security Act;

"(2) such health care facility is located in a geographic area that is underserved with respect to the services of nurses, as designated pursuant to subsection (e);

"(3) the contract provides that the health care facility will repay 100 percent of the principal and interest of the loan made to the applicant under subsection (a);

"(4) the contract provides that, in serving as a nurse at the health care facility, the payments made by the facility on behalf of the applicant in repayment of the loan will be in addition to the pay that the applicant would otherwise receive for such service; and

"(5) the contract provides that, in the event the health care facility violates the contract, the facility will be liable to the United States in an amount equal to 100 percent of the principal and interest due on such loan.

Regulations.

"(e) DESIGNATION OF UNDERSERVED GEOGRAPHIC AREAS.—For purposes of subsection (d)(2), the Secretary shall through regulation establish criteria for the designation of such areas. The Secretary may, as appropriate, designate geographic areas using criteria in section 330(b)(4).

"(f) MAXIMUM AMOUNT OF LOAN.—The Secretary may not provide a loan under subsection (a) in an amount exceeding 100 percent of the costs described in subsection (c)(2).

"(g) INTEREST.—Loans awarded under this section shall bear interest on the unpaid balance of the loan at a rate of 5 percent per annum. Such interest shall accrue from the date the individual involved is no longer enrolled in the nursing program.

Regulations.

"(h) WAIVER OR SUSPENSION OF STUDENT OBLIGATIONS.—The Secretary shall by regulation provide for the waiver or suspension of any obligation of any individual receiving a loan under subsection (a) whenever compliance by the individual is impossible or would involve extreme hardship to the individual.

"(i) REQUIREMENT OF APPLICATION.—The Secretary may not make a loan under subsection (a) unless—

"(1) an application for the loan is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the loan is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(j) SET-ASIDE WITH RESPECT TO RURAL AREAS.—Of the amounts appropriated for a fiscal year pursuant to subsection (l), the Secretary shall make available not less than 35 percent for loans under subsection (a) to individuals who will, pursuant to such loan, serve as nurses in rural areas designated under subsection (e) as geo-

graphic areas that are underserved with respect to the services of nurses.

"(k) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of making loans under subsection (a), there is authorized to be appropriated $5,000,000 for the fiscal years 1989 through 1991.

"(l) SUNSET.—The authority to make loans under subsection (a) terminates September 30, 1991.".

Subtitle C—General Provisions of Title VIII

SEC. 721. NATIONAL ADVISORY COUNCIL ON NURSE TRAINING.

(a) IN GENERAL.—Section 851 (42 U.S.C. 298) is amended—

(1) in the section heading, by striking "NATIONAL ADVISORY COUNCIL ON NURSE TRAINING" and inserting in lieu thereof "ADVISORY COUNCIL ON NURSES EDUCATION"; and

(2) in subsection (a)—

(A) in the first sentence—

(i) by striking "National Advisory Council on Nurse Training" and inserting in lieu thereof "Advisory Council on Nurses Education"; and

(ii) by striking "nineteen" and inserting "twenty-one"; and

(B) in the second sentence, by striking "general public" and inserting the following: "general public, one of the appointed members shall be selected from practicing professional nurses, one of the appointed members shall be selected from among representatives of associate degree schools of nursing,".

(b) CONFORMING AMENDMENTS.—

(1) Section 820 (42 U.S.C. 296k) is amended—

(A) in subsection (e) (as redesignated by section 701(b)(2)), by striking "National Advisory Council on Nurse Training" and inserting "Advisory Council on Nurses Education"; and

(B) in subsection (f) (as so redesignated), in the second sentence, by striking "National Advisory Council on Nurse Training" and inserting "Advisory Council on Nurses Education".

(2) Section 856(1) (42 U.S.C. 298b-3(1)) is amended by striking "National Advisory Council on Nurse Training" and inserting "Advisory Council on Nurses Education".

SEC. 722. EVALUATIONS AND REPORTS.

Part C of title VIII (42 U.S.C. 298 et seq.) is amended by adding at the end the following new section:

"EVALUATIONS

"SEC. 859. (a) The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of projects carried out pursuant to this title and for the dissemination of information developed as result of such projects. Such evaluations shall include an evaluation of the effectiveness of such projects in increasing the recruitment and retention of nurses. 42 USC 298b-6. Contracts.

"(b)(1) The Secretary shall, not later than January 10, 1989, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human

Resources of the Senate, a report describing the manner in which the Secretary intends to carry out subsection (a).

"(2) The Secretary shall, not later than January 10, 1991, and biannually thereafter, submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a report summarizing evaluations carried out pursuant to subsection (a) during the preceding two fiscal years.

"(c) Of the amounts appropriated each fiscal year to carry out this title, the Secretary shall make available one percent to carry out this section.".

Subtitle D—Waiver of Liability for Certain Sale of Facility Under Program of Construction and Modernization of Medical Facilities

SEC. 731. ESTABLISHMENT OF WAIVER AUTHORITY.

(a) IN GENERAL.—If, pursuant to subsection (b) of section 732, the Secretary of Health and Human Services makes a certification of compliance with the conditions described in subsection (a) of such section, section 609 of the Public Health Service Act (42 U.S.C. 291i) shall not, with respect to the transferor and transferee described in subsection (b), apply to the sale on November 26, 1986, of the medical facility—

Utah. (1) located in Blanding, in the State of Utah;

(2) known, prior to such date, as San Juan County Nursing Home; and

(3) with respect to which funds were received during the years 1967 through 1970 pursuant to title VI of the Public Health Service Act (42 U.S.C. 291 et seq.).

(b) DESCRIPTION OF PARTIES TO SALE.—In the sale described in subsection (a), the transferor is San Juan County, a political subdivision of the State of Utah, and the transferee is Auburn Manor Holding Corporation, a corporation under the laws of the State of California.

SEC. 732. CONDITIONS OF WAIVER.

(a) IN GENERAL.—The conditions referred to in section 731(a) are that, not later than the expiration of the 12-month period beginning on the date of the enactment of this Act—

(1)(A) San Juan County establish an irrevocable trust with a res of $321,057 for the sole purpose of satisfying, with respect to the medical facility described in section 731(a), the obligation of San Juan County under regulations issued under clause (2) of section 603(e) of the Public Health Service Act (42 U.S.C. 291c(e));

(B) except to the extent inconsistent with this title, San Juan establish such trust in accordance with regulations issued under section 609(d)(1)(A) of such Act for trusts established pursuant to such section; and

(C) San Juan County agree—

(i) except to the extent inconsistent with this title, to administer such trust in accordance with regulations issued under such section 609(d)(1)(A) of such Act; and

(ii) with respect to the obligation described in subparagraph (A)—

(I) to carry out such obligation at the medical facility known as San Juan County Hospital and located in Monticello, in the State of Utah;

(II) to ensure that uncompensated services provided at any location other than such medical facility will not be reimbursed from the trust established pursuant to subparagraph (A); and

(III) not to seek contribution from Auburn Corporation toward the satisfaction of such obligation; and

(2) Auburn Corporation agree—

(A) to satisfy, with respect to the medical facility described in section 731(a), the obligation of San Juan County under regulations issued under clause (1) of section 603(e) of the Public Health Service Act;

(B) to satisfy such obligation at the medical facility described in section 731(a); and

(C) not to seek contribution from San Juan County toward the satisfaction of such obligation.

(b) DETERMINATION AND CERTIFICATION OF SATISFACTION OF CONDITIONS.—The Secretary shall make a determination of whether the conditions described in subsection (a) are satisfied by San Juan County and Auburn Corporation within the period described in such subsection. If the Secretary makes a determination that the conditions have been satisfied, the Secretary shall certify to the Congress the fact of such determination.

SEC. 733. MONITORING OF COMPLIANCE WITH AGREEMENTS AND EFFECT OF FAILURE TO COMPLY.

(a) MONITORING.—The Secretary shall determine the extent to which San Juan County and Auburn Corporation are carrying out their respective duties under the agreements made pursuant to the conditions described in section 732(a).

(b) FAILURE TO COMPLY.—

(1) If the conditions described in section 732(a) are not satisfied by San Juan County and Auburn Corporation within the period described in such section, the Secretary shall ensure that proceedings under section 609 of the Public Health Service Act (42 U.S.C. 291i) with respect to the sale described in section 731(a) are commenced or continued against San Juan County or Auburn Corporation, or both, as determined by the Secretary.

(2) If San Juan County or Auburn Corporation fails to carry out its duties under the agreements made pursuant to the conditions described in section 732(a), the Secretary shall ensure that proceedings described in paragraph (1) are commenced or continued against San Juan County or Auburn Corporation, respectively.

SEC. 734. DEFINITIONS.

For purposes of this subtitle:

(1) The term "Auburn Corporation" means Auburn Manor Holding Corporation, a corporation under the laws of the State of California.

(2) The term "San Juan County" means San Juan County, a political subdivision of the State of Utah.

(3) The term "Secretary" means the Secretary of Health and Human Services.

TITLE VIII—REVISION AND EXTENSION OF PROGRAMS OF HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

SEC. 801. INCREASE IN REQUIRED AMOUNT OF MATCHING FUNDS AND MODIFICATION IN ELIGIBILITY FOR WAIVER WITH RESPECT TO MATCHING FUNDS.

(a) INCREASE IN REQUIRED AMOUNT.—Section 340(e)(1)(A) of the Public Health Service Act (42 U.S.C. 256(e)(1)(A)) is amended—

(1) in clause (i), by striking "under the grant; and" and inserting the following: "for the first fiscal year of payments under the grant and 66 2/3 percent of the costs of providing such services for any subsequent fiscal year of payments under the grant; and"; and

(2) in clause (ii), by striking "Federal funds" and all that follows and inserting the following: "Federal funds provided for the first fiscal year of payments under the grant and not less than $1 (in cash or in kind under such subparagraph) for each $2 of Federal funds provided for any subsequent fiscal year of payments under the grant.".

42 USC 256 note.

(b) EFFECTIVE DATE FOR INCREASE.—The amendments made by subsection (a) shall take effect October 1, 1989.

(c) MODIFICATION IN ELIGIBILITY FOR WAIVER.—Section 340(e)(2) of the Public Health Service Act (42 U.S.C. 256(e)(2)) is amended to read as follows:

"(2) The Secretary may waive the requirement established in paragraph (1)(A) if the applicant involved is a nonprofit private entity and the Secretary determines that it is not feasible for the applicant to comply with such requirement.".

SEC. 802. ESTABLISHMENT OF AUTHORITY FOR TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.

(a) IN GENERAL.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended—

(1) by redesignating subsections (h) through (q) as subsections (i) through (r), respectively; and

(2) by adding after subsection (g) the following new subsection:

"(h) TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.—If any grantee under subsection (a) has provided services described in subsection (f) or (g) to a homeless individual, any such grantee may, notwithstanding that the individual is no longer homeless as a result of becoming a resident in permanent housing, expend the grant to continue to provide such services to the individual for not more than 12 months.".

(b) CONFORMING AMENDMENTS.—

(1) Section 340(d)(1) of the Public Health Service Act (42 U.S.C. 256(d)(1)) is amended—

(A) in subparagraph (C), by striking "(h)" and inserting "(i)";

(B) in subparagraph (D), by striking "(i)" and inserting "(j)";

(C) in subparagraph (E), by striking "(j)" and inserting "(k)"; and

(D) in subparagraph (F), by striking "(k)" and inserting "(l)".

(2) Section 332(a)(3) of the Public Health Service Act (42 U.S.C. 254e(a)(3)) is amended by striking "340(q)(2)" and inserting "340(r)".

(3) Section 536(1) of the Public Health Service Act (42 U.S.C. 290cc-36(1)) is amended by striking "340(q)(2)" and inserting "340(r)".

SEC. 803. CLARIFICATION WITH RESPECT TO CERTAIN PROVISIONS.

(a) DEFINITION OF HOMELESS INDIVIDUAL.—Section 340(r)(2) of the Public Health Service Act (as redesignated in section 802(a)(1) of this title) is amended by striking "living accommodations." and inserting "living accommodations and an individual who is a resident in transitional housing.". 42 USC 256.

(b) PROVISION OF TECHNICAL ASSISTANCE.—Section 340(o)(2) of the Public Health Service Act (as redesignated in section 802(a)(1) of this title) is amended by striking "(p)(1)," and inserting "(q)(1) for a fiscal year,".

SEC. 804. AUTHORIZATION OF APPROPRIATIONS.

Section 340(q)(1) of the Public Health Service Act (as redesignated in section 802(a)(1) of this title) is amended by striking "There are authorized" and all that follows and inserting the following: "There are authorized to be appropriated to carry out this section $61,200,000 for fiscal year 1989, $63,600,000 for fiscal year 1990, and $66,200,000 for fiscal year 1991.". 42 USC 256.

Subtitle B—Block Grant for Community Mental Health Services

SEC. 811. AUTHORIZATION OF APPROPRIATIONS AND CONTINGENT CONVERSIONS TO CATEGORICAL PROGRAM.

(a) IN GENERAL.—Section 535 of the Public Health Service Act (42 U.S.C. 290cc-35) is amended to read as follows:

"FUNDING

"SEC. 535. (a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated $35,000,000 for each of the fiscal years 1989 and 1990 and such sums as may be necessary for fiscal year 1991.

"(b) EFFECT OF INSUFFICIENT APPROPRIATIONS FOR MINIMUM ALLOTMENTS.—

"(1) If the amounts made available pursuant to subsection (a) are insufficient for providing each State with an allotment under section 521(a) of not less than $150,000, the Secretary shall, from such amounts as are made available pursuant to

such subsection, make grants to the States for providing to homeless individuals the mental health services described in section 524.

"(2) Paragraph (1) may not be construed to require the Secretary to make a grant under such paragraph to each State.".

(b) FAILURE OF STATE WITH RESPECT TO EXPENDING ALLOTMENT.—Section 529 of the Public Health Service Act (42 U.S.C. 290cc-29) is amended to read as follows:

"CONVERSION TO STATE CATEGORICAL PROGRAM IN EVENT OF FAILURE OF STATE WITH RESPECT TO EXPENDING ALLOTMENT

Grants.

"SEC. 529. (a) IN GENERAL.—Subject to subsection (c), the Secretary shall, from amounts described in subsection (b), make grants to public and nonprofit private entities for the purpose of providing to homeless individuals the mental health services described in section 524.

"(b) DESCRIPTION OF FUNDS.—The amounts referred to in subsection (a) are any amounts made available in appropriations Acts for allotments under section 521(a) that are not allotted under such section to a State as a result of—

"(1) the failure of the State to submit an application under section 522;

"(2) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(3) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(c) REQUIREMENT OF PROVISION OF SERVICES IN CERTAIN STATES.—With respect to grants under subsection (a), amounts made available pursuant to subsection (b) as a result of the State involved shall be available only for grants to provide services in such State.".

SEC. 812. ELIGIBILITY OF TERRITORIES.

(a) DEFINITION OF STATE.—Section 536(3) of the Public Health Service Act (42 U.S.C. 290cc-36(3)) is amended by striking "Columbia," and all that follows and inserting the following: "Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.".

(b) MINIMUM ALLOTMENT.—Section 528(a)(1) of the Public Health Service Act (42 U.S.C. 290cc-28(a)(1)) is amended to read as follows:

"(1) $275,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico and $50,000 for each of Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and".

SEC. 813. TECHNICAL AND CONFORMING AMENDMENTS.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

42 USC 290cc-2.

(1) in section 521(a), by amending the first sentence to read as follows: "The Secretary shall for each of the fiscal years 1989 through 1991 make an allotment for each State in an amount determined in accordance with section 528.";

42 USC 290dd.

(2) in section 541(a)(4), by striking "522" and inserting "543";

42 USC 290ee.

(3) in section 545(d), by striking "526" and inserting "547"; and

(4) in section 546(a)(4), by striking "521" and inserting "542". 42 USC 290ee-1.

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

SEC. 821. MENTAL HEALTH SERVICES FOR HOMELESS INDIVIDUALS WITH CHRONIC MENTAL ILLNESS.

The first sentence of section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended to read as follows: "For payments pursuant to section 504(f) of the Public Health Service Act, there are authorized to be appropriated $11,000,000 for fiscal year 1989, $11,500,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991, in addition to any other amounts authorized to be appropriated for such payments for each of such fiscal years.".

SEC. 822. ALCOHOL AND DRUG ABUSE TREATMENT OF HOMELESS INDIVIDUALS.

Section 513(b) of the Public Health Service Act (42 U.S.C. 290bb-2(b)) is amended to read as follows:

"(b) There are authorized to be appropriated to carry out section 512(c) $14,000,000 for fiscal year 1989, $17,000,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991.".

Subtitle D—General Provisions

SEC. 831. EFFECTIVE DATES. 42 USC 256 note.

The amendments made by subsection (a) of section 801 shall take effect in accordance with subsection (b) of such section. The amendments otherwise made by this title shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

TITLE IX—TESTING OF CONVICTED FELONS

Prison Testing Act of 1988. AIDS.

SEC. 901. SHORT TITLE. 42 USC 300ee-6 note.

This title may be cited as the "Prison Testing Act of 1988".

SEC. 902. TESTING OF STATE PRISONERS. 42 USC 300ee-6.

State and local governments. Drugs and drug abuse.

(a) IN GENERAL.—To be eligible to receive funds under this section, the chief law enforcement officer of each State shall establish a State program to provide for the confidential testing of any individual convicted under State law, of an intravenous drug or sex offense on or after the date of enactment of this title.

(b) CONFIDENTIALITY.—

(1) IN GENERAL.—Except as otherwise provided, no person receiving identifying information regarding an individual tested pursuant to this section shall disclose or redisclose such information to any person.

(2) WAIVER.—The confidentiality of the testing required under subsection (a) shall be waived only so that—

(A) correctional personnel, as considered necessary under laws of the State or policies established by the State department of health, may have access to the information; and

(B) victims of rape may be informed of the result of the test, if the person convicted of the rape tests positive for exposure to the human immunodeficiency virus.

(c) MEDICAL TREATMENT OF DRUG AND SEX OFFENDERS.—The chief law enforcement officer of each State receiving funds under this section shall provide education and counseling through existing prison medical facilities to any individual tested for exposure to the human immunodeficiency virus established under subsection (a).

(d) FUNDING.—

(1) IN GENERAL.—The program established under subsection (a) shall be conducted in part using funds made available under this section.

(2) REQUIREMENT.—A State shall not receive funds under this section unless an application for such has been submitted to, and approved by, the Attorney General.

(3) CONTENTS.—An application submitted under paragraph (1) shall—

(A) be in such form and be submitted in such manner as the Attorney General may by regulation require; and

(B) contain—

(i) assurances by the chief executive officer of the State will provide, through existing medical facilities in State penal institutions, education and pre- and post-test counseling to any individual tested for exposure to the human immunodeficiency virus under this section;

(ii) a 50 percent cost share under subsection (a) by the State; and

(iii) such other information as the Attorney General may by regulation specify.

(e) DEFINITIONS.—As used in this section, the term "intravenous drug or sex offense" means—

(1) an offense that is punishable, under a State law relating to intravenous use of a controlled substance (other than a law relating to simple possession of a controlled substance), by imprisonment for a term exceeding one year;

(2) a State offense of the same type described under chapter 99 of title 18, United States Code, relating to rape; or

(3) a State criminal offense involving prostitution.

(f) REGULATIONS.—The Attorney General shall promulgate regulations to carry out this section, including regulations that determine the amount of funds that each State is entitled to receive under this section.

(g) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 1988 through 1990.

42 USC 300ee-6 note.

SEC. 903. STUDY BY ATTORNEY GENERAL.

Not later than 1 year after the date of enactment of this title, the Attorney General of the United States shall complete a study and submit a report to the appropriate Committees of Congress concerning the appropriateness or inappropriateness of mandated prison sentences for any individual convicted of an intravenous drug or sex

offense who thereafter knowingly places others at risk of becoming infected with the human immunodeficiency virus.

SEC. 904. EFFECTIVE DATE.

42 USC 300ee-6 note.

This title shall become effective 180 days after the date of enactment of this Act.

Approved November 4, 1988.

LEGISLATIVE HISTORY—S. 2889:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 13, considered and passed Senate and House.

Public Law 100-608
100th Congress

An Act

Nov. 5, 1988
[H.R. 1473]

To designate the building which will house the United States District Court for the Eastern District of Texas in Lufkin, Texas, as the "Ward R. Burke United States Courthouse".

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The building which will house the United States District Court for the Eastern District of Texas at Third Street and Lufkin Avenue in Lufkin, Texas, shall be known and designated as the "Ward R. Burke United States Courthouse".

SEC. 2. LEGAL REFERENCES.

Any reference in a law, map, regulation, document, record, or other paper of the United States to the building referred to in section 1 shall be deemed to be a reference to the "Ward R. Burke United States Courthouse".

Approved November 5, 1988.

LEGISLATIVE HISTORY—H.R. 1473:

HOUSE REPORTS: No. 100-133 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): June 15, considered and passed House.
Vol. 134 (1988): Oct. 21, considered and passed Senate.

Public Law 100-609
100th Congress

An Act

Granting the consent and approval of Congress to the addition of the State of Ohio as a party to the Middle Atlantic Interstate Forest Fire Protection Compact.

Nov. 5, 1988
[H.R. 2756]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

ADDITION OF OHIO TO THE MIDDLE ATLANTIC INTERSTATE FOREST FIRE PROTECTION COMPACT

The Act entitled "An Act granting the consent and approval of Congress to the Middle Atlantic Interstate Forest Fire Protection Compact", approved July 25, 1956 (70 Stat. 636), is amended—

(1) by redesignating section 2 as section 3; and

(2) by inserting after the first section the following new section:

"SEC. 2. The consent and approval of Congress is hereby given to the addition of the State of Ohio as a party to the Middle Atlantic Interstate Forest Fire Protection Compact. For the purposes of this section, Article II of such Compact shall be deemed to include the State of Ohio.".

Approved November 5, 1988.

LEGISLATIVE HISTORY—H.R. 2756:

HOUSE REPORTS: No. 100-613 (Comm. on Agriculture).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 10, considered and passed House.
Oct. 21, considered and passed Senate.

Public Law 100-610
100th Congress

An Act

Nov. 5, 1988
[H.R. 4517]

To amend title III of the Outer Continental Shelf Lands Act Amendments of 1978 to provide for indemnification and hold harmless agreements.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Outer Continental Shelf Operations Indemnification Clarification Act of 1988.
43 USC 1801 note.

TITLE I

SECTION 1. SHORT TITLE.

This Act may be cited as the "Outer Continental Shelf Operations Indemnification Clarification Act of 1988".

SEC. 2. INDEMNITY AGREEMENTS.

43 USC 1815.

Section 305 of the Outer Continental Shelf Lands Act Amendments of 1978 (43 U.S.C. 1802 et seq.) is amended by adding at the end the following new subsection:

"(e) Any owner or operator of an offshore facility may enter into an indemnity, hold harmless, or similar agreement with any person holding a lease on the Outer Continental Shelf with respect to any liability arising under this title. Notwithstanding the provision of this subsection, any such indemnity, hold harmless, or similar agreement shall not relieve such owner, operator, or person from liability arising under this title. Nothing in this subsection shall be construed to alter or in any way affect the financial responsibility requirements imposed under this section.".

SEC. 3. GUARANTOR'S LIABILITY.

Section 305 of the Outer Continental Shelf Lands Act Amendments of 1978 is amended by redesignating subsection (c) as (c)(1) and adding a new subsection (c)(2) to read as follows:

"(2) The total liability of any guarantor in a direct action suit brought under this section shall be limited to the aggregate amount of the monetary limits of the policy of insurance, guarantee, surety bond, letter of credit, or similar instrument obtained from the guarantor by the person subject to liability. Nothing in this subsection shall be construed, interpreted or applied to diminish the liability of any person under this Act or other applicable law.".

Birds.
Conservation.
Fish and fishing.
Research and development.
16 USC 668dd note.

TITLE II—PETTAQUAMSCUTT COVE NATIONAL WILDLIFE REFUGE

SEC. 201. FINDINGS.

The Congress finds that—

(1) Pettaquamscutt Cove, and the associated tidal marshes and mudflats, and dividing the towns of Narragansett and South Kingstown, Rhode Island, has been identified as the most important black duck migration and wintering habitat in

Rhode Island, in accordance with the objectives of the North American Waterfowl Plan;

(2) Pettaquamscutt Cove provides important migration and wintering habitat for various other species of waterfowl, valuable feeding habitat for shorebirds, terns, gulls, and wading birds, and habitat for many species of finfish and shellfish;

(3) Pettaquamscutt Cove is home to several State-listed Rare and Uncommon animal and plant species; and

(4) designation of this area as a National Wildlife Refuge would significantly aid in the conservation of these fish and wildlife resources.

SEC. 202. PURPOSES.

The purposes for which the Pettaquamscutt Cove National Wildlife Refuge is established and shall be managed include—

(1) to protect and enhance the populations of black ducks and other waterfowl, geese, shorebirds, terns, wading birds, and other wildlife using the refuge;

(2) to provide for the conservation and management of fish and wildlife within the refuge;

(3) to fulfill the international treaty obligations of the United States respecting fish and wildlife; and

(4) to provide opportunities for scientific research, environmental education, and fish and wildlife-oriented recreation.

SEC. 203. DEFINITIONS.

For the purposes of this Act—

(1) the term "refuge" means the Pettaquamscutt Cove National Wildlife Refuge;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "selection area" means the lands and waters of the Pettaquamscutt Watershed in the State of Rhode Island.

SEC. 204. ESTABLISHMENT OF REFUGE.

(a)(1) Within one year after the effective date of this Act the Secretary shall designate approximately 600 acres of land and waters within the selection area which the Secretary considers appropriate for the refuge.

(2) After making such designation, the Secretary shall publish in the Federal Register, and in newspapers of local circulation, a notice of availability of a detailed map depicting the boundaries of the land so designated, which map shall be on file and available for inspection in the office of the Director of the United States Fish and Wildlife Service, Department of the Interior, and in appropriate offices of the United States Fish and Wildlife Service in the State of Rhode Island. Federal Register, publication.

(b) BOUNDARY REVISIONS.—The Secretary may make such minor revisions in the boundaries designated under this section as may be appropriate to carry out the purpose of this Act or to facilitate the acquisition of property within the refuge.

(c) ACQUISITION.—After determination of the boundaries of the refuge in accordance with the provisions of subsection (a) of this section, the Secretary is authorized to acquire the lands and waters, or interests therein, within the boundary of the refuge.

(d) ESTABLISHMENT.—The Secretary shall establish the National Wildlife Refuge, by publication of a notice to that effect in the Federal Register, publication.

Federal Register and publications of local circulation, whenever sufficient property has been acquired within the boundary of the refuge to constitute an area that can be effectively managed as a National Wildlife Refuge.

SEC. 205. ADMINISTRATION.

The Secretary shall administer all lands, waters, and interests therein acquired under this Act in accordance with the provisions of the National Wildlife Refuge System Administration Act of 1968 (16 U.S.C. 668dd-668ee). The Secretary may utilize such additional statutory authority as may be available to him for the conservation and development of wildlife and natural resources, the development of recreation opportunities, and interpretive education, as he deems appropriate to carry out the purposes of this Act.

SEC. 206. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Department of the Interior—

(a) such funds as may be necessary for the acquisition of lands and waters designated in section 4(a)(1); and

(b) such funds as may be necessary for the development, operation and maintenance of the refuge.

SEC. 207. EFFECTIVE DATE.

This Act shall take effect on the date of its enactment.

Approved November 5, 1988.

LEGISLATIVE HISTORY—H.R. 4517:

HOUSE REPORTS: No. 100-710 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 19, House concurred in Senate amendment.

Public Law 100-611
100th Congress

An Act

To amend title 5, United States Code, with respect to certain programs under which awards may be made to Federal employees for superior accomplishments or cost savings disclosures, and for other purposes.

Nov. 5, 1988
[H.R. 4574]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SEC. 1. EXPIRATION DATE OF PROGRAM.

(a) Section 4514 of title 5, United States Code, is amended to read as follows:

"§ 4514. Expiration of authority

"No award may be made under this subchapter after September 30, 1990.".

(b) The table of sections for chapter 45 of title 5, United States Code, is amended by amending the item relating to section 4514 to read as follows:

"4514. Expiration of authority.".

Approved November 5, 1988.

LEGISLATIVE HISTORY—H.R. 4574:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
Oct. 19, considered and passed Senate, amended.
Oct. 20, House concurred in Senate amendment.

Public Law 100-612
100th Congress

An Act

Nov. 5, 1988
[H.R. 5104]

To improve the efficiency and effectiveness of the management and disposal of Federal real and personal property.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Property Management Improvement Act of 1988.
40 USC 471 note.

SECTION 1. This Act may be cited as the "Federal Property Management Improvement Act of 1988".

SEC. 2. Section 201(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 481(c)) is amended by adding at the end thereof the following new sentence: "Sales of property pursuant to this subsection shall be governed by section 3709 of the Revised Statutes (41 U.S.C. 5), except that fixed price sales may be conducted in the same manner and subject to the same conditions as are applicable to the sale of property pursuant to section 203(e)(5) of this Act.".

SEC. 3. Section 203(e)(5) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(e)(5)) is amended—

(1) by inserting "(A)" after "(5)"; and

(2) by adding at the end thereof the following:

"(B) Under regulations and restrictions to be prescribed by the Administrator, property to be sold pursuant to this paragraph may be offered to organizations specified in paragraph (3)(H) of this subsection that have expressed an interest in the property to permit such an organization a prior opportunity to purchase at the prices fixed for such property.".

SEC. 4. (a) Section 203(e)(6) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(e)(6)) is amended to read as follows:

"(6)(A) Except as otherwise provided by subparagraph (C) of this paragraph, an explanatory statement shall be prepared of the circumstances of each disposal by negotiation of—

"(i) any personal property which has an estimated fair market value in excess of $15,000;

"(ii) any real property that has an estimated fair market value in excess of $100,000, except that any real property disposed of by lease or exchange shall only be subject to clauses (iii) through (v) of this subparagraph;

"(iii) any real property disposed of by lease for a term of 5 years or less, if the estimated fair annual rent is in excess of $100,000 for any of such years;

"(iv) any real property disposed of by lease for a term of more than 5 years, if the total estimated rent over the term of the lease is in excess of $100,000; or

"(v) any real property or real and related personal property disposed of by exchange, regardless of value, or any property any part of the consideration for which is real property.

"(B) Each such statement shall be transmitted to the appropriate committees of the Congress in advance of such disposal, and a copy

thereof shall be preserved in the files of the executive agency making such disposal.

"(C) No such statement need be transmitted to any such committee with respect to any disposal of personal property made under paragraph (5) at a fixed price, or to property disposals authorized by any other provision of law to be made without advertising.

"(D) The annual report of the Administrator under section 212 shall contain or be accompanied by a listing and description of any negotiated disposals of surplus property having an estimated fair market value of more than $15,000, in the case of real property, or $5,000, in the case of any other property, other than disposals for which an explanatory statement has been transmitted under this paragraph.".

(b) Section 203(e)(3)(E) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(e)(3)(E)) is amended by striking out "$1,000" and inserting "$15,000".

SEC. 5. Section 203(o) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 484(o)) is amended to read as follows:

"(o)(1) With respect to real and related personal property transferred or conveyed under subsection (p) of this section and real property disposed of under subsection (k) of this section and section 13(g) of the Surplus Property Act of 1944 (50 U.S.C. App. 1622(g)), the head of each executive agency disposing of such property shall submit during the calendar quarter following the close of each fiscal year a report to the Congress and to the Administrator showing the acquisition cost and the sale or lease value of all real and related personal property so disposed of during the preceding fiscal year. Such reports shall also show transfers or conveyances of property according to State, and may include such other information and recommendations as the Administrator or other executive agency head concerned deems appropriate. Reports.

"(2) Six months after the end of the first full fiscal year after the date of enactment of this paragraph, and biennially thereafter, the Administrator shall transmit a report to the Congress that covers the initial period from such effective date and each succeeding biennial period and contains—

"(A) a full and independent evaluation of the operation of programs for the donation of Federal surplus personal property,

"(B) statistical information on the amount of excess personal property transferred to Federal agencies and provided to grantees and non-Federal organizations and surplus personal property approved for donation to the State Agencies for Surplus Property and donated to eligible non-Federal organizations during each succeeding biennial period, and

"(C) such recommendations as the Administrator determines to be necessary or desirable.

"(3) A copy of each report made under paragraph (2) shall also be simultaneously furnished to the Comptroller General of the United States. The Comptroller General shall review and evaluate the report and make any comments and recommendations to the Congress thereon, as he deems necessary or desirable.".

SEC. 6. Section 204(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 485(b)) is amended—

(1) by striking out "Bureau of the Budget" each place it appears and inserting "Office of Management and Budget";

(2) by inserting "for costs of environmental and historic preservation services," after "realty brokers," in the second sentence.

SEC. 7. Section 207(c) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 488(c)) is amended to read as follows:

"(c) This section shall not apply to the disposal of—

"(1) real property, if the estimated fair market value is less than $3,000,000; or

"(2) personal property (other than a patent, process, technique, or invention), if the estimated fair market value is less than $3,000,000.".

SEC. 8. Section 10 of Public Law 94-519 (40 U.S.C. 493, 90 Stat. 2457) is repealed.

Approved November 5, 1988.

LEGISLATIVE HISTORY—H.R. 5104:

HOUSE REPORTS: No. 100-897 (Comm. on Government Operations).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Oct. 20, considered and passed Senate.

Public Law 100-613
100th Congress

An Act

To provide that the Consumer Product Safety Commission amend its regulations regarding lawn darts.

Nov. 5, 1988
[H.R. 5552]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That notwithstanding any other provision of law, not later than 60 days after the date of enactment of this Act, the Consumer Product Safety Commission shall amend its regulations to revoke exemption regarding lawn darts and other similar sharp-pointed toys contained in section 1500.86(a)(3) of title 16, Code of Federal Regulations, unless the Commission finds that such products do not have the potential for causing puncture wound injury.

Approved November 5, 1988.

LEGISLATIVE HISTORY—H.R. 5552:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 20, considered in House.
Oct. 21, considered and passed House and Senate.

Public Law 100-614
100th Congress

Joint Resolution

Nov. 5, 1988
[H.J. Res. 438]

Designating November 4, 1988, as "National Teacher Appreciation Day".

Whereas education of the Nation's youth is the foundation of the Nation's future;
Whereas education is a lifelong process which is beneficial to the individual and thus beneficial to the entire Nation;
Whereas teachers deserve credit for their invaluable role in providing education;
Whereas teaching not only involves traditional areas of education, but today also includes vocational education, continuing education, and education for special needs;
Whereas teachers contribute not only to the academic growth of students, but also to their ethical, social, and emotional development;
Whereas Sharon Christa McAuliffe, a high school history teacher, exemplified the attributes of the Nation's teachers and made a unique contribution to the teaching profession through her participation in the space shuttle program which, tragically, resulted in her death;
Whereas a student's respect for his or her teacher is essential to the student's ability to learn; and
Whereas the contributions of teachers should be celebrated often in order to honor the role of teachers in society and to affirm and foster respect for teachers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 4, 1988, is designated as "National Teacher Appreciation Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate programs, ceremonies, and activities.

Approved November 5, 1988.

LEGISLATIVE HISTORY—H.J. Res. 438:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 21, considered and passed House and Senate.

Public Law 100-615
100th Congress

An Act

To amend the National Energy Conservation Policy Act with respect to the energy policy of the United States.

Nov. 5, 1988
[S. 1382]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Energy Management Improvement Act of 1988. 42 USC 8201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Energy Management Improvement Act of 1988".

SEC. 2. FEDERAL ENERGY MANAGEMENT IMPROVEMENTS.

(a) IN GENERAL.—Part 3 of title V of the National Energy Conservation Policy Act (42 U.S.C. 8251-8261) is amended to read as follows:

"PART 3—FEDERAL ENERGY MANAGEMENT

"SEC. 541. FINDINGS.

"The Congress finds that—

"(1) the Federal Government is the largest single energy consumer in the Nation;

"(2) the cost of meeting the Federal Government's energy requirement is substantial;

"(3) there are significant opportunities in the Federal Government to conserve and make more efficient use of energy through improved operations and maintenance, the use of new energy efficient technologies, and the application and achievement of energy efficient design and construction;

"(4) Federal energy conservation measures can be financed at little or no cost to the Federal Government by using private investment capital made available through contracts authorized by title VIII of this Act; and

"(5) an increase in energy efficiency by the Federal Government would benefit the Nation by reducing the cost of government, reducing national dependence on foreign energy resources, and demonstrating the benefits of greater energy efficiency to the Nation.

"SEC. 542. PURPOSE.

"It is the purpose of this part to promote the conservation and the efficient use of energy by the Federal Government.

"SEC. 543. ENERGY MANAGEMENT GOALS.

"(a) ENERGY PERFORMANCE GOAL FOR FEDERAL BUILDINGS.—(1) Subject to paragraph (2), each agency shall apply energy conservation measures to, and shall improve the design for the construction of, its Federal buildings so that the energy consumption per gross square foot of its Federal buildings in use during the fiscal year 1995 is at least 10 percent less than the energy consumption per gross

square foot of its Federal buildings in use during the fiscal year 1985.

"(2) An agency may exclude from the requirements of paragraph (1) any building, and the associated energy consumption and gross square footage, in which energy intensive activities are carried out. Each agency shall identify and list in each report made under section 548(a) the buildings designated by it for such exclusion.

"(b) IMPLEMENTATION STEPS.—To achieve the goal established in subsection (a), each agency shall—

"(1) prepare or update, within 6 months after the date of the enactment of the Federal Energy Management Improvement Act of 1988, a plan describing how the agency intends to meet such goal, including how it will implement this part, designate personnel primarily responsible for achieving such goal, and identify high priority projects;

"(2) perform energy surveys of its Federal buildings to the extent necessary;

"(3) using such surveys, apply energy conservation measures in a manner which will attain the goal established in subsection (a) in the most cost-effective manner practicable; and

"(4) ensure that the operation and maintenance procedures applied under this section are continued.

Public buildings and grounds.

"SEC. 544. ESTABLISHMENT AND USE OF LIFE CYCLE COST METHODS AND PROCEDURES.

"(a) ESTABLISHMENT OF LIFE CYCLE COST METHODS AND PROCEDURES.—The Secretary, in consultation with the Director of the Office of Management and Budget, the Secretary of Defense, the Director of the National Bureau of Standards, and the Administrator of the General Services Administration, shall—

"(1) establish practical and effective present value methods for estimating and comparing life cycle costs for Federal buildings, using the sum of all capital and operating expenses associated with the energy system of the building involved over the expected life of such system or during a period of 25 years, whichever is shorter, and using average fuel costs and a discount rate determined by the Secretary; and

"(2) develop and prescribe the procedures to be followed in applying and implementing the methods so established.

"(b) USE OF LIFE CYCLE COST METHODS AND PROCEDURES.—(1) The design of new Federal buildings, and the application of energy conservation measures to existing Federal buildings, shall be made using life cycle cost methods and procedures established under subsection (a).

"(2) In leasing buildings for its own use or that of another agency, each agency shall give appropriate preference to buildings which minimize life cycle costs.

Public information.

"(c) USE IN NON-FEDERAL STRUCTURES.—The Secretary shall make available information to the public on the use of life cycle cost methods in the construction of buildings, structures, and facilities in all segments of the economy.

"SEC. 545. BUDGET TREATMENT FOR ENERGY CONSERVATION MEASURES.

"Each agency, in support of the President's annual budget request to the Congress, shall specifically set forth and identify funds requested for energy conservation measures.

"SEC. 546. INCENTIVES FOR AGENCIES. Contracts.

"(a) IN GENERAL.—Each agency shall establish a program of incentives for conserving, and otherwise making more efficient use of, energy as a result of entering into contracts under title VIII of this Act.

"(b) IMPLEMENTATION.—The head of each agency shall, no later than 120 days after the date of the enactment of the Federal Energy Management Improvement Act of 1988, implement procedures for entering into such contracts and for identifying, verifying, and utilizing, on a fiscal year basis, the cost savings resulting from such contracts.

"(c) USE OF SAVINGS.—The portion of the funds appropriated to an agency for energy expenses for a fiscal year that is equal to the amount of cost savings realized by such agency for such year from contracts entered into under title VIII shall remain available for obligation, without further appropriation, to undertake additional energy conservation measures.

"SEC. 547. INTERAGENCY ENERGY MANAGEMENT TASK FORCE.

"(a) IN GENERAL.—To assist the interagency committee organized under section 656 of the Department of Energy Organization Act (42 U.S.C. 7266) to coordinate the activities of the Federal Government in promoting energy conservation and the efficient use of energy and in informing non-Federal entities of the Federal experience in energy conservation, the Secretary shall establish an Interagency Energy Management Task Force (hereafter in this section referred to as the 'Task Force').

"(b) MEMBERS.—The Task Force shall be composed of the chief energy managers of agencies represented on the interagency committee organized under section 656 of the Department of Energy Organization Act.

"(c) DUTIES.—The Task Force shall meet when the Secretary requests, but not less often than twice a year, to—

"(1) assess the progress of the various agencies in achieving energy savings;

"(2) collect and disseminate information to agencies, States, local governments, and the public on effective survey techniques, innovative approaches to the efficient use of energy, incentive programs developed under section 546, innovative contracting methods developed under title VIII of this Act, the use of cogeneration facilities and renewable resources, and other technologies that promote the conservation and efficient use of energy; State and local governments. Public information.

"(3) coordinate energy surveys conducted by the agencies;

"(4) develop options for use in conserving energy;

"(5) report to the committee organized under section 656 of the Department of Energy Organization Act; and Reports.

"(6) review, from time to time as may be necessary, the regulations relating to building temperature settings to determine whether changes in such regulations would be appropriate to assist in meeting the goals specified in section 543.

"SEC. 548. REPORTS.

"(a) REPORTS TO THE SECRETARY.—Each agency shall transmit a report to the Secretary, at times specified by the Secretary but at least annually, with complete information on its activities under this part, including information on—

"(1) the agency's progress in achieving the goals established by section 543; and

"(2) the procedures being used by the agency pursuant to section 546(b), the number of contracts entered into by such agency under title VIII of this Act, the energy and cost savings that have resulted from such contracts, the use of such cost savings under section 546(c), and any problem encountered in entering into such contracts and otherwise implementing section 546.

"(b) REPORTS TO CONGRESS.—The Secretary shall report annually, with respect to each fiscal year beginning after the date of the enactment of this subsection, to the Congress—

"(1) on all activities carried out under this part and on the progress made toward achievement of the objectives of this part, including a copy of the list of the exclusions made under section 543(a)(2);

"(2) the number of contracts entered into by all agencies under title VIII of this Act, the difficulties (if any) encountered in attempting to enter into such contracts, and proposed solutions to those difficulties; and

"(3) the extent and nature of interagency exchange of information concerning the conservation and efficient utilization of energy.

"SEC. 549. DEFINITIONS.

"For the purposes of this part—

"(1) the term 'agency' has the meaning given it in section 551(1) of title 5, United States Code;

"(2) the term 'construction' means new construction or substantial rehabilitation of existing structures;

"(3) the term 'cogeneration facilities' has the same meaning given such term in section 3(18)(A) of the Federal Power Act (16 U.S.C. 796(18)(A));

"(4) the term 'energy conservation measures' means measures that are applied to a Federal building that improve energy efficiency and are life cycle cost effective and that involve energy conservation, cogeneration facilities, renewable energy sources, improvements in operations and maintenance efficiencies, or retrofit activities;

"(5) the term 'energy survey' means a procedure used to determine energy and cost savings likely to result from the use of appropriate energy related maintenance and operating procedures and modifications, including the purchase and installation of particular energy-related equipment and the use of renewable energy sources;

"(6) the term 'Federal building' means any building, structure, or facility, or part thereof, including the associated energy consuming support systems, which is constructed, renovated, leased, or purchased in whole or in part for use by the Federal Government and which consumes energy; such term also means a collection of such buildings, structures, or facilities and the energy consuming support systems for such collection;

"(7) the term 'life cycle cost' means the total costs of owning, operating, and maintaining a building over its useful life (including such costs as fuel, energy, labor, and replacement components) determined on the basis of a systematic evaluation and comparison of alternative building systems, except that in

the case of leased buildings, the life cycle costs shall be calculated over the effective remaining term of the lease;

"(8) the term 'renewable energy sources' includes, but is not limited to, sources such as agriculture and urban waste, goethermal energy, solar energy, and wind energy; and

"(9) the term 'Secretary' means the Secretary of Energy.".

(b) CONFORMING AMENDMENT.—Section 381(c) of the Energy Policy and Conservation Act (42 U.S.C. 6361(c)) is amended to read as follows:

"(c) The Secretary shall include in the report required under section 548(b) of the National Energy Conservation Policy Act the steps taken under subsections (a) and (b) of this section.".

(c) TECHNICAL AMENDMENT.—Part 3 of title V of the table of contents of the National Energy Conservation Policy Act is amended to read as follows:

"PART 3—FEDERAL ENERGY MANAGEMENT

"Sec. 541. Findings.
"Sec. 542. Purpose.
"Sec. 543. Energy management goals.
"Sec. 544. Establishment and use of life cycle cost methods and procedures.
"Sec. 545. Budget treatment for energy conservation measures.
"Sec. 546. Incentives for agencies.
"Sec. 547. Interagency Energy Management Task Force.
"Sec. 548. Reports.
"Sec. 549. Definitions.".

SEC. 3. SURVEY OF ENERGY SAVING POTENTIAL.

Public buildings and grounds. 42 USC 8253 note.

(a) IN GENERAL.—The Secretary of Energy shall, using funds appropriated to carry out this section, carry out an energy survey, as defined in section 549(5) of the National Energy Conservation Policy Act, for the purposes of—

(1) determining the maximum potential cost effective energy savings that may be achieved in a representative sample of buildings owned or leased by the Federal Government in different areas of the country; and

(2) making recommendations for cost effective energy efficiency and renewable energy improvements in those buildings and in other similar Federal buildings.

(b) IMPLEMENTATION.—(1) The Secretary shall transmit to the Congress, within 180 days after the date on which funds are appropriated to carry out this section, a plan for implementing this section.

(2) The Secretary shall designate buildings to be surveyed in the project so as to obtain a sample of buildings of the types and in the climates that is representative of the buildings owned or leased by Federal agencies in the United States that consume the major portion of the energy consumed in Federal buildings.

(3) For purposes of this section, an improvement shall be considered cost effective if the cost of the energy saved or displaced by the improvement exceeds the cost of the improvement over the remaining life of a Federal building or the remaining term of a lease of a building leased by the Federal Government as determined by the life cycle costing methodology developed under section 544 of the National Energy Conservation Policy Act.

(c) PERSONNEL.—(1) In carrying out this section, the Secretary shall utilize personnel who are—

(A) employees of the Department of Energy; or

(B) selected by the agencies utilizing the buildings which are being surveyed under this section.

(2) Such personnel shall be detailed for the purpose of carrying out this section without any reduction of salary or benefits.

(d) REPORT.—As soon as practicable after the completion of the project carried out under this section, the Secretary shall transmit a report of the findings and conclusions of the project to the Congress and to the agencies who own the buildings involved in such project.

(e) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $250,000 to carry out this section.

15 USC 5001.

SEC. 4. PENALTIES FOR ENTERING INTO COMMERCE OF IMITATION FIREARMS.

(a) It shall be unlawful for any person to manufacture, enter into commerce, ship, transport, or receive any toy, look-alike, or imitation firearm unless such firearm contains, or has affixed to it, a marking approved by the Secretary of Commerce, as provided in subsection (b).

(b)(1) Except as provided in paragraph (2) or (3), each toy, look-alike, or imitation firearm shall have as an integral part, permanently affixed, a blaze orange plug inserted in the barrel of such toy, look-alike, or imitation firearm. Such plug shall be recessed no more than 6 millimeters from the muzzle end of the barrel of such firearm.

(2) The Secretary of Commerce may provide for an alternate marking or device for any toy, look-alike, or imitation firearm not capable of being marked as provided in paragraph (1) and may waive the requirement of any such marking or device for any toy, look-alike, or imitation firearm that will only be used in the theatrical, movie or television industry.

(3) The Secretary is authorized to make adjustments and changes in the marking system provided for by this section, after consulting with interested persons.

(c) For purposes of this section, the term "look-alike firearm" means any imitation of any original firearm which was manufactured, designed, and produced since 1898, including and limited to toy guns, water guns, replica nonguns, and air-soft guns firing nonmetallic projectiles. Such term does not include any look-alike, nonfiring, collector replica of an antique firearm developed prior to 1898, or traditional B–B, paint-ball, or pellet-firing air guns that expel a projectile through the force of air pressure.

Reports.

(d) The Director of the Bureau of Justice Statistics is authorized and directed to conduct a study of the criminal misuse of toy, look-alike and imitation firearms, including studying police reports of such incidences and shall report on such incidences relative to marked and unmarked firearms.

(c) The Director of National Institute of Justice is authorized and directed to conduct a technical evaluation of the marking systems provided for in subsection (b) to determine their effectiveness in police combat situations. The Director shall begin the study within 3 months after the date of enactment of this section and such study shall be completed within 9 months after such date of enactment.

Effective date.

(f) This section shall become effective on the date 6 months after the date of its enactment and shall apply to toy, look-alike, and imitation firearms manufactured or entered into commerce after such date of enactment.

(g) The provisions of this section shall supersede any provision of State or local laws or ordinances which provide for markings or identification inconsistent with provisions of this section provided that no State shall— State and local governments.

(i) prohibit the sale or manufacture of any look-alike, nonfiring, collector replica of an antique firearm developed prior to 1898, or

(ii) prohibit the sale (other than prohibiting the sale to minors) of traditional B-B, paint ball, or pellet-firing air guns that expel a projectile through the force of air pressure.

Approved November 5, 1988.

LEGISLATIVE HISTORY—S. 1382 (H.R. 4065):

HOUSE REPORTS: No. 100-684 accompanying H.R. 4065 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-256 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 18, considered and passed Senate.
Vol. 134 (1988): June 27, 28, H.R. 4065 considered and passed House.
June 29, S. 1382 considered and passed House, amended.
Oct. 11, Senate concurred in House amendments with an amendment.
Oct. 12, House concurred in Senate amendment.

Public Law 100-616
100th Congress

An Act

Nov. 5, 1988
[S. 1991]

Entitled "Uranium Mill Tailings Remedial Action Amendments Act of 1988".

Uranium Mill Tailings Remedial Action Amendments Act of 1988.
42 USC 7901 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Uranium Mill Tailings Remedial Action Amendments Act of 1988".

Public lands.
State listing.

SEC. 2. Section 106 of the Uranium Mill Tailings Radiation Control Act of 1978 (42 U.S.C. 7916) ("UMTRCA") is amended by striking paragraph (2) and all that follows and inserting in their place:

"(2) the Secretary of the Interior may transfer permanently to the Secretary to carry out the purposes of this Act, public lands under the jurisdiction of the Bureau of Land Management in the vicinity of processing sites in the following counties:

"(A) Apache County in the State of Arizona;

"(B) Mesa, Gunnison, Moffat, Montrose, Garfield, and San Miguel Counties in the State of Colorado;

"(C) Boise County in the State of Idaho;

"(D) Billings and Bowman Counties in the State of North Dakota;

"(E) Grand and San Juan Counties in the State of Utah;

"(F) Converse and Fremont Counties in the State of Wyoming; and

"(G) Any other county in the vicinity of a processing site, if no site in the county in which a processing site is located is suitable.

Any permanent transfer of lands under the jurisdiction of the Bureau of Land Management by the Secretary of the Interior to the Secretary shall not take place until the Secretary complies with the requirements of the National Environmental Policy Act (42 U.S.C. 4321 et seq.) with respect to the selection of a site for the permanent disposition and stabilization of residual radioactive materials. Section 204 of the Federal Land Policy and Management Act (43 U.S.C. 1714) shall not apply to this transfer of jurisdiction. Prior to acquisition of land under paragraph (1) or (2) of this subsection in any State, the Secretary shall consult with the Governor of such State. No lands may be acquired under such paragraph (1) or (2) in any State in which there is no (1) processing site designated under this title or (2) active uranium mill operation, unless the Secretary has obtained the consent of the Governor of such State. No lands controlled by any Federal agency may be transferred to the Secretary to carry out the purposes of this Act without the concurrence of the chief administrative officer of such agency.".

SEC. 3. Section 112(a) of UMTRCA (42 U.S.C. 7922(a)) is amended to read as follows:

"(a) The authority of the Secretary to perform remedial action under this title shall terminate on September 30, 1994, except that the authority of the Secretary to perform groundwater restoration activities under this title is without limitation.". Water.

Approved November 5, 1988.

LEGISLATIVE HISTORY—S. 1991:

SENATE REPORTS: No. 100-543 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 12, considered and passed Senate.
Oct. 19, considered and passed House.

Public Law 100-617
100th Congress

An Act

Nov. 5, 1988
[S. 2201]

To extend for an additional 8-year period certain provisions of title 17, United States Code, relating to the rental of sound recordings, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXTENSION OF RECORD RENTAL AMENDMENT.

Section 4(c) of the Record Rental Amendment of 1984 (17 U.S.C. 109 note) is amended by striking out "five" and inserting in lieu thereof "13".

SEC. 2. TECHNICAL AMENDMENTS.

Section 109(d) of title 17, United States Code, is amended—

(1) by striking out "(b)" and inserting in lieu thereof "(c)"; and

(2) by striking out "coyright" and inserting in lieu thereof "copyright".

Approved November 5, 1988.

LEGISLATIVE HISTORY—S. 2201 (*See* H.R. 4310):

HOUSE REPORTS: No. 100-776 accompanying H.R. 4310 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-361 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 7, considered and passed Senate.
Aug. 1, H.R. 4310 considered and passed House.
Sept. 26, S. 2201 considered and passed House, amended.
Oct. 21, Senate concurred in House amendment.

Public Law 100-618
100th Congress

An Act

To amend title 18, United States Code, to preserve personal privacy with respect to the rental, purchase, or delivery of video tapes or similar audio visual materials.

Nov. 5, 1988
[S. 2361]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Video Privacy Protection Act of 1988.
18 USC 2710 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Video Privacy Protection Act of 1988".

SEC. 2. CHAPTER 121 AMENDMENT.

(a) IN GENERAL.—Chapter 121 of title 18, United States Code, is amended—

(1) by redesignating section 2710 as section 2711; and

(2) by inserting after section 2709 the following:

"§ 2710. Wrongful disclosure of video tape rental or sale records

"(a) DEFINITIONS.—For purposes of this section—

"(1) the term 'consumer' means any renter, purchaser, or subscriber of goods or services from a video tape service provider;

"(2) the term 'ordinary course of business' means only debt collection activities, order fulfillment, request processing, and the transfer of ownership;

"(3) the term 'personally identifiable information' includes information which identifies a person as having requested or obtained specific video materials or services from a video tape service provider; and

"(4) the term 'video tape service provider' means any person, engaged in the business, in or affecting interstate or foreign commerce, of rental, sale, or delivery of prerecorded video cassette tapes or similar audio visual materials, or any person or other entity to whom a disclosure is made under subparagraph (D) or (E) of subsection (b)(2), but only with respect to the information contained in the disclosure.

"(b) VIDEO TAPE RENTAL AND SALE RECORDS.—(1) A video tape service provider who knowingly discloses, to any person, personally identifiable information concerning any consumer of such provider shall be liable to the aggrieved person for the relief provided in subsection (d).

Business and industry.

"(2) A video tape service provider may disclose personally identifiable information concerning any consumer—

"(A) to the consumer;

"(B) to any person with the informed, written consent of the consumer given at the time the disclosure is sought;

"(C) to a law enforcement agency pursuant to a warrant issued under the Federal Rules of Criminal Procedure, an equivalent State warrant, a grand jury subpoena, or a court order;

"(D) to any person if the disclosure is solely of the names and addresses of consumers and if—

"(i) the video tape service provider has provided the consumer with the opportunity, in a clear and conspicuous manner, to prohibit such disclosure; and

"(ii) the disclosure does not identify the title, description, or subject matter of any video tapes or other audio visual material; however, the subject matter of such materials may be disclosed if the disclosure is for the exclusive use of marketing goods and services directly to the consumer;

"(E) to any person if the disclosure is incident to the ordinary course of business of the video tape service provider; or

"(F) pursuant to a court order, in a civil proceeding upon a showing of compelling need for the information that cannot be accommodated by any other means, if—

"(i) the consumer is given reasonable notice, by the person seeking the disclosure, of the court proceeding relevant to the issuance of the court order; and

"(ii) the consumer is afforded the opportunity to appear and contest the claim of the person seeking the disclosure.

Courts, U.S.

If an order is granted pursuant to subparagraph (C) or (F), the court shall impose appropriate safeguards against unauthorized disclosure.

"(3) Court orders authorizing disclosure under subparagraph (C) shall issue only with prior notice to the consumer and only if the law enforcement agency shows that there is probable cause to believe that the records or other information sought are relevant to a legitimate law enforcement inquiry. In the case of a State government authority, such a court order shall not issue if prohibited by the law of such State. A court issuing an order pursuant to this section, on a motion made promptly by the video tape service provider, may quash or modify such order if the information or records requested are unreasonably voluminous in nature or if compliance with such order otherwise would cause an unreasonable burden on such provider.

State and local governments.

"(c) CIVIL ACTION.—(1) Any person aggrieved by any act of a person in violation of this section may bring a civil action in a United States district court.

"(2) The court may award—

"(A) actual damages but not less than liquidated damages in an amount of $2,500;

"(B) punitive damages;

"(C) reasonable attorneys' fees and other litigation costs reasonably incurred; and

"(D) such other preliminary and equitable relief as the court determines to be appropriate.

"(3) No action may be brought under this subsection unless such action is begun within 2 years from the date of the act complained of or the date of discovery.

"(4) No liability shall result from lawful disclosure permitted by this section.

"(d) PERSONALLY IDENTIFIABLE INFORMATION.—Personally identifiable information obtained in any manner other than as provided in this section shall not be received in evidence in any trial, hearing, arbitration, or other proceeding in or before any court, grand jury, department, officer, agency, regulatory body, legislative committee,

or other authority of the United States, a State, or a political subdivision of a State.

"(e) DESTRUCTION OF OLD RECORDS.—A person subject to this section shall destroy personally identifiable information as soon as practicable, but no later than one year from the date the information is no longer necessary for the purpose for which it was collected and there are no pending requests or orders for access to such information under subsection (b)(2) or (c)(2) or pursuant to a court order.

"(f) PREEMPTION.—The provisions of this section preempt only the provisions of State or local law that require disclosure prohibited by this section.". State and local governments.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 121 of title 18, United States Code, is amended—

(1) in the item relating to section 2710, by striking out "2710" and inserting "2711" in lieu thereof; and

(2) by inserting after the item relating to section 2709 the following new item:

"2710. Wrongful disclosure of video tape rental or sale records.".

Approved November 5, 1988.

LEGISLATIVE HISTORY—S. 2361:

SENATE REPORTS: No. 100-599 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 14, considered and passed Senate.
Oct. 19, considered and passed House.

Public Law 100-619
100th Congress

An Act

Nov. 5, 1988
[S. 2885]

To amend the Hunger Prevention Act of 1988 to make a technical correction.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TECHNICAL CORRECTION.

7 USC 2012 note.

In section 701(b)(4) strike out "and sections 310 through 352" and insert in lieu thereof "sections 310 through 343, and sections 345 through 352".

Approved November 5, 1988.

LEGISLATIVE HISTORY—S. 2885:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 12, considered and passed Senate.
Oct. 20, considered and passed House.

Public Law 100-620
100th Congress

Joint Resolution

Designating the month of November 1988 as "National Alzheimer's Disease Month".

Nov. 5, 1988
[S.J. Res. 261]

Whereas more than two and one-half million Americans are affected by Alzheimer's disease, which is a surprisingly common disorder that destroys certain vital cells of the brain;

Whereas Alzheimer's disease is the fourth leading cause of death among older Americans;

Whereas Alzheimer's disease is responsible for 50 per centum of all nursing home admissions, at an annual cost of more than $25,000,000,000;

Whereas in one-third of all American families one parent will succumb to this disease;

Whereas Alzheimer's disease is not a normal consequence of aging; and

Whereas an increase in the national awareness of the problem of Alzheimer's disease and recognition of national organizations such as Alzheimer's Disease and Related Disorders Association may stimulate the interest and concern of the American people, which may lead, in turn, to increased research and eventually to the discovery of a cure for Alzheimer's disease: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November 1988, is designated as "National Alzheimer's Disease Month". The President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved November 5, 1988.

LEGISLATIVE HISTORY—S.J. Res. 261:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-621
100th Congress

Joint Resolution

Nov. 5, 1988
[S.J. Res. 272]

To designate November, 1988, as "National Diabetes Month".

Whereas diabetes is a leading cause of death by disease in the United States;

Whereas diabetes afflicts 11,000,000 Americans and over 5,000,000 of these individuals are not aware of their illness;

Whereas nearly $14,000,000,000 annually are spent on health care costs, disability payments, and premature mortality costs due to diabetes;

Whereas up to 85 percent of all cases of non-insulin dependent diabetes may be prevented through greater public understanding, awareness, and education;

Whereas diabetes is particularly prevalent among Black, Hispanic, Native Americans, and women;

Whereas diabetes is the number one cause of new blindness in people between the ages of 20 and 74, and is a leading cause of kidney disease, heart disease, strokes, birth defects, and lower life expectancy, the severity of which all may be reduced through greater patient and public understanding, awareness, and education: Now therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of November, 1988 is designated as "National Diabetes Month" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that month with appropriate programs, ceremonies, and activities.

Approved November 5, 1988.

LEGISLATIVE HISTORY—S.J. Res. 272:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Oct. 21, considered and passed House.

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Public Law 100-622
100th Congress

Joint Resolution

Designating the day of August 7, 1989, as "National Lighthouse Day".

Nov. 5, 1988
[S.J. Res. 306]

Whereas August, 7, 1989, marks the 200th anniversary of the signing by President Washington of the Lighthouse Act; and

Whereas that Act, established a Federal role in the support, maintenance, and repair of all lighthouses, beacon buoys, and public piers necessary for safe navigation; commissioned the first Federal lighthouse, and represents the first public works Act in the young country; and

Whereas lighthouses played an integral role in the rich maritime history of the United States as that history spread from the Atlantic coast, through the Great Lakes and Gulf coast, to the Pacific States; and

Whereas these impressive structures, standing at land's end through two centuries, have symbolized safety, security, heroism, duty, and faithfulness; and

Whereas architects, designers, engineers, builders, and keepers devoted, and in some cases, jeopardized, their lives for the safety of others; and

Whereas by 1989 the United States Coast Guard will complete the automation of all Coast Guard lights, concluding a rich, colorful, and significant chapter in American history; and

Whereas this heritage is further threatened by neglect, vandalism, and deterioration by the elements; and

Whereas the many completed, ongoing, or planned private and public efforts to preserve lighthouses demonstrate the public support for these historic structures: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the day of August 7, 1989, is designated as "National Lighthouse Day"; that to the extent feasible, lighthouse grounds should be open to the general public; and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such a day with appropriate ceremonies and activities.

Approved November 5, 1988.

LEGISLATIVE HISTORY—S.J. Res. 306:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-623
100th Congress

Joint Resolution

Nov. 5, 1988
[S.J. Res. 319]

To designate the period commencing November 6, 1988, and ending November 12, 1988, as "National Disabled Americans Week".

Whereas there are some 36 million Americans who have disabilities and over 25 percent of these disabled Americans have more than one disability;

Whereas one out of every twelve Americans copes with some form of a disability;

Whereas although nearly three out of every four Americans without a disability have at least a high-school education, just slightly more than one out of every two disabled Americans have a high school education;

Whereas a disabled American is two and one-half times as likely to have an income that falls below the poverty line than an American without a disability;

Whereas the population of disabled Americans will increase dramatically over the next two decades as the science of medical technology continues to improve upon its ability to prolong human life;

Whereas disabilities increasingly affect Americans as they get older;

Whereas one working-age black in every seven is disabled;

Whereas there are 31 million Americans with some form of activity limitation;

Whereas there are some 8.2 million Americans with a visual impairment;

Whereas there are some 17 million Americans with a hearing impairment;

Whereas there are 18.4 million Americans with an orthopedic disability;

Whereas some 4.2 percent of all American children under age twenty-one have a chronic activity limitation;

Whereas 3 percent of all American school-aged children have learning disabilities;

Whereas there are 50,000 American school-aged children under the age of 18 who have emotional or behavioral disabilities;

Whereas 5 percent of American school-aged children have speech and language disabilities;

Whereas most disabled Americans recognize that Federal laws enacted since the late 1960's have helped to give better opportunities to disabled Americans;

Whereas most disabled Americans strongly endorse efforts by the Federal Government to enhance the lives of persons with disabilities;

Whereas disabled Americans are not alone in their belief that they should be protected by law from discrimination; and

Whereas the people of the United States can express their concern for all Americans who live with disabilities by recognizing the

right of disabled Americans to participate as integral members of our society: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period beginning November 6, 1988, and ending November 12, 1988, is designated as "National Disabled Americans Week", and the President of the United States is authorized and requested to issue a Proclamation calling upon the people of the United States to observe that week with appropriate ceremonies and activities.

Approved November 5, 1988.

LEGISLATIVE HISTORY—S.J. Res. 319:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-624
100th Congress

Joint Resolution

Nov. 5, 1988
[S.J. Res. 378]

Designating the week of October 2 through 8, 1988, as "National Wild and Scenic Rivers Act Week".

Whereas river corridors are one of the most precious cultural and recreational values in the United States;

Whereas the Wild and Scenic Rivers Act provided for the establishment of a system of rivers to be protected as free-flowing streams for the public use and enjoyment for generations to come;

Whereas there are 3,500,000 miles of rivers in the United States, many of which are protected because of the establishment of the Wild and Scenic Rivers System;

Whereas the Wild and Scenic Rivers Act has encouraged through the State and Local River Conservation Assistance Program authorized by the Act, the cooperative protection of river corridors by Federal, State, and local governments, private groups, and landowners;

Whereas public awareness of the importance of wild and scenic rivers must be raised and public and private cooperation encouraged to promote the continued protection of these precious river values; and

Whereas the Wild and Scenic Rivers Act was signed into law on October 2, 1968: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of October 2 through 8, 1988, is designated as "National Wild and Scenic Rivers Act Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that week with appropriate programs and activities.

Approved November 5, 1988.

LEGISLATIVE HISTORY—S.J. Res. 378:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 30, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-625
100th Congress

An Act

To clarify certain restrictions on distribution of advertisements and other information concerning lotteries and similar activities.

Nov. 7, 1988
[H.R. 3146]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Charity Games Advertising Clarification Act of 1988.
State and local governments.
18 USC 1301 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Charity Games Advertising Clarification Act of 1988".

SEC. 2. AMENDMENTS RELATING TO THE MAILING AND BROADCAST OF ADVERTISEMENTS FOR LEGAL LOTTERIES AND SIMILAR ENTERPRISES.

(a) STATE-CONDUCTED LOTTERIES UNDER TITLE 18.—Subsection (a) of section 1307 of title 18, United States Code, is amended to read as follows:

"(a) The provisions of sections 1301, 1302, 1303, and 1304 shall not apply to—

"(1) an advertisement, list of prizes, or other information concerning a lottery conducted by a State acting under the authority of State law which is—

"(A) contained in a publication published in that State or in a State which conducts such a lottery; or

"(B) broadcast by a radio or television station licensed to a location in that State or a State which conducts such a lottery; or

"(2) an advertisement, list of prizes, or other information concerning a lottery, gift enterprise, or similar scheme, other than one described in paragraph (1), that is authorized or not otherwise prohibited by the State in which it is conducted and which is—

"(A) conducted by a not-for-profit organization or a governmental organization; or

"(B) conducted as a promotional activity by a commercial organization and is clearly occasional and ancillary to the primary business of that organization.".

(b) DEFINITION OF NOT-FOR-PROFIT ORGANIZATION.—Subsection (d) of section 1307 of title 18, United States Code, is amended by adding at the end thereof "For purposes of this section, the term a 'not-for-profit organization' means any organization that would qualify as tax exempt under section 501 of the Internal Revenue Code of 1986.".

(c) POSTAL SERVICE REGULATION OF LOTTERIES.—Paragraph (1) of section 3005(d) of title 39, United States Code, is amended to read as follows: "(1) publications containing advertisements, lists of prizes, or information concerning a lottery, which are exempt, pursuant to section 1307 of title 18 of the United States Code, from the provisions of sections 1301, 1302, 1303, and 1304 of title 18 of the United States Code,".

SEC. 3. TECHNICAL AMENDMENTS.

(a) AMENDMENTS TO TITLE 18, UNITED STATES CODE.—Chapter 61 of title 18, United States Code, is amended as follows:

(1) The section heading of section 1307 is amended to read as follows:

"§ 1307. Exceptions relating to certain advertisements and other information and to State-conducted lotteries".

(2) The item relating to section 1307 in the table of sections at the beginning of chapter 61 is amended to read as follows:

"Sec. 1307. Exceptions relating to certain advertisements and other information and to State-conducted lotteries.".

(3) Subsection (d) of section 1307 is amended by inserting after "purposes of" the following: "subsection (b) of".

(4) The first sentence of section 1304 is amended by inserting after "radio" the following: "or television".

18 USC 1307 note.

SEC. 4. SEVERABILITY.

If any provision of this Act or the amendments made by this Act, or the application of such provision to any person or circumstance, is held invalid, the remainder of this Act and the amendments made by this Act, and the application of such provision to other persons not similarly situated or to other circumstances, shall not be affected by such invalidation.

18 USC 1304 note.

SEC. 5. EFFECTIVE DATE.

The amendments made by this Act shall take effect 18 months after the date of the enactment of this Act.

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.R. 3146:

HOUSE REPORTS: No. 100-557, Pt. 1 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 10, 25, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 19, House concurred in Senate amendment.

Public Law 100-626
100th Congress

An Act

To amend and extend the authorization of appropriations for public broadcasting, and for other purposes.

Nov. 7, 1988
[H.R. 4118]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Telecommunications Act of 1988.

SHORT TITLE

SECTION 1. This Act may be cited as the "Public Telecommunications Act of 1988". 47 USC 609 note.

PUBLIC TELECOMMUNICATIONS FACILITIES AUTHORIZATIONS

SEC. 2. Section 391 of the Communications Act of 1934 (47 U.S.C. 391) is amended—

(1) by striking "and" after "1987,"; and

(2) by inserting "$36,000,000 for fiscal year 1989, $39,000,000 for fiscal year 1990, and $42,000,000 for fiscal year 1991," immediately after "1988,".

CORPORATION FOR PUBLIC BROADCASTING AUTHORIZATIONS

SEC. 3. Section 396(k)(1)(C) of the Communications Act of 1934 (47 U.S.C. 396(k)(1)(C)) is amended—

(1) by striking "and 1990" and inserting in lieu thereof "1990, 1991, 1992, and 1993";

(2) by striking "50 percent" and inserting in lieu thereof "40 percent";

(3) by striking "and" after "fiscal year 1989,"; and

(4) by inserting before the period at the end thereof the following: ", $245,000,000 for fiscal year 1991, $265,000,000 for fiscal year 1992, and $285,000,000 for fiscal year 1993".

PUBLIC BROADCASTING SATELLITE INTERCONNECTION FUND

SEC. 4. (a) Section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended by adding at the end thereof the following new paragraph:

"(10)(A) There is hereby established in the Treasury a fund which shall be known as the Public Broadcasting Satellite Interconnection Fund (hereinafter in this subsection referred to as the 'Satellite Interconnection Fund'), to be administered by the Secretary of the Treasury.

"(B) There is authorized to be appropriated to the Satellite Interconnection Fund, for fiscal year 1991, the amount of $200,000,000. If such amount is not appropriated in full for fiscal year 1991, the portion of such amount not yet appropriated is authorized to be appropriated for fiscal years 1992 and 1993. Funds appropriated to the Satellite Interconnection Fund shall remain available until expended.

"(C) The Secretary of the Treasury shall make available and disburse to the Corporation, at the beginning of fiscal year 1991 and of each succeeding fiscal year thereafter, such funds as have been appropriated to the Satellite Interconnection Fund for the fiscal year in which such disbursement is to be made.

"(D) Notwithstanding any other provision of this subsection except paragraphs (4), (5), (8), and (9), all funds appropriated to the Satellite Interconnection Fund and interest thereon—

"(i) shall be distributed by the Corporation to the licensees and permittees of noncommercial educational television broadcast stations providing public telecommunications services or the national entity they designate for satellite interconnection purposes and to those public telecommunications entities participating in the public radio satellite interconnection system or the national entity they designate for satellite interconnection purposes, exclusively for the capital costs of the replacement, refurbishment, or upgrading of their national satellite interconnection systems and associated maintenance of such systems; and

"(ii) shall not be used for the administrative costs of the Corporation, the salaries or related expenses of Corporation personnel and members of the Board, or for expenses of consultants and advisers to the Corporation.".

Reports.
47 USC 396 note.

(b) On or before March 1, 1990, the Corporation for Public Broadcasting, on behalf of the public radio and public television licensees and permittees (or their designated representatives), shall submit to Congress a report by such licensees or permittees (or their representatives) detailing the satellite replacement needs of public radio and public television, the difference in cost between leasing satellite transponder capacity and buying such capacity, and the availability of private sector rather than Federal financing.

FINDING WITH RESPECT TO CERTAIN PROGRAMMING

SEC. 5. Section 396(a) of the Communications Act of 1934 (47 U.S.C. 396(a)) is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting immediately after paragraph (5) the following new paragraph:

"(6) it is in the public interest to encourage the development of programming that involves creative risks and that addresses the needs of unserved and underserved audiences, particularly children and minorities;".

EXERCISE OF BUSINESS JUDGMENT BY CORPORATION

SEC. 6. Section 396(g)(2)(B)(ii) of the Communications Act of 1934 (47 U.S.C. 396(g)(2)(B)(ii)) is amended by striking "contract or".

ALLOCATION OF CORPORATION FUNDING

SEC. 7. (a) Section 396(k)(3)(A)(i) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(i)) is amended—

(1) by amending subclause (I) to read as follows:

"(I) $10,200,000 shall be available for the administrative expenses of the Corporation for fiscal year 1989, and for each succeeding fiscal year the amount which shall be available for

such administrative expenses shall be the sum of the amount made available to the Corporation under this subclause for such expenses in the preceding fiscal year plus the greater of 4 percent of such amount or a percentage of such amount equal to the percentage change in the Consumer Price Index, except that none of the amounts allocated under subclauses (II), (III), and (IV) and clause (v) shall be used for any administrative expenses of the Corporation and not more than 5 percent of all the amounts appropriated into the Fund available for allocation for any fiscal year shall be available for such administrative expenses;";

(2) subclause (II) is amended to read as follows:

"(II) 6 percent of such amounts shall be available for expenses incurred by the Corporation for capital costs relating to telecommunications satellites, the payment of programming royalties and other fees, the costs of interconnection facilities and operations (as provided in clause (iv)(I)), and grants which the Corporation may make for assistance to stations that broadcast programs in languages other than English, and if the available funding level permits, for projects and activities that will enhance public broadcasting;"; and

(3) in subclause (III), by striking "clause (ii)(I)" and inserting in lieu thereof "clause (ii)".

(b) Section 396(k)(3)(A)(ii)(II) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(ii)(II)) is amended by striking "for public" and inserting in lieu thereof the following: ", and in accordance with any plan implemented under paragraph (6)(A), for national public".

(c) Clause (iii) of section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)) is amended to read as follows:

"(iii) Of the amounts allocated under clause (i)(IV) for any fiscal year—

"(I) 70 percent of such amounts shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B);

"(II) 7 percent of such amounts shall be available for distribution under subparagraph (B)(i) for public radio programming; and

"(III) 23 percent of such amounts shall be available for distribution among the licensees and permittees of public radio stations pursuant to paragraph (6)(B), solely to be used for acquiring or producing programming that is to be distributed nationally and is designed to serve the needs of a national audience.".

(d) Clause (v) of section 396(k)(3)(A) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)) is amended to read as follows:

"(v) Of the interest on the amounts appropriated into the Fund which is available for allocation for any fiscal year—

"(I) 75 percent shall be available for distribution for the purposes referred to in clause (ii)(II); and

"(II) 25 percent shall be available for distribution for the purposes referred to in clause (iii) (II) and (III).".

(e) Section 396(k)(3)(A)(iv)(I) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(A)(iv)(I)) is amended by striking "Subject to the provisions of clause (v)," and inserting in lieu thereof the following: "From the amount provided pursuant to clause (i)(II),".

(f) Subparagraph (B)(i) of section 396(k)(3) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)) is amended to read as follows:

Grants.

"(B)(i) The Corporation shall utilize the funds allocated pursuant to subparagraph (A)(ii)(II) and subparagraph (A)(iii)(II) to make grants for production of public television or radio programs by independent producers and production entities and public telecommunications entities, producers of national children's educational programming, and producers of programs addressing the needs and interests of minorities, and for acquisition of such programs by public telecommunications entities. The Corporation may make grants to public telecommunications entities and producers for the production of programs in languages other than English. Of the funds utilized pursuant to this clause, a substantial amount shall be distributed to independent producers and production entities, producers of national children's educational programming, and producers of programming addressing the needs and interests of minorities for the production of programs.".

(g) Section 396(k)(3) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)) is amended by striking subparagraphs (C) and (D).

(h) Paragraph (6)(A) of section 396(k) of the Communications Act of 1934 (47 U.S.C. 396(k)) is amended to read as follows:

"(6)(A) The Corporation shall conduct a study and prepare a plan, in consultation with public television licensees (or designated representatives of those licensees) and the Public Broadcasting Service, on how funds available to the Corporation under paragraph (3)(A)(ii)(II) can be best allocated to meet the objectives of this Act with regard to national public television programming. The plan, which shall be based on the conclusions resulting from the study, shall be submitted by the Corporation to the Congress not later than January 31, 1990. Unless directed otherwise by an Act of Congress, the Corporation shall implement the plan during the first fiscal year beginning after the fiscal year in which the plan is submitted to Congress.".

(i) Section 396(k)(6)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(6)(B)) is amended by inserting immediately after the first sentence the following new sentence: "The Corporation shall assist radio stations to maintain and improve their service where public radio is the only broadcast service available.".

(j) Section 396(k)(7) of the Communications Act of 1934 (47 U.S.C. 396(k)(7)) is amended by inserting "(ii)(I) and (iii)(I)" immediately after "paragraph (3)(A)".

INDEPENDENT PRODUCTION

SEC. 8. Section 396(k)(3)(B) of the Communications Act of 1934 (47 U.S.C. 396(k)(3)(B)) is amended by adding at the end the following new clause:

"(iii)(I) For fiscal year 1990 and succeeding fiscal years, the Corporation shall, in carrying out its obligations under clause (i) with respect to public television programming, provide adequate funds for an independent production service.

"(II) Such independent production service shall be separate from the Corporation and shall be incorporated under the laws of the District of Columbia for the purpose of contracting with the Corporation for the expenditure of funds for the production of public television programs by independent producers and independent production entities.

"(III) The Corporation shall work with organizations or associations of independent producers or independent production entities to

develop a plan and budget for the operation of such service that is acceptable to the Corporation.

"(IV) The Corporation shall ensure that the funds provided to such independent production service shall be used exclusively in pursuit of the Corporation's obligation to expand the diversity and innovativeness of programming available to public broadcasting.

"(V) The Corporation shall report annually to Congress regarding the activities and expenditures of the independent production service. At the end of fiscal year 1992, the Corporation shall submit a report to Congress evaluating the performance of the independent production service in light of its mission to expand the diversity and innovativeness of programming available to public broadcasting.". Reports.

NEEDS OF MINORITIES AND OTHER GROUPS

SEC. 9. (a) Section 396 of the Communications Act of 1934 (47 U.S.C. 396) is amended by adding at the end the following new subsection:

"(m)(1) Prior to July 1, 1989, and every three years thereafter, the Corporation shall compile an assessment of the needs of minority and diverse audiences, the plans of public broadcasting entities and public telecommunications entities to address such needs, the ways radio and television can be used to help these underrepresented groups, and projections concerning minority employment by public broadcasting entities and public telecommunications entities. Such assessment shall address the needs of racial and ethnic minorities, new immigrant populations, people for whom English is a second language, and adults who lack basic reading skills.

"(2) Commencing July 1, 1989, the Corporation shall prepare an annual report on the provision by public broadcasting entities and public telecommunications entities of service to the audiences described in paragraph (1). Such report shall address programming (including that which is produced by minority producers), training, minority employment, and efforts by the Corporation to increase the number of minority public radio and television stations eligible for financial support from the Corporation. Reports.

"(3) As soon as they have been prepared, each assessment and annual report required under paragraphs (1) and (2) shall be submitted to Congress.".

(b) Section 398(b)(1) of the Communications Act of 1934 (47 U.S.C. 398(b)(1)) is amended by inserting, immediately after " 'recipients'),", the following: "in accordance with the equal employment opportunity regulations of the Commission,".

PROHIBITION AGAINST EDITORIALIZING

SEC. 10. (a) Section 399 of the Communications Act of 1934 (47 U.S.C. 399) is amended by striking the first sentence.

(b) The heading of such section is amended by striking "EDITORIALIZING AND".

SCRAMBLING OF PUBLIC BROADCASTING SERVICE PROGRAMMING

SEC. 11. Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively; and

(2) by inserting after subsection (b) the following new subsection:

"(c) No person shall encrypt or continue to encrypt satellite delivered programs included in the National Program Service of the Public Broadcasting Service and intended for public viewing by retransmission by television broadcast stations; except that as long as at least one unencrypted satellite transmission of any program subject to this subsection is provided, this subsection shall not prohibit additional encrypted satellite transmissions of the same program.".

EFFECTIVE DATES

47 USC 391 note.

SEC. 12. This Act and the amendments made by this Act are effective on the date of enactment of this Act, except that the amendments made by sections 6 and 7(d) are effective on October 1, 1989.

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.R. 4118 (S. 2114):

HOUSE REPORTS: No. 100-825 (Comm. on Energy and Commerce).
SENATE REPORTS: No. 100-444 accompanying S. 2114 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 7, S. 2114 considered and passed Senate.
Oct. 19, H.R. 4118 considered and passed House.
Oct. 20, considered and passed Senate.

Public Law 100-627
100th Congress

An Act

To authorize appropriations to carry out titles II and III of the Marine Protection, Research, and Sanctuaries Act of 1972, to establish the National Oceans Policy Commission, and for other purposes.

Nov. 7, 1988
[H.R. 4210]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—COMPREHENSIVE OCEAN DUMPING RESEARCH PROGRAM AMENDMENTS AND AUTHORIZATION

SEC. 101. RESEARCH TO BE CONSISTENT WITH COMPREHENSIVE PLAN.

Subsection (a) of section 202 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1442(a)) is amended by adding at the end the following:

"(3) The Secretary of Commerce shall ensure that the comprehensive and continuing research program conducted under this subsection is consistent with the comprehensive plan for ocean pollution research and development and monitoring prepared under section 4 of the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1703).".

SEC. 102. ANNUAL REPORT.

Section 204 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1444) is amended by adding at the end the following:

"(c) On October 31 of each year, the Under Secretary shall report to the Congress the specific programs that the National Oceanic and Atmospheric Administration and the Environmental Protection Agency carried out pursuant to this title in the previous fiscal year, specifically listing the amount of funds allocated to those specific programs in the previous fiscal year.".

SEC. 103. AUTHORIZATION.

Section 205 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1445) is amended—

(1) by striking "and" immediately following "fiscal year 1986,"; and

(2) by striking "1987." and inserting in lieu thereof "1987, not to exceed $13,500,000 for fiscal year 1989, and not to exceed $14,500,000 for fiscal year 1990.".

TITLE II—NATIONAL MARINE SANCTUARIES PROGRAM AMENDMENTS AND AUTHORIZATION

SEC. 201. DEFINITION OF ACT.

For purposes of this title, the term "Act" means title III of the Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431-1439).

SEC. 202. SANCTUARY DESIGNATION PROCEDURE AMENDMENTS.

Federal Register, publication.

Paragraph (1) of section 304(b) of the Act (16 U.S.C. 1434(b)(1)) is amended by inserting after the second sentence the following: "The Secretary shall issue a notice of designation with respect to a proposed national marine sanctuary site not later than 30 months after the date a notice declaring the site to be an active candidate for sanctuary designation is published in the Federal Register under regulations issued under this Act, or shall publish not later than such date in the Federal Register findings regarding why such notice has not been published.".

SEC. 203. PROMOTION AND COORDINATION OF RESEARCH; SPECIAL USE PERMITS; USE OF DONATIONS.

The Act is amended—

16 USC 1438.
16 USC 1439.

(1) by striking section 308;
(2) by redesignating section 309 as section 308; and
(3) by adding at the end the following:

16 USC 1440.

"SEC. 309. PROMOTION AND COORDINATION OF RESEARCH.

"The Secretary shall take such action as is necessary to promote and coordinate the use of national marine sanctuaries for research purposes, including—

"(1) requiring that the National Oceanic and Atmospheric Administration, in conducting or supporting marine research, give priority to research involving national marine sanctuaries; and

"(2) consulting with other Federal and State agencies to promote use by such agencies of one or more sanctuaries for marine research.

16 USC 1441.

"SEC. 310. SPECIAL USE PERMITS.

"(a) ISSUANCE OF PERMITS.—The Secretary may issue special use permits which authorize the conduct of specific activities in a national marine sanctuary if the Secretary determines such authorization is necessary—

"(1) to establish conditions of access to and use of any sanctuary resource; or

"(2) to promote public use and understanding of a sanctuary resource.

"(b) PERMIT TERMS.—A permit issued under this section—

"(1) shall authorize the conduct of an activity only if that activity is compatible with the purposes for which the sanctuary is designated and with protection of sanctuary resources;

"(2) shall not authorize the conduct of any activity for a period of more than 5 years unless renewed by the Secretary;

"(3) shall require that activities carried out under the permit be conducted in a manner that does not destroy, cause the loss of, or injure sanctuary resources; and

"(4) shall require the permittee to purchase and maintain comprehensive general liability insurance against claims arising out of activities conducted under the permit and to agree to hold the United States harmless against such claims.

"(c) FEES.—

"(1) ASSESSMENT AND COLLECTION.—The Secretary may assess and collect fees for the conduct of any activity under a permit issued under this section.

"(2) AMOUNT.—The amount of a fee under this subsection shall be equal to the sum of—

"(A) costs incurred, or expected to be incurred, by the Secretary in issuing the permit;

"(B) costs incurred, or expected to be incurred, by the Secretary as a direct result of the conduct of the activity for which the permit is issued, including costs of monitoring the conduct of the activity; and

"(C) an amount which represents the fair market value of the use of the sanctuary resource and a reasonable return to the United States Government.

"(3) USE OF FEES.—Amounts collected by the Secretary in the form of fees under this section may be used by the Secretary—

"(A) for issuing and administering permits under this section; and

"(B) for expenses of designating and managing national marine sanctuaries.

"(d) VIOLATIONS.—Upon violation of a term or condition of a permit issued under this section, the Secretary may—

"(1) suspend or revoke the permit without compensation to the permittee and without liability to the United States;

"(2) assess a civil penalty in accordance with section 307; or

"(3) both.

"(e) REPORTS.—Each person issued a permit under this section shall submit an annual report to the Secretary not later than December 31 of each year which describes activities conducted under that permit and revenues derived from such activities during the year.

"(f) FISHING.—Nothing in this section shall be considered to require a person to obtain a permit under this section for the conduct of any fishing activities in a national marine sanctuary.

"SEC. 311. COOPERATIVE AGREEMENTS AND DONATIONS. 16 USC 1442.

"(a) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with any nonprofit organization—

"(1) to aid and promote interpretive, historical, scientific, and educational activities; and

"(2) for the solicitation of private donations for the support of such activities.

"(b) DONATIONS.—The Secretary may accept donations of funds, property, and services for use in designating and administering national marine sanctuaries under this title.".

SEC. 204. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.

(a) LIABILITY FOR DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES.—The Act is amended by adding at the end the following:

"SEC. 312. DESTRUCTION OR LOSS OF, OR INJURY TO, SANCTUARY RESOURCES. 16 USC 1443.

"(a) LIABILITY.—

"(1) IN GENERAL.—Subject to paragraph (3), any person who destroys, causes the loss of, or injures any sanctuary resource is liable to the United States for response costs and damages resulting from such destruction, loss, or injury.

"(2) LIABILITY IN REM.—Any vessel used to destroy, cause the loss of, or injure any sanctuary resource shall be liable in rem to the United States for response costs and damages resulting from such destruction, loss, or injury.

"(3) DEFENSES.—A person is not liable under this subsection if that person establishes that—

"(A) the destruction or loss of, or injury to, the sanctuary resource was caused solely by an act of God, an act of war, or an act or omission of a third party, and the person acted with due care;

"(B) the destruction, loss, or injury was caused by an activity authorized by Federal or State law; or

"(C) the destruction, loss, or injury was negligible.

"(b) RESPONSE ACTIONS AND DAMAGE ASSESSMENT.—

"(1) RESPONSE ACTIONS.—The Secretary may undertake all necessary actions to prevent or minimize the destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risk of such destruction, loss, or injury.

"(2) DAMAGE ASSESSMENT.—The Secretary shall assess damages to sanctuary resources in accordance with section 302(6).

"(c) CIVIL ACTIONS FOR RESPONSE COSTS AND DAMAGES.—The Attorney General, upon request of the Secretary, may commence a civil action in the United States district court for the appropriate district against any person or vessel who may be liable under subsection (a) for response costs and damages. The Secretary, acting as trustee for sanctuary resources for the United States, shall submit a request for such an action to the Attorney General whenever a person may be liable for such costs or damages.

"(d) USE OF RECOVERED AMOUNTS.—Response costs and damages recovered by the Secretary under this section and civil penalties under section 307 shall be retained by the Secretary in the manner provided for in section 107(f)(1) of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9607(f)(1)), and used as follows:

"(1) RESPONSE COSTS AND DAMAGE ASSESSMENTS.—Twenty percent of amounts recovered under this section, up to a maximum balance of $750,000, shall be used to finance response actions and damage assessments by the Secretary.

"(2) RESTORATION, REPLACEMENT, MANAGEMENT, AND IMPROVEMENT.—Amounts remaining after the operation of paragraph (1) shall be used, in order of priority—

"(A) to restore, replace, or acquire the equivalent of the sanctuary resources which were the subject of the action;

"(B) to manage and improve the national marine sanctuary within which are located the sanctuary resources which were the subject of the action; and

"(C) to manage and improve any other national marine sanctuary.

"(3) USE OF CIVIL PENALTIES.—Amounts recovered under section 307 in the form of civil penalties shall be used by the Secretary in accordance with section 307(e) and paragraphs (2) (B) and (C) of this subsection.

"(4) FEDERAL-STATE COORDINATION.—Amounts recovered under this section with respect to sanctuary resources lying within the jurisdiction of a State shall be used under paragraphs (2) (A) and (B) in accordance with an agreement entered into by the Secretary and the Governor of that State.".

(b) DAMAGES, RESPONSE COSTS, AND SANCTUARY RESOURCE DEFINED.—Section 302 of the Act (16 U.S.C. 1432) is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period in paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) 'damages' includes—

"(A) compensation for—

"(i)(I) the cost of replacing, restoring, or acquiring the equivalent of a sanctuary resource; and

"(II) the value of the lost use of a sanctuary resource pending its restoration or replacement or the acquisition of an equivalent sanctuary resource; or

"(ii) the value of a sanctuary resource if the sanctuary resource cannot be restored or replaced or if the equivalent of such resource cannot be acquired; and

"(B) the cost of damage assessments under section 312(b)(2);

"(7) 'response costs' means the costs of actions taken by the Secretary to minimize destruction or loss of, or injury to, sanctuary resources, or to minimize the imminent risks of such destruction, loss, or injury; and

"(8) 'sanctuary resource' means any living or nonliving resource of a national marine sanctuary that contributes to the conservation, recreational, ecological, historical, research, educational, or aesthetic value of the sanctuary.".

(c) EFFECTIVE DATE.—Amounts in the form of damages received by the United States after November 30, 1986, for destruction or loss of, or injury to, a sanctuary resource (as that term is defined in section 302(8) of the Act (as amended by this Act)) shall be subject to section 312 of the Act (as amended by this Act). 16 USC 1443 note.

SEC. 205. ACTIONS WITH RESPECT TO NEW SANCTUARIES.

(a) ISSUANCE OF NOTICE OF DESIGNATION.—The Secretary of Commerce shall issue a notice of designation under section 304(b)(1) of the Act (16 U.S.C. 1434(b)(1))—

(1) with respect to the proposed Cordell Banks National Marine Sanctuary as generally described in the Federal Register notice of June 30, 1983, not later than December 31, 1988;

(2) with respect to the Flower Garden Banks National Marine Sanctuary as generally described in the Federal Register notice of August 2, 1984, not later than March 31, 1989;

(3) with respect to the Monterey Bay National Marine Sanctuary as generally described in the Federal Register notice of December 31, 1979, not later than December 31, 1989; and

(4) with respect to the Western Washington Outer Coast National Marine Sanctuary as generally described in the Federal Register notice of August 4, 1983, not later than June 30, 1990.

(b) SUBMISSION OF PROSPECTUSES.—The Secretary of Commerce shall submit a prospectus under section 304(a)(1)(C) and (a)(5) of the Act (16 U.S.C. 1434(a)(1)(C) and (a)(5)) to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate—

(1) with respect to the Stellwagen Bank National Marine Sanctuary, as generally described in the Federal Register notice of August 4, 1983, not later than September 30, 1990; and

(2) with respect to the Northern Puget Sound National Marine Sanctuary, as generally described as the Washington State Nearshore area in the Federal Register notice of August 4, 1983, not later than March 31, 1991.

SEC. 206. STUDY OF AREAS FOR DESIGNATION AS OR INCLUSION IN NATIONAL MARINE SANCTUARIES.

(a) STUDY.—

(1) IN GENERAL.—The Secretary of Commerce shall conduct a study of the areas described in subsection (c) for purposes of making determinations and findings in accordance with section 303(a) of the Act (16 U.S.C. 1433(a))—

(A) regarding whether or not all or any part of such areas are appropriate for designation as national marine sanctuaries in accordance with the Act; and

(B) regarding whether or not all or any part of the areas described in subsection (c) (1), (2), and (3) should be added to and administered as part of the Key Largo National Marine Sanctuary or the Looe Key National Marine Sanctuary.

(2) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Commerce shall submit a report to the Committee on Merchant Marine and Fisheries of the House of Representatives and to the Committee on Commerce, Science, and Transportation of the Senate which sets forth the determinations and findings referred to in paragraph (1).

(b) DESIGNATION OR EXPANSION OF MARINE SANCTUARIES.—If as a result of a study conducted pursuant to subsection (a) the Secretary of Commerce makes the determinations and findings set forth in section 303(a) of the Act (16 U.S.C. 1433(a)) with respect to all or any part of the areas described in subsection (c), the Secretary of Commerce, in accordance with the procedures for the designation of national marine sanctuaries set forth in section 304 of the Act (16 U.S.C. 1434)—

(1) shall designate such areas or parts of such areas as national marine sanctuaries; or

(2) shall, with respect to all or any part of the areas described in subsections (c) (1), (2), and (3), add such areas or parts of such areas to the Key Largo National Marine Sanctuary or the Looe Key National Marine Sanctuary;

as the Secretary of Commerce considers appropriate.

(c) AREAS DESCRIBED.—The areas referred to in subsections (a) and (b) are the following:

Florida.

(1) AMERICAN SHOAL.—The portion of the marine environment in the Florida Keys in the vicinity of American Shoal, including the part of such environment located generally between such shoal and the Marquesas Keys.

(2) SOMBRERO KEY.—The portion of the marine environment in the Florida Keys in the vicinity of and surrounding Sombrero Key.

(3) ALLIGATOR REEF.—The portion of the marine environment in the Florida Keys in the vicinity of and surrounding Alligator Reef, including the portion located generally between such reef and the Key Largo National Marine Sanctuary.

(4) SANTA MONICA BAY.—The portion of the marine environment off the coast of California commonly referred to as Santa Monica Bay, consisting of an area described generally as follows: Beginning at the point known as Point Dume near the western extent of Santa Monica Bay, proceed generally southeast along the shoreline to the point known as Point Vincente near the southern extent of Santa Monica Bay; then west to the 900 meter bathymetric contour; then generally northwest along the 900 meter bathymetric contour to a point due west of Point Dume; then east to Point Dume at the point of beginning. California.

(d) DEFINITION OF MARINE ENVIRONMENT.—For the purposes of this section, the term "marine environment" has the meaning such term has in section 302(3) of the Act (16 U.S.C. 1432(b)).

SEC. 207. ENFORCEMENT AMENDMENTS.

Section 307 of the Act (16 U.S.C. 1437) is amended to read as follows:

"SEC. 307. ENFORCEMENT.

"(a) IN GENERAL.—The Secretary shall conduct such enforcement activities as are necessary and reasonable to carry out this title.

"(b) POWERS OF AUTHORIZED OFFICERS.—Any person who is authorized to enforce this title may—

"(1) board, search, inspect, and seize any vessel suspected of being used to violate this title or any regulation or permit issued under this title and any equipment, stores, and cargo of such vessel;

"(2) seize wherever found any sanctuary resource taken or retained in violation of this title or any regulation or permit issued under this title;

"(3) seize any evidence of a violation of this title or of any regulation or permit issued under this title;

"(4) execute any warrant or other process issued by any court of competent jurisdiction; and

"(5) exercise any other lawful authority.

"(c) CIVIL PENALTIES.—

"(1) CIVIL PENALTY.—Any person subject to the jurisdiction of the United States who violates this title or any regulation or permit issued under this title shall be liable to the United States for a civil penalty of not more than $50,000 for each such violation, to be assessed by the Secretary. Each day of a continuing violation shall constitute a separate violation.

"(2) NOTICE.—No penalty shall be assessed under this subsection until after the person charged has been given notice and an opportunity for a hearing.

"(3) IN REM JURISDICTION.—A vessel used in violating this title or any regulation or permit issued under this title shall be liable in rem for any civil penalty assessed for such violation and may be proceeded against in any district court of the United States having jurisdiction.

"(4) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under this subsection may obtain review in the United States district court for the appropriate district by filing a complaint in such court not later than 30 days after the date of such order.

"(5) COLLECTION OF PENALTIES.—If any person fails to pay an assessment of a civil penalty under this section after it has

become a final and unappealable order, or after the appropriate court has entered final judgment in favor of the Secretary, the Secretary shall refer the matter to the Attorney General, who shall recover the amount assessed in any appropriate district court of the United States. In such action, the validity and appropriateness of the final order imposing the civil penalty shall not be subject to review.

"(6) COMPROMISE OR OTHER ACTION BY SECRETARY.—The Secretary may compromise, modify, or remit, with or without conditions, any civil penalty which is or may be imposed under this section.

"(d) FORFEITURE.—

"(1) IN GENERAL.—Any vessel (including the vessel's equipment, stores, and cargo) and other item used, and any sanctuary resource taken or retained, in any manner, in connection with or as a result of any violation of this title or of any regulation or permit issued under this title shall be subject to forfeiture to the United States pursuant to a civil proceeding under this subsection.

"(2) APPLICATION OF THE CUSTOMS LAWS.—The Secretary may exercise the authority of any United States official granted by any relevant customs law relating to the seizure, forfeiture, condemnation, disposition, remission, and mitigation of property in enforcing this title.

"(3) DISPOSAL OF SANCTUARY RESOURCES.—Any sanctuary resource seized pursuant to this title may be disposed of pursuant to an order of the appropriate court, or, if perishable, in a manner prescribed by regulations promulgated by the Secretary. Any proceeds from the sale of such sanctuary resource shall for all purposes represent the sanctuary resource so disposed of in any subsequent legal proceedings.

"(4) PRESUMPTION.—For the purposes of this section there is a rebuttable presumption that all sanctuary resources found on board a vessel that is used or seized in connection with a violation of this title or of any regulation or permit issued under this title were taken or retained in violation of this title or of a regulation or permit issued under this title.

"(e) PAYMENT OF STORAGE, CARE, AND OTHER COSTS.—

"(1) IN GENERAL.—Notwithstanding any other law, the Secretary may use amounts received under this section in the form of civil penalties, forfeitures of property, and costs imposed under paragraph (2) to pay—

"(A) the reasonable and necessary costs incurred by the Secretary in providing temporary storage, care, and maintenance of any sanctuary resource or other property seized under this section pending disposition of any civil proceeding relating to any alleged violation with respect to which such property or sanctuary resource was seized; and

"(B) a reward to any person who furnishes information leading to an assessment of a civil penalty, or to a forfeiture of property, for a violation of this title or of any regulation or permit issued under this title.

"(2) LIABILITY FOR COSTS.—Any person assessed a civil penalty for a violation of this title or of any regulation or permit issued under this title, and any claimant in a forfeiture action brought for such a violation, shall be liable for the reasonable costs incurred by the Secretary in storage, care, and maintenance of

any sanctuary resource or other property seized in connection with the violation.

"(f) SUBPOENAS.—In the case of any hearing under this section which is determined on the record in accordance with the procedures provided for under section 554 of title 5, United States Code, the Secretary may issue subpoenas for the attendance and testimony of witnesses and the production of relevant papers, books, and documents, and may administer oaths.

"(g) USE OF RESOURCES OF STATE AND OTHER FEDERAL AGENCIES.—The Secretary shall, whenever appropriate, use by agreement the personnel, services, and facilities of State and other Federal departments, agencies, and instrumentalities, on a reimbursable or nonreimbursable basis, to carry out the Secretary's responsibilities under this section.

"(h) COAST GUARD AUTHORITY NOT LIMITED.—Nothing in this section shall be considered to limit the authority of the Coast Guard to enforce this or any other Federal law under section 89 of title 14, United States Code.

"(i) INJUNCTIVE RELIEF.—If the Secretary determines that there is an imminent risk of destruction or loss of or injury to a sanctuary resource, or that there has been actual destruction or loss of, or injury to, a sanctuary resource which may give rise to liability under section 312, the Attorney General, upon request of the Secretary, shall seek to obtain such relief as may be necessary to abate such risk or actual destruction, loss, or injury, or to restore or replace the sanctuary resource, or both. The district courts of the United States shall have jurisdiction in such a case to order such relief as the public interest and the equities of the case may require.". Courts, U.S.

SEC. 208. AUTHORIZATION OF APPROPRIATIONS; U.S.S. MONITOR ARTIFACTS AND MATERIALS.

The Act is amended by adding at the end the following:

"SEC. 313. AUTHORIZATION OF APPROPRIATIONS. 16 USC 1444.

"There are authorized to be appropriated to the Secretary to carry out this title the following:

"(1) GENERAL ADMINISTRATION.—For general administration of this title—

"(A) $1,800,000 for fiscal year 1989;
"(B) $1,900,000 for fiscal year 1990;
"(C) $2,000,000 for fiscal year 1991; and
"(D) $2,100,000 for fiscal year 1992.

"(2) MANAGEMENT OF SANCTUARIES.—For management of national marine sanctuaries designated under this title—

"(A) $2,000,000 for fiscal year 1989;
"(B) $2,500,000 for fiscal year 1990;
"(C) $3,000,000 for fiscal year 1991; and
"(D) $3,250,000 for fiscal year 1992.

"(3) SITE REVIEW AND ANALYSIS.—For review and analysis of sites for designation under this title as national marine sanctuaries—

"(A) $450,000 for fiscal year 1989;
"(B) $500,000 for fiscal year 1990;
"(C) $550,000 for fiscal year 1991; and
"(D) $600,000 for fiscal year 1992.

North Carolina.
16 USC 1445.

"SEC. 314. U.S.S. MONITOR ARTIFACTS AND MATERIALS.

"(a) CONGRESSIONAL POLICY.—In recognition of the historical significance of the wreck of the United States ship Monitor to coastal North Carolina and to the area off the coast of North Carolina known as the Graveyard of the Atlantic, the Congress directs that a suitable display of artifacts and materials from the United States ship Monitor be maintained permanently at an appropriate site in coastal North Carolina.

"(b) INTERPRETATION AND DISPLAY OF ARTIFACTS.—

"(1) SUBMISSION OF PLAN.—The Secretary shall, within six months after the date of the enactment of this section, submit to the Committee on Merchant Marine and Fisheries of the House of Representatives a plan for a suitable display in coastal North Carolina of artifacts and materials of the United States ship Monitor.

"(2) CONTENTS OF PLAN.—The plan submitted under subsection (a) shall, at a minimum, contain—

"(A) an identification of appropriate sites in coastal North Carolina, either existing or proposed, for display of artifacts and materials of the United States ship Monitor;

"(B) an identification of suitable artifacts and materials, including artifacts recovered or proposed for recovery, for display in coastal North Carolina;

"(C) an interpretive plan for the artifacts and materials which focuses on the sinking, discovery, and subsequent management of the wreck of the United States ship Monitor; and

"(D) a draft cooperative agreement with the State of North Carolina to implement the plan.

"(c) DISCLAIMER.—This section shall not affect the following:

"(1) RESPONSIBILITIES OF SECRETARY.—The responsibilities of the Secretary to provide for the protection, conservation, and display of artifacts and materials from the United States ship Monitor.

Virginia.

"(2) AUTHORITY OF SECRETARY.—The authority of the Secretary to designate the Mariner's Museum, located at Newport News, Virginia, as the principal museum for coordination of activities referred to in paragraph (1).".

SEC. 209. CHANNEL ISLANDS NATIONAL MARINE SANCTUARY PROTECTION.

(a) REPORT.—The Secretary of Transportation, not later than 6 months after the date of the enactment of this Act, shall transmit to Congress—

(1) the provisions of international conventions and United States laws and regulations which reduce the risk of a vessel collision or incident resulting in damage to the environment in the Channel Islands National Marine Sanctuary;

(2) the provisions of the National Contingency Plan for removal of oil and hazardous substances prepared under section 311(c) of the Federal Water Pollution Control Act (33 U.S.C. 1321(c)) which enable the Secretary to effectively respond to an oil pollution incident in or affecting the Channel Islands National Marine Sanctuary;

(3) a list of pollution exercises conducted under that National Contingency Plan in the Santa Barbara Channel before the date of the enactment of this Act, and a schedule of pollution exer-

cises scheduled to be conducted under that plan in that channel during the 12 months following the date of the enactment of this Act; and

(4) a report on the establishment—

(A) under the Ports and Waterways Safety Act (33 U.S.C. 1221 et seq.) of safety fairways off the coast of California; and

(B) of the Long Beach NAVTEX in Long Beach, California.

(b) STUDY REVIEW AND REPORT.—The Secretary of Transportation shall review all Federal, State, and local studies conducted on the hazards of shipping operations and the risks those operations pose to the environment and natural resources of the Channel Islands National Marine Sanctuary, and report to the Congress not later than 6 months after the date of the enactment of this Act on the status and recommendations of each of those studies. The Secretary shall include in the report a recommendation on whether an alternate vessel traffic separation scheme would reduce the risks of shipping operations to the environment and natural resources in the Channel Islands National Marine Sanctuary.

(c) PROPOSAL OF DESIGNATION OF AREA TO BE AVOIDED.—The Secretary of Transportation shall prepare and submit a proposal to the International Maritime Organization to designate the portion of the Channel Islands National Marine Sanctuary which is outside of the Santa Barbara Channel Traffic Separation Scheme, as an area to be avoided. The Secretary shall ensure that the proposal would not result in undue interference with international vessel traffic in the Santa Barbara Channel, with operations associated with the United States Navy Pacific Missile Test Range, or with enjoyment of the Channel Islands National Marine Sanctuary under title III of the National Marine Protection, Research, and Sanctuaries Act of 1972 (16 U.S.C. 1431 et seq.).

SEC. 210. REGULATIONS.

16 USC 1432 note.

Not later than one year after the date of the enactment of this Act, the Secretary of Commerce—

(1) shall propose regulations implementing the amendments made by this title; and

(2) shall issue final regulations implementing the amendments made by the Marine Sanctuaries Amendments of 1984.

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.R. 4210:

HOUSE REPORTS: No. 100-624, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, 4, considered and passed House.
Oct. 12, considered and passed Senate, amended.
Oct. 13, House concurred in Senate amendments.

Public Law 100-628
100th Congress

An Act

Nov. 7, 1988
[H.R. 4352]

To amend the Stewart B. McKinney Homeless Assistance Act to extend programs providing urgently needed assistance for the homeless, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Stewart B. McKinney Homeless Assistance Amendments Act of 1988. Disadvantaged persons. 42 USC 11301 note.

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Stewart B. McKinney Homeless Assistance Amendments Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title and table of contents.

TITLE I—GENERAL PROVISIONS

Sec. 101. Budget compliance.
Sec. 102. Annual program summary by Comptroller General.

TITLE II—INTERAGENCY COUNCIL ON THE HOMELESS

Sec. 201. Preparation of bimonthly bulletin.
Sec. 202. Provision of professional and technical assistance.
Sec. 203. Establishment of program timetables.
Sec. 204. Authorization of appropriations.
Sec. 205. Extension of Interagency Council.
Sec. 206. Encouragement of State involvement.

TITLE III—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

Sec. 301. Report on emergency food and shelter grant program.
Sec. 302. Authorization of appropriations.

TITLE IV—HOUSING ASSISTANCE

Subtitle A—Comprehensive Homeless Assistance Plan

Sec. 401. Submission of comprehensive plan.
Sec. 402. Contents of comprehensive plan.
Sec. 403. Performance reviews.
Sec. 404. Coordination.

Subtitle B—Emergency Shelter Grants

Sec. 421. Distribution of assistance by States to private nonprofit organizations.
Sec. 422. Essential services.
Sec. 423. Homelessness prevention as an eligible activity.
Sec. 424. Required use of building as shelter.
Sec. 425. Authorization of appropriations.

Subtitle C—Supportive Housing

Sec. 441. Availability of operating and technical assistance for new structures.
Sec. 442. Project sponsor.
Sec. 443. Maximum period of residence in transitional housing.
Sec. 444. Definition of permanent housing.
Sec. 445. Use of advances to repay debt.
Sec. 446. Limit on grants.
Sec. 447. Eligible activities.
Sec. 448. Employment assistance.
Sec. 449. Limits on advances and grants.
Sec. 450. Site control.
Sec. 451. Flood plain restrictions.

Sec. 452. Matching requirement.
Sec. 453. Reports to Congress.
Sec. 454. Authorization of appropriations.
Sec. 455. Reallocations.

Subtitle D—Supplemental Assistance for Facilities To Assist the Homeless

Sec. 461. Use of assistance.
Sec. 462. Reservation of funds.
Sec. 463. Site control.
Sec. 464. Authorization of appropriations.

Subtitle E—Miscellaneous Provisions

Sec. 481. Section 8 assistance for single room occupancy dwellings.
Sec. 482. Administrative provisions.
Sec. 483. Report on effect of rent control on homelessness.
Sec. 484. Report on allocation formulas.
Sec. 485. Regulations.

TITLE V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

Sec. 501. Identification and use of unutilized and underutilized public buildings and property.

TITLE VI—REVISION AND EXTENSION OF PROGRAMS OF HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

Sec. 601. Increase in required amount of matching funds and modification in eligibility for waiver with respect to matching funds.
Sec. 602. Establishment of authority for temporary continued provision of services to certain former homeless individuals.
Sec. 603. Clarification with respect to certain provisions.
Sec. 604. Authorization of appropriations.

Subtitle B—Block Grant for Community Mental Health Services

Sec. 611. Authorization of appropriations and contingent conversions to categorical program.
Sec. 612. Eligibility of territories.
Sec. 613. Technical and conforming amendments.

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

Sec. 621. Mental health services for homeless individuals with chronic mental illness.
Sec. 622. Alcohol and drug abuse treatment of homeless individuals.

Subtitle D—General Provisions

Sec. 631. Effective dates.

TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

Subtitle A—Homeless Assistance Programs

Sec. 701. Adult education for the homeless.
Sec. 702. Education for homeless children and youth.
Sec. 703. Job training for the homeless.
Sec. 704. Emergency community services homeless grant program.
Sec. 705. Technical amendments to Older Americans Act of 1965.

Subtitle B—Job Training and Partnership Act

Sec. 711. Short title.
Sec. 712. Incentive bonus entitlement for employable dependent individuals.
Sec. 713. Provisions for improving assistance to hard-to-serve individuals and welfare recipients.
Sec. 714. Conforming and miscellaneous amendments.

TITLE VIII—VETERANS PROGRAMS

Sec. 801. Medical programs.

TITLE IX—AID TO FAMILIES WITH DEPENDENT CHILDREN; UNEMPLOYMENT COMPENSATION

Sec. 901. Extension of prohibition against implementation of certain proposed regulations.
Sec. 902. Review of policy governing use of AFDC funds to meet emergency needs of families eligible for AFDC through emergency assistance or special needs payments; report to Congress.
Sec. 903. Demonstration projects to reduce number of homeless AFDC families in welfare hotels.
Sec. 904. Preventing fraud and abuse in housing and urban development programs.

TITLE X—HOUSING AND COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS

Subtitle A—Housing Assistance

Sec. 1001. Income eligibility for assisted housing.
Sec. 1002. Public housing child care grants.
Sec. 1003. Public housing resident management.
Sec. 1004. Prohibition of reduction of section 8 contract rents.
Sec. 1005. Project-based section 8 assistance.
Sec. 1006. Section 8 assistance for residents of rental rehabilitation projects.
Sec. 1007. Rental rehabilitation program.
Sec. 1008. Tweemill House.
Sec. 1009. Housing counseling.
Sec. 1010. Multifamily housing management and preservation.
Sec. 1011. Multifamily housing capital improvements assistance.
Sec. 1012. Use of funds recaptured from refinancing State finance projects.
Sec. 1013. Public housing lease and grievance procedures.
Sec. 1014. Exceptions to tenant preference provisions.

Subtitle B—Preservation of Low Income Housing

Sec. 1021. Notice of intent.
Sec. 1022. Plan of action.
Sec. 1023. Incentives to extend low income use.
Sec. 1024. Criteria for approval of plan of action.
Sec. 1025. Modification of existing regulatory agreements.
Sec. 1026. Report on notice to tenants and incentives.
Sec. 1027. Definition of eligible low income housing.
Sec. 1028. Rural rental housing displacement prevention.
Sec. 1029. Section 8 loan management program.

Subtitle C—Rural Housing

Sec. 1041. Implementation of guaranteed loan demonstration.
Sec. 1042. Section 515 rents.
Sec. 1043. Availability of domestic farm labor housing for other families.
Sec. 1044. Rural rental rehabilitation demonstration.
Sec. 1045. Legal representation in litigation involving collection of claims and obligations arising out of rural housing programs.

Subtitle D—Mortgage Insurance and Secondary Mortgage Market Programs

Sec. 1061. Change in definition of veteran.
Sec. 1062. Limitation on use of single family mortgage insurance by investors.
Sec. 1063. Procedures applicable to assumption of insured mortgages.
Sec. 1064. Payment of claims on losses from preforeclosure sales.
Sec. 1065. Mortgage insurance on Hawaiian home lands.
Sec. 1066. Home equity conversion mortgage insurance demonstration.
Sec. 1067. Reciprocity in approval of housing subdivisions among Federal agencies.
Sec. 1068. Permanent authority to purchase second mortgages on multifamily properties.

Subtitle E—Community Development and Miscellaneous Programs

Sec. 1081. City and county classifications.
Sec. 1082. Corrections to cross-references.
Sec. 1083. Conserving neighborhoods and housing by prohibiting displacement.
Sec. 1084. Urban development action grants.
Sec. 1085. Neighborhood reinvestment corporation.
Sec. 1086. National flood insurance program.
Sec. 1087. Home mortgage disclosure.
Sec. 1088. Lead-based paint poisoning prevention.

Sec. 1089. Interstate land sales full disclosure.
Sec. 1090. Designation of enterprise zones.
Sec. 1091. Report on recommended policy for dealing with radon in assisted housing.

TITLE I—GENERAL PROVISIONS

SEC. 101. BUDGET COMPLIANCE.

42 USC 11303 note.

(a) IN GENERAL.—This Act and the amendments made by this Act may not be construed to provide for new budget authority, budget outlays, or new entitlement authority, for fiscal year 1989 or 1990 in excess of the appropriate aggregate levels established by the concurrent resolution on the budget for such fiscal year for the programs authorized by this Act and the amendments made by this Act.

(b) DEFINITIONS.—For purposes of this section, the terms "budget authority", "budget outlays", "concurrent resolution on the budget", and "entitlement authority" have the meanings given such terms in section 3 of the Congressional Budget Act of 1974 (2 U.S.C. 622).

SEC. 102. ANNUAL PROGRAM SUMMARY BY COMPTROLLER GENERAL.

(a) IN GENERAL.—Section 105 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11304) is amended—

(1) by inserting "annually" after "shall"; and

(2) by striking "a report" and all that follows and inserting the following: "to the Congress an annual summary of the status of each program authorized under this Act.".

(b) CONFORMING AMENDMENTS.—

(1) SECTION HEADING.—The heading for section 105 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11304) is amended by striking "AUDITS" and inserting "ANNUAL PROGRAM SUMMARY".

(2) TABLE OF CONTENTS.—The item relating to section 105 in the table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 prec.) is amended to read as follows:

"Sec. 105. Annual program summary by Comptroller General.".

TITLE II—INTERAGENCY COUNCIL ON THE HOMELESS

SEC. 201. PREPARATION OF BIMONTHLY BULLETIN.

Section 203(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11313(a)) is amended—

(1) by striking "and" at the end of paragraph (5);

(2) by striking the period at the end of paragraph (6) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(7) prepare and distribute to States (including State contact persons), local governments, and other public and private nonprofit organizations, a bimonthly bulletin that describes the Federal resources available to them to assist the homeless, including current information regarding application deadlines and appropriate persons to contact in each Federal agency providing the resources.".

State and local governments.

SEC. 202. PROVISION OF PROFESSIONAL AND TECHNICAL ASSISTANCE.

Section 203(a)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11313(a)(4)) is amended—

(1) by striking ", through personnel employed by the Council in each of the 10 standard Federal regions," and inserting the following: "(by at least 2, but in no case more than 5, regional coordinators employed by the Council, each having responsibility for interaction and coordination of the activities of the Council within the 10 standard Federal regions)"; and

(2) by striking subparagraphs (A) and (B) and inserting the following:

"(A) interpret regulations and assist in the application process for Federal assistance, including grants;

"(B) provide assistance on the ways in which Federal programs, other than those authorized under this Act, may best be coordinated to complement the objectives of this Act;

"(C) develop recommendations and program ideas based on regional specific issues in serving the homeless population; and

"(D) establish a schedule for biennial regional workshops to be held by the Council in each of the 10 standard Federal regions to further carry out and provide the assistance described in subparagraphs (A), (B), and (C) and other appropriate assistance as necessary, of which—

"(i) not less than 5 such workshops shall be held by September 30, 1989; and

"(ii) at least 1 such workshop shall be held in each of the 10 Federal regions every 2 years, beginning on September 30, 1988;".

SEC. 203. ESTABLISHMENT OF PROGRAM TIMETABLES.

Section 203 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11313) is amended by adding at the end the following new subsection:

"(e) PROGRAM TIMETABLES.—Not later than 90 days after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, the head of each Federal agency that is a member of the Council and responsible for administering a program under this Act shall provide to the Council a timetable regarding program funding availability and application deadlines. The Council shall furnish such information to each State (including the State contact person).".

State and local governments.

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

Section 208 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11318) is amended to read as follows:

"SEC. 208. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $1,100,000 for fiscal year 1989 and $1,200,000 for fiscal year 1990.".

SEC. 205. EXTENSION OF INTERAGENCY COUNCIL.

Section 209 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11319) is amended by striking "upon the expiration of the 3-year period beginning on the date of the enactment of this Act" and inserting "on October 1, 1990".

SEC. 206. ENCOURAGEMENT OF STATE INVOLVEMENT.

(a) IN GENERAL.—Title II of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11311 et seq.) is amended by adding at the end the following new section:

"SEC. 210. ENCOURAGEMENT OF STATE INVOLVEMENT. 42 USC 11320.

"(a) STATE CONTACT PERSONS.—Each State shall designate an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications received from the Council, including the bimonthly bulletin described in section 203(a)(7).

"(b) STATE INTERAGENCY COUNCILS AND LEAD AGENCIES.—Each State is encouraged to establish a State interagency council on the homeless or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local agencies as necessary.".

(b) CONFORMING AMENDMENT.—The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 prec.) is amended by inserting after the item relating to section 209 the following new item:

"Sec. 210. Encouragement of State involvement.".

TITLE III—FEDERAL EMERGENCY MANAGEMENT FOOD AND SHELTER PROGRAM

SEC. 301. REPORT ON EMERGENCY FOOD AND SHELTER GRANT PROGRAM.

Not later than 6 months after the date of the enactment of this Act, the Director of the Federal Emergency Management Agency shall submit a report to the appropriate committees of the Congress on the emergency food and shelter grant program administered under subtitle B of title III of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11341 et seq.). The report shall include—

(1) proposed legislation for a minimum of 2 alternative statutory formulas incorporating the criteria on which the distribution and disbursement of such grants is based, including utilization of data that reflect the number of long-term unemployed workers in the States involved (including those whose unemployment benefits have run out and those who have been out of work so long they are no longer actively seeking employment); and

(2) supporting evidence for each alternative formula and criteria that explains how each formula would be effective in targeting such grants to the areas in the Nation that have the greatest need.

SEC. 302. AUTHORIZATION OF APPROPRIATIONS.

Section 322 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11352) is amended to read as follows:

"SEC. 322. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this title $129,000,000 for fiscal year 1989 and $134,000,000 for fiscal year 1990.".

TITLE IV—HOUSING ASSISTANCE

Subtitle A—Comprehensive Homeless Assistance Plan

SEC. 401. SUBMISSION OF COMPREHENSIVE PLAN.

(a) ANNUAL SUBMISSION.—Section 401(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(a)(1)) is amended by inserting "annually" after "submits".

(b) SUBMISSION TO OTHER JURISDICTIONS.—Section 401(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(a)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by redesignating paragraph (2) as paragraph (3); and

(3) by inserting after paragraph (1) the following new paragraph:

State and local governments. Urban areas.

"(2) at the time of submission of the comprehensive plan to the Secretary—

"(A) in the case of a State, it also submits a copy of the comprehensive plan to each metropolitan city or urban county that is located in the State and is subject to the requirements of this subsection; and

"(B) in the case of a metropolitan city or urban county, it also submits a copy of the comprehensive plan to the State in which it is located; and".

SEC. 402. CONTENTS OF COMPREHENSIVE PLAN.

Section 401(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(b)) is amended—

(1) in paragraph (3)—

(A) by inserting "facilities and" before "services"; and

(B) by striking "and" at the end;

(2) in paragraph (4)—

(A) by inserting "facilities and" before "services"; and

(B) by striking the period at the end and inserting a semicolon; and

(3) by adding at the end the following new paragraphs:

State and local governments. Urban areas.

"(5) an identification of the appropriate person or agency to contact in the State, metropolitan city, or urban county regarding information relating to the contents of the comprehensive plan; and

"(6) an assurance that each recipient and project sponsor shall administer, in good faith, a policy designed to ensure that the homeless facility is free from the illegal use, possession, or distribution of drugs or alcohol by its beneficiaries.".

SEC. 403. PERFORMANCE REVIEWS.

Section 401(d)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361(d)(3)) is amended by inserting before the period the following: "or to respond to recommendations made in accordance with paragraph (2) that are received at least 60 days prior to the beginning of the fiscal year".

SEC. 404. COORDINATION.

Section 401 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11361) is amended by adding at the end the following new subsection:

"(g) COORDINATION.—If the comprehensive plan submitted by a State contains a designation of a State agency or a State contact person to coordinate homeless assistance efforts in the State, each Federal agency that provides assistance under this Act shall provide to the designated State agency or contact person such information as may be appropriate to facilitate such coordination.". State and local governments.

Subtitle B—Emergency Shelter Grants

SEC. 421. DISTRIBUTION OF ASSISTANCE BY STATES TO PRIVATE NONPROFIT ORGANIZATIONS.

(a) IN GENERAL.—Section 413(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(a)) is amended by inserting "and private nonprofit organizations" after "local governments".

(b) DISTRIBUTIONS TO NONPROFITS.—Section 413(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11373(c)) is amended by adding at the end the following new sentence: "Any State receiving assistance under this subtitle may distribute all or a portion of such assistance to private nonprofit organizations providing assistance to homeless individuals, if the local government for the locality in which the project is located certifies that it approves of the project.".

SEC. 422. ESSENTIAL SERVICES.

(a) AMOUNT PERMITTED.—Section 414 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374) is amended—

(1) in subsection (a)(2)(B) and in subsection (b), by striking "15" and inserting "20"; and

(2) in subsection (a)(2)(B), by striking "the amount of any assistance to a" and inserting "the aggregate amount of all assistance to a State or".

(b) SUPPLEMENTAL USE OF ASSISTANCE.—Section 414(a)(2)(A) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)(2)(A)) is amended by inserting before the semicolon the following: ", or the use of assistance under this subtitle would complement those services".

SEC. 423. HOMELESSNESS PREVENTION AS AN ELIGIBLE ACTIVITY.

(a) IN GENERAL.—Section 414(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11374(a)) is amended by adding at the end the following:

"(4) Efforts to prevent homelessness such as financial assistance to families who have received eviction notices or notices of termination of utility services if— Utilities.

"(A) the inability of the family to make the required payments is due to a sudden reduction in income;

"(B) the assistance is necessary to avoid the eviction or termination of services;

"(C) there is a reasonable prospect that the family will be able to resume payments within a reasonable period of time; and

"(D) the assistance will not supplant funding for preexisting homelessness prevention activities from other sources. Activities under this paragraph shall be treated as 'essential services' for the purpose of paragraph (2)(B).".

42 USC 11374 note.

(b) REPORTING REQUIREMENT.—The Comptroller General of the United States shall conduct a study and report to the Congress not later than 1 year after the date of the enactment of this Act on various programs to prevent homelessness implemented by grantees, with particular focus on the different methods employed by grantees to determine eligibility for homelessness prevention assistance and restrictions or limitations, if any, imposed under such programs. Such report shall include—

(1) an examination of other homelessness prevention programs, including other Federal programs and State and local programs; and

(2) recommendations for such legislation as the Comptroller General determines appropriate, including recommendations on how to prevent homelessness as a result of mortgage foreclosures.

SEC. 424. REQUIRED USE OF BUILDING AS SHELTER.

Section 415(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11375(c)(1)) is amended to read as follows:

"(1) it will—

"(A) in the case of assistance involving major rehabilitation or conversion, maintain any building for which assistance is used under this subtitle as a shelter for homeless individuals and families for not less than a 10-year period;

"(B) in the case of assistance involving rehabilitation (other than major rehabilitation or conversion), maintain any building for which assistance is used under this subtitle as a shelter for homeless individuals and families for not less than a 3-year period; or

"(C) in the case of assistance involving solely activities described in paragraphs (2) and (3) of section 414(a), provide services or shelter to homeless individuals and families for the period during which such assistance is provided, without regard to a particular site or structure as long as the same general population is served.".

SEC. 425. AUTHORIZATION OF APPROPRIATIONS.

Section 417 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11377) is amended to read as follows:

"SEC. 417. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated to carry out this subtitle $120,000,000 for fiscal year 1989 and $125,000,000 for fiscal year 1990.".

Subtitle C—Supportive Housing

SEC. 441. AVAILABILITY OF OPERATING AND TECHNICAL ASSISTANCE FOR NEW STRUCTURES.

(a) DEFINITION OF PROJECT.—Section 422(7) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(7)) is amended by inserting before the period at the end the following: "or with

respect to which the Secretary provides technical assistance or annual payments for operating costs under this subtitle".

(b) OPERATING ASSISTANCE.—Section 423(a)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(3)) is amended by inserting after "transitional housing" the following: "(without regard to whether the housing is an existing structure)".

(c) TECHNICAL ASSISTANCE.—Section 423(a)(4) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(4)) is amended to read as follows:

"(4) Technical assistance in—

"(A) establishing supportive housing in an existing structure;

"(B) operating supportive housing (without regard to whether the housing is an existing structure); and

"(C) providing supportive services to the residents of supportive housing (without regard to whether the housing is an existing structure).".

SEC. 442. PROJECT SPONSOR.

(a) IN GENERAL.—Section 422(8) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(8)) is amended by inserting before the period at the end the following: "or a public housing agency".

(b) STATE APPROVALS OF PERMANENT HOUSING FOR HANDICAPPED HOMELESS PERSONS.—

(1) PROJECT SPONSOR.—Section 422(8) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(8)) is amended by striking "the Governor or other chief executive official of a State" and inserting "a State".

(2) LETTERS OF PARTICIPATION.—Section 424(a)(2)(F)(i) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)(2)(F)(i)) is amended by striking "the Governor or other chief executive official of the State" and inserting "the State".

SEC. 443. MAXIMUM PERIOD OF RESIDENCE IN TRANSITIONAL HOUSING.

Section 422(12)(A) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(A)) is amended in the first sentence by striking "within a reasonable amount of time, as determined by the Secretary" and inserting "within 24 months (or such longer period as the Secretary determines is necessary to facilitate the transition of homeless individuals to independent living)".

SEC. 444. DEFINITION OF PERMANENT HOUSING.

Section 422(12)(B) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11382(12)(B)) is amended by inserting after the first sentence the following: "The Secretary may waive the limitation contained in the preceding sentence if the applicant demonstrates that—

"(i) local market conditions dictate the development of a larger project; and

"(ii) such development will achieve the neighborhood integration objectives of the program within the context of the affected community.".

SEC. 445. USE OF ADVANCES TO REPAY DEBT.

(a) IN GENERAL.—Section 423(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(1)) is amended by

adding at the end the following new sentence: "The repayment of any outstanding debt owed on a loan made to purchase an existing structure shall be considered to be a cost of acquisition eligible for an advance under this paragraph if the structure was not used as supportive housing prior to the receipt of assistance.".

42 USC 11383 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to notifications of awards for grants made under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act on or after November 1, 1987.

SEC. 446. LIMIT ON GRANTS.

Section 423(a)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)(2)) is amended by inserting ", in an amount not to exceed $200,000," after "A grant".

SEC. 447. ELIGIBLE ACTIVITIES.

Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)) is amended—

Handicapped persons.

(1) in paragraph (3), by inserting before the period at the end the following: ", and for operating costs for permanent housing for handicapped homeless persons, not to exceed 50 percent of the annual operating costs of such housing for the first year of operation, and not to exceed 25 percent of such costs for the second year of operation"; and

(2) by adding at the end the following:

"A recipient may receive assistance under both paragraphs (1) and (2).".

SEC. 448. EMPLOYMENT ASSISTANCE.

(a) AUTHORITY TO PROVIDE GRANTS.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)) is amended by inserting after paragraph (4) the following new paragraph:

"(5) A grant for establishing and operating an employment assistance program for the residents of transitional housing, which shall include—

"(A) employment of residents in the operation and maintenance of the housing; and

"(B) the payment of the transportation costs of residents to places of employment.".

(b) PRIORITY.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) is amended—

(1) by striking "and" at the end of paragraph (6);

(2) by redesignating paragraph (7) as paragraph (8); and

(3) by inserting after paragraph (6) the following new paragraph:

"(7) in the case of transitional housing, the extent to which the project contains an employment assistance program which meets the program criteria described in section 423(a)(5); and"

SEC. 449. LIMITS ON ADVANCES AND GRANTS.

(a) IN GENERAL.—Section 423(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383(a)) is amended by adding at the end the following:

"The Secretary may increase the limit contained in paragraphs (1) and (2) to $400,000 in areas which the Secretary finds have high acquisition and rehabilitation costs.".

(b) LIMITED NEW CONSTRUCTION AUTHORITY.—Section 423 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11383) is amended by adding at the end the following:

"(d) LIMITED NEW CONSTRUCTION AUTHORITY.—In addition to the purposes described in subsection (a)(1), an advance under such subsection may be used for new construction only if the Secretary finds that the project—

"(1) involves the cooperation of a city and a State university;

"(2) has the land donated by a State university;

"(3) proposes a supportive housing structure of at least 10,000 square feet; and

"(4) proposes a model supportive housing project with a comprehensive support system, including health services, job counseling, mental health services, and housing assistance and advocacy.".

SEC. 450. SITE CONTROL.

(a) REQUIREMENT.—

(1) IN GENERAL.—Section 424(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(a)) is amended by adding at the end the following:

"(3) The Secretary shall require that an application furnish reasonable assurances that the applicant will own or have control of a site for the proposed project not later than 6 months after notification of an award for grant assistance. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.". Grants.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) applies to notifications of awards for grants made under subtitle C of title IV of the Stewart B. McKinney Homeless Assistance Act on or after November 1, 1987. 42 USC 11384 note.

(b) PRIORITY.—Section 424(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384(b)) (as amended by section 448 of this subtitle) is further amended—

(1) by striking "and" at the end of paragraph (7);

(2) by redesignating paragraph (8) as paragraph (9); and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) the extent to which the applicant or project sponsor has control of the site of the proposed project; and".

SEC. 451. FLOOD PLAIN RESTRICTIONS.

Section 424 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11384) is amended by adding at the end the following:

"(e) FLOOD PROTECTION STANDARDS.—Flood protection standards applicable to housing acquired, rehabilitated, or assisted under this subtitle shall be no more restrictive than the standards applicable under Executive Order No. 11988 (May 24, 1977) to the other programs under this title.".

SEC. 452. MATCHING REQUIREMENT.

Section 425 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11385) is amended to read as follows:

"SEC. 425. MATCHING FUNDS REQUIREMENTS.

"(a) IN GENERAL.—Each recipient shall be required to supplement the amount of assistance provided under paragraphs (1) and (2) of section 423(a) with an equal amount of funds from non-Federal sources. Each State submitting an application for permanent housing for handicapped homeless persons shall certify that it will supplement the amount of assistance provided under paragraphs (1) and (2) of section 423(a) with an equal amount of funds from non-Federal sources.

State and local governments.

"(b) NON-FEDERAL FUNDS.—For the purpose of this section, the term 'funds from non-Federal sources' includes State or local agency funds, any salary paid to staff to carry out the program of the recipient, any salary paid to residents of transitional housing under an employment assistance program described in section 423(a)(5), the value of the time and services contributed by volunteers to carry out the program of the recipient at a rate determined by the Secretary, and the value of any donated material or building and the value of any lease on a building.".

SEC. 453. REPORTS TO CONGRESS.

Section 427 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11387) is amended to read as follows:

"SEC. 427. REPORTS TO CONGRESS.

"The Secretary shall submit annually to the Congress a report summarizing the activities carried out under this subtitle and setting forth the findings, conclusions, and recommendations of the Secretary as a result of the activities. The report shall be submitted not later than 3 months after the end of each fiscal year (6 months in the case of fiscal year 1988).".

SEC. 454. AUTHORIZATION OF APPROPRIATIONS.

Section 428(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388(a)) is amended to read as follows:

"(a) IN GENERAL.—There are authorized to be appropriated to carry out this subtitle $100,000,000 for fiscal year 1989 and $105,000,000 for fiscal year 1990.".

SEC. 455. REALLOCATIONS.

Section 428 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11388) is amended by adding at the end the following new subsection:

"(d) REALLOCATIONS.—If, following the receipt of applications for the final funding round under this subtitle for any fiscal year, any amount set aside for assistance pursuant to subsection (b)(1), (b)(2), or (c) will not be required to fund the approvable applications submitted for such assistance, the Secretary shall reallocate such amount for other assistance pursuant to this subtitle.".

Subtitle D—Supplemental Assistance for Facilities To Assist the Homeless

SEC. 461. USE OF ASSISTANCE.

Section 432(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(a)) is amended—

(1) in paragraph (1)–

(A) by striking "or" at the end of subparagraph (A); and
(B) by adding at the end the following new subparagraph:
"(C) to provide supportive services for the homeless; or"; and

(2) in paragraph (2)—
(A) in subparagraph (A), by inserting "operation," after "renovation,"; and
(B) in subparagraph (B), by striking "homeless individuals" and inserting "the homeless".

SEC. 462. RESERVATION OF FUNDS.

The second sentence of section 432(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392(d)) is amended—
(1) by inserting "and services" after "facilities" each place it appears; and
(2) by striking "individuals and" and inserting "individuals or".

SEC. 463. SITE CONTROL.

(a) REQUIREMENT.—Section 432 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11392) is amended—
(1) by redesignating subsections (e) and (f) as subsections (f) and (g), respectively; and
(2) by inserting after subsection (d) the following:

"(e) SITE CONTROL.—The Secretary shall require that an application furnish reasonable assurances that the applicant will own or have control of a site for the proposed project not later than 6 months after notification of an award for grant assistance. An applicant may obtain ownership or control of a suitable site different from the site specified in the application. If an applicant fails to obtain ownership or control of the site within 1 year after notification of an award for grant assistance, the grant shall be recaptured and reallocated.". Grants.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies to notifications of awards for grants made under subtitle D of title IV of the Stewart B. McKinney Homeless Assistance Act on or after November 1, 1987. 42 USC 11392 note.

SEC. 464. AUTHORIZATION OF APPROPRIATIONS.

The first sentence of section 434 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11394) is amended to read as follows: "There are authorized to be appropriated to carry out this subtitle $10,000,000 for fiscal year 1989 and $11,000,000 for fiscal year 1990.".

Subtitle E—Miscellaneous Provisions

SEC. 481. SECTION 8 ASSISTANCE FOR SINGLE ROOM OCCUPANCY DWELLINGS.

(a) INCREASE IN BUDGET AUTHORITY.—Section 441(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(a)) is amended to read as follows:

"(a) INCREASE IN BUDGET AUTHORITY.—The budget authority available under section 5(c) of the United States Housing Act of 1937 for assistance under section 8(e)(2) of such Act is authorized to be

increased by $50,000,000 on or after October 1, 1988, and by $50,000,000 on or after October 1, 1989.".

(b) REHABILITATION OF EFFICIENCY UNITS.—Section 441(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(b)) is amended by inserting before the period at the end the following: ", except that amounts made available under this section may be used in connection with the moderate rehabilitation of efficiency units if the building owner agrees to pay the additional cost of rehabilitating and operating such units.".

(c) FIRE AND SAFETY IMPROVEMENTS.—Section 441(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(d)) is amended by adding at the end the following new sentence: "For purposes of this subsection, the term 'major spaces' means hallways, large common areas, and other areas specified in local fire, building, or safety codes.".

(d) ANNUAL ADJUSTMENT OF COST LIMITATION.—

(1) ADJUSTMENT REQUIRED.—Section 441(e) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401(e)) is amended by adding at the end the following new paragraph:

"(3) The Secretary of Housing and Urban Development shall increase the limitation in paragraph (1) on October 1 of each year by an amount necessary to take into account increases in construction costs during the previous 12-month period.".

42 USC 11401 note.

(2) EFFECTIVE DATE.—The first increase under the amendment made by paragraph (1) shall be effective with respect to assistance provided on or after October 1, 1988.

SEC. 482. ADMINISTRATIVE PROVISIONS.

(a) IN GENERAL.—Subtitle E of title IV of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11401 et seq.) is amended by adding at the end the following new section:

42 USC 11402.

"SEC. 443. ADMINISTRATIVE PROVISIONS.

"The provisions of, and regulations and procedures applicable under, section 104(g) of the Housing and Community Development Act of 1974 shall apply to assistance and projects under this title.".

(b) CONFORMING AMENDMENT.—The table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 prec.) is amended by inserting after the item relating to section 442 the following new item:

"Sec. 443. Administrative provisions.".

42 USC 11301 note.

SEC. 483. REPORT ON EFFECT OF RENT CONTROL ON HOMELESSNESS.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall submit to the Congress a report evaluating the impact of local housing rent controls and regulations on the rate of homelessness, and on the development, supply, availability, and affordability of housing, in major cities in the United States.

(b) SPECIFIC REQUIREMENTS.—The report required in this section shall include—

(1) a listing of localities that have housing rent controls or regulations, the nature and extent of such controls or regulations, and an assessment of the variance of such controls or regulations among localities;

(2) an evaluation of the impact of such controls or regulations on the development, supply, and growth of affordable rental housing for lower income families, including an accounting of

any increase or decrease in the supply of rental units that has occurred during the period of such controls or regulations;

(3) an evaluation of the benefits and effectiveness of such controls or regulations in ensuring affordable rents for lower income families;

(4) an evaluation of the relationship between the existence of such controls or regulations and Federal subsidized housing assistance in the locality, including whether such controls or regulations necessitate more or less Federal housing aid;

(5) an evaluation of the impact on the resident population of removing such controls or regulations, including an assessment of potential rent increases on lower income residents, the options available to localities to mitigate any such increases, the potential increased demand for Federal subsidized housing assistance, and the impact on fair market rents in the locality;

(6) an evaluation of the effect of such controls or regulations on commercial and nonrental housing development in the locality;

(7) a demographic review of the income levels of the population in controlled or regulated units;

(8) an evaluation of the effect of such controls or regulations on the quality of controlled or regulated units;

(9) an evaluation of compliance with such controls or regulations by owners, management, and residents of controlled or regulated units;

(10) an evaluation of the administration and enforcement of such controls or regulations by local officials;

(11) an evaluation of the impact of factors other than rent controls or regulations that affect the development of affordable housing in the locality;

(12) a comparison to other localities that have not instituted such controls or regulations on the supply, development, availability, and affordability of rental housing; and

(13) any other related issue the Secretary of Housing and Urban Development determines to be of interest or significance.

(c) DEADLINE.—The Secretary of Housing and Urban Development shall submit the report required in this section within 12 months after the date of the enactment of this Act.

SEC. 484. REPORT ON ALLOCATION FORMULAS.

The Secretary of Housing and Urban Development shall—

(1) examine whether an alternative system of distributing funds under title IV of the Stewart B. McKinney Homeless Assistance Act would be feasible to ensure that the funds are provided to the jurisdictions with the greatest need of assistance for the homeless; and

(2) not later than March 1, 1989, transmit to the Congress a report on such examination.

SEC. 485. REGULATIONS.

42 USC 11301 note.

Not later than 60 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development or other Federal entity involved shall by notice establish such requirements as may be necessary to carry out the amendments made by titles I through IV and by section 501(2)(B). The Secretary or other Federal entity involved shall issue regulations based on the notice not later than 12 months after the date of the enactment of this Act.

TITLE V—IDENTIFICATION AND USE OF SURPLUS FEDERAL PROPERTY

SEC. 501. IDENTIFICATION AND USE OF UNUTILIZED AND UNDER UTILIZED PUBLIC BUILDINGS AND PROPERTY.

Section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411) is amended—

(1) by inserting "UNUTILIZED AND" before "UNDERUTILIZED" in the heading of such section;

(2) in subsection (a)—

(A) by inserting "unutilized or" before "underutilized";

(B) by inserting before "shall identify" a comma and "within 2 months after collecting such information,"; and

(3) in subsection (b)—

(A) in paragraph (1), by inserting after "agency's need" the following: "or to make the property available, on an interim basis, for use as facilities to assist the homeless"; and

(B) in paragraph (2), by inserting after "be declared excess" the following. "or made available on an interim basis for use as facilities to assist the homeless"; and

(4) in subsection (d)—

(A) by striking out "BY LEASE" from the heading of such subsection;

(B) by striking out paragraph (1) and inserting the following:

"(1) The ownership of buildings and property made available under this section shall not be transferred from the Federal Government. Property identified pursuant to subsection (a)—

"(A) which has been designated as surplus property, may be made available under this section only through the use of leases for at least 1 year; or

"(B) which has not been so designated, may be made available for interim use by lease for at least 1 year or by permit."; and

(C) in paragraph (2), by striking out "To permit leases of surplus Federal buildings and other real property under this section," and inserting in lieu thereof the following: "With respect to property identified under subsection (a) which has been designated as surplus property,".

TITLE VI—REVISION AND EXTENSION OF PROGRAMS OF HEALTH CARE FOR THE HOMELESS

Subtitle A—Categorical Grants for Primary Health Services and Substance Abuse Services

SEC. 601. INCREASE IN REQUIRED AMOUNT OF MATCHING FUNDS AND MODIFICATION IN ELIGIBILITY FOR WAIVER WITH RESPECT TO MATCHING FUNDS.

(a) INCREASE IN REQUIRED AMOUNT.—Section 340(e)(1)(A) of the Public Health Service Act (42 U.S.C. 256(e)(1)(A)) is amended—

(1) in clause (i), by striking "under the grant; and" and inserting the following: "for the first fiscal year of payments under the grant and 66⅔ percent of the costs of providing such services for any subsequent fiscal year of payments under the grant; and"; and

(2) in clause (ii), by striking "Federal funds" and all that follows and inserting the following: "Federal funds provided for the first fiscal year of payments under the grant and not less than $1 (in cash or in kind under such subparagraph) for each $2 of Federal funds provided for any subsequent fiscal year of payments under the grant."

(b) EFFECTIVE DATE FOR INCREASE.—The amendment made by subsection (a) shall take effect October 1, 1989. 42 USC 256 note.

(c) MODIFICATION IN ELIGIBILITY FOR WAIVER.—Section 340(e)(2) of the Public Health Service Act (42 U.S.C. 256(e)(2)) is amended to read as follows:

"(2) The Secretary may waive the requirement established in paragraph (1)(A) if the applicant involved is a nonprofit private entity and the Secretary determines that it is not feasible for the applicant to comply with such requirement.".

SEC. 602. ESTABLISHMENT OF AUTHORITY FOR TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.

(a) IN GENERAL.—Section 340 of the Public Health Service Act (42 U.S.C. 256) is amended—

(1) by redesignating subsections (h) through (q) as subsections (i) through (r), respectively; and

(2) by adding after subsection (g) the following new subsection:

"(h) TEMPORARY CONTINUED PROVISION OF SERVICES TO CERTAIN FORMER HOMELESS INDIVIDUALS.—If any grantee under subsection (a) has provided services described in subsection (f) or (g) to a homeless individual, any such grantee may, notwithstanding that the individual is no longer homeless as a result of becoming a resident in permanent housing, expend the grant to continue to provide such services to the individual for not more than 12 months.".

(b) CONFORMING AMENDMENTS.—

(1) Section 340(d)(1) of the Public Health Service Act (42 U.S.C. 256(d)(1)) is amended—

(A) in subparagraph (C), by striking "(h)" and inserting "(i)";

(B) in subparagraph (D), by striking "(i)" and inserting "(j)";

(C) in subparagraph (E), by striking "(j)" and inserting "(k)"; and

(D) in subparagraph (F), by striking "(k)" and inserting "(l)".

(2) Section 332(a)(3) of the Public Health Service Act (42 U.S.C. 254e(a)(3)) is amended by striking "340(q)(2)" and inserting "340(r)".

(3) Section 536(1) of the Public Health Service Act (42 U.S.C. 290cc-36(1)) is amended by striking "340(q)(2)" and inserting "340(r)".

SEC. 603. CLARIFICATION WITH RESPECT TO CERTAIN PROVISIONS.

(a) DEFINITION OF HOMELESS INDIVIDUAL.—Section 340(r)(2) of the Public Health Service Act (as redesignated in section 602(a)(1) of this title) is amended by striking "living accommodations." and inserting "living accommodations and an individual who is a resident in transitional housing.".

(b) PROVISION OF TECHNICAL ASSISTANCE.—Section 340(o)(2) of the Public Health Service Act (as redesignated in section 602(a)(1) of this title) is amended by striking "(p)(1)," and inserting "(q)(1) for a fiscal year,".

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.

Section 340(q)(1) of the Public Health Service Act (as redesignated in section 602(a)(1) of this title) is amended by striking "There are authorized" and all that follows and inserting the following: "There are authorized to be appropriated to carry out this section $61,200,000 for fiscal year 1989, $63,600,000 for fiscal year 1990, and $66,200,000 for fiscal year 1991.".

Subtitle B—Block Grant for Community Mental Health Services

SEC. 611. AUTHORIZATION OF APPROPRIATIONS AND CONTINGENT CONVERSIONS TO CATEGORICAL PROGRAM.

(a) IN GENERAL.—Section 535 of the Public Health Service Act (42 U.S.C. 290cc-35) is amended to read as follows:

"FUNDING

"SEC. 535. (a) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out this part, there are authorized to be appropriated $35,000,000 for each of the fiscal years 1989 and 1990 and such sums as may be necessary for fiscal year 1991.

"(b) EFFECT OF INSUFFICIENT APPROPRIATIONS FOR MINIMUM ALLOTMENTS.—

State and local governments.

"(1) If the amounts made available pursuant to subsection (a) are insufficient for providing each State with an allotment under section 521(a) of not less than $150,000, the Secretary shall, from such amounts as are made available pursuant to such subsection, make grants to the States for providing to homeless individuals the mental health services described in section 524.

"(2) Paragraph (1) may not be construed to require the Secretary to make a grant under such paragraph to each State.".

(b) FAILURE OF STATE WITH RESPECT TO EXPENDING ALLOTMENT.—Section 529 of the Public Health Service Act (42 U.S.C. 290cc-29) is amended to read as follows:

"CONVERSION TO STATE CATEGORICAL PROGRAM IN EVENT OF FAILURE OF STATE WITH RESPECT TO EXPENDING ALLOTMENT

"SEC. 529. (a) IN GENERAL.—Subject to subsection (c), the Secretary shall, from amounts described in subsection (b), make grants to public and nonprofit private entities for the purpose of providing to homeless individuals the mental health services described in section 524.

"(b) DESCRIPTION OF FUNDS.—The amounts referred to in subsection (a) are any amounts made available in appropriations Acts for allotments under section 521(a) that are not allotted under such section to a State as a result of—

"(1) the failure of the State to submit an application under section 522;

"(2) the failure, in the determination of the Secretary, of any State to prepare within a reasonable period of time such application in compliance with such section; or

"(3) the State informing the Secretary that the State does not intend to expend the full amount of the allotment made to the State.

"(c) REQUIREMENT OF PROVISION OF SERVICES IN CERTAIN STATES.—With respect to grants under subsection (a), amounts made available pursuant to subsection (b) as a result of the State involved shall be available only for grants to provide services in such State.".

SEC. 612. ELIGIBILITY OF TERRITORIES.

(a) DEFINITION OF STATE.—Section 536(3) of the Public Health Service Act (42 U.S.C. 290cc-36(3)) is amended by striking "Columbia," and all that follows and inserting the following: "Columbia, the Commonwealth of Puerto Rico, Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands.".

(b) MINIMUM ALLOTMENT.—Section 528(a)(1) of the Public Health Service Act (42 U.S.C. 290cc-28(a)(1)) is amended to read as follows:

"(1) $275,000 for each of the several States, the District of Columbia, and the Commonwealth of Puerto Rico and $50,000 for each of Guam, the Virgin Islands, American Samoa, and the Northern Mariana Islands; and". District of Columbia.

SEC. 613. TECHNICAL AND CONFORMING AMENDMENTS.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

(1) in section 521(a), by amending the first sentence to read as follows: "The Secretary shall for each of the fiscal years 1989 through 1991 make an allotment for each State in an amount determined in accordance with section 528."; 42 USC 290cc-21.

(2) in section 541(a)(4), by striking "522" and inserting "543"; 42 USC 290dd.

(3) in section 545(d), by striking "526" and inserting "547"; and 42 USC 290ee.

(4) in section 546(a)(4), by striking "521" and inserting "542". 42 USC 290ee-1.

Subtitle C—Authorization of Appropriations for Community Demonstration Projects

SEC. 621. MENTAL HEALTH SERVICES FOR HOMELESS INDIVIDUALS WITH CHRONIC MENTAL ILLNESS.

The first sentence of section 612(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 290aa-3 note) is amended to read as follows: "For payments pursuant to section 504(f) of the Public Health Service Act, there are authorized to be appropriated $11,000,000 for fiscal year 1989, $11,500,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991, in addition to any other amounts authorized to be appropriated for such payments for each of such fiscal years.".

SEC. 622. ALCOHOL AND DRUG ABUSE TREATMENT OF HOMELESS INDIVIDUALS.

Section 513(b) of the Public Health Service Act (42 U.S.C. 290bb-2(b)) is amended to read as follows:

"(b) There are authorized to be appropriated to carry out section 512(c) $14,000,000 for fiscal year 1989, $17,000,000 for fiscal year 1990, and such sums as may be necessary for fiscal year 1991.".

Subtitle D—General Provisions

42 USC 256 note.

SEC. 631. EFFECTIVE DATES.

The amendments made by subsection (a) of section 601 shall take effect in accordance with subsection (b) of such section. The amendments otherwise made by this title shall take effect October 1, 1988, or upon the date of the enactment of this Act, whichever occurs later.

TITLE VII—EDUCATION, TRAINING, AND COMMUNITY SERVICES PROGRAMS

Subtitle A—Homeless Assistance Programs

SEC. 701. ADULT EDUCATION FOR THE HOMELESS.

Contracts.
Grants.

(a) GENERAL AUTHORITY.—

(1) IMPLEMENTATION.—Section 702(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(a)) is amended by striking "to develop a plan and implement a program" and inserting the following: "to implement, either directly or through contracts and grants, a program".

(2) CONFORMING AMENDMENTS.—

(A) SECTION HEADING.—The heading of section 702 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421) is amended by striking "STATEWIDE" and inserting "STATE".

(B) TABLE OF CONTENTS.—The item relating to section 702 in the table of contents in section 101(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11301 prec.) is amended to read as follows:

"Sec. 702. State literacy initiatives.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 702(c)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(c)(1)) is amended to read as follows:

"(1) There is authorized to be appropriated $10,000,000 for each of the fiscal years 1989 and 1990 for the adult literacy and basic skills remediation programs authorized by this section.".

(c) DEFINITION OF STATE.—Section 702(d) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11421(d)) is amended—

(1) by striking "and"; and

(2) by inserting before the period at the end the following: ", the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

SEC. 702. EDUCATION FOR HOMELESS CHILDREN AND YOUTH.

(a) GRANTS FOR STATE ACTIVITIES.—

(1) ALLOCATION.—Section 722(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(b)) is amended by inserting before the period at the end the following: "and 0.1 percent of the amount appropriated for each fiscal year shall be allocated by the Secretary among the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands". Territories, U.S.

(2) TECHNICAL AMENDMENT.—Section 722(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(b)) is amended by striking "section 111" and all that follows through "of 1981)" and inserting "section 1005 of the Elementary and Secondary Education Act of 1965".

(3) DATA GATHERING.—Section 722(d)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(d)(1)) is amended by inserting "annually" before "gather".

(4) REPORTS.—Section 722(d)(3) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(d)(3)) is amended to read as follows:

"(3) prepare and submit to the Secretary not later than December 31 of each year a report on the data gathered pursuant to paragraph (1).".

(5) AUTHORIZATION OF APPROPRIATIONS.—Section 722(g)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11432(g)(1)) is amended to read as follows:

"(1) There is authorized to be appropriated to carry out this section $5,000,000 for each of the fiscal years 1989 and 1990.".

(b) EXEMPLARY GRANTS AND DISSEMINATION OF INFORMATION.—Section 723(f) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11433(f)) is amended to read as follows:

"(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $2,500,000 for each of the fiscal years 1989 and 1990.".

(c) DEFINITION OF STATE.—Section 725(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11435(2)) is amended—

(1) by striking "and"; and

(2) by inserting before the period at the end the following: ", the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

SEC. 703. JOB TRAINING FOR THE HOMELESS.

(a) DEFINITION OF STATE.—Section 737(5) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11447(5)) is amended—

(1) by striking "and" and inserting a comma; and

(2) by inserting before the period at the end the following: ", the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 739(a)(1) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)(1)) is amended to read as follows:

"(1) There is authorized to be appropriated to carry out this subtitle $13,000,000 for each of the fiscal years 1989 and 1990, of which amount $2,200,000 for each fiscal year shall be available only to carry out section 738.".

(c) RATABLE REDUCTIONS.—Section 739(a)(2) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11449(a)(2)) is amended—

(1) by striking "in fiscal year 1988" and inserting "for any fiscal year"; and

(2) by striking "$12,000,000" and inserting "the amount authorized in paragraph (1)".

SEC. 704. EMERGENCY COMMUNITY SERVICES HOMELESS GRANT PROGRAM.

State and local governments.

(a) ALLOCATION OF GRANTS.—The second sentence of section 752(a) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11462(a)) is amended to read as follows: "Such grants shall be allocated to the States (as defined in section 673 of such Act) in accordance with the formulas set forth in subsections (a) and (b) of section 674 of such Act.".

(b) PROGRAM REQUIREMENTS.—

(1) ADDITIONAL ELIGIBLE USE OF FUNDS.—Section 753(c) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(c)) is amended by adding at the end the following new paragraph:

Utilities.

"(4) Provision of assistance to any individual who has received a notice of foreclosure, eviction, or termination of utility services, if—

"(A) the inability of the individual to make mortgage, rental, or utility payments is due to a sudden reduction in income;

"(B) the assistance is necessary to avoid the foreclosure, eviction, or termination of utility services; and

"(C) there is a reasonable prospect that the individual will be able to resume the payments within a reasonable period of time.".

(2) MAXIMUM AMOUNT AVAILABLE FOR ADDITIONAL ELIGIBLE USE.—Section 753(b) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(b)) is amended—

(A) by striking "and" at the end of paragraph (2);

(B) by striking the period at the end of paragraph (3) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(4) not more than 25 percent of the amounts received will be used for the purpose described in subsection (c)(4).".

(c) TIMELY AWARDING OF FUNDS.—

(1) 60-DAY REQUIREMENT FOR AWARDING FUNDS.—Section 753(b)(1)(A) of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463(b)(1)(A)) is amended in the matter preceding clause (i) by inserting after "receives" the following: ", by not later than 60 days after such receipt,".

(2) COMPLIANCE WITH 60-DAY REQUIREMENT.—Section 753 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11463) is amended by adding at the end the following new subsection:

"(d) COMPLIANCE WITH 60-DAY REQUIREMENT.—It shall be left solely to the discretion of the Secretary to enforce the 60-day requirement specified in subsection (b)(1)(A).".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 754 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11464) is amended to read as follows:

"SEC. 754. AUTHORIZATION OF APPROPRIATIONS.

"There is authorized to be appropriated to carry out this subtitle $42,000,000 for each of the fiscal years 1989 and 1990.".

SEC. 705. TECHNICAL AMENDMENTS TO OLDER AMERICANS ACT OF 1965.

The Older Americans Act of 1965 (42 U.S.C. 3001 et seq.) is amended—

(1) in section 102— 42 USC 3002.

(A) by redesignating paragraphs (8) and (9), as added by section 146(a) of the Older Americans Act Amendments of 1987 (Public Law 100-175; 101 Stat. 950), as paragraphs (10) and (11), respectively; and

(B) by redesignating paragraph (8), as added by section 182(b)(1)(B) of the Older Americans Act Amendments of 1987 (Public Law 100-175; 101 Stat. 964), as paragraph (12);

(2) in section 204(a)(1), by inserting a comma after "minorities"; 42 USC 3015.

(3) in section 301(a), by striking "Hawaiian organizations,," and inserting "Hawaiian organizations,"; 42 USC 3021.

(4) in section 305— 42 USC 3025.

(A) in subsection (a)(1)(E), by striking "such areas,," and inserting "such areas,"; and

(B) in subsection (d), by redesignating subparagraphs (A), (B), (C), and (D) as paragraphs (1), (2), (3), and (4), respectively;

(5) in section 306(a)(1), by striking "such area,," and inserting "such area,"; 42 USC 3026.

(6) in section 307(a)(3)(A), by striking "; and" and inserting a period; 42 USC 3027.

(7) in section 411(c), by striking "disease and and" and inserting "disease and"; 42 USC 3031.

(8) in section 422(b)— 42 USC 3035a.

(A) in paragraph (1), by striking "Alzheimers' disease and other neurological and organic disorders of the Alzheimers' type" and inserting "Alzheimer's disease and related disorders with neurological and organic brain dysfunction"; and

(B) in paragraph (9)(B), by striking "ACTION" and inserting "the ACTION Agency"; and

(9) in section 507(3), by adding "; and" at the end. 42 USC 3056e.

Jobs for Employable Dependent Individuals Act.
29 USC 1501 note.

Subtitle B—Job Training Partnership Act

SEC. 711. SHORT TITLE.

This subtitle may be cited as the "Jobs for Employable Dependent Individuals Act".

SEC. 712. INCENTIVE BONUS ENTITLEMENT FOR EMPLOYABLE DEPENDENT INDIVIDUALS.

(a) AMENDMENTS TO JTPA.—The Job Training Partnership Act (29 U.S.C. 1501 et seq.) (hereinafter in this title referred to as the "Act") is amended—

29 USC 49.

(1) by redesignating title V and all references thereto as title VI,

29 USC 49a, 49b, 49d–49j, 49*l*, 49*l*–1 and note; 42 USC 632, 633, 602; 29 USC 1504.

(2) by redesignating sections 501, 502, 503, and 504 as sections 601, 602, 603, and 604, respectively, and

(3) by inserting after title IV the following new title:

"TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

29 USC 1791.

"SEC. 501. STATEMENT OF PURPOSE.

"It is the purpose of this title to entitle each State to the payment of a bonus for the successful job placement of certain employable dependent individuals.

29 USC 1791a.

"SEC. 502. DEFINITIONS.

"For the purpose of this title—

"(1) the term 'welfare assistance' means—

"(A) cash payments made pursuant to part A of title IV of the Social Security Act (relating to the aid to families with dependent children program);

"(B) general welfare assistance to Indians, as provided pursuant to the Act of November 2, 1921 (25 U.S.C. (13)), commonly referred to as the Snyder Act; or

"(C) cash assistance and medical assistance for refugees made available pursuant to section 412(e) of the Immigration and Nationality Act;

"(2) the term 'disability assistance' means benefits offered pursuant to title XVI of the Social Security Act (relating to the supplemental security income program);

"(3) the term 'long-term recipient' means an individual who has received the benefits described in paragraphs (1) and (2) for 24 months during the 28-month period immediately preceding application for programs offered under this title;

"(4) the term 'continuous employment' means gainful employment under which wages or salaries are reportable for unemployment insurance purposes, and such wages or salaries are earned during a total of 4 out of 5 consecutive calendar quarters;

"(5) the term 'supported employment' has the meaning given such term by section 7(18) of the Rehabilitation Act of 1973; and

"(6) the term 'Federal contribution' means the amount of the Federal component of cash payments to individuals within the

State and local governments.

participating State under the programs described in this section, including part A of title IV of the Social Security Act.

"SEC. 503. ELIGIBILITY FOR INCENTIVE BONUSES. 29 USC 1791b.

"(a) IN GENERAL.—An individual shall be eligible to be counted for the purpose of this title if—

"(1) the individual is—

"(A) an eligible long-term recipient described in subsection (b);

"(B) an eligible young recipient described in subsection (c);

"(C) an eligible blind or disabled recipient described in subsection (d); or

"(D) an eligible young blind or disabled recipient described in subsection (e); and

"(2) the individual has met the requirements of section 504.

"(b) LONG-TERM RECIPIENT.—An eligible long-term recipient is an individual who—

"(1) is a long-term recipient of welfare assistance;

"(2) is the head of a household; and

"(3) had no marketable or significant work experience during the year preceding determination of eligibility for programs under this Act.

"(c) YOUNG RECIPIENT.—An eligible young recipient is an individual who—

"(1) is receiving welfare assistance at the time determination of eligibility is made for programs under this Act;

"(2) is the head of a household;

"(3) has not attained 22 years of age;

"(4) has not completed secondary school or its equivalent; and

"(5) had no marketable or significant work experience during the year preceding determination of eligibility for programs under this Act.

"(d) BLIND OR DISABLED RECIPIENT.—An eligible blind or disabled recipient is an individual who—

"(1) is blind or disabled;

"(2) is a long-term recipient of disability assistance; and

"(3) had no marketable or significant work experience during the year preceding determination of eligibility for programs offered under this Act.

"(e) YOUNG BLIND OR DISABLED RECIPIENT.—An eligible young blind or disabled recipient is an individual who—

"(1) is blind or disabled;

"(2) is receiving disability assistance at the time determination of eligibility is made for programs under this Act;

"(3) has not attained 22 years of age; and

"(4) had no marketable or significant work experience during the year preceding such determination of eligibility.

"SEC. 504. ADDITIONAL ELIGIBILITY REQUIREMENTS. 29 USC 1791c.

"(a) IN GENERAL.—An individual described in section 503 may not be considered eligible to be counted for the purpose of payment of an incentive bonus under this title unless such individual—

"(1) has successfully participated in education, training, or other activities offered under this Act;

"(2) has been placed in (A) unsubsidized, continuous employment or (B) supported employment following such participation;

"(3) receives from such employment a wage or income which is greater than or equal to such individual's placement bonus base; and

"(4) no longer receives cash benefits provided under the assistance programs described in paragraphs (1) and (2) of section 502, unless receipt of such benefits—

"(A) is limited to 1 calendar quarter (or an equivalent period) during the 5 calendar quarters used to determine continuous employment; and

"(B) is caused by a termination of employment due to—

"(i) a layoff or permanent closure of a plant or facility;

"(ii) a relocation of Federal facilities; or

"(iii) a natural disaster.

"(b) QUALIFIED EARNINGS.—An individual shall be considered to be earning a wage or income which meets the requirements of subsection (a)(3) if, during a period of continuous employment, the individual earns an income reportable for unemployment insurance purposes and does not receive cash benefits under the programs described in section 502.

"(c) EDUCATIONAL REQUIREMENTS.—An individual described in section 503 (c) or (e) shall be considered to have met the requirements of subsection (a)(1) if the individual no longer receives welfare assistance and—

"(1) reenrolls in secondary school or its equivalent and matriculates to the next grade level or its equivalent within 1 year of enrollment;

"(2) enrolls in an accredited vocational or technical school not less than full time and is making satisfactory progress in a course of study which can reasonably be expected to lead to employment; or

"(3) obtains the equivalent of a secondary school diploma within 12 months following the individual's determination of eligibility for programs offered under this title.

29 USC 1791d.

"SEC. 505. AMOUNT OF INCENTIVE BONUS.

"(a) IN GENERAL.—The amount of the incentive bonus paid to each State shall be equal to the sum of—

"(1) 75 percent of the placement bonus base for each successful placement in employment of an individual described in section 503;

"(2) 75 percent of the placement bonus base for the second continuous year of such employment; and

"(3) 75 percent of the placement bonus base for the third continuous year of such employment,

in excess of the number of such placements made in program year 1987 or such other base period as provided by agreement between the Governor and the Secretary.

"(b) PLACEMENT BONUS BASE FOR PURPOSES OF SECTION 503 (b) AND (c).—For the purpose of this section, the placement bonus base—

"(1) for an individual who qualifies under section 503(b) is equal to the sum of the Federal contribution to amounts received by the individual and the family of such individual under a State plan approved under part A of title IV of the Social Security Act, relating to aid to families with dependent children, or under section 412(e) of the Immigration and Nationality Act, relating to cash assistance and medical assistance to

refugees, or both, for the 2 fiscal years prior to the determination made under section 503 divided by 2; and

"(2) for an individual who qualifies under section 503(c) shall be the annual amount to which such individual would have been entitled for 1 year at the time of the determination of eligibility of the individual, if such individual has not received the benefits described in section 502(1)(A) for the prior year, under part A of title IV of the Social Security Act, relating to the aid to families with dependent children program, or section 412(e) of the Immigration and Nationality Act relating to cash assistance and medical assistance to refugees.

"(c) PLACEMENT BONUS BASE FOR PURPOSES OF SECTION 503 (d) AND (e).—For the purpose of this section, the placement bonus base—

"(1) for an individual who qualifies under section 503(d) is equal to the sum of the Federal contribution to amounts received by the individual under title XVI of the Social Security Act relating to supplemental security income for the 2 fiscal years prior to the determination made under section 503 divided by 2; and

"(2) for an individual who qualifies under section 503(e) shall be the annual amount to which such individual would have been entitled for 1 year at the time of the determination of eligibility of the individual, if such individual has not received the benefits described in section 502(2) for the prior year under title XVI of the Social Security Act, relating to supplemental security income.

"SEC. 506. APPLICATIONS AND VERIFICATION REQUIRED. 29 USC 1791e.

"(a) NOTICE OF INTENT TO PARTICIPATE.—Any State seeking to participate in the incentive bonus program established under this title shall notify the Secretary of its intent to do so not later than 30 days before the beginning of its first program year of participation.

"(b) APPLICATION.—(1) Any State seeking to receive an incentive bonus under this title shall submit an application to the Secretary. Such application shall contain or be accompanied by such information and assurances as the Secretary may reasonably require in order to ensure compliance with this title. Each application shall contain, at a minimum—

"(A) the placement bonus base for eligible individuals who serve to qualify the State for an incentive bonus; and

"(B)(i) a brief description of the unsubsidized employment or supported employment of such individuals; or

"(ii) a description of participation in educational activities, as permitted under section 504, by such individuals.

"(2) The application to participate in the incentive bonus program shall be submitted to the Secretary according to a schedule established by the Secretary in order to facilitate and expedite the processing, verification, and prompt payment of incentive bonuses.

"(c) NOTICE OF APPROVAL OR DENIAL.—The Secretary shall inform a State within 60 days after receipt of the application as to whether or not its application has been approved. The Secretary may not approve an application for payment of an incentive bonus without adequately verifying the accuracy of the information contained in the application. There shall be a rebuttable presumption that an individual is eligible to be counted for the purpose of payment of an incentive bonus under this title. When appropriate, the Secretary

may use a sampling methodology for such verifications in a manner approved by the Comptroller General of the United States.

"(d) SERVICE DELIVERY AREA PARTICIPATION.—Participation by a State in the incentive bonus program established under this title shall not prevent any service delivery area within the State from refusing to participate in such program.

29 USC 1791f.

"SEC. 507. PAYMENTS.

"(a) IN GENERAL.—For each program year for which funds are appropriated to carry out this title, the Secretary shall pay to each participating State the amount that State is eligible to receive under this section.

"(b) RATABLE REDUCTIONS.—If the amount so appropriated is not sufficient to pay to each State the amount each State is eligible to receive, the Secretary shall ratably reduce the amount paid to each State.

"(c) RATABLE INCREASES.—If any additional amount is made available for carrying out this title for any program year after the application of the preceding sentence, such additional amount shall be allocated among the States by increasing such payments in the same manner as they were reduced, except that no such State shall be paid an amount which exceeds the amount which it is eligible to receive under this section.

29 USC 1791g.

"SEC. 508. USE OF INCENTIVE BONUS FUNDS.

"(a) USE OF INCENTIVE BONUS FUNDS.—After submission and approval of an application for an incentive bonus payment and before receipt of such payment, the Governor of such State may reserve from State funds an amount equal to the amount of a bonus incentive requested in the application for the purpose of making expenditures in accordance with this title. Bonus payments received thereafter may be used for reimbursement of such expenditures.

"(b) LIMITATIONS.—(1)(A) During any program year, the Governor may use an amount not to exceed 15 percent of the State's total bonus payments or amounts reserved under subsection (a) for administrative costs incurred under this title, including data and information collection and compilation, recordkeeping, or the preparation of applications for incentive bonuses.

Contracts.

"(B) The amount of incentive bonus payments or the amounts reserved under subsection (a) which remain after the deduction of administrative expenses under paragraph (1) shall be distributed to service delivery areas within the State in accordance with an agreement between the Governor and representatives of such areas. Such agreement shall reflect an equitable method of distribution which is based on the degree to which the efforts of such area contributed to the State's qualification for an incentive bonus payment under this title.

"(2)(A) Subject to subparagraph (B), a maximum of 10 percent of the amounts received under this title in any program year by each service delivery area may be used for the administrative costs of establishing and maintaining systems necessary for operation of programs under this title, including incentive payments described in subsection (c), technical assistance, data and information collection and compilation, management information systems, post-program followup activities, and research and evaluation activities. The balance of funds not so expended shall be used for activities similar to activities described in section 204.

"(B) If a service delivery area determines that administrative costs under this title will exceed the 10 percent administrative allocation, such area may use an additional 5 percent allocation of bonus payments or amounts reserved under subsection (a) for such activities if such area demonstrates to the Governor that the administering agency in the area needs additional funds to continue administrative activities under this title.

"(c) INCENTIVE PAYMENTS TO SERVICE PROVIDERS.—Each service delivery area may make incentive payments to service providers within its service delivery area, including participating State and local agencies, and community-based organizations, that demonstrate effectiveness in delivering employment and training services to individuals such as those described in section 503.

"(d) APPLICATION OF SECTION RELATING TO ADMINISTRATIVE ADJUDICATIONS.—Section 166 of this Act, relating to administrative adjudication, shall apply to the distribution of incentive bonus payments under this section.

"SEC. 509. INFORMATION AND DATA COLLECTION. 29 USC 1791h.

"(a) TECHNICAL ASSISTANCE.—In order to facilitate the collection, exchange, and compilation of data and information required by this title, the Secretary shall, within 90 days after the date of enactment of this title, begin providing, on an ongoing basis, technical assistance to the States. Such assistance shall include, at a minimum, cost-effective methods for using State and Federal records to which the Secretary has lawful access. Records.

"(b) REGULATIONS.—The Secretary, the Secretary of Health and Human Services, and the Secretary of the Interior jointly shall issue regulations regarding the sharing, among States participating in the programs under this title, of the data and information necessary to fulfill the requirements of this title. Such regulations shall provide for—

"(1) the maintenance of confidentiality of the information so shared, in accordance with Federal and State privacy laws, and Classified information.

"(2) penalties for any violation of such regulations.

"(c) ANNUAL SURVEY.—The Secretary shall conduct an annual survey of States participating in programs under this title and shall report to the Congress concerning— Reports.

"(1) the success of such States in gathering the data and information required under this title; and

"(2) methods for improving and refining the ability of such States to gather the data and information required under this title.

"SEC. 510. START-UP COSTS. 29 USC 1791i.

"(a) APPLICATION.—Before notifying the Secretary of an intent to participate in the incentive bonus program established under this title, a State may apply to the Secretary for financial assistance in accordance with this section. Such application shall be submitted to the Secretary not later than 120 days before the beginning of the program year.

"(b) CONTENTS.—Applications submitted under this section shall contain such information as the Secretary may reasonably require.

"(c) DETERMINATIONS OF AWARDS.—(1) The Secretary shall determine the amounts to be awarded based on the need demonstrated in the application submitted by the State.

"(2) The Secretary shall notify the State of the determination made under this section no later than 60 days after receiving such State's application.

"(3)(A) Funds received by a State under this section shall be available for expenditure for the first 2 program years of such State's participation under this title, beginning with the program year following the program year in which a determination under this section is made. Expenditure of such funds (or any portion thereof) shall be considered an agreement by the State to participate in accordance with this title for a period of not less than 2 consecutive program years, beginning with the first program year in which such funds become available for expenditure.

"(B) Funds awarded to the State which remain unexpended at the end of such 2 program years shall be reallocated by the Secretary to other participating States.

"(C) Funds received under this section by the State shall be used for activities such as those described in section 508(b) and for higher costs incurred in overcoming the substantial barriers to employment experienced by individuals eligible under this title.

"(d) ALLOCATION.—Funds received under this section may be allocated to State agencies or service delivery areas within the State for expenditure in accordance with this title.

"(e) NOTICE OF PROPOSED RULEMAKING.—Not later than 3 months after the date of the enactment of this title, the Secretary shall issue a notice of proposed rulemaking with respect to this title and shall allow not less than 60 days for public comment. Final regulations shall be issued not later than 7 months following such date of enactment.

29 USC 1791j.

"SEC. 511. EVALUATION AND PERFORMANCE STANDARDS.

"(a) EVALUATION.—The Secretary shall conduct or provide for an evaluation of the incentive bonus program authorized under this title. The Secretary shall consider—

"(1) whether the program results in increased service under this Act to long-term welfare recipients and other hard-to-serve individuals;

"(2) whether the program results in sustained employment of such welfare recipients and individuals, with resultant welfare and other cost savings to the Federal Government;

"(3) whether the program is administratively feasible and cost effective;

"(4) whether the services provided to other eligible participants under part A of title II are affected by the implementation and operation of the incentive bonus program; and

"(5) such other factors as the Secretary deems appropriate.

"(b) REPORT TO CONGRESS.—Not later than January 1, 1996, the Secretary shall report to the Congress on the effectiveness of the incentive bonus program authorized under this title. Such report shall include an analysis of the costs of such program and the results of such activities.

"(c) PERFORMANCE STANDARD.— The Secretary shall establish a performance standard which weights performance outcomes under this title to reflect the higher costs incurred in overcoming the substantial barriers to employment experienced by individuals eligible under this title. Not later than 2 years after the first program year, the Secretary shall prepare and submit to the Congress a report on the effect of such standard.".

Reports.

(b) TABLE OF CONTENTS AMENDMENT.—The table of contents of the Act is amended by inserting after the items relating to title IV the following new items:

"TITLE V—JOBS FOR EMPLOYABLE DEPENDENT INDIVIDUALS INCENTIVE BONUS PROGRAM

"Sec. 501. Statement of purpose.
"Sec. 502. Definitions.
"Sec. 503. Eligibility for incentive bonuses.
"Sec. 504. Additional eligibility requirements.
"Sec. 505. Amount of incentive bonus.
"Sec. 506. Applications and verification required.
"Sec. 507. Payments.
"Sec. 508. Use of incentive bonus funds.
"Sec. 509. Information and data collection.
"Sec. 510. Start-up costs.
"Sec. 511. Evaluation and performance standards.".

SEC. 713. PROVISIONS FOR IMPROVING ASSISTANCE TO HARD-TO-SERVE INDIVIDUALS AND WELFARE RECIPIENTS.

(a) GOVERNORS' INCENTIVE GRANTS.—The first sentence of section 202(b)(3)(B) of the Act (29 U.S.C. 1602(b)(3)(B)) is amended by striking out ", including incentives for serving hard-to-serve individuals" and inserting in lieu thereof "and incentives for serving increased numbers of hard-to-serve individuals, particularly long-term welfare recipients, including title IV of the Social Security Act, relating to aid to families with dependent children, and title XVI of such Act, relating to supplemental security income".

(b) PERFORMANCE STANDARDS.—Section 106(e) of the Act (29 U.S.C. 1516) is amended—

(1) by inserting "(1)" after the subsection designation; and

(2) by adding at the end thereof the following new paragraph:

"(2) The Secretary shall—

"(A) provide improved information and technical assistance on performance standards adjustments;

"(B) collect data that better specifies hard-to-serve individuals and long-term welfare dependency; and

"(C) provide guidance on setting performance goals at the service provider level that encourages increased service to the hard-to-serve, particularly long-term welfare recipients, including title IV of the Social Security Act, relating to aid to families with dependent children, and title XVI of such Act, relating to supplemental security income.

The Secretary shall also reexamine performance standards to ensure that such standards provide maximum flexibility in serving the hard-to-serve, particularly long-term welfare recipients, including title IV of the Social Security Act, relating to aid to families with dependent children, and title XVI of such Act, relating to supplemental security income.".

SEC. 714. CONFORMING AND MISCELLANEOUS AMENDMENTS.

(a) CONTENTS OF JOB TRAINING PLAN.—Section 104(b) of the Act (29 U.S.C. 1514(b)) (as amended by subsection (b)) is further amended—

(1) by redesignating paragraphs (7), (8), (9), (10), and (11) as paragraphs (8), (9), (10), (11), and (12), respectively; and

(2) by adding after paragraph (6) the following new paragraph:

"(7) a description of the procedures and methods of carrying out title V, relating to incentive bonus payments for the placement of individuals eligible under such title;".

(b) PERFORMANCE STANDARDS.—Section 106(b) of the Act (29 U.S.C. 1516(b)) is amended by adding at the end thereof the following new paragraph:

"(5) The Secretary shall prescribe performance standards under this section for programs authorized by title V, relating to the placement of individuals eligible under such title, in accordance with the criteria specified in section 511(c).".

(c) PLAN COORDINATION.—Section 121(b) of the Act (29 U.S.C. 1531(b)) is amended—

(1) by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively; and

(2) by adding after paragraph (2) the following new paragraph:

"(3) The State plan shall include a description of the manner in which the State will encourage the successful carrying out of—

"(A) training activities for eligible individuals whose placement is the basis for the payment to the State of the incentive bonus authorized by title V; and

"(B) the training services, outreach activities, and preemployment supportive services furnished to such individuals.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 3 of the Act (29 U.S.C. 1502) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following new subsection:

"(e)(1) Subject to paragraph (2), there are authorized to be appropriated for each of fiscal years 1990 through 1994 such sums as may be necessary to carry out title V.

"(2) No funds appropriated pursuant to this Act may be used to carry out such title for any fiscal year unless funds appropriated to carry out part A of title II exceed any change in the consumer price index from the amounts appropriated for the previous fiscal year to carry out such part.

"(3) From amounts authorized to be appropriated for title V pursuant to paragraph (1), not more than $5,000,000 may be used for purposes of section 510 of such title.".

(e) CONSTRUCTION.—(1) Part D of title I of the Act (29 U.S.C. 1571 et seq.) is amended by adding at the end thereof the following new section:

29 USC 1583.

"SEC. 172. CONSTRUCTION.

"(a) ELIGIBILITY.—Nothing in this Act shall be construed to limit the right of persons to remain eligible for assistance under title XIX of the Social Security Act, relating to Medicaid pursuant to section 1619(b) of such Act.

"(b) USE OF FUNDS.—Nothing in this Act shall be construed to authorize the use of funds under this Act for the ongoing support services provided to handicapped individuals placed in supported employment, as such term is defined in section 7(18) of the Rehabilitation Act of 1973.".

(2) The table of contents of the Act is amended by inserting after the item relating to section 171 the following new item:

"Sec. 172. Construction.".

TITLE VIII—VETERANS PROGRAMS

SEC. 801. MEDICAL PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to be appropriated to the Veterans' Administration for each of fiscal years 1989 and 1990, in addition to any funds appropriated pursuant to any other authorization (whether definite or indefinite) of appropriations for those fiscal years, the sum of $30,000,000 for the medical care of veterans by the Veterans' Administration.

(b) DOMICILIARY CARE.—Of the amount appropriated pursuant to subsection (a), 50 percent shall be available for—

(1) converting to use for domiciliary care beds the underused space located in facilities under the jurisdiction of the Administrator of Veterans' Affairs in urban areas in which there are significant numbers of homeless veterans; and

Urban areas.

(2) furnishing domiciliary care in such beds to eligible veterans (primarily homeless veterans) who are in need of such care.

(c) CHRONICALLY MENTALLY ILL HOMELESS VETERANS.—Of the amount appropriated pursuant to subsection (a), 50 percent shall be available for furnishing care and treatment and rehabilitative services under section 115 of the Veterans Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 501) to homeless veterans who have a chronic mental illness disability. Not more than $500,000 of the amount available under the preceding sentence shall be used for the purpose of monitoring the furnishing of such care and services and, in furtherance of such purpose, maintaining in the Veterans' Administration the equivalent of 10 full-time employees.

(d) LIMITATION.—Nothing in this section shall result in the diminution of the conversion of hospital-care beds to nursing-home-care beds by the Veterans' Administration.

TITLE IX—AID TO FAMILIES WITH DEPENDENT CHILDREN; UNEMPLOYMENT COMPENSATION

State and local governments.

SEC. 901. EXTENSION OF PROHIBITION AGAINST IMPLEMENTATION OF CERTAIN PROPOSED REGULATIONS.

Section 9118 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 1383c) is amended by striking "October 1, 1988" and inserting "September 30, 1989".

SEC. 902. REVIEW OF POLICY GOVERNING USE OF AFDC FUNDS TO MEET EMERGENCY NEEDS OF FAMILIES ELIGIBLE FOR AFDC THROUGH EMERGENCY ASSISTANCE OR SPECIAL NEEDS PAYMENTS; REPORT TO CONGRESS.

(a) REVIEW OF POLICY.—The Secretary of Health and Human Services shall review the policies in effect, as of the date of the enactment of this section, with respect to the use by States of amounts paid to such States under the program of aid to families with dependent children under part A of title IV of the Social Security Act, in the form of payments of aid to meet special needs or emergency assistance under section 406(e) of such Act to meet emergency needs of families who are eligible for such aid.

(b) REPORT TO CONGRESS.—Not later than July 1, 1989, the Secretary of Health and Human Services shall submit to the Congress a report containing recommendations for legislative and regulatory changes designed to—

(1) improve the ability of the program of aid to families with dependent children under part A of title IV of the Social Security Act to respond to emergency needs of families who are eligible for such aid; and

(2) eliminate the use of funds provided to States under such program to pay for the provision of shelter in commercial or similar transient facilities.

Housing.
42 USC 11381 note.

SEC. 903. DEMONSTRATION PROJECTS TO REDUCE NUMBER OF HOMELESS AFDC FAMILIES IN WELFARE HOTELS.

(a) IN GENERAL.—In order to enable States to provide housing for homeless families who are recipients of aid to families with dependent children under a State plan approved under part A of title IV of the Social Security Act in transitional facilities instead of in commercial or similar transient facilities, at least 2 but not more than 3 States may undertake and carry out demonstration projects in accordance with this section. States may use public or private nonprofit agencies in carrying out demonstration projects in accordance with this section. Demonstration projects under this section shall meet such conditions and requirements as the Secretary of Health and Human Services (in this section referred to as the "Secretary") shall prescribe.

(b) DUTIES OF SECRETARY OF HEALTH AND HUMAN SERVICES.—The Secretary shall—

(1) consider all applications received from States desiring to conduct demonstration projects under this section;

(2) transmit to the Comptroller General for review under subsection (e) a copy of each such application received;

(3) approve at least 2 but not more than 3 applications involving projects which appear likely to contribute significantly to the achievement of the purpose of this section; and

Grants.

(4) make grants from funds appropriated to carry out this section to each State whose application is so approved to carry out the project that is the subject of the application.

(c) PROJECT REQUIREMENTS.—The Secretary shall not approve an application received from a State for a demonstration project under this section unless the State agency that administers the program of aid to families with dependent children in the State under a State plan approved under part A of title IV of the Social Security Act demonstrates that the project will—

(1) provide housing in transitional facilities only to homeless families who are recipients of aid to families with dependent children under the State plan and who reside in commercial or similar transient facilities;

(2) permanently reduce the number of rooms used to house homeless families who are recipients of such aid in commercial or similar transient facilities by the number of units made available in transitional facilities in accordance with paragraph (1); and

(3) provide that the Federal share of the total amount of cash assistance provided under the project to families residing in transitional facilities plus the total amount of grants made to the State under this section must be less than or equal to the

Federal share of the cost of housing such families in commercial or similar transient facilities (including payments made to cover basic needs and services of such families).

(d) USE OF FUNDS.—Each State that receives funds under this section shall use such funds to—

(1) rehabilitate or construct transitional facilities which are easily convertible to permanent housing when such facilities are no longer needed as transitional facilities; and

(2) provide on-site social services at such facilities.

(e) GAO REVIEW OF APPLICATIONS.—Within 90 days after the Comptroller General receives from the Secretary a copy of an application submitted under this section, the Comptroller General shall review such application and report to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives on whether the Federal share of the total amount of cash assistance to be provided under the project which is the subject of the application to families residing in transitional facilities plus the total amount of grants to be made to the State under this section is less than or equal to the Federal share of the cost of housing such families in commercial or similar transient facilities (including payments made to cover basic needs and services of such families). Reports.

(f) AUTHORIZATION OF APPROPRIATIONS.—For grants under this section, there is authorized to be appropriated to the Secretary for the fiscal year 1990 not to exceed $20,000,000, which shall remain available until expended.

(g) DEFINITIONS.—As used in section 902 and this section:

(1) HOMELESS FAMILY.—The term "homeless family" means a dependent child or children and the relatives with whom such child or children are living, who—

(A) lack a fixed and regular nighttime address;

(B) have a primary residence that is a shelter designed for temporary accommodation, a hotel, or a motel; or

(C) are living in a place not designed for, or ordinarily used as, a regular sleeping accommodation.

(2) COMMERCIAL OR SIMILAR TRANSIENT FACILITIES.—The term "commercial or similar transient facilities" means transient accommodations in—

(A) a commercial hotel or motel operated by a privately owned for-profit entity; or

(B) a similar establishment which is not a transitional facility (whether or not directly operated or contracted for by the State or a political subdivision or by a not-for-profit organization authorized by the State or political subdivision to provide such accommodations).

(3) TRANSITIONAL FACILITY.—The term "transitional facility" means any facility operated by a State or local government or a nonprofit organization which, at a minimum—

(A) provides temporary and private sleeping accommodations, and temporary eating and cooking accommodations; and

(B) provides services to help families locate and retain permanent housing.

SEC. 904. PREVENTING FRAUD AND ABUSE IN HOUSING AND URBAN DEVELOPMENT PROGRAMS. 42 USC 3544.

(a) DEFINITIONS.—As used in this section:

(1) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(2) APPLICANT; PARTICIPANT.—The terms "applicant" and "participant" shall have such meanings as the Secretary by regulation shall prescribe, except that such terms shall include members of an applicant's or participant's household, and such terms shall not include persons whose involvement is only in their official capacity, such as State or local government officials and officers of lending institutions.

(3) PUBLIC HOUSING AGENCY.—The term "public housing agency" means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

(b) APPLICANT AND PARTICIPANT CONSENT.—As a condition of initial or continuing eligibility for participation in any program of the Department of Housing and Urban Development involving initial and periodic review of an applicant's or participant's income, and to assure that the level of benefits provided under the program is correct, the Secretary may require that an applicant or participant—

(1) sign a consent form approved by the Secretary authorizing the Secretary, the public housing agency, or the owner responsible for determining eligibility for or level of benefits to request current or previous employers to verify salary and wage information pertinent to the applicant's or participant's eligibility or level of benefits; and

(2) sign a consent form approved by the Secretary authorizing the Secretary or the public housing agency responsible for determining eligibility or level of benefits to request a State agency charged with the administration of the State unemployment law to release wage information with respect to such applicant or participant or information regarding whether such applicant or participant is receiving, has received, or has made application for, unemployment compensation, and the amount of any such compensation being received (or to be received) by such applicant or participant.

This consent form shall not be used to request taxpayer return information protected by section 6103 of the Internal Revenue Code of 1986.

(c) ACCESS TO STATE EMPLOYMENT RECORDS.—

(1) AMENDMENTS TO SOCIAL SECURITY ACT.—(A) Section 303 of the Social Security Act (42 U.S.C. 503) is amended by adding at the end the following new subsection:

"(i)(1) The State agency charged with the administration of the State law—

"(A) shall disclose, upon request and on a reimbursable basis, only to officers and employees of the Department of Housing and Urban Development and to representatives of a public housing agency, any of the following information contained in the records of such State agency with respect to individuals applying for or participating in any housing assistance program administered by the Department who have signed an appropriate consent form approved by the Secretary of Housing and Urban Development—

"(i) wage information, and

"(ii) whether an individual is receiving, has received, or has made application for, unemployment compensation,

and the amount of any such compensation being received (or to be received) by such individual, and

"(B) shall establish such safeguards as are necessary (as determined by the Secretary of Labor in regulations) to ensure that information disclosed under subparagraph (A) is used only for purposes of determining an individual's eligibility for benefits, or the amount of benefits, under a housing assistance program of the Department of Housing and Urban Development.

"(2) The Secretary of Labor shall prescribe regulations governing how often and in what form information may be disclosed under paragraph (1)(A). Regulations.

"(3) Whenever the Secretary of Labor, after reasonable notice and opportunity for hearing to the State agency charged with the administration of the State law, finds that there is a failure to comply substantially with the requirements of paragraph (1), the Secretary of Labor shall notify such State agency that further payments will not be made to the State until he or she is satisfied that there is no longer any such failure. Until the Secretary of Labor is so satisfied, he or she shall make no future certification to the Secretary of the Treasury with respect to such State.

"(4) For purposes of this subsection, the term 'public housing agency' means any agency described in section 3(b)(6) of the United States Housing Act of 1937.

"(5) The provisions of this subsection shall cease to be effective beginning on October 1, 1994.". Termination date.

(B) Section 304(a)(2) of the Social Security Act (42 U.S.C. 504(a)(2)) is amended by striking "(e), or (h)" and inserting "(e), (h), or (i)".

(2) APPLICANT AND PARTICIPANT PROTECTIONS.—(A) In order to protect applicants for, and recipients of, benefits under the programs of the Department of Housing and Urban Development from the improper use of information obtained pursuant to the requirements of section 303(i) of the Social Security Act from the State agency charged with the administration of the State unemployment compensation law, officers and employees of the Department of Housing and Urban Development and representatives of public housing agencies may only use such information—

(i) to verify an applicant's or participant's eligibility for or level of benefits; or

(ii) in the case of an owner responsible for determining eligibility for or level of benefits, to inform such owner that an applicant's or participant's eligibility for or level of benefits is uncertain and to request such owner to verify such applicant's or participant's income information.

(B) No Federal, State, or local agency, or public housing agency, or owner responsible for determining eligibility for or level of benefits receiving such information may terminate, deny, suspend, or reduce any benefits of an applicant or participant until such agency or owner has taken appropriate steps to independently verify information relating to—

(i) the amount of the wages or unemployment compensation involved,

(ii) whether such applicant or participant actually has (or had) access to such wages or benefits for his or her own use, and

(iii) the period or periods when, or with respect to which, the applicant or participant actually received such wages or benefits.

(C) Such applicant or participant shall be informed by the agency or owner of the findings made by the agency or owner on the basis of such verified information, and shall be given an opportunity to contest such findings, in the same manner as applies to other information and findings relating to eligibility factors under the program.

(3) PENALTY.—(A) Any person who knowingly and willfully requests or obtains any information concerning an applicant or participant pursuant to the authority contained in section 303(i) of the Social Security Act under false pretenses, or any person who knowingly and willfully discloses any such information in any manner to any individual not entitled under any law to receive it, shall be guilty of a misdemeanor and fined not more than $5,000. The term "person" as used in this paragraph shall include an officer or employee of the Department of Housing and Urban Development, an officer or employee of any public housing agency, and any owner responsible for determining eligibility for or level of benefits (or employee thereof).

(B) Any applicant or participant affected by (i) a negligent or knowing disclosure of information referred to in this section or in section 303(i) of the Social Security Act about such person by an officer or employee of any public housing agency or owner (or employee thereof), which disclosure is not authorized by this section, such section 303(i), or any regulation implementing this section or such section 303(i), or (ii) any other negligent or knowing action that is inconsistent with this section, such section 303(i), or any such implementing regulation may bring a civil action for damages and such other relief as may be appropriate against any officer or employee of any public housing agency or owner (or employee thereof) responsible for any such unauthorized action. The district court of the United States in the district in which the affected applicant or participant resides, in which such unauthorized action occurred, or in which the applicant or participant alleged to be responsible for any such unauthorized action resides, shall have jurisdiction in such matters. Appropriate relief that may be ordered by such district courts shall include reasonable attorney's fees and other litigation costs.

Courts, U.S.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the provisions of this section shall take effect on September 30, 1989.

(2) OPTIONAL EARLY IMPLEMENTATION.—At the initiative of a State or an agency of the State, and with the approval of the Secretary of Labor, the amendments made by subsection (c)(1) may be made effective in such State on any date before September 30, 1989, which is more than 90 days after the date of the enactment of this section.

(3) REQUIREMENTS FOR STATE AGENCIES.—In the case of any State the legislature of which has not been in session for at least 30 calendar days (whether or not consecutive) between the date of the enactment of this Act and September 30, 1989, the amendments made by subsection (c)(1) shall take effect 30 cal-

endar days after the first day on which such legislature is in session on or after September 30, 1989.

TITLE X—HOUSING AND COMMUNITY DEVELOPMENT TECHNICAL AMENDMENTS

Subtitle A—Housing Assistance

SEC. 1001. INCOME ELIGIBILITY FOR ASSISTED HOUSING.

(a) IN GENERAL.—Section 16(c) of the United States Housing Act of 1937 (42 U.S.C. 1437n(c)) is amended in the first sentence—

(1) by striking ", and" and inserting a comma;

(2) by striking ", as appropriate" and all that follows through "programs" and inserting the following: "an appropriate specific percentage of lower income families other than very-low income families that may be assisted in each assisted housing program"; and

(3) by inserting before the period at the end the following: ", and shall prohibit project owners from selecting families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence".

(b) CLARIFICATION.—Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) is amended by inserting before the semicolon at the end the following: "and shall not permit public housing agencies to select families for residence in an order different from the order on the waiting list for the purpose of selecting relatively higher income families for residence".

SEC. 1002. PUBLIC HOUSING CHILD CARE GRANTS.

(a) AVAILABILITY OF CHILD CARE SERVICES IN FACILITIES NEAR PUBLIC HOUSING.—Subsections (a), (b), (c), and (e) of section 222 of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z–6 note) are amended by inserting "or near" after "child care services in" each place it appears.

(b) CONFORMING AMENDMENTS.—

(1) ELIGIBILITY FOR ASSISTANCE.—Section 222(b) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z–6 note) is amended—

(A) by striking "in the project" each place it appears and inserting "for the project"; and

(B) in paragraph (2), by inserting "in or near the project" after "facilities".

(2) ALLOCATION OF ASSISTANCE.—Section 222(c)(3) of the Housing and Urban-Rural Recovery Act of 1983 (12 U.S.C. 1701z–6 note) is amended by striking "established in" and inserting "established for".

SEC. 1003. PUBLIC HOUSING RESIDENT MANAGEMENT.

Section 20 of the United States Housing Act of 1937 (42 U.S.C. 1437r) is amended by adding at the end the following new subsection:

Contracts.

"(h) APPLICABILITY.—Any management contract between a public housing agency and a resident management corporation that is entered into after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 shall be subject to this section and the regulations issued to carry out this section.".

SEC. 1004. PROHIBITION OF REDUCTION OF SECTION 8 CONTRACT RENTS.

(a) IN GENERAL.—Section 8(c)(2)(C) of the United States Housing Act of 1937 (42 U.S.C. 1437f(c)(2)(C)) is amended—

(1) in the first sentence, by striking "as hereinbefore provided" and inserting the following: "under subparagraphs (A) and (B)"; and

(2) by adding at the end the following new sentences: "Any maximum monthly rent that has been reduced by the Secretary after April 14, 1987, and prior to the enactment of this sentence shall be restored to the maximum monthly rent in effect on April 15, 1987. For any project which has had its maximum monthly rents reduced after April 14, 1987, the Secretary shall make assistance payments (from amounts reserved for the original contract) to the owner of such project in an amount equal to the difference between the maximum monthly rents in effect on April 15, 1987, and the reduced maximum monthly rents, multiplied by the number of months that the reduced maximum monthly rents were in effect.".

42 USC 1437f note.

(b) BUDGET COMPLIANCE.—During fiscal year 1989, the amendment made by subsection (a)(2) shall be effective only to such extent or in such amounts as are provided in appropriation Acts. For purposes of section 202 of the Balanced Budget and Emergency Deficit Control Reaffirmation Act of 1987 (Public Law 100-119), to the extent that this section has the effect of transferring an outlay of the United States from one fiscal year to an adjacent fiscal year, the transfer is a necessary (but secondary) result of a significant policy change.

SEC. 1005. PROJECT-BASED SECTION 8 ASSISTANCE.

Regulations. 42 USC 1437f note. Contracts.

(a) IMPLEMENTATION OF PROGRAM.—To implement the amendment made by section 148 of the Housing and Community Development Act of 1987, the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 30 days after the date of the enactment of this Act. Until the effective date of the regulations, the Secretary of Housing and Urban Development shall consider each application from a public housing agency to attach a contract for assistance payments to a structure, in accordance with the amendment made by such section 148 to section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)), and shall promptly approve such application if it meets the requirements of such section 8(d)(2).

(b) AVAILABILITY IN NEW CONSTRUCTION PROJECTS.—

(1) IN GENERAL.—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) is amended—

(A) by inserting "(A)" after the paragraph designation;

(B) by striking "(A)" and "(B)" each place it appears and inserting "(i)" and "(ii)", respectively; and

(C) by adding at the end the following new subparagraph:

"(B) The Secretary shall permit any public housing agency to approve the attachment of assistance under subsection (b)(1) with respect to any newly constructed structure if—

"(i) the owner or prospective owner agrees to construct the structure other than with assistance under this Act and otherwise complies with the requirements of this section; and

"(ii) the aggregate assistance provided by the public housing agency pursuant to this subparagraph and the last sentence of subparagraph (A) does not exceed 15 percent of the assistance provided by the public housing agency.".

(2) REGULATIONS.—To implement the amendments made by this subsection, the Secretary of Housing and Urban Development shall issue regulations that take effect not later than 90 days after the date of the enactment of this Act. 42 USC 1437f note.

(c) RENEWAL OF CONTRACTS.—Section 8(d)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(2)) (as amended by subsection (b) of this section) is further amended by adding at the end the following new subparagraph:

"(C) Any contract for assistance payments that is attached to a structure under this paragraph shall (at the option of the public housing agency but subject to available funds) be renewable for 2 additional 5-year terms, except that the aggregate term of the initial contract and renewals shall not exceed 15 years.".

(d) EXCEPTION TO 15 PERCENT LIMITATION.—

(1) ALTOONA, PENNSYLVANIA.—The Secretary of Housing and Urban Development, in accordance with paragraph (2) of section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) but without regard to the 15 percent limitation set forth in such paragraph, shall permit the attachment of contracts for assistance payments to the facility located in Altoona, Pennsylvania, that is the Penn Alto Hotel and will include not less than 140 units of housing for the elderly. Aged persons.

(2) MINNEAPOLIS, MINNESOTA.—Any tenant who is on the waiting list for dwellings in the Cedar Square West Project in Minneapolis, Minnesota, or is living in an overcrowded dwelling in the project, shall be given preference for the 250 project-based certificates under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) that, before the date of the enactment of this Act, were offered in settlement for a lawsuit, notwithstanding section 8(d)(1)(A) of such Act. The Secretary of Housing and Urban Development, in accordance with paragraph (2) of section 8(d) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)) but without regard to the 15 percent limitation set forth in such paragraph, shall permit the attachment of contracts for assistance payments to structures to the extent necessary to provide the assistance for such 250 certificates. Contracts.

SEC. 1006. SECTION 8 ASSISTANCE FOR RESIDENTS OF RENTAL REHABILITATION PROJECTS.

Section 8(u) of the United States Housing Act of 1937 (42 U.S.C. 1437f(u)) is amended—

(1) by striking "and" at the end of paragraph (1);

(2) by striking the period at the end of paragraph (2) and inserting "; and"; and

(3) by adding at the end the following new paragraph:

"(3) the Secretary shall allocate assistance for certificates or vouchers under this section to ensure that sufficient resources are available to address the physical or economic displacement, or potential economic displacement, of existing tenants pursuant to paragraphs (1) and (2).".

SEC. 1007. RENTAL REHABILITATION PROGRAM.

(a) ADMINISTRATIVE EXPENSES.—Section 17(h) of the United States Housing Act of 1937 (42 U.S.C. 1437o(h)) is amended to read as follows:

"(h) ADMINISTRATIVE EXPENSES.—(1) Except as provided in paragraph (2), grantees receiving assistance under this section may not deduct therefrom any amounts to cover administrative expenses in carrying out their responsibilities under this section.

"(2) A grantee may use not more than 10 percent of its initial rental rehabilitation grant under subsection (c) for each year to cover administrative expenses in carrying out its responsibilities under this section. Any State shall share the amount provided pursuant to the preceding sentence with units of general local government administering the program with the State.".

State and local governments.

(b) CORRECTION OF CROSS-REFERENCE.—Section 17(i)(2) of the United States Housing Act of 1937 (42 U.S.C. 1437o(i)(2)) is amended by striking "section 104(f)" and inserting "section 104(g)".

SEC. 1008. TWEEMILL HOUSE.

The Secretary of Housing and Urban Development shall process the application under section 202 of the Housing Act of 1959 (12 U.S.C. 1701q) for project 012-EH347 (Tweemill House) without regard to the cost limits that would otherwise be imposed pursuant to 24 C.F.R. 885.410(a)(1), and the assistance to such project under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) may exceed the fair market rents established under section 8(c)(1) of such Act.

SEC. 1009. HOUSING COUNSELING.

Section 106(a)(2) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(a)(2)) is amended by inserting before the period at the end of the first sentence the following: "or guaranteed or insured under chapter 37 of title 38, United States Code".

SEC. 1010. MULTIFAMILY HOUSING MANAGEMENT AND PRESERVATION.

(a) UNSUBSIDIZED PROJECTS.—Section 203(a)(1)(C) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(a)(1)(C)) is amended by striking ", on the date of assignment, occupied by low- and moderate-income persons" and inserting the following: "occupied by low- and moderate-income persons on the date of assignment or foreclosure (whichever is greater)".

(b) SECTION 8 ASSISTANCE.—The third sentence of section 203(d)(1) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(d)(1)) is amended to read as follows: "Such contracts shall be sufficient to assist (A) all units in multifamily housing projects that are subsidized projects or formerly subsidized projects; (B) in other multifamily housing projects owned by the Secretary, the units that, on the date title to the projects is acquired by the Secretary, are occupied by lower income families eligible for assistance under such section 8 or are vacant (which units shall be made available for such families as soon as possible); and (C) in all other multifamily housing projects, the units that are occupied by lower income families eligible for assistance under such section 8 on the date of assignment or foreclosure (whichever is greater).".

Contracts.

(c) RIGHT OF FIRST REFUSAL.—Section 203(e) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(e)) is amended to read as follows:

State and local governments.

"(e)(1) Prior to the sale of a multifamily housing project that is owned by the Secretary, the Secretary shall develop a disposition plan for the project that specifies the minimum terms and conditions of the Secretary for disposition of the project, including the initial sales price that is acceptable to the Secretary and the assistance that the Secretary plans to make available to a prospective purchaser in accordance with subsections (a) and (d). The initial sales price shall reflect the value of the project as housing affordable to low- and moderate-income persons for the period required in subsection (d).

"(2) Upon approval of a disposition plan for a project, the Secretary shall notify the local government and the State housing finance agency (or other agency or agencies designated by the Governor) of the terms and conditions of the disposition plan. The local government and the designated State agency shall have 90 days to make an offer to purchase the project.

"(3) The Secretary shall accept an offer that complies with the terms and conditions of the disposition plan. The Secretary may accept an offer that does not comply with the terms and conditions of the disposition plan if the Secretary determines that the offer will further the preservation objectives of subsection (a) by actions that include extension of the duration of low- and moderate-income affordability restrictions or otherwise restructuring the transaction in a manner that enhances the long-term affordability for low- and moderate-income persons. The Secretary shall, in particular, have discretion to reduce the initial sales price in exchange for the extension of low- and moderate-income affordability restrictions beyond the 15-year period contemplated by the attachment of assistance pursuant to subsection (d)(1). If the Secretary and the local government or designated State agency cannot reach agreement within 90 days, the Secretary may offer the project for sale to the general public.

"(4) The Secretary shall prohibit any local government or designated State agency from transferring projects acquired under a right of first refusal under this subsection to a private entity, unless the local government or designated State agency solicits proposals from such entities through a public process. The solicitation of proposals shall be based on prescribed criteria, which shall include the extension of low- and moderate-income affordability restrictions beyond the 15-year period contemplated by the attachment of assistance pursuant to subsection (d)(1).

"(5) Notwithstanding any other provision of law to the contrary, a local government (including a public housing agency) or designated State agency may purchase a subsidized or formerly subsidized project in accordance with this subsection.".

(d) DEFINITION OF SUBSIDIZED PROJECT.—Section 203(i)(2)(E) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(i)(2)(E)) is amended by striking "(other" and all that follows and inserting "(excluding payments made for certificates under subsection (b)(1) or vouchers under subsection (o)), if (except for purposes of paragraphs (1) and (2) of subsection (h) and section 183(c) of the Housing and Community Development Act of 1987) such housing assistance payments are made to more than 50 percent of the units in the project.".

(e) DATE OF ASSIGNMENT.—Section 203(i) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11(i)) is amended by adding at the end the following new paragraph:

"(4) For purposes of subsection (a)(1)(C) and subsection (d)—

"(A) the term 'date of assignment' means the date of assignment, without regard to whether such date occurs before, on, or after February 5, 1988; and

"(B) in the case of a multifamily housing project assigned before the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988 and for which there are no records identifying the number of low- and moderate-income persons occupying units in the project on the date of assignment, the number of low- and moderate-income persons occupying units in the project within 120 days of such date of enactment shall be used instead.".

(f) ANNUAL REPORT ON RIGHT OF FIRST REFUSAL.—Section 203 of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1701z-11) is amended by adding at the end the following new subsection:

"(k) The Secretary shall annually submit to the Congress a report describing the activities carried out under subsection (e) during the preceding year.".

SEC. 1011. MULTIFAMILY HOUSING CAPITAL IMPROVEMENTS ASSISTANCE.

(a) AMOUNTS AVAILABLE.—Section 201(j)(4) of the Housing and Community Development Amendments of 1978 (12 U.S.C. 1715z-1a(j)(4)) is amended—

(1) by striking "may use not more than $50,000,000" and inserting the following: "shall, to the extent of approvable applications and subject to paragraph (1), use not less than $30,000,000 or 40 percent (whichever is less) of the amounts available"; and

(2) by adding at the end the following new sentence: "Any amount reserved under this paragraph for assistance for capital improvements that is not used before the last 60 days of a fiscal year shall become available for other assistance under this section.".

Regulations. 12 USC 1715z-1a note.

(b) IMPLEMENTATION OF PROGRAM.—To implement the amendments made by section 185 of the Housing and Community Development Act of 1987, the Secretary of Housing and Urban Development shall issue regulations that become effective not later than February 5, 1989.

42 USC 1437f note.

SEC. 1012. USE OF FUNDS RECAPTURED FROM REFINANCING STATE FINANCE PROJECTS.

(a) IN GENERAL.—In the case of any State financed project that was provided a financial adjustment factor under section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) and is being refinanced, 50 percent of the amounts that are recaptured from the project shall be made available to the State housing finance agency in the State where the project is located for use in providing decent, safe, and sanitary housing affordable to very low-income families or persons.

(b) BUDGET COMPLIANCE.—Subsection (a) shall be effective only to such extent or in such amounts as are provided in appropriation Acts.

SEC. 1013. PUBLIC HOUSING LEASE AND GRIEVANCE PROCEDURES.

The Secretary of Housing and Urban Development shall publish a notice providing that the final rule of the Department of Housing and Urban Development entitled "Public Housing—Tenancy and Administrative Grievance Procedure" and published in the Federal Register of August 30, 1988 (53 Fed. Reg. 33216 et seq.) shall be interim for effect. The Secretary shall afford interested persons an opportunity to comment on the rule in accordance with section 553(c) of title 5, United States Code, and such comment period shall continue for not less than 60 days, or until March 1, 1989, whichever occurs later.

SEC. 1014. EXCEPTIONS TO TENANT PREFERENCE PROVISIONS.

(a) PUBLIC HOUSING.—

(1) IN GENERAL.—Section 6(c)(4)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437d(c)(4)(A)) (as amended by section 1001(b) of this Act) is further amended—

(A) by inserting "(i)" after ", but"; and

(B) by inserting before the semicolon at the end the following: "; and (ii) the public housing agency may provide for circumstances in which families who do not qualify for any preference established in this subparagraph are provided assistance before families who do qualify for such preference, except that not more than 10 percent of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this clause) may be families who do not qualify for such preference".

(2) INDIAN HOUSING.—In accordance with section 201(b)(2) of the United States Housing Act of 1937, the amendments made by paragraph (1) shall also apply to public housing developed or operated pursuant to a contract between the Secretary of Housing and Urban Development and an Indian housing authority. 42 USC 1437d note.

(b) SECTION 8 ASSISTANCE.—Section 8(d)(1)(A) of the United States Housing Act of 1937 (42 U.S.C. 1437f(d)(1)(A)) is amended—

(1) by inserting "(i)" after "except that"; and

(2) by inserting before the semicolon at the end the following: "; and (ii) the public housing agency may provide for circumstances in which families who do not qualify for any preference established in clause (i) are provided assistance before families who do qualify for such preference, except that not more than 10 percent (or such higher percentage determined by the Secretary to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) or determined by the Secretary to be appropriate for other good cause) of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this clause) may be families who do not qualify for such preference".

(c) HOUSING VOUCHERS.—Section 8(o)(3) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(3)) is amended by adding at the end the following new sentence: "A public housing agency may provide for circumstances in which families who do not qualify for any preference established in the preceding sentence are provided assistance under this subsection before families who do qualify for

such preference, except that not more than 10 percent (or such higher percentage determined by the Secretary to be necessary to ensure that public housing agencies can assist families in accordance with subsection (u)(2) or determined by the Secretary to be appropriate for other good cause) of the families who initially receive assistance in any 1-year period (or such shorter period selected by the public housing agency before the beginning of its first full year subject to this sentence) may be families who do not qualify for such preference.".

Subtitle B—Preservation of Low Income Housing

SEC. 1021. NOTICE OF INTENT.

Section 222 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended in the last sentence by striking "notice or intent" and inserting "notice of intent".

SEC. 1022. PLAN OF ACTION.

(a) PROVISION OF INFORMATION.—Section 223(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by inserting before the period at the end of the first sentence the following: ", and any relevant market area and demographic information that the Secretary has custody of and that the owner may use in preparing the plan".

(b) CONTENTS OF PLAN.—Section 223 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by adding at the end the following new subsection:

"(d) AUTHORITY TO LIMIT CONTENTS OF PLAN.—The Secretary shall limit the amount of appraisal, market area, and demographic information required under this section in the case of a plan of action requesting incentives.".

SEC. 1023. INCENTIVES TO EXTEND LOW INCOME USE.

Section 224(b) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended in the matter preceding paragraph (1) by striking "Such agreements" and inserting the following: "Agreements entered into under subsection (a) that by modifications to the existing regulatory agreement or mortgage extend the low income affordability restrictions through the term of the mortgage or, in the case of the prepayment of a mortgage, by a recorded instrument impose low income affordability restrictions (including the obligations specified in the regulatory agreement) through a period equivalent to the term of the original mortgage".

Contracts.

SEC. 1024. CRITERIA FOR APPROVAL OF PLAN OF ACTION.

Section 225(a)(1) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended—

(1) by inserting after "economic hardship for current tenants" the following: "(and will not in any event result in (A) a monthly rental payment by a current tenant that exceeds 30 percent of the monthly adjusted income of the tenant or an increase in the monthly rental payment in any year that exceeds 10 percent (whichever is lower), or (B) in the case of a current tenant who already pays more than such percentage, an increase in the monthly rental payment in any year that ex-

ceeds the increase in the Consumer Price Index or 10 percent (whichever is lower))"; and

(2) by inserting before the semicolon at the end the following: ", determined without regard to the availability of Federal housing assistance that would address any such hardship or involuntary displacement".

SEC. 1025. MODIFICATION OF EXISTING REGULATORY AGREEMENTS.

(a) CORRECTION OF CROSS-REFERENCE.—Section 228(a)(5) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by striking "section 225(b)(6)" and inserting "section 225(b)(3)(F)".

(b) CORRECTION OF TYPOGRAPHICAL ERROR.—Section 228(a) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by inserting a period at the end.

SEC. 1026. REPORT ON NOTICE TO TENANTS AND INCENTIVES.

Section 232 of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by adding at the end the following new sentence: "The report shall also include a detailed description of (1) the actions taken by the Secretary to ensure meaningful participation by affected tenants; and (2) the incentives developed by the Secretary under section 224 to ensure compliance with this subtitle.".

SEC. 1027. DEFINITION OF ELIGIBLE LOW INCOME HOUSING.

Section 233(1)(A)(iii) of the Housing and Community Development Act of 1987 (12 U.S.C. 1715l note) is amended by inserting "or a State or State agency" after "Secretary".

SEC. 1028. RURAL RENTAL HOUSING DISPLACEMENT PREVENTION.

(a) ASSISTANCE AVAILABLE TO BORROWER.—Section 502(c)(4)(B)(iv) of the Housing Act of 1949 (42 U.S.C. 1472(c)(4)(B)(iv)) is amended by striking "paragraphs (7) and (8) of section 515(b)" and inserting "paragraphs (1) and (2) of section 515(c)".

(b) SELECTION OF PURCHASERS.—Section 502(c)(5)(B) of the Housing Act of 1949 (42 U.S.C. 1472(c)(5)(B)) is amended by adding at the end the following new clause:

"(iii) SELECTION OF QUALIFIED PURCHASER.—The Secretary shall promulgate regulations that establish criteria for selecting a qualified nonprofit organization or public agency to purchase housing and related facilities when more than 1 such organization or agency has made a bona fide offer. Such regulations shall give a priority to those organizations or agencies with the greatest experience in developing or managing low income housing or community development projects and with the longest record of service to the community.". Regulations.

(c) DEFINITIONS OF NONPROFIT ORGANIZATIONS.—Section 502(c)(5)(I) of the Housing Act of 1949 (42 U.S.C. 1472(c)(5)(I)) is amended to read as follows:

"(I) DEFINITIONS.—For purposes of this paragraph:

"(i) LOCAL NONPROFIT ORGANIZATION.—The term 'local nonprofit organization' means a nonprofit organization that—

"(I) has a broad based board reflecting various interests in the community or trade area; and

"(II) is a not-for-profit charitable organization whose principal purposes include developing or managing low income housing or community development projects.

"(ii) NONPROFIT ORGANIZATION.—The term 'nonprofit organization' means any private organization—

"(I) no part of the net earnings of which inures to the benefit of any member, founder, contributor, or individual;

"(II) that is approved by the Secretary as to financial responsibility; and

"(III) that does not have among its officers or directorate persons or parties with a material interest (or persons or parties related to any person or party with such an interest) in loans financed under section 515 that have been prepaid.".

SEC. 1029. SECTION 8 LOAN MANAGEMENT PROGRAM.

(a) REPEAL OF 15-YEAR TERM REQUIREMENT.—Section 8(v) of the United States Housing Act of 1937 (42 U.S.C. 1437f(v)) is amended—

(1) by striking paragraph (1); and

(2) by redesignating paragraph (2) as paragraph (1).

(b) EXECUTION OF NEW CONTRACTS.—Section 8(v)(1) of the United States Housing Act of 1937 (42 U.S.C. 1437f(v)(1)) (as so redesignated by subsection (a) of this section) is amended by inserting "for project-based loan management assistance" after "new contract".

(c) AVAILABILITY OF ASSISTANCE FOR UNSUBSIDIZED PROJECTS.—Section 8(v) of the United States Housing Act of 1937 (42 U.S.C. 1437f(v)) (as amended by subsection (a) of this section) is further amended by adding at the end the following new paragraph:

"(2)(A) The eligiblity of a multifamily residential project for loan management assistance under this section shall be determined without regard to whether the project is subsidized or unsubsidized.

"(B) In allocating loan management assistance under this section, the Secretary may give a priority to any project only on the basis that the project has serious financial problems that are likely to result in a claim on the insurance fund in the near future or the project is eligible to receive incentives under subtitle B of the Emergency Low Income Housing Preservation Act of 1987.".

Subtitle C—Rural Housing

SEC. 1041. IMPLEMENTATION OF GUARANTEED LOAN DEMONSTRATION.

Regulations.

(a) IN GENERAL.—Section 304(a) of the Housing and Community Development Act of 1987 (42 U.S.C. 1472 note) is amended by adding at the end the following: "To implement this section, the Secretary shall issue regulations that take effect not later than 120 days after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.".

(b) CLARIFICATION.—Section 304 of the Housing and Community Development Act of 1987 (42 U.S.C. 1472 note) is amended by adding at the end the following new subsection:

"(f) RELATION TO OTHER LAW.—Section 502(d), and the second sentence of section 517(e), of the Housing Act of 1949 shall not apply to this section.".

(c) APPLICABILITY.—The amendments made by this section shall apply to fiscal year 1989 and each succeeding fiscal year. 42 USC 1472 note.

SEC. 1042. SECTION 515 RENTS.

Section 515 of the Housing Act of 1949 (42 U.S.C. 1485) is amended by striking subsection (h).

SEC. 1043. AVAILABILITY OF DOMESTIC FARM LABOR HOUSING FOR OTHER FAMILIES.

(a) INSURED LOAN PROGRAM.—Section 514 of the Housing Act of 1949 (42 U.S.C. 1484) is amended by adding at the end the following new subsection:

"(i) Housing and related facilities constructed with loans under this section may be used for tenants eligible for occupancy under section 515 if the Secretary determines that—

"(1) there is no longer a need in the area for farm labor housing; or

"(2) the need for such housing in the area has diminished to the extent that the purpose of the loan, providing housing for domestic farm labor, can no longer be met.".

(b) GRANT PROGRAM.—Section 516 of the Housing Act of 1949 (42 U.S.C. 1486) is amended by adding at the end the following new subsection:

"(j) Housing and related facilities constructed with grants under this section may be used for tenants eligible for occupancy under section 515 if the Secretary determines that—

"(1) there is no longer a need in the area for farm labor housing; or

"(2) the need for such housing in the area has diminished to the extent that the purpose of the grant, providing housing for domestic farm labor, can no longer be met.".

SEC. 1044. RURAL RENTAL REHABILITATION DEMONSTRATION.

Section 311(b) of the Housing and Community Development Act of 1987 (42 U.S.C. 1490m note) is amended—

(1) by striking "provided to" and inserting "provided in"; and

(2) by inserting before the period at the end the following: ", including areas located in States where the Secretary administers the rental rehabilitation grant program".

SEC. 1045. LEGAL REPRESENTATION IN LITIGATION INVOLVING COLLECTION OF CLAIMS AND OBLIGATIONS ARISING OUT OF RURAL HOUSING PROGRAMS.

Section 510(d) of the Housing Act of 1949 (42 U.S.C. 1480(d)) is amended by inserting before the semicolon at the end the following: "; except that—

"(1) prosecution and defense of any litigation under section 502 shall be conducted, at the discretion of the Secretary, by—

"(A) the United States attorneys for the districts in which the litigation arises and any other attorney that the Attorney General may designate under law, under the supervision of the Attorney General;

"(B) the General Counsel of the Department of Agriculture; or

"(C) any other attorney with whom the Secretary enters into a contract after a determination by the Secretary that— Contracts.

"(i) the attorney will provide competent and cost-effective representation for the Farmers Home Administration; and

"(ii) representation by the attorney will either (I) accelerate the process by which a family or person eligible for assistance under section 502 will be able to purchase and occupy the housing involved; or (II) preserve the quality of the housing involved; and

Reports.

"(2) the Secretary shall annually submit to the Congress a report describing activities carried out under paragraph (1)(C), including the cost of entering into contracts with such attorneys and the savings resulting from expedited foreclosure proceedings".

Subtitle D—Mortgage Insurance and Secondary Mortgage Market Programs

SEC. 1061. CHANGE IN DEFINITION OF VETERAN.

Section 203(b) of the National Housing Act (12 U.S.C. 1709(b)) is amended to read as if the amendment made by section 405(l) of the Housing and Community Development Act of 1987 (101 Stat. 1899) to section 203(b)(3)(2) of the National Housing Act had been made instead to section 203(b)(2) of the National Housing Act.

SEC. 1062. LIMITATION ON USE OF SINGLE FAMILY MORTGAGE INSURANCE BY INVESTORS.

(a) EXEMPTION FROM OCCUPANCY REQUIREMENT.—Section 203(g)(3) of the National Housing Act (12 U.S.C. 1709(g)(3)) is amended—

(1) by striking "or" at the end of subparagraph (D);

(2) by striking the period at the end of subparagraph (E) and inserting "; or"; and

(3) by adding at the end the following new subparagraph:

"(F) a mortgagor that, pursuant to section 223(a)(7), is refinancing an existing mortgage insured under this Act for not more than the outstanding balance of the existing mortgage, if the amount of the monthly payment due under the refinancing mortgage is less than the amount due under the existing mortgage for the month in which the refinancing mortgage is executed.".

(b) CORRECTION OF CONFORMING AMENDMENT.—Section 203(b)(2) of the National Housing Act (12 U.S.C. 1709(b)(2)) is amended to read as if the amendment made by section 406(b)(1)(B) of the Housing and Community Development Act of 1987 (101 Stat. 1900) had deleted instead the following: "to be occupied as the principal residence of the owner".

SEC. 1063. PROCEDURES APPLICABLE TO ASSUMPTION OF INSURED MORTGAGES.

(a) CREDIT REVIEWS.—Section 203(r)(2) of the National Housing Act (12 U.S.C. 1709(r)(2)) is amended by striking "date on which the mortgage is endorsed for insurance" each place it appears and inserting "date on which the mortgage is executed".

(b) EFFECTIVE DATE.—Section 407(a)(2) of the Housing and Community Development Act of 1987 is amended to read as follows:

12 USC 1709 note.

"(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to each mortgage originated pursuant to an application for commitment for insurance signed by the applicant on or after December 1, 1986.".

SEC. 1064. PAYMENT OF CLAIMS ON LOSSES FROM PREFORECLOSURE SALES.

(a) IN GENERAL.—The second sentence of section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended—

(1) by inserting "(A)" after "(1)"; and

(2) by striking ", and (2)" and inserting the following: ", or (B) upon the sale of the insured property by the mortgagor after default, if (i) the sale has been approved by the Secretary, (ii) the mortgagee receives an amount at least equal to the fair market value of the property (with appropriate adjustments), as determined by the Secretary, and (iii) the mortgagor has received appropriate homeownership counseling, as determined by the Secretary; and (2)".

(b) CONFORMING AMENDMENTS.—

(1) APPLICABILITY.—Section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended in the third sentence by striking "the effective date of this sentence" and inserting the following: "November 30, 1983 (on or after the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988, with respect to the payment of benefits under clause (1)(B) of the preceding sentence),".

(2) CROSS-REFERENCES.—

(A) Section 204(a) of the National Housing Act (12 U.S.C. 1710(a)) is amended immediately before the first proviso in the fifth sentence by striking "foreclosure".

(B) Section 204(j) of the National Housing Act (12 U.S.C. 1710(j)) is amended by inserting "clause (1)(A) of" before "the second sentence".

(c) REGULATIONS.—In developing regulations to carry out the amendments made by this section, the Secretary of Housing and Urban Development may delegate to mortgagees the authority to make determinations on behalf of the Secretary, and the Secretary shall rely on certifications and post audit reviews to the greatest extent possible. 12 USC 1710 note.

SEC. 1065. MORTGAGE INSURANCE ON HAWAIIAN HOME LANDS.

Section 247 of the National Housing Act (12 U.S.C. 1715z-12), as similarly amended first by the Department of Housing and Urban Development-Independent Agencies Act, 1988 (101 Stat. 1329-191) and later by subsections (a) and (b) of section 413 of the Housing and Community Development Act of 1987 (101 Stat. 1906), is amended to read as if the later amendment had not been enacted.

SEC. 1066. HOME EQUITY CONVERSION MORTGAGE INSURANCE DEMONSTRATION.

(a) DEFINITIONS.—Section 255(b)(3) of the National Housing Act (12 U.S.C. 1715z-20(b)(3)) is amended by inserting "Depository" before "Institutions".

(b) ELIGIBILITY REQUIREMENTS.—Section 255(d)(3) of the National Housing Act (12 U.S.C. 1715z-20(d)(3)) is amended by striking "and that" and all that follows through "residence".

SEC. 1067. RECIPROCITY IN APPROVAL OF HOUSING SUBDIVISIONS AMONG FEDERAL AGENCIES.

Section 535 of the Housing Act of 1949 (42 U.S.C. 1490o) is amended—

(1) by inserting "(a)" after the section designation; and

(2) by adding at the end the following new subsections:

"(b) For purposes of complying with subsection (a), the Secretary of Housing and Urban Development shall consider the issuance by the Administrator of Veterans' Affairs of a certificate of reasonable value for 1 or more properties in a subdivision to be an administrative approval for the entire subdivision. This subsection shall not apply after the expiration of the 1-year period beginning on the date of the enactment of the Stewart B. McKinney Homeless Assistance Amendments Act of 1988.

Termination date.

"(c) Before the expiration of the period referred to in subsection (b), the Secretary of Housing and Urban Development shall report to the Congress on housing subdivision approval policies and practices, if any, of the Departments of Housing and Urban Development and Agriculture and the Veterans' Administration. The report shall focus on the administration of environmental laws in connection with any such policies and practices, and shall recommend any statutory, regulatory, and administrative changes needed to achieve total reciprocity for such housing subdivision approvals. The Secretary of Housing and Urban Development shall consult with the foregoing agencies, and such other agencies as the Secretary selects, in preparing the report.".

Reports.

SEC. 1068. PERMANENT AUTHORITY TO PURCHASE SECOND MORTGAGES ON MULTIFAMILY PROPERTIES.

(a) FEDERAL NATIONAL MORTGAGE ASSOCIATION.—Section 302(b)(5)(A)(ii) of the Federal National Mortgage Association Charter Act (12 U.S.C. 1717(b)(5)(A)(ii)) is amended by striking "until October 1, 1985,".

(b) FEDERAL HOME LOAN MORTGAGE CORPORATION.—Section 305(a)(4)(A)(ii) of the Federal Home Loan Mortgage Corporation Act (12 U.S.C. 1454(a)(4)(A)(ii)) is amended by striking "until October 1, 1985,".

Subtitle E—Community Development and Miscellaneous Programs

SEC. 1081. CITY AND COUNTY CLASSIFICATIONS.

(a) METROPOLITAN CITY.—

(1) RETENTION OF CLASSIFICATION.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)) is amended in the second sentence—

(A) by striking "the population data of the 1980 decennial census" and inserting "a decrease in population"; and

(B) by inserting "or any subsequent fiscal year" after "1983".

(2) DEFERRAL OF CLASSIFICATION.—Section 102(a)(4) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(4)), as similarly amended first by the Department of Housing and Urban Development-Independent Agencies Act, 1988 (101 Stat. 1329-193) and later by section 503(a)(2) of the

Housing and Community Development Act of 1987 (101 Stat. 1923), is amended to read as if the later amendment had not been enacted.

(b) URBAN COUNTY.—Section 102(a)(6)(A) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(a)(6)(A)) is amended by striking the last comma in clauses (i) and (ii)(I) and inserting a semicolon.

SEC. 1082. CORRECTIONS TO CROSS-REFERENCES.

(a) DEFINITIONS.—

(1) INCLUSION OF POPULATION IN URBAN COUNTY.—Section 102(d) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(d)) is amended by striking "subsection (a)(6)(B)" and inserting "subparagraph (A)(ii) or (D) of subsection (a)(6)".

(2) EXCLUSION OF POPULATION FROM URBAN COUNTY.—The first sentence of section 102(e) of the Housing and Community Development Act of 1974 (42 U.S.C. 5302(e)) is amended by striking "subsection (a)(6)(B)(i)" and inserting "subsection (a)(6)(A)(ii)(I)(a)".

(b) REALLOCATION OF AMOUNTS.—Section 106(c)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(c)(1)) is amended—

(1) in the first sentence, by striking "section 104 (a), (b), or (c)" and inserting "subsection (a), (b), (c), or (d) of section 104";

(2) in the first sentence by striking "section 104(d)" and inserting "section 104(e)"; and

(3) in subparagraph (B), by striking "section 104(d)" and inserting "section 104(e)".

(c) ALLOCATIONS TO STATES.—Section 106(d)(3) of the Housing and Community Development Act of 1974 (42 U.S.C. 5306(d)(3)) is amended—

(1) in subparagraph (C), by striking "subsection (a) or (b)" and inserting "subsection (a), (b), or (d)"; and

(2) in subparagraphs (C) and (D), by striking "section 104(d)" each place it appears and inserting "section 104(e)".

SEC. 1083. CONSERVING NEIGHBORHOODS AND HOUSING BY PROHIBITING DISPLACEMENT.

State and local governments.
42 USC 5304.

(a) CERTIFICATIONS.—The third sentence of section 104(d)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 4304(d)(1)) is amended to read as follows: "A unit of general local government receiving amounts from a State under section 106(d) shall so certify to the State, and a unit of general local government receiving amounts from the Secretary under section 106(d) shall so certify to the Secretary.".

(b) PLAN REQUIREMENTS.—Section 104(d)(2)(A)(iii)(II) of the Housing and Community Development Act of 1974 (42 U.S.C. 5304(d)(2)(A)(iii)(II)) is amended by adding "and" at the end.

SEC. 1084. URBAN DEVELOPMENT ACTION GRANTS.

(a) USE OF REPAID GRANT FUNDS.—Section 119(f) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(f)) is amended in the penultimate sentence by striking "section 104" and inserting "section 105".

(b) CONSIDERATION OF CERTAIN COUNTIES AS CITIES.—Section 119(n)(1) of the Housing and Community Development Act of 1974 (42 U.S.C. 5318(n)(1)), as similarly amended first by the provisions

made effective by section 101(g) of Public Law 99-500 and Public Law 99-591 (100 Stat. 1783-242 and 3341-242) and later by section 515(i) of the Housing and Community Development Act of 1987 (101 Stat. 1934), is amended to read as if the later amendment had not been enacted.

SEC. 1085. NEIGHBORHOOD REINVESTMENT CORPORATION.

Section 604(a)(6) of the Neighborhood Reinvestment Corporation Act (42 U.S.C. 8103(a)(6)) is amended by striking the second of the two periods at the end.

SEC. 1086. NATIONAL FLOOD INSURANCE PROGRAM.

(a) CORRECTION OF TYPOGRAPHICAL ERROR.—Section 1306(c)(1)(A) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(1)(A)) is amended by striking "Following" each place it appears in clauses (i) and (ii) and inserting "following".

(b) CORRECTION OF CROSS-REFERENCE.—Subsections (b) and (c) of section 1370 of the National Flood Insurance Act of 1968 (42 U.S.C. 4121) are each amended by striking "paragraph (1)" and inserting "subsection (a)(1)".

(c) SACRAMENTO, CALIFORNIA.—

(1) FINDINGS.—The Congress finds that—

(A) the Sacramento, California, area has had in place a flood control system that has been classified as protecting against floods with recurrence intervals of up to 125 years;

(B) local governmental entities in the Sacramento metropolitan area have been working diligently with the State of California, the Army Corps of Engineers, and the Bureau of Reclamation since the occurrence of a heavy storm in 1986 to formulate and implement a comprehensive plan to provide high level, efficient flood protection to the region;

(C) the Federal Emergency Management Agency, in response to studies by the Army Corps of Engineers indicating increased flood vulnerability attributable to increased estimates of the frequency of large storms in the region, has begun a process of re-analyzing the flood risks in the Sacramento area, and this analysis is likely to result in substantially increased flood elevation requirements under the National Flood Insurance Program;

(D) changed flood elevation requirements attributable to a change in flood elevation determinations by the Director of the Federal Emergency Management Agency will cause severe disruption in the Sacramento region and could precipitate the break-up of the political, institutional, and economic relationships sustaining the high level, comprehensive, flood protection effort;

(E) failure to implement a comprehensive plan would leave substantial portions of the Sacramento area without necessary flood protection, and, further, could impose on the Federal Government various, substantial costs related to emergency responses and damage claims in the event of a major flood;

(F) the Federal purposes embodied in the National Flood Insurance Program to minimize development in flood plains, to minimize damages caused by floods, and to reduce requirements for costly flood protection projects remain valid for the Sacramento metropolitan area, and impose

upon its local governmental jurisdictions an obligation to exercise their authorities to avoid undue exposure to the dangers of floods and to voluntarily comply to the maximum extent practicable, consistent with other purposes of this subsection, with the National Flood Insurance Program standards that are anticipated to be applicable to the Sacramento area following expiration of the period set by paragraph (2);

(G) the City and County of Sacramento have each provided assurances to the Congress that they will not designate any increases in urbanization beyond lands already so designated in their general plans during the period set forth in paragraph (2), and, in addition, that in the exercise of their discretion to approve new development they will give careful consideration to—

(i) an evacuation-emergency response plan;

(ii) mechanisms by which to attempt to provide notice to all buyers of new structures;

(iii) retention of natural floodways; and

(iv) recommendations to all buyers of new structures to purchase flood insurance;

(H) the City and County of Sacramento, in their discretion, reserve the authority to impose elevation or other requirements for new construction based upon best available flood data if facts indicate the necessity of doing so; and

(I) maintenance of the Federal flood elevation requirements now in effect for the Sacramento area for the limited period set forth in paragraph (2) will facilitate implementation of the high level, comprehensive plan for flood protection in the Sacramento area, and is therefore in the interest of Sacramento, the public safety, and the United States.

(2) FLOOD ELEVATIONS.—Prior to the expiration of 2 years after the date on which the Secretary of the Army submits to the Congress the report on the feasibility study on Northern California Streams, American River Watershed, but not later than 4 years after the date of the enactment of this Act, the provisions of the National Flood Insurance Act of 1968 and the Flood Disaster Protection Act of 1973 shall apply on the basis of flood map elevation determinations made by the Director of the Federal Emergency Management Agency in effect as of the date of the enactment of this Act to the following areas: Rivers and harbors.

(A) the floodplain areas within Sutter and Sacramento Counties, California (collectively known as the "Natomas area"), which are bounded by the Sacramento River, the American River, the Natomas Cross Canal, and the floodplain of the Natomas East Main Drainage Canal;

(B) the floodplains within Sacramento County of Dry Creek, Arcade Creek, and Morrison Creek, to the extent these creeks are affected by the American and Sacramento Rivers, the American River, and the Sacramento River upstream of the City of Freeport, California; and

(C) the City of West Sacramento in Yolo County, California.

(3) BUDGET SUBMISSION.—The President, in submitting his budget for fiscal year 1990, shall include a schedule for completing the study referred to in paragraph (2) as expeditiously as President of U.S.

practicable and an estimate of the resources required to meet such schedule.

(d) PLANADA, CALIFORNIA.—The Director of the Federal Emergency Management Agency shall prepare, or cause to be prepared, a hydrological study of Miles Creek, California, to use as the basis for the establishment of revised base flood elevations in and near the community of Planada, California. Until such time as the revised base flood elevations are established, the flood insurance rate map (Community Panel No. 0601880315A) in effect on September 1, 1988, for the area in and near such community shall remain in effect.

SEC. 1087. HOME MORTGAGE DISCLOSURE.

(a) APPLICABILITY OF 1987 AMENDMENTS.—Section 565(a)(4) of the Housing and Community Development Act of 1987 (12 U.S.C. 2802 note) is amended by striking "calendar years beginning after December 31, 1986" and inserting "the portion of calendar year 1988 that begins August 19, 1988, and to each calendar year beginning after December 31, 1988".

(b) CORRECTION OF TYPOGRAPHICAL ERROR.—Paragraphs (1) and (2) of section 306(b) of the Home Mortgage Disclosure Act (12 U.S.C. 2805) are each amended by striking "Section" and inserting "section".

(c) CORRECTION OF REFERENCES TO COMMITTEES.—Section 307(b) of the Home Mortgage Disclosure Act (12 U.S.C. 2806) is amended—

(1) by striking "Committee on Banking, Currency and Housing" and inserting "Committee on Banking, Finance and Urban Affairs"; and

(2) by inserting a comma after "Housing".

Safety.

SEC. 1088. LEAD-BASED PAINT POISONING PREVENTION.

(a) INSPECTION.—Section 302(d)(1) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(1)) is amended—

(1) by striking the paragraph caption and inserting the following: "TRANSITIONAL TESTING AND ABATEMENT IN PUBLIC HOUSING RECEIVING CIAP ASSISTANCE.—";

(2) by striking "section 9" in the first sentence and inserting "section 14";

(3) by striking subparagraphs (A), (B), and (C) in the first sentence and inserting the following:

"(A) a random sample of dwellings and common areas in all public housing projects assisted under such section; and

"(B) each dwelling in any public housing project in which there is a dwelling determined under subparagraph (A) to have lead-based paint hazards, except that the Secretary shall not require the inspection of each dwelling if the Secretary requires the abatement of the lead-based paint hazards for the surfaces of each dwelling in the public housing project that correspond to the surfaces in the sample determined to have such hazards under subparagraph (A).";

(4) by striking the second and third sentences and inserting the following: "The Secretary shall require the inspection of all housing subject to this paragraph in accordance with the modernization schedule. A public housing agency may elect to test for lead-based paint using atomic absorption spectroscopy and may elect to abate lead-based paint and dust containing lead under standards more stringent than that in subsection (c),

including the abatement of lead-based paint and dust which exceeds the standard of lead permitted in paints by the Consumer Product Safety Commission under this Act, and such abatement shall qualify for assistance under section 14 of the United States Housing Act of 1937."; and

(5) by inserting before the period at the end of the last sentence the following: ", industrial hygienist, or local public health official".

(b) ABATEMENT DEMONSTRATION.—Section 302(d)(2) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(2)) is amended—

(1) by striking the paragraph caption and inserting the following: "ABATEMENT DEMONSTRATION PROGRAM.—";

(2) in subparagraph (A)—

(A) by inserting after "Urban Development" the following: "and public housing"; and

(B) by adding at the end the following new sentence: "For purposes of the demonstration, a public housing agency may elect to test for lead-based paint using atomic absorption spectroscopy and may elect to abate lead-based paint and dust containing lead under standards more stringent than that in subsection (c), including the abatement of lead-based paint and dust which exceeds the standard of lead permitted in paints by the Consumer Product Safety Commission under this Act, and such abatement shall qualify for assistance under section 14 of the United States Housing Act of 1937."; and

(3) in subparagraph (B), by inserting after the first sentence the following new sentence: "Based on the demonstration, the Secretary shall prepare and include in the report a comprehensive and workable plan for the cost-effective inspection and abatement of public housing in accordance with paragraph (3), including an estimate of the total cost of abatement in accordance with paragraph (3)(B).".

(c) REPORTS.—Section 302(d)(2)(B) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)(2)(B)) is amended—

(1) in clause (i), by inserting ", including X-ray fluorescence and atomic absorption spectroscopy" before the semicolon;

(2) in clause (ii), by inserting ", including removal, containment, or encapsulation of the contaminated components, procedures which minimize the generation of dust (including the high efficiency vacuum removal of leaded dust), and procedures that provide for offsite disposal of the removed components, in compliance with all applicable regulatory standards and procedures" before the semicolon;

(3) in clause (iii), by inserting ", abatement, and worker protection" before the semicolon;

(4) by striking "and" at the end of clause (v);

(5) by striking the period at the end of clause (vi) and inserting "; and "; and

(6) by adding at the end the following new clause:

"(vii) the merits of an interim containment protocol for public housing dwellings that are determined to have lead-based paint hazards but for which comprehensive improvement assistance under section 14 of the United States Housing Act of 1937 is not available.".

(d) PUBLIC HOUSING INSPECTION.—Section 302(d) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(d)) is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following:

"(3) TESTING AND ABATEMENT OF OTHER PUBLIC HOUSING.—

"(A) REQUIRED INSPECTION.—The Secretary shall require the inspection described in subsection (c) for—

"(i) a random sample of dwellings and common areas in all public housing that is not subject to paragraph (1); and

"(ii) each dwelling in any public housing project in which there is a dwelling determined under clause (i) to have lead-based paint hazards, except that the Secretary shall not require the inspection of each dwelling if the Secretary requires the abatement of the lead-based paint hazards for the surfaces of each dwelling in the public housing project that correspond to the surfaces in the sample determined to have such hazards under clause (i).

"(B) SCHEDULE.—The Secretary shall require the inspection of all housing subject to this paragraph prior to the expiration of 5 years after the report is required to be transmitted under paragraph (2)(B). The Secretary may prioritize, within such 5-year period, inspections on the basis of vacancy, age of housing, or projected modernization or rehabilitation. The Secretary shall require abatement and final inspection and certification of such housing in accordance with the last two sentences of paragraph (1).".

(e) FUNDING.—Section 302(f) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(f)) is amended by adding at the end the following new sentence: "The Secretary shall submit annually to the Congress an estimate of the funds required to carry out the provisions of this section with the reports required by paragraphs (2)(B) and (4).".

(f) DETECTION TECHNIQUE.—Section 302(c) of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822(c)) is amended—

(1) in the first sentence, by inserting after "fluorescence analyzer" the following: ", atomic absorption spectroscopy,"; and

(2) in the second sentence, by inserting after "A qualified inspector" the following: "or laboratory".

42 USC 4822 note.

(g) CONSULTATION.—Section 566(b) of the Housing and Community Development Act of 1987 is amended—

(1) in the caption, by inserting "AND CONSULTATION" after "REGULATIONS"; and

(2) in paragraph (3)—

(A) by striking "under this subsection" and inserting "and in preparing reports under this section"; and

(B) in subparagraph (A), by inserting after "Building Sciences" the following: ", the Environmental Protection Agency, the National Institute of Environmental Health Sciences, the Centers for Disease Control, the Consumer Product Safety Commission, major public housing organizations, other major housing organizations,".

(h) INTERPRETATION OF SECTION.—Section 302 of the Lead-Based Paint Poisoning Prevention Act (42 U.S.C. 4822) is amended by adding at the end the following new subsection:

"(g) INTERPRETATION OF SECTION.—This section may not be construed to affect the responsibilities of the Environmental Protection Agency with respect to the protection of the public health from hazards posed by lead-based paint.".

SEC. 1089. INTERSTATE LAND SALES FULL DISCLOSURE.

(a) CORRECTION OF TYPOGRAPHICAL ERROR.—Section 1402(10) the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1701(10)) is amended by inserting "and" after the semicolon.

(b) CORRECTION OF NUMBERING.—Section 1420 the Interstate Land Sales Full Disclosure Act (15 U.S.C. 1719), is amended by striking "(a)" after the section designation.

SEC. 1090. DESIGNATION OF ENTERPRISE ZONES.

(a) CRITERIA FOR RANKING NOMINATED AREAS.—The first sentence of section 701(a)(3)(A) of the Housing and Community Development Act of 1987 (42 U.S.C. 11501(a)(3)(A)) is amended to read as follows: "Except as provided in subparagraph (B), the Secretary shall designate (i) the nominated areas with the highest average ranking with respect to the criteria set forth in subparagraphs (C) and (D) of subsection (c)(3), and the 1 criterion set forth in subparagraph (E)(i) or (E)(ii) of subsection (c)(3) that gives an area a higher ranking; and (ii) for areas described in paragraph (2)(B), the nominated areas with the highest ranking with respect to the 1 criterion set forth in subparagraph (C), (D), (E)(i), or (E)(ii) of subsection (c)(3) that gives an area a higher ranking.".

(b) CORRECTION OF CROSS-REFERENCE.—Section 701(a)(2)(B) of the Housing and Community Development Act of 1987 (42 U.S.C. 11501(a)(2)(B)) is amended by striking "under clause (i)" and inserting "under subparagraph (A)".

(c) REGULATIONS.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall revise the regulations issued by the Secretary to carry out title VII of the Housing and Community Development Act of 1987 (42 U.S.C. 11501 et seq.) by issuing a final regulation, effective upon the date of publication, that carries out the amendments made by this section. 42 USC 11501 note.

SEC. 1091. REPORT ON RECOMMENDED POLICY FOR DEALING WITH RADON IN ASSISTED HOUSING. Safety. 15 USC 2661 note.

(a) PURPOSES.—The purposes of this section are—

(1) to require the Department of Housing and Urban Development to develop an effective departmental policy for dealing with radon contamination that utilizes any Environmental Protection Agency guidelines and standards to ensure that occupants of housing covered by this section are not exposed to hazardous levels of radon; and

(2) to require the Department of Housing and Urban Development to assist the Environmental Protection Agency in reducing radon contamination.

(b) PROGRAM.—

(1) APPLICABILITY.—The housing covered by this section is—

(A) multifamily housing owned by the Department of Housing and Urban Development;

(B) public housing and Indian housing assisted under the United States Housing Act of 1937;

(C) housing receiving project-based assistance under section 8 of the United States Housing Act of 1937;

(D) housing assisted under section 236 of the National Housing Act; and

(E) housing assisted under section 221(d)(3) of the National Housing Act.

(2) IN GENERAL.—The Secretary of Housing and Urban Development shall develop and recommend to the Congress a policy for dealing with radon contamination that specifies programs for education, research, testing, and mitigation of radon hazards in housing covered by this section.

(3) STANDARDS.—In developing the policy, the Secretary shall utilize any guidelines, information, or standards established by the Environmental Protection Agency for—

(A) testing residential and nonresidential structures for radon;

(B) identifying elevated radon levels;

(C) identifying when remedial actions should be taken; and

(D) identifying geographical areas that are likely to have elevated levels of radon.

State and local governments. Business and industry. Health care facilities. Health care professionals.

(4) COORDINATION.—In developing the policy, the Secretary shall coordinate the efforts of the Department of Housing and Urban Development with the Environmental Protection Agency, and other appropriate Federal agencies, and shall consult with State and local governments, the housing industry, consumer groups, health organizations, appropriate professional organizations, and other appropriate experts.

(5) REPORT.—The Secretary shall submit a report to the Congress within 1 year after the date of the enactment of this Act that describes the Secretary's recommended policy for dealing with radon contamination and the Secretary's reasons for recommending such policy. The report shall include an estimate of the housing covered by this section that is likely to have hazardous levels of radon.

(c) COOPERATION WITH ENVIRONMENTAL PROTECTION AGENCY.—Within 6 months after the date of the enactment of this Act, the Secretary and the Administrator of the Environmental Protection Agency shall enter into a memorandum of understanding describing the Secretary's plan to assist the Administrator in carrying out the Environmental Protection Agency's authority to assess the extent of radon contamination in the United States and assist in the development of measures to avoid and reduce radon contamination.

(d) DEFINITIONS.—For purposes of this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(e) AUTHORIZATION.—Funds available for housing covered by this section shall be available to carry out this section with respect to such housing.

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.R. 4352 (S. 2554):

HOUSE REPORTS: No. 100-718, Pt. 1 (Comm. on Energy and Commerce), Pt. 2 (Comm. on Banking, Finance and Urban Affairs), and Pt. 3 (Comm. on Ways and Means); and No. 100-1089 (Comm. of Conference).

SENATE REPORTS: No. 100-393 accompaninng S. 2554 (Comm. on Banking, Housing, and Urban Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 3, considered and passed House.
Sept. 28, considered and passed Senate, amended.
Oct. 19, House agreed to conference report.
Oct. 20, Senate agreed to conference report.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 7, Presidential statement.

Public Law 100-629
100th Congress

An Act

Nov. 7, 1988
[H.R. 4919]

To approve the governing international fishery agreement between the United States and the Union of Soviet Socialist Republics, and for other purposes.

Conservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 1823 note.

SECTION 1. SOVIET UNION FISHING AGREEMENT.

That notwithstanding any provision of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1801 et seq.), the governing international fishery agreement entered into between the Government of the United States and the Government of the Union of Soviet Socialist Republics, as contained in the message to Congress from the President of the United States dated June 22, 1988, is approved by the Congress and shall enter into force and effect with respect to the United States on the date of the enactment of this Act.

SEC. 2. MARINE BIOMEDICAL INSTITUTE.

Appropriation authorization.

There is authorized to be appropriated such sums as may be necessary for the development of a Marine Biomedical Institute for Advanced Studies, to be located at Woods Hole, Massachusetts.

SEC. 3. GREAT LAKES MAPPING REAUTHORIZATION.

33 USC 883a note.

Section 3206 of Public Law 100-220 is amended by striking "1988", and inserting instead "1989".

SEC. 4. STORAGE OF FISHING GEAR ON CERTAIN FOREIGN FISHING VESSELS OPERATING IN THE EXCLUSIVE ECONOMIC ZONE.

Section 307 of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1857) is amended—

(1) in paragraph (2)(C) by striking "and";

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by adding at the end the following:

"(4) for any fishing vessel other than a vessel of the United States to operate, and for the owner or operator of a fishing vessel other than a vessel of the United States to operate such vessel, in the exclusive economic zone, if—

"(A) all fishing gear on the vessel is not stored below deck or in an area where it is not normally used, and not readily available, for fishing; or

"(B) all fishing gear on the vessel which is not so stored is not secured and covered so as to render it unusable for fishing;

unless such vessel is authorized to engage in fishing in the area in which the vessel is operating.".

SEC. 5. NORTH PACIFIC AND BERING SEA FISHERIES ADVISORY BODY. 16 USC 1823 note.

(a) IN GENERAL.—The Secretary of State shall establish an advisory body on the fisheries of the North Pacific and the Bering Sea, which shall advise the United States representative to the International Consultative Committee created in accordance with Article XIV of the governing international fishery agreement entered into between the United States and the Union of Soviet Socialist Republics, as contained in the message to Congress from the President of the United States dated June 22, 1988.

(b) MEMBERSHIP.—

(1) IN GENERAL.—The advisory body established pursuant to this section shall consist of 12 members, as follows:

(A) The Director of the Department of Fisheries of the State of Washington. Washington.

(B) The Commission of the Department of Fish and Game of the State of Alaska. Alaska.

(C) Five members appointed by the Secretary of State from among persons nominated by the Governor of Alaska on the basis of their knowledge and experience in commercial harvesting, processing, or marketing of fishery resources.

(D) Five members appointed by the Secretary of State from among persons nominated by the Governor of Washington on the basis of their knowledge and experience in commercial harvesting, processing, or marketing of fishery resources.

(2) NOMINATIONS.—The Governor of Alaska and the Governor of Washington shall each nominate 10 persons for purposes of paragraph (1). Alaska. Washington.

(c) PAY.—Members of the advisory body established pursuant to this section shall receive no pay by reason of their service as members of the advisory body.

(d) EXEMPTION FROM FEDERAL ADVISORY COMMITTEE ACT.—The Federal Advisory Committee Act (5 U.S.C. App. 1 et seq.) shall not apply to an advisory body established pursuant to this section.

SEC. 6. USE OF VESSEL IDENTIFICATION EQUIPMENT. 16 USC 1821 note.

(a) The Secretary of State, the Secretary of Commerce, and the Secretary of the department in which the Coast Guard is operating, as appropriate, shall exercise their authority under section 201(c)(2)(C) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1821) to require the use of transponders or other such appropriate position-fixing and identification equipment on any vessel other than a vessel of the United States engaged in fishing in the United States Exclusive Economic Zone.

(b) The Secretary of Commerce, after consultation with the Secretary of Defense, the Secretary of State, and the Secretary of the department in which the Coast Guard is operating shall report to the Committee on Merchant Marine and Fisheries of the House of Representatives and the Committee on Commerce, Science and Transportation of the Senate within 180 days after the date of enactment of this Act on the results of their compliance with subsection (a). Reports.

SEC. 7. TRANSFER OF THE COAST GUARD CUTTER GLACIER.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Transportation shall transfer to the State of Oregon Oregon.

the decommissioned Coast Guard Cutter "Glacier", in the condition and along with the equipment as the Secretary considers appropriate, for use as a maritime museum and display consistent with the long military service and history of the cutter.

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.R. 4919:

HOUSE REPORTS: No. 100-968 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Sept. 30, considered and passed Senate, amended.
Oct. 3, 4, House disagreed to Senate amendment.
Oct. 21, Senate receded from its amendment.

Public Law 100-630
100th Congress

An Act

To make certain technical and conforming amendments to the Education of the Handicapped Act and the Rehabilitation Act of 1973, and for other purposes.

Nov. 7, 1988
[H.R. 5334]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Handicapped Programs Technical Amendments Act of 1988.
Children and youth.
State and local governments.
20 USC 1400 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Handicapped Programs Technical Amendments Act of 1988".

TITLE I—AMENDMENTS TO THE EDUCATION OF THE HANDICAPPED ACT

SEC. 101. GENERAL PROVISIONS.

(a) DEFINITIONS.—Section 602 of the Education of the Handicapped Act (20 U.S.C. 1401) is amended—

(1) by moving paragraphs (1) through (23) of subsection (a) 2 ems to the right, so that the left margin of each such paragraph is indented 4 ems;

(2) by striking subsection (a)(3);

(3) in subsection (a)(6), by striking "Northern Mariana Islands" and inserting "Commonwealth of the Northern Mariana Islands";

(4) in subsection (a)(11)—

(A) by moving subparagraphs (A) through (E) 2 ems to the right, so that the left margin of each such subparagraph is indented 6 ems;

(B) by inserting "and" at the end of subparagraph (D);

(C) by striking "he" each place it appears in subparagraph (E) and inserting "the Secretary";

(D) by striking "; and" at the end of subparagraph (E) and inserting a period; and

(E) by striking subparagraph (F);

(5) by adding at the end of subsection (a)(11) the following: "The term includes community colleges receiving funding from the Secretary of the Interior under the Tribally Controlled Community College Assistance Act of 1978.";

(6) in subsection (a)(18), by striking "related services which" and all that follows through the period at the end and inserting the following: "related services that—

"(A) have been provided at public expense, under public supervision and direction, and without charge,

"(B) meet the standards of the State educational agency,

"(C) include an appropriate preschool, elementary, or secondary school education in the State involved, and

"(D) are provided in conformity with the individualized education program required under section 614(a)(5).";

(7) in subsection (a)(19), by striking "statement shall include" and all that follows through the period at the end and inserting the following: "statement shall include—

"(A) a statement of the present levels of educational performance of such child,

"(B) a statement of annual goals, including short-term instructional objectives,

"(C) a statement of the specific educational services to be provided to such child, and the extent to which such child will be able to participate in regular educational programs,

"(D) the projected date for initiation and anticipated duration of such services, and

"(E) appropriate objective criteria and evaluation procedures and schedules for determining, on at least an annual basis, whether instructional objectives are being achieved.";

(8) in subsection (a)(20), by striking "after deducting" and all that follows through the period at the end and inserting the following: "after deducting—

"(A) amounts received—

"(i) under this part,

"(ii) under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, or

"(iii) under title VII of the Elementary and Secondary Education Act of 1965, and

"(B) any State or local funds expended for programs that would qualify for assistance under such part, chapter, or title.";

(9) in subsection (a)(21), by striking "(20 U.S.C. 880b–1(a)(2))";

(10) in subsection (a)(23), by moving subparagraphs (A) through (C) 2 ems to the right, so that the left margin of each such subparagraph is indented 4 ems; and

(11) in subsection (b), by striking "section 602(a)(1))" and inserting "subsection (a)(1))".

(b) EQUIPMENT AND CONSTRUCTION.—Section 605 of the Education of the Handicapped Act (20 U.S.C. 1404(a)) is amended—

(1) in subsection (a), by striking "he" and inserting "the Secretary"; and

(2) in the first sentence of subsection (b), by inserting a comma after "If".

(c) GRANTS FOR THE REMOVAL OF ARCHITECTURAL BARRIERS.—Section 607(a) of the Education of the Handicapped Act (20 U.S.C. 1406(a)) is amended by striking "the Act approved" and all that follows through the period at the end and inserting the following: "the Act entitled 'An Act to insure that certain buildings financed with Federal funds are so designed and constructed as to be accessible to the physically handicapped', approved August 12, 1968.".

(d) REGULATIONS.—Section 608 of the Education of the Handicapped Act (20 U.S.C. 1407) is amended—

(1) in subsection (b), by striking "IEP" and inserting "individualized education program"; and

(2) by striking subsection (c).

SEC. 102. ASSISTANCE FOR EDUCATION OF ALL HANDICAPPED CHILDREN.

(a) ALLOCATIONS.—Section 611 of the Education of the Handicapped Act (20 U.S.C. 1411) is amended—

(1) in subsection (a)(2), by striking "Northern Mariana Islands" and inserting "Commonwealth of the Northern Mariana Islands";

(2) in subsection (a)(5)—

(A) by striking "on the order of any court;" in subparagraph (A)(ii) and inserting "or the order of any court;";

(B) by striking "section 121" in subparagraph (A)(iii) and inserting "subpart 2 of part D of chapter 1 of title 1"; and

(C)(i) by striking "five to seventeen," in subparagraph (B) and inserting "three to seventeen,"; and

(ii) by striking "him" in subparagraph (B) and inserting "the Secretary";

(3) in subsection (e)(1), by striking "Northern Mariana Islands" and inserting "Commonwealth of the Northern Mariana Islands";

(4) in subsection (f)(1), by striking "serviced" and inserting "served"; and

(5) in subsection (f)(2)(B), by inserting a comma after "inclusive".

(b) ELIGIBILITY.—Section 612 of the Education of the Handicapped Act (20 U.S.C. 1412) is amended—

(1) by moving paragraphs (1) through (7) 2 ems to the right, so that the left margin of each such paragraph is indented 4 ems;

(2) in paragraph (2), by moving subparagraphs (A) through (E) 2 ems to the right, so that the left margin of each such paragraph is indented 6 ems; and

(3) in paragraph (2)(E), by striking "the amendment" the first place it appears and inserting "any amendment".

(c) STATE PLANS.—Section 613 of the Education of the Handicapped Act (20 U.S.C. 1413) is amended—

(1) in the first sentence of subsection (a), by striking "he" and inserting "the Secretary";

(2) in subsection (a)(2), by striking "section 121" and all that follows through "(20 U.S.C. 1262(a)(4)(B)),," and inserting "subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965 and section 202(1) of the Carl D. Perkins Vocational Education Act,";

(3) in subsection (a)(3), by striking "a description of programs and procedures" and all that follows through the semicolon at the end and inserting the following: "a description of programs and procedures for—

"(A) the development and implementation of a comprehensive system of personnel development, which shall include—

"(i) inservice training of general and special educational instructional and support personnel,

"(ii) detailed procedures to assure that all personnel necessary to carry out the purposes of this Act are appropriately and adequately prepared and trained, and

"(iii) effective procedures for acquiring and disseminating to teachers and administrators of programs for handicapped children significant information derived from educational research, demonstration, and similar projects, and

"(B) adopting, where appropriate, promising educational practices and materials developed through such projects;";

(4) by amending subsection (a)(4)(B) to read as follows:

"(B) that—

"(i) handicapped children in private schools and facilities will be provided special education and related services (in conformance with an individualized education program as required by this part) at no cost to their parents or guardian, if such children are placed in or referred to such schools or facilities by the State or appropriate local educational agency as the means of carrying out the requirements of this part or any other applicable law requiring the provision of special education and related services to all handicapped children within such State; and

"(ii) in all such instances, the State educational agency shall determine whether such schools and facilities meet standards that apply to State and local educational agencies and that children so served have all the rights they would have if served by such agencies;";

(5) by amending subsection (a)(7) to read as follows:

"(7) provide for—

"(A) making such reports in such form and containing such information as the Secretary may require to carry out the Secretary's functions under this part, and

"(B) keeping such records and affording such access thereto as the Secretary may find necessary to assure the correctness and verification of such reports and proper disbursement of Federal funds under this part;";

(6) in subsection (a)(9), by striking "under this part" the first place it appears and all that follows through the semicolon at the end and inserting the following: "under this part—

"(A) will not be commingled with State funds, and

"(B) will be so used as to supplement and increase the level of Federal, State, and local funds (including funds that are not under the direct control of State or local educational agencies) expended for special education and related services provided to handicapped children under this part and in no case to supplant such Federal, State, and local funds, except that, where the State provides clear and convincing evidence that all handicapped children have available to them a free appropriate public education, the Secretary may waive in part the requirement of this subparagraph if the Secretary concurs with the evidence provided by the State;";

(7) in subsection (a)(12), by striking "administrators of programs" and all that follows through the semicolon at the end and inserting the following: "administrators of programs for handicapped children, which—

"(A) advises the State educational agency of unmet needs within the State in the education of handicapped children,

Public information.

"(B) comments publicly on any rules or regulations proposed for issuance by the State regarding the education of handicapped children and the procedures for distribution of funds under this part, and

"(C) assists the State in developing and reporting such data and evaluations as may assist the Secretary in the performance of the responsibilities of the Secretary under section 618;";

(8) in subsection (a)(13), by striking "appropriate State and local agencies" and all that follows through the period at the end and inserting the following: "appropriate State and local agencies to—

"(A) define the financial responsibility of each agency for providing handicapped children and youth with free appropriate public education, and

"(B) resolve interagency disputes, including procedures under which local educational agencies may initiate proceedings under the agreement in order to secure reimbursement from other agencies or otherwise implement the provisions of the agreement; and";

(9) in subsection (a)(14)—

(A) by inserting "set forth" after the paragraph designation; and

(B) in subparagraph (A), by striking "he or she is" and inserting "such personnel are";

(10) in subsection (c)—

(A) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(B) by inserting "(1)" after the subsection designation;

(C) by indenting the first line of the matter following subparagraph (B) (as redesignated by paragraph (1) of this subsection) 2 ems to the right and designating such matter as paragraph (2); and

(D) by striking "the preceding sentence" where it appears in paragraph (2) (as designated by subparagraph (C) of this paragraph) and inserting "paragraph (1)";

(11) in subsection (d)(3)(A), by striking "his" and inserting "the Secretary's";

(12) in subsection (d)(3)(B)—

(A) by striking "he" and inserting "the Secretary"; and

(B) by striking "his" and inserting "the Secretary's";

(13) in subsection (d)(3)(C), by striking "his" in the first sentence and inserting "the Secretary's"; and

(14) in subsection (e), by striking "; and" at the end and inserting a period.

(d) LOCAL EDUCATIONAL AGENCY APPLICATIONS.—Section 614 of the Education of the Handicapped Act (20 U.S.C. 1414) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2) provide satisfactory assurance that—

"(A) the control of funds provided under this part, and title to property derived from such funds, shall be in a public agency for the uses and purposes provided in this part, and that a public agency will administer such funds and property;

"(B) Federal funds expended by local educational agencies and intermediate educational units for programs under this part—

"(i) shall be used to pay only the excess costs directly attributable to the education of handicapped children; and

"(ii) shall be used to supplement and, to the extent practicable, increase the level of State and local funds expended for the education of handicapped children, and in no case to supplant such State and local funds; and

"(C) State and local funds will be used in the jurisdiction of the local educational agency or intermediate educational unit to provide services in program areas that, taken as a whole, are at least comparable to services being provided in areas of such jurisdiction that are not receiving funds under this part;";

(2) by amending subsection (a)(3) to read as follows:

"(3) provide for—

"(A) furnishing such information (which, in the case of reports relating to performance, is in accordance with specific performance criteria related to program objectives), as may be necessary to enable the State educational agency to perform its duties under this part, including information relating to the educational achievement of handicapped children participating in programs carried out under this part; and

"(B) keeping such records, and affording such access to such records, as the State educational agency may find necessary to assure the correctness and verification of such information furnished under subparagraph (A);"; and

(3) in subsection (a)(5)—

(A) by striking "establish," and inserting "establish"; and

(B) by inserting a comma after "if appropriate".

(e) PROCEDURAL SAFEGUARDS.—Section 615 of the Education of the Handicapped Act (20 U.S.C. 1415) is amended—

(1) in subsection (b)(1)(D), by striking "inform" and inserting "informs"; and

(2) in subsection (d), by striking "shall be accorded" and all that follows through the period at the end and inserting the following: "shall be accorded—

"(1) the right to be accompanied and advised by counsel and by individuals with special knowledge or training with respect to the problems of handicapped children,

"(2) the right to present evidence and confront, cross-examine, and compel the attendance of witnesses,

Records.

"(3) the right to a written or electronic verbatim record of such hearing, and

Public information.

"(4) the right to written findings of fact and decisions (which findings and decisions shall be made available to the public consistent with the requirements of section 617(c) and shall also be transmitted to the advisory panel established pursuant to section 613(a)(12)).".

(f) WITHHOLDING AND JUDICIAL REVIEW.—Section 616 of the Education of the Handicapped Act (20 U.S.C. 1416) is amended—

(1) in subsection (a)—

(A) by striking "pursuant to the State plan" and all that follows through "If the Secretary withholds" and inserting the following: "pursuant to the State plan, the Secretary—

"(A) shall, after notifying the State educational agency, withhold any further payments to the State under this part, and

"(B) may, after notifying the State educational agency, withhold further payments to the State under the Federal programs specified in section 613(a)(2) within the Secretary's jurisdiction, to the extent that funds under such programs are available for the provision of assistance for the education of handicapped children.

If the Secretary withholds";

(B) by striking "he" in the second sentence and inserting "the Secretary";

(C) by striking "his jurisdiction" in the penultimate sentence and inserting "the Secretary's jurisdiction"; and

(2) in subsection (b)(1), by striking "on which he based his action" and inserting "upon which the Secretary's action was based"; and

(3) in subsection (b)(2), by striking "his" and inserting "the Secretary's".

(g) ADMINISTRATION.—Section 617 of the Education of the Handicapped Act (20 U.S.C. 1417) is amended—

(1) in subsection (a)(1), by striking "his" and inserting "the Secretary's";

(2) in subsection (a)(1)(D), by inserting after "1975" the following: "and every year thereafter"; and

(3) in subsection (d), by striking "his" and inserting "the Secretary's".

(h) EVALUATION.—Section 618 of the Education of the Handicapped Act (20 U.S.C. 1418) is amended—

(1) by amending subsection (a) to read as follows:

"(a) The Secretary shall, directly or by grant, contract, or cooperative agreement, collect data and conduct studies, investigations, and evaluations— Grants. Contracts.

"(1) to assess progress in the implementation of this Act;

"(2) to assess the impact and effectiveness of State and local efforts, and efforts by the Secretary of the Interior, to provide—

"(A) free appropriate public education to handicapped children and youth; and

"(B) early intervention services to handicapped infants and toddlers; and

"(3) to provide—

"(A) Congress with information relevant to policymaking; and

"(B) State, local, and Federal agencies, including the Department of the Interior, with information relevant to program management, administration, and effectiveness with respect to such education and early intervention services.";

(2) in subsection (b)(1), by striking "intervention services" and all that follows through the comma at the end and inserting the following: "intervention services—

"(A) in age groups 0-2 and 3-5, and

"(B) in age groups 6-11, 12-17, and 18-21,

by disability category,";

(3) in subsection (b)(3), by striking "or otherwise" and all that follows through the comma at the end and inserting the following: "or otherwise—

"(A) in age group 3-5, and

"(B) in age groups 6-11, 12-17, and 18-21,

by disability category and anticipated services for the next year,";

(4) in subsection (b)(6), by striking "handicapped children and youth" and all that follows through the period at the end and inserting the following: "handicapped children and youth—

"(A) in age group 3-5, and

"(B) in age groups 6-11, 12-17, and 18-21,

and by disability category.";

(5) in subsection (d)(4), by striking "resources" and inserting "resource";

(6) in subsection (f)(4), by striking "a free appropriate public education" and all that follows through the period at the end and inserting the following: "a free appropriate public education to—

"(A) handicapped infants, toddlers, children, and youth in rural areas,

"(B) handicapped migrants,

"(C) handicapped Indians (particularly programs operated under section 611(f)),

"(D) handicapped Native Hawaiian (and other native Pacific basin) children and youth, and

"(E) handicapped infants, toddlers, children, and youth with limited English proficiency."; and

(7) in subsection (f)(5)—

(A) by striking "National Council for the Handicapped" and inserting "National Council on Disability"; and

(B) by inserting "the Secretary shall include" before "a description of".

(i) PRESCHOOL GRANTS.—Section 619 of the Education of the Handicapped Act (20 U.S.C. 1419) is amended—

(1) in subsection (a)(2)(A)(ii)(II), by inserting "increase in the" after "multiplied by the estimated";

(2) in subsection (a)(2)(E), by striking "clause (ii)(II) of the applicable subparagraph,";

(3) in subsection (b)(2)(A), by striking "$656,000,000, and" and inserting "$656,000,000, or";

(4) in subsection (c)(3)(B)—

(A) by striking "the amount available under subsection (a)(2)(A)(ii)(II)" and inserting "the amount of such funds"; and

(B) by striking "aggregate number of handicapped children" and all that follows through "related services" and inserting "aggregate number of such children"; and

(5) by adding at the end the following new subsection:

"(f) Notwithstanding any other provision of law, unless enacted in express limitation of this subsection, amounts appropriated under this section for fiscal years 1987 and 1988 and received by a State whose allotment for the succeeding fiscal year is adjusted downwards under subsection (a)(2)(E) shall remain available for obligation by such State, and by local educational agencies and intermediate educational units in such State, during the 2 fiscal years succeeding the fiscal year for which such amounts were appropriated.".

SEC. 103. CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF HANDICAPPED INDIVIDUALS.

(a) IN GENERAL.—The part heading for part C of the Education of the Handicapped Act (20 U.S.C. 1421 et seq.) is amended to read as follows:

"PART C—CENTERS AND SERVICES TO MEET SPECIAL NEEDS OF HANDICAPPED INDIVIDUALS".

(b) REGIONAL RESOURCE AND FEDERAL CENTERS.—Section 621 of the Education of the Handicapped Act (20 U.S.C. 1421) is amended—

(1) in subsection (a), by striking "appropriate State agencies" in the second sentence and inserting "appropriate public agencies"; and

(2) in subsection (e), by striking "for this section" and all that follows through "subsection (a)" and inserting "in the previous fiscal year for regional resource centers under subsection (a) shall be made available for such centers".

(c) SERVICES FOR DEAF-BLIND CHILDREN AND YOUTH.—Section 622 of the Education of the Handicapped Act (20 U.S.C. 1422) is amended—

(1) in subsection (a)(1)(B), by inserting a comma after "youth"; and

(2) in subsection (c)(2)(B), by striking "subpart 2" and all that follows through "of 1981)" and inserting "subpart 2 of part D of chapter 1 of title I of the Elementary and Secondary Education Act of 1965".

(d) EARLY EDUCATION FOR HANDICAPPED CHILDREN.—Section 623 of the Education of the Handicapped Act (20 U.S.C. 1423) is amended—

(1) in subsection (a)(1), by striking "designed to" and all that follows through the period at the end and inserting the following: "designed to—

"(A) facilitate the intellectual, emotional, physical, mental, social, speech, language development, and self-help skills of such children,

"(B) encourage the participation of the parents of such children in the development and operation of any such program,

"(C) acquaint the community to be served by any such program with the problems and potentialities of such children,

"(D) offer training about exemplary models and practices to State and local personnel who provide services to handicapped children from birth through age 8, and

"(E) support the adoption of exemplary models and practices in States and local communities.";

(2) in subsection (d), by inserting "or" before "enter"; and

(3) in subsection (e), by striking "application" and inserting "applications".

(e) PROGRAMS FOR SEVERELY HANDICAPPED CHILDREN.—Section 624 of the Education of the Handicapped Act (20 U.S.C. 1424) is amended—

(1) in subsection (a)(2), by striking the comma following "improvements in";

(2) in subsection (a)(3), by inserting "and youth" after "such children";

(3) in subsection (b)—

(A) by striking "making grants and contracts" and inserting "making grants and entering into contracts and cooperative agreements"; and

(B) by striking "such grants and contracts" and inserting "such grants, contracts, or cooperative agreements"; and

(4) in subsection (c)—

(A) by striking the comma following "programs"; and

(B) by striking "nation" and inserting "Nation".

(f) POSTSECONDARY EDUCATION.—Section 625 of the Education of the Handicapped Act (20 U.S.C. 1424a) is amended—

(1) in subsection (a)(4), by striking "application" and inserting "applications"; and

(2) in subsection (a)(5), by striking "dispensed throughout the nation" and inserting "dispersed throughout the Nation".

(g) SECONDARY EDUCATION AND TRANSITIONAL SERVICES FOR HANDICAPPED YOUTH.—Section 626 of the Education of the Handicapped Act (20 U.S.C. 1425) is amended—

(1) in subsection (a)—

(A) by striking "(Public Law 97-300)" in the first sentence; and

(B) by striking "through the Nation" in the second sentence and inserting "throughout the Nation";

(2) in subsection (b)(6)—

(A) by striking "between" and inserting "among"; and

(B) by inserting "and" before "public employment";

(3) in subsection (b)(10), by striking "specifically" and inserting "specially"; and

(4) in subsection (c), by inserting "its activities" after "coordinate".

SEC. 104. TRAINING PERSONNEL FOR THE EDUCATION OF HANDICAPPED INDIVIDUALS.

(a) IN GENERAL.—The part heading for part D of the Education of the Handicapped Act (20 U.S.C. 1431 et seq.) is amended to read as follows:

"PART D—TRAINING PERSONNEL FOR THE EDUCATION OF HANDICAPPED INDIVIDUALS".

(b) GRANTS FOR PERSONNEL TRAINING.—Section 631 of the Education of the Handicapped Act (20 U.S.C. 1431) is amended—

(1) in subsection (a)(1), by striking "(including the university-affiliated" and all that follows through "program)" in the matter that precedes subparagraph (A) and inserting "(including university affiliated programs and satellite centers participating in programs under part D of the Developmental Disabilities Assistance and Bill of Rights Act)";

(2) in subsection (a)(2)(A), by striking "In making grants" and all that follows through "such grants" and inserting "The Secretary shall base the award of grants under paragraph (1)";

(3) in subsection (b), by inserting ", State agencies," after "higher education";

(4) in subsection (c)(2)(A)—

(A) by striking "on which a majority" both places it appears and inserting "of which a majority"; and

(B) by striking the comma and inserting a semicolon; and

(5) in subsection (c)(5)(D), by striking "individualized educational program" and inserting "individualized education program".

(c) GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS.—Section 632 of the Education of the Handicapped Act (20 U.S.C. 1432) is amended to read as follows:

"GRANTS TO STATE EDUCATIONAL AGENCIES AND INSTITUTIONS FOR TRAINEESHIPS

"SEC. 632. (a) The Secretary shall make a grant of sufficient size and scope to each State educational agency for the purposes described in subsection (c) and, in any State in which the State educational agency does not apply for such a grant, to an institution of higher education within such State for such purposes.

"(b) The Secretary may also make a limited number of grants to State educational agencies on a competitive basis for the purposes described in subsection (c). In any fiscal year, the Secretary may not expend for purposes of this subsection an amount that exceeds 10 percent of the amount expended for purposes of this section in the preceding fiscal year.

"(c) Grants made under this section shall be for the purpose of assisting States in establishing and maintaining preservice and inservice programs to prepare personnel to meet the needs of handicapped infants, toddlers, children, and youth or supervisors of such persons, consistent with the personnel needs identified in the State's comprehensive system of personnel development under section 613 and under section 676(b)(8).".

(d) CONTINUATION GRANTS.—Notwithstanding section 632 of the Education of the Handicapped Act (as amended by subsection (c)), the Secretary of Education may make continuation grants for the fiscal year 1989 to institutions of higher education that received competitive grants for the fiscal year 1987. 20 USC 1432 note.

(e) CLEARINGHOUSE.—Section 633(c)(2) of the Education of the Handicapped Act (20 U.S.C. 1433(c)(2)) is amended by inserting "of information" after "Dissemination".

SEC. 105. RESEARCH IN THE EDUCATION OF HANDICAPPED INDIVIDUALS.

(a) IN GENERAL.—The part heading for part E of the Education of the Handicapped Act (20 U.S.C. 1441 et seq.) is amended to read as follows:

"PART E—RESEARCH IN THE EDUCATION OF HANDICAPPED INDIVIDUALS".

(b) RESEARCH AND DEMONSTRATION PROJECTS IN EDUCATION OF HANDICAPPED CHILDREN.—Section 641 of the Education of the Handicapped Act (20 U.S.C. 1441) is amended—

(1) in subsection (a), by striking "children and youth" each place it appears and inserting "children, and youth";

(2) in subsection (a)(6), by inserting a comma after "scales"; and

(3) in subsection (e)—

(A) by striking "National Institute of Handicapped Research" and inserting "National Institute on Disability and Rehabilitation Research"; and

(B) by striking "National Council on the Handicapped" and inserting "National Council on Disability".

(c) PANELS OF EXPERTS.—Section 643(a)(1) of the Education of the Handicapped Act (20 U.S.C. 1443(a)(1)) is amended by striking "the handicapped" and inserting "handicapped individuals".

SEC. 106. INSTRUCTIONAL MEDIA FOR HANDICAPPED INDIVIDUALS.

(a) IN GENERAL.—The part heading for part F of the Act is amended to read as follows:

"PART F—INSTRUCTIONAL MEDIA FOR HANDICAPPED INDIVIDUALS".

(b) PURPOSES.—Section 651 of the Education of the Handicapped Act (20 U.S.C. 1451) is amended to read as follows:

"PURPOSES

"SEC. 651. The purposes of this part are to promote—

"(1) the general welfare of deaf individuals by—

"(A) bringing to such individuals understanding and appreciation of those films that play such an important part in the general and cultural advancement of hearing individuals;

"(B) providing through these films enriched educational and cultural experiences through which deaf individuals can be brought into better touch with the realities of their environment; and

"(C) providing a wholesome and rewarding experience that deaf individuals may share together; and

"(2) the educational advancement of handicapped individuals by—

"(A) carrying on research in the use of educational media for handicapped individuals;

"(B) producing and distributing educational media for the use of handicapped individuals, their parents, their actual or potential employers, and other individuals directly involved in work for the advancement of handicapped individuals; and

"(C) training individuals in the use of educational media for the instruction of handicapped individuals.".

(c) CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED INDIVIDUALS.—Section 652 of the Education of the Handicapped Act (20 U.S.C. 1452) is amended—

(1) by amending the section heading of such section to read as follows:

"CAPTIONED FILMS AND EDUCATIONAL MEDIA FOR HANDICAPPED INDIVIDUALS";

(2) by striking "persons" each place it appears and inserting "individuals";

(3) by striking "the handicapped" each place it appears and inserting "handicapped individuals";

(4) in subsection (b)(2)—

(A) by striking "purchased" and inserting "purchase"; and

(B) by striking "to" and inserting "for";

(5) in subsection (b)(5), by striking "he" and inserting "the Secretary";

(6) in subsection (b)(6), by striking "and" the second place it appears;

(7) in subsection (b)(8), by striking "the deaf" and inserting "deaf individuals"; and

(8) in subsection (c), by striking "deaf people" each place it appears and inserting "deaf individuals".

SEC. 107. TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR HANDICAPPED INDIVIDUALS.

(a) IN GENERAL.—The part heading for part G of the Education of the Handicapped Act (20 U.S.C. 1461 et seq.) is amended to read as follows:

"PART G—TECHNOLOGY, EDUCATIONAL MEDIA, AND MATERIALS FOR HANDICAPPED INDIVIDUALS".

(b) FINANCIAL ASSISTANCE.—The second sentence of section 661 of the Education of the Handicapped Act (20 U.S.C. 1461) is amended—

(1) by striking "subsection" and inserting "section"; and

(2) by striking "the handicapped" each place it appears and inserting "handicapped individuals".

SEC. 108. HANDICAPPED INFANTS AND TODDLERS.

(a) FINDINGS AND POLICY.—Section 671 of the Education of the Handicapped Act (20 U.S.C. 1471) is amended—

(1) in subsection (a)(4), by striking "infants and toddlers with handicaps" and inserting "handicapped infants and toddlers"; and

(2) in subsection (b)(3), by striking "its" and inserting "their".

(b) DEFINITIONS.—Section 672 of the Education of the Handicapped Act (20 U.S.C. 1472) is amended—

(1) in paragraph (1)(A), by striking "Cognitive" and inserting "cognitive";

(2) in paragraph (2), by striking "'Early intervention services'" and inserting "The term 'early intervention services'"; and

(3) in paragraph (2)(C), by striking "psycho-social" and inserting "psychosocial".

(c) CONTINUING ELIGIBILITY.—Section 675 of the Education of the Handicapped Act (20 U.S.C. 1475) is amended—

(1) in subsection (a), by striking "assurances" and inserting "an assurance"; and

(2) in subsection (b)(1)(C), by striking "with respect to" and inserting "in order to comply with".

(d) REQUIREMENTS FOR STATEWIDE SYSTEM.—Section 676 of the Education of the Handicapped Act (20 U.S.C. 1476) is amended—

(1) in subsection (b)(5)—

(A) by inserting "of this Act" after "part B"; and

(B) by striking "the participation by" and inserting "participation by"; and

(2) in subsection (b)(12), by striking "and".

(f) INDIVIDUALIZED FAMILY SERVICE PLAN.—Section 677 of the Education of the Handicapped Act (20 U.S.C. 1477) is amended—

(1) in subsection (a), by striking "infant" the second place it appears in the matter preceding paragraph (1) and inserting "infant's";

(2) in subsection (b)—

(A) by striking "6 month-intervals" and inserting "6-month intervals"; and

(B) by striking "infant and toddler" and inserting "infant or toddler";

(3) in subsection (d)(1), by striking "psycho-social" and inserting "psychosocial";

(4) in subsection (d)(3)—

(A) by striking "infant and toddler" and inserting "infant or toddler"; and

(B) by striking "are being made" and inserting "is being made";

(5) in subsection (d)(6), by striking "infant's and toddler's" and inserting "infant's or toddler's"; and

(6) in subsection (d)(7), by inserting "of this Act" after "part B".

(g) STATE APPLICATION AND ASSURANCES.—Section 678 of the Education of the Handicapped Act (20 U.S.C. 1478) is amended—

(1) in subsection (a)(3), by striking "and"; and

(2) in subsection (a)(5), by striking "for the fifth and succeeding fiscal years" and inserting a comma and "for the fifth and succeeding fiscal years,".

(h) USES OF FUNDS.—Section 679 of the Education of the Handicapped Act (20 U.S.C. 1479) is amended—

(1) in paragraph (1), by inserting "and their families" after "toddlers"; and

(2) in paragraph (2), by inserting "and their families" after "toddlers".

(i) PROCEDURAL SAFEGUARDS.—Section 680 of the Education of the Handicapped Act (20 U.S.C. 1480) is amended—

(1) in paragraph (3), by striking "and a guardian" and inserting "or a guardian";

(2) in paragraph (4), by striking "infant and toddlers" and inserting "infant or toddler"; and

(3) in paragraph (7), by striking "if applying for initial services" and inserting a comma and "if applying for initial services,".

(j) PAYOR OF LAST RESORT.—Section 681(a) of the Education of the Handicapped Act (20 U.S.C. 1481(a)) is amended by striking "the delay" and inserting "a delay".

(k) STATE INTERAGENCY COORDINATING COUNCIL.—Section 682 of the Education of the Handicapped Act (20 U.S.C. 1482) is amended—

(1) in subsection (b)(4), by striking "and";

(2) in subsection (b)(5), by striking "and others selected by the Governor." and inserting a comma and "and"; and

(3) by adding at the end of subsection (b) a new paragraph (6) to read as follows:

"(6) others selected by the Governor.".

20 USC 1419 note.

SEC. 109. SPECIAL RULE FOR FISCAL YEAR 1987 PRESCHOOL GRANTS.

(a) SPECIAL RULE.—Notwithstanding section 412(b)(2) of the General Education Provisions Act, a State educational agency may use funds made available in fiscal year 1986 under section 619 of the Education of the Handicapped Act for expenditure in fiscal year 1987 in accordance with the statutory and regulatory provisions relating to such program that were in effect for fiscal year 1986 and the application submitted by such agency for such program for such fiscal year.

(b) EFFECTIVE DATE.—This section shall be effective as of October 1, 1987.

SEC. 110. PRESCHOOL GRANTS.

20 USC 1419 note.

The provisions of section 300.300(b)(3) of title 34, Code of Federal Regulations, shall not apply with respect to children aged 3 through 5, inclusive, in any State for any fiscal year for which the State receives a grant under section 619(a)(1) of the Education of the Handicapped Act.

TITLE II—AMENDMENTS TO THE REHABILITATION ACT OF 1973

SEC. 201. GENERAL PROVISIONS.

(a) REHABILITATION SERVICES ADMINISTRATION.—The last sentence of section 3(a) of the Rehabilitation Act of 1973 (29 U.S.C. 702(a)) is amended by striking "National Council on the Handicapped" and inserting "National Council on Disability".

(b) CONSOLIDATED REHABILITATION PLAN.—Section 6 of the Rehabilitation Act of 1973 (29 U.S.C. 705) is amended—

(1) in subsection (a), by striking "the Developmental Disabilities Services and Facilities Construction Amendments of 1970" and inserting "the Developmental Disabilities Assistance and Bill of Rights Act"; and

(2) in subsection (b)—

(A) by striking "the Developmental Disabilities Services and Facilities Construction Amendments of 1970" in the first sentence and inserting "the Developmental Disabilities Assistance and Bill of Rights Act"; and

(B) by striking the last sentence and inserting the following: "If the Secretary finds that all such requirements are satisfied, the Secretary may—

"(1) approve the plan to serve in all respects as the substitute for the separate plans which would otherwise be required with respect to each of the programs included therein; or

"(2) advise the State to submit separate plans for such programs.".

(c) DEFINITIONS.—Section 7 of the Rehabilitation Act of 1973 (29 U.S.C. 706) is amended—

(1) in paragraph (2), by inserting a comma after "unit of general local government";

(2) in paragraph (5)(B), by inserting a comma after "employability";

(3) in paragraph (5)(C), by striking "skill" and inserting "skills";

(4) in paragraph (5)(G)(i), by striking "such individual" the second place it appears;

(5) by amending paragraph (13)(B) to read as follows: "(B) testing, fitting, or training in the use of prosthetic and orthotic devices,";

(6) by amending paragraph (13)(F) to read as follows: "(F) psychiatric, psychological, and social services,";

(7) in paragraph (13)(L), by striking "provisions" and inserting "provision"; and

(8) in paragraph (15)(A), by striking ", for purposes of this Act".

(d) NONDUPLICATION.—Section 10 of the Rehabilitation Act of 1973 (29 U.S.C. 709) is amended in the last sentence by inserting a comma after "any other provision of this Act".

(e) ADMINISTRATION OF THE ACT.—Section 12(c) of the Rehabilitation Act of 1973 (29 U.S.C. 711(c)) is amended by striking "his" and inserting "the Commissioner's".

(f) EVALUATION.—Section 14 of the Rehabilitation Act of 1973 (29 U.S.C. 713) is amended—

(1) in subsection (a), by inserting a comma after "earnings" in the third sentence; and

(2) in subsection (c), by striking "evaluation" and inserting "evaluations".

(g) REVIEW OF APPLICATIONS.—The first sentence of section 18 of the Rehabilitation Act of 1973 (29 U.S.C. 717) is amended—

(1) by inserting a comma after "this Act"; and

(2) by inserting a comma after "conferences".

SEC. 202. VOCATIONAL REHABILITATION SERVICES.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 100 of the Rehabilitation Act of 1973 (29 U.S.C. 720) is amended—

(1) in subsection (b), by striking paragraph (3);

(2) in subsection (c)—

(A) by striking "price index" each place it appears and inserting "Consumer Price Index"; and

(B) by striking "subsection" in paragraph (3) and inserting "section"; and

(3) by amending subsection (d)(1) to read as follows:

"(d)(1)(A) Unless the Congress in the regular session which ends prior to the beginning of the terminal fiscal year—

"(i) of the authorization of appropriations for the program authorized by the State grant program under part B of this title; or

"(ii) of the duration of the program authorized by the State grant program under part B of this title;

has passed legislation which would have the effect of extending the authorization or duration (as the case may be) of such program, such authorization is automatically extended for one additional year for the program authorized by this title.

"(B) The amount authorized to be appropriated for the additional fiscal year described in subparagraph (A) shall be an amount equal to the amount appropriated for such program for fiscal year 1991, or the amount authorized to be appropriated for such program for fiscal year 1991, whichever is higher, plus the amount of the Consumer Price Index addition determined under subsection (c) for the immediately preceding fiscal year.".

(b) STATE PLANS.—Section 101(a) of the Rehabilitation Act of 1973 (29 U.S.C. 721(a)) is amended—

(1) in paragraph (1)(A)(i)—

(A) by inserting a comma after "where";

(B) by inserting a comma after "law"; and

(C) by striking the comma following "adult blind";

(2) in paragraph (4), by striking "him" and inserting "the Commissioner";

(3) in paragraph (5)(A), by striking "individuals with handicaps with the most severe handicaps" and inserting "individuals with the most severe handicaps,";

(4) in paragraph (5)(A)(i), by inserting a comma after "provided";

(5) in paragraph (5)(A)(ii), by inserting a comma after "goals" the first place it appears;

(6) in paragraph (7)(B), by striking "utilized in" and inserting "utilized therein";

(7) in paragraph (9)—

(A) by striking "him" and inserting "the Commissioner"; and

(B) by striking "his" and inserting "the Commissioner's";

(8) in paragraph (13)(A)—

(A) by inserting "who is" before "disabled"; and

(B) by striking "his" and inserting "the employee's";

(9) in paragraph (13)(B), by striking "and the proximate cause" and inserting "if the proximate cause";

(10) by amending paragraph (15) to read as follows:

"provide for continuing statewide studies of the needs of individuals with handicaps and how these needs may be most effectively met, including—

"(A) conducting a full needs assessment for serving individuals with severe handicaps;

"(B) an assessment of the capacity and condition of rehabilitation facilities, plans for improving such facilities, and policies for the use thereof by the State agency; and

"(C) review of the efficacy of the criteria employed with respect to ineligibility determinations described in paragraph (9)(C) of this subsection with a view toward the relative need for services to significant segments of the population of individuals with handicaps and the need for expansion of services to those individuals with the most severe handicaps;"; and

(11) in paragraph (20), by striking "handicapped American Indians" and inserting "American Indians with handicaps".

(c) INDIVIDUALIZED WRITTEN REHABILITATION PROGRAM.—Section 102 of the Rehabilitation Act of 1973 (29 U.S.C. 722) is amended—

(1) in the last sentence of subsection (a), by striking "including recourse" and all that follows through "this section," and inserting "including, where appropriate, recourse to the processes set forth in subsections (b)(2) and (d) of this section, and the availability of services provided under section 112,";

(2) in subsection (b)(1)(H), by striking "severely handicapped individuals" and inserting "individuals with severe handicaps";

(3) in subsection (b)(2)—

(A) by inserting a comma after "annually"; and

(B) by inserting a comma after "(or"; and

(4) in subsection (c)(2), by inserting "is" after "thus".

(d) SCOPE OF VOCATIONAL REHABILITATION SERVICES.—Section 103 of the Rehabilitation Act of 1973 (29 U.S.C. 723) is amended—

(1) in subsection (a)(1)—

(A) by striking the comma after "related services"; and

(B) by striking "where appropriate," and all that follows through "or both;" and inserting the following: "where appropriate—

"(A) an evaluation by personnel skilled in rehabilitation engineering technology; and

"(B) an examination by a physician skilled in the diagnosis and treatment of mental or emotional disorders, or by

a licensed psychologist in accordance with State laws and regulations, or both;"; and

(2) in subsection (a)(2), by striking "individuals maintain" and inserting "individuals to maintain".

(e) PAYMENTS TO STATES FOR BASIC VOCATIONAL REHABILITATION SERVICES.—(1) Section 111 of the Rehabilitation Act of 1973 (29 U.S.C. 731) is amended by striking "SEC. 111. SEC. 111." and inserting "SEC. 111.".

(2)(A) Section 111(a)(2)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 731(a)(2)(B)) is amended to read as follows:

"(B) For fiscal year 1990 and each fiscal year thereafter, the amount otherwise payable to a State for a fiscal year under this section shall be reduced by the amount by which expenditures from non-Federal sources under the State plan under this title for the previous fiscal year are less than the average of the total of such expenditures for the three fiscal years preceding that previous fiscal year.".

Effective date.

(B) The amendment made by subparagraph (A) shall take effect on October 1, 1989.

(3) Section 111(b)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 731(b)(1)) is amended by striking the comma following "such other investigation".

(f) CLIENT ASSISTANCE PROGRAM.—Section 112 of the Rehabilitation Act of 1973 (29 U.S.C. 732) is amended—

(1) in subsection (a), by striking "handicapped individuals" in the last sentence and inserting "individuals with handicaps";

(2) in subsection (b), by striking the comma following "client assistance program";

(3) by adding at the end of subsection (c) the following new paragraph:

"(4) For the purpose of this subsection, the term 'Governor' means the chief executive of the State.";

(4) in subsection (g)(1), by striking the comma after "consultants of";

(5) in subsection (g)(4), by striking "his" and inserting "the Secretary's";

(6) in subsection (h)(3)(C), by striking "this reauthorization" each place it appears and inserting "the date of the enactment of the Rehabilitation Amendments of 1984"; and

(7) in subsection (i), by inserting a comma after "1991".

(g) STATE ALLOTMENTS.—Section 120(a) of the Rehabilitation Act of 1973 (29 U.S.C. 740(a)) is amended by striking "(1)".

(h) PAYMENTS TO STATES FOR INNOVATION AND EXPANSION.—Section 121(a)(3) of the Rehabilitation Act of 1973 (29 U.S.C. 741(a)(3)) is amended by striking "handicapped youth and adults" and inserting "both youths with handicaps and adults with handicaps".

(i) VOCATIONAL REHABILITATION SERVICES GRANTS.—Section 130 of the Rehabilitation Act of 1973 (29 U.S.C. 750) is amended—

(1) in the first sentence of subsection (a)—

(A) by inserting a comma after "part"; and

(B) by striking "handicapped American Indians" and inserting "American Indians with handicaps";

(2) in subsection (b)(1)(B), by striking "handicapped American Indians" and inserting "American Indians with handicaps"; and

(3) by striking subsection (d) and redesignating subsection (e) as subsection (c).

(j) STUDY OF NEEDS OF AMERICAN INDIANS WITH HANDICAPS.— Section 132 of the Rehabilitation Act of 1973 (29 U.S.C. 751) is redesignated as section 131. 29 USC 752.

SEC. 203. RESEARCH AND TRAINING.

(a) AUTHORIZATION OF APPROPRIATIONS.—Section 201(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 761(a)(1)) is amended by inserting a comma after "1987".

(b) NATIONAL INSTITUTE ON DISABILITY AND REHABILITATION RESEARCH.—Section 202 of the Rehabilitation Act of 1973 (29 U.S.C. 761a) is amended—

(1) in subsection (b)(8), by striking "the handicapped" and inserting "individuals with handicaps";

(2) in subsection (c)(1)—

(A) by striking "his" each place it appears and inserting "the Director's";

(B) by striking "National Council on the Handicapped" where it appears in the third sentence and inserting "National Council on Disability"; and

(C) by striking "him" where it appears in the last sentence and inserting "the Director";

(3) in subsection (c)(3), by inserting a comma after "to such provisions";

(4) in the second sentence of subsection (g)—

(A) by striking "in the consultation" and inserting "in consultation"; and

(B) by striking "National Council on the Handicapped" and inserting "National Council on Disability";

(5) in the third sentence of subsection (g), by inserting "the Director considers" before "necessary";

(6) in subsection (i)(2), by striking "Office of Special Education and Rehabilitation Services" and inserting "Office of Special Education and Rehabilitative Services";

(7) by amending subsection (j)(2) to read as follows:

"(2) The Director shall establish, either directly or by way of grant or contract, a Research and Training Center in the Pacific Basin in order to improve services to individuals with handicaps through relevant rehabilitation research and training in the Pacific Basin and to assist in the coordination of rehabilitation services provided by a broad range of agencies and entities. Such center shall— Grants. Contracts.

"(A) develop a sound demographic base,

"(B) analyze, develop, and utilize appropriate technology,

"(C) develop a culturally relevant rehabilitation manpower development program, and

"(D) facilitate interagency communication and cooperation, implementing advanced information technology."; and

(8) in subsection (l)—

(A) by striking "Committee on Handicapped Research" in the third sentence and inserting "Interagency Committee on Disability Research";

(B) by inserting a comma after "Further" in the fourth sentence; and

(C) by striking "Interagency Committee on Handicapped Research" in the last sentence and inserting "Interagency Committee on Disability Research".

(c) INTERAGENCY COMMITTEE.—Section 203(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 761b(a)(1)) is amended by striking

"Interagency Committee on Handicapped Research" and inserting "Interagency Committee on Disability Research".

(d) RESEARCH.—Section 204 of the Rehabilitation Act of 1973 (29 U.S.C. 762) is amended—

(1) in subsection (b)(1), by striking "centers" in the seventh sentence and inserting "Centers";

(2) in subsection (b)(2)(B), by striking "to" where it appears after "severe handicaps,";

(3) in subsection (b)(2)(C), by striking "to" where it appears after "handicaps, and";

(4) in subsection (b)(3)(A), by striking "centers," and inserting "Centers,";

(5) in subsection (b)(4), by striking "Conduct a" and inserting "Conduct of a";

(6) in subsection (b)(5), by striking "rehabilitation of the individuals" and inserting "rehabilitation of individuals";

(7) in subsection (b)(8)—

(A) by striking "handicapped children" and inserting "children with handicaps"; and

(B) by striking "handicapped Indian Americans" and inserting "American Indians with handicaps";

(8) in subsection (b)(9), by striking "handicapped and" and inserting "individuals with handicaps, including";

(9) in subsection (b)(11), by striking "handicapped children" the first place it appears and inserting "children with handicaps"; and

(10) in subsection (b)(11)(A), by striking "severely handicapped children" both places it appears and inserting "children with severe handicaps".

SEC. 204. SUPPLEMENTARY SERVICES AND FACILITIES.

(a) DECLARATION OF PURPOSE.—Section 300(3) of the Rehabilitation Act of 1973 (29 U.S.C. 770(3)) is amended by striking "handicapped migratory agricultural workers or seasonal farmworkers" and inserting "migratory agricultural workers with handicaps or seasonal farmworkers with handicaps".

(b) VOCATIONAL TRAINING SERVICES FOR INDIVIDUALS WITH HANDICAPS.—Section 302(b)(3)(D) of the Rehabilitation Act of 1973 (29 U.S.C. 772(b)(3)(D)) is amended by striking "meet" and inserting "meets".

(c) TRAINING.—Section 304 of the Rehabilitation Act of 1973 (29 U.S.C. 774) is amended—

(1) in subsection (a)(3), by striking "program,," and inserting "programs,";

(2) in subsection (b)(1)—

(A) by striking "those individuals who meet the definition of severely handicapped" and inserting "individuals with severe handicaps"; and

(B) by striking "ill and";

(3) in subsection (b)(3)(A)—

(A) by striking "grant of contract" and inserting "grant or contract"; and

(B) by striking "from" and inserting "utilizing";

(4) in subsection (d)(1), by striking "the Office of Information and Resources for the Handicapped" and inserting "the Office of Information and Resources for Individuals With Disabilities";

(5) in subsection (d)(2)(D), by striking "the Education for All Handicapped Children Act" and inserting "the Education of the Handicapped Act"; and

(6) in subsection (f), by striking "1991.." and inserting "1991.".

(d) COMPREHENSIVE REHABILITATION CENTERS.—Section 305(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 775(a)(1)) is amended by striking "handicapped persons" and inserting "individuals with handicaps".

(e) GENERAL GRANT AND CONTRACT REQUIREMENTS.—Section 306 of the Rehabilitation Act of 1973 (29 U.S.C. 776) is amended—

(1) in subsection (b)(4), by striking "related to" and inserting "relating to";

(2) in subsection (b)(5), by striking "with Davis-Bacon Act" and inserting "with the Davis-Bacon Act"; and

(3) in subsection (h), by inserting a comma after "When".

(f) AUTHORIZATION OF APPROPRIATIONS.—Section 310(a) of the Rehabilitation Act of 1973 (29 U.S.C. 777(a)) is amended by striking the parenthetical and inserting "(other than sections 311(d), 311(e), and 316)".

(g) SPECIAL DEMONSTRATION PROGRAMS.—Section 311 of the Rehabilitation Act of 1973 (29 U.S.C. 777a) is amended—

(1) in the first sentence of subsection (c)(1), by striking "handicapped youths" and inserting "youths with handicaps";

(2) in the first sentence of subsection (e)(1), by striking "severely handicapped youth" and inserting "youths with severe handicaps";

(3) in subsection (e)(3)(B)(ii), by striking "families." and inserting "families, will";

(4) in subsection (e)(3)(B)(iv)—

(A) by striking "designed" the second place it appears and inserting "designated"; and

(B) by striking "handicapped individual" and inserting "individual with handicaps"; and

(5) in subsection (e)(4)(B), by striking "both severely and mildly handicapped youth" and inserting "both youths with severe handicaps and youths with mild handicaps".

(h) MIGRATORY WORKERS.—Section 312 of the Rehabilitation Act of 1973 (29 U.S.C. 777b) is amended by striking "handicapped)" in the first sentence and inserting "such family members are individuals with handicaps)".

(i) READER SERVICES FOR THE BLIND.—Section 314(a)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 777d(a)(2)) is amended by striking "need" and inserting "needs".

(j) SPECIAL RECREATIONAL PROGRAMS.—(1) Part B of title III of the Rehabilitation Act of 1973 (29 U.S.C. 777–777f) is amended by inserting before section 316 the following heading: 29 USC 777f.

"SPECIAL RECREATIONAL PROGRAMS".

(2) Section 316(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 777f(a)(1)) is amended by striking "nonhandicapped peers" in the third sentence and inserting "peers without handicaps".

(k) REPEAL OF OBSOLETE PROVISION.—Part B of title III of the Rehabilitation Act of 1973 (29 U.S.C. 777–777f) is further amended by striking section 313 where it appears following section 316. 29 USC 777c note.

SEC. 205. NATIONAL COUNCIL ON DISABILITY.

(a) IN GENERAL.—The title heading for title IV of the Rehabilitation Act of 1973 (29 U.S.C. 780-785) is amended to read as follows:

"TITLE IV—NATIONAL COUNCIL ON DISABILITY".

(b) ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY.—Section 400 of the Rehabilitation Act of 1973 (29 U.S.C. 780) is amended—

(1) by amending the section heading to read as follows:

"ESTABLISHMENT OF NATIONAL COUNCIL ON DISABILITY";

(2) in subsection (a)(1)—

(A) by striking "National Council on the Handicapped" and inserting "National Council on Disability"; and

(B) by striking "the handicapped" each place it appears and inserting "individuals with handicaps"; and

(3) in subsection (a)(2), by striking "handicapped individuals" and inserting "individuals with handicaps".

(c) DUTIES OF NATIONAL COUNCIL.—Section 401 of the Rehabilitation Act of 1973 (29 U.S.C. 781) is amended—

(1) in subsection (a), by striking "handicapped individuals" each place it appears and inserting "individuals with handicaps";

(2) in subsection (a)(4), by striking "persons with disabilities" each place it appears and inserting "individuals with disabilities";

(3) in subsection (a)(4)(B), by striking "assisted" and inserting "assist";

(4) in subsection (a)(7)(A), by striking "the handicapped" and inserting "individuals with handicaps";

(5) in subsection (a)(8), by inserting a comma after "recommendations"; and

(6) in subsection (b)(1), by striking "recommendation" and inserting "recommendations".

(d) COMPENSATION OF NATIONAL COUNCIL MEMBERS.—Section 402(a) of the Rehabilitation Act of 1973 (29 U.S.C. 782(a)) is amended by striking "traveltime" and inserting "travel time".

Gifts and property.

(e) STAFF OF NATIONAL COUNCIL.—Section 403(b)(2)(B) of the Rehabilitation Act of 1973 (29 U.S.C. 783(b)(2)(B)) is amended to read as follows:

"(B) in the name of the Council, accept, employ, and dispose of, in furtherance of this Act, any money or property, real or personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise; and".

SEC. 206. MISCELLANEOUS.

(a) EMPLOYMENT OF INDIVIDUALS WITH HANDICAPS.—Section 501 of the Rehabilitation Act of 1973 (29 U.S.C. 791) is amended—

(1) by inserting after "Equal Employment Opportunity Commission" the first place it appears the following: "(hereafter in this section referred to as the 'Commission')";

(2) by striking "Equal Employment Opportunity Commission" the second place and each succeeding place it appears and inserting "Commission";

(3) in subsection (a)—

(A) by striking "Secretaries of Labor and Education and Health and Human Services" in the first sentence and inserting "Secretary of Labor, the Secretary of Education, and the Secretary of Health and Human Services";

(B) by striking "co-chairmen" in the second sentence and inserting "co-chairpersons"; and

(C) by striking "Employment of the Handicapped" in the second sentence and inserting "Employment of People With Disabilities";

(4) in subsection (a)(2), by striking "the Office" and inserting "the Commission";

(5) in subsection (b)—

(A) by striking "handicapped employees" in the second sentence and inserting "employees with handicaps"; and

(B) by striking "Office" each place it appears in the last sentence and inserting "Commission";

(6) in subsection (e), by striking "a individualized" and inserting "an individualized"; and

(7) in subsection (f), by striking "President's Committee on Employment of the Handicapped" each place it appears and inserting "President's Committee on Employment of People With Disabilities".

(b) ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD.—Section 502 of the Rehabilitation Act of 1973 (29 U.S.C. 792) is amended—

(1) by amending subsection (a)(2) to read as follows:

"(2)(A) The term of office of each appointed member of the Board shall be three years. Each year, the terms of office of four appointed members of the board shall expire.

"(B) A member whose term has expired may continue to serve until a successor has been appointed.

"(C) A member appointed to fill a vacancy shall serve for the remainder of the term to which that member's predecessor was appointed.";

(2) in subsection (a)(3), by striking "he" and inserting "the member";

(3) in subsection (a)(5)(A), by striking "traveltime" and inserting "travel time";

(4) in subsection (b)(2), by inserting a comma after "surface transportation";

(5) in subsection (b)(4), by striking "Administrator of the General Services Administration" and inserting "Administrator of General Services";

(6) in subsection (b)(5), by striking "results to" and inserting "results of";

(7) in subsection (b)(8), by striking "physically handicapped persons" and inserting "individuals with physical handicaps";

(8) in subsection (c)(2)(A), by inserting a comma after "new or expanded transportation systems";

(9) in subsection (d)(2)(B), by striking "which related to" and inserting "that relate to";

(10) in the last sentence of subsection (f)—

(A) by striking the comma after "daily pay rate";

(B) by striking "title 45" and inserting "title 5"; and

(C) by striking "traveltime" and inserting "travel time"; and

(11) in subsection (g)—

(A) by striking "transportation barriers to individuals with handicaps" in the fourth sentence and inserting "transportation barriers facing individuals with handicaps"; and

(B) in the seventh sentence—

(i) by striking "transportation barriers of handicapped individuals" and inserting "transportation barriers facing individuals with handicaps"; and

(ii) by striking "housing needs of handicapped individuals" and inserting "housing needs of individuals with handicaps".

(c) EMPLOYMENT UNDER FEDERAL CONTRACTS.—Section 503 of the Rehabilitation Act of 1973 (29 U.S.C. 793) is amended—

(1) in subsection (a), by inserting a comma in the first sentence after "to carry out such contract";

(2) in subsection (b), by striking "refuses" in the first sentence and inserting "refused"; and

(3) in subsection (c), by striking "The President" each place it appears and inserting "the President".

(d) NONDISCRIMINATION UNDER FEDERAL GRANTS AND PROGRAMS.—Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794) is amended—

(1) in the first sentence of subsection (a), by striking "his handicap" and inserting "her or his handicap"; and

(2) in subsection (b)(2)(B), by striking "section 198(a)(10)" and inserting "section 1471(12)".

(e) SECRETARIAL RESPONSIBILITIES.—Section 506 of the Rehabilitation Act of 1973 (29 U.S.C. 794b) is amended—

(1) by redesignating paragraphs (1) through (4) as subsections (a) through (d), respectively;

(2) by redesignating subparagraphs (A) and (B) of subsection (a) (as redesignated by paragraph (1)) as paragraphs (1) and (2), respectively;

(3) in subsection (b) (as redesignated by paragraph (1)), by striking "traveltime" and inserting "travel time"; and

(4) in subsection (c) (as redesignated by paragraph (1)), by inserting a comma after "the President" in the first sentence.

(f) ELECTRONIC EQUIPMENT ACCESSABILITY.—Section 508 of the Rehabilitation Act of 1973 (29 U.S.C. 794d) is amended—

(1) in subsection (a)(1)—

(A) by inserting "the Director of" before "the National Institute";

(B) by striking "the General Services" and inserting "General Services"; and

(C) by striking "handicapped individuals" and inserting "individuals with handicaps";

(2) in subsection (a)(3), by inserting after "revised" the following: "by the Director of the National Institute on Disability and Rehabilitation Research and the Administrator of General Services in consultation with the electronics industry and the Interagency Committee for Computer Support of Handicapped Employees"; and

(3) in subsection (c), by striking "a handicapped individual" and inserting "an individual with handicaps".

SEC. 207. EMPLOYMENT OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS.

(a) ADMINISTRATION.—Section 612(b) of the Rehabilitation Act of 1973 (29 U.S.C. 795a(b)) is amended by striking "programs authorized under" in the first sentence and all that follows through the period at the end and inserting "the Job Training Partnership Act and the Community Services Block Grant Act.".

(b) PROJECTS WITH INDUSTRY.—Section 621 of the Rehabilitation Act of 1973 (29 U.S.C. 795g) is amended—

(1) in subsection (a)(1), by striking "people" and inserting "individuals";

(2) in subsection (a)(2)(D), by striking "handicapped individuals" and inserting "individuals with handicaps";

(3) in subsection (b)(1), by striking "assurances" and inserting "assurance";

(4) in subsection (b)(3), by striking "assurances" and inserting "assurance";

(5) in subsection (d)(1), by striking "section (a)(3)" and inserting "subsection (a)(4)";

(6) in subsection (d)(2), by striking "section (a)(3)" and inserting "subsection (a)(4)"; and

(7) in subsection (d)(4), by striking "National Council on the Handicapped" and inserting "National Council on Disability".

(c) BUSINESS OPPORTUNITIES FOR INDIVIDUALS WITH HANDICAPS.—Section 622 of the Rehabilitation Act of 1973 (29 U.S.C. 795h) is amended by striking "the Secretaries of Labor and Commerce" where it appears in the first sentence and inserting "the Secretary of Labor and the Secretary of Commerce".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 623 of the Rehabilitation Act of 1973 (29 U.S.C. 795i) is amended—

(1) by inserting a comma after "fiscal year 1991"; and

(2) by inserting a comma after "1990" the second place it appears.

(e) ALLOTMENTS.—Section 633 of the Rehabilitation Act of 1973 (29 U.S.C. 795l) is amended—

(1) in subsection (a)(1), by inserting a comma after "$250,000";

(2) in subsection (a)(2)(A), by striking "the term 'States' does not" and inserting "the term 'State' does not"; and

(3) in subsection (c)(1)—

(A) by inserting a comma after "section 638" in the first sentence; and

(B) by striking "appropriation" in the second sentence and inserting "application".

(f) STATE PLAN.—Section 634 of the Rehabilitation Act of 1973 (29 U.S.C. 795m) is amended—

(1) in subsection (a)—

(A) by striking "In order" and inserting "(1) Except as provided in paragraph (2),"; and

(B) adding at the end the following new paragraph:

"(2) This subsection shall not apply in any fiscal year ending before October 1, 1990, in which amounts appropriated for this part do not equal or exceed $5,000,000.";

(2) in subsection (b)(3)(C), by striking "subsection (b)(3)(D) of this part" and inserting "subparagraph (D) of this paragraph"; and

(3) in subsection (b)(3)(D), by striking "614(5)" and inserting "614(a)(5)".

(g) SERVICES; AVAILABILITY AND COMPARABILITY.—Section 635(a)(1) of the Rehabilitation Act of 1973 (29 U.S.C. 795n) is amended—

(1) by inserting "the" before "provision";

(2) by inserting a comma before "consistent"; and

(3) by inserting a comma after "subsection (b)".

(h) AUTHORIZATION OF APPROPRIATIONS.—Section 638 of the Rehabilitation Act of 1973 (29 U.S.C. 795q) is amended by inserting "and" after "1990,".

SEC. 208. COMPREHENSIVE SERVICES FOR INDEPENDENT LIVING.

(a) ELIGIBILITY.—Section 702(a) of the Rehabilitation Act of 1973 (29 U.S.C. 796a(a)) is amended—

(1) by inserting "that are" before "appreciably" the first place it appears; and

(2) by inserting "that are" before "of appreciably".

(b) ALLOTMENTS.—Section 703 of the Rehabilitation Act of 1973 (29 U.S.C. 796b) is amended by striking "subpart" each place it appears in subsections (a) and (b) and inserting "part".

(c) PAYMENTS TO STATES FROM ALLOTMENTS.—Section 704(b)(2) of the Rehabilitation Act of 1973 (29 U.S.C. 796c(b)(2)) is amended by striking "subpart" and inserting "part".

(d) STATE PLANS.—Section 705(a)(4)(C) of the Rehabilitation Act of 1973 (29 U.S.C. 796d(a)(4)(C)) is amended—

(1) by inserting "will" after "that such program";

(2) by striking "section 112 of the Developmental Disabilities Services and Facilities Construction Act" and inserting "the Developmental Disabilities Assistance and Bill of Rights Act"; and

(3) by striking "the Education for All Handicapped Children Act of 1975" and inserting "the Education of the Handicapped Act".

(e) STATE INDEPENDENT LIVING COUNCILS.—Section 706 of the Rehabilitation Act of 1973 (29 U.S.C. 796d-1) is amended by striking "handicapped individuals" each place it appears and inserting "individuals with handicaps".

(f) GRANT PROGRAM ESTABLISHED.—Section 711 of the Rehabilitation Act of 1973 (29 U.S.C. 796e) is amended—

(1) in subsection (b)(3), by striking "handicapped individuals" and inserting "individuals with handicaps";

(2) in subsection (c)(2)(E), by inserting a comma after "recreation";

(3) in subsection (c)(2)(F), by inserting a comma after "recreational opportunities";

(4) in subsection (e)(4), by striking "National Council on the Handicapped" and inserting "National Council on Disability";

(5) in subsection (f)(1), by striking "evaluation standards in" and inserting "evaluation standards published under"; and

(6) in subsection (h), by striking "not served or underserved" and inserting "underserved or not served".

(g) SERVICE PROGRAM ESTABLISHED.—Section 721(a)(6) of the Rehabilitation Act of 1973 (29 U.S.C. 796f(a)(6)) is amended by striking "blind person" and inserting "blind individual".

(h) PROTECTION AND ADVOCACY OF INDIVIDUAL RIGHTS.—Section 731(a) of the Rehabilitation Act of 1973 (29 U.S.C. 796g(a)) is amended in the first sentence by inserting "for" after "advocate".

(i) AUTHORIZATION OF APPROPRIATIONS.—Section 741(d) of the Rehabilitation Act of 1973 (29 U.S.C. 796i(d)) is amended—

(1) in paragraph (1), by striking "and 1990" and inserting "1990, and 1991"; and

(2) in paragraph (2), by striking "moneys" and inserting "monies".

SEC. 209. CLERICAL AMENDMENTS.

The table of contents contained in section 1 of the Rehabilitation Act of 1973 (29 U.S.C. 701 note) is amended—

(1) by striking the item relating to section 132 and inserting the following:

"Sec. 131. Study of needs of American Indians with handicaps.";

(2) by striking the heading for the items relating to title II and inserting the following:

"TITLE II—RESEARCH AND TRAINING";

(3) by striking the heading for the items relating to title IV and inserting the following:

"TITLE IV—NATIONAL COUNCIL ON DISABILITY";

(4) by striking the item relating to section 400 and inserting the following:

"Sec. 400. Establishment of National Council on Disability."; and

(5) by striking the heading for the items relating to part C of title VI and inserting the following:

"PART C—SUPPORTED EMPLOYMENT SERVICES FOR INDIVIDUALS WITH SEVERE HANDICAPS".

SEC. 210. CONFORMING AMENDMENT.

Subsection (b) of section 704 of the Rehabilitation Act Amendments of 1986 (the second place such section appears), relating to supported employment services for individuals with severe handicaps, is repealed.

Employment and unemployment.

29 USC 795m note.

TITLE III—AMENDMENTS RELATING TO THE PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES

SEC. 301. PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.

(a) NATIONAL DISABILITY EMPLOYMENT AWARENESS MONTH.—The joint resolution entitled "Joint Resolution to establish the first week in October of each year as National Employ the Physically Handicapped Week", approved August 11, 1945, is amended—

36 USC 155.

(1) by amending the first sentence to read as follows: "That hereafter the month of October in each year shall be designated as National Disability Employment Awareness Month."; and

(2) in the second sentence—

(A) by striking "week" and inserting "month"; and

(B) by striking "handicapped workers" and inserting "workers with disabilities".

(b) PRESIDENT'S COMMITTEE ON EMPLOYMENT OF PEOPLE WITH DISABILITIES.—The joint resolution entitled "Joint Resolution authorizing an appropriation for the work of the President's Committee on National Employ the Physically Handicapped Week", approved July 11, 1949, is amended— 63 Stat. 409.

(1) by striking "National Employ the Physically Handicapped Week" the first place it appears and inserting "National Disability Employment Awareness Month";

(2) by striking "President's Committee on National Employ the Physically Handicapped Week" each place it appears and inserting "President's Committee on Employment of People With Disabilities"; and

(3) by adding at the end the following new section:

"SEC. 2. The President's Committee on Employment of People With Disabilities may—

Voluntarism. "(1) accept voluntary and uncompensated services, notwithstanding the provisions of section 1342 of title 31, United States Code; and

Gifts and property. "(2) in the name of the Committee, accept, employ, and dispose of, in furtherance of this resolution, any money or property, real, personal, or mixed, tangible or nontangible, received by gift, devise, bequest, or otherwise.".

American Printing House for the Blind Amendments of 1988.

TITLE IV—AMENDMENTS RELATING TO THE AMERICAN PRINTING HOUSE FOR THE BLIND

20 USC 101 note. **SEC. 401. SHORT TITLE.**

This title may be cited as the "American Printing House for the Blind Amendments of 1988".

SEC. 402. TERMINATION OF PERPETUAL TRUST.

(a) IN GENERAL.—The perpetual trust fund and permanent annual appropriations thereof established by the Act of March 3, 1879, ch. 186, 20 Stat. 467, 468, as amended by the Act of June 25, 1906, ch. 3536, 34 Stat. 460 (codified in part in 20 U.S.C. 101) are terminated.

20 USC 101 note. (b) EFFECTIVE DATE.—This section shall take effect on October 1, 1989.

SEC. 403. PRESERVATION OF AUTHORIZATION OF APPROPRIATIONS.

The Act of August 4, 1919, ch. 31, 41 Stat. 272, as amended by section 4 of Public Law 87-294, 75 Stat. 627 (codified in part in 20 U.S.C. 101) is further amended by striking "in addition to the permanent appropriation of $10,000 made in the Act entitled 'An Act to promote the education of the blind', approved March 3, 1879, as amended".

20 USC 101 note. **SEC. 404. COMPENSATION.**

Any and all rights of the American Printing House for the Blind determined to have vested in the perpetual trust fund established by the Act of March 3, 1879, shall be deemed to be compensated by the appropriation to the American Printing House for the Blind for fiscal year 1990.

SEC. 405. REFERENCE. 20 USC 101 note.

Notwithstanding any Federal law, reference to the perpetual trust fund and permanent annual appropriations thereof established by the Act of March 3, 1879, shall not be given any effect.

TITLE V—AMENDMENTS TO THE HELEN KELLER NATIONAL CENTER ACT

SEC. 501. EXTENSION OF PROGRAM AUTHORIZATION.

Section 205 of the Helen Keller National Center Act (29 U.S.C. 1904) is amended by striking "1990" and inserting "1991".

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.R. 5334 (S. 2821):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 12, considered and passed Senate.

Public Law 100-631
100th Congress

Joint Resolution

Nov. 7, 1988
[H.J. Res. 573]

To designate the week beginning November 13, 1988, as "National Craniofacial Awareness Week".

Whereas as many as 200,000 children of less than 5 years of age suffer from severe craniofacial deformity;

Whereas individuals who suffer from craniofacial deformity, including children and adults, are too often forced to live secluded lives, hidden from society;

Whereas individuals who suffer from craniofacial deformity and their families experience severe emotional and behavioral difficulties;

Whereas the National Craniofacial Foundation, Let's Face It, and the National Foundation for Facial Reconstruction fund programs for research and education regarding craniofacial deformity and treatment of individuals who suffer from craniofacial deformity;

Whereas the National Craniofacial Foundation, Let's Face It, and the National Foundation for Facial Reconstruction have funded surgical and nonsurgical treatment for more than 10,000 patients from throughout the United States and 12 countries; and

Whereas the National Craniofacial Foundation, Let's Face It, and the National Foundation for Facial Reconstruction have begun to aggressively seek out individuals who can be aided by the services of the organizations: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning November 13, 1988, is designated as "National Craniofacial Awareness Week", and the President of the United States is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.J. Res. 573:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 21, considered and passed House and Senate.

Public Law 100-632
100th Congress

Joint Resolution

Designating November 4 through 10, 1988, as the "Week of Remembrance of Kristallnacht".

Nov. 7, 1988
[H.J. Res. 654]

Whereas November 9-10, 1988, marks the fiftieth anniversary of Kristallnacht, The Night of Broken Glass;
Whereas Kristallnacht was sanctioned by the Nazi state to terrorize the Jewish citizens of Germany and Austria;
Whereas during Kristallnacht, hundreds of synagogues in Germany and Austria were burned and destroyed, businesses and homes were ransacked, scores of innocent people were killed because they were Jews, and thousands of such people were arrested and sent to concentration camps;
Whereas the lack of any response from civilized nations led the governments of Germany and Austria to believe that further atrocities would go unpunished;
Whereas this belief brought about mass murders and carnage on a scale never before seen in human history;
Whereas Kristallnacht was a watershed event in Nazi rule and served as a prelude to the Second World War and the death of millions of innocent people;
Whereas the reign of the Nazi government marks one of the darkest periods in civilized history; and
Whereas Kristallnacht should remind us all that evil must be confronted forcefully and the civilized world cannot watch idly while barbarism and mass murder are committed against innocent peoples: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 4 through 10, 1988, is designated as the "Week of Remembrance of Kristallnacht", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 7, 1988.

LEGISLATIVE HISTORY—H.J. Res. 654:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 21, considered and passed House and Senate.

Public Law 100-633
100th Congress

An Act

Nov. 7, 1988
[S. 850]

To amend the Wild and Scenic Rivers Act to designate a segment of the Rio Chama River in New Mexico as a component of the National Wild and Scenic Rivers System.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF RIO CHAMA RIVER.

Section 3(a) of the Wild and Scenic Rivers Act (16 U.S.C. 1274(a)) is amended by adding the following new paragraph at the end:

"( ) RIO CHAMA, NEW MEXICO.—The segment extending from El Vado Ranch launch site (immediately south of El Vado Dam) downstream approximately 24.6 miles to elevation 6,353 feet above mean sea level; to be administered by the Secretary of Agriculture and the Secretary of the Interior. For purposes of compliance with the planning requirements of subsection (d), the Cooperative Management Plan for the river prepared by the Secretary of Agriculture and the Secretary of the Interior may be revised and amended to the extent necessary to conform to the provisions of this Act. The segment of the Rio Chama beginning at the El Vado Ranch launch site downstream to the beginning of Forest Service Road 151 shall be administered as a wild river and the segment downstream from the beginning of Forest Service Road 151 to elevation 6,353 feet shall be administered as a scenic river.".

SEC. 2. PROVISIONS APPLICABLE TO CERTAIN SEGMENT OF RIO CHAMA.

The protections afforded under the Wild and Scenic Rivers Act for rivers listed in section 5(a) for study for potential addition to the national wild and scenic rivers system shall, until Congress determines otherwise, apply to the segment of the Rio Chama from the point at elevation 6,353 feet above mean sea level to the point approximately 4.0 miles downstream at elevation 6,283.5 feet above mean sea level: *Provided,* That nothing in this Act or the Wild and Scenic Rivers Act shall interfere with the Secretary of the Army's operation and management of Abiquiu Dam for purposes authorized by section 5 of Public Law 97-140 or otherwise authorized prior to December 31, 1988.

SEC. 3. MANAGEMENT OF OTHER RIVER SEGMENT AND FOREST SERVICE LANDS.

(a) The Secretary of the Army, acting through the Chief of Engineers, the Secretary of the Interior, acting through the Bureau of Land Management, and the Secretary of Agriculture, acting through the Forest Service, shall jointly manage the segment of the Rio Chama River in New Mexico from elevation 6,283.5 feet above mean sea level downstream to elevation 6,235 feet above mean sea level. Such management shall be pursuant to—

(1) the Preferred Alternative for the proposed Santa Fe National Forest Plan (dated January 1986);

(2) the "Interim Rio Chama River Management Plan", dated May 1986 (as that plan may be revised in the "Final Rio Chama River Management Plan"); and

(3) shall be consistent with the operation of Abiquiu Dam for purposes authorized by section 5 of Public Law 97-140 or otherwise authorized prior to December 31, 1988.

(b) The Secretary of Agriculture shall not acquire, except by consent of owner, any interests in the Jolly-Chama Canyon Subdivision: *Provided,* That such subdivision lands are maintained in single unit private residential use.

Approved November 7, 1988.

LEGISLATIVE HISTORY—S. 850 (H.R. 1839):

HOUSE REPORTS: No. 100-394 accompanying H.R. 1839 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-568 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 27, H.R. 1839 considered and passed House.
Vol. 134 (1988): Oct. 7, S. 850 considered and passed Senate.
Oct. 19, considered and passed House, amended.
Oct. 20, Senate concurred in House amendment.

Public Law 100-634
100th Congress

Joint Resolution

Nov. 7, 1988
[S.J. Res. 301]

Designating January 20, 1989, as "National Skiing Day".

Whereas commercial alpine and nordic skiing operations are among the fastest growing commercial uses of the national forests;
Whereas skiing increases the recreational value of the national forests by providing a winter recreational use for such forests;
Whereas skiing is a healthful activity that promotes physical well-being, contributes to the enrichment of the human spirit, and fosters an appreciation of the outdoor environment;
Whereas skiing provides enjoyment to millions of people each winter;
Whereas skiing improves employment opportunities in, and contributes to the economic stability of, a number of States;
Whereas the people of many rural communities in the United States rely primarily on skiing for winter employment and income; and
Whereas people throughout the world can become aware of the environmental grandeur and recreational resources of the United States by skiing in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 20, 1989, is designated as "National Skiing Day", and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day with appropriate ceremonies and activities.

Approved November 7, 1988.

LEGISLATIVE HISTORY—S.J. Res. 301:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 7, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-635
100th Congress

Joint Resolution

To designate the week of November 28 through December 5, 1988, as "National Book Week".

Nov. 7, 1988
[S.J. Res. 342]

Whereas an informed electorate is vital to a strong democracy;
Whereas books have been replaced by television as a primary source of information and entertainment;
Whereas books have provided the means whereby our history and knowledge have passed from one generation to the next;
Whereas a national effort to promote books and writers would complement efforts of literacy programs, encourage reading, and advance the literature of the United States;
Whereas the Department of Education estimates the adult illiteracy rate to be 13 percent (17,000,000 to 21,000,000 persons) among United States adults over 19 years of age;
Whereas illiteracy impairs the ability to learn, analyze, and communicate; and
Whereas this Nation must make a concerted effort to teach its citizens how to read and make them aware of the vast benefits of literacy: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of November 28 through December 5, 1988, is designated as "National Book Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 7, 1988.

LEGISLATIVE HISTORY—S.J. Res. 342:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-636
100th Congress

An Act

Nov. 8, 1988
[H.R. 4211]

To reauthorize the National Ocean Pollution Planning Act of 1978 for fiscal years 1989 and 1990, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the National Ocean Pollution Planning Act of 1978 (33 U.S.C. 1701-1709) is amended as follows:

(1) Paragraph (1) of section 3 (33 U.S.C. 1702(1)) is amended to read as follows:

"(1) The term "Administration" means the National Oceanic and Atmospheric Administration of the United States Department of Commerce.".

(2) Paragraph (2) of section 3 (33 U.S.C. 1702(2)) is repealed.

(3) Paragraphs (3), (4), (5), (6), (7), and (8) of section 3 (33 U.S.C. 1702 (3), (4), (5), (6), (7), and (8)) are redesignated as paragraphs (2), (3), (4), (5), (6), and (7), respectively.

(4) Section 3 is amended by inserting after paragraph (7) (as redesignated) the following:

"(8) The term "Under Secretary" means the Under Secretary for Oceans and Atmosphere, United States Department of Commerce.".

(5) The term "Administrator" is struck each place it appears and the term "Under Secretary" is inserted in lieu thereof.

(6) Subparagraph (B) of section 3A(a)(2) (33 U.S.C. 1702a(a)(2)(B)) is amended to read as follows:

"(B) be headed by a director who shall—

"(i) be appointed by the Under Secretary, and

"(ii) be the official responsible for the administration of the program;".

(7) Subparagraph (B) of section 3A(b)(2) (33 U.S.C. 1702a(b)(2)(B)) is amended to read as follows:

Reports.

"(B) review all department and agency budget requests transmitted to it under section 4 of this Act and submit a report simultaneously to the Office of Management and Budget and to the Congress concerning those budget requests;".

(8) Section 10 (33 U.S.C. 1709) is amended—

(A) by striking "and" immediately following "1986"; and

(B) by striking "1987." and inserting in lieu thereof "1987, not to exceed $3,750,000 for fiscal year 1989, and not to exceed $4,000,000 for fiscal year 1990.".

Approved November 8, 1988.

LEGISLATIVE HISTORY—H.R. 4211:

HOUSE REPORTS: No. 100-657, Pt. 1 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, 4, considered and passed House.
Oct. 19, considered and passed Senate.

Public Law 100-637
100th Congress

An Act

To provide for the leasing of certain real property to the American National Red Cross, District of Columbia Chapter, for the construction and maintenance of certain buildings and improvements.

Nov. 8, 1988
[S. 2496]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the joint resolution entitled "Joint Resolution to grant authority for the erection of a permanent building for the American National Red Cross, District of Columbia, Washington, District of Columbia", approved July 1, 1947 is amended by adding at the end thereof the following new section:

"SEC. 11. (a) Notwithstanding any other provision of law, the Administrator of the General Services Administration shall enter into a lease of the real property described in the first section of this Act with the American National Red Cross, District of Columbia Chapter. Such lease shall provide that such property shall be used as an office, medical and scientific facility by such Red Cross Chapter and the tenants of such Chapter on such terms and conditions as shall be customary and necessary, including that— 36 USC 13 note.

"(1) the lease shall be triple net to the United States and such Red Cross Chapter shall pay all taxes, insurance, and operating costs, and a rent of $1.00 for the term of the lease;

"(2) the lease term shall be for 99 years, and all improvements on such property shall revert to the ownership of the United States at the conclusion of the term;

"(3) such Red Cross Chapter may (at the expense of such Chapter) demolish the improvements on such property or any improvements constructed on such property after the date of enactment of this section, build, own, operate, and maintain new improvements, enter into leases, finance improvements (and mortgage any improvements and the leasehold estate), and in all manner deal with the property subject only to the condition that the ownership interest of the United States in the land shall not be adversely affected;

"(4) any space not needed for the operations of such Red Cross Chapter or the American National Red Cross in any building or improvement constructed on such property shall be first made available for use by Federal agencies at rental rates and other related expenses that are less than fair market value and reflect the value of the property provided to such Red Cross Chapter under the provisions of this Act;

"(5) the United States shall cooperate with such Red Cross Chapter with respect to any zoning or other matters relating to the development or improvement of such property; and

"(6) the plans of any proposed building or improvement for construction after the date of the enactment of this section shall first be approved by the American National Red Cross, the

Commission of Fine Arts, and the National Capital Planning Commission.

"(b) The enactment of this section may not be construed as establishing a policy of the United States Government to furnish building sites for Red Cross chapters or any eleemosynary institution at any other place.".

New York.

SEC. 2. The General Services Administration is authorized to lease, on a long-term basis as determined by the Administrator of General Services, approximately 200,000 square feet of office space located in the area north of 96th Street in the county of New York, New York, at a lease rate not to exceed comparable rates for equivalent space in such area or comparable rates within the building to be occupied, subject to the approval of the Committee on Public Works and Transportation.

Approved November 8, 1988.

LEGISLATIVE HISTORY—S. 2496:

HOUSE REPORTS: No. 100-1008 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 100-432 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 2, considered and passed Senate.
Oct. 4, considered and passed House, amended.
Oct. 19, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 8, Presidential statement.

Public Law 100-638
100th Congress

An Act

To declare that certain lands be held in trust for the Quinault Indian Nation, and for other purposes.

Nov. 8, 1988
[S. 2752]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. EXPANSION OF QUINAULT INDIAN RESERVATION.

Public information.

The Quinault Indian Reservation is hereby expanded to include those lands consisting of more or less eleven thousand nine hundred and five acres and generally depicted on the map entitled, "North boundary expansion, Quinault Indian Nation", numbered 88-S2752-1 and dated, September 23, 1988, which shall be on file and available for public inspection in the offices of the Chief, Forest Service, and of the Assistant Secretary for Indian Affairs, Department of the Interior, and of the tribal offices of the Quinault Indian Nation. The boundary of the Olympic National Forest is hereby modified as depicted on the map referred to in this section.

SEC. 2. QUINAULT SPECIAL MANAGEMENT AREA.

The Secretary of Agriculture shall—

Public information.

(a) manage those Federal lands within the boundaries of the Olympic National Forest consisting of more or less five thousand four hundred and sixty acres and generally depicted on the map entitled "Quinault Special Management Area" numbered 88-S2752-2 and dated, September 23, 1988, which shall be on file and available for public inspection in the offices of the Chief, Forest Service, and of the Assistant Secretary for Indian Affairs, Department of the Interior, and of the tribal offices of the Quinault Indian Nation in a manner consistent with section 3; and

Forests and forest products.

(b) shall distribute the proceeds from the sale of forest products on lands referred to in subsection (a) as provided in section 4.

SEC. 3. ADMINISTRATION OF LANDS.

(a) All right, title, and interest in lands owned by the United States and administered by the United States Forest Service and referred to in section 1, shall hereafter—

(1) be administered by the Secretary of the Interior; and

(2) be held in trust by the United States for the Quinault Indian Nation and to be part of the Quinault Indian Reservation.

(b) All right, title, and interest in lands which are owned by the United States and administered by the United States Forest Service which are referred to in section 2 shall remain in the United States and, except as provided in section 4, shall continue to be administered by the United States Forest Service accordance with all laws, rules and regulations applicable to the national forests.

(c) The rights of the Quinault Indian Nation to revenues under subsection (b) of section 4 shall not affect the management of these lands nor create a trust or fiduciary duty on the Secretary of Agriculture with respect to such management beyond that which the Secretary may have under existing law.

SEC. 4. RECEIPTS FROM NATIONAL FOREST SYSTEM LANDS.

(a) Notwithstanding any other provision of law, the Secretary of Agriculture shall, without further appropriations, receive from the gross proceeds from the sale of forest products from lands referred to in section 2 a reasonable fee not to exceed 10 per centum for preparation and administration of timber sales from such lands.

(b) Nothwithstanding the requirements of the Act of March 4, 1907 (16 U.S.C. 499), concerning moneys received from revenues generated from the national forests into the Treasury of the United States, moneys received from the lands referred to in section 2 shall be distributed in the following manner:

(1) 45 per centum of all moneys received during any fiscal year from said land shall be paid into the account referred to in section 8; and

Washington.

(2) 45 per centum of all moneys received during any fiscal year from said lands shall be paid to the State of Washington pursuant to the Act of May 23, 1908 (C. 192, 35 Stat. 251 as amended; 16 U.S.C. 500).

SEC. 5. LIMITATIONS ON TIMBER HARVEST.

(a) The Secretary of the Interior shall not approve any sale of unprocessed timber from lands referred to in section 1 which will be exported from the United States, or which will be used as a substitute for timber from private lands which is exported by the purchaser: *Provided,* That this limitation shall not apply to specific quantities of grades and species of timber which the Secretary determines are surplus to domestic lumber and plywood manufacturing needs.

(b) In addition to restrictions referred to in subsection (a), the Secretary of the Interior shall—

(1) limit the sale of timber from the lands referred to in section 1 to a quantity equal to or less than a quantity which can be removed from such lands annually in perpetuity on a long term sustained-yield basis: *Provided,* That in order to meet overall multiple-use objectives, the Secretary may establish an allowable quantity for any decade which departs from the projected long-term average sale quantity that would otherwise be established. In addition, within any decade, the Secretary may sell a quantity in excess of the annual allowable sale quantity established pursuant to this section so long as the average sale quantity of timber over the decade covered does not exceed such quantity limitation; and

(2) administer all timber and forest products sold from the lands referred to in section 1 in accordance with the conditions of the Policy Statement for the Grays Harbor sustained yield unit as defined and administered by the Secretary of Agriculture as long as such policy statement remains in effect.

National Forest System.

SEC. 6. EXISTING RIGHTS-OF-WAY AND OTHER INTERESTS.

The Secretary of Agriculture shall reserve permanent easements for the purpose of continuing access, including public access, to

National Forest Systems lands on Forest Service roads numbered 21, 2110, 2120, 2130, 2140, 2190, 2191, and all numbered extensions or segments thereof. Such easements shall be in a form acceptable to the Secretary of Agriculture, including provisions for cooperative maintenance.

SEC. 7. ACCESS TO LANDS.

National Forest System.

(a) The Secretary of the Interior shall allow such additional rights-of-way through lands referred to in section 1 as the Secretary of Agriculture, in consultation with the Secretary of the Interior and the Quinault Indian Nation, considers necessary to provide access to and management of National Forest System lands, including public access. Such rights-of-way shall be located in such manner as the Secretary of the Interior, in consultation with the Secretary of Agriculture and the Quinault Indian Nation, determines to be appropriate.

(b) The Secretary of Agriculture shall allow such rights-of-way through National Forest System lands as the Secretary of the Interior, in consulation with the Secretary of Agriculture and the Quinault Indian Nation, considers necessary to provide access to lands referred to in section 1. Such rights-of-way shall be located in such a manner as the Secretary of Agriculture, in consultation with the Secretary of the Interior and the Quinault Indian Nation deterimines to be appropriate.

SEC. 8. USE OF TIMBER SALE PROCEEDS.

The Secretary of the Interior shall maintain a segregated account and shall deposit in such account all funds derived from the sale of unprocessed timber from the lands referred to in section 1. The Secretary shall make such funds available only for—

(a) costs incurred by the Quinault Indian Nation for the preparation and administration of timber sales, including road construction and maintenance on such lands;

(b) the mitigation of any adverse environmental impacts from timber harvest activities on such lands;

Environmental protection.

(c) reforestation of any lands referred to in section 1 or any other lands within the external boundaries of the Quinault Indian Reservation: *Provided,* That nothing herein shall allow the Secretary of the Interior to substitute these funds for other appropriated funds or for forest management deductions, funds presently available for reforestation; or

(d) for the purchase from willing sellers by the Quinault Indian Nation of any lands or interests in lands within the external boundaries of the Quinault Indian Reservation and any costs incurred by the Quinault Indian Nation incident thereto.

SEC. 9. SAVINGS PROVISIONS.

Nothing in this Act is intended to affect or modify—

(a) the proportional distribution shares of the respective counties of receipts from the sale of timber in the remaining lands of the Olympic National Forest;

(b) any property rights which may exist within the exterior boundaries of the Quinault Indian Reservation as it existed prior to enactment of this Act; and

(c) any valid existing rights-of-way, leases or permits of the Secretary of Agriculture or any person or entity in any of the lands referred to in section 1.

Approved November 8, 1988.

LEGISLATIVE HISTORY—S. 2752 (H.R. 5203):

HOUSE REPORTS: No. 100-1033, Pt. 1 accompanying H.R. 5203 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-582 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, 4, H.R. 5203 considered and failed House.
Oct. 7, S. 2752 considered and passed Senate.
Oct. 19, considered and passed House.

○

Public Law 100-639
100th Congress

An Act

To request the President to award a gold medal on behalf of Congress to Andrew Wyeth, and to provide for the production of bronze duplicates of such medal for sale to the public.

Nov. 9, 1988
[H.R. 593]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

31 USC 5111 note.

The Congress finds that—

(1) Andrew Wyeth has created artwork which is undeniably American and internationally admired;

(2) Andrew Wyeth has received world-wide acclaim for his works including "Christina's World", "The Trodden Weed", and "Wind from the Sea";

(3) Andrew Wyeth has distinguished himself through his preeminence in the egg tempera technique;

(4) Andrew Wyeth was chosen by President Kennedy in 1963 as the first artist to receive the Presidential Freedom Award, the country's highest civilian award;

(5) Andrew Wyeth has received numerous international awards for his works; and

(6) Andrew Wyeth has made outstanding and invaluable contributions to American art and culture.

SEC. 2. CONGRESSIONAL GOLD MEDAL.

31 USC 5111 note.

(a) PRESENTATION AUTHORIZED.—The President is authorized to present, on behalf of the Congress, to Andrew Wyeth a gold medal of appropriate design, in recognition of his outstanding and invaluable contributions to American art and culture.

(b) DESIGN AND STRIKING.—For purposes of the presentation referred to in subsection (a), the Secretary of the Treasury shall strike a gold medal with suitable emblems, devices, and inscriptions to be determined by the Secretary.

(c) AUTHORIZATION OF APPROPRIATIONS.—Effective October 1, 1987, there are authorized to be appropriated not to exceed $20,000 to carry out this section.

SEC. 3. DUPLICATE MEDALS.

31 USC 5111 note.

(a) STRIKING AND SALE.—The Secretary of the Treasury may strike and sell duplicates in bronze of the gold medal struck pursuant to section 2 under such regulations as the Secretary may prescribe, at a price sufficient to cover the cost thereof, including labor, materials, dies, use of machinery, and overhead expenses, and the cost of the gold medal.

(b) REIMBURSEMENT OF APPROPRIATIONS.—The appropriation used to carry out section 2 shall be reimbursed out of the proceeds of sales under subsection (a).

31 USC 5111 note.

SEC. 4. NATIONAL MEDALS.

The medals struck pursuant to this Act are national medals for purposes of chapter 51 of title 31, United States Code.

Approved November 9, 1988.

LEGISLATIVE HISTORY—H.R. 593:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed House.
Oct. 21, considered and passed Senate.

○

Public Law 100-640
100th Congress

An Act

To amend the Foreign Sovereign Immunities Act with respect to admiralty jurisdiction.

Nov. 9, 1988
[H.R. 1149]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Maritime affairs.

SECTION 1. ADMIRALTY SUITS AGAINST FOREIGN STATES.

Section 1605(b) of title 28, United States Code, is amended—

(1) in paragraph (1) by striking all that follows the first semicolon and inserting the following: "and if the vessel or cargo is arrested pursuant to process obtained on behalf of the party bringing the suit, the service of process of arrest shall be deemed to constitute valid delivery of such notice, but the party bringing the suit shall be liable for any damages sustained by the foreign state as a result of the arrest if the party bringing the suit had actual or constructive knowledge that the vessel or cargo of a foreign state was involved; and";

(2) in paragraph (2) by striking "subsection (b)(1) of this section" and inserting "paragraph (1) of this subsection"; and

(3) by striking all that follows paragraph (2) and inserting the following:

"(c) Whenever notice is delivered under subsection (b)(1), the suit to enforce a maritime lien shall thereafter proceed and shall be heard and determined according to the principles of law and rules of practice of suits in rem whenever it appears that, had the vessel been privately owned and possessed, a suit in rem might have been maintained. A decree against the foreign state may include costs of the suit and, if the decree is for a money judgment, interest as ordered by the court, except that the court may not award judgment against the foreign state in an amount greater than the value of the vessel or cargo upon which the maritime lien arose. Such value shall be determined as of the time notice is served under subsection (b)(1). Decrees shall be subject to appeal and revision as provided in other cases of admiralty and maritime jurisdiction. Nothing shall preclude the plaintiff in any proper case from seeking relief in personam in the same action brought to enforce a maritime lien as provided in this section.

"(d) A foreign state shall not be immune from the jurisdiction of the courts of the United States in any action brought to foreclose a preferred mortgage, as defined in the Ship Mortgage Act, 1920 (46 U.S.C. 911 and following). Such action shall be brought, heard, and determined in accordance with the provisions of that Act and in accordance with the principles of law and rules of practice of suits in rem, whenever it appears that had the vessel been privately owned and possessed a suit in rem might have been maintained.".

SEC. 2. ATTACHMENT OR EXECUTION.

Section 1610 of title 28, United States Code, is amended by adding at the end the following:

"(e) The vessels of a foreign State shall not be immune from arrest in rem, interlocutory sale, and execution in actions brought to foreclose a preferred mortgage as provided in section 1605(d).".

28 USC 1605 note.

SEC. 3. EFFECTIVE DATE.

The amendments made by this Act shall apply to actions commenced on or after the date of the enactment of this Act.

Approved November 9, 1988.

LEGISLATIVE HISTORY—H.R. 1149:

HOUSE REPORTS: No. 100-823 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed House.
Oct. 21, considered and passed Senate.

Public Law 100-641
100th Congress

An Act

To designate the Federal building located at 324 West Market Street in Greensboro, North Carolina, as the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse and Post Office".

Nov. 9, 1988
[H.R. 3327]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. DESIGNATION OF BUILDING.

The Federal Building located at 324 West Market Street in Greensboro, North Carolina, shall be known and designated as the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse and Post Office".

SEC. 2. LEGAL REFERENCES.

Any reference in any law, regulation, document, record, map, or other paper of the United States to the building referred to in section 1 shall be deemed to be a reference to the "L. Richardson Preyer, Jr. Federal Building and United States Courthouse and Post Office".

SEC. 3. HANDICAPPED PARKING SYSTEM.

23 USC 402 note.

(a) REGULATIONS.—Not later than the 180th day following the date of the enactment of this Act, the Secretary of Transportation shall issue regulations—

(1) which establish a uniform system for handicapped parking designed to enhance the safety of handicapped individuals, and

(2) which encourage adoption of such system by all the States.

In issuing such regulations, the Secretary shall consult the States.

(b) DEFINITIONS.—For purposes of this section—

(1) UNIFORM SYSTEM FOR HANDICAPPED PARKING.—A uniform system for handicapped parking designed to enhance the safety of handicapped individuals is a system which—

(A) adopts the International Symbol of Access (as adopted by Rehabilitation International in 1969 at its 11th World Congress on Rehabilitation of the Disabled) as the only recognized symbol for the identification of vehicles used for transporting individuals with handicaps which limit or impair the ability to walk;

(B) provides for the issuance of license plates displaying the International Symbol of Access for vehicles which will be used to transport individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(C) provides for the issuance of removable windshield placards (displaying the International Symbol of Access) to individuals with handicaps which limit or impair the ability to walk, under criteria determined by the State;

(D) provides that fees charged for the licensing or registration of a vehicle used to transport individuals with

handicaps do not exceed fees charged for the licensing or registration of other similar vehicles operated in the State; and

(E) for purposes of easy access parking, recognizes licenses and placards displaying the International Symbol of Access which have been issued by other States and countries.

(2) STATE.—The term "State" has the meaning such term has when used in chapter 4 of title 23, United States Code.

Approved November 9, 1988.

LEGISLATIVE HISTORY—H.R. 3327:

HOUSE REPORTS: No. 100-480 (Comm. on Public Works and Transportation).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 18, considered and passed House.
Vol. 134 (1988): Oct. 20, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 100-642
100th Congress

An Act

To amend the Act of June 6, 1900, to increase the number of trustees of the Frederick Douglass Memorial and Historical Association.

Nov. 9, 1988
[H.R. 4236]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. BOARD OF TRUSTEES OF THE FREDERICK DOUGLASS MEMORIAL AND HISTORICAL ASSOCIATION.

(a) NUMBER.—Section 4 of the Act of June 6, 1900 (ch. 806; 31 Stat. 662), is amended by striking out "not less than five members nor more than nine" and inserting in lieu thereof "not less than 9 members nor more than 19 members".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect upon the election of additional members of the board of trustees of the Frederick Douglass Memorial and Historical Association (pursuant to the amendment made by subsection (a)) at a regular or special meeting of the board called for the purpose of such an election.

Approved November 9, 1988.

LEGISLATIVE HISTORY—H.R. 4236:

HOUSE REPORTS: No. 100-1091 (Comm. on the District of Columbia).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 19, considered and passed House.
Oct. 20, considered and passed Senate.

O

Public Law 100-643
100th Congress

Joint Resolution

Nov. 9, 1988
[H.J. Res. 137]

Designating the month of May, 1989, as "National Asparagus Month".

Whereas the genus asparagus, a member of the lily family, originated along the shores of the Mediterranean Sea and on its many islands;

Whereas asparagus was considered a culinary delicacy and used for medicinal purposes by the ancient Greeks and Romans;

Whereas asparagus has been grown in America since the 1600's for its nutritional and decorative value in floral arrangements;

Whereas two hundred and twenty-three million pounds of asparagus was grown in the United States comprising a total value of approximately $137,000,000 in 1986; and

Whereas the delectible vegetable is low in calories and fat, and contains large amounts of calcium and phosphorus as well as vitamins A, C, and B, all important components of a well balanced diet: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of May, 1989, is designated as "National Asparagus Month". The President is requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate ceremonies and activities.

Approved November 9, 1988.

LEGISLATIVE HISTORY—H.J. Res. 137:

CONGRESSIONAL RECORD, Vol. 134 (1988):
May 5, considered and passed House.
Oct. 21, considered and passed Senate, amended. House concurred in Senate amendments.

Public Law 100-644
100th Congress

Joint Resolution

Designating February 5 through 11, 1989, as "National Burn Awareness Week".

Nov. 9, 1988
[H.J. Res. 604]

Whereas the burn injury problem of the United States is worse than that of any other industrialized nation;
Whereas burn injuries are one of the leading causes of accidental death in the United States;
Whereas every year approximately 2,000,000 individuals are victims of burn injuries in the United States;
Whereas 70,000 of these burn injury victims are hospitalized, accounting for 9,000,000 disability days annually;
Whereas approximately 12,000 individuals die from burn injuries annually;
Whereas the rehabilitative and psychological impact of burns are devastating;
Whereas children, the elderly, and the disabled are those groups most likely to suffer serious burns;
Whereas it is estimated that 75 percent of all burns could be prevented by proper education of children and adults and by appropriate use of design and technology;
Whereas the injuries and loss of life caused by burns could be reduced by increasing the general public's awareness of the need for smoke detectors and home fire escape plans and by educating the general public about the risk of burns associated with certain items in the home environment; and
Whereas there is a need for an effective national program that deals with all aspects of burn injuries: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That February 5 through 11, 1989, is designated as "National Burn Awareness Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate programs and activities.

Approved November 9, 1988.

LEGISLATIVE HISTORY—H.J. Res. 604:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 21, considered and passed House and Senate.

Public Law 100-645
100th Congress

Joint Resolution

Nov. 9, 1988
[H.J. Res. 626]

Designating September 13, 1989, as "Uncle Sam Day".

Whereas Samuel Wilson of the City of Troy, New York, is accepted as the progenitor of our national symbol, Uncle Sam;
Whereas Uncle Sam, the embodiment of Samuel Wilson, represents the enterprising, idealistic, and strong spirit that is the backbone of our Nation;
Whereas the symbol of Uncle Sam remains important to the identity of our Nation among freedom-loving people of the world;
Whereas the people of the City of Troy have dedicated themselves to the remembrance of Samuel Wilson and his role in American history;
Whereas the City of Troy marks its 200th anniversary in 1989; and
Whereas September 13 is the birth date of Samuel Wilson: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 13, 1989, is designated as "Uncle Sam Day" in honor of Samuel Wilson of the City of Troy, New York on the occasion of the 200th anniversary of the City. The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved November 9, 1988.

LEGISLATIVE HISTORY—H.J. Res. 626:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 21, considered and passed House and Senate.

Public Law 100-646
100th Congress

Joint Resolution

Changing the date for the counting of the Electoral vote by Congress to January 4, 1989.

Nov. 9, 1988
[H.J. Res. 677]

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That in carrying out the procedure set forth in section 15 of title, 3, United States Code, for 1989, "the fourth day of January" shall be substituted for "the sixth day of January" in the first sentence of such section.

3 USC 15 note.

Approved November 9, 1988.

LEGISLATIVE HISTORY—H.J. Res. 677:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 20, considered and passed House and Senate.

Public Law 100-647
100th Congress

An Act

Nov. 10, 1988
[H.R. 4333]

To make technical corrections relating to the Tax Reform Act of 1986, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Technical and Miscellaneous Revenue Act of 1988.
26 USC 1 note.

SECTION 1. SHORT TITLE; ETC.

(a) SHORT TITLE.—This Act may be cited as the "Technical and Miscellaneous Revenue Act of 1988".

(b) DEFINITIONS.—For purposes of this Act—

(1) 1986 CODE.—The term "1986 Code" means the Internal Revenue Code of 1986.

(2) REFORM ACT.—Except where incompatible with the intent, the term "Reform Act" means the Tax Reform Act of 1986.

(c) CLERICAL AMENDMENT.—Paragraph (29) of section 7701(a) of the 1986 Code is amended by striking out "of 1954" and inserting in lieu thereof "of 1986".

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Corporations.
Securities.

SEC. 1001. AMENDMENTS RELATED TO TITLE I OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 101 OF THE REFORM ACT.—

(1) Paragraph (2) of section 6867(b) of the 1986 Code is amended by striking out "at a 50-percent rate" and inserting in lieu thereof "at the highest rate of tax specified in section 1".

(2)(A) Section 531 of the 1986 Code is amended to read as follows:

"SEC. 531. IMPOSITION OF ACCUMULATED EARNINGS TAX.

"In addition to other taxes imposed by this chapter, there is hereby imposed for each taxable year on the accumulated taxable income (as defined in section 535) of each corporation described in section 532, an accumulated earnings tax equal to 28 percent of the accumulated taxable income."

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987. Such amendment shall not be treated as a change in a rate of tax for purposes of section 15 of the 1986 Code.

26 USC 531 note.

(3) The last sentence of section 1(g)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "and subparagraph (B) shall be applied as if a deduction for a personal exemption were allowable under section 151 to such individual for such individual's spouse."

(b) AMENDMENTS RELATED TO SECTION 102 OF THE REFORM ACT.—

(1) Paragraph (5) of section 63(c) of the 1986 Code is amended—

(A) by striking out "the standard deduction applicable" and inserting in lieu thereof "the basic standard deduction applicable", and

(B) by striking out "STANDARD DEDUCTION" in the paragraph heading and inserting in lieu thereof "BASIC STANDARD DEDUCTION".

(2) Subclause (I) of section 6012(a)(1)(C)(i) of the 1986 Code is amended to read as follows:

"(I) income (other than earned income) in excess of the sum of the amount in effect under section 63(c)(5)(A) plus the additional standard deduction (if any) to which the individual is entitled, or".

(3)(A) Subparagraph (A) of section 62(a)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The fact that the reimbursement may be provided by a third party shall not be determinative of whether or not the preceding sentence applies."

(B) Paragraph (2) of section 527(e) of the 1986 Code (defining exempt function) is amended by adding at the end thereof the following new sentence: "Such term includes the making of expenditures relating to an office described in the preceding sentence which, if incurred by the individual, would be allowable as a deduction under section 162(a)."

(c) AMENDMENT RELATED TO SECTION 111 OF THE REFORM ACT.—Paragraph (3) of section 32(i) of the 1986 Code is amended to read as follows:

"(3) ROUNDING.—If any dollar amount after being increased under paragraph (1) is not a multiple of $10, such dollar amount shall be rounded to the nearest multiple of $10 (or, if such dollar amount is a multiple of $5, such dollar amount shall be increased to the next higher multiple of $10)."

Fellowships and scholarships. Schools and colleges.

(d) AMENDMENTS RELATED TO SECTION 123 OF THE REFORM ACT.—(1)(A) Clause (ii) of section 4941(d)(2)(G) of the 1986 Code is amended to read as follows:

"(ii) scholarships and fellowship grants which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and are to be used for study at an educational organization described in section 170(b)(1)(A)(ii),".

(B) Paragraph (1) of section 4945(g) of the 1986 Code is amended to read as follows:

"(1) the grant constitutes a scholarship or fellowship grant which would be subject to the provisions of section 117(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) and is to be used for study at an educational organization described in section 170(b)(1)(A)(ii),".

Aliens.

(2)(A) The second sentence of section 1441(b) of the 1986 Code is amended to read as follows: "The items of income referred to in subsection (a) from which tax shall be deducted and withheld at the rate of 14 percent are amounts which are received by a nonresident alien individual who is temporarily present in the United States as a nonimmigrant under subparagraph (F), (J), or (M) of section 101(a)(15) of the Immigration and Nationality Act and which are—

"(1) incident to a qualified scholarship to which section 117(a) applies, but only to the extent includible in gross income; or

"(2) in the case of an individual who is not a candidate for a degree at an educational organization described in 170(b)(1)(A)(ii), granted by—

"(A) an organization described in section 501(c)(3) which is exempt from tax under section 501(a),

"(B) a foreign government,

"(C) an international organization, or a binational or multinational educational and cultural foundation or commission created or continued pursuant to the Mutual Educational and Cultural Exchange Act of 1961, or

"(D) the United States, or an instrumentality or agency thereof, or a State, or a possession of the United States, or any political subdivision thereof, or the District of Columbia,

as a scholarship or fellowship for study, training, or research in the United States."

(B) Subsection (c) of section 871 of the 1986 Code is amended—

(i) by striking out "section 1441(b)(1) or (2)" and inserting in lieu thereof "the second sentence of section 1441(b)"; and

(ii) by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)".

(C) The following provisions of the 1986 Code are each amended by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)":

(i) Section 3121(b)(19).

(ii) Section 3231(e)(1).

(iii) Section 3306(c)(19).

(D) Clause (i)(I) of section 7701(b)(5)(D) of the 1986 Code is amended by striking out "subparagraph (F)" and inserting in lieu thereof "subparagraph (F) or (M)".

(E) Section 210(a)(19) of the Social Security Act is amended by striking out "(F) or (J)" each place it appears and inserting in lieu thereof "(F), (J), or (M)". 42 USC 410.

(e) AMENDMENT RELATED TO SECTION 131 OF THE REFORM ACT.—Subsection (f) of section 86 of the 1986 Code is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(f) AMENDMENTS RELATED TO SECTION 132 OF THE REFORM ACT.—

(1) Section 67 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) COORDINATION WITH OTHER LIMITATION.—This section shall be applied before the application of the dollar limitation of the last sentence of section 162(a) (relating to trade or business expenses)."

(2) Paragraph (4) of section 67(b) of the 1986 Code is amended—

(A) by striking out "deduction" and inserting in lieu thereof "deductions", and

(B) by inserting before the comma at the end thereof "and section 642(c) (relating to deduction for amounts paid or permanently set aside for a charitable purpose)".

(3) Subsection (e) of section 67 of the 1986 Code is amended to read as follows:

"(e) DETERMINATION OF ADJUSTED GROSS INCOME IN CASE OF ESTATES AND TRUSTS.—For purposes of this section, the adjusted gross income of an estate or trust shall be computed in the same manner as in the case of an individual, except that—

"(1) the deductions for costs which are paid or incurred in connection with the administration of the estate or trust and which would not have been incurred if the property were not held in such trust or estate, and

"(2) the deductions allowable under sections 642(b), 651, and 661,

shall be treated as allowable in arriving at adjusted gross income. Under regulations, appropriate adjustments shall be made in the application of part I of subchapter J of this chapter to take into account the provisions of this section."

(4) Subsection (c) of section 67 of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply—

"(1) with respect to cooperatives and real estate investment trusts, and

"(2) except as provided in regulations, with respect to estates and trusts."

(g) AMENDMENTS RELATED TO SECTION 142 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 274(n)(2) of the 1986 Code is amended to read as follows:

"(A) such expense is described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e),".

(2) Paragraph (2) of section 274(k) of the 1986 Code is amended to read as follows:

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any expense described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e), and

"(B) any other expense to the extent provided in regulations."

(3) Clause (ii) of section 274(m)(1)(B) of the 1986 Code is amended to read as follows:

"(ii) any expense described in paragraph (2), (3), (4), (7), (8), or (9) of subsection (e).".

(4)(A) Paragraph (2) of section 274(n) of the 1986 Code is amended—

(i) by striking "or" at the end of subparagraph (C),

(ii) by striking the period at the end of subparagraph (D) and inserting ", or", and

(iii) by adding at the end thereof the following:

"(E) in the case of an employer who pays or reimburses moving expenses of an employee, such expenses are includible in the income of the employee under section 82.

In the case of the employee, the exception of subparagraph (A) shall not apply to expenses described in subparagraph (E)."

(B) The following provisions of the 1986 Code are each amended by striking out "section 217" and inserting in lieu thereof "section 217 (determined without regard to section 274(n))":

(i) Section 3121(a)(11).

(ii) Section 3306(b)(9).

(iii) Section 3401(a)(15).

42 USC 409. (C) Section 209(k) of the Social Security Act is amended by striking out "section 217 of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 217 of the Internal Revenue Code of 1986 (determined without regard to section 274(n) of such Code)".

(5) Paragraphs (1) and (2) of section 274(h) of the 1986 Code are each amended by striking out "trade or business that" and inserting in lieu thereof "trade or business and that".

Housing. (h) AMENDMENTS RELATED TO SECTION 143 OF THE REFORM ACT.—

(1) Paragraph (5) of section 280A(c) of the 1986 Code amended by adding at the end thereof the following new sentence: "Any amount taken into account for any taxable year under the preceding sentence shall be subject to the limitation of the 1st sentence of this paragraph whether or not the dwelling unit is used as a residence during such taxable year."

(2) Clause (ii) of section 280A(c)(5)(B) of the 1986 Code is amended by striking out "trade or business" and inserting lieu thereof "trade or business (or rental activity)".

(3) Section 183(e)(2) of the 1986 Code is amended by striking out "2" and inserting in lieu thereof "3 (or 2 if applicable)".

SEC. 1002. AMENDMENTS RELATED TO TITLE II OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 201 OF THE REFORM ACT.—

(1) Subsection (d) of section 1250 of the 1986 Code is amended by striking out paragraph (11).

26 USC 7701. (2) Subparagraph (B) of section 201(d)(14) of the Reform Act is amended by striking out "section 168(c)(2)(F)" and inserting in lieu thereof "within the meaning of section 168(c)(2)(F)".

(3) Paragraph (4) of section 312(k) of the 1986 Code is amended by striking out "paragraphs (1) and (3)" and inserting in lieu thereof "paragraph (1)".

(4) Paragraph (4) of section 46(e) of the 1986 Code is amended—

(A) by striking out "168(j)(6)" in subparagraph (B) and inserting in lieu thereof "168(i)(3)",

(B) by striking out "paragraphs (8) and (9) of section 168(j)" in subparagraph (D) and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)",

(C) by striking out "168(j)" in subparagraph (E) and inserting in lieu thereof "168(h)", and

(D) by striking out "168(j)(4)" in subparagraph (E) and inserting in lieu thereof "168(h)(2)".

(5) Clause (i) of section 168(d)(3)(A) of the 1986 Code is amended by striking out "and which are".

(6)(A) Subparagraph (B) of section 168(f)(5) of the 1986 Code is amended—

(i) by striking out "1st full taxable year" in clause (ii) and inserting in lieu thereof "1st taxable year", and

(ii) by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) any property to which this section (as amended by the Tax Reform Act of 1986) applied in the hands of the transferor."

(B) Paragraph (5) of section 168(f) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE.—In the case of any property to which this section would apply but for this paragraph, the depreciation deduction under section 167 shall be determined under the provisions of this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986."

(7)(A) Subparagraph (A) of section 168(i)(7) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In any case where this section as in effect before the amendments made by section 201 of the Tax Reform Act of 1986 applied to the property in the hands of the transferor, the reference in the preceding sentence to this section shall be treated as a reference to this section as so in effect."

(B) Subparagraph (B) of section 168(i)(7) of the 1986 Code is amended to read as follows:

"(B) TRANSACTIONS COVERED.—The transactions described in this subparagraph are—

"(i) any transaction described in section 332, 351, 361, 371(a), 374(a), 721, or 731, and

"(ii) any transaction between members of the same affiliated group during any taxable year for which a consolidated return is made by such group.

Subparagraph (A) shall not apply in the case of a termination of a partnership under section 708(b)(1)(B)."

(C) Subparagraph (D) of section 168(i)(7) of the 1986 Code is hereby repealed.

(8) Subparagraph (B) of section 168(h)(2) of the 1986 Code is amended to read as follows:

"(B) EXCEPTION FOR CERTAIN PROPERTY SUBJECT TO UNITED STATES TAX AND USED BY FOREIGN PERSON OR ENTITY.—Clause (iii) of subparagraph (A) shall not apply with respect to any property if more than 50 percent of the gross income for the taxable year derived by the foreign person or entity from the use of such property is—

"(i) subject to tax under this chapter, or

"(ii) included under section 951 in the gross income of a United States shareholder for the taxable year with or within which ends the taxable year of the controlled foreign corporation in which such income was derived.

For purposes of the preceding sentence, any exclusion or exemption shall not apply for purposes of determining the amount of the gross income so derived, but shall apply for purposes of determining the portion of such gross income subject to tax under this chapter."

(9) Subsection (a) of section 178 of the 1986 Code is amended by striking out "the deduction allowable to a lessee of a lease for any taxable year for amortization under section 167, 169, 179, 185, 190, 193, or 194" and inserting in lieu thereof "the deduction allowable to a lessee for exhaustion, wear and tear, obsolescence, or amortization".

(10) Subparagraph (A) of section 280F(d)(3) of the 1986 Code is amended by striking out "any recovery deduction" and inserting in lieu thereof "any depreciation deduction".

(11)(A) Paragraph (2) of section 168(b) of the 1986 Code is amended to read as follows:

"(2) 150 PERCENT DECLINING BALANCE METHOD IN CERTAIN CASES.—Paragraph (1) shall be applied by substituting '150 percent' for '200 percent' in the case of—

"(A) any 15-year or 20-year property, or

"(B) any property (other than property described in paragraph (3)) with respect to which the taxpayer elects under paragraph (5) to have the provisions of this paragraph apply."

(B) Paragraph (5) of section 168(b) of the 1986 Code is amended by striking out "under paragraph (3)(C)" and inserting in lieu thereof "under paragraph (2)(B) or (3)(C)".

(C) Subsection (c) of section 168 of the 1986 Code is amended to read as follows:

"(c) APPLICABLE RECOVERY PERIOD.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the applicable recovery period shall be determined in accordance with the following table:

"In the case of:	The applicable recovery period is:
3-year property	3 years
5-year property	5 years
7-year property	7 years
10-year property	10 years
15-year property	15 years
20-year property	20 years
Residential rental property	27.5 years
Nonresidential real property	31.5 years.

"(2) PROPERTY FOR WHICH 150 PERCENT METHOD ELECTED.—In the case of property to which an election under subsection (b)(2)(B) applies, the applicable recovery period shall be determined under the table contained in subsection (g)(2)(C)."

(12) Clause (i) of section 56(a)(1)(C) of the 1986 Code is amended by striking out "do not apply" and inserting in lieu thereof "do not apply by reason of section 203, 204, or 251(d) of such Act".

(13) The heading of paragraph (24) of section 381(c) of the 1986 Code is amended by striking out "RECOVERY ALLOWANCE FOR RECOVERY PROPERTY" and inserting in lieu thereof "DEPRECIATION DEDUCTION".

(14) Paragraph (5) of section 48(a) of the 1986 Code is amended—

(A) by striking out "168(j)(4)(C)" and inserting in lieu thereof "168(h)(2)(C)",

(B) by striking out "168(j)(4)(A)(iii)" and inserting in lieu thereof "168(h)(2)(A)(iii)",

(C) by striking out "168(j)(4)(B)" and inserting in lieu thereof "168(h)(2)(B)",

(D) by striking out "168(j)(6)" and inserting in lieu thereof "168(i)(3)",

(E) by striking out "168(j)(3)(C)(ii)" and inserting in lieu thereof "168(h)(1)(C)(ii)",

(F) by striking out "paragraphs (8) and (9) of section 168(j)" and inserting in lieu thereof "paragraphs (5) and (6) of section 168(h)", and

(G) by striking out subparagraph (E) and inserting in lieu thereof the following:

"(E) CROSS REFERENCE.—

"For provision providing special rules for the application of this paragraph and paragraph (4), see section 168(h)."

(15) The last sentence of section 46(e)(3) of the 1986 Code is amended—

(A) by striking out "recovery property (within the meaning of section 168)" and inserting in lieu thereof "property to which section 168 applies",

(B) by striking out "present class life" and inserting in lieu thereof "class life", and

(C) by striking out "168(g)(2)" and inserting in lieu thereof "168(i)(1)".

(16)(A) Subsection (s) of section 48 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(9) TERMINATION.—This subsection shall not apply to any property placed in service after December 31, 1985, unless such property is transition property (as defined in section 49(e)(1))."

(B) Paragraph (4) of section 168(f) of the 1986 Code is amended to read as follows:

"(4) SOUND RECORDINGS.—Any works which result from the fixation of a series of musical, spoken, or other sounds, regardless of the nature of the material (such as discs, tapes, or other phonorecordings) in which such sounds are embodied."

(17) Paragraph (7) of section 46(c) of the 1986 Code is amended—

(A) by striking out "recovery property" and inserting in lieu thereof "property to which section 168 applies",

(B) by striking out "168(c)" each place it appears and inserting in lieu thereof "168(e)",

(C) by striking out "168(f)(3)(B)" and inserting in lieu thereof "168(f)(3)(B) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)", and

(D) by striking out "RECOVERY PROPERTY" in the paragraph heading and inserting in lieu thereof "PROPERTY TO WHICH SECTION 168 APPLIES".

(18) Paragraph (1) of section 47(d) of the 1986 Code is amended by striking out "section 48(c)(8)(C)" and inserting in lieu thereof "section 46(c)(8)(C)".

(19) Paragraph (1) of section 179(d) of the 1986 Code is amended by striking out "recovery property" and inserting in lieu thereof "tangible property (to which section 168 applies)".

(20) Section 48 of the 1986 Code is amended by redesignating the subsection (s) relating to cross references as subsection (t).

(21) Clause (v) of section 168(e)(3)(B) of the 1986 Code is amended by striking out "any property" and inserting in lieu thereof "any section 1245 property".

(22) The last sentence of section 167(l)(3)(G) of the 1986 Code is amended by striking out "section 168(e)(3)(C)" and inserting in lieu thereof "section 168(i)(9)(B)".

(23)(A) Subparagraph (B) of section 168(d)(3) of the 1986 Code is amended to read as follows:

"(B) CERTAIN PROPERTY NOT TAKEN INTO ACCOUNT.—For purposes of subparagraph (A), there shall not be taken into account—

"(i) any nonresidential real property and residential rental property, and

"(ii) any other property placed in service and disposed of during the same taxable year."

26 USC 168 note.

(B) Clause (ii) of section 168(d)(3)(B) of the 1986 Code (as added by subparagraph (A)) shall apply to taxable years beginning after March 31, 1988, unless the taxpayer elects, at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe, to have such clause apply to taxable years beginning on or before such date.

(24) Subsection (a) of section 167 of the 1986 Code is amended by striking out the last sentence.

(25) Subparagraph (B) of section 46(d)(1) of the 1986 Code is amended—

(A) by striking out "recovery property (within the meaning of section 168)" in clause (i) and inserting in lieu thereof "property to which section 168 applies", and

(B) by striking out "which is not recovery property (within the meaning of section 168)" in clause (ii) and inserting in lieu thereof "to which section 168 does not apply".

(26)(A) Subparagraph (E) of section 47(a)(5) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(v) TREATMENT AS RECOVERY PROPERTY.—Any reference in this paragraph to recovery property shall be treated as including a reference to any property to which section 168 (as amended by the Tax Reform Act of 1986) applies."

(B) Subparagraph (D) of section 47(a)(5) of the 1986 Code is amended by striking out the last sentence.

(C) Clause (iii) of section 47(a)(5)(E) of the 1986 Code is amended by striking out "section 168(c)" and inserting in lieu thereof "section 168(e)".

(27) Subparagraph (A) of section 47(a)(9) of the 1986 Code is amended by striking out "section 168(j)(4)(C)" and inserting in lieu thereof "section 168(h)(2)".

(28) Clause (i) of section 47(d)(3)(C) of the 1986 Code is amended—

(A) by striking out "present class life (as defined in section 168(g)(2))" and inserting in lieu thereof "class life (as defined in section 168(i)(1))", and

(B) by striking out "no present class life" and inserting in lieu thereof "no class life".

(29) Paragraph (1) of section 48(a) of the 1986 Code is amended by striking out "recovery property (within the meaning of section 168)" in the material following subparagraph (G) and inserting in lieu thereof "property to which section 168 applies".

(30) Subparagraph (C) of section 48(l)(2) of the 1986 Code is amended by striking out "which is recovery property (within the meaning of section 168)" and inserting in lieu thereof "to which section 168 applies".

(31) Subsection (d) of section 167 of the 1986 Code is amended by striking out "recovery property defined in section 168" and inserting in lieu thereof "property to which section 168 applies".

(b) AMENDMENTS RELATED TO SECTION 202 OF THE REFORM ACT.—

(1) Paragraph (3) of section 179(b) of the 1986 Code is amended to read as follows:

"(3) LIMITATION BASED ON INCOME FROM TRADE OR BUSINESS.—

"(A) IN GENERAL.—The amount allowed as a deduction under subsection (a) for any taxable year (determined after the application of paragraphs (1) and (2)) shall not exceed the aggregate amount of taxable income of the taxpayer for such taxable year which is derived from the active conduct by the taxpayer of any trade or business during such taxable year.

"(B) CARRYOVER OF DISALLOWED DEDUCTION.—The amount allowable as a deduction under subsection (a) for any taxable year shall be increased by the lesser of—

"(i) the aggregate amount disallowed under subparagraph (A) for all prior taxable years (to the extent not previously allowed as a deduction by reason of this subparagraph), or

"(ii) the excess (if any) of—

"(I) the limitation of paragraphs (1) and (2) (or if lesser, the aggregate amount of taxable income referred to in subparagraph (A)), over

"(II) the amount allowable as a deduction under subsection (a) for such taxable year without regard to this subparagraph.

"(C) COMPUTATION OF TAXABLE INCOME.—For purposes of this paragraph, taxable income derived from the conduct of a trade or business shall be computed without regard to the deduction allowable under this section."

(2) Paragraph (1) of section 280F(d) of the 1986 Code is amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsections (a) and (b), and the limitation of paragraph (3) of this subsection,".

Real property.
26 USC 168 note.

(c) AMENDMENTS RELATED TO SECTION 203 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 203(a)(1) of the Reform Act is amended by adding at the end thereof the following new sentence: "No election may be made under this subparagraph with respect to property to which section 168 of the Internal Revenue Code of 1986 would not apply by reason of section 168(f)(5) of such Code if such property were placed in service after December 31, 1986."

(2) Subsection (d) of section 203 of the Reform Act is amended—

(A) by striking out "the case of any taxable year" and inserting in lieu thereof "the case of any taxable year beginning before October 1, 1987", and

(B) by adding at the end thereof the following new sentence: "The preceding sentence shall only apply to property which would be taken into account if such amendments did apply."

26 USC 168 note.

(3) Notwithstanding section 203 of the Reform Act, the amendments made by section 201 of the Reform Act shall apply to any real property which was acquired before January 1, 1987, and was converted on or after such date from personal use to a use for which depreciation is allowable.

(4) Paragraph (1) of section 203(b) of the Reform Act is amended by adding at the end thereof the following new sentence:

"For purposes of this paragraph, all members of the same affiliated group of corporations (within the meaning of section 1504 of the Internal Revenue Code of 1986) filing a consolidated return shall be treated as one taxpayer."

(5) Paragraph (1) of section 203(c) of the Reform Act is amended by striking out "Subparagraph" and inserting in lieu thereof "Except as otherwise provided in this subsection or section 204, subparagraph".

(6) Clause (i) of section 203(b)(2)(C) of the Reform Act is amended by striking out "shall be the class life" and inserting in lieu thereof "applies shall be the class life".

(7) Paragraph (3) of section 203(b) of the Reform Act is amended—

(A) by inserting before the comma at the end of subparagraph (A) "(or would have met such requirements if placed in service by such person)", and

(B) by inserting ", or is leased to such person," before "not later than".

(8) Paragraph (2) of section 203(a) of the Reform Act is amended to read as follows:

"(2) SECTION 202.—

"(A) IN GENERAL.—The amendments made by section 202 shall apply to property placed in service after December 31, 1986, in taxable years ending after such date.

"(B) SPECIAL RULE FOR FISCAL YEARS INCLUDING JANUARY 1, 1987.—In the case of any taxable year (other than a calendar year) which includes January 1, 1987, for purposes of applying the amendments made by section 202 to property placed in service during such taxable year and after December 31, 1986—

"(i) the limitation of section 179(b)(1) of the Internal Revenue Code of 1986 (as amended by section 202) shall

be reduced by the aggregate deduction under section 179 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) for section 179 property placed in service during such taxable year and before January 1, 1987,

"(ii) the limitation of section 179(b)(2) of such Code (as so amended) shall be applied by taking into account the cost of all section 179 property placed in service during such taxable year, and

"(iii) the limitation of section 179(b)(3) of such Code shall be applied by taking into account the taxable income for the entire taxable year reduced by the amount of any deduction under section 179 of such Code for property placed in service during such taxable year and before January 1, 1987."

(d) AMENDMENTS RELATED TO SECTION 204 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 204(a)(1) of the Reform Act is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause: 26 USC 168 note.

"(iv) described in subparagraph (F) or (H)."

(2) Subparagraph (C) of section 204(a)(1) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of this subparagraph, section 203(b)(2) shall be applied by substituting 'January 1, 1994' for 'January 1, 1991' each place it appears."

(3) Subparagraph (E) of section 204(a)(1) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following: "For purposes of this subparagraph, section 203(b)(2) shall be applied by substituting 'January 1, 1998' for 'January 1, 1991' each place it appears."

(4) Subparagraph (F) of section 204(a)(1) of the Reform Act is amended—

(A) by striking out "paragraph" and inserting in lieu thereof "subparagraph",

(B) by striking out ", or" at the end of clause (iii) and inserting in lieu thereof a period, and

(C) by striking out so much of clause (iv) as precedes subclause (I) thereof and inserting in lieu thereof the following:

"A project is also described in this subparagraph if it is a mixed-use development which is—".

(5) The last sentence of section 204(a)(1)(F) of the Reform Act is amended—

(A) by striking out "subsection (b)(2)" and inserting in lieu thereof "section 203(b)(2)", and

(B) by striking out "1993" and inserting in lieu thereof "1998".

(6) Subparagraph (H) of section 204(a)(1) of the Reform Act is amended by striking out "July 1, 1986" and inserting in lieu thereof "June 30, 1986".

(7)(A) Paragraph (4) of section 204(a) of the Reform Act is amended to read as follows:

"(4) PROPERTY TREATED UNDER PRIOR TAX ACTS.—The amendments made by section 201 shall not apply—

"(A) to property described in section 12(c)(2) (as amended by the Technical and Miscellaneous Revenue Act of 1988), 31(g)(5), or 31(g)(17)(J) of the Tax Reform Act of 1984,

"(B) to property described in section 209(d)(1)(B) of the Tax Equity and Fiscal Responsibility Act of 1982, as amended by the Tax Reform Act of 1984, and

"(C) to property described in section 216(b)(3) of the Tax Equity and Fiscal Responsibility Act of 1982."

(B) Paragraph (2) of section 12(c) of the Tax Reform Act of 1984 is amended by striking out "which is placed in service before January 1, 1988".

26 USC 168 note.

26 USC 168 note.

(8) Subparagraph (K) of section 204(a)(5) of the Reform Act is amended—

(A) by striking out "either" in the matter preceding clause (i),

(B) by striking out "super calendar" in clause (i) and inserting in lieu thereof "supercalendered",

(C) by striking out "were incurred" in clause (i) and inserting in lieu thereof "was incurred", and

(D) by inserting "the project" before "involves" in clause (v).

(9) Paragraph (5) of section 204(a) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(Z) A project is described in this subparagraph if—

"(i) such project involves a fiber optic network of at least 475 miles, passing through Minnesota and Wisconsin; and

"(ii) before January 1, 1986, at least $15,000,000 was expended or committed for electronic equipment or fiber optic cable to be used in constructing the network."

Communications and telecommunications.
Minnesota.
Wisconsin.

(10)(A) Paragraph (8) of section 204(a) of the Reform Act is amended by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and by adding at the end thereof the following new subparagraphs:

"(D) a bond volume carryforward election was made for the facility and the facility is for Chattanooga, Knoxville, or Kingsport, Tennessee, or

Tennessee.

"(E) such facility is to serve Haverhill, Massachusetts."

Massachusetts.

(B) Paragraph (8) of section 204(a) of the Reform Act is amended by striking out ", and section 203(c),".

(11) Paragraph (10) of section 204(a) of the Reform Act is amended—

(A) by striking out "either" in the material preceding subparagraph (A),

(B) by striking out "wastewater treatment facility" in subparagraph (C) and inserting in lieu thereof "wastewater treatment facility serving Greenville, South Carolina", and

South Carolina.

(C) by striking out "the letter of intent and service agreement described in subparagraph (A)(2) of this paragraph" in subparagraph (D) and inserting in lieu thereof "such letter of intent and service agreement".

(12) Paragraph (11) of section 204(a) of the Reform Act is amended—

(A) by striking out "Kansas, Florida, Georgia, or Texas" in subparagraph (A) and inserting in lieu thereof "the United States",

(B) by striking out "the purchase" in subparagraph (C) and inserting in lieu thereof "the purchaser", and

(C) by striking out the last sentence.

(13) Paragraph (14) of section 204(a) of the Reform Act is amended by striking out the period at the end of subparagraph (E) and inserting in lieu thereof a comma, and by inserting after subparagraph (E) the following: 26 USC 168 note.

"(F) the project has a planned scheduled capacity of approximately 38,000 kilowatts, the project property is placed in service before January 1, 1991, and the project is operated, established, or constructed pursuant to certain agreements, the negotiation of which began before 1986, with public or municipal utilities conducting business in Massachusetts, or Energy. Massachusetts. Utilities.

"(G) the Board of Regents of Oklahoma State University took official action on July 25, 1986, with respect to the project. Oklahoma.

In the case of the project described in subparagraph (F), section 203(b)(2)(A) shall be applied by substituting 'January 1, 1991' for 'January 1, 1989'."

(14) Paragraph (15) of section 204(a) of the Reform Act is amended—

(A) by adding "located in New Mexico" after "to a project", New Mexico.

(B) by striking out "$72,000" and inserting in lieu thereof "$72,000,000", and

(C) by striking out the last sentence and inserting in lieu thereof the following:

"For purposes of this paragraph, section 203(b)(2) shall be applied by substituting 'January 1, 1996' for 'January 1, 1991' each place it appears."

(15) Paragraph (24) of section 204(a) of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(E) The amendments made by section 201 shall not apply to the Muskegon, Michigan, Cross-Lake Ferry project having a projected cost of approximately $7,200,000.

"(F) The amendments made by section 201 shall not apply to a new automobile carrier vessel, the contract price for which is no greater than $28,000,000, and which will be constructed for and placed in service by OSG Car Carriers, Inc., to transport, under the United States flag and with an American crew, foreign automobiles to North America in a case where negotiations for such transportation arrangements commenced in 1985, and definitive transportation contracts were awarded before June 1986."

(16) Paragraph (25) of section 204(a) of the Reform Act is amended by striking out "wood energy products" and inserting in lieu thereof "wood energy projects".

(17) Paragraph (27) of section 204(a) of the Reform Act is amended—

(A) in subparagraph (B), by striking out "525,000" and inserting in lieu thereof "540,000",

(B) in subparagraph (C)—

(i) by striking out "$32,000,000" and inserting in lieu thereof "$22,000,000", and

(ii) by striking out "before" and inserting in lieu thereof "on",

(C) in subparagraph (D), by striking out "and 7th Avenue", and

(D) in subparagraph (H), by striking out "$62,000" and inserting in lieu thereof "$62,600,000".

26 USC 168 note.

(18) Paragraph (27) of section 204(a) of the Reform Act is amended by adding at the end thereof the following:

"(I) A 600,000 square foot mixed use building known as Flushing Center with respect to which a letter of intent was executed on March 26, 1986.

In the case of the building described in subparagraph (I), section 203(b)(2)(A) shall be applied by substituting 'January 1, 1993' for the applicable date which would otherwise apply."

(19) Paragraph (31) of section 204(a) of the Reform Act is amended by striking out "$10,200,000" and inserting in lieu thereof "$10,500,000".

(20) Paragraph (32) of section 204(a) of the Reform Act is amended—

(A) in subparagraph (A)—

(i) by striking out "July 30, 1984" and inserting in lieu thereof "December 26, 1985",

(ii) by striking out "February 28, 1985" and inserting in lieu thereof "July 2, 1986", and

(iii) by striking out "on June 17, 1985" and inserting in lieu thereof "in May 1985",

(B) in subparagraph (B)—

(i) by striking out "August 30, 1984" and inserting in lieu thereof "December 26, 1985",

(ii) by striking out "May 4, 1985" and inserting in lieu thereof "July 2, 1986", and

(iii) by striking out "on July 3, 1985" and inserting in lieu thereof "in July 1985",

(C) in subparagraph (E)—

(i) by striking out "$2,200,000" and inserting in lieu thereof "$5,000,000",

(ii) by striking out "on January 27, 1986" and inserting "in 1986", and

Pennsylvania.

(iii) by inserting "in Masontown, Pennsylvania," after "plant",

(D) by amending subparagraph (K) to read as follows:

Energy.
Nevada.

"(K) A 250 megawatt coal-fired electric plant in northeastern Nevada estimated to cost $600,000,000 and known as the Thousand Springs project, on which the Sierra Pacific Power Company, a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate (and section 203(b)(2) shall be applied with respect to such plant by substituting 'January 1, 1995' for 'January 1, 1991'),",

(E) in subparagraph (L), by inserting "in connection with" after "housing",

(F) by amending subparagraph (M) to read as follows:

"(M) property which is part of the Kenosha Downtown Redevelopment Project and which is financed with the proceeds of bonds issued pursuant to section 1317(6)(W),",

(G) in subparagraph (O), by striking out "New Orleans, Louisiana" and inserting in lieu thereof "Pensacola, Florida", and Florida.

(H) in subparagraph (S)—

(i) by inserting "to be" before "placed",

(ii) by inserting "Coal" before "Company",

(iii) by inserting "(or any subsidiary thereof)" after "Company", and

(iv) by striking out "on December 31, 1985" and inserting in lieu thereof "by December 31, 1985".

(21) Subparagraph (T) of section 204(a)(32) of the Reform Act is amended to read as follows: 26 USC 168 note.

"(T) a portion of a fiber optics network placed in service by LDX NET after December 31, 1988, but only to the extent the cost of such portion does not exceed $25,000,000,".

(22) Subparagraph (U) of section 204(a)(32) of the Reform Act is amended by striking out "placed in service" and inserting in lieu thereof "constructed".

(23) Subparagraph (X) of section 204(a)(32) of the Reform Act is amended by striking out "the home rule city and the State housing finance agency adopted inducement resolutions on December 20, 1985" and inserting in lieu thereof "the home rule city on December 4, 1985, and the State housing finance agency on December 20, 1985, adopted inducement resolutions".

(24) Subparagraph (C) of paragraph (33) of section 204(a) of the Reform Act is amended to read as follows: Energy. New Hampshire.

"(C)(i) a waste-to-energy project in Derry, New Hampshire, costing approximately $60,000,000, and

"(ii) a waste-to-energy project in Manchester, New Hampshire, costing approximately $60,000,000,".

(25) Paragraph (33) of section 204(a) of the Reform Act is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by inserting after subparagraph (K) the following:

"(L) a cogeneration facility to be built at a paper company in Turners Falls, Massachusetts, with respect to which a letter of intent was executed on behalf of the paper company on September 26, 1985." Massachusetts.

(26) Subsection (a) of section 204 of the Reform Act is amended by adding at the end thereof the following new paragraphs:

"(34) The amendments made by section 201 shall not apply to an approximately 240,000 square foot beverage container manufacturing plant located in Batesville, Mississippi, or plant equipment used exclusively on the plant premises if—

"(A) a 2-year supply contract was signed by the taxpayer and a customer on November 1, 1985,

"(B) such contract further obligated the customer to purchase beverage containers for an additional 5-year period if physical signs of construction of the plant are present before September 1986,

"(C) ground clearing for such plant began before August 1986, and

"(D) construction is completed, the equipment is installed, and operations are commenced before July 1, 1987.

"(35) The amendments made by section 201 shall not apply to any property which is part of the multifamily housing at the Columbia Point Project in Boston, Massachusetts. A project shall be treated as not described in the preceding sentence and as not described in section 252(f)(1)(D) unless such project includes at substantially all times throughout the compliance period (within the meaning of section 42(i)(1) of the Internal Revenue Code of 1986), a facility which provides health services to the residents of such project for fees commensurate with the ability of such individuals to pay for such services.

"(36) The amendments made by section 201 shall not apply to any ethanol facility located in Blair, Nebraska, if—

"(A) in July of 1984 an initial binding construction contract was entered into for such facility,

"(B) in June of 1986, certain Department of Energy recommended contract changes required a change of contractor, and

"(C) in September of 1986, a new contract to construct such facility, consistent with such recommended changes, was entered into.

"(37) The amendments made by section 201 shall not apply to any property which is part of a sewage treatment facility if, prior to January 1, 1986, the City of Conyers, Georgia, selected a privatizer to construct such facility, received a guaranteed maximum price bid for the construction of such facility, signed a letter of intent and began substantial negotiations of a service agreement with respect to such facility.

"(38) The amendments made by section 201 shall not apply to—

"(A) a $28,000,000 wood resource complex for which construction was authorized by the Board of Directors on August 9, 1985,

"(B) an electrical cogeneration plant in Bethel, Maine which is to generate 2 megawatts of electricity from the burning of wood residues, with respect to which a contract was entered into on July 10, 1984, and with respect to which $200,000 of the expected $2,000,000 cost had been committed before June 15, 1986,

"(C) a mixed income housing project in Portland, Maine which is known as the Back Bay Tower and which is expected to cost $17,300,000,

"(D) the Eastman Place project and office building in Rochester, New York, which is projected to cost $20,000,000, with respect to which an inducement resolution was adopted in December 1986, and for which a binding contract of $500,000 was entered into on April 30, 1986,

"(E) the Marquis Two project in Atlanta, Georgia which has a total budget of $72,000,000 and the construction phase of which began under a contract entered into on March 26, 1986,

"(F) a 166-unit continuing care retirement center in New Orleans, Louisiana, the construction contract for which was signed on February 12, 1986, and is for a maximum amount not to exceed $8,500,000,

"(G) the expansion of the capacity of an oil refining facility in Rosemont, Minnesota from 137,000 to 207,000

barrels per day which is expected to be completed by December 31, 1990, and

"(H) a project in Ransom, Pennsylvania which will burn coal waste (known as 'culm') with an approximate cost of $64,000,000 and for which a certification from the Federal Energy Regulatory Commission was received on March 11, 1986.

"(39) The amendments made by section 201 shall not apply to any facility for the manufacture of an improved particle board if a binding contract to purchase such equipment was executed March 3, 1986, such equipment will be placed in service by January 1, 1988, and such facility is located in or near Moncure, North Carolina."

(27) Subsection (b) of section 204 of the Reform Act is amended by inserting "(as amended by the Tax Reform Act of 1984)" immediately before the period at the end thereof. 26 USC 168 note.

(28) Subparagraph (A) of section 204(c)(1) of the Reform Act is amended by inserting "located in Pennsylvania and" before "constructed pursuant". Pennsylvania.

(29) Paragraph (3) of section 204(c) of the Reform Act is amended—

(A) by striking out "for the applicable date" and inserting in lieu thereof "(or, in the case of a project described in subparagraph (B), by substituting 'April 1, 1992') for the applicable date",

(B) by striking out "before April 1, 1986" in subparagraph (A) and inserting in lieu thereof "on or before April 1, 1986", and

(C) by adding at the end thereof the following:

"In the case of an aircraft described in subparagraph (A), section 203(b)(1)(A) shall be applied by substituting 'April 1, 1986' for 'March 1, 1986' and section 49(e)(1)(B) of the Internal Revenue Code of 1986 shall not apply."

(30)(A) Paragraph (4) of section 204(c) of the Reform Act is amended by striking out all that precedes subparagraph (L) and inserting in lieu thereof the following:

"(4) The amendments made by section 201 shall not apply to a limited amount of the following property or a limited amount of property set forth in a submission before September 16, 1986, by the following taxpayers:

"(A) Arena project, Michigan, but only with respect to $78,000,000 of investments.

"(B) Campbell Soup Company, Pennsylvania, California, North Carolina, Ohio, Maryland, Florida, Nebraska, Michigan, South Carolina, Texas, New Jersey, and Delaware, but only with respect to $9,329,000 of regular investment tax credits.

"(C) The Southeast Overtown/Park West development, Florida, but only with respect to $200,000,000 of investments.

"(D) Equipment placed in service and operated by Leggett and Platt before July 1, 1987, but only with respect to $2,000,000 of regular investment tax credits, and subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986 shall not apply to such equipment.

"(E) East Bank Housing Project.

"(F) $1,561,215 of investments by Standard Telephone Company.

"(G) Five aircraft placed in service before January 1, 1987, by Presidential Air.

"(H) A rehabilitation project by Ann Arbor Railroad, but only with respect to $2,900,000 of investments.

"(I) Property that is part of a cogeneration project located in Ada, Michigan, but only with respect to $30,000,000 of investments.

"(J) Anchor Store Project, Michigan, but only with respect to $21,000,000 of investments.

"(K) A waste-fired electrical generating facility of Biogen Power, but only with respect to $34,000,000 of investments."

26 USC 168 note.

(B) Paragraph (4) of section 204(c) of the Reform Act is amended by striking out all that follows subparagraph (L) and inserting in lieu thereof the following:

"(M) Interests of Samuel A. Hardage (whether owned individually or in partnership form).

"(N) Two aircraft of Mesa Airlines with an aggregate cost of $5,723,484.

"(O) Yarn-spinning equipment used at Spray Cotton Mills, but only with respect to $3,000,000 of investments.

"(P) 328 units of low-income housing at Angelus Plaza, but only with respect to $20,500,000 of investments.

"(Q) One aircraft of Continental Aviation Services with a cost of approximately $15,000,000 that was purchased pursuant to a contract entered into during March of 1983 and that is placed in service by December 31, 1988."

(31) Paragraph (29) of section 204(a) of the Reform Act is amended—

(A) by striking out "January 18" in subparagraph (A) and inserting in lieu thereof "January 25", and

(B) by striking out "law suits filed on June 22, 1984, and November 21, 1985" in subparagraph (B) and inserting in lieu thereof "a law suit filed on October 25, 1985".

(32) Subparagraph (J) of section 204(a)(33) of the Reform Act, as amended by paragraph (25), is amended to read as follows:

"(J) A 25.85 megawatt alternative energy facility located in Deblois, Maine, with respect to which certification by the Federal Energy Regulatory Commission was made on April 3, 1986,".

(33) Paragraph (3) of section 204(c) of the Reform Act is amended—

(A) by inserting "and" at the end of subparagraph (B),

(B) by striking out subparagraph (C), and

(C) by redesignating subparagraph (D) as subparagraph (C).

(34) Subclause (II) of section 204(a)(5)(J)(ii) of the Reform Act is amended to read as follows:

"(II) the Board of Directors of an automobile manufacturer approved a written plan for the conversion of existing facilities to produce new models of a vehicle not currently produced in the United States, such facilities will be placed in service by July 1, 1987, and such Board action occurred in July 1985 with respect to a $602,000,000 expendi-

ture, a $438,000,000 expenditure, and a $321,000,000 expenditure."

(35) Subparagraph (T) of section 204(a)(5) of the Reform Act is amended to read as follows:

"(T) A project is described in this subparagraph if it is a plant facility on Alaska's North Slope which is placed in service before January 1, 1988, and— Alaska.

"(i) the approximate cost of which is $675,000,000, of which approximately $400,000,000 was spent on off-site construction,

"(ii) the approximate cost of which is $445,000,000, of which approximately $400,000,000 was spent on off-site construction and more than 50 percent of the project cost was spent prior to December 31, 1985, or

"(iii) the approximate cost of which is $375,000,000, of which approximately $260,000,000 was spent on off-site construction."

(e) AMENDMENTS RELATING TO SECTION 211 OF THE REFORM ACT.—

(1) Paragraph (1) of section 49(d) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—In the case of periods after December 31, 1985, with respect to so much of the credit determined under section 46(a) with respect to transition property as is attributable to the regular investment credit (as defined in subsection (c)(5)(B))—

"(A) paragraphs (1), (2), and (7) of section 48(q) and section 48(d)(5) shall be applied by substituting '100 percent' for '50 percent' each place it appears, and

"(B) sections 48(q)(4) and 196(d) shall not apply."

(2) Subparagraph (B) of section 49(c)(4) of the 1986 Code is amended to read as follows:

"(B) NO CARRYBACK FOR YEARS STRADDLING JULY 1, 1987; GROSS UP OF CARRYFORWARDS.—In any case to which paragraph (3) applies—

"(i) the amount of the reduction under paragraph (3) may not be carried back to any taxable year, but

"(ii) there shall be added to the carryforwards from the taxable year (before applying paragraph (2)) an amount equal to the amount which bears the same ratio to the carryforwards from such taxable year (determined without regard to this clause) as—

"(I) the applicable percentage, bears to

"(II) 1 minus the applicable percentage."

(3) Clause (i) of section 49(c)(5)(B) of the 1986 Code is amended to read as follows:

"(i) IN GENERAL.—The term 'regular investment credit' means the credit determined under section 46(a) to the extent attributable to the regular percentage."

(4) Paragraph (1) of section 211(e) of the Reform Act is amended by adding at the end thereof the following new sentence: "Section 49(c) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to taxable years ending after June 30, 1987, and to amounts carried to such taxable years." 26 USC 49 note.

(5) Paragraph (4)(A) of section 211(e) of the Reform Act is amended—

(A) by striking out "Paragraphs (c) and (d) of section 49 of the Internal Revenue Code of 1954" and inserting in lieu thereof "Subsections (c) and (d) of section 49 of the Internal Revenue Code of 1986", and

(B) by striking out "1935" and inserting in lieu thereof "1985".

26 USC 49 note.

(6) Paragraph (4)(B) of section 211(e) of the Reform Act is amended by striking out "shall be treated as transition property" and inserting in lieu thereof "shall be treated as transition property and subsections (c) and (d) of section 49 of such Code shall not apply to such property".

(7) Paragraph (4) of section 211(e) of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

Waste disposal.
Minnesota.

"(C) Any solid waste disposal facility which will process and incinerate solid waste of one or more public or private entities including Dakota County, Minnesota, and with respect to which a bond carryforward from 1985 was elected in an amount equal to $12,500,000 shall be treated as transition property within the meaning of section 49(e) of the Internal Revenue Code of 1986.

Maritime affairs.

"(D) For purposes of section 49 of such Code, the following property shall be treated as transition property:

Washington.

"(i) 2 catamarans built by a shipbuilder incorporated in the State of Washington in 1964, the contracts for which were signed on April 22, 1986 and November 12, 1985, and 1 barge built by such shipbuilder the contract for which was signed on August 7, 1985.

"(ii) 2 large passenger ocean-going United States flag cruise ships with a passenger rated capacity of up to 250 which are built by the shipbuilder described in clause (i), which are the first such ships built in the United States since 1952, and which were designed at the request of a Pacific Coast cruise line pursuant to a contract entered into in October 1985. This clause shall apply only to that portion of the cost of each ship which does not exceed $40,000,000.

Minnesota.

"(iii) Property placed in service during 1986 by Satellite Industries, Inc., with headquarters in Minneapolis, Minnesota, to the extent that the cost of such property does not exceed $1,950,000.

"(E) Subsections (c) and (d) of section 49 of such Code shall not apply to property described in section 204(a)(4) of this Act."

(8)(A) Subsection (d) of section 38 is amended to read as follows:

"(d) ORDERING RULES.—For purposes of sections 46(f), 47(a), 196(a), and any other provision of this title where it is necessary to ascertain the extent to which the credits determined under any section referred to in subsection (b) are used in a taxable year or as a carryback or carryforward—

"(1) IN GENERAL.—The order in which such credits are used shall be determined on the basis of the order in which they are listed in subsection (b) as of the close of the taxable year in which the credit is used.

"(2) COMPONENTS OF INVESTMENT CREDIT.—The order in which credits attributable to a percentage referred to in section 46(a)

are used shall be determined on the basis of the order in which such percentages are listed in section 46(a) as of the close of the taxable year in which the credit is used.

"(3) CREDITS NO LONGER LISTED.—For purposes of this subsection—

"(A) the credit allowable by section 40, as in effect on the day before the date of the enactment of the Tax Reform Act of 1984, (relating to expenses of work incentive programs) and the credit allowable by section 41(a), as in effect on the day before the date of the enactment of the Tax Reform Act of 1986, (relating to employee stock ownership credit) shall be treated as referred to in that order after the last paragraph of subsection (b), and

"(B) the employee plan percentage (as defined in section 46(a)(2)(E), as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) shall be treated as referred to after section 46(a)(2)."

(B) Subparagraph (C) of section 49(c)(5) of the 1986 Code is hereby repealed.

(C) The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1983, and to carrybacks from such years. 26 USC 38 note.

(f) AMENDMENTS RELATED TO SECTION 212 OF THE REFORM ACT.—

(1) Paragraph (2) of section 212(f) of the Reform Act is amended by striking out so much of such paragraph as precedes subparagraph (A) and insert in lieu thereof the following: 26 USC 38 note.

"(2) SPECIAL RULE.—In the case of the LTV Corporation, in lieu of the requirements of paragraph (1)—".

(2) Subclause (I) of section 212(f)(2)(B)(i) of the Reform Act is amended by striking out "such involvement begins" and inserting in lieu thereof "when the corporation receives the refund".

(3) Subsection (g) of section 212 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR RESTRUCTURING.—In the case of any corporation, any restructuring shall not limit, increase, or otherwise affect the benefits which would have been available under this section but for such restructuring."

(4) Section 212 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(h) TENTATIVE REFUNDS.—Rules similar to the rules of section 6425 of the Internal Revenue Code of 1986 shall apply to any overpayment resulting from the application of this section."

(5) Subparagraph (B) of section 212(g)(2) of the Reform Act is amended by striking out "determined under" and inserting in lieu thereof "determined for periods before January 1, 1986, under".

(6) Section 212(f) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(3) In the case of a qualified corporation, no offset to any refund under this section may be made by reason of any tax imposed by section 4971 of the Internal Revenue Code of 1986 (or any interest or penalty attributable to any such tax), and the date on which any such refund is to be paid shall be determined without regard to such corporation's status under title 11, United States Code."

(g) AMENDMENT RELATED TO SECTION 213 OF THE REFORM ACT.—Subparagraph (B) of section 213(e)(2) of the Reform Act is amended 26 USC 38 note.

by striking out "determined under" and inserting in lieu thereof "determined for periods before January 1, 1986, under".

(h) AMENDMENTS RELATED TO SECTION 231 OF THE REFORM ACT.—

(1) Subsection (g) of section 41 of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the amount determined under subsection (a) for any taxable year exceeds the limitation of the preceding sentence, such amount may be carried to other taxable years under the rules of section 39; except that the limitation of the preceding sentence shall be taken into account in lieu of the limitation of section 38(c) in applying section 39."

(2) Subsection (c) of section 6411 of the 1986 Code is amended by striking out "unused research credit,".

(3) Section 936(h)(5)(C)(i)(IV)(c) of the 1986 Code is amended—

(A) by striking out "section 30" and inserting in lieu thereof "section 41", and

(B) by striking out "section 30(f)" and inserting in lieu thereof "section 41(f)".

(i) AMENDMENTS RELATED TO SECTIONS 241 AND 242 OF THE REFORM ACT.—

(1) Section 167 of the 1986 Code is amended by redesignating subsection (r) as subsection (s) and by inserting after subsection (q) the following new subsection:

"(r) TRADEMARK OR TRADE NAME EXPENDITURES NOT DEPRECIABLE.—

"(1) IN GENERAL.—No depreciation deduction shall be allowable under this section (and no depreciation or amortization deduction shall be allowable under any other provision of this subtitle) with respect to any trademark or trade name expenditure.

"(2) TRADEMARK OR TRADE NAME EXPENDITURE.—For purposes of this subsection, the term 'trademark or trade name expenditure' means any expenditure which is directly connected with the acquisition, protection, expansion, registration (Federal, State, or foreign), or defense of a trademark or trade name."

(2)(A) Paragraph (1) of section 168(c) of the 1986 Code (as amended by section 102(a) is amended by adding at the end thereof the following new item:

"Any railroad grading or tunnel bore ..... 50 years."

(B)(i) Paragraph (3) of section 168(b) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) Any railroad grading or tunnel bore."

(ii) Paragraph (5) of section 168(b) of the 1986 Code (as amended by section 102(a)) is amended by striking out "(3)(C)" and inserting in lieu thereof "(3)(D)".

(C) Subsection (e) of section 168 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) RAILROAD GRADING OR TUNNEL BORE.—The term 'railroad grading or tunnel bore' means all improvements resulting from excavations (including tunneling), construction of embankments, clearings, diversions of roads and streams, sodding of slopes, and from similar work necessary to provide, construct, reconstruct, alter, protect, improve, replace, or restore a roadbed or right-of-way for railroad track."

(D) Paragraph (2) of section 168(d) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by inserting "and" at the end of subparagraph (B), and by inserting after subparagraph (B) the following new subparagraph:

"(C) any railroad grading or tunnel bore,".

(E) Clause (i) of section 168(d)(3)(B) of the 1986 Code (as amended by section 102(a)) is amended by striking out "and residential rental property" and inserting in lieu thereof "residential rental property, and railroad grading or tunnel bore".

(F) The table contained in paragraph (2)(C) of section 168(g) of the 1986 Code is amended by adding at the end thereof the following new item:

"(iv) Any railroad grading or tunnel bore ..... 50 years."

(G) Subparagraph (E) of section 168(i)(1) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) SPECIAL RULE FOR RAILROAD GRADING OR TUNNEL BORES.—In the case of any property which is a railroad grading or tunnel bore—

"(I) such property shall be treated as an assigned property,

"(II) the recovery period applicable to such property shall be treated as an assigned item, and

"(III) clause (ii) of subparagraph (D) shall not apply."

(H) The table contained in subparagraph (A) of section 467(e)(3) of the 1986 Code is amended by adding at the end thereof the following new item:

"Any railroad grading or tunnel bore ..... 50 years."

(I) Paragraph (3) of section 1245(a) of the 1986 Code is amended by striking out "or" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E), and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(F) any railroad grading or tunnel bore (as defined in section 168(e)(4))."

(j) AMENDMENTS RELATED TO SECTION 243 OF THE REFORM ACT.—

(1) Section 243 of the Reform Act (related to deduction of bus and freight forwarder operating authority) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection: 26 USC 165 note.

"(d) APPLICATION OF SECTION 334(b)(2).—For purposes of subsections (a) and (b), the reference to section 334(b)(2) in section 266(c)(2)(A)(ii) of the Economic Recovery Tax Act of 1981 shall be a reference to such section as in effect before its repeal."

(2) The heading of subparagraph (A) of section 243(b)(2) of the Reform Act is amended by striking out "TO BEGIN IN 1987".

(k) AMENDMENTS RELATED TO SECTION 251 OF THE REFORM ACT.—

(1) Paragraph (2)(B) of section 251(d) of the Reform Act is amended by striking out clause (i) and redesignating clauses (ii) and (iii) as clauses (i) and (ii), respectively. 26 USC 46 note.

(2) Subparagraph (P) of section 251(d)(3) of the Reform Act is amended by striking out "San Francisco" and inserting in lieu thereof "San Jose, California". California.

(3) Paragraph (4) of section 251(d) of the Reform Act is amended—

(A) by striking out "Lakeland marbel Arcade" in subparagraph (K) and inserting in lieu thereof "Marble Arcade office building",

(B) by striking out "and" at the end of subparagraph (Y), and

(C) by striking out subparagraph (Z) and inserting in lieu thereof the following:

State listing.

"(Z) the Bigelow-Hartford Carpet Mill in Enfield, Connecticut,

"(AA) properties abutting 125th street in New York County from 7th Avenue west to Morningside and the pier area on the Hudson River at the end of such 125th Street,

"(BB) the City of Los Angeles Central Library project pursuant to an agreement dated December 28, 1983,

"(CC) the Warehouse Row project in Chattanooga, Tennessee,

"(DD) any project described in section 204(a)(1)(F) of this Act,

"(EE) the Wood Street Commons project in Pittsburgh, Pennsylvania,

"(FF) any project described in section 803(d)(6) of this Act,

"(GG) Union Station, Indianapolis, Indiana,

"(HH) the Mattress Factory project in Pittsburgh, Pennsylvania,

"(II) Union Station in Providence, Rhode Island,

"(JJ) South Pack Plaza, Asheville, North Carolina,

"(KK) Old Louisville Trust Project, Louisville, Kentucky,

"(LL) Stewarts Rehabilitation Project, Louisville, Kentucky,

"(MM) Bernheim Officenter, Louisville, Kentucky,

"(NN) Springville Mill Project, Rockville, Connecticut, and

"(OO) the D.J. Stewart Company Building, State and Main Streets, Rockford, Illinois."

26 USC 46 note.

(4) Subsection (d) of section 251 of the Reform Act is amended by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) EXPENSING OF REHABILITATION EXPENSES FOR THE FRANKFORD ARSENAL.—In the case of any expenditures paid or incurred in connection with improvements (including repairs and maintenance) of the Frankford Arsenal pursuant to a contract and partnership agreement during the 8-year period specified in the contract or agreement, all such expenditures to be made during the period 1986 through and including 1993 shall—

"(A) be treated as made (and allowable as a deduction) during 1986,

"(B) be treated as qualified rehabilitation expenditures made during 1986, and

"(C) be allocated in accordance with the partnership agreement regardless of when the interest in the partnership was acquired, except that—

"(i) if the taxpayer is not the original holder of such interest, no person (other than the taxpayer) had claimed any benefits by reason of this paragraph,

"(ii) no interest under section 6611 of the 1986 Code on any refund of income taxes which is solely attributable to this paragraph shall be paid for the period—

"(I) beginning on the date which is 45 days after the later of April 15, 1987, or the date on which the return for such taxes was filed, and

"(II) ending on the date the taxpayer acquired the interest in the partnership, and

"(iii) if the expenditures to be made under this provision are not paid or incurred before January 1, 1994, then the tax imposed by chapter 1 of such Code for the taxpayer's last taxable year beginning in 1993 shall be increased by the amount of the tax benefits by reason of this paragraph which are attributable to the expenditures not so paid or incurred.

"(7) SPECIAL RULE.—In the case of the rehabilitation of the Willard Hotel in Washington, D.C., section 205(c)(1)(B)(ii) of the Tax Equity and Fiscal Responsibility Act of 1982 shall be applied by substituting '1987' for '1986'." District of Columbia.

(5) Subparagraph (B) of section 251(d)(3) of the Reform Act is amended by striking out "Pontabla" and inserting in lieu thereof "Pontalba". 26 USC 46 note.

(6) Subparagraph (T) of section 251(d)(4) of the Reform Act is amended by striking out "Louisville" and inserting in lieu thereof "Covington".

(l) AMENDMENTS RELATED TO SECTION 252 OF THE REFORM ACT.— Housing. Contracts.

(1)(A) Subparagraph (A) of section 42(b)(2) of the 1986 Code is amended by striking out "for the month" and all that follows and inserting in lieu thereof "for the earlier of—

"(i) the month in which such building is placed in service, or

"(ii) at the election of the taxpayer—

"(I) the month in which the taxpayer and the housing credit agency enter into an agreement with respect to such building (which is binding on such agency, the taxpayer, and all successors in interest) as to the housing credit dollar amount to be allocated to such building, or

"(II) in the case of any building to which subsection (h)(4)(B) applies, the month in which the tax-exempt obligations are issued.

A month may be elected under clause (ii) only if the election is made not later than the 5th day after the close of such month. Such an election, once made, shall be irrevocable."

(B) Clause (ii) of section 42(b)(2)(C) of the 1986 Code is amended by striking out "the month in which the building was placed in service" and inserting in lieu thereof "the month applicable under clause (i) or (ii) of subparagraph (A)".

(2)(A) Subparagraph (A) of section 42(c)(2) of the 1986 Code (defining qualified low-income building) is amended to read as follows: Disadvantaged persons.

"(A) which is part of a qualified low-income housing project at all times during the period—

"(i) beginning on the 1st day in the compliance period on which such building is part of such a project, and

"(ii) ending on the last day of the compliance period with respect to such building, and".

(B) Paragraph (1) of section 42(f) of the 1986 Code (defining credit period) is amended by striking out "beginning with" and all that follows and inserting in lieu thereof "beginning with—

"(A) the taxable year in which the building is placed in service, or

"(B) at the election of the taxpayer, the succeeding taxable year,

but only if the building is a qualified low-income building as of the close of the 1st year of such period. The election under subparagraph (B), once made, shall be irrevocable."

(3) Clause (ii) of section 42(d)(2)(D) of the 1986 Code is amended to read as follows:

"(ii) SPECIAL RULES FOR CERTAIN TRANSFERS.—For purposes of determining under subparagraph (B)(ii) when a building was last placed in service, there shall not be taken into account any placement in service—

"(I) in connection with the acquisition of the building in a transaction in which the basis of the building in the hands of the person acquiring it is determined in whole or in part by reference to the adjusted basis of such building in the hands of the person from whom acquired,

"(II) by a person whose basis in such building is determined under section 1014(a) (relating to property acquired from a decedent),

"(III) by any governmental unit or qualified nonprofit organization (as defined in subsection (h)(5)) if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such unit or organization and all the income from such property is exempt from Federal income taxation, or

"(IV) by any person who acquired such building by foreclosure (or by instrument in lieu of foreclosure) of any purchase-money security interest held by such person if the requirements of subparagraph (B)(ii) are met with respect to the placement in service by such person and such building is resold within 12 months after the date such building is placed in service by such person after such foreclosure."

(4) Paragraph (3) of section 42(d) of the 1986 Code is amended to read as follows:

"(3) ELIGIBLE BASIS REDUCED WHERE DISPROPORTIONATE STANDARDS FOR UNITS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the eligible basis of any building shall be reduced by an amount equal to the portion of the adjusted basis of the building which is attributable to residential rental units in the building which are not low-income units and which are above the average quality standard of the low-income units in the building.

"(B) EXCEPTION WHERE TAXPAYER ELECTS TO EXCLUDE EXCESS COSTS.—

"(i) IN GENERAL.—Subparagraph (A) shall not apply with respect to a residential rental unit in a building which is not a low-income unit if—

"(I) the excess described in clause (ii) with respect to such unit is not greater than 15 percent of the cost described in clause (ii)(II), and

"(II) the taxpayer elects to exclude from the eligible basis of such building the excess described in clause (ii) with respect to such unit.

"(ii) EXCESS.—The excess described in this clause with respect to any unit is the excess of—

"(I) the cost of such unit, over

"(II) the amount which would be the cost of such unit if the average cost per square foot of low-income units in the building were substituted for the cost per square foot of such unit.

The Secretary may by regulation provide for the determination of the excess under this clause on a basis other than square foot costs."

(5) Subparagraph (A) of section 42(d)(5) of the 1986 Code is amended by inserting before the period "(increased, in the case of an existing building which meets the requirements of paragraph (2)(B), by the amounts described in paragraph (2)(A)(i)(II))".

(6)(A) Paragraph (5) of section 42(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELIGIBLE BASIS NOT TO INCLUDE EXPENDITURES WHERE 167(k) ELECTED.—The eligible basis of any building shall not include any portion of its adjusted basis which is attributable to amounts with respect to which an election is made under section 167(k)."

(B) Subparagraph (A) of section 42(d)(5) of the 1986 Code is amended by striking out "subparagraph (B)" and inserting in lieu thereof "subparagraphs (B) and (C)".

(7) Subparagraph (A) of section 42(d)(6) of the 1986 Code is amended by inserting "or" at the end of clause (i), by striking out ", or" at the end of clause (ii) and inserting in lieu thereof a period, and by striking out clause (iii).

(8) Clause (ii) of section 42(d)(6)(B) of the 1986 Code (defining federally assisted building) is amended by striking out "of 1934".

(9)(A) Paragraph (3) of section 42(f) of the 1986 Code is amended to read as follows:

"(3) DETERMINATION OF APPLICABLE PERCENTAGE WITH RESPECT TO INCREASES IN QUALIFIED BASIS AFTER 1ST YEAR OF CREDIT PERIOD.—

"(A) IN GENERAL.—In the case of any building which was a qualified low-income building as of the close of the 1st year of the credit period, if— Disadvantaged persons.

"(i) as of the close of any taxable year in the compliance period (after the 1st year of the credit period) the qualified basis of such building exceeds

"(ii) the qualified basis of such building as of the close of the 1st year of the credit period,

the applicable percentage which shall apply under subsection (a) for the taxable year to such excess shall be the percentage equal to ⅔ of the applicable percentage which (after the application of subsection (h)) would but for this paragraph apply to such basis.

"(B) 1ST YEAR COMPUTATION APPLIES.—A rule similar to the rule of paragraph (2)(A) shall apply to any increase in qualified basis to which subparagraph (A) applies for the 1st year of such increase."

(B) Paragraph (3) of section 42(b) of the 1986 Code is amended to read as follows:

"(3) CROSS REFERENCES.—

"(A) For treatment of certain rehabilitation expenditures as separate new buildings, see subsection (e).

"(B) For determination of applicable percentage for increases in qualified basis after the 1st year of the credit period, see subsection (f)(3).

"(C) For authority of housing credit agency to limit applicable percentage and qualified basis which may be taken into account under this section with respect to any building, see subsection (h)(6)."

(10) Subparagraph (B) of section 42(g)(2) of the 1986 Code (defining gross rent) is amended by striking out "Federal rental assistance" and inserting in lieu thereof "rental assistance".

(11) Paragraph (2) of section 42(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) UNITS WHERE FEDERAL RENTAL ASSISTANCE IS REDUCED AS TENANT'S INCOME INCREASES.—If the gross rent with respect to a residential unit exceeds the limitation under subparagraph (A) by reason of the fact that the income of the occupants thereof exceeds the income limitation applicable under paragraph (1), such unit shall, nevertheless, be treated as a rent-restricted unit for purposes of paragraph (1) if—

"(i) a Federal rental assistance payment described in subparagraph (B)(i) is made with respect to such unit or its occupants, and

"(ii) the sum of such payment and the gross rent with respect to such unit does not exceed the sum of the amount of such payment which would be made and the gross rent which would be payable with respect to such unit if—

"(I) the income of the occupants thereof did not exceed the income limitation applicable under paragraph (1), and

"(II) such units were rent-restricted within the meaning of subparagraph (A).

The preceding sentence shall apply to any unit only if the result described in clause (ii) is required by Federal statute as of the date of the enactment of this subparagraph and as of the date the Federal rental assistance payment is made."

(12) Paragraph (3) of section 42(g) of the 1986 Code is amended to read as follows:

Disadvantaged persons.

"(3) DATE FOR MEETING REQUIREMENTS.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, a building shall be treated as a qualified low-income building only if the project (of which such building is a part) meets the requirements of paragraph (1) not later than the close of the 12-month period beginning on the date the building is placed in service.

"(B) BUILDINGS WHICH RELY ON LATER BUILDINGS FOR QUALIFICATION.—

"(i) IN GENERAL.—In determining whether a building (hereinafter in this subparagraph referred to as the

'prior building') is a qualified low-income building, the taxpayer may take into account 1 or more additional buildings placed in service during the 12-month period described in subparagraph (A) with respect to the prior building only if the taxpayer elects to apply clause (ii) with respect to each additional building taken into account.

"(ii) TREATMENT OF ELECTED BUILDINGS.—In the case of a building which the taxpayer elects to take into account under clause (i), the period under subparagraph (A) for such building shall end at the close of the 12-month period applicable to the prior building.

"(iii) DATE PRIOR BUILDING IS TREATED AS PLACED IN SERVICE.—For purposes of determining the credit period and the compliance period for the prior building, the prior building shall be treated for purposes of this section as placed in service on the most recent date any additional building elected by the taxpayer (with respect to such prior building) was placed in service.

"(C) SPECIAL RULE.—A building—

"(i) other than the 1st building placed in service as part of a project, and

"(ii) other than a building which is placed in service during the 12-month period described in subparagraph (A) with respect to a prior building which becomes a qualified low-income building,

shall in no event be treated as a qualified low-income building unless the project is a qualified low-income housing project (without regard to such building) on the date such building is placed in service."

(13) Paragraph (4) of section 42(g) of the 1986 Code is amended by inserting before the period "; except that, in applying such provisions (other than section 142(d)(4)(B)(iii)) for such purposes, the term 'gross rent' shall have the meaning given such term by paragraph (2)(B) of this subsection".

(14)(A) Paragraph (1) of section 42(h) of the 1986 Code is amended to read as follows:

"(1) CREDIT MAY NOT EXCEED CREDIT AMOUNT ALLOCATED TO BUILDING.—

"(A) IN GENERAL.—The amount of the credit determined under this section for any taxable year with respect to any building shall not exceed the housing credit dollar amount allocated to such building under this subsection.

"(B) TIME FOR MAKING ALLOCATION.—Except in the case of an allocation which meets the requirements of subparagraph (C) or (D), an allocation shall be taken into account under subparagraph (A) only if it is made not later than the close of the calendar year in which the building is placed in service.

"(C) EXCEPTION WHERE BINDING COMMITMENT.—An allocation meets the requirements of this subparagraph if there is a binding commitment (not later than the close of the calendar year in which the building is placed in service) by the housing credit agency to allocate a specified housing credit dollar amount to such building beginning in a specified later taxable year.

"(D) EXCEPTION WHERE INCREASE IN QUALIFIED BASIS.—

"(i) IN GENERAL.—An allocation meets the requirements of this subparagraph if such allocation is made not later than the close of the calendar year in which ends the taxable year to which it will 1st apply but only to the extent the amount of such allocation does not exceed the limitation under clause (ii).

"(ii) LIMITATION.—The limitation under this clause is the amount of credit allowable under this section (without regard to this subsection) for a taxable year with respect to an increase in the qualified basis of the building equal to the excess of—

"(I) the qualified basis of such building as of the close of the 1st taxable year to which such allocation will apply, over

"(II) the qualified basis of such building as of the close of the 1st taxable year to which the most recent prior housing credit allocation with respect to such building applied.

"(iii) HOUSING CREDIT DOLLAR AMOUNT REDUCED BY FULL ALLOCATION.—Notwithstanding clause (i), the full amount of the allocation shall be taken into account under paragraph (2)."

(B) Clause (ii) of section 42(h)(6)(B) of the 1986 Code is hereby repealed.

(15) Subparagraph (A) of section 42(h)(4) of the 1986 Code is amended by striking out "financed" and all that follows and inserting in lieu thereof "financed by any obligation the interest on which is exempt from tax under section 103 if—

"(i) such obligation is taken into account under section 146, and

"(ii) principal payments on such financing are applied within a reasonable period to redeem obligations the proceeds of which were used to provide such financing."

(16) Paragraph (5) of section 42(h) of the 1986 Code is amended by redesignating subparagraph (D) as subparagraph (E) and by inserting after subparagraph (C) the following new subparagraph:

"(D) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(i) IN GENERAL.—For purposes of this paragraph, a qualified nonprofit organization shall be treated as satisfying the material participation test of subparagraph (B) if any qualified corporation in which such organization holds stock satisfies such test.

"(ii) QUALIFIED CORPORATION.—For purposes of clause (ii), the term 'qualified corporation' means any corporation if 100 percent of the stock of such corporation is held by 1 or more qualified nonprofit organizations at all times during the period such corporation is in existence."

(17) Subparagraph (D) of section 42(h)(6) of the 1986 Code is amended to read as follows:

"(D) CREDIT REDUCED IF ALLOCATED CREDIT DOLLAR AMOUNT IS LESS THAN CREDIT WHICH WOULD BE ALLOWABLE WITHOUT REGARD TO PLACED IN SERVICE CONVENTION, ETC.—

"(i) IN GENERAL.—The amount of the credit determined under this section with respect to any building

shall not exceed the clause (ii) percentage of the amount of the credit which would (but for this subparagraph) be determined under this section with respect to such building.

"(ii) DETERMINATION OF PERCENTAGE.—For purposes of clause (i), the clause (ii) percentage with respect to any building is the percentage which—

"(I) the housing credit dollar amount allocated to such building bears to

"(II) the credit amount determined in accordance with clause (iii).

"(iii) DETERMINATION OF CREDIT AMOUNT.—The credit amount determined in accordance with this clause is the amount of the credit which would (but for this subparagraph) be determined under this section with respect to the building if—

"(I) this section were applied without regard to paragraphs (2)(A) and (3)(B) of subsection (f), and

"(II) subsection (f)(3)(A) were applied without regard to 'the percentage equal to ⅔ of'."

(18) Paragraph (6) of section 42(h) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) HOUSING CREDIT AGENCY TO SPECIFY APPLICABLE PERCENTAGE AND MAXIMUM QUALIFIED BASIS.—In allocating a housing credit dollar amount to any building, the housing credit agency shall specify the applicable percentage and the maximum qualified basis which may be taken into account under this section with respect to such building. The applicable percentage and maximum qualified basis so specified shall not exceed the applicable percentage and qualified basis determined under this section without regard to this subsection."

(19)(A) Subparagraph (A) of section 42(i)(2) of the 1986 Code is amended—

(i) by inserting "or any prior taxable year" after "such taxable year",

(ii) by striking out "there is outstanding" and inserting in lieu thereof "there is or was outstanding", and

(iii) by striking out "are used" and inserting in lieu thereof "are or were used".

(B) Subparagraph (B) of section 42(i)(2) of the 1986 Code is amended to read as follows:

"(B) ELECTION TO REDUCE ELIGIBLE BASIS BY BALANCE OF LOAN OR PROCEEDS OF OBLIGATIONS.—A loan or tax-exempt obligation shall not be taken into account under subparagraph (A) if the taxpayer elects to exclude from the eligible basis of the building for purposes of subsection (d)—

"(i) in the case of a loan, the principal amount of such loan, and

"(ii) in the case of a tax-exempt obligation, the proceeds of such obligation."

(C) Paragraph (2) of section 42(i) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) SPECIAL RULE FOR SUBSIDIZED CONSTRUCTION FINANCING.—Subparagraph (A) shall not apply to any tax-exempt

obligation or below market Federal loan used to provide construction financing for any building if—

"(i) such obligation or loan (when issued or made) identified the building for which the proceeds of such obligation or loan would be used, and

"(ii) such obligation is redeemed, and such loan is repaid, before such building is placed in service."

(D) Subparagraph (D) of section 42(i)(2) of the 1986 Code is amended by striking out "subparagraph (A)" and inserting in lieu thereof "this paragraph".

(20) Paragraph (4) of section 42(j) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) NO RECAPTURE WHERE DE MINIMIS CHANGES IN FLOOR SPACE.—The Secretary may provide that the increase in tax under this subsection shall not apply with respect to any building if—

"(i) such increase results from a de minimis change in the floor space fraction under subsection (c)(1), and

"(ii) the building is a qualified low-income building after such change."

(21) Clause (i) of section 42(j)(5)(B) of the 1986 Code is amended to read as follows:

"(i) more than ½ the capital interests, and more than ½ the profit interests, in which are owned by a group of 35 or more partners each of whom is a natural person or an estate, and".

(22) Paragraph (6) of section 42(j) of the 1986 Code is amended—

(A) by inserting "(OR INTEREST THEREIN)" after "BUILDING" in the heading, and

(B) by inserting "or an interest therein" after "disposition of a building" in the text.

(23) Subparagraph (B) of section 42(k)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: ", except that this subparagraph shall not apply in the case of a federally assisted building described in subsection (d)(6)(B) if—

"(i) a security interest in such building is not permitted by a Federal agency holding or insuring the mortgage secured by such building, and

"(ii) the proceeds from the financing (if any) are applied to acquire or improve such building."

(24)(A) Subsection (l) of section 42 of the 1986 Code is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) ANNUAL REPORTS TO THE SECRETARY.—The Secretary may require taxpayers to submit an information return (at such time and in such form and manner as the Secretary prescribes) for each taxable year setting forth—

"(A) the qualified basis for the taxable year of each qualified low-income building of the taxpayer,

"(B) the information described in paragraph (1)(C) for the taxable year, and

"(C) such other information as the Secretary may require.

The penalty under section 6652(j) shall apply to any failure to submit the return required by the Secretary under the preceding sentence on the date prescribed therefor."

(B) The subsection heading of subsection (l) of section 42 is amended to read as follows:

"(l) CERTIFICATIONS AND OTHER REPORTS TO SECRETARY.—".

(25) Paragraph (1) of section 42(n) of the 1986 Code is amended by inserting before the period at the end thereof the following: ", and, except for any building described in paragraph (2)(B), subsection (h)(4) shall not apply to any building placed in service after 1989".

(26) Subsection (d) of section 39 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) NO CARRYBACK OF LOW-INCOME HOUSING CREDIT BEFORE 1987.—No portion of the unused business credit for any taxable year which is attributable to the credit determined under section 42 (relating to low-income housing credit) may be carried back to a taxable year ending before January 1, 1987."

(27) Paragraph (1) of section 55(c) of the 1986 Code (defining regular tax) is amended by striking out "section 42(j)" and inserting in lieu thereof "subsection (j) or (k) of section 42".

(28) Subparagraph (A) of section 252(f)(1) of the Reform Act is amended by striking out "and" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof a comma, and by inserting after clause (ii) the following new clauses: 26 USC 42 note.

"(iii) the eligible basis of such building shall be treated, for purposes of section 42(h)(4)(A) of such Code, as if it were financed by an obligation the interest on which is exempt from tax under section 103 of such Code and which is taken into account under section 146 of such Code, and

"(iv) the amendments made by section 803 shall not apply."

(29) Subparagraph (E) of section 252(f)(1) of the Reform Act is amended by striking out "maximum annual additional credit" and inserting in lieu thereof "maximum present value of additional credits".

(30) Subparagraph (E) of section 252(f)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply to any building only to the extent of the portion of the additional housing credit dollar amount (allocated to such agency under subparagraph (A)) allocated to such building." Housing.

(31) Subsection (f) of section 252 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) TRANSITIONAL RULE.—In the case of any rehabilitation expenditures incurred with respect to units located in the neighborhood strategy area within the community development block grant program in Ft. Wayne, Indiana— Indiana. Community development.

"(A) the amendments made by this section shall not apply, and

"(B) paragraph (1) of section 167(k) of the Internal Revenue Code of 1986, shall be applied as if it did not contain the phrase 'and before January 1, 1987'.

The number of units to which the preceding sentence applies shall not exceed 150."

(32) Subsection (g) of section 42 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE WHERE DE MINIMIS EQUITY CONTRIBUTION.—Property shall not be treated as failing to be residential rental property for purposes of this section merely because the occupant of a residential unit in the project pays (on a voluntary basis) to the lessor a de minimis amount to be held toward the purchase by such occupant of a residential unit in such project if—

"(A) all amounts so paid are refunded to the occupant on the cessation of his occupancy of a unit in the project, and

"(B) the purchase of the unit is not permitted until after the close of the compliance period with respect to the building in which the unit is located.

Any amount paid to the lessor as described in the preceding sentence shall be included in gross rent under paragraph (2) for purposes of determining whether the unit is rent-restricted."

(m) AMENDMENTS RELATED TO SECTION 261 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 7518(g)(6) of the 1986 Code, is amended by striking out "section 1(i)" and inserting in lieu thereof "section 1(j)".

(2) Subparagraph (A) of section 607(h)(6) of the Merchant Marine Act, 1936 is amended by striking out "section 1(i)" and inserting in lieu thereof "section 1(j)".

46 USC app. 1177.

SEC. 1003. AMENDMENTS RELATED TO TITLE III OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 301 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 172(d)(4) of the 1986 Code is amended by striking out ", (2)(B),".

(2) Paragraph (1) of section 3402(m) of the 1986 Code is amended by striking out "section 62) (other than paragraph (13) thereof)" and inserting in lieu thereof "section 62(a) (other than paragraph (10) thereof))".

(3) Paragraph (2) of section 1212(b) of the 1986 Code is amended to read as follows:

"(2) TREATMENT OF AMOUNTS ALLOWED UNDER SECTION 1211(b)(1) OR (2).—

"(A) IN GENERAL.—For purposes of determining the excess referred to in subparagraph (A) or (B) of paragraph (1), there shall be treated as a short-term capital gain in the taxable year an amount equal to the lesser of—

"(i) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), or

"(ii) the adjusted taxable income for such taxable year.

"(B) ADJUSTED TAXABLE INCOME.—For purposes of subparagraph (A), the term 'adjusted taxable income' means taxable income increased by the sum of—

"(i) the amount allowed for the taxable year under paragraph (1) or (2) of section 1211(b), and

"(ii) the deduction allowed for such year under section 151 or any deduction in lieu thereof.

For purposes of the preceding sentence, any excess of the deductions allowed for the taxable year over the gross income for such year shall be taken into account as negative taxable income."

(b) AMENDMENTS RELATED TO SECTION 302 OF THE REFORM ACT.—

26 USC 1 note.

(1) Section 302 of the Reform Act is amended by striking out subsection (c).

(2)(A) Paragraph (2) of section 904(b) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAINS.—For purposes of this section—

"(A) IN GENERAL.—Taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only to the extent of foreign source capital gain net income.

"(B) SPECIAL RULES WHERE CAPITAL GAIN RATE DIFFERENTIAL.—In the case of any taxable year for which there is a capital gain rate differential—

"(i) in lieu of applying subparagraph (A), the taxable income from sources outside the United States shall include gain from the sale or exchange of capital assets only in an amount equal to foreign source capital gain net income reduced by the rate differential portion of foreign source net capital gain,

"(ii) the entire taxable income shall include gain from the sale or exchange of capital assets only in an amount equal to capital gain net income reduced by the rate differential portion of net capital gain, and

"(iii) for purposes of determining taxable income from sources outside the United States, any net capital loss (and any amount which is a short-term capital loss under section 1212(a)) from sources outside the United States to the extent taken into account in determining capital gain net income for the taxable year shall be reduced by an amount equal to the rate differential portion of the excess of net capital gain from sources within the United States over net capital gain."

(B) Paragraph (3) of section 904(b) of the 1986 Code is amended by striking out subparagraph (D) and inserting in lieu thereof the following new subparagraphs:

"(D) CAPITAL GAIN RATE DIFFERENTIAL.—There is a capital gain rate differential for any taxable year if—

"(i) in the case of a taxpayer other than a corporation, subsection (j) of section 1 applies to such taxable year, or

"(ii) in the case of a corporation, any rate of tax imposed by section 11, 511, or 831 (a) or (b) (whichever applies) exceeds the alternative rate of tax under section 1201(a) (determined without regard to the last sentence of section 11(b)).

"(E) RATE DIFFERENTIAL PORTION.—

"(i) IN GENERAL.—The rate differential portion of foreign source net capital gain, net capital gain, or the excess of net capital gain from sources within the United States over net capital gain, as the case may be, is the same proportion of such amount as—

"(I) the excess of the highest applicable tax rate over the alternative tax rate, bears to

"(II) the highest applicable tax rate.

"(ii) HIGHEST APPLICABLE TAX RATE.—For purposes of clause (i), the term 'highest applicable tax rate' means—

"(I) in the case of a taxpayer other than a corporation, the highest rate of tax set forth in subsec-

tion (a), (b), (c), (d), or (e) of section 1 (whichever applies), or

"(II) in the case of a corporation, the highest rate of tax specified in section 11(b).

"(iii) ALTERNATIVE TAX RATE.—For purposes of clause (i), the term 'alternative tax rate' means—

"(I) in the case of a taxpayer other than a corporation, the alternative rate of tax determined under section 1(j), or

"(II) in the case of a corporation, the alternative rate of tax under section 1201(a)."

(3) Effective for taxable years beginning after December 31, 1987, paragraph (1) of section 1445(e) of the 1986 Code is amended by striking out "34 percent" and inserting in lieu thereof "34 percent (or, to the extent provided in regulations, 28 percent)".

(c) AMENDMENTS RELATED TO SECTION 311 OF THE REFORM ACT.—

(1) Subsection (a) of section 1201 of the 1986 Code is amended by striking out "831(a)" and inserting in lieu thereof "831 (a) or (b)".

26 USC 1201 note.

(2) Subsection (c) of section 311 of the Reform Act is amended by inserting before the period at the end thereof the following: "; except that the amendment made by subsection (b)(4) shall apply to payments made after December 31, 1986".

(3) Subparagraph (D) of section 593(b)(2) of the 1986 Code is amended by striking out "and" at the end of clause (iii), by striking out the period at the end of clause (iv) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(v) if there is a capital gain rate differential (as defined in section 904(b)(3)(D)) for the taxable year, by excluding from gross income the rate differential portion (within the meaning of section 904(b)(3)(E)) of the lesser of—

"(I) the net long-term capital gain for the taxable year, or

"(II) the net long-term capital gain for the taxable year from the sale or exchange of property other than property described in clause (iii)."

(d) AMENDMENT RELATED TO SECTION 321 OF THE REFORM ACT.—

(1)(A) Subsection (b) of section 422A of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Such term shall not include any option if (as of the time the option is granted) the terms of such option provide that it will not be treated as an incentive stock option."

26 USC 422A note.

(B) In the case of an option granted after December 31, 1986, and on or before the date of the enactment of this Act, such option shall not be treated as an incentive stock option if the terms of such option are amended before the date 90 days after such date of enactment to provide that such option will not be treated as an incentive stock option.

(2)(A) Section 422A of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) $100,000 PER YEAR LIMITATION.—

"(1) IN GENERAL.—To the extent that the aggregate fair market value of stock with respect to which incentive stock

options (determined without regard to this subsection) are exercisable for the 1st time by any individual during any calendar year (under all plans of the individual's employer corporation and its parent and subsidiary corporations) exceeds $100,000, such options shall be treated as options which are not incentive stock options.

"(2) ORDERING RULE.—Paragraph (1) shall be applied by taking options into account in the order in which they were granted.

"(3) DETERMINATION OF FAIR MARKET VALUE.—For purposes of paragraph (1), the fair market value of any stock shall be determined as of the time the option with respect to such stock is granted."

(B) Subsection (b) of section 422A of the 1986 Code is amended by adding "and" at the end of paragraph (5), by striking out "; and" at the end of paragraph (6) and inserting in lieu thereof a period, and by striking out paragraph (7).

(C) Paragraph (1) of section 422A(c) of the 1986 Code is amended by striking out "paragraph (7) of subsection (b)" and inserting in lieu thereof "subsection (d)".

SEC 1004. AMENDMENTS RELATED TO TITLE IV OF THE REFORM ACT.

Agriculture and agricultural commodities.

(a) AMENDMENTS RELATED TO SECTION 405 OF THE REFORM ACT.—

(1) Paragraph (1) of section 108(a) of the 1986 Code is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or" and by adding at the end thereof the following new subparagraph:

"(C) the indebtedness discharged is qualified farm indebtedness."

(2) Paragraph (2) of section 108(a) of the 1986 Code is amended to read as follows:

"(2) COORDINATION OF EXCLUSIONS.—

"(A) TITLE 11 EXCLUSION TAKES PRECEDENCE.—Subparagraphs (B) and (C) of paragraph (1) shall not apply to a discharge which occurs in a title 11 case.

"(B) INSOLVENCY EXCLUSION TAKES PRECEDENCE OVER QUALIFIED FARM EXCLUSION.—Subparagraph (C) of paragraph (1) shall not apply to a discharge to the extent the taxpayer is insolvent."

(3) Subsection (b) of section 108 of the 1986 Code is amended—

(A) by striking out "subparagraph (A) or (B)" in paragraph (1) and inserting in lieu thereof "subparagraph (A), (B), or (C)", and

(B) by striking out "IN TITLE 11 CASE OR INSOLVENCY" in the subsection heading.

(4) Subsection (g) of section 108 of the 1986 Code is amended to read as follows:

"(g) SPECIAL RULES FOR DISCHARGE OF QUALIFIED FARM INDEBTEDNESS.—

"(1) DISCHARGE MUST BE BY QUALIFIED PERSON.—

"(A) IN GENERAL.—Subparagraph (C) of subsection (a)(1) shall apply only if the discharge is by a qualified person.

"(B) QUALIFIED PERSON.—For purposes of subparagraph (A), the term 'qualified person' has the meaning given to such term by section 46(c)(8)(D)(iv); except that such term

shall include any Federal, State, or local government or agency or instrumentality thereof.

"(2) QUALIFIED FARM INDEBTEDNESS.—For purposes of this section, indebtedness of a taxpayer shall be treated as qualified farm indebtedness if—

"(A) such indebtedness was incurred directly in connection with the operation by the taxpayer of the trade or business of farming, and

"(B) 50 percent or more of the aggregate gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the discharge of such indebtedness occurs is attributable to the trade or business of farming.

"(3) AMOUNT EXCLUDED CANNOT EXCEED SUM OF TAX ATTRIBUTES AND BUSINESS AND INVESTMENT ASSETS.—

"(A) IN GENERAL.—The amount excluded under subparagraph (C) of subsection (a)(1) shall not exceed the sum of—

"(i) the adjusted tax attributes of the taxpayer, and

"(ii) the aggregate adjusted bases of qualified property held by the taxpayer as of the beginning of the taxable year following the taxable year in which the discharge occurs.

"(B) ADJUSTED TAX ATTRIBUTES.—For purposes of subparagraph (A), the term 'adjusted tax attributes' means the sum of the tax attributes described in subparagraphs (A), (B), (C), and (E) of subsection (b)(2) determined by taking into account $3 for each $1 of the attributes described in subparagraphs (B) and (E) of subsection (b)(2).

"(C) QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'qualified property' means any property which is used or is held for use in a trade or business or for the production of income.

"(D) COORDINATION WITH INSOLVENCY EXCLUSION.—For purposes of this paragraph, the adjusted basis of any qualified property and the amount of the adjusted tax attributes shall be determined after any reduction under subsection (b) by reason of amounts excluded from gross income under subsection (a)(1)(B)."

(5) Paragraph (4) of section 1017(b) of the 1986 Code is amended to read as follows:

"(4) SPECIAL RULES FOR QUALIFIED FARM INDEBTEDNESS.—

"(A) IN GENERAL.—Any amount which under subsection (b)(2)(D) of section 108 is to be applied to reduce basis and which is attributable to an amount excluded under subsection (a)(1)(C) of section 108—

"(i) shall be applied only to reduce the basis of qualified property held by the taxpayer, and

"(ii) shall be applied to reduce the basis of qualified property in the following order:

"(I) First the basis of qualified property which is depreciable property.

"(II) Second the basis of qualified property which is land used or held for use in the trade or business of farming.

"(III) Then the basis of other qualified property.

"(B) QUALIFIED PROPERTY.—For purposes of this paragraph, the term 'qualified property' has the meaning given to such term by section 108(g)(3)(C).

"(C) CERTAIN RULES MADE APPLICABLE.—Rules similar to the rules of subparagraph (C), (D), and (E) of paragraph (3) shall apply for purposes of this paragraph and section 108(g)."

(6)(A) Paragraphs (6) and (7) of section 108(d) of the 1986 Code are each amended by striking out "subsections (a) and (b)" and inserting in lieu thereof "subsections (a), (b), and (g)".

(B) The subsection heading for section 108(d) of the 1986 Code is amended by striking out "SUBSECTIONS (a), AND (b)" and inserting in lieu thereof "SUBSECTIONS (a), (b), AND (g)".

(C) The headings for paragraphs (6) and (7)(A) of section 108(d) of the 1986 Code are each amended by striking out "SUBSECTIONS (a) AND (b)" and inserting in lieu thereof "SUBSECTIONS (a), (b), AND (g)".

(b) AMENDMENT RELATED TO SECTION 406 OF THE REFORM ACT.—Section 406 of the Reform Act is amended— 26 USC 1202 note.

(1) by inserting "before October 1, 1987," after "from the sale", and

(2) by striking out "to the extent such gain" and all that follows down through the period at the end thereof and inserting in lieu thereof "to the extent such gain is properly taken into account under the taxpayer's method of accounting during 1987.".

(c) AMENDMENT RELATED TO SECTION 413 OF THE REFORM ACT.—Subsection (a) of section 1254 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) ADJUSTMENT FOR AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 617(b)(1)(A).—The amount of the expenditures referred to in paragraph (1)(A)(i) shall be properly adjusted for amounts included in gross income under section 617(b)(1)(A)."

SEC. 1005. AMENDMENTS RELATED TO TITLE V OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 501 OF THE REFORM ACT.—

(1) Clause (ii) of section 469(e)(1)(A) of the 1986 Code (relating to certain income not treated as income from passive activity) is amended by inserting "not derived in the ordinary course of a trade or business which is" after "gain or loss".

(2)(A) Subparagraph (A) of section 469(g)(1) of the 1986 Code (relating to disposition of interests in passive activities in fully taxable transactions) is amended to read as follows:

"(A) IN GENERAL.—If all gain or loss realized on such disposition is recognized, the excess of—

"(i) the sum of—

"(I) any loss from such activity for such taxable year (determined after application of subsection (b)), plus

"(II) any loss realized on such disposition, over

"(ii) net income or gain for such taxable year from all passive activities (determined without regard to losses described in clause (i)),

shall be treated as a loss which is not from a passive activity."

(B) Subparagraph (C) of section 469(g)(1) of the 1986 Code is amended to read as follows:

"(C) INCOME FROM PRIOR YEARS.—To the extent provided in regulations, income or gain from the activity for preceding taxable years shall be taken into account under

subparagraph (A)(ii) for the taxable year to the extent necessary to prevent the avoidance of this section."

(3) Subparagraph (A) of section 469(g)(2) of the 1986 Code is amended—

(A) by striking out "paragraph (1)" and inserting in lieu thereof "paragraph (1)(A)"; and

(B) by striking out "such losses" the first place it appears and inserting in lieu thereof "losses described in paragraph (1)(A)".

(4) Section 469(g)(3) of the 1986 Code is amended—

(A) by striking out "realized (or to be realized)" and inserting in lieu thereof "(realized or to be realized", and

(B) by inserting a closing parenthesis after "completed".

(5) Paragraph (4) of section 469(h) of the 1986 Code (relating to certain closely held C corporations and personal service corporations) is amended by inserting "only" before "if".

(6) Paragraph (1) of section 469(i) of the 1986 Code (relating to $25,000 offset for rental real estate activities) is amended by striking out "in the taxable year in which such portion of such loss or credit arose" and inserting in lieu thereof "in such taxable year (and if any portion of such loss or credit arose in another taxable year, in such other taxable year)".

(7) Subparagraph (C) of section 469(i)(6) of the 1986 Code (relating to interest as a limited partner) is amended by striking out "No" and inserting in lieu thereof "Except as provided in regulations, no".

(8) Subparagraph (A) of section 469(j)(6) of the 1986 Code (relating to special rule for gifts) is amended by inserting "with respect to which a deduction has not been allowed by reason of subsection (a)" before ", and".

(9) Section 469(j) of the 1986 Code (relating to definitions and special rules) is amended by adding at the end thereof the following new paragraphs:

"(10) COORDINATION WITH SECTION 280A.—If a passive activity involves the use of a dwelling unit to which section 280A(c)(5) applies for any taxable year, any income, deduction, gain, or loss allocable to such use shall not be taken into account for purposes of this section for such taxable year.

"(11) AGGREGATION OF MEMBERS OF AFFILIATED GROUPS.—Except as provided in regulations, all members of an affiliated group which files a consolidated return shall be treated as 1 corporation."

26 USC 469 note.

(10) Section 501(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(4) INCOME FROM SALES OF PASSIVE ACTIVITIES IN TAXABLE YEARS BEGINNING BEFORE JANUARY 1, 1987.—If—

"(A) gain is recognized in a taxable year beginning after December 31, 1986, from a sale or exchange of an interest in an activity in a taxable year beginning before January 1, 1987, and

"(B) such gain would have been treated as gain from a passive activity had section 469 of the Internal Revenue Code of 1986 (as added by this section) been in effect for the taxable year in which the sale or exchange occurred and for all succeeding taxable years,

then such gain shall be treated as gain from a passive activity for purposes of such section."

(11) Subsection (j) of section 469 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(12) SPECIAL RULE FOR DISTRIBUTIONS BY ESTATES OR TRUSTS.—If any interest in a passive activity is distributed by an estate or trust—

"(A) the basis of such interest immediately before such distribution shall be increased by the amount of any passive activity losses allocable to such interest, and

"(B) such losses shall not be allowable as a deduction for any taxable year."

(12) Subsection (m) of section 469 of the 1986 Code, as redesignated by section 10211 of the Revenue Act of 1987, is amended by striking all that precedes subparagraph (B) of paragraph (3) thereof and inserting in lieu thereof the following:

"(m) PHASE-IN OF DISALLOWANCE OF LOSSES AND CREDITS FOR INTEREST HELD BEFORE DATE OF ENACTMENT.—

"(1) IN GENERAL.—In the case of any passive activity loss or passive activity credit for any taxable year beginning in calendar years 1987 through 1990, subsection (a) shall not apply to the applicable percentage of that portion of such loss (or such credit) which is attributable to pre-enactment interests.

"(2) APPLICABLE PERCENTAGE.—For purposes of this subsection, the applicable percentage shall be determined in accordance with the following table:

"In the case of taxable years beginning in:	The applicable percentage is:
1987	65
1988	40
1989	20
1990	10.

"(3) PORTION OF LOSS OR CREDIT ATTRIBUTABLE TO PRE-ENACTMENT INTERESTS.—For purposes of this subsection—

"(A) IN GENERAL.—The portion of the passive activity loss (or passive activity credit) for any taxable year which is attributable to preenactment interests is the lesser of—

"(i) the amount of the passive activity loss (or passive activity credit) which is disallowed for the taxable year under subsection (a) (without regard to this subsection), or

"(ii) the amount of the passive activity loss (or passive activity credit) which would be disallowed for the taxable year (without regard to this subsection and without regard to any amount allocable to an activity for the taxable year under subsection (b)) taking into account only pre-enactment interests."

(b) AMENDMENTS RELATED TO SECTION 502 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 502(d)(1) of the Reform Act (defining qualified investor) is amended to read as follows: 26 USC 469 note.

"(A) if—

"(i) in the case of a project placed in service on or before August 16, 1986, such person held an interest in such project on August 16, 1986, and such person made his initial investment after December 31, 1983, or

"(ii) in the case of a project placed in service after August 16, 1986, such person made his initial investment after December 31, 1983, and such person held an interest in such project on December 31, 1986, and".

26 USC 469 note.

(2) Subsection (d) of section 502 of the Reform Act (defining qualified investor) is amended by adding after paragraph (2) the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN PARTNERSHIPS.—In the case of any property which is held by a partnership—

"(A) which placed such property in service on or after December 31, 1985, and before August 17, 1986, and continuously held such property through the close of the taxable year for which the determination is being made, and

"(B) which was not treated as a new partnership or as terminated at any time on or after the date on which such property was placed in service and through the close of the taxable year for which the determination is being made,

paragraph (1)(A)(i) shall be applied by substituting 'December 31, 1988' for 'August 16, 1986' the 2nd place it appears."

(3) The subsection (d) of section 502 of the Reform Act which relates to special rules is redesignated as subsection (e).

(c) AMENDMENTS RELATED TO SECTION 511 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 163(d)(3) of the 1986 Code (defining investment interest) is amended by striking out "incurred or continued to purchase or carry" and inserting in lieu thereof "properly allocable to".

(2) Subparagraph (B) of section 163(d)(4) of the 1986 Code is amended to read as follows:

"(B) INVESTMENT INCOME.—The term 'investment income' means the sum of—

"(i) gross income (other than gain taken into account under clause (ii)) from property held for investment, and

"(ii) any net gain attributable to the disposition of property held for investment."

(3) Subparagraph (A) of section 163(d)(6) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—The amount of interest paid or accrued during any such taxable year which is disallowed under this subsection shall not exceed the sum of—

"(i) the amount which would be disallowed under this subsection if—

"(I) paragraph (1) were applied by substituting 'the sum of the ceiling amount and the net investment income' for 'the net investment income', and

"(II) paragraphs (4)(E) and (5)(A)(ii) did not apply, and

"(ii) the applicable percentage of the excess of—

"(I) the amount which (without regard to this paragraph) is not allowable as a deduction under this subsection for the taxable year, over

"(II) the amount described in clause (i).

The preceding sentence shall not apply to any interest treated as paid or accrued during the taxable year under paragraph (2)."

(4) Subparagraph (A) of section 163(h)(2) of the 1986 Code is amended by striking out "incurred or continued in connection with the conduct of" and inserting in lieu thereof "properly allocable to".

(5) Subparagraph (C) of section 163(h)(3) of the 1986 Code (defining qualified residence interest) is amended to read as follows:

"(C) COST NOT LESS THAN BALANCE OF INDEBTEDNESS INCURRED ON OR BEFORE AUGUST 16, 1986.—

"(i) IN GENERAL.—The amount under subparagraph (B)(ii)(I) at any time after August 16, 1986, shall not be less than the outstanding principal amount (as of such time) of indebtedness—

"(I) which was incurred on or before August 16, 1986, and which was secured by the qualified residence on August 16, 1986, or

"(II) which is secured by the qualified residence and was incurred after August 16, 1986, to refinance indebtedness described in subclause (I) (or refinanced indebtedness meeting the requirements of this subclause) to the extent (immediately after the refinancing) the principal amount of the indebtedness resulting from the refinancing does not exceed the principal amount of the refinanced indebtedness (immediately before the refinancing).

"(ii) LIMITATION ON PERIOD OF REFINANCING.—Subclause (II) of clause (i) shall not apply to any indebtedness after—

"(I) the expiration of the term of the indebtedness described in clause (i)(I), or

"(II) if the principal of the indebtedness described in clause (i)(I) is not amortized over its term, the expiration of the term of the 1st refinancing of such indebtedness (or if earlier, the date which is 30 years after the date of such refinancing)."

(6)(A) The heading for section 163(h)(5) of the 1986 Code is amended to read as follows:

"(5) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—".

(B) Paragraph (5) of section 163(h) of the 1986 Code is amended—

(i) by striking out "For purposes of this subsection—" in subparagraph (A), and

(ii) by striking out "For purposes of this paragraph, any" in subparagraph (B) and inserting in lieu thereof "Any".

(7) Clause (iii) of section 163(h)(5)(A) of the 1986 Code is amended by striking out "USED OR" in the heading thereof and by striking out "or use".

(8) Section 163(h)(5) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(C) UNENFORCEABLE SECURITY INTERESTS.—Indebtedness shall not fail to be treated as secured by any property solely because, under any applicable State or local homestead or other debtor protection law in effect on August 16, 1986, the security interest is ineffective or the enforceability of the security interest is restricted.

"(D) SPECIAL RULES FOR ESTATES AND TRUSTS.—For purposes of determining whether any interest paid or accrued by an estate or trust is qualified residence interest, any residence held by such estate or trust shall be treated as a

qualified residence of such estate or trust if such estate or trust establishes that such residence is a qualified residence of a beneficiary who has a present interest in such estate or trust or an interest in the residuary of such estate or trust."

(9) Paragraph (6) of section 163(h) of the 1986 Code is amended by striking out "subsection" the 3rd place it appears and inserting in lieu thereof "paragraph".

(10) Paragraph (2)(A) of section 511(d) of the Reform Act is amended to read as follows:

"(2)(A) Sections 467(c)(5) and 1255(b)(2) are each amended by striking out '163(d),'."

26 USC 469 note.

(11) If—

(A) any amount was disallowed as a deduction under section 163(d) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Reform Act),

(B) such amount would (but for this paragraph) be treated as investment interest paid or accrued by the taxpayer in the taxpayer's first taxable year beginning after December 31, 1986, and

(C) the taxpayer makes an election under this paragraph at such time and in such manner as the Secretary of the Treasury or his delegate shall prescribe,

to the extent such amount is attributable to an activity subject to the limitations of section 469 of the 1986 Code, such amount shall not be treated as investment interest but shall be treated as a deduction allocable to such activity for such first taxable year. Subsection (m) of section 469 of the 1986 Code and section 501(c)(2) of the Reform Act shall not apply to any amount so treated.

(12) Subparagraph (E) of section 163(h)(2) of the 1986 Code is amended by inserting before the period "or under section 6166A (as in effect before its repeal by the Economic Recovery Tax Act of 1981)".

26 USC 163 note.

(13) For purposes of applying the amendments made by this subsection and the amendments made by section 10102 of the Revenue Act of 1987, the provisions of this subsection shall be treated as having been enacted immediately before the enactment of the Revenue Act of 1987.

26 USC 163 note.

(14)(A) For purposes of applying section 163(h) of the 1986 Code to any taxable year beginning during 1987, if, incident to a divorce or legal separation—

(i) an individual acquires the interest of a spouse or former spouse in a qualified residence in a transfer to which section 1041 of the 1986 Code applies, and

(ii) such individual incurs indebtedness which is secured by such qualified residence,

the amount determined under paragraph (3)(B)(ii)(I) of section 163(h) of the 1986 Code (as in effect before the amendments made by the Revenue Act of 1987) with respect to such qualified residence shall be increased by the amount determined under subparagraph (B).

(B) The amount determined under this subparagraph shall be equal to the excess (if any) of—

(i) the lesser of the amount of the indebtedness described in subparagraph (A)(ii), or the fair market value of the

spouse's or former spouse's interest in the qualified residence as of the time of the transfer, over

(ii) the basis of the spouse or former spouse in such interest in such residence (adjusted only by the cost of any improvements to such residence).

(15) Clause (i) of section 7872(d)(1)(E) of the 1986 Code is amended by striking out "section 163(d)(3)" and inserting in lieu thereof "section 163(d)(4)".

SEC. 1006. AMENDMENTS RELATED TO TITLE VI OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 601 OF THE REFORM ACT.—Section 15 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) REFERENCES TO HIGHEST RATE.—If the change referred to in subsection (a) involves a change in the highest rate of tax imposed by section 1 or 11(b), any reference in this chapter to such highest rate (other than in a provision imposing a tax by reference to such rate) shall be treated as a reference to the weighted average of the highest rates before and after the change determined on the basis of the respective portions of the taxable year before the date of the change and on or after the date of the change."

(b) AMENDMENTS RELATED TO SECTIONS 611 AND 612 OF THE REFORM ACT.— 26 USC 245 note.

(1) In the case of dividends received or accrued during 1987—

(A) subparagraph (B) of section 245(c)(1) of the 1986 Code shall be applied by substituting "80 percent" for the percentage specified therein, and

(B) subparagraph (B) of section 861(a)(2) of the 1986 Code shall be applied by substituting "$^{100}/_{80}$ths" for the fraction specified therein.

(2) Paragraph (3) of section 854(b) of the 1986 Code is amended to read as follows:

"(3) AGGREGATE DIVIDENDS.—For purposes of this subsection—

"(A) IN GENERAL.—In computing the amount of aggregate dividends received, there shall only be taken into account dividends received from domestic corporations.

"(B) DIVIDENDS.—For purposes of subparagraph (A), the term 'dividend' shall not include any distribution from—

"(i) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations), or

"(ii) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following).

"(C) LIMITATIONS ON DIVIDENDS FROM REGULATED INVESTMENT COMPANIES.—In determining the amount of any dividend for purposes of this paragraph, a dividend received from a regulated investment company shall be subject to the limitations prescribed in this section."

(c) AMENDMENTS RELATED TO SECTION 614 OF THE REFORM ACT.—

(1) Section 1059(d) of the 1986 Code (relating to extension to certain property distributions) is amended by striking out para-

graph (5) and redesignating paragraphs (6) and (7) as paragraphs (5) and (6), respectively.

(2) Section 1059(d)(5) of the 1986 Code (defining dividend announcement date), as redesignated by paragraph (1), is amended by inserting "amount or" before "payment".

(3) Section 1059(d)(6) of the 1986 Code (relating to exception where stock held during entire existence of corporation), as redesignated by paragraph (1), is amended to read as follows:

"(6) EXCEPTION WHERE STOCK HELD DURING ENTIRE EXISTENCE OF CORPORATION.—

"(A) IN GENERAL.—Subsection (a) shall not apply to any extraordinary dividend with respect to any share of stock of a corporation if—

"(i) such stock was held by the taxpayer during the entire period such corporation was in existence, and

"(ii) except as provided in regulations, no earnings and profits of such corporation were attributable to transfers of property from (or earnings and profits of) a corporation which is not a qualified corporation.

"(B) QUALIFIED CORPORATION.—For purposes of subparagraph (A), the term 'qualified corporation' means any corporation (including a predecessor corporation)—

"(i) with respect to which the taxpayer holds directly or indirectly during the entire period of such corporation's existence at least the same ownership interest as the taxpayer holds in the corporation distributing the extraordinary dividend, and

"(ii) which has no earnings and profits—

"(I) which were earned by, or

"(II) which are attributable to gain on property which accrued during a period the corporation holding the property was,

a corporation not described in clause (i).

"(C) APPLICATION OF PARAGRAPH.—This paragraph shall not apply to any extraordinary dividend to the extent such application is inconsistent with the purposes of this section."

(4) Paragraph (1) of section 1059(e) of the 1986 Code (relating to treatment of partial liquidation) is amended by striking out "for purposes of this section (without regard to the holding period of the stock)" and inserting in lieu thereof: "to which paragraphs (1) and (2) of subsection (a) apply without regard to the period the taxpayer held such stock".

(5) Paragraph (2) of section 1059(e) of the 1986 Code (relating to qualifying dividends) is amended to read as follows:

"(2) QUALIFYING DIVIDENDS.—

"(A) IN GENERAL.—Except as provided in regulations, the term 'extraordinary dividend' does not include any qualifying dividend (within the meaning of section 243).

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any portion of a dividend which is attributable to earnings and profits which—

"(i) were earned by a corporation during a period it was not a member of the affiliated group, or

"(ii) are attributable to gain on property which accrued during a period the corporation holding the property was not a member of the affiliated group."

(6) Subparagraph (A) of section 1059(e)(3) of the 1986 Code (relating to qualified preferred dividends) is amended to read as follows:

"(A) IN GENERAL.—In the case of 1 or more qualified preferred dividends with respect to any share of stock—

"(i) this section shall not apply to such dividends if the taxpayer holds such stock for more than 5 years, and

"(ii) if the taxpayer disposes of such stock before it has been held for more than 5 years, the aggregate reduction under subsection (a)(1) with respect to such dividends shall not be greater than the excess (if any) of—

"(I) the qualified preferred dividends paid with respect to such stock during the period the taxpayer held such stock, over

"(II) the qualified preferred dividends which would have been paid during such period on the basis of the stated rate of return."

(7) Clause (i) of section 1059(e)(3)(C) of the 1986 Code is amended—

(A) by striking out "any dividend payable" and inserting in lieu thereof "any fixed dividend payable", and

(B) by adding at the end thereof the following new sentence:

"Such term shall not include any dividend payable with respect to any share of stock if the actual rate of return on such stock exceeds 15 percent."

(8) Subparagraph (B) of section 1059(e)(3) of the 1986 Code is amended—

(A) by striking out "subparagraph (A)" and the material preceding clause (i) and inserting in lieu thereof "this paragraph", and

(B) by striking out "subparagraph (B)(i)(II)" in clause (ii) and inserting in lieu thereof "clause (i)(II)".

(9) Subsection (f) of section 1059 of the 1986 Code is amended by inserting before the period at the end thereof the following: "and in the case of stock held by pass-thru entities".

(d) AMENDMENTS RELATED TO SECTION 621 OF THE REFORM ACT.—

(1)(A) Section 382(e)(2) of the 1986 Code is amended—

(i) by inserting "or other corporate contraction" after "redemption" each place it appears, and

(ii) by inserting "OR OTHER CORPORATE CONTRACTION" after "REDEMPTION" in the heading thereof.

(B) Clause (ii) of section 382(h)(3)(A) of the 1986 Code is amended—

(i) by inserting "or other corporate contraction" after "redemption" each place it appears, and

(ii) by inserting "OR OTHER CORPORATE CONTRACTIONS" after "REDEMPTIONS" in the heading thereof.

(C) Section 382(m) of the 1986 Code is amended by inserting "and" at the end of paragraph (3), by striking out paragraph (4), and by redesignating paragraph (5) as paragraph (4).

(D) The amendments made by this paragraph shall apply with respect to ownership changes after June 10, 1987. 26 USC 382 note.

(2) Section 382(g)(4)(C) of the 1986 Code is amended by inserting "rules similar to" before "the rules".

(3)(A) Section 382(h)(1)(C) of the 1986 Code is amended to read as follows:

"(C) SPECIAL RULES FOR CERTAIN SECTION 338 GAINS.—If an election under section 338 is made in connection with an ownership change and the net unrealized built-in gain is zero by reason of paragraph (3)(B), then, with respect to such change, the section 382 limitation for the post-change year in which gain is recognized by reason of such election shall be increased by the lesser of—

"(i) the recognized built-in gains by reason of such election, or

"(ii) the net unrealized built-in gain (determined without regard to paragraph (3)(B))."

(B) Paragraph (5) of section 382(h) of the 1986 Code is amended by striking out "recognized built-in gains and losses" and inserting in lieu thereof "recognized built-in gains to the extent such gains increased the section 382 limitation for the year (or recognized built-in losses to the extent such losses are treated as pre-change losses)".

(4) Section 382(i)(3) of the 1986 Code is amended—

(A) by inserting "the earlier of" before "the 1st day", and

(B) by inserting "or the taxable year in which the transaction being tested occurs" after "1st post-change year".

(5)(A) Section 382(k)(1) of the 1986 Code is amended by inserting "or having a net operating loss for the taxable year in which the ownership change occurs" after "carryover".

(B) Section 382(k)(2) of the 1986 Code is amended to read as follows:

"(2) OLD LOSS CORPORATION.—The term 'old loss corporation' means any corporation—

"(A) with respect to which there is an ownership change, and

"(B) which (before the ownership change) was a loss corporation."

(6) Section 382(l)(3)(A) of the 1986 Code is amended by striking out "and" at the end of clause (iii), and by striking out clause (iv) and inserting in lieu thereof the following new clauses:

"(iv) except to the extent provided in regulations, an option to acquire stock shall be treated as exercised if such exercise results in an ownership change, and

"(v) in attributing stock from an entity under paragraph (2) of section 318(a), there shall not be taken into account—

"(I) in the case of attribution from a corporation, stock which is not treated as stock for purposes of this section, or

"(II) in the case of attribution from another entity, an interest in such entity similar to stock described in subclause (I)."

(7) Clause (ii) of section 382(l)(5)(A) of the 1986 Code is amended by striking out "immediately after such ownership change" and inserting in lieu thereof "after such ownership change and as a result of being shareholders or creditors immediately before such change".

(8) Section 382(l)(5)(F) of the 1986 Code is amended—

(A) by inserting " '1504(a)(2)(B)' for '1504(a)(2)' and" after "substituting" in clause (i)(I), and

(B) by striking out "deposits described in subclause (II)" in clause (ii)(III) and inserting in lieu thereof "the amount of deposits in the new loss corporation immediately after the change".

(9) Paragraph (6) of section 382(l) of the 1986 Code is amended by striking out "shall be the value of the new loss corporation immediately after the ownership change" and inserting in lieu thereof "shall reflect the increase (if any) in value of the old loss corporation resulting from any surrender or cancellation of creditors' claims in the transaction".

(10) Section 382(l) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) PREDECESSOR AND SUCCESSOR ENTITIES.—Except as provided in regulations, any entity and any predecessor or successor entities of such entity shall be treated as 1 entity."

(11) Paragraph (1) of section 621(f) of the Reform Act is amended to read as follows: 26 USC 382 note.

"(1) AMENDMENTS MADE BY SUBSECTIONS (a), (b), and (c).—

"(A) IN GENERAL.—

"(i) CHANGES AFTER 1986.—The amendments made by subsections (a), (b), and (c) shall apply to any ownership change after December 31, 1986.

"(ii) PLANS OF REORGANIZATION ADOPTED BEFORE 1987.—For purposes of clause (i), any equity structure shift pursuant to a plan of reorganization adopted before January 1, 1987, shall be treated as occurring when such plan was adopted.

"(B) TERMINATION OF OLD SECTION 382.—Except in a case described in any of the following paragraphs—

"(i) section 382(a) of the Internal Revenue Code of 1954 (as in effect before the amendment made by subsection (a) and the amendments made by section 806 of the Tax Reform Act of 1976) shall not apply to any increase in percentage points occurring after December 31, 1988, and

"(ii) section 382(b) of such Code (as so in effect) shall not apply to any reorganization occurring pursuant to a plan of reorganization adopted after December 31, 1986.

In no event shall sections 382 (a) and (b) of such Code (as so in effect) apply to any ownership change described in subparagraph (A).

"(C) COORDINATION WITH SECTION 382(i).—For purposes of section 382(i) of the Internal Revenue Code of 1986 (as added by this section), any equity structure shift pursuant to a plan of reorganization adopted before January 1, 1987, shall be treated as occurring when such plan was adopted."

(12)(A) Section 621(f)(2)(C) of the Reform Act is amended by inserting "and reincorporated in Delaware in 1987," after "1924,".

(B) Clause (ii) of section 621(f)(2)(C) of the Reform Act is amended to read as follows:

"(ii) the amendments made by subsections (e) and (f) of section 806 of the Tax Reform Act of 1976 shall not apply to such debt restructuring, except that the amendment treated as part of such subsections under section 59(b) of the Tax Reform Act of 1984 (relating

to qualified workouts) shall apply to such debt restructuring."

26 USC 382 note.

(13) Subparagraph (D) of section 621(f)(2) of the Reform Act is amended—

(A) by striking out "or reorganization", and

(B) by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, in applying section 382 (as so in effect), if a person has a warrant to acquire stock, such stock shall be considered as owned by such person."

(14) Section 621(f)(3) of the Reform Act is amended by striking out "after December 31, 1986".

(15) Paragraph (4) of section 621(f) of the Reform Act is amended by striking out the last sentence and inserting in lieu thereof the following:

"Any regulations prescribed under section 382 of the Internal Revenue Code of 1986 (as added by subsection (a)) which have the effect of treating a group of shareholders as a separate 5-percent shareholder by reason of a public offering shall not apply to any public offering before January 1, 1989, for the benefit of institutions described in section 591 of such Code. Unless the corporation otherwise elects, an underwriter of any offering of stock in a corporation before September 19, 1986 (January 1, 1989, in the case of an offering for the benefit of an institution described in the preceding sentence), shall not be treated as acquiring any stock of such corporation by reason of a firm commitment underwriting to the extent the stock is disposed of pursuant to the offering (but in no event later than 60 days after the initial offering)."

(16) Subparagraph (A) of section 621(f)(7) of the Reform Act is amended by striking out "the parent corporation referred to in section 203(d)(13)(B)" and inserting in lieu thereof "a parent corporation incorporated in March 1980 under the laws of Delaware".

(17)(A) Subsection (e) of section 382 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF FOREIGN CORPORATIONS.—Except as otherwise provided in regulations, in determining the value of any old loss corporation which is a foreign corporation, there shall be taken into account only items treated as connected with the conduct of a trade or business in the United States."

26 USC 382 note.

(B) The amendment made by subparagraph (A) shall apply to any ownership change after June 10, 1987. For purposes of the preceding sentence, any equity structure shift pursuant to a plan of reorganization adopted on or before June 10, 1987, shall be treated as occurring when such plan was adopted.

(18) Subparagraph (C) of section 382(l)(5) of the 1986 Code is amended to read as follows:

"(C) REDUCTION OF TAX ATTRIBUTES WHERE DISCHARGE OF INDEBTEDNESS.—

"(i) IN GENERAL.—In any case to which subparagraph (A) applies, 50 percent of the amount which, but for the application of section 108(e)(10)(B), would have been applied to reduce tax attributes under section 108(b) shall be so applied.

"(ii) CLARIFICATION WITH SUBPARAGRAPH (B).—In applying clause (i), there shall not be taken into account any indebtedness for interest described in subparagraph (B)."

(19) Subparagraph (E) of section 382(l)(5) of the 1986 Code is amended by striking out so much of such subparagraph as precedes clause (i) thereof and inserting in lieu thereof the following:

"(E) ONLY CERTAIN STOCK TAKEN INTO ACCOUNT.—For purposes of subparagraph (A)(ii), stock transferred to a creditor shall be taken into account only to the extent such stock is transferred in satisfaction of indebtedness and only if such indebtedness—".

(20) Paragraph (4) of section 382(h) of the 1986 Code is amended—

(A) by inserting before the comma at the end of subparagraph (A) the following: "(or to the extent the amount so disallowed is attributable to capital losses, under rules similar to the rules for the carrying forward of net capital losses)", and

(B) by striking out "TREATED AS A NET OPERATING LOSS" in the paragraph heading and inserting in lieu thereof "ALLOWED AS A CARRYFORWARD".

(21) Paragraph (1) of section 382(g) of the 1986 Code is amended—

(A) by striking out "new loss corporation" and inserting in lieu thereof "loss corporation", and

(B) by striking out "old loss corporation" and inserting in lieu thereof "loss corporation".

(22) Paragraph (6) of section 382(h) of the 1986 Code is amended to read as follows:

"(6) TREATMENT OF CERTAIN BUILT-IN ITEMS.—

"(A) INCOME ITEMS.—Any item of income which is properly taken into account during the recognition period but which is attributable to periods before the change date shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

"(B) DEDUCTION ITEMS.—Any amount which is allowable as a deduction during the recognition period but which is attributable to periods before the change date shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

"(C) ADJUSTMENTS.—The amount of the net unrealized built-in gain or loss shall be properly adjusted for amounts treated as recognized built-in gains or losses under this paragraph."

(23) Paragraph (9) of section 382(h) of the 1986 Code is amended by striking out "is transferred" and inserting in lieu thereof "was acquired (or is subsequently transferred)".

(24) Subsection (m) of section 382 of the 1986 Code (as amended by paragraph (1)) is amended by striking out "and" at the end of paragraph (3), by striking out the period at the end of paragraph (4) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(5) providing, in the case of any group of corporations described in section 1563(a) (determined by substituting '50 percent' for '80 percent' each place it appears and determined

without regard to paragraph (4) thereof), appropriate adjustments to value, built-in gain or loss, and other items so that items are not omitted or taken into account more than once."

(25) Clause (ii) of section 382(l)(5)(A) of the 1986 Code is amended by striking out "stock of controlling corporation" and inserting in lieu thereof "stock of a controlling corporation".

(26) Clause (ii) of section 382(h)(3)(B) of the 1986 Code is amended by striking out "there shall not" and inserting in lieu thereof "except as provided in regulations, there shall not".

(27) Subparagraph (B) of section 382(1)(5) of the 1986 Code is amended by striking out "the net operating loss deduction under section 172(a) for any post-change year shall be determined" and inserting in lieu thereof "the pre-change losses and excess credits (within the meaning of section 383(a)(2)) which may be carried to a post-change year shall be computed".

(28)(A) Clause (ii) of section 382(h)(3)(A) of the 1986 Code is amended by striking out "determinations under clause (i)" and inserting in lieu thereof "to the extent provided in regulations, determinations under clause (i)".

26 USC 382 note.

(B) The amendment made by subparagraph (A) shall apply in the case of ownership changes on or after June 21, 1988.

(29) Subclause (I) of section 382(1)(5)(F)(iii) of the 1986 Code is amended by striking out "section 368(a)(D)(ii)" and inserting in lieu thereof "section 368(a)(3)(D)(ii)".

(e) AMENDMENTS RELATED TO SECTION 631 OF THE REFORM ACT.—

(1) Clause (ii) of section 336(d)(2)(B) of the 1986 Code is amended to read as follows:

"(ii) CERTAIN ACQUISITIONS TREATED AS PART OF PLAN.—For purposes of clause (i), any property described in clause (i)(I) acquired by the liquidated corporation after the date 2 years before the date of the adoption of the plan of complete liquidation shall, except as provided in regulations, be treated as acquired as part of a plan described in clause (i)(II)."

(2) Paragraph (3) of section 336(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply to any distribution to the 80-percent distributee only if subsection (a) or (b)(1) of section 337 applies to such distribution."

(3) Subsection (e) of section 336 of the 1986 Code is amended by striking out "such corporation may elect" and inserting in lieu thereof "an election may be made".

(4) Subparagraph (B) of section 337(b)(2) of the 1986 Code is amended—

(A) by striking out "or 511(b)(2)" in clause (i),

(B) by striking out "in an unrelated trade or business (as defined in section 513)" in clause (i) and inserting in lieu thereof "in an activity the income from which is subject to tax under section 511(a)", and

(C) by striking out "an unrelated trade or business of such organization" in clause (ii) and inserting in lieu thereof "an activity referred to in clause (i)".

(5)(A) Subsection (d) of section 337 of the 1986 Code is amended—

(i) by striking out "made to this subpart by the Tax Reform Act of 1986" and inserting in lieu thereof "made by subtitle D of title VI of the Tax Reform Act of 1986", and

(ii) by inserting "or through the use of a regulated investment company, real estate investment trust, or tax-exempt entity" after "subchapter)" in paragraph (1).

(B) The amendment made by subparagraph (A)(ii) shall not apply to any reorganization if before June 10, 1987— 26 USC 337 note.

(i) the board of directors of a party to the reorganization adopted a resolution to solicit shareholder approval for the transaction, or

(ii) the shareholders or the board of directors of a party to the reorganization approved the transaction.

(6) Subsection (b) of section 334 of the 1986 Code is amended to read as follows:

"(b) LIQUIDATION OF SUBSIDIARY.—

"(1) IN GENERAL.—If property is received by a corporate distributee in a distribution in a complete liquidation to which section 332(a) applies (or in a transfer described in section 337(b)(1)), the basis of such property in the hands of such distributee shall be the same as it would be in the hands of the transferor; except that, in any case in which gain or loss is recognized by the liquidating corporation with respect to such property, the basis of such property in the hands of such distributee shall be the fair market value of the property at the time of the distribution.

"(2) CORPORATE DISTRIBUTEE.—For purposes of this subsection, the term 'corporate distributee' means only the corporation which meets the stock ownership requirements specified in section 332(b)."

(7)(A) Subparagraph (B) of section 453(h)(1) of the 1986 Code is amended by striking out "to one person" and inserting in lieu thereof "to 1 person in 1 transaction".

(B) Subparagraph (E) of section 453(h)(1) of the 1986 Code is amended by striking out "section 368(c)(1)" and inserting in lieu thereof "section 368(c)".

(8)(A) Part VII of subchapter C of chapter 1 of the 1986 Code is hereby repealed.

(B) Subsection (b) of section 311 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN DISTRIBUTIONS OF PARTNERSHIP OR TRUST INTERESTS.—If the property distributed consists of an interest in a partnership or trust, the Secretary may by regulations provide that the amount of the gain recognized under paragraph (1) shall be computed without regard to any loss attributable to property contributed to the partnership or trust for the principal purpose of recognizing such loss on the distribution."

(C) The table of parts for subchapter C of chapter 1 of the 1986 Code is amended by striking out the item relating to part VII.

(9) Paragraph (1) of section 267(a) of the 1986 Code is amended—

(A) by striking out "(other than a loss in case of a distribution in corporate liquidation)", and

(B) by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any loss of the distributing corporation (or the distributee) in the case of a distribution in complete liquidation."

(10) Paragraph (1) of section 301(b) of the 1986 Code is amended to read as follows:

"(1) GENERAL RULE.—For purposes of this section, the amount of any distribution shall be the amount of money received, plus the fair market value of the other property received."

(11) Subsection (d) of section 301 of the 1986 Code is amended to read as follows:

"(d) BASIS.—The basis of property received in a distribution to which subsection (a) applies shall be the fair market value of such property."

(12) Section 301 of the 1986 Code is amended by striking out subsection (e) and by redesignating subsections (f) and (g) as subsections (e) and (f), respectively.

(13)(A) Subsection (a) of section 367 of the 1986 Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) PARAGRAPHS (2) AND (3) NOT TO APPLY TO CERTAIN SECTION 361 TRANSACTIONS.—Paragraphs (2) and (3) shall not apply in the case of an exchange described in section 361. Subject to such basis adjustments and such other conditions as shall be provided in regulations, the preceding sentence shall not apply if the transferor corporation is controlled (within the meaning of section 368(c)) by 5 or fewer domestic corporations. For purposes of the preceding sentence, all members of the same affiliated group (within the meaning of section 1504) shall be treated as 1 corporation."

26 USC 367 note.

(B) The amendment made by subparagraph (A) shall apply to exchanges on or after June 21, 1988, except that such amendment shall not apply to any exchange pursuant to any reorganization for which a plan of reorganization was adopted before June 21, 1988.

(C) Section 367(e)(2) of the 1986 Code (as amended by the Reform Act) shall not apply in the case of any corporation completely liquidated before June 10, 1987, into a corporation organized in a country which has an income tax treaty with the United States.

(14)(A) Subsection (d) of section 1248 of the 1986 Code is amended by striking out paragraph (2).

(B) Subparagraph (B) of section 1248(f)(1) of the 1986 Code is amended to read as follows:

"(B) such domestic corporation distributes stock of such foreign corporation in a distribution to which section 311(a), 337, or 361(c)(1) applies,".

(C) Paragraph (1) of section 1248(f) of the 1986 Code is amended by striking out "distribution, sale, or exchange" in the last sentence and inserting in lieu thereof "distribution".

(D) Subsection (f) of section 1248 of the 1986 Code is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(E) The subsection heading for section 1248(f) of the 1986 Code is amended by striking out "SECTION 311, 336, OR 337 TRANSACTIONS" and inserting in lieu thereof "NONRECOGNITION TRANSACTIONS".

(15) Paragraph (1) of section 995(c) of the 1986 Code is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C) and the sentence following subparagraph (C).

(16) Subsection (d) of section 245 of the 1986 Code is hereby repealed.

(17) Paragraph (14) of section 1223 of the 1986 Code is amended to read as follows:

"(14) CROSS REFERENCE.—

"For special holding period provision relating to certain partnership distributions, see section 735(b)."

(18) Clause (ii) of section 341(e)(1)(C) of the 1986 Code is amended—

(A) by striking out "sale or exchange" the first place it appears and inserting in lieu thereof "liquidating sale or exchange", and

(B) by striking out ", gain or loss on which was not recognized to such other corporation under section 337(a),".

(19) Subsection (l) of section 897 of the 1986 Code is hereby repealed.

(20) Paragraph (7) of section 338(h) of the 1986 Code is hereby repealed.

(21)(A) The heading of subsection (b) of section 336 of the 1986 Code is amended by striking out "IN EXCESS OF BASIS".

(B) The heading of paragraph (2) of section 311(b) of the 1986 Code is amended by striking out "IN EXCESS OF BASIS".

(22) Section 453B of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(h) CERTAIN LIQUIDATING DISTRIBUTIONS BY S CORPORATIONS.—If—

"(1) an installment obligation is distributed by an S corporation in a complete liquidation, and

"(2) receipt of the obligation is not treated as payment for the stock by reason of section 453(h)(1),

then, except for purposes of any tax imposed by subchapter S, no gain or loss with respect to the distribution of the obligation shall be recognized by the distributing corporation. Under regulations prescribed by the Secretary, the character of the gain or loss to the shareholder shall be determined in accordance with the principles of section 1366(b)."

(f) AMENDMENTS RELATED TO SECTION 632 OF THE REFORM ACT.—

(1) Subsection (a) of section 1374 of the 1986 Code is amended by striking out "a recognized built-in gain" and inserting in lieu thereof "a net recognized built-in gain".

(2) Subsection (b) of section 1374 of the 1986 Code is amended by striking out paragraphs (1) and (2) and inserting in lieu thereof the following:

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) shall be computed by applying the highest rate of tax specified in section 11(b) to the net recognized built-in gain of the S corporation for the taxable year.

"(2) NET OPERATING LOSS CARRYFORWARDS FROM C YEARS ALLOWED.—Notwithstanding section 1371(b)(1), any net operating loss carryforward arising in a taxable year for which the corporation was a C corporation shall be allowed for purposes of this section as a deduction against the net recognized built-in gain of the S corporation for the taxable year. For purposes of determining the amount of any such loss which may be carried to subsequent taxable years, the amount of the net recognized built-in gain shall be treated as taxable income. Rules similar to

the rules of the preceding sentences of this paragraph shall apply in the case of a capital loss carryforward arising in a taxable year for which the corporation was a C corporation."

(3) Subparagraph (B) of section 1374(b)(4) of the 1986 Code is amended to read as follows:

"(B) the amount of the net recognized built-in gain shall be treated as the taxable income."

(4) Paragraph (2) of section 1374(c) of the 1986 Code is amended by striking out "recognized built-in gains" each place it appears and inserting in lieu thereof "net recognized built-in gain".

(5)(A) Section 1374 of the 1986 Code is amended by striking out all that follows paragraph (1) of subsection (d) and inserting in lieu thereof the following:

"(2) NET RECOGNIZED BUILT-IN GAIN.—

"(A) IN GENERAL.—The term 'net recognized built-in gain' means, with respect to any taxable year in the recognition period, the lesser of—

"(i) the amount which would be the taxable income of the S corporation for such taxable year if (except as provided in subsection (b)(2)) only recognized built-in gains and recognized built-in losses were taken into account, or

"(ii) such corporation's taxable income for such taxable year (determined as provided in section 1375(b)(1)(B)).

"(B) CARRYOVER.—If, for any taxable year, the amount referred to in clause (i) of subparagraph (A) exceeds the amount referred to in clause (ii) of subparagraph (A), such excess shall be treated as a recognized built-in gain in the succeeding taxable year. The preceding sentence shall apply only in the case of a corporation treated as an S corporation by reason of an election made on or after March 31, 1988.

"(3) RECOGNIZED BUILT-IN GAIN.—The term 'recognized built-in gain' means any gain recognized during the recognition period on the disposition of any asset except to the extent that the S corporation establishes that—

"(A) such asset was not held by the S corporation as of the beginning of the 1st taxable year for which it was an S corporation, or

"(B) such gain exceeds the excess (if any) of—

"(i) the fair market value of such asset as of the beginning of such 1st taxable year, over

"(ii) the adjusted basis of the asset as of such time.

"(4) RECOGNIZED BUILT-IN LOSSES.—The term 'recognized built-in loss' means any loss recognized during the recognition period on the disposition of any asset to the extent that the S corporation establishes that—

"(A) such asset was held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (3), and

"(B) such loss does not exceed the excess of—

"(i) the adjusted basis of such asset as of the beginning of such 1st taxable year, over

"(ii) the fair market value of such asset as of such time.

"(5) TREATMENT OF CERTAIN BUILT-IN ITEMS.—

"(A) INCOME ITEMS.—Any item of income which is properly taken into account during the recognition period but which is attributable to periods before the 1st taxable year for which the corporation was an S corporation shall be treated as a recognized built-in gain for the taxable year in which it is properly taken into account.

"(B) DEDUCTION ITEMS.—Any amount which is allowable as a deduction during the recognition period but which is attributable to periods before the 1st taxable year referred to in subparagraph (A) shall be treated as a recognized built-in loss for the taxable year for which it is allowable as a deduction.

"(C) ADJUSTMENT TO NET UNREALIZED BUILT-IN GAIN.—The amount of the net unrealized built-in gain shall be properly adjusted for amounts treated as recognized built-in gains or losses under this paragraph.

"(6) TREATMENT OF CERTAIN PROPERTY.—If the adjusted basis of any asset is determined (in whole or in part) by reference to the adjusted basis of any other asset held by the S corporation as of the beginning of the 1st taxable year referred to in paragraph (3)—

"(A) such asset shall be treated as held by the S corporation as of the beginning of such 1st taxable year, and

"(B) any determination under paragraph (3)(B) or (4)(B) with respect to such asset shall be made by reference to the fair market value and adjusted basis of such other asset as of the beginning of such 1st taxable year.

"(7) RECOGNITION PERIOD.—The term 'recognition period' means the 10-year period beginning with the 1st day of the 1st taxable year for which the corporation was an S corporation.

"(8) TREATMENT OF TRANSFER OF ASSETS FROM C CORPORATION TO S CORPORATION.—

"(A) IN GENERAL.—Except to the extent provided in regulations, if—

"(i) an S corporation acquires any asset, and

"(ii) the S corporation's basis in such asset is determined (in whole or in part) by reference to the basis of such asset (or any other property) in the hands of a C corporation,

then a tax is hereby imposed on any net recognized built-in gain attributable to any such assets for any taxable year beginning in the recognition period. The amount of such tax shall be determined under the rules of this section as modified by subparagraph (B).

"(B) MODIFICATIONS.—For purposes of this paragraph, the modifications of this subparagraph are as follows:

"(i) IN GENERAL.—The preceding paragraphs of this subsection shall be applied by taking into account the day on which the assets were acquired by the S corporation in lieu of the beginning of the 1st taxable year for which the corporation was an S corporation.

"(ii) SUBSECTION (c)(1) NOT TO APPLY.—Subsection (c)(1) shall not apply.

"(9) REFERENCE TO 1ST TAXABLE YEAR.—Any reference in this section to the 1st taxable year for which the corporation was an S corporation shall be treated as a reference to the 1st taxable

year for which the corporation was an S corporation pursuant to its most recent election under section 1362.

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section including regulations providing for the appropriate treatment of successor corporations."

(B) Subparagraph (B) of section 1375(b)(1) of the 1986 Code is amended to read as follows:

"(B) LIMITATION.—The amount of the excess net passive income for any taxable year shall not exceed the amount of the corporation's taxable income for such taxable year as determined under section 63(a)—

"(i) without regard to the deductions allowed by part VIII of subchapter B (other than the deduction allowed by section 248, relating to organization expenditures), and

"(ii) without regard to the deduction under section 172."

(C) Subsection (b) of section 1375 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SECTION 1374.—Notwithstanding paragraph (3), the amount of passive investment income shall be determined by not taking into account any recognized built-in gain or loss of the S corporation for any taxable year in the recognition period. Terms used in the preceding sentence shall have the same respective meanings as when used in section 1374."

(D) Subsection (c) of section 1375 of the 1986 Code is amended to read as follows:

"(c) CREDITS NOT ALLOWABLE.—No credit shall be allowed under part IV of subchapter A of this chapter (other than section 34) against the tax imposed by subsection (a)."

(E) Paragraph (2) of section 1366(f) of the 1986 Code is amended by striking out "as defined in section 1374(d)(2)" and inserting in lieu thereof "within the meaning of section 1374".

(6) Paragraph (3) of section 1362(d) of the 1986 Code is amended—

(A) by striking out clause (v) of subparagraph (D), and

(B) by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR OPTIONS AND COMMODITY DEALINGS.—

"(i) IN GENERAL.—In the case of any options dealer or commodities dealer, passive investment income shall be determined by not taking into account any gain or loss (in the normal course of the taxpayer's activity of dealing in or trading section 1256 contracts) from any section 1256 contract or property related to such a contract.

"(ii) DEFINITIONS.—For purposes of this subparagraph—

"(I) OPTIONS DEALER.—The term 'options dealer' has the meaning given such term by section 1256(g)(8).

"(II) COMMODITIES DEALER.—The term 'commodities dealer' means a person who is actively engaged in trading section 1256 contracts and is

registered with a domestic board of trade which is designated as a contract market by the Commodities Futures Trading Commission.

"(III) SECTION 1256 CONTRACT.—The term 'section 1256 contract' has the meaning given to such term by section 1256(b)."

(7) The subsection (d) of section 1363 of the 1986 Code which relates to distributions of appreciated property, and subsection (e) of section 1363 of the 1986 Code, are hereby repealed.

(g) AMENDMENTS RELATED TO SECTION 633 OF THE REFORM ACT.—

(1) Subsection (b) of section 633 of the Reform Act is amended to read as follows: 26 USC 336 note.

"(b) BUILT-IN GAINS OF S CORPORATIONS.—

"(1) IN GENERAL.—The amendments made by section 632 (other than subsection (b) thereof) shall apply to taxable years beginning after December 31, 1986, but only in cases where the return for the taxable year is filed pursuant to an S election made after December 31, 1986.

"(2) APPLICATION OF PRIOR LAW.—In the case of any taxable year of an S corporation which begins after December 31, 1986, and to which the amendments made by section 632 (other than subsection (b) thereof) do not apply, paragraph (1) of section 1374(b) of the Internal Revenue Code of 1954 (as in effect on the date before the date of the enactment of this Act) shall be applied as if it read as follows:

" '(1) an amount equal to 34 percent of the amount by which the net capital gain of the corporation for the taxable year exceeds $25,000, or' ".

(2) Subparagraph (B) of section 633(c)(1) of the Reform Act is amended by striking out "50 percent or more" and inserting in lieu thereof "more than 50 percent".

(3) Paragraph (1) of section 633(d) of the Reform Act is amended—

(A) by striking out "this section" and inserting in lieu thereof "this subtitle",

(B) by striking out "would be recognized and inserting in lieu thereof "would be recognized by the liquidating corporation", and

(C) by adding at the end thereof the following new sentence: "Section 333 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act) shall continue to apply to any complete liquidation described in the preceding sentence.".

(4) Subparagraph (C) of section 633(d)(2) of the Reform Act is amended to read as follows:

"(C) any gain on an asset acquired by the qualified corporation if—

"(i) the basis of such asset in the hands of the qualified corporation is determined (in whole or in part) by reference to the basis of such asset in the hands of the person from whom acquired, and

"(ii) a principal purpose for the transfer of such asset to the qualified corporation was to secure the benefits of this subsection."

(5)(A) Subparagraph (A) of section 633(d)(5) of the Reform Act is amended by striking out "10 or fewer qualified persons" and inserting in lieu thereof "a qualified group".

26 USC 336 note.

(B) Paragraph (6) of section 633(d) of the Reform Act is amended to read as follows:

"(6) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) QUALIFIED GROUP.—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'qualified group' means any group of 10 or fewer qualified persons who at all times during the 5-year period ending on the date of the adoption of the plan of complete liquidation (or, if shorter, the period during which the corporation or any predecessor was in existence) owned (or was treated as owning under the rules of subparagraph (C)) more than 50 percent (by value) of the stock in such corporation.

"(ii) 5-YEAR OWNERSHIP REQUIREMENT NOT TO APPLY IN CERTAIN CASES.—In the case of—

"(I) any complete liquidation pursuant to a plan of liquidation adopted before March 31, 1988,

"(II) any distribution not in liquidation made before March 31, 1988,

"(III) an election to be an S corporation filed before March 31, 1988, or

"(IV) a transaction described in section 338 of the Internal Revenue Code of 1986 where the acquisition date (within the meaning of such section 338) is before March 31, 1988,

the term 'qualified group' means any group of 10 or fewer qualified persons.

"(B) QUALIFIED PERSON.—The term 'qualified person' means—

"(i) an individual,

"(ii) an estate, or

"(iii) any trust described in clause (ii) or clause (iii) of section 1361(c)(2)(A) of the Internal Revenue Code of 1986.

"(C) ATTRIBUTION RULES.—

"(i) IN GENERAL.—Any stock owned by a corporation, trust (other than a trust referred to in subparagraph (B)(iii), or partnership shall be treated as owned proportionately by its shareholders, beneficiaries, or partners, and shall not be treated as owned by such corporation, trust, or partnership. Stock considered to be owned by a person by reason of the application of the preceding sentence shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(ii) FAMILY MEMBERS.—Stock owned (or treated as owned) by members of the same family (within the meaning of section 318(a)(1) of the Internal Revenue Code of 1986) shall be treated as owned by 1 person, and shall be treated as owned by such 1 person for any period during which it was owned (or treated as owned) by any such member.

"(iii) TREATMENT OF CERTAIN TRUSTS.—Stock owned (or treated as owned) by the estate of any decedent or by any trust referred to in subparagraph (B)(iii) with respect to such decedent shall be treated as owned by 1 person and shall be treated as owned by such 1 person

for the period during which it was owned (or treated as owned) by such estate or any such trust or by the decedent.

"(D) SPECIAL HOLDING PERIOD RULES.—Any property acquired by reason of the death of an individual shall be treated as owned at all times during which such property was owned (or treated as owned) by the decedent. Real property.

"(E) CONTROLLED GROUP OF CORPORATIONS.—All members of the same controlled group (as defined in section 267(f)(1) of such Code) shall be treated as 1 corporation for purposes of determining whether any of such corporations met the requirement of paragraph (5)(B) and for purposes of determining the applicable percentage with respect to any of such corporations. For purposes of the preceding sentence, an S corporation shall not be treated as a member of a controlled group unless such corporation was a C corporation for its taxable year which includes August 1, 1986, or it was not described for such taxable year in paragraph (1) or (2) of section 1374(c) of such Code (as in effect on the day before the date of the enactment of this Act)."

(6) Subsection (d) of section 633 of the Reform Act is amended by adding at the end thereof the following new paragraph: 26 USC 336 note.

"(9) APPLICATION TO NONLIQUIDATING DISTRIBUTIONS.—The provisions of this subsection shall also apply in the case of any distribution (not in complete liquidation) made by a qualified corporation before January 1, 1989, without regard to whether such corporation is completely liquidated."

(7) Paragraph (8) of the section 633(d) of the Reform Act is amended by striking out "becomes an S corporation for a taxable year beginning before January 1, 1989" and inserting in lieu thereof "makes an election to be an S corporation under section 1362 of such Code before January 1, 1989, without regard to whether such corporation is completely liquidated".

(8) Section 633 of the Reform Act is amended by redesignating the subsections following the first subsection (d) as subsections (e), (f), and (g), respectively.

(9) Subsection (f)(2) of section 633 of the Reform Act (as so redesignated) is amended by striking out "May 9, 1929" and inserting in lieu thereof "May 9, 1929 (or any direct or indirect subsidiary of such corporation)".

(10) Paragraph (3) of section 633(f) of the Reform Act (as so redesignated) is amended by striking out "of such Code)" in the last sentence thereof and inserting in lieu thereof "of such Code".

(11) Subclause (I) of section 633(f)(4)(A)(i) of the Reform Act (as so redesignated) is amended by striking out "binding on the selling corporation to sell substantially all its assets" and inserting in lieu thereof "to sell substantially all of the assets of a selling corporation organized under the laws of Massachusetts on October 20, 1976,". Massachusetts.

(12) Subparagraph (A) of section 633(f)(5) of the Reform Act (as so redesignated) is amended to read as follows:

"(A) a voting trust established not later than December 31, 1987, shall qualify as a trust permitted as a shareholder of an S corporation and shall be treated as only 1 shareholder if the holders of beneficial interests in such voting trust are—

"(i) employees or retirees of such corporation, or

"(ii) in the case of stock or voting trust certificates acquired from an employee or retiree of such corporation, the spouse, child, or estate of such employee or retiree or a trust created by such employee or retiree which is described in section 1361(c)(2) of the Internal Revenue Code of 1986 (or treated as described in such section by reason of section 1361(d) of such Code), and".

(h) AMENDMENTS RELATED TO SECTION 641 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1060(b) of the 1986 Code is amended by striking out "the Secretary may find necessary" and inserting in lieu thereof "the Secretary deems necessary".

(2) Section 1060 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) TREATMENT OF CERTAIN PARTNERSHIP TRANSACTIONS.—In the case of a distribution of partnership property or a transfer of an interest in a partnership—

"(1) the rules of subsection (a) shall apply but only for purposes of determining the value of goodwill or going concern value (or similar items) for purposes of applying section 755, and

"(2) if section 755 applies, such distribution or transfer (as the case may be) shall be treated as an applicable asset acquisition for purposes of subsection (b)."

(3)(A) Subparagraph (B) of section 6724(d)(1) of the 1986 Code (defining information return) is amended by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(xi) section 1060(b) (relating to reporting requirements of transferors and transferees in certain asset acquisitions)."

(B) Section 1060 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) CROSS REFERENCE.—

"For provisions relating to penalties for failure to file a return required by this section, see section 6721."

(i) AMENDMENTS RELATED TO SECTION 642 OF THE REFORM ACT.—

(1) Paragraph (1) of section 453(g) of the 1986 Code is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) subsection (a) shall not apply,

"(B) for purposes of this title—

"(i) except as provided in clause (ii), all payments to be received shall be treated as received in the year of the disposition, and

"(ii) in the case of any payments which are contingent as to the amount but with respect to which the fair market value may not be reasonably ascertained, the basis shall be recovered ratably, and

"(C) the purchaser may not increase the basis of any property acquired in such sale by any amount before the time such amount is includible in the gross income of the seller."

(2)(A) Section 453(g) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) RELATED PERSONS.—For purposes of this subsection, the term 'related persons' has the meaning given to such term by section 1239(b), except that such term shall include 2 or more partnerships having a relationship to each other described in section 707(b)(1)(B)."

(B) Section 453(g)(1) of the 1986 Code is amended by striking out "(within the meaning of section 1239(b))".

(3) The heading of paragraph (2) of section 642(c) of the Reform Act is amended by striking out "TRADITIONAL" and inserting in lieu thereof "TRANSITIONAL".

(j) AMENDMENTS RELATED TO SECTION 643 OF THE REFORM ACT.—

(1)(A) Subsection (e) of section 171 of the 1986 Code is amended to read as follows:

"(e) TREATMENT AS OFFSET TO INTEREST PAYMENTS.—Except as provided in regulations, in the case of any taxable bond—

"(1) the amount of any bond premium shall be allocated among the interest payments on the bond under rules similar to the rules of subsection (b)(3), and

"(2) in lieu of any deduction under subsection (a), the amount of any premium so allocated to any interest payment shall be applied against (and operate to reduce) the amount of such interest payment.

For purposes of the preceding sentence, the term 'taxable bond' means any bond the interest of which is not excludable from gross income."

(B) Paragraph (5) of section 1016(a) of the 1986 Code is amended by striking out "allowable pursuant to section 171(a)(1)" and inserting in lieu thereof "allowable pursuant to section 171(a)(1) (or the amount applied to reduce interest payments under section 171(e)(2))".

(C) The amendments made by this paragraph shall apply in the case of obligations acquired after December 31, 1987; except that the taxpayer may elect to have such amendment apply to obligations acquired after October 22, 1986. 26 USC 171 note.

(2) Paragraph (2) of section 643(b) of the Reform Act is amended by striking out "issued after" and inserting in lieu thereof "acquired after". 26 USC 171 note.

(k) AMENDMENTS RELATED TO SECTION 646 OF THE REFORM ACT.—

(1) Paragraph (2) of section 646(b) of the Reform Act is amended to read as follows: 26 USC 671 note.

"(2) such entity is exclusively engaged in the leasing of mineral property and activities incidental thereto, and". Minerals and mining.

(2) Paragraph (3) of section 646(b) of the Reform Act is amended by inserting "as of October 22, 1986," after "publicly traded".

(3) Subparagraph (A) of section 646(c)(1) of the Reform Act is amended by inserting "before January 1, 1991" after "entity".

(4) Paragraph (2) of section 646(c) of the Reform Act is amended to read as follows:

"(2) AGREEMENT.— Real property. Minerals and mining.

"(A) IN GENERAL.—The agreement described in this paragraph is a written agreement signed by the board of trustees of the entity which provides that the entity will not acquire any additional property other than property described in subparagraph (B).

"(B) PERMISSIBLE ACQUISITIONS.—Property is described in this paragraph if it is—

"(i) surface rights to property the acquisition of which—

"(I) is necessary to mine mineral rights held on October 22, 1986, and

"(II) is required by a written binding agreement between the entity and an unrelated person entered into on or before October 22, 1986,

"(ii) surface rights to property which are not described in clause (i) and which—

"(I) are acquired in an exchange to which section 1031 applies, and

"(II) are necessary to mine mineral rights held on October 22, 1986,

Gifts and property.

"(iii) tangible personal property incidental to the leasing of mineral property and activities incidental thereto, or

"(iv) part of any required reserves of the entity."

26 USC 671 note.

(5) Paragraph (1) of section 646(d) of the Reform Act is amended by striking out subparagraph (B) and inserting in lieu thereof:

"(B) for purposes of section 333 of such Code (as so in effect)—

"(i) any person holding an income interest in such entity as of such time shall be treated as a qualified electing shareholder, and

"(ii) the earnings and profits, and the value of money or stock or securities, of such entity shall be apportioned ratably among persons described in clause (i).

The amendments made by subtitle D of this title and section 1804 of this Act shall not apply to any liquidation under this paragraph."

(6)(A) Paragraph (2) of section 646(d) of the Reform Act is amended to read as follows:

"(2) TERMINATION OF ELECTION.—If an entity ceases to be described in subsection (b) or violates any term of the agreement described in subsection (c)(2), the entity shall, for purposes of the Internal Revenue Code of 1986, be treated as a corporation for the taxable year in which such cessation or violation occurs and for all subsequent taxable years."

(B) Paragraph (3) of section 646(c) of the Reform Act is amended to read as follows:

"(3) BEGINNING OF PERIOD FOR WHICH ELECTION IS IN EFFECT.—The period during which an election is in effect under this subsection shall begin on the 1st day of the 1st taxable year beginning after the date of the enactment of this Act and following the taxable year in which the election is made."

(7)(A) Subsection (e) of section 646 of the Reform Act is amended to read as follows:

"(e) SPECIAL RULE FOR PERSONS HOLDING INCOME INTERESTS.—In applying subpart E of part I of subchapter J of chapter 1 of the Internal Revenue Code of 1986 to any entity to which this section applies—

"(1) a reversionary interest shall not be taken into account until it comes into possession, and

"(2) all items of income, gain, loss, deduction, and credit shall be allocated to persons holding income interests for the period of the allocation."

(B) Section 646(d)(3) of the Reform Act is amended by striking out "or by reason of subsection (e)". 26 USC 671 note.

(l) AMENDMENTS RELATED TO SECTION 651 OF THE REFORM ACT.—

(1)(A) Paragraph (6) of section 852(b) of the 1986 Code (as added by section 651(b)(1)(A) of the Reform Act) is redesignated as paragraph (7).

(B) Subsection (b) of section 855 of the 1986 Code is amended by striking out "section 852(b)(6)" and inserting in lieu thereof "section 852(b)(7)".

(2) Paragraph (2) of section 4982(e) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAIN NET INCOME.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'capital gain net income' has the meaning given such term by section 1222(9) (determined by treating the 1-year period ending on October 31 of any calendar year as the company's taxable year).

"(B) REDUCTION BY NET ORDINARY LOSS FOR CALENDAR YEAR.—The amount determined under subparagraph (A) shall be reduced (but not below the net capital gain) by the amount of the company's net ordinary loss for the calendar year.

"(C) DEFINITIONS.—For purposes of this paragraph—

"(i) NET CAPITAL GAIN.—The term 'net capital gain' has the meaning given such term by section 1222(11) (determined by treating the 1-year period ending on October 31 of the calendar year as the company's taxable year).

"(ii) NET ORDINARY LOSS.—The net ordinary loss for the calendar year is the amount which would be the net operating loss of the company for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1)."

(3) Paragraph (2) of section 852(c) of the 1986 Code is amended to read as follows:

"(2) COORDINATION WITH TAX ON UNDISTRIBUTED INCOME.—For purposes of applying this chapter to distributions made by a regulated investment company with respect to any calendar year, the earnings and profits of such company shall be determined without regard to any net capital loss (or net foreign currency loss) attributable to transactions after October 31 of such year and with such other adjustments as the Secretary may by regulations prescribe. The preceding sentence shall apply—

"(A) only to the extent that the amount distributed by the company with respect to the calendar year does not exceed the required distribution for such calendar year (as determined under section 4982 by substituting '100 percent' for each percentage set forth in section 4982(b)(1)), and

"(B) except as provided in regulations, only if an election under section 4982(e)(4) is not in effect with respect to such company."

(4) Subparagraph (C) of section 852(b)(3) of the 1986 Code is amended—

(A) by striking out "net capital loss" each place it appears in the 3rd sentence and inserting in lieu thereof "net capital loss or net long-term capital loss", and

(B) by striking out "regulated investment company taxable income" in the last sentence and inserting in lieu thereof "the taxable income of the regulated investment company".

(5) Subsection (e) of section 4982 of the 1936 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF FOREIGN CURRENCY GAINS AND LOSSES AFTER OCTOBER 31 OF CALENDAR YEAR.—Any foreign currency gain or loss which is attributable to a section 988 transaction and which is properly taken into account for the portion of the calendar year after October 31 shall not be taken into account in determining the amount of the ordinary income of the regulated investment company for such calendar year but shall be taken into account in determining the ordinary income of the investment company for the following calendar year. In the case of any company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company's taxable year for October 31."

(6) Section 4982 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) EXCEPTION FOR CERTAIN REGULATED INVESTMENT COMPANIES.—This section shall not apply to any regulated investment company for any calendar year if at all times during such calendar year each shareholder in such company was either—

"(1) a trust described in section 401(a) and exempt from tax under section 501(a), or

"(2) a segregated asset account of a life insurance company held in connection with variable contracts (as defined in section 817(d)).

For purposes of the preceding sentence, any shares attributable to an investment in the regulated investment company (not exceeding $250,000) made in connection with the organization of such company shall not be taken into account."

(7) Subsection (b) of section 852 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SPECIAL RULE FOR TREATMENT OF CERTAIN FOREIGN CURRENCY LOSSES.—To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net foreign currency loss attributable to transactions after October 31 of such year, and any such net foreign currency loss shall be treated as arising on the 1st day of the following taxable year."

(8) Subsection (a) of section 852 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may waive the requirements of paragraph (1) for any taxable year if the regulated investment company establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4982."

(9) Effective with respect to dividends declared in 1988 and subsequent calendar years, paragraph (7) of section 852(b) of the 1986 Code (as redesignated by paragraph (1)) is amended—

(A) by striking out "in December" and inserting in lieu thereof "in October, November, or December",

(B) by striking out "in such month" and inserting in lieu thereof "in such a month",

(C) by striking out "on such date" in subparagraphs (A) and (B) and inserting in lieu thereof "on December 31 of such calendar year", and

(D) by striking out "before February 1" and inserting in lieu thereof "during January".

(10) Paragraph (1) of section 852(e) of the 1986 Code is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(m) AMENDMENTS RELATED TO SECTION 652 OF THE REFORM ACT.—

(1) Paragraph (1) of section 851(a) of the 1986 Code is amended to read as follows:

"(1) which, at all times during the taxable year—

"(A) is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2) as a management company or unit investment trust, or

"(B) has in effect an election under such Act to be treated as a business development company, or".

(2) Paragraph (1) of section 851(e) of the 1986 Code is amended by striking out "a registered management company or registered business development company" and inserting in lieu thereof "a management company or a business development company described in subsection (a)(1)".

(n) AMENDMENTS RELATED TO SECTION 653 OF THE REFORM ACT.—

(1) Subsection (b) of section 851 of the 1986 Code is amended by adding at the end thereof the following new sentence: "Income derived from a partnership or trust shall be treated as described in paragraph (2) only to the extent such income is attributable to items of income of the partnership or trust (as the case may be) which would be described in paragraph (2) if realized by the regulated investment company in the same manner as realized by the partnership or trust."

(2)(A) Paragraph (3) of section 851(b) of the 1986 Code is amended to read as follows:

"(3) less than 30 percent of its gross income is derived from the sale or disposition of any of the following which was held for less than 3 months:

"(A) stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended),

"(B) options, futures, or forward contracts (other than options, futures, or forward contracts on foreign currencies), or

"(C) foreign currencies (or options, futures, or forward contracts on foreign currencies) but only if such currencies (or options, futures, or forward contracts) are not directly related to the company's principal business of investing in stock or securities (or options and futures with respect to stocks or securities), and".

(B) Subsection (b) of section 851 of the 1986 Code is amended by striking out "which are not ancillary" in the material following paragraph (4), and inserting in lieu thereof "which are not directly related".

(C) Subparagraph (C) of section 851(b)(3) of the 1986 Code (as amended by subparagraph (A)), and the amendment made by 26 USC 851 note.

subparagraph (B), shall apply to taxable years beginning after the date of the enactment of this Act.

(4) Clause (i) of section 851(g)(2)(A) of the 1986 Code (defining designated hedge) is amended by striking out "contractual option" and inserting in lieu thereof "contractual obligation".

(5) Subsection (b) of section 851 of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of the taxable year in which a regulated investment company is completely liquidated, there shall not be taken into account under paragraph (3) any gain from the sale, exchange, or distribution of any property after the adoption of the plan of complete liquidation."

(o) AMENDMENTS RELATED TO SECTION 654 OF THE REFORM ACT.—Subsection (q) of section 851 of the 1986 Code (as added by section 654 of the Reform Act)—

(1) is redesignated as subsection (h), and

(2) is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR ABNORMAL REDEMPTIONS.—

"(A) IN GENERAL.—Any fund treated as a separate corporation under paragraph (1) shall not be disqualified under subsection (b)(3) for any taxable year by reason of sales resulting from abnormal redemptions on any day and occurring before the close of the 5th business day after such day if—

"(i) the sum of the percentages determined under subparagraph (B) for the abnormal redemptions on such day and for abnormal redemptions on prior days during such taxable year exceeds 30 percent; and

"(ii) the regulated investment company of which such fund is a part would meet the requirements of subsection (b)(3) for such taxable year if all the funds which are part of such company were treated as a single company.

"(B) ABNORMAL REDEMPTIONS.—For purposes of subparagraph (A), the term 'abnormal redemptions' means redemptions occurring on any day if the net redemptions on such day exceed 1 percent of the fund's net asset value.

"(C) DETERMINATION OF NET ASSET VALUE.—For purposes of this paragraph, net asset value for any day shall be determined as of the close of the preceding day.

"(D) LIMITATION.—For purposes of subparagraph (A), any sale or other disposition of stock or securities held less than 3 months occurring during any day shall be deemed to result from abnormal redemptions until the cumulative proceeds from such sales or dispositions occurring during such day, plus the cumulative net positive cash flow of the fund for preceding business days (if any) following the day with abnormal redemptions, exceed the amount of net redemptions on the day with abnormal redemptions."

(p) AMENDMENTS RELATED TO SECTION 662 OF THE REFORM ACT.—

(1) Subclause (I) of section 856(c)(6)(D)(i) of the 1986 Code (as added by section 662 of the Reform Act) is amended by striking out "debt instrument" and inserting in lieu thereof "debt instrument (within the meaning of section 1275(a)(1))".

26 USC 856 note.

(2) Notwithstanding section 669 of the Reform Act, the amendment made by section 662(c) of the Reform Act shall

apply to taxable years beginning after December 31, 1986, but only in the case of obligations acquired after October 22, 1986.

(3) Subsection (c) of section 856 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF LIQUIDATING GAINS.—In the case of the taxable year in which a real estate investment trust is completely liquidated, there shall not be taken into account under paragraph (4) any gain from the sale, exchange, or distribution of any property after the adoption of the plan of complete liquidation."

(4)(A) Paragraph (6) of section 856(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(G) TREATMENT OF CERTAIN INTEREST RATE AGREEMENTS.—Except to the extent provided by regulations, any— Real property.

"(i) payment to a real estate investment trust under a bona fide interest rate swap or cap agreement entered into by the real estate investment trust to hedge any variable rate indebtedness of such trust incurred or to be incurred to acquire or carry real estate assets, and

"(ii) any gain from the sale or other disposition of such agreement,

shall be treated as income qualifying under paragraph (2) and such agreement shall be treated as a security for purposes of paragraph (4)(A)."

(B) The amendment made by subparagraph (A) shall apply to taxable years ending after the date of the enactment of this Act. 26 USC 856 note.

(5) Subclause (I) of section 856(c)(6)(D)(ii) of the 1986 Code (as added by section 662 of the Reform Act) is amended by striking out "stock in" and inserting in lieu thereof "stock (or certificates of beneficial interests) in".

(q) AMENDMENTS RELATED TO SECTION 663 OF THE REFORM ACT.— Real property.

(1) Subparagraph (A) of section 856(d)(6) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—If—

"(i) a real estate investment trust receives or accrues, with respect to real or personal property, amounts from a tenant which derives substantially all of its income with respect to such property from the subleasing of substantially all of such property, and

"(ii) a portion of the amount such tenant receives or accrues, directly or indirectly, from subtenants consists of qualified rents,

then the amounts which the trust receives or accrues from the tenant shall not be excluded from the term 'rents from real property' by reason of being based on the income or profits of such tenant to the extent the amounts so received or accrued are attributable to qualified rents received or accrued by such tenant."

(2) Subsection (f) of section 856 of the 1986 Code is amended to read as follows:

"(f) INTEREST.—

"(1) IN GENERAL.—For purposes of paragraphs (2)(B) and (3)(B) of subsection (c), the term 'interest' does not include any amount received or accrued, directly or indirectly, if the deter-

mination of such amount depends in whole or in part on the income or profits of any person except that—

"(A) any amount so received or accrued shall not be excluded from the term 'interest' solely by reason of being based on a fixed percentage or percentages of receipts or sales, and

"(B) where a real estate investment trust receives any amount which would be excluded from the term 'interest' solely because the debtor of the real estate investment trust receives or accrues any amount the determination of which depends in whole or in part on the income or profits of any person, only a proportionate part (determined pursuant to regulations prescribed by the Secretary) of the amount received or accrued by the real estate investment trust from the debtor will be excluded from the term 'interest'.

"(2) SPECIAL RULE.—If—

"(A) a real estate investment trust receives or accrues with respect to an obligation secured by a mortgage on real property or an interest in real property amounts from a debtor which derives substantially all of its gross income with respect to such property (not taking into account any gain on any disposition) from the leasing of substantially all of its interests in such property to tenants, and

"(B) a portion of the amount which such debtor receives or accrues, directly or indirectly, from tenants consists of qualified rents (as defined in subsection (d)(6)(B)),

then the amounts which the trust receives or accrues from such debtor shall not be excluded from the term 'interest' by reason of being based on the income or profits of such debtor to the extent the amounts so received are attributable to qualified rents received or accrued by such debtor "

(r) AMENDMENT RELATED TO SECTION 664 OF THE REFORM ACT.—Clause (i) of section 857(e)(2)(B) of the 1986 Code is amended by striking out "as original issue discount on instruments" and inserting "with respect to instruments"

(s) AMENDMENTS RELATED TO SECTION 668 OF THE REFORM ACT.—

(1) Paragraph (2) of section 4981(e) of the 1986 Code is amended to read as follows:

"(2) CAPITAL GAIN NET INCOME.—

"(A) IN GENERAL.—The term 'capital gain net income' has the meaning given such term by section 1222(9) (determined by treating the calendar year as the trust's taxable year).

"(B) REDUCTION FOR NET ORDINARY LOSS.—The amount determined under subparagraph (A) shall be reduced by the amount of the trust's net ordinary loss for the taxable year.

"(C) NET ORDINARY LOSS.—For purposes of this paragraph, the net ordinary loss for the calendar year is the amount which would be net operating loss of the trust for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1)."

(2) Subparagraph (C) of section 857(b)(3) of the 1986 Code is amended by striking out "real estate investment trust taxable income" in the last sentence and inserting in lieu thereof "the taxable income of the real estate investment trust".

(3) Subparagraph (A) of section 4981(c)(1) of the 1986 Code is amended by striking out "such calendar year" and inserting in

lieu thereof "such calendar year (but computed without regard to that portion of such deduction which is attributable to the amount excluded under section 857(b)(2)(D))".

(4) Subsection (a) of section 857 of the 1986 Code is amended by adding at the end thereof the following new sentence: "The Secretary may waive the requirements of paragraph (1) for any taxable year if the real estate investment trust establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4981."

(5) Effective with respect to dividends declared in 1988 and subsequent calendar years, paragraph (8) of section 857(b) of the 1986 Code is amended—

(A) by striking out "in December" and inserting in lieu thereof "in October, November, or December",

(B) by striking out "in such month" and inserting in lieu thereof "in such a month",

(C) by striking out "on such date" in subparagraphs (A) and (B) and inserting in lieu thereof "on December 31 of such calendar year", and

(D) by striking out "before February 1" and inserting in lieu thereof "during January".

(t) AMENDMENTS RELATED TO SECTION 671 OF THE REFORM ACT.—

(1) Paragraph (1) of section 860C(e) of the 1986 Code is amended to read as follows:

"(1) AMOUNTS TREATED AS ORDINARY.—Any amount taken into account under subsection (a) by any holder of a residual interest in a REMIC shall be treated as ordinary income or ordinary loss, as the case may be."

(2)(A) Paragraph (4) of section 860D(a) of the 1986 Code is amended—

(i) by striking out "4th month ending after" and inserting in lieu thereof "3rd month beginning after", and

(ii) by striking out "and each quarter ending thereafter" and inserting in lieu thereof "and at all times thereafter".

(B) The amendment made by subparagraph (A)(ii) shall take effect on January 1, 1988. Effective date. 26 USC 860D note.

(3)(A) Clause (i) of section 860F(a)(2)(A) of the 1986 Code is amended to read as follows:

"(i) the substitution of a qualified replacement mortgage for a qualified mortgage (or the repurchase in lieu of substitution of a defective obligation),".

(B)(i) Paragraph (2) of section 860F(a) of the 1986 Code is amended by striking out the last sentence of subparagraph (A).

(ii) Subsection (a) of section 860F of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTIONS.—Notwithstanding subparagraphs (A) and (D) of paragraph (1), the term 'prohibited transaction' shall not include any disposition—

"(A) required to prevent default on a regular interest where the threatened default resulted from a default on 1 or more qualified mortgages, or

"(B) to facilitate a clean-up call (as defined in regulations)."

(C) Subparagraph (D) of section 860F(a)(2) of the 1986 Code is amended by striking out "described in subsection (b)".

(4) Subparagraph (A) of section 860F(b)(1) of the 1986 Code is amended by striking out "the transfer of any property to a REMIC" and inserting in lieu thereof "the transfer of any property to a REMIC in exchange for regular or residual interests in such REMIC".

(5)(A) Paragraph (1) of section 860G(a) of the 1986 Code is amended to read as follows:

"(1) REGULAR INTEREST.—The term 'regular interest' means any interest in a REMIC which is issued on the startup day with fixed terms and which is designated as a regular interest if—

"(A) such interest unconditionally entitles the holder to receive a specified principal amount (or other similar amount), and

"(B) interest payments (or other similar amount), if any, with respect to such interest at or before maturity—

"(i) are payable based on a fixed rate (or to the extent provided in regulations, at a variable rate), or

"(ii) consist of a specified portion of the interest payments on qualified mortgages and such portion does not vary during the period such interest is outstanding.

The interest shall not fail to meet the requirements of subparagraph (A) merely because the timing (but not the amount) of the principal payments (or other similar amounts) may be contingent on the extent of prepayments on qualified mortgages and the amount of income from permitted investments."

(B) Paragraph (2) of section 860G(a) of the 1986 Code is amended to read as follows:

"(2) RESIDUAL INTEREST.—The term 'residual interest' means an interest in a REMIC which is issued on the startup day, which is not a regular interest, and which is designated as a residual interest."

(C) Paragraph (3) of section 860G(a) of the 1986 Code is amended—

(i) by striking out "on or before the startup day" in subparagraph (A)(i) and inserting in lieu thereof "on the startup day in exchange for regular or residual interests in the REMIC",

(ii) by inserting "if, except as provided in regulations, such purchase is pursuant to a fixed-price contract in effect on the startup day" before the comma at the end of subparagraph (A)(ii), and

(iii) by striking out "on or before the startup day" in subparagraph (C) and inserting in lieu thereof "on the startup day in exchange for regular or residual interests in the REMIC".

(D) Subparagraph (A) of section 860G(a)(4) of the 1986 Code is amended to read as follows:

"(A) which would be a qualified mortgage if transferred on the startup day in exchange for regular or residual interests in the REMIC, and".

(E) Paragraph (9) of section 860G(a) of the 1986 Code is amended to read as follows:

"(9) STARTUP DAY.—The term 'startup day' means the day on which the REMIC issues all of its regular and residual interests. To the extent provided in regulations, all interests issued (and all transfers to the REMIC) during any period (not exceeding 10 days) permitted in such regulations shall be treated as occur-

ring on the day during such period selected by the REMIC for purposes of this paragraph."

(F) The amendments made by this paragraph shall not apply to any REMIC where the startup day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before July 1, 1987. 26 USC 860G note.

(6) Paragraph (3) of section 860G(a) of the 1986 Code is amended—

(A) by striking out "directly or indirectly," in subparagraph (A), and

(B) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, any obligation secured by stock held by a person as a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as so defined) shall be treated as secured by an interest in real property."

(7) Subparagraph (B) of section 860G(a)(7) of the 1986 Code is amended by inserting before the period at the end of the 1st sentence the following: "or lower than expected returns on cash flow investments".

(8)(A) Paragraph (8) of section 860G(a) of the 1986 Code is amended—

(i) by striking out "section 856(e)" in subparagraph (A) and inserting in lieu thereof "section 856(e) (without regard to paragraph (5) thereof)", and

(ii) by striking out the last sentence and inserting in lieu thereof the following:

"Solely for purposes of section 860D(a), the determination of whether any property is foreclosure property shall be made without regard to section 856(e)(4)."

(B) Section 860G of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TAX ON INCOME FROM FORECLOSURE PROPERTY.—

"(1) IN GENERAL.—A tax is hereby imposed for each taxable year on the net income from foreclosure property of each REMIC. Such tax shall be computed by multiplying the net income from foreclosure property by the highest rate of tax specified in section 11(b).

"(2) NET INCOME FROM FORECLOSURE PROPERTY.—For purposes of this part, the term 'net income from foreclosure property' means the amount which would be the REMIC's net income from foreclosure property under section 857(b)(4)(B) if the REMIC were a real estate investment trust."

(C) Paragraph (1) of section 860C(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) the amount of the net income from foreclosure property (if any) shall be reduced by the amount of the tax imposed by section 860G(c)."

(9)(A) Section 860G of the 1986 Code (as amended by paragraph (8)) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TAX ON CONTRIBUTIONS AFTER STARTUP DATE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if any amount is contributed to a REMIC after the startup day, there is hereby imposed a tax for the taxable year of the REMIC in which the contribution is received equal to 100 percent of the amount of such contribution.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to any contribution which is made in cash and is described in any of the following subparagraphs:

"(A) Any contribution to facilitate a clean-up call (as defined in regulations) or a qualified liquidation.

"(B) Any payment in the nature of a guarantee.

"(C) Any contribution during the 3-month period beginning on the startup day.

"(D) Any contribution to a qualified reserve fund by any holder of a residual interest in the REMIC.

"(E) Any other contribution permitted in regulations."

26 USC 860G note.

(B) The amendment made by subparagraph (A) shall not apply to any REMIC where the startup day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before July 1, 1987.

(10) Subsection (e) of section 860G of the 1986 Code (as redesignated by paragraph (9)) is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof a comma, and by adding at the end thereof the following new paragraphs:

"(4) providing appropriate rules for treatment of transfers of qualified replacement mortgages to the REMIC where the transferor holds any interest in the REMIC, and

"(5) providing that a mortgage will be treated as a qualified replacement mortgage only if it is part of a bona fide replacement (and not part of a swap of mortgages)."

(11) Paragraph (6) of section 856(c) of the 1986 Code is amended by redesignating the last subparagraph as subparagraph (F) and by striking out the subparagraph (D) added by section 671(b)(1) of the Reform Act and inserting in lieu thereof the following:

"(E) A regular or residual interest in a REMIC shall be treated as a real estate asset, and any amount includible in gross income with respect to such an interest shall be treated as interest on an obligation secured by a mortgage on real property; except that, if less than 95 percent of the assets of such REMIC are real estate assets (determined as if the real estate investment trust held such assets), such real estate investment trust shall be treated as holding directly (and as receiving directly) its proportionate share of the assets and income of the REMIC. For purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest held by such REMIC in another REMIC shall be treated as a real estate asset under principles similar to the principles of the preceding sentence, except that, if such REMIC's are part of a tiered structure, they shall be treated as one REMIC for purposes of this subparagraph."

(12) Clause (xi) of section 7701(a)(19)(C) of the 1986 Code is amended by striking out "are loans described" and inserting in lieu thereof "are assets described".

(13) Subparagraph (B) of section 860E(c)(2) of the 1986 Code is amended by striking out "issue price of residual interest" and inserting in lieu thereof "issue price of the residual interest".

(14) Clause (ii) of section 860F(b)(1)(D) of the 1986 Code is amended by striking out "the real estate mortgage pool" and inserting in lieu thereof "the REMIC".

(15) Subsection (a) of section 860E of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(3) SPECIAL RULE FOR AFFILIATED GROUPS.—All members of an affiliated group filing a consolidated return shall be treated as 1 taxpayer for purposes of this subsection, except that paragraph (2) shall be applied separately with respect to each corporation which is a member of such group and to which section 593 applies.

"(4) TREATMENT OF CERTAIN SUBSIDIARIES.—

"(A) IN GENERAL.—For purposes of this subsection, a corporation to which section 593 applies and each qualified subsidiary of such corporation shall be treated as a single corporation to which section 593 applies.

"(B) QUALIFIED SUBSIDIARY.—For purposes of this subsection, the term 'qualified subsidiary' means any corporation—

"(i) all the stock of which, and substantially all the indebtedness of which, is held directly by the corporation to which section 593 applies, and

"(ii) which is organized and operated exclusively in connection with the organization and operation of 1 or more REMIC's."

(16)(A) Subsection (a) of section 860D of the 1986 Code is amended by striking out "and" at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(6) with respect to which there are reasonable arrangements designed to ensure that—

"(A) residual interests in such entity are not held by disqualified organizations (as defined in section 860E(e)(5)), and

"(B) information necessary for the application of section 860E(e) will be made available by the entity."

(B) Section 860E of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) TAX ON TRANSFERS OF RESIDUAL INTERESTS TO CERTAIN ORGANIZATIONS, ETC.—

"(1) IN GENERAL.—A tax is hereby imposed on any transfer of a residual interest in a REMIC to a disqualified organization.

"(2) AMOUNT OF TAX.—The amount of the tax imposed by paragraph (1) on any transfer of a residual interest shall be equal to the product of—

"(A) the amount (determined under regulations) equal to the present value of the total anticipated excess inclusions with respect to such interest for periods after such transfer, multiplied by

"(B) the highest rate of tax specified in section 11(b)(1).

"(3) LIABILITY.—The tax imposed by paragraph (1) on any transfer shall be paid by the transferor; except that, where such

transfer is through an agent for a disqualified organization, such tax shall be paid by such agent.

"(4) TRANSFEREE FURNISHES AFFIDAVIT.—The person (otherwise liable for any tax imposed by paragraph (1)) shall be relieved of liability for the tax imposed by paragraph (1) with respect to any transfer if—

"(A) the transferee furnishes to such person an affidavit that the transferee is not a disqualified organization, and

"(B) as of the time of the transfer, such person does not have actual knowledge that such affidavit is false.

"(5) DISQUALIFIED ORGANIZATION.—For purposes of this section, the term 'disqualified organization' means—

"(A) the United States, any State or political subdivision thereof, any foreign government, any international organization, or any agency or instrumentality of any of the foregoing,

"(B) any organization (other than a cooperative described in section 521) which is exempt from tax imposed by this chapter unless such organization is subject to the tax imposed by section 511, and

"(C) any organization described in section 1381(a)(2)(C).

For purposes of subparagraph (A), the rules of section 168(h)(2)(D) (relating to treatment of certain taxable instrumentalities) shall apply; except that, in the case of the Federal Home Loan Mortgage Corporation, clause (ii) of such section shall not apply.

"(6) TREATMENT OF PASS-THRU ENTITIES.—

"(A) IMPOSITION OF TAX.—If, at any time during any taxable year of a pass-thru entity, a disqualified organization is the record holder of an interest in such entity, there is hereby imposed on such entity for such taxable year a tax equal to the product of—

"(i) the amount of excess inclusions for such taxable year allocable to the interest held by such disqualified organization, multiplied by

"(ii) the highest rate of tax specified in section 11(b)(1).

"(B) PASS-THRU ENTITY.—For purposes of this paragraph, the term 'pass-thru entity' means—

"(i) any regulated investment company, real estate investment trust, or common trust fund,

"(ii) any partnership, trust, or estate, and

"(iii) any organization to which part I of subchapter T applies.

Except as provided in regulations, a person holding an interest in a pass-thru entity as a nominee for another person shall, with respect to such interest, be treated as a pass-thru entity.

"(C) TAX TO BE DEDUCTIBLE.—Any tax imposed by this paragraph with respect to any excess inclusion of any pass-thru entity for any taxable year shall, for purposes of this title (other than this subsection), be applied against (and operate to reduce) the amount included in gross income with respect to the residual interest involved.

"(D) EXCEPTION WHERE HOLDER FURNISHES AFFIDAVIT.—No tax shall be imposed by subparagraph (A) with respect to any interest in a pass-thru entity for any period if—

"(i) the record holder of such interest furnishes to such pass-thru entity an affidavit that such record holder is not a disqualified organization, and

"(ii) during such period, the pass-thru entity does not have actual knowledge that such affidavit is false.

"(7) WAIVER.—The Secretary may waive the tax imposed by paragraph (1) on any transfer if—

"(A) within a reasonable time after discovery that the transfer was subject to tax under paragraph (1), steps are taken so that the interest is no longer held by the disqualified organization, and

"(B) there is paid to the Secretary such amounts as the Secretary may require.

"(8) ADMINISTRATIVE PROVISIONS.—For purposes of subtitle F, the taxes imposed by this subsection shall be treated as excise taxes with respect to which the deficiency procedures of such subtitle apply."

(C) Paragraph (2) of section 26(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(L) section 860E(e) (relating to taxes with respect to certain residual interests)."

(D)(i) The amendments made by subparagraph (A) shall apply in the case of any REMIC where the start-up day (as defined in section 860G(a)(9) of the 1986 Code, as in effect on the day before the date of the enactment of this Act) is after March 31, 1988; except that such amendments shall not apply in the case of a REMIC formed pursuant to a binding written contract in effect on such date. 26 USC 860D note.

(ii) The amendments made by subparagraphs (B) and (C) (except to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as added by such amendments) shall apply to transfers after March 31, 1988; except that such amendments shall not apply to any transfer pursuant to a binding written contract in effect on such date. 26 USC 860E note.

(iii) Except as provided in clause (iv), the amendments made by subparagraphs (B) and (C) (to the extent they relate to paragraph (6) of section 860E(e) of the 1986 Code as so added) shall apply to excess inclusions for periods after March 31, 1988 but only to the extent such inclusions are—

(I) allocable to an interest in a pass-thru entity acquired after March 31, 1988, or

(II) allocable to an interest in a pass-thru entity acquired on or before March 31, 1988, but attributable to a residual interest acquired by the pass-thru entity after March 31, 1988.

For purposes of the preceding sentence, any interest in a pass-thru entity (or residual interest) acquired after March 31, 1988, pursuant to a binding written contract in effect on such date shall be treated as acquired before such date.

(iv) In the case of any real estate investment trust, regulated investment company, common trust fund, or publicly traded partnership, no tax shall be imposed under section 860E(e)(6) of the 1986 Code (as added by the amendment made by subpara-

graph (B)) for any taxable year beginning before January 1, 1989.

(17) Subparagraph (B) of section 860E(c)(2) of the 1986 Code is amended—

(A) by inserting "(adjusted for contributions)" after "residual interest" the second place it appears, and

(B) by striking "decreased by" in clause (ii) and inserting in lieu thereof "decreased (but not below zero) by".

(18)(A) Subsection (e) of section 860F of the 1986 Code is amended by adding at the end thereof the following new sentences: "Such return shall be filed by the REMIC. The determination of who may sign such return shall be made without regard to the first sentence of this subsection."

26 USC 860F note.

(B) Unless the REMIC otherwise elects, the amendment made by subparagraph (A) shall not apply to any REMIC where the start-up day (as defined in section 860G(a)(9) of the 1986 Code as in effect on the day before the date of the enactment of this Act) is before the date of the enactment of this Act.

(19) Subsection (a) of section 860D of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a qualified liquidation (as defined in section 860F(a)(4)(A)), paragraph (4) shall not apply during the liquidation period (as defined in section 860F(a)(4)(B))."

(20) Subsection (a) of section 860A of the 1986 Code is amended by striking out "this chapter" each place it appears and inserting in lieu thereof "this subtitle".

(21) Paragraph (1) of section 860C(b) of the 1986 Code is amended by striking out "and in the same manner" and inserting in lieu thereof "and, except as provided in regulations, in the same manner".

(22) The following sections of the 1986 Code are each amended by striking out "real estate mortgage pool" and inserting in lieu thereof "REMIC":

(A) Section 382(l)(4)(B)(ii).
(B) Section 860F(a)(2)(A)(iii).
(C) Section 860F(a)(2)(C).
(D) Section 860F(b)(1)(C)(ii).
(E) Section 860F(b)(1)(D)(ii).

(23) Subsection (d) of section 860E of the 1986 Code is amended by adding at the end thereof the following new sentence: "Rules similar to the rules of the preceding sentence shall apply also in the case of regulated investment companies, common trust funds, and organizations to which part I of subchapter T applies."

(24) Subparagraph (C) of section 6049(d)(7) of the 1986 Code is amended by striking out "the issue price" and inserting in lieu thereof "the adjusted issue price".

(25)(A) Paragraph (19) of section 7701(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining whether any interest in a REMIC qualifies under clause (xi), any regular interest in another REMIC held by such REMIC shall be treated as a loan described in a preceding clause under principles similar to the principles of clause (xi); except that, if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of clause (xi)."

Loans.

(B) Paragraph (4) of section 593(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For

purposes of determining whether any interest in a REMIC qualifies under the preceding sentence, any interest in another REMIC held by such REMIC shall be treated as a qualifying real property loan under principles similar to the principles of the preceding sentence, except that if such REMIC's are part of a tiered structure, they shall be treated as 1 REMIC for purposes of this paragraph."

(26) Section 860E of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF VARIABLE INSURANCE CONTRACTS.—Except as provided in regulations, with respect to any variable contract (as defined in section 817), there shall be no adjustment in the reserve to the extent of any excess inclusion."

(27) Subsection (a) of section 860E of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) COORDINATION WITH SECTION 172.—Any excess inclusion for any taxable year shall not be taken into account—

"(A) in determining under section 172 the amount of any net operating loss for such taxable year, and

"(B) in determining taxable income for such taxable year for purposes of the 2nd sentence of section 172(b)(2)."

(u) AMENDMENTS RELATED TO SECTION 672 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 163(e)(2) of the 1986 Code is amended by striking out "paragraph (6)" and inserting in lieu thereof "paragraph (7)".

(2) Subparagraph (B) of section 1278(a)(4) of the 1986 Code is amended by striking out "section 1272(a)(6)" and inserting in lieu thereof "section 1272(a)(7)".

(3) Section 1288(a) of the 1986 Code is amended by striking out "paragraph (6)" each place it appears and inserting in lieu thereof "paragraph (7)".

(4) Sections 1271(a)(2)(A)(ii) and 1275(a)(4)(B)(ii)(I) of the 1986 Code are each amended by striking out "subsection (a)(6)" and inserting in lieu thereof "subsection (a)(7)".

(v) AMENDMENT RELATED TO SECTION 674 OF THE REFORM ACT.—Subparagraph (A) of section 6049(d)(7) of the 1986 Code is amended by inserting "(and such amounts shall be treated as paid when includible in gross income under section 860B(b))" before the period at the end thereof.

(w) AMENDMENTS RELATED TO SECTION 675 OF THE REFORM ACT.—

(1) Subsection (a) of section 675 of the Reform Act is amended to read as follows: 26 USC 860A note.

"(a) GENERAL RULE.—Except as otherwise provided in this section, the amendments made by this subtitle shall take effect on January 1, 1987." Effective date.

(2) Section 675 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(d) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the operation of the amendments made by this part and their competitive impact on savings and loan institutions and similar financial institutions. Not later than January 1, 1990, the Secretary shall submit a report of such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate (together with such recommendations as he may deem advisable)." Banks and banking. 26 USC 860A note. Reports.

Real property.

SEC. 1007. AMENDMENTS RELATED TO TITLE VII OF THE REFORM ACT.

(a) AMENDMENTS TO SECTION 55 OF THE 1986 CODE.—

(1) Paragraph (1) of section 55(c) of the 1986 Code is amended by inserting before the period at the end of the first sentence the following: "and the section 936 credit allowable under section 27(b)".

(2) Paragraph (2) of section 55(b) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If a taxpayer is subject to the regular tax, such taxpayer shall be subject to the tax imposed by this section (and, if the regular tax is determined by reference to an amount other than taxable income, such amount shall be treated as the taxable income of such taxpayer for purposes of the preceding sentence)."

(3) Effective with respect to taxable years ending after the date of the enactment of this Act, paragraph (3) of section 55(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a taxpayer described in paragraph (1)(C)(i), alternative minimum taxable income shall be increased by the lesser of (i) 25 percent of the excess of alternative minimum taxable income (determined without regard to this sentence) over $155,000, or (ii) $20,000.".

(b) AMENDMENTS TO SECTION 56 OF THE 1986 CODE.—

(1) Paragraph (3) of section 56(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, in the case of a contract described in section 460(e)(1), the percentage of the contract completed shall be determined under section 460(b)(2) by using the simplified procedures for allocation of costs prescribed under section 460(b)(4)."

(2) Subparagraph (E) of section 56(b)(1) of the 1986 Code is amended to read as follows:

"(E) STANDARD DEDUCTION AND DEDUCTION FOR PERSONAL EXEMPTIONS NOT ALLOWED.—The standard deduction under section 63(c), the deduction for personal exemptions under section 151, and the deduction under section 642(b) shall not be allowed."

(3) Subparagraph (C) of section 56(b)(1) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof a comma, and by adding at the end thereof the following new clauses:

"(iv) in lieu of the exception under section 163(d)(3)(B)(i), the term 'investment interest' shall not include any qualified housing interest (as defined in subsection (e)), and

"(v) the adjustments of this section and sections 57 and 58 shall apply in determining net investment income under section 163(d)."

(4) Clause (iii) of section 56(b)(1)(C) of the 1986 Code is amended—

(A) by striking out "specified activity bond" and inserting in lieu thereof "specified private activity bond", and

(B) by striking out "section 56(a)(5)(B)" and inserting in lieu thereof "section 57(a)(5)(B)".

(5) Subparagraph (A) of section 56(d)(2) of the 1986 Code is amended—

(A) by striking out "(other than subsection (a)(6) thereof)", and

(B) by adding at the end thereof the following new sentence:

"An item of tax preference shall be taken into account under clause (ii) only to the extent such item increased the amount of the net operating loss for the taxable year under section 172(c)."

(6)(A) Paragraph (1) of section 56(e) of the 1986 Code is amended—

(i) by striking out "interest which is" and inserting in lieu thereof "interest which is qualified residence interest (as defined in section 163(h)(3)) and is", and

(ii) by striking out "section 163(h)(3)" in subparagraph (B) and inserting in lieu thereof "section 163(h)(4)".

(B) Paragraph (3) of section 56(e) of the 1986 Code is amended by striking out "interest paid or accrued" and inserting in lieu thereof "interest which is qualified residence interest (as defined in section 163(h)(3)) and is paid or accrued".

(7) The last sentence of section 56(f)(2)(B) of the 1986 Code is amended by striking out "any such taxes" and inserting in lieu thereof "any such taxes (otherwise eligible for the credit provided by section 901 without regard to section 901(j))".

(8) Clause (iii) of section 56(f)(3)(A) of the 1986 Code is amended by striking out "an income statement" and inserting in lieu thereof "an income statement for a substantial nontax purpose".

(9) Subparagraph (B) of section 56(f)(3) of the 1986 Code is amended by striking out "paragraph (3)(A)" and inserting in lieu thereof "this subsection".

(10) Subparagraph (C) of section 56(f)(3) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If the taxpayer has 2 or more statements described in the clause (or subclause) with the lowest number designation, the applicable financial statement shall be the one of such statements specified in regulations."

(11)(A) Subparagraph (F) of section 56(f)(2) of the 1986 Code is amended to read as follows:

"(F) TREATMENT OF TAXES ON DIVIDENDS FROM 936 CORPORATIONS.—

"(i) IN GENERAL.—For purposes of determining the alternative minimum tax foreign tax credit, 50 percent of any withholding tax or income tax paid to a possession of the United States with respect to dividends received from a corporation eligible for the credit provided by section 936 shall be treated as a tax paid to a foreign country by the corporation receiving the dividend.

"(ii) LIMITATION.—If the aggregate amount of the dividends referred to in clause (i) for any taxable year exceeds the excess referred to in paragraph (1), the amount treated as a tax paid to a foreign country under clause (i) shall not exceed the amount which would be so treated without regard to this clause multiplied by a fraction—

"(I) the numerator of which is the excess referred to in paragraph (1), and

"(II) the denominator of which is the aggregate amount of such dividends.

"(iii) TREATMENT OF TAXES IMPOSED ON 936 CORPORATION.—For purposes of this subparagraph, taxes paid by any corporation eligible for the credit provided by section 936 to a possession of the United States shall be treated as a withholding tax paid with respect to any dividend paid by such corporation to the extent such taxes would be treated as paid by the corporation receiving the dividend under rules similar to the rules of section 902 (and the amount of any such dividend shall be increased by the amount so treated)."

(B) Clause (iii) of section 56(g)(4)(C) of the 1986 Code is amended by striking out "clause (ii)(I)" and inserting in lieu thereof "clause (i)".

(12) Clause (iii) of section 56(g)(4)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any annuity contract held under a plan described in section 403(a)."

(13) Paragraph (1) of section 56(c) of the 1986 Code is amended—

(A) by striking out "ADJUSTED EARNINGS AND PROFITS" in the paragraph heading and inserting in lieu thereof "ADJUSTED CURRENT EARNINGS", and

(B) by striking out "ADJUSTED EARNINGS AND PROFITS" in the heading of subparagraph (B) and inserting in lieu thereof "ADJUSTED CURRENT EARNINGS".

(14)(A) Subsection (b) of section 56 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF INCENTIVE STOCK OPTIONS.—Section 421 shall not apply to the transfer of stock acquired pursuant to the exercise of an incentive stock option (as defined in section 422A). The adjusted basis of any stock so acquired shall be determined on the basis of the treatment prescribed by the preceding sentence."

(B) Paragraph (3) of section 57(a) of the 1986 Code is hereby repealed.

26 USC 56 note. (C) The amendments made by this paragraph shall apply with respect to options exercised after December 31, 1987.

(15) Clause (i) of section 56(a)(1)(A) of the 1986 Code is amended by striking out "REAL" in the heading and inserting in lieu thereof "PERSONAL".

(16) The heading of paragraph (1) of section 56(b) of the 1986 Code is amended by striking out "ITEMIZED".

(17) Subparagraph (A) of section 56(g)(4) of the 1986 Code is amended by adding at the end thereof the following new clauses:

"(vi) ELECTION TO HAVE CUMULATIVE LIMITATION.—

"(I) IN GENERAL.—In the case of any property placed in service during a taxable year to which an election under this clause applies, in lieu of applying clause (i), the depreciation deduction for such property for any taxable year shall be the lesser of the accumulated 168(g) depreciation or the accumulated book depreciation; reduced by the aggregate amount of the depreciation deductions

determined under this subclause with respect to such property for prior taxable years.

"(II) ACCUMULATED 166(g) DEPRECIATION.—For purposes of this clause, the term 'accumulated section 168(g) depreciation' means the aggregate amount of the depreciation deductions determined under the alternative system of section 168(g) with respect to the property for all periods before the close of the taxable year.

"(III) ACCUMULATED BOOK DEPRECIATION.—For purposes of this clause, the term 'accumulated book depreciation' means the aggregate amount of the depreciation deductions determined under the method used for book purposes with respect to the property for all periods before the close of the taxable year.

"(IV) ELECTION.—The taxpayer may make an election under this clause for any taxable year beginning after 1989. Such an election, once made with respect to any such taxable year, shall apply to all property placed in service during such taxable year, and shall be irrevocable.

"(V) SIMILAR RULES FOR PROPERTY DESCRIBED IN CLAUSE (i), (iii), OR (iv).—Rules similar to the rules of the preceding provisions of this clause shall also apply in the case of property to which clause (ii), (iii), or (iv) applies.

"(vii) SPECIAL RULE FOR CERTAIN PROPERTY.—In the case of any property described in paragraph (1), (2), (3), or (4) of section 168(f), the amount of depreciation allowable for purposes of the regular tax shall be treated as the amount allowable under the alternative system of section 168(g)."

(18) Paragraph (4) of section 56(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(I) ADJUSTED BASIS.—The adjusted basis of any property with respect to which an adjustment under this paragraph applies shall be determined by applying the treatment prescribed in this paragraph."

(19) Subsection (a) of section 56 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) SECTION 87 NOT APPLICABLE.—Section 87 (relating to alcohol fuel credit) shall not apply."

(c) AMENDMENTS TO SECTION 57 OF THE 1986 CODE.—

(1) Clause (iii) of section 57(a)(5)(C) of the 1986 Code is amended by inserting "(whether a current or advance refunding)" after "any refunding bond".

(2) Clause (i) of section 57(a)(5)(C) of the 1986 Code is amended to read as follows:

"(i) IN GENERAL.—For purposes of this part, the term 'specified private activity bond' means any private activity bond (as defined in section 141) which is issued after August 7, 1986, and the interest on which is not includible in gross income under section 103."

(3) Subparagraph (A) of section 57(a)(6) of the 1986 Code is amended by inserting "or 642(c)" after "section 170".

(d) AMENDMENTS TO SECTION 58 OF THE 1986 CODE.—

(1) Paragraph (2) of section 58(a) of the 1986 Code is amended—

(A) by striking out "(as modified by section 461(i)(4)(A))", and

(B) by striking out "section 469(d), without regard to paragraph (1)(B) thereof" and inserting in lieu thereof "section 469(c)".

(2) Paragraph (3) of section 58(a) of the 1986 Code is amended by striking out "section 469(g)(1)(C)" and inserting in lieu thereof "section 469(j)(2)".

(3) Subsection (a) of section 58 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

Agriculture and agricultural commodities. Taxes.

"(4) DETERMINATION OF LOSS.—In determining the amount of the loss from any tax shelter farm activity, the adjustments of sections 56 and 57 shall apply."

(4) Subsection (b) of section 58 of the 1986 Code is amended by striking out paragraphs (1), (2), and (3), and inserting in lieu thereof the following:

"(1) the adjustments of sections 56 and 57 shall apply,

"(2) the provisions of section 469(m) (relating to phase-in of disallowance) shall not apply, and

Taxes.

"(3) in lieu of applying section 469(j)(7), the passive activity loss of a taxpayer shall be computed without regard to qualified housing interest (as defined in section 56(e))."

(e) AMENDMENTS TO SECTION 59 OF THE 1986 CODE.—

(1) Paragraph (2) of section 59(e) of the 1986 Code is amended by striking out "would have been allowable as a deduction" and inserting in lieu thereof "would have been allowable as a deduction (determined without regard to section 291)".

(2) Subsection (h) of section 59 of the 1986 Code is amended by striking out "taxable year—" and all that follows and inserting in lieu thereof "taxable year with the adjustments of sections 56, 57, and 58."

(3) Paragraph (1) of section 59(a) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(D) the determination of whether any income is high-taxed income for purposes of section 904(d)(2) were made on the basis of the applicable rate specified in section 55(b)(1)(A) in lieu of the highest rate of tax specified in section 1 or 11 (whichever applies)."

(4) Subsection (i) of section 59 of the 1986 Code is amended—

(A) by striking out "of this subtitle" and inserting in lieu thereof "of this subtitle (other than this part)", and

(B) by striking out "by this title" and inserting in lieu thereof "by this subtitle".

(f) TRANSITIONAL PROVISIONS.—

(1) In the case of the taxable year of an estate or trust which begins before January 1, 1987, and ends on or after such date, the items of tax preference apportioned to any beneficiary of such estate or trust under section 58(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall be taken into account for purposes of determining the amount of the tax imposed by section 55 of the Internal Revenue Code of 1986 (as amended by the Tax Reform Act of 1986) on such beneficiary for such beneficiary's taxable year in which such taxable year of the estate or trust ends. 26 USC 55 note.

(2) The last sentence of subparagraph (B) of section 701(f)(6) of the Reform Act is amended to read as follows: "The aggregate amount of investment tax credits with respect to the unit in Mississippi allowed solely by reason of being described in this subparagraph shall not exceed $141,000,000." 26 USC 55 note.

(3) Subsection (f) of section 701 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(7) AGREEMENT VESSEL DEPRECIATION ADJUSTMENT.—

"(A) For purposes of part VI of subchapter A of chapter 1 of the Internal Revenue Code of 1986, in the case of a qualified taxpayer, alternative minimum taxable income for the taxable year shall be reduced by an amount equal to the agreement vessel depreciation adjustment.

"(B) For purposes of this paragraph, the agreement vessel depreciation adjustment shall be an amount equal to the depreciation deduction that would have been allowable for such year under section 167 of such Code with respect to agreement vessels placed in service before January 1, 1987, if the basis of such vessels had not been reduced under section 607 of the Merchant Marine Act of 1936, as amended, and if depreciation with respect to such vessel had been computed using the 25-year straight-line method. The aggregate amount by which basis of a qualified taxpayer is treated as not reduced by reason of this subparagraph shall not exceed $100,000,000.

"(C) For purposes of this paragraph, the term 'qualified taxpayer' means a parent corporation incorporated in the State of Delaware on December 1, 1972, and engaged in water transportation, and includes any other corporation which is a member of the affiliated group of which the parent corporation is the common parent. No taxpayer shall be treated as a qualified corporation for any taxable year beginning after December 31, 1991."

(4)(A) If any property to which this paragraph applies is placed in service in a taxable year which begins before Janu- 26 USC 57 note.

ary 1, 1987, and ends on or after August 1, 1986, the item of tax preference determined under section 57(a) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) with respect to such property shall be the excess of—

(i) the amount allowable as a deduction for depreciation or amortization for such taxable year, over

(ii) the amount which would be determined for such taxable year under the rules of paragraph (1) or (5) (whichever is appropriate) of section 56(a) of the Internal Revenue Code of 1954 (as amended by the Tax Reform Act of 1986).

(B) This paragraph shall apply to any property—

(i) which is described in paragraph (4) or (12) of section 57(a) of the Internal Revenue Code of 1954 (as so in effect), and

(ii) to which paragraph (1) or (5) of section 56(a) of the Internal Revenue Code of 1986 would apply if the taxable year referred to in subparagraph (A) began after December 31, 1986.

26 USC 59 note.

(5) In determining the amount of the alternative minimum tax foreign tax credit under section 59 of the 1986 Code, there shall not be taken into account any taxes paid or accrued in a taxable year beginning after December 31, 1986, which are treated under section 904(c) of the 1986 Code as paid or accrued in a taxable year beginning on or before December 31, 1986.

(g) MISCELLANEOUS AMENDMENTS.—

(1) Subparagraph (K) of section 26(b)(2) of the 1986 Code is amended by striking out the comma at the end thereof and inserting in lieu thereof ").".

(2)(A) So much of section 38(c) as precedes paragraph (4) thereof is amended to read as follows:

"(c) LIMITATION BASED ON AMOUNT OF TAX.—

"(1) IN GENERAL.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess (if any) of the taxpayer's net income tax over the greater of—

"(A) the tentative minimum tax for the taxable year, or

"(B) 25 percent of so much of the taxpayer's net regular tax liability as exceeds $25,000.

For purposes of the preceding sentence, the term 'net income tax' means the sum of the regular tax liability and the tax imposed by section 55, reduced by the credits allowable under subparts A and B of this part, and the term 'net regular tax liability' means the regular tax liability reduced by the sum of the credits allowable under subparts A and B of this part.

"(2) REGULAR INVESTMENT TAX CREDIT MAY OFFSET 25 PERCENT OF MINIMUM TAX.—

"(A) IN GENERAL.—In the case of a C corporation, the amount determined under paragraph (1)(A) shall be reduced by the lesser of—

"(i) the portion of the regular investment tax credit not used against the normal limitation, or

"(ii) 25 percent of the taxpayer's tentative minimum tax for the taxable year.

"(B) PORTION OF REGULAR INVESTMENT TAX CREDIT NOT USED AGAINST NORMAL LIMIT.—For purposes of subparagraph (A), the portion of the regular investment tax credit

for any taxable year not used against the normal limitation is the excess (if any) of—

"(i) the portion of the credit under subsection (a) which is attributable to the application of the regular percentage under section 46, over

"(ii) the limitation of paragraph (1) (without regard to this paragraph) reduced by the portion of the credit under subsection (a) which is not so attributable.

"(C) LIMITATION.—In no event shall this paragraph permit the allowance of a credit which would result in a net chapter 1 tax less than an amount equal to 10 percent of the amount determined under section 55(b)(1)(A) without regard to the alternative tax net operating loss deduction. For purposes of the preceding sentence, the term 'net chapter 1 tax' means the sum of the regular tax liability for the taxable year and the tax imposed by section 55 for the taxable year, reduced by the sum of the credits allowable under this part for the taxable year (other than under section 34)."

(B) Subsection (c) of section 38 of the 1986 Code is amended—

(i) by redesignating paragraph (4) as paragraph (3), and

(ii) by striking out "subparagraphs (A) and (B) of paragraph (1)" each place it appears in such paragraph and inserting in lieu thereof "subparagraph (B) of paragraph (1).

(3)(A) Subsection (c) of section 47 of the 1986 Code is amended by striking out "or D" and inserting in lieu thereof "D, or G".

(B) Subparagraph (D) of section 42(j)(4) of the 1986 Code is amended by striking out "or D" and inserting in lieu thereof "D, or G".

(4) The last sentence of clause (ii) of section 53(d)(1)(B) of the 1986 Code is amended by striking out "earnings and profits" and inserting in lieu thereof "current earnings".

(5) Sections 173(b), 174(e)(2), and 263(c) of the 1986 Code are each amended by striking out "section 59(d)" and inserting in lieu thereof "section 59(e)".

(6) Section 511 of the 1986 Code is amended by striking out subsection (d).

(7) Sections 616(e) and 617(j) of the 1986 Code are each amended by striking out "section 58(i)" and inserting in lieu thereof "section 59(e)".

(8) Paragraph (4) of section 701(c) of the Reform Act is amended by striking out "section 631(a)" and inserting in lieu thereof "section 221(a)". 26 USC 38.

(9) Subparagraph (B) of section 1362(e)(5) of the 1986 Code is amended by striking out "Subsection (d)(2)" and inserting in lieu thereof "Subsection (d)".

(10) Subsection (a) of section 6154 of the 1986 Code (as in effect before its repeal by the Revenue Act of 1987) is amended by striking out "11, 59A" and inserting in lieu thereof "11, 55, 59A".

(11) Paragraph (1) of section 962(a) of the 1986 Code is amended—

(A) by striking out "section 1" and inserting in lieu thereof "sections 1 and 55", and

(B) by striking out "section 11" and inserting in lieu thereof "sections 11 and 55".

(12) Subsection (h) of section 32 of the 1986 Code is amended by striking out "for taxpayers other than corporations".

(13)(A) Subsection (d) of section 2 of the 1986 Code is amended by striking out "the tax imposed by section 1" and inserting in lieu thereof "the taxes imposed by sections 1 and 55".

(B) Subsection (d) of section 11 of the 1986 Code is amended by striking out "the tax imposed by subsection (a)" and inserting in lieu thereof "the taxes imposed by subsection (a) and section 55".

SEC. 1008. AMENDMENTS RELATED TO TITLE VIII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 801 OF THE REFORM ACT.—

(1)(A) Subparagraph (B) of section 448(d)(2) of the 1986 Code (defining qualified personal service corporation) is amended by striking out "or indirectly" and inserting in lieu thereof "(or indirectly through 1 or more partnerships, S corporations, or qualified personal service corporations not described in paragraph (2) or (3) of subsection (a))".

(B) Section 448(d) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

Regulations.

"(8) USE OF RELATED PARTIES, ETC.—The Secretary shall prescribe such regulations as may be necessary to prevent the use of related parties, pass-thru entities, or intermediaries to avoid the application of this section."

(2) Subparagraph (C) of section 448(d)(4) of the 1986 Code (relating to special rules for application of paragraph (2)) is amended by striking out "all such members" and inserting in lieu thereof "such group".

(3) Paragraph (2) of section 461(i) of the 1986 Code is amended to read as follows:

"(2) SPECIAL RULE FOR SPUDDING OF OIL OR GAS WELLS.—

"(A) IN GENERAL.—In the case of a tax shelter, economic performance with respect to amounts paid during the taxable year for drilling an oil or gas well shall be treated as having occurred within a taxable year if drilling of the well commences before the close of the 90th day after the close of the taxable year.

"(B) DEDUCTION LIMITED TO CASH BASIS.—

"(i) TAX SHELTER PARTNERSHIPS.—In the case of a tax shelter which is a partnership, in applying section 704(d) to a deduction or loss for any taxable year attributable to an item which is deductible by reason of subparagraph (A), the term 'cash basis' shall be substituted for the term 'adjusted basis'.

"(ii) OTHER TAX SHELTERS.—Under regulations prescribed by the Secretary, in the case of a tax shelter other than a partnership, the aggregate amount of the deductions allowable by reason of subparagraph (A) for any taxable year shall be limited in a manner similar to the limitation under clause (i).

"(C) CASH BASIS DEFINED.—For purposes of subparagraph (B), a partner's cash basis in a partnership shall be equal to the adjusted basis of such partner's interest in the partnership, determined without regard to—

"(i) any liability of the partnership, and

"(ii) any amount borrowed by the partner with respect to such partnership which—

"(I) was arranged by the partnership or by any person who participated in the organization, sale, or management of the partnership (or any person related to such person within the meaning of section 465(b)(3)(C)), or

"(II) was secured by any asset of the partnership."

(4) Section 464 of the 1986 Code (relating to limitations on deductions for certain farming expenses) is amended by adding at the end thereof the following new subsection:

"(g) TERMINATION.—Except as provided in subsection (f), subsections (a) and (b) shall not apply to any taxable year beginning after December 31, 1986."

(5) Paragraph (4) of section 801(d) of the Reform Act is amended by striking out "the completed contract method" and inserting in lieu thereof "a method of accounting for long-term contracts". 26 USC 448 note.

(6) Section 801(d) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR PARAGRAPHS (2) AND (3).—If any loan, lease, contract, or evidence of any transaction to which paragraph (2) or (3) applies is transferred after June 10, 1987, to a person other than a related party (within the meaning of paragraph (2)), paragraph (2) or (3) shall cease to apply on and after the date of such transfer."

(7) Paragraph (3) of section 448(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "An S corporation shall not be treated as a tax shelter for purposes of this section merely by reason of being required to file a notice of exemption from registration with a State agency described in section 461(i)(3)(A), but only if there is a requirement applicable to all corporations offering securities for sale in the State that to be exempt from such registration the corporation must file such a notice."

(8) Subparagraph (C) of section 448(d)(4) of the 1986 Code is amended by striking out "substantially all of" and inserting in lieu thereof "90 percent or more of".

(9) Paragraph (3) of section 448(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF PREDECESSORS.—Any reference in this subsection to an entity shall include a reference to any predecessor of such entity."

(b) AMENDMENTS RELATED TO SECTION 803 OF THE REFORM ACT.—

(1) Paragraph (2) of section 263A(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any cost which (but for this subsection) could not be taken into account in computing taxable income for any taxable year shall not be treated as a cost described in this paragraph."

(2) Section 263A(c) of the 1986 Code (relating to general exceptions) is amended—

(A) by striking out "263(c), 616(a), or 617(a)" and inserting in lieu thereof "263(c), 263(i), 291(b)(2), 616, or 617", and

(B) by adding at the end thereof the following new paragraph:

"(6) COORDINATION WITH SECTION 59(e).—Paragraphs (2) and (3) shall apply to any amount allowable as a deduction under

section 59(e) for qualified expenditures described in subparagraphs (B), (C), (D), and (E) of paragraph (2) thereof."

(3) Subparagraph (B) of section 263A(d)(2) of the 1986 Code (relating to special rule for person with minority interest who materially participates) is amended—

(A) by striking out "such grove, orchard, or vineyard" in clause (i) and inserting in lieu thereof "the plants described in subparagraph (A) at all times during the taxable year in which such amounts were paid or incurred", and

(B) by striking out "such grove, orchard, or vineyard during the 4-taxable year period beginning with the taxable year in which the grove, orchard, or vineyard was lost or damaged" and inserting in lieu thereof "the plants described in subparagraph (A) during the taxable year in which such amounts were paid or incurred".

(4) Paragraph (3) of section 263A(f) of the 1986 Code (relating to interest relating to property used to produce property) is amended—

(A) by striking out "incurred or continued in connection with" and inserting in lieu thereof "allocable (as determined under paragraph (2)) to", and

(B) by inserting "(as so determined)" after "allocable".

(5) Section 447(b) of the 1986 Code is amended—

(A) by striking out "of" before "expenses", and

(B) by striking out "OF" before "EXPENSES" in the heading thereof.

(6) Section 447(g)(1) of the 1986 Code is amended by striking out "trade or business of farming" each place it appears and inserting in lieu thereof "qualified farming trade or business".

26 USC 263A note.

(7) Paragraph (4)(A)(i) of section 803(d) of the Reform Act is amended by striking out "203" each place it appears and inserting in lieu thereof "204".

26 USC 263A note.

(8) The allocation used in the regulations prescribed under section 263A(h)(2) of the Internal Revenue Code of 1986 for apportioning storage costs and related handling costs shall be determined by dividing the amount of such costs by the beginning inventory balances and the purchases during the year and by multiplying the resulting allocation ratio by inventory amounts determined in accordance with the provisions of the joint explanatory statement of the committee of conference of the conference report accompanying H.R. 3838 (H.R. Rept. No. 99-841, Vol. II., 99th Cong., 2d Sess. II-306-307 (1986)).

Contracts.

(c) AMENDMENTS RELATED TO SECTION 804 OF THE REFORM ACT.—

(1) Paragraph (3) of section 460(b) of the 1986 Code is amended—

(A) by striking out "subparagraph" and inserting in lieu thereof "paragraph",

(B) by striking out "paragraph (1)" each place it appears in subparagraph (B) and inserting in lieu thereof "subparagraph (A)", and

(C) by striking out "paragraph (1)" in subparagraph (C) and inserting in lieu thereof "subparagraph (B)".

(2)(A) Section 460(b) of the 1986 Code (relating to percentage of completion method) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES.—

"(A) SIMPLIFIED METHOD OF COST ALLOCATION.—In the case of any long-term contract, the Secretary may prescribe a simplified procedure for allocation of costs to such contract in lieu of the method of allocation under subsection (c).

"(B) LOOK-BACK METHOD NOT TO APPLY TO CERTAIN CONTRACTS.—Paragraph (2)(B) and subsection (a)(2) shall not apply to any contract—

"(i) the gross price of which (as of the completion of the contract) does not exceed the lesser of—

"(I) $1,000,000, or

"(II) 1 percent of the average annual gross receipts of the taxpayer for the 3 taxable years preceding the taxable year in which the contract was completed, and

"(ii) which is completed within 2 years of the contract commencement date.

For purposes of this subparagraph, rules similar to the rules of subsections (e)(2) and (f)(3) shall apply."

(B) Section 460(b)(2) of the 1986 Code is amended by striking out "In" and inserting in lieu thereof "Except as provided in paragraph (4), in".

(3) Subparagraph (B) of section 804(d)(2) of the Reform Act is amended by striking out "section 263A(c)(5)" and inserting in lieu thereof "section 460(c)(5)". 26 USC 460 note.

(4)(A) Paragraph (3) of section 460(b) of the 1986 Code is amended by adding at the end thereof the following new sentences:

"For purposes of the preceding sentence, any amount received or accrued after completion of the contract shall be taken into account by discounting (using the Federal mid-term rate determined under section 1274(d) as of the time such amount was received or accrued) such amount to its value as of the completion of the contract. The taxpayer may elect with respect to any contract to have the preceding sentence not apply to such contract."

(B) Subparagraph (B) of section 460(b)(2) of the 1986 Code is amended by striking out "completion of the contract" and inserting in lieu thereof "completion of the contract (or, with respect to any amount received or accrued after completion of the contract, when such amount is so received or accrued)".

(d) AMENDMENT RELATED TO SECTION 805 OF THE REFORM ACT.—

(1) Section 166(d)(1)(A) of the 1986 Code is amended by striking out "subsections (a) and (c)" and inserting in lieu thereof "subsection (a)".

(2) Subsection (b) of section 805 of the Reform Act is amended by inserting ", as amended by section 901(d)(4)," after "Section 166". 26 USC 166.

(3) Subsection (a) of section 582 of the 1986 Code is amended by striking out "subsections (a), (b), and (c) of section 166" and inserting in lieu thereof "subsections (a) and (b) of section 166".

(e) AMENDMENTS RELATED TO SECTION 806 OF THE REFORM ACT.—

(1)(A) Clause (i) of section 706(b)(1)(B) of the 1986 Code is amended to read as follows:

"(i) the majority interest taxable year (as defined in paragraph (4)),".

(B) Paragraph (4) of section 706(b) of the 1986 Code is amended to read as follows:

"(4) MAJORITY INTEREST TAXABLE YEAR; LIMITATION ON REQUIRED CHANGES.—

"(A) MAJORITY INTEREST TAXABLE YEAR DEFINED.—For purposes of paragraph (1)(B)(i)—

"(i) IN GENERAL.—The term 'majority interest taxable year' means the taxable year (if any) which, on each testing day, constituted the taxable year of 1 or more partners having (on such day) an aggregate interest in partnership profits and capital of more than 50 percent.

"(ii) TESTING DAYS.—The testing days shall be—

"(I) the 1st day of the partnership taxable year (determined without regard to clause (i)), or

"(II) the days during such representative period as the Secretary may prescribe.

"(B) FURTHER CHANGE NOT REQUIRED FOR 3 YEARS.—Except as provided in regulations necessary to prevent the avoidance of this section, if, by reason of paragraph (1)(B)(i), the taxable year of a partnership is changed, such partnership shall not be required to change to another taxable year for either of the 2 taxable years following the year of change."

(2) Clause (iii) of section 706(b)(1)(B) of the 1986 Code is amended by striking out "or such other period as the Secretary may prescribe in regulations" and inserting in lieu thereof "unless the Secretary by regulations prescribes another period".

(3) Section 706(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) APPLICATION WITH OTHER SECTIONS.—Except as provided in regulations, for purposes of determining the taxable year to which a partnership is required to change by reason of this subsection, changes in taxable years of other persons required by this subsection, section 441(i), section 584(h), section 645, or section 1378(a) shall be taken into account."

(4) Paragraph (2) of section 441(i) of the 1986 Code (defining personal service corporation) is amended by adding at the end thereof the following:

"A corporation shall not be treated as a personal service corporation unless more than 10 percent of the stock (by value) in such corporation is held by employee-owners (within the meaning of section 269A(b)(2), as modified by the preceding sentence). If a corporation is a member of an affiliated group filing a consolidated return, all members of such group shall be taken into account in determining whether such corporation is a personal service corporation."

(5)(A) Section 584 of the 1986 Code (relating to common trust funds) is amended by adding at the end thereof the following new subsection:

"(h) TAXABLE YEAR OF COMMON TRUST FUND.—For purposes of this subtitle, the taxable year of any common trust fund shall be the calendar year."

26 USC 584 note.

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 806 of the Reform Act, except that section 806(e)(1) shall be applied by substituting "December 31, 1987" for "December 31, 1986". For purposes of section 806(e)(2) of the Reform Act—

(i) a participant in a common trust fund shall be treated in the same manner as a partner, and

(ii) subparagraph (C) thereof shall be applied by substituting "December 31, 1987" for "December 31, 1986" and as if it did not contain the election to include all income in the short taxable year.

(6) Section 806(c)(2) of the Reform Act is amended by striking out "Section 267(a)" and inserting in lieu thereof "Section 267(a)(2)". 26 USC 267.

(7) Subparagraph (C) of section 806(e)(2) of the Reform Act is amended— 26 USC 1378 note.

(A) by striking out "(including such short taxable year)", and

(B) by striking out "short taxable year" the second place it appears and inserting in lieu thereof "the partner's or shareholder's taxable year with or within which the partnership's or S corporation's short taxable year ends".

(8) Section 806(e)(2) of the Reform Act is amended—

(A) by striking out "any taxable year" and inserting in lieu thereof "the taxpayer's first taxable year beginning after December 31, 1986", and

(B) by striking out "taxpayer" each place it appears and inserting in lieu thereof "partnership, S corporation, or personal service corporation".

(9) Nothing in section 806 of the Reform Act or in any legislative history relating thereto shall be construed as requiring the Secretary of the Treasury or his delegate to permit an automatic change of a taxable year. 26 USC 1378 note.

(10) Subsection (e) of section 806 of the Reform Act is amended by adding at the end thereof the following new paragraph: 26 USC 1378 note.

"(3) BASIS, ETC. RULES.—

"(A) BASIS RULE.—The adjusted basis of any partner's interest in a partnership or shareholder's stock in an S corporation shall be determined as if all of the income to be taken into account ratably in the 4 taxable years referred to in paragraph (2)(C) were included in gross income for the 1st of such taxable years.

"(B) TREATMENT OF DISPOSITIONS.—If any interest in a partnership or stock in an S corporation is disposed of before the last taxable year in the spread period, all amounts which would be included in the gross income of the partner or shareholder for subsequent taxable years in the spread period under paragraph (2)(C) and attributable to the interest or stock disposed of shall be included in gross income for the taxable year in which the disposition occurs. For purposes of the preceding sentence, the term 'spread period' means the period consisting of the 4 taxable years referred to in paragraph (2)(C)."

(f) AMENDMENTS RELATED TO SECTION 811 OF THE REFORM ACT.—

(1) Paragraph (4) of section 453C(b) of the 1986 Code is amended—

(A) by striking out "at any time during" and inserting in lieu thereof "as of the close of", and

(B) by striking out "as of the close of such taxable year in lieu" and inserting in lieu thereof "as of the close of such taxable year (determined by not taking into account any indebtedness described in paragraph (3)(B)) in lieu"

(2) So much of paragraph (2) of section 453C(d) of the 1986 Code as precedes subparagraph (A) is amended to read as follows:

"(2) EXCESS ALLOCABLE INSTALLMENT INDEBTEDNESS.—If the allocable installment indebtedness for any taxable year exceeds the amount which may be allocated under paragraph (1) to applicable installment obligations arising in (and outstanding as of the close of) such taxable year, such excess shall—".

(3) Subparagraph (A) of section 453C(e)(1) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Such term also includes any obligation held by any person if the basis of such obligation in the hands of such person is determined (in whole or in part) by reference to the basis of such obligation in the hands of another person and such obligation was an applicable installment obligation in the hands of such other person."

(4) Paragraph (2) of section 453C(e) of the 1986 Code (relating to aggregation rules) is amended by striking out "For" and inserting in lieu thereof "Except as provided in regulations, for".

(5) Subparagraph (B) of section 453C(e)(4) of the 1986 Code is amended by striking out "or (3)".

26 USC 453C note.

(6) Paragraph (4) of section 811(c) of the Reform Act is amended by striking out the second subparagraphs (D) and (E).

(7) Paragraph (5) of section 811(c) of the Reform Act is amended by striking out "October 23, 1985" each place it appears and inserting in lieu thereof "October 23, 1984".

(8) Section 811(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULES.—For purposes of section 453C of the 1986 Code (as added by subsection (a))—

"(A) REVOLVING CREDIT PLANS, ETC.—The term 'applicable installment obligation' shall not include any obligation arising out of any disposition or sale described in paragraph (1) or (2) of section 453(k) of such Code (as added by section 812(a)).

"(B) CERTAIN DISPOSITIONS DEEMED MADE ON FIRST DAY OF TAXABLE YEAR.—In the case of a taxpayer's 1st taxable year ending after December 31, 1986, dispositions after February 28, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day."

26 USC 453C note.

(9) For purposes of applying the amendments made by this subsection and the amendments made by section 10202 of the Revenue Act of 1987, the provisions of this subsection shall be treated as having been enacted immediately before the enactment of the Revenue Act of 1987.

(g) AMENDMENTS RELATED TO SECTION 812 OF THE REFORM ACT.—

(1) Section 453 of the 1986 Code is amended by redesignating the subsection (j) added by section 812 of the Reform Act as subsection (k).

(2) Subsection (c) of section 453A of the 1986 Code (as in effect on the date before the date of the enactment of the Revenue Act of 1987) is amended by striking out "453(j)" and inserting in lieu thereof "453(k)".

(3) Paragraph (1) of section 812(c) of the Reform Act is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)". 26 USC 453 note.

(4) Subsection (c) of section 812 of the Reform Act is amended by redesignating paragraph (2) as paragraph (3) and inserting after paragraph (1) the following new paragraph:

"(2) SALES OF STOCK, ETC.—Section 453(k)(2) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to sales after December 31, 1986, in taxable years ending after such date."

(5) Paragraph (3) of section 812(c) of the Reform Act (as so redesignated) is amended by striking out subparagraphs (B) and (C) and inserting in lieu thereof the following:

"(B) such change shall be treated as having been made with the consent of the Secretary,

"(C) the period for taking into account adjustments under section 481 of such Code by reason of such change shall be equal to 4 years, and

"(D) except as provided in paragraph (4), the amount taken into account in each of such 4 years shall be the applicable percentage (determined in accordance with the following table) of the net adjustment:

"In the case of the:	The applicable percentage is:
1st taxable year	15
2nd taxable year	25
3rd taxable year	30
4th taxable year	30.

If the taxpayer's last taxable year beginning before January 1, 1987, was the taxpayer's 1st taxable year in which sales were made under a revolving credit plan, all adjustments under section 481 of such Code shall be taken into account in the taxpayer's 1st taxable year beginning after December 31, 1986."

(6) Subsection (c) of section 812 of the Reform Act is amended by adding at the end thereof the following new paragraphs:

"(4) ACCELERATION OF ADJUSTMENTS WHERE CONTRACTION IN AMOUNT OF INSTALLMENT OBLIGATIONS.—

"(A) IN GENERAL.—If the percentage determined under subparagraph (B) for any taxable year in the adjustment period exceeds the percentage which would otherwise apply under paragraph (3)(D) for such taxable year (determined after the application of this paragraph for prior taxable years in the adjustment period)—

"(i) the percentage determined under subparagraph (B) shall be substituted for the applicable percentage which would otherwise apply under paragraph (3)(D), and

"(ii) any increase in the applicable percentage by reason of clause (i) shall be applied to reduce the applicable percentage determined under paragraph (3)(D) for subsequent taxable years in the adjustment period (beginning with the 1st of such subsequent taxable years).

"(B) DETERMINATION OF PERCENTAGE.—For purposes of subparagraph (A), the percentage determined under this subparagraph for any taxable year in the adjustment period is the excess (if any) of—

"(i) the percentage determined by dividing the aggregate contraction in revolving installment obligations by the aggregate face amount of such obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, over

"(ii) the sum of the applicable percentages under paragraph (3)(D) (as modified by this paragraph) for prior taxable years in the adjustment period.

"(C) AGGREGATE CONTRACTION IN REVOLVING INSTALLMENT OBLIGATIONS.—For purposes of subparagraph (B), the aggregate contraction in revolving installment obligations is the amount by which—

"(i) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, exceeds

"(ii) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxable year involved.

"(D) REVOLVING INSTALLMENT OBLIGATIONS.—For purposes of this paragraph, the term 'revolving installment obligations' means installment obligations arising under a revolving credit plan.

"(E) TREATMENT OF CERTAIN OBLIGATIONS DISPOSED OF ON OR BEFORE OCTOBER 26, 1987.—For purposes of subparagraphs (B)(i) and (C)(i), in determining the aggregate face amount of revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, there shall not be taken into account any obligation—

"(i) which was disposed of to an unrelated person on or before October 26, 1987, or

"(ii) was disposed of to an unrelated person on or after such date pursuant to a binding written contract in effect on October 26, 1987, and at all times thereafter before such disposition.

For purposes of the preceding sentence, the term 'unrelated person' means any person who is not a related person (as defined in section 453(g) of the Internal Revenue Code of 1986).

"(5) LIMITATION ON LOSSES FROM SALES OF OBLIGATIONS UNDER REVOLVING CREDIT PLANS.—If 1 or more obligations arising under a revolving credit plan and taken into account under paragraph (3) are disposed of during the adjustment period, then, notwithstanding any other provision of law—

"(A) no losses from such dispositions shall be recognized, and

"(B) the aggregate amount of the adjustment for taxable years in the adjustment period (in reverse order of time) shall be reduced by the amount of such losses.

"(6) ADJUSTMENT PERIOD.—For purposes of paragraphs (4) and (5), the adjustment period is the 4-year period under paragraph (3)."

(h) AMENDMENT RELATED TO SECTION 821 OF THE REFORM ACT.—Section 821(b)(3) of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall also apply to any taxable year beginning after August 16, 1986, and

26 USC 451 note.

before January 1, 1987, if the taxpayer treated such income in the same manner for the taxable year preceding such taxable year."

(i) AMENDMENT RELATED TO SECTION 822 OF THE REFORM ACT.—Paragraph (1) of section 703(b) of the 1986 Code is amended by striking out "or (d)(4)".

(j) AMENDMENTS RELATED TO SECTION 824 OF THE REFORM ACT.—

(1) Section 6501(o) of the 1986 Code which relates to cross references is amended by striking out paragraph (3).

(2) Paragraph (4) of section 824(c) of the Reform Act is amended by striking out "an indemnity agreement" and inserting in lieu thereof "an underwriting agreement". 26 USC 118 note.

SEC. 1009. AMENDMENTS RELATED TO TITLE IX OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 901 OF THE REFORM ACT.—

(1) Subparagraph (C) of section 46(e)(4) of the 1986 Code is amended by adding at the end thereof the following new sentences: "Notwithstanding the preceding provisions of this subparagraph, any such election shall terminate effective with respect to the 1st taxable year of the organization making such election which begins after 1986 and during which such organization (or any successor organization) was not at any time the lessee under any lease of regular investment tax credit property. For purposes of the preceding sentence, the term 'regular investment tax credit property' means any section 38 property if the regular percentage applied to such property and the amount of qualified investment with respect to such property would have been reduced under paragraph (1) but for an election under this subparagraph."

(2)(A) Paragraph (5) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) ELECTION MADE BY EACH MEMBER.—In the case of a parent-subsidiary controlled group, any election under this section shall be made separately by each member of such group."

(B) Subclause (I) of section 585(c)(3)(A)(iii) of the 1986 Code is amended by striking out "or such greater amount as the taxpayer may designate" and inserting in lieu thereof "or such higher percentage of such net amount as the taxpayer may elect".

(C) Clause (ii) of section 585(c)(3)(B) of the 1986 Code is amended by striking out "designates an amount" and inserting in lieu thereof "elects a higher percentage".

(3) Paragraph (4) of section 585(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"If the amount of the reserve referred to in subparagraph (B) as of the close of any taxable year exceeds the outstanding balance (as of such time) of the loans referred to in subparagraph (B), such excess shall be included in gross income for such taxable year."

(b) AMENDMENTS RELATED TO SECTION 902 OF THE REFORM ACT.—

(1) Paragraph (3) of section 902(f) of the Reform Act is amended— State listing. 26 USC 265 note.

(A) in subparagraph (F), by striking out "distribution company" and inserting in lieu thereof "distribution facility",

(B) in subparagraph (L), by striking out "waterfront project" and inserting in lieu thereof "2 Festival Market

Place projects at Union Pier Terminal and 1 project at the Remount Road Container Yard, State Pier No. 15 at North Charleston Terminal",

(C) in subparagraph (M), by striking out "Pontabla" and inserting in lieu thereof "Pontalba",

(D) in subparagraph (P), by striking out "Birmingham, Alabama," and inserting in lieu thereof "Homewood, Alabama, the", and

(E) by adding at the end thereof the following new subparagraphs:

"(T) Bellows Falls, Vermont—building project.

"(U) East Broadway Project, Louisville, Kentucky.

"(V) O.K. Industries, Oklahoma."

26 USC 265 note.

(2) Paragraph (4) of section 902(f) of the Reform Act is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(3)(A) Paragraph (3) of section 265(b) of the 1986 Code is amended to read as follows:

"(3) EXCEPTION FOR CERTAIN TAX-EXEMPT OBLIGATIONS.—

"(A) IN GENERAL.—Any qualified tax-exempt obligation acquired after August 7, 1986, shall be treated for purposes of paragraph (2) and section 291(e)(1)(B) as if it were acquired on August 7, 1986.

"(B) QUALIFIED TAX-EXEMPT OBLIGATION.—

"(i) IN GENERAL.—For purposes of subparagraph (A), the term 'qualified tax-exempt obligation' means a tax-exempt obligation—

"(I) which is issued after August 7, 1986, by a qualified small issuer,

"(II) which is not a private activity bond (as defined in section 141), and

"(III) which is designated by the issuer for purposes of this paragraph.

"(ii) CERTAIN BONDS NOT TREATED AS PRIVATE ACTIVITY BONDS.—For purposes of clause (i)(II), there shall not be treated as a private activity bond—

"(I) any qualified 501(c)(3) bond (as defined in section 145), or

"(II) any obligation issued to refund (or which is part of a series of obligations issued to refund) an obligation issued before August 8, 1986, which was not an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exemption from such definition other than section 103(o)(2)(A)).

"(C) QUALIFIED SMALL ISSUER.—

"(i) IN GENERAL.—For purposes of subparagraph (B), the term 'qualified small issuer' means, with respect to obligations issued during any calendar year, any issuer if the reasonably anticipated amount of tax-exempt obligations (other than obligations described in clause (ii)) which will be issued by such issuer during such calendar year does not exceed $10,000,000.

"(ii) OBLIGATIONS NOT TAKEN INTO ACCOUNT IN DETERMINING STATUS AS QUALIFIED SMALL ISSUER.—For purposes of clause (i), an obligation is described in this clause if such obligation is—

"(I) a private activity bond (other than a qualified 501(c)(3) bond, as defined in section 145),

"(II) an obligation to which section 141(a) does not apply by reason of section 1312, 1313, 1316(g), or 1317 of the Tax Reform Act of 1986 and which would (if issued on August 15, 1986) have been an industrial development bond (as defined in section 103(b)(2) as in effect on the day before the date of the enactment of such Act) or a private loan bond (as defined in section 103(o)(2)(A), as so in effect, but without regard to any exception from such definition other than section 103(o)(2)(A)), or

"(III) an obligation issued to refund (other than to advance refund within the meaning of section 149(d)(5)) any obligation to the extent the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation.

"(iii) ALLOCATION OF AMOUNT OF ISSUE IN CERTAIN CASES.—In the case of an issue under which more than 1 governmental entity receives benefits, if—

"(I) all governmental entities receiving benefits from such issue irrevocably agree (before the date of issuance of the issue) on an allocation of the amount of such issue for purposes of this subparagraph, and

"(II) such allocation bears a reasonable relationship to the respective benefits received by such entities,

then the amount of such issue so allocated to an entity (and only such amount with respect to such issue) shall be taken into account under clause (i) with respect to such entity.

"(D) LIMITATION ON AMOUNT OF OBLIGATIONS WHICH MAY BE DESIGNATED.—

"(i) IN GENERAL.—Not more than $10,000,000 of obligations issued by an issuer during any calendar year may be designated by such issuer for purposes of this paragraph.

"(ii) CERTAIN REFUNDINGS OF DESIGNATED OBLIGATIONS DEEMED DESIGNATED.—Except as provided in clause (iii), in the case of a refunding (or series of refundings) of a qualified tax-exempt obligation, the refunding obligation shall be treated as a qualified tax-exempt obligation (and shall not be taken into account under clause (i)) if—

"(I) the refunding obligation was not taken into account under subparagraph (C) by reason of clause (ii)(III) thereof,

"(II) the average maturity date of the refunding obligations issued as part of the issue of which such refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue, and

"(III) the refunding obligation has a maturity date which is not later than the date which is 30 years after the date the original qualified tax-exempt obligation was issued.

Subclause (II) shall not apply if the average maturity of the issue of which the original qualified tax-exempt obligation was a part (and of the issue of which the obligations to be refunded are a part) is 3 years or less. For purposes of this clause, average maturity shall be determined in accordance with section 147(b)(2)(A).

"(iii) CERTAIN OBLIGATIONS MAY NOT BE DESIGNATED OR DEEMED DESIGNATED.—No obligation issued as part of an issue may be designated under this paragraph (or may be treated as designated under clause (ii)) if—

"(I) any obligation issued as part of such issue is issued to refund another obligation, and

"(II) the aggregate face amount of such issue exceeds $10,000,000.

"(E) AGGREGATION OF ISSUERS.—For purposes of subparagraphs (C) and (D)—

"(i) an issuer and all entities which issue obligations on behalf of such issuer shall be treated as 1 issuer,

"(ii) all obligations issued by a subordinate entity shall, for purposes of applying subparagraphs (C) and (D) to each other entity to which such entity is subordinate, be treated as issued by such other entity, and

"(iii) an entity formed (or, to the extent provided by the Secretary, availed of) to avoid the purposes of subparagraph (C) or (D) and all entities benefiting thereby shall be treated as 1 issuer.

"(F) TREATMENT OF COMPOSITE ISSUES.—In the case of an obligation which is issued as part of a direct or indirect composite issue, such obligation shall not be treated as a qualified tax-exempt obligation unless—

"(i) the requirements of this paragraph are met with respect to such composite issue (determined by treating such composite issue as a single issue), and

"(ii) the requirements of this paragraph are met with respect to each separate lot of obligations which are part of the issue (determined by treating each such separate lot as a separate issue)."

26 USC 265 note.

(B) In the case of any obligation issued after August 7, 1986, and before January 1, 1987, the time for making a designation with respect to such obligation under section 265(b)(3)(B)(iii) of the 1986 Code shall not expire before January 1, 1989.

(C) If—

(i) an obligation is issued on or after January 1, 1986, and on or before August 7, 1986,

(ii) when such obligation was issued, the issuer made a designation that it intended to qualify under section 802(e)(3) of H.R. 3838 of the 99th Congress as passed by the House of Representatives, and

(iii) the issuer makes an election under this subparagraph with respect to such obligation,

for purposes of section 265(b)(3) of the 1986 Code, such obligation shall be treated as issued on August 8, 1986.

(D)(i) Except as provided in clause (ii), the following provisions of section 265(b)(3) of the 1986 Code (as amended by this subparagraph (A)) shall apply to obligations issued after June 30, 1987:

(I) subparagraph (C)(ii)(III),

(II) clauses (ii) and (iii) of subparagraph (D), and

(III) subparagraphs (E) and (F).

(ii) At the election of an issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe), the provisions referred to in clause (i) shall apply to such issuer as if included in the amendments made by section 902(a) of the Tax Reform Act of 1986.

(4) Subparagraph (B) of section 291(e)(1) of the 1986 Code is amended by redesignating the clause (iv) added by section 902(c)(2) of the Reform Act as clause (v).

(5) Clause (i) of section 291(e)(1)(B) of the 1986 Code is amended by striking out "section 582(a)(2)" and inserting in lieu thereof "section 585(a)(2)".

(6) Paragraph (1) of section 902(e) of the Reform Act is amended by striking out "Section 163(h)(12)" and inserting in lieu thereof "Section 163(i)(2) (as redesignated by section 511(b) of this Act)". 26 USC 163.

(7) Paragraph (4) of section 902(f) of the Reform Act is amended— 26 USC 265 note.

(A) by inserting "and qualified 501(c)(3) bonds designated by such Governor for purposes of this paragraph," after "1987),", and

(B) by striking out "subparagraph" in the last sentence and inserting in lieu thereof "paragraph".

(c) AMENDMENTS RELATED TO SECTION 903 OF THE REFORM ACT.—

(1) Paragraph (1) of section 172(b) of the 1986 Code is amended by redesignating subparagraphs (L) and (M) as subparagraphs (K) and (L), respectively.

(2) Subparagraph (A) of section 172(b)(1) of the 1986 Code is amended by striking out "Except" and all that follows down through "a net operating loss" and inserting in lieu thereof "Except as otherwise provided in this paragraph, a net operating loss".

(3) Subparagraph (B) of section 172(b)(1) of the 1986 Code is amended to read as follows:

"(B) Except as otherwise provided in this paragraph, a net operating loss for any taxable year ending after December 31, 1975, shall be a net operating loss carryover to each of the 15 taxable years following the taxable year of the loss."

(d) AMENDMENTS RELATED TO SECTION 905 OF THE REFORM ACT.—

(1) Subsection (l) of section 165 of the 1986 Code is amended by redesignating paragraph (6) as paragraph (7) and by striking out paragraph (5) and inserting in lieu thereof the following:

"(5) ELECTION TO TREAT AS ORDINARY LOSS.—

"(A) IN GENERAL.—In lieu of any election under paragraph (1), the taxpayer may elect to treat the amount referred to in paragraph (1) for the taxable year as an ordinary loss described in subsection (c)(2) incurred during the taxable year.

"(B) LIMITATIONS.—

"(i) DEPOSIT MAY NOT BE FEDERALLY INSURED.—No election may be made under subparagraph (A) with respect to any loss on a deposit in a qualified financial institution if part or all of such deposit is insured under Federal law.

Banks and banking.

"(ii) DOLLAR LIMITATION.—With respect to each financial institution, the aggregate amount of losses attributable to deposits in such financial institution to which an election under subparagraph (A) may be made by the taxpayer for any taxable year shall not exceed $20,000 ($10,000 in the case of a separate return by a married individual). The limitation of the preceding sentence shall be reduced by the amount of any insurance proceeds under any State law which can reasonably be expected to be received with respect to losses on deposits in such institution.

"(6) ELECTION.—Any election by the taxpayer under this subsection for any taxable year—

"(A) shall apply to all losses for such taxable year of the taxpayer on deposits in the institution with respect to which such election was made, and

"(B) may be revoked only with the consent of the Secretary."

26 USC 451 note.

(2) Paragraph (1) of section 905(c) of the Reform Act is amended to read as follows:

"(1) IN GENERAL.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1981, and, except as provided in paragraph (2), the amendment made by subsection (b) shall apply to taxable years beginning after December 31, 1982."

(3) The subsection (f) of section 451 of the 1986 Code which was added by section 905(b) of the 1986 Reform Act is redesignated as subsection (g).

26 USC 165 note.

(4) If on the date of the enactment of this Act (or at any time before the date 1 year after such date of enactment) credit or refund of any overpayment of tax attributable to amendments made by section 905 of the Reform Act or by this subsection (or the assessment of any underpayment of tax so attributable) is barred by any law or rule of law—

(A) credit or refund of any such overpayment may nevertheless be made if claim therefore is filed before the date 1 year after such date of enactment, and

(B) assessment of any such underpayment may nevertheless be made if made before the date 1 year after such date of enactment.

SEC. 1010. AMENDMENTS RELATED TO TITLE X OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1011 OF THE REFORM ACT.—

(1) Paragraph (1) of section 813(a) of the 1986 Code (relating to foreign life insurance companies) is amended by striking out "the special life insurance company deduction and".

26 USC 801 note.

(2) Paragraph (1) of section 1011(d) of the Reform Act is amended—

(A) by striking out "any bond" and inserting in lieu thereof "any market discount bond (as defined in section 1278 of the Internal Revenue Code of 1986)",

(B) by striking out "28 percent" and inserting in lieu thereof "31.6 percent", and

(C) by adding at the end thereof the following new sentence: "The preceding sentence shall apply only if the tax determined under the preceding sentence is less than the tax which would otherwise be imposed."

(3) Paragraph (2) of section 1011(d) of the Reform Act is amended to read as follows: 26 USC 801 note.

"(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of paragraph (1), the term 'qualified life insurance company' means any life insurance company subject to tax under part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986."

(b) AMENDMENTS RELATED TO SECTION 1012 OF THE REFORM ACT.—

(1) Clause (iv) of section 1012(c)(4)(C) of the Reform Act is amended to read as follows: 26 USC 833 note.

"(iv) dental benefit coverage provided by a Delta Dental Plans Association organization through contracts with independent professional service providers so long as the provision of such coverage is the principal activity of such organization." Health care professionals.

(2) Clause (ii) of section 1012(c)(4)(C) of the Reform Act is amended by striking out "Association" and inserting in lieu thereof "Plan".

(3) The Secretary of the Treasury or his delegate may prescribe rules providing proper adjustments for taxpayers which become subject to subchapter L of chapter 1 of the 1986 Code by reason of the amendments made by section 1012 of the Reform Act with respect to short taxable years which begin during 1987 by reason of section 843 of such Code. 26 USC 833 note.

(4)(A) Paragraph (3) of section 501(m) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(E) charitable gift annuities."

(B) Subsection (m) of section 501 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) CHARITABLE GIFT ANNUITY.—For purposes of paragraph (3)(E), the term 'charitable gift annuity' means an annuity if—

"(A) a portion of the amount paid in connection with the issuance of the annuity is allowable as a deduction under section 170 or 2055, and

"(B) the annuity is described in section 514(c)(5) (determined as if any amount paid in cash in connection with such issuance were property)."

(c) AMENDMENTS RELATED TO SECTION 1021 OF THE REFORM ACT.— Insurance.

(1)(A) Subparagraph (C) of section 832(b)(7) of the 1986 Code (relating to special rules for determining premiums earned) is amended by striking out "this part" and inserting in lieu thereof "section 831(a)".

(B) The subparagraph heading for such subparagraph is amended by striking out "NONLIFE INSURANCE COMPANY" and inserting in lieu thereof "INSURANCE COMPANY TAXABLE UNDER SECTION 831(a)".

(2) Paragraph (7) of section 832(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(D) TREATMENT OF COMPANIES WHICH BECOME TAXABLE UNDER SECTION 831(a).—

"(i) EXCEPTION TO PHASE-IN FOR COMPANIES WHICH WERE NOT TAXABLE, ETC., BEFORE 1987.—Subparagraph (C) of paragraph (4) shall not apply to any insurance company which, for each taxable year beginning before January 1, 1987, was not subject to the tax imposed by section 821(a) or 831(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) by reason of being—

"(I) subject to tax under section 821(c) (as so in effect), or

"(II) described in section 501(c) (as so in effect) and exempt from tax under section 501(a).

"(ii) PHASE-IN BEGINNING AT LATER DATE FOR COMPANIES NOT 1ST TAXABLE UNDER SECTION 831(a) IN 1987.—In the case of an insurance company—

"(I) which was not subject to the tax imposed by section 831(a) for its 1st taxable year beginning after December 31, 1986, by reason of being subject to tax under section 831(b), or described in section 501(c) and exempt from tax under section 501(a), and

"(II) which, for any taxable year beginning before January 1, 1987, was subject to the tax imposed by section 821(a) or 831(a) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986),

subparagraph (C) of paragraph (4) shall apply beginning with the 1st taxable year beginning after December 31, 1986, for which such company is subject to the tax imposed by section 831(a) and shall be applied by substituting the last day of the preceding taxable year for 'December 31, 1986' and the 1st day of the 7th succeeding taxable year for 'January 1, 1993'.

"(E) TREATMENT OF CERTAIN RECIPROCAL INSURERS.—In the case of a reciprocal (within the meaning of section 835(a)) which reports (as required by State law) on its annual statement reserves on unearned premiums net of premium acquisition expenses—

"(i) subparagraph (B) of paragraph (4) shall be applied by treating unearned premiums as including an amount equal to such expenses, and

"(ii) appropriate adjustments shall be made under subparagraph (c) of paragraph (4) to reflect the amount by which—

"(I) such reserves at the close of the most recent taxable year beginning before January 1, 1987, are greater or less than,

"(II) 80 percent of the sum of the amount under subclause (I) plus such premium acquisition expenses,"

(3) Paragraph (5) of section 832(e) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A) and by striking out the period at the end of subparagraph (B) and inserting in lieu thereof a comma.

(d) AMENDMENTS RELATED TO SECTION 1022 OF THE REFORM ACT.—

(1) Section 832 of the 1986 Code (defining insurance company taxable income) is amended by adding at the end thereof the following new subsection:

"(g) DIVIDENDS WITHIN GROUP.—In the case of an insurance company subject to tax under section 831(a) filing or required to file a consolidated return under section 1501 with respect to any affiliated group for any taxable year, any determination under this part with respect to any dividend paid by one member of such group to another member of such group shall be made as if such group were not filing a consolidated return."

(2) Subclause (II) of section 832(b)(5)(B)(ii) of the 1986 Code (relating to losses incurred) is amended by inserting "(directly or indirectly)" after "attributable".

(3) For purposes of section 832(b)(5)(C)(i) of the 1986 Code, any stock or obligation acquired on or after August 8, 1986, by an insurance company subject to the tax imposed by section 831 of the 1986 Code (hereinafter in this paragraph referred to as the "acquiring company") from another insurance company so subject (hereinafter in this paragraph referred to as the "transferor company") shall be treated as acquired on the date on which such stock or obligation was acquired by the transferor company if— 26 USC 832 note.

(A) the transferor company acquired such stock or obligation before August 8, 1986, and

(B) at all times after the date on which such stock or obligation was acquired by the transferor company and before the date of the acquisition by the acquiring company, the transferor company and the acquiring company were members of the same affiliated group filing a consolidated return.

For purposes of the preceding sentence, the date on which the stock or obligation was acquired by the transferor company shall be determined with regard to any prior application of the preceding sentence. For purposes of this paragraph, if the acquiring corporation or transferor corporation was a party to a reorganization described in section 368(a)(1)(F) of the 1986 Code, any reference to such corporation shall include a reference to any predecessor thereof involved in such reorganization.

(e) AMENDMENTS RELATED TO SECTION 1023 OF THE REFORM ACT.—

(1) Subparagraph (B) of section 846(f)(6) of the 1986 Code (relating to special rule for certain accident and health insurance lines of business) is amended by striking out "paid during the year" and inserting in lieu thereof "paid in the middle of the year".

(2) Subsection (g) of section 846 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing appropriate adjustments in the application of this section to a taxpayer having a taxable year which is not the calendar year."

(3) Subsection (e) of section 1023 of the Reform Act (relating to discounting of unpaid losses and certain unpaid expenses) is amended by adding at the end thereof the following new paragraph: 26 USC 846 note.

"(4) APPLICATION OF FRESH START TO COMPANIES WHICH BECOME SUBJECT TO SECTION 831(a) TAX IN LATER TAXABLE YEAR.—If—

"(A) an insurance company was not subject to tax under section 831(a) of the Internal Revenue Code of 1986 for its 1st taxable year beginning after December 31, 1986, by reason of being—

"(i) subject to tax under section 831(b) of such Code, or

"(ii) described in section 501(c) of such Code and exempt from tax under section 501(a) of such Code, and

"(B) such company becomes subject to tax under such section 831(a) for any later taxable year,

paragraph (2) and subparagraphs (A) and (C) of paragraph (3) shall be applied by treating such later taxable year as its 1st taxable year beginning after December 31, 1986, and by treating the calendar year in which such later taxable year begins as 1987; and paragraph (3)(B) shall not apply."

(f) AMENDMENTS RELATED TO SECTION 1024 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 831(b)(2) of the 1986 Code (relating to companies to which alternative tax applies) is amended by adding at the end thereof the following new sentence:

"The election under clause (ii) shall apply to the taxable year for which made and for all subsequent taxable years for which the requirements of clause (i) are met. Such an election, once made, may be revoked only with the consent of the Secretary."

(2) Subsection (a) of section 835 of the 1986 Code (relating to election by reciprocal) is amended by striking out "section 821(a)" and inserting in lieu thereof "section 831(a)".

(3) Subsection (f) of section 835 of the 1986 Code is amended by striking out "subsection (e)" and inserting in lieu thereof "subsection (d)".

(4) Paragraph (6) of section 243(b) of the 1986 Code (relating to special rules for insurance companies) is amended by striking out "or 821".

(5) Subsection (c) of section 543 of the 1986 Code (relating to gross income of insurance companies other than life or mutual) is amended—

(A) by striking out "OR MUTUAL" in the heading and inserting in lieu thereof "INSURANCE COMPANIES", and

(B) by striking out "life or mutual" in the text and inserting in lieu thereof "a life insurance company".

(6) Subsection (g) of section 816 of the 1986 Code (relating to burial and funeral benefit insurance companies) is amended by striking out "section 821 or".

(7) The table of sections for part II of subchapter L of chapter 1 of the 1986 Code (relating to other insurance companies) is amended by striking out the item relating to section 831 and inserting in lieu thereof the following new item:

"Sec. 831. Tax on insurance companies other than life insurance companies."

26 USC 831 note.

(8) Paragraph (1) of section 1024(d) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of a company taxable under section 831(b) of the Internal Revenue Code of 1986 (as amended by subsection

(a)), any amount included in gross income under this paragraph shall be treated as gross investment income."

(9) Section 831(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) LIMITATION ON USE OF NET OPERATING LOSSES.—For purposes of this part, except as provided in section 844, a net operating loss (as defined in section 172) shall not be carried—

"(A) to or from any taxable year for which the insurance company is not subject to the tax imposed by subsection (a), or

"(B) to any taxable year if, between the taxable year from which such loss is being carried and such taxable year, there is an intervening taxable year for which the insurance company was not subject to the tax imposed by subsection (a)."

(g) AMENDMENTS RELATED TO SECTION 1031 OF THE REFORM ACT.—

(1) Paragraph (1) of section 1031(a) of the Reform Act is amended by inserting "(whether made in a lump sum or a series of substantially equal payments over a period of not more than 6 years)" after "any initial payment". 26 USC 832 note.

(2) Paragraph (2) of section 1031(a) of the Reform Act is amended by striking out "initial payment" each place it appears and inserting in lieu thereof "initial payment referred to in paragraph (1)".

(3) Paragraph (2) of section 1031(a) of the Reform Act is amended by striking out "this title" each place it appears and inserting in lieu thereof "the Internal Revenue Code of 1986".

(h) SPECIAL RULE FOR MUTUAL LIFE INSURANCE COMPANY.—

(1) IN GENERAL.—Paragraph (2) of section 217(i) of the Tax Reform Act of 1984 is amended to read as follows: 26 USC 816 note.

"(2) EFFECT OF ELECTION ON SUBSIDIARIES OF ELECTING PARENT.—For purposes of determining the amount of the small life insurance company deduction of any controlled group which includes a mutual company which made an election under paragraph (1), the taxable income of such electing company shall be taken into account under section 806(b)(2) of the Internal Revenue Code of 1954 (relating to phaseout of small life insurance company deduction)."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to taxable years beginning after December 31, 1986, and before January 1, 1992. 26 USC 816 note.

(3) REVENUE LOSS LIMITED.—The decrease in the amount of Federal revenue by reason of the amendment made by this subsection shall not exceed $300,000 per taxable year. 26 USC 816 note.

(i) DELAY IN EFFECTIVE DATE FOR DIVERSIFICATION REQUIREMENTS WITH RESPECT TO ACCOUNTS FOR CERTAIN IMMEDIATE ANNUITIES.—Section 817(h) of the 1986 Code shall not apply until January 1, 1989 with respect to a variable contract (as defined in section 817(d) of the 1986 Code) if— 26 USC 817 note.

(1) such contract provides for the payment of an immediate annuity (as defined in section 72(u)(4) of the 1986 Code),

(2) such contract was outstanding on September 12, 1986, and

(3) the segregated asset account on which such contract is based was, on September 12, 1986, wholly invested in deposits insured by the Federal Deposit Insurance Corporation or the Federal Savings and Loan Insurance Corporation.

(j) TREATMENT OF ALTERNATIVE MINIMUM TAX WITH RESPECT TO SHAREHOLDERS SURPLUS ACCOUNT.—

(1) Paragraph (2) of section 815(c) of the 1986 Code (relating to shareholders surplus account) is amended by adding at the end thereof the following new sentence:

"If for any taxable year a tax is imposed by section 55, under regulations proper adjustments shall be made for such year and all subsequent taxable years in the amounts taken into account under subparagraphs (A) and (B) of this paragraph and subparagraph (B) of subsection (d)(3)."

26 USC 815 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1986.

(k) TREATMENT OF CERTAIN ITEMS AS NOT INTEREST FOR SOURCE RULES, ETC.—Subsection (f) of section 818 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) ITEMS DESCRIBED IN SECTION 807(c) TREATED AS NOT INTEREST FOR SOURCE RULES, ETC.—For purposes of part I of subchapter N, items described in any paragraph of section 807(c) shall be treated as amounts which are not interest."

SEC. 1011. AMENDMENTS RELATED TO PARTS I AND II OF SUBTITLE A OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1101 OF THE REFORM ACT.—

(1) Paragraph (4) of section 219(g) of the 1986 Code (relating to special rule for married individuals filing separately) is amended to read as follows:

"(4) SPECIAL RULE FOR MARRIED INDIVIDUALS FILING SEPARATELY AND LIVING APART.—A husband and wife who—

"(A) file separate returns for any taxable year, and

"(B) live apart at all times during such taxable year, shall not be treated as married individuals for purposes of this subsection."

26 USC 219 note.

(2)(A) Except as provided in subparagraph (B), the amendment made by paragraph (1) shall apply to taxable years beginning after December 31, 1987.

(B) A taxpayer may elect to have the amendment made by paragraph (1) apply to any taxable year beginning in 1987.

(b) AMENDMENTS RELATED TO SECTION 1102 OF THE REFORM ACT.—

(1) Sections 408(d)(2)(C) and 408(o)(4)(B)(iv) of the 1986 Code are each amended by striking out "with or within which the taxable year ends" and inserting in lieu thereof "in which the taxable year begins".

(2)(A) Section 408(d)(4) of the 1986 Code (relating to excess contributions returned before due date of return) is amended by striking out "to the extent that such contribution exceeds the amount allowable as a deduction under section 219".

(B) Section 408(d)(4) of the 1986 Code is amended—

(i) by striking out "excess" each place it appears, and

(ii) by striking out "EXCESS CONTRIBUTIONS" in the heading and inserting in lieu thereof "CONTRIBUTIONS".

(3) Sections 408(d)(5) and 4973(b) of the 1986 Code are each amended by striking out all that follows "section 219" in the last sentence thereof and inserting in lieu thereof "shall be computed without regard to section 219(g).".

(4)(A) Section 6693(b) of the 1986 Code (relating to overstatement of designated nondeductible contributions) is amended to read as follows:

"(b) PENALTIES RELATING TO NONDEDUCTIBLE CONTRIBUTIONS.—

"(1) OVERSTATEMENT OF DESIGNATED NONDEDUCTIBLE CONTRIBUTIONS.—Any individual who—

"(A) is required to furnish information under section 408(o)(4) as to the amount of designated nondeductible contributions made for any taxable year, and

"(B) overstates the amount of such contributions made for such taxable year,

shall pay a penalty of $100 for each such overstatement unless it is shown that such overstatement is due to reasonable cause.

"(2) FAILURE TO FILE FORM.—Any individual who fails to file a form required to be filed by the Secretary under section 408(o)(4) shall pay a penalty of $50 for each such failure unless it is shown that such failure is due to reasonable cause."

Law enforcement and crime.

(B)(i) The heading for section 6693 of the 1986 Code is amended by striking out "overstatement of" and inserting in lieu thereof "penalties relating to".

(ii) The item relating to section 6693 in the table of sections for subchapter B of chapter 68 is amended by striking out "overstatement of" and inserting in lieu thereof "penalties relating to".

(c) AMENDMENTS RELATED TO SECTION 1105 OF THE REFORM ACT.—

(1) Section 402(g)(2)(C) of the 1986 Code (relating to taxation of distribution) is amended—

(A) by striking out "(and no tax shall be imposed under section 72(t))" in clause (i),

(B) by striking out "such excess deferral is made" in clause (ii) and inserting in lieu thereof "such income is distributed", and

(C) by inserting at the end thereof the following new flush sentence:

"No tax shall be imposed under section 72(t) on any distribution described in the preceding sentence."

(2) Section 402(g)(2) is amended by striking out "REQUIRED DISTRIBUTION" in the heading thereof and inserting in lieu thereof "DISTRIBUTION".

(3) Section 402(g)(2) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) PARTIAL DISTRIBUTIONS.—If a plan distributes only a portion of any excess deferral and income allocable thereto, such portion shall be treated as having been distributed ratably from the excess deferral and the income."

(4) Section 402(g)(3) of the 1986 Code (defining elective deferral) is amended by striking out "paragraph" and inserting in lieu thereof "subsection".

(5)(A) Clause (iii) of section 402(g)(8)(A) of the 1986 Code (relating to special rule for certain organizations) is amended by inserting "(determined in the manner prescribed by the Secretary)" after "taxable years".

(B) Section 402(g)(8) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) YEARS OF SERVICE.—For purposes of this paragraph, the term 'years of service' has the meaning given such term by section 403(b)."

(6)(A) Section 402(g) of the 1986 Code, as added by section 1852(b)(3)(A) of the Reform Act, is redesignated as subsection (i).

(B) Section 402(g) of the 1986 Code, as added by section 1854(f)(2) of the Reform Act, is redesignated as subsection (j).

26 USC 402 note.

(C) Section 1854(f)(4)(C) of the Reform Act is amended by striking out "section 402(g)" and inserting in lieu thereof "section 402(j)".

(7)(A) Section 401(a) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(30) LIMITATIONS ON ELECTIVE DEFERRALS.—In the case of a trust which is part of a plan under which elective deferrals (within the meaning of section 402(g)(3)) may be made with respect to any individual during a calendar year, such trust shall not constitute a qualified trust under this subsection unless the plan provides that the amount of such deferrals under such plan and all other plans, contracts, or arrangements of an employer maintaining such plan may not exceed the amount of the limitation in effect under section 402(g)(1) for taxable years beginning in such calendar year."

(B) Section 403(b)(1) of the 1986 Code is amended by striking out "and" at the end of subparagraph (C), by inserting "and" at the end of subparagraph (D), and by inserting after subparagraph (D) the following new subparagraph:

"(E) in the case of a contract purchased under a plan which provides a salary reduction agreement, the plan meets the requirements of section 401(a)(30),".

(C) Subparagraph (A) of section 408(k)(6) of the 1986 Code, as amended by subsection (f)(1), is amended by adding at the end thereof the following new clause:

"(iv) LIMITATIONS ON ELECTIVE DEFERRALS.—Clause (i) shall not apply to a simplified employee pension unless the requirements of section 401(a)(30) are met."

(D) Subparagraph (D) of section 501(c)(18) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by inserting after clause (iii) the following new clause:

"(iv) the requirements of section 401(a)(30) are met."

26 USC 401 note.

(E)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to plan years beginning after December 31, 1987.

(ii) In the case of a plan described in section 1105(c)(2) of the Reform Act, the amendments made by this paragraph shall not apply to contributions made pursuant to an agreement described in such section for plan years beginning before the earlier of—

(I) the later of January 1, 1988, or the date on which the last of such agreements terminates (determined without regard to any extension thereof after February 28, 1986), or

(II) January 1, 1989.

26 USC 402 note.

(8) Section 1105(c)(2)(A) of the Reform Act is amended by striking out "the last of such collective bargaining agreements" and inserting in lieu thereof "such agreement".

(9) Section 1105(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(6) REPORTING REQUIREMENTS.—The amendments made by subsection (b) shall apply to calendar years beginning after December 31, 1986."

(10) Notwithstanding any other provision of law, a plan may incorporate by reference the dollar limitations under section 402(g) of the Internal Revenue Code of 1986. 26 USC 402 note.

(11) Section 402(g)(3) of the 1986 Code is amended by inserting at the end thereof the following new sentence: "An employer contribution shall not be treated as an elective deferral described in subparagraph (C) if under the salary reduction agreement such contribution is made pursuant to a one-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations." Wages.

(12) Subparagraph (A) of section 403(b)(12) of the 1986 Code is amended by inserting after clause (ii) the following new sentence: Wages.

"For purposes of clause (i), a contribution shall be treated as not made pursuant to a salary reduction agreement if under the agreement it is made pursuant to a 1-time irrevocable election made by the employee at the time of initial eligibility to participate in the agreement or is made pursuant to a similar arrangement specified in regulations."

(d) AMENDMENTS RELATED TO SECTION 1106 OF THE REFORM ACT.—

(1) Section 404(l) of the 1986 Code (relating to limitation on amount of compensation which may be taken into account) is amended by adding at the end thereof the following new sentence: "For purposes of clause (i), (ii), or (iii) of subsection (a)(1)(A), and in computing the full funding limitation, any adjustment under the preceding sentence shall not be taken into account for any year before the year for which such adjustment first takes effect.".

(2) Section 415(b)(5)(D) of the 1986 Code (relating to application to changes in benefit structures) is amended by striking out "this paragraph" and inserting in lieu thereof "subparagraph (A)".

(3) Paragraph (2) of section 415(k) of the 1986 Code (relating to contributions to provide cost-of-living protection under defined benefit plans), as added by section 1106(c) of the Reform Act, is amended—

(A) by striking out "to the arrangement" in subparagraph (C)(ii) and inserting in lieu thereof "to such increase", and

(B) by striking out subparagraph (D) and inserting in lieu thereof:

"(D) ARRANGEMENT ELECTIVE; TIME FOR ELECTION.—An arrangement meets the requirements of this subparagraph only if it is elective, it is available under the same terms to all participants, and it provides that such election may at least be made in the year in which the participant—

"(i) attains the earliest retirement age under the defined benefit plan (determined without regard to any requirement of separation from service), or

"(ii) separates from service."

(4) Sections 401(a)(17) and 404(l) of the 1986 Code are each amended by adding at the end thereof the following new sentence: "In determining the compensation of an employee, the rules of section 414(q)(6) shall apply, except that in applying such rules, the term 'family' shall include only the spouse of the employee and any lineal descendants of the employee who have not attained age 19 before the close of the year."

26 USC 415 note.

(5) Paragraph (4) of section 1106(i) of the Reform Act is amended by striking the period at the end thereof and inserting in lieu thereof "(determined as if the amendments made by this section were in effect for such year).".

(6) Section 415(b)(5)(B) of the 1986 Code is amended by inserting "and subsection (e)" after "paragraphs (1)(B) and (4)".

(7) Subparagraph (A) of section 415(c)(6) of the 1986 Code is amended—

(A) by striking out "paragraph (c)(1)(A) (as adjusted for such year pursuant to subsection (d)(1))", and inserting in lieu thereof "paragraph (1)(A)"; and

(B) by striking out "paragraph (c)(1)(A) (as so adjusted)" and inserting in lieu thereof "paragraph (1)(A)".

(8) Sections 414(q)(1)(D) and 416(i)(1)(A)(i) of the 1986 Code are each amended by striking out "150 percent of the amount in effect under section 415(c)(1)(A)" and inserting in lieu thereof "50 percent of the amount in effect under section 415(b)(1)(A)".

(e) AMENDMENTS RELATED TO SECTION 1107 OF THE REFORM ACT.—

(1) Section 457(c)(2) of the 1986 Code is amended by striking out "and paragraphs (2) and (3) of subsection (b)".

(2) Section 457(d)(1)(A) of the 1986 Code (relating to distribution requirements) is amended to read as follows:

"(A) under the plan amounts will not be made available to participants or beneficiaries earlier than—

"(i) the calendar year in which the participant attains age 70½,

"(ii) when the participant is separated from service with the employer, or

"(iii) when the participant is faced with an unforeseeable emergency (determined in the manner prescribed by the Secretary in regulations)."

(3) Paragraph (7) of section 401(k) of the 1986 Code (defining rural electric cooperative plan) is amended to read as follows:

"(7) RURAL ELECTRIC COOPERATIVE PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'rural electric cooperative plan' means any pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)), and

"(ii) which is established and maintained by a rural electric cooperative.

"(B) RURAL ELECTRIC COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural electric cooperative' means—

"(i) any organization which—

"(I) is exempt from tax under this subtitle or which is a State or local government or political subdivision thereof (or agency or instrumentality thereof), and

"(II) is engaged primarily in providing electric service on a mutual or cooperative basis,

"(ii) any organization described in paragraph (4) or (6) of section 501(c) and at least 80 percent of the members of which are organizations described in clause (i), and

"(iii) an organization which is a national association of organizations described in clause (i) or (ii)."

(4) Section 414(o) of the 1986 Code is amended by inserting "or any requirement under section 457" after "(n)(3)".

(5)(A) Paragraph (6) of section 818(a) of the 1986 Code (defining pension plan contracts) is amended—

(i) by striking out "State" in subparagraph (A),

(ii) by inserting "or any organization (other than a governmental unit) exempt from tax under this subtitle," after "foregoing," in subparagraph (B),

(iii) by striking out "or" before "agency" in subparagraph (B), and

(iv) by inserting ", or organization" after "instrumentality" the second place it appears in subparagraph (B).

(B) The amendments made by this paragraph shall apply to contracts issued after December 31, 1986. 26 USC 818 note.

(6) Section 1107(c)(3) of the Reform Act is amended— 26 USC 457 note.

(A) by striking out "eligible" each place it appears, and

(B) by inserting at the end of subparagraph (B) the following new sentence: "This subparagraph shall only apply to individuals who were covered under the plan and agreement on August 16, 1986."

(7) Paragraph (5) of section 1107(c) of the Reform Act is amended—

(A) by striking out "to employees on August 1, 1986, of",

(B) by striking out "a deferred compensation plan" in subparagraph (A) and inserting in lieu thereof "to employees on August 16, 1986,",

(C) by inserting "maintaining a deferred compensation plan" after "Alabama" in subparagraph (A), and

(D) by striking out "a deferred compensation plan" in subparagraph (B) and inserting in lieu thereof "to individuals eligible to participate on August 16, 1986, in a deferred compensation plan".

(8) Section 3121(v)(3)(A) of the 1986 Code is amended by striking out "457(e)(1)" and inserting in lieu thereof "457(f)(1)".

(9) Effective for years beginning after December 31, 1988, paragraph (9) of section 457(e) of the 1986 Code is amended by inserting "after separation from service and" before "within 60 days".

(10) Subclause (I) of section 457(d)(2)(B)(i) of the 1986 Code is amended to read as follows:

"(I) the amounts payable with respect to the participant will be paid at times specified by the Secretary which are not later than the time determined under section 401(a)(9)(G) (relating to incidental death benefits),".

(f) AMENDMENTS RELATED TO SECTION 1108 OF THE REFORM ACT.— Retirement.

(1) Subparagraph (A) of section 408(k)(6) of the 1986 Code (relating to salary reduction arrangements under simplified employee pensions) is amended to read as follows:

"(A) ARRANGEMENTS WHICH QUALIFY.—

"(i) IN GENERAL.—A simplified employee pension shall not fail to meet the requirements of this subsection for a year merely because, under the terms of the pension, an employee may elect to have the employer make payments—

"(I) as elective employer contributions to the simplified employee pension on behalf of the employee, or

"(II) to the employee directly in cash.

"(ii) 50 PERCENT OF ELIGIBLE EMPLOYEES MUST ELECT.—Clause (i) shall not apply to a simplified employee pension unless an election described in clause (i)(I) is made or is in effect with respect to not less than 50 percent of the employees of the employer eligible to participate.

"(iii) REQUIREMENTS RELATING TO DEFERRAL PERCENTAGE.—Clause (i) shall not apply to a simplified employee pension for any year unless the deferral percentage for such year of each highly compensated employee eligible to participate is not more than the product of—

"(I) the average of the deferral percentages for such year of all employees (other than highly compensated employees) eligible to participate, multiplied by

"(II) 1.25."

(2) Section 408(k)(6)(B) of the 1986 Code (relating to exception where more than 25 employees) is amended by inserting "who were eligible to participate (or would have been required to be eligible to participate if a pension was maintained)" after "25 employees".

(3)(A) Section 408(k)(6)(D)(ii) of the 1986 Code (defining deferral percentage) is amended by striking out "(within the meaning of section 414(s))" and inserting in lieu thereof "(not in excess of the first $200,000)".

(B) Subparagraph (B) of section 408(k)(7) of the 1986 Code (defining compensation) is amended to read as follows:

"(B) COMPENSATION.—Except as provided in paragraph (2)(C), the term 'compensation' has the meaning given such term by section 414(s)."

(C) Subparagraph (C) of section 408(k)(3) of the 1986 Code is amended by striking out "total" before "compensation".

(D) Section 408(k)(8) of the 1986 Code is amended by striking out "paragraph (3)(C)" and inserting in lieu thereof "paragraphs (3)(C) and (6)(D)(ii)".

(4) Section 408(k)(6) of the 1986 Code (relating to employee may elect salary reduction arrangement) is amended by redesignating subparagraph (F) as subparagraph (G) and by inserting after subparagraph (E) the following new subparagraph:

"(F) EXCEPTION WHERE PENSION DOES NOT MEET REQUIREMENTS NECESSARY TO INSURE DISTRIBUTION OF EXCESS CONTRIBUTIONS.—This paragraph shall not apply with respect to any year for which the simplified employee pension does not meet such requirements as the Secretary may prescribe as are necessary to insure that excess contributions are distributed in accordance with subparagraph (C), including—

"(i) reporting requirements, and

"(ii) requirements which, notwithstanding paragraph (4), provide that contributions (and any income allocable thereto) may not be withdrawn from a simplified employee pension until a determination has been made

that the requirements of subparagraph (A)(iii) have been met with respect to such contributions."

(5) Section 408(d) of the 1986 Code (relating to tax treatment of distributions) is amended by adding at the end thereof the following new paragraph:

"(7) SPECIAL RULES FOR SIMPLIFIED EMPLOYEE PENSIONS.—

"(A) TRANSFER OR ROLLOVER OF CONTRIBUTIONS PROHIBITED UNTIL DEFERRAL TEST MET.—Notwithstanding any other provision of this subsection or section 72(t), paragraph (1) and section 72(t)(1) shall apply to the transfer or distribution from a simplified employee pension of any contribution under a salary reduction arrangement described in subsection (k)(6) (or any income allocable thereto) before a determination as to whether the requirements of subsection (k)(6)(A)(iii) are met with respect to such contribution.

"(B) CERTAIN EXCLUSIONS TREATED AS DEDUCTIONS.—For purposes of paragraphs (4) and (5) and section 4973, any amount excludable or excluded from gross income under section 402(h) shall be treated as an amount allowable or allowed as a deduction under section 219."

(6) Subparagraph (C) of section 404(h)(1) of the 1986 Code is amended by inserting "(or during the taxable year in the case of a taxable year described in subparagraph (A)(ii))" after "taxable year" the second place it appears.

(7) Section 1108(h) of the Reform Act is amended to read as follows: 26 USC 219 note.

"(h) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1986.

"(2) INTEGRATION RULES.—Subparagraphs (D) and (E) of section 408(k)(3) of the Internal Revenue Code of 1954 (as in effect before the amendments made by this section) shall continue to apply for years beginning after December 31, 1986, and before January 1, 1989, except that employer contributions under an arrangement under section 408(k)(6) of the Internal Revenue Code of 1986 (as added by this section) may not be integrated under such subparagraphs."

(8) Section 209(e)(8) of the Social Security Act is amended to read as follows: 42 USC 409.

"(8) under a simplified employee pension (as defined in section 408(k)(1) of such Code), other than any contributions described in section 408(k)(6) of such Code,".

(9) Section 3401(a)(12)(C) of the 1986 Code is amended—

(A) by striking out "section 219" and inserting in lieu thereof "section 402(h) (1) and (2)", and

(B) by striking out "a deduction" and inserting in lieu thereof "an exclusion".

(10) Section 408(k)(8) of the 1986 Code is amended by inserting ", except that in the case of years beginning after 1988, the $200,000 amount (as so adjusted) shall not exceed the amount in effect under section 401(a)(17)" after "section 415(d)".

(g) AMENDMENTS RELATED TO SECTION 1111 OF THE REFORM ACT.—

(1)(A) Section 401(l)(2)(B) of the 1986 Code (defining contribution percentages) is amended by inserting "by the employer" after "contributed" each place it appears.

(B) Clause (ii) of section 401(l)(3)(A) of the 1986 Code is amended by inserting "attributable to employer contributions" after "benefits".

(2) Section 401(l)(5)(C) of the 1986 Code (defining average annual compensation) is amended to read as follows:

"(C) AVERAGE ANNUAL COMPENSATION.—The term 'average annual compensation' means the participant's highest average annual compensation for—

"(i) any period of at least 3 consecutive years, or

"(ii) if shorter, the participant's full period of service."

(3) Section 401(l)(5)(E) of the 1986 Code (defining covered compensation) is amended—

(A) by striking out "age 65" each place it appears and inserting in lieu thereof "the social security retirement age", and

(B) by adding at the end thereof the following new clause:

"(iii) SOCIAL SECURITY RETIREMENT AGE.—For purposes of this subparagraph, the term 'social security retirement age' has the meaning given such term by section 415(b)(8)."

26 USC 401 note.

(4) Section 1111(c)(3) of the Reform Act is amended by striking out "benefits pursuant to, and individuals covered by, any such agreement in".

(h) AMENDMENTS RELATED TO SECTION 1112 OF THE REFORM ACT.—

(1) Section 410(b)(4)(B) of the 1986 Code (relating to exclusion of employees not meeting age and service requirements) is amended—

(A) by striking out "do not meet" and inserting in lieu thereof "not meeting", and

(B) by striking out "and".

(2) Section 410(b)(6) of the 1986 Code (relating to definitions and special rules) is amended by redesignating subparagraph (F) as subparagraph (G) and by adding after subparagraph (E) the following new subparagraph:

"(F) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—A plan maintained by an employer which has no employees other than highly compensated employees for any year shall be treated as meeting the requirements of this subsection for such year."

(3) Section 401(a)(26) of the 1986 Code (relating to additional participation requirements) is amended by redesignating subparagraph (F) as subparagraph (H) and by adding after subparagraph (E) the following new subparagraphs:

"(F) SPECIAL RULE FOR CERTAIN DISPOSITIONS OR ACQUISITIONS.—Rules similar to the rules of section 410(b)(6)(C) shall apply for purposes of this paragraph.

"(G) SEPARATE LINES OF BUSINESS.—At the election of the employer and with the consent of the Secretary, this paragraph may be applied separately with respect to each separate line of business of the employer. For purposes of this paragraph, the term 'separate line of business' has the meaning given such term by section 414(r) (without regard to paragraph (7) thereof)."

(4) Section 402(b)(2) of the 1986 Code (relating to failure to meet requirements of section 410(b)) is amended by striking out

subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) HIGHLY COMPENSATED EMPLOYEES.—If 1 of the reasons a trust is not exempt from tax under section 501(a) is the failure of the plan of which it is a part to meet the requirements of section 401(a)(26) or 410(b), then a highly compensated employee shall, in lieu of the amount determined under paragraph (1), include in gross income for the taxable year with or within which the taxable year of the trust ends an amount equal to the vested accrued benefit of such employee (other than the employee's investment in the contract) as of the close of such taxable year of the trust.

"(B) FAILURE TO MEET COVERAGE TESTS.—If a trust is not exempt from tax under section 501(a) for any taxable year solely because such trust is part of a plan which fails to meet the requirements of section 401(a)(26) or 410(b), paragraph (1) shall not apply by reason of such failure to any employee who was not a highly compensated employee during—

"(i) such taxable year, or

"(ii) any preceding period for which service was creditable to such employee under the plan."

(5) Subsections (m)(4)(A) and (n)(3)(A) of section 414 of the 1986 Code are each amended by striking out "and (16)" and inserting in lieu thereof "(16), (17), and (26)".

(6) Clause (iii) of section 1112(e)(3)(A) of the Reform Act is amended by striking out "a plan or merger" and inserting in lieu thereof "the plan". 26 USC 401 note.

(7) Section 1112(e)(2) of the Reform Act is amended by striking out "employees covered by such agreement in".

(8) Subsection (e) of section 1112 of the Reform Act is amended by striking out paragraph (3)(C) and by adding at the end of such subsection the following new paragraph:

"(4) SPECIAL RULE FOR PLANS WHICH MAY NOT TERMINATE.—To the extent provided in regulations prescribed by the Secretary of the Treasury or his delegate, if a plan is prohibited from terminating under title IV of the Employee Retirement Income Security Act of 1974 before the 1st year to which the amendment made by subsection (b) would apply, the amendment made by subsection (b) shall only apply to years after the 1st year in which the plan is able to terminate."

(9) Subparagraph (B) of section 1112(e)(3) of the Reform Act is amended to read as follows:

"(B) INTEREST RATE FOR DETERMINING ACCRUED BENEFIT OF HIGHLY COMPENSATED EMPLOYEES FOR CERTAIN PURPOSES.—In the case of a termination, transfer, or distribution of assets of a plan described in subparagraph (A)(ii) before the 1st year to which the amendment made by subsection (b) applies—

"(i) AMOUNT ELIGIBLE FOR ROLLOVER, INCOME AVERAGING, OR TAX-FREE TRANSFER.—For purposes of determining any eligible amount, the present value of the accrued benefit of any highly compensated employee shall be determined by using an interest rate not less than the highest of—

"(I) the applicable rate under the plan's method in effect under the plan on August 16, 1986,

"(II) the highest rate (as of the date of the termination, transfer, or distribution) determined under any of the methods applicable under the plan at any time after August 15, 1986, and before the termination, transfer, or distribution in calculating the present value of the accrued benefit of an employee who is not a highly compensated employee under the plan (or any other plan used in determining whether the plan meets the requirements of section 401 of the Internal Revenue Code of 1986), or

"(III) 5 percent.

"(ii) ELIGIBLE AMOUNT.—For purposes of clause (i), the term 'eligible amount' means any amount with respect to a highly compensated employee which—

"(I) may be rolled over under section 402(a)(5) of such Code,

"(II) is eligible for income averaging under section 402(e)(1) of such Code, or capital gains treatment under section 402(a)(2) or 403(a)(2) of such Code (as in effect before this Act), or

"(III) may be transferred to another plan without inclusion in gross income.

"(iii) AMOUNTS SUBJECT TO EARLY WITHDRAWAL OR EXCESS DISTRIBUTION TAX.—For purposes of sections 72(t) and 4980A of such Code, there shall not be taken into account the excess (if any) of—

"(I) the amount distributed to a highly compensated employee by reason of such termination or distribution, over

"(II) the amount determined by using the interest rate applicable under clause (i).

"(iv) DISTRIBUTIONS OF ANNUITY CONTRACTS.—If an annuity contract purchased after August 16, 1986, is distributed to a highly compensated employee in connection with such termination or distribution, there shall be included in gross income for the taxable year of such distribution an amount equal to the excess of—

"(I) the purchase price of such contract, over

"(II) the present value of the benefits payable under such contract determined by using the interest rate applicable under clause (i).

Such excess shall not be taken into account for purposes of sections 72(t) and 4980A of such Code.

"(v) HIGHLY COMPENSATED EMPLOYEE.—For purposes of this subparagraph, the term 'highly compensated employee' has the meaning given such term by section 414(q) of such Code."

(10) Section 413(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(9) PLANS COVERING A PROFESSIONAL EMPLOYEE.—Notwithstanding subsection (a), in the case of a plan (and trust forming part thereof) which covers any professional employee, paragraph (1) shall be applied by substituting 'section 410(a)' for 'section 410', and paragraph (2) shall not apply."

(11) Section 410(b)(4) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) REQUIREMENTS NOT TREATED AS BEING MET BEFORE ENTRY DATE.—An employee shall not be treated as meeting the age and service requirements described in this paragraph until the first date on which, under the plan, any employee with the same age and service would be eligible to commence participation in the plan."

(i) AMENDMENTS RELATED TO SECTION 1114 OF THE REFORM ACT.—

(1) Paragraph (1) of section 414(q) of the 1986 Code (defining highly compensated employee) is amended by adding at the end thereof the following new flush sentence:

"The Secretary shall adjust the $75,000 and $50,000 amounts under this paragraph at the same time and in the same manner as under section 415(d)."

(2) Section 414(q)(6) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) RULES TO APPLY TO OTHER PROVISIONS.—

"(i) IN GENERAL.—Except as provided in regulations and in clause (ii), the rules of subparagraph (A) shall be applied in determining the compensation of (or any contributions or benefits on behalf of) any employee for purposes of any section with respect to which a highly compensated employee is defined by reference to this subsection.

"(ii) EXCEPTION FOR DETERMINING INTEGRATION LEVELS.—Clause (i) shall not apply in determining the portion of the compensation of a participant which is under the integration level for purposes of section 401(l)."

(3)(A) Section 414(q)(8) of the 1986 Code (relating to excluded employees) is amended—

(i) by inserting "and" at the end of subparagraph (D), by striking ", and" at the end of subparagraph (E) and inserting in lieu thereof a period, and by striking out subparagraph (F), and

(ii) by striking out "The" in the last sentence thereof and inserting in lieu thereof "Except as provided by the Secretary, the".

(B) Section 414(q) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) SPECIAL RULE FOR NONRESIDENT ALIENS.—For purposes of this subsection and subsection (r), employees who are nonresident aliens and who receive no earned income (within the meaning of section 911(d)(2)) from the employer which constitutes income from sources within the United States (within the meaning of section 861(a)(3)) shall not be treated as employees."

(4)(A) Paragraph (8) of section 414(q) of the 1986 Code is amended by inserting "or the number of officers taken into account under paragraph (5)" after "paragraph (4)".

(B) Section 416(i)(1)(A) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of determining the number of officers taken into account under clause (i), employees described in section 414(q)(8) shall be excluded."

(5) Subparagraph (B) of section 408(k)(3) of the 1986 Code is amended to read as follows:

"(B) SPECIAL RULES.—For purposes of subparagraph (A), there shall be excluded from consideration employees described in subparagraph (A) or (C) of section 410(b)(3)."

(j) AMENDMENTS RELATED TO SECTION 1115 OF THE REFORM ACT.—

(1) So much of section 414(s) of the 1986 Code as precedes paragraph (2) is amended to read as follows:

"(s) COMPENSATION.—For purposes of any applicable provision—

"(1) IN GENERAL.—Except as provided in this subsection, the term 'compensation' has the meaning given such term by section 415(c)(3)."

(2) Section 414(s) of the 1986 Code is amended by striking out paragraph (2), by redesignating paragraphs (3) and (4) as paragraphs (2) and (3), respectively, and by adding at the end thereof the following new paragraph:

"(4) APPLICABLE PROVISION.—For purposes of this subsection, the term 'applicable provision' means any provision which specifically refers to this subsection."

(3)(A) Section 416(i)(1) of the 1986 Code (defining key employee) is amended by adding at the end thereof the following new subparagraph:

"(D) COMPENSATION.—For purposes of this paragraph, the term 'compensation' has the meaning given such term by section 414(q)(7)."

26 USC 416 note.

(B) The amendment made by this paragraph shall apply to years beginning after December 31, 1988.

(k) AMENDMENTS RELATED TO SECTION 1116 OF THE REFORM ACT.—

(1)(A) Subparagraph (B) of section 401(k)(2) of the 1986 Code (relating to distributions from a cash or deferred arrangement) is amended—

(i) by striking out subclauses (II), (III), and (IV) of clause (i) and inserting in lieu thereof:

"(II) an event described in paragraph (10),", and

(ii) by redesignating subclauses (V) and (VI) as subclauses (III) and (IV), respectively.

(B) Section 401(k) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) DISTRIBUTIONS UPON TERMINATION OF PLAN OR DISPOSITION OF ASSETS OR SUBSIDIARY —

"(A) IN GENERAL.—The following events are described in this paragraph:

"(i) TERMINATION.—The termination of the plan without establishment or maintenance of another defined contribution plan (other than an employee stock ownership plan as defined in section 4975(e)(7)).

"(ii) DISPOSITION OF ASSETS.—The disposition by a corporation of substantially all of the assets (within the meaning of section 409(d)(2)) used by such corporation in a trade or business of such corporation, but only with respect to an employee who continues employment with the corporation acquiring such assets.

"(iii) DISPOSITION OF SUBSIDIARY.—The disposition by a corporation of such corporation's interest in a subsidiary (within the meaning of section 409(d)(3)), but only with respect to an employee who continues employment with such subsidiary.

"(B) DISTRIBUTIONS MUST BE LUMP SUM DISTRIBUTIONS.—

"(i) IN GENERAL.—An event shall not be treated as described in subparagraph (A) with respect to any employee unless the employee receives a lump sum distribution by reason of the event.

"(ii) LUMP SUM DISTRIBUTION.—For purposes of this subparagraph, the term 'lump sum distribution' has the meaning given such term by section 402(e)(4), without regard to clauses (i), (ii), (iii), and (iv) of subparagraph (A), subparagraph (B), or subparagraph (H) thereof.

"(C) TRANSFEROR CORPORATION MUST MAINTAIN PLAN.—An event shall not be treated as described in clause (ii) or (iii) of subparagraph (A) unless the transferor corporation continues to maintain the plan after the disposition."

(C)(i) Subparagraph (A)(i) of section 401(k)(10) of the 1986 Code (as added by subparagraph (B)) shall apply to distributions after October 16, 1987. 26 USC 401 note.

(ii) Subparagraph (B) of section 401(k)(10) of the 1986 Code (as added by subparagraph (B)) shall apply to distributions after March 31, 1988.

(2) Subparagraph (B) of section 401(k)(2) of the 1986 Code is amended—

(A) by inserting "amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election" after "under which",

(B) by striking out "amounts held by the trust which are attributable to employer contributions made pursuant to the employee's election" in clause (i), and

(C) by striking out "amounts" in clause (ii).

(3)(A) Clause (ii) of section 401(k)(3)(A) of the 1986 Code is amended by inserting "eligible" before "highly compensated employees" each place it appears.

(B) Section 1116(b)(4) of the Reform Act is amended by striking out "any" the first place it appears and inserting in lieu thereof "an". 26 USC 401.

(4) Subparagraph (C) of section 401(k)(3) of the 1986 Code, as added by section 1116(e) of the Reform Act, is redesignated as subparagraph (D).

(5) Subclause (I) of section 401(k)(3)(D)(ii) of the 1986 Code, as redesignated by paragraph (4), is amended by striking out "meets" and inserting in lieu thereof "meet".

(6) Section 401(k)(4)(A) of the 1986 Code is amended by striking out "provided by such employer".

(7) Section 401(k)(8) of the 1986 Code (relating to arrangement not disqualified if excess contributions distributed) is amended by redesignating subparagraph (E) as subparagraph (F) and by inserting after subparagraph (D) the following new subparagraph:

"(E) TREATMENT OF MATCHING CONTRIBUTIONS FORFEITED BY REASON OF EXCESS DEFERRAL OR CONTRIBUTION.—For purposes of paragraph (2)(C), a matching contribution (within the meaning of subsection (m)) shall not be treated as forfeitable merely because such contribution is forfeitable if the contribution to which the matching contribution relates is treated as an excess contribution under subparagraph

(B), an excess deferral under section 402(g)(2)(A), or an excess aggregate contribution under section 401(m)(6)(B)."

26 USC 401 note.

(8) Subparagraph (B) of section 1116(f)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "If clause (i) or (ii) applies to any arrangement adopted by a governmental unit, then any cash or deferred arrangement adopted by such unit on or after the date referred to in the applicable clause shall be treated as adopted before such date."

(9) Section 401(k)(4)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"This subparagraph shall not apply to a rural electric cooperative plan."

26 USC 401 note.

(10) Clause (i) of section 1116(f)(2)(B) of the Reform Act is amended by striking out "(or political subdivision thereof)" and inserting in lieu thereof "or political subdivision thereof, or any agency or instrumentality thereof,".

(l) AMENDMENTS RELATED TO SECTION 1117 OF THE REFORM ACT.—

(1) Paragraph (1) of section 401(m) of the 1986 Code (relating to nondiscrimination test for matching contributions and employee contributions) is amended by striking out "A plan" and inserting in lieu thereof "A defined contribution plan".

(2) Paragraph (3) of section 401(m) of the 1986 Code (relating to requirements) is amended by adding at the end thereof the following new sentence: "If matching contributions are taken into account for purposes of subsection (k)(3)(A)(ii) for any plan year, such contributions shall not be taken into account under subparagraph (A) for such year."

(3) The last sentence of section 401(m)(2)(B) of the 1986 Code is amended by striking out "such contributions" the first place it appears and inserting in lieu thereof "contributions to which this subsection applies".

(4) Section 401(m)(4)(A) of the 1986 Code (defining matching contribution) is amended by striking out "the plan" each place it appears and inserting in lieu thereof "a defined contribution plan".

(5)(A) Section 401(m)(4)(B) of the 1986 Code (defining elective deferral) is amended by striking out "section 402(g)(3)(A)" and inserting in lieu thereof "section 402(g)(3)".

Effective date.
26 USC 401 note.

(B) The amendment made by this paragraph shall take effect as if included in the amendments made by section 1120 of the Reform Act.

(6) Subparagraph (C) of section 401(m)(6) of the 1986 Code is amended by striking out "EXCESS" in the subparagraph heading and inserting in lieu thereof "EXCESS AGGREGATE".

(7) Section 401(m)(7)(A) of the 1986 Code (relating to additional tax of section 72(t) not applicable) is amended by striking out "paragraph (8)" and inserting in lieu thereof "paragraph (6)".

(8) Section 4979(a)(1) of the 1986 Code (relating to tax on certain excess contributions) is amended by striking out "a cash or deferred arrangement which is part of".

(9) Section 4979(c) of the 1986 Code (defining excess contributions) is amended—

(A) by striking out "403(b),", and

(B) by striking out "408(k)(8)(B)" and inserting in lieu thereof "408(k)(6)(C)".

(10) Section 4979(d) of the 1986 Code (defining excess aggregate contribution) is amended by adding at the end thereof the

following new sentence: "For purposes of determining excess aggregate contributions under an annuity contract described in section 403(b), such contract shall be treated as a plan described in subsection (e)(1)." Contracts.

(11) Paragraph (2) of section 4979(f) of the 1986 Code (relating to inclusion in prior year) is amended to read as follows:

"(2) YEAR OF INCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), any amount distributed as provided in paragraph (1) shall be treated as received and earned by the recipient in his taxable year for which such contribution was made.

"(B) DE MINIMIS DISTRIBUTIONS.—If the total excess contributions and excess aggregate contributions distributed to a recipient under a plan for any plan year are less than $100, such distributions (and any income allocable thereto) shall be treated as earned and received by the recipient in his taxable year in which such distributions were made."

(12) Subsection (d) of section 1117 of the Reform Act is amended by adding at the end thereof the following new paragraph: 26 USC 401 note.

"(4) DISTRIBUTIONS BEFORE PLAN AMENDMENT.—

"(A) IN GENERAL.—If a plan amendment is required to allow a plan to make any distribution described in section 401(m)(6) of the Internal Revenue Code of 1986, any such distribution which is made before the close of the 1st plan year for which such amendment is required to be in effect under section 1140 shall be treated as made in accordance with the provisions of the plan.

"(B) DISTRIBUTIONS PURSUANT TO MODEL AMENDMENT.—

"(i) SECRETARY TO PRESCRIBE AMENDMENT.—The Secretary of the Treasury or his delegate shall prescribe an amendment which allows a plan to make any distribution described in section 401(m)(6) of the Internal Revenue Code of 1986.

"(ii) ADOPTION BY PLAN.—If a plan adopts the amendment prescribed under clause (i) and makes a distribution in accordance with such amendment, such distribution shall be treated as made in accordance with the provisions of the plan."

(m) AMENDMENTS RELATED TO SECTION 1120 OF THE REFORM ACT.—

(1)(A) Section 403(b)(10) of the 1986 Code (relating to nondiscrimination requirements), as added by section 1120(b) of the Reform Act, is redesignated as paragraph (12).

(B) Subparagraph (D) of section 403(b)(1) of the 1986 Code is amended by striking out "paragraph (10)" and inserting in lieu thereof "paragraph (12)".

(2) Clause (i) of section 403(b)(12)(A), as redesignated by paragraph (1), is amended—

(A) by inserting "(17)," after "(5),", and

(B) by inserting ", section 401(m)," after "section 401(a)" the first place it appears.

(3) Section 1120(c) of the Reform Act is amended to read as follows: 26 USC 403 note.

"(c) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to years beginning after December 31, 1988.

"(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to plan years beginning before the earlier of—

"(A) January 1, 1991, or

"(B) the later of—

"(i) January 1, 1989, or

"(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986)."

SEC. 1011A. AMENDMENTS RELATED TO PARTS III AND IV OF SUBTITLE A OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1121 OF THE REFORM ACT.—

(1) Subparagraph (F) of section 402(a)(5) of the 1986 Code (relating to transfer treated as rollover contribution under section 408) is amended by striking out "described in subparagraph (A)" and inserting in lieu thereof "resulting in any portion of a distribution being excluded from gross income under subparagraph (A)".

(2)(A) Section 408(d)(3)(A) is amended by striking out the last sentence thereof.

26 USC 408 note.

(B) The amendment made by subparagraph (A) shall apply to rollover contributions made in taxable years beginning after December 31, 1986.

26 USC 401 note.

(3) Section 1121(d) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) PLANS MAY INCORPORATE SECTION 401(a)(9) REQUIREMENTS BY REFERENCE.—Notwithstanding any other provision of law, except as provided in regulations prescribed by the Secretary of the Treasury or his delegate, a plan may incorporate by reference the requirements of section 401(a)(9) of the Internal Revenue Code of 1986."

(4) Section 1121(d)(3) of the Reform Act is amended by striking out "plan years" and inserting in lieu thereof "years".

26 USC 402 note.

(5) Section 402(a)(5)(F)(ii) of the Internal Revenue Code of 1954 shall not apply to distributions after October 22, 1986, and before the 1st taxable year beginning after 1986 which are attributable to benefits which accrued before January 1, 1985.

(b) AMENDMENTS RELATED TO SECTION 1122 OF THE REFORM ACT.—

(1)(A) Section 72(f) of the 1986 Code (relating to special rules for computing employees' contributions) is amended by striking out "for purposes of subsections (d)(1) and (e)(7), the consideration for the contract contributed by the employee,".

(B) Section 72(n) of the 1986 Code (relating to annuities under retired serviceman's family protection plan or survivor benefit plan) is amended by striking out "Subsections (b) and (d)" and inserting in lieu thereof "Subsection (b)".

(C) Sections 406(e) and 407(e) of the 1986 Code are each amended by striking out paragraph (1) and by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively.

(2)(A) Section 72 of the 1986 Code (relating to annuities and certain proceeds of endowment and life insurance contracts) is

amended by adding after subsection (c) the following new subsection:

"(d) TREATMENT OF EMPLOYEE CONTRIBUTIONS UNDER DEFINED CONTRIBUTION PLANS AS SEPARATE CONTRACTS.—For purposes of this section, employee contributions (and any income allocable thereto) under a defined contribution plan may be treated as a separate contract."

(B) Section 72(e) of the 1986 Code is amended by striking out paragraph (9).

(3) Section 414(k)(2) of the 1986 Code (relating to certain plans treated as defined contribution plans) is amended by inserting "72(d) (relating to treatment of employee contributions as separate contract)," before "411(a)(7)(A)".

(4)(A) The amendment made by section 1122(e)(1) of the Reform Act is repealed and the Internal Revenue Code of 1986 shall be applied and administered as if such amendment had not been enacted. 26 USC 402 and note.

(B) Subclause (I) of section 402(a)(5)(D)(i) of the 1986 Code is amended by inserting "is payable as provided in clause (i), (iii), or (iv) of subsection (e)(4)(A) (without regard to the second sentence thereof) and" after "such distribution" the first place it appears.

(C) Section 402(a)(5)(D)(i) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any distribution described in section 401(a)(28)(B)(ii) shall be treated as meeting the requirements of subclauses (I) and (II)."

(D) Section 402(a)(5)(D)(iii) is amended by striking out "10-YEAR" in the heading.

(E) Section 402(a)(5)(D)(i)(II) of the 1986 Code (as in effect after the amendment made by subparagraph (A)) shall not apply to distributions after December 31, 1986, and before March 31, 1988. 26 USC 402 note.

(5) Clause (ii) of section 402(a)(6)(H) of the 1986 Code (relating to special rule for frozen deposits) is amended by adding at the end thereof the following new flush sentence:

> "A deposit shall not be treated as a frozen deposit unless on at least 1 day during the 60-day period described in paragraph (5)(C) (without regard to this subparagraph) such deposit is described in the preceding sentence."

(6) Clause (i) of section 402(e)(4)(B) of the 1986 Code is amended by striking out "taxpayer" and inserting in lieu thereof "employee".

(7) The last sentence of section 402(e)(4)(J) of the 1986 Code (relating to unrealized appreciation on employer securities) is amended to read as follows: "In accordance with rules prescribed by the Secretary, a taxpayer may elect, on the return of tax on which a distribution is required to be included, not to have this subparagraph apply with respect to such distribution."

(8) Section 402 of the 1986 Code (relating to taxability of beneficiary of employees' trust) is amended as follows:

(A) Subsection (a)(1) is amended by striking out "paragraphs (2) and (4)" and inserting in lieu thereof "paragraph (4)".

(B) Subsection (a)(4) is amended by striking out "or (2)".

(C) Subsection (a)(6)(C) is amended by striking out "paragraph (2) of subsection (a), and".

(D) Subsection (a)(6)(E)(ii) is amended by striking out "paragraph (2) of subsection (a), and" and by striking out the comma after "subsection (e)".

(E) Subsection (e)(1)(A) is amended by striking out "ordinary income portion of a".

(F) Subsection (e)(4)(A) is amended—

(i) by striking out "Except for purposes of subsection (a)(2) and section 403(a)(2), a" and inserting in lieu thereof "A", and

(ii) by striking out "subsection (a)(2) of this section, and subsection (a)(2) of section 403,".

(G) Subparagraph (L) of subsection (e)(4) is hereby repealed.

(H) Subsection (e)(4)(M) is amended by striking out ", subsection (a)(2) of this section, and section 403(a)(2)".

(I) Subsection (e)(5) is amended by striking out "and paragraph (2) of subsection (a)".

(J) Subsection (e)(6)(C) is amended to read as follows:

"(C) SPECIAL LUMP-SUM TREATMENT.—For purposes of this paragraph, special lump sum treatment applies to any distribution if any portion of such distribution is taxed under this subsection by reason of an election under paragraph (4)(B)."

(9)(A) Section 72(e)(7) of the 1986 Code is hereby repealed.

(B) Section 72(e)(5)(D) is amended by striking out "paragraphs (7) and (8)" and inserting in lieu thereof "paragraph (8)".

(C) Section 72(e)(8)(A) is amended by striking out "(other than paragraph (7))".

(D) Section 72(q)(2)(E) of the 1986 Code is amended by striking out "(determined without regard to subsection (e)(7))".

(10) Section 402(e)(1)(B) of the 1986 Code (relating to amount of tax on lump-sum distributions) is amended by adding at the end thereof the following new flush sentence:

"For purposes of the preceding sentence, in determining the amount of tax under section 1(c), section 1(g) shall be applied without regard to paragraph (2)(B) thereof."

26 USC 402 note.

(11) Section 1122(h) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(9) SPECIAL RULE FOR STATE PLANS.—In the case of a plan maintained by a State which on May 5, 1986, permitted withdrawal by the employee of employee contributions (other than as an annuity), section 72(e) of the Internal Revenue Code of 1986 shall be applied—

"(A) without regard to the phrase 'before separation from service' in paragraph (8)(D), and

"(B) by treating any amount received (other than as an annuity) before or with the 1st annuity payment as having been received before the annuity starting date."

(12) Subparagraph (B) of section 1122(h)(2) of the Reform Act is amended by inserting ", except that section 72(b)(3) of the Internal Revenue Code of 1986 (as added by such subsection) shall apply to individuals whose annuity starting date is after July 1, 1986" after "1986".

(13) Sections 1122 (h)(3)(C) and (h)(4)(C) of the Reform Act are each amended by striking out "with respect to any other lump

sum distribution" and inserting in lieu thereof "for purposes of such Code".

(14) Clause (i) of section 1122(h)(3)(C) of the Reform Act is amended— 26 USC 402 note.

(A) by striking out "individual" and inserting in lieu thereof "employee", and

(B) by inserting "or by an individual, estate, or trust with respect to such an employee" after "1986".

(15) Section 1122(h)(5) of the Reform Act is amended—

(A) by striking out "individual" and inserting in lieu thereof "employee",

(B) by inserting "and by including in gross income the zero bracket amount in effect under section 63(d) of such Code for such years" after "1986" in the last sentence, and

(C) by adding at the end thereof the following new sentence: "This paragraph shall also apply to an individual, estate, or trust which receives a distribution with respect to an employee described in this paragraph."

(16) Sections 406(c) and 407(c) of the 1986 Code are each amended—

(A) by striking out "subsections (a)(2) and (e) of section 402, and section 403(a)(2)" and inserting in lieu thereof "section 402(e)", and

(B) by striking out "OF CAPITAL GAIN PROVISIONS AND" in the heading thereof.

(c) AMENDMENTS RELATED TO SECTION 1123 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 72(t)(2) of the 1986 Code (relating to subsection not to apply to certain distributions) is amended by striking out "on account of early retirement under the plan" in clause (v).

(2) Subparagraph (C) of section 72(t)(2) of the 1986 Code (relating to certain plans) is amended to read as follows:

"(C) EXCEPTIONS FOR DISTRIBUTIONS FROM EMPLOYEE STOCK OWNERSHIP PLANS.—Any distribution made before January 1, 1990, to an employee from an employee stock ownership plan (as defined in section 4975(e)(7)) or a tax credit employee stock ownership plan (as defined in section 409) if—

"(i) such distribution is attributable to assets which have been invested in employer securities (within the meaning of section 409(l)) at all times during the 5-plan-year period preceding the plan year in which the distribution is made, and

"(ii) at all times during such period the requirements of sections 401(a)(28) and 409 (as in effect at such times) are met with respect to such employer securities."

(3) Subparagraph (A) of section 72(t)(3) of the 1986 Code (relating to certain exceptions not to apply to individual retirement plans) is amended by striking out "and (C)" and inserting in lieu thereof "(C), and (D)".

(4) Subparagraphs (D) and (G) of section 72(q)(2) of the 1986 Code are each amended by striking out the period at the end thereof and inserting in lieu thereof a comma.

(5) Subparagraph (B) of section 72(q)(3) of the 1986 Code (relating to change in substantially equal payments) is amended by striking out "employee" each place it appears and inserting in lieu thereof "taxpayer".

(6) Section 72(q)(2) of the 1986 Code (relating to subsection not to apply to certain dispositions) is amended by inserting after subparagraph (G) the following new subparagraph:

"(H) to which subsection (t) applies (without regard to paragraph (2) thereof),".

(7) Subparagraph (D) of section 72(q)(2) and clause (iv) of section 72(t)(2)(A) of the 1986 Code are each amended by inserting "designated" before "beneficiary".

(8) Paragraph (2) of section 72(o) of the 1986 Code (relating to additional tax if amount received before age 59½) is hereby repealed.

(9) Subparagraph (I) of section 402(e)(4) of the 1986 Code is amended by striking out "clause (ii) of".

(10) Section 26(b)(2) of the 1986 Code is amended—

(A) by striking out ", (o)(2)," in subparagraph (C), and

(B) by striking out "408(f) (relating to additional tax on income from certain retirement accounts)" in subparagraph (D) and inserting in lieu thereof "72(t) (relating to 10-percent additional tax on early distributions from qualified retirement plans)".

26 USC 72 note.

(11) Section 1123(e)(2) of the Reform Act is amended—

(A) by striking out "taxable", and

(B) by inserting ", but only with respect to distributions from contracts described in section 403(b) of the Internal Revenue Code of 1986 which are attributable to assets other than assets held as of the close of the last year beginning before January 1, 1989" after "1988".

(12) Section 1123(e) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR DISTRIBUTIONS UNDER AN ANNUITY CONTRACT.—The amendments made by paragraphs (1), (2), and (3) of subsection (b) shall not apply to any distribution under an annuity contract if—

"(A) as of March 1, 1986, payments were being made under such contract pursuant to a written election providing a specific schedule for the distribution of the taxpayer's interest in such contract, and

"(B) such distribution is made pursuant to such written election."

26 USC 72 note.

(13) Section 72(t) of the 1986 Code shall apply to any distribution without regard to whether such distribution is made without the consent of the participant pursuant to section 411(a)(11) or section 417(e) of the 1986 Code.

(d) AMENDMENTS RELATED TO SECTION 1124 OF THE REFORM ACT.—

26 USC 402 note.

(1) Section 1124(a) of the Reform Act is amended to read as follows:

Handicapped persons.

"(a) IN GENERAL.—If an employee dies, separates from service, or becomes disabled before 1987 and an individual, trust, or estate receives a lump-sum distribution with respect to such employee after December 31, 1986, and before March 16, 1987, on account of such death, separation from service, or disability, then, for purposes of the Internal Revenue Code of 1986, such individual, estate, or trust may treat such distribution as if it were received in 1986."

(2) Section 1124(b) of the Reform Act is amended—

(A) by striking out "employee" each place it appears and inserting in lieu thereof "individual, estate, or trust", and

(B) by inserting "with respect to an employee" after "receives".

(3) Section 1124 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(c) LUMP SUM DISTRIBUTION.—For purposes of this section, the term 'lump sum distribution' has the meaning given such term by section 402(e)(4)(A) of the Internal Revenue Code of 1986, without regard to subparagraph (B) or (H) of section 402(e)(4) of such Code."

(e) AMENDMENTS RELATED TO SECTION 1131 OF THE REFORM ACT.—

(1) Subsection (c) of section 4972 of the 1986 Code (defining nondeductible contributions) is amended to read as follows:

"(c) NONDEDUCTIBLE CONTRIBUTIONS.—For purposes of this section—

"(1) IN GENERAL.—The term 'nondeductible contributions' means, with respect to any qualified employer plan, the sum of—

"(A) the excess (if any) of—

"(i) the amount contributed for the taxable year by the employer to or under such plan, over

"(ii) the amount allowable as a deduction under section 404 for such contributions (determined without regard to subsection (e) thereof), and

"(B) the amount determined under this subsection for the preceding taxable year reduced by the sum of—

"(i) the portion of the amount so determined returned to the employer during the taxable year, and

"(ii) the portion of the amount so determined deductible under section 404 for the taxable year (determined without regard to subsection (e) thereof).

"(2) ORDERING RULE FOR SECTION 404.—For purposes of paragraph (1), the amount allowable as a deduction under section 404 for any taxable year shall be treated as—

"(A) first from carryforwards to such taxable year from preceding taxable years (in order of time), and

"(B) then from contributions made during such taxable year.

"(3) CONTRIBUTIONS WHICH MAY BE RETURNED TO EMPLOYER.—In determining the amount of nondeductible contributions for any taxable year, there shall not be taken into account any contribution for such taxable year which is distributed to the employer in a distribution described in section 4980(c)(2)(B)(ii) if such distribution is made on or before the last day on which a contribution may be made for such taxable year under section 404(a)(6).

"(4) PRE-1987 CONTRIBUTIONS.—The term 'nondeductible contribution' shall not include any contribution made for a taxable year beginning before January 1, 1987."

(2) Paragraph (1) of section 4972(d) of the 1986 Code (defining qualified employer plan) is amended to read as follows:

"(1) QUALIFIED EMPLOYER PLAN.—

"(A) IN GENERAL.—The term 'qualified employer plan' means—

"(i) any plan meeting the requirements of section 401(a) which includes a trust exempt from tax under section 501(a),

"(ii) an annuity plan described in section 403(a), and

"(iii) any simplified employee pension (within the meaning of section 408(k)).

"(B) EXEMPTION FOR GOVERNMENTAL AND TAX EXEMPT PLANS.—The term 'qualified employer plan' does not include a plan described in subparagraph (A) or (B) of section 4980(c)(1)."

26 USC 404 note.

(3) Section 1131(d) of the Reform Act is amended to read as follows:

"(d) EFFECTIVE DATES.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years beginning after December 31, 1986.

"(2) SPECIAL RULES FOR COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before March 1, 1986, the amendments made by this section shall not apply to contributions pursuant to any such agreement for taxable years beginning before the earlier of—

"(A) January 1, 1989, or

"(B) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after February 28, 1986)."

(4)(A) Subparagraph (A) of section 404(a)(7) of the 1986 Code is amended—

(i) by striking out "provisions" and inserting in lieu thereof "paragraphs", and

(ii) by inserting "or in connection with trusts or plans described in 2 or more of such paragraphs" after "1 or more defined benefit plans".

(B) Paragraph (3) of section 404(h) of the 1986 Code is amended to read as follows:

"(3) COORDINATION WITH SUBSECTION (a)(7).—For purposes of subsection (a)(7), a simplified employee pension shall be treated as if it were a separate stock bonus or profit-sharing trust."

26 USC 4972 note.

(5) In the case of any taxable year beginning in 1987, the amount under section 4972(c)(1)(A)(ii) of the 1986 Code for a plan to which title IV of the Employee Retirement Income Security Act of 1974 applies shall be increased by the amount (if any) by which, as of the close of the plan year with or within which such taxable year begins—

(A) the liabilities of such plan (determined as if the plan had terminated as of such time), exceed

(B) the assets of such plan.

Securities.

(f) AMENDMENTS RELATED TO SECTION 1132 OF THE REFORM ACT.—

(1) Section 4980(c)(1)(A) of the 1986 Code (defining qualified plan) is amended by striking out "this subtitle" and inserting in lieu thereof "subtitle A".

(2) Section 4980(c)(3)(A) of the 1986 Code (relating to exception for employee stock ownership plans) is amended—

(A) by inserting "or a tax credit employee stock ownership plan (as described in section 409)" after "section 4975(e)(7)", and

(B) by inserting ", except to the extent necessary to meet the requirements of section 401(a)(28)," after "must".

(3) Subparagraph (C) of section 4980(c)(3) of the 1986 Code is amended—

(A) by striking out "(by reason of the limitations of section 415)", and

(B) by adding at the end thereof the following new sentence:

"The amount allocated in the year of transfer shall not be less than the lesser of the maximum amount allowable under section 415 or ⅛ of the amount attributable to the securities acquired."

(4) Subparagraph (B) of section 1132(c)(2) of the Reform Act is amended by striking out "November 19, 1978" and inserting in lieu thereof "September 19, 1978". 26 USC 4980 note.

(5) Section 1132(c) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR EMPLOYEE STOCK OWNERSHIP PLANS.—Section 4980(c)(3) of the Internal Revenue Code of 1986 (as added by subsection (a)) shall apply to reversions occurring after March 31, 1985."

(6) Section 4980(c)(3) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(F) NO CREDIT OR DEDUCTION ALLOWED.—No credit or deduction shall be allowed under chapter 1 for any amount transferred to an employee stock ownership plan in a transfer to which this paragraph applies.

"(G) AMOUNT TRANSFERRED TO INCLUDE INCOME THEREON, ETC.—The amount transferred shall not be treated as meeting the requirements of subparagraphs (B) and (C) unless amounts attributable to such amount also meet such requirements."

(7) Section 4980(c)(3)(C) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of dividends on securities held in the suspense account, the requirements of this subparagraph are met only if the dividends are allocated to accounts of participants or paid to participants in proportion to their accounts, or used to repay loans used to purchase employer securities."

(g) AMENDMENTS RELATED TO SECTION 1133 OF THE REFORM ACT.— Retirement.

(1)(A) Section 4981A of the 1986 Code (as added by section 1133 of the Reform Act) is redesignated as section 4980A.

(B) The table of sections for chapter 43 of the 1986 Code is amended by redesignating section 4981A as section 4980A.

(2) Paragraph (1) of section 4980A(c) of the 1986 Code (as redesignated by paragraph (1)) is amended by striking out "$112,500 (adjusted at the same time and in the same manner as under section 415(d))" and inserting in lieu thereof "the greater of—

"(A) $150,000, or

"(B) $112,500 (adjusted at the same time and in the same manner as under section 415(d))."

(3) Section 4980A(c)(2) of the 1986 Code (relating to exclusion of certain distributions), as redesignated by paragraph (1), is amended—

(A) by striking out "employee's" in subparagraph (C) and inserting in lieu thereof "individual's", and

(B) by adding after subparagraph (D) the following new subparagraphs:

"(E) Any retirement distribution with respect to an individual of an annuity contract the value of which is not includible in gross income at the time of the distribution (other than distributions under, or proceeds from the sale or exchange of, such contract).

"(F) Any retirement distribution with respect to an individual of—

"(i) excess deferrals (and income allocable thereto) under section 402(g)(2)(A)(ii), or

"(ii) excess contributions (and income allocable thereto) under section 401(k)(8) or 408(d)(4) or excess aggregate contributions (and income allocable thereto) under section 401(m)(6)."

(4)(A) Section 4980A of the 1986 Code, as redesignated by paragraph (1), is amended by adding at the end thereof the following new subsection:

"(f) EXEMPTION OF ACCRUED BENEFITS IN EXCESS OF $562,500 ON AUGUST 1, 1986.—For purposes of this section—

"(1) IN GENERAL.—If an election is made with respect to an eligible individual to have this subsection apply, the individual's excess distributions and excess retirement accumulation shall be computed without regard to any distributions or interests attributable to the accrued benefit of the individual as of August 1, 1986.

"(2) REDUCTION IN AMOUNTS WHICH MAY BE RECEIVED WITHOUT TAX.—If this subsection applies to any individual—

"(A) EXCESS DISTRIBUTIONS.—Subsection (c)(1) shall be applied—

"(i) without regard to subparagraph (A), and

"(ii) by reducing (but not below zero) the amount determined under subparagraph (B) thereof by retirement distributions attributable (as determined under rules prescribed by the Secretary) to the individual's accrued benefit as of August 1, 1986.

"(B) EXCESS RETIREMENT ACCUMULATION.—The amount determined under subsection (d)(3)(B) (without regard to subsection (c)(1)(A)) with respect to such individual shall be reduced (but not below zero) by the present value of the individual's accrued benefit as of August 1, 1986, which has not been distributed as of the date of death.

"(3) ELIGIBLE INDIVIDUAL.—For purposes of this subsection, the term 'eligible individual' means any individual if, on August 1, 1986, the present value of such individual's interests in qualified employer plans and individual retirement plans exceeded $562,500.

"(4) CERTAIN AMOUNTS EXCLUDED.—In determining an individual's accrued benefit for purposes of this subsection, there shall not be taken into account any portion of the accrued benefit—

"(A) payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee, or

"(B) attributable to the individual's investment in the contract (as defined in section 72(f)).

"(5) ELECTION.—An election under paragraph (1) shall be made on an individual's return of tax imposed by chapter 1 or 11 for a taxable year beginning before January 1, 1989."

(B) Section 4980A(c) of the 1986 Code, as redesignated by paragraph (1), is amended by striking out paragraph (5).

(5) Section 4980A(d) of the 1986 Code (relating to increase in estate tax if individual dies with excess accumulation), as redesignated by paragraph (1), is amended—

(A) by striking out "section 2010" in paragraph (2) and inserting in lieu thereof "chapter 11", and

(B) by adding at the end thereof the following new paragraphs:

"(4) RULES FOR COMPUTING EXCESS RETIREMENT ACCUMULATION.—The excess retirement accumulation of an individual shall be computed without regard to—

"(A) any community property law,

"(B) the value of—

"(i) amounts payable to an alternate payee pursuant to a qualified domestic relations order (within the meaning of section 414(p)) if includible in income of the alternate payee, and

"(ii) the individual's investment in the contract (as defined in section 72(f)), and

"(C) the excess (if any) of—

"(i) any interests which are payable immediately after death, over

"(ii) the value of such interests immediately before death.

"(5) ELECTION BY SPOUSE TO HAVE EXCESS DISTRIBUTION RULE APPLY.—

"(A) IN GENERAL.—If the spouse of an individual is the beneficiary of all of the interests described in paragraph (3)(A), the spouse may elect—

"(i) not to have this subsection apply, and

"(ii) to have this section apply to such interests and any retirement distribution attributable to such interests as if such interests were the spouse's.

"(B) DE MINIMIS EXCEPTION.—If 1 or more persons other than the spouse are beneficiaries of a de minimis portion of the interests described in paragraph (3)(A)—

"(i) the spouse shall not be treated as failing to meet the requirements of subparagraph (A), and

"(ii) if the spouse makes the election under subparagraph (A), this section shall not apply to such portion or any retirement distribution attributable to such portion."

(6) Subparagraph (B) of section 4980A(d)(3) of the 1986 Code, as redesignated by paragraph (1), is amended to read as follows:

"(B) the present value (as determined under rules prescribed by the Secretary as of the valuation date prescribed in subparagraph (A)) of a single life annuity with annual payments equal to the limitation of subsection (c) (as in effect for the year in which death occurs and as if the individual had not died)."

(7) Section 2013 of the 1986 Code (relating to credit for tax on prior transfer) is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF ADDITIONAL TAX UNDER SECTION 4980A.—For purposes of this section, the estate tax paid shall not include any portion of such tax attributable to section 4980A(d)."

26 USC 4980A note.

(8) Paragraph (1) of section 1133(c) of the Reform Act is amended by inserting ", other than a distribution with respect to a decedent dying before January 1, 1987" after "1986".

(9) Section 4980A(d)(3)(A) of the 1986 Code is amended by inserting "(other than as a beneficiary, determined after application of paragraph (5))" after "the individual's interests".

(10) Section 691(c)(1) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) EXCESS RETIREMENT ACCUMULATION TAX.—For purposes of this subsection, no deduction shall be allowed for the portion of the estate tax attributable to the increase in such tax under section 4980A(d)."

(11) Section 2053(c)(1)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply to any increase in the tax imposed by this chapter by reason of section 4980A(d)."

(12) Section 6018(a) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) RETURN REQUIRED IF EXCESS RETIREMENT ACCUMULATION TAX.—The executor shall make a return with respect to the estate tax imposed by subtitle B in any case where such tax is increased by reason of section 4980A(d)."

(h) AMENDMENTS RELATED TO SECTION 1134 OF THE REFORM ACT.—

(1) Section 72(p)(3)(A) of the 1986 Code (relating to denial of interest deductions in certain cases) is amended by inserting "to which paragraph (1) does not apply by reason of paragraph (2) during the period" after "loan".

(2) Subparagraph (B) of section 72(p)(3) of the 1986 Code is amended to read as follows:

"(B) PERIOD TO WHICH SUBPARAGRAPH (A) APPLIES.—For purposes of subparagraph (A), the period described in this subparagraph is the period—

"(i) on or after the 1st day on which the individual to whom the loan is made is a key employee (as defined in section 416(i)), or

"(ii) such loan is secured by amounts attributable to elective deferrals described in subparagraph (A) or (C) of section 402(g)(3)."

(i) AMENDMENTS RELATED TO SECTION 1135 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 72(u)(1) of the 1986 Code (relating to annuity contracts not held by natural persons) is amended by inserting "(other than subchapter L)" after "subtitle".

(2) Subparagraph (D) of section 72(u)(3) of the 1986 Code (relating to exceptions) is amended by striking out "until such time as the employee separates from service" and inserting in lieu thereof "until all amounts under such contract are distributed to the employee for whom such contract was purchased or the employee's beneficiary".

(3) Subparagraphs (D) and (E) of section 72(u)(3) of the 1986 Code (relating to exceptions) are each amended by striking out "which".

(4) Paragraph (4) of section 72(u) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) which provides for a series of substantially equal periodic payments (to be made not less frequently than annually) during the annuity period."

(j) AMENDMENTS RELATED TO SECTION 1136 OF THE REFORM ACT.—

(1) Section 401(a)(27) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(B) PLAN MUST DESIGNATE TYPE.—In the case of a plan which is intended to be a money purchase pension plan or a profit-sharing plan, a trust forming part of such plan shall not constitute a qualified trust under this subsection unless the plan designates such intent at such time and in such manner as the Secretary may prescribe."

(2) Section 401(a)(27) of the 1986 Code is amended by striking out "(27)" and inserting in lieu thereof:

"(27) DETERMINATIONS AS TO PROFIT-SHARING PLANS.—

"(A) CONTRIBUTIONS NEED NOT BE BASED ON PROFITS.—".

(k) AMENDMENT RELATED TO SECTION 1139 OF THE REFORM ACT.—Clause (i) of section 1139(d)(2)(A) of the Reform Act is amended by striking out "before January" and inserting in lieu thereof "after January". 26 USC 411 note.

(l) AMENDMENT RELATED TO SECTION 1145 OF THE REFORM ACT.—Subparagraph (E) of section 401(a)(11) of the 1986 Code (relating to cross reference) is redesignated as subparagraph (F).

(m) AMENDMENTS RELATED TO SECTION 1147 OF THE REFORM ACT.—

(1) Subparagraph (C) of section 7701(j)(1) of the 1986 Code (relating to tax treatment of Federal Thrift Savings Fund) is amended by inserting ", section 401(k)(4)(B)," after "paragraph (2)".

(2) Section 8440(a)(3) of title 5, United States Code, is amended by inserting ", 401(k)(4)(B) of such Code," after "subsection (b)".

SEC. 1011B. AMENDMENTS RELATED TO SUBTITLES B AND C OF TITLE XI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1151 OF THE REFORM ACT.—

(1) Paragraph (2) of section 89(a) of the 1986 Code (relating to year of inclusion) is amended to read as follows:

"(2) YEAR OF INCLUSION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B)—

"(i) any amount included in gross income under paragraph (1) shall be taken into account for the taxable year of the employee with or within which the plan year ends, and

"(ii) any deduction of the employer attributable to such amount shall be allowable for the taxable year of the employer with or within which the plan year ends.

"(B) ELECTION TO DELAY INCLUSION FOR 1 YEAR.—If an employer maintaining a plan with a plan year ending after September 30 and on or before December 31 of a calendar year elects the application of this subparagraph—

"(i) amounts included in gross income under paragraph (1) with respect to employees of such employer shall be taken into account for the taxable year of the employee following the taxable year determined under subparagraph (A), but

"(ii) any deduction of the employer which is attributable to such amounts shall be allowable for the tax-

able year with or within which the plan year following the plan year in which the excess benefits occurred ends."

(2) Paragraph (4) of section 89(b) of the 1986 Code (defining nontaxable benefits) is amended by adding at the end thereof the following new sentence: "Such term includes any group-term life insurance the cost of which is includible in gross income under section 79."

(3) Paragraph (1) of section 89(g) of the 1986 Code (relating to the aggregation of comparable health plans) is amended by adding at the end thereof the following new subparagraph:

"(C) EMPLOYEES COVERED BY MORE THAN 1 PLAN.—The Secretary may provide that 2 or more plans providing benefits to the same participant shall be treated as 1 plan for purposes of applying subsections (d)(1)(B), (d)(2), and (f)."

(4) Subparagraph (B) of section 89(g)(2) of the 1986 Code (relating to sworn statements) is amended by adding at the end thereof the following new sentence: "No statement shall be required under clause (ii) with respect to any individual eligible for coverage at no cost under a health plan which provides core health benefits and with respect to whom the employee does not elect any core health coverage from the employer."

(5) Subparagraph (D) of section 89(g)(2) of the 1986 Code is amended by striking out "under such plan" and inserting in lieu thereof "under such plans".

(6) Section 89(g) of the 1986 Code is amended by striking out paragraph (6).

(7) Subparagraph (A) of section 89(h)(1) of the 1986 Code (relating to excluded employees) is amended by inserting "(or 1st day of a period of less than 31 days specified by the plan)" after "month".

(8) Section 89(j) of the 1986 Code (relating to other definitions and special rules) is amended by adding at the end thereof the following new paragraph:

"(12) EMPLOYERS WITH ONLY HIGHLY COMPENSATED EMPLOYEES.—The requirements of subsections (d) and (e) shall not apply to any statutory employee benefit plan for any year for which the only employees of the employer maintaining the plan are highly compensated employees."

(9) Section 89(k) of the 1986 Code (relating to requirement that plan be in writing) is amended by adding at the end thereof the following new paragraph:

"(5) LOSS OF EXEMPTION FOR CERTAIN PLANS.—If a plan described in paragraph (2)(E) fails to meet the requirements of paragraph (1), the organization which is part of such plan shall not be exempt from tax under section 501(a)."

(10) Section 6652(k)(2)(B) of the 1986 Code (relating to amount of additional tax) is amended by striking out "subsection (g)(3)" and inserting in lieu thereof "subsection (g)(3)(C)(i)".

(11)(A) Subsection (a) of section 125 of the 1986 Code is amended to read as follows:

"(a) GENERAL RULE.—Except as provided in subsection (b), no amount shall be included in the gross income of a participant in a cafeteria plan solely because, under the plan, the participant may choose among the benefits of the plan."

(B) Paragraph (1) of section 125(b) of the 1986 Code is amended by striking out "A plan shall be treated as failing to meet the

requirements of this subsection" and inserting in lieu thereof "In the case of a highly compensated employee, subsection (a) shall not apply to any benefit attributable to a plan year".

(C) Paragraph (2) of section 125(b) of the 1986 Code is amended by striking out "a plan shall be treated as failing to meet the requirements of this subsection" and inserting in lieu thereof "subsection (a) shall not apply to any plan year".

(12) Subparagraph (B) of section 125(c)(1) of the 1986 Code (defining cafeteria plans) is amended to read as follows:

"(B) the participant may choose among 2 or more benefits consisting of cash and qualified benefits."

(13)(A) Paragraph (1) of section 125(e) of the 1986 Code (defining qualified benefits) is amended by inserting "and without regard to section 89(a)" after "subsection (a)".

(B) The last sentence of section 125(b)(2) of the 1986 Code is amended to read as follows: "For purposes of the preceding sentence, qualified benefits shall not include benefits which (without regard to this paragraph) are includible in gross income."

(14) Subsection (d) of section 129 of the 1986 Code is amended by redesignating paragraph (8) as paragraph (7).

(15) Paragraph (7) of section 129(d) of the 1986 Code (as so redesignated) is amended—

(A) by inserting "under all plans of the employer" after "employees" the 2nd and 3rd time it appears in subparagraph (A),

(B) by striking out "there shall be disregarded" in subparagraph (B) and inserting in lieu thereof "a plan may disregard", and

(C) by striking out "415(q)(7)" in subparagraph (B) and inserting in lieu thereof "414(q)(7)".

(16) Section 414(m)(4) of the 1986 Code is amended by inserting "and" at the end of subparagraph (A), by striking out the comma at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraphs (C) and (D).

(17) Paragraph (2) of section 414(t) of the 1986 Code is amended by striking out "132," and inserting in lieu thereof "132, 162(i)(2), 162(k),".

(18) Paragraph (6) of section 129(e) of the 1986 Code is amended by striking out "of subsection (d)" and inserting in lieu thereof "of subsection (d) (other than paragraphs (4) and (7) thereof)".

(19) Subparagraph (C) of section 414(n)(3) of the 1986 Code is amended by striking out "132," and inserting in lieu thereof "132, 162(i)(2), 162(k),".

(20) Section 414(t)(1) of the 1986 Code (relating to application of controlled group rules to certain employees) is amended by striking out "of section 414" each place it appears.

(21) Section 89(j)(6) of the 1986 Code is amended by striking out "described in subparagraph (A), (B), or (C) of subsection (i)(2)".

(22)(A) Section 3121 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(x) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any paragraph of subsection (a) (other

than paragraph (1)), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(B) Section 3231(e) of the 1986 Code (defining compensation) is amended by adding at the end thereof the following new paragraph:

"(8) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any other paragraph of this subsection (other than paragraph (2)), the term 'compensation' shall include any amount which is includible in gross income by reason of section 89."

(C) Section 3306 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(t) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any paragraph of subsection (b) (other than paragraph (1)), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

(D) Section 3401 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(g) BENEFITS PROVIDED UNDER CERTAIN EMPLOYEE BENEFIT PLANS.—Notwithstanding any paragraph of subsection (a), the term 'wages' shall include any amount which is includible in gross income by reason of section 89."

42 USC 409.

(E) The third to last sentence of section 209 of the Social Security Act is amended—

(i) by striking out the period at the end of clause (2) and inserting in lieu thereof ", or", and

(ii) by inserting after clause (2) the following new clause:

"(3) Any amount required to be included in gross income under section 89 of the Internal Revenue Code of 1986."

26 USC 3121 note.

(F) The amendments made by this paragraph shall not apply to any individual who separated from service with the employer before January 1, 1989.

Wages.

(23)(A) Sections 3121(a)(5)(G) and 3306(b)(5)(G) of the 1986 Code are each amended by inserting "if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "section 125)".

(B) Section 209(e)(9) of the Social Security Act is amended by inserting "if such payment would not be treated as wages without regard to such plan and it is reasonable to believe that (if section 125 applied for purposes of this section) section 125 would not treat any wages as constructively received" after "1986)".

26 USC 6039B, 6039D.

(24) Section 1151(h)(3) of the Reform Act is amended by striking out "Section 6039B(c)" and inserting in lieu thereof "Section 6039D(c)".

26 USC 89 note.

(25) Paragraph (1) of section 1151(k) of the Reform Act is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding sentence, the amendments made by subsections (e)(1) and (i)(3)(C) shall, to the extent they relate to sections 106, 162(i)(2), and 162(k) of the Internal Revenue Code of 1986, apply to years beginning after 1986."

(26) Section 1151(k) of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(6) CERTAIN PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—If an educational organization described in section 170(b)(1)(A)(ii) of the Internal Revenue Code of 1986 makes an election under this paragraph with respect to a plan described in section 125(c)(2)(C) of such Code, the amendments made by this section shall apply with respect to such plan for plan years beginning after the date of the enactment of this Act."

(27)(A) Section 4976 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TAX ON FUNDED WELFARE BENEFIT FUNDS WHICH INCLUDE DISCRIMINATORY EMPLOYEE BENEFIT PLAN.—

"(1) IN GENERAL.—If—

"(A) an employer maintains a welfare benefit fund, and

"(B) a discriminatory employee benefit plan (within the meaning of section 89) is part of such fund for any plan year,

there is hereby imposed on such employer for the taxable year with or within which the plan year ends a tax in the amount determined under paragraph (2).

"(2) AMOUNT OF TAX.—The amount of the tax under paragraph (1) shall be equal to the excess (if any) of—

"(A) the product of the highest rate of tax imposed by section 11, multiplied by the lesser of—

"(i) the aggregate excess benefits (as defined in section 89) for such plan year, or

"(ii) the taxable income of the fund for such plan year, over

"(B) the amount of tax imposed by chapter 1 on such fund for such plan year."

(B) Section 4976(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) LIMITATION IN CASE OF BENEFITS TO WHICH SECTION 89 APPLIES.—If section 89 applies to any post-retirement medical benefit or life insurance benefit provided by a fund, the amount of the disqualified benefit under paragraph (1)(B) with respect to such benefit shall not exceed the aggregate excess benefits provided by the plan (as determined under section 89)."

(C) Section 505(a)(1) of the 1986 Code is amended by adding at the end thereof the following new subsection: "This paragraph shall not apply to any organization by reason of a failure to meet the requirements of subsection (b) with respect to a benefit to which section 89 applies."

(28) Section 89(h)(4) of the 1986 Code is amended by striking out "subsection (h)(5)" and inserting in lieu thereof "subsection (g)(5)".

(29) Section 89(k)(1) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following new sentences:

"Such inclusion shall be coordinated (under regulations prescribed by the Secretary) with any inclusion under subsection (a) with respect to such plan. In the case of a statutory employee benefit plan described in subsection (i)(1)(B), any amount required to be included in gross income under this subsection shall be included in the gross income of the beneficiary."

(30) Section 129(d)(1)(B) of the 1986 Code is amended by striking out "(6)" and inserting in lieu thereof "(7)".

(31)(A) Section 129(d) of the 1986 Code is amended—

(i) by striking out the last sentence of paragraph (3), and

(ii) by inserting at the end thereof the following new paragraph:

"(8) EXCLUDED EMPLOYEES.—For purposes of paragraphs (2), (3), and (7), there shall be excluded from consideration employees who are excluded from consideration under section 89(h)."

(B) Sections 117(d)(4), 120(c)(2), 127(b)(2), 132(h)(1), and 505(b)(2) of the 1986 Code are each amended—

(i) by striking out "may" the first place it appears and inserting in lieu thereof "shall", and

(ii) by striking out "may be" the second place it appears and inserting in lieu thereof "are".

(32) Section 505(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) $200,000 COMPENSATION LIMIT.—A plan shall not be treated as meeting the requirements of this subsection unless under the plan the annual compensation of each employee taken into account for any year does not exceed $200,000. The Secretary shall adjust the $200,000 amount at the same time and in the same manner as under section 415(d)."

(33) Section 3401(a) of the 1986 Code is amended by inserting "or" at the end of paragraph (18), by striking out paragraph (19), and by redesignating paragraph (20) as paragraph (19).

(34) Section 89(l)(2) of the 1986 Code is amended by striking out "6652(l)" and inserting in lieu thereof "6652(k)".

(b) AMENDMENTS RELATED TO SECTION 1161 OF THE REFORM ACT.—

(1) Section 162(m) of the 1986 Code (relating to special rules for health insurance costs of self-employed individuals) is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) DEDUCTION NOT ALLOWED FOR SELF-EMPLOYMENT TAX PURPOSES.—The deduction allowable by reason of this subsection shall not be taken into account in determining an individual's net earnings from self-employment (within the meaning of section 1402(a)) for purposes of chapter 2."

(2) Section 162(m) of the 1986 Code (relating to cross reference) as redesignated by section 1161(a) of the Reform Act, is redesignated as subsection (n).

(3) Section 162(m)(2)(A) of the 1986 Code is amended by inserting: "derived by the taxpayer from the trade or business with respect to which the plan providing the medical care coverage is established" after "401(c))".

42 USC 411.

(4) Section 211(a) of the Social Security Act is amended by inserting after paragraph (13) the following new paragraph:

"(14) The deduction under section 162(m) (relating to health insurance costs of self-employed individuals) shall not be allowed."

(c) AMENDMENTS RELATED TO SECTION 1163 OF THE REFORM ACT.—

(1) Paragraph (8) of section 129(e) of the 1986 Code (relating to treatment of onsite facilities) is amended—

(A) by inserting "maintained by an employer" after "onsite facility",

(B) by inserting "of dependent care assistance provided to an employee" after "the amount",

(C) by inserting "of the facility by a dependent of the employee" after "utilization" in subparagraph (A), and

(D) by inserting "with respect to such dependent" after "provided" in subparagraph (B).

(2)(A) Paragraph (2) of section 129(a) of the 1986 Code is amended to read as follows:

"(2) LIMITATION OF EXCLUSION.—

"(A) IN GENERAL.—The amount which may be excluded under paragraph (1) for dependent care assistance with respect to dependent care services provided during a taxable year shall not exceed $5,000 ($2,500 in the case of a separate return by a married individual).

"(B) YEAR OF INCLUSION.—The amount of any excess under subparagraph (A) shall be included in gross income in the taxable year in which the dependent care services were provided (even if payment of dependent care assistance for such services occurs in a subsequent taxable year).

"(C) MARITAL STATUS.—For purposes of this paragraph, marital status shall be determined under the rules of paragraphs (3) and (4) of section 21(e)."

(B) Section 6051(a) of the 1986 Code is amended by striking out the period at the end of paragraph (8) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(9) the total amount incurred for dependent care assistance with respect to such employee under a dependent care assistance program described in section 129(d)."

(C)(i) Except as provided in this subparagraph, the amendments made by this paragraph shall apply to taxable years beginning after December 31, 1987. 26 USC 129 note.

(ii) A taxpayer may elect to have the amendment made by subparagraph (A) apply to taxable years beginning in 1987.

(iii) In the case of a taxpayer not making an election under clause (ii), any dependent care assistance provided in a taxable year beginning in 1987 with respect to which reimbursement was not received in such taxable year shall be treated as provided in the taxpayer's first taxable year beginning after December 31, 1987.

(d) AMENDMENT RELATED TO SECTION 1164 OF THE REFORM ACT.—Section 119(d)(2) of the 1986 Code is amended—

(1) by striking out "(as of the close of the calendar year in which the taxable year begins)" in subparagraph (A)(i), and

(2) by adding at the end thereof the following:

"The appraised value under subparagraph (A)(i) shall be determined as of the close of the calendar year in which the taxable year begins, or, in the case of a rental period not greater than 1 year, at any time during the calendar year in which such period begins."

(e) AMENDMENTS RELATED TO SECTION 1166 OF THE REFORM ACT.—Section 7701(a)(20) of the 1986 Code (defining employee) is amended—

(1) by striking out "106, and 125" and inserting in lieu thereof "and 106", and

(2) by inserting "and for purposes of applying section 125 with respect to cafeteria plans," before "the term".

(f) AMENDMENTS RELATED TO SECTION 1168 OF THE REFORM ACT.—

(1) Paragraph (1) of section 134(b) of the 1986 Code is amended by striking out "or regulation thereunder" and inserting in lieu thereof ", regulation, or administrative practice".

(2)(A) Section 134(b)(1) of the 1986 Code is amended by inserting "(other than personal use of a vehicle)" after "in-kind benefit".

26 USC 134 note. (B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1986.

(3) Section 134(b)(3)(A) of the 1986 Code is amended by striking out "under any provision of law or regulation described in paragraph (1)".

26 USC 134 note. (4) Section 1168(c) of the Reform Act is amended by striking out "1986" and inserting in lieu thereof "1984".

(g) AMENDMENTS RELATED TO SECTION 1172 OF THE REFORM ACT.—

26 USC 409. (1) Section 1172(b)(1)(A) of the Reform Act is amended by inserting "each place it appears" before the comma.

(2) Paragraphs (2) and (3) of section 409(n) of the 1986 Code (relating to securities received in certain transactions) is amended by inserting "or section 2057" after "section 1042" each place it appears.

(3) Paragraph (1) of section 2057(b) of the 1986 Code (relating to qualified sale) is amended by striking out "is".

Loans. (h) AMENDMENTS RELATED TO SECTION 1173 OF THE REFORM ACT.—

(1) Section 133 of the 1986 Code (relating to exclusion of interest on securities acquisition loans) is amended by adding at the end thereof the following new subsection:

"(e) PERIOD TO WHICH INTEREST EXCLUSION APPLIES.—

"(1) IN GENERAL.—In the case of—

"(A) an original securities acquisition loan, and

"(B) any securities acquisition loan (or series of such loans) used to refinance the original securities acquisition loan,

subsection (a) shall apply only to interest accruing during the excludable period with respect to the original securities acquisition loan.

"(2) EXCLUDABLE PERIOD.—For purposes of this subsection, the term 'excludable period' means, with respect to any original securities acquisition loan—

"(A) IN GENERAL.—The 7-year period beginning on the date of such loan.

"(B) LOANS DESCRIBED IN SUBSECTION (b)(1)(A).—If the term of an original securities acquisition loan described in subsection (b)(1)(A) is greater than 7 years, the term of such loan. This subparagraph shall not apply to a loan described in subsection (b)(3)(B).

"(3) ORIGINAL SECURITIES ACQUISITION LOAN.—For the purposes of this subsection, the term 'original securities acquisition loan' means a securities acquisition loan described in subparagraph (A) or (B) of subsection (b)(1)."

(2)(A) Section 133(b) of the 1986 Code (defining securities acquisition loan) is amended—

(i) by striking out "or are used to refinance such a loan," in paragraph (1)(A),

(ii) by striking out ", except that this subparagraph shall not apply to any loan the commitment period of which exceeds 7 years" in paragraph (1)(B), and

(iii) by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF REFINANCINGS.—The term 'securities acquisition loan' shall include any loan which—

"(A) is (or is part of a series of loans) used to refinance a loan described in subparagraph (A) or (B) of paragraph (1), and

"(B) meets the requirements of paragraphs (2) and (3)."

(B) Subparagraph (B) of section 133(b)(3) of the 1986 Code is amended to read as follows:

"(B) repayment terms providing for more rapid repayment of principal or interest on such loan, but only if allocations under the plan attributable to such repayment do not discriminate in favor of highly compensated employees (within the meaning of section 414(q))."

(3) Section 404(k) of the 1986 Code is amended—

(A) by inserting "(whether or not allocated to participants)" after "employer securities" in paragraph (2)(C), and

(B) by adding at the end thereof the following new sentence: "Paragraph (2)(C) shall not apply to dividends from employer securities which are allocated to any participant unless the plan provides that employer securities with a fair market value not less than the amount of such dividends are allocated to such participant for the year which (but for paragraph (2)(C)) such dividends would have been allocated to such participant."

(4) Subparagraph (C) of section 852(b)(5) of the 1986 Code (relating to interest on certain loans used to acquire employer securities) is amended by striking out "paragraph" and inserting in lieu thereof "section".

(5)(A) The amendments made by paragraphs (1) and (2) shall apply to— 26 USC 133 note.

(i) any loan used to acquire employer securities after July 18, 1984, and

(ii) loans made after July 18, 1984, which were used (or were part of a series of loans used) to refinance any loan which—

(I) was used to acquire employer securities after May 23, 1984 (July 18, 1984, in the case of a loan described in section 133(b)(3)(B) of the Internal Revenue Code of 1986), and

(II) met the requirements of section 133 (other than subsection (b)(2) thereof) of such Code as in effect as of the later of the date on which the loan was made, or July 19, 1984.

In no event shall such amendments apply to any loan described in section 133(b)(1)(B) of such Code which is made before October 22, 1986 (or loan used, or part of a series of loans used, to refinance such a loan).

(B) Subparagraph (B) of section 1173(c)(2) of the Reform Act is amended to read as follows: 26 USC 133 note.

"(B) Section 133(b)(1)(A) of the Internal Revenue Code of 1986, as amended by subsection (b)(2), shall apply to any loan used (or part of a series of loans used) to refinance a loan which—

"(i) was used to acquire employer securities after May 23, 1984, and

"(ii) met the requirements of section 133 of the Internal Revenue Code of 1986 as in effect as of the later of—

"(I) the date on which the loan was made, or

"(II) July 19, 1984."

(6) Section 404(k) of the 1986 Code is amended by striking out "merely by reason of any distribution" in the third sentence and inserting in lieu thereof "or as engaging in a prohibited transaction for purposes of section 4975(d)(3) merely by reason of any distribution or payment".

(i) AMENDMENTS RELATED TO SECTION 1174 OF THE REFORM ACT.—

(1) Clause (ii) of section 409(o)(1)(A) of the 1986 Code (relating to distribution requirement) is amended by striking out "such year" and inserting in lieu thereof "distribution is required to begin under this clause".

26 USC 409 note.

(2) Section 1174(a)(2) of the Reform Act is amended by striking out "plan terminations" and inserting in lieu thereof "distributions".

(3) Section 409(o)(1)(A) of the 1986 Code is amended by striking out "unless the participant otherwise elects" and inserting in lieu thereof "if the participant and, if applicable pursuant to sections 401 (a)(11) and 417, with the consent of the participant's spouse elects".

(j) AMENDMENTS RELATED TO SECTION 1175 OF THE REFORM ACT.—

(1) Subclause (II) of section 401(a)(28)(B) of the 1986 Code (relating to method of meeting requirements) is amended by inserting "and within 90 days after the period during which the election may be made, the plan invests the portion of the participant's account covered by the election in accordance with such election" after "clause (i)".

(2) Clause (iv) of section 401(a)(28)(B) of the 1986 Code is amended to read as follows:

"(iv) QUALIFIED ELECTION PERIOD.—For purposes of this subparagraph, the term 'qualified election period' means the 6-plan-year period beginning with the later of—

"(I) the 1st plan year in which the individual first became a qualified participant, or

"(II) the 1st plan year beginning after December 31, 1986.

For purposes of the preceding sentence, an employer may elect to treat an individual first becoming a qualified participant in the 1st plan year beginning in 1987 as having become a participant in the 1st plan year beginning in 1988."

(3) The last sentence of section 409(d) of the 1986 Code (relating to employer securities must stay in the plan) is amended by inserting "or to any distribution or reinvestment required under section 401(a)(28)" after "section 401(a)(9)".

(4) Section 4978(d) of the 1986 Code (relating to section not to apply to certain dispositions) is amended by adding at the end thereof the following new paragraph:

"(4) DISPOSITIONS TO MEET DIVERSIFICATION REQUIREMENTS.—This section shall not apply to any disposition of qualified securities which is required under section 401(a)(28)."

(5) Section 409(h) of the 1986 Code (relating to right to demand employer securities; put option) is amended by adding at the end thereof the following new paragraph:

"(7) EXCEPTION WHERE EMPLOYEE ELECTED DIVERSIFICATION.—Paragraph (1)(A) shall not apply with respect to the portion of

the participant's account which the employee elected to have reinvested under section 401(a)(28)(B)."

(6) Section 401(a)(28)(B) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(v) COORDINATION WITH DISTRIBUTION RULES.—Any distribution required by this subparagraph shall not be taken into account in determining whether—

"(I) a subsequent distribution is a lump-sum distribution under section 402(e)(4)(A), or

"(II) section 402(a)(5)(D)(iii) applies to a subsequent distribution."

(k) AMENDMENTS RELATED TO SECTION 1176 OF THE REFORM ACT.—

(1) Section 401(a)(22) of the 1986 Code is amended by striking out "is not publicly traded" each place it appears and inserting in lieu thereof "is not readily tradable on an established market".

(2) Section 401(a)(22) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, subsections (b), (c), (m), and (o) of section 414 shall not apply except for determining whether stock of the employer is not readily tradable on an established market."

(3) Section 409(l)(4) of the 1986 Code (relating to nonvoting common stock may be acquired in certain cases), as added by section 1176(b) of the Reform Act, is redesignated as paragraph (5).

(l) AMENDMENTS RELATED TO SECTION 1177 OF THE REFORM ACT.—

(1) Paragraph (2) of section 1177(b) of the Reform Act is amended by striking out "section 143(d)(3)(C)" and inserting in lieu thereof "section 146(d)(3)(C)". 26 USC 38 note.

(2) Subsection (b) of section 1177 of the Reform Act is amended by striking out "made by this subtitle" and inserting in lieu thereof "made by section 1175".

(3) If any newspaper corporation described in section 1177(b) of the Reform Act, as amended by this subsection, pays in cash a dividend within 60 days after the date of the enactment of this Act to the corporation's employee stock ownership plans and if a corporate resolution declaring such dividend was adopted before November 30, 1987, and such resolution specifies that such dividend shall be contingent upon passage by the Congress of technical corrections, then such dividend (to the extent the aggregate amount so paid does not exceed $3,500,000) shall be treated as if it had been declared and paid in 1987 for all purposes of the Internal Revenue Code of 1986. Newspapers. 26 USC 38 note.

SEC. 1012. AMENDMENTS RELATED TO TITLE XII OF THE REFORM ACT. Corporations.

(a) AMENDMENTS RELATED TO SECTION 1201 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 904(d)(2) of the 1986 Code is amended to read as follows:

"(C) FINANCIAL SERVICES INCOME.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, the term 'financial services income' means any income which is received or accrued by any person predominantly engaged in the active conduct of a banking, insurance, financing, or similar business, and which is—

"(I) described in clause (ii),

"(II) passive income (determined without regard to subclause (I) of subparagraph (A)(iii)), or

"(III) export financing interest which (but for subparagraph (B)(ii)) would be high withholding tax interest.

"(ii) GENERAL DESCRIPTION OF FINANCIAL SERVICES INCOME.—Income is described in this clause if such income is—

"(I) derived in the active conduct of a banking, financing, or similar business,

"(II) derived from the investment by an insurance company of its unearned premiums or reserves ordinary and necessary for the proper conduct of its insurance business, or

"(III) of a kind which would be insurance income as defined in section 953(a) determined without regard to those provisions of paragraph (1)(A) of such section which limit insurance income to income from countries other than the country in which the corporation was created or organized.

"(iii) EXCEPTIONS.—The term 'financial services income' does not include—

"(I) any high withholding tax interest,

"(II) any dividend from a noncontrolled section 902 corporation, and

"(III) any export financing interest not described in clause (i)(III)."

(B) Clause (i) of section 864(d)(5)(A) of the 1986 Code is amended by striking out "(C)(iii)" and inserting in lieu thereof "(C)(iii)(III)".

(2) Subparagraph (D) of section 904(d)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Such term does not include any dividend from a noncontrolled section 902 corporation and does not include any financial services income."

(3) Paragraph (3) of section 904(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(H) EXCEPTION FOR CERTAIN HIGH WITHHOLDING TAX INTEREST.—This paragraph shall not apply to any amount which—

"(i) without regard to this paragraph, is high withholding tax interest (including any amount treated as high withholding tax interest under paragraph (2)(B)(iii)), and

"(ii) would (but for this subparagraph) be treated as financial services income under this paragraph.

The amount to which this paragraph does not apply by reason of the preceding sentence shall not exceed the interest or equivalent income of the controlled foreign corporation taken into account in determining financial services income without regard to this subparagraph."

(4) Subparagraph (E) of section 904(d)(3) of the 1986 Code is amended—

(A) by striking out the first sentence and inserting in lieu thereof the following: "If a controlled foreign corporation meets the requirements of section 954(b)(3)(A) (relating to de minimis rule) for any taxable year, for purposes of this

paragraph, none of its foreign base company income (as defined in section 954(a) without regard to section 954(b)(5)) and none of its gross insurance income (as defined in section 954(b)(3)(C)) for such taxable year shall be treated as income in a separate category, except that this sentence shall not apply to any income which (without regard to this sentence) would be treated as financial services income.", and

(B) by striking out "income (other than high withholding tax interest and dividends from a noncontrolled section 902 corporation)" and inserting in lieu thereof "passive income".

(5) Paragraph (2) of section 1201(e) of the Reform Act is amended by adding at the end thereof the following new subparagraph: 26 USC 904 note.

"(J) TREATMENT OF AFFILIATED GROUP FILING CONSOLIDATED RETURN.—For purposes of this paragraph, all members of an affiliated group of corporations filing a consolidated return shall be treated as 1 corporation."

(6) Subparagraph (A) of section 904(d)(2) of the 1986 Code is amended—

(A) by striking out "The term" in clause (ii) and inserting in lieu thereof "Except as provided in clause (iii), the term", and

(B) by adding at the end thereof the following new clause:

"(iv) CLARIFICATION OF APPLICATION OF SECTION 864(d)(6).—In determining whether any income is of a kind which would be foreign personal holding company income, the rules of section 864(d)(6) shall apply only in the case of income of a controlled foreign corporation."

(7) Subparagraph (F) of section 904(d)(3) of the 1986 Code is amended to read as follows:

"(F) SEPARATE CATEGORY.—For purposes of this paragraph—

"(i) IN GENERAL.—Except as provided in clause (ii), the term 'separate category' means any category of income described in subparagraph (A), (B), (C), (D), or (E) of paragraph (1).

"(ii) COORDINATION WITH HIGH-TAXED INCOME PROVISIONS.—

"(I) In determining whether any income of a controlled foreign corporation is in a separate category, subclause (III) of paragraph (2)(A)(iii) shall not apply.

"(II) Any income of the taxpayer which is treated as income in a separate category under this paragraph shall be so treated notwithstanding any provision of paragraph (2); except that the determination of whether any amount is high-taxed income shall be made after the application of this paragraph."

(8) Clause (iii) of section 904(d)(2)(B) of the 1986 Code is amended to read as follows:

"(iii) REGULATIONS.—The Secretary may by regulations provide that—

"(I) amounts (not otherwise high withholding tax interest) shall be treated as high withholding tax

interest where necessary to prevent avoidance of the purposes of this subparagraph, and

"(II) a tax shall not be treated as a withholding tax or other tax imposed on a gross basis if such tax is in the nature of a prepayment of a tax imposed on a net basis."

(9) Clause (ii) of section 904(d)(2)(I) of the 1986 Code is amended by striking out "except to the extent that" and all that follows down through "and" at the end thereof and inserting in lieu thereof the following:

"except that—

"(I) such taxes shall be treated as paid or accrued with respect to shipping income to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income,

"(II) in the case of a person described in subparagraph (C)(i), such taxes shall be treated as paid or accrued with respect to financial services income to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income, and

"(III) such taxes shall be treated as paid or accrued with respect to high withholding tax interest to the extent the taxpayer establishes to the satisfaction of the Secretary that such taxes were paid or accrued with respect to such income, and".

(10) Clause (i) of section 904(d)(2)(E) of the 1986 Code is amended by striking out "during which it was a controlled foreign corporation" and inserting in lieu thereof "during which it was a controlled foreign corporation and except as provided in regulations, the taxpayer was a United States shareholder in such corporation".

(11) Subparagraph (E) of section 904(d)(1) of the 1986 Code is amended by striking out "dividends" and inserting in lieu thereof "in the case of a corporation, dividends".

(b) AMENDMENT RELATED TO SECTION 1202 OF THE REFORM ACT.—

(1) Paragraph (7) of section 902(c) of the 1986 Code is amended—

(A) by striking out "secton 960" and inserting in lieu thereof "section 960", and

(B) by striking out "this section" the second place it appears and inserting in lieu thereof "this section and section 960".

(2) Paragraph (1) of section 902(c) of the 1986 Code is amended by striking out "sections 964 and 986" and inserting in lieu thereof "sections 964(a) and 986".

26 USC 902 note.

(3) For purposes of sections 902 and 960 of the 1986 Code, the increase in earnings and profits of any foreign corporation under section 1023(e)(3)(C) of the Reform Act shall be taken into account ratably over the 10-year period beginning with the corporation's first taxable year beginning after December 31, 1986.

(4) Paragraph (3) of section 404A(d) of the 1986 Code is amended by striking out "the amount determined" and inserting in lieu thereof "except as provided in regulations, the amount determined".

(c) AMENDMENT RELATED TO SECTION 1203 OF THE REFORM ACT.—Paragraph (5) of section 904(f) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) DISPOSITIONS.—If any separate limitation loss for any taxable year is allocated against any separate limitation income for such taxable year, except to the extent provided in regulations, rules similar to the rules of paragraph (3) shall apply to any disposition of property if gain from such disposition would be in the income category with respect to which there was such separate limitation loss."

(d) AMENDMENTS RELATED TO SECTION 1211 OF THE REFORM ACT.—

(1) Subsection (d) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) COORDINATION WITH SUBSECTION (c).—

"(A) GAIN NOT IN EXCESS OF DEPRECIATION ADJUSTMENTS SOURCED UNDER SUBSECTION (c).—Notwithstanding paragraph (1), any gain from the sale of an intangible shall be sourced under subsection (c) to the extent such gain does not exceed the depreciation adjustments with respect to such intangible.

"(B) SUBSECTION (c)(2) NOT TO APPLY TO INTANGIBLES.—Paragraph (2) of subsection (c) shall not apply to any gain from the sale of an intangible."

(2) Subparagraph (A) of section 865(e)(1) of the 1986 Code is amended by striking out "(d), or (f)" and inserting in lieu thereof "(d)(1)(B) or (3), or (f)".

(3)(A) Clause (ii) of section 865(g)(1)(A) of the 1986 Code is amended by striking out "partnership,".

(B) Subsection (h) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF PARTNERSHIPS.—In the case of a partnership, except as provided in regulations, this section shall be applied at the partner level."

(4) Subsection (f) of section 865 of the 1986 Code is amended to read as follows:

"(f) STOCK OF AFFILIATES.—If—

"(1) a United States resident sells stock in an affiliate which is a foreign corporation,

"(2) such sale occurs in a foreign country in which such affiliate is engaged in the active conduct of a trade or business, and

"(3) more than 50 percent of the gross income of such affiliate for the 3-year period ending with the close of such affiliate's taxable year immediately preceding the year in which the sale occurred was derived from the active conduct of a trade or business in such foreign country,

any gain from such sale shall be sourced outside the United States. For purposes of paragraphs (2) and (3), the United States resident may elect to treat an affiliate and all other corporations which are wholly owned (directly or indirectly) by the affiliate as one corporation."

(5) Effective with respect to taxable years beginning after December 31, 1987, subparagraph (B) of section 865(e)(2) of the 1986 Code is amended to read as follows:

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any sale of inventory property which is sold for use, disposition, or consumption outside the United States if an office

or other fixed place of business of the taxpayer in a foreign country materially participated in the sale."

(6)(A) Subsection (g) of section 865 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN STOCK SALES BY RESIDENTS OF PUERTO RICO.—Paragraph (2) shall not apply to the sale by an individual who was a bona fide resident of Puerto Rico during the entire taxable year of stock in a corporation if—

"(A) such corporation is engaged in the active conduct of a trade or business in Puerto Rico, and

"(B) more than 50 percent of its gross income for the 3-year period ending with the close of such corporation's taxable year immediately preceding the year in which such sale occurred was derived from the active conduct of a trade or business in Puerto Rico.

For purposes of the preceding sentence, the taxpayer may elect to treat a corporation and all other corporations which are wholly owned (directly or indirectly) by such corporation as one corporation."

(B) Subsection (i) of section 865 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) providing that, subject to such conditions (which may include provisions comparable to section 877) as may be provided in such regulations, subsections (e)(1)(B) and (g)(2) shall not apply for purposes of sections 931, 933, and 936."

(7) Subparagraph (B) of section 864(c)(4) of the 1986 Code is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof "; or", and by adding at the end thereof the following new clause:

"(iii) is derived from the sale or exchange (outside the United States) through such office or other fixed place of business of personal property described in section 1221(1), except that this clause shall not apply if the property is sold or exchanged for use, consumption, or disposition outside the United States and an office or other fixed place of business of the taxpayer in a foreign country participated materially in such sale."

(8) Section 865 of the 1986 Code is amended by redesignating subsections (h), (i), and (j) as subsections (i), (j), and (k), respectively, and by inserting after subsection (g) the following new subsection:

"(h) TREATMENT OF GAINS FROM SALE OF CERTAIN STOCK OR INTANGIBLES AND FROM CERTAIN LIQUIDATIONS.—

"(1) IN GENERAL.—In the case of gain to which this subsection applies—

"(A) such gain shall be sourced outside the United States, but

"(B) subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such gain.

"(2) GAIN TO WHICH SUBSECTION APPLIES.—This subsection shall apply to—

"(A) GAIN FROM SALE OF CERTAIN STOCK OR INTANGIBLES.—Any gain—

"(i) which is from the sale of stock in a foreign corporation or an intangible (as defined in subsection (d)(2)) and which would otherwise be sourced in the United States under this section,

"(ii) which, under a treaty obligation of the United States (applied without regard to this section), would be sourced outside the United States, and

"(iii) with respect to which the taxpayer chooses the benefits of this subsection.

"(B) GAIN FROM LIQUIDATION IN POSSESSION.—Any gain which is derived from the receipt of any distribution in liquidation of a corporation—

"(i) which is organized in a possession of the United States, and

"(ii) more than 50 percent of the gross income of which during the 3-taxable year period ending with the close of the taxable year immediately preceding the taxable year in which the distribution is received is from the active conduct of a trade or business in such possession."

(9) Subparagraph (A) of section 865(e)(1) of the 1986 Code is amended by striking out "outside the United States" the first place it appears and inserting in lieu thereof "in a foreign country".

(10) Subparagraph (B) of section 864(c)(4) of the 1986 Code is amended—

(A) by striking out "(including any gain or loss realized on the sale or exchange of such property)" in clause (i), and

(B) by striking out ", or gain or loss from the sale or exchange of stock or notes, bonds, or other evidences of indebtedness" in clause (ii).

(11) Clause (i) of section 865(g)(1)(A) of the 1986 Code is amended to read as follows— Aliens.

"(i) any individual who—

"(I) is a United States citizen or a resident alien and does not have a tax home (as defined in section 911(d)(3)) in a foreign country, or

"(II) is a nonresident alien and has a tax home (as so defined) in the United States, and".

(12) Paragraph (2) of section 865(d) of the 1986 Code is amended by inserting "franchise," after "trade brand,".

(e) AMENDMENTS RELATED TO SECTION 1212 OF THE REFORM ACT.—

(1)(A) Paragraph (3) of section 883(c) of the 1986 Code is amended to read as follows:

"(3) SPECIAL RULES FOR PUBLICLY TRADED CORPORATIONS.—

"(A) EXCEPTION.—Paragraph (1) shall not apply to any corporation which is organized in a foreign country meeting the requirements of paragraph (1) or (2) of subsection (a) (as the case may be) and the stock of which is primarily and regularly traded on an established securities market in such foreign country, another foreign country meeting the requirements of such paragraph, or the United States.

"(B) TREATMENT OF STOCK OWNED BY PUBLICLY TRADED CORPORATION.—Any stock in another corporation which is owned (directly or indirectly) by a corporation meeting the

requirements of subparagraph (A) shall be treated as owned by individuals who are residents of the foreign country in which the corporation meeting the requirements of subparagraph (A) is organized."

(B) Paragraph (1) of section 883(c) of the 1986 Code is amended—

(i) by striking out "Paragraphs (1) and (2) of subsection (a)" and inserting in lieu thereof "Paragraph (1) or (2) of subsection (a) (as the case may be)", and

(ii) by striking out "such paragraphs (1) and (2)" and inserting in lieu thereof "such paragraph".

(2)(A) Paragraphs (1) and (2) of section 883(a) of the 1986 Code are each amended by striking out "to citizens of the United States and".

(B) Paragraphs (1) and (2) of section 872(b) of the 1986 Code are each amended by striking out "to citizens of the United States and to corporations organized in the United States" and inserting in lieu thereof "to individual residents of the United States".

(3)(A) The section heading for section 863 of the 1986 Code is amended to read as follows:

"SEC. 863. SPECIAL RULES FOR DETERMINING SOURCE."

(B) The table of sections for part I of subchapter N of chapter 1 of the 1986 Code is amended by striking out the item relating to section 863 and inserting in lieu thereof the following:

"Sec. 863. Special rules for determining source."

(4) Subsection (c) of section 862 is hereby repealed.

(5) Paragraphs (1) and (2) of section 872(b) of the 1986 Code and paragraphs (1) and (2) of section 883(a) of the 1986 Code are each amended by striking out "operation" and inserting in lieu thereof "international operation".

(6) Paragraph (1) of section 887(b) of the 1986 Code is amended—

(A) by striking out "under section 863(c)" and inserting in lieu thereof "under section 863(c)(2)", and

(B) by adding at the end thereof the following new sentence: "To the extent provided in regulations, such term does not include any income of a kind to which an exemption under paragraph (1) or (2) of section 883(a) would not apply."

(f) AMENDMENT RELATED TO SECTION 1213 OF THE REFORM ACT.—Paragraph (2) of section 863(e) of the 1986 Code is amended by striking out "foreign country" each place it appears and inserting in lieu thereof "foreign country (or possession of the United States)".

(g) AMENDMENTS RELATED TO SECTION 1214 OF THE REFORM ACT.—

26 USC 861 note.

(1)(A) Paragraph (1) of section 1214(d) of the Reform Act is amended to read as follows:

"(1) IN GENERAL.—The amendments made by this section shall apply to payments made in a taxable year of the payor beginning after December 31, 1986."

(B) A taxpayer may elect not to have the amendment made by subparagraph (A) apply and to have section 1214(d)(1) of the Reform Act apply as in effect before such amendment. Such election shall be made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe.

(2) Subparagraph (B) of section 1214(d)(2) of the Reform Act is amended by striking out "section 904(d)(2)(G)" and inserting in lieu thereof "section 904(d)(2)(H)".

(3) Subparagraph (B) of section 861(c)(1) of the 1986 Code is amended—

(A) by striking out "subchapter)" in clause (i) and inserting in lieu thereof "subchapter) or, in the case of a corporation, is attributable to income so derived by a subsidiary of such corporation",

(B) by striking out "or chain of subsidiaries of such corporation" in clause (ii), and

(C) by adding at the end thereof the following new sentence:

"For purposes of this subparagraph, the term 'subsidiary' means any corporation in which the corporation referred to in this subparagraph owns (directly or indirectly) stock meeting the requirements of section 1504(a)(2) (determined by substituting '50 percent' for '80 percent' each place it appears)."

(4) Paragraph (1) of section 2105(b) of the 1986 Code is amended by striking out "section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States" and inserting in lieu thereof "section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(1)".

(5) Paragraph (2) of section 864(c) of the 1986 Code is amended by striking out the last sentence.

(6) Paragraph (3) of section 907(c) of the 1986 Code is amended:

(A) by striking out subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively, and

(B) by striking out "and dividends described in subparagraph (B)".

(7) Subsection (a) of section 1442 of the 1986 Code is amended—

(A) by striking out "and the references in" and inserting in lieu thereof "the references in", and

(B) by inserting before the period at the end thereof the following: ", and the reference in section 1441(c)(10) to section 871(i)(2) shall be treated as referring to section 881(d)".

(h) AMENDMENTS RELATED TO SECTION 1215 OF THE REFORM ACT.—

(1) Paragraph (4) of section 864(e) of the 1986 Code is amended to read as follows:

"(4) BASIS OF STOCK IN NONAFFILIATED 10-PERCENT OWNED CORPORATIONS ADJUSTED FOR EARNINGS AND PROFITS CHANGES.—

"(A) IN GENERAL.—For purposes of allocating and apportioning expenses on the basis of assets, the adjusted basis of any stock in a nonaffiliated 10-percent owned corporation shall be—

"(i) increased by the amount of the earnings and profits of such corporation attributable to such stock and accumulated during the period the taxpayer held such stock, or

"(ii) reduced (but not below zero) by any deficit in earnings and profits of such corporation attributable to such stock for such period.

"(B) NONAFFILIATED 10-PERCENT OWNED CORPORATION.—For purposes of this paragraph, the term 'nonaffiliated 10-percent owned corporation' means any corporation if—

"(i) such corporation is not included in the taxpayer's affiliated group, and

"(ii) members of such affiliated group own 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote.

"(C) EARNINGS AND PROFITS OF LOWER TIER CORPORATIONS TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—If, by reason of holding stock in a nonaffiliated 10-percent owned corporation, the taxpayer is treated under clause (iii) as owning stock in another corporation with respect to which the stock ownership requirements of clause (ii) are met, the adjustment under subparagraph (A) shall include an adjustment for the amount of the earnings and profits (or deficit therein) of such other corporation which are attributable to the stock the taxpayer is so treated as owning and to the period during which the taxpayer is treated as owning such stock.

"(ii) STOCK OWNERSHIP REQUIREMENTS.—The stock ownership requirements of this clause are met with respect to any corporation if members of the taxpayer's affiliated group own (directly or through the application of clause (iii)) 10 percent or more of the total combined voting power of all classes of stock of such corporation entitled to vote.

"(iii) STOCK OWNED THROUGH ENTITIES.—For purposes of this subparagraph, stock owned (directly or indirectly) by a corporation, partnership, or trust shall be treated as being owned proportionately by its shareholders, partners, or beneficiaries. Stock considered to be owned by a person by reason of the application of the preceding sentence, shall, for purposes of applying such sentence, be treated as actually owned by such person.

"(D) COORDINATION WITH SUBPART F, ETC.—For purposes of this paragraph, proper adjustment shall be made to the earnings and profits of any corporation to take into account any earnings and profits included in gross income under section 951 or under any other provision of this title and reflected in the adjusted basis of the stock."

(2)(A) Paragraph (1) of section 864(e) of the 1986 Code is amended by striking out "from sources outside the United States".

(B) Subsection (h) of section 936 of the 1986 Code is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) SECTION 864(e)(1) NOT TO APPLY.—This subsection shall be applied as if section 864(e)(1) (relating to treatment of affiliated groups) had not been enacted."

(C) The heading for part I of subchapter N of chapter 1 of the 1986 Code is amended to read as follows:

"PART I—SOURCE RULES AND OTHER GENERAL RULES RELATING TO FOREIGN INCOME".

(D) The table of parts for subchapter N of chapter 1 of the 1986 Code is amended by striking out the item relating to part I and inserting in lieu thereof the following:

"Part I. Source rules and other general rules relating to foreign income."

(3) Paragraph (3) of section 864(e) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "A similar rule shall apply in the case of the portion of any dividend (other than a qualifying dividend as defined in section 243(b)) equal to the deduction allowable under section 243 or 245(a) with respect to such dividend and in the case of a like portion of any stock the dividends on which would be so deductible and would not be qualifying dividends (as so defined)."

(4)(A) Paragraph (5) of section 864(e) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) TREATMENT OF BANK HOLDING COMPANIES.—To the extent provided in regulations—

"(i) a bank holding company (within the meaning of section 2(a) of the Bank Holding Company Act of 1956), and

"(ii) any subsidiary of a financial institution described in section 581 or 591 or of any bank holding company if such subsidiary is predominantly engaged (directly or indirectly) in the active conduct of a banking, financing, or similar business,

shall be treated as a corporation described in subparagraph (C)."

(B) Subparagraph (B) of section 864(e)(5) of the 1986 Code is amended by adding at the end thereof the following new sentence: "This subparagraph shall not apply for purposes of paragraph (6)."

(5) Paragraph (6) of section 864(e) of the 1986 Code is amended by striking out "directly allocable and apportioned" and inserting in lieu thereof "directly allocable or apportioned".

(6)(A) Paragraph (7) of section 864(e) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof a comma, and by adding at the end thereof the following new subparagraphs:

"(D) for direct allocation of interest expense in the case of indebtedness resulting in a disallowance under section 246A,

"(E) for appropriate adjustments in the application of paragraph (3) in the case of an insurance company, and

"(F) that this subsection shall not apply for purposes of any provision of this subchapter to the extent the Secretary determines that the application of this subsection for such purposes would not be appropriate."

(B) Subsection (e) of section 864 of the 1986 Code is amended by striking out "(except as provided in regulations)" in the material preceding paragraph (1).

26 USC 864 note.

(7) Paragraph (2) of section 1215(c) of the Reform Act is amended to read as follows:

"(2) TRANSITIONAL RULES.—

"(A) GENERAL PHASE-IN.—

"(i) IN GENERAL.—In the case of the 1st 3 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the general phase-in amount.

"(ii) GENERAL PHASE-IN AMOUNT.—Except as provided in clause (iii), the general phase-in amount for purposes of clause (i) is the applicable percentage (determined under the following table) of the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985:

"In the case of the:	The applicable percentage is:
1st taxable year	75
2nd taxable year	50
3rd taxable year	25.

"(iii) LOWER LIMIT WHERE TAXPAYER REDUCES INDEBTEDNESS.—For purposes of applying this subparagraph to interest expenses attributable to any month, the general phase-in amount shall in no event exceed the lowest amount of indebtedness of the taxpayer outstanding as of the close of any preceding month beginning after November 16, 1985. To the extent provided in regulations, the average amount of indebtedness outstanding during any month shall be used (in lieu of the amount outstanding as of the close of such month) for purposes of the preceding sentence.

"(B) CONSOLIDATION RULE NOT TO APPLY TO CERTAIN INTEREST.—

"(i) IN GENERAL.—In the case of the 1st 5 taxable years of the taxpayer beginning after December 31, 1986—

"(I) subparagraph (A) shall not apply for purposes of paragraph (1) of section 864(e) of the Internal Revenue Code of 1986 (as added by this section), but

"(II) such paragraph (1) shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the special phase-in amount.

"(ii) SPECIAL PHASE-IN AMOUNT.—The special phase-in amount for purposes of clause (i) is the sum of—

"(I) the general phase-in amount as determined for purposes of subparagraph (A),

"(II) the 5-year phase-in amount, and

"(III) the 4-year phase-in amount.

For purposes of applying this subparagraph to interest expense attributable to any month, the special phase-in amount shall in no event exceed the limitation determined under subparagraph (A)(iii).

"(iii) 5-YEAR PHASE-IN AMOUNT.—The 5-year phase-in amount is the lesser of—

"(I) the applicable percentage (determined under the following table for purposes of this subclause) of the 5-year debt amount, or

"(II) the applicable percentage (determined under the following table for purposes of this subclause) of the 5-year debt amount reduced by paydowns:

"In the case of the:	The applicable percentage for purposes of subclause (I) is:	The applicable percentage for purposes of subclause (II) is:
1st taxable year	8⅓	10
2nd taxable year	16⅔	25
3rd taxable year	25	50
4th taxable year	33⅓	100
5th taxable year	16⅔	100.

"(iv) 4-YEAR PHASE-IN AMOUNT.—The 4-year phase-in amount is the lesser of—

"(I) the applicable percentage (determined under the following table for purposes of this subclause) of the 4-year debt amount, or

"(II) the applicable percentage (determined under the following table for purposes of this subclause) of the 4-year debt amount reduced by paydowns to the extent such paydowns exceed the 5-year debt amount:

"In the case of the:	The applicable percentage for purposes of subclause (I) is:	The applicable percentage for purposes of subclause (II) is:
1st taxable year	5	6¼
2nd taxable year	10	16⅔
3rd taxable year	15	37½
4th taxable year	20	100
5th taxable year	0	0.

"(v) 5-YEAR DEBT AMOUNT.—The term '5-year debt amount' means the excess (if any) of—

"(I) the amount of the outstanding indebtedness of the taxpayer on May 29, 1985, over

"(II) the amount of the outstanding indebtedness of the taxpayer as of the close of December 31, 1983.

The 5-year debt amount shall not exceed the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985.

"(vi) 4-YEAR DEBT AMOUNT.—The term '4-year debt amount' means the excess (if any) of—

"(I) the amount referred to in clause (v)(II), over

"(II) the amount of the outstanding indebtedness of the taxpayer as of the close of December 31, 1982.

The 4-year debt amount shall not exceed the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985, reduced by the 5-year debt amount.

"(vii) PAYDOWNS.—For purposes of applying this subparagraph to interest expenses attributable to any month, the term 'paydowns' means the excess (if any) of—

"(I) the aggregate amount of indebtedness of the taxpayer outstanding on November 16, 1985, over

"(II) the lowest amount of indebtedness of the taxpayer outstanding as of the close of any preceding month beginning after November 16, 1985 (or, to the extent provided in regulations under subparagraph (A)(iii), the average amount of indebtedness outstanding during any such month).

"(C) COORDINATION OF SUBPARAGRAPHS (A) AND (B).—In applying subparagraph (B), there shall first be taken into account indebtedness to which subparagraph (A) applies.

"(D) SPECIAL RULES.—

"(i) In the case of the 1st 9 taxable years of the taxpayer beginning after December 31, 1986, the amendments made by this section shall not apply to interest expenses paid or accrued by the taxpayer during the taxable year with respect to an aggregate amount of indebtedness which does not exceed the applicable percentage (determined under the following table) of the indebtedness described in clause (iii) or (iv):

"In the case of the:	The applicable percentage is:
1st taxable year	90
2nd taxable year	80
3rd taxable year	70
4th taxable year	60
5th taxable year	50
6th taxable year	40
7th taxable year	30
8th taxable year	20
9th taxable year	10.

"(ii) The provisions of this subparagraph shall apply in lieu of the provisions of subparagraphs (A) and (B).

Oklahoma.

"(iii) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this clause if it is indebtedness (which was outstanding on May 29, 1985) of a corporation incorporated on June 13, 1917, which has its principal place of business in Bartlesville, Oklahoma.

New York.

"(iv) INDEBTEDNESS OUTSTANDING ON MAY 29, 1985.—Indebtedness is described in this clause if it is indebtedness (which was outstanding on May 29, 1985) of a member of an affiliated group (as defined in section 1504(a)), the common parent of which was incorporated on August 26, 1926, and has its principal place of business in Harrison, New York.

"(E) TREATMENT OF AFFILIATED GROUP.—For purposes of this paragraph, all members of the same affiliated group of corporations (as defined in section 864(e)(5)(A) of the Internal Revenue Code of 1986, as added by this section) shall be treated as 1 taxpayer whether or not such members filed a consolidated return.

"(F) ELECTION TO HAVE PARAGRAPH NOT APPLY.—A taxpayer may elect (at such time and in such manner as the

Secretary of the Treasury or his delegate may prescribe) to have this paragraph not apply. In the case of members of the same affiliated group (as so defined), such an election may be made only if each member consents to such election."

(i) AMENDMENTS RELATED TO SECTION 1221 OF THE REFORM ACT.—

(1)(A) Subparagraph (C) of section 953(c)(3) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"An election under this subparagraph made for any taxable year shall not be effective if the corporation (or any predecessor thereof) was a disqualified corporation for the taxable year for which the election was made or for any prior taxable year beginning after 1986."

(B) Clause (i) of section 953(c)(3)(D) of the 1986 Code is amended to read as follows:

"(i) PERIOD DURING WHICH ELECTION IN EFFECT.—

"(I) IN GENERAL.—Except as provided in subclause (II), any election under subparagraph (C) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(II) TERMINATION.—If a foreign corporation which made an election under subparagraph (C) for any taxable year is a disqualified corporation for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year."

(C) Paragraph (3) of section 953(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) DISQUALIFIED CORPORATION.—For purposes of this paragraph the term 'disqualified corporation' means, with respect to any taxable year, any foreign corporation which is a controlled foreign corporation for an uninterrupted period of 30 days or more during such taxable year (determined without regard to this subsection) but only if a United States shareholder (determined without regard to this subsection) owns (within the meaning of section 958(a)) stock in such corporation at some time during such taxable year."

(2)(A) Paragraph (1) of section 953(c) of the 1986 Code is amended by striking out "and" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(C) the pro rata share referred to in section 951(a)(1)(A)(i) shall be determined under paragraph (5) of this subsection."

(B) Subsection (c) of section 953 of the 1986 Code is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) DETERMINATION OF PRO RATA SHARE.—

"(A) IN GENERAL.—The pro rata share determined under this paragraph for any United States shareholder is the lesser of—

"(i) the amount which would be determined under paragraph (2) of section 951(a) if—

"(I) only related person insurance income were taken into account,

"(II) stock owned (within the meaning of section 958(a)) by United States shareholders on the last day of the taxable year were the only stock in the foreign corporation, and

"(III) only distributions received by United States shareholders were taken into account under subparagraph (B) of such paragraph (2), or

"(ii) the amount which would be determined under paragraph (2) of section 951(a) if the entire earnings and profits of the foreign corporation for the taxable year were subpart F income.

Regulations. "(B) COORDINATION WITH OTHER PROVISIONS.—The Secretary shall prescribe regulations providing for such modifications to the provisions of this subpart as may be necessary or appropriate by reason of subparagraph (A)."

(3)(A) Paragraph (2) of section 953(c) of the 1986 Code is amended by striking out "with respect to which the primary insured is" and inserting in lieu thereof "with respect to which the person (directly or indirectly) insured is".

(B) Subparagraph (A) of section 953(c)(3) of the 1986 Code is amended—

(i) by striking out "persons who are the primary insured" and inserting in lieu thereof "persons who are (directly or indirectly) insured", and

(ii) by striking out "to any such primary insured" and inserting in lieu thereof "to any such person".

26 USC 953 note. (C) The amendments made by this paragraph to the extent such amendments add the phrase "(directly or indirectly)" shall apply only to taxable years beginning after December 31, 1987.

(4)(A) Subsection (c) of section 953 of the 1986 Code (as amended by paragraph (2)) is amended by redesignating paragraph (6) as paragraph (7) and by inserting after paragraph (5) the following new paragraph:

"(6) RELATED PERSON.—For purposes of this subsection—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'related person' has the meaning given such term by section 954(d)(3).

"(B) TREATMENT OF CERTAIN LIABILITY INSURANCE POLICIES.—In the case of any policy of insurance covering liability arising from services performed as a director, officer, or employee of a corporation or as a partner or employee of a partnership, the person performing such services and the entity for which such services are performed shall be treated as related persons."

(B) Paragraphs (2) and (3)(A) of section 953(c) of the 1986 Code are each amended by striking out "(within the meaning of section 954(d)(3))".

(5) Paragraph (2) of section 953(c) of the 1986 Code is amended by striking out "insurance income attributable" and inserting in lieu thereof "insurance income (within the meaning of subsection (a)) attributable".

26 USC 952 note. (6) For purposes of applying section 952(c)(1)(A) of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under section 1023(e)(3)(C) of the Reform Act.

(7) Subsection (b) of section 953 of the 1986 Code is amended—

(A) by striking out paragraph (1) and redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively,

(B) by striking out subparagraph (A) of paragraph (1) (as so redesignated) and inserting in lieu thereof the following:

"(A) The small life insurance company deduction.", and

(C) by striking out "(other than those taken into account under paragraph (3))" in paragraph (3) (as so redesignated).

(8) Subparagraph (B) of section 953(c)(3) of the 1986 Code is amended—

(A) by striking out "related person insurance income" and inserting in lieu thereof "related person insurance income (determined on a gross basis)", and

(B) by striking out "its insurance income" and inserting in lieu thereof "its insurance income (as so determined)".

(9) Subclause (II) of section 953(c)(3)(C)(i) of the 1986 Code is amended—

(A) by striking out "all benefits" and inserting in lieu thereof "all benefits (other than with respect to section 884)", and

(B) by striking out "under any income tax treaty" and inserting in lieu thereof "granted by the United States under any treaty".

(10) Paragraph (7) of section 861(a) of the 1986 Code is amended to read as follows:

"(7) Amounts received as underwriting income (as defined in section 832(b)(3)) derived from the issuing (or reinsuring) of any insurance or annuity contract—

"(A) in connection with property in, liability arising out of an activity in, or in connection with the lives or health of residents of, the United States, or

"(B) in connection with risks not described in subparagraph (A) as a result of any arrangement whereby another corporation receives a substantially equal amount of premiums or other consideration in respect to issuing (or reinsuring) any insurance or annuity contract in connection with property in, liability arising out of activity in, or in connection with the lives or health of residents of, the United States."

(11) Subparagraph (A) of section 955(a)(2) of the 1986 Code is amended by striking out "beginning before 1987" and inserting in lieu thereof "beginning before 1987 (to the extent such amount exceeds the sum of the decreases in qualified investments determined under this paragraph for prior taxable years beginning after 1986)".

(12) Paragraphs (6) and (7) of section 954(b) of the 1986 Code are each amended by striking out "(determined without regard to the exclusion under paragraph (2) of this subsection)".

(13)(A) Subparagraph (C) of section 1221(g)(3) of the Reform Act is amended— 26 USC 954 note.

(i) by striking out "July 9" and inserting in lieu thereof "June 9", and

(ii) by striking out "March 31, 1982" and inserting in lieu thereof "November 3, 1981".

(B) Subparagraph (D) of section 1221(g)(3) of the Reform Act is amended—

(i) by striking out "as of August 16, 1986, under a reinsurance contract in effect on such date" and inserting in lieu thereof "under a reinsurance contract",

(ii) by striking out "the preceding sentence" and inserting in lieu thereof "this subparagraph", and

(iii) by adding at the end thereof the following: "For purposes of this paragraph, the amount of qualified reinsurance income shall not exceed the amount of insurance income from reinsurance contracts for calendar year 1985. In the case of controlled foreign corporations described in subparagraph (C)(ii), the preceding sentence shall not apply and the qualified reinsurance income of any such corporation shall not exceed such corporation's proportionate share of $27,000,000 (determined on the basis of respective amounts of qualified reinsurance income determined without regard to this subparagraph)."

(14)(A) Paragraph (3) of section 954(d) of the 1986 Code is amended by striking out "50 percent or more" each place it appears and inserting in lieu thereof "more than 50 percent".

(B) Clause (ii) of section 861(c)(2)(B) of the 1986 Code is amended to read as follows:

"(ii) such section shall be applied by substituting '10 percent or more' for 'more than 50 percent' each place it appears."

(15) Subsection (b) of section 951 of the 1986 Code is amended by striking out "section 957(d)" and inserting in lieu thereof "section 957(c)".

(16) Subsection (c) of section 952 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR DETERMINING EARNINGS AND PROFITS.—For purposes of this subsection, earnings and profits of any controlled foreign corporation shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the controlled foreign corporation."

(17) Subparagraph (A) of section 881(c)(4) of the 1986 Code is amended by striking out clauses (ii), (iii), (iv), and (v) and inserting in lieu thereof the following:

"(ii) Paragraph (4) of section 954(b) (relating to exception for certain income subject to high foreign taxes).

"(iii) Clause (i) of section 954(c)(3)(A) (relating to certain income received from related persons)."

(18) Subparagraph (B) of section 954(c)(1) of the 1986 Code is amended by striking out "or" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) which is an interest in a trust, partnership, or REMIC, or".

(19)(A) Subsection (a) of section 6046 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by redesignating paragraph (3) as paragraph (4), and by inserting after paragraph (2) the following new paragraph:

"(3) each person (not described in paragraph (2)) who, at any time after January 1, 1987, is treated as a United States shareholder under section 953(c) with respect to a foreign corporation, and".

(B) Subsection (b) of section 6046 of the 1986 Code is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "paragraph (2) or (3) of subsection (a)".

(C) Subsection (a) of section 6046 of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a foreign corporation with respect to which any person is treated as a United States shareholder under section 953(c), paragraph (1) shall be treated as including a reference to each United States person who is an officer or director of such corporation."

(20) Subparagraph (B) of section 954(c)(1) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following:

"In the case of any regular dealer in property, gains and losses from the sale or exchange of any such property or arising out of bona fide hedging transactions reasonably necessary to the conduct of the business of being a dealer in such property shall not be taken into account under this subparagraph. Gains and losses from the sale or exchange of any property which, in the hands of the controlled foreign corporation, is property described in section 1221(1) also shall not be taken into account under this subparagraph."

(21) Subsection (c) of section 953 (as amended by this subsection) is amended by striking out paragraph (7) and inserting in lieu thereof the following:

"(7) COORDINATION WITH SECTION 1248.—For purposes of section 1248, if any person is (or would be but for paragraph (3)) treated under paragraph (1) as a United States shareholder with respect to any foreign corporation which would be taxed under subchapter L if it were a domestic corporation and which is (or would be but for paragraph (3)) treated under paragraph (1) as a controlled foreign corporation—

"(A) such person shall be treated as meeting the stock ownership requirements of section 1248(a)(2) with respect to such foreign corporation, and

"(B) such foreign corporation shall be treated as a controlled foreign corporation.

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subsection, including—

"(A) regulations preventing the avoidance of this subsection through cross insurance arrangements or otherwise, and

"(B) regulations which may provide that a person will not be treated as a United States shareholder under paragraph (1) with respect to any foreign corporation if neither such person (nor any related person to such person) is (directly or indirectly) insured under any policy of insurance or reinsurance issued by such foreign corporation."

(22) Subclause (III) of section 952(c)(1)(B)(iii) of the 1986 Code is amended by striking out "insurance income" and inserting in lieu thereof "insurance income or foreign personal holding company income,".

(23) Clause (iii) of section 952(c)(1)(B) of the 1986 Code is amended by redesignating subclauses (III) and (IV) as subclauses (V) and (VI), respectively, and by inserting after subclause (II) the following new subclauses:

"(III) foreign base company sales income,

"(IV) foreign base company services income,".

(24) Clause (ii) of section 952(c)(1)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In determining the deficit attributable to qualified activities described in clause (iii)(III) or (IV), deficits in earnings and profits (to the extent not previously taken into account under this section) for taxable years beginning after 1962 and before 1987 also shall be taken into account. In the case of the qualified activity described in clause (iii)(II), the rule of the preceding sentence shall apply, except that '1982' shall be substituted for '1962'."

(25)(A) Paragraph (1) of section 952(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN DEFICITS OF MEMBER OF THE SAME CHAIN OF CORPORATIONS MAY BE TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—A controlled foreign corporation may elect to reduce the amount of its subpart F income for any taxable year which is attributable to any qualified activity by the amount of any deficit in earnings and profits of a qualified chain member for a taxable year ending with (or within) the taxable year of such controlled foreign corporation to the extent such deficit is attributable to such activity. To the extent any deficit reduces subpart F income under the preceding sentence, such deficit shall not be taken into account under subparagraph (B).

"(ii) QUALIFIED CHAIN MEMBER.—For purposes of this subparagraph, the term 'qualified chain member' means, with respect to any controlled foreign corporation, any other corporation which is created or organized under the laws of the same foreign country as the controlled foreign corporation but only if—

"(I) all the stock of such other corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such controlled foreign corporation, or

"(II) all the stock of such controlled foreign corporation (other than directors' qualifying shares) is owned at all times during the taxable year in which the deficit arose (directly or through 1 or more corporations other than the common parent) by such other corporation.

"(iii) COORDINATION.—This subparagraph shall be applied after subparagraphs (A) and (B)."

(B) Subparagraph (B) of section 954(c)(3) of the 1986 Code is amended by inserting before the period at the end thereof the following: "or creates (or increases) a deficit which under section 952(c) may reduce the subpart F income of the payor or another controlled foreign corporation".

(j) AMENDMENT RELATED TO SECTION 1224 OF THE REFORM ACT.—Paragraph (2) of section 901(g) of the 1986 Code and section 936(d)(3)(B) of the 1986 Code are each amended by striking out "section 957(c)" and inserting in lieu thereof "section 957(c) (as in

effect on the day before the date of the enactment of the Tax Reform Act of 1986)".

(k) AMENDMENT RELATED TO SECTION 1225 OF THE REFORM ACT.—Subsection (c) of section 1225 of the Reform Act is amended by striking out "March 1, 1986" and inserting in lieu thereof "January 1, 1986". 26 USC 535 note.

(l) AMENDMENTS RELATED TO SECTION 1226 OF THE REFORM ACT.—

(1) Subsection (a) of section 246A of the 1986 Code is amended by striking out the last sentence.

(2)(A) Paragraph (8) of section 245 of the 1986 Code is amended to read as follows:

"(8) DISALLOWANCE OF FOREIGN TAX CREDIT.—No credit shall be allowed under section 901 for any taxes paid or accrued (or treated as paid or accrued) with respect to the United States-source portion of any dividend received by a corporation from a qualified 10-percent-owned foreign corporation."

(B) Subsection (a) of section 245 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) COORDINATION WITH TREATIES.—If—

"(A) any portion of a dividend received by a corporation from a qualified 10-percent-owned foreign corporation would be treated as from sources in the United States under paragraph (9),

"(B) under a treaty obligation of the United States (applied without regard to this subsection), such portion would be treated as arising from sources outside the United States, and

"(C) the taxpayer chooses the benefits of this paragraph, this subsection shall not apply to such dividend (but subsections (a), (b), and (c) of section 904 and sections 902, 907, and 960 shall be applied separately with respect to such portion of such dividend)."

(3) Subsection (a) of section 245 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) COORDINATION WITH SECTION 1248.—For purposes of this subsection, the term 'dividend' does not include any amount treated as a dividend under section 1248."

(m) AMENDMENTS RELATED TO SECTION 1228 OF THE REFORM ACT.—

(1) Subsection (a) of section 1228 of the Reform Act is amended by striking out "and" at the end of paragraph (3), and by striking out paragraph (4) and inserting in lieu thereof the following: 26 USC 897 note.

"(4) the transfer, sale, exchange, or other disposition is part of a single integrated plan, whereby the stock of the corporation described in paragraph (1) becomes owned directly by the 2 corporations specifically referred to in subsection (b) or by such 2 corporations and by 1 or both of their jointly owned direct subsidiaries,

"(5) within 20 days after each transfer, sale, exchange, or other disposition, the person making such transfer, sale, exchange, or other disposition notifies the Internal Revenue Service of the transaction, the date of the transaction, the basis of the stock involved, the holding period for such stock, and such other information as the Internal Revenue Service may require, and

"(6) the integrated plan is completed before the date 4 years after the date of the enactment of the Technical and Miscellaneous Revenue Act of 1988.

In the case of any underpayment attributable to a failure to meet any requirement of this subsection, the period during which such underpayment may be assessed shall in no event expire before the date 5 years after the date of the enactment of the Technical and Miscellaneous Revenue Act of 1988."

(2) Subsection (c) of section 1228 of the Reform Act is hereby repealed.

(n) AMENDMENTS RELATED TO SECTION 1231 OF THE REFORM ACT.—

26 USC 936 note.

(1) Subparagraph (A) of section 1231(g)(2) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of any transfer (or license) which is not to a foreign person, the preceding sentence shall be applied by substituting 'August 16, 1986' for 'November 16, 1985'."

(2) Subparagraph (B) of section 1231(g)(2) of the Reform Act is amended by striking out "was made" and inserting in lieu thereof ", if any, was made".

26 USC 936 note.

(3) Subsection (g) of section 1231 of the Reform Act is amended by adding at the end thereof the following new paragraph:

"(5) TRANSITIONAL RULE FOR INCREASE IN GROSS INCOME TEST.—

"(A) IN GENERAL.—If—

"(i) a corporation fails to meet the requirements of subparagraph (B) of section 936(a)(2) of the Internal Revenue Code of 1986 (as amended by subsection (d)(1)) for any taxable year beginning in 1987 or 1988,

"(ii) such corporation would have met the requirements of such subparagraph (B) if such subparagraph had been applied without regard to the amendment made by subsection (d)(1), and

"(iii) 75 percent or more of the gross income of such corporation for such taxable year (or, in the case of a taxable year beginning in 1988, for the period consisting of such taxable year and the preceding taxable year) was derived from the active conduct of a trade or business within a possession of the United States, such corporation shall nevertheless be treated as meeting the requirements of such subparagraph (B) for such taxable year if it elects to reduce the amount of the qualified possession source investment income for the taxable year by the amount of the shortfall determined under subparagraph (B) of this paragraph.

"(B) DETERMINATION OF SHORTFALL.—The shortfall determined under this subparagraph for any taxable year is an amount equal to the excess of—

"(i) 75 percent of the gross income of the corporation for the 3-year period (or part thereof) referred to in section 936(a)(2)(A) of such Code, over

"(ii) the amount of the gross income of such corporation for such period (or part thereof) which was derived from the active conduct of a trade or business within a possession of the United States.

"(C) SPECIAL RULE.—Any income attributable to the investment of the amount not treated as qualified possession source investment income under subparagraph (A)

shall not be treated as qualified possession source investment income for any taxable year."

(4) Subparagraph (B) of section 1231(a)(1) of the Reform Act is amended by striking out "at the end thereof" and inserting in lieu thereof "at the end of the material relating to payment of cost sharing".

(5)(A) Clause (ii) of section 936(d)(4)(A) of the 1986 Code is amended to read as follows: Puerto Rico.

"(ii) in accordance with a specific authorization granted by the Commissioner of Financial Institutions of Puerto Rico pursuant to regulations issued by such Commissioner."

(B) Clauses (i) and (ii) of section 936(d)(4)(C) of the 1986 Code are each amended by striking out "the Secretary of the Treasury of Puerto Rico" and inserting in lieu thereof "the Commissioner of Financial Institutions of Puerto Rico".

(o) AMENDMENT RELATED TO SECTION 1234 OF THE REFORM ACT.—Subsection (d) of section 6039E of the 1986 Code is amended by adding at the end thereof the following new sentence:

"Nothing in the preceding sentence shall be construed to require the disclosure of information which is subject to section 245A of the Immigration and Nationality Act (as in effect on the date of the enactment of this sentence)."

(p) AMENDMENTS RELATED TO SECTION 1235 OF THE REFORM ACT.—

(1) Paragraph (1) of section 1291(d) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—This section shall not apply with respect to any distribution paid by a passive foreign investment company, or any disposition of stock in a passive foreign investment company, if such company is a qualified electing fund for each of its taxable years—

"(A) which begins after December 31, 1986, and for which such company is a passive foreign investment company, and

"(B) which includes any portion of the taxpayer's holding period."

(2) Subsection (c) of section 1296 of the 1986 Code is amended by striking out "owns at least" and inserting in lieu thereof "owns (directly or indirectly) at least".

(3) Paragraph (3) of section 1291(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(F) proper adjustment shall be made for amounts not includible in gross income by reason of section 551(d), 959(a), or 1293(c)."

(4) Paragraph (2) of section 1294(c) of the 1986 Code is amended—

(A) by striking out "is disposed of" in subparagraph (A) and inserting in lieu thereof "is transferred",

(B) by striking out "such disposition or cessation" each place it appears and inserting in lieu thereof "such transfer or cessation", and

(C) by striking out "DISPOSITIONS" in the paragraph heading and inserting in lieu thereof "TRANSFERS".

(5) Paragraph (1) of section 1296(b) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'passive income' means any income which is of a kind which would be foreign personal holding company income as defined in section 954(c)."

(6)(A) Subsection (f) of section 1291 of the 1986 Code is amended to read as follows:

"(f) RECOGNITION OF GAIN.—To the extent provided in regulations, in the case of any transfer of stock in a passive foreign investment company where (but for this subsection) there is not full recognition of gain, the excess (if any) of—

"(1) the fair market value of such stock, over

"(2) its adjusted basis,

shall be treated as gain from the sale or exchange of such stock and shall be recognized notwithstanding any provision of law. Proper adjustment shall be made to the basis of any such stock for gain recognized under the preceding sentence."

(B) Subsection (e) of section 1291 of the 1986 Code is amended by striking out "Rules similar" and inserting in lieu thereof "Except to the extent inconsistent with the regulations prescribed under subsection (f), rules similar".

(7)(A) Paragraphs (4) and (5) of section 1291(a) of the 1986 Code are hereby repealed.

(B) Section 1291 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) COORDINATION WITH FOREIGN TAX CREDIT RULES.—

"(1) IN GENERAL.—If there are creditable foreign taxes with respect to any distribution in respect of stock in a passive foreign investment company—

"(A) the amount of such distribution shall be determined for purposes of this section with regard to section 78,

"(B) the excess distribution taxes shall be allocated ratably to each day in the taxpayer's holding period for the stock, and

"(C) to the extent—

"(i) that such excess distribution taxes are allocated to a taxable year referred to in subsection (a)(1)(B), such taxes shall be taken into account under section 901 for the current year, and

"(ii) that such excess distribution taxes are allocated to any other taxable year, such taxes shall reduce (subject to the principles of section 904(d) and not below zero) the increase in tax determined under subsection (c)(2) for such taxable year by reason of such distribution (but such taxes shall not be taken into account under section 901).

"(2) DEFINITIONS.—For purposes of this subsection—

"(A) CREDITABLE FOREIGN TAXES.—The term 'creditable foreign taxes' means, with respect to any distribution—

"(i) any foreign taxes deemed paid under section 902 with respect to such distribution, and

"(ii) any withholding tax imposed with respect to such distribution,

but only if the taxpayer chooses the benefits of section 901 and such taxes are creditable under section 901 (determined without regard to paragraph (1)(C)(ii)).

"(B) EXCESS DISTRIBUTION TAXES.—The term 'excess distribution taxes' means, with respect to any distribution, the

portion of the creditable foreign taxes with respect to such distribution which is attributable (on a pro rata basis) to the portion of such distribution which is an excess distribution.

"(C) SECTION 1248 GAIN.—The rules of this subsection also shall apply in the case of any gain which but for this section would be includible in gross income as a dividend under section 1248."

(8) Section 1294 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) CROSS REFERENCE.—

"For provisions providing for interest for the period of the extension under this section, see section 6601."

(9) Paragraph (2) of section 1291(e) of the 1986 Code is amended by striking out "not" the second place it appears.

(10)(A) Subsection (a) of section 1297 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) OPTIONS.—To the extent provided in regulations, if any person has an option to acquire stock, such stock shall be considered as owned by such person. For purposes of this paragraph, an option to acquire such an option, and each one of a series of such options, shall be considered as an option to acquire such stock."

(B) Paragraph (5) of section 1297(a) of the 1986 Code (as redesignated by subparagraph (A)) is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (4)".

(11) Paragraph (3) of section 904(d) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(I) LOOK-THRU APPLIES TO PASSIVE FOREIGN INVESTMENT COMPANY INCLUSION.—If—

"(i) a passive foreign investment company is a controlled foreign corporation, and

"(ii) the taxpayer is a United States shareholder in such controlled foreign corporation,

any amount included in gross income under section 1293 shall be treated as income in a separate category to the extent such amount is attributable to income in such category."

(12) Clause (ii) of section 1291(a)(1)(B) of the 1986 Code is amended to read as follows:

"(ii) any period in the taxpayer's holding period before the 1st day of the 1st taxable year of the company which begins after December 31, 1986, and for which it was a passive foreign investment company, and".

(13) Subparagraph (A) of section 1291(b)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii), any excess distribution received during such 3-year period shall be taken into account only to the extent it was included in gross income under subsection (a)(1)(B)."

(14) Subparagraph (A) of section 1291(a)(3) of the 1986 Code is amended by striking out "in the case of an excess distribution"

and inserting in lieu thereof "for purposes of applying this section to an excess distribution".

(15) Subsection (b) of section 1293 of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, if the fund establishes to the satisfaction of the Secretary that it uses a shorter period than the taxable year to determine shareholders' interests in the earnings of such fund, pro rata shares may be determined by using such shorter period."

(16) Subparagraph (B) of section 1296(b)(2) of the 1986 Code is amended by striking out "by a corporation which" and inserting in lieu thereof "by a corporation which is predominantly engaged in an insurance business and which".

(17) Paragraph (5) of section 1297(b) of the 1986 Code is amended to read as follows:

"(5) APPLICATION OF PART WHERE HELD BY OTHER ENTITY.—

"(A) IN GENERAL.—Under regulations, in any case in which a United States person is treated as owning stock in a passive foreign investment company by reason of subsection (a)—

"(i) any disposition by the United States person or the person owning such stock which results in the United States person being treated as no longer owning such stock, or

"(ii) any disposition of property in respect of such stock to the person holding such stock,

shall be treated as a disposition to, the United States person with respect to the stock in the passive foreign investment company.

"(B) AMOUNT TREATED IN SAME MANNER AS PREVIOUSLY TAXED INCOME.—Rules similar to the rules of section 959(b) shall apply to any amount described in subparagraph (A) and to any amount included in gross income under section 1293(a) (or which would have been so included but for section 951(f)) in respect of stock which the taxpayer is treated as owning under subsection (a)."

(18) Subsection (e) of section 1293 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) DETERMINATION OF EARNINGS AND PROFITS.—The earnings and profits of any qualified electing fund shall be determined without regard to paragraphs (4), (5), and (6) of section 312(n). Under regulations, the preceding sentence shall not apply to the extent it would increase earnings and profits by an amount which was previously distributed by the qualified electing fund."

(19) Subsection (d) of section 1248 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) AMOUNTS INCLUDED IN GROSS INCOME UNDER SECTION 1293.—Earnings and profits of the foreign corporation attributable to any amount previously included in the gross income of such person under section 1293 with respect to the stock sold or exchanged, but only to the extent the inclusion of such amount did not result in an exclusion of an amount under section 1293(c)."

(20) Paragraph (6) of section 1297(b) of the 1986 Code is amended by striking out "If a" and inserting in lieu thereof "Except as provided in regulations, if a".

(21) Section 1246 of the 1986 Code is amended by redesignating the subsection relating to information with respect to certain foreign investment companies as subsection (f), by redesignating the subsection relating to coordination with section 1248 as subsection (g), and by redesignating the subsection relating to cross reference as subsection (h).

(22) Subparagraph (A) of section 1297(b)(3) of the 1986 Code is amended to read as follows:

"(A) neither such corporation (nor any predecessor) was a passive foreign investment company for any prior taxable year,".

(23) Subsection (c) of section 1293 of the 1986 Code is amended by striking out "shall be treated as a distribution which is not a dividend" and inserting in lieu thereof "shall be treated, for purposes of this chapter, as a distribution which is not a dividend; except that such distribution shall immediately reduce earnings and profits".

(24) Subsection (b) of section 1297 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) TREATMENT OF CERTAIN FOREIGN CORPORATIONS OWNING STOCK IN 25-PERCENT OWNED DOMESTIC CORPORATION.—

"(A) IN GENERAL.—If—

"(i) a foreign corporation is subject to the tax imposed by section 531 (or waives any benefit under any treaty which would otherwise prevent the imposition of such tax), and

"(ii) such foreign corporation owns at least 25 percent (by value) of the stock of a domestic corporation,

for purposes of determining whether such foreign corporation is a passive foreign investment company, any qualified stock held by such domestic corporation shall be treated as an asset which does not produce passive income (and is not held for the production of passive income) and any amount included in gross income with respect to such stock shall not be treated as passive income.

"(B) QUALIFIED STOCK.—For purposes of subparagraph (A), the term 'qualified stock' means any stock in a C corporation which is a domestic corporation and which is not a regulated investment company or real estate investment trust."

(25) Section 1294 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF LOANS TO SHAREHOLDER.—For purposes of this section and section 1293, any loan by a qualified electing fund (directly or indirectly) to a shareholder of such fund shall be treated as a distribution to such shareholder.

(26)(A) Paragraph (2) of section 1296(b) of the 1986 Code is amended by striking out "or" at the end of subparagraph (A), by striking out the period at the end of subparagraph (B) and inserting in lieu thereof ", or", and by adding at the end thereof the following:

"(C) which is interest, a dividend, or a rent or royalty, which is received or accrued from a related person (within the meaning of section 954(d)(3)) to the extent such amount is properly allocable (under regulations prescribed by the Secretary) to income of such related person which is not passive income.

For purposes of subparagraph (C), the term 'related person' has the meaning given such term by section 954(d)(3) determined by substituting 'foreign corporation' for 'controlled foreign corporation' each place it appears in section 954(d)(3)."

(B) The paragraph heading for paragraph (2) of section 1296(b) of the 1986 Code is amended by striking out "EXCEPTION FOR CERTAIN BANKS AND INSURANCE COMPANIES" and inserting in lieu thereof "EXCEPTIONS".

(27) Subsection (a) of section 1296 of the 1986 Code is amended by adding at the end thereof the following new sentences: "A foreign corporation may elect to have the determination under paragraph (2) based on the adjusted bases of its assets in lieu of their value. Such an election, once made, may be revoked only with the consent of the Secretary."

(28) Paragraph (2) of section 1291(d) of the 1986 Code is amended by striking out subparagraph (B) and inserting in lieu thereof the following:

"(B) ADDITIONAL ELECTION FOR SHAREHOLDER OF CONTROLLED FOREIGN CORPORATIONS.—

"(i) IN GENERAL.—If—

"(I) a passive foreign investment company becomes a qualified electing fund for a taxable year which begins after December 31, 1986,

"(II) the taxpayer holds stock in such company on the first day of such taxable year, and

"(III) such company is a controlled foreign corporation (as defined in section 957(a)),

the taxpayer may elect to include in gross income as a dividend received on such first day an amount equal to the portion of the post-1986 earnings and profits of such company attributable (under regulations prescribed by the Secretary) to the stock in such company held by the taxpayer on such first day. The amount treated as a dividend under the preceding sentence shall be treated as an excess distribution and shall be allocated under subsection (a)(1)(A) only to days during periods taken into account in determining the post-1986 earnings and profits so attributable.

"(ii) POST-1986 EARNINGS AND PROFITS.—For purposes of clause (i), the term 'post-1986 earnings and profits' means earnings and profits which were accumulated in taxable years of such company beginning after December 31, 1986, and during the period or periods the stock was held by the taxpayer while the company was a passive foreign investment company.

"(iii) COORDINATION WITH SECTION 959(e).—For purposes of section 959(e), any amount included in gross income under this subparagraph shall be treated as included in gross income under section 1248(a).

"(C) ADJUSTMENTS.—In the case of any stock to which subparagraph (A) or (B) applies—

"(i) the adjusted basis of such stock shall be increased by the gain recognized under subparagraph (A) or the amount treated as a dividend under subparagraph (B), as the case may be, and

"(ii) the taxpayer's holding period in such stock shall be treated as beginning on the first day referred to in such subparagraph."

(29)(A) Clause (ii) of section 904(d)(2)(A) of the 1986 Code is amended by striking out "or section 1293" and inserting in lieu thereof "or, except as provided in subparagraph (E)(iii) or paragraph (3)(I), section 1293".

(B) Subparagraph (E) of section 904(d)(2) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) TREATMENT OF INCLUSIONS UNDER SECTION 1293.—If any foreign corporation is a non-controlled section 902 corporation with respect to the taxpayer, any inclusion under section 1293 with respect to such corporation shall be treated as a dividend from such corporation."

(30) Clause (ii) of section 864(b)(2)(A) of the 1986 Code is amended by striking out "section 542(c)(7)" and inserting in lieu thereof "section 542(c)(7), 542(c)(10),".

(31) Paragraph (1) of section 1291(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Any increase in the tax imposed by this chapter for the current year under subsection (a) to the extent attributable to the amount referred to in subparagraph (B) shall be treated as interest paid under section 6601 on the due date for the current year."

(32) Section 1293 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) OTHER SPECIAL RULES.—

"(1) EXCEPTION FOR CERTAIN INCOME.—For purposes of determining the amount included in the gross income of any person under this section, the ordinary earnings and net capital gain of a qualified electing fund shall not include any item of income received by such fund if—

"(A) such fund is a controlled foreign corporation (as defined in section 957(a)) and such person is a United States shareholder (as defined in section 951(b)) in such fund, and

"(B) such person establishes to the satisfaction of the Secretary that—

"(i) such income was subject to an effective rate of income tax imposed by a foreign country greater than 90 percent of the maximum rate of tax specified in section 11, or

"(ii) such income is—

"(I) from sources within the United States,

"(II) effectively connected with the conduct by the qualified electing fund of a trade or business in the United States, and

"(III) not exempt from taxation (or subject to a reduced rate of tax) pursuant to a treaty obligation of the United States.

"(2) PREVENTION OF DOUBLE INCLUSION.—The Secretary shall prescribe such adjustment to the provisions of this section as may be necessary to prevent the same item of income of a qualified electing fund from being included in the gross income of a United States person more than once."

(33) Paragraph (3) of section 1291(b) of the 1986 Code (as amended by paragraph (3)) is amended by striking out "and" at the end of subparagraph (E), by striking out the period at the

end of subparagraph (F) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(G) if a charitable deduction was allowable under section 642(c) to a trust for any distribution of its income, proper adjustments shall be made for the deduction so allowable to the extent allocable to distributions or gain in respect of stock in a passive foreign investment company."

(34) Paragraph (2) of section 1294(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, the preceding sentence shall not apply in the case of a transfer in a transaction with respect to which gain or loss is not recognized (in whole or in part), and the transferee in such transaction shall succeed to the treatment under this section of the transferor."

(35) Section 1297 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) TREATMENT OF STOCK HELD BY POOLED INCOME FUND.—If stock in a passive foreign investment company is owned (or treated as owned under subsection (a)) by a pooled income fund (as defined in section 642(c)(5)) and no portion of any gain from a disposition of such stock may be allocated to income under the terms of the governing instrument of such fund—

"(1) section 1291 shall not apply to any gain on a disposition of such stock by such fund if (without regard to section 1291) a deduction would be allowable with respect to such gain under section 642(c)(3),

"(2) section 1293 shall not apply with respect to such stock, and

"(3) in determining whether section 1291 applies to any distribution in respect of such stock, subsection (d) of section 1291 shall not apply."

(36) Paragraph (1) of section 1297(b) of the 1986 Code is amended by striking out "passive foreign investment corporation" and inserting in lieu thereof "passive foreign investment company".

(37)(A) Paragraph (2) of section 1295(b) of the 1986 Code is amended by adding at the end thereof the following new sentence: "To the extent provided in regulations, such an election may be made later than as required by the preceding sentence in cases where the company failed to make a timely election because it reasonably believed it was not a passive foreign investment company."

26 USC 1295 note.

(B) The period during which an election under section 1295(b) of the 1986 Code may be made shall in no event expire before the date 60 days after the date of enactment of this Act.

(q) AMENDMENTS RELATED TO SECTION 1241 OF THE ACT.—

(1)(A) Subparagraph (B) of section 884(b)(2) of the 1986 Code is amended to read as follows:

"(B) LIMITATION.—

"(i) IN GENERAL.—The increase under subparagraph (A) for any taxable year shall not exceed the accumulated effectively connected earnings and profits as of the close of the preceding taxable year.

"(ii) ACCUMULATED EFFECTIVELY CONNECTED EARNINGS AND PROFITS.—For purposes of clause (i), the term

'accumulated effectively connected earnings and profits' means the excess of—

"(I) the aggregate effectively connected earnings and profits for preceding taxable years beginning after December 31, 1986, over

"(II) the aggregate dividend equivalent amounts determined for such preceding taxable years."

(B) For purposes of applying section 884 of the 1986 Code, the earnings and profits of any corporation shall be determined without regard to any increase in earnings and profits under sections 1023(e)(3)(C) and 1021(e)(2)(C) of the Reform Act or arising from section 823(b)(4)(C) of the 1986 Code. 26 USC 884 note.

(2)(A) Paragraph (1) of section 884(e) of the 1986 Code is amended to read as follows:

"(1) LIMITATION ON TREATY EXEMPTION.—No treaty between the United States and a foreign country shall exempt any foreign corporation from the tax imposed by subsection (a) (or reduce the amount thereof) unless—

"(A) such treaty is an income tax treaty, and

"(B) such foreign corporation is a qualified resident of such foreign country."

(B) Paragraph (3) of section 884(e) of the 1986 Code is amended to read as follows:

"(3) COORDINATION WITH WITHHOLDING TAX.—

"(A) IN GENERAL.—If a foreign corporation is subject to the tax imposed by subsection (a) for any taxable year (determined after the application of any treaty), no tax shall be imposed by section 871(a), 881(a), 1441, or 1442 on any dividends paid by such corporation out of its earnings and profits for such taxable year.

"(B) LIMITATION ON CERTAIN TREATY BENEFITS.—If—

"(i) any dividend described in section 861(a)(2)(B) is received by a foreign corporation, and

"(ii) subparagraph (A) does not apply to such dividend,

rules similar to the rules of subparagraphs (A) and (B) of subsection (f)(3) shall apply to such dividend."

(C) Subsection (f) of section 884 of the 1986 Code is amended—

(i) by striking out the 2nd sentence of paragraph (1), and

(ii) by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH TREATIES.—

"(A) PAYOR MUST BE QUALIFIED RESIDENT.—In the case of any interest described in paragraph (1) which is paid or accrued by a foreign corporation, no benefit under any treaty between the United States and the foreign country of which such corporation is a resident shall apply unless—

"(i) such treaty is an income tax treaty, and

"(ii) such foreign corporation is a qualified resident of such foreign country.

"(B) RECIPIENT MUST BE QUALIFIED RESIDENT.—In the case of any interest described in paragraph (1) which is received or accrued by any corporation, no benefit under any treaty between the United States and the foreign country of which such corporation is a resident shall apply unless—

"(i) such treaty is an income tax treaty, and

"(ii) such foreign corporation is a qualified resident of such foreign country."

(3) Paragraph (1) of section 884(f) of the 1986 Code is amended—

(A) by striking out "sections 871, 881, 1441, and 1442" and inserting in lieu thereof "this subtitle", and

(B) by adding at the end thereof the following new sentence:

"To the extent provided in regulations, subparagraph (A) shall not apply to interest in excess of the amounts reasonably expected to be deductible under section 882 in computing the effectively connected taxable income of such foreign corporation."

(4) Paragraph (4) of section 884(e) of the 1986 Code is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) CORPORATIONS OWNED BY PUBLICLY TRADED DOMESTIC CORPORATIONS.—A foreign corporation which is a resident of a foreign country shall be treated as a qualified resident of such foreign country if—

"(i) such corporation is wholly owned (directly or indirectly) by a domestic corporation, and

"(ii) the stock of such domestic corporation is primarily and regularly traded on an established securities market in the United States."

(5) Subparagraph (A) of section 884(e)(4) of the 1986 Code is amended—

(A) by striking out "more than 50 percent" in clause (i) and inserting in lieu thereof "50 percent or more", and

(B) by striking out "or the United States" in clause (ii) and inserting in lieu thereof "or citizens or residents of the United States".

(6) Subsection (e) of section 884 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) EXCEPTION FOR INTERNATIONAL ORGANIZATIONS.—This section shall not apply to an international organization (as defined in section 7701(a)(18))."

(7) Subparagraph (B) of section 861(a)(2) of the 1986 Code is amended by striking out "other than under section 884(d)(2)" each place it appears and inserting in lieu thereof "other than income described in section 884(d)(2)".

(8) Paragraph (2) of section 26(b) of the 1986 Code is amended by striking out "and" at the end of subparagraph (J), by striking out the period at the end of subparagraph (K) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(L) section 884 (relating to branch profits tax)."

(9) Section 861 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) CROSS REFERENCE.—

"For treatment of interest paid by the branch of a foreign corporation, see section 884(f)."

(10) The paragraph (6) of section 906(b) of the 1986 Code which was added by section 1241(c) of the Reform Act is redesignated as paragraph (7).

(11) Subsection (c) of section 2104 of the 1986 Code is amended by striking out "section 861(a)(1)(B), section 861(a)(1)(G), or section 861(a)(1)(H)" and inserting in lieu thereof "subparagraph (A), (C), or (D) of section 861(a)(1)".

(12) Subparagraph (A) of section 904(g)(9) of the 1986 Code is amended by striking out "861(a)(1)(B)" and inserting in lieu thereof "861(a)(1)(A)".

(13)(A) Paragraph (1) of section 4373 of the 1986 Code is amended to read as follows:

"(1) EFFECTIVELY CONNECTED ITEMS.—Any amount which is effectively connected with the conduct of a trade or business within the United States unless such amount is exempt from the application of section 882(a) pursuant to a treaty obligation of the United States."

(B) The amendment made by subparagraph (A) shall apply with respect to premiums paid after the date 30 days after the date of the enactment of this Act. 26 USC 4373 note.

(14) Paragraph (1) of section 884(f) of the 1986 Code is amended by inserting "(or having gross income treated as effectively connected with the conduct of a trade or business in the United States)" after "United States" in the material preceding subparagraph (A) thereof.

(15) Section 861(a)(2)(C) of the 1986 Code is amended by striking out "section 243(d)" and inserting in lieu thereof "section 243(e)".

(r) AMENDMENTS RELATED TO SECTION 1242 OF THE REFORM ACT.—

(1) Paragraph (7) of section 864(c) of the 1986 Code is amended to read as follows:

"(7) TREATMENT OF CERTAIN PROPERTY TRANSACTIONS.—For purposes of this title, if—

"(A) any property ceases to be used or held for use in connection with the conduct of a trade or business within the United States, and

"(B) such property is disposed of within 10 years after such cessation,

the determination of whether any income or gain attributable to such disposition is taxable under section 871(b) or 882 (as the case may be) shall be made as if such sale or exchange occurred immediately before such cessation and without regard to the requirement that the taxpayer be engaged in a trade or business within the United States during the taxable year for which such income or gain is taken into account."

(2) Paragraph (6) of section 864(c) of the 1986 Code is amended to read as follows:

"(6) TREATMENT OF CERTAIN DEFERRED PAYMENTS, ETC.—For purposes of this title, in the case of any income or gain of a nonresident alien individual or a foreign corporation which—

"(A) is taken into account for any taxable year, but

"(B) is attributable to a sale or exchange of property or the performance of services (or any other transaction) in any other taxable year,

the determination of whether such income or gain is taxable under section 871(b) or 882 (as the case may be) shall be made as if such income or gain were taken into account in such other taxable year and without regard to the requirement that the taxpayer be engaged in a trade or business within the United States during the taxable year referred to in subparagraph (A)."

(s) AMENDMENTS RELATED TO SECTION 1246 OF THE REFORM ACT.—(1)(A) Section 1446 of the 1986 Code is amended to read as follows:

"SEC. 1446. WITHHOLDING TAX ON FOREIGN PARTNERS' SHARE OF EFFECTIVELY CONNECTED INCOME.

Regulations.

"(a) GENERAL RULE.—If—

"(1) a partnership has effectively connected taxable income for any taxable year, and

"(2) any portion of such income is allocable under section 704 to a foreign partner,

such partnership shall pay a withholding tax under this section at such time and in such manner as the Secretary shall by regulations prescribe.

"(b) AMOUNT OF WITHHOLDING TAX.—

"(1) IN GENERAL.—The amount of the withholding tax payable by any partnership under subsection (a) shall be equal to the applicable percentage of the effectively connected taxable income of the partnership which is allocable under section 704 to foreign partners.

"(2) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the term 'applicable percentage' means—

"(A) the highest rate of tax specified in section 1 in the case of the portion of the effectively connected taxable income which is allocable under section 704 to foreign partners who are not corporations, and

"(B) the highest rate of tax specified in section 11(b) in the case of the portion of the effectively connected taxable income which is allocable under section 704 to foreign partners which are corporations.

"(c) EFFECTIVELY CONNECTED TAXABLE INCOME.—For purposes of this section, the term 'effectively connected taxable income' means the taxable income of the partnership which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States computed with the following adjustments:

"(1) Paragraph (1) of section 703(a) shall not apply.

Petroleum and petroleum products. Natural gas.

"(2) The partnership shall be allowed a deduction for depletion with respect to oil and gas wells but the amount of such deduction shall be determined without regard to sections 613 and 613A.

"(3) There shall not be taken into account any item of income, gain, loss, or deduction to the extent allocable under section 704 to any partner who is not a foreign partner.

"(d) TREATMENT OF FOREIGN PARTNERS.—

"(1) ALLOWANCE OF CREDIT.—Each foreign partner of a partnership shall be allowed a credit under section 33 for such partner's share of the withholding tax paid by the partnership under this section. Such credit shall be allowed for the partner's taxable year in which (or with which) the partnership taxable year (for which such tax was paid) ends.

"(2) CREDIT TREATED AS DISTRIBUTED TO PARTNER.—A foreign partner's share of any withholding tax paid by the partnership under this section shall be treated as distributed to such partner by such partnership on the last day of the partnership's taxable year (for which such tax was paid).

"(e) FOREIGN PARTNER.—For purposes of this section, the term 'foreign partner' means any partner who is not a United States person.

"(f) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations providing for the application of this section in the case of publicly traded partnerships."

(B) Paragraph (2) of section 6401(b) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following: "The preceding sentence shall not apply to any credit so allowed by reason of section 1446."

(C) The table of sections for subchapter A of chapter 3 of the 1986 Code is amended by striking out the item relating to section 1446 and inserting in lieu thereof the following:

"Sec. 1446. Withholding of tax on foreign partners' share of effectively connected income."

(D) The amendments made by this paragraph shall apply to taxable years beginning after December 31, 1987. No amount shall be required to be deducted and withheld under section 1446 of the 1986 Code (as in effect before the amendment made by subparagraph (A)). 26 USC 1446 note.

(2)(A) Subsection (a) of section 872 of the 1986 Code is amended by striking out "the case of a nonresident alien individual" and inserting in lieu thereof "the case of a nonresident alien individual, except where the context clearly indicates otherwise".

(B) Subsection (b) of section 882 of the 1986 Code is amended by striking out "the case of a foreign corporation" and inserting in lieu thereof "the case of a foreign corporation, except where the context clearly indicates otherwise".

(t) AMENDMENTS RELATED TO SECTION 1247 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 892(a)(2) of the 1986 Code is amended by striking out "or" at the end of clause (i), by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iii) derived from the disposition of any interest in a controlled commercial entity."

(2) Clause (ii) of section 892(a)(2)(A) of the 1986 Code is amended to read as follows:

"(ii) received by a controlled commercial entity or received (directly or indirectly) from a controlled commercial entity."

(3) Subsection (a) of section 892 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT AS RESIDENT.—For purposes of this title, a foreign government shall be treated as a corporate resident of its country. A foreign government shall be so treated for purposes of any income tax treaty obligation of the United States if such government grants equivalent treatment to the Government of the United States."

(4) Section 893 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) LIMITATION ON EXCLUSION.—Subsection (a) shall not apply to—

"(1) any employee of a controlled commercial entity (as defined in section 892(a)(2)(B)), or

"(2) any employee of a foreign government whose services are primarily in connection with a commercial activity (whether within or outside the United States) of the foreign government."

(u) AMENDMENT RELATED TO SECTION 1249 OF THE REFORM ACT.—Subsection (d) of section 1503 of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(3) TREATMENT OF LOSSES OF SEPARATE BUSINESS UNITS.—To the extent provided in regulations, any loss of a separate unit of a domestic corporation shall be subject to the limitations of this subsection in the same manner as if such unit were a wholly owned subsidiary of such corporation.

Regulations.

"(4) INCOME ON ASSETS ACQUIRED AFTER THE LOSS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to prevent the avoidance of the purposes of this subsection by contributing assets to the corporation with the dual consolidated loss after such loss was sustained."

(v) AMENDMENTS RELATED TO SECTION 1261 OF THE REFORM ACT.—

(1)(A) So much of section 986 of the 1986 Code as precedes subsection (c) thereof is amended to read as follows:

"SEC. 986. DETERMINATION OF FOREIGN TAXES AND FOREIGN CORPORATION'S EARNINGS AND PROFITS.

"(a) FOREIGN TAXES.—

"(1) IN GENERAL.—For purposes of determining the amount of the foreign tax credit—

"(A) any foreign income taxes shall be translated into dollars using the exchange rates as of the time such taxes were paid to the foreign country or possession of the United States, and

"(B) any adjustment to the amount of foreign income taxes shall be translated into dollars using—

"(i) except as provided in clause (ii), the exchange rate as of the time when such adjustment is paid to the foreign country or possession, or

"(ii) in the case of any refund or credit of foreign income taxes, using the exchange rate as of the time of original payment of such foreign income taxes.

"(2) FOREIGN INCOME TAXES.—For purposes of paragraph (1), 'foreign income taxes' means any income, war profits, or excess profits taxes paid to any foreign country or to any possession of the United States.

"(b) EARNINGS AND PROFITS AND DISTRIBUTIONS.—For purposes of determining the tax under this subtitle—

"(1) of any shareholder of any foreign corporation, the earnings and profits of such corporation shall be determined in the corporation's functional currency, and

"(2) in the case of any United States person, the earnings and profits determined under paragraph (1) (when distributed, deemed distributed, or otherwise taken into account under this subtitle) shall (if necessary) be translated into dollars using the appropriate exchange rate."

(B) Section 987 of the 1986 Code is amended by inserting "and" at the end of paragraph (2), by striking out ", and" at the end of paragraph (3) and inserting in lieu thereof a period, and by striking out paragraph (4).

(C) The table of sections for subpart J of part III of subchapter N of chapter 1 is amended by striking out the item relating to section 986 and inserting in lieu thereof the following:

"Sec. 986. Determination of foreign taxes and foreign corporation's earnings and profits."

(2)(A) Subsection (c) of section 988 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES WHERE TAXPAYER TAKES OR MAKES DELIVERY.—If the taxpayer takes or makes delivery in connection with any section 988 transaction described in paragraph (1)(B)(iii), any gain or loss (determined as if the taxpayer sold the contract, option, or instrument on the date on which he took or made delivery for its fair market value on such date) shall be recognized in the same manner as if such contract, option, or instrument were so sold."

(B) The amendment made by subparagraph (A) shall not apply in any case in which the taxpayer takes or makes delivery before June 11, 1987. 26 USC 988 note.

(3)(A) Subsection (b) of section 988 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR CERTAIN CONTRACTS, ETC.—In the case of any section 988 transaction described in subsection (c)(1)(B)(iii), any gain or loss from such transaction shall be treated as foreign currency gain or loss (as the case may be)."

(B) Subclause (II) of section 988(c)(1)(C)(i) of the 1986 Code is amended to read as follows:

"(II) any gain or loss from such transaction shall be treated as foreign currency gain or loss (as the case may be)."

(C) Paragraph (2) of section 988(c) of the 1986 Code is amended by inserting "or" at the end of subparagraph (A), by striking out ", or" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C).

(D) Paragraph (3) of section 988(c) of the 1986 Code is amended to read as follows:

"(3) PAYMENT DATE.—The term 'payment date' means the date on which the payment is made or received."

(4) The first sentence of paragraph (1) of section 988(d) is amended by striking out "this section" and inserting in lieu thereof "this subtitle".

(5) Subsection (b) of section 989 of the 1986 Code is amended—

(A) by striking out "951(a)" in paragraph (3) and inserting in lieu thereof "951(a)(1)(A)", and

(B) by adding at the end thereof the following new sentence:

"For purposes of the preceding sentence, any amount included in income under section 951(a)(1)(B) shall be treated as an actual distribution made on the last day of the taxable year for which such amount was so included."

(6) Clause (iii) of section 988(c)(1)(B) of the 1986 Code is amended to read as follows:

"(iii) Entering into or acquiring any forward contract, futures contract, option, or similar financial instrument unless such instrument would be marked to Contracts.

market under section 1256 if held on the last day of the taxable year."

(7) Subparagraph (B) of section 988(a)(3) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) SPECIAL RULE FOR PARTNERSHIPS.—To the extent provided in regulations, in the case of a partnership, the determination of residence shall be made at the partner level."

(8) Clause (i) of section 988(a)(3)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If an individual does not have a tax home (as so defined), the residence of such individual shall be the United States if such individual is a United States citizen or a resident alien and shall be a country other than the United States if such individual is not a United States citizen or a resident alien."

(9) Section 903 of the 1986 Code is amended by striking out "this subpart" and inserting in lieu thereof "this part".

(w) AMENDMENTS RELATED TO SECTION 1274 OF THE REFORM ACT.—

(1) Subsection (e) of section 932 of the 1986 Code is amended to read as follows:

"(e) SPECIAL RULE FOR APPLYING SECTION TO TAX IMPOSED IN VIRGIN ISLANDS.—In applying this section for purposes of determining income tax liability incurred to the Virgin Islands, the provisions of this section shall not be affected by the provisions of Federal law referred to in section 934(a)."

(2) Paragraph (4) of section 932(c) of the 1986 Code is amended to read as follows:

"(4) RESIDENTS OF THE VIRGIN ISLANDS.—In the case of an individual—

"(A) who is a bona fide resident of the Virgin Islands at the close of the taxable year,

"(B) who, on his return of income tax to the Virgin Islands, reports income from all sources and identifies the source of each item shown on such return, and

"(C) who fully pays his tax liability referred to in section 934(a) to the Virgin Islands with respect to such income,

for purposes of calculating income tax liability to the United States, gross income shall not include any amount included in gross income on such return, and allocable deductions and credits shall not be taken into account."

(3) Paragraph (2) of section 932(c) of the 1986 Code is amended by striking out "his income tax return" and inserting in lieu thereof "an income tax return".

26 USC 932 note.

(4) Subsection (c) of section 1274 of the Reform Act is amended by striking out "this title" and inserting in lieu thereof "the Internal Revenue Code of 1986".

(x) AMENDMENT RELATED TO SECTION 1275 OF THE REFORM ACT.—Section 1444 of the 1986 Code is amended by striking out "(as modified by section 934A)".

(y) AMENDMENT RELATED TO SECTION 1276 OF THE REFORM ACT.—Subsection (a) of section 7654 of the 1986 Code is amended by striking out "an individual to which" and inserting in lieu thereof "an individual to whom".

(z) AMENDMENT RELATED TO SECTION 1277 OF THE REFORM ACT.—

26 USC 931 note.

(1) Section 1277 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(f) EXEMPTION FROM WITHHOLDING.—Notwithstanding subsection (b), the modification of section 884 of the Internal Revenue Code of 1986 by reason of the amendment to section 881 of such Code by section 1273(b)(1) of this Act shall apply to taxable years beginning after December 31, 1986."

(2) Subsection (e) of section 1277 of the Reform Act is amended by striking out "The preceding sentence" and inserting in lieu thereof "Notwithstanding subsection (b), the preceding sentence".

(aa) COORDINATION WITH TREATIES.—

(1) TREATY OBLIGATIONS.—

(A) Subsection (d) of section 7852 of the 1986 Code is amended to read as follows:

"(d) TREATY OBLIGATIONS.—

"(1) IN GENERAL.—For purposes of determining the relationship between a provision of a treaty and any law of the United States affecting revenue, neither the treaty nor the law shall have preferential status by reason of its being a treaty or law.

"(2) SAVINGS CLAUSE FOR 1954 TREATIES.—No provision of this title (as in effect without regard to any amendment thereto enacted after August 16, 1954) shall apply in any case where its application would be contrary to any treaty obligation of the United States in effect on August 16, 1954."

(B) Section 7852(d)(1) of the 1986 Code, as added by subparagraph (A), shall apply to any taxable period with respect to which the time for assessment of any deficiency has not expired by reason of any law or rule of law before the date of the enactment of this Act. 26 USC 7852 note.

(2) CERTAIN AMENDMENTS TO APPLY NOTWITHSTANDING TREATIES.—The following amendments made by the Reform Act shall apply notwithstanding any treaty obligation of the United States in effect on the date of the enactment of the Reform Act: 26 USC 861 note.

(A) The amendments made by section 1201 of the Reform Act.

(B) The amendments made by title VII of the Reform Act to the extent such amendments relate to the alternative minimum tax foreign tax credit.

(3) CERTAIN AMENDMENTS NOT TO APPLY TO THE EXTENT INCONSISTENT WITH TREATIES.—The following amendments made by the Reform Act shall not apply to the extent the application of such amendments would be contrary to any treaty obligation of the United States in effect on the date of the enactment of the Reform Act: 26 USC 861 note.

(A) The amendments made by section 1211 of the Reform Act to the extent—

(i) such amendments apply in the case of an individual treated as a resident of a foreign country under a treaty obligation of the United States as so in effect, or

(ii) such amendments relate to income of a nonresident from the sale or exchange of inventory property which would otherwise be sourced under section 865(e)(2) of the 1986 Code.

(B) The amendments made by section 1212(a) of the Reform Act; except for purposes of determining the amount of the foreign tax credit.

(C) The amendments made by subsections (b) and (c) of section 1212 of the Reform Act.

(D) The amendments made by section 1214 of the Reform Act; except for purposes of determining the amount of the foreign tax credit.

(E) The amendment made by section 1241(a) of the Reform Act to the extent that, under a treaty obligation of the United States, interest described in section 884(f)(1)(A) of the 1986 Code (as added by such amendment) which is in excess of amounts deducted would be treated as other than United States source.

(F) The amendment made by section 1241(b)(2)(A) of the Reform Act.

(G) The amendment made by section 1241(a) of the Reform Act to the extent such amendment relates to section 884(f)(1)(B) of the 1986 Code.

(H) The amendments made by section 1242 of the Reform Act to the extent they relate to paragraph (7) of section 864(c) of the 1986 Code.

(I) The amendment made by section 1247(a) of the Reform Act.

(J) The amendments made by section 123 of the Reform Act.

26 USC 861 note.

(4) TREATMENT OF TECHNICAL CORRECTIONS.—For purposes of paragraphs (2) and (3), any amendment made by this title shall be treated as if it had been included in the provision of the Reform Act to which such amendment relates.

(5) REPORTING OF CERTAIN TREATY-BASED RETURN POSITIONS.—

(A) Subchapter B of chapter 61 of the 1986 Code is amended by redesignating section 6114 as section 6115 and by inserting after section 6113 the following new section:

"SEC. 6114. TREATY-BASED RETURN POSITIONS.

"(a) IN GENERAL.—Each taxpayer who, with respect to any tax imposed by this title, takes the position that a treaty of the United States overrules (or otherwise modifies) an internal revenue law of the United States shall disclose (in such manner as the Secretary may prescribe) such position—

"(1) on the return of tax for such tax (or any statement attached to such return), or

"(2) if no return of tax is required to be filed, in such form as the Secretary may prescribe.

"(b) WAIVER AUTHORITY.—The Secretary may by regulations waive the requirements of subsection (a) with respect to classes of cases for which the Secretary determines that the waiver will not impede the assessment and collection of tax."

(B) Part I of subchapter B of chapter 68 of the 1986 Code is amended by adding at the end thereof the following new section:

"SEC. 6712. FAILURE TO DISCLOSE TREATY-BASED RETURN POSITIONS.

Law enforcement and crime.

"(a) GENERAL RULE.—If a taxpayer fails to meet the requirements of section 6114, there is hereby imposed a penalty equal to $1,000 ($10,000 in the case of a C corporation) on each such failure.

"(b) AUTHORITY TO WAIVE.—The Secretary may waive all or any part of the penalty provided by this section on a showing by the taxpayer that there was reasonable cause for the failure and that the taxpayer acted in good faith.

"(c) PENALTY IN ADDITION TO OTHER PENALTIES.—The penalty imposed by this section shall be in addition to any other penalty imposed by law."

(C)(i) The table of sections for subchapter B of chapter 61 of the 1986 Code is amended by striking out the item relating to section 6114 and inserting in lieu thereof the following:

"Sec. 6114. Treaty-based return positions.
"Sec. 6115. Cross reference."

(ii) The table of sections for part I of subchapter B of chapter 68 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 6712. Failure to disclose treaty-based return positions."

(D) The amendments made by this paragraph shall apply to taxable periods the due date for filing returns for which (without extension) occurs after December 31, 1988. 26 USC 6114 note.

(6) Subsection (a) of section 894 of the 1986 Code is amended to read as follows:

"(a) TREATY PROVISIONS.—

"(1) IN GENERAL.—The provisions of this title shall be applied to any taxpayer with due regard to any treaty obligation of the United States which applies to such taxpayer.

"(2) CROSS REFERENCE.—

"For relationship between treaties and this title, see section 7852(d)."

(bb) MISCELLANEOUS FOREIGN TECHNICAL CORRECTIONS.—

(1) PROVISIONS RELATING TO FOREIGN PERSONAL HOLDING COMPANIES.—

(A) Subsection (f) of section 551 of the 1986 Code is amended—

(i) by amending paragraph (1) to read as follows: "(1) a foreign partnership or an estate or trust which is a foreign estate or trust, or", and

(ii) by striking out the last sentence and inserting in lieu thereof the following: "In any case to which the preceding sentence applies, the Secretary may by regulations provide that rules similar to the rules of section 1297(b)(5) shall apply, and provide for such other adjustments in the application of this subchapter as may be necessary to carry out the purposes of this subsection."

(B) Subsection (a) of section 551 of the 1986 Code is amended by striking out "(other than estates or trusts the gross income of which under this subtitle includes only income from sources within the United States)" and inserting in lieu thereof "(other than foreign estates or trusts)".

(C) Subsection (c) of section 552 of the 1986 Code is amended to read as follows:

"(c) LOOK-THRU FOR CERTAIN DIVIDENDS AND INTEREST.—

"(1) IN GENERAL.—For purposes of this part, any related person dividend or interest shall be treated as foreign personal holding company income only to the extent such dividend or interest is attributable (determined under rules similar to the rules of subparagraphs (C) and (D) of section 904(d)(3)) to income of the related person which would be foreign personal holding company income.

"(2) RELATED PERSON DIVIDEND OR INTEREST.—For purposes of paragraph (1), the term 'related person dividend or interest' means any dividend or interest which—

"(A) is described in subparagraph (A) of section 954(c)(3), and

"(B) is received from a related person which is not a foreign personal holding company (determined without regard to this subsection).

For purposes of the preceding sentence, the term 'related person' has the meaning given such term by section 954(d)(3) (determined by substituting 'foreign personal holding company' for 'controlled foreign corporation' each place it appears)."

26 USC 551 note.

(D) The amendments made by this paragraph shall apply to taxable years of foreign corporations beginning after December 31, 1986.

(2) TREATMENT OF CERTAIN PAYMENTS OUTSIDE THE UNITED STATES.—

(A) Subparagraph (A) of section 3405(d)(13) of the 1986 Code is amended by striking out "the United States" and inserting in lieu thereof "the United States and any possession of the United States".

(B) Clause (i) of section 3405(d)(13)(B) of the 1986 Code is amended to read as follows:

"(i) a United States citizen or a resident alien of the United States, or".

(C) The heading of paragraph (13) of section 3405(d) of the 1986 Code is amended by striking out "UNITED STATES" and inserting in lieu thereof "UNITED STATES OR ITS POSSESSIONS".

26 USC 3405 note.

(D) The amendments made by this paragraph shall apply to distributions made after the date of the enactment of this Act.

(3) CLARIFICATION OF DISCLOSURE UNDER CERTAIN AGREEMENTS.—

(A) Paragraph (4) of section 6103(k) of the 1986 Code is amended—

(i) by striking out "or other convention" and inserting in lieu thereof "or other convention or bilateral agreement", and

(ii) by striking out "such convention" and inserting in lieu thereof "such convention or bilateral agreement".

(B) Subparagraph (A) of section 6103(b)(5) of the 1986 Code is amended by striking out "the Commonwealth of the Northern Mariana Islands, the Republic of the Marshall Islands, the Federated States of Micronesia, and the Republic of Palau" and inserting in lieu thereof "and the Commonwealth of the Northern Mariana Islands".

Effective date. 26 USC 6103 note.

(C) The amendments made by this paragraph shall take effect on the date of the enactment of the Tax Reform Act of 1986.

(4) COORDINATION OF TREATIES WITH SECTION 904 (g).—

(A) Subsection (g) of section 904 of the 1986 Code is amended by redesignating paragraph (10) as paragraph (11) and by inserting after paragraph (9) the following new paragraph:

"(10) COORDINATION WITH TREATIES.—

"(A) IN GENERAL.—If—

"(i) any amount derived from a United States-owned foreign corporation would be treated as derived from sources within the United States under this subsection by reason of an item of income of such United States-owned foreign corporation,

"(ii) under a treaty obligation of the United States (applied without regard to this subsection and by treating any amount included in gross income under section 951(a)(1) as a dividend), such amount would be treated as arising from sources outside the United States, and

"(iii) the taxpayer chooses the benefits of this paragraph,

this subsection shall not apply to such amount to the extent attributable to such item of income (but subsections (a), (b), and (c) of this section and sections 902, 907, and 960 shall be applied separately with respect to such amount to the extent so attributable).

"(B) SPECIAL RULE.—Amounts included in gross income under section 951(a)(1) shall be treated as a dividend under subparagraph (A)(ii) only if dividends paid by each corporation (the stock in which is taken into account in determining whether the shareholder is a United States shareholder in the United States-owned foreign corporation), if paid to the United States shareholder, would be treated under a treaty obligation of the United States as arising from sources outside the United States (applied without regard to this subsection)."

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendment made by section 121 of the Tax Reform Act of 1984.

Effective date.
26 USC 904 note.

(5) TREATMENT OF ELECTION UNDER SECTION 338.—

(A) IN GENERAL.—Subsection (h) of section 338 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(16) COORDINATION WITH FOREIGN TAX CREDIT PROVISIONS.—Except as provided in regulations, this section shall not apply for purposes of determining the source or character of any item for purposes of subpart A of part III of subchapter N of this chapter (relating to foreign tax credit). The preceding sentence shall not apply to any gain to the extent such gain is includible in gross income as a dividend under section 1248 (determined without regard to any deemed sale under this section by a foreign corporation)."

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply to qualified stock purchases (as defined in section 338(d)(3) of the 1986 Code) after March 31, 1988, except that, in the case of an election under section 338(h)(10) of the 1986 Code, such amendment shall apply to qualified stock purchases (as so defined) after June 10, 1987.

26 USC 338 note.

(6) TREATMENT OF TAX-EXEMPT SHAREHOLDERS OF A DISC.—

(A) Section 995 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF TAX-EXEMPT SHAREHOLDERS.—If any organization described in subsection (a)(2) or (b)(2) of section 511 is a shareholder in a DISC—

"(1) any amount deemed distributed to such shareholder under subsection (b),

"(2) any actual distribution to such shareholder which under section 996 is treated as out of accumulated DISC income, and

"(3) any gain which is treated as a dividend under subsection (c),

shall be treated as derived from the conduct of an unrelated trade or business (and the modifications of section 512(b) shall not apply). The rules of the preceding sentence shall apply also for purposes of determining any such shareholder's DISC-related deferred tax liability under subsection (f)."

26 USC 995 note.

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1987.

(7) TREATMENT OF CERTAIN AMOUNTS PREVIOUSLY TAXED UNDER SECTION 1248.—

(A) IN GENERAL.—Subsection (e) of section 959 of the 1986 Code is amended by striking out "such person under" and inserting in lieu thereof "such person (or, in any case to which section 1248(e) applies, of the domestic corporation referred to in section 1248(e)(2)) under".

26 USC 959 note.

(B) EFFECTIVE DATE.—The amendment made by subparagraph (A) shall apply in the case of transactions to which section 1248(e) of the 1986 Code applies and which occur after December 31, 1986.

(8) TREATMENT OF SHARED FSC'S.—

(A) IN GENERAL.—Section 927 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) TREATMENT OF SHARED FSC'S.—

"(1) IN GENERAL.—Except as provided in paragraph (2), each separate account referred to in paragraph (3) maintained by a shared FSC shall be treated as a separate corporation for purposes of this subpart.

"(2) CERTAIN REQUIREMENTS APPLIED AT SHARED FSC LEVEL.—Paragraph (1) shall not apply—

"(A) for purposes of—

"(i) subparagraphs (A), (B), (D), and (E) of section 922(a)(1),

"(ii) paragraph (2) of section 922(a),

"(iii) subsections (b), (c), and (e) of section 924, and

"(iv) subsection (f) of this section, and

"(B) for such other purposes as the Secretary may by regulations prescribed.

"(3) SHARED FSC.—For purposes of this subsection, the term 'shared FSC' means any corporation if—

"(A) such corporation maintains a separate account for transactions with each shareholder (and persons related to such shareholder),

"(B) distributions to each shareholder are based on the amounts in the separate account maintained with respect to such shareholder, and

"(C) such corporation meets such other requirements as the Secretary may by regulations prescribe."

26 USC 927 note.

(B) The amendment made by subparagraph (A) shall apply as if included in the provision of the Tax Reform Act of 1984 to which it relates.

(9) CLARIFICATION OF DIVIDENDS RECEIVED DEDUCTION FOR DIVIDENDS FROM A FSC.—

(A) Subsection (c) of section 245 of the 1986 Code is amended to read as follows:

"(c) CERTAIN DIVIDENDS RECEIVED FROM FSC.—

"(1) IN GENERAL.—In the case of a domestic corporation, there shall be allowed as a deduction an amount equal to—

"(A) 100 percent of any dividend received from another corporation which is distributed out of earnings and profits attributable to foreign trade income for a period during which such other corporation was a FSC, and

"(B) 70 percent (80 percent in the case of dividends from a 20-percent owned corporation as defined in section 243(c)(2)) of any dividend received from another corporation which is distributed out of earnings and profits attributable to effectively connected income received or accrued by such other corporation while such other corporation was a FSC.

"(2) EXCEPTION FOR CERTAIN DIVIDENDS.—Paragraph (1) shall not apply to any dividend which is distributed out of earnings and profits attributable to foreign trade income which—

"(A) is section 923(a)(2) nonexempt income (within the meaning of section 927(d)(6)), or

"(B) would not, but for section 923(a)(4), be treated as exempt foreign trade income.

"(3) NO DEDUCTION UNDER SUBSECTION (a) OR (b).—No deduction shall be allowable under subsection (a) or (b) with respect to any dividend which is distributed out of earnings and profits of a corporation accumulated while such corporation was a FSC.

"(4) DEFINITIONS.—For purposes of this subsection—

"(A) FOREIGN TRADE INCOME; EXEMPT FOREIGN TRADE INCOME.—The terms 'foreign trade income' and 'exempt foreign trade income' have the respective meanings given such terms by section 923.

"(B) EFFECTIVELY CONNECTED INCOME.—The term 'effectively connected income' means any income which is effectively connected (or treated as effectively connected) with the conduct of a trade or business in the United States and is subject to tax under this chapter. Such term shall not include any foreign trade income."

(B) The amendment made by subparagraph (A) shall apply as if included in the provision of the Tax Reform Act of 1984 to which it relates. 26 USC 245 note.

SEC. 1013. AMENDMENTS RELATED TO TITLE XIII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1301 OF THE REFORM ACT.—

(1) Clause (iii) of section 142(d)(4)(B) of the 1986 Code is amended by striking out "average rent" and inserting in lieu thereof "average gross rent".

(2) Clause (iii) of section 143(a)(2)(A) of the 1986 Code is amended by striking out "no bond which is part of such issue meets" and inserting in lieu thereof "such issue does not meet".

(3) Paragraph (4) of section 143(b) of the 1986 Code is amended by inserting "is part of an issue which" after "which".

(4)(A) Clause (ii) of section 144(a)(12)(A) of the 1986 Code is amended by inserting "(or series of bonds)" before "issued to refund".

(B)(i) Subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code is amended to read as follows:

"(I) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,".

(ii) Subparagraph (A) of section 144(a)(12) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (ii)(I), average maturity shall be determined in accordance with section 147(b)(2)(A)."

26 USC 144 note.

(iii) A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subclause (I) of section 144(a)(12)(A)(ii) of the 1986 Code if such bond met the requirement of such subclause as in effect before the amendments made by this subparagraph.

(C) Clause (ii) of section 144(a)(12)(A) of the 1986 Code is amended by adding "and" at the end of subclause (II), by striking out subclause (III), and by redesignating subclause (IV) as subclause (III).

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(5) Subparagraph (B) of section 144(b)(1) of the 1986 Code is amended—

(A) by striking out "to which part B of title IV of the Higher Education Act of 1965 (relating to guaranteed student loans) does not apply", and

(B) by striking out "of such Act" and inserting in lieu thereof "of the Higher Education Act of 1965", and

(C) by striking out "eligible" and all that follows in such subparagraph and inserting in lieu thereof the following: "eligible. A program shall not be treated as described in this subparagraph if such program is described in subparagraph (A).

A bond shall not be treated as a qualified student loan bond if the issue of which such bond is a part meets the private business tests of paragraphs (1) and (2) of section 141(b) (determined by treating 501(c)(3) organizations as governmental units with respect to their activities which do not constitute unrelated trades or businesses, determined by applying section 513(a))."

(6) Subclause (I) of section 145(b)(2)(B)(ii) of the 1986 Code is amended by striking out "103(b)" and inserting in lieu thereof "103(b)(2)".

(7) Clause (i) of section 145(b)(2)(C) of the 1986 Code is amended by striking out "subparagraph (B)(ii)" and inserting in lieu thereof "subparagraph (B)".

(8) Paragraph (4) of section 145(b) of the 1986 Code is amended by striking out "subparagraphs (C) and (D)" and inserting in lieu thereof "subparagraphs (C), (D), and (E)".

(9) Subparagraph (A) of section 146(f)(5) of the 1986 Code (as in effect before the amendments made by section 10631 of the Revenue Act of 1987) is amended to read as follows:

"(A) the purpose of issuing exempt facility bonds described in 1 of the paragraphs of section 142(a),".

(10)(A) Paragraph (1) of section 146(k) of the 1986 Code is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2) and (3)".

(B) Subsection (k) of section 146 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT OF GOVERNMENTAL BONDS TO WHICH VOLUME CAP ALLOCATED.—Paragraph (1) shall not apply to any bond to which volume cap is allocated under section 141(b)(5)—

"(A) for an output facility, or

"(B) for a facility of a type described in paragraph (4), (5), (6), or (10) of section 142(a),

if the issuer establishes that the State's share of the private business use (as defined by section 141(b)(6)) of the facility will equal or exceed the State's share of the volume cap allocated with respect to bonds issued to finance the facility."

(11) Subsection (e) of section 147 of the 1986 Code is amended by striking out "treated as".

(12) Subsection (f) of section 147 of the 1986 Code (relating to public approval requirement for private activity bonds) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULES FOR SCHOLARSHIP FUNDING BOND ISSUES AND VOLUNTEER FIRE DEPARTMENT BOND ISSUES.—

"(A) SCHOLARSHIP FUNDING BONDS.—In the case of a qualified scholarship funding bond, any governmental unit which made a request described in section 150(d)(2)(B) with respect to the issuer of such bond shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued. Where more than one governmental unit within a State has made a request described in section 150(d)(2)(B), the State may also be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued.

"(B) VOLUNTEER FIRE DEPARTMENT BONDS.—In the case of a bond of a volunteer fire department which meets the requirements of section 150(e), the political subdivision described in section 150(e)(2)(B) with respect to such department shall be treated for purposes of paragraph (2) of this subsection as the governmental unit on behalf of which such bond was issued."

(13)(A) Paragraph (1) of section 147(g) of the 1986 Code (relating to restriction on issuance costs financed by issue) is amended by striking out "aggregate face amount of the issue" and inserting in lieu thereof "proceeds of the issue".

(B) Paragraph (2) of section 147(g) of the 1986 Code is amended by striking out "aggregate authorized face amount of the issue does not" and inserting in lieu thereof "proceeds of the issue do not".

(C) The amendments made by this paragraph shall apply to bonds issued after June 30, 1987. 26 USC 147 note.

(14) Paragraph (2) of section 148(d) of the 1986 Code (relating to special rules for reasonably required reserve or replacement fund) is amended by striking out "any fund described in paragraph (1)" and inserting in lieu thereof "any reserve or replacement fund".

(15) Paragraph (3) of section 148(f) of the 1986 Code is amended by adding at the end thereof the following new sentence: "A series of issues which are redeemed during a 6-month period (or such longer period as the Secretary may prescribe) shall be

treated (at the election of the issuer) as 1 issue for purposes of the preceding sentence if no bond which is part of any issue in such series has a maturity of more than 270 days or is a private activity bond."

(16)(A) Subclause (I) of section 148(f)(4)(B)(iii) of the 1986 Code (relating to safe harbor for determining when proceeds of tax or revenue anticipation bonds are expended) is amended by striking out "aggregate face amount of such issue" and inserting in lieu thereof "proceeds of such issue".

26 USC 148 note.

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987.

(17)(A) Subparagraph (C) of section 148(f)(4) of the 1986 Code is amended—

(i) by striking out the heading and inserting in lieu thereof:

"(C) EXCEPTION FOR GOVERNMENTAL UNITS ISSUING $5,000,000 OR LESS OF BONDS.—

"(i) IN GENERAL.—",

(ii) by redesignating clauses (i) through (iv) as subclauses (I) through (IV), respectively, and moving the margins of such subclauses 2 ems to the right, and

(iii) by striking out the last sentence and inserting in lieu thereof the following new clauses:

"(ii) AGGREGATION OF ISSUERS.—For purposes of subclause (IV) of clause (i)—

"(I) an issuer and all entities which issue bonds on behalf of such issuer shall be treated as 1 issuer,

"(II) all bonds issued by a subordinate entity shall, for purposes of applying such subclause to each other entity to which such entity is subordinate, be treated as issued by such other entity, and

"(III) an entity formed (or, to the extent provided by the Secretary, availed of) to avoid the purposes of such subclause (IV) and all other entities benefiting thereby shall be treated as 1 issuer.

"(iii) CERTAIN REFUNDING BONDS NOT TAKEN INTO ACCOUNT IN DETERMINING SMALL ISSUER STATUS.—There shall not be taken into account under subclause (IV) of clause (i) any bond issued to refund (other than to advance refund) any bond to the extent the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

"(iv) CERTAIN ISSUES ISSUED BY SUBORDINATE GOVERNMENTAL UNITS, ETC., EXEMPT FROM REBATE REQUIREMENT.—An issue issued by a subordinate entity of a governmental unit with general taxing powers shall be treated as described in clause (i)(I) if the aggregate face amount of such issue does not exceed the lesser of—

"(I) $5,000,000, or

"(II) the amount which, when added to the aggregate face amount of other issues issued by such entity, does not exceed the portion of the $5,000,000 limitation under clause (i)(IV) which such governmental unit allocates to such entity.

For purposes of the preceding sentence, an entity which issues bonds on behalf of a governmental unit with general taxing powers shall be treated as a

subordinate entity of such unit. An allocation shall be taken into account under subclause (II) only if it is irrevocable and made before the issuance date of such issue and only to the extent that the limitation so allocated bears a reasonable relationship to the benefits received by such governmental unit from issues issued by such entity.

"(v) DETERMINATION OF WHETHER REFUNDING BONDS ELIGIBLE FOR EXCEPTION FROM REBATE REQUIREMENT.—If any portion of an issue is issued to refund other bonds, such portion shall be treated as a separate issue which does not meet the requirements of paragraphs (2) and (3) by reason of this subparagraph unless—

"(I) the aggregate face amount of such issue does not exceed $5,000,000,

"(II) each refunded bond was issued as part of an issue which was treated as meeting the requirements of paragraphs (2) and (3) by reason of this subparagraph,

"(III) the average maturity date of the refunding bonds issued as part of such issue is not later than the average maturity date of the bonds to be refunded by such issue, and

"(IV) no refunding bond has a maturity date which is later than the date which is 30 years after the date the original bond was issued.

Subclause (III) shall not apply if the average maturity of the issue of which the original bond was a part (and of the issue of which the bonds to be refunded are a part) is 3 years or less. For purposes of this clause, average maturity shall be determined in accordance with section 147(b)(2)(A).

"(vi) REFUNDINGS OF BONDS ISSUED UNDER LAW PRIOR TO TAX REFORM ACT OF 1986.—If section 141(a) did not apply to any refunded bond, the issue of which such refunded bond was a part shall be treated as meeting the requirements of subclause (II) of clause (v) if—

"(I) such issue was issued by a governmental unit with general taxing powers,

"(II) no bond issued as part of such issue was an industrial development bond (as defined in section 103(b)(2), but without regard to subparagraph (B) of section 103(b)(3)) or a private loan bond (as defined in section 103(o)(2)(A), but without regard to any exception from such definition other than section 103(o)(2)(C)), and

"(III) the aggregate face amount of all tax-exempt bonds (other than bonds described in subclause (II)) issued by such unit during the calendar year in which such issue was issued did not exceed $5,000,000.

References in subclause (II) to section 103 shall be to such section as in effect on the day before the date of the enactment of the Tax Reform Act of 1986. Rules similar to the rules of clauses (ii) and (iii) shall apply for purposes of subclause (III). For purposes of subclause (II) of clause (i), bonds described in subclause

(II) of this clause to which section 141(a) does not apply shall not be treated as private activity bonds."

(B) Subclause (IV) of section 148(f)(4)(C)(i) of the 1986 Code (as redesignated by subparagraph (A)) is amended by striking out "(and all subordinate entities thereof)".

26 USC 148 note.

(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to bonds issued after June 30, 1987.

(ii) At the election of an issuer (made at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe), the amendments made by this paragraph shall apply to such issuer as if included in the amendments made by section 1301(a) of the Tax Reform Act of 1986.

(18) Clause (i) of section 148(f)(4)(D) of the 1986 Code is amended—

(A) by inserting "for a program" before "described in section 144(b)(1)(A)",

(B) by striking out "such a program" and inserting in lieu thereof "such program", and

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(C) by adding at the end thereof the following: "Amounts designated as interest on student loans shall not be taken into account in determining whether the issuer is reimbursed for such costs. Except as otherwise hereafter provided in regulations prescribed by the Secretary, costs described in subclause (I) paid from amounts earned as described in the first sentence of this clause may also be taken into account in determining the yield on the student loans under a program described in section 144(b)(1)(A)."

(19) Subparagraph (B) of section 148(f)(7) of the 1986 Code is amended by striking out "due to reasonable cause and not" and inserting in lieu thereof "not due".

(20) Clause (iii) of section 149(b)(3)(A) of the 1986 Code is amended by striking out "with respect to any bond issued before July 1, 1989".

(21) Subparagraph (A) of section 149(b)(4) of the 1986 Code is amended by striking out "a qualified student loan bond, and a qualified redevelopment bond" and inserting in lieu thereof "and a qualified student loan bond".

(22) Paragraph (3) of section 149(e) of the 1986 Code (relating to information reporting) is amended by striking out "there is reasonable cause for the failure to file such statement in a timely fashion" and inserting in lieu thereof "the failure to file in a timely fashion is not due to willful neglect".

(23)(A) Subparagraph (B) of section 150(b)(4) of the 1986 Code (relating to change in use of facilities financed with tax-exempt private activity bonds) is amended by inserting before the period "or a qualified small issue bond".

(B) The heading for paragraph (4) of section 150(b) of the 1986 Code is amended by inserting "AND SMALL ISSUE BONDS" after "EXEMPT FACILITY BONDS".

(C) Subparagraph (A) of section 150(b)(1) of the 1986 Code is amended by inserting "tax-exempt" before "qualified mortgage bond".

(24)(A) Subsection (e) of section 150 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) TREATMENT AS PRIVATE ACTIVITY BONDS ONLY FOR CERTAIN PURPOSES.—Bonds which are part of an issue which meets the

requirements of paragraph (1) shall not be treated as private activity bonds except for purposes of sections 147(f) and 149(d)."

(B) The amendment made by subparagraph (A) shall apply to bonds issued after October 21, 1988. 26 USC 150 note.

(25) Clause (ii) of section 1301(f)(2)(C) of the Reform Act is amended to read as follows: 26 USC 25.

"(ii) Clause (ii) of section 25(c)(2)(A) is amended by striking out all that follows 'an amount of' and inserting in lieu thereof 'private activity bonds which it may otherwise issue during such calendar year under section 146,'."

(26) Subsection (h) of section 25 of the 1986 Code (relating to credit for interest on certain home mortgages) is amended by striking out "1987" and inserting in lieu thereof "1988".

(27) The date contained in section 143(a)(1)(B) of the 1986 Code shall be treated as contained in section 103A(c)(1)(B) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, for purposes of any bond issued to refund a bond to which such 103A(c)(1) applies. 26 USC 143 note.

(28)(A) Subparagraph (A) of section 146(i)(2) of the 1986 Code is amended to read as follows:

"(A) the average maturity date of the qualified student loan bonds to be refunded by the issue of which the refunding bond is a part, or".

(B) Subparagraph (A) of section 146(i)(3) of the 1986 Code is amended to read as follows:

"(A) the average maturity date of the qualified mortgage bonds to be refunded by the issue of which the refunding bond is a part, or".

(C) Subsection (i) of section 146 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) AVERAGE MATURITY.—For purposes of paragraphs (2) and (3), average maturity shall be determined in accordance with section 147(b)(2)(A)."

(29) Subparagraph (D) of section 147(f)(2) of the 1986 Code is amended by striking out "the maturity date" and all that follows and inserting in lieu thereof "the average maturity date of the issue of which the refunding bond is a part is later than the average maturity date of the bonds to be refunded by such issue. For purposes of the preceding sentence, average maturity shall be determined in accordance with subsection (b)(2)(A)."

(30) Subparagraph (A) of section 150(b)(1) of the 1986 Code is amended by inserting before the period "and before the date such residence is again the principal residence of at least 1 of the mortgagors who received such financing".

(31) Subparagraph (A) of section 150(b)(2) of the 1986 Code is amended by striking out "described paragraph" and inserting in lieu thereof "described in paragraph".

(32) Paragraph (2) of section 150(b) of the 1986 Code is amended by adding at the end thereof the following: "If the provisions of prior law corresponding to section 142(d) apply to a refunded bond, such provisions shall apply (in lieu of section 142(d)) to the refunding bond."

(33) Subsection (b) of section 150 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SMALL ISSUE BONDS WHICH EXCEED CAPITAL EXPENDITURE LIMITATION.—In the case of any financing provided from the

proceeds of any bond which, when issued, purported to be a qualified small issue bond, no deduction shall be allowed under this chapter for interest on such financing which accrues during the period such bond is not a qualified small issue bond."

(34)(A) Paragraph (7) of section 103(c) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) is amended by striking out "necessary" and inserting in lieu thereof "necessary".

26 USC 103 note.

(B) Subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which Treasury regulation section 1.103-13 (1979) was provided to apply.

26 USC 103 note.

(35) VALIDATION OF SINKING FUND REGULATIONS.—

(A) Treasury Regulation section 1.103-13(g) (1979) is hereby enacted into positive law.

(B)(i) Except as provided in clause (ii), subparagraph (A) shall apply to obligations sold after May 2, 1978, and to which such regulation was provided to apply.

(ii) Treasury Regulation section 1.103-13(g) (1979) as enacted into positive law by subparagraph (A) shall cease to apply to the extent hereafter modified by the Secretary of the Treasury or his delegate by regulations.

(36) Clause (i) of section 147(f)(2)(E) of the 1986 Code is amended by adding at the end thereof the following new sentence:

> "If the office of any elected official described in subclause (II) is vacated and an individual is appointed by the chief elected executive officer of the governmental unit and confirmed by the elected legislative body of such unit (if any) to serve the remaining term of the elected official, the individual so appointed shall be treated as the elected official for such remaining term."

(37) The table of sections for part III of subchapter B of chapter 1 of the 1986 Code is amended by striking out the items relating to sections 103 and 103A and inserting in lieu thereof the following new item:

"Sec. 103. Interest on State and local bonds."

(38) Subparagraph (B) of section 141(b)(5) of the 1986 Code is amended by striking out "which would cause bond" and inserting in lieu thereof "which would cause a bond".

(39) Clause (ii) of section 142(b)(1)(B) of the 1986 Code is amended by striking out "(as defined in 168(i)(3))" and inserting in lieu thereof "(as defined in section 168(i)(3))".

(40) Subparagraph (B) of section 146(d)(4) of the 1986 Code is amended by striking out "with respect a possession" and inserting in lieu thereof "with respect to a possession".

(41) Clause (ii) of section 48(l)(11)(A) of the 1986 Code is amended by striking out "an industrial development bond (within the meaning of section 103(b)(2))" and inserting in lieu thereof "a private activity bond (within the meaning of section 141)".

(42) Subsection (a) of section 7478 of the 1986 Code is amended—

(A) by striking out "whether prospective obligations are described in section 103(a)" in paragraph (1) and inserting

in lieu thereof "whether interest on prospective obligations will be excludable from gross income under section 103(a)", and

(B) by striking out "whether such prospective obligations are described in section 103(a)" and inserting in lieu thereof "whether interest on such prospective obligations will be excludable from gross income under section 103(a)".

(43)(A) Subsection (b) of section 148 of the 1986 Code (defining higher yielding investments) is amended by adding at the end thereof the following new paragraph:

"(3) ALTERNATIVE MINIMUM TAX BONDS TREATED AS INVESTMENT PROPERTY IN CERTAIN CASES.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the term 'investment property' does not include any tax-exempt bond.

"(B) EXCEPTION.—With respect to an issue other than an issue a part of which is a specified private activity bond (as defined in section 57(a)(5)(C)), the term 'investment property' includes a specified private activity bond (as so defined)."

(B) Paragraph (2) of section 148(b) of the 1986 Code (defining investment property) is amended by striking the last sentence.

(C) The amendments made by this paragraph shall apply to obligations issued after March 31, 1988. 26 USC 148 note.

(44) Subparagraph (B) of section 46(c)(5) of the 1986 Code is amended—

(A) by striking out "INDUSTRIAL DEVELOPMENT BONDS" in the heading and inserting in lieu thereof "PRIVATE ACTIVITY BONDS", and

(B) by striking "an industrial development bond (within the meaning of section 103(b)(2))" and inserting in lieu thereof "a private activity bond (within the meaning of section 141)".

(b) AMENDMENTS RELATED TO SECTION 1311 OF THE REFORM ACT.—

(1) Section 1311 of the Reform Act is amended by redesignating subsection (d) as subsection (f), and by inserting after subsection (c) the following new subsections: 26 USC 141 note.

"(d) PUBLIC APPROVAL AND INFORMATION REPORTING.—Sections 147(f) and 149(e) of the 1986 Code shall apply to bonds issued after December 31, 1986.

"(e) REBATE REQUIREMENT FOR QUALIFIED SCHOLARSHIP FUNDING BONDS.—Section 150(d) of the 1986 Code shall apply to payments made after August 15, 1986."

(2) Paragraph (2) of section 1311(b) of the Reform Act (relating to effective date for section 1301(f)) is amended by inserting "with respect to non-issued bond amounts elected" after "issued".

(c) AMENDMENTS RELATED TO SECTION 1313 OF THE REFORM ACT.—

(1) Clause (i) of section 1313(a)(1)(B) of the Reform Act is amended by striking out "the proceeds" and inserting in lieu thereof "the net proceeds".

(2)(A) Subparagraph (C) of section 1313(a)(3) of the Reform Act is amended by striking out "section 148" and inserting in lieu thereof "sections 143(g) and 148".

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 30, 1987. 26 USC 141 note.

26 USC 141 note.

(3) Subparagraph (E) of section 1313(a)(3) of the Reform Act is amended by striking out "of such Code".

(4) Paragraph (3) of section 1313(a) of the Reform Act is amended by adding at the end thereof the following new sentence: "In the case of a refunding bond described in paragraph (1) with respect to a qualified bond described in paragraph (2)(B), the requirements of section 1312(b)(1) which applied to such qualified bond shall be treated as specified in this paragraph with respect to such refunding bond."

(5) Subparagraph (A) of section 1313(a)(4) of the Reform Act is amended by inserting "and by substituting 'September 1, 1986' for 'August 16, 1986'" before the comma at the end thereof.

(6) Paragraph (2) of section 1313(b) of the Reform Act is amended by adding at the end thereof "For purposes of the preceding sentence, the determination of whether a bond is described in such subsection (o)(2)(A) shall be made without regard to any exception other than section 103(o)(2)(C) of such Code."

(7) Subparagraph (F) of section 1313(b)(3) of the Reform Act is amended by striking out "of such Code".

(8) Paragraph (3) of section 1313(b) of the Reform Act is amended by adding after subparagraph (F) the following new subparagraph:

"(G) Except as provided in the last sentence of subsection (c)(2) of this section, the requirements of section 145(b) (relating to $150,000,000 limitation on bonds other than hospital bonds)."

(9) Paragraph (5) of section 1313(b) of the Reform Act is amended by striking out "are to be" and inserting in lieu thereof "are or will be".

(10)(A) The heading for subsection (c) of section 1313 of the Reform Act is amended by striking out "CURRENT" and inserting in lieu thereof "CERTAIN".

(B) Paragraph (1) of section 1313(c) of the Reform Act is amended—

(i) by striking out "apply to any bond" and inserting in lieu thereof "apply to any bond (or series of bonds)", and

(ii) by striking out "law do not" and inserting in lieu thereof "law did not".

(11)(A) Subparagraph (A) of section 1313(c)(1) of the Reform Act is amended to read as follows:

"(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,".

(B) Paragraph (1) of section 1313(c) of the Reform Act is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code."

(C) Paragraph (1) of section 1313(c) of the Reform Act is amended by adding "and" at the end of subparagraph (B), by striking out subparagraph (C), and by redesignating subparagraph (D) as subparagraph (C).

(D) Subparagraph (B) of section 1313(c)(2) of the Reform Act is amended by striking out "and (D)" and inserting in lieu thereof "and (C)".

(E) A refunding bond issued before July 1, 1987, shall be treated as meeting the requirement of subparagraph (A) of section 1313(c)(1) of the Reform Act if such bond met the requirement of such subparagraph as in effect before the amendments made by this paragraph. 26 USC 141 note.

(12)(A) Subparagraph (N) of section 103(b)(6) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act (relating to termination dates), is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by striking out clause (i) and inserting in lieu thereof the following new clauses:

"(i) IN GENERAL.—Except as provided in clause (ii), this paragraph shall not apply to any obligation issued after December 31, 1986.

"(ii) CERTAIN REFUNDINGS.—This paragraph shall apply to any obligation (or series of obligations) issued to refund an obligation issued on or before December 31, 1986, if—

"(I) the average maturity date of the issue of which the refunding obligation is a part is not later than the average maturity date of the obligations to be refunded by such issue,

"(II) the amount of the refunding obligation does not exceed the outstanding amount of the refunded obligation, and

"(III) the proceeds of the refunding obligation are used to redeem the refunded obligation not later than 90 days after the date of the issuance of the refunding obligation.

For purposes of subclause (I), average maturity shall be determined in accordance with subsection (b)(14)(B)(i)."

(B) The date applicable under section 144(a)(12)(B) of the 1986 Code shall be treated as contained in section 103(b)(6)(N)(iii) of the Internal Revenue Code of 1954, as in effect on the day before the date of the enactment of the Reform Act, for purposes of any bond issued to refund a bond to which such section 103(b)(6)(N)(iii) applies. 26 USC 144 note.

(13) Paragraph (2) of section 1313(c) of the Reform Act is amended— 26 USC 141 note.

(A) by striking out "apply to any bond" and inserting in lieu thereof "apply to any bond (or series of bonds)",

(B) by striking out "subsection does not" and inserting in lieu thereof "subsection did not", and

(C) by striking out "the proceeds" in subparagraph (A)(i) and inserting in lieu thereof "the net proceeds".

(14)(A) Section 1313 of the Reform Act is amended by adding at the end thereof the following new subsection:

"(d) MORTGAGE AND STUDENT LOAN TARGETING RULES TO APPLY TO LOANS MADE MORE THAN 3 YEARS AFTER THE DATE OF THE ORIGINAL ISSUE.—Subsections (a)(3) and (b)(3) shall be treated as including the requirements of subsections (e) and (f) of section 143 and paragraphs (3) and (4) of section 144(b) of the 1986 Code with respect to bonds the proceeds of which are used to finance loans made more than 3 years after the date of the issuance of the original bond."

(B) The amendment made by subparagraph (A) shall apply with respect to refunding bonds issued after October 16, 1987. 26 USC 141 note.

26 USC 103 note.

(15) A bond issued to refund an obligation described in section 103(o)(3) of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) shall not be treated as described in section 144(b) of the 1986 Code unless it is described in section 144(b)(1)(A) of the 1986 Code.

(d) AMENDMENTS RELATED TO SECTION 1314 OF THE REFORM ACT.—

26 USC 141 note.

(1) Subsection (a) of section 1314 of the Reform Act is amended by adding at the end thereof the following: "The preceding sentence shall not apply to the first advance refunding after September 25, 1985, of a bond issued before September 26, 1985."

(2) Subsection (f) of section 1314 of the Reform Act is amended by striking out "December" and inserting in lieu thereof "August".

(3) Section 1314 of the Reform Act is amended by redesignating subsection (g) as subsection (i) and by inserting after subsection (f) the following new subsections:

"(g) TERMINATION OF MORTGAGE BOND POLICY STATEMENT REQUIREMENT.—Paragraph (5) of section 103A(j) of the 1954 Code (relating to policy statement) shall not apply to any bond issued after August 15, 1986, and shall not apply to nonissued bond amounts elected under section 25 of the 1986 Code after such date.

"(h) ARBITRAGE RESTRICTION ON INVESTMENTS IN INVESTMENT-TYPE PROPERTY.—In the case of a bond issued before August 16, 1986 (September 1, 1986 in the case of a bond described in section 1312(c)(2)), section 103(c) of the 1954 Code shall be applied by treating the reference to securities in paragraph (2) thereof as including a reference to investment-type property but only for purposes of determining whether any bond issued after October 16, 1987, to advance refund such bond (or a bond which is part of a series of refundings of such bond) is an arbitrage bond (within the meaning of section 148(a) of the 1986 Code)."

(e) AMENDMENTS RELATED TO SECTION 1315 OF THE REFORM ACT.—

(1) Subsection (c) of section 1315 of the Reform Act is amended—

(A) by inserting "for calendar year 1986" after "1954 Code" each place it appears,

(B) by striking out "before August 16" each place it appears and inserting in lieu thereof "on August 15", and

(C) by adding at the end thereof the following new sentence:

"The preceding sentence shall not apply to the extent section 1313(b)(5) treats any bond as a private activity bond for purposes of section 146 of the 1986 Code."

(2)(A) Subsection (e) of section 1315 of the Reform Act is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any bond which (if issued on August 15, 1986) would have been an industrial development bond (as defined in section 103(b)(2) of the 1954 Code)."

26 USC 141 note.

(B) The amendment made by subparagraph (A) shall apply to bonds issued after June 10, 1987.

(f) AMENDMENTS RELATED TO SECTION 1316 OF THE REFORM ACT.—

26 USC 141 note.

(1)(A) Subsections (a)(1), (b)(1), (c)(1), and (f)(1) of section 1316 of the Reform Act are each amended by inserting "and as having a

carryforward purpose described in section 146(f)(5) of such Code" after "the 1986 Code".

(B) The amendment made by subparagraph (A) shall apply only with respect to carryforwards of volume cap for years after 1986. 26 USC 141 note.

(2) Subsection (c) of section 1316 of the Reform Act is amended by adding at the end thereof the following new paragraph: 26 USC 141 note.

"(4) APPLICATION OF SECTION 147(b).—A bond to which this subsection applies (other than a refunding bond) shall be treated as meeting the requirements of section 147(b) of the 1986 Code if the average maturity (determined in accordance with section 147(b)(2)(A) of such Code) of the issue of which such bond is a part does not exceed 20 years. A bond issued to refund (or which is part of a series of bonds issued to refund) a bond described in the preceding sentence shall be treated as meeting the requirements of such section if the refunding bond has a maturity date not later than the date which is 20 years after the date on which the original bond was issued."

(3) Paragraph (1) of section 1316(e) of the Reform Act is amended—

(A) by inserting "(and section 103(h)(2)(B)(ii) of the 1954 Code)" after "1986 Code" the first place it appears, and

(B) by inserting "(and section 103(b)(16) of the 1954 Code)" after "1986 Code" in the last sentence.

(4) Paragraph (2) of section 1316(g) of the Reform Act is amended—

(A) by striking out "described in the paragraph (3)" in subparagraph (A) and inserting in lieu thereof "issued to provide a facility described in paragraph (3)", and

(B) by striking out "which paragraph (3)" in subparagraph (C) and inserting in lieu thereof "which such paragraph (3)".

(5) Paragraph (6) of section 1316(g) of the Reform Act is amended by inserting "(and the provisions of section 1314)" after "section 1301".

(6) Paragraph (7) of section 1316(g) of the Reform Act is amended to read as follows:

"(7) In the case of a bond described in section 632(d) of the Tax Reform Act of 1984—

"(A) section 141 of the 1986 Code shall be applied without regard to subsection (a)(2) and paragraphs (4) and (5) of subsection (b),

"(B) paragraphs (1) and (2) of section 141(b) of the 1986 Code shall be applied by substituting '25 percent' for '10 percent' each place it appears, and

"(C) section 149(b) of the 1986 Code shall not apply. This paragraph shall not apply to any bond issued after December 31, 1990."

(7)(A) Subparagraph (A) of section 1316(g)(8) of the Reform Act is amended by inserting "and as having a carryforward purpose described in section 146(f)(5) of such Code" after "the 1986 Code"

(B) The amendment made by subparagraph (A) shall apply only with respect to carryforwards of volume cap for years after 1986. 26 USC 141 note.

(8) Paragraph (2) of section 1316(j) of the Reform Act is amended to read as follows:

Florida.

"(2) by adding at the end thereof the following new sentence: 'In the case of refunding obligations not to exceed $100,000,000 issued after October 21, 1986, by Dade County, Florida, for the purpose of advance refunding its Aviation Revenue Bonds (Series J), the first sentence of this paragraph shall be applied by substituting "the date which is 1 year after the date of the enactment of the Technical and Miscellaneous Revenue Act of 1988" for "December 31, 1984" and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply.'".

26 USC 141 note.

(9) Paragraph (2) of section 1316(k) of the Reform Act is amended by striking out "$55,000,000 must be redeemed no later than November 1, 1987" and inserting in lieu thereof "no more than $55,000,000 shall be outstanding later than November 1, 1987".

(10) Section 1104 of the Mortgage Subsidy Bond Tax Act of 1980 is amended by adding at the end of subsection (r) the following new sentence:

"Section 148(f) of the Internal Revenue Code of 1986 and the amendments made by section 1301 of the Tax Reform Act of 1986 shall not apply to any bonds described in paragraph (1) which may be issued as a result of the amendments made by the Tax Reform Act of 1986."

(11) Subsection (l) of section 1316 of the Reform Act is hereby repealed.

Community development. Urban areas. 26 USC 141 note.

(g) AMENDMENTS RELATED TO SECTION 1317 OF THE REFORM ACT.—

(1) Subparagraph (J) of section 1317(2) of the Reform Act is amended by striking out "began construction in 1980" and inserting in lieu thereof ", a subsidiary of Sierra Pacific Resources, began in 1980 work to design, finance, construct, and operate".

(2) Subparagraph (C) of section 1317(3) of the Reform Act is amended to read as follows:

Baseball. Football. Stadiums.

"(C) A facility is described in this subparagraph if—

"(i) it is one or more stadiums to be used either by an American League baseball team or a National Football League team currently using a stadium in a city having a population in excess of 2,500,000 and described in section 146(d)(3) of the 1986 Code,

"(ii) the bonds to be used to provide financing for one or more such stadiums are issued by a political subdivision or a State agency pursuant to a resolution approving an inducement resolution adopted by a State agency on November 20, 1985, as it may be amended (whether or not the beneficiaries of such issue or issues are the beneficiaries (if any) specified in such inducement resolution and whether or not the number of such stadiums and the locations thereof are as specified in such inducement resolution) or pursuant to P.A. 84-1470 of the State in which such city is located (and by an agency created thereby), and

"(iii) such stadium or stadiums are located in the city described in (i).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $250,000,000. In the case of any carryforward of volume cap for one or more stadiums described in the first sentence of this subparagraph, such carryforward shall be valid with respect to bonds issued for

such stadiums notwithstanding any other provision of the 1986 Code or the 1954 Code, and whether or not (i) there is a change in the number of stadiums or the beneficiaries or sites of the stadium or stadiums and (ii) the bonds are issued by either of the state agencies described in the first sentence of this subparagraph."

(3)(A) Subparagraph (P) of section 1317(3) of the Reform Act is amended—

(i) by striking out "approved" and inserting in lieu thereof "authorized", and

(ii) by striking out "December 9, 1985" and inserting in lieu thereof "December 2, 1985".

(B) Section 1317(3)(A) of the Reform Act is amended by striking out "domed".

(C) Section 1317(3)(U) of the Reform Act is amended by deleting "coliseum complex." and inserting in lieu thereof "coliseum complex, or is a renovation of an existing stadium located in Oakland, California, and used by an American League baseball team." California. Baseball.

(D) Section 1317(3)(W) of the Reform Act is amended by striking out "$225,000,000" and inserting "$25,000,000".

(4) Paragraph (3) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(Z) A facility is described in this subparagraph if—

"(i) such facility was a redevelopment project that was approved in concept by the city council sitting as the redevelopment agency in October 1984, and

"(ii) $20,000,000 in funds for such facility was identified in a 5-year budget approved by the city redevelopment agency on October 25, 1984.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $80,000,000."

(5) Paragraph (4) of section 1317 of the Reform Act is amended—

(A) by striking out "1986. The bonds" and inserting in lieu thereof "1986, and the bonds",

(B) by striking out "and" at the end the subparagraph (A), and

(C) by adding "and" at the end of subparagraph (B).

(6) Subparagraph (W) of section 1317(6) of the Reform Act is amended to read as follows:

"(W) A project is described in this subparagraph if such project is—

"(i) a part of the Kenosha Downtown Redevelopment project, and

"(ii) located in an area bounded—

"(I) on the east by the east wall of the Army Corps of Engineers Confined Disposal Facility (extended),

"(II) on the north by 48th Street (extended),

"(III) on the west by the present Chicago & Northwestern Railroad tracks, and

"(IV) on the south by the north line of Eichelman Park (60th Street) (extended).

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $105,000,000."

(7) Paragraph (6) of section 1317 of the Reform Act is amended by redesignating subparagraph (X) as subparagraph (Z) and by inserting after subparagraph (W) the following new subparagraphs:

California.

"(X) A project is described in this subparagraph if a redevelopment plan for such project was approved by the city council of Bell Gardens, California, on June 12, 1979. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000.

"(Y) Nothing in this paragraph shall be construed as having the effect of exempting from tax interest on any bond issued after June 10, 1987, if such interest would not have been exempt from tax were such bond issued on August 15, 1986."

(8) The last sentence of subparagraph (A) of section 1317(7) of the Reform Act is amended by inserting before the period "and section 149(d)(2) of the 1986 Code shall not apply to bonds so treated".

(9) Subparagraph (D) of section 1317(7) of the Reform Act is amended to read as follows:

"(D) A facility is described in this subparagraph if—

"(i) it is a convention, trade, or spectator facility,

"(ii) a regional convention, trade, and spectator facilities study committee was created before March 19, 1985, with respect to such facility, and

"(iii) feasibility and preliminary design consultants were hired on May 1, 1985, and October 31, 1985, with respect to such facility.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed the excess of $175,000,000 over the amount of bonds to which paragraph (48)(B) applies."

(10) Clause (ii) of section 1317(7)(G) of the Reform Act is amended to read as follows:

"(ii) such facility's location was approved in December 1985 by a task force created jointly by the Governor of the State within which such facility will be located and the mayor of the capital city of such State, and".

(11) Subparagraph (J) of section 1317(7) of the Reform Act is amended—

(A) by striking out "civic festival" in clause (i) and inserting in lieu thereof "aquafestival",

(B) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) a referendum was held on April 6, 1985, in which voters permitted the city council to lease 130 acres of dedicated parkland for the purpose of constructing such facility, and", and

(C) by striking out "$5,000,000" and inserting in lieu thereof "$10,000,000".

(12) Subparagraph (E) of section 1317(9) of the Reform Act is amended by striking out "March 5, 1985" and inserting in lieu thereof "March 6, 1985".

(13) Clause (iii) of section 1317(9)(J) of the Reform Act is amended by striking out all that precedes "by the governor" and inserting in lieu thereof the following:

"(iii) such facility's location was approved in December 1985 by a task force created jointly".

(14) Subparagraph (A) of section 1317(11) of the Reform Act is amended by striking out "and section 142(a)" and inserting in lieu thereof "in section 142(a)".

(15) Subparagraph (C) of section 1317(11) of the Reform Act is amended to read as follows:

"(C) A facility is described in this subparagraph if it is described in section 1865(c)(2)(C) of this Act."

(16) Subparagraph (X) of section 1317(13) of the Reform Act is amended by striking out the last sentence.

(17) Paragraph (13) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraphs:

"(AA) A residential rental property project is described in this subparagraph if it is the Carriage Trace residential rental project in Clinton, Tennessee. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $10,000,000. Tennessee. Real property.

"(BB) A residential rental property project is described in this subparagraph if—

"(i) a contract to purchase such property was dated as of August 9, 1985, Contracts.

"(ii) there was an inducement resolution adopted on September 27, 1985, for the issuance of obligations to finance such property,

"(iii) there was a State court final validation of such financing on November 15, 1985, and

"(iv) the certificate of nonappeal from such validation was available on December 15, 1985.

The aggregate face amount of bonds to which this subparagraph applies shall not exceed $27,750,000."

(18) Paragraph (14) of section 1317 of the Reform Act is amended by striking out "$90,000,000" and inserting in lieu thereof "$130,000,000" and by inserting "incorporated on February 20, 1985" before the period at the end of the 1st sentence.

(19) Subparagraph (B) of section 1317(15) of the Reform Act is amended—

(A) by striking out all that follows "agreement with" in clause (i) and inserting in lieu thereof "an underwriter to provide planning and financial guidance for a possible bond issue, and", and

(B) by striking out "certificates" in clause (ii) and inserting in lieu thereof "bond issue"

(20) Paragraph (16) of section 1317 of the Reform Act is amended by striking out the last sentence.

(21) Clause (i) of section 1317(19)(D) of the Reform Act is amended by striking out "light rail transitway" and inserting in lieu thereof "fixed guideway".

(22) Paragraph (20) of section 1317 of the Reform Act is amended by striking out "Section 148(f)" and inserting in lieu thereof "Subsections (c)(2) and (f) of section 148".

(23) Subparagraph (B) of section 1317(21) of the Reform Act is amended—

(A) by striking out "Subsection (c)" and inserting in lieu thereof "Subsections (c)(2)", and

(B) by striking out "103A(g)(5)(C)l" and inserting in lieu thereof "103A(g)(5)(C)".

(24) Paragraph (22) of section 1317 of the Reform Act is amended to read as follows:

"(22) DOWNTOWN REDEVELOPMENT PROJECT.—Subsection (b) of section 626 of the Tax Reform Act of 1984 is amended by adding at the end thereof the following new paragraph:

" '(7) EXCEPTION FOR CERTAIN DOWNTOWN REDEVELOPMENT PROJECT.—The amendments made by this section shall not apply to any obligation which is issued as part of an issue 95 percent or more of the proceeds of which are to be used to provide a project to acquire and redevelop a downtown area if—

" '(A) on August 15, 1985, a downtown redevelopment authority adopted a resolution to issue obligations for such project,

" '(B) before September 26, 1985, the city expended, or entered into binding contracts to expend, more than $10,000,000 in connection with such project, and

" '(C) the State supreme court issued a ruling regarding the proposed financing structure for such project on December 11, 1985.

The aggregate face amount of obligations to which this paragraph applies shall not exceed $85,000,000 and such obligations must be issued before January 1, 1992.' "

(25) Subparagraph (A) of section 1317(24) of the Reform Act is amended by adding at the end thereof the following: "The last paragraph of this section shall not apply to the treatment under the preceding sentence."

(26)(A) Clause (i) of section 1317(25)(A) of the Reform Act is amended by striking out "3 counties" and inserting in lieu thereof "1 or more of 3 counties".

(B) Clause (i) of section 1317(25)(B) of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of applying section 146(k) of the 1986 Code, the public utility facility described in subparagraph (A) shall be treated as described in paragraph (2) of such section and such paragraph shall be applied without regard to the requirement that the issuer establish that a State's share of the use of a facility (or its output) will equal or exceed the State's share of the private activity bonds issued to finance the facility."

(27) Subparagraph (I) of section 1317(27) of the Reform Act is amended by adding at the end thereof the following: "For purposes of determining whether any bond to which this subparagraph applies is a qualified small issue bond, there shall not be taken into account under section 144(a) of the 1986 Code capital expenditures with respect to any facility of the United States Government and there shall not be taken into account any bond allocable to the United States Government."

(28) Clause (i) of section 1317(29)(B) of the Reform Act is amended by striking out all that follows "1993" and inserting in lieu thereof ", by the State of Connecticut, and".

(29) Subparagraph (D) of section 1317(29) of the Reform Act is amended by striking out "the net proceeds" and inserting in lieu thereof "the proceeds".

(30) Section 1317(33)(A)(ii) of the Reform Act is amended—

(A) by striking out "on" and inserting in lieu thereof "dated" each place it appears, and

(B) by inserting "dated on December 1, 1985" after "(Series 1985A and 1985B)" in subclause (III).

(31) Subparagraph (B) of section 1317(33) of the Reform Act is amended—

(A) by striking out "and before August 7, 1988,", and

(B) by adding at the end thereof the following new sentence: "The aggregate face amount of bonds to which this subparagraph applies shall not exceed $90,000,000."

(32) Subparagraph (G) of section 1317(33) of the Reform Act is amended by striking out "subparagraph (H)" and inserting in lieu thereof "subparagraph (F)".

(33) Subparagraph (H) of section 1317(33) of the Reform Act is amended—

(A) by striking out clause (ii) and inserting in lieu thereof the following:

"(ii) the proceeds of the issue are to be used to finance projects (to be determined by such university and the issuer) which are similar to those projects intended to be financed by bonds that were the subject of a request transmitted to Congress on November 7, 1985", and

(B) by adding at the end thereof the following: "Bonds to which this subparagraph applies shall be treated as qualified 501(c)(3) bonds if such bonds would not (if issued on August 15, 1986) be industrial development bonds (as defined in section 103(b)(2) of the 1954 Code), and section 147(f) of the 1986 Code shall not apply to the issue of which such bonds are a part. Bonds issued to finance facilities described in this subparagraph shall be treated as issued to finance such facilities notwithstanding the fact that a period in excess of 1 year has expired since the facilities were placed in service."

(34) Subparagraph (K) of section 1317(33) of the Reform Act is amended—

(A) by striking out "the issue is" in clause (i) and inserting in lieu thereof "the issue or issues are",

(B) by inserting "at least" before "900 units",

(C) by striking out "2,000 square feet" and inserting in lieu thereof "245,000 square feet", and

(D) by striking out "$150,000,000" and inserting in lieu thereof "$112,000,000".

(35) Paragraph (33) of section 1317 of the Reform Act is amended by striking out subparagraphs (M), (N), and (O) and inserting in lieu thereof the following new subparagraphs:

Health care facilities.

"(M) Proceeds of an issue are described in this subparagraph if such issue is issued on behalf of the Society of the New York Hospital to finance completion of a project commenced by such hospital in 1981 for construction of a diagnostic and treatment center or to refund bonds issued on behalf of such hospital in connection with the construction of such diagnostic and treatment center or to finance construction and renovation projects associated with an inpatient psychiatric care facility. The aggregate face amount of bonds to which this subparagraph applies shall not exceed $150,000,000.

"(N) Any bond to which section 145(b) of the 1986 Code does not apply by reason of this paragraph (other than

subparagraph (A) thereof) shall be taken into account in determining whether such section applies to any later issue.

"(O) In the case of any refunding bond—

"(i) to which any subparagraph of this paragraph applies, and

"(ii) to which the last sentence of section 1313(c)(2) applies,

such bond shall be treated as having such subparagraph apply (and the refunding bond shall be treated for purposes of such section as issued before January 1, 1986, and as not being an advance refunding) unless the issuer elects the opposite result."

(36) Paragraph (36) of section 1317 of the Reform Act is amended by striking out "$80,000,000" and inserting in lieu thereof "$400,000,000".

(37) Paragraph (38) of section 1317 of the Reform Act is amended by striking out "and sections 148 and 149".

(38) Paragraphs (39) and (40) of section 1317 of the Reform Act are amended to read as follows:

"(39) CERTAIN BONDS TREATED AS QUALIFIED 501(C)(3) BONDS.—A bond issued as part of an issue shall be treated for purposes of part IV of subchapter B of chapter 1 of the 1986 Code as a qualified 501(c)(3) bond if—

"(A) such bond would not (if issued on August 15, 1986) be an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), and

"(B) such issue was approved by city voters on January 19, 1985, for construction or renovation of facilities for the cultural and performing arts.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $5,000,000.

California. "(40) CERTAIN LIBRARY BONDS.—In the case of a bond issued before January 1, 1986, by the City of Los Angeles Community Redevelopment Agency to provide the library and related structures associated with the City of Los Angeles Central Library Project, the ownership and use of the land and facilities associated with such project by persons which are not governmental units (or payments from such persons) shall not adversely affect the exclusion from gross income under section 103 of the 1954 Code of interest on such bonds."

(39) Paragraph (41) of section 1317 of the Reform Act is amended to read as follows:

Washington. "(41) CERTAIN REFUNDING OBLIGATIONS FOR CERTAIN POWER FACILITIES.—With respect to 2 net billed nuclear power facilities located in the State of Washington on which construction has been suspended, the requirements of section 147(b) of the 1986 Code shall be treated as satisfied with respect to refunding bonds issued before 1992 if—

"(A) each refunding bond has a maturity date not later than the maturity date of the refunded bond, and

"(B) the facilities have not been placed in service as of the date of issuance of the refunding bond.

The aggregate face amount of bonds to which this paragraph applies shall not exceed $2,000,000,000. Section 146 of the 1986 Code and the last paragraph of this section shall not apply to bonds to which this paragraph applies."

(40) Paragraph (43) of section 1317 of the Reform Act is amended by inserting before the period "and the Internal Revenue Code of 1986 shall be applied without regard to section 149(d)(2)."

(41) Paragraph (44) of section 1317 of the Reform Act is amended—

(A) by inserting after "1986 Code" the following: "and the temporary period limitation of section 148(c)(2) of the 1986 Code",

(B) by striking out "$100,000,000" and inserting in lieu thereof "$200,000,000", and

(C) by striking out "Hospitals Bond Pool" in the second item in the table and inserting in lieu thereof "Hospital Equipment Loan Council".

(42) Paragraph (48) of section 1317 of the Reform Act is amended by striking out "either" in the material preceding subparagraph (A) and inserting in lieu thereof "any".

(43) Subparagraph (B) of section 1317(48) of the Reform Act is amended by striking out "subparagraph (O)" and inserting in lieu thereof "paragraph (6)(U)".

(44) Paragraph (48) of section 1317 of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) A facility which is part of a project described in paragraph (6)(O). The aggregate face amount of bonds to which this subparagraph applies shall not exceed $20,000,000."

(45) Paragraph (49) of section 1317 of the Reform Act is amended—

(A) by striking out "149(d)" and inserting in lieu thereof "149(d)(2)", and

(B) by inserting "United States" before "Housing Act of 1937".

(46) Paragraph (50) of section 1317 of the Reform Act is amended to read as follows:

"(50) TRANSITIONED BONDS SUBJECT TO CERTAIN RULES.—In the case of any bond to which any provision of this section applies, except as otherwise expressly provided, sections 103 and 103A of the 1954 Code shall be applied as if the requirements of sections 147(g), 148, and 149(d) of the 1986 Code were included in each such section."

(47) Paragraph (51) of section 1317 of the Reform Act is amended—

(A) by striking out "Section 141(a)" and inserting in lieu thereof "Section 141(b)", and

(B) by striking out "141(a)(3)" and inserting in lieu thereof "141(b)(3)".

(48) Paragraph (52) of section 1317 of the Reform Act is amended by striking out "This section" and inserting in lieu thereof "Except as otherwise provided in this section, this section".

(49) The material preceding subparagraph (A) of section 1317(2) of the Reform Act is amended by striking out "section 103(b)(4)(C)" and inserting in lieu thereof "section 103(b)(4)(F)".

(50) Clause (ii) of section 1317(27)(H) of the Reform Act is amended by striking out "November 14, 1985" and inserting in lieu thereof "November 13, 1985".

(51) Subparagraph (I) of section 1317(33) of the Reform Act is amended by striking out "November 11, 1985" and inserting in lieu thereof "November 1, 1985".

(52) Subparagraph (J) of section 1317(3) of the Reform Act is amended by striking out "October 29" in clause (iv) and inserting in lieu thereof "November 5".

(h) AMENDMENTS RELATED TO SECTION 1318 OF THE REFORM ACT.—Section 1318 of the Reform Act (relating to definitions, etc., relating to effective dates and transitional rules) is amended— 26 USC 141 note.

(1) by inserting "(a) DEFINITIONS.—" before "For purposes of this subtitle—", and

(2) by adding at the end thereof the following new subsections:

"(b) MINIMUM TAX TREATMENT.—

"(1) IN GENERAL.—Any bond described in paragraph (2) shall not be treated as a private activity bond for purposes of section 57 of the 1986 Code unless such bond would (if issued on August 7, 1986) be—

"(A) an industrial development bond (as defined in section 103(b)(2) of the 1954 Code), or

"(B) a private loan bond (as defined in section 103(o)(2)(A) of the 1954 Code, without regard to any exception from such definition other than section 103(o)(2)(C) of such Code).

"(2) BONDS DESCRIBED.—For purposes of paragraph (1), a bond is described in this paragraph if—

"(A) the amendments made by section 1301 do not apply to such bond by reason of section 1312 or 1316(g),

"(B) any provision of section 1317 applies to such bond, or

"(C) the proceeds of such bond are used to refund any bond referred to in subparagraph (A) or (B) (or any bond which is part of a series of refundings of such a bond) if the requirements of paragraphs (1), (2), and (3) of subsection (c) are met with respect to the refunding bond.

"(c) CURRENT REFUNDINGS NOT TAKEN INTO ACCOUNT IN APPLYING AGGREGATE LIMIT ON BONDS TO WHICH TRANSITIONAL RULES APPLY.—The limitation on the aggregate face amount of bonds to which any provision of section 1316(g) or 1317 applies shall not be reduced by the face amount of any bond the proceeds of which are to be used exclusively to refund any bond to which such provision applies (or any bond which is part of a series of refundings of such bond) if—

"(1) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

"(2) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

"(3) the net proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of paragraph (1), average maturity shall be determined in accordance with section 147(b)(2)(A) of the 1986 Code. No limitation in section 1316(g) or 1317 on the period during which bonds may be issued under such section shall apply to any refunding bond which meets the requirements of this subsection.

"(d) SPECIAL RULE PERMITTING CARRYFORWARD OF VOLUME CAP FOR CERTAIN TRANSITIONED PROJECTS.—A bond to which section 1312 or 1317 applies shall be treated as having a carryforward purpose described in section 146(f)(5) of the 1986 Code, and the requirement

of section 146(f)(2)(A) of the 1986 Code shall be treated as met if such project is identified with reasonable specificity. The preceding sentence shall not apply so as to permit a carryforward with respect to any qualified small issue bond."

(i) APPLICATION TO 501(c)(3) BONDS.—In accordance with section 1302 of the Reform Act, each amendment and other provision of this Act which applies to private activity bonds shall, unless otherwise expressly provided, apply to qualified 501(c)(3) bonds. 26 USC 501 note.

SEC. 1014. AMENDMENTS RELATED TO TITLE XIV OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1401 OF THE REFORM ACT.—

(1) Subsection (e) of section 672 of the 1986 Code is amended to read as follows:

"(e) GRANTOR TREATED AS HOLDING ANY POWER OR INTEREST OF GRANTOR'S SPOUSE.—

"(1) IN GENERAL.—For purposes of this subpart, a grantor shall be treated as holding any power or interest held by—

"(A) any individual who was the spouse of the grantor at the time of the creation of such power or interest, or

"(B) any individual who became the spouse of the grantor after the creation of such power or interest, but only with respect to periods after such individual became the spouse of the grantor.

"(2) MARITAL STATUS.—For purposes of paragraph (1)(A), an individual legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married."

(2) Paragraph (3) of section 675 of the 1986 Code is amended by adding at the end thereof the following new sentence: "For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this paragraph to the grantor shall be treated as including a reference to such individual."

(3) Subsection (c) of section 674 of the 1986 Code is amended by adding at the end thereof the following new sentence: "For periods during which an individual is the spouse of the grantor (within the meaning of section 672(e)(2)), any reference in this subsection to the grantor shall be treated as including a reference to such individual."

(b) AMENDMENT RELATED TO SECTION 1402 OF THE REFORM ACT.—Section 673 of the 1986 Code is amended by adding at the end thereof the following new subsections:

"(c) SPECIAL RULE FOR DETERMINING VALUE OF REVERSIONARY INTEREST.—For purposes of subsection (a), the value of the grantor's reversionary interest shall be determined by assuming the maximum exercise of discretion in favor of the grantor.

"(d) POSTPONEMENT OF DATE SPECIFIED FOR REACQUISITION.—Any postponement of the date specified for the reacquisition of possession or enjoyment of the reversionary interest shall be treated as a new transfer in trust commencing with the date on which the postponement is effective and terminating with the date prescribed by the postponement. However, income for any period shall not be included in the income of the grantor by reason of the preceding sentence if such income would not be so includible in the absence of such postponement."

(c) AMENDMENTS RELATED TO SECTION 1403 OF THE REFORM ACT.— 26 USC 645 note.

(1) If a beneficiary of a trust to which section 664 of the 1986 Code applies elects (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to have this paragraph apply, such beneficiary shall be entitled to the benefits of section 1403(c)(2) of the Reform Act with respect to amounts included in gross income under section 664(b) of the 1986 Code in the same manner as if such amounts were included in gross income under section 652(a) of the 1986 Code.

(2) Any trust beneficiary may elect (at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe) to waive the benefits of section 1403(c)(2) of the Reform Act.

(3)(A) For purposes of determining the gross income of any pass-thru entity, such pass-thru entity shall not be allowed the benefits of section 806(e)(2)(C) (other than with respect to income from a common trust fund) or 1403(c)(2) of the Reform Act if such pass-thru entity is required to change its taxable year by reason of the amendments made by section 806 or 1403 of the Reform Act.

(B) For purposes of subparagraph (A), the term "pass-thru entity" means any trust, partnership, S corporation, or common trust fund.

(4) If any trust was required to change its taxable year by the amendments made by section 1403 of the Reform Act, such change shall be treated as initiated by such trust and approved by the Secretary of the Treasury or his delegate.

(d) AMENDMENTS RELATED TO SECTION 1404 OF THE REFORM ACT.—

26 USC 6654.

(1) Subsection (a) of section 1404 of the Reform Act is amended—

(A) by striking out "Subsection (k) of section 6654" and inserting in lieu thereof "Subsection (l) of section 6654, as amended by section 1841 of this Act", and

(B) by striking out " '(k) TRUSTS" and inserting in lieu thereof " '(l) TRUSTS".

(2) Subsection (l) of section 6654 of the 1986 Code is amended to read as follows:

"(l) ESTATES AND TRUSTS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, this subsection shall apply to any estate or trust.

"(2) EXCEPTION FOR ESTATES AND CERTAIN TRUSTS.—With respect to any taxable year ending before the date 2 years after the date of the decedent's death, this section shall not apply to—

"(A) the estate of such decedent, or

"(B) any trust—

"(i) all of which was treated (under subpart E of part I of subchapter J of chapter 1) as owned by the decedent, and

"(ii) to which the residue of the decedent's estate will pass under his will.

"(3) EXCEPTION FOR CHARITABLE TRUSTS AND PRIVATE FOUNDATIONS.—This section shall not apply to any trust which is subject to the tax imposed by section 511 or which is a private foundation.

"(4) SPECIAL RULE FOR ANNUALIZATIONS.—In the case of any estate or trust to which this section applies, subsection (d)(2)(B)(i) shall be applied by substituting 'ending before the

date 1 month before the due date for the installment' for 'ending before the due date for the installment'."

(3) Subsection (g) of section 643 of the 1986 Code is amended—

(A) by striking out the last sentence of paragraph (1), and

(B) by amending paragraph (2) to read as follows:

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) shall be made on or before the 65th day after the close of the taxable year of the trust and in such manner as the Secretary may prescribe."

(4) Subsection (g) of section 643 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) EXTENSION TO LAST YEAR OF ESTATE.—In the case of a taxable year reasonably expected to be the last taxable year of an estate—

"(A) any reference in this subsection to a trust shall be treated as including a reference to an estate, and

"(B) the fiduciary of the estate shall be treated as the trustee."

(e) AMENDMENTS RELATED TO SECTION 1411 OF THE REFORM ACT.—

(1) Paragraph (3) of section 1(i) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) COORDINATION WITH SECTION 644.—If tax is imposed under section 644(a)(1) with respect to the sale or exchange of any property of which the parent was the transferor, for purposes of applying subparagraph (A) to the taxable year of the parent in which such sale or exchange occurs—

"(i) taxable income of the parent shall be increased by the amount treated as included in gross income under section 644(a)(2)(A)(i), and

"(ii) the amount described in subparagraph (A)(ii) shall be increased by the amount of the excess referred to in section 644(a)(2)(A)."

(2) The last sentence of subparagraph (A) of section 1(i)(3) of the 1986 Code is amended by striking out "any deduction or credit" and inserting in lieu thereof "any exclusion, deduction, or credit".

(3) Subparagraph (A) of section 1(i)(4) of the 1986 Code is amended—

(A) by striking out "gross income for the taxable year which is not earned income" in clause (i) and inserting in lieu thereof "adjusted gross income for the taxable year which is not attributable to earned income",

(B) by striking out "his deduction" in clause (ii)(II) and inserting in lieu thereof "his deductions",

(C) by striking out "the deductions allowed" in clause (ii)(II) and inserting in lieu thereof "the itemized deductions allowed", and

(D) by striking out "gross income" in clause (ii)(II) and inserting in lieu thereof "adjusted gross income".

(4) Clause (iv) of section 6103(e)(1)(A) of the 1986 Code is amended by striking out "section 1(j)" and inserting in lieu thereof "section 1(i) or 59(j)".

(5)(A) Section 59 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(j) TREATMENT OF UNEARNED INCOME OF MINOR CHILDREN.—

"(1) LIMITATION ON EXEMPTION AMOUNT.—In the case of a child to whom section 1(i) applies, the exemption amount for purposes of section 55 shall not exceed the sum of—

"(A) such child's earned income (as defined in section 911(d)(2)) for the taxable year, plus

"(B) $1,000.

"(2) LIMITATION BASED ON PARENTAL MINIMUM TAX.—

"(A) IN GENERAL.—In the case of a child to whom section 1(i) applies, the amount of the tax imposed by section 55 shall not exceed such child's share of the allocable parental minimum tax.

"(B) ALLOCABLE PARENTAL MINIMUM TAX.—For purposes of this paragraph, the term 'allocable parental minimum tax' means the excess of—

"(i) the tax which would be imposed by section 55 on the parent if—

"(I) the amount of the parent's tentative minimum tax were increased by the aggregate of the tentative minimum taxes of all children of the parent to whom section 1(i) applies, and

"(II) the amount of the parent's regular tax were increased by the aggregate of the regular taxes of all children of the parent to whom section 1(i) applies, over

"(ii) the tax imposed by section 55 on the parent without regard to this subparagraph.

"(C) CHILD SHARE.—A child's share of any allocable parental minimum tax shall be determined under rules similar to the rules of section 1(i)(3)(B).

"(D) OTHERS RULES MADE APPLICABLE.—For purposes of this paragraph, rules similar to the rules of paragraphs (5) and (6) of section 1(i) shall apply."

26 USC 59 note.

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after December 31, 1988.

(6) Subparagraph (A) of section 1(i)(5) of the 1986 Code is amended by striking out "custodial parent" and inserting in lieu thereof "custodial parent (within the meaning of section 152(e))".

(7) Paragraph (3) of section 1(i) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) SPECIAL RULE WHERE PARENT HAS DIFFERENT TAXABLE YEAR.—Except as provided in regulations, if the parent does not have the same taxable year as the child, the allocable parental tax shall be determined on the basis of the taxable year of the parent ending in the child's taxable year."

(f) AMENDMENT RELATED TO SECTION 1421 OF THE REFORM ACT.—Subsection (a) of section 1421 of the Reform Act is amended by striking out "within the time prescribed for filing such return (including extensions thereof)".

26 USC 2032A note.

(g) AMENDMENTS RELATED TO SECTION 1431 OF THE REFORM ACT.—

(1) Subsection (a) of section 2611 of the 1986 Code is amended by striking out "generation-skipping transfers" and inserting in lieu thereof "generation-skipping transfer".

(2) Subsection (b) of section 2611 of the 1986 Code is amended by striking out paragraph (1) and by redesignating paragraphs (2) and (3) as paragraphs (1) and (2), respectively.

(3)(A) Section 2642 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) SPECIAL RULES FOR CHARITABLE LEAD ANNUITY TRUSTS.—

"(1) IN GENERAL.—For purposes of determining the inclusion ratio for any charitable lead annuity trust, the applicable fraction shall be a fraction—

"(A) the numerator of which is the adjusted GST exemption, and

"(B) the denominator of which is the value of all of the property in such trust immediately after the termination of the charitable lead annuity.

"(2) ADJUSTED GST EXEMPTION.—For purposes of paragraph (1), the adjusted GST exemption is an amount equal to the GST exemption allocated to the trust increased by interest determined—

"(A) at the interest rate used in determining the amount of the deduction under section 2055 or 2522 (as the case may be) for the charitable lead annuity, and

"(B) for the actual period of the charitable lead annuity.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CHARITABLE LEAD ANNUITY TRUST.—The term 'charitable lead annuity trust' means any trust in which there is a charitable lead annuity.

"(B) CHARITABLE LEAD ANNUITY.—The term 'charitable lead annuity' means any interest in the form of a guaranteed annuity with respect to which a deduction was allowed under section 2055 or 2522 (as the case may be).

"(4) COORDINATION WITH SUBSECTION (d).—Under regulations, appropriate adjustments shall be made in the application of subsection (d) to take into account the provisions of this subsection."

(B) The amendment made by subparagraph (A) shall apply for purposes of determining the inclusion ratio with respect to property transferred after October 13, 1987. 26 USC 2642 note.

(4)(A) Section 2642 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULES FOR CERTAIN INTER VIVOS TRANSFERS.—Except as provided in regulations— Real property.

"(1) IN GENERAL.—For purposes of determining the inclusion ratio, if—

"(A) an individual makes an inter vivos transfer of property, and

"(B) the value of such property would be includible in the gross estate of such individual under chapter 11 if such individual died immediately after making such transfer (other than by reason of section 2035),

any allocation of GST exemption to such property shall not be made before the close of the estate tax inclusion period (and the value of such property shall be determined under paragraph (2)). If such transfer is a direct skip, such skip shall be treated as occurring as of the close of the estate tax inclusion period.

"(2) VALUATION.—In the case of any property to which paragraph (1) applies, the value of such property shall be—

"(A) if such property is includible in the gross estate of the transferor (other than by reason of section 2035), its value for purposes of chapter 11, or

"(B) if subparagraph (A) does not apply, its value as of the close of the estate tax inclusion period (or, if any allocation of GST exemption to such property is not made on a timely filed gift tax return for the calendar year in which such period ends, its value as of the time such allocation is filed with the Secretary).

"(3) ESTATE TAX INCLUSION PERIOD.—For purposes of this subsection, the term 'estate tax inclusion period' means any period after the transfer described in paragraph (1) during which the value of the property involved in such transfer would be includible in the gross estate of the transferor under chapter 11 if he died. Such period shall in no event extend beyond the earlier of—

"(A) the date on which there is a generation-skipping transfer with respect to such property, or

"(B) the date of the death of the transferor.

"(4) TREATMENT OF SPOUSE.—Except as provided in regulations, any reference in this subsection to an individual or transferor shall be treated as including a reference to the spouse of such individual or transferor.

"(5) COORDINATION WITH SUBSECTION (d).—Under regulations, appropriate adjustments shall be made in the application of subsection (d) to take into account the provisions of this subsection."

(B) Paragraph (2) of section 2642(a) of the 1986 Code is amended by striking out the last sentence.

(C) Subparagraph (A) of section 2642(b)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "; except that, if the requirements prescribed by the Secretary respecting allocation of post-death changes in value are not met, the value of such property shall be determined as of the time of the distribution concerned."

(D) Subsection (b) of section 2642 of the 1986 Code is amended by inserting "Except as provided in subsection (f)—" immediately after the subsection heading.

(E) Subparagraph (B) of section 2642(b)(2) of the 1986 Code is amended—

(i) by striking out "at or after the death of the transferor" and inserting in lieu thereof "to property transferred as a result of the death of the transferor"; and

(ii) by striking out "AT OR AFTER DEATH" in the subparagraph heading and inserting in lieu thereof "TO PROPERTY TRANSFERRED AT DEATH".

(F) Paragraph (3) of section 2642(b) of the 1986 Code is amended—

(i) by striking out "to any property is made during the life of the transferor but is" and inserting in lieu thereof "to any property not transferred as a result of the death of the transferor is"; and

(ii) by striking out "INTER VIVOS ALLOCATIONS" in the subparagraph heading and inserting in lieu thereof "ALLOCATIONS TO INTER VIVOS TRANSFERS".

(5)(A) Paragraph (1) of section 2613(a) of the 1986 Code is amended by striking out "a person assigned" and inserting in lieu thereof "a natural person assigned".

(B) Subsection (c) of section 2612 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) LOOK-THRU RULES NOT TO APPLY.—Solely for purposes of determining whether any transfer to a trust is a direct skip, the rules of section 2651(e)(2) shall not apply."

(6) Subsection (c) of section 2652 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN SUPPORT OBLIGATIONS DISREGARDED.—The fact that income or corpus of the trust may be used to satisfy an obligation of support arising under State law shall be disregarded in determining whether a person has an interest in the trust, if— Gifts and property.

"(A) such use is discretionary, or

"(B) such use is pursuant to the provisions of any State law substantially equivalent to the Uniform Gifts to Minors Act."

(7) Paragraph (2) of section 2612(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "If any transfer of property to a trust would be a direct skip but for this paragraph, any generation assignment under this paragraph shall apply also for purposes of applying this chapter to transfers from the portion of the trust attributable to such property."

(8) Paragraph (2) of section 2652(c) of the 1986 Code is amended—

(A) by striking out "NOMINAL INTERESTS" in the paragraph heading and inserting in lieu thereof "INTERESTS", and

(B) by striking out "the tax" and inserting in lieu thereof "any tax".

(9) Paragraph (1) of section 2652(a) of the 1986 Code is amended—

(A) by striking out "a transfer of a kind" each place it appears and inserting in lieu thereof "any property", and

(B) by adding at the end thereof the following new sentence:

"An individual shall be treated as transferring any property with respect to which such individual is the transferor."

(10) Section 2663 of the 1986 Code is amended by striking out "and" at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(3) regulations providing for such adjustments as may be necessary to the application of this chapter in the case of any arrangement which, although not a trust, is treated as a trust under section 2652(b)."

(11) Paragraph (3) of section 2651(e) of the 1986 Code is amended to read as follows:

"(3) TREATMENT OF CERTAIN CHARITABLE ORGANIZATIONS AND GOVERNMENTAL ENTITIES.—Any—

"(A) organization described in section 511(a)(2),

"(B) charitable trust described in section 511(b)(2), and

"(C) governmental entity,

shall be assigned to the transferor's generation."

(12) Paragraph (2) of section 2654(a) of the 1986 Code is amended—

(A) by striking out "any increase" and inserting in lieu thereof "any increase or decrease", and

(B) by striking out "such increase" and inserting in lieu thereof "such increase or decrease (as the case may be)".

(13) Subsection (b) of section 2654 of the 1986 Code is amended to read as follows:

"(b) CERTAIN TRUSTS TREATED AS SEPARATE TRUSTS.—For purposes of this chapter—

"(1) the portions of a trust attributable to transfers from different transferors shall be treated as separate trusts, and

"(2) substantially separate and independent shares of different beneficiaries in a trust shall be treated as separate trusts.

Except as provided in the preceding sentence, nothing in this chapter shall be construed as authorizing a single trust to be treated as 2 or more trusts."

(14) Paragraph (3) of section 2652(a) of the 1986 Code is amended—

(A) by striking out "any property" in subparagraphs (A) and (B) and inserting in lieu thereof "any trust", and

(B) by striking out "may elect to treat such property" and inserting in lieu thereof "may elect to treat all of the property in such trust".

(15) Paragraph (2) of section 2612(a) of the 1986 Code is amended to read as follows:

"(2) CERTAIN PARTIAL TERMINATIONS TREATED AS TAXABLE.—If, upon the termination of an interest in property held in trust by reason of the death of a lineal descendant of the transferor, a specified portion of the trust's assets are distributed to 1 or more skip persons (or 1 or more trusts for the exclusive benefit of such persons), such termination shall constitute a taxable termination with respect to such portion of the trust property."

(16) Paragraph (2) of section 2632(b) of the 1986 Code is amended by striking out "paragraph (1)) with respect to a prior direct skip" and inserting in lieu thereof "paragraph (1) with respect to a prior direct skip)".

(17)(A) Subsection (c) of section 2642 of the 1986 Code is amended to read as follows:

"(c) TREATMENT OF CERTAIN DIRECT SKIPS WHICH ARE NONTAXABLE GIFTS.—

"(1) IN GENERAL.—In the case of a direct skip which is a nontaxable gift, the inclusion ratio shall be zero.

"(2) EXCEPTION FOR CERTAIN TRANSFERS IN TRUST.—Paragraph (1) shall not apply to any transfer to a trust for the benefit of an individual unless—

"(A) during the life of such individual, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such individual, and

"(B) if such individual dies before the trust is terminated, the assets of such trust will be includible in the gross estate of such individual.

"(3) NONTAXABLE GIFT.—For purposes of this subsection, the term 'nontaxable gift' means any transfer of property to the extent such transfer is not treated as a taxable gift by reason of—

"(A) section 2503(b) (taking into account the application of section 2513), or

"(B) section 2503(e)."

(B) Paragraph (1) of section 2642(d) of the 1986 Code is amended by striking out "(other than a nontaxable gift)".

(C) The amendments made by this paragraph shall apply to transfers after March 31, 1988. 26 USC 2642 note.

(18) Clause (i) of section 2642(d)(2)(B) of the 1986 Code is amended to read as follows:

"(i) the value of the property involved in such transfer reduced by the sum of—

"(I) any Federal estate tax or state death tax actually recovered from the trust attributable to such property, and

"(II) any charitable deduction allowed under section 2055 or 2522 with respect to such property, and".

(19) Paragraph (2) of section 2651(b) of the 1986 Code is amended by striking out "a spouse of the transferor" and inserting in lieu thereof "a spouse (or former spouse) of the transferor".

(20) Section 2652 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) Executor.—For purposes of this chapter, the term 'executor' has the meaning given such term by section 2203."

(h) AMENDMENTS RELATED TO SECTION 1433 OF THE REFORM ACT.—

(1) Subsection (a) of section 1433 of the Reform Act is amended by striking out "this part" and inserting in lieu thereof "this subtitle". 26 USC 2601 note.

(2) Paragraph (2) of section 1433(b) of the Reform Act is amended—

(A) by striking out "this part" in the material preceding subparagraph (A) and inserting in lieu thereof "this subtitle",

(B) by inserting before the comma at the end of subparagraph (A) the following: "(or out of income attributable to corpus so added)", and

(C) by inserting "or revocable trust" after "a will" in subparagraph (B).

(3)(A) Subsection (b) of section 1433 of the Reform Act is amended by striking out paragraph (3) and inserting in lieu thereof the following new paragraphs:

"(3) TREATMENT OF CERTAIN TRANSFERS TO GRANDCHILDREN.—

"(A) IN GENERAL.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the term 'direct skip' shall not include any transfer before January 1, 1990, from a transferor to a grandchild of the transferor to the extent the aggregate transfers from such transferor to such grandchild do not exceed $2,000,000.

"(B) TREATMENT OF TRANSFERS IN TRUST.—For purposes of subparagraph (A), a transfer in trust for the benefit of a grandchild shall be treated as a transfer to such grandchild if (and only if)—

"(i) during the life of the grandchild, no portion of the corpus or income of the trust may be distributed to (or for the benefit of) any person other than such grandchild,

"(ii) the assets of the trust will be includible in the gross estate of the grandchild if the grandchild dies before the trust is terminated, and

"(iii) all of the income of the trust for periods after the grandchild has attained age 21 will be distributed

to (or for the benefit of) such grandchild not less frequently than annually.

"(C) COORDINATION WITH SECTION 2653(a) OF THE 1986 CODE.—In the case of any transfer which would be a generation-skipping transfer but for subparagraph (A), the rules of section 2653(a) of the Internal Revenue Code of 1986 shall apply as if such transfer were a generation-skipping transfer.

"(D) COORDINATION WITH TAXABLE TERMINATIONS AND TAXABLE DISTRIBUTIONS.—For purposes of chapter 13 of the Internal Revenue Code of 1986, the terms 'taxable termination' and 'taxable distribution' shall not include any transfer which would be a direct skip but for subparagraph (A).

"(4) DEFINITIONS.—Terms used in this section shall have the same respective meanings as when used in chapter 13 of the Internal Revenue Code of 1986; except that section 2612(c)(2) of such Code shall not apply in determining whether an individual is a grandchild of the transferor."

26 USC 2601 note.

(B) Clause (iii) of section 1443(b)(3)(B) of the Reform Act (as amended by subparagraph (A)) shall apply only to transfers after June 10, 1987.

26 USC 2601 note.

(4) Subsection (d) of section 1433 of the Reform Act is amended—

(A) by striking out "shall be treated as a direct skip" and inserting in lieu thereof "shall be treated as a direct skip to such grandchild",

(B) by striking out "would be a direct skip" in subparagraph (B) and inserting in lieu thereof "would be a direct skip to a grandchild", and

(C) by adding at the end thereof the following new sentence: "Unless the grandchild otherwise directs by will, the estate of such grandchild shall be entitled to recover from the person receiving the property on the death of the grandchild any increase in Federal estate tax on the estate of the grandchild by reason of the preceding sentence."

26 USC 2601 note.

(5) Subparagraph (C) of section 1433(b)(2) of the Reform Act shall not exempt any direct skip from the amendments made by subtitle D of title XIV of the Reform Act if—

(A) such direct skip results from the application of section 2044 of the 1986 Code, and

(B) such direct skip is attributable to property transferred to the trust after October 21, 1988.

SEC. 1015. AMENDMENTS RELATED TO TITLE XV OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1501 OF THE REFORM ACT.—Subparagraph (B) of section 6724(d)(2) of the 1986 Code is amended by striking out "6031(b)" and inserting in lieu thereof "6031(b) or (c)".

(b) AMENDMENTS RELATED TO SECTION 1503 OF THE REFORM ACT.—

(1) Subparagraph (A) of section 6013(b)(5) of the 1986 Code is amended to read as follows:

"(A) COORDINATION WITH SECTION 6653.—For purposes of section 6653, where the sum of the amounts shown as tax on the separate returns of each spouse is less than the amount shown as tax on the joint return made under this subsection—

"(i) such sum shall be treated as the amount shown on the joint return,

"(ii) any negligence (or disregard of rules or regulations) on either separate return shall be treated as negligence (or such disregard) on the joint return, and

"(iii) any fraud on either separate return shall be treated as fraud on the joint return." Fraud.

(2)(A) Paragraph (1) of section 6653(a) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to negligence (or disregard of rules or regulations), there shall be added to the tax an amount equal to 5 percent of the underpayment." Fraud.

(B) Paragraph (1) of section 6653(b) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—If any part of any underpayment (as defined in subsection (c)) of tax required to be shown on a return is due to fraud, there shall be added to the tax an amount equal to 75 percent of the portion of the underpayment which is attributable to fraud."

(C) Paragraph (2) of section 6601(e) of the 1986 Code is amended by striking out "6659" each place it appears and inserting in lieu thereof "6653, 6659".

(3) Subsection (g) of section 6653 of the 1986 Code is amended by adding at the end thereof the following new sentence: "If any penalty is imposed under subsection (a) by reason of the preceding sentence, only the portion of the underpayment which is attributable to the failure described in the preceding sentence shall be taken into account in determining the amount of the penalty under subsection (a)."

(4) The amendments made by this subsection (other than paragraph (3)) shall apply to returns the due date for which (determined without regard to extensions) is after December 31, 1988. 26 USC 6001 note.

(c) AMENDMENT RELATED TO SECTION 1504 OF THE REFORM ACT.—The repeal made by section 8002(c) of the Omnibus Budget Reconciliation Act of 1986 shall take effect as if the Tax Reform Act of 1986 had been enacted on the day before the date of the enactment of the Omnibus Budget Reconciliation Act of 1986. Effective date. 26 USC 6661 note.

(d) AMENDMENTS RELATED TO SECTION 1511 OF THE REFORM ACT.—Section 6621 of the 1986 Code is amended—

(1) by striking out "short-term Federal rate" each place it appears in subsections (a) and (b)(1) and inserting in lieu thereof "Federal short-term rate", and

(2) by striking out "SHORT-TERM FEDERAL RATE" in the heading of subsection (b) and inserting in lieu thereof "FEDERAL SHORT-TERM RATE".

(e) AMENDMENTS RELATED TO SECTION 1521 OF THE REFORM ACT.—

(1)(A) Paragraph (1) of section 6045(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"A person shall not be treated as a broker with respect to activities consisting of managing a farm on behalf of another person." Agriculture and agricultural commodities.

Effective date. 26 USC 6045 note.

(B) The amendment made by subparagraph (A) shall take effect as if included in the amendments made by section 311(a)(1) of the Tax Equity and Fiscal Responsibility Act of 1982.

(2)(A) Subsection (e) of section 6045 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

Real property.

"(3) PROHIBITION OF SEPARATE CHARGE FOR FILING RETURN.—It shall be unlawful for any real estate reporting person to separately charge any customer for complying with any requirement of paragraph (1)."

Effective date. 26 USC 6045 note.

(B) The amendment made by subparagraph (A) shall take effect on the date of the enactment of this Act.

(3) Subsection (e) of section 6045 of the 1986 Code is amended—

(A) by striking out "real estate broker" each place it appears in the text and inserting in lieu thereof "real estate reporting person", and

(B) by striking out "REAL ESTATE BROKER" in the heading of paragraph (2) and inserting in lieu thereof "REAL ESTATE REPORTING PERSON".

(f) AMENDMENT RELATED TO SECTION 1522 OF THE REFORM ACT.—Section 6050M of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) EXCEPTION FOR CERTAIN CLASSIFIED OR CONFIDENTIAL CONTRACTS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), this section shall not apply in the case of a contract described in paragraph (3).

"(2) REPORTING REQUIREMENT.—Each Federal executive agency which has entered into a contract described in paragraph (3) shall, upon a request of the Secretary which identifies a particular person, acknowledge whether such person has entered into such a contract with such agency and, if so, provide to the Secretary—

"(A) the information required under this section with respect to such person, and

"(B) such other information with respect to such person which the Secretary and the head of such Federal executive agency agree is appropriate.

"(3) DESCRIPTION OF CONTRACT.—For purposes of this subsection, a contract between a Federal executive agency and another person is described in this paragraph if—

Classified information. Defense and national security.

"(A) the fact of the existence of such contract or the subject matter of such contract has been designated and clearly marked or clearly represented, pursuant to the provisions of Federal law or an Executive order, as requiring a specific degree of protection against unauthorized disclosure for reasons of national security, or

"(B) the head of such Federal executive agency (or his designee) pursuant to regulations issued by such agency determines, in writing, that filing the required return under this section would interfere with the effective conduct of a confidential law enforcement or foreign counterintelligence activity."

(g) AMENDMENTS RELATED TO SECTION 1523 OF THE REFORM ACT.—Section 6676 of the 1986 Code is amended—

(1) by striking out "6049, or 6050N" in subsection (a)(3) and inserting in lieu thereof "or 6049",

(2) by striking out "6049, or 6050N" in subsection (b)(1)(A) and inserting in lieu thereof "or 6049", and

(3) by striking out ", DIVIDENDS, AND ROYALTIES" in the heading for subsection (b) and inserting in lieu thereof "AND DIVIDEND".

(h) AMENDMENTS RELATED TO SECTION 1542 OF THE REFORM ACT.—Subsection (h) of section 6154 of the 1986 Code (as in effect before its repeal by the Revenue Act of 1987) is amended—

(1) by striking out "subject to the tax imposed by section 4940" in paragraph (1),

(2) by amending paragraph (2) to read as follows:

"(2) any tax imposed by section 511, and any tax imposed by section 1 or 4940 on a private foundation, shall be treated as a tax imposed by section 11, and", and

(3) by adding at the end thereof the following new sentence: "In the case of an organization described in paragraph (1), subsection (c) of section 6655 shall be applied by substituting '5th month' for 'third month' and subsection (d)(3)(A) of section 6655 shall be applied by substituting '2 months' for '3 months' in clause (i), by substituting '4 months' for '5 months, in clause (ii), by substituting '7 months' for '8 months' in clause (iii), and by substituting '10 months' for '11 months' in clause (iv)."

(i) AMENDMENT RELATED TO SECTION 1551 OF THE REFORM ACT.—Clause (iii) of section 7430(c)(2)(A) of the 1986 Code is amended to read as follows:

"(iii) meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect)."

(j) PROVISION RELATED TO SECTION 1556 OF THE REFORM ACT.—To the extent the salary recommendations submitted by the President on January 5, 1987, are inconsistent with the provisions of section 7443A(d)(1) of the 1986 Code, such recommendations shall not be effective for any period. 26 USC 7443A note.

(k) AMENDMENT RELATED TO SECTION 1557 OF THE REFORM ACT.—

(1) Subsection (d) of section 7447 of the 1986 Code is amended by adding at the end thereof the following new sentence: "In computing the rate of the retired pay under paragraph (1) of this subsection for any individual who is entitled thereto, any period during which such individual performs services under subsection (c) on a substantially full-time basis shall be treated as a period during which he has served as a judge."

(2) The amendment made by paragraph (1) shall apply for purposes of determining the amount of retired pay for months beginning after the date of the enactment of this Act regardless of when the services under section 7447(c) of the 1986 Code were performed. 26 USC 7447 note.

(l) AMENDMENTS RELATED TO SECTION 1561 OF THE REFORM ACT.—

(1) Subsection (e)(2) of section 7609 of the 1986 Code is amended—

(A) by inserting "or the summoned party's response to a summons described in subsection (f)," after "the summons described in subsection (c),", and

(B) by striking out "the summons is issued other" and inserting in lieu thereof "the summons is issued".

(2) Subsection (i) of section 7609 of the 1986 Code is amended—

(A) by striking out "the third-party recordkeeper" in paragraph (4) and inserting in lieu thereof "the summoned party", and

(B) by inserting "AND SUMMONED PARTY" after "RECORDKEEPER" in the subsection heading.

Effective date. 26 USC 7609 note.

(3) The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(m) AMENDMENT RELATED TO SECTION 1562 OF THE REFORM ACT.—Subsection (d) of section 6212 of the 1986 Code is amended by adding at the end thereof the following new sentence: "Nothing in this subsection shall affect any suspension of the running of any period of limitations during any period during which the rescinded notice was outstanding."

(n) AMENDMENT RELATED TO SECTION 1563 OF THE REFORM ACT.—Subparagraph (B) of section 6404(e)(1) of the 1986 Code is amended—

(1) by inserting "error or" before "delay", and

(2) by inserting "erroneous or" before "dilatory".

(o) AMENDMENT RELATED TO SECTION 1565 OF THE REFORM ACT.—Effective with respect to levies made after December 31, 1988, paragraph (10) of section 6334(a) of the 1986 Code is amended—

(1) in subparagraph (A)—

(A) by striking out "IV" and inserting in lieu thereof "III, IV, V,", and

(B) by adding "or" at the end thereof,

(2) in subparagraph (C) by striking out "21," and inserting in lieu thereof "13, 21, 23," and

(3) by striking out subparagraph (B) and redesignating subparagraph (C) as subparagraph (B).

(p) AMENDMENT RELATED TO SECTION 1581 OF THE REFORM ACT.—Subsection (c) of section 1581 of the Reform Act is amended by adding at the end thereof the following new sentence:

26 USC 3402 note.

"The preceding sentence shall not apply if its application would result in an increase in the number of withholding allowances for the employee."

(q) GENERAL REQUIREMENT OF RETURN, STATEMENT, OR LIST.—

(1) Subsection (a) of section 6011 of the 1986 Code is amended by striking out "for the collection thereof" and inserting in lieu thereof "with respect to the collection thereof".

Effective date.

(2) The amendment made by paragraph (1) shall take effect on the date of the enactment of this Act.

(r) CERTAIN REFUNDABLE CREDITS TO BE ASSESSED UNDER DEFICIENCY PROCEDURES.—

(1) Subsection (a) of section 6201 of the 1986 Code is amended by striking out paragraph (4).

26 USC 6011 note.

(2) Paragraph (4) of section 6211(b) is amended to read as follows:

"(4) For purposes of subsection (a)—

"(A) any excess of the sum of the credits allowable under sections 32 and 34 over the tax imposed by subtitle A (determined without regard to such credits), and

"(B) any excess of the sum of such credits as shown by the taxpayer on his return over the amount shown as the tax by the taxpayer on such return (determined without regard to such credits),

shall be taken into account as negative amounts of tax."

(3) Subsection (h) of section 6211 of the 1986 Code is amended by striking out paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(4) The amendments made by this subsection shall apply to notices of deficiencies mailed after the date of the enactment of this Act. 26 USC 6201 note.

(s) NOTICE OF LIEN ON PERSONAL PROPERTY.—

(1) Subsection (f) of section 6323 of the 1986 Code is amended—

(A) by inserting ", except that State law merely conforming to or reenacting Federal law establishing a national filing system does not constitute a second office for filing as designated by the laws of such State" after "situated" in paragraph (1)(A)(ii), and

(B) by adding at the end thereof the following new paragraph:

"(5) NATIONAL FILING SYSTEMS.—The filing of a notice of lien shall be governed solely by this title and shall not be subject to any other Federal law establishing a place or places for the filing of liens or encumbrances under a national filing system."

(2) The amendments made by this subsection shall take effect on the date of the enactment of this Act. Effective date. 26 USC 6323 note.

(t) EFFECT OF HONORING LEVY.—

(1) Subsection (d) of section 6332 of the 1986 Code is amended—

(A) by inserting "and any other person" after "delinquent taxpayer", and

(B) by striking out the last sentence thereof.

(2) The amendment made by this subsection shall apply to levies issued after the date of the enactment of this Act. 26 USC 6332 note.

(u) COLLECTION AFTER COMMENCEMENT OF JUDICIAL PROCEEDINGS.—

(1) The last sentence of section 6502(a) of the 1986 Code is amended to read as follows: "If a timely proceeding in court for the collection of a tax is commenced, the period during which such tax may be collected by levy shall be extended and shall not expire until the liability for the tax (or a judgment against the taxpayer arising from such liability) is satisfied or becomes enforceable."

(2) The amendment made by this subsection shall apply to levies issued after the date of the enactment of this Act. 26 USC 6502 note.

SEC. 1016. AMENDMENTS RELATED TO TITLE XVI OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1603 OF THE REFORM ACT.—

(1)(A) Subparagraph (A) of section 501(c)(25) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"For purposes of clause (iii), the term 'real property' shall not include any interest as a tenant in common (or similar interest) and shall not include any indirect interest."

(B) The amendment made by subparagraph (A) shall apply with respect to property acquired by the organization after June 10, 1987, except that such amendment shall not apply to any property acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition. Real property. Contracts. Corporations. 26 USC 501 note.

(2) Subparagraph (D) of section 501(c)(25) of the 1986 Code is amended by striking out so much of such subparagraph as precedes clause (i) and inserting in lieu thereof the following:

"(D) A corporation or trust shall in no event be treated as described in subparagraph (A) unless such corporation or trust permits its shareholders or beneficiaries—".

(3)(A) Paragraph (25) of section 501(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E)(i) For purposes of this title—

"(I) a corporation which is a qualified subsidiary shall not be treated as a separate corporation, and

"(II) all assets, liabilities, and items of income, deduction, and credit of a qualified subsidiary shall be treated as assets, liabilities, and such items (as the case may be) of the corporation or trust described in subparagraph (A).

"(ii) For purposes of this subparagraph, the term 'qualified subsidiary' means any corporation if, at all times during the period such corporation was in existence, 100 percent of the stock of such corporation is held by the corporation or trust described in subparagraph (A).

"(iii) For purposes of this subtitle, if any corporation which was a qualified subsidiary ceases to meet the requirements of clause (ii), such corporation shall be treated as a new corporation acquiring all of its assets (and assuming all of its liabilities) immediately before such cessation from the corporation or trust described in subparagraph (A) in exchange for its stock."

(B) Subparagraph (C) of section 501(c)(25) of the 1986 Code is amended by inserting "or" at the end of clause (iii), by striking out ", or" at the end of clause (iv) and inserting in lieu thereof a period, and by striking out clause (v).

(4) Paragraph (25) of section 501(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(F) For purposes of subparagraph (A), the term 'real property' includes any personal property which is leased under, or in connection with, a lease of real property, but only if the rent attributable to such personal property (determined under the rules of section 856(d)(1)) for the taxable year does not exceed 15 percent of the total rent for the taxable year attributable to both the real and personal property leased under, or in connection with, such lease."

(5)(A) Paragraph (9) of section 514(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULES FOR ORGANIZATIONS DESCRIBED IN SECTION 501(C)(25).—

"(i) IN GENERAL.—In computing under section 512 the unrelated business taxable income of a disqualified holder of an interest in an organization described in section 501(c)(25), there shall be taken into account—

"(I) as gross income derived from an unrelated trade or business, such holder's pro rata share of the items of income described in clause (ii)(I) of such organization, and

"(II) as deductions allowable in computing unrelated business taxable income, such holder's pro rata share of the items of deduction described in clause (ii)(II) of such organization.

Such amounts shall be taken into account for the taxable year of the holder in which (or with which) the taxable year of such organization ends.

"(ii) DESCRIPTION OF AMOUNTS.—For purposes of clause (i)—

"(I) gross income is described in this clause to the extent such income would (but for this paragraph) be treated under subsection (a) as derived from an unrelated trade or business, and

"(II) any deduction is described in this clause to the extent it would (but for this paragraph) be allowable under subsection (a)(2) in computing unrelated business taxable income.

"(iii) DISQUALIFIED HOLDER.—For purposes of this subparagraph, the term 'disqualified holder' means any shareholder (or beneficiary) which is not described in clause (i) or (ii) of subparagraph (C)."

(B) The amendment made by subparagraph (A) shall apply with respect to interests in the organization acquired after June 10, 1987, except that such amendment shall not apply to any such interest acquired after June 10, 1987, pursuant to a binding written contract in effect on June 10, 1987, and at all times thereafter before such acquisition. 26 USC 514 note.

(6) The last sentence of section 514(c)(9)(B) of the 1986 Code is amended by striking out "clause (vi)" and inserting in lieu thereof "this paragraph".

(b) REPEAL OF SECTION 1608 OF THE REFORM ACT.—Section 1608 of the Reform Act is hereby repealed. 26 USC 170 note.

SEC. 1017. AMENDMENTS RELATED TO TITLE XVII OF THE REFORM ACT.

(a) AMENDMENTS RELATED TO SECTION 1701 OF THE REFORM ACT.—Clause (i) of section 51(d)(12)(B) of the 1986 Code is amended by striking out "subsection (a)(1)" and inserting in lieu thereof "subsection (a)".

(b) AMENDMENT RELATED TO SECTION 1702 OF THE REFORM ACT.—Subsection (j) of section 6652 of the 1986 Code, as added by section 1702(b) of the Reform Act and as in effect before its repeal by the Revenue Act of 1987, is amended by inserting "(and the corresponding provision of section 4041(d)(1))" after "section 4041(a)(1)".

(c) AMENDMENTS RELATED TO SECTION 1703 OF THE REFORM ACT.—

(1)(A) Subsection (a) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by redesignating paragraph (2) as paragraph (3) and by striking out paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(1) IN GENERAL.—There is hereby imposed a tax at the rate specified in paragraph (2) on the earlier of—

"(A) the removal, or

"(B) the sale,

of gasoline by the refiner or importer thereof or the terminal operator.

"(2) RATES OF TAX.—

"(A) IN GENERAL.—The rate of the tax imposed by this section is the sum of—

"(i) the Highway Trust Fund financing rate, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate.

"(B) RATES.—For purposes of subparagraph (A)—

"(i) the Highway Trust Fund financing rate is 9 cents a gallon, and

"(ii) the Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent a gallon."

(B) Subsections (b) and (c) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, are each amended by striking out "subsection (d)" and inserting in lieu thereof "subsection (a)".

(C) Subsection (e) of section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended—

(i) by striking out "subsection (d)(2)(A)" in paragraph (1) and inserting in lieu thereof "subsection (a)(2)", and

(ii) by striking out "subsection (d)(2)(B)" each place it appears in paragraph (2) and inserting in lieu thereof "subsection (a)(2)".

(D) Section 4081 of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by striking out subsection (d) and by redesignating subsection (e) as subsection (d).

(2) Subsection (b) of section 34 of the 1986 Code is amended by striking out "section 6421(i) or 6427(j)" and inserting in lieu thereof "section 6421(j) or 6427(k)".

(3) Sections 4041(b)(1)(C) and 6427(m)(3) of the 1986 Code are each amended by striking out "section 6421(d)(2)" and inserting in lieu thereof "section 6421(e)(2)".

(4) Paragraph (3) of section 4041(f) of the 1986 Code is amended to read as follows:

"(3) TERMINATION.—Except with respect to the taxes imposed by subsection (d), paragraph (1) shall not apply on and after October 1, 1993."

26 USC 4221 note.

(5) The amendment made by section 10502(d)(4) of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 1703 of the Reform Act except that the reference to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.

(6) Section 6421 of the 1986 Code is amended by redesignating subsection (i) (relating to income tax credit in lieu of payment) and subsection (j) (relating to cross references) as subsections (j) and (k), respectively.

(7) Subsections (a) and (b)(1) of section 6421 of the 1986 Code are each amended by striking out "subsection (i)" and inserting in lieu thereof "subsection (j)".

(8) Paragraph (2) of section 6421(j) of the 1986 Code (as redesignated by paragraph (6)) is amended by striking out "subsection (c)(2)" and inserting in lieu thereof "subsection (d)(2)".

(9) Sections 7210, 7603, 7604(b), 7604(c)(2), 7605(a), 7609(c)(1), and 7610(c) of the 1986 Code are each amended by striking out "6421(f)(2)" and inserting in lieu thereof "6421(g)(2)".

(10) Paragraph (2) of section 6427(k) of the 1986 Code is amended by striking out "subsection" and all that follows and inserting in lieu thereof "paragraph (2) or (3) of subsection (i)."

(11) Paragraph (6) of section 6511(i) of the 1986 Code is amended by striking out "section 6421(c)" and inserting in lieu thereof "section 6421(d)".

(12) Subparagraph (G) of section 1703(e)(2) of the Reform Act is amended by striking out all that follows "are amended" and inserting in lieu thereof "by striking out '6427(i)(2)' and inserting in lieu thereof '6427(j)(2)'." 100 Stat. 2774.

(13) Paragraph (2) of section 1703(f) of the Reform Act is amended by adding at the end thereof the following new sentence: "All other provisions of law, including penalties, applicable with respect to the taxes imposed by section 4081 of the Internal Revenue Code of 1986 shall apply to the floor stocks taxes imposed by this section." 26 USC 4081 note.

(14) Paragraph (1) of section 4081(c) of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by striking out "3 cents" and inserting in lieu thereof "3⅓ cents".

(15) Subsection (d) of section 6421 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) APPLICATION TO SALES UNDER SUBSECTION (c).—For purposes of this subsection, gasoline shall be treated as used for a purpose referred to in subsection (c) when it is sold for such a purpose." Petroleum and petroleum products.

(16) Section 4222(d) of the 1986 Code is amended by striking out "4083" and inserting in lieu thereof "4101".

SEC. 1018. AMENDMENTS RELATED TO TITLE XVIII OF THE REFORM ACT.

(a) AMENDMENT RELATED TO SECTION 1801 OF THE REFORM ACT.—Clause (iii) of section 1801(a)(2)(A) of the Reform Act is amended to read as follows: 26 USC 168 note.

"(iii) a person became a partner in such partnership (or a beneficiary in such trust) after its formation but before September 26, 1985,".

(b) AMENDMENTS RELATED TO SECTION 1802 OF THE REFORM ACT.—

(1) The last sentence of section 31(g)(17)(L) of the Tax Reform Act of 1984, as added by section 1802(a)(10)(G) of the Reform Act, is amended— 26 USC 168 note.

(A) by striking out "Registry of Deeds" each place it appears and inserting in lieu thereof "Register of Deed", and

(B) by striking out "May 7, 1985" and inserting in lieu thereof "May 7, 1984".

(2) Subparagraph (E) of section 168(j)(9) of the 1986 Code (as amended by section 1802(a)(2) of the Reform Act and as in effect before the amendments made by section 201 of the Reform Act) is amended—

(A) by striking out "this paragraph" in clauses (i) and (ii)(I) and inserting in lieu thereof "this paragraph and paragraph (8)", and

(B) by striking out clause (iii) and inserting in lieu thereof the following:

"(iii) TAX-EXEMPT CONTROLLED ENTITY.—

"(I) IN GENERAL.—The term 'tax-exempt controlled entity' means any corporation (which is not a tax-exempt entity determined without regard to this subparagraph and paragraph (4)(E)) if 50 percent or more (in value) of the stock in such corpora-

tion is held by 1 or more tax-exempt entities (other than a foreign person or entity).

"(II) ONLY 5-PERCENT SHAREHOLDERS TAKEN INTO ACCOUNT IN CASE OF PUBLICLY TRADED STOCK.—For purposes of subclause (I), in the case of a corporation the stock of which is publicly traded on an established securities market, stock held by a tax-exempt entity shall not be taken into account unless such entity holds at least 5 percent (in value) of the stock in such corporation. For purposes of this subclause, related entities (within the meaning of paragraph (7)) shall be treated as 1 entity.

"(III) SECTION 318 TO APPLY.—For purposes of this clause, a tax-exempt entity shall be treated as holding stock which it holds through application of section 318 (determined without regard to the 50-percent limitation contained in subsection (a)(2)(C) thereof)."

(c) AMENDMENT RELATED TO SECTION 1803 OF THE REFORM ACT.—

26 USC 1281 note.

(1) Subparagraph (A) of section 1803(a)(8) of the Reform Act is amended by striking out "September 27, 1985" and inserting in lieu thereof "December 31, 1985".

(2) Subsection (c) of section 1278 of the 1986 Code is amended by inserting before the period ", including regulations providing proper adjustments in the case of a bond the principal of which may be paid in 2 or more payments".

(3) Section 1278(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) BASIS ADJUSTMENT.—The basis of any bond in the hands of the taxpayer shall be increased by the amount included in gross income pursuant to this subsection."

(d) AMENDMENTS RELATED TO SECTION 1804 OF THE REFORM ACT.—

26 USC 311 note.

(1) Paragraph (3) of section 1804(b) of the Reform Act is amended by striking out "Paragraph (3) of section 54" and inserting "Paragraph (3) of section 54(d)".

26 USC 311 note.

(2) Clause (i) of section 54(d)(3)(D) of the Tax Reform Act of 1984 is amended by striking out "subtitle D of title VI" and inserting "subtitle D of title VI of the Tax Reform Act of 1986".

(3) Clause (ii) of section 54(d)(3)(D) of the Tax Reform Act of 1984 (as added by section 1804(b)(3) of the Tax Reform Act of 1986) is amended—

(A) by striking out "December 9, 1968," each place it appears and inserting in lieu thereof "December 10, 1968,", and

(B) by striking out "October 5, 1981" and inserting in lieu thereof "March 2, 1978,".

(4) Subsection (b) of section 312 of the 1986 Code is amended by striking out "of any property" and inserting in lieu thereof "of any property (other than an obligation of such corporation)".

(5)(A) Section 361 of the 1986 Code is amended to read as follows:

"SEC. 361. NONRECOGNITION OF GAIN OR LOSS TO CORPORATIONS; TREATMENT OF DISTRIBUTIONS.

"(a) GENERAL RULE.—No gain or loss shall be recognized to a corporation if such corporation is a party to a reorganization and

exchanges property, in pursuance of the plan of reorganization, solely for stock or securities in another corporation a party to the reorganization.

"(b) EXCHANGES NOT SOLELY IN KIND.—

"(1) GAIN.—If subsection (a) would apply to an exchange but for the fact that the property received in exchange consists not only of stock or securities permitted by subsection (a) to be received without the recognition of gain, but also of other property or money, then—

"(A) PROPERTY DISTRIBUTED.—If the corporation receiving such other property or money distributes it in pursuance of the plan of reorganization, no gain to the corporation shall be recognized from the exchange, but

"(B) PROPERTY NOT DISTRIBUTED.—If the corporation receiving such other property or money does not distribute it in pursuance of the plan of reorganization, the gain, if any, to the corporation shall be recognized.

The amount of gain recognized under subparagraph (B) shall not exceed the sum of the money and the fair market value of the other property so received which is not so distributed.

"(2) LOSS.—If subsection (a) would apply to an exchange but for the fact that the property received in exchange consists not only of property permitted by subsection (a) to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

"(3) TREATMENT OF TRANSFERS TO CREDITORS.—For purposes of paragraph (1), any transfer of the other property or money received in the exchange by the corporation to its creditors in connection with the reorganization shall be treated as a distribution in pursuance of the plan of reorganization. The Secretary may prescribe such regulations as may be necessary to prevent avoidance of tax through abuse of the preceding sentence or subsection (c)(3).

"(c) TREATMENT OF DISTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), no gain or loss shall be recognized to a corporation a party to a reorganization on the distribution to its shareholders of property in pursuance of the plan of reorganization.

"(2) DISTRIBUTIONS OF APPRECIATED PROPERTY.—

"(A) IN GENERAL.—If—

"(i) in a distribution referred to in paragraph (1), the corporation distributes property other than qualified property, and

"(ii) the fair market value of such property exceeds its adjusted basis (in the hands of the distributing corporation),

then gain shall be recognized to the distributing corporation as if such property were sold to the distributee at its fair market value.

"(B) QUALIFIED PROPERTY.—For purposes of this subsection, the term 'qualified property' means—

"(i) any stock in (or right to acquire stock in) the distributing corporation or obligation of the distributing corporation, or

"(ii) any stock in (or right to acquire stock in) another corporation which is a party to the reorganization or

obligation of another corporation which is such a party if such stock (or right) or obligation is received by the distributing corporation in the exchange.

"(C) TREATMENT OF LIABILITIES.—If any property distributed in the distribution referred to in paragraph (1) is subject to a liability or the shareholder assumes a liability of the distributing corporation in connection with the distribution, then, for purposes of subparagraph (A), the fair market value of such property shall be treated as not less than the amount of such liability.

"(3) TREATMENT OF CERTAIN TRANSFERS TO CREDITORS.—For purposes of this subsection, any transfer of qualified property by the corporation to its creditors in connection with the reorganization shall be treated as a distribution to its shareholders pursuant to the plan of reorganization.

"(4) COORDINATION WITH OTHER PROVISIONS.—Section 311 and subpart B of part II of this subchapter shall not apply to any distribution referred to in paragraph (1)."

(B) Section 358 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) DEFINITION OF NONRECOGNITION PROPERTY IN CASE OF SECTION 361 EXCHANGE.—For purposes of this section, the property permitted to be received under section 361 without the recognition of gain or loss shall be treated as consisting only of stock or securities in another corporation a party to the reorganization."

(C) Section 355 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) TAXABILITY OF CORPORATION ON DISTRIBUTION.—Section 311 shall apply to any distribution—

"(1) to which this section (or so much of section 356 as relates to this section) applies, and

"(2) which is not in pursuance of a plan of reorganization, in the same manner as if such distribution were a distribution to which subpart A of part I applies; except that subsection (b) of section 311 shall not apply to any distribution of stock or securities in the controlled corporation."

(D) Subsection (c) of section 336 of the 1986 Code (as amended by section 631 of the Reform Act) is amended to read as follows:

"(c) EXCEPTION FOR LIQUIDATIONS WHICH ARE PART OF A REORGANIZATION.—

"For provision providing that this subpart does not apply to distributions in pursuance of a plan of reorganization, see section 361(c)(4)."

(E) Subsection (a) of section 311 of the 1986 Code is amended by striking out "distribution, with respect to its stock," and inserting in lieu thereof "distribution (not in complete liquidation) with respect to its stock".

(F) The table of sections for subpart C of part III of subchapter C of chapter 1 of the 1986 Code is amended by striking out the item relating to section 361 and inserting in lieu thereof the following new item:

"Sec. 361. Nonrecognition of gain or loss to corporations; treatment of distributions."

(G) Effective with respect to transfers on or after June 21, 1988, section 351 of the 1986 Code is amended by redesignating

subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) TREATMENT OF CONTROLLED CORPORATION.—If—

"(1) property is transferred to a corporation (hereinafter in this subsection referred to as the 'controlled corporation') in an exchange with respect to which gain or loss is not recognized (in whole or in part) to the transferor under this section, and

"(2) such exchange is not in pursuance of a plan of reorganization,

section 311 shall apply to any transfer in such exchange by the controlled corporation in the same manner as if such transfer were a distribution to which subpart A of part I applies."

(6) Subparagraph (A) of section 280G(b)(5) of the 1986 Code is amended—

(A) in clause (i) by striking out "section 1361(b))" and inserting in lieu thereof "section 1361(b) but without regard to paragraph (1)(C) thereof)", and

(B) by adding at the end thereof the following: "Stock described in section 1504(a)(4) shall not be taken into account under clause (ii)(I) if the payment does not adversely affect the shareholder's redemption and liquidation rights."

(7) Subparagraph (B) of section 280G(b)(5) of the 1986 Code (relating to shareholder approval requirements) is amended by adding at the end thereof the following new sentence:

"The regulations prescribed under subsection (e) shall include regulations providing for the application of this subparagraph in the case of shareholders which are not individuals (including the treatment of nonvoting interests in an entity which is a shareholder) and where an entity holds a de minimis amount of stock in the corporation."

(8) Paragraph (5) of section 280G(d) of the 1986 Code is amended by striking out "officer or any member" and inserting in lieu thereof "officer of any member".

(9) Paragraph (3) of section 338(e) of the 1986 Code is amended by striking out "which meet the 80 percent requirements of subparagraphs (A) and (B) of subsection (d)(3)" and inserting in lieu thereof "which meet the requirements of section 1504(a)(2)".

(10)(A) Paragraph (7) of section 1504(b) of the 1986 Code is amended to read as follows:

"(7) A DISC (as defined in section 992(a)(1))."

(B) Section 1504 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) SPECIAL RULE FOR CERTAIN AMOUNTS DERIVED FROM A CORPORATION PREVIOUSLY TREATED AS A DISC.—In determining the consolidated taxable income of an affiliated group for any taxable year beginning after December 31, 1984, a corporation which had been a DISC and which would otherwise be a member of such group shall not be treated as such a member with respect to—

"(1) any distribution (or deemed distribution) of accumulated DISC income which was not treated as previously taxed income under section 805(b)(2)(A) of the Tax Reform Act of 1984, and

"(2) any amount treated as received under section 805(b)(3) of such Act."

(e) PROVISION RELATED TO SECTION 1806 OF THE REFORM ACT.—If— 26 USC 643 note.

(1) on a return for the 1st taxable year of the trusts involved beginning after March 1, 1984, 2 or more trusts were treated as

a single trust for purposes of the tax imposed by chapter 1 of the Internal Revenue Code of 1954,

(2) such trusts would have been required to be so treated but for the amendment made by section 1806(b) of the Reform Act, and

(3) such trusts did not accumulate any income during such taxable year and did not make any accumulation distributions during such taxable year,

then, notwithstanding the amendment made by section 1806(b) of the Reform Act, such trusts shall be treated as one trust for purposes of such taxable year.

(f) AMENDMENTS RELATED TO SECTION 1807 OF THE REFORM ACT.—

(1) Paragraphs (1)(A) and (2)(E) of section 468B(d) of the 1986 Code are each amended by striking out "the taxpayer" and inserting in lieu thereof "the taxpayer (or any related person)".

(2) Subparagraph (A) of section 468B(d)(2) of the 1986 Code is amended to read as follows:

"(A) which is established pursuant to a court order and which extinguishes completely the taxpayer's tort liability with respect to claims described in subparagraph (D),".

26 USC 468B note.

(3) Clause (i) of section 1807(a)(7)(C) of the Reform Act is amended to read as follows:

"(i) any portion of such fund which is established pursuant to a court order and with qualified payments, which meets the requirements of subparagraphs (C) and (D) of section 468B(d)(2) of the Internal Revenue Code of 1954 (as added by this paragraph), and with respect to which an election is made under subparagraph (F) thereof, shall be treated as a designated settlement fund for purposes of section 468B of such Code,".

(4) Paragraph (2) of section 468B(b) of the 1986 Code is amended—

(A) by striking out "the corporation," and inserting in lieu thereof "a corporation.", and

(B) by striking out "no other" and inserting in lieu thereof "No other".

(5)(A) Section 468B of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) CLARIFICATION OF TAXATION OF CERTAIN FUNDS.—Nothing in any provision of law shall be construed as providing that an escrow account, settlement fund, or similar fund is not subject to current income tax. The Secretary shall prescribe regulations providing for the taxation of any such account or fund whether as a grantor trust or otherwise."

Regulations.

(B) Subparagraph (D) of section 1807(a)(7) of the Reform Act is hereby repealed.

(g) AMENDMENTS RELATED TO SECTION 1810 OF THE REFORM ACT.—

26 USC 904 note.

(1) Paragraph (5) of section 1810(a) of the Reform Act is amended by striking out "section 125(b)(5)" each place it appears and inserting in lieu thereof "section 121(b)(5)".

26 USC 959 note.

(2) Section 133(d)(3)(B)(iii) of the Tax Reform Act of 1984, as amended by section 1810(i)(2) of the Reform Act, is amended by striking out "Tax Reform Act of 1985" and inserting in lieu thereof "Tax Reform Act of 1986".

(3) Clause (iv) of section 7701(b)(5)(A) of the 1986 Code is amended by striking out "section 274(k)(2)" and inserting in lieu thereof "section 274(l)(1)(B)".

(h) AMENDMENT RELATED TO SECTION 1821 OF THE REFORM ACT.—

(1) Subsection (e) of section 812 of the 1986 Code (relating to dividends from certain subsidiaries not included in gross investment income) is amended to read as follows:

"(e) DIVIDENDS FROM CERTAIN SUBSIDIARIES NOT INCLUDED IN GROSS INVESTMENT INCOME.—

"(1) IN GENERAL.—For purposes of this section, the term 'gross investment income' shall not include any dividend received by the life insurance company which is a 100 percent dividend.

"(2) 100 PERCENT DIVIDEND DEFINED.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), the term '100 percent dividend' means any dividend if the percentage used for purposes of determining the deduction allowable under section 243, 244, or 245(b) is 100 percent.

"(B) CERTAIN DIVIDENDS OUT OF TAX-EXEMPT INTEREST, ETC.—The term '100 percent dividend' does not include any distribution by a corporation to the extent such distribution is out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this subparagraph).

"(C) CERTAIN DIVIDENDS RECEIVED BY FOREIGN CORPORATIONS.—The term '100 percent dividends' does not include any dividend described in section 805(a)(4)(E) (relating to certain dividends in the case of foreign corporations)."

(2) The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 211 of the Tax Reform Act of 1984.

Effective date. 26 USC 812 note.

(i) AMENDMENT RELATED TO SECTION 1822 OF THE REFORM ACT.—Clause (i) of section 216(b)(4)(C) of the Tax Reform Act of 1984 (relating to section 818(c) elections made by certain acquired companies) is amended by striking out "clause (i)" and inserting in lieu thereof "subclause (I)".

26 USC 801 note.

(j) AMENDMENT RELATED TO SECTION 1825 OF THE REFORM ACT.—Paragraph (4) of section 1825(a) of the Reform Act (relating to amendments related to section 221 of the Tax Reform Act of 1984) is amended by striking out "Section 7702(e)(2)" and inserting in lieu thereof "Effective with respect to contracts entered into after October 22, 1986, section 7702(e)(2)".

Contracts. 26 USC 7702 note.

(k) AMENDMENTS RELATED TO SECTION 1826 OF THE REFORM ACT.—

(1) Paragraph (5) of section 72(s) of the 1986 Code is amended by striking out "or" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(D) which is a qualified funding asset (as defined in section 130(d), but without regard to whether there is a qualified assignment)."

(2) The paragraph heading of paragraph (5) of section 72(s) of the 1986 Code is amended by striking out "ANNUITY CONTRACTS WHICH ARE PART OF QUALIFIED PLANS" and inserting in lieu thereof "CERTAIN ANNUITY CONTRACTS".

(l) AMENDMENTS RELATED TO SECTION 1842 OF THE REFORM ACT.

(1) Subsection (c) of section 425 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) TRANSFERS BETWEEN SPOUSES OR INCIDENT TO DIVORCE.—In the case of any transfer described in subsection (a) of section 1041—

"(A) such transfer shall not be treated as a disposition for purposes of this part, and

"(B) the same tax treatment under this part with respect to the transferred property shall apply to the transferee as would have applied to the transferor."

(2) Paragraph (1) of section 425(c) of the 1986 Code is amended by striking out "paragraph (2) and (3)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(3) Effective with respect to transfers after June 21, 1988, subsection (d) of section 1041 of the 1986 Code is amended—

(A) by striking out "Paragraph (1) of subsection (a)" and inserting in lieu thereof "Subsection (a)", and

(B) by striking out "the spouse" and inserting in lieu thereof "the spouse (or former spouse)".

(m) AMENDMENTS RELATED TO SECTION 1866 OF THE REFORM ACT.—

26 USC 103 note.

(1) Section 1866 of the Reform Act is amended by striking out "obligation issued to refund" and inserting in lieu thereof "obligation (or series of obligations) issued to refund".

(2)(A) Paragraph (1) of section 1866 of the Reform Act is amended to read as follows:

"(1) the average maturity of the issue of which the refunding obligation is a part does not exceed the average maturity of the obligations to be refunded by such issue,".

(B) Section 1866 of the Reform Act is amended by adding at the end thereof the following new sentence: "For purposes of paragraph (1), average maturity shall be determined in accordance with subsection (b)(14)(B)(i) of such Code."

(3) Paragraph (4) of section 1866 of the Reform Act is amended by striking out "30 days" and inserting in lieu thereof "90 days".

(4) Section 1866 of the Reform Act is amended by adding "and" at the end of paragraph (2), by striking out paragraph (3), and by redesignating paragraph (4) as paragraph (3).

26 USC 103 note.

(5) A refunding obligation issued before July 1, 1987, shall be treated as meeting the requirement of paragraph (1) of section 1866 of the Reform Act if such obligation met the requirement of such paragraph as enacted by the Reform Act.

(n) AMENDMENTS RELATED TO SECTION 1869 OF THE REFORM ACT.—

26 USC 103 note.

(1) Clause (ii) of section 1869(c)(3)(A) of the Reform Act is amended by striking out "pursuant to the exercise of eminent domain" and inserting in lieu thereof "(by a governmental unit having the power to exercise eminent domain)".

(2) Subparagraph (C) of section 1869(c)(3) of the Reform Act is amended by inserting "(or similar issues)" after "resulting from the issue".

(o) AMENDMENTS RELATED TO SECTION 1875 OF THE REFORM ACT.—

(1) Clause (ii) of section 6230(a)(2)(A) of the 1986 Code is amended by striking out "nonpartnership items" and inserting in lieu thereof "nonpartnership items (other than by reason of section 6231(b)(1)(C))".

(2) Subsection (g) of section 1246 of the 1986 Code (as redesignated by this Act) is amended by striking out "1248(g)(3)" and inserting in lieu thereof "1248(g)(2)".

(3) Subsection (f) of section 6229 of the 1986 Code is amended by adding at the end thereof the following new sentence: "The period described in the preceding sentence (including any extension period under this sentence) may be extended with respect to any partner by agreement entered into by the Secretary and such partner." Contracts.

(p) AMENDMENT RELATED TO SECTION 1878 OF THE REFORM ACT.—Paragraph (1) of section 852(e) of the 1986 Code is amended by striking out "subsection (a)(3)" and inserting in lieu thereof "subsection (a)(2)".

(q) AMENDMENTS RELATED TO SECTION 1879 OF THE REFORM ACT.—

(1) Subclause (II) of section 28(b)(2)(A)(ii) of the 1986 Code is amended to read as follows:

"(II) before the date on which an application with respect to such drug is approved under section 505(b) or 507 of such Act or, if the drug is a biological product, before the date on which a license for such drug is issued under section 351 of the Public Health Service Act; and".

(2) The last sentence of section 1361(d)(3) of the 1986 Code is amended by striking out "treated as a separate trust under section 663(c)" and inserting in lieu thereof "within the meaning of section 663(c)".

(3) Subsection (p) of section 1879 of the Reform Act is amended— 26 USC 83 note.

(A) by striking out "Subsection (a)" in paragraph (2) and inserting "Paragraph (1)", and

(B) by striking out "subsection (a)" each place it appears in paragraphs (2) and (3) and inserting in lieu thereof "paragraph (1)".

(4)(A) Subsection (d) of section 1286 of the 1986 Code is amended to read as follows:

"(d) SPECIAL RULES FOR TAX-EXEMPT OBLIGATIONS.—

"(1) IN GENERAL.—In the case of any tax-exempt obligation (as defined in section 1275(a)(3)) from which 1 or more coupons have been stripped—

"(A) the amount of the original issue discount determined under subsection (a) with respect to any stripped bond or stripped coupon—

"(i) shall be treated as original issue discount on a tax-exempt obligation to the extent such discount does not exceed the tax-exempt portion of such discount, and

"(ii) shall be treated as original issue discount on an obligation which is not a tax-exempt obligation to the extent such discount exceeds the tax-exempt portion of such discount,

"(B) subsection (b)(1)(A) shall not apply, and

"(C) subsection (b)(2) shall be applied by increasing the basis of the bond or coupon by the sum of—

"(i) the interest accrued but not paid before such bond or coupon was disposed of (and not previously reflected in basis), plus

"(ii) the amount included in gross income under subsection (b)(1)(B).

"(2) TAX-EXEMPT PORTION.—For purposes of paragraph (1), the tax-exempt portion of the original issue discount determined under subsection (a) is the excess of—

"(A) the amount referred to in subsection (a)(1), over

"(B) an issue price which would produce a yield to maturity as of the purchase date equal to the lower of—

"(i) the coupon rate of interest on the obligation from which the coupons were separated, or

"(ii) the yield to maturity (on the basis of the purchase price) of the stripped obligation or coupon.

The purchaser of any stripped obligation or coupon may elect to apply clause (i) by substituting 'original yield to maturity of' for 'coupon rate of interest on'."

26 USC 1286 note.

(B)(i) Except as provided in clause (ii), the amendment made by subparagraph (A) shall apply to any purchase or sale after June 10, 1987, of any stripped tax-exempt obligation or stripped coupon from such an obligation.

(ii) If—

(I) any person held any obligation or coupon in stripped form on June 10, 1987, and

(II) such obligation or coupon was held by such person on such date for sale in the ordinary course of such person's trade or business,

the amendment made by subparagraph (A) shall not apply to any sale of such obligation or coupon by such person and shall not apply to any such obligation or coupon while held by another person who purchased such obligation or coupon from the person referred to in subclause (I).

(5) Clause (ii) of section 368(a)(2)(F) of the 1986 Code is amended—

(A) by striking out the two parenthetical phrases in the first sentence, and

(B) by adding at the end thereof the following new sentence: "For purposes of this clause, a person holding stock in a regulated investment company, a real estate investment trust, or an investment company which meets the requirements of this clause shall, except as provided in regulations, be treated as holding its proportionate share of the assets held by such company or trust."

(r) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

42 USC 1395ww and note.

(1) Subsection (b) of section 1895 of the Reform Act is amended by striking out paragraphs (1) and (2).

(2)(A) Clause (ii) of section 3121(u)(2)(B) of the 1986 Code is amended by striking out "or" at the end of subclause (IV), by striking out the period at the end of subclause (V) and inserting in lieu thereof ", or", and by inserting after subclause (V) the following new subclause:

"(VI) by an individual in a position described in section 1402(c)(2)(E)."

(B) The amendment made by subparagraph (A) shall apply to services performed after March 31, 1986.

(s) MISCELLANEOUS PROVISIONS.—

(1) Subsection (a) of section 8021 of the 1986 Code is amended by striking out "6103(d)" and inserting in lieu thereof "6103(f)".

(2)(A) Section 2503 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN LOANS OF ARTWORKS.—

"(1) IN GENERAL.—For purposes of this subtitle, any loan of a qualified work of art shall not be treated as a transfer (and the value of such qualified work of art shall be determined as if such loan had not been made) if— Loans.

"(A) such loan is to an organization described in section 501(c)(3) and exempt from tax under section 501(c) (other than a private foundation), and

"(B) the use of such work by such organization is related to the purpose or function constituting the basis for its exemption under section 501.

"(2) DEFINITIONS.—For purposes of this section—

"(A) QUALIFIED WORK OF ART.—The term 'qualified work of art' means any archaeological, historic, or creative tangible personal property.

"(B) PRIVATE FOUNDATION.—The term 'private foundation' has the meaning given such term by section 509, except that such term shall not include any private operating foundation (as defined in section 4942(j)(3))."

(B) The amendment made by subparagraph (A) shall apply to loans after July 31, 1969. 26 USC 2503 note.

(3)(A) Subparagraph (B) of section 1563(d)(1) of the 1986 Code is amended by striking out "subsection (e)(1)" and inserting in lieu thereof "paragraphs (1), (2), and (3) of subsection (e)"

(B) The amendment made by subparagraph (A) shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 1563 note.

(t) ADDITIONAL AMENDMENTS RELATED TO PENSION PLANS.—

(1) AMENDMENTS RELATED TO SECTION 1826 OF THE REFORM ACT.—

(A) Section 72(s)(7) of the 1986 Code is amended by striking out "primary annuity" and inserting in lieu thereof "primary annuitant".

(B) Section 72(q)(2)(B) of the 1986 Code is amended by striking out the last parenthesis.

(C) Section 419A(f)(5) of the 1986 Code is amended by striking out "accounts" and inserting in lieu thereof "account".

(D) Section 1826(c) of the Reform Act is amended by striking out "made" and inserting in lieu thereof "commencing". 26 USC 72 note.

(2) AMENDMENTS RELATED TO SECTION 1851 OF THE REFORM ACT.—

(A) Section 1851(a) of the Reform Act is amended by striking out paragraph (4) thereof. 26 USC 419A.

(B) Subclause (II) of section 512(a)(3)(E)(ii) of the 1986 Code is amended, (i) by striking out "subclause (II)" and inserting in lieu thereof "subclause (I)", and (ii) by striking out the comma at the end thereof and inserting in lieu thereof a period.

(C) Section 419(a)(1) of the 1986 Code is amended by striking out "subchapter" and inserting in lieu thereof "chapter".

(D) Subparagraph (B) of section 1851(a)(3) of the Reform Act is amended by inserting ", section 505, and section 4976(b)(1)(B)" after "section 419A". 26 USC 419A note.

(3) AMENDMENTS RELATED TO SECTION 1852 OF THE REFORM ACT.—

26 USC 401 note.

(A) Paragraph (4) of section 1852(a) of the Reform Act is amended by adding at the end thereof the following new subparagraph:

"(C) An individual whose required beginning date would, but for the amendment made by subparagraph (A), occur after December 31, 1986, but whose required beginning date after such amendment occurs before January 1, 1987, shall be treated as if such individual had become a 5-percent owner during the plan year ending in 1986."

26 USC 415.

(B) Section 1852(h)(2) of the Reform Act is amended by striking out "section 416(l)" and inserting in lieu thereof "section 415(l)".

26 USC 401 note.

(C) Section 1852(h)(1) of the Reform Act is amended by striking out "Subsection" and inserting in lieu thereof "Effective for years beginning after December 31, 1985, subsection".

(D) Subparagraph (E) of section 408(d)(3) of the 1986 Code is amended by striking out "subparagraph" and inserting in lieu thereof "paragraph".

(4) AMENDMENTS RELATED TO SECTION 1854 OF THE REFORM ACT.—

(A) Section 404(k) of the 1986 Code is amended by striking out "avoidance" in the 4th sentence and inserting in lieu thereof "evasion".

(B) Section 409(h)(2) of the 1986 Code (relating to plan may distribute cash) is amended by striking out "section 409(o)" and inserting in lieu thereof "paragraph (1)(B)".

(C) Subparagraph (C) of section 409(n)(3) of the 1986 Code (defining nonallocation period) is amended to read as follows:

"(C) NONALLOCATION PERIOD.—The term 'nonallocation period' means the period beginning on the date of the sale of the qualified securities and ending on the later of—

"(i) the date which is 10 years after the date of sale, or

"(ii) the date of the plan allocation attributable to the final payment of acquisition indebtedness incurred in connection with such sale."

(D) Subparagraph (A) of section 1042(c)(4) of the 1986 Code (defining qualified replacement property) is amended by inserting "(as in effect immediately before the Tax Reform Act of 1986)" after "section 954(c)(3)".

(E) Clause (i) of section 1042(c)(4)(B) of the 1986 Code (relating to operating corporation) is amended by striking out "placement period" and inserting in lieu thereof "replacement period".

(F) Section 1854(a)(3)(B) of the Reform Act is amended by striking out "1042(b)(3)" and inserting in lieu thereof "1042(b)".

(G) Subparagraph (C) of section 1854(a)(3) of the Reform Act is amended to read as follows:

26 USC 409 note.

"(C)(i) Except as provided in clause (ii), the amendments made by this paragraph shall apply to sales of securities after the date of the enactment of this Act.

"(ii) A taxpayer or executor may elect to have section 1042(b)(3) of the Internal Revenue Code of 1954 (as in effect before the amendment made by subparagraph (B)) apply to sales

before the date of the enactment of this Act as if such section included the last sentence of section 409(n)(1) of the Internal Revenue Code of 1986 (as added by subparagraph (A))."

(H) Section 409(e)(5) of the 1986 Code is amended by striking out "(2) or".

(5) AMENDMENT RELATED TO SECTION 1875 OF THE REFORM ACT.—Section 1875(c)(7)(B) of the Reform Act is amended by striking out "and section 405(c)". 26 USC 404.

(6) AMENDMENT RELATED TO SECTION 1879 OF THE REFORM ACT.—Subparagraph (B) of section 125(c)(2) of the 1986 Code (relating to exception for cash and deferred arrangements) is amended by inserting "or rural electric cooperative plan (within the meaning of section 401(k)(7))" after "stock bonus plan".

(7) AMENDMENTS RELATED TO SECTION 1895 OF THE REFORM ACT.—

(A) Section 106(b)(1) of the 1986 Code (relating to exception for highly compensated individuals where plan fails to provide certain continuation coverage) is amended—

(i) by striking out "any amount contributed by an employer" and inserting in lieu thereof "any employer-provided coverage", and

(ii) by striking out "to a group" and inserting in lieu thereof "under a group".

(B) Section 1895(d)(5)(A) of the Reform Act is amended by striking out "section 162(k)(2)" and inserting in lieu thereof "section 162(k)(5)". 26 USC 162.

(8) AMENDMENTS RELATED TO SECTION 1898 OF THE REFORM ACT.—

(A) Subparagraph (G) of section 402(a)(6) of the 1986 Code (relating to treatment of potential future vesting), as added by section 1898(a)(3) of the Reform Act, is redesignated as subparagraph (I).

(B) Subparagraph (A) of section 411(a)(11) of the 1986 Code is amended by striking out "vested" and inserting in lieu thereof "nonforfeitable".

(C) Section 402(f)(1) of the 1986 Code is amended by striking out "a eligible" and inserting in lieu thereof "an eligible".

(D) Section 1899A of the Reform Act is amended by striking out paragraph (13). 26 USC 415.

(E) Subparagraph (B) of section 414(p)(4) of the 1986 Code is amended—

(i) by striking out "means earlier of" and inserting in lieu thereof "means the earlier of", and

(ii) by striking out "in" each place it appears.

(F) Section 414(p)(10) of the 1986 Code (relating to waiver of certain distribution requirements) is amended by inserting ", 403(b)," after "section 401".

(G) Section 414(p)(9) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of this title, except as provided in regulations, any distribution from an annuity contract under section 403(b) pursuant to a qualified domestic relations order shall be treated in the same manner as a distribution from a plan to which section 401(a)(13) applies." Contracts.

(u) ADDITIONAL CLERICAL AMENDMENTS.—

26 USC 402.

(1) Paragraph (5) of section 104(b) of the Reform Act is amended by striking out "1222(b)" and inserting in lieu thereof "1122(b)".

26 USC 274 note.

(2) The amendment made by section 122(c)(2) of the Reform Act shall be applied as if it also struck out the comma at the end of section 274(b)(1)(B) of the 1986 Code.

(3) Clause (i) of section 280F(b)(3)(B) of the 1986 Code is amended by striking out "recovery deductions" and inserting in lieu thereof "depreciation deductions".

26 USC 312.

(4) Subparagraph (A) of section 803(b)(3) of the Reform Act is amended by inserting closing quotation marks after "section 189)" and by striking out the closing quotation marks following "subparagraph (B)".

26 USC 461.

(5) Paragraph (1) of section 823(b) of the Reform Act is amended to read as follows:

"(1) Paragraph (5) of section 461(h), as amended by section 805(c)(5), is amended by striking out subparagraph (B) and by redesignating subparagraph (C) as subparagraph (B)."

26 USC 402 note.

(6) The amendment made by section 1122(b)(2)(B)(iii) of the Reform Act shall be applied as if it struck out "Initial separate tax".

26 USC 402 note.

(7) The amendment made by section 1122(b)(2)(C) of the Reform Act shall be applied as if it did not strike out "the"

(8) Paragraph (2) of section 72(q)(2) of the 1986 Code is amended by striking out the period at the end of subparagraph (D) and inserting in lieu thereof a comma.

(9) Subparagraph (A) of section 417(e)(3) of the 1986 Code is amended by striking out "subclause (II)" and inserting in lieu thereof "clause (ii)".

(10) Subparagraph (A) of section 246(c)(1) of the 1986 Code is amended by striking out "Which" and inserting in lieu thereof "which".

(11) Subsection (a) of section 164 of the 1986 Code is amended by striking out "the GST tax" and inserting in lieu thereof "The GST tax".

26 USC 419A.

(12) Subparagraph (B) of section 1851(a)(6) of the Reform Act is amended by striking out "Subsection (b)" and inserting in lieu thereof "Subsection (a)".

26 USC 514.

(13)(A) Paragraph (1) of section 1878(e) of the Reform Act is amended by striking out "last sentence of section 514(c)(9)(B) (relating to exceptions)" and inserting in lieu thereof "second to the last sentence of section 514(c)(9)(B) (as amended by paragraph (3))".

(B) Paragraph (3) of section 1878(e) of the Reform Act is amended by striking out "is amended" and inserting in lieu thereof ", and the last sentence of such section, are amended".

(14) Paragraph (23) of section 501(c) of the 1986 Code is amended by striking out "any association" and inserting in lieu thereof "Any association".

(15) Paragraph (1) of section 501(c) of the 1986 Code is amended by striking out "any corporation organized" and inserting in lieu thereof "Any corporation organized"

(16) The table of chapters for subtitle E of the 1986 Code is amended by inserting "smokeless tobacco," after "cigarettes," in the item relating to chapter 52.

(17) Paragraph (4) of section 3321(c) of the 1986 Code is amended by adding a period at the end thereof.

(18) Paragraph (3) of section 521(b) of the Superfund Revenue Act of 1986 is amended by striking out "Paragraph (1) of section 9506(b)" and inserting in lieu thereof "Subsection (b) of section 9506". 26 USC 9506.

(19) Paragraph (2) of section 5054(a) of the 1986 Code is amended by adding a period at the end thereof.

(20) Paragraph (3) of section 9507(b) of the 1986 Code is amended by striking out "Deep Water" each place it appears and inserting in lieu thereof "Deepwater".

(21) Subparagraph (I) of section 231(d)(3) of the Reform Act is amended by striking out "section 6511(d)(6)" and inserting in lieu thereof "section 6511(d)(4)". 26 USC 6511.

(22) Subsection (a) of section 1016 of the 1986 Code is amended by striking out all that follows paragraph (20) and inserting in lieu thereof the following:

"(21) to the extent provided in section 48(q), in the case of expenditures with respect to which a credit has been allowed under section 38;

"(22) for amounts allowed as deductions under section 59(e) (relating to optional 10-year writeoff of certain tax preferences);

"(23) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends); and

"(24) in the case of qualified replacement property the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1042(d)."

(23) Paragraph (1) of section 7518(g) of the 1986 Code is amended by striking out "not qualified withdrawal" and inserting in lieu thereof "not a qualified withdrawal".

(24) The table of sections for part IV of subchapter P of chapter 1 of the 1986 Code is amended by striking out the item relating to section 1254 and inserting in lieu thereof the following:

"Sec. 1254. Gain from disposition of interest in oil, gas, geothermal, or other mineral properties."

(25) Paragraph (1) of section 453(f) of the 1986 Code is amended by striking out "subsection (g)" and inserting in lieu thereof "subsections (g)".

(26) Paragraph (8) of section 453(f) of the 1986 Code is amended by striking out "payment to be" and inserting in lieu thereof "payments to be".

(27) Subparagraph (B) of section 668(b)(1) of the Reform Act is amended by striking out "section 856" and inserting in lieu thereof "section 858". 26 USC 858.

(28) The second to the last sentence of section 857(b)(3)(C) of the 1986 Code is amended by striking out "such capital loss such" and inserting in lieu thereof "such capital loss shall".

(29) Subsection (a) of section 669 of the Reform Act is amended by striking out "this part" and inserting in lieu thereof "this subtitle". 26 USC 856 note.

(30) The table of parts for subchapter M of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

"Part IV. Real estate mortgage investment conduits."

(31) Subsection (c) of section 1277 of the 1986 Code is amended by inserting a closing parenthesis after "section 585(a)(2)".

(32) The table of parts for subchapter L of chapter 1 of the 1986 Code is amended by striking out the items relating to parts II, III, and IV and inserting in lieu thereof the following:

"Part II. Other insurance companies.
"Part III. Provisions of general application."

(33) Paragraph (7) of section 6051(a) of the 1986 Code is amended by adding a comma at the end thereof.

26 USC 501.

(34) Paragraph (14) of section 1114(b) of the Reform Act is amended—

(A) by striking out "section 501(c)(17)" and inserting in lieu thereof "section 501(c)(17)(A)", and

(B) by striking out "duties consists" and inserting in lieu thereof "duties consist".

(35) Subparagraph (C) of section 3121(v)(3) of the 1986 Code is amended by striking out "Saving" and inserting in lieu thereof "Savings".

(36) Paragraph (4) of section 6652(k) of the 1986 Code is amended by striking out "or section 6678" and inserting in lieu thereof "or part II of subchapter B of this chapter".

(37) The table of sections for part I of subchapter N of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 865. Source rules for personal property sales."

26 USC 954 note.

(38) The amendment made by section 1221(b)(3)(B) of the Reform Act shall be construed as striking out paragraph (3) of section 954(e) of the 1986 Code.

(39) The heading of section 861(a)(6) of the 1986 Code is amended by striking out "personal property" and inserting in lieu thereof "inventory property".

(40) Subsection (a) of section 1296 of the 1986 Code is amended by inserting a comma after "this subpart".

(41) Subsection (b) of section 7703 of the 1986 Code is amended by striking out "section 151(e)(3)" and inserting in lieu thereof "section 151(c)(3)".

26 USC 6601.

(42) Paragraph (3) of section 1404(c) of the Reform Act is amended by striking out "section 6601" and inserting in lieu thereof "section 6601(b)".

(43) Subsection (a) of section 2611 of the 1986 Code is amended by striking out "mean" and inserting in lieu thereof "means".

(44) Subparagraph (D) of section 3406(h)(5) of the 1986 Code is amended by adding a period at the end thereof.

(45) The table of sections for part III of subchapter C of chapter 76 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7475. Practice fee."

(46) The paragraph added to section 1276(b) of the 1986 Code by section 1803(a)(13)(A)(iii) of the Reform Act is amended—

(A) by inserting "(3)" before "SPECIAL" in the paragraph heading,

(B) by inserting a 1 em dash after "PAYMENTS." in the heading, and

(C) by adding a period at the end thereof.

(47) Subparagraph (C) of section 809(d)(4) of the 1986 Code is amended by striking out "the Secretary—" and inserting in lieu thereof "The Secretary—".

(48) Subsection (f) of section 7872 of the 1986 Code is amended by redesignating the paragraph (11) added by section 1854 of the Reform Act as paragraph (12).

(49) Paragraph (5) of section 7611(i) of the 1986 Code is amended by striking out "the title" and inserting in lieu thereof "this title".

(50) Section 13303(a) of Public Law 99-272 is amended (in the matter proposed to be inserted in section 3306(c) of the Internal Revenue Code of 1954), effective as of the date of its enactment, by inserting a comma immediately after "1988". 26 USC 3306 note.

(51) Subsection (f) of section 6511 of the 1986 Code is amended—

(A) by striking out "chapter 42" in the text and inserting in lieu thereof "section 4912, chapter 42,", and

(B) by striking out "CERTAIN CHAPTER 43 TAXES" in the subsection heading and inserting in lieu thereof "SIMILAR TAXES".

(52) Section 2503(e)(2)(B) of the 1986 Code is amended by striking out "section 213(e)" and inserting in lieu thereof "section 213(d)".

SEC. 1019. EFFECTIVE DATE. 26 USC 1 note.

(a) GENERAL RULE.—Except as otherwise provided in this title, any amendment made by this title shall take effect as if included in the provision of the Reform Act to which such amendment relates.

(b) WAIVER OF ESTIMATED TAX PENALTIES.—No addition to tax shall be made under section 6654 or 6655 of the 1986 Code for any period before April 16, 1989 (March 16, 1989 in the case of a taxpayer subject to section 6655 of the 1986 Code) with respect to any underpayment to the extent such underpayment was created or increased by any provision of this title or title II.

TITLE II—AMENDMENTS RELATED TO TAX PROVISIONS IN OTHER LEGISLATION

SEC. 2001. AMENDMENTS RELATED TO SUPERFUND REVENUE ACT OF 1986.

(a) AMENDMENTS RELATED TO SECTION 513 OF THE ACT.—

(1) Subsection (e) of section 4662 of the 1986 Code is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) REFUNDS DIRECTLY TO EXPORTER.—The Secretary shall provide, in regulations, the circumstances under which a credit or refund (without interest) of the tax under section 4661 shall be allowed or made to the person who exported the taxable chemical or taxable substance, where— Regulations.

"(A) the person who paid the tax waives his claim to the amount of such credit or refund, and

"(B) the person exporting the taxable chemical or taxable substance provides such information as the Secretary may require in such regulations."

(2) Subparagraph (A) of section 4662(b)(10) of the 1986 Code is amended by striking out "a mixture of" and inserting in lieu thereof "one or more".

(b) AMENDMENTS RELATED TO SECTION 515 OF THE ACT.—

(1) Subparagraph (B) of section 4672(a)(2) of the 1986 Code is amended by inserting "(or more than 50 percent of the value)" after "more than 50 percent of the weight".

(2) Paragraph (2) of section 4672(a) of the 1986 Code is amended by adding at the end thereof the following new sentence:

Imports.
Exports.

"If an importer or exporter of any substance requests that the Secretary determine whether such substance be listed as a taxable substance under paragraph (1) or be removed from such listing, the Secretary shall make such determination within 180 days after the date the request was filed."

(3) Paragraph (4) of section 4672(a) of such Code is amended to read as follows:

"(4) MODIFICATIONS TO LIST.—The Secretary shall add to the list under paragraph (3) substances which meet either the weight or value tests of paragraph (2)(B) and may remove from such list only substances which meet neither of such tests."

(c) AMENDMENTS RELATED TO SECTION 516 OF THE ACT.—

(1) Section 59A of the 1986 Code (relating to environmental tax) is amended by redesignating subsections (c) and (d) as subsections (d) and (e), respectively, and by inserting after subsection (b) the following new subsection:

"(c) EXCEPTION FOR RIC'S AND REIT'S.—The tax imposed by subsection (a) shall not apply to—

"(1) a regulated investment company to which part I of subchapter M applies, and

"(2) a real estate investment trust to which part II of subchapter M applies."

(2) Paragraph (1) of section 882(a) of the 1986 Code is amended by inserting "59A," after "55,".

(3)(A) Subparagraph (B) of section 56(f)(2) of the 1986 Code is amended by adding at the end thereof the following new sentence: "No adjustment shall be made under this subparagraph for the tax imposed by section 59A."

(B) Paragraph (2) of section 59A(b) of the 1986 Code is amended by inserting "(and the last sentence of section 56(f)(2)(B))" before the period at the end thereof.

(d) AMENDMENTS RELATED TO SECTION 521 OF THE ACT.—

26 USC 4041 note.

(1)(A) The amendments made by subsections (b)(3) and (d)(17) of section 10502 of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 521 of the Superfund Revenue Act of 1986 except that the last sentence of paragraphs (2) and (3) of section 4041(d) of the Internal Revenue Code of 1986 (as amended by such subsection (b)(3)) and the reference to section 4091 of such Code in section 9508(c)(2)(A) of such Code (as amended by such subsection (d)(1)) shall not apply to sales before April 1, 1988.

(B) Paragraph (2) of section 6416(b) of the 1986 Code is amended by striking out "(or under paragraph (1)(A) or (2)(A) of section 4041(a) or under paragraph (1)(A) or (2)(A) of section 4041(d) or under section 4051)" and inserting in lieu thereof "(or under subsection (a) or (d) of section 4041 in respect of sales or under section 4051)".

(2) Paragraph (3) of section 4041(c) of the 1986 Code is amended by striking out "the rate at which" and inserting in lieu thereof "the Highway Trust Fund financing rate at which".

(3)(A) Subparagraph (A) of section 4041(b)(1) of the 1986 Code is amended by striking out "subsection (a)" and inserting in lieu thereof "subsection (a) or (d)(1)".

(B) Subparagraph (B) of section 4041(b)(1) of the 1986 Code is amended by inserting before the period "and by the corresponding provision of subsection (d)(1)".

(C) Subsection (b) of section 4041 of the 1986 Code is amended by striking out paragraph (3).

(D) Subparagraph (A) of section 4041(b)(2) of the 1986 Code is amended to read as follows:

"(A) IN GENERAL.—In the case of any qualified methanol or ethanol fuel—

"(i) subsection (a)(2) shall be applied by substituting '3 cents' for '9 cents', and

"(ii) subsection (d)(1) shall be applied by substituting '0.05 cent' for '0.1 cent' with respect to the sales and uses to which clause (i) applies."

(E) Subsection (f) of section 6421 of the 1986 Code is amended by striking out all that follows paragraph (1) and inserting in lieu thereof the following new paragraphs:

"(2) GASOLINE USED IN AVIATION.—This section shall not apply in respect of gasoline which is used as a fuel in an aircraft—

"(A) in noncommercial aviation (as defined in section 4041(c)(4)), or

"(B) in aviation which is not noncommercial aviation (as so defined) with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate.

"(3) LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAX ON GASOLINE USED IN TRAINS.—This section shall not apply with respect to the tax imposed by section 4081 at the Leaking Underground Storage Tank Trust Fund financing rate on gasoline used as a fuel in a train."

(F) The second sentence of section 6421(a) of the 1986 Code is amended by striking out "paragraph (3) of subsection (e)" and inserting in lieu thereof "paragraph (2) of subsection (f)".

(4)(A) Paragraph (1) of section 1703(f) of the Reform Act (relating to floor stock taxes) is amended by striking out "9 cents" and inserting in lieu thereof "9.1 cents". 26 USC 4081 note.

(B) Paragraph (4) of section 1703(f) of the Reform Act is amended to read as follows:

"(4) TRANSFER OF FLOOR STOCK TAX REVENUES TO TRUST FUNDS.—For purposes of determining the amount transferred to any trust fund, the tax imposed by this section shall be treated as imposed by section 4081 of the Internal Revenue Code of 1986—

"(A) at the Highway Trust Fund financing rate under such section to the extent of 9 cents per gallon, and

"(B) at the Leaking Underground Storage Tank Trust Fund financing rate under such section to the extent of 0.1 cent per gallon."

(5)(A) Paragraph (1) of section 4081(c) of the 1986 Code, as amended by section 1703 of the Reform Act, is amended by

inserting "and by substituting '⅛ cent' for '0.1 cent' " before "in the case of the removal".

(B) The last sentence of section 4081(c)(2) of the 1986 Code, as amended by such section 1703, is amended by striking out "5⅔ cents a gallon" and inserting in lieu thereof "reduced by the amount of tax imposed (and not credited or refunded) on any prior removal or sale of such fuel".

(6)(A) Paragraph (1) of section 4091(c) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of a sale described in subparagraph (B), the Leaking Underground Storage Tank Trust Fund financing rate shall be ⅛ cent per gallon."

(B) Paragraph (4) of section 4091(b) of the 1986 Code is amended by inserting "except as provided in subsection (c)," after "paragraph (1),".

(C) The last sentence of section 4091(c)(2) of the 1986 Code is amended by striking out "5 cents a gallon" and inserting in lieu thereof "reduced by the amount of tax imposed (and not credited or refunded) on any prior sale of such fuel".

Effective date. 26 USC 4091 note.

(D) The amendments made by this paragraph shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987.

26 USC 6427 note.

(7)(A) The amendment made by section 10502(c)(4) of the Revenue Act of 1987 shall be treated as if included in the amendments made by section 1703 of the Reform Act except that references to section 4091 of the Internal Revenue Code of 1986 shall not apply to sales before April 1, 1988.

(B) Subparagraph (A) of section 6427(f)(1) of the 1986 Code is amended—

(i) by striking out "regular Highway Trust Fund financing rate" each place it appears and inserting in lieu thereof "regular tax rate", and

(ii) by striking out "incentive Highway Trust Fund financing rate" and inserting in lieu thereof "incentive tax rate".

(C) Subparagraph (B) of section 6427(g)(1) of the 1986 Code is amended to read as follows:

"(B) DEFINITIONS.—For purposes of subparagraph (A)—

"(i) REGULAR TAX RATE.—The term 'regular tax rate' means—

"(I) in the case of gasoline, the aggregate rate of tax imposed by section 4081 determined without regard to subsection (c) thereof, and

"(II) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 on such fuel determined without regard to subsection (c) thereof.

"(ii) INCENTIVE TAX RATE.—The term 'incentive tax rate' means—

"(I) in the case of gasoline, the aggregate rate of tax imposed by section 4081 with respect to fuel described in subsection (c)(1) thereof, and

"(II) in the case of diesel fuel, the aggregate rate of tax imposed by section 4091 with respect to fuel described in subsection (c)(1)(B) thereof."

(D) Paragraph (2) of section 6427(l) of the 1986 Code is amended by inserting "under section 4041" after "exempt".

(E) The amendments made by this paragraph shall take effect as if included in the amendments made by section 10502 of the Revenue Act of 1987. Effective date. 26 USC 6427 note.

(e) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall take effect as if included in the provision of the Superfund Revenue Act of 1986 to which it relates. 26 USC 56 note.

SEC. 2002. AMENDMENTS RELATED TO HARBOR MAINTENANCE REVENUE ACT OF 1986.

(a) ORDER OF ENACTMENTS.—

(1) For purposes of section 4042 of the 1986 Code, the amendment made by section 521(a)(3) of the Superfund Revenue Act of 1986 shall be treated as enacted after the amendment made by section 1404(a) of the Harbor Maintenance Revenue Act of 1986. 26 USC 4042 note.

(2) Paragraph (2) of section 4042(b) of the 1986 Code is amended to read as follows:

"(2) RATES.—For purposes of paragraph (1)—

"(A) The Inland Waterways Trust Fund financing rate is the rate determined in accordance with the following table:

If the use occurs:	The tax per gallon is:
Before 1990	10 cents
During 1990	11 cents
During 1991	13 cents
During 1992	15 cents
During 1993	17 cents
During 1994	19 cents
After 1994	20 cents.

"(B) The Leaking Underground Storage Tank Trust Fund financing rate is 0.1 cent per gallon."

(b) CARGO TRANSPORTED BETWEEN POSSESSIONS, ETC.—Subparagraph (B) of section 4462(b)(1) of the 1986 Code is amended to read as follows:

"(B) cargo loaded on a vessel in Alaska, Hawaii, or any possession of the United States for transportation to the United States mainland, Alaska, Hawaii, or such a possession for ultimate use or consumption in the United States mainland, Alaska, Hawaii, or such a possession,".

(c) DELAY IN DUE DATE FOR STUDY OF CARGO DIVERSION.—Section 1407 of the Harbor Maintenance Revenue Act of 1986 is amended by striking out "1 year from the date of the enactment of this Act" and inserting in lieu thereof "December 1, 1988". 26 USC 4461 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the provision of the Harbor Maintenance Revenue Act of 1986 to which it relates. 26 USC 4042 note.

SEC. 2003. AMENDMENTS RELATED TO OMNIBUS BUDGET RECONCILIATION ACT OF 1986.

(a) AMENDMENT RELATED TO SECTION 1011 OF THE ACT.—

(1) Subparagraph (B) of section 501(c)(12) of the 1986 Code is amended by striking out "or" at the end of clause (ii), by striking out the period at the end of clause (iii), and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(iv) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987)."

(2) Subparagraph (C) of section 501(c)(12) of the 1986 Code is amended to read as follows:

"(C) In the case of a mutual or cooperative electric company, subparagraph (A) shall be applied without taking into account any income received or accrued—

"(i) from qualified pole rentals, or

"(ii) from the prepayment of a loan under section 306A, 306B, or 311 of the Rural Electrification Act of 1936 (as in effect on January 1, 1987)."

26 USC 501 note.

(3) The amendments made by this subsection shall apply to taxable years ending after the date of the enactment of the Omnibus Budget Reconciliation Act of 1986.

(b) AMENDMENTS RELATED TO SECTION 8011 OF THE ACT.—

(1) The following provisions of the 1986 Code are each amended by striking out "the 14th day after the date on which" and inserting in lieu thereof "the 14th day after the last day of the semimonthly period during which":

(A) Subparagraphs (A) and (B) of section 5061(d)(2).

(B) Paragraph (3) of section 5061(d).

(C) Clauses (i) and (ii) of section 5703(b)(2)(B).

(D) Subparagraph (C) of section 5703(b)(2).

Effective date.
26 USC 5061 note.

(2) The amendments made by paragraph (1) shall take effect as if included in the amendments made by section 8011 of the Omnibus Budget Reconciliation Act of 1986.

(c) AMENDMENT RELATED TO SECTION 8041 OF THE ACT.—

(1) IN GENERAL.—Paragraph (3) of section 901(j) of the 1986 Code is amended—

(A) by striking out "Section 275" and inserting in lieu thereof "Sections 275 and 78", and

(B) by inserting ", ETC." after "DEDUCTION" in the paragraph heading.

26 USC 901 note.

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall take effect on January 1, 1987.

(d) AMENDMENT RELATED TO SECTION 9002 OF THE ACT.—Paragraph (3) of section 3509(d) of the 1986 Code is amended by striking out "subsection (d)(3)" and inserting in lieu thereof "subsection (d)(4)".

SEC. 2004. AMENDMENTS RELATED TO THE REVENUE ACT OF 1987.

(a) AMENDMENT RELATED TO SECTION 10101 OF THE ACT.—Section 10101(b) of the Revenue Act of 1987 is amended to read as follows:

26 USC 21 note.

"(b) EFFECTIVE DATE.—

"(1) IN GENERAL.—The amendment made by subsection (a) shall apply to expenses paid in taxable years beginning after December 31, 1987.

"(2) SPECIAL RULE FOR CAFETERIA PLANS.—For purposes of section 125 of the Internal Revenue Code of 1986, a plan shall not be treated as failing to be a cafeteria plan solely because under the plan a participant elected before January 1, 1988, to receive reimbursement under the plan for dependent care assistance for periods after December 31, 1987, and such assistance included reimbursement for expenses at a camp where the dependent stays overnight."

(b) AMENDMENTS RELATED TO SECTION 10102 OF THE ACT.—

(1) Subsection (h) of section 163 of the 1986 Code is amended by redesignating paragraph (6) as paragraph (5).

(2) Clause (ii) of section 56(b)(1)(C) of the 1986 Code is amended by striking out "163(h)(6)" and inserting in lieu thereof "163(h)(5)".

(3) Paragraph (1) of section 56(e) of the 1986 Code is amended—

(A) by striking out "substantially rehabilitating" and inserting in lieu thereof "substantially improving", and

(B) by striking out "or is paid" in subparagraph (A).

(c) AMENDMENT RELATED TO SECTION 10103.—Paragraph (1) of section 10103(a) of the Revenue Act of 1987 is amended by inserting "in a plan established for its employees by the United States" after "participant". 26 USC 219 note.

(d) AMENDMENTS RELATED TO SECTION 10202 OF THE ACT.—

(1) Subparagraph (A) of section 453(l)(1) of the 1986 Code, is amended by striking out "disposes of personal property" and inserting in lieu thereof "disposes of personal property of the same type".

(2) Section 453A of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section, including regulations—

"(1) disallowing the use of the installment method in whole or in part for transactions in which the rules of this section otherwise would be avoided through the use of related persons, pass-thru entities, or intermediaries, and

"(2) providing that the sale of an interest in a partnership or other pass-thru entity will be treated as a sale of the proportionate share of the assets of the partnership or other entity."

(3) Paragraph (3) of section 10202(e) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph: 26 USC 453 note.

"(C) CERTAIN DISPOSITIONS DEEMED MADE ON 1ST DAY OF TAXABLE YEAR.—If the taxpayer makes an election under subparagraph (A), in the case of the taxpayer's 1st taxable year ending after December 31, 1986—

"(i) dispositions after August 16, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day, and

"(ii) subsections (b)(2)(B) and (c)(4) of section 453A of such Code shall be applied separately with respect to such dispositions by substituting for '$5,000,000' the amount which bears the same ratio to $5,000,000 as the number of days after August 16, 1986, and before such 1st day bears to 365."

(4) Paragraph (2) of section 10202(e) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) CERTAIN RULES MADE APPLICABLE.—For purposes of this paragraph, rules similar to the rules of paragraphs (4) and (5) of section 812(c) of the Tax Reform Act of 1986 (as added by the Technical and Miscellaneous Revenue Act of 1988) shall apply."

(5) Subsection (k) of section 453 of the 1986 Code is amended by striking out "and section 453A".

26 USC 453 note.

(6) Subparagraph (A) of section 10202(e)(2) of the Revenue Act of 1987 is amended by striking out "section 453A of the Internal Revenue Code of 1986" and inserting in lieu thereof "section 453(l)(1) of the Internal Revenue Code of 1986 as added by this section".

(7) Paragraph (2) of section 453A(b) of the 1986 Code is amended by striking out "for purposes of this paragraph" and inserting in lieu thereof "for purposes of this paragraph and subsection (c)(4)".

(8) Paragraph (3) of section 453A(b) of the 1986 Code is amended to read as follows:

"(3) EXCEPTION FOR FARM PROPERTY.—An installment obligation shall not be treated as described in paragraph (1) if it arises from the disposition of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e) (4) or (5)."

(e) AMENDMENTS RELATED TO SECTION 10206 OF THE ACT.—

(1)(A) Subsection (a) of section 444 of the 1986 Code is amended by striking out "as provided in subsections (b) and (c)" and inserting in lieu thereof "as otherwise provided in this section".

(B) Paragraph (3) of section 444(d) of the 1986 Code is amended to read as follows:

"(3) TIERED STRUCTURES, ETC.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph—

"(i) no election may be under subsection (a) with respect to any entity which is part of a tiered structure, and

"(ii) an election under subsection (a) with respect to any entity shall be terminated if such entity becomes part of a tiered structure.

"(B) EXCEPTIONS FOR STRUCTURES CONSISTING OF CERTAIN ENTITIES WITH SAME TAXABLE YEAR.—Subparagraph (A) shall not apply to any tiered structure which consists only of partnerships or S corporations (or both) all of which have the same taxable year."

(C) Subparagraph (B) of section 444(d)(2) of the 1986 Code is amended by striking out "under subparagraph (A)" and inserting in lieu thereof "under subparagraph (A) or paragraph (3)(A)".

(2)(A) Section 444 of the 1986 Code is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following new subsection:

"(f) PERSONAL SERVICE CORPORATION.—For purposes of this section, the term 'personal service corporation' has the meaning given to such term by section 441(i)(2)."

(B) Subsection (f) of section 280H of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) PERSONAL SERVICE CORPORATION.—The term 'personal service corporation' has the meaning given to such term by section 441(i)(2)."

(3) Paragraph (2) of section 280H(f) of the 1986 Code is amended by striking out "section 296A(b)(2)" and inserting in lieu thereof "section 269A(b)(2) (as modified by section 441(i)(2))".

(4)(A) Paragraph (2) of section 7519(b) of the 1986 Code is amended to read as follows:

"(2) the net required payment balance."

(B) Subsection (e) of section 7519 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) NET REQUIRED PAYMENT BALANCE.—The term 'net required payment balance' means the excess (if any) of—

"(A) the aggregate of the required payments under this section for all preceding applicable election years, over

"(B) the aggregate amount allowable as a refund to the entity under subsection (c) for all preceding applicable election years."

(5) Subsection (c) of section 7519 of the 1986 Code is amended to read as follows:

"(c) REFUND OF PAYMENTS.—

"(1) IN GENERAL.—If, for any applicable election year, the amount determined under subsection (b)(2) exceeds the amount determined under subsection (b)(1), the entity shall be entitled to a refund of such excess for such year.

"(2) TERMINATION OF ELECTIONS, ETC.—If—

"(A) an election under section 444 is terminated effective with respect to any year, or

"(B) the entity is liquidated during any year, the entity shall be entitled to a refund of the net required payment balance.

"(3) DATE ON WHICH REFUND PAYABLE.—Any refund under this subsection shall be payable on later of—

"(A) April 15 of the calendar year following—

"(i) in the case of the year referred to in paragraph (1), the calendar year in which it begins,

"(ii) in the case of the year referred to in paragraph (2), the calendar year in which it ends, or

"(B) the day 90 days after the day on which claim therefor is filed with the Secretary."

(6) Subsection (g) of section 7519 of the 1986 Code is amended by striking out "including regulations" and all that follows down through the period at the end thereof and inserting in lieu thereof

"including regulations providing for appropriate adjustments in the application of this section and sections 280H and 444 in cases where—

"(1) 2 or more applicable election years begin in the same calendar year, or

"(2) the base year is a taxable year of less than 12 months."

(7) Subparagraph (B) of section 7519(d)(2) of the 1986 Code is amended by inserting before the period at the end thereof the following: "(and such corporation shall be treated as an S corporation for such taxable year for purposes of paragraph (3))".

(8) Subsection (d) of section 7519 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) TREATMENT OF GUARANTEED PAYMENTS.—

"(A) IN GENERAL.—Any guaranteed payment by a partnership shall not be treated as an applicable payment, and the amount of the net income of the partnership shall be determined by not taking such guaranteed payment into account.

"(B) GUARANTEED PAYMENT.—For purposes of subparagraph (A), the term 'guaranteed payment' means any payment referred to in section 707(c)."

(9) Paragraph (4) of section 7519(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "Notwithstanding the preceding provisions of this paragraph, for taxable years beginning after 1987, the applicable percentage for any partnership or S corporation shall be 100 percent if more than 50 percent of such entity's net income for the short taxable year which would have resulted if the entity had not made an election under section 444 would have been allocated to partners or shareholders who would not have been entitled to the benefits of section 806(e)(2)(C) of the Tax Reform Act of 1986 with respect to such income."

(10) Subparagraphs (A) and (B) of section 7519(d)(2) of the 1986 Code are each amended by striking out "(other than credits)" and inserting in lieu thereof "(other than credits and tax-exempt income)".

26 USC 444 note.

(11) Paragraph (4) of section 10206(d) of the Revenue Act of 1987 is amended by adding at the end thereof the following new sentence: "The preceding sentence shall apply only in the case of an election under section 444 of such Code made for a taxable year beginning before 1989."

(12) Subparagraph (A) of section 444(d)(2) of the 1986 Code is amended by inserting "or otherwise terminates such election" before the period at the end of the first sentence thereof.

(13) Paragraph (4) of section 444(b) of the 1986 Code is amended by striking out "the term" and inserting in lieu thereof "except as provided in regulations, the term".

(14)(A) Paragraph (4) of section 280H(f) of the 1986 Code is amended to read as follows:

"(4) ADJUSTED TAXABLE INCOME.—The term 'adjusted taxable income' means taxable income determined without regard to—

"(A) any amount paid to an employee-owner which is includible in the gross income of such employee-owner, and

"(B) any net operating loss carryover to the extent such carryover is attributable to amounts described in subparagraph (A)."

(B) Subparagraph (A) of section 7519(d)(3) of the 1986 Code is amended by striking out "or incurred".

(C) Subsections (c)(1)(A)(i) and (d)(1) of section 280H of the 1986 Code are each amended by striking out "or incurred".

(f) AMENDMENTS RELATED TO SECTION 10211 OF THE ACT.—

(1) Paragraph (4) of section 7704(e) of the 1986 Code is amended by striking out "as may be required" and inserting in lieu thereof "or to pay such amounts as may be required".

26 USC 7704 note.

(2) Paragraph (2) of section 10211(c) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

"(C) COORDINATION WITH PASSIVE-TYPE INCOME REQUIREMENTS.—In the case of an existing partnership, paragraph (1) of section 7704(c) of the Internal Revenue Code of 1986 (as added by this section) shall be applied by substituting for 'December 31, 1987' the earlier of—

"(i) December 31, 1997, or

"(ii) the day (if any) as of which such partnership ceases to be treated as an existing partnership by reason of subparagraph (B)."

(3) Paragraph (1) of section 7704(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of the preceding sentence, a partnership shall not be treated as being in existence during any period before the 1st taxable year in which such partnership (or a predecessor) was a publicly traded partnership."

(4) Paragraph (1) of section 7704(d) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of subparagraph (E), the term 'mineral or natural resource' means any product of a character with respect to which a deduction for depletion is allowable under section 611; except that such term shall not include any product described in subparagraph (A) or (B) of section 613(b)(7)."

(5) Paragraph (3) of section 7704(d) of the 1986 Code is amended to read as follows:

"(3) REAL PROPERTY RENT.—The term 'real property rent' means amounts which would qualify as rent from real property under section 856(d) if—

"(A) such section were applied without regard to paragraph (2)(C) thereof (relating to independent contractor requirements), and

"(B) stock owned, directly or indirectly, by or for a partner would not be considered as owned under section 318(a)(3)(A) by the partnership unless 5 percent or more (by value) of the interests in such partnership are owned, directly or indirectly, by or for such partner."

(g) AMENDMENT RELATED TO SECTION 10212 OF THE ACT.—Subsection (k) of section 469 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) COORDINATION WITH SUBSECTION (g).—For purposes of subsection (g), a taxpayer shall not be treated as having disposed of his entire interest in an activity of a publicly traded partnership until he disposes of his entire interest in such partnership."

(h) AMENDMENTS RELATED TO SECTION 10214 OF THE ACT.—

(1) Subparagraph (E) of section 514(c)(9) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(iii) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this subparagraph, including regulations which may provide for exclusion or segregation of items."

(2) Clause (i) of section 514(c)(9)(E) of the 1986 Code is amended by striking out subclause (I) and by redesignating subclauses (II) and (III) as subclauses (I) and (II), respectively.

(i) AMENDMENTS RELATED TO SECTION 10221 OF THE ACT.—

(1) Paragraph (2) of section 10221(e) of the Revenue Act of 1987 is amended by striking out "amendments made by subsection (b)" and inserting in lieu thereof "amendments made by subsection (c)". 26 USC 243 note.

(2) Subsection (b) of section 244 of the 1986 Code is amended by striking out "section 243(c)(4)" and inserting in lieu thereof "section 243(d)(4)".

(j) AMENDMENTS RELATED TO SECTION 10222 OF THE ACT.—

(1)(A) Paragraph (1) of section 1503(e) of the 1986 Code is amended by striking out so much of such paragraph as precedes subparagraph (A) thereof and inserting in lieu thereof the following:

"(1) IN GENERAL.—Solely for purposes of determining gain or loss on the disposition of intragroup stock and the amount of any inclusion by reason of an excess loss account, in determining the adjustments to the basis of such intragroup stock on account of the earnings and profits of any member of an affiliated group for any consolidated year (and in determining the amount in such account)—"

(B) Paragraph (2) of section 10222(a) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph:

26 USC 1503 note.

"(C) TREATMENT OF CERTAIN EXCESS LOSS ACCOUNTS.—

"(i) IN GENERAL.—If—

"(I) any disposition on or before December 15, 1987, of stock resulted in an inclusion of an excess loss account (or would have so resulted if the amendments made by paragraph (1) had applied to such disposition), and

"(II) there is an unrecaptured amount with respect to such disposition,

the portion of such unrecaptured amount allocable to stock disposed of in a disposition to which the amendment made by paragraph (1) applies shall be taken into account as negative basis. To the extent permitted by the Secretary of the Treasury or his delegate, the preceding sentence shall not apply to the extent the taxpayer elects to reduce its basis in indebtedness of the corporation with respect to which there would have been an excess loss account.

"(ii) SPECIAL RULES.—For purposes of this subparagraph—

"(I) UNRECAPTURED AMOUNT.—The term 'unrecaptured amount' means the amount by which the inclusion referred to in clause (i)(I) would have been increased if the amendment made by paragraph (1) and applied to the disposition.

"(II) COORDINATION WITH BINDING CONTRACT EXCEPTION.—A disposition shall be treated as occurring on or before December 15, 1987, if the amendment made by paragraph (1) does not apply to such disposition by reason of subparagraph (B)."

(2) Subsection (e) of section 1503 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) ADJUSTMENTS.—Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of paragraph (1)—

"(A) in the case of any property acquired by the corporation before consolidation, for the difference between the adjusted basis of such property for purposes of computing taxable income and its adjusted basis for purposes of computing earnings and profits, and

"(B) in the case of any property, for any basis adjustment under section 48(q)."

(3)(A) Paragraph (2) of section 1503(e) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) APPLICATION OF SECTION 312(n)(7) NOT AFFECTED.—The reference in paragraph (1) to subsection (n) of section 312 shall be treated as not including a reference to paragraph (7) of such subsection."

(B) Subsection (e) of section 301 of the 1986 Code (as redesignated by section 106(e)(12) of this Act) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) APPLICATION OF SECTION 312(n)(7) NOT AFFECTED.—The reference in paragraph (1) to subsection (n) of section 312 shall be treated as not including a reference to paragraph (7) of such subsection."

(4) Subparagraph (B) of section 10222(b)(2) of the Revenue Act of 1987 is amended to read as follows: 26 USC 301 note.

"(B) EXCEPTION.—The amendment made by paragraph (1) shall not apply for purposes of determining gain or loss on any disposition of stock after December 15, 1987, and before January 1, 1989, if such disposition is pursuant to a written binding contract, governmental order, letter of intent or preliminary agreement, or stock acquisition agreement, in effect on or before December 15, 1987."

(k) AMENDMENTS RELATED TO SECTION 10223 OF THE ACT.—

(1) Subparagraph (D) of section 355(b)(2) of the 1986 Code is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) was not acquired by any distributee corporation directly (or through 1 or more corporations, whether through the distributing corporation or otherwise) within the period described in subparagraph (B) and was not acquired by the distributing corporation directly (or through 1 or more corporations) within such period, or

"(ii) was so acquired by any such corporation within such period, but, in each case in which such control was so acquired, it was so acquired, only by reason of transactions in which gain or loss was not recognized in whole or in part, or only by reason of such transactions combined with acquisitions before the beginning of such period."

(2) Subparagraph (A) of section 304(b)(4) of the 1986 Code is amended by striking out "stock of 1 member" and inserting in lieu thereof "stock from 1 member".

(3) Paragraph (2) of section 10223(d) of the Revenue Act of 1987 is amended by adding at the end thereof the following new subparagraph: 26 USC 304 note.

"(D) TREATMENT OF CERTAIN MEMBERS OF AFFILIATED GROUP.—

"(i) IN GENERAL.—For purposes of subparagraph (A), all corporations which were in existence on the designated date and were members of the same affiliated group which included the distributees on such date shall be treated as 1 distributee.

"(ii) LIMITATION TO STOCK HELD ON DESIGNATED DATE.—Clause (i) shall not exempt any distribution

from the amendments made by this section if such distribution is with respect to stock not held by the distributee (determined without regard to clause (i)) on the designated date directly or indirectly through a corporation which goes out of existence in the transaction.

"(iii) DESIGNATED DATE.—For purposes of this subparagraph, the term 'designated date' means the later of—

"(I) December 15, 1987, or

"(II) the date on which the acquisition meeting the requirements of subparagraph (A) occurred."

(4) Subparagraph (B) of section 10223(d)(2) of the Revenue Act of 1987 is amended— 26 USC 304 note.

(A) by striking out "before January 1, 1993" and inserting in lieu thereof "on or before March 31, 1988", and

(B) by striking out "before January 1, 1989,".

(l) AMENDMENT RELATED TO SECTION 10224 OF THE ACT.—Sections 1201(a) and 1561(a) of the 1986 Code, and section 904(b)(3)(D)(ii) of the 1986 Code (as amended by section 106(b)(2) of this Act), are each amended by striking out "section 11(b)" and inserting in lieu thereof "section 11(b)(1)".

(m) AMENDMENTS RELATED TO SECTION 10226 OF THE ACT.—

(1)(A) Subsection (a) of section 384 of the 1986 Code is amended to read as follows:

"(a) GENERAL RULE.—If—

"(1)(A) a corporation acquires directly (or through 1 or more other corporations) control of another corporation, or

"(B) the assets of a corporation are acquired by another corporation in a reorganization described in subparagraph (A), (C), or (D) of section 368(a)(1), and

"(2) either of such corporations is a gain corporation,

income for any recognition period taxable year (to the extent attributable to recognized built-in gains) shall not be offset by any preacquisition loss (other than a preacquisition loss of the gain corporation)."

(B) Subsection (c) of section 384 of the 1986 Code is amended by redesignating paragraph (4) as paragraph (8) and by inserting after paragraph (3) the following new paragraphs:

"(4) GAIN CORPORATION.—The term 'gain corporation' means any corporation with a net unrealized built-in gain.

"(5) CONTROL.—The term 'control' means ownership of stock in a corporation which meets the requirements of section 1504(a)(2).

"(6) TREATMENT OF MEMBERS OF SAME GROUP.—Except as provided in regulations and except for purposes of subsection (b), all corporations which are members of the same affiliated group immediately before the acquisition date shall be treated as 1 corporation. To the extent provided in regulations, section 1504 shall be applied without regard to subsection (b) thereof for purposes of the preceding sentence.

"(7) TREATMENT OF PREDECESSORS AND SUCCESSORS.—Any reference in this section to a corporation shall include a reference to any predecessor or successor thereof."

(C) Paragraph (2) of section 384(c) of the 1986 Code is amended to read as follows:

"(2) ACQUISITION DATE.—The term 'acquisition date' means

"(A) in any case described in subsection (a)(1)(A), the date on which the acquisition of control occurs, or

"(B) in any case described in subsection (a)(1)(B), the date of the transfer in the reorganization."

(D) Paragraph (1) of section 384(c) of the 1986 Code is amended by striking out "subsection (a)(2)" and inserting in lieu thereof "subsection (a)(1)(B)".

(2) Paragraph (2) of section 384(e) of the 1986 Code is amended by striking out "the gain corporation" and inserting in lieu thereof "a corporation".

(3) Subsection (b) of section 384 of the 1986 Code is amended to read as follows:

"(b) EXCEPTION WHERE CORPORATIONS UNDER COMMON CONTROL.—

"(1) IN GENERAL.—Subsection (a) shall not apply to the preacquisition loss of any corporation if such corporation and the gain corporation were members of the same controlled group at all times during the 5-year period ending on the acquisition date.

"(2) CONTROLLED GROUP.—For purposes of this subsection, the term 'controlled group' means a controlled group of corporations (as defined in section 1563(a)); except that—

"(A) 'more than 50 percent' shall be substituted for 'at least 80 percent' each place it appears,

"(B) the ownership requirements of section 1563(a) must be met both with respect to voting power and value, and

"(C) the determination shall be made without regard to subsection (a)(4) of section 1563.

"(3) SHORTER PERIOD WHERE CORPORATIONS NOT IN EXISTENCE FOR 5 YEARS.—If either of the corporations referred to in paragraph (1) was not in existence throughout the 5-year period referred to in paragraph (1), the period during which such corporation was in existence (or if both, the shorter of such periods) shall be substituted for such 5-year period."

(4) Section 384 of the 1986 Code is amended by redesignating subsection (e) as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e) ORDERING RULES FOR NET OPERATING LOSSES, ETC.—

"(1) CARRYOVER RULES.—If any preacquisition loss may not offset a recognized build-in gain by reason of this section, such gain shall not be taken into account in determining under section 172(b)(2) the amount of such loss which may be carried to other taxable years. A similar rule shall apply in the case of any excess credit or net capital loss limited by reason of subsection (d).

"(2) ORDERING RULE FOR LOSSES CARRIED FROM SAME TAXABLE YEAR.—In any case in which—

"(A) a preacquisition loss for any taxable year is subject to limitation under subsection (a), and

"(B) a net operating loss from such taxable year is not subject to such limitation,

taxable income shall be treated as having been offset 1st by the loss subject to such limitation."

(5) In any case where the acquisition date (as defined in section 384(c)(2) of the 1986 Code as amended by this subsection) is before March 31, 1988, the acquiring corporation may elect to have the amendments made by this subsection not apply. Such an election shall be made in such manner as the Secretary of

26 USC 384 note.

the Treasury or his delegate shall prescribe and shall be made not later than the later of the due date (including extensions) for filing the return for the taxable year of the acquiring corporation in which the acquisition date occurs or the date 120 days after the date of the enactment of this Act. Such an election, once made, shall be irrevocable.

(n) AMENDMENTS RELATED TO SECTION 10227 OF THE ACT.—Paragraph (4) of section 1363(d) of the 1986 Code (relating to recapture of LIFO benefits) is amended by adding at the end thereof the following new subparagraph:

"(D) NOT TREATED AS MEMBER OF AFFILIATED GROUP.—Except as provided in regulations, the corporation referred to in paragraph (1) shall not be treated as a member of an affiliated group with respect to the amount included in gross income under paragraph (1)."

(o) AMENDMENTS RELATED TO SECTION 10228 OF THE ACT.—

(1)(A) Subsection (a) of section 5881 of the 1986 Code is amended by striking out "gain realized by such person on such receipt" and inserting in lieu thereof "gain or other income of such person by reason of such receipt".

(B)(i) Subsection (b) of section 5881 of the 1986 Code is amended by striking out "a corporation to directly or indirectly acquire its stock" and inserting in lieu thereof "a corporation (or any person acting in concert with such corporation) to directly or indirectly acquire stock of such corporation".

26 USC 5881 note.

(ii) The amendment made by clause (i) shall apply to transactions occurring on or after March 31, 1988.

(C) Subsection (d) of section 5881 of the 1986 Code is amended—

(i) by striking out "the gain" and inserting in lieu thereof "the gain or other income", and

(ii) by striking out "GAIN RECOGNIZED" in the subsection heading and inserting in lieu thereof "AMOUNT RECOGNIZED".

(2) Section 5881 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) ADMINISTRATIVE PROVISIONS.—For purposes of the deficiency procedures of subtitle F, any tax imposed by this section shall be treated as a tax imposed by subtitle A."

(p) AMENDMENTS RELATED TO SECTION 10241 OF THE ACT.—

(1) Paragraph (1) of section 811(d) of the 1986 Code is amended by striking out "the prevailing State assumed interest rate for the contract" and inserting in lieu thereof "the greater of the prevailing State assumed interest rate or applicable Federal interest rate in effect under section 807 for the contract".

(2) Paragraph (2) of section 812(b) of the 1986 Code is amended by striking out the last sentence and inserting in lieu thereof the following:

"In any case where neither the prevailing State assumed interest rate nor the applicable Federal interest rate is used, another appropriate rate shall be used for purposes of subparagraph (A)."

(q) AMENDMENTS RELATED TO SECTION 10242 OF THE ACT.—

(1) Subsection (h) of section 816 of the 1986 Code is amended by striking out "section 842(c)(1)(A)" and inserting in lieu thereof "section 842(b)(2)(B)(i)".

(2)(A) Subparagraph (B) of section 842(b)(3) of the 1986 Code is amended by striking out "held for the production of such income".

(B) Subparagraph (B) of section 842(b)(4) of the 1986 Code is amended by striking out "held for the production of investment income".

(3) Subparagraph (d) of section 842 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) which may provide that, in the case of companies taxable under part II of this subchapter, determinations under subsection (b) will be made separately for categories of such companies established in such regulations."

(r) AMENDMENT RELATED TO SECTION 10301 OF THE ACT.—Paragraph (3) of section 6655(g) of the 1986 Code is amended by striking the sentence following subparagraph (C) and inserting in lieu thereof the following:

"In the case of any organization described in subparagraph (A), subsection (b)(2)(A) shall be applied by substituting '5th month' for '3rd month', and subsection (e)(2)(A) shall be applied by substituting '2 months' for '3 months' and in clause (i)(I), by substituting '4 months' for '5 months' in clause (i)(II), by substituting '7 months' for '8 months' in clause (i)(III), and by substituting '10 months' for '11 months' in clause (i)(IV)".

(s) AMENDMENTS RELATED TO SECTION 10502 OF THE ACT.—

(1) Section 4093 of the 1986 Code is amended by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

"(d) CERTAIN AVIATION FUEL SALES.—Under regulations prescribed by the Secretary, the Leaking Underground Storage Tank Trust Fund financing rate under section 4091 shall not apply to aviation fuel sold for use or used as supplies for vessels or aircraft (within the meaning of section 4221(d)(3))."

(2) Subparagraph (B) of section 6427(l)(3) of the 1986 Code (relating to no refund of Leaking Underground Storage Tank Trust Fund financing tax) is amended by inserting "(except as supplies for vessels or aircraft within the meaning of section 4221(d)(3))" after "aircraft".

(3) Section 6427 of the 1986 Code is amended by redesignating the subsection (p) relating to gasoline used in noncommercial aviation during period rate reduction in effect and subsection (q) (relating to cross references) as subsections (q) and (r), respectively.

(t) AMENDMENTS RELATED TO SECTION 10512 OF THE ACT.—

(1) Section 5276 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) EXCEPTION FOR UNITED STATES.—Subsection (a) shall not apply to any permit issued to an agency or instrumentality of the United States."

(2) Subsection (a) of section 5113 of the 1986 Code is amended—

(A) by inserting "taxpaid wine bottling house," after "bonded wine cellar," each place it appears, and

(B) by striking out "DISTILLED SPIRITS PLANTS, BONDED WINE CELLARS, OR BREWERIES" in the heading and inserting in lieu thereof "CONTROLLED PREMISES".

(3) Section 5123 of the 1986 Code is amended by redesignating subsection (c) as subsection (d) and by inserting after subsection (b) the following new subsection:

"(c) COORDINATION OF TAXES UNDER SECTION 5121.—No tax shall be imposed by section 5121(a) with respect to a person's activities at any place during a year if such person has paid the tax imposed by section 5121(b) with respect to such place for such year."

(4) Section 5113 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(g) COORDINATION OF TAXES UNDER SECTION 5111.—No tax shall be imposed by section 5111(a) with respect to a person's activities at any place during a year if such person has paid the tax imposed by section 5111(b) with respect to such place for such year."

26 USC 56 note.

(u) EFFECTIVE DATE.—Except as otherwise provided in this section, any amendment made by this section shall take effect as if included in the provisions of the Revenue Act of 1987 to which such amendment relates.

SEC. 2005. AMENDMENTS RELATED TO PENSION PROTECTION ACT AND FULL FUNDING LIMITATIONS.

(a) AMENDMENT RELATED TO SECTION 9303.—

(1) Section 4972(c) of the 1986 Code is amended by redesignating paragraph (4) as paragraph (5) and by inserting after paragraph (3) the following new paragraph:

"(4) SPECIAL RULE FOR SELF-EMPLOYED INDIVIDUALS.—For purposes of paragraph (1), if—

"(A) the amount which is required to be contributed to a plan under section 412 on behalf of an individual who is an employee (within the meaning of section 401(c)(1)), exceeds

"(B) the earned income (within the meaning of section 404(a)(8)) of such individual derived from the trade or business with respect to which such plan is established,

such excess shall be treated as an amount allowable as a deduction under section 404."

(2)(A) Subparagraph (C) of section 412(l)(3) of the 1986 Code is amended—

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(B) Subparagraph (C) of section 302(d)(3) of the Employee Retirement Income Security Act of 1974 is amended—

29 USC 1082.

(i) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(ii) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(b) AMENDMENTS RELATED TO SECTION 9307.—

(1) The last sentence of section 404(a)(1)(D) of the 1986 Code is amended by striking out "For purposes of this subparagraph" and inserting in lieu thereof "For purposes of determining whether a plan has more than 100 participants".

(2) Section 404(a)(7)(A) of the 1986 Code is amended by adding at the end thereof the following new sentence: "For purposes of clause (ii), if paragraph (1)(D) applies to a defined benefit plan

for any plan year, the amount necessary to satisfy the minimum funding standard provided by section 412 with respect to such plan for such plan year shall not be less than the unfunded current liability of such plan under section 412(l).".

(3) Section 404(a)(1)(D) of the 1986 Code is amended by striking out "(without regard to any reduction by the credit balance in the funding standard account)".

(c) AMENDMENTS RELATED TO SECTION 9301.—

(1) Section 414(l) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(2) ALLOCATION OF ASSETS IN PLAN SPIN-OFFS, ETC.—

"(A) IN GENERAL.—In the case of a plan spin-off of a defined benefit plan, a trust which forms part of—

"(i) the original plan, or

"(ii) any plan spun off from such plan,

shall not constitute a qualified trust under this section unless the applicable percentage of excess assets are allocated to each of such plans.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the term 'applicable percentage' means, with respect to each of the plans described in clauses (i) and (ii) of subparagraph (A), the percentage determined by dividing—

"(i) the excess (if any) of—

"(I) the amount determined under section 412(c)(7)(A)(i) with respect to the plan, over

"(II) the amount of the assets required to be allocated to the plan after the spin-off (without regard to this paragraph), by

"(ii) the sum of the excess amounts determined separately under clause (i) for all such plans.

"(C) EXCESS ASSETS.—For purposes of subparagraph (A), the term 'excess assets' means an amount equal to the excess (if any) of—

"(i) the fair market value of the assets of the original plan immediately before the spin-off, over

"(ii) the amount of assets required to be allocated after the spin-off to all plans (determined without regard to this paragraph).

"(D) CERTAIN SPUN-OFF PLANS NOT TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—A plan involved in a spin-off which is described in clause (ii), (iii), or (iv) shall not be taken into account for purposes of this paragraph, except that the amount determined under subparagraph (C)(ii) shall be increased by the amount of assets allocated to such plan.

"(ii) PLANS TRANSFERRED OUT OF CONTROLLED GROUPS.—A plan is described in this clause if, after such spin-off, such plan is maintained by an employer who is not a member of the same controlled group as the employer maintaining the original plan.

"(iii) PLANS TRANSFERRED OUT OF MULTIPLE EMPLOYER PLANS.—A plan as described in this clause if, after the spin-off, any employer maintaining such plan (and any member of the same controlled group as such employer) does not maintain any other plan remaining after the spin-off which is also maintained by another employer (or member of the same controlled group as

such other employer) which maintained the plan in existence before the spin-off.

"(iv) TERMINATED PLANS.—A plan is described in this clause if, pursuant to the transaction involving the spin-off, the plan is terminated.

"(v) CONTROLLED GROUP.—For purposes of this subparagraph, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o).

"(E) PARAGRAPH NOT TO APPLY TO MULTIEMPLOYER PLANS.—This paragraph does not apply to any multiemployer plan with respect to any spin-off to the extent that participants either before or after the spin-off are covered under a multiemployer plan to which title IV of the Employee Retirement Income Security Act of 1974 applies.

"(F) APPLICATION TO SIMILAR TRANSACTION.—Except as provided by the Secretary, rules similar to the rules of this paragraph shall apply to transactions similar to spin-offs."

(2) Section 414(l) of the 1986 Code is amended by striking out the heading and inserting in lieu thereof:

"(l) MERGER AND CONSOLIDATIONS OF PLANS OR TRANSFERS OF PLAN ASSETS.—

"(1) IN GENERAL.—".

26 USC 414 note.

(3)(A) Except as provided in subparagraph (B), the amendments made by this subsection shall apply with respect to transactions occurring after July 26, 1988.

(B) The amendments made by this subsection shall not apply to any transaction occurring after July 26, 1988, if on or before such date the board of directors of the employer, approves such transaction or the employer took similar binding action.

(d) OTHER PROVISIONS.—

(1) Subparagraph (C) of section 412(l)(3) of the 1986 Code is amended—

(A) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(B) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

(2) Subparagraph (B) of section 302(d)(3) of the Employee Retirement Income Security Act of 1974 is amended—

29 USC 1082.

(A) by striking out "October 17, 1987" in clause (i) and inserting in lieu thereof "October 29, 1987", and

(B) by striking out "October 16, 1987" in clause (iii) and inserting in lieu thereof "October 28, 1987".

26 USC 404 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by the provisions of the Omnibus Budget Reconciliation Act of 1987 to which it relates.

SEC. 2006. AMENDMENTS RELATED TO SECTION 9201 OF THE OMNIBUS BUDGET RECONCILIATION ACT OF 1987.

(a) Subsection (c) of section 4132 of the 1986 Code (relating to imposition of tax on certain vaccines) is amended by redesignating paragraphs (1) and (2) as paragraphs (3) and (4), respectively, and by inserting before paragraph (3) (as so redesignated) the following new paragraphs:

"(1) CERTAIN USES TREATED AS SALES.—Any manufacturer, producer, or importer of a vaccine which uses such vaccine

before it is sold shall be liable for the tax imposed by section 4131 in the same manner as if such vaccine were sold by such manufacturer, producer, or importer.

"(2) TREATMENT OF VACCINES SHIPPED TO UNITED STATES POSSESSIONS.—Section 4221(a)(2) shall not apply to any vaccine shipped to a possession of the United States."

(b) Subsection (a) of section 9510 of the 1986 Code is amended—

(1) by inserting "appropriated or" before "credited", and

(2) by inserting "this section or" before "section 9602(b)".

(c) The amendments made by this section shall take effect as if included in the amendments made by section 9201 of the Omnibus Budget Reconciliation Act of 1987.

Effective date. 26 USC 4132 note.

TITLE III—ADDITIONAL SIMPLIFICATION AND CLARIFICATION PROVISIONS

Subtitle A—Diesel Fuel Excise Tax Collection and Exemption Procedures

SEC. 3001. TAX-FREE PURCHASES OF CERTAIN FUELS.

(a) IN GENERAL.—Subsection (c) of section 4093 of the 1986 Code (relating to exceptions; special rule) is amended to read as follows:

"(c) EXEMPTION FOR NONTAXABLE USES AND BUS USES.—

"(1) IN GENERAL.—No tax shall be imposed by section 4091 on fuel sold by a producer or importer for use by the purchaser in a nontaxable use (as defined in section 6427(l)(2)) or a use described in section 6427(b)(1).

"(2) EXCEPTIONS.—

"(A) CERTAIN LEAKING UNDERGROUND STORAGE TANK TRUST FUND TAXES.—In the case of fuel sold for use in—

"(i) a diesel-powered train, and

"(ii) an aircraft,

paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is attributable to the Leaking Underground Storage Tank Trust Fund financing rate imposed by such section.

"(B) CERTAIN BUS USES.—Paragraph (1) shall not apply to so much of the tax imposed by section 4091 as is not refundable by reason of the application of section 6427(b)(2)(A).

"(3) REGISTRATION REQUIRED.—Except to the extent provided by the Secretary, paragraph (1) shall not apply to any sale unless—

"(A) both the seller and the purchaser are registered under section 4101, and

"(B) the purchaser's name, address, and registration number under such section are provided to the seller.

"(4) INFORMATION REPORTING.—

"(A) RETURNS BY PRODUCERS AND IMPORTERS.—Each producer or importer who makes a reduced-tax sale during the calendar year shall make a return (at such time and in such form as the Secretary may by regulations prescribe) showing with respect to each such sale—

"(i) the name, address, and registration number under section 4101 of the purchaser,

"(ii) the amount of fuel sold, and

"(iii) such other information as the Secretary may require.

"(B) STATEMENTS TO PURCHASERS.—Every person required to make a return under subparagraph (A) shall furnish to each purchaser whose name is required to be set forth on such return a written statement showing the name and address of the person required to make such return, the registration number under section 4101 of such person, and the information required to be shown on the return with respect to such purchaser. The written statement required under the preceding sentence shall be furnished to the purchaser on or before January 31 of the year following the calendar year for which the return under subparagraph (A) is required to be made.

"(C) RETURNS BY PURCHASERS.—Each person who uses during the calendar year fuel purchased in a reduced-tax sale shall make a return (at such time and in such form as the Secretary may by regulations prescribe) showing—

"(i) whether such use was a nontaxable use (as defined in section 6427(l)(2)) or a use described in section 6427(b)(1) and the amount of fuel so used,

"(ii) the date of the sale of the fuel so used,

"(iii) the name, address, and registration number under section 4101 of the seller, and

"(iv) such other information as the Secretary may require.

"(D) REDUCED-TAX SALE.—For purposes of this paragraph, the term 'reduced tax sale' means any sale of taxable fuel on which the amount of tax otherwise required to be paid under section 4091 is reduced by reason of paragraph (1) (other than sales described in subsections (a) and (b) of this section)."

(b) PENALTY FOR FAILING TO PROVIDE INFORMATION.—

(1) Subparagraph (B) of section 6724(d)(1) of the 1986 Code (defining information return) is amended by striking out "or" at the end of clause (ix), by striking out the period at the end of clause (x) and inserting in lieu thereof ", or", and by adding at the end thereof the following new clause:

"(xi) subparagraph (A) or (C) of subsection (c)(4), or subsection (d), of section 4093 (relating to information reporting with respect to tax on diesel and aviation fuels)."

(2) Paragraph (2) of section 6724(d) of the 1986 Code (defining payee statement) is amended by striking out "or" at the end of subparagraph (S), by striking out the period at the end of subparagraph (T) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(U) section 4093(c)(4)(B) (relating to certain purchasers of diesel and aviation fuels)."

(3)(A) The text of section 7232 of the 1986 Code is amended by striking out "or lubricating oil" and inserting in lieu thereof ", lubricating oil, diesel fuel, or aviation fuel".

(B) The heading for section 7232 of the 1986 Code is amended by striking out "**OR LUBRICATING OIL**" and inserting in lieu

thereof ", LUBRICATING OIL, DIESEL FUEL, OR AVIATION FUEL".

(C) The table of sections for part II of subchapter A of chapter 75 of the 1986 Code is amended by striking out "or lubricating oil" in the item relating to section 7232 and inserting in lieu thereof ", lubricating oil, diesel fuel, or aviation fuel".

(c) EFFECTIVE DATE.— 26 USC 4093 note.

(1) IN GENERAL.—The amendments made by this section shall take effect on January 1, 1989.

(2) REFUNDS WITH INTEREST FOR PRE-EFFECTIVE DATE PURCHASES.—

(A) IN GENERAL.—In the case of fuel—

(i) which is purchased from a producer or importer during the period beginning on April 1, 1988, and ending on December 31, 1988, Imports.

(ii) which is used (before the claim under this subparagraph is filed) by any person in a nontaxable use (as defined in section 6427(l)(2) of the 1986 Code), and Claims.

(iii) with respect to which a claim is not permitted to be filed for any quarter under section 6427(i) of the 1986 Code, Claims.

the Secretary of the Treasury or the Secretary's delegate shall pay (with interest) to such person the amount of tax imposed on such fuel under section 4091 of the 1986 Code (to the extent not attributable to amounts described in section 6427(l)(3) of the 1986 Code) if claim therefor is filed not later than June 30, 1989. Not more than 1 claim may be filed under the preceding sentence and such claim shall not be taken into account under section 6427(i) of the 1986 Code. Any claim for refund filed under this paragraph shall be considered a claim for refund under section 6427(l) of the 1986 Code.

(B) INTEREST.—The amount of interest payable under subparagraph (A) shall be determined under section 6611 of the 1986 Code except that the date of the overpayment with respect to fuel purchased during any month shall be treated as being the 1st day of the succeeding month. No interest shall be paid under this paragraph with respect to fuel used by any agency of the United States.

(C) REGISTRATION PROCEDURES REQUIRED TO BE SPECIFIED.—Not later than the 30th day after the date of the enactment of this Act, the Secretary of the Treasury or the Secretary's delegate shall prescribe the procedures for complying with the requirements of section 4093(c)(3) of the 1986 Code (as added by this section).

SEC. 3002. EXPEDITED REFUND FOR CERTAIN FUELS USED IN NONTAXABLE USES.

(a) EXPEDITED REFUND.—Section 6427(i) of the 1986 Code (relating to time for filing claims; period covered) is amended by adding at the end thereof the following new paragraph:

"(4) SPECIAL RULE FOR NONTAXABLE USES OF DIESEL FUEL AND AVIATION FUEL TAXED UNDER SECTION 4091.—

"(A) IN GENERAL.—If at the close of any of the 1st 3 quarters of the taxable year of any person, at least $750 is payable under subsection (l) to such person with respect to Claims.

fuel used during such quarter or any prior quarter during the taxable year (and for which no other claim has been filed), a claim may be filed under subsection (l) with respect to such fuel.

"(B) TIME FOR FILING CLAIM.—No claim filed under this paragraph shall be allowed unless filed during the 1st quarter following the last quarter included in the claim."

(b) ALLOWANCE OF PAYMENT.—Paragraph (2) of section 6427(k) of the 1986 Code (relating to income tax credit in lieu of payment), as amended by title I, is amended by striking out "paragraph (2) or (3)" and inserting in lieu thereof "paragraph (2), (3), or (4)".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6427(i) of the 1986 Code is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraphs (2), (3), and (4)".

(2) Paragraph (2)(A) of section 6427(i) of the 1986 Code is amended by striking out "(l),".

26 USC 6427 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to fuel used after December 31, 1988.

SEC. 3003. MARINE RETAILERS TREATED AS PRODUCERS.

(a) IN GENERAL.—Subparagraph (B) of section 4092(b)(1) of the 1986 Code (relating to certain persons treated as producers) is amended by striking out the period at the end of clause (ii) and inserting in lieu thereof ", or" and by adding at the end thereof the following:

"(iii) a retailer selling diesel fuel exclusively to purchasers as supplies for commercial and noncommercial vessels.

To the extent provided in regulations, a retailer shall not be treated as not described in clause (iii) by reason of selling de minimis amounts of diesel fuel other than as supplies for commercial and noncommercial vessels."

26 USC 4092 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to sales after December 31, 1988.

Subtitle B—Health Care Continuation Rules

SEC. 3011. FAILURE TO SATISFY CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.

(a) IN GENERAL.—Chapter 43 of the 1986 Code (relating to qualified pension, etc., plans) is amended by adding at the end thereof the following new section:

"SEC. 4980B. FAILURE TO SATISFY CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.

"(a) GENERAL RULE.—There is hereby imposed a tax on the failure of a group health plan to meet the requirements of subsection (f) with respect to any qualified beneficiary.

"(b) AMOUNT OF TAX.—

"(1) IN GENERAL.—The amount of the tax imposed by subsection (a) on any failure with respect to a qualified beneficiary shall be $100 for each day in the noncompliance period with respect to such failure.

"(2) NONCOMPLIANCE PERIOD.—For purposes of this section, the term 'noncompliance period' means, with respect to any failure, the period—

"(A) beginning on the date such failure first occurs, and

"(B) ending on the earlier of—

"(i) the date such failure is corrected, or

"(ii) the date which is 6 months after the last day in the period applicable to the qualified beneficiary under subsection (f)(2)(B) (determined without regard to clause (iii) thereof).

If a person is liable for tax under subsection (e)(1)(B) by reason of subsection (e)(2)(B) with respect to any failure, the noncompliance period for such person with respect to such failure shall not begin before the 45th day after the written request described in subsection (e)(2)(B) is provided to such person.

"(3) MINIMUM TAX FOR NONCOMPLIANCE PERIOD WHERE FAILURE DISCOVERED AFTER NOTICE OF EXAMINATION.—Notwithstanding paragraphs (1) and (2) of subsection (c)—

"(A) IN GENERAL.—In the case of 1 or more failures with respect to a qualified beneficiary—

"(i) which are not corrected before the date a notice of examination of income tax liability is sent to the employer, and

"(ii) which occurred or continued during the period under examination,

the amount of tax imposed by subsection (a) by reason of such failures with respect to such beneficiary shall not be less than the lesser of $2,500 or the amount of tax which would be imposed by subsection (a) without regard to such paragraphs.

"(B) HIGHER MINIMUM TAX WHERE VIOLATIONS ARE MORE THAN DE MINIMIS.—To the extent violations by the employer (or the plan in the case of a multiemployer plan) for any year are more than de minimis, subparagraph (A) shall be applied by substituting '$15,000' for '$2,500' with respect to the employer (or such plan).

"(c) LIMITATIONS ON AMOUNT OF TAX.—

"(1) TAX NOT TO APPLY WHERE FAILURE NOT DISCOVERED EXERCISING REASONABLE DILIGENCE.—No tax shall be imposed by subsection (a) on any failure during any period for which it is established to the satisfaction of the Secretary that none of the persons referred to in subsection (e) knew, or exercising reasonable diligence would have known, that such failure existed.

"(2) TAX NOT TO APPLY TO FAILURES CORRECTED WITHIN 30 DAYS.—No tax shall be imposed by subsection (a) on any failure if—

"(A) such failure was due to reasonable cause and not to willful neglect, and

"(B) such failure is corrected during the 30-day period beginning on the 1st date any of the persons referred to in subsection (e) knew, or exercising reasonable diligence would have known, that such failure existed.

"(3) $100 LIMIT ON AMOUNT OF TAX FOR FAILURES ON ANY DAY WITH RESPECT TO A QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the maximum amount of tax imposed by subsection (a)

on failures on any day during the noncompliance period with respect to a qualified beneficiary shall be $100.

"(B) SPECIAL RULE WHERE MORE THAN 1 QUALIFIED BENEFICIARY.—If there is more than 1 qualified beneficiary with respect to the same qualifying event, the maximum amount of tax imposed by subsection (a) on all failures on any day during the noncompliance period with respect to such qualified beneficiaries shall be $200.

"(4) OVERALL LIMITATION FOR UNINTENTIONAL FAILURES.—In the case of failures which are due to reasonable cause and not to willful neglect—

"(A) SINGLE EMPLOYER PLANS.—

"(i) IN GENERAL.—In the case of failures with respect to plans other than multiemployer plans, the tax imposed by subsection (a) for failures during the taxable year of the employer shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the aggregate amount paid or incurred by the employer (or predecessor employer) during the preceding taxable year for group health plans, or

"(II) $500,000.

"(ii) TAXABLE YEARS IN THE CASE OF CERTAIN CONTROLLED GROUPS.—For purposes of this subparagraph, if not all persons who are treated as a single employer for purposes of this section have the same taxable year, the taxable years taken into account shall be determined under principles similar to the principles of section 1561.

"(B) MULTIEMPLOYER PLANS.—

"(i) IN GENERAL.—In the case of failures with respect to a multiemployer plan, the tax imposed by subsection (a) for failures during the taxable year of the trust forming part of such plan shall not exceed the amount equal to the lesser of—

"(I) 10 percent of the amount paid or incurred by such trust during such taxable year to provide medical care (as defined in section 213(d)) directly or through insurance, reimbursement, or otherwise, or

"(II) $500,000.

For purposes of the preceding sentence, all plans of which the same trust forms a part shall be treated as 1 plan.

"(ii) SPECIAL RULE FOR EMPLOYERS REQUIRED TO PAY TAX.—If an employer is assessed a tax imposed by subsection (a) by reason of a failure with respect to a multiemployer plan, the limit shall be determined under subparagraph (A) (and not under this subparagraph) and as if such plan were not a multiemployer plan.

"(C) SPECIAL RULE FOR PERSONS PROVIDING BENEFITS.—In the case of a person described in subsection (e)(1)(B) (and not subsection (e)(1)(A)), the aggregate amount of tax imposed by subsection (a) for failures during a taxable year with respect to all plans shall not exceed $2,000,000.

"(5) WAIVER BY SECRETARY.—In the case of a failure which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by subsection (a) to the extent that the payment of such tax would be excessive relative to the failure involved.

"(d) TAX NOT TO APPLY TO CERTAIN PLANS.—This section shall not apply to—

"(1) any failure of a group health plan to meet the requirements of subsection (f) if all employers maintaining such plan normally employed fewer than 20 employees on a typical business day during the preceding calendar year,

"(2) any governmental plan (within the meaning of section 414(d)), or

"(3) any church plan (within the meaning of section 414(e)).

"(e) LIABILITY FOR TAX.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, the following shall be liable for the tax imposed by subsection (a) on a failure:

"(A)(i) In the case of a plan other than a multiemployer plan, the employer.

"(ii) In the case of a multiemployer plan, the plan.

"(B) Each person who is responsible (other than in a capacity as an employee) for administering or providing benefits under the plan and whose act or failure to act caused (in whole or in part) the failure.

"(2) SPECIAL RULES FOR PERSONS DESCRIBED IN PARAGRAPH (1)(B).—

"(A) NO LIABILITY UNLESS WRITTEN AGREEMENT.—Except in the case of liability resulting from the application of subparagraph (B) of this paragraph, a person described in subparagraph (B) (and not in subparagraph (A)) of paragraph (1) shall be liable for the tax imposed by subsection (a) on any failure only if such person assumed (under a legally enforceable written agreement) responsibility for the performance of the act to which the failure relates.

"(B) FAILURE TO COVER QUALIFIED BENEFICIARIES WHERE CURRENT EMPLOYEES ARE COVERED.—A person shall be treated as described in paragraph (1)(B) with respect to a qualified beneficiary if—

"(i) such person provides coverage under a group health plan for any similarly situated beneficiary under the plan with respect to whom a qualifying event has not occurred, and

"(ii) the—

"(I) employer or plan administrator, or

"(II) in the case of a qualifying event described in subparagraph (C) or (E) of subsection (f)(3) where the person described in clause (i) is the plan administrator, the qualified beneficiary,

submits to such person a written request that such person make available to such qualified beneficiary the same coverage which such person provides to the beneficiary referred to in clause (i).

"(f) CONTINUATION COVERAGE REQUIREMENTS OF GROUP HEALTH PLANS.—

"(1) IN GENERAL.—A group health plan meets the requirements of this subsection only if each qualified beneficiary who

would lose coverage under the plan as a result of a qualifying event is entitled to elect, within the election period, continuation coverage under the plan.

"(2) CONTINUATION COVERAGE.—For purposes of paragraph (1), the term 'continuation coverage' means coverage under the plan which meets the following requirements:

"(A) TYPE OF BENEFIT COVERAGE.—The coverage must consist of coverage which, as of the time the coverage is being provided, is identical to the coverage provided under the plan to similarly situated beneficiaries under the plan with respect to whom a qualifying event has not occurred. If coverage under the plan is modified for any group of similarly situated beneficiaries, the coverage shall also be modified in the same manner for all individuals who are qualified beneficiaries under the plan pursuant to this subsection in connection with such group.

"(B) PERIOD OF COVERAGE.—The coverage must extend for at least the period beginning on the date of the qualifying event and ending not earlier than the earliest of the following:

"(i) MAXIMUM REQUIRED PERIOD.—

"(I) GENERAL RULE FOR TERMINATIONS AND REDUCED HOURS.—In the case of a qualifying event described in paragraph (3)(B), except as provided in subclause (II), the date which is 18 months after the date of the qualifying event.

"(II) SPECIAL RULE FOR MULTIPLE QUALIFYING EVENTS.—If a qualifying event (other than a qualifying event described in paragraph (3)(F)) occurs during the 18 months after the date of a qualifying event described in paragraph (3)(B), the date which is 36 months after the date of the qualifying event described in paragraph (3)(B).

"(III) SPECIAL RULE FOR CERTAIN BANKRUPTCY PROCEEDINGS.—In the case of a qualifying event described in paragraph (3)(F) (relating to bankruptcy proceedings), the date of the death of the covered employee or qualified beneficiary (described in subsection (g)(1)(D)(iii)), or in the case of the surviving spouse or dependent children of the covered employee, 36 months after the date of the death of the covered employee.

"(IV) GENERAL RULE FOR OTHER QUALIFYING EVENTS.—In the case of a qualifying event not described in paragraph (3)(B) or (3)(F), the date which is 36 months after the date of the qualifying event.

"(ii) END OF PLAN.—The date on which the employer ceases to provide any group health plan to any employee.

"(iii) FAILURE TO PAY PREMIUM.—The date on which coverage ceases under the plan by reason of a failure to make timely payment of any premium required under the plan with respect to the qualified beneficiary. The payment of any premium (other than any payment referred to in the last sentence of subparagraph (C)) shall be considered to be timely if made within 30 days

after the date due or within such longer period as applies to or under the plan.

"(iv) GROUP HEALTH PLAN COVERAGE OR MEDICARE ELIGIBILITY.—The date on which the qualified beneficiary first becomes, after the date of the election—

"(I) covered under any other group health plan (as an employee or otherwise), or

"(II) in the case of a qualified beneficiary other than a qualified beneficiary described in subsection (g)(1)(D) entitled to benefits under title XVIII of the Social Security Act.

"(C) PREMIUM REQUIREMENTS.—The plan may require payment of a premium for any period of continuation coverage, except that such premium—

"(i) shall not exceed 102 percent of the applicable premium for such period, and

"(ii) may, at the election of the payor, be made in monthly installments.

If an election is made after the qualifying event, the plan shall permit payment for continuation coverage during the period preceding the election to be made within 45 days of the date of the election.

"(D) NO REQUIREMENT OF INSURABILITY.—The coverage may not be conditioned upon, or discriminate on the basis of lack of, evidence of insurability.

"(E) CONVERSION OPTION.—In the case of a qualified beneficiary whose period of continuation coverage expires under subparagraph (B)(i), the plan must, during the 180-day period ending on such expiration date, provide to the qualified beneficiary the option of enrollment under a conversion health plan otherwise generally available under the plan.

"(3) QUALIFYING EVENT.—For purposes of this subsection, the term 'qualifying event' means, with respect to any covered employee, any of the following events which, but for the continuation coverage required under this subsection, would result in the loss of coverage of a qualified beneficiary—

"(A) The death of the covered employee.

"(B) The termination (other than by reason of such employee's gross misconduct), or reduction of hours, of the covered employee's employment.

"(C) The divorce or legal separation of the covered employee from the employee's spouse.

"(D) The covered employee becoming entitled to benefits under title XVIII of the Social Security Act.

"(E) A dependent child ceasing to be a dependent child under the generally applicable requirements of the plan.

"(F) A proceeding in a case under title 11, United States Code, commencing on or after July 1, 1986, with respect to the employer from whose employment the covered employee retired at any time.

In the case of an event described in subparagraph (F), a loss of coverage includes a substantial elimination of coverage with respect to a qualified beneficiary described in subsection (g)(1)(D) within one year before or after the date of commencement of the proceeding.

"(4) APPLICABLE PREMIUM.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable premium' means, with respect to any period of continuation coverage of qualified beneficiaries, the cost to the plan for such period of the coverage for similarly situated beneficiaries with respect to whom a qualifying event has not occurred (without regard to whether such cost is paid by the employer or employee).

"(B) SPECIAL RULE FOR SELF-INSURED PLANS.—To the extent that a plan is a self-insured plan—

"(i) IN GENERAL.—Except as provided in clause (ii), the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to a reasonable estimate of the cost of providing coverage for such period for similarly situated beneficiaries which—

"(I) is determined on an actuarial basis, and

"(II) takes into account such factors as the Secretary may prescribe in regulations.

"(ii) DETERMINATION ON BASIS OF PAST COST.—If a plan administrator elects to have this clause apply, the applicable premium for any period of continuation coverage of qualified beneficiaries shall be equal to—

"(I) the cost to the plan for similarly situated beneficiaries for the same period occurring during the preceding determination period under subparagraph (C), adjusted by

"(II) the percentage increase or decrease in the implicit price deflator of the gross national product (calculated by the Department of Commerce and published in the Survey of Current Business) for the 12-month period ending on the last day of the sixth month of such preceding determination period.

"(iii) CLAUSE (ii) NOT TO APPLY WHERE SIGNIFICANT CHANGE.—A plan administrator may not elect to have clause (ii) apply in any case in which there is any significant difference between the determination period and the preceding determination period, in coverage under, or in employees covered by, the plan. The determination under the preceding sentence for any determination period shall be made at the same time as the determination under subparagraph (C).

"(C) DETERMINATION PERIOD.—The determination of any applicable premium shall be made for a period of 12 months and shall be made before the beginning of such period.

"(5) ELECTION.—For purposes of this subsection—

"(A) ELECTION PERIOD.—The term 'election period' means the period which—

"(i) begins not later than the date on which coverage terminates under the plan by reason of a qualifying event,

"(ii) is of at least 60 days' duration, and

"(iii) ends not earlier than 60 days after the later of—

"(I) the date described in clause (i), or

"(II) in the case of any qualified beneficiary who receives notice under paragraph (6)(D), the date of such notice.

"(B) EFFECT OF ELECTION ON OTHER BENEFICIARIES.—Except as otherwise specified in an election, any election of continuation coverage by a qualified beneficiary described in subparagraph (A)(i) or (B) of subsection (g)(1) shall be deemed to include an election of continuation coverage on behalf of any other qualified beneficiary who would lose coverage under the plan by reason of the qualifying event. If there is a choice among types of coverage under the plan, each qualified beneficiary is entitled to make a separate selection among such types of coverage.

"(6) NOTICE REQUIREMENT.—In accordance with regulations prescribed by the Secretary—

"(A) The group health plan shall provide, at the time of commencement of coverage under the plan, written notice to each covered employee and spouse of the employee (if any) of the rights provided under this subsection.

"(B) The employer of an employee under a plan must notify the plan administrator of a qualifying event described in subparagraph (A), (B), (D), or (F) of paragraph (3) with respect to such employee within 30 days of the date of the qualifying event.

"(C) Each covered employee or qualified beneficiary is responsible for notifying the plan administrator of the occurrence of any qualifying event described in subparagraph (C) or (E) of paragraph (3) within 60 days after the date of the qualifying event.

"(D) The plan administrator shall notify—

"(i) in the case of a qualifying event described in subparagraph (A), (B), (D), or (F) of paragraph (3), any qualified beneficiary with respect to such event, and

"(ii) in the case of a qualifying event described in subparagraph (C) or (E) of paragraph (3) where the covered employee notifies the plan administrator under subparagraph (C), any qualified beneficiary with respect to such event,

of such beneficiary's rights under this subsection.

For purposes of subparagraph (D), any notification shall be made within 14 days of the date on which the plan administrator is notified under subparagraph (B) or (C), whichever is applicable, and any such notification to an individual who is a qualified beneficiary as the spouse of the covered employee shall be treated as notification to all other qualified beneficiaries residing with such spouse at the time such notification is made.

"(7) COVERED EMPLOYEE.—For purposes of this subsection, the term 'covered employee' means an individual who is (or was) provided coverage under a group health plan by virtue of the individual's employment or previous employment with an employer.

"(g) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED BENEFICIARY.—

"(A) IN GENERAL.—The term 'qualified beneficiary' means, with respect to a covered employee under a group health plan, any other individual who, on the day before the qualifying event for that employee, is a beneficiary under the plan—

"(i) as the spouse of the covered employee, or

"(ii) as the dependent child of the employee.

"(B) SPECIAL RULE FOR TERMINATIONS AND REDUCED EMPLOYMENT.—In the case of a qualifying event described in subsection (f)(3)(B), the term 'qualified beneficiary' includes the covered employee.

"(C) EXCEPTION FOR NONRESIDENT ALIENS.—Notwithstanding subparagraphs (A) and (B), the term 'qualified beneficiary' does not include an individual whose status as a covered employee is attributable to a period in which such individual was a nonresident alien who received no earned income (within the meaning of section 911(d)(2)) from the employer which constituted income from sources within the United States (within the meaning of section 861(a)(3)). If an individual is not a qualified beneficiary pursuant to the previous sentence, a spouse or dependent child of such individual shall not be considered a qualified beneficiary by virtue of the relationship of the individual.

"(D) SPECIAL RULE FOR RETIREES AND WIDOWS.—In the case of a qualifying event described in subsection (f)(3)(F), the term 'qualified beneficiary' includes a covered employee who had retired on or before the date of substantial elimination of coverage and any other individual who, on the day before such qualifying event, is a beneficiary under the plan—

"(i) as the spouse of the covered employee,

"(ii) as the dependent child of the covered employee, or

"(iii) as the surviving spouse of the covered employee.

"(2) GROUP HEALTH PLAN.—The term 'group health plan' has the meaning given such term by section 162(i)."

"(3) PLAN ADMINISTRATOR.—The term 'plan administrator' has the meaning given the term 'administrator' by section 3(16)(A) of the Employee Retirement Income Security Act of 1974.

"(4) CORRECTION.—A failure of a group health plan to meet the requirements of subsection (f) with respect to any qualified beneficiary shall be treated as corrected if—

"(A) such failure is retroactively undone to the extent possible, and

"(B) the qualified beneficiary is placed in a financial position which is as good as such beneficiary would have been in had such failure not occurred.

For purposes of applying subparagraph (B), the qualified beneficiary shall be treated as if he had elected the most favorable coverage in light of the expenses he incurred since the failure first occurred.".

(b) TECHNICAL AMENDMENTS.—

(1) Section 106 of the 1986 Code (relating to contributions by employer to accident and health plans) is amended to read as follows:

"SEC. 106. CONTRIBUTIONS BY EMPLOYER TO ACCIDENT AND HEALTH PLANS.

"Gross income of an employee does not include employer-provided coverage under an accident or health plan."

(2) Subsection (i) of section 162 of the 1986 Code (relating to group health plans) is amended by striking out paragraph (2) and by redesignating paragraph (3) as paragraph (2).

(3) Section 162 of the 1986 Code is amended by striking out subsection (k) and by redesignating—

(A) the subsection relating to stock redemption expenses as subsection (k),

(B) the subsection relating to special rules for health insurance costs of self-employed individuals as subsection (l), and

(C) the subsection relating to cross references as subsection (m).

(4) Subparagraph (C) of section 414(n)(3) of the 1986 Code, as amended by section 111B(a) of this Act, is amended by striking out "162(i)(2), 162(k)(2)," and by striking out "and 505" and inserting in lieu thereof "505, and 4980B".

(5) Paragraph (2) of section 414(t) of the 1986 Code, as amended by section 111B(a) of this Act, is amended by striking out "162(i)(2), 162(k)(2)," and by striking out "or 505" and inserting in lieu thereof "505, or 4980B".

(6) Paragraph (1) of section 607 of the Employee Retirement Income Security Act of 1974 is amended by striking out "section 162(i)(3) of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 162(i)(2) of the Internal Revenue Code of 1986". 29 USC 1167.

(7) Paragraph (1) of section 2208 of the Public Health Service Act is amended by striking out "section 162(i)(3) of the Internal Revenue Code of 1954" and inserting in lieu thereof "section 162(i)(2) of the Internal Revenue Code of 1986". 42 USC 300bb-8.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 43 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 4980B. Failure to satisfy continuation coverage requirements of group health plans."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988, but shall not apply to any plan for any plan year to which section 162(k) of the Internal Revenue Code of 1986 (as in effect on the day before the date of the enactment of this Act) did not apply by reason of section 10001(e)(2) of the Consolidated Omnibus Budget Reconciliation Act of 1985. 26 USC 162 note.

Subtitle C—Employee Benefit Nondiscrimination Rules

SEC. 3021. MODIFICATIONS TO DISCRIMINATION RULES APPLICABLE TO CERTAIN EMPLOYEE BENEFIT PLANS.

(a) MODIFICATIONS TO SECTION 89.—

(1) DETERMINATIONS BASED ON TESTING YEAR.—

(A) Section 89 of the 1986 Code (as amended by title I) is amended by striking out "plan year" each place it appears and inserting in lieu thereof "testing year".

(B) Subsection (j) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(13) TESTING YEAR.—The term 'testing year' means—

"(A) any 12-month period beginning with the calendar month designated in the plan for purposes of this section, or

"(B) if there is no such designation, the calendar year. No period may be designated under subparagraph (A) unless the same period is designated with respect to all other plans of the employer of the same type. Any designation under subparagraph (A) may be changed only with the consent of the Secretary."

(C) Subsection (c) of section 4976 of the 1986 Code (as added by title I) is amended—

(i) by striking out "any plan year" in paragraph (1) and inserting in lieu thereof "any testing year (as defined in section 89(j)(13))"; and

(ii) by striking out "such plan year" each place it appears in paragraph (2)(A) and inserting in lieu thereof "such testing year".

(2) TIME FOR TESTING.—

(A) IN GENERAL.—Subsection (g) of section 89 is amended by adding at the end thereof the following new paragraph:

"(6) TIME FOR TESTING.—

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the determination of whether any plan is a discriminatory employee benefit plan for any testing year shall be made on the basis of the facts as of the testing day.

"(B) ADJUSTMENT WHERE BENEFIT OF HIGHLY COMPENSATED EMPLOYEE CHANGES.—If the employer-provided benefit (actually provided or made available) of a highly compensated employee changes during the testing year by reason of any change in the terms of the plan or the making of an election by such employee, the amount taken into account as such employee's employer-provided benefit shall be adjusted to take into account such change and the portion of the testing year during which the changed benefit is provided (or made available).

"(C) TREATMENT OF NON-HIGHLY COMPENSATED EMPLOYEES WHERE CHANGE IN PLAN.—Rules similar to the rules of subparagraph (B) shall apply in the case of employees who are not highly compensated employees and who are affected by any change in the terms of the plan, except that the determination of such employees' employer-provided benefits (actually provided or made available) shall be determined as of the date after such change selected by the employer and permitted under regulations prescribed by the Secretary.

"(D) TESTING DAY.—For purposes of this paragraph, the term 'testing day' means—

"(i) the day designated in the plan as the testing day for purposes of this paragraph, or

"(ii) if there is no day so designated, the last day of the testing year.

"(E) LIMITATIONS.—

"(i) DESIGNATION MUST BE CONSISTENT FOR ALL PLANS OF SAME TYPE.—No day may be designated under subparagraph (D)(i) with respect to any plan unless the same day is so designated with respect to all other plans of the employer of the same type.

"(ii) DESIGNATION BINDING.—Any designation under subparagraph (D)(i) shall apply to the testing year for

which made and all subsequent years unless revoked with the consent of the Secretary.

"(F) SPECIAL RULE FOR MULTIPLE EMPLOYER PLAN.—In the case of a multiemployer plan or any other plan maintained by more than 1 employer, each employer may, subject to such rules as the Secretary may prescribe, elect its own testing year under paragraph (13) of subsection (j) and its own testing date under this paragraph."

(B) DESIGNATIONS FOR 1989 NOT BINDING.—Any designation of a testing day for a year beginning in 1989 shall be disregarded in determining the day which may be designated as the testing day for years beginning after 1989. 26 USC 89 note.

(3) SAMPLING.—Subsection (g) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(7) SAMPLING.—For purposes of determining whether a plan is a discriminatory employee benefit plan (but not for purposes of identifying the highly compensated employees who have a discriminatory excess or the amount of any such excess), determinations under this section may be made on the basis of a statistically valid random sample. The preceding sentence shall apply only if— Discrimination, prohibition.

"(A) the sampling is conducted by an independent person in a manner not inconsistent with regulations prescribed by the Secretary, and

"(B) the statistical method and sample size result in a 95 percent probability that the results will have a margin of error not greater than 3 percent."

(4) SPECIAL VALUATION RULE FOR MULTIEMPLOYER PLANS.—Paragraph (3) of section 89(g) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE FOR MULTIEMPLOYER PLANS.—

"(i) IN GENERAL.—Except as provided in regulations and clause (ii), an employer may treat the contribution such employer makes to a multiemployer plan on behalf of an employee as the employer-provided benefit of such employee under such plan.

"(ii) ADJUSTMENT.—If—

"(I) the allocation of plan benefits between highly compensated employees and other employees under a multiemployer plan (or within either of such groups) varies materially from the allocation of employer contributions to such plan, or

"(II) the employer contributions relate to benefits of different types,

the employer-provided benefit determined under clause (i) shall be appropriately adjusted to take into account such material variation or such employer contribution.

"(iii) EXCEPTION FOR PROFESSIONALS.—This subparagraph shall not apply to any employer maintaining a multiemployer plan if such employer makes contributions to such plan on behalf of any individual performing services in the field of health, law, engineering, architecture, accounting, actuarial science, financial services, or consulting or in such other field as the Secretary may prescribe."

(5) EXCLUDED EMPLOYEE REQUIREMENTS.—

(A) MULTIEMPLOYER PLANS.—Subsection (h) of section 89 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL RULE FOR MULTIEMPLOYER PLAN.—Except as provided in regulations, any multiemployer plan shall not be taken into account in applying subparagraph (A), (B), (C), or (D) of paragraph (1) with respect to other plans of the employer. For purposes of this paragraph, a rule similar to the rule of subsection (g)(3)(E)(iii) shall apply."

(B) STUDENTS.—Paragraph (1) of section 89(h) of the 1986 Code is amended by adding after subparagraph (F) the following new subparagraph:

"(G) Employees who are students if—

"(i) such students are performing services described in section 3121(b)(10), and

"(ii) core health coverage is made available to such students by such employer."

(6) COMPARABILITY RULES.—Paragraph (1) of section 89(g) of the 1986 Code, as amended by section 111B(a)(3), is amended by adding at the end thereof the following new subparagraphs:

"(D) SPECIAL RULES FOR APPLYING SUBSECTION (f).—

"(i) IN GENERAL.—For purposes of applying subsection (f)—

"(I) except as provided in clause (ii), subparagraph (B) shall be applied by substituting '90 percent' for '95 percent', and

"(II) a group of plans of the same type shall be treated as comparable plans if the requirements of subparagraph (E) are met.

"(ii) ELECTION TO USE LOWER PERCENTAGE IN DETERMINING COMPARABILITY.—If an election by the employer under this clause applies for the testing year—

"(I) subclause (I) of clause (i) shall not apply,

"(II) for purposes of applying subsection (f), subparagraph (B) of this paragraph shall be applied by substituting '80 percent' for '95 percent', and

"(III) subsection (f) shall be applied with respect to all health plans maintained by the employer by substituting '90 percent' for '80 percent'.

"(E) PLANS TREATED AS COMPARABLE IF EMPLOYEE COST DIFFERENCE IS $100 OR LESS.—

"(i) IN GENERAL.—A group of plans of the same type shall be treated as comparable with respect to a group of employees if—

"(I) such plans are available to all employees in the group on the same terms, and

"(II) the difference in annual cost to employees between the plans with the lowest and highest annual employee cost is not greater than $100.

"(ii) COORDINATION WITH SUBPARAGRAPH (B).—A plan not in the group of plans described in clause (i) shall be treated as part of such group if, under subparagraph (B) (without regard to clause (iii) of this subparagraph), such plan is comparable to the plan in such group with the largest employer-provided benefit.

"(iii) OTHER PLANS PROVIDING COMPARABLE BENEFITS.—A plan not in the group of plans described in clause (i) shall be treated as part of such group with respect to an employee if—

"(I) in the case of an employee who is not a highly compensated employee, such employee is eligible to participate in the plan in such group with the largest employer-provided benefit (without regard to clause (ii)),

"(II) in the case of an employee who is not a highly compensated employee, the annual cost to such employee under such plan is not lower than the lowest cost permitted within such group, and

"(III) the employer-provided benefit under such plan is less than the employer-provided benefit under the plan in such group with the largest such benefit (without regard to clause (ii)).

"(iv) SEPARATE APPLICATION OF REQUIREMENTS.—If an employer elects the application of paragraph (2)(A)(ii), the amount under clause (i) shall be allocated among plans covering spouses and dependents and plans covering employees in such manner as the employer specifies.

"(v) COST-OF-LIVING ADJUSTMENT.—In the case of testing years beginning after 1989, the $100 amount under clause (i) shall be increased by the percentage (if any) by which—

"(I) the CPI for the calendar year preceding the year in which the testing year begins, exceeds

"(II) the CPI for 1988.

For purposes of this clause, the CPI for any calendar year shall be determined under section 1(f).".

(7) OTHER COVERAGE.—

(A) Subparagraph (A) of section 89(g)(2) of the 1986 Code is amended—

(i) by striking out "subsection (e)" each place it appears and inserting in lieu thereof "subsection (e) or (f)", and

(ii) by adding at the end thereof the following new sentence: "The provisions of the preceding sentence shall not apply for purposes of applying subsection (f) unless the requirements of subsection (f) would be met if such subsection were applied without regard to the preceding sentence and on the basis of eligibility to participate rather than coverage."

(B) Subparagraph (D) of section 89(g)(2) of the 1986 Code is amended by adding at the end thereof the following sentence: "The Secretary shall make such adjustments as are necessary in applying the rules of the preceding sentence to subsection (f)."

(8) SWORN STATEMENTS.—Paragraph (2) of section 89(g) of the 1986 Code is amended—

(A) by adding at the end thereof the following new subparagraph:

"(E) SPECIAL RULE.—No employee who is not a highly compensated employee may be disregarded under subparagraph (A)(i) with respect to any health plan of the employer

unless under such plan such employee is entitled, when the coverage under the other health plan referred to in subparagraph (A)(i) ceases, to elect coverage under the plan of the employer (whether or not an election is otherwise available). Such election is to be on the same terms as if such employee was making such election during a subsequent open season. Rules similar to the rules of the preceding sentences of this subparagraph shall apply in the case of an employee treated as not having a spouse or dependents or having a spouse or dependents covered by a health plan of another employer providing core benefits."; and

(B) by striking out "and" at the end of subparagraph (B)(i), by striking out the period at the end of subparagraph (B)(ii) and inserting in lieu thereof ", and", and by adding at the end thereof the following new clause:

"(iii) the health coverage (if any) received by the employee from the employer."

(9) DEFINITION OF PLAN.—Paragraph (11) of section 89(j) of the 1986 Code is amended by striking out "Each option" and inserting in lieu thereof "Except as provided in subsection (g)(1), each option".

(10) MODIFICATION OF PENALTY.—Subparagraph (B) of section 6652(k)(2) of the 1986 Code is amended to read as follows:

"(B) the amount which bears the same ratio to the employer-provided benefit (within the meaning of section 89 without regard to subsection (g)(3)(C)(i) thereof) with respect to the employee to whom such failure relates as the amount of such benefit required to be but not shown on timely statements under sections 6051(a) and 6051(d) bears to the amount required to be shown.".

(11) CAFETERIA PLANS.—Subparagraph (D) of section 89(g)(3) of the 1986 Code is amended to read as follows:

"(D) SALARY REDUCTIONS.—

"(i) IN GENERAL.—Except for purposes of subsections (d)(1)(A)(ii) and (j)(5), any salary reduction shall be treated as an employer-provided benefit.

"(ii) SPECIAL RULE FOR SUBSECTION (d)(1)(a)(ii).—Notwithstanding clause (i), any salary reduction under a cafeteria plan (within the meaning of section 125) shall treated as an employer-provided benefit for purposes of subsection (d)(1)(A)(ii) if—

"(I) the percentage of employees who are not highly compensated employees eligible to participate in the plan is not greater than the percentage of highly compensated employees so eligible,

"(II) all employees eligible to participate in the plan are eligible under the same terms and conditions, and

"(III) no highly compensated employee eligible under the plan is eligible to participate in any other plan maintained by the employer for any benefit of the same type unless the benefit is available on the same terms and conditions to every employee who is not a highly compensated employee eligible to participate in the plan.

"(iii) REGULATIONS.—Notwithstanding clause (i) or (ii), the Secretary may by regulations provide that any

salary reduction shall or shall not be treated as an employer-provided benefit to prevent avoidance of the purposes of this section."

(12) PART-TIME EMPLOYEES.—Paragraph (5) of section 89(j) of the 1986 Code is amended by striking out the last sentence thereof.

(13) ACQUISITIONS AND DISPOSITIONS.—

(A) Clause (ii) of section 89(j)(8)(A) of the 1986 Code is amended to read as follows:

"(ii) either—

"(I) the coverage under such plan is not significantly changed during the transition period (other than by reason of the change in members in such group), or

"(II) such plan meets such other requirements as the Secretary may prescribe by regulation.".

(B) Subclause (II) of section 410(b)(6)(C)(i) of the 1986 Code is amended by inserting "or such plan meets such other requirements as the Secretary may prescribe by regulation" before the end period.

(14) DEPENDENT CARE ASSISTANCE.—Subparagraph (B) of section 129(d)(7) of the 1986 Code (as redesignated and amended by section 111B of this Act) is amended—

(A) by striking out "(within the meaning of section 414(q)(7))", and

(B) by adding at the end thereof the following new sentence: "For purposes of this subparagraph, the term 'compensation' has the meaning given such term by section 414(q)(7), except that, under rules prescribed by the Secretary, an employer may elect to determine compensation on any other basis which does not discriminate in favor of highly compensated employees.".

(15) REPORTING REQUIREMENTS.—

(A) Section 6039D(d) of the 1986 Code is amended—

(i) by adding at the end thereof the following new paragraph:

"(3) SPECIAL RULE FOR MULTIEMPLOYER PLANS.—In the case of a multiemployer plan, the plan shall be required to provide any information required by this section which the Secretary determines, on the basis of the agreement between the plan and employer, is held by the plan (and not the employer)", and

(ii) by inserting "AND SPECIAL RULES" after "DEFINITIONS" in the heading thereof.

(B) The amendments made by this paragraph shall apply to years beginning after 1984. 26 USC 6039D note.

(b) MODIFICATION TO DEFINITIONS OF HIGHLY COMPENSATED AND COMPENSATION AND TO SEPARATE LINE OF BUSINESS RULES.—

(1) DEFINITION OF HIGHLY COMPENSATED.—Subsection (q) of section 414 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(12) SIMPLIFIED METHOD FOR DETERMINING HIGHLY COMPENSATED EMPLOYEES.—

"(A) IN GENERAL.—If an election by the employer under this paragraph applies to any year, in determining whether an employee is a highly compensated employee for such year—

"(i) subparagraph (B) of paragraph (1) shall be applied by substituting '$50,000' for '$75,000', and

"(ii) subparagraph (C) of paragraph (1) shall not apply.

"(B) REQUIREMENT FOR ELECTION.—An election under this paragraph shall not apply to any year unless—

"(i) at all times during such year, the employer maintained significant business activities (and employed employees) in at least 2 significantly separate geographic areas, and

"(ii) the employer satisfies such other conditions as the Secretary may prescribe."

(2) LINE OF BUSINESS REQUIREMENTS.—

(A) SAFE HARBOR RULE.—Paragraph (3) of section 414(r) of the 1986 Code is amended to read as follows:

"(3) SAFE HARBOR RULE.—

"(A) IN GENERAL.—The requirements of subparagraph (C) of paragraph (2) shall not apply to any line of business if the highly compensated employee percentage with respect to such line of business is—

"(i) not less than one-half, and

"(ii) not more than twice,

the percentage which highly compensated employees are of all employees of the employer. An employer shall be treated as meeting the requirements of clause (i) if at least 10 percent of all highly compensated employees of the employer perform services solely for such line of business.

"(B) DETERMINATION MAY BE BASED ON PRECEDING YEAR.—The requirements of subparagraph (A) shall be treated as met with respect to any line of business if such requirements were met with respect to such line of business for the preceding year and if—

"(i) no more than a de minimis number of employees were shifted to or from the line of business after the close of the preceding year, or

"(ii) the employees shifted to or from the line of business after the close of the preceding year contained a substantially proportional number of highly compensated employees.".

(B) SEPARATE OPERATING UNITS.—Section 89(g)(5) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In applying section 414(r)(7) for purposes of this section, an operating unit shall be treated as in a separate geographic area from another unit if such units are at least 35 miles apart.".

(3) COMPENSATION FOR GROUP-LIFE INSURANCE PLANS.—

(A) Paragraph (4) of section 89(j) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) COMPENSATION.—For purposes of applying this paragraph—

"(i) IN GENERAL.—Compensation shall be determined on any basis determined by the employer which does not discriminate in favor of highly compensated employees.

"(ii) SPECIAL RULES FOR 1989 AND 1990.—In the case of testing years beginning in 1989 or 1990, the employer

may elect to treat base compensation as compensation."

(B) Subparagraph (A) of section 89(j)(4) of the 1986 Code is amended by striking out "(within the meaning of section 414(s))".

(c) TRANSITIONAL PROVISIONS FOR PURPOSES OF SECTION 89.— 26 USC 89 note.

(1) TEMPORARY VALUATION RULES.—In the case of testing years beginning before the later of January 1, 1991, or the date 1 year after the Secretary of the Treasury or his delegate first issues such valuation rules as are necessary to apply the provisions of section 89 of the 1986 Code to health plans (or if later the effective date of such rules)—

(A) Section 89(g)(3)(B) of the 1986 Code shall not apply.

(B)(i) Except as provided in clause (ii), the value of coverage under a health plan for purposes of section 89 of the 1986 Code shall be determined in substantially the same manner as costs under a health plan are determined under section 4980B(f)(4) of the 1986 Code.

(ii) For purposes of determining whether an employer meets the requirements of subsections (d), (e), and (f) of section 89 of the 1986 Code, value under clause (i) may be determined under any other reasonable method selected by the employer.

(2) FORMER EMPLOYEES.—The amendments made by section 1151 of the Reform Act shall not apply to former employees who separated from service with the employer before January 1, 1989 (and were not reemployed on or after such date), and such former employees shall not be taken into account in determining whether the requirements of section 89 of the 1986 Code are met with respect to other former employees. The preceding sentence shall not apply to the extent that—

(A) the value of employer-provided benefits provided to any such former employee exceeds the value of such benefits which were provided under the terms of the plan as in effect on December 31, 1988, or

(B) the employer-provided benefits provided to such former employees are modified so as to discriminate in favor of such former employees who are highly compensated employees.

Any excess value under the preceding sentence shall be determined without regard to any increase required by Federal law, regulation or rule or any increase which is the same for employees separating on or before December 31, 1988, and employees separating after such date and which does not discriminate in favor of highly compensated employees who separated from service after December 31, 1988.

(3) WRITTEN PLAN REQUIREMENT.—The requirements of section 89(k)(1)(A) of the 1986 Code shall be treated as met with respect to any testing year beginning in 1989, if—

(A) the plan is in writing before the close of such year,

(B) the employees had reasonable notice of the plan's essential features on or before the beginning of such year, and

(C) the provisions of the written plan apply for the entire year.

(4) RULES TO BE PRESCRIBED BEFORE NOVEMBER 15, 1988.—Not later than November 15, 1988, the Secretary of the Treasury or

his delegate shall issue such rules as may be necessary to carry out the provisions of section 89 of the 1986 Code.

26 USC 89 note.

(d) EFFECTIVE DATES.—

(1) SUBSECTION (a).—The amendments made by subsection (a) shall take effect as if included in the amendments made by section 1151 of the Tax Reform Act of 1986; except that the amendment made by subsection (a)(8) shall apply to testing years beginning after December 31, 1989.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall apply to years beginning after December 31, 1986.

Subtitle D—Estate and Gift Taxes

SEC. 3031. ESTATE TAX VALUATION FREEZES.

(a) DEEMED GIFT.—

(1) IN GENERAL.—Paragraph (4) of section 2036(c) of the 1986 Code is amended to read as follows:

"(4) TREATMENT OF CERTAIN TRANSFERS.—

"(A) IN GENERAL.—For purposes of this subtitle, if, before the death of the original transferor—

"(i) the original transferor transfers all (or any portion of) the retained interest referred to in paragraph (1), or

"(ii) the original transferee transfers all (or any portion of) the transferred property referred to in paragraph (1) to a person who is not a member of the original transferor's family,

the original transferor shall be treated as having made a transfer by gift of property to the original transferee equal to the paragraph (1) inclusion (or proportionate amount thereof). Proper adjustments shall be made in the amount treated as a gift by reason of the preceding sentence to take into account prior transfers to which this subparagraph applied and take into account any right of recovery (whether or not exercised) under section 2207B.

"(B) COORDINATION WITH PARAGRAPH (1).—In any case to which subparagraph (A) applies, nothing in paragraph (1) or section 2035(d)(2) shall require the inclusion of the transferred property (or proportionate amount thereof).

"(C) SPECIAL RULE WHERE PROPERTY RETRANSFERRED.—In the case of a transfer described in subparagraph (A)(ii) from the original transferee to the original transferor, the paragraph (1) inclusion (or proportion thereof) shall be reduced by the excess (if any) of—

"(i) the fair market value of the property so transferred, over

"(ii) the amount of the consideration paid by the original transferor in exchange for such property.

"(D) DEFINITIONS.—For purposes of this paragraph—

"(i) ORIGINAL TRANSFEROR.—The term 'original transferor' means the person making the transfer referred to in paragraph (1).

"(ii) ORIGINAL TRANSFEREE.—The term 'original transferee' means the person to whom the transfer referred to in paragraph (1) is made. Such term in-

cludes any member of the original transferor's family to whom the property is subsequently transferred.

"(iii) PARAGRAPH (1) INCLUSION.—The term 'paragraph (1) inclusion' means the amount which would have been included in the gross estate of the original transferor under subsection (a) by reason of paragraph (1) (determined without regard to sections 2032 and 2032A) if the original transferor died immediately before the transfer referred to in subparagraph (A). The amount determined under the preceding sentence shall be reduced by the amount (if any) of the taxable gift resulting from the transfer referred to in paragraph (1)(B).

"(iv) TRANSFERS TO INCLUDE TERMINATIONS, ETC.—Terminations, lapses, and other changes in any interest in property of the original transferor or original transferee shall be treated as transfers.

"(E) CONTINUING INTEREST IN TRANSFERRED PROPERTY MAY NOT BE RETAINED.—A transfer (to which subparagraph (A) would otherwise apply) shall not be taken into account under subparagraph (A) if the original transferor or the original transferee (as the case may be) retains a direct or indirect continuing interest in the property transferred in such transfer."

(2) CROSS REFERENCE.—Subsection (d) of section 2501 of the 1986 Code is amended by adding at the end thereof the following:

"(3) For treatment of certain transfers related to estate tax valuation freezes as gifts to which this chapter applies, see section 2036(c)(4)."

(b) TREATMENT OF CERTAIN GRANTOR RETAINED INCOME TRUSTS.—Subsection (c) of section 2036 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF CERTAIN GRANTOR RETAINED INTEREST TRUSTS.—

"(A) IN GENERAL.—For purposes of this subsection, any retention of a qualified trust income interest shall be disregarded and the property with respect to which such interest exists shall be treated as held by the transferor while such income interest continues.

"(B) QUALIFIED TRUST INCOME INTEREST.—For purposes of subparagraph (A), the term 'qualified trust income interest' means any right to receive amounts determined solely by reference to the income from property held in trust if—

"(i) such right is for a period not exceeding 10 years,

"(ii) the person holding such right transferred the property to the trust, and

"(iii) such person is not a trustee of such trust."

(b) EXCEPTIONS.—Subsection (c) of section 2036 of the 1986 Code is amended by adding at the end thereof the following new paragraphs:

"(7) EXCEPTIONS.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to a transaction solely by reason of 1 or more of the following:

"(i) The receipt (or retention) of qualified debt.

"(ii) Except as provided in regulations, the existence of an agreement for the sale or lease of goods or other

property to be used in the enterprise or the providing of services and—

"(I) the agreement is an arm's length agreement for fair market value, and

"(II) the agreement does not otherwise involve any change in interests in the enterprise.

"(iii) An option or other agreement to buy or sell property at the fair market value of such property as of the time the option is (or the rights under the agreement are) exercised.

"(B) LIMITATIONS.—

"(i) SERVICES PERFORMED AFTER TRANSFER.—In the case of compensation for services performed after the transfer referred to in paragraph (1)(B), clause (ii) of subparagraph (A) shall not apply if such services were performed under an agreement providing for the performance of services over a period greater than 3 years after the date of the transfer. For purposes of the preceding sentence, the term of any agreement includes any period for which the agreement may be extended at the option of the service provider.

"(ii) AMOUNTS MUST NOT BE CONTINGENT ON PROFITS, ETC.—Clause (ii) of subparagraph (A) shall not apply to any amount determined (in whole or in part) by reference to gross receipts, income, profits, or similar items of the enterprise.

"(C) QUALIFIED DEBT.—For purposes of this paragraph, except as provided in subparagraph (D), the term 'qualified debt' means any indebtedness if—

"(i) such indebtedness—

"(I) unconditionally requires the payment of a sum certain in money in 1 or more fixed payments on specified dates, and

"(II) has a fixed maturity date not more than 15 years from the date of issue (or, in the case of indebtedness secured by real property, not more than 30 years from the date of issue).

"(ii) the only other amount payable under such indebtedness is interest determined at—

"(I) a fixed rate, or

"(II) a rate which bears a fixed relationship to a specified market interest rate,

(iii) the interest payment dates are fixed,

"(iv) such indebtedness is not by its terms subordinated to the claims of general creditors,

"(v) except in a case where such indebtedness is in default as to interest or principal, such indebtedness does not grant voting rights to the person to whom the debt is owed or place any limitation on the exercise of voting rights by others, and

"(vi) such indebtedness—

"(I) is not (directly or indirectly) convertible into an interest in the enterprise which would not be qualified debt, and

"(II) does not otherwise grant any right to acquire such an interest.

The requirement of clause (i)(I) that the principal be payable on 1 or more specified dates and the requirement of clause (i)(II) shall not apply to indebtedness payable on demand if such indebtedness is issued in return for cash to be used to meet normal business needs of the enterprise.

"(D) SPECIAL RULE FOR STARTUP DEBT.—

"(i) IN GENERAL.—For purposes of this paragraph, the term 'qualified debt' includes any qualified startup debt.

"(ii) QUALIFIED STARTUP DEBT.—For purposes of clause (i), the term 'qualified startup debt' means any indebtedness if—

"(I) such indebtedness unconditionally requires the payment of a sum certain in money,

"(II) such indebtedness was received in exchange for cash to be used in any enterprise involving the active conduct of a trade or business,

"(III) the person to whom the indebtedness is owed has not at any time (whether before, on, or after the exchange referred to in subclause (II)) transferred any property (including goodwill) which was not cash to the enterprise or transferred customers or other business opportunities to the enterprise,

"(IV) the person to whom the indebtedness is owed has not at any time (whether before, on, or after the exchange referred to in subclause (II)) held any interest in the enterprise (including an interest as an officer, director, or employee) which was not qualified startup debt,

"(V) any person who (but for subparagraph (A)(i)) would have been an original transferee (as defined in paragraph (4)(C)) participates in the active management (as defined in section 2032A(e)(12)) of the enterprise, and

"(VI) such indebtedness meets the requirements of clauses (v) and (vi) of subparagraph (C).

"(8) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection, including such regulations as may be necessary or appropriate to prevent avoidance of the purposes of this subsection through distributions or otherwise."

(d) TREATMENT OF SPOUSE.—Subparagraph (C) of section 2036(c)(3) of the 1986 Code is amended by striking out "An individual" and inserting in lieu thereof "Except as provided in regulations, an individual".

(e) CLARIFICATION OF RETENTION TEST.—Subparagraph (B) of section 2036(c)(1) of the 1986 Code is amended by striking out "while" and all that follows down through the comma at the end of such subparagraph and inserting in lieu thereof "while retaining an interest in the income of, or rights in, the enterprise,".

(f) RIGHT OF RECOVERY.—

(1) IN GENERAL.—Subchapter C of chapter 11 of the 1986 Code is amended by inserting after section 2207A the following new section:

"SEC. 2207B. RIGHT OF RECOVERY WHERE DECEDENT RETAINED INTEREST.

"(a) ESTATE TAX.—

"(1) IN GENERAL.—If any part of the gross estate on which tax has been paid consists of the value of property included in the gross estate by reason of section 2036 (relating to transfers with retained life estate), the decedent's estate shall be entitled to recover from the person receiving the property the amount which bears the same ratio to the total tax under this chapter which has been paid as—

"(A) the value of such property, bears to

"(B) the taxable estate.

"(2) DECEDENT MAY OTHERWISE DIRECT BY WILL.—Paragraph (1) shall not apply if the decedent otherwise directs in a provision of his will (or a revocable trust) specifically referring to this section.

"(b) GIFT TAX.—If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2036(c)(4), such person shall be entitled to recover from the original transferee (as defined in section 2036(c)(4)(C)(ii)) the amount which bears the same ratio to the total tax for such year under chapter 12 as—

"(1) the value of such property for purposes of chapter 12, bears to

"(2) the total amount of the taxable gifts for such year.

"(c) MORE THAN ONE RECIPIENT.—For purposes of this section, if there is more than 1 person receiving the property, the right of recovery shall be against each such person.

"(d) PENALTIES AND INTEREST.—In the case of penalties and interest attributable to the additional taxes described in subsections (a) and (b), rules similar to the rules of subsections (a), (b), and (c) shall apply.

"(e) NO RIGHT OF RECOVERY AGAINST CHARITABLE REMAINDER TRUSTS.—No person shall be entitled to recover any amount by reason of this section from a trust to which section 664 applies (determined without regard to this section)."

(2) CONFORMING AMENDMENT.—The table of sections for subchapter C of chapter 11 of the 1986 Code is amended by inserting after the item relating to section 2207A the following new item:

"Sec. 2207B. Right of recovery where decedent retained interest."

(g) TREATMENT OF CONSIDERATON.—

(1) Paragraph (2) of section 2036(c) of the 1986 Code is amended to read as follows:

"(2) SPECIAL RULES FOR CONSIDERATION FURNISHED BY FAMILY MEMBERS.—

"(A) IN GENERAL.—The exception contained in subsection (a) for a bona fide sale shall not apply to a transfer described in paragraph (1) if such transfer is to a member of the transferor's family.

"(B) TREATMENT OF CONSIDERATION.—

(i) IN GENERAL.—In the case of a transfer described in paragraph (1), if—

"(I) a member of the transferor's family provides consideration in money or money's worth for such member's interest in the enterprise, and

"(II) it is established to the satisfaction of the Secretary that such consideration originally belonged to such member and was never received or acquired (directly or indirectly) by such member from the transferor for less than full and adequate consideration in money or money's worth,

paragraph (1) shall not apply to the applicable fraction of the portion of the enterprise which would (but for this subparagraph) have been included in the gross estate of the transferor by reason of this subsection (determined without regard to any reduction under paragraph (5) for the value of the retained interest).

"(ii) APPLICABLE FRACTION.—For purposes of clause (i), the applicable fraction is a fraction—

"(I) the numerator of which is the amount of the consideration referred to in clause (i), and

"(II) the denominator of which is the value of the portion referred to in clause (i) immediately after the transfer described in paragraph (1).

"(iii) SECTION 2043 NOT TO APPLY.—The provisions of this subparagraph shall be in lieu of any adjustment under section 2043."

(2) Paragraph (5) of section 2036(c) of the 1986 Code is amended to read as follows:

"(5) ADJUSTMENTS.—Appropriate adjustments shall be made in the amount included in the gross estate by reason of this subsection for the value of the retained interest, extraordinary distributions, and changes in the capital structure of the enterprise after the transfer described in paragraph (1).

(h) EFFECTIVE DATE.—

26 USC 2036 note.

(1) IN GENERAL.—Except as provided in this subsection, any amendment made by this section shall take effect as if included in the provisions of the Revenue Act of 1987 to which such amendment relates.

(2) SUBSECTION (a).—The amendments made by subsection (a) shall apply in cases where the transfer referred to in section 2036(c)(1)(B) of the 1986 Code is on or after June 21, 1988.

(3) SUBSECTION (f).—If an amount is included in the gross estate of a decedent under section 2036 of the 1986 Code other than solely by reason of section 2036(c) of the 1986 Code, the amendments made by subsection (f) shall apply to such amount only with respect to property transferred after the date of the enactment of this Act.

(4) CORRECTION PERIOD.—If section 2036(c)(1) of the 1986 Code would (but for this paragraph) apply to any interest arising from a transaction entered into during the period beginning after December 17, 1987, and ending before January 1, 1990, such section shall not apply to such interest if—

(A) during such period, such actions are taken as are necessary to have such section 2036(c)(1) not apply to such transaction (and any such interest), or

(B) the original transferor and his spouse on January 1, 1990 (or, if earlier, the date of the original transferor's death), does not hold any interest in the enterprise involved.

(5) CLARIFICATION OF EFFECTIVE DATE.—For purposes of section 10402(b) of the Revenue Act of 1987, with respect to property transferred on or before December 17, 1987—

(A) any failure to exercise a right of conversion,

(B) any failure to pay dividends, and

(c) failures to exercise other rights specified in regulations,

shall not be treated as a subsequent transfer.

Subtitle E—Indian Fishing Rights

SEC. 3041. FEDERAL TAX TREATMENT OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS SECURED BY TREATY, ETC.

(a) GENERAL RULES.—Subchapter C of chapter 80 of the 1986 Code (relating to provisions affecting more than one subtitle) is amended by adding at the end thereof the following new section:

"SEC. 7873. INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS.

"(a) IN GENERAL.—

"(1) INCOME AND SELF-EMPLOYMENT TAXES.—No tax shall be imposed by subtitle A on income derived—

"(A) by a member of an Indian tribe directly or through a qualified Indian entity, or

"(B) by a qualified Indian entity,

from a fishing rights-related activity of such tribe.

"(2) EMPLOYMENT TAXES.—No tax shall be imposed by subtitle C on remuneration paid for services performed in a fishing rights-related activity of an Indian tribe by a member of such tribe for another member of such tribe or for a qualified Indian entity.

"(b) DEFINITIONS.—For purposes of this section—

"(1) FISHING RIGHTS-RELATED ACTIVITY.—The term 'fishing rights-related activity' means, with respect to an Indian tribe, any activity directly related to harvesting, processing, or transporting fish harvested in the exercise of a recognized fishing right of such tribe or to selling such fish but only if substantially all of such harvesting was performed by members of such tribe.

"(2) RECOGNIZED FISHING RIGHTS.—The term 'recognized fishing rights' means, with respect to an Indian tribe, fishing rights secured as of March 17, 1988, by a treaty between such tribe and the United States or by an Executive order or an Act of Congress.

"(3) QUALIFIED INDIAN ENTITY.—

"(A) IN GENERAL.—The term 'qualified Indian entity' means, with respect to an Indian tribe, any entity if—

"(i) such entity is engaged in a fishing rights-related activity of such tribe,

"(ii) all of the equity interests in the entity are owned by qualified Indian tribes, members of such tribes, or their spouses,

"(iii) except as provided in regulations, in the case of an entity which engages to any extent in any substantial processing or transporting of fish, 90 percent or

more of the annual gross receipts of the entity is derived from fishing rights-related activities of one or more qualified Indian tribes each of which owns at least 10 percent of the equity interests in the entity, and

"(iv) substantially all of the management functions of the entity are performed by members of qualified Indian tribes.

For purposes of clause (iii), equity interests owned by a member (or the spouse of a member) of a qualified Indian tribe shall be treated as owned by the tribe.

"(B) QUALIFIED INDIAN TRIBE.—For purposes of subparagraph (A), an Indian tribe is a qualified Indian tribe with respect to an entity if such entity is engaged in a fishing rights-related activity of such tribe.

"(c) SPECIAL RULES.—

"(1) DISTRIBUTIONS FROM QUALIFIED INDIAN ENTITY.—For purposes of this section, any distribution with respect to an equity interest in a qualified Indian entity of an Indian tribe to a member of such tribe shall be treated as derived by such member from a fishing rights-related activity of such tribe to the extent such distribution is attributable to income derived by such entity from a fishing rights-related activity of such tribe.

"(2) DE MINIMIS UNRELATED AMOUNTS MAY BE EXCLUDED.—If, but for this paragraph, all but a de minimis amount—

"(A) derived by a qualified Indian tribal entity, or by an individual through such an entity, is entitled to the benefits of paragraph (1) of subsection (a), or

"(B) paid to an individual for services is entitled to the benefits of paragraph (2) of subsection (a),

then the entire amount shall be entitled to the benefits of such paragraph."

(b) CLERICAL AMENDMENT.—The table of sections for such subchapter C is amended by adding at the end thereof the following new item:

"Sec. 7873. Income derived by Indians from exercise of fishing rights."

SEC. 3042. STATE TAX TREATMENT OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS SECURED BY TREATY, ETC.

Section 2079 of the Revised Statutes (25 U.S.C. 71) is amended by adding at the end thereof the following new sentence: "Such treaties, and any Executive orders and Acts of Congress under which the rights of any Indian tribe to fish are secured, shall be construed to prohibit (in addition to any other prohibition) the imposition under any law of a State or political subdivision thereof of any tax on any income derived from the exercise of rights to fish secured by such treaty, Executive order, or Act of Congress if section 7873 of the Internal Revenue Code of 1986 does not permit a like Federal tax to be imposed on such income."

SEC. 3043. CONFORMING AMENDMENTS RELATING TO COVERAGE UNDER OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE PROGRAM.

(a) EXCLUSION FROM WAGES OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS.—Section 209 of the Social Security Act (42 U.S.C. 409) is amended—

(1) in subsection (r), by striking out "or" at the end;

(2) in subsection (s), by striking out the period and inserting in lieu thereof "; or"; and

(3) by inserting after subsection (s) the following new subsection:

"(t) Remuneration consisting of income excluded from taxation under section 7873 of the Internal Revenue Code of 1986 (relating to income derived by Indians from exercise of fishing rights)."

(b) EXCLUSION FROM NET EARNINGS FROM SELF-EMPLOYMENT OF INCOME DERIVED BY INDIANS FROM EXERCISE OF FISHING RIGHTS.—Section 211(a) of such Act (42 U.S.C. 411(a)) is amended—

(1) in paragraph (12), by striking out "and" at the end;

(2) in paragraph (13), by striking out the period and inserting in lieu thereof "; and"; and

(3) by inserting after paragraph (13) the following new paragraph:

"(14) There shall be excluded income excluded from taxation under section 7873 of the Internal Revenue Code of 1986 (relating to income derived by Indians from exercise of fishing rights)."

(c) CROSS-REFERENCES IN SECA AND FICA TO APPLICABLE INDIAN FISHING RIGHTS PROVISIONS.—

(1) SECA.—Subsection (a) of section 1402 of the 1986 Code (relating to net earnings from self-employment) is amended by striking out "and" at the end of paragraph (13), by striking out the period at the end of paragraph (14) and inserting in lieu thereof "; and", and by inserting after paragraph (14) the following new paragraph:

"(15) in the case of a member of an Indian tribe, the special rules of section 7873 (relating to income derived by Indians from exercise of fishing rights) shall apply."

(2) FICA.—Subsection (a) of section 3121 of the 1986 Code (relating to wages) is amended by striking out "or" at the end of paragraph (19), by striking out the period at the end of paragraph (20) and inserting in lieu thereof "; or", and by inserting after paragraph (20) the following new paragraph:

"(21) in the case of a member of an Indian tribe, any remuneration on which no tax is imposed by this chapter by reason of section 7873 (relating to income derived by Indians from exercise of fishing rights)."

26 USC 7873 note.

SEC. 3044. EFFECTIVE DATE; NO INFERENCE CREATED.

(a) EFFECTIVE DATE.—The amendments made by this subtitle shall apply to all periods beginning before, on, or after the date of the enactment of this Act.

(b) NO INFERENCE CREATED.—Nothing in the amendments made by this subtitle shall create any inference as to the existence or nonexistence or scope of any exemption from tax for income derived from fishing rights secured as of March 17, 1988, by any treaty, law, or Executive Order.

TITLE IV—EXTENSIONS AND MODIFICATIONS OF EXPIRING TAX PROVISIONS

SEC. 4001. EXTENSION AND MODIFICATION OF EXCLUSION FOR EMPLOYER-PROVIDED EDUCATIONAL ASSISTANCE.

(a) EXTENSION.—Subsection (d) of section 127 of the 1986 Code (relating to educational assistance programs) is amended by striking out "December 31, 1987" and inserting in lieu thereof "December 31, 1988".

(b) RESTRICTIONS RELATING TO EDUCATION AT THE GRADUATE LEVEL.—

(1) IN GENERAL.—Paragraph (1) of section 127(c) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The term 'educational assistance' also does not include any payment for, or the provision of any benefits with respect to, any graduate level course of a kind normally taken by an individual pursuing a program leading to a law, business, medical, or other advanced academic or professional degree."

(2) SPECIAL RULE FOR TEACHING AND RESEARCH ASSISTANTS.—Subsection (d) of section 117 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULES FOR TEACHING AND RESEARCH ASSISTANTS.—In the case of the education of an individual who is a graduate student at an educational organization described in section 170(b)(1)(A)(ii) and who is engaged in teaching or research activities for such organization, paragraph (2) shall be applied as if it did not contain the phrase '(below the graduate level)'."

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987. 26 USC 117 note.

SEC. 4002. EXTENSION AND MODIFICATION OF EXCLUSION OF AMOUNTS RECEIVED UNDER GROUP LEGAL SERVICES PLANS.

(a) EXTENSION.—Section 120(e) of the 1986 Code is amended by striking out "1987" and inserting in lieu thereof "1988".

(b) LIMITATION ON VALUE OF INSURANCE PROTECTION WHICH MAY BE EXCLUDED.—

(1) IN GENERAL.—Section 120(a) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"No exclusion shall be allowed under this section with respect to an individual for any taxable year to the extent that the value of insurance (whether through an insurer or self-insurance) against legal costs incurred by the individual (or his spouse or dependents) provided under a qualified group legal services plan exceeds $70."

(2) CONFORMING AMENDMENT.—Subparagraph (A) of section 125(e)(2) of the 1986 Code is amended by inserting "or any insurance under a qualified group legal services plan the value of which is so includable only because it exceeds the limitation of section 120(a)" after "section 79".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 1987. 26 USC 120 note.

SEC. 4003. CARRYOVER OF POST-1987 LOW-INCOME HOUSING CREDIT DOLLAR AMOUNTS PERMITTED.

(a) IN GENERAL.—Section 42(h)(1) of the 1986 Code (relating to housing credit dollar amount may not be carried over, etc.), as

amended by section 1002(l)(14)(A) of this Act, is amended by adding at the end thereof the following new subparagraph:

"(E) EXCEPTION WHERE 10 PERCENT OF COST INCURRED.—

"(i) IN GENERAL.—An allocation meets the requirements of this subparagraph if such allocation is made with respect to a qualified building which is placed in service not later than the close of the second calendar year following the calendar year in which the allocation is made.

"(ii) QUALIFIED BUILDING.—For purposes of clause (i), the term 'qualified building' means any building which is part of a project if the taxpayer's basis in such project (as of the close of the calendar year in which the allocation is made) is more than 10 percent of the taxpayer's reasonably expected basis in such project (as of the close of the second calendar year referred to in clause (i)). Such term does not include any existing building unless a credit is allowable under subsection (e) for rehabilitation expenditures paid or incurred by the taxpayer with respect to such building for a taxable year ending during the second calendar year referred to in clause (i) or the prior taxable year."

(b) CONFORMING AMENDMENTS.—

(1) Section 42(h)(1)(B) of the 1986 Code, as amended by section 1002 of this Act, is amended by striking out "(C) or (D)" and inserting in lieu thereof "(C), (D), or (E)".

26 USC 469 note.

(2) Paragraph (3) of section 501(c) of the Reform Act is hereby repealed.

(3) Subsection (n) of section 42 of the 1986 Code, as amended by title I of this Act, is amended to read as follows:

"(n) TERMINATION.—The State housing credit ceiling under subsection (h) shall be zero for any calendar year after 1989 and subsection (h)(4) shall not apply to any building placed in service after 1989."

26 USC 42 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to amounts allocated in calendar years after 1987.

SEC. 4004. SIMPLIFICATION OF RULE WHERE PARTNERSHIP HOLDS QUALIFIED LOW-INCOME BUILDING.

(a) IN GENERAL.—Subparagraph (B) of section 42(j)(5) of the 1986 Code, as amended by title I of this Act, is amended to read as follows:

"(B) PARTNERSHIPS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to any partnership which has 35 or more partners unless the partnership elects not to have this paragraph apply."

26 USC 42 note.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 252 of the Reform Act.

(2) PERIOD FOR ELECTION.—The period for electing not to have section 42(j)(5) of the 1986 Code apply to any partnership shall not expire before the date which is 6 months after the date of the enactment of this Act.

SEC. 4005. PROVISIONS RELATING TO MORTGAGE REVENUE BONDS AND MORTGAGE CREDIT CERTIFICATES.

(a) EXTENSION OF AUTHORITY TO ISSUE BONDS AND CERTIFICATES.—

(1) Subparagraph (B) of section 143(a)(1) of the 1986 Code (relating to termination) is amended by striking out "December 31, 1988" each place it appears and inserting in lieu thereof "December 31, 1989".

(2) Subsection (h) of section 25 of the 1986 Code (relating to credit for interest on certain home mortgages), as amended by section 1013(a)(26) of this Act, is amended by striking out "1988" and inserting in lieu thereof "1989".

(b) CALCULATION OF INCOME LIMITS FOR QUALIFIED MORTGAGE BOND FINANCED HOMES IN HIGH HOUSING COST AREAS.—Section 143(f) of the 1986 Code (relating to income requirements) is amended by adding at the end thereof the following new paragraph:

"(5) ADJUSTMENT OF INCOME REQUIREMENT BASED ON RELATION OF HIGH HOUSING COSTS TO INCOME.—

"(A) IN GENERAL.—If the residence (for which financing is provided under the issue) is located in a high housing cost area and the limitation determined under this paragraph is greater than the limitation otherwise applicable under paragraph (1), there shall be substituted for the income limitation in paragraph (1), a limitation equal to the percentage determined under subparagraph (B) of the area median gross income for such area.

"(B) INCOME REQUIREMENTS FOR RESIDENCES IN HIGH HOUSING COST AREA.—The percentage determined under this subparagraph for a residence located in a high housing cost area is the percentage (not greater than 140 percent) equal to the product of—

"(I) 115 percent, and

"(II) the amount by which the housing cost/income ratio for such area exceeds 0.2.

"(C) HIGH HOUSING COST AREAS.—For purposes of this paragraph, the term 'high housing cost area' means any statistical area for which the housing cost/income ratio is greater than 1.2.

"(D) HOUSING COST/INCOME RATIO.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'housing cost/income ratio' means, with respect to any statistical area, the number determined by dividing—

"(I) the applicable housing price ratio for such area, by

"(II) the ratio which the area median gross income for such area bears to the median gross income for the United States.

"(ii) APPLICABLE HOUSING PRICE RATIO.—For purposes of clause (i), the applicable housing price ratio for any area is the new housing price ratio or the existing housing price ratio, whichever results in the housing cost/income ratio being closer to 1.

"(iii) NEW HOUSING PRICE RATIO.—The new housing price ratio for any area is the ratio which—

"(I) the average area purchase price (as defined in subsection (e)(2)) for residences described in subsection (e)(3)(A) which are located in such area bears to

"(II) the average purchase price (determined in accordance with the principles of subsection (e)(2)) for residences so described which are located in the United States.

"(iv) EXISTING HOUSING PRICE RATIO.—The existing housing price ratio for any area is the ratio determined in accordance with clause (iii) but with respect to residences described in subsection (e)(3)(B)."

(c) DETERMINATIONS OF FAMILY INCOME TO BE BASED ON FAMILY SIZE.—Subsection (f) of section 143 of the 1986 Code (relating to income requirements) is further amended by adding at the end thereof the following new paragraph:

"(6) ADJUSTMENT TO INCOME REQUIREMENTS BASED ON FAMILY SIZE.—In the case of a mortgagor having a family of fewer than 3 individuals, the preceding provisions of this subsection shall be applied by substituting—

"(A) '100 percent' for '115 percent' each place it appears, and

"(B) '120 percent' for '140 percent' each place it appears."

(d) QUALIFIED MORTGAGE BONDS SUBJECT TO ARBITRAGE REBATE RULES APPLICABLE TO OTHER TAX-EXEMPT BONDS.—

(1) Paragraph (1) of section 143(g) of the 1986 Code (relating to requirements related to arbitrage) is amended—

(A) by striking out "paragraphs (2) and (3) of this subsection" and inserting in lieu thereof "paragraph (2) of this subsection and, in the case of an issue described in subsection (b)(1), such issue also meets the requirements of paragraph (3) of this subsection", and

(B) by striking out "(other than subsection (f) thereof)".

(2) Paragraph (1) of section 148(f) of the 1986 Code is amended by striking out "qualified mortgage bond or".

(e) LOANS PROVIDED THROUGH QUALIFIED MORTGAGE ISSUE MUST ORIGINATE WITHIN 42 MONTHS OF DATE OF ISSUE.—Paragraph (2) of section 143(a) of the 1986 Code (defining qualified mortgage issue) is amended by adding at the end thereof the following new subparagraph:

"(D) PROCEEDS MUST BE USED WITHIN 42 MONTHS OF DATE OF ISSUANCE.—

"(i) IN GENERAL.—Except as otherwise provided in this subparagraph, an issue shall not meet the requirement of subparagraph (A)(i) unless—

"(I) all proceeds of the issue required to be used to finance owner-occupied residences are so used within the 42-month period beginning on the date of issuance of the issue (or, in the case of a refunding bond, within the 42-month period beginning on the date of issuance of the original bond) or, to the extent not so used within such period, are used within such period to redeem bonds which are part of such issue, and

"(II) no portion of the proceeds of the issue are used to make or finance any loan (other than a loan which is a nonpurpose investment within the

meaning of section 148(f)(6)(A)) after the close of such period.

"(ii) EXCEPTION.—Clause (i) (and clause (iv) of subparagraph (A)) shall not be construed to require amounts of less than $250,000 to be used to redeem bonds. The Secretary may by regulation treat related issues as 1 issue for purposes of the preceding sentence."

(f) REPAYMENTS OF FINANCING PROVIDED BY A QUALIFIED MORTGAGE ISSUE MUST BE USED TO REDEEM BONDS.—Subparagraph (A) of section 143(a)(2) of the 1986 Code is amended by striking out "and" at the end of clause (ii), by striking out the period at the end of clause (iii) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(iv) except as provided in subparagraph (D)(ii), repayments of principal on financing provided by the issue are used not later than the close of the 1st semiannual period beginning after the date the prepayment (or complete repayment) is received to redeem bonds which are part of such issue.

Clause (iv) shall not apply to amounts received within 10 years after the date of issuance of the issue (or, in the case of refunding bond, the date of issuance of the original bond)."

(g) RECAPTURE OF PORTION OF FEDERAL SUBSIDY FROM USE OF MORTGAGE BONDS AND MORTGAGE CREDIT CERTIFICATES.—

(1) IN GENERAL.—Section 143 of the 1986 Code (relating to mortgage revenue bonds) is amended by adding at the end thereof the following new subsection:

"(m) RECAPTURE OF PORTION OF FEDERAL SUBSIDY FROM USE OF QUALIFIED MORTGAGE BONDS AND MORTGAGE CREDIT CERTIFICATES.—

"(1) IN GENERAL.—If, during the taxable year, any taxpayer disposes of an interest in a residence with respect to which there is or was any federally-subsidized indebtedness for the payment of which the taxpayer was liable in whole or part, then the taxpayer's tax imposed by this chapter for such taxable year shall be increased by the recapture amount with respect to such indebtedness.

"(2) EXCEPTIONS.—Paragraph (1) shall not apply to—

"(A) any disposition by reason of death, and

"(B) any disposition which is more than 10 years after the testing date.

"(3) FEDERALLY-SUBSIDIZED INDEBTEDNESS.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'federally-subsidized indebtedness' means any indebtedness if—

"(i) financing for the indebtedness was provided in whole or part from the proceeds of any tax-exempt qualified mortgage bond, or

"(ii) any credit was allowed under section 25 (relating to interest on certain home mortgages) to the taxpayer for interest paid or incurred on such indebtedness.

"(B) EXCEPTION FOR HOME IMPROVEMENT LOANS.—Such term shall not include any indebtedness to the extent such indebtedness is federally-subsidized indebtedness solely by reason of being a qualified home improvement loan (as defined in subsection (k)(4)).

"(4) RECAPTURE AMOUNT.—For purposes of this subsection—

"(A) IN GENERAL.—The recapture amount with respect to any indebtedness is the amount equal to the product of—

"(i) the federally-subsidized amount with respect to the indebtedness, and

"(ii) the holding period percentage.

"(B) FEDERALLY-SUBSIDIZED AMOUNT.—The federally-subsidized amount with respect to any indebtedness is the amount equal to 6.25 percent of the highest principal amount of the indebtedness for which the taxpayer was liable.

"(C) HOLDING PERIOD PERCENTAGE.—

"(i) DISPOSITIONS DURING 1ST 5 YEARS.—If the disposition of the taxpayer's interest in the residence occurs during the 5-year period beginning on the testing date, the holding period percentage is the percentage determined by dividing the number of full months during which the requirements of subparagraph (D) were met by 60.

"(ii) DISPOSITIONS DURING 2D 5 YEARS.—If the disposition of the taxpayer's interest in the residence occurs during the 5-year period following the 5-year period described in clause (i), the holding period percentage is the percentage determined by dividing—

"(I) the excess of 120 over the number of full months during which such requirements were met by

"(II) 60.

"(iii) RETIREMENTS OF INDEBTEDNESS.—If the federally-subsidized indebtedness is completely repaid during any month of the 10-year period beginning on the testing date, the holding period percentage for succeeding months shall be determined by reducing ratably over the remainder of such period (or, if lesser, 5 years) the holding period percentage which would have been determined under this subparagraph had the taxpayer disposed of his interest in the residence on the date of the repayment.

"(D) TESTING DATE.—The term 'testing date' means the earliest date on which all of the following requirements are met:

"(i) The indebtedness is federally-subsidized indebtedness.

"(ii) The taxpayer is liable in whole or part for payment of the indebtedness.

"(5) REDUCTION OF RECAPTURE AMOUNT IF TAXPAYER MEETS CERTAIN INCOME LIMITATIONS.—

"(A) IN GENERAL.—The recapture amount which would (but for this paragraph) apply with respect to any disposition during a taxable year shall be reduced (but not below zero) by 2 percent of such amount for each $100 by which adjusted qualifying income exceeds the modified adjusted gross income of the taxpayer for such year.

"(B) ADJUSTED QUALIFYING INCOME.—For purposes of this paragraph, the term 'adjusted qualifying income' means the amount equal to the sum of—

"(i) $5,000, plus

"(ii) the product of—

"(I) the highest family income which (as of the date the financing was provided) would have met the requirement of subsection (f) with respect to the residence, and

"(II) the percentage equal to the sum of 100 percent plus 5 percent for each full year during the period beginning on such date and ending on the date of the disposition.

For purposes of clause (ii)(I), highest family income shall be determined without regard to subsection (f)(3)(A) and on the basis of the number of members of the taxpayer's family as of the date of the disposition.

"(C) MODIFIED ADJUSTED GROSS INCOME.—For purposes of this paragraph, the term 'modified adjusted gross income' means adjusted gross income—

"(i) increased by the amount of interest received or accrued by the taxpayer during the taxable year which is excluded from gross income under section 103, and

"(ii) decreased by the amount of gain (if any) included in gross income of the taxpayer by reason of the disposition to which this subsection applies.

"(6) LIMITATION ON RECAPTURE AMOUNT BASED ON GAIN REALIZED.—

"(A) IN GENERAL.—In no event shall the recapture amount of the taxpayer with respect to any indebtedness exceed 50 percent of the gain (if any) on the disposition of the taxpayer's interest in the residence. For purposes of the preceding sentence, gain shall be taken into account whether or not recognized, and the adjusted basis of the taxpayer's interest in the residence shall be determined without regard to sections 1033(b) and 1034(e) for purposes of determining gain.

"(B) DISPOSITIONS OTHER THAN SALES, EXCHANGES, AND INVOLUNTARY CONVERSIONS.—In the case of a disposition other than a sale, exchange, or involuntary conversion, gain shall be determined as if the interest had been sold for its fair market value.

"(C) INVOLUNTARY CONVERSIONS RESULTING FROM CASUALTIES.—In the case of property which (as a result of its destruction in whole or in part by fire, storm, or other casualty) is compulsorily or involuntarily converted, paragraph (1) shall not apply to such conversion if the taxpayer purchases (during the period specified in section 1033(a)(2)(B)) property for use as his principal residence on the site of the converted property. For purposes of subparagraph (A), the adjusted basis of the taxpayer in the residence shall not be adjusted for any gain or loss on a conversion to which this subparagraph applies.

"(7) ISSUER TO INFORM MORTGAGOR OF FEDERALLY-SUBSIDIZED AMOUNT AND FAMILY INCOME LIMITS.—The issuer of the issue which provided the federally-subsidized indebtedness to the mortgagor shall—

"(A) at the time of settlement, provide a written statement informing the mortgagor of the potential recapture under this subsection, and

"(B) not later than 90 days after the date such indebtedness is provided, provide a written statement to the mortgagor specifying—

"(i) the federally-subsidized amount with respect to such indebtedness, and

"(ii) the amounts described in paragraph (5)(B)(ii) for each category of family size for each year of the 10-year period beginning on the date the financing was provided.

"(8) SPECIAL RULES.—

"(A) NO BASIS ADJUSTMENT.—No adjustment shall be made to the basis of any property for the increase in tax under this subsection.

"(B) SPECIAL RULE WHERE 2 OR MORE PERSONS HOLD INTERESTS IN RESIDENCE.—Except as provided in subparagraph (C) and in regulations prescribed by the Secretary, if 2 or more persons hold interests in any residence and are jointly liable for the federally-subsidized indebtedness, the recapture amount shall be determined separately with respect to their respective interests in the residence.

"(C) TRANSFERS TO SPOUSES AND FORMER SPOUSES.—Paragraph (1) shall not apply to any transfer on which no gain or loss is recognized under section 1041. In any such case, the transferee shall be treated under this subsection in the same manner as the transferor would have been treated had such transfer not occurred.

"(D) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out this subsection, including regulations dealing with dispositions of partial interests in a residence."

(2) ISSUER INFORMATION REQUIREMENT.—

(A) Subparagraph (A) of section 143(a)(2) of the 1986 Code is amended by striking out "and (i)" and inserting in lieu thereof "(i), and (m)(7)".

(B) Subparagraph (C) of section 143(a)(2) of the 1986 Code is amended by striking out "and (h)" and inserting in lieu thereof ", (h), and (m)(7)".

(3) BROKER REPORTING.—Subsection (e) of section 6045 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) WHETHER SELLER'S FINANCING WAS FEDERALLY-SUBSIDIZED.—In the case of a real estate transaction involving a residence, the real estate broker shall specify on the return under subsection (a) and the statement under subsection (b) whether or not the financing (if any) of the seller was federally-subsidized indebtedness (as defined in section 143(m)(3))."

(4) NO CREDITS AGAINST TAX.—Paragraph (2) of section 26(b) of the 1986 Code (relating to limitation based on tax liability; definition of tax liability), as amended by title I of this Act, is amended by striking out "and" at the end of subparagraph (K), by striking out the period at the end of subparagraph (L) and inserting in lieu thereof ", and", and by adding at the end thereof the following new subparagraph:

"(M) section 143(m) (relating to recapture of portion of federal subsidy from use of mortgage bonds and mortgage credit certificates)."

(5) RECAPTURE TAX NOT INCLUDED IN ESTIMATED TAXES.—Paragraph (1) of section 6654(f) of the 1986 Code (relating to failure by individual to pay estimated income tax) is amended by inserting "(other than any increase in such tax by reason of section 143(m))" after "chapter 1".

(6) AUTHORITY TO CHANGE PREPAYMENT ASSUMPTIONS FOR ARBITRAGE RESTRICTIONS.—Clause (iv) of section 143(g)(2)(B) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"The Secretary may by regulation adjust the mortgage prepayment rate otherwise used in determining the effective rate of interest to the extent the Secretary determines that such an adjustment is appropriate by reason of the impact of subsection (m)."

(7) CROSS REFERENCE.—Section 25 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(j) RECAPTURE OF PORTION OF FEDERAL SUBSIDY FROM USE OF MORTGAGE CREDIT CERTIFICATES.—

"For provisions increasing the tax imposed by this chapter to recapture a portion of the Federal subsidy from the use of mortgage credit certificates, see section 143(m)."

(h) EFFECTIVE DATES.— 26 USC 143 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to bonds issued, and nonissued bond amounts elected, after December 31, 1988.

(2) SPECIAL RULES RELATING TO CERTAIN REQUIREMENTS AND REFUNDING BONDS.—In the case of a bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before January 1, 1989—

(A) the amendments made by subsections (b) and (c) shall apply to financing provided after the date of issuance of the refunding issue, and

(B) the amendment made by subsection (f) shall apply to payments (including on loans made before such date of issuance) received on or after such date of issuance.

(3) SUBSECTION (g).—

(A) IN GENERAL.—Except as provided in subparagraph (B), the amendments made by subsection (g) shall apply to financing provided, and mortgage credit certificates issued, after December 31, 1990.

(B) EXCEPTION.—The amendments made by subsection (g) shall not apply to financing provided pursuant to a binding contract (entered into before June 23, 1988) with a homebuilder, lender, or mortgagor if the bonds (the proceeds of which are used to provide such financing) are issued—

(i) before June 23, 1988, or

(ii) before August 1, 1988, pursuant to a written application (made before July 1, 1988) for State bond volume authority.

(i) STUDY OF RECAPTURE PROVISIONS.—The Comptroller General of the United States shall conduct a study of section 143(m) of the 1986 Code (as added by this section) and of alternatives to accomplish the purposes of such section. A report of such study shall be submitted not later than July 1, 1990, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. 26 USC 143 note. Reports.

SEC. 4006. EXTENSION OF CERTAIN BUSINESS ENERGY CREDITS.

Each of the following provisions in the table under section 46(b)(2)(A) of the 1986 Code are amended by striking out "December 31, 1988" and inserting in lieu thereof "December 31, 1989":

(1) The item relating to the 10 percent credit in clause (viii).

(2) The item relating to the 10 percent credit in clause (ix).

(3) Clause (x).

SEC. 4007. EXTENSION OF CREDIT FOR INCREASING RESEARCH ACTIVITIES.

(a) EXTENSION.—Subsection (h) of section 41 of the 1986 Code (relating to credit for increasing research activities) is amended—

(1) by striking out "December 31, 1988" each place it appears and inserting in lieu thereof "December 31, 1989", and

(2) by striking out "January 1, 1989" each place it appears and inserting in lieu thereof "January 1, 1990".

26 USC 41 note.

(b) GAO STUDY.—

(1) IN GENERAL.—The Comptroller General of the United States shall conduct a study of the credit provided by section 41 of the 1986 Code.

(2) REPORT.—The report of the study under paragraph (1) shall be submitted not later than December 31, 1989, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 4008. DENIAL OF DEDUCTION FOR 50 PERCENT AMOUNTS ALLOWED AS A RESEARCH CREDIT.

(a) IN GENERAL.—Section 280C of the 1986 Code (relating to certain expenses for which credits are allowable) is amended by adding at the end thereof the following new subsection:

"(c) CREDIT FOR INCREASING RESEARCH ACTIVITIES.—

"(1) IN GENERAL.—No deduction shall be allowed for that portion of the qualified research expenses (as defined in section 41(b)) or basic research expenses (as defined in section 41(e)(2)) otherwise allowable as a deduction for the taxable year which is equal to 50 percent of the amount of the credit determined for such taxable year under section 41(a).

"(2) SIMILAR RULE WHERE TAXPAYER CAPITALIZES RATHER THAN DEDUCTS EXPENSES.—If—

"(A) 50 percent of the amount of the credit determined for the taxable year under section 41(a)(1), exceeds

"(B) the amount allowable as a deduction for such taxable year for qualified research expenses or basic research expenses (determined without regard to paragraph (1)),

the amount chargeable to capital account for the taxable year for such expenses shall be reduced by the amount of such excess.

"(3) CONTROLLED GROUPS.—Paragraph (3) of subsection (b) shall apply for purposes of this subsection."

(b) RESEARCH CREDIT TO BE ELECTIVE.—

(1) IN GENERAL.—Section 41 of the 1986 Code is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) ELECTION TO HAVE RESEARCH CREDIT NOT APPLY.—

"(1) IN GENERAL.—A taxpayer may elect to have this section not apply for any taxable year.

"(2) TIME FOR MAKING ELECTION.—An election under paragraph (1) for any taxable year may be made (or revoked) at any time before the expiration of the 3-year period beginning on the last day prescribed by law for filing the return for such taxable year (determined without regard to extensions).

"(3) MANNER OF MAKING ELECTION.—An election under paragraph (1) (or revocation thereof) shall be made in such manner as the Secretary may by regulations prescribe."

(2) DEDUCTION FOR UNUSED RESEARCH CREDIT.—

(A) Subsection (c) of section 196 of the 1986 Code is amended by striking out "and" at the end of paragraph (2), by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and by adding at the end thereof the following new paragraph:

"(4) the research credit determined under section 41(a) for taxable years beginning after December 31, 1988."

(B) Subsection (d) of section 196 of the 1986 Code is amended to read as follows:

"(d) SPECIAL RULE FOR INVESTMENT TAX CREDIT AND RESEARCH CREDIT.—Subsection (a) shall be applied by substituting an amount equal to 50 percent of for an amount equal to in the case of—

"(1) the investment credit determined under section 46(a) (other than a credit to which section 48(q)(3) applies), and

"(2) the research credit determined under section 41(a)."

(c) TECHNICAL AMENDMENTS.—

(1) Paragraph (1) of section 28(b) of the 1986 Code is amended by striking out "1988" and inserting in lieu thereof "1989".

(2) Subsection (n) of section 6501 of the 1986 Code is amended by striking out "or 51(j)" and inserting in lieu thereof ", 41(h), or 51(j)".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1988. 26 USC 41 note.

SEC. 4009. ALLOCATION OF RESEARCH AND EXPERIMENTAL EXPENDITURES. 26 USC 861 note.

(a) GENERAL RULE.—For purposes of sections 861(b), 862(b), and 863(b) of the 1986 Code, qualified research and experimental expenditures shall be allocated and apportioned as follows:

(1) Any qualified research and experimental expenditures expended solely to meet legal requirements imposed by a political entity with respect to the improvement or marketing of specific products or processes for purposes not reasonably expected to generate gross income (beyond de minimis amounts) outside the jurisdiction of the political entity shall be allocated only to gross income from sources within such jurisdiction.

(2) In the case of any qualified research and experimental expenditures (not allocated under paragraph (1)) to the extent—

(A) that such expenditures are attributable to activities conducted in the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources within the United States and deducted from such income in determining the amount of taxable income from sources within the United States, and

(B) that such expenditures are attributable to activities conducted outside the United States, 64 percent of such expenditures shall be allocated and apportioned to income from sources outside the United States and deducted from

such income in determining the amount of taxable income from sources outside the United States.

(3) The remaining portion of qualified research and experimental expenditures (not allocated under paragraphs (1) and (2)) shall be apportioned, at the annual election of the taxpayer, on the basis of gross sales or gross income, except that, if the taxpayer elects to apportion on the basis of gross income, the amount apportioned to income from sources outside the United States shall be at least 30 percent of the amount which would be so apportioned on the basis of gross sales.

(b) QUALIFIED RESEARCH AND EXPERIMENTAL EXPENDITURES.—For purposes of this section, the term "qualified research and experimental expenditures" means amounts which are research and experimental expenditures within the meaning of section 174 of the 1986 Code. For purposes of this subsection, rules similar to the rules of subsection (c) of section 174 of the 1986 Code shall apply.

(c) SPECIAL RULES FOR EXPENDITURES ATTRIBUTABLE TO ACTIVITIES CONDUCTED IN SPACE, ETC.—

(1) IN GENERAL.—Any qualified research and experimental expenditures described in paragraph (2)—

(A) if incurred by a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted in the United States, and

(B) if incurred by a person other than a United States person, shall be allocated and apportioned under this section in the same manner as if they were attributable to activities conducted outside the United States.

(2) DESCRIPTION OF EXPENDITURES.—For purposes of paragraph (1), qualified research and experimental expenditures are described in this paragraph if such expenditures are attributable to activities conducted—

(A) in space,

(B) on or under water not within the jurisdiction (as recognized by the United States) of a foreign country, possession of the United States, or the United States, or

(C) in Antarctica.

(d) AFFILIATED GROUP.—

(1) Except as provided in paragraph (2), the allocation and apportionment required by subsection (a) shall be determined as if all members of the affiliated group (as defined in subsection (e)(5) of section 864 of the 1986 Code) were a single corporation.

(2) For purposes of the allocation and apportionment required by subsection (a)—

(A) sales and gross income from products produced in whole or in part in a possession by an electing corporation (within the meaning of section 936(h)(5)(E) of the 1986 Code); and

(B) dividends from an electing corporation,

shall not be taken into account, except that this paragraph shall not apply to sales of (and gross income and dividends attributable to sales of) products with respect to which an election under section 936(h)(5)(F) of the 1986 Code is not in effect.

(3) The qualified research and experimental expenditures taken into account for purposes of subsection (a) shall be adjusted to reflect the amount of such expenditures included in

computing the cost-sharing amount (determined under section 936(h)(5)(C)(i)(I) of the 1986 Code).

(4) The Secretary of the Treasury or his delegate may prescribe such regulations as may be necessary to carry out the purposes of this subsection, including regulations providing for the source of gross income and the allocation and apportionment of deductions to take into account the adjustments required by paragraph (3).

(5) Paragraph (6) of section 864(e) of the 1986 Code shall not apply to qualified research and experimental expenditures.

(e) YEARS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—Except as provided in this subsection, this section shall apply to the taxpayer's 1st taxable year beginning after August 1, 1987.

(2) REDUCTION IN AMOUNTS TO WHICH SECTION APPLIES.—Notwithstanding paragraph (1), this section shall only apply to that portion of the qualified research and experimental expenditures for the taxable year referred to in paragraph (1) which bears the same ratio to the total amount of such expenditures as—

(A) the lesser of 4 months or the number of months in the taxable year, bears to

(B) the number of months in the taxable year.

SEC. 4010. EXTENSION AND MODIFICATION OF TARGETED JOBS CREDIT.

(a) 2-YEAR EXTENSION.—Paragraph (4) of section 51(c) of the 1986 Code (relating to termination) is amended by striking out "December 31, 1988" and inserting in lieu thereof "December 31, 1989".

(b) EXTENSION OF AUTHORIZATION.—Paragraph (2) of section 261(f) of the Economic Recovery Tax Act of 1981 is amended by striking out "and 1988" and inserting in lieu thereof "1988, and 1989". 26 USC 51 note.

(c) ECONOMICALLY DISADVANTAGED YOUTH STATUS RESTRICTED TO INDIVIDUALS UNDER AGE 23.—

(1) IN GENERAL.—Subparagraph (B) of section 51(d)(3) of the 1986 Code is amended by striking out "age 25" and inserting in lieu thereof "age 23".

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after December 31, 1988. 26 USC 51 note.

(d) REDUCTION IN PERCENTAGE OF CREDIT FOR SUMMER YOUTH EMPLOYEES.—

(1) IN GENERAL.—Subparagraph (B) of section 51(d)(12) of the 1986 Code is amended by striking out clause (i) and by redesignating clauses (ii) and (iii) as clauses (i) and (ii).

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to individuals who begin work for the employer after December 31, 1988. 26 USC 51 note.

SEC. 4011. TREATMENT OF PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES UNDER 2-PERCENT FLOOR.

(a) IN GENERAL.—Subsection (c) of section 67 of the 1986 Code, as amended by section 1001(f) of this Act, is amended to read as follows:

"(c) DISALLOWANCE OF INDIRECT DEDUCTION THROUGH PASS-THRU ENTITY.—

"(1) IN GENERAL.—The Secretary shall prescribe regulations which prohibit the indirect deduction through pass-thru entities of amounts which are not allowable as a deduction if paid or incurred directly by an individual and which contain such Regulations.

reporting requirements as may be necessary to carry out the purposes of this subsection.

"(2) TREATMENT OF PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES.—

"(A) IN GENERAL.—Paragraph (1) shall not apply with respect to any publicly offered regulated investment company.

"(B) PUBLICLY OFFERED REGULATED INVESTMENT COMPANIES.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'publicly offered regulated investment company' means a regulated investment company the shares of which are—

"(I) continuously offered pursuant to a public offering (within the meaning of section 4 of the Securities Act of 1933, as amended (15 U.S.C. 77a to 77aa)),

"(II) regularly traded on an established securities market, or

"(III) held by or for no fewer than 500 persons at all times during the taxable year.

"(ii) SECRETARY MAY REDUCE 500 PERSON REQUIREMENT.—The Secretary may by regulation decrease the minimum shareholder requirement of clause (i)(III) in the case of regulated investment companies which experience a loss of shareholders through net redemptions of their shares.

"(3) TREATMENT OF CERTAIN OTHER ENTITIES.—Paragraph[c](1) shall not apply—

"(A) with respect to cooperatives and real estate investment trusts, and

"(B) except as provided in regulations, with respect to estates and trusts.

"(4) TERMINATION.—This subsection shall not apply to any taxable year beginning after December 31, 1989."

26 USC 67 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987.

SEC. 4012. EXTENSION AND MODIFICATIONS OF PROVISIONS RELATING TO FINANCIAL INSTITUTIONS.

(a) 1-YEAR EXTENSION.—

26 USC 368 note. (1) REORGANIZATIONS.—Paragraph (1) of section 904(c) of the Reform Act is amended by striking out "December 31, 1988" and inserting in lieu thereof "December 31, 1989".

26 USC 597 note. (2) FSLIC FINANCIAL ASSISTANCE.—Paragraph (2)(A) of section 904(c) of the Reform Act is amended by striking out "December 31, 1988" and inserting in lieu thereof "December 31, 1989".

(3) NET OPERATING LOSS RULES.—The last sentence of section 382(l)(5)(F) of the 1986 Code is amended by striking out "December 31, 1988" and inserting in lieu thereof "December 31, 1989".

(b) APPLICATION OF CERTAIN PROVISIONS TO BANKS.—

(1) SPECIAL RULES FOR REORGANIZATIONS AND NET OPERATING LOSSES.—

(A) Section 368(a)(3)(D) of the 1986 Code (as in effect before the amendment made by section 904(a) of the Reform Act) is amended by adding at the end thereof the following new clauses:

"(iv) In the case of a financial institution to which section 585 applies—

"(I) the term 'title 11 or similar case' means only a case in which the applicable authority (which shall be treated as the court in such case) makes the certification described in subclause (II), and

"(II) clause (ii) shall apply to such institution, except that for purposes of clause (ii)(III), the applicable authority must certify that the grounds set forth in such clause (modified in such manner as the Secretary determines necessary because such institution is not an institution to which section 593 applies) exist with respect to such transferor or will exist in the near future in the absence of action by the applicable authority.

For purposes of this clause, the term 'applicable authority' means the Comptroller of the Currency or the Federal Deposit Insurance Corporation, or if neither has the supervisory authority with respect to the transfer, the equivalent State authority.

"(v) For purposes of this subparagraph, in applying section 593, the determination as to whether a corporation is a domestic building and loan association shall be made without regard to section 7701(a)(19)(C)."

(B) Subclause (I) of section 382(l)(5)(F)(iii) of the 1986 Code is amended by inserting "(as modified by section 368(a)(3)(D)(iv))" after "section 368(a)(3)(D)(ii)".

(C)(i) The amendment made by subparagraph (A) shall apply to acquisitions after the date of the enactment of this Act and before January 1, 1990. 26 USC 368 note.

(ii) The amendment made by subparagraph (B) shall apply to any ownership change occurring after the date of the enactment of this Act and before January 1, 1990. 26 USC 382 note.

(2) ASSISTANCE PAYMENTS.—

(A) Section 597(a) of the 1986 Code (as in effect before the amendments made by section 904(b) of the Reform Act) is amended by adding at the end thereof the following new sentence: "Gross income of a bank does not include any amount of money or other property received from the Federal Deposit Insurance Corporation pursuant to sections 13(c), 15(c)(1), and 15(c)(2) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f) and 1823 (c)(1) and (c)(2)), regardless of whether any note or other instrument is issued in exchange therefor."

(B) Section 597(b) of the 1986 Code, as amended by subsection (c)(1), is amended by adding at the end thereof the following new subsection:

"(d) DOMESTIC BUILDING AND LOAN ASSOCIATION.—For purposes of this section, the term 'domestic building and loan association' has the meaning given such term by section 7701(a)(19) without regard to subparagraph (C) thereof."

(C) Section 597(b) of the 1986 Code (as so in effect) is amended by inserting "or bank" after "association".

(D)(i) The heading for section 597 of the 1986 Code (as so in effect) is amended by inserting "or FDIC" after "FSLIC".

(ii) The item relating to section 597 in part II of subchapter H of chapter 1 of the 1986 Code (as so in effect) is amended by inserting "or FDIC" after "FSLIC".

26 USC 597 note.

(E) The amendments made by this paragraph shall apply to any transfer—

(i) after the date of the enactment of this Act, and before January 1, 1990, unless such transfer is pursuant to an acquisition occurring on or before such date of enactment, and

(ii) after December 31, 1989, if such transfer is pursuant to an acquisition occurring after such date of enactment and before January 1, 1990.

(c) CERTAIN TAX ATTRIBUTES REDUCED BY 50 PERCENT OF FINANCIAL ASSISTANCE OF FSLIC AND FDIC; APPLICATION OF SECTION 265.—

(1) REDUCTION IN TAX ATTRIBUTES.—Section 597 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(c) REDUCTION OF TAX ATTRIBUTES BY 50 PERCENT OF AMOUNTS EXCLUDABLE UNDER SUBSECTION (a).—

"(1) IN GENERAL.—50 percent of any amount excludable under subsection (a) for any taxable year shall be applied to reduce the tax attributes of the taxpayer as provided in paragraph (2).

"(2) TAX ATTRIBUTES REDUCED; ORDER OF REDUCTION.—The reduction referred to in paragraph (1) shall be made in the following tax attributes in the following order:

"(A) NOL.—Any pre-assistance net operating loss for the taxable year.

"(B) INTEREST.—The amount of any interest with respect to which a deduction is allowable for the taxable year.

"(C) BUILT-IN PORTFOLIO LOSSES.—Recognized built-in portfolio losses for the taxable year.

"(3) PRE-ASSISTANCE NET OPERATING LOSS.—For purposes of paragraph (2)(A)—

"(A) IN GENERAL.—The pre-assistance net operating loss shall be determined in the same manner as a pre-change loss under section 382(d), except that—

"(i) the applicable financial institution shall be treated as the old loss corporation, and

"(ii) the determination date shall be substituted for the change date.

"(B) ORDERING RULE.—The reduction under paragraph (2)(A) shall be made in the carryovers in the order in which carryovers are taken into account under this chapter for the taxable year.

"(4) RECOGNIZED BUILT-IN PORTFOLIO LOSSES.—For purposes of paragraph (2)(C), recognized built-in portfolio losses shall be determined in the same manner as recognized built-in losses under section 382(h), except that—

"(A) the only assets taken into account shall be—

"(i) the loan portfolio,

"(ii) marketable securities (within the meaning of section 453(f)(2)), and

"(iii) property described in section 595(a),

"(B) the rules of clauses (i) and (ii) of paragraph (3)(A) shall apply,

"(C) there shall be no limit on the number of years in the recognition period, and

"(D) section 382(h) shall be applied without regard to paragraph (3)(B) thereof.

"(5) DEFINITIONS AND SPECIAL RULES.—For purposes of this subsection—

"(A) APPLICABLE FINANCIAL INSTITUTION.—The term 'applicable financial institution' means the domestic building and loan association or bank the financial condition of which was determined by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation to require the financial assistance described in subsection (a).

"(B) DETERMINATION DATE.—The term 'determination date' means the date of the determination under subparagraph (A). Except as provided by the Secretary, any subsequent revision or modification of such determination shall be treated as made on the original determination date.

"(C) TAXABLE ASSET ACQUISITIONS.—

"(i) IN GENERAL.—In the case of any acquisition of the assets of any applicable financial institution to which section 381 does not apply—

"(I) paragraph (1) shall not apply to any amounts excludable under subsection (a) which are payments made at the time of the acquisition to the person acquiring such assets, and

"(II) rights to receive future payments excludable under subsection (a) in connection with the acquisition shall be treated as provided in clause (ii).

"(ii) TREATMENT OF FUTURE PAYMENTS.—

"(I) IN GENERAL.—Rights to receive future payments described in clause (i)(II) shall be treated as assets to which basis is allocated.

"(II) RECOVERY OF BASIS.—Any basis allocated under subclause (I) shall be recovered in such manner as the Secretary may provide, but in no event shall the amount recovered for any taxable year beginning before the taxable year in which the rights expire exceed the aggregate payments received with respect to such rights for all taxable years reduced by the amount of basis recovered with respect to such rights in preceding taxable years.

"(III) APPLICATION OF PARAGRAPH (1).—Paragraph (1) shall apply to payments described in subclause (I) in a taxable year only to the extent such payments exceed the amount of basis recovered in such taxable year.

"(D) TREATMENT OF REPAYMENTS.—If a taxpayer repays an amount to which paragraph (1) applied in a preceding taxable year, there shall be allowed as a deduction for the taxable year of repayment an amount equal to the reduction in tax attributes under paragraph (1) attributable to the amount repaid.

"(E) CARRYOVERS.—If 50 percent of the amount excludable under subsection (a) for any taxable year exceeds the

amount of the tax attributes described in paragraph (2) for such taxable year, then, for purposes of this subsection, the amount excludable under subsection (a) for the succeeding taxable year shall be increased by an amount equal to twice the amount of such excess.

"(F) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this subsection."

26 USC 597 note.

(2) APPLICATION OF SECTION 265.—Subparagraph (B) of section 904(c)(2) of the Reform Act is amended by striking out "Section 265(a)(1)" and inserting in lieu thereof "Section 265".

26 USC 597 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any transfer—

(A) after December 31, 1988, and before January 1, 1990, unless such transfer is pursuant to an acquisition occurring before January 1, 1989, and

(B) after December 31, 1989, if such transfer is pursuant to an acquisition occurring after December 31, 1988, and before January 1, 1990.

In the case of a taxpayer to which the amendments made by subsection (b)(1) apply, subparagraphs (A) and (B) shall be applied by substituting "the date of the enactment of this Act" for "December 31, 1988".

TITLE V—REVENUE INCREASE PROVISIONS

Subtitle A—Corporate Estimated Taxes

SEC. 5001. CORPORATE ESTIMATED TAX PAYMENTS.

(a) GENERAL RULE.—Paragraph (1) of section 6655(e) of the 1986 Code (relating to annualization) is amended by striking out the last sentence.

26 USC 6655 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to installments required to be made after December 31, 1988.

Subtitle B—Insurance Provisions

SEC. 5011. LIMITATION ON UNREASONABLE MORTALITY AND OTHER EXPENSE CHARGES UNDER SECTION 7702.

(a) GENERAL RULE.—Subparagraph (B) of section 7702(c)(3) of the 1986 Code (relating to guideline premium requirements) is amended by striking out clauses (i) and (ii) and inserting in lieu thereof the following:

"(i) reasonable mortality charges which meet the requirements (if any) prescribed in regulations and which (except as provided in regulations) do not exceed the mortality charges specified in the prevailing commissioners' standard tables (as defined in section 807(d)(5)) as of the time the contract is issued,

"(ii) any reasonable charges (other than mortality charges) which (on the basis of the company's experi-

ence, if any, with respect to similar contracts) are reasonably expected to be actually paid, and".

(b) SPECIAL RULES.—Paragraph (3) of section 7702(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) SPECIAL RULES FOR SUBPARAGRAPH (B)(ii).—

"(i) CHARGES NOT SPECIFIED IN THE CONTRACT.—If any charge is not specified in the contract, the amount taken into account under subparagraph (B)(ii) for such charge shall be zero.

"(ii) NEW COMPANIES, ETC.—If any company does not have adequate experience for purposes of the determination under subparagraph (B)(ii), to the extent provided in regulations, such determination shall be made on the basis of the industry-wide experience."

(c) INTERIM RULES.— 26 USC 7702 note.

(1) REGULATIONS.—Not later than January 1, 1990, the Secretary of the Treasury (or his delegate) shall issue regulations under section 7702(c)(3)(B)(i) of the 1986 Code (as amended by subsection (a)).

(2) STANDARDS BEFORE REGULATIONS TAKE EFFECT.—In the case of any contract to which the amendments made by this section apply and which is issued before the effective date of the regulations required under paragraph (1), mortality charges which do not differ materially from the charges actually expected to be imposed by the company (taking into account any relevant characteristic of the insured of which the company is aware) shall be treated as meeting the requirements of clause (i) of section 7702(c)(3)(B) of the 1986 Code (as amended by subsection (a)).

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to contracts entered into on or after October 21, 1988. 26 USC 7702 note.

SEC. 5012. TREATMENT OF MODIFIED ENDOWMENT CONTRACTS.

(a) DISTRIBUTION RULES.—

(1) IN GENERAL.—Subsection (e) of section 72 of the 1986 Code (relating to amounts not received as annuities) is amended by adding at the end thereof the following new paragraph:

"(10) TREATMENT OF MODIFIED ENDOWMENT CONTRACTS.—

"(A) IN GENERAL.—Notwithstanding paragraph (5)(C), in the case of any modified endowment contract (as defined in section 7702A)—

"(i) paragraphs (2)(B) and (4)(A) shall apply, and

"(ii) in applying paragraph (4)(A), 'any person' shall be substituted for 'an individual'.

"(B) TREATMENT OF CERTAIN BURIAL CONTRACTS.—Notwithstanding subparagraph (A), paragraph (4)(A) shall not apply to any assignment (or pledge) of a modified endowment contract if such assignment (or pledge) is solely to cover the payment of expenses referred to in section 7702(e)(2)(C)(iii) and if the maximum death benefit under such contract does not exceed $25,000."

(2) TECHNICAL AMENDMENT.—Subparagraph (C) of section 72(e)(5) of the 1986 Code is amended by striking out "Except to the extent" and inserting in lieu thereof "Except as provided in paragraph (10) and except to the extent".

(b) ADDITIONAL TAX.—

(1) IN GENERAL.—Section 72 of the 1986 Code (relating to annuities; certain proceeds of endowment and life insurance contracts) is amended by redesignating subsection (v) as subsection (w) and by inserting after subsection (u) the following new subsection:

"(v) 10-PERCENT ADDITIONAL TAX FOR TAXABLE DISTRIBUTIONS FROM MODIFIED ENDOWMENT CONTRACTS.—

"(1) IMPOSITION OF ADDITIONAL TAX.—If any taxpayer receives any amount under a modified endowment contract (as defined in section 7702A), the taxpayer's tax under this chapter for the taxable year in which such amount is received shall be increased by an amount equal to 10 percent of the portion of such amount which is includible in gross income.

"(2) SUBSECTION NOT TO APPLY TO CERTAIN DISTRIBUTIONS.—Paragraph (1) shall not apply to any distribution—

"(A) made on or after the date on which the taxpayer attains age 59½,

"(B) which is attributable to the taxpayer's becoming disabled (within the meaning of subsection (m)(7)), or

"(C) which is part of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the taxpayer or the joint lives (or joint life expectancies) of such taxpayer and his beneficiary."

(2) TECHNICAL AMENDMENT.—Subparagraph (C) of section 26(b)(2) of the 1986 Code is amended by striking out "or (q)" and inserting in lieu thereof "(q), or (v)".

(c) MODIFIED ENDOWMENT CONTRACT DEFINED.—

(1) IN GENERAL.—Chapter 79 of the 1986 Code is amended by inserting after section 7702 the following new section:

"SEC. 7702A. MODIFIED ENDOWMENT CONTRACT DEFINED.

"(a) GENERAL RULE.—For purposes of section 72, the term 'modified endowment contract' means any contract meeting the requirements of section 7702—

"(1) which—

"(A) is entered into on or after June 21, 1988, and

"(B) fails to meet the 7-pay test of subsection (b), or

"(2) which is received in exchange for a contract described in paragraph (1).

"(b) 7-PAY TEST.—For purposes of subsection (a), a contract fails to meet the 7-pay test of this subsection if the accumulated amount paid under the contract at any time during the 1st 7 contract years exceeds the sum of the net level premiums which would have been paid on or before such time if the contract provided for paid-up future benefits after the payment of 7 level annual premiums.

"(c) COMPUTATIONAL RULES.—

"(1) IN GENERAL.—Except as provided in this subsection, the determination under subsection (b) of the 7 level annual premiums shall be made—

"(A) as of the time the contract is issued, and

"(B) by applying the rules of section 7702(b)(2) and of section 7702(e) (other than paragraph (2)(C) thereof), except that the death benefit provided for the 1st contract year shall be deemed to be provided until the maturity date without regard to any scheduled reduction after the 1st 7 contract years.

"(2) REDUCTION IN BENEFITS DURING 1ST 7 YEARS.—

"(A) IN GENERAL.—If there is a reduction in benefits under the contract within the 1st 7 contract years, this section shall be applied as if the contract had originally been issued at the reduced benefit level.

"(B) REDUCTIONS ATTRIBUTABLE TO NONPAYMENT OF PREMIUMS.—Any reduction in benefits attributable to the nonpayment of premiums due under the contract shall not be taken into account under subparagraph (A) if the benefits are reinstated within 90 days after the reduction in such benefits.

"(3) TREATMENT OF MATERIAL CHANGES.—

"(A) IN GENERAL.—If there is a material change in the benefits under (or in other terms of) the contract which was not reflected in any previous determination under this section, for purposes of this section—

"(i) such contract shall be treated as a new contract entered into on the day on which such material change takes effect, and

"(ii) appropriate adjustments shall be made in determining whether such contract meets the 7-pay test of subsection (b) to take into account the cash surrender value under the contract.

"(B) TREATMENT OF CERTAIN INCREASES IN FUTURE BENEFITS.—For purposes of subparagraph (A), the term 'material change' includes any increase in future benefits under the contract.

Such term shall not include—

"(i) any increase which is attributable to the payment of premiums necessary to fund the lowest level of future benefits payable in the 1st 7 contract years (determined after taking into account death benefit increases described in subparagraph (A) or (B) of section 7702(e)(2)) or to crediting of interest or other earnings (including policyholder dividends) in respect of such premiums, and

"(ii) to the extent provided in regulations, any cost-of-living increase based on an established broad-based index if such increase is funded ratably over the remaining life of the the contract.

"(4) SPECIAL RULE FOR CONTRACTS WITH DEATH BENEFITS UNDER $10,000.—In the case of a contract—

"(A) which provides an initial death benefit of $10,000 or less, and

"(B) which requires at least 7 nondecreasing annual premium payments,

each of the 7 level annual premiums determined under subsection (b) (without regard to this paragraph) shall be increased by $75. For purposes of this paragraph, the contract involved and all contracts previously issued to the same insurer by the same company shall be treated as one contract.

"(5) REGULATORY AUTHORITY FOR CERTAIN COLLECTION EXPENSES.—The Secretary may by regulations prescribe rules for taking into account expenses solely attributable to the collection of premiums paid more frequently than annually.

"(d) DISTRIBUTIONS AFFECTED.—If a contract fails to meet the 7-pay test of subsection (b), such contract shall be treated as failing to meet such requirements only in the case of—

"(1) distributions during the contract year in which the failure takes effect and during any subsequent contract year, and

"(2) under regulations prescribed by the Secretary, distributions (not described in paragraph (1)) in anticipation of such failure.

For purposes of the preceding sentence, any distribution which is made within 2 years before the failure to meet the 7-pay test shall be treated as made in anticipation of such failure.

"(e) DEFINITIONS.—For purposes of this section—

"(1) AMOUNT PAID.—

"(A) IN GENERAL.—The term 'amount paid' means—

"(i) the premiums paid under the contract, reduced by

"(ii) amounts to which section 72(e) applies (determined without regard to paragraph (4)(A) thereof) but not including amounts includible in gross income.

"(B) TREATMENT OF CERTAIN PREMIUMS RETURNED.—If, in order to comply with the requirements of subsection (b), any portion of any premium paid during any contract year is returned by the insurance company (with interest) within 60 days after the end of such contract year, the amount so returned (excluding interest) shall be deemed to reduce the sum of the premiums paid under the contract during such contract year.

"(C) INTEREST RETURNED INCLUDIBLE IN GROSS INCOME.—Notwithstanding the provisions of section 72(e), the amount of any interest returned as provided in subparagraph (B) shall be includible in the gross income of the recipient.

"(2) CONTRACT YEAR.—The term 'contract year' means the 12-month period beginning with the 1st month for which the contract is in effect, and each 12-month period beginning with the corresponding month in subsequent calendar years.

"(3) OTHER TERMS.—Except as otherwise provided in this section, terms used in this section shall have the same meaning as when used in section 7702."

(2) CLERICAL AMENDMENT.—The table of sections for chapter 79 of the 1986 Code is amended by inserting after the item relating to section 7702 the following new item:

"Sec. 7702A. Modified endowment contract defined."

(d) OTHER MODIFICATIONS.—

(1) TREATMENT OF LOANS.—Subparagraph (A) of section 72(e)(4) of the 1986 Code (relating to loans treated as distributions) is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply for purposes of determining investment in the contract, except that the investment in the contract shall be increased by any amount included in gross income by reason of the amount treated as received under the preceding sentence."

(2) ANTI-ABUSE RULES.—Subsection (e) of section 72 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) ANTI-ABUSE RULES.—

"(A) IN GENERAL.—For purposes of determining the amount includible in gross income under this subsection—

"(i) all modified endowment contracts issued by the same company to the same policyholder during any 12-month period shall be treated as 1 modified endowment contract, and

"(ii) all annuity contracts issued by the same company to the same policyholder during any 12-month period shall be treated as 1 annuity contract.

"(B) REGULATORY AUTHORITY.—The Secretary may by regulations prescribe such additional rules as may be necessary or appropriate to prevent avoidance of the purposes of this subsection through serial purchases of contracts or otherwise."

(e) EFFECTIVE DATES.— 26 USC 7702A note.

(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section shall apply to contracts entered into on or after June 21, 1988.

(2) SPECIAL RULE WHERE DEATH BENEFIT INCREASES BY MORE THAN $150,000.—If the death benefit under the contract increases by more than $150,000 over the death benefit under the contract in effect on October 20, 1988, the rules of section 7702A(c)(3) of the 1986 Code (as added by this section) shall apply in determining whether such contract is issued on or after June 21, 1988. The preceding sentence shall not apply in the case of a contract which, as of June 21, 1988, required at least 7 level annual premium payments and under which the policyholder continues to make level annual premium payments over the life of the contract.

(3) CERTAIN OTHER MATERIAL CHANGES TAKEN INTO ACCOUNT.—A contract entered into before June 21, 1988, shall be treated as entered into after such date if—

(A) on or after June 21, 1988, the death benefit under the contract is increased (or a qualified additional benefit is increased or added) and before June 21, 1988, the owner of the contract did not have a unilateral right under the contract to obtain such increase or addition without providing additional evidence of insurability, or

(B) the contract is converted after June 20, 1988, from a term life insurance contract to a life insurance contract providing coverage other than term life insurance coverage without regard to any right of the owner of the contract to such conversion.

(4) CERTAIN EXCHANGES PERMITTED.—In the case of a modified endowment contract which—

(A) required at least 7 annual level premium payments,

(B) is entered into after June 20, 1988, and before the date of the enactment of this Act, and

(C) is exchanged within 3 months after such date of enactment for a life insurance contract which meets the requirements of section 7702A(b),

the contract which is received in exchange for such contract shall not be treated as a modified endowment contract if the taxpayer elects, notwithstanding section 1035 of the 1986 Code, to recognize gain on such exchange.

(5) SPECIAL RULE FOR ANNUITY CONTRACTS.—In the case of annuity contracts, the amendments made by subsection (d) shall apply to contracts entered into after October 21, 1988.

SEC. 5013. VALUATION OF GROUP-TERM LIFE INSURANCE.

(a) GENERAL RULE.—Subsection (c) of section 79 of the 1986 Code (relating to the determination of the cost of insurance) is amended by striking out the last sentence.

26 USC 79 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

SEC. 5014. STUDY.

(a) GENERAL RULE.—The Secretary of the Treasury and the Comptroller General of the United States shall each conduct a study on—

(1) the effectiveness of the revised tax treatment of life insurance and annuity products in preventing the sale of life insurance primarily for investment purposes, and

(2) the policy justification for, and the practical implications of, the present-law treatment of the earnings on the cash surrender value of life insurance and annuity contracts in light of the reforms made by the Tax Reform Act of 1986.

(b) REPORT.—Not later than June 1, 1989, the Secretary of the Treasury and the Comptroller General of the United States shall each submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the study conducted under subsection (a), together with such recommendations as they may deem advisable.

Subtitle C—Loss Transfer Rules for Alaska Native Corporations

26 USC 1504 note.

SEC. 5021. REPEAL OF RULES PERMITTING LOSS TRANSFERS BY ALASKA NATIVE CORPORATIONS.

(a) GENERAL RULE.—Nothing in section 60(b)(5) of the Tax Reform Act of 1984 (as amended by section 1804(e)(4) of the Tax Reform Act of 1986)—

(1) shall allow any loss (or credit) of any corporation which arises after April 26, 1988, to be used to offset the income (or tax) of another corporation if such use would not be allowable without regard to such section 60(b)(5) as so amended, or

(2) shall allow any loss (or credit) of any corporation which arises on or before such date to be used to offset disqualified income (or tax attributable to such income) of another corporation if such use would not be allowable without regard to such section 60(b)(5) as so amended.

(b) EXCEPTION FOR EXISTING CONTRACTS.—

(1) IN GENERAL.—Subsection (a) shall not apply to any loss (or credit) of any corporation if—

(A) such corporation was in existence on April 26, 1988, and

(B) such loss (or credit) is used to offset income assigned (or attributable to property contributed) pursuant to a binding contract entered into before July 26, 1988.

(2) $40,000,000 LIMITATION.—The aggregate amount of losses (and the deduction equivalent of credits as determined in the same manner as under section 469(j)(5) of the 1986 Code) to which paragraph (1) applies with respect to any corporation shall not exceed $40,000,000. For purposes of this paragraph, a Native Corporation and all other corporations all of the stock of which is owned directly by such corporation shall be treated as 1 corporation.

(3) SPECIAL RULE FOR CORPORATIONS UNDER TITLE 11.—In the case of a corporation which on April 26, 1988, was under the jurisdiction of a Federal district court under title 11 of the United States Code—

(A) paragraph (1)(B) shall be applied by substituting the date 1 year after the date of the enactment of this Act for "July 26, 1988",

(B) paragraph (1) shall not apply to any loss or credit which arises on or after the date 1 year after the date of the enactment of this Act, and

(C) paragraph (2) shall be applied by substituting "$99,000,000" for "$40,000,000".

(c) SPECIAL ADMINISTRATIVE RULES.—

(1) NOTICE TO NATIVE CORPORATIONS OF PROPOSED TAX ADJUSTMENTS.—Notwithstanding section 6103 of the 1986 Code, the Secretary of the Treasury or his delegate shall notify a Native Corporation or its designated representative of any proposed adjustment—

(A) of the tax liability of a taxpayer which has contracted with the Native Corporation (or other corporation all of the stock of which is owned directly by the Native Corporation) for the use of losses of such Native Corporation (or such other corporation), and

(B) which is attributable to an asserted overstatement of losses by, or misassignment of income (or income attributable to property contributed) to, an affiliated group of which the Native Corporation (or such other corporation) is a member.

Such notice shall only include information with respect to the transaction between the taxpayer and the Native Corporation.

(2) RIGHTS OF NATIVE CORPORATION.—

(A) IN GENERAL.—If a Native Corporation receives a notice under paragraph (1), the Native Corporation shall have the right to—

(i) submit to the Secretary of the Treasury or his delegate a written statement regarding the proposed adjustment, and

(ii) meet with the Secretary of the Treasury or his delegate with respect to such proposed adjustment.

The Secretary of the Treasury or his delegate may discuss such proposed adjustment with the Native Corporation or its designated representative.

(B) EXTENSION OF STATUTE OF LIMITATIONS.—Subparagraph (A) shall not apply if the Secretary of the Treasury or his delegate determines that an extension of the statute of limitation is necessary to permit the participation described in subparagraph (A) and the taxpayer and the Secretary or his delegate have not agreed to such extension.

(3) JUDICIAL PROCEEDINGS.—In the case of any proceeding in a Federal court or the United States Tax Court involving a proposed adjustment under paragraph (1), the Native Corporation, subject to the rules of such court, may file an amicus brief concerning such adjustment.

(4) FAILURES.—For purposes of the 1986 Code, any failure by the Secretary of the Treasury or his delegate to comply with the provisions of this subsection shall not affect the validity of the determination of the Internal Revenue Service of any adjustment of tax liability of any taxpayer described in paragraph (1).

(d) DISQUALIFIED INCOME DEFINED.—For purposes of subsection (a), the term "disqualified income" means any income assigned (or attributable to property contributed) after April 26, 1988, by a person who is not a Native Corporation or a corporation all the stock of which is owned directly by a Native Corporation.

(e) BASIS DETERMINATION.—For purposes of determining basis for Federal tax purposes, no provision in any law (whether enacted before, on, or after the date of the enactment of this Act) shall affect the date on which the transfer to the Native Corporation is made. The preceding sentence shall apply to all taxable years whether beginning before, on, or after such date of enactment.

Subtitle D—Estate and Gift Tax Provisions

SEC. 5031. VALUATION TABLES.

(a) GENERAL RULE.—Chapter 77 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7520. VALUATION TABLES.

"(a) GENERAL RULE.—For purposes of this title, the value of any annuity, any interest for life or a term of years, or any remainder or reversionary interest shall be determined—

"(1) under tables prescribed by the Secretary, and

"(2) by using an interest rate (rounded to the nearest 2/10ths of 1 percent) equal to 120 percent of the Federal midterm rate in effect under section 1274(d)(1) for the month in which the valuation date falls.

If an income, estate, or gift tax charitable contribution is allowable for any part of the property transferred, the taxpayer may elect to use such Federal midterm rate for either of the 2 months preceding the month in which the valuation date falls for purposes of paragraph (2). In the case of transfers of more than 1 interest in the same property with respect to which the taxpayer may use the same rate under paragraph (2), the taxpayer shall use the same rate with respect to each such interest.

"(b) SECTION NOT TO APPLY FOR CERTAIN PURPOSES.—This section shall not apply for purposes of part I of subchapter D of chapter 1 or any other provision specified in regulations.

"(c) TABLES.—

"(1) IN GENERAL.—The tables prescribed by the Secretary for purposes of subsection (a) shall contain valuation factors for a series of interest rate categories.

"(2) INITIAL TABLE.—Not later than the day 3 months after the date of the enactment of this section, the Secretary shall prescribe initial tables for purposes of subsection (a). Such tables

may be based on the same mortality experience as used for purposes of section 2031 on the date of the enactment of this section.

"(3) REVISION FOR RECENT MORTALITY CHARGES.—Not later than December 31, 1989, the Secretary shall revise the initial tables prescribed for purposes of subsection (a) to take into account the most recent mortality experience available as of the time of such revision. Such tables shall be revised not less frequently than once each 10 years thereafter to take into account the most recent mortality experience available as of the time of the revision.

"(d) VALUATION DATE.—For purposes of this section, the term 'valuation date' means the date as of which the valuation is made.

"(e) TABLES TO INCLUDE FORMULAS.—For purposes of this section, the term 'tables' includes formulas."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7520. Valuation tables."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply in cases where the date as of which the valuation is to be made occurs on or after the 1st day of the 6th calendar month beginning after the date of the enactment of this Act. 26 USC 7520 note.

SEC. 5032. RATE SCHEDULE FOR TAX ON ESTATES OF NONRESIDENTS NOT CITIZENS.

(a) GENERAL RULE.—Subsection (b) of section 2101 of the 1986 Code (relating to computation of tax) is amended by striking out "a tentative tax computed in accordance with the rate schedule set forth in subsection (d)" each place it appears and inserting in lieu thereof "a tentative tax computed under section 2001(c)".

(b) AMOUNT OF UNIFIED CREDIT.—

(1) IN GENERAL.—Subsection (c) of section 2102 of the 1986 Code is amended—

(A) by striking out "$3,600" in paragraphs (1) and (2)(A) and inserting in lieu thereof "$13,000", and

(B) by striking out "$15,075" in paragraph (2)(B) and inserting in lieu thereof "$46,800".

(2) COORDINATION WITH TREATIES, ETC.—Paragraph (3) of section 2102(c) of the 1986 Code is amended to read as follows:

"(3) SPECIAL RULES.—

"(A) COORDINATION WITH TREATIES.—To the extent required under any treaty obligation of the United States, the credit allowed under this subsection shall be equal to the amount which bears the same ratio to $192,800 as the value of the part of the decedent's gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

"(B) COORDINATION WITH GIFT TAX UNIFIED CREDIT.—If a credit has been allowed under section 2505 with respect to any gift made by the decedent, each dollar amount contained in paragraph (1) or (2) or subparagraph (A) of this paragraph (whichever applies) shall be reduced by the amount so allowed."

(c) TECHNICAL AMENDMENT.—Subsection (d) of section 2101 of the 1986 Code is hereby repealed.

26 USC 2101 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to the estates of decedents dying after the date of the enactment of this Act.

SEC. 5033. DISALLOWANCE OF MARITAL DEDUCTION WHERE SPOUSE IS NOT CITIZEN OF UNITED STATES.

(a) ESTATE TAX.—

(1) IN GENERAL.—Section 2056 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) DISALLOWANCE OF MARITAL DEDUCTION WHERE SURVIVING SPOUSE NOT UNITED STATES CITIZEN.—

"(1) IN GENERAL.—Except as provided in paragraph (2), if the surviving spouse of the decedent is not a citizen of the United States—

"(A) no deduction shall be allowed under subsection (a), and

"(B) section 2040(b) shall not apply.

"(2) MARITAL DEDUCTION ALLOWED FOR CERTAIN TRANSFERS IN TRUST.—

"(A) IN GENERAL.—Paragraph (1) shall not apply to any property passing to the surviving spouse in a qualified domestic trust.

"(B) PROPERTY PASSING OUTSIDE OF PROBATE ESTATE.—If any property passes from the decedent to the surviving spouse of the decedent outside of the decedent's probate estate, for purposes of subparagraph (A), such property shall be treated as passing to such spouse in a qualified domestic trust if such property is transferred to such a trust before the day on which the return of the tax imposed by section 2001 is made.

"(3) ALLOWANCE OF CREDIT TO CERTAIN SPOUSES.—If—

"(A) property passes to the surviving spouse of the decedent (hereinafter in this paragraph referred to as the 'first decedent'),

"(B) without regard to this subsection, a deduction would be allowable under subsection (a) with respect to such property, and

"(C) such surviving spouse dies and the estate of such surviving spouse is subject to the tax imposed by section 2001,

the Federal estate tax paid (or treated as paid under section 2056A(b)(6)) by the first decedent with respect to such property shall be allowed as a credit under section 2013 to the estate of such surviving spouse and the amount of such credit shall be determined under such section without regard to when the first decedent died."

(2) TREATMENT OF QUALIFIED DOMESTIC TRUST.—Part IV of subchapter A of chapter 11 of the 1986 Code is amended by inserting after section 2056 the following new section:

"SEC. 2056A. QUALIFIED DOMESTIC TRUST.

"(a) QUALIFIED DOMESTIC TRUST DEFINED.—For purposes of this section and section 2056(d), the term 'qualified domestic trust' means, with respect to any decedent, any trust if—

"(1) the trust instrument requires that all trustees of the trust be individual citizens of the United States or domestic corporations,

"(2) the surviving spouse of the decedent is entitled to all the income from the property in such trust, payable annually or at more frequent intervals,

"(3) such trust meets such requirements as the Secretary may by regulations prescribe to ensure the collection of any tax imposed by subsection (b), and

"(4) an election under this section by the executor of the decedent applies to such trust.

"(b) TAX TREATMENT OF TRUST.—

"(1) IMPOSITION OF ESTATE TAX.—There is hereby imposed an estate tax on—

"(A) any distribution before the date of the death of the surviving spouse from a qualified domestic trust other than a distribution of income required under subsection (a)(2), and

"(B) the value of the property remaining in a qualified domestic trust on the date of the death of the surviving spouse.

"(2) AMOUNT OF TAX.—

"(A) IN GENERAL.—In the case of any taxable event, the amount of the estate tax imposed by paragraph (1) shall be the amount equal to—

"(i) the tax which would have been imposed under section 2001 on the estate of the decedent if the taxable estate of the decedent had been increased by the sum of—

"(I) the amount involved in such taxable event, plus

"(II) the aggregate amount involved in previous taxable events with respect to qualified domestic trusts of such decedent, reduced by

"(ii) the tax which would have been imposed under section 2001 on the estate of the decedent if the taxable estate of the decedent had been increased by the amount referred to in clause (i)(II).

"(B) TENTATIVE TAX WHERE TAX OF DECEDENT NOT FINALLY DETERMINED.—

"(i) IN GENERAL.—If the tax imposed on the estate of the decedent under section 2001 is not finally determined before the taxable event, the amount of the tax imposed by paragraph (1) on such event shall be determined by using the highest rate of tax in effect under section 2001 as of the date of the decedent's death.

"(ii) REFUND OF EXCESS WHEN TAX FINALLY DETERMINED.—If—

"(I) the amount of the tax determined under clause (i), exceeds

"(II) the tax determined under subparagraph (A) on the basis of the final determination of the tax imposed by section 2001 on the estate of the decedent,

such excess shall be allowed as a credit or refund if claim therefore is filed not later than 1 year after the date of such final determination.

"(3) TAX IMPOSED WHERE TRUST CEASES TO QUALIFY.—If any person other than an individual citizen of the United States or a domestic corporation becomes a trustee of a qualified domestic

trust (or such trust ceases to meet the requirements of subsection (a)(3)), the tax imposed by paragraph (1) shall apply as if the surviving spouse died on the date on which such person became such a trustee or the date of such cessation, as the case may be.

"(4) DUE DATE.—The estate tax imposed by paragraph (1) shall be due and payable on the 15th day of the 4th month following the calendar year in which the taxable event occurs.

"(5) LIABILITY FOR TAX.—Each trustee shall be personally liable for the amount of the tax imposed by paragraph (1). Rules similar to the rules of section 2204 shall apply for purposes of the preceding sentence.

"(6) TREATMENT OF TAX.—For purposes of section 2056(d), any tax paid under paragraph (1) shall be treated as a tax paid under section 2001 with respect to the estate of the decedent.

"(7) LIEN FOR TAX.—For purposes of section 6324, any tax imposed by paragraph (1) shall be treated as an estate tax imposed under this chapter with respect to a decedent dying on the date of the taxable event (and the property involved shall be treated as the gross estate of such decedent).

"(8) TAXABLE EVENT.—The term 'taxable event' means the event resulting in tax being imposed under paragraph (1).

"(c) DEFINITIONS.—For purposes of this section—

"(1) PROPERTY INCLUDES INTEREST THEREIN.—The term 'property' includes an interest in property.

"(2) INCOME.—The term 'income' has the meaning given to such term by section 643(b).

"(d) ELECTION.—An election under this section with respect to any trust shall be made by the executor on the return of the tax imposed by section 2001. Such an election, once made, shall be irrevocable."

(3) CLERICAL AMENDMENT.—The table of sections for part IV of subchapter A of chapter 1 of the 1986 Code is amended by inserting after the item relating to section 2056 the following new item:

"Sec. 2056A. Qualified domestic trusts."

(b) GIFT TAX.—Section 2523 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(i) DISALLOWANCE OF MARITAL DEDUCTION WHERE SPOUSE NOT CITIZEN.—If the spouse of the donor is not a citizen of the United States—

"(1) no deduction shall be allowed under this section,

"(2) section 2503(b) shall be applied with respect to gifts made by the donor to such spouse by substituting '$100,000' for '$10,000', and

"(3) the principles of sections 2515 and 2515A (as such sections were in effect before their repeal by the Economic Recovery Tax Act of 1981) shall apply, except that the provisions of such section 2515 providing for an election shall not apply."

(c) ESTATES OF NONRESIDENTS WHO ARE NOT CITIZENS BUT HAVE CITIZENS AS SPOUSES.—Subsection (a) of section 2106 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) MARITAL DEDUCTION ALLOWED WHERE SPOUSE IS CITIZEN.—The amount which would be deductible with respect to property situated in the United States at the time of the decedent's death under the principles of section 2056."

(d) EFFECTIVE DATE.—

(1) The amendments made by subsections (a) and (c) shall apply to estates of the decedents dying after the date of the enactment of this Act. 26 USC 2056 note.

(2) The amendments made by subsection (b) shall apply to gifts on or after July 14, 1988. 26 USC 2523 note.

Subtitle E—Long-Term Contract Provisions

SEC. 5041. LONG-TERM CONTRACT PROVISIONS.

(a) GENERAL RULE.—Subsection (a) of section 460 of the 1986 Code is amended—

(1) by striking out "70 percent" each place it appears (including in the heading of paragraph (2)) and inserting in lieu thereof "90 percent", and

(2) by striking out "30 percent" in paragraph (1)(B) and inserting in lieu thereof "10 percent".

(b) SPECIAL RULES FOR RESIDENTIAL CONSTRUCTION CONTRACTS.—

(1) EXCEPTION FOR HOME CONSTRUCTION CONTRACTS.—Paragraph (1) of section 460(e) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—Subsections (a), (b), and (c) (1) and (2) shall not apply to—

"(A) any home construction contract, or

"(B) any other construction contract entered into by a taxpayer—

"(i) who estimates (at the time such contract is entered into) that such contract will be completed within the 2-year period beginning on the contract commencement date of such contract, and

"(ii) whose average annual gross receipts for the 3 taxable years preceding the taxable year in which such contract is entered into do not exceed $10,000,000.

In the case of a home construction contract with respect to which the requirements of clauses (i) and (ii) of subparagraph (B) are not met, section 263A shall apply notwithstanding subsection (c)(4) thereof."

(2) SPECIAL TREATMENT FOR OTHER RESIDENTIAL CONSTRUCTION CONTRACTS.—Subsection (e) of section 460 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SPECIAL RULE FOR RESIDENTIAL CONSTRUCTION CONTRACTS WHICH ARE NOT HOME CONSTRUCTION CONTRACTS.—In the case of any residential construction contract which is not a home construction contract, subsection (a) shall be applied—

"(A) by substituting '70 percent' for '90 percent' each place it appears, and

"(B) by substituting '30 percent' for '10 percent'."

(3) DEFINITIONS.—Subsection (e) of section 460 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) DEFINITIONS RELATING TO RESIDENTIAL CONSTRUCTION CONTRACTS.—For purposes of this subsection—

"(A) HOME CONSTRUCTION CONTRACT.—The term 'home construction contract' means any construction contract if 80 percent or more of the estimated total contract costs (as of the close of the taxable year in which the contract was

entered into) are reasonably expected to be attributable to the building, construction, reconstruction, or rehabilitation of—

"(i) dwelling units contained in buildings containing 4 or fewer dwelling units, and

"(ii) improvements to real property directly related to such dwelling units and located on the site of such dwelling units.

For purposes of clause (i), each townhouse or rowhouse shall be treated as a separate building.

"(B) RESIDENTIAL CONSTRUCTION CONTRACT.—The term 'residential construction contract' means any contract which would be described in subparagraph (A) if clause (i) of such subparagraph reads as follows:

" '(i) dwelling units (as defined in section 167(k)), and'."

(4) CERTAIN HOME CONSTRUCTION CONTRACTS NOT SUBJECT TO MINIMUM TAX.—Paragraph (3) of section 56(a) of the 1986 Code is amended by adding at the end thereof the following new sentence: "The preceding sentence shall not apply to any home construction contract (as defined in section 460(e)(6)) with respect to which the requirements of clauses (i) and (ii) of section 460(e)(1)(B) are met."

(c) REGULATORY AUTHORITY.—Section 460 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(h) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations to prevent the use of related parties, pass-thru entities, intermediaries, options, or other similar arrangements to avoid the application of this section."

(d) SIMPLIFIED LOOK-BACK METHOD FOR PASS-THRU ENTITIES.—Subsection (b) of section 460 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(5) SIMPLIFIED LOOK-BACK METHOD FOR PASS-THRU ENTITIES.—

"(A) IN GENERAL.—In the case of a pass-thru entity—

"(i) the look-back method of paragraph (3) shall be applied at the entity level,

"(ii) in determining overpayments and underpayments for purposes of applying paragraph (3)(B)—

"(I) any increase in the income under the contract for any taxable year by reason of the allocation under paragraph (3)(A) shall be treated as giving rise to an underpayment determined by applying the highest rate for such year to such increase, and

"(II) any decrease in such income for any taxable year by reason of such allocation shall be treated as giving rise to an overpayment determined by applying the highest rate for such year to such decrease, and

"(iii) any interest required to be paid by the taxpayer under paragraph (3) shall be paid by such entity (and any interest entitled to be received by the taxpayer under paragraph (3) shall be paid to such entity).

"(B) EXCEPTIONS.—

"(i) CLOSELY HELD PASS-THRU ENTITIES.—This paragraph shall not apply to any closely held pass-thru entity.

"(ii) FOREIGN CONTRACTS.—This paragraph shall not apply to any contract unless substantially all of the income from such contract is from sources in the United States.

"(C) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) HIGHEST RATE.—The term 'highest rate' means—

"(I) the highest rate of tax specified in section 11, or

"(II) if at all times during the year involved more than 50 percent of the interests in the entity are held by individuals directly or through 1 or more other pass-thru entities, the highest rate of tax specified in section 1.

"(ii) PASS-THRU ENTITY.—The term 'pass-thru entity' means any—

"(I) partnership,

"(II) S corporation, or

"(III) trust.

"(iii) CLOSELY HELD PASS-THRU ENTITY.—The term 'closely held pass-thru entity' means any pass-thru entity if, at any time during any taxable year for which there is income under the contract, 50 percent or more (by value) of the beneficial interests in such entity are held (directly or indirectly) by or for 5 or fewer persons. For purposes of the preceding sentence, rules similar to the constructive ownership rules of section 1563(e) shall apply."

(e) EFFECTIVE DATES.— 26 USC 460 note.

(1) SUBSECTIONS (a), (b), AND (c).—

(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by subsections (a), (b), and (c) shall apply to contracts entered into on or after June 21, 1988.

(B) BINDING BIDS.—The amendments made by subsections (a), (b), and (c) shall not apply to any contract resulting from the acceptance of a bid made before June 21, 1988. The preceding sentence shall apply only if the bid could not have been revoked or altered at any time on or after June 21, 1988.

(C) SPECIAL RULE FOR CERTAIN SHIP CONTRACTS.—The amendments made by subsections (a), (b), and (c) shall not apply in the case of a qualified ship contract (as defined in section 10203(b)(2)(B) of the Revenue Act of 1987).

(2) SUBSECTION (d).—The amendment made by subsection (d) shall apply as if included in the amendments made by section 804 of the Reform Act; except that such amendment shall not apply to any contract completed in a taxable year ending before the date of the enactment of this Act, if the due date (determined with regard to extensions) for the return for such year is before such date of enactment.

(d) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study of the revenue realization method of accounting for long-term contracts and of improvements to the percentage of

Reports.

completion method of accounting for such contracts. Not later than the date 6 months after the date of the enactment of this Act, the Secretary shall submit a report on such study to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

Subtitle F—Tax-Exempt Bond Provisions

SEC. 5051. TREATMENT OF CERTAIN POOLED FINANCING BONDS.

(a) IN GENERAL.—Section 149 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(f) TREATMENT OF CERTAIN POOLED FINANCING BONDS.—

"(1) IN GENERAL.—Section 103(a) shall not apply to any pooled financing bond unless, with respect to the issue of which such bond is a part, the requirements of paragraphs (2) and (3) are met.

"(2) REASONABLE EXPECTATION REQUIREMENT.—

"(A) IN GENERAL.—The requirements of this paragraph are met with respect to an issue if the issuer reasonably expects that as of the close of the 3-year period beginning on the date of issuance of the issue, at least 95 percent of the net proceeds of the issue (as of the close of such period) will have been used directly or indirectly to make or finance loans to ultimate borrowers.

"(B) CERTAIN FACTORS MAY NOT BE TAKEN INTO ACCOUNT IN DETERMINING EXPECTATIONS.—Expectations as to changes in interest rates or in the provisions of this title (or in the regulations or rulings thereunder) may not be taken into account in determining whether expectations are reasonable for purposes of this paragraph.

"(C) NET PROCEEDS.—For purposes of subparagraph (A), the term 'net proceeds' has the meaning given such term by section 150 but shall not include proceeds used to finance issuance costs and shall not include proceeds necessary to pay interest (during such period) on the bonds which are part of the issue.

"(D) REFUNDING BONDS.—For purposes of subparagraph (A), in the case of a refunding bond, the date of issuance taken into account is the date of issuance of the original bond.

"(3) COST OF ISSUANCE PAYMENT REQUIREMENTS.—The requirements of this paragraph are met with respect to an issue if—

"(A) the payment of legal and underwriting costs associated with the issuance of the issue is not contingent, and

"(B) at least 95 percent of the reasonably expected legal and underwriting costs associated with the issuance of the issue are paid not later than the 180th day after the date of the issuance of the issue.

"(4) POOLED FINANCING BOND.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'pooled financing bond' means any bond issued as part of an issue more than $5,000,000 of the proceeds of which are reasonably expected (at the time of the issuance of the bonds) to be used (or are intentionally used) directly or indirectly to make or finance loans to 2 or more ultimate borrowers.

"(B) EXCEPTIONS.—Such term shall not include any bond if—

"(i) section 146 applies to the issue of which such bond is a part (other than by reason of section 141(b)(5)) or would apply but for section 146(i), or

"(ii) section 143(l)(3) applies to such issue.

"(5) DEFINITION OF LOAN; TREATMENT OF MIXED USE ISSUES.—

"(A) LOAN.—For purposes of this subsection, the term 'loan' does not include—

"(i) any loan which is a nonpurpose investment (within the meaning of section 148(f)(6)(A), determined without regard to section 148(b)(3)), and

"(ii) any use of proceeds by an agency of the issuer unless such agency is a political subdivision or instrumentality of the issuer.

"(B) PORTION OF ISSUE TO BE USED FOR LOANS TREATED AS SEPARATE ISSUE.—If only a portion of the proceeds of an issue is reasonably expected (at the time of issuance of the bond) to be used (or is intentionally used) as described in paragraph (4)(A), such portion and the other portion of such issue shall be treated as separate issues for purposes of determining whether such portion meets the requirements of this subsection."

(b) EFFECTIVE DATE.— 26 USC 149 note.

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to bonds issued after October 21, 1988.

(2) SPECIAL RULE FOR REFUNDING BONDS.—In the case of a bond issued to refund a bond issued before October 22, 1988—

(A) if the 3-year period described in section 149(f)(2)(A) of the 1986 Code would (but for this paragraph) expire on or before October 22, 1989, such period shall expire on October 21, 1990, and

(B) if such period expires after October 22, 1989, the portion of the proceeds of the issue of which the refunded bond is a part which is available (on the date of issuance of the refunding issue) to provide loans shall be treated as proceeds of a separate issue (issued after October 21, 1988) for purposes of applying section 149(f) of the 1986 Code.

SEC. 5052. TREASURY REGULATIONS RELATING TO STUDENT LOAN BONDS.

If the Secretary of the Treasury or his delegate does not issue regulations under section 625 of the Tax Reform Act of 1984 and section 148(g) of the Internal Revenue Code of 1986 before July 1, 1989, the Secretary or his delegate shall before such date submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report explaining why such regulations were not issued. Reports.

SEC. 5053. RESTRICTIONS ON BONDS USED TO PROVIDE RESIDENTIAL RENTAL PROPERTY FOR FAMILY UNITS.

(a) 501(c)(3) BONDS USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS MUST MEET TARGETING REQUIREMENTS.—Section 145 of the 1986 Code (defining qualified 501(c)(3) bond) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) RESTRICTIONS ON BONDS USED TO PROVIDE RESIDENTIAL RENTAL HOUSING FOR FAMILY UNITS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, a bond which is part of an issue shall not be a qualified 501(c)(3) bond if any portion of the net proceeds of the issue are to be used directly or indirectly to provide residential rental property for family units.

"(2) EXCEPTION FOR BONDS USED TO PROVIDE QUALIFIED RESIDENTIAL RENTAL PROJECTS.—Paragraph (1) shall not apply to any bond issued as part of an issue if the portion of such issue which is to be used as described in paragraph (1) is to be used to provide—

"(A) a residential rental property for family units if the first use of such property is pursuant to such issue,

"(B) qualified residential rental projects (as defined in section 142(d)), or

"(C) property which is to be substantially rehabilitated in a rehabilitation beginning within the 2-year period ending 1 year after the date of the acquisition of such property

"(3) SUBSTANTIAL REHABILITATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), rules similar to the rules of section 48(g)(1)(C) shall apply in determining for purposes of paragraph (2)(C) whether property is substantially rehabilitated.

"(B) EXCEPTION.—For purposes of subparagraph (A), clause (ii) of section 48(g)(1)(C) shall not apply, but the Secretary may extend the 24-month period in section 48(g)(1)(C)(i) where appropriate due to circumstances not within the control of the owner."

(b) RESIDENTIAL RENTAL PROJECT NOT LOCATED WITHIN JURISDICTION OF ISSUER TREATED AS INVESTMENT PROPERTY.—Paragraph (2) of section 148(b) of the 1986 Code (defining investment property) is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(E) in the case of a bond other than a private activity bond, any residential rental property for family units which is not located within the jurisdiction of the issuer and which is not acquired to implement a court ordered or approved housing desegregation plan."

26 USC 145 note.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to obligations issued after October 21, 1988.

(2) EXCEPTION FOR CONSTRUCTION OR BINDING AGREEMENT.—

(A) The amendments made by this section shall not apply to bonds (other than refunding bonds) with respect to a facility—

(i)(I) the original use of which begins with the taxpayer, and the construction, reconstruction, or rehabilitation of which began before July 14, 1988, and was completed on or after such date, or

(II) the original use of which begins with the taxpayer and with respect to which a binding contract to incur significant expenditures for construction, reconstruction, or rehabilitation was entered into before

July 14, 1988, and some of such expenditures are incurred on or after such date, and

(ii) described in an inducement resolution or other comparable preliminary approval adopted by an issuing authority (or by a voter referendum) before July 14, 1988.

For purposes of the preceding sentence, the term "significant expenditures" means expenditures greater than 10 percent of the reasonably anticipated cost of the construction, reconstruction, or rehabilitation of the facility involved.

(B) Subparagraph (A) shall not apply to any bond issued after December 31, 1989, and shall not apply unless it is reasonably expected (at the time of issuance of the bond) that the facility will be placed in service before January 1, 1990.

(3) REFUNDINGS.—The amendments made by this section shall not apply to any bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued before July 15, 1988, if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue,

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond, and

(C) the proceeds of the refunding bond are used to redeem the refunded bond not later than 90 days after the date of the issuance of the refunding bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b) of the 1986 Code.

Subtitle G—Excise Tax Provisions

SEC. 5061. IMPOSITION OF EXCISE TAX ON MANUFACTURE OR IMPORTATION OF PIPE TOBACCO.

(a) IN GENERAL.—Section 5701 of the 1986 Code (relating to rate of tax on cigarettes, etc.) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) PIPE TOBACCO.—On pipe tobacco, manufactured in or imported into the United States, there shall be imposed a tax of 45 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound)."

(b) PIPE TOBACCO DEFINED.—Section 5702 of the 1986 Code (relating to definitions) is amended by adding at the end thereof the following new subsection:

"(o) PIPE TOBACCO.—The term 'pipe tobacco' means any tobacco which, because of its appearance, type, packaging, or labeling, is suitable for use and likely to be offered to, or purchased by, consumers as tobacco to be smoked in a pipe."

(c) TECHNICAL AMENDMENTS.—

(1) Subsection (c) of section 5702 of the 1986 Code (defining tobacco products) is amended by striking out "and smokeless tobacco" and inserting in lieu thereof "smokeless tobacco, and pipe tobacco".

(2) Subsection (d) of section 5702 of the 1986 Code (defining tobacco products) is amended by striking out "or smokeless

tobacco" and inserting in lieu thereof "smokeless tobacco, or pipe tobacco".

(3) The chapter heading for chapter 52 of the 1986 Code is amended to read as follows:

"CHAPTER 52—CIGARS, CIGARETTES, SMOKELESS TOBACCO, PIPE TOBACCO, AND CIGARETTE PAPERS AND TUBES".

(4) The table of chapters for subtitle E is amended by striking the item relating to chapter 52 and inserting in lieu thereof the following new item:

"Chapter 52. Cigars, cigarettes, smokeless tobacco, pipe tobacco, and cigarette papers and tubes".

26 USC 5701 note.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to pipe tobacco removed (within the meaning of section 5702(k) of the 1986 Code) after December 31, 1988.

(2) TRANSITIONAL RULE.—Any person who—

(A) on the date of the enactment of this Act, is engaged in business as a manufacturer of pipe tobacco, and

(B) before January 1, 1989, submits an application under subchapter B of chapter 52 of the 1986 Code to engage in such business,

may, notwithstanding such subchapter B, continue to engage in such business pending final action on such application. Pending such final action, all provisions of chapter 52 of the 1986 Code shall apply to such applicant in the same manner and to the same extent as if such applicant were a holder of a permit to manufacture pipe tobacco under such chapter 52.

(e) FLOOR STOCKS TAX.—

(1) IMPOSITION OF TAX.—On pipe tobacco manufactured in or imported into the United States which is removed before January 1, 1989, and held on such date for sale by any person, there is hereby imposed a tax of 45 cents per pound (and a proportionate tax at the like rate on all fractional parts of a pound).

(2) LIABILITY FOR TAX AND METHOD OF PAYMENT.—

(A) LIABILITY FOR TAX.—A person holding pipe tobacco on January 1, 1989, to which the tax imposed by paragraph (1) applies shall be liable for such tax.

(B) METHOD OF PAYMENT.—The tax imposed by paragraph (1) shall be treated as a tax imposed by section 5701 of the 1986 Code and shall be due and payable on February 14, 1989, in the same manner as the tax imposed by such section is payable with respect to pipe tobacco removed on or after January 1, 1989.

(C) TREATMENT OF PIPE TOBACCO IN FOREIGN TRADE ZONES.—Notwithstanding the Act of June 18, 1934 (48 Stat. 998, 19 U.S.C. 81a) or any other provision of law, pipe tobacco which is located in a foreign trade zone on January 1, 1989, shall be subject to the tax imposed by paragraph (1) and shall be treated for purposes of this subsection as held on such date for sale if—

(i) internal revenue taxes have been determined, or customs duties liquidated, with respect to such pipe

tobacco before such date pursuant to a request made under the first proviso of section 3(a) of such Act, or

(ii) such pipe tobacco is held on such date under the supervision of a customs officer pursuant to the second proviso of such section 3(a).

Under regulations prescribed by the Secretary of the Treasury or his delegate, provisions similar to sections 5706 and 5708 of the 1986 Code shall apply to pipe tobacco with respect to which tax is imposed by paragraph (1) by reason of this subparagraph.

(3) PIPE TOBACCO.—For purposes of this subsection, the term "pipe tobacco" shall have the meaning given to such term by subsection (o) of section 5702 of the 1986 Code.

(4) EXCEPTION WHERE LIABILITY DOES NOT EXCEED $1,000.—No tax shall be imposed by paragraph (1) on any person if the tax which would but for this paragraph be imposed on such person does not exceed $1,000. For purposes of the preceding sentence, all persons who are treated as a single taxpayer under section 5061(e)(3) of the 1986 Code shall be treated as 1 person.

SEC. 5063. MODIFICATION OF DISTILLED SPIRITS TAX CREDIT FOR FLAVORS CONTENT.

(a) IN GENERAL.—Subparagraph (B) of section 5010(c)(2) of the 1986 Code (defining flavors content) is amended by striking out the "and" at the end of clause (i), by redesignating clause (ii) as clause (iii), and by inserting after clause (i) the following new clause:

"(ii) alcohol derived from flavors distilled at a distilled spirits plant, and".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to distilled spirits withdrawn from bond after the date of the enactment of this Act. 26 USC 5010 note.

Subtitle H—Other Revenue Increase Provisions

SEC. 5071. INCREASE IN PENALTY FOR BAD CHECKS.

(a) GENERAL RULE.—Section 6657 of the 1986 Code (relating to bad checks) is amended—

(1) by striking out "1 percent" and inserting in lieu thereof "2 percent",

(2) by striking out "$500" and inserting in lieu thereof "$750", and

(3) by striking out "$5" and inserting in lieu thereof "$15".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to checks or money orders received after the date of the enactment of this Act. 26 USC 6657 note.

SEC. 5072. TIME FOR PAYMENT OF TAX ON REVERSION OF PENSION PLAN ASSETS.

(a) IN GENERAL.—Section 4980(c) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) TIME FOR PAYMENT OF TAX.—For purposes of subtitle F, the time for payment of the tax imposed by subsection (a) shall be the last day of the month following the month in which the employer reversion occurs."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to reversions after December 31, 1988. 26 USC 4980 note.

SEC. 5073. DENIAL OF DEDUCTION FOR CERTAIN RESIDENTIAL TELEPHONE SERVICE.

(a) GENERAL RULE.—Section 262 of the 1986 Code (relating to personal, living, and family expenses) is amended to read as follows:

"SEC. 262. PERSONAL, LIVING, AND FAMILY EXPENSES.

"(a) GENERAL RULE.—Except as otherwise expressly provided in this chapter, no deduction shall be allowed for personal, living, or family expenses.

"(b) TREATMENT OF CERTAIN PHONE EXPENSES.—For purposes of subsection (a), in the case of an individual, any charge (including taxes thereon) for basic local telephone service with respect to the 1st telephone line provided to any residence of the taxpayer shall be treated as a personal expense."

26 USC 262 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

SEC. 5074. PARTNERSHIP REPORTING OF UNRELATED BUSINESS TAXABLE INCOME.

(a) IN GENERAL.—Section 6031 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) SEPARATE STATEMENT OF ITEMS OF UNRELATED BUSINESS TAXABLE INCOME.—In the case of any partnership regularly carrying on a trade or business (within the meaning of section 512(c)(1)), the information required under subsection (b) to be furnished to its partners shall include such information as is necessary to enable each partner to compute its distributive share of partnership income or loss from such trade or business in accordance with section 512(a)(1), but without regard to the modifications described in paragraphs (8) through (15) of section 512(b)."

26 USC 6031 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988.

SEC. 5075. OPTIONS SUBJECT TO WASH SALE RULES.

(a) IN GENERAL.—Subsection (a) of section 1091 of the 1986 Code (relating to losses from wash sales of stock or securities) is amended by adding at the end thereof the following sentence: "For purposes of this section, the term 'stock or securities' shall, except as provided in regulations, include contracts or options to acquire or sell stock or securities."

26 USC 1091 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any sale after the date of enactment of this Act, in taxable years ending after such date.

SEC. 5076. INTEREST CHARGE ON INSTALLMENT SALES OF CERTAIN PROPERTY.

(a) GENERAL RULE.—Paragraph (1) of section 453A(b) of the 1986 Code is amended to read as follows:

"(1) IN GENERAL.—This section shall apply to any obligation which arises from the disposition of any property under the installment method, but only if the sales price of such property exceeds $150,000."

(b) CLERICAL AMENDMENTS.—

(1) The section heading of section 453A of the 1986 Code is amended by striking out "OF REAL PROPERTY".

(2) The table of sections of subpart B of part II of subchapter A of chapter 1 of the 1986 Code is amended by striking out "of real property" in the item relating to section 453A.

(c) EFFECTIVE DATE.— 26 USC 453A note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to sales after December 31, 1988.

(2) BINDING CONTRACT, ETC.—The amendments made by this section shall not apply to any sale on or before December 31, 1990, if—

(A) such sale is pursuant to a written binding contract in effect on October 21, 1988, and at all times thereafter before such sale,

(B) such sale is pursuant to a letter of intent in effect on October 21, 1988, or

(C) there is a board of directors or shareholder approval for such sale on or before October 21, 1988.

SEC. 5077. APPLICATION OF NET OPERATING LOSS RULES TO STOCK ACQUIRED BY AN EMPLOYEE STOCK OWNERSHIP PLAN.

(a) IN GENERAL.—Clause (ii) of section 382(l)(3)(C) of the 1986 Code is amended by striking "and" at the end of subclause (I), by striking the period at the end of subclause (II) and inserting in lieu thereof ", and", and by adding at the end thereof the following:

"(III) immediately after the acquisition the plan has a number of participants which is not less than 50 percent of the average number of employees of the loss corporation during the 3-year period ending with such acquisition.

for purposes of subclause (III), except as provided in regulations, all members of an affiliated group which includes the loss corporation and which files a consolidated return shall be treated as 1 loss corporation."

(b) EFFECTIVE DATE.— 26 USC 382 note.

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to acquisition after December 31, 1988.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to acquisitions after December 31, 1988, pursuant to a binding written contract entered into on or before October 21, 1988.

TITLE VI—OTHER SUBSTANTIVE REVENUE PROVISIONS

Subtitle A—Provisions Relating to Individuals

SEC. 6001. TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF AN INSTITUTION OF HIGHER EDUCATION.

(a) IN GENERAL.—Section 170 of the 1986 Code is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following new subsection:

"(m) TREATMENT OF CERTAIN AMOUNTS PAID TO OR FOR THE BENEFIT OF INSTITUTIONS OF HIGHER EDUCATION.—

"(1) IN GENERAL.—For purposes of this section, 80 percent of any amount described in paragraph (2) shall be treated as a charitable contribution.

"(2) AMOUNT DESCRIBED.—For purposes of paragraph (1), an amount is described in this paragraph if—

"(A) the amount is paid by the taxpayer to or for the benefit of an educational organization—

"(i) which is described in subsection (b)(1)(A)(ii), and

"(ii) which is an institution of higher education (as defined in section 3304(f)), and

"(B) such amount would be allowable as a deduction under this section but for the fact that the taxpayer receives (directly or indirectly) as a result of paying such amount the right to purchase tickets for seating at an athletic event in an athletic stadium of such institution.

If any portion of a payment is for the purchase of such tickets, such portion and the remaining portion (if any) of such payment shall be treated as separate amounts for purposes of this subsection."

26 USC 170 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by this section shall apply to taxable years beginning after December 31, 1983.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of section 170(m) of the 1986 Code (as added by subsection (a)) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

SEC. 6002. NONRECOGNITION OF GAIN WHERE 1 SPOUSE DIES BEFORE OCCUPYING NEW RESIDENCE.

(a) IN GENERAL.—Subsection (g) of section 1034 of the 1986 Code (relating to rollover of gain on sale of principal residence) is amended by adding at the end thereof the following: "For purposes of this subsection, except to the extent provided in regulations, in the case of an individual who dies after the date of the sale of the old residence and is married on the date of death, consent to the application of paragraph (2) by such individual's spouse and use of the new residence as the principal residence of such spouse shall be treated as consent and use by such individual."

26 USC 1034 note.

(b) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to sales and exchanges of old residences (within the meaning of section 1034 of the 1986 Code) after December 31, 1984, in taxable years ending after such date.

SEC. 6003. MEALS ON CERTAIN VESSELS AND OFFSHORE OIL PLATFORMS EXEMPT FROM 80 PERCENT LIMITATION ON DEDUCTION FOR MEALS.

(a) IN GENERAL.—Paragraph (2) of section 274(n) of the 1986 Code (relating to only 80 percent of meal and entertainment expenses allowed as deduction), as amended by title I of this Act, is amended by striking out "or" at the end of subparagraph (D), by striking out the period at the end of subparagraph (E) and inserting in lieu thereof ", or", and by adding at the end thereof the following new subparagraph:

"(F) such expense is for food or beverages—

"(i) required by Federal law to be provided to crew members of a commercial vessel,

"(ii) provided to crew members of a commercial vessel—

"(I) which is operating on the Great Lakes, the Saint Lawrence Seaway, or any inland waterway of the United States, and

"(II) which is of a kind which would be required by Federal law to provide food and beverages to crew members if it were operated at sea,

"(iii) provided on an oil or gas platform or drilling rig if the platform or rig is located offshore, or

"(iv) provided on an oil or gas platform or drilling rig, or at a support camp which is in proximity and integral to such platform or rig, if the platform or rig is located in the United States north of 54 degrees north latitude.

Clauses (i) and (ii) of subparagraph (F) shall not apply to vessels primarily engaged in providing luxury water transportation (determined under the principles of subsection (m))."

(b) EFFECTIVE DATES.— 26 USC 274 note.

(1) Clauses (i) and (ii) of section 274(n)(2)(F) of the 1986 Code, as added by subsection (a), shall apply to taxable years beginning after December 31, 1988.

(2) Clauses (iii) and (iv) of section 274(n)(2)(F) of the 1986 Code, as added by subsection (a), shall apply to taxable years beginning after December 31, 1987.

SEC. 6004. TREATMENT OF CERTAIN INNOCENT SPOUSES.

Subsection (c) of section 424 of the Tax Reform Act of 1984 (relating to innocent spouse relieved of liability in certain cases) is amended by adding at the end thereof the following new paragraph: 26 USC 6013 note.

"(3) TRANSITIONAL RULE.—If—

"(A) a joint return under section 6013 of the Internal Revenue Code of 1954 was filed before January 1, 1985,

"(B) on such return there is an understatement (as defined in section 6661(b)(2)(A) of such Code) which is attributable to disallowed deductions attributable to activities of one spouse,

"(C) the amount of such disallowed deductions exceeds the taxable income shown on such return,

"(D) without regard to any determination before October 21, 1988, the other spouse establishes that in signing the return he or she did not know, and had no reason to know, that there was such an understatement, and

"(E) the marriage between such spouses terminated and immediately after such termination the net worth of the other spouse was less than $10,000,

notwithstanding any law or rule of law (including res judicata), the other spouse shall be relieved of liability for tax (including interest, penalties, and other amounts) for such taxable year to the extent such liability is attributable to such understatement, and, to the extent the liability so attributable has been collected from such other spouse, it shall be refunded or credited to such other spouse. No credit or refund shall be made under the preceding sentence unless claim therefor has been submitted to

the Secretary of the Treasury or his delegate before the date 1 year after the date of the enactment of this paragraph, and no interest on such credit or refund shall be allowed for any period before such date of enactment.".

20 USC 1113b note.

SEC. 6005. INTERIM TREATMENT OF CERTAIN AMOUNTS AWARDED TO CHRISTA McAULIFFE FELLOWS.

(a) IN GENERAL.—In the case of an individual who is a Christa McAuliffe Fellow (as defined in section 561(b) of the Higher Education Act of 1965) and is awarded a fellowship pursuant to section 561 of such Act, for purposes of the 1986 Code, gross income shall not include any amount of such fellowship award—

(1) which is expended for a project approved by the Secretary of Education pursuant to section 563(b) of such Act, and

(2) which is not expended directly or indirectly for the personal use or benefit of such individual.

(b) EFFECTIVE DATE.—Subsection (a) shall apply to amounts received before July 1, 1990, in taxable years beginning before such date.

SEC. 6006. ELECTION TO CLAIM CERTAIN UNEARNED INCOME OF CHILD ON PARENT'S RETURN.

(a) IN GENERAL.—Subsection (i) of section 1 of the 1986 Code (relating to persons required to make returns of income) is amended by adding at the end thereof the following new paragraph:

"(7) ELECTION TO CLAIM CERTAIN UNEARNED INCOME OF CHILD ON PARENT'S RETURN.—

"(A) IN GENERAL.—If—

"(i) any child to whom this subsection applies has gross income for the taxable year only from interest and dividends (including Alaska Permanent Fund dividends),

"(ii) such gross income is more than $500 and less than $5,000,

"(iii) no estimated tax payments for such year are made in the name and TIN of such child, and no amount has been deducted and withheld under section 3406, and

"(iv) the parent of such child (as determined under paragraph (5)) elects the application of subparagraph (B),

such child shall be treated as having no gross income for such year and shall not be required to file a return under section 6012.

"(B) INCOME INCLUDED ON PARENT'S RETURN.—In the case of a parent making the election under this paragraph—

"(i) the gross income of each child to whom such election applies (to the extent the gross income of such child exceeds $1,000) shall be included in such parent's gross income for the taxable year,

"(ii) the tax imposed by this section for such year with respect to such parent shall be the amount equal to the sum of—

"(I) the amount determined under this section after the application of clause (i), plus

"(II) for each such child, the lesser of $75 or 15 percent of the excess of the gross income of such child over $500, and

"(iii) any interest which is an item of tax preference under section 57(a)(5) of the child shall be treated as an item of tax preference of such parent (and not of such child).

"(C) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this paragraph."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1988. 26 USC 1 note.

SEC. 6007. JURY DUTY PAY REMITTED TO AN INDIVIDUAL'S EMPLOYER ALLOWED AS A DEDUCTION IN COMPUTING GROSS INCOME.

(a) IN GENERAL.—Part VII of subchapter B of chapter 1 of the 1986 Code (relating to additional itemized deductions for individuals) is amended by redesignating section 220 as section 221 and by inserting after section 219 the following new section:

"SEC. 220. JURY DUTY PAY REMITTED TO EMPLOYER.

"If—

"(1) an individual receives payment for the discharge of jury duty, and

"(2) the employer of such individual requires the individual to remit any portion of such payment to the employer in exchange for payment by the employer of compensation for the period the individual was performing jury duty,

then there shall be allowed as a deduction the amount so remitted.".

(b) DEDUCTION ALLOWED IN ARRIVING AT ADJUSTED GROSS INCOME.—Subsection (a) of section 62 of the 1986 Code (defining adjusted gross income) is amended by inserting after paragraph (12) the following new paragraph:

"(13) JURY DUTY PAY REMITTED TO EMPLOYER.—The deduction allowed by section 220.".

(c) CLERICAL AMENDMENT.—The table of sections for part VII of subchapter B of chapter 1 of the 1986 Code is amended by striking out the item relating to section 220 and inserting in lieu thereof the following new items:

"Sec. 220. Jury duty pay remitted to employer.
"Sec. 221. Cross references.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply as if included in the amendments made by section 132 of the Tax Reform Act of 1986. 26 USC 62 note.

SEC. 6008. BUSINESS USE OF AUTOMOBILES BY RURAL MAIL CARRIERS. 26 USC 162 note.

(a) GENERAL RULE.—In the case of any employee of the United States Postal Service who performs services involving the collection and delivery of mail on a rural route, such employee shall be permitted to compute the amount allowable as a deduction under chapter 1 of the Internal Revenue Code of 1986 for the use of an automobile in performing such services by using a standard mileage rate for all miles of such use equal to 150 percent of the basic standard rate.

(b) SUBSECTION (a) NOT TO APPLY IF EMPLOYEE CLAIMS DEPRECIATION DEDUCTIONS FOR AUTOMOBILE.—Subsection (a) shall not apply with respect to any automobile if, for any taxable year beginning

after December 31, 1987, the taxpayer claimed depreciation deductions for such automobile.

(c) BASIC STANDARD RATE.—For purposes of this section, the term "basic standard rate" means the standard mileage rate which is prescribed by the Secretary of the Treasury or his delegate for computing the amount of the deduction for the business use of an automobile and which—

(1) is in effect at the time of the use referred to in subsection (a),

(2) applies to an automobile which is not fully depreciated, and

(3) applies to the first 15,000 miles (or such other number as the Secretary of the Treasury or his delegate may hereafter prescribe) of business use during the taxable year.

(d) EFFECTIVE DATE.—The provisions of this section shall apply to taxable years beginning after December 31, 1987.

SEC. 6009. EXCLUSION FROM GROSS INCOME FOR INCOME FROM UNITED STATES SAVINGS BONDS USED TO PAY TUITION AND FEES.

(a) IN GENERAL.—Part III of subchapter B of chapter 1 of the 1986 Code (relating to items specifically excluded from gross income) is amended by redesignating section 135 as section 136 and by inserting after section 134 the following new section:

"SEC. 135. INCOME FROM UNITED STATES SAVINGS BONDS USED TO PAY HIGHER EDUCATION TUITION AND FEES.

"(a) GENERAL RULE.—In the case of an individual who pays qualified higher education expenses during the taxable year, no amount shall be includible in gross income by reason of the redemption during such year of any qualified United States savings bond.

"(b) LIMITATIONS.—

"(1) LIMITATION WHERE REDEMPTION PROCEEDS EXCEED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—If—

"(i) the aggregate proceeds of qualified United States savings bonds redeemed by the taxpayer during the taxable year exceed

"(ii) the qualified higher education expenses paid by the taxpayer during such taxable year,

the amount excludable from gross income under subsection (a) shall not exceed the applicable fraction of the amount excludable from gross income under subsection (a) without regard to this subsection.

"(B) APPLICABLE FRACTION.—For purposes of subparagraph (A), the term 'applicable fraction' means the fraction the numerator of which is the amount described in subparagraph (A)(ii) and the denominator of which is the amount described in subparagraph (A)(i).

"(2) LIMITATION BASED ON MODIFIED ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—If the modified adjusted gross income of the taxpayer for the taxable year exceeds $40,000 ($60,000 in the case of a joint return), the amount which would (but for this paragraph) be excludable from gross income under subsection (a) shall be reduced (but not below zero) by the amount which bears the same ratio to the amount which would be so excludable as such excess bears to $15,000 ($30,000 in the case of a joint return).

"(B) INFLATION ADJUSTMENT.—In the case of any taxable year beginning in a calendar year after 1990, each dollar amount contained in subparagraph (A) shall be increased by an amount equal to—

"(i) such dollar amount, multiplied by

"(ii) the cost-of-living adjustment under section 1(f)(3) for the calendar year in which the taxable year begins, determined by substituting 'calendar year 1989' for 'calendar year 1987' in subparagraph (B) thereof.

"(C) ROUNDING.—If any amount as adjusted under subparagraph (A) or (B) is not a multiple of $50, such amount shall be rounded to the nearest multiple of $50 (or if such amount is a multiple of $25, such amount shall be rounded to the next highest multiple of $50).

"(c) DEFINITIONS.—For purposes of this section—

"(1) QUALIFIED UNITED STATES SAVINGS BOND.—The term 'qualified United States savings bond' means any United States savings bond issued—

"(A) after December 31, 1989,

"(B) to an individual who has attained age 24 before the date of issuance, and

"(C) at discount under section 3105 of title 31, United States Code.

"(2) QUALIFIED HIGHER EDUCATION EXPENSES.—

"(A) IN GENERAL.—The term 'qualified higher education expenses' means tuition and fees required for the enrollment or attendance of—

"(i) the taxpayer,

"(ii) the taxpayer's spouse, or

"(iii) any dependent of the taxpayer with respect to whom the taxpayer is allowed a deduction under section 151,

at an eligible educational institution.

"(B) EXCEPTION FOR EDUCATION INVOLVING SPORTS, ETC.—Such term shall not include expenses with respect to any course or other education involving sports, games, or hobbies other than as part of a degree program.

"(3) ELIGIBLE EDUCATIONAL INSTITUTION.—The term 'eligible educational institution' means—

"(A) an institution described in section 1201(a) or subparagraph (C) or (D) of section 481(a)(1) of the Higher Education Act of 1965 (as in effect on October 21, 1988), and

"(B) an area vocational education school (as defined in subparagraph (C) or (D) of section 521(3) of the Carl D. Perkins Vocational Education Act) which is in any State (as defined in section 521(27) of such Act), as such sections are in effect on October 21, 1988.

"(4) MODIFIED ADJUSTED GROSS INCOME.—The term 'modified adjusted gross income' means the adjusted gross income of the taxpayer for the taxable year determined—

"(A) without regard to this section and sections 911, 931, and 933, and

"(B) after the application of sections 86, 469, and 219.

"(d) SPECIAL RULES.—

"(1) ADJUSTMENT FOR CERTAIN SCHOLARSHIPS AND VETERANS BENEFITS.—The amount of qualified higher education expenses otherwise taken into account under subsection (a) respect to the

education of an individual shall be reduced (before the application of subsection (b)) by the sum of the amounts received with respect to such individual for the taxable year as—

"(A) a qualified scholarship which under section 117 is not includable in gross income,

"(B) an educational assistance allowance under chapter 30, 31, 32, 34, or 35 of title 38, United States Code, or

"(C) a payment (other than a gift, bequest, devise, or inheritance within the meaning of section 102(a)) for educational expenses, or attributable to attendance at an eligible educational institution, which is exempt from income taxation by any law of the United States.

"(2) NO EXCLUSION FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and his spouse file a joint return for the taxable year.

"(3) REGULATIONS.—The Secretary may prescribe such regulations as may be necessary or appropriate to carry out this section, including regulations requiring record keeping and information reporting."

26 USC 135 note.

(b) PROMOTION OF PUBLIC AWARENESS OF PROGRAM.—The Secretary of the Treasury or his delegate shall take such actions as may be necessary to make the general public aware of the program established by this section.

(c) TECHNICAL AMENDMENTS.—

(1) Subparagraph (A) of section 86(b)(2) of the 1986 Code is amended by inserting "135," before "911".

(2) Clause (i) of section 219(g)(3)(A) of the 1986 Code is amended by striking "section 911" and inserting "sections 135 and 911".

(3) Subparagraph (D) of section 469(i)(3) of the 1986 Code is amended by redesignating clauses (ii) and (iii) as clauses (iii) and (iv), respectively, and by inserting after clause (i) the following new clause:

"(ii) the amount excludable from gross income under section 135,".

(4) The table of sections for part III of subchapter B of chapter 1 of the 1986 Code is amended by striking the last item and inserting the following new items:

"Sec. 135. Income from United States savings bonds used to pay higher education tuition and fees.

"Sec. 136. Cross references to other Acts."

26 USC 86 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1989.

26 USC 135 note.

(e) PARENTAL ASSISTANCE WITH TUITION STAMP STUDY.—The Secretary of the Treasury or his delegate, after consultation with the Secretary of Education or his delegate, shall conduct a study of the feasibility of using stamps or similar programs to encourage and facilitate savings by parents towards the purchase of Series EE bonds eligible for the exclusion provided under the amendments made by this section. Not later than December 31, 1989, the Secretary of the Treasury or his delegate shall submit the results of such study, together with any recommendations deemed appropriate, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate.

SEC. 6010. MODIFICATION OF ADDITIONAL EXEMPTION FOR STUDENT DEPENDENTS.

(a) IN GENERAL.—Clause (ii) of section 151(c)(1)(B) of the 1986 Code (relating to additional exemption for dependents) is amended by inserting "who has not attained the age of 24 at the close of such calendar year" before the period.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1988. 26 USC 151 note.

SEC. 6011. PRINCIPAL RESIDENCE CAPITAL GAINS EXCLUSION.

(a) IN GENERAL.—Subsection (d) of section 121 of the Internal Revenue Code of 1986 (relating to one-time exclusion of gain from sale of principal residence by individual who has attained age 55) is amended by adding at the end thereof the following new paragraph:

"(9) DETERMINATION OF USE DURING PERIODS OF OUT-OF-RESIDENCE CARE.—In the case of a taxpayer who—

"(A) becomes physically or mentally incapable of self-care, and

"(B) owns property and uses such property as the taxpayer's principal residence during the 5-year period described in subsection (a)(2) for periods aggregating at least 1 year,

then the taxpayer shall be treated as using such property as the taxpayer's principal residence during any time during such 5-year period in which the taxpayer owns the property and resides in any facility (including a nursing home) licensed by a State or political subdivision to care for an individual in the taxpayer's condition."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to any sale or exchange after September 30, 1988, in taxable years ending after such date. 26 USC 121 note.

Subtitle B—Provisions Relating to Accounting and Agriculture

SEC. 6026. AMENDMENTS TO UNIFORM CAPITALIZATION RULES.

(a) TREATMENT OF CERTAIN PRODUCERS OF CREATIVE PROPERTY.—Section 263A of the 1986 Code is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR FREE LANCE AUTHORS, PHOTOGRAPHERS, AND ARTISTS.—

"(1) IN GENERAL.—Nothing in this section shall require the capitalization of any qualified creative expense.

"(2) QUALIFIED CREATIVE EXPENSE.—For purposes of this subsection, the term 'qualified creative expense' means any expense—

"(A) which is paid or incurred by an individual in the trade or business of such individual (other than as an employee) of being a writer, photographer, or artist, and

"(B) which, without regard to this section, would be allowable as a deduction for the taxable year.

Such term does not include any expense related to printing, photographic plates, motion picture films, video tapes, or similar items.

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) WRITER.—The term 'writer' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a literary manuscript, musical composition (including any accompanying words), or dance score.

"(B) PHOTOGRAPHER.—The term 'photographer' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a photograph or photographic negative or transparency.

"(C) ARTIST.—

"(i) IN GENERAL.—The term 'artist' means any individual if the personal efforts of such individual create (or may reasonably be expected to create) a picture, painting, sculpture, statue, etching, drawing, cartoon, graphic design, or original print edition.

"(ii) CRITERIA.—In determining whether any expense is paid or incurred in the trade or business of being an artist, the following criteria shall be taken into account:

"(I) The originality and uniqueness of the item created (or to be created).

"(II) The predominance of aesthetic value over utilitarian value of the item created (or to be created).

"(D) TREATMENT OF CERTAIN PERSONAL SERVICE CORPORATIONS.—

"(i) IN GENERAL.—In the case of a personal service corporation, this subsection shall apply to any expense of such corporation which directly relates to the activities of the qualified employee-owner in the same manner as if such expense were incurred by such employee-owner.

"(ii) QUALIFIED EMPLOYEE-OWNER.—The term 'qualified employee-owner' means any individual who is an employee-owner of the personal service corporation and who is a writer, photographer, or artist, but only if substantially all of the stock of such corporation is owned by such individual and members of his family (as defined in section 267(c)(4)).

"(iii) PERSONAL SERVICE CORPORATION.—For purposes of this subparagraph, the term 'personal service corporation' means any personal service corporation (as defined in section 269A(b))."

(b) TREATMENT OF ANIMALS PRODUCED IN FARMING BUSINESS.—

(1) IN GENERAL.—Subparagraph (A) of section 263A(d)(1) of the 1986 Code (relating to exception for farming businesses) is amended to read as follows:

"(A) IN GENERAL.—This section shall not apply to any of the following which is produced by the taxpayer in a farming business:

"(i) Any animal.

"(ii) Any plant which has a preproductive period of 2 years or less."

(2) CONFORMING AMENDMENTS.—

(A) The heading of paragraph (1) of section 263A(d) of the 1986 Code is amended to read as follows:

"(1) SECTION NOT TO APPLY TO CERTAIN PROPERTY.—".

(B) Subsections (d)(3) and (e) of section 263A of the 1986 Code are each amended by striking out "or animal" each place it appears.

(c) TREATMENT OF PISTACHIO TREES.—Subparagraph (B) of section 263A(d)(3) of the 1986 Code (relating to certain persons not eligible) is amended to read as follows:

"(B) CERTAIN PERSONS NOT ELIGIBLE.—No election may be made under this paragraph by a corporation, partnership, or tax shelter, if such corporation, partnership, or tax shelter is required to use an accrual method of accounting under section 447 or 448(a)(3)."

(d) EFFECTIVE DATES.— 26 USC 263A note.

(1) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this section shall take effect as if included in the amendments made by section 803 of the Tax Reform Act of 1986.

(2) SUBSECTION (b).—

(A) IN GENERAL.—The amendments made by subsection (b) shall apply to costs incurred after December 31, 1988, in taxable years ending after such date.

(B) REVOCATION OF ELECTION.—If the taxpayer made an election under section 263A(d)(3) of the 1986 Code for a taxable year beginning before January 1, 1989, such taxpayer may, without the consent of the Secretary of the Treasury or his delegate, revoke such election effective for the taxpayer's 1st taxable year beginning after December 31, 1988.

SEC. 6027. TREATMENT OF SINGLE PURPOSE AGRICULTURAL OR HORTICULTURAL STRUCTURES.

(a) IN GENERAL.—Paragraph (3) of section 168(e) of the 1986 Code (relating to classification of property) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following new subparagraph:

"(D) 10-YEAR PROPERTY.—The term '10-year property' includes any single purpose agricultural or horticultural structure (within the meaning of section 48(p))."

(b) TECHNICAL AMENDMENTS.—

(1) Subparagraph (C) of section 168(e)(3) of the 1986 Code is amended by adding "and" at the end of clause (i), by striking out clause (ii), and by redesignating clause (iii) as clause (ii).

(2) The table contained in subparagraph (B) of section 168(g)(3) of the 1986 Code is amended by striking out all that follows the item relating to subparagraph (C)(i) and inserting in lieu thereof the following new items:

"(D)	15
"(E)(i)	24
"(E)(ii)	24
"(F)	50".

(c) EFFECTIVE DATE.— 26 USC 168 note.

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1988.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property if such property is placed in service before January 1, 1990, and if such property—

(A) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on July 14, 1988, or

(B) is constructed or reconstructed by the taxpayer and such construction or reconstruction began by July 14, 1988.

SEC. 6028. TREATMENT OF PROPERTY USED IN A FARMING BUSINESS.

(a) IN GENERAL.—Paragraph (2) of section 168(b) of the 1986 Code (as amended by title I) is amended by striking out "or" at the end of subparagraph (A), by redesignating subparagraph (B) as subparagraph (C), and by inserting after subparagraph (A) the following new subparagraph:

"(B) any property used in a farming business (within the meaning of section 263A(e)(4)), or".

26 USC 168 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to property placed in service after December 31, 1988.

(2) EXCEPTION.—The amendments made by this section shall not apply to any property if such property is placed in service before July 1, 1989, and if such property—

(A) is constructed, reconstructed, or acquired by the taxpayer pursuant to a written contract which was binding on July 14, 1988, or

(B) is constructed or reconstructed by the taxpayer and such construction or reconstruction began by July 14, 1988.

SEC. 6029. TREATMENT OF CERTAIN TREES.

(a) IN GENERAL.—Subparagraph (D) of section 168(e)(3) of the 1986 Code (relating to classification of certain property), as amended by section 6027 of this Act, is amended to read as follows:

"(D) 10-YEAR PROPERTY.—The term '10-year property' includes—

"(i) any single purpose agricultural or horticultural structure (within the meaning of section 48(p)), and

"(ii) any tree or vine bearing fruit or nuts."

(b) ONLY STRAIGHT-LINE DEPRECIATION ALLOWED.—Paragraph (3) of section 168(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) Property described in subsection (e)(3)(D)(ii)."

(c) CLASS LIFE DETERMINATION.—The table contained in subparagraph (B) of section 168(g)(3) of the 1986 Code, as amended by section 6027 of this Act, is amended by striking out the item relating to subparagraph (D) and inserting in lieu thereof the following new item:

"(D)(i)	15
"(D)(ii)	20".

26 USC 168 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to property placed in service after December 31, 1988.

SEC. 6030. ONE-YEAR DEFERRAL OF PROCEEDS FROM LIVESTOCK SOLD ON ACCOUNT OF DROUGHT.

(a) IN GENERAL.—Paragraph (1) of section 451(e) of the 1986 Code (relating to special rule for proceeds from livestock sold on account of drought) is amended by striking out "(other than livestock described in section 1231(b)(3))".

26 USC 451 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to sales or exchanges occurring after December 31, 1987.

SEC. 6031. CERTAIN REPLEDGES PERMITTED.

26 USC 453A note.

(a) GENERAL RULE.—Section 453A(d) of the 1986 Code (relating to pledges, etc., of installment obligations) shall not apply to any pledge after December 17, 1987, of an installment obligation to secure any indebtedness if such indebtedness is incurred to refinance indebtedness which was outstanding on December 17, 1987, and which was secured on such date and all times thereafter before such refinancing by a pledge of such installment obligation.

(b) LIMITATION.—Subsection (a) shall not apply to the extent that the principal amount of the indebtedness resulting from the refinancing exceeds the principal amount of the refinanced indebtedness immediately before the refinancing.

(c) CERTAIN REFINANCINGS PERMITTED.—For purposes of subsection (a), if—

(1) a refinancing is attributable to the calling of indebtedness by the creditor, and

(2) such refinancing is not with the creditor under the refinanced indebtedness or a person related to such creditor, such refinancing shall, to the extent the refinanced indebtedness qualifies under subsections (a) and (b), be treated as a continuation of such refinanced indebtedness.

SEC. 6032. TREATMENT OF INDIRECT HOLDINGS THROUGH TRUSTS UNDER SECTION 448 OF THE 1986 CODE.

(a) GENERAL RULE.—Paragraph (2) of section 448(d) of the 1986 Code (defining qualified personal service corporation) is amended by adding at the end thereof the following new sentence:

"To the extent provided in regulations which shall be prescribed by the Secretary, indirect holdings through a trust shall be taken into account under subparagraph (B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

26 USC 448 note.

SEC. 6033. DISASTER ASSISTANCE ACT PAYMENTS INCLUDED IN SPECIAL RULE FOR TAXABLE YEAR OF INCLUSION.

(a) DISASTER ASSISTANCE PAYMENTS.—The second sentence of section 451(d) of the 1986 Code (relating to special rule for crop insurance proceeds or disaster payments) is amended by inserting "or title II of the Disaster Assistance Act of 1988," after "the Agricultural Act of 1949, as amended,".

(b) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to payments received before, on, or after the date of enactment of this Act.

26 USC 451 note.

Subtitle C—Pensions and Employee Benefits

SEC. 6051. PROVISIONS RELATING TO BENEFITS UNDER DISCRIMINATORY PLANS.

(a) PROVISIONS NOT TO APPLY TO CHURCH PLANS.—Section 89(i) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) CHURCH PLANS.—The term 'statutory employee benefit plan' shall not include a plan maintained by a church for church employees. For purposes of this paragraph, the term 'church' has the meaning given such term by section

3121(w)(3)(A), including a qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(b) CAFETERIA PLANS MAINTAINED BY EDUCATIONAL INSTITUTIONS.—Section 125(c)(2)(C) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In applying section 89 to a plan described in this subparagraph, contributions under the plan shall be tested as of the time the contributions were made."

26 USC 89 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 1151 of the Reform Act.

SEC. 6052. MODIFICATIONS OF DISCRIMINATION RULES APPLICABLE TO CERTAIN ANNUITY CONTRACTS.

(a) EXCLUDED EMPLOYEES.—

(1) IN GENERAL.—The last sentence of section 403(b)(12)(A) of the 1986 Code is amended to read as follows: "Subject to the conditions applicable under section 410(b)(4), there may be excluded for purposes of this subparagraph employees who are students performing services described in section 3121(b)(10) and employees who normally work less than 20 hours per week."

26 USC 403 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendment made by section 1120(b) of the Reform Act.

26 USC 403 note.

(b) SAMPLING.—In the case of plan years beginning in 1989, 1990, or 1991, determinations as to whether a plan meets the requirements of section 403(b)(12) of the 1986 Code may be made on the basis of a statistically valid random sample. The preceding sentence shall apply only if—

(1) the sampling is conducted by an independent person in a manner not inconsistent with regulations prescribed by the Secretary, and

(2) the statistical method and sample size result in a 95 percent probability that the results will have a margin of error not greater than 3 percent.

SEC. 6053. REQUIRED DISTRIBUTION BEGINNING DATE FOR GOVERNMENTAL AND CHURCH PLANS.

(a) IN GENERAL.—Section 401(a)(9)(C) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a governmental plan or church plan (as defined in section 89(i)(4)), the required beginning date shall be the later of the date determined under the preceding sentence or April 1 of the calendar year following the calendar year in which the employee retires."

26 USC 401 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendments made by section 1121 of the Reform Act.

SEC. 6054. SECTION 415 LIMITATION FOR STATE AND LOCAL PLANS.

(a) MODIFIED LIMITATIONS.—Section 415(b) of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(10) SPECIAL RULE FOR STATE AND LOCAL GOVERNMENT PLANS.—

"(A) LIMITATION TO EQUAL ACCRUED BENEFIT.—In the case of a plan maintained for its employees by any State or political subdivision thereof, or by any agency or instrumentality of the foregoing, the limitation with respect to a qualified participant under this subsection shall

not be less than the accrued benefit of the participant under the plan (determined without regard to any amendment of the plan made after October 14, 1987).

"(B) QUALIFIED PARTICIPANT.—For purposes of this paragraph, the term 'qualified participant' means a participant who first became a participant in the plan maintained by the employer before January 1, 1990.

"(C) ELECTION.—This paragraph shall not apply to any plan unless each employer maintaining the plan elects before the close of the 1st plan year beginning after December 31, 1989, to have this subsection (other than paragraph (2)(G)) applied without regard to paragraph (2)(F)."

(b) EFFECTIVE DATES.— 26 USC 415 note.

(1) IN GENERAL.—Except as provided in this subsection, the amendment made by this subsection apply to years beginning after December 31, 1982.

(2) ELECTION.—Section 415(b)(10)(C) of the 1986 Code (as added by subsection (a)) shall not apply to any year beginning before January 1, 1990.

SEC. 6055. MINIMUM PARTICIPATION STANDARDS.

(a) IN GENERAL.—Section 401(a)(26) of the 1986 Code, as amended by this Act, is amended by redesignating subparagraph (H) as subparagraph (I) and by inserting after subparagraph (G) the following new subparagraph:

"(H) SPECIAL RULE FOR CERTAIN POLICE OR FIREFIGHTERS.—

"(i) IN GENERAL.—An employer may elect to have this paragraph applied separately with respect to any classification of qualified public safety employees for whom a separate plan is maintained.

"(ii) QUALIFIED PUBLIC SAFETY EMPLOYEE.—For purposes of this subparagraph, the term 'qualified public safety employee' means any employee of any police department or fire department organized and operated by a State or political subdivision if the employee provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 1112(b) of the Reform Act. 26 USC 401 note.

SEC. 6056. STUDY OF EFFECT OF MINIMUM PARTICIPATION RULE ON EMPLOYERS REQUIRED TO PROVIDE CERTAIN RETIREMENT BENEFITS.

(a) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study on the application of section 401(a)(26) of the Internal Revenue Code of 1986 to Government contractors who—

(1) are required by Federal law to provide certain employees specified retirement benefits, and

(2) establish a separate plan for such employees while maintaining a separate plan for employees who are not entitled to such benefits.

Such study shall consider the Federal requirements with respect to employee benefits for employees of Government contractors, whether a special minimum participation rule should apply to such

employees, and methods by which plans may be modified to satisfy minimum participation requirements.

(b) REPORT.—The Secretary of the Treasury or his delegate shall report the results of the study under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives not later than September 1, 1989.

SEC. 6057. PROHIBITION ON COLLECTIBLES NOT TO INCLUDE STATE COINS.

(a) IN GENERAL.—Paragraph (3) of section 408(m) of the 1986 Code is amended to read as follows:

"(3) EXCEPTION FOR CERTAIN COINS.—In the case of an individual retirement account, paragraph (2) shall not apply to—

"(A) any gold coin described in paragraph (7), (8), (9), or (10) of section 5112(a) of title 31,

"(B) any silver coin described in section 5112(e) of title 31, or

"(C) any coin issued under the laws of any State."

26 USC 408 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to acquisitions after the date of the enactment of this Act.

SEC. 6058. APPLICATION OF FUNDING RULES TO MULTIPLE EMPLOYER PLANS.

(a) IN GENERAL.—Paragraph (4) of section 413(c) of the 1986 Code is amended to read as follows:

"(4) FUNDING.—

"(A) IN GENERAL.—In the case of a plan established after December 31, 1988, each employer shall be treated as maintaining a separate plan for purposes of section 412 unless such plan uses a method for determining required contributions which provides that any employer contributes not less than the amount which would be required if such employer maintained a separate plan.

"(B) OTHER PLANS.—In the case of a plan not described in subparagraph (A), the requirements of section 412 shall be determined as if all participants in the plan were employed by a single employer unless the plan administrator elects not later than the close of the first plan year of the plan beginning after the date of enactment of the Technical and Miscellaneous Revenue Act of 1988 to have the provisions of subparagraph (A) apply. An election under the preceding sentence shall take effect for the plan year in which made and, once made, may be revoked only with the consent of the Secretary."

(b) DEDUCTION LIMITATIONS.—Paragraph (6) of section 413(c) of the 1986 Code is amended to read as follows:

"(6) DEDUCTION LIMITATIONS.—

"(A) IN GENERAL.—In the case of a plan established after December 31, 1988, each applicable limitation provided by section 404(a) shall be determined as if each employer were maintaining a separate plan.

"(B) OTHER PLANS.—

"(i) IN GENERAL.—In the case of a plan not described in subparagraph (A), each applicable limitation provided by section 404(a) shall be determined as if all participants in the plan were employed by a single

employer, except that if an election is made under paragraph (4)(B), subparagraph (A) shall apply to such plan.

"(ii) SPECIAL RULE.—If this subparagraph applies, the amounts contributed to or under the plan by each employer who maintains the plan (for the portion of the taxable year included within a plan year) shall be considered not to exceed any such limitation if the anticipated employer contributions for such plan year (determined in a reasonable manner not inconsistent with regulations prescribed by the Secretary) do not exceed such limitation. If such anticipated contributions exceed such a limitation, the portion of each such employer's contributions which is not deductible under section 404 shall be determined in accordance with regulations prescribed by the Secretary."

(c) CONFORMING AMENDMENT.—Section 413(c) of the 1986 Code is amended by striking out the last sentence and by inserting after paragraph (6) the following new paragraph:

"(7) ALLOCATIONS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), allocations of amounts under paragraphs (4), (5), and (6) among the employers maintaining the plan shall not be inconsistent with regulations prescribed for this purpose by the Secretary.

"(B) ASSET AND LIABILITIES OF PLAN.—For purposes of applying paragraphs (4)(A) and (6)(A), the assets and liabilities of each plan shall be treated as the assets and liabilities which would be allocated to a plan maintained by the employer if the employer withdrew from the multiple employer plan."

(d) EFFECTIVE DATE.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan years beginning after the date of the enactment of this Act. 26 USC 413 note.

SEC. 6059. APPLICATION OF SECTION 415 LIMITATIONS TO POLICE AND FIREFIGHTERS.

(a) IN GENERAL.—Clause (ii) of section 415(b)(2)(H) of the 1986 Code is amended by striking out "20 years" and inserting in lieu thereof "15 years".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply as if included in the amendments made by section 1106(b)(2) of the Reform Act. 26 USC 415 note.

SEC. 6060. EXCISE TAX ON DISPOSITION OF STOCK BY AN ESOP NOT TO APPLY TO CERTAIN FORCED DISPOSITIONS.

(a) IN GENERAL.—Subsection (e) of section 4978A of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(4) FORCED DISPOSITION OCCURRING BY OPERATION OF A STATE LAW.—Any forced disposition of qualified employer securities by the employee stock ownership plan of a corporation occurring by operation of a State law shall not be treated as a disposition. This paragraph shall only apply to securities which, at the time such securities were purchased by the employee stock ownership plan, were regularly traded on an established securities market."

26 USC 4978 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 10413 of the Revenue Act of 1987.

26 USC 133 note.

SEC. 6061. LOANS TO ACQUIRE EMPLOYER SECURITIES.

Notwithstanding the last sentence of section 111B(h)(5)(A) of this Act, the amendments made by paragraphs (1) and (2) of section 111B(h) of this Act shall not apply to any loan used to refinance a loan described in section 133(b)(1)(A) of the 1986 Code which is made before October 22, 1986, if the terms of the refinanced loan do not extend the total commitment period beyond the later of—

(1) the term of the original securities acquisition loan, or

(2) the amortization period used to determine the regular payments (prior to any final or balloon payment) applicable to the original securities acquisition loan.

SEC. 6062. EFFECTIVE DATE OF SECTION 415 LIMITATIONS OF COLLECTIVELY BARGAINED AGREEMENTS.

(a) IN GENERAL.—Paragraph (2) of section 1106(i) of the Reform Act is amended to read as follows:

26 USC 415 note.

"(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan in effect before March 1, 1986, pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers, the amendments made by this section (other than subsection (d)) shall not apply to contributions or benefits pursuant to such agreement in years beginning before October 1, 1991."

26 USC 415 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the provisions of section 1106 of the Reform Act.

26 USC 125 note.

SEC. 6063. TREATMENT OF PRE-1989 ELECTIONS FOR DEPENDENT CARE ASSISTANCE UNDER CAFETERIA PLANS.

For purposes of section 125 of the 1986 Code, a plan shall not be treated as failing to be a cafeteria plan solely because under the plan a participant elected before January 1, 1989, to receive reimbursement under the plan for dependent care assistance for periods after December 31, 1988, and such assistance is includible in gross income under the provisions of the Family Support Act of 1988.

SEC. 6064. MODIFICATIONS TO SECTION 457.

Government organization and employees.

(a) CODIFICATION OF EXCEPTION FOR CERTAIN PLANS.—

(1) Subsection (e) of section 457 of the 1986 Code (as amended by section 1107 of the Reform Act) is amended by adding at the end thereof the following new paragraph:

"(11) CERTAIN PLANS EXCEPTED.—Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability pay, or death benefit plan shall be treated as a plan not providing for the deferral of compensation."

(2) Subsection (d) of section 457 of the 1986 Code (as in effect on the day before the date of the enactment of the Reform Act) is amended by adding at the end thereof the following new paragraph:

"(10) CERTAIN PLANS EXCEPTED.—Any bona fide vacation leave, sick leave, compensatory time, severance pay, disability

pay, or death benefit plan shall be treated as a plan not providing for the deferral of compensation."

(b) TREATMENT OF NONELECTIVE DEFERRED COMPENSATION OF NONEMPLOYEES.—

(1) Subsection (e) of section 457 of the 1986 Code (as amended by section 1107 of the Reform Act) is amended by adding at the end thereof the following new paragraph:

"(12) EXCEPTION FOR NONELECTIVE DEFERRED COMPENSATION OF NONEMPLOYEES.—

"(A) IN GENERAL.—This section shall not apply to nonelective deferred compensation attributable to services not performed as an employee.

"(B) NONELECTIVE DEFERRED COMPENSATION.—For purposes of subparagraph (A), deferred compensation shall be treated as nonelective only if all individuals (other than those who have not satisfied any applicable initial service requirement) with the same relationship to the payor are covered under the same plan with no individual variations or options under the plan."

(2) Subsection (d) of section 457 of the 1986 Code (as in effect on the day before the date of the enactment of the Reform Act) is amended by adding at the end thereof the following new paragraph:

"(11) EXCEPTION FOR NONELECTIVE DEFERRED COMPENSATION OF NONEMPLOYEES.—

"(A) IN GENERAL.—This section shall not apply to nonelective deferred compensation attributable to services not performed as an employee.

"(B) NONELECTIVE DEFERRED COMPENSATION.—For purposes of subparagraph (a), deferred compensation shall be treated as nonelective only if all individuals (other than those who have not satisfied any applicable initial service requirement) with the same relationship to the payor are covered under the same plan with no individual variations or options under the plan."

(c) SECTION NOT TO APPLY TO CHURCH PLANS.—Section 457(e) of the 1986 Code (as amended by section 1107 of the Reform Act) is amended by adding at the end thereof the following new paragraph:

"(13) EXCEPTION FOR CHURCH PLANS.—The term 'eligible deferred compensation plan' shall not include a plan maintained by a church for church employees. For purposes of this paragraph, the term 'church' has the meaning given such term by section 3121(w)(3)(A), including a qualified church-controlled organization (as defined in section 3121(w)(3)(B))."

(d) EFFECTIVE DATE.— 26 USC 457 note.

(1) IN GENERAL.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987.

(2) EXCEPTION FOR CERTAIN COLLECTIVELY BARGAINED PLANS.—

(A) IN GENERAL.—Section 457 of the 1986 Code (as in effect before and after the amendments made by section 1107 of the Reform Act) shall not apply to nonelective deferred compensation provided under a plan in existence on December 31, 1987, and maintained pursuant to a collective bargaining agreement.

(B) NONELECTIVE PLAN.—For purposes of this paragraph, a nonelective plan is a plan which covers a broad group of employees and under which the covered employees earn

nonelective deferred compensation under a definite, fixed and uniform benefit formula.

(C) TERMINATION.—This paragraph shall cease to apply to a plan as of the effective date of the first material modification of the plan agreed to after December 31, 1987.

(3) TREATMENT OF CERTAIN NONELECTIVE DEFERRED COMPENSATION.—Section 457 of the 1986 Code shall not apply to amounts deferred under a nonelective deferred compensation plan maintained by an eligible employer described in section 457(e)(1)(A) of the 1986 Code (as in effect after the Reform Act)—

(A) if such amounts were deferred from periods before July 14, 1988, or

(B) if—

(i) such amounts are deferred from periods on or after such date pursuant to an agreement which—

(I) was in writing on such date, and

(II) on such date provides for a deferral for each taxable year covered by the agreement of a fixed amount or of an amount determined pursuant to a fixed formula, and

(ii) the individual with respect to whom the deferral is made was covered under such agreement on such date.

Subparagraph (B) shall not apply to any taxable year ending after the date on which any modification of the amount or formula described in subparagraph (B)(i)(II) agreed to in writing before January 1, 1989, is effective. The preceding sentence shall not apply to a modification agreed to in writing before January 1, 1989, which does not increase any benefit of a participant. Amounts described in the first sentence of this paragraph shall be taken into account for purposes of applying section 457 of the 1986 Code to other amounts deferred under any eligible deferred compensation plan.

(4) STUDY.—The Secretary of the Treasury or his delegate shall conduct a study on the tax treatment of deferred compensation paid by State and local governments and tax-exempt organizations (including deferred compensation paid to independent contractors). Not later than January 1, 1990, the Secretary shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report on the study conducted under this paragraph together with such recommendations as he may deem advisable.

Reports.

26 USC 401 note.

SEC. 6065. EXCEPTION FOR GOVERNMENTAL PLANS.

In the case of plan years beginning before January 1, 1993, section 401(a)(26) of the 1986 Code shall not apply to any governmental plan (within the meaning of section 414(d) of such Code) with respect to employees who were participants in such plan on July 14, 1988.

SEC. 6066. AIR TRANSPORTATION OF CARGO AND OF PASSENGERS TREATED AS SAME SERVICE FOR PURPOSES OF FRINGE BENEFITS INCLUSION.

(a) IN GENERAL.—Subsection (h) of section 132 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(8) AIR CARGO.—For purposes of subsection (b), the transportation of cargo by air and the transportation of passengers by air shall be treated as the same service."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to transportation furnished after December 31, 1987, in taxable years ending after such date. 26 USC 132 note.

SEC. 6067. SPECIAL RULE FOR APPLYING SPIN-OFF RULES TO BRIDGE BANKS.

(a) IN GENERAL.—Section 414(l)(2) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(G) SPECIAL RULES FOR BRIDGE BANKS.—For purposes of this paragraph, in the case of a bridge bank established under section 11(i) of the Federal Deposit Insurance Act (12 U.S.C. 1821(i))—

"(i) such bank shall be treated as a member of any controlled group which includes any insured bank (as defined in section 3(h) of such Act (12 U.S.C. 1813(h)))—

"(I) which maintains a defined benefit plan,

"(II) which is closed by the appropriate bank regulatory authorities, and

"(III) any asset and liabilities of which are received by the bridge bank, and

"(ii) the requirements of this paragraph shall not be treated as met with respect to such plan unless during the 180-day period beginning on the date such insured bank is closed—

"(I) the bridge bank has the right to require the plan to transfer (subject to the provisions of this paragraph) not more than 50 percent of the excess assets (as defined in subparagraph (C)) to a defined benefit plan maintained by the bridge bank with respect to participants or former participants (including retirees and beneficiaries) in the original plan employed by the bridge bank or formerly employed by the closed bank, and

"(II) no other merger, spin-off, termination, or similar transaction involving the portion of the excess assets described in subclause (I) may occur without the prior written consent of the bridge bank."

(b) STUDY.—The Secretary of the Treasury or his delegate, in consultation with the Federal Deposit Insurance Corporation, shall conduct a study with respect to the proper method of allocating assets in the case of a transaction to which the amendment made by this subsection applies. The Secretary of the Treasury shall not later than January 1, 1990, report the results of such study to the Committee on Ways and Means of the House of Representatives and to the Committee on Finance of the Senate. 26 USC 414 note. Reports.

(c) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 205(c) of this Act. 26 USC 414 note.

SEC. 6068. INCOME AVERAGING ALLOWED TO LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.

(a) IN GENERAL.—Section 402(e)(4) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(O) LUMP-SUM DISTRIBUTIONS OF ALTERNATE PAYEES.—If any distribution or payment of the balance to the credit of an employee would be treated as a lump-sum distribution, then, for purposes of this subsection, the payment under a qualified domestic relations order (within the meaning of section 414(p)) of the balance to the credit of an alternate payee who is the spouse or former spouse of the employee shall be treated as a lump-sum distribution. For purposes of this subparagraph, the balance to the credit of the alternate payee shall not include any amount payable to the employee."

26 USC 402 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 1984.

SEC. 6069. INCREASE IN EMPLOYER REVERSION TAX.

(a) IN GENERAL.—Section 4980(a) of the 1986 Code is amended by striking out "10 percent" and inserting in lieu thereof "15 percent".

26 USC 4980 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to reversions occurring on or after October 21, 1988.

(2) EXCEPTION.—The amendment made by subsection (a) shall not apply to any reversion on or after October 21, 1988, pursuant to a plan termination if—

(A) with respect to plans subject to title IV of the Employee Retirement Income Security Act of 1974, a notice of intent to terminate required under such title was provided to participants (or if no participants, to the Pension Benefit Guaranty Corporation) before October 21, 1988,

(B) with respect to plans subject to title I of such Act, a notice of intent to reduce future accruals required under section 204(h) of such Act was provided to participants in connection with the termination before October 21, 1988,

(C) with respect to plans not subject to title I or IV of such Act, the Board of Directors of the employer approved the termination or the employer took other binding action before October 21, 1988, or

(D) such plan termination was directed by a final order of a court of competent jurisdiction entered before October 21, 1988, and notice of such order was provided to participants before such date.

26 USC 89 note.

SEC. 6070. DEFINITION OF PART-TIME EMPLOYEE FOR PURPOSES OF SECTION 89.

For purposes of section 89(f) of the 1986 Code, in the case of a plan maintained by an employer which employs fewer than 10 employees on a normal working day during a plan year, section 89(h)(1)(B) of such Code shall be applied—

(1) by substituting "35 hours" for "17½ hours" in the case of a plan year beginning in 1989, and

(2) by substituting "25 hours" for "17½ hours" in the case of plan years beginning in 1990.

All persons treated as 1 employer for purposes of subsection (b), (c), (m), (n), or (o) of section 414 of the 1986 Code shall be treated as 1 employer for purposes of the preceding sentence.

SEC. 6071. RURAL TELEPHONE COOPERATIVES PERMITTED TO HAVE QUALIFIED CASH OR DEFERRED ARRANGEMENTS.

(a) IN GENERAL.—Paragraphs (1) and (2) of section 401(k) of the 1986 Code (relating to cash or deferred arrangements) are each amended by striking out "or a rural electric cooperative plan" and inserting in lieu thereof "or a rural cooperative plan".

(b) RURAL COOPERATIVE PLAN DEFINED.—

(1) Paragraph (7) of section 401(k) of the 1986 Code (as amended by title I) is amended to read as follows:

"(7) RURAL COOPERATIVE PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'rural cooperative plan' means any pension plan—

"(i) which is a defined contribution plan (as defined in section 414(i)), and

"(ii) which is established and maintained by a rural cooperative.

"(B) RURAL COOPERATIVE DEFINED.—For purposes of subparagraph (A), the term 'rural cooperative' means—

"(i) any organization which—

"(I) is exempt from tax under this subtitle or which is a State or local government or political subdivision thereof (or agency or instrumentality thereof), and

"(II) is engaged primarily in providing electric service on a mutual or cooperative basis,

"(ii) any organization described in paragraph (4) or (6) of section 501(c) and at least 80 percent of the members of which are organizations described in clause (i),

"(iii) a cooperative telephone company described in section 501(c)(12), and

"(iv) an organization which is a national association of organizations described in clause (i), (ii), or (iii)."

(2) Subparagraph (B) of section 401(k)(4) of the 1986 Code (as amended by title I) is amended by striking out "rural electric plan" and inserting in lieu thereof "rural cooperative plan".

(c) AMENDMENTS TO SECTION 457.—Section 457 of the 1986 Code (as amended by section 1107 of the Reform Act) is amended by striking out "rural electric cooperative plan" in subsection (c)(2) and inserting in lieu thereof "rural cooperative plan".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after the date of the enactment of this Act. 26 USC 401 note.

SEC. 6072. STUDY OF TREATMENT OF CERTAIN TECHNICAL PERSONNEL.

The Secretary of the Treasury or his delegate shall conduct a study of the treatment provided by section 1706 of the Reform Act (relating to treatment of certain technical personnel). The report of such study shall be submitted not later than September 1, 1989, to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate. Reports.

Subtitle D—Insurance Provisions

26 USC 801 note.

SEC. 6076. TREATMENT OF CERTAIN WORKERS' COMPENSATION FUNDS.

(a) TREATMENT FOR TAXABLE YEARS BEGINNING BEFORE 1987.—In the case of any taxable year beginning before January 1, 1987, a deficiency shall not be assessed against (and if assessed, shall not be collected from) any qualified group self-insurers' fund to the extent such deficiency is attributable to the timing of policyholder dividend deductions.

(b) QUALIFIED GROUP SELF-INSURERS' FUND.—For purposes of this section, the term "qualified group self-insurers' fund" means any group of 2 or more employers which has been in existence for not less than 2 years, and who enter into agreements to pool their liabilities under the State workers' disability compensation laws for the purpose of qualifying as a self-insurer under such laws, if—

(1) the group has received a certificate of approval from, and is subject to regulation by, the State board or agency that is responsible for administering the State workers' disability compensation laws,

(2) each employer who is a member of the group, by written agreement, is jointly and severally bound to assume and discharge, by payment, any lawful judgment or award entered by a court of competent jurisdiction or by the State agency responsible for administering the State workers' disability compensation laws against a member of the group,

(3) the group is prohibited by State law or regulation from using the monies collected for a purpose other than to pay, or to reserve against, claims under the State workers' disability compensation laws and expenses,

(4) the group is prohibited by State law or regulation from taking projected investment income into account in determining members' premiums,

(5) the group is required by State law or regulation to submit to the State board or agency that is responsible for administering the State workers' disability compensation laws an audited financial statement,

(6) the group's investments are limited by State law or regulation to bonds, notes, or other evidences of indebtedness issued, assumed or guaranteed by the United States of America, or by an agency or instrumentality thereof, certificates of deposit in a federally insured bank, shares or savings deposits in a federally insured savings and loan association or credit union, and certificates of deposit issued by a commercial bank duly chartered under State law, and other investments which are approved by the State board or agency that is responsible for administering the State workers' disability compensation laws, and

(7) the group exclusively covers workers' compensation liability, is not a commercial insurance carrier or company licensed by the State board, agency, or commissioner responsible for regulating and licensing insurance carriers and companies; and is not subject to filing under the regulatory statements of the National Association of Insurance Commissioners.

SEC. 6077. SPECIAL ESTIMATED TAX PAYMENTS.

(a) GENERAL RULE.—Part III of subchapter L of chapter 1 of the 1986 Code (relating to provisions of general application) is amended by adding at the end thereof the following new section:

"SEC. 847. SPECIAL ESTIMATED TAX PAYMENTS.

"In the case of taxable years beginning after December 31, 1987, of an insurance company required to discount unpaid losses (as defined in section 846)—

"(1) ADDITIONAL DEDUCTION.—There shall be allowed as a deduction for the taxable year, if separate estimated tax payments are made as required by paragraph (2), an amount not to exceed the excess of—

"(A) the amount of the undiscounted, unpaid losses (as defined in section 846(b)) attributable to losses incurred after December 31, 1986, over

"(B) the amount of the related discounted, unpaid losses determined under section 846,

to the extent such amount was not deducted under this paragraph in a preceding taxable year. Section 6655 shall be applied to any taxable year without regard to the deduction allowed under the preceding sentence.

"(2) SPECIAL ESTIMATED TAX PAYMENTS.—The deduction under paragraph (1) shall be allowed only to the extent that special estimated tax payments are made in an amount equal to the tax benefit attributable to such deduction, on or before the date that any taxes (determined without regard to this section) for the taxable year for which the deduction is allowed are due to be paid. If a deduction would be allowed but for the fact that special estimated tax payments were not timely made, such deduction shall be allowed to the extent such payments are made within a reasonable time, as determined by the Secretary, if all interest and penalties, computed as if this sentence did not apply, are paid. If amounts are included in gross income under paragraph (5) or (6) for any taxable year and an additional tax is due for such year (or any other year) as a result of such inclusion, an amount of special estimated tax payments equal to such additional tax shall be applied against such additional tax. If, after any such payment is so applied, there is an adjustment reducing the amount of such additional tax, in lieu of any credit or refund for such reduction, a special estimated tax payment shall be treated as made in an amount equal to the amount otherwise allowable as a credit or refund. To the extent that a special estimated tax payment is not used to offset additional tax due for any of the first 15 taxable years beginning after the year for which the payment was made, such special estimated tax payment shall be treated as an estimated tax payment made under section 6655 for the 16th year after the year for which the payment was made.

"(3) SPECIAL LOSS DISCOUNT ACCOUNT.—Each company which is allowed a deduction under paragraph (1) shall, for purposes of this part, establish and maintain a special loss discount account.

"(4) ADDITIONS TO SPECIAL LOSS DISCOUNT ACCOUNT.—There shall be added to the special loss discount account for each taxable year an amount equal to the amount allowed as a deduction for the taxable year under paragraph (1).

"(5) SUBTRACTIONS FROM SPECIAL LOSS DISCOUNT ACCOUNT AND INCLUSION IN GROSS INCOME.—After applying paragraph (4), there shall be subtracted for the taxable year from the special loss discount account and included in gross income:

"(A) The excess (if any) of the amount in the special loss discount account with respect to losses incurred in each taxable year over the amount of the excess referred to in paragraph (1) with respect to losses incurred in that year, and

"(B) Any amount improperly subtracted from the special loss discount account under subparagraph (A) to the extent special estimated tax payments were used with respect to such amount.

"(6) RULES IN THE CASE OF LIQUIDATION OR TERMINATION OF TAXPAYER'S INSURANCE BUSINESS.—

"(A) IN GENERAL.—If a company liquidates or otherwise terminates its insurance business and does not transfer or distribute such business in an acquisition of assets referred to in section 381(a), the entire amount remaining in such special loss discount account shall be subtracted and included in gross income. Except in the case where a company transfers or distributes its insurance business in an acquisition of assets, referred to in section 381(a), if the company is not subject to the tax imposed by section 801 or section 831 for any taxable year, the entire amount in the account at the close of the preceding taxable year shall be subtracted from the account in such preceding taxable year and included in gross income.

"(B) ELIMINATION OF BALANCE OF PAYMENTS.—In any case to which subparagraph (A) applies, any special estimated tax payment remaining after the credit attributable to the inclusion under subparagraph (A) shall be voided.

"(7) MODIFICATION OF THE AMOUNT OF SPECIAL ESTIMATED TAX PAYMENTS IN THE EVENT OF SUBSEQUENT MARGINAL RATE REDUCTION OR INCREASE.—In the event of a reduction in any tax rate provided under section 11 for any tax year after the enactment of this section, the Secretary shall prescribe regulations providing for a reduction in the amount of any special estimated tax payments made for years before the effective date of such section 11 rate reductions. Such reduction in the amount of such payments shall reduce the amount of such payments to the amount that they would have been if the special deduction permitted under paragraph (1) had occurred during a year that the lower marginal rate under section 11 applied. Similar rules shall be applied in the event of a marginal rate increase.

Regulations.

"(8) TAX BENEFIT DETERMINATION.—The tax benefit attributable to the deduction under paragraph (1) shall be determined under regulations prescribed by the Secretary, by taking into account tax benefits that would arise from the carryback of any net operating loss for the year, as well as current year tax benefits. Tax benefits for the current year and carryback years shall include those that would arise from the filing of a consolidated return with another insurance company required to determine discounted, unpaid losses under section 846 without regard to the limitations on consolidation contained in section 1503(c).

"(9) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this section, including regulations—

"(A) providing for the separate application of this section with respect to each accident year, and

"(B) such adjustments in the application of this section as may be necessary to take into account the tax imposed by section 55."

(b) CLERICAL AMENDMENT.—The table of sections for part III of subchapter L of chapter 1 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 847. Special estimated tax payments."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1987. 26 USC 847 note.

SEC. 6078. CHURCH SELF-FUNDED DEATH BENEFIT PLANS TREATED AS LIFE INSURANCE.

(a) IN GENERAL.—Section 7702 of the 1986 Code (defining life insurance contract) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) CERTAIN CHURCH SELF-FUNDED DEATH BENEFIT PLANS TREATED AS LIFE INSURANCE.—

"(1) IN GENERAL.—In determining whether any plan or arrangement described in paragraph (2) is a life insurance contract, the requirement of subsection (a) that the contract be a life insurance contract under applicable law shall not apply.

"(2) DESCRIPTION.—For purposes of this subsection, a plan or arrangement is described in this paragraph if—

"(A) such plan or arrangement provides for the payment of benefits by reason of the death of the individuals covered under such plan or arrangement, and

"(B) such plan or arrangement is provided by a church for the benefit of its employees and their beneficiaries, directly or through an organization described in section 414(e)(3)(A) or an organization described in section 414(e)(3)(B)(ii).

"(3) DEFINITIONS.—For purposes of this subsection—

"(A) CHURCH.—The term 'church' means a church or a convention or association of churches.

"(B) EMPLOYEE.—The term 'employee' includes an employee described in section 414(e)(3)(B)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the amendment made by section 221(a) of the Tax Reform Act of 1984. 26 USC 7702 note.

SEC. 6079. TREATMENT OF STRUCTURED SETTLEMENTS.

(a) TREATMENT UNDER MINIMUM TAX.—

(1) The last sentence of section 56(g)(4)(B)(iii) of the 1986 Code (as amended by title I) is amended to read as follows: "The preceding sentence shall not apply to any annuity contract which is held under a plan described in section 403(a) or which is described in section 72(u)(3)(C)."

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall take effect as if included in the amendments made by section 701 of the Reform Act. 26 USC 56 note.

(b) CERTAIN CREDITOR RIGHTS PERMITTED.—

(1) IN GENERAL.—Subsection (c) of section 130 of the 1986 Code (relating to certain personal injury liability assignments) is amended—

(A) by striking out subparagraph (C) of paragraph (2) and redesignating subparagraphs (D) and (E) of paragraph (2) as subparagraphs (C) and (D), respectively, and

(B) by adding at the end thereof the following new sentence:

"The determination for purposes of this chapter of when the recipient is treated as having received any payment with respect to which there has been a qualified assignment shall be made without regard to any provision of such assignment which grants the recipient rights as a creditor greater than those of a general creditor."

26 USC 130 note.

(2) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to assignments after the date of the enactment of this Act.

SEC. 6080. VARIABLE CONTRACTS INVESTED IN GOVERNMENT SECURITIES PERMITTED.

(a) IN GENERAL.—Subsection (h) of section 817 of the 1986 Code (relating to treatment of certain nondiversified contracts) is amended by adding at the end thereof the following new paragraph:

"(6) GOVERNMENT SECURITIES FUNDS.—In determining whether a segregated asset account is adequately diversified for purposes of paragraph (1), each United States Government agency or instrumentality shall be treated as a separate issuer."

26 USC 817 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987

Subtitle E—Excise Tax Provisions

SEC. 6101. AUTHORITY TO PRESCRIBE TOLERANCES FOR THE VOLUME OF WINE IN BOTTLES FOR PURPOSES OF THE EXCISE TAX ON WINE.

(a) IN GENERAL.—Section 5041 of the 1986 Code (relating to imposition and rate of tax on wine) is amended by redesignating subsection (d) as subsection (e) and by inserting after subsection (c) the following new subsection:

"(d) TOLERANCES.—Where the Secretary finds that the revenue will not be endangered thereby, he may by regulation prescribe tolerances (but not greater than ½ of 1 percent) for bottles and other containers, and, if such tolerances are prescribed, no assessment shall be made and no tax shall be collected for any excess in any case where the contents of a bottle or other container are within the limit of the applicable tolerance prescribed."

26 USC 5041 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to wine removed after December 31, 1988.

SEC. 6102. WHOLESALE DISTRIBUTORS TO ADMINISTER CLAIMS FOR REFUND OF GASOLINE TAX.

(a) IN GENERAL.—Subsection (a) of section 6416 of the 1986 Code (relating to certain taxes and services) is amended by adding at the end thereof the following new paragraph:

"(4) WHOLESALE DISTRIBUTORS TO ADMINISTER CREDITS AND REFUNDS OF GASOLINE TAX.—

"(A) IN GENERAL.—For purposes of this subsection, a wholesale distributor who purchases any product on which tax imposed by section 4081 has been paid and who sells the product to its ultimate purchaser shall be treated as the person (and the only person) who paid such tax.

"(B) WHOLESALE DISTRIBUTOR.—For purposes of subparagraph (A), the term 'wholesale distributor' has the meaning given such term by section 4092(b)(2) (determined by substituting 'any product taxable under section 4081' for 'a taxable fuel' therein)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to fuel sold by wholesale distributors (as defined in section 6416(a)(4)(B) of the 1986 Code, as added by this section) after September 30, 1988. 26 USC 6416 note.

SEC. 6103. AUTHORITY TO EXEMPT ARTICLES FROM EXCISE TAX ON HEAVY TRUCKS AND TRAILERS WHERE BENEFIT ACCRUES TO UNITED STATES.

(a) IN GENERAL.—Section 4293 of the 1986 Code is amended by inserting "section 4051," after "section 4041,".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act. 26 USC 4293 note.

SEC. 6104. APPLICATION OF REDUCED GASOLINE TAX RATE TO BLENDERS.

(a) IN GENERAL.—Paragraph (1) of section 4081(c) of the 1986 Code (relating to gasoline mixed with alcohol at refinery, etc.) is amended by adding after the 1st sentence the following new sentence: "Subject to such terms and conditions as the Secretary may prescribe (including the application of section 4101), the treatment under the preceding sentence also shall apply to use in producing gasohol after the time of such removal or sale.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on October 1, 1989. 26 USC 4081 note.

SEC. 6105. CERTAIN EDUCATIONAL INSTITUTIONS EXEMPT FROM USER FEES ON PERMITS FOR INDUSTRIAL USE OF SPECIALLY DENATURED DISTILLED SPIRITS.

(a) IN GENERAL.—Section 5276 of the 1986 Code (relating to occupational tax) is amended by adding at the end thereof the following new subsection:

"(c) EXEMPTION FOR CERTAIN EDUCATIONAL INSTITUTIONS.—Subsection (a) shall not apply with respect to any scientific university, college of learning, or institution of scientific research which—

"(1) is issued a permit under section 5271(a)(2), and

"(2) with respect to any calendar year during which such permit is in effect, procures less than 25 gallons of specially denatured distilled spirits for experimental or research use but not for consumption (other than organoleptic tests) or sale."

(b) CONFORMING AMENDMENT.—Section 5276(a) of the 1986 Code is amended by striking out "A permit" and inserting in lieu thereof "Except as provided in subsection (c), a permit".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1989. 26 USC 5276 note.

SEC. 6106. SMALL PRODUCERS EXEMPT FROM OCCUPATIONAL TAX ON DISTILLED SPIRITS PLANTS.

(a) IN GENERAL.—Section 5081 of the 1986 Code (relating to imposition and rate of occupational tax) is amended by adding at the end thereof the following new subsection:

"(c) EXEMPTION FOR SMALL PRODUCERS.—Subsection (a) shall not apply with respect to any taxpayer who is a proprietor of an eligible distilled spirits plant (as defined in section 5181(c)(4))."

(b) CONFORMING AMENDMENT.—Paragraph (1) of section 5081(b) of the 1986 Code (relating to reduced rates for small proprietors) is amended by inserting "not described in subsection (c)" after "taxpayer".

26 USC 5081 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on July 1, 1989.

SEC. 6107. QUARTERLY PAYMENT OF ARCHERY EXCISE TAX.

(a) IN GENERAL.—Subsection (d) of section 6302 of the 1986 Code (relating to mode or time of collection) is amended to read as follows:

"(d) TIME FOR PAYMENT OF MANUFACTURERS' EXCISE TAX ON SPORTING GOODS.—The taxes imposed by subsections (a) and (b) of section 4161 (relating to taxes on sporting goods) shall be due and payable on the date for filing the return for such taxes."

26 USC 6302 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to articles sold by the manufacturer, producer, or importer after December 31, 1988.

SEC. 6108. EXTENSION OF TIME FOR ENACTING AUTHORIZING LEGISLATION RELATING TO THE OIL SPILL LIABILITY TRUST FUND.

Subparagraph (B) of section 4611(f)(2) of the 1986 Code (defining qualified authorizing legislation) is amended by striking out "September 1, 1987" and inserting in lieu thereof "December 31, 1990".

SEC. 6109. DONATED CARGO EXEMPT FROM HARBOR MAINTENANCE TAX.

(a) GENERAL RULE.—Section 4462 of the 1986 Code (relating to definitions and special rules) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) EXEMPTION FOR HUMANITARIAN AND DEVELOPMENT ASSISTANCE CARGOS.—No tax shall be imposed under this subchapter on any nonprofit organization or cooperative for cargo which is owned or financed by such nonprofit organization or cooperative and which is certified by the United States Customs Service as intended for use in humanitarian or development assistance overseas."

26 USC 4462 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on April 1, 1987.

SEC. 6110. RELAY CARGO.

(a) IN GENERAL.—Subsection (g) of section 4462 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(3) RELAY CARGO.—Only 1 tax shall be imposed under section 4461(a) on cargo (moving under a single bill of lading) which is unloaded from one vessel and loaded onto another vessel at any port in the United States for relay to or from any port in Alaska, Hawaii, or any possession of the United States. For purposes of this paragraph, the term 'cargo' does not include any item not treated as cargo under subsection (b)(2)."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act. 26 USC 4462 note.

SEC. 6111. CLARIFICATION OF MEANING OF MANUFACTURE UNDER TRUCK EXCISE TAX.

(a) IN GENERAL.—Paragraph (1) of section 4052(a) of the 1986 Code (defining first retail sale) is amended by striking out "manufacture, production" and inserting in lieu thereof "production, manufacture".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on January 1, 1988. 26 USC 4052 note.

Subtitle F—Foreign Provisions

SEC. 6126. DUAL RESIDENT COMPANIES. 26 USC 1502 note.

(a) GENERAL RULE.—In the case of a transaction which—

(1) involves the transfer after the date of the enactment of this Act by a domestic corporation, with respect to which there is a qualified excess loss account, of its assets and liabilities to a foreign corporation in exchange for all of the stock of such foreign corporation, followed by the complete liquidation of the domestic corporation into the common parent, and

(2) qualifies, pursuant to Revenue Ruling 87-27, as a reorganization which is described in section 368(a)(1)(F) of the 1986 Code,

then, solely for purposes of applying Treasury Regulation section 1.1502-19 to such qualified excess loss account, such foreign corporation shall be treated as a domestic corporation in determining whether such foreign corporation is a member of the affiliated group of the common parent.

(b) TREATMENT OF INCOME OF NEW FOREIGN CORPORATION.—

(1) IN GENERAL.—In any case to which subsection (a) applies, for purposes of the 1986 Code—

(A) the source and character of any item of income of the foreign corporation referred to in subsection (a) shall be determined as if such foreign corporation were a domestic corporation,

(B) the net amount of any such income shall be treated as subpart F income (without regard to section 952(c) of the 1986 Code), and

(C) the amount in the qualified excess loss account referred to in subsection (a) shall—

(i) be reduced by the net amount of any such income, and

(ii) be increased by the amount of any such income distributed directly or indirectly to the common parent described in subsection (a).

(2) LIMITATION.—Paragraph (1) shall apply to any item of income only to the extent that the net amount of such income does not exceed the amount in the qualified excess loss account after being reduced under paragraph (1)(C) for prior income.

(3) BASIS ADJUSTMENTS NOT APPLICABLE.—To the extent paragraph (1) applies to any item of income, there shall be no increase in basis under section 961(a) of such Code on account of such income (and there shall be no reduction in basis under

section 961(b) of such Code on account of an exclusion attributable to the inclusion of such income).

(4) RECOGNITION OF GAIN.—For purposes of paragraph (1), if the foreign corporation referred to in subsection (a) transfers any property acquired by such foreign corporation in the transaction referred to in subsection (a) (or transfers any other property the basis of which is determined in whole or in part by reference to the basis of property so acquired) and (but for this paragraph) there is not full recognition of gain on such transfer, the excess (if any) of—

(A) the fair market value of the property transferred, over

(B) its adjusted basis,

shall be treated as gain from the sale or exchange of such property and shall be recognized notwithstanding any other provision of law. Proper adjustment shall be made to the basis of any such property for gain recognized under the preceding sentence.

(c) DEFINITIONS.—For purposes of this section—

(1) COMMON PARENT.—The term "common parent" means the common parent of the affiliated group which included the domestic corporation referred to in subsection (a)(1).

(2) QUALIFIED EXCESS LOSS ACCOUNT.—The term "qualified excess loss account" means any excess loss account (within the meaning of the consolidated return regulations) to the extent such account is attributable—

(A) to taxable years beginning before January 1, 1988, and

(B) to periods during which the domestic corporation was subject to an income tax of a foreign country on its income on a residence basis or without regard to whether such income is from sources in or outside of such foreign country.

The amount of such account shall be determined as of immediately after the transaction referred to in subsection (a) and without, except as provided in subsection (b), diminution for any future adjustment.

(3) NET AMOUNT.—The net amount of any item of income is the amount of such income reduced by allocable deductions as determined under the rules of section 954(b)(5) of the 1986 Code.

(4) SECOND SAME COUNTRY CORPORATION MAY BE TREATED AS DOMESTIC CORPORATION IN CERTAIN CASES.—If—

(A) another foreign corporation acquires from the common parent stock of the foreign corporation referred to in subsection (a) after the transaction referred to in subsection (a),

(B) both of such foreign corporations are subject to the income tax of the same foreign country on a residence basis, and

(C) such common parent complies with such reporting requirements as the Secretary of the Treasury or his delegate may prescribe for purposes of this paragraph,

such other foreign corporation shall be treated as a domestic corporation in determining whether the foreign corporation referred to in subsection (a) is a member of the affiliated group referred to in subsection (a) (and the rules of subsection (b) shall apply (i) to any gain of such other foreign corporation on any disposition of such stock, and (ii) to any other income of such

other foreign corporation except to the extent it establishes to the satisfaction of the Secretary of the Treasury or his delegate that such income is not attributable to property acquired from the foreign corporation referred to in subsection (a)).

SEC. 6127. ELECTION TO BE TREATED AS QUALIFIED ELECTING FUND TO BE MADE BY TAXPAYER.

(a) GENERAL RULE.—Section 1295 of the 1986 Code (defining qualified electing fund) is amended to read as follows:

"SEC. 1295. QUALIFIED ELECTING FUND.

"(a) GENERAL RULE.—For purposes of this part, any passive foreign investment company shall be treated as a qualified electing fund with respect to the taxpayer if—

"(1) an election by the taxpayer under subsection (b) applies to such company for the taxable year, and

"(2) such company complies with such requirements as the Secretary may prescribe for purposes of—

"(A) determining the ordinary earnings and net capital gain of such company, and

"(B) otherwise carrying out the purposes of this subpart.

"(b) ELECTION.—

"(1) IN GENERAL.—A taxpayer may make an election under this subsection with respect to any passive foreign investment company for any taxable year of the taxpayer. Such an election, once made with respect to any company, shall apply to all subsequent taxable years of the taxpayer with respect to such company unless revoked by the taxpayer with the consent of the Secretary.

"(2) WHEN MADE.—An election under this subsection may be made for any taxable year at any time on or before the due date (determined with regard to extensions) for filing the return of the tax imposed by this chapter for such taxable year. To the extent provided in regulations, such an election may be made later than as required in the preceding sentence where the taxpayer fails to make a timely election because the taxpayer reasonably believed that the company was not a passive foreign investment company."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 1291(d) of the 1986 Code (as amended by title I) is amended by striking out "for each" in the material preceding subparagraph (A) and inserting in lieu thereof "with respect to the taxpayer for each".

(2) Subparagraphs (A)(i) and (B)(i) of section 1291(d)(2) of the 1986 Code (as amended by title I) are each amended by striking out "for a taxable year" and inserting in lieu thereof "with respect to the taxpayer for a taxable year".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall take effect as if included in the amendments made by section 1235 of the Reform Act. 26 USC 1295 note.

(2) TIME FOR MAKING ELECTION.—The period during which an election under section 1295(b) of the 1986 Code may be made shall in no event expire before the date 60 days after the date of the enactment of this Act.

SEC. 6128. TREATMENT OF CERTAIN UNITED STATES AFFILIATE OBLIGATIONS.

(a) GENERAL RULE.—Subparagraph (B) of section 127(g)(3) of the Tax Reform Act of 1984 is amended by inserting before the period at the end thereof the following: "as such principles are applied in Revenue Ruling 86-6, except that the maximum debt-to-equity ratio described in such Revenue Rulings shall be increased from 5-to-1 to 25-to-1".

26 USC 871 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years ending after the date of the enactment of this Act.

26 USC 871 note.

SEC. 6129. TREATMENT OF CERTAIN INSURANCE BRANCHES OF FOREIGN CORPORATIONS.

(a) GENERAL RULE.—Section 964 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new subsection:

"(d) TREATMENT OF CERTAIN BRANCHES.—

"(1) IN GENERAL.—For purposes of this chapter, section 6038, section 6046, and such other provisions as may be specified in regulations—

"(A) a qualified insurance branch of a controlled foreign corporation shall be treated as a separate foreign corporation created under the laws of the foreign country with respect to which such branch qualifies under paragraph (2), and

"(B) except as provided in regulations, any amount directly or indirectly transferred or credited from such branch to one or more other accounts of such controlled foreign corporation shall be treated as a dividend paid to such controlled foreign corporation.

"(2) QUALIFIED INSURANCE BRANCH.—For purposes of paragraph (1), the term 'qualified insurance branch' means any branch of a controlled foreign corporation which is licensed and predominantly engaged on a permanent basis in the active conduct of an insurance business in a foreign country if—

"(A) separate books and accounts are maintained for such branch,

"(B) the principal place of business of such branch is in such foreign country,

"(C) such branch would be taxable under subchapter L if it were a separate domestic corporation, and

"(D) an election under this paragraph applies to such branch.

An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(3) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this subsection."

26 USC 964 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years of foreign corporations beginning after December 31, 1988.

SEC. 6130. TREATMENT OF CERTAIN INSTRUMENTS UNDER FOREIGN CURRENCY RULES.

(a) GENERAL RULE.—Clause (iii) of section 988(c)(1)(B) of the 1986 Code (as amended by title I) is amended by striking out "unless such instrument would be marked to market under section 1256 if held on the last day of the taxable year".

(b) SPECIAL RULES.—Paragraph (1) of section 988(c) of the 1986 Code is amended by adding at the end thereof the following new subparagraphs:

"(D) EXCEPTION FOR CERTAIN INSTRUMENTS MARKED TO MARKET.—

"(i) IN GENERAL.—Clause (iii) of subparagraph (B) shall not apply to any regulated futures contract or nonequity option which would be marked to market under section 1256 if held on the last day of the taxable year.

"(ii) ELECTION OUT.—

"(I) IN GENERAL.—The taxpayer may elect to have clause (i) not apply to such taxpayer. Such an election shall apply to contracts held at any time during the taxable year for which such election is made or any succeeding taxable year unless such election is revoked with the consent of the Secretary.

"(II) TIME FOR MAKING ELECTION.—Except as provided in regulations, an election under subclause (I) for any taxable year shall be made on or before the 1st day of such taxable year (or, if later, on or before the 1st day during such year on which the taxpayer holds a contract described in clause (i)).

"(III) SPECIAL RULE FOR PARTNERSHIPS, ETC.—In the case of a partnership, an election under subclause (I) shall be made by each partner separately. A similar rule shall apply in the case of an S corporation.

"(iii) TREATMENT OF CERTAIN PARTNERSHIPS.—This subparagraph shall not apply to any income or loss of a partnership for any taxable year if such partnership made an election under subparagraph (E)(iii)(V) for such year or any preceding year.

"(E) SPECIAL RULES FOR CERTAIN FUNDS.—

"(i) IN GENERAL.—In the case of a qualified fund, clause (iii) of subparagraph (B) shall not apply to any instrument which would be marked to market under section 1256 if held on the last day of the taxable year (determined after the application of clause (iv)).

"(ii) SPECIAL RULE WHERE ELECTING PARTNERSHIP DOES NOT QUALIFY.—If any partnership made an election under clause (iii)(V) for any taxable year and such partnership has a net loss for such year or any succeeding year from instruments referred to in clause (i), the rules of clauses (i) and (iv) shall apply to any such loss year whether or not such partnership is a qualified fund for such year.

"(iii) QUALIFIED FUND DEFINED.—For purposes of this subparagraph, the term 'qualified fund' means any partnership if—

"(I) at all times during the taxable year (and during each preceding taxable year to which an election under subclause (V) applied), such partnership has at least 20 partners and no single partner owns more than 20 percent of the interests in the capital or profits of the partnership,

"(II) the principal activity of such partnership for such taxable year (and each such preceding taxable year) consists of buying and selling options, futures, or forwards with respect to commodities,

"(III) at least 90 percent of the gross income of the partnership for the taxable year (and for each such preceding taxable year) consisted of income or gains described in subparagraph (A), (B), or (G) of section 7704(d)(1) or gain from the sale or disposition of capital assets held for the production of interest or dividends,

"(IV) no more than a de minimis amount of the gross income of the partnership for the taxable year (and each such preceding taxable year) was derived from buying and selling commodities, and

"(V) an election under this subclause applies to the taxable year.

An election under subclause (V) for any taxable year shall be made on or before the 1st day of such taxable year (or, if later, on or before the 1st day during such year on which the partnership holds an instrument referred to in clause (i)). Any such election shall apply to the taxable year for which made and all succeeding taxable years unless revoked with the consent of the Secretary.

"(iv) TREATMENT OF CERTAIN CURRENCY CONTRACTS.—

"(I) IN GENERAL.—Except as provided in regulations, in the case of a qualified fund, any bank forward contract, any foreign currency futures contract traded on a foreign exchange, or to the extent provided in regulations any similar instrument, which is not otherwise a section 1256 contract shall be treated as a section 1256 contract for purposes of section 1256.

"(II) GAINS AND LOSSES TREATED AS SHORT-TERM.—In the case of any instrument treated as a section 1256 contract under subclause (I), subparagraph (A) of section 1256(a)(3) shall be applied by substituting '100 percent' for '40 percent' (and subparagraph (B) of such section shall not apply).

"(v) SPECIAL RULES FOR CLAUSE (iii)(I).—

"(I) CERTAIN GENERAL PARTNERS.—The interest of a general partner in the partnership shall not be treated as failing to meet the 20-percent ownership requirements of clause (iii)(I) for any taxable year of the partnership if, for the taxable year of the partner in which such partnership taxable year ends, such partner (and each corporation filing a

consolidated return with such partner) had no ordinary income or loss from a section 988 transaction which is foreign currency gain or loss (as the case may be).

"(II) TREATMENT OF INCENTIVE COMPENSATION.—For purposes of clause (iii)(I), any income allocable to a general partner as incentive compensation based on profits rather than capital shall not be taken into account in determining such partner's interest in the profits of the partnership.

"(III) TREATMENT OF TAX-EXEMPT PARTNERS.—Except as provided in regulations, the interest of a partner in the partnership shall not be treated as failing to meet the 20-percent ownership requirements of clause (iii)(I) if none of the income of such partner from such partnership is subject to tax under this chapter (whether directly or through 1 or more pass-thru entities).

"(IV) LOOK-THRU RULE.—In determining whether the requirements of clause (iii)(I) are met with respect to any partnership, except to the extent provided in regulations, any interest in such partnership held by another partnership shall be treated as held proportionately by the partners in such other partnership.

"(vi) OTHER SPECIAL RULES.—For purposes of this subparagraph—

"(I) RELATED PERSONS.—Interests in the partnership held by persons related to each other (within the meaning of sections 267(b) and 707(b)) shall be treated as held by 1 person.

"(II) PREDECESSORS.—References to any partnership shall include a reference to any predecessor thereof.

"(III) INADVERTENT TERMINATIONS.—Rules similar to the rules of section 7704(e) shall apply.

"(IV) TREATMENT OF CERTAIN DEBT INSTRUMENTS.—For purposes of clause (iii)(IV), any debt instrument which is a section 988 transaction shall be treated as a commodity."

(c) AMENDMENT OF SECTION 1092(b).—Paragraph (2) of section 1092(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(D) TIMING AND CHARACTER AUTHORITY.—The regulations prescribed under paragraph (1) shall include regulations relating to the timing and character of gains and losses in case of straddles where at least 1 position is ordinary and at least 1 position is capital."

(d) EFFECTIVE DATE.— 26 USC 988 note.

(1) IN GENERAL.—The amendments made by this section shall apply with respect to forward contracts, future contracts, options, and similar instruments entered into or acquired after October 21, 1988.

(2) TIME FOR MAKING ELECTION.—The time for making any election under subparagraph (D) or (E) of section 988(c)(1) of the 1986 Code shall not expire before the date 30 days after the date of the enactment of this Act.

(3) TRANSITIONAL RULES.—

(A) The requirements of subclause (IV) of section 988(c)(1)(E)(iii) of the 1986 Code (as added by subsection (b)) shall not apply to periods before the date of the enactment of this Act.

(B) In the case of any partner in an existing partnership, the 20-percent ownership requirements of subclause (I) of such section 988(c)(1)(E)(iii) shall be treated as met during any period during which such partner does not own a percentage interest in the capital or profits of such partnership greater than 33⅓ percent (or, if lower, the lowest such percentage interest of such partner during any prior period after October 21, 1988, during which such partnership is in existence). For purposes of the preceding sentence, the term "existing partnership" means any partnership if—

(i) such partnership was in existence on October 21, 1988, and principally engaged on such date in buying and selling options, futures, or forwards with respect to commodities, or

(ii) a registration statement was filed with respect to such partnership with the Securities and Exchange Commission on or before such date and such registration statement indicated that the principal activity of such partnership will consist of buying and selling instruments referred to in clause (i).

SEC. 6131. TREATMENT OF INSURANCE COMPANIES UNDER CHAIN DEFICIT RULE.

(a) IN GENERAL.—Subparagraph (B) of section 952(c)(1) of the 1986 Code is amended by adding at the end thereof the following new clause:

"(vii) SPECIAL RULES FOR INSURANCE INCOME.—

"(I) IN GENERAL.—An election may be made under this clause to have section 953(a) applied for purposes of this title without regard to the same country exception under paragraph (1)(A) thereof. Such election, once made, may be revoked only with the consent of the Secretary.

"(II) SPECIAL RULES FOR AFFILIATED GROUPS.—In the case of an affiliated group of corporations (within the meaning of section 1504 but without regard to section 1504(b)(3) and by substituting 'more than 50 percent' for 'at least 80 percent' each place it appears), no election may be made under subclause (I) for any controlled foreign corporation unless such election is made for all other controlled foreign corporations who are members of such group and who were created or organized under the laws of the same country as such controlled foreign corporation. For purposes of clause (v), in determining whether any controlled corporation described in the preceding sentence is a qualified insurance company, all such corporations shall be treated as 1 corporation."

26 USC 952 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 1221(f) of the Reform Act.

SEC. 6132. VIRGIN ISLANDS TREATED AS QUALIFIED BASIN COUNTRY.

(a) IN GENERAL.—Subparagraph (B) of section 936(d)(4) of the 1986 Code is amended by inserting "and the Virgin Islands" after "section 274(h)(6)(A)".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to investments made after the date of the enactment of this Act. 26 USC 936 note.

SEC. 6133. TREATMENT OF CERTAIN UNITED STATES OBLIGATIONS HELD BY POSSESSION BANKS.

(a) IN GENERAL.—Subsection (e) of section 882 of the 1986 Code is amended—

(1) by inserting "which is not portfolio interest (as defined in section 881(c)(2))" before "shall", and

(2) by striking out the last sentence thereof.

(b) EXCLUSION FROM BRANCH PROFITS TAX.—Paragraph (2) of section 884(d) of the 1986 Code is amended by striking out "or" at the end of subparagraph (C), by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", or" and by inserting after subparagraph (D) the following new subparagraph:

"(E) income treated as effectively connected with the conduct of a trade or business within the United States under section 882(e)." Business and industry.

(c) EFFECTIVE DATE.—The amendments made by this subsection shall apply to taxable years beginning after December 31, 1988. 26 USC 882 note.

SEC. 6134. TREATMENT OF CERTAIN GAMBLING WINNINGS RECEIVED BY NONRESIDENT ALIENS.

(a) EXEMPTION FROM TAX.—

(1) Section 871 of the 1986 Code (relating to tax on nonresident alien individuals) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) EXEMPTION FOR CERTAIN GAMBLING WINNINGS.—No tax shall be imposed under paragraph (1)(A) of subsection (a) on the proceeds from a wager placed in any of the following games: blackjack, baccarat, craps, roulette, or big-6 wheel. The preceding sentence shall not apply in any case where the Secretary determines by regulation that the collection of the tax is administratively feasible."

(2) Subsection (c) of section 1441 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(11) CERTAIN GAMBLING WINNINGS.—No tax shall be required to be deducted and withheld under subsection (a) from any amount exempt from the tax imposed by section 871(a)(1)(A) by reason of section 871(j)."

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act. 26 USC 871 note.

SEC. 6135. ELECTION TO BE TREATED AS DOMESTIC CORPORATION.

(a) IN GENERAL.—Section 953 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(d) ELECTION BY FOREIGN INSURANCE COMPANY TO BE TREATED AS DOMESTIC CORPORATION.—

"(1) IN GENERAL.—If—

"(A) a foreign corporation is a controlled foreign corporation (as defined in section 957(a) by substituting '25 percent

or more' for 'more than 50 percent' and by using the definition of United States shareholder under 953(c)(1)(A)),

"(B) such foreign corporation would qualify under part I or II of subchapter L for the taxable year if it were a domestic corporation,

"(C) such foreign corporation meets such requirements as the Secretary shall prescribe to ensure that the taxes imposed by this chapter on such foreign corporation are paid, and

"(D) such foreign corporation makes an election to have this paragraph apply and waives all benefits to such corporation granted by the United States under any treaty,

for purposes of this title, such corporation shall be treated as a domestic corporation.

"(2) PERIOD DURING WHICH ELECTION IS IN EFFECT.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), an election under paragraph (1) shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

"(B) TERMINATION.—If a corporation which made an election under paragraph (1) for any taxable year fails to meet the requirements of subparagraphs (A), (B), and (C), of paragraph (1) for any subsequent taxable year, such election shall not apply to any taxable year beginning after such subsequent taxable year.

"(3) TREATMENT OF LOSSES.—If any corporation treated as a domestic corporation under this subsection is treated as a member of an affiliated group for purposes of chapter 6 (relating to consolidated returns), any loss of such corporation shall be treated as a dual consolidated loss (as defined in section 1503(d)).

"(4) EFFECT OF ELECTION.—

"(A) IN GENERAL.—For purposes of section 367, any foreign corporation making an election under paragraph (1) shall be treated as transferring (as of the 1st day of the 1st taxable year to which such election applies) all of its assets to a domestic corporation in connection with an exchange to which section 354 applies.

"(B) EXCEPTION FOR PRE-1988 EARNINGS AND PROFIT.—

"(i) IN GENERAL.—Earnings and profits of the foreign corporation accumulated in taxable years beginning before January 1, 1988, shall not be included in the gross income of the persons holding stock in such corporation by reason of subparagraph (A).

"(ii) TREATMENT OF DISTRIBUTIONS.—For purposes of this title, any distribution made by a corporation to which an election under paragraph (1) applies out of earnings and profits accumulated in taxable years beginning before January 1, 1988, shall be treated as a distribution made by a foreign corporation.

"(iii) CERTAIN RULES TO CONTINUE TO APPLY TO PRE-1988 EARNINGS.—The provisions specified in clause (iv) shall be applied without regard to paragraph (1), except that, in the case of a corporation to which an election under paragraph (1) applies, only earnings and profits accumulated in taxable years beginning before January 1, 1988, shall be taken into account.

"(iv) SPECIFIED PROVISIONS.—The provisions specified in this clause are:

"(I) Section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporations).

"(II) Subpart F of part III of subchapter N to the extent such subpart relates to earnings invested in United States property or amounts referred to in clause (ii) or (iii) of section 951(a)(1)(A).

"(III) Section 884 to the extent the foreign corporation reinvested 1987 earnings and profits in United States assets.

"(5) EFFECT OF TERMINATION.—For purposes of section 367, if—

"(A) an election is made by a corporation under paragraph (1) for any taxable year, and

"(B) such election ceases to apply for any subsequent taxable year,

such corporation shall be treated as a domestic corporation transferring (as of the 1st day of such subsequent taxable year) all of its property to a foreign corporation in connection with an exchange to which section 354 applies.

"(6) ADDITIONAL TAX ON CORPORATION MAKING ELECTION.—

"(A) IN GENERAL.—If a corporation makes an election under paragraph (1), the amount of tax imposed by this chapter for the 1st taxable year to which such election applies shall be increased by the amount determined under subparagraph (B).

"(B) AMOUNT OF TAX.—The amount of tax determined under this paragraph shall be equal to the lesser of—

"(i) ¾ of 1 percent of the aggregate amount of capital and accumulated surplus of the corporation as of December 31, 1987, or

"(ii) $1,500,000."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1987. 26 USC 953 note.

SEC. 6136. TAX EXEMPTION FOR ENJEBI COMMUNITY TRUST FUND. 48 USC 1681 note.

(a) IN GENERAL.—Any earnings on, and distributions from, the Enjebi Community Trust Fund created under section 103 of the Compact of Free Association Act of 1985 shall be exempt from all Federal, State, or local taxation.

(b) EFFECTIVE DATE.—The provisions of subsection (a) shall apply to all taxable years whether beginning before, on, or after the date of the enactment of this Act.

SEC. 6137. APPLICATION OF SECTION 912 TO JUDICIAL EMPLOYEES.

(a) IN GENERAL.—Section 912(2) of the 1986 Code is amended by inserting "(or in the case of judicial officers or employees of the United States, in accordance with rules similar to such regulations)" after "President".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to allowances received after October 12, 1987, in taxable years ending after such date. 26 USC 912 note.

SEC. 6138. STUDY OF DEFINITION OF UNITED STATES RESIDENT.

(a) IN GENERAL.—The Secretary of the Treasury or his delegate shall conduct a study of section 7701(b) of the Internal Revenue Code of 1986, relating to the determination as to whether a person is a United States resident for purposes of Federal tax laws. Such study shall include an examination of—

(1) the effect such determination has on Federal tax administration and investment flows between the United States and other countries,

(2) the coordination of such determination with any treaty obligations of the United States,

(3) how such determination compares with the way such determination is made by our major trading partners, and

(4) any estimated revenue gain or loss which would result from modifying such determination.

(b) REPORT.—The Secretary of the Treasury or his delegate shall report before May 1, 1989, the results of the study conducted under subsection (a) to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives.

SEC. 6139. SUNSET OF TREATY PROVISIONS.

(a) IN GENERAL.—No provisions of the Tax Convention with the United Kingdom (on behalf of Bermuda) or the Tax Convention with Barbados, whether entered into on, before, or after the date of enactment of this Act shall prevent application of any provision of the Internal Revenue Code of 1986 imposing insurance excise taxes. In the case of a treaty entered into after the date of enactment of this Act, the preceding sentence shall not apply if such treaty by specific reference to this section of this Act clearly expresses the intent to override the provisions of this section.

(b) SPECIAL RULE FOR CERTAIN TREATIES.—In the case of any treaty in effect on December 31, 1989, subsection (a) shall not apply to any premium allocable to insurance coverage for periods before January 1, 1990.

48 USC 1424c note.

SEC. 6140. TREATMENT OF CERTAIN AWARDS BY THE DISTRICT COURT OF GUAM.

For purposes of the internal revenue laws of the United States and Guam, gross income shall not include any amount received pursuant to any claim over which the District Court of Guam has jurisdiction by reason of section 204 of Public Law 95-134 (commonly referred to as the Omnibus Territories Act of 1977). This section shall be effective for taxable years beginning after December 31, 1985.

Subtitle G—Estate Tax Provisions

SEC. 6151. TREATMENT OF CERTAIN RENTS UNDER SECTION 2032A.

(a) GENERAL RULE.—Subparagraph (A) of section 2032A(b)(5) of the 1986 Code (relating to special rules for surviving spouse) is amended by adding at the end thereof the following new sentence: "For purposes of subsection (c), such surviving spouse shall not be treated as failing to use such property in a qualified use solely because such spouse rents such property to a member of such spouse's family on a net cash basis."

26 USC 2032A note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply with respect to rentals occurring after December 31, 1976.

(2) WAIVER OF STATUTE OF LIMITATIONS.—If on the date of the enactment of this Act (or at any time within 1 year after such date of enactment) refund or credit of any overpayment of tax resulting from the application of the amendment made by subsection (a) is barred by any law or rule of law, refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefore is filed before the date 1 year after the date of the enactment of this Act.

SEC. 6152. CLARIFICATION OF TREATMENT OF JOINT AND SURVIVOR ANNUITIES UNDER QTIP RULES.

(a) ESTATE TAX.—Paragraph (7) of section 2056(b) of the 1986 Code is amended by adding at the end thereof the following new subparagraph:

"(C) TREATMENT OF SURVIVOR ANNUITIES.—In the case of an annuity where only the surviving spouse has the right to receive payments before the death of such surviving spouse—

"(i) the interest of such surviving spouse shall be treated as a qualifying income interest for life, and

"(ii) the executor shall be treated as having made an election under this subsection with respect to such annuity unless the executor otherwise elects on the return of tax imposed by section 2001.

An election under clause (ii), once made, shall be irrevocable."

(b) GIFT TAX.—Subsection (f) of section 2523 of the 1986 Code is amended by adding at the end thereof the following new paragraph:

"(6) TREATMENT OF JOINT AND SURVIVOR ANNUITIES.—In the case of a joint and survivor annuity where only the donor spouse and donee spouse have the right to receive payments before the death of the last spouse to die—

"(A) the donee spouse's interest shall be treated as a qualifying income interest for life,

"(B) the donor spouse shall be treated as having made an election under this subsection with respect to such annuity unless the donor spouse otherwise elects on or before the date specified in paragraph (4)(A),

"(C) paragraph (5) and section 2519 shall not apply to the donor spouse's interest in the annuity, and

"(D) if the donee spouse dies before the donor spouse, no amount shall be includible in the gross estate of the donee spouse under section 2044 with respect to such annuity.

An election under subparagraph (B), once made, shall be irrevocable."

(c) EFFECTIVE DATES.— 26 USC 2056 note.

(1) IN GENERAL.—Except as otherwise provided in this subsection—

(A) the amendment made by subsection (a) shall apply with respect to decedents dying after December 31, 1981, and

(B) the amendment made by subsection (b) shall apply to transfers after December 31, 1981.

(2) NOT TO APPLY TO EXTENT INCONSISTENT WITH PRIOR RETURN.—In the case of any estate or gift tax return filed before the date of the enactment of this Act, the amendments made by this section shall not apply to the extent such amendments would be inconsistent with the treatment of the annuity on such return unless the executor or donor (as the case may be) otherwise elects under this paragraph before the day 2 years after the date of the enactment of this Act.

(3) EXTENSION OF TIME FOR ELECTION OUT.—The time for making an election under section 2056(b)(7)(C)(ii) or 2523(f)(6)(B) of the 1986 Code (as added by this subsection) shall not expire before the day 2 years after the date of the enactment of this Act (and, if such election is made within the time permitted under this paragraph, the requirement of such section 2056(b)(7)(C)(ii) that it be made on the return shall not apply).

Subtitle H—Tax-Exempt Bond Provisions

SEC. 6176. CLARIFICATION OF SMALL ISSUE BOND DEFINITION OF MANUFACTURING FACILITY.

(a) IN GENERAL.—Subparagraph (C) of section 144(a)(12) of the 1986 Code (defining manufacturing facility) is amended by adding at the end thereof the following new sentence: "For purposes of the 1st sentence of this subparagraph, the term 'manufacturing facility' includes facilities which are directly related and ancillary to a manufacturing facility (determined without regard to this sentence) if—

"(i) such facilities are located on the same site as the manufacturing facility, and

"(ii) not more than 25 percent of the net proceeds of the issue are used to provide such facilities."

26 USC 144 note.

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendment made by subsection (a) shall apply to bonds issued after the date of the enactment of this Act.

(2) REFUNDINGS.—The amendment made by subsection (a) shall not apply to any bond issued to refund (or which is part of a series of bonds issued to refund) a bond issued on or before the date of the enactment of this Act if—

(A) the average maturity date of the issue of which the refunding bond is a part is not later than the average maturity date of the bonds to be refunded by such issue, and

(B) the amount of the refunding bond does not exceed the outstanding amount of the refunded bond.

For purposes of subparagraph (A), average maturity shall be determined in accordance with section 147(b) of the 1986 Code.

SEC. 6177. RULES APPLICABLE TO TAX AND REVENUE ANTICIPATION BONDS.

(a) CHANGE IN PERIOD USED TO DETERMINE CUMULATIVE CASH FLOW DEFICIT.—Subclause (III) of section 148(f)(4)(B)(iii) of the 1986 Code (relating to safe harbor for determining when proceeds of tax and revenue anticipation bonds are expended) is amended by striking

out "the earliest of the maturity date of the issue, the date 6 months after such date of issuance," and inserting in lieu thereof "the earlier of the date 6 months after such date of issuance."

(b) DUE DATE FOR LAST INSTALLMENT OF ARBITRAGE REBATE.—Paragraph (3) of section 148(f) of the 1986 Code is amended by adding at the end thereof the following new sentence: "In the case of a tax and revenue anticipation bond, the last installment shall not be required to be made before the date 8 months after the date of issuance of the issue of which the bond is a part."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act. 26 USC 148 note.

SEC. 6178. AMENDMENT TO MORTGAGE BOND PURCHASE PRICE REGULATIONS.

The Secretary of the Treasury or his delegate shall amend the regulations relating to mortgage bond purchase price requirements, with respect to any lease with a remaining term of at least 35 years and a specified ground rent for at least the first 10 years of such term but not for the entire term, to provide for a capitalized value of such lease equal to the present value of the current ground rent projected over the remaining term of the lease and discounted at 3 percent or such other discount rate as the Secretary establishes. If such amendment is not made before the date of the enactment of this Act, such regulations shall be considered to include such amendment with respect to bonds issued after such date.

SEC. 6179. APPLICATION OF SECURITY INTEREST TEST TO BOND FINANCING OF HAZARDOUS WASTE CLEAN-UP ACTIVITIES. 26 USC 141 note.

Before January 1, 1989, the Secretary of the Treasury or his delegate shall issue guidance concerning the application of the private security or payment test under section 141(b)(2) of the Internal Revenue Code of 1986 to tax-exempt bond financing by State and local governments of hazardous waste clean-up activities conducted by such governments where some of the activities occur on privately owned land.

SEC. 6180. TAX-EXEMPT FINANCING FOR CERTAIN RAIL FACILITIES.

(a) IN GENERAL.—Subsection (a) of section 142 of the 1986 Code (relating to exempt facility bonds) is amended—

(1) by striking out "or" at the end of paragraph (9),

(2) by striking out the period at the end of paragraph (10) and inserting in lieu thereof ", or", and

(3) by adding at the end thereof the following new paragraph:

"(11) high-speed intercity rail facilities."

(b) DEFINITION AND SPECIAL RULES FOR HIGH-SPEED INTERCITY RAIL FACILITIES.—

(1) IN GENERAL.—Section 142 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(i) HIGH-SPEED INTERCITY RAIL FACILITIES.—

"(1) For purposes of subsection (a)(11), the term 'high-speed intercity rail facilities' means any facility (not including rolling stock) for the fixed guideway rail transportation of passengers and their baggage between metropolitan statistical areas (within the meaning of section 143(k)(2)(B)) using vehicles that are reasonably expected to operate at speeds in excess of 150 miles per hour between scheduled stops, but only if such facility

will be made available to members of the general public as passengers.

"(2) ELECTION BY NONGOVERNMENTAL OWNERS.—A facility shall be treated as described in subsection (a)(11) only if any owner of such facility which is not a governmental unit irrevocably elects not to claim—

"(A) any deduction under section 167 or 168, and

"(B) any credit under this subtitle,

with respect to the property to be financed by the net proceeds of the issue.

"(3) USE OF PROCEEDS.—A bond issued as part of an issue described in subsection (a)(11) shall not be considered an exempt facility bond unless any proceeds not used within a 3-year period of the date of the issuance of such bond are used (not later than 6 months after the close of such period) to redeem bonds which are part of such issue."

(2) USE OF FACILITIES.—Subsection (c) of section 142 of the 1986 Code (relating to special rules for airport, docks and wharves, and mass commuting facilities) is amended—

(A) by striking out "paragraph (1), (2), or (3) of subsection (a)" each place it appears in paragraphs (1) and (2) thereof and inserting in lieu thereof "paragraph (1), (2), (3) or (11) of subsection (a)", and

(B) by striking out "AND MASS COMMUTING FACILITIES" in the heading thereof and inserting in lieu thereof "MASS COMMUTING FACILITIES AND HIGH-SPEED INTERCITY RAIL FACILITIES".

(3) PARTIAL EXCLUSION FROM VOLUME CAP.—Subsection (g) of section 146 of the 1986 Code (relating to an exception for certain bonds) is amended—

(A) by striking out "and" at the end of paragraph (2),

(B) by striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and", and

(C) by adding at the end thereof the following new paragraph:

"(3) 75 percent of any exempt facility bond issued as part of an issue described in paragraph (11) of section 142(a) (relating to high-speed intercity rail facilities)."

(4) LIMITATION REMOVED ON USE OF BOND PROCEEDS FOR LAND ACQUISITION.—Paragraph (3) of section 147(c) of the 1986 Code (relating to limitation on use for land acquisition) is amended by inserting "high-speed intercity rail facility" after "mass commuting facility" each place it appears.

(5) SPECIAL RULE FOR PUBLIC APPROVAL.—Paragraph (3) of section 147(f) of the 1986 Code (relating to public approval required for private activity bonds) is amended—

(A) by inserting "or high-speed intercity rail facilities" after "airport" each place it appears, and

(B) by inserting "OR HIGH-SPEED INTERCITY RAIL FACILITIES" after "AIRPORTS" in the heading thereof.

26 USC 142 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of enactment of this Act.

SEC. 6181. RULES RELATING TO REBATE ON EARNINGS ON BONA FIDE DEBT SERVICE FUND.

(a) NO REBATE WHERE EARNINGS DO NOT EXCEED $100,000.—Clause (ii) of section 148(f)(4)(A) of the 1986 Code is amended by striking "unless the issuer otherwise elects,".

(b) $100,000 LIMIT NOT TO APPLY TO CERTAIN ISSUES.—Subparagraph (A) of section 148(f)(4) of the 1986 Code is amended by adding at the end thereof the following new sentence:

"In the case of an issue no bond of which is a private activity bond, clause (ii) shall be applied without regard to the dollar limitation therein if the average maturity of the issue (determined in accordance with section 147(b)(2)(A)) is at least 5 years and the rates of interest on bonds which are part of the issue do not vary during the term of the issue."

(c) EFFECTIVE DATE; SPECIAL RULES.— 26 USC 148 note.

(1) IN GENERAL.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

(2) ELECTION FOR OUTSTANDING BONDS.—Any issue of bonds other than private activity bonds outstanding as of the date of the enactment of this Act shall be allowed a 1-time election to apply the amendments made by subsection (b) to amounts deposited after such date in bona fide debt service funds of such bonds.

(3) DEFINITION OF PRIVATE ACTIVITY BOND.—For purposes of this section and the last sentence of section 148(f)(4)(A) of the 1986 Code (as added by subsection (b)), the term 'private activity bond' shall include any qualified 501(c)(3) bond (as defined under section 145 of the 1986 Code).

SEC. 6182. BONDS ISSUED BY VOLUNTEER FIRE DEPARTMENTS.

(a) OVERLAPPING AREAS.—Paragraph (2) of section 150(e) of the 1986 Code (relating to bonds of certain volunteer fire departments) is amended by adding at the end thereof the following new sentence:

"For purposes of subparagraph (A), other firefighting services provided in an area shall be disregarded in determining whether an organization is a qualified volunteer fire department if such other firefighting services are provided by a qualified volunteer fire department (determined with the application of this sentence) and such organization and the provider of such other services have been continuously providing firefighting services to such area since January 1, 1981."

(b) ACQUISITION OF LAND PERMITTED.—Subparagraph (B) of section 150(e)(1) of the 1986 Code is amended by inserting "(including land which is functionally related and subordinate thereto)" after "a firehouse".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act. 26 USC 150 note.

SEC. 6183. DISREGARD OF POOLED FINANCINGS IN DETERMINATION OF QUALIFICATION FOR SMALL ISSUER EXCEPTION.

(a) GENERAL.—Clause (ii) of section 148(f)(4)(C) of the 1986 Code (as amended by title I of this Act) is amended by redesignating subclauses (II) and (III) as subclauses (III) and (IV), respectively, and by inserting after subclause (I) the following new subclause:

"(II) all bonds issued by a governmental unit on behalf of other governmental units with general

taxing powers not subordinate to such unit shall, for purposes of applying such subclause to such unit, be treated as not issued by such unit,".

26 USC 148 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to bonds issued after December 31, 1988.

Subtitle I—Provisions Relating to Exempt Organizations

26 USC 513 note. **SEC. 6201. CERTAIN GAMES OF CHANCE NOT TREATED AS UNRELATED TRADE OR BUSINESS.**

Section 1834 of the Reform Act is amended by adding at the end thereof the following new sentence: "The amendment made by this section shall apply to games of chance conducted after October 22, 1986, in taxable years ending after such date".

SEC. 6202. PURCHASE OF INSURANCE BY COOPERATIVE HOSPITAL SERVICE ORGANIZATIONS.

(a) IN GENERAL.—Subparagraph (A) of section 501(e)(1) of the 1986 Code is amended by inserting "(including the purchasing of insurance on a group basis)" after "purchasing".

26 USC 501 note. (b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to purchases before, on, or after the date of the enactment of this Act.

26 USC 501 note. **SEC. 6203. CANCELLATION OF CERTAIN DEBTS ORIGINATED BY OR GUARANTEED BY THE UNITED STATES NOT TAKEN INTO ACCOUNT IN DETERMINING TAX EXEMPT STATUS OF CERTAIN ORGANIZATIONS.**

Subparagraph (A) of section 501(c)(12) of the 1986 Code shall be applied without taking into account any income attributable to the cancellation of any loan originally made or guaranteed by the United States (or any agency or instrumentality thereof) if such cancellation occurs after 1986 and before 1990.

26 USC 4940 note. **SEC. 6204. DETERMINATION OF OPERATING FOUNDATION STATUS FOR CERTAIN PURPOSES.**

For purposes of section 302(c)(3) of the Deficit Reduction Act of 1984, a private foundation which constituted an operating foundation (as defined in section 4942(j)(3) of the Internal Revenue Code of 1986) for its last taxable year ending before January 1, 1983, shall be treated as constituting an operating foundation as of January 1, 1983.

Subtitle J—Taxpayer Rights and Procedures

Omnibus Taxpayer Bill of Rights. 26 USC 1 note. **SEC. 6226. SHORT TITLE.**

This subtitle may be cited as the "Omnibus Taxpayer Bill of Rights".

PART I—TAXPAYER RIGHTS

SEC. 6227. DISCLOSURE OF RIGHTS OF TAXPAYERS.

26 USC 7801 note.

(a) IN GENERAL.—The Secretary of the Treasury shall, as soon as practicable, but not later than 180 days after the date of the enactment of this Act, prepare a statement which sets forth in simple and nontechnical terms—

(1) the rights of a taxpayer and the obligations of the Internal Revenue Service (hereinafter in this section referred to as the "Service") during an audit;

(2) the procedures by which a taxpayer may appeal any adverse decision of the Service (including administrative and judicial appeals);

(3) the procedures for prosecuting refund claims and filing of taxpayer complaints; and

(4) the procedures which the Service may use in enforcing the internal revenue laws (including assessment, jeopardy assessment, levy and distraint, and enforcement of liens).

(b) TRANSMISSION TO COMMITTEES OF CONGRESS.—The Secretary of the Treasury shall transmit drafts of the statement required under subsection (a) (or proposed revisions of any such statement) to the Committee on Ways and Means of the House of Representatives, the Committee on Finance of the Senate, and the Joint Committee on Taxation on the same day.

(c) DISTRIBUTION.—The statement prepared in accordance with subsections (a) and (b) shall be distributed by the Secretary of the Treasury to all taxpayers the Secretary contacts with respect to the determination or collection of any tax (other than by providing tax forms). The Secretary shall take such actions as the Secretary deems necessary to ensure that such distribution does not result in multiple statements being sent to any one taxpayer.

SEC. 6228. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

(a) IN GENERAL.—Chapter 77 of the 1986 Code (relating to miscellaneous provisions) is amended by adding at the end thereof the following new section:

"SEC. 7520. PROCEDURES INVOLVING TAXPAYER INTERVIEWS.

"(a) RECORDING OF INTERVIEWS.—

"(1) RECORDING BY TAXPAYER.—Any officer or employee of the Internal Revenue Service in connection with any in-person interview with any taxpayer relating to the determination or collection of any tax shall, upon advance request of such taxpayer, allow the taxpayer to make an audio recording of such interview at the taxpayer's own expense and with the taxpayer's own equipment.

"(2) RECORDING BY IRS OFFICER OR EMPLOYEE.—An officer or employee of the Internal Revenue Service may record any interview described in paragraph (1) if such officer or employee—

"(A) informs the taxpayer of such recording prior to the interview, and

"(B) upon request of the taxpayer, provides the taxpayer with a transcript or copy of such recording but only if the taxpayer provides reimbursement for the cost of the transcription and reproduction of such transcript or copy.

"(b) SAFEGUARDS.—

"(1) EXPLANATIONS OF PROCESSES.—An officer or employee of the Internal Revenue Service shall before or at an initial interview provide to the taxpayer—

"(A) in the case of an in-person interview with the taxpayer relating to the determination of any tax, an explanation of the audit process and the taxpayer's rights under such process, or

"(B) in the case of an in-person interview with the taxpayer relating to the collection of any tax, an explanation of the collection process and the taxpayer's rights under such process.

"(2) RIGHT OF CONSULTATION.—If the taxpayer clearly states to an officer or employee of the Internal Revenue Service at any time during any interview (other than an interview initiated by an administrative summons issued under subchapter A of chapter 78) that the taxpayer wishes to consult with an attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service, such officer or employee shall suspend such interview regardless of whether the taxpayer may have answered one or more questions.

"(c) REPRESENTATIVES HOLDING POWER OF ATTORNEY.—Any attorney, certified public accountant, enrolled agent, enrolled actuary, or any other person permitted to represent the taxpayer before the Internal Revenue Service who is not disbarred or suspended from practice before the Internal Revenue Service and who has a written power of attorney executed by the taxpayer may be authorized by such taxpayer to represent the taxpayer in any interview described in subsection (a). An officer or employee of the Internal Revenue Service may not require a taxpayer to accompany the representative in the absence of an administrative summons issued to the taxpayer under subchapter A of chapter 78. Such an officer or employee, with the consent of the immediate supervisor of such officer or employee, may notify the taxpayer directly that such officer or employee believes such representative is responsible for unreasonable delay or hindrance of an Internal Revenue Service examination or investigation of the taxpayer.

"(d) SECTION NOT TO APPLY TO CERTAIN INVESTIGATIONS.—This section shall not apply to criminal investigations or investigations relating to the integrity of any officer or employee of the Internal Revenue Service."

26 USC 7605 note.

(b) REGULATIONS WITH RESPECT TO TIME AND PLACE OF EXAMINATION.—The Secretary of the Treasury or the Secretary's delegate shall issue regulations to implement subsection (a) of section 7605 of the 1986 Code (relating to time and place of examination) within 1 year after the date of the enactment of this Act.

(c) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7520. Procedures involving taxpayer interviews."

26 USC 7520 note.

(d) EFFECTIVE DATE.—The amendments made by subsections (a) and (c) shall apply to interviews conducted on or after the date which is 90 days after the date of the enactment of this Act.

SEC. 6229. TAXPAYERS MAY RELY ON WRITTEN ADVICE OF INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Section 6404 of the 1986 Code (relating to abatements) is amended by adding at the end thereof the following new subsection:

"(f) ABATEMENT OF ANY PENALTY OR ADDITION TO TAX ATTRIBUTABLE TO ERRONEOUS WRITTEN ADVICE BY THE INTERNAL REVENUE SERVICE.—

"(1) IN GENERAL.—The Secretary shall abate any portion of any penalty or addition to tax attributable to erroneous advice furnished to the taxpayer in writing by an officer or employee of the Internal Revenue Service, acting in such officer's or employee's official capacity.

"(2) LIMITATIONS.—Paragraph (1) shall apply only if—

"(A) the written advice was reasonably relied upon by the taxpayer and was in response to a specific written request of the taxpayer, and

"(B) the portion of the penalty or addition to tax did not result from a failure by the taxpayer to provide adequate or accurate information.

"(3) INITIAL REGULATIONS.—Within 180 days after the date of the enactment of this subsection, the Secretary shall prescribe such initial regulations as may be necessary to carry out this subsection."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to advice requested on or after January 1, 1989. 26 USC 6404 note.

SEC. 6230. TAXPAYER ASSISTANCE ORDERS.

(a) IN GENERAL.—Subchapter A of chapter 80 of the 1986 Code (relating to general rules for application of the internal revenue laws) is amended by adding at the end thereof the following new section:

"SEC. 7811. TAXPAYER ASSISTANCE ORDERS.

"(a) AUTHORITY TO ISSUE.—Upon application filed by a taxpayer with the Office of Ombudsman (in such form, manner, and at such time as the Secretary shall by regulations prescribe), the Ombudsman may issue a Taxpayer Assistance Order if, in the determination of the Ombudsman, the taxpayer is suffering or about to suffer a significant hardship as a result of the manner in which the internal revenue laws are being administered by the Secretary. Regulations.

"(b) TERMS OF A TAXPAYER ASSISTANCE ORDER.—The terms of a Taxpayer Assistance Order may require the Secretary—

"(1) to release property of the taxpayer levied upon, or

"(2) to cease any action, or refrain from taking any action, with respect to the taxpayer under—

"(A) chapter 64 (relating to collection),

"(B) subchapter B of chapter 70 (relating to bankruptcy and receiverships),

"(C) chapter 78 (relating to discovery of liability and enforcement of title), or

"(D) any other provision of law which is specifically described by the Ombudsman in such order.

"(c) AUTHORITY TO MODIFY OR RESCIND.—Any Taxpayer Assistance Order issued by the Ombudsman under this section may be modified or rescinded only by the Ombudsman, a district director, a

service center director, a compliance center director, a regional director of appeals, or any superior of any such person.

"(d) SUSPENSION OF RUNNING OF PERIOD OF LIMITATION.—The running of any period of limitation with respect to any action described in subsection (b) shall be suspended for—

"(1) the period beginning on the date of the taxpayer's application under subsection (a) and ending on the date of the Ombudsman's decision with respect to such application, and

"(2) any period specified by the Ombudsman in a Taxpayer Assistance Order issued pursuant to such application.

"(e) INDEPENDENT ACTION OF OMBUDSMAN.—Nothing in this section shall prevent the Ombudsman from taking any action in the absence of an application under subsection (a).

"(f) OMBUDSMAN.—For purposes of this section, the term 'Ombudsman' includes any designee of the Ombudsman."

(b) CLERICAL AMENDMENT.—The table of sections for subchapter A of chapter 80 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 7811. Taxpayer Assistance Orders."

26 USC 7811 note.

(c) ISSUANCE OF REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall issue such regulations as the Secretary deems necessary within 90 days of the date of the enactment of this Act in order to carry out the purposes of section 7811 of the 1986 Code (as added by this section) and to ensure taxpayers uniform access to administrative procedures.

26 USC 7811 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1989.

26 USC 7803 note.

SEC. 6231. BASIS FOR EVALUATION OF INTERNAL REVENUE SERVICE EMPLOYEES.

(a) IN GENERAL.—The Internal Revenue Service shall not use records of tax enforcement results—

(1) to evaluate employees directly involved in collection activities and their immediate supervisors, or

(2) to impose or suggest production quotas or goals with respect to individuals described in clause (i).

(b) APPLICATION OF IRS POLICY STATEMENT.—The Internal Revenue Service shall not be treated as failing to meet the requirements of subsection (a) if the Service follows the policy statement of the Service regarding employee evaluation (as in effect on the date of the enactment of this Act) in a manner which does not violate subsection (a).

(c) CERTIFICATION.—Each district director shall certify quarterly by letter to the Commissioner of Internal Revenue that tax enforcement results are not used in a manner prohibited by subsection (a).

(d) EFFECTIVE DATE.—The provisions of this section shall apply to evaluations conducted on or after January 1, 1989.

SEC. 6232. PROCEDURES RELATING TO INTERNAL REVENUE SERVICE REGULATIONS.

(a) IN GENERAL.—Section 7805 of the 1986 Code (relating to rules and regulations) is amended by adding at the end thereof the following new subsections:

"(e) TEMPORARY REGULATIONS.—

"(1) ISSUANCE.—Any temporary regulation issued by the Secretary shall also be issued as a proposed regulation.

"(2) 3-YEAR DURATION.—Any temporary regulation shall expire within 3 years after the date of issuance of such regulation.

"(f) IMPACT OF REGULATIONS ON SMALL BUSINESS REVIEWED.—After the publication of any proposed regulation by the Secretary and before the promulgation of any final regulation by the Secretary which does not supersede a proposed regulation, the Secretary shall submit such regulation to the Administrator of the Small Business Administration for comment on the impact of such regulation on small business. The Administrator shall have 4 weeks from the date of submission to respond."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any regulation issued after the date which is 10 days after the date of the enactment of this Act. 26 USC 7805 note.

SEC. 6233. CONTENT OF TAX DUE, DEFICIENCY, AND OTHER NOTICES.

(a) IN GENERAL.—Chapter 77 of the 1986 Code (relating to miscellaneous provisions) is further amended by adding at the end thereof the following new section:

"SEC. 7521. CONTENT OF TAX DUE, DEFICIENCY, AND OTHER NOTICES.

"(a) GENERAL RULE.—Any notice to which this section applies shall describe the basis for, and identify the amounts (if any) of, the tax due, interest, additional amounts, additions to the tax, and assessable penalties included in such notice. An inadequate description under the preceding sentence shall not invalidate such notice.

"(b) NOTICES TO WHICH SECTION APPLIES.—This section shall apply to—

"(1) any tax due notice or deficiency notice described in section 6155, 6212, or 6303,

"(2) any notice generated out of any information return matching program, and

"(3) the 1st letter of proposed deficiency which allows the taxpayer an opportunity for administrative review in the Internal Revenue Service Office of Appeals."

(b) CLERICAL AMENDMENT.—The table of sections for chapter 77 of the 1986 Code is further amended by adding at the end thereof the following new item:

"Sec. 7521. Content of tax due, deficiency, and other notices."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to mailings made on or after January 1, 1990. 26 USC 7521 note.

(d) REPORT.—Not later than July 1, 1989, the Secretary of the Treasury or his delegate shall submit a report to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate on the steps taken to carry out the amendments made by this section.

SEC. 6234. INSTALLMENT PAYMENT OF TAX LIABILITY.

(a) IN GENERAL.—Subchapter A of chapter 62 of the 1986 Code (relating to place and due date for payment of tax) is amended by adding at the end thereof the following new section:

"SEC. 6159. AGREEMENTS FOR PAYMENT OF TAX LIABILITY IN INSTALLMENTS.

"(a) AUTHORIZATION OF AGREEMENTS.—The Secretary is authorized to enter into written agreements with any taxpayer under which such taxpayer is allowed to satisfy liability for payment of

any tax in installment payments if the Secretary determines that such agreement will facilitate collection of such liability.

"(b) EXTENT TO WHICH AGREEMENTS REMAIN IN EFFECT.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, any agreement entered into by the Secretary under subsection (a) shall remain in effect for the term of the agreement.

"(2) INADEQUATE INFORMATION OR JEOPARDY.—The Secretary may terminate any agreement entered into by the Secretary under subsection (a) if—

"(A) information which the taxpayer provided to the Secretary prior to the date such agreement was entered into was inaccurate or incomplete, or

"(B) the Secretary believes that collection of any tax to which an agreement under this section relates is in jeopardy.

"(3) SUBSEQUENT CHANGE IN FINANCIAL CONDITIONS.—

"(A) IN GENERAL.—If the Secretary makes a determination that the financial condition of a taxpayer with whom the Secretary has entered into an agreement under subsection (a) has significantly changed, the Secretary may alter, modify, or terminate such agreement.

"(B) NOTICE.—Action may be taken by the Secretary under subparagraph (A) only if—

"(i) notice of such determination is provided to the taxpayer no later than 30 days prior to the date of such action, and

"(ii) such notice includes the reasons why the Secretary believes a significant change in the financial condition of the taxpayer has occurred.

"(4) FAILURE TO PAY AN INSTALLMENT OR ANY OTHER TAX LIABILITY WHEN DUE OR TO PROVIDE REQUESTED FINANCIAL INFORMATION.—The Secretary may alter, modify, or terminate an agreement entered into by the Secretary under subsection (a) in the case of the failure of the taxpayer—

"(A) to pay any installment at the time such installment payment is due under such agreement,

"(B) to pay any other tax liability at the time such liability is due, or

"(C) to provide a financial condition update as requested by the Secretary."

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 6601(b) of the 1986 Code (relating to last day prescribed for payment) is amended by inserting "or any installment agreement entered into under section 6159" after "time for payment".

(2) The table of sections for subchapter A of chapter 62 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 6159. Agreements for payment of tax liability in installments."

26 USC 6159 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to agreements entered into after the date of the enactment of this Act.

SEC. 6235. ASSISTANT COMMISSIONER FOR TAXPAYER SERVICES.

(a) IN GENERAL.—Section 7802 of the 1986 Code (relating to Commissioner of Revenue; Assistant Commissioner (Employee Plans and Exempt Organizations) is amended by adding at the end thereof the following new subsection:

"(c) ASSISTANT COMMISSIONER (TAXPAYER SERVICES).—There is established within the Internal Revenue Service an office to be known as the 'Office for Taxpayer Services' to be under the supervision and direction of an Assistant Commissioner of the Internal Revenue. The Assistant Commissioner shall be responsible for taxpayer services such as telephone, walk-in, and taxpayer educational services, and the design and production of tax and informational forms." Establishment.

(b) ANNUAL REPORTS TO CONGRESS.—The Assistant Commissioner (Taxpayer Services) and the Taxpayer Ombudsman for the Internal Revenue Service shall jointly make an annual report regarding the quality of taxpayer services provided. Such report shall be made to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives. 26 USC 7802 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date 180 days after the date of the enactment of this Act. 26 USC 7802 note.

PART II—LEVY AND LIEN PROVISIONS

SEC. 6236. LEVY AND DISTRAINT.

(a) NOTICE.—Section 6331(d) of the 1986 Code (relating to levy and distraint) is amended—

(1) by striking out "10 days" in paragraph (2) and inserting in lieu thereof "30 days",

(2) by striking out "10-DAY REQUIREMENT" in the heading of paragraph (2) and inserting in lieu thereof "30-DAY REQUIREMENT", and

(3) by adding at the end thereof the following new paragraph:

"(4) INFORMATION INCLUDED WITH NOTICE.—The notice required under paragraph (1) shall include a brief statement which sets forth in simple and nontechnical terms—

"(A) the provisions of this title relating to levy and sale of property,

"(B) the procedures applicable to the levy and sale of property under this title,

"(C) the administrative appeals available to the taxpayer with respect to such levy and sale and the procedures relating to such appeals,

"(D) the alternatives available to taxpayers which could prevent levy on the property (including installment agreements under section 6159),

"(E) the provisions of this title relating to redemption of property and release of liens on property, and

"(F) the procedures applicable to the redemption of property and the release of a lien on property under this title."

(b) EFFECT OF LEVY ON SALARY AND WAGES.—

(1) IN GENERAL.—Subsection (e) of section 6331 of the 1986 Code (relating to levy and distraint) is amended to read as follows:

"(e) CONTINUING LEVY ON SALARY AND WAGES.—The effect of a levy on salary or wages payable to or received by a taxpayer shall be continuous from the date such levy is first made until such levy is released under section 6343."

(2) CROSS REFERENCE.—Section 6331(f) of the 1986 Code (relating to cross references) is amended by adding at the end thereof the following new paragraph:

"(3) For release and notice of release of levy, see section 6343."

(c) INCREASE IN AMOUNTS OF CERTAIN PROPERTY EXEMPT FROM LEVY.—

(1) FUEL, PROVISIONS, FURNITURE, PERSONAL EFFECTS.—Paragraph (2) of section 6334(a) of the 1986 Code (relating to property exempt from levy) is amended by striking out "$1,500" and inserting in lieu thereof "$1,650 ($1,550 in the case of levies issued during 1989)".

(2) BOOKS AND TOOLS.—Paragraph (3) of section 6334(a) of the 1986 Code is amended by striking out "$1,000" and inserting in lieu thereof "$1,100 ($1,050 in the case of levies issued during 1989)".

(3) WAGES, SALARY, AND OTHER INCOME.—

(A) INCREASE IN AMOUNT EXEMPT.—Paragraph (1) of section 6334(d) of the 1986 Code (relating to exempt amount of wages, salary, or other income) is amended to read as follows:

"(1) INDIVIDUALS ON WEEKLY BASIS.—In the case of an individual who is paid or receives all of his wages, salary, and other income on a weekly basis, the amount of the wages, salary, and other income payable to or received by him during any week which is exempt from levy under subsection (a)(9) shall be the exempt amount."

(B) EXEMPT AMOUNT DEFINED.—Subsection (d) of section 6334 of the 1986 Code (relating to property exempt from levy) is amended by redesignating paragraph (2) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) EXEMPT AMOUNT.—For purposes of paragraph (1), the term 'exempt amount' means an amount equal to—

"(A) the sum of—

"(i) the standard deduction, and

"(ii) the aggregate amount of the deductions for personal exemptions allowed the taxpayer under section 151 in the taxable year in which such levy occurs, divided by

"(B) 52.

Unless the taxpayer submits to the Secretary a written and properly verified statement specifying the facts necessary to determine the proper amount under subparagraph (A), subparagraph (A) shall be applied as if the taxpayer were a married individual filing a separate return with only 1 personal exemption."

(4) ADDITIONAL PROPERTY EXEMPT FROM LEVY.—

(A) IN GENERAL.—Subsection (a) of section 6334 of the 1986 Code (relating to property exempt from levy) is amended by adding at the end thereof the following new paragraphs:

"(11) CERTAIN PUBLIC ASSISTANCE PAYMENTS.—Any amount payable to an individual as a recipient of public assistance under—

"(A) title IV (relating to aid to families with dependent children) or title XVI (relating to supplemental security income for the aged, blind, and disabled) of the Social Security Act, or

"(B) State or local government public assistance or public welfare programs for which eligibility is determined by a needs or income test.

"(12) ASSISTANCE UNDER JOB TRAINING PARTNERSHIP ACT.—Any amount payable to a participant under the Job Training Partnership Act (29 U.S.C. 1501 et seq.) from funds appropriated pursuant to such Act.

"(13) PRINCIPAL RESIDENCE EXEMPT IN ABSENCE OF CERTAIN APPROVAL OR JEOPARDY.—Except to the extent provided in subsection (e), the principal residence of the taxpayer (within the meaning of section 1034)."

(B) LEVY PERMITTED ON PRINCIPAL RESIDENCE IN CASE OF JEOPARDY OR APPROVAL BY CERTAIN OFFICIALS.—Section 6334 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) LEVY ALLOWED ON PRINCIPAL RESIDENCE IN CASE OF JEOPARDY OR CERTAIN APPROVAL.—Property described in subsection (a)(13) shall not be exempt from levy if—

"(1) a district director or assistant district director of the Internal Revenue Service personally approves (in writing) the levy of such property, or

"(2) the Secretary finds that the collection of tax is in jeopardy."

(d) UNECONOMICAL LEVY; LEVY ON APPEARANCE DATE OF SUMMONS.—Section 6331 of the 1986 Code (relating to levy and distraint) is amended by redesignating subsection (f) as subsection (h) and by inserting after subsection (e) the following new subsections:

"(f) UNECONOMICAL LEVY.—No levy may be made on any property if the amount of the expenses which the Secretary estimates (at the time of levy) would be incurred by the Secretary with respect to the levy and sale of such property exceeds the fair market value of such property at the time of levy.

"(g) LEVY ON APPEARANCE DATE OF SUMMONS.—

"(1) IN GENERAL.—No levy may be made on the property of any person on any day on which such person (or officer or employee of such person) is required to appear in response to a summons issued by the Secretary for the purpose of collecting any underpayment of tax.

"(2) NO APPLICATION IN CASE OF JEOPARDY.—This subsection shall not apply if the Secretary finds that the collection of tax is in jeopardy."

(e) SURRENDER OF BANK ACCOUNTS SUBJECT TO LEVY ONLY AFTER 21 DAYS.—

(1) IN GENERAL.—Section 6332 of the 1986 Code (relating to surrender of property subject to levy), as amended by title I of this Act is amended by redesignating subsections (c), (d), and (e) as subsections (d), (e), and (f), respectively, and by inserting after subsection (b) the following new subsection:

"(c) SPECIAL RULE FOR BANKS.—Any bank (as defined in section 408(n)) shall surrender (subject to an attachment or execution under

judicial process) any deposits (including interest thereon) in such bank only after 21 days after service of levy."

(2) CONFORMING AMENDMENTS.—

(A) Subsection (a) of section 6332 of the 1986 Code is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)",

(B) Subsection (e) of section 6332 of the 1986 Code, as redesignated by paragraph (1), is amended by striking out "subsection (c)(1)" and inserting in lieu thereof "subsection (d)(1)".

(f) RELEASE OF LEVY.—Subsection (a) of section 6343 of the 1986 Code (relating to release of levy) is amended to read as follows:

"(a) RELEASE OF LEVY AND NOTICE OF RELEASE.—

"(1) IN GENERAL.—Under regulations prescribed by the Secretary, the Secretary shall release the levy upon all, or part of, the property or rights to property levied upon and shall promptly notify the person upon whom such levy was made (if any) that such levy has been released if—

"(A) the liability for which such levy was made is satisfied or becomes unenforceable by reason of lapse of time,

"(B) release of such levy will facilitate the collection of such liability,

"(C) the taxpayer has entered into an agreement under section 6159 to satisfy such liability by means of installment payments, unless such agreement provides otherwise,

"(D) the Secretary has determined that such levy is creating an economic hardship due to the financial condition of the taxpayer, or

"(E) the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

For purposes of subparagraph (C), the Secretary is not required to release such levy if such release would jeopardize the secured creditor status of the Secretary.

"(2) EXPEDITED DETERMINATION ON CERTAIN BUSINESS PROPERTY.—In the case of any tangible personal property essential in carrying on the trade or business of the taxpayer, the Secretary shall provide for an expedited determination under paragraph (1) if levy on such tangible personal property would prevent the taxpayer from carrying on such trade or business.

"(3) SUBSEQUENT LEVY.—The release of levy on any property under paragraph (1) shall not prevent any subsequent levy on such property."

(g) RIGHT OF TAXPAYER TO REQUEST THAT SEIZED PROPERTY BE SOLD WITHIN 60 DAYS.—Section 6335 of the 1986 Code (relating to sale of seized property) is amended by redesignating subsection (f) as subsection (g) and by inserting after subsection (e) the following new subsection:

"(f) RIGHT TO REQUEST SALE OF SEIZED PROPERTY WITHIN 60 DAYS.—The owner of any property seized by levy may request that the Secretary sell such property within 60 days after such request (or within such longer period as may be specified by the owner). The Secretary shall comply with such request unless the Secretary determines (and notifies the owner within such period) that such compliance would not be in the best interests of the United States."

26 USC 6331 note.

(h) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section (other than subsection (g)) shall apply to levies issued on or after July 1, 1989.

(2) SUBSECTION (g).—The amendment made by subsection (g) shall apply to requests made on or after January 1, 1989.

SEC. 6237. REVIEW OF JEOPARDY LEVY AND ASSESSMENT PROCEDURES.

(a) IN GENERAL.—Subsection (a)(1) of section 7429 of the 1986 Code (relating to review of jeopardy assessment procedures) is amended—

(1) by inserting "or levy is made under section 6331(a) less than 30 days after notice and demand for payment is made under section 6331(a)," after "6862,", and

(2) by inserting "or levy" after "such assessment".

(b) ADMINISTRATIVE DETERMINATIONS.—Paragraph (3) of section 7429(a) of the 1986 Code (relating to redetermination by the Secretary) is amended to read as follows:

"(3) REDETERMINATION BY SECRETARY.—After a request for review is made under paragraph (2), the Secretary shall determine—

"(A) whether or not—

"(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

"(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances."

(c) TAX COURT REVIEW JURISDICTION.—Subsection (b) of section 7429 of the 1986 Code is amended to read as follows:

"(b) JUDICIAL REVIEW.—

"(1) PROCEEDINGS PERMITTED.—Within 90 days after the earlier of—

"(A) the day the Secretary notifies the taxpayer of the Secretary's determination described in subsection (a)(3), or

"(B) the 16th day after the request described in subsection (a)(2) was made,

the taxpayer may bring a civil action against the United States for a determination under this subsection in the court with jurisdiction determined under paragraph (2).

"(2) JURISDICTION FOR DETERMINATION.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the district courts of the United States shall have exclusive jurisdiction over any civil action for a determination under this subsection.

"(B) TAX COURT.—If a petition for a redetermination of a deficiency under section 6213(a) has been timely filed with the Tax Court before the making of an assessment or levy that is subject to the review procedures of this section, and 1 or more of the taxes and taxable periods before the Tax Court because of such petition is also included in the written statement that is provided to the taxpayer under subsection (a), then the Tax Court also shall have jurisdiction over any civil action for a determination under this subsection with respect to all the taxes and taxable periods included in such written statement.

"(3) DETERMINATION BY COURT.—Within 20 days after a proceeding is commenced under paragraph (1), the court shall determine—

"(A) whether or not—

"(i) the making of the assessment under section 6851, 6861, or 6862, as the case may be, is reasonable under the circumstances, and

"(ii) the amount so assessed or demanded as a result of the action taken under section 6851, 6861, or 6862 is appropriate under the circumstances, or

"(B) whether or not the levy described in subsection (a)(1) is reasonable under the circumstances.

If the court determines that proper service was not made on the United States or on the Secretary, as may be appropriate, within 5 days after the date of the commencement of the proceeding, then the running of the 20-day period set forth in the preceding sentence shall not begin before the day on which proper service was made on the United States or on the Secretary, as may be appropriate.

"(4) ORDER OF COURT.—If the court determines that the making of such levy is unreasonable, that the making of such assessment is unreasonable, or that the amount assessed or demanded is inappropriate, then the court may order the Secretary to release such levy, to abate such assessment, to redetermine (in whole or in part) the amount assessed or demanded, or to take such other action as the court finds appropriate."

(d) VENUE.—Section 7429(e) of the 1986 Code (relating to venue) is amended to read as follows:

"(e) VENUE.—

"(1) DISTRICT COURT.—A civil action in a district court under subsection (b) shall be commenced only in the judicial district described in section 1402(a) (1) or (2) of title 28, United States Code.

"(2) TRANSFER OF ACTIONS.—If a civil action is filed under subsection (b) with the Tax Court and such court finds that there is want of jurisdiction because of the jurisdiction provisions of subsection (b)(2), then the Tax Court shall, if such court determines it is in the interest of justice, transfer the civil action to the district court in which the action could have been brought at the time such action was filed. Any civil action so transferred shall proceed as if such action had been filed in the district court to which such action is transferred on the date on which such action was actually filed in the Tax Court from which such action is transferred."

(e) CONFORMING AMENDMENTS.—

(1) Section 7429(c) of the 1986 Code (relating to extension of 20-day period where taxpayer so requests) and section 7429(f) (relating to finality of determination) are amended by striking out "district" each place it appears.

(2) Section 7429(g) of the 1986 Code (relating to burden of proof) is amended—

(A) by inserting "the making of a levy described in subsection (a)(1) or" after "whether" in paragraph (1),

(B) by striking out "TERMINATION" in the heading of paragraph (1) and inserting in lieu thereof "LEVY, TERMINATION,", and

(C) by striking out "an action" and inserting in lieu thereof "a proceeding" in paragraphs (1) and (2).

(3) The heading of section 7429 of the 1986 Code is amended by inserting "**LEVY OR**" after "**JEOPARDY**".

(4) The table of sections for subchapter B of chapter 76 of the 1986 Code is amended by inserting "levy or" after "jeopardy" in the item relating to section 7429.

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to jeopardy levies issued and assessments made on or after July 1, 1989. 26 USC 7429 note.

SEC. 6238. ADMINISTRATIVE APPEAL OF LIENS.

(a) ESTABLISHMENT OF ADMINISTRATIVE APPEAL FOR DISPUTED LIENS.—Subchapter C of chapter 64 of the 1986 Code (relating to lien for taxes) is amended by redesignating section 6326 as section 6327 and inserting after section 6325 the following new section:

"SEC. 6326. ADMINISTRATIVE APPEAL OF LIENS.

"(a) IN GENERAL.—In such form and at such time as the Secretary shall prescribe by regulations, any person shall be allowed to appeal to the Secretary after the filing of a notice of a lien under this subchapter on the property or the rights to property of such person for a release of such lien alleging an error in the filing of the notice of such lien. Regulations.

"(b) CERTIFICATE OF RELEASE.—If the Secretary determines that the filing of the notice of any lien was erroneous, the Secretary shall expeditiously (and, to the extent practicable, within 14 days after such determination) issue a certificate of release of such lien and shall include in such certificate a statement that such filing was erroneous."

(b) REGULATIONS.—The Secretary of the Treasury or the Secretary's delegate shall prescribe the regulations necessary to implement the administrative appeal provided for in the amendment made by subsection (a) within 180 days after the date of the enactment of this Act. 26 USC 6326 note.

(c) CLERICAL AMENDMENT.—The table of sections for subchapter C of chapter 64 of the 1986 Code is amended by striking out the item relating to section 6326 and inserting in lieu thereof the following:

"Sec. 6326. Administrative appeal of liens.
"Sec. 6327. Cross references."

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date which is 60 days after the date regulations are issued under subsection (b). 26 USC 6326 note.

PART III—PROCEEDINGS BY TAXPAYERS

SEC. 6239. AWARDING OF COSTS AND CERTAIN FEES IN ADMINISTRATIVE AND COURT PROCEEDINGS.

(a) IN GENERAL.—Section 7430 of the 1986 Code is amended to read as follows:

"SEC. 7430. AWARDING OF COSTS AND CERTAIN FEES.

"(a) IN GENERAL.—In any administrative or court proceeding which is brought by or against the United States in connection with the determination, collection, or refund of any tax, interest, or penalty under this title, the prevailing party may be awarded a judgment or a settlement for—

"(1) reasonable administrative costs incurred in connection with such administrative proceeding within the Internal Revenue Service, and

"(2) reasonable litigation costs incurred in connection with such court proceeding.

"(b) LIMITATIONS.—

"(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for reasonable litigation costs shall not be awarded under subsection (a) in any court proceeding unless the court determines that the prevailing party has exhausted the administrative remedies available to such party within the Internal Revenue Service.

"(2) ONLY COSTS ALLOCABLE TO THE UNITED STATES.—An award under subsection (a) shall be made only for reasonable litigation and administrative costs which are allocable to the United States and not to any other party.

"(3) EXCLUSION OF DECLARATORY JUDGMENT PROCEEDINGS.—

"(A) IN GENERAL.—No award for reasonable litigation costs may be made under subsection (a) with respect to any declaratory judgment proceeding.

"(B) EXCEPTION FOR SECTION 501(C)(3) DETERMINATION REVOCATION PROCEEDINGS.—Subparagraph (A) shall not apply to any proceeding which involves the revocation of a determination that the organization is described in section 501(c)(3).

"(4) COSTS DENIED WHERE PARTY PREVAILING PROTRACTS PROCEEDINGS.—No award for reasonable litigation and administrative costs may be made under subsection (a) with respect to any portion of the administrative or court proceeding during which the prevailing party has unreasonably protracted such proceeding.

"(c) DEFINITIONS.—For purposes of this section—

"(1) REASONABLE LITIGATION COSTS.—The term 'reasonable litigation costs' includes—

"(A) reasonable court costs, and

"(B) based upon prevailing market rates for the kind or quality of services furnished—

"(i) the reasonable expenses of expert witnesses in connection with a court proceeding, except that no expert witness shall be compensated at a rate in excess of the highest rate of compensation for expert witnesses paid by the United States,

"(ii) the reasonable cost of any study, analysis, engineering report, test, or project which is found by the court to be necessary for the preparation of the party's case, and

"(iii) reasonable fees paid or incurred for the services of attorneys in connection with the court proceeding, except that such fees shall not be in excess of $75 per hour unless the court determines that an increase in the cost of living or a special factor, such as the limited availability of qualified attorneys for such proceeding, justifies a higher rate.

"(2) REASONABLE ADMINISTRATIVE COSTS.—The term 'reasonable administrative costs' means—

"(A) any administrative fees or similar charges imposed by the Internal Revenue Service, and

"(B) expenses, costs, and fees described in paragraph (1)(B), except that any determination made by the court under clause (ii) or (iii) thereof shall be made by the Internal Revenue Service in cases where the determination under paragraph (4)(B) of the awarding of reasonable administrative costs is made by the Internal Revenue Service.

Such term shall only include costs incurred on or after the earlier of (i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, or (ii) the date of the notice of deficiency.

"(3) ATTORNEY'S FEES.—For purposes of paragraphs (1) and (2), fees for the services of an individual (whether or not an attorney) who is authorized to practice before the Tax Court or before the Internal Revenue Service shall be treated as fees for the services of an attorney.

"(4) PREVAILING PARTY.—

"(A) IN GENERAL.—The term 'prevailing party' means any party in any proceeding to which subsection (a) applies (other than the United States or any creditor of the taxpayer involved)—

"(i) which establishes that the position of the United States in the proceeding was not substantially justified,

"(ii) which—

"(I) has substantially prevailed with respect to the amount in controversy, or

"(II) has substantially prevailed with respect to the most significant issue or set of issues presented, and

"(iii) which meets the requirements of the 1st sentence of section 2412(d)(1)(B) of title 28, United States Code (as in effect on October 22, 1986) except to the extent differing procedures are established by rule of court and meets the requirements of section 2412(d)(2)(B) of such title 28 (as so in effect).

"(B) DETERMINATION AS TO PREVAILING PARTY.—Any determination under subparagraph (A) as to whether a party is a prevailing party shall be made by agreement of the parties or—

"(i) in the case where the final determination with respect to the tax, interest, or penalty is made at the administrative level, by the Internal Revenue Service, or

"(ii) in the case where such final determination is made by a court, the court.

"(5) ADMINISTRATIVE PROCEEDINGS.—The term 'administrative proceeding' means any procedure or other action before the Internal Revenue Service.

"(6) COURT PROCEEDINGS.—The term 'court proceeding' means any civil action brought in a court of the United States (including the Tax Court and the United States Claims Court).

"(7) POSITION OF UNITED STATES.—The term 'position of the United States' means—

"(A) the position taken by the United States in a judicial proceeding to which subsection (a) applies, and

"(B) the position taken in an administrative proceeding to which subsection (a) applies as of the earlier of—

"(i) the date of the receipt by the taxpayer of the notice of the decision of the Internal Revenue Service Office of Appeals, or

"(ii) the date of the notice of deficiency.

"(d) SPECIAL RULES FOR PAYMENT OF COSTS.—

"(1) REASONABLE ADMINISTRATIVE COSTS.—An award for reasonable administrative costs shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(2) REASONABLE LITIGATION COSTS.—An award for reasonable litigation costs shall be payable in the case of the Tax Court in the same manner as such an award by a district court.

"(e) MULTIPLE ACTIONS.—For purposes of this section, in the case of—

"(1) multiple actions which could have been joined or consolidated, or

"(2) a case or cases involving a return or returns of the same taxpayer (including joint returns of married individuals) which could have been joined in a single court proceeding in the same court,

such actions or cases shall be treated as 1 court proceeding regardless of whether such joinder or consolidation actually occurs, unless the court in which such action is brought determines, in its discretion, that it would be inappropriate to treat such actions or cases as joined or consolidated.

"(f) RIGHT OF APPEAL.—

"(1) COURT PROCEEDINGS.—An order granting or denying (in whole or in part) an award for reasonable litigation or administrative costs under subsection (a) in a court proceeding, may be incorporated as a part of the decision or judgment in the court proceeding and shall be subject to appeal in the same manner as the decision or judgment.

"(2) ADMINISTRATIVE PROCEEDINGS.—A decision granting or denying (in whole or in part) an award for reasonable administrative costs under subsection (a) by the Internal Revenue Service shall be subject to appeal to the Tax Court under rules similar to the rules under section 7463 (without regard to the amount in dispute)."

(b) CONFORMING AMENDMENT.—Section 504 of title 5, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) No award may be made under this section for costs, fees, or other expenses which may be awarded under section 7430 of the Internal Revenue Code of 1986."

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 of the 1986 Code is amended by striking out "court" in the item relating to section 7430.

26 USC 7430 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to proceedings commencing after the date of the enactment of this Act.

SEC. 6240. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO FAILURE TO RELEASE LIEN.

(a) IN GENERAL.—Subchapter B of chapter 76 of the 1986 Code (relating to proceedings by taxpayers and third parties) is amended by redesignating section 7432 as section 7433 and by inserting after section 7431 the following new section:

"SEC. 7432. CIVIL DAMAGES FOR FAILURE TO RELEASE LIEN.

"(a) IN GENERAL.—If any officer or employee of the Internal Revenue Service knowingly, or by reason of negligence, fails to release a lien under section 6325 on property of the taxpayer, such taxpayer may bring a civil action for damages against the United States in a district court of the United States.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the sum of—

"(1) actual, direct economic damages sustained by the plaintiff which, but for the actions of the defendant, would not have been sustained, plus

"(2) the costs of the action.

"(c) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(d) LIMITATIONS.—

"(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

"(2) MITIGATION OF DAMAGES.—The amount of damages awarded under subsection (b)(1) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

"(3) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the right of action accrues.

"(e) NOTICE OF FAILURE TO RELEASE LIEN.—The Secretary shall by regulation prescribe reasonable procedures for a taxpayer to notify the Secretary of the failure to release a lien under section 6325 on property of the taxpayer." Regulations.

"(b) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 of the 1986 Code is amended by striking out the item relating to section 7432 and inserting in lieu thereof the following new items:

"Sec. 7432. Civil damages for failure to release lien.
"Sec. 7433. Cross references."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to notices provided by the taxpayer of the failure to release a lien, and damages arising, after December 31, 1988. 26 USC 7432 note.

SEC. 6241. CIVIL CAUSE OF ACTION FOR DAMAGES SUSTAINED DUE TO CERTAIN UNAUTHORIZED ACTIONS BY INTERNAL REVENUE SERVICE.

(a) IN GENERAL.—Subchapter B of chapter 76 of the 1986 Code (relating to proceedings by taxpayers and third parties) is further amended by redesignating section 7433 as section 7434 and by inserting after section 7432 the following new section:

"SEC. 7433. CIVIL DAMAGES FOR CERTAIN UNAUTHORIZED COLLECTION ACTIONS.

"(a) IN GENERAL.—If, in connection with any collection of Federal tax with respect to a taxpayer, any officer or employee of the Internal Revenue Service recklessly or intentionally disregards any provision of this title, or any regulation promulgated under this title, such taxpayer may bring a civil action for damages against the United States in a district court of the United States. Except as provided in section 7432, such civil action shall be the exclusive remedy for recovering damages resulting from such actions.

"(b) DAMAGES.—In any action brought under subsection (a), upon a finding of liability on the part of the defendant, the defendant shall be liable to the plaintiff in an amount equal to the lesser of $100,000 or the sum of—

"(1) actual, direct economic damages sustained by the plaintiff as a proximate result of the reckless or intentional actions of the officer or employee, and

"(2) the costs of the action.

"(c) PAYMENT AUTHORITY.—Claims pursuant to this section shall be payable out of funds appropriated under section 1304 of title 31, United States Code.

"(d) LIMITATIONS.—

"(1) REQUIREMENT THAT ADMINISTRATIVE REMEDIES BE EXHAUSTED.—A judgment for damages shall not be awarded under subsection (b) unless the court determines that the plaintiff has exhausted the administrative remedies available to such plaintiff within the Internal Revenue Service.

"(2) MITIGATION OF DAMAGES.—The amount of damages awarded under subsection (b)(1) shall be reduced by the amount of such damages which could have reasonably been mitigated by the plaintiff.

"(3) PERIOD FOR BRINGING ACTION.—Notwithstanding any other provision of law, an action to enforce liability created under this section may be brought without regard to the amount in controversy and may be brought only within 2 years after the date the right of action accrues."

(b) DAMAGES FOR FRIVOLOUS OR GROUNDLESS CLAIMS.—

(1) IN GENERAL.—Section 6673 of the 1986 Code (relating to damages assessable for instituting proceedings before the Tax Court primarily for delay, etc.) is amended by inserting "(a) IN GENERAL.—" before "Whenever" and by adding at the end thereof the following new subsection:

"(b) CLAIMS UNDER SECTION 7433.—Whenever it appears to the court that the taxpayer's position in proceedings before the court instituted or maintained by such taxpayer under section 7433 is frivolous or groundless, damages in an amount not in excess of $10,000 shall be awarded to the United States by the court in the court's decision. Damages so awarded shall be assessed at the same time as the decision and shall be paid upon notice and demand from the Secretary."

(2) CLERICAL AMENDMENT.—The heading for section 6673 of the 1986 Code is amended by striking out "**TAX**".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 76 of the 1986 Code is further amended by striking out the item relating to section 7433 and inserting in lieu thereof the following new items:

"Sec. 7433. Civil damages for certain unauthorized collection actions.
"Sec. 7434. Cross references."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to actions by officers or employees of the Internal Revenue Service after the date of the enactment of this Act. 26 USC 6673 note.

SEC. 6242. ASSESSABLE PENALTY FOR IMPROPER DISCLOSURE OR USE OF INFORMATION BY PREPARERS OF RETURNS.

(a) IN GENERAL.—Part I of subchapter B of chapter 68 of the 1986 Code (relating to assessable penalties) is amended by adding at the end thereof the following new section:

"SEC. 6712. DISCLOSURE OR USE OF INFORMATION BY PREPARERS OF RETURNS.

"(a) IMPOSITION OF PENALTY.—If any person who is engaged in the business of preparing, or providing services in connection with the preparation of, returns of tax imposed by chapter 1, or any person who for compensation prepares any such return for any other person, and who—

"(1) discloses any information furnished to him for, or in connection with, the preparation of any such return, or

"(2) uses any such information for any purpose other than to prepare, or assist in preparing, any such return,

shall pay a penalty of $250 for each such disclosure or use, but the total amount imposed under this subsection on such a person for any calendar year shall not exceed $10,000.

"(b) EXCEPTIONS.—The rules of section 7216(b) shall apply for purposes of this section.

"(c) DEFICIENCY PROCEDURES NOT TO APPLY.—Subchapter B of chapter 63 (relating to deficiency procedures for income, estate, gift, and certain excise taxes) shall not apply in respect of the assessment or collection of any penalty imposed by this section."

(b) CRIMINAL PENALTY TO APPLY ONLY WHERE KNOWING OR RECKLESS DISCLOSURE OR USE.—The material preceding paragraph (1) of section 7216(a) of the 1986 Code is amended by striking out "and who—" and inserting in lieu thereof "and who knowingly or recklessly—".

(c) CLERICAL AMENDMENT.—The table of sections for part I of subchapter B of chapter 68 of the 1986 Code is amended by adding at the end thereof the following new item:

"Sec. 6712. Disclosure or use of information by preparers of returns."

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to disclosures or uses after December 31, 1988. 26 USC 6712 note.

PART IV—TAX COURT JURISDICTION

SEC. 6243. JURISDICTION TO RESTRAIN CERTAIN PREMATURE ASSESSMENTS.

(a) IN GENERAL.—Section 6213(a) of the 1986 Code (relating to time for filing petition and restriction on assessment) is amended by striking out the period at the end of the last sentence and inserting in lieu thereof ", including the Tax Court. The Tax Court shall have no jurisdiction to enjoin any action or proceeding under this subsection unless a timely petition for a redetermination of the deficiency has been filed and then only in respect of the deficiency that is the subject of such petition."

(b) APPEAL OF ORDER RESTRAINING ASSESSMENT, ETC.—Section 7482(a) of the 1986 Code (relating to jurisdiction on appeal) is amended by adding at the end thereof the following new paragraph:

"(3) CERTAIN ORDERS ENTERED UNDER SECTION 6213(a).—An order of the Tax Court which is entered under authority of section 6213(a) and which resolves a proceeding to restrain assessment or collection shall be treated as a decision of the Tax Court for purposes of this section and shall be subject to the same review by the United States Court of Appeals as a similar order of a district court."

26 USC 6213 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to orders entered after the date of the enactment of this Act.

SEC. 6244. JURISDICTION TO ENFORCE OVERPAYMENT DETERMINATIONS.

(a) IN GENERAL.—Section 6512(b) of the 1986 Code (relating to overpayment determined by the Tax Court) is amended by striking out "paragraph (2)" and inserting in lieu thereof "paragraph (3)" in paragraph (1), by redesignating paragraph (2) as paragraph (3), and by inserting the following new paragraph after paragraph (1):

"(2) JURISDICTION TO ENFORCE.—If, after 120 days after a decision of the Tax Court has become final, the Secretary has failed to refund the overpayment determined by the Tax Court, together with the interest thereon as provided in subchapter B of chapter 67, then the Tax Court, upon motion by the taxpayer, shall have jurisdiction to order the refund of such overpayment and interest."

(b) AMENDMENTS ADDING CROSS REFERENCES.—

(1) Section 6214(e) of the 1986 Code is amended by striking out "REFERENCE.—" and inserting in lieu thereof "REFERENCES.—" in the heading, by designating the undesignated paragraph as paragraph (1), and by adding at the end thereof the following new paragraph:

"(2) For provision giving Tax Court jurisdiction to order a refund of an overpayment and to award sanctions, see section 6512(b)(2)."

(2) Section 6512(c) of the 1986 Code is amended by striking out "REFERENCE.—" and inserting in lieu thereof "REFERENCES.—" in the heading, by designating the undesignated paragraph as paragraph (1), and by adding at the end thereof the following new paragraph:

"(2) For provision giving the Tax Court jurisdiction to award reasonable litigation costs in proceedings to enforce an overpayment determined by such court, see section 7430."

26 USC 6214 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to overpayments determined by the Tax Court which have not yet been refunded by the 90th day after the date of the enactment of this Act.

SEC. 6245. JURISDICTION TO REVIEW CERTAIN SALES OF SEIZED PROPERTY.

(a) JURISDICTION TO REVIEW CERTAIN SALES OF PROPERTY.—Section 6863(b)(3) of the 1986 Code (relating to stay of sale of seized property pending Tax Court decision) is amended by adding at the end thereof the following new subparagraph:

"(C) REVIEW BY TAX COURT.—If, but for the application of subparagraph (B), a sale would be prohibited by subparagraph (A)(iii), then the Tax Court shall have jurisdiction to review the

Secretary's determination under subparagraph (B) that the property may be sold. Such review may be commenced upon motion by either the Secretary or the taxpayer. An order of the Tax Court disposing of a motion under this paragraph shall be reviewable in the same manner as a decision of the Tax Court."

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the 90th day after the date of the enactment of this Act. 26 USC 6863 note.

SEC. 6246. JURISDICTION TO REDETERMINE INTEREST ON DEFICIENCIES.

(a) IN GENERAL.—Section 7481 of the 1986 Code (relating to date when Tax Court decision becomes final) is amended by adding at the end thereof the following new subsection:

"(c) JURISDICTION OVER INTEREST DETERMINATIONS.—Notwithstanding subsection (a), if—

"(1) an assessment has been made by the Secretary under section 6215 which includes interest as imposed by this title,

"(2) the taxpayer has paid the entire amount of the deficiency plus interest claimed by the Secretary, and

"(3) within 1 year after the date the decision of the Tax Court becomes final under subsection (a), the taxpayer files a petition in the Tax Court for a determination that the amount of interest claimed by the Secretary exceeds the amount of interest imposed by this title,

then the Tax Court may reopen the case solely to determine whether the taxpayer has made an overpayment of such interest and the amount of any such overpayment. If the Tax Court determines under this subsection that the taxpayer has made an overpayment of interest, then that determination shall be treated under section 6512(b)(1) as a determination of an overpayment of tax. An order of the Tax Court redetermining the interest due, when entered upon the records of the court, shall be reviewable in the same manner as a decision of the Tax Court."

(b) CONFORMING AMENDMENTS.—

(1) Section 6512(a) of the 1986 Code (relating to effect of petition to Tax Court) is amended by inserting after "section 6213(a)" the following: "(or 7481(c) with respect to a determination of statutory interest)".

(2) Subsection (a) of section 7481 of the 1986 Code is amended by striking out "subsection (b)" and inserting in lieu thereof "subsections (b) and (c)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to assessments of deficiencies redetermined by the Tax Court made after the date of the enactment of this Act. 26 USC 6512 note.

SEC. 6247. JURISDICTION TO MODIFY DECISIONS IN CERTAIN ESTATE TAX CASES.

(a) IN GENERAL.—Section 7481 of the 1986 Code (relating to date when Tax Court decision becomes final), as amended by section 783(a), is further amended by adding at the end thereof the following new subsection:

"(d) DECISIONS RELATING TO ESTATE TAX EXTENDED UNDER SECTION 6166.—If with respect to a decedent's estate subject to a decision of the Tax Court—

"(1) the time for payment of an amount of tax imposed by chapter 11 is extended under section 6166, and

"(2) there is treated as an administrative expense under section 2053 either—

"(A) any amount of interest which a decedent's estate pays on any portion of the tax imposed by section 2001 on such estate for which the time of payment is extended under section 6166, or

"(B) interest on any estate, succession, legacy, or inheritance tax imposed by a State on such estate during the period of the extension of time for payment under section 6166,

then, upon a motion by the petitioner in such case in which such time for payment of tax has been extended under section 6166, the Tax Court may reopen the case solely to modify the Court's decision to reflect such estate's entitlement to a deduction for such administration expenses under section 2053 and may hold further trial solely with respect to the claim for such deduction if, within the discretion of the Tax Court, such a hearing is deemed necessary. An order of the Tax Court disposing of a motion under this subsection shall be reviewable in the same manner as a decision of the Tax Court, but only with respect to the matters determined in such order."

(b) CONFORMING AMENDMENTS.—

(1) Section 6512(a) of the 1986 Code (relating to effect of petition to Tax Court), as amended by this part, is further amended by striking out "interest)" and inserting in lieu thereof "interest or section 7481(d) solely with respect to a determination of estate tax by the Tax Court)".

(2) Subsection (a) of section 7481 of the 1986 Code, as amended by this part, is further amended by striking out "subsections (b) and (c)" and inserting in lieu thereof "subsections (b), (c), and (d)".

26 USC 6512 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective with respect to Tax Court cases for which the decision is not final on the date of the enactment of this Act.

Subtitle K—Other Administrative Provisions

SEC. 6251. EXCHANGE OF INFORMATION.

Clause (i) of section 6103(b)(5)(B) of the 1986 Code (defining State) is amended by striking out "2,000,000" and inserting in lieu thereof "250,000".

SEC. 6252. PROVISIONS RELATING TO PREVIOUSLY REQUIRED STUDIES.

(a) REPEAL OF REQUIREMENT FOR CERTAIN STUDIES.—

26 USC 61 note.

(1) PIK STUDY.—Section 6 of the Payment-in-Kind Tax Treatment Act of 1983 is hereby repealed.

26 USC 471 note.

(2) ACCOUNTING METHODS FOR INVENTORY.—Section 238 of the Economic Recovery Tax Act of 1981 is hereby repealed.

26 USC 936 note.

(b) CHANGES IN DUE DATES FOR CERTAIN PERIODIC STUDIES.—

(1) REPORTS ON POSSESSIONS CORPORATIONS.—Effective for reports for calendar years after 1982, subsection (a) of section 441 of the Tax Reform Act of 1984 is amended by striking out "shall," and all that follows through "setting forth" and inserting in lieu thereof "shall, during 1988 and each fourth calendar year thereafter, submit a report to the Congress (using the most recent information available) setting forth".

(2) REPORTS ON FSC PROVISIONS.—

(A) Subsection (a) of section 804 of the Tax Reform Act of 1984 is amended by striking out "shall," and all that follows through "setting forth" and inserting in lieu thereof "shall, during 1990 and each fourth calendar year thereafter, submit a report to the Congress (using the most recent information available) setting forth". 26 USC 921 note.

(B) The amendment made by subparagaph (A) shall take effect as if included in the amendments made by section 804(a) of the Tax Reform Act of 1984. Effective date. 26 USC 921 note.

SEC. 6253. REPEAL OF SECRETARIAL AUTHORITY TO PRESCRIBE CLASS LIVES.

Paragraph (1) of section 168(i) of the 1986 Code is amended to read as follows:

"(1) CLASS LIFE.—Except as provided in this section, the term 'class life' means the class life (if any) which would be applicable with respect to any property as of January 1, 1986, under subsection (m) of section 167 (determined without regard to paragraph (4) and as if the taxpayer had made an election under such subsection). The Secretary, through an office established in the Treasury, shall monitor and analyze actual experience with respect to all depreciable assets."

SEC. 6254. AMENDMENTS RELATED TO CRUDE OIL WINDFALL PROFIT TAX ACT OF 1980. 26 USC 4997 note.

The reporting requirements of section 4997 of former chapter 45 of subtitle D of the Internal Revenue Code of 1986, and the related regulations thereunder, are repealed: *Provided,* That this repeal is effective only for crude oil removed after December 31, 1987, for which no tax is due or withheld under former chapter 45 of subtitle D of the Internal Revenue Code of 1986.

Subtitle L—Provisions Relating to Corporations and Personal Holding Companies

SEC. 6276. AUTHORITY TO PAY REFUNDS TO CERTAIN FIDUCIARIES OF INSOLVENT MEMBERS OF AFFILIATED GROUPS.

Section 6402 of the 1986 Code (relating to authority to make credits or refunds) is amended by adding at the end thereof the following new subsection:

"(i) REFUNDS TO CERTAIN FIDUCIARIES OF INSOLVENT MEMBERS OF AFFILIATED GROUPS.—Notwithstanding any other provision of law, in the case of an insolvent corporation which is a member of an affiliated group of corporations filing a consolidated return for any taxable year and which is subject to a statutory or court-appointed fiduciary, the Secretary may by regulation provide that any refund for such taxable year may be paid on behalf of such insolvent corporation to such fiduciary to the extent that the Secretary determines that the refund is attributable to losses or credits of such insolvent corporation."

SEC. 6277. APPLICATION OF NET OPERATING LOSS LIMITATIONS TO BANKRUPTCY REORGANIZATIONS.

(a) TIME FOR DETERMINING WHETHER OWNERSHIP CHANGE OCCURS.—Section 621(f)(5) of the Tax Reform Act of 1986 is amended 26 USC 382 note.

by adding at the end thereof the following new sentence: "The determination as to whether an ownership change has occurred during the period beginning January 1, 1987, and ending on the final settlement of any reorganization or proceeding described in the preceding sentence shall be redetermined as of the time of such final settlement."

26 USC 382 note.

(b) ELECTION TO HAVE NEW RULES APPLY.—Section 621(f)(5) of the Tax Reform Act of 1986 is amended by striking out "In" and inserting in lieu thereof "Unless the taxpayer elects not to have the provisions of this paragraph apply, in".

26 USC 382 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in section 621(f)(5) of the Tax Reform Act of 1986.

26 USC 7503 note.

SEC. 6278. APPLICATION OF SECTION 7503 OF 1986 CODE FOR PURPOSES OF SECTION 10222(b) OF REVENUE ACT OF 1987.

Section 7503 of the 1986 Code shall apply for purposes of determining whether any disposition meets the requirements of section 10222(b)(2)(B) of the Revenue Act of 1987. If any disposition meets the requirements of such section by reason of the preceding sentence, for all purposes of the 1986 Code, such disposition shall be deemed to have occurred on December 31, 1988.

SEC. 6279. INTEREST EARNED BY BROKERS OR DEALERS NOT TAKEN INTO ACCOUNT AS PERSONAL HOLDING COMPANY INCOME.

(a) IN GENERAL.—Paragraph (1) of section 543(a) of the 1986 Code is amended by striking out "and" at the end of subparagraph (B), by striking out the period at the end of subparagraph (C) and inserting in lieu thereof ", and" and by adding at the end thereof the following new subparagraph:

"(D) interest received by a broker or dealer (within the meaning of section 3(a) (4) or (5) of the Securities and Exchange Act of 1934) in connection with—

"(i) any securities or money market instruments held as property described in section 1221(1),

"(ii) margin accounts, or

"(iii) any financing for a customer secured by securities or money market instruments."

26 USC 543 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to interest received after the date of the enactment of this Act, in taxable years ending after such date.

26 USC 543 note.

SEC. 6280. TREATMENT OF CERTAIN BANK HOLDING COMPANIES.

(a) GENERAL RULE.—For purposes of subtitle A of the 1986 Code, the term "personal holding company income" shall not include any dividend received by a qualified bank holding company from a 25-percent owned bank during any taxable year ending in 1989 or 1990.

(b) $3,000,000 LIMITATION.—The aggregate amount excluded from the personal holding company income of any qualified bank holding company under subsection (a) for the taxable year shall not exceed $3,000,000.

(c) QUALIFIED BANK HOLDING COMPANY.—For purposes of this section, the term "qualified bank holding company" means any bank holding company (as defined in section 2(a) of the Bank Holding Company Act of 1956) if 80 percent or more (by value) of the

assets of such company at all times during the taxable year consist of stock in 1 or more 25-percent owned banks.

(d) 25-PERCENT OWNED BANK.—For purposes of this section, the term "25-percent owned bank" means any bank (as defined in section 581 of the 1986 Code) if at least 25 percent of the stock of such bank (by vote and value) is owned by the bank holding company.

SEC. 6281. AUTHORITY TO WAIVE APPRAISAL REQUIREMENT FOR CERTAIN CHARITABLE CONTRIBUTIONS OF PROPERTY. 26 USC 170 note.

Notwithstanding paragraph (2) of section 155(a) of the Tax Reform Act of 1984, the Secretary of the Treasury or his delegate may in the regulations prescribed pursuant to such section waive the requirement of a qualified appraisal in the case of a qualified contribution (within the meaning of section 170(e)(3)(A) of the 1986 Code) of property described in section 1221(1) with a claimed value in excess of $5,000.

SEC. 6282. DISTRIBUTIONS BY COOPERATIVE HOUSING CORPORATIONS.

(a) IN GENERAL.—Section 216 of the 1986 Code is amended by adding at the end thereof the following new subsection:

"(e) DISTRIBUTIONS BY COOPERATIVE HOUSING ASSOCIATIONS.—Except as provided in regulations, no gain or loss shall be recognized on the distribution by a cooperative housing association of a dwelling unit to a stockholder in such corporation if such distribution is in exchange for the stockholder's stock in such corporation and such exchange qualifies for nonrecognition of gain under section 1034(f)."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 631 of the Tax Reform Act of 1986. 26 USC 216 note.

Subtitle M—Miscellaneous Provisions

SEC. 6301. REPEAL OF LIMIT ON LONG-TERM BONDS.

The last sentence of section 3102(a) of title 31, United States Code, is hereby repealed.

SEC. 6302. ONE-YEAR EXTENSION OF CREDIT FOR PRODUCING FUEL FROM A NONCONVENTIONAL SOURCE.

Clauses (i) and (ii) of section 29(f)(1)(A) of the 1986 Code (relating to application of section) are each amended by striking out "January 1, 1990" and inserting in lieu thereof "January 1, 1991".

SEC. 6303. CERTAIN DISCHARGE OF DEBT INCOME NOT INCLUDED IN ADJUSTED BOOK INCOME.

(a) GENERAL RULE.—Paragraph (2) of section 56(f) of the 1986 Code (defining adjusted net book income) is amended by redesignating subparagraph (I) as subparagraph (J) and by inserting after subparagraph (H) the following new subparagraph:

"(I) EXCLUSION OF CERTAIN INCOME FROM TRANSFER OF STOCK FOR DEBT.—In determining adjusted net book income, there shall not be taken into account any income resulting from the transfer of stock by the corporation issuing such stock to a creditor in satisfaction of its indebtedness. The preceding sentence shall apply only in the case of a debtor in a title 11 case (as defined in section 108(d)(2)) or to the

extent the debtor is insolvent (as defined in section 108(d)(3))."

26 USC 56 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1986.

SEC. 6304. NONCONVENTIONAL FUELS CREDIT.

(a) IN GENERAL.—Section 53(d)(1)(B) of the 1986 Code (relating to credit not allowed for exclusion preferences) is amended by adding at the end thereof the following new clause:

"(iii) SPECIAL RULE.—The adjusted net minimum tax for the taxable year shall be increased by the amount of the credit not allowed under section 29 (relating to credit for producing fuel from a nonconventional source) solely by reason of the application of section 29(b)(5)(B)."

26 USC 53 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect as if included in the amendments made by section 701 of the Tax Reform Act of 1986.

26 USC 3121 note.
State and local governments.

SEC. 6305. TREATMENT OF CERTAIN FAMILY SERVICES PROVIDERS.

(a) IN GENERAL.—A State may treat a person who renders dependent care or similar services as other than an employee employment tax purposes for the applicable period if all of the following conditions are satisfied with respect to such person for such applicable period:

(i) The person does not provide any dependent care or similar services in any facility owned or operated by the State.

(ii) The person is compensated by the State for such services, directly or indirectly, out of funds provided pursuant to chapter 7 of title 42 of the United States Code, or the provisions and amendments made by the Family Security Act of 1988.

(iii) The State does not treat the person, with respect to the provision of dependent care or similar services, as an employee for employment tax purposes.

(iv) The State files all Federal income tax returns (including information returns) required to be filed with respect to such person on a basis consistent with the State's treatment of such person as other than an employee beginning on the date of the enactment of this section.

(v) No more than ten percent of the State's employees are provided with insurance under title II of the Social Security Act pursuant to voluntary agreements with the Secretary of Health and Human Services under section 218 of such title.

(b) STATE.—For purposes of this section, the term "State" shall mean the government of the United States, District of Columbia, any State or political subdivision thereof, and any agency or instrumentality of any of the foregoing.

(c) EMPLOYMENT TAX.—For purposes of this section, the term "employment tax" means any tax imposed by subtitle C of the Internal Revenue Code of 1986.

(d) APPLICABLE PERIOD.—For purposes of this section, the term "applicable period" means the period beginning on January 1, 1984 and ending on December 31, 1990.

(e) REPORT.—The Secretary of the Treasury shall report to the Senate Committee on Finance and the House Committee on Ways and Means on the text status of day care providers compenstated

pursuant to the program described in this section no later than December 31, 1989.

TITLE VII—RAILROAD UNEMPLOYMENT AND RETIREMENT PROGRAMS

Railroad Unemployment Insurance and Retirement Improvement Act of 1988.
26 USC 367 note.

SEC. 7001. SHORT TITLE.

This title may be cited as the "Railroad Unemployment Insurance and Retirement Improvement Act of 1988".

SEC. 7002. REFERENCES TO RAILROAD UNEMPLOYMENT INSURANCE ACT.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or provision, the reference shall be considered to be made to a section or other provision of the Railroad Unemployment Insurance Act.

Subtitle A—Financing Provisions

SEC. 7101. AMENDMENTS RELATING TO DEFINITION OF "COMPENSATION".

45 USC 351.

(a) IN GENERAL.—Section 1(i) is amended—

(1) by inserting "(1) IN GENERAL.—" after "(i)";

(2) by striking out ": *Provided, however,* That in computing" and all that follows through "1983, shall be recognized." and inserting in lieu thereof ", except that in computing the compensation paid to any employee, no part of any month's compensation in excess of the monthly compensation base (as defined in subdivision (2)) for any month shall be recognized."; and

(3) by adding at the end thereof the following new subdivision:

"(2) MONTHLY COMPENSATION BASE.—

"(A) IN GENERAL.—For purposes of subdivision (1), the term 'monthly compensation base' means the amount—

"(i) of $400 for calendar months before January 1, 1984,

"(ii) of $600 for calendar months after December 31, 1983 and before January 1, 1989; and

"(iii) computed under subparagraph (B) for months after December 31, 1988.

"(B) COMPUTATION.—

"(i) IN GENERAL.—The amount of the monthly compensation base for each calendar year beginning after December 31, 1988, is the greater of—

"(I) $600; or

"(II) the amount, as rounded under clause (iii) if applicable, computed under the formula:

$$B = 600\left(1 + \frac{A - 37{,}800}{56{,}700}\right)$$

"(ii) MEANING OF SYMBOLS.—For the purposes of the formula in clause (i)—

"(I) 'B' is the dollar amount of the monthly compensation base; and

"(II) 'A' is the amount of the applicable base with respect to tier 1 taxes, for the calendar year for which the monthly compensation base is being computed, as determined under section 3231(e)(2) of the Internal Revenue Code of 1986.

"(iii) ROUNDING RULE.—If the monthly compensation base computed under this formula is not a multiple of $5, it shall be rounded to the nearest multiple of $5, with such rounding being upward in the event the amount computed is equidistant between two multiples of $5.".

(b) CONFORMING AMENDMENT WITH RESPECT TO SUBSIDIARY REMUNERATION RULE.—Section 1(k) is amended by striking out "$1,500" and inserting in lieu thereof "an amount that is equal to 2.5 times the monthly compensation base for months in such base year as computed under section 1(i) of this Act". 45 USC 351.

(c) CONFORMING AMENDMENT WITH RESPECT TO LIMITATION ON TAKING ACCOUNT OF MONEY REMUNERATION.—Section 2(c) is amended by striking out "not in excess of $775 in any month shall be taken into account:" and inserting in lieu thereof "shall be taken into account that is not in excess of $775 in any month before 1989 and, in any month in a base year after 1988, is not in excess of an amount that bears the same ratio to $775 as the monthly compensation base for that year as computed under section 1(i) of this Act bears to $600:". 45 USC 352.

(d) CONFORMING AMENDMENTS WITH RESPECT TO REQUIRED COMPENSATION AMOUNT.—Section 4(a-2)(i)(A) is amended by striking out the semicolon at the end and inserting in lieu thereof "and before 1989 or, if any part of such compensation is paid in a calendar year after 1988, not less than an amount that is equal to 2.5 times the monthly compensation base for months in such calendar year, as computed under section 1(i) of this Act;". 45 USC 354.

(e) DUTY OF BOARD TO MAKE CERTAIN COMPUTATIONS.—Section 12 is amended by adding at the end the following new subsection: 45 USC 362.

"(r) DUTY OF BOARD TO MAKE CERTAIN COMPUTATIONS.—

"(1) COMPENSATION BASE.—On or before December 1, 1988, and on or before December 1 of each year thereafter, the Board shall compute—

"(A) in accordance with section 1(i), the monthly compensation base which shall be applicable with respect to months in the next succeeding calendar year; and

"(B) the amounts described in section 1(k), section 2(c), section 3, and section 4(a-2)(i)(A) that are related to changes in the monthly compensation base.

"(2) MAXIMUM DAILY BENEFIT RATE.—On or before June 1, 1989, and on or before June 1 of each year thereafter, the Board

shall compute in accordance with section 2(a)(3) the maximum daily benefit rate which shall be applicable with respect to days of unemployment and days of sickness in registration periods beginning after June 30 of that year.

"(3) NOTICE IN FEDERAL REGISTER AND TO EMPLOYERS.—Not later than 10 days after each computation made under this subsection, the Board shall publish notice in the Federal Register and shall notify each employer and employee representative of the amount so computed.".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act. 45 USC 351 note.

SEC. 7102. CONTRIBUTION ADJUSTMENTS.

(a) EMPLOYER CONTRIBUTIONS AND EXPERIENCE RATING.—Section 8 is amended by striking out "(a) Every employer" and all that follows through the end of subsection (a) and inserting in lieu thereof the following: 45 USC 358.

"(a) EMPLOYER CONTRIBUTION.—

"(1) IN GENERAL.—

"(A) GENERAL RULE.—

"(i) CONTRIBUTION RATE GENERALLY.—Every employer shall pay a contribution, with respect to having employees in his service, equal to the percentage determined under subparagraph (B), (C), or (D), whichever is applicable, of so much of the compensation paid in any calendar month by such employer to any employee as is not in excess of the monthly compensation base for that month as computed under section 1(i).

"(ii) MULTIPLE EMPLOYER LIMITATION.— If compensation is paid to an employee by more than one employer in any calendar month—

"(I) the contributions required by this subsection shall not apply to any amount of the aggregate compensation paid to such employee by all such employers in such calendar month which is in excess of such monthly compensation base; and

"(II) each employer (other than a subordinate unit of a national-railway-labor-organization employer) shall be liable for that portion of the contribution with respect to such compensation paid by all such employers which the compensation paid by him to such employee bears to the total compensation paid in such month by all such employers to such employee.

In the event that the compensation paid by such employers to the employee in such month is less than such monthly compensation base, each subordinate unit of a national-railway-labor-organization employer shall be liable for such portion of any additional contribution as the compensation paid by such employer to such employee in such month bears to the total compensation paid by all such employers to such employee in such month.

"(B) TRANSITIONAL RULE.—

"(i) 1ST, 2D, AND 3D CALENDAR YEARS.—Except as provided in clause (vi), with respect to compensation paid

in calendar years 1988, 1989, and 1990, the contribution rate shall be 8 percent.

"(ii) 4TH CALENDAR YEAR.—With respect to compensation paid in calendar year 1991, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage computed pursuant to the following formula:

$$R = \frac{2A+B}{3}$$

"(iii) 5TH CALENDAR YEAR.—With respect to compensation paid in calendar year 1992, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage computed pursuant to the following formula:

$$R = \frac{A+2C}{3}$$

"(iv) MEANING OF SYMBOLS.—For purposes of the formulas in clauses (ii) and (iii)—

"(I) 'R' is the applicable contribution rate expressed as a percentage for months in the calendar year;

"(II) 'A' is the contribution rate determined under clause (i);

"(III) 'B' is the percentage rate for the employer, as determined under subparagraph (C), for calendar year 1991; and

"(IV) 'C' is the percentage rate for the employer, as determined under subparagraph (C), for calendar year 1992.

"(v) SPECIAL RULE FOR CERTAIN COMPUTATIONS.—For purposes of computing B and C in such formulas—

"(I) the percentage rate computed under subparagraph (C), if more than the maximum contribution limit computed under paragraph (20) shall not be reduced to that limit; and

"(II) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or a 12-quarter period ending on a given June 30 shall be made on the basis of a period beginning on January 1, 1990, and ending on that June 30, and the amount so computed shall be increased to an

amount that bears the same ratio to the amount so computed as 4 or 12, as appropriate, bears to the number of calendar quarters in the period on which the computation was based.

"(vi) SPECIAL TRANSITION RULE FOR PUBLIC COMMUTER RAILROADS.—With respect to each of calendar years 1989 and 1990, the contribution of an employer which on the date of the enactment of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988 is a publicly funded and publicly operated carrier providing rail commuter service shall be equal to the amount of benefits attributable to such carrier, plus an amount equal to 0.65 percent of the total compensation paid by that employer in that year on which that employer's contribution would be based under clause (i) if such employer's contribution were determined under that clause.

"(C) EXPERIENCE-RATED CONTRIBUTIONS.—With respect to compensation paid in a calendar year that begins after December 31, 1992, the contribution rate for each employer shall be determined as follows:

"(i) STEP 1.—Compute the employer's benefit ratio as of the preceding June 30 to 4 decimal points in accordance with paragraph (2).

"(ii) STEP 2.—Subtract the employer's reserve ratio as of the preceding June 30 as computed to 4 decimal points in accordance with paragraph (4).

"(iii) STEP 3.—Subtract the pooled credit ratio for the calendar year, if any, as computed to 4 decimal points in accordance with paragraph (12).

"(iv) STEP 4.—Multiply by 100 the total arrived at under the steps set forth in clauses (i) through (iii) so as to obtain a percentage rate, which shall be rounded to the nearest 100th of 1 percent. If the total arrived at under such steps is 0 or less than 0, the percentage rate as so computed shall be 0.

"(v) STEP 5.—Add 0.65 to the percentage rate arrived at under clause (iv), representing the portion of the employer's contribution which is to be deposited to the credit of the fund under subsection (i).

"(vi) STEP 6.—Add the surcharge rate for the calendar year, if any, as computed under paragraph (14).

"(vii) STEP 7.—Add the pooled charge ratio for the calendar year, if any, as computed to 4 decimal points under paragraph (13) and multiplied by 100.

"(viii) STEP 8.—Reduce the precentage rate computed in accordance with the preceding steps to the maximum contribution limit computed under paragraph (20), if such rate is higher than such limit. The rate computed in accordance with the preceding steps, after any reduction under this clause, is the contribution rate.

"(D) NEW-EMPLOYER CONTRIBUTION RATES.—Notwithstanding subparagraphs (B) and (C), the contribution rate applicable to a new employer who does not become subject to this Act until after December 31, 1989, shall be determined as follows:

"(i) 1ST CALENDAR YEAR.—With respect to compensation paid in calendar months before the end of the first full calendar year in which the employer is subject to this Act, the contribution rate shall be the average contribution rate paid by all employers during the 3 calendar years preceding the calendar year before the calendar year in which the compensation is paid. The average contribution rate shall be determined—

"(I) by dividing the aggregate contributions paid by all employers under this subsection in those 3 calendar years by the aggregate compensation with respect to which such contributions were paid; and

"(II) by multiplying the resulting ratio as computed to 4 decimal points by 100.

"(ii) 2D CALENDAR YEAR.—With respect to compensation paid in calendar months in the next calendar year, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage rate computed pursuant to the following formula:

$$R = \left(\frac{2(A2)+B}{3} \right)$$

"(iii) 3D CALENDAR YEAR.—With respect to compensation paid in calendar months in the third full calendar year in which the employer is subject to the coverage of this Act, the contribution rate shall be the smaller of—

"(I) the maximum contribution limit computed under paragraph (20); or

"(II) the percentage rate computed pursuant to the following formula:

$$R = \frac{A3+2C}{3}$$

"(iv) SUBSEQUENT CALENDAR YEARS.—With respect to all calendar months in calendar years subsequent to that calendar year, the contribution rate shall be determined under subparagraph (C).

"(v) MEANING OF SYMBOLS.—For purposes of the formulas in clauses (ii) and (iii)—

"(I) 'R' is the applicable contribution rate expressed as a percentage for months in the calendar year;

"(II) 'A1' is the contribution rate determined under clause (i) for such employer's first full calendar year;

"(III) 'A2' is the contribution rate which would have been determined under clause (i) if the employer's second calendar year had been its first full calendar year;

"(IV) 'A3' is the contribution rate which would have been determined under clause (i) if the employer's third calendar year had been such employer's first full calendar year;

"(V) 'B' is the contribution rate for the employer as determined under subparagraph (C) for the employer's second full calendar year; and

"(VI) 'C' is the contribution rate for the employer as determined under subparagraph (C) for the employer's third full calendar year.

"(vi) SPECIAL RULE FOR CERTAIN COMPUTATIONS.—For purposes of computing B and C in such formulas—

"(I) the percentage rate computed under subparagraph (C), shall not be reduced under clause (viii) of that subparagraph; and

"(II) any computations which under subparagraph (C) are to be made on the basis of a 4-quarter or 12-quarter period ending on a given June 30 shall be made on the basis of a period commencing with the first day of the first calendar quarter that begins after the date on which the employer first commenced paying compensation subject to this Act and ending on that June 30, and the amount so computed shall be increased to an amount that bears the same ratio to the amount so computed as 4 or 12, as appropriate, bears to the number of calendar quarters in the period on which the computation was based.

"(2) BENEFIT RATIO.—An employer's benefit ratio as of any given June 30 shall be determined by dividing all benefits charged to the employer under paragraph (15) during the 12 calendar quarters ending on such June 30 by the employer's 3-year compensation base as of such June 30 as computed under paragraph (3).

"(3) 3-YEAR COMPENSATION BASE.—An employer's 3-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the employer under this subsection in the 12 calendar quarters ending on such June 30.

"(4) RESERVE RATIO.—An employer's reserve ratio as of any given June 30 shall be computed by dividing the employer's reserve balance as of such June 30, as computed under paragraph (6), by that employer's 1-year compensation base as of such June 30, as computed under paragraph (5). The employer's reserve ratio may be either a positive or a negative figure, depending upon whether the employer's reserve balance is a positive or negative figure.

"(5) 1-YEAR COMPENSATION BASE.—An employer's 1-year compensation base as of any given June 30 is the aggregate compensation with respect to which contributions were paid by the

employer under this subsection in the 4 calendar quarters ending on such June 30.

"(6) RESERVE BALANCE.—An employer's reserve balance as of any given June 30 shall be determined by subtracting the employer's cumulative benefit balance as of such June 30, computed under paragraph (7), from the employer's net cumulative contribution balance as of such June 30, computed under paragraph (8). An employer's reserve balance may be either positive or negative, depending upon whether or not that employer's net cumulative contribution balance exceeds the employer's cumulative benefit balance.

"(7) CUMULATIVE BENEFIT BALANCE.—An employer's cumulative benefit balance as of any given June 30 shall be determined by adding—

"(A) the net amount of the benefits charged to the employer under paragraph (15) on or after January 1, 1990; and

"(B) the cumulative amount of the employer's unallocated charges for the same period, if any, as computed under paragraph (9).

"(8) NET CUMULATIVE CONTRIBUTION BALANCE.—An employer's net cumulative contribution balance as of any given June 30 shall be determined as follows:

"(A) STEP 1.—Compute the sum of

"(i) all contributions paid by the employer pursuant to this subsection;

"(ii) that portion of the tax imposed under section 3321(a) of the Internal Revenue Code of 1986 that is attributable to the surtax rate under section 516(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988; and

"(iii) any taxes paid by the employer pursuant to section 3321(a) of the Internal Revenue Code of 1986 (after the outstanding balance of loans made under section 10(d) before October 1, 1985, plus interest, have been paid);

on or after January 1, 1990.

"(B) STEP 2.—Subtract an amount equal to the amount of such contributions deposited to the credit of the fund under subsection (i).

"(C) STEP 3.—Add an amount equal to the aggregate amount by which such contributions were reduced in prior calendar years as a result of pooled credits, if any, under paragraph (1)(C)(iii).

"(9) UNALLOCATED CHARGE.—An employer's unallocated charge as of any given June 30 is the amount that as of such June 30 bears the same ratio to the system unallocated charge balance, computed under paragraph (10), as the employer's 1-year compensation base, computed under paragraph (5), bears to the system compensation base computed under paragraph (11).

"(10) SYSTEM UNALLOCATED CHARGE BALANCE.—The system unallocated charge balance as of any given June 30 shall be determined as follows:

"(A) STEP 1.—Compute the aggregate amount of all interest paid by the account on loans from the Railroad Retirement Account after September 30, 1985, pursuant to

section 10(d), during the 4 calendar quarters ending on that June 30.

"(B) STEP 2.—Add the aggregate amount of any additions to the system unallocated charge balance specified in paragraphs (15) and (16), during that period.

"(C) STEP 3.—Add the aggregate amount of any other expenditures by the account during that period not chargeable to any individual employer under paragraph (15) or to the fund under section 11.

"(D) STEP 4.—Subtract the aggregate amount of all income to the account, under section 10(a)(iv) or section 10(a)(vii), during that period.

"(E) STEP 5.—Subtract the aggregate amount of all transfers to the account, pursuant to section 11(d), during that period.

"(F) STEP 6.—Subtract the aggregate amount of all other income and receipts of the account, during that period, which are not assigned to individual employer balances.

"(G) STEP 7.—Subtract the net cumulative contribution balance of each employer whose balance has been cancelled pursuant to paragraph (16), during that period, calculated as of the date of such cancellation.

"(11) SYSTEM COMPENSATION BASE.—The system compensation base as of any given June 30 shall be determined by adding together the amounts of the 1-year compensation bases of all employers and employee representatives subject to this Act, computed in accordance with paragraph (5), as of such June 30.

"(12) POOLED CREDIT RATIO.—The pooled credit ratio, if any, for a calendar year shall be determined as follows:

"(A) STEP 1.—Compute the balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made under section 10(d) before October 1, 1985, but disregarding the obligation to repay such loans and interest thereon. In determining such balance as of June 30 of any year, so much of the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date as is in excess of $6,000,000 shall be deemed to be part of the balance to the credit of such account. There will be a pooled credit ratio for the calendar year only if that balance is in excess of the greater of $250,000,000 or of the amount that bears the same ratio to $250,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1991, as computed in accordance with paragraph (11).

"(B) STEP 2.—If there is such an excess amount, divide that excess amount by the system compensation base as of the June 30 preceding the calendar year. The result is the pooled credit ratio for the calendar year.

"(13) POOLED CHARGE RATIO.—The pooled charge ratio, if any, for a calendar year shall be determined as follows:

"(A) STEP 1.—With respect to each employer whose contribution rate for that calendar year as computed through step 6 under paragraph (1)(C) was greater than the maximum contribution limit computed under paragraph (20), multiply the employer's 1-year compensation base as of the

preceding June 30, as computed in accordance with paragraph (5), by the difference between—

"(i) the percentage rate determined under subparagraph (B), (C), or (D) of paragraph (1) before the reduction to the maximum contribution limit; and

"(ii) the maximum contribution limit.

"(B) STEP 2.—Add the amounts arrived at under step 1 so as to obtain an aggregate amount for all such employers.

"(C) STEP 3.—For each employer whose contribution rate as computed through step 3 under paragraph (1)(C) was less than 0, the percentage rate by which such employer's rate was raised in order to bring that rate to 0 shall be multiplied by that employer's 1-year compensation base as of the preceding June 30. Subtract the total of the amounts computed under the preceding sentence for all employers from the amount arrived at in step 2.

"(D) STEP 4.—Divide the aggregate amount arrived at under step 3 by the system compensation base as of the preceding June 30 as computed under paragraph (11) minus the one-year compensation base of those employers whose rates computed through step 6 of paragraph (1)(C) exceeded the maximum contribution rate computed under paragraph (20). The result is the pooled charge ratio for the calendar year.

"(14) SURCHARGE RATE.—The surcharge rate for a calendar year, if any, shall be determined as follows:

"(A) STEP 1.—Compute the balance to the credit of the account as of the close of business on the preceding June 30, including any amounts in the account attributable to loans made under section 10(d) before October 1, 1985, but disregarding the obligation to repay such loans and interest thereon. In determining such balance as of June 30 of any year, so much of the balance to the credit of the railroad unemployment insurance administration fund as of the close of business on such date as is in excess of $6,000,000 shall be deemed to be part of the balance to the credit of such account. There will be a surcharge rate for the calendar year only if that balance is less than the greater of $100,000,000 or of the amount that bears the same ratio to $100,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1991, as computed in accordance with paragraph (11).

"(B) STEP 2.—(i) If the balance to the credit of the account is less than the greater of the amounts referred to in the 2nd sentence of step 1 but is equal to or more than the greater of $50,000,000 or of the amount that bears the same ratio to $50,000,000 as the system compensation base as of that June 30 bears to the system compensation base as of June 30, 1991, then the surcharge rate for the calendar year shall be 1.5 percent.

"(ii) If the balance to the credit of the account is less than the greater of the amounts referred to in the clause (i), but greater than or equal to zero, then the surcharge rate for the calendar year shall be 2.5 percent.

"(iii) If the balance to the credit of the account is less than zero, the surcharge rate for the calendar year shall be 3.5 percent.

"(15) CHARGEABLE BENEFITS.—

"(A) IN GENERAL.—Beginning January 1, 1990, all benefits paid to an employee for days of unemployment or days of sickness shall be charged to that employee's base year employer by adding amounts equal to the amounts of such benefits to the employer's cumulative benefit balance except that benefits paid by reason of strikes or work stoppages growing out of labor disputes shall not be added to the employer's cumulative benefit balance but instead shall be added to the system unallocated charge balance.

"(B) ADJUSTMENTS.—A sum equal to each amount realized in recovery for overpayment, erroneous payment, or reimbursement of benefits and credited to the account pursuant to section 10(a)(v) or 10(a)(viii) shall be subtracted from the cumulative benefit balances of the employers of the employees to whom such an amount was paid as a benefit in the proportion to the amount by which each such employer's cumulative benefit balance was increased as a result of the payment of the benefit.

"(C) MULTIPLE EMPLOYERS.—

"(i) IN GENERAL.—All benefits paid to an employee who had more than 1 base-year employer shall be charged to the cumulative benefit balances of the employee's base year employers—

"(I) in reverse chronological order of the employee's employment with each such employer in the base year if the employer at the time of the claim was the last base year employer, and the amount charged to each employer shall not exceed the compensation paid by that employer to the employee in the base year; and

"(II) in all other cases, in the same ratio as the compensation paid to such employee by the employer bears to the total of such compensation paid to such employees by all such employers in the base year.

"(ii) SPECIAL RULE FOR EMPLOYER WITH CANCELLED BALANCES.—All benefits chargeable under this subparagraph to an employer for which the Board has cancelled balances under paragraph (16) shall be added to the system unallocated charge balance.

"(16) DEFUNCT EMPLOYER.—Whenever the Board determines, pursuant to such regulations as the Board may prescribe, that an employer has permanently ceased to pay compensation with respect to which contributions are payable pursuant to this subsection, the Board shall, effective on the date of the Board's determination, transfer the employer's net cumulative contribution balance as a subtraction from, and cumulative benefit balance as an addition to, the system unallocated charge balance and cancel all other accumulations of the employer.

"(17) INDIVIDUAL EMPLOYER RECORD.—

"(A) IN GENERAL.—As of January 1, 1990, the Board shall commence maintaining an individual employer record with respect to each employer, and the records necessary to

determine pooled charges, pooled credits and unallocated charge balances for the system. Whenever a new employer begins paying compensation with respect to which contributions are payable pursuant to this subsection, the Board shall establish and maintain an individual employer record for such employer.

"(B) DEFINITION.—As used in this paragraph, the term 'individual employer record' means a record of an individual employer's benefit ratio, reserve ratio, 1-year compensation base, 3-year compensation base, unallocated charge, reserve balance, net cumulative contribution balance, and cumulative benefit balance.

"(18) JOINT EMPLOYER RECORDS.—Pursuant to regulations prescribed by the Board, the Board may allow 2 or more employers, upon application, to establish and maintain, or to discontinue, a joint individual employer record for such employers as though such joint record constituted a single employer's individual employer record.

"(19) MERGERS, CONSOLIDATIONS, OR OTHER CHANGES IN EMPLOYER IDENTITY.—

"(A) WITH OTHER EMPLOYERS.—In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another employer and the combination entails no partitioning of the property of the employer, the individual employer records of the 2 employers shall be combined into a joint individual employer record if the parties request such joint treatment pursuant to paragraph (18) or if the Board otherwise determines, pursuant to regulations prescribed by the Board, that such joint treatment is desirable.

"(B) WITH NONEMPLOYERS.—In the event of a merger, consolidation, unification, or reorganization in which an employer combines with another entity that is not an employer, the employer's individual employer record shall attach to the combined entity.

"(C) SALE OF ASSETS.—In the event property of an employer is sold or transferred to another employer or other entity, or is partitioned among 2 or more employers or entities, the cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of the employer shall be prorated among the employers which receive the property, including any entities which become employers by virtue of such transfer or partition, in such equitable manner as the Board by regulation shall prescribe.

"(D) REINCORPORATION.—The cumulative benefit balance, net cumulative contribution balance, 1-year compensation base, and 3-year compensation base of an employer that reincorporates or otherwise alters its corporate identity in a transaction not involving a merger, consolidation, or unification shall attach to the reincorporated or altered entity.

"(E) ABANDONMENT.—If an employer abandons property or discontinues service but continues to operate as an employer, the employer's individual employer record shall continue to be calculated as provided in this subsection without retroactive adjustment.

"(20) MAXIMUM CONTRIBUTION LIMIT.—The maximum contribution limit with respect to a calendar year is 12 percent, unless a 3.5 percent surcharge under paragraph (14) is in effect with respect to that calendar year. If such a surcharge is in effect the maximum contribution limit with respect to that calendar year is 12.5 percent.

"(21) SPECIAL RULES FOR CERTAIN COMPUTATIONS UNDER PARAGRAPH (1) (C).—(A) Any computation that is to be made under paragraph (1)(C) on the basis of a 12-quarter period ending on a given June 30 shall be made on the basis of a period—

"(i) beginning on the later of—

"(I) January 1, 1990;

"(II) the first day of the first calendar quarter that begins after the date on which the employer first began to pay compensation subject to this Act; or

"(III) July 1 of the third calendar year preceding that June 30; and

"(ii) ending on that June 30.

"(B) The amount computed under subparagraph (A) shall be increased to an amount that bears the same ratio to the amount so computed as 12 bears to the number of calendar quarters on which the computation is based.".

(b) EMPLOYEE REPRESENTATIVE CONTRIBUTION.—Subsection (b) of section 8 is amended to read as follows: 45 USC 358.

"(b) EMPLOYEE REPRESENTATIVE CONTRIBUTION.—Each employee representative shall pay a contribution with respect to so much of the compensation paid to him for services performed as an employee representative as is not in excess of the monthly compensation base computed in accordance with section 1(i), at a rate which shall be determined under subsection (a) in the same manner and with the same effect as if the employee organization by which such employee representative is employed were an employer as defined in this Act.".

(c) EXTENSION OF REMEDIES.—Section 8(h) is amended by adding at the end the following: "The remedies available under the first sentence of this subsection for an employer or employee representative who contests the amount of contributions payable by him shall also apply with respect to a contention that the contribution rate determined by the Board under subsection (a) or (b) to be applicable to such employer or employee representative is inaccurate or otherwise improper.".

(d) BOARD PROCLAMATION OF BALANCE.—Section 8 is amended—

(1) by redesignating subsections (c) through (h) as subsections (f) through (k), respectively; and

(2) by inserting after subsection (b) the following new subsections:

"(c) BOARD PROCLAMATION OF BALANCE.—

"(1) IN GENERAL.—Not later than October 15, 1990, and October 15 of each year thereafter the Board shall proclaim—

"(A) the balance to the credit of the account as of the preceding June 30 for purposes of paragraphs (12) and (14) of subsection (a);

"(B) the balance of any advances to the account under section 10(d) after September 30, 1985, that has not been repaid with interest as provided in such section as of September 30 of that year;

"(C) the system compensation base as of that June 30 as computed in accordance with paragraph (11) of that subsection;

"(D) the system unallocated charge balance as of that June 30, as computed in accordance with paragraph (10) of that subsection; and

"(E) the pooled credit ratio, the pooled charge ratio, and the surcharge rate, if any, as determined under paragraph (12), (13), or (14) of that subsection and applicable in the following calendar year.

Federal Register, publication.

"(2) PUBLICATION OF NOTICE.—As soon as is practicable after such proclamation, the Board shall publish notice in the Federal Register of the amounts so determined and proclaimed.

"(d) NOTIFICATIONS BY BOARD.—(1) Not later than the last day of any calendar quarter that begins after March 31, 1990, the Board shall notify each employer and employee representative of its net cumulative contribution balance and cumulative benefit balance as of the end of the preceding calendar quarter, as computed in accordance with paragraphs (7) and (8) of subsection (a) as of the last day of such preceding calendar quarter rather than as of a given June 30 if such last day is not a June 30.

"(2) Not later than October 15, 1990, and October 15 of each year thereafter, the Board shall notify each employer and employee representative of its benefit ratio, reserve ratio, 1-year compensation base, 3-year compensation base, unallocated charge, and reserve balance as of the preceding June 30 as computed in accordance with paragraphs (2), (3), (4), (5), (6), and (9) of subsection (a), and of the contribution rate applicable to the employer or employee representative in the following calendar year as computed under paragraphs (1) (B), (C), or (D) of that subsection.

"(e) INFORMATION TO VERIFY ACCURACY TO BE MADE AVAILABLE.—Notwithstanding any other provision of law, upon request by an employer or employee representative, the Board shall make available to such employer or employee representative any information available to the Board which may be necessary to verify the accuracy of a contribution rate determined by the Board to be applicable to such employer or employee representative, or of any component of that contribution rate including the accuracy of the employer's individual employer record, upon payment by such employer or employee representative to the Board of the cost incurred by the Board in making such information available. The amounts so paid to the Board shall be credited to and deposited in the fund.".

45 USC 358 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect upon the date of the enactment of this Act.

SEC. 7103. ADMINISTRATIVE EXPENSES.

45 USC 358.

(a) CHANGE IN PERCENTAGE TO BE DEPOSITED IN FUND.—Section 8(i), as so redesignated by section 512(d), is amended by striking out "0.5" and inserting in lieu thereof "0.65".

45 USC 360.

(b) CONFORMING AMENDMENTS.—(1) Section 10(a) is amended by striking out "0.5" and inserting in lieu thereof "0.65".

45 USC 361.

(2) Section 11(a) is amended by striking out "0.5" and inserting in lieu thereof "0.65".

45 USC 358 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to compensation paid in months beginning after September 30, 1988.

SEC. 7104. NOTIFICATION TO EMPLOYER.

(a) IN CONNECTION WITH CLAIM.—Section 5(b) is amended by adding at the end thereof the following: "When a claim for benefits is filed with the Board, the Board shall provide notice of such claim to the claimant's base-year employer or employers and afford such employer or employers an opportunity to submit information relevant to the claim before making an initial determination on the claim. When the Board initially determines to pay benefits to a claimant under this Act, the Board shall provide notice of such determination to the claimant's base-year employer or employers.". 45 USC 355.

(b) IN CONNECTION WITH ADMINISTRATIVE REVIEW.—Section 5(c) is amended—

(1) by inserting "(1)" after "(c)";

(2) by inserting at the end of the first paragraph the following: "In any such case the Board or the person or reviewing body so established or assigned shall, by publication or otherwise, notify all parties properly interested of their right to participate in the hearing and of the time and place of the hearing.";

(3) by inserting "(2)" at the beginning of the second paragraph;

(4) by inserting after the second paragraph the following: "(3) Any base-year employer of a claimant whose claim for benefits has been granted in whole or in part, either in an initial determination with respect thereto or in a determination after a hearing pursuant to paragraph (1), and who contends that the determination is erroneous for a reason or reasons other than a reason that is reviewable under paragraph (4), may appeal to the Board for review of such determination. Despite such an appeal, the benefits awarded shall be paid to such claimant, subject to recovery by the Board if and to the extent found on the appeal to have been erroneously awarded. The Board shall take such action as is appropriate to recover the amount of such benefits including if feasible adjustment in subsequent payments pursuant to the first two paragraphs of section 2(d) of this Act. Upon an appeal, the Board shall review the determination appealed from and for such review may designate one of its officers or employees to receive evidence and report to the Board thereof together with recommendations. In any such case the Board or the person so designated shall, by publication or otherwise, notify all parties properly interested of their right to participate in the proceeding and, if a hearing is to be held, of the time and place of the hearing. At the request of any party properly interested the Board shall provide for a hearing, and may provide for a hearing on its own motion. The Board shall prescribe regulations governing the appeals provided for in this paragraph and for decisions upon such appeal."; Regulations.

(5) by inserting "(4)" at the beginning of the third paragraph;

(6) by inserting "(5)" at the beginning of the fourth paragraph;

(7) by striking out "two" in the first sentence of the fourth paragraph and inserting in lieu thereof "three";

(8) by inserting before the final paragraph the following: "(6) For purposes of this subsection and subsections (d) and (f), any base-year employer of the claimant is a properly interested party."; and

(9) by inserting "(7)" at the beginning of the final paragraph.

(c) IN CONNECTION WITH JUDICIAL REVIEW.—Section 5(f) is amended—

(1) by inserting after "member," in the first sentence "or any base-year employer of the claimant,"; and

(2) by inserting after the second sentence the following: "A copy of such petition also shall forthwith be served upon any other properly interested party, and such party shall be a party to the review proceeding.".

(d) CONFORMING AMENDMENTS WITH RESPECT TO LIMITATION ON ADMINISTRATIVE DISCLOSURE.—Section 12(d) is amended— 45 USC 362.

(1) by striking out "and" where it appears before "(iii)"; and

(2) by striking out the period at the end of the first sentence and inserting in lieu thereof the following: "; and (iv) the Board shall disclose to any base-year employer of a claimant for benefits any information, including information as to the claimant's identity, that is necessary or appropriate to notify such employer of the claim for benefits or to full and fair participation by such employer in an appeal, hearing, or other proceeding relative to the claim pursuant to section 5 of this Act.".

(e) CONFORMING AMENDMENT WITH RESPECT TO COURT PROCEEDINGS LIMITATION.—Section 12(n) is amended by striking out "court" in the proviso to the second paragraph.

45 USC 355 note. (f) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1990.

45 USC 369. **SEC. 7105. ANNUAL REPORT.**

On or before July 1 of 1989, and of each calendar year thereafter, the Railroad Retirement Board shall submit to the Congress a report on the financial status of the railroad unemployment insurance system under various economic and employment assumptions. Such report shall include any recommendation for financing changes which might be advisable, including any adjustment the Railroad Retirement Board recommends regarding the rates of employer contributions.

SEC. 7106. AMENDMENTS RELATING TO RAILROAD UNEMPLOYMENT REPAYMENT TAX.

(a) IN GENERAL.—Chapter 23A of the 1986 Code (relating to railroad unemployment repayment tax) is amended to read as follows:

"CHAPTER 23A. RAILROAD UNEMPLOYMENT REPAYMENT TAX

"Sec. 3321. Imposition of tax.
"Sec. 3322. Definitions.

"SEC. 3321. IMPOSITION OF TAX.

"(a) GENERAL RULE.—There is hereby imposed on every rail employer for each calendar month an excise tax, with respect to having individuals in his employ, equal to 4 percent of the total rail wages paid by him during such month.

"(b) TAX ON EMPLOYEE REPRESENTATIVES.—

"(1) IN GENERAL.—There is hereby imposed on the income of each employee representative a tax equal to 4 percent of the rail wages paid to him during the calendar month.

"(2) DETERMINATION OF WAGES.—The rail wages of an employee representative for purposes of paragraph (1) shall be determined in the same manner and with the same effect as if the employee organization by which such employee representative is employed were a rail employer.

"(c) TERMINATION IF LOANS TO RAILROAD UNEMPLOYMENT FUND REPAID.—The tax imposed by this section shall not apply to rail wages paid on or after the 1st day of any calendar month if, as of such 1st day, there is—

"(1) no balance of transfers made before October 1, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

"(2) no unpaid interest on such transfers.

"SEC. 3322. DEFINITIONS.

"(a) RAIL EMPLOYER.—For purposes of this chapter, the term 'rail employer' means any person who is an employer as defined in section 1 of the Railroad Unemployment Insurance Act.

"(b) RAIL WAGES.—For purposes of this chapter, the term 'rail wages' means, with respect to any calendar month, so much of the remuneration paid during such month which is subject to contributions under section 8(a) of the Railroad Unemployment Insurance Act.

"(c) EMPLOYEE REPRESENTATIVE.—For purposes of this chapter, the term 'employee representative' has the meaning given such term by section 1 of the Railroad Unemployment Insurance Act.

"(d) CERTAIN RULES MADE APPLICABLE.—For purposes of this chapter, rules similar to the rules of section 3307 and 3308 shall apply."

(b) CONTINUATION OF SURTAX RATE THROUGH 1990.— 26 USC 3321 note.

(1) IN GENERAL.—In the case of any calendar month beginning before January 1, 1991—

(A) there shall be substituted for "4 percent" in subsections (a) and (b) of section 3321 of the 1986 Code the percentage equal to the sum of—

(i) 4 percent, plus

(ii) the surtax rate (if any) for such calendar month, and

(B) subsection (c) of such section shall not apply to so much of the tax imposed by such section as is attributable to the surtax rate.

(2) SURTAX RATE.—For purposes of paragraph (1), the surtax rate shall be—

(A) 3.5 percent for each month during a calendar year if, as of September 30, of the preceding calendar year, there was a balance of transfers (or unpaid interest thereon) made after September 30, 1985, to the railroad unemployment insurance account under section 10(d) of the Railroad Unemployment Insurance Act, and

(B) zero for any other calendar month.

(c) TECHNICAL AND CONFORMING AMENDMENTS.—

(1) Subsection (d) of section 6157 of the 1986 Code (relating to quarterly payment of railroad unemployment repayment tax) is hereby repealed.

(2) Paragraph (2) of section 6201(b) of the 1986 Code (relating to amount not to be assessed) is amended by striking out "or tax imposed by section 3321".

(3) Section 6317 of the 1986 Code (relating to payments of Federal unemployment tax for calendar quarter) is amended—

(A) by striking out "or tax imposed by section 3321", and

(B) by striking out "and 23A, as the case may be,".

(4) Subsection (e) of section 6513 of the 1986 Code (relating to payments of Federal unemployment tax) is amended by striking out the last sentence.

(5) Subsection (i) of section 6601 of the 1986 Code (relating to exception as to Federal unemployment tax) is amended by striking out "or 3321".

45 USC 231n note.

(6) Subparagraph (A) of section 232(a)(2) of the Railroad Retirement Revenue Act of 1983 is amended by striking out "is attributable to the basic rate under section 3321(c)(1)(A) of the Internal Revenue Code of 1954" and inserting in lieu thereof "is not attributable to the surtax rate under section 516(b) of the Railroad Unemployment Insurance and Retirement Improvement Act of 1988".

(7) Subparagraph (B) of section 232(a)(2) of such Act is amended by striking out "section 3321(c)(1)(B) of such Code" and inserting in lieu thereof "section 516(b) of such Act".

26 USC 3321 note.

(d) EFFECTIVE DATE.—The amendments made by this section, and the provisions of subsection (b), shall apply to remuneration paid after December 31, 1988.

45 USC 352 note.

SEC. 7107. GAO STUDY OF FRAUD AND PAYMENT ERRORS.

Reports.

The Comptroller General shall study the frequency of fraud and payment errors in the railroad unemployment compensation program. Not later than 1 year after the date of the enactment of this Act, the Comptroller General shall report to Congress the results of such study. Such report shall include—

(1) estimates of rates and amounts of annual losses due to fraud and overpayment;

(2) comparisons of such rates with the rates of losses in other Federal programs which experience such losses;

(3) recommendations for legislative measures that could be taken to reduce the losses in the railroad unemployment compensation program arising from fraud and payment errors; and

(4) such other matters relating to such fraud and payment errors as the Comptroller General determines are appropriate.

SEC. 7108. ONE-YEAR EXTENSION OF TIME LIMIT FOR FILING REPORT BY COMMISSION ON RAILROAD RETIREMENT REFORM.

45 USC 231n note.

Section 9033(f) of the Omnibus Budget Reconciliation Act of 1987 (101 Stat. 1330-298) is amended by striking "October 1, 1989" and inserting "October 1, 1990".

Subtitle B—Benefit and Other Adjustments

SEC. 7201. WAITING PERIOD FOR BENEFITS AND BENEFIT INCREASES.

45 USC 352.

(a) IN GENERAL.—Section 2(a) is amended—

(1) by inserting "(1)" after "(a)";

(2) by striking out "Benefits" the first place it appears and all that follows through the end of the first paragraph, and inserting in lieu thereof the following:

"(A)(i) Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of unemployment in excess of 4 during any registration period.

"(ii) No benefits shall be payable for days of unemployment during the first registration period within a benefit year in which the employee has more than 4 days of unemployment.

"(iii) In any case in which the Board finds that an employee's unemployment was due to a stoppage of work because of a strike in the establishment, premises, or enterprise at which such employee was last employed, no benefits shall be payable for the first 14 days of unemployment due to such stoppage of work. However, for subsequent days of unemployment due to such stoppage of work, benefits shall be payable to days in excess of 4 during any registration period.

"(B)(i) Except as otherwise provided in this subparagraph, benefits shall be payable to any qualified employee for each day of sickness after the 4th consecutive day of sickness in a period of continuing sickness but excluding 4 days of sickness in any registration period.

"(ii) No benefits shall be payable for days of sickness in the first registration period within a benefit year in which the employee has both 4 consecutive days of sickness and more than 4 days of sickness.

"(iii) For the purposes of this subparagraph, a period of continuing sickness means (I) a period of consecutive days of sickness, whether from one or more causes, or (II) a period of successive days of sickness due to a single cause without interruption of more than 90 consecutive days which are not days of sickness.";

(3) by inserting "(2)" at the beginning of the second paragraph;

(4) by striking out "and" after "shall not exceed $24 per day of such unemployment or sickness" in the second paragraph and inserting in lieu thereof a comma;

(5) by inserting "but before July 1, 1988," after "June 30, 1976," in the second paragraph;

(6) by striking out the period at the end of the first sentence of the second paragraph and inserting in lieu thereof ", that for registration periods beginning after June 30, 1988, but before July 1, 1989, such amount shall not exceed $30 per day of unemployment or sickness, and that for registration periods beginning after June 30, 1989, such amount shall not exceed the maximum daily benefit rate provided in paragraph (3) of this subsection.";

(7) by inserting after the second paragraph the following new paragraph:

"(3)(A) The maximum daily benefit rate which the Board is required to compute under section 12(r)(2) shall be the amount computed pursuant to the following formula, but shall be not less than $30:

$$BR = 25\left(1 + \frac{A - 600}{900}\right)$$

"(B) For purposes of such formula—

"(i) 'BR' represents the maximum daily benefit rate; and

"(ii) 'A' represents the amount obtained by dividing the amount of the 'applicable base' with respect to tier 1 taxes as determined under section 3231(e)(2) of the Internal Revenue

Code of 1986 for the calendar year in which the benefit year begins by 60, with this quotient being rounded down to the nearest multiple of $100.

"(C) If the maximum daily benefit rate computed under such formula is not a multiple of $1, it shall be rounded to the nearest multiple of $1, with such rounding being upward in the event the amount computed is equidistant between two multiples of $1."; and

(8) by inserting "(4)" at the beginning of the last paragraph.

45 USC 352 note.

(b) EFFECTIVE DATES.—(1) Except as provided in paragraph (2), the amendments made by subsection (a) shall take effect on the date of the enactment of this Act.

(2) The amendments made by paragraph (2) of subsection (a) shall apply with respect to registration periods beginning after June 30, 1988.

SEC. 7202. QUALIFYING CONDITION.

45 USC 353.

(a) IN GENERAL.—Section 3 is amended—

(1) by inserting "with respect to the base year" after "his compensation"; and

(2) by striking "$1,500 with respect to the base year" and inserting in lieu thereof "2.5 times the monthly compensation base for months in such base year as computed under section 1(i) of this Act".

45 USC 353 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 7203. INCREASE IN MAXIMUM PERMITTED SUBSIDIARY REMUNERATION.

45 USC 351.

(a) IN GENERAL.—The second paragraph of section 1(k) is amended by striking out "$10" and inserting "$15" in lieu thereof.

45 USC 351 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on July 1, 1988.

Subtitle C—Retirement Act Amendments

SEC. 7301. ADDITIONAL LUMP SUM PAYMENT IN CERTAIN CASES.

45 USC 231e.

Section 6 of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following new subsection:

"(e)(1) Every individual who will have completed ten years of service at the time of his retirement or death, who will have received compensation in the nature of separation or severance pay on or after January 1, 1985, and who would have been credited with additional months of service pursuant to section 3(i)(4) of this Act except for the fact that such individual was not in an employment relation to one or more employers nor an employee representative in such months, shall, at the time his annuity under section 2(a)(1) of this Act begins to accrue, be entitled to a lump sum in the amount provided under subdivision (2) of this subsection. If the full amount of a lump sum under this subsection cannot be determined at the time an individual's annuity under section 2(a)(1) begins to accrue, such lump sum shall be payable at such time thereafter as such amount can be determined. If an individual otherwise eligible for a lump sum under this section dies before he becomes entitled to an annuity under section 2(a)(1), or before he receives payment of such lump sum, such lump sum shall be payable to the person, if any, who is determined by the Board to be such individual's widow or

widower and who will not have died before receiving payment of such lump sum. If there be no such widow or widower, such lump sum shall be payable to the children, grandchildren, parents, brothers and sisters, or the estate of the deceased individual in the same manner as if such lump sum were a lump sum payable under subsection (c)(1) of this section.

"(2) The lump sum provided under subdivision (l) of this subsection shall be in an amount equal to the product of (A) the compensation attributable to the additional months of service which would have been credited to the individual due to the receipt of payments in the nature of separation or severance pay pursuant to section 3(i)(4) of this Act if such individual had remained in an employment relation to one or more employers or had continued to be an employee representative and (B) the rate of tax, or rates of tax, imposed on the compensation described in clause (A) of this subdivision by section 3201(b) of the Internal Revenue Code of 1986.".

SEC. 7302. DELETION OF LAST PERSON SERVICE AS A DISQUALIFICATION.

(a) IN GENERAL.—Section 2(e) of the Railroad Retirement Act of 1974 is amended— 45 USC 231a.

(1)(A) in subdivision (1), by striking out "any person, whether or not"; and

(B) by striking out "(but with the" and all that follows through "political subdivision of a State";

(2) in subdivision (2), by striking out "and of the person, or persons, by whom he was last employed"; and

(3) in subdivision (3), by striking out "or to the last person, or persons, by whom he was employed prior to the date on which the annuity under subsection (a)(1) began to accrue".

(b) DEDUCTION FOR WORK.—Section 2(f) of such Act is amended by adding at the end thereof the following new subdivision:

"(6)(A) Except as provided in subparagraph (B)—

"(i) that portion of the annuity for any month of an individual as is computed under section 3(b) and as adjusted under section 3(g), plus any supplemental amount for such month under section 3(e), and that portion of the annuity for any month of a spouse as is computed under section 4(b) and as adjusted under section 4(d), shall each be subject to a deduction of $1 for each $2 of compensation received by such individual from compensated service rendered in such month to the last person, or persons, by whom such individual was employed before the date on which the annuity of such individual under subsection (a)(1) began to accrue; and

"(ii) that portion of the annuity for any month of a spouse as is computed under section 4(b) and as adjusted under section 4(d) shall be subject to a deduction of $1 for each $2 of compensation received by such spouse from compensated service rendered in such month to the last person, or persons, by whom such spouse was employed before the date on which the annuity of such spouse under subsection (c)(1) began to accrue.

"(B) Any deductions imposed by this subdivision for any month shall not exceed 50 percent of the annuity amount for such month to which such deductions apply.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to annuities payable under the Railroad Retirement Act of 1974 for months beginning after the date of enactment of this Act. 45 USC 231a note.

SEC. 7303. EARNINGS OF DISABILITY ANNUITANTS.

45 USC 231a.

(a) IN GENERAL.—Section 2(e)(4) of the Railroad Retirement Act of 1974 is amended—

(1) by striking out "$200 in earnings" and inserting in lieu thereof "$400 in earnings (after deduction of disability related work expenses)";

(2) by striking out "$2,400" each place it appears and inserting in lieu thereof "$4,800 (after deduction of disability related work expenses)";

(3) by striking out "$200" each place it appears and inserting in lieu thereof "$400"; and

(4) by striking out "$100" and inserting in lieu thereof "$200".

45 USC 231a note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to months in calendar years beginning after December 31, 1988.

SEC. 7304. ALLOWANCE OF CREDIT FOR MILITARY SERVICE.

45 USC 231.

(a) IN GENERAL.—Section 1(g)(2) of the Railroad Retirement Act of 1974 is amended by adding at the end thereof the following:

"For purposes of section 3(i)(2) of this Act, the period beginning on June 15, 1948, and ending on December 15, 1950, shall be deemed to be a war service period with respect to any individual who without intervening employment not covered by this Act rendered service as an employee to an employer under this Act in the year such individual was released from active military service or in the year immediately following such year.".

45 USC 231 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to annuities accruing in months after the date of enactment of this Act.

TITLE VIII—AMENDMENTS RELATING TO SOCIAL SECURITY ACT PROGRAMS

Subtitle A—Old-Age, Survivors, and Disability Insurance and Related Provisions

SEC. 8001. INTERIM DISABILITY BENEFITS IN CASES OF DELAYED FINAL DECISIONS.

(a) DISABILITY BENEFITS UNDER TITLE II.—Section 223 of the Social Security Act (42 U.S.C. 423) is amended—

(1) by redesignating subsection (h) as subsection (i); and

(2) by inserting after subsection (g) the following new subsection:

"Interim Benefits in Cases of Delayed Final Decisions

"(h)(1) In any case in which an administrative law judge has determined after a hearing as provided under section 205(b) that an individual is entitled to disability insurance benefits or child's, widow's, or widower's insurance benefits based on disability and the Secretary has not issued his final decision in such case within 110 days after the date of the administrative law judge's determination, such benefits shall be currently paid for the months during the period beginning with the month preceding the month in which

such 110-day period expires and ending with the month preceding the month in which such final decision is issued.

"(2) For purposes of paragraph (1), in determining whether the 110-day period referred to in paragraph (1) has elapsed, any period of time for which the action or inaction of such individual or such individual's representative without good cause results in the delay in the issuance of the Secretary's final decision shall not be taken into account to the extent that such period of time exceeds 20 calendar days.

"(3) Any benefits currently paid under this title pursuant to this subsection (for the months described in paragraph (1)) shall not be considered overpayments for any purpose of this title (unless payment of such benefits was fraudulently obtained), and such benefits shall not be treated as past-due benefits for purposes of section 206(b)(1).".

(b) BENEFITS UNDER TITLE XVI.—Section 1631(a) of such Act (42 U.S.C. 1383(a)) is amended by adding at the end the following new paragraph:

"(8)(A) In any case in which an administrative law judge has determined after a hearing as provided in subsection (c) that an individual is entitled to benefits based on disability or blindness under this title and the Secretary has not issued his final decision in such case within 110 days after the date of the administrative law judge's determination, such benefits shall be currently paid for the months during the period beginning with the month in which such 110-day period expires and ending with the month in which such final decision is issued. Blind persons.

"(B) For purposes of subparagraph (A), in determining whether the 110-day period referred to in subparagraph (A) has elapsed, any period of time for which the action or inaction of such individual or such individual's representative without good cause results in the delay in the issuance of the Secretary's final decision shall not be taken into account to the extent that such period of time exceeds 20 calendar days.

"(C) Any benefits currently paid under this title pursuant to this paragraph (for the months described in subparagraph (A)) shall not be considered overpayments for any purposes of this title, unless payment of such benefits was fraudulently obtained.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to determinations by administrative law judges of entitlement to benefits made after 180 days after the date of the enactment of this Act. 42 USC 423 note.

SEC. 8002. APPLICATION OF EARNINGS TEST IN YEAR OF INDIVIDUAL'S DEATH.

(a) YEAR IN WHICH INDIVIDUAL WOULD HAVE ATTAINED RETIREMENT AGE BUT FOR THE INDIVIDUAL'S DEATH IN SUCH YEAR TREATED AS A YEAR THROUGHOUT WHICH THE EARNINGS TEST FOR INDIVIDUALS WHO HAVE ATTAINED RETIREMENT AGE IS APPLICABLE.—Paragraph (3) of section 203(f) of the Social Security Act (42 U.S.C. 403(f)(3)) is amended by inserting "(or, but for the individual's death, would have attained)" after "who has attained".

(b) ELIMINATION OF THE SHORT TAXABLE YEAR IN THE YEAR OF DEATH FOR PURPOSES OF THE EARNINGS TEST.—Paragraph (3) of section 203(f) of such Act is further amended—

(1) by inserting after the first sentence the following new sentence: "For purposes of the preceding sentence, notwith-

standing section 211(e), the number of months in the taxable year in which an individual dies shall be 12."; and

(2) in the last sentence, by striking "preceding sentence" and inserting "first sentence of this paragraph".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to deaths after the date of the enactment of this Act.

42 USC 403 note.

SEC. 8003. PHASEOUT OF REDUCTION IN WINDFALL BENEFITS.

(a) IN GENERAL.—Section 215(a)(7)(D) of the Social Security Act (42 U.S.C. 415(a)(7)(D)) is amended—

(1) by striking "more than 25 years of coverage" in the second sentence and inserting "more than 20 years of coverage"; and

(2) by striking "shall (if such percent is smaller than the percent specified in whichever of the following clauses applies) be deemed to be—" and inserting "shall (if such percent is smaller than the applicable percent specified in the following table) be deemed to be the applicable percent specified in the following table:"; and

(3) by striking clauses (i) through (iv) and inserting the following table:

"If the number of such individual's years of coverage (as so defined) is:	The applicable percent is:
29	85 percent
28	80 percent
27	75 percent
26	70 percent
25	65 percent
24	60 percent
23	55 percent
22	50 percent
21	45 percent.".

42 USC 415 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall apply to benefits payable for months after December 1988.

SEC. 8004. DENIAL OF BENEFITS TO INDIVIDUALS DEPORTED OR ORDERED DEPORTED ON THE BASIS OF ASSOCIATIONS WITH THE NAZI GOVERNMENT OF GERMANY DURING WORLD WAR II.

(a) IN GENERAL.—Section 202(n)(1) of the Social Security Act (42 U.S.C. 402(n)(1)) is amended by striking "or (18)" in the matter preceding subparagraph (A) and inserting "(18), or (19)".

(b) TIME OF DEPORTATION.—Section 202(n) of such Act is further amended by adding at the end the following new paragraph:

"(3) For purposes of paragraphs (1) and (2) of this subsection, an individual against whom a final order of deportation has been issued under paragraph (19) of section 241(a) of the Immigration and Nationality Act (relating to persecution of others on account of race, religion, national origin, or political opinion, under the direction of or in association with the Nazi government of Germany or its allies) shall be considered to have been deported under such paragraph (19) as of the date on which such order became final.".

42 USC 402 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply only in the case of deportations occurring, and final orders of deportation issued, on or after the date of enactment of this Act, and only to benefits for months beginning (and deaths occurring) on or after such date.

SEC. 8005. MODIFICATIONS IN THE TERM OF OFFICE OF PUBLIC MEMBERS OF THE BOARD OF TRUSTEES OF THE SOCIAL SECURITY TRUST FUNDS.

(a) IN GENERAL.—Sections 201(c), 1817(b), and 1841(b) of the Social Security Act (42 U.S.C. 401(c), 1395i(b), 1395t(b)(i)) are each amended by inserting after the first sentence the following: "A member of the Board of Trustees serving as a member of the public and nominated and confirmed to fill a vacancy occurring during a term shall be nominated and confirmed only for the remainder of such term. An individual nominated and confirmed as a member of the public may serve in such position after the expiration of such member's term until the earlier of the time at which the member's successor takes office or the time at which a report of the Board is first issued under paragraph (2) after the expiration of the member's term.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to members of the Boards of Trustees of the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund, of the Federal Hospital Insurance Trust Fund, and of the Federal Supplementary Medical Insurance Trust Fund serving on such Boards of Trustees as members of the public on or after the date of the enactment of this Act. 42 USC 401 note.

SEC. 8006. CONTINUATION OF DISABILITY BENEFITS DURING APPEAL.

Subsection (g) of section 223 of the Social Security Act (42 U.S.C. 423(g)) is amended—

(1) in paragraph (1)(iii), by striking "June 1989" and inserting "June 1990"; and

(2) in paragraph (3)(B), by striking "January 1, 1989" and inserting "January 1, 1990".

SEC. 8007. EXEMPTION FROM SOCIAL SECURITY FOR EMPLOYERS AND EMPLOYEES WHO ARE BOTH MEMBERS OF CERTAIN RELIGIOUS FAITHS.

(a) EXEMPTION FROM COVERAGE UNDER SOCIAL SECURITY.—

(1) IN GENERAL.—Subchapter C of chapter 21 of the Internal Revenue Code of 1986 (general provisions under Federal Insurance Contributions Act) is amended by redesignating section 3127 as section 3128, and by inserting after section 3126 the following new section:

"SEC. 3127. EXEMPTION FOR EMPLOYERS AND THEIR EMPLOYEES WHERE BOTH ARE MEMBERS OF RELIGIOUS FAITHS OPPOSED TO PARTICIPATION IN SOCIAL SECURITY ACT PROGRAMS.

"(a) IN GENERAL.—Notwithstanding any other provision of this chapter (and under regulations prescribed to carry out this section), in any case where—

"(1) an employer is a member of a recognized religious sect or division thereof described in section 1402(g)(1) and an adherent of established tenets or teachings of such sect or division as described in such section, and has filed and had approved under subsection (b) an application (in such form and manner, and with such official, as may be prescribed by such regulations) for an exemption from the taxes imposed by section 3111, and

"(2) an employee of such employer who is also a member of such a religious sect or division and an adherent of its established tenets or teachings has filed and had approved under

subsection (b) an identical application for exemption from the taxes imposed by section 3101,

such employer shall be exempt from the taxes imposed by section 3111 with respect to wages paid to each of his employees who meets the requirements of paragraph (2) and each such employee shall be exempt from the taxes imposed by section 3101 with respect to such wages paid to him by such employer.

"(b) APPROVAL OF APPLICATION.—An application for exemption filed by an employer under subsection (a)(1) or by an employee under subsection (a)(2) shall be approved only if—

"(1) such application contains or is accompanied by the evidence described in section 1402(g)(1)(A) and a waiver described in section 1402(g)(1)(B),

"(2) the Secretary of Health and Human Services makes the findings (with respect to such sect or division) described in section 1402(g)(1) (C), (D), and (E), and

"(3) no benefit or other payment referred to in section 1402(g)(1)(B) became payable (or, but for section 203 or 222(b) of the Social Security Act, would have become payable) to the individual filing the application at or before the time of such filing.

"(c) EFFECTIVE PERIOD OF EXEMPTION.—An exemption granted under this section to any employer with respect to wages paid to any of his employees, or granted to any such employee, shall apply with respect to wages paid by such employer during the period—

"(1) commencing with the first day of the first calendar quarter, after the quarter in which such application is filed, throughout which such employer or employee meets the applicable requirements specified in subsections (a) and (b), and

"(2) ending with the last day of the calendar quarter preceding the first calendar quarter thereafter in which (A) such employer or the employee involved ceases to meet the applicable requirements of subsection (a), or (B) the sect or division thereof of which such employer or employee is a member is found by the Secretary of Health and Human Services to have ceased to meet the requirements of subsection (b)(2).".

(2) CLERICAL AMENDMENT.—The table of sections for such subchapter C of such Code is amended by striking the last item and inserting the following:

"Sec. 3127 Exemption for employers and their employees where both are members of religious faiths opposed to participation in Social Security Act programs.
"Sec. 3128. Short title.".

(b) CONFORMING EXEMPTION FROM ELIGIBILITY FOR BENEFITS.—Section 202(v) of the Social Security Act (42 U.S.C. 402(v)) is amended—

(1) by inserting "(1)" after "(v)";

(2) by inserting "and subject to paragraph (3)," after "title,";

(3) by striking "waiver; except that" and all that follows and inserting "waiver."; and

(4) by adding at the end the following new paragraphs:

"(2) Notwithstanding any other provision of this title, and subject to paragraph (3), in the case of any individual who files a waiver pursuant to section 3127 of the Internal Revenue Code of 1986 and is granted a tax exemption thereunder, no benefits or other payments shall be payable under this title to him, no payments shall be made on his behalf under part A of title XVIII, and no benefits or other

payments under this title shall be payable on the basis of his wages and self-employment income to any other person, after the filing of such waiver.

"(3) If, after an exemption referred to in paragraph (1) or (2) is granted to an individual, such exemption ceases to be effective, the waiver referred to in such paragraph shall cease to be applicable in the case of benefits and other payments under this title and part A of title XVIII to the extent based on—

"(A) his wages for and after the calendar year following the calendar year in which occurs the failure to meet the requirements of section 1402(g) or 3127 on which the cessation of such exemption is based, and

"(B) his self-employment income for and after the taxable year in which occurs such failure.".

(c) CONFORMING AMENDMENTS REMOVING TIME LIMITS ON SECA EXEMPTION APPLICATIONS.—Section 1402(g) of the Internal Revenue Code of 1986 is amended—

(1) by striking paragraphs (2) and (4); and

(2) by redesignating paragraphs (3) and (5) as paragraphs (2) and (3), respectively.

(d) EFFECTIVE DATES.—The amendments made by subsection (a) shall apply to wages paid after December 31, 1988. The amendments made by subsection (b) shall apply to benefits paid for (and items and services furnished in) months after December 1988. The amendments made by subsection (c) shall apply to applications for exemptions filed on or after the date of the enactment of this Act. 26 USC 1402 note.

SEC. 8008. BLOOD DONOR LOCATOR SERVICE.

(a) EXPLICIT AUTHORIZATION OF USE OF SOCIAL SECURITY ACCOUNT NUMBER TO ASSIST IN IDENTIFICATION OF BLOOD DONORS.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) by redesignating subparagraph (D) as subparagraph (E); and

(2) by inserting after subparagraph (C) the following new subparagraph:

"(D)(i) It is the policy of the United States that—

"(I) any State (or any political subdivision of a State) and any authorized blood donation facility may utilize the social security account numbers issued by the Secretary for the purpose of identifying blood donors, and

"(II) any State (or political subdivision of a State) may require any individual who donates blood within such State (or political subdivision) to furnish to such State (or political subdivision), to any agency thereof having related administrative responsibility, or to any authorized blood donation facility the social security account number (or numbers, if the donor has more than one such number) issued to the donor by the Secretary.

"(ii) If and to the extent that any provision of Federal law enacted before the date of the enactment of this subparagraph is inconsistent with the policy set forth in clause (i), such provision shall, on and after such date, be null, void, and of no effect.

"(iii) For purposes of this subparagraph—

"(I) the term 'authorized blood donation facility' means an entity described in section 1141(h)(1)(B), and

"(II) the term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the

Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.".

(b) ESTABLISHMENT OF BLOOD DONOR LOCATOR SERVICE.—

(1) IN GENERAL.—Part A of title XI of such Act (42 U.S.C. 1301 et seq.) is amended by adding at the end the following new section:

"BLOOD DONOR LOCATOR SERVICE

42 USC 1320b-11.

"SEC. 1141. (a) IN GENERAL.—The Secretary shall establish and conduct a Blood Donor Locator Service, under the direction of the Commissioner of Social Security, which shall be used to obtain and transmit to any authorized person (as defined in subsection (h)(1)) the most recent mailing address of any blood donor who, as indicated by the donated blood or products derived therefrom or by the history of the subsequent use of such blood or blood products, has or may have the virus for acquired immune deficiency syndrome, in order to inform such donor of the possible need for medical care and treatment.

"(b) PROVISION OF ADDRESS INFORMATION.—Whenever the Secretary receives a request, filed by an authorized person (as defined in subsection (h)(1)), for the mailing address of a donor described in subsection (a) and the Secretary is reasonably satisfied that the requirements of this section have been met with respect to such request, the Secretary shall promptly undertake to provide the requested address information from—

"(1) the files and records maintained by the Social Security Administration, and

"(2) such files and records obtained pursuant to section 6103(m)(6) of the Internal Revenue Code of 1986 as the Secretary considers necessary to comply with such request.

Regulations.

"(c) MANNER AND FORM OF REQUESTS.—A request for address information under this section shall be filed in such manner and form as the Secretary shall by regulation prescribe, shall include the blood donor's social security account number, and shall be accompanied or supported by such documents as the Secretary may determine to be necessary.

Records. Classified information.

"(d) PROCEDURES AND SAFEGUARDS.—Any authorized person shall, as a condition for receiving address information from the Blood Donor Locator Service—

"(1) establish and maintain, to the satisfaction of the Secretary, a system for standardizing records with respect to any request, the reason for such request, and the date of such request made by or of it and any disclosure of address information made by or to it,

"(2) establish and maintain, to the satisfaction of the Secretary, a secure area or place in which such address information and all related blood donor records shall be stored,

"(3) restrict, to the satisfaction of the Secretary, access to the address information and related blood donor records only to persons whose duties or responsibilities require access and to whom disclosure may be made under the provisions of this section,

"(4) provide such other safeguards which the Secretary determines (and which the Secretary prescribes in regulations) to be necessary or appropriate to protect the confidentiality of the address information and related blood donor records,

"(5) furnish a report to the Secretary, at such time and containing such information as the Secretary may prescribe, which describes the procedures established and utilized by the authorized person for ensuring the confidentiality of address information and related blood donor records required under this subsection, and Reports.

"(6) destroy such address information and related blood donor records, upon completion of their use in providing the notification for which the information was obtained, so as to make such information and records undisclosable.

If the Secretary determines that any authorized person has failed to, or does not, meet the requirements of this subsection, the Secretary may, after any proceedings for review established under subsection (f), take such actions as are necessary to ensure such requirements are met, including refusing to disclose address information to such authorized person until the Secretary determines that such requirements have been or will be met. In the case of any authorized person who discloses any address information received pursuant to this section or any related blood donor records to any agent, this subsection shall apply to such authorized person and each such agent (except that, in the case of an agent, any report to the Secretary or other action with respect to the Secretary shall be made or taken through such authorized person). The Secretary shall destroy all related blood donor records in the possession of the Department of Health and Human Services upon completion of their use in transmitting mailing addresses as required under subsection (a), so as to make such records undisclosable.

"(e) ARRANGEMENTS WITH STATE AGENCIES AND AUTHORIZED PERSONS.—The Secretary, in carrying out the Secretary's duties and functions under this section, shall enter into arrangements—

"(1) with State agencies to accept and to transmit to the Secretary requests for address information under this section and to accept and to transmit such information to authorized persons, and

"(2) with State agencies and authorized persons otherwise to cooperate with the Secretary in carrying out the purposes of this section.

"(f) PROCEDURES FOR ADMINISTRATIVE REVIEW.—The Secretary shall by regulation prescribe procedures which provide for administrative review of any determination that any authorized person has failed to meet the requirements of this section. Regulations.

"(g) UNAUTHORIZED DISCLOSURE OF INFORMATION.—Paragraphs (1), (2), and (3) of section 7213(a) of the Internal Revenue Code of 1986 shall apply with respect to the unauthorized willful disclosure to any person of address information or related blood donor records acquired or maintained by or under the Secretary, or pursuant to this section by any authorized person, or of information derived from any such address information or related blood donor records, in the same manner and to the same extent as such paragraphs apply with respect to unauthorized disclosures of return and return information described in such paragraphs. Paragraph (4) of section 7213(a) of such Code shall apply with respect to the willful offer of any item of material value in exchange for any such address information or related blood donor record in the same manner and to the same extent as such paragraph applies with respect to offers (in exchange for any return or return information) described in such paragraph.

"(h) DEFINITIONS.—For purposes of this section—

"(1) AUTHORIZED PERSON.—The term 'authorized person' means—

"(A) any agency of a State (or of a political subdivision of a State) which has duties or authority under State law relating to the public health or otherwise has the duty or authority under State law to regulate blood donations, and

"(B) any entity engaged in the acceptance of blood donations which is licensed or registered by the Food and Drug Administration in connection with the acceptance of such blood donations, and which, in accordance with such regulations as may be prescribed by the Secretary, provides for—

"(i) the confidentiality of any address information received pursuant to this section and related blood donor records,

"(ii) blood donor notification procedures for individuals with respect to whom such information is requested and a finding has been made that they have or may have the virus for acquired immune deficiency syndrome, and

"(iii) counseling services for such individuals who have been found to have such virus.

"(2) RELATED BLOOD DONOR RECORD.—The term 'related blood donor record' means any record, list, or compilation which indicates, directly or indirectly, the identity of any individual with respect to whom a request for address information has been made pursuant to this section.

"(3) STATE.—The term 'State' includes the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, the Commonwealth of the Northern Marianas, and the Trust Territory of the Pacific Islands.".

42 USC 1320b-11 note.

(2) TIME LIMIT FOR ESTABLISHMENT OF BLOOD DONOR LOCATOR SERVICE.—The Secretary of Health and Human Services shall establish the Blood Donor Locator Service pursuant to section 1141 of the Social Security Act not later than 180 days after the date of the enactment of this Act.

(c) DISCLOSURE OF TAXPAYER ADDRESSES TO BLOOD DONOR LOCATOR SERVICE.—

(1) IN GENERAL.—Subsection (m) of section 6103 of the Internal Revenue Code of 1986 (relating to disclosure of taxpayer identity information) is amended by adding at the end the following new paragraph:

"(6) BLOOD DONOR LOCATOR SERVICE.—

"(A) IN GENERAL.—Upon written request pursuant to section 1141 of the Social Security Act, the Secretary shall disclose the mailing address of taxpayers to officers and employees of the Blood Donor Locator Service in the Department of Health and Human Services.

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"(B) RESTRICTION ON DISCLOSURE.—The Secretary shall disclose return information under subparagraph (A) only for purposes of, and to the extent necessary in, assisting under the Blood Donor Locator Service authorized persons (as defined in section 1141(h)(1) of the Social Security Act) in locating blood donors who, as indicated by donated blood or products derived therefrom or by the history of the subsequent use of such blood or blood products, have or may have the virus for acquired immune deficiency syndrome,

in order to inform such donors of the possible need for medical care and treatment.

"(C) SAFEGUARDS.—The Secretary shall destroy all related blood donor records (as defined in section 1141(h)(2) of the Social Security Act) in the possession of the Department of the Treasury upon completion of their use in making the disclosure required under subparagraph (A), so as to make such records undisclosable.".

(2) SAFEGUARDS.—

(A) IN GENERAL.—Paragraph (4) of section 6103(p) of such Code (relating to safeguards) is amended—

(i) in subparagraph (F)—

(I) by striking "manner; and" at the end of clause (i) and inserting "manner,";

(II) by adding "and" at the end of clause (ii)(III); and

(III) by inserting after clause (ii)(III) the following new clause:

"(iii) in the case of the Department of Health and Human Services for purposes of subsection (m)(6), destroy all such return information upon completion of its use in providing the notification for which the information was obtained, so as to make such information undisclosable;";

(ii) in the last sentence, by striking "subsection (m)(2) or (4)" and inserting "subsection (m) (2), (4), or (6)"; and

(iii) by adding at the end the following new sentence: "For purposes of applying this paragraph in any case to which subsection (m)(6) applies, the term 'return information' includes related blood donor records (as defined in section 1141(h)(2) of the Social Security Act).".

(B) CONFORMING AMENDMENT.—Paragraph (2) of section 7213(a) of such Code (relating to unauthorized disclosure of returns and return information) is amended by striking "(m) (2) or (4)" and inserting "(m) (2), (4), or (6)".

SEC. 8009. REQUIREMENT OF SOCIAL SECURITY ACCOUNT NUMBER AS A CONDITION FOR RECEIPT OF SOCIAL SECURITY BENEFITS.

(a) IN GENERAL.—Section 205(c)(2) of the Social Security Act (42 U.S.C. 405(c)(2)) is amended—

(1) in subparagraph (B)(i) in the matter preceding subclause (I), by inserting "and subparagraph (E)" after "subparagraph (A)";

(2) by redesignating subparagraph (E) (as redesignated by section 8008(a)(1)) as subparagraph (F); and

(3) by inserting after subparagraph (D) (as added by section 8008(a)(2)) the following new subparagraph:

"(E) The Secretary shall require, as a condition for receipt of benefits under this title, that an individual furnish satisfactory proof of a social security account number assigned to such individual by the Secretary or, in the case of an individual to whom no such number has been assigned, that such individual make proper application for assignment of such a number.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits entitlement to which commences after the sixth month following the month in which this Act is enacted. 42 USC 405 note.

SEC. 8010. SUBSTITUTION OF CERTIFICATE OF ELECTION FOR APPLICATION TO ESTABLISH ENTITLEMENT FOR CERTAIN REDUCED WIDOW'S AND WIDOWER'S BENEFITS.

(a) WIDOW'S INSURANCE BENEFITS.—Section 202(e) of the Social Security Act (42 U.S.C. 402(e)) is amended—

(1) by redesignating paragraph (1)(C)(ii) as paragraph (1)(C)(iii);

(2) by striking paragraph (1)(C)(i) and inserting the following:

"(C)(i) has filed application for widow's insurance benefits,

"(ii) was entitled to wife's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which such individual died, and—

"(I) has attained retirement age (as defined in section 216(l)),

"(II) is not entitled to benefits under subsection (a) or section 223, or

"(III) has in effect a certificate (described in paragraph (8)) filed by her with the Secretary, in accordance with regulations prescribed by the Secretary, in which she elects to receive widow's insurance benefits (subject to reduction as provided in subsection (q)), or"; and

(3) by adding at the end the following new paragraph:

"(8) Any certificate filed pursuant to paragraph (1)(C)(ii)(III) shall be effective for purposes of this subsection—

"(A) for the month in which it is filed and for any month thereafter, and

"(B) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which she attains age 62.".

(b) WIDOWER'S INSURANCE BENEFITS.—Section 202(f) of such Act (42 U.S.C. 402(f)) is amended—

(1) by redesignating paragraph (1)(C)(ii) as paragraph (1)(C)(iii);

(2) by striking paragraph (1)(C)(i) and inserting the following:

"(C)(i) has filed application for widower's insurance benefits,

"(ii) was entitled to husband's insurance benefits, on the basis of the wages and self-employment income of such individual, for the month preceding the month in which such individual died, and—

"(I) has attained retirement age (as defined in section 216(l)),

"(II) is not entitled to benefits under subsection (a) or section 223, or

"(III) has in effect a certificate (described in paragraph (8)) filed by him with the Secretary, in accordance with regulations prescribed by the Secretary, in which he elects to receive widower's insurance benefits (subject to reduction as provided in subsection (q)), or"; and

(3) by adding at the end the following new paragraph:

"(8) Any certificate filed pursuant to paragraph (1)(C)(ii)(III) shall be effective for purposes of this subsection—

"(A) for the month in which it is filed and for any month thereafter, and

"(B) for months, in the period designated by the individual filing such certificate, of one or more consecutive months (not exceeding 12) immediately preceding the month in which such certificate is filed;

except that such certificate shall not be effective for any month before the month in which he attains age 62.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable under section 202(e) or section 202(f) of the Social Security Act on the basis of the wages and self-employment income of an individual who dies after the month in which this Act is enacted. 42 USC 402 note.

SEC. 8011. CALCULATION OF THE WINDFALL BENEFIT GUARANTEE AMOUNT BASED ON PENSION AMOUNTS PAYABLE IN THE FIRST MONTH OF CONCURRENT ENTITLEMENT RATHER THAN CONCURRENT ELIGIBILITY.

(a) IN GENERAL.—Section 215(a)(7) of the Social Security Act (42 U.S.C. 415(a)(7)) is amended—

(1) in subparagraph (A), by striking "with respect to the initial month in which the individual becomes eligible for such benefits";

(2) in the second sentence of subparagraph (B)(i), by striking "eligibility for old-age or disability insurance benefits" and inserting "concurrent entitlement to such monthly periodic payment and old-age or disability insurance benefits"; and

(3) in subparagraph (C), by striking clause (iii) and redesignating clause (iv) as clause (iii).

(b) CONFORMING AMENDMENT.—Section 215(d)(5)(ii) of such Act (42 U.S.C. 415(d)(5)(ii)) is amended by striking "his or her eligibility for old-age or disability insurance benefits" and inserting "such concurrent entitlement".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits based on applications filed after the month in which this Act is enacted. 42 USC 415 note.

SEC. 8012. CONSOLIDATION OF REPORTS ON CONTINUING DISABILITY REVIEWS.

(a) IN GENERAL.—Section 221(i)(3) of the Social Security Act (42 U.S.C. 421(i)(3)) is amended by striking "semiannually" and inserting "annually".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to reports required to be submitted after the date of the enactment of this Act. 42 USC 421 note.

SEC. 8013. EXCLUSION OF EMPLOYEES SEPARATED FROM EMPLOYMENT BEFORE JANUARY 1, 1989, FROM RULE INCLUDING AS WAGES TAXABLE UNDER FICA CERTAIN PAYMENTS FOR GROUP-TERM LIFE INSURANCE.

(a) IN GENERAL.—Subsection (b) of section 9003 of the Omnibus Budget Reconciliation Act of 1987 (101 Stat. 1330-287) is amended by striking "December 31, 1987." and inserting "December 31, 1987, except that such amendments shall not apply with respect to payments by the employer (or a successor of such employer) for group-term life insurance for such employer's former employees who separated from employment with the employer on or before Decem- 26 USC 3121 note.

ber 31, 1988, to the extent that such payments are not for coverage for any such employee for any period for which such employee is employed by such employer (or a successor of such employer) after the date of such separation.".

26 USC 3121 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply as if such amendment had been included or reflected in section 9003(b) of the Omnibus Budget Reconciliation Act of 1987 at the time of its enactment.

SEC. 8014. CLARIFICATION OF APPLICABILITY OF GOVERNMENT PENSION OFFSET TO CERTAIN FEDERAL EMPLOYEES.

(a) CLARIFICATION OF TREATMENT OF FOREIGN SERVICE RETIREES.—Subsections (b)(4)(A)(ii)(II), (c)(2)(A)(ii)(II), (e)(7)(A)(ii)(II), (f)(2)(A)(ii)(II), and (g)(4)(A)(ii)(II) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4)(A)(ii)(II), (c)(2)(A)(ii)(II), (e)(7)(A)(ii)(II), (f)(2)(A)(ii)(II), (g)(4)(A)(ii)(II)) are each amended by striking "chapter 84 of title 5, United States Code," and inserting "the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980".

42 USC 402 note.

(b) TREATMENT OF EMPLOYEES WHOSE FEDERAL EMPLOYMENT TERMINATED AFTER MAKING AN ELECTION INTO SOCIAL SECURITY COVERAGE BUT BEFORE THE EFFECTIVE DATE OF THE ELECTION.—Subsections (b)(4)(A)(i), (c)(2)(A)(i), (e)(7)(A)(i), (f)(2)(A)(i), and (g)(4)(A)(i) of section 202 of the Social Security Act (42 U.S.C. 402 (b)(4)(A)(i), (c)(2)(A)(i), (e)(7)(A)(i), (f)(2)(A)(i), (g)(4)(A)(i)) shall not apply with respect to monthly periodic benefits of any individual based solely on service which was performed while in the service of the Federal Government if—

(1) such person made, before January 1, 1988, an election pursuant to law to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of the Foreign Service Act of 1980 (or such person made such an election on or after January 1, 1988, and before July 1, 1988, pursuant to regulations of the Office of Personnel Management relating to belated elections and correction of administrative errors (5 CFR 846.204) as in effect on the date of the enactment of this Act), and

(2) such service terminated before the date on which such election became effective.

42 USC 402 note.

(c) EFFECTIVE DATE.—The preceding provisions of this section (including the amendments made by subsection (a)) shall apply as if they had been included or reflected in the provisions of section 9007 of the Omnibus Budget Reconciliation Act of 1987 (101 Stat. 1330-289) at the time of its enactment.

SEC. 8015. AMENDMENTS TO RULES GOVERNING SOCIAL SECURITY COVERAGE OF FEDERAL EMPLOYMENT.

(a) CLARIFICATION OF AUTHORITY TO MAKE DETERMINATIONS CONCERNING THE SOCIAL SECURITY COVERAGE OF FEDERAL EMPLOYEES.—

(1) AMENDMENTS TO THE SOCIAL SECURITY ACT.—Section 205(p)(1) of the Social Security Act (42 U.S.C. 405(p)(1)) is amended—

(A) by striking "whether an individual has performed such service, the periods of such service," in the first sentence;

(B) by striking "which constitute wages under the provisions of section 209" in the first sentence;

(C) by striking "wages were" in the first sentence and inserting "remuneration was"; and

(D) by adding at the end the following new sentence: "Nothing in this paragraph shall be construed to affect the Secretary's authority to determine under sections 209 and 210 whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages.".

(2) AMENDMENTS TO FICA.—Section 3122 of the Internal Revenue Code of 1986 (relating to Federal service) is amended—

(A) by striking "the determination whether an individual has performed service which constitutes employment as defined in section 3121(b)," in the first sentence;

(B) by striking "which constitutes wages as defined in section 3121(a)" in the first sentence; and

(C) by inserting after the first sentence the following new sentence: "Nothing in this paragraph shall be construed to affect the Secretary's authority to determine under subsections (a) and (b) of section 3121 whether any such service constitutes employment, the periods of such employment, and whether remuneration paid for any such service constitutes wages.".

(3) EFFECTIVE DATE.—The amendments made by paragraphs (1) and (2) shall apply to determinations relating to service commenced in any position on or after the date of the enactment of this Act. 26 USC 3122 note.

(b) CLARIFICATION OF TREATMENT OF SERVICE COVERED UNDER THE FOREIGN SERVICE PENSION SYSTEM.—

(1) AMENDMENT TO THE SOCIAL SECURITY ACT.—Subparagraph (H) of section 210(a)(5) of the Social Security Act (42 U.S.C. 410(a)(5)(H)) is amended to read as follows:

"(H) service performed by an individual—

"(i) on or after the effective date of an election by such individual, under section 301 of the Federal Employees' Retirement System Act of 1986 or section 307 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or

"(ii) on or after the effective date of an election by such individual, under regulations issued under section 860 of the Foreign Service Act of 1980, to become subject to the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of such Act;".

(2) AMENDMENT TO FICA.—Subparagraph (H) of section 3121(b)(5) of the Internal Revenue Code of 1986 (relating to employment) is amended to read as follows:

"(H) service performed by an individual—

"(i) on or after the effective date of an election by such individual, under section 301 of the Federal Employees' Retirement System Act of 1986 or section 307 of the Central Intelligence Agency Retirement Act

of 1964 for Certain Employees, to become subject to the Federal Employees' Retirement System provided in chapter 84 of title 5, United States Code, or

"(ii) on or after the effective date of an election by such individual, under regulations issued under section 860 of the Foreign Service Act of 1980, to become subject to the Foreign Service Pension System provided in subchapter II of chapter 8 of title I of such Act;".

26 USC 3121 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply as if such amendments had been included or reflected in section 304 of the Federal Employees' Retirement System Act of 1986 (100 Stat. 606) at the time of its enactment.

(c) CONTINUATION OF SOCIAL SECURITY COVERAGE OF FEDERAL SERVICE AFTER ANY INITIAL COVERAGE OF SUCH SERVICE.—

(1) AMENDMENT TO THE SOCIAL SECURITY ACT.—Paragraph (5) of section 210(a) of the Social Security Act (42 U.S.C. 410(a)(5)) is amended, in the matter following subparagraph (B)(ii), by inserting after "with respect to" the following: "any such service performed on or after any date on which such individual performs".

(2) AMENDMENT TO FICA.—Paragraph (5) of section 3121(b) of the Internal Revenue Code of 1986 (relating to employment) is amended, in the matter following subparagraph (B)(ii), by inserting after "with respect to" the following: "any such service performed on or after any date on which such individual performs".

26 USC 3121 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to any individual only upon the performance by such individual of service described in subparagraph (C), (D), (E), (F), (G), or (H) of section 210(a)(5) of the Social Security Act (42 U.S.C. 410(a)(5)) on or after the date of the enactment of this Act.

SEC. 8016. TECHNICAL CORRECTIONS IN OASDI PROVISIONS.

(a) TECHNICAL CORRECTIONS.—(1) Section 205(c)(2)(C)(iii) of the 42 USC 405. Social Security Act is amended by striking "the Social Security Act" and inserting "this Act".

(2) Section 211(a)(7) of such Act (as amended by section 9023(b)(1) 42 USC 411. of Public Law 100-203) is amended by inserting "of the Internal Revenue Code of 1986" before the semicolon at the end.

(3)(A) Subsection (d) of section 3121 of the Internal Revenue Code of 1986 (as amended by section 9002(b)(2) of Public Law 99-509) is amended—

(i) by redesignating paragraph (3) as paragraph (4), by striking "; or" at the end of such paragraph and inserting a period, and by moving such paragraph (as so redesignated and amended) to the end of the subsection; and

(ii) by redesignating paragraph (4) as paragraph (3), and by striking the period at the end and inserting "; or".

(B) Section 3306(i) of such Code (as amended by section 9002(b)(2) of Public Law 99-509) is amended by striking "paragraph (3) and subparagraphs (B) and (C) of paragraph (4)" and inserting "paragraph (4) and subparagraphs (B) and (C) of paragraph (3)".

26 USC 3121. (4) Section 13303(c)(2) of Public Law 99-272 is amended—

(A) by striking "312(b)" and inserting "3121(b)";

(B) by striking "is amended" and inserting ", and paragraph (20) of section 210(a) of the Social Security Act, are each amended"; and 42 USC 410.

(C) by striking "after 'service' " and inserting "before 'performed' ". 26 USC 3121; 42 USC 410.

(5) Section 9006(b)(1) of Public Law 100-203 is amended by striking "3111(a)" and inserting "3111". 26 USC 3111.

(b) EFFECTIVE DATE.—(1) Except as provided in paragraph (2), the amendments made by this section shall be effective on the date of the enactment of this Act. 26 USC 3111 note.

(2) Any amendment made by this section to a provision of a particular Public Law which is referred to by its number, or to a provision of the Social Security Act or the Internal Revenue Code of 1986 as added or amended by a provision of a particular Public Law which is so referred to, shall be effective as though it had been included or reflected in the relevant provisions of that Public Law at the time of its enactment.

SEC. 8017. CERTAIN CASH WAGES PAID TO SEASONAL AGRICULTURAL LABORERS EXCLUDED FROM OASDI COVERAGE.

(a) SOCIAL SECURITY ACT AMENDMENT.—Paragraph (2) of section 209(h) of the Social Security Act is amended to read as follows: 42 USC 409.

"(2) Cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless—

"(A) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or

"(B) the employer's expenditures for agricultural labor in such year equal or exceed $2,500,

except that subparagraph (B) shall not apply in determining whether remuneration paid to an employee constitutes 'wages' under this section if such employee (i) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (ii) commutes daily from his permanent residence to the farm on which he is so employed, and (iii) has been employed in agriculture less than 13 weeks during the preceding calendar year;".

(b) FICA AMENDMENT.—Subparagraph (B) of section 3121(a)(8) of the 1986 Code (relating to wages) is amended to read as follows:

"(B) cash remuneration paid by an employer in any calendar year to an employee for agricultural labor unless—

"(i) the cash remuneration paid in such year by the employer to the employee for such labor is $150 or more, or

"(ii) the employer's expenditures for agricultural labor in such year equal or exceed $2,500,

except that clause (ii) shall not apply in determining whether remuneration paid to an employee constitutes 'wages' under this section if such employee (I) is employed as a hand harvest laborer and is paid on a piece rate basis in an operation which has been, and is customarily and generally recognized as having been, paid on a piece rate basis in the region of employment, (II) commutes daily from his permanent residence to the farm on which he is so employed, and (III) has been employed in agriculture less than 13 weeks during the preceding calendar year;".

26 USC 3121 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as if included in the amendments made by section 9002 of the Omnibus Budget Reconciliation Act of 1987.

26 USC 3121 note.

SEC. 8018. CERTAIN EMPLOYER PENSION CONTRIBUTIONS NOT INCLUDED IN FICA WAGE BASE.

In the case of any State (within the meaning of section 3121(e)(1) of the Internal Revenue Code of 1986) or political subdivision thereof which received a letter ruling of the Internal Revenue Service issued after December 31, 1983, and before the date of the enactment of this Act maintaining that any amount treated as an employer contribution under section 414(h)(2) of the Internal Revenue Code of 1986 is excluded from the definition of "wages" for purposes of tax liability under section 3121(v)(1)(B) of such Code, such State or political subdivision shall be relieved of any liability for taxes under such section 3121(v)(1)(B) which, in good faith reliance on such letter ruling, were not paid and which would otherwise have been required to be paid (but for this section) on or before the earlier of the date of the enactment of this Act or the date of the receipt of a notice of revocation from the Internal Revenue Service of such letter ruling.

AIDS.

SEC. 8019. REPORTS REGARDING CERTAIN DISABILITY-RELATED BENEFITS.

(a) ELIGIBILITY FOR BENEFITS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report providing information on—

(1) the number of individuals with the complex related to acquired immune deficiency syndrome (hereinafter in this section referred to as "AIDS-related complex") who have made application for disability-related benefits under titles II and XVI of the Social Security Act during fiscal years 1988, 1987, and, to the extent feasible, 1986;

(2) the number of such applications approved, denied (by reason of denial), and reversed upon appeal;

(3) the rates of allowance and denial of such applications by State and region, to the extent feasible;

(4) the criteria, guidelines, or other information used to determine eligibility (including copies of the documents setting forth such criteria, guidelines, and information) including information about any changes in criteria that are under consideration;

(5) the total costs of disability-related benefits provided to individuals with AIDS-related complex during fiscal years 1988, 1987, and to the extent feasible, 1986; and

(6) to the extent available, the projected number of such applications that will likely be approved and denied and the estimated costs of such benefits for the next 3 fiscal years.

(b) COORDINATION OF FEDERAL AND STATE DISABILITY PROGRAMS.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Health and Human Services shall submit to the Committee on Ways and Means of the House of Representatives and the Committee on Finance of the Senate a report describing what arrangements, if any, now exist to provide for coordination between the Social Security Administration and State disability agencies with respect to the provision of disability-related benefits under titles II and XVI of the Social Security Act and State disability

insurance programs to individuals with acquired immune deficiency syndrome or AIDS-related complex and to make such individuals applying for any such benefits aware of the full range of Federal and State disability-related benefits for which such individuals may be eligible.

Subtitle B—Public Assistance Provisions

SEC. 8101. EXTENSION OF PROHIBITION AGAINST IMPLEMENTATION OF CERTAIN PROPOSED REGULATIONS.

Section 9118 of the Omnibus Budget Reconciliation Act of 1987 (42 U.S.C. 1383c) is amended by striking "October 1, 1988" and inserting "September 30, 1989".

SEC. 8102. REVIEW OF POLICY GOVERNING USE OF AFDC FUNDS TO MEET EMERGENCY NEEDS OF FAMILIES ELIGIBLE FOR AFDC THROUGH EMERGENCY ASSISTANCE OR SPECIAL NEEDS PAYMENTS; REPORT TO CONGRESS.

(a) REVIEW OF POLICY.—The Secretary of Health and Human Services shall review the policies in effect, as of the date of the enactment of this section, with respect to the use by States of amounts paid to such States under the program of aid to families with dependent children under part A of title IV of the Social Security Act, in the form of payments of aid to meet special needs or emergency assistance under section 406(e) of such Act to meet emergency needs of families who are eligible for such aid.

(b) REPORT TO CONGRESS.—Not later than July 1, 1989, the Secretary of Health and Human Services shall submit to the Congress a report containing recommendations for legislative and regulatory changes designed to—

(1) improve the ability of the program of aid to families with dependent children under part A of title IV of the Social Security Act to respond to emergency needs of families who are eligible for such aid; and

(2) eliminate the use of funds provided to States under such program to pay for the provision of shelter in commercial or similar transient facilities.

SEC. 8103. DISREGARD OF CERTAIN HOUSING ASSISTANCE PAYMENTS IN DETERMINING INCOME AND RESOURCES UNDER SSI PROGRAM.

(a) INCOME.—Section 1612(b) of the Social Security Act is amended— 42 USC 1382a.

(1) by striking "and" after the semicolon at the end of paragraph (12);

(2) by striking the period at the end of paragraph (13) and inserting "; and"; and

(3) by adding after paragraph (13) the following new paragraph:

"(14) assistance paid, with respect to the dwelling unit occupied by such individual (or such individual and spouse), under the United States Housing Act of 1937, the National Housing Act, section 101 of the Housing and Urban Development Act of 1965, title V of the Housing Act of 1949, or section 202(h) of the Housing Act of 1959.".

(b) RESOURCES.—Section 1613(a) of such Act is amended— 42 USC 1382b.

(1) by striking "and" after the semicolon at the end of paragraph (6);

(2) by striking the period at the end of paragraph (7) and inserting "; and"; and

(3) by inserting after paragraph (7) the following new paragraph:

"(8) the value of assistance referred to in section 1612(b)(14), paid with respect to the dwelling unit occupied by such individual (or such individual and spouse).".

42 USC 1382a note.

(c) EFFECTIVE DATE.—The amendments made by this section shall be effective as though they had been included in section 162 of the Housing and Community Development Act of 1987 at the time of its enactment.

SEC. 8104. FOSTER CARE INDEPENDENT LIVING INITIATIVES.

(a) EXTENSION OF INDEPENDENT LIVING PROGRAM.—Section 477 of the Social Security Act (42 U.S.C. 677) is amended—

(1) by striking "1987 and 1988" in subsections (a) and (e)(1) and inserting "1987, 1988, and 1989";

(2) by striking "for fiscal year 1988" and all that follows in subsection (c) and inserting "for the fiscal year 1988 or 1989, such description and assurances must be submitted prior to February 1 of such fiscal year.";

(3) by striking "Not later than March 1, 1988" in subsection (g)(1) and inserting "Not later than the first January 1 following the end of each fiscal year";

(4) by inserting "during such fiscal year" in subsection (g)(1) after "carried out";

(5) by striking "(2) Not later than July 1, 1988," in subsection (g)(2) and inserting the following:

"(2)(A) Not later than July 1, 1988, the Secretary shall submit an interim report on the activities carried out under this section.

"(B) Not later than March 1, 1989,"; and

(6) by striking "fiscal year 1987" in subsection (g)(2) and inserting "fiscal years 1987 and 1988".

(b) PERMISSION TO EXPEND UNOBLIGATED FUNDS APPROPRIATED FOR 1987 IN 1989.—Subsection (f) of section 477 of such Act (42 U.S.C. 677(f)) is amended by inserting after and below paragraph (3) the following:

"Notwithstanding paragraph (3), payments made to a State under this section for the fiscal year 1987 and unobligated may be expended by such State in the fiscal year 1989.".

(c) INCLUSION IN INDEPENDENT LIVING PROGRAM OF NON-AFDC FOSTER CARE CHILDREN.—Subsection (a) of section 477 of such Act (42 U.S.C. 677(a)) is amended—

(1) by inserting "(1)" before "Payments";

(2) by striking "children" and all that follows through "age 16," and inserting "children described in paragraph (2) who have attained age 16"; and

(3) by adding at the end the following new paragraph:

"(2) A program established and carried out under paragraph (1)—

"(A) shall be designed to assist children with respect to whom foster care maintenance payments are being made by the State under this part, and

"(B) may at the option of the State also include any or all other children in foster care under the responsibility of the State.".

(d) INCLUSION IN INDEPENDENT LIVING PROGRAM OF CERTAIN FORMER FOSTER CARE CHILDREN.—Paragraph (2) of section 477(a) of the Social Security Act (42 U.S.C. 677(a)(2)) (as added by subsection (c) of this section) is further amended—

(1) by striking "and" in subparagraph (A);

(2) by striking the period at the end of subparagraph (B) and inserting ", and"; and

(3) by adding at the end the following new subparagraph:

"(C) may at the option of the State also include any child to whom foster care maintenance payments were previously made by a State under this part and whose payments were discontinued on or after the date such child attained age 16, and any child who previously was in foster care described in subparagraph (B) and for whom such care was discontinued on or after the date such child attained age 16, but such child may not be so included after the end of the 6-month period beginning on the date of discontinuance of such payments or care; and a written transitional independent living plan of the type described in subsection (d)(6) shall be developed for such child as a part of such program.".

(e) DETERMINATION OF SERVICES NEEDED FOR TRANSITION TO INDEPENDENT LIVING.—Subparagraph (C) of section 475(5) of such Act (42 U.S.C. 675(5)(C)) is amended by inserting "and, in the case of a child who has attained age 16, the services needed to assist the child to make the transition from foster care to independent living" before the semicolon.

(f) LIMITATION ON USE OF FUNDS.—Paragraph (3) of section 477(e) of such Act (42 U.S.C. 677(e)(3)) is amended by adding at the end the following: "Amounts payable under this section may not be used for the provision of room or board.".

(g) EFFECTIVE DATES.—(1) The amendments made by subsections (a), (b), and (e) shall take effect on October 1, 1988. 42 USC 677 note.

(2) The amendments made by subsections (c), (d), and (f) shall take effect on the date of the enactment of this Act.

SEC. 8105. TECHNICAL CORRECTIONS TO FAMILY SUPPORT ACT OF 1988. Effective date.

Effective on the date of the enactment of the Family Support Act of 1988—

(1) section 401(c)(1) of such Act is amended by inserting "(as amended by paragraph (4)(B) of this subsection)" before "is amended—"; 42 USC 607.

(2) section 401(c)(4)(B) of such Act is amended by striking "(as amended by paragraph (1) of this subsection)";

(3) section 202(b) of such Act is amended by striking paragraph (10); 42 USC 607.

(4) section 111(e)(1) of such Act is amended by striking "before" and inserting in lieu thereof "after"; 42 USC 666.

(5) section 407(b)(1)(B)(iii)(I) of the Social Security Act (as amended by section 202(b)(8)(A) of the Family Support Act of 1988 and redesignated by section 401(b)(1) of that Act) is amended by striking "409(a)(19)(A)" and inserting in lieu thereof "402(a)(19)(A)"; 42 USC 607.

(6) section 469 of the Social Security Act (as added by section 129 of the Family Support Act of 1988) is amended— 42 USC 669.

(A) by striking "of title IV of the Social Security Act"; and

(B) by striking "of title IV of such Act"; and

42 USC 617.

(7) section 418 of the Social Security Act (as added by section 603(a) of the Family Support Act of 1988) is redesignated as section 417.

Subtitle C—National Commission on Children

SEC. 8201. DELAY IN REPORTING DATE FOR NATIONAL COMMISSION ON CHILDREN.

Section 1139 of the Social Security Act (42 U.S.C. 1320b-9) is amended—

(1) by striking "September 30, 1988" in subsection (d) and inserting "March 31, 1990";

(2) by striking "March 31, 1989" in subsection (d) and inserting "September 30, 1990";

(3) by striking "March 31, 1989" in subsection (e)(1)(A) and inserting "September 30, 1990";

(4) by striking "March 31, 1989" in subsection (e)(4)(B) and inserting September 30, 1990"; and

(5) by inserting "for each of fiscal years 1989 and 1990" after "section" in subsection (j).

Subtitle D—Unemployment Compensation

SEC. 8301. SELF-EMPLOYMENT DEMONSTRATION PROJECT.

Section 9152(g) of the Omnibus Budget Reconciliation Act of 1987 (Public Law 100-203) is amended—

26 USC 3304 note.

(1) in paragraph (1), by striking "two" in the first sentence and inserting "three"; and

(2) in paragraph (2), by striking "four" and inserting "six".

Subtitle E—Medicare and Medicaid

PART I—PROVISIONS RELATING TO PART A OF MEDICARE

SEC. 8401. EXTENSION OF DISPROPORTIONATE SHARE PROVISIONS.

Paragraphs (2)(C)(iv), (3)(C)(ii)(I), (3)(C)(ii)(II), (5)(B)(ii)(I), (5)(B)(ii)(II), and (5)(F)(i) of section 1886(d) of the Social Security Act (42 U.S.C. 1395ww(d)) are each amended by striking "1990" and inserting "1995".

SEC. 8402. MAINTENANCE OF BAD DEBT COLLECTION POLICY.

Records. Claims. 42 USC 1395f note.

Effective as of the date of the enactment of the Omnibus Budget Reconciliation Act of 1987, section 4008(c) of such Act is amended by inserting after "reasonable collection effort" the following: ", including criteria for indigency determination procedures, for record keeping, and for determining whether to refer a claim to an external collection agency".

SEC. 8403. APPLICATION OF WAGE INDICES IN CASE OF AREAS AFFECTED BY SECTION 4005(A)(1) OF OBRA OF 1987.

(a) COMPUTATION OF INDICES FOR FISCAL YEARS 1990 AND 1991.—Section 1886(d)(8) of the Social Security Act (42 U.S.C. 1395ww(d)(8)) is amended—

(1) in subparagraph (C)—

(A) by striking "subparagraph (B)" each place it appears and inserting "subparagraphs (B) and (C)", and

(B) by redesignating such subparagraph as subparagraph (D); and

(2) by inserting after subparagraph (B) the following new subparagraph:

Health care facilities.
Rural areas.
Urban areas.

"(C)(i) If the application of subparagraph (B), by treating hospitals located in a rural county or counties as being located in an urban area, reduces the wage index for that urban area (as applied under this subsection), the Secretary shall calculate and apply such wage index under this subsection separately to hospitals located in such urban area (excluding all the hospitals so treated) and to the hospitals so treated (as if each affected rural county were a separate urban area). If the application of subparagraph (B), by treating the hospitals located in a rural county or counties as not being located in the rural area in a State, reduces the wage index for that rural area (as applied under this subsection), the Secretary shall calculate and apply such wage index under this subsection as if the hospitals so treated had not been excluded from calculation of the wage index for that rural area.

"(ii) Clause (i) shall only apply to discharges occurring on or after October 1, 1989, and before October 1, 1991.".

(b) HHS REPORT ON ADJUSTMENT OF HOSPITAL WAGE INDICES FOR FISCAL YEAR 1989.—

(1) The Secretary of Health and Human Services shall report to the Congress, not later than 60 days after the date of the enactment of this Act, on alternative methods for reimbursement under section 1886(d) of the Social Security Act to hospitals located in affected areas described in paragraph (2) for hospital discharges occurring in fiscal year 1989 that would result in aggregate payments under title XVIII of such Act to hospitals in such areas in an amount no less than would have been paid without the enactment of the amendments made by section 4005(a)(1) of the Omnibus Budget Reconciliation Act of 1987. In reporting concerning alternative methods, the Secretary shall consider both legislative and administrative actions that would result in an aggregate increase in payments under such title and legislative and administrative actions that would not result in such an aggregate increase.

(2) An affected area described in this paragraph is an area for which the area wage index for fiscal year 1989 (described in section 1886(d)(3)(E) of the Social Security Act) was reduced below the amount otherwise applicable as a result of the amendments made by section 4005(a)(1) of the Omnibus Budget Reconciliation Act of 1987.

(c) PROPAC STUDY AND REPORT.—The Prospective Payment Assessment Commission shall study and make a report to Congress within 9 months after the date of the enactment of this Act on the appropriate payment for hospitals affected by subparagraphs (B) and (C) of section 1886(d)(8) of the Social Security Act (as amended by subsection (a) of this section) and the appropriate treatment of the wage and wage-related costs of such hospitals in computing area wage indices.

SEC. 8404. DEMONSTRATION PROJECTS WITH RESPECT TO CHRONIC VENTILATOR-DEPENDENT UNITS IN HOSPITALS.

42 USC 1395b-1 note.

(a) IN GENERAL.—Section 429(a) of the Medicare Catastrophic Coverage Act of 1988 is amended by striking "up to" each place it appears and inserting "at least".

42 USC 1395b-1 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the Medicare Catastrophic Coverage Act of 1988.

42 USC 1395ww note.

SEC. 8405. ELECTION OF PERSONNEL POLICY FOR PROPAC EMPLOYEES.

With respect to employees of the Prospective Payment Assessment Commission hired before December 22, 1987, such employees shall have the option to elect within 60 days of the date of enactment of this Act to be covered under either the personnel policy in effect with respect to such employees before December 22, 1987, or under the employees coverage provided under the last sentence of section 1886(e)(6)(D) of the Social Security Act.

PART II—RELATING TO PARTS A AND B OF MEDICARE PROGRAM

42 USC 1395b-1 note.

SEC. 8411. TREATMENT OF CERTAIN NURSING EDUCATION PROGRAMS.

(a) DEMONSTRATION OF JOINT NURSING GRADUATE EDUCATION PROGRAMS.—

(1) The Secretary of Health and Human Services shall provide for demonstration programs under this subsection in each of 5 hospitals for cost reporting periods beginning on or after July 1, 1989, and before July 1, 1994.

(2) Under each demonstration project, subject to paragraph (4), the reasonable costs incurred by a hospital pursuant to a written agreement with an educational institution for the activities described in paragraph (3) conducted as part of an approved educational program that—

(A) involves a substantial clinical component (as determined by the Secretary), and

(B) leads to a master's or doctoral degree in nursing,

shall be allowable as reasonable costs under title XVIII of the Social Security Act and reimbursed under such title on the same basis as if they were allowable direct costs of a hospital-operated approved educational program (other than an approved graduate medical education program).

(3) The activities described in this paragraph are the activities for which the reasonable costs of conducting such activities are allowable under title XVIII of the Social Security Act if conducted under a hospital-operated approved educational program (other than an approved graduate medical education program), but only to the extent such activities are directly related to the operation of the educational program conducted pursuant to the written agreement between the hospital and the educational institution.

(4) The amount paid under a demonstration program under this subsection to a hospital for a cost reporting period may not exceed $200,000.

Reports.

(5) The Secretary shall report to Congress, by not later than January 1, 1995, on the demonstration programs conducted

under this subsection and on the supply and characteristics of nurses trained under such programs.

(b) JOINT UNDERGRADUATE EDUCATION PROGRAM.—In the case of a hospital which (1) was paid under a waiver under section 402 of the Social Security Amendments of 1967 and section 222 of the Social Security Amendments of 1972, which waiver expired on September 30, 1985, and (2) during its cost reporting period beginning in fiscal year 1985 and for each subsequent cost reporting period, has been and is associated with, and has incurred and incurs substantial costs with respect to, a nursing college with which it has shared and shares common directors, educational activities of the nursing college shall be considered to be educational activities operated directly by such hospital for purposes of title XVIII of the Social Security Act, and shall be allowable as reasonable costs under such title and reimbursed under such title on the same basis as if they were allowable direct costs of a hospital-operated approved educational program (other than an approved graduate medical education program), for hospital cost reporting periods beginning in fiscal years 1989, 1990, and 1991. Health care facilities.

SEC. 8412. ELIMINATION OF WAIVERS OF 50:50 RULE FOR HMO ENROLLMENT.

(a) IN GENERAL.—

(1) Section 1876(f) of the Social Security Act (42 U.S.C. 1395mm(f)), as amended by section 4018(a) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking paragraph (3) and by redesignating paragraph (4) as paragraph (3).

(2) Subsection (c) of section 4018 of the Omnibus Budget Reconciliation Act of 1987 is repealed.

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall not apply to contracts in effect on the date of the enactment of this Act or extensions (not exceeding 90 days) thereof. 101 Stat. 1330-66. 42 USC 1395mm note.

SEC. 8413. INCREASE IN AUTHORIZATION FOR THE PATIENT OUTCOME ASSESSMENT RESEARCH PROGRAM.

Section 1875(c)(3) of the Social Security Act (42 U.S.C. 1395ll(c)(3)) is amended to read as follows:

"(3)(A) For purposes of carrying out the research program, there are authorized to be appropriated—

"(i) from the Federal Hospital Insurance Trust Fund two-thirds of the amount specified in subparagraph (B), and

"(ii) from the Federal Supplementary Medical Insurance Trust Fund one-third of the amount specified in subparagraph (B).

"(B) The amount specified in this subparagraph is—

"(i) $7,500,000 for fiscal year 1988,

"(ii) $10,000,000 for fiscal year 1989,

"(iii) $20,000,000 for fiscal year 1990, and

"(iv) $30,000,000 for fiscal year 1991.".

SEC. 8414. DELAY IN REPORTING DEADLINE FOR THE UNITED STATES BIPARTISAN COMMISSION ON COMPREHENSIVE HEALTH CARE.

Section 406 of the Medicare Catastrophic Coverage Act of 1988 is amended by striking "date of the enactment of this Act" each place it appears and inserting "effective date of the first Act providing appropriations for the Commission". 42 USC 1395b note.

PART III—PROVISIONS RELATING TO PART B OF MEDICARE

SEC. 8421. TRIP FEES FOR CLINICAL LABORATORIES.

42 USC 1395*l*.

(a) IN GENERAL.—Section 1833(h)(3) of the Social Security Act (42 U.S.C. 1395l(h)(3)) is amended by adding at the end the following new sentence: "In establishing a fee to cover the transportation and personnel expenses for trained personnel to travel to the location of an individual to collect a sample, the Secretary shall provide a method for computing the fee based on the number of miles traveled and the personnel costs associated with the collection of each individual sample, but the Secretary shall only be required to apply such method in the case of tests furnished during the period beginning on April 1, 1989, and ending on December 31, 1990, by a laboratory that establishes to the satisfaction of the Secretary (based on data for the 12-month period ending June 30, 1988) that (i) the laboratory is dependent upon payments under this title for at least 80 percent of its collected revenues for clinical diagnostic laboratory tests, (ii) at least 85 percent of its gross revenues for such tests are attributable to tests performed with respect to individuals who are homebound or who are residents in a nursing facility, and (iii) the laboratory provided such tests for residents in nursing facilities representing at least 20 percent of the number of such facilities in the State in which the laboratory is located.".

42 USC 1395*l* note.

(b) BUDGET NEUTRALITY.—The Secretary of Health and Human Services shall adjust the fees for transportation and personnel established under section 1833(h)(3)(B) of the Social Security Act for tests not covered under the amendment made by subsection (a) in such manner that the total cost of fees under such section is the same as would have been the case without such amendment.

Reports.

(c) STUDY.—The Secretary of Health and Human Services shall study reimbursement for specimen collection and transportation and personnel costs under section 1833(h)(3) of the Social Security Act and shall report to the Committees on Ways and Means and Energy and Commerce of the House of Representatives and the Committee on Finance of the Senate by May 1, 1989. The study shall—

(1) survey carrier policies regarding such reimbursement,

(2) report on concerns expressed by clinical diagnostic laboratories concerning such reimbursement, and

(3) make recommendations to assure that such reimbursement is reasonable, covers the costs involved, and assures adequate access to clinical laboratory services for nursing facility residents.

SEC. 8422. BUDGET NEUTRALITY ADJUSTMENT FOR CERTIFIED REGISTERED NURSE ANESTHETISTS.

(a) IN GENERAL.—Section 1833(l)(3)(B) of the Social Security Act (42 U.S.C. 1395l(l)(3)(B)) is amended by inserting "plus applicable coinsurance" after "would have been paid".

42 USC 1395*l* note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective as if included in the amendment made by section 9320(e)(2) of the Omnibus Budget Reconciliation Act of 1986.

SEC. 8423. COVERAGE OF PSYCHOLOGISTS' SERVICES WHEN PROVIDED OFF-SITE AS PART OF A TREATMENT PLAN.

(a) IN GENERAL.—Section 1861(ii) of the Social Security Act (42 U.S.C. 1395x(ii)) is amended—

(1) by inserting "on-site" before "at a community mental health center", and

(2) by inserting ", and such services that are necessarily furnished off-site (other than at an off-site office of such psychologist) as part of a treatment plan because of the inability of the individual furnished such services to travel to the center by reason of physical or mental impairment, because of institutionalization, or because of similar circumstances of the individual," after "Public Health Service Act)".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall be effective with respect to services furnished on or after January 1, 1989. 42 USC 1395x note.

SEC. 8424. NONAPPLICATION OF CERTAIN REQUIREMENTS TO PHYSICAL THERAPISTS.

(a) IN GENERAL.—Section 1861(p) of the Social Security Act (42 U.S.C. 1395x(p)) is amended by adding at the end the following new sentence: "Nothing in this subsection shall be construed as requiring, with respect to outpatients who are not entitled to benefits under this title, a physical therapist to provide outpatient physical therapy services only to outpatients who are under the care of a physician or pursuant to a plan of care established by a physician.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall become effective with respect to services provided after December 31, 1988. 42 USC 1395x note.

SEC. 8425. FUNCTIONS OF PHYSICIAN PAYMENT REVIEW COMMISSION.

(a) ADDITIONAL FUNCTION.—Section 1845(b)(2) of the Social Security Act (42 U.S.C. 1395w-1(b)(2)) is amended—

(1) by striking "and" at the end of subparagraph (G),

(2) by striking the period at the end of subparagraph (H) and inserting "; and", and

(3) by adding at the end the following new subparagraph:

"(I) consider policies for moderating the rate of increase in expenditures under this part and the rate of increase in utilization of services under this part.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act and shall first apply to recommendations submitted in 1989. 42 USC 1395w-1 note.

SEC. 8426. MORATORIUM ON LABORATORY PAYMENT DEMONSTRATION EXTENDED.

Section 9204(a) of the Consolidated Omnibus Budget Reconciliation Act of 1985, as amended by section 9339(e) of the Omnibus Budget Reconciliation Act of 1986 and section 4085(c) of the Omnibus Budget Reconciliation Act of 1987, is amended by striking "January 1, 1989" and inserting "January 1, 1990". 42 USC 1395ww note.

SEC. 8427. PAYMENT FOR MEDICAL ESCORT OR MEDICAL ATTENDANT ON COMMERCIAL AIRLINER ALLOWED.

(a) IN GENERAL.—The Secretary of Health and Human Services shall provide that in cases where (as of the date of the enactment of this Act) transportation on a commercial airliner is covered under 42 USC 1395x note.

section 1861(s)(7) of the Social Security Act, the Secretary shall also provide for payment for medically necessary services of a medical escort or medical attendant.

(b) EFFECTIVE PERIOD.—Subsection (a) shall apply to payment for services furnished during the 5-year period beginning on July 1, 1989.

PART IV—PROVISIONS RELATING TO MEDICAID

State and local governments.

SEC. 8431. DELAY IN ISSUANCE OF FINAL REGULATIONS CONCERNING THE USE OF VOLUNTARY CONTRIBUTIONS AND PROVIDER-PAID TAXES BY STATES TO RECEIVE FEDERAL MATCHING FUNDS.

The Secretary of Health and Human Services shall not issue any final regulation prior to May 1, 1989, changing the treatment of voluntary contributions or provider-paid taxes utilized by States to receive Federal matching funds under title XIX of the Social Security Act.

SEC. 8432. MEDICAID LONG-TERM CARE WAIVER PROGRAM.

(a) MODIFICATION OF FORMULA.—Section 1915(d)(5)(B) of the Social Security Act (42 U.S.C. 1396n(d)(5)(B)) is amended by adding at the end the following new clause:

"(iv) If there is enacted after December 22, 1987, an Act which amends this title and which results in an increase in the aggregate amount of medical assistance under this title for nursing facility services and home and community-based services for individuals who have attained the age of 65 years, the Secretary, at the request of a State with a waiver under this subsection for a waiver year or years and in close consultation with the State, shall adjust the projected amount computed under this subparagraph for the waiver year or years to take into account such increase.".

(b) TECHNICAL MODIFICATIONS.—Clauses (i) and (ii) of section 1915(d)(5)(B) of such Act (42 U.S.C. 1396n(d)(5)(B)) are amended—

(1) by inserting "(rounded to the nearest quarter of a year)" after "the number of years" each place it appears,

(2) by striking "before the waiver year" each place it appears and inserting "at the end of the waiver year",

(3) by striking "between the base year and the waiver year" each place it appears and inserting "between the beginning of the base year and the beginning of the waiver year", and

(4) by inserting "(rounded to the nearest quarter of a year)" after "for each year" each place it appears.

42 USC 1396n note.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to waiver years beginning during or after fiscal year 1989.

SEC. 8433. EXTENSION OF TIME PERIOD FOR SUBMISSION OF CORRECTION AND REDUCTION PLANS FOR CERTAIN INTERMEDIATE CARE FACILITIES FOR THE MENTALLY RETARDED.

(a) IN GENERAL.—Section 1922 of the Social Security Act (42 U.S.C. 1396r–3) is amended—

(1) in subsection (a), by striking "residents" and inserting "residents (including failure to provide active treatment)";

(2) in subsection (c)(5), by inserting ", and to provide active treatment for," after "health and safety of"; and

(3) in subsection (f), by striking "within 3 years after the effective date of final regulations implementing this section" and inserting "by January 1, 1990".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall become effective on the date of the enactment of this Act, and shall apply to any proceeding where there has not yet been a final determination by the Secretary (as defined for purposes of judicial review) as of the date of the enactment of this Act. 42 USC 1396r-3.

SEC. 8434. CORRECTION RELATING TO MEDICARE BUY-IN.

(a) IN GENERAL.—Section 1905(p)(1) of the Social Security Act (42 U.S.C. 1396d(p)(1)) is amended by striking subparagraph (B) and redesignating subparagraphs (C) and (D) as subparagraphs (B) and (C), respectively.

(b) CONFORMING AMENDMENTS.—

(1) Section 1902(a)(10) of such Act (42 U.S.C. 1396a(a)(10)) is amended, in the subdivision (VIII) following subparagraph (E), by inserting "who is only entitled to medical assistance because the individual is such a beneficiary" after "1905(p)(1)".

(2) Section 1902(m)(4)(A) of such Act (42 U.S.C. 1396a(m)(4)(A)) is amended by striking "1905(p)(1)(C)" and inserting "1905(p)(1)(B)".

(3) Section 1905(a) of such Act (42 U.S.C. 1396d(a)) is amended, in the matter before clause (i), by striking "in the case of a qualified medicare beneficiary" and inserting "in the case of medicare cost-sharing with respect to a qualified medicare beneficiary".

(4) Section 1905(p)(2)(A) of such Act (42 U.S.C. 1396d(p)(2)(A)), as amended by section 608(d)(14) of the Family Support Act of 1988, is amended by striking "(1)(C)" and inserting "(1)(B)".

(c) EFFECTIVE DATE.—The amendment made by this section shall be effective as if included in the enactment of section 301 of the Medicare Catastrophic Coverage Act of 1988. 42 USC 1396a note.

SEC. 8435. CLARIFICATION OF FEDERAL FINANCIAL PARTICIPATION FOR CASE-MANAGEMENT SERVICES.

The Secretary of Health and Human Services may not fail or refuse to approve an amendment to a State plan under title XIX of the Social Security Act that provides for coverage of case-management services described in section 1915(g)(2) of such Act, or to deny payment to a State for such services under section 1903(a)(1) of such Act on the basis that a State is required to provide such services under State law or on the basis that the State had paid or is paying for such services from non-Federal funds before or after April 7, 1986. Nothing in this section shall be construed as requiring the Secretary to make payment to a State under section 1903(a)(1) of such Act for such case-management services which are provided without charge to the users of such services. State and local governments. 42 USC 1396a note.

SEC. 8436. DETERMINATION OF PREMIUM AMOUNTS FOR EXTENDED MEDICAL ASSISTANCE.

(a) TAKING INTO ACCOUNT CHILD CARE COSTS.—Section 1925(d)(5)(C) of the Social Security Act, as inserted by section 303(a)(1) of the Family Support Act of 1988, is amended by inserting "(less the average monthly costs for such child care as is necessary for the employment of the caretaker relative)" after "gross monthly earnings". 42 USC 1396r-6.

42 USC 1396r-6 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall be effective as if included in the enactment of the Family Support Act of 1988.

SEC. 8437. CLARIFICATION OF WAIVER FOR HOME AND COMMUNITY-BASED SERVICES FOR INDIVIDUALS WHO WOULD OTHERWISE REQUIRE HOSPITAL OR FACILITY CARE.

(a) IN GENERAL.—Section 1915(c)(7)(A) of the Social Security Act (42 U.S.C. 1396n(c)(7)(A)) is amended—

(1) by striking "who are inpatients in hospitals," and inserting "who are inpatients in, or who would require the level of care provided in, hospitals,"; and

(2) by striking "who are inpatients of those respective facilities." and inserting "who are inpatients in, or who would require the level of care provided in, those respective facilities.".

42 USC 1396n note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to waiver applications submitted before, on, or after the date of the enactment of this Act.

TITLE IX—TRADE PROVISIONS

SEC. 9001. TRADE TECHNICAL AMENDMENTS.

(a) IN GENERAL.—

(1) Section 121 of the Trade Act of 1974 (19 U.S.C. 2131) is amended by striking out "(d) There are" and inserting in lieu thereof "There are".

(2)(A) Paragraph (6) of section 203(e) of the Trade Act of 1974 (19 U.S.C. 2253(e)) is amended—

(i) by striking out "(A) the application" in subparagraph (B) and inserting in lieu thereof "(i) the application", and

(ii) by striking out "(B) the designation" in subparagraph (B) and inserting in lieu thereof "(ii) the designation".

19 USC 2253.

(B) Paragraph (2) of section 1214(j) of the Omnibus Trade and Competitiveness Act of 1988 is amended—

(i) by striking out "Section 203(f)" and inserting in lieu thereof "Paragraph (6) of section 203(e)",

(ii) by striking out "in paragraph (1)" and inserting in lieu thereof "in subparagraph (A)(i)", and

(iii) by striking out "in paragraph (3)" and inserting in lieu thereof "in subparagraph (B)(i)".

19 USC 2138.

(3) Section 1215 of the Omnibus Trade and Competitiveness Act of 1988 is amended by striking out "1212(j)(1)" and inserting in lieu thereof "1214(j)(1)".

19 USC 1677-2.

(4) Section 771B of the Tariff Act of 1930 is amended to read as follows:

"SEC. 771B. CALCULATION OF SUBSIDIES ON CERTAIN PROCESSED AGRICULTURAL PRODUCTS.

"In the case of an agricultural product processed from a raw agricultural product in which—

"(1) the demand for the prior stage product is substantially dependent on the demand for the latter stage product, and

"(2) the processing operation adds only limited value to the raw commodity,

subsidies found to be provided to either producers or processors of the product shall be deemed to be provided with respect to the manufacture, production, or exportation of the processed product.".

(5) Paragraph (19) of section 771 of the Tariff Act of 1930 (19 U.S.C. 1677), as added by section 1335 of the Omnibus Trade and Competitiveness Act of 1988, is redesignated as paragraph (20).

(6) Subsection (e) of section 1337 of the Omnibus Trade and Competitiveness Act of 1988 is amended by striking out "1321(b)" and inserting in lieu thereof "1322". 19 USC 1671 note.

(7) Paragraph (6) of section 1342(a) of the Omnibus Trade and Competitiveness Act of 1988 is amended by striking out "by paragraph (5)(B)" and inserting in lieu thereof "by paragraph (5)(A)". 19 USC 1337.

(8) Section 204 of the Trade Act of 1974 is amended by redesignating subsections (d) and (e) as subsections (c) and (d), respectively. 19 USC 2254.

(9) Subsection (d) of section 701 of the Tariff Act of 1930 (19 U.S.C. 1671) is amended by redesignating the subsection (d) relating to a cross reference as subsection (f).

(10) Subsection (a) of section 162 of the Trade Act of 1974 (19 U.S.C. 2212(a)) is amended—

(A) by striking out "chapter 1 or", and

(B) by inserting "or under section 1102 of the Omnibus Trade and Competitiveness Act of 1988" after "or 124".

(11) Item 735.24 of the Tariff Schedules of the United States is amended by striking out "5.52% ad val." and inserting in lieu thereof "4.64% ad val.".

(12) Subparagraph (B) of section 337(n)(2) of the Tariff Act of 1930 (19 U.S.C. 1337(n)(2)(B)) is amended by striking out "under subsection (h)" and inserting in lieu thereof "under subsection (j)".

(13) Subsection (g) of section 1214 of the Omnibus Trade and Competitiveness Act of 1988 is amended to read as follows: 19 USC 58c.

"(g) COBRA OF 1985.—Section 13031 of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c) is amended—

"(1) by striking out 'schedule 8 of the Tariff Schedules of the United States except item 806.30 or 807.00' in subsection (a)(9)(A) and inserting in lieu thereof 'chapter 98 of the Harmonized Tariff Schedule of the United States, except subheading 9802.00.60 or 9802.00.80';

"(2) by striking out 'General Headnote 3(e) (vi) or (vii)' in subsection (a)(9)(C) and inserting in lieu thereof 'general note 3(c)(v)';

"(3) by striking out 'Schedules' in subsection (a)(9)(C) and inserting in lieu thereof 'Schedule';

"(4) by striking out 'item 806.30' wherever it appears in subsection (b)(8)(A) and inserting in lieu thereof 'subparagraph 9802.00.60';

"(5) by striking out 'item 807.00' wherever it appears in subsection (b)(8)(A) and inserting in lieu thereof 'subparagraph 9802.00.80'; and

"(6) by striking out 'headnote 2 of the General Headnotes and Rules of Interpretation of the Tariff Schedules of the United States' in subsection (c)(3) and inserting in lieu thereof 'general note 2 of the Harmonized Tariff Schedule of the United States'.".

19 USC 2703.

(14) Subparagraph (D) of section 1214(q)(2) of the Omnibus Trade and Competitiveness Act of 1988 is amended—

(A) by striking out "TSUS" in clause (iv) and inserting in lieu thereof "TSUS;",

(B) by striking out "HTS" in clause (iv) and inserting in lieu thereof "HTS; and", and

(C) by striking out "subparagraph (E)" in clause (vi) and inserting in lieu thereof "subparagraph (D)".

(15) Section 330(c)(3)(A)(i) of the Tariff Act of 1930 (19 U.S.C. 1330(c)(3)(A)(i)) is amended by striking out "most recently appointed to" and inserting in lieu thereof "with the shortest period of service on".

(16) Subsection (g) of section 332 of the Tariff Act of 1930 (19 U.S.C. 1332(g)) is amended by striking out "report to Congress. on the first" and inserting in lieu thereof "report to Congress on the first".

Ante, p. 1138.

(17) Subsection (i) of section 1121 of the Omnibus Trade and Competitiveness Act of 1988 is amended by striking out "subsection (c) apply" and inserting in lieu thereof "subsection (f) apply".

19 USC 1507 note.

(18) Subsection (b) of section 1902 of the Omnibus Trade and Competitiveness Act of 1988 (102 Stat. 1313) is amended by striking out "1987" and inserting in lieu thereof "1988".

(19) Item 909.35 of the Appendix to the Tariff Schedules of the United States is amended by striking out "3.6% ad val. (I)".

(20) Subparagraph (B) of section 236(a)(6) of the Trade Act of 1974 (19 U.S.C. 2296(a)(6)(B)) is amended by striking out "in subparagraph (A) or (B) of paragraph (1)" and inserting in lieu thereof "in clause (i) or (ii) of subparagraph (A)".

19 USC 2397 note.

(21) Subsection (g) of section 1430 of the Omnibus Trade and Competitiveness Act of 1988 (102 Stat. 1257) is amended by striking out "apply to with" and inserting in lieu thereof "apply with".

19 USC 58c note.

(b) EFFECTIVE DATE.—The amendments made by this section shall be applied as if such amendments took effect on August 23, 1988.

SEC. 9002. FOREIGN TRADE ZONES.

Section 3 of the Act of June 18, 1934 (48 Stat. 999, chapter 590; 19 U.S.C. 81c) is amended by adding at the end thereof the following new subsection:

Petroleum and petroleum products.

"(d) In regard to the calculation of relative values in the operations of petroleum refineries in a foreign trade zone, the time of separation is defined as the entire manufacturing period. The price of products required for computing relative values shall be the average per unit value of each product for the manufacturing period. Definition and attribution of products to feedstocks for petroleum manufacturing may be either in accordance with Industry Standards of Potential Production on a Practical Operating Basis as verified and adopted by the Secretary of the Treasury (known as producibility) or such other inventory control method as approved by the Secretary of the Treasury that protects the revenue.".

SEC. 9003. REPORT ON SMALL BUSINESS INNOVATION RESEARCH PROGRAM.

Section 6 of the Small Business Innovation Development Act of 1982 (15 U.S.C. 638, note) is amended—

(1) by striking out the last sentence of subsection (a), as added by section 8008 of the Omnibus Trade and Competitiveness Act of 1988 (Public Law 100-418), and

(2) by adding at the end thereof the following new subsection:

"(c) Not later than July 1, 1989, the Comptroller General shall transmit to the appropriate committees of the House of Representatives and the Senate recommendations as to the advisability of amending the Small Business Innovation Research program to— Small business.

"(1) increase each agency's share of research and development expenditures devoted to it by 0.25 percent per year, until it is 3 percent of the total extramural research and development funds, and targeting a portion of the increment at products with commercialization or export potential; Research and development. Exports.

"(2) make the Small Business Innovation Research program permanent with a formal congressional review every 10 years, beginning in 1993;

"(3) allocate a modest but appropriate share of each agency's Small Business Innovation Research fund for administrative purposes for effective management, quality maintenance, and the elimination of program delays; and

"(4) include within the Small Business Innovation and Research program all agencies expending between $20,000,000 and $100,000,000 in extramural research and development funds annually.".

SEC. 9004. EXTENSION OF CERTAIN EXISTING SUSPENSIONS OF DUTY AND DUTY REDUCTIONS.

(a) EXTENSIONS UNTIL JANUARY 1, 1993.—Each of the following items of the Appendix to the Tariff Schedules of the United States are amended by striking out the date in the effective date column and inserting in lieu thereof "12/31/92":

(1) Item 903.29 (relating to fresh, chilled, or frozen brussels sprouts).

(2) Item 906.30 (relating to 3,5,6-trichlorosalicylic acid).

(3) Item 906.32 (m-Aminophenol).

(4) Item 906.38 (p-acetaminobenzenesulfonyl chloride).

(5) Item 906.51 (carboxylic acid disolvate).

(6) Item 906.53 (relating to dicyclomine hydrochloride and mepenzolate bromide).

(7) Item 906.54 (relating to desipramine hydrochloride).

(8) Item 906.99 (relating to rifampin).

(9) Item 907.03 (relating to m-xylenediamine).

(10) Item 907.04 (relating to 1,3-bis(aminomethyl) cyclohexane).

(11) Item 907.06 (relating to 4,4'bis(a,a-dimethylbenzyl) diphenylamine).

(12) Item 907.08 (relating to 4-chloro-3-methylphenol).

(13) Item 907.16 (relating to uncompounded allyl resins).

(14) Item 907.18 (relating to certain forms of amiodarone).

(15) Item 907.25 (relating to terfenadine).

(16) Item 907.42 (relating to clomiphene citrate).

(17) Item 907.51 (relating to certain yttrium materials and compounds).

(18) Item 907.65 (relating to tartaric acid).

(19) Item 907.66 (relating to potassium salts: Antimony tartrate).

(20) Item 907.68 (relating to cream of tartar).

(21) Item 907.69 (relating to sodium tartrate).
(22) Item 907.76 (relating to lactulose).
(23) Item 910.00 (relating to diamond tool and drill blanks).
(24) Item 911.50 (relating to unwrought lead).
(25) Item 912.13 (relating to certain power-driven flat knitting machines and parts thereof).

(b) OTHER EXTENSIONS.—

(1) Item 907.00 (relating to p-hydroxybenzoic acid) is amended by striking out "9/30/85" and inserting in lieu thereof "12/31/88".

(2) Item 907.22 (relating to caffeine) is amended by striking out "On or before 12/31/87" and inserting in lieu thereof "On or before the earlier of 12/31/92 or the date on which the rate of duty imposed by the European Communities on articles described in item 437.02 exceeds the rate of duty imposed by the United States on such articles that was in effect on 6/30/88"

Manassas National Battlefield Park Amendments of 1988.
Virginia.
Conservation.
16 USC 429b note.

TITLE X—MANASSAS NATIONAL BATTLEFIELD PARK

SEC. 10001. SHORT TITLE.

This title may be cited as the "Manassas National Battlefield Park Amendments of 1988".

SEC. 10002. ADDITION TO MANASSAS NATIONAL BATTLEFIELD PARK.

The first section of the Act entitled "An act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (16 U.S.C. 429b), is amended—

(1) by inserting "(a)" after "That"; and

(2) by adding at the end thereof the following:

"(b)(1) In addition to subsection (a), the boundaries of the park shall include the area, comprising approximately 600 acres, which is south of U.S. Route 29, north of Interstate Route 66, east of Route 705, and west of Route 622. Such area shall hereafter in this Act be referred to as the 'Addition'.

Real property.

"(2)(A) Notwithstanding any other provision of law, effective on the date of enactment of the Manassas National Battlefield Park Amendments of 1988, there is hereby vested in the United States all right, title, and interest in and to, and the right to immediate possession of, all the real property within the Addition.

"(B) The United States shall pay just compensation to the owners of any property taken pursuant to this paragraph and the full faith and credit of the United States is hereby pledged to the payment of any judgment entered against the United States with respect to the taking of such property. Payment shall be in the amount of the agreed negotiated value of such property or the valuation of such property awarded by judgment and shall be made from the permanent judgment appropriation established pursuant to 31 U.S.C. 1304. Such payment shall include interest on the value of such property which shall be compounded quarterly and computed at the rate applicable for the period involved, as determined by the Secretary of the Treasury on the basis of the current average market yield on outstanding marketable obligations of the United States of comparable maturities from the date of enactment of the Manassas

National Battlefield Park Amendments of 1988 to the last day of the month preceding the date on which payment is made.

"(C) In the absence of a negotiated settlement, or an action by the owner, within 1 year after the date of enactment of the Manassas National Battlefield Park Amendments of 1988, the Secretary may initiate a proceeding at anytime seeking in a court of competent jurisdiction a determination of just compensation with respect to the taking of such property.

"(3) Not later than 6 months after the date of enactment of the Manassas National Battlefield Park Amendments of 1988, the Secretary shall publish in the Federal Register a detailed description and map depicting the boundaries of the Addition. The map shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Federal Register, publication.

Public information.

"(c) The Secretary shall not allow any unauthorized use of the Addition after the enactment of the Manassas National Battlefield Park Amendments of 1988, except that the Secretary may permit the orderly termination of all operations on the Addition and the removal of equipment, facilities, and personal property from the Addition.".

SEC. 10003. VISUAL PROTECTION.

Section 2(a) of the Act entitled "An Act to preserve within Manassas National Battlefield Park, Virginia, the most important historic properties relating to the battle of Manassas, and for other purposes", approved April 17, 1954 (16 U.S.C. 429b-1), is amended—

(1) by inserting "(1)" after "(a)"; and

(2) by adding at the end thereof the following:

"(2) The Secretary shall cooperate with the Commonwealth of Virginia, the political subdivisions thereof, and other parties as designated by the Commonwealth or its political subdivisions in order to promote and achieve scenic preservation of views from within the park through zoning and such other means as the parties determine feasible.".

SEC. 10004. HIGHWAY RELOCATION.

16 USC 429b note.

(a) STUDY.—The Secretary of the Interior (hereafter in this section referred to as the "Secretary"), in consultation and consensus with the Commonwealth of Virginia, the Federal Highway Administration, and Prince William County, shall conduct a study regarding the relocation of highways (known as routes 29 and 234) in, and in the vicinity of, the Manassas National Battlefield Park (hereinafter in this section referred to as the "park"). The study shall include an assessment of the available alternatives, together with cost estimates and recommendations regarding preferred options. The study shall specifically consider and develop plans for the closing of those public highways (known as routes 29 and 234) that transect the park and shall include analysis of the timing and method of such closures and of means to provide alternative routes for traffic now transecting the park. The Secretary shall provide for extensive public involvement in the preparation of the study.

(b) DETERMINATION.—Within 1 year after the enactment of this Act, the Secretary shall complete the study under subsection (a). The study shall determine when and how the highways (known as routes 29 and 234) should be closed.

(c) ASSISTANCE.—The Secretary shall provide funds to the appropriate construction agency for the construction and improvement of

the highways to be used for the rerouting of traffic now utilizing highways (known as routes 29 and 234) to be closed pursuant to subsection (b) if the construction and improvement of such alternatives are deemed by the Secretary to be in the interest of protecting the integrity of the park. Not more than 75 percent of the costs of such construction and improvement shall be provided by the Secretary and at least 25 percent shall be provided by State or local governments from any source other than Federal funds. Such construction and improvement shall be approved by the Secretary of Transportation.

State and local governments.

(d) AUTHORIZATION.—There is authorized to be appropriated to the Secretary not to exceed $30,000,000 to prepare the study required by subsection (a) and to provide the funding described in subsection (c).

Approved November 10, 1988.

LEGISLATIVE HISTORY—H.R. 4333 (S. 2238):

HOUSE REPORTS: No. 100-795 (Comm. on Ways and Means) and No. 100-1104 (Comm. of Conference).
SENATE REPORTS: No. 100-445 accompanying S. 2238 (Comm. on Finance).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 4, considered and passed House.
Oct. 6, 7, S. 2238 considered in Senate.
Oct. 11, H.R. 4333 considered and passed Senate, amended.
Oct. 21, House and Senate agreed to conference report.

Public Law 100-648
100th Congress

An Act

To amend section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2), to authorize the issuance of patents with a limited reverter provision of lands devoted to solid waste disposal, and for other purposes.

Nov. 10, 1988
[H.R. 4362]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Recreation and Public Purposes Amendment Act of 1988.
Hazardous materials.
43 USC 869 note.

SECTION 1. SHORT TITLE.—This Act may be cited as the "Recreation and Public Purposes Amendment Act of 1988".

SEC. 2 AMENDMENT.—Section 3 of the Act of June 14, 1926, as amended (43 U.S.C. 869-2) is redesignated as subsection 3(a) and the following new subsections are added at the end thereof:

"(b) NEW DISPOSAL SITES.—(1) Notwithstanding the provisions of subsection (a) of this section, if the Secretary receives an application for conveyance of land under this Act for the express purpose of solid waste disposal or for another purpose which the Secretary finds may include the disposal, placement, or release of any hazardous substance, the Secretary may convey such land subject only to the provisions of this subsection.

"(2) Prior to issuance of any conveyance of land under this subsection the Secretary shall investigate the land covered by an application for such conveyance to determine whether or not any hazardous substance is present on such land. Such investigation shall include a review of any available records as to the use of such land and all appropriate analysis of the soil, water and air associated with such land. No land shall be conveyed under this subsection if such investigation indicates that any hazardous substance is present on such land.

"(3) No application for conveyance under this subsection shall be acted on by the Secretary until the applicant has furnished evidence, satisfactory to the Secretary, that a copy of the application and information concerning the proposed use of the land covered by the application has been provided to the Environmental Protection Agency and to all other State and Federal agencies with responsibility for enforcement of State and Federal laws applicable to lands used for the disposal, placement, or release of solid waste or any hazardous substance.

"(4) No application for conveyance under this subsection shall be acted on by the Secretary until the applicant has given a warranty that use of the land covered by the application will be consistent with all applicable State and Federal laws, including laws dealing with the disposal, placement, or release of hazardous substances, and that the applicant will hold the United States harmless from any liability that may arise out of any violation of any such law.

"(5) A conveyance under this subsection shall be made to the extent that the applicant has demonstrated to the Secretary that the land covered by an application meets all applicable State and local requirements and is appropriate in character and reasonable in acreage in order to meet an existing or reasonably anticipated

need for solid waste disposal or for another proposed use that the Secretary finds may include the disposal, placement, or release of any hazardous substance.

"(6) A conveyance under this subsection shall be subject to the following conditions:

"(A) Except as otherwise provided in subparagraphs (B) and (D) of this paragraph, the document of conveyance shall provide that the lands conveyed under this subsection shall revert to the United States, unless substantially all of the lands have been used, on or before the date five years after the date of conveyance, for the purpose or purposes specified in the application, or for other use or uses authorized under section 3(a) with the consent of the Secretary.

"(B) In the event that at any time after such conveyance any portion of such lands has not been used for the purpose or purposes specified in the application, and the party to whom such lands were conveyed by the Secretary shall transfer ownership of such unused portion to any other party, the party to whom such lands were conveyed by the Secretary shall be liable to pay the Secretary, on behalf of the United States, the fair market value of such transferred portion as of the date of such transfer, including the value of any improvements thereon. Subject to appropriations, all amounts received by the Secretary under this subparagraph shall be retained by the Secretary and used for the management of public lands and shall remain available until expended.

"(C) Pricing for conveyances of land under this subsection shall be in accordance with the provisions of section 2 of this Act, except that no compensation shall be required for the inclusion of only the limited reverter specified in this paragraph.

"(D) Each patent issued under this subsection shall specify that no portion of the lands covered by such patent shall under any circumstances revert to the United States if such portion has been used for solid waste disposal or for any other purpose that the Secretary finds may result in the disposal, placement, or release of any hazardous substance.

"(7) For purposes of this section the term 'hazardous substance' has the same meaning as such term has when used in the Comprehensive Environmental Response, Compensation, and Liability Act (42 U.S.C. 9601 et seq.).

"(c) EXISTING DISPOSAL SITES.—(1) Upon the application or with the concurrence of any party to whom the Secretary, prior to the date of enactment of this subsection, conveyed land under this Act, the Secretary may renounce the reversionary interests of the United States in such land, or portion thereof, if the Secretary finds that such land, or portion thereof, has been used for solid waste disposal or for any other purpose which the Secretary finds may result in the disposal, placement, or release of any hazardous substance, and the Secretary may rescind any portion of any patent or other instrument of conveyance inconsistent with such renunciation. After such renunciation, affected lands shall not under any circumstances revert to the United States by the operation of law, and shall cease to be subject to the provisions of subsection (a) of this section.

"(2) Upon the application or with the concurrence of a party to whom the Secretary, prior to the date of enactment of this subsection, leased lands pursuant to this Act, the Secretary may convey in

fee the lands covered by such lease or any portion thereof which have been used for solid waste disposal or for any other purpose that the Secretary finds may result in the disposal, placement, or release of any hazardous substance. Notwithstanding any other provision of this Act, a patent issued pursuant to this paragraph shall not contain a reverter provision and the lands covered by such patent shall not under any circumstances revert to the United States by operation of law after the issuance of such patent and shall not be subject to the provisions of subsection (a) of this section.".

SEC. 3. SAVINGS CLAUSE.—Nothing in this Act or the amendments made thereby shall be construed to affect the applicability and operation of the Comprehensive Environmental Response, Compensation and Liability Act (42 U.S.C. 9601 et seq.) as amended, and the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6901 et seq.), as amended. 43 USC 869-2 note.

SEC. 4. CONGRESSIONAL REVIEW.—(a) The Secretary shall not make any conveyance of land or renunciation of reversionary interests under this Act until he has published in the Federal Register regulations implementing this Act and until sixty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after these regulations have been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives. 43 USC 869-2 note. Federal Register, publication. Regulations.

(b) During the first three years after enactment of this Act the Secretary shall not make any conveyance of land or renunciation of reversionary interests under this Act until thirty days (not counting days on which the House of Representatives or the Senate has adjourned for more than three days) after notice of intention to do so has been submitted to the Committee on Energy and Natural Resources of the Senate and the Committee on Interior and Insular Affairs of the House of Representatives.

Approved November 10, 1988.

LEGISLATIVE HISTORY—H.R. 4362:

HOUSE REPORTS: No. 100-934 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 20, considered and passed House.
Oct. 21, considered and passed Senate, amended. House concurred in Senate amendment.

○

Public Law 100-649
100th Congress

An Act

Nov. 10, 1988
[H.R. 4445]

To amend title 18, United States Code, to prohibit certain firearms especially useful to terrorists.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Undetectable Firearms Act of 1988.
Business and industry.
Imports.
Commerce and trade.
Exports.
18 USC 921 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Undetectable Firearms Act of 1988".

SEC. 2. UNDETECTABLE FIREARMS.

(a) PROHIBITIONS.—Section 922 of title 18, United States Code, is amended by adding at the end the following:

"(p)(1) It shall be unlawful for any person to manufacture, import, sell, ship, deliver, possess, transfer, or receive any firearm—

"(A) that, after removal of grips, stocks, and magazines, is not as detectable as the Security Exemplar, by walk-through metal detectors calibrated and operated to detect the Security Exemplar; or

"(B) any major component of which, when subjected to inspection by the types of x-ray machines commonly used at airports, does not generate an image that accurately depicts the shape of the component. Barium sulfate or other compounds may be used in the fabrication of the component.

"(2) For purposes of this subsection—

"(A) the term 'firearm' does not include the frame or receiver of any such weapon;

"(B) the term 'major component' means, with respect to a firearm, the barrel, the slide or cylinder, or the frame or receiver of the firearm; and

"(C) the term 'Security Exemplar' means an object, to be fabricated at the direction of the Secretary, that is—

"(i) constructed of, during the 12-month period beginning on the date of the enactment of this subsection, 3.7 ounces of material type 17-4 PH stainless steel in a shape resembling a handgun; and

"(ii) suitable for testing and calibrating metal detectors:

Regulations.

Provided, however, That at the close of such 12-month period, and at appropriate times thereafter the Secretary shall promulgate regulations to permit the manufacture, importation, sale, shipment, delivery, possession, transfer, or receipt of firearms previously prohibited under this subparagraph that are as detectable as a 'Security Exemplar' which contains 3.7 ounces of material type 17-4 PH stainless steel, in a shape resembling a handgun, or such lesser amount as is detectable in view of advances in state-of-the-art developments in weapons detection technology.

"(3) Under such rules and regulations as the Secretary shall prescribe, this subsection shall not apply to the manufacture, posses-

sion, transfer, receipt, shipment, or delivery of a firearm by a licensed manufacturer or any person acting pursuant to a contract with a licensed manufacturer, for the purpose of examining and testing such firearm to determine whether paragraph (1) applies to such firearm. The Secretary shall ensure that rules and regulations adopted pursuant to this paragraph do not impair the manufacture of prototype firearms or the development of new technology.

"(4) The Secretary shall permit the conditional importation of a firearm by a licensed importer or licensed manufacturer, for examination and testing to determine whether or not the unconditional importation of such firearm would violate this subsection.

"(5) This subsection shall not apply to any firearm which—

"(A) has been certified by the Secretary of Defense or the Director of Central Intelligence, after consultation with the Secretary and the Administrator of the Federal Aviation Administration, as necessary for military or intelligence applications; and

"(B) is manufactured for and sold exclusively to military or intelligence agencies of the United States.

"(6) This subsection shall not apply with respect to any firearm manufactured in, imported into, or possessed in the United States before the date of the enactment of the Undetectable Firearms Act of 1988.".

(b) PENALTY.—Section 924 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by striking "or (c)" and inserting in lieu thereof ", (c), or (f)"; and

(2) by adding at the end the following:

"(f) In the case of a person who knowingly violates section 922(p), such person shall be fined under this title, or imprisoned not more than 5 years, or both.".

(c) CONFORMING AMENDMENTS.—Section 925 of title 18, United States Code, is amended—

(1) in subsection (a), by inserting after "chapter" the following: ", except for provisions relating to firearms subject to the prohibitions of section 922(p),"; and

(2) by adding at the end the following:

"(f) The Secretary shall not authorize, under subsection (d), the importation of any firearm the importation of which is prohibited by section 922(p).".

(d) RESEARCH AND DEVELOPMENT OF IMPROVED AIRPORT SECURITY SYSTEMS.—The Administrator of the Federal Aviation Administration shall conduct such research and development as may be necessary to improve the effectiveness of airport security metal detectors and airport security x-ray systems in detecting firearms that, during the 10-year period beginning on the effective date of this Act, are subject to the prohibitions of section 922(p) of title 18, United States Code. 49 USC app. 1356 note.

(e) STUDIES TO IDENTIFY EQUIPMENT CAPABLE OF DISTINGUISHING SECURITY EXEMPLAR FROM OTHER METAL OBJECTS LIKELY TO BE CARRIED ON ONE'S PERSON.—The Attorney General, the Secretary of the Treasury, and the Secretary of Transportation shall each conduct studies to identify available state-of-the-art equipment capable of detecting the Security Exemplar (as defined in section 922(p)(2)(C) of title 18, United States Code) and distinguishing the Security Exemplar from innocuous metal objects likely to be carried on one's person. Such studies shall be completed within 6 months after the 18 USC 922 note.

date of the enactment of this Act and shall include a schedule providing for the installation of such equipment at the earliest practicable time at security checkpoints maintained or regulated by the agency conducting the study. Such equipment shall be installed in accordance with each schedule. In addition, such studies may include recommendations, where appropriate, concerning the use of secondary security equipment and procedures to enhance detection capability at security checkpoints.

18 USC 922 note.

(f) EFFECTIVE DATE AND SUNSET PROVISION.—

(1) EFFECTIVE DATE.—This Act and the amendments made by this Act shall take effect on the 30th day beginning after the date of the enactment of this Act.

(2) 10-YEAR SUNSET.—Effective 10 years after the effective date of this Act—

(A) subsection (p) of section 922 of title 18, United States Code, is hereby repealed;

(B) subsection (f) of section 924 of such title is hereby repealed;

(C) subsection (f) of section 925 of such title is hereby repealed;

(D) section 924(a)(1) of such title is amended by striking ", (c), or (f)" and inserting in lieu thereof "or (c)"; and

(E) section 925(a) of such title is amended by striking ", except for provisions relating to firearms subject to the prohibitions of section 922(p),".

Approved November 10, 1988.

LEGISLATIVE HISTORY—H.R. 4445 (S. 2180):

HOUSE REPORTS: No. 100-612 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 10, considered and passed House.
May 25, considered and passed Senate, amended, in lieu of S. 2180.
Oct. 20, House concurred in Senate amendment with an amendment.
Oct. 21, Senate concurred in House amendment with an amendment. House concurred in Senate amendment.

○

Public Law 100-650
100th Congress

An Act

Nov. 10, 1988
[H.R. 4879]

To amend the Depository Institution Management Interlocks Act to revise the manner in which the service of directors of depository institutions and depository holding companies are regulated, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Management Interlocks Revision Act of 1988.
12 USC 3201 note.

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Management Interlocks Revision Act of 1988".

SEC. 2. AFFILIATION THRESHOLD.

Section 202(3)(B) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(3)(B)) is amended by striking "50 per centum" each place such term appears and inserting in lieu thereof "25 percent".

SEC. 3. EXCLUSION OF CERTAIN ADVISORY AND HONORARY DIRECTORS.

Section 202(4) of the Depository Institution Management Interlocks Act (12 U.S.C. 3201(4)) is amended by striking out "(including an advisory or honorary director)" and inserting in lieu thereof "(including an advisory or honorary director, except in the case of a depository institution with total assets of less than $100,000,000)".

SEC. 4. EXCEPTION FOR FAILED OR FAILING INSTITUTIONS WHICH ARE ACQUIRED.

Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by adding at the end thereof the following new paragraph:

"(7) A depository institution or a depository holding company which—

"(A) is closed or is in danger of closing, as determined by the appropriate Federal depository institutions regulatory agency in accordance with regulations prescribed by such agency; and

"(B) is acquired by another depository institution or depository holding company,

during the 5-year period beginning on the date of the acquisition of the depository institution or depository holding company described in subparagraph (A).".

SEC. 5. LIMITED EXCEPTION FOR DIVERSIFIED SAVINGS AND LOAN HOLDING COMPANIES.

(a) EXCEPTION ESTABLISHED.—Section 205 of the Depository Institution Management Interlocks Act (12 U.S.C. 3204) is amended by inserting after paragraph (7) (as added by section 4 of this Act) the following new paragraph:

"(8)(A) A diversified savings and loan holding company (as defined in section 408(a)(1)(F) of the National Housing Act) with

respect to the service of a director of such company who is also a director of any nonaffiliated depository institution or depository holding company (including a savings and loan holding company) if—

"(i) notice of the proposed dual service is given by such diversified savings and loan holding company to—

"(I) the appropriate Federal depository institutions regulatory agency for such company; and

"(II) the appropriate Federal depository institutions regulatory agency for the nonaffiliated depository institution or depository holding company of which such person is also a director,

not less than 60 days before such dual service is proposed to begin; and

"(ii) the proposed dual service is not disapproved by any such appropriate Federal depository institutions regulatory agency before the end of such 60-day period.

"(B) Any appropriate Federal depository institutions regulatory agency may disapprove, under subparagraph (A)(ii), a notice of proposed dual service by any individual if such agency finds that—

"(i) the dual service cannot be structured or limited so as to preclude the dual service's resulting in a monopoly or substantial lessening of competition in financial services in any part of the United States;

"(ii) the dual service would lead to substantial conflicts of interest or unsafe or unsound practices; or

"(iii) the diversified savings and loan holding company has neglected, failed, or refused to furnish all the information required by such agency.

"(C) Any appropriate Federal depository institutions regulatory agency may, at any time after the end of the 60-day period referred to in subparagraph (A), require that any dual service by any individual which was not disapproved by such agency during such period be terminated if a change in circumstances occurs with respect to any depository institution or depository holding company of which such individual is a director that would have provided a basis for disapproval of the dual service during such period.".

(b) APPROPRIATE FEDERAL DEPOSITORY INSTITUTIONS REGULATORY AGENCY DEFINED.—

(1) IN GENERAL.—Section 202 of the Depository Institution Management Interlocks Act (12 U.S.C. 3202) is amended— 12 USC 3201.

(A) by adding at the end thereof the following new paragraph:

"(6) the term 'appropriate Federal depository institutions regulatory agency' means, with respect to any depository institution or depository holding company, the agency referred to in section 209 in connection with such institution or company.";

(B) by striking out "and" at the end of paragraph (4); and

(C) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and".

(2) CONFORMING AMENDMENT.—Section 206(a) of the Depository Institution Management Interlocks Act (12 U.S.C. 3205(a)) is amended by striking out "banking agency (as set forth in

section 209)" and inserting in lieu thereof "depository institutions regulatory agency".

SEC. 6. EXTENSION OF GRANDFATHER CLAUSE.

Subsections (a) and (b) of section 206 of the Depository Institution Management Interlocks Act (12 U.S.C. 3205) are each amended by striking "ten years" and inserting in lieu thereof "15 years".

Approved November 10, 1988.

LEGISLATIVE HISTORY—H.R. 4879:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 6, considered and passed House.
Oct. 21, considered and passed Senate.

Public Law 100-651
100th Congress

Joint Resolution

Nov. 10, 1988
[H.J. Res. 649]

Designating November 12, 1988, as "National Firefighters Day".

Whereas there are over 2,000,000 professional and volunteer firefighters in the United States;
Whereas firefighters responded to over 2,300,000 fires and 8,700,000 emergencies other than fires in 1984;
Whereas fires annually cause approximately 6,000 deaths and $10,000,000,000 worth of property damage;
Whereas firefighters have given their lives and risked injury to preserve the lives of others and to protect our Nation's property;
Whereas the contributions and sacrifices of our valiant firefighters often go unreported and are inadequately recognized by the public; and
Whereas the work of firefighters deserves the attention and gratitude of all Americans: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 12, 1988, is designated as "National Firefighters Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such day with appropriate ceremonies and activities.

Approved November 10, 1988.

LEGISLATIVE HISTORY—H.J. Res. 649:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 21, considered and passed House and Senate.

Public Law 100-652
100th Congress

Joint Resolution

To designate January 4, 1989, as "National Commissioned Corps of the Public Health Service Centennial Day".

Nov. 10, 1988
[S.J. Res. 395]

Whereas the commissioned corps of the Public Health Service of the United States has compiled an exceptional record of service to the health of the people of the United States and the world through concerted efforts at disease prevention, health promotion, environmental intervention, disease control, biomedical research, health care delivery, health program management, policy development, and implementation;

Whereas the commissioned corps of the Public Health Service has been instrumental in the achievement of many innovations and breakthroughs throughout the field of health care;

Whereas, because of diverse and varied training and background, the commissioned corps of the Public Health Service have maintained a highly effective, mobile, and adaptive cadre of health and medical experts that have performed efficiently during emergencies, epidemics, and other adverse situations with courage, proficiency, and valor;

Whereas the officers of the commissioned corps of the Public Health Service have worked to eradicate diseases such as pellagra and smallpox and improved the health of mothers, children, and handicapped individuals through significant accomplishments such as the control of tuberculosis and the development of protective vaccines;

Whereas the officers of the commissioned corps of the Public Health Service have worked to increase the protection of consumers through the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 301 et seq.) and the Mental Health Systems Act (42 U.S.C. 9401 et seq.) and provided health care services for the Merchant Marine, the Coast Guard, the Bureau of Prisons, American Indians, and Native Alaskans;

Whereas on January 4, 1989, the commissioned corps of the Public Health Service celebrates the completion of its first century of existence and begins its second century with the goal of further enhancing the health of the people of the United States through measures such as achieving a drug-free society and eradicating the disease of acquired immune deficiency syndrome: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 4, 1989, is designated as "National Commissioned Corps of the Public Health Service Centennial Day". The President of the United States is authorized and requested to issue a proclamation calling upon the

people of the United States to observe the day with appropriate ceremonies and activities.

Approved November 10, 1988.

LEGISLATIVE HISTORY—S.J. Res. 395 (H.J. Res. 672):

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 21, H.J. Res. 672 considered and passed House. S.J. Res. 395 considered and passed Senate and House.

○

Public Law 100-653
100th Congress

An Act

To reauthorize and amend certain wildlife laws, and for other purposes.

Nov. 14, 1988
[H.R. 4030]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Conservation.
Fish and fishing.

TITLE I—LACEY ACT AMENDMENTS

SEC. 101. PROHIBITED ACTS.

Section 3 of the Lacey Act Amendments of 1981 (16 U.S.C. 3372) is amended—

(1) in subsection (a)(1) (16 U.S.C. 3372(a)(1)) by striking "taken or possessed" and inserting in lieu thereof "taken, possessed, transported, or sold";

(2) by striking subsection (a)(4) (16 U.S.C. 3372(a)(4)) and redesignating subsection (a)(5) as subsection (a)(4); and

(3) by adding at the end thereof the following:

"(c) SALE AND PURCHASE OF GUIDING AND OUTFITTING SERVICES AND INVALID LICENSES AND PERMITS.—

"(1) SALE.—It is deemed to be a sale of fish or wildlife in violation of this Act for a person for money or other consideration to offer or provide—

"(A) guiding, outfitting, or other services; or

"(B) a hunting or fishing license or permit;

for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

Hunting.

"(2) PURCHASE.—It is deemed to be a purchase of fish or wildlife in violation of this Act for a person to obtain for money or other consideration—

"(A) guiding, outfitting, or other services; or

"(B) a hunting or fishing license or permit;

for the illegal taking, acquiring, receiving, transporting, or possessing of fish or wildlife.

"(d) FALSE LABELING OFFENSES.—It is unlawful for any person to make or submit any false record, account, or label for, or any false identification of, any fish, wildlife, or plant which has been, or is intended to be—

Imports.
Exports.
Commerce and trade.
Plants.

"(1) imported, exported, transported, sold, purchased, or received from any foreign country; or

"(2) transported in interstate or foreign commerce.".

SEC. 102. PENALTY.

(a) CIVIL PENALTY.—Paragraph (1) of section 4(a) of the Lacey Act Amendments of 1981 (16 U.S.C. 3373(a)(1)) is amended by inserting "and any person who knowingly violates section 3(d)," after "any underlying law, treaty, or regulation,".

(b) CRIMINAL PENALTY.—Subsection (d) of section 4 of the Lacey Act Amendments of 1981 (16 U.S.C. 3373(d)) is amended by adding at the end the following:

"(3) Any person who knowingly violates section 3(d)—

"(A) shall be fined under title 18, United States Code, or imprisoned for not more than 5 years, or both, if the offense involves—

Imports. Exports. Plants.

"(i) the importation or exportation of fish or wildlife or plants; or

"(ii) the sale or purchase, offer of sale or purchase, or commission of an act with intent to sell or purchase fish or wildlife or plants with a market value greater than $350; and

"(B) shall be fined under title 18, United States Code, or imprisoned for not more than 1 year, or both, if the offense does not involve conduct described in subparagraph (A).".

16 USC 3373.

(c) CONFORMING AMENDMENTS.—Section 4 is amended in subsections (a)(1), (d)(1)(A), (d)(1)(B), and (d)(2) by striking "(other than section 3(b))" each place those words appear and inserting in lieu thereof "(other than subsections (b) and (d) of section 3)".

SEC. 103. REVIEW OF CIVIL PENALTY.

The first sentence of subsection (c) of section 4 of the Lacey Act Amendments of 1981 (16 U.S.C. 3373(c)) is amended to read as follows:

"(c) REVIEW OF CIVIL PENALTY.—Any person against whom a civil penalty is assessed under this section may obtain review thereof in the appropriate District Court of the United States by filing a complaint in such court within 30 days after the date of such order and by simultaneously serving a copy of the complaint by certified mail on the Secretary, the Attorney General, and the appropriate United States attorney.".

SEC. 104. ENFORCEMENT POWERS.

Subsection (b) of section 6 of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(b)) is amended in the first sentence by striking all after the first clause and before the proviso and inserting the following: "may, when enforcing this Act, make an arrest without a warrant, in accordance with any guidelines which may be issued by the Attorney General, for any offense under the laws of the United States committed in the person's presence, or for the commission of any felony under the laws of the United States, if the person has reasonable grounds to believe that the person to be arrested has committed or is committing a felony; may search and seize, with or without a warrant, in accordance with any guidelines which may be issued by the Attorney General;".

TITLE II—SIKES ACT AMENDMENTS AND AUTHORIZATION

SEC. 201. STATE USE OF AMOUNTS FROM STAMP FEES.

Section 203(b)(3) of Public Law 86-797 (commonly known as the Sikes Act; 16 U.S.C. 670i(b)(3)) is amended to read as follows:

"(3) Except for expenses incurred in the printing, issuing, or selling of such stamps, the fees collected for such stamps by the State agency shall be utilized in carrying out conservation and rehabilitation programs implemented under this title in the State concerned. Such fees may be used by the State agency to acquire lands or interests therein from willing sellers or donors to provide public access to program lands that have no existing public access for enhancement of outdoor recreation and wildlife conservation:

Provided, That the Secretary of Agriculture and the Secretary of the Interior maintain such access, or ensure that maintenance is provided for such access, through or to lands within their respective jurisdiction.".

SEC. 202. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION OF APPROPRIATIONS FOR CONSERVATION PROGRAMS ON MILITARY RESERVATIONS.—Subsections (b) and (c) of section 106 of Public Law 86-797 (16 U.S.C. 670f (b) and (c)) are each amended by striking "and 1988," and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, and 1993,".

(b) AUTHORIZATION OF APPROPRIATIONS FOR CONSERVATION PROGRAMS ON PUBLIC LANDS.—Subsections (a) and (b) of section 209 of Public Law 86-797 (16 U.S.C. 670o(a) and (b)) are each amended by striking "and 1988," and inserting in lieu thereof "1988, 1989, 1990, 1991, 1992, and 1993,".

TITLE III—WETLANDS LOAN FUND EXTENSION: MIGRATORY BIRD HUNTING STAMP ACT AMENDMENT

SEC. 301. WETLANDS LOAN FUND EXTENSION.

The first section of the Act entitled "An Act to promote the conservation of migratory waterfowl by the acquisition of wetlands, and for other essential waterfowl habitat, and for other purposes, approved October 4, 1961 (16 U.S.C. 715k-3), is amended by striking "at the close of September 30, 1988," and inserting in lieu thereof "when all amounts authorized to be appropriated have been expended,".

SEC. 302. MIGRATORY BIRD HUNTING STAMP ACT AMENDMENT.

Section 5 of the Act of March 16, 1934 (commonly known as the Migratory Bird Hunting Stamp Act; 16 U.S.C. 718e(c)) is amended in the second sentence by inserting after "paid" the following: ", after deducting expenses for marketing,".

TITLE IV—CONVEYANCE AND NAMING OF FISH HATCHERIES

SEC. 401. CONVEYANCE. Georgia.

Subject to section 403, the Secretary of the Interior shall convey, without consideration, to the University of Georgia all right, title, and interest of the United States in and to the property described in section 402, for use by the University of Georgia in its fishery research and extension program.

SEC. 402. DESCRIPTION OF PROPERTY.

The property referred to in section 401 is a tract of land comprising approximately 63 acres, and improvements thereto, located in lots 25 and 48 of the 11th District, 3rd Section, Whitfield County, Georgia, as generally depicted in the legal description of the Cohutta Fish Hatchery contained in Appendix A of the Memorandum of Agreement between the United States Fish and Wildlife Service and the University of Georgia, Agreement No. 14-16-0004-83-926, dated September 29, 1983.

SEC. 403. REVERSIONARY INTEREST OF THE UNITED STATES.

The property conveyed under section 401 of this title shall continue to be reserved, maintained, and utilized by the University of Georgia in its fishery research and extension program. If any of the property is used for any other purpose, the title to such property shall revert to the United States.

Georgia.

SEC. 404. NAMING OF BO GINN NATIONAL FISH HATCHERY AND AQUARIUM.

The fish hatchery and aquarium known as the Millen National Fish Hatchery, located on Georgia State Highway 25 north of Millen, Georgia, shall be known as the "Bo Ginn National Fish Hatchery and Aquarium". Any reference in any law, map, regulation, document, record, or other paper of the United States to such hatchery and aquarium is deemed to be a reference to the "Bo Ginn National Fish Hatchery and Aquarium".

SEC. 405. CONVEYANCE OF FISH HATCHERY TO THE COMMONWEALTH OF KENTUCKY.

Notwithstanding any other provision of law and within 180 days of the date of enactment of this Act, the Secretary of the Interior shall convey, without reimbursement, to the Commonwealth of Kentucky, all of the right, title, and interest, including the water rights, of the United States in and to the fish hatchery property located approximately 14 miles due north of the city of Frankfort in Franklin County, Kentucky and known as the Frankfort National Fish Hatchery, consisting of 114.2 acres, more or less, of land together with any improvements and related personal property thereon. The property conveyed by this Act shall be used by the Kentucky Department of Fish and Wildlife Resources as a part of the Kentucky fishery resources management program and if it is used for any other purpose, title to such property shall revert to the United States.

SEC. 406. CONVEYANCE OF FISH HATCHERY TO THE STATE OF NEW HAMPSHIRE.

Notwithstanding any other provision of law, the Secretary of the Interior shall convey, without reimbursement, to the State of New Hampshire no later than December 31, 1988, all of the right, title, and interest of the United States in and to those improvements and related personal property under the Secretary's jurisdiction, including buildings, structures and equipment, associated with the United States' facility known as the Berlin National Fish Hatchery and located in the northwest corner of Berlin township, Coos County, New Hampshire. The improvements and related personal property conveyed shall be used by the New Hampshire Fish and Game Department as a part of the New Hampshire fishery resources management program and if they are used for any other purpose, title to such property shall revert to the United States.

SEC. 407. CONVEYANCE OF FISH HATCHERY TO THE STATE OF WISCONSIN.

Notwithstanding any other provision of law and within 180 days of the date of enactment of this Act, the Secretary of the Interior shall convey, without reimbursement, to the State of Wisconsin, all of the right, title, and interest, including the easements and water rights, of the United States in and to the fish hatchery property located in the Town of Lake Mills, Wisconsin, and known as the

Lake Mills National Fish Hatchery, consisting of the land together with any improvements and related personal property thereon. The property conveyed by this Act shall be used by the Wisconsin Department of Natural Resources as a part of the Wisconsin fishery resources management program and if it is used for any other purpose, title to such property shall revert to the United States.

TITLE V—ACQUISITION OF LANDS ADJACENT TO KILAUEA POINT NATIONAL WILDLIFE REFUGE

Hawaii.

SEC. 501. ADDITIONAL LANDS.

(a) AUTHORIZATION.—The Secretary of the Interior is authorized to acquire certain additional lands adjacent to the Kilauea Point National Wildlife Refuge on Kauai, Hawaii, which shall become part of the Kilauea Point National Wildlife Refuge upon acquisition by the Secretary.

(b) DESCRIPTION OF LANDS.—The lands to be acquired pursuant to subsection (a) are—

(1) Crater Hill, comprising approximately 101.1 acres; and

(2) Mokolea Point, comprising 37.6 acres.

SEC. 502. CONSTRUCTION AND ENHANCEMENT PROJECTS.

(a) IN GENERAL.—Within the Kilauea Point National Wildlife Refuge (upon acquisition of the lands described in section 501), the Secretary of the Interior may—

(1) construct and maintain access foot trails, including pedestrian viewing trails, to provide for public access;

(2) construct an access road for these lands to facilitate law enforcement and ensure public safety;

(3) acquire, or construct, and maintain a fence to provide for wildlife protection;

(4) conduct native plant restoration and wildlife enhancement activities; and

(5) establish a recreation area in the vicinity of Kahili Bay.

(b) CONSTRUCTION REQUIREMENT.—Trails and access roads constructed under this section shall be constructed in a manner consistent with preserving the wild and scenic beauty of the wildlife refuge.

SEC. 503. AUTHORIZATION OF FUNDING.

There is hereby authorized to be appropriated $2,600,000 to carry out the provisions of this title.

TITLE VI—AMENDMENTS TO ACT PROVIDING FOR RESTORATION OF KLAMATH RIVER BASIN FISHERY RESOURCES

SEC. 601. TRAVEL EXPENSES FOR TASK FORCE MEMBERS.

Section 4(i) of the Act entitled "An Act to provide for the restoration of the fishery resources of the Klamath River Basin, and for other purposes" (approved October 27, 1986; 16 U.S.C. 460ss-3(i)) is amended to read as follows:

"(i) EXPENSES.—

"(1) TRAVEL EXPENSES.—While away from their homes or regular places of business in the performance of services for the Task Force, Task Force members shall be allowed travel expenses, including a per diem allowance in lieu of subsistence, in the same manner as persons employed intermittently in the

Government service are allowed travel expenses under section 5703 of title 5 of the United States Code. Any Task Force member who is an employee of an agency or governmental unit and is eligible for travel expenses from that agency or unit for performing services for the Task Force is not eligible for travel expenses under this paragraph.

"(2) LIMITATION ON SPENDING AUTHORITY.—No money authorized to be appropriated under section 6 may be used to reimburse any agency or governmental unit (whose employees are Task Force members) for time spent by any such employee performing Task Force duties.".

SEC. 602. PROCEDURES OF COUNCIL AND TASK FORCE.

(a) COUNCIL PROCEDURES.—Section 3(g)(1) of such Act of October 27, 1986 (16 U.S.C. 460ss-2(g)(1)) is amended to read as follows:

"(1) PROCEDURES.—The Council shall establish practices and procedures for the carrying out of its functions under subsection (b). The procedures shall include requirements that—

"(A) a quorum of the Council must be present before business may be transacted; and

"(B) no comprehensive plan or recommendation referred to in subsection (b)(1) (A) or (B) may be adopted by the Council except by the unanimous vote of all members present and voting.".

(b) TASK FORCE PROCEDURES.—Section 4(f)(1) of such Act of October 27, 1986 (16 U.S.C. 460ss-3(f)(1)) is amended to read as follows:

"(1) PROCEDURES.—The Task Force shall establish practices and procedures for the carrying out of its functions under subsection (b). The procedures shall include the requirement that a quorum of the Task Force must be present before business may be transacted.".

SEC. 603. CONFORMING AND TECHNICAL AMENDMENTS.

Such Act of October 27, 1986, is further amended as follows:

(1) Sections 3(i) and 4(h) are each amended by striking out "or the State of California" and inserting ", the State of California, or the State of Oregon".

(2) Section 3(j)(1) is amended by adding at the end thereof the following new sentence: "Any Council member who is an employee of an agency or governmental unit and is eligible for travel expenses from that agency or unit for performing services for the Council is not eligible for travel expenses under this paragraph.".

16 USC 460ss-5.

(3) The first sentence of section 6(a) is amended by inserting before the period the following: "and for the payment of travel expenses under sections 3(j) and 4(i)".

(4) Section 6(b)(3) is amended by striking out "volunteers" and all that follows thereafter and inserting "volunteers.".

SEC. 604. SHORT TITLE.

Such Act of October 27, 1986, is further amended by adding at the end thereof the following new section:

Klamath River Basin Fishery Resources Restoration Act. 16 USC 460ss note.

"SEC. 8. SHORT TITLE.

"This Act may be cited as the 'Klamath River Basin Fishery Resources Restoration Act'.".

TITLE VII—RUSSIAN RIVER STUDY

California.

SEC. 701. JOINT FEDERAL-STATE STUDY AND RECOMMENDATIONS.

(a) IN GENERAL.—

(1) STUDY.—Subject to section 703, the Director of the United States Fish and Wildlife Service (hereinafter in this title referred to as the "Director") and the Secretary of the Army (hereinafter in this title referred to as the "Secretary") shall—

(A) jointly undertake a comprehensive study of the fishery resources and fishery habitats of the Russian River (California) basin (hereinafter in this Act referred to as the "basin") and, on the basis of such study, develop goals and short-term and long-term recommended actions for maximizing the restoration and conservation of such resources and habitats;

(B) invite the Director of the Department of Fish and Game of the State of California to participate in undertaking the study and developing recommended actions; and

(C) submit the study and recommended goals and actions to Congress before October 1, 1991.

(2) PARTICIPATION OF DIRECTOR OF CALIFORNIA DEPARTMENT OF FISH AND GAME.—If there is an affirmative response to the invitation extended under paragraph (1)(B), the Director of the Department of Fish and Game of the State of California is authorized to participate jointly with the Director and the Secretary in undertaking the study and developing recommended goals and actions.

(b) MEMORANDUM OF UNDERSTANDING.—The Director, the Secretary, and the Director of the Department of Fish and Game of the State of California, if a joint participant, shall enter into a memorandum of understanding which shall set forth the respective responsibilities of each of the agencies in carrying out the study under this title. The United States Fish and Wildlife Service shall be the lead agency for purposes of carrying out this title.

(c) CONSULTATION.—In carrying out this title, the Director and the Secretary shall, to the maximum extent practicable, consult with the National Marine Fisheries Service, appropriate commercial and recreational fishing interests, affected local governments, and (if the joint participation referred to in subsection (a)(2) is not effected) the Director of the Department of Fish and Game of the State of California.

SEC. 702. STUDY CONTENTS.

The study referred to in section 701 shall include, but is not limited to, the following:

(1) DESCRIPTION OF FISHERY RESOURCES AND HABITATS.—A description of the fishery resources and fishery habitats of the basin that is based, to the maximum extent practicable, on new stream surveys and other field data collected expressly for the study. The description shall include, but not be limited to—

(A) an identification, and an estimate of the extent of utilization, of the existing spawning and rearing areas in the mainstem and tributaries;

(B) an evaluation of the quality and quantity of gravels in the spawning areas in the mainstem and tributaries;

(C) estimates of the instream flow needs for steelhead and chinook salmon in the mainstem and tributaries;

(D) population estimates of all fish species in the basin that are of sport or commercial value;

(E) an evaluation of the effectiveness of screens on water diversions along the mainstem and tributaries; and

(F) an identification of alternative bank stabilization methods which would allow for growth of shade producing riparian vegetation.

(2) DESCRIPTION OF BASIN AND ANALYSIS.—A description of the basin and an analysis of how its characteristics, and current and planned land and water use practices within the basin, have affected, and can be expected to affect, the fishery resources and fishery habitats of the basin.

(3) HISTORICAL ACCOUNT OF FISHERY RESOURCES AND HABITATS AND ANALYSIS.—A historical account of the fishery resources and fishery habitats of the basin and an analysis of the current status and the trends of such resources and habitats, including an analysis of the existing and projected problems facing such resources and habitats.

(4) EVALUATION OF INFORMATION.—An evaluation of the adequacy of the information that is currently available, and specification of the additional kinds and quantity of information that must be obtained, for purposes of carrying out the conservation and restoration of the fishery resources and the fishery habitats of the basin.

(5) FEDERAL, STATE, AND LOCAL GOVERNMENT ROLES.—A discussion of the respective roles of the Federal, State, and local government authorities that pertain to the conservation and restoration of the fishery resources and fishery habitats of the basin, with particular attention being given to the fishery management plans and responsibilities of such authorities and the relationship of such plans with applicable private fishery management plans.

SEC. 703. COST SHARING.

(a) REQUIREMENT FOR SHARING.—The State of California may not jointly participate in undertaking the study referred to in section 701 or in developing goals and recommended actions unless the Director is satisfied that the State of California will pay, on a basis considered timely and appropriate by the Director and from non-Federal sources, one-third of the cost of the study.

(b) IN-KIND CONTRIBUTIONS.—In addition to cash outlays, the Director shall consider as payment by the State of California under subsection (a) the value of in-kind contributions and personal property provided by, or on behalf of, the State for purposes of carrying out the study. Valuations made by the Director under this subsection are final and not subject to judicial review.

(c) IN-KIND CONTRIBUTIONS.—For purposes of subsection (b), in-kind contributions may be in the form of personal services rendered by volunteers.

(d) REGULATIONS.—The Director shall by regulation establish—

(1) the training, experience, and other qualifications which such volunteers must have in order for their services to be considered as in-kind contributions; and

(2) the standards under which the Director will determine the value of in-kind contributions and real and personal property for purposes of subsection (b).

(e) LIMITATION.—The Director may not consider the expenditure, either directly or indirectly, with respect to the study of Federal moneys received by the State of California or any local government of such State to be a financial contribution from a non-Federal source to carry out the study.

SEC. 704. AUTHORIZATION OF APPROPRIATIONS.

For carrying out this Act there are authorized to be appropriated to the Director and to the Secretary a total of not more than $2,000,000 for fiscal years 1990 and 1991.

TITLE VIII—AMENDMENTS TO THE FISH AND WILDLIFE CONSERVATION ACT OF 1980

SEC. 801. AUTHORIZATION OF APPROPRIATIONS.

Section 11 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910) is amended by striking "and 1988." and inserting in lieu thereof "1988, 1989, and 1990.".

SEC. 802. FEDERAL CONSERVATION OF MIGRATORY NONGAME BIRDS.

After section 12 of the Fish and Wildlife Conservation Act of 1980 (16 U.S.C. 2910), add the following new section:

"SEC. 13. FEDERAL CONSERVATION OF MIGRATORY NONGAME BIRDS. 16 USC 2912.

"(a) CONSERVATION ACTIVITIES.—The Secretary shall undertake the following research and conservation activities, in coordination with other Federal, State, international and private organizations, to assist in fulfilling his responsibilities to conserve migratory nongame birds under existing authorities provided by the Migratory Bird Treaty Act and Migratory Bird Conservation Act (16 U.S.C. 701-715) and section 8A(e) of the Endangered Species Act (16 U.S.C. 1537A(e)) implementing the Convention on Nature Protection and Wildlife Preservation in the Western Hemisphere: Research and development.

"(1) monitor and assess population trends and status of species, subspecies, and populations of all migratory nongame birds;

"(2) identify the effects of environmental changes and human activities on species, subspecies, and populations of all migratory nongame birds;

"(3) identify species, subspecies, and populations of all migratory nongame birds that, without additional conservation actions, are likely to become candidates for listing under the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543); and

"(4) identify conservation actions to assure that species, subspecies, and populations of migratory nongame birds identified under paragraph (3) do not reach the point at which the measures provided pursuant to the Endangered Species Act of 1973, as amended (16 U.S.C. 1531-1543) become necessary.

"(b) REPORTS.—Within one year after the date of enactment of this Act, and at five-year intervals thereafter, the Secretary shall prepare a report that presents the results of the activities taken pursuant to subsection (a) of this section and that describes any efforts to carry out those conservation actions identified pursuant to paragraph (4) of subsection (a) of this section. Such reports shall be submitted to the Committee on Environment and Public Works of the United States Senate and to the Committee on

Merchant Marine and Fisheries of the United States House of Representatives.".

TITLE IX—MISCELLANEOUS AMENDMENTS

State and local governments. Territories, U.S. 16 USC 742m.

SEC. 901. RELINQUISHMENT OF EXCLUSIVE LEGISLATIVE JURISDICTION.

Notwithstanding any other provision of law, the Secretary of the Interior, acting through the Director of the United States Fish and Wildlife Service, may relinquish to a State, or to a Commonwealth, territory, or possession of the United States, the exclusive legislative jurisdiction of the United States over all or part of any United States Fish and Wildlife Service lands or interests therein, including but not limited to National Wildlife Refuge System and National Fish Hatchery System lands, in that State, Commonwealth, territory, or possession. Relinquishment of exclusive legislative jurisdiction under this subsection may be accomplished (1) by filing with the Governor (or, if none, the chief executive officer) of the State, Commonwealth, territory, or possession concerned, a notice of relinquishment to take effect upon acceptance thereof, or (2) as the laws of the State, Commonwealth, territory, or possession may otherwise provide.

SEC. 902. REMOVAL OF THE A. REGINA.

Section 1115 of the Water Resources Development Act of 1986, Public Law 99-662 (1986), 100 Stat. 4235, shall be amended by striking the final period thereof and by adding thereafter the following: ": *Provided,* That, in furtherance of the work authorized by paragraph (3) hereof, and conditioned on successful removal of the A. Regina, the Secretary of the Army is hereby authorized to transfer upon such conditions as he shall deem fit the title to a Delong Pier Jack-Up Barge Type A, serial number BPA6814, directly to any entity, including any private corporation to be used to assist in the removal of the wreck of the said A. Regina. Procedures otherwise governing the disposal of government property, shall not apply to the above authorized transfer of title. The foregoing actions shall be at no cost to the United States, and shall constitute full compliance by the Secretary of the Army with the requirement of paragraph (3) hereof.".

SEC. 903. AMENDMENT TO THE NATIONAL FISH AND WILDLIFE FOUNDATION ESTABLISHMENT ACT.

Section 5 of the Act of March 26, 1984 (16 U.S.C. 3704), otherwise known as the "National Fish and Wildlife Foundation Establishment Act", is amended by inserting the following at the end of section 5: "Notwithstanding any other provision of this section, the Secretary of the Interior is authorized to continue to provide facilities, and necessary support services for such facilities, to the National Fish and Wildlife Foundation after March 26, 1989, on a space available, reimbursable cost basis.".

SEC. 904. AMENDMENT TO THE NATIONAL WILDLIFE REFUGE SYSTEM ADMINISTRATION ACT OF 1966.

Subsection (e) of section 4 of the Act of October 15, 1966 (16 U.S.C. 668dd(e)), otherwise known as the "National Wildlife Refuge System Administration Act of 1966", is amended by striking "thereunder" and all that follows through the end of the sentence and inserting in

lieu thereof "thereunder shall be fined under title 18, United States Code, or imprisoned for not more than 1 year, or both.".

SEC. 905. TECHNICAL CORRECTION.

Section 9(d)(1)(A) of the Endangered Species Act of 1973 (16 U.S.C. 1538(d)(1)(A)), as amended by the African Elephant Conservation Act, is amended further by striking "recreational purposes); or" and inserting in lieu thereof "recreational purposes) or plants; or".

TITLE X—PROTECTION OF MASSACHUSETTS BAY

Massachusetts Bay Protection Act of 1988. Environmental protection. 33 USC 1251 note.

SEC. 1001. SHORT TITLE.

This title may be cited as the "Massachusetts Bay Protection Act of 1988".

33 USC 1330 note.

SEC. 1002. DEFINITION.

For purposes of this title, the term "Massachusetts Bay" includes Massachusetts Bay, Cape Cod Bay, and Boston Harbor, consisting of an area extending from Cape Ann, Massachusetts south to the northern reach of Cape Cod, Massachusetts.

33 USC 1330 note.

SEC. 1003. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds and declares that—

(1) Massachusetts Bay comprises a single major estuarine and oceanographic system extending from Cape Ann, Massachusetts south to the northern reaches of Cape Cod, encompassing Boston Harbor, Massachusetts Bay, and Cape Cod Bay;

(2) several major riverine systems, including the Charles, Neponset, and Mystic Rivers, drain the watersheds of eastern Massachusetts into the Bay;

(3) the shorelines of Massachusetts Bay, first occupied in the middle 1600's, are home to over 4 million people and support a thriving industrial and recreational economy;

(4) Massachusetts Bay supports important commercial fisheries, including lobsters, finfish, and shellfisheries, and is home to or frequented by several endangered species and marine mammals;

(5) Massachusetts Bay also constitutes an important recreational resource, providing fishing, swimming, and boating opportunities to the region;

(6) rapidly expanding coastal populations and pollution pose increasing threats to the long-term health and integrity of Massachusetts Bay;

(7) while the cleanup of Boston Harbor will contribute significantly to improving the overall environmental quality of Massachusetts Bay, expanded efforts encompassing the entire ecosystem will be necessary to ensure its long-term health;

(8) the concerted efforts of all levels of Government, the private sector, and the public at large will be necessary to protect and enhance the environmental integrity of Massachusetts Bay; and

(9) the designation of Massachusetts Bay as an Estuary of National Significance and the development of a comprehensive plan for protecting and restoring the Bay may contribute significantly to its long-term health and environmental integrity.

(b) PURPOSE.—The purpose of this title is to protect and enhance the environmental quality of Massachusetts Bay by providing for its designation as an Estuary of National Significance and by providing for the preparation of a comprehensive restoration plan for the Bay.

SEC. 1004. DESIGNATION AS ESTUARY OF NATIONAL SIGNIFICANCE.

Section 320(a)(2)(B) of the Federal Water Pollution Control Act (33 U.S.C. 1330(a)(2)(B)) is amended by inserting "Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor);" after "Buzzards Bay, Massachusetts;".

33 USC 1330 note.

SEC. 1005. FUNDING SOURCES.

Within one year of enactment, the Administrator of the United States Environmental Protection Agency and the Governor of Massachusetts shall undertake to identify and make available sources of funding to support activities pertaining to Massachusetts Bay undertaken pursuant to or authorized by section 320 of the Clean Water Act, and shall make every effort to coordinate existing research, monitoring or control efforts with such activities.

Approved November 14, 1988.

LEGISLATIVE HISTORY—H.R. 4030:

HOUSE REPORTS: No. 100-732 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 100-563 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 19, House concurred in Senate amendments.

Public Law 100-654
100th Congress

An Act

To amend the provisions of title 5, United States Code, relating to the health benefits program for Federal employees and certain other individuals.

Nov. 14, 1988
[H.R. 5102]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Health Benefits Amendments Act of 1988".

Federal Employees Health Benefits Amendments Act of 1988.
5 USC 8901 note.

TITLE I—PROVISIONS RELATING TO HEALTH CARE PROVIDERS

SEC. 101. AUTHORITY TO IMPOSE DEBARMENT AND OTHER SANCTIONS.

(a) IN GENERAL.—Title 5, United States Code, is amended by inserting after section 8902 the following:

"§ 8902a. Debarment and other sanctions

"(a)(1) For the purpose of this section—

"(A) the term 'provider of health care services or supplies' or 'provider' means a physician, hospital, or other individual or entity which furnishes health care services or supplies;

"(B) the term 'individual covered under this chapter' or 'covered individual' means an employee, annuitant, family member, or former spouse covered by a health benefits plan described by section 8903 or 8903a; and

"(C) an individual or entity shall be considered to have been 'convicted' of a criminal offense if—

"(i) a judgment of conviction for such offense has been entered against the individual or entity by a Federal, State, or local court;

"(ii) there has been a finding of guilt against the individual or entity by a Federal, State, or local court with respect to such offense;

"(iii) a plea of guilty or nolo contendere by the individual or entity has been accepted by a Federal, State, or local court with respect to such offense; or

"(iv) in the case of an individual, the individual has entered a first offender or other program pursuant to which a judgment of conviction for such offense has been withheld;

without regard to the pendency or outcome of any appeal (other than a judgment of acquittal based on innocence) or request for relief on behalf of the individual or entity.

"(2)(A) Notwithstanding section 8902(j) or any other provision of this chapter, if, under subsection (b) or (c), a provider is barred from participating in the program under this chapter, no payment may be

made by a carrier pursuant to any contract under this chapter (either to such provider or by reimbursement) for any service or supply furnished by such provider during the period of the debarment.

Contracts. "(B) Each contract under this chapter shall contain such provisions as may be necessary to carry out subparagraph (A) and the other provisions of this section.

"(b) The Office of Personnel Management may bar the following providers of health care services or supplies from participating in the program under this chapter:

Fraud. "(1) Any provider that has been convicted, under Federal or State law, of a criminal offense relating to fraud, corruption, breach of fiduciary responsibility, or other financial misconduct in connection with the delivery of a health care service or supply.

"(2) Any provider that has been convicted, under Federal or State law, of a criminal offense relating to neglect or abuse of patients in connection with the delivery of a health care service or supply.

"(3) Any provider that has been convicted, under Federal or State law, in connection with the interference with or obstruction of an investigation or prosecution of a criminal offense described in paragraph (1) or (2).

Drugs and drug abuse. "(4) Any provider that has been convicted, under Federal or State law, of a criminal offense relating to the unlawful manufacture, distribution, prescription, or dispensing of a controlled substance.

"(5) Any provider—

"(A) whose license to provide health care services or supplies has been revoked, suspended, restricted, or not renewed, by a State licensing authority for reasons relating to the provider's professional competence, professional performance, or financial integrity; or

"(B) that surrendered such a license while a formal disciplinary proceeding was pending before such an authority, if the proceeding concerned the provider's professional competence, professional performance, or financial integrity.

Claims. "(c) Whenever the Office determines—

"(1) in connection with a claim presented under this chapter, that a provider of health care services or supplies—

"(A) has charged for health care services or supplies that the provider knows or should have known were not provided as claimed; or

"(B) has charged for health care services or supplies in an amount substantially in excess of such provider's customary charges for such services or supplies, or charged for health care services or supplies which are substantially in excess of the needs of the covered individual or which are of a quality that fails to meet professionally recognized standards for such services or supplies;

"(2) that a provider of health care services or supplies has knowingly made, or caused to be made, any false statement or misrepresentation of a material fact which is reflected in a claim presented under this chapter; or

"(3) that a provider of health care services or supplies has knowingly failed to provide any information required by a carrier or by the Office to determine whether a payment or

reimbursement is payable under this chapter or the amount of any such payment or reimbursement;

the Office may, in addition to any other penalties that may be prescribed by law, and after consultation with the Attorney General, impose a civil monetary penalty of not more than $10,000 for any item or service involved. In addition, such a provider shall be subject to an assessment of not more than twice the amount claimed for each such item or service. In addition, the Office may make a determination in the same proceeding to bar such provider from participating in the program under this chapter.

"(d) The Office—

"(1) may not initiate any debarment proceeding against a provider, based on such provider's having been convicted of a criminal offense, later than 6 years after the date on which such provider is so convicted; and

"(2) may not initiate any action relating to a civil penalty, assessment, or debarment under this section, in connection with any claim, later than 6 years after the date the claim is presented, as determined under regulations prescribed by the Office. Claims.

"(e) In making a determination relating to the appropriateness of imposing or the period of any debarment under this section, or the appropriateness of imposing or the amount of any civil penalty or assessment under this section, the Office shall take into account— Claims.

"(1) the nature of any claims involved and the circumstances under which they were presented;

"(2) the degree of culpability, history of prior offenses or improper conduct of the provider involved; and

"(3) such other matters as justice may require.

"(f)(1) The debarment of a provider under subsection (b) or (c) shall be effective at such time and upon such reasonable notice to such provider, and to carriers and covered individuals, as may be specified in regulations prescribed by the Office.

"(2)(A) Except as provided in subparagraph (B), a debarment shall be effective with respect to any health care services or supplies furnished by a provider on or after the effective date of such provider's debarment.

"(B) A debarment shall not apply with respect to inpatient institutional services furnished to an individual who was admitted to the institution before the date the debarment would otherwise become effective until the passage of 30 days after such date, unless the Office determines that the health or safety of the individual receiving those services warrants that a shorter period, or that no such period, be afforded.

"(3) Any notice referred to in paragraph (1) shall specify the date as of which debarment becomes effective and the minimum period of time for which such debarment is to remain effective.

"(4)(A) A provider barred from participating in the program under this chapter may, after the expiration of the minimum period of debarment referred to in paragraph (3), apply to the Office, in such manner as the Office may by regulation prescribe, for termination of the debarment.

"(B) The Office may—

"(i) terminate the debarment of a provider, pursuant to an application filed by such provider after the end of the minimum debarment period, if the Office determines, based on the conduct of the applicant, that—

"(I) there is no basis under subsection (b) or (c) for continuing the debarment; and

"(II) there are reasonable assurances that the types of actions which formed the basis for the original debarment have not recurred and will not recur; or

"(ii) notwithstanding any provision of subparagraph (A), terminate the debarment of a provider, pursuant to an application filed by such provider before the end of the minimum debarment period, if the Office determines that—

"(I) based on the conduct of the applicant, the requirements of subclauses (I) and (II) of clause (i) have been met; and

"(II) early termination under this clause is warranted based on the fact that the provider is the sole community provider or the sole source of essential specialized services in a community, or other similar circumstances.

State and local governments.

"(5) The Office shall—

"(A) promptly notify the appropriate State or local agency or authority having responsibility for the licensing or certification of a provider barred from participation in the program under this chapter of the fact of the debarment, as well as the reasons for such debarment;

"(B) request that appropriate investigations be made and sanctions invoked in accordance with applicable law and policy; and

"(C) request that the State or local agency or authority keep the Office fully and currently informed with respect to any actions taken in response to the request.

Records.

"(6) The Office shall, upon written request and payment of a reasonable charge to defray the cost of complying with such request, furnish a current list of any providers barred from participating in the program under this chapter, including the minimum period of time remaining under the terms of each provider's debarment.

"(g)(1) The Office may not make a determination under subsection (b) or (c) adverse to a provider of health care services or supplies until such provider has been given written notice and an opportunity for a hearing on the record. A provider is entitled to be represented by counsel, to present witnesses, and to cross-examine witnesses against the provider in any such hearing.

"(2) Notwithstanding section 8912, any person adversely affected by a final decision under paragraph (1) may obtain review of such decision in the United States Court of Appeals for the Federal Circuit. A written petition requesting that the decision be modified or set aside must be filed within 60 days after the date on which such person is notified of such decision.

"(3) Matters that were raised or that could have been raised in a hearing under paragraph (1) or an appeal under paragraph (2) may not be raised as a defense to a civil action by the United States to collect a penalty or assessment imposed under this section.

"(h) A civil action to recover civil monetary penalties or assessments under subsection (c) shall be brought by the Attorney General in the name of the United States, and may be brought in the United States district court for the district where the claim involved was presented or where the person subject to the penalty resides. Amounts recovered under this section shall be paid to the Office for deposit into the Employees Health Benefits Fund.

"(i) The Office shall prescribe regulations under which, with respect to services or supplies furnished by a debarred provider to a covered individual during the period of such provider's debarment, payment or reimbursement under this chapter may be made, notwithstanding the fact of such debarment, if such individual did not know or could not reasonably be expected to have known of the debarment. In any such instance, the carrier involved shall take appropriate measures to ensure that the individual is informed of the debarment and the minimum period of time remaining under the terms of the debarment.". Regulations.

(b) CHAPTER ANALYSIS.—The analysis for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8902 the following:

"8902a. Debarment and other sanctions.".

SEC. 102. APPLICABILITY; PRIOR CONDUCT. 5 USC 8902a note.

(a) APPLICABILITY.—The amendments made by this title shall be effective with respect to any calendar year beginning, and contracts entered into or renewed for any calendar year beginning, after the date of the enactment of this Act. Contracts.

(b) PRIOR CONDUCT NOT TO BE CONSIDERED.—In carrying out section 8902a of title 5, United States Code, as added by this title, no debarment, civil monetary penalty, or assessment may be imposed under such section based on any criminal or other conduct occurring before the beginning of the first calendar year which begins after the date of the enactment of this Act.

TITLE II—PROVISIONS RELATING TO TEMPORARY CONTINUATION OF COVERAGE FOR CERTAIN INDIVIDUALS

SEC. 201. AUTHORITY TO CONTINUE COVERAGE.

(a) AUTHORITY.—

(1) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended by inserting after section 8905 the following:

"§ 8905a. Continued coverage

"(a) Any individual described in paragraph (1) or (2) of subsection (b) may elect to continue coverage under this chapter in accordance with the provisions of this section.

"(b) This section applies with respect to—

"(1) any employee who—

"(A) is separated from service, whether voluntarily or involuntarily, except that if the separation is involuntary, this section shall not apply if the separation is for gross misconduct (as defined under regulations which the Office of Personnel Management shall prescribe); and

"(B) would not otherwise be eligible for any benefits under this chapter (determined without regard to any temporary extension of coverage and without regard to any benefits available under a nongroup contract); and

"(2) any individual who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child under this chapter;

"(B) on the day before so ceasing to meet the requirements referred to in subparagraph (A), was covered under a health benefits plan under this chapter as a member of the family of an employee or annuitant; and

"(C) would not otherwise be eligible for any benefits under this chapter (determined without regard to any temporary extension of coverage and without regard to any benefits available under a nongroup contract).

Regulations. Contracts.

"(c)(1) The Office shall prescribe regulations and provide for the inclusion of appropriate terms in contracts with carriers to provide that—

"(A) with respect to an employee who becomes (or will become) eligible for continued coverage under this section as a result of separation from service, the separating agency shall, before the end of the 30-day period beginning on the date as of which coverage (including any temporary extensions of coverage) would otherwise end, notify the individual of such individual's rights under this section; and

Children and youth.

"(B) with respect to a child of an employee or annuitant who becomes eligible for continued coverage under this section as a result of ceasing to meet the requirements for being considered a member of the employee's or annuitant's family—

"(i) the employee or annuitant may provide written notice of the child's change in status (complete with the child's name, address, and such other information as the Office may by regulation require)—

"(I) to the employee's employing agency; or

"(II) in the case of an annuitant, to the Office; and

"(ii) if the notice referred to in clause (i) is received within 60 days after the date as of which the child involved first ceases to meet the requirements involved, the employing agency or the Office (as the case may be) must, within 14 days after receiving such notice, notify the child of such child's rights under this section.

"(2) In order to obtain continued coverage under this section, an appropriate written election (submitted in such manner as the Office by regulation prescribes) must be made—

"(A) in the case of an individual seeking continued coverage based on a separation from service, before the end of the 60-day period beginning on the later of—

"(i) the effective date of the separation; or

"(ii) the date the separated individual receives the notice required under paragraph (1)(A); or

"(B) in the case of an individual seeking continued coverage based on a change in circumstances making such individual ineligible for coverage as an unmarried dependent child, before the end of the 60-day period beginning on the later of—

"(i) the date as of which such individual first ceases to meet the requirements for being considered an unmarried dependent child; or

"(ii) the date such individual receives notice under paragraph (1)(B)(ii);

except that if a parent fails to provide the notice required under paragraph (1)(B)(i) in timely fashion, the 60-day period under this subparagraph shall be based on the date under clause (i), irrespective of whether or not any notice under paragraph (1)(B)(ii) is provided.

"(d)(1)(A) An individual receiving continued coverage under this section shall be required to pay currently into the Employees Health Benefits Fund, under arrangements satisfactory to the Office, an amount equal to the sum of—

"(i) the employee and agency contributions which would be required in the case of an employee enrolled in the same health benefits plan and level of benefits; and

"(ii) an amount, determined under regulations prescribed by the Office, necessary for administrative expenses, but not to exceed 2 percent of the total amount under clause (i).

"(B) Payments under this section to the Fund shall—

"(i) in the case of an individual whose continued coverage is based on such individual's separation, be made through the agency which last employed such individual; or

"(ii) in the case of an individual whose continued coverage is based on a change in circumstances referred to in subsection (c)(2)(B), be made through—

"(I) the Office, if, at the time coverage would (but for this section) otherwise have been discontinued, the individual was covered as the child of an annuitant; or

"(II) if, at the time referred to in subclause (I), the individual was covered as the child of an employee, the employee's employing agency as of such time.

"(2) If an individual elects to continue coverage under this section before the end of the applicable period under subsection (c)(2), but after such individual's coverage under this chapter (including any temporary extensions of coverage) expires, coverage shall be restored retroactively, with appropriate contributions (determined in accordance with paragraph (1)) and claims (if any), to the same extent and effect as though no break in coverage had occurred.

"(3)(A) An individual making an election under subsection (c)(2)(B) may, at such individual's option, elect coverage either as an individual or, if appropriate, for self and family.

"(B) For the purpose of this paragraph, members of an individual's family shall be determined in the same way as would apply under this chapter in the case of an enrolled employee.

"(C) Nothing in this paragraph shall be considered to limit an individual making an election under subsection (c)(2)(A) to coverage for self alone.

"(e)(1) Continued coverage under this section may not extend beyond—

"(A) in the case of an individual whose continued coverage is based on separation from service, the date which is 18 months after the effective date of the separation; or

"(B) in the case of an individual whose continued coverage is based on ceasing to meet the requirements for being considered an unmarried dependent child, the date which is 36 months after the date on which the individual first ceases to meet those requirements, subject to paragraph (2).

"(2) In the case of an individual who—

"(A) ceases to meet the requirements for being considered an unmarried dependent child;

"(B) as of the day before so ceasing to meet the requirements referred to in subparagraph (A), was covered as the child of a former employee receiving continued coverage under this section based on the former employee's separation from service; and

"(C) so ceases to meet the requirements referred to in subparagraph (A) before the end of the 18-month period beginning on the date of the former employee's separation from service,

extended coverage under this section may not extend beyond the date which is 36 months after the separation date referred to in subparagraph (C).

Regulations.

"(f)(1) The Office shall prescribe regulations under which, in addition to any individual otherwise eligible for continued coverage under this section, and to the extent practicable, continued coverage may also, upon appropriate written application, be afforded under this section—

"(A) to any individual who—

"(i) if subparagraphs (A) and (C) of paragraph (10) of section 8901 were disregarded, would be eligible to be considered a former spouse within the meaning of such paragraph; but

"(ii) would not, but for this subsection, be eligible to be so considered; and

"(B) to any individual whose coverage as a family member would otherwise terminate as a result of a legal separation.

"(2) The terms and conditions for coverage under the regulations shall include—

"(A) consistent with subsection (c), any necessary notification provisions, and provisions under which an election period of at least 60 days' duration is afforded;

"(B) terms and conditions identical to those under subsection (d), except that contributions to the Employees Health Benefits Fund shall be made through such agency as the Office by regulation prescribes;

"(C) provisions relating to the termination of continued coverage, except that continued coverage under this section may not (subject to paragraph (3)) extend beyond the date which is 36 months after the date on which the qualifying event under this subsection (the date of divorce, annulment, or legal separation, as the case may be) occurs; and

"(D) provisions designed to ensure that any coverage pursuant to this subsection does not adversely affect any eligibility for coverage which the individual involved might otherwise have under this chapter (including as a result of any change in personal circumstances) if this subsection had not been enacted.

"(3) In the case of an individual—

"(A) who becomes eligible for continued coverage under this subsection based on a divorce, annulment, or legal separation from a person who, as of the day before the date of the divorce, annulment, or legal separation (as the case may be) was receiving continued coverage under this section for self and family based on such person's separation from service; and

"(B) whose divorce, annulment, or legal separation (as the case may be) occurs before the end of the 18-month period beginning on the date of the separation from service referred to in subparagraph (A),

extended coverage under this section may not extend beyond the date which is 36 months after the date of the separation from service, as referred to in subparagraph (A).".

(2) TABLE OF SECTIONS.—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8905 the following:

"8905a. Continued coverage.".

(b) OPTION TO CONVERT TO A NONGROUP CONTRACT AFTER CONTINUED COVERAGE ENDS.—Section 8902(g) of title 5, United States Code, is amended by striking "or former spouse" each place it appears and inserting "former spouse, or person having continued coverage under section 8905a of this title".

(c) CHANGE OF COVERAGE BASED ON CHANGE IN FAMILY STATUS.—Section 8905(e) of title 5, United States Code, is amended by striking "or former spouse" and inserting "former spouse, or person having continued coverage under section 8905a of this title".

(d) OPEN SEASON.—Section 8905(f) of title 5, United States Code, is amended—

(1) by striking "or former spouse" each place it appears and inserting "former spouse, or person having continued coverage under section 8905a of this title"; and

(2) by adding at the end the following:

"(3)(A) In addition to any informational requirements otherwise applicable under this chapter, the regulations shall include provisions to ensure that each employee eligible to enroll in a health benefits plan under this chapter (whether actually enrolled or not) is notified in writing as to the rights afforded under section 8905a of this title.

"(B) Notification under this paragraph shall be provided by employing agencies at an appropriate point in time before each period under paragraph (1) so that employees may be aware of their rights under section 8905a of this title when making enrollment decisions during such period.".

SEC. 202. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Sections 8902(j), 8902(k)(1), and 8909(d) of title 5, United States Code, are amended by striking "or former spouse" each place it appears and inserting "former spouse, or person having continued coverage under section 8905a of this title".

(b) Section 8903(1) of title 5, United States Code, is amended—

(1) by striking "or former spouses," and inserting "former spouses, or persons having continued coverage under section 8905a of this title,"; and

(2) by striking "or former spouse." and inserting "former spouse, or person having continued coverage under section 8905a of this title.".

(c) Section 8905(d) of title 5, United States Code, is amended to read as follows:

"(d) If an employee, annuitant, or other individual eligible to enroll in a health benefits plan under this chapter has a spouse who is also eligible to enroll, either spouse, but not both, may enroll for self and family, or each spouse may enroll as an individual. However, an individual may not be enrolled both as an employee, annuitant, or other individual eligible to enroll and as a member of the family.".

SEC. 203. APPLICABILITY. 5 USC 8902 note.

(a) IN GENERAL.—The amendments made by this title shall apply with respect to—

Contracts.

(1) any calendar year beginning, and contracts entered into or renewed for any calendar year beginning, after the end of the 9-month period beginning on the date of the enactment of this Act; and

(2) any qualifying event occurring on or after the first day of the first calendar year beginning after the end of the 9-month period referred to in paragraph (1).

(b) DEFINITION.—For the purpose of this section, the term "qualifying event" means any of the following events:

(1) A separation from Government service.

(2) A divorce, annulment, or legal separation.

(3) Any change in circumstances which causes an individual to become ineligible to be considered an unmarried dependent child under chapter 89 of such title.

TITLE III—HEALTH INSURANCE COVERAGE FOR TEMPORARY EMPLOYEES

SEC. 301. HEALTH INSURANCE COVERAGE FOR TEMPORARY EMPLOYEES.

(a) IN GENERAL.—Chapter 89 of title 5, United States Code, is amended by inserting after section 8906 the following new section:

Regulations.

"§ 8906a. Temporary employees

"(a)(1) The Office of Personnel Management shall prescribe regulations to provide for offering health benefits plans to temporary employees (who meet the requirements of paragraph (2)) under the provisions of this chapter.

"(2) To be eligible to participate in a health benefits plan offered under this section a temporary employee shall have completed 1 year of current continuous employment, excluding any break in service of 5 days or less.

"(b) Notwithstanding the provisions of section 8906—

"(1) any temporary employee enrolled in a health benefits plan under this section shall have an amount withheld from the pay of such employee, as determined by the Office of Personnel Management, equal to—

"(A) the amount withheld from the pay of an employee under the provisions of section 8906; and

"(B) the amount of the Government contribution for an employee under section 8906; and

"(2) the employing agency of any such temporary employee shall not pay the Government contribution under the provisions of section 8906.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 89 of title 5, United States Code, is amended by inserting after the item relating to section 8906 the following:

"8906a. Temporary employees.".

(c) REGULATIONS.—Section 8913(b) of title 5, United States Code, is amended—

(1) in paragraph (2) by striking out "or" at the end thereof;

(2) in paragraph (3) by striking out the period and inserting in lieu thereof a semicolon and "or"; and

(3) by adding at the end thereof the following new paragraph:

"(4) an employee who is employed on a temporary basis and is eligible under section 8906a(a).".

(d) EFFECTIVE DATE.—The amendments made by this section shall be effective 120 days after the date of enactment of this section. 5 USC 8906a note.

TITLE IV—PROVISIONS RELATING TO CONTRIBUTIONS BY JUSTICES AND JUDGES TO THE THRIFT SAVINGS FUND

SEC. 401. CONTRIBUTIONS BY JUSTICES AND JUDGES TO THE THRIFT SAVINGS FUND.

(a) IN GENERAL.—Subchapter III of chapter 84 of title 5, United States Code, is amended by adding at the end thereof the following new section:

"§ 8440a. Justices and judges

"(a)(1) A justice or judge of the United States as defined by section 451 of title 28 may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund. Basic pay does not include an annuity or salary received by a justice or judge who has retired under section 371 (a) or (b) or section 372(a) of title 28, United States Code.

"(2) An election may be made under paragraph (1) only during a period provided under section 8432(b) for individuals subject to chapter 84 of this title: *Provided, however,* That a justice or judge may make the first such election within 60 days of the effective date of this section.

"(b)(1) Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of this title shall apply with respect to justices and judges making contributions to the Thrift Savings Fund.

"(2) The amount contributed by a justice or judge shall not exceed 5 percent of basic pay.

"(3) No contributions shall be made for the benefit of a justice or judge under section 8432(c) of this title.

"(4) Section 8433(b) of this title applies with respect to elections available to any justice or judge who retires under section 371 (a) or (b) or section 372(a) of title 28. Retirement under section 371 (a) or (b) or section 372(a) of title 28 is a separation from service for the purposes of subchapters III and VII of chapter 84 of this title.

"(5) Section 8433(d) of this title applies to any justice or judge who resigns without having met the age and service requirements set forth in section 371(c) of title 28.

"(6) Sums contributed under this section and earnings attributable to such sums may be invested and reinvested only in the Government Securities Investment Fund established under section 8438(b)(1)(A) of this title.

"(7) The provisions of section 8351(b)(7) of this title shall govern the rights of spouses of justices or judges contributing to the Thrift Savings Fund under this section.".

(b) CONFORMING AMENDMENT.—The table of sections for chapter 84 of title 5, United States Code, is amended by inserting after the item relating to section 8440 the following:

"8440a. Justices and judges.".

Tennessee.

SEC. 402. DESIGNATION OF LEWIS E. MOORE, SR., POST OFFICE BUILDING.

The United States Post Office Building located at 525 Royal Parkway in Nashville, Tennessee, is designated as the "Lewis E. Moore, Sr., Post Office Building". Any reference to such building in a law, rule, map, document, record, or other paper of the United States shall be considered to be a reference to the "Lewis E. Moore, Sr., Post Office Building".

Approved November 14, 1988.

LEGISLATIVE HISTORY—H.R. 5102:

HOUSE REPORTS: No. 100-917 (Comm. on Post Office and Civil Service).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 16, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 19, House concurred in Senate amendment.

Public Law 100-655
100th Congress

Joint Resolution

To designate the month of October 1988, as "National AIDS Awareness and Prevention Month".

Nov. 14, 1988
[S.J. Res. 192]

Whereas the President has declared AIDS as the number one public health enemy;
Whereas the Secretary of Health and Human Services has projected that, by the end of 1991, the cumulative total of all AIDS cases in the United States will reach 270,000 and result in nearly 180,000 deaths;
Whereas information, education, and public health measures are the Nation's primary weapons in prevention and control of the spread of AIDS;
Whereas if the AIDS epidemic is not controlled through a major national educational, informational, and public health effort, the devastating human and economic impact on society will be unprecedented in modern times;
Whereas informing and educating the American public, including the youth of today, about AIDS is crucial to preventing and controlling the spread of AIDS: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1988 is designated as "National AIDS Awareness and Prevention Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such month with appropriate activities.

TITLE I—NATIONAL MINING HALL OF FAME AND MUSEUM

Corporations.
Historic preservation.
Libraries.
36 USC 4101.

SECTION 101. The National Mining Hall of Fame and Museum, organized and incorporated under the laws of Colorado, is hereby recognized as such and is granted a charter.

POWERS

36 USC 4102.

SEC. 102. The National Mining Hall of Fame and Museum (hereafter in this title referred to as the "corporation"), shall have only those powers granted to it through its bylaws and

articles of incorporation filed in the State or States in which it is incorporated and subject to the laws of such State or States.

OBJECTS AND PURPOSES OF CORPORATION

36 USC 4103. SEC. 103. The objects and purposes of the corporation are those provided in its articles of incorporation including—

(1) to honor citizens, mining leaders, miners, prospectors, teachers, scientists, engineers, inventors, governmental leaders, and other individuals, who have helped to make this Nation great by their outstanding contributions to the establishment, development, advancement, or improvement of mining in the United States of America;

(2) to perpetuate the memory of such individuals and record their contributions and achievements by the erection and maintenance of such buildings, monuments, and edifices as may be deemed appropriate as a lasting memorial;

(3) to foster, promote, and encourage a better understanding of the origins and growth of mining, especially in the United States, and the part mining has played in changing the economic, social, and scientific aspects of our Nation;

(4) to establish and maintain a library and museum for collecting and preserving for posterity, the history of those honored by the corporation, together with a documentation of their accomplishments and contributions to mining, including such items as mining pictures, paintings, books, papers, documents, scientific data, relics, mementos, artifacts, and things relating to such items;

(5) to cooperate with other mining organizations which are actively engaged and interested in similar projects; and

(6) to engage in any and all activities incidental thereto or necessary, suitable, or proper for the accomplishment of any of the purposes set forth in this section.

MEMBERSHIP

36 USC 4104. SEC. 104. Eligibility for membership in the corporation and the rights and privileges of members shall be as provided in the bylaws of the corporation.

BOARD OF DIRECTORS; COMPOSITION; RESPONSIBILITIES

36 USC 4105. SEC. 105. The board of directors of the corporation and the responsibilities thereof shall be as provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States in which it is incorporated.

OFFICERS OF CORPORATION

36 USC 4106. SEC. 106. The officers of the corporation, and the election of such officers shall be as is provided in the articles of incorporation of the corporation and in conformity with the laws of the State or States wherein it is incorporated.

RESTRICTIONS

36 USC 4107. SEC. 107. (a) No part of the income or assets of the corporation shall inure to any member, officer, or director of the corporation or be distributed to any such person during the life of this charter.

Nothing in this subsection shall be construed to prevent the payment of reasonable compensation to the officers of the corporation or reimbursement for actual necessary expenses in amounts approved by the board of directors.

(b) The corporation shall not make any loan to any officer, director, or employee of the corporation.

(c) The corporation and any officer and director of the corporation, acting as such officer or director, shall not contribute to, support, or otherwise participate in any political activity or in any manner attempt to influence legislation.

(d) The corporation shall have no power to issue any shares of stock nor to declare or pay any dividends.

(e) The corporation shall not claim congressional approval or Federal Government authority for any of its activities.

(f) The corporation shall retain and maintain its status as a corporation organized and incorporated under the laws of the State of Colorado.

LIABILITY

SEC. 108. The corporation shall be liable for the acts of its officers and agents when acting within the scope of their authority. 36 USC 4108.

SERVICE OF PROCESS

SEC. 109. With respect to service of process, the corporation shall comply with the laws of the States in which it is incorporated and those States in which it carries on its activities in furtherance of its corporate purposes. 36 USC 4109.

BOOKS AND RECORDS; INSPECTION

SEC. 110. The corporation shall keep correct and complete books and records of account and shall keep minutes of any proceeding of the corporation involving any of its members, the board of directors, or any committee having authority under the board of directors. The corporation shall keep at its principal office a record of the names and addresses of all members having the right of vote. All books and records of such corporation may be inspected by any member having the right to vote, or by any agent or attorney of such member, for any proper purpose, at any reasonable time. Nothing in this section shall be construed to contravene any applicable State law. 36 USC 4110.

AUDIT OF FINANCIAL TRANSACTIONS

SEC. 111. The first section of the Act entitled "An Act to provide for audit of accounts of private corporations established under Federal law", approved August 30, 1964 (36 U.S.C. 1101), is amended by adding at the end thereof the following:

"(60) The National Mining Hall of Fame and Museum".

ANNUAL REPORT

SEC. 112. The corporation shall report annually to the Congress concerning the activities of the corporation during the preceding fiscal year. Such annual report shall be submitted at the same time as is the report of the audit required by section 111 of this title. The report shall not be printed as a public document. 36 USC 4111.

RESERVATION OF RIGHT TO AMEND OR REPEAL CHARTER

36 USC 4112. SEC. 113. The right to alter, amend, or repeal this title is expressly reserved to the Congress.

DEFINITION OF "STATE"

36 USC 4113. SEC. 114. For purposes of this title, the term "State" includes the District of Columbia, the Commonwealth of Puerto Rico, and the territories and possessions of the United States.

TAX-EXEMPT STATUS

36 USC 4114. SEC. 115. The corporation shall maintain its status as an organization exempt from taxation as provided in the Internal Revenue Code of 1954.

TERMINATION

36 USC 4115. SEC. 116. If the corporation fails to comply with any of the restrictions or other provisions of this title, the charter granted by this title shall expire.

Approved November 14, 1988.

LEGISLATIVE HISTORY—S.J. Res. 192:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 5, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-656
100th Congress

An Act

To amend the Small Business Act to reform the Capital Ownership Development Program, and for other purposes.

Nov. 15, 1988
[H.R. 1807]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Business Opportunity Development Reform Act of 1988.
Disadvantaged persons.
Contracts.
15 USC 631 note.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Business Opportunity Development Reform Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—CONGRESSIONAL FINDINGS AND PURPOSES

Sec. 101. Findings and purposes.

TITLE II—PROGRAM ORGANIZATION AND PARTICIPATION STANDARDS

Sec. 201. Program admission.
Sec. 202. Time limitations.
Sec. 203. Grandfathering.
Sec. 204. Business development objectives.
Sec. 205. Business plans.
Sec. 206. Eligibility reviews.
Sec. 207. Eligibility of native Hawaiians.
Sec. 208. Termination and graduation standards.
Sec. 209. Economic disadvantage.

TITLE III—BUSINESS DEVELOPMENT

Sec. 301. Stages of program participation.
Sec. 302. Loans.
Sec. 303. Contractual assistance.
Sec. 304. Subcontracting assistance.

TITLE IV—IMPROVED MANAGEMENT AND PROGRAM INTEGRITY

Sec. 401. Political appointees.
Sec. 402. Prohibited actions and employee responsibilities.
Sec. 403. Politically motivated activities.
Sec. 404. Reports by program participants.
Sec. 405. False representations.
Sec. 406. Congressionally requested investigations.
Sec. 407. Contract performance.
Sec. 408. Data collection.
Sec. 409. Due process rights.
Sec. 410. Employee training and evaluation.

TITLE V—CONTRACT PLANNING; GOAL SETTING AND REVIEWS

Sec. 501. Planning 8(a) contract activity.
Sec. 502. Annual contracting goals.
Sec. 503. Presidential report on contracting goals.
Sec. 504. General Accounting Office report.
Sec. 505. Commission on minority business development.

TITLE VI—ADMINISTRATIVE AND TECHNICAL AMENDMENTS

Sec. 601. Relationship with other procurement programs.
Sec. 602. Indian tribe exemption.
Sec. 603. Directors of small and disadvantaged business utilization.

TITLE VII—SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

PART A—SHORT TITLE AND FINDINGS

Sec. 701. Short title.
Sec. 702. Findings.

PART B—DEMONSTRATION PROGRAM

Sec. 711. Small Business Competitiveness Demonstration Program.
Sec. 712. Enhanced small business participation goals.
Sec. 713. Procurements procedures.
Sec. 714. Reporting.
Sec. 715. Test plan and policy direction.
Sec. 716. Report to Congress.
Sec. 717. Designated industry groups.
Sec. 718. Definitions.

PART C—PROGRAMS RELATING TO SPECIFIC INDUSTRIES

Sec. 721. Alternative program for clothing and textiles.
Sec. 722. Expanding small business participating in dredging.

PART D—AMENDMENTS TO THE SMALL BUSINESS ACT

Sec. 731. Technical amendment.
Sec. 732. Repealer.

PART E—OTHER AMENDMENTS

Sec. 741. Segmentation of industry category.
Sec. 742. Definition of architectural and engineering services.

TITLE VIII—AUTHORIZATIONS, EFFECTIVE DATES, AND MISCELLANEOUS MATTERS

Sec. 801. Regulations.
Sec. 802. Authorizations.
Sec. 803. Effective dates.

15 USC 636 note.

SEC. 2. DEFINITIONS.

For the purposes of this Act—

(1) the term "Administration" means the Small Business Administration;

(2) the term "Administrator" means the Administrator of the Small Business Administration, unless otherwise indicated;

(3) the term "disadvantaged owners" means those individuals upon whom eligibility is based for participation in the Program and the award of subcontracts pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(4) the term "minority owned businesses" means business concerns that are at least 51 percent owned and controlled by one or more individuals who belong to those groups described or identified pursuant to section 2(e)(1)(C) of the Small Business Act (15 U.S.C. 631(e)(1)(C));

(5) the term "Program" means the Small Business and Capital Ownership Development Program established by section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10));

(6) the term "Program Participant" means a small business concern participating in the Program; and

(7) the term "Program Participation Term" means the fixed period of time assigned to a Program Participant pursuant to section 7(j)(10)(A)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(A)(i)) prior to the date of enactment of this Act.

TITLE I—CONGRESSIONAL FINDINGS AND PURPOSES

SEC. 101. FINDINGS AND PURPOSES. 15 USC 636 note.

(a) FINDINGS.—The Congress finds that—

(1) the Capital Ownership Development Program administered by the Small Business Administration and the award of contracts pursuant to section 8(a) of the Small Business Act remain a primary tool for improving opportunities for small business concerns owned and controlled by socially and economically disadvantaged individuals in the Federal procurement process and bringing such concerns into the nation's economic mainstream;

(2) although some progress has resulted from the Program, it has generally failed to meet its objectives, which remain as valid now as when the Program was initiated;

(3) too few concerns that have exited the Program have been prepared to compete successfully in the open marketplace on competitive procurements, and many concerns have developed an unhealthy dependency on sole-source contracts by the time they are required to leave the Program;

(4) the application and certification process for admitting new participants to the Program is inordinately lengthy and burdensome;

(5) the Administration has often not efficiently and equitably administered and managed the Program in a manner that provided clear lines of responsibility for implementing and monitoring many of the administrative duties under the Program;

(6) the Administration and some program participants have given insufficient attention and support to the business development goals of the Program and instead have focused almost entirely on the size of contract awards or the number of firms certified to participate in the Program;

(7) many Federal procuring agencies have failed to identify and offer the necessary amount of contract support in order to allow for diversification and growth of disadvantaged businesses participating in the Program;

(8) contract support as well as business development expenses have been misused both by the Administration and Program participants and have not been equitably distributed pursuant to objective criteria;

(9) the widespread perception of undue political influence in the operation and administration of the Program has significantly contributed to the Program's poor image and has deterred utilization of the Program by socially and economically disadvantaged concerns and by Federal procuring agencies; and

(10) it is imperative that increased competition and other substantial reforms be accomplished in the Program in order to promote the Congressionally mandated business development objectives and purposes.

(b) PURPOSES.—The purposes of this Act therefore are to—

(1) affirm that the Capital Ownership Development Program and the section 8(a) authority shall be used exclusively for business development purposes to help small businesses owned and controlled by the socially and economically disadvantaged

to compete on an equal basis in the mainstream of the American economy;

(2) affirm that the measure of success of the Capital Ownership Development Program, and the section 8(a) authority, shall be the number of competitive firms that exit the Program without being unreasonably reliant on section 8(a) contracts and that are able to compete on an equal basis in the mainstream of the American economy;

(3) ensure that program benefits accrue to individuals who are both socially and economically disadvantaged;

(4) increase the number of small businesses owned and controlled by such individuals from which the United States may purchase products and services (including construction work); and

(5) ensure integrity, competence, and efficiency in the administration of business development services and the Federal contracting opportunities made available to eligible small businesses.

TITLE II—PROGRAM ORGANIZATION AND PARTICIPATION STANDARDS

SEC. 201. PROGRAM ADMISSION.

(a) ELIGIBILITY OF PARTICIPANTS.—Section 7(j)(11) of the Small Business Act (15 U.S.C. 636(j)(11)) is amended by striking out "(11)" and inserting in lieu thereof "(11)(A)" and by adding the following new subparagraphs:

"(B) Except as provided in section 602(d) of the Business Opportunity Development Reform Act of 1988, any individual upon whom eligibility is based pursuant to section 8(a)(4), shall be permitted to assert such eligibility for only one small business concern. Notwithstanding the provisions of the preceding sentence, no individual who was determined pursuant to section 8(a) to be socially and economically disadvantaged before the effective date of this subparagraph shall be permitted to assert such disadvantage with respect to any other concern making application for certification after such effective date.

"(C) No concern, previously eligible for the award of contracts pursuant to section 8(a), shall be subsequently recertified for program participation if its prior participation in the program was concluded for any of the reasons described in paragraph (10)(E).

"(D) A concern eligible for the award of contracts pursuant to this subsection shall remain eligible for such contracts if there is a transfer of ownership and control (as defined pursuant to section 8(a)(4)) to individuals who are determined to be socially and economically disadvantaged pursuant to section 8(a). In the event of such a transfer, the concern, if not terminated or graduated, shall be eligible for a period of continued participation in the program not to exceed the time limitations prescribed in paragraph (15).

Establishment.

"(E) There is established a Division of Program Certification and Eligibility (hereinafter referred to in this paragraph as the "Division") that shall be made part of the Office of the Associate Administrator for Minority Small Business and Capital Ownership Development. The Division shall be headed by a Director who shall report directly to such Associate Administrator. The Division shall establish field offices within such regional offices of the Administra-

tion as may be necessary to perform efficiently its functions and responsibilities.

"(F) Subject to the provisions of section 8(a)(9), the functions and responsibility of the Division are to—

"(i) receive, review and evaluate applications for certification pursuant to paragraphs (4), (5), (6) and (7) of section 8(a);

"(ii) advise each program applicant within 15 days after the receipt of an application as to whether such application is complete and suitable for evaluation and, if not, what matters must be rectified;

"(iii) render recommendations on such applications to the Associate Administrator for Minority Small Business and Capital Ownership Development;

"(iv) review and evaluate financial statements and other submissions from concerns participating in the program established by paragraph (10) to ascertain continued eligibility to receive subcontracts pursuant to section 8(a);

"(v) make a request for the initiation of termination or graduation proceedings, as appropriate, with the Associate Administrator for Minority Small Business and Capital Ownership Development;

"(vi) decide protests from applicants that have been denied program admission;

"(vii) decide protests regarding the status of a concern as a disadvantaged concern for purposes of any program or activity conducted under the authority of subsection (d) of section 8, or any other provision of Federal law that references such subsection for a definition of program eligibility; and

"(viii) implement such policy directives as may be issued by the Associate Administrator for Minority Small Business and Capital Ownership Development pursuant to subparagraph (H) regarding, among other things, the geographic distribution of concerns to be admitted to the program and the industrial make-up of such concerns.

"(G) An applicant shall not be denied admission into the program established by paragraph (10) due solely to a determination by the Division that specific contract opportunities are unavailable to assist in the development of such concern unless—

"(i) the Government has not previously procured and is unlikely to procure the types of products or services offered by the concern; or

"(ii) the purchases of such products or services by the Federal Government will not be in quantities sufficient to support the developmental needs of the applicant and other Program participants providing the same or similar items or services.

"(H) Thirty days before the conclusion of each fiscal year, the Director of the Division shall review all concerns that have been admitted into the Program during the preceding 12-month period. The review shall ascertain the number of entrants, their geographic distribution and industrial classification. The Director shall also estimate the expected growth of the Program during the next fiscal year and the number of additional Business Opportunity Specialists, if any, that will be needed to meet the anticipated demand for the Program. The findings and conclusions of the Director shall be reported to the Associate Administrator for Minority Small Business and Capital Ownership Development by September 30 of each year. Based on such report and such additional data as may be

Reports.

relevant, the Associate Administrator shall, by October 31 of each year, issue policy and program directives applicable to such fiscal year that—

"(i) establish priorities for the solicitation of program applications from underrepresented regions and industry categories;

"(ii) assign staffing levels and allocate other program resources as necessary to meet program needs; and

"(iii) establish priorities in the processing and admission of new Program Participants as may be necessary to achieve an equitable geographic distribution of concerns and a distribution of concerns across all industry categories in proportions needed to increase significantly contract awards to small business concerns owned and controlled by socially and economically disadvantaged individuals. When considering such increase the Administration shall give due consideration to those industrial categories where Federal purchases have been substantial but where the participation rate of such concerns has been limited.".

Employment and unemployment.

(b) OUTREACH.—Section 8(a)(10) of the Small Business Act (15 U.S.C. 637(a)(10)) is amended by adding at the end thereof the following: "Such program shall make a sustained and substantial effort to solicit applications for certification from small business concerns located in areas of concentrated unemployment or underemployment or within labor surplus areas and within States having relatively few Program Participants and from small disadvantaged business concerns in industry categories that have not substantially participated in the award of contracts let under the authority of this subsection.".

SEC. 202. TIME LIMITATIONS.

Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is further amended by adding the following new paragraph:

"(15) Subject to the provisions of paragraph (10)(C), a small business concern may receive developmental assistance under the Program and contracts under section 8(a) for a total period of not longer than nine years, measured from the date of its certification under the authority of such section, of which—

"(A) no more than four years may be spent in the developmental stage of Program Participation; and

"(B) no more than five years may be spent in the transitional stage of Program Participation.".

SEC. 203. GRANDFATHERING.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is amended by adding the following new subparagraph:

"(D)(i) A small business concern participating in any program or activity conducted under the authority of this paragraph or eligible for the award of contracts pursuant to section 8(a) on September 1, 1988, shall be permitted continued participation and eligibility in such program or activity for a period of time which is the greater of—

"(I) 9 years less the number of years since the award of its first contract pursuant to section 8(a); or

"(II) its original fixed program participation term (plus any extension thereof) assigned prior to the effective date of this paragraph plus eighteen months.

"(ii) Nothing contained in this subparagraph shall be deemed to prevent the Administration from instituting a termination or graduation pursuant to subparagraph (F) or (H) for issues unrelated to the expiration of any time period limitation.".

SEC. 204. BUSINESS DEVELOPMENT OBJECTIVES.

(a) PROGRAM PURPOSES.—(1) Section 2(c)(2)(B) of the Small Business Act (15 U.S.C. 631(c)(2)(B)) is amended to read as follows:

"(B) It is therefore the purpose of the programs authorized by section 7(j) of this Act to—

"(i) foster business ownership and development by individuals in groups that own and control little productive capital; and

"(ii) promote the competitive viability of such firms in the marketplace by creating a small business and capital ownership development program to provide such available financial, technical, and management assistance as may be necessary.".

(2) Section 2(e)(2) (15 U.S.C. 631(e)(2)) of the Act is amended to read as follows:

"(2) It is therefore the purpose of section 8(a) to—

"(A) promote the business development of small business concerns owned and controlled by socially and economically disadvantaged individuals so that such concerns can compete on an equal basis in the American economy;

"(B) promote the competitive viability of such concerns in the marketplace by providing such available contract, financial, technical, and mangement assistance as may be necessary; and

"(C) clarify and expand the program for the procurement by the United States of articles, supplies, services, materials, and construction work from small business concerns owned by socially and economically disadvantaged individuals.".

(b) TECHNICAL AMENDMENT.—Section 2(c)(2)(A)(v) of the Act is amended by striking "sole source".

SEC. 205. BUSINESS PLANS.

(a) IN GENERAL.—Section 7(j)(10)(A)(i) of the Small Business Act (15 U.S.C. 636(j)(10)(A)(i)) is amended to read as follows:

"(i) assist small business concerns participating in the Program (either through public or private organizations) to develop and maintain comprehensive business plans which sets forth the Program Participant's specific business targets, objectives, and goals developed and maintained in conformity with subparagraph (D).".

(b) CONTENTS OF PLAN.—Section 7(j)(10) of such Act is further amended—

(1) by striking subparagraph (C),

(2) by redesignating subparagraph (D) (as added by section 203 of this Act) as subparagraph (C), and

(3) by adding after subparagraph (C), as redesignated, the following new subparagraph:

"(D)(i) Promptly after certification under paragraph (11) a Program Participant shall submit a business plan (hereinafter referred to as the "plan") as described in clause (ii) of this subparagraph for review by the business opportunity specialist assigned to assist such Program Participant. The plan may be a revision of a preliminary business plan

submitted by the Program Participant or required by the Administration as a part of the application for certification under this section and shall be designed to result in the Program Participant eliminating the conditions or circumstances upon which the Administration determined eligibility pursuant to section 8(a)(6). Such plan, and subsequent modifications submitted under clause (iii) of this subparagraph, shall be approved by the business opportunity specialist prior to the Program Participant being eligible for award of a contract pursuant to section 8(a).

"(ii) The plans submitted under this subparagraph shall include the following:

"(I) An analysis of market potential, competitive environment, and other business analyses estimating the Program Participant's prospects for profitable operations during the term of program participation and after graduation.

"(II) An analysis of the Program Participant's strengths and weaknesses with particular attention to correcting any financial, managerial, technical, or personnel conditions which are likely to impede small business concerns from receiving contracts other than those awarded under section 8(a).

"(III) Specific targets, objectives, and goals, for the business development of the Program Participant during the next and succeeding years utilizing the results of the analyses conducted pursuant to subclauses (I) and (II).

"(IV) A transition management plan outlining specific steps to assure profitable business operations after graduation (to be incorporated into the Program Participant's plan during the first year of the transitional stage of Program participation).

"(V) Estimates of contract awards pursuant to section 8(a) and from other sources, which the Program Participant will require to meet the specific targets, objectives, and goals for the years covered by its plan. The estimates established shall be consistent with the provisions of subparagraph (I) and section 8(a).

"(iii) Each Program Participant shall annually review its currently approved plan with its Business Opportunity Specialist and modify such plan as may be appropriate. Any modified plan shall be submitted to the Administration for approval. The currently approved plan shall be considered valid until such time as a modified plan is approved by the Business Opportunity Specialist. Annual reviews pertaining to years in the transitional stage of program participation shall require, as appropriate, a written verification that such Program Participant has complied with the requirements of subparagraph (I).

"(iv) Each Program Participant shall annually forecast its needs for contact awards under section 8(a) for the next program year and the succeeding program year during the review of its business plan, conducted pursuant to clause (iii). Such forecast shall be known as the section 8(a) contract support level and shall be included in the Program Participant's business plan. Such forecast shall include—

"(I) the aggregate dollar value of contract support to be sought on a noncompetitive basis under section 8(a), reflecting compliance with the requirements of subparagraph (I),

"(II) the types of contract opportunities being sought, identified by Standard Industrial Classification (SIC) Code or otherwise,

"(III) an estimate of the dollar value of contract support to be sought on a competitive basis, and

"(IV) such other information as may be requested by the Business Opportunity Specialist to provide effective business development assistance to the Program Participant.".

SEC. 206. ELIGIBILITY REVIEWS.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) is further amended by adding at the end thereof the following new subparagraph:

"(J)(i) The Administration shall conduct an evaluation of a Program Participant's eligibility for continued participation in the Program whenever it receives specific and credible information alleging that such Program Participant no longer meets the requirements for Program eligibility. Upon making a finding that a Program Participant is no longer eligible, the Administration shall initiate a termination proceeding in accordance with subparagraph (F). A Program Participant's eligibility for award of any contract under the authority of section 8(a) may be suspended or terminated pursuant to subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation).

"(ii) Except as provided under section 602 of the Business Opportunity Development Reform Act of 1988, no award shall be made pursuant to section 8(a) to other than a small business concern.".

SEC. 207. ELIGIBILITY OF NATIVE HAWAIIANS.

(a) IN GENERAL.—Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding the following new paragraph:

"(15) For purposes of this subsection, the term 'Native Hawaiian organizations' means any community service organization serving Native Hawaiians in the State of Hawaii which—

"(A) is a not-for-profit organization chartered by the State of Hawaii,

"(B) is controlled by Native Hawaiians, and

"(C) whose business activities will principally benefit such Native Hawaiians.".

(b) TECHNICAL AMENDMENT.—Section 2(e)(1)(C) of such Act (15 U.S.C. 631(e)(2)(C)) is amended by inserting "Native Hawaiian Organizations," after "Asian Pacific Americans,".

(c) CLARIFICATION OF DEFINITION OF "SOCIALLY AND ECONOMICALLY DISADVANTAGED SMALL BUSINESS CONCERN".—Paragraph (4) of section 8(a) of such Act (15 U.S.C. 637(a)(4)) is amended to read as follows:

"(4)(A) For purposes of this section, the term 'socially and economically disadvantaged small business concern' means any small business concern which meets the requirements of subparagraph (B) and—

"(i) which is at least 51 per centum owned by—

"(I) one or more socially and economically disadvantaged individuals,

"(II) an economically disadvantaged Indian tribe, or

"(III) an economically disadvantaged Native Hawaiian organization, or

"(ii) in the case of any publicly owned business, at least 51 per centum of the stock of which is owned by—

"(I) one or more socially and economically disadvantaged individuals,

"(II) an economically disadvantaged Indian tribe, or

"(III) an economically disadvantaged Native Hawaiian organization.

"(B) A small business concern meets the requirements of this subparagraph if the management and daily business operations of such small business concern are controlled by one or more—

"(i) socially and economically disadvantaged individuals described in subparagraph (A)(i)(I) or subparagraph (A)(ii)(I),

"(ii) members of an economically disadvantaged Indian tribe described in subparagraph (A)(i)(II) or subparagraph (A)(ii)(II), or

"(iii) Native Hawaiian organizations described in subparagraph (A)(i)(III) or subparagraph (A)(ii)(III).".

SEC. 208. TERMINATION AND GRADUATION STANDARDS.

Section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)), is further amended by adding at the end thereof the following new subparagraphs:

"(E) A small business concern participating in the program conducted under the authority of this paragraph and eligible for the award of contracts pursuant to section 8(a) shall be denied all such assistance if such concern—

"(i) voluntarily elects not to continue participation;

"(ii) participates in the Program for a period in excess of the time limits prescribed by paragraph (15);

"(iii) is terminated pursuant to a termination proceeding conducted in accordance with section 8(a)(9); or

"(iv) is graduated pursuant to a graduation proceeding conducted in accordance with section 8(a)(9).

"(F) For the purposes of sections 7(j) and 8(a), the terms 'terminated' or 'termination' shall mean the total denial

"(F) For the purposes of this Act, sections 7(j) and 8(a), the terms 'terminated' or 'termination' shall mean the total denial or suspension of assistance provided pursuant to this paragraph or section 8(a) prior to the graduation of the participating small business concern pursuant to subparagraph (H) or the expiration of the maximum program participation in terms prescribed by paragraph (15). An action for termination shall be based upon good cause, including—

"(i) the failure by such concern to maintain its eligibility for Program participation;

"(ii) the failure of the concern to engage in business practices that will promote its competitiveness within a reasonable period of time as evidenced by, among other indicators, a pattern of unjustified delinquent performance or terminations for default with respect to contracts awarded under the authority of section 8(a);

"(iii) a demonstrated pattern of failing to make required submissions or responses to the Administration in a timely manner;

"(iv) the willful violation of any rule or regulation of the Administration pertaining to material issues;

"(v) the debarment of the concern or its disadvantaged owners by any agency pursuant to subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation); or

"(vi) the conviction of the disadvantaged owner or an officer of the concern for any offense indicating a lack of business integrity including any conviction for embezzlement, theft, forgery, bribery, falsification or violation of section 16. For purposes of this clause, no termination action shall be taken with respect to a disadvantaged owner solely because of the conviction of an officer of the concern (who is other than a disadvantaged owner) unless such owner conspired with, abetted, or otherwise knowingly acquiesced in the activity or omission that was the basis of such officer's conviction. Fraud. Law enforcement and crime.

"(G) The Director of the Division may initiate a termination proceeding by recommending such action to the Associate Administrator for Minority Small Business and Capital Ownership Development. Whenever the Associate Administrator, or a designee of such officer, determines such termination is appropriate, within 15 days after making such a determination the Program Participant shall be provided a written notice of intent to terminate, specifying the reasons for such action. No Program Participant shall be terminated from the Program pursuant to subparagraph (F) without first being afforded an opportunity for a hearing in accordance with section 8(a)(9).

"(H) For the purposes of sections 7(j) and 8(a) the term 'graduated' or 'graduation' means that the Program Participant is recognized as successfully completing the program by substantially achieving the targets, objectives, and goals contained in the concern's business plan thereby demonstrating its ability to compete in the marketplace without assistance under this section or section 8(a).".

SEC. 209. ECONOMIC DISADVANTAGE

(a) ECONOMIC DISADVANTAGE.—Section 8(a)(6) of the Small Business Act (15 U.S.C. 637(a)(6)) is amended—

(1) by striking out "(6)" and inserting in lieu thereof "(6)(A)", and

(2) by adding at the end the following new subparagraphs:

"(B) Each Program Participant shall annually submit to the Administration—

"(i) a personal financial statement for each disadvantaged owner;

"(ii) a record of all payments made by the Program Participant to each of its disadvantaged owners or to any person or entity affiliated with such owners; and Records.

"(iii) such other information as the Administration may deem necessary to make the determinations required by this paragraph.

"(C)(i) Whenever, on the basis of information provided by a Program Participant pursuant to subparagraph (B) or otherwise, the

Administration has reason to believe that the standards to establish economic disadvantage pursuant to (A) have not been met, the Administration shall conduct a review to determine whether such Program Participant and its disadvantaged owners continue to be impaired in their ability to compete in the free enterprise system due to diminished capital and credit opportunities when compared to other concerns in the same business area, which are not socially disadvantaged.

"(ii) If the Administration determines, pursuant to such review, that a Program Participant and its disadvantaged owners are no longer economically disadvantaged for the purpose of receiving assistance under this subsection, the Program Participant shall be graduated pursuant to section 7(j)(10)(H) subject to the right to a hearing as provided for under paragraph (9).

"(D)(i) Whenever, on the basis of information provided by a Program Participant pursuant to subparagraph (B) or otherwise, the Administration has reason to believe that the amount of funds or other assets withdrawn from a Program Participant for the personal benefit of its disadvantaged owners or any person or entity affiliated with such owners may have been unduly excessive, the Administration shall conduct a review to determine whether such withdrawal of funds or other assets was detrimental to the achievement of the targets, objectives, and goals contained in such Program Participant's business plan.

"(ii) If the Administration determines, pursuant to such review, that funds or other assets have been withdrawn to the detriment of the Program Participant's business, the Administration shall—

"(I) initiate a proceeding to terminate the Program Participant pursuant to section 7(j)(10)(F), subject to the right to a hearing under paragraph (9); or

"(II) require an appropriate reinvestment of funds or other assets and such other steps as the Administration may deem necessary to ensure the protection of the concern.

"(E) Whenever the Administration computes personal net worth for any purpose under this paragraph, it shall exclude from such computation—

"(i) the value of investments that disadvantaged owners have in their concerns, except that such value shall be taken into account under this paragraph when comparing such concerns to other concerns in the same business area that are owned by other than socially disadvantaged persons;

"(ii) the equity that disadvantaged owners have in their primary personal residences, except that any portion of such equity that is attributable to unduly excessive withdrawals from a Program Participant or a concern applying for program participation shall be taken into account.".

(b) CERTIFICATION.—Section 8(a)(4) of the Small Business Act (15 U.S.C. 637(a)(4)(A)) is further amended by adding the following new subparagraph:

"(C) Each Program Participant shall certify, on an annual basis, that it meets the requirements of this paragraph regarding ownership and control."

TITLE III—BUSINESS DEVELOPMENT

SEC. 301. STAGES OF PROGRAM PARTICIPATION.

(a) IN GENERAL.—Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is amended by adding at the end thereof the following new paragraph:

"(12)(A) The Administration shall segment the Capital Ownership Development Program into two stages: a development stage; and a transitional stage.

"(B) The developmental stage of program participation shall be designed to assist the concern to overcome its economic disadvantage by providing such assistance as may be necessary and appropriate to access its markets and to strengthen its financial and managerial skills.

"(C) The transitional stage of program participation shall be designed to overcome, insofar as practicable, the remaining elements of economic disadvantage and to prepare such concern for graduation from the program.".

(b) DEVELOPMENTAL STAGE OF PROGRAM PARTICIPATION.—Such section is further amended by adding at the end thereof the following new paragraph:

"(13) A Program Participant, if otherwise eligible, shall be qualified to receive the following assistance during the stages of program participation specified in paragraph 12:

"(A) Contract support pursuant to section 8(a).

"(B) Financial assistance pursuant to section 7(a)(20).

"(C) A maximum of two exemptions from the requirements of section 1(a) of the Act entitled 'An Act providing conditions for the purchase of supplies and the making of contracts by the United States, and for other purposes', approved June 30, 1936 (49 Stat. 2036), which exemptions shall apply only to contracts awarded pursuant to section (8)(a) and shall only be used to allow for contingent agreements by a small business concern to acquire the machinery, equipment, facilities, or labor needed to perform such contracts. No exemption shall be made pursuant to this subparagraph if the contract to which it pertains has an anticipated value in excess of $10,000,000. This subparagraph shall cease to be effective on October 1, 1992.

Termination date.

"(D) A maximum of five exemptions from the requirements of the Act entitled 'An Act requiring contracts for the construction, alteration and repair of any public building or public work of the United States to be accompanied by a performance bond protecting the United States and by an additional bond for the protection of persons furnishing material and labor for the construction, alteration, or repair of said public buildings or public works', approved August 24, 1935 (49 Stat. 793), which exemptions shall apply only to contracts awarded pursuant to section 8(a), except that, such exemptions may be granted under this subparagraph only if—

"(i) the Administration finds that such concern is unable to obtain the requisite bond or bonds from a surety and that no surety is willing to issue a bond subject to the guarantee provision of title IV of the Small Business Investment Act of 1958 (15 U.S.C. 692 et seq.);

"(ii) the Administration and the agency providing the contracting opportunity have provided for the protection of

persons furnishing materials or labor to the Program Participant by arranging for the direct disbursement of funds due to such persons by the procuring agency or through any bank the deposits of which are insured by the Federal Deposit Insurance Corporation; and

"(iii) the contract to which it pertains does not exceed $3,000,000 in amount. This subparagraph shall cease to be effective on October 1, 1992.

Termination date.

"(E) Financial assistance whereby the Administration may purchase in whole or in part, and on behalf of such concerns, skills training or upgrading for employees or potential employees of such concerns. Such financial assistance may be made without regard to section 18(a), shall be made by way of reimbursement to the training provider, and shall have such adjustments as may be necessary to provide for overpayments or underpayments. For purposes of this subparagraph the term 'training provider' shall mean an institution of higher education, a community or vocational college, or an institution eligible to provide skills training or upgrading under the Job Training Partnership Act (29 U.S.C. 1501 et seq.). The Administration shall, in consultation with the Secretary of Labor, promulgate rules and regulations to implement this subparagraph that establish acceptable training and upgrading performance standards and provide for such monitoring or audit requirements as may be necessary to ensure the integrity of the training effort. No financial assistance shall be granted under the subparagraph unless the Administrator determines that—

Regulations.

"(i) such concern has documented that it has first explored the use of existing cost-free or cost-subsidized training programs offered by public and private sector agencies working with programs of employment and training and economic development;

"(ii) no more than five employees or potential employees of such concern are recipients of any benefits under this subparagraph at any one time;

"(iii) no more than $2,500 shall be made available for any one employee or potential employee;

"(iv) the length of training or upgrading financed by this subparagraph shall be no less than one month nor more than six months;

"(v) such concern has given adequate assurance it will employ the trainee or upgraded employee for at least six months after the training or upgrading financed by this subparagraph has been completed and each trainee or upgraded employee has provided a similar assurance to remain within the employ of such concern for such period; if such concern, trainee, or upgraded employee breaches this agreement, the Administration shall be entitled to and shall make diligent efforts to obtain from the violating party the repayment of all funds expended on behalf of the violating party, such repayment shall be made to the Administration together with such interest and costs of collection as may be reasonable; the violating party shall be barred from receiving any further assistance under this subparagraph;

"(vi) the training to be financed may take place either at such concern's facilities or at those of the training provider; and

"(vii) such concern will maintain such records as the Administration deems appropriate to ensure that the provisions of this paragraph and any other applicable law have not been violated. Records.

"(F) The transfer of technology or surplus property owned by the United States to such a concern. Activities designed to effect such transfer shall be developed in cooperation with the heads of Federal agencies and shall include the transfer by grant, license, or sale of such technology or property to such a concern. Such property may be transferred to Program Participants on a priority basis. Technology or property transferred under this subparagraph shall be used by the concern during the normal conduct of its business operation and shall not be sold or transferred to any other party (other than the Government) during such concern's term of participation in the Program and for one year thereafter. Science and technology. Real property.

"(G) Training assistance whereby the Administration shall conduct training sessions to assist individuals and enterprises eligible to receive contracts under section 8(a) in the development of business principles and strategies to enhance their ability to successfully compete for contracts in the marketplace.

"(H) Joint ventures, leader-follower arrangements, and teaming agreements between the Program Participant and other Program Participants and other business concerns with respect to contracting opportunities for the research, development, full-scale engineering or production of major systems. Such activities shall be undertaken on the basis of programs developed by the agency responsible for the procurement of the major system, with the assistance of the Administration.

"(I) Transitional management business planning training and technical assistance.

"(J) Program Participants in the developmental stage of Program participation shall be eligible for the assistance provided by subparagraphs (A), (B), (C), (D), (E), (F), and (G).

(c) TRANSITIONAL STAGE OF PROGRAM PARTICIPATION.—Such section is further amended by adding at the end the following new paragraph:

"(14) Program Participants in the transitional stage of Program participation shall be eligible for the assistance provided by subparagraphs (A), (B), (F), (G), (H), and (I) of paragraph (13).

SEC. 302. LOANS.

Section 7(a) of the Small Business Act (15 U.S.C. 636(a)) is amended by adding at the end thereof the following new paragraph:

"(20)(A) The Administration is empowered to make loans either directly or in cooperation with banks or other financial institutions through agreements to participate on an immediate or deferred (guaranteed) basis to small business concerns eligible for assistance under subsection (j)(10) and section 8(a). Such assistance may be provided only if the Administration determines that— Banks and banking.

"(i) the type and amount of such assistance requested by such concern is not otherwise available on reasonable terms from other sources;

"(ii) with such assistance such concern has a reasonable prospect for operating soundly and profitably within a reasonable period of time;

"(iii) the proceeds of such assistance will be used within a reasonable time for plant construction, conversion, or expansion, including the acquisition of equipment, facilities, machinery, supplies, or material or to supply such concern with working capital to be used in the manufacture of articles, equipment, supplies, or material for defense or civilian production or as may be necessary to insure a well-balanced national economy; and

"(iv) such assistance is of such sound value as reasonably to assure that the terms under which it is provided will not be breached by the small business concern.

"(B)(i) No loan shall be made under this paragraph if the total amount outstanding and committed (by participation or otherwise) to the borrower would exceed $750,000.

"(ii) Subject to the provisions of clause (i), in agreements to participate in loans on a deferred (guaranteed) basis, participation by the Administration shall be not less than 85 per centum of the balance of the financing outstanding at the time of disbursement.

"(iii) The rate of interest on financings made on a deferred (guaranteed) basis shall be legal and reasonable.

"(iv) Financings made pursuant to this paragraph shall be subject to the following limitations:

"(I) No immediate participation may be purchased unless it is shown that a deferred participation is not available.

"(II) No direct financing may be made unless it is shown that a participation is unavailable.

"(C) A direct loan or the Administration's share of an immediate participation loan made pursuant to this paragraph shall be any secured debt instrument—

"(i) that is subordinated by its terms to all other borrowings of the issuer;

"(ii) the rate of interest on which shall not exceed the current average market yield on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the average maturities of such loan and adjusted to the nearest one-eighth of 1 per centum;

"(iii) the term of which is not more than twenty-five years; and

"(iv) the principal on which amortized at such rate as may be deemed appropriate by the Administration, and the interest on which is payable not less often than annually.".

SEC. 303. CONTRACTUAL ASSISTANCE.

(a) COMPETITIVE BUSINESS MIX.—Section 7(j)(10) of the Small Business Act (15 U.S.C. 363(j)(10)), is further amended by adding at the end thereof the following new subparagraph:

15 USC 636.

"(i) During the developmental stage of its participation in the Program, a Program Participant shall take all reasonable efforts within its control to attain the targets contained in its business plan for contracts awarded other than pursuant to section 8(a) (hereinafter referred to as 'business activity targets.'). Such efforts shall be made a part of the business plan and shall be sufficient in scope and duration to satisfy the Administration that the Program Participant will engage a

Marketing.

reasonable marketing strategy that will maximize its potential to achieve its business activity targets.

"(ii) During the transitional stage of the Program a Program Participant shall be subject to regulations regarding business activity targets that are promulgated by the Administration pursuant to clause (iii). Regulations.

"(iii) The regulations referred to in clause (ii) shall:

"(I) establish business activity targets applicable to Program Participants during the fifth year and each succeeding year of Program Participation; such targets, for such period of time, shall reflect a reasonably consistent increase in contracts awarded other than pursuant to section 8(a), expressed as a percentage of total sales; when promulgating business activity targets the Administration may establish modified targets for Program Participants that have participated in the Program for a period of longer than four years on the effective date of this subparagraph;

"(II) require a Program Participant to attain its business activity targets;

"(III) provide that, before the receipt of any contract to be awarded pursuant to section 8(a), the Program Participant (if it is in the transitional stage) must certify that it has complied with the regulations promulgated pursuant to subclause (II), or that it is in compliance with such remedial measures as may have been ordered pursuant to regulations issued under subclause (V);

"(IV) require the Administration to review each Program Participant's performance regarding attainment of business activity targets during periodic reviews of such Participant's business plan; and

"(V) authorize the Administration to take appropriate remedial measures with respect to a Program Participant that has failed to attain a required business activity target for the purpose of reducing such Participant's dependence on contracts awarded pursuant to section 8(a); such remedial actions may include, but are not limited to assisting the Program Participant to expand the dollar volume of its competitive business activity or limiting the dollar volume of contracts awarded to the Program Participant pursuant to section 8(a); except for actions that would constitute a termination, remedial measures taken pursuant to this subclause shall not be reviewable pursuant to section 8(a)(9).".

(b) COMPETITIVE THRESHOLDS.—Section 8(a)(1) of the Act (15 U.S.C. 637(a)(1)) is amended by adding at the end thereof the following new subparagraph:

"(D)(i) A contract opportunity offered for award pursuant to this subsection shall be awarded on the basis of competition restricted to eligible program participants if—

"(I) there is a reasonable expectation that at least two eligible Program Participants will submit offers and that award can be made at a fair market price, and

"(II) the anticipated award price of the contract (including options) will exceed $5,000,000 in the case of a contract opportunity assigned a standard industrial classification code for manufacturing and $3,000,000 (including options) in the case of all other contract opportunities.

"(ii) The Associate Administrator for Minority Small Business and Capital Ownership Development, on a nondelegable basis, is authorized to approve a request from an agency to award a contract opportunity under this subsection on the basis of a competition restricted to eligible Program Participants even if the anticipated award price is not expected to exceed the dollar amounts specified in clause (i)(II). Such approvals shall be granted only on a limited basis.".

(c) CONTRACT MATCHING.—Section 8(a) of the Act (15 U.S.C. 637(a)), is further amended by adding at the end thereof the following new paragraph:

"(16)(A) The Administration shall award sole source contracts under this section to any small business concern recommended by the procuring agency offering the contract opportunity if—

"(i) the Program Participant is determined to be a responsible contractor with respect to performance of such contract opportunity;

"(ii) the award of such contract would be consistent with the Program Participant's business plan; and

"(iii) the award of the contract would not result in the Program Participant exceeding the requirements established by section 7(j)(10)(I).

"(B) To the maximum extent practicable, the Administration shall promote the equitable geographic distribution of sole source contracts awarded pursuant to this subsection.".

(d) CONTRACT SELECTION APPEALS AND DOCUMENTATION.—Section 8(a)(1)(A) of the Small Business Act (15 U.S.C. 637(a)(1)(A)) is amended by inserting after the sentence ending "the Administrator." the following: "Not later than 5 days from the date the Administration is notified of a procurement officer's adverse decision, the Administration may notify the contracting officer of the intent to appeal such adverse decision, and within 15 days of such date the Administrator shall file a written request for a reconsideration of the adverse decision with the Secretary of the department or agency head. For the purposes of this subparagraph, a procurement officer's adverse decision includes a decision not to make available for award pursuant to this subsection a particular procurement requirement or the failure to agree on the terms and conditions of a contract to be awarded noncompetitively under the authority of this subsection. Upon receipt of the notice of intent to appeal, the Secretary of the department or the agency head shall suspend further action regarding the procurement until a written decision on the Administrator's request for reconsideration has been issued by such Secretary or agency head, unless such officer makes a written determination that urgent and compelling circumstances which significantly affect interests of the United States will not permit waiting for a reconsideration of the adverse decision. If the Administrator's request for reconsideration is denied, the Secretary of the department or agency head shall specify the reasons why the selected firm was determined to be incapable to perform the procurement requirement, and the findings supporting such determination, which shall be made a part of the contract file for the requirement.".

(e) FAIR MARKET PRICE.—Section 8(a)(3) of the Act (15 U.S.C. 637(a)(3)) is amended to read as follows:

"(3)(A) Any Program Participant selected by the Administration to perform a contract to be let noncompetitively pursuant to this

subsection shall, when practicable, participate in any negotiation of the terms and conditions of such contract.

"(B)(i) For purposes of paragraph (1) a 'fair market price' shall be determined by the agency offering the procurement requirement to the Administration, in accordance with clauses (ii) and (iii).

"(ii) The estimate of a current fair market price for a new procurement requirement, or a requirement that does not have a satisfactory procurement history, shall be derived from a price or cost analysis. Such analysis may take into account prevailing market conditions, commercial prices for similar products or services, or data obtained from any other agency. Such analysis shall consider such cost or pricing data as may be timely submitted by the Administration.

"(iii) The estimate of a current fair market price for a procurement requirement that has a satisfactory procurement history shall be based on recent award prices adjusted to insure comparability. Such adjustments shall take into account differences in quantities, performance times, plans, specifications, transportation costs, packaging and packing costs, labor and materials costs, overhead costs, and any other additional costs which may be deemed appropriate.

"(C) An agency offering a procurement requirement for potential award pursuant to this subsection shall, upon the request of the Administration, promptly submit to the Administration a written statement detailing the method used by the agency to estimate the current fair market price for such contract, identifying the information, studies, analyses, and other data used by such agency. The agency's estimate of the current fair market price (and any supporting data furnished to the Administration) shall not be disclosed to any potential offeror (other than the Administration).

"(D) A small business concern selected by the Administration to perform or negotiate a contract to be let pursuant to this subsection may request the Administration to protest the agency's estimate of the fair market price for such contract pursuant to paragraph (1)(A).".

(f) OPTIONS.—(1) The Small Business Administration shall make substantial and sustained efforts to achieve a maximum ten-day period as the average processing time for approving options and modifications to contracts awarded pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and submitted to such Administration for approval. 15 USC 637 note.

(2) Within sixty days after the date of enactment of this Act, the Small Business Administration, and the appropriate Federal agency, shall make substantial and sustained efforts to negotiate contract modifications for fair market price for any and all unpriced options contained in contracts previously awarded pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) with the contractor that was initially awarded such contract.

(3) During the period of time described in paragraph (2), such agencies shall refrain from procuring such requirements from alternative sources except that, no delay may be incurred pursuant to this paragraph that would cause substantial harm to a public interest.

(4) The Small Business Administration shall take appropriate actions, including publication in the Federal Register, to advise small business concerns and Federal agencies of the requirements of this subsection. Federal Register, publication.

(5) The Administration shall, to the maximum extent practicable, minimize delay, eliminate excess regulation, and require only such paperwork as may be necessary to effect the orderly and efficient management of the Program established by section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) and the award of contracts pursuant to section 8(a) of such Act (15 U.S.C. 637(a)).

(g) STANDARD INDUSTRIAL CLASSIFICATION CODE LIMITATIONS.—Section 8(a)(7) of the Act (15 U.S.C. 637(a)(7)) is amended by—

(1) inserting "(A)" after "(7)"; and

(2) adding the following new subparagraph:

"(B) Limitations established by the Administration in its regulations and procedures restricting the award of contracts pursuant to this subsection to a limited number of standard industrial classification codes in an approved business plan shall not be applied in a manner that inhibits the logical business progression by a participating small business concern into areas of industrial endeavor where such concern has the potential for success.".

(h) NON-MANUFACTURER RULE.—Section 8(a) of the Act (15 U.S.C. 637(a)) is further amended by adding the following new paragraph:

"(17)(A) An otherwise responsible business concern that is in compliance with the requirements of subparagraph (B) shall not be denied the opportunity to submit and have considered its offer for any procurement contract for the supply of a product to be let pursuant to this subsection or subsection (a) of section 15 solely because such concern is other than the actual manufacturer or processor of the product to be supplied under the contract.

"(B) To be in compliance with the requirements referred to in subparagraph (A), such a business concern shall—

"(i) be primarily engaged in the wholesale or retail trade;

"(ii) be a regular dealer, as defined pursuant to section 35(a) of title 41, United States Code (popularly referred to as the Walsh-Healey Public Contracts Act), in the product to be offered the Government or be specifically exempted from such section by section 7(j)(13)(C); and

"(iii) represent that it will supply the product of a domestic small business manufacturer or processor, except that, the Administrator may waive the application of the clause, as it pertains to the furnishing of a product manufactured or processed by a small business, for any class of products for which there are no small business manufacturers or processors in the Federal market."

SEC. 304. SUBCONTRACTING ASSISTANCE.

(a) ENCOURAGING COMPLIANCE.—Section 8(d)(4) of the Small Business Act (15 U.S.C. 637(d)(4)) is amended by adding at the end thereof the following new subparagraph:

"(F)(i) Each contract subject to the requirements of this paragraph or paragraph (5) shall contain a clause for the payment of liquidated damages upon a finding that a prime contractor has failed to make a good faith effort to comply with the requirements imposed on such contractor by this subsection.

"(ii) The contractor shall be afforded an opportunity to demonstrate a good faith effort regarding compliance prior to the contracting officer's final decision regarding the impositon of damages and the amount thereof. The final decision of a contracting officer regarding the contractor's obligation to pay such damages, or

the amounts thereof, shall be subject to the Contract Disputes Act of 1978 (41 U.S.C. 601–613).

"(iii) Each agency shall ensure that the goals offered by the apparent successful bidder or offeror are attainable in relation to—

"(I) the subcontracting opportunities available to the contractor, commensurate with the efficient and economical performance of the contract;

"(II) the pool of eligible subcontractors available to fulfill the subcontracting opportunities; and

"(III) the actual performance of such contractor in fulfilling the subcontracting goals specified in prior plans.".

(b) LIQUIDATED DAMAGES CLAUSE.—The contract clause required by section 8(d)(4)(F) of the Small Business Act (as added by subsection (a)) shall be made part of the Federal Acquisition Regulation and promulgated pursuant to section 22 of the Office of Federal Procurement Policy Act (41 U.S.C. 418b). 15 USC 637 note.

TITLE IV—IMPROVED MANAGEMENT AND PROGRAM INTEGRITY

SEC. 401. STATUS OF THE ASSOCIATE ADMINISTRATOR FOR MINORITY SMALL BUSINESS AND CAPITAL OWNERSHIP DEVELOPMENT.

(a) IN GENERAL.—In Section 4(b)(1) of the Small Business Act (15 U.S.C. 633(b)(1)) is amended by inserting immediately after "Associate Administrator for Minority Small Business and Capital Ownership Development" the following: "who shall be an employee in the competitive service or in the Senior Executive Service and a career appointee".

(b) CAREER POSITION.—The position of Associate Administrator for Minority Small Business and Capital Ownership Development referred to in paragraph (1) of section 4(b) of the Act shall be a career reserved position. 15 USC 633 note.

SEC. 402. PROHIBITED ACTIONS AND EMPLOYEE RESPONSIBILITIES.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is further amended by adding at the end thereof the following new paragraph:

"(18)(A) No person within the employ of the Administration shall, during the term of such employment and for a period of two years after such employment has been terminated, engage in any activity or transaction specified in subparagraph (B) with respect to any Program Participant certified during such person's term of employment, if such person participated personally (either directly or indirectly) in decision-making responsibilities relating to such Program Participant or with respect to the administration of any assistance provided to Program Participants generally under this subsection, section 7(j)(10), or section 7(a)(20).

"(B) The activities and transactions prohibited by subparagraph (A) include—

"(i) the buying, selling, or receiving (except by inheritance) of any legal or beneficial ownership of stock or any other ownership interest or the right to acquire any such interest;

"(ii) the entering into or execution of any written or oral agreement (whether or not legally enforceable) to purchase or otherwise obtain any right or interest described in clause (i); or

"(iii) the receipt of any other benefit or right that may be an incident of ownership.

"(C)(i) The employees designated in clause (ii) shall annually submit a written certification to the Administration regarding compliance with the requirements of this paragraph.

"(ii) The employees referred to in clause (i) are—

"(I) regional administrators;

"(II) district directors;

"(III) the Associate Administrator for Minority Small Business and Capital Ownership Development;

"(IV) employees whose principal duties relate to the award of contracts or the provision of other assistance pursuant to this subsection or section 7(j)(10); and

"(V) such other employees as the Administrator may deem appropriate.

Law enforcement and crime.

"(iii) Any present or former employee of the Administration who violates this paragraph shall be subject to a civil penalty, assessed by the Attorney General, that shall not exceed 300 per centum of the maximum amount of gain such employee realized or could have realized as a result of engaging in those activities and transactions prescribed by subparagraph (B).

"(iv) In addition to any other remedy or sanction provided for under law or regulation, any person who falsely certifies pursuant to clause (i) shall be subject to a civil penalty under the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801-3812)."

SEC. 403. POLITICALLY MOTIVATED ACTIVITIES.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is amended by adding at the end the following:

"(19)(A) Any employee of the Administration who has authority to take, direct others to take, recommend, or approve any action with respect to any program or activity conducted pursuant to this subsection or section 7(j), shall not, with respect to any such action, exercise or threaten to exercise such authority on the basis of the political activity or affiliation of any party. Employees of the Administration shall expeditiously report to the Inspector General of the Administration any such action for which such employee's participation has been solicitated or directed.

"(B) Any employee who willfully and knowingly violates subparagraph (A) shall be subject to disciplinary action, imposed by the Administrator, which may consist of separation from service, reduction in grade, suspension, or reprimand.

"(C) Subparagraph (A) shall not apply to any action taken as a penalty or other enforcement of a violation of any law, rule, or regulation prohibiting or restricting political activity.

"(D) The prohibitions of subparagraph (A), and remedial measures provided for under subparagraphs (B) and (C) with regard to such prohibitions, shall be in addition to, and not in lieu of, any other prohibitions, measures or liabilities that may arise under any other provision of law.".

SEC. 404. REPORTS BY PROGRAM PARTICIPANTS.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is further amended by adding at the end thereof the following new paragraph:

"(20)(A) Small business concerns participating in the Program under section 7(j)(10) and eligible to receive contracts pursuant to this section shall semiannually report to their assigned business opportunity specialist the following:

"(i) A listing of any agents, representatives, attorneys, accountants, consultants, and other parties (other than employees) receiving compensation to assist in obtaining a Federal contract for such Program Participant.

"(ii) The amount of compensation received by any person listed under clause (i) during the relevant reporting period and a description of the activities performed in return for such compensation.

"(B) The Business Opportunity Specialist shall promptly review and forward such report to the Associate Administrator for Minority Small Business and Capital Ownership Development. Any report that raises a suspicion of improper activity shall be reported immediately to the Inspector General of the Administration.

"(C) The failure to submit a report pursuant to the requirements of this subsection and applicable regulations shall be considered 'good cause' for the initiation of a termination proceeding pursuant to section 7(j)(10)(F).".

SEC. 405. FALSE REPRESENTATIONS.

(a) PENALTY FOR MISREPRESENTATION.—Section 16(d) of the Small Business Act (15 U.S.C. 645(d)) is amended to read as follows:

"(d)(1) Whoever misrepresents the status of any concern or person as a 'small business concern' or 'small business concern owned and controlled by socially and economically disadvantaged individuals', in order to obtain for oneself or another any—

"(A) prime contract to be awarded pursuant to section 9 or 15;

"(B) subcontract to be awarded pursuant to section 8(a);

"(C) subcontract that is to be included as part or all of a goal contained in a subcontracting plan required pursuant to section 8(d); or

"(D) prime or subcontract to be awarded as a result, or in furtherance, of any other provision of Federal law that specifically references section 8(d) for a definition of program eligibility, shall be subject to the penalties and remedies described in paragraph (2).

"(2) Any person who violates paragraph (1) shall—

"(A) be punished by a fine of not more than $500,000 or by imprisonment for not more than 10 years, or both;

"(B) be subject to the administrative remedies prescribed by the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801-3812);

"(C) be subject to suspension and debarment as specified in subpart 9.4 of title 48, Code of Federal Regulations (or any successor regulation) on the basis that such misrepresentation indicates a lack of business integrity that seriously and directly affects the present responsibility to perform any contract awarded by the Federal Government or a subcontract under such a contract; and

"(D) be ineligible for participation in any program or activity conducted under the authority of this Act or the Small Business Investment Act of 1958 (15 U.S.C. 661 et seq.) for a period not to exceed 3 years.".

(b) MISREPRESENTATION OF SECTION 7 COMPLIANCE.—Section 16 of the Small Business Act (15 U.S.C. 645) is amended by adding at the end thereof the following new subsection:

"(f) Whoever falsely certifies past compliance with the requirements of section 7(j)(10)(I) of this Act shall be subject to the penalties prescribed in subsection (d).".

SEC. 406. CONGRESSIONALLY REQUESTED INVESTIGATIONS.

(e) INSPECTOR GENERAL INVESTIGATIONS.—Section 10(e) of the Small Business Act (15 U.S.C. 639(e)) is amended by—

(1) inserting "and the Inspector General of the Administration" immediately after "Administration", and

(2) adding the following new paragraph:

"(2) The Committee on Small Business of either the Senate or the House of Representatives may request that the Office of the Inspector General of the Administration conduct an investigation of any program or activity conducted under the authority of section 7(j) or 8(a). Not later than thirty days after the receipt of such a request, the Inspector General shall inform the committee, in writing of the disposition of the matter by such office.".

SEC. 407. CONTRACT PERFORMANCE.

Section 8(a) of the Small Business Act (15 U.S.C. 637(a)) is further amended by adding the following new paragraph:

"(21)(A) Subject to the provisions of subparagraph (B), a contract (including options) awarded pursuant to this subsection shall be performed by the concern that initially received such contract. Notwithstanding the provisions of the preceding sentence, if the owner or owners upon whom eligibility was based relinquish ownership or control of such concern, or enter into any agreement to relinquish such ownership or control, such contract or option shall be terminated for the convenience of the Government, except that no repurchase costs or other damages may be assessed against such concerns due solely to the provisions of this subparagraph.

"(B) The Administrator may, as a matter of discretion and on a nondelegable basis, waive the requirements of subparagraph (A) if requested to do so prior to the actual relinquishment of ownership or control. In addition to the requirement of the preceding sentence, a waiver may be given only if any of the following conditions exist:

"(i) When it is necessary for the owners of the concern to surrender partial control of such concern on a temporary basis in order to obtain equity financing.

"(ii) The head of the contracting agency for which the contract is being performed certifies that termination of the contract would severely impair attainment of the agency's program objectives or missions;

"(iii) Ownership and control of the concern that is performing the contract will pass to another small business concern that is a program participant, but only if the acquiring firm would otherwise be eligible to receive the award directly pursuant to subsection (a);

"(iv) The individuals upon whom eligibility was based are no longer able to exercise control of the concern due to incapacity or death; or

Securities.

"(v) When, in order to raise equity capital, it is necessary for the disadvantaged owners of the concern to relinquish ownership of a majority of the voting stock of such concern, but only if—

"(I) such concern has exited the Capital Ownership Development Program;

"(II) the disadvantaged owners will maintain ownership of the largest single outstanding block of voting stock (including stock held by affiliated parties); and

"(III) the disadvantaged owners will maintain control of daily business operations.

"(C) Concerns performing contracts awarded pursuant to this subsection shall be required to notify the Administration immediately upon entering an agreement (either oral or in writing) to transfer all or part of its stock or other ownership interest to any other party.

"(D) Notwithstanding any other provision of law, for the purposes of determining ownership and control of a concern under this section, any potential ownership interests held by investment companies licensed under the Small Business Investment Act of 1958 shall be treated in the same manner as interests held by the individuals upon whom eligibility is based.".

SEC. 408. DATA COLLECTION.

Section 7(j) of the Small Business Act (15 U.S.C. 636(j)) is further amended by adding the following new paragraph:

"(16)(A) The Administrator shall develop and implement a process for the systematic collection of data on the operations of the Program established pursuant to paragraph (10).

"(B) Not later than April 30 of each year, the Administrator shall submit a report to the Congress on the Program that shall include the following: Reports.

"(i) The average personal net worth of individuals who own and control concerns that were initially certified for participation in the Program during the immediately preceding fiscal year. The Administrator shall also indicate the dollar distribution of net worths, at $50,000 increments, of all such individuals found to be socially and economically disadvantaged. For the first report required pursuant to this paragraph the Administrator shall also provide the data specified in the preceding sentence for all eligible individuals in the Program as of the effective date of this paragraph.

"(ii) A description and estimate of the benefits and costs that have accrued to the economy and the Government in the immediately preceding fiscal year due to the operations of those business concerns that were performing contracts awarded pursuant to section 8(a).

"(iii) A compilation and evaluation of those business concerns that have exited the Program during the immediately preceding three fiscal years. Such compilation and evaluation shall detail the number of concerns actively engaged in business operations, those that have ceased or substantially curtailed such operations, including the reasons for such actions, and those concerns that have been acquired by other firms or organizations owned and controlled by other than socially and economically disadvantaged individuals. For those businesses that have continued operations after they exited from the Program, the Administrator shall also separately detail the benefits and costs that have accrued to the economy during the immediately preceding fiscal year due to the operations of such concerns.

"(iv) A listing of all participants in the Program during the preceding fiscal year identifying, by State and by Region, for each firm: the name of the concern, the race or ethnicity, and

gender of the disadvantaged owners, the dollar value of all contracts received in the preceding year, the dollar amount of advance payments received by each concern pursuant to contracts awarded under section 8(a), and a description including (if appropriate) an estimate of the dollar value of all benefits received pursuant to paragraphs (13) and (14) and section 7(a)(20) during such year.

"(v) The total dollar value of contracts and options awarded during the preceding fiscal year pursuant to section 8(a) and such amount expressed as a percentage of total sales of (I) all firms participating in the Program during such year; and (II) of firms in each of the nine years of program participation.

"(vi) A description of such additional resources or program authorities as may be required to provide the types of services needed over the next two-year period to service the expected portfolio of firms certified pursuant to section 8(a).

"(vii) The total dollar value of contracts and options awarded pursuant to section 8(a), at such dollar increments as the Administrator deems appropriate, for each four digit standard industrial classification code under which such contracts and options were classified.

"(C) The first report required by subparagraph (B) shall pertain to fiscal year 1990.".

SEC. 409. DUE PROCESS RIGHTS.

Paragraph (9) of section 8(a) of the Small Business Act (15 U.S.C. 637(a)(9)) is amended to read as follows:

"(9)(A) Subject to the provisions of subparagraph (E), the Administrator, prior to taking any action described in subparagraph (B), shall provide the small business concern that is the subject of such action, an opportunity for a hearing on the record, in accordance with chapter 5 of title 5, United States Code.

"(B) The actions referred to in subparagraph (A) are—

"(i) denial of program admission based upon a negative determination pursuant to paragraph (4), (5), or (6);

"(ii) a termination pursuant to section 7(j)(10)(F);

"(iii) a graduation pursuant to section 7(j)(10)(H); and

"(iv) the denial of a request to issue a waiver pursuant to paragraph (21)(B).

"(C) The Administrator's proposed action, in any proceeding conducted under the authority of this paragraph, shall be sustained unless it is found to be arbitrary, capricious, or contrary to law.

"(D) A decision rendered pursuant to this paragraph shall be the final decision of the Administration and shall be binding upon the Administration and those within its employ.

"(E) The adjudicator selected to preside over a proceeding conducted under the authority of this paragraph shall decline to accept jurisdiction over any matter that—

"(i) does not, on its face, allege facts that, if proven to be true, would warrant reversal or modification of the Administration's position;

"(ii) is untimely filed;

"(iii) is not filed in accordance with the rules of procedure governing such proceedings; or

"(iv) has been decided by or is the subject of an adjudication before a court of competent jurisdiction over such matters.

"(F) Proceedings conducted pursuant to the authority of this paragraph shall be completed and a decision rendered, insofar as practicable, within ninety days after a petition for a hearing is filed with the adjudicating office.".

SEC. 410. EMPLOYEE TRAINING AND EVALUATION. 15 USC 636 note.

(a) TRAINING REQUIREMENTS FOR BUSINESS SPECIALISTS.—(1) In each Small Business Administration field office responsible for assisting one or more Program Participants there shall be a position designated as a Business Opportunity Specialist. To the maximum extent practicable the Administration shall assure that an adequate number of Business Opportunity Specialists are assigned to each district office to carry out the responsibilities of sections 7(j) and 8(a) of the Small Business Act (15 U.S.C. 636(j), 637(a)) and to assist Program Participants.

(2) The Administration shall take such actions as may be appropriate to ensure that any person employed as a Business Opportunity Specialist receives adequate periodic training to assure such employee is capable of assisting Program Participants to fully utilize the Program and to meet the requirements of the Small Business Act, as amended by this Act.

(b) PILOT PROGRAM.—(1) Within 180 days after the effective date of this subsection the Administrator shall designate three regions of the Administration to conduct a pilot program pursuant to the provisions of this subsection. The designated regions shall contain approximately 30 per centum of the total number of Program Participants as of the time of designation.

(2) A Business Opportunity Specialist employed in a Region designated pursuant to paragraph (1), in addition to other assigned duties and responsibilities, shall—

(A) conduct contract negotiations on behalf of the Administration for contracts awarded pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) when performance will be rendered by one or more firms in such Specialist's assigned portfolio;

(B) facilitate and otherwise assist such firms in negotiating for the receipt of contracts to be let pursuant to such section.

(3) The Administration shall take such actions as may be appropriate to train and qualify such Specialists to perform the negotiations required pursuant to paragraph (2).

(4) To the extent practicable, the Administrator shall ensure that the performance appraisal system applicable to a Business Opportunity Specialist employed in a region designated pursuant to paragraph (1) affords substantial recognition to how well such Specialist's assigned portfolio of concerns participating in the program established by section 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) are achieving competitiveness and furthering the business development purposes of the program.

(5) The Administration shall establish personnel positions for Business Opportunity Specialists employed in the regions designated pursuant to paragraph (1) that are classified at a grade level of the General Schedule that are sufficient, in the opinion of the Administrator, to attract and retain highly qualified personnel.

(c) REPORT AND PILOT PROGRAM TERMINATION.—(1) Within 120 days after the termination of the pilot program conducted pursuant to subsection (b), the Administration shall issue a report to the Committees on Small Business of the Senate and of the House of

Representatives on the effectiveness of the pilot. Such report shall contain such recommendations for administrative or legislative change as may be appropriate.

(2) The pilot program conducted pursuant to subsection (a) shall be terminated three years after the date on which the Committees on Small Business of the Senate and of the House of Representatives receive written notification from the Administrator that the pilot is in full operation in each of the three designated pilot regions.

TITLE V—CONTRACT PLANNING; GOAL SETTING AND REVIEWS

SEC. 501. PLANNING SECTION 8(a) CONTRACT ACTIVITY.

Section 8(a)(12) of the Small Business Act (15 U.S.C. 637(a)(12)) is amended to read as follows:

"(12)(A) The Administration shall require each concern eligible to receive subcontracts pursuant to this subsection to annually prepare and submit to the Administration a capability statement. Such statement shall briefly describe such concern's various contract performance capabilities and shall contain the name and telephone number of the Business Opportunity Specialist assigned such concern. The Administration shall separate such statements by those primarily dependent upon local contract support and those primarily requiring a national marketing effort. Statements primarily dependent upon local contract support shall be disseminated to appropriate buying activities in the marketing area of the concern. The remaining statements shall be disseminated to the Directors of Small and Disadvantaged Business Utilization for the appropriate agencies who shall further distribute such statements to buying activities with such agencies that may purchase the types of items or services described on the capability statements.

"(B) Contracting activities receiving capability statements shall, within 60 days after receipt, contact the relevant Business Opportunity Specialist to indicate the number, type, and approximate dollar value of contract opportunities that such activities may be awarding over the succeeding 12-month period and which may be appropriate to consider for award to those concerns for which it has received capability statements.

"(C) Each executive agency reporting to the Federal Procurement Data System contract actions with an aggregate value in excess of $50,000,000 in fiscal year 1988, or in any succeeding fiscal year, shall prepare a forecast of expected contract opportunities or classes of contract opportunities for the next and succeeding fiscal years that small business concerns, including those owned and controlled by socially and economically disadvantaged individuals, are capable of performing. Such forecast shall be periodically revised during such year. To the extent such information is available, the agency forecasts shall specify:

"(i) The approximate number of individual contract opportunities (and the number of opportunities within a class)

"(ii) The approximate dollar value, or range of dollar values, for each contract opportunity or class of contract opportunities.

"(iii) The anticipated time (by fiscal year quarter) for the issuance of a procurement request.

"(iv) The activity responsible for the award and administration of the contract.

"(D) The head of each executive agency subject to the provisions of subparagraph (C) shall within 10 days of completion furnish such forecasts to—

"(i) the Director of the Office of Small and Disadvantaged Business Utilization established pursuant to section 15(k) for such agency; and

"(ii) the Administrator.

"(E) The information reported pursuant to (D) may be limited to classes of items and services for which there are substantial annual purchases.

"(F) Such forecasts shall be available to small business concerns.".

SEC. 502. ANNUAL CONTRACTING GOALS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended—

(1) by striking out "The head" and inserting in lieu thereof "(2) The head";

(2) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively, and

(3) by adding at the beginning the following new paragraph:

"(1) The President shall annually establish Government-wide goals for procurement contracts awarded to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. The Government-wide goal for participation by small business concerns shall be established at not less than 20 percent of the total value of all prime contract awards for each fiscal year. The Government-wide goal for participation by small business concerns owned and controlled by socially and economically disadvantaged individuals shall be established at not less than 5 percent of the total value of all prime contract and subcontract awards for each fiscal year. Notwithstanding the Government-wide goal, each agency shall have an annual goal that presents, for that agency, the maximum practicable opportunity for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals to participate in the performance of contracts let by such agency. The Administration and the Administrator of the Office of Federal Procurement Policy shall, when exercising their authority pursuant to paragraph (2), insure that the cumulative annual prime contract goals for all agencies meet or exceed the annual Government-wide prime contract goal established by the President pursuant to this paragraph.". President of U.S.

SEC. 503. PRESIDENTIAL REPORT ON CONTRACTING GOALS.

Section 15(h) of the Small Business Act (15 U.S.C. 644(h)) is amended—

(1) by striking out "(h)" and inserting in lieu thereof "(h)(1)",

(2) by striking out the last sentence of subsection (h)(1), and

(3) by adding at the end thereof the following new paragraph:

"(2) The Administration shall annually compile and analyze the reports submitted by the individual agencies pursuant to paragraph (1) and shall submit them to the President. The Administration's submission to the President shall include the following:

"(A) The Government-wide goals for participation by small business concerns and small business concerns owned and controlled by socially and economically disadvantaged and the performance in attaining such goals.

"(B) The goals in effect for each agency and the agency's performance in attaining such goals.

"(C) An analysis of any failure to achieve the Government-wide goals or any individual agency goals and the actions planned by such agency (and approved by the Administration) to achieve the goals in the succeeding fiscal year.

"(D) The number and dollar value of contracts awarded to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals through—

"(i) noncompetitive negotiation,

"(ii) competition restricted to small business concerns owned and controlled by socially and economically disadvantaged individuals,

"(iii) competition restricted to small business concerns, and

"(iv) unrestricted competitions,

for each agency and on a Government-wide basis.

"(E) The number and dollar value of subcontracts awarded to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals.

"(F) The number and dollar value of prime contracts and subcontracts awarded to women-owned small business enterprises.

"(3) The President shall include the information required by paragraph (2) in each annual report to the Congress on the state of small business prepared pursuant to section 303(a) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(a))."

15 USC 636 note.

SEC. 504. GENERAL ACCOUNTING OFFICE REPORT.

(a) IN GENERAL.—(1) The Comptroller General of the United States shall conduct a review of the operation of the Minority Small Business and Capital Ownership Development Program authorized by section 7(j)(10) (15 U.S.C. 636(j)(10)) and the contract assistance provided pursuant to section 8(a) (15 U.S.C. 637(a)) of the Small Business Act commencing within 180 days of the enactment of this Act and concluding on September 30, 1991.

(2) The review shall report on the implementation of the provisions of this Act by the Small Business Administration and the various executive departments and agencies providing contracting opportunities to the Program. In addition to such other matters as the Comptroller General may choose to include, the review shall report on the implementation of the Act's provisions relating to—

(A) the certification of Program Participants by the Administration;

(B) the development and maintenance of business development plans required by this Act;

(C) the amount and types of business management and technical assistance provided to Program Participants, including transition management assistance, and the criteria by which the effectiveness of such assistance is measured by the Administration;

(D) the type and amount of financial assistance provided through the programs authorized by the Small Business Act and the Small Business Investment Act of 1958;

(E) Program Participants' dependence on contracts awarded noncompetitively under the authority of section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and the rate of increase in the percentage of competitively awarded contracts in the firms' business mix as Program Participants approach graduation;

(F) the competitive award of contracts within the Program, determining the number, dollar value, and source selection method used for the various contract opportunities required to be awarded competitively and those for which competition was discretionary;

(G) the noncompetitive award of contracts to Program Participants; the effect on the distribution of Program awards among individual Program Participants; and Program Participants located in each of the several States; and the Administration's use of the authority to direct contracts to Program Participants in the interest of maintaining equitable contract distributions;

(H) delay in the award of contracts flowing from protests, either of a prospective awardee's continued Program eligibility or the conduct of a competition restricted to Program Participants;

(I) limitations on the transfer of contracts to a Program Participant incident to transferring ownership and control of the business;

(J) reporting by Program Participants concerning the use of consultants and other non-employees to assist in obtaining Federal contracts; and

(K) data collection and data management by the Administration relating to the Program.

(3) The Comptroller General shall prepare a report summarizing the findings of the review described in paragraph (2), and make such recommendations for the improved implementation of this Act as may be appropriate. The report shall be transmitted to the Committees on Small Business of the Senate and House of Representatives by February 1, 1992.

SEC. 505. COMMISSION ON MINORITY BUSINESS DEVELOPMENT. 15 USC 636 note.

(a) ESTABLISHMENT.—There is established a Commission to be known as the "Commission on Minority Business Development" (hereinafter in this title referred to as the "Commission").

(b) DUTIES.—(1) The Commission shall—

(A) review and conduct an assessment of the operations of all Federal programs intended to promote and foster the development of minority owned businesses to ascertain whether the purposes and objectives of such program are being realized. Such review and assessment shall include, among other things, an evaluation of the issues described in this subsection;

(B) review and assess the overall effectiveness of the Small Business and Capital Ownership Development Program established pursuant to 7(j)(10) of the Small Business Act (15 U.S.C. 636(j)(10)) including—

(i) the procedure whereby the Administration certifies concerns pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)), including, the average time for the processing of applications, the criteria for program admission, and the geographic and industrial distribution of new program entrants;

(ii) the developmental assistance provided under the Small Business Act to such concerns and whether such assistance has been of benefit to program participants and whether modifications, additions, or deletions to such assistance should be provided to further the purposes of the program; such evaluation shall also include an analysis of whether program benefits, including contract awards, have been equitably distributed among all program participants and whether all regions of the Nation have benefitted from the program in proportion to their respective numbers of minority owned businesses;

(iii) the system established by this Act for competing contracts pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) and whether improved methods could be used, consistent with the purposes of the program, to better impart competitive skills, prevent program abuse, and promote the equitable distribution of awards;

(iv) the appropriate maximum term for program participation; such evaluation shall take into account relevant industry data, the developmental cycles of particular industries, and the financial, managerial and technological needs of such concerns to become competitive; a study shall be conducted relating to the fixed program term allowed under statute and the advisability of adopting alternative terms based on Standard Industrial Classification Codes or other economic indices;

(v) the data collection system maintained by the Administration to gather information relative to the program and whether such system is producing reliable data needed for effective management and control of the program;

(vi) various techniques that may be used to increase the participation rate of Federal agencies (as defined pursuant to section 224 of Public Law 95-507) in the program, to further the compliance of contractors with section 8(d) of the Small Business Act (15 U.S.C. 637(d)), and to properly coordinate the program with the operations of other Federal programs and activities designed to assist small business concerns owned and controlled by the socially and economically disadvantaged; and

(vii) the laws and regulatory procedures designed to protect against program abuse and if additional safeguards are necessary to protect the integrity of the program;

(C) review and assess the programs described in subparagraph (B) and whether the congressional purposes for such programs are being achieved in a manner that is consistent with the intent of other programs established under Federal law to promote the development of small business concerns; and

(D) review and assess—

(i) the policies and procedures of major procurement agencies with respect to setting goals by contractors (and subcontractors) under section 8(d) of the Small Business Act (15 U.S.C. 637(d)) to encourage subcontracting opportunities for small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals;

(ii) the performance of a sample of contractors (and subcontractors) in attaining the goals established in their

subcontracting plans and in making greater use of small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals;

(iii) the extent to which liquidated damages have been assessed under subcontracting plans and whether the inclusion of a liquidated damage clause furthers the purposes of the subcontracting program; and

(iv) the special circumstances of contractors providing commercial products.

(2)(A) Based upon its review, the Commission shall issue an interim report and a final report to the Congress and to the President. Reports.

(B) The interim report shall be issued by December 31, 1990, and shall detail the methodology pursued to evaluate each issue described in subparagraphs (A) and (B) of paragraph (1). The Commission shall also indicate those changes in law or regulation, if any, that should be considered immediately in order to protect the integrity of the Program and further the legitimate interests of Program Participants.

(C) The final report shall be issued within 1 year after the interim report and shall contain detailed findings, conclusions, and recommendations for such changes in law or regulation as may be necessary to further the growth and development of minority businesses. Such findings, conclusions, and recommendations shall be stated for each issue described under each such subparagraph.

(c) MEMBERSHIP.—(1) The Commission shall be composed of fourteen members to be selected as follows:

(A)(i) The Administrator of the Small Business Administration, or a designee of the Administrator.

(ii) The Under Secretary of Defense for Acquisition.

(iii) The Secretary of Commerce (or such Secretary's Deputy).

(iv) The Secretary of Transportation (or such Secretary's Deputy).

(B) Two members shall be representatives of trade or business associations whose membership are primarily small business concerns owned and controlled by socially and economically disadvantaged individuals.

(C) Four members shall be chief executive officers, or individuals of similar position, from major domestic corporations two of which shall be minority businesses.

(D) Four members shall be from leading educational institutions in business administration and management, two of which shall be from historically Black colleges or universities and minority institutions (as defined by the Secretary of Education pursuant to the General Education Provisions Act (20 U.S.C. 1221 et seq.).

(2) Appointments under subparagraphs (B), (C), and (D) of paragraph (1) shall be made by the President. No more than one-half of the members appointed under each such subparagraph shall be of the same political party. No appointed member shall be an officer or employee of the Federal Government nor of the Congress. President of U.S.

(3) Members appointed under such subparagraphs shall be appointed for the term of the Commission except if any such appointee becomes an officer or employee of the Federal Government or of the Congress, such individual may continue as a member of the Commission for not longer than the thirty-day period beginning on the date such individual becomes such an officer or employee.

(4) A vacancy on the Commission shall be filled in the manner in which the original appointment was made.

(5) Members of the Commission shall serve without pay for such membership, except members of the Commission shall be entitled to reimbursement for travel, subsistence, and other necessary expenses incurred by them in carrying out the functions of the Commission, in the same manner as persons employed intermittently in the Federal Government are allowed expenses under section 5703 of title 5, United States Code.

(6)(A) Four members of the Commission shall constitute a quorum for the receipt of testimony and other evidence.

(B) A majority of the Commission shall constitute a quorum for the approval of a report submitted pursuant to paragraph 2.

(C) The Commission shall meet not less than four times a year. Meetings shall be at the call of the Chairperson.

(7) The Chairperson and Vice Chairperson of the Commission shall be designated by the President and term of office for such Chairperson and Vice Chairperson shall be at the discretion of the President.

(d) DIRECTOR AND STAFF.—(1)(A) The Commission shall have a Director who shall be appointed by the Chairperson. Upon recommendation by the Director, the Chairperson may appoint and fix the pay of four additional personnel.

(B) The Director and staff of the Commission may be appointed without regard to section 531(b) of title 5, United States Code, and without regard to the provisions of such title governing appointments in the competitive service, and may be paid without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

(2) The Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code, but at rates for individuals not to exceed the daily equivalent of the maximum annual rate of basic pay payable for GS-18 of the General Schedule.

(3) Upon request of the Chairperson, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out its duties under this title without regard to section 3341 of title 5 of the United States Code.

(e) POWERS.—(1) The Commission may, for the purpose of carrying out this title sit and act at such times and places, hold such hearings, take such testimony, receive such evidence, and consider such information, as the Commission considers appropriate. The Commission may administer oaths or affirmations for the receipt of such testimony.

(2) Any member or person within the employ of the Commission may, if so authorized by the Commission, take any action which the Commission is authorized to take by this section.

(3) Except as otherwise prohibited by law, the Commission may secure directly from any department or agency of the United States information necessary to enable it to carry out its duties under this Act. Upon the request of the Chairperson of the Commission, the head of such department or agency shall promptly furnish such information to the Commission.

(4) The Commission may use the United States mails in the same manner and under the same conditions as departments and agencies of the United States. Mail.

(5) The Administrator of the General Services Administration shall provide to the Commission, on a reimbursable basis, such administrative support services as the Commission may request. In addition, the Administrator shall, as appropriate, provide to the Commission, upon request, access to and use of such Federal facilities as may be necessary for the conduct of its business.

(f) TERMINATION.—The Commission shall cease to exist on the date that it transmits its final report to the Congress and to the President.

(g) AUTHORIZATION.—There are authorized to be appropriated such sums as may be necessary to carry out this title and they may remain available until the Commission is terminated. New spending authority or authority to enter contracts as authorized in the section shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

(h) REPEALER.—Subparagraph (A) of section 7(j)(3) of the Small Business Act (15 U.S.C. 636(j)(3)(A)) is repealed.

TITLE VI—ADMINISTRATIVE AND TECHNICAL AMENDMENTS

SEC. 601. RELATIONSHIP WITH OTHER PROCUREMENT PROGRAMS.

Section 15(m) of the Small Business Act (15 U.S.C. 644(m)) is amended to read as follows:

"(m)(1) Each agency subject to the requirements of section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note) shall, when implementing such requirements—

"(A) establish policies and procedure that insure that there will be no reduction in the number of dollar value of contracts awarded pursuant to this section and section 8(a) in order to achieve any goal or other program objective; and

"(B) assure that such requirements will not alter or change the procurement process used to implement this section or section 8(a).

"(2) All procurement center representatives (including those referred to in subsection (k)(6)), in addition to such other duties as may be assigned by the Administrator, shall—

"(A) monitor the performance of the procurement activities to which they are assigned to ascertain the degree of compliance with the requirements of paragraph (1);

"(B) report to their immediate supervisors all instances of noncompliance with such requirement; and

"(C) increase, insofar as possible, the number and dollar value of procurements that may be used for the programs established under this section, section 8(a), and section 1207 of the National Defense Authorization Act for Fiscal Year 1987 (10 U.S.C. 2301 note).".

SEC. 602. INDIAN TRIBE EXEMPTIONS.

15 USC 637 note.

(a) COMPETITIVE THRESHOLDS.—Section 8(a)(16) of the Small Business Act as added by section 303 of this Act, shall not apply to Program Participants that are owned and controlled by economically disadvantaged Indian tribes, as defined pursuant to para-

graphs (4) and (13) of section 8(a) of the Small Business Act (15 U.S.C. 637(a) (4) and (13)).

(b) JOINT VENTURES.—The Administration is authorized to award a contract pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) to a joint venture notwithstanding the size status of such joint venture if—

(1) a party to the joint venture is a Program Participant that is owned and controlled by an economically disadvantaged Indian tribe (as defined pursuant to paragraphs (4) and (13) of section 8(a) of the Small Business Act (15 U.S.C. 637(a) (4) and (13)); and

(2) such Program Participant:

(A) owns 51 per centum or more of such joint venture;

(B) is located on the reservation of such tribe;

(C) performs most of its activities on such reservation; and

(D) employs members of such tribe for at least 50 per centum of its total workforce.

(c) LIMITATIONS.—A Program Participant, as a party to a joint venture shall receive no more than two contracts due solely to the provisions of subsection (b).

(d) ELIGIBILITY OF MORE THAN ONE CONCERN.—The Administration may permit more than one small business concern owned by a socially and economically disadvantaged Indian tribe to be eligible for assistance pursuant to this section 7(j)(10) and section 8(a) of the Small Business Act (15 U.S.C. 636(j)(10) and 637(a)) if—

(1) the Indian tribe does not own another firm in the same industry which has been determined to be eligible to receive contracts under this program, and

(2) the individuals responsible for the management and daily operations of the concern do not manage more than two Program Participants.

(e) SUNSET.—Subsection (b) shall cease to be effective after September 30, 1991.

SEC. 603. DIRECTORS OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION.

15 USC 644.

Section 15(k) of the Small Business Act is amended by—

(1) amending paragraph (3) to read as follows:

"(3) be responsible only to, and report directly to, the head of such agency or to the deputy of such head, except that the director for the Office of the Secretary of Defense shall be responsible only to, and report directly to, such Secretary or the Secretary's designee;";

(2) striking "and" at the end of paragraph (7);

(3) striking the period at the end of paragraph (8) and inserting in lieu thereof ", and"; and

(4) adding at the end thereof the following new paragraph:

"(9) make recommendations to contracting officers as to whether a particular contract requirement should be awarded pursuant to subsection (a), or section 8(a) of this Act or section 1207 of Public Law 99-661. Such recommendations shall be made with due regard to the requirements of subsection (m), and the failure of the contracting officer to accept any such recommendations shall be documented and included within the appropriate contract file.".

TITLE VII—SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM

Small Business Competitiveness Demonstration Program Act of 1988.
15 USC 644 note.

PART A—SHORT TITLE AND FINDINGS

SEC. 701. SHORT TITLE.

This title may be cited as the "Small Business Competitiveness Demonstration Program Act of 1988".

SEC. 702. FINDINGS.

The Congress finds that—

(1) many small business concerns have repeatedly demonstrated their ability to fulfill a broad range of Government requirements for products, services (including research, development, technical, and professional services), and construction, through the Federal procurement process;

(2) various Congressional mandated reforms to the Federal procurement process, including the Competition in Contracting Act of 1984, the Defense Procurement Reform Act of 1984, and the Small Business and Federal Procurement Competition Enhancement Act of 1984, were designed to eliminate obstacles to competition and thereby to broaden small business participation; and

(3) traditional agency efforts to implement the mandate for small business participation in a fair proportion of Federal procurements as required by section 15(a) of the Small Business Act have resulted in—

(A) a concentration of procurement contract awards in a limited number of industry categories, often dominated by small business concerns, through the use of set-asides, for the purpose of assuring the attainment of the agency's overall small business contracting goals; and

(B) inadequate efforts to expand small business participation in agency procurements of products or services which have historically demonstrated low rates of small business participation despite substantial potential for expanded small business participation.

PART B—DEMONSTRATION PROGRAM

15 USC 644 note.

SEC. 711. SMALL BUSINESS COMPETITIVENESS DEMONSTRATION PROGRAM.

(a) ESTABLISHMENT.—There is established a Small Business Competitiveness Demonstration Program (hereafter referred to as "the Program") pursuant to section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413) to provide for the testing of innovative procurement methods and procedures. The Administrator of Federal Procurement Policy shall designate the Administrator of the Small Business Administration as the executive agent responsible for conducting the test.

(b) PURPOSES.—The purposes of the Program are to demonstrate whether—

(1) the competitive capabilities of small business firms in certain industry categories will enable them to successfully compete on an unrestricted basis for Federal contracting opportunities,

(2) the use of targeted goaling and management techniques by procuring agencies, in conjunction with the Small Business Administration, can expand small business participation in Federal contracting opportunities which have been historically low, despite adequate numbers of qualified small business contractors in the economy, and

(3) expanded use of full and open competition, as specified by the Competition in Contracting Act of 1984 (10 U.S.C. 2302(3) and 41 U.S.C. 403(7)), adversely affects small business participation in certain industry categories, taking into consideration the numerical dominance of small firms, the size and scope of most contracting opportunities, and the competitive capabilities of small firms.

(c) PROGRAM TERM.—The Program shall be conducted over a period of 4 years, beginning on January 1, 1989, and ending on December 31, 1992.

(d) APPLICATION.—The Program shall apply to contract solicitations for the procurement of services in industry groups designated in section 717.

SEC. 712. ENHANCED SMALL BUSINESS PARTICIPATION GOALS.

(a) ENHANCED GOALS FOR DESIGNATED INDUSTRY GROUPS.—Each participating agency shall establish an annual small business participation goal that is 40 percent of the dollar value of the contract awards for each of the designated industry groups. In attaining its small business participation goal for contract awards for each of the designated industry groups, each participating agency shall make a good faith effort to assure that emerging small business concerns are awarded not less than 15 percent of the dollar value of the contract awards for each of the designated industry groups.

(b) SPECIAL ASSISTANCE FOR EMERGING SMALL BUSINESS CONCERNS.—

(1) SMALL BUSINESS RESERVE.—During the term of the Program, all contract opportunities in the industry groups designated in section 718 shall be reserved for exclusive competition among emerging small business concerns in accordance with the competition standard specified in section 15(j) of the Small Business Act (15 U.S.C. 644(j)), if the estimated award value of the contract is equal to or less than the greater of:

(A) $25,000, or

(B) such larger dollar amount established pursuant to paragraph (2).

(2) ADJUSTMENTS TO THE SMALL BUSINESS RESERVE.—If the goal of awarding emerging small business concerns 15 percent of the total dollar value of contracts in a designated industry category is determined not to have been attained, upon the review of award data conducted in accordance with subsection (d)(1) of this section, the Administrator for Federal Procurement Policy, to ensure attainment of such goal, shall prescribe, on a semiannual basis, appropriate adjustments to the dollar threshold for contract opportunities in such designated industry category below which competition shall be conducted exclusively among emerging small business concerns.

(3) SMALL BUSINESS SMALL PURCHASE RESERVE.—The requirements of this subsection dealing with the reserve amount shall

apply notwithstanding the amount specified in section 15(j) of the Small Business Act (15 U.S.C. 644(j)).

(4) EXCLUSION OF MODIFICATIONS TO EXISTING CONTRACTS ABOVE THE SMALL PURCHASE THRESHOLD.—Any modification or follow-on award to a contract having an initial award value in excess of $25,000 shall not be subject to the limitations on competition required by this subsection.

(c) TARGETING INDUSTRY CATEGORIES WITH LIMITED SMALL BUSINESS PARTICIPATION.—(1) Concurrent with the term of the Small Business Competitiveness Demonstration Program, the head of each participating agency shall implement a program to expand small business participation in the agency's acquisition of selected products and services in 10 industry categories which have historically demonstrated low rates of small business participation. The products and services to be targeted for the small business participation expansion program and the special goals for such program, shall be developed in conjunction with the Administrator of the Small Business Administration, and shall be subject to the requirements of section 15(g) of the Small Business Act (15 U.S.C. 644(g)).

(2) The products or services selected for the small business participation expansion program shall be drawn from industry categories that:

(A) are the recipients of substantial purchases by the Federal Government;

(B) have less than 10 percent of such annual purchases made from small business concerns; and

(C) have significant amounts of small business productive capacity that have not been utilized by the Government.

(3) In developing its small business participation expansion program, each participating agency shall:

(A) prepare, and furnish to the Administration, a detailed, time-phased strategy (with incremental numerical goals); and

(B) encourage and promote joint ventures, teaming agreements and other similar arrangements, which permit small business concerns to effectively compete for contract solicitations for which an individual small business concern would lack the requisite capacity or capability needed to establish responsibility for the award of a contract.

(d) MONITORING AGENCY PERFORMANCE.—

(1) Participating agencies shall monitor the attainment of their small business participation goals on a quarterly basis. The initial review by each participating agency shall be completed not later than June 30, 1989, based on the data for the period January 1 through March 31, 1989. Thereafter, each review shall be based on the aggregate of contract award data from the 4 quarters preceding the date of the review for which data is available.

(2) All awards to small business concerns (including small business concerns owned and controlled by socially and economically disadvantaged individuals) shall be counted toward attainment of the goals specified in subsection (a) of this section.

(3) Modifications to a participating agency's solicitation practices, pursuant to section 713(b), shall be made at the beginning of the quarter following each review, if the rate of small business participation is less than 40 percent of the contract awards.

SEC. 713. PROCUREMENT PROCEDURES.

(a) FULL AND OPEN COMPETITION.—Except as provided in subsections (b) and (c), each contract opportunity with an anticipated value of $25,000 or more for the procurement of services from firms in the designated industry groups (unless set aside pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) or section 1207 of the National Defense Authorization Act for Fiscal Year 1987) shall be solicited on an unrestricted basis during the term of the Program, if the participating agency has attained its small business participation goal pursuant to section 712(a). Any regulatory requirements which are inconsistent with this provision shall be waived.

(b) RESTRICTED COMPETITION.—If a participating agency has failed to attain its small business participation goal under section 712(a), subsequent contracting opportunities, which are in excess of the reserve thresholds specified pursuant to section 712(b) shall be solicited through a competition restricted to eligible small business concerns pursuant to section 15(a) of the Small Business Act (15 U.S.C. 644(a)) to the extent necessary for such agency to attain its goal. Such modifications in the participating agency's solicitation practices shall be made as soon as practicable, but not later than the beginning of the quarter following completion of the review made pursuant to section 712(d) indicating that changes to solicitation practices are required. Such participating agency shall comply with the requirements of subsection (a) upon determining that its contract awards to small business concerns meet the required goals.

(c) RELATIONSHIP WITH THE COMPETITION IN CONTRACTING ACT OF 1984.—Subsections (a) and (b) shall not be construed to supersede the application of the Competition in Contracting Act of 1984 (98 Stat. 1175).

SEC. 714. REPORTING.

(a) AWARDS OF $25,000 OR LESS.—During the term of the Small Business Competitiveness Demonstration Program, each award of $25,000 or less made by a participating agency for the procurement of a service in any of the designated industry categories shall be reported to the Federal Procurement Data Center in the same manner as if the purchase were in excess of $25,000.

(b) SUBCONTRACTING ACTIVITY.—The Administrator for Federal Procurement Policy shall devise and implement, during the term of the Program, a simplified system to test the collection, reporting, and monitoring of data on subcontract awards to small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals for—

(1) services in each of the designated industry groups; and

(2) products or services from industry categories selected for participation in the small business participation expansion program, pursuant to section 712(c).

(c) SIZE OF SMALL BUSINESS CONCERNS.—During the term of the Program, each participating agency shall collect data pertaining to the size of the small business concern receiving any award for the procurement of—

(1) services in each of the designated industry groups; and

(2) products or services from industry categories selected for participation in the small business participation expansion program, pursuant to section 712(d).

SEC. 715. TEST PLAN AND POLICY DIRECTION.

(a) TEST PLAN.—The Administrator for Federal Procurement Policy may further specify the manner and conduct of the test activities required by this title through a test plan issued pursuant to section 15 of the Office of Federal Procurement Policy Act (41 U.S.C. 413).

(b) POLICY DIRECTION.—The Administrator for Federal Procurement Policy, in cooperation with the Administrator of the Small Business Administration, shall issue a policy directive (which shall be binding on all participating agencies) to ensure consistent Government-wide implementation of this title in the Federal Acquisition Regulation, title 48 of the Code of Federal Regulations, issued pursuant to the Office of Federal Procurement Policy Act.

SEC. 716. REPORT TO CONGRESS.

(a) IN GENERAL.—Within 180 days after fiscal year 1991 data is available from the Federal Procurement Data Center, the Administrator for Federal Procurement Policy shall report the results of the Small Business Competitiveness Demonstration Program to the Committees on Small Business of the Senate and House of Representatives, to the Committee on Governmental Affairs of the Senate, and to the Committee on Government Operations of the House of Representatives. The views of the Administrator of the Small Business Administration shall be included in the report.

(b) ANALYSIS OF PROGRAM.—The report shall include a section prepared by the Administrator of the Small Business Administration specifying the results of the intensive goaling and management program conducted to expand small business participation in agency acquisitions of selected products and services.

(c) RECOMMENDATIONS.—To the extent the results of the Program demonstrate sufficiently high small business participation based on unrestricted contract competition in the designated industry groups, the report shall include recommendations (if appropriate) for changes in legislation or modifications of procurement regulations aimed at increasing reliance on unrestricted competition if high rates of small business participation in the Federal procurement market can be maintained.

SEC. 717. DESIGNATED INDUSTRY GROUPS.

(a) IN GENERAL.—For the purposes of participation in this Program, the designated industry groups are—

(1) construction (excluding dredging);

(2) refuse systems and related services;

(3) architectural and engineering services (including surveying and mapping); and

(4) non-nuclear ship repair.

(b) CONSTRUCTION.—Construction shall include contract awards assigned one of the standard industrial classification codes that comprise—

(1) Major Group 15 (Building Construction—General Contractors and Operative Builders),

(2) Major Group 16 (Construction Other Than Building Construction—General Contractors and Dredging), and

(3) Major Group 17 (Construction—Special Trade Contractors).

(c) REFUSE.—Refuse systems and related services shall include contract awards assigned to standard industrial classification code 4212 or 4953.

(d) ARCHITECTURAL AND ENGINEERING.—Architectural and engineering services (including surveying and mapping) shall include contract awards assigned to standard industrial classification code 7389 (if identified as pertaining to mapping services), 8711, 8712, or 8713.

(e) ALTERNATIVE DATA.—In the event that standard industrial classification codes are not assigned to individual contract awards reported to the Federal Procurement Data Center by January 1, 1989, the Program may be conducted on the basis of the product and service codes used to report data pertaining to such contract awards, related to the maximum practicable extent to the standard industrial classification code for the service being provided by the contractor.

SEC. 718. DEFINITIONS.

(a) DESIGNATED INDUSTRY GROUPS.—"Designated industry groups" means the groups specified in section 717 for participation in the Small Business Competitiveness Demonstration Program.

(b) EMERGING SMALL BUSINESS CONCERN.—"Emerging small business concern" means a small business concern whose size is no greater than 50 percent of the numerical size standard applicable to the standard industrial classification code assigned to a contracting opportunity.

(c) PARTICIPATING AGENCY.—"Participating agency" shall have the same meaning as the term "executive agency" in section (4)(1) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(1)). The Administrator for Federal Procurement Policy is authorized to specify as part of the Program test plan the list of executive agencies designated to participate in the Program, which shall include:

(1) the Department of Agriculture,

(2) the Department of Defense (with the Department of the Army, the Department of the Navy, the Department of the Air Force, and the defense agencies reporting separately),

(3) the Department of Energy,

(4) the Department of Health and Human Services,

(5) the Department of Transportation,

(6) the Environmental Protection Agency,

(7) the General Services Administration (the Public Building Service reporting separately),

(8) the National Aeronautics and Space Administration, and

(9) the Veterans Administration.

The Administrator for Federal Procurement Policy is authorized to require any participating agencies to report separately in any manner deemed appropriate to enhance the attainment of the test activities authorized by this title.

(d) SMALL BUSINESS PARTICIPATION.—"Small business participation" shall include the aggregate dollar value of every procurement contract award made to a small business concern, without regard to whether such award was based on restricted or unrestricted competition, or was made on a sole source basis.

(e) STANDARD INDUSTRIAL CLASSIFICATION CODE.—"Standard industrial classification code" means a four digit code assigned to an industry category in the Standard Industrial Classification Manual

published by the Office of Management and Budget in effect on the date of enactment of this Act.

PART C—ALTERNATIVE PROGRAM FOR CLOTHING AND TEXTILES 15 USC 644 note.

SEC. 721. ALTERNATIVE PROGRAM FOR CLOTHING AND TEXTILES.

(a) ESTABLISHMENT.—Subject to the requirements of subsection (b), of the total dollar amount of contracts for each standard industrial classification code for clothing and textiles awarded by the Defense Logistics Agency for each of the fiscal years 1989, 1990, and 1991:

(1) To the maximum extent practicable, 50 percent shall not be restricted by the size status of the competing business concerns.

(2) To the maximum extent practicable, 50 percent shall be made available for award pursuant to—

(A) section 8(a) of the Small Business Act (15 U.S.C. 637(a));

(B) section 1207 of the National Defense Authorization Act for Fiscal Year 1987; and

(C) section 15(a) of the Small Business Act (15 U.S.C. 644(a)), if the criteria for such awards are met pursuant to part 19.5 (Set-Asides for Small Business) of title 48, Code of Federal Regulations, as in effect on September 1, 1988.

(b) COMPUTATION.—In order to calculate the percent limitation established pursuant to subsection (a), the Department may establish, after consultation with the Small Business Administration, major groupings of standard industrial classification codes that are closely related and apply such limitations to such groupings.

SEC. 722. EXPANDING SMALL BUSINESS PARTICIPATION IN DREDGING.

(a) ESTABLISHMENT.—During fiscal years 1989, 1990, 1991, and 1992, the Secretary of the Army (hereafter in this section referred to as the "Secretary") shall conduct a program to expand the participation of small business concerns and emerging small business concerns in contracting opportunities for dredging.

(b) ENHANCED GOALS.—Of the total dollar value of contracts for dredging, the Department of the Army (hereafter in this section referred to as the "Department") shall make every reasonable effort to award to small business concerns:

(1) 20 percent during fiscal year 1989, including 5 percent of the total dollar value of contracts which is reserved for emerging small business concerns;

(2) 25 percent during fiscal year 1990, including 7.5 percent of the total dollar value of contracts which is reserved for emerging small business concerns;

(3) 30 percent during fiscal year 1991, including 10 percent of the total dollar value of contracts which is reserved for emerging small business concerns; and

(4) 30 percent during fiscal year 1992, including 10 percent of the total dollar value of contracts which is reserved for emerging small business concerns.

Subcontract awards may be counted towards the attainment of such goals, provided that there is available a system for the collection of data relating to the award of subcontracts under dredging contracts awarded by the Department.

(c) CONTRACT AWARD PROCEDURES.—(1) Except as provided in paragraphs (2) and (3), the Department shall solicit and award contracts for dredging through full and open competition in conformity with section 2304 of title 10, United States Code, section 15 of the Small Business Act (15 U.S.C. 644), and the implementing procurement regulations promulgated in conformity with section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405). Nothing herein shall impair the award of contracts pursuant to section 8(a) of the Small Business Act (15 U.S.C. 637(a)) or section 1207 of the National Defense Authorization Act for Fiscal Year 1987.

(2) Contracting opportunities for dredging shall be reserved for competition among emerging small business concerns if their estimated award value is below an amount to be specified by the Administrator for Federal Procurement Policy (hereafter in this section referred to as the "Administrator"), upon the recommendation of the Secretary. Such reserve amount shall be established by the Administrator at the start of the program at a level which can reasonably be expected to result in the Department attaining the applicable participation goal for emerging small business concerns. Such reserve threshold shall be reviewed by the Secretary and adjusted by the Administrator to the extent necessary on a semiannual basis beginning after the end of the second quarter of fiscal year 1989 on the basis of the aggregate of contract awards for the four fiscal year quarters preceding the date of the review.

(3) The Secretary shall restrict for competition among all eligible small business concerns such additional contracting opportunities for dredging in such numbers and at such estimated award values as can reasonably be expected to result in the Department attaining the applicable participation goal for small business concerns generally.

(d) ACQUISITION STRATEGIES TO FOSTER SMALL BUSINESS PARTICIPATION.—(1) In attaining the goals for participation by small business concerns and emerging small business concerns, the Secretary is encouraged to:

(A) specify contract requirements and contractual terms and conditions that are conducive to competition by small business concerns and emerging small business concerns, consistent with the mission or program requirements of the Department;

(B) joint ventures, teaming agreements, and other similar arrangements, which permit small business concerns to effectively compete for contract opportunities for which an individual firm would lack the requisite capacity or capability needed to establish responsibility for the award of a contract; and

(C) subcontracting through plans negotiated and enforced pursuant to section 8(d) of the Small Business Act (15 U.S.C. 637(d)) or solicitation requirements specifying minimum percentages of subcontracting for the purpose of determining the responsiveness of an offer.

(2) During the term of the program, data shall be collected pertaining to the actual size of the firm receiving an award as a small business concern or an emerging small business concern.

(e) SIZE STANDARD.—For the purposes of the program established by subsection (a), the size standard pertaining to standard industrial classification code 1629 (Dredging and Surface Cleanup Activities) in effect on October 1, 1988 shall remain in effect until September 30, 1990.

(f) REPORTS.—

(1) The Secretary shall furnish a report to the Committees on Small Business of the Senate and House of Representatives, the Administrator of the Small Business Administration, and the Administrator for Federal Procurement Policy within 120 days after September 30, 1992.

(2) Interim reports shall be submitted annually within 90 days after the close of each of the fiscal years 1989, 1990, and 1991. The Secretary may include recommendations regarding adjustments to the Department's participation goals for small business concerns and emerging small business concerns and to the applicable size standard, if the Secretary determines that such goals cannot reasonably be attained from the pool of firms meeting the current size standard.

(3) The Secretary of Defense shall issue reports to the Congress on the operations of the program established pursuant to this section. Such reports shall detail the effects of the program on the mobilization base and on small business concerns and small business concerns owned and controlled by socially and economically disadvantaged individuals. Interim reports shall be submitted every six months during the term of the program to the Committees on Armed Services and Small Business of the House of Representatives and the Senate.

PART D—AMENDMENTS TO THE SMALL BUSINESS ACT

SEC. 731. TECHNICAL AMENDMENT.

Section 809(a)(2) of title VIII, division A of Public Law 100-180 (101 Stat. 1130, December 4, 1987) is amended by striking out "October 1, 1988" and inserting in lieu thereof "October 1, 1989". 15 USC 644 note.

SEC. 732. REPEALER.

Paragraphs (2) through (5) of subsection 3(a) of the Small Business Act (15 U.S.C. 632(a) (2)-(5)) are repealed. Any numerical size standard that pertains to any of the designated industry groups, and that is in effect on September 30, 1988, shall remain in effect for the duration of the Program. 15 USC 632 note.

PART E—OTHER AMENDMENTS

SEC. 741. SEGMENTATION OF INDUSTRY CATEGORY.

15 USC 644 note.

The Small Business Administration, pursuant to the authority of section 15(a) of the Small Business Act (15 U.S.C. 644(a)), shall segment the industry category of shipbuilding and ship repair, as follows: Maritime affairs.

(1) nuclear shipbuilding and repair;

(2) non-nuclear shipbuilding; and

(3) non-nuclear ship repair, which shall be further segmented by, at least, East Coast and West Coast facilities.

SEC. 742. DEFINITION OF ARCHITECTURAL AND ENGINEERING SERVICES.

Section 901 of the Federal Property and Administrative Services Act (40 U.S.C. 541) is amended by striking out paragraph (3) and inserting the following:

"(3) The term 'architectural and engineering services' means—

"(A) professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this paragraph;

"(B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

"(C) such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual design, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.".

TITLE VIII—AUTHORIZATIONS, EFFECTIVE DATES, AND MISCELLANEOUS MATTERS

15 USC 636 note.

SEC. 801. REGULATIONS.

The Small Business Administration shall—

(1) within 60 days after the date of enactment of this Act conduct meetings of present and potential participants in the program established by section 7(j)(10) of the Small Business Act, as amended by this Act, to ascertain and consider public comment on the nature and extent of regulations needed to implement this Act;

Federal Register, publication.

(2) within one hundred and twenty days after the date of enactment of this Act, publish in the Federal Register proposed rules and regulations implementing this Act; and

(3) within two hundred and ten days after the date of enactment of this Act, publish in the Federal Register final rules and regulations implementing this Act.

SEC. 802. AUTHORIZATIONS.

(a) BUSINESS OPPORTUNITY SPECIALISTS.—There is hereby authorized to be appropriated for each of fiscal years 1989 and 1990 the sum of $3,500,000 to provide for the employment, salaries and expenses of 70 additional Business Opportunity Specialists to carry out the duties described in sections 201 and 410 of this Act.

(b) TRAINING OF BUSINESS OPPORTUNITY SPECIALISTS.—There is hereby authorized to be appropriated for each of fiscal years 1989 and 1990 the sum of $500,000 to conduct the training and obtain the qualifications for Business Opportunity Specialists described in section 410.

(c) TRADITIONAL PROCUREMENT CENTER REPRESENTATIVES.—There is hereby authorized to be appropriated for each of fiscal years 1989 and 1990 the sum of $735,000 to employ 15 additional Procurement Center Representatives.

(d) BUSINESS LOANS.—There is hereby authorized to be appropriated to the Business Loan and Investment Fund, established under section 4(c)(1) of the Small Business Act (15 U.S.C. 633(a)(1)),

the sum of $10,000,000 each year for fiscal years 1989 and 1990 for both direct and guaranteed loans made pursuant to section 7(a)(20) of the Small Business Act, as added by section 302 of this Act.

(e) JOB TRAINING.—There is hereby authorized to be appropriated the sum of $2,000,000 for fiscal year 1990 for the job training program established by section 7(j)(13)(E) of the Small Business Act (15 U.S.C. 636(j)(13)(E)), as added by section 301(b) of this Act.

(f) LIMITATION.—(1) Any new credit authority or authority to enter into contracts provided for in this Act is to be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. 15 USC 636 note.

(2) No funds are authorized to be appropriated in subsequent appropriation Acts to the Administration for the purpose of making grants of financial assistance under the so called "Business Development Expense" program to any firm participating in the programs authorized by section 7(j)(10) or section 8(a) of the Small Business Act (15 U.S.C. 636(j)(10) and 637(a)).

SEC. 803 EFFECTIVE DATES. 15 USC 631 note.

(a) IN GENERAL.—Except as otherwise provided, the following provisions (and the amendments made by such provisions) shall take effect on the date of the enactment of this Act:

(1) Sections 1 and 2.
(2) Section 101.
(3) Sections 202, 203, 204, 206, and 207.
(4) Sections 301(a) and 303 (d), (e), and (f).
(5) Sections 405, 406, 408, and 410.
(6) Sections 504 and 505.
(7) Sections 601 and 603.
(8) Titles VII and VIII.
(9) Sections 7(j)(13)(G) and 7(j)(13)(I) of the Small Business Act (as added by section 301(b)).

(b) SPECIAL RULES.—(1) Except as otherwise provided, the following sections (and the amendments made by such sections) shall take effect on June 1, 1989:

(A) Sections 201, 205, and 208.
(B) Sections 301(b), 301(c), 303(a), 303(c), 303(g), 303(h), and 304.
(C) Sections 401, 402, 403, 404, and 409.
(D) Section 602.

(2) Section 407 shall take effect with respect to contracts entered into on or after June 1, 1989.

(3) The following sections (and the amendments made by such sections) shall take effect on October 1, 1989:

(A) Section 209.
(B) Sections 302 and 303(b).
(C) Sections 501, 502, and 503.
(D) Section 7(j)(13)(E) of the Small Business Act (as added by section 301(b) of this Act).

Approved November 15, 1988.

LEGISLATIVE HISTORY—H.R. 1807 (S. 1993):

HOUSE REPORTS: No. 100-460 (Comm. on Small Business) and No. 100-1070 (Comm. of Conference).
SENATE REPORTS: No. 100-394 accompanying S. 1993 (Comm. on Small Business).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 1, considered and passed House.
Vol. 134 (1988): July 7, H.R. 1807 considered and passed Senate, amended, in lieu of S. 1993.
Oct. 12, House agreed to conference report.
Oct. 18, Senate agreed to conference report.

Public Law 100-657
100th Congress

An Act

Nov. 15, 1988
[H.R. 4399]

To facilitate commercial access to space, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Commercial Space Launch Act Amendments of 1988.
49 USC app. 2601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Commercial Space Launch Act Amendments of 1988".

49 USC app. 2601 note.

SEC. 2. FINDINGS.

The Congress finds that—

(1) a United States commercial space launch industry is an essential component of national efforts to assure access to space for Government and commercial users;

(2) the Federal Government should encourage, facilitate, and promote the use of the United States commercial space launch industry in order to continue United States aerospace preeminence;

(3) the United States commercial space launch industry must be competitive in the international marketplace;

(4) Federal Government policies should recognize the responsibility of the United States under international treaty for activities conducted by United States citizens in space; and

(5) the United States must maintain a competitive edge in international commercial space transportation by ensuring continued research in launch vehicle component technology and development.

SEC. 3. DEFINITIONS.

Section 4 of the Commercial Space Launch Act (49 U.S.C. App. 2603) is amended—

(1) in paragraph (10) by striking "and" at the end;

(2) by redesignating paragraph (11) as paragraph (12); and

(3) by inserting immediately after paragraph (10) the following new paragraph:

"(11) 'third party' means any person or entity other than—

"(A) the United States, its agencies, or its contractors or subcontractors involved in launch services;

"(B) the licensee or transferee;

"(C) the licensee's or transferee's contractors, subcontractors, or customers involved in launch services; or

"(D) any such customer's contractors or subcontractors involved in launch services; and".

SEC. 4. PRIVATE ACQUISITION OF GOVERNMENT PROPERTY AND SERVICES.

(a) Section 15(a) of the Commercial Space Launch Act (49 U.S.C. App. 2614(a)) is amended by adding at the end the following: "In taking such actions, the Secretary shall consider the commercial

availability, on reasonable terms and conditions, of substantially equivalent launch property or launch services from a domestic source.".

(b) Section 15(b)(1) of the Commercial Space Launch Act (49 U.S.C. App. 2614(b)(1) is amended by adding at the end the following: "For purposes of this paragraph, the term 'direct costs' means the actual costs that can be unambiguously associated with a commercial launch effort, and would not be borne by the United States Government in the absence of a commercial launch effort.".

(c) Section 15 of the Commercial Space Launch Act (49 U.S.C. App. 2614) is amended by adding at the end the following new subsection:

"(d) The head of any Federal agency or department may collect payment for activities involved in the production of a launch vehicle or its payload for launch if such activities were agreed to by the owners or manufacturers of such launch vehicle or payload.".

SEC. 5. INSURANCE REQUIREMENTS OF LICENSEE.

(a) Section 16 of the Commercial Space Launch Act (49 U.S.C. App. 2615) is amended to read as follows:

"LIABILITY INSURANCE

"SEC. 16. (a)(1)(A) Each license issued or transferred under this Act shall require the licensee or transferee— Claims.

"(i) to obtain liability insurance; or

"(ii) to demonstrate financial responsibility,

in an amount sufficient to compensate the maximum probable loss (as determined by the Secretary, after consultation with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Air Force, and the heads of other appropriate agencies) from claims by a third party for death, bodily injury, or loss of or damage to property resulting from activities carried out under the license in connection with any particular launch. In no event shall a licensee or transferee be required to obtain insurance or demonstrate financial responsibility under this subparagraph, with respect to the aggregate of such claims arising out of any particular launch, in an amount which exceeds (I) $500,000,000 or (II) the maximum liability insurance available on the world market at a reasonable cost, if such insurance is less than the amount in subclause (I).

"(B) Each license issued or transferred under this Act shall require the licensee or transferee—

"(i) to obtain liability insurance; or

"(ii) to demonstrate financial responsibility,

in an amount sufficient to compensate the maximum probable loss (as determined by the Secretary, after consultation with the Administrator of the National Aeronautics and Space Administration, the Secretary of the Air Force, and the heads of other appropriate agencies) from claims against any person by the United States for loss of or damage to property of the United States resulting from activities carried out under the license in connection with any particular launch. In no event shall a licensee or transferee be required to obtain insurance or demonstrate financial responsibility under this subparagraph, with respect to the aggregate of such claims arising out of any particular launch, in an amount which exceeds (I) $100,000,000 or (II) the maximum liability

insurance available on the world market at a reasonable cost, if such insurance is less than the amount in subclause (I).

"(C) Each license issued or transferred under this Act shall require the licensee or transferee to enter into reciprocal waivers of claims with its contractors, subcontractors, and customers, and the contractors and subcontractors of such customers, involved in launch services, under which each party to each such waiver agrees to be responsible for any property damage or loss it sustains or for any personal injury to, death of, or property damage or loss sustained by its own employees resulting from activities carried out under the license.

"(D) The Secretary, on behalf of the United States, its agencies involved in launch services, and contractors and subcontractors involved in launch services, shall enter into reciprocal waivers of claims with the licensee or transferee, its contractors, subcontractors, and customers, and the contractors and subcontractors of such customers, involved in launch services, under which each party to each such waiver agrees to be responsible for any property damage or loss it sustains or for any personal injury to, death of, or property damage or loss sustained by its own employees resulting from activities carried out under the license. Any such waiver shall apply only to the extent that claims exceed the amount of insurance or demonstration of financial responsibility required under subparagraph (B). After consultation with the Administrator of the National Aeronautics and Space Administration and the Secretary of the Air Force, the Secretary may also waive, on behalf of the United States and any Federal agency, the right to recover any damages for loss of or damage to property of the United States to the extent insurance is not available by reason of policy exclusions which are determined by the Secretary to be usual for the type of insurance involved.

"(2) Any insurance policy obtained, or demonstration of financial responsibility made, pursuant to a requirement described in paragraph (1) shall protect the United States, its agencies, personnel, contractors, and subcontractors, and all contractors, subcontractors, and customers of the licensee or transferee, and all contractors and subcontractors of such customers, involved in providing the launch services, to the extent of their potential liabilities, at no cost to the United States.

"(3) The Secretary shall determine the maximum probable loss under paragraph (1) (A) and (B) associated with activities under a license, within 90 days after a licensee or transferee has required such a determination and has submitted all information the Secretary requires to make such a determination. The Secretary shall amend such determination as warranted by new information.

Reports. Within 12 months after the date of enactment of the Commercial Space Launch Act Amendments of 1988, and within each 12-month period thereafter, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report on the current determinations with respect to all issued licenses and the reasons for those determinations.

Reports. "(4) Within 6 months after the date of enactment of the Commercial Space Launch Act Amendments of 1988, and within each 12-month period thereafter, the Secretary shall review the amounts specified in paragraph (1) (A)(I) and (B)(I), and shall submit a report to the Congress which, if appropriate, contains a proposed adjustment to such amounts to conform with altered liability expectations

and availability of insurance on the world market. Such proposed adjustment shall take effect 30 days after the submission of such report.

"(b)(1) To the extent provided in advance in appropriations Acts or to the extent there is enacted additional legislative authority to provide for the payment of claims as submitted in the compensation plan outlined in paragraph (4), the Secretary shall provide for the payment by the United States of successful claims (including reasonable expenses of litigation or settlement) of a third party against the licensee or transferee, or its contractors, subcontractors, or customers, or the contractors or subcontractors of such customers, resulting from activities carried out pursuant to a license issued or transferred under this Act for death, bodily injury, or loss of or damage to property resulting from activities carried out under the license, but only to the extent that the aggregate of such successful claims arising out of any particular launch—

"(A) is in excess of the amount of insurance or demonstration of financial responsibilities required under subsection (a)(1)(A); and

"(B) is not in excess of the level that is $1,500,000,000 (plus any additional sums necessary to reflect inflation occurring after January 1, 1989) above such amount.

The Secretary shall not provide for payment of any part of such claim for which the death, bodily injury, or loss of or damage to property has resulted from willful misconduct by the licensee or transferee. To the extent insurance required pursuant to subsection (a)(1)(A) is not available to cover any such successful third party liability claim by reason of insurance policy exclusions determined by the Secretary to be usual for the type of insurance involved, the Secretary may provide for the payment of such excluded claims without regard to the limitation expressed in subparagraph (A).

"(2) The payment of claims under paragraph (1) shall be subject to—

"(A) notice to the United States of any claim, or suit associated with such claim, against a party described in paragraph (1) for death, bodily injury, or loss of or damage to property;

"(B) participation or assistance in the defense by the United States, at its election, of that claim or suit; and

"(C) approval by the Secretary of that portion of any settlement which is to be paid out of appropriated funds of the United States.

"(3) The Secretary may withhold payment under paragraph (1) if the Secretary certifies that the amount is not just and reasonable, except that the amount of any claim determined by the final judgment of a court of competent jurisdiction shall be deemed by the Secretary to be just and reasonable.

"(4)(A) If as a result of activities carried out under a license issued or transferred under this Act the aggregate of the claims arising out of a particular launch are likely to exceed the amount of insurance or demonstration of financial responsibility required under the license, the Secretary shall (i) make a survey of the causes and extent of damage and (ii) expeditiously submit to the Congress a report setting forth the results of such survey. Reports.

"(B) Not later than 90 days after any determination by a court indicating that the liability for the aggregate of claims arising out of a particular launch under such a license may exceed the amount of insurance or demonstration of financial responsibility required President of U.S.

under the license, the President, on the recommendation of the Secretary, shall submit to the Congress a compensation plan or plans that (i) outlines the aggregate dollar value of such claims; (ii) recommends sources of funding to pay for these claims; and (iii) includes any legislative language required to implement the compensation plan or plans if additional legislative authority is required. No compensation plan for a single event or incident may exceed the aggregate of $1,500,000,000.

"(C) Any compensation plan transmitted to the Congress pursuant to subparagraph (B) shall bear an identification number and shall be transmitted to both Houses of Congress on the same day and to each House while it is in session.

"(D)(i) The provisions of this subparagraph shall apply with respect to consideration in the Senate of any such compensation plan and to Senate action on such compensation plan.

"(ii) Any such compensation plan that requires additional appropriations or additional legislative authority must be considered by the Senate pursuant to this subparagraph within 60 calendar days of continuous session of Congress after the date on which such plan is transmitted to the Congress.

"(iii) For the purposes of this subparagraph, the term 'resolution' means only a joint resolution of Congress the matter after the resolving clause of which is as follows: 'That the approves the compensation plan numbered submitted to the Congress on , 19 .', the first blank space therein being filled with the name of the resolving House and the other blank spaces being appropriately filled; but does not include a resolution which includes more than one compensation plan.

"(iv) A resolution once introduced with respect to a compensation plan shall immediately be referred to a committee (and all resolutions with respect to the same compensation plan shall be referred to the same committee) by the President of the Senate.

"(v)(I) If the committee of the Senate to which a resolution with respect to a compensation plan has been referred has not reported it at the end of 20 calendar days after its referral, it shall be in order to move either to discharge the committee from further consideration of such resolution or to discharge the committee from further consideration with respect to such compensation plan which has been referred to the committee.

"(II) A motion to discharge may be made only by an individual favoring the resolution, shall be highly privileged (except that it may not be made after the committee has reported a resolution with respect to the same compensation plan), and debate thereon shall be limited to not more than one hour, to be divided equally between those favoring and those opposing the resolution. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(III) If the motion to discharge is agreed to or disagreed to, the motion may not be renewed, nor may another motion to discharge the committee be made with respect to any other resolution with respect to the same compensation plan.

"(vi)(I) When the committee has reported, or has been discharged from further consideration of, a resolution, it shall be at any time thereafter in order (even though a previous motion to the same effect has been disagreed to) to move to proceed to the consideration of the resolution. The motion shall be highly privileged and shall not

be debatable. An amendment to the motion shall not be in order, and it shall not be in order to move to reconsider the vote by which the motion was agreed to or disagreed to.

"(II) Debate on the resolution referred to in subclause (I) of this clause shall be limited to not more than 10 hours, which shall be divided equally between those favoring and those opposing such resolution. A motion further to limit debate shall not be debatable. An amendment to, or motion to recommit, the resolution shall not be in order, and it shall not be in order to move to reconsider the vote by which such resolution was agreed to or disagreed to.

"(vii)(I) Motions to postpone, made with respect to the discharge from committee, or the consideration of a resolution or motions to proceed to the consideration of other business, shall be decided without debate.

"(II) Appeals from the decision of the Chair relating to the application of the rules of the Senate to the procedures relating to resolution shall be decided without debate.

"(5) The provisions of paragraphs (1) through (4) shall apply only to each license issued or transferred under this Act for which a complete and valid application has been received by the Secretary prior to the date that is 5 years following the date of enactment of the Commercial Space Launch Act Amendments of 1988.

"(c) The head of any Federal agency or department shall collect insurance proceeds or any other payment owed for the loss of or damage to Government property under its jurisdiction or control resulting from activities carried out under a license issued or transferred under this Act. Such proceeds or other payment shall be credited to the current applicable appropriations, funds, or accounts of that agency or department.".

(b) Section 15(c) of the Commercial Space Launch Act (49 U.S.C. App. 2614(c)) is amended to read as follows:

"(c) Consistent with the requirements of this Act, the Secretary shall establish requirements for proof of financial responsibility and such other assurances as may be necessary to protect the United States and its agencies and personnel from liability, death, bodily injury, or loss of or damage to property as a result of a launch or operation of a launch site involving Government facilities or personnel. The Secretary may not under this subsection relieve the United States of liability for death, bodily injury, or loss of or damage to property resulting from the willful misconduct of the United States or its agents.".

SEC. 6. UNITED STATES LAUNCH INCENTIVES FOR CERTAIN SATELLITES. 49 USC app. 2615 note.

(a) The requirements of subsection (a)(1)(B) of section 16 of the Commercial Space Launch Act (49 U.S.C. App. 2615), as amended by this Act, shall not apply to eligible satellites.

(b) To the extent approved in appropriations Acts, the United States shall not require payment for the provision of launch services in connection with the commercial launch of an eligible satellite.

(c) For purposes of this section, the term "eligible satellite" means a satellite that—

(1) was under construction on August 15, 1986;

(2) was the subject of a launch services agreement or contract with the National Aeronautics and Space Administration, which as of August 15, 1986, was in effect and not yet carried out; and

(3) is licensed for launch under the Commercial Space Launch Act.

SEC. 7. PREEMPTION OF SCHEDULED LAUNCHES.

Section 15(b) of the Commercial Space Launch Act (49 U.S.C. App. 2614(b)) is amended by adding at the end the following new paragraph:

"(4)(A) The Secretary, with the cooperation of the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, shall take steps to ensure that the launches of payloads with respect to which a launch date commitment from the United States has been obtained for a launch licensed under this Act are not preempted from access to United States launch sites or launch property, except in cases of imperative national need. Any determination of imperative national need shall be made by the Secretary of Defense or the Administrator of the National Aeronautics and Space Administration, in consultation with the Secretary, and shall not be delegated. A licensee or transferee preempted from access to a launch site or launch property shall not be required to pay to the United States any amount for launch services solely attributable to the scheduled launch prevented by such preemption.

Reports. "(B) The Secretary of Defense or the Administrator of the National Aeronautics and Space Administration, in cooperation with the Secretary, as the case may be, shall report to the Congress within 7 days after any determination of imperative national need under subparagraph (A), including an explanation of the circumstances justifying such determination and a schedule for ensuring the prompt launching of a preempted payload."

SEC. 8. STUDY OF PROCESS FOR SCHEDULING LAUNCHES.

The Secretary of Transportation, in cooperation with the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration, and in consultation with representatives of the space launch and satellite industry, shall study ways and means of scheduling Government and commercial payloads on commercial launch vehicles at Government launch sites in a manner which—

(1) makes the best practicable use of the launch property of the United States; and

(2) assures that the launch property of the United States that is available for commercial use will be available on a commercially reasonable basis,

consistent with the objectives of the Commercial Space Launch Act.

Reports. The Secretary shall report the results of such study to the Congress within 90 days after the date of enactment of this Act.

SEC. 9. COMMERCIAL SPACE LAUNCH SERVICE COMPETITION.

It is the sense of the Congress that the United States should explore ways and means of developing a dialogue with appropriate foreign government representatives to seek the development of guidelines for access to launch services by satellite builders and users in a manner that assures the conduct of reasonable and fair international competition in commercial space activities.

SEC. 10. LAUNCH VEHICLE RESEARCH AND DEVELOPMENT.

The Administrator of the National Aeronautics and Space Administration shall, in consultation with representatives of the space launch and satellite industry, design a program for the support of research into launch systems component technologies, for the purpose of developing higher performance and lower cost United States launch vehicle technologies and systems available for the launch of commercial and Government spacecraft into orbit. The Administrator shall submit a report outlining such program to the Congress within 60 days after the date of enactment of this Act.

Reports.

SEC. 11. APPLICABILITY TO LICENSES.

49 USC app. 2603 note.

This Act, and the amendments made by this Act, shall apply to all licenses issued under the Commercial Space Launch Act before, on, or after the date of enactment of this Act.

Approved November 15, 1988.

LEGISLATIVE HISTORY—H.R. 4399:

HOUSE REPORTS: No. 100-639 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-593 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 24, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 21, House concurred in Senate amendment.

Public Law 100-658
100th Congress

An Act

Nov. 15, 1988
[H.R. 5115]

To extend for 2 years section 314 of the Immigration Reform and Control Act of 1986, to make additional visas available to immigrants from underrepresented countries to enhance diversity in immigration, and to extend through December 31, 1989, H-1 nonimmigrant status for certain registered nurses.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Immigration Amendments of 1988.
8 USC 1101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Immigration Amendments of 1988".

SEC. 2. 2-YEAR EXTENSION OF SECTION 314 OF THE IMMIGRATION REFORM AND CONTROL ACT OF 1986.

8 USC 1153 note.

(a) IN GENERAL.—Section 314(a) of the Immigration Reform and Control Act of 1986 is amended by inserting "and 15,000 visa numbers in each of fiscal years 1989 and 1990" after "5,000 visa numbers in each of fiscal years 1987 and 1988".

8 USC 1153 note.

(b) ADMINISTRATION.—In carrying out the amendment made by subsection (a), the Secretary of State shall continue to use the list of qualified immigrants established under section 314 of the Immigration Reform and Control Act of 1986 before the date of the enactment of this Act, and may continue to carry out such section under the regulations in effect (as of the date of July 1, 1988) under part 43 of title 22 of the Code of Federal Regulations.

8 USC 1153 note.

SEC. 3. MAKING VISAS AVAILABLE TO IMMIGRANTS FROM UNDERREPRESENTED COUNTRIES TO ENHANCE DIVERSITY IN IMMIGRATION.

(a) AUTHORIZATION OF ADDITIONAL VISAS.—Notwithstanding the numerical limitations in section 201(a) of the Immigration and Nationality Act (relating to worldwide level of immigration), but subject to the numerical limitations in section 202 of such Act (relating to per country numerical limitations), there shall be made available to qualified immigrants who are natives of underrepresented countries 10,000 visa numbers in each of fiscal years 1990 and 1991.

(b) DISTRIBUTION OF VISA NUMBERS.—The Secretary of State shall provide for making visa numbers provided under subsection (a) available in the same manner as visa numbers were made available to qualified immigrants under section 203(a)(7) of the Immigration and Nationality Act, except that such visas shall be made available strictly in a random order among those who qualify during an application period established by the Secretary of State and except that if more than one petition is submitted with respect to any alien all such petitions submitted with respect to the alien shall be voided.

(c) WAIVER OF LABOR CERTIFICATION.—Section 212(a)(14) of the Immigration and Nationality Act shall not apply in the determination of an immigrant's eligibility to receive any visa made available

under this section or in the admission of such an immigrant issued a visa under this section.

(d) APPLICATION OF DEFINITIONS OF IMMIGRATION AND NATIONALITY ACT.—Except as otherwise specifically provided in this section, the definitions contained in the Immigration and Nationality Act shall apply in the administration of this section. Nothing in this section shall be held to repeal, amend, alter, modify, affect, or restrict the powers, duties, functions, or authority of the Attorney General in the administration and enforcement of such Act or any other law relating to immigration, nationality, or naturalization.

(e) UNDERREPRESENTED COUNTRY DEFINED.—In this section, the term "underrepresented country" means a foreign state natives of which used, during fiscal year 1988, less than 25 percent of the maximum number of immigrant visa numbers otherwise available to it in that fiscal year under section 202(a) of the Immigration and Nationality Act. In applying the previous sentence, there shall not be taken into account visa numbers issued under section 314 of the Immigration Reform and Control Act of 1986.

SEC. 4. EXTENSION OF H-1 STATUS FOR CERTAIN REGISTERED NURSES THROUGH DECEMBER 31, 1989. 8 USC 1101 note.

The Attorney General shall provide for the extension through December 31, 1989, of nonimmigrant status under section 101(a)(15)(H)(i) of the Immigration and Nationality Act for an alien to perform temporarily services as a registered nurse in the case of an alien who has had such status for a period of at least 5 years if—

(1) such status has not expired as of the date of the enactment of this Act but would otherwise expire during 1988 or 1989, due only to the time limitation with respect to such status; or

(2)(A) the alien's status as such a nonimmigrant expired during the period beginning on January 1, 1987, and ending on the date of the enactment of this Act, due only to the time limitation with respect to such status,

(B) the alien is present in the United States as of the date of the enactment of this Act,

(C) the alien has been employed as a registered nurse in the United States since the date of expiration of such status, and

(D) in the case of an alien whose status expired during 1987, the alien's employer has filed with the Immigration and Naturalization Service, before the date of the enactment of this Act, an appeal of a petition filed in connection with the alien's application for extension of such status.

Approved November 15, 1988.

LEGISLATIVE HISTORY—H.R. 5115:

HOUSE REPORTS: No. 100-1038 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 5, considered and passed House.
Oct. 21, considered and passed Senate.

Public Law 100-659
100th Congress

An Act

Nov. 15, 1988
[S. 1630]

To provide for retirement and survivors' annuities for bankruptcy judges and United States magistrates, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988.
28 USC 1 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988".

SEC. 2. BASIC RETIREMENT PROGRAM.

(a) NEW RETIREMENT SYSTEM.—Chapter 17 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 377. Retirement of bankruptcy judges and magistrates

"(a) RETIREMENT BASED ON YEARS OF SERVICE.—A bankruptcy judge or magistrate to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such bankruptcy judge or magistrate shall, subject to subsection (f), be entitled to receive, during the remainder of the judge's or magistrate's lifetime, an annuity equal to the salary being received at the time the judge or magistrate leaves office.

"(b) RETIREMENT UPON FAILURE OF REAPPOINTMENT.—A bankruptcy judge or magistrate to whom this section applies, who is not reappointed following the expiration of the term of office of such judge or magistrate, and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such bankruptcy judge's or magistrate's lifetime, an annuity equal to that portion of the salary being received at the time the judge or magistrate leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

"(1) such judge or magistrate has served at least 1 full term as a bankruptcy judge or magistrate, and

"(2) not earlier than 9 months before the date on which the term of office of such judge or magistrate expires, and not later than 6 months before such date, such judge or magistrate notified the appointing authority in writing that such judge or magistrate was willing to accept reappointment to the position in which such judge or magistrate was serving.

For purposes of this subsection, in the case of a bankruptcy judge, the written notice required by paragraph (2) shall be given to the chief judge of the circuit in which such bankruptcy judge is serving and, in the case of a magistrate, such notice shall be given to the chief judge of the district court in which the magistrate is serving.

"(c) SERVICE OF AT LEAST 8 YEARS.—A bankruptcy judge or magistrate to whom this section applies and who retires after serving at

least 8 years, whether continuously or otherwise, as such a bankruptcy judge or magistrate shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the judge's or magistrate's lifetime, an annuity equal to that portion of the salary being received at the time the judge or magistrate leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by ⅙ of 1 percent for each full month such bankruptcy judge or magistrate was under the age of 65 at the time the judge or magistrate left office, except that such reduction shall not exceed 20 percent.

"(d) RETIREMENT FOR DISABILITY.—A bankruptcy judge or magistrate to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a bankruptcy judge or magistrate, and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the judge's or magistrate's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a judge or magistrate who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

"(e) COST-OF-LIVING ADJUSTMENTS.—A bankruptcy judge or magistrate who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the judge or magistrate retired or was removed.

"(f) ELECTION; ANNUITY IN LIEU OF OTHER ANNUITIES.—A bankruptcy judge or magistrate shall be entitled to an annuity under this section if the judge or magistrate elects an annuity under this section by notifying the Director of the Administrative Office of the United States Courts. A bankruptcy judge or magistrate who elects to receive an annuity under this section shall not be entitled to receive any annuity to which such judge or magistrate would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5.

"(g) CALCULATION OF SERVICE.—(1) For purposes of calculating an annuity under this section—

"(A) full-time service as a bankruptcy judge or magistrate to whom this section applies may be credited; and

"(B) each month of service shall be credited as one-twelfth of a year, and the fractional part of any month shall not be credited.

"(2)(A) In the case of an individual who is a bankruptcy judge to whom this section applies and who retires under this section or who is removed from office under subsection (d) upon the sole ground of mental or physical disability, any service of that individual as a United States magistrate to whom this section applies, and any service of that individual as a full-time judicial officer who performed the duties of a magistrate and a bankruptcy judge at the same time, shall be included for purposes of calculating years of service under subsection (a), (b), (c), or (d), as the case may be.

"(B) In the case of an individual who is a magistrate to whom this section applies and who retires under this section or who is removed from office under subsection (d) upon the sole ground of mental or

physical disability, any service of that individual as a bankruptcy judge to whom this section applies, and any service of that individual as a full-time judicial officer who performed the duties of magistrate and a bankruptcy judge at the same time, shall be included for purposes of calculating years of service under subsection (a), (b), (c), or (d), as the case may be.

"(h) COVERED POSITIONS AND SERVICE.—This section applies to—

"(1) any bankruptcy judge appointed under—

"(A) section 152 of this title;

"(B) section 34 of the Bankruptcy Act before the repeal of that Act by section 401 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2682); or

"(C) section 404 of the Act of November 6, 1978 (Public Law 95-598; 92 Stat. 2549); and

"(2) any United States magistrate appointed under section 631 of this title,

only with respect to service in or after October 1, 1979, as such a bankruptcy judge or magistrate.

"(i) PAYMENTS PURSUANT TO COURT ORDER.—(1) Payments under this section which would otherwise be made to a bankruptcy judge or magistrate based upon his or her service shall be paid (in whole or in part) by the Director of the Administrative Office of the United States Courts to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

"(2) Paragraph (1) shall apply only to payments made by the Director of the Administrative Office of the United States Courts after the date of receipt by the Director of written notice of such decree, order, or agreement, and such additional information as the Director may prescribe.

"(3) As used in this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

"(j) DEDUCTIONS, CONTRIBUTIONS, AND DEPOSITS.—

"(1) DEDUCTIONS.—Beginning with the next pay period after the Director of the Administrative Office of the United States Courts receives a notice under subsection (f) that a bankruptcy judge or magistrate has elected an annuity under this section, the Director shall deduct and withhold 1 percent of the salary of such bankruptcy judge or magistrate. Amounts shall be so deducted and withheld in a manner determined by the Director. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a bankruptcy judge or magistrate shall terminate upon the retirement of the bankruptcy judge or magistrate or upon completing 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

"(2) CONSENT TO DEDUCTIONS; DISCHARGE OF CLAIMS.—Each bankruptcy judge or magistrate who makes an election under subsection (f) shall be deemed to consent and agree to the

deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 376 of this title) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such bankruptcy judge or magistrate during the period covered by such payment, except the right to those benefits to which the bankruptcy judge or magistrate is entitled under this section (and section 376).

"(k) DEPOSITS FOR PRIOR SERVICE.—Each bankruptcy judge or magistrate who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

"(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each bankruptcy judge or magistrate from whom such amounts are received, for credit to the Judicial Officers' Retirement Fund.

"(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

"(1) PRACTICING LAW AFTER RETIREMENT.—

"(A) FORFEITURE OF ANNUITY.—Subject to subparagraph (B), any bankruptcy judge or magistrate who retires under this section and who thereafter practices law shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which he or she so practices law.

"(B) FORFEITURE NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—(i) If a bankruptcy judge or magistrate makes an election to practice law after retirement under this section—

"(I) subparagraph (A) shall not apply to such bankruptcy judge or magistrate beginning on the date such election takes effect, and

"(II) the annuity payable under this section to such bankruptcy judge or magistrate, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such bankruptcy judge or magistrate is entitled on the day before such effective date.

"(ii) An election under clause (i)—

"(I) may be made by a bankruptcy judge or magistrate eligible for retirement under this section, and

"(II) shall be filed with the Director of the Administrative Office of the United States Courts.

Such an election, once it takes effect, shall be irrevocable.

"(iii) Any election under this subparagraph shall take effect on the first day of the first month following the month in which the election is made.

"(2) RECALL NOT PERMITTED.—Any bankruptcy judge or magistrate who retires under this section and who thereafter practices law shall not be eligible for recall under section 155(b), 375, or 636(h) of this title.

"(3) ACCEPTING OTHER EMPLOYMENT.—Any bankruptcy judge or magistrate who retires under this section and thereafter

accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a bankruptcy judge or magistrate under section 155(b), 375, or 636(h) of this title) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

"(n) LUMP-SUM PAYMENTS.—

"(1) ELIGIBILITY.—(A) Subject to paragraph (2), an individual who serves as a bankruptcy judge or magistrate and—

"(i) who leaves office and is not reappointed as a bankruptcy judge or magistrate for at least 31 consecutive days;

"(ii) who files an application with the Administrative Office of the United States Courts for payment of the lump-sum credit;

"(iii) is not serving as a bankruptcy judge or magistrate at the time of filing of the application; and

"(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application;

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a bankruptcy judge or magistrate.

"(B) Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the bankruptcy judge or magistrate and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of this title, and in accordance with the last two sentences of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of section 376 shall be deemed to mean 'bankruptcy judge or magistrate'.

"(C) If a bankruptcy judge or magistrate dies before receiving an annuity under this section, the lump-sum credit shall be paid.

"(D) If all annuity rights under this section based on the service of a deceased bankruptcy judge or magistrate terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

"(E) If a bankruptcy judge or magistrate who is receiving an annuity under this section dies, annuity accrued and unpaid shall be paid.

"(F) Annuity accrued and unpaid on the termination, except by death, of the annuity of a bankruptcy judge or magistrate shall be paid to that individual.

"(G) Subject to paragraph (2), a bankruptcy judge or magistrate who forfeits rights to an annuity under subsection (m)(3) before the total annuity paid equals the lump-sum credit, shall be entitled to be paid the difference if the bankruptcy judge or magistrate files an application with the Administrative Office of the United States Courts for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

"(2) SPOUSES AND FORMER SPOUSES.—(A) Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

"(i) may be made only if any current spouse and any former spouse of the bankruptcy judge or magistrate are notified of the bankruptcy judge's or magistrate's application; and

"(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation or any court or court approved property settlement agreement incident to such decree, if—

"(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved; and

"(II) payment of the lump-sum credit or other payment would extinguish entitlement of the bankruptcy judge's or magistrate's spouse or former spouse to any portion of an annuity under subsection (i).

"(B) Notification of a spouse or former spouse under this paragraph shall be made in accordance with such requirements as the Director of the Administrative Office of the United States Courts shall by regulation prescribe. The Director may provide under such regulations that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the bankruptcy judge or magistrate establishes to the satisfaction of the Director that the whereabouts of such spouse or former spouse cannot be determined.

"(C) The Director shall prescribe regulations under which this paragraph shall be applied in any case in which the Director receives two or more orders or decrees described in subparagraph (A). Regulations.

"(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

"(A) retirement deductions made under this section from the salary of a bankruptcy judge or magistrate;

"(B) amounts deposited under subsection (k) by a bankruptcy judge or magistrate covering earlier service; and

"(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary of the Treasury during such fiscal year under subsection (o);

but does not include interest—

"(i) if the service covered thereby aggregates 1 year or less; or

"(ii) for the fractional part of a month in the total service.

"(o) JUDICIAL OFFICERS' RETIREMENT FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Judicial Officers' Retirement Fund'. The Fund is appropriated for the payment of annuities, refunds, and other payments under this section.

"(2) INVESTMENT OF FUND.—The Secretary of the Treasury shall invest, in interest bearing securities of the United States, such currently available portions of the Judicial Officers' Retirement Fund as are not immediately required for payments

from the Fund. The income derived from these investments constitutes a part of the Fund.

Appropriation authorization.

"(3) UNFUNDED LIABILITY.—(A) There are authorized to be appropriated to the Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

"(B) For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, of the present value of all benefits payable from the Judicial Officers' Retirement Fund over the sum of—

"(i) the present value of deductions to be withheld under this section from the future basic pay of bankruptcy judges and magistrates; plus

"(ii) the balance in the Fund as of the date the unfunded liability is determined.

In making any determination under this subparagraph, the Comptroller General shall use the applicable information contained in the reports filed pursuant to section 9503 of title 31, with respect to the retirement annuities provided for in this section.

Appropriation authorization.

"(C) There are authorized to be appropriated such sums as may be necessary to carry out this paragraph.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 17 of title 28, United States Code, is amended by adding at the end the following new item:

"377. Retirement of bankruptcy judges and magistrates.".

28 USC 377 note.

(c) INCUMBENT JUDGES AND MAGISTRATES.—

(1) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 377 OF TITLE 28.—A bankruptcy judge or United States magistrate in active service on the effective date of this Act shall, subject to paragraph (2), be entitled, in lieu of the annuity otherwise provided under the amendments made by this section, to—

(A) an annuity under subchapter III of chapter 83, or under chapter 84, of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of subparagraph (B), and

(B) an annuity calculated under subsection (b) or (c) and subsection (g) of section 377 of title 28, United States Code, as added by this section, for any service as a full-time bankruptcy judge or magistrate on or after October 1, 1979 (as specified in the election pursuant to paragraph (2)) for which deductions and deposits are made under subsections (j) and (k) of such section 377, as applicable, without regard to the minimum number of years of service as such a bankruptcy judge or magistrate, except that—

(i) in the case of a judge or magistrate who retires with less than 8 years of service, the annuity under subsection (c) of section 377 of title 28, United States Code, shall be equal to that proportion of the salary being received at the time the judge or magistrate leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 377 if the bankruptcy judge or magistrate is under age 65 at the time he or she leaves office, and

(ii) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the bankruptcy judge or magistrate which is in effect on the day before the retirement becomes effective.

(2) FILING OF NOTICE OF ELECTION.—A bankruptcy judge or magistrate shall be entitled to an annuity under this subsection only if the judge or magistrate files a notice of that election with the Director of the Administrative Office of the United States Courts specifying the date on which service would begin to be credited under section 377 of title 28, United States Code, in lieu of chapter 83 or chapter 84 of title 5, United States Code.

(3) LUMP-SUM CREDIT UNDER TITLE 5.—A bankruptcy judge or magistrate who makes an election under paragraph (2) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 377 of title 28, United States Code, as added by this section, pursuant to that election, and with respect to which any contributions were made by the judge or magistrate under the applicable provisions of title 5, United States Code.

(4) RECALL.—With respect to any bankruptcy judge or magistrate receiving an annuity under this subsection who is recalled to serve under section 375 of title 28, United States Code—

(A) the amount of compensation which such recalled judge or magistrate receives under subsection (c) of such section shall be calculated on the basis of the annuity received under this subsection; and

(B) such recalled judge or magistrate may serve as a reemployed annuitant to the extent permitted by subsection (e) of section 375 of such title.

Section 377(m)(3) of title 28, United States Code, as added by subsection (a) of this section, shall not apply with respect to service as a reemployed annuitant described in subparagraph (B).

SEC. 3. JUDICIAL SURVIVORS' ANNUITIES.

(a) ANNUITIES FOR SURVIVORS OF BANKRUPTCY JUDGES AND MAGISTRATES RETIRING UNDER NEW SYSTEM.—Section 376 of title 28, United States Code, is amended as follows:

(1) Subsection (a)(1) is amended—

(A) by striking out "or" at the end of subparagraph (D);

(B) by adding "or" at the end of subparagraph (E);

(C) by inserting after subparagraph (E) the following: "(F) a full-time bankruptcy judge or a full-time United States magistrate;"; and

(D) by striking out "; or (iv) October 1, 1986;" and inserting in lieu thereof ", (iv) October 1, 1986, or (v) the date of the enactment of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988, in the case of a full-time bankruptcy judge or United States magistrate in active service on that date;".

(2) Subsection (a)(2) is amended—

(A) by striking out "and" at the end of subparagraph (D);

(B) by adding "and" at the end of subparagraph (E); and

(C) by adding at the end the following:

"(F) in the case of a bankruptcy judge or United States magistrate, an annuity paid under section 377 of this title;".

(3) Subsection (b) is amended in the last sentence—

(A) by inserting after "deductions" the following: "(and any deductions made under section 377 of this title or under subchapter III of chapter 83, or chapter 84, of title 5)"; and

(B) by inserting before the period the following: "(and under section 377 of this title or under subchapter III of chapter 83, or chapter 84, of title 5)".

28 USC 376 note.

(b) SURVIVORS' ANNUITIES FOR INCUMBENTS.—In the case of a bankruptcy judge or magistrate who elects an annuity under section 2(c), only service for which an annuity under subsection (b) or (c) and subsection (g) of section 377 of title 28, United States Code, as added by section 2 of this Act, is calculated under section 2(c) may be used in the computation of an annuity under section 376 of title 28, United States Code, as amended by subsection (a) of this section.

SEC. 4. AMENDMENTS RELATED TO RECALL.

(a) RECALL OF BANKRUPTCY JUDGES.—Section 155(b) of title 28, United States Code, is amended—

(1) by inserting "section 377 of this title or in" after "annuity in"; and

(2) by inserting "which are applicable to such judge" after "title 5".

(b) ALTERNATIVE RECALL OF CERTAIN JUDGES AND MAGISTRATES.—Section 375 of title 28, United States Code, is amended—

(1) in subsection (a) by inserting "under the provisions of section 377 of title or" after "has retired";

(2) in subsection (c)—

(A) by inserting "under the provisions of section 377 of this title or" after "annuity provided"; and

(B) by adding at the end thereof the following: "The annuity of a bankruptcy judge or magistrate who completes that 5-year period of service, whose certification is not renewed, and who retired under section 377 of this title shall be equal to the salary in effect, at the end of that 5-year period, for the office from which he or she retired."; and

(3) in subsection (g) by inserting "who retired under the applicable provisions of title 5" after "section".

(c) RECALL OF MAGISTRATES.—Section 636(h) of title 28, United States Code, is amended in the second sentence—

(1) by inserting "section 377 of this title or in" after "annuity set forth in"; and

(2) by inserting "which are applicable to such magistrate" after "title 5".

SEC. 5. TECHNICAL AMENDMENTS.

Section 631(e) of title 28, United States Code, is amended—

(1) by striking out "(j)" and inserting in lieu thereof "(k)";

(2) by striking out "(i)" and inserting in lieu thereof "(j)"; and

(3) by striking out "(h)" and inserting in lieu thereof "(i)".

SEC. 6. CONFORMING AMENDMENTS.

(a) ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—Section 604(a) of title 28, United States Code (relating to the duties of

the Director of the Administrative Office of the United States Courts) is amended—

(1) in paragraph (7) by inserting "bankruptcy judges, United States magistrates," after "United States,";

(2) by redesignating paragraph (18) as paragraph (19); and

(3) by inserting after paragraph (17) the following:

"(18) Regulate and pay annuities to bankruptcy judges and United States magistrates in accordance with section 377 of this title and paragraphs (1)(B) and (2) of section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988;".

(b) CIVIL SERVICE RETIREMENT SYSTEM.—Section 8334(i) of title 5, United States Code, is amended by adding at the end the following new paragraph:

"(4) Notwithstanding any other provision of law, a bankruptcy judge or magistrate who is covered by section 377 of title 28 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 shall not be subject to deductions and contributions to the Fund, if the judge or magistrate notifies the Director of the Administrative Office of the United States Courts of an election of a retirement annuity under those provisions. Upon such an election, the judge or magistrate shall be entitled to a lump-sum credit under section 8342(a) of this title.".

(c) FEDERAL EMPLOYEES RETIREMENT SYSTEM.—Section 8402 of title 5, United States Code, is amended by adding at the end the following new subsection:

"(e) A bankruptcy judge or magistrate who is covered by section 377 of title 28 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 shall be excluded from the operation of this chapter, other than subchapters III and VII of such chapter, if the judge or magistrate notifies the Director of the Administrative Office of the United States Courts of an election of a retirement annuity under those provisions. Upon such election, the judge or magistrate shall be entitled to a lump-sum credit under section 8424 of this title.".

SEC. 7. THRIFT SAVINGS PLAN.

(a) PARTICIPATION IN THE PLAN.—Subchapter III of chapter 84 of title 5, United States Code, is amended by adding at the end the following:

"§ 8440a. Bankruptcy judges and magistrates

"(a)(1) A bankruptcy judge or magistrate who is covered by section 377 of title 28 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988 may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund.

"(2) An election may be made under paragraph (1) only during a period provided under section 8432(b) for individuals subject to this chapter.

"(b)(1) Except as otherwise provided in this subsection, the provisions of this subchapter and subchapter VII shall apply with respect to bankruptcy judges and magistrates who make contributions to the Thrift Savings Fund under subsection (a) of this section.

"(2) The amount contributed by a bankruptcy judge or magistrate for any pay period shall not exceed 5 percent of basic pay for such pay period.

"(3) No contributions shall be made under section 8432(c) of this title for the benefit of a bankruptcy judge or magistrate making contributions under subsection (a) of this section.

"(4)(A) Section 8433(b) of this title applies to a bankruptcy judge or magistrate who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires entitled to an immediate annuity under section 377 of title 28 (including a disability annuity under subsection (d) of such section) or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988.

"(B) Section 8433(c) of this title applies to any bankruptcy judge or magistrate who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under section 377 of title 28 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988; except that the period described in paragraph (3) of section 8433(c) commences on or after the date on which payment of the bankruptcy judge's or magistrate's annuity under section 377 of title 28 commences.

"(C) Section 8433(d) of this title applies to any bankruptcy judge or magistrate who elects to make contributions to the Thrift Savings Fund under subsection (a) of this section and who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under section 377 of title 28 or section 2(c) of the Retirement and Survivors' Annuities for Bankruptcy Judges and Magistrates Act of 1988.

"(5) With respect to bankruptcy judges and magistrates to whom this section applies, retirement under section 377 of title 28 is a separation from service for purposes of this subchapter and subchapter VII.

"(6) For purposes of this section, the terms 'retirement' and 'retire' include removal from office under section 377(d) of title 28 on the sole ground of mental or physical disability.

"(7) Sums contributed pursuant to this section by bankruptcy judges or magistrates, as well as all previous contributions to the Thrift Savings Fund by those bankruptcy judges and magistrates, and earnings attributable to such sums and contributions, may be invested and reinvested only in the Government Securities Investment Fund established under section 8438(b)(1)(A) of this title.

"(8) In the case of a bankruptcy judge or magistrate who receives a distribution from the Thrift Savings Plan and who later receives an annuity under section 377 of title 28, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 84 of title 5, United States Code, is amended by adding at the end the following:

"8440a. Bankruptcy judges and magistrates.".

28 USC 377 note.

SEC. 8. REPORT TO CONGRESS.

The Director of the Administrative Office of the United States Courts shall, not later than 5 years after the date of the enactment of this Act, submit a report to the Congress on the financial oper-

ation of the retirement annuity program established under this Act and the amendments made by this Act. The report shall, in particular, include a discussion of the deductions from salary and deposits made for contributions to the annuity program and the need for continuing the deductions at the level established under the amendments made by this Act.

SEC. 9. EFFECTIVE DATE. 28 USC 377 note.

(a) IN GENERAL.—Subject to subsection (b), this Act and the amendments made by this Act shall take effect on the date of the enactment of this Act and shall apply to bankruptcy judges and magistrates who retire on or after the date of the enactment of this Act.

(b) EXCEPTION FOR JUDGES AND MAGISTRATES RETIRING ON OR AFTER JULY 31, 1987.—A bankruptcy judge or magistrate who left office on or after July 31, 1987, and before the date of the enactment of this Act may elect to receive an annuity, or to participate in the Judicial Survivors' Annuity System, under the amendments made by this Act if such bankruptcy judge or magistrate, within 60 days after so leaving office, accepted office or employment with the United States Government or a State government or was eligible at the time he or she left office for an immediate annuity under title 5, United States Code. Any election under this subsection shall not be valid unless it is made within 6 months after the date of the enactment of this Act and under the same conditions as other persons who may make elections under the amendments made by this Act, except that any such person who makes an election under this subsection shall not receive a lump-sum credit under section 8342 or 8424 of title 5, United States Code, for prior service and shall not be required to make contributions for prior years of creditable service.

Approved November 15, 1988.

LEGISLATIVE HISTORY—S. 1630 (H.R. 4340):

HOUSE REPORTS: No. 100-638, Pt. 1, accompanying H.R. 4340 (Comm. on the Judiciary) and No. 100-1072 (Comm. of Conference).
SENATE REPORTS: No. 100-293 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 3, considered and passed Senate.
July 11, H.R. 4340 considered and passed House; proceedings vacated and S. 1630, amended, passed in lieu.
Oct. 7, Senate agreed to conference report.
Oct. 19, House agreed to conference report.

Public Law 100-660
100th Congress

An Act

Nov. 15, 1988
[S. 2042]

To authorize the Vietnam Women's Memorial Project, Inc., to establish a memorial on Federal land in the District of Columbia or its environs to honor women of the Armed Forces of the United States who served in the Republic of Vietnam during the Vietnam era.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

40 USC 1003 note.

SECTION 1. ESTABLISHMENT OF MEMORIAL.

(a) IN GENERAL.—The Vietnam Women's Memorial Project, Inc., is authorized to establish a memorial on Federal land in the District of Columbia or its environs to honor women who served in the Armed Forces of the United States in the Republic of Vietnam during the Vietnam era.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with the Act entitled "An Act to provide standards for placement of commemorative works on certain Federal lands in the District of Columbia and its environs, and for other purposes", approved November 14, 1986 (40 U.S.C. 1001 et seq.).

SEC. 2. PAYMENT OF EXPENSES.

The United States shall not pay any expense of the establishment of the memorial.

SEC. 3. SENSE OF THE CONGRESS.

It is the sense of the Congress, with respect to location of the memorial in accordance with the Act referred to in section 1(b), that it would be most fitting and appropriate to place the memorial within the 2.2 acre site of the Vietnam Veterans Memorial in the District of Columbia.

Approved November 15, 1988.

LEGISLATIVE HISTORY—S. 2042:

HOUSE REPORTS: No. 100-948 (Comm. on House Administration).
SENATE REPORTS: No. 100-371 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 14, considered and passed Senate.
Sept. 23, considered and passed House, amended.
Oct. 12, Senate concurred in House amendments with amendments.
Oct. 21, House disagreed to Senate amendments. Senate receded from its amendments.

Public Law 100-661
100th Congress

Joint Resolution

Designating October 1988 as "Pregnancy and Infant Loss Awareness Month".

Nov. 15, 1988
[S.J. Res. 314]

Whereas every year thousands of parents lose children to miscarriage, stillbirth, or infant death;

Whereas an increase in the public's awareness of pregnancy loss and infant death will expand the opportunities for parents who suffer the tragedy of infant loss to share their grief and constructively deal with their feelings of stress and loneliness;

Whereas while many groups have been formed at the local level to address the problems these parents face, a greater national effort must be made to provide comfort and assistance to parents who suffer the tragedy of pregnancy loss or infant death; and

Whereas the designation of a special month will bring much-needed attention to the devastating emotional effects of pregnancy loss and infant death: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That October 1988 is designated as "Pregnancy and Infant Loss Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this month with appropriate ceremonies and activities.

Approved November 15, 1988.

LEGISLATIVE HISTORY—S.J. Res. 314:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 28, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-662
100th Congress

Joint Resolution

Nov. 15, 1988
[S.J. Res. 315]

Designating 1989 as "Year of the Young Reader".

Whereas books and reading are the basic nourishment of a growing mind and the foundation of a child's future education and enrichment;

Whereas developing children into readers today is the best way to ensuring a literate and informed citizenry tomorrow;

Whereas the Book Industry Study Group and others have reported a decline in book reading among young people in recent years; and

Whereas since 1983 the National Commission on Excellence, the Commission on Reading, and the Librarian of Congress have urged this Nation to give renewed attention to encouraging a love of books and reading among our young people: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That 1989 is designated the "Year of the Young Reader", and the President is authorized and requested to issue a proclamation encouraging parents, educators, librarians, government officials, members of the book community, corporations, associations, and the people of the United States to observe such year with appropriate programs, ceremonies, and activities aimed at giving our children and young adults the gift, the joy, and the promise of reading.

Approved November 15, 1988.

LEGISLATIVE HISTORY—S.J. Res. 315:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-663
100th Congress

Joint Resolution

Designating November 27 through December 3, 1988, as "National Sir Winston Churchill Recognition Week".

Nov. 15, 1988
[S.J. Res. 340]

Whereas April 9, 1988, marks the 25th anniversary of the granting of honorary citizenship to Sir Winston Churchill by the United States;

Whereas Sir Winston Churchill was born on November 30, 1874;

Whereas Sir Winston Churchill's mother, Jennie Jerome Churchill, was an American, thereby making Sir Winston Churchill a son of America though a subject of Great Britain;

Whereas Sir Winston Churchill inspired the world with his commitment to the ideals of freedom, not only during peace time but during the darkest moments of World War II;

Whereas Sir Winston Churchill recognized the importance of understanding history and the relevance of history to the present day; and

Whereas Sir Winston Churchill made significant contributions to the modern world: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That November 27 through December 3, 1988, is designated as "National Sir Winston Churchill Recognition Week", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe such week with appropriate ceremonies and activities.

Approved November 15, 1988.

LEGISLATIVE HISTORY—S.J. Res. 340:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 20, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-664
100th Congress

Joint Resolution

Nov. 15, 1988
[S.J. Res. 386]

To designate the week of June 18 through June 24, 1989, as "National Grasslands Week".

Whereas there are nearly 4,000,000 acres of publicly owned grasslands located in 14 States across the United States;

Whereas these national grasslands are managed according to the principles of land conservation, multiple-use of land, promotion of development of grassland agriculture and sustained-yield management of forage, fish, wildlife, timber, water, and recreational resources;

Whereas millions of Americans and visitors to our Nation enjoy our national grasslands for camping, hiking, fishing, boating, hunting, snow-mobiling, biking, cross-country skiing, and many other outdoor activities each year;

Whereas our national grasslands continue to provide employment and local stability to rural America and contribute approximately $750,000,000 to the gross national product of our Nation from livestock grazing, energy, environmental, tourism, and recreation industries;

Whereas our national grasslands contain an abundant storehouse of historical, archaeological, and anthropological artifacts unique to North America;

Whereas our national grasslands comprise a unique ecosystem providing our Nation with water, minerals, soils, plants, and animals in a habitat not found elsewhere; and

Whereas our national grasslands provide a model demonstrating for the public the principles of conservation, cooperation, multiple-use of the land, and an appreciation of natural resources: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week of June 18 through June 24, 1989, is designated "National Grasslands Week". The President is authorized and requested to issue a proclamation calling upon the people of the United States to observe this week with appropriate ceremonies and activities.

Approved November 15, 1988.

LEGISLATIVE HISTORY—S.J. Res. 386:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 7, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-665
100th Congress

An Act

To convey Forest Service land to Flagstaff, Arizona.

Nov. 16, 1988
[S. 253]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (b)(1) of section 1 of Public Law 96-581, relating to land conveyances in the State of Arizona, is amended by striking out "Any conveyances" and inserting in lieu thereof "Except as provided in subsection (c), any conveyances". 94 Stat. 3371.

(b) Subsection (c) of section 1 is amended to read as follows: 94 Stat. 3372.

"(c)(1) Of the tract of land described in subsection (a) of this section, the Secretary shall offer to sell at the fair market value as determined on December 23, 1980, to the Flagstaff Medical Regional Center, Flagstaff, Arizona, not to exceed 18.25 acres immediately adjacent to said Flagstaff Medical Regional Center and shall convey, without consideration, except for administrative costs associated with the preparation of title and legal description, to the city of Flagstaff, Arizona, 134.57 acres, under special use permit in effect on the date of enactment of this Act to the city of Flagstaff.

"(2) Title to any real property acquired by the city of Flagstaff pursuant to this section shall revert to the United States if the city attempts to convey or otherwise transfer ownership of any portion of such property to any other party or attempts to encumber such title, or if the town permits the use of any portion of such property for any purpose incompatible with the purposes specified in paragraph (3) of this section.

"(3) Real property conveyed to the city of Flagstaff pursuant to this section shall be used for public open space, park and recreational purposes. Recreation.

"(4) Except for any land to be conveyed to the Flagstaff Medical Regional Center and the city of Flagstaff, the Secretary shall solicit public offers for the remaining lands and improvements authorized under subsection (a) of this section. All offers shall be publicly opened at the time and place stated in the solicitation in accordance with the administrative requirements of the Secretary. The Secretary shall consider price and land values before entering into agreements or land exchanges with any party whose offer conforming to the solicitation notice is determined by the Secretary to be the most advantageous to the Government. Notwithstanding any other Public information.

provision of this Act, the Secretary may reject any offer if the Secretary determines that such rejection is in the public interest.".

Approved November 16, 1988.

LEGISLATIVE HISTORY—S. 253:

SENATE REPORTS: No. 100-174 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Oct. 1, considered and passed Senate.
Vol. 134 (1988): Oct. 21, considered and passed House.

Public Law 100-666
100th Congress

An Act

To reauthorize housing relocation under the Navajo-Hopi Relocation Program, and for other purposes.

Nov. 16, 1988
[S. 1236]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Navajo and Hopi Indian Relocation Amendments of 1988.
25 USC 640d note.

SHORT TITLE

SECTION 1. This Act may be cited as the "Navajo and Hopi Indian Relocation Amendments of 1988".

AUTHORIZATION OF APPROPRIATIONS

SEC. 2. Subsection (a) of section 25 of Public Law 93-531 (25 U.S.C. 640d-24(a)) is amended—

(1) by striking out "$7,700,000" in paragraph (4) and inserting in lieu thereof "$13,000,000", and

(2) by striking out "$15,000,000 annually for fiscal years 1983 through 1987" in paragraph (8) and inserting in lieu thereof "$30,000,000 annually for fiscal years 1989, 1990, and 1991".

USE OF DISCRETIONARY FUNDS

SEC. 3. Subsection (b) of section 27 of Public Law 93-531 (25 U.S.C. 640d-25) is amended to read as follows:

"(b) Funds appropriated under the authority of subsection (a) may be used by the Commissioner for grants, contracts, or expenditures which significantly assist the Commissioner or assist the Navajo Tribe or Hopi Tribe in meeting the burdens imposed by this Act.".

COMMISSIONER ON NAVAJO AND HOPI INDIAN RELOCATION

SEC. 4. (a) Section 12 of Public Law 93-531 (25 U.S.C. 640d-11) is amended to read as follows:

"(a) There is hereby established as an independent entity in the executive branch the Office of Navajo and Hopi Indian Relocation which shall be under the direction of the Commissioner on Navajo and Hopi Relocation (hereinafter in this Act referred to as the 'Commissioner').

"(b)(1) The Commissioner shall be appointed by the President by and with the advice and consent of the Senate. President of U.S.

"(2) The term of office of the Commissioner shall be 2 years. An individual may be appointed Commissioner for more than one term.

"(3) The Commissioner shall be a full time employee of the United States and shall be paid at the rate of GS-18 of the General Schedule under section 5332 of title 5, United States Code.

"(c)(1)(A) Except as otherwise provided by the Navajo and Hopi Indian Relocation Amendments of 1988, the Commissioner shall have all the powers and be responsible for all the duties that the

Navajo and Hopi Indian Relocation Commission had before the enactment of such amendments.

"(B) All funds appropriated to the Navajo and Hopi Indian Relocation Commission before the date on which the first Commissioner on Navajo and Hopi Indian Relocation is confirmed by the Senate that have not been expended on such date shall become available to the Office of Navajo and Hopi Indian Relocation on such date and shall remain available without fiscal year limitation.

"(2) There are hereby transferred to the Commissioner, on January 31, 1989—

"(A) all powers and duties of the Bureau of Indian Affairs derived from Public Law 99-190 (99 Stat. at 1236) that relate to the relocation of members of the Navajo Tribe from lands partitioned to the Hopi Tribe, and

"(B) all funds appropriated for activities relating to such relocation pursuant to Public Law 99-190 (99 Stat. at 1236): *Provided*, That such funds shall be used by the Commissioner for the purpose for which such funds were appropriated to the Bureau of Indian Affairs.

"(d)(1) The Commissioner shall have the power to—

"(A) appoint and fix the compensation of such staff and personnel as he deems necessary, without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and without regard to chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, but at rates not in excess of the maximum rate for GS-18 of the General Schedule under section 5332 of such title; and

"(B) procure temporary and intermittent services to the same extent as is authorized by section 3109 of title 5, United States Code, but at rates not to exceed $200 a day for individuals.

Contracts. "(2) The authority of the Commissioner to enter into contracts for the provision of legal services for the Commissioner or for the Office of Navajo and Hopi Indian Relocation shall be subject to the availability of funds provided for such purpose by appropriations Acts.

Appropriation authorization. "(3) There are authorized to be appropriated for each fiscal year $100,000 to fund contracts described in paragraph (2).

"(e)(1) The Commissioner is authorized to provide for the administrative, fiscal, and housekeeping services of the Office of Navajo and Hopi Indian Relocation and is authorized to call upon any department or agency of the United States to assist him in implementing the relocation plan, except that the control over and responsibility for completing relocation shall remain in the Commissioner. In any case in which the Office calls upon any such department or agency for assistance under this section, such department or agency shall provide reasonable assistance so requested.

"(2) On failure of any agency to provide reasonable assistance as required under paragraph (1) of this subsection, the Commissioner shall report such failure to the Congress.

"(f) The Office of Navajo and Hopi Indian Relocation shall cease to exist when the President determines that its functions have been fully discharged.".

25 USC 640d *et seq.* (b) Public Law 93-531 is amended by striking out "the Commission" each place it appears and inserting in lieu thereof "the Commissioner".

25 USC 640d-11 note. (c)(1) Notwithstanding any other provisions of law or any amendment made by this Act—

(A) the Navajo and Hopi Indian Relocation Commission shall—

(i) continue to exist until the date on which the first Commissioner is confirmed by the Senate,

(ii) have the same structure, powers and responsibilities such Commission had before the enactment of this Act, and

(iii) assume responsibility for the powers and duties transferred to such Commissioner under section 12(c)(2) of Public Law 93-531, as amended by this Act, until the Commissioner is confirmed,

(B) the existing Commissioners shall serve until the new Commissioner is confirmed by the Senate, and

(C) the existing personnel of the Commission shall be transferred to the new Office of Navajo and Hopi Indian Relocation.

(2) The Navajo and Hopi Relocation Commission shall become known as the Office of Navajo and Hopi Indian Relocation on the date on which the first Commissioner is confirmed by the Senate.

(d) Section 13 of Public Law 93-531 (25 U.S.C. 640d-12) is amended to read as follows:

"(a) By no later than the date that is 6 months after the date on which the first Commissioner is confirmed by the Senate, the Commissioner shall prepare and submit to the Congress a report concerning the relocation of households and members thereof of each tribe and their personal property, including livestock, from lands partitioned to the other tribe pursuant to this Act. Reports.

"(b) The report required under subsection (a) shall contain, among other matters, the following:

"(1) the names of all members of the Navajo Tribe who reside within the areas partitioned to the Hopi Tribe and the names of all members of the Hopi Tribe who reside within the areas partitioned to the Navajo Tribe;

"(2) the names of all other members of the Navajo Tribe, and other members of the Hopi Tribe, who are eligible for benefits provided under this Act and who have not received all the benefits for which such members are eligible under this Act;

"(3) the fair market value of the habitations and improvements owned by the heads of households identified by the Commissioner is being among the persons named in clause (1) of this subsection; and

"(4) a report on how funds in the Navajo Rehabilitation Trust Funds will be expended to carry out the purposes described in section 32(d).".

LOBBYING

SEC. 5. Public Law 93-531 is amended by adding at the end thereof the following new section:

"SEC. 31. (a) Except as provided in subsection (b), no person or entity who has entered into a contract with the Commissioner to provide services under this Act may engage in activities designed to influence Federal legislation on any issue relating to the relocation required under this Act. 25 USC 640d-29.

"(b) Subsection (a) shall not apply to the Navajo Tribe or the Hopi Tribe, except that such tribes shall not spend any funds received from the Office in any activities designed to influence Federal legislation.".

NEW DEVELOPMENT ON CERTAIN LANDS

SEC. 6. Subsection (f) of section 10 of Public Law 93-531 (25 U.S.C. 640d-9(f)) is amended—

(1) by striking out "Any development" and inserting in lieu thereof "(1) Any development", and

(2) by adding at the end thereof the following new paragraphs:

"(2) Each Indian tribe which receives a written request for the consent of the Indian tribe to a particular improvement, construction, or other development on the lands to which paragraph (1) applies shall respond in writing to such request by no later than the date that is 30 days after the date on which the Indian tribe receives the request. If the Indian tribe refuse to consent to the improvement, construction, or other development, the response shall include the reasons why consent is being refused.

"(3)(A) Paragraph (1) shall not apply to any improvement, construction, or other development if—

"(i) such improvement, construction, or development does not involve new housing construction, and

Safety.

"(ii) after the Navajo Tribe or Hopi Tribe has refused to consent to such improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary of the Interior determines that such improvement, construction, or development is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either tribe.

Safety.

"(B) If a written request for a determination described in subparagraph (A)(ii) is submitted to the Secretary of the Interior after the Navajo Tribe or Hopi Tribe has refused to consent to any improvement, construction, or development (or after the close of the 30-day period described in paragraph (2), if the Indian tribe does not respond within such period in writing to a written request for such consent), the Secretary shall, by no later than the date that is 45 days after the date on which such request is submitted to the Secretary, determine whether such improvement, construction, or development is necessary for the health or safety of the Navajo Tribe, the Hopi Tribe, or any individual who is a member of either Tribe.

Courts, U.S.
Arizona.

"(C) Any development that is undertaken pursuant to this section shall be without prejudice to the rights of the parties in the civil action pending before the United States District Court for the District of Arizona commenced pursuant to section 8 of this Act, as amended.".

NAVAJO REHABILITATION TRUST FUND

SEC. 7. Public Law 93-531 is amended by adding at the end thereof the following new section:

25 USC 640d-30.

"SEC. 32. (a) There is hereby established in the Treasury of the United States a trust fund to be known as the 'Navajo Rehabilitation Trust Fund', which shall consist of the funds transferred under subsection (b) and of the funds appropriated pursuant to subsection (f) and any interest or investment income accrued on such funds.

"(b) All of the net income derived by the Navajo Tribe from the surface and mineral estates of lands located in New Mexico that are

acquired for the benefit of the Navajo Tribe under section 11 shall be deposited into the Navajo Rehabilitation Trust Fund.

"(c) The Secretary shall be the trustee of the Navajo Rehabilitation Trust Fund and shall be responsible for investment of the funds in such Trust Fund.

"(d) Funds in the Navajo Rehabilitation Trust Fund, including any interest or investment accruing thereon, shall be available to the Navajo Tribe, with the approval of the Secretary, solely for purposes which will contribute to the continuing rehabilitation and improvement of the economic, educational, and social condition of families, and Navajo communities, that have been affected by—

"(1) the decison in the Healing case, or related proceedings,

"(2) the provision of this Act, or

"(3) the establishment by the Secretary of the Interior of grazing district number 6 as land for the exclusive use of the Hopi Tribe.

"(e) The Navajo Rehabilitation Trust Fund shall terminate when, upon petition by the Navajo Tribe, the Secretary determines that the goals of the Trust Fund have been met and the United States has been reimbursed for funds appropriated under subsection (f). All funds in the Trust Fund on such date shall be transferred to the general trust funds of the Navajo Tribe.

"(f) There is hereby authorized to be appropriated for the Navajo Rehabilitation Trust Fund not exceed $10,000,000 in each of fiscal years 1990, 1991, 1992, 1993, 1994 and 1995. The income from the land referred to in subsection (b) of this section shall be used to reimburse the General Fund of the United States Treasury for amounts appropriated to the Fund.". Appropriation authorization.

LANDS TRANSFERRED OR ACQUIRED FOR THE NAVAJO TRIBE

SEC. 8. Subsection (h) of section 11 of Public Law 93-531 (25 U.S.C. 640d-10(h)) is amended by striking out "the date of this subsection who are awaiting relocation under this Act" and inserting in lieu thereof "the date of enactment of this Act: *Provided,* That the sole authority for final planning decisions regarding the development of lands acquired pursuant to this Act shall rest with the Commissioner until such time as the Commissioner has discharged his statutory responsibility under this Act".

PROVISION OF ATTORNEY FEES FOR THE SAN JUAN SOUTHERN PAIUTE TRIBE

SEC. 9. (a) Subsection (e) of section 8 of Public Law 93-531 (25 U.S.C. 640d-7(e)) is amended by inserting a comma and the words "San Juan Southern Paiute" after the word "Navajo".

(b) Section 8 of Public Law 93-531 is amended by adding at the end thereof the following new subsection:

"(f)(1) Any funds made available for the San Juan Southern Paiute Tribe to pay for attorney's fees shall be paid directly to the tribe's attorneys of record until such tribe is acknowledged as an Indian tribe by the United States: *Provided,* That the tribe's eligibility for such payments shall cease once a decision by the Secretary of the Interior declining to acknowledge such tribe becomes final and no longer appealable.

"(2) Nothing in this subsection shall be interpreted as a congressional acknowledgement of the San Juan Southern Paiute as an

Indian tribe or as affecting in any way the San Juan Southern Paiute Tribe's Petition for Recognition currently pending with the Secretary of the Interior.

Appropriation authorization.

"(3) There is hereby authorized to be appropriated not to exceed $250,000 to pay for the legal expenses incurred by the Southern Paiute Tribe on legal action arising under this section prior to enactment of the Navajo and Hopi Indian Relocation Amendments of 1988.".

25 USC 640d-14.

SEC. 10. Section 15 of Public Law 93-531 is amended by adding the following new subsection (g) at the end thereof:

Courts, U.S. Arizona.

"(g) Notwithstanding any other provision of law, appeals from any eligibility determination of the Relocation Commission, irrespective of the amount in controversy, shall be brought in the United States District Court for the District of Arizona.".

Approved November 16, 1988.

LEGISLATIVE HISTORY—S. 1236:

HOUSE REPORTS: No. 100-1032 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-425 (Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 8, considered and passed Senate.
Oct. 3, 4, considered and passed House, amended.
Oct. 13, Senate concurred in House amendments.

Public Law 100-667
100th Congress

An Act

To amend the Act entitled "An Act to provide for the registration and protection of trade-marks used in commerce, to carry out the provisions of certain international conventions, and for other purposes".

Nov. 16, 1988
[S. 1883]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—TRADEMARK LAW REVISION

Trademark Law Revision Act of 1988.
15 USC 1051 note.

SEC. 101. SHORT TITLE.

This title may be cited as the "Trademark Law Revision Act of 1988".

SEC. 102. REFERENCE TO THE TRADEMARK ACT OF 1946.

Except as otherwise expressly provided, whenever in this title an amendment is expressed in terms of an amendment to a section or other provision, the reference shall be considered to be made to a section or other provision of the Act entitled "An Act to provide for the registration and protection of trademarks used in commerce, to carry out the provisions of certain international conventions, and for other purposes", approved July 5, 1946 (15 U.S.C. 1051 and following) (commonly referred to as the "Trademark Act of 1946").

SEC. 103. APPLICATION TO REGISTER TRADEMARKS.

Section 1 (15 U.S.C. 1051) is amended—

(1) in the matter before subsection (a), by striking out "may register his" and inserting in lieu thereof "may apply to register his or her";

(2) by redesignating paragraphs (1), (2), and (3) of subsection (a) as subparagraphs (A), (B), and (C), respectively;

(3) by redesignating subsections (a), (b), and (c) as paragraphs (1), (2), and (3), respectively;

(4) by inserting "(a)" after "SECTION 1.";

(5) in subsection (a)(1)(A), as redesignated by this section—

(A) by striking out "applied to" and inserting in lieu thereof "used on or in connection with"; and

(B) by striking out "goods in connection" and inserting in lieu thereof "goods on or in connection";

(6) in subsection (a)(1)(C), as redesignated by this section, by striking out "actually";

(7) in subsection (a)(2), as redesignated by this section, by striking out "filing" and inserting in lieu thereof "prescribed";

(8) by redesignating subsection (d) as subsection (e); and

(9) by inserting before subsection (e), as redesignated by paragraph (8) of this section, the following:

"(b) A person who has a bona fide intention, under circumstances showing the good faith of such person, to use a trademark in

commerce may apply to register the trademark under this Act on the principal register hereby established:

"(1) By filing in the Patent and Trademark Office—

"(A) a written application, in such form as may be prescribed by the Commissioner, verified by the applicant, or by a member of the firm or an officer of the corporation or association applying, specifying applicant's domicile and citizenship, applicant's bona fide intention to use the mark in commerce, the goods on or in connection with which the applicant has a bona fide intention to use the mark and the mode or manner in which the mark is intended to be used on or in connection with such goods, including a statement to the effect that the person making the verification believes himself or herself, or the firm, corporation, or association in whose behalf he or she makes the verification, to be entitled to use the mark in commerce, and that no other person, firm, corporation, or association, to the best of his or her knowledge and belief, has the right to use such mark in commerce either in the identical form of the mark or in such near resemblance to the mark as to be likely, when used on or in connection with the goods of such other person, to cause confusion, or to cause mistake, or to deceive; however, except for applications filed pursuant to section 44, no mark shall be registered until the applicant has met the requirements of subsection (d) of this section; and

"(B) a drawing of the mark.

"(2) By paying in the Patent and Trademark Office the prescribed fee.

"(3) By complying with such rules or regulations, not inconsistent with law, as may be prescribed by the Commissioner.

"(c) At any time during examination of an application filed under subsection (b), an applicant who has made use of the mark in commerce may claim the benefits of such use for purposes of this Act, by amending his or her application to bring it into conformity with the requirements of subsection (a).

"(d)(1) Within six months after the date on which the notice of allowance with respect to a mark is issued under section 13(b)(2) to an applicant under subsection (b) of this section, the applicant shall file in the Patent and Trademark Office, together with such number of specimens or facsimiles of the mark as used in commerce as may be required by the Commissioner and payment of the prescribed fee, a verified statement that the mark is in use in commerce and specifying the date of the applicant's first use of the mark in commerce, those goods or services specified in the notice of allowance on or in connection with which the mark is used in commerce, and the mode or manner in which the mark is used on or in connection with such goods or services. Subject to examination and acceptance of the statement of use, the mark shall be registered in the Patent and Trademark Office, a certificate of registration shall be issued for those goods or services recited in the statement of use for which the mark is entitled to registration, and notice of registration shall be published in the Official Gazette of the Patent and Trademark Office. Such examination may include an examination of the factors set forth in subsections (a) through (e) of section 2. The

notice of registration shall specify the goods or services for which the mark is registered.

"(2) The Commissioner shall extend, for one additional 6-month period, the time for filing the statement of use under paragraph (1), upon written request of the applicant before the expiration of the 6-month period provided in paragraph (1). In addition to an extension under the preceding sentence, the Commissioner may, upon a showing of good cause by the applicant, further extend the time for filing the statement of use under paragraph (1) for periods aggregating not more than 24 months, pursuant to written request of the applicant made before the expiration of the last extension granted under this paragraph. Any request for an extension under this paragraph shall be accompanied by a verified statement that the applicant has a continued bona fide intention to use the mark in commerce and specifying those goods or services identified in the notice of allowance on or in connection with which the applicant has a continued bona fide intention to use the mark in commerce. Any request for an extension under this paragraph shall be accompanied by payment of the prescribed fee. The Commissioner shall issue regulations setting forth guidelines for determining what constitutes good cause for purposes of this paragraph.

"(3) The Commissioner shall notify any applicant who files a statement of use of the acceptance or refusal thereof and, if the statement of use is refused, the reasons for the refusal. An applicant may amend the statement of use.

"(4) The failure to timely file a verified statement of use under this subsection shall result in abandonment of the application.".

SEC. 104. TRADEMARKS REGISTRABLE ON PRINCIPAL REGISTER.

Section 2 (15 U.S.C. 1052) is amended—

(1) by amending subsection (d) to read as follows:

"(d) Consists of or comprises a mark which so resembles a mark registered in the Patent and Trademark Office, or a mark or trade name previously used in the United States by another and not abandoned, as to be likely, when used on or in connection with the goods of the applicant, to cause confusion, or to cause mistake, or to deceive: *Provided,* That if the Commissioner determines that confusion, mistake, or deception is not likely to result from the continued use by more than one person of the same or similar marks under conditions and limitations as to the mode or place of use of the marks or the goods on or in connection with which such marks are used, concurrent registrations may be issued to such persons when they have become entitled to use such marks as a result of their concurrent lawful use in commerce prior to (1) the earliest of the filing dates of the applications pending or of any registration issued under this Act; (2) July 5, 1947, in the case of registrations previously issued under the Act of March 3, 1881, or February 20, 1905, and continuing in full force and effect on that date; or (3) July 5, 1947, in the case of applications filed under the Act of February 20, 1905, and registered after July 5, 1947. Use prior to the filing date of any pending application or a registration shall not be required when the owner of such application or registration consents to the grant of a concurrent registration to the applicant. Concurrent registrations may also be issued by the Commissioner when a court of competent jurisdiction has finally determined that more than one person is entitled to use the same or similar marks in commerce. In issuing concurrent registrations, the Commissioner shall prescribe condi-

tions and limitations as to the mode or place of use of the mark or the goods on or in connection with which such mark is registered to the respective persons.";

(2) in subsection (e) by striking out "applied to" each place it appears and inserting in lieu thereof "used on or in connection with"; and

(3) in subsection (f)—

(A) by striking out "applied to" and inserting in lieu thereof "used on or in connection with"; and

(B) by striking out "five years" and all that follows through the end of the subsection and inserting in lieu thereof "five years before the date on which the claim of distinctiveness is made.".

SEC. 105. SERVICE MARKS REGISTRABLE.

Section 3 (15 U.S.C. 1053) is amended—

(1) in the first sentence—

(A) by striking out "used in commerce"; and

(B) by striking out ", except when" and all that follows through "mark is used"; and

(2) by striking out the second sentence.

SEC. 106. COLLECTIVE AND CERTIFICATION MARKS REGISTRABLE.

Section 4 (15 U.S.C. 1054) is amended—

(1) in the first sentence—

(A) by striking out "origin used in commerce," and inserting in lieu thereof "origin,"; and

(B) by striking out "except when" and inserting in lieu thereof "except in the case of certification marks when"; and

(2) by striking out the second sentence.

SEC. 107. USE BY RELATED COMPANIES.

Section 5 (15 U.S.C. 1055) is amended by adding at the end thereof the following: "If first use of a mark by a person is controlled by the registrant or applicant for registration of the mark with respect to the nature and quality of the goods or services, such first use shall inure to the benefit of the registrant or applicant, as the case may be.".

SEC. 108. DISCLAIMER OF UNREGISTRABLE MATTER.

Section 6(b) (15 U.S.C. 1056(b)) is amended by striking out "paragraph (d)" and inserting in lieu thereof "subsection (e)".

SEC. 109. CERTIFICATE OF REGISTRATION ON THE PRINCIPAL REGISTER.

Section 7 (15 U.S.C. 1057) is amended—

(1) by amending subsection (b) to read as follows:

"(b) A certificate of registration of a mark upon the principal register provided by this Act shall be prima facie evidence of the validity of the registered mark and of the registration of the mark, of the registrant's ownership of the mark, and of the registrant's exclusive right to use the registered mark in commerce on or in connection with the goods or services specified in the certificate, subject to any conditions or limitations stated in the certificate.";

(2) by redesignating subsections (c), (d), (e), (f), and (g) as subsections (d), (e), (f), (g), and (h), respectively;

(3) by inserting after subsection (b) the following:

"(c) Contingent on the registration of a mark on the principal register provided by this Act, the filing of the application to register such mark shall constitute constructive use of the mark, conferring a right of priority, nationwide in effect, on or in connection with the goods or services specified in the registration against any other person except for a person whose mark has not been abandoned and who, prior to such filing—

"(1) has used the mark;

"(2) has filed an application to register the mark which is pending or has resulted in registration of the mark; or

"(3) has filed a foreign application to register the mark on the basis of which he or she has acquired a right of priority, and timely files an application under section 44(d) to register the mark which is pending or has resulted in registration of the mark.";

(4) in subsection (d), as redesignated by paragraph (2) of this section, by striking out "fee herein provided" and inserting in lieu thereof "prescribed fee";

(5) in subsection (f), as redesignated by paragraph (2) of this section, by striking out "fee required by law" and inserting in lieu thereof "prescribed fee"; and

(6) in subsection (h), as redesignated by paragraph (2) of this section, by striking out "required fee" and inserting in lieu thereof "prescribed fee".

SEC. 110. DURATION OF REGISTRATION.

Section 8(a) (15 U.S.C. 1058(a)) is amended—

(1) by striking out "twenty" and inserting in lieu thereof "ten"; and

(2) by striking out "showing that said mark is in use in commerce or showing that its" and inserting in lieu thereof "setting forth those goods or services recited in the registration on or in connection with which the mark is in use in commerce and attaching to the affidavit a specimen or facsimile showing current use of the mark, or showing that any".

SEC. 111. RENEWAL OF REGISTRATION.

Section 9 (15 U.S.C. 1059) is amended—

(1) in subsection (a) by striking out "twenty" and inserting in lieu thereof "ten"; and

(2) in subsection (c) by striking out "1(d) hereof" and inserting in lieu thereof "1(e) of this Act".

SEC. 112. ASSIGNMENT.

Section 10 (15 U.S.C. 1060) is amended—

(1) in the first sentence by striking out "and in any such assignment" and inserting in lieu thereof the following: ". However, no application to register a mark under section 1(b) shall be assignable prior to the filing of the verified statement of use under section 1(d), except to a successor to the business of the applicant, or portion thereof, to which the mark pertains, if that business is ongoing and existing. In any assignment authorized by this section"; and

(2) in the last paragraph by striking out "1(d) hereof" and inserting in lieu thereof "1(e) of this Act".

SEC. 113. EXAMINATION OF APPLICATION.

Section 12(a) (15 U.S.C. 1062(a)) is amended—

(1) by striking out "fee herein provided" and inserting in lieu thereof "prescribed fee"; and

(2) by striking out "to registration, the" and inserting in lieu thereof "to registration, or would be entitled to registration upon the acceptance of the statement of use required by section 1(d) of this Act, the".

SEC. 114. OPPOSITION TO MARKS.

Section 13 (15 U.S.C. 1063) is amended—

(1) by inserting "(a)" before "Any person";

(2) by striking out "required fee" and inserting in lieu thereof "prescribed fee"; and

(3) by adding at the end thereof the following:

"(b) Unless registration is successfully opposed—

"(1) a mark entitled to registration on the principal register based on an application filed under section 1(a) or pursuant to section 44 shall be registered in the Patent and Trademark Office, a certificate of registration shall be issued, and notice of the registration shall be published in the Official Gazette of the Patent and Trademark Office; or

"(2) a notice of allowance shall be issued to the applicant if the applicant applied for registration under section 1(b).".

SEC. 115. CANCELLATION OF REGISTRATIONS.

Section 14 (15 U.S.C. 1064) is amended—

(1) in the matter preceding subsection (a)—

(A) by inserting "as follows" after "be filed"; and

(B) by striking out "1905–" and inserting in lieu thereof "1905:";

(2) in subsection (a)—

(A) by striking out "(a) within" and inserting in lieu thereof "(1) Within"; and

(B) by striking out "; or" and inserting in lieu thereof a period;

(3) in subsection (b)—

(A) by striking out "(b) within" and inserting in lieu thereof "(2) Within"; and

(B) by striking out "; or" and inserting in lieu thereof a period;

(4) by amending subsection (c) to read as follows:

"(3) At any time if the registered mark becomes the generic name for the goods or services, or a portion thereof, for which it is registered, or has been abandoned, or its registration was obtained fraudulently or contrary to the provisions of section 4 or of subsection (a), (b), or (c) of section 2 for a registration under this Act, or contrary to similar prohibitory provisions of such prior Acts for a registration under such Acts, or if the registered mark is being used by, or with the permission of, the registrant so as to misrepresent the source of the goods or services on or in connection with which the mark is used. If the registered mark becomes the generic name for less than all of the goods or services for which it is registered, a petition to cancel the registration for only those goods or services may be filed. A registered mark shall not be deemed to be the generic name of goods or services solely because such mark is also used as a

name of or to identify a unique product or service. The primary significance of the registered mark to the relevant public rather than purchaser motivation shall be the test for determining whether the registered mark has become the generic name of goods or services on or in connection with which it has been used.";

(5) in subsection (d)—

(A) by striking out "(d) at" and inserting in lieu thereof "(4) At"; and

(B) by striking out "; or" and inserting in lieu thereof a period;

(6) in subsection (e)—

(A) by striking out "(e) at" and inserting in lieu thereof "(5) At"; and

(B) by striking out "(1)", "(2)", "(3)", and "(4)" and inserting in lieu thereof "(A)", "(B)", "(C)", and "(D)", respectively; and

(7) in the proviso at the end of the section by striking out "subsections (c) and (e)" and inserting in lieu thereof "paragraphs (3) and (5)".

SEC. 116. INCONTESTABILITY OF RIGHT TO USE MARK.

Section 15 (15 U.S.C. 1065) is amended—

(1) by striking out "subsections (c) and (e)" and inserting in lieu thereof "paragraphs (3) and (5)";

(2) in paragraph (3) by striking out "subsections (1) and (2) hereof" and inserting in lieu thereof "paragraphs (1) and (2) of this section"; and

(3) in paragraph (4) by striking out "the common descriptive name of any article or substance, patented or otherwise" and inserting in lieu thereof "the generic name for the goods or services or a portion thereof, for which it is registered".

SEC. 117. INTERFERENCE.

Section 16 (15 U.S.C. 1066) is amended by striking out "applied to the goods or when used in connection with the services" and inserting in lieu thereof "used on or in connection with the goods or services".

SEC. 118. ACTION OF COMMISSIONER IN PROCEEDINGS.

Section 18 (15 U.S.C. 1068) is amended—

(1) by striking out "or restrict" and inserting in lieu thereof "the registration, in whole or in part, may modify the application or registration by limiting the goods or services specified therein, may otherwise restrict or rectify with respect to the register";

(2) by striking out "or may refuse" and inserting in lieu thereof "may refuse"; and

(3) adding at the end thereof the following: "However, no final judgment shall be entered in favor of an applicant under section 1(b) before the mark is registered, if such applicant cannot prevail without establishing constructive use pursuant to section 7(c).".

SEC. 119. APPLICATION OF EQUITABLE PRINCIPLES.

Section 19 (15 U.S.C. 1069) is amended by striking out the second sentence.

SEC. 120. APPEALS.

Section 21 (15 U.S.C. 1071) is amended—

(1) in subsection (a)(1)—

(A) by striking out "section 21(b) hereof" each place it appears and inserting in lieu thereof "subsection (b) of this section";

(B) by striking out "section 21(a)(2) hereof" and inserting in lieu thereof "paragraph (2) of this subsection"; and

(C) by striking out "said section 21(b)" and inserting in lieu thereof "subsection (b) of this section";

(2) in subsection (a)(4), by adding at the end thereof the following: "However, no final judgment shall be entered in favor of an applicant under section 1(b) before the mark is registered, if such applicant cannot prevail without establishing constructive use pursuant to section 7(c).";

(3) in subsection (b)(1)—

(A) by striking out "section 21(a) hereof" and inserting in lieu thereof "subsection (a) of this section";

(B) by striking out "section 21(a)" and inserting in lieu thereof "subsection (a) of this section"; and

(C) by adding at the end thereof the following: "However, no final judgment shall be entered in favor of an applicant under section 1(b) before the mark is registered, if such applicant cannot prevail without establishing constructive use pursuant to section 7(c)."; and

(4) in subsection (b)(3), by striking out "(3)" and all that follows through the end of the first sentence and inserting in lieu thereof the following:

"(3) In any case where there is no adverse party, a copy of the complaint shall be served on the Commissioner, and, unless the court finds the expenses to be unreasonable, all the expenses of the proceeding shall be paid by the party bringing the case, whether the final decision is in favor of such party or not.".

SEC. 121. SUPPLEMENTAL REGISTER.

Section 23 (15 U.S.C. 1091) is amended—

(1) by inserting "(a)" before "In addition" in the first paragraph;

(2) by inserting "(b)" before "Upon the" in the second paragraph;

(3) by inserting "(c)" before "For the purposes" in the third paragraph;

(4) in subsection (a), as designated by paragraph (1) of this section—

(A) by striking out "paragraphs (a)," and inserting in lieu thereof "subsections (a),";

(B) by striking out "have been in lawful use in commerce by the proprietor thereof, upon" and inserting in lieu thereof "are in lawful use in commerce by the owner thereof, on";

(C) by striking out "for the year preceding the filing of the application"; and

(D) by inserting before "section 1" the following: "subsections (a) and (e) of";

(5) in subsection (b), as designated by paragraph (2) of this section, by striking out "fee herein provided" and inserting in lieu thereof "prescribed fee"; and

(6) by striking out the last paragraph.

SEC. 122. CANCELLATION ON SUPPLEMENTAL REGISTER.

Section 24 (15 U.S.C. 1092) is amended—

(1) by striking out "verified" in the second sentence;

(2) by striking out "was not entitled to register the mark at the time of his application for registration thereof," and inserting in lieu thereof "is not entitled to registration,";

(3) by striking out "is not used by the registrant or"; and

(4) by adding at the end thereof the following: "However, no final judgment shall be entered in favor of an applicant under section 1(b) before the mark is registered, if such applicant cannot prevail without establishing constructive use pursuant to section 7(c).".

SEC. 123. PROVISIONS OF ACT APPLICABLE TO SUPPLEMENTAL REGISTER.

Section 26 (15 U.S.C. 1094) is amended—

(1) by inserting "1(b)," after "sections"; and

(2) by inserting "7(c)," after "7(b)".

SEC. 124. REGISTRATION ON PRINCIPAL REGISTER NOT PRECLUDED.

Section 27 (15 U.S.C. 1095) is amended by adding at the end thereof the following: "Registration of a mark on the supplemental register shall not constitute an admission that the mark has not acquired distinctiveness.".

SEC. 125. NOTICE OF REGISTRATION.

Section 29 (15 U.S.C. 1111) is amended by striking out "as used".

SEC. 126. CLASSIFICATION OF GOODS AND SERVICES.

Section 30 (15 U.S.C. 1112) is amended—

(1) by inserting "or registrant's" after "applicant's";

(2) by striking out "may file an application" and inserting in lieu thereof "may apply";

(3) by striking out "goods and services upon or in connection with which he is actually using the mark:" and inserting in lieu thereof "goods or services on or in connection with which he or she is using or has a bona fide intention to use the mark in commerce:"; and

(4) by amending the proviso to read as follows: "*Provided,* That if the Commissioner by regulation permits the filing of an application for the registration of a mark for goods or services which fall within a plurality of classes, a fee equaling the sum of the fees for filing an application in each class shall be paid, and the Commissioner may issue a single certificate of registration for such mark.".

SEC. 127. INNOCENT INFRINGEMENT AND VIOLATIONS OF SECTION 43(a).

Section 32(2) (15 U.S.C. 1114(2)) is amended to read as follows:

"(2) Notwithstanding any other provision of this Act, the remedies given to the owner of a right infringed under this Act or to a person bringing an action under section 43(a) shall be limited as follows:

"(A) Where an infringer or violator is engaged solely in the business of printing the mark or violating matter for others and establishes that he or she was an innocent infringer or innocent violator, the owner of the right infringed or person bringing the action under section 43(a) shall be entitled as against such

infringer or violator only to an injunction against future printing.

"(B) Where the infringement or violation complained of is contained in or is part of paid advertising matter in a newspaper, magazine, or other similar periodical or in an electronic communication as defined in section 2510(12) of title 18, United States Code, the remedies of the owner of the right infringed or person bringing the action under section 43(a) as against the publisher or distributor of such newspaper, magazine, or other similar periodical or electronic communication shall be limited to an injunction against the presentation of such advertising matter in future issues of such newspapers, magazines, or other similar periodicals or in future transmissions of such electronic communications. The limitations of this subparagraph shall apply only to innocent infringers and innocent violators.

"(C) Injunctive relief shall not be available to the owner of the right infringed or person bringing the action under section 43(a) with respect to an issue of a newspaper, magazine, or other similar periodical or an electronic communication containing infringing matter or violating matter where restraining the dissemination of such infringing matter or violating matter in any particular issue of such periodical or in an electronic communication would delay the delivery of such issue or transmission of such electronic communication after the regular time for such delivery or transmission, and such delay would be due to the method by which publication and distribution of such periodical or transmission of such electronic communication is customarily conducted in accordance with sound business practice, and not due to any method or device adopted to evade this section or to prevent or delay the issuance of an injunction or restraining order with respect to such infringing matter or violating matter.

"(D) As used in this paragraph—

"(i) the term 'violator' means a person who violates section 43(a); and

"(ii) the term 'violating matter' means matter that is the subject of a violation under section 43(a).".

SEC. 128. REMEDIES.

(a) PRIMA FACIE EVIDENCE OF EXCLUSIVE RIGHT TO USE MARK.—Section 33(a) (15 U.S.C. 1115(a)) is amended—

(1) by inserting "the validity of the registered mark and of the registration of the mark, of the registrant's ownership of the mark, and of the" after "prima facie evidence of";

(2) by inserting "or in connection with" after "in commerce on";

(3) by striking out "an opposing party" and inserting in lieu thereof "another person"; and

(4) by inserting ", including those set forth in subsection (b)," after "or defect".

(b) CONCLUSIVE EVIDENCE OF EXCLUSIVE RIGHT TO USE MARK.—Section 33(b) (15 U.S.C. 1115(b)) is amended—

(1) in subsection (b) by amending the matter before paragraph (1) to read as follows:

"(b) To the extent that the right to use the registered mark has become incontestable under section 15, the registration shall be conclusive evidence of the validity of the registered mark and of the

registration of the mark, of the registrant's ownership of the mark, and of the registrant's exclusive right to use the registered mark in commerce. Such conclusive evidence shall relate to the exclusive right to use the mark on or in connection with the goods or services specified in the affidavit filed under the provisions of section 15, or in the renewal application filed under the provisions of section 9 if the goods or services specified in the renewal are fewer in number, subject to any conditions or limitations in the registration or in such affidavit or renewal application. Such conclusive evidence of the right to use the registered mark shall be subject to proof of infringement as defined in section 32, and shall be subject to the following defenses or defects:";

(2) in paragraph (3) by inserting "on or" after "goods or services";

(3) in paragraph (4)—

(A) by striking out "trade or service"; and

(B) by striking out "to users";

(4) in paragraph (5) by striking out "registration of the mark under this Act or" and inserting in lieu thereof "(A) the date of constructive use of the mark established pursuant to section 7(c), (B) the registration of the mark under this Act if the application for registration is filed before the effective date of the Trademark Law Revision Act of 1988, or (C)";

(5) in paragraph (7) by striking out the period and inserting in lieu thereof "; or"; and

(6) by adding at the end of the subsection the following: "(8) That equitable principles, including laches, estoppel, and acquiescence, are applicable.".

(c) INJUNCTIONS.—Section 34(a) (15 U.S.C. 1116(a)) is amended in the first sentence by inserting "or to prevent a violation under section 43(a)" after "Office".

(d) NOTICE OF SUIT TO COMMISSIONER.—Section 34(c) (15 U.S.C. 1116(c)) is amended—

(1) by striking out "proceeding arising" and inserting in lieu thereof "proceeding involving a mark registered"; and

(2) by striking out "decision is rendered, appeal taken or a decree issued" and inserting in lieu thereof "judgment is entered or an appeal is taken".

(e) CIVIL ACTIONS ARISING FROM USE OF COUNTERFEIT MARKS.—Section 34(d)(1)(B) (15 U.S.C. 1116(d)(1)(B)) is amended by inserting "on or" after "designation used".

SEC. 129. RECOVERY FOR VIOLATION OF RIGHTS.

Section 35(a) (15 U.S.C. 1117(a)) is amended in the first sentence by inserting ", or a violation under section 43(a)," after "Office".

SEC. 130. DESTRUCTION OF INFRINGING ARTICLES.

Section 36 (15 U.S.C. 1118) is amended in the first sentence—

(1) by inserting ", or a violation under section 43(a)," after "Office"; and

(2) by inserting after "registered mark" the following: "or, in the case of a violation of section 43(a), the word, term, name, symbol, device, combination thereof, designation, description, or representation that is the subject of the violation,".

SEC. 131. JURISDICTION.

(a) JURISDICTION OF COURTS.—Section 39 (15 U.S.C. 1121) is amended by inserting "(a)" after "SEC. 39.".

(b) CERTAIN ACTIONS BY STATES PRECLUDED.—Section 39a (15 U.S.C. 1121a) is amended—

15 USC 1121a, 1121.

(1) by striking out "SEC. 39a." and inserting in lieu thereof "(b)"; and

(2) by striking out "servicemarks" each place it appears and inserting in lieu thereof "service marks".

SEC. 132. UNREGISTERED MARKS, DESCRIPTIONS, AND REPRESENTATIONS.

Section 43(a) (15 U.S.C. 1125(a)) is amended to read as follows:

"(a) Any person who, on or in connection with any goods or services, or any container for goods, uses in commerce any word, term, name, symbol, or device, or any combination thereof, or any false designation of origin, false or misleading description of fact, or false or misleading representation of fact, which—

"(1) is likely to cause confusion, or to cause mistake, or to deceive as to the affiliation, connection, or association of such person with another person, or as to the origin, sponsorship, or approval of his or her goods, services, or commercial activities by another person, or

"(2) in commercial advertising or promotion, misrepresents the nature, characteristics, qualities, or geographic origin of his or her or another person's goods, services, or commercial activities,

shall be liable in a civil action by any person who believes that he or she is or is likely to be damaged by such act.".

SEC. 133. INTERNATIONAL MATTERS.

Section 44 (15 U.S.C. 1126) is amended—

(1) in subsections (c), (d), (f), (g), and (h) by striking out "paragraph (b)" each place it appears and inserting in lieu thereof "subsection (b)";

(2) in subsection (a) by striking out "herein prescribed" and inserting in lieu thereof "required in this Act";

(3) in subsection (d) by striking out "sections 1, 2, 3, 4, or 23" and inserting in lieu thereof "section 1, 3, 4, 23, or 44(e)";

(4) in subsection (d)(2) by striking out "but use in commerce need not be alleged" and inserting in lieu thereof "including a statement that the applicant has a bona fide intention to use the mark in commerce";

(5) in subsection (d)(3) by striking out "foreing" and inserting in lieu thereof "foreign";

(6) in subsection (e) by adding at the end thereof the following: "The application must state the applicant's bona fide intention to use the mark in commerce, but use in commerce shall not be required prior to registration.";

(7) in subsection (f) by striking out "paragraphs (c), (d)," and inserting in lieu thereof "subsections (c), (d),"; and

(8) in subsection (i) by striking out "paragraph (b) hereof" and inserting in lieu thereof "subsection (b) of this section".

SEC. 134. CONSTRUCTION AND DEFINITIONS.

Section 45 (15 U.S.C. 1127) is amended—

(1) by amending the paragraph defining "related company" to read as follows:

"The term 'related company' means any person whose use of a mark is controlled by the owner of the mark with respect to the nature and quality of the goods or services on or in connection with which the mark is used.";

(2) by amending the paragraph defining "trade name" and "commercial name" to read as follows:

"The terms 'trade name' and 'commercial name' mean any name used by a person to identify his or her business or vocation.";

(3) by amending the paragraph defining "trademark" to read as follows:

"The term 'trademark' includes any word, name, symbol, or device, or any combination thereof—

"(1) used by a person, or

"(2) which a person has a bona fide intention to use in commerce and applies to register on the principal register established by this Act,

to identify and distinguish his or her goods, including a unique product, from those manufactured or sold by others and to indicate the source of the goods, even if that source is unknown.";

(4) by amending the paragraph defining "service mark" to read as follows:

"The term 'service mark' means any word, name, symbol, or device, or any combination thereof—

"(1) used by a person, or

"(2) which a person has a bona fide intention to use in commerce and applies to register on the principal register established by this Act,

to identify and distinguish the services of one person, including a unique service, from the services of others and to indicate the source of the services, even if that source is unknown. Titles, character names, and other distinctive features of radio or television programs may be registered as service marks notwithstanding that they, or the programs, may advertise the goods of the sponsor.";

(5) by amending the paragraph defining "certification mark" to read as follows:

"The term 'certification mark' means any word, name, symbol, or device, or any combination thereof—

"(1) used by a person other than its owner, or

"(2) which its owner has a bona fide intention to permit a person other than the owner to use in commerce and files an application to register on the principal register established by this Act,

to certify regional or other origin, material, mode of manufacture, quality, accuracy, or other characteristics of such person's goods or services or that the work or labor on the goods or services was performed by members of a union or other organization.";

(6) by amending the paragraph defining "collective mark" to read as follows:

"The term 'collective mark' means a trademark or service mark—

"(1) used by the members of a cooperative, an association, or other collective group or organization, or

"(2) which such cooperative, association, or other collective group or organization has a bona fide intention to use in commerce and applies to register on the principal register established by this Act,

and includes marks indicating membership in a union, an association, or other organization.";

(7) by amending the paragraph defining "mark" to read as follows:

"The term 'mark' includes any trademark, service mark, collective mark, or certification mark.";

(8) by amending the matter which appears between the paragraph defining "mark", and the paragraph defining "colorable imitation" to read as follows:

"The term 'use in commerce' means the bona fide use of a mark in the ordinary course of trade, and not made merely to reserve a right in a mark. For purposes of this Act, a mark shall be deemed to be in use in commerce—

"(1) on goods when—

"(A) it is placed in any manner on the goods or their containers or the displays associated therewith or on the tags or labels affixed thereto, or if the nature of the goods makes such placement impracticable, then on documents associated with the goods or their sale, and

"(B) the goods are sold or transported in commerce, and

"(2) on services when it is used or displayed in the sale or advertising of services and the services are rendered in commerce, or the services are rendered in more than one State or in the United States and a foreign country and the person rendering the services is engaged in commerce in connection with the services.

"A mark shall be deemed to be 'abandoned' when either of the following occurs:

"(1) When its use has been discontinued with intent not to resume such use. Intent not to resume may be inferred from circumstances. Nonuse for two consecutive years shall be prima facie evidence of abandonment. 'Use' of a mark means the bona fide use of that mark made in the ordinary course of trade, and not made merely to reserve a right in a mark.

"(2) When any course of conduct of the owner, including acts of omission as well as commission, causes the mark to become the generic name for the goods or services on or in connection with which it is used or otherwise to lose its significance as a mark. Purchaser motivation shall not be a test for determining abandonment under this paragraph.".

SEC. 135. PENDING APPLICATIONS.

The Trademark Act of 1946 is amended by adding at the end thereof the following:

15 USC 1058 note.

"SEC. 51. All certificates of registration based upon applications for registration pending in the Patent and Trademark Office on the effective date of the Trademark Law Revision Act of 1988 shall remain in force for a period of 10 years.".

15 USC 1051 note.

SEC. 136. EFFECTIVE DATE.

This title and the amendments made by this title shall become effective on the date which is one year after the date of enactment of this Act.

TITLE II—SATELLITE HOME VIEWER ACT

Satellite Home Viewer Act of 1988. Communications and telecommunications. 17 USC 101 note.

SEC. 201. SHORT TITLE.

This title may be cited as the "Satellite Home Viewer Act of 1988".

SEC. 202. AMENDMENTS TO TITLE 17, UNITED STATES CODE.

Title 17, United States Code, is amended as follows:

(1) Section 111 of title 17, United States Code, is amended—

(A) in subsection (a)—

(i) in paragraph (3) by striking "or" at the end;

(ii) by redesignating paragraph (4) as paragraph (5); and

(iii) by inserting the following after paragraph (3):

"(4) the secondary transmission is made by a satellite carrier for private home viewing pursuant to a statutory license under section 119; or"; and

(B) in subsection (d)(1)(A) by inserting before "Such statement" the following:

"In determining the total number of subscribers and the gross amounts paid to the cable system for the basic service of providing secondary transmissions of primary broadcast transmitters, the system shall not include subscribers and amounts collected from subscribers receiving secondary transmissions for private home viewing pursuant to section 119.".

(2) Chapter 1 of title 17, United States Code, is amended by adding at the end the following new section:

"§ 119. Limitations on exclusive rights: Secondary transmissions of superstations and network stations for private home viewing

"(a) SECONDARY TRANSMISSIONS BY SATELLITE CARRIERS.—

"(1) SUPERSTATIONS.—Subject to the provisions of paragraphs (3), (4), and (6) of this subsection, secondary transmissions of a primary transmission made by a superstation and embodying a performance or display of a work shall be subject to statutory licensing under this section if the secondary transmission is made by a satellite carrier to the public for private home viewing, and the carrier makes a direct or indirect charge for each retransmission service to each household receiving the secondary transmission or to a distributor that has contracted with the carrier for direct or indirect delivery of the secondary transmission to the public for private home viewing.

"(2) NETWORK STATIONS.—

"(A) IN GENERAL.—Subject to the provisions of subparagraphs (B) and (C) of this paragraph and paragraphs (3), (4), (5), and (6) of this subsection, secondary transmissions of programming contained in a primary transmission made by a network station and embodying a performance or display of a work shall be subject to statutory licensing under this section if the secondary transmission is made by a satellite carrier to the public for private home viewing, and the carrier makes a direct or indirect charge for such retransmission service to each subscriber receiving the secondary transmission.

"(B) SECONDARY TRANSMISSIONS TO UNSERVED HOUSEHOLDS.—The statutory license provided for in subparagraph (A) shall be limited to secondary transmissions to persons who reside in unserved households.

"(C) SUBMISSION OF SUBSCRIBER LISTS TO NETWORKS.—A satellite carrier that makes secondary transmissions of a primary transmission made by a network station pursuant to subparagraph (A) shall, 90 days after the effective date of the Satellite Home Viewer Act of 1988, or 90 days after commencing such secondary transmissions, whichever is later, submit to the network that owns or is affiliated with the network station a list identifying (by street address, including county and zip code) all subscribers to which the satellite carrier currently makes secondary transmissions of that primary transmission. Thereafter, on the 15th of each month, the satellite carrier shall submit to the network a list identifying (by street address, including county and zip code) any persons who have been added or dropped as such subscribers since the last submission under this subparagraph. Such subscriber information submitted by a satellite carrier may be used only for purposes of monitoring compliance by the satellite carrier with this subsection. The submission requirements of this subparagraph shall apply to a satellite carrier only if the network to whom the submissions are to be made places on file with the Register of Copyrights, on or after the effective date of the Satellite Home Viewer Act of 1988, a document identifying the name and address of the person to whom such submissions are to be made. The Register shall maintain for public inspection a file of all such documents.

Public information.

"(3) NONCOMPLIANCE WITH REPORTING AND PAYMENT REQUIREMENTS.—Notwithstanding the provisions of paragraphs (1) and (2), the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a superstation or a network station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, where the satellite carrier has not deposited the statement of account and royalty fee required by subsection (b), or has failed to make the submissions to networks required by paragraph (2)(C).

"(4) WILLFUL ALTERATIONS.—Notwithstanding the provisions of paragraphs (1) and (2), the secondary transmission to the public by a satellite carrier of a primary transmission made by a superstation or a network station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and sections 509 and 510, if the content of the particular program in which the performance or display is embodied, or any commercial advertising or station announcement transmitted by the primary transmitter during, or immediately before or after, the transmission of such program, is in any way willfully altered by the satellite carrier through changes, deletions, or additions, or is combined with programming from any other broadcast signal.

"(5) VIOLATION OF TERRITORIAL RESTRICTIONS ON STATUTORY LICENSE FOR NETWORK STATIONS.—

"(A) INDIVIDUAL VIOLATIONS.—The willful or repeated secondary transmission by a satellite carrier of a primary transmission made by a network station and embodying a performance or display of a work to a subscriber who does not reside in an unserved household is actionable as an act of infringement under section 501 and is fully subject to the remedies provided by sections 502 through 506 and 509, except that—

"(i) no damages shall be awarded for such act of infringement if the satellite carrier took corrective action by promptly withdrawing service from the ineligible subscriber, and

"(ii) any statutory damages shall not exceed $5 for such subscriber for each month during which the violation occurred.

"(B) PATTERN OF VIOLATIONS.—If a satellite carrier engages in a willful or repeated pattern or practice of delivering a primary transmission made by a network station and embodying a performance or display of a work to subscribers who do not reside in unserved households, then in addition to the remedies set forth in subparagraph (A)—

"(i) if the pattern or practice has been carried out on a substantially nationwide basis, the court shall order a permanent injunction barring the secondary transmission by the satellite carrier, for private home viewing, of the primary transmissions of any primary network station affiliated with the same network, and the court may order statutory damages of not to exceed $250,000 for each 6-month period during which the pattern or practice was carried out; and

"(ii) if the pattern or practice has been carried out on a local or regional basis, the court shall order a permanent injunction barring the secondary transmission, for private home viewing in that locality or region, by the satellite carrier of the primary transmissions of any primary network station affiliated with the same network, and the court may order statutory damages of not to exceed $250,000 for each 6-month period during which the pattern or practice was carried out.

"(C) PREVIOUS SUBSCRIBERS EXCLUDED.—Subparagraphs (A) and (B) do not apply to secondary transmissions by a satellite carrier to persons who subscribed to receive such secondary transmissions from the satellite carrier or a distributor before the date of the enactment of the Satellite Home Viewer Act of 1988.

"(6) DISCRIMINATION BY A SATELLITE CARRIER.—Notwithstanding the provisions of paragraph (1), the willful or repeated secondary transmission to the public by a satellite carrier of a primary transmission made by a superstation or a network station and embodying a performance or display of a work is actionable as an act of infringement under section 501, and is fully subject to the remedies provided by sections 502 through 506 and 509, if the satellite carrier unlawfully discriminates against a distributor.

"(7) GEOGRAPHIC LIMITATION ON SECONDARY TRANSMISSIONS.—The statutory license created by this section shall apply only to

secondary transmissions to households located in the United States.

"(b) STATUTORY LICENSE FOR SECONDARY TRANSMISSIONS FOR PRIVATE HOME VIEWING.—

Regulations.

"(1) DEPOSITS WITH THE REGISTER OF COPYRIGHTS.—A satellite carrier whose secondary transmissions are subject to statutory licensing under subsection (a) shall, on a semiannual basis, deposit with the Register of Copyrights, in accordance with requirements that the Register shall, after consultation with the Copyright Royalty Tribunal, prescribe by regulation—

"(A) a statement of account, covering the preceding 6-month period, specifying the names and locations of all superstations and network stations whose signals were transmitted, at any time during that period, to subscribers for private home viewing as described in subsections (a)(1) and (a)(2), the total number of subscribers that received such transmissions, and such other data as the Register of Copyrights may, after consultation with the Copyright Royalty Tribunal, from time to time prescribe by regulation; and

"(B) a royalty fee for that 6-month period, computed by—

"(i) multiplying the total number of subscribers receiving each secondary transmission of a superstation during each calendar month by 12 cents;

"(ii) multiplying the number of subscribers receiving each secondary transmission of a network station during each calendar month by 3 cents; and

"(iii) adding together the totals computed under clauses (i) and (ii).

"(2) INVESTMENT OF FEES.—The Register of Copyrights shall receive all fees deposited under this section and, after deducting the reasonable costs incurred by the Copyright Office under this section (other than the costs deducted under paragraph (4)), shall deposit the balance in the Treasury of the United States, in such manner as the Secretary of the Treasury directs. All funds held by the Secretary of the Treasury shall be invested in interest-bearing securities of the United States for later distribution with interest by the Copyright Royalty Tribunal as provided by this title.

"(3) PERSONS TO WHOM FEES ARE DISTRIBUTED.—The royalty fees deposited under paragraph (2) shall, in accordance with the procedures provided by paragraph (4), be distributed to those copyright owners whose works were included in a secondary transmission for private home viewing made by a satellite carrier during the applicable 6-month accounting period and who file a claim with the Copyright Royalty Tribunal under paragraph (4).

"(4) PROCEDURES FOR DISTRIBUTION.—The royalty fees deposited under paragraph (2) shall be distributed in accordance with the following procedures:

Regulations.

"(A) FILING OF CLAIMS FOR FEES.—During the month of July in each year, each person claiming to be entitled to statutory license fees for secondary transmissions for private home viewing shall file a claim with the Copyright Royalty Tribunal, in accordance with requirements that the Tribunal shall prescribe by regulation. For purposes of this paragraph, any claimants may agree among themselves as

to the proportionate division of statutory license fees among them, may lump their claims together and file them jointly or as a single claim, or may designate a common agent to receive payment on their behalf.

"(B) DETERMINATION OF CONTROVERSY; DISTRIBUTIONS.—After the first day of August of each year, the Copyright Royalty Tribunal shall determine whether there exists a controversy concerning the distribution of royalty fees. If the Tribunal determines that no such controversy exists, the Tribunal shall, after deducting reasonable administrative costs under this paragraph, distribute such fees to the copyright owners entitled to receive them, or to their designated agents. If the Tribunal finds the existence of a controversy, the Tribunal shall, pursuant to chapter 8 of this title, conduct a proceeding to determine the distribution of royalty fees.

"(C) WITHHOLDING OF FEES DURING CONTROVERSY.—During the pendency of any proceeding under this subsection, the Copyright Royalty Tribunal shall withhold from distribution an amount sufficient to satisfy all claims with respect to which a controversy exists, but shall have discretion to proceed to distribute any amounts that are not in controversy.

"(c) DETERMINATION OF ROYALTY FEES.—

"(1) APPLICABILITY AND DETERMINATION OF ROYALTY FEES.—The rate of the royalty fee payable under subsection (b)(1)(B) shall be effective until December 31, 1992, unless a royalty fee is established under paragraph (2), (3), or (4) of this subsection. After that date, the fee shall be determined either in accordance with the voluntary negotiation procedure specified in paragraph (2) or in accordance with the compulsory arbitration procedure specified in paragraphs (3) and (4).

"(2) FEE SET BY VOLUNTARY NEGOTIATION.—

"(A) NOTICE OF INITIATION OF PROCEEDINGS.—On or before July 1, 1991, the Copyright Royalty Tribunal shall cause notice to be published in the Federal Register of the initiation of voluntary negotiation proceedings for the purpose of determining the royalty fee to be paid by satellite carriers under subsection (b)(1)(B). Federal Register, publication.

"(B) NEGOTIATIONS.—Satellite carriers, distributors, and copyright owners entitled to royalty fees under this section shall negotiate in good faith in an effort to reach a voluntary agreement or voluntary agreements for the payment of royalty fees. Any such satellite carriers, distributors, and copyright owners may at any time negotiate and agree to the royalty fee, and may designate common agents to negotiate, agree to, or pay such fees. If the parties fail to identify common agents, the Copyright Royalty Tribunal shall do so, after requesting recommendations from the parties to the negotiation proceeding. The parties to each negotiation proceeding shall bear the entire cost thereof.

"(C) AGREEMENTS BINDING ON PARTIES; FILING OF AGREEMENTS.—Voluntary agreements negotiated at any time in accordance with this paragraph shall be binding upon all satellite carriers, distributors, and copyright owners that are parties thereto. Copies of such agreements shall be filed with the Copyright Office within 30 days after execution in Regulations.

accordance with regulations that the Register of Copyrights shall prescribe.

"(D) PERIOD AGREEMENT IS IN EFFECT.—The obligation to pay the royalty fees established under a voluntary agreement which has been filed with the Copyright Office in accordance with this paragraph shall become effective on the date specified in the agreement, and shall remain in effect until December 31, 1994.

"(3) FEE SET BY COMPULSORY ARBITRATION.—

Federal Register, publication.

"(A) NOTICE OF INITIATION OF PROCEEDINGS.—On or before December 31, 1991, the Copyright Royalty Tribunal shall cause notice to be published in the Federal Register of the initiation of arbitration proceedings for the purpose of determining a reasonable royalty fee to be paid under subsection (b)(1)(B) by satellite carriers who are not parties to a voluntary agreement filed with the Copyright Office in accordance with paragraph (2). Such notice shall include the names and qualifications of potential arbitrators chosen by the Tribunal from a list of available arbitrators obtained from the American Arbitration Association or such similar organization as the Tribunal shall select.

"(B) SELECTION OF ARBITRATION PANEL.—Not later than 10 days after publication of the notice initiating an arbitration proceeding, and in accordance with procedures to be specified by the Copyright Royalty Tribunal, one arbitrator shall be selected from the published list by copyright owners who claim to be entitled to royalty fees under subsection (b)(4) and who are not party to a voluntary agreement filed with the Copyright Office in accordance with paragraph (2), and one arbitrator shall be selected from the published list by satellite carriers and distributors who are not parties to such a voluntary agreement. The two arbitrators so selected shall, within 10 days after their selection, choose a third arbitrator from the same list, who shall serve as chairperson of the arbitrators. If either group fail to agree upon the selection of an arbitrator, or if the arbitrators selected by such groups fail to agree upon the selection of a chairperson, the Copyright Royalty Tribunal shall promptly select the arbitrator or chairperson, respectively. The arbitrators selected under this subparagraph shall constitute an Arbitration Panel.

"(C) ARBITRATION PROCEEDING.—The Arbitration Panel shall conduct an arbitration proceeding in accordance with such procedures as it may adopt. The Panel shall act on the basis of a fully documented written record. Any copyright owner who claims to be entitled to royalty fees under subsection (b)(4), any satellite carrier, and any distributor, who is not party to a voluntary agreement filed with the Copyright Office in accordance with paragraph (2), may submit relevant information and proposals to the Panel. The parties to the proceeding shall bear the entire cost thereof in such manner and proportion as the Panel shall direct.

"(D) FACTORS FOR DETERMINING ROYALTY FEES.—In determining royalty fees under this paragraph, the Arbitration Panel shall consider the approximate average cost to a cable system for the right to secondarily transmit to the

public a primary transmission made by a broadcast station, the fee established under any voluntary agreement filed with the Copyright Office in accordance with paragraph (2), and the last fee proposed by the parties, before proceedings under this paragraph, for the secondary transmission of superstations or network stations for private home viewing. The fee shall also be calculated to achieve the following objectives:

"(i) To maximize the availability of creative works to the public.

"(ii) To afford the copyright owner a fair return for his or her creative work and the copyright user a fair income under existing economic conditions.

"(iii) To reflect the relative roles of the copyright owner and the copyright user in the product made available to the public with respect to relative creative contribution, technological contribution, capital investment, cost, risk, and contribution to the opening of new markets for creative expression and media for their communication.

"(iv) To minimize any disruptive impact on the structure of the industries involved and on generally prevailing industry practices.

"(E) REPORT TO COPYRIGHT ROYALTY TRIBUNAL.—Not later than 60 days after publication of the notice initiating an arbitration proceeding, the Arbitration Panel shall report to the Copyright Royalty Tribunal its determination concerning the royalty fee. Such report shall be accompanied by the written record, and shall set forth the facts that the Panel found relevant to its determination and the reasons why its determination is consistent with the criteria set forth in subparagraph (D).

"(F) ACTION BY COPYRIGHT ROYALTY TRIBUNAL.—Within 60 days after receiving the report of the Arbitration Panel under subparagraph (E), the Copyright Royalty Tribunal shall adopt or reject the determination of the Panel. The Tribunal shall adopt the determination of the Panel unless the Tribunal finds that the determination is clearly inconsistent with the criteria set forth in subparagraph (D). If the Tribunal rejects the determination of the Panel, the Tribunal shall, before the end of that 60-day period, and after full examination of the record created in the arbitration proceeding, issue an order, consistent with the criteria set forth in subparagraph (D), setting the royalty fee under this paragraph. The Tribunal shall cause to be published in the Federal Register the determination of the Panel, and the decision of the Tribunal with respect to the determination (including any order issued under the preceding sentence). The Tribunal shall also publicize such determination and decision in such other manner as the Tribunal considers appropriate. The Tribunal shall also make the report of the Arbitration Panel and the accompanying record available for public inspection and copying.

Federal Register, publication.

Public information.

"(G) PERIOD DURING WHICH DECISION OF PANEL OR ORDER OF TRIBUNAL EFFECTIVE.—The obligation to pay the royalty fee established under a determination of the Arbitration Panel which is confirmed by the Copyright Royalty Tribu-

nal in accordance with this paragraph, or established by any order issued under subparagraph (F), shall become effective on the date when the decision of the Tribunal is published in the Federal Register under subparagraph (F), and shall remain in effect until modified in accordance with paragraph (4), or until December 31, 1994.

"(H) PERSONS SUBJECT TO ROYALTY FEE.—The royalty fee adopted or ordered under subparagraph (F) shall be binding on all satellite carriers, distributors, and copyright owners, who are not party to a voluntary agreement filed with the Copyright Office under paragraph (2).

"(4) JUDICIAL REVIEW.—Any decision of the Copyright Royalty Tribunal under paragraph (3) with respect to a determination of the Arbitration Panel may be appealed, by any aggrieved party who would be bound by the determination, to the United States Court of Appeals for the District of Columbia Circuit, within 30 days after the publication of the decision in the Federal Register. The pendency of an appeal under this paragraph shall not relieve satellite carriers of the obligation under subsection (b)(1) to deposit the statement of account and royalty fees specified in that subsection. The court shall have jurisdiction to modify or vacate a decision of the Tribunal only if it finds, on the basis of the record before the Tribunal and the statutory criteria set forth in paragraph (3)(D), that the Arbitration Panel or the Tribunal acted in an arbitrary manner. If the court modifies the decision of the Tribunal, the court shall have jurisdiction to enter its own determination with respect to royalty fees, to order the repayment of any excess fees deposited under subsection (b)(1)(B), and to order the payment of any underpaid fees, and the interest pertaining respectively thereto, in accordance with its final judgment. The court may further vacate the decision of the Tribunal and remand the case for arbitration proceedings in accordance with paragraph (3).

"(d) DEFINITIONS.—As used in this section—

"(1) DISTRIBUTOR.—The term 'distributor' means an entity which contracts to distribute secondary transmissions from a satellite carrier and, either as a single channel or in a package with other programming, provides the secondary transmission either directly to individual subscribers for private home viewing or indirectly through other program distribution entities.

"(2) NETWORK STATION.—The term 'network station' has the meaning given that term in section 111(f) of this title, and includes any translator station or terrestrial satellite station that rebroadcasts all or substantially all of the programming broadcast by a network station.

"(3) PRIMARY NETWORK STATION.—The term 'primary network station' means a network station that broadcasts or rebroadcasts the basic programming service of a particular national network.

"(4) PRIMARY TRANSMISSION.—The term 'primary transmission' has the meaning given that term in section 111(f) of this title.

"(5) PRIVATE HOME VIEWING.—The term 'private home viewing' means the viewing, for private use in a household by means of satellite reception equipment which is operated by an individual in that household and which serves only such household, of a secondary transmission delivered by a satellite carrier of a

primary transmission of a television station licensed by the Federal Communications Commission.

"(6) SATELLITE CARRIER.—The term 'satellite carrier' means an entity that uses the facilities of a satellite or satellite service licensed by the Federal Communications Commission, to establish and operate a channel of communications for point-to-multipoint distribution of television station signals, and that owns or leases a capacity or service on a satellite in order to provide such point-to-multipoint distribution, except to the extent that such entity provides such distribution pursuant to tariff under the Communications Act of 1934, other than for private home viewing.

"(7) SECONDARY TRANSMISSION.—The term 'secondary transmission' has the meaning given that term in section 111(f) of this title.

"(8) SUBSCRIBER.—The term 'subscriber' means an individual who receives a secondary transmission service for private home viewing by means of a secondary transmission from a satellite carrier and pays a fee for the service, directly or indirectly, to the satellite carrier or to a distributor.

"(9) SUPERSTATION.—The term 'superstation' means a television broadcast station, other than a network station, licensed by the Federal Communications Commission that is secondarily transmitted by a satellite carrier.

"(10) UNSERVED HOUSEHOLD.—The term 'unserved household', with respect to a particular television network, means a household that—

"(A) cannot receive, through the use of a conventional outdoor rooftop receiving antenna, an over-the-air signal of grade B intensity (as defined by the Federal Communications Commission) of a primary network station affiliated with that network, and

"(B) has not, within 90 days before the date on which that household subscribes, either initially or on renewal, to receive secondary transmissions by a satellite carrier of a network station affiliated with that network, subscribed to a cable system that provides the signal of a primary network station affiliated with that network.

"(e) EXCLUSIVITY OF THIS SECTION WITH RESPECT TO SECONDARY TRANSMISSIONS OF BROADCAST STATIONS BY SATELLITE TO MEMBERS OF THE PUBLIC.—No provision of section 111 of this title or any other law (other than this section) shall be construed to contain any authorization, exemption, or license through which secondary transmissions by satellite carrier for private home viewing of programming contained in a primary transmission made by a superstation or a network station may be made without obtaining the consent of the copyright owner.".

(3) Section 501 of title 17, United States Code, is amended by adding at the end the following:

"(e) With respect to any secondary transmission that is made by a satellite carrier of a primary transmission embodying the performance or display of a work and is actionable as an act of infringement under section 119(a)(5), a network station holding a copyright or other license to transmit or perform the same version of that work shall, for purposes of subsection (b) of this section, be treated as a legal or beneficial owner if such secondary transmission occurs within the local service area of that station.".

(4) Section 801(b)(3) of title 17, United States Code, is amended by striking "and 116" and inserting ", 116, and 119(b)".

(5) Section 804(d) of title 17, United States Code, is amended by striking "sections 111 or 116" and inserting "section 111, 116, or 119".

(6) The table of sections at the beginning of chapter 1 of title 17, United States Code, is amended by adding at the end the following new item:

"119. Limitations on exclusive rights: Secondary transmissions of superstations and network stations for private home viewing.".

SEC. 203. SYNDICATED EXCLUSIVITY; REPORT ON DISCRIMINATION.

Title VII of The Communications Act of 1934 (47 U.S.C. 601 et seq.) is amended by adding at the end the following:

"SYNDICATED EXCLUSIVITY

47 USC 612.

"SEC. 712. (a) The Federal Communications Commission shall, within 120 days after the effective date of the Satellite Home Viewer Act of 1988, initiate a combined inquiry and rulemaking proceeding for the purpose of—

"(1) determining the feasibility of imposing syndicated exclusivity rules with respect to the delivery of syndicated programming (as defined by the Commission) for private home viewing of secondary transmissions by satellite of broadcast station signals similar to the rules issued by the Commission with respect to syndicated exclusivity and cable television; and

"(2) adopting such rules if the Commission considers the imposition of such rules to be feasible.

"(b) In the event that the Commission adopts such rules, any willful and repeated secondary transmission made by a satellite carrier to the public of a primary transmission embodying the performance or display of a work which violates such Commission rules shall be subject to the remedies, sanctions, and penalties provided by title V and section 705 of this Act.

"DISCRIMINATION

47 USC 613.

"SEC. 713. The Federal Communications Commission shall, within 1 year after the effective date of the Satellite Home Viewer Act of 1988, prepare and submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on whether, and the extent to which, there exists discrimination described in section 119(a)(6) of title 17, United States Code.".

SEC. 204. INQUIRY ON ENCRYPTION STANDARD.

Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended by adding at the end thereof the following:

"(f) Within 6 months after the date of enactment of the Satellite Home Viewer Act of 1988, the Federal Communications Commission shall initiate an inquiry concerning the need for a universal encryption standard that permits decryption of satellite cable programming intended for private viewing. In conducting such inquiry, the Commission shall take into account—

"(1) consumer costs and benefits of any such standard, including consumer investment in equipment in operation;

"(2) incorporation of technological enhancements, including advanced television formats;

"(3) whether any such standard would effectively prevent present and future unauthorized decryption of satellite cable programming;

"(4) the costs and benefits of any such standard on other authorized users of encrypted satellite cable programming, including cable systems and satellite master antenna television systems;

"(5) the effect of any such standard on competition in the manufacture of decryption equipment; and

"(6) the impact of the time delay associated with the Commission procedures necessary for establishment of such standards.

"(g) If the Commission finds, based on the information gathered from the inquiry required by subsection (f), that a universal encryption standard is necessary and in the public interest, the Commission shall initiate a rulemaking to establish such a standard.".

SEC. 205. PIRACY OF SATELLITE CABLE PROGRAMMING.

Law enforcement and crime.

Section 705 of the Communications Act of 1934 (47 U.S.C. 605) is amended—

(1) in subsection (c)—

(A) by striking "and" at the end of paragraph (4);

(B) by striking the period at the end of paragraph (5) and inserting "; and"; and

(C) by adding at the end the following:

"(6) the term 'any person aggrieved' shall include any person with proprietary rights in the intercepted communication by wire or radio, including wholesale or retail distributors of satellite cable programming, and, in the case of a violation of paragraph (4) of subsection (d), shall also include any person engaged in the lawful manufacture, distribution, or sale of equipment necessary to authorize or receive satellite cable programming.";

(2) in subsection (d)(1), by striking "$1,000" and inserting "$2,000";

(3) in paragraph (2) of subsection (d), by striking "$25,000" and all that follows through the end of that paragraph and inserting "$50,000 or imprisoned for not more than 2 years, or both, for the first such conviction and shall be fined not more than $100,000 or imprisoned for not more than 5 years, or both, for any subsequent conviction.";

(4) in subsection (d)(3)(A), by inserting "or paragraph (4) of subsection (d)" immediately after "subsection (a)";

(5) in subsection (d)(3)(B) by striking "may" the first time it appears;

(6) in subsection (d)(3)(B)(i), by inserting "may" immediately before "grant";

(7) in subsection (d)(3)(B)(ii), by inserting "may" immediately before "award";

(8) in subsection (d)(3)(B)(iii), by inserting "shall" immediately before "direct";

(9) in subsection (d)(3)(C)(i)(II)—

(A) by inserting "of subsection (a)" immediately after "violation";

(B) by striking "$250" and inserting "$1,000"; and

(C) by inserting immediately before the period the following: ", and for each violation of paragraph (4) of this subsection involved in the action an aggrieved party may recover statutory damages in a sum not less than $10,000, or more than $100,000, as the court considers just";

(10) in subsection (d)(3)(C)(ii), by striking "$50,000" and inserting "$100,000 for each violation of subsection (a)";

(11) in subsection (d)(3)(C)(iii), by striking "$100" and inserting "$250"; and

(12) by striking paragraph (4) of subsection (d) and inserting the following:

"(4) Any person who manufactures, assembles, modifies, imports, exports, sells, or distributes any electronic, mechanical, or other device or equipment, knowing or having reason to know that the device or equipment is primarily of assistance in the unauthorized decryption of satellite cable programming, or is intended for any other activity prohibited by subsection (a), shall be fined not more than $500,000 for each violation, or imprisoned for not more than 5 years for each violation, or both. For purposes of all penalties and remedies established for violations of this paragraph, the prohibited activity established herein as it applies to each such device shall be deemed a separate violation.".

17 USC 119 note.

SEC. 206. EFFECTIVE DATE.

This title and the amendments made by this title take effect on January 1, 1989, except that the authority of the Register of Copyrights to issue regulations pursuant to section 119(b)(1) of title 17, United States Code, as added by section 202 of this Act, takes effect on the date of the enactment of this Act.

17 USC 119 note.

SEC. 207. TERMINATION.

This title and the amendments made by this title (other than the amendments made by section 205) cease to be effective on December 31, 1994.

Approved November 16, 1988.

LEGISLATIVE HISTORY—S. 1883 (H.R. 5372):

HOUSE REPORTS: No. 100-1028 accompanying H.R. 5372 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-515 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 13, considered and passed Senate.
Oct. 19, considered and passed House, amended.
Oct. 20, Senate concurred in House amendment.

Public Law 100-668
100th Congress

An Act

To designate wilderness within Olympic National Park, Mount Rainier National Park, and North Cascades National Park Service Complex in the State of Washington, and for other purposes.

Nov. 16, 1988
[S. 2165]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "Washington Park Wilderness Act of 1988".

Washington Park Wilderness Act of 1988.
16 USC 90 note.

TITLE I—OLYMPIC NATIONAL PARK WILDERNESS

SEC. 101. DESIGNATION.

(a) WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.; 78 Stat. 890), certain lands in the Olympic National Park, Washington, which—

16 USC 1132 note.

(1) comprise approximately eight hundred and seventy-six thousand six hundred and sixty-nine acres of wilderness, and approximately three hundred and seventy-eight acres of potential wilderness additions, and

(2) are depicted on a map entitled "Wilderness Boundary, Olympic National Park, Washington", numbered 149/60,051A and dated August 1988,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Olympic Wilderness.

SEC. 102. WOLF CREEK POWERLINE.

The Secretary is authorized to upgrade, maintain and replace, as necessary, the Wolf Creek underground powerline to Hurricane Ridge: *Provided,* That to the extent practicable, such maintenance and operation shall be conducted in such a manner as to remain consistent with wilderness management.

SEC. 103. PAYMENT TO CLALLAM COUNTY.

Appropriation authorization.

There is hereby authorized to be appropriated not to exceed $155,000 to the Secretary of the Interior to make a payment to the Clallam County Historical Society and Museum of Port Angeles, Washington, to compensate the Society for its possessory interest in the National Park Service Visitor Center, Pioneer Memorial Museum, Olympic National Park, Washington. Upon relinquishment by the Clallam County Historical Society of all interests and use in the facility, the Secretary of the Interior shall make payment to the Clallam County Historical Society and acceptance of payment shall be considered full and just compensation for the Society's participation in the construction of the Pioneer Memorial Museum.

SEC. 104. GENERAL PROVISIONS.

16 USC 256b.

(a) MISDEMEANOR PENALTIES.—Section 3 of the Act of March 6, 1942 (56 Stat. 136; 16 U.S.C. 256(b)) is revised by deleting all after the phrase "or situated therein," and inserting the following: "shall be deemed guilty of a class B misdemeanor in accordance with provisions of title 18 of the United States Code.".

(b) FORFEITURE OF PROPERTY.—Section 4 of the Act of March 6, 1942 (56 Stat. 135; 16 U.S.C. 256c) is hereby revised to read as follows:

"SEC. 4. All guns, bows, traps, nets, seines, fishing tackle, clothing, teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or means of transportation of every nature or description used by any person or persons or organizations within the limits of the park when engaged in or attempting to engage in killing, trapping, ensnaring, taking or capturing such wild birds, fish or animals, or taking, destroying or damaging such trees, plants, or mineral deposits contrary to the provisions of this Act or the rules and regulations promulgated by the Secretary of the Interior shall be forfeited to the United States and may be seized by the officers in the park and held pending prosecution of any person or persons or organization arrested under or charged with violating the provisions of this Act, and upon conviction under this Act of such persons or organizations using said guns, bows, traps, nets, seines, fishing tackle, clothing, teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or other means of transportation of every nature and description used by any person or persons or organization, such forfeiture shall be adjudicated as a penalty in addition to the other punishment prescribed in this Act. Such forfeited property shall be disposed of and accounted for by and under the authority of the Secretary of the Interior: *Provided,* That the forfeiture of teams, horses, machinery, logging equipment, motor vehicles, aircraft, boats, or other means of transportation shall be in the discretion of the Court.".

(c) TECHNICAL CORRECTIONS TO BOUNDARIES.—The Act of November 7, 1986 (Public Law 99-635; 100 Stat. 3527) revising the boundaries of Olympic National Park is hereby amended as follows:

16 USC 251n.

(1) In section 1(a)(2) after "48 degrees 23 minutes north and 47 degrees" strike "38" and insert in lieu thereof "34".

(2) In section 1(a)(2) after "all surveyed and unsurveyed islands", insert ", above the point of lowest low tide,"; and at the end of the paragraph, strike "north;" and insert "north: *Provided,* That such lands as are identified in this paragraph shall continue to be open to fishing and to the taking of shellfish in conformity with the laws and regulations of the State of Washington;".

Fish and fishing.

(3) In section 1(b) after "numbered 149/60,030A, sheets 1 through" strike "10" and insert in lieu thereof "9";

16 USC 251n note.

(4) In section 2(a) after "within section 15, township", strike "15" and insert in lieu thereof "24";

(5) In section 2(a) after "*Provided, however,* That the Secretary of Agriculture shall" strike "not"; and

16 USC 251n note.

(6) Section 4 is renumbered as section 5 and a new section 4 is inserted as follows:

"SEC. 4. Effective upon acceptance thereof by the State of Washington, the jurisdiction which the United States acquired over

those lands excluded from the boundaries of Olympic National Park by this Act is hereby retroceded to the State.".

SEC. 105. KALALOCH VISITOR CENTER.

The Secretary is directed to complete a study for the location of a year round visitor center in the Kalaloch area of Olympic National Park. Such study shall include the location, size and cost estimates for the design, planning and construction of the visitor center and support facilities. The study shall be submitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate by March 1, 1989. The Secretary is authorized to construct such visitor center subject to the appropriation of funds.

TITLE II—NORTH CASCADES NATIONAL PARK SERVICE COMPLEX WILDERNESS

SEC. 201. DESIGNATION.

(a) WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.; 78 Stat. 890), certain lands in the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area, Washington, which— 16 USC 1132 note.

(1) comprise approximately six hundred and thirty-four thousand six hundred and fourteen acres of wilderness, and approximately five thousand two hundred and twenty-six acres of potential wilderness additions, and

(2) are depicted on a map entitled "Wilderness Boundary, North Cascades National Park Service Complex, Washington", numbered 168-60-186 and dated August 1988,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Stephen Mather Wilderness.

SEC. 202. HYDROELECTRIC PROJECTS.

Section 505 of the Act of October 2, 1968 (82 Stat. 930; 16 U.S.C. 90d-4) is amended as follows: strike "in the recreation areas", and insert in lieu thereof "in the lands and waters within the Skagit River Hydroelectric Project, Federal Energy and Regulatory Commission Project 553, including the proposed Copper Creek, High Ross, and Thunder Creek elements of the Project; and the Newhalem Project, Federal Energy and Regulatory Commission Project 2705, within the Ross Lake National Recreation Area; the lands and waters within the Lake Chelan Project, Federal Energy and Regulatory Commission Project 637; the Company Creek small hydroelectric project at Stehekin within the Lake Chelan National Recreation Area; and existing hydrologic monitoring stations necessary for the proper operation of the hydroelectric projects listed herein".

SEC. 203. LAND ACQUISITION FOR ADMINISTRATIVE FACILITIES.

Section 301(a) of the Act of October 2, 1968 (82 Stat. 927; 16 U.S.C. 90b) is hereby amended to add a new subsection as follows:

"(b) The Secretary is hereby authorized to acquire, with the consent of the owner, lands outside of the authorized boundaries of North Cascades National Park Service Complex for the purpose of

construction and operation of a backcountry information center not to exceed five acres. The Secretary of the Interior is further authorized to acquire with the consent of the owner, lands for the construction of a headquarters and administrative site or sites, for the North Cascades National Park, Ross Lake National Recreation Area, and Lake Chelan National Recreation Area not to exceed ten acres. The lands so acquired shall be managed as part of the park.".

SEC. 204. AUTHORIZATION OF APPROPRIATIONS.

There are hereby authorized to be appropriated to the Secretary of the Interior such sums as may be necessary to complete the land acquisitions authorized pursuant to section 203 of this Act.

SEC. 205. RENEWABLE NATURAL RESOURCE USE IN RECREATION AREAS.

Section 402(a) of the Act of October 2, 1968 (82 Stat. 928; 16 U.S.C. 90c-1) is hereby amended to read as follows:

"The Secretary shall administer the recreation areas in a manner which in his judgment will best provide for (1) public outdoor recreation benefits and (2) conservation of scenic, scientific, historic, and other values contributing to public enjoyment. Within that portion of the Lake Chelan National Recreation Area which is not designated as wilderness, such management, utilization, and disposal of renewable natural resources and the continuation of existing uses and developments as will promote, or are compatible with, or do not significantly impair public recreation and conservation of the scenic, scientific, historic, or other values contributing to public enjoyment, are authorized. In administering the recreation areas, the Secretary may utilize such statutory authorities pertaining to the administration of the national park system, and such statutory authorities otherwise available to him for the conservation and management of natural resources as he deems appropriate for recreation and preservation purposes and for resource development compatible therewith. Within the Ross Lake National Recreation Area the removal and disposal of trees within power line rights-of-way are authorized as necessary to protect transmission lines, towers, and equipment;": *Provided,* That to the extent practicable, such removal and disposal of trees shall be conducted in such a manner as to protect scenic viewsheds.".

SEC. 206. MINERAL RESOURCE USE IN RECREATION AREAS.

16 USC 90c-1.

Section 402(b) of the Act of October 2, 1968 (82 Stat. 928; 16 U.S.C. 90c-1b) is hereby amended to read as follows:

"The lands within the recreation areas, subject to valid existing rights, are hereby withdrawn from all forms of appropriation or disposal under the public land laws, including location, entry, and patent under the United States mining laws, and disposition under the United States mineral leasing laws: *Provided, however,* That within that portion of the Lake Chelan National Recreation Area which is not designated as wilderness, sand, rock and gravel may be made available for sale to the residents of Stehekin for local use so long as such sale and disposal does not have significant adverse effects on the administration of the Lake Chelan National Recreation Area.".

TITLE III—MOUNT RAINIER NATIONAL PARK WILDERNESS

SEC. 301. DESIGNATION.

16 USC 1132 note.

(a) WILDERNESS.—In furtherance of the purposes of the Wilderness Act (16 U.S.C. 1131 et seq.; 78 Stat. 890), certain lands in the Mount Rainier National Park, Washington, which—

(1) compromise approximately two hundred and sixteen thousand eight hundred and fifty-five acres of wilderness, and

(2) are depicted on a map entitled "Wilderness Boundary, Mount Rainier National Park, Washington", numbered 105–20,014A and dated July 1988,

are hereby designated as wilderness and therefore as components of the National Wilderness Preservation System. Such lands shall be known as the Mount Rainier Wilderness.

SEC. 302. BOUNDARY ADJUSTMENTS.

16 USC 110c.

(a) PARK BOUNDARY ADJUSTMENTS.—The boundaries of the Mount Rainier National Park as established in the Act of March 2, 1899 (30 Stat. 993), as amended; (16 U.S.C. 91–110b), are further revised to add to the Park approximately two hundred and forty acres, and to exclude from the park approximately thirty-one and one-half acres, as generally depicted on the map entitled "Mount Rainier National Park Proposed 1987 Boundary Adjustments", numbered 105–80,010B and dated January 1987, which shall be on file and available for public inspection in the Washington office of the National Park Service, United States Department of the Interior and at Mount Rainier National Park.

Public information.

(b) FOREST BOUNDARY ADJUSTMENT.—The boundaries of the Snoqualmie National Forest and of the Gifford Pinchot National Forest, are hereby revised to include in the Snoqualmie National Forest approximately thirty-one and one-half acres, to exclude from the Snoqualmie National Forest approximately thirty acres, and to exclude from the Gifford Pinchot National Forest approximately two hundred and ten acres, as generally depicted on a map entitled "Mount Rainier National Park Proposed 1987 Boundary Adjustments", numbered 105–80,010B, and dated January 1987, which shall be on file and available for public inspection in the Washington, District of Columbia office of the Forest Service, United States Department of Agriculture and at the Snoqualmie and Gifford Pinchot National Forests.

Public information. District of Columbia.

(c) ADMINISTRATION OF PARK LAND.—(1) Federal lands, and interests therein formerly within the boundary of the Snoqualmie National Forest and the Gifford Pinchot National Forest, which are included within the boundary of the Mount Rainier National Park pursuant to this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of the Interior for administration as part of the Park, and shall be subject to all the laws and regulations of the Park.

(2) The Secretary of the Interior is authorized to accept either concurrent or exclusive jurisdiction over lands and waters included within Mount Rainier National Park by this Act. The Secretary shall notify in writing the Governor of the State of Washington of the acceptance of any such jurisdiction ceded to the United States by the State. The existing exclusive Federal jurisdiction, where it exists

in the Park, shall remain in effect until such time as the Secretary and the Governor shall agree upon the terms and conditions of concurrent legislative jurisdiction for said Park pursuant to section 320(i) of the Act of October 21, 1976 (90 Stat. 2741).

Gifts and property.

(3) AUTHORIZATION OF LAND ACQUISITION.—The Secretary of the Interior is authorized to acquire from willing sellers by donation, purchase with donated or appropriated funds, exchange, bequest, or otherwise all non-Federal lands, waters, and interests therein included within the boundary of the Mount Rainier National Park pursuant to this Act.

(d) ADMINISTRATION OF FOREST LAND.—(1) Federal lands, and interests therein formerly within the boundary of the Mount Rainier National Park, which are excluded therefrom and are included within the boundaries of the Snoqualmie National Forest pursuant to this Act are, subject to valid existing rights, hereby transferred to the administrative jurisdiction of the Secretary of Agriculture for administration as part of the Forest, and shall be subject to all the laws and regulations applicable to the National Forest System.

(2) For the purposes of section 7 of the Land and Water Conservation Fund Act of 1965 (78 Stat. 903, as amended; 16 U.S.C. 4601-9), the boundaries of the Snoqualmie National Forest and the Gifford Pinchot National Forest, as modified pursuant to this Act, shall be treated as if they were the boundaries of those national forests on January 1, 1965.

(3) Effective upon acceptance thereof by the State of Washington, the jurisdiction which the United States acquired over those lands excluded from the boundaries of the Mount Rainier National Park by this Act is hereby retroceded to the State.

SEC. 303. PARADISE POWERLINE.

The Secretary is authorized to upgrade, maintain and replace as necessary, the Paradise powerline from Longmire to Paradise: *Provided,* That to the extent practicable, such maintenance and operation shall be conducted in such a manner as to protect scenic viewsheds.

TITLE IV—GENERAL ADMINISTRATIVE PROVISIONS

(a) ADMINISTRATION.—(1) Subject to valid existing rights, the wilderness areas designated under titles I, II, and III of this Act shall be administered by the Secretary of the Interior in accordance with the provisions of the Wilderness Act governing areas designated as wilderness, except that reference to the Secretary of Agriculture shall be deemed, where appropriate, to be a reference to the Secretary of the Interior, and any reference to the effective date of the Wilderness Act shall be deemed, where appropriate, to be a reference to the effective date of this Act.

(2) Lands designated as potential wilderness additions shall be administered by the Secretary of the Interior insofar as practicable as wilderness until such time as said lands are designated as wilderness. Any lands designated as potential wilderness additions, upon publication in the Federal Register of a notice by the Secretary of the Interior that all uses thereon that are inconsistent with the Wilderness Act have ceased or that non-Federal interests in land

Federal Register, publication.

have been acquired, shall thereby be designated as wilderness and managed accordingly.

(3) Congress does not intend that wilderness areas designated under this Act lead to the creation of protective perimeters or buffer zones around such wilderness areas. The fact that nonwilderness activities or uses can be seen or heard from areas within the wilderness shall not, of itself, preclude such activities or uses up to the boundary of the wilderness area.

(b) MAP AND DESCRIPTION.—(1) As soon as practicable after the effective date of this Act, the Secretary of the Interior shall file maps of the wilderness areas and legal descriptions of its boundaries with the Committee on Energy and Natural Resources of the United States Senate, and the Committee on Interior and Insular Affairs of the United States House of Representatives. Such maps and legal descriptions shall have the same force and effect as if included in this Act, except that correction of clerical and typographical errors in the maps and legal descriptions may be made. Such maps and legal descriptions of the boundaries shall be on file and available for public inspection in the office of the Director of the National Park Service, Department of the Interior, and in the office of the appropriate Superintendent.

Public information.

(2) Boundaries adjacent to paved and unpaved roads shall be drawn as narrowly as is practicable to allow for necessary maintenance and repairs to existing roads. Such boundaries should not, in general, exceed two hundred feet from the centerline of paved roads and one hundred feet from the centerline of unpaved roads: *Provided, however,* That larger boundaries may be drawn only as the Secretary deems necessary to exclude from the wilderness existing developments, improvements, and structures adjacent to existing roads, as well as areas needed to maintain and repair existing roads: *Provided further,* That to the extent practicable, undeveloped areas adjacent to all roads shall be managed as if designated as wilderness.

TITLE V—MISCELLANEOUS PROVISIONS

SEC. 501. WILD AND SCENIC RIVERS.

Section 3(a), paragraph (60), of the Wild and Scenic Rivers Act, which designates the Klickitat River in the State of Washington as a component of the National Wild and Scenic Rivers System, is amended to add the following sentence at the end of the paragraph:

16 USC 1274.

"The boundaries of the designated portions of the Klickitat River shall be as generally depicted on a map dated November, 1987, and entitled 'Klickitat National Recreation River, River Management Area: Final Boundary', which is on file in the office of the Chief, Forest Service, Washington, District of Columbia.".

District of Columbia.
16 USC 1274.

SEC. 502. RESERVATION OF WATER RIGHTS.

Subject to valid existing rights, within the areas designated as wilderness by this Act, Congress hereby expressly reserves such water rights as necessary, for the purposes for which such areas are so designated. The priority date of such rights shall be the date of enactment of this Act.

Approved November 16, 1988.

LEGISLATIVE HISTORY—S. 2165 (H.R. 4146):

HOUSE REPORTS: No. 100-961 accompanying H.R. 4146 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-512 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, H.R. 4146 considered and passed House.
Oct. 18, considered and passed Senate, amended. S. 2165 considered and passed Senate.
Oct. 19, S. 2165 considered and passed House.

○

Public Law 100-669
100th Congress

An Act

To implement the Inter-American Convention on International Commercial Arbitration.

Nov. 16, 1988
[S. 2204]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. Chapter 1 of title 9, United States Code, is amended by adding at the end thereof the following new section:

"§ 15. Inapplicability of the Act of State doctrine

"Enforcement of arbitral agreements, confirmation of arbitral awards, and execution upon judgments based on orders confirming such awards shall not be refused on the basis of the Act of State doctrine.".

SEC. 2. Section 1605(a) of title 28, United States Code, is amended by—

(1) striking out "or" at the end of paragraph (4);

(2) striking out the period at the end of paragraph (5) and inserting in lieu thereof "; or"; and

(3) adding at the end thereof the following:

"(6) in which the action is brought, either to enforce an agreement made by the foreign State with or for the benefit of a private party to submit to arbitration all or any differences which have arisen or which may arise between the parties with respect to a defined legal relationship, whether contractual or not, concerning a subject matter capable of settlement by arbitration under the laws of the United States, or to confirm an award made pursuant to such an agreement to arbitrate, if (A) the arbitration takes place or is intended to take place in the United States, (B) the agreement or award is or may be governed by a treaty or other international agreement in force for the United States calling for the recognition and enforcement of arbitral awards, (C) the underlying claim, save for the agreement to arbitrate, could have been brought in a United States court under this section or section 1607, or (D) paragraph (1) of this subsection is otherwise applicable.".

SEC. 3. Section 1610(a) of title 28, United States Code, is amended by—

(1) striking out the period at the end of paragraph (5) and inserting in lieu thereof ", or"; and

(2) adding at the end thereof the following:

"(6) the judgment is based on an order confirming an arbitral award rendered against the foreign State, provided that attach-

ment in aid of execution, or execution, would not be inconsistent with any provision in the arbitral agreement.".

Approved November 16, 1988.

LEGISLATIVE HISTORY—S. 2204:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 30, considered and passed Senate.
Oct. 20, considered in House.
Oct. 21, considered and passed House, amended. Senate concurred in House amendment.

Public Law 100-670
100th Congress

An Act

To amend the Federal Food, Drug, and Cosmetic Act to authorize abbreviated new animal drug applications and to amend title 35, United States Code, to authorize the extension of the patents for animal drug products.

Nov. 16, 1988
[S. 2843]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Generic Animal Drug and Patent Term Restoration Act.
Safety.
Consumer protection.
21 USC 301 note.

SECTION 1. SHORT TITLE AND REFERENCE TO ACT.

(a) SHORT TITLE.—This Act may be cited as the "Generic Animal Drug and Patent Term Restoration Act".

(b) REFERENCE.—

(1) Whenever in title I (other than in section 107(b)) an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Federal Food, Drug, and Cosmetic Act.

(2) Whenever in title II an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 35 of the United States Code.

TITLE I—NEW ANIMAL DRUG APPLICATIONS

SEC. 101. ABBREVIATED NEW ANIMAL DRUG APPLICATIONS.

(a) GENERAL RULE.—Section 512(b) (21 U.S.C. 360b) is amended—

(1) by inserting "(1)" after "(b)",

(2) by redesignating clauses (1) through (8) as clauses (A) through (H), respectively, and

(3) by adding at the end the following:

"(2) Any person may file with the Secretary an abbreviated application for the approval of a new animal drug. An abbreviated application shall contain the information required by subsection (n).".

(b) APPLICATION REQUIREMENTS.—Section 512 is amended by striking out subsection (n) and inserting in lieu thereof the following: Labeling.

"(n)(1) An abbreviated application for a new animal drug shall contain—

"(A)(i) except as provided in clause (ii), information to show that the conditions of use or similar limitations (whether in the labeling or published pursuant to subsection (i)) prescribed, recommended, or suggested in the labeling proposed for the new animal drug have been previously approved for a new animal

drug listed under paragraph (4) (hereinafter in this subsection referred to as an 'approved new animal drug'), and

"(ii) information to show that the withdrawal period at which residues of the new animal drug will be consistent with the tolerances established for the approved new animal drug is the same as the withdrawal period previously established for the approved new animal drug or, if the withdrawal period is proposed to be different, information showing that the residues of the new animal drug at the proposed different withdrawal period will be consistent with the tolerances established for the approved new animal drug;

"(B)(i) information to show that the active ingredients of the new animal drug are the same as those of the approved new animal drug, and

"(ii) if the approved new animal drug has more than one active ingredient, and if one of the active ingredients of the new animal drug is different from one of the active ingredients of the approved new animal drug and the application is filed pursuant to the approval of a petition filed under paragraph (3)—

"(I) information to show that the other active ingredients of the new animal drug are the same as the active ingredients of the approved new animal drug,

"(II) information to show either that the different active ingredient is an active ingredient of another approved new animal drug or of an animal drug which does not meet the requirements of section 201(w), and

"(III) such other information respecting the different active ingredients as the Secretary may require;

"(C)(i) if the approved new animal drug is permitted to be used with one or more animal drugs in animal feed, information to show that the proposed uses of the new animal drug with other animal drugs in animal feed are the same as the uses of the approved new animal drug, and

"(ii) if the approved new animal drug is permitted to be used with one or more other animal drugs in animal feed, and one of the other animal drugs proposed for use with the new animal drug in animal feed is different from one of the other animal drugs permitted to be used in animal feed with the approved new animal drug, and the application is filed pursuant to the approval of a petition filed under paragraph (3)—

"(I) information to show either that the different animal drug proposed for use with the approved new animal drug in animal feed is an approved new animal drug permitted to be used in animal feed or does not meet the requirements of section 201(w) when used with another animal drug in animal feed,

"(II) information to show that other animal drugs proposed for use with the new animal drug in animal feed are the same as the other animal drugs permitted to be used with the approved new animal drug, and

"(III) such other information respecting the different animal drug or combination with respect to which the petition was filed as the Secretary may require,

"(D) information to show that the route of administration, the dosage form, and the strength of the new animal drug are the same as those of the approved new animal drug or, if the route

of administration, the dosage form, or the strength of the new animal drug is different and the application is filed pursuant to the approval of a petition filed under paragraph (3), such information respecting the route of administration, dosage form, or strength with respect to which the petition was filed as the Secretary may require;

"(E) information to show that the new animal drug is bioequivalent to the approved new animal drug, except that if the application is filed pursuant to the approval of a petition filed under paragraph (3) for the purposes described in subparagraph (B) or (C), information to show that the active ingredients of the new animal drug are of the same pharmacological or therapeutic class as the pharmacological or therapeutic class of the approved new animal drug and that the new animal drug can be expected to have the same therapeutic effect as the approved new animal drug when used in accordance with the labeling;

"(F) information to show that the labeling proposed for the new animal drug is the same as the labeling approved for the approved new animal drug except for changes required because of differences approved under a petition filed under paragraph (3), because of a different withdrawal period, or because the new animal drug and the approved new animal drug are produced or distributed by different manufacturers;

"(G) the items specified in clauses (B) through (F) of subsection (b)(1);

"(H) a certification, in the opinion of the applicant and to the best of his knowledge, with respect to each patent which claims the approved new animal drug or which claims a use for such approved new animal drug for which the applicant is seeking approval under this subsection and for which information is required to be filed under subsection (b)(1) or (c)(3)—

"(i) that such patent information has not been filed,

"(ii) that such patent has expired,

"(iii) of the date on which such patent will expire, or

"(iv) that such patent is invalid or will not be infringed by the manufacture, use, or sale of the new animal drug for which the application is filed; and

"(I) if with respect to the approved new animal drug information was filed under subsection (b)(1) or (c)(3) for a method of use patent which does not claim a use for which the applicant is seeking approval of an application under subsection (c)(2), a statement that the method of use patent does not claim such a use.

The Secretary may not require that an abbreviated application contain information in addition to that required by subparagraphs (A) through (H).

"(2)(A) An applicant who makes a certification described in paragraph (1)(G)(iv) shall include in the application a statement that the applicant will give the notice required by subparagraph (B) to—

"(i) each owner of the patent which is the subject of the certification or the representative of such owner designated to receive such notice, and

"(ii) the holder of the approved application under subsection (c)(1) for the drug which is claimed by the patent or a use of which is claimed by the patent or the representative of such holder designated to receive such notice.

"(B) The notice referred to in subparagraph (A) shall state that an application, which contains data from bioequivalence studies, has been filed under this subsection for the drug with respect to which the certification is made to obtain approval to engage in the commercial manufacture, use, or sale of such drug before the expiration of the patent referred to in the certification. Such notice shall include a detailed statement of the factual and legal basis of the applicant's opinion that the patent is not valid or will not be infringed.

"(C) If an application is amended to include a certification described in paragraph (1)(G)(iv), the notice required by subparagraph (B) shall be given when the amended application is filed.

"(3) If a person wants to submit an abbreviated application for a new animal drug—

"(A) whose active ingredients, route of administration, dosage form, or strength differ from that of an approved new animal drug, or

"(B) whose use with other animal drugs in animal feed differs from that of an approved new animal drug,

such person shall submit a petition to the Secretary seeking permission to file such an application. The Secretary shall approve a petition for a new animal drug unless the Secretary finds that—

"(C) investigations must be conducted to show the safety and effectiveness, in animals to be treated with the drug, of the active ingredients, route of administration, dosage form, strength, or use with other animal drugs in animal feed which differ from the approved new animal drug, or

"(D) investigations must be conducted to show the safety for human consumption of any residues in food resulting from the proposed active ingredients, route of administration, dosage form, strength, or use with other animal drugs in animal feed for the new animal drug which is different from the active ingredients, route of administration, dosage form, strength, or use with other animal drugs in animal feed of the approved new animal drug.

The Secretary shall approve or disapprove a petition submitted under this paragraph within 90 days of the date the petition is submitted.

Public information.

"(4)(A)(i) Within 60 days of the date of the enactment of this subsection, the Secretary shall publish and make available to the public a list in alphabetical order of the official and proprietary name of each new animal drug which has been approved for safety and effectiveness before the date of the enactment of this subsection.

"(ii) Every 30 days after the publication of the first list under clause (i) the Secretary shall revise the list to include each new animal drug which has been approved for safety and effectiveness under subsection (c) during the 30 day period.

"(iii) When patent information submitted under subsection (b)(1) or (c)(3) respecting a new animal drug included on the list is to be published by the Secretary, the Secretary shall, in revisions made under clause (ii), include such information for such drug.

"(B) A new animal drug approved for safety and effectiveness before the date of the enactment of this subsection or approved for safety and effectiveness under subsection (c) shall, for purposes of this subsection, be considered to have been published under subparagraph (A) on the date of its approval or the date of enactment, whichever is later.

"(C) If the approval of a new animal drug was withdrawn or suspended under subsection (c)(2)(G) or for grounds described in subsection (e) or if the Secretary determines that a drug has been withdrawn from sale for safety or effectiveness reasons, it may not be published in the list under subparagraph (A) or, if the withdrawal or suspension occurred after its publication in such list, it shall be immediately removed from such list—

"(i) for the same period as the withdrawal or suspension under subsection (c)(2)(G) or (e), or

"(ii) if the listed drug has been withdrawn from sale, for the period of withdrawal from sale or, if earlier, the period ending on the date the Secretary determines that the withdrawal from sale is not for safety or effectiveness reasons.

A notice of the removal shall be published in the Federal Register. Federal Register, publication.

"(5) If an application contains the information required by clauses (A), (G), and (H) of subsection (b)(1) and such information—

"(A) is relied on by the applicant for the approval of the application, and

"(B) is not information derived either from investigations, studies, or tests conducted by or for the applicant or for which the applicant had obtained a right of reference or use from the person by or for whom the investigations, studies, or tests were conducted,

such application shall be considered to be an application filed under subsection (b)(2).

"(o) For purposes of this section, the term 'patent' means a patent issued by the Patent and Trademark Office of the Department of Commerce.".

(c) APPLICATION APPROVAL.—Section 512(c) is amended (1) by inserting "(1)" after "(c)", by redesignating clauses (1) and (2) as clauses (A) and (B), and by adding at the end the following: 21 USC 360b.

"(2)(A) Subject to subparagraph (C), the Secretary shall approve an abbreviated application for a drug unless the Secretary finds—

"(i) the methods used in, or the facilities and controls used for, the manufacture, processing, and packing of the drug are inadequate to assure and preserve its identity, strength, quality, and purity;

"(ii) the conditions of use prescribed, recommended, or suggested in the proposed labeling are not reasonably certain to be followed in practice or, except as provided subparagraph (B), information submitted with the application is insufficient to show that each of the proposed conditions of use or similar limitations (whether in the labeling or published pursuant to subsection (i)) have been previously approved for the approved new animal drug referred to in the application;

"(iii) information submitted with the application is insufficient to show that the active ingredients are the same as those of the approved new animal drug referred to in the application;

"(iv)(I) if the application is for a drug whose active ingredients, route of administration, dosage form, strength, or use with other animal drugs in animal feed is the same as the active ingredients, route of administration, dosage form, strength, or use with other animal drugs in animal feed of the approved new animal drug referred to in the application, information submitted in the application is insufficient to show that the active ingredients, route of administration, dosage form, strength, or

use with other animal drugs in animal feed is the same as that of the approved new animal drug, or

"(II) if the application is for a drug whose active ingredients, route of administration, dosage form, strength, or use with other animal drugs in animal feed is different from that of the approved new animal drug referred to in the application, no petition to file an application for the drug with the different active ingredients, route of administration, dosage form, strength, or use with other animal drugs in animal feed was approved under subsection (n)(3);

"(v) if the application was filed pursuant to the approval of a petition under subsection (n)(3), the application did not contain the information required by the Secretary respecting the active ingredients, route of administration, dosage form, strength, or use with other animal drugs in animal feed which is not the same;

"(vi) information submitted in the application is insufficient to show that the drug is bioequivalent to the approved new animal drug referred to in the application, or if the application is filed under a petition approved pursuant to subsection (n)(3), information submitted in the application is insufficient to show that the active ingredients of the new animal drug are of the same pharmacological or therapeutic class as the pharmacological or therapeutic class of the approved new animal drug and that the new animal drug can be expected to have the same therapeutic effect as the approved new animal drug when used in accordance with the labeling;

"(vii) information submitted in the application is insufficient to show that the labeling proposed for the drug is the same as the labeling approved for the approved new animal drug referred to in the application except for changes required because of differences approved under a petition filed under subsection (n)(3), because of a different withdrawal period, or because the drug and the approved new animal drug are produced or distributed by different manufacturers;

"(viii) information submitted in the application or any other information available to the Secretary shows that (I) the inactive ingredients of the drug are unsafe for use under the conditions prescribed, recommended, or suggested in the labeling proposed for the drug, (II) the composition of the drug is unsafe under such conditions because of the type or quantity of inactive ingredients included or the manner in which the inactive ingredients are included, or (III) in the case of a drug for food producing animals, the inactive ingredients of the drug or its composition may be unsafe with respect to human food safety;

"(ix) the approval under subsection (b)(1) of the approved new animal drug referred to in the application filed under subsection (b)(2) has been withdrawn or suspended for grounds described in paragraph (1) of subsection (e), the Secretary has published a notice of a hearing to withdraw approval of the approved new animal drug for such grounds, the approval under this paragraph of the new animal drug for which the application under subsection (b)(2) was filed has been withdrawn or suspended under subparagraph (G) for such grounds, or the Secretary has determined that the approved new animal

drug has been withdrawn from sale for safety or effectiveness reasons;

"(x) the application does not meet any other requirement of subsection (n); or

"(xi) the application contains an untrue statement of material fact.

"(B) If the Secretary finds that a new animal drug for which an application is submitted under subsection (b)(2) is bioequivalent to the approved new animal drug referred to in such application and that residues of the new animal drug are consistent with the tolerances established for such approved new animal drug but at a withdrawal period which is different than the withdrawal period approved for such approved new animal drug, the Secretary may establish, on the basis of information submitted, such different withdrawal period as the withdrawal period for the new animal drug for purposes of the approval of such application for such drug.

"(C) Within 180 days of the initial receipt of an application under subsection (b)(2) or within such additional period as may be agreed upon by the Secretary and the applicant, the Secretary shall approve or disapprove the application.

"(D) The approval of an application filed under subsection (b)(2) shall be made effective on the last applicable date determined under the following:

"(i) If the applicant only made a certification described in clause (i) or (ii) of subsection (n)(1)(G) or in both such clauses, the approval may be made effective immediately.

"(ii) If the applicant made a certification described in clause (iii) of subsection (n)(1)(G), the approval may be made effective on the date certified under clause (iii).

"(iii) If the applicant made a certification described in clause (iv) of subsection (n)(1)(G), the approval shall be made effective immediately unless an action is brought for infringement of a patent which is the subject of the certification before the expiration of 45 days from the date the notice provided under subsection (n)(2)(B)(i) is received. If such an action is brought before the expiration of such days, the approval shall be made effective upon the expiration of the 30 month period beginning on the date of the receipt of the notice provided under subsection (n)(2)(B) or such shorter or longer period as the court may order because either party to the action failed to reasonably cooperate in expediting the action, except that if before the expiration of such period— Courts, U.S.

"(I) the court decides that such patent is invalid or not infringed, the approval shall be made effective on the date of the court decision,

"(II) the court decides that such patent has been infringed, the approval shall be made effective on such date as the court orders under section 271(e)(4)(A) of title 35, United States Code, or

"(III) the court grants a preliminary injunction prohibiting the applicant from engaging in the commercial manufacture or sale of the drug until the court decides the issues of patent validity and infringement and if the court decides that such patent is invalid or not infringed, the approval shall be made effective on the date of such court decision.

In such an action, each of the parties shall reasonably cooperate in expediting the action. Until the expiration of 45 days from

the date the notice made under subsection (n)(2)(B) is received, no action may be brought under section 2201 of title 28, United States Code, for a declaratory judgment with respect to the patent. Any action brought under section 2201 shall be brought in the judicial district where the defendant has its principal place of business or a regular and established place of business.

"(iv) If the application contains a certification described in clause (iv) of subsection (n)(1)(G) and is for a drug for which a previous application has been filed under this subsection containing such a certification, the application shall be made effective not earlier than 180 days after—

"(I) the date the Secretary receives notice from the applicant under the previous application of the first commercial marketing of the drug under the previous application, or

"(II) the date of a decision of a court in an action described in subclause (III) holding the patent which is the subject of the certification to be invalid or not infringed,

whichever is earlier.

"(E) If the Secretary decides to disapprove an application, the Secretary shall give the applicant notice of an opportunity for a hearing before the Secretary on the question of whether such application is approvable. If the applicant elects to accept the opportunity for hearing by written request within 30 days after such notice, such hearing shall commence not more than 90 days after the expiration of such 30 days unless the Secretary and the applicant otherwise agree. Any such hearing shall thereafter be conducted on an expedited basis and the Secretary's order thereon shall be issued within 90 days after the date fixed by the Secretary for filing final briefs.

"(F)(i) If an application submitted under subsection (b)(1) for a drug, no active ingredient (including any ester or salt of the active ingredient) of which has been approved in any other application under subsection (b)(1), is approved after the date of the enactment of this paragraph, no application may be submitted under subsection (b)(2) which refers to the drug for which the subsection (b)(1) application was submitted before the expiration of 5 years from the date of the approval of the application under subsection (b)(1), except that such an application may be submitted under subsection (b)(2) after the expiration of 4 years from the date of the approval of the subsection (b)(1) application if it contains a certification of patent invalidity or noninfringement described in clause (iv) of subsection (n)(1)(G). The approval of such an application shall be made effective in accordance with subparagraph (B) except that, if an action for patent infringement is commenced during the one-year period beginning 48 months after the date of the approval of the subsection (b) application, the 30 month period referred to in subparagraph (C)(iii) shall be extended by such amount of time (if any) which is required for seven and one-half years to have elapsed from the date of approval of the subsection (b) application.

"(ii) If an application submitted under subsection (b)(1) for a drug, which includes an active ingredient (including any ester or salt of the active ingredient) that has been approved in another application approved under such subsection, is approved after the date of enactment of this paragraph and if such application contains reports of new clinical or field investigations (other than bioequivalence or residue studies) and, in the case of food producing animals, human

food safety studies (other than bioequivalence or residue studies) essential to the approval of the application and conducted or sponsored by the applicant, the Secretary may not make the approval of an application submitted under subsection (b)(2) for the conditions of approval of such drug in the subsection (b)(1) application effective before the expiration of 3 years from the date of the approval of the application under subsection (b)(1) for such drug.

"(iii) If a supplement to an application approved under subsection (b)(1) is approved after the date of enactment of this paragraph and the supplement contains reports of new clinical or field investigations (other than bioequivalence or residue studies) and, in the case of food producing animals, human food safety studies (other than bioequivalence or residue studies) essential to the approval of the supplement and conducted or sponsored by the person submitting the supplement, the Secretary may not make the approval of an application submitted under subsection (b)(2) for a change approved in the supplement effective before the expiration of 3 years from the date of the approval of the supplement.

"(iv) An applicant under subsection (b)(1) who comes within the provisions of clause (i) of this subparagraph as a result of an application which seeks approval for a use solely in non-food producing animals, may elect, within 10 days of receiving such approval, to waive clause (i) of this subparagraph, in which event the limitation on approval of applications submitted under subsection (b)(2) set forth in clause (ii) of this subparagraph shall be applicable to the subsection (b)(1) application.

"(v) If an application (including any supplement to a new animal drug application) submitted under subsection (b)(1) for a new animal drug for a food-producing animal use, which includes an active ingredient (including any ester or salt of the active ingredient) which has been the subject of a waiver under subparagraph (B)(iv) is approved after the date of enactment of this paragraph, and if the application contains reports of clinical or field investigations or human food safety studies (other than bioequivalence or residue studies) essential to the new approval of the application and conducted or sponsored by the applicant, the Secretary may not make the approval of an application (including any supplement to such application) submitted under subsection (b)(2) for the new conditions of approval of such drug in the subsection (b)(1) application effective before the expiration of five years from the date of approval of the application under subsection (b)(1) for such drug. The provisions of this paragraph shall apply only to the first approval for a food-producing animal use for the same applicant after the waiver under subparagraph (B)(iv).

"(G) If an approved application submitted under subsection (b)(2) for a new animal drug refers to a drug the approval of which was withdrawn or suspended for grounds described in paragraph (1) or (2) of subsection (e) or was withdrawn or suspended under this subparagraph or which, as determined by the Secretary, has been withdrawn from sale for safety or effectiveness reasons, the approval of the drug under this paragraph shall be withdrawn or suspended—

"(i) for the same period as the withdrawal or suspension under subsection (e) or this subparagraph, or

"(ii) if the approved new animal drug has been withdrawn from sale, for the period of withdrawal from sale or, if earlier,

the period ending on the date the Secretary determines that the withdrawal from sale is not for safety or effectiveness reasons.

"(H) For purposes of this paragraph:

"(i) The term 'bioequivalence' means the rate and extent to which the active ingredient or therapeutic ingredient is absorbed from a new animal drug and becomes available at the site of drug action.

"(ii) A new animal drug shall be considered to be bioequivalent to the approved new animal drug referred to in its application under subsection (n) if—

"(I) the rate and extent of absorption of the drug do not show a significant difference from the rate and extent of absorption of the approved new animal drug referred to in the application when administered at the same dose of the active ingredient under similar experimental conditions in either a single dose or multiple doses;

"(II) the extent of absorption of the drug does not show a significant difference from the extent of absorption of the approved new animal drug referred to in the application when administered at the same dose of the active ingredient under similar experimental conditions in either a single dose or multiple doses and the difference from the approved new animal drug in the rate of absorption of the drug is intentional, is reflected in its proposed labeling, is not essential to the attainment of effective drug concentrations in use, and is considered scientifically insignificant for the drug in attaining the intended purposes of its use and preserving human food safety; or

"(III) in any case in which the Secretary determines that the measurement of the rate and extent of absorption or excretion of the new animal drug in biological fluids is inappropriate or impractical, an appropriate acute pharmacological effects test or other test of the new animal drug and, when deemed scientifically necessary, of the approved new animal drug referred to in the application in the species to be tested or in an appropriate animal model does not show a significant difference between the new animal drug and such approved new animal drug when administered at the same dose under similar experimental conditions.

If the approved new animal drug referred to in the application for a new animal drug under subsection (n) is approved for use in more than one animal species, the bioequivalency information described in subclause (I), (II), and (III) shall be obtained for one species, or if the Secretary deems appropriate based on scientific principles, shall be obtained for more than one species. The Secretary may prescribe the dose to be used in determining bioequivalency under subclause (I), (II), or (III). To assure that the residues of the new animal drug will be consistent with the established tolerances for the approved new animal drug referred to in the application under subsection (b)(2) upon the expiration of the withdrawal period contained in the application for the new animal drug, the Secretary shall require bioequivalency data or residue depletion studies of the new animal drug or such other data or studies as the Secretary considers appropriate based on scientific principles. If the Secretary requires one or more residue studies under the preceding

sentence, the Secretary may not require that the assay methodology used to determine the withdrawal period of the new animal drug be more rigorous than the methodology used to determine the withdrawal period for the approved new animal drug referred to in the application. If such studies are required and if the approved new animal drug, referred to in the application for the new animal drug for which such studies are required, is approved for use in more than one animal species, such studies shall be conducted for one species, or if the Secretary deems appropriate based on scientific principles, shall be conducted for more than one species.".

SEC. 102. PATENT INFORMATION.

(a) SECTION 512(b).—Section 512(b)(1) of such Act is amended by adding at the end the following: "The applicant shall file with the application the patent number and the expiration date of any patent which claims the new animal drug for which the applicant filed the application or which claims a method of using such drug and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug. If an application is filed under this subsection for a drug and a patent which claims such drug or a method of using such drug is issued after the filing date but before approval of the application, the applicant shall amend the application to include the information required by the preceding sentence. Upon approval of the application, the Secretary shall publish information submitted under the two preceding sentences.". 21 USC 360b. Public information.

(b) OTHER SECTIONS.—

(1) Section 512(c) is amended by adding at the end the following: 21 USC 360b.

"(3) If the patent information described in subsection (b)(1) could not be filed with the submission of an application under subsection (b)(1) because the application was filed before the patent information was required under subsection (b)(1) or a patent was issued after the application was approved under such subsection, the holder of an approved application shall file with the Secretary the patent number and the expiration date of any patent which claims the new animal drug for which the application was filed or which claims a method of using such drug and with respect to which a claim of patent infringement could reasonably be asserted if a person not licensed by the owner engaged in the manufacture, use, or sale of the drug. If the holder of an approved application could not file patent information under subsection (b)(1) because it was not required at the time the application was approved, the holder shall file such information under this subsection not later than 30 days after the date of the enactment of this sentence, and if the holder of an approved application could not file patent information under subsection (b)(1) because no patent had been issued when an application was filed or approved, the holder shall file such information under this subsection not later than 30 days after the date the patent involved is issued. Upon the submission of patent information under this subsection, the Secretary shall publish it.". Public information.

(2) The first sentence of section 512(d)(1) is amended by redesignating subparagraphs (G) and (H) as subparagraphs (H) and (I), respectively and by inserting after subparagraph (F) the following: 21 USC 360b.

"(G) the application failed to contain the patent information prescribed by subsection (b)(1);".

21 USC 360b. (3) The second sentence of section 512(d)(1) is amended by striking out "(H)" and inserting in lieu thereof "(G)".

21 USC 360b. (4) The first sentence of section 512(e)(1) is amended by redesignating subparagraphs (D) and (E) as subparagraphs (E) and (F), respectively, and by inserting after subparagraph (C) the following:

"(D) the patent information prescribed by subsection (c)(3) was not filed within 30 days after the receipt of written notice from the Secretary specifying the failure to file such information;".

21 USC 360b note.

SEC. 103. REGULATIONS.

(a) GENERAL RULE.—The Secretary of Health and Human Services shall promulgate, in accordance with the notice and comment requirements of section 553 of title 5, United States Code, such regulations as may be necessary for the administration of section 512 of the Federal Food, Drug, and Cosmetic Act, as amended by sections 101 through 103 of this title, within one year of the date of enactment of this Act.

(b) TRANSITION.—During the period beginning 60 days after the date of enactment of this Act and ending on the date regulations promulgated under subsection (a) take effect, abbreviated new animal drug applications may be submitted in accordance with the provisions of section 314.55 and part 320 of title 21 of the Code of Federal Regulations and shall be considered as suitable for any drug which has been approved for safety and effectiveness under section 512(c) of the Federal Food, Drug, and Cosmetic Act before the date of enactment of this Act. If any such provision of section 314.55 or part 320 is inconsistent with the requirements of section 512 of the Federal Food, Drug, and Cosmetic Act (as amended by this title), the Secretary shall consider the application under the applicable requirements of section 512 (as so amended).

SEC. 104. SAFETY AND EFFECTIVENESS DATA.

Section 512 (as amended by section 101(b) of this title) is amended by adding at the end the following:

Public information. "(p)(1) Safety and effectiveness data and information which has been submitted in an application filed under subsection (b)(1) for a drug and which has not previously been disclosed to the public shall be made available to the public, upon request, unless extraordinary circumstances are shown—

"(A) if no work is being or will be undertaken to have the application approved,

"(B) if the Secretary has determined that the application is not approvable and all legal appeals have been exhausted,

"(C) if approval of the application under subsection (c) is withdrawn and all legal appeals have been exhausted,

"(D) if the Secretary has determined that such drug is not a new drug, or

"(E) upon the effective date of the approval of the first application filed under subsection (b)(2) which refers to such drug or upon the date upon which the approval of an application filed under subsection (b)(2) which refers to such drug could be made effective if such an application had been filed.

"(2) Any request for data and information pursuant to paragraph (1) shall include a verified statement by the person making the

request that any data or information received under such paragraph shall not be disclosed by such person to any other person—

"(A) for the purpose of, or as part of a plan, scheme, or device for, obtaining the right to make, use, or market, or making, using, or marketing, outside the United States, the drug identified in the application filed under subsection (b)(1), and

"(B) without obtaining from any person to whom the data and information are disclosed an identical verified statement, a copy of which is to be provided by such person to the Secretary, which meets the requirements of this paragraph.".

SEC. 105. VETERINARY PRESCRIPTION DRUGS.

Section 503 (21 U.S.C. 353) is amended by adding at the end thereof the following new subsection:

"(c)(1)(A) A drug intended for use by animals other than man which—

"(i) because of its toxicity or other potentiality for harmful effect, or the method of its use, or the collateral measures necessary for its use, is not safe for animal use except under the professional supervision of a licensed veterinarian, or

"(ii) is limited by an approved application under subsection (b) of section 512 to use under the professional supervision of a licensed veterinarian,

shall be dispensed only by or upon the lawful written or oral order of a licensed veterinarian in the course of the veterinarian's professional practice.

"(B) For purposes of subparagraph (A), an order is lawful if the order—

"(i) is a prescription or other order authorized by law,

"(ii) is, if an oral order, promptly reduced to writing by the person lawfully filling the order, and filed by that person, and

"(iii) is refilled only if authorized in the original order or in a subsequent oral order promptly reduced to writing by the person lawfully filling the order, and filed by that person.

"(C) The act of dispensing a drug contrary to the provisions of this paragraph shall be deemed to be an act which results in the drug being misbranded while held for sale. Fraud.

"(2) Any drug when dispensed in accordance with paragraph (1) of this subsection—

"(A) shall be exempt from the requirements of section 502, except subsections (a), (g), (h), (i)(2), (i)(3), and (p) of such section, and

"(B) shall be exempt from the packaging requirements of subsections (g), (h), and (p) of such section, if—

"(i) when dispensed by a licensed veterinarian, the drug bears a label containing the name and address of the practitioner and any directions for use and cautionary statements specified by the practitioner, or

"(ii) when dispensed by filling the lawful order of a licensed veterinarian, the drug bears a label containing the name and address of the dispenser, the serial number and date of the order or of its filling, the name of the licensed veterinarian, and the directions for use and cautionary statements, if any, contained in such order.

The preceding sentence shall not apply to any drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail.

"(3) The Secretary may by regulation exempt drugs for animals other than man subject to section 512 from the requirements of paragraph (1) when such requirements are not necessary for the protection of the public health.

Fraud.

"(4) A drug which is subject to paragraph (1) shall be deemed to be misbranded if at any time prior to dispensing its label fails to bear the statement 'Caution: Federal law restricts this drug to use by or on the order of a licensed veterinarian.'. A drug to which paragraph (1) does not apply shall be deemed to be misbranded if at any time prior to dispensing its label bears the statement specified in the preceding sentence.".

21 USC 360b note.

SEC. 106. DRUGS PRIMARILY MANUFACTURED USING BIOTECHNOLOGY.

Notwithstanding section 512(b)(2) of the Federal Food, Drug, and Cosmetic Act, the Secretary of Health and Human Services may not approve an abbreviated application submitted under such section for a new animal drug which is primarily manufactured using recombinant DNA, recombinant RNA, hybridoma technology, or other processes involving site specific genetic manipulation techniques.

SEC. 107. CONFORMING AMENDMENTS.

(a) BATCH CERTIFICATION.—

(1) Section 201(w) (21 U.S.C. 321(w)) is amended by striking out "; or" at the end of paragraph (2) and inserting in lieu thereof a period and by striking out paragraph (3).

(2) Section 512(a)(1) (21 U.S.C. 360b(a)(1)) is amended by inserting "and" at the end of subparagraph (A), by striking out ", and" at the end of subparagraph (B) and inserting in lieu thereof a period, and by striking out subparagraph (C).

(b) TITLE 28.—Section 2201(b) of title 28, United States Code, is amended by inserting "or 512" after "505".

21 USC 360b note.

SEC. 108. EFFECTIVE DATE.

The Secretary of Health and Human Services may not make an approval of an application submitted under section 512(b)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 360b(b)(2)) effective before January 1, 1991.

TITLE II—PATENT TERMS

SEC. 201. EXTENSION OF PATENT TERM.

35 USC 156.

(a) SECTION 156(a)(5).—Section 156(a)(5) is amended—

(1) by inserting "or (C)" after "subparagraph (B)" in subparagraph (A),

(2) by striking out "or" at the end of subparagraph (A), and

(3) by striking out the period at the end of subparagraph (B) and inserting "; or" and the following:

Marketing.

"(C) for purposes of subparagraph (A), in the case of a patent which—

"(i) claims a new animal drug or a veterinary biological product which (I) is not covered by the claims in any other patent which has been extended, and (II) has received permission for the commercial marketing or use in non-food-producing animals and in food-producing animals, and

"(ii) was not extended on the basis of the regulatory review period for use in non-food-producing animals,

the permission for the commercial marketing or use of the drug or product after the regulatory review period for use in food-producing animals is the first permitted commercial marketing or use of the drug or product for administration to a food-producing animal.".

(b) SECTION 156(b).—Section 156(b) is amended to read as follows: 35 USC 156.

"(b) The rights derived from any patent the term of which is extended under this section shall during the period during which the term of the patent is extended—

"(1) in the case of a patent which claims a product, be limited to any use approved for the product—

"(A) before the expiration of the term of the patent—

"(i) under the provision of law under which the applicable regulatory review occurred, or

"(ii) under the provision of law under which any regulatory review described in paragraph (1), (4), or (5) of subsection (g) occurred, and

"(B) on or after the expiration of the regulatory review period upon which the extension of the patent was based;

"(2) in the case of a patent which claims a method of using a product, be limited to any use claimed by the patent and approved for the product—

"(A) before the expiration of the term of the patent—

"(i) under any provision of law under which an applicable regulatory review occurred, and

"(ii) under the provision of law under which any regulatory review described in paragraph (1), (4), or (5) of subsection (g) occurred, and

"(B) on or after the expiration of the regulatory review period upon which the extension of the patent was based; and

"(3) in the case of a patent which claims a method of manufacturing a product, be limited to the method of manufacturing as used to make—

"(A) the approved product, or

"(B) the product if it has been subject to a regulatory review period described in paragraphs (1), (4), or (5) of subsection (g).

As used in this subsection, the term 'product' includes an approved product.".

(c) SECTION 156(c)(2).—Section 156(c)(2) is amended by striking out "and (3)(B)(i)" and inserting in lieu thereof "(3)(B)(i), (4)(B)(i), and (5)(B)(i)".

(d) SECTION 156(d)(1)(C).—Section 156(d)(1)(C) is amended by inserting "or the Secretary of Agriculture" after "Services".

(e) SECTION 156(d)(2)(A).—Section 156(d)(2)(A) is amended to read as follows:

"(2)(A) Within 60 days of the submittal of an application for extension of the term of a patent under paragraph (1), the Commissioner shall notify—

"(i) the Secretary of Agriculture if the patent claims a drug product or a method of using or manufacturing a drug product and the drug product is subject to the Virus-Serum-Toxin Act, and

"(ii) the Secretary of Health and Human Services if the patent claims any other drug product, a medical device, or a food additive or color additive or a method of using or manufac-

turing such a product, device, or additive and if the product, device, and additive are subject to the Federal Food, Drug, and Cosmetic Act,

of the extension application and shall submit to the Secretary who is so notified a copy of the application. Not later than 30 days after the receipt of an application from the Commissioner, the Secretary receiving the application shall review the dates contained in the application pursuant to paragraph (1)(C) and determine the applicable regulatory review period, shall notify the Commissioner of the determination, and shall publish in the Federal Register a notice of such determination.".

Federal Register, publication.

35 USC 156.

(f) SECTION 156(d)(2)(B).—Section 156(d)(2)(B) is amended to read as follows:

"(B)(i) If a petition is submitted to the Secretary making the determination under subparagraph (A), not later than 180 days after the publication of the determination under subparagraph (A), upon which it may reasonably be determined that the applicant did not act with due diligence during the applicable regulatory review period, the Secretary making the determination shall, in accordance with regulations promulgated by such Secretary, determine if the applicant acted with due diligence during the applicable regulatory review period. The Secretary making the determination shall make such determination not later than 90 days after the receipt of such a petition. For a drug product, device, or additive subject to the Federal Food, Drug, and Cosmetic Act or the Public Health Service Act, the Secretary may not delegate the authority to make the determination prescribed by this clause to an office below the Office of the Commissioner of Food and Drugs. For a product subject to the Virus-Serum-Toxin Act, the Secretary of Agriculture may not delegate the authority to make the determination prescribed by this clause to an office below the office of the Assistant Secretary for Marketing and Inspection Services.

Federal Register, publication.

"(ii) The Secretary making a determination under clause (i) shall notify the Commissioner of the determination and shall publish in the Federal Register a notice of such determination together with the factual and legal basis for such determination. Any interested person may request, within the 60-day period beginning on the publication of a determination, the Secretary making the determination to hold an informal hearing on the determination. If such a request is made within such period, such Secretary shall hold such hearing not later than 30 days after the date of the request, or at the request of the person making the request, not later than 60 days after such date. The Secretary who is holding the hearing shall provide notice of the hearing to the owner of the patent involved and to any interested person and provide the owner and any interested person an opportunity to participate in the hearing. Within 30 days after the completion of the hearing, such Secretary shall affirm or revise the determination which was the subject of the hearing and shall notify the Commissioner of any revision of the determination and shall publish any such revision in the Federal Register.".

Federal Register, publication.

(g) SECTION 156(f).—Section 156(f) is amended—

(1) by striking out "human" in paragraph (1)(A) and by amending paragraph (2) to read as follows:

"(2) The term 'drug product' means the active ingredient of—

"(A) a new drug, antibiotic drug, or human biological product (as those terms are used in the Federal Food, Drug, and Cosmetic Act and the Public Health Service Act), or

"(B) a new animal drug or veterinary biological product (as those terms are used in the Federal Food, Drug, and Cosmetic Act and the Virus-Serum-Toxin Act) which is not primarily manufactured using recombinant DNA, recombinant RNA, hybridoma technology, or other processes involving site specific genetic manipulation techniques,

including any salt or ester of the active ingredient, as a single entity or in combination with another active ingredient.",

(2) by amending subparagraphs (B) and (C) of paragraph (4) to read as follows:

"(B) Any reference to section 503, 505, 507, 512, or 515 is a reference to section 503, 505, 507, 512, or 515 of the Federal Food, Drug, and Cosmetic Act.

"(C) Any reference to the Virus-Serum-Toxin Act is a reference to the Act of March 4, 1913 (21 U.S.C. 151-158).", and

(3) by adding at the end the following:

"(7) The term 'date of enactment' as used in this section means September 24, 1984, for a human drug product, a medical device, food additive, or color additive.

"(8) The term 'date of enactment' as used in this section means the date of enactment of the Generic Animal Drug and Patent Term Restoration Act for an animal drug or a veterinary biological product.".

(h) SECTION 156(g).— 35 USC 156.

(1) Paragraph (1) of section 156(g) is amended—

(A) in subparagraph (A), by striking out "human drug product" and inserting in lieu thereof "new drug, antibiotic drug, or human biological product",

(B) in subparagraph (B)—

(i) by striking out "human drug product" in the matter before clause (i) and inserting in lieu thereof "new drug, antibiotic drug, or human biological product", and

(ii) by striking out "human drug product" in clauses (i) and (ii) and inserting in lieu thereof "product".

(2) Paragraph (1)(A) of section 156(g) is amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (6)".

(3) Paragraphs (2)(A) and (3)(A) are each amended by striking out "paragraph (4)" and inserting in lieu thereof "paragraph (6)".

(4) Section 156(g) is amended by redesignating paragraph (4) as paragraph (6) and by inserting after paragraph (3) the following:

"(4)(A) In the case of a product which is a new animal drug, the term means the period described in subparagraph (B) to which the limitation described in paragraph (6) applies.

"(B) The regulatory review period for a new animal drug product is the sum of—

"(i) the period beginning on the earlier of the date a major health or environmental effects test on the drug was initiated or the date an exemption under subsection (j) of section 512 became effective for the approved new animal drug product and ending on the date an application was

initially submitted for such animal drug product under section 512, and

"(ii) the period beginning on the date the application was initially submitted for the approved animal drug product under subsection (b) of section 512 and ending on the date such application was approved under such section.

"(5)(A) In the case of a product which is a veterinary biological product, the term means the period described in subparagraph (B) to which the limitation described in paragraph (6) applies.

"(B) The regulatory period for a veterinary biological product is the sum of—

"(i) the period beginning on the date the authority to prepare an experimental biological product under the Virus-Serum-Toxin Act became effective and ending on the date an application for a license was submitted under the Virus-Serum-Toxin Act, and

"(ii) the period beginning on the date an application for a license was initially submitted for approval under the Virus-Serum-Toxin Act and ending on the date such license was issued.".

35 USC 156.

(5) Paragraph (6) (as so redesignated) of section 156(g) is amended—

(A) by striking out "paragraph (1)(B) was submitted" in subparagraph (B)(i) and inserting in lieu thereof "paragraph (1)(B) or (4)(B) was submitted and no request for the authority described in paragraph (5)(B) was submitted",

(B) by striking out "paragraph (2)" in subparagraph (B)(ii) and inserting in lieu thereof "paragraph (2)(B) or (4)(B)", and

(C) in subparagraph (C), by inserting before the period the following: "or in the case of an approved product which is a new animal drug or veterinary biological product (as those terms are used in the Federal Food, Drug, and Cosmetic Act or the Virus-Serum-Toxin Act), three years".

(i) SECTION 271(e).—

(1) Section 271(e)(1) is amended—

(A) by inserting before the last close parenthesis the following: "which is primarily manufactured using recombinant DNA, recombinant RNA, hybridoma technology, or other processes involving site specific genetic manipulation techniques", and

(B) by inserting before the period the following: "or veterinary biological products".

(2) Section 271(e)(2) is amended to read as follows:

"(2) It shall be an act of infringement to submit—

"(A) an application under section 505(j) of the Federal Food, Drug, and Cosmetic Act or described in section 505(b)(2) of such Act for a drug claimed in a patent or the use of which is claimed in a patent, or

"(B) an application under section 512 of such Act or under the Act of March 4, 1913 (21 U.S.C. 151-158) for a drug or veterinary biological product which is not primarily manufactured using recombinant DNA, recombinant RNA, hybridoma technology, or other processes involving site specific genetic manipulation techniques and which is claimed in a patent or the use of which is claimed in a patent,

if the purpose of such submission is to obtain approval under such Act to engage in the commercial manufacture, use, or sale of a drug or veterinary biological product claimed in a patent or the use of which is claimed in a patent before the expiration of such patent.".

(3) Section 271(e)(4) is amended by inserting "or veterinary biological product" after "drug" each place it occurs. 35 USC 271.

Approved November 16, 1988.

LEGISLATIVE HISTORY—S. 2843 (H.R. 4982):

HOUSE REPORTS: No. 100-972, Pt. 1 (Comm. on Energy and Commerce) and Pt. 2 (Comm. on the Judiciary), both accompanying H.R. 4982.
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 6, H.R. 4982 considered and passed House.
Oct. 13, S. 2843 considered and passed Senate and House.

Public Law 100-671
100th Congress

Joint Resolution

Nov. 16, 1988
[S.J. Res. 303]

To designate the month of October 1988 as "National Lupus Awareness Month".

Whereas Lupus Erythematosus is a disease which affects over five hundred thousand Americans, mostly women in their childbearing years;
Whereas Lupus is an immune system disorder of unknown cause which affects the joints, skin, and almost any vital organ;
Whereas although Lupus can be controlled reasonably well in most people, it can be fatal in some instances; and
Whereas the commitment to research and educational efforts to develop a greater understanding about Lupus should be continued: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the month of October 1988 is designated as "National Lupus Awareness Month", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the month with appropriate programs, ceremonies, and activities.

Approved November 16, 1988.

LEGISLATIVE HISTORY—S.J. Res. 303:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-672
100th Congress

Joint Resolution

Designating the third week in May 1989 as "National Tourism Week".

Nov. 16, 1988
[S.J. Res. 325]

Whereas travel and tourism is the third largest retail industry and the second largest private employer in the United States, generating more than five million five hundred thousand jobs and indirectly employing another two million two hundred thousand Americans;

Whereas total travel expenditures in the United States amount to nearly $270,000,000,000 annually, or about 6.4 per centum of the gross national product;

Whereas tourism is an essential American export, as more than twenty-eight million foreign travelers spent approximately $19,000,000,000 in the United States in 1987;

Whereas development and promotion of tourism have brought new industries, jobs, and economic revitalization to cities and regions across the United States;

Whereas tourism contributes substantially to personal growth, education, appreciation of intercultural differences, and the enhancement of international understanding and good will; and

Whereas the abundant natural and manmade attractions of the United States and the hospitality of the American people establish the United States as the preeminent destination for both foreign and domestic travelers: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the week beginning on the second Sunday in May 1989 is designated as "National Tourism Week". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that week with appropriate ceremonies and activities.

Approved November 16, 1988.

LEGISLATIVE HISTORY—S.J. Res. 325:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-673
100th Congress

An Act

Nov. 17, 1988
[H.R. 5280]

To require the Secretary of the Treasury to mint coins in commemoration of the Bicentennial of the United States Congress.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Bicentennial of the United States Congress Commemorative Coin Act.
31 USC 5112 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Bicentennial of the United States Congress Commemorative Coin Act".

31 USC 5112 note.

SEC. 2. SPECIFICATIONS OF COINS.

(a) FIVE DOLLAR GOLD COINS.—

(1) ISSUANCE.—The Secretary of the Treasury (hereinafter in this Act referred to as the "Secretary") shall mint and issue not more than 1,000,000 five dollar coins each of which shall—

(A) weigh 8.359 grams;

(B) have a diameter of .850 inches; and

(C) be composed of 90 percent gold and 10 percent alloy.

(2) DESIGN.—The design of the five dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. Each five dollar coin shall bear a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) ONE DOLLAR SILVER COINS.—

(1) ISSUANCE.—The Secretary shall mint and issue not more than 3,000,000 one dollar coins each of which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) be composed of 90 percent silver and 10 percent copper.

(2) DESIGN.—The design of the one dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. Each one dollar coin shall bear a designation of the value of the coin, an inscription of the year "1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(c) HALF DOLLAR CLAD COINS.—

(1) ISSUANCE.—The Secretary shall issue not more than 4,000,000 half dollar coins each of which shall—

(A) weigh 11.34 grams;

(B) have a diameter of 1.205 inches; and

(C) be minted to the specifications for half dollar coins contained in section 5112(b) of title 31, United States Code.

(2) DESIGN.—The design of the half dollar coins shall, in accordance with section 4, be emblematic of the Bicentennial of the United States Congress. On each half dollar coin shall be a designation of the value of the coin, an inscription of the year

"1989", and inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(d) LEGAL TENDER.—The coins minted under this Act shall be legal tender as provided in section 5103 of title 31, United States Code.

(e) NUMISMATIC ITEMS.—For purposes of section 5132(a)(1) of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 3. SOURCES OF BULLION. 31 USC 5112 note.

(a) GOLD.—The Secretary shall obtain gold for minting coins under this Act pursuant to the authority of the Secretary under existing law.

(b) SILVER.—The Secretary shall obtain silver for minting coins under this Act only from stockpiles established under the Strategic and Critical Minerals Stock Piling Act (50 U.S.C. 98 et seq.).

SEC. 4. DESIGN OF COINS. 31 USC 5112 note.

The design for each coin authorized by this Act shall be selected by the Secretary after consultation with the Speaker of the House of Representatives, the President pro tempore of the Senate, and the Commission of Fine Arts.

SEC. 5. ISSUANCE OF COINS. 31 USC 5112 note.

(a) FIVE DOLLAR COINS.—The five dollar coins minted under this Act may be issued in uncirculated and proof qualities and shall be struck at the United States Mint at West Point, New York.

(b) ONE DOLLAR AND HALF DOLLAR COINS.—The one dollar and half dollar coins minted under this Act may be issued in uncirculated and proof qualities, except that not more than one facility of the United States Mint may be used to strike any particular combination of denomination and quality.

(c) COMMENCEMENT OF ISSUANCE.—The Secretary may issue the coins minted under this Act beginning January 1, 1989.

(d) TERMINATION OF AUTHORITY.—Coins may not be minted under this Act after June 30, 1990.

(e) CONTRACTS.—Any contract to be made by the Secretary involving the promotion, advertising, or marketing of any coins authorized under this Act shall be valid only upon approval by the United States Capitol Preservation Commission.

SEC. 6. SALE OF COINS. 31 USC 5112 note.

(a) IN GENERAL.—Notwithstanding any other provision of law, the Secretary shall sell the coins minted under this Act at a price equal to the face value, plus the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, and overhead expenses).

(b) BULK SALES.—The Secretary shall make any bulk sales of the coins minted under this Act at a reasonable discount to reflect the lower costs of such sales.

(c) PREPAID ORDERS.—The Secretary shall accept prepaid orders for the coins minted under this Act prior to the issuance of such coins. Sale prices with respect to such prepaid orders shall be at a reasonable discount.

(d) SURCHARGES.—All sales of coins minted under this Act shall include a surcharge of $35 per coin for the five dollar coins, $7 per coin for the one dollar coins, and $1 per coin for the half dollar coins.

31 USC 5112 note.

SEC. 7. FINANCIAL ASSURANCES.

(a) NO NET COST TO THE GOVERNMENT.—The Secretary shall take such actions as may be necessary to ensure that minting and issuing coins under this Act will not result in any net cost to the United States Government.

(b) PAYMENT FOR COINS.—A coin shall not be issued under this Act unless the Secretary has received—

(1) full payment for the coin;

(2) security satisfactory to the Secretary to indemnify the United States for full payment; or

(3) a guarantee of full payment satisfactory to the Secretary from a depository institution whose deposits are insured by the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or the National Credit Union Administration Board.

31 USC 5112 note.

SEC. 8. USE OF SURCHARGES.

(a) USE OF SURCHARGES.—Fifty percent of the first $40,000,000 in surcharges that are received by the Secretary from the sale of coins minted under this Act shall be deposited in the Capitol Preservation Fund and be available to the United States Capitol Preservation Commission. The balance of the surcharges received by the Secretary shall be deposited in the general fund of the Treasury for the sole purpose of reducing the national debt.

(b) RESTRICTIONS ON USE OF SURCHARGES.—

(1) PROHIBITION ON REPRESENTATIONAL EXPENSES.—No amount received by the Commission from the Capitol Preservation Fund may be used to pay representational expenses of the Commission.

(2) LIMITATIONS ON REIMBURSEMENTS.—A member of an advisory board established by the Commission shall be entitled to receive per diem, travel and transportation expenses in the same manner as an employee serving intermittently in the Government service may receive under section 5703 of title 5, United States Code.

(c) REPORT REQUIRED.—The Commission shall submit a report of expenditures to the Clerk of the House of Representatives not later than February 28 for the last six months of the preceding year and not later than August 31 for the first six months of the current year. The Clerk shall promptly transmit the reports to the Public Printer for printing in the Congressional Record.

31 USC 5112 note.

SEC. 9. GENERAL WAIVER OF PROCUREMENT REGULATIONS.

(a) IN GENERAL.—Except as provided in subsection (b), no provision of law governing procurement or public contracts shall be applicable to the procurement of goods and services necessary for carrying out the provisions of this Act.

(b) EQUAL EMPLOYMENT OPPORTUNITY.—Subsection (a) shall not relieve any person entering into a contract under the authority of

this Act from complying with any law relating to equal employment opportunity.

Approved November 17, 1988.

LEGISLATIVE HISTORY—H.R. 5280:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, 4, considered and passed House.
Oct. 7, considered and passed Senate, amended.
Oct. 20, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.

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Public Law 100-674
100th Congress

An Act

Nov. 17, 1988
[H.R. 5315]

To amend the Congressional Award Act to extend the Congressional Award Program.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Congressional Award Act Amendments of 1988.
2 USC 801 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Congressional Award Act Amendments of 1988".

SEC. 2. AMENDMENTS TO THE CONGRESSIONAL AWARD ACT.

(a) ANNUAL REPORTS.—Section 3(e) of the Congressional Award Act (2 U.S.C. 802(e)) is amended—

(1) by redesignating paragraph (6) as paragraph (8); and

(2) by inserting after paragraph (5) the following new paragraphs:

"(6) A detailed description of the goals and objectives of the Board and the role of Congressional participation in fulfilling those goals and objectives.

"(7) Plans for activities to be conducted during the remainder of the duration of the program, consistent with the functions and requirements established under this Act.".

(b) MEMBERSHIP OF THE BOARD.—Section 4 of the Congressional Award Act (2 U.S.C. 803) is amended—

(1) in subsection (a)(1)—

(A) by striking "thirty-three" and inserting "25";

(B) by striking "Eight" each place it appears and inserting "Six";

(C) by inserting ", 1 of whom shall be a member of the Congressional Award Association" before the period in each of subparagraphs (A) and (D); and

(D) by inserting ", 1 of whom shall be a representative of a local Congressional Award Council" before the period in each of subparagraphs (B) and (C); and

(2) by amending subsection (d) to read as follows:

"(d)(1) A meeting of the Board may be convened only if—

"(A) notice of the meeting was provided to each member in accordance with the bylaws; and

"(B) not less than 11 members are present for the meeting at the time given in the notice.

"(2) A majority of the members present when a meeting is convened shall constitute a quorum for the remainder of the meeting.".

(c) POWERS, FUNCTIONS, AND LIMITATIONS.—(1) The heading of section 7 of the Congressional Award Act (2 U.S.C. 806) is amended to read as follows:

"POWERS, FUNCTIONS, AND LIMITATIONS".

(2) Section 7 of the Congressional Award Act (2 U.S.C. 806) is amended—

(A) by redesignating subsections (b) through (g) as subsections (c) through (h), respectively; and

(B) by inserting after subsection (a) the following new subsection:

"(b)(1) The Board shall establish such functions and procedures as may be necessary to carry out the provisions of this Act.

"(2) The functions established by the Board under paragraph (1) shall include—

"(A) communication with local Congressional Award Councils concerning the Congressional Award Program;

"(B) provision, upon the request of any local Congressional Award Council, of such technical assistance as may be necessary to assist such council with its responsibilities, including the provision of medals, the preparation and provision of applications, guidance on disposition of applications, arrangements with respect to local award ceremonies, and other responsibilities of such council;

"(C) conducting of outreach activities to establish new State and local Congressional Award Councils, particularly in inner-city areas and rural areas; State and local governments. Urban areas. Rural areas.

"(D) fundraising;

"(E) conducting of an annual Gold Medal Awards ceremony in the District of Columbia; District of Columbia.

"(F) consideration of implementation of the provisions of this Act relating to scholarships; and

"(G) carrying out of duties relating to management of the national office of the Congressional Award Program, including supervision of office personnel and of the office budget.".

(d) REPORTS AND TERMINATION OF BOARD.—Section 9 of the Congressional Award Act is amended to read as follows:

"REPORTING AND TERMINATION PROVISIONS

"SEC. 9. (a) Except as provided in subsection (b), the Board shall terminate on November 15, 1989. 2 USC 808.

"(b)(1) If the Board fails to submit any report required by subsection (c), the Board shall terminate within 30 days of the failure.

"(2) Unless the Board is in compliance with subsection (b) of section 7 not later than September 30, 1989, the Board shall terminate on October 30, 1989.

"(3) If the Board makes the certification required by subsection (d), the Board shall terminate on September 30, 1990.

"(c)(1) The Board shall submit to the appropriate committees of the Congress 4 reports that each include at least—

"(A) a description of all fundraising activities conducted by the Board during—

"(i) in the case of the first report, the period beginning on the date of the enactment of the Congressional Award Act Amendments of 1988 and ending on the date of the report; and

"(ii) in the case of the second, third, and final reports, the period beginning on the date the previous report was submitted under this subsection and ending on the date of the report;

"(B) a description of the fiscal position of the Board as of the date of the report, including—

"(i) available cash;

"(ii) outstanding debts; and

"(iii) prospective operating expenses;

"(C) proposed fundraising activities to be carried out during the period beginning on the date of the report and ending on the date of the succeeding report;

"(D) the number and location of Congressional Award Councils established since the previous report in States or congressional districts where no such councils previously existed; and

"(E) any evidence of contacts between the Board or the Congressional Award Foundation and any congressional office, including copies of any correspondence between the Board or the Congressional Award Foundation and any congressional office.

"(2) The reports required by paragraph (1) shall be submitted as follows:

"(A) The first report shall be submitted not later than January 1, 1989.

"(B) The second report shall be submitted not later than April 1, 1989.

"(C) The third report shall be submitted not later than July 1, 1989.

"(D) The final report shall be submitted not later than September 30, 1989.

"(3) The date of the submission of a report under this subsection shall be considered to be the date of the report is registered to be mailed by certified mail, return receipt requested.

"(d) Not later than September 30, 1989, the Director shall certify to the congressional leadership that the Board complied with the requirements of this section in a timely manner.

"(e) Within 30 days of the submission of each report required under subsection (c) and the submission of the certification required under subsection (d), the Comptroller General of the United States shall submit to the appropriate committees of the Congress a report verifying the information submitted in the report or certification, as appropriate.

"(f) Prior to termination of the Board under this section, the Board shall take such actions as may be required to provide for the dissolution of any corporation established by the Board under section 7(h). The Board shall set forth, in its bylaws, the procedures for dissolution to be followed by the Board.".

2 USC 807. (e) CONFORMING AMENDMENT.—Section 8(a) is amended by striking "section 7(g)" and inserting "section 7(h)".

2 USC 803 note. SEC. 3. TRANSITION PROVISIONS.

Not later than 120 days after the date of the enactment of this Act, the congressional leadership shall appoint members to fill vacancies on the Congressional Award Board in accordance with section 4(a) of the Congressional Award Act (as amended by section 2(b)). In filling such vacancies, the congressional leadership shall first appoint members from the Congressional Award Association and local Congressional Award Councils in accordance with section 4(a) of the Congressional Award Act (as amended by section 2(b)).

SEC. 4. REPORT.

(a) IN GENERAL.—The Congressional Award Board shall submit to the appropriate committees and subcommittees of the Congress a report that describes in detail—

(1) the goals and objectives of the Board;

(2) the role of Congressional participation in fulfilling such goals and objectives; and

(3) plans for activities to be conducted during the remainder of the duration of the Congressional Award Program established under section 3 of the Congressional Award Act, consistent with the duties and requirements established under such Act.

(b) TIME FOR REPORT.—The report required by subsection (a) shall be submitted not later than 180 days after the date of the enactment of this Act.

Approved November 17, 1988.

LEGISLATIVE HISTORY—H.R. 5315:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 3, 4, considered and passed House.
Oct. 19, considered and passed Senate.

Public Law 100-675
100th Congress

An Act

Nov. 17, 1988
[S. 795]

To provide for the settlement of water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, to authorize the lining of the All American Canal, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

San Luis Rey Indian Water Rights Settlement Act.

TITLE I—SAN LUIS REY INDIAN WATER RIGHTS SETTLEMENT ACT

SEC. 101. SHORT TITLE.

This title may be cited as the "San Luis Rey Indian Water Rights Settlement Act".

SEC. 102. DEFINITIONS.

For purposes of this title:

(1) BANDS.—The term "Bands" means the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians which are recognized by the Secretary of the Interior as the governing bodies of their respective reservations in San Diego County, California.

(2) FUND.—The term "Fund" means the San Luis Rey Tribal Development Fund established by section 105.

(3) INDIAN WATER AUTHORITY.—The term "Indian Water Authority" means the San Luis Rey River Indian Water Authority, an intertribal Indian entity established by the Bands.

(4) LOCAL ENTITIES.—The term "local entities" means the city of Escondido, California; the Escondido Mutual Water Company; and the Vista Irrigation District.

(5) SETTLEMENT AGREEMENT.—The term "settlement agreement" means the agreement to be entered into by the United States, the Bands, and the local entities which will resolve all claims, controversies, and issues involved in all the pending proceedings among the parties.

(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(7) SUPPLEMENTAL WATER.—The term "supplemental water" means water from a source other than the San Luis Rey River.

SEC. 103. CONGRESSIONAL FINDINGS; LOCAL CONTRIBUTIONS; PURPOSE.

(a) FINDINGS.—The Congress finds the following:

(1) The Reservations established by the United States for the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians on or near the San Luis Rey River in San Diego County, California, need a reliable source of water.

(2) Diversions of water from the San Luis Rey River for the benefit of the local entities commenced in the early 1890s and

continue to be an important source of supply to those communities.

(3) The inadequacy of the San Luis Rey River to supply the needs of both the Bands and the local entities has given rise to litigation to determine the rights of various parties to water from the San Luis Rey River.

(4) The pendency of the litigation has—

(A) severely impaired the Bands' efforts to achieve economic development on their respective reservations,

(B) contributed to the continuation of high rates of unemployment among the members of the Bands,

(C) increased the extent to which the Bands are financially dependent on the Federal Government, and

(D) impeded the Bands and the local entities from taking effective action to develop and conserve scarce water resources and to preserve those resources for their highest and best uses.

(5) In the absence of a negotiated settlement—

(A) the litigation, which was initiated almost 20 years ago, is likely to continue for many years,

(B) the economy of the region and the development of the reservations will continue to be adversely affected by the water rights dispute, and

(C) the implementation of a plan for improved water management and conservation will continue to be delayed.

(6) An agreement in principle has been reached under which a comprehensive settlement of the litigation would be achieved, the Bands' claims would be fairly and justly resolved, the Federal Government's trust responsibility to the Bands would be fulfilled, and the local entities and the Bands would make fair and reasonable contributions.

(7) The United States should contribute to the settlement by providing funding and delivery of water from a supplemental source. Water developed through conjunctive use of groundwater on public lands in southern California or water to be reclaimed from lining the previously unlined portions of the All American Canal can provide an appropriate supplemental water source.

(b) PURPOSE.—It is the purpose of this title to provide for the settlement of the reserved water rights claims of the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians in San Diego County, California, in a fair and just manner which—

(1) provides the Bands with a reliable water supply sufficient to meet their present and future needs;

(2) promotes conservation and the wise use of scarce water resources in the upper San Luis Rey River System;

(3) establishes the basis for a mutually beneficial, lasting, and cooperative partnership among the Bands and the local entities to replace the adversary relationships that have existed for several decades; and

(4) fosters the development of an independent economic base for the Bands.

SEC. 104. SETTLEMENT OF WATER RIGHTS DISPUTE.

Sections 106 and 109 of this Act shall take effect only when—

(1) the United States; the City of Escondido, California; the Escondido Mutual Water Company; the Vista Irrigation Dis-

trict; and the La Jolla, Rincon, San Pasqual, Pauma, and Pala Bands of Mission Indians have entered into a settlement agreement providing for the complete resolution of all claims, controversies, and issues involved in all of the pending proceedings among the parties in the United States District Court for the Southern District of California and the Federal Energy Regulatory Commission; and

(2) stipulated judgments or other appropriate final dispositions have been entered in said proceedings.

SEC. 105. SAN LUIS REY TRIBAL DEVELOPMENT FUND.

(a) ESTABLISHMENT OF FUND.—There is hereby established within the Treasury of the United States the "San Luis Rey Tribal Development Fund".

(b) AUTHORIZATION OF APPROPRIATIONS.—

(1) There is authorized to be appropriated to the San Luis Rey Tribal Development Fund $30,000,000, together with interest accruing from the date of enactment of this Act at a rate determined by the Secretary of the Treasury taking into consideration the average market yield on outstanding Federal obligations of comparable maturity. Following execution of the settlement agreement, judgments, and other appropriate final dispositions specified in section 104, the Secretary of the Treasury shall allocate and make available such monies from the trust fund as are requested by the Indian Water Authority.

(2) Any monies not allocated to the Indian Water Authority and remaining in the fund authorized by this section shall be invested by the Secretary of the Treasury in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a). Such interest shall be made available to the Indian Water Authority in the same manner as the monies identified in paragraph (1).

SEC. 106. DUTIES OF THE UNITED STATES FOR DEVELOPMENT OF SUPPLEMENTAL WATER.

(a) OBLIGATION TO ARRANGE FOR DEVELOPMENT OF WATER FOR BANDS AND LOCAL ENTITIES.—To provide a supplemental water supply for the benefit of the Bands and the local entities, subject to the provisions of the settlement agreement, the Secretary is authorized and directed to:

(1) arrange for the development of not more than a total of 16,000 acre-feet per year of supplemental water from public lands within the State of California outside the service area of the Central Valley Project; or

(2) arrange to obtain not more than a total of 16,000 acre-feet per year either from water conserved by the works authorized in title II of this Act, or through contract with the Metropolitan Water District of Southern California.

Nothing in this section or any other provision of this title shall authorize the construction of any new dams, reservoirs or surface water storage facilities.

(b) AUTHORITY TO UTILIZE EXISTING PROGRAMS AND PUBLIC LANDS.—To carry out the provisions of subsection (a), the Secretary may, subject to the rights and interests of other parties and to the extent consistent with the requirements of the laws of the State of California and such other laws as may be applicable:

(1) utilize existing programs and authorities; and

(2) permit water to be pumped from beneath public lands and, in conjunction therewith, authorize a program to recharge some or all of the groundwater that is so pumped.

(c) TERMS AND CONDITIONS OF WATER DELIVERIES.—Such supplemental water shall be provided for use by the Bands on their reservation and the local entities in their service areas pursuant to the terms of the settlement agreement and shall be delivered at locations, on a schedule and under terms and conditions to be agreed upon by the Secretary, the Indian Water Authority, the local entities and any agencies participating in the delivery of the water. It may be exchanged for water from other sources for use on the Bands' reservations or in the local entities' service areas.

(d) COST OF DEVELOPING AND DELIVERING WATER.—The cost of developing and delivering supplemental water pursuant to this section shall not be borne by the United States, and no Federal appropriations are authorized for this purpose.

(e) REPORT TO CONGRESS.—Notwithstanding the provisions of section 104, within nine months following enactment of this Act, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and to the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate on (1) the Secretary's recommendations for providing a supplemental water source including a description of the works, their costs and impacts, and the method of financing; and (2) the proposed form of contract for delivery of supplemental water to the Bands and the local entities. When 60 calendar days have elapsed following submission of the Secretary's report, the Secretary shall execute the necessary contracts and carry out the recommended program unless otherwise directed by the Congress. Contracts.

SEC. 107. ESTABLISHMENT, STATUS, AND GENERAL POWERS OF SAN LUIS REY RIVER INDIAN WATER AUTHORITY.

(a) ESTABLISHMENT OF INDIAN WATER AUTHORITY APPROVED AND RECOGNIZED.—

(1) IN GENERAL.—The establishment by the Bands of the San Luis Rey River Indian Water Authority as a permanent intertribal entity pursuant to duly adopted ordinances and the power of the Indian Water Authority to act for the Bands are hereby recognized and approved.

(2) LIMITATION ON POWER TO AMEND OR MODIFY ORDINANCES.—Any proposed modification or repeal of any ordinance referred to in paragraph (1) must be approved by the Secretary, except that no such approval may be granted unless the Secretary finds that the proposed modification or repeal will not interfere with or impair the ability of the Indian Water Authority to carry out its responsibilities and obligations pursuant to this Act and the settlement agreement.

(b) STATUS AND GENERAL POWERS OF INDIAN WATER AUTHORITY.—

(1) STATUS AS INDIAN ORGANIZATION.—To the extent provided in the ordinances of the Bands which established the Indian Water Authority, such Authority shall be treated as an Indian entity under Federal law with which the United States has a trust relationship.

(2) POWER TO ENTER INTO AGREEMENTS.—The Indian Water Authority may enter into such agreements as it may deem necessary to implement the provisions of this title and the settlement agreement.

(3) INVESTMENT POWER.—Notwithstanding paragraph (1) or any other provision of law, the Indian Water Authority shall have complete discretion to invest and manage its own funds: *Provided,* That the United States shall not bear any obligation or liability regarding the investment, management or use of such funds.

(4) LIMITATION ON SPENDING AUTHORITY.—All funds of the Indian Water Authority which are not required for administrative or operational expenses of the Authority or to fulfill obligations of the Authority under this title, the settlement agreement, or any other agreement entered into by the Indian Water Authority shall be invested or used for economic development of the Bands, the Bands' reservation lands, and their members. Such funds may not be used for per capita payments to members of any Band.

(c) INDIAN WATER AUTHORITY TREATED AS TRIBAL GOVERNMENT FOR CERTAIN PURPOSES.—The Indian Water Authority shall be considered to be an Indian tribal government for purposes of section 7871(a)(4) of the Internal Revenue Code of 1986.

SEC. 108. DELEGATION OF AUTHORITY.

Contracts.

The Secretary and the Attorney General of the United States, acting on behalf of the United States, and the Bands, acting through their duly authorized governing bodies, are authorized to enter into the settlement agreement. The Secretary is authorized to enter into such agreements and to take such measures as the Secretary may deem necessary or appropriate to fulfill the provisions of this title.

SEC. 109. AUTHORITY OF THE FEDERAL ENERGY REGULATORY COMMISSION AND THE SECRETARY OF THE INTERIOR OVER POWER FACILITIES AND GOVERNMENT AND INDIAN LANDS.

(a) POWER FACILITIES.—Any license issued under the Act of June 10, 1920 (16 U.S.C. 791a et seq., commonly referred to as Part I of the Federal Power Act) for any part of the system that diverts the waters of the San Luis Rey River originating above the intake to the Escondido Canal—

(1) shall be subject to all of the terms, conditions, and provisions of the settlement agreement and this title; and

(2) shall not in any way interfere with, impair or affect the ability of the Bands, the local entities and the United States to implement, perform, and comply fully with all of the terms, conditions, and provisions of the settlement agreement.

(b) INDIAN AND GOVERNMENT LANDS.—Notwithstanding any provision of Part I of the Federal Power Act to the contrary, the Secretary is exclusively authorized, subject to subsection (c), to lease, grant rights-of-way across, or transfer title to, any Indian tribal or allotted land, or any other land subject to the authority of the Secretary, which is used, or may be useful, in connection with the operation, maintenance, repair, or replacement of the system to divert, convey, and store the waters of the San Luis Rey River originating above the intake to the Escondido Canal or the supplemental water supplied by the Secretary under this Act.

(c) APPROVAL BY INDIAN BANDS; COMPENSATION TO INDIAN OWNERS.—Any disposition of Indian tribal or allotted land by the Secretary under the subsection (b) shall be subject to the approval of the governing Indian Band. Any individual Indian owner or allottee

whose land is disposed of by any action of the Secretary under subsection (b) shall be entitled to receive just compensation.

SEC. 110. RULES OF CONSTRUCTION.

(a) EMINENT DOMAIN.—No provision of this title shall be construed as authorizing the acquisition by the Federal Government of any water or power supply or any water conveyance or power transmission facility through the power of eminent domain or any other nonconsensual arrangement.

(b) STATUS AND AUTHORITY OF INDIAN WATER AUTHORITY.—No provision of this title shall be construed as creating any implication with respect to the status or authority which the Indian Water Authority would have under any other law or rule of law in the absence of this title.

SEC. 111. COMPLIANCE WITH BUDGET ACT.

To the extent any provision of this title provides new spending authority described in section 401(c)(2)(A) of the Congressional Budget Act of 1974, such authority shall be effective for any fiscal year only to such extent or in such amounts as are provided in advance in appropriation Acts.

TITLE II—ALL AMERICAN CANAL LINING

SEC. 201. CONGRESSIONAL FINDINGS.

Congress hereby finds and declares that:

(1) The Boulder Canyon Project Act ("Project Act") was enacted to conserve the waters of the lower Colorado River for a number of public purposes, including the storage and delivery of water for reclamation of public lands and other uses exclusively within the United States.

(2) The Secretary of the Interior ("Secretary") was authorized by the Project Act to construct what is now Hoover Dam, Lake Mead, and the All American Canal and "to contract for the storage of water in said reservoir and for the delivery thereof at such points on the river and on said canal as may be agreed upon . . .".

(3) The Project Act provides that "no person shall have or be entitled to have the use for any purpose of the water stored as aforesaid except by contract" and in California the Secretary has entered into water delivery contracts with public agencies.

(4) The Secretary's water delivery contracts incorporate the Seven Party Agreement of August 18, 1931, under which water that is not applied to beneficial use by a California Contractor is available for use by the California Contractor with the next priority.

(5) The available supply of Colorado River water in California is insufficient to meet the priorities set forth in the Seven Party Agreement.

(6) The Secretary's water delivery contracts with the California Contractors provide that the total beneficial consumptive use under the first three priorities established in the contracts shall not exceed 3.85 million acre-feet of water per year.

(7) The rights of all California Contractors are defined by the Project Act, their contracts, and decisions and decrees of the United States Supreme Court.

(8) The Secretary has promulgated regulations pursuant to his authority under the Project Act establishing procedures to assure that deliveries of Colorado River water to each user will not exceed those reasonably required for its beneficial use.

(9) The Secretary has constructed the All American Canal and delivers water to the Imperial Irrigation District and Coachella Valley Water District under water delivery contracts by which those districts are entitled to receive deliveries of water in amounts reasonably required for potable and irrigation purposes.

(10) Studies conducted by the Secretary show that significant quantities of water currently delivered into the All American Canal and its Coachella Branch are lost by seepage from the canals and that such losses could be reduced or eliminated by lining these canals.

SEC. 202. DEFINITIONS.

As used in this title, the term—

(1) "All American Canal Service Area" shall mean the Imperial Service Area and the Coachella Service Area as defined in the Imperial Irrigation District and Coachella Valley Water District water delivery contracts with the Secretary dated December 1, 1932, and October 14, 1934, respectively.

(2) "California Contractors" shall mean the Palo Verde Irrigation District; Imperial Irrigation District; Coachella Valley Water District; and, The Metropolitan Water District of Southern California.

(3) "Participating Contractor" shall mean a California Contractor who elects to participate in, and fund, all or a portion of the works described in section 203 of this title.

(4) "Project Act" shall mean the Boulder Canyon Project Act (45 Stat. 1057; 43 U.S.C. 617–617t).

(5) "Secretary" shall mean the Secretary of the Interior.

(6) "Seven Party Agreement" shall mean that agreement dated August 18, 1931, providing the schedule of priorities for use of the waters of the Colorado River within California as published in section 6 of the General Regulations of the Secretary of the Interior dated September 28, 1931, and incorporated in the Secretary's water delivery contracts with the California Contractors.

(7) "Works" shall mean the facilities and measures specified in section 203(a) of this title.

SEC. 203. AUTHORIZATION OF PROJECT.

(a) CANAL LINING AUTHORIZED.—The Secretary, in order to reduce the seepage of water, is authorized to—

Safety.

(1) construct a new lined canal or to line the previously unlined portions of the All American Canal from the vicinity of Pilot Knob to Drop 4 and its Coachella Branch from Siphon 7 to Siphon 32, or construct seepage recovery facilities in the vicinity of Pilot Knob to Drop 4, including measures to protect public safety; and

Fish and fishing. Wildlife.

(2) implement measures for the replacement of incidental fish and wildlife values adjacent to the canals foregone as a result of the lining of the canal or mitigation of resulting impacts on fish and wildlife resources from construction of a new canal, or a portion thereof. Such measures shall be on an acre-for-acre

basis, based on ecological equivalency, and shall be implemented concurrent with construction of the works. The Secretary shall make available such public lands as he deems appropriate to meet the requirements of this subsection. The Secretary is authorized to develop ground water, with a priority given to nonpotable sources, from public lands to supply water for fish and wildlife purposes. Public lands.

(b) OPERATION AND MAINTENANCE DETERMINATION.—The Secretary shall determine the impact of the works on the cost of operation and maintenance and the existing regulating and storage capacity of the All American Canal and its Coachella Branch. If the works result in any added operation and maintenance costs which exceed the benefits derived from increasing the regulating and storage capacity of the canals to the Imperial Irrigation District or the Coachella Valley Water District, the Secretary shall include such costs in the funding agreement for the works.

(c) CONSTRUCTION AND FUNDING AGREEMENT.—The Secretary, subject to the provision of section 205 of this title, may enter into an agreement or agreements with one or more of the California Contractors for the construction or funding of all or a portion of the works authorized in subsection (a) of this section. The Secretary shall ensure that such agreement or agreements include provisions setting forth—

(1) the responsibilities of the parties to the agreement for funding and assisting with implementing all the duties of the Secretary identified in subsections (a) and (b) of this section;

(2) the obligation of the Participating Contractors to pay the additional costs identified in subsection (b) of this section as a result of the works;

(3) the procedures and requirement for approval and acceptance by the Secretary of such works, including approval of the quality of construction, measures to protect the public health and safety, mitigation or replacement, as appropriate, of fish and wildlife resources or values, and procedures for operation, maintenance, and protection of such works; Safety.

(4) the rights, responsibilities, and liabilities of each party to the agreement;

(5) the term of such agreements which shall not exceed 55 years and may be renewed if consented to by Imperial Irrigation District and Coachella Valley Water District according to their respective interests in the conserved water. If the funding agreements are not renewed, the Participating Contractors shall be compensated by the Imperial Irrigation District or the Coachella Valley Water District for their participation in the cost of the works. Such compensation shall be equal to the replacement value of the works less depreciation. Such depreciated value is to be based upon an engineering analysis by the Secretary of the remaining useful life of the works at the expiration of the funding agreements;

(6) the obligation of the Participating Contractors or the United States for repair or other corrective action which would not have occurred in the absence of the works in the case of earthquake or other acts of God;

(7) the obligation of the Participating Contractors or the United States to hold harmless Imperial Irrigation District and Coachella Valley Water District for liability to third parties

which occurs after the Secretary accepts the works and would not have occurred in the absence of the works; and,

(8) the requirement that the remaining net obligations due the United States for construction of the All American Canal owed on the date of enactment of this Act be paid by the Participating Contractors.

(d) TITLE TO THE WORKS.—A Participating Contractor shall not receive title to any works constructed pursuant to this section by virtue of its participation in the funding for the works. Title to all such works shall remain with the United States. Upon completion of the works and upon request by an All American Canal Contractor (City of San Diego, Imperial Irrigation District, or Coachella Valley Water District) for transfer of title of the All American Canal, its Coachella Branch, and appurtenant structures below Syphon Drop (including the works constructed pursuant to this section), the Secretary shall, within 90 days, take such necessary action as the Secretary deems appropriate to complete transfer of title to the requesting contractor, according to the contractor's respective interest unless the Secretary determines that such transfer would impair any existing rights of other All American Canal contractors, the rights or obligations of the United States, or would inhibit the Secretary's ability to fulfill his responsibility under the Project Act or other applicable law.

(e) AUTHORIZATION OF APPROPRIATIONS.—

(1) No Federal funds are authorized to be appropriated to the Secretary for construction of the works described in subsection (a)(1) of this section.

(2) The Secretary is authorized to receive funds in advance from one or more Participating Contractors pursuant to the Contributed Funds Act of March 4, 1921 (41 Stat. 1401) under terms and conditions acceptable to the Secretary in order to carry out the Secretary's responsibilities under subsections (a), (b), and (c) of this section.

SEC. 204. USE OF CONSERVED WATER.

(a) SECRETARIAL DETERMINATION.—The Secretary shall determine the quantity of water conserved by the works and may revise such determination at reasonable intervals based on such information as the Secretary deems appropriate. Such initial determination and subsequent revision shall be made in consultation with the California Contractors.

(b) BENEFICIAL USE IN CALIFORNIA.—

(1) The water identified in subsection (a) of this section shall be made available, subject to the approval requirement established in section 203(c)(3), for consumptive use by California Contractors within their service areas according to their priorities under the Seven Party Agreement.

(2) If the water identified in subsection (a) of this section is used during the term of the funding agreements by (A) a California Contractor other than a Participating Contractor, or (B) by a Participating Contractor in an amount in excess of its proportionate share as measured by the amount of its contributed funds in relation to the total contributed funds, such contractor shall reimburse the Participating Contractors for the annualized amounts of their respective contributions which funded the conservation of water so used, any added costs of operation and maintenance as determined in section 203(b), and

related mitigation costs under section 203(a)(2). Such reimbursement shall be based on the costs each Participating Contractor incurs in contributing funds and its total contribution, and the life of the works.

SEC. 205. IMPLEMENTATION.

The authorities contained in this title shall take effect upon enactment and the Secretary is authorized to proceed with all preconstruction activities. For a period not to exceed 15 months thereafter, or such additional period as the Secretary and the Imperial Irrigation District, the Coachella Valley Water District, and the Metropolitan Water District of Southern California may agree, the Secretary shall provide to the Imperial Irrigation District the opportunity to become the sole Participating Contractor for the works on the All American Canal from Pilot Knob to Drop 4, and assume all non-Federal obligations to finance the works. After the expiration of the 15-month period or any extension thereto, the Secretary is authorized to enter into agreements with the California Contractors as provided in section 203(c) of this Act.

SEC. 206. PROTECTION OF EXISTING WATER USES.

As of the effective date of this Act, any action of the Secretary to use, sell, grant, dispose, lease or provide rights-of-way across Federal public domain lands located within the All American Canal Service Area shall include the following conditions: (1) those lands within the boundary of the Imperial Irrigation District as of July 1, 1988, as shown in Imperial Irrigation District Drawing 7534, excluding Federal lands without a history of irrigation or other water using purposes; (2) those lands within the Imperial Irrigation District Service Area as shown on General Map of Imperial Irrigation District dated January 1988 (Imperial Irrigation District No. 27F 0189) with a history of irrigation or other water using purposes; and (3) those lands within the Coachella Valley Water District's Improvement District No. 1 shall have a priority for irrigation or other water using purposes over the lands benefiting from the action of the Secretary: *Provided,* That rights to use water on lands having such priority may be transferred for use on lands having a lower priority if such transfer does not deprive other lands with the higher priority of Colorado River water that can be put to reasonable and beneficial use.

SEC. 207. WATER CONSERVATION STUDY.

(a) PREPARATION AND TRANSMITTAL.—Any agreement entered into pursuant to section 203 between the Secretary and The Metropolitan Water District of Southern California (hereafter referred to as the "District") shall require, prior to the initiation of construction but in no case later than two years from the date of enactment of this Act, the preparation and transmittal to the Secretary by the District of a water conservation study as described in this section, together with the conclusions and recommendations of the District.

(b) PURPOSE.—The purpose of the study required by this section shall be the evaluation of various pricing options within the District's service area, an estimation of demand elasticity for each of the principal categories of end use of water within the District's service area, and the estimation of the quantity of water saved under the various options evaluated.

(c) PRICING ALTERNATIVES.—Such study shall include a thorough evaluation of all the pricing alternatives, alone and in various combinations, that could be employed by the District, including but not limited to—

(1) recovery of all costs through water rates;
(2) seasonal rate differentials;
(3) dry year surcharges;
(4) increasing block rates; and
(5) marginal cost pricing.

(d) PUBLIC REVIEW AND COMMENT.—Not less than 90 days prior to its transmittal to the Secretary, the study, together with the District's preliminary conclusions and recommendations and all supporting documentation, shall be available for public review and comment, including the transcripts of public hearings which shall be held during the course of the study. All significant comments, and the District's response thereto, shall accompany the study transmitted to the Secretary.

(e) LIMITATION ON INITIATION OF CONSTRUCTION.—Prior to the initiation of construction, the Secretary shall determine that the requirements of this section have been satisfied. Nothing in this section shall be deemed to authorize the Secretary to require the implementation of any policies or recommendations contained in the study.

SEC. 208. SALTON SEA NATIONAL WILDLIFE REFUGE.

Reports.

Within 90 days from the date of enactment of this title, the Secretary is directed to prepare and submit a report to the Congress which describes the current condition of habitat at the Salton Sea National Wildlife Refuge, California. The report shall also—

(1) assess water quality conditions within the refuge;
(2) identify actions which could be undertaken to improve habitat at the refuge;
(3) describe the status of wildlife, including waterfowl populations, and how wildlife populations have fluctuated or otherwise changed over the past ten years; and
(4) describe current and future water requirements of the refuge, the availability of funds for water purchases, and steps which may be necessary to acquire additional water supplies, if needed.

SEC. 209. RELATION TO RECLAMATION LAW.

No contract or agreement entered into pursuant to this title shall be deemed to be a new or amended contract for the purposes of

section 203(a) of the Reclamation Reform Act of 1982 (Public Law 97-293, 96 Stat. 1263).

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 795:

HOUSE REPORTS: No. 100-780 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-47 and No. 100-254 (both from Select Comm. on Indian Affairs).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 19, considered and passed Senate.
Vol. 134 (1988): Oct. 3, 4, considered and passed House, amended.
Oct. 19, Senate concurred in House amendment with an amendment.
Oct. 20, House concurred in Senate amendment.

Public Law 100-676
100th Congress

An Act

Nov. 17, 1988
[S. 2100]

To provide for the conservation and development of water and related resources, to authorize the United States Army Corps of Engineers to construct various projects for improvements to rivers and harbors of the United States, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Water Resources Development Act of 1988.

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

33 USC 2201 note.

(a) SHORT TITLE.—This Act may be cited as the "Water Resources Development Act of 1988".

(b) TABLE OF CONTENTS.—

Sec. 1. Short title; table of contents.
Sec. 2. Secretary defined.
Sec. 3. Project authorizations.
Sec. 4. Project modifications.
Sec. 5. Comments on certain changes in operations of reservoirs.
Sec. 6. Operation of certain projects to enhance recreation.
Sec. 7. Collaborative research and development.
Sec. 8. Innovative technology.
Sec. 9. Technical assistance demonstration program.
Sec. 10. Periodic statements.
Sec. 11. Simulation model of South Central Florida hydrologic ecosystem.
Sec. 12. Section 215 reimbursement limitation per project.
Sec. 13. Additional 10 percent payment over 30 years for construction of harbors.
Sec. 14. Compliance with flood plain management and insurance programs.
Sec. 15. Federal repayment district.
Sec. 16. Abandoned and wrecked vessels.
Sec. 17. Flood warning and response system.
Sec. 18. Small boat harbor, Buffalo Harbor, New York.
Sec. 19. Lakeport Lake, California.
Sec. 20. Sacramento, California.
Sec. 21. Mississippi River headwaters reservoirs.
Sec. 22. Hearding Island inlet, Duluth Harbor, Minnesota.
Sec. 23. Louisiana water supply.
Sec. 24. Contained spoil disposal facilities in the Great Lakes and their connecting channels.
Sec. 25. South pier to Charlevoix Harbor, Charlevoix, Michigan.
Sec. 26. Coyote and Berryessa Creeks, California.
Sec. 27. Land conveyance, Whittier Narrows Dam, Los Angeles County, California.
Sec. 28. Land conveyance, Ottawa, Illinois.
Sec. 29. Land transfer in Whitman County, Washington.
Sec. 30. Lesage/Greenbottom Swamp, West Virginia.
Sec. 31. Portuguese and Bucana Rivers, Puerto Rico.
Sec. 32. Alternatives to mud dump for disposal of dredged material.
Sec. 33. Missouri River between Fort Peck Dam, Montana, and Gavins Point Dam, South Dakota and Nebraska.
Sec. 34. New York Harbor drift removal project.
Sec. 35. Placement of dredged beach quality sand on beaches.
Sec. 36. Restoration, Ventura to Pierpont Beach, California.
Sec. 37. William G. Stone lock tolls.
Sec. 38. Declaration of nonnavigability for portions of the Delaware River.
Sec. 39. Declaration of nonnavigability for portions of Coney Island Creek and Gravesend Bay, New York.
Sec. 40. Extension of modified water delivery schedules, Everglades National Park.
Sec. 41. Period of environmental demonstration program.
Sec. 42. Federal hydroelectric power modernization study.
Sec. 43. Water quality effects of hydroelectric facilities.
Sec. 44. GAO review of civil works program.
Sec. 45. Des Plaines River wetlands demonstration project authorization.

Sec. 46. Kissimmee River, Florida.
Sec. 47. Water resources studies.
Sec. 48. Division laboratory.
Sec. 49. Water resources management planning service for the Hudson River Basin.
Sec. 50. Technical resource service, Red River Basin, Minnesota and North Dakota.
Sec. 51. Correction of descriptions.
Sec. 52. Project deauthorizations.
Sec. 53. Namings.
Sec. 54. Declaration of nonnavigability of bodies of water in Ridgefield, New Jersey.

SEC. 2. SECRETARY DEFINED.

33 USC 2201 note.

For purposes of this Act, the term "Secretary" means the Secretary of the Army.

SEC. 3. PROJECT AUTHORIZATIONS.

(a) AUTHORIZATION OF CONSTRUCTION.—Except as otherwise provided in this subsection, the following projects for water resources development and conservation and other purposes are authorized to be carried out by the Secretary substantially in accordance with the plans and subject to the conditions recommended in the respective reports designated in this subsection:

(1) LOWER MISSION CREEK, SANTA BARBARA, CALIFORNIA.—The project for flood control, Lower Mission Creek, Santa Barbara, California: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $10,420,000, with an estimated first Federal cost of $5,909,000, and an estimated first non-Federal cost of $4,511,000.

(2) FT. PIERCE HARBOR, FLORIDA.—The project for navigation, Ft. Pierce Harbor, Florida: Report of the Chief of Engineers, dated December 14, 1987, at a total cost of $6,742,000, with an estimated first Federal cost of $4,319,000, and an estimated first non-Federal cost of $2,423,000.

(3) NASSAU COUNTY, FLORIDA.—The project for beach erosion control, Nassau County (Amelia Island), Florida: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $5,753,000, with an estimated first Federal cost of $4,619,000, and an estimated first non-Federal cost of $1,134,000.

(4) PORT SUTTON CHANNEL, FLORIDA.—The project for navigation, Port Sutton Channel, Florida: Report of the Chief of Engineers, dated March 28, 1988, at a total cost of $2,670,000, with an estimated first Federal cost of $1,155,000, and an estimated first non-Federal cost of $1,515,000; except that construction of such project may not be initiated until the Secretary determines that such project serves more than one beneficiary.

(5) CHICAGOLAND UNDERFLOW PLAN, ILLINOIS.—The project for flood control, Chicagoland Underflow Plan, Illinois: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $419,000,000, with an estimated first Federal cost of $314,250,000, and an estimated first non-Federal cost of $104,750,000.

(6) LOWER OHIO RIVER, ILLINOIS AND KENTUCKY.—The project for navigation, Lower Ohio River, Locks and Dams 52 and 53, Illinois and Kentucky: Report of the Chief of Engineers, dated August 20, 1986, at a total cost of $775,000,000, with a first Federal cost of $775,000,000, and with the costs of construction of the project to be paid one-half from amounts appropriated from the general fund of the Treasury and one-half from amounts appropriated from the Inland Waterways Trust Fund.

(7) HAZARD, KENTUCKY.—The project for flood control, Hazard, Kentucky: Report of the Chief of Engineers, dated October 30, 1986, at a total cost of $7,450,000, with an estimated first Federal cost of $5,590,000 and an estimated first non-Federal cost of $1,860,000.

(8) MISSISSIPPI AND LOUISIANA ESTUARINE AREAS, MISSISSIPPI AND LOUISIANA.—The project for environmental enhancement, Mississippi and Louisiana Estuarine Areas, Mississippi and Louisiana: Report of the Chief of Engineers, dated May 19, 1986, at a total cost of $59,300,000.

(9) WOLF AND JORDAN RIVERS, MISSISSIPPI.—The project for navigation, Wolf and Jordan Rivers and Bayou Portage, Mississippi: Report of the Chief of Engineers, dated June 10, 1987, at a total cost of $2,290,000, with an estimated first Federal cost of $1,620,000 and an estimated first non-Federal cost of $670,000.

(10) TRUCKEE MEADOWS, NEVADA.—The project for flood control, Truckee Meadows, Nevada: Report of the Chief of Engineers, dated July 25, 1986, at a total cost of $78,400,000, with an estimated first Federal cost of $39,200,000 and an estimated first non-Federal cost of $39,200,000; except that the Secretary is authorized to carry out fish and wildlife enhancement as a purpose of such project, including fish and wildlife enhancement measures described in the District Engineer's Report, dated July 1985, at an additional total cost of $4,140,000.

(11) WEST COLUMBUS, OHIO.—The project for flood control, Scioto River, West Columbus, Ohio: Report of the Chief of Engineers, dated February 9, 1988, at a total cost of $31,562,000, with an estimated first Federal cost of $23,671,000, and an estimated first non-Federal cost of $7,891,000.

(12) DELAWARE RIVER, PENNSYLVANIA AND DELAWARE.—The project for navigation, Delaware River, Philadelphia to Wilmington, Pennsylvania and Delaware: Report of the Chief of Engineers, dated June 15, 1986, at a total cost of $17,200,000, with an estimated first Federal cost of $9,100,000 and an estimated first non-Federal cost of $8,100,000.

(13) CYPRESS CREEK, TEXAS.—The project for flood control, Cypress Creek, Texas: Report of the Chief of Engineers, dated October 12, 1987, at a total project cost of $114,200,000, with an estimated first Federal cost of $84,900,000 and an estimated first non-Federal cost of $29,300,000.

(14) FALFURRIAS, TEXAS.—The project for flood control, Falfurrias, Texas: Report of the Chief of Engineers, dated March 15, 1988, at a total cost of $31,800,000, with an estimated first Federal cost of $15,900,000, and an estimated first non-Federal cost of $15,900,000.

(15) GUADALUPE RIVER, TEXAS.—The project for navigation, Guadalupe River to Victoria, Texas: Report of the Chief of Engineers, dated September 1, 1987, at a total cost of $23,900,000, with an estimated first Federal cost of $15,100,000, and an estimated first non-Federal cost of $8,800,000.

(16) MCGRATH CREEK, WICHITA FALLS, TEXAS.—The project for flood control, McGrath Creek, Wichita Falls, Texas: Report of the Chief of Engineers, dated March 25, 1988, at a total cost of $9,100,000, with an estimated first Federal cost of $6,800,000 and an estimated first non-Federal cost of $2,300,000.

(b) MAXIMUM COST OF PROJECTS.—Section 902 of the Water Resources Development Act of 1986 (100 Stat. 4183) is amended— 33 USC 2280.

(1) by striking out "in this Act, or an amendment made by this Act, for a project" and inserting in lieu thereof "with respect to a project for water resources development and conservation and related purposes authorized to be carried out by the Secretary in this Act or in a law enacted after the date of the enactment of this Act, including the Water Resources Development Act of 1988, or in an amendment made by this Act or any later law with respect to such a project";

(2) in paragraph (1) by inserting ", in any later law," after "in this Act" and by inserting "or any later law" after "by this Act";

(3) in paragraph (2)(A) by inserting "or any later law" after "of this Act"; and

(4) in paragraph (2)(B) by inserting "or any later law" after "by this Act".

SEC. 4. PROJECT MODIFICATIONS.

(a) BEAVER LAKE, ARKANSAS.—

(1) AMENDMENTS.—Section 843 of the Water Resources Development Act of 1986 (100 Stat. 4176-4177) is amended—

(A) by inserting "and the Chief of the Soil Conservation Service" after "the Environmental Protection Agency"; and

(B) by inserting "including best management practices," before "at a total cost".

(2) CONTINUATION OF PLANNING AND DESIGN.—Using funds made available for the Beaver Lake project, Arkansas, pursuant to the Energy and Water Development Appropriations Act, 1989, the Secretary is directed to continue overall planning and design for such project, including the development of implementation plans for individual parcels of land within the drainage basin which contribute to water quality degradation and impairment of water supply uses at Beaver Lake.

(b) WEST MEMPHIS AND VICINITY, ARKANSAS.—The project for flood control, West Memphis and vicinity, Arkansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4112) is modified to provide that non-Federal cooperation for such project may be provided by levee districts, drainage districts, or any unit of a State, county, or local government. Flood control.

(c) KING HARBOR, REDONDO BEACH, CALIFORNIA.—Section 809 of the Water Resources Development Act of 1986 (100 Stat. 4168) is amended by striking out the last sentence and inserting in lieu thereof the following: "The non-Federal share of the cost of work undertaken pursuant to this section shall be in accordance with title I of this Act.".

(d) LOS ANGELES AND LONG BEACH HARBORS, SAN PEDRO BAY, CALIFORNIA.—The navigation project for Los Angeles and Long Beach Harbors, San Pedro Bay, California, authorized by section 201 of the Water Resources Development Act of 1986 (100 Stat. 4091), is modified to provide that, if non-Federal interests carry out any work associated with such project which is later recommended by the Chief of Engineers and approved by the Secretary, the Secretary may credit such non-Federal interests an amount equal to the Federal share of the cost of such work, without interest. In analyzing costs and benefits of such project, the Secretary shall consider the costs and benefits produced by any work which is carried out under the preceding sentence by non-Federal interests and which the Secretary determines is compatible with such project. The fea- Reports.

sibility report for such project shall include consideration and evaluation of the following proposed project features: Long Beach Main Channel, Channel to Los Angeles Pier 300, Channels to Los Angeles Pier 400, Long Beach Pier "K" Channel, and Los Angeles Crude Transshipment Terminal Channel.

(e) LOS ANGELES RIVER, CALIFORNIA.—The Secretary is directed to perform maintenance dredging of the existing Federal project at the mouth of the Los Angeles River, California, to the authorized depth of 20 feet for the purpose of maintaining the flood control basin and navigation safety.

(f) SUNSET HARBOR, CALIFORNIA.—The demonstration project at Sunset Harbor, California, authorized by section 1119(b) of the Water Resources Development Act of 1986 (100 Stat. 4238), is modified to include wetland restoration as a purpose of such demonstration project. All costs allocated to such wetland restoration shall be paid by non-Federal interests in accordance with section 916 of such Act.

(g) INDIANA SHORELINE EROSION, INDIANA.—The undesignated paragraph of section 501(a) of the Water Resources Development Act of 1986 under the heading "INDIANA SHORELINE, INDIANA" (100 Stat. 4135) is amended by striking out "with an estimated first Federal cost of $15,000,000 and an estimated first non-Federal cost of $5,000,000." and inserting in lieu thereof "with the Federal share of the cost of this project to be determined in accordance with title I of this Act.".

Fish and fishing. Wildlife.

(h) STUMPY LAKE, LOUISIANA.—The project for mitigation of fish and wildlife losses Red River Waterway, Louisiana, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4142), is modified to authorize the Secretary to obtain, on a priority basis, up to 300 acres in the area of Stumpy Lake as part of such project. Such modification shall not increase the total authorization for land acquisition for such project.

(i) ANNAPOLIS HARBOR, MARYLAND.—The project for navigation, Annapolis Harbor, Maryland, is modified to authorize and direct the Secretary to realign by nonstructural, nondredging measures the channel in such project, as determined necessary by the Secretary, for the purpose of promoting more efficient mooring operations in Annapolis Harbor.

(j) DEAL ISLAND, MARYLAND.—The Secretary may pay the remaining cost for the navigation project for Deal Island, Maryland (Lower Thorofare), authorized under section 107 of the River and Harbor Act of 1960, estimated at $277,000, plus any interest due the construction contractor.

(k) REDWOOD RIVER, MARSHALL, MINNESOTA.—The project for flood control, Redwood River, Marshall, Minnesota, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4117), is modified to authorize the Secretary to construct the project substantially in accordance with the General Design Memorandum, dated April 1987, at a total cost of $6,900,000, with an estimated first Federal cost of $5,000,000 and an estimated first non-Federal cost of $1,900,000.

(l) ROOT RIVER BASIN, MINNESOTA.—The undesignated paragraph of section 401(a) of the Water Resources Development Act of 1986 under the heading "ROOT RIVER BASIN, MINNESOTA" (100 Stat. 4117) is amended by adding at the end thereof the following new sentence: "Nothing in this paragraph precludes the Secretary from carrying

out the project under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s).".

(m) ROSEAU RIVER, MINNESOTA.—The project for flood control, Roseau River, Minnesota, authorized by the Flood Control Act of 1965, is modified to authorize and direct the Secretary to construct as authorized, or to construct under section 205 of the Flood Control Act of 1948 (33 U.S.C. 701s), the 6-mile flood control levee in the vicinity of Duxby, Minnesota, beginning at a point approximately 2 miles upstream, substantially in accordance with the recommendations of the Chief of Engineers contained in House Document Numbered 282, 89th Congress, at an estimated total cost of $360,000, and with an estimated first Federal cost of $270,000 and an estimated first non-Federal cost of $90,000. In analyzing costs and benefits of such project, the Secretary shall consider the costs and benefits produced by any work which is carried out under such section 205 and which the Secretary determines is compatible with such project.

(n) GULFPORT HARBOR, MISSISSIPPI.— Waste disposal.

(1) IN GENERAL.—The project for navigation, Gulfport Harbor, Mississippi, authorized by section 202(a) of the Water Resources Development Act of 1986 (100 Stat. 4094–4095) is modified to authorize the Secretary to dispose, in accordance with all provisions of Federal law, of dredged material—

(A) from construction, operation, and maintenance of such project in open waters of the Gulf of Mexico;

(B) from construction of such project by thin layer disposal in the Mississippi Sound under the demonstration program carried out under paragraph (2);

(C) from operation and maintenance of such project by disposal in the Mississippi Sound under a plan developed by the Secretary and approved by the Administrator of the Environmental Protection Agency if the Secretary, after consultation with the study team established under paragraph (3), determines that the report submitted under paragraph (2)(H) indicates that there will be no unacceptable adverse environmental impacts from such disposal; and

(D) from construction, operation, and maintenance of such project as fill in connection with a pier extension project for such Harbor carried out under a permit issued before, on, or after the date of the enactment of this Act under section 404 of the Federal Water Pollution Control Act.

(2) DEMONSTRATION PROGRAM.—

(A) PURPOSES.—During construction of the Gulfport Harbor navigation project, the Secretary shall carry out a demonstration program for the purpose of evaluating the costs and benefits of thin layer disposal in the Mississippi Sound of dredged material from construction of harbor improvements, including any operation and maintenance materials that may be removed during construction, and for determining whether or not there are unacceptable adverse effects from such disposal—

(i) on human health or welfare, including but not limited to plankton, fish, shellfish, wildlife, shorelines, and beaches;

(ii) on marine life (including the transfer, concentration, and dispersal of pollutants or their byproducts

through biological, physical, and chemical processes), changes in marine ecosystem diversity, productivity, and stability, and species and community population changes;

(iii) on esthetic, recreation, and economic values; and

(iv) on alternative uses of oceans, such as mineral exploitation and scientific study.

In addition, the Secretary shall determine through such program the persistence and permanence of any such adverse effects and methods of mitigating any such adverse effects.

(B) PLANNING.—Within 4 months after the date of the enactment of the Act, the Secretary, in consultation with the study team established under paragraph (3), shall develop a plan for carrying out the demonstration program under this paragraph. Such plan shall, at a minimum, establish predisposal monitoring requirements, thin layer disposal locations, the amounts of dredged material necessary for carrying out such demonstration program, the duration of thin layer disposal under such demonstration program, the compatibility of the receiving habitat with thin layer dredged material disposal, requirements for minimizing demonstration program impacts, the depth of thin layer disposal, and the scope of the post disposal monitoring.

(C) LIMITATIONS ON MATERIALS FROM PROJECT.—The Secretary in carrying out the demonstration program under this paragraph shall use suitable material removed during construction of the Gulfport Harbor navigation project. The amount of material used shall be of sufficient quantity to determine the effects of thin layer disposal in near shore areas of (i) dredged materials from construction of harbor improvements, and (ii) any materials from operation and maintenance of harbor improvements dredged during the period of such construction; except that the total amount of material to be used shall be limited to the lesser of 3,000,000 cubic yards of dredged material or the amount determined under the plan developed under subparagraph (B).

(D) CONSULTATION REQUIREMENT.—In conducting the demonstration program under this paragraph, the Secretary shall consult the study team established under paragraph (3).

(E) POST DISPOSAL MONITORING.—The demonstration program under this paragraph shall include monitoring of the near shore areas at which dredged material is disposed of under such program during the period determined under the plan developed under subparagraph (B).

(F) APPLICABILITY OF FEDERAL LAW.—The demonstration program under this paragraph shall be carried out in accordance with all applicable provisions of Federal law, including section 404(c) of the Federal Water Pollution Control Act.

(G) COST SHARING.—The demonstration program carried out under this paragraph shall be subject to cost sharing under title I of the Water Resources Development Act of 1986. All costs of such program, other than dredging and disposal of dredged material costs, shall not be included for

purposes of calculating the economic costs and benefits of the navigation project for Gulfport Harbor, Mississippi.

(H) REPORT TO CONGRESS AND EPA.—Within 1 year after the date of completion of the demonstration program under this paragraph, the Secretary, after consultation with the study team established under paragraph (3), shall transmit to Congress and to the Administrator of the Environmental Protection Agency a report on the results of such demonstration program together with recommendations concerning thin layer disposal in near shore areas of dredged material from construction, operation, and maintenance of future navigation projects.

(I) APPROVAL OR DISAPPROVAL OF RECOMMENDATIONS.—Not later than 30 days after the date of receipt of the report and recommendations under subparagraph (H), the Administrator of the Environmental Protection Agency shall approve or disapprove the recommendations and shall notify Congress and the Secretary of such approval or disapproval. If the Administrator disapproves the recommendations, not later than 30 days after the date of such disapproval, the Administrator shall notify Congress and the Secretary of the reasons for such disapproval together with recommendations for modifications which could be made to the recommendations to take into account such reasons. If the Administrator fails to approve or disapprove the recommendations transmitted under subparagraph (H) within the 30-day period, the recommendations shall be deemed to be approved.

(3) STUDY TEAM.—The Secretary shall establish a study team to assist the Secretary in planning, carrying out, monitoring, and reporting on the demonstration program and the results of such program under this subsection. Such team shall be appointed by the Secretary and shall consist of representatives of the Corps of Engineers, the Environmental Protection Agency, interested Federal and State resource agencies, and the local sponsor of the demonstration program. Members of the study team who are not officers or employees of the United States shall serve without compensation. Members of the study team who are officers or employees of the United States shall receive no additional pay by reason of their service on the study team.

(4) THIN LAYER DISPOSAL DEFINED.—For purposes of this subsection, the term "thin layer disposal" means the deliberate placement of a 6- to 12-inch layer of dredged material in a specific bottom area. In no case shall such layer exceed a maximum of 12 inches of thickness.

Flood control.

(o) BRUSH CREEK AND TRIBUTARIES, MISSOURI AND KANSAS.—The project for flood control, Brush Creek and tributaries, Missouri and Kansas, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 4118), is modified to authorize the Secretary to provide to the non-Federal interests providing local cooperation for such project services (including the provision of services by contract) in the design and construction of upstream and downstream non-Federal extensions to such project—

(1) if the non-Federal interests provide, in advance of obligation of Federal funds for such design and construction, amounts sufficient to cover all costs of such services;

(2) if, prior to construction of such extensions, the non-Federal interests obtain all necessary Federal and State permits; and

(3) if the non-Federal interests agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of such extensions.

Construction costs, operation, and maintenance of such extensions shall be a non-Federal responsibility and shall not be considered part of the Brush Creek flood control project for any purpose.

Indians. Historic preservation.

(p) LIBBY DAM, MONTANA.—The project for Libby Dam, Lake Koocanusa Reservoir, Montana, is modified (1) to authorize the Secretary, in consultation with the Secretary of Agriculture, to undertake measures to alleviate low water impact on existing facilities at such project, including provision of low water access to Lake Koocanusa, Montana, and provision of additional planned public recreation sites along the reservoir, and (2) to direct the Secretary to protect Indian archaeological sites which are exposed during the course of operations of such project, at an estimated total cost of $750,000. The Secretary shall coordinate with the Kootenai Tribes in monitoring exposed archaeological sites to prevent pillaging, in preserving artifacts onsite, and in facilitating curation at the tribal curation center in Pablo Montana when onsite preservation is not warranted.

(q) SEA BRIGHT TO MONMOUTH BEACH, NEW JERSEY.—Section 854 of the Water Resources Development Act of 1986 (100 Stat. 4179-4180) is amended to read as follows:

"SEC. 854. SANDY HOOK TO BARNEGAT INLET, NEW JERSEY.

"(a) Subject to section 903(a) of this Act, the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, authorized by the River and Harbor Act of 1958, is modified to provide that the first Federal construction increment of the Ocean Township to Sandy Hook reach of such project shall consist of a berm of approximately 100 feet at Sea Bright and Monmouth Beach extending to and including a feeder beach in the vicinity of Long Beach substantially in accordance with the plan recommended in the draft General Design Memorandum entitled 'Atlantic Coast of New Jersey, Sandy Hook to Barnegat Inlet, Beach Erosion Control Project, Section 1—Sea Bright to Ocean Township, New Jersey', dated May 1988, at a total initial cost for such increment of $91,000,000 and an annual cost of $1,200,000 for periodic beach nourishment over the life of such increment.

"(b) The non-Federal share of the costs of construction and maintenance of the increment referred to in subsection (a) shall be—

"(1) for the first $40,000,000 in costs, the amounts expended by non-Federal interests for reconstruction of the seawall at Sea Bright and Monmouth Beach, New Jersey; and

"(2) for costs in excess of $40,000,000, a non-Federal share which is in accordance with title I of this Act.

"(c) Before initiation of construction of any increment of the project for beach erosion control, Sandy Hook to Barnegat Inlet, New Jersey, non-Federal interests shall agree to provide public access to the beach for which such increment of the project is authorized in accordance with all requirements of State law and regulations.".

Flood control. Dams.

(r) WYOMING VALLEY, PENNSYLVANIA.—The project for flood control, Wyoming Valley, Pennsylvania, authorized by section 401(a) of the Water Resources Development Act of 1986 (100 Stat. 1424), is

modified to authorize the Secretary to study the feasibility of constructing an inflatable dam on the Susquehanna River in the vicinity of Wilkes Barre, Pennsylvania.

(s) BLAIR AND SITCUM WATERWAYS, WASHINGTON.—The undesignated paragraph of section 202(a) of the Water Resources Development Act of 1986 under the heading "BLAIR AND SITCUM WATERWAYS, TACOMA HARBOR, WASHINGTON" (100 Stat. 4096) is amended by striking out "$38,200,000" and all that follows through "$12,000,000;" and inserting in lieu thereof "$51,000,000;".

(t) WYNOOCHEE LAKE, WASHINGTON.—

(1) IN GENERAL.—To demonstrate the feasibility of non-Federal operation, maintenance, repair, and rehabilitation of a Federal multi-purpose water resources project, the project for Wynoochee Lake, Wynoochee River, Washington, authorized by section 203 of the Flood Control Act of 1962 (76 Stat. 1193), is modified to authorize the Secretary to permit the city of Aberdeen, Washington, to operate, maintain, repair, and rehabilitate the project (hereinafter in this subsection referred to as "OMR&R") after September 30, 1988.

(2) LIMITATIONS ON OMR&R.—OMR&R by the city of Aberdeen shall be—

(A) subject to such terms and conditions as the Secretary shall establish by regulation to ensure that OMR&R is consistent with the project's authorized purposes, including fish and wildlife mitigation; and Regulations.

(B) consistent with the long-term value and viability of the project's physical facilities.

In issuing such regulations, the Secretary shall evaluate the effect of such regulations on the project costs payable by the city.

(3) CONDITIONS.—OMR&R by the city of Aberdeen under this subsection shall be subject to the following conditions:

(A) Title to real and personal property of the project shall remain in the United States, and the city shall not impair such title. Real property. Gifts and property.

(B) The city shall hold and save the United States free from any damages which result from OMR&R by the city, except for damages due to the fault or negligence of the United States or its contractors.

(C) Upon due cause as determined by the Secretary and after notice to the city, the Secretary may resume OMR&R and the city shall be responsible to pay the percentage of the OMR&R costs of the project incurred thereafter and related to water supply storage as described in the original project contract.

(D) The Secretary shall modify the project contract to forgive future OMR&R payment obligations of the city to the extent that the city is performing project OMR&R in accordance with this subsection and the regulations issued under this subsection.

(E) The Secretary shall transfer to the city responsibility for OMR&R of the project in a safe and cost-effective manner.

(4) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the

House of Representatives a report on the implementation of this subsection.

33 USC 2312.

SEC. 5. COMMENTS ON CERTAIN CHANGES IN OPERATIONS OF RESERVOIRS.

Before the Secretary may make changes in the operation of any reservoir which will result in or require a reallocation of storage space in such reservoir or will significantly affect any project purpose, the Secretary shall provide an opportunity for public review and comment.

SEC. 6. OPERATION OF CERTAIN PROJECTS TO ENHANCE RECREATION.

(a) ENHANCEMENT OF RECREATION.—The Secretary shall ensure, to the extent compatible with other project purposes, that each water resources project referred to in this subsection is operated in such manner as will protect and enhance recreation associated with such project. The Secretary is authorized to manage project lands at each such project in such manner as will improve opportunities for recreation at the project. Such activities shall be included as authorized project purposes of each project. Nothing in this subsection shall be construed to affect the authority or discretion of the Secretary with respect to carrying out other authorized project purposes or to comply with other requirements or obligations of the Secretary which are legally binding as of the date of the enactment of this Act. The provisions of this subsection shall apply to the following projects:

State listing.

(1) Beechfork Lake, West Virginia.
(2) Bluestone Lake, West Virginia.
(3) East Lynn Lake, West Virginia.
(4) Francis E. Walter Dam, Pennsylvania.
(5) Jennings Randolph Lake (Bloomington Dam), Maryland and West Virgina.
(6) R.D. Bailey Lake, West Virginia.
(7) Savage River Dam, Maryland.
(8) Youghiogheny River Lake, Pennsylvania and Maryland.
(9) Summersville Lake, West Virginia.
(10) Sutton Lake, West Virginia.
(11) Stonewall Jackson Lake, West Virginia.

(b) RECREATION DEFINED.—As used in this section, in addition to recreation on lands associated with the project, the term "recreation" includes (but shall not be limited to) downstream whitewater recreation which is dependent on project operations, recreational fishing, and boating on water at the project.

33 USC 2313.

SEC. 7. COLLABORATIVE RESEARCH AND DEVELOPMENT.

(a) IN GENERAL.—For the purpose of improving the state of engineering and construction in the United States and consistent with the mission of the Army Corps of Engineers, the Secretary is authorized to utilize Army Corps of Engineers laboratories and research centers to undertake, on a cost-shared basis, collaborative research and development with non-Federal entities, including State and local government, colleges and universities, and corporations, partnerships, sole proprietorships, and trade associations which are incorporated or established under the laws of any of the several States of the United States or the District of Columbia.

Contracts.

(b) ADMINISTRATIVE PROVISIONS.—In carrying out this section, the Secretary may consider the recommendations of a non-Federal

entity in identifying appropriate research or development projects and may enter into a cooperative research and development agreement, as defined in section 12 of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3710a); except that in such agreement, the Secretary may agree to provide not more than 50 percent of the cost of any research or development project selected by the Secretary under this section. Not less than 5 percent of the non-Federal entity's share of the cost of any such project shall be paid in cash.

(c) APPLICABILITY OF OTHER LAWS.—The research, development, or utilization of any technology pursuant to an agreement under subsection (b), including the terms under which such technology may be licensed and the resulting royalties may be distributed, shall be subject to the provisions of the Stevenson-Wydler Technology Innovation Act of 1980 (15 U.S.C. 3701-3714).

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out the purposes of this section, there is authorized to be appropriated to the Secretary of the Army civil works funds $3,000,000 for fiscal year 1989, $4,000,000 for fiscal year 1990, $5,000,000 for fiscal year 1991, and $6,000,000 for each fiscal year thereafter.

(e) ADDITIONAL FUNDING.—Notwithstanding the third proviso under the heading "GENERAL INVESTIGATIONS" of title I of the Energy and Water Development Appropriations Act, 1989 (102 Stat. 857), an additional $3,000,000 of the funds appropriated under such heading shall be available to the Secretary for obligation to carry out the purposes of this section in fiscal year 1989.

SEC. 8. INNOVATIVE TECHNOLOGY. 33 USC 2314.

(a) USE.—The Secretary shall, whenever feasible, seek to promote long- and short-term cost savings, increased efficiency, reliability, and safety, and improved environmental results through the use of innovative technology in all phases of water resources development projects and programs under the Secretary's jurisdiction. To further this goal, Congress encourages the Secretary to—

(1) use procurement and contracting procedures that encourage innovative project design, construction, rehabilitation, repair, and operation and maintenance technologies;

(2) frequently review technical and design criteria to remove or modify unnecessary impediments to innovation;

(3) increase timely exchange of technical information with universities, private companies, government agencies, and individuals;

(4) foster design competition; and

(5) encourage greater participation by non-Federal project sponsors in the development and implementation of projects.

(b) REPORTS.—Within 2 years after the date of the enactment of this Act, and thereafter at the Secretary's discretion, the Secretary shall provide Congress with a report on the results of, and recommendations to increase, the development and use of innovative technology in water resources development projects under the Secretary's jurisdiction. Such report shall also contain information regarding innovative technologies which the Secretary has considered and rejected for use in water resources development projects under the Secretary's jurisdiction.

(c) INNOVATIVE TECHNOLOGY DEFINED.—For the purpose of this section, the term "innovative technology" means designs, materials,

or methods which the Secretary determines are previously undemonstrated or are too new to be considered standard practice.

33 USC 2314 note.

SEC. 9. TECHNICAL ASSISTANCE DEMONSTRATION PROGRAM.

(a) IN GENERAL.—The Secretary is authorized to undertake a demonstration program for a 2-year period, which shall begin within 6 months after the date of the enactment of this Act, to provide technical assistance, on a nonexclusive basis, to any United States firm which is competing for, or has been awarded, a contract for the planning, design, or construction of a project outside the United States, if the United States firm provides, in advance of fiscal obligation by the United States, funds to cover all costs of such assistance. In determining whether to provide such assistance, the Secretary shall consider the effects on the Department of the Army civil works mission, personnel, and facilities. Prior to the Secretary providing such assistance, a United States firm must—

(1) certify to the Secretary that such assistance is not otherwise reasonably and expeditiously available; and

(2) agree to hold and save the United States free from damages due to the planning, design, construction, operation, or maintenance of the project.

(b) FEDERAL EMPLOYEES' INVENTIONS.—As to an invention made or conceived by a Federal employee while providing assistance pursuant to this section, if the Secretary decides not to retain all rights in such invention, the Secretary may—

Patents and trademarks.

(1) grant or agree to grant in advance, to a United States firm, a patent license or assignment, or an option thereto, retaining a nonexclusive, nontransferable, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States and such other rights as the Secretary deems appropriate; or

(2) waive, subject to reservation by the United States of a nonexclusive, irrevocable, paid-up license to practice the invention or have the invention practiced throughout the world by or on behalf of the United States, in advance, in whole, or in part, any right which the United States may have to such invention.

(c) PROTECTION OF CONFIDENTIAL INFORMATION.—Information of a confidential nature, such as proprietary or classified information, provided to a United States firm pursuant to this section shall be protected. Such information may be released by a United States firm only after written approval by the Secretary.

(d) REPORT.—Within 6 months after the end of the demonstration program authorized by this section, the Secretary shall submit to Congress a report on the results of such demonstration program.

(e) DEFINITIONS.—For purposes of this section—

(1) UNITED STATES FIRM.—The term "United States firm" means a corporation, partnership, limited partnership, or sole proprietorship that is incorporated or established under the laws of any of the United States with its principal place of business in the United States.

(2) UNITED STATES.—The term "United States", when used in a geographical sense, means the several States of the United States and the District of Columbia.

33 USC 2315.

SEC. 10. PERIODIC STATEMENTS.

Upon receipt of a request from a non-Federal sponsor of a water resources development project under construction by the Secretary,

the Secretary shall provide such sponsor with periodic statements of project expenditures. Such statements shall include an estimate of all Federal and non-Federal funds expended by the Secretary, including overhead expenditures, the purpose for expenditures, and a schedule of anticipated expenditures during the remaining period of construction. Statements shall be provided to the sponsor at intervals of no greater than 6 months.

SEC. 11. SIMULATION MODEL OF SOUTH CENTRAL FLORIDA HYDROLOGIC ECOSYSTEM.

(a) IN GENERAL.—The Secretary, in cooperation with affected Federal, State, and local agencies and other interested persons, may develop and operate a simulation model of the central and southern Florida hydrologic ecosystem for use in predicting the effects—

(1) of modifications to the flood control project for central and southern Florida, authorized by the Flood Control Act of 1948, Flood control.

(2) of changes in the operation of such project, and

(3) of other human activities conducted in the vicinity of such ecosystem which individually or in the aggregate will significantly affect the ecology of such ecosystem,

on the flow, characteristics, quality, and quantity of surface and ground water in such ecosystem and on plants and wildlife within such ecosystem. Such model shall be capable of producing information which is applicable for use in evaluating the impact of issuance of proposed permits under section 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 403), commonly known as the River and Harbors Appropriation Act of 1899, and under section 404 of the Federal Water Pollution Control Act.

(b) AVAILABILITY TO STATE AND LOCAL AGENCIES.—The Secretary shall allow Federal, State, and local agencies to use, on a reimbursable basis, the simulation model developed under this section.

(c) COST SHARING.—The Federal share of the cost of developing and operating the simulation model under this section shall be 75 percent.

SEC. 12. SECTION 215 REIMBURSEMENT LIMITATION PER PROJECT.

Section 215(a) of the Flood Control Act of 1968 (42 U.S.C. 1962d-5a(a)) is amended by inserting after "$3,000,000" the following: "or 1 percent of the total project cost, whichever is greater; except that the amount of actual Federal reimbursement, including reductions in contributions, for such project may not exceed $5,000,000 in any fiscal year.".

SEC. 13. ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS FOR CONSTRUCTION OF HARBORS.

(a) RELOCATION COSTS.—Section 101(a) of the Water Resources Development Act of 1986 (33 U.S.C. 2211(a)) is amended by striking out paragraph (2) and inserting in lieu thereof the following new paragraph:

"(2) ADDITIONAL 10 PERCENT PAYMENT OVER 30 YEARS.—The non-Federal interests for a project to which paragraph (1) applies shall pay an additional 10 percent of the cost of the general navigation features of the project in cash over a period not to exceed 30 years, at an interest rate determined pursuant to section 106. The value of lands, easements, rights-of-way, relocations, and dredged material disposal areas provided under paragraph (3) and the costs of relocations borne by the non-

Federal interests under paragraph (4) shall be credited toward the payment required under this paragraph.".

33 USC 2211 note.

(b) RETROACTIVE EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on November 17, 1986.

SEC. 14. COMPLIANCE WITH FLOOD PLAIN MANAGEMENT AND INSURANCE PROGRAMS.

Section 402 of the Water Resources Development Act of 1986 (33 U.S.C. 701b-12) is amended by inserting "or any project for hurricane or storm damage reduction" after "local flood protection".

SEC. 15. FEDERAL REPAYMENT DISTRICT.

Section 916(a) of the Water Resources Development Act of 1986 (33 U.S.C 2291) is amended by striking out "include the power to collect" and all that follows through the period at the end of the last sentence and inserting in lieu thereof "have the power to recover benefits through any cost-recovery approach that is consistent with State law and satisfies the applicable cost-recovery requirement under subsection (b).".

SEC. 16. ABANDONED AND WRECKED VESSELS.

Section 1115 of the Water Resources Development Act of 1986 (100 Stat. 4235) is amended by striking out the last period and inserting in lieu thereof the following: ": *Provided*, That, in furtherance of the work authorized by paragraph (3) hereof, and conditioned on successful removal of the A. Regina, the Secretary of the Army is hereby authorized to transfer upon such conditions as he shall deem fit the title to a Delong Pier Jack-Up Barge Type A, serial number BPA6814, directly to any entity, including any private corporation to be used to assist in the removal of the wreck of the said A. Regina. Procedures otherwise governing the disposal of government property, shall not apply to the above authorized transfer of title. The foregoing actions shall be at no cost to the United States, and shall constitute full compliance by the Secretary of the Army with the requirement of paragraph (3) hereof.".

SEC. 17. FLOOD WARNING AND RESPONSE SYSTEM.

Pennsylvania.

(a) PROJECT.—The Secretary, in cooperation with other Federal agencies and the Susquehanna River Basin Commission, is authorized to design and implement a comprehensive flood warning and response system to serve communities and flood prone areas along Juniata River and tributaries in the State of Pennsylvania consistent with the cost sharing policies of the Water Resources Development Act of 1986.

(b) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section $2,000,000 for fiscal years beginning after September 30, 1988.

SEC. 18. SMALL BOAT HARBOR, BUFFALO HARBOR, NEW YORK.

The Secretary may undertake such emergency repairs as the Secretary determines necessary to preserve the existing dike at the Small Boat Harbor, Buffalo Harbor, New York, at a total cost of $2,000,000, except that the Federal share may not exceed $1,000,000.

SEC. 19. LAKEPORT LAKE, CALIFORNIA.

(a) PROJECT REAUTHORIZATION.—Subject to section 1001(a) of the Water Resources Development Act of 1986, the project for flood control, Lakeport Lake, California, as authorized by the Flood Con-

trol Act of 1965 on the day before the date of the enactment of the Water Resources Development Act of 1986, is authorized.

(b) REPEAL OF DEAUTHORIZATION.—Section 1003 of the Water Resources Development Act of 1986 (100 Stat. 4222-4223) is repealed.

SEC. 20. SACRAMENTO, CALIFORNIA.

The President, in submitting his budget for fiscal year 1990, shall include a schedule for completing the feasibility study on Northern California Streams, American River Watershed, as expeditiously as practicable and an estimate of the resources required to meet such schedule. President of U.S.

SEC. 21. MISSISSIPPI RIVER HEADWATERS RESERVOIRS.

(a) GENERAL RULE.—Notwithstanding any other provision of law, the Secretary is directed to maintain water levels in the Mississippi River headwaters reservoirs within the following operating limits: Winnibigoshish 1296.94 feet—1303.14 feet; Leech 1293.20 feet—1297.94 feet; Pokegama 1270.42 feet—1276.42 feet; Sandy 1214.31 feet—1218.31 feet; Pine 1227.32 feet—1234.82 feet; and Gull 1192.75 feet—1194.75 feet. Such water levels shall be measured using the National Geodetic Vertical Datum.

(b) EXCEPTION.—The Secretary may operate the headwaters reservoirs below the minimum or above the maximum water levels established in subsection (a) in accordance with a contingency plan which the Secretary develops after consulting with the Governor of Minnesota and affected landowners and commercial and recreational users. The Secretary shall transmit such plan to Congress within 6 months after the date of the enactment of this Act. The Secretary shall report to Congress at least 14 days prior to operating any such headwaters reservoir below the minimum or above the maximum water level limits specified in subsection (a). Reports.

SEC. 22. HEARDING ISLAND INLET, DULUTH HARBOR, MINNESOTA.

The Secretary is authorized to dredge the Hearding Island Inlet, Duluth Harbor, Minnesota, for the purpose of increasing water circulation and reducing stagnant water conditions, at a total cost of $500,000.

SEC. 23. LOUISIANA WATER SUPPLY.

The Secretary is directed to review periodically the water supply problems related to drought which may be experienced at the Bayou Lafourche water supply reservoir in Louisiana and to respond as appropriate under the authority granted by section 5 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (55 Stat. 650; 33 U.S.C. 701n).

SEC. 24. CONTAINED SPOIL DISPOSAL FACILITIES IN THE GREAT LAKES AND THEIR CONNECTING CHANNELS.

(a) PERIOD FOR DEPOSITING DREDGED MATERIALS.—Section 123 of the River and Harbor Act of 1970 (33 U.S.C. 1293a) is amended by adding at the end thereof the following new subsection:

"(j) PERIOD FOR DEPOSITING DREDGED MATERIALS.—The Secretary of the Army, acting through the Chief of Engineers, is authorized to continue to deposit dredged materials into a contained spoil disposal facility constructed under this section until the Secretary determines that such facility is no longer needed for such purpose or that such facility is completely full.".

(b) STUDY AND MONITORING PROGRAM.—Such section is further amended by adding at the end thereof the following new subsection:

"(k) STUDY AND MONITORING PROGRAM.—

"(1) STUDY.—The Secretary of the Army, acting through the Chief of Engineers, shall conduct a study of the materials disposed of in contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are present in such facilities and for the purpose of determining the concentration levels of each of such pollutants in such facilities.

"(2) REPORT.—Not later than 1 year after the date of the enactment of this subsection, the Secretary shall transmit to Congress a report on the results of the study conducted under paragraph (1).

Hazardous materials. Pollution.

"(3) INSPECTION AND MONITORING PROGRAM.—The Secretary shall conduct a program to inspect and monitor contained spoil disposal facilities constructed under this section for the purpose of determining whether or not toxic pollutants are leaking from such facilities.

"(4) TOXIC POLLUTANT DEFINED.—For purposes of this subsection, the term 'toxic pollutant' means those toxic pollutants referred to in sections 301(b)(2)(C) and 301(b)(2)(D) of the Federal Water Pollution Control Act and such other pollutants as the Secretary, in consultation with the Administrator of the Environmental Protection Agency, determines are appropriate based on their effects on human health and the environment.".

SEC. 25. SOUTH PIER TO CHARLEVOIX HARBOR, CHARLEVOIX, MICHIGAN.

Recreation.

The Secretary shall take such action as may be necessary to restore recreational uses established prior to May 1, 1988, or provide comparable recreational uses at the South Pier to Charlevoix Harbor project, Charlevoix, Michigan, in order to mitigate any adverse impact on recreational uses resulting from reconstruction of the South Pier. Costs incurred by the Secretary to carry out this section shall be allocated among authorized project purposes in accordance with applicable cost allocation procedures and shall be subject to cost sharing or reimbursement to the same extent as other project costs are shared or reimbursed.

SEC. 26. COYOTE AND BERRYESSA CREEKS, CALIFORNIA.

Reports. Flood control.

The Secretary is directed to include in the feasibility report for the project for flood control, Coyote and Berryessa Creeks, California: Report of the Board of Engineers for Rivers and Harbors, dated May 11, 1988, recommendations for reimbursement of local interests for work undertaken after the date of the enactment of this Act which is integral to the Federal project as recommended in the feasibility study. Such reimbursement shall not exceed $3,000,000 and shall be made at such time as the federally funded work is carried out.

Real property.

SEC. 27. LAND CONVEYANCE, WHITTIER NARROWS DAM, LOS ANGELES COUNTY, CALIFORNIA.

(a) AUTHORITY TO CONVEY.—Subject to the provisions of this subsection, the Secretary may convey to the city of South El Monte, California, approximately 7.778 acres of real property, together with improvements thereon, located within the Whittier Narrows Flood

Control Basin, south of the Pomona Freeway (Highway 60) and east of Santa Anita Avenue, in the city of South El Monte, California.

(b) CONSIDERATION.—In consideration for the conveyance authorized by subsection (a), the Secretary may accept real property in the Los Angeles area or cash, or both. The value of the consideration for the conveyance may not be less than the fair market value of the property conveyed by the United States, as determined by the Secretary. Any funds received by the Secretary under this section shall be deposited into the general fund of the Treasury. Gifts and property.

(c) CONDITIONS.—The Secretary may make the conveyance described in subsection (a) only if—

(1) the city of South El Monte, California, grants the United States a perpetual easement that enables the Federal Government to carry out necessary flood control activities with respect to such real property; Flood control.

(2) such city agrees to use suitable property located directly adjacent to the Whittier Narrows Park, which will be acquired by such city through an exchange for such real property, for parking in connection with recreational activities in the Whittier Narrows Recreational Area, as the Secretary considers appropriate; and

(3) the Secretary determines that the Secretary does not need fee simple title to such real property for operation of the project.

(d) ADDITIONAL TERMS.—The Secretary may impose such additional terms and conditions on the conveyance authorized by subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

(e) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of such survey shall be borne by the city of South El Monte, California.

SEC. 28. LAND CONVEYANCE, OTTAWA, ILLINOIS.

(a) IN GENERAL.—Subject to the provisions of this section, the Secretary shall convey to the city of Ottawa, Illinois, by quitclaim deed any right, title, and interest of the United States to approximately 5.3 acres of land located at the junction of the Fox and Illinois Rivers in such city.

(b) TERMS AND CONDITIONS.—The conveyance by the United States under this section shall be subject to the condition that the city of Ottawa, Illinois, its successors and assigns, agrees to hold the United States harmless from all claims arising from or through the operations of the lands conveyed by the United States. The Secretary may impose such additional terms and conditions on the conveyance as the Secretary considers appropriate to protect the interests of the United States; except that the Secretary may not impose any term or condition which restricts the use of the lands conveyed by the United States under this section. Claims.

(c) LEGAL DESCRIPTION OF REAL PROPERTY.—The exact acreage and legal description of the real property described in subsection (a) shall be determined by a survey which is satisfactory to the Secretary. The cost of the survey shall be borne by the city of Ottawa, Illinois.

SEC. 29. LAND TRANSFER IN WHITMAN COUNTY, WASHINGTON.

Wildlife.

(a) EXCHANGE OF LAND.—The Secretary shall exchange approximately 171 acres of land acquired by the United States for the Lower Granite Lock and Dam project, Washington, authorized as part of the navigation project for the Snake River, Oregon, Washington, and Idaho by section 2 of the River and Harbor Act of March 2, 1945 (59 Stat. 21), for a tract of land owned by the Port of Whitman County, Washington, which the Secretary determines is suitable for wildlife mitigation purposes. Such exchange shall be made with regard to the values of the lands being exchanged.

(b) TERMS AND CONDITIONS.—The land of the United States exchanged under subsection (a) shall be subject to a reversionary interest in the United States if such land is used for any purpose other than port or industrial purposes. Such exchange shall also be subject to such other terms, conditions, reservations, and restrictions as the Secretary determines necessary for the development, maintenance, and operation of the Lower Granite Lock and Dam project referred to in subsection (a) and to protect the interests of the United States.

(c) LEGAL DESCRIPTIONS AND SURVEYS.—The exact acreages and legal descriptions of the lands exchanged under subsection (a) shall be determined by such surveys as the Secretary determines are necessary. The cost of such surveys shall be paid by the Port of Whitman County, Washington.

SEC. 30. LESAGE/GREENBOTTOM SWAMP, WEST VIRGINIA.

(a) LIMITATION ON LAND CONVEYANCE.—The Secretary shall not convey title to all or any part of the Lesage/Greenbottom Swamp to the State of West Virginia.

(b) LESAGE/GREENBOTTOM SWAMP DEFINED.—For purposes of this section, the term "Lesage/Greenbottom Swamp" means the land located in Cabell and Mason Counties, West Virginia, acquired or to be acquired by the United States for fish and wildlife mitigation purposes in connection with the Gallipolis Locks and Dam replacement project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

(c) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this section shall be construed as affecting the authority of the Secretary to carry out the Gallipolis Locks and Dam replacement project authorized by section 301(a) of the Water Resources Development Act of 1986 (100 Stat. 4110).

SEC. 31. PORTUGUESE AND BUCANA RIVERS, PUERTO RICO.

The Secretary is authorized to pay tuition expenses of suitable, English-taught primary and secondary education in Puerto Rico for the child or children of any Federal employee when such expenses are incurred after the date of the enactment of this Act and while the employee is temporarily residing and employed in Puerto Rico for the construction of the Portuguese and Bucana Rivers, Puerto Rico, project.

SEC. 32. ALTERNATIVES TO MUD DUMP FOR DISPOSAL OF DREDGED MATERIAL.

Section 211 of the Water Resources Development Act of 1986 (100 Stat. 4106; 33 U.S.C. 2239) is amended by redesignating subsections (d), (e), (f), and (g), and any references thereto, as subsections (e), (f),

(g), and (h), respectively, and by inserting after subsection (c) the following new subsection:

"(d) DESIGNATION PLAN.—Not later than 120 days after the date of the enactment of the Water Resources Development Act of 1988, the Administrator shall submit to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives his plan for designating one or more sites under subsection (a). The plan shall specify the actions necessary to comply with subsection (a), the funding requirements associated with these actions, and the dates by which the Administrator expects to complete each of these actions. The plan also shall specify actions which the Administrator may be able to take to expedite the designation of any sites under subsection (a).".

SEC. 33. MISSOURI RIVER BETWEEN FORT PECK DAM, MONTANA, AND GAVINS POINT DAM, SOUTH DAKOTA AND NEBRASKA.

Section 9 of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved December 22, 1944 (58 Stat. 891), is amended by adding at the end thereof the following new subsection:

"(f) The Secretary of the Army is directed to undertake such measures, including maintenance and rehabilitation of existing structures, which the Secretary determines are needed to alleviate bank erosion and related problems associated with reservoir releases along the Missouri River between Fort Peck Dam, Montana, and a point 58 miles downstream of Gavins Point Dam, South Dakota, and Nebraska. The cost of such measures may not exceed $3,000,000 per fiscal year. Notwithstanding any other provision of law, the costs of these measures, including the costs of necessary real estate interests and structural features, shall be apportioned among project proposes as a joint-use operation and maintenance expense. In lieu of structural measures, the Secretary may acquire interests in affected areas, as the Secretary deems appropriate, from willing sellers.".

SEC. 34. NEW YORK HARBOR DRIFT REMOVAL PROJECT.

Section 91 of the Water Resources Development Act of 1974 (88 Stat. 39) is amended by striking out "$30,500,000" and inserting in lieu thereof "$6,000,000 annually".

SEC. 35. PLACEMENT OF DREDGED BEACH QUALITY SAND ON BEACHES.

Section 145 of the Water Resources Development Act of 1976 (33 U.S.C. 426j) is amended by adding at the end thereof the following new sentence: "In carrying out this section, the Secretary shall give consideration to the State's schedule for providing its share of funds for placing such sand on the beaches of such State and shall, to the maximum extent practicable, accommodate such schedule.".

State and local governments.

SEC. 36. RESTORATION, VENTURA TO PIERPONT BEACH, CALIFORNIA.

The Secretary shall make such emergency repairs as are required to restore groin number 1 of the Ventura to Pierpont Beach erosion control project to its original configuration as authorized pursuant to House Document 87-458, except that the Federal cost shall not exceed $300,000.

California.

SEC. 37. WILLIAM G. STONE LOCK TOLLS.

Section 1150(b) of the Water Resources Development Act of 1986 (100 Stat. 4255) is amended by striking out "Yolo County, California" and inserting in lieu thereof the following: "the city of West Sacramento, California".

33 USC 59j-1.

SEC. 38. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF THE DELAWARE RIVER.

Pennsylvania.

(a) AREA TO BE DECLARED NON-NAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects in Philadelphia, Pennsylvania, to be undertaken within the boundaries described below, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of the Delaware River, bounded and described as follows, are declared to be non-navigable waters of the United States:

(1) LIBERTY LANDING.

Description of Pier 53 South

All that certain lot or piece of ground together with the improvements thereon erected, situate in the 1st ward of the city of Philadelphia and described according to a plan of property by John Stefanco, Surveyor and Regulator of the Second Survey District, dated November 4, 1974 and revised December 18, 1974:

Beginning at an interior point formed by the intersection of the following two courses and distances: (1) north 14 degrees 46 minutes 39 seconds east, the distance of 781.002 feet northwardly from the northerly side of Reed Street (50 feet wide bearing south 75 degrees 13 minutes 21 seconds east); (2) south 75 degrees 20 minutes 21 seconds east, the distance of 231.805 feet eastwardly from the easterly side of Delaware Avenue (150 feet wide bearing north 14 degrees 39 minutes 39 seconds east); thence extending from said point of beginning, north 0 degree 49 minutes 15 seconds west, the distance of 160.856 feet to a point; thence extending north 79 degrees 53 minutes 04 seconds east, the distance of 24.808 feet to a point; thence extending north 10 degrees 03 minutes west, the distance of 15.0 feet to a point; thence extending south 79 degrees 53 minutes 04 seconds west, the distance of 22.723 feet to a point; thence extending north 4 degrees 56 minutes 56 seconds west, the distance of 99.228 feet to a point; thence extending south 80 degrees 53 minutes 04 seconds west, the distance of 7.0 feet to a point on an arc; thence extending along an arc curving to the right having a radius of 698.835 feet, a central angle of 11 degrees 29 minutes 44 seconds, an arc distance of 140.211 feet to a point of tangency; thence extending north 0 degree 44 minutes 16 seconds west, the distance of 57.302 feet to a point on the former centre line of former Washington Avenue (100 feet wide); thence extending along the said centre line of former Washington Avenue and crossing the bed of a 30-foot-wide private driveway and the bulkhead line, (approved by the Secretary of War, September 10, 1940); south 75 degrees 13 minutes 21 seconds east, the distance of 940.350 feet to a point on the pierhead line (approved by the Secretary of War, September 10, 1940); thence extending along the said pierhead line, south 1 degree 32 minutes 57 seconds east, the distance of 422.516 feet to a point; thence extending north 75 degrees 13 minutes 21 seconds west, recrossing the said

Bulkhead line; the distance of 690.031 feet to a point; thence extending north 6 degrees 35 minutes 30 seconds west, the distance of 58.388 feet to a point; thence extending south 79 degrees 54 minutes west, the distance of 19.120 feet to a point; thence extending south 10 degrees 6 minutes east, the distance of 4.10 feet to a point; thence extending south 79 degrees 54 minutes west, and crossing the bed of the aforementioned 30-foot-wide private driveway, the distance of 196.802 feet to the First mentioned point and place of beginning.

Containing in total area 374,026.6 square feet—8.58647 acres description of 30-foot-wide private driveway within the property of Pier 53 south.

All that certain lot or piece of ground described as a 30-foot-wide private driveway as shown on a plan of property, situate in the 1st ward of the city of Philadelphia, by John Stefanco, Surveyor and Regulator of the Second Survey District, dated November 4, 1974 and revised December 18, 1974.

Beginning at an interior point formed by the intersection of the following 2 courses and distances: (1) north 14 degrees 46 minutes 39 seconds east, the distance of 802.293 feet northwardly from the northerly side of Reed Street (50 feet wide bearing south 75 degrees 13 minutes 21 seconds east), (2) south 75 degrees 20 minutes 21 seconds east, the distance of 277.764 feet eastwardly from the easterly side of Delaware Avenue (150 feet wide bearing north 14 degrees 39 minutes 39 seconds east); thence extending from said point of beginning north 10 degrees 3 minutes west, the distance of 173.758 feet to a point; thence extending north 14 degrees 52 minutes 4 seconds east, the distance of 180.551 feet to a point; thence extending north 17 degrees 35 minutes 1 second west, the distance of 101.949 feet to a point on the centre line of former Washington Avenue (100 feet wide); thence extending along said former centre line of Washington Avenue, south 75 degrees 13 minutes 21 seconds east, the distance of 35.516 feet to a point; thence extending south 17 degrees 35 minutes 1 second east, the distance of 91.669 feet to a point; thence extending south 14 degrees 52 minutes 4 seconds west, the distance of 182.653 feet to a point; thence extending south 10 degrees 3 minutes east, the distance of 167.104 feet to a point; thence extending south 79 degrees 54 minutes west, the distance of 30.000 feet to the first mentioned point and place of beginning. Area of 30-foot-wide private driveway is 13,465.2 square feet—0.30912 acres.

All that certain lot or piece of ground with the buildings and improvements thereon erected, situate in the first ward of the city of Philadelphia and described according to a Plan of Property by Evans Sparks, Surveyor and Regulator of the Second Survey District, dated February 23, 1988 as follows: Parcel "A".

Beginning at a point on the easterly side of Delaware Avenue (150 feet wide), located northwardly the distance of 1,100 feet 7⅜ inches from the point of intersection of the northerly side of Tasker Street (50 feet wide) and the easterly side of the said Delaware Avenue; thence extending north 14 degrees 39 minutes 39 seconds east along the said easterly side of Delaware Avenue, the distance of 975 feet 1 inch to an angle point; thence continuing along the said easterly side of Delaware Avenue north 14 degrees 35 minutes 09 seconds east, the distance of 50 feet 0 inch to a point on the center line of former Washington Avenue (100 feet wide), stricken from the city plan; thence extending south 75 degrees 14 minutes 21 seconds east along the center line of the said former Washington Avenue, the distance of 151 feet 4⅞ inches to a point on the westerly side of a 30-

foot-wide driveway easement; thence extending south 17 degrees 35 minutes 01 second east along the said driveway easement, the distance of 102 feet 0 inch to an angle point; thence continuing along the said driveway easement south 14 degrees 52 minutes 04 seconds west, the distance of 180 feet 6⅝ inches to an angle point; thence still continuing along the said driveway easement south 10 degrees 03 minutes 00 seconds east, the distance of 131 feet 7⅛ inches to a point; thence extending south 14 degrees 39 minutes 39 seconds west along a line, the distance of 638 feet 11 inches to a point; thence extending north 75 degrees 14 minutes 21 seconds west, along a line, the distance of 260 feet 1½ inches to a point on the easterly side of said Delaware Avenue, being the first mentioned point and place of beginning.

Containing in area 246,456 square feet or 5.6579 acres.

All that certain lot or piece of ground with the buildings and improvements thereon erected, situate in the first ward of the city of Philadelphia and described according to a Plan of Property by Evans Sparks, Surveyor and Regulator of the Second Survey District, dated February 23, 1988 as follows: Parcel "B".

Beginning at a point on the easterly side of Delaware Avenue (150 feet wide), located northwardly the distance of 1,038 feet 1⅞ inches from the point of intersection of the northerly side of Tasker Street (50 feet wide) and the easterly side of the said Delaware Avenue; thence extending north 14 degrees 39 minutes 39 seconds east along the said easterly side of Delaware Avenue, the distance of 62 feet 5½ inches to a point; thence extending south 75 degrees 14 minutes 21 seconds east along a line, the distance of 260 feet 1½ inches to a point; thence extending north 14 degrees 39 minutes 39 seconds east along a line, the distance of 638 feet 11 inches to a point on the westerly side of a 30 feet wide driveway easement; thence extending south 10 degrees 03 minutes 00 seconds east along the said driveway easement, the distance of 42 feet 2 inches to a point; thence extending north 79 degrees 54 minutes 00 seconds east crossing the said driveway easement, the distance of 146 feet 2½ inches to a point; thence extending north 10 degrees 06 minutes 00 seconds west, the distance of 4 feet 1¼ inches to a point; thence extending north 79 degrees 54 minutes 00 seconds east, the distance of 19 feet 1½ inches to a point; thence extending south 6 degrees 35 minutes 30 seconds east, the distance of 58 feet 4⅝ inches to a point; thence extending south 75 degrees 13 minutes 21 seconds east, crossing the bulkhead line approved by the Secretary of War, September 10, 1940; August 9, 1909, and January 20, 1891, the distance of 690 feet 1⅝ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War, September 10, 1940; August 9, 1909, and January 20, 1891; thence extending along the said pierhead line south 1 degree 32 minutes 57 seconds east, the distance of 386 feet 4⅛ inches to a point; thence continuing along the said pierhead line, south 8 degrees 55 minutes 55.5 seconds east, the distance of 491 feet 11¼ inches to a point on the northerly side of Reed Street (50 feet wide) stricken from city plan and vacated and reserved as a right-of-way for drainage, water main and gas purposes; thence extending along same, north 75 degrees 13 minutes 21 seconds west, recrossing the said bulkhead line and 30-foot-wide driveway easement the distance of 632 feet 1½ inches to a point on the westerly side of said driveway easement; thence extending north 12 degrees 24 minutes 31 seconds west, along said driveway easement, the distance of 136 feet 0¼ inch to a point; thence extending north 14 degrees 50 minutes 59 seconds

east, partly along a 25-foot-wide driveway easement, the distance of 21 feet 0⅛ inch to a point; thence extending north 75 degrees 13 minutes 21 seconds west, the distance of 492 feet 11¾ inches to a point; thence extending south 14 degrees 46 minutes 39 seconds west, the distance of 51 feet 3⅛ inches to a point; thence extending north 64 degrees 29 minutes 30 seconds west, the distance of 259 feet 9⅝ inches to the easterly side of said Delaware Avenue, being the first mentioned point and place of beginning.

Containing in area 785,683 square feet or 18.0368 acres.

(2) MARINA TOWERS AND WORLD TRADE CENTER—PIER 25 NORTH.

All that certain lot or piece of ground situate in the 5th ward, city of Philadelphia, Commonwealth of Pennsylvania, described in accordance with a Plan of Property made for Old City Harbor Associates Developers, by Lawrence J. Cleary, Surveyor and Regulator, Third Survey District dated March 26, 1981 as follows: to wit:

Beginning at a point on the easterly line of Delaware Avenue (150 feet wide) located 27 degrees 52 minutes 00 seconds west, the distance of 119 feet 8⅞ inches from a point of intersection of the easterly line of the said Delaware Avenue with the southerly line of Willow Street (50 feet wide) produced; thence extending along the easterly line of the said Delaware Avenue, the two following courses and distances: (1) north 27 degrees 52 minutes 00 seconds east, the distance of 162 feet 8⅛ inches to an angle point; (2) north 15 degrees 16 minutes 00 seconds east, the distance of 95 feet 5⅜ inches to a point; thence extending south 73 degrees 55 minutes 50 seconds east, the distance of 18 feet 5⅞ inches to a point on the bulkhead line of the Delaware River approved by the Secretary of War September 10, 1940; thence further extending south 73 degrees 55 minutes 50 seconds east, the distance of 515 feet 9⅜ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War September 10, 1940; thence extending the following two courses and distances along the said pierhead line of the Delaware River (approved by the Secretary of War September 10, 1940): (1) south 29 degrees 05 minutes 21 seconds west, the distance of 133 feet 8⅞ inches to an angle point; (2) south 19 degrees 41 minutes 36 seconds west, the distance of 117 feet 2½ inches to a point; thence extending north 74 degrees 44 minutes 00 seconds west, the distance of 504 feet 10 inches to a point on the said bulkhead line of the Delaware River (approved by the Secretary of War September 10, 1940); thence further extending north 74 degrees 44 minutes 00 seconds west, the distance of 23 feet 10⅝ inches to the first mentioned point and place beginning.

Being parcels number 1 (known as pier 25 north), number 2 and number 3 and containing in total area 130,281.6 square feet.

(3) MARINE TRADE CENTER—PIER 24 NORTH.

Description of a property located on the easterly side of Delaware Avenue. Northwardly from the south house line of Callowhill Street produced (pier numbered 24 north).

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Survey and Plan of Property made November 16, 1985 by Lawrence J. Cleary, Surveyor and Regulator, Third Survey District, and revised March 22, 1988 by him.

Beginning at a point of intersection of the easterly side of Delaware Avenue (150 feet wide) and the south house line of Callowhill Street (formerly 50 feet wide) produced; thence extending north 27 degrees 52 minutes 00 seconds east along the said side of Delaware

Avenue, the distance of 340 feet 3 inches to a point; thence extending south 74 degrees 44 minutes 00 seconds east the distance of 23 feet 10⅝ inches to a point on the bulkhead line of the Delaware River approved by the Secretary of War, September 10, 1940; thence extending south 74 degrees 44 minutes 00 seconds east the distance of 528 feet 8⅝ inches to a point on the pierhead line of the Delaware River approved by the Secretary of War, September 10, 1940; thence extending south 19 degrees 41 minutes 36 seconds west along the said pierhead line the distance of 289 feet 9½ inches to a point on the said south house line of Callowhill Street produced; thence extending north 78 degrees 58 minutes 50 seconds west along the south house line of said Callowhill Street produced the distance of 522 feet 8¾ inches to a point on the said bulkhead line; thence continuing along the said south house line of Callowhill Street produced north 78 degrees 58 minutes 50 seconds west the distance of 59 feet 5¼ inches to the first mentioned point and place of beginning.

Containing in area 171,171 square feet (3.9295 acres).

(4) NATIONAL SUGAR COMPANY "SUGAR HOUSE".

Description and Recital—block 6 north 6 lot 17—all that certain land.

Situate in the 5th ward of the city of Philadelphia, Pennsylvania and more particularly described as follows:

Beginning at a point on the southeasterly side of Penn Street (60 feet wide) which point is measured south 43 degrees 30 minutes west along the said southeasterly side of Penn Street the distance of 282 feet 6 inches from a point formed by an intersection of the said southeasterly side of Penn Street and the southwesterly side of Laurel Street (50 feet wide); thence extending from said point of beginning south 46 degrees 30 minutes east the distance of 738 feet 8½ inches to a point on the Delaware River pierhead line established January 5, 1894, approved by Secretary of War September 10, 1940; thence extending south 48 degrees 13 minutes 7 seconds west along the Delaware River pierhead line the distance of 188 feet 3⅛ inches to a point; thence extending north 46 degrees 30 minutes west partly passing within the bed of a 10-foot-wide alley by deed (which extends northwestwardly to the said southeasterly side of Penn Street) the distance of 723 feet 2⅝ inches to a point on the said southeasterly side of Penn Street; thence extending north 43 degrees 30 minutes east along the said southeasterly side of Penn Street and crossing the bed of the said 10-foot-wide alley by deed the distance of 187 feet 7½ inches to a point, being the first mentioned point and place of beginning.

Containing 3.148 acres, more or less, as surveyed on June 29, 1981, by Lawrence J. Cleary, Surveyor and Regulator of the 3rd District.

Together with 1,736 linear feet of track thereupon erected, made or being and all and every of the rights, alleys, ways, waters, privileges, appurtenances and advantages to the same belonging, or in anywise appertaining. Being known as pier 40 north.

Being the same premises which Ralph Heller, an individual by deed dated November 4, 1981, and recorded in Philadelphia County, in deed book EFP 345 page 531 conveyed unto pier 40 north associates, a Penna. Limited partnership, its successors and assigns, as partnership property for the uses and purposes of said partnership.

Description of piers 41, 42, and 43 north

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Topographic Survey and Plan of Property made May 23, 1988, by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District:

Beginning at the point formed by the intersection of the easterly side of Penn Street (60 feet wide), and the southerly side of former Laurel Street (50 feet wide), stricken and reserved for drainage; thence extending south 46 degrees 30 minutes 00 seconds east, along the said southerly side of former said Laurel Street, the distance of 190 feet 9 inches to a point on the bulkhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending south 46 degree 30 minutes 00 seconds east the distance of 571 feet 3¼ inches to a point on the pierhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending south 48 degrees 13 minutes 07 seconds west along the said pierhead line the distance of 283 feet 5½ inches to a point; thence extending north 46 degrees 30 minutes 00 seconds west leaving said pierhead line the distance of 546 feet 11⅝ inches to a point on the aforementioned bulkhead line established January 5, 1894, and approved by the Secretary of War, September 10, 1940; thence extending north 46 degrees 30 minutes 00 seconds west the distance of 191 feet 8⅞ inches to a point on the easterly side of said Penn Street; thence extending north 43 degrees 30 minutes 00 seconds east along the easterly side of said Penn Street the distance of 282 feet 6 inches to the first mentioned point and place of beginning.

Description of piers 44 to 50 north, inclusive

All that certain lot or piece of ground situate in the fifth ward of the city of Philadelphia and described in accordance with a Survey and Plan of Property made March 7, 1985 by Lawrence J. Cleary, Surveyor and Regulator of the Third Survey District:

Beginning at a point of intersection formed by the northeasterly side of Shackamaxon Street (60 feet wide) and the southeasterly side of Penn Street (50 feet wide); thence extending south 22 degrees 26 minutes 57 seconds east along the northeasterly side of the bed of former Shackamaxon Street (reserved for drainage purposes), the distance of 170 feet 8⅝ inches to a point on the bulkhead line of the Delaware River (established January 5, 1894—approved by the Secretary of War, September 10, 1940); thence further extending south 22 degrees 26 minutes 57 seconds east along the northeasterly side of the bed of former Shackamaxon Street (subject to a right-of-way for sewer maintenance as provided in ordinance), the distance of 623 feet 6⅜ inches to a point on the pierhead line of the Delaware River (established January 5, 1894—approved by the Secretary of War, September 10, 1940); thence extending south 54 degrees 04 minutes 10 seconds west along the said pierhead line (being also the southeasterly head of the said former Shackamaxon Street), the distance of 61 feet 8⅜ inches to an angle point; thence extending south 48 degrees 11 minutes 38 seconds west along the said pierhead line the distance of 385 feet 11½ inches to a point on the northeasterly side of Laurel Street (50 feet wide) produced; thence extending north 46 degrees 29 minutes 00 seconds west along the northeasterly side of

the said Laurel Street produced, the distance of 575 feet 6⅞ inches to a point on the said bulkhead line; thence further extending north 46 degrees 29 minutes 00 seconds west along the northeasterly side of the said Laurel Street, the distance of 190 feet 7 inches to a point on the southeasterly side of Penn Street (60 feet wide); thence extending north 43 degrees 30 minutes 00 seconds east along the southeasterly side of the aforesaid Penn Street, the distance of 543 feet 0¾ inch to an angle point; thence extending north 63 degrees 51 minutes 33 seconds east along the southeasterly side of said Penn Street (50 feet wide), the distance of 240 feet 9 inches to the first mentioned point and place of beginning.

(5) RIVERCENTER.

Beginning at the point of intersection of the northeasterly side of Dyott Street (100 feet wide) with the bulkhead line established by the Secretary of War, September 10, 1940; thence from said point of beginning leaving the side of Dyott Street and extending along the bulkhead line the following five (5) courses and distances—

(1) north 64 degrees 18 minutes 09 seconds east 829 feet 10 inches to a point;

(2) south 48 degrees 30 minutes 57 seconds east 53 feet 5⅝ inches to a point;

(3) north 64 degrees 40 minutes 52 seconds east 936 feet 8⅝ inches to a point;

(4) north 32 degrees 24 minutes 26 seconds west 149 feet 2¼ inches to a point;

(5) north 64 degrees 04 minutes 09 seconds east crossing a 60 foot drainage right-of-way 296 feet 3¾ inches to a point on the southwesterly side of pier #20;

thence extending along said southwesterly side of pier #20 15 feet distant and parallel with the aforementioned drainage right-of-way south 25 degrees 02 minutes 08 seconds east 586 feet 6⅜ inches to a point on the pierhead line established by the Secretary of War, September 10, 1940; thence extending along the pierhead line south 64 degrees 16 minutes 52 seconds west 2,021 feet 10 inches to a point on the northeasterly side of Dyott Street; thence extending along said northeasterly side of Dyott Street north 30 degrees 02 minutes 52 seconds west 494 feet 9⅜ inches to the point and place of beginning.

The Secretary shall make the public interest determination separately for each proposed project, using reasonable discretion, within 150 days after submission of appropriate plans for each proposed project.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including, but not necessarily limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the

requirements set out in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of non-navigability for such area or part thereof shall expire.

SEC. 39. DECLARATION OF NONNAVIGABILITY FOR PORTIONS OF CONEY ISLAND CREEK AND GRAVESEND BAY, NEW YORK.

33 USC 59y.

(a) AREA TO BE DECLARED NON-NAVIGABLE; PUBLIC INTEREST.—Unless the Secretary finds, after consultation with local and regional public officials (including local and regional public planning organizations), that the proposed projects to be undertaken within the boundaries in the portions of Coney Island Creek and Gravesend Bay, New York, described below, are not in the public interest then, subject to subsections (b) and (c) of this section, those portions of such Creek and Bay, bounded and described as follows, are declared to be non-navigable waters of the United States:

Beginning at the corner formed by the intersection of the Westerly Line of Cropsey Avenue, and the Northernmost United States Pierhead Line of Coney Island Creek.

Running thence south 12 degrees 41 minutes 03 seconds E and along the westerly line of Cropsey Avenue, 98.72 feet to the northerly channel line as shown on Corps of Engineers Map Numbered F. 150 and on Survey by Rogers and Giollorenzo Numbered 13959 dated October 31, 1986.

Running thence in a westerly direction and along the said northerly channel line the following bearings and distances:

South 48 degrees 59 minutes 27 seconds west, 118.77 feet; south 37 degrees 07 minutes 01 seconds west, 232.00 feet; south 23 degrees 17 minutes 10 seconds west, 430.03 feet; south 31 degrees 25 minutes 46 seconds west, 210.95 feet; south 79 degrees 22 minutes 49 seconds west, 244.18 feet; north 55 degrees 00 minutes 29 seconds west, 183.10 feet; north 41 degrees 47 minutes 04 seconds west, 315.16 feet;

North 41 degrees 17 minutes 43 seconds west, 492.47 feet to the said Pierhead Line; thence north 73 degrees 58 minutes 40 seconds west and along said pierhead line, 2,665.25 feet to the intersection of the United States bulkhead line;

Thence north 0 degree 19 minutes 35 seconds west and along the United States Bulkhead line 1,138.50 feet to the intersection of the westerly prolongation of the center line of 26th Avenue,

Thence north 58 degrees 25 minutes 06 seconds east and along the center line of said 26th Avenue, 2,320.85 feet to the westerly line of Cropsey Avenue, then southeasterly and along the southerly line of Cropsey Avenue the following bearings and distances:

South 31 degrees 34 minutes 54 seconds east, 4,124.59 feet; and

South 12 degrees 41 minutes 03 seconds east, 710.74 feet to the point or place of beginning.

Coordinates and bearings are in the system as established by the United States Coast and Geodetic Survey for the Borough of Brooklyn. The Secretary shall make the public interest determination separately for each proposed project, using reasonable discretion, within 150 days after submission of appropriate plans for each proposed project.

(b) LIMITS ON APPLICABILITY; REGULATORY REQUIREMENTS.—The declaration under subsection (a) shall apply only to those parts of the areas described in subsection (a) of this section which are or will be bulkheaded and filled or otherwise occupied by permanent structures, including marina facilities. All such work is subject to all applicable Federal statutes and regulations, including, but not necessarily limited to, sections 9 and 10 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401 and 403), commonly known as the River and Harbors Appropriation Act of 1899, section 404 of the Federal Water Pollution Control Act, and the National Environmental Policy Act of 1969.

(c) EXPIRATION DATE.—If, 20 years from the date of the enactment of this Act, any area or part thereof described in subsection (a) of this section is not bulkheaded or filled or occupied by permanent structures, including marina facilities, in accordance with the requirements set out in subsection (b) of this section, or if work in connection with any activity permitted in subsection (b) is not commenced within 5 years after issuance of such permits, then the declaration of non-navigability for such area or part thereof shall expire.

SEC. 40. EXTENSION OF MODIFIED WATER DELIVERY SCHEDULES, EVERGLADES NATIONAL PARK.

The first sentence of section 1302 of the Supplemental Appropriations Act, 1984 (97 Stat. 1292-1293) is amended by striking out "January 1, 1989" and inserting in lieu thereof "January 1, 1992".

SEC. 41. PERIOD OF ENVIRONMENTAL DEMONSTRATION PROGRAM.

(a) EXTENSION OF PERIOD.—Section 1135(b) of the Water Resources Development Act of 1986 (33 U.S.C. 2294 note) is amended by striking out "two-year period" and inserting in lieu thereof "5-year period".

(b) REPORTS.—Section 1135(d) of such Act is amended by striking out "two years" and inserting in lieu thereof "5 years".

Energy.
42 USC 1962d-5g note.

SEC. 42. FEDERAL HYDROELECTRIC POWER MODERNIZATION STUDY.

(a) STUDY.—The Secretary shall conduct a study of the need to modernize and upgrade the federally owned and operated hydroelectric power system.

(b) REPORT.—Not later than 2 years after the date of the enactment of this section, the Secretary shall transmit to Congress a report on the results of the study conducted under subsection (a) together with recommendations.

Energy.
42 USC 1962d-5g note.

SEC. 43. WATER QUALITY EFFECTS OF HYDROELECTRIC FACILITIES.

(a) STUDY.—The Secretary, in cooperation with the Administrator of the Environmental Protection Agency, shall undertake a study of the water quality effects of hydroelectric facilities owned and operated by the Corps of Engineers. Such study shall be transmitted to Congress within 2 years of the date of the enactment of this Act and shall consider and include information for each such Corps of Engineers hydroelectric facility pertaining to: relevant water quality standards including dissolved oxygen; water quality monitoring data; possible options and projected costs of measures required to improve the quality of water released from each such facility where justified; and recommendations with respect to such study results.

(b) LIMITATIONS.—Nothing in this section shall convey to any agency of the Federal Government any new authority with respect to the allocation or release of water from Federal reservoirs. Further, nothing in this section is designed or intended to affect any present or future legal actions or proceedings.

SEC. 44. GAO REVIEW OF CIVIL WORKS PROGRAM.

The Comptroller General of the United States General Accounting Office is authorized and directed to conduct a review of the Civil Works Program of the United States Army Corps of Engineers. This management and administration review shall be transmitted to Congress, together with any recommendations which the Comptroller General may make.

SEC. 45. DES PLAINES RIVER WETLANDS DEMONSTRATION PROJECT AUTHORIZATION.

Research and development. 33 USC 2300 note.

(a) RESTORATION OF WETLANDS.—The Secretary is authorized to carry out a project to construct, and engage in other activities, necessary for the restoration of wetlands, of sufficient scale, for research and demonstration purposes adjacent to the Des Plaines River in Wadsworth, Illinois. The non-Federal interest shall agree—

(1) to provide, without cost to the United States, all lands, easements, and rights-of-ways necessary for construction and subsequent research and demonstration work;

(2) to hold and save the United States free from damages due to construction, operation, and maintenance of the project, except damages due to the fault or negligence of the United States or its contractors; and

(3) after the completion of the research work, to operate and maintain the restored wetlands in accordance with good management practices.

The value of the non-Federal lands, easements, rights-of-way, and relocations provided by the non-Federal interests, shall be credited toward the non-Federal share of project construction costs. The non-Federal share of project construction costs shall be 25 percent.

(b) AUTHORIZATION OF APPROPRIATION.—There are authorized to be appropriated to the Secretary $2,200,000 for the period of fiscal years 1990 through 1994 to carry out this section.

(c) PURPOSES.—The project authorized by this section shall—

(1) define the wetland functions expected to be restored and maintained giving due consideration to site specific climatic, topographic, hydrologic, and edaphic conditions;

(2) conduct research to establish the critical relationships between the land, water, and biotic factors responsible for the defined wetland functions;

(3) establish and report design and construction procedures necessary to create the defined wetland functions throughout similar climatic areas and identify and report these wetland functions;

(4) create or restore sustainable wetlands which will serve as examples of the benefits and aesthetics of wetland landscapes; and

(5) secure the long-term commitment from a State or local agency for the maintenance of the wetlands following the research work.

(d) REPORT.—The Secretary shall report to Congress on the degree of progress achieved in carrying out the project under this section.

SEC. 46. KISSIMMEE RIVER, FLORIDA.

The Secretary is directed to proceed with work on the Kissimmee River demonstration project, Florida, pursuant to section 1135 of the Water Resources Development Act of 1986.

SEC. 47. WATER RESOURCES STUDIES.

(a) INTERNAL DRAINAGE SYSTEM, FROG POND AGRICULTURAL AREA, FLORIDA.—The Secretary shall conduct a study for the purpose of determining the need for an internal drainage system in the Frog Pond agricultural area of south Dade County, Florida. Within 1 year after the date of the enactment of this Act, the Secretary shall submit to Congress a reconnaissance report on the need for such system.

Reports.

(b) BARTLETT, ILLINOIS.—Before issuing a permit under section 404 of the Federal Water Pollution Control Act for a proposed municipal landfill in the vicinity of Bartlett, Illinois, the Secretary shall consider the impact of such landfill on the Newark Valley Aquifer and on the ability of water from such Aquifer to dilute for purposes of drinking water supply naturally occurring radium in groundwater. Before issuing such permit, the Secretary shall consult with the Administrator of the Environmental Protection Agency with respect to the impact of such landfill on the Newark Valley Aquifer. Such consultation shall occur within 45 days after the date of the issuance, when and if made, of the Illinois water quality certification of such landfill pursuant to section 401 of such Act and shall include the Administrator's analysis of the permit record of the Illinois Environmental Protection Agency with respect to the water quality impacts of such landfill. Within 90 days of receiving a completed application for a permit under section 404 of such Act, including such Illinois water quality certification, the Secretary shall report to Congress on the impact of such landfill on the Newark Valley Aquifer. The provisions of this subsection shall not constitute an affirmative requirement for the Secretary to expand upon the existing permit record as prepared by the Illinois Environmental Protection Agency.

Reports.

(c) BLUESTONE LAKE, WEST VIRGINIA.—

Reports.

(1) IN GENERAL.—The Secretary, in cooperation with the Secretary of the Interior, is authorized and directed to conduct a study and prepare a report on modifying the operation of the Bluestone Lake project, West Virginia, in order to facilitate the protection and enhancement of biological resources and recreational use of waters downstream from the project. Specific consideration shall be given in the study to all feasible means of improving flows from such project during periods when flows from the lake are less than 3,000 cubic feet per second, except that the study shall not consider project operation adjustments which entail major construction modifications at the project.

Federal Register, publication.

(2) NOTICE AND COMMENTS.—The Secretary shall publish notice of the proposed study under this subsection in the Federal Register within 3 months after the date of the enactment of this Act and shall consider any written comments regarding the scope of the study which are submitted during the 60-day period after publication of such notice.

(3) FINAL REPORT.—Not later than 18 months after the date of the enactment of this Act, the final report on the results of the study under this subsection shall be transmitted to Congress.

33 USC 988 note.

(d) GREAT LAKES AND SAINT LAWRENCE SEAWAY.—

(1) STUDY OF FINANCING NAVIGATIONAL IMPROVEMENTS.—The Secretary, in cooperation with other Federal agencies and private persons, is authorized and directed to contract with an independent party to conduct a study of cost recovery options and alternative methods of financing navigational improvements on the Great Lakes connecting channels and Saint Lawrence Seaway, including modernization of the Eisenhower and Snell Locks of the Saint Lawrence Seaway. Contracts.

(2) REPORT.—Not later than 18 months after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study carried out under this subsection together with recommendations.

(3) COST SHARING.—The non-Federal share of the cost of the study under this subsection shall be 50 percent; except that not more than 1/2 of such non-Federal share may be made by the provision of services, materials, supplies, or other in-kind services necessary to carry out the study.

SEC. 48. DIVISION LABORATORY.

The Secretary is authorized to construct a new division laboratory at an estimated cost of $2,400,000, for the United States Army Engineer Division, Ohio River. Such laboratory shall be constructed on a suitable site, which the Secretary is authorized to acquire for such purpose.

SEC. 49. WATER RESOURCES MANAGEMENT PLANNING SERVICE FOR THE HUDSON RIVER BASIN.

The Secretary is directed to establish a water resources management and planning service for the Hudson River Basin in New York and New Jersey. There is authorized to be appropriated $400,000 annually for the purpose of providing the two States a full range of services for the development and implementation of State and local water resource initiatives. Appropriation authorization.

SEC. 50. TECHNICAL RESOURCE SERVICE, RED RIVER BASIN, MINNESOTA AND NORTH DAKOTA.

The Secretary is directed to establish a Technical Resource Service for the Red River Basin in Minnesota and North Dakota. There is authorized to be appropriated $500,000 annually for the purpose of providing to such States a full range of technical services for the development and implementation of State and local water and related land resources initiatives within the Red River Basin and sub-basins. The Technical Resource Service is to be provided in addition to related services provided under authority of section 206 of the River and Harbor and Flood Control Act of 1960 and section 22 of the Water Resources Development Act of 1974. Appropriation authorization.

SEC. 51. CORRECTION OF DESCRIPTIONS.

(a) HUDSON RIVER, NEW YORK.—That portion of Public Law 100-202 designated as the Energy and Water Development Appropriation Act, 1988 is amended by striking out the undesignated paragraph beginning "The following portion of the Hudson River" and ending "the States of New York and New Jersey." (101 Stat. 1329-109) and inserting in lieu thereof the following:

"The following portion of the Hudson River in the Borough of Manhattan, New York County, State of New York, is hereby declared not to be part of the federally authorized Channel Deepen-

ing Project; that portion of the Hudson River and land thereunder more particularly bounded and described as follows: Beginning at a point in the United States Pierhead Line approved by the Secretary of War on July 31, 1941, such point having a coordinate of north 4,677.56 feet and west 11,407.92 feet and running: (1) northerly along such Pierhead Line on a bearing of north 21 degrees 01 minutes 53 seconds west for a distance of 700 feet to a point; thence (2) westerly at right angles to such Pierhead Line on a bearing of south 68 degrees 58 minutes 07 seconds west for a distance of 200 feet to a point; thence (3) southerly and parallel with such Pierhead Line on a bearing of south 21 degrees 01 minutes 53 seconds east for a distance of 700 feet to a point; thence (4) easterly at right angles to such Pierhead Line on a bearing of north 68 degrees 58 minutes 07 seconds east for a distance of 200 feet to the point of beginning. Bearings and coordinates are in the system used on the Borough Survey, Borough President's Office, Manhattan. This declaration shall apply to all or any part of such described area used or needed for New York harbor passenger ferry boat service as such may be operated by or contracted for operation by a bistate agency created by compact between the States of New York and New Jersey.".

Compacts between States. New Jersey.

(b) MIANUS RIVER, CONNECTICUT.—Section 1006(b) of the Water Resources Development Act of 1986 (100 Stat. 4223) is amended—

(1) in paragraph (2) by striking out "coordinates N14296.251" and inserting in lieu thereof "coordinate: N14296.451"; and

(2) in paragraph (3)—

(A) by striking out "64 seconds West" and inserting in lieu thereof "54 seconds West"; and

(B) by striking out "coordinate: N13970.8" and inserting in lieu thereof "coordinate: N13970.81".

SEC. 52. PROJECT DEAUTHORIZATIONS.

33 USC 579a note.

(a) EXTENSION OF LIMITATION ON PERIOD OF AUTHORIZATION.—

(1) PROJECTS IN THIS ACT.—The provisions of section 1001(a) and section 1001(c) of the Water Resources Development Act of 1986 shall apply to the projects authorized for construction by this Act, except that the 5-year period during which funds must be obligated to prevent deauthorization shall begin on the date of the enactment of this Act.

(2) PROJECTS THEREAFTER.—The provisions of section 1001(a) and section 1001(c) of the Water Resources Development Act of 1986 shall also apply to projects authorized for construction subsequent to this Act, except that the 5-year period during which funds must be obligated to prevent deauthorization shall begin on the date of the authorization of such projects.

(b) SPECIFIED PROJECTS.—The following projects are not authorized after the date of the enactment of this Act, except with respect to any portion of such a project which portion has been completed before such date of enactment or is under construction on such date of enactment:

(1) ROCKLAND LAKE, TEXAS.—The Rockland Lake water resources project, Texas, authorized by section 2 of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public work on rivers and harbors, and for other purposes", approved March 2, 1945 (59 Stat. 18).

(2) WHITE RIVER NAVIGATION TO BATESVILLE, ARKANSAS.—The project for navigation, White River Navigation to Batesville,

Arkansas, authorized by section 601(a) of the Water Resources Development Act of 1986 (100 Stat. 4139).

(3) CHICAGO RIVER TURNING BASIN, CHICAGO HARBOR, ILLINOIS.—The inner basin of Chicago Harbor, Illinois, known as the Chicago River Turning Basin, authorized by the first section of the Act entitled "An Act making appropriations for the repair, preservation, and completion of certain public works on rivers and harbors, and for other purposes, for the fiscal year ending June 30, 1871", approved July 11, 1870 (16 Stat. 226).

(c) ALGOMA, WISCONSIN, OUTER HARBOR.—

(1) DEAUTHORIZATION.—Except as provided in paragraph (2), the outer harbor basin feature of the navigation project for Algoma, Wisconsin, authorized by the Act entitled "An Act making appropriations for construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved March 2, 1907 (34 Stat. 1101), is not authorized after the date of the enactment of this Act.

(2) RETENTION OF MAINTENANCE RESPONSIBILITIES FOR BREAKWATERS AND CHANNEL.—The Secretary shall retain all responsibilities of the Secretary existing on the date of the enactment of this Act for maintenance of the breakwaters and channel of the harbor at Algoma, Wisconsin.

(d) CONTINUATION OF PROJECT AUTHORIZATIONS.—Notwithstanding section 1001(b)(1) of the Water Resources Development Act of 1986 (33 U.S.C. 579a(b)(1))— State listing.

(1) the navigation project for Monterey Harbor (Monterey Bay), California, authorized by section 101 of the River and Harbor Act of 1960 (74 Stat. 483),

(2) the navigation project for the North Branch of the Chicago River, Illinois, authorized by the first section of the Act entitled "An Act authorizing the construction, repair, and preservation of certain public works on rivers and harbors, and for other purposes", approved July 24, 1946 (60 Stat. 636),

(3) the element of the Missouri River Basin Project authorized by section 228 of the River and Harbor Act of 1970, and

(4) the navigation project for the James River, Virginia, authorized by section 101 of the River and Harbor Act of 1962 (76 Stat. 1174),

shall remain authorized after December 31, 1989. Such projects and elements shall not be authorized for construction after the last day of the 5-year period beginning on the date of the enactment of this Act unless during such period funds have been obligated for construction, including planning and designing, of such projects and elements.

(e) NOTICE.—The Secretary shall publish in the Federal Register notice as to any project which would no longer have been authorized pursuant to the provisions of section 1001 of the Water Resources Development Act of 1986 or subsection (a) of this section but remains authorized due to enactment of law by Congress. Federal Register, publication.

SEC. 53. NAMINGS.

(a) VENTURA HARBOR.—

(1) DESIGNATION.—The harbor commonly known as Ventura Marina, located in Ventura County, California, and adopted and authorized by section 101 of Public Law 90-483, shall hereafter be known and designated as "Ventura Harbor". California.

(2) LEGAL REFERENCES.—A reference in any law, map, regulation, document, record, or other paper of the United States to such Harbor shall be deemed to be a reference to "Ventura Harbor".

Kentucky.

(b) ELVIS STAHR HARBOR, PORT OF HICKMAN.—

(1) DESIGNATION.—The harbor located on the Mississippi River at Hickman, Kentucky, known as the Port of Hickman, shall hereafter be known and designated as the "Elvis Stahr Harbor, Port of Hickman".

(2) LEGAL REFERENCE.—A reference in any law, map, regulation, document, record, or other paper of the United States to such harbor shall hereafter be deemed to be a reference to the "Elvis Stahr Harbor, Port of Hickman".

Tennessee.

(c) ED JONES BOAT RAMP.—

(1) DESIGNATION.—The boat ramp to be constructed on the Mississippi River in Lauderdale County, Tennessee, shall be known and designated as the "Ed Jones Boat Ramp".

(2) LEGAL REFERENCE.—A reference in any law, map, regulation, document, record, or other paper of the United States to such boat ramp shall be deemed to be a reference to the "Ed Jones Boat Ramp".

33 USC 59z.

SEC. 54. DECLARATION OF NONNAVIGABILITY OF BODIES OF WATER IN RIDGEFIELD, NEW JERSEY.

The three bodies of water located at block 4004, lots 1 and 2, and block 4003, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey, which have their mouths at the Hackensack River at 40 degrees 49 minutes 58 seconds north latitude and 74 degrees 01 minute 46 seconds west longitude, 40 degrees 49 minutes 46 seconds north latitude and 74 degrees 01 minute 55 seconds west longitude, and 40 degrees 49 minutes 35 seconds north latitude and 74 degrees 02 minutes 04 seconds west longitude, respectively, and the body of water located at block 4006, lot 1, in the Borough of Ridgefield, County of Bergen, New Jersey, which has its mouth at the Hackensack River at 40 degrees 49 minutes 15 seconds north latitude and 74 degrees 01 minute 52 seconds west longitude, are declared to be nonnavigable waterways of the United States within the meaning of the General Bridge Act of 1946 (33 U.S.C. 525 et seq.) and section 9 of the Act of March 3, 1899 (30 Stat. 1151; 33 U.S.C. 401), commonly known as the River and Harbors Appropriation Act of 1899.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 2100 (H.R. 5247):

HOUSE REPORTS: No. 100-913 accompanying H.R. 5247 (Comm. on Public Works and Transportation) and No. 100-1098 (Comm. of Conference).
SENATE REPORTS: No. 100-313 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
April 26, considered and passed Senate.
Sept. 30, H.R. 5247 considered and passed House; proceedings vacated and S. 2100, amended, passed in lieu.
Oct. 20, Senate agreed to conference report.
Oct. 20, 21, House considered and agreed to conference report.

○

Public Law 100-677
100th Congress

An Act

To prohibit the licensing of certain facilities on portions of the Salmon and Snake Rivers in Idaho, and for other purposes.

Nov. 17, 1988
[S. 2102]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SALMON AND SNAKE RIVERS.

16 USC 1274 note.

(a) The Federal Energy Regulatory Commission shall not issue any preliminary permit, license, or exemption from licensing for the construction of any dam, diversion or bypass under the Federal Power Act (41 Stat. 1063), as amended, on:

(1) the Salmon River, Idaho, from Long Tom Bar to the confluence of the Snake River, or

(2) the Snake River, Idaho, from the eastward extension of the north boundary of section 1, township 5 north, range 47 east, Willamette Meridian to the pool formed behind Lower Granite Dam.

(b) In order to further the purposes of the Wild and Scenic Rivers Act (82 Stat. 906), as amended, and to protect the values for which certain portions of the Salmon River, Idaho and the Snake River, Idaho were designated as components of the system, no dam may be constructed on the segments of the Salmon or Snake Rivers referred to in subsection (a).

SEC. 2. LAKE TOBESOFKEE.

Georgia.
Energy.

In the case of any hydroelectric power project located or proposed to be located at Lake Tobesofkee in Bibb County, Georgia, the provisions of the Federal Power Act shall continue to apply, except that the Federal Energy Regulatory Commission shall not issue any permit, license, or exemption under that Act or under any other provision of law administered by the Commission to any person or public or private entity for such project or for any transmission or other facilities used in connection with, or appurtenant to, such

project without having obtained the prior consent of the governing body of Bibb County.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 2102:

SENATE REPORTS: No. 100-468 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 11, considered and passed Senate.
Oct. 20, considered and passed House, amended.
Oct. 21, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 17, Presidential statement.

Public Law 100-678
100th Congress

An Act

To improve the efficiency and effectiveness of management of public buildings.

Nov. 17, 1988
[S. 2186]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Public Buildings Amendments of 1988.
40 USC 601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Buildings Amendments of 1988".

SEC. 2. INCREASED THRESHOLD FOR APPROVAL PROCESS.

Sections 4(b) and 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 603(b) and 606(a)) are amended by striking out "$500,000" each place it appears and inserting in lieu thereof "$1,500,000".

SEC. 3. LIMITATIONS ON LEASING AUTHORITY.

(a) LIMITATION ON APPROPRIATIONS FOR LEASING CERTAIN SPACE.—Section 7(a) of the Public Buildings Act of 1959 (40 U.S.C. 606(a)) is amended by inserting after the second sentence the following new sentence: "No appropriation shall be made to alter any building, or part thereof, which is under lease by the United States for use for a public purpose if the cost of such alteration would exceed $750,000 unless such alteration has been approved by resolutions adopted by the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

(b) LIMITATION ON LEASING CERTAIN SPACE.—Section 7 of such Act (40 U.S.C. 606) is amended by adding at the end thereof the following new subsection:

"(e) LIMITATION ON LEASING CERTAIN SPACE.—

"(1) GENERAL RULE.—The Administrator may not lease any space to accommodate—

"(A) computer and telecommunications operations;

"(B) secure or sensitive activities related to the national defense or security, except in any case in which it would be inappropriate to locate such activities in a public building or other facility identified with the United States Government; or

"(C) a permanent courtroom, judicial chamber, or administrative office for any United States court;

if the average rental cost of leasing such space would exceed $1,500,000.

"(2) EXCEPTION.—The Administrator may lease any space with respect to which paragraph (1) applies if the Administrator first determines, for reasons set forth in writing, that leasing such space is necessary to meet requirements which cannot be met in public buildings and submits such reasons to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

SEC. 4. DOLLAR AMOUNT ADJUSTMENT.

Section 7 of the Public Buildings Act of 1959 (40 U.S.C. 606) is further amended by adding at the end the following new subsection:

"(f) DOLLAR AMOUNT ADJUSTMENT.—Any dollar amount referred to in this section and section 4(b) of this Act may be adjusted by the Administrator annually to reflect a percentage increase or decrease in construction costs during the preceding calendar year, as determined by the composite index of construction costs of the Department of Commerce. Any such adjustment shall be expeditiously reported to the Committee on Environment and Public Works of the Senate and the Committee on Public Works and Transportation of the House of Representatives.".

SEC. 5. STATE ADMINISTRATION; SPECIAL RULES FOR LEASED BUILDINGS.

The Public Buildings Act of 1959 (40 U.S.C. 601-616) is amended by adding at the end thereof the following new sections:

40 USC 617.

"SEC. 19. STATE ADMINISTRATION OF CRIMINAL AND HEALTH AND SAFETY LAWS.

Public lands.

"Notwithstanding any other provision of law, the Administrator may, whenever the Administrator considers it desirable, assign to a State, or to a commonwealth, territory, or possession of the United States, all or part of the authority of the United States to administer criminal laws and health and safety laws with respect to lands or interests in lands under the control of the Administrator located in such State, commonwealth, territory, or possession. Assignment of authority under this section may be accomplished by filing with the chief executive officer of such State, commonwealth, territory, or possession a notice of assignment to take effect upon acceptance thereof, or in such other manner as may be prescribed by the laws of the State, commonwealth, territory, or possession in which such lands or interests in lands are located.

40 USC 618.

"SEC. 20. SPECIAL RULES FOR LEASED BUILDINGS.

"(a) SPECIFICATIONS.—Notwithstanding the provisions of section 210(h)(1) of the Federal Property and Administrative Services Act of 1949, the Administrator shall not make any agreement or undertake any commitment which will result in the construction of any building which is to be constructed for lease to, and for predominant use by, the United States until the Administrator has established detailed specification requirements for such building.

"(b) COMPETITIVE PROCEDURES.—The Administrator may acquire a leasehold interest in any building which is constructed for lease to, and for predominant use by, the United States only by the use of competitive procedures required by section 303 of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 253).

"(c) INSPECTIONS.—The Administrator shall inspect every building to be constructed for lease to, and for predominant use by, the United States during the construction of such building in order to determine that the specifications established for such building are complied with.

"(d) ENFORCEMENT.—

"(1) POST-CONSTRUCTION EVALUATION.—Upon completion of a building constructed for lease to, and for predominant use by, the United States, the Administrator shall evaluate such build-

ing for the purpose of determining the extent, if any, of failure to comply with the specifications referred to in subsection (a).

"(2) CONTRACT CLAUSE.—The Administrator shall ensure that any contract entered into for a building described in paragraph (1) shall contain provisions permitting a reduction of rent during any period when such building is not in compliance with such specifications.".

SEC. 6. COMPLIANCE WITH NATIONALLY RECOGNIZED CODES.

(a) IN GENERAL.—The Public Buildings Act of 1959 (40 U.S.C. 601-616) is further amended by adding at the end the following new section:

"SEC. 21. COMPLIANCE WITH NATIONALLY RECOGNIZED CODES.

Safety.
40 USC 619.

"(a) BUILDING CODES.—Each building constructed or altered by the General Services Administration or any other Federal agency shall be constructed or altered, to the maximum extent feasible as determined by the Administrator or the head of such Federal agency, in compliance with one of the nationally recognized model building codes and with other applicable nationally recognized codes. Such other codes shall include, but not be limited to, electrical codes, fire and life safety codes, and plumbing codes, as determined appropriate by the Administrator. In carrying out this subsection, the Administrator or the head of the Federal agency authorized to construct or alter the building shall use the latest edition of the nationally recognized codes referred to in this subsection.

State and local governments.

"(b) ZONING LAWS.—Each building constructed or altered by the General Services Administration or any other Federal agency shall be constructed or altered only after consideration of all requirements (other than procedural requirements) of—

"(1) zoning laws, and

"(2) laws relating to landscaping, open space, minimum distance of a building from the property line, maximum height of a building, historic preservation, and esthetic qualities of a building, and other similar laws,

of a State or a political subdivision of a State which would apply to the building if it were not a building constructed or altered by a Federal agency.

"(c) SPECIAL RULES.—

"(1) STATE AND LOCAL GOVERNMENT CONSULTATION, REVIEW, AND INSPECTIONS.—For purposes of meeting the requirements of subsections (a) and (b) with respect to a building, the Administrator or the head of the Federal agency authorized to construct or alter the building shall—

"(A) in preparing plans for the building, consult with appropriate officials of the State or political subdivision, or both, in which the building will be located;

"(B) upon request, submit such plans in a timely manner to such officials for review by such officials for a reasonable period of time not exceeding 30 days; and

"(C) permit inspection by such officials during construction or alteration of the building, in accordance with the customary schedule of inspections for construction or alteration of buildings in the locality, if such officials provide to the Administrator or the head of the Federal agency, as the case may be—

"(i) a copy of such schedule before construction of the building is begun; and

"(ii) reasonable notice of their intention to conduct any inspection before conducting such inspection.

"(2) LIMITATION ON STATE RESPONSIBILITIES.—Nothing in this section shall impose an obligation on any State or political subdivision to take any action under paragraph (1).

"(d) STATE AND LOCAL GOVERNMENT RECOMMENDATIONS.—Appropriate officials of a State or a political subdivision of a State may make recommendations to the Administrator or the head of the Federal agency authorized to construct or alter a building concerning measures necessary to meet the requirements of subsections (a) and (b). Such officials may also make recommendations to the Administrator or the head of the Federal agency concerning measures which should be taken in the construction or alteration of the building to take into account local conditions. The Administrator or the head of the Federal agency shall give due consideration to any such recommendations.

"(e) EFFECT OF NONCOMPLIANCE.—No action may be brought against the United States and no fine or penalty may be imposed against the United States for failure to meet the requirements of subsection (a), (b), or (c) of this section or for failure to carry out any recommendation under subsection (d).

"(f) LIMITATION ON LIABILITY.—The United States and its contractors shall not be required to pay any amount for any action taken by a State or a political subdivision of a State to carry out this section (including reviewing plans, carrying out on-site inspections, issuing building permits, and making recommendations).

"(g) APPLICABILITY TO CERTAIN BUILDINGS.—This section applies to any project for construction or alteration of a building for which funds are first appropriated for a fiscal year beginning after September 30, 1989.

"(h) NATIONAL SECURITY WAIVER.—This section shall not apply with respect to any building if the Administrator or the head of the Federal agency authorized to construct or alter the building determines that the application of this section to the building would adversely affect national security. A determination under this subsection shall not be subject to administrative or judicial review.".

40 USC 619 note.

(b) NOTIFICATION OF FEDERAL AGENCIES.—Not later than 180 days after the date of the enactment of this section, the Administrator of General Services shall notify the heads of all Federal agencies of the requirements of section 21 of the Public Buildings Act of 1959.

SEC. 7. LIMITATION ON MAXIMUM RENTAL RATE.

Section 322 of the Act of June 30, 1932 (47 Stat. 412; 40 U.S.C. 278a), is repealed.

SEC. 8. PROTECTION OF FEDERAL PROPERTY.

(a) REFERENCE TO GSA.—The Act of June 1, 1948 (62 Stat. 281; 40 U.S.C. 318-318d) is amended—

(1) by striking out "Federal Works Agency" each place it appears and inserting in lieu thereof "General Services Administration"; and

(2) by striking out "Federal Works Administrator" each place it appears and inserting in lieu thereof "Administrator of General Services".

(b) INCLUSION OF LEASED PROPERTY.—The first section of such Act (40 U.S.C. 318) is amended to read as follows:

"SECTION 1. SPECIAL POLICE.

"(a) APPOINTMENT.—The Administrator of General Services, or officials of the General Services Administration duly authorized by the Administrator, may appoint uniformed guards of such Administration as special policemen without additional compensation for duty in connection with the policing of all buildings and areas owned or occupied by the United States and under the charge and control of the Administrator.

"(b) POWERS.—Special policemen appointed under this section shall have the same powers as sheriffs and constables upon property referred to in subsection (a) to enforce the laws enacted for the protection of persons and property, and to prevent breaches of the peace, to suppress affrays or unlawful assemblies, and to enforce any rules and regulations promulgated by the Administrator of General Services or such duly authorized officials of the General Services Administration for the property under their jurisdiction; except that the jurisdiction and policing powers of such special policemen shall not extend to the service of civil process.".

(c) CONFORMING AMENDMENTS.—

(1) SECTION 2.—Section 2 of such Act (40 U.S.C. 318a) is amended by striking out "Federal property" each place it appears and inserting in lieu thereof "property".

(2) SECTION 3.—Section 3 of such Act (40 U.S.C. 318b) is amended by striking out "and over which the United States has acquired exclusive or concurrent criminal jurisdiction".

SEC. 9. CERTAIN OTHER AUTHORITIES. 40 USC 601 note.

Nothing in this Act (including any amendment made by this Act) shall be construed to affect the authorities granted in sections 5, 6, and 8 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403f, 403g, and 403j).

SEC. 10. TECHNICAL AMENDMENT.

The Act entitled "An Act to designate the United States Post Office and Courthouse in Pendleton, Oregon, as the 'John F. Kilkenny United States Post Office and Courthouse' ", approved October 17, 1984 (Public Law 98-492; 98 Stat. 2271), is amended by striking out "Dorian" and inserting in lieu thereof "Dorion".

SEC. 11. NAMINGS.

(a) LAWTON CHILES, JR. FEDERAL BUILDING, LAKELAND, FLORIDA.—

(1) DESIGNATION.—The Federal Building to be constructed in Lakeland, Florida, that will replace the existing Federal Building in Lakeland, Florida, shall be known and designated as the "Lawton Chiles, Jr. Federal Building".

(2) LEGAL REFERENCES.—Any reference in any law, regulation, document, record, map, or other paper of the United States to the building designated by paragraph (1) is deemed to be a reference to the "Lawton Chiles, Jr. Federal Building".

(3) EFFECTIVE DATE.—This subsection shall take effect on whichever of the following occurs later:

(A) The date of the enactment of this Act.

(B) January 3, 1989.

(b) ROBERT A. YOUNG FEDERAL BUILDING, ST. LOUIS, MISSOURI.—

(1) DESIGNATION.—The Federal building located at 405 South Tucker Boulevard, St. Louis, Missouri, shall be known and designated as the "Robert A. Young Federal Building".

(2) LEGAL REFERENCES.—Any reference in a law, map, regulation, document, record, or other paper of the United States to the Federal building referred to in paragraph (1) shall be deemed to be a reference to the "Robert A. Young Federal Building".

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 2186 (H.R. 2790):

HOUSE REPORTS: No. 100-474, Pt. 1, accompanying H.R. 2790 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 100-322 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Dec. 14, H.R. 2790 considered and passed House.
Vol. 134 (1988): May 18, S. 2186 considered and passed Senate.
Oct. 19, considered and passed House, amended.
Oct. 21, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 17, Presidential statement.

Public Law 100-679
100th Congress

An Act

To amend and extend the Office of Federal Procurement Policy Act, and for other purposes.

Nov. 17, 1988
[S. 2215]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Office of Federal Procurement Policy Act Amendments of 1988.
41 USC 401 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Office of Federal Procurement Policy Act Amendments of 1988".

SEC. 2. POLICY; FINDINGS AND PURPOSE.

(a) POLICY.—Section 2 of the Office of Federal Procurement Policy Act (41 U.S.C. 401) is amended by striking out "the Congress" and inserting "the United States Government".

(b) FINDINGS AND PURPOSE.—Section 3 of the Office of Federal Procurement Policy Act (41 U.S.C. 402) is amended in subsection (a) by inserting "Government-wide" before "procurement policies".

SEC. 3. AUTHORITY AND FUNCTIONS OF THE OFPP ADMINISTRATOR.

(a) IN GENERAL.—Section 6 of the Office of Federal Procurement Policy Act (41 U.S.C. 405) is amended—

(1) in subsection (a), by striking out "which shall be implemented in the single system of Government-wide procurement regulations and shall be" and inserting a period and the following: "These policies shall be implemented in a single Government-wide procurement regulation called the Federal Acquisition Regulation and shall be";

(2) in subsection (b)—

(A) by inserting after "timely manner" the following: ", including any such regulations, procedures, and forms as are necessary to implement prescribed policy initiated by the Administrator under subsection (a),"; and

(B) by striking out "may" and inserting "shall";

(3) in subsection (d) by striking out paragraphs (4) and (5) and inserting the following:

"(4)(A) providing for and directing the activities of the computer-based Federal Procurement Data System (including recommending to the Administrator of General Services a sufficient budget for such activities), which shall be located in the General Services Administration, in order to adequately collect, develop, and disseminate procurement data; and

"(B) ensuring executive agency compliance with the record requirements of section 19;

"(5) providing for and directing the activities of the Federal Acquisition Institute (including recommending to the Administrator of General Services a sufficient budget for such activities), which shall be located in the General Services Administration, in order to—

"(A) foster and promote Government-wide career management programs for a professional procurement work force; and

Research and development.

"(B) promote and coordinate Government-wide research and studies to improve the procurement process and the laws, policies, methods, regulations, procedures, and forms relating to procurement by the executive agencies;"; and

(4) in subsection (f) by striking out "The Director of the Office of Management and Budget" and inserting "The Administrator, with the concurrence of the Director of the Office of Management and Budget, and with consultation with the head of the agency or agencies concerned,".

(b) REAUTHORIZATION.—Section 11 of such Act (41 U.S.C. 410) is amended by striking out "for each of the three succeeding fiscal years" and inserting "such sums as may be necessary for each succeeding fiscal year".

41 USC 403.

(c) CONFORMING AMENDMENT.—Section 4 of such Act is amended by striking out paragraph (4) and redesignating paragraphs (5) through (11) as paragraphs (4) through (10), respectively.

SEC. 4. FEDERAL ACQUISITION REGULATORY COUNCIL.

The Office of Federal Procurement Policy Act is further amended by adding at the end the following:

"FEDERAL ACQUISITION REGULATORY COUNCIL

41 USC 421.

"SEC. 25. (a) ESTABLISHMENT.—There is established a Federal Acquisition Regulatory Council (hereinafter in this section referred to as the 'Council') to assist in the direction and coordination of Government-wide procurement policy and Government-wide procurement regulatory activities in the Federal Government.

"(b) MEMBERSHIP.—(1) The Council shall consist of the Administrator for Federal Procurement Policy and—

"(A) the Secretary of Defense,

"(B) the Administrator of National Aeronautics and Space; and

"(C) the Administrator of General Services.

"(2) Notwithstanding section 205(d) of the Federal Property and Administrative Services Act of 1949, the officials specified in subparagraphs (A), (B), and (C) of paragraph (1) may designate to serve on and attend meetings of the Council in place of that official (A) the official assigned by statute with the responsibility for acquisition policy in each of their respective agencies; or (B) if no official of such agency is assigned by statute with the responsibility for acquisition policy for that agency, the official designated pursuant to section 16(3) of this Act. No other official or employee may be designated to serve on the Council.

Regulations.

"(c) FUNCTIONS.—(1) Subject to the provisions of section 6 of this Act, the General Services Administration, the Department of Defense, and the National Aeronautics and Space Administration, pursuant to their respective authorities under title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251, et seq.), chapters 4 and 137 of title 10, United States Code, and the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451, et seq.), shall jointly issue and maintain in accordance with subsection (f) of this section a single Government-wide procurement regulation, to be known as the 'Federal Acquisition Regulation'.

"(2) Any other regulations relating to procurement issued by an executive agency shall be limited to (A) regulations essential to implement Government-wide policies and procedures within the agency, and (B) additional policies and procedures required to satisfy the specific and unique needs of the agency.

"(3) The Administrator, in consultation with the Council, shall ensure that procurement regulations promulgated by executive agencies are consistent with the Federal Acquisition Regulation and in accordance with the policies set forth in section 2 of this Act or any policies issued pursuant to section 6(a) of this Act.

"(4)(A) Under procedures established by the Administrator, a person may request the Administrator to review any regulation relating to procurement on the basis that such regulation is inconsistent with the Federal Acquisition Regulation.

"(B) Unless the request is frivolous or does not, on its face, state a valid basis for such review, the Administrator shall complete such a review not later than 60 days after receiving the request. The time for completion of the review may be extended if the Administrator determines that an additional period of review is required. The Administrator shall advise the requester of the reasons for the extension and the date by which the review will be completed.

"(5) If the Administrator determines that a regulation relating to procurement is inconsistent with the Federal Acquisition Regulation or that the regulation should otherwise be revised to remove an inconsistency with any policies issued under section 6(a) of this Act or the policies set forth in section 2 of this Act, the Administrator shall rescind or deny the promulgation of the regulation or take such other action authorized under section 6 as may be necessary to remove the inconsistency. If the Administrator determines that such a regulation, although not inconsistent with the Federal Acquisition Regulation or such policies, should be revised to improve compliance with such Regulation or policies, the Administrator shall take such action authorized under section 6 as may be necessary and appropriate.

"(6) The decisions of the Administrator shall be in writing and made publicly available. The Administrator shall provide a listing of such decisions in the annual report to Congress required by section 8 of this Act. Public information.

"(d) ADDITIONAL RESPONSIBILITIES OF MEMBERSHIP.—Subject to the authority, direction, and control of the head of the agency concerned, each official who represents an agency on the Council pursuant to subsection (b) shall—

"(1) approve or disapprove all regulations that are, after 60 days after the date of enactment of this section, proposed for public comment, promulgated in final form, or otherwise made effective by such agency relating to procurement before such regulation may be promulgated in final form, or otherwise made effective, except that such official may grant an interim approval, without review, for not more than 60 days for a procurement regulation in urgent and compelling circumstances;

"(2) carry out the responsibilities of such agency set forth in chapter 35 of title 44, United States Code, for each information collection request (as that term is defined in section 3502(11) of title 44, United States Code) that relates to procurement rules or regulations; and

"(3) eliminate or reduce (A) any redundant or unnecessary levels of review and approval, in the procurement system of such agency, and (B) redundant or unnecessary procurement regulations which are unique to that agency.

The authority to review and approve or disapprove regulations under paragraph (1) of this subsection may not be delegated to any person outside the office of the official who represents the agency on the Council pursuant to subsection (b).

"(e) GOVERNING POLICIES.—All actions of the Council and of members of the Council shall be in accordance with and furtherance of the policies of section 2 and the policies prescribed under section 6(a) of this Act.

"(f) GENERAL AUTHORITY WITH RESPECT TO FAR.—Subject to section 6(b), the Council shall manage, coordinate, control, and monitor the maintenance of, and issuance of and changes in, the Federal Acquisition Regulation.

"(g) REPORTS.—The Administrator for Federal Procurement Policy shall—

"(1) publish a report within 6 months after the date of enactment of this section and every 6 months thereafter relating to the development of procurement regulations to be issued in accordance with subsection (c) of this section;

"(2) include in each report published under paragraph (1)—

"(A) the status of each such regulation;

"(B) a description of those regulations which are required by statute;

"(C) a description of the methods by which public comment was sought with regard to each proposed regulation in accordance with section 22 of this Act, and to the extent appropriate, sections 3504(h) and 3507 of title 44, United States Code;

"(D) regulatory activities completed and initiated since the last report;

"(E) regulations, policies, procedures, practices, and forms that are under consideration or review by the Office of Federal Procurement Policy;

"(F) whether the regulations have paperwork requirements;

"(G) the progress made in promulgating and implementing the Federal Acquisition Regulation; and

"(H) such other matters as the Administrator determines would be useful; and

"(3) report to Congress within 180 days after the date of the enactment of this section, in consultation with the Administrator of the Office of Information and Regulatory Affairs, regarding—

"(A) the extent of the paperwork burden created by the Federal procurement process, and

"(B) the extent to which the Federal procurement system can be streamlined to reduce unnecessary paperwork while at the same time maintaining recordkeeping and reporting requirements necessary to ensure the integrity and accountability of the system.".

SEC. 5. COST ACCOUNTING STANDARDS BOARD.

(a) AMENDMENT.—The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following:

"COST ACCOUNTING STANDARDS BOARD

"SEC. 26. (a) ESTABLISHMENT; MEMBERSHIP; TERMS.—(1) There is established within the Office of Federal Procurement Policy an independent board to be known as the 'Cost Accounting Standards Board' (hereinafter referred to as the 'Board'). The Board shall consist of 5 members, including the Administrator, who shall serve as Chairman, and 4 members, all of whom shall have experience in Government contract cost accounting, and who shall be appointed as follows: 41 USC 422.

"(A) two representatives of the Federal Government—

"(i) one of whom shall be a representative of the Department of Defense and be appointed by the Secretary of Defense; and

"(ii) one of whom shall be an officer or employee of the General Services Administration appointed by the Administrator of General Services; and

"(B) two individuals from the private sector, each of whom shall be appointed by the Administrator and—

"(i) one of whom shall be a representative of industry; and

"(ii) one of whom shall be particularly knowledgeable about cost accounting problems and systems.

"(2)(A) The term of office of each of the members of the Board, other than the Administrator for Federal Procurement Policy, shall be 4 years, except that—

"(i) of the initial members, two shall be appointed for terms of two years, one shall be appointed for a term of three years, and one shall be appointed for a term of four years;

"(ii) any member appointed to fill a vacancy in the Board shall serve for the remainder of the term for which his predecessor was appointed; and

"(iii) no individual who is appointed under paragraph (1)(A) of this subsection shall continue to serve after ceasing to be an officer or employee of the agency from which he or she was appointed.

"(B) A vacancy on the Board shall be filled in the same manner in which the original appointment was made.

"(C) The initial members of the Board shall be appointed within 120 days after the date of enactment of this section.

"(b) SENIOR STAFF.—The Administrator, after consultation with the Board, may appoint an executive secretary and two additional staff members without regard to the provisions of title 5, United States Code, governing appointments in the competitive service, and may pay such employees without regard to the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates, except that no individual so appointed may receive pay in excess of the annual rate of basic pay payable for GS-18 of the General Schedule.

"(c) OTHER STAFF.—The Administrator may appoint, fix the compensation, and remove additional employees of the Board under the applicable provisions of title 5, United States Code.

"(d) DETAILED AND TEMPORARY PERSONNEL.—(1) The Board may use, without reimbursement, any personnel of a Federal agency (with the consent of the head of the agency concerned) to serve on advisory committees and task forces to assist the Board in carrying

out the functions and responsibilities of the Board under this section.

"(2) The Administrator, after consultation with the Board, may procure temporary and intermittent services under section 3109(b) of title 5, United States Code, of personnel for the purpose of serving on advisory committees and task forces to assist the Board in carrying out the functions and responsibilities of the Board under this section.

"(e) COMPENSATION.—Except as otherwise provided in subsection (a), the members of the Board who are officers or employees of the Federal Government, and officers and employees of other agencies of the Federal Government who are used under subsection (d)(1), shall receive no additional compensation for services, but shall continue to be compensated by the employing Department or agency of such officer or employee. Each member of the Board appointed from private life shall receive compensation at a rate not to exceed the daily equivalent of the rate prescribed for level IV of the Executive Schedule for each day (including travel time) in which the member is engaged in the actual performance of duties vested in the Board. Individuals hired under subsection (d)(2) may receive compensation at rates fixed by the Administrator, but not to exceed the daily equivalent of the rate prescribed for level V of the Federal Executive Salary Schedule under section 5316 of title 5, United States Code, for each day (including travel time) in which such appointees are properly engaged in the actual performance of duties under this section. While serving away from homes or the regular place of business, Board members and other appointees serving on an intermittent basis under this section shall be allowed travel expenses in accordance with section 5703 of title 5, United States Code.

"(f) COST ACCOUNTING STANDARDS AUTHORITY.—(1) The Board shall have the exclusive authority to make, promulgate, amend, and rescind cost accounting standards and interpretations thereof designed to achieve uniformity and consistency in the cost accounting standards governing measurement, assignment, and allocation of costs to contracts with the United States.

"(2) Cost accounting standards promulgated under this section shall be mandatory for use by all executive agencies and by contractors and subcontractors in estimating, accumulating, and reporting costs in connection with pricing and administration of, and settlement of disputes concerning, all negotiated prime contract and subcontract procurements with the United States in excess of $500,000, other than contracts or subcontracts where the price negotiated is based on (A) established catalog or market prices of commercial items sold in substantial quantities to the general public, or (B) prices set by law or regulation.

"(3) Not later than 180 days after the date of enactment of this section, the Administrator, after consultation with the Board, shall prescribe rules and procedures governing actions of the Board under this section. Such rules and procedures shall require that any cost accounting standard promulgated, amended, or rescinded (and interpretations thereof) shall be adopted by majority vote of the Board members.

"(4) The Board is authorized—

"(A) to exempt classes or categories of contractors and subcontractors from the requirements of this section; and

"(B) to establish procedures for the waiver of the requirements of this section with respect to individual contracts and subcontracts.

"(g) REQUIREMENTS FOR STANDARDS.—(1) Prior to the promulgation under this section of cost accounting standards and interpretations thereof, the Board shall—

"(A) take into account, after consultation and discussions with the Comptroller General and professional accounting organizations, contractors, and other interested parties—

"(i) the probable costs of implementation, including inflationary effects, if any, compared to the probable benefits;

"(ii) the advantages, disadvantages, and improvements anticipated in the pricing and administration of, and settlement of disputes concerning, contracts; and

"(iii) the scope of, and alternatives available to, the action proposed to be taken;

"(B) prepare and publish a report in the Federal Register on the issues reviewed under paragraph (1)(A); Reports. Federal Register, publication.

"(C)(i) publish an advanced notice of proposed rulemaking in the Federal Register in order to solicit comments on the report prepared pursuant to subparagraph (B); Federal Register, publication.

"(ii) provide all parties affected a period of not less than 60 days after such publication to submit their views and comments; and

"(iii) during this 60-day period, consult with the Comptroller General and consider any recommendation the Comptroller General may make; and

"(D) publish a notice of such proposed rulemaking in the Federal Register and provide all parties affected a period of not less than 60 days after such publication to submit their views and comments. Federal Register, publication.

"(2) Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended under this section shall have the full force and effect of law, and shall become effective within 120 days after publication in the Federal Register in final form, unless the Board determines a longer period is necessary. Implementation dates for contractors and subcontractors shall be determined by the Board, but in no event shall such dates be later than the beginning of the second fiscal year of the contractor or subcontractor after the standard becomes effective. Rules, regulations, cost accounting standards, and modifications thereof promulgated or amended under this section shall be accompanied by prefatory comments and by illustrations, if necessary. Effective date.

"(3) The functions exercised under this section are excluded from the operation of sections 551, 553 through 559, and 701 through 706 of title 5, United States Code.

"(h) IMPLEMENTING REGULATIONS.—(1) The Board shall promulgate rules and regulations for the implementation of cost accounting standards promulgated or interpreted under subsection (f). Such regulations shall be incorporated into the Federal Acquisition Regulation and shall require contractors and subcontractors as a condition of contracting with the United States to—

"(A) disclose in writing their cost accounting practices, including methods of distinguishing direct costs from indirect costs and the basis used for allocating indirect costs; and

"(B) agree to a contract price adjustment, with interest, for any increased costs paid to such contractor or subcontractor by

the United States by reason of a change in the contractor's or subcontractor's cost accounting practices or by reason of a failure by the contractor or subcontractor to comply with applicable cost accounting standards.

"(2) If the United States and a contractor or subcontractor fail to agree on a contract price adjustment, including whether the contractor or subcontractor has complied with the applicable cost accounting standards, the disagreement will constitute a dispute under the Contract Disputes Act (41 U.S.C. 601).

"(3) Any contract price adjustment undertaken pursuant to paragraph (1)(B) shall be made, where applicable, on relevant contracts between the United States and the contractor that are subject to the cost accounting standards so as to protect the United States from payment, in the aggregate, of increased costs (as defined by the Board). In no case shall the Government recover costs greater than the increased cost (as defined by the Board) to the Government, in the aggregate, on the relevant contracts subject to the price adjustment, unless the contractor made a change in its cost accounting practices of which it was aware or should have been aware at the time of the price negotiation and which it failed to disclose to the Government.

"(4) The interest rate applicable to any contract price adjustment shall be the annual rate of interest established under section 6621 of the Internal Revenue Code of 1986 (26 U.S.C. 6621) for such period. Such interest shall accrue from the time payments of the increased costs were made to the contractor or subcontractor to the time the United States receives full compensation for the price adjustment.

"(i) REPORTS TO CONGRESS.—The Board shall report to the Congress not later than one year after the date of enactment of this section, and annually thereafter, with respect to the activities and operations of the Board under this section, together with such recommendations as it considers appropriate.

"(j) EFFECT ON OTHER STANDARDS AND REGULATIONS.—(1) All cost accounting standards, waivers, exemptions, interpretations, modifications, rules, and regulations promulgated by the Cost Accounting Standards Board under section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) shall remain in effect unless and until amended, superseded, or rescinded by the Board pursuant to this section.

"(2) Existing cost accounting standards referred to in paragraph (1) shall be subject to the provisions of this Act in the same manner as if promulgated by the Board under this Act.

"(3) The Administrator, under the authority set forth in section 6 of this Act, shall ensure that no regulation or proposed regulation of an executive agency is inconsistent with a cost accounting standard promulgated or amended under this section by rescinding or denying the promulgation of any such inconsistent regulation or proposed regulation and taking such other action authorized under section 6 as may be appropriate.

"(4) Costs which are the subject of cost accounting standards promulgated under this section shall not be subject to regulations that are established by another executive agency that differ from such standards with respect to the measurement, assignment, and allocation of such costs.

"(k) EXAMINATIONS.—For the purpose of determining whether a contractor or subcontractor has complied with cost accounting standards promulgated under this section and has followed consist-

ently the contractor's or subcontractor's disclosed cost accounting practices, any authorized representative of the head of the agency concerned, of the offices of inspector general established pursuant to the Inspector General Act of 1978, or of the Comptroller General of the United States shall have the right to examine and make copies of any documents, papers, or records of such contractor or subcontractor relating to compliance with such cost accounting standards.

"(l) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section.".

(b) CONFORMING AMENDMENT.—Section 719 of the Defense Production Act of 1950 (50 U.S.C. App. 2168) is repealed.

SEC. 6. PROCUREMENT INTEGRITY.

(a) AMENDMENT.—The Office of Federal Procurement Policy Act is further amended by adding at the end the following:

"PROCUREMENT INTEGRITY

"SEC. 27. (a) PROHIBITED CONDUCT BY COMPETING CONTRACTORS.— During the conduct of any Federal agency procurement of property or services, no competing contractor or any officer, employee, representative, agent, or consultant of any competing contractor shall knowingly— 41 USC 423.

"(1) make, directly or indirectly, any offer or promise of future employment or business opportunity to, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any procurement official of such agency;

"(2) offer, give, or promise to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any procurement official of such agency; or

"(3) solicit or obtain, directly or indirectly, from any officer or employee of such agency, prior to the award of a contract any proprietary or source selection information regarding such procurement.

"(b) PROHIBITED CONDUCT BY PROCUREMENT OFFICIALS.—During the conduct of any Federal agency procurement of property or services, no procurement official of such agency shall knowingly—

"(1) solicit or accept, directly or indirectly, any promise of future employment or business opportunity from, or engage, directly or indirectly, in any discussion of future employment or business opportunity with, any officer, employee, representative, agent, or consultant of a competing contractor;

"(2) ask for, demand, exact, solicit, seek, accept, receive, or agree to receive, directly or indirectly, any money, gratuity, or other thing of value from any officer, employee, representative, agent, or consultant of any competing contractor for such procurement; or

"(3) disclose any proprietary or source selection information regarding such procurement directly or indirectly to any person other than a person authorized by the head of such agency or the contracting officer to receive such information.

"(c) DISCLOSURE TO UNAUTHORIZED PERSONS.—During the conduct of any Federal agency procurement of property or services, no person who is given authorized or unauthorized access to propri-

etary or source selection information regarding such procurement, shall knowingly disclose such information, directly or indirectly, to any person other than a person authorized by the head of such agency or the contracting officer to receive such information.

"(d) CERTIFICATION AND ENFORCEMENT MATTERS.—(1) A Federal agency may not award a contract for the procurement of property or services to any competing contractor, or agree to any modification or extension of a contract, unless the officer or employee of such contractor responsible for the offer or bid for such contract, or the modification or extension of such contract, as the case may be—

"(A)(i) certifies in writing to the contracting officer responsible for such contract that such officer or employee of the competing contractor has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(ii) discloses to such contracting officer any and all such information and certifies in writing to such contracting officer that any and all such information has been disclosed; and

"(B) certifies in writing to such contracting officer that each officer, employee, agent, representative, and consultant of such competing contractor who has participated personally and substantially in the preparation or submission of such bid or offer, or in such modification or extension of such contract, as the case may be, has certified to such competing contractor that he or she—

"(i) is familiar with, and will comply with, the requirements of subsection (a) and applicable implementing regulations; and

"(ii) will report immediately to the officer or employee of the competing contractor responsible for the offer or bid for any contract or the modification or extension of such contract, as the case may be, any information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or such applicable implementing regulations, pertaining to such procurement.

"(2) A Federal agency may not award a contract for the procurement of property or services, or agree to any modification or extension of any such contract, unless the contracting officer responsible for such procurement—

"(A) certifies in writing to the head of such agency that the contracting officer has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(B) discloses to the head of such agency any and all such information and certifies in writing that any and all such information has been disclosed.

"(3) The head of a Federal agency may require any procurement official or any competing contractor, at any time during the conduct of any Federal agency procurement of property or services—

"(A) to certify in writing to the head of such agency that such procurement official or the officer or employee of the competing contractor responsible for the offer or bid for such contract or the modification or extension of such contract, as the case may be, has no information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations, pertaining to such procurement; or

"(B) to disclose to the head of such agency any and all such information and to certify in writing that any and all such information has been disclosed.

"(4) If a procurement official leaves the Government during the conduct of such a procurement, such official shall certify that he or she understands the continuing obligation not to disclose proprietary or source selection information.

"(5) For the purposes of enforcing the requirements of this section, the contracting officer responsible for the conduct of a procurement shall maintain, as part of the procurement file—

"(A) all certifications made by procurement officials and competing contractors with regard to such procurement, as required by this subsection; and

"(B) a record of all persons who have been authorized by the head of the agency or the contracting officer to have access to proprietary or source selection information regarding such procurement. Records.

"(6) Any person making a certification required by this subsection shall be notified of the applicability of section 1001 of title 18, United States Code, to false, fictitious, or fraudulent statements in such certification. Fraud.

"(7)(A) This subsection applies only to contracts, extensions, and modifications in excess of $100,000.

"(B) This subsection need not be applied to a contract—

"(i) with a foreign government or an international organization that is not required to be awarded using competitive procedures pursuant to section 303(c)(4) of the Federal Property and Administrative Services Act of 1949 or section 2304(c)(4) of title 10, United States Code; or

"(ii) in an exceptional case, when the head of the Federal agency concerned determines in writing that this subsection should be waived pursuant to procedures and criteria established in implementing regulations issued pursuant to subsection (m) and notifies the Congress in writing of such determination.

The authority to make determinations under clause (ii) of this subparagraph may not be delegated.

"(e) RESTRICTIONS ON GOVERNMENT OFFICIALS AND EMPLOYEES.—No Government official or employee, civilian, or military, who has participated personally and substantially in the conduct of any Federal agency procurement or who has personally reviewed and approved the award, modification, or extension of any contract for such procurement shall—

"(1) participate in any manner, as an officer, employee, agent, or representative of a competing contractor, in any negotiations leading to the award, modification, or extension of a contract for such procurement, or

"(2) participate personally and substantially on behalf of the competing contractor in the performance of such contract,

during the period ending 2 years after the last date such individual participated personally and substantially in the conduct of such procurement or personally reviewed and approved the award, modification, or extension of any contract for such procurement.

"(f) CONTRACTUAL PENALTIES.—(1) Regulations issued pursuant to subsection (m) shall require that each contract awarded by a Federal agency contain a clause specified in such regulation that provides appropriate contractual penalties for conduct of any competing

contractor prohibited by subsection (a) and for any such conduct of any officer, employee, agent, representative, or consultant of such contractor.

"(2) The following remedies are authorized to be included in, and shall be considered in the development of, such regulations:

"(A) Denial of payment of all or any portion of the profit component of amounts otherwise payable to the contractor by the Federal agency under the contract and recovery of all or any portion of the profit component of amounts paid to the contractor by the Federal agency under the contract.

"(B) Termination of the contract for default.

"(C) Any other appropriate penalty.

"(g) ADMINISTRATIVE ACTIONS.—(1) If an agency receives a disclosure of information pursuant to subsection (d) or otherwise receives or obtains information providing a reasonable basis to believe that an officer, employee, agent, representative, or consultant of a competing contractor has knowingly violated the requirements of this section—

"(A) in the case of a procurement in which a contract has not been awarded, the agency shall determine whether to terminate the procurement or take other appropriate actions;

"(B) in the case of a procurement with respect to which a contract has been awarded, the agency shall determine whether to void or rescind the contract, to terminate the contract for default, to impose sanctions upon the contractor, or to permit the contractor to continue to perform the contract, subject to review in accordance with, and to the extent provided in, the Contract Disputes Act of 1978, or to take other appropriate actions; and

"(C) if the agency determines that such a knowing violation has occurred, the agency, pursuant to procedures specified in the Federal Acquisition Regulation—

"(i) may impose an immediate suspension, and

"(ii) shall determine whether to initiate a debarment proceeding,

against the competing contractor or other person who committed such violation.

"(2) Any procurement official of a Federal agency who engages in conduct prohibited by subsection (b) or (c) shall be subject to removal or other appropriate adverse personnel action pursuant to the procedures specified in chapter 75 of title 5, United States Code, or other applicable law or regulation.

"(3) The actions taken under paragraph (1) or (2) may be suspended by the agency head upon the request of the Attorney General pending the disposition of any civil or criminal actions pursuant to subsections (h) and (i).

"(h) CIVIL PENALTIES.—Any person who engages in conduct prohibited by subsection (a), (b), (c), or (e) shall be subject to the imposition of a civil fine in a civil action brought by the United States in an appropriate district court of the United States. The amount of any such civil fine for such violation may not exceed—

"(1) $100,000 in the case of an individual; or

"(2) $1,000,000 in the case of a competing contractor (other than an individual).

"(i) CRIMINAL PENALTIES.—Whoever, during the conduct of a Federal agency procurement of property or services—

"(1) being a competing contractor or an officer, employee, representative, agent, or consultant of a competing contractor, knowingly and willfully solicits or obtains, directly or indirectly, from any officer or employee of such agency any proprietary or source selection information (as such terms are defined in subsection (n) and in regulations prescribed pursuant to subsection (m)), or

"(2) being an officer or employee of such agency, knowingly and willfully discloses or promises to disclose, directly or indirectly, to any competing contractor or any officer, employee, representative, agent, or consultant of a competing contractor any proprietary or source selection information,

shall be imprisoned for not more than 5 years, or fined in accordance with title 18, United States Code, or both.

"(j) TRAINING.—The head of each Federal agency shall establish a procurement ethics program for its procurement officials. The program shall, at a minimum—

"(1) provide for the distribution of written explanations of the provisions of subsection (b) to such procurement officials; and

"(2) require each such procurement official, as a condition of serving as a procurement official, to certify that he or she is familiar with the provisions of subsection (b), and will not engage in any conduct prohibited by such subsection, and will report immediately to the contracting officer any information concerning a violation or possible violation of subsection (a), (b), (c), or (e), or applicable implementing regulations.

"(k) REMEDIES NOT EXCLUSIVE.—Nothing in this subsection shall be construed to limit the applicability of the requirements, sanctions, contract penalties, and remedies established under any other law, but no agency shall be relieved of the obligation to carry out the requirements of this section because such agency has also applied such other requirements, sanctions, contract penalties, or remedies.

"(l) NO AUTHORITY TO WITHHOLD INFORMATION.—Nothing in this section shall be construed to authorize the withholding of any information from the Congress, any committee or subcommittee thereof, a Federal agency, any board of contract appeals of a Federal agency, the Comptroller General, or an Inspector General of a Federal agency.

"(m) IMPLEMENTING REGULATIONS AND GUIDELINES.—Government-wide regulations and guidelines deemed appropriate to carry out this section shall be issued in the Federal Acquisition Regulation within 180 days after the date of enactment of this section.

"(n) DEFINITIONS.—As used in this section:

"(1) The term 'during the conduct of any Federal agency procurement of property or services' means the period beginning with the development, preparation, and issuance of a procurement solicitation, and concluding with the award, modification, or extension of a contract, and includes the evaluation of bids or proposals, selection of sources, and conduct of negotiations.

"(2) The term 'competing contractor', with respect to any procurement (including any procurement using procedures other than competitive procedures) of property or services, means any entity that is, or is reasonably likely to become, a competitor for or recipient of a contract or subcontract under such procurement, and includes any other person acting on behalf of such an entity.

"(3)(A) The term 'procurement official' means any civilian or military official or employee of an agency who has participated personally and substantially in the conduct of the agency procurement concerned, including all officials and employees who are responsible for reviewing or approving the procurement, as further defined by applicable implementing regulations.

"(B) For purposes of subparagraph (A), the term 'employee of an agency' includes a contractor, subcontractor, consultant, expert, or adviser (other than a competing contractor) acting on behalf of, or providing advice to, the agency with respect to any phase of the agency procurement concerned.

"(4) The term 'contracting officer' means any official or employee of a Federal agency who has been authorized by the agency head or his or her designee to enter into, administer, or terminate contracts and make related determinations and findings.

"(5) The term 'Federal agency' has the meaning provided by section 3(b) of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 472(b)).

"(6) The term 'proprietary information' means—

"(A) information contained in a bid or proposal;

"(B) cost or pricing data; or

"(C) any other information submitted to the Government by a contractor and designated as proprietary, in accordance with law or regulation, by the contractor, the head of the agency, or the contracting officer.

"(7) The term 'source selection information' means information determined by the head of the agency or the contracting officer to be information—

"(A) the disclosure of which to a competing contractor would jeopardize the integrity or successful completion of the procurement concerned; and

"(B) which is required by statute, regulation, or order to be secured in a source selection file or other restricted facility to prevent such disclosure;

as further defined by regulations issued pursuant to subsection (m) of this section.".

41 USC 423 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect 180 days after the date of enactment of this Act.

41 USC 405 note.

SEC. 7. PROFIT METHODOLOGY STUDY.

(a) IN GENERAL.—The Administrator shall conduct a study to develop a consistent methodology which executive agencies should use for measuring the profits earned by government contractors on procurements, other than procurements where the price is based on adequate price competition or on established catalog or market prices of commercial items sold in substantial quantities to the general public.

(b) CONTRACTORS' FINANCIAL DATA.—The methodology developed under subsection (a) shall include adequate procedures for verifying and maintaining the confidentiality of contractors' financial data.

SEC. 8. DEFINITION OF ARCHITECTURAL AND ENGINEERING SERVICES.

Section 901 of the Federal Property and Administrative Services Act of 1949 (40 U.S.C. 541) is amended by striking out paragraph (3) and inserting the following:

"(3) The term 'architectural and engineering services' means—

"(A) professional services of an architectural or engineering nature, as defined by State law, if applicable, which are required to be performed or approved by a person licensed, registered, or certified to provide such services as described in this paragraph;

"(B) professional services of an architectural or engineering nature performed by contract that are associated with research, planning, development, design, construction, alteration, or repair of real property; and

"(C) such other professional services of an architectural or engineering nature, or incidental services, which members of the architectural and engineering professions (and individuals in their employ) may logically or justifiably perform, including studies, investigations, surveying and mapping, tests, evaluations, consultations, comprehensive planning, program management, conceptual designs, plans and specifications, value engineering, construction phase services, soils engineering, drawing reviews, preparation of operating and maintenance manuals, and other related services.".

SEC. 9. ESTABLISHMENT OF THE COMMERCIAL PRODUCTS ADVOCATE.

The Office of Federal Procurement Policy Act is further amended by adding at the end thereof the following:

"ADVOCATE FOR THE ACQUISITION OF COMMERCIAL PRODUCTS

"SEC. 28. There is established in the Office of Federal Procurement Policy the position of Advocate for the Acquisition of Commercial Products. The Advocate shall report directly to the Administrator. The Advocate for Acquisition of Commercial Products shall— 41 USC 424.

"(1) review all proposed procurement regulations and report to the Administrator as to whether such regulations will encourage or discourage the acquisition of commercial products by Federal agencies; Reports.

"(2) provide recommendations to the Administrator as to which procurement regulations should be rescinded or modified to encourage the acquisition of commercial products; and

"(3) provide recommendations to the Administrator as to methods of simplifying procurement regulations governing acquisition of commercial products, including the most efficient method to apply, modify, or waive the certification requirements of section 27 of this Act with respect to contracts for such products.".

SEC. 10. STUDY AND REPORT BY THE ADMINISTRATOR FOR FEDERAL PROCUREMENT POLICY.

No later than April 1, 1989, the Administrator for Federal Procurement Policy, in consultation with the Comptroller General, shall conduct a study and submit a report to the Committee on Governmental Affairs of the Senate and the Committee on Government Operations of the House of Representatives—

(1) on the extent to which the data collected by the Federal Procurement Data System is adequate for the management, oversight, and evaluation of Federal procurement; and

(2) which shall include any appropriate recommendations for improvements of such system.

SEC. 11. ELEVATION OF PRESIDENTIAL APPOINTEES WITHIN THE OFFICE OF MANAGEMENT AND BUDGET.

(a) EXECUTIVE SCHEDULE, LEVEL I.—Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of the Office of Management and Budget.".

(b) EXECUTIVE SCHEDULE, LEVEL II.—Section 5313 of title 5, United States Code, is amended—

(1) by adding at the end thereof the following:

"Deputy Director of the Office of Management and Budget."; and

(2) by striking out "Director of the Office of Management and Budget.".

(c) EXECUTIVE SCHEDULE, LEVEL III.—Section 5314 of title 5, United States Code, is amended—

(1) by adding at the end thereof the following:

"Administrator for Federal Procurement Policy.

"Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget."; and

(2) by striking out "Deputy Director of the Office of Management and Budget.".

(d) EXECUTIVE SCHEDULE, LEVEL IV.—Section 5315 of title 5, United States Code, is amended—

(1) by striking out "Administrator for Federal Procurement Policy."; and

(2) by striking out "Administrator, Office of Information and Regulatory Affairs, Office of Management and Budget.".

5 USC 5312 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall be effective on January 20, 1989.

SEC. 12. TRAVEL EXPENSES UNDER CERTAIN GOVERNMENT CONTRACTS.

Section 24 of the Office of Federal Procurement Policy Act (41 U.S.C. 420) is amended—

(1) by redesignating such section as subsection (a) of section 24; and

(2) by adding at the end thereof the following new subsection:

"(b)(1) The provisions of subsection (a) shall not apply to any agreement between an executive agency and a State institution, or an executive agency and a nonprofit institution, entered into for the purpose for conducting federally sponsored research and related activities.

"(2) Under any agreement described under paragraph (1), costs incurred by personnel for travel, including costs of lodging, other subsistence, and incidental expenses, shall be considered reasonable and allowable only to the extent that such costs do not exceed—

"(A) charges normally allowed by the respective institution in its regular operations as a result of an institutional policy; and

"(B) the limits and principles as are provided for by government-wide regulation of such costs established by the Director of the Office of Management and Budget.

"(3) The regulation under paragraph (2)(B) shall specifically provide that in the absence of an institutional policy regarding travel costs, the rates and amounts established under subchapter I of chapter 57 of title 5, United States Code, or by the Administrator of General Services or the President (or his designee) pursuant to any provisions of such subchapter shall apply to agreements between an executive agency and a State institution, or an executive agency and a nonprofit institution, entered into for the purpose of conducting federally sponsored research and related activities.".

SEC. 13. FEDERAL EMPLOYEE BENEFITS FOR CERTAIN EMPLOYEES OF FORMER PRESIDENTS AND VICE PRESIDENTS.

(a) RETIREMENT BENEFITS.—(1) Section 8331(1) of title 5, United States Code, is amended by—

(A) striking out "and" at the end of subparagraph (I);

(B) by inserting "and" after the semicolon at the end of subparagraph (J); and

(C) inserting after subparagraph (J) the following new subparagraph:

"(K) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other subparagraph of this paragraph;".

(2) Section 8401(11) of title 5, United States Code, is amended by striking out "or (J)" and inserting in lieu thereof "(J), or (K)".

(b) LIFE INSURANCE.—Section 8701(a) of title 5, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (8);

(2) by inserting "and" after the semicolon at the end of paragraph (9); and

(3) inserting after paragraph (9) the following new paragraph:

"(10) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other paragraph of this subsection;".

(c) HEALTH BENEFITS.—Section 8901(1) of title 5, United States Code, is amended by—

(1) striking out "and" at the end of subparagraph (F); and

(2) inserting after subparagraph (G) the following new subparagraphs:

"(H) an individual appointed to a position on the office staff of a former President under section 1(b) of the Act of August 25, 1958 (72 Stat. 838); and

"(I) an individual appointed to a position on the office staff of a former President, or a former Vice President under section 4 of the Presidential Transition Act of 1963, as amended (78 Stat. 153), who immediately before the date of such appointment was an employee as defined under any other subparagraph of this paragraph;".

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 2215 (H.R. 3345):

HOUSE REPORTS: No. 100-911 accompanying H.R. 3345 (Comm. on Government Operations).
SENATE REPORTS: No. 100-424 (Comm. on Governmental Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 11, considered and passed Senate.
Sept. 13, H.R. 3345 considered and passed House; proceedings vacated and S. 2215, amended, passed in lieu.
Oct. 19, Senate concurred in House amendments with an amendment.
Oct. 20, House concurred in Senate amendment.

Public Law 100-680
100th Congress

An Act

To promote energy conservation and technology competitiveness in the American steel and aluminum industries.

Nov. 17, 1988
[S. 2470]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988.
Research and development.
15 USC 5101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

15 USC 5101.

(a) FINDINGS.—The Congress finds that—

(1) maintaining viable domestic steel, aluminum, copper, and other metals industries is vital to the national security and economic well being of the United States; and

(2) the promotion of technology competitiveness and energy conservation in the American steel and aluminum industries by the Federal Government through a program of joint research and development will help maintain viable domestic steel and aluminum industries.

(b) PURPOSES.—The purposes of this Act are to—

(1) increase the energy efficiency and enhance the competitiveness of American steel, aluminum, and copper industries by providing Federal incentives for the establishment of public-private sector research and development partnerships to undertake scientific research and development to develop advanced technologies utilizing the expertise of the steel, aluminum, copper, and other metals industries, Government-owned laboratories of the Department of Energy and the National Institute of Standards and Technology, universities, State development agencies, and others; and

(2) continue steel research and development initiative efforts begun under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190).

SEC. 3. DEFINITIONS.

15 USC 5102.

As used in this Act—

(1) the term "Secretary" means the Secretary of Energy;

(2) the term "domestic company" means a company which is substantially involved in the United States domestic production, processing, or use of steel, aluminum, copper, or other metals and has a substantial percentage of its operations located within the United States;

(3) the terms "management plan" and "plan" mean the Steel Initiative Management Plan issued on April 1, 1987, by the Department of Energy, which establishes the management

framework for the steel research and development initiative, and updates to that plan; and

(4) the term "research plan" means the Steel Initiative Research Plan issued in April 1988 by the Department of Energy, and updates to that plan.

15 USC 5103.

SEC. 4. ESTABLISHMENT OF SCIENTIFIC RESEARCH AND DEVELOPMENT PROGRAM TO DEVELOP COMPETITIVE MANUFACTURING TECHNOLOGIES AND INCREASE ENERGY EFFICIENCY IN THE STEEL AND ALUMINUM INDUSTRIES.

(a) GENERAL AUTHORITY.—The Secretary, pursuant to the authority provided under provisions of the Federal Nonnuclear Research and Development Act of 1974 (42 U.S.C. 5901, et seq.), shall reestablish an industrial energy conservation and competitive technology program to conduct scientific research and development of steel and aluminum technologies to carry out the purposes of this Act. Such program shall provide the financial and technical assistance and other incentives which, in the judgment of the Secretary, are necessary to carry out the purposes of this Act.

(b) MANAGEMENT PLAN.—Within 6 months after the date of enactment of this Act, the Secretary shall publish an update of the management plan to expand the steel research and development initiative to include aluminum and to carry out the purposes of this Act. The Secretary, from time to time, may further update the management plan. The management plan shall be subject to the following conditions:

(1) For newly initiated research and development proposals submitted under the revised management plan, the non-Federal financial share shall equal at least 30 percent of the total cost of any project.

(2) Existing facilities, equipment, supplies, and other property may be included in the non-Federal share under this section only when they are directly relevant to the project.

(3) The knowledge resulting from research and development activities conducted under this Act shall be developed for the benefit of the domestic companies who provide financial resources to the program.

Classified information.

(4) The Secretary, for a period of up to 5 years after the development of information that—

(A) results from research and development activities conducted under this Act; and

(B) would be a trade secret or commercial or financial information that is privileged or confidential, as described in section 5(a), if the information had been obtained from a domestic company,

may provide appropriate protections against the dissemination of such information, including exemption from subchapter II of chapter 5 of title 5, United States Code.

(5) The plan shall assure basic research support, for the research carried out under the research plan, from independent laboratories, universities, and nonprofit organizations, by coordinating activities under the research plan with the basic research efforts of the Department of Energy, such as the Energy Conversion and Utilization Technologies Program and the Materials Processing and Sensor and Controls programs within the Office of Industrial Programs.

(c) PRIORITIES.—Within 6 months after the date of enactment of this Act, the Secretary shall publish an update of the research plan. In reviewing research and development activities for possible inclusion in the research plan, the Secretary shall consider the following:

(1) STEEL PROJECTS.—

(A) The direct production of liquid steel from domestic materials.

(B) The production of near-net shape forms from liquid, powder, or solid steel.

(C) The development of universal grades of steel.

(D) The application of automatic processing technology.

(E) The removal of residual elements from steel scrap.

(F) The treatment and storage of waste materials and other byproducts from steel production and processing.

(G) The development of super-plastic steel processing.

(H) The development of advanced coatings for sheet steels.

(I) The development of technologies and equipment related to the production of steel that enhance the protection of the environment and the safety and health of workers.

(J) Other steel technologies which, in the judgment of the Secretary, further the purposes of this Act.

(2) ALUMINUM AND OTHER PROJECTS.—

(A) The production of aluminum.

(B) The application of automatic processing technology.

(C) The treatment and storage of waste materials and other byproducts from aluminum production and processing.

(D) The manufacture of aluminum mill products.

(E) Aluminum recycling technologies.

(F) The development of technologies and equipment related to the production of aluminum that enhance the protection of the environment and the safety and health of workers.

(G) Aluminum, copper, and other metals technologies which, in the judgment of the Secretary, further the purposes of this Act.

(d) INDUSTRY PARTICIPATION AND REVIEW.—The Secretary shall arrange for participation and review by representatives of each affected industry and by labor in the updating of the management and research plans and in the evaluation of the progress of research and development activities for their industry conducted under this Act.

SEC. 5. PROTECTION OF PROPRIETARY RIGHTS. 15 USC 5104.

(a) PROPRIETARY RIGHTS.—No trade secrets or commercial or financial information that is privileged or confidential, under the meaning of section 552(b)(4) of title 5, United States Code, which is obtained from a domestic company shall be disclosed in the conduct of the management plan or research plan, or as a result of activities under this Act. Classified information.

(b) PATENT RIGHTS VESTED IN THE UNITED STATES.—All patent rights from inventions developed under the management plan or the research plan implemented pursuant to this Act shall be vested in accordance with section 9 of the Federal Nonnuclear Energy Research and Development Act of 1974 (42 U.S.C. 5901).

15 USC 5105.

SEC. 6. COORDINATION.

The Secretary shall coordinate the research and development conducted under this Act with other research and development being conducted by the Department of Energy and other Federal agencies in order to increase efficiency and avoid duplication of effort.

15 USC 5106.

SEC. 7. EXPANDED STEEL AND ALUMINUM RESEARCH PROGRAM IN NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY.

The National Institute of Standards and Technology, through its Institute for Materials Science and Engineering and, as appropriate, in coordination with the Department of Energy and other Federal agencies, shall conduct an expanded program of steel and aluminum research to provide necessary instrumentation and measurement research and development in support of activities conducted under this Act.

15 USC 5107.

SEC. 8. REPORTS.

The Secretary shall prepare and submit annually to the President and the Congress at the close of each fiscal year a complete report of the research and development activities carried out under this Act during the fiscal year involved, including the actual and anticipated obligation of funds, for such activities, together with such recommendations as the Secretary may consider appropriate for further legislative, administrative, and other actions, including actions by the American steel, aluminum, copper, and other metals industries, which should be taken in order to achieve the purposes of this Act. The report submitted at the close of fiscal year 1991 shall also contain a complete summary of activities under the management plan and the research plan from the first year of their operation, along with an analysis of the extent to which they have succeeded in accomplishing the purposes of this Act.

15 USC 5108.

SEC. 9. AUTHORIZATION OF APPROPRIATIONS.

(a) TO THE SECRETARY.—(1) There are authorized to be appropriated to the Secretary, to carry out the functions of the Department of Energy under this Act, $2,000,000 for fiscal year 1989, $20,000,000 for fiscal year 1990, and $25,000,000 for fiscal year 1991.

(2) Funds previously appropriated for the steel research and development initiative—

(A) under title II of the Interior and Related Agencies portion of the joint resolution entitled "Joint Resolution making further continuing appropriations for the fiscal year 1986, and for other purposes", approved December 19, 1985 (Public Law 99-190); or

(B) under subsequent appropriation Acts,

which remain available under the terms of such Acts may be used for the purposes of this Act.

(b) TO THE INSTITUTE.—There are authorized to be appropriated to the Director of the National Institute of Standards and Technology to carry out the functions of the Institute under this Act, $3,000,000 for each of the fiscal years 1989, 1990, and 1991.

15 USC 5109.

SEC. 10. RELATION OF EXISTING PROGRAM.

Proposals received by the Department of Energy before the date of enactment of this Act may be carried out without regard to changes in the management plan and research plan required by this Act.

SEC. 11. DRUG-FREE WORKPLACE. 15 USC 5110.

(a) No department, agency, or instrumentality of the United States receiving funds authorized to be appropriated under this Act for fiscal year 1989, fiscal year 1990, or fiscal year 1991, or under any other Act authorizing appropriations for fiscal year 1989, fiscal year 1990, or fiscal year 1991, shall obligate or spend any such funds, unless such department, agency, or instrumentality has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its work places are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such department, agency, or instrumentality.

(b) No funds so authorized to be appropriated to any such department, agency, or instrumentality shall be available for payment in connection with any grant, contract, or other agreement, unless the recipient of such grant, contract, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by such recipient, contractor, or party's board of directors or other governing authority, satisfactory to the head of the department, agency, or instrumentality making such payment, designed to ensure that all of the workplace of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 2470:

HOUSE REPORTS: No. 100-1061 (Comm. on Science, Space, and Technology).
SENATE REPORTS: No. 100-443 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 9, considered and passed Senate.
Oct. 12, considered and passed House, amended.
Oct. 21, Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 17, Presidential statement.

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Public Law 100-681
100th Congress

Joint Resolution

Nov. 17, 1988
[S.J. Res. 327]

Commemorating January 28, 1989, as a "National Day of Excellence" in honor of the crew of the space shuttle Challenger.

Whereas on January 28, 1986, the seven crew members of the space shuttle Challenger, Commander Francis R. Scobee, Pilot Michael J. Smith, Mission Specialist Ellison S. Onizuka, Mission Specialist Ronald E. McNair, Mission Specialist Judith Resnik, Payload Specialist Gregory B. Jarvis, Teacher-Observer S. Christa McAuliffe, were killed in a tragic explosion shortly after liftoff;

Whereas each of the crew members of the Challenger was a true American hero who represented the best and the brightest that our Nation has to offer;

Whereas the crew of the Challenger gave their lives while striving for an excellence of technology, of goal, and of personal achievement which fills all Americans with a sense of pride in their fellow human beings and countrymen;

Whereas the most appropriate tribute we could pay the crew of the Challenger is a national day when Americans would dedicate themselves in all their endeavors to the pursuit of excellence which makes our country great;

Whereas the American spirit is most responsive to a living tribute in which all citizens can participate and be enriched by such participation; and

Whereas this is a day for which our national character cries out: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 28, 1989, is designated as a "National Day of Excellence". The President is authorized and requested to issue a proclamation calling on the people of the United States to observe that day—

(1) by resolving that in the course of their regular activities they will pursue the spirit of excellence represented by the crew of the space shuttle Challenger; and

(2) with appropriate ceremonies and activities.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S.J. Res. 327:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 7, considered and passed Senate.
Oct. 21, considered and passed House.

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Public Law 100-682
100th Congress

Joint Resolution

To designate the period commencing December 11, 1988, and ending December 17, 1988, as "National Drunk and Drugged Driving Awareness Week".

Nov. 17, 1988
[S.J. Res. 332]

Whereas traffic accidents cause more violent deaths in the United States than any other cause, approximately 46,000 in 1986;
Whereas traffic accidents cause thousands of serious injuries in the United States each year;
Whereas almost 50 percent of all drivers killed in single vehicle collisions and over 38.7 percent of all drivers fatally injured in 1986 had blood alcohol concentrations above the legal limit of .10;
Whereas the United States Surgeon General has reported that life expectancy has risen for every age group over the past 75 years except for Americans 15 to 24 years old, whose death rate, the leading cause of which is drunk driving, is higher now than it was 20 years ago;
Whereas the total societal cost of drunk driving has been estimated at more than $26,000,000,000 per year, which does not include the human suffering that can never be measured;
Whereas there are increasing reports of driving after drug use and accidents involving drivers who have used marijuana or other illegal drugs;
Whereas driving after the use of therapeutic drugs, either alone or in combination with alcohol, contrary to the advice of physician, pharmacist, or manufacturer, may create a safety hazard on the roads;
Whereas more research is needed on the effect of drugs either alone or in combination with alcohol, on driving ability and the incidence of traffic accidents;
Whereas an increased public awareness of the gravity of the problem of drugged driving may warn drug users to refrain from driving and may stimulate interest in increasing necessary research on the effect of drugs on driving ability and the incidence of traffic accidents;
Whereas the public, particularly through the work of citizens groups, is demanding a solution to the problem of drunk and drugged driving;
Whereas the Presidential Commission on Drunk Driving, appointed to heighten public awareness and stimulate the pursuit of solutions, provided vital recommendations for remedies for the problem of drunk driving;
Whereas the National Commission Against Drunk Driving was established to assist State and local governments and the private sector to implement these recommendations;
Whereas most States have appointed task forces to examine existing drunk driving programs and make recommendations for a renewed, comprehensive approach, and in many cases, their recommendations are leading to enactment of new laws, along with strict enforcement;

Whereas the best defense against the drunk or drugged driver is the use of safety belts and consistent safety belt usage by all drivers and passengers would save as many as 10,000 lives each year;

Whereas an increase in the public awareness of the problem of drunk and drugged driving may contribute to a change in society's attitude toward the drunk or drugged driver and help sustain current efforts to develop comprehensive solutions at the State and local levels;

Whereas the Christmas and New Year holiday period, with more drivers on the roads and an increased number of social functions, is a particularly appropriate time to focus national attention on this critical problem;

Whereas designation of National Drunk and Drugged Driving Awareness Week in each of the last 6 years stimulated many activities and programs by groups in both the private and public sectors aimed at curbing drunk and drugged driving in the high-risk Christmas and New Year holiday period and thereafter; and

Whereas the activities and programs during National Drunk and Drugged Driving Awareness Week have heightened the awareness of the American public to the danger of drunk and drugged driving: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the period commencing December 11, 1988, through December 17, 1988, is designated as "National Drunk and Drugged Driving Awareness Week" and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe the week with appropriate ceremonies and activities.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S.J. Res. 332:

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-683
100th Congress

Joint Resolution

Designating September 24, 1989, as "United States Marshals Bicentennial Day".

Nov. 17, 1988
[S.J. Res. 352]

Whereas the Office of United States Marshal was created by Act of the First Congress which became law on September 24, 1789;
Whereas for more than a century after the establishment of the United States Government in 1789, United States marshals provided the only nationwide civilian police power available to the President, Congress, and the courts;
Whereas United States marshals have played a crucial role in most of the major episodes in America's history, from the Whiskey Rebellion of 1794, to the Reconstruction era following the Civil War and the enforcement of the Civil Rights Acts of the 1960's;
Whereas more than three hundred United States marshals and deputy marshals have given their lives in the course of carrying out their law enforcement responsibilities;
Whereas United States marshals and their deputies are today charged with responsibilities essential to the operation of the Federal justice system, including the provision of security for the Federal courts and the protection of judicial officers, the pursuit and arrest of fugitives from justice, the enforcement of the orders of the court, and the management of seized criminal assets; and
Whereas through their consistent and tenacious dedication to duty since 1789, United States marshals and their deputies have made and continue to make immeasurable contributions to the rule of law and the protection of human rights through law in the United States: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That September 24, 1989, is designated as "United States Marshals Bicentennial Day", and the President is authorized and requested to issue a proclamation calling upon the people of the United States to observe that day with appropriate ceremonies and activities.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S.J. Res. 352:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 7, considered and passed Senate.
Oct. 21, considered and passed House.

Public Law 100-684
100th Congress

Joint Resolution

Nov. 17, 1988
[S.J. Res. 365]

To designate January 28, 1989, as "National Challenger Center Day" to honor the crew of the space shuttle Challenger.

Whereas the crew of the space shuttle Challenger was dedicated to stimulating the interest of American children in space flight and science generally;

Whereas the members of the Challenger crew gave their lives trying to benefit the education of American children;

Whereas a fitting tribute to that effort and to the sacrifice of the Challenger crew and their families is needed;

Whereas an appropriate form for such a tribute would be to expand educational opportunities in science by the creation of a center that will offer children and teachers activities and information derived from American space research; and

Whereas the Challenger Center is the only institution expressly established by the immediate families of the crew of the Challenger for the above-named purposes, and is intended to be the living expression of the Nation's commemoration of the Challenger crew: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That January 28, 1989, is designated as "National Challenger Center Day" and the President is authorized and requested to issue a proclamation calling on the people of the United States to observe such day—

(1) by resolving that in the course of their regular activities the people of the United States will remember both the Challenger astronauts who died while serving their country, and the importance of the Challenger Center is honoring the accomplishments of the Challenger crew by continuing their goal of the expansion of interest and ability in space and science education; and

(2) with other appropriate ceremonies and activities.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S.J. Res. 365:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 7, considered and passed Senate.
Oct. 21, considered and passed House.

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Public Law 100-685
100th Congress

An Act

To authorize appropriations to the National Aeronautics and Space Administration for research and development, space flight, control and data communications, construction of facilities, and research and program management, and for other purposes.

Nov. 17, 1988
[S. 2209]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act may be cited as the "National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989".

National Aeronautics and Space Administration Authorization Act, Fiscal Year 1989.

TITLE I—NATIONAL AERONAUTICS AND SPACE CAPITAL DEVELOPMENT PROGRAM

FINDINGS

SEC. 101. Congress finds that— 42 USC 2451 note.

(1) in accordance with section 106 of the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100-147), a space station, hereafter referred to as the United States International Space Station, shall be constructed in order to establish a permanent presence for man in space for the following purposes—

(A) the conduct of scientific experiments, applications experiments, and engineering experiments;

(B) the servicing, rehabilitation, and construction of satellites and space vehicles;

(C) the development and demonstration of commercial products and processes; and

(D) the establishment of a space base for other civilian and commercial space activities including an outpost for further exploration of the solar system;

(2) expendable launch vehicles should be used to launch those payloads that do not require the presence of man;

(3) the space shuttle launches should be used to fulfill the Nation's needs for manned access to space;

(4) preeminence in space and aeronautics is key to the national security and economic well being of the United States;

(5) United States space policy needs long-range goals and direction in order to provide understanding for near-term space projects and programs;

(6) over the next five years the National Aeronautics and Space Administration, hereafter referred to as the "Administration", should pursue leadership in science through an aggressive set of major and moderate missions while maintaining a robust series of cost effective missions that can provide frequent flight opportunities to the scientific community;

(7) over the next five years the Administration should prepare for the transition to the United States International Space

Station of those science and technology programs that can be most efficiently and effectively conducted on that facility;

(8) the Administration should encourage the United States private sector investment in space and, to the maximum extent practicable provide frequent flight opportunities for the development of technologies, processes and products that benefit from the space environment;

(9) the Administration should enhance the existing space transportation capability through a robust mixed fleet of manned and unmanned vehicles in order to increase the reliability, productivity, and efficiency and reduce the cost of the Nation's access to space;

(10) the United States faces an increasingly successful foreign challenge to its traditional preeminent position in aeronautics which is rapidly reducing its lead in both civil and military aircraft;

(11) NASA's personnel are an integral component and resource for the Nation's space program, and an innovative personnel system should be developed;

(12) the establishment of a permanent presence in space leading ultimately to space settlements is fully consistent with the goals of the National Aeronautics and Space Act of 1958;

(13) the United States civil space activities should contribute significantly to enhancing the Nation's scientific and technological leadership, economy, pride, and sense of well-being, as well as United States world prestige and leadership;

(14) civil sector activities should be comprised of a balanced strategy of research, development, operations, and technology for science, exploration, and appropriate applications;

(15) assured access to space, sufficient to achieve all United States space goals, is an essential element of United States space policy, and the United States space transportation systems must provide a balanced, robust, and flexible capability with sufficient resiliency to allow continued operation despite failures in any single system;

(16) the goals of the United States space transportation system are—

(A) to achieve and maintain safe and reliable access to, transportation in, and return from, space;

(B) to exploit the unique attributes of manned and unmanned launch and recovery systems;

(C) to encourage, to the maximum extent feasible, the development and use of United States private sector space transportation capabilities; and

(D) to reduce the costs of space transportation and related services;

(17) recognizing that communications advancements are critical to all United States space activities, the Administration should continue research and development efforts for future advances in space communications technologies;

(18) the goal of aeronautical research and technology development and validation activities should be to contribute to a national technology base that will enhance United States preeminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system; and

(19) aeronautical research and technology development and validation activities should—

(A) emphasize emerging technologies with potential for breakthrough advances;

(B) consist of—

(i) fundamental research in all aeronautical disciplines, aimed at greater understanding of aeronautical phenomena and development of new aeronautical concepts; and

(ii) technology development and validation activities aimed at laboratory-scale development and proof-of-concept demonstration of selected concepts with high payoff potential;

(C) assure maintenance of robust aeronautical laboratories, including a first-rate technical staff and modern national facilities for the conduct of research and testing activities;

(D) be conducted with the close, active participation of the United States aircraft industry so as to accelerate the transfer of research results to aviation products;

(E) include providing technical assistance and facility support to other government agencies and United States industry;

(F) include conducting joint projects with other government agencies where such projects contribute materially to the goals set forth in this section;

(G) assure strong participation of United States universities both in carrying out aeronautical research and training future aeronautical research personnel; and

(H) be conducted, where practical, so that United States industry receives research results before foreign competitors.

REPORT ON LONG-RANGE SPACE CAPITAL DEVELOPMENT PROGRAM PLAN

SEC. 102. In consideration of Senate Report No. 100-429 and House of Representatives Report No. 100-650, the Administrator shall, by March 15, 1989, submit to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a 5-year Capital Development Plan including, but not limited to, the following:

(1) Economic assumptions and budgetary requirements for fulfilling the objectives of such plan.

(2) Estimates of total expenditures needed to maintain the operation of the national launch systems, related tracking and data services, civil service requirements, and all other current services.

(3) A detailed operating plan for fiscal year 1989 and program plans for fiscal years 1990 through 1993 setting forth specific program priorities, objectives, schedules, and milestones.

(4) Estimates of total projected investments in space hardware, facilities, and other capital improvements needed to fulfill the objectives of such plan.

BUDGET INCREASE

SEC. 103. It is the sense of the House of Representatives that the budget for the National Aeronautics and Space Administration should increase substantially over the five years following the date of enactment of this Act with a goal of at least 15 percent growth per annum in order to—

(1) rededicate the United States space program to the goal of leadership in critical areas of space science, space technology, space exploration, aeronautics, space applications, and space commercialization;

(2) reverse the dramatic decline in real spending for such program since the achievements of the Apollo program;

(3) forge a robust national space program that maintains a healthy balance between manned and unmanned space activities and recognizes the mutually reinforcing benefits of both;

(4) continue with the development and deployment of a permanently manned space station; and

(5) enhance United States preeminence in civil and military aviation and improve the safety and efficiency of the United States air transportation system.

BUDGET REQUEST

31 USC 1105 note.

SEC. 104. Commencing in fiscal year 1990 and every year thereafter, the President shall submit to Congress a budget request for the National Aeronautics and Space Administration for the immediate fiscal year and the following fiscal year, and include budget estimates for the third fiscal year.

TITLE II—FISCAL YEAR 1989 NASA AND MULTIYEAR SPACE STATION AUTHORIZATION

AUTHORIZATION

SEC. 201. (a) There is hereby authorized to be appropriated to the National Aeronautics and Space Administration for fiscal year 1989, except as otherwise stated:

(1) For "Research and development" for the following programs:

(A) United States International Space Station, $900,000,000 for fiscal year 1989, $2,130,200,000 for fiscal year 1990, and $2,912,500,000 for fiscal year 1991.

(B)(i) Space transportation capability development, $606,600,000.

(ii) In addition to the funds authorized pursuant to this section, there are authorized to be appropriated for space transportation capability development any additional funds transferred to the Administration from any other agency pursuant to a fiscal year 1989 appropriations Act.

(C) Physics and astronomy, $761,600,000.

(D) Life sciences, $91,700,000.

(E) Planetary exploration, $410,300,000.

(F) Space applications, $628,300,000.

(G) Technology utilization, $19,100,000; provided, however, that the Administrator shall contract for implementation of the Industrial Applications Center located in

Oklahoma through the National Aeronautics and Space Administration's Rural Technology Applications Team.

(H) Commercial use of space, $38,800,000.

(I) Aeronautical research and technology, $404,200,000.

(J) Transatmospheric research and technology, $69,400,000.

(K) Space research and technology, $350,900,000.

(L) Safety, reliability, and quality assurance, $22,400,000.

(M) Tracking and data advanced systems, $18,800,000.

(2) For "Space flight, control and data communications" for the following programs:

(A) Space shuttle production and operational capability, $1,335,500,000, of which $51,000,000 is provided for the advanced solid rocket motor program.

(B)(i) Space transportation operations, $2,365,400,000, including such funds as may be necessary to ensure the availability of ammonium perchlorate for the production of solid rocket motors.

(ii) In addition to the funds authorized pursuant to this section, there are authorized to be appropriated for space transportation operations any additional funds transferred to the National Aeronautics and Space Administration from any other agency pursuant to a fiscal year 1989 appropriations Act.

(C) Space and ground network communications and data systems, $985,300,000.

(3) For "Construction of facilities", including land acquisition as follows:

(A) Modifications to processing Technology Facility for Space Station, Marshall Space Flight Center, $3,700,000.

(B) Construction of Addition for Space Systems Automated Integration and Assembly Facility, Johnson Space Center, $9,200,000.

(C) Replacement of High Pressure Gas Storage Vessels, National Space Technology Laboratory, $3,500,000.

(D) Increase Chiller Capacity, LC-39 Utility Annex, Kennedy Space Center, $2,300,000.

(E) Rehabilitation of PAD A, L-C 39, Kennedy Space Center, $4,600,000.

(F) Refurbish Atmospheric Reentry Materials and Structures Evaluation Facility, Johnson Space Center, $4,900,000.

(G) Modification for Advanced Engine Development, Test Stand 116, Marshall Space Flight Center, $13,500,000.

(H) Modifications to Orbiter Modification and Refurbishment Facility (OMRF) for Safing and Deservicing, Kennedy Space Center, $2,800,000.

(I) Modification to the X-Ray Calibration Facility (XRCF), Marshall Space Flight Center, $11,400,000.

(J) Construction of Auxiliary Chiller Facility, Johnson Space Center, $7,800,000.

(K) Modernization of Space Environment Simulator, Goddard Space Flight Center, $2,800,000.

(L) Modifications for Utility Reliability, Goddard Space Flight Center, $3,100,000.

(M) Refurbishment of 25-Foot Space Simulator, Jet Propulsion Laboratory, $12,000,000.

(N) Repair and Modifications of 12-Foot Pressure Wind Tunnel, Ames Research Center, $36,500,000.

(O) Rehabilitation and Modifications to 10x10 Supersonic Wind Tunnel, Lewis Research Center, $14,500,000.

(P) Refurbishment to Hypersonic Facilities Complex, Langley Research Center, $12,800,000.

(Q) Refurbishment of Electric Power Laboratory, Lewis Research Center, $6,100,000.

(R) Construction of National Resource Protection at various locations, $2,600,000.

(S) Repair of facilities at various locations, not in excess of $750,000 per project, $27,000,000.

(T) Rehabilitation and modification of facilities at various locations, not in excess of $750,000 per project, $34,000,000.

(U) Minor construction of new facilities and additions to existing facilities at various locations, not in excess of $500,000 per project, $9,000,000.

(V) Environmental compliance and restoration, $26,000,000.

(W) Facility planning and design not otherwise provided for, $20,000,000.

(X) Construction of an advanced solid rocket motor facility, $27,000,000.

Of the amounts authorized pursuant to subparagraphs (S) through (W), the Administrator may obligate up to $5,600,000 in order to expand the Launch Complex-39 Operation Support Building at the Kennedy Space Center. Notwithstanding subparagraphs (A) through (X), the total amount authorized by this paragraph shall not exceed $290,100,000.

(4) For "Research and program management", $1,915,000,000.

Contracts.
Grants.

(b) Notwithstanding the provisions of subsection (e), appropriations authorized in this title for "Research and development" and "Space flight, control and data communications" may be used for (1) any items of a capital nature (other than acquisition of land) which may be required at locations other than installations of the Administration for the performance of research and development contracts, and (2) for grants to nonprofit institutions of higher education, or to nonprofit organizations whose primary purpose is the conduct of scientific research, for purchase or construction of additional research facilities; and title to such facilities shall be vested in the United States unless the Administrator of the National Aeronautics and Space Administration (hereafter in this title referred to as the 'Administrator') determines that the national program of aeronautical and space activities will best be served by vesting title in any such grantee institution or organization. Each such grant shall be made under such conditions as the Administrator shall determine to be required to ensure that the United States will receive therefrom benefit adequate to justify the making of that grant. None of the funds appropriated for "Research and development" and "Space flight, control and data communications" pursuant to this title may be used in accordance with this subsection for the construction of any major facility, the estimated cost of which, including collateral equipment, exceeds $500,000, unless the Administrator or the Administrator's designee has notified the President of the Senate and the Speaker of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technol-

ogy of the House of Representatives of the nature, location, and estimated cost of such facility.

(c) When so specified and to the extent provided in an appropriation Act, (1) any amount appropriated for "Research and development", for "Space flight, control and data communications", or for "Construction of facilities" may remain available without fiscal year limitation, and (2) maintenance and operation of facilities, and support services contracts may be entered into under the "Research and program management" appropriation for periods not in excess of twelve months beginning at any time during the fiscal year. Contracts. 42 USC 2459a.

(d) Appropriations made pursuant to subsection (a)(4) may be used, but not to exceed $35,000, for scientific consultation or extraordinary expenses upon the approval or authority of the Administrator, and the Administrator's determination shall be final and conclusive upon the accounting officers of the Government.

(e)(1) Funds appropriated pursuant to subsection (a)(1), (2), and (4) may be used for the construction of new facilities and additions to, repair, rehabilitation, or modification of existing facilities, provided the cost of each such project, including collateral equipment, does not exceed $100,000.

(2) Funds appropriated pursuant to subsection (a) (1) and (2) may be used for unforeseen programmatic facility project needs, provided the cost of each such project, including collateral equipment, does not exceed $500,000.

(3) Funds appropriated pursuant to subsection (a)(4) may be used for such work on facilities controlled by the General Services Administration, provided the cost of each such project, including collateral equipment, does not exceed $500,000.

(f) Of the amounts authorized pursuant to subsection (a) (1) through (4), up to $8,000,000 may be made available for the National Space Grant College and Fellowship program established under the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100-147).

CONSTRUCTION OF FACILITIES REPROGRAMMING

SEC. 202. Authorization is hereby granted whereby any of the amounts prescribed in section 201(a)(3) (A) through (X)—

(1) may be varied upward 10 percent, in the discretion of the Administrator or the Administrator's designee, or

(2) following a report by the Administrator or the Administrator's designee to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate on the circumstances of such, may be varied upward 25 percent to meet unusual cost variations. Reports.

The total cost of all work authorized under paragraphs (1) and (2) shall not exceed the total of the amounts specified in section 201(a)(3) (A) through (X).

SPECIAL REPROGRAMMING AUTHORITY FOR CONSTRUCTION OF FACILITIES

SEC. 203. Where the Administrator determines that new developments or scientific or engineering changes in the national program of aeronautical and space activities have occurred; and that such changes require the use of additional funds for the purposes of

construction, expansion, or modification of facilities at any location; and that deferral of such action until the enactment of the next authorization Act would be inconsistent with the interest of the Nation in aeronautical and space activities; the Administrator may transfer not to exceed ½ of 1 percent of the funds appropriated pursuant to section 201(a) (1) or (2) to the "Construction of facilities" appropriation for such purposes. The Administrator may also use up to $10,000,000 of the amounts authorized under section 201(a)(3) for such purposes. The funds so made available pursuant to this section may be expended to acquire, construct, convert, rehabilitate, or install permanent or temporary public works, including land acquisition, site preparation, appurtenances, utilities, and equipment.

Reports. No such funds may be obligated until a period of 30 days has passed after the Administrator or the Administrator's designee has transmitted to the Committee on Science, Space, and Technology of the House of Representatives and the Committee on Commerce, Science, and Transportation of the Senate a written report describing the nature of the construction, its cost, and the reasons therefor.

LIMITATIONS ON AUTHORITY

SEC. 204. Notwithstanding any other provision of this Act—

(1) no amount appropriated pursuant to this Act may be used for any program deleted by the Congress from requests as originally made to either the House Committee on Science, Space, and Technology or the Senate Committee on Commerce, Science, and Transportation;

(2) no amount appropriated pursuant to this Act may be used for any program in excess of the amount actually authorized for that particular program by section 201(a) (1), (2), and (4); and

(3) no amount appropriated pursuant to this Act may be used for any program which has not been presented to either such committee,

unless a period of thirty days has passed after the receipt by the Speaker of the House of Representatives and the President of the Senate and each such committee, of notice given by the Administrator or his designee containing a full and complete statement of the action proposed to be taken and the facts and circumstances relied upon in support of such proposed action.

GEOGRAPHICAL DISTRIBUTION OF RESEARCH FUNDS

42 USC 2459 note. SEC. 205. It is the sense of the Congress that it is in the national interest that consideration be given to the widest geographical distribution of Federal research funds whenever feasible, and that the National Aeronautics and Space Administration should explore ways and means of distributing its research and development funds whenever feasible.

ARREST AUTHORITY

SEC. 206. Section 304 of the National Aeronautics and Space Act of 1958 is amended by adding at the end the following new subsection:

42 USC 2456a. Regulations. "(f) Under regulations to be prescribed by the Administrator and approved by the Attorney General of the United States, those employees of the Administration and of its contractors and subcontractors authorized to carry firearms under subsection (e) may arrest without warrant for any offense against the United States

committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Persons granted authority to make arrests by this subsection may exercise that authority only while guarding and protecting property owned or leased by, or under the control of, the United States under the administration and control of the Administration or one of its contractors or subcontractors, at facilities owned by or contracted to the Administration.".

ADVANCED SOLID ROCKET MOTOR AUTHORITY

SEC. 207. If, after evaluation of proposals received in response to the request for proposals for an advanced solid rocket motor required by section 121(b) of the National Aeronautics and Space Administration Authorization Act of 1988 (Public Law 100-147; 101 Stat. 868), the Administrator determines that it is in the best interests of the United States to select a proposal offering a privately financed and non-Government-owned production facility to be constructed on a Government or non-Government site, funds otherwise authorized in section 201(a)(3)(X) of this Act for the construction of a Government-owned production facility on a Government-owned site shall be available, without fiscal year limitation, for that purpose.

STUDIES ON MICROGRAVITY RESEARCH CAPABILITY

SEC. 208. (a) The Administrator shall contract with the National Academy of Sciences to undertake a review of the Nation's microgravity research capability and issue a report addressing— Contracts. Reports.

(1) the scientific and commercial value to the Nation of achieving a man-tended capability through a Commercially Developed Space Facility (CDSF) prior to man-tended operations of the space station;

(2) the technical characteristics of a CDSF that would enable its optimum use;

(3) the anticipated microgravity research and manufacturing requirements of commercial users and the Government;

(4) the extent to which existing and proposed facilities could support these requirements;

(5) the likelihood that a CDSF would become commercially self-sustaining and an estimate of when that could occur;

(6) the state of space automation technology and its relevance to the capabilities required for a CDSF;

(7) how a decision by the Government to lease facilities on a CDSF might affect the viability of other proposed commercial microgravity research facilities; and

(8) the effect a commitment to the CDSF would have on the current space transportation system launch schedule.

(b) The Administrator shall contract with the National Academy of Public Administration to— Contracts.

(1) estimate the developmental, operational, and other costs to the Government associated with a CDSF;

(2) consider the practicability of various financial options by which the Government could participate in a CDSF, including leasing, lease-purchase, and purchase;

(3) consider, as regards the lease option, instead of providing for a flat level of lease obligations, the practicability of reducing

on a yearly basis the level of Government lease operations during the years of operation of a CDSF; and

(4) consider, as regards the lease option, the practicability of making the minimum levels of Government lease obligations in the years of operation of a CDSF contingent on the attachment, by the CDSF operator, of certain minimum levels of irrevocable contract commitments with entities other than the United States Government.

Reports.

(c) Based on the above reports, the Administrator shall provide a report to the House Committee on Science, Space, and Technology and the Senate Committee on Commerce, Science, and Transportation with policy options related to a CDSF and microgravity facilities, to be delivered no later than May 15, 1989.

BUY AMERICAN

Contracts.

SEC. 209. (a) The Administrator shall award to a domestic firm a contract that, under the use of competitive procedures, would be awarded to a foreign firm, if—

(1) the final product of the domestic firm will be completely assembled in the United States;

(2) when completely assembled, not less than 50 percent of the final product of the domestic firm will be domestically produced; and

(3) the difference between the bids submitted by the foreign and domestic firms is not more than 6 percent.

(b) This section shall not apply to the extent to which—

(1) such applicability would not be in the public interest;

(2) compelling national security considerations require otherwise; or

(3) the United States Trade Representative determines that such an award would be in violation of the General Agreement on Tariffs and Trade or an international agreement to which the United States is a party.

(c) For purposes of this section—

(1) the term "domestic firm" means a business entity that is organized under the laws of the United States and that conducts business operations in the United States; and

(2) the term "foreign firm" means a business entity not described in paragraph (1).

(d) This section shall apply only to contracts for which—

(1) amounts are made available pursuant to this Act; and

(2) solicitations for bids are issued after the date of the enactment of this Act.

Science and technology.

INTERNATIONAL SPACE DOCKING CAPABILITY

Union of Soviet Socialist Republics.

SEC. 210. (a) It is the sense of Congress that the Administrator should establish a multilateral working group of representatives from the space agencies of appropriate spacefaring nations, including the Union of Soviet Socialist Republics, and from appropriate international entities, to explore the technological and procedural principles that would be necessary to achieve an international space docking capability, and the establishment of international docking interface standards for addressing requirements for compatible interfaces for docking, communications, and life support systems,

and also space rescue missions which could particularly benefit from the use of such a capability.

(b) Within 6 months after the date of the enactment of this Act, the Administrator shall advise the Congress on the status of establishing an International Space Docking Working Group as recommended in subsection (a).

JOHN C. STENNIS SPACE CENTER

Mississippi.

SEC. 211. The National Space Technology Laboratories of the National Aeronautics and Space Administration located in Bay St. Louis, Mississippi, is named and designated as the "John C. Stennis Space Center". Any reference in a law, map, regulation, document, record, or other paper of the United States to such center shall be held to be a reference to the "John C. Stennis Space Center".

OUTER SOLAR SYSTEM EXPLORATION

SEC. 212. The Administrator, in coordination with the Secretary of Energy, for the purpose of outer solar system exploration, may request and receive such quantities of nuclear fuel as are necessary only for the specific mission, on terms and at costs as may be agreed upon. Nothing in this section authorizes the providing of such nuclear fuel on those terms for any other purpose or its diversion for any other use.

COMMERCIAL SPACE LAUNCH ACT AUTHORIZATION

SEC. 213. Section 24 of the Commercial Space Launch Act (49 App. U.S.C. 2623) is amended by adding at the end thereof the following: "There is authorized to be appropriated to the Secretary to carry out this Act $3,827,000 for fiscal year 1989.".

NATIONAL AERONAUTICS AND SPACE ACT OF 1958 AMENDMENT

SEC. 214. Section 102(c) of the National Aeronautics and Space Act of 1958 (42 U.S.C. 2451(c)) is amended—

(1) by striking "and" at the end of paragraph (7);

(2) by striking the period at the end of paragraph (8) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(9) The preservation of the United States preeminent position in aeronautics and space through research and technology development related to associated manufacturing processes.".

Science and technology.

DRUG-FREE WORKPLACE

SEC. 215. (a) No funds authorized to be appropriated under this Act, or under any other Act authorizing appropriations for fiscal year 1989 through 1993 for the Administration, shall be obligated or expended unless the Administration has in place, and will continue to administer in good faith, a written policy designed to ensure that all of its workplaces are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of the Administration.

42 USC 2459 note.

(b) No funds authorized to be appropriated to the Administration for fiscal years 1989 through 1993 shall be available for payment in connection with any grant, contract, or other agreement, unless the

recipient of such grant, contractor, or party to such agreement, as the case may be, has in place and will continue to administer in good faith a written policy, adopted by the board of directors or other government authority of such recipient, contractor, or party, satisfactory to the Administrator of the Administration, designed to ensure that all of the workplaces of such recipient, contractor, or party are free from the illegal use, possession, or distribution of controlled substances (as defined in the Controlled Substances Act) by the officers and employees of such recipient, contractor, or party.

(c) The provisions of this section, and the provisions of the Steel and Aluminum Energy Conservation and Technology Competitiveness Act of 1988, the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989, the National Science Foundation Authorization Act for Fiscal Years 1989 and 1990, and the National Nutrition Monitoring and Related Research Act of 1988, relating to a drug-free workplace, shall not be effective until January 16, 1989.

OHIO CENTER FOR AEROSPACE

SEC. 216. (a) The Administrator may, without regard to section 321 of the Act of June 30, 1932 (40 U.S.C. 303b), and on such terms as the Administrator may deem to be appropriate, lease, for a term not to exceed 99 years, real property located at the Lewis Research Center in Cuyahoga County, to the State of Ohio, or a subdivision or agent thereof, or to a corporation or foundation organized exclusively for educational or scientific purposes which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to any other not-for-profit entity, for the purpose of the construction and operation thereon of an Institute whose purpose is the conduct of aeronautical and space research, the education and training of aeronautical and space engineers, and the transfer of aeronautical and space technology between the United States public and private sectors. This lease shall be renewable for additional periods in the discretion of the Administrator.

(b) Subject to the availability of appropriations therefor, the Administrator may enter into agreements, on such terms as the Administrator may deem to be appropriate, with the State of Ohio, or a subdivision or agent therefor, or with a corporation or foundation organized exclusively for educational or scientific purposes which is exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to any other not-for-profit entity, pursuant to which the Administration may provide administrative, maintenance, instructional, and other appropriate support, with or without reimbursement, to an Institute whose purpose is the conduct of aeronautical and space research, the education and training of aeronautical and space engineers, and the transfer of aeronautical and space technology between the United States public and private sectors.

(c) The Administrator may redelegate the authority conferred in subsections (a) and (b), to such subordinate officers and employees as the Administrator may designate.

SPACE SETTLEMENTS

42 USC 2451 note.

SEC. 217. (a) The Congress declares that the extension of human life beyond Earth's atmosphere, leading ultimately to the establishment of space settlements, will fulfill the purposes of advancing

science, exploration, and development and will enhance the general welfare.

(b) In pursuit of the establishment of an International Space Year in 1992 pursuant to Public Law 99-170, the United States shall exercise leadership and mobilize the international community in furtherance of increasing mankind's knowledge and exploration of the solar system.

(c) Once every 2 years after the date of the enactment of this Act, the National Aeronautics and Space Administration shall submit a report to the President and to the Congress which— Reports.

(1) provides a review of all activities undertaken under this section including an analysis of the focused research and development activities on the Space Station, Moon, and other outposts that are necessary to accomplish a manned mission to Mars;

(2) analyzes ways in which current science and technology can be applied in the establishment of space settlements;

(3) identifies scientific and technological capacity for establishing space settlements, including a description of what steps must be taken to develop such capacity;

(4) examines alternative space settlement locations and architectures;

(5) examines the status of technologies necessary for extraterrestrial resource development and use and energy production;

(6) reviews the ways in which the existence of space settlements would enhance science, exploration, and development;

(7) reviews mechanisms and institutional options which could foster a broad-based plan for international cooperation in establishing space settlements;

(8) analyzes the economics of financing space settlements, especially with respect to private sector and international participation;

(9) discusses sociological factors involved in space settlement such as psychology, political science, and legal issues; and

(10) addresses such other topics as the National Aeronautics and Space Administration considers appropriate.

PEACEFUL USE OF SPACE STATION

SEC. 218. No civil space station authorized under section 201(a)(1)(A) of this Act may be used to carry or place in orbit any nuclear weapon or any other weapon of mass destruction, to install any such weapon on any celestial body, or to station any such weapon in space in any other manner. This civil space station may be used only for peaceful purposes.

COMMERCIAL SPACE PROGRAMS

SEC. 219. Section 201 of the National Institute of Standards and Technology Authorization Act for Fiscal Year 1989 is amended by adding at the end the following new subsection: 15 USC 3704 note.

"(f) COMMERCIAL SPACE PROGRAMS.—Nothing in this section authorizes the Department to establish an Office of Commercial Space Programs or to place such an office into the Technology Administration without prior authorization of the Congress.".

Science and technology.
42 USC 2451 note.

TITLE III—TEN YEAR STRATEGIC PLAN

AERONAUTICS AND SPACE STRATEGIC PLAN

SEC. 301. The Administrator should develop an aggressive and balanced plan of science and applications including but not limited to—

(1) the robotic exploration of other solar system bodies;

(2) the study and observation of other celestial bodies and phenomena at spectral wave lengths and resolutions that will enhance our understanding of the universe;

(3) the enhanced study and monitoring of Earth as an interacting system;

(4) the development of a full understanding of the behavior of biological systems in the space environment; and

(5) the development of a full understanding of physics and chemistry of the macroscopic behavior of materials in the microgravity environment.

SPACE RESEARCH AND TECHNOLOGY STRATEGIC PLAN

SEC. 302. The Administrator should develop an aggressive and balanced plan of space research and technology including but not limited to—

(1) fundamental and innovative research as the seedbed for enabling technologies for future civil space missions;

(2) focused technology programs keyed to long range, high priority civil space missions;

(3) technology research and demonstrations, extending laboratory activities from Earth to space-based facilities such as the Space Shuttle, Space Station, orbital platforms, and eventually the Moon and other planetary bodies; and

(4) cooperation with, and service to, other space program sectors with advanced technology and use of ground and space-based facilities.

SPACE EXPLORATION STRATEGIC PLAN

SEC. 303. The Administrator should develop a plan in pursuit of the continued manned exploration of the solar system and low-Earth orbit, including but not limited to—

(1) the establishment of an operational United States International Space Station that shall be permanently manned; and

(2) the development of those technologies and systems required for manned exploration of space beyond earth orbit.

SPACE TRANSPORTATION STRATEGIC PLAN

SEC. 304. The Administrator should develop a plan to improve the manned and unmanned space transportation system including—

(1) the continued enhancement of the space shuttle and its ground system in order to increase safety and efficiency and reduce costs;

(2) the completion of the development of a heavy-lift expendable launch vehicle if consistent with mission requirements of the Administration, the Department of Defense, and other Federal agencies; and

(3) the initiation of preliminary design activities for the next generation of a manned space launch system beyond the space shuttle.

AERONAUTICAL RESEARCH AND TECHNOLOGY DEVELOPMENT AND VALIDATION LONG-RANGE PLAN

SEC. 305. The Administrator should develop a plan in pursuit of—

(1) a vigorous program in aeronautics research and technology development and validation, emphasizing emerging technologies with the potential for breakthrough advances to enhance United States preeminence in civil and military aviation; and

(2) in cooperation with the Department of Defense, a technology development program (with an option for a flight demonstration in 1995) to prove the feasibility of an air-breathing hypersonic aerospaceplane capable of single-stage-to-orbit operation and hypersonic cruise in the atmosphere.

TITLE IV—AUTHORIZATION OF APPROPRIATIONS FOR THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION

SEC. 401. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out the operations and research duties of the National Weather Service under law, $279,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to National Weather Service operations and research specified by the Act of 1890, the Act of 1974, and any other law involving such duties. Such duties include meteorological, hydrological, and oceanographic public warnings and forecasts, as well as applied research in support of such warnings and forecasts.

SEC. 402. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its public warning and forecast systems duties under law, $98,500,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to public warning and forecast systems specified by the Act of 1890, the Act of 1947, and any other law involving such duties. Such duties include the development, acquisition, and implementation of major public warning and forecast systems.

(b) In procuring information processing and telecommunications services of the National Oceanic and Atmospheric Administration for the Advanced Weather Interactive Processing System, the Secretary of Commerce (hereafter in this title referred to as the "Secretary") may provide, in the contract or contracts for such services, for the payment for contingent liability of the Federal Government which may accrue in the event that the Government decides to terminate the contract before the expiration of the multiyear contract period. Such contract or contracts for such services shall limit the payments which the Federal Government is allowed to make under such contract or contracts to amounts provided in advance in appropriation Acts. Contracts.

SEC. 403. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and At-

mospheric Administration to carry out its climate and air quality research duties under law, $51,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to climate and air quality research specified by the Act of 1890, the Act of 1947, and any other law involving such duties. Such duties include the interannual and seasonal climate research long-term climate and air quality research, and the National Climate Progam.

(b) Of the sums authorized under subsection (a) of this section $3,238,000 for fiscal year 1989 are authorized to be appropriated for the activities under the National Climate Program Act (15 U.S.C. 2901 et seq.).

(c) Of the sums authorized under subsection (a) of this section, $12,000,000 for fiscal year 1989 are authorized to be appropriated to establish a program for the purposes of studying climate and global change. Such program shall augment and integrate existing programs of the National Oceanic and Atmospheric Administration and shall include global observations, monitoring, and data and information management relating to the study of changes in the Earth's climatic system, fundamental research on critical oceanic and atmosphere processes, and climate prediction and diagnostics.

SEC. 404. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its atmospheric research duties under law, $44,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to atmospheric research specified by the Act of 1890 and by any other law involving such duties. Such duties include research for developing improved production capabilities for atmospheric processes, as well as solar-terrestrial services and research.

SEC. 405. (a) There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its satellite observing systems duties under law, $383,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to data and information services specified by the Act of 1890 and by any other law involving such duties. Such duties include spacecraft procurement, launch, and associated ground station system changes involving polar orbiting and geostationary environmental satellites and land remote-sensing satellites, as well as the operation of such satellites.

(b) The authorization provided for under subsection (a) of this section shall be in addition to moneys authorized under the Land Remote-Sensing Commercialization Act of 1984 (15 U.S.C. 4201 et seq.) for the purpose of carrying out such duties relating to satellite observing systems.

SEC. 406. There are authorized to be appropriated to the Department of Commerce to enable the National Oceanic and Atmospheric Administration to carry out its data and information services duties under law, $25,000,000 for fiscal year 1989. Moneys appropriated pursuant to this authorization shall be used to fund those duties relating to data and information services specified by the Act of 1890 and by any other law involving such duties. Such duties include climate data services, ocean data services, geophysical data services, and environmental assessment and information services.

15 USC 313 note.

SEC. 407. (a) The Secretary shall prepare and submit to the Congress, not later than 90 days after the date of enactment of this

Act, a 10-year strategic plan for the comprehensive modernization of the National Weather Service. The strategic plan shall set forth basic service improvement objectives of the modernization as well as the critical new technological components and the associated operational changes necessary to fulfill the objectives of weather and flood warning service improvements.

(b) The Secretary shall prepare and submit to the Congress, by the beginning of the fiscal year immediately following the fiscal year in which the strategic plan required by subsection (a) of this section is submitted, a National Implementation Plan for modernization of the National Weather Service. The National Implementation Plan shall set forth the schedules for necessary actions to accomplish the objectives described in the strategic plan, and the National Implementation Plan shall include—

(1) detailed requirements for new technologies, facilities, staffing levels, and funding, for each of the two fiscal years immediately following the fiscal year in which such National Implementation Plan is submitted, in accordance with the overall schedule for modernization;

(2) special measures to test, evaluate, and demonstrate key elements of the Modernized National Weather Service operations prior to national implementation, including a multistation operational demonstration which tests the performance of all components of the modernization in an integrated manner for a sustained period; and

(3) detailed plans and funding for meteorological research to be accomplished under this title to assure that new techniques in forecasting will be developed to utilize the new technologies being implemented in the modernization.

(c) The Secretary shall submit a revised National Implementation Plan to the Congress at the beginning of each successive fiscal year after the fiscal year in which the initial National Implementation Plan is submitted.

(d) In reviewing and revising the National Implementation Plan, the Secretary shall consult, as appropriate, with other Federal and public agencies responsible for providing or utilizing weather services.

SEC. 408. (a) The Secretary shall not close, consolidate, automate, or relocate any Weather Service Office or Weather Service Forecast Office pursuant to the implementation of the strategic plan required by section 407, except in accordance with this section. 15 USC 313 note.

(b) The Secretary may not close, consolidate, automate, or relocate any such office unless the Secretary has certified to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives that such action will not result in any degradation of weather services provided to the affected area. Such certification shall include—

(1) a detailed comparison of the services provided to the affected area and the services to be provided after such action;

(2) any recent or expected modernization of National Weather Service operations which will enhance services in the affected area; and

(3) evidence, based upon operational demonstration of modernized National Weather Service operations, which supports the conclusion that no degradation in services will result from such action.

15 USC 1534.

SEC. 409. (a) Except as otherwise provided in this section, the Secretary is authorized to assess fees, based on fair market value, for access to environmental data archived by the National Environmental Satellite, Data, and Information Service of the National Oceanic and Atmospheric Administration.

State and local governments. Schools and colleges.

(b)(1) The Secretary shall provide data described in subsection (a) to Federal, State, and local government agencies, to universities, and to other nonprofit institutions at the cost of reproduction and transmission, if such data is to be used for research and not for commercial purposes.

International organizations.

(2) The Secretary shall waive the assessment of fees under subsection (a) as necessary to continue to provide data to foreign governments and international organizations on a data exchange basis or as otherwise provided by international agreement.

Federal Register, publication.

(c) The initial schedule of any fees assessed under this section, and any subsequent amendment to such schedule, shall be published by the Secretary in the Federal Register at least 30 days before such fees will take effect. The initial schedule shall remain in effect without amendment for the three-year period beginning on the date that fees under the schedule take effect.

(d) Any assessment of fees under this section shall meet the following requirements:

(1) No fees shall be assessed under this section until after September 30, 1989

(2) With respect to the first one-year period during which the initial fee schedule is in effect, fees shall be assessed at no more than one-third of the fair market value specified in subsection (a).

(3) With respect to the second one-year period during which the initial fee schedule is in effect, fees shall be assessed at not more than two-thirds of such fair market value.

(4) With respect to the third one-year period during which the initial fee schedule is in effect, and with respect to any period thereafter, fees shall be assessed at no more than the full amount of such fair market value.

(e) Fees collected under this section shall be available to the National Environmental Satellite, Data, and Information Service for expenses incurred in the operation of its data archive centers.

Reports.

(f) The Secretary shall, not later than 90 days after the date of enactment of this Act, submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a report which sets forth—

(1) any plan of the Secretary for assessing fees under this section, including the methodology and bases by which the amount of such fees shall be determined, and the estimated revenues therefrom; and

(2) any plan of the Secretary for using revenues generated from such fees, as well as other resources, to improve the capability of the National Environmental Satellite, Data, and Information Service to collect, manage, process, archive, and disseminate the increasing amounts of data generated from satellites, radars, and other technologies.

(g) The authority of the Secretary to assess fees under this section shall be in addition to, and shall not be construed to limit, the authority under any other law to assess fees relating to the environ-

mental data activities of the National Oceanic and Atmospheric Administration.

Pollution. 42 USC 7454 note.

SEC. 410. The Secretary, in consultation with the Secretary of State, the Administrator of the National Aeronautics and Space Administration, and appropriate non-Federal organizations, shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Science, Space, and Technology of the House of Representatives a plan to construct and operate a worldwide system of ground-based remote sensors to monitor the stratospheric levels of chemicals which can affect the level of ozone in the stratosphere and to use these results to improve our understanding of the possible changes in stratospheric ozone that are the consequence of human activities. The plan shall include time lines for construction and operation of the system, a description of the roles of the National Oceanic and Atmospheric Administration and the National Aeronautics and Space Administration, non-Federal organizations, other nations, and international organizations in constructing and operating the system, and estimates of the costs to construct and operate the system. The plan shall be submitted not later than July 1, 1989.

SEC. 411. It is the sense of the Congress that the global change program represents a significant opportunity for international cooperation and that it is in the best interest of the United States to maintain a separate civilian polar meteorological satellite program to facilitate data sharing with foreign participants in the global change program.

Missouri.

SEC. 412. None of the funds authorized under this title shall be used to move from Kansas City, Missouri, the National Weather Service Training Center currently located at Kansas City, nor to close such Center, nor to contract out any function or activity performed by Federal employees as of the date of enactment of this Act.

SEC. 413. For the purposes of this title, the term—

(1) "Act of 1890" means the Act entitled "An Act to increase the efficiency and reduce the expenses of the Signal Corps of the Army, and to transfer the Weather Bureau to the Department of Agriculture", approved October 1, 1890 (26 Stat. 653); and

(2) "Act of 1947" means the Act entitled "An Act to define the functions and duties of the Coast and Geodetic Survey, and for other purposes", approved August 6, 1947 (33 U.S.C. 883a et seq.).

Environmental protection. 42 USC 8906.

SEC. 414. (a)(1) The National Weather Service of the National Oceanic and Atmospheric Administration shall maintain an updated data base describing the acid content in precipitation in the United States, using information from Federal acid precipitation monitoring sites.

(2) Such data shall be available to interested parties by Weather Service Forecast Offices in the National Weather Service, or through such other facilities or means as the Assistant Administrator for Weather Services, National Oceanic and Atmospheric Administration, shall direct, for those areas of the United States where and at such time as such information is presently available, within 120 days after the date of the enactment of this Act.

(3) Where other Federal agencies collect such data in the course of carrying out their statutory missions, the heads of those agencies and the Administrator of the National Oceanic and Atmospheric

Administration shall arrange for the transfer of such data to the National Weather Service.

(b) Nothing in this section shall be construed to require any Federal agency to establish any new acid precipitation monitoring site.

TITLE V—NATIONAL SPACE COUNCIL

NATIONAL SPACE COUNCIL

Establishment.
42 USC 2471.

SEC. 501. (a) Effective February 1, 1989, there is established in the Executive Office of the President the National Space Council, which shall be chaired by the Vice President.

President of U.S.
Reports.

(b) By March 1, 1989, the President shall submit to the Congress a report that outlines the composition and functions of the National Space Council.

President of U.S.

(c) The Council may employ a staff of not more than seven persons, which is to be headed by a civilian executive secretary, who shall be appointed by the President.

49 USC app.
1353 note.

TITLE VI—AIR TRAFFIC CONTROLLER PERFORMANCE RESEARCH

SEC. 601. FINDINGS.—The Congress finds as follows:

(1) Research is needed to establish a more scientific approach for—

(A) identifying future staffing requirements for the air traffic control system; and

(B) developing tools needed for meeting those requirements.

(2) The Federal Aviation Administration and the National Aeronautics and Space Administration each have unique expertise and facilities for conducting research into the man-machine interface problems associated with a highly automated air traffic control system.

SEC. 602. STUDY ON INCREASED AUTOMATION.—

(1) IN GENERAL.—In order to develop the tools necessary for establishing appropriate selection criteria and training methodologies for the next generation of air traffic controllers, the Administrator of the Federal Aviation Administration shall conduct research to study the effect of automation on the performance of the next generation of air traffic controllers and the air traffic control system.

(2) CONTENT.—Research conducted under paragraph (1) shall include investigation of the following:

(A) Methods for improving and accelerating future air traffic controller training through the application of advanced training techniques, including use of simulation technology.

(B) The role of future automation in the air traffic control system and its physical and psychological effects on air traffic controllers.

(C) The attributes and aptitudes needed to function well in a highly automated air traffic control system, and development of appropriate testing methods for identifying indivduals possessing those attributes and aptitudes.

(D) Innovative methods for training potential air traffic controllers to enhance the benefits of automation and maximize the effectiveness of the air traffic control system.

(E) New technologies and procedures for exploiting automated communication systems, including Mode S Transponders, to improve information transfers between air traffic controllers and aircraft pilots.

(3) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Administrator of the Federal Aviation Administration shall report to the Congress the Administrator's plans for conducting research under this section.

SEC. 603. AGREEMENT WITH ADMINISTRATOR OF NASA.—

(1) IN GENERAL.—The Administrator of the Federal Aviation Administration may enter into an agreement with the Administrator of the National Aeronautics and Space Administration for use of their unique human factor facilities and expertise in conducting research activities to study the human factor aspects of the highly automated environment for the next generation of air traffic controllers.

(2) CONTENT.—Research under this section shall include investigation of the following:

(A) Human perceptual capabilities and the effect of computer-aided decision making on the workload and performance of air traffic controllers.

(B) Information management techniques for advanced air traffic control display systems.

(C) Air traffic controller workload and performance measures, including development of predictive models.

SEC. 604. AUTHORIZATION OF APPROPRIATIONS.—For conducting research under this title there are authorized to be appropriated, from amounts in the Airport and Airway Trust Fund which are available for research and development, such sums as may be necessary.

Approved November 17, 1988.

LEGISLATIVE HISTORY—S. 2209 (H.R. 4561):

HOUSE REPORTS: No. 100-650 accompanying H.R. 4561 (Comm. on Science, Space, and Technology).

SENATE REPORTS: No. 100-429 (Comm. on Commerce, Science, and Transportation).

CONGRESSIONAL RECORD, Vol. 134 (1988):

June 2, H.R. 4561 considered and passed House.

Aug. 9, S. 2209 considered and passed Senate.

Oct. 19, considered and passed House, amended.

Oct. 21, Senate concurred in House amendment.

19-194 O—91—Part 5——4 : QL 3

Public Law 100-686
100th Congress

Joint Resolution

Nov. 18, 1988
[H.J. Res. 650]

Designating April 1989 as "Actors' Fund of America Appreciation Month".

Whereas the Actors' Fund of America has given over 100 years of dedicated service to the entire entertainment world;

Whereas the Fund's services are not restricted to actors but are available to any bona fide professional in the entertainment community who works in any capacity in the areas of ballet, opera, circus, variety, motion pictures, radio, television, and the legitimate stage;

Whereas the Actors' Fund provides its members with a wide variety of services and benefits, including financial assistance, educational and career guidance, blood banks, funeral and burial assistance, psychological counseling, home nursing care, and the use of the renowned Actors' Fund Home, a retirement residence in Englewood, New Jersey;

Whereas the Fund's new extended facility provides members with the finest possible nursing care;

Whereas the efforts of the officers and board members of the Actors' Fund have been aided by the cooperation and financial support of members of the entertainment community, who support the Fund with bequests, donations, and endowments, and by giving special performances for the benefit of the Fund; and

Whereas since 1882 the Actors' Fund of America has been actively and productively concerned with the dignity and well-being of all members of the entertainment community: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That April 1989 is designated as "Actors' Fund of America Appreciation Month", and the President is authorized and requested to issue a proclamation saluting the accomplishments of the Fund and calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

Approved November 18, 1988.

LEGISLATIVE HISTORY—H.J. Res. 650:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 16, considered and passed House.
Oct. 21, considered and passed Senate.

Public Law 100-687
100th Congress

An Act

To amend title 38, United States Code, to establish certain procedures for the adjudication of claims for benefits under laws administered by the Veterans' Administration; to apply the provisions of section 553 of title 5, United States Code, to rulemaking procedures of the Veterans' Administration; to establish a Court of Veterans' Appeals and to provide for judicial review of certain final decisions of the Board of Veterans' Appeals; to provide for the payment of reasonable fees to attorneys for rendering legal representation to individuals claiming benefits under laws administered by the Veterans' Administration; to increase the rates of compensation payable to veterans with service-connected disabilities; and to make various improvements in veterans' health, rehabilitation, and memorial affairs programs; and for other purposes.

Nov. 18, 1988
[S. 11]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

DIVISION A—VETERANS' JUDICIAL REVIEW

Veterans' Judicial Review Act.

SECTION 1. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

38 USC 101 note.

(a) SHORT TITLE.—This division may be cited as the "Veterans' Judicial Review Act".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—ADJUDICATIVE AND RULEMAKING AUTHORITY OF THE VETERANS' ADMINISTRATION

SEC. 101. DECISIONS BY ADMINISTRATOR.

(a) MATTERS TO BE DECIDED BY ADMINISTRATOR.—Subsection (a) of section 211 is amended to read as follows:

"(a)(1) The Administrator shall decide all questions of law and fact necessary to a decision by the Administrator under a law that affects the provision of benefits by the Administrator to veterans or the dependents or survivors of veterans. Subject to paragraph (2) of this subsection, the decision of the Administrator as to any such question shall be final and conclusive and may not be reviewed by any other official or by any court, whether by an action in the nature of mandamus or otherwise.

"(2) The second sentence of paragraph (1) of this subsection does not apply to—

"(A) matters subject to section 223 of this title;

"(B) matters covered by sections 775 and 784 of this title;

"(C) matters arising under chapter 37 of this title; and

"(D) matters covered by chapter 72 of this title.".

(b) CONFORMING AMENDMENT.—Section 4004(a) is amended by striking out "All questions on claims involving benefits under laws administered by the Veterans' Administration" and inserting in lieu thereof "All questions in a matter which under section 211(a) of this title is subject to decision by the Administrator".

SEC. 102. VETERANS' ADMINISTRATION RULEMAKING.

(a) APA PROCEDURES.—(1) Chapter 3 is amended by inserting after section 222 the following new section:

"§ 223. Rulemaking: procedures and judicial review

"(a) In applying section 552(a)(1) of title 5 to the Veterans' Administration, the Administrator shall ensure that subparagraphs (C), (D), and (E) of that section are complied with, particularly with respect to opinions and interpretations of the General Counsel.

"(b) The provisions of section 553 of title 5 shall apply, without regard to subsection (a)(2) of that section, to matters relating to loans, grants, or benefits under a law administered by the Administrator.

"(c) An action of the Administrator to which section 552(a)(1) or 553 of title 5 (or both) refers (other than an action relating to the adoption or revision of the schedule of ratings for disabilities adopted under section 355 of this title) is subject to judicial review. Such review shall be in accordance with chapter 7 of title 5 and may be sought only in the United States Court of Appeals for the Federal Circuit. However, if such review is sought in connection with an appeal brought under the provisions of chapter 72 of this title, the provisions of that chapter shall apply rather than the provisions of chapter 7 of title 5.".

(2) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 222 the following new item:

"223. Rulemaking: procedures and judicial review.".

(b) REPORT ON IMPLEMENTATION.—Not later than May 1, 1989, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the implementation of section 223(a) of title 38, United States Code, as added by subsection (a)(1). Such report shall set forth the actions the Administrator is taking to ensure that such section is carried out.

SEC. 103. VETERANS' ADMINISTRATION ADJUDICATION PROCEDURES.

(a) IN GENERAL.—(1) Chapter 51 is amended by adding at the end of subchapter I the following new sections:

"§ 3007. Burden of proof; benefit of the doubt

"(a) Except when otherwise provided by the Administrator in accordance with the provisions of this title, a person who submits a claim for benefits under a law administered by the Veterans' Administration shall have the burden of submitting evidence sufficient to justify a belief by a fair and impartial individual that the claim is well grounded. The Administrator shall assist such a claimant in developing the facts pertinent to the claim. Such assistance shall include requesting information as described in section 3006 of this title.

"(b) When, after consideration of all evidence and material of record in a case before the Veterans' Administration with respect to

benefits under laws administered by the Veterans' Administration, there is an approximate balance of positive and negative evidence regarding the merits of an issue material to the determination of the matter, the benefit of the doubt in resolving each such issue shall be given to the claimant. Nothing in this subsection shall be construed as shifting from the claimant to the Administrator the burden specified in subsection (a) of this section.

"§ 3008. Reopening disallowed claims

"If new and material evidence is presented or secured with respect to a claim which has been disallowed, the Administrator shall reopen the claim and review the former disposition of the claim.".

"§ 3009. Independent medical opinions

"(a) When, in the judgment of the Administrator, expert medical opinion, in addition to that available within the Veterans' Administration, is warranted by the medical complexity or controversy involved in a case being considered by the Veterans' Administration, the Administrator may secure an advisory medical opinion from one or more independent medical experts who are not employees of the Veterans' Administration.

"(b) The Administrator shall make necessary arrangements with recognized medical schools, universities, or clinics to furnish such advisory medical opinions. Any such arrangement shall provide that the actual selection of the expert or experts to give the advisory opinion in an individual case shall be made by an appropriate official of such institution.

"(c) The Administrator shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall furnish the claimant with a copy of such opinion when it is received by the Administrator.".

(2) The table of sections at the beginning of such chapter is amended by adding after the item relating to section 3006 the following new items:

"3007. Burden of proof; benefit of the doubt.
"3008. Reopening disallowed claims.
"3009. Independent medical opinions.".

(b) CONFORMING AMENDMENTS.—Section 4009 is amended—

(1) in subsection (a), by striking out "is authorized to" and inserting in lieu thereof "may";

(2) in subsection (b)—

(A) by striking out "Such arrangement will" and inserting in lieu thereof "Any such arrangement shall"; and

(B) by striking out "any individual case will" and inserting in lieu thereof "an individual case shall"; and

(3) by adding at the end the following new subsection:

"(c) The Board shall furnish a claimant with notice that an advisory medical opinion has been requested under this section with respect to the claimant's case and shall furnish the claimant with a copy of such opinion when it is received by the Board.".

(c) TECHNICAL AMENDMENTS.—(1) The items relating to chapter 51 in the table of chapters before part I, and in the table of chapters at the beginning of part IV, are amended by striking out "Applications" and inserting in lieu thereof "Claims".

(2) The heading of chapter 51 is amended to read as follows:

"CHAPTER 51—CLAIMS, EFFECTIVE DATES, AND PAYMENTS".

(3) The item relating to subchapter I in the table of sections at the beginning of chapter 51 is amended by striking out "APPLICATIONS" and inserting in lieu thereof "CLAIMS".

(4) The heading of subchapter I of chapter 51 is amended to read as follows:

"SUBCHAPTER I—CLAIMS".

SEC. 104. ATTORNEYS FEES.

(a) REVISION OF ATTORNEY FEE LIMITATION.—Section 3404 of title 38, United States Code, is amended by striking out subsection (c) and inserting in lieu thereof the following:

"(c)(1) In connection with a proceeding before the Veterans' Administration with respect to benefits under laws administered by the Veterans' Administration, a fee may not be charged, allowed, or paid for services of agents and attorneys with respect to services provided before the date on which the Board of Veterans' Appeals first makes a final decision in the case. Such a fee may be charged, allowed, or paid in the case of services provided after such date only if an agent or attorney is retained with respect to such case before the end of the one-year period beginning on that date. The limitation in the preceding sentence does not apply to services provided with respect to proceedings before a court.

"(2) A person who, acting as agent or attorney in a case referred to in paragraph (1) of this subsection, represents a person before the Veterans' Administration or the Board of Veterans' Appeals after the Board first makes a final decision in the case shall file a copy of any fee agreement between them with the Board at such time as may be specified by the Board. The Board, upon its own motion or the request of either party, may review such a fee agreement and may order a reduction in the fee called for in the agreement if the Board finds that the fee is excessive or unreasonable. A finding or order of the Board under the preceding sentence may be reviewed by the United States Court of Veterans Appeals under section 4063(d) of this title.

"(d)(1) When a claimant and an attorney have entered into a fee agreement described in paragraph (2) of this subsection, the total fee payable to the attorney may not exceed 20 percent of the total amount of any past-due benefits awarded on the basis of the claim.

"(2)(A) A fee agreement referred to in paragraph (1) of this subsection is one under which (i) the amount of the fee payable to the attorney is to be paid to the attorney by the Administrator directly from any past-due benefits awarded on the basis of the claim, and (ii) the amount of the fee is contingent on whether or not the matter is resolved in a manner favorable to the claimant.

"(B) For purposes of subparagraph (A) of this paragraph, a claim shall be considered to have been resolved in a manner favorable to the claimant if all or any part of the relief sought is granted.

"(3) To the extent that past-due benefits are awarded in any proceeding before the Administrator, the Board of Veterans' Appeals, or the United States Court of Veterans Appeals, the Administrator may direct that payment of any attorneys' fee under a fee arrangement described in paragraph (1) of this subsection be made out of such past-due benefits. In no event may the Administrator

withhold for the purpose of such payment any portion of benefits payable for a period after the date of the final decision of the Administrator, the Board of Veterans' Appeals, or Court of Veterans Appeals making (or ordering the making of) the award.".

(b) VIOLATION TO BE A MISDEMEANOR.—Section 3405 of such title is amended by striking out "shall be fined not more than $500 or imprisoned at hard labor for not more than two years, or both" and inserting in lieu thereof "shall be fined as provided in title 18, or imprisoned not more than one year, or both".

TITLE II—BOARD OF VETERANS' APPEALS

SEC. 201. APPOINTMENT AND REMOVAL OF THE CHAIRMAN AND MEMBERS.

(a) IN GENERAL.—Subsection (b) of section 4001 is amended to read as follows:

"(b)(1) The Chairman shall be appointed by the President, by and with the advice and consent of the Senate, for a term of six years. The Chairman may be removed by the President for misconduct, inefficiency, neglect of duty, or engaging in the practice of law or for physical or mental disability which, in the opinion of the President, prevents the proper execution of the Chairman's duties. The Chairman may not be removed from office by the President on any other grounds. Any such removal may only be made after notice and opportunity for hearing. President of U.S.

"(2)(A) The other members of the Board (including the Vice Chairman) shall be appointed by the Administrator, with the approval of the President, based upon recommendations of the Chairman. Each such member shall be appointed for a term of nine years.

"(B) A member of the Board (other than the Chairman) may be removed by the Administrator upon the recommendation of the Chairman. In the case of a removal that would be covered by section 7521 of title 5 in the case of an administrative law judge, a removal of a member of the Board under this paragraph shall be carried out subject to the same requirements as apply to removal of an administrative law judge under that section. Section 554(a)(2) of title 5 shall not apply to a removal action under this subparagraph. In such a removal action, a member shall have the rights set out in section 7513(b) of such title.

"(3) Members (including the Chairman) may be appointed under this subsection to more than one term.

"(4) The Administrator shall designate one member of the Board as Vice Chairman. The Vice Chairman shall perform such functions as the Chairman may specify. Such member shall serve as Vice Chairman at the pleasure of the Administrator.".

(b) SALARY OF CHAIRMAN.—(1) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Chairman, Board of Veterans' Appeals.".

(2) The amendment made by paragraph (1) shall take effect when the President first appoints an individual as Chairman of the Board of Veterans' Appeals under section 4001(b)(1) of title 38, United States Code (as amended by subsection (a)). Effective date. 5 USC 5315 note.

(c) TRANSITION TO NEW BOARD.—(1) Appointments of members of the Board of Veterans' Appeals under subsection (b)(2) of section 38 USC 4001 note.

4001 of title 38, United States Code (as amended by subsection (a)), may not be made until a Chairman is appointed under subsection (b)(1) of that section.

(2) An individual who is serving as a member of the Board on the date of the enactment of this Act may continue to serve as a member until the earlier of—

(A) the date on which the individual's successor (as designated by the Administrator) is appointed under subsection (b)(2) of that section, or

(B) the end of the 180-day period beginning on the day after the date on which the Chairman is appointed under subsection (b)(1) of such section.

38 USC 4001 note.

(d) INITIAL TERMS OF OFFICE.—Notwithstanding the second sentence of section 4001(b)(2) of title 38, United States Code (as amended by subsection (a)), specifying the term for which members of the Board of Veterans' Appeals shall be appointed, of the members first appointed under that section—

(A) 22 shall be appointed for a term of three years;

(B) 22 shall be appointed for a term of six years; and

(C) 22 shall be appointed for a term of nine years,

as determined by the Administrator at the time of the initial appointments.

SEC. 202. DETERMINATIONS BY THE BOARD.

(a) MAJORITY VOTE IN SECTIONS.—Section 4003 is amended to read as follows:

"§ 4003. Determinations by the Board

"(a) Decisions by a section of the Board shall be made by a majority of the members of the section. The decision of the section is final unless the Chairman orders reconsideration of the case.

"(b) If the Chairman orders reconsideration in a case, the case shall upon reconsideration be heard by an expanded section of the Board. When a case is heard by an expanded section of the Board after such a motion for reconsideration, the decision of a majority of the members of the expanded section shall constitute the final decision of the Board.

"(c) Notwithstanding subsections (a) and (b) of this section, the Board on its own motion may correct an obvious error in the record.".

(b) RESOURCES TO DISPOSE OF APPEALS IN A TIMELY MANNER.—Section 4001(a) is amended—

(1) by inserting "and" after "Vice Chairman,";

(2) by striking out "necessary, and" and inserting in lieu thereof "necessary in order to conduct hearings and dispose of appeals properly before the Board in a timely manner. The Board shall have"; and

(3) by adding at the end the following new sentence: "The Board shall have sufficient personnel under the preceding sentence to enable the Board to conduct hearings and consider and dispose of appeals properly before the Board in a timely manner.".

SEC. 203. DECISIONS OF THE BOARD.

(a) DECISIONS BASED ON THE RECORD.—Section 4004(a) is amended by adding at the end the following new sentences: "The Board shall decide any such appeal only after affording the claimant an oppor-

tunity for a hearing. Decisions of the Board shall be based on the entire record in the proceeding and upon consideration of all evidence and material of record and applicable provisions of law and regulation.".

(b) CONFORMING AMENDMENT.—Section 4005(d)(5) is amended by striking out "will base its decision on the entire record and".

SEC. 204. REOPENING OF DISALLOWED CLAIMS.

Subsection (b) of section 4004 is amended to read as follows:

"(b) Except as provided in section 3008 of this title, when a claim is disallowed by the Board, the claim may not thereafter be reopened and allowed and a claim based upon the same factual basis may not be considered.".

SEC. 205. NOTICE AND CONTENT OF DECISIONS.

Section 4004 is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) Each decision of the Board shall include—

"(1) a written statement of the Board's findings and conclusions, and the reasons or bases for those findings and conclusions, on all material issues of fact and law presented on the record; and

"(2) an order granting appropriate relief or denying relief.

"(e) After reaching a decision in a case, the Board shall promptly mail a copy of its written decision to the claimant and the claimant's authorized representative (if any) at the last known address of the claimant and at the last known address of such representative (if any).".

SEC. 206. STATEMENT OF THE CASE.

(a) MATTERS TO BE INCLUDED.—Paragraph (1) of section 4005(d) is amended in the second sentence by striking out "will prepare" and all that follows and inserting in lieu thereof the following: "shall prepare a statement of the case. A statement of the case shall include the following:

"(A) A summary of the evidence in the case pertinent to the issue or issues with which disagreement has been expressed.

"(B) A citation to pertinent laws and regulations and a discussion of how such laws and regulations affect the agency's decision.

"(C) The decision on each issue and a summary of the reasons for such decision.".

(b) PROHIBITION AGAINST PRESUMPTION OF AGREEMENT.—Paragraph (4) of such section is amended to read as follows:

"(4) The claimant in any case may not be presumed to agree with any statement of fact contained in the statement of the case to which the claimant does not specifically express agreement.".

SEC. 207. TRAVELING SECTIONS OF THE BOARD.

(a) IN GENERAL.—Chapter 71 is further amended by adding at the end the following new section:

"§ 4010. Traveling sections

"A claimant may request a hearing before a traveling section of the Board. Any such hearing shall be scheduled for hearing before such a section within the area served by a regional office of the Veterans' Administration in the order in which the requests for

hearing are received by the Veterans' Administration with respect to hearings in that area.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"4010. Traveling sections.".

SEC. 208. ANNUAL REPORT ON BOARD ACTIVITIES AND RESOURCES.

Section 4001 is amended by adding at the end the following new subsection:

"(d)(1) After the end of each fiscal year, the Chairman shall prepare a report on the activities of the Board during that fiscal year and the projected activities of the Board for the fiscal year during which the report is prepared and the next fiscal year. Such report shall be included in the documents providing detailed information on the budget for the Veterans' Administration that the Administrator submits to the Congress in conjunction with the President's budget submission for any fiscal year pursuant to section 1105 of title 31.

"(2) Each such report shall include, with respect to the preceding fiscal year, information specifying—

"(A) the number of cases appealed to the Board during that year;

"(B) the number of cases pending before the Board at the beginning and at the end of that year;

"(C) the number of such cases which were filed during each of the 36 months preceding the current fiscal year;

"(D) the average length of time a case was before the Board between the time of the filing of an appeal and the disposition during the preceding fiscal year; and

"(E) the number of members of the Board at the end of the year and the number of professional, administrative, clerical, stenographic, and other personnel employed by the Board at the end of the preceding fiscal year.

"(3) The projections in each such report for the current fiscal year and for the next fiscal year shall include (for each such year)—

"(A) an estimate of the number of cases to be appealed to the Board; and

"(B) an evaluation of the ability of the Board (based on existing and projected personnel levels) to ensure timely disposition of such appeals as required by section 4003(d) of this title.".

SEC. 209. LIMITATIONS ON AWARDING PERFORMANCE INCENTIVES TO BOARD MEMBERS.

Section 4001 (as amended by section 208) is further amended by adding at the end the following new subsection:

"(e) A performance incentive that is authorized by law for officers and employees of the Federal Government may be awarded to a member of the Board (including a temporary or acting member) by reason of that member's service on the Board only if the Chairman of the Board determines that such member should be awarded that incentive. A determination by the Chairman for such purpose shall be made taking into consideration the quality of performance of the Board member.".

TITLE III—UNITED STATES COURT OF VETERANS APPEALS

SEC. 301. UNITED STATES COURT OF VETERANS APPEALS.

(a) ESTABLISHMENT OF COURT.—Part V is amended by inserting after chapter 71 the following new chapter:

"CHAPTER 72—UNITED STATES COURT OF VETERANS APPEALS

"SUBCHAPTER I—ORGANIZATION AND JURISDICTION

"Sec.
"4051. Status.
"4052. Jurisdiction; finality of decisions.
"4053. Composition.
"4054. Organization.
"4055. Offices.
"4056. Times and places of sessions.

"SUBCHAPTER II—PROCEDURE

"4061. Scope of review.
"4062. Fee for filing appeals.
"4063. Representation of parties; fee agreements.
"4064. Rules of practice and procedure.
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"SUBCHAPTER III—MISCELLANEOUS PROVISIONS

"4081. Employees.
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"SUBCHAPTER IV—DECISIONS AND REVIEW

"4091. Date when United States Court of Veterans Appeals decision becomes final.
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"SUBCHAPTER I—ORGANIZATION AND JURISDICTION

"§ 4051. Status

"There is hereby established, under Article I of the Constitution of the United States, a court of record to be known as the United States Court of Veterans Appeals.

"§ 4052. Jurisdiction; finality of decisions

"(a) The Court of Veterans Appeals shall have exclusive jurisdiction to review decisions of the Board of Veterans' Appeals. The Administrator may not seek review of any such decision. The court shall have power to affirm, modify, or reverse a decision of the Board or to remand the matter, as appropriate.

"(b) Review in the Court shall be on the record of proceedings before the Administrator and the Board. The extent of the review shall be limited to the scope provided in section 4061 of this title. The Court may not review the schedule of ratings for disabilities adopted under section 355 of this title or any action of the Administrator in adopting or revising that schedule.

"(c) Decisions by the Court are subject to review as provided in section 4092 of this title.

"§ 4053. Composition

"(a) The Court of Veterans Appeals shall be composed of a chief judge and at least two and not more than six associate judges.

President of U.S.

"(b) The judges of the Court shall be appointed by the President, by and with the advice and consent of the Senate, solely on the grounds of fitness to perform the duties of the office. A person may not be appointed to the Court who is not a member in good standing of the bar of a Federal court or of the highest court of a State. Not more than the number equal to the next whole number greater than one-half of the number of judges of the Court may be members of the same political party.

"(c) The term of office of the judges of the Court of Veterans Appeals shall be 15 years.

"(d) The chief judge is the head of the Court.

"(e)(1) The chief judge of the Court shall receive a salary at the same rate as is received by judges of the United States Courts of Appeals.

"(2) Each judge of the Court, other than the chief judge, shall receive a salary at the same rate as is received by judges of the United States district courts.

"(f)(1) A judge of the Court may be removed from office by the President on grounds of misconduct, neglect of duty, engaging in the practice of law, or physical or mental disability which, in the opinion of the President, prevents the proper execution of the judge's duties. A judge of the Court may not be removed from office by the President on any other ground.

"(2) Before a judge may be removed from office under this subsection, the judge shall be provided with a full specification of the reasons for the removal and an opportunity to be heard.

"§ 4054. Organization

"(a) The Court of Veterans Appeals shall have a seal which shall be judicially noticed.

"(b) The Court may hear cases by judges sitting alone or in panels, as determined pursuant to procedures established by the Court. Any such panel shall have not less than three judges. The Court shall establish procedures for the assignment of the judges of the Court to such panels and for the designation of the chief of each such panel.

"(c)(1) A majority of the judges of the Court shall constitute a quorum for the transaction of the business of the Court. A vacancy in the Court shall not impair the powers or affect the duties of the Court or of the remaining judges of the Court.

"(2) A majority of the judges of a panel of the Court shall constitute a quorum for the transaction of the business of the panel. A vacancy in a panel of the Court shall not impair the powers or affect the duties of the panel or of the remaining judges of the panel.

"§ 4055. Offices

District of Columbia.

"The principal office of the Court of Veterans Appeals shall be in the District of Columbia, but the Court may sit at any place within the United States.

"§ 4056. Times and places of sessions

"The times and places of sessions of the Court of Veterans Appeals shall be prescribed by the chief judge.

"SUBCHAPTER II—PROCEDURE

"§ 4061. Scope of review

"(a) In any action brought under this chapter, the Court of Veterans Appeals, to the extent necessary to its decision and when presented, shall—

"(1) decide all relevant questions of law, interpret constitutional, statutory, and regulatory provisions, and determine the meaning or applicability of the terms of an action of the Administrator;

"(2) compel action of the Administrator unlawfully withheld;

"(3) hold unlawful and set aside decisions, findings (other than those described in clause (4) of this subsection), conclusions, rules, and regulations issued or adopted by the Administrator, the Board of Veterans' Appeals, or the Chairman of the Board found to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

"(D) without observance of procedure required by law; and

"(4) in the case of a finding of material fact made in reaching a decision in a case before the Veterans' Administration with respect to benefits under laws administered by the Veterans' Administration, hold unlawful and set aside such finding if the finding is clearly erroneous.

"(b) In making the determinations under subsection (a) of this section, the Court shall take due account of the rule of prejudicial error.

"(c) In no event shall findings of fact made by the Administrator or the Board of Veterans' Appeals be subject to trial de novo by the court.

"(d) When a final decision of the Board of Veterans' Appeals is adverse to a party and the sole stated basis for such decision is the failure of the party to comply with any applicable regulation prescribed by the Administrator, the Court shall review only questions raised as to compliance with and the validity of the regulation.

"§ 4062. Fee for filing appeals

"(a) The Court of Veterans Appeals may impose a fee of not more than $50 for the filing of any appeal with the Court. The Court shall establish procedures under which such a fee may be waived in the case of an appeal filed by or on behalf of a person who demonstrates that the requirement that such fee be paid will impose a hardship on that person. A decision as to such a waiver is final and may not be reviewed in any other court.

"(b) The Court may from time to time adjust the maximum amount permitted for a fee imposed under subsection (a) of this

section based upon inflation and similar fees charged by other courts established under Article I of the Constitution.

"§ 4063. Representation of parties; fee agreements

"(a) The Administrator shall be represented before the Court of Veterans Appeals by the General Counsel of the Veterans' Administration.

"(b) Representation of appellants shall be in accordance with the rules of practice prescribed by the Court under section 4064 of this title. In addition to members of the bar admitted to practice before the Court in accordance with such rules of practice, the Court may allow other persons to practice before the Court who meet standards of proficiency prescribed in such rules of practice.

"(c) A person who represents an appellant before the Court shall file a copy of any fee agreement between the appellant and that person with the Court at the time the appeal is filed. The Court, on its own motion or the motion of any party, may review such a fee agreement.

"(d) In reviewing a fee agreement under subsection (c) of this section or under section 3404(c)(2) of this title, the Court may affirm the finding or order of the Board and may order a reduction in the fee called for in the agreement if it finds that the fee is excessive or unreasonable. An order of the Court under this subsection is final and may not be reviewed in any other court.

"§ 4064. Rules of practice and procedure

"(a) The proceedings of the Court of Veterans Appeals shall be conducted in accordance with such rules of practice and procedure as the Court prescribes.

"(b) The mailing of a pleading, decision, order, notice, or process in respect of proceedings before the Court shall be held sufficient service of such pleading, decision, order, notice, or process if it is properly addressed to the address furnished by the appellant on the notice of appeal filed under section 4066 of this title.

"§ 4065. Contempt authority; assistance to the Court

"(a) The Court shall have power to punish by fine or imprisonment such contempt of its authority as—

"(1) misbehavior of any person in its presence or so near thereto as to obstruct the administration of justice;

"(2) misbehavior of any of its officers in their official transactions; or

"(3) disobedience or resistance to its lawful writ, process, order, rule, decree, or command.

"(b) The Court shall have such assistance in the carrying out of its lawful writ, process, order, rule, decree, or command as is available to a court of the United States. The United States marshal for a district in which the Court is sitting shall, if requested by the chief judge of the Court, attend any session of the Court in that district.

"§ 4066. Notice of appeal

"(a) In order to obtain review by the Court of Veterans Appeals of a final decision of the Board of Veterans' Appeals, a person adversely affected by that action must file a notice of appeal with the Court. Any such notice must be filed within 120 days after the date on which notice of the decision is mailed pursuant to section 4004(e) of this title.

"(b) The appellant shall also furnish the Administrator with a copy of such notice, but a failure to do so shall not constitute a failure of timely compliance with subsection (a) of this section.

"§ 4067. Decisions

"(a) A decision upon a proceeding before the Court of Veterans Appeals shall be made as quickly as practicable. In a case heard by a panel of the Court, the decision shall be made by a majority vote of the panel in accordance with the rules of the Court. The decision of the judge or panel hearing the case so made shall be the decision of the Court except as provided in subsection (d) of this section.

"(b) The Court shall include in its decision a statement of its conclusions of law and determinations as to factual matters.

"(c) A judge or panel shall make a determination upon any proceeding before the Court, and any motion in connection with such a proceeding, that is assigned to the judge or panel. The judge or panel shall make a report of any such determination which constitutes the judge or panel's final disposition of the proceeding. Reports.

"(d)(1) In the case of a proceeding determined by a single judge of the Court, the decision of the judge shall become the decision of the Court unless before the end of the 30-day period beginning on the date of the decision by the judge the Court, upon the motion of either party or on its own initiative, directs that the decision be reviewed by a panel of the Court. In such a case, the decision of the judge initially deciding the case shall not be a part of the record.

"(2) In the case of a proceeding determined by a panel of the Court, the decision of the panel shall become the decision of the Court unless before the end of the 30-day period beginning on the date of the decision by the panel the Court, upon the motion of either party or on its own initiative, directs that the decision be reviewed by an expanded panel of the Court (or the Court en banc). In such a case, the decision of the panel initially deciding the case shall not be a part of the record.

"(e) The Court shall designate in its decision in any case those specific records of the Government on which it relied (if any) in making its decision. The Administrator shall preserve records so designated for not less than the period of time designated by the Administrator of the National Archives and Records Administration. Records. Historic preservation.

"§ 4068. Availability of proceedings Records.

"(a) Except as provided in subsection (b) of this section, all decisions of the Court of Veterans Appeals and all briefs, motions, documents, and exhibits received by the Court (including a transcript of the stenographic report of the hearings) shall be public records open to the inspection of the public. Public information.

"(b)(1) The Court may make any provision which is necessary to prevent the disclosure of confidential information, including a provision that any such document or information be placed under seal to be opened only as directed by the Court. Classified information.

"(2) After the decision of the Court in a proceeding becomes final, the Court shall permit the withdrawal by the party entitled thereto of originals of books, documents, and records, and of models, diagrams, and other exhibits, submitted to the Court before the Court may, on its own motion, make such other disposition thereof as it considers advisable.

"§ 4069. Publication of decisions

Public information.

"(a) The Court of Veterans Appeals shall provide for the publication of decisions of the Court in such form and manner as may be best adapted for public information and use. The Court may make such exceptions, or may authorize the chief judge to make such exceptions, to the requirement for publication in the preceding sentence as may be appropriate.

"(b) Such authorized publication shall be competent evidence of the decisions of the Court of Veterans Appeals therein contained in all courts of the United States and of the several States without any further proof or authentication thereof.

"(c) Such publications shall be subject to sale in the same manner and upon the same terms as other public documents.

"SUBCHAPTER III—MISCELLANEOUS PROVISIONS

"§ 4081. Employees

"The Court of Veterans Appeals may appoint such employees as may be necessary to execute the functions vested in the Court. Such appointments shall be made in accordance with the provisions of title 5 governing appointment in the competitive service, except that the Court may classify such positions based upon the classification of comparable positions in the judicial branch. The basic pay of such employees shall be fixed in accordance with subchapter III of chapter 53 of title 5.

"§ 4082. Budget and expenditures

"(a) The budget of the Court of Veterans Appeals as submitted by the Court for inclusion in the budget of the President for any fiscal year shall be included in that budget without review within the executive branch.

"(b) The Court may make such expenditures (including expenditures for personal services and rent at the seat of Government and elsewhere, and for law books, books of reference, and periodicals) as may be necessary to execute efficiently the functions vested in the Court.

"(c) All expenditures of the Court shall be allowed and paid upon presentation of itemized vouchers signed by the certifying officer designated by the chief judge. Except as provided in section 4085 of this title, all such expenditures shall be paid out of moneys appropriated for purposes of the Court.

"§ 4083. Disposition of fees

"Except for amounts received pursuant to section 4085 of this title, all fees received by the Court of Veterans Appeals shall be covered into the Treasury as miscellaneous receipts.

"§ 4084. Fee for transcript of record

"The Court of Veterans Appeals may fix a fee, not in excess of the fee authorized by law to be charged and collected therefor by the clerks of the district courts, for comparing, or for preparing and comparing, a transcript of the record of any proceeding before the Court, or for copying any record, entry, or other paper and the comparison and certification thereof.

"§ 4085. Practice fee

"(a) The Court of Veterans Appeals may impose a periodic registration fee on persons admitted to practice before the Court. The frequency and amount of such fee shall be determined by the Court, except that such amount may not exceed $30 per year.

"(b) Amounts received by the Court under subsection (a) of this section shall be available to the Court for the purposes of (1) employing independent counsel to pursue disciplinary matters, and (2) defraying administrative costs for the implementation of the standards of proficiency prescribed for practice before the Court.

"SUBCHAPTER IV—DECISIONS AND REVIEW

"§ 4091. Date when United States Court of Veterans Appeals decision becomes final

"(a) A decision of the United States Court of Veterans Appeals shall become final upon the expiration of the time allowed for filing, under section 4092 of this title, a notice of appeal from such decision, if no such notice is duly filed within such time. If such a notice is filed within such time, such a decision shall become final—

"(1) upon the expiration of the time allowed for filing a petition for certiorari with the Supreme Court of the United States, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit and no petition for certiorari is duly filed;

"(2) upon the denial of a petition for certiorari, if the decision of the Court of Veterans Appeals is affirmed or the appeal is dismissed by the United States Court of Appeals for the Federal Circuit; or

"(3) upon the expiration of 30 days from the date of issuance of the mandate of the Supreme Court, if that Court directs that the decision of the Court of Veterans Appeals be affirmed or the appeal dismissed.

"(b)(1) If the Supreme Court directs that the decision of the Court of Veterans Appeals be modified or reversed, the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the Supreme Court shall become final upon the expiration of 30 days from the time it was rendered, unless within such 30 days either the Administrator or the petitioner has instituted proceedings to have such decision corrected to accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

"(2) If the decision of the Court of Veterans Appeals is modified or reversed by the United States Court of Appeals for the Federal Circuit and if—

"(A) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(B) the petition for certiorari has been denied, or

"(C) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered in accordance with the mandate of the United States Court of Appeals for the Federal Circuit shall become final upon the expiration of 30 days from the time such decision of the Court of Veterans Appeals was rendered, unless within such 30 days either the Administrator

or the petitioner has instituted proceedings to have such decision corrected so that it will accord with the mandate, in which event the decision of the Court of Veterans Appeals shall become final when so corrected.

"(c) If the Supreme Court orders a rehearing, or if the case is remanded by the United States Court of Appeals for the Federal Circuit to the Court of Veterans Appeals for a rehearing, and if—

"(1) the time allowed for filing a petition for certiorari has expired and no such petition has been duly filed, or

"(2) the petition for certiorari has been denied, or

"(3) the decision of the United States Court of Appeals for the Federal Circuit has been affirmed by the Supreme Court,

then the decision of the Court of Veterans Appeals rendered upon such rehearing shall become final in the same manner as though no prior decision of the Court of Veterans Appeals had been rendered.

"(d) As used in this section, the term 'mandate', in case a mandate has been recalled before the expiration of 30 days from the date of issuance thereof, means the final mandate.

"§ 4092. Review by United States Court of Appeals for the Federal Circuit

"(a) After a decision of the United States Court of Veterans Appeals is entered in a case, any party to the case may obtain a review of the decision with respect to the validity of any statute or regulation (other than a refusal to review the schedule of ratings for disabilities adopted under section 355 of this title) or any interpretation thereof (other than a determination as to a factual matter) that was relied on by the Court in making the decision. Such a review shall be obtained by filing a notice of appeal with the Court of Veterans Appeals within the time and in the manner prescribed for appeal to United States courts of appeals from United States district courts.

"(b)(1) When a judge or panel of the Court of Veterans Appeals, in making an order not otherwise appealable under this section, determines that a controlling question of law is involved with respect to which there is a substantial ground for difference of opinion and that there is in fact a disagreement between the appellant and the Administrator with respect to that question of law and that the ultimate termination of the case may be materially advanced by the immediate consideration of that question, the judge or panel shall notify the chief judge of that determination. Upon receiving such a notification, the chief judge shall certify that such a question is presented, and any party to the case may then petition the Court of Appeals for the Federal Circuit to decide the question. That court may permit an interlocutory appeal to be taken on that question if such a petition is filed with it within 10 days after the certification by the chief judge of the Court of Veterans Appeals. Neither the application for, nor the granting of, an appeal under this paragraph shall stay proceedings in the Court of Veterans Appeals, unless a stay is ordered by a judge of the Court of Veterans Appeals or by the Court of Appeals for the Federal Circuit.

"(2) For purposes of subsections (d) and (e) of this section, an order described in this paragraph shall be treated as a decision of the Court of Veterans Appeals.

"(c) The United States Courts of Appeals for the Federal Circuit shall have exclusive jurisdiction to review and decide any challenge to the validity of any statute or regulation or any interpretation

thereof brought under this section, and to interpret constitutional and statutory provisions, to the extent presented and necessary to a decision. The judgment of such court shall be final subject to review by the Supreme Court upon certiorari, in the manner provided in section 1254 of title 28.

"(d)(1) The Court of Appeals for the Federal Circuit shall decide all relevant questions of law, including interpreting constitutional and statutory provisions. The court shall hold unlawful and set aside any statute or regulation or any interpretation thereof (other than a determination as to a factual matter) that was relied upon in the decision of the Court of Veterans Appeals that the Court of Appeals for the Federal Circuit finds to be—

"(A) arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law;

"(B) contrary to constitutional right, power, privilege, or immunity;

"(C) in excess of statutory jurisdiction, authority, or limitations, or in violation of a statutory right; or

"(D) without observance of procedure required by law.

"(2) Except to the extent that an appeal under this chapter presents a constitutional issue, the Court of Appeals may not review (A) a challenge to a factual determination, or (B) a challenge to a law or regulation as applied to the facts of a particular case.

"(e)(1) Upon such review, the Court of Appeals for the Federal Circuit shall have power to affirm or, if the decision of the Court of Veterans Appeals is not in accordance with law, to modify or reverse the decision of the Court of Veterans Appeals or to remand the matter, as appropriate.

"(2) Rules for review of decisions of the Court of Veterans Appeals shall be those prescribed by the Supreme Court under section 2072 of title 28.".

(b) CLERICAL AMENDMENT.—The tables of chapters before part I and at the beginning of part V are each amended by inserting after the item relating to chapter 71 the following new item:

"72. Court of Veterans Appeals ..... 4051".

SEC. 302. INITIAL APPOINTMENT OF JUDGES TO COURT OF VETERANS APPEALS.

38 USC 4053 note.

(a) CHIEF JUDGE TO BE APPOINTED FIRST.—The President may not appoint an individual to be an associate judge of the United States Court of Veterans Appeals under section 4053(b) of title 38, United States Code, as added by section 301, until the chief judge of such Court has been appointed. The President shall, during the period beginning on January 21, 1989, and ending on April 1, 1989, nominate an individual for appointment to the position of chief judge of such Court.

President of U.S.

(b) JUDGES.—Subject to subsection (a), judges of the Court of Veterans Appeals may be appointed after February 1, 1989.

SEC. 303. FACILITY FOR PRINCIPAL OFFICE OF COURT.

38 USC 4055 note.

In the implementation of section 4055 of title 38, United States Code (as added by section 301), the principal office of the Court of Veterans Appeals shall initially be located, if practicable, in a facility existing on the date of the enactment of this Act that, as determined by the Administrative Office of the United States Courts, would facilitate maximum efficiency and economy in the operation of the Court. The Administrative Office of the United

States Courts shall take into consideration the convenience of the location of such facility to needed library resources, clerical and administrative support equipment and personnel, and other resources available for shared use by the Court and other courts or agencies of the Federal Government.

TITLE IV—EFFECTIVE DATES AND APPLICABILITY

38 USC 4051 note.

SEC. 401. EFFECTIVE DATES.

(a) GENERAL EFFECTIVE DATE.—Except as otherwise provided in this section, this division (and the amendments made by this Act) shall take effect on September 1, 1989.

(b) EFFECTIVE DATE FOR CERTAIN TRANSITION PROVISIONS.—The amendment made by section 201(a) shall take effect on February 1, 1989.

(c) DATE OF ENACTMENT.—Sections 201 (other than subsection (a)), 208, 209, 302, and 303, and the amendments made by those sections, shall take effect on the date of the enactment of this Act.

(d) BOARD OF VETERANS' APPEALS.—Sections 202 through 207 shall take effect on January 1, 1989.

(e) COMMENCEMENT OF OPERATION OF COURT OF VETERANS APPEALS.—Notwithstanding subsection (a), the United States Court of Veterans Appeals established pursuant to chapter 72 of title 38, United States Code (as added by section 301) shall not begin to operate until at least three judges have been appointed to the court.

38 USC 4051 note.

SEC. 402. APPLICABILITY TO CASES AFTER DATE OF ENACTMENT.

Chapter 72 of title 38, United States Code, as added by section 301, shall apply with respect to any case in which a notice of disagreement is filed under section 4005 of title 38, United States Code, on or after the date of the enactment of this Act.

38 USC 3404 note.

SEC. 403. APPLICABILITY TO ATTORNEYS FEES.

The amendment to section 3404(c) of title 38, United States Code, made by section 104(a) shall apply only with respect to services of agents and attorneys in cases in which a notice of disagreement is filed with the Veterans' Administration on or after the date of the enactment of this division.

DIVISION B—VETERANS' BENEFITS IMPROVEMENT

Veterans' Benefits Improvement Act of 1988.

SEC. 1001. SHORT TITLE; REFERENCES TO TITLE 38, UNITED STATES CODE.

38 USC 101 note.

(a) SHORT TITLE.—This division may be cited as the "Veterans' Benefits Improvement Act of 1988".

(b) REFERENCES.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

38 USC 101 note.

SEC. 1002. DEFINITION OF ADMINISTRATOR.

For purposes of this division, the term "Administrator" means the Administrator of Veterans' Affairs.

TITLE XI—COMPENSATION RATE INCREASES

SEC. 1101. DISABILITY COMPENSATION.

(a) IN GENERAL.—Section 314 is amended—

(1) by striking out "$71" in subsection (a) and inserting in lieu thereof "$73";

(2) by striking out "$133" in subsection (b) and inserting in lieu thereof "$138";

(3) by striking out "$202" in subsection (c) and inserting in lieu thereof "$210";

(4) by striking out "$289" in subsection (d) and inserting in lieu thereof "$300";

(5) by striking out "$410" in subsection (e) and inserting in lieu thereof "$426";

(6) by striking out "$516" in subsection (f) and inserting in lieu thereof "$537";

(7) by striking out "$652" in subsection (g) and inserting in lieu thereof "$678";

(8) by striking out "$754" in subsection (h) and inserting in lieu thereof "$784";

(9) by striking out "$849" in subsection (i) and inserting in lieu thereof "$883";

(10) by striking out "$1,411" in subsection (j) and inserting in lieu thereof "$1,468";

(11) by striking out "$1,754" and "$2,459" in subsection (k) and inserting in lieu thereof "$1,825" and "$2,559", respectively;

(12) by striking out "$1,754" in subsection (l) and inserting in lieu thereof "$1,825";

(13) by striking out "$1,933" in subsection (m) and inserting in lieu thereof "$2,012";

(14) by striking out "$2,199" in subsection (n) and inserting in lieu thereof "$2,289";

(15) by striking out "$2,459" each place it appears in subsections (o) and (p) and inserting in lieu thereof "$2,559";

(16) by striking out "$1,055" and "$1,572" in subsection (r) and inserting in lieu thereof "$1,098" and "$1,636", respectively; and

(17) by striking out "$1,579" in subsection (s) and inserting in lieu thereof "$1,643".

(b) SPECIAL RULE.—The Administrator may adjust administratively, consistent with the increases authorized by this section, the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code. 38 USC 314 note.

SEC. 1102. ADDITIONAL COMPENSATION FOR DEPENDENTS.

Section 315(1) is amended—

(1) by striking out "$85" in clause (A) and inserting in lieu thereof "$88";

(2) by striking out "$143" and "$45" in clause (B) and inserting in lieu thereof "$148" and "$46", respectively;

(3) by striking out "$59" and "$45" in clause (C) and inserting in lieu thereof "$61" and "$46", respectively;

(4) by striking out "$69" in clause (D) and inserting in lieu thereof "$71";

(5) by striking out "$155" in clause (E) and inserting in lieu thereof "$161"; and

(6) by striking out "$131" in clause (F) and inserting in lieu thereof "$136".

SEC. 1103. CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.

Section 362 is amended by striking out "$380" and inserting in lieu thereof "$395".

SEC. 1104. DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.

Section 411 is amended—

(1) by striking out the table in subsection (a) and inserting in lieu thereof the following:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$539	W-4	$ 773
E-2	555	O-1	682
E-3	570	O-2	704
E-4	606	O-3	754
E-5	622	O-4	797
E-6	636	O-5	879
E-7	667	O-6	991
E-8	704	O-7	1,071
E-9	[1] 735	O-8	1,174
W-1	682	O-9	1,259
W-2	709	O-10	[2] 1,381
W-3	730		

"[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $794.

"[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 402 of this title, the surviving spouse's rate shall be $1,480.";

(2) by striking out "$60" in subsection (b) and inserting in lieu thereof "$62";

(3) by striking out "$155" in subsection (c) and inserting in lieu thereof "$161"; and

(4) by striking out "$76" in subsection (d) and inserting in lieu thereof "$79".

SEC. 1105. DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.

(a) DIC FOR ORPHAN CHILDREN.—Section 413(a) is amended—

(1) by striking out "$261" in clause (1) and inserting in lieu thereof "$271";

(2) by striking out "$376" in clause (2) and inserting in lieu thereof "$391";

(3) by striking out "$486" in clause (3) and inserting in lieu thereof "$505"; and

(4) by striking out "$486" and "$97" in clause (4) and inserting in lieu thereof "$505" and "$100", respectively.

(b) SUPPLEMENTAL DIC FOR DISABLED ADULT CHILDREN.—Section 414 is amended—

(1) by striking out "$155" in subsection (a) and inserting in lieu thereof "$161";

(2) by striking out "$261" in subsection (b) and inserting in lieu thereof "$271"; and

(3) by striking out "$133" in subsection (c) and inserting in lieu thereof "$138".

SEC. 1106. EFFECTIVE DATE FOR RATE INCREASES. 38 USC 314 note.

The amendments made by this title shall take effect on December 1, 1988.

TITLE XII—AGENT ORANGE AND RELATED PROVISIONS

Vietnam.

SEC. 1201. FUNDING FOR AGENT ORANGE BLOOD TESTING.

Funds appropriated to the Veterans' Administration in Public Law 98-181 for medical and prosthetic research and obligated through the Centers for Disease Control for a contract for the conduct of an epidemiological study relating to exposure of veterans to the herbicide known as Agent Orange shall, upon the cancellation of that contract, be available for obligation until September 30, 1989, in the amounts of—

(1) $3,000,000 for payment of expenses of the Department of the Air Force in connection with blood tests of individuals who, while serving in the Air Force, participated in the spraying of Agent Orange in Vietnam during the Vietnam era; and

(2) $1,000,000 for payment of expenses of a survey of scientific evidence, studies, and literature relating to health effects of possible exposure to toxic chemicals contained in herbicides used in the Republic of Vietnam during the Vietnam era, which survey shall be conducted by an independent scientific entity under contract to the Veterans Administration pursuant to a law enacted after the date of the enactment of this Act.

SEC. 1202. EXTENSION OF HEALTH-CARE ELIGIBILITY BASED ON AGENT ORANGE OR IONIZING RADIATION EXPOSURE.

Section 610(e)(3) is amended by striking out "September 30, 1989" and inserting in lieu thereof "December 31, 1990".

SEC. 1203. TREATMENT FOR NEEDS-BASED BENEFITS PURPOSES OF AMOUNTS RECEIVED UNDER AGENT ORANGE LITIGATION SETTLEMENT.

Any payment received by any person pursuant to the settlement in the case of In re Agent Orange Product Liability Litigation in the United States District Court for the Eastern District of New York (MDL No. 381) shall be treated for purposes of laws administered by the Veterans' Administration as reimbursement for prior unreimbursed medical expenses, and no such payment shall be countable as income for any such purpose.

SEC. 1204. OUTREACH SERVICES. 38 USC 241 note.

(a) ONGOING OUTREACH PROGRAM.—The Administrator shall conduct an active, continuous outreach program for furnishing to veterans of active military, naval, or air service who served in the Republic of Vietnam during the Vietnam era information relating to—

(1) the health risks (if any) resulting from exposure during that service to dioxin or any other toxic agent in herbicides used in support of United States and allied military operations in the Republic of Vietnam during the Vietnam era, as such information on health risks becomes known; and

(2) services and benefits available to such veterans with respect to such health risks.

(b) INFORMATION IN AGENT ORANGE REGISTRY.—The Administrator shall take reasonable actions to organize and update the information contained in the Veterans' Administration Agent Orange Registry in a manner that enables the Administrator promptly to notify a veteran of any increased health risk for such veteran resulting from exposure of such veteran to dioxin or any other toxic agent referred to in subsection (a) during Vietnam-era service in the Republic of Vietnam whenever the Administrator determines, on the basis of physical examination or other pertinent information, that such veteran is subject to such an increased health risk.

SEC. 1205. RANCH HAND STUDY.

(a) ADVISORY COMMITTEE PERSONNEL AND SUPPORT.—(1) After February 28, 1989, not less than one-third of the total number of members of the Ranch Hand Advisory Committee shall be individuals selected by the Secretary of Health and Human Services from among scientists who are recommended by veterans' organizations for membership on the committee and are determined by the Secretary to be qualified for service on the committee.

(2) A scientist shall be considered to be qualified for service on the Ranch Hand Advisory Committee if (A) the scientist has earned a doctor of medicine degree or a doctorate or other advanced degree from an institution of higher education in a field relevant to the responsibilities of the Advisory Committee and has written one or more articles relevant to those responsibilities which have appeared in scientific publications following a peer-review process, or (B) the scientist has qualifications equivalent to those set forth in clause (A).

(b) CHAIRMAN.—After February 28, 1989, the Chairman of the Ranch Hand Advisory Committee may be an officer or employee of the Federal Government (other than by reason of service as a member of the Advisory Committee) only if the Secretary of Health and Human Services determines, after affirmatively seeking to recruit a chairman who is not an officer or employee of the Federal Government, that there is no individual qualified and available to serve as Chairman who is not an officer or employee of the Federal Government. The Secretary shall report any such determination to the Committees on Veterans' Affairs of the Senate and the House of Representatives.

Reports.

(c) SCHEDULE OF REPORTS.—(1) Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Veterans' Affairs and the Committees on Armed Services of the Senate and the House of Representatives a schedule of reports to be prepared by the Secretary of the Air Force or the Secretary of Defense on the progress and findings of the Ranch Hand Study.

(2) Each report referred to in paragraph (1) shall include the following:

(A) A discussion of the progress made in the Ranch Hand Study during the period covered by the report.

(B) A summary of the scientific activities conducted during that period and the findings resulting from those activities, to be prepared by the scientists conducting those activities.

(3) Such a report need not contain (A) a discussion of progress discussed in any other report prepared by the Department of Defense (under this section or otherwise) regarding the Ranch Hand Study, or (B) a scientific summary included in any other such report, unless modification of such discussion or summary is appropriate for completeness, accuracy, and currency.

(4) The Secretary of Defense shall submit to the committees referred to in paragraph (1) a copy of each report referred to that paragraph.

(d) DEFINITIONS.—For purposes of this section:

(1) The term "Ranch Hand Advisory Committee" means the committee known as the "Advisory Committee on Special Studies Relating to the Possible Long-term Health Effects of Phenoxy Herbicides and Contaminants" established by the Secretary of Defense to monitor the conduct of the Ranch Hand Study.

(2) The term "Ranch Hand Study" means the special study conducted by the Secretary of the Air Force relating to the possible long-term health effects of phenoxy herbicides and contaminants on Air Force personnel who participated in Operation Ranch Hand in the Republic of Vietnam during the Vietnam era.

TITLE XIII—REHABILITATION PROVISIONS

SEC. 1301. TEMPORARY PROGRAMS OF TRIAL WORK PERIODS AND VOCATIONAL-REHABILITATION EVALUATIONS.

(a) THREE-YEAR EXTENSION.—Subsection (a)(2)(B) of section 363 is amended by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1992".

(b) VOLUNTARY PARTICIPATION.—Subsection (c) of such section is amended—

(1) by striking out paragraphs (2), (3), and (4);

(2) by striking out "(1)(A) Except as provided in paragraph (4) of this subsection, in" and inserting in lieu thereof "(1) In"; and

(3) in paragraph (1)—

(A) by redesignating clauses (i), (ii), and (iii) as clauses (A), (B), and (C), respectively; and

(B) by striking out subparagraph (B) and inserting in lieu thereof the following:

"(2) After providing the notice required under paragraph (1) of this subsection, the Administrator shall offer the veteran the opportunity for an evaluation under section 1506(a) of this title.".

SEC. 1302. FUNDING OF EDUCATIONAL AND VOCATIONAL COUNSELING SERVICES.

(a) IN GENERAL.—Subchapter II of chapter 36 is amended by adding at the end the following new section:

"§ 1797. Funding of contract educational and vocational counseling

"(a) Subject to subsection (b) of this section, educational or vocational counseling services obtained by the Veterans' Administration by contract and provided to an individual applying for or receiving benefits under section 524 or chapter 30, 32, 34, or 35 of this title, or chapter 106 of title 10, shall be paid for out of funds appropriated, or otherwise available, to the Veterans' Administration for payment of readjustment benefits.

"(b) Payments under this section shall not exceed $5,000,000 in any fiscal year.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 36 is amended by inserting after the item relating to section 1796 the following new item:

"1797. Funding of contract educational and vocational counseling.".

SEC. 1303. VOCATIONAL TRAINING FOR PENSION RECIPIENTS.

(a) ELIGIBILITY.—Subsection (a)(2) of section 524 is amended by striking out "who is awarded pension during the program period" and inserting in lieu thereof "is awarded pension during the program period, or a veteran who was awarded pension before the beginning of the program period,".

(b) EXTENSION OF PROGRAM PERIOD.—Subsections (a)(4) and (b)(4)(A) of such section are each amended by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1992".

(c) HEALTH-CARE ELIGIBILITY.—Section 525(b)(2) is amended by striking out "January 31, 1989" and inserting in lieu thereof "January 31, 1992".

TITLE XIV—MISCELLANEOUS BENEFIT PROVISIONS

SEC. 1401. LIFE INSURANCE PROGRAMS.

(a) AUTHORITY FOR PAYMENT OF INTEREST ON INSURANCE SETTLEMENTS.—(1) Subchapter I of chapter 19 is amended by adding at the end the following new section:

"§ 728. Authority for payment of interest on settlements

"(a) Subject to subsection (b) of this section, the Administrator may pay interest on the proceeds of a participating National Service Life Insurance, Veterans' Special Life Insurance, and Veterans Reopened Insurance policy from the date the policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder.

"(b)(1) The Administrator may pay interest under subsection (a) of this section only if the Administrator determines that the payment of such interest is administratively and actuarially sound for the settlement option involved.

"(2) Interest paid under subsection (a) of this section shall be at the rate that is established by the Administrator for dividends held on credit or deposit in policyholders' accounts under the insurance program involved.".

(2) Subchapter II of chapter 19 is amended by adding at the end the following new section:

"§ 763. Authority for payment of interest on settlements

"(a) Subject to subsection (b) of this section, the Administrator may pay interest on the proceeds of a United States Government Life Insurance policy from the date the policy matures to the date of payment of the proceeds to the beneficiary or, in the case of an endowment policy, to the policyholder.

"(b)(1) The Administrator may pay interest under subsection (a) of this section only if the Administrator determines that the payment of such interest is administratively and actuarially sound for the settlement option involved.

"(2) Interest paid under subsection (a) shall be at the rate that is established by the Administrator for dividends held on credit or deposit in policyholders' accounts.".

(3) The amendments made by this subsection shall take effect with respect to insurance policies maturing after the date of the enactment of this Act. 38 USC 728 note.

(b) AUTHORITY TO ADJUST DISCOUNT RATES FOR ADVANCE PAYMENT OF PREMIUMS.—(1) Subchapter I of chapter 19, as amended by subsection (a)(1), is further amended by adding at the end the following new section:

"§ 729. Authority to adjust premium discount rates

"(a) Notwithstanding sections 702, 723, and 725 of this title and subject to subsection (b) of this section, the Administrator may from time to time adjust the discount rates for premiums paid in advance on National Service Life Insurance, Veterans' Special Life Insurance, and Veterans Reopened Insurance.

"(b)(1) In adjusting a discount rate pursuant to subsection (a) of this section, the Administrator may not set such rate at a rate lower than the rate authorized for the program of insurance involved under section 702, 723, or 725 of this title.

"(2) The Administrator may make an adjustment under subsection (a) of this section only if the Administrator determines that the adjustment is administratively and actuarially sound for the program of insurance involved.".

(2) The amendment made by paragraph (1) shall take effect with respect to premiums paid after the date of the enactment of this Act. 38 USC 729 note.

(c) CLERICAL AMENDMENTS.—The table of sections at the beginning of chapter 19 is amended—

(1) by inserting after the item relating to section 727 the following new items:

"728. Authority for payment of interest on settlements.
"729. Authority to adjust premium discount rates.";

and

(2) by inserting after the item relating to section 762 the following new item:

"763. Authority for payment of interest on settlements.".

SEC. 1402. INCOME EXCLUSION FOR CASUALTY LOSS REIMBURSEMENTS.

(a) PARENTS DIC.—Clause (I) of section 415(f)(1) is amended to read as follows:

"(I) reimbursements of any kind for any casualty loss (as defined in regulations which the Administrator shall prescribe), but the amount excluded under this clause may not exceed the greater of the fair market value or the reasonable replacement Regulations.

value of the property involved at the time immediately preceding the loss;".

(b) PENSION.—Clause (5) of section 503(a) is amended to read as follows:

Regulations.

"(5) reimbursements of any kind for any casualty loss (as defined in regulations which the Administrator shall prescribe), but the amount excluded under this clause may not exceed the greater of the fair market value or reasonable replacement value of the property involved at the time immediately preceding the loss;".

SEC. 1403. RECODIFICATION OF PROVISIONS RELATING TO CERTAIN BENEFITS FOR SURVIVORS OF CERTAIN VETERANS.

(a) IN GENERAL.—(1) Subchapter II of chapter 13 is amended by adding at the end the following new section:

"§ 418. Benefits for survivors of certain veterans rated totally disabled at time of death

"(a) The Administrator shall pay benefits under this chapter to the surviving spouse and to the children of a deceased veteran described in subsection (b) of this section in the same manner as if the veteran's death were service connected.

"(b) A deceased veteran referred to in subsection (a) of this section is a veteran who dies, not as the result of the veteran's own willful misconduct, and who was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either—

"(1) was continuously rated totally disabling for a period of 10 or more years immediately preceding death; or

"(2) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty.

"(c) Benefits may not be paid under this chapter by reason of this section to a surviving spouse of a veteran unless—

"(1) the surviving spouse was married to the veteran for two years or more immediately preceding the veteran's death; or

"(2) a child was born of the marriage or was born to them before the marriage.

"(d) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in subsection (a) of this section, benefits under this chapter payable to such surviving spouse or child by virtue of this section shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

"(e) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this section shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.".

(2) The table of sections at the beginning of chapter 13 is amended by inserting after the item relating to section 417 the following new item:

"418. Benefits for survivors of certain veterans rated totally disabled at time of death.".

(b) CONFORMING AMENDMENTS.—Section 410 is amended by striking out subsection (b) and redesignating subsection (c) as subsection (b).

SEC. 1404. SPECIFICATION IN BUDGET SUBMISSIONS OF FUNDS FOR CERTAIN VETERANS BENEFITS. 38 USC 210 note.

(a) BUDGET INFORMATION.—In the documentation providing detailed information on the budgets for the Veterans' Administration and the Department of Labor that the Administrator and the Secretary of Labor, respectively, submit to the Congress in conjunction with the President's budget submission for each fiscal year pursuant to section 1105 of title 31, United States Code, the Administrator and the Secretary shall identify, to the maximum extent feasible, the estimated amount in each of the appropriation requests for Veterans' Administration accounts and Department of Labor accounts, respectively, that is to be obligated for the furnishing of each of the following services or benefits only to, or with respect to, veterans who performed active military, naval, or air service in combat with the enemy or in a theatre of combat operations during a period of war or other hostilities:

(1) Employment services and other employment benefits under programs administered by the Secretary of Labor.

(2) Compensation under chapter 11 of title 38, United States Code.

(3) Dependency and Indemnity Compensation under chapter 13 of such title.

(4) Pension under chapter 15 of such title.

(5) Inpatient hospital care under chapter 17 of such title.

(6) Outpatient medical care under chapter 17 of such title.

(7) Nursing home care under chapter 17 of such title.

(8) Domiciliary care under chapter 17 of such title.

(9) Readjustment counseling services under section 612A of such title.

(10) Insurance under chapter 19 of such title.

(11) Specially adapted housing for disabled veterans under chapter 21 of such title.

(12) Burial benefits under chapter 23 of such title.

(13) Educational assistance under chapters 30, 32, and 34 of such title and chapter 106 of title 10, United States Code.

(14) Vocational rehabilitation services under chapter 31 of title 38, United States Code.

(15) Survivors' and dependents' educational assistance under chapter 35 of such title.

(16) Home loan benefits under chapter 37 of such title.

(17) Automobiles and adaptive equipment under chapter 39 of such title.

(b) REPORT ON FEASIBILITY.—If the Administrator or the Secretary of Labor determines that, with respect to any services or benefits referred to in subsection (a), it is not feasible to identify an estimated dollar amount to be obligated for furnishing such services or benefits only to veterans described in that subsection for any fiscal year, the Administrator and the Secretary shall, with respect to an appropriation request for such fiscal year relating to such services or benefits, report to the Committees on Veterans' Affairs of the Senate and the House of Representatives the reasons for the infeasi-

bility. The report shall be submitted contemporaneously with the budget submission for such fiscal year. The report shall specify (1) the information, systems, equipment, or personnel that would be required in order for it to be feasible for the Administrator or the Secretary to identify such amount, and (2) the actions to be taken in order to ensure that it will be feasible to make such an estimate in connection with the submission of the budget request for the next fiscal year.

TITLE XV—HEALTH CARE

SEC. 1501. READJUSTMENT COUNSELING FACILITIES.

(a) RELOCATIONS FOR CIRCUMSTANCES BEYOND CONTROL OF VETERANS' ADMINISTRATION.—Section 612A(g)(1) is amended—

(1) in subparagraph (A), by striking out "The" and inserting in lieu thereof "Except as provided in subparagraph (C) of this paragraph, the"; and

(2) by adding at the end the following new subparagraph:

"(C) The Administrator may relocate a center in existence on January 1, 1988, without regard to the national plan (including any revision to such plan) if such relocation is to a new location away from a Veterans' Administration general health-care facility when such relocation is necessitated by circumstances beyond the control of the Veterans' Administration. Such a relocation may be carried out only after the end of the 30-day period beginning on the date on which the Administrator notifies the Committees on Veterans' Affairs of the Senate and the House of Representatives of the proposed relocation, of the circumstances making it necessary, and of the reason for the selection of the new site for the center.".

38 USC 612A note.

(b) AUTHORIZATION FOR RELOCATION OF CERTAIN FACILITIES.—The requirements of section 612A(g)(1) of title 38, United States Code, shall not apply with respect to the relocation of 17 Veterans' Administration Readjustment Counseling Service Vet Centers from their locations away from general Veterans' Administration health-care facilities to other such locations, as described in letters dated July 25, 1988, from the Chief Medical Director of the Veterans' Administration to the Chairmen of the Committees on Veterans' Affairs of the Senate and the House of Representatives.

SEC. 1502. CONTRACTS AND GRANTS FOR MEDICAL CARE FOR VETERANS IN THE PHILIPPINES.

(a) ONE-YEAR EXTENSION.—Subsections (a) and (b)(1) of section 632 are each amended by striking out "September 30, 1989" and inserting in lieu thereof "September 30, 1990".

(b) INCREASE IN ANNUAL AUTHORIZATION.—Subsection (b)(1) of such section is further amended by striking out "$500,000" and inserting in lieu thereof "$1,000,000,".

(c) REPORTS.—(1) Not later than February 1, 1989, and not later than February 1, 1990, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report containing detailed information describing the use of funds provided to the Republic of the Philippines under section 632(b) of title 38, United States Code, during the preceding fiscal year.

(2) Not later than May 1, 1989, the Administrator shall submit to those committees a report with respect to the furnishing of health-

care services to United States veterans in the Republic of the Philippines. That report shall include the following:

(A) Information for each of fiscal years 1986, 1987, and 1988 (shown in total and separately for veterans being furnished care or treatment for service-connected disabilities and veterans being furnished care or treatment for non-service-connected disabilities) as to—

(i) the number of United States veterans furnished care at Veterans' Administration expense pursuant to sections 624 and 632(a) of title 38, United States Code;

(ii) the numbers of inpatient days of care and outpatient visits so furnished for United States veterans; and

(iii) the amounts of such care and visits so furnished at the Veterans Memorial Medical Center or at other facilities in the Republic of the Philippines.

(B) An analysis comparing (i) the cost-effectiveness of furnishing care and treatment to such veterans through the Veterans Memorial Medical Center or other facilities in the Republic of the Philippines, and (ii) the quality of care available at the Center and such other facilities.

(C) A projection of the needs for care and treatment of United States veterans in the Republic of the Philippines during each of fiscal years 1990, 1991, 1992, and 1993.

(D) A projection of the needs of the Veterans Memorial Medical Center for each of those fiscal years for the replacement and upgrading of equipment and the rehabilitation of the physical plant and facilities in order to maintain the provision of an appropriate quality of care for United States veterans at the Veterans Memorial Medical Center.

(E) The plans of the Veterans' Administration for meeting the needs for care and treatment of United States veterans residing in the Philippines.

(F) Any planned administrative action, and any recommendation for legislation, that the Administrator considers appropriate.

(3) The report under paragraph (2) shall include any comment the Secretary of State may wish to make on the contents of the report.

SEC. 1503. TECHNICAL CORRECTIONS.

(a) CORRECTIONS NECESSITATED BY AMENDMENTS MADE BY PUBLIC LAW 100-322.—(1) Section 603(a)(2)(B) is amended—

(A) by striking out "612(a)(4)" and inserting in lieu thereof "paragraph (2), (3), or (4) of section 612(a)"; and

(B) by striking out "612(a)(5)" and inserting in lieu thereof "612(a)(5)(B)".

(2) Section 4114(a) is amended—

(A) in paragraph (1)—

(i) in clause (A), by inserting "pharmacists, occupational therapists," after "vocational nurses,"; and

(ii) in clause (B), by inserting "pharmacists and occupational therapists," after "vocational nurses,"; and

(B) in paragraph (3)(D), by striking out "the category" and all that follows through "vocational nurses" and inserting in lieu thereof "a category of personnel described in such section 4104(3)".

(3) Subsections (c) and (d) of section 4323 are each amended by striking out "section 4322(f)" and inserting in lieu thereof "section 4322(e)".

(4) Section 4324 is amended—

(A) in subsection (a)(2)—

(i) by striking out "completion" and all that follows through "quarter" and inserting in lieu thereof "participation in the program";

(ii) by inserting "or is payable" after "paid"; and

(iii) by inserting before the period at the end the following: ", reduced by the proportion that the number of days served for completion of the service obligation bears to the total number of days in the participant's period of obligated service"; and

(B) in subsection (b)—

(i) by striking out paragraph (1); and

(ii) by striking out "(2)".

38 USC 603 note.

(b) EFFECTIVE DATE.—The amendments made by subsection (a)(1) shall apply with respect to the furnishing of medical services by contract to veterans who apply to the Veterans' Administration for medical services after June 30, 1988.

38 USC 603 note.

(c) RATIFICATION.—Any action of the Administrator in contracting with facilities other than Veterans' Administration facilities for the furnishing of medical services (as defined in section 601(6) of title 38, United States Code), for the purpose described in section 612(a)(5)(B) of such title, to an individual described in paragraph (2) or (3) of section 612 of title 38, United States Code, who applied to the Veterans' Administration for such services during the period beginning on July 1, 1988, and ending on the date of enactment of this Act is hereby ratified.

SEC. 1504. LAND TRANSFER, RUTHERFORD, TENNESSEE.

(a) AUTHORITY.—Subject to subsections (b) and (c) and any conditions required by the Administrator under subsection (d), the Administrator shall transfer all right, title, and interest of the United States in and to a tract of land consisting of (not to exceed) seven acres, together with improvements thereon, in the Southeast corner of the Alvin C. York Veterans' Administration Medical Center in Rutherford County, Tennessee. Such transfer shall be made without consideration. Such transfer shall be made without regard to section 5022(a)(2)(A) of title 38, United States Code.

(b) PERMITTED USE.—The transfer under subsection (a) may be made only if it is subject to the condition that the property transferred be used by the State of Tennessee for a nursing care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of title 38, United States Code, and that if such property is used at any time for any other purpose, all right, title, and interest in the property shall revert to the United States.

(c) AVAILABILITY OF RESOURCES.—The transfer under subsection (a) may be made only if the Administrator has determined that the State of Tennessee has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of title 38, United States Code and section 641 of such title) necessary to construct and operate a State home nursing facility.

(d) ADDITIONAL CONDITIONS.—The transfer under subsection (a) shall be made under such additional terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

SEC. 1505. TRANSFERS OF EXCESS PROPERTIES FOR STATE HOME FACILITY USES.

Section 5022(a) is amended—

(1) in paragraph (2)(A), by striking out "The" and inserting in lieu thereof "Except as provided in paragraph (3) of this subsection, the"; and

(2) by adding at the end the following new paragraph:

"(3)(A) Subject to subparagraph (B) of this paragraph, the Administrator may, without regard to paragraph (2) of this subsection or any other provision of law relating to the disposition of real property by the United States, transfer to a State for use as the site of a State home nursing-home or domiciliary facility real property described in subparagraph (E) of the paragraph which the Administrator determines to be excess to the needs of the Veterans' Administration.

"(B) A transfer of real property may not be made under this paragraph unless—

"(i) the Administrator has determined that the State has provided sufficient assurance that it has the resources (including any resources which are reasonably likely to be available to the State under subchapter III of chapter 81 of this title and section 641 of this title) necessary to construct and operate a State home nursing or domiciliary care facility; and

"(ii) the transfer is made subject to the conditions (I) that the property be used by the State for a nursing-home or domiciliary care facility in accordance with the conditions and limitations applicable to State home facilities constructed with assistance under subchapter III of chapter 81 of this title, and (II) that, if the property is used at any time for any other purpose, all right, title, and interest in and to the property shall revert to the United States.

"(C) A transfer of real property may not be made under this paragraph until—

"(i) the Administrator submits to the Committees on Veterans' Affairs of the Senate and House of Representatives, not later than June 1 of the year in which the transfer is proposed to be made (or the year preceding that year), a report providing notice of the proposed transfer; and Reports.

"(ii) a period of 90 consecutive days elapses after the report is received by those committees.

"(D) A transfer under this paragraph shall be made under such additional terms and conditions as the Administrator considers appropriate to protect the interests of the United States.

"(E) Real property described in this subparagraph is real property that is owned by the United States and administered by the Veterans' Administration.".

SEC. 1506. CONVERSION OF NON-PHYSICIAN MEDICAL CENTER DIRECTORS TO SENIOR EXECUTIVE SERVICE.

(a) CONVERSION.—Section 4101(e) is amended by striking out "and persons appointed under section 4103(a)(8) of this title".

(b) CONFORMING AMENDMENTS.—(1) Section 4103(a) is amended—

(A) by striking out paragraph (8); and

(B) by redesignating paragraph (9) as paragraph (8).

(2) Section 4107(c) is amended to read as follows:

"(c) Notwithstanding the provisions of section 4101(e) of this title, any person appointed under section 4103 of this title who is not eligible for special pay under section 4118 of this title shall be deemed to be a career appointee for the purposes of sections 4507 and 5384 of title 5.".

38 USC 4103 note.

(c) APPLICABILITY TO CURRENT DIRECTORS.—(1) Except as provided in paragraph (2), each person who, on the day before the date of enactment of this Act, holds an appointment as a director under section 4103(a)(8) of title 38, United States Code, shall, on such date of enactment, become a career appointee in the Senior Executive Service established pursuant to chapter 31 of title 5, United States Code. The preceding sentence applies without regard to the provisions of subsections (b), (c), and (e) of section 3393 of title 5, United States Code, or any other provision of law. The provisions of section 3393(d) of such title shall not apply to a director who becomes a career appointee pursuant to this paragraph.

(2) Any person who, on the day before the date of the enactment of this Act, holds an appointment as such a director may, not later than 60 days after such enactment date, elect to retain the terms and conditions of that appointment for as long as that person continues to serve as such a director.

38 USC 4103 note.

(d) PRESERVATION OF PAY.—This section and the amendments made by this section shall not result in a reduction in the rate of pay payable to any person.

SEC. 1507. PROCUREMENT THROUGH LOCAL CONTRACTS.

(a) EFFECTIVE DATES OF PROVISIONS ENACTED IN PUBLIC LAW 100-322.—Section 403(b)(1) of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 545) is amended by striking out "Subsection (b)(1)" and inserting in lieu thereof "Subsections (a), (b)(1), and (b)(2)".

38 USC 5025 note.

(b) TRANSITION TO CERTAIN REPORT REQUIREMENTS.—Section 5025(d) is amended—

(1) in paragraph (1), by inserting "(beginning in 1992)" after "of each year";

(2) in paragraph (2), by inserting "(beginning in 1993)" after "of each year"; and

(3) by adding at the end the following new paragraph:

"(3) Not later than February 1 of each year from 1989 through 1992, the Administrator shall submit to the Committees on Veterans' Affairs of the Senate and the House of Representatives a report on the experience in carrying out this section during the preceding fiscal year. The first such report shall contain information showing the percentage (measured by cost) of the total of all health-care items procured by the Veterans' Administration during fiscal year 1988 that were procured through local contracts. The other reports under this paragraph shall contain information showing the percentage (measured by cost) of the total of all health-care items procured by the Veterans' Administration, and by each Veterans' Administration medical center, during the fiscal year covered by the report that were purchased through local contracts and, in the case of each medical center at which the percentage was greater than 20 percent, an explanation of the reasons why that occurred.".

(c) DEFINITION OF HEALTH-CARE ITEM.—Section 5025(e)(1) is amended—

(1) by striking out "65, 66, or 73" and inserting in lieu thereof "65 or 66"; and

(2) by inserting after the first sentence the following new sentence: "Effective December 1, 1992, such term also includes any item listed in, or (as determined by the Administrator) of the same nature as an item listed in, Federal Supply Classification (FSC) Group 73.".

SEC. 1508. STANDARDIZATION OF COVERAGE OF MEDICAL AND PHARMACEUTICAL ITEMS.

Section 402 of the Veterans' Benefits and Services Act of 1988 (Public Law 100-322; 102 Stat. 543) is amended in the first sentence by striking out "medical and pharmaceutical items" and inserting in lieu thereof "health-care items (as defined in section 5025(e)(1) of title 38, United States Code)". 38 USC 5025 note.

SEC. 1509. TECHNICAL CLARIFICATION OF PERIOD OF CLINICAL EVALUATION OF ALCOHOL AND DRUG ABUSE PROGRAM.

Section 620A(f)(1) (as amended by section 502 of the Veterans' Benefits and Programs Improvement Act of 1988) is amended by striking out "before October 1, 1997" and inserting in lieu thereof "during the period beginning on December 1, 1988, and ending on October 1, 1997".

TITLE XVI—CEMETERY AND MEMORIAL PROVISIONS

SEC. 1601. EXTENSION OF AUTHORIZATION OF APPROPRIATIONS FOR STATE CEMETERY GRANT PROGRAM.

Paragraph (2) of section 1008(a) is amended by striking out "four" the second place it appears and inserting in lieu thereof "nine".

SEC. 1602. PACIFIC WAR MEMORIAL AND OTHER HISTORICAL AND MEMORIAL SITES ON CORREGIDOR IN THE REPUBLIC OF THE PHILIPPINES. 36 USC 125b.

(a) OPERATION BY ABMC.—Subject to subsection (b) and to the agreement referred to in such subsection, the American Battle Monuments Commission shall restore, operate, and maintain the Pacific War Memorial and other historical and memorial sites on Corregidor in the Republic of the Philippines.

(b) CONDITION.—The Commission may carry out this section only after an agreement has been entered into between the Republic of the Philippines and the United States with respect to the restoration, operation, and maintenance of the Memorial and other historical and memorial sites referred to in subsection (a).

(c) PERSONNEL.—The Commission may employ personnel as may be necessary to carry out this section.

(d) USE OF OTHER AGENCIES.—Departments, agencies, and other instrumentalities of the United States are authorized to assist the Commission, on a reimbursable basis, in carrying out this section.

(e) FUNDING.—The American Battle Monuments Commission shall carry out this section with private funds except to the extent funds are appropriated pursuant to subsection (h).

(f) AUTHORITY TO SOLICIT FUNDS.—For the purpose of carrying out this section, the Commission may solicit and accept private contributions and shall deposit such contributions in the fund established by subsection (g).

(g) FUND.—(1) There is hereby established in the Treasury a fund which shall be available to the American Battle Monuments Commission only for carrying out this section. The fund shall consist of—

(A) amounts deposited into, and interest and proceeds credited to, the fund under paragraph (2); and

(B) obligations obtained under paragraph (3).

(2) The Chairman of the Commission shall deposit into the fund the amounts that are accepted under subsection (f). The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund.

(3) The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Chairman of the Commission, is not required to meet current expenses. Each investment shall be made in an interest-bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Chairman of the Commission, has a maturity suitable for the fund.

(4) Amounts in the fund that are in excess of the costs of carrying out this section, as determined by the Chairman of the Commission, shall be deposited in the Treasury as miscellaneous receipts to reimburse the United States for funds appropriated pursuant to subsection (h).

(h) AUTHORIZATION OF FUNDING.—There are hereby authorized to be appropriated—

(1) $6,000,000 for site preparation, design, planning, construction, and associated administrative costs for the restoration of the Memorial and other historical and memorial sites referred to in subsection (a); and

(2) such sums as may be necessary for the operation and maintenance of such Memorial and other historical and memorial sites.

Approved November 18, 1988.

LEGISLATIVE HISTORY—S. 11 (H.R. 5288):

HOUSE REPORTS: No. 100-963, Pt. 1, accompanying H.R. 5288 (Comm. on Veterans' Affairs).

SENATE REPORTS: No. 100-418 (Comm. on Veterans' Affairs).

CONGRESSIONAL RECORD, Vol. 134 (1988):

July 11, considered and passed Senate.

Oct. 3, H.R. 5288 considered and passed House; proceedings vacated and S. 11, amended, passed in lieu.

Oct, 18, Senate concurred in certain House amendment with an amendment and disagreed to another.

Oct, 19, House receded and concurred in Senate amendment with amendments.

Oct. 20, Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):

Nov. 18, Presidential statement.

Public Law 100-688
100th Congress

An Act

To amend the Marine Protection, Research, and Sanctuaries Act of 1972 to provide for termination of ocean dumping of sewage sludge and industrial waste, and for other purposes.

Nov. 18, 1988
[S. 2030]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Environmental protection.

TITLE I—OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE

Ocean Dumping Ban Act of 1988.
Safety.
33 USC 1401 note.

SEC. 1001. SHORT TITLE.

This title may be cited as the "Ocean Dumping Ban Act of 1988".

SEC. 1002. ESTABLISHMENT OF FEES AND PENALTIES FOR OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE.

The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) is amended by striking the second section 104A and inserting in lieu thereof the following:

33 USC 1414a.

"SEC. 104B. OCEAN DUMPING OF SEWAGE SLUDGE AND INDUSTRIAL WASTE.

33 USC 1414b.

"(a) TERMINATION OF DUMPING.—

"(1) PROHIBITIONS ON DUMPING.—Notwithstanding any other provision of law—

"(A) on and after the 270th day after the date of the enactment of this section, no person (including a person described in section 104A(a)(1)(C)) shall dump into ocean waters, or transport for the purpose of dumping into ocean waters, sewage sludge or industrial waste, unless such person—

"(i) has entered into a compliance agreement or enforcement agreement which meets the requirements of subsection (c) (2) or (3), as applicable; and

"(ii) has obtained a permit issued under section 102 which authorizes such transportation and dumping; and

"(B) after December 31, 1991, it shall be unlawful for any person to dump into ocean waters, or to transport for the purposes of dumping into ocean waters, sewage sludge or industrial waste.

"(2) PROHIBITION ON NEW ENTRANTS.—The Administrator shall not issue any permit under this Act which authorizes a person to dump into ocean waters, or to transport for the purposes of dumping into ocean waters, sewage sludge or industrial waste, unless that person was authorized by a permit issued under section 102 or by a court order to dump into ocean waters, or to transport for the purpose of dumping into ocean waters, sewage sludge or industrial waste on September 1, 1988.

"(b) SPECIAL DUMPING FEES.—

"(1) IN GENERAL.—Subject to paragraph (4), any person who dumps into ocean waters, or transports for the purpose of dumping into ocean waters, sewage sludge or industrial waste shall be liable for a fee equal to—

"(A) $100 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after the 270th day after the date of the enactment of this section and before January 1, 1990;

"(B) $150 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1990, and before January 1, 1991; and

"(C) $200 for each dry ton (or equivalent) of sewage sludge or industrial waste transported or dumped by the person on or after January 1, 1991, and before January 1, 1992.

"(2) PAYMENT OF FEES.—Of the amount of fees under paragraph (1) for which a person is liable, such person—

"(A) shall pay into a trust account established by the person in accordance with subsection (e) a sum equal to 85 percent of such amount;

"(B) shall pay to the Administrator a sum equal to $15 per dry ton (or equivalent) of sewage sludge and industrial waste transported or dumped by such person, for use for agency activities as provided in subsection (f)(1);

"(C) subject to paragraph (5), shall pay into the Clean Oceans Fund established by the State in which the person is located a sum equal to 50 percent of the balance of such amount after application of subparagraphs (A) and (B); and

"(D) subject to paragraph (5), shall pay to the State in which the person is located a sum equal to the balance of such amount after application of subparagraphs (A), (B), and (C), for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act, as provided in subsection (f)(2).

"(3) SCHEDULE FOR PAYMENT.—Fees under this subsection shall be paid on a quarterly basis.

"(4) WAIVER OF FEES.—(A) The Administrator shall waive all fees under this subsection, other than the portion of fees required to be paid to the Administrator under paragraph (2)(B) for agency activities, for any person who has entered into a compliance agreement which meets the requirements of subsection (c)(2).

"(B) The Administrator shall reimpose fees under this subsection for a person for whom such fees are waived under subparagraph (A) if the Administrator determines that—

"(i) the person has failed to comply with the terms of a compliance agreement which the person entered into under subsection (c)(2); and

"(ii) such failure is likely to result in the person not being able to terminate by December 31, 1991, dumping of sewage sludge or industrial waste into ocean waters.

"(C) The Administrator may waive fees reimposed for a person under subparagraph (B) if the Administrator determines that the person has returned to compliance with a compliance agreement which the person entered into under subsection (c)(2).

"(5) PAYMENTS PRIOR TO ESTABLISHMENT OF ACCOUNT.—(A) In any case in which a State has not established a Clean Oceans Fund or a water pollution control revolving fund under title VI of the Federal Water Pollution Control Act, fees required to be paid by a person in that State under paragraph (2) (C) or (D), as applicable, shall be paid to the Administrator.

"(B) Amounts paid to the Administrator pursuant to this paragraph shall be held by the Administrator in escrow until the establishment of the fund into which such amounts are required to be paid under paragraph (2), or until the last day of the 1-year period beginning on the date of such payment, whichever is earlier, and thereafter—

"(i) if such fund has been established, shall be paid by the Administrator into the fund; or

"(ii) if such fund has not been established, shall revert to the general fund of the Treasury.

"(c) COMPLIANCE AGREEMENTS AND ENFORCEMENT AGREEMENTS.— State and local governments.

"(1) IN GENERAL.—As a condition of issuing a permit under section 102 which authorizes a person to transport or dump sewage sludge or industrial waste, the Administrator shall require that, before the issuance of such permit, the person and the State in which the person is located enter into with the Administrator—

"(A) a compliance agreement which meets the requirements of paragraph (2); or

"(B) an enforcement agreement which meets the requirements of paragraph (3).

"(2) COMPLIANCE AGREEMENTS.—An agreement shall be a compliance agreement for purposes of this section only if—

"(A) it includes a plan negotiated by the person, the State in which the person is located, and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and termination of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person by not later than December 31, 1991, through the design, construction, and full implementation of an alternative system for the management of sewage sludge and industrial waste transported or dumped by the person;

"(B) it includes a schedule which—

"(i) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the alternative system referred to in subparagraph (A); and

"(ii) meets the requirements of paragraph (4);

"(C) it requires the person to notify in a timely manner the Administrator and the Governor of the State of any problems the person has in complying with the schedule referred to in subparagraph (B);

"(D) it requires the Administrator and the Governor of the State to evaluate on an ongoing basis the compliance of the person with the schedule referred to in subparagraph (B);

"(E) it requires the person to pay in accordance with this section all fees and penalties the person is liable for under this section; and

"(F) it authorizes the person to use interim measures before completion of the alternative system referred to in subparagraph (A).

"(3) ENFORCEMENT AGREEMENTS.—An agreement shall be an enforcement agreement for purposes of this section only if—

"(A) it includes a plan negotiated by the person, the State in which the person is located, and the Administrator that will, in the opinion of the Administrator, if adhered to by the person in good faith, result in the phasing out and termination of ocean dumping, and transportation for the purpose of ocean dumping, of sewage sludge and industrial waste by such person through the design, construction, and full implementation of an alternative system for the management of sewage sludge and industrial waste transported or dumped by the person;

"(B) it includes a schedule which—

"(i) in the opinion of the Administrator, specifies reasonable dates by which the person shall complete the various activities that are necessary for the timely implementation of the alternative system referred to in subparagraph (A); and

"(ii) meets the requirements of paragraph (4);

"(C) it requires the person to notify in a timely manner the Administrator and the Governor of the State of any problems the person has in complying with the schedule referred to in subparagraph (B);

"(D) it requires the Administrator and the Governor of the State to evaluate on an ongoing basis the compliance of the person with the schedule referred to in subparagraph (B);

"(E) it requires the person to pay in accordance with this section all fees and penalties the person is liable for under this section; and

"(F) it authorizes the person to use interim measures before completion of the alternative system referred to in subparagraph (A).

"(4) SCHEDULES.—A schedule included in a compliance agreement pursuant to paragraph (2)(B) or an enforcement agreement pursuant to paragraph (3)(B) shall establish deadlines for—

"(A) preparation of engineering designs and related specifications for the alternative system referred to in paragraph (2)(A) or paragraph (3)(A), as applicable;

"(B) compliance with appropriate Federal, State, and local statutes, regulations, and ordinances;

"(C) site and equipment acquisitions for such alternative system;

"(D) construction and testing of such alternative system;

"(E) operation of such alternative system at full capacity; and

"(F) any other activities, including interim measures, that the Administrator considers necessary or appropriate.

"(5) CLEAN OCEANS FUNDS.—(A) Each State that is a party to a compliance agreement or an enforcement agreement under this

subsection shall establish an interest bearing account, to be known as a Clean Oceans Fund, into which a person shall pay fees and penalties in accordance with subsections (b)(2)(C) and (d)(2)(C)(i), respectively.

"(B) A State which establishes a Clean Oceans Fund pursuant to this paragraph shall allocate and pay from the fund each year, to each person in the State which has entered into a compliance agreement or enforcement agreement under this subsection, a portion of amounts in the fund on the last day of that year which is equal to the sum of—

"(i) amounts paid by the person into the fund in that year as fees pursuant to subsection (b)(2)(C) and as penalties pursuant to subsection (d)(2)(C)(i);

"(ii) amounts paid by the Administrator into the fund in that year as fees held in escrow for the person pursuant to subsection (b)(5)(B); and

"(iii) interest on such amounts.

"(C) Amounts allocated and paid to a person pursuant to subparagraph (B)—

"(i) shall be used for the purposes described in subsection (e)(2)(B); and

"(ii) may be used for matching Federal grants.

"(D) A Clean Oceans Fund established by a State pursuant to this paragraph shall be subject to such accounting, reporting, and other requirements as may be established by the Administrator to assure accountability of payments into and out of the fund.

"(6) PUBLIC PARTICIPATION.—The Administrator shall provide an opportunity for public comment regarding the establishment and implementation of compliance agreements and enforcement agreements entered into pursuant to this section.

"(d) PENALTIES.—

"(1) IN GENERAL.—In lieu of any other civil penalty under this Act, any person who has entered into a compliance agreement or enforcement agreement under subsection (c) and who dumps or transports sewage sludge or industrial waste in violation of subsection (a)(1)(B) shall be liable for a civil penalty, to be assessed by the Administrator, as follows:

"(A) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in calendar year 1992, $600.

"(B) For each dry ton (or equivalent) of sewage sludge or industrial waste dumped or transported by the person in violation of this subsection in any year after calendar year 1992, a sum equal to—

"(i) the amount of penalty per dry ton (or equivalent) for a violation occurring in the preceding calendar year, plus

"(ii) a percentage of such amount equal to 10 percent of such amount, plus an additional 1 percent of such amount for each full calendar year since December 31, 1991.

"(2) PAYMENT OF PENALTY.—Of the amount of penalties under paragraph (1) for which a person is liable, such person—

"(A) shall pay into a trust account established by the person in accordance with subsection (e) a sum which is a percentage of such amount equal to—

"(i) 90 percent of such amount, reduced by

"(ii) 5 percent of such amount for each full calendar year since December 31, 1991;

"(B) shall pay to the Administrator a sum equal to $15 per dry ton (or equivalent) of sewage sludge and industrial waste transported or dumped by such person in that year, for use for agency activities as provided in subsection (f)(1);

"(C) for violations in any year before calendar year 1995—

"(i) subject to paragraph (4), shall pay into the Clean Oceans Fund established by the State in which the person is located a sum equal to 50 percent of the balance of such amount; and

"(ii) subject to paragraph (4), shall pay to the State in which the person is located a sum equal to the portion of such amount which is not paid as provided in subparagraphs (A), (B), and (C), for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act, as provided in subsection (f)(2); and

"(D) for violations in any year after calendar year 1994, shall pay to the State in which the person is located a sum equal to the balance of such amount, for use by the State for providing assistance under subsection (f)(3).

"(3) SCHEDULE FOR PAYMENT.—Penalties under this subsection shall be paid on a quarterly basis.

State and local governments.

"(4) PAYMENTS PRIOR TO ESTABLISHMENT OF ACCOUNT.—In any case in which a State has not established a Clean Oceans Fund or a water pollution control revolving fund under title VI of the Federal Water Pollution Control Act, penalties required to be paid by a person in that State under paragraph (2)(C) (i) or (ii), as applicable, shall be paid to the Administrator for holding and payment or reversion, as applicable, in the same manner as fees are held and paid or revert under subsection (b)(5).

"(e) TRUST ACCOUNT.—

"(1) IN GENERAL.—A person who enters into a compliance agreement or an enforcement agreement under subsection (c) shall establish a trust account for the payment and use of fees and penalties under this section.

"(2) TRUST ACCOUNT REQUIREMENTS.—An account shall be a trust account for purposes of this subsection only if it meets, to the satisfaction of the Administrator, the following requirements:

"(A) Amounts in the account may be used only with the concurrence of the person who establishes the account and the Administrator; except that the person may use amounts in the account for a purpose authorized by subparagraph (B) after 60 days after notification of the Administrator if the Administrator does not disapprove such use before the end of such 60-day period.

"(B) Amounts in the account may be used only for projects which will identify, develop, and implement—

"(i) an alternative system, and any interim measures, for the management of sewage sludge and industrial waste, including but not limited to any such system or measures utilizing resource recovery, recycling, thermal reduction, or composting techniques; or

"(ii) improvements in pretreatment, treatment, and storage techniques for sewage sludge and industrial waste to facilitate the implementation of such alternative system or interim measures.

"(C) Upon a finding by the Administrator that a person did not pay fees or penalties into an account as required by this section, or did not use amounts in the account in accordance with this subsection, the balance of the amounts in the account shall be paid to the State in which the person is located, for deposit into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act, as provided in subsection (f)(2).

"(3) USE OF UNEXPENDED AMOUNTS.—Upon a determination by the Administrator that a person has terminated ocean dumping of sewage sludge or industrial waste, the balance of amounts in an account established by the person under this subsection shall be paid to the person for use—

"(A) for debts incurred by the person in complying with this Act or the Federal Water Pollution Control Act;

"(B) in meeting the requirements of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.) which apply to the person, including operations and maintenance; and

"(C) for matching Federal grants.

"(4) USE FOR MATCHING FEDERAL GRANTS.—Amounts in a trust account under this subsection may be used for matching Federal grants.

"(f) USE OF FEES AND PENALTIES.—

"(1) AGENCY ACTIVITIES.—Of the total amount of fees and penalties paid to the Administrator in a fiscal year pursuant to subsections (b)(2)(B) and (d)(2)(B), respectively—

"(A) not to exceed one-third of such total amount shall be used by the Administrator for—

"(i) costs incurred or expected to be incurred in undertaking activities directly associated with the issuance under this Act of permits for the transportation or dumping of sewage sludge and industrial waste, including the costs of any environmental assessment of the direct effects of dumping under the permits;

"(ii) preparation of reports under subsection (i); and

"(iii) such other research, studies, and projects the Administrator considers necessary for, and consistent with, the development and implementation of alternative systems for the management of sewage sludge and industrial waste;

"(B) not to exceed one-third of such total amount shall be transferred to the Secretary of the department in which the Coast Guard is operating for use for— Uniformed services.

"(i) Coast Guard surveillance of transportation and dumping of sewage sludge and industrial waste subject to this Act; and

"(ii) such enforcement activities conducted by the Coast Guard with respect to such transportation and dumping as may be necessary to ensure to the maximum extent practicable complete compliance with the requirements of this Act; and

"(C) not to exceed one-third of such total amount shall be transferred to the Under Secretary of Commerce for Oceans and Atmosphere for use for—

"(i) monitoring, research, and related activities consistent with the program developed pursuant to subsection (j)(1); and

"(ii) preparing annual reports to the Congress pursuant to subsection (j)(4) which describe the results of such monitoring, research, and activities.

"(2) DEPOSITS INTO STATE WATER POLLUTION CONTROL REVOLVING FUND.—(A) Amounts paid to a State pursuant to subsection (b)(2)(D), (d)(2)(C)(ii), or (e)(2)(C) shall be deposited into the water pollution control revolving fund established by the State pursuant to title VI of the Federal Water Pollution Control Act.

"(B) Amounts deposited into a State water pollution control revolving fund pursuant to this paragraph—

"(i) shall not be used by the State to provide assistance to the person who paid such amounts for development or implementation of any alternative system;

"(ii) shall not be considered to be State matching amounts under title VI of the Federal Water Pollution Control Act; and

"(iii) shall not be subject to State matching requirements under such title.

"(3) PENALTY PAYMENTS TO STATES AFTER 1994.—(A) Amounts paid to a State as penalties pursuant to subsection (d)(2)(D) may be used by the State—

"(i) for providing assistance to any person in the State—

"(I) for implementing a management program under section 319 of the Federal Water Pollution Control Act;

"(II) for developing and implementing a conservation and management plan under section 320 of such Act; or

"(III) for implementing technologies and management practices necessary for controlling pollutant inputs adversely affecting the New York Bight, as such inputs are identified in the New York Bight Restoration Plan prepared under section 2301 of the Marine Plastic Pollution Research and Control Act of 1987; and

"(ii) for providing assistance to any person in the State who was not required to pay such penalties for construction of treatment works (as defined in section 212 of the Federal Water Pollution Control Act) which are publicly owned.

"(B) Amounts paid to a State as penalties pursuant to subsection (d)(2)(D) which are not used in accordance with subparagraph (A) shall be deposited into the water pollution control revolving fund established by the State under title VI of the Federal Water Pollution Control Act. Amounts deposited into such a fund pursuant to this subparagraph—

"(i) shall not be used by the State to provide assistance to the person who paid such amounts;

"(ii) shall not be considered to be State matching amounts under title VI of the Federal Water Pollution Control Act; and

"(iii) shall not be subject to State matching requirements under such title.

"(4) DEPOSITS INTO TREASURY AS OFFSETTING COLLECTIONS.—Amounts of fees and penalties paid to the Administrator pursu-

ant to subsection (b)(2)(B) or (d)(2)(B) which are used by an agency in accordance with paragraph (1) shall be deposited into the Treasury as offsetting collections of the agency.

"(g) ENFORCEMENT.—

"(1) IN GENERAL.—Whenever, on the basis of any information available, the Administrator finds that a person is dumping or transporting sewage sludge or industrial waste in violation of subsection (a)(1), the Administrator shall issue an order requiring such person to terminate such dumping or transporting (as applicable) until such person—

"(A) enters into a compliance agreement or an enforcement agreement under subsection (c); and

"(B) obtains a permit under section 102 which authorizes such dumping or transporting.

"(2) REQUIREMENTS OF ORDER.—Any order issued by the Administrator under this subsection—

"(A) shall be delivered by personal service to the person named in the order;

"(B) shall state with reasonable specificity the nature of the violation for which the order is issued; and

"(C) shall require that the person named in the order, as a condition of dumping into ocean waters, or transporting for the purpose of dumping into ocean waters, sewage sludge or industrial waste—

"(i) shall enter into a compliance agreement or an enforcement agreement under subsection (c); and Contracts.

"(ii) shall obtain a permit under section 102 which authorizes such dumping or transporting.

"(3) ACTIONS.—The Administrator may request the Attorney General to commence a civil action for appropriate relief, including a temporary or permanent injunction and the imposition of civil penalties authorized by subsection (d)(1), for any violation of subsection (a)(1) or of an order issued by the Administrator under this section. Such an action may be brought in the district court of the United States for the district in which the defendant is located, resides, or is doing business, and such court shall have jurisdiction to restrain such violation and require compliance with subsection (a)(1) and any such order. Courts, U.S.

"(h) STATE PROGRESS REPORTS.—

(1) IN GENERAL.—The Governor of each State that is a party to a compliance agreement or an enforcement agreement under subsection (c) shall submit to the Administrator on September 30 of 1989 and of every year thereafter until the Administrator determines that ocean dumping of sewage sludge and industrial waste by persons located in that State has terminated, a report which describes—

"(A) the efforts of each person located in the State to comply with a compliance agreement or enforcement agreement entered into by the person pursuant to subsection (c), including the extent to which such person has complied with deadlines established by the schedule included in such agreement;

"(B) activity of the State regarding permits for the construction and operation of each alternative system; and

"(C) an accounting of amounts paid into and withdrawn from a Clean Oceans Fund established by the State.

"(2) FAILURE TO SUBMIT REPORT.—If a State fails to submit a report in accordance with this subsection, the Administrator shall withhold funds reserved for such State under section 205(g) of the Federal Water Pollution Control Act (33 U.S.C. 1285(g)). Funds withheld pursuant to this paragraph may, at the discretion of the Administrator, be restored to a State upon compliance with this subsection.

"(i) EPA PROGRESS REPORTS.—

"(1) IN GENERAL.—Not later than December 31 of 1989 and of each year thereafter until the Administrator determines that ocean dumping of sewage sludge and industrial waste has terminated, the Administrator shall prepare and submit to the Congress a report on—

"(A) progress being made by persons issued permits under section 102 for transportation or dumping of sewage sludge or industrial waste in developing alternative systems for managing sewage sludge and industrial waste;

"(B) the efforts of each such person to comply with a compliance agreement or enforcement agreement entered into by the person pursuant to subsection (c), including the extent to which such person has complied with deadlines established by the schedule included in such agreement;

"(C) progress being made by the Administrator and others in identifying and implementing alternative systems for the management of sewage sludge and industrial waste; and

"(D) progress being made toward the termination of ocean dumping of sewage sludge and industrial waste.

"(2) REFERRAL TO CONGRESSIONAL COMMITTEES.—Each report submitted to the Congress under this subsection shall be referred to each standing committee of the House of Representatives and of the Senate having jurisdiction over any part of the subject matter of the report.

"(j) ENVIRONMENTAL MONITORING.—

"(1) IN GENERAL.—The Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall design a program for monitoring environmental conditions—

"(A) at the Apex site (as that term is defined in section 104A);

"(B) at the site designated by the Administrator under section 102(c) and known as the '106-Mile Ocean Waste Dump Site' (as described in 49 F.R. 19005);

"(C) at the site at which industrial waste is dumped; and

"(D) within the potential area of influence of the sewage sludge and industrial waste dumped at those sites.

"(2) PROGRAM REQUIREMENTS.—The program designed under paragraph (1) shall include, but is not limited to—

"(A) sampling of an appropriate number of fish and shellfish species and other organisms to assess the effects of environmental conditions on living marine organisms in these areas; and

"(B) use of satellite and other advanced technologies in conducting the program.

"(3) MONITORING ACTIVITIES.—The Administrator and the Under Secretary of Commerce for Oceans and Atmosphere shall

each conduct monitoring activities consistent with the program designed under paragraph (1).

"(4) REPORTS.—(A) Not later than 1 year after the date of the enactment of this section, the Administrator, in cooperation with the Under Secretary of Commerce for Oceans and Atmosphere, shall submit to the Congress a report describing the program designed pursuant to paragraph (1).

"(B) Not later than December 31 of each year after the submission of a report under subparagraph (A), the Administrator and the Under Secretary of Commerce for Oceans and Atmosphere shall report to the Congress the results of monitoring activities conducted during the previous year under the program designed pursuant to paragraph (1).

"(k) DEFINITIONS.—For purposes of this section—

"(1) the term 'alternative system' means any method for the management of sewage sludge or industrial waste which does not require a permit under this Act;

"(2) the term 'Clean Oceans Fund' means such a fund established by a State in accordance with subsection (c)(5);

"(3) the term 'excluded material' means—

"(A) any dredged material discharged by the United States Army Corps of Engineers or discharged pursuant to a permit issued by the Secretary in accordance with section 103; and

"(B) any waste from a tuna cannery operation located in American Samoa or Puerto Rico discharged pursuant to a permit issued by the Administrator under section 102;

"(4) the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant, other than an excluded material;

"(5) the term 'interim measure' means any short-term method for the management of sewage sludge or industrial waste, which—

"(A) is used before implementation of an alternative system; and

"(B) does not require a permit under this Act; and

"(6) the term 'sewage sludge' means any solid, semisolid, or liquid waste generated by a wastewater treatment plant, other than an excluded material.

SEC. 1003. CONFORMING AMENDMENTS.

(a) PUBLIC LAW 95-153.—Section 4 of Public Law 95-153 (33 U.S.C. 1412a) is amended—

(1) by striking subsection (a);

(2) by striking subsection (b);

(3) by redesignating subsection (c), and any reference thereto, as subsection (a);

(4) in subsection (a) (as so redesignated) by striking "After" and inserting "Notwithstanding section 104B of the Marine Protection, Research, and Sanctuaries Act of 1972, after";

(5) in subsection (a) (as so redesignated) by striking "such title I" and inserting "title I of such Act";

(6) by striking subsection (d); and

(7) by adding at the end the following:

"(b) For purposes of this section, the term 'industrial waste' means any solid, semisolid, or liquid waste generated by a manufacturing or processing plant.".

33 USC 2267 note.

(b) ALTERNATIVES ASSESSMENT.—Section 2301(b)(8) of the Marine Plastic Pollution Research and Control Act of 1987 is amended by striking "dumping of municipal sludge and".

33 USC 2267 note.

(c) PRELIMINARY REPORT ON ALTERNATIVES.—Section 2303 of the Marine Plastic Pollution Research and Control Act of 1987 is amended—

(1) by striking subsection (b), and

(2) redesignating subsections (c), (d), and (e), and any reference thereto, as subsections (b), (c), and (d), respectively.

SEC. 1004. ENFORCEMENT MONITORING REPORT.

Not later than 6 months after the date of the enactment of this Act, the Administrator of the Environmental Protection Agency (hereinafter in this title referred to as the "Administrator"), in consultation with the Secretary of Transportation, shall submit a report to the Congress which outlines progress made in using electronic monitoring equipment, and other means to monitor and prevent dumping of sewage sludge outside the site designated by the Administrator under section 102(c) and known as the "106-Mile Ocean Waste Dump Site" (as described in 49 F.R. 19005), and by vessels in transit to that site.

SEC. 1005. PROHIBITION ON DISPOSAL OF SEWAGE SLUDGE AT LANDFILLS ON STATEN ISLAND.

The Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.), as amended by this Act, is amended by inserting after section 104B the following:

New York. 33 USC 1414c.

"SEC. 104C. PROHIBITION ON DISPOSAL OF SEWAGE SLUDGE AT LANDFILLS ON STATEN ISLAND.

"(a) IN GENERAL.—No person shall dispose of sewage sludge at any landfill located on Staten Island, New York.

"(b) EXCLUSION FROM PENALTIES.—

"(1) IN GENERAL.—Subject to paragraph (2), a person who violates this section shall not be subject to any penalty under this Act.

"(2) INJUNCTION.—Paragraph (1) shall not prohibit the bringing of an action for, or the granting of, an injunction under section 105 with respect to a violation of this section.

"(c) DEFINITION.—For purposes of this section, the term 'sewage sludge' has the meaning such term has in section 104B.".

New York. New Jersey.

SEC. 1006. USE OF STATE WATER POLLUTION CONTROL REVOLVING FUND GRANTS FOR DEVELOPING ALTERNATIVE SYSTEMS.

(a) GENERAL REQUIREMENT.—Notwithstanding the provisions of title VI of the Federal Water Pollution Control Act, each of the States of New York and New Jersey shall use 10 percent of the amount of a grant payment made to such State under such title for each of the fiscal years 1990 and 1991 and 10 percent of the State's contribution associated with such grant payment in the 6-month period beginning on the date of receipt of such grant payment for making loans and providing other assistance as described in section 603(d) of the Federal Water Pollution Control Act to any governmental entity in such State which has entered into a compliance agreement or enforcement agreement under section 104B of the Marine Protection, Research, and Sanctuaries Act of 1972 for identi-

fying, developing, and implementing pursuant to such section alternative systems for management of sewage sludge.

(b) LIMITATION.—If, after the last day of the 6-month period beginning on the date of receipt of a grant payment by the State of New York or New Jersey under title VI of the Federal Water Pollution Control Act for each of fiscal years 1990 and 1991, 10 percent of the amount of such grant payment and the State's contribution associated with such grant payment has not been used for providing assistance described in subsection (a) as a result of insufficient applications for such assistance from persons eligible for such assistance, the 10 percent limitations set forth in subsection (a) shall not be applicable with respect to such grant payment and associated State contribution.

SEC. 1007. OCEAN DISCHARGES.

(a) IN GENERAL.—Within 6 months after the date of the enactment of this Act, the Administrator shall transmit to the Congress a report on the implementation of section 403(c) of the Federal Water Pollution Control Act (33 U.S.C. 1343(c)). Reports.

(b) REPORT CONTENTS.—The report under this section shall contain—

(1) an accounting of discharges into the waters of the territorial sea, the contiguous zone, and the ocean, including—

(A) the total number of discharges;

(B) the location, source, volume, and potential environmental effects of each discharge;

(C) the date of original issuance, review, and reissuance of each discharge permit; and

(D) the number of discharges that have been determined by the Administrator to be in compliance with the ocean discharge criteria regulations promulgated pursuant to section 403(c) of the Federal Water Pollution Control Act;

(2) a schedule for implementing section 403(c) of such Act and achieving compliance with guidelines promulgated under such section as expeditiously as practicable, and an estimate of the resources required to meet such schedule; and

(3) recommendations for any additional legislative authorities needed to achieve compliance with such guidelines.

SEC. 1008. CLERICAL AMENDMENT RELATING TO GREAT LAKES WATER QUALITY AGREEMENT OF 1978.

Section 118 of the Federal Water Pollution Control Act (33 U.S.C. 1268) is amended by inserting ", as amended by the Water Quality Agreement of 1987 and any other agreements and amendments," immediately after "the Great Lakes Water Quality Agreement of 1978" each place that term appears.

TITLE II—DESIGNATION OF AREAS FOR PRIORITY CONSIDERATION UNDER NATIONAL ESTUARY PROGRAM

State listing.

SEC. 2001. DESIGNATION OF AREAS.

Section 320(a)(2)(B) of the Federal Water Pollution Control Act is amended— 33 USC 1330.

(1) by inserting "Massachusetts Bay, Massachusetts (including Cape Cod Bay and Boston Harbor);" after "Buzzards Bay, Massachusetts;";

(2) by striking "and" before "Galveston Bay, Texas"; and

(3) by inserting after "Galveston Bay, Texas;" the following: "; Barataria-Terrebonne Bay estuary complex, Louisiana; Indian River Lagoon, Florida; and Peconic Bay, New York".

TITLE III—DUMPING OF MEDICAL WASTE

Subtitle A—Dumping by Public Vessels

United States Public Vessel Medical Waste Anti-Dumping Act of 1988. Safety. 33 USC 2501 note. 33 USC 2501.

SEC. 3101. SHORT TITLE.

This subtitle may be cited as the "United States Public Vessel Medical Waste Anti-Dumping Act of 1988".

SEC. 3102. FINDINGS.

The Congress finds the following:

(1) The washing ashore of potentially infectious medical wastes from public vessels of the United States may pose serious and widespread risks to public health and to the welfare of coastal communities.

(2) Current Federal law provides inadequate protections against the disposal of such wastes from such vessels into ocean waters.

(3) Operators of such vessels must take immediate action to stop disposing of such wastes into ocean waters.

33 USC 2502.

SEC. 3103. DEFINITIONS.

For the purposes of this subtitle:

(1) POTENTIALLY INFECTIOUS MEDICAL WASTE.—The term "potentially infectious medical waste" includes isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes; and other disposable medical equipment and material that may pose a risk to the public health, welfare or the marine environment.

(2) PUBLIC VESSEL.—The term "public vessel" means a vessel of any type whatsoever (including hydrofoils, air-cushion vehicles, submersibles, floating craft whether propelled or not, and fixed or floating platforms) that is owned, or demise chartered, and operated by the United States Government, and is not engaged in commercial service.

33 USC 2503.

SEC. 3104. PROHIBITION.

After 6 months after the date of the enactment of this Act, no public vessel shall dispose of potentially infectious medical waste into ocean waters unless—

(1)(A) the health or safety of individuals on board the vessel is threatened; or

(B) during time of war or a declared national emergency;

(2) the waste is disposed of beyond 50 nautical miles from the nearest land; and

(3)(A) in the case of a public vessel which is not a submersible, the waste is sterilized, properly packaged, and sufficiently

weighted to prevent the waste from coming ashore after disposal; and

(B) in the case of a public vessel which is a submersible, the waste is properly packaged and sufficiently weighted to prevent the waste from coming ashore after disposal.

SEC. 3105. GUIDANCE. 33 USC 2504.

Not later than 3 months after the date of the enactment of this Act, the Secretary of Defense and the head of each affected agency, in consultation with the Administrator of the Environmental Protection Agency, shall each issue guidance for public vessels under the jurisdiction of their agency regarding implementation of section 3104.

Subtitle B—Dumping by Vessels

SEC. 3201. AMENDMENTS TO MARINE PROTECTION, RESEARCH, AND SANCTUARIES ACT OF 1972.

(a) DEFINITION.—Section 3 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1402) is amended—

(1) by redesignating subsection (k) and (l), and any reference thereto, as subsections (l) and (m), respectively; and

(2) by inserting after subsection (j) the following:

"(k) 'Medical waste' means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially contaminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.".

(b) PROHIBITION.—Subsection (a) of section 102 of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1412(a)) is amended in the first sentence—

(1) by striking "biological warfare agents and" and inserting "biological warfare agents,"; and

(2) by inserting "and medical waste," after "radioactive waste,".

(c) CIVIL PENALTIES.—Section 105(a) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415(a)) is amended by inserting after the first sentence the following: "In addition, any person who violates this title or any regulation issued under this title by engaging in activity involving the dumping of medical waste shall be liable for a civil penalty of not more than $125,000 for each violation, to be assessed by the Administrator after written notice and an opportunity for a hearing.".

(d) CRIMINAL PENALTIES AND FORFEITURES.—Section 105(b) of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1415(b)) is amended—

(1) by inserting "(1)" before "In addition"; and

(2) by adding at the end the following:

"(2) In addition to any action which may be brought under subsection (a), any person—

"(A) who knowingly violates any provision of this title by engaging in activity involving the dumping into ocean waters of medical waste shall upon conviction be fined not more than $250,000, or imprisoned for not more than 5 years, or both; and

"(B) convicted of a violation involving such activity shall forfeit to the United States any property constituting or derived from any proceeds the person obtained, directly or indirectly, as a result of such violation, and any of the property of the person which was used, or intended to be used in any manner or part, to commit or to facilitate the commission of the violation.".

SEC. 3202. AMENDMENTS TO FEDERAL WATER POLLUTION CONTROL ACT.

(a) DEFINITION.—Section 502 of the Federal Water Pollution Control Act (33 U.S.C. 1362) is amended by adding at the end the following:

"(20) The term 'medical waste' means isolation wastes; infectious agents; human blood and blood products; pathological wastes; sharps; body parts; contaminated bedding; surgical wastes and potentially contaminated laboratory wastes; dialysis wastes; and such additional medical items as the Administrator shall prescribe by regulation.".

(b) PROHIBITION.—Section 301(f) of the Federal Water Pollution Control Act (33 U.S.C. 1311(f)) is amended by striking "or high-level radioactive waste" and inserting ", any high-level radioactive waste, or any medical waste,".

Shore Protection Act of 1988.

TITLE IV—SHORE PROTECTION ACT OF 1988

33 USC 2601 note.

SEC. 4001. SHORT TITLE.

This title may be cited as the "Shore Protection Act of 1988".

Subtitle A—Shore Protection

33 USC 2601.

SEC. 4101. DEFINITIONS.

In this title—

(1) "Administrator" means the Administrator of the Environmental Protection Agency.

(2) "coastal waters" means—

(A) the territorial sea of the United States;

(B) the Great Lakes and their connecting waters;

(C) the marine and estuarine waters of the United States up to the head of tidal influence; and

(D) the Exclusive Economic Zone as established by Presidential Proclamation Number 5030, dated March 10, 1983.

(3) "municipal or commercial waste" means solid waste (as defined in section 1004 of the Solid Waste Disposal Act (42 U.S.C. 6903)) except—

(A) solid waste identified and listed under section 3001 of the Solid Waste Disposal Act (42 U.S.C. 6921);

(B) waste generated by the vessel during normal operations;

(C) debris solely from construction activities;

(D) sewage sludge subject to regulation under title I of the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.); and

(E) dredged or fill material subject to regulation under title I of the Marine Protection, Research, and Sanctuaries

Act of 1972 (33 U.S.C. 1401 et seq.), the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), or the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401 et seq.).

(4) "person" means an individual, trust, firm, joint stock company, corporation (including a government corporation), partnership, association, State, municipality, commission, political subdivision of a State, or any interstate body.

(5) "receiving facility" means a facility or operation where municipal or commercial waste is unloaded from a vessel.

(6) "United States", when used in a geographic sense, means the States of the United States, Puerto Rico, the District of Columbia, the Virgin Islands, American Samoa, Guam, the Northern Mariana Islands, and any other territory or possession of the United States.

(7) "waste source" means a facility or vessel from which municipal or commercial waste is loaded onto a vessel, including any rolling stock or motor vehicles from which that waste is directly loaded.

SEC. 4102. VESSEL PERMITS AND NUMBERS. 33 USC 2602.

(a) IN GENERAL.—A vessel (except a public vessel as defined in section 2101 of title 46, United States Code) may not transport municipal or commercial waste in coastal waters without—

(1) a permit for that vessel from the Secretary of Transportation; and

(2) displaying a number or other marking on the vessel as prescribed by the Secretary under chapter 123 or section 12502(b) of title 46, United States Code.

(b) PERMIT APPLICATIONS.—Application for a permit required by subsection (a) of this section shall be made by the vessel owner or operator and include—

(1) the name, address, and telephone number of the vessel owner and operator;

(2) the vessel's name and identification number;

(3) the vessel's area of operation;

(4) the vessel's transport capacity;

(5) a history of the types of cargo transported by that vessel during the previous year, including identifying the type of municipal or commercial waste transported as—

(A) municipal waste;

(B) commercial waste;

(C) medical waste; or

(D) waste of another character.

(6) any other information the Secretary may require; and

(7) an acknowledgment.

(c) EFFECTIVE DATE OF PERMITS.—A permit issued under this section—

(1) is effective 30 days after the date on which it was issued;

(2) may be issued only for a period of not more than 5 years after the effective date of the permit;

(3) may be renewed for periods of not more than 5 years only by the vessel owner or operator that applied for the original permit; and

(4) is terminated when the vessel is sold.

(d) DENIAL OF PERMITS.—The Secretary may, or at the request of the Administrator shall, deny the issuance of a permit for any vessel

if the owner or operator of the vessel has a record of a pattern of serious violations of—

(1) this subtitle;

(2) the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.);

(3) the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.);

(4) the Rivers and Harbors Appropriation Act of 1899 (33 U.S.C. 401 et seq.); or

(5) the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.).

(e) PERMIT DECISION.—The Secretary, after consultation with the Administrator, shall issue or deny a vessel permit under this section within 30 days after receiving a complete application. On denying the issuance of the permit for a vessel the Secretary shall—

(1) notify the applicant of the denial and the reasons for the denial; and

(2) provide an opportunity for a hearing on the denial.

(f) MAINTAINING PERMIT.—

(1) IN GENERAL.—The permit issued for a vessel under this title shall be maintained in a manner prescribed by the Secretary.

(2) ENDORSEMENTS.—If a vessel is a documented vessel, the Secretary may endorse a permit on the vessel's certificate of documentation.

(g) VESSEL INFORMATION SYSTEM.—The Secretary may include information in a permit in the vessel information system maintained under chapter 125 of title 46, United States Code.

33 USC 2603.

SEC. 4103. WASTE HANDLING PRACTICES.

(a) IN GENERAL.—

(1) LOADING.—The owner or operator of the waste source shall take all reasonable steps to assure that all municipal or commercial waste is loaded onto a vessel in a manner that assures that waste deposited in coastal waters is minimized.

(2) SECURING.—The owner or operator of a vessel shall assure that all municipal or commercial waste loaded onto the vessel is secured by netting or other means to assure that waste will not be deposited into coastal waters during transport.

(3) OFFLOADING.—The owner or operator of the receiving facility shall take all reasonable steps to assure that any municipal or commercial waste is offloaded from a vessel in a manner that assures that waste deposited into coastal waters is minimized.

(4) CLEANING UP.—The owner or operator of any waste source or receiving facility shall provide adequate control measures to clean up any municipal or commercial waste which is deposited into coastal waters.

(b) REGULATIONS.—The Administrator, in consultation with the Secretary of Transportation, shall prescribe regulations—

(1) requiring that waste sources, receiving facilities, and vessels provide the means and facilities to assure that the waste will not be deposited into coastal waters during loading, offloading, and transport;

Records.

(2) requiring, as appropriate, the submission and adoption by each responsible party of an operation and maintenance manual identifying procedures to be used to prevent, report,

and clean up any deposit of municipal or commercial waste into coastal waters, including record keeping requirements; and

(3) if the Administrator determines that tracking systems are required to assure adequate enforcement of laws preventing the deposit of municipal or commercial waste into coastal waters, requiring installation of the appropriate systems within 18 months after the Administrator makes that determination.

SEC. 4104. SUSPENSION, REVOCATION, AND INJUNCTIONS. 33 USC 2604.

(a) SUSPENSION AND REVOCATION.—After notice and opportunity for a hearing, the Secretary of Transportation may, and at the request of the Administrator shall, suspend or revoke a permit issued to a vessel under this title for a violation of this title or a regulation prescribed under this title.

(b) INJUNCTIONS.—The Secretary or the Administrator may bring a civil action to enjoin any operation in violation of this title or a regulation prescribed under this title in the district court of the United States for the district in which the violation occurred.

SEC. 4105. ENFORCEMENT. 33 USC 2605.

(a) GENERAL AUTHORITY.—The Secretary of Transportation shall enforce this title under section 89 of title 14, United States Code. The Secretary may authorize other officers or employees of the United States Government to enforce this title under that section.

(b) PERIODIC EXAMINATIONS.—The Secretary shall conduct periodic examinations of vessels operating under this title transporting municipal or commercial waste to determine that each of these vessels has a permit issued under section 4102 of this Act.

(c) REFUSAL OF CLEARANCE.—The Secretary of the Treasury may refuse the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91), to any vessel subject to this title which does not have a permit required under section 4102 of this Act.

(d) DENIAL OF ENTRY AND DETENTION.—If a vessel does not comply with this title, the Secretary of Transportation may—

(1) deny entry to any place in the United States; and

(2) detain at the place in the United States from which it is about to depart.

(e) PERSISTENT VIOLATORS.—The Administrator shall conduct an investigation of the owner or operator of a vessel or facility if the owner has 5 or more separate violations during a 6-month period.

SEC. 4106. SUBPENA AUTHORITY. 33 USC 2606.

(a) GENERAL AUTHORITY.—In an investigation under this title, the attendance and testimony of witnesses, including parties in interest, and the production of any evidence may be compelled by subpena. The subpena authority granted by this section is coextensive with that of a district court of the United States, in civil matters, for the district in which the investigation is conducted.

(b) SUBPENA AUTHORITY.—An official designated by the Secretary of Transportation or Administrator to conduct an investigation under this part may issue subpenas as provided in this section and administer oaths to witnesses.

(c) FAILURE TO COMPLY.—When a person fails to obey a subpena issued under this section, the district court of the United States for the district in which the investigation is conducted or in which the person failing to obey is found, shall on proper application issue an Courts, U.S.

order directing that person to comply with the subpena. The court may punish as contempt any disobedience of its order.

(d) WITNESS FEES.—A witness complying with a subpena issued under this section may be paid for actual travel and attendance at the rate provided for witnesses in the district courts of the United States.

33 USC 2607.

SEC. 4107. FEES.

The Secretary of Transportation may collect a fee under section 9701 of title 31, United States Code, of not more than $1,000, from each person to whom a permit is issued under this subtitle for a permitting system and to maintain information.

33 USC 2608.

SEC. 4108. CIVIL PENALTY PROCEDURES.

(a) GENERAL PROCEDURES.—After notice and an opportunity for a hearing, a person found by the Secretary of Transportation to have violated this title or a regulation prescribed under this title for which a civil penalty is provided, is liable to the United States Government for the civil penalty provided. The amount of the civil penalty shall be assessed by the Secretary by written notice. In determining the amount of the penalty, the Secretary shall consider the nature, circumstances, extent, and gravity of the prohibited acts committed and, with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other matters that justice requires.

(b) COMPROMISING PENALTIES.—The Secretary may compromise, modify, or remit, with or without consideration, a civil penalty under this title until the assessment is referred to the Attorney General.

(c) REFERRAL TO THE ATTORNEY GENERAL.—If a person fails to pay an assessment of a civil penalty after it has become final, the Secretary may refer the matter to the Attorney General for collection in an appropriate district court of the United States.

(d) REFUND OF PENALTY.—The Secretary may refund or remit a civil penalty collected under this title if—

(1) application has been made for refund or remission of the penalty within one year from the date of payment; and

(2) the Secretary finds that the penalty was unlawfully, improperly, or excessively imposed.

33 USC 2609.

SEC. 4109. PENALTIES.

(a) GENERAL PENALTY.—Except as provided in subsection (b) of this section, a person violating this title is liable to the United States Government for a civil penalty of not more than $25,000. Each day of a continuing violation is a separate violation. A vessel involved in the violation also is liable in rem for the penalty.

(b) OPERATING WITHOUT A PERMIT.—A person violating section 4102 of this Act is liable to the United States Government for a civil penalty of not more than $10,000. Each day of a continuing violation is a separate violation. A vessel involved in the violation also is liable in rem for the penalty.

(c) CRIMINAL PENALTY.—Any person that knowingly violates, or that knowingly aids, abets, authorizes, or instigates a violation of this title, shall be fined under title 18, United States Code, imprisoned for not more than 3 years, or both.

(d) PAYMENTS FOR INFORMATION.—The court, the Secretary of Transportation, or the Administrator, as the case may be, may pay up to one-half of a fine or penalty to any person giving information leading to the assessment of the fine or penalty.

Subtitle B—Related Provisions

SEC. 4201. STUDY AND RECOMMENDATIONS. 33 USC 2621.

(a) STUDY.—The Administrator, in consultation with the Secretary of Transportation, shall conduct a study to determine the need for, and effectiveness of additional tracking systems for vessels to assure that municipal or commercial waste is not deposited in coastal waters. In conducting this study, the Administrator shall use the data collected from its permitting and enforcement activities under this title. In determining the effectiveness of tracking systems, the Administrator shall rely on the information provided by the Secretary under subsection (b) of this section. The report shall include a recommendation whether additional tracking systems are needed. This study shall be submitted to Congress within 24 months after the date of enactment of this title.

(b) RECOMMENDATIONS.—The Secretary shall provide recommendations to the Administrator concerning the various tracking systems that might be applicable to vessels transporting municipal or commercial waste which the Secretary currently is studying. The Secretary shall consider the relative effectiveness of various systems and the relative costs of the systems both to the United States Government and to the vessel owner.

SEC. 4202. RELATION TO OTHER LAWS. 33 USC 2622.

(a) EFFECT ON FEDERAL AND STATE LAWS.—This title does not affect the application of any other Federal or State law, statutory or common, including the Marine Protection, Research, and Sanctuaries Act of 1972 (33 U.S.C. 1401 et seq.) and the Solid Waste Disposal Act (42 U.S.C. 6901 et seq.).

(b) EFFECT ON FOREIGN VESSELS.—This title shall be carried out with respect to foreign vessels consistent with the obligations of the United States under international law.

33 USC 2623.

SEC. 4203. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated $1,500,000 for each of the fiscal years 1989 and 1990, to carry out this title.

SEC. 4204. APPLICATIONS AND EFFECTIVE DATES.

33 USC 2602 note.

(a) APPLICATIONS.—The Secretary shall make vessel applications for permits to be issued under section 4102 of this Act publicly available within 60 days after the date of enactment of this Act.

33 USC 2602 note.

(b) EFFECTIVE DATE FOR PERMITS.—Section 4102(a) of this Act is effective 240 days after the date of enactment of this Act.

33 USC 2603 note.

(c) EFFECTIVE DATE FOR HANDLING PRACTICES.—Section 4103 of this Act takes effect 60 days after the date of enactment of this Act.

Approved November 18, 1988.

LEGISLATIVE HISTORY—S. 2030 (H.R. 5430):

HOUSE REPORTS: No. 100-1090 (Comm. of Conference).
SENATE REPORTS: No. 100-431 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Aug. 9, considered and passed Senate.
Oct. 3, 4, H.R. 5430 considered and passed House; proceedings vacated and S. 2030, amended, passed in lieu.
Oct. 18, Senate agreed to conference report.
Oct. 19, House agreed to conference report.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 18, Presidential statement.

Public Law 100-689
100th Congress

An Act

To amend title 38, United States Code, to improve the education, home loan guaranty, and other programs of the Veterans' Administration; and for other purposes.

Nov. 18, 1988
[S. 2049]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Veterans' Benefits and Programs Improvement Act of 1988. Armed Forces. 38 USC 101 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Benefits and Programs Improvement Act of 1988".

SEC. 2. REFERENCES TO TITLE 38, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of title 38, United States Code.

TITLE I—EDUCATION PROGRAMS

PART A—PROVISIONS RELATING TO MONTGOMERY GI BILL AND CERTAIN OTHER EDUCATION PROGRAMS

SEC. 101. MONTGOMERY GI BILL DEATH BENEFIT.

(a) IN GENERAL.—Subchapter II of chapter 30 is amended by adding at the end the following new section:

"§ 1417. Death benefit

"(a)(1) In the event of the service-connected death of any individual—

"(A) who—

"(i) is entitled to basic educational assistance under this chapter; or

"(ii) is on active duty in the Armed Forces and but for section 1411(a)(1)(A)(i) or division (i) or (ii) of section 1412(a)(1)(A) of this title would be eligible for such basic educational assistance; and

"(B) who dies while on active duty,

the Administrator shall make a payment, subject to paragraph (2)(B) of this subsection, in the amount described in subsection (b) of this section to the person or persons described in paragraph (2)(A) of this subsection.

"(2)(A) The payment referred to in paragraph (1) of this subsection shall be made to the person or persons first listed below who is surviving on the date of such individual's death:

"(i) The beneficiary or beneficiaries designated by such individual under the individual's Servicemen's Group Life Insurance policy.

"(ii) The surviving spouse of the individual.

"(iii) The surviving child or children of the individual, in equal shares.

"(iv) The surviving parent or parents of the individual, in equal shares.

"(B) If no such person survives such individual, no payment shall be made under this section.

"(b) The amount of any payment made under this section shall be equal to—

"(1) the amount reduced from the individual's pay under section 1411(b), 1412(c), or 1418(c) of this title, less

"(2) the total of—

"(A) the amount of educational assistance that has been paid to the individual under this chapter before the payment is made under this section; and

"(B) the amount of accrued benefits paid or payable with respect to such individual in connection with this chapter.

"(c) A payment under this section shall be considered to be a benefit under this title and, for purposes of section 1435(b)(1), it shall be considered to be an entitlement earned under this subchapter.".

(b) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 30 is amended by adding at the end the following new item:

"1417. Death benefit.".

38 USC 1417 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect as of July 1, 1985.

SEC. 102. MONTGOMERY GI BILL ELIGIBILITY FOR INDIVIDUALS DISCHARGED FOR PRESERVICE MEDICAL CONDITIONS OR DUE TO REDUCTIONS IN FORCE.

(a) IN GENERAL.—Section 1411(a)(1) is amended—

(1) in clauses (A)(ii)(I) and (B)(ii)(I), by inserting after "disability" the following: ", for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected,";

(2) in clauses (A)(ii) and (B)(ii), by striking out ", or (II)" and inserting in lieu thereof "; (II)"; and

Uniformed services.

(3) by inserting before "; or" at the end of clause (A)(ii) and before the semicolon at the end of clause (B)(ii) the following: "; or (III) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy".

(b) CONFORMING AND TECHNICAL AMENDMENTS.—(1)(A) Section 1412(b)(1) is amended to read as follows:

Uniformed services.

"(b)(1)(A) The requirement of two years of service under clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section is not applicable to an individual who is discharged or released, during such two years, from active duty in the Armed Forces (i) for a service-connected disability, (ii) for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected, (iii) for hardship, (iv) in the case of an individual discharged or released after 20 months of such service, for the convenience of the Government, or (v) involuntarily for the convenience of the Government as a result of a reduction in force, as

determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.

"(B) The requirement of four years of service under clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section is not applicable to an individual—

"(i) who, during the two years of service described in clauses (1)(A)(i) and (1)(B)(i) of subsection (a) of this section, was discharged or released from active duty in the Armed Forces for a service-connected disability or for a medical condition which preexisted such service on active duty and which the Administrator determines is not service connected, if the individual was obligated, at the beginning of such two years of service, to serve such four years of service; or

"(ii) who, during the four years of service described in clauses (1)(A)(ii) and (1)(B)(ii) of subsection (a) of this section, is discharged or released from service in the Selected Reserve (I) for a service-connected disability, (II) for a medical condition which preexisted the individual's becoming a member of the Selected Reserve and which the Administrator determines is not service connected, (III) for hardship, (IV) in the case of an individual discharged or released after 30 months of such service, for the convenience of the Government, or (V) involuntarily for the convenience of the Government as a result of a reduction in force, as determined by the Secretary of the military department concerned in accordance with regulations prescribed by the Secretary of Defense or by the Secretary of Transportation with respect to the Coast Guard when it is not operating as a service in the Navy.".

(B) Paragraphs (1)(A)(i) and (1)(B)(i) of section 1412(a) are each amended by inserting ", subject to subsection (b) of this section," after "Forces".

(2) Section 1413(a)(2) is amended by inserting "or (III)" after "section 1411(a)(1)(A)(ii)(I)" and after "section 1411(a)(1)(B)(ii)(I)" the first place each appears.

(3) Clause (F) of section 3103A(b)(3) is amended to read as follows:

"(F) to benefits under chapter 30 of this title by reason of—

"(i) a discharge or release from active duty for the convenience of the Government, as described in sections 1411(a)(1)(A)(ii)(II) and 1412(b)(1)(A)(iv) of this title;

"(ii) a discharge or release from active duty for a medical condition which preexisted service on active duty and which the Administrator determines is not service connected, as described in clauses (A)(ii)(I) and (B)(ii)(I) of section 1411(a)(1) of this title and in section 1412(b)(1)(A)(ii) of this title; or

"(iii) an involuntary discharge or release from active duty for the convenience of the Government as a result of a reduction in force, as described in clauses (A)(ii)(III) and (B)(ii)(III) of section 1411(a)(1) of this title and in section 1412(b)(1)(A)(v) of this title.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect— 38 USC 1411 note.

(1) as of July 1, 1985, with respect to individuals discharged or released for a medical condition which preexisted service on

active duty or in the Selected Reserve and which the Administrator determines is not service connected; and

(2) as of October 1, 1987, with respect to individuals involuntarily discharged or released for the convenience of the Government as a result of a reduction in force.

SEC. 103. OPPORTUNITY FOR MONTGOMERY GI BILL ENROLLMENT FOR CERTAIN ACTIVE-DUTY NONPARTICIPANTS.

(a) IN GENERAL.—Subchapter II of chapter 30 is amended by adding at the end the following new section (after the section added by section 101(a) of this Act):

"§ 1418. Opportunity for certain active-duty personnel to withdraw election not to enroll

"(a) Notwithstanding any other provision of this chapter, during the period beginning December 1, 1988, and ending June 30, 1989 (hereinafter in this section referred to as the 'open period'), an individual who—

"(1) first became a member of the Armed Forces or first entered on active duty as a member of the Armed Forces during the period beginning July 1, 1985, and ending June 30, 1988;

"(2) has continuously served on active duty without a break in service since the date the individual first became such a member or first entered on active duty as such a member; and

"(3) is serving on active duty during the open period,

shall have the opportunity, in accordance with this section and on such form as the Secretary shall prescribe, to withdraw an election made under section 1411(c)(1) or 1412(d)(1) of this title not to receive educational assistance under this chapter.

"(b) An individual described in clauses (1) through (3) of subsection (a) of this section who made an election under section 1411(c)(1) or 1412(d)(1) of this title and who—

"(1) while serving on active duty during the open period, makes a withdrawal of such an election;

"(2) continues to serve the period of service which, at the beginning of the open period, such individual was obligated to serve;

"(3)(A) serves the obligated period of service described in clause (2) of this subsection;

"(B) before completing such obligated period of service, is discharged or released from active duty for (i) a service-connected disability, (ii) a medical condition which preexisted such service and which the Administrator determines is not service connected, or (iii) hardship; or

"(C) before completing such obligated period of service, is (i) discharged or released from active duty for the convenience of the Government after completing not less than 20 months of such period of service, if such period was less than three years, or 30 months, if such period was at least three years, or (ii) involuntarily discharged or released from active duty for the convenience of the Government as a result of a reduction in force, as determined by the Secretary concerned in accordance with regulations prescribed by the Secretary of Defense;

"(4) before completing such obligated period of service, has completed the requirements of a secondary school diploma (or an equivalency certificate); and

"(5) upon completion of such obligated period of service—

"(A) is discharged from service with an honorable discharge, is placed on the retired list, is transferred to the Fleet Reserve or Fleet Marine Corps Reserve, or is placed on the temporary disability retired list;

"(B) continues on active duty; or

"(C) is released from active duty for further service in a reserve component of the Armed Forces after service on active duty characterized by the Secretary concerned as honorable service,

is entitled to basic educational assistance under this chapter.

"(c) The basic pay of an individual withdrawing, under subsection (b)(1) of this section, an election under section 1411(c)(1) or 1412(d)(1) of this title shall be reduced by—

"(1) $1,200; or

"(2) in the case of an individual described in clause (B) or (C) of subsection (b)(3) of this section whose discharge or release from active duty prevents the reduction of the basic pay of such individual by $1,200, an amount less than $1,200.

"(d) A withdrawal under subsection (b)(1) of this section is irrevocable.".

(b) CONFORMING AMENDMENTS.—(1) The second sentence of section 1411(b) and of section 1412(c) are each amended by striking out "subsection" and inserting in lieu thereof "chapter".

(2) Section 1413 is amended—

(A) by redesignating subsection (c) as subsection (d); and

(B) by inserting after subsection (b) the following new subsection:

"(c)(1) Subject to section 1795 of this title and except as provided in paragraph (2) of this subsection, each individual entitled to basic educational assistance under section 1418 of this title is entitled to 36 months of educational assistance under this chapter (or the equivalent thereof in part-time educational assistance).

"(2) Subject to section 1795 of this title, an individual described in clause (B) or (C) of section 1418(b)(3) of this title whose discharge or release from active duty prevents the reduction of the basic pay of such individual by $1,200 is entitled to the number of months of assistance under this chapter that is equal to the lesser of—

"(A) 36 multiplied by a fraction the numerator of which is the amount by which the basic pay of the individual has been reduced under section 1418(c) and the denominator of which is $1,200; or

"(B) the number of months the individual has served on continuous active duty after June 30, 1985.".

(3) Section 1415(b) is amended by inserting "or 1418" after "section 1411".

(4) Section 1416 is amended by adding at the end the following new subsection:

"(c) A member of the Armed Forces who—

"(1) completes at least two years of service on active duty after June 30, 1985;

"(2) after such service continues on active duty without a break in service; and

"(3) but for section 1418(b)(3)(A) of this title would be entitled to basic educational assistance under this chapter,

may receive such assistance for enrollment in an approved program of education while continuing to perform the service described in section 1418(b)(2) of this title.".

(5) Section 1421 is amended—

(A) in subsection (a) in the matter preceding clause (1), by inserting "or 1418" after "section 1411"; and

(B) in subsection (b) in the matter preceding clause (1), by inserting "or 1418" after "section 1412".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter II of chapter 30 is amended by adding the following new item (after the item added by section 101(b) of this Act):

"1418. Opportunity for certain active-duty personnel to withdraw election not to enroll.".

SEC. 104. MONTGOMERY GI BILL SECONDARY SCHOOL DIPLOMA REQUIREMENTS.

(a) ACTIVE DUTY PARTICIPANTS.—Clause (2) of section 1411(a) is amended to read as follows:

"(2) who completed the requirements of a secondary school diploma (or equivalency certificate) not later than—

"(A) the original ending date of the individual's initial obligated period of active duty in the case of an individual described in clause (1)(A) of this subsection, regardless of whether the individual is discharged or released from active duty on such date; or

"(B) December 31, 1989, in the case of an individual described in clause (1)(B) of this subsection;

except that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree; and".

(b) SELECTED RESERVE PARTICIPANTS.—Section 1412(a)(2) is amended—

(1) by striking out "received" and inserting in lieu thereof "completed the requirements of"; and

(2) by inserting the following before the semicolon: ", except that an individual described in clause (1)(B) of this subsection may meet the requirement of this clause by having successfully completed the equivalent of 12 semester hours in a program of education leading to a standard college degree".

SEC. 105. CHOICE OF MONTGOMERY GI BILL BENEFITS FOR CERTAIN RESERVISTS.

Section 1412 is amended by adding at the end the following new subsection:

"(e)(1) An individual described in subclause (I) or (III) of subsection (b)(1)(B)(ii) of this section may elect entitlement to basic educational assistance under section 1411 of this title, based on an initial obligated period of active duty of two years, in lieu of entitlement to assistance under this section.

"(2) An individual who makes the election described in paragraph (1) of this subsection shall, for all purposes of this chapter, be considered entitled to educational assistance under section 1411 of this title and not under this section. Such an election is irrevocable.".

SEC. 106. REFRESHER, REMEDIAL, AND DEFICIENCY COURSES.

(a) MONTGOMERY GI BILL ACTIVE DUTY PROGRAM.—Subsection (a) of section 1434 is amended—

(1) by inserting "(1)" before "Except";

(2) by designating the second sentence as paragraph (2) thereof;

(3) in paragraph (2) (as so designated), by striking out "those provisions" and inserting in lieu thereof "the provisions of the sections enumerated in paragraph (1) of this subsection"; and

(4) by adding at the end the following new paragraph:

"(3) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is 'already qualified', and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education.". Regulations.

(b) POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—Section 1641 is amended—

(1) in subsection (a), by—

(A) by inserting "(1)" after "(a)"; and

(B) by adding at the end the following new paragraph:

"(2) The Administrator may, without regard to the application to this chapter of so much of the provisions of section 1671 of this title as prohibit the enrollment of an eligible veteran in a program of education in which the veteran is 'already qualified', and pursuant to such regulations as the Administrator shall prescribe, approve the enrollment of such individual in refresher courses (including courses which will permit such individual to update knowledge and skills or be instructed in the technological advances which have occurred in the individual's field of employment), deficiency courses, or other preparatory or special education or training courses necessary to enable the individual to pursue an approved program of education."; and Regulations.

(2) in subsection (b), by striking out "1691(a)(1)" and inserting in lieu thereof "1691(a) (other than clause (1))".

(c) SURVIVORS' AND DEPENDENTS' EDUCATIONAL ASSISTANCE PROGRAM.—Subsection (a) of section 1733 is amended to read as follows:

"(a)(1) Any eligible person shall be entitled to the benefits provided an eligible veteran (with no dependents) under section 1691 (if pursued in a State) of this title.

"(2) Educational assistance under this chapter for the first five months of full-time pursuit of a program (or the equivalent thereof in part-time educational assistance) consisting of such course or courses shall be provided without charge to entitlement.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on August 15, 1989. 38 USC 1434 note.

SEC. 107. TUTORIAL ASSISTANCE.

(a) ASSISTANCE UNDER THE MONTGOMERY GI BILL FOR ACTIVE-DUTY PARTICIPANTS.—(1) Subchapter II of chapter 30 is amended by adding at the end the following new section (after the section added by section 103(a) of this Act):

"§ 1419. Tutorial assistance

"(a) An individual entitled to an educational assistance allowance under this chapter shall also be entitled to benefits provided an eligible veteran under section 1692 of this title, subject to the conditions applicable to an eligible veteran under such section.

"(b) The amount of such benefits payable under this section may not exceed $100 per month, for a maximum of twelve months, or until a maximum of $1,200 is utilized. This amount is in addition to the amount of educational assistance allowance payable to the individual under this chapter.

"(c)(1) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of tutorial assistance paid to the individual under this section in excess of $600.

"(2) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of the monthly educational assistance allowance which the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.".

(2) Section 1435 is amended by adding at the end the following:

"(e) Payments for tutorial assistance benefits under section 1419 of this title shall be made—

"(1) in the case of the first $600 of such benefits paid to an individual, from funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits; and

"(2) in the case of payments to an individual for such benefits in excess of $600, from—

"(A) funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits;

"(B) the Department of Defense Education Benefits Fund established under section 2006 of title 10; and

"(C) funds appropriated to the Department of Transportation,

in the same proportion as the Fund described in subclause (B) of this clause and the funds described in subclause (A) or (C) of this clause are used to pay the educational assistance allowance to the individual under this chapter.".

(3) The table of sections for subchapter II of chapter 30 is amended by adding the following new item (after the item added by section 103(c) of this Act):

"1419. Tutorial assistance.".

(b) POST-VIETNAM ERA EDUCATIONAL ASSISTANCE PROGRAM.—(1) Subchapter III of chapter 32 is amended by inserting after section 1633 the following new section:

"§ 1634. Tutorial assistance

"(a) An individual entitled to benefits under this chapter shall also be entitled to the benefits provided an eligible veteran under section 1692 of this title, subject to the conditions applicable to an eligible veteran under such section. Any amount paid to an individual under this section shall be in addition to the amount of other benefits paid under this chapter.

"(b) An individual's period of entitlement to educational assistance under this chapter shall be charged only with respect to the amount of educational assistance paid to the individual under this section in excess of $600.

"(c) An individual's period of entitlement to educational assistance under this chapter shall be charged at the rate of one month for each amount of assistance paid to the individual under this section in excess of $600 that is equal to the amount of monthly educational assistance the individual is otherwise eligible to receive for full-time pursuit of an institutional course under this chapter.

"(d) Payments of benefits under this section shall be made—

"(1) in the case of the first $600 of such benefits paid to an individual, from funds appropriated, or otherwise available, to the Veterans' Administration for the payment of readjustment benefits; and

"(2) in the case of payments to an individual for such benefits in excess of $600, from the fund from contributions made to the fund by the veteran and by the Secretary of Defense in the same proportion as these contributions are used to pay other educational assistance to the individual under this chapter.".

(2) The table of sections for subchapter III of chapter 32 is amended by inserting after the item relating to section 1633 the following new item:

"1634. Tutorial assistance.".

(c) INCREASE IN MAXIMUM TUTORIAL ASSISTANCE PAYMENTS.—(1) Section 1692(b) is amended by striking out "$84" and "$1,008" and inserting in lieu thereof "$100" and "$1,200", respectively.

(2)(A) The heading of section 1692 is amended to read as follows:

"§ 1692. Tutorial assistance".

(B) The item relating to section 1692 in the table of sections at the beginning of chapter 34 is amended to read as follows:

"1692. Tutorial assistance.".

SEC. 108. COOPERATIVE TRAINING.

(a) MONTGOMERY GI BILL.—(1) Section 1402(3)(B) is amended—

(A) by inserting "(i)" before "a full-time"; and

(B) by inserting before the period at the end ", and (ii) a cooperative program (as defined in section 1682(a)(2) of this title)".

(2) Section 1432 is amended by adding at the end the following new subsection:

"(d)(1) The amount of the monthly educational assistance allowance payable to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly allowance otherwise payable to such individual under section 1415 and section 1422, if applicable, of this title.

"(2) For each month that an individual is paid a monthly educational assistance allowance for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate of 80 percent of a month.".

(b) POST-VIETNAM-ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.—(1) Section 1602(2)(B) is amended—

(A) by inserting "(i)" after "includes"; and

(B) by inserting after "of this title " the following: ", and (ii) in the case of an individual who is not serving on active duty, a

cooperative program (as defined in section 1682(a)(2) of this title)".

(2) Section 1631 is amended by adding at the end the following new subsection:

"(d)(1) The amount of the monthly benefit payment to an individual pursuing a cooperative program under this chapter shall be 80 percent of the monthly benefit otherwise payable to such individual (computed on the basis of the formula provided in subsection (a)(2) of this section).

"(2) For each month that an individual is paid a monthly benefit payment for pursuit of a cooperative program under this chapter, the individual's entitlement under this chapter shall be charged at the rate 80 percent of a month.".

38 USC 1402 note.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 1989.

SEC. 109. EXTENSION OF DELIMITING PERIODS BY REASON OF ALCOHOL CONDITIONS.

Section 105 is amended by adding at the end the following new subsection:

"(c) For the purposes of any provision relating to the extension of a delimiting period under any education-benefit or rehabilitation program administered by the Veterans' Administration, the disabling effects of chronic alcoholism shall not be considered to be the result of willful misconduct.".

SEC. 110. MONTGOMERY GI BILL SELECTED RESERVE PROGRAM.

(a) PAYMENT FOR LESS THAN HALF-TIME PURSUIT OF A PROGRAM OF EDUCATION.—Section 2131(b) of title 10, United States Code, is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of clause (3) and inserting in lieu thereof "; and"; and

(3) by inserting at the end the following new clause:

Regulations.

"(4) an appropriately reduced rate, as determined under regulations which the Administrator of Veterans' Affairs shall prescribe, for each month of less than half-time pursuit of a program of education, except that no payment may be made to a person for less than half-time pursuit if tuition assistance is otherwise available to the person for such pursuit from the military department concerned.".

(b) TIME OF ELIGIBILITY.—Section 2132(b) of such title is amended to read as follows:

"(b) Educational assistance may not be provided to a member under this chapter until the member has completed the initial period of active duty for training required of the member.".

SEC. 111. TECHNICAL AMENDMENTS.

(a) TITLE 38 AMENDMENTS.—Title 38 is amended as follows:

(1) Section 1402(3)(B) is amended by striking out "includes" and inserting in lieu thereof "in the case of an individual who is not serving on active duty, includes".

(2)(A) Section 1411(a)(1)(A)(i)(I) is amended by inserting ", as the individual's initial obligated period of active duty," after "serves".

(B) Section 1412(a)(1)(A)(i) is amended by inserting ", as the individual's initial obligated period of active duty," after "serves".

(3) Section 1411 is amended by adding the following new subsection at the end:

"(d)(1) For purposes of this chapter, any period of service described in paragraph (2) of this subsection shall not be considered a part of an individual's initial obligated period of active duty.

"(2) The period of service referred to in paragraph (1) is any period terminated because of a defective enlistment and induction based on—

"(A) the individual's being a minor for purposes of service in the Armed Forces;

"(B) an erroneous enlistment or induction; or

"(C) a defective enlistment agreement.".

(4) Section 1413 is amended—

(A) in subsection (a)(2)—

(i) by striking out "In" and inserting in lieu thereof "Subject to section 1795 of this title and subsection (c) of this section, in"; and

(ii) by striking out "active duty" and all that follows through the period and inserting in lieu thereof "continuous active duty served by such individual after June 30, 1985, as part of the individual's initial obligated period of active duty in the case of an individual described in section 1411(a)(1)(B)(ii) (I) or (III) of this title, or in the case of an individual described in section 1411(a)(1)(B)(ii) (I) or (III) of this title, after June 30, 1985."; and

(B) in subsection (b)(1), by striking out "active duty" and all that follows through "title, and" and inserting in lieu thereof "continuous active duty served by such individual after June 30, 1985, as part of the individual's initial obligated period of active duty in the case of an individual described in section 1412(a)(1)(A) of this title, or in the case of an individual described in section 1412(a)(1)(B) of this title, after June 30, 1985, and".

(5)(A) Section 1415(a) is amended by striking out "Subject" and all that follows through "except" and inserting in lieu thereof "The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except".

(B) Section 1422(a) is amended by striking out "Subject" and all that follows through "except" and inserting in lieu thereof "The amount of payment of educational assistance under this chapter is subject to section 1432 of this title. Except".

(6) Section 1431(a) is amended by striking out "beginning on" and all that follows through the period and inserting in lieu thereof the following: "beginning on the date of such individual's last discharge or release from active duty, except that such 10-year period shall begin—

"(1) in the case of an individual who becomes entitled to such assistance under clause (A) or (B) of section 1412(a)(1) of this title, on the later of the date of such individual's last discharge or release from active duty or the date on which the four-year requirement described in clause (A)(ii) or (B)(ii), respectively, of such section 1412(a)(1) is met; and

"(2) in the case of an individual who becomes entitled to such assistance under section 1411(a)(1)(B), on the later of the date of such individual's last discharge or release from active duty or January 1, 1990.".

(7)(A) Section 1432 is amended by adding at the end the following new subsection (after the subsection added by section 108(a)(2) of this Act):

Contracts.

"(e)(1)(A) The amount of the educational assistance allowance payable under this chapter to an individual who enters into an agreement to pursue, and is pursuing, a program of education exclusively by correspondence is an amount equal to 55 percent of the established charge which the institution requires nonveterans to pay for the course or courses pursued by such individual.

"(B) For purposes of this paragraph, the term 'established charge' means the lesser of—

"(i) the charge for the course or courses determined on the basis of the lowest extended time payment plan offered by the institution and approved by the appropriate State approving agency; or

"(ii) the actual charge to the individual for such course or courses.

"(2) Such allowance shall be paid quarterly on a pro rata basis for the lessons completed by the individual and serviced by the institution.

"(3) In each case in which the rate of payment to an individual is determined under paragraph (1) of this subsection, the period of entitlement of such individual under this chapter shall be charged at the rate of one month for each payment of educational assistance to the individual that is equal to the amount of monthly educational assistance the individual would otherwise be eligible to receive for full-time pursuit of an institutional course under this chapter.".

(B) Section 1434 (as amended by section 106(a) of this Act) is amended—

(i) in subsection (a)(1), by inserting "1786(a)," after "1780(g),";

(ii) by striking out subsection (c); and

(iii) by redesignating subsection (d) as subsection (c).

(8) Section 1432(c)(3) is amended—

(A) by striking out "For" and inserting in lieu thereof "(A) Except as provided in subparagraph (B) of this paragraph, for";

(B) by redesignating clauses (A), (B), and (C) as clauses (i), (ii), and (iii), respectively; and

(C) by adding at the end the following new subparagraph:

"(B) Any such charge to the individual's entitlement shall be reduced proportionately in accordance with the reduction in payment under paragraph (2) of this subsection.".

(9) Section 1673(d) is amended—

(A) by inserting "or under chapter 106 of title 10" before the period at the end of the first sentence; and

(B) by inserting "or under chapter 106 of title 10" after "of this title" in the third sentence.

(b) CHAPTER 106 AMENDMENTS.—Chapter 106 of title 10, United States Code, is amended as follows:

(1) Section 2131(c)(2) is amended by inserting before the period at the end the following: "(or the equivalent thereof in part-time educational assistance)".

(2) Section 2132(a)(2) is amended—

(A) by striking out "received" and inserting in lieu thereof "completed the requirements of"; and

(B) by inserting before the semicolon the following: ", or in the case of an individual who reenlists or extends an enlistment as described in paragraph (1)(A) of this subsection, has completed such requirements at any time before such reenlistment or extension".

(3) Section 2132(c) is amended by adding the following sentence at the end: "At the request of the Administrator of Veterans' Affairs, the Secretary of Defense shall transmit a notice of entitlement for each such person to the Administrator.".

(4) Section 2132(d) is amended to read as follows:

"(d) An individual who serves in the Selected Reserve may not receive credit for such service under both the program established by chapter 30 of title 38 and the program established by this chapter but shall elect (in such form and manner as the Administrator of Veterans' Affairs may prescribe) the program to which such service is to be credited.".

(5) Section 2133 is amended—

(A) in subsection (a), by striking out "section" and inserting in lieu thereof "chapter";

(B) in subsection (b), by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and by adding as paragraph (1) the following new paragraph:

"(b)(1) In the case of a person separated from the Selected Reserve because of a disability which was not the result of the individual's own willful misconduct incurred on or after the date on which such person became entitled to educational assistance under this chapter, the period for using entitlement prescribed by subsection (a) shall be determined without regard to clause (2) of such subsection."; and

(C) in paragraph (2) of subsection (b), as redesignated by subparagraph (B) of this paragraph, strike out "1431(e)" and insert in lieu thereof "1431(f)".

(6) Section 2135 is amended—

(A) in subsection (a)(1), by inserting ", and during which the member has received such assistance," after "chapter"; and

(B) by striking out clause (A) of subsection (b)(1) and inserting in lieu thereof the following:

"(A) the number of months of obligated service the person has remaining under the agreement entered into under section 2131(a) of this title divided by the original number of months of such obligation; and".

PART B—ADMINISTRATIVE AND MISCELLANEOUS PROVISIONS

SEC. 121. COURSE WITHDRAWALS.

(a) IN GENERAL.—Section 1780(a)(4) is amended by inserting after "circumstances" the following: ", except that, in the first instance of withdrawal by an eligible veteran or person from a course or courses with respect to which such veteran or person has been paid assistance under this title, mitigating circumstances shall be considered to exist with respect to courses totaling not more than six semester hours or the equivalent thereof".

38 USC 1780 note.

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply so as to require that mitigating circumstances be considered to exist only with respect to withdrawals from a course or courses being pursued with assistance under title 38, United States Code, that occur on or after June 1, 1989.

SEC. 122. EDUCATIONAL ASSISTANCE FOR CERTAIN INCARCERATED VETERANS UNDER THE POST-VIETNAM ERA VETERANS' EDUCATIONAL ASSISTANCE PROGRAM.

Section 1631 is amended by adding at the end the following new subsection (after the subsection added by section 108(b)(2) of this Act):

Regulations.

"(e)(1) Subject to the provisions of paragraph (2) of this subsection, the amount of the educational assistance benefits paid to an eligible veteran who is pursuing a program of education under this chapter while incarcerated in a Federal, State, or local penal institution for conviction of a felony may not exceed the lesser of (A) such amount as the Administrator determines, in accordance with regulations which the Administrator shall prescribe, is necessary to cover the cost of established charges for tuition and fees required of similarly circumstanced nonveterans enrolled in the same program and the cost of necessary supplies, books, and equipment, or (B) the applicable monthly benefit payment otherwise prescribed in this section or section 1633 of this title. The amount of the educational assistance benefits payable to a veteran while so incarcerated shall be reduced to the extent that the tuition and fees of the veteran for any course are paid under any Federal program (other than a program administered by the Administrator) or under any State or local program.

"(2) Paragraph (1) of this subsection shall not apply in the case of any veteran who is pursuing a program of education under this chapter while residing in a halfway house or participating in a work-release program in connection with such veteran's conviction of a felony.".

SEC. 123. VETERANS' ADVISORY COMMITTEE ON EDUCATION.

Section 1792(c) is amended by striking out "December 31, 1989" and inserting in lieu thereof "December 31, 1993".

SEC. 124. REPEAL OF EXPIRED PROGRAM OF ACCELERATED-PAYMENT LOANS.

(a) REPEAL.—Sections 1682A, 1686, 1737, and 1738 are repealed.

(b) CONFORMING AMENDMENTS.—Section 1798 is amended—

(1) by striking out "or person" each place it appears;

(2) in subsection (a)(1)—

(A) by striking out "and eligible person"; and

(B) by inserting "(if the program of education is pursued in a State)" after "subchapter";

(3) in subsection (b)—

(A) in paragraph (1), by striking out "or eligible person"; and

(B) in paragraph (3), by striking out "or subchapter II of chapter 35, respectively,";

(4) in subsection (e)—

(A) in paragraph (2), by striking out "or person's"; and

(B) by amending paragraph (3)(B) to read as follows:

"(B) data regarding the default experience and default rate with respect to loans made under this section.";

(5) in subsection (f)—

(A) by striking out paragraphs (1) and (3); and

(B) by striking out "(2)"; and

(6) in subsection (g)(2)(A)—

(A) in the first sentence, by striking out "and eligible persons"; and

(B) in the second sentence, by striking out "or eligible person".

(c) CLERICAL AMENDMENTS.—

(1) The table of sections at the beginning of chapter 34 is amended by striking out the items relating to sections 1682A and 1686.

(2) The table of sections at the beginning of chapter 35 is amended by striking out the items relating to sections 1737 and 1738.

(3) The table of sections at the beginning of chapter 36 is amended by striking out the heading relating to subchapter III and inserting in lieu thereof the following:

"SUBCHAPTER III—EDUCATION LOANS".

(4) Chapter 36 is amended by striking out the heading for subchapter III and inserting in lieu thereof the following:

"SUBCHAPTER III—EDUCATION LOANS".

TITLE II—REHABILITATION FOR VETERANS WITH SERVICE-CONNECTED DISABILITIES

SEC. 201. TRAINING AND WORK EXPERIENCE WITHOUT PAY IN STATE AND LOCAL GOVERNMENT AGENCIES.

Section 1515 is amended—

(1) in subsection (a)(1), by inserting ", or of any State or local government agency receiving Federal financial assistance," after "Administration)".

(2) in subsection (b)—

(A) in paragraph (1), by inserting "at a Federal agency" after "section"; and

(B) by striking out paragraph (3) and inserting in lieu thereof:

"(3) Use of the facilities of a State or local government agency under subsection (a)(1) of this section or use of facilities and services under subsection (a)(4) of this section, shall be procured through contract, agreement, or other cooperative arrangement. Contracts.

"(4) The Administrator shall prescribe regulations providing for the monitoring of training and work experiences provided under such subsection (a)(1) at State or local government agencies and otherwise ensuring that such training or work experience is in the best interest of the veteran and the Federal Government.". Regulations.

SEC. 202. USE OF FOR-PROFIT ORGANIZATIONS FOR EMPLOYMENT ASSISTANCE AND INDEPENDENT LIVING PROGRAMS.

(a) EMPLOYMENT ASSISTANCE.—Section 1517(a)(2)(C) is amended—

(1) by striking out "and" at the end of subclause (iii); and

(2) by inserting before the period at the end ", and (v) any for-profit entity in a case in which the Administrator has deter-

mined that services necessary to provide such assistance are available from such entity and that comparably effective services are not available, or cannot be obtained cost-effectively, from the entities described in subclauses (i) through (iv) of this clause.".

(b) INDEPENDENT LIVING PROGRAMS.—Section 1520(a) is amended—

(1) in paragraph (1), by striking out "public" and all that follows through "organizations" and inserting in lieu thereof "entities described in paragraph (7) of this subsection"; and

(2) by adding at the end the following new paragraph:

"(7) Entities described in this paragraph are (A) public or nonprofit agencies or organizations, and (B) for-profit entities in cases in which the Administrator determines that services comparable in effectiveness to services available from such an entity are not available, or cannot be obtained cost-effectively from, public or nonprofit agencies or through facilities of the Department of Medicine and Surgery.".

TITLE III—HOME LOAN GUARANTY PROGRAM

SEC. 301. INTEREST RATE REQUIREMENTS FOR VENDEE LOANS.

Section 1833(a) is amended by adding at the end the following new paragraph:

Real property.

"(7) The Administrator shall make a loan to finance the sale of real property described in paragraph (1) of this subsection at an interest rate that is lower than the prevailing mortgage market interest rate in areas where, and to the extent, the Administrator determines, in light of prevailing conditions in the real estate market involved, that such lower interest rate is necessary in order to market the property competitively and is in the interest of the long-term stability and solvency of the Veterans' Administration Loan Guaranty Revolving Fund established by section 1824(a) of this title.".

SEC. 302. CREDITWORTHINESS DETERMINATIONS AND FEES WITH RESPECT TO ASSUMPTIONS OF VENDEE LOANS.

Section 1814 is amended—

(1) in subsection (a)(1), in the matter preceding clause (A)—

(A) by striking out "If" and inserting in lieu thereof "Except as provided in subsection (f) of this section, if"; and

(B) by striking out "guaranteed, insured, or direct housing loan obtained by a veteran" and inserting in lieu thereof "loan guaranteed, insured, or made"; and

(2) by striking out subsection (f) and inserting in lieu thereof the following:

"(f)(1) This section shall apply—

"(A) in the case of loans other than loans to finance the purchase of real property described in section 1833(a)(1) of this title, only to loans for which commitments are made on or after March 1, 1988; and

"(B) in the case of loans to finance the purchase of such property, only to loans which are closed more than 45 days after the date of the enactment of the Veterans' Benefits and Programs Improvement Act of 1988.

"(2) This section shall not apply to a loan which the Administrator has sold without recourse.".

SEC. 303. AUTHORITY FOR INCREASED PROCUREMENT OF SERVICES THROUGH THE LOAN GUARANTY REVOLVING FUND.

Section 1824 is amended by adding at the end the following new subsection:

"(e)(1) Notwithstanding subsection (b) of this section, the Fund shall be available to the Administrator, to such extent as is or in such amounts as are provided for in appropriation Acts and subject to paragraph (3) of this subsection, for—

"(A) contracts for the performance of such supplementary services described in paragraph (2) of this subsection for which the Administrator is otherwise authorized to contract; and

"(B) the acquisition of such supplementary equipment described in such paragraph,

(not including services or equipment for which the Fund is available under subsection (b) of this section), as the Administrator determines would assist in ensuring the long-term stability and solvency of the Fund.

"(2) The supplementary services and equipment referred to in paragraph (1) of this subsection are services or equipment not performed or available during fiscal year 1988, or services in excess of the level of such services performed during fiscal year 1988, and may include, among other things, the services of—

"(A) appraisers to review appraisal reports and issue certificates of reasonable value;

"(B) loan-servicing companies and individuals to perform personal supplemental servicing of loans guaranteed, insured, or made under this chapter;

"(C) accounting firms to conduct on-site audits of lenders making such loans and to review lender submissions regarding such loans;

"(D) real estate brokers to promote the sale of real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter; Real property.

"(E) contractors to review loan documents in order to achieve compliance with Veterans' Administration requirements under this chapter and to issue guaranty certifications;

"(F) contractors to list for sale in local newspapers real property acquired by the Administrator as the result of a default on a loan guaranteed, insured, or made under this chapter; Real property.

"(G) contractors to prepare closing documents and review them after closing; and

"(H) contractors to provide automated data processing equipment, supplies, services, and software for carrying out the program administered under this chapter.

"(3) The Administrator may not in any fiscal year obligate more than $25,000,000 for services or equipment under this subsection.".

TITLE IV—EMPLOYMENT

SEC. 401. VETERANS PREFERENCE WITHIN LOCAL HIRE OF ALASKA CONSERVATION SYSTEM UNITS.

Section 1308 of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3198) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) PREFERENCE ELIGIBLES WITHIN LOCAL HIRE.—Notwithstanding the provisions of subsection (a), any individual who is eligible to be selected for a position under the provisions of subsection (a) and is a preference eligible as defined in section 2108(3) of title 5, United States Code, shall be given an employment preference, consistent with the preference in the competitive service as defined in section 2102 of such title for which such person is eligible under subchapter I of chapter 33 of such title, in selection to such position.".

29 USC 1721 note.

SEC. 402. COORDINATION OF INFORMATION AND ASSISTANCE.

(a) PURPOSE.—It is the purpose of this section to ensure that veterans who are dislocated workers eligible for assistance under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.) or are otherwise unemployed receive, to the extent feasible, assistance (including information on vocational guidance or vocational counseling, or information on both vocational guidance or vocational counseling), including information on counseling, needed by such veterans—

(1) to apply for services and benefits for which they are eligible as veterans, dislocated workers, or unemployed persons;

(2) to obtain resolution of questions and problems relating to such services and benefit; and

(3) to initiate any authorized administrative appeals of determinations or other actions relating to such services and benefits.

(b) MEMORANDUM OF UNDERSTANDING.—(1) Not later than one year after the date of the enactment of this Act, the Secretary of Labor and the Administrator of Veterans' Affairs shall enter into a memorandum of understanding to carry out the purpose of this section. The memorandum shall include provisions that define the relationships and responsibilities of the Veterans' Administration, the Department of Labor, and State and local agencies with respect to the provision of the following information, forms, and assistance:

(A) Information on services and benefits referred to in subsection (d).

(B) All application forms and related forms necessary for individuals to apply for such services and to claim such benefits.

(C) Assistance in resolving questions and problems relating to receipt of such services and benefits.

(D) Assistance in contacting other Federal Government offices and State offices where such services or benefits are provided or administered.

(2) The memorandum of understanding entered into pursuant to paragraph (1) shall include a provision for the periodic evaluation, by the Secretary of Labor and the Administrator of Veterans' Affairs, of the implementation of their respective responsibilities under such memorandum.

(c) COORDINATION OF DEPARTMENT OF LABOR ACTIVITIES.—The Assistant Secretary of Labor for Veterans' Employment and Training, in consultation with the office designated or created under section 322(b) of the Job Training Partnership Act, shall, except as the Secretary of Labor may otherwise direct, coordinate the activities of the components of the Department of Labor performing the responsibilities of the Secretary of Labor under this section.

(d) COVERED SERVICES AND BENEFITS.—This section applies with respect to the following services and benefits:

(1) Employment assistance under—

(A) part C of title IV of the Job Training Partnership Act (96 Stat. 1380; 29 U.S.C. 1721 et seq.); and

(B) the Veterans' Job Training Act (97 Stat. 443; 29 U.S.C. 1721 note).

(2) Employment and training assistance for dislocated workers under title III of the Job Training Partnership Act (29 U.S.C. 1651 et seq.).

(3) Employment assistance and unemployment compensation under the trade adjustment assistance program provided in chapter 2 of title II of the Trade Act of 1974 (29 U.S.C. 2271 et seq.) and under any other program administered by the Employment and Training Administration of the Department of Labor.

(4) Educational assistance under—

(A) the Adult Education Act (20 U.S.C. 1201 et seq.); and

(B) chapters 30, 31, 32, 34, and 35 of title 38, United States Code, and chapter 106 of title 10, United States Code.

(5) Certification of a veteran as a member of a targeted group eligible for the targeted jobs credit determined under section 51 of the Internal Revenue Code of 1986.

(e) DEFINITION.—In this section, the term "veteran" has the meaning given such term in section 101(2) of title 38, United States Code.

TITLE V—EXTENSIONS OF CERTAIN AUTHORITIES

SEC. 501. CONTINUED OPERATION OF VETERANS' ADMINISTRATION REGIONAL OFFICE IN THE PHILIPPINES.

(a) THREE-YEAR EXTENSION.—Section 230(b) is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

(b) RATIFICATION FOR LAPSED PERIOD.—Any action by the Administrator of Veterans' Affairs in providing, during the period beginning on October 1, 1988, and ending on the date of the enactment of this Act, for a Veterans' Administration Regional Office in the Republic of the Philippines under section 230 of title 38, United States Code, is hereby ratified with respect to that period. 38 USC 230 note.

SEC. 502. ALCOHOL AND DRUG TREATMENT PROGRAM.

(a) THREE-YEAR EXTENSION.—(1) Subsection (e) of section 620A is amended by striking out "September 30, 1988" and inserting in lieu thereof "September 30, 1991".

(2) Any action by the Administrator of Veterans' Affairs in providing, during the period beginning on October 1, 1988, and ending on the date of the enactment of this Act, for care and treatment and rehabilitative services under section 620A of title 38, United States Code, is hereby ratified with respect to that period. 38 USC 620A note.

(b) CLINICAL EVALUATION AND REPORTS.—Subsection (f) of such section is amended to read as follows:

"(f)(1) During the period before October 1, 1997, the Administrator shall conduct an ongoing clinical evaluation in order to determine the long-term results of drug and alcohol abuse treatment furnished to veterans in contract residential treatment facilities under this section.

"(2) The evaluation shall include an assessment of the following:

"(A) The long-term results of treatment referred to in paragraph (1) of this subsection on drug and alcohol use by veterans who may have received such treatment.

"(B) The need for hospitalization of such veterans for drug and alcohol abuse after completion of the residential treatment.

"(C) The employment status and income of such veterans.

"(D) The extent of any criminal activity of such veterans.

"(E) Whether certain models and methods of residential treatment for drug and alcohol abuse are more successful for veterans with specific abuses, specific levels of resources available to them, and specific needs than are other models and methods.

"(3) To the extent feasible, the Administrator shall select for consideration in the evaluation veterans whose treatment for drug and alcohol abuse in contract residential treatment facilities under such section represents a variety of models and methods of residential drug and alcohol abuse treatment.

"(4) The Administrator shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives the following reports on the evaluation under this subsection:

"(A) Not later than February 1, 1993, an interim report containing information obtained during the first four years of the evaluation and any conclusions that the Administrator has drawn on the basis of that information.

"(B) Not later than March 31, 1998, a final report containing information obtained during the evaluation and the determinations and conclusions of the Administrator based on that information.".

Approved November 18, 1988.

LEGISLATIVE HISTORY—S. 2049:

SENATE REPORTS: No. 100-323 (Comm. on Veterans' Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Apr. 28, considered and passed Senate.
Oct. 12, considered and passed House, amended.
Oct. 20, Senate concurred in House amendments.

Public Law 100-690
100th Congress

An Act

To prevent the manufacturing, distribution, and use of illegal drugs, and for other purposes.

Nov. 18, 1988
[H.R. 5210]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Anti-Drug Abuse Act of 1988.
21 USC 1501 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Anti-Drug Abuse Act of 1988".

SEC. 2. TABLE OF TITLES.

Title I—Coordination of national drug policy
Title II—Treatment and prevention programs
Title III—Drug education programs
Title IV—International narcotics control
Title V—User accountability
Title VI—Anti-drug abuse amendments act of 1988
Title VII—Death penalty and other criminal and law enforcement matters
Title VIII—Federal alcohol administration
Title IX—Miscellaneous
Title X—Supplemental appropriations

TITLE I—COORDINATION OF NATIONAL DRUG POLICY

Subtitle A—National Drug Control Program

National Narcotics Leadership Act of 1988.
21 USC 1501 note.

SEC. 1001. SHORT TITLE.

This subtitle may be cited as the "National Narcotics Leadership Act of 1988".

SEC. 1002. ESTABLISHMENT OF OFFICE.

21 USC 1501.

(a) ESTABLISHMENT OF OFFICE.—There is established in the Executive Office of the President the "Office of National Drug Control Policy".

(b) DIRECTOR AND DEPUTY DIRECTORS.—(1) There shall be at the head of the Office of National Drug Control Policy a Director of National Drug Control Policy.

(2) There shall be in the Office of National Drug Control Policy a Deputy Director for Demand Reduction and a Deputy Director for Supply Reduction.

(3) The Deputy Director for Demand Reduction and the Deputy Director for Supply Reduction shall assist the Director in carrying out the responsibilities of the Director under this Act.

(c) BUREAU OF STATE AND LOCAL AFFAIRS.—(1) There is established in the Office of National Drug Control Policy a Bureau of State and Local Affairs.

(2) There shall be at the head of such bureau an Associate Director for National Drug Control Policy.

(d) ACCESS BY CONGRESS.—The location of the Office of National Drug Control Policy in the Executive Office of the President shall not be construed as affecting access by the Congress or committees of either House to—

(1) information, documents, and studies in the possession of, or conducted by or at the direction of the Director; or

(2) personnel of the Office of National Drug Control Policy.

21 USC 1502.

SEC. 1003. APPOINTMENT AND DUTIES OF DIRECTOR, DEPUTY DIRECTORS, AND ASSOCIATE DIRECTOR.

President of U.S.

(a) APPOINTMENT.—(1) The Director, the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Associate Director for National Drug Control Policy shall each be appointed by the President, by and with the advice and consent of the Senate.

(2) The Director, the Deputy Director for Demand Reduction, the Deputy Director for Supply Reduction, and the Associate Director for National Drug Control Policy shall each serve at the pleasure of the President. No person shall serve as Director, a Deputy Director, or Associate Director while serving in any other position in the Federal Government.

50 USC 402.

(3) Section 101 of the National Security Act of 1947 is amended by redesignating subsection (f) as subsection (g) and inserting after subsection (e) the following:

"(f) The Director of National Drug Control Policy may, in his role as principal adviser to the National Security Council on national drug control policy, and subject to the direction of the President, attend and participate in meetings of the National Security Council.".

(4)(A) Section 5312 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director of National Drug Control Policy.".

(B) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following:

"Deputy Director for Demand Reduction, Office of National Drug Control Policy.

"Deputy Director for Supply Reduction, Office of National Drug Control Policy.".

(C) Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Associate Director for National Drug Control Policy, Office of National Drug Control Policy.".

(b) RESPONSIBILITIES.—The Director shall—

(1) establish policies, objectives, and priorities for the National Drug Control Program;

(2) annually promulgate the National Drug Control Strategy in accordance with section 1005;

(3) coordinate and oversee the implementation by National Drug Control Program agencies of the policies, objectives, and priorities established under paragraph (1) and the fulfillment of the responsibilities of such agencies under the National Drug Control Strategy;

(4) make such recommendations to the President as the Director determines are appropriate regarding—

(A) changes in the organization, management, and budgets of Federal departments and agencies engaged in drug enforcement; and

(B) the allocation of personnel to and within such departments and agencies;

to implement the policies, priorities, and objectives established under paragraph (1) and the National Drug Control Strategy;

(5) consult with and assist State and local governments with respect to their relations with the National Drug Control Program agencies;

(6) appear before duly constituted committees and subcommittees of the House of Representatives and of the Senate to represent the drug policies of the executive branch; and

(7) notify any National Drug Control Program agency if its policies are not in compliance with the responsibilities of such agency under the National Drug Control Strategy and transmit a copy of each such notification to the President.

(c) NATIONAL DRUG CONTROL PROGRAM BUDGET.—(1) The Director shall develop for each fiscal year, with the advice of the program managers of departments and agencies with responsibilities under the National Drug Control Program, a consolidated National Drug Control Program budget proposal to implement the National Drug Control Strategy, and shall transmit such budget proposal to the President and to the Congress.

(2) Each Federal Government program manager, agency head, and department head with responsibilities under the National Drug Control Strategy shall transmit the drug control budget request of the program, agency, or department to the Director at the same time as such request is submitted to their superiors (and before submission to the Office of Management and Budget) in the preparation of the budget of the President submitted to the Congress under section 1105(a) of title 31, United States Code.

(3) The Director shall—

(A) review each drug control budget request transmitted to the Director under paragraph (2);

(B) certify in writing as to the adequacy of such request to implement the objectives of the National Drug Control Strategy for the year for which the request is submitted; and

(C) notify the program manager, agency head, or department head, as applicable, regarding the Director's certification under subparagraph (B).

(4) The Director shall maintain records regarding certifications under paragraph (3)(B). Records.

(5)(A) No National Drug Control Program agency shall submit to the Congress a reprogramming or transfer request with respect to any amount of appropriated funds greater than $5,000,000 which is included in the National Drug Control Program budget unless such request has been approved by the Director.

(B) The head of any National Drug Control Program agency may appeal to the President any disapproval by the Director of a reprogramming or transfer request.

(6) The Director shall report to the Congress on a quarterly basis regarding the need for any reprogramming or transfer of appropriated funds for National Drug Control Program activities. Reports.

(7) The head of each National Drug Control Program agency shall ensure timely development and submission to the Director of drug control budget requests transmitted pursuant to subsection (c)(2), in such format as may be designated by the Director with the concurrence of the Director of the Office of Management and Budget.

(d) POWERS OF DIRECTOR.—In carrying out the responsibilities established under subsection (b), the Director may—

(1) select, appoint, employ, and fix compensation of such officers and employees as may be necessary to carry out the functions of the Office of National Drug Control Policy under this title;

(2) direct, with the concurrence of the Secretary of a department or head of an agency, the temporary reassignment within the Federal Government of personnel employed by such department or agency, in order to implement United States drug control policy;

(3) use for administrative purposes, on a reimbursable basis, the available services, equipment, personnel, and facilities of Federal, State, and local agencies;

(4) procure the services of experts and consultants in accordance with section 3109 of title 5, United States Code, relating to appointments in the Federal Service, at rates of compensation for individuals not to exceed the daily equivalent of the rate of pay payable for GS-18 of the General Schedule under section 5332 of title 5, United States Code;

State and local governments. Gifts and property. Mail.

(5) accept and use donations of property from Federal, State, and local government agencies;

(6) use the mails in the same manner as any other department or agency of the executive branch; and

(7) monitor implementation of the National Drug Control Program, including—

(A) conducting program and performance audits and evaluations; and

(B) requesting assistance from the Inspector General of the relevant agency in such audits and evaluations.

(e) PERSONNEL DETAILED TO THE OFFICE.—(1) Notwithstanding any provision of chapter 43 of title 5, United States Code, the Director shall perform the evaluation of the performance of any employee detailed to the Office of National Drug Control Policy for purposes of the applicable performance appraisal system established under such chapter for any rating period, or part thereof, that such employee is detailed to such office.

(2)(A) Notwithstanding any other provision of law, the Director may provide periodic bonus payments to any employee detailed to the Office of National Drug Control Policy.

(B) An amount paid under this paragraph to an employee for any period shall not be greater than 20 percent of the basic pay paid or payable to such employee for such period.

(C) Any payment under this paragraph to an employee shall be in addition to the basic pay of such employee.

(D) The aggregate amount paid during any fiscal year to an employee detailed to the Office of National Drug Control Policy as basic pay, awards, bonuses, and other compensation shall not exceed the annual rate payable at the end of such fiscal year for positions at level III of the Executive Schedule.

21 USC 1503.

SEC. 1004. COORDINATION WITH EXECUTIVE BRANCH DEPARTMENTS AND AGENCIES.

(a) ACCESS TO INFORMATION.—(1) Upon request of the Director, and subject to laws governing disclosure of information, the head of each National Drug Control Program agency shall provide to the Director such information as may be required for drug control.

(2)(A) The authorities conferred on the Office of National Drug Control Policy and its Director by this Act shall be exercised in a manner consistent with provisions of the National Security Act of 1947. The Director of Central Intelligence shall prescribe such regulations as may be necessary to protect information provided pursuant to this Act regarding intelligence sources and methods. Regulations.

(B) The Director of Central Intelligence shall, to the fullest extent possible in accordance with subparagraph (A), render full assistance and support to the Office of National Drug Control Policy and its Director.

(b) CERTIFICATION OF POLICY CHANGES BY DIRECTOR.—(1) The head of a National Drug Control Program agency shall, unless exigent circumstances require otherwise, notify the Director in writing regarding any proposed change in policies relating to the activities of such department or agency under the National Drug Control Program prior to implementation of such change. The Director shall promptly review such proposed change and certify to the department or agency head in writing whether such change is consistent with the National Drug Control Strategy.

(2) If prior notice of a proposed change under paragraph (1) is not possible, the department or agency head shall notify the Director as soon as practicable. The Director shall review such change and certify to the department or agency head in writing whether such change is consistent with the National Drug Control Program.

(c) GENERAL SERVICES ADMINISTRATION.—The Administrator of General Services shall provide to the Director on a reimbursable basis such administrative support services as the Director may request.

SEC. 1005. DEVELOPMENT AND SUBMISSION OF NATIONAL DRUG CONTROL STRATEGY. 21 USC 1504.

(a) DEVELOPMENT AND SUBMISSION OF THE NATIONAL DRUG CONTROL STRATEGY.—(1) Not later than 180 days after the first Director is confirmed by the Senate, and not later than February 1 of each year thereafter, the President shall submit to the Congress a National Drug Control Strategy. Any part of such strategy that involves information properly classified under criteria established by an Executive order shall be presented to the Congress separately. President of U.S.

(2) The National Drug Control Strategy submitted under paragraph (1) shall—

(A) include comprehensive, research-based, long-range goals for reducing drug abuse in the United States;

(B) include short-term measurable objectives which the Director determines may be realistically achieved in the 2-year period beginning on the date of the submission of the strategy;

(C) describe the balance between resources devoted to supply reduction and demand reduction; and

(D) review State and local drug control activities to ensure that the United States pursues well-coordinated and effective drug control at all levels of government. State and local governments.

(3)(A) In developing the National Drug Control Strategy, the Director shall consult with—

(i) the heads of the National Drug Control Program agencies;

(ii) the Congress;

(iii) State and local officials;

(iv) private citizens with experience and expertise in demand reduction; and

(v) private citizens with experience and expertise in supply reduction.

Reports.

(B) At the time the President submits the National Drug Control Strategy to the Congress, the Director shall transmit a report to the Congress indicating the persons consulted under this paragraph.

(4) Beginning with the second submission of a National Drug Control Strategy, the Director shall include with each such strategy a complete evaluation of the effectiveness of drug control during the preceding year.

(b) GOALS, OBJECTIVES, AND PRIORITIES.—Each National Drug Control Strategy shall include—

(1) a complete list of goals, objectives, and priorities for supply reduction and for demand reduction;

(2) private sector initiatives and cooperative efforts between the Federal Government and State and local governments for drug control;

(3) 3-year projections for program and budget priorities and achievable projections for reductions of drug availability and usage;

(4) a complete assessment of how the budget proposal transmitted under section 1003(c) is intended to implement the strategy and whether the funding levels contained in such proposal are sufficient to implement such strategy;

(5) designation of areas of the United States as high intensity drug trafficking areas in accordance with subsection (c); and

Communications and telecommunications.

(6) a plan for improving the compatibility of automated information and communication systems to provide Federal agencies with timely and accurate information for purposes of this subtitle.

(c) HIGH INTENSITY DRUG TRAFFICKING AREAS.—(1) The Director, upon consultation with the Attorney General, heads of National Drug Control Program agencies, and the Governors of the several States, may designate any specified area of the United States as a high intensity drug trafficking area. After making such a designation and in order to provide Federal assistance to the area so designated, the Director may—

(A) direct the temporary reassignment of Federal personnel to such area, subject to the approval of the Secretary of the department or head of the agency which employs such personnel;

(B) take any other action authorized under section 1003 to provide increased Federal assistance to such areas; and

(C) coordinate actions under this paragraph with State and local officials.

(2) When considering the designation of an area under this subsection as a high intensity drug trafficking area, the Director shall consider, along with other criteria the Director may deem appropriate—

(A) the extent to which the area is a center of illegal drug production, manufacturing, importation, or distribution;

(B) the extent to which State and local law enforcement agencies have committed resources to respond to the drug trafficking problem in the area, thereby indicating a determination to respond aggressively to the problem;

(C) the extent to which drug-related activities in the area are having a harmful impact in other areas of the country; and

(D) the extent to which a significant increase in allocation of Federal resources is necessary to respond adequately to drug-related activities in the area.

(3) Before March 1, 1991, the Director shall submit a report to the House of Representatives and to the Senate concerning the effectiveness of and need for the designation of areas under this subsection as high intensity drug trafficking areas, along with any comments or recommendations for legislation. Reports.

(d) LEAD AGENCIES.—(1) The President shall designate lead agencies with areas of principal responsibility for carrying out the National Drug Control Strategy. President of U.S.

(2) The Director shall require that any National Drug Control Program agency that conducts a major supply reduction activity which is in the area of principal responsibility of a lead agency designated under paragraph (1) shall—

(A) notify such lead agency in writing of the activity; and

(B) provide such notification prior to conducting such activity,

unless exigent circumstances require otherwise.

(3) If a lead agency objects to the conduct of an activity described under paragraph (2), the lead agency and the agency planning to conduct such activity shall notify the Director in writing regarding such objection.

SEC. 1006. SUBMISSION OF NATIONAL DRUG CONTROL PROGRAM BUDGET WITH ANNUAL BUDGET REQUEST OF PRESIDENT.

Section 1105(a) of title 31, United States Code, is amended by adding at the end thereof the following:

"(26) a separate statement of the amount of appropriations requested for the Office of National Drug Control Policy and each program of the National Drug Control Program.".

SEC. 1007. TERMINATION OF NATIONAL DRUG ENFORCEMENT POLICY BOARD, NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM, AND WHITE HOUSE DRUG ABUSE POLICY OFFICE.

(a) NATIONAL DRUG ENFORCEMENT POLICY BOARD.—(1) The National Drug Enforcement Policy Board is terminated effective on the 30th day after the first Director is confirmed by the Senate. Upon such termination, all records and property of the National Drug Enforcement Policy Board shall be transferred to the Director. The Director of the Office of Management and Budget shall take such actions as are necessary to facilitate such transfer. 21 USC 1501 note.

(2) All strategies, implementation plans, memoranda of understanding, and directives that have been issued or made by the National Drug Policy Board before the effective date of this subtitle shall continue in effect until modified, terminated, superseded, set aside, or revoked by the President or the Director.

(3) The National Narcotics Act of 1984 (21 U.S.C. 1201 et seq.) is repealed effective on the 30th day after the first Director is confirmed by the Senate. Effective date.

(b) NATIONAL NARCOTICS BORDER INTERDICTION SYSTEM.—Notwithstanding any other provision of law, no funds may be expended after 30 days after the date on which the first Director is confirmed by the Senate for any activities or operations of the entity otherwise known as the National Narcotics Border Interdiction System. 21 USC 1501 note.

(c) WHITE HOUSE OFFICE OF DRUG ABUSE POLICY.—(1) Sections 103, 201, 202, 203, 204, and 206 of the Drug Abuse Prevention, Treatment, and Rehabilitation Act (21 U.S.C. 1103, 1111, 1112, 1113, 1114,

and 1116) are repealed. Section 205 of such Act is redesignated as section 201.

21 USC 1115.

21 USC 1501 note.

(2) The White House Office of Drug Abuse Policy shall terminate on the 30th day after the date on which the first Director is confirmed by the Senate.

(3) Section 5314 of title 5, United States Code, is amended by striking "Director of the Office of Drug Abuse Policy.".

(4) Section 5315 of title 5, United States Code, is amended by striking "Deputy Director of the Office of Drug Abuse Policy.".

21 USC 1505.

SEC. 1008. EXECUTIVE REORGANIZATION STUDY.

(a) REPORT TO THE CONGRESS AND THE PRESIDENT.—Not later than January 15, 1990, the Director shall submit a report to the President and to the Congress regarding the necessity to group, coordinate, and consolidate agencies and functions of the Federal Government involved in supply reduction and demand reduction in order to—

(1) promote better execution of the laws;

(2) provide more effective management of the executive branch;

(3) reduce expenditures and promote economy to the fullest extent consistent with the efficient operation of the executive branch; and

(4) reduce the number of agencies by consolidating under a single head agencies having similar functions, and by abolishing agencies and functions which are unnecessary for the efficient conduct of the executive branch.

(b) RECOMMENDATIONS.—The report submitted under subsection (a) shall include any appropriate recommendations for legislation.

21 USC 1506.

SEC. 1009. TERMINATION OF OFFICE OF NATIONAL DRUG CONTROL POLICY.

This subtitle and the amendments made by this subtitle, other than section 1007, are repealed on the date which is 5 years after the date of the enactment of this subtitle.

21 USC 1507.

SEC. 1010. DEFINITIONS.

As used in this subtitle—

(1) the term "drug" has the same meaning as the term "controlled substance" has in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6));

(2) the term "drug control" means any activity conducted by a National Drug Control Program agency involving supply reduction or demand reduction;

(3) the term "supply reduction" means any enforcement activity of a program conducted by a National Drug Control Program agency that is intended to reduce the supply or use of drugs in the United States and abroad, including—

(A) international drug control;

(B) foreign and domestic drug enforcement intelligence;

(C) interdiction; and

(D) domestic drug law enforcement, including law enforcement directed at drug users;

(4) the term "demand reduction" means any activity conducted by a National Drug Control Program agency, other than an enforcement activity, that is intended to reduce the demand for drugs, including—

(A) drug abuse education;

(B) prevention;
(C) treatment;
(D) research; and
(E) rehabilitation;

(5) the term "National Drug Control Program" means programs, policies, and activities undertaken by National Drug Control Program agencies pursuant to the responsibilities of such agencies under the National Drug Control Strategy;

(6) the term "National Drug Control Program agency" means any department or agency and all dedicated units thereof, with responsibilities under the National Drug Control Strategy, as designated—

(A) jointly by the Director and the head of the department or agency; or

(B) by the President;

(7) the term "Director" means the Director of National Drug Control Policy; and

(8) the term "National Drug Control Strategy" means a strategy developed and submitted to the Congress under section 1005.

SEC. 1011. AUTHORIZATION OF APPROPRIATIONS.

21 USC 1508.

For the purposes of carrying out this subtitle, there are authorized to be appropriated $3,500,000 for fiscal year 1989 and such sums as may be necessary for each of the 4 succeeding fiscal years, to remain available until expended.

SEC. 1012. EFFECTIVE DATE.

21 USC 1501 note.

This subtitle shall be effective January 21, 1989.

Subtitle B—Department of Justice Civil Enforcement Enhancement

Justice Department Organized Crime and Drug Enforcement Enhancement Act of 1988. 28 USC 509 note.

SEC. 1051. SHORT TITLE.

This subtitle may be cited as the "Justice Department Organized Crime and Drug Enforcement Enhancement Act of 1988".

SEC. 1052. FINDINGS.

The Congress finds that—

(1) organized criminal activity contributes significantly to the importation, distribution, and sale of illegal and dangerous drugs;

(2) trends in drug trafficking patterns necessitate a response that gives appropriate weight to—

(A) the prosecution of drug-related crimes; and

(B) the forfeiture and seizure of assets and other civil remedies used to strike at the inherent strength of the drug networks and organized crime groups;

(3) law enforcement components of the Department of Justice should give high priority to the enforcement of civil sanctions against drug networks and organized crime groups; and

(4) the structure of the Department of Justice Criminal Division needs to be reviewed in order to determine the most effective structure to address such drug-related problems.

SEC. 1053. CIVIL ENFORCEMENT REPORT.

(a) REPORT.—Not later than 1 year after the date of the enactment of this title, the Director of National Drug Control Policy (the Director) in consultation with the Attorney General, shall report to the Congress on the necessity to establish a new division or make other organizational changes within the Department of Justice in order to promote better civil and criminal law enforcement. In preparing such report, the Director shall consider restructuring and consolidating one or more of the following divisions and programs—

(1) the Organized Crime and Racketeering Section of the Criminal Division and all subordinate strike forces therein;

(2) the Narcotic and Dangerous Drug Section of the Criminal Division;

(3) the Asset Forfeiture Office of the Criminal Division; and

(4) the Organized Crime Drug Enforcement Task Force Program;

(b) LEGISLATIVE RECOMMENDATIONS.—The report submitted under subsection (a) shall include appropriate legislative recommendations for the Congress.

SEC. 1054. CIVIL ENFORCEMENT ENHANCEMENT.

(a) DUTY OF ATTORNEY GENERAL.—The Attorney General shall insure that each component of the Department of Justice having criminal law enforcement responsibilities with respect to the prosecution of organized crime and controlled substances violations, including each United States Attorney's Office, attaches a high priority to the enforcement of civil statutes creating ancillary sanctions and remedies for such violations, such as civil penalties and actions, forfeitures, injunctions and restraining orders, and collection of fines.

(b) DUTY OF ASSOCIATE ATTORNEY GENERAL.—The Associate Attorney General shall be responsible for implementing the policy set forth in this subsection.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $3,000,000 for salaries and expenses to the Department of Justice General Legal Activities Account and $3,000,000 for salaries and expenses for United States Attorneys for fiscal year 1989.

(2) Any appropriation of funds authorized under paragraph (1) shall be—

(A) in addition to any appropriations requested by the President in the 1989 fiscal year budget submitted by the President to the Congress on February 18, 1988, or provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989; and

(B) used to increase the number of field attorneys and related support staff over such personnel levels employed at the Department of Justice on September 30, 1988.

(3) Any increase in full-time equivalent positions described under paragraph (2)(B) shall be exclusively used for asset forfeiture and civil enforcement and be assigned to appropriate field offices of the Organized Crime and Racketeering Section and the Organized Crime Drug Enforcement Task Forces.

(d) REPORTING REQUIREMENT.—The Attorney General, at the end of each such fiscal year, shall file a report with the Congress setting forth the extent of such enforcement efforts, as well as the need for any enhancements in resources necessary to carry out this policy.

SEC. 1055. EXPENSES OF TASK FORCES.

(a) APPROPRIATIONS AND REIMBURSEMENTS PROCEDURE.—Beginning in fiscal year 1990, the Attorney General in his budget shall submit a separate appropriations request for expenses relating to all Federal agencies participating in the Organized Crime Drug Enforcement Task Forces. Such appropriations shall be made to the Department of Justice's Interagency Law Enforcement Appropriation Account for the Attorney General to make reimbursements to the involved agencies as necessary.

(b) ENHANCEMENT OF FIELD ACTIVITIES.—The appropriations and reimbursements procedure described under subsection (a) shall—

(1) provide for the flexibility of the Task Forces which is vital to success;

(2) permit Federal law enforcement resources to be shifted in response to changing patterns of organized criminal drug activities;

(3) permit the Attorney General to reallocate resources among the organizational components of the Task Forces and between regions without undue delay; and

(4) ensure that the Task Forces function as a unit, without the competition for resources among the participating agencies that would undermine the overall effort.

TITLE II—TREATMENT AND PREVENTION PROGRAMS

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AIDS.
State and local governments.
42 USC 201 note.
42 USC 300x note.

SEC. 2011. SHORT TITLE.

This subtitle may be cited as the "Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988".

SEC. 2012. PURPOSES.

The purposes of this subtitle with respect to substance abuse are—

(1) to prevent the transmission of the etiologic agent for acquired immune deficiency syndrome by ensuring that treatment services for intravenous drug abuse are available to intravenous drug abusers;

(2) to continue the Federal Government's partnership with the States in the development, maintenance, and improvement of community-based alcohol and drug abuse programs;

(3) to provide financial and technical assistance to the States and communities in their efforts to develop and maintain a core of prevention services for the purpose of reducing the incidence of substance abuse and the demand for alcohol and drug abuse treatment;

(4) to assist and encourage States in the initiation and expansion of prevention and treatment services to underserved populations;

(5) to increase, to the greatest extent possible, the availability and quality of treatment services so that treatment on request may be provided to all individuals desiring to rid themselves of their substance abuse problem; and

(6) to increase understanding about the extent of alcohol abuse and other forms of drug abuse by expanding data collection activities and supporting research on the comparative cost and efficacy of substance abuse prevention and treatment services.

CHAPTER 1—REVISION AND EXTENSION OF ALCOHOL AND DRUG ABUSE AND MENTAL HEALTH SERVICES BLOCK GRANT

SEC. 2021. AUTHORIZATION OF APPROPRIATIONS.

Section 1911 of the Public Health Service Act (42 U.S.C. 300x) is amended to read as follows:

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1911. (a) For the purpose of carrying out this subpart and section 509D, there are authorized to be appropriated $1,500,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"(b) For the purpose of carrying out section 509D and sections 1921 through 1923, the Secretary shall obligate not less than 5 percent, and not more than 15 percent, of the amounts appropriated for a fiscal year pursuant to subsection (a).".

SEC. 2022. FORMULA FOR ALLOTMENTS.

(a) ESTABLISHMENT OF FORMULA.—Subpart I of part B of title XIX of the Public Health Service Act is amended by inserting after section 1912 the following new section:

"ALLOTMENTS

42 USC 300x-1a.

"SEC. 1912A. (a)(1) Subject to subsections (b) and (e), the Secretary shall determine the amount of the allotment under this subpart for a State for a fiscal year in accordance with the following formula:

$$A\left(\frac{X}{U}\right)$$

"(2) For purposes of the formula specified in paragraph (1), the term 'A' means the difference between—

"(A) an amount equal to the amount appropriated pursuant to section 1911 for allotments under this subpart for the fiscal year involved; and

"(B) an amount equal to 1.5 percent of the amount referred to in subparagraph (A).

"(3) For purposes of the formula specified in paragraph (1), the term 'U' means the sum of the respective terms 'X' determined for each State under paragraph (4).

"(4)(A) For purposes of the formula specified in paragraph (1), the term 'X' means the product of—

"(i) an amount equal to the term 'P' as determined under subparagraph (B); and

"(ii) the greater of—

"(I) 0.4; and

"(II) an amount equal to an amount determined in accordance with the following formula:

$$1-.35\left(\frac{S}{N}\right)$$

"(B) For purposes of subparagraph (A)(i), the term 'P' means the sum of—

"(i) an amount equal to the product of—

"(I) 0.4; and

"(II) an amount equal to the population living in urbanized areas of the State involved, as indicated by the most recent data collected by the Bureau of the Census;

"(ii) an amount equal to the product of—

"(I) 0.2; and

"(II) an amount equal to the number of individuals in the State who are between 18 and 24 years of age, as indicated by the most recent data collected by the Bureau of the Census;

"(iii) an amount equal to the product of—

"(I) 0.2; and

"(II) an amount equal to the number of individuals in the State who are between 25 and 44 years of age, as indicated by the most recent data collected by the Bureau of the Census; and

"(iv) an amount equal to the product of—

"(I) 0.2; and

"(II) an amount equal to the number of individuals in the State who are between 25 and 64 years of age, as indicated by the most recent data collected by the Bureau of the Census.

"(C) For purposes of the formula specified in subparagraph (A)(ii)(II), the term 'S' means the quotient of—

"(i) an amount equal to the most recent 3-year average of the total taxable resources of the State, as determined by the Secretary of the Treasury; divided by

"(ii) an amount equal to the term 'P' as determined under subparagraph (B).

"(D) For purposes of the formula specified in subparagraph (A)(ii)(II), the term 'N' means the quotient of—

"(i) an amount equal to the sum of the respective amounts determined for each State under subparagraph (C)(i); divided by

"(ii) an amount equal to the sum of the respective terms 'P' determined for each State under subparagraph (B).

"(b) Each State shall receive a minimum allotment under this subpart of the lesser of—

"(1) $7,000,000; and

"(2) an amount equal to 105 percent of the sum of—

"(A) the amount the State received under section 1913 for fiscal year 1988 (as such section was in effect for such fiscal year); and

"(B) the amount the State received under part C for fiscal year 1988.".

(b) TERRITORIES AND CERTAIN SET-ASIDE.—Section 1912A of the Public Health Service Act, as added by subsection (a) of this section, is amended by adding at the end the following new subsection:

42 USC 300x-1a.

"(c)(1) The allotment for a territory of the United States under this subpart for a fiscal year shall be the greater of—

"(A) $100,000; and

"(B) an amount determined in accordance with paragraph (2).

"(2) The amount referred to in paragraph (1)(B) is the product of—

"(A) an amount equal to the amounts reserved under paragraph (3); and

"(B) a percentage equal to the quotient of—

"(i) the population of the territory involved, as indicated by the most recently available data; divided by

"(ii) the aggregate population of the territories of the United States, as indicated by such data.

Territories, U.S.

"(3) The Secretary shall reserve for the territories of the United States 1.5 percent of the amounts appropriated pursuant to section 1911 for allotments under this subpart for the fiscal year involved.

Hawaii.

"(d)(1) Of the amount allotted to the State of Hawaii under this section, an amount equal to the proportion of Native Hawaiians residing in the State of Hawaii to the total population of the State of Hawaii shall be available under this section only for Native Hawaiians.

Contracts.

"(2) The amount made available under paragraph (1) may be expended only through contracts entered into by the State of Hawaii with public and private nonprofit organizations to enable such organizations to plan, conduct, and administer comprehensive substance abuse and treatment programs for the benefit of Native Hawaiians. In entering into contracts under this subsection, the State of Hawaii shall give preference to Native Hawaiian organizations and Native Hawaiian health centers.

"(3) For the purposes of this subsection, the terms 'Native Hawaiian', 'Native Hawaiian organization', and 'Native Hawaiian health center' have the meaning given such terms in section 2308 of subtitle D of title II of the Anti-Drug Abuse Act of 1988.".

(c) TRANSITION RULES FOR STATES.—Section 1912A of the Public Health Service Act, as added by subsection (a) of this section and amended by subsection (b) of such section, is amended by adding at the end the following new subsections:

"(e)(1) For fiscal years 1989 through 1992, if the amount available for allotment from appropriations under section 1911 does not exceed the amount applicable under subsection (f) for the fiscal year involved, the amount of the allotment under this subpart for the State for such fiscal year shall be the product of—

"(A) the amount appropriated under section 1911 for such fiscal year; and

"(B) a percentage equal to the quotient of—

"(i) an amount equal to the amount of the allotment under this part for the State for fiscal year 1984; divided by

"(ii) an amount equal to the amount appropriated for allotments under this part for fiscal year 1984.

"(2) For the fiscal years referred to in paragraph (1), if the amount available for allotment from appropriations under section 1911 exceeds the amount applicable under subsection (f) for the fiscal year involved—

"(A) the amount of such excess shall be allotted in accordance with subsection (a), except that the amount referred to in subsection (a)(2)(A) shall be deemed to be an amount equal to the amount of such excess for the fiscal year involved; and

"(B) the amount equal to or less than such applicable amount shall be allotted in accordance with paragraph (1).

"(f) For purposes of subsection (e)—

"(1) the applicable amount for fiscal year 1989 is $330,000,000;

"(2) the applicable amount for fiscal year 1990 is $250,000,000;

"(3) the applicable amount for fiscal year 1991 is $200,000,000; and

"(4) the applicable amount for fiscal year 1992 is $100,000,000.

"(g)(1)(A) For purposes of this subpart, the term 'State' means, except as provided in subparagraph (B), each of the several States, the District of Columbia, and each of the territories of the United States.

"(B) For purposes of subsections (a), (b), (e), and (f), the term 'State' means each of the several States and the District of Columbia.

"(2) The term 'territories of the United States' means each of the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, the Commonwealth of the Northern Mariana Islands, the Trust Territory of the Pacific Islands, and any other territory or possession of the United States.

"(h) Effective October 1, 1992, this subsection and subsections (e) and (f) are repealed.". Effective date.

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 1913 of the Public Health Service Act is amended— 42 USC 300x-1b.

(1) by striking paragraphs (1) through (3) of subsection (a);

(2) in subsection (a), as amended by paragraph (1) of this subsection, by striking the paragraph designation; and

(3) in the section heading, by inserting before "ALLOTMENTS" the following: "CERTAIN PROVISIONS WITH RESPECT TO".

(e) PAYMENTS.—Section 1914(a)(2) of the Public Health Service Act (42 U.S.C. 300x-2(a)(2)) is amended to read as follows:

"(2) Any amounts paid to a State under this section, obligated by the State, and remaining unexpended at the end of the fiscal year for which the amounts were paid shall remain available during the succeeding fiscal year to the State for carrying out this subpart.".

SEC. 2023. SET-ASIDE FOR FISCAL YEAR 1989 FOR TREATMENT FOR SUBSTANCE ABUSE.

Section 1912A of the Public Health Service Act, as added by section 2022, is amended by adding at the end the following new subsection:

"(i)(1) For fiscal year 1989, the Secretary may not make payments to a State from amounts appropriated in the Anti-Drug Abuse Act of 1988 for allotments under this subpart unless the State agrees that— 42 USC 300x-1a.

"(A) such payments will be expended only for the purpose of carrying out programs for substance abuse; and

"(B) in carrying out such programs, the State will expend not less than 50 percent of such payments to carry out the programs

of treatment for intravenous drug abuse described in section 1915(c).

"(2) The Secretary may, upon the request of a State, waive all or part of the requirement established in paragraph (1)(B) for the State if the Secretary determines that the incidence of intravenous drug abuse in the State does not require the level of funding required in such paragraph. The Secretary shall act upon a request for such a waiver not later than 120 days after the date on which the request is made. The Secretary may approve such a request only after providing interested persons in the State an opportunity to comment upon the request.".

SEC. 2024. CONSTRUCTION OF SUBSTANCE ABUSE FACILITIES.

Section 1915(b) of the Public Health Service Act (42 U.S.C. 300x-3(b)) is amended by amending the matter after and below paragraph (5) to read as follows:

"The Secretary may, with respect to funds available under this subpart for programs relating to substance abuse, grant a waiver to a State to use such amounts for the construction of a new facility or rehabilitation of a existing facility, but not for land acquisition. The Secretary may approve a waiver only if the State demonstrates to the Secretary that adequate treatment cannot be provided through the use of existing facilities and that alternative facilities in existing suitable buildings are not available. In granting such a waiver, the Secretary shall allow the use of a specified amount of funds to construct or rehabilitate a specified number of beds for residential treatment and a specified number of slots for outpatient treatment, based on reasonable estimates by the State of the costs of construction or rehabilitation. In considering waiver applications, the Secretary shall ensure that the State has carefully designed a program that will minimize the costs of additional beds. The Secretary may grant a waiver only if the State agrees, with respect to the costs to be incurred by the State in carrying out the purpose of the waiver, to make available non-Federal contributions in cash toward such costs in an amount equal to not less than $1 for each $1 of Federal funds provided under section 1914. The Secretary shall act upon a request for such a waiver not later than 120 days after the date on which the request is made.".

SEC. 2025. PREVENTION AND TREATMENT WITH RESPECT TO INTRAVENOUS DRUG ABUSE.

Section 1915(c) of the Public Health Service Act (42 U.S.C. 300x-3(c)) is amended to read as follows:

"(c)(1) Amounts paid to a State under section 1914 may be used by the State—

"(A) to develop, implement, and operate programs of treatment for intravenous drug abuse, with priority given to programs to treat individuals infected with the etiologic agent for acquired immune deficiency syndrome;

"(B) to train drug abuse counselors, and other health care providers, to provide such treatment; and

"(C) with respect to individuals in need of treatment for drug abuse, to carry out outreach activities for the purpose of encouraging such individuals to undergo such treatment.

"(2) A State may not use amounts under this subpart pursuant to this subsection unless the State involved agrees that such payments will not be expended—

"(A) to carry out any program of distributing sterile needles for the hypodermic injection of any illegal drug or distributing bleach for the purpose of cleansing needles for such hypodermic injection; and

"(B) to carry out any testing for the etiologic agent for acquired immune deficiency syndrome unless such testing is accompanied by appropriate pre-test counseling and appropriate post-test counseling.".

SEC. 2026. LIMITATION ON ADMINISTRATIVE EXPENSES.

Section 1915(d) of the Public Health Service Act (42 U.S.C. 300x-3(d)) is amended by striking "10 percent" and inserting "5 percent".

SEC. 2027. NEW MENTAL HEALTH SERVICES AND PROGRAMS.

Section 1916(c)(2) of the Public Health Service Act (42 U.S.C. 300x-4(c)(2)) is amended to read as follows:

"(2)(A) Of the amounts allotted to a State for mental health activities under this part for fiscal year 1991, the State agrees to use not less than 55 percent to develop and provide community mental health services and programs not available on October 1, 1988, and, with respect to each such service provided pursuant to this paragraph, to provide funds for each service only for a limited period of time (as determined by the State), except that funds expended under this part for new services developed between October 1, 1984, and October 1, 1988, may be treated as a new service under this paragraph.

"(B) A State may request a waiver from the Secretary reducing the new service requirement established in subparagraph (A) to not less than 35 percent by 1991, increased to 55 percent by 1994, according to a schedule approved by the Secretary, if—

"(i)(I) a public hearing is held in the State on the advisability of proceeding with a waiver prior to the submission of a waiver; and

"(II) the mental health planning council in the State approves such waiver request; and

"(ii)(I) the State is judged by the Secretary to be in a financial crisis, based on objective standards established in regulations promulgated by the Secretary (such standards may include a large drop in State revenues as a result of changes in economic conditions); Regulations.

"(II) more than 15 percent of the State's total community mental health budget is derived from Federal grants under this part and the Secretary determines that it is not feasible for the State to meet the 55 percent standard without substantial and damaging reductions in existing, high priority services; or

"(III) the Secretary determines that a State has demonstrated substantial ongoing development of new, innovative services for priority populations and that any shift in funding percentages will only disrupt this process and will substantially disrupt services in place.".

SEC. 2028. INDEPENDENT PEER REVIEW AND MANNER OF COMPLIANCE.

Section 1916 of the Public Health Service Act (42 U.S.C. 300x-4) is amended:

(1) in paragraph (5), by amending such paragraph to read as follows:

"(5) the State will provide for periodic independent peer review to assess the quality and appropriateness of treatment services provided by entities that receive funds from the State pursuant to this subpart."; and

(2) by striking the matter after and below paragraph (15).

SEC. 2029. INTRASTATE ALLOCATIONS.

Section 1916(c)(6) of the Public Health Service Act (42 U.S.C. 300x-4(c)(6)) is amended—

(1) in subparagraph (A)(ii)—

(A) by striking "Act and" after "Health Systems" and inserting "Act,"; and

(B) by inserting before the period the following: ", in fiscal year 1988 under part C of this title (as in effect on September 30, 1988), and in fiscal year 1989 under appropriations made in the Anti-Drug Abuse Act to carry out this part"; and

(2) in subparagraph (B), by striking "75 percent" and inserting "90 percent".

SEC. 2030. SET-ASIDE FOR SERVICES FOR INTRAVENOUS DRUG ABUSE.

Section 1916(c)(7)(B) of the Public Health Service Act (42 U.S.C. 300x-4(c)(7)(B)) is amended by inserting after and below subparagraph (B) the following:

"For fiscal year 1990 and subsequent fiscal years, the State agrees that, of the amounts reserved by the State to carry out subparagraph (B), the State will use not less than 50 percent to provide services described in section 1915(c).".

SEC. 2031. MAINTENANCE OF EFFORT.

Section 1916(c)(11) of the Public Health Service Act (42 U.S.C. 300x-4(c)(11)) is amended to read as follows:

"(11)(A) The State agrees that the State will maintain State expenditures for services provided pursuant to this subpart at a level equal to not less than the average level of such expenditures maintained by the State for the 2-year period preceding the fiscal year for which the State is applying to receive payments under section 1914.

"(B) The Secretary may, upon the request of a State, waive the requirement established in subparagraph (A) if the Secretary determines that extraordinary economic conditions in the State justify the waiver.".

SEC. 2032. SET-ASIDE FOR WOMEN AND CHILDREN.

Section 1916(c)(14) of the Public Health Service Act (42 U.S.C. 300x-4(c)(14)) is amended to read as follows:

"(14) Of the amount allotted to a State under this part in any fiscal year, the State agrees to use not less than 10 percent for programs and services designed for women (especially pregnant women and women with dependent children) and demonstration projects for the provision of residential treatment services to pregnant women.".

SEC. 2033. SET-ASIDE FOR MENTAL HEALTH SERVICES FOR CHILDREN.

Section 1916(c)(15) of the Public Health Service Act (42 U.S.C. 300x-4(c)(15)) is amended to read as follows:

"(15) Of the amounts allotted in any fiscal year for mental health services under this subpart, the State agrees—

"(A) to use not less than 10 percent to provide services and programs for seriously emotionally disturbed children and adolescents; and

"(B) to use, by the end of fiscal year 1990, not less than 50 percent of the amount reserved by the State pursuant to subparagraph (A) to provide new or expanded services and programs that were not available prior to October 1, 1988".

SEC. 2034. CERTAIN REQUIRED AGREEMENTS.

Section 1916(c) of the Public Health Service Act (42 U.S.C. 300x-4(c)) is amended by adding after paragraph (15) the following new paragraphs:

"(16) The State agrees that the State will, with respect to programs of treatment for intravenous drug abuse, require that any such program receiving funds pursuant to this part, upon reaching 90 percent of its capacity to admit individuals to the program, provide to the State a notification of such fact. State and local governments.

"(17) The State agrees that the State will, with respect to notifications under paragraph (16), ensure that, to the maximum extent practicable, each individual who requests and is in need of treatment for intravenous drug abuse is admitted to a program described in such paragraph within 7 days after making the request.

"(18) The State agrees that the State will require any program receiving funds pursuant to this part to carry out outreach activities described in 1915(c)(1)(C).

"(19) The State agrees that, in carrying out this subpart with respect to substance abuse, payments under section 1914 will be targeted to communities with the highest prevalence of substance abuse or the greatest need for treatment services with respect to such abuse, as determined by the State after consideration of—

"(A) the demand for such services or a need for such services that exceeds the capacity to provide such services;

"(B) a high prevalence of drug-related criminal activities; and

"(C) a high incidence of communicable diseases transmitted through intravenous drug abuse.

"(20) The State agrees that the State will provide to the Secretary any data required by the Secretary pursuant to section 509D and will cooperate with the Secretary in the development of uniform criteria for the collection of data pursuant to such section.

"(21) The State agrees to devise and make available at such times as the Secretary may request, a plan that describes how the State can provide services to all individuals seeking treatment services if sufficient resources are available and an estimate of the financial and personnel resources necessary to provide such treatment.".

SEC. 2035. REQUIREMENT OF ESTABLISHMENT OF MENTAL HEALTH SERVICES PLANNING COUNCIL.

(a) IN GENERAL.—Section 1916(f) of the Public Health Service Act (42 U.S.C. 300x-4(f)) is amended to read as follows:

"(f)(1) The State agrees to establish and maintain a State mental health planning council in accordance with this subsection.

"(2) The duties of the Council will be—

"(A) to serve as an advocate for chronically mentally ill individuals, severely emotionally disturbed children and youth, and other individuals with mental illnesses or emotional problems; and

"(B) to monitor, review, and evaluate, not less than once each year, the allocation and adequacy of mental health services within the State.

"(3) The Council will be composed of residents of the State, including representatives of—

"(i) the principal State agencies with respect to—

"(I) mental health, education, vocational rehabilitation, criminal justice, housing, and social services; and

"(II) the development of the plan submitted pursuant to title XIX of the Social Security Act;

"(ii) public and private entities concerned with the need, planning, operation, funding, and use of mental health services and related support services;

"(iii) chronically mentally ill individuals who are receiving (or have received) mental health services; and

"(iv) the families of such individuals.

"(4) Not less than 50 percent of the members of the Council will be individuals who are not State employees or providers of mental health services.

"(5) The Council may assist the State in the preparation of the description of intended expenditures required in section 1925.".

(b) CONFORMING AMENDMENT.—Section 1916 of the Public Health Service Act (42 U.S.C. 300x-4) is amended—

(1) by striking subsection (e); and

(2) by redesignating subsections (f) through (h) as subsections (e) through (g), respectively.

SEC. 2036. GROUP HOMES FOR RECOVERING SUBSTANCE ABUSERS.

Subpart I of part B of title XIX of the Public Health Service Act (42 U.S.C. 300x) is amended by inserting after section 1916 the following new section:

"GROUP HOMES FOR RECOVERING SUBSTANCE ABUSERS

42 USC 300x-4a.

"SEC. 1916A. (a) For fiscal year 1989, the Secretary may not make payments under section 1914 unless the State involved agrees—

Loans.

"(1) to establish, directly or through the provision of a grant or contract to a nonprofit private entity, a revolving fund to make loans for the costs of establishing programs for the provision of housing in which individuals recovering from alcohol or drug abuse may reside in groups of not less than 4 individuals;

"(2) to ensure that the programs are carried out in accordance with guidelines issued under subsection (c);

"(3) to ensure that not less than $100,000 will be available for the revolving fund;

"(4) to ensure that each loan made from the revolving fund does not exceed $4000 and that each such loan is repaid to the revolving fund not later than 2 years after the date on which the loan is made;

"(5) to ensure that each such loan is repaid through monthly installments and that a reasonable penalty is assessed for each failure to pay such periodic installments by the date specified in the loan agreement involved; and

"(6) to ensure that such loans are made only to nonprofit private entities agreeing that, in the operation of the program established pursuant to the loan—

"(A) the use of alcohol or any illegal drug in the housing provided by the program will be prohibited;

"(B) any resident of the housing who violates such prohibition will be expelled from the housing;

"(C) the costs of the housing, including fees for rent and utilities, will be paid by the residents of the housing; and

"(D) the residents of the housing will, through a majority vote of the residents, otherwise establish policies governing residence in the housing, including the manner in which applications for residence in the housing are approved.

"(b) For fiscal year 1990 and subsequent fiscal years, the Secretary may not make payments under section 1914 unless the State involved provides assurances satisfactory to the Secretary that the State has provided for the establishment and ongoing operation of a revolving fund in accordance with subsection (a).

"(c) Not later than 90 days after the date of the enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, the Secretary, acting through the Administrator, shall issue guidelines for the operation of programs described in subsection (a).".

SEC. 2037. REPORT AND AUDITS.

(a) REPORTING BY STATES.—

(1) Section 1917(a) of the Public Health Service Act (42 U.S.C. 300x-5(a)) is amended—

(A) by striking "(1)" after "(a)";

(B) by striking paragraph (2); and

(C) by striking "(14) and (15)" and inserting "(2), (14), and (15)".

(2) Section 1916(f) of the Public Health Service Act, as redesignated by section 2035(b) of this Act, is amended by striking "(14) and (15)" and inserting "(2), (14), and (15)". 42 USC 300x-4.

(b) REPORT BY SECRETARY.—Section 1917(b)(6) of the Public Health Service Act (42 U.S.C. 300x-5(b)(6)) is amended by striking "1986" and inserting "1990".

SEC. 2038. TECHNICAL ASSISTANCE.

Title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.) is amended—

(1) by striking part C; 42 USC 300y—300y-2.

(2) by redesignating section 1920A as section 1921; 42 USC 300x-9.

(3) by redesignating sections 1920B through 1920E as sections 1924 through 1927, respectively; 42 USC 300x-10—300x-13.

(4) in section 1924 (as so redesignated), by striking "section 1920C" each place it appears and inserting "section 1925"; 42 USC 300x-10.

(5) in section 1926 (as so redesignated), by striking "section 1920C" each place it appears and inserting "section 1925"; and 42 USC 300x-12.

(6) by amending section 1921 (as so redesignated) to read as follows:

"TECHNICAL ASSISTANCE

"SEC. 1921. The Secretary shall, without charge to a State receiving payments under this subpart, provide to the State (or to any public 42 USC 300x-9.

or nonprofit private entity designated by the State) technical assistance with respect to the planning, development, and operation of any program or service carried out pursuant to this subpart. The Secretary may provide such technical assistance directly, through contract, or through grants.".

SEC. 2039. SERVICE RESEARCH ON COMMUNITY-BASED ALCOHOL AND DRUG ABUSE TREATMENT PROGRAMS.

(a) IN GENERAL.—Part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.), as amended by section 2038 of this Act, is further amended by adding after section 1921 the following new section:

"SERVICE RESEARCH ON COMMUNITY-BASED ALCOHOL AND DRUG ABUSE TREATMENT PROGRAMS

Contracts.
Grants.
42 USC 300x-9a.

"SEC. 1922. The Secretary, acting through the Director of the National Institute on Alcohol Abuse and Alcoholism and the Director of the National Institute on Drug Abuse, shall evaluate alcohol and drug abuse treatment programs to determine the quality and appropriateness of various forms of treatment, including the effect of living in housing provided by programs established pursuant to section 1916A. Such programs shall be carried out through grants, contracts, or cooperative agreements provided to public and nonprofit private entities. In carrying out this section, the Secretary shall assess the quality, appropriateness, and costs of various treatment forms for specific patient groups.".

42 USC 300x-9a note.

(b) REQUIREMENT OF PLAN.—Not later than 6 months after the date of the enactment of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, the Secretary of Health and Human Services shall submit to the Committee on Energy and Commerce of the House of Representatives, and to the Committee on Labor and Human Resources of the Senate, a plan for the program to be established under section 1922 of the Public Health Service Act, as added by subsection (a) of this section.

SEC. 2040. SERVICE RESEARCH OF COMMUNITY-BASED MENTAL HEALTH TREATMENT PROGRAMS.

Part B of title XIX of the Public Health Service Act (42 U.S.C. 300x et seq.), as amended by section 2039 of this Act, is further amended by adding after section 1922 the following new section:

"SERVICE RESEARCH ON COMMUNITY-BASED MENTAL HEALTH TREATMENT PROGRAMS

42 USC 300x-9b.

"SEC. 1923. (a)(1) The Secretary, acting through the Director of the National Institute of Mental Health, shall develop and maintain an ongoing program of research on community mental health programs and services. Such program shall include an evaluation of—

"(A) the most effective methods of providing community-based prevention, treatment, and rehabilitation services for the mentally ill; and

"(B) the quality, appropriateness, and costs of different methods of treatment utilized in such programs with respect to diagnoses of mental illness for which such programs provided treatment.

"(2) Research and evaluations required in paragraph (1) may be carried out through grants, contracts, or cooperative agreements.

"(b) The Director of the National Institute of Mental Health may, to the extent practicable, establish research centers to carry out the evaluations required in subsection (a)(1). Such research centers shall establish and maintain liaisons with community mental health systems that provide services to the mentally ill.

"(c)(1) The Administrator shall develop and make available, from time to time, a model plan for a community-based system of care for chronically mentally ill individuals. Such plan shall be developed in consultation with State mental health directors, providers of mental health services, chronically mentally ill individuals, advocates for such individuals, and other interested parties.

"(2) The Administrator, in cooperation with members of the insurance industry, other members of the business community, and the Director of the Office of Personnel Management, shall develop a model insurance plan for consideration for adoption by such Director and the Congress. In developing such a plan, the Secretary shall consider the costs and benefits of alternative designs.". Insurance.

SEC. 2041. STATE COMPREHENSIVE MENTAL HEALTH SERVICE PLAN.

(a) ADMINISTRATIVE EXPENSES.—Section 1925(d) of the Public Health Service Act, as redesignated by section 2038, is amended to read as follows: 42 USC 300x-11.

"(d) The amount referred to in subsections (a), (b), and (c) with respect to a State is the total amount that the State is permitted to expend for administrative expenses under section 1915(d) for fiscal year 1986 from amounts paid to the State under subpart 1 for such fiscal year. If in the judgment of the Secretary the State is making a good faith effort to comply with this subpart, the Secretary may assess the State a penalty that is less than the maximum penalty, but in no event shall the penalty be less than 2 percent of the amount the State is permitted to expend for administrative expenses.".

(b) REPORT.—Not later than September 30, 1990, the Comptroller General of the United States shall prepare and submit to the Committee on Energy and Commerce of the House of Representatives and the Committee on Labor and Human Resources of the Senate, a report that— 42 USC 300x-11 note.

(1) evaluates the status of the implementation of section 1925 of the Public Health Service Act (as redesignated by section 2038) requiring State Mental Health Services Plans; and

(2) includes an assessment of—

(A) the number of States that have submitted such plans;

(B) the number of States that have implemented the plans submitted by such States;

(C) the efficacy of the plans that have been implemented in achieving effective, organized community-based systems of care for seriously mentally ill individuals; and

(D) recommendations on additional legislation that is necessary to facilitate the achievement of the goals of this title.

CHAPTER II—REVISION AND EXTENSION OF CERTAIN PROGRAMS OF ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH ADMINISTRATION

SEC. 2051. OFFICE FOR SUBSTANCE ABUSE PREVENTION.

(a) FUNDING.—Section 508(d) of the Public Health Service Act (42 U.S.C. 290aa-6(d)) is amended to read as follows:

Appropriation authorization.

"(d)(1) For the purpose of carrying out this section and sections 509, 509A, and 509F there are authorized to be appropriated $95,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

"(2) Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, the Secretary shall make available not less than $5,000,000 to carry out paragraphs (5) and (11) of subsection (b).".

(b) REVISION OF CERTAIN AUTHORITIES.—Section 508(b) of the Public Health Service Act (42 U.S.C. 290aa-6(b)) is amended—

(1) by amending paragraph (5) to read as follows:

"(5) support clinical training programs for substance abuse counselors and other health professionals involved in drug abuse education, prevention, and intervention;"; and

(2)(A) by striking "and" at the end of paragraph (8);

(B) by striking the period at the end and inserting a semicolon; and

(C) by adding at the end the following new paragraph:

"(10)(A) provide assistance to communities to develop comprehensive long-term strategies for the prevention of substance abuse; and

"(B) evaluate the success of different community approaches toward the prevention of substance abuse; and".

(c) TRAINING OF PERSONNEL TO TREAT SUBSTANCE ABUSE.—Section 508(b) of the Public Health Service Act (42 U.S.C. 290aa-6(b)), as amended by subsection (b) of this section, is further amended by adding at the end the following new paragraph:

"(11) through schools of health professions, schools of allied health professions, schools of nursing, and schools of social work, carry out programs—

"(A) to train individuals in the diagnosis and treatment of alcohol and drug abuse; and

"(B) to develop appropriate curricula and materials for the training described in subparagraph (a).".

(d) HIGH RISK YOUTH.—Section 509A of the Public Health Service Act (42 U.S.C. 290aa-8(b)) is amended—

(1) in subsection (b), by adding at the end the following new paragraph:

"(5) In making grants under this section, the Secretary shall give priority to applications that employ research designs adequate for evaluating the effectiveness of the program."; and

(2) in subsection (f)—

(A) in paragraph (8), by striking "or";

(B) by amending paragraph (9) to read as follows:

"(9) has experienced long-term physical pain due to injury; or"; and

(C) by adding at the end the following new paragraph:

"(10) has experienced chronic failure in school.".

SEC. 2052. REQUIREMENT OF ANNUAL COLLECTION BY SECRETARY OF CERTAIN DATA WITH RESPECT TO MENTAL ILLNESS AND SUBSTANCE ABUSE.

(a) IN GENERAL.—Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new section:

"DATA COLLECTION

"SEC. 509D. (a) The Secretary, acting through the Administrator, shall collect data each year on— 42 USC 290aa-11.

"(1) the national incidence and prevalence of the various forms of mental illness and substance abuse; and

"(2) the incidence and prevalence of such various forms in major metropolitan areas selected by the Administrator.

"(b) With respect to the activities of the Administrator under subsection (a) relating to mental health, the Administrator shall ensure that such activities include, at a minimum, the collection of data on—

"(1) the number and variety of public and nonprofit private treatment programs;

"(2) the number and demographic characteristics of individuals receiving treatment through such programs;

"(3) the type of care received by such individuals; and

"(4) such other data as may be appropriate.

"(c)(1) With respect to the activities of the Administrator under subsection (a) relating to substance abuse, the Administrator shall ensure that such activities include, at a minimum, the collection of data on—

"(A) the number of individuals admitted to the emergency rooms of hospitals as a result of the abuse of alcohol and other drugs;

"(B) the number of deaths occurring as a result of substance abuse, as indicated in reports by coroners;

"(C) the number and variety of public and private nonprofit treatment programs, including the number and type of patient slots available;

"(D) the number of individuals seeking treatment through such programs, the number and demographic characteristics of individuals receiving such treatment, the percentage of individuals who complete such programs, and, with respect to individuals receiving such treatment, the length of time between an individual's request for treatment and the commencement of treatment;

"(E) the number of such individuals who return for treatment after the completion of a prior treatment in such programs and the method of treatment utilized during the prior treatment;

"(F) the number of individuals receiving public assistance for such treatment programs;

"(G) the costs of the different types of treatment modalities for drug and alcohol abuse and the aggregate relative costs of each such treatment modality provided within a State in each fiscal year;

"(H) to the extent of available information, the number of individuals receiving treatment for alcohol or drug abuse who have private insurance coverage for the costs of such treatment;

"(I) the extent of alcohol and drug abuse among high school students and among the general population; and

"(J) the number of alcohol and drug abuse counselors and other substance abuse treatment personnel employed in public and private treatment facilities.

"(2) Annual surveys shall be carried out in the collection of data under this section. Summaries and analyses of the data collected shall be made available to the public.

"(d) After consultation with the States and with appropriate national organizations, the Administrator shall develop uniform criteria for the collection of data, using the best available technology, pursuant to this section.".

(b) CONFORMING AMENDMENT.—Section 1917 of the Public Health Service Act (42 U.S.C. 300x-5) is amended by striking subsection (d).

SEC. 2053. REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 2052 of this chapter, is further amended by adding at the end the following new section:

"REDUCTION OF WAITING PERIOD FOR DRUG ABUSE TREATMENT

Grants.
42 USC
290aa-12.

"SEC. 509E. (a) The Secretary, acting through the Administrator, may make grants to public and nonprofit private entities for the purpose of reducing the waiting list of public and nonprofit private programs providing treatment services for drug abuse.

"(b) The Secretary may not make a grant under subsection (a) unless the applicant for the grant—

"(1) is experienced in the delivery of treatment services for drug abuse;

"(2) is, on the date the application is submitted, successfully carrying out a program for the delivery of such services approved by the State;

"(3) as a result of the number of requests for admission into the program, is unable to admit any individual into the program any earlier than one month after the date on which the individual makes a request for such admission; and

"(4) provides assurances satisfactory to the Secretary that, after funding is no longer available under this section, the applicant will have access to financial resources sufficient to continue the program.

"(c) The Secretary may not make a grant under subsection (a) unless the applicant for the grant agrees that the payments will not be expended—

"(1) to provide inpatient hospital services;

"(2) to make cash payments to intended recipients of services under the program involved;

"(3) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment;

"(4) to satisfy any requirement for the expenditure of non-Federal funds as a condition for the receipt of Federal funds; or

"(5) to provide financial assistance to any entity other than a public or nonprofit private entity.

"(d) The Secretary may not make more than one grant under subsection (a) for any program of treatment services for drug abuse.

"(e) The Secretary may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Secretary determines to be necessary to carry out this section.

"(f)(1) For the purpose of carrying out this section, there is authorized to be appropriated $100,000,000. Appropriation authorization.

"(2) Amounts made available pursuant to paragraph (1) shall remain available until expended.

"(3) No grant may be made under this section after the aggregate amounts obligated by the Secretary pursuant to this section are equal to $100,000,000.".

SEC. 2054. MODEL PROJECTS FOR PREGNANT WOMEN.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 2053 of this chapter, is further amended by adding at the end the following new section:

"MODEL PROJECTS FOR PREGNANT AND POST PARTUM WOMEN AND THEIR INFANTS

"SEC. 509F. (a) The Secretary, acting through the Director of the Office, shall make grants to establish projects for prevention, education, and treatment regarding drug and alcohol abuse relating to pregnant and post partum women and their infants. Grants. 42 USC 290aa-13.

"(b) In making grants under subsection (a), the Director of the Office shall give priority to projects—

"(1) for low-income women and their infants; and

"(2) designed to develop innovative approaches to prevention, education, and treatment regarding the use of the drugs with respect to which there exists insufficient information (including cocaine and the cocaine derivative known as crack).

"(c) In making grants under subsection (a) for projects that provide treatment, the Director of the Office shall ensure that grants are reasonably distributed among projects that provide inpatient, outpatient, and residential treatment.

"(d) The Director of the Office may not make a grant under subsection (a) unless—

"(1) an application for the grant is submitted to the Secretary;

"(2) with respect to carrying out the purpose for which the grant is to be made, the application provides assurances of compliance satisfactory to the Secretary; and

"(3) the application otherwise is in such form, is made in such manner, and contains such agreements, assurances, and information as the Director of the Office determines to be necessary to carry out this section.

"(e) The Director of the Office shall evaluate projects conducted with grants under this section.".

SEC. 2055. DRUG ABUSE DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE.

Part A of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.), as amended by section 2054 of this chapter, is further amended by adding at the end the following new section:

"DRUG ABUSE DEMONSTRATION PROJECTS OF NATIONAL SIGNIFICANCE

Grants.
42 USC
290aa-14.

"SEC. 509G. (a)(1) The Secretary, acting through the Administrator, may make grants to public and private entities for demonstration projects—

"(A) to determine the feasibility and long-term efficacy of programs providing drug abuse treatment and vocational training in exchange for public service;

"(B) to conduct outreach activities to intravenous drug abusers with respect to the prevention of exposure to, and the transmission of, the etiologic agent for acquired immune deficiency syndrome and to encourage intravenous drug abusers to seek treatment for such abuse; and

"(C) to provide drug abuse treatment services to pregnant women, post partum women, and their infants.

"(2) The Secretary shall, directly or through contracts with public and private entities, provide for evaluations of projects carried out pursuant to subsection (a) and for the dissemination of information developed as result of such models.

"(b)(1) The Secretary shall establish demonstration projects that provide grants to States for the purpose of enabling such States to provide effective treatment, and referrals for treatment, to individuals who abuse drugs.

"(2) The Secretary shall award grants under subsection (a) to projects that operate in areas—

"(A) in which a demand for drug treatment services exists, or a need for such services exists which exceeds the capacity of organizations operating in that area to provide such services;

"(B) that have a high prevalence of drug abuse;

"(C) that have a high incidence of drug related criminal activities; and

"(D) that meet any other requirements that the Secretary determines are appropriate.

"(3) In awarding grants under subsection (a), the Secretary shall—

"(A) select projects that focus on at least one of the following areas of treatment:

"(i) treatment of adolescents;

"(ii) treatment of minorities;

"(iii) treatment of pregnant women;

"(iv) treatment of female addicts and their children; and

"(v) treatment of the residents of public housing projects; and

"(B) select at least one project that includes a centralized local referral unit that shall provide—

"(i) an initial analysis of the nature of the individual's problem and refer such individual to appropriate existing drug treatment programs; and

"(ii) assistance to school teachers and other individuals who come into contact with drug abusers when attempting to refer such abusers to appropriate drug treatment programs.

"(4) A State that desires to participate in a project established under subsection (a) shall submit a written application to the Secretary in such form and containing such information as the Secretary may by regulation request.

"(5) In awarding grants under subsection (a), the Secretary shall give preference to projects that demonstrate a comprehensive approach to the problems associated with drug abuse and provide evidence of broad community involvement and support, including the support of private businesses, law enforcement authorities, health care providers, local school systems, and local governments in the proposed demonstration project.

"(6) Projects funded under this section shall be for a period of at least three years but in no event to exceed five years.

"(7) The Secretary shall require, as a condition of awarding grants under this section, a systematic evaluation of the projects funded under this section on a long term basis to record the impact of such projects on treated individuals, and on the community as a whole. The methodology used in the evaluation shall be published in the Federal Register for comment before becoming effective.

Federal Register, publication.

"(c)(1) There are authorized to be appropriated to carry out this section $34,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 through 1991.

Appropriation authorization.

"(2) Of the amounts appropriated pursuant to paragraph (1) for a fiscal year, $10,000,000 shall be made available for carrying out subsection (a).

SEC. 2056. CERTAIN AUTHORIZATIONS OF APPROPRIATIONS.

(a) RESEARCH WITH RESPECT TO ALCOHOL ABUSE AND ALCOHOLISM.—Section 513(a) of the Public Health Service Act (42 U.S.C. 290bb-2(a)) is amended by inserting before the period the following: ", and such sums as may be necessary for each of the fiscal years 1989 through 1991".

(b) RESEARCH WITH RESPECT TO DRUG ABUSE.—Section 517 of the Public Health Service Act (42 U.S.C. 290cc-2) is amended—

(1) by striking "this subpart" and inserting "section 515"; and

(2) by inserting before the period the following: ", $135,000,000 for fiscal year 1989, and such sums as may be necessary for each of the fiscal years 1990 and 1991".

SEC. 2057. ESTABLISHMENT OF GRANT PROGRAMS FOR RESEARCH WITH RESPECT TO MENTAL HEALTH SERVICES.

Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended—

(1) by amending section 504(f) to read as follows:

"(f)(1) The Secretary, acting through the Director, shall—

Public information. 42 USC 290aa-3.

"(A) develop and publish information with respect to the causes of suicide and the means of preventing suicide; and

"(B) make such information generally available to the public and to health professionals.

"(2) Information described in paragraph (1) shall especially relate to suicide among individuals under 24 years of age.";

(2) by striking subsections (g) through (i) of section 504; and

(3) by adding at the end of part B the following new subpart:

"Subpart 3—Mental Health Research

"ESTABLISHMENT OF PROGRAM FOR MENTAL HEALTH RESEARCH

Grants.
Contracts.
42 USC
290cc-11.

"SEC. 519. The Secretary, acting through the Administrator, may make grants to, and enter into cooperative agreements and contracts with, public and nonprofit private entities for the conduct of, promotions of, coordination of, research, investigation, experiments, demonstrations, and studies relative to the cause, diagnosis, treatment, control, and prevention of mental illness.

"NATIONAL MENTAL HEALTH EDUCATION PROGRAM

Public
information.
42 USC
290cc-12.

"SEC. 520. The Secretary, acting through the Administrator, shall establish a National Mental Health Education Program for the purpose of—

"(1) developing improved methods of treating individuals with mental health problems and improved methods of assisting the families of such individuals;

"(2) supporting programs of biomedical and behavioral research, training, and education with respect to the causes, diagnosis, and treatment of mental health problems;

"(3) collecting and making available, through publication and other appropriate methods, information on, and the practical application of, such research and other activities;

"(4) providing technical assistance to public and private entities that are providers of mental health services;

"(5) disseminating to such providers and to the public information with respect to mental health, including information on programs that provide financial assistance in obtaining mental health services; and

"(6) establishing a clearinghouse in order to collect information developed in mental health research and treatment programs and to make such information available to providers of mental health services, to individuals with mental health problems, and to the general public.

"ESTABLISHMENT OF GRANT PROGRAM FOR DEMONSTRATION PROJECTS

42 USC
290cc-13.

"SEC. 520A. (a) CHRONICALLY MENTALLY ILL INDIVIDUALS AND SERIOUSLY MENTALLY DISTURBED CHILDREN.—The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and nonprofit private agencies—

"(1) for mental health services demonstration projects for the planning, coordination, and improvement of community services (including outreach and self-help services) for chronically mentally ill individuals, seriously emotionally disturbed children and youth, elderly individuals, and homeless chronically mentally ill individuals, and for the conduct of research concerning such services;

"(2) demonstration projects for the prevention of youth suicide;

"(3) demonstration projects for the improvement of the recognition, assessment, treatment, and clinical management of depressive disorders; and

"(5) demonstration projects for treatment and prevention relating to sex offenses.

"(b) INDIVIDUALS AT RISK OF MENTAL ILLNESS.—

"(1) The Secretary, acting through the Director, may make grants to States, political subdivisions of States, and private nonprofit agencies for prevention services demonstration projects for the provision of prevention services for individuals who, in the determination of the Secretary, are at risk of developing mental illness.

"(2) Demonstration projects under paragraph (1) may include—

"(A) prevention services for populations at risk of developing mental illness, particularly displaced workers, young children, and adolescents;

"(B) the development and dissemination of education materials;

"(C) the sponsoring of local, regional, or national workshops or conferences;

"(D) the conducting of training programs with respect to the provision of mental health services to individuals described in paragraph (1); and

"(E) the provision of technical assistance to providers of such services.

"(c) LIMITATION ON DURATION OF GRANT.—The Secretary may make a grant under subsection (a) or (b) for not more than three consecutive one-year periods.

"(d) LIMITATION ON ADMINISTRATIVE EXPENSES.—The Secretary may not make a grant under subsection (a) or (b) to an applicant unless the applicant agrees that not more than 10 percent of such a grant will be expended for administrative expenses.

"(e) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) For the purposes of carrying out this section, there are authorized to be appropriated $60,000,000 for each of the fiscal years 1989 and 1990.

"(2) Of the amounts appropriated pursuant to paragraph (1), the Secretary shall make available 15 percent for demonstration projects to carry out the purpose of this section in rural areas.".

SEC. 2058. MISCELLANEOUS AMENDMENTS.

(a) TITLE V OF PUBLIC HEALTH SERVICE ACT.—

(1) The title of title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended so as to read: "TITLE V—ALCOHOL, DRUG ABUSE, AND MENTAL HEALTH PROGRAMS".

(2) Section 501 of the Public Health Service Act (42 U.S.C. 290aa) is amended—

(A) by adding at the end of subsection (b) the following new paragraph:

"(4) The Office of Substance Abuse Prevention.";

(B) in the first sentence of subsection (e)(2)—

(i) by striking "The" and inserting the following: "Not less than once each three years, the"; and

(ii) by striking "annually";

(C) by striking "fraud" each place it appears in subsection (f) and inserting "misconduct";

(D) by striking subsection (k); and

(E) by adding at the end the following new subsections:

"(k) The Administrator may accept voluntary and uncompensated services.

"(l) The Administrator may conduct and support research training—

"(1) for which fellowship support is not provided under section 487; and

"(2) that is not residency training of physicians or other health professionals.

Grants.

"(m)(1) The Secretary, acting through the Administrator, may make grants to public and nonprofit private entities for the acquisition of small instrumentation necessary for carrying out the purpose of this title with respect to research.

"(2) The Secretary may not make a grant under paragraph (1) unless the small instrumentation acquired pursuant to the grant will be available for use in more than one grant under this title with respect to research.

"(3) Grants under paragraph (1) shall be subject to technical and scientific peer review under section 507.

"(4) A grant under paragraph (1) for a fiscal year may not exceed $100,000.

Appropriation authorization.

"(5) For the purpose of carrying out this subsection, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1989 through 1991.".

(3) Section 515(a) of the Public Health Service Act (42 U.S.C. 290cc) is amended in the matter after and below paragraph (6) by inserting before the period the following: "(particularly with respect to pregnant women and their children)".

(4) Section 516 of the Public Health Service Act (42 U.S.C. 290cc-1) is amended—

(A) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively; and

(B) by inserting after subsection (a) the following new subsection:

"(b) In making grants under subsection (a), the Secretary shall give special consideration to projects for determining the effects of drug abuse among pregnant women and the resulting effects on the infants of such women, including the relationship between drug abuse during pregnancy and the birthweight of infants.".

(b) SECTION 303.—Section 303(d)(1) of the Public Health Service Act (42 U.S.C. 242a(d)(1)) is amended by inserting "marital and family therapy," after "nursing,".

(c) ANTI-DRUG ABUSE ACT OF 1986.—Section 6005(b) of the Anti-Drug Abuse Act of 1986 (Public Law 99-570) is amended by striking "one year" and all that follows through "Act" and inserting "18 months after the execution of the contract referred to in subsection (a),".

21 USC 801 note.

CHAPTER 3—REPORTS AND STUDIES

42 USC 290aa note.

SEC. 2071. RELATIONSHIP BETWEEN MENTAL ILLNESS AND SUBSTANCE ABUSE.

(a) IN GENERAL.—The Secretary of Health and Human Services shall conduct a study for the purpose of—

(1) determining the relationship between mental illness and substance abuse; and

(2) developing recommendations on the most effective methods of treatment for individuals with both mental illness and substance abuse problems.

(b) REPORT.—Not later than 12 months after the date of the enactment of this Act, the Secretary of Health and Human Services shall complete the study required in subsection (a) and submit to the Congress the findings made as a result of the study.

SEC. 2072. USE OF INVOLUNTARY COMMITMENT.

42 USC 290cc-11 note. Contracts.

(a) IN GENERAL.—The Secretary of Health and Human Services shall enter into a contract with an independent body of demonstrated expertise in the field of health and mental health to conduct a study of the current use of involuntary commitment for inpatient or outpatient treatment of mental illness and make recommendations for changes, if any, that may be warranted in current rules and practices.

(b) REPORT.—Not later than 18 months after the date on which a contract is entered into pursuant to subsection (a), the Secretary of Health and Human Services shall complete the study required in subsection (a) and submit to the Congress the findings made as a result of the study.

(c) AUTHORIZATION OF APPROPRIATIONS.—For the purpose of carrying out subsection (a), there are authorized to be appropriated $1,000,000 for fiscal year 1989.

SEC. 2073. REPORT WITH RESPECT TO ADMINISTRATION OF CERTAIN RESEARCH PROGRAMS.

42 USC 290aa note.

(a) STUDY.—The Secretary of Health and Human Services shall request the National Academy of Sciences to conduct a review of the research activities of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration. Such review shall include—

(1) an evaluation of the appropriateness of administering health service programs in conjunction with the administration of biomedical and behavioral research; and

(2) a determination of any areas of duplication in the research programs of the National Institutes of Health and the Alcohol, Drug Abuse, and Mental Health Administration.

(b) REPORT.—Not later than 12 months after the date on which any contract requested in subsection (a) is entered into, the Secretary of Health and Human Services shall, to the extent practicable, provide for the completion of the review requested in such subsection and submit to the Congress a report describing the findings made as a result of the review.

(c) CONTRACT AUTHORITY.—The Secretary of Health and Human Services may enter into a contract with the National Academy of Sciences to carry out the review requested in subsection (a).

CHAPTER 4—MISCELLANEOUS

SEC. 2081. ACTION BY NATIONAL INSTITUTE ON DRUG ABUSE AND STATES CONCERNING MILITARY FACILITIES.

(a) IN GENERAL.—Title V of the Public Health Service Act (42 U.S.C. 290aa et seq.) is amended by adding at the end the following new part:

"PART E—ALTERNATIVE UTILIZATION OF MILITARY FACILITIES

"ACTION BY NATIONAL INSTITUTE ON DRUG ABUSE AND STATES CONCERNING MILITARY FACILITIES

42 USC 290ff.

"SEC. 561. (a) NATIONAL INSTITUTE ON DRUG ABUSE.—The Director of the National Institute on Drug Abuse shall—

"(1) coordinate with the agencies represented on the Commission on Alternative Utilization of Military Facilities the utilization of military facilities or parts thereof, as identified by such Commission, established under the National Defense Authorization Act of 1989, that could be utilized or renovated to house nonviolent persons for drug treatment purposes;

"(2) notify State agencies responsible for the oversight of drug abuse treatment entities and programs of the availability of space at the installations identified in paragraph (1); and

"(3) assist State agencies responsible for the oversight of drug abuse treatment entities and programs in developing methods for adapting the installations described in paragraph (1) into residential treatment centers.

"(b) STATES.—With regard to military facilities or parts thereof, as identified by the Commission on Alternative Utilization of Military Facilities established under section 3042 of the Comprehensive Alcohol Abuse, Drug Abuse, and Mental Health Amendments Act of 1988, that could be utilized or renovated to house nonviolent persons for drug treatment purposes, State agencies responsible for the oversight of drug abuse treatment entities and programs shall—

"(1) establish eligibility criteria for the treatment of individuals at such facilities;

"(2) select treatment providers to provide drug abuse treatment at such facilities;

"(3) provide assistance to treatment providers selected under paragraph (2) to assist such providers in securing financing to fund the cost of the programs at such facilities; and

"(4) establish, regulate, and coordinate with the military official in charge of the facility, work programs for individuals receiving treatment at such facilities.

"(c) RESERVATION OF SPACE.—Prior to notifying States of the availability of space at military facilities under subsection (a)(2), the Director may reserve space at such facilities to conduct research or demonstration projects.".

(b) FEDERAL PROPERTIES AND ADMINISTRATIVE PROCEDURES ACT.—Section 203(j)(3)(B) of the Federal Property and Administrative Procedures Act of 1979 (40 U.S.C. 484(j)(3)(B)) is amended by inserting ", drug abuse treatment centers" after "health centers".

Subtitle B—Employee Assistance Programs

29 USC 566.

SEC. 2101. EMPLOYEE ASSISTANCE PROGRAMS.

Grants.
Contracts.

(a) ESTABLISHMENT.—The Secretary of Labor shall establish a program through which the Secretary shall provide grants to, or enter into contracts with, employers to enable such employers to develop employee drug and alcohol abuse assistance programs.

(b) APPLICATIONS.—Employers desiring to receive a grant or contract under this section shall submit to the Secretary of Labor, an

application, in such form and containing such information as the Secretary may require.

(c) REGULATIONS.—The Secretary of Labor shall promulgate regulations necessary to carry out this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section, $4,000,000 for fiscal year 1989, and $5,000,000 for each of the fiscal years 1990 and 1991.

Subtitle C—Indian Alcohol and Substance Abuse Prevention and Treatment

SEC. 2201. AMENDMENTS TO INDIAN ALCOHOL AND SUBSTANCE ABUSE PREVENTION AND TREATMENT ACT OF 1986.

Whenever in this subtitle a section or other provision is amended or repealed, such amendment or repeal shall be considered to be made to that section or other provision of the Indian Alcohol and Substance Abuse Prevention and Treatment Act of 1986 (25 U.S.C. 2401 et seq.).

SEC. 2202. DEFINITIONS.

Section 4204 (25 U.S.C. 2403) is amended by inserting at the end thereof the following new paragraph:

"(6) The terms 'Urban Indian', 'Urban Center', and 'Urban Indian Organization' shall have the same meaning as provided in section 4 of the Indian Health Care Improvement Act.".

SEC. 2203. AMENDMENT AND REVISION OF TRIBAL DEVELOPMENT PLAN.

Paragraph (2) of section 4206(c) (25 U.S.C. 2412(c)) is amended—

(1) by striking out "and" at the end of subparagraph (C);

(2) by striking out the period at the end of subparagraph (D) and inserting in lieu thereof ", and"; and

(3) by adding at the end thereof the following new subparagraph (E):

"(E) the establishment of procedures for amendment and revision of the plan as may be determined necessary by the Tribal Coordinating Committee.".

SEC. 2204. AUTHORIZATION OF APPROPRIATIONS FOR GRANTS.

Paragraph (2) of section 4206(d) (25 U.S.C. 2412(d)(2)) is amended to read as follows:

"(2) There is authorized to be appropriated not to exceed $1,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992 for grants under this subsection.".

SEC. 2205. LEASING OF TRIBAL PROPERTY.

Section 4209 is amended— 25 USC 2415.

(1) by amending the heading to read as follows:

"SEC. 4209. FEDERAL FACILITIES, PROPERTY, AND EQUIPMENT; LEASING OF TRIBAL PROPERTY.";

and

(2) by adding at the end thereof the following new subsection (c):

"(c) LEASES.—(1) The Secretary of the Interior and the Secretary of Health and Human Services are authorized to enter into long-term leases of tribally owned or leased facilities to house programs established by this subtitle where they determine that there is no Federal

facility reasonably available for such purpose and the cost of constructing a new Federal facility would exceed the cost of such Federal lease unless they determine that mitigating factors favor such a lease.

"(2) A tribally owned or leased facility may be leased pursuant to this authority to house a regional treatment center to be established pursuant to section 4227(b) only if all the tribes within the Indian Health Service area to be served by such regional treatment center initially consent to such Federal lease.".

SEC. 2206. INDIAN EDUCATION PROGRAMS.

25 USC 2432.

Section 4212(a) is amended by striking out "1987, 1988, and 1989" and inserting in lieu thereof "1989, 1990, 1991, and 1992".

SEC. 2207. EMERGENCY SHELTERS AND HALFWAY HOUSES.

Children and youth.

(a) HALF-WAY HOUSES.—Subsection (a) of section 4213 (25 U.S.C. 2433) is amended by adding at the end thereof "Half-way houses may be used as either intake facilities or aftercare facilities for youth admitted, or to be admitted, for long-term treatment of substance abuse. The Indian Health Service, the Bureau of Indian Affairs, and the tribes are authorized to use their respective resources to adequately staff and operate any such facility.".

(b) AUTHORIZATION.—Subsection (e) of section 4213 (25 U.S.C. 2433) is amended to read as follows:

"(e) AUTHORIZATION.—(1) For the planning and design, construction, and renovation of emergency shelters or half-way houses to provide emergency care for Indian youth, there is authorized to be appropriated $5,000,000 for the fiscal year 1989 and $3,000,000 for each of the fiscal years 1990, 1991, and 1992.

"(2) For the staffing and operation of emergency shelters and half-way houses, there is authorized to be appropriated $3,000,000 for the fiscal year 1989 and $3,000,000 for fiscal year 1990. An amount equal to the amount of funds appropriated pursuant to this paragraph for fiscal year 1990 shall be included in the base budget of the Bureau of Indian Affairs and funding thereafter shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).".

"(3) The Secretary of the Interior shall allocate funds appropriated pursuant to this subsection on the basis of priority of need of the various Indian tribes and such funds, when allocated, shall be subject to contracting pursuant to the Indian Self-Determination Act.".

SEC. 2208. CERTAIN ILLEGAL NARCOTICS TRAFFICKING.

(a) ASSISTANCE.—The section heading and subsection (a) of section 4216 (25 U.S.C. 2442) are amended to read as follows:

"SEC. 4216. ILLEGAL NARCOTICS TRAFFIC ON THE TOHONO O'ODHAM AND ST. REGIS RESERVATIONS; SOURCE ERADICATION.

"(a)(1) INVESTIGATION AND CONTROL.—The Secretary of the Interior shall provide assistance to—

Arizona.

"(A) the Tohono O'odham Tribe of Arizona for the investigation and control of illegal narcotics traffic on the Tohono O'odham Reservation along the border with Mexico, and

New York.

"(B) the St. Regis Band of Mohawk Indians of New York for the development of tribal law enforcement and judicial systems to aid in the investigation and control of illegal narcotics traffic on the St. Regis Reservation along the border with Canada.

"(2) The Secretary shall ensure that tribal efforts under this subsection are coordinated with appropriate Federal law enforcement agencies, including the United States Custom Service.

"(3) For the purpose of providing the assistance required by this subsection, there are authorized to be appropriated— Appropriation authorization.

"(A) $500,000 under paragraph (1)(A) for each of the fiscal years 1989, 1990, 1991, and 1992, and

"(B) $450,000 under paragraph (1)(B) for each of the fiscal years 1989 and 1990.".

(b) AUTHORIZATION.—Subsection (b)(2) of section 4216 is amended to read as follows: 25 USC 2442.

"(2) AUTHORIZATION.—For the purpose of establishing the program required by paragraph (1), there are authorized to be appropriated $500,000 for each of the fiscal years 1989, 1990, 1991, and 1992.".

SEC. 2209. LAW ENFORCEMENT AND JUDICIAL TRAINING.

Subsection (b) of section 4218 (25 U.S.C. 2451) is amended to read as follows:

"(b) AUTHORIZATION.—For the purpose of providing the training required by subsection (a), there are authorized to be appropriated $1,500,000 for each of the fiscal years 1989, 1990, 1991, and 1992.".

SEC. 2210. TREATMENT OF JUVENILE OFFENDERS.

Section 4219 (25 U.S.C. 2452) is amended—

(1) by inserting "(a)" before "The Memorandum"; and

(2) by adding at the end thereof the following new subsection (b):

"(b) TREATMENT OF CERTAIN COMMITTED YOUTH.—The Indian Health Service shall not refuse to provide necessary interim treatment for any Indian youth referred pursuant to subsection (a) who has been charged or is being prosecuted for any crime unless such referral is prohibited by a court of competent jurisdiction or the youth is determined by a court of competent jurisdiction to be a danger to others.". Indians.

SEC. 2211. JUVENILE DETENTION CENTERS.

Subsection (b) of section 4220 (25 U.S.C. 2453) is amended to read as follows:

"(b) AUTHORIZATION.—(1) For the purpose of constructing or renovating juvenile detention centers as provided in subsection (a), there is authorized to be appropriated $10,000,000 for the fiscal year 1989 and $5,000,000 for each of the fiscal years 1990 and 1991.

"(2) For the purpose of staffing and operating juvenile detention centers, there is authorized to be appropriated $5,000,000 for each of the fiscal years 1989 and 1990. An amount equal to the amount of funds appropriated pursuant to this paragraph for fiscal year 1990 shall be included in the base budget of the Bureau of Indian Affairs and funding thereafter shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).".

SEC. 2212. INDIAN HEALTH SERVICE YOUTH PROGRAM.

(a) DETOXIFICATION AND REHABILITATION.—Subsection (a) of section 4227 (25 U.S.C. 2474) is amended by inserting "of Health and Human Services" after the "Secretary".

(b) TREATMENT CENTERS.—Subsection (b) of section 4227 is amended to read as follows:

"(b) TREATMENT CENTERS OR FACILITIES.—(1) The Secretary shall construct or renovate, and appropriately staff and operate, a youth regional treatment center in each area under the jurisdiction of an Indian Health Service area office. For the purposes of this subsection, the area offices of the Indian Health Service in Tucson and Phoenix, Arizona, shall be considered one area office.

Arizona.

"(2)(A) For the purpose of constructing or renovating centers or facilities required by paragraph (1), there are authorized to be appropriated $6,000,000 for the fiscal year 1989 and $3,000,000 for each of the fiscal years 1990 and 1991.

Appropriation authorization.

"(B) For the purpose of staffing and operating such centers or facilities, there are authorized to be appropriated $11,000,000 for fiscal year 1990. An amount equal to the amount of funds appropriated pursuant to this subparagraph for fiscal year 1990 shall be included in the base budget of the Indian Health Service and funding thereafter shall be pursuant to the Act of November 2, 1921 (25 U.S.C. 13).".

Appropriation authorization.

(c) REHABILITATION AND FOLLOW-UP SERVICES.—Paragraph (3) of section 4227(d) is amended by striking out "there are authorized to be appropriated $9,000,000 for each of the fiscal years 1987, 1988, and 1989." and inserting in lieu thereof "there are authorized to be appropriated—

25 USC 2474.

"(1) $9,000,000 for the fiscal year 1989,
"(2) $10,000,000 for the fiscal year 1990,
"(3) $12,000,000 for the fiscal year 1991, and
"(4) $13,000,000 for the fiscal year 1992.".

(d) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—Section 4227 (25 U.S.C. 2474) is amended by adding at the end thereof the following:

"(e) INCLUSION OF FAMILY IN YOUTH TREATMENT PROGRAM.—In providing the treatment and other services to Indian youth authorized by this section, the Secretary shall provide for the inclusion of family members of such youth in the treatment programs or other services as may be appropriate.".

SEC. 2213. TRAINING AND COMMUNITY EDUCATION.

(a) REPEAL OF DEMONSTRATION PROGRAM; RESULTS OF DEMONSTRATION PROJECT.—Subsection (c) of section 4228 (25 U.S.C. 2475) is amended to read as follows:

"(c) RESULTS OF DEMONSTRATION PROJECT.—In carrying out the education and training programs required by this section, the Secretary of Health and Human Services shall take into consideration, and make available, the results of the demonstration project for children of alcoholics that was funded by the Office of Minority Health of the Department of Health and Human Services.".

(b) AUTHORIZATION.—Subsection (d) of section 4228 (25 U.S.C. 2475) is amended to read as follows:

"(d) AUTHORIZATION.—There are authorized to be appropriated for each of the fiscal years 1989, 1990, 1991, and 1992—

"(1) $3,000,000 to carry out the provisions of subsection (a), and
"(2) $1,000,000 to carry out the provisions of subsection (b).".

SEC. 2214. NAVAJO ALCOHOL REHABILITATION PROGRAM.

Subsection (c) of section 4229 (25 U.S.C. 2476) is amended to read as follows:

"(c) AUTHORIZATION.—There are authorized to be appropriated for the purposes of grants under subsection (a) $300,000 for the fiscal year 1989 and $200,000 for each of the fiscal years 1990, 1991, and 1992.".

SEC. 2215. URBAN INDIAN PROGRAM.

The subtitle is amended by adding at the end thereof the following new section 4231:

"SEC. 4231. URBAN INDIAN PROGRAM. 25 USC 2478.

"(a) GRANTS.—The Secretary of Health and Human Services is authorized to make grants for the provision of health-related services in prevention of, treatment of, rehabilitation of, or school and community-based education in alcohol and substance abuse in urban centers to those urban Indian organizations with whom the Secretary has entered into a contract under title V of the Indian Health Care Improvement Act (25 U.S.C. 1651 et seq.).

"(b) GOALS OF GRANT.—Each grant made pursuant to subsection (a) shall set forth the goals to be accomplished pursuant to the grant. The goals shall be specific to each grant as agreed to between the Secretary and the grantee.

"(c) CRITERIA.—The Secretary shall establish criteria for the grants made under subsection (a), including criteria relating to the—

"(1) size of the urban Indian population;

"(2) accessibility to, and utilization of, other health resources available to such population;

"(3) duplication of existing Indian Health Service or other Federal grants or contracts;

"(4) capability of the organization to adequately perform the activities required under the grant;

"(5) satisfactory performance standards for the organization in meeting the goals set forth in such grant, which standards shall be negotiated and agreed to between the Secretary and the grantee on a grant-by-grant basis; and

"(6) identification of need for services.

The Secretary shall develop a methodology for allocating grants made pursuant to this section based on such criteria.

"(d) TREATMENT OF MONEYS RECEIVED BY URBAN INDIAN ORGANIZATIONS.—Any moneys received by an urban Indian organization under this or any other Act for substance abuse prevention, treatment, and rehabilitation shall be subject to the criteria set forth in subsection (c).

"(e) AUTHORIZATION FOR GRANT PROGRAM.—There is authorized to be appropriated $5,000,000 for each of the fiscal years 1990, 1991, and 1992 to carry out the purposes of this section.".

SEC. 2216. OFFICE OF ALCOHOL AND SUBSTANCE ABUSE.

Section 4207 (25 U.S.C. 2413) is amended—

(1) by striking out "Assistant Secretary of" in subsection (b)(1) and inserting in lieu thereof "Assistant Secretary of the Interior for";

(2) by striking out "Assistant Secretary on" in subsection (b)(1) and inserting in lieu thereof "Assistant Secretary of the Interior for Indian Affairs on";

(3) by adding at the end of subsection (b) the following new paragraph:

"(3) The Assistant Secretary of the Interior for Indian Affairs shall appoint such employees to work in the Office of Alcohol and Substance Abuse, and shall provide such services and equipment, as may be necessary to enable the Office of Alcohol and Substance Abuse to carry out its responsibilities."; and

(4) by adding at the end of paragraph (1) of subsection (c) the following new sentence: "The Assistant Secretary of the Interior for Indian Affairs shall appoint the Indian Youth Programs Officer.".

SEC. 2217. CONTRACT HEALTH SERVICES.

Section 4226 (25 U.S.C. 2473), as amended by section 2212 of this Act, is amended by adding at the end thereof the following new subsection:

"(c) CONTRACT HEALTH SERVICES.—

"(1) The Secretary of Health and Human Services, acting through the Indian Health Service, may enter into contracts with public or private providers of alcohol and substance abuse treatment services for the purpose of assisting the Indian Health Service in carrying out the program required under subsection (a).

Appropriation authorization.

"(2) In addition to amounts otherwise authorized to be appropriated for contract health services, there are authorized to be appropriated for each of the fiscal years 1989, 1990, 1991, and 1992, $10,000,000 for the purpose of carrying out the provisions of this subsection.".

SEC. 2218. NEWSLETTER.

Section 4210 (25 U.S.C. 2416) is amended—

(1) by striking out ", not later than 120 days after the date of enactment of this subtitle,",

(2) by striking out "The Secretary" and inserting in lieu thereof "(a) IN GENERAL.—The Secretary", and

(3) by adding at the end thereof the following new subsection:

"(b) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated for each of the fiscal years 1989, 1990, 1991, and 1992, $300,000 to carry out the provisions of this section.".

25 USC 2401 note.

SEC. 2219. RULE OF CONSTRUCTION.

Except as otherwise provided in this Act or the amendments made by this Act, nothing in this Act or the amendments made by this Act shall be construed to affect the obligation of the United States to any Indian or Indian tribe arising out of any treaty, statute, Executive order, or the trust responsibility of the United States owing to such Indian or Indian tribe. Nothing in this section shall exempt any individual Indian from the sanctions of "user accountability" provided for elsewhere in this Act: *Provided*, That no individual Indian shall be denied any benefit under Federal Indian programs comparable to those "means tested" safety net programs otherwise excluded under this Act.

Native Hawaiian Health Care Act of 1988. 42 USC 11701 note.

Subtitle D—Native Hawaiian Health Care

SEC. 2301. SHORT TITLE.

This subtitle may be cited as the "Native Hawaiian Health Care Act of 1988".

SEC. 2302. FINDINGS. 42 USC 11701.

The Congress finds that—

(1) the United States retains the legal responsibility to enforce the administration of the public trust responsibility of the State of Hawaii for the betterment of the conditions of Native Hawaiians under section 5(f) of Public Law 86-3 (73 Stat. 6; commonly referred to as the "Hawaii Statehood Admissions Act");

(2) in furtherance of the State of Hawaii's public trust responsibility for the betterment of the conditions of Native Hawaiians, contributions by the United States to the provision of comprehensive health promotion and disease prevention services to maintain and improve the health status of Native Hawaiians are consistent with the historical and unique legal relationship of the United States with the government that represented the indigenous native people of Hawaii; and

(3) it is the policy of the United States to raise the health status of Native Hawaiians to the highest possible level and to encourage the maximum participation of Native Hawaiians in order to achieve this objective.

SEC. 2303. COMPREHENSIVE HEALTH CARE MASTER PLAN FOR NATIVE HAWAIIANS. 42 USC 11702.

(a) DEVELOPMENT.—The Secretary may make a grant to, or enter into contract with, Papa Ola Lokahi for the purpose of developing a Native Hawaiian comprehensive health care master plan designed to promote comprehensive health promotion and disease prevention services and to maintain and improve the health status of Native Hawaiians. The master plan shall be based upon an assessment of the health care status and health care needs of Native Hawaiians. To the extent practicable, assessments made as of the date of such grant or contract shall be used by Papa Ola Lokahi, except that any such assessment shall be updated as appropriate. Grants. Contracts.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $700,000 for fiscal year 1990 to carry out subsection (a).

SEC. 2304. NATIVE HAWAIIAN HEALTH CENTERS. 42 USC 11703.

(a) COMPREHENSIVE HEALTH PROMOTION, DISEASE PREVENTION, AND PRIMARY HEALTH SERVICES.—(1)(A) The Secretary, in consultation with Papa Ola Lokahi, may make grants to, or enter into contracts with, any qualified entity for the purpose of providing comprehensive health promotion and disease prevention services as well as primary health services to Native Hawaiians. Grants. Contracts.

(B) In making grants and entering into contracts under this paragraph, the Secretary shall give preference to Native Hawaiian health centers and Native Hawaiian organizations, and, to the extent feasible, health promotion and disease prevention services shall be performed through Native Hawaiian health centers.

(2) In addition to paragraph (1), the Secretary may make grants to, or enter into a contract with, Papa Ola Lokahi for the purpose of planning Native Hawaiian health centers to serve the health needs of Native Hawaiian communities on each of the islands of O'ahu, Moloka'i, Maui, Hawai'i, Lana'i, Kaua'i, and Ni'ihau in the State of Hawaii.

(b) QUALIFIED ENTITY.—An entity is a qualified entity for purposes of subsection (a)(1) if the entity is—

(1) a Native Hawaiian health center;

(2) a Native Hawaiian organization; or

(3) a public or nonprofit private health provider.

(c) SERVICES TO BE PROVIDED.—(1) Each recipient of funds under subsection (a)(1) shall provide the following services:

(A) Outreach services to inform Native Hawaiians of the availability of health services.

(B) Education in health promotion and disease prevention of the Native Hawaiian population by (wherever possible) Native Hawaiian health care practitioners, community outreach workers, counselors, and cultural educators.

(C) Services of physicians, physicians' assistants, or nurse practitioners.

(D) Immunizations.

(E) Prevention and control of diabetes, high blood pressure, and otitis media.

(F) Pregnancy and infant care.

(G) Improvement of nutrition.

(2) In addition to the mandatory services under paragraph (1), the following services may be provided pursuant to subsection (a)(1):

(A) Identification, treatment, control, and reduction of the incidence of preventable illnesses and conditions endemic to Native Hawaiians.

(B) Collection of data related to the prevention of diseases and illnesses among Native Hawaiians.

(C) Services within the meaning of the terms "health promotion", "disease prevention", and "primary health services", as such terms are defined in section 2308, which are not specifically referred to in paragraph (1) of this subsection.

(3) The health care services referred to in paragraphs (1) and (2) which are provided under grants or contracts under subsection (a)(1) may be provided by traditional Native Hawaiian healers.

(d) LIMITATION ON NUMBER OF ENTITIES.—During a fiscal year, the Secretary under this subtitle may make a grant to, or hold a contract with, not more than nine qualified entities in the State of Hawaii, as follows:

(1) Two entities serving individuals on Kaua'i, from which individuals on Ni'ihau shall also be served.

(2) Two entities serving individuals on O'ahu.

(3) One entity serving individuals on Moloka'i, from which individuals on Lana'i shall also be served.

(4) Two entities serving individuals on Maui.

(5) Two entities serving individuals on Hawai'i.

(e) MATCHING FUNDS.—(1) The Secretary may not make a grant or provide funds pursuant to a contract under subsection (a)(1) to an entity—

(A) in an amount exceeding 75 percent of the costs of providing health services under the grant or contract; and

(B) unless the entity agrees that the entity will make available, directly or through donations to the entity, non-Federal contributions toward such costs in an amount equal to not less than $1 (in cash or in kind under paragraph (2)) for each $3 of Federal funds provided in such grant or contract.

(2) Non-Federal contributions required in paragraph (1) may be in cash or in kind, fairly evaluated, including plant, equipment, or services. Amounts provided by the Federal Government or services assisted or subsidized to any significant extent by the Federal Government may not be included in determining the amount of such non-Federal contributions.

(3) The Secretary may waive the requirement established in paragraph (1) if—

(A) the entity involved is a nonprofit private entity described in subsection (b); and

(B) the Secretary, in consultation with Papa Ola Lokahi, determines that it is not feasible for the entity to comply with such requirement.

(f) RESTRICTION ON USE OF GRANT AND CONTRACT FUNDS.—The Secretary may not make a grant to, or enter into a contract with, an entity under subsection (a)(1) unless the entity agrees that amounts received pursuant to such subsection will not, directly or through contract, be expended—

(1) for any purpose other than the purposes described in subsection (c);

(2) to provide inpatient services;

(3) to make cash payments to intended recipients of health services; or

(4) to purchase or improve real property (other than minor remodeling of existing improvements to real property) or to purchase major medical equipment.

(g) LIMITATION ON CHARGES FOR SERVICES.—The Secretary may not make a grant, or enter into a contract with, an entity under subsection (a)(1) unless the entity agrees that, whether health services are provided directly or through contract—

(1) health services under the grant or contract will be provided without regard to ability to pay for the health services; and

(2) the entity will impose a charge for the delivery of health services, and such charge—

(A) will be made according to a schedule of charges that is made available to the public, and

(B) will be adjusted to reflect the income of the individual involved.

(h) AUTHORIZATION OF APPROPRIATIONS.—(1) There is authorized to be appropriated $5,000,000 for fiscal year 1991 and $10,000,000 for fiscal year 1992 to carry out subsection (a)(1).

(2) There is authorized to be appropriated for fiscal year 1990 $900,000 to carry out subsection (a)(2).

SEC. 2305. ADMINISTRATIVE GRANT FOR PAPA OLA LOKAHI.

42 USC 11704.

(a) IN GENERAL.—In addition to any other grant or contract under this subtitle, the Secretary may make grants to, or enter into contracts with, Papa Ola Lokahi for— Contracts.

(1) coordination, implementation, and updating (as appropriate) of the comprehensive health care master plan developed pursuant to section 2303;

(2) training for the persons described in section 2304(c)(1)(B); or

(3) identification of and research into the diseases that are most prevalent among Native Hawaiians, including behavioral, biomedical, epidemiological, and health services.

(b) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $1,000,000 for each of the fiscal years 1990, 1991, and 1992 to carry out subsection (a).

42 USC 11705.

SEC. 2306. ADMINISTRATION OF GRANTS AND CONTRACTS.

(a) TERMS AND CONDITIONS.—The Secretary shall include in any grant made or contract entered into under this subtitle such terms and conditions as the Secretary considers necessary or appropriate to ensure that the objectives of such grant or contract are achieved.

(b) PERIODIC REVIEW.—The Secretary shall periodically evaluate the performance of, and compliance with, grants and contracts under this subtitle.

(c) ADMINISTRATIVE REQUIREMENTS.—The Secretary may not make a grant or enter into a contract under this subtitle with an entity unless the entity—

(1) agrees to establish such procedures for fiscal control and fund accounting as may be necessary to ensure proper disbursement and accounting with respect to the grant or contract;

Classified information.

(2) agrees to ensure the confidentiality of records maintained on individuals receiving health services under the grant or contract;

(3) with respect to providing health services to any population of Native Hawaiians a substantial portion of which has a limited ability to speak the English language—

(A) has developed and has the ability to carry out a reasonable plan to provide health services under the grant or contract through individuals who are able to communicate with the population involved in the language and cultural context that is most appropriate; and

(B) has designated at least one individual, fluent in both English and the appropriate language, to assist in carrying out the plan;

(4) with respect to health services that are covered in the plan of the State of Hawaii approved under title XIX of the Social Security Act—

(A) if the entity will provide under the grant or contract any such health services directly—

(i) the entity has entered into a participation agreement under such plan; and

(ii) the entity is qualified to receive payments under such plan; and

(B) if the entity will provide under the grant or contract any such health services through a contract with an organization—

(i) the organization has entered into a participation agreement under such plan; and

(ii) the organization is qualified to receive payments under such plan; and

Reports.

(5) agrees to submit to the Secretary and to Papa Ola Lokahi an annual report that describes the utilization and costs of health services provided under the grant or contract (including the average cost of health services per user) and that provides such other information as the Secretary determines to be appropriate.

(d) CONTRACT EVALUATION.—(1) If, as a result of evaluations conducted by the Secretary, the Secretary determines that an entity has not complied with or satisfactorily performed a contract entered into under section 2304, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future

occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such entity and is authorized to enter into a contract under section 2304 with another entity referred to in section 2304(b) that provides services to the same population of Native Hawaiians which is served by the entity whose contract is not renewed by reason of this subsection.

(2) In determining whether to renew a contract entered into with an entity under this subtitle, the Secretary shall consider the results of evaluation under this section.

(3) All contracts entered into by the Secretary under this subtitle shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and may be exempted from the provisions of the Act of August 24, 1935 (40 U.S.C. 270a et seq.).

(4) Payments made under any contract entered into under this subtitle may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this section.

(e) LIMITATION ON USE OF FUNDS FOR ADMINISTRATIVE EXPENSES.—Except for grants and contracts under section 2305, the Secretary may not make a grant to, or enter into a contract with, an entity under this subtitle unless the entity agrees that the entity will not expend more than 10 percent of amounts received pursuant to this subtitle for the purpose of administering the grant or contract.

(f) REPORT.—(1) For each fiscal year during which an entity receives or expends funds pursuant to a grant or contract under this subtitle, such entity shall submit to the Secretary and to Papa Ola Lokahi a quarterly report on—

(A) activities conducted by the entity under the grant or contract;

(B) the amounts and purposes for which Federal funds were expended; and

(C) such other information as the Secretary may request.

(2) The reports and records of any entity which concern any grant or contract under this subtitle shall be subject to audit by the Secretary, the Inspector General of Health and Human Services, and the Comptroller General of the United States.

(g) ANNUAL PRIVATE AUDIT.—The Secretary shall allow as a cost of any grant made or contract entered into under this subtitle the cost of an annual private audit conducted by a certified public accountant.

SEC. 2307. ASSIGNMENT OF PERSONNEL. 42 USC 11706.

(a) IN GENERAL.—The Secretary is authorized to enter into an agreement with any entity under which the Secretary is authorized to assign personnel of the Department of Health and Human Services with expertise identified by such entity to such entity on detail for the purposes of providing comprehensive health promotion and disease prevention services to Native Hawaiians.

(b) APPLICABLE FEDERAL PERSONNEL PROVISIONS.—Any assignment of personnel made by the Secretary under any agreement entered into under the authority of paragraph (1) shall be treated as an assignment of Federal personnel to a local government that is made in accordance with subchapter VI of chapter 33 of title 5, United States Code.

42 USC 11707.

SEC. 2308. DEFINITIONS.

For purposes of this subtitle:

(1) DISEASE PREVENTION.—The term "disease prevention" includes—

(A) immunizations,
(B) control of high blood pressure,
(C) control of sexually transmittable diseases,
(D) prevention and control of diabetes,
(E) control of toxic agents,
(F) occupational safety and health,
(G) accident prevention,
(H) fluoridation of water,
(I) control of infectious agents, and
(J) provision of mental health care.

(2) HEALTH PROMOTION.—The term "health promotion" includes—

(A) pregnancy and infant care, including prevention of fetal alcohol syndrome,
(B) cessation of tobacco smoking,
(C) reduction in the misuse of alcohol and drugs,
(D) improvement of nutrition,
(E) improvement in physical fitness,
(F) family planning, and
(G) control of stress.

(3) NATIVE HAWAIIAN.—The term "Native Hawaiian" means any individual who has any ancestors that were natives, prior to 1778, of the area that is now the State of Hawaii as evidenced by—

(A) genealogical records,
(B) Kupuna (elders) or Kama'aina (long-term community residents) verification, or
(C) birth records of the State of Hawaii.

(4) NATIVE HAWAIIAN HEALTH CENTER.—The term "Native Hawaiian health center" means an entity—

(A) which is organized under the laws of the State of Hawaii,
(B) which provides or arranges for health care services through practitioners licensed by the State of Hawaii, where licensure requirements are applicable,
(C) which is a public or nonprofit private entity, and
(D) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services.

(5) NATIVE HAWAIIAN ORGANIZATION.—The term "Native Hawaiian organization" means any organization—

(A) which serves the interests of Native Hawaiians,
(B) which is—

(i) recognized by Papa Ola Lokahi for the purpose of planning, conducting, or administering programs (or portions of programs) authorized under this subtitle for the benefit of Native Hawaiians, and

(ii) certified by Papa Ola Lokahi as having the qualifications and capacity to provide the services, and meet the requirements, under the contract the organization enters into with, or grant the organization receives from, the Secretary under this subtitle,

(C) in which Native Hawaiian health practitioners significantly participate in the planning, management, monitoring, and evaluation of health services, and

(D) which is a public or nonprofit private entity.

(6) PAPA OLA LOKAHI.—The term "Papa Ola Lokahi" means an organization composed of—

(A) E Ola Mau;

(B) the Office of Hawaiian Affairs of the State of Hawaii;

(C) Alu Like Inc.;

(D) the University of Hawaii; and

(E) the Office of Hawaiian Health of the Hawaii State Department of Health.

(7) PRIMARY HEALTH SERVICES.—The term "primary health services" means—

(A) services of physicians, physicians' assistants and nurse practitioners;

(B) diagnostic laboratory and radiologic services;

(C) preventive health services (including children's eye and ear examinations to determine the need for vision and hearing correction, perinatal services, well child services, and family planning services);

(D) emergency medical services;

(E) transportation services as required for adequate patient care;

(F) preventive dental services; and

(G) pharmaceutical services, as may be appropriate for particular health centers.

(8) SECRETARY.—The term "Secretary" means the Secretary of Health and Human Services.

(9) TRADITIONAL NATIVE HAWAIIAN HEALER.—The term "traditional Native Hawaiian healer" means a practitioner—

(A) who—

(i) is of Hawaiian ancestry, and

(ii) has the knowledge, skills, and experience in direct personal health care of individuals, and

(B) whose knowledge, skills, and experience are based on a demonstrated learning of Native Hawaiian healing practices acquired by—

(i) direct practical association with Native Hawaiian elders, and

(ii) oral traditions transmitted from generation to generation.

SEC. 2309. RULE OF CONSTRUCTION. 42 USC 11708.

Nothing in this subtitle shall be construed to restrict the authority of the State of Hawaii to license health practitioners.

SEC. 2310. REPEAL OF DEMONSTRATION PROJECT.

Section 205 of the Indian Health Care Improvement Act, as added by section 203(c) of the Indian Health Care Amendments of 1988, is repealed. 42 USC 1621d.

SEC. 2311. COMPLIANCE WITH BUDGET ACT. 42 USC 11709.

Any new spending authority (described in subsection (c)(2) (A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this subtitle shall be effective for any fiscal year

only to such extent or in such amounts as are provided in appropriation Acts.

42 USC 11710.

SEC. 2312. SEVERABILITY.

If any provision of this subtitle, or the application of any such provision to any person or circumstances is held to be invalid, the remainder of this subtitle, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

Subtitle E—Provisions Relating to Certain Drugs

21 USC 333a.

SEC. 2401. FORFEITURE AND ILLEGAL TRAFFICKING IN STEROIDS.

Any conviction for a violation of section 303(e) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333(e)), or any other provision of that Act, involving an anabolic steroid or a human growth hormone shall be considered, for purposes of section 413 of the Controlled Substances Act (21 U.S.C. 853), a conviction for a violation of title II of the Comprehensive Drug Abuse Prevention and Control Act of 1970, if such violation of the Federal Food, Drug, and Cosmetic Act is punishable by imprisonment for more than one year.

SEC. 2402. COMPTROLLER GENERAL REPORT ON USE OF ANABOLIC STEROIDS AND HUMAN GROWTH HORMONES.

The Comptroller General shall conduct a study on the extent of anabolic steroid and human growth hormone use among high school students, college students and other adults. Such study shall include—

(1) the best available estimates for licit and illicit use of anabolic steroids and human growth hormones;

(2) the amount and type of legal production of anabolic steroids and human growth hormones, both domestically and internationally; and

(3) a full and complete summary of the best available medical analyses that explore the health consequences resulting from anabolic steroid and human growth hormone use.

Reports.

The Food and Drug Administration shall cooperate with the Comptroller General in conducting such study. The Comptroller General shall report to the Congress the results of the study not later than June 1, 1989.

SEC. 2403. PROHIBITED DISTRIBUTION OF ANABOLIC STEROIDS.

Section 303 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 333) is amended by adding at the end the following new subsection:

"(e)(1) Except as provided in paragraph (2), any person who distributes or possesses with the intent to distribute any anabolic steroid for any use in humans other than the treatment of disease pursuant to the order of a physician shall be imprisoned for not more than three years or fined under title 18, United States Code, or both.

Children and youth.

"(2) Any person who distributes or possesses with the intent to distribute to an individual under 18 years of age, any anabolic steroid for any use in humans other than the treatment of disease pursuant to the order of a physician shall be imprisoned for not

more than six years or fined under title 18, United States Code, or both.".

SEC. 2404. BANNING OF BUTYL NITRITE. 15 USC 2057a.

(a) IN GENERAL.—Except as provided in subsection (b), butyl nitrite shall be considered a banned hazardous product under section 8 of the Consumer Product Safety Act (15 U.S.C. 2057).

(b) LAWFUL PURPOSES.—For the purposes of section 8 of the Consumer Product Safety Act, it shall not be unlawful for any person to manufacture for sale, offer for sale, distribute in commerce, or import into the United States butyl nitrite for any commercial purpose or any other purpose approved under the Federal Food, Drug, and Cosmetic Act.

(c) DEFINITIONS.—For purposes of this section:

(1) The term "butyl nitrite" includes n-butyl nitrite, isobutyl nitrite, secondary butyl nitrite, tertiary butyl nitrite, and mixtures containing these chemicals.

(2) The term "commercial purpose" means any commercial purpose other than for the production of consumer products containing butyl nitrite that may be used for inhaling or otherwise introducing butyl nitrite into the human body for euphoric or physical effects.

(d) EFFECTIVE DATE.—This section shall take effect 90 days after the date of the enactment of this subtitle.

SEC. 2405. ESTABLISHMENT OF TASK FORCE AND PROTECTION OF PUBLIC HEALTH WITH RESPECT TO ILLEGAL DRUG LABORATORIES. 21 USC 801 note.

(a) ESTABLISHMENT OF TASK FORCE.—There is established the Joint Federal Task Force on Illegal Drug Laboratories (hereafter in this section referred to as the "Task Force").

(b) APPOINTMENT AND MEMBERSHIP OF TASK FORCE.—The members of the Task Force shall be appointed by the Administrators of the Environmental Protection Agency and the Drug Enforcement Administration (hereafter in this section referred to as the "Administrators"). The Task Force shall consist of at least 6 and not more than 20 members. Each Administrator shall appoint one-half of the members as follows: (1) the Adminstrator of the Environmental Protection Agency shall appoint members from among Emergency Response Technicians and other appropriate employees of the Agency; and (2) the Administrator of the Drug Enforcement Administration shall appoint members from among Special Agents assigned to field divisions and other appropriate employees of the Administration.

(c) DUTIES OF TASK FORCE.—The Task Force shall formulate, establish, and implement a program for the cleanup and disposal of hazardous waste produced by illegal drug laboratories. In formulating such program, the Task Force shall consider the following factors: Hazardous materials. Waste disposal.

(1) The volume of hazardous waste produced by illegal drug laboratories.

(2) The cost of cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

(3) The effectiveness of the various methods of cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

(4) The coordination of the efforts of the Environmental Protection Agency and the Drug Enforcement Administration in cleaning up and disposing of hazardous waste produced by illegal drug laboratories.

Public information.

(5) The dissemination of information to law enforcement agencies that have responsibility for enforcement of drug laws.

(d) GUIDELINES.—The Task Force shall recommend to the Administrators guidelines for cleanup of illegal drug laboratories to protect the public health and environment. Not later than 180 days after the date of the enactment of this subtitle, the Administrators shall formulate and publish such guidelines.

(e) DEMONSTRATION PROJECTS.—

Grants. Contracts. Waste disposal.

(1) The Attorney General shall make grants to, and enter into contracts with, State and local governments for demonstration projects to clean up and safely dispose of substances associated with illegal drug laboratories which may present a danger to public health or the environment.

(2) The Attorney General may not under this subsection make a grant or enter into a contract unless the applicant for such assistance agrees to comply with the guidelines issued pursuant to subsection (d).

(3) The Attorney General shall, through grant or contract, provide for independent evaluations of the activities carried out pursuant to this subsection and shall recommend appropriate legislation to the Congress.

(f) FUNDING.—Of the amounts made available to carry out the Controlled Substances Act for fiscal year 1989, not less than $5,000,000 shall be made available to carry out subsections (d) and (e).

(g) REPORTS.—After consultation with the Task Force, the Administrators shall—

(1) transmit to the President and to each House of Congress not later than 270 days after the date of the enactment of this subtitle a report describing the program established by the Task Force under subsection (c) (including an analysis of the factors specified in paragraphs (1) through (5) of that subsection);

(2) periodically transmit to the President and to each House of Congress reports describing the implementation of the program established by the Task Force under subsection (c) (including an analysis of the factors specified in paragraphs (1) through (5) of that subsection) and the progress made in the cleanup and disposal of hazardous waste produced by illegal drug laboratories; and

(3) transmit to each House of Congress a report describing the findings made as a result of the evaluations referred to in subsection (e)(3).

Subtitle F—Certain Provisions With Respect to Veterans

38 USC 620A note.

SEC. 2501. EVALUATION OF THE VETERANS' ADMINISTRATION INPATIENT AND OUTPATIENT DRUG AND ALCOHOL TREATMENT PROGRAMS.

The Administrator of Veterans' Affairs shall conduct an evaluation of inpatient and outpatient drug and alcohol treatment pro-

grams operated by the Veterans' Administration. The evaluation shall include a determination of the medical advantages and cost-effectiveness of such programs, taking into consideration rates of readmission and the rate of successful rehabilitation. There are authorized to be appropriated for the purpose of the conduct of such evaluation $1,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

Appropriation authorization.

SEC. 2502. VETERANS' ADMINISTRATION DRUG AND ALCOHOL TREATMENT PROGRAMS.

(a) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Veterans' Administration, in addition to any other amounts that may be authorized to be appropriated to the Veterans' Administration for the purpose described in subsection (b), $15,000,000 for each of the fiscal years 1989 through 1991.

(b) USE OF FUNDS.—Any amounts appropriated pursuant to subsection (a) may be expended only for the purpose of providing care and services under chapter 17 of title 38, United States Code, to eligible veterans with alcohol or drug dependence or abuse disabilities.

Subtitle G—Miscellaneous Health Amendments

SEC. 2600. EFFECTIVE DATE.

42 USC 242m note.

Except as provided in section 2613(b)(1), the amendments made by this subtitle shall take effect immediately after the enactment of the Health Omnibus Programs Extension of 1988.

CHAPTER 1—TECHNICAL AND CONFORMING AMENDMENTS TO HEALTH OMNIBUS PROGRAMS EXTENSION OF 1988

SEC. 2601. CERTAIN REFERENCES.

Except as otherwise expressly provided, any reference made in this chapter to an amendment or repeal of a section or other provision shall be considered to be made to a section or other provision of the Health Omnibus Programs Extension of 1988.

SEC. 2602. AMENDMENTS TO TITLE II.

42 USC 300cc note.

(a) SECTION 243.—Section 243 is amended—

(1) in subsection (a)—

(A) by striking "(hereinafter in this subtitle referred to as AIDS)"; and

(B) by striking "concerning AIDS" and inserting "concerning such syndrome"; and

(2) in subsection (c)—

(A) in paragraph (2), by striking "AIDS" and inserting "acquired immune deficiency syndrome";

(B) in paragraph (3), by striking "AIDS" and inserting "acquired immune deficiency syndrome";

(C) in paragraph (4)—

(i) by striking "AIDS" the first place it appears and inserting "acquired immune deficiency syndrome"; and

(ii) by striking "AIDS" the second place it appears and inserting "such syndrome";

(D) in paragraph (5), by striking "AIDS" and inserting "acquired immune deficiency syndrome";

(E) in paragraph (6), in the matter preceding subparagraph (A), by striking "AIDS" and inserting "acquired immune deficiency syndrome"; and

(F) in paragraph (7), by striking "AIDS" and inserting "acquired immune deficiency syndrome".

42 USC 300ee-1 note.

(b) SECTION 251.—Section 251(b) is amended by striking "of enactment of this Act" and inserting "of the enactment of this title".

42 USC 300ee-2.

(c) SECTION 253.—Section 253 is amended by striking "health workers," and inserting "health workers and".

42 USC 300ee-5.

(d) SECTION 256.—Section 256 is amended—

(1) in subsection (b), by striking "Surgeon General of the United States" and inserting "Surgeon General of the Public Health Service"; and

(2) in subsection (d)(2), by striking "subsection (a)" and inserting "paragraph (1)".

SEC. 2603. AMENDMENTS TO TITLE VI.

42 USC 201 note.

(a) SECTION 601.—Section 601 is amended—

(1) by striking "This Act" in subsection (a) and inserting "This title"; and

(2) by striking "this Act" in subsection (b) and inserting "this title".

Ante, p. 3151.

(b) SECTION 638.—Section 638(b) is amended—

(1) by striking "title VII" each place it occurs and inserting "titles VII and VIII"; and

(2) by striking ", after the date of the enactment of this Act," in paragraphs (1) and (2).

42 USC 292h note.

(c) SECTION 639.—Section 639(b) is amended by striking "shall compile and analyze" and inserting "shall develop a uniform methodology for collection of, and shall compile and analyze,".

SEC. 2604. AMENDMENT TO TITLE VII.

Ante, p. 3157.

(a) SECTION 704.—Section 704(b) is amended by striking out ", after the date of the enactment of this Act," in paragraphs (1) and (2).

Ante, p. 3158.

(b) SECTION 705.—Section 705(b) is amended by striking out ", after the date of the enactment of this Act," in paragraphs (1) and (2).

Ante, p. 3166.

(c) SECTION 732.—Section 732 is amended by striking "this title" each place it appears and inserting "this subtitle".

SEC. 2605. AMENDMENTS TO TITLE IX.

42 USC 300ee-6.

(a) SECTION 902.—Section 902 is amended—

(1) in subsection (c), by striking "the human immunodeficiency virus" and inserting "the etiologic agent for acquired immune deficiency syndrome"; and

(2) in subsection (d)(3)(B)(i), by striking "the human immunodeficiency virus" and inserting "the etiologic agent for acquired immune deficiency syndrome".

42 USC 300ee-6 note.

(b) SECTION 903.—Section 903 is amended by striking "the human immunodeficiency virus" and inserting "the etiologic agent for acquired immune deficiency syndrome".

CHAPTER 2—TECHNICAL AND CONFORMING AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 2611. CERTAIN REFERENCES.

Except as otherwise expressly provided, any reference made in this chapter to an amendment or repeal of a section or other provision shall be considered to be made to a section or other provision of the Public Health Service Act (42 U.S.C. 201 et seq.).

SEC. 2612. AMENDMENTS TO TITLE III.

Section 308(b)(2)(A) (42 U.S.C. 242m(b)(2)(A)) is amended—

(1) by inserting after the first sentence the following: "Each application for a grant, contract, or cooperative agreement in an amount exceeding $50,000 of direct costs for the dissemination of research findings or the development of research agendas (including conferences, workshops, and meetings) shall be submitted to a standing peer review group with persons with appropriate expertise and shall not be submitted to any peer review group established to review applications for research, evaluation, or demonstration projects."; and

(2) by striking in the last sentence "of each such application" and inserting "of an application described in the first two sentences of this subparagraph".

SEC. 2613. AMENDMENTS TO TITLE IV.

(a) NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS.—

(1) Subpart 13 of part C of title IV, as added by section 101(4) of the Health Omnibus Programs Extension of 1988, is amended by adding at the end the following new sections:

"NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS ADVISORY BOARD

"SEC. 464D. (a) The Secretary shall establish in the Institute the National Deafness and Other Communications Disorders Advisory Board (hereafter in this section referred to as the 'Advisory Board'). 42 USC 285m-4.

"(b) The Advisory Board shall be composed of eighteen appointed members and nonvoting ex officio members as follows:

"(1) The Secretary shall appoint—

"(A) twelve members from individuals who are scientists, physicians, and other health and rehabilitation professionals, who are not officers or employees of the United States, and who represent the specialties and disciplines relevant to deafness and other communication disorders, including not less than two persons with a communication disorder; and

"(B) six members from the general public who are knowledgeable with respect to such disorders, including not less than one person with a communication disorder and not less than one person who is a parent of an individual with such a disorder.

Of the appointed members, not less than five shall by virtue of training or experience be knowledgeable in diagnoses and rehabilitation of communication disorders, education of the hear-

ing, speech, or language impaired, public health, public information, community program development, occupational hazards to communications senses, or the aging process.

"(2) The following shall be ex officio members of each Advisory Board:

"(A) The Assistant Secretary for Health, the Director of NIH, the Director of the National Institute on Deafness and Other Communication Disorders, the Director of the Centers for Disease Control, the Chief Medical Director of the Veterans' Administration, and the Assistant Secretary of Defense for Health Affairs (or the designees of such officers).

"(B) Such other officers and employees of the United States as the Secretary determines necessary for the Advisory Board to carry out its functions.

"(c) Members of an Advisory Board who are officers or employees of the Federal Government shall serve as members of the Advisory Board without compensation in addition to that received in their regular public employment. Other members of the Board shall receive compensation at rates not to exceed the daily equivalent of the annual rate in effect for grade GS-18 of the General Schedule for each day (including traveltime) they are engaged in the performance of their duties as members of the Board.

"(d) The term of office of an appointed member of the Advisory Board is four years, except that no term of office may extend beyond the expiration of the Advisory Board. Any member appointed to fill a vacancy for an unexpired term shall be appointed for the remainder of such term. A member may serve after the expiration of the member's term until a successor has taken office. If a vacancy occurs in the Advisory Board, the Secretary shall make an appointment to fill the vacancy not later than 90 days from the date the vacancy occurred.

"(e) The members of the Advisory Board shall select a chairman from among the appointed members.

"(f) The Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with an executive director and one other professional staff member. In addition, the Secretary shall, after consultation with and consideration of the recommendations of the Advisory Board, provide the Advisory Board with such additional professional staff members, such clerical staff members, such services of consultants, such information, and (through contracts or other arrangements) such administrative support services and facilities, as the Secretary determines are necessary for the Advisory Board to carry out its functions.

"(g) The Advisory Board shall meet at the call of the chairman or upon request of the Director of the Institute, but not less often than four times a year.

"(h) The Advisory Board shall—

"(1) review and evaluate the implementation of the plan prepared under section 464A(a) and periodically update the plan to ensure its continuing relevance;

"(2) for the purpose of assuring the most effective use and organization of resources respecting deafness and other communication disorders, advise and make recommendations to the Congress, the Secretary, the Director of NIH, the Director of the

Institute, and the heads of other appropriate Federal agencies for the implementation and revision of such plan; and

"(3) maintain liaison with other advisory bodies related to Federal agencies involved in the implementation of such plan and with key non-Federal entities involved in activities affecting the control of such disorders.

"(i) In carrying out its functions, the Advisory Board may establish subcommittees, convene workshops and conferences, and collect data. Such subcommittees may be composed of Advisory Board members and nonmember consultants with expertise in the particular area addressed by such subcommittees. The subcommittees may hold such meetings as are necessary to enable them to carry out their activities.

"(j) The Advisory Board shall prepare an annual report for the Secretary which— Reports.

"(1) describes the Advisory Board's activities in the fiscal year for which the report is made;

"(2) describes and evaluates the progress made in such fiscal year in research, treatment, education, and training with respect to the deafness and other communication disorders;

"(3) summarizes and analyzes expenditures made by the Federal Government for activities respecting such disorders in such fiscal year; and

"(4) contains the Advisory Board's recommendations (if any) for changes in the plan prepared under section 464A(a).

"(k) The National Deafness and Other Communication Disorders Advisory Board shall be established not later than 90 days after the date of the enactment of the National Institute on Deafness and Other Communication Disorders and Health Research Extension Act of 1988.

"INTERAGENCY COORDINATING COMMITTEE

"SEC. 464E. (a) The Secretary may establish a committee to be known as the Deafness and Other Communication Disorders Interagency Coordinating Committee (hereafter in this section referred to as the 'Coordinating Committee'). 42 USC 285m-5.

"(b) The Coordinating Committee shall, with respect to deafness and other communication disorders—

"(1) provide for the coordination of the activities of the national research institutes; and

"(2) coordinate the aspects of all Federal health programs and activities relating to deafness and other communication disorders in order to assure the adequacy and technical soundness of such programs and activities and in order to provide for the full communication and exchange of information necessary to maintain adequate coordination of such programs and activities.

"(c) The Coordinating Committee shall be composed of the directors of each of the national research institutes and divisions involved in research with respect to deafness and other communication disorders and representatives of all other Federal departments and agencies whose programs involve health functions or responsibilities relevant to deafness and other communication disorders.

"(d) The Committee shall be chaired by the Director of NIH (or the designee of the Director). The Committee shall meet at the call of the chair, but not less often than four times a year.

Reports.

"(e) Not later than 120 days after the end of each fiscal year, the Committee shall prepare and transmit to the Secretary, the Director of NIH, the Director of the Institute, and the advisory council for the Institute a report detailing the activities of the Committee in such fiscal year in carrying out subsection (b).

"LIMITATION ON ADMINISTRATIVE EXPENSES

42 USC 285m-6.

"SEC. 464F. With respect to amounts appropriated for a fiscal year for the National Institutes of Health, the limitation established in section 408(b)(1) on the expenditure of such amounts for administrative expenses shall apply to administrative expenses of the National Institute on Deafness and Other Communication Disorders.".

42 USC 285m note.

(2)(A) Personnel employed by the National Institutes of Health in connection with the functions vested under paragraph 1, and under section 101(4) of the Health Omnibus Programs Extension of 1988, in the Director of the National Institute on Deafness and Other Communication Disorders, and assets, property, contracts, liabilities, records, unexpended balances of appropriations, authorizations, allocations, and other funds of the National Institutes of Health, arising from or employed, held, used, available to, or to be made available, in connection with such functions shall be transferred to the Director for appropriate allocation. Unexpended funds transferred under this subsection shall be used only for the purposes for which the funds were originally authorized and appropriated.

(B) With respect to functions vested under paragraph 1, and under section 101(4) of the Health Omnibus Programs Extension of 1988, in the Director of the National Institute on Deafness and Other Communication Disorders, all orders, rules, regulations, grants, contracts, certificates, licenses, privileges, and other determinations, actions, or official documents, that have been issued, made, granted, or allowed to become effective, and that are effective on the date of the enactment of this Act, shall continue in effect according to their terms unless changed pursuant to law.

42 USC 285m note.

(b) EFFECT OF ENACTMENT OF SIMILAR PROVISIONS ESTABLISHING NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS.—

(1) Paragraphs (2) and (3) shall take effect immediately after the enactment of both the bill, S. 1727, of the One Hundredth Congress, and the Health Omnibus Programs Extension of 1988.

(2)(A) The provisions of the Public Health Service Act referred to in subparagraph (B), as similarly amended by the enactment of the bill, S. 1727, of the One Hundredth Congress, by subtitle A of title I of the Health Omnibus Programs Extension of 1988, and by subsection (a)(1) of this section, are amended to read as if the amendments made by such subtitle A and such subsection (a)(1) had not been enacted.

42 USC 281, 285j, 285m—285m-6.

(B) The provisions of the Public Health Service Act referred to in subparagraph (A) are—

(A) sections 401(b)(1) and 457;

(B) part C of title IV; and

(C) the heading for subpart 10 of such part C.

42 USC 285m note.

(3) Subsection (a)(2) of this section is repealed.

(c) SECTION 405.—Section 405(c)(3) (42 U.S.C. 284(c)(3)), as amended by section 116(2)(A) of the Health Omnibus Programs Extension of 1988, is amended—

(1) by inserting "and appoint" after "establish"; and

(2) by inserting "and appointed" after "established".

(d) SECTION 408.—Section 408(a)(2)(B) (42 U.S.C. 284(c)), as amended by section 118(a) of the Health Omnibus Programs Extension of 1988, is amended by inserting a comma after "419". 42 USC 284c.

SEC. 2614. AMENDMENTS TO TITLE V.

(a) SECTION 528.—Section 528(a)(1) (42 U.S.C. 290cc-28), as amended by section 812(b) of the Health Omnibus Programs Extension of 1988, is amended by striking "the Northern" and inserting "the Commonwealth of the Northern".

(b) SECTION 536.—Section 536(3) (42 U.S.C. 290cc-36), as amended by section 812(a) of the Health Omnibus Programs Extension of 1988, is amended by striking "the Northern" and inserting "the Commonwealth of the Northern".

SEC. 2615. AMENDMENTS TO TITLE VII.

(a) SECTION 708.—Section 708(h)(2) (42 U.S.C. 292h(h)(2)), as amended by section 626 of the Health Omnibus Programs Extension of 1988, is amended by inserting "shall" before "include".

(b) SECTION 728.—Section 728(a) (42 U.S.C. 294a(a)), as amended by section 602(b)(1) and section 707 of the Health Omnibus Programs Extension of 1988, is amended in the second sentence—

(1) by inserting "(including loans to new borrowers)" after "new loans"; and

(2) by striking "for such fiscal year." and inserting "for such fiscal year".

(c) SECTION 784.—Section 784(b) (42 U.S.C. 295g-4(b)), as amended by section 609(a) of the Health Omnibus Programs Extension of 1988, is amended to read as if the amendments made by such section 609(a) had not been enacted.

(d) SECTION 787.—Section 787(a)(2)(G) (42 U.S.C. 295g-7(a)(2)(G)), as added by section 611(a)(3) of the Health Omnibus Programs Extension of 1988, is amended by striking ", except schools of medicine, osteopathy, or dentistry".

(e) SECTION 787.—Section 787(b)(3) (42 U.S.C. 295g-7(b)(3)), as added by section 611(b) of the Health Omnibus Programs Extension of 1988, is amended—

(1) by striking "total enrollment" the first place it appears and inserting "proportionate enrollment"; and

(2) by striking "total enrollment" the second place it appears and inserting "percentage".

(f) SECTION 791.—Section 791(d) (42 U.S.C. 295h(d)), as amended by section 618(b) of the Health Omnibus Programs Extension of 1988, is amended by striking "$1,420,000 for fiscal year 1990" and inserting $1,600,000 for fiscal year 1990".

(g) SECTION 788B.—Section 788B(f), as added by section 622 of the Health Omnibus Programs Extension of 1988, is amended— 42 USC 295g-8b.

(1) in paragraph (1), by striking "AIDS patients" and inserting "patients with acquired immune deficiency syndrome";

(2) in paragraph (2), by striking "AIDS patients" and inserting "patients with acquired immune deficiency syndrome";

(3) in paragraph (3), by striking "AIDS patients" and inserting "patients with acquired immune deficiency syndrome"; and

(4) in paragraph (4)—

(A) by inserting "MAINTENANCE OF STATE EFFORT.—" after "(4)"; and

(B) by striking "allocation" and inserting in lieu thereof "allotted".

(f) SECTION 796.—Section 796(a) (42 U.S.C. 295h–5(a)), as amended by section 624 of the Health Omnibus Programs Extension of 1988, is amended by striking "shall make grants" and inserting "may make grants".

(g) SECTION 799A.—Section 799A, as amended by section 637(a) of the Health Omnibus Programs Extension of 1988, is amended— 42 USC 295j.

(1) in subsection (f)(4)—

(A) by striking "this paragraph" and inserting "this section"; and

(B) by striking "acting through the Director of the Indian Health Service"; and

(2) in subsection (h)(2), by striking "each of the fiscal years 1989, 1990, and 1991" and inserting "fiscal year 1989".

SEC. 2616. AMENDMENTS TO TITLE VIII.

(a) SECTION 843.—Section 843(b), as added by section 715 of the Health Omnibus Programs Extension of 1988, is amended in section 843(b), by striking "844(a)" and inserting "827(a)". 42 USC 297j.

(b) SECTION 847.—Section 847(j), as added by section 716 of the Health Omnibus Programs Extension of 1988, is amended by striking "subsection (l)" and inserting "subsection (k)". 42 USC 297n.

SEC. 2617. AMENDMENTS TO TITLE XXIII.

(a) SECTION 2304.—Section 2304(c)(2)(B), as added by section 201(4) of the Health Omnibus Programs Extension of 1988, is amended by striking the period and inserting a semicolon. 42 USC 300cc–3.

(b) SECTION 2313.—Section 2313, as added by section 201(4) of the Health Omnibus Programs Extension of 1988, is amended— 42 USC 300cc–13.

(1) in subsection (a), by striking "through the National Institutes of Allergy" and inserting "through the Director of the National Institute of Allergy"; and

(2) in subsection (b)(2)(B)(iii), by striking "Institutes" and inserting "Institute".

(c) SECTION 2317.—Section 2317(e), as added by section 201(4) of the Health Omnibus Programs Extension of 1988, is amended in the subsection heading by inserting "ON CLINICAL TRIALS AND TREATMENTS" after "BANK". 42 USC 300cc–17.

(d) SECTION 2320.—Section 2320(a)(5), as added by section 201(4) of the Health Omnibus Programs Extension of 1988, is amended in the first sentence, by striking "section" and inserting "subsection". 42 USC 300cc–20.

(e) SECTION 2341.—Section 2341(c), as added by section 201(4) of the Health Omnibus Programs Extension of 1988, is amended by striking "Federal Policy Act" and inserting "Amendments". 42 USC 300cc–31.

SEC. 2618. AMENDMENTS TO TITLE XXIV.

(a) SECTION 2402.—Section 2402(b), as added by section 211 of the Health Omnibus Programs Extension of 1988, is amended in the last sentence, by inserting "infected" after "health services to individuals". 42 USC 300dd–1.

(b) SECTION 2404.—Section 2404(c)(1), as added by section 211 of the Health Omnibus Programs Extension of 1988, is amended by striking "September 1 of 1989" and inserting "September 1, 1989,". 42 USC 300dd–3.

(c) SECTION 2409.—Section 2409, as added by section 211 of the Health Omnibus Programs Extension of 1988, is amended— 42 USC 300dd-8.

(1) in subsection (b), in the subsection heading, by inserting "OF PAYMENTS" after "WITHHOLDING"; and

(2) in subsection (e)(1), by striking "the several States" and inserting "several States".

(d) SECTION 2411.—Section 2411(a), as added by section 211 of the Health Omnibus Programs Extension of 1988, is amended in the first sentence, by inserting before "this part." the following: "any program or service carried out pursuant to". 42 USC 300dd-10.

(e) SECTION 2413.—Section 2413(4)(B), as added by section 211 of the Health Omnibus Programs Extension of 1988, is amended by striking "section 2408(d)" and inserting "subsections (b) and (d) of section 2408". 42 USC 300dd-12.

(f) SECTION 2414.—Section 2414, as added by section 211 of the Health Omnibus Programs Extension of 1988, is amended— 42 USC 300dd-13.

(1) in subsection (a), by striking "grants under section 2401" and inserting "allotments under section 2401(a)"; and

(2) in subsection (b), by striking "or territory" each place it appears.

(g) SECTION 2415.—Section 2415, as added by section 211 of the Health Omnibus Programs Extension of 1988, is amended by striking "part A" and all that follows and inserting "this part is repealed.". 42 USC 300dd-14.

(h) SECTION 2421.—Section 2421, as added by section 211 of the Health Omnibus Programs Extension of 1988, is amended— 42 USC 300dd-21.

(1) in paragraph (1) of subsection (a)—

(A) by striking "'patients infected" and all that follows through "persons who" and inserting the following: "'individuals infected with the etiologic agent for acquired immune deficiency syndrome' means individuals who"; and

(B) by striking "such person with the human immunodeficiency virus," and inserting "such individuals with such etiologic agent,'";

(2) in paragraph (2) of subsection (a), by striking "persons" and inserting "individuals";

(3) in subsection (b)—

(A) by striking "patients infected with the human immunodeficiency virus," and inserting the following: "individuals infected with the etiologic agent for acquired immune deficiency syndrome,"; and

(B) by striking "such patients" and inserting "such individuals";

(4) in paragraph (1) of subsection (c)—

(A) in the matter preceding subparagraph (A), by striking "patients infected with the human immunodeficiency virus" and inserting the following: "individuals infected with the etiologic agent for acquired immune deficiency syndrome";

(B) in subparagraph (A)—

(i) in the matter preceding clause (i), by striking "such patients" and inserting "such individuals";

(ii) in clause (ii), by striking "AIDS patients" and inserting "individuals with acquired immune deficiency syndrome"; and

(iii) in clause (iii), by striking "patients" and inserting "such individuals"; and

(C) in subparagraph (B), by striking "patients infected with the human immunodeficiency virus" and inserting the following: "individuals infected with the etiologic agent for acquired immune deficiency syndrome";

(5) in paragraph (2)(C) of subsection (c), by striking "patients infected with the human immunodeficiency virus" and inserting the following: "individuals infected with the etiologic agent for acquired immune deficiency syndrome";

(6) in subsection (d)(2)(B), by striking "AIDS cases" and inserting "cases of acquired immune deficiency syndrome";

(7) in subsection (e)(2)(A), by striking "patients infected with the human immunodeficiency virus" and inserting the following: "individuals infected with the etiologic agent for acquired immune deficiency syndrome";

(8) in paragraph (1) of subsection (f)—

(A) by striking "the acquired immunodeficiency syndrome" and inserting "acquired immune deficiency syndrome"; and

(B) by striking "human immunodeficiency virus" and inserting "etiologic agent for such syndrome";

(9) in paragraph (2) of subsection (f), by striking "the acquired immunodeficiency syndrome" and inserting "such syndrome"; and

(10) in subsection (g)—

(A) by striking "1988" and inserting "1989"; and

(B) by striking "1989 through 1991" and inserting "1990 through 1992".

(i) SECTION 2432.—Section 2432, as added by section 211 of the Health Omnibus Programs Extension of 1988, is amended— 42 USC 300dd-32.

(1) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "indicate that the individual" and inserting "indicate that an individual"; and

(B) in paragraph (6), by striking "(4)" and inserting "(5)"; and

(2) in subsection (e)—

(A) in paragraph (1), by striking "part" and inserting "subpart";

(B) in paragraph (2), by striking "part" and inserting "subpart"; and

(C) in paragraph (3), by striking "part" and inserting "subpart".

SEC. 2619. AMENDMENTS TO FIRST TITLE XXV.

(a) SECTION 2500.—Section 2500(a), as added by section 221 of the Health Omnibus Programs Extension of 1988, is amended by striking "IN GENERAL,—" and inserting "IN GENERAL.—" and by striking "this part" and inserting "this title". 42 USC 300ee.

(b) SECTION 2502.—Section 2502(9), as added by section 221 of the Health Omnibus Programs Extension of 1988, is amended by striking "section 2525" and inserting "section 253 of the AIDS Amendments of 1988". 42 USC 300ee-12.

(c) SECTION 2503.—Section 2503(a)(3), as added by section 221 of the Health Omnibus Programs Extension of 1988, is amended by striking "and" after the semicolon. 42 USC 300ee-13.

(d) SECTION 2505.—Section 2505(b), as added by section 221 of the Health Omnibus Programs Extension of 1988, is amended— 42 USC 300ee-15.

(1) in paragraph (1), by inserting "make" before "payments"; and

(2) in paragraph (2), by inserting "make" before "payments".

(d) SECTION 2506.—Section 2506, as added by section 221 of the Health Omnibus Programs Extension of 1988, is amended— 42 USC 300ee-16.

(1) in the matter preceding paragraph (1), by striking "'The" and inserting "'(a) IN GENERAL.—The";

(2) in paragraph (5), by striking the matter after and below subparagraph (B);

(3) in paragraph (8)—

(A) by striking "funds from to payments" and inserting "funds from payments"; and

(B) by striking "and" after the semicolon;

(4) in paragraph (9), by striking "2509(e);" and inserting "2508(e); and"; and

(5) by adding at the end the following new subsection:

"(b) DEFINITION.—For purposes of subsection (a)(5), the term 'significant percentage' means at least a percentage of 1 percent of the number of reported cases of acquired immune deficiency syndrome in the United States.".

(e) SECTION 2507.—Section 2507, as added by section 221 of the Health Omnibus Programs Extension of 1988, is amended— 42 USC 300ee-17.

(1) in subsection (a)(1), by striking "amount described" and inserting "applicable amount specified";

(2) in subsection (b)—

(A) in paragraph (1)—

(i) by striking "2516(a)" and inserting "2514(a)"; and

(ii) by striking "subsection (a)(1) is" and inserting "subsection (a)(1) shall be";

(B) in paragraph (2), by striking "subsection (a)(1) is" and inserting "subsection (a)(1) shall be"; and

(C) in paragraph (3), by striking "subsection (a)(1) is" and inserting "subsection (a)(1) shall be"; and

(3) in subsection (d)—

(A) in paragraph (1), in the last sentence, by inserting "under section 2501(a)" after "allotment"; and

(B) in paragraph (2)(A), by striking "2507" and inserting "2503".

(f) SECTION 2508.—Section 2508, as added by section 221 of the Health Omnibus Programs Extension of 1988, is amended— 42 USC 300ee-18.

(1) in subsection (a)(1), by striking "2507" and inserting "2503";

(2) in subsection (b)—

(A) in the subsection heading, by inserting "OF PAYMENTS" before the period; and

(B) in paragraph (1), by striking "2507" and inserting "2503";

(3) in subsection (d), by striking "2507" and inserting "2503"; and

(4) in subsection (e)(1), by striking "2507" and inserting "2503".

(g) SECTION 2510.—Section 2510(b)(2), as added by section 221 of the Health Omnibus Programs Extension of 1988, is amended in the first sentence, by striking "the program involved" and inserting "section 2501(a)". 42 USC 300ee-20.

(h) SECTION 2512.—Section 2512, as added by section 221 of the Health Omnibus Programs Extension of 1988, is amended in the last sentence, by striking "2301" and inserting "2301(a)". 42 USC 300ee-22.

42 USC 300ee-34.

(i) SECTION 2524.—Section 2524(b)(2), as added by section 221 of the Health Omnibus Programs Extension of 1988, is amended by striking "this section" and inserting "the AIDS Amendments of 1988".

SEC. 2620. AMENDMENT TO SECOND TITLE XXV AND TO CERTAIN OTHER PROVISIONS.

(a) TITLE XXV.—The second title XXV (relating to miscellaneous provisions), as redesignated by section 201 of the Health Omnibus Programs Extension of 1988 and made the second such title pursuant to section 221 of the Health Omnibus Programs Extension of 1988, is amended by redesignating such title as title XXVI and by redesignating sections 2501 through 2514 as sections 2601 through 2614.

42 USC 300ee-11—300ee-24.

(b) CERTAIN OTHER PROVISIONS.—The Public Health Service Act (42 U.S.C. 201 et seq.) is amended—

42 USC 286.

(1) in section 465(f), by striking "2501" and inserting "2601";

42 USC 289f.

(2) in section 497, by striking "2501" and inserting "2601"; and

42 USC 242c.

(3) in section 305(i), by striking "2513" each place it appears and inserting "2613".

CHAPTER 3—TECHNICAL AND CONFORMING AMENDMENT TO FEDERAL FOOD, DRUG, AND COSMETIC ACT

SEC. 2631. AMENDMENT TO SECTION 903.

21 USC 393.

Section 903(b)(2) of the Federal Food, Drug, and Cosmetic Act (as added by section 503 of the Health Omnibus Programs Extension of 1988) is amended by inserting "for executing this Act and" after "shall be responsible".

CHAPTER 4—MISCELLANEOUS

SEC. 2641. MISCELLANEOUS.

If the bill, H.R. 4833, of the One Hundredth Congress, is enacted, and the Health Omnibus Programs Extension of 1988 has not been enacted, then title VIII of the Public Health Service Act is amended to read as if such H.R. 4833 had not been enacted. If the Health Omnibus Programs Extension of 1988 is enacted, and the bill, H.R. 4833, of the One Hundredth Congress, is subsequently enacted, then title VIII of the Public Health Service Act is amended to read as if such H.R. 4833 had not been enacted.

TITLE III—DRUG ABUSE EDUCATION AND PREVENTION

SEC. 3001. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE III—DRUG ABUSE EDUCATION AND PREVENTION

Sec. 3001. Table of contents.

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Sec. 3101. Innovative alcohol abuse education programs.

CHAPTER 2—DRUG ABUSE EDUCATION FOR PARTICIPANTS IN THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

Sec. 3201. Drug abuse education for participants in the special supplemental food program for women, infants, and children.

CHAPTER 3—AMENDMENTS TO THE DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986

Sec. 3301. Authorization of appropriations.
Sec. 3302. Limitation on administrative costs.
Sec. 3303. State programs.
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CHAPTER 4—COMMUNITY-BASED VOLUNTEER DEMONSTRATION PROJECTS FOR DRUG ABUSE EDUCATION AND PREVENTION SERVICES AND ACTIVITIES

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CHAPTER 1—ALCOHOL ABUSE EDUCATION PROGRAMS

SEC. 3101. INNOVATIVE ALCOHOL ABUSE EDUCATION PROGRAMS.

Part F of title IV of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 3151 et seq.) is amended—

(1) by redesignating section 4607 as section 4608, and 20 USC 3156a.

(2) by inserting after section 4606 the following new section:

20 USC 3156-1.

"SEC. 4607. INNOVATIVE ALCOHOL ABUSE EDUCATION PROGRAMS.

"(a) PROGRAMS FOR CHILDREN OF ALCOHOLICS.—The Secretary is authorized to develop materials for innovative programs of alcohol abuse education, especially programs that focus on the effect of the disease of alcoholism on families of alcoholics, particularly with respect to children of alcoholics. Programs for which materials are developed under the preceding sentence should be programs designed to benefit young children, particularly children in grades 5 through 8.

Grants.

"(b) TRAINING PROGRAMS FOR EDUCATORS.—The Secretary may make grants to programs for educators that are designed to—

"(1) increase awareness of children's problems that may be caused by an alcoholic parent;

"(2) enhance the ability of such educators to identify children at risk for alcohol abuse;

"(3) inform such educators concerning referral of children of alcoholics for appropriate professional treatment; and

"(4) train such educators to inform the public about the special problems of children who have an alcoholic parent.".

CHAPTER 2—DRUG ABUSE EDUCATION FOR PARTICIPANTS IN THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN

SEC. 3201. DRUG ABUSE EDUCATION FOR PARTICIPANTS IN THE SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN.

Section 17 of the Child Nutrition Act of 1966 (42 U.S.C. 1786) is amended as follows:

(1) PURPOSE.—Subsection (a) is amended by striking "health problems" in the last sentence and inserting "health problems, including drug abuse,".

(2) DEFINITION.—Subsection (b) is amended by adding at the end the following new paragraph:

"(16) 'Drug abuse education' means—

"(A) the provision of information concerning the dangers of drug abuse;

"(B) the referral of participants who are suspected drug abusers to drug abuse clinics, treatment programs, counselors, or other drug abuse professionals; and

"(C) the provision of materials developed by the Secretary under subsection (n).".

(3) EDUCATION.—Subsection (e)(1) is amended by inserting "and drug abuse education" after "nutrition education" each place it appears in the first and second sentences.

(4) STATE PLAN.—Subsection (f) is amended—

(A) in paragraph (1)(C)(iii), by inserting "drug abuse education," after "family planning,", and

(B) in paragraph (14)(A), by inserting "and drug abuse education" after "education".

(5) NATIONAL ADVISORY COUNCIL ON MATERNAL, INFANT, AND FETAL NUTRITION.—Subsection (k)(1) is amended—

(A) in the first sentence, by striking "twenty-one" and inserting "twenty-three", and

(B) in the last sentence—

(i) by striking "and" the last place it appears, and

(ii) by striking the period at the end and inserting the following: "; one member shall be an expert in drug abuse education and prevention; and one member shall be an expert in alcohol abuse education and prevention.".

(6) STUDY; AUTHORIZATION OF APPROPRIATIONS.—Such section is amended by adding at the end the following new subsection:

"(n)(1) The Secretary, before the end of the 6-month period beginning on the date of the enactment of this Act, shall, directly or through grant or contract, conduct a study with respect to appropriate methods of drug abuse education instruction.

"(2) The Secretary shall—

"(A) directly, or through grant or contract, prepare materials for purposes of drug abuse education provided under this section; and

"(B) distribute the materials prepared under subparagraph (A) to each State agency for distribution to local agencies participating in the program under this section.

"(3) There is authorized to be appropriated— Appropriation authorization.

"(A) $500,000 for the fiscal year 1989 for purposes of carrying out the study required by paragraph (1);

"(B) $2,750,000 for the fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year for purposes of preparing drug abuse education materials as required by paragraph (2)(A); and

"(C) $6,750,000 for the fiscal year 1989 and such sums as may be necessary for each succeeding fiscal year for purposes of—

"(i) distributing drug abuse education materials as required by paragraph (2)(B); and

"(ii) making referrals under drug abuse education programs.

"(4) The State agency, in each fiscal year, shall provide drug abuse education to participants in the program under this section commensurate with amounts appropriated for such fiscal year pursuant to the authorizations contained in paragraph (3).".

CHAPTER 3—AMENDMENTS TO THE DRUG-FREE SCHOOLS AND COMMUNITIES ACT OF 1986

SEC. 3301. AUTHORIZATION OF APPROPRIATIONS.

20 USC 3181.

Section 5111(a) of the Drug-Free Schools and Communities Act of 1986 (hereafter in this chapter referred to as the "Act") (20 U.S.C. 3181 et seq.) is amended by striking "$250,000,000 for the fiscal year 1989" and inserting "$350,000,000 for the fiscal year 1989".

SEC. 3302. LIMITATION ON ADMINISTRATIVE COSTS.

Section 5121(a) of the Act (20 U.S.C. 3191(a)) is amended—

(1) by inserting "(1)" after "PROGRAM.—"; and

(2) by adding at the end the following new paragraph:

"(2) Not more than 2.5 percent of the amount reserved under paragraph (1) may be used for administrative costs of the chief executive officer of the State incurred in carrying out the duties of the chief executive officer under this part.".

SEC. 3303. STATE PROGRAMS.

(a) INTRASTATE CENTERS AUTHORIZED.—Section 5122 of the Act (20 U.S.C. 3192) is amended as follows:

(1) IN GENERAL.—Subsection (a) is amended—

(A) by striking "and" at the end of paragraph (5);

(B) by striking the period at the end of paragraph (6) and inserting "; and"; and

(C) by adding at the end the following new paragraph:

"(7) intrastate drug and alcohol abuse education and prevention centers for providing outreach, consultation, training, and referral services to schools, organizations, and members of the community, except that—

"(A) any administrative expenses of such centers, including overhead expenses, shall be considered, for the purposes of section 5121(a)(2), to be administrative costs of the chief administrative officer of the State incurred in carrying out the duties of the chief executive officer under this part;

"(B) amounts made available for purposes of this paragraph may not be used for building or construction; and

"(C) the activities of any such center that receives assistance under this paragraph shall be coordinated with the activities of other relevant centers in the State.".

(2) INNOVATIVE PROGRAMS.—Subsection (b) is amended—

(A) in paragraph (1), by inserting "that are designed" after "coordinated services";

(B) in paragraph (2)—

(i) by redesignating subparagraphs (B) through (I) as subparagraphs (C) through (J), respectively; and

(ii) by adding after subparagraph (A) the following new subparagraph:

"(B) has experienced repeated failure in school;"; and

(C) by adding at the end the following new paragraph:

"(3) Not more than 10 percent of participants in programs under paragraph (1) may be individuals who are not high-risk youth if the Secretary determines that the participation of such individuals will not significantly diminish the amount or quality of services provided to high-risk youth.".

(3) LIMITATION ON USE OF FUNDS.—Such section is further amended by adding at the end the following new subsection:

"(c) Amounts made available to the chief executive officer of a State for use under this section shall be expended only for activities that—

"(1) are authorized under subsection (a) or (b); and

"(2) have demonstrable benefits for individuals who are eligible to participate in such activities.".

SEC. 3304. STATE APPLICATIONS.

Section 5123(b) of the Act (20 U.S.C. 3193(b)) is amended—

(1) by redesignating paragraphs (6) through (9) as paragraphs (7) through (10), respectively;

(2) by adding after paragraph (5) the following new paragraph:

"(6) include a comprehensive plan describing how money allocated to the chief executive officer is to be used;";

(3) by striking "and" at the end of paragraph (9) (as redesignated by paragraph (1));

(4) by striking the period at the end of paragraph (10) (as redesignated by paragraph (1)) and inserting "; and"; and

(5) by adding at the end the following new paragraph:

"(11) provide a description of State teacher certification requirements, if applicable, regarding training in drug and alcohol abuse education and prevention.".

SEC. 3305. RESPONSIBILITIES OF STATE AGENCIES.

Section 5124(b)(2) of the Act (20 U.S.C. 3194(b)(2)) is amended to read as follows:

"(2) the development, identification, and dissemination of the most readily available, accurate, and up-to-date model curriculum materials for consideration by local educational agencies and for evaluation of the materials;".

SEC. 3306. LOCAL DRUG ABUSE EDUCATION AND PREVENTION PROGRAMS.

Section 5125(a) of the Act (20 U.S.C. 3195(a)) is amended—

(1) in paragraph (1), by striking "curricula" and all that follows through the semicolon and inserting the following: "curricula and textbooks and materials, including audio-visual materials—

"(A) developed from the most readily available, accurate, and up-to-date information; and

"(B) which clearly and consistently teach that illicit drug use is wrong and harmful;";

(2) in paragraph (4), by striking "and parents," and inserting the following: ", parents, and immediate families,";

(3) by redesignating paragraphs (5) through (12) as paragraphs (7) through (14), respectively; and

(4) by adding after paragraph (4) the following new paragraphs:

"(5) outreach activities, drug and alcohol abuse education and prevention programs, and referral services, for school dropouts;

"(6) guidance counseling programs and referral services for parents and immediate families of drug and alcohol abusers;".

SEC. 3307. REPORTS.

Section 5127 of the Act (20 U.S.C. 3197) is amended to read as follows:

"SEC. 5127. REPORTS.

"(a) STATE REPORTS.—Each State shall submit to the Secretary a biennial report that contains information on the State and local programs conducted with assistance furnished under this title. Each such report shall—

"(1) be in a standard format;

"(2) request standard information as prescribed by the Secretary; and

"(3) include—

"(A) a description of the drug and alcohol problem in the elementary and secondary schools in the State as of the date of the report;

"(B) a description of the range of drug and alcohol policies in the schools in the State;

"(C) the number of individuals served by this title;

"(D) the demographic characteristics of populations served;

"(E) types of service provided and duration of the services;

"(F) information on how the State has targeted the populations listed under section 5122(b)(2); and

"(G) a description of the model drug and alcohol abuse education and prevention programs in the State that have been demonstrated to be effective.

"(b) LOCAL REPORTS.—Each State educational agency shall request the information required to prepare the biennial reports required by subsection (a) as part of the local educational agency application and progress reports required by section 5126. Information requested under the preceding sentence shall be limited to information described in section 5126 and subsection (a).".

SEC. 3308. TEACHER TRAINING.

(a) IN GENERAL.—The Act is further amended—

(1) by redesignating parts C through E as parts D through F, respectively; and

(2) by inserting after part B the following new part:

"PART C—TEACHER TRAINING

20 USC 3201.

"SEC. 5128. PROGRAM AND ALLOCATIONS.

Grants.
State and local governments.

"(a) IN GENERAL.—From amounts appropriated pursuant to the authorization contained in section 5111(a)(2), the Secretary shall make grants to State educational agencies, local educational agencies, and institutions of higher education for teacher training programs in accordance with this part.

"(b) USE OF FUNDS.—Amounts made available under this part shall be used to establish, expand, or enhance programs and activities for the training of teachers, administrators, guidance counselors, and other educational personnel concerning drug and alcohol abuse education and prevention. Such programs shall be coordinated through the State agency for higher education or State educational agency, as appropriate, and, shall be coordinated, as appropriate, with the activities of the regional centers established under section 5135.

"(c) APPLICATIONS.—(1) In order to be eligible to receive a grant under this section for any fiscal year, a State educational agency, a local or intermediate educational agency, an institution of higher education, or consortium thereof, shall submit an application to the Secretary at such time and in such manner as the Secretary shall prescribe.

"(2) Each such application shall—

"(A) set forth the activities and programs to be carried out with funds paid under this part;

"(B) contain an estimate of the cost for the establishment and operation of such programs;

"(C) provide assurances that the Federal funds made available under this section shall be used to supplement and, to the extent practical, to increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purpose described in this part, and in no case to supplant such funds;

"(D) provide assurances of compliance with the provisions of this part; and

"(E) include such other information and assurances as the Secretary reasonably determines to be necessary.".

(b) AUTHORIZATION OF APPROPRIATIONS.—Section 5111(a) of the Act (20 U.S.C. 3181(a)) (as amended by section 3301) is further amended—

(1) by inserting "(1)" after the subsection designation;

(2) by inserting after "title" the following: "(other than part C)"; and

(3) by adding at the end the following new paragraph:

"(2)(A) Except as provided in subparagraph (B), there are authorized to be appropriated for purposes of carrying out part C $16,000,000 for fiscal year 1989, and $20,000,000 for each succeeding fiscal year ending prior to October 1, 1993. Appropriation authorization.

"(B) No funds may be appropriated for any fiscal year pursuant to the authorization contained in subparagraph (A) unless the amount appropriated for such fiscal year pursuant to the authorization contained in paragraph (1) is not less than $230,000,000.".

SEC. 3309. FEDERAL ACTIVITIES.

Section 5132 of the Act (20 U.S.C. 3212) is amended as follows:

(1) DISSEMINATION OF MATERIALS AND COORDINATION OF ACTIVITIES.—Subsection (b)(3) is amended—

(A) by inserting after "disseminate" the following: "the most readily available, accurate, and up-to-date"; and

(B) by inserting before the semicolon the following: ", and coordinate activities that complement media efforts of groups such as the Partnership for a Drug-Free America, professional and amateur sports organizations, and other public service organizations".

(2) STUDIES.—Subsection (c) is amended—

(A) by inserting "(1)" before "The";

(B) by striking the last sentence; and

(C) by adding at the end the following new paragraphs:

"(2) The Secretary shall summarize and consolidate the biennial reports submitted under section 5127(a) and shall transmit such summary and consolidation, together with recommendations for future education and prevention efforts, to the Associate Director of the Office of National Drug Control Policy, and to the Congress.

"(3)(A) The Secretary, in consultation with the Secretary of Health and Human Services, shall conduct an independent evaluation, directly or by contract, of a representative sample of programs assisted under this title and shall identify successful projects which may be replicated by other local educational agencies throughout the country. The Secretary shall submit to the Congress— Reports.

"(i) an interim report containing the results of such evaluation and a description of such projects not later than October 1, 1991, and

"(ii) a final report containing such information not later than January 1, 1994.

"(B) The Secretary shall ensure that the information contained in the reports required by subparagraph (A) is submitted for dissemination to the National Diffusion Network and through the regional centers established under section 5135.".

SEC. 3310. DRUG-FREE SCHOOLS MODEL CRITERIA AND FORMS.

Section 5142 of the Act (20 U.S.C. 3222) is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting the following new subsection after subsection (a):

"(b) MODEL CRITERIA AND FORMS.—The Secretary, in consultation with a representative sample of national educational organizations, shall develop model criteria and forms for the collection of data and information with respect to programs assisted under this title. In order to enable schools and community-based organizations to share uniform data and information with respect to programs assisted under this title, the model criteria and forms shall be disseminated to the regional centers established under section 5135 as a resource for State and local educational programs.".

SEC. 3311. DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION CURRICULUM MATERIALS.

The Act is further amended—

(1) by redesignating part F (as redesignated by section 3158) as part G; and

(2) by inserting after part E the following new part:

"PART F—DEVELOPMENT OF EARLY CHILDHOOD EDUCATION DRUG ABUSE PREVENTION CURRICULUM MATERIALS

20 USC 3227.

"SEC. 5151. PROGRAM AUTHORIZED.

"(a) GENERAL AUTHORITY.—The Secretary shall, in consultation with the Secretary of Health and Human Services, provide for the development of age-appropriate drug abuse education and prevention curricula, programs, and training materials for use in early child development programs, and provide for the dissemination of such materials to early child development programs, including Head Start programs, preschool programs funded under chapter 1 of title I of the Elementary and Secondary Education Act of 1965, programs funded under the Education of the Handicapped Act, and such other preschool programs as the Secretary deems appropriate.

"(b) RESERVATION.—The Secretary shall, from amounts reserved under section 5112(a)(5), reserve not less than $1,000,000 to carry out the development and dissemination of the materials required by this part.".

CHAPTER 4—COMMUNITY-BASED VOLUNTEER DEMONSTRATION PROJECTS FOR DRUG ABUSE EDUCATION AND PREVENTION SERVICES AND ACTIVITIES

SEC. 3401. COMMUNITY-BASED VOLUNTEER DEMONSTRATION PROJECTS FOR DRUG ABUSE EDUCATION AND PREVENTION SERVICES AND ACTIVITIES.

(a) PROGRAM AUTHORIZED.—

(1) GENERAL AUTHORITY.—Section 124 of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 et seq.) is amended—

42 USC 4994.

(A) by inserting "(a)" after the section designation; and

(B) by adding at the end the following new subsection:

Grants.

"(b)(1) The Director is authorized to make grants to public and nonprofit organizations for innovative, community-based volunteer demonstration projects which provide comprehensive drug abuse

education and prevention services and activities to youths during the summer months. Such projects may include—

"(A) extending effective school-based programs, or other programs operated during the school year, to the summer months;

"(B) developing or expanding summer recreational, volunteer service, and youth development activities to provide for youths positive alternatives to illicit drug use; and

"(C) incorporating drug abuse education and prevention activities in public and private programs which serve youths during the summer months.

"(2) In awarding grants under this subsection, the Director shall give priority to projects that—

"(A) serve high-risk youths; and

"(B) provide opportunities for parent involvement.

"(3) The Director may not limit the number of years for which eligible entities may apply for and receive grants.

"(4) For the purposes of this subsection, the term 'high-risk youth' has the meaning given such term in section 5122(b)(2) of the Elementary and Secondary Education Act of 1965.".

(2) TECHNICAL AMENDMENT.—The table of contents contained in the first section of the Domestic Volunteer Service Act of 1973 (42 U.S.C. 4951 note) is amended by inserting after the item relating to section 123 the following new item:

"Sec. 124. Special initiatives.".

SEC. 3402. EXTENSION OF DRUG ABUSE PREVENTION PROGRAMS UNDER THE DOMESTIC VOLUNTEER SERVICE ACT.

Section 501 of the Domestic Volunteer Service Act (42 U.S.C. 5081) is amended—

(1) in subsection (c)—

(A) by inserting "(other than section 124(b))" in the first sentence after "of this Act"; and

(B) by adding at the end the following: "In addition to the amounts authorized to be appropriated by the preceding sentences, there are authorized to be appropriated for support of drug abuse prevention $4,000,000 in the fiscal year 1989, and $5,000,000 for each of the fiscal years 1990 and 1991. With respect to amounts appropriated for any fiscal year pursuant to the authorization contained in the preceding sentence, the Director— Appropriation authorization.

"(1) shall use not less than 15 percent and not more than 25 percent of such amounts for purposes of carrying out section 124(b); and

"(2) shall ensure that not more than $500,000 is used for program support."; and

(2) in subsection (d)(1), by inserting "(other than section 124(b))" after "title I" the first place it appears.

Subtitle B—Drug Abuse Education and Prevention

CHAPTER 1—DRUG EDUCATION AND PREVENTION RELATING TO YOUTH GANGS

42 USC 11801.

SEC. 3501. ESTABLISHMENT OF DRUG ABUSE EDUCATION AND PREVENTION PROGRAM RELATING TO YOUTH GANGS.

Grants.
Contracts.

The Secretary of Health and Human Services, through the Administration on Children, Youth, and Families, shall make grants to, and enter into contracts with, public and nonprofit private agencies, organizations (including community based organizations with demonstrated experience in this field), institutions, and individuals, to carry out projects and activities—

(1) to prevent and to reduce the participation of youth in the activities of gangs that engage in illicit drug-related activities,

(2) to promote the involvement of youth in lawful activities in communities in which such gangs commit drug-related crimes,

(3) to prevent the abuse of drugs by youth, to educate youth about such abuse, and to refer for treatment and rehabilitation members of such gangs who abuse drugs,

(4) to support activities of local police departments and other local law enforcement agencies to conduct educational outreach activities in communities in which gangs commit drug-related crimes,

(5) to inform gang members and their families of the availability of treatment and rehabilitation services for drug abuse,

(6) to facilitate Federal and State cooperation with local school officials to assist youth who are likely to participate in gangs that commit drug-related crimes,

(7) to facilitate coordination and cooperation among—

(A) local education, juvenile justice, employment and social service agencies, and

(B) drug abuse referral, treatment, and rehabilitation programs,

for the purpose of preventing or reducing the participation of youth in activities of gangs that commit drug-related crimes, and

(8) to provide technical assistance to eligible organizations in planning and implementing drug abuse education, prevention, rehabilitation, and referral programs for youth who are members of gangs that commit drug-related crimes.

42 USC 11802.

SEC. 3502. APPLICATION FOR GRANTS AND CONTRACTS.

(a) SUBMISSION OF APPLICATIONS.—Any agency, organization, institution, or individual desiring to receive a grant, or to enter into a contract, under section 3501 shall submit to the Secretary an application at such time, in such manner, and containing or accompanied by such information as the Secretary may require by rule.

(b) CONTENTS OF APPLICATION.—Each application for assistance under this chapter shall—

(1) set forth a project or activity for carrying out one or more of the purposes specified in section 3501 and specifically identify each such purpose such project or activity is designed to carry out,

(2) provide that such project or activity shall be administered by or under the supervision of the applicant,

(3) provide for the proper and efficient administration of such project or activity,

(4) provide for regular evaluation of the operation of such project or activity,

(5) provide that regular reports on such project or activity shall be submitted to the Secretary, and Reports.

(6) provide such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter.

SEC. 3503. APPROVAL OF APPLICATIONS. 42 USC 11803.

In selecting among applications submitted under section 3502(a), the Secretary shall give priority to applicants who propose to carry out projects and activities—

(1) for the purposes specified in section 3501 in geographical areas in which frequent and severe drug-related crimes are committed by gangs whose membership is composed primarily of youth, and

(2) that the applicant demonstrates that it has the broad support of community based organizations in such geographical areas.

SEC. 3504. COORDINATION WITH JUVENILE JUSTICE PROGRAMS. 42 USC 11804.

The Secretary shall coordinate the program established by section 3501 with the programs and activities carried out under the Juvenile Justice and Delinquency Prevention Act of 1974 and with the programs and activities of the Attorney General, to ensure that all such programs and activities are complementary and not duplicative.

SEC. 3505. AUTHORIZATION OF APPROPRIATIONS. 42 USC 11805.

To carry out this chapter, there are authorized to be appropriated $15,000,000 for the fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

CHAPTER 2—PROGRAM FOR RUNAWAY AND HOMELESS YOUTH

SEC. 3511. ESTABLISHMENT OF PROGRAM. 42 USC 11821.

(a) The Secretary shall make grants to public and private nonprofit agencies, organizations, and institutions to carry out research, demonstration, and services projects designed— Grants. Research and development.

(1) to provide individual, family, and group counseling to runaway youth and their families and to homeless youth for the purpose of preventing or reducing the illicit use of drugs by such youth,

(2) to develop and support peer counseling programs for runaway and homeless youth related to the illicit use of drugs,

(3) to develop and support community education activities related to illicit use of drugs by runaway and homeless youth, including outreach to youth individually,

(4) to provide to runaway and homeless youth in rural areas assistance (including the development of community support groups) related to the illicit use of drugs, Rural areas.

(5) to provide to individuals involved in providing services to runaway and homeless youth, information and training regarding issues related to the illicit use of drugs by runaway and homeless youth,

(6) to support research on the illicit drug use by runaway and homeless youth, and the effects on such youth of drug abuse by family members, and any correlation between such use and attempts at suicide, and

(7) to improve the availability and coordination of local services related to drug abuse, for runaway and homeless youth.

(b) PRIORITY.—In selecting among applicants for grants under subsection (a), the Secretary shall give priority to agencies and organizations that have experience in providing services to runaway and homeless youth.

(c) LIMITATION.—Grants under this section may be made for a period not to exceed 3 years.

42 USC 11822.

SEC. 3512. ANNUAL REPORT.

Not later than 180 days after the end of a fiscal year for which funds are appropriated to carry out this chapter, the Secretary shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains—

(1) a description of the types of projects and activities for which grants were made under this chapter for such fiscal year,

(2) a description of the number and characteristics of the youth and families served by such projects and activities, and

(3) a description of exemplary projects and activities for which grants were made under this chapter for such fiscal year.

42 USC 11823.

SEC. 3513. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Subject to subsection (b), to carry out this chapter, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990 and 1991.

(b) LIMITATION.—No funds are authorized to be appropriated for a fiscal year to carry out this chapter unless the aggregate amount appropriated to carry out title III of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5701-5751) for such fiscal year is not less than the aggregate amount appropriated to carry out such title for the preceding fiscal year.

42 USC 11824.

SEC. 3514. APPLICATIONS.

(a) SUBMISSION OF APPLICATION.—Any State, unit of local government (or combination of units of local government), agency, organization, institution, or individual desiring to receive a grant, or enter into a contract, under this chapter shall submit an application at such time, in such manner, and containing or accompanied by such information as may be prescribed by the Federal officer who is authorized to make such grant or enter into such contract (hereinafter in this chapter referred to as the "appropriate Federal officer").

(b) CONTENTS OF APPLICATION.—In accordance with guidelines established by the appropriate Federal officer, each application for assistance under this chapter shall—

(1) set forth a project or activity for carrying out one or more of the purposes for which such grant or contract is authorized to

be made and expressly identify each such purpose such project or activity is designed to carry out,

(2) provide that such project or activity shall be administered by or under the supervision of the applicant,

(3) provide for the proper and efficient administration of such project or activity,

(4) provide for regular evaluation of such project or activity,

(5) provide that regular reports on such project or activity shall be sent to the appropriate Federal officer, and Reports.

(6) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this chapter.

SEC. 3515. REVIEW OF APPLICATIONS. 42 USC 11825.

(a) CONSIDERATION OF FACTORS.—In reviewing applications submitted under this chapter, the appropriate Federal officer shall consider—

(1) the relative cost and effectiveness of the proposed project or activity in carrying out purposes for which the requested grant or contract is authorized to be made,

(2) the extent to which such project or activity will incorporate new or innovative techniques,

(3) the increase in capacity of the State or the public or nonprofit private agency, organization, institution, or individual involved to provide services to address the illicit use of drugs by runaway and homeless youth,

(4) the extent to which such project or activity serves communities which have high rates of illicit drug use by juveniles (including runaway and homeless youth),

(5) the extent to which such project or activity will provide services in geographical areas where similar services are unavailable or in short supply, and

(6) the extent to which such project or activity will increase the level of services, or coordinate other services, in the community available to eligible youth.

(b) COMPETITIVE PROCESS.—(1) Applications submitted under this chapter shall be selected for approval through a competitive process to be established by rule by the appropriate Federal officer. As part of such a process, such officer shall publish a notice in the Federal Register— Federal Register, publication.

(A) announcing the availability of funds to carry out this part,

(B) the general criteria applicable to the selection of applicants to receive such funds, and

(C) a description of the procedures applicable to submitting and reviewing applications for such funds.

(2) As part of such process, each application referred to in subsection (a) shall be subject to peer review by individuals (excluding officers and employees of the Department of Justice and the Department of Health and Human Services) who have expertise in the subject matter related to the project or activity proposed in such application.

(c) EXPEDITED REVIEW.—The appropriate Federal officer shall expedite the consideration of an application referred to in subsection (a) if the applicant demonstrates, to the satisfaction of the Administrator, that the failure to expedite such consideration would prevent

the effective implementation of the project or activity set forth in such application.

CHAPTER 3—COMMUNITY PROGRAM

42 USC 11841.

SEC. 3521. THE COMMUNITY YOUTH ACTIVITY PROGRAM.

(a) BLOCK GRANT PROGRAM.—The Secretary of Health and Human Services shall make grants to eligible States to enable such States to carry out the activities described in subsection (e).

(b) APPLICATION.—

(1) IN GENERAL.—To be eligible to receive a grant under this section, a State, acting on its own behalf or on behalf of a person, shall submit to the Secretary an application that contains such information and is in such form as may be required by the Secretary.

(2) DEMONSTRATION OF NEED.—In the application submitted under paragraph (1), the State shall demonstrate a need for the activities described in subsections (c)(3)(B) and (e) and provide a description of those activities and projects that will receive financial assistance from a grant made under this section to the State.

(c) AMOUNT OF GRANT.—

(1) MINIMUM AMOUNT.—Each State that submits for a fiscal year an application under subsection (b) that meets the requirements of the Secretary shall, subject to the availability of appropriations, receive a grant in an amount determined in accordance with paragraph (3).

(2) PROGRAMS OF NATIONAL SIGNIFICANCE.—Of amounts appropriated or otherwise available to carry out this section for any fiscal year, the Secretary shall reserve 5 percent to be provided for activities and projects of national significance, such as activities authorized by section 681(a)(2)(F) of the Community Services Block Grant Act (42 U.S.C. section 9910(a)(2)(F)), or projects expected to have a significant impact in preventing the abuse of drugs by youth.

(3) SPECIFIED APPROPRIATIONS.—

(A) IN GENERAL.—Of the aggregate amount appropriated under subsection (h) for any fiscal year and after reserving the amount required by paragraph (2), the Secretary shall—

(i) allot—

(I) 25 percent equally among the eligible States if such amount is less than $40,000,000; or

(II) $250,000 to each eligible State if such amount equals or exceeds $40,000,000;

Territories, U.S.

(ii) allot one-half of 1 percent of such amount on the basis of need among Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands; and

(iii) set aside the remainder to be disbursed as described in subparagraph (B).

For purposes of this subparagraph, the term "State" does not include Guam, American Samoa, the Virgin Islands of the United States, the Commonwealth of the Northern Mariana Islands, and the Trust Territory of the Pacific Islands.

(B) REMAINDER.—Amounts referred to in subparagraph (A)(iii) shall be used by the Secretary to make grants, on a competitive basis and taking into consideration with respect to the States—

(i) the highest proportions of school-aged youth are at risk of drug abuse;

(ii) if a tangible need has been identified by the State involved; and

(iii) if the State involved has proposed the funding of additional projects targeted at the areas of highest need;

to carry out the activities and projects that are consistent with the activities described in subsection (e)(1). The activities and projects for which such grants are made shall be selected by the Secretary from among proposed activities and projects submitted to the Secretary by the States. Such grants shall be made to the States for redistribution to the persons on whose behalf the State submitted an application under subsection (b).

(d) PRIORITY.—In making grants under this section, the Secretary shall give priority to—

(1) projects aimed at youth who are not in school or who are at risk of dropping out of school;

(2) projects that seek to reinvolve dropouts in educational programs, involve youth community-based activities, develop training or employment opportunities for dropouts, or provide youth with alternatives to drug abuse;

(3) projects to provide after-school, vacation, and weekend activities designed to give youth opportunities to actively participate in a variety of activities, including youth sports programs;

(4) activities and projects that are consistent with activities and projects described in subsection (e)(1) and that include participation by the business community;

(5) projects that provide outreach to individuals of all ages who are at high risk of involvement with drug abuse;

(6) projects targeted to communities with the most serious drug abuse problems to enable such communities to develop programs that coordinate Federal, State, and local efforts to develop comprehensive, long-term, community-wide prevention and education strategies;

(7) projects that seek to involve youth who are members of gangs or who may join a gang, in—

(A) educational programs;

(B) community-based activities;

(C) training or employment opportunities; or

(D) other alternatives to gang involvement; and

(8) projects that seek to inform youth regarding the existence and operation of the projects referred to in paragraph (7).

(e) ACTIVITIES AND PROJECTS.—Financial assistance may be provided with a grant received under subsection (a) under this section by a State as follows:

(1) COMMUNITY SERVICES AND PARTNERSHIPS.—Such assistance may be provided for community services and partnerships designed to develop community activities targeted at drug abuse prevention through education, training, and recreation projects.

Such services may be provided by, and such partnerships may be entered into with—

(A) local educational agencies;
(B) law enforcement agencies;
(C) community-based organizations;
(D) community action agencies;
(E) local or State recreational departments; or
(F) business organizations; and

in consultation with local and State health departments and with community health or mental health centers when appropriate. Such assistance may be provided to any entity described in subparagraphs (A) through (F), either individually or in partnerships. Applications for such assistance shall include a description of the method to be used to evaluate the impact the particular service or partnership is designed to have on the drug abuse problem within the community.

(2) OTHER ACTIVITIES AND PROJECTS.—Such assistance may be provided to carry out projects or activities that are consistent with the activities and projects described in paragraph (1).

(f) PROJECT EVALUATIONS.—The Secretary shall provide for the evaluation of activities and projects conducted with financial assistance received under this section. Applications for grants under this section shall include a description of the method to be used in evaluating the impact such activities and programs have on the drug abuse problem within the communities in which such activities and projects are carried out.

(g) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $40,000,000 for fiscal year 1989, $55,000,000 for fiscal year 1990, $60,000,000 for fiscal year 1991, $66,550,000 for fiscal year 1992, and $73,205,000 for fiscal year 1993.

42 USC 11842.

SEC. 3522. EVALUATION OF DRUG ABUSE EDUCATION AND PREVENTION EFFORTS.

(a) METHOD.—The Secretary of Health and Human Services, acting through the Administrator, shall develop and conduct a structured evaluation of the different approaches utilized across the Nation to reduce drug abuse (as defined in section 3601(6)).

(b) GRANTS.—The Administrator may make grants to or enter into contracts with appropriate entities for the purpose of conducting the evaluations required by subsection (a).

(c) TIME OF REPORTS.—The Secretary shall submit a report based on the evaluations prepared under subsection (a) not later than 1 year after the effective date of this section, and another report based on such evaluations not later than 3 years after such date. A third report based on such evaluations shall be submitted by the Secretary not later than January 1, 1994.

(d) AUTHORIZATION OF APPROPRIATIONS.—To carry out this section, there are authorized to be appropriated $12,000,000 in fiscal year 1989, and $15,000,000 for each of the fiscal years 1990 through 1993.

Subtitle C—Miscellaneous

42 USC 11851.

SEC. 3601. DEFINITIONS.

Unless otherwise defined by an Act amended by this title, for purposes of this title and the amendments made by this title—

(1) the term "Administrator" means the Administrator of the Office of Juvenile Justice and Delinquency Prevention,

(2) the term "community based" has the meaning given it in section 103(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(1)),

(3) the term "controlled substance" has the meaning given it in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6)),

(4) the term "controlled substance analogue" has the meaning given it in section 102(32) of the Controlled Substances Act (21 U.S.C. 802(32)),

(5) the term "drug" means—

(A) a beverage containing alcohol,

(B) a controlled substance, or

(C) a controlled substance analogue,

(6) the term "Director" means the Director of the ACTION Agency,

(7) the term "illicit" means unlawful or injurious,

(8) the term "institution of higher education" has the meaning given it in section 1201(a) of the Higher Education Act of 1965 (20 U.S.C. 1141(a)),

(9) the term "public agency" has the meaning given it in section 103(11) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(11)),

(10) the term "Secretary" means—

(A) the Secretary of Education for purposes of subtitle A (other than section 3201),

(B) the Secretary of Agriculture for purposes of the amendments made by section 3201, and

(C) the Secretary of Health and Human Services for purposes of subtitle B,

(11) the term "State" has the meaning given it in section 103(7) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(7)),

(12) the term "treatment" has the meaning given it in section 103(15) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(15)), and

(13) the term "unit of general local government" has the meaning given it in section 103(8) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(8)).

TITLE IV—INTERNATIONAL NARCOTICS CONTROL

International Narcotics Control Act of 1988.

Subtitle A—General Provisions

SEC. 4001. SHORT TITLE.

22 USC 2151 note.

This title may be cited as the "International Narcotics Control Act of 1988".

SEC. 4002. TABLE OF CONTENTS.

The table of contents for this title is as follows:

TITLE IV—INTERNATIONAL NARCOTICS CONTROL

Subtitle A—General Provisions

Sec. 4001. Short title.
Sec. 4002. Table of contents.
Sec. 4003. Definitions.

Subtitle B—Multilateral Narcotics Control Efforts

Sec. 4101. Regional anti-narcotic forces.
Sec. 4102. United Nations efforts to stop illegal drug trafficking.
Sec. 4103. International drug force.
Sec. 4104. International drug conference.
Sec. 4105. Integrated regional plan to fight the international narcotics trade.
Sec. 4106. Regional anti-narcotics training center in the Caribbean.
Sec. 4107. Authorization of appropriations for multilateral and regional drug abuse programs.
Sec. 4108. International criminal court.

Subtitle C—Authorizations and Earmarkings of Foreign Assistance

Sec. 4201. Authorization for international narcotics control assistance.
Sec. 4202. Herbicides for aerial coca eradication.
Sec. 4203. Procurement of weapons to defend aircraft involved in narcotics control efforts.
Sec. 4204. Training for narcotics control activities.
Sec. 4205. Military assistance for anti-narcotics efforts.
Sec. 4206. Reallocation of funds withheld from countries which fail to take adequate steps to halt illicit drug production or trafficking.

Subtitle D—Provisions Relating to Specific Countries

Sec. 4301. Cooperative nonmajor drug-transit countries.
Sec. 4302. Assistance for Bolivia.
Sec. 4303. Assistance for Peru.
Sec. 4304. Assistance for Mexico.
Sec. 4305. Assistance for Colombia.
Sec. 4306. Illicit drug production and trafficking in Pakistan.
Sec. 4307. United States reliance on licit opium gum from foreign sources.
Sec. 4308. Afghanistan as a source of heroin.
Sec. 4309. Involvement of the Government of Laos in illicit drug production and trafficking.

Subtitle E—Annual Reporting and Certification Process

Sec. 4401. Expression in numerical terms of maximum achievable reductions in illicit drug production.
Sec. 4402. Reports on assistance denied.
Sec. 4403. Exclusion of certain drug education activities from definition of United States assistance.
Sec. 4404. Reports and restrictions on certain countries.
Sec. 4405. Determining major drug-transit countries.
Sec. 4406. Waiver of restrictions on United States assistance for certain major drug-transit countries.
Sec. 4407. Annual certification procedures for bilateral and multilateral assistance.
Sec. 4408. Annual certification procedures for trade and aviation sanctions.

Subtitle F—Miscellaneous Provisions Relating to Assistance Programs

Sec. 4501. Reporting on transfer of United States assets.
Sec. 4502. Importance of suppressing international narcotics trafficking.
Sec. 4503. Prohibition on assistance to drug traffickers.
Sec. 4504. Procurement for international narcotics control assistance.
Sec. 4505. Prohibition on use of narcotics control assistance to acquire real property.
Sec. 4506. Reimbursement for DOD services used in providing international narcotics control assistance.
Sec. 4507. Permissible uses of aircraft and other equipment.

Subtitle G—Department of State Activities

Sec. 4601. Coordination of all United States anti-narcotics assistance to foreign countries.
Sec. 4602. Rewards for certain information.
Sec. 4603. Denial of passports to certain convicted drug traffickers.

Sec. 4604. Machine-readable document border security program.
Sec. 4605. Extradition and mutual legal assistance treaties and model comprehensive antidrug laws.
Sec. 4606. Overseas investigative program.
Sec. 4607. Assignment of more Drug Enforcement Administration Agents to United States embassies.

Subtitle H—International Banking Matters

Sec. 4701. International currency transaction reporting.
Sec. 4702. Restrictions on laundering of United States currency.
Sec. 4703. Export-Import Bank financing for sales of defense articles and services for anti-narcotics purposes.

Subtitle I—Miscellaneous Provisions

Sec. 4801. Intelligence community actions directed at illicit international drug trafficking.
Sec. 4802. Correction of technical errors in prior Acts.
Sec. 4803. Resources for certain drug control activities.
Sec. 4804. Consistency with international obligations of the United States.

SEC. 4003. DEFINITIONS.

22 USC 2291 note.

As used in this title, the terms "drug" and "narcotic" mean narcotic and psychotropic drugs and other controlled substances as defined in section 481(i)(3) of the Foreign Assistance Act of 1961.

Subtitle B—Multilateral Narcotics Control Efforts

SEC. 4101. REGIONAL ANTI-NARCOTICS FORCES.

22 USC 2291 note.

(a) NEED FOR ANTI-NARCOTICS FORCE IN THE WESTERN HEMISPHERE.—It is the sense of Congress that—

(1) the operations of international illegal drug smuggling organizations pose a direct threat to the national security of the member nations of the Organization of American States;

(2) illegal international drug smuggling organizations have grown so large and powerful that they threaten to overwhelm small nations standing alone against them;

(3) to preserve the national sovereignty, protect the public health, and maintain domestic law and order within their borders, member nations of the Organization of American States should coordinate their efforts to fight the illegal drug trade;

(4) recent events in drug source and transit countries in the Western Hemisphere make clear the requirement for international agreement on the formation of a multinational force to conduct operations against these illegal drug smuggling organizations;

(5) the United States should make every effort to initiate diplomatic discussions through the Organization of American States aimed at achieving agreement to establish and operate a Western Hemisphere anti-narcotics force; and

(6) sensitive to the legitimate concerns of other member nations of the Organization of American States, the United States stands ready to provide equipment, training, and financial resources to support the establishment and operation of such an anti-narcotics force, but believes that the personnel for such a force should be provided by those nations facing the most serious threat from drug trafficking organizations.

President of U.S.

(b) DIPLOMATIC DISCUSSIONS REGARDING WESTERN HEMISPHERE REGIONAL FORCE.—The President shall direct the United States Ambassador to the Organization of American States, under the direction of the Secretary of State, to initiate diplomatic discussions with member nations of the Organization of American States aimed at securing agreement to the formation of a multinational force to conduct operations against international illegal drug smuggling organizations wherever they may be found in the Western Hemisphere.

(c) REPORT TO CONGRESS.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall report to the Committee on Foreign Relations of the Senate and the Committee on Foreign Affairs of the House of Representatives on the progress United States diplomatic efforts have made toward achieving agreement on the establishment of such a multinational anti-narcotics force for the Western Hemisphere.

President of U.S.

(d) BUDGET REQUEST.—If diplomatic efforts toward achieving a multinational anti-narcotics force for the Western Hemisphere demonstrate progress or agreement has been reached on formation of such a force, the President shall submit to the Congress, within 30 days after submission of the report required by subsection (c), supplemental budget requests for fiscal years 1989 and 1990 covering the United States share of the cost of operation and maintenance of such a force.

(e) OTHER REGIONAL ANTI-NARCOTIC FORCES.—The Congress urges the President to seek the establishment, in each of the relevant regions of the world, of a multilateral anti-narcotics force similar to the Western Hemisphere anti-narcotics force contemplated by this section.

SEC. 4102. UNITED NATIONS EFFORTS TO STOP ILLEGAL DRUG TRAFFICKING.

(a) FINDINGS.—The Congress finds that—

(1) the Department of State estimates that in 1987 the worldwide production of opium was between 1,902 and 3,107 metric tons, production of cocaine hydrochloride was between 324 and 422 metric tons, and production of marijuana was between 10,930 and 17,625 metric tons;

(2) it is estimated that the value of the illegal drug trade worldwide is as high as $500,000,000,000 a year;

(3) drug traffickers appear to be intensifying their efforts to distribute drugs to Western industrialized nations, as a source of stable currencies;

(4) drug traffickers also appear to be intensifying their efforts to distribute drugs to developing nations, as a means to increase their market;

(5) it is estimated that there are between 25,000,000 and 30,000,000 drug addicts worldwide;

(6) the American illegal drug market alone, comprised primarily of marijuana, cocaine, and heroin, annually produces between $50,000,000,000 and $100,000,000,000 at the retail level;

(7) approximately 35 percent of the inmates of State prisons were under the influence of illegal drugs at the time they committed the crime for which they were incarcerated;

(8) it is estimated that there are 26,000,000 regular users of illegal drugs in the Nation, slightly more than 10 percent of the Nation's population; and

(9) over 50 percent of the high school seniors in the Nation have used marijuana or hashish.

(b) ENCOURAGEMENT FOR ESTABLISHMENT OF INTERNATIONAL FORCE.—The Congress encourages the United Nations to explore ways and means to establish an international force or mechanism aimed at stopping the trafficking of illegal drugs.

SEC. 4103. INTERNATIONAL DRUG FORCE.

It is the sense of the Congress that the President should call for international negotiations for the purpose of agreeing on the establishment of an international drug force to pursue and apprehend major international drug traffickers.

SEC. 4104. INTERNATIONAL DRUG CONFERENCE.

It is the sense of the Congress that—

(1) the President should convene as soon as possible an international conference to be known as the International Conference on Combatting Illegal Drug Production, Trafficking, and Use in the Western Hemisphere;

(2) this conference should involve the heads of state, the highest-ranking law enforcement officers, and other appropriate officials from every government in the Western Hemisphere that is willing to combat the drug trade, and whose cooperation the President determines is essential to that goal; and

(3) this conference should focus exclusively on combatting the drug trade and, in particular, should emphasize enhancing cooperative efforts among the governments of the Western Hemisphere to—

(A) substantially reduce the production, cultivation, and processing of illicit drugs;

(B) eliminate the transshipment of such drugs through countries in the Western Hemisphere;

(C) curb the demand for and use of such drugs in every country in the Western Hemisphere;

(D) combat the problems of drug-related corruption and drug money laundering; and

(E) share intelligence information, extradite drug traffickers, and take other steps necessary to improve law enforcement efforts against the drug trade.

SEC. 4105. INTEGRATED REGIONAL PLAN TO FIGHT THE INTERNATIONAL COCAINE TRADE.

(a) CONSULTATIONS CONCERNING CREATION OF AN INTEGRATED PLAN.—The Secretary of State shall consult with—

(1) the heads of appropriate agencies and departments of the United States Government,

(2) the governments of those countries in the Western Hemisphere that cultivate, process, or traffic in cocaine, and

(3) the governments of other cocaine consuming countries about the feasibility of creating a comprehensive, integrated, multi national plan whose objective would be the substantial reduction or elimination of the international cocaine trade.

(b) REPORT ON THE INTEGRATED PLAN.—Not later than 6 months after the date of enactment of this Act, the Secretary of State shall report to the Congress on—

(1) the feasibility of creating a comprehensive, integrated, multinational plan whose objective would be the substantial reduction or elimination of the international cocaine trade;

(2) the measures in such areas as eradication, interdiction, crop substitution, economic development, extradition, money-laundering, precursor chemical control, and related fields, that would be required to achieve such an objective;

(3) the material resources, funding, and technological assistance each producer and transit country would require in order to achieve such an objective; and

(4) the resources, funding, and other assistance each producer, transit, and consuming country would be prepared to make available for such an effort.

SEC. 4106. REGIONAL ANTI-NARCOTICS TRAINING CENTER IN THE CARIBBEAN.

It is the sense of the Congress that the Assistant Secretary of State for International Narcotics Matters—

(1) should seek the establishment of a regional anti-narcotics training center in the Caribbean;

(2) should contribute funds or other resources to such a center; and

(3) should seek such contributions from other countries for such a center.

SEC. 4107. AUTHORIZATION OF APPROPRIATIONS FOR MULTILATERAL AND REGIONAL DRUG ABUSE CONTROL PROGRAMS.

22 USC 2222.

Section 302 of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(j) In addition to amounts otherwise available under this section for such purposes, there are authorized to be appropriated to the President $3,000,000 for fiscal year 1989 to be available only for United States contributions to multilateral and regional drug abuse control programs. Of the amount authorized to be appropriated by this subsection—

"(1) $2,000,000 shall be for a United States contribution to the United Nations Fund for Drug Abuse Control;

"(2) $600,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Legal Development Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the budget of the Organization of American States for that fiscal year bears to the total contributions to the budget of the Organization of American States for that fiscal year; and

"(3) $400,000 shall be for the Organization of American States (OAS) Inter-American Drug Abuse Control Commission (CICAD) Law Enforcement Training Project, except that the proportion which such amount bears to the total amount of contributions to this specific project may not exceed the proportion which the United States contribution to the budget of the Organization of American States for that fiscal year bears to the total contributions to the budget of the Organization of American States for that fiscal year.".

SEC. 4108. INTERNATIONAL CRIMINAL COURT.

(a) IN GENERAL.—It is the sense of the Senate that the President should begin discussions with foreign governments to investigate the feasibility and advisability of establishing an international criminal court to expedite cases regarding the prosecution of persons accused of having engaged in international drug trafficking or having committed international crimes.

(b) UNITED STATES CITIZENS.—Such discussions shall not include any commitment that such court shall have jurisdiction over the extradition of United States citizens and shall assure that any international agreement shall recognize the rights and privileges guaranteed to United States citizens under the United States Constitution.

Subtitle C—Authorizations and Earmarkings of Foreign Assistance

SEC. 4201. AUTHORIZATION FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

Section 482(a) of the Foreign Assistance Act of 1961 is amended by striking out paragraphs (1) and (3) and by inserting the following new paragraph (1) after "(a)": 22 USC 2291a.

"(1) To carry out the purposes of section 481, there are authorized to be appropriated to the President $101,000,000 for fiscal year 1989.".

SEC. 4202. HERBICIDES FOR AERIAL COCA ERADICATION.

(a) EARMARKING OF FUNDS.—The Secretary of State shall use not less than $500,000 of the funds made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control) to finance the testing and use of safe and effective herbicides for use in the aerial eradication of coca.

(b) IMPACT ON THE ENVIRONMENT AND HEALTH.—Section 481(d) of that Act is amended by adding at the end the following: 22 USC 2291.

"(5)(A) The President, with the assistance of appropriate Federal agencies, shall monitor any use under this chapter of a herbicide in the aerial eradication of coca in order to determine the impact of such use on the environment and on the health of individuals. President of U.S.

"(B) The President shall report on such impact in the annual report required by subsection (e). Reports.

"(C) If the President determines that any such use is harmful to the environment or the health of individuals, the President shall immediately report that determination to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, together with such recommendations as the President deems appropriate.".

SEC. 4203. PROCUREMENT OF WEAPONS TO DEFEND AIRCRAFT INVOLVED IN NARCOTICS CONTROL EFFORTS.

(a) EARMARKING OF MAP FUNDS.—Of the funds available to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance program), $1,000,000 for fiscal year 1989 shall be made available to arm, for defensive purposes, aircraft used in narcotics control eradication or interdic-

tion efforts. These funds may only be used to arm aircraft already in the inventory of the recipient country, and may not be used for the purchase of new aircraft.

(b) NOTIFICATION TO CONGRESS.—The Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate shall be notified of the use of any such funds for that purpose at least 15 days in advance in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

SEC. 4204. TRAINING FOR NARCOTICS CONTROL ACTIVITIES.

(a) EARMARKING OF FUNDS.—Not less than $2,000,000 of the funds made available for fiscal year 1989 to carry out chapter 5 of part II of the Foreign Assistance Act of 1961 (relating to international military education and training) shall be available only for—

(1) education and training in the operation and maintenance of equipment used in narcotics control interdiction and eradication efforts of countries in Latin America and the Caribbean which are described in subsection (c); and

(2) the expenses of deploying, upon the request of the government of a foreign country described in subsection (c), Department of Defense mobile training teams in that foreign country to conduct training in military-related individual and collective skills that will enhance that country's ability to conduct tactical operations in narcotics interdiction.

(b) UNITS ELIGIBLE FOR TRAINING.—Education and training may be provided under subsection (a)(1) and training may be provided under subsection (a)(2) only for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(c) ELIGIBLE COUNTRIES.—Assistance may be provided under this section only for countries—

(1) which are major illicit drug producing or major drug-transit countries (as defined in section 481(i) of the Foreign Assistance Act of 1961);

(2) which have democratic governments; and

(3) whose law enforcement agencies do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

(d) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control).

(e) WAIVER OF SECTION 660.—Assistance may be provided pursuant to this section notwithstanding the prohibition contained in section 660 of the Foreign Assistance Act of 1961 (relating to police training).

SEC. 4205. MILITARY ASSISTANCE FOR ANTI-NARCOTICS EFFORTS.

(a) PURPOSES OF ASSISTANCE.—Assistance provided under this section shall be designed to—

(1) enhance the ability of friendly governments to control illicit narcotics production and trafficking;

(2) strengthen the bilateral ties of the United States with friendly governments by offering concrete assistance in this area of great mutual concern; and

(3) strengthen respect for internationally recognized human rights and the rule of law in efforts to control illicit narcotics production and trafficking.

(b) WAIVER OF CERTAIN PROVISIONS.—During fiscal years 1989 and 1990, section 660(a) of the Foreign Assistance Act of 1961 shall not apply with respect to assistance provided under chapter 2 of part II of that Act (relating to the grant military assistance program) to countries described in subsection (c) for the procurement, for use in narcotics control, eradication, and interdiction efforts, of weapons or ammunition for foreign law enforcement agencies, or other units, that are organized for the specific purpose of narcotics enforcement.

(c) ELIGIBLE COUNTRIES.—Assistance may be provided under this section only for countries—

(1) which are major illicit drug producing or major drug-transit countries (as defined in section 481(i) of the Foreign Assistance Act of 1961);

(2) which have democratic governments; and

(3) whose law enforcement agencies do not engage in a consistent pattern of gross violations of internationally recognized human rights (as defined in section 502B(d)(1) of the Foreign Assistance Act of 1961).

(d) REPORTS TO CONGRESS.—Not less than 15 days before funds are obligated to provide assistance authorized by this section, the President shall transmit to the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate, in accordance with the procedures applicable under section 634A of the Foreign Assistance Act of 1961, a written notification which specifies— President of U.S.

(1) the country to which the assistance is to be provided;

(2) the type and value of the assistance to be provided;

(3) the law enforcement agencies or other units that will receive the assistance; and

(4) an explanation of how the proposed assistance will achieve the purposes specified in subsection (a) of this section.

(e) REPORTS ON HUMAN RIGHTS SITUATION.—Section 502B(c) of the Foreign Assistance Act of 1961 (relating to country-specific human rights reports upon the request of the foreign affairs committees) applies with respect to countries for which assistance authorized by this section is proposed or is being provided.

(f) COORDINATION WITH INTERNATIONAL NARCOTICS CONTROL ASSISTANCE PROGRAM.—Assistance under this section shall be coordinated with assistance provided under chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control).

(g) EARMARKING FOR LATIN AMERICA AND THE CARIBBEAN.—Of the amounts made available for fiscal year 1989 to carry out chapter 2 of part II of the Foreign Assistance Act of 1961, $3,500,000 shall be available only to provide assistance authorized by this section for countries in Latin America or the Caribbean.

(h) CONFORMING AMENDMENTS.—(1) Section 578(a) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), is amended— *Ante*, p. 2268-45.

(A) by striking out paragraph (3);

(B) in paragraph (4), by striking out "except as provided in paragraph (3) of this subsection"; and

(C) by redesignating paragraph (4) as paragraph (3).

Effective date.

(2) The amendments made by paragraph (1) shall be effective as of October 1, 1988.

SEC. 4206. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

(a) REQUIREMENT TO REALLOCATE.—Chapter 8 of part I of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

22 USC 2291e.

"SEC. 486. REALLOCATION OF FUNDS WITHHELD FROM COUNTRIES WHICH FAIL TO TAKE ADEQUATE STEPS TO HALT ILLICIT DRUG PRODUCTION OR TRAFFICKING.

President of U.S.

"(a) ADDITIONAL ASSISTANCE FOR COUNTRIES TAKING SIGNIFICANT STEPS.—If any funds authorized to be appropriated for any fiscal year for security assistance are not used for assistance for the country for which those funds were allocated because of the requirements of section 481(h) or any other provision of law requiring the withholding of assistance for countries that have not taken adequate steps to halt illicit drug production or trafficking, the President shall use those funds for additional assistance for those countries which have met their illicit drug eradication targets or have otherwise taken significant steps to halt illicit drug production or trafficking, as follows:

"(1) INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.—Those funds may be transferred to and consolidated with the funds appropriated to carry out this chapter in order to provide additional narcotics control assistance for those countries. Funds transferred under this paragraph may only be used to provide increased funding for activities previously justified to the Congress. Transfers may be made under this paragraph without regard to the 20-percent increase limitation contained in section 610(a). This paragraph does not apply with respect to funds made available for assistance under the Arms Export Control Act.

"(2) SECURITY ASSISTANCE.—Any such funds not used under paragraph (1) shall be reprogrammed within the account for which they were appropriated (subject to the regular reprogramming procedures under section 634A) in order to provide additional security assistance for those countries.

"(b) DEFINITION OF SECURITY ASSISTANCE.—As used in this section, the term 'security assistance' means assistance under chapter 2 of part II of this Act (relating to the grant military assistance program), chapter 4 of part II of this Act (relating to the Economic Support Fund), chapter 5 of part II of this Act (relating to international military education and training), or the Arms Export Control Act (relating to foreign military sales financing).".

22 USC 2291e note.

(b) CONFORMING AMENDMENTS.—(1) The amendment made by subsection (a) of this section supersedes section 578(d) of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461).

(2) Funds may be transferred pursuant to paragraph (1) of section 486(a) of the Foreign Assistance Act of 1961 (as enacted by this section) notwithstanding section 514 of the Foreign Operations,

Export Financing, and Related Programs Appropriations Act, 1989 (as amended by section 589 of that Act), relating to transfers between accounts.

Subtitle D—Provisions Relating to Specific Countries

SEC. 4301. COOPERATIVE NONMAJOR DRUG-TRANSIT COUNTRIES.

(a) GREATER ATTENTION.—The Congress urges the Assistant Secretary of State for International Narcotics Matters to give greater attention, and provide more narcotics control assistance, to those countries which are drug-transit countries but are not major drug-transit countries (as defined in section 481(i)(5) of the Foreign Assistance Act of 1961) and which are cooperating with the United States in its international narcotics control efforts.

(b) EARMARKING OF ASSISTANCE.—Of the amounts made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control), not less than $1,000,000 shall be available only for assistance to countries described in subsection (a).

SEC. 4302. ASSISTANCE FOR BOLIVIA.

(a) SECURITY ASSISTANCE.—For fiscal year 1989, assistance may be provided for Bolivia under chapter 2 (relating to the grant military assistance program), chapter 4 (relating to the Economic Support Fund), and chapter 5 (relating to international military education and training) of part II of the Foreign Assistance Act of 1961 and under chapter 2 of the Arms Export Control Act (relating to foreign military sales financing) only if the President certifies to the Congress that the Government of Bolivia is implementing legislation that—

(1) establishes its legal coca requirements,

(2) provides for the licensing of the number of hectares necessary to produce the legal requirement,

(3) makes unlicensed coca production illegal, and

(4) makes possession and distribution of coca leaf illegal (other than possession and distribution for licit purposes).

(b) SECTION 481 CERTIFICATION.—

(1) CONDITIONS ON CERTIFICATION.—For fiscal year 1989, the President may make a certification with respect to Bolivia under clause (i) or (ii) of section 481(h)(2)(A) of the Foreign Assistance Act of 1961 only if the Government of Bolivia—

(A) has entered into the narcotics cooperation agreement with the United States specified in section 611(2)(B) of the International Security and Development Cooperation Act of 1985;

(B) has fully achieved the eradication targets contained in that agreement; and

(C) has begun a program of forced eradication of illicit coca cultivation if the targets for voluntary eradication are not being met or are not continued.

(2) NONWAIVABILITY.—The authorities contained in section 614 of the Foreign Assistance Act of 1961 may not be used to waive the requirements of this subsection, and may not be used

to waive the requirements of section 481(h) of that Act for fiscal year 1989 with respect to Bolivia.

(c) DEVELOPMENT ASSISTANCE.—For fiscal year 1989, the project agreement document for a project carried out pursuant to chapter 1 of part I of the Foreign Assistance Act of 1961 (relating to development assistance) shall contain—

(1) in the case of the Chapare Regional Development Project, a clause requiring that project activities be suspended if the Government of Bolivia fails to achieve the coca eradication targets contained in the applicable agreement concerning that project; and

(2) in the case of a project to be carried out in an area in Bolivia in which there is no known illicit coca cultivation as of the date of enactment of this Act, a clause requiring that project activities be suspended if the Government of Bolivia fails to keep the project area free of illicit coca cultivation.

(d) FISCAL YEAR 1989 EARMARKING.—Title II of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1989 (Public Law 100-461), is amended in the paragraph under the heading "INTERNATIONAL NARCOTICS CONTROL" by striking out "$15,000,000" in the first proviso and all that follows through "not less than" in the second proviso.

Ante, p. 2268-14.

SEC. 4303. ASSISTANCE FOR PERU.

(a) DETERMINATIONS REGARDING NARCOTICS CONTROL COOPERATION.—In making determinations with respect to Peru pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961 for fiscal year 1989, the President shall give foremost consideration to whether the Government of Peru made substantial progress in meeting its coca eradication targets during the previous year.

President of U.S.

(b) UPPER HUALLAGA VALLEY PROJECT.—Funds authorized to be appropriated for fiscal year 1989 to carry out chapter 1 of part I of that Act (relating to development assistance) may be made available for the project of the Agency for International Development in the Upper Huallaga Valley of Peru only if the Secretary of State determines, and reports to the Congress, that such project continues to be effective in reducing and eradicating coca leaf production, distribution, and marketing in the Upper Huallaga Valley.

SEC. 4304. ASSISTANCE FOR MEXICO.

(a) LIMITATION ON ASSISTANCE.—(1) Except as provided in paragraph (2), not more than $15,000,000 of the amounts made available for fiscal year 1989 to carry out chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control) may be made available for Mexico.

(2) Assistance in excess of the amount specified in paragraph (1) may be made available for Mexico only if the congressional committees specified in section 634A(a) of the Foreign Assistance Act of 1961 are notified at least 15 days in advance in accordance with the regular reprogramming procedures applicable under that section.

Enrique Camarena Salazar. Alfredo Zavala Avelar. Victor Cortez, Junior.

(b) COOPERATION ON DRUG LAW ENFORCEMENT MATTERS.—The Congress urges the Government of Mexico to cooperate fully with the United States on matters of concern to the United States regarding drug law enforcement. In particular, the Congress anticipates that the new Government which will take office on December 1 will move expeditiously to bring to trial and effectively prosecute those responsible for the 1985 murders of Drug Enforcement

Administration agent Enrique Camarena Salazar and his pilot Alfredo Zavala Avelar and those responsible for the 1986 detention and torture of Drug Enforcement Administration agent Victor Cortez, Junior.

(c) JOINT AIR OPERATIONS AND JOINT CREWING.—In making determinations with respect to Mexico pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961 for fiscal year 1989, the President shall consider whether the Government of Mexico has responded favorably to the United States proposals to establish, and is making measurable progress toward implementing— President of U.S.

(1) a joint United States-Mexico airborne apprehension capability (commonly referred to as "joint air operations"); and

(2) joint air surveillance operations (commonly referred to as "joint crewing").

(d) BANKING INFORMATION CONCERNING MONEY LAUNDERING.—The Congress encourages the Government of Mexico, upon ratification of the Mutual Legal Assistance Treaty between the United States and Mexico, to furnish banking information pursuant to that treaty which would permit the successful investigation and prosecution in the United States of major narco-terrorists who use Mexican financial institutions to "launder" their profits.

SEC. 4305. ASSISTANCE FOR COLOMBIA.

(a) SIZE OF MILITARY ASSISTANCE GROUP.—The third sentence of section 515(c)(1) of the Foreign Assistance Act of 1961 (relating to countries authorized to have more than 6 members of the Armed Forces assigned to carry out international security assistance programs) is amended by inserting "Colombia," after "Honduras,". 22 USC 2321i.

(b) INCREASED MILITARY ASSISTANCE.—There are authorized to be appropriated to carry out chapter 2 of part II of the Foreign Assistance Act of 1961 (relating to the grant military assistance program) $15,000,000 as supplemental appropriations for fiscal year 1989, which are authorized to remain available until expended. These funds shall be available only to provide defense articles to the armed forces of Colombia to support their efforts to combat illicit narcotics production and trafficking.

(c) PROTECTION FROM NARCO-TERRORIST ATTACKS.—

(1) EARMARK OF FUNDS.—Of the funds made available for fiscal year 1989 to carry out chapter 4 of part II of the Foreign Assistance Act of 1961 (relating to the Economic Support Fund), not less than $5,000,000 shall be used to provide to the Government of Colombia such assistance as it may request to provide protection against narco-terrorist attacks on judges, other government officials, and members of the press.

(2) WAIVER OF PROHIBITION ON ASSISTANCE TO POLICE FORCES.—The assistance provided for in paragraph (1) may be provided without regard to section 660 of the Foreign Assistance Act of 1961.

(3) NOTIFICATION TO CONGRESS.—Funds made available pursuant to paragraph (1) may not be obligated until at least 15 days after the Committee on Foreign Affairs of the House of Representatives and the Committee on Foreign Relations of the Senate are notified of the proposed obligation in accordance with the reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(4) EXTENSION OF PERIOD FOR OBLIGATION OF FUNDS.—Funds allocated to carry out this subsection shall remain available until expended, notwithstanding any other provision of law.

SEC. 4306. ILLICIT DRUG PRODUCTION AND TRAFFICKING IN PAKISTAN.

President of U.S.

In making determinations with respect to Pakistan pursuant to section 481(h)(2)(A)(i) of the Foreign Assistance Act of 1961, the President shall take into account the extent to which the Government of Pakistan—

(1) is increasing the number of illicit laboratories destroyed and is vigorously prosecuting and punishing the owners and operators of such laboratories;

(2) is increasing the number of arrests and successful prosecutions of violators, with particular emphasis on putting major traffickers out of business; and

(3) has made changes in Pakistani legal codes in order to enable Pakistani law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws.

SEC. 4307. UNITED STATES RELIANCE ON LICIT OPIUM GUM FROM FOREIGN SOURCES.

President of U.S.

(a) REVIEW REQUIRED.—The President shall conduct a review of United States narcotics raw material policy to determine—

(1) the current and reserve international needs for opium-derived pharmaceutical and chemical products, and the relative capabilities for meeting those needs through the opium gum process and the concentrated poppy straw method of production;

(2) whether the United States should continue to rely on a single foreign country for all its licit opium gum;

(3) whether it should be United States policy to encourage all countries which produce licit opium to use the concentrated poppy straw method of production; and

(4) what options are available, consistent with treaties to which the United States is a party, to reduce United States reliance on licit opium gum from foreign sources.

(b) REPORT TO CONGRESS.—The results of this review shall be reported to the Congress not later than 6 months after the date of enactment of this Act.

SEC. 4308. AFGHANISTAN AS A HEROIN SOURCE.

(a) FINDING.—The Congress finds that Afghanistan remains the source of most of the heroin exported from southwest Asia.

(b) STATEMENT OF POLICY.—It is the sense of the Congress that—

(1) the United States Government should pursue efforts to press the Government of Afghanistan, and should work with the Mujahadeen—

(A) to reduce production and trafficking in areas under their respective control, and

(B) to encourage drug eradication, interdiction, and crop substitution in Afghanistan; and

(2) an initiative should be developed which could be put in place as the Mujahadeen and successors to the present Kabul regime begin to exert more civil authority.

SEC. 4309. INVOLVEMENT OF THE GOVERNMENT OF LAOS IN ILLICIT DRUG PRODUCTION AND TRAFFICKING.

(a) PERIODIC REPORTS.—The President shall prepare and transmit to the Congress, in accordance with subsection (b), periodic reports containing the following determinations: President of U.S.

(1) Does the Government of Laos, as a matter of government policy, encourage or facilitate the production or distribution of illegal drugs?

(2) Does any senior official of the Government of Laos engage in, encourage, or facilitate the production or distribution of illegal drugs?

(3) Do other governments in the region assist the distribution of illegal drugs from Laos?

(b) TIME FOR SUBMISSION OF REPORTS.—The report described in subsection (a) shall be submitted as part of each report required by section 481(e) of the Foreign Assistance Act of 1961 and as part of each report required by section 2013 of the Anti-Drug Abuse Act of 1986.

(c) INFORMATION TO BE INCLUDED.—(1) If an affirmative determination is made under paragraph (1) or (2) of subsection (a), the report shall describe the activities and identities of officials whose activities caused that determination to be made.

(2) If an affirmative determination is made under paragraph (3) of subsection (a), the report shall describe the activities of other governments in the region which caused that determination to be made.

Subtitle E—Annual Report and Certification Process

SEC. 4401. EXPRESSION IN NUMERICAL TERMS OF MAXIMUM ACHIEVABLE REDUCTIONS IN ILLICIT DRUG PRODUCTION.

Section 481(e)(4) of the Foreign Assistance Act of 1961 is amended by inserting after the first sentence the following: "Each determination of the President under the preceding sentence shall be expressed in numerical terms, such as the number of acres of illicitly cultivated controlled substances which can be eradicated.". 22 USC 2291.

SEC. 4402. REPORTS ON ASSISTANCE DENIED.

Section 481(e) of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

"(8) Each report pursuant to this subsection shall describe the United States assistance for the preceding fiscal year which was denied, pursuant to subsection (h), to each major illicit drug producing country and each major drug-transit country.".

SEC. 4403. EXCLUSION OF CERTAIN NARCOTICS EDUCATION ACTIVITIES FROM DEFINITION OF UNITED STATES ASSISTANCE.

Section 481(i)(4)(vii) of the Foreign Assistance Act of 1961 is amended by striking out "126 of this Act;" and inserting in lieu thereof "126(b)(2) of this Act (but any such assistance shall be subject to the prior notification procedures applicable to reprogrammings pursuant to section 634A of this Act),".

SEC. 4404. REPORTS AND RESTRICTIONS CONCERNING CERTAIN COUNTRIES.

22 USC 2291.

Section 2013(a) of the Anti-Drug Abuse Act of 1986 is amended—

(1) by striking out "Not later than 6 months after the date of enactment of this Act and every 6 months thereafter, the" and inserting in lieu thereof "The"; and

(2) by inserting ", at the same time as each report is submitted pursuant to section 481(b)(2) of the Foreign Assistance Act of 1961," after "transmit to the Congress".

SEC. 4405. DETERMINING MAJOR DRUG-TRANSIT COUNTRIES.

(a) PROCEDURES FOR DETERMINING.—Section 481 of the Foreign Assistance Act of 1961 is amended by adding at the end the following:

22 USC 2291.

"(k)(1) For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under subsection (i)(5)(A) and (B) of this section.

"(2) Not later than September 1 of each year, the Secretary of State shall make a preliminary determination of the numerical standards and other guidelines to be used pursuant to paragraph (1) with respect to that year and shall notify the appropriate committees of the Congress of those standards and guidelines.

"(3) Not later than October 1 of each year, the Secretary of State shall notify the appropriate committees of the Congress of—

"(A) which countries appear likely, as of that date, to be determined to be major drug-transit countries for that year under the numerical standards and other guidelines developed pursuant to this subsection; and

"(B) which countries appear likely, as of that date, to be determined to be major illicit drug producing countries for that year.

"(4) Each report submitted pursuant to subsection (e) shall discuss—

"(A) any changes made, since the notification provided pursuant to paragraph (2), in the numerical standards and other guidelines used in determining which countries were major drug-transit countries under subsection (i)(5)(A) and (B) during the preceding year; and

"(B) any changes made, since the notification provided pursuant to paragraph (3)—

"(i) in the countries determined to be major drug-transit countries under subsection (i)(5)(A) and (B) during the preceding year; or

"(ii) in the countries determined to be major illicit drug producing countries for that year.".

22 USC 2291 note.

(b) TRANSITION PROVISION.—With respect to fiscal year 1989, the Secretary of State—

(1) shall take the actions specified in subsection (k)(2) of section 481 of the Foreign Assistance Act of 1961 (as added by subsection (a) of this section) not later than 30 days after the date of enactment of this Act; and

(2) shall take the actions specified in subsection (k)(3) of that section (as added by subsection (a) of this section) not later than 60 days after the date of enactment of this Act.

SEC. 4406. WAIVER OF RESTRICTIONS ON UNITED STATES ASSISTANCE FOR CERTAIN MAJOR DRUG-TRANSIT COUNTRIES.

Section 481(h) of the Foreign Assistance Act of 1961 shall not apply with respect to a major drug-transit country for fiscal year 1989 if the President certifies to the Congress, during that fiscal year, that—

(1) section 481(i)(5)(C) of that Act (relating to money laundering) does not apply to that country;

(2) the country previously was a major illicit drug producing country but, during each of the preceding two years, has effectively eliminated illicit drug production; and

(3) the country is cooperating fully with the United States or has taken adequate steps on its own—

(A) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in section 481(h)(2) of that Act) or a multilateral agreement which achieves the objectives of that section;

(B) in preventing narcotic and psychotropic drugs and other controlled substances transported through such country from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States; and

(C) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts.

SEC. 4407. ANNUAL CERTIFICATION PROCEDURES FOR BILATERAL AND MULTILATERAL ASSISTANCE.

(a) REVISION OF PROCEDURES.—Section 481(h) of the Foreign Assistance Act of 1961 is amended by striking out all that precedes subparagraph (B) of paragraph (4) and inserting in lieu thereof the following: 22 USC 2291.

"(h) ANNUAL CERTIFICATION PROCEDURES.—

"(1) WITHHOLDING OF BILATERAL ASSISTANCE AND OPPOSITION TO MULTILATERAL DEVELOPMENT ASSISTANCE.—(A) Fifty percent of the United States assistance allocated each fiscal year in the report required by section 653(a) for each major illicit drug producing country or major drug-transit country shall be withheld from obligation and expenditure, except as provided in paragraph (2).

"(B) The Secretary of the Treasury shall instruct the United States Executive Director of the International Bank for Reconstruction and Development, the United States Executive Director of the International Development Association, the United States Executive Director of the Inter-American Development Bank, and the United States Executive Director of the Asian Development Bank to vote, on and after March 1 of each year, against any loan or other utilization of the funds of their respective institution to or for any major illicit drug producing country or major drug-transit country, except as provided in paragraph (2).

"(2) CERTIFICATION PROCEDURE.—(A) Subject to paragraph (4), the assistance withheld from a country pursuant to paragraph (1)(A) may be obligated and expended, and the requirement of

paragraph (1)(B) to vote against multilateral development bank assistance to a country shall not apply, if the President determines and certifies to the Congress, at the time of the submission of the report required by subsection (e), that—

"(i) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own—

"(I) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in subparagraph (B)) or a multilateral agreement which achieves the objectives of subparagraph (B),

"(II) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States,

"(III) in preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and

"(IV) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

"(ii) for a country that would not otherwise qualify for certification under clause (i), the vital national interests of the United States require that the assistance withheld pursuant to paragraph (1)(A) be provided and that the United States not vote against multilateral development bank assistance for that country pursuant to paragraph (1)(B).

"(B) A bilateral narcotics agreement referred to in subparagraph (A)(i)(I) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

"(i) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

"(ii) increase drug interdiction and enforcement;

"(iii) increase drug treatment;

"(iv) increase the identification of and elimination of illicit drug laboratories;

"(v) increase the identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs;

"(vi) increase cooperation with United States drug enforcement officials; and

"(vii) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.

"(C) A country which in the previous year was designated as a major illicit drug producing country or a major drug-transit country may not be determined to be cooperating fully under subparagraph (A)(i) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of subparagraph (B).

"(D) If the President makes a certification with respect to a country pursuant to subparagraph (A)(ii), he shall include in such certification—

"(i) a full and complete description of the vital national interests placed at risk if United States bilateral assistance to that country is terminated pursuant to this subsection and multilateral development bank assistance is not provided to such country; and

"(ii) a statement weighing the risk described in clause (i) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(E) The President may make a certification under subparagraph (A)(i) with respect to a major illicit drug producing country or major drug-transit country which is also a producer of licit opium only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(3) MATTERS TO BE CONSIDERED.—In determining whether to make the certification required by paragraph (2) with respect to a country, the President shall consider the following: President of U.S.

"(A) Have the actions of the government of that country resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to subsection (e)(4)? In the case of a major illicit drug producing country, the President shall give foremost consideration, in determining whether to make the determination required by paragraph (2), to whether the government of that country has taken actions which have resulted in such reductions.

"(B) Has that government taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacturing of and trafficking in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States?

"(C) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(i) the enactment and enforcement by that government of laws prohibiting such conduct,

"(ii) that government entering into, and cooperating under the terms of, mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which that government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts?

"(D) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct?

"(E) Has that government, as a matter of government policy, encouraged or facilitated the production or distribution of illicit narcotic and psychotropic drugs and other controlled substances?

"(F) Does any senior official of that government engage in, encourage, or facilitate the production or distribution of illicit narcotic and psychotropic drugs and other controlled substances?

"(G) Has that government investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has been the victim of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and energetically sought to bring the perpetrators of such offense or offenses to justice?

"(H) Having been requested to do so by the United States Government, does that government fail to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country?

"(I) Has that government made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws?

"(J) Has that government expeditiously processed United States extradition requests relating to narcotics trafficking?

"(K) Has that government refused to protect or give haven to any known drug traffickers, and has it expeditiously processed extradition requests relating to narcotics trafficking made by other countries?

"(4) CONGRESSIONAL REVIEW.—Paragraph (1) shall apply without regard to paragraph (2) if, within 45 days of continuous session (within the meaning of section 601(b)(1) of the International Security Assistance and Arms Export Control Act of 1976) after receipt of a certification under paragraph (2), the Congress enacts a joint resolution disapproving the determination of the President contained in such certification.

"(5) DENIAL OF ASSISTANCE FOR COUNTRIES DECERTIFIED.—If the President does not make a certification under paragraph (2) with respect to a country or the Congress enacts a joint resolution disapproving such certification, then until such time as the conditions specified in paragraph (6)(A) are satisfied—

"(A) funds may not be obligated for United States assistance for that country, and funds previously obligated for United States assistance for that country may not be expended for the purpose of providing assistance for that country; and

"(B) the requirement to vote against multilateral development bank assistance pursuant to paragraph (1)(B) shall apply with respect to that country, without regard to the date specified in that paragraph.

"(6) RECERTIFICATION.—(A) Paragraph (5) shall apply to a country until—

"(i) the President makes a certification under paragraph (2) with respect to that country, and the Congress does not enact a joint resolution under paragraph (4) disapproving the determination of the President contained in that certification; or

"(ii) the President submits at any other time a certification of the matters described in paragraph (2) with respect to such country, and the Congress enacts a joint resolution approving the determination of the President contained in that certification.".

(b) CONFORMING AMENDMENTS.—(1) Such section 481(h) is further amended—

(A) by striking out existing paragraph (5); and

(B) in subparagraph (B) of paragraph (6), as so redesignated by the amendment made by subsection (a) of this section—

(i) by striking out "such" in clause (i), and

(ii) by inserting "under this subsection" before "shall be" in clause (i); and

(iii) by striking out "resolution" in clause (ii) and inserting in lieu thereof "resolutions".

(2) Section 585 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 1988 (as contained in section 101(e) of Public Law 100-202), is amended by striking out subsection (c). 22 USC 2291 note.

SEC. 4408. ANNUAL CERTIFICATION PROCEDURES FOR TRADE AND AVIATION SANCTIONS.

(a) REVISION OF PROCEDURES.—Paragraphs (1) and (2) of section 802(b) the Trade Act of 1974 (19 U.S.C. 2492(b)(1) and (2)) are amended to read as follows:

"(b)(1)(A) Subject to paragraph (3), subsection (a) shall not apply with respect to a country if the President determines and certifies to the Congress, at the time of the submission of the report required by section 481(e) of the Foreign Assistance Act of 1961, that—

"(i) during the previous year the country has cooperated fully with the United States, or has taken adequate steps on its own—

"(I) in satisfying the goals agreed to in an applicable bilateral narcotics agreement with the United States (as described in paragraph (B)) or a multilateral agreement which achieves the objectives of paragraph (B),

"(II) in preventing narcotic and psychotropic drugs and other controlled substances produced or processed, in whole or in part, in such country or transported through such country, from being sold illegally within the jurisdiction of such country to United States Government personnel or their dependents or from being transported, directly or indirectly, into the United States,

"(III) in preventing and punishing the laundering in that country of drug-related profits or drug-related moneys, and

"(IV) in preventing and punishing bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts; or

"(ii) for a country that would not otherwise qualify for certification under clause (i), the vital national interests of the United States require that subsection (a) not be applied with respect to that country.

"(B) A bilateral narcotics agreement referred to in subparagraph (A)(i)(I) is an agreement between the United States and a foreign country in which the foreign country agrees to take specific activities, including, where applicable, efforts to—

"(i) reduce drug production, drug consumption, and drug trafficking within its territory, including activities to address illicit crop eradication and crop substitution;

"(ii) increase drug interdiction and enforcement;

"(iii) increase drug treatment;

"(iv) increase the identification of and elimination of illicit drug laboratories;

"(v) increase the identification and elimination of the trafficking of precursor chemicals for the use in production of illegal drugs;

"(vi) increase cooperation with United States drug enforcement officials; and

"(vii) where applicable, increase participation in extradition treaties, mutual legal assistance provisions directed at money laundering, sharing of evidence, and other initiatives for cooperative drug enforcement.

"(C) A country which in the previous year was designated as a major drug producing country or a major drug-transit country may not be determined to be cooperating fully under subparagraph (A)(i) unless it has in place a bilateral narcotics agreement with the United States or a multilateral agreement which achieves the objectives of subparagraph (B).

President of U.S.

"(D) If the President makes a certification with respect to a country pursuant to subparagraph (A)(ii), he shall include in such certification—

"(i) a full and complete description of the vital national interests placed at risk if action is taken pursuant to subsection (a) with respect to that country; and

"(ii) a statement weighing the risk described in clause (i) against the risks posed to the vital national interests of the United States by the failure of such country to cooperate fully with the United States in combating narcotics or to take adequate steps to combat narcotics on its own.

"(E) The President may make a certification under subparagraph (A)(i) with respect to a major drug producing country or drug-transit

country which is also a producer of licit opium only if the President determines that such country has taken steps to prevent significant diversion of its licit cultivation and production into the illicit market, maintains production and stockpiles at levels no higher than those consistent with licit market demand, and prevents illicit cultivation and production.

"(2) In determining whether to make the certification required by paragraph (1) with respect to a country, the President shall consider the following: President of U.S.

"(A) Have the actions of the government of that country resulted in the maximum reductions in illicit drug production which were determined to be achievable pursuant to section 481(e)(4) of the Foreign Assistance Act of 1961? In the case of a major drug producing country, the President shall give foremost consideration, in determining whether to make the certification required by paragraph (1), to whether the government of that country has taken actions which have resulted in such reductions.

"(B) Has that government taken the legal and law enforcement measures to enforce in its territory, to the maximum extent possible, the elimination of illicit cultivation and the suppression of illicit manufacturing of and trafficking in narcotic and psychotropic drugs and other controlled substances, as evidenced by seizures of such drugs and substances and of illicit laboratories and the arrest and prosecution of violators involved in the traffic in such drugs and substances significantly affecting the United States?

"(C) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, the laundering in that country of drug-related profits or drug-related moneys, as evidenced by—

"(i) the enactment and enforcement by that government of laws prohibiting such conduct,

"(ii) that government entering into, and cooperating under the terms of, mutual legal assistance agreements with the United States governing (but not limited to) money laundering, and

"(iii) the degree to which that government otherwise cooperates with United States law enforcement authorities on anti-money laundering efforts?

"(D) Has that government taken the legal and law enforcement steps necessary to eliminate, to the maximum extent possible, bribery and other forms of public corruption which facilitate the production, processing, or shipment of narcotic and psychotropic drugs and other controlled substances, or which discourage the investigation and prosecution of such acts, as evidenced by the enactment and enforcement of laws prohibiting such conduct?

"(E) Has that government, as a matter of government policy, encouraged or facilitated the production or distribution of illicit narcotic and psychotropic drugs and other controlled substances?

"(F) Does any senior official of that government engage in, encourage, or facilitate the production or distribution of illicit narcotic and psychotropic drugs and other controlled substances?

"(G) Has that government investigated aggressively all cases in which any member of an agency of the United States Government engaged in drug enforcement activities since January 1, 1985, has been the victim of acts or threats of violence, inflicted by or with the complicity of any law enforcement or other officer of such country or any political subdivision thereof, and has energetically sought to bring the perpetrators of such offense or offenses to justice?

"(H) Having been requested to do so by the United States Government, does that government fail to provide reasonable cooperation to lawful activities of United States drug enforcement agents, including the refusal of permission to such agents engaged in interdiction of aerial smuggling into the United States to pursue suspected aerial smugglers a reasonable distance into the airspace of the requested country?

"(I) Has that government made necessary changes in legal codes in order to enable law enforcement officials to move more effectively against narcotics traffickers, such as new conspiracy laws and new asset seizure laws?

"(J) Has that government expeditiously processed United States extradition requests relating to narcotics trafficking?

"(K) Has that government refused to protect or give haven to any known drug traffickers, and has it expeditiously processed extradition requests relating to narcotics trafficking made by other countries?".

19 USC 2492.

(b) CONGRESSIONAL REVIEW PERIOD.—Section 802(b) of that Act is amended—

(1) in paragraph (3) by striking out "30 days" and inserting in lieu thereof "45 days";

(2) in paragraph (4)(A) by striking out "30 days" and inserting in lieu thereof "45 days"; and

(3) in paragraph (4)(B) by striking out "30 days" and inserting in lieu thereof "45 days".

(c) DETERMINING MAJOR DRUG-TRANSIT COUNTRIES.—Section 802 of that Act is amended by adding at the end the following:

"(e) For each calendar year, the Secretary of State, after consultation with the appropriate committees of the Congress, shall establish numerical standards and other guidelines for determining which countries will be considered to be major drug-transit countries under section 805(3)(A) and (B).".

Subtitle F—Miscellaneous Provisions Relating to Assistance Programs

22 USC 2291-2.

SEC. 4501. REPORTING ON TRANSFER OF UNITED STATES ASSETS.

(a) 15-DAY ADVANCE NOTIFICATION.—Any transfer by the United States Government to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity shall be subject to the regular reprogramming procedures applicable under section 634A of the Foreign Assistance Act of 1961.

(b) ANNUAL REPORTS.—Section 4601 of this title requires that all such transfers be reported annually to the Congress.

SEC. 4502. IMPORTANCE OF SUPPRESSING INTERNATIONAL NARCOTICS TRAFFICKING.

Section 481(a)(1) of the Foreign Assistance Act of 1961 is amended— 22 USC 2291.

(1) by redesignating subparagraphs (B) through (D) as subparagraphs (C) through (E), respectively; and

(2) by inserting after subparagraph (A) the following:

"(B) suppression of international narcotics trafficking is among the most important foreign policy objectives of the United States;".

SEC. 4503. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

Chapter 8 of part I of the Foreign Assistance Act of 1961, as amended by section 4206 of this title, is further amended by adding at the end the following:

"SEC. 487. PROHIBITION ON ASSISTANCE TO DRUG TRAFFICKERS.

"(a) PROHIBITION.—The President shall take all reasonable steps to ensure that assistance under this Act and the Arms Export Control Act is not provided to or through any individual or entity that the President knows or has reason to believe— President of U.S. 22 USC 2291f.

"(1) has been convicted of a violation of, or a conspiracy to violate, any law or regulation of the United States, a State or the District of Columbia, or a foreign country relating narcotic or psychotropic drugs or other controlled substances (as defined in section 481(i)(3) of this Act); or

"(2) is or has been an illicit trafficker in any such controlled substance or is or has been a knowing assistor, abettor, conspirator, or colluder with others in the illicit trafficking in any such substance.

"(b) REGULATIONS.—The President shall issue regulations specifying the steps to be taken in carrying out this section.

"(c) CONGRESSIONAL REVIEW OF REGULATIONS.—Regulations issued pursuant to subsection (b) shall be submitted to the Congress before they take effect."

SEC. 4504. PROCUREMENT FOR INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

The Congress urges the Secretary of State to take appropriate corrective action to improve the Department of State's procurement operations in order to assure that the procurement of property or services for use in providing assistance under chapter 8 of part I of the Foreign Assistance Act of 1961 (relating to international narcotics control assistance) is timely, efficient, and in accordance with applicable procurement statutes and regulations.

SEC. 4505. PROHIBITION ON USE OF NARCOTICS CONTROL ASSISTANCE TO ACQUIRE REAL PROPERTY.

Chapter 8 of part I of the Foreign Assistance Act of 1961, as amended by sections 4206 and 4503 of this title, is further amended by adding at the end the following:

"SEC. 488. PROHIBITION ON USE OF NARCOTICS CONTROL ASSISTANCE TO ACQUIRE REAL PROPERTY. 22 USC 2291g.

"Funds made available to carry out this chapter may not be used to acquire (by purchase, lease, or other means) any real property for use by foreign military, paramilitary, or law enforcement forces"

SEC. 4506. REIMBURSEMENT FOR DOD SERVICES USED IN PROVIDING INTERNATIONAL NARCOTICS CONTROL ASSISTANCE.

22 USC 2392.

Section 632(c) of the Foreign Assistance Act of 1961 is amended by inserting after "actual cost," the following: "or, in the case of services procured from the Department of Defense to carry out chapter 8 of part I, the amount of the additional costs incurred by the Department of Defense in providing such services,".

SEC. 4507. PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.

Chapter 8 of part I of the Foreign Assistance Act of 1961, as amended by sections 4206, 4503, and 4505 of this title, is further amended by adding at the end the following:

President of U.S.
22 USC 2291h.

"SEC. 489. PERMISSIBLE USES OF AIRCRAFT AND OTHER EQUIPMENT.

"(a) IN GENERAL.—The President shall take all reasonable steps to ensure that aircraft and other equipment made available to foreign countries under this chapter are used only in ways that are consistent with the purposes for which such equipment was made available.

"(b) REPORTS.—In the reports submitted pursuant to subsection (e), the President shall discuss—

"(1) any evidence indicating misuse by a foreign country of aircraft or other equipment made available under this chapter, and

"(2) the actions taken by the United States Government to prevent future misuse of such equipment by that foreign country.

"(c) REGULATIONS.—The President shall issue regulations specifying the steps to be taken in carrying out this section.

"(d) CONGRESSIONAL REVIEW OF REGULATIONS.—Regulations issued pursuant to subsection (c) shall be submitted to the Congress before they take effect.".

Subtitle G—Department of State Activities

22 USC 2291-3.

SEC. 4601. COORDINATION OF ALL UNITED STATES ANTI-NARCOTICS ASSISTANCE TO FOREIGN COUNTRIES.

(a) COORDINATION.—Consistent with subtitle A of title I of this Act, the Secretary of State shall be responsible for coordinating all assistance provided by the United States Government to support international efforts to combat illicit narcotics production or trafficking.

(b) ANNUAL REPORTS.—

(1) REQUIREMENT FOR REPORTS.—At the time that the report required by section 481(e) of the Foreign Assistance Act of 1961 is submitted each year, the Secretary of State, in consultation with appropriate United States Government agencies, shall report to the appropriate committees of the Congress on the assistance provided by the United States Government during the preceding fiscal year to support international efforts to combat illicit narcotics production or trafficking.

(2) SPECIFIC ITEMS TO BE INCLUDED.—(A) Each report pursuant to this subsection shall specify the amount and nature of the assistance provided.

(B) Each report pursuant to this subsection shall include, for each country which is a significant direct or indirect source of

illicit narcotic and psychotropic drugs and other controlled substances significantly affecting the United States, a section prepared by the Drug Enforcement Administration, a section prepared by the Customs Service, and a section prepared by the Coast Guard, which describes in detail—

(i) the assistance provided or to be provided (as the case may be) to such country by that agency, and

(ii) the assistance provided or to be provided (as the case may be) to that agency by such country,

with respect to narcotic control efforts during the preceding fiscal year, the current fiscal year, and the next fiscal year

(C) Each report required by this subsection shall also list all transfers, which were made by the United States Government during the preceding fiscal year, to a foreign country for narcotics control purposes of any property seized by or otherwise forfeited to the United States Government in connection with narcotics-related activity, including an estimate of the fair market value and physical condition of each item of property transferred.

(3) REPORTS MAY BE CLASSIFIED.—The reports required by this subsection may be provided on a classified basis to the extent necessary.

(c) RULE OF CONSTRUCTION.—Nothing contained in this section shall be construed to limit or impair the authority or responsibility of any other Federal agency with respect to law enforcement, domestic security operations, or intelligence activities as defined in Executive Order 12333.

SEC. 4602. REWARDS FOR INFORMATION CONCERNING NARCOTICS-RELATED OFFENSES COMMITTED OUTSIDE THE UNITED STATES.

Section 36(g) of the State Department Basic Authorities Act of 1956 is amended by amending the second sentence to read as follows: "In addition to the amount authorized to be appropriated by the preceding sentence, there are authorized to be appropriated, without fiscal year limitation, $5,000,000 for 'Administration of Foreign Affairs' for use in paying rewards for information described in subsection (b)(1).". 22 USC 2708.

SEC. 4603. DENIAL OF PASSPORTS TO CERTAIN CONVICTED DRUG TRAFFICKERS.

Title I of the State Department Basic Authorities Act of 1956 is amended—

(1) by redesignating section 42 as section 43; and

(2) by inserting after section 41 the following: 22 USC 2651 note.

"SEC. 42. DENIAL OF PASSPORTS TO CERTAIN CONVICTED DRUG TRAFFICKERS. 22 USC 2714.

"(a) INELIGIBILITY FOR PASSPORT.—

"(1) IN GENERAL.—A passport may not be issued to an individual who is convicted of an offense described in subsection (b) during the period described in subsection (c) if the individual used a passport or otherwise crossed an international border in committing the offense.

"(2) PASSPORT REVOCATION.—The Secretary of State shall revoke a passport previously issued to an individual who is ineligible to receive a passport under paragraph (1).

"(b) DRUG LAW OFFENSES.—

"(1) FELONIES.—Subsection (a) applies with respect to any individual convicted of a Federal drug offense, or a State drug offense, if the offense is a felony.

"(2) CERTAIN MISDEMEANORS.—Subsection (a) also applies with respect to an individual convicted of a Federal drug offense, or a State drug offense, if the offense is misdemeanor, but only if the Secretary of State determines that subsection (a) should apply with respect to that individual on account of that offense. This paragraph does not apply to an individual's first conviction for a misdemeanor which involves only possession of a controlled substance.

"(c) PERIOD OF INELIGIBILITY.—Subsection (a) applies during the period that the individual—

"(1) is imprisoned, or is legally required to be imprisoned, as the result of the conviction for the offense described in subsection (b); or

"(2) is on parole or other supervised release after having been imprisoned as the result of that conviction.

"(d) EMERGENCY AND HUMANITARIAN EXCEPTIONS.—Notwithstanding subsection (a), the Secretary of State may issue a passport, in emergency circumstances or for humanitarian reasons, to an individual with respect to whom that subsection applies.

"(e) DEFINITIONS.—As used in this section—

"(1) the term 'controlled substance' has the same meaning as is provided in section 102 of the Controlled Substances Act (21 U.S.C. 802);

"(2) the term 'Federal drug offense' means a violation of—

"(A) the Controlled Substances Act (21 U.S.C. 801 et seq.) or the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.);

"(B) any other Federal law involving controlled substances; or

"(C) subchapter II of chapter 53 of title 31, United States Code (commonly referred to as the 'Bank Secrecy Act'), or section 1956 or section 1957 of title 18, United States Code (commonly referred to as the 'Money Laundering Act'), if the Secretary of State determines that the violation is related to illicit production of or trafficking in a controlled substance;

"(3) the term 'felony' means a criminal offense punishable by death or imprisonment for more than one year;

"(4) the term 'imprisoned' means an individual is confined in or otherwise restricted to a jail-type institution, a half-way house, a treatment facility, or another institution, on a full or part-time basis, pursuant to the sentence imposed as the result of a conviction;

"(5) the term 'misdemeanor' means a criminal offense other than a felony;

"(6) the term 'State drug offense' means a violation of State law involving the manufacture, distribution, or possession of a controlled substance; and

"(7) the term 'State law' means the law of a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, or a territory or possession of the United States.".

SEC. 4604. MACHINE-READABLE DOCUMENT BORDER SECURITY PROGRAM. 8 USC 1103 note.

(a) REQUIREMENT TO DEVELOP PROGRAM.—(1) The Department of State, the United States Customs Service, and the Immigration and Naturalization Service shall develop a comprehensive machine-readable travel and identity document border security program that will improve border entry and departure control through automated data capture of machine-readable travel and identity documents.

(2) Within 60 days after the date of enactment of this Act, the Department of State, the Customs Service, and the Immigration and Naturalization Service shall jointly submit a detailed implementation plan to the Congress and the President regarding how they intend to carry out the program required by this section.

(3) The border security program required by this section shall include an integrated cooperative data exchange system that will incorporate law enforcement data on narcotics traffickers, terrorists, convicted criminals, fugitives, and others currently documented in the Lookout Systems of all three agencies and departments.

(4) In developing the border security program mandated in this section, the agencies and departments shall ensure that at least the following documents shall be integrated into the program and be machine-readable: border crossing cards; alien registration; pilots licenses; passports; and visas.

(b) AGENCIES THAT WILL CONTRIBUTE LAW ENFORCEMENT DATA FOR THE SYSTEM.—The following agencies and organizations shall contribute appropriate law enforcement data to the integrated cooperative data exchange system mandated in this section and shall update such information into the system on no less than a monthly basis:

(1) The Drug Enforcement Administration.
(2) The Federal Bureau of Investigation.
(3) The Bureau of Alcohol, Tobacco, and Firearms.
(4) The Internal Revenue Service.
(5) The Federal Aviation Administration.
(6) The United States Marshals Service.
(7) The United States Coast Guard.

(c) AUTHORIZATION OF APPROPRIATIONS.—(1) There are authorized to be appropriated $23,000,000 for fiscal year 1989 for the development, procurement, and implementation of a machine-readable travel and identity document border security program. Of this amount $7,000,000 shall be available only for the United State Customs Service, $7,000,000 shall be available only for the Immigration and Naturalization Service, and $9,000,000 shall be available only for the Department of State to carry out the provisions of this section.

(2) The amounts authorized by paragraph (1) are in addition to other amounts authorized to be appropriated for fiscal year 1989.

(d) CONTINUING FULL IMPLEMENTATION REQUIRED.—All agencie participating in the development and implementation of the border security program and systems mandated in this section shall maintain their participation and contributions to the program and systems authorized under this section at full implementation levels in fiscal years 1990, 1991, and 1992, subject to the availability of appropriations.

18 USC 3181 note.

SEC. 4605. EXTRADITION AND MUTUAL LEGAL ASSISTANCE TREATIES AND MODEL COMPREHENSIVE ANTIDRUG LAWS.

(a) FINDINGS.—The Congress finds that—

(1) section 133 of the Foreign Relations Authorization Act, Fiscal Years 1986 and 1987 (enacted August 16, 1985), directed the Secretary of State to increase United States efforts to negotiate updated extradition treaties relating to narcotics offenses with each major drug-producing country;

(2) section 803 of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989 (enacted December 22, 1987) directed the Secretary of State to ensure that an objective of the United States diplomatic mission in each major illicit drug producing or major drug-transit country be to ensure that drug traffickers can be extradited to the United States; and

(3) although some progress has been made pursuant to these directives in increasing international law enforcement cooperation with respect to illicit drug production and trafficking, much greater international law enforcement cooperation is required in combating the illicit drug problem.

(b) GREATER EMPHASIS REQUIRED.—Therefore, the Congress directs the Secretary of State to place greater emphasis on updating extradition treaties, and on negotiating mutual legal assistance treaties, with major illicit drug producing countries and major drug-transit countries.

(c) MODEL TREATIES AND ANTIDRUG LAWS.—The Secretary of State and the Attorney General shall jointly develop a model extradition treaty with respect to narcotics-related violations (including extradition of host country nationals), a model mutual legal assistance treaty, and model comprehensive anti-narcotics legislation. The Secretary of State shall distribute such treaties and legislation to each United States mission abroad.

(d) REPORT TO CONGRESS.—The Secretary of State shall report to the Congress, not later than six months after the date of enactment of this Act, on actions taken to carry out this section.

SEC. 4606. OVERSEAS INVESTIGATIVE PROGRAM.

It is the sense of the Congress that Regional Security Officers and other security personnel at United States embassies and other civilian posts abroad should be directed to expand their investigative activities with respect to illicit drug use and trafficking by United States Government personnel and their dependents.

SEC. 4607. ASSIGNMENT OF MORE DRUG ENFORCEMENT ADMINISTRATION AGENTS TO UNITED STATES EMBASSIES.

The Congress urges the Secretary of State to permit the assignment of additional Drug Enforcement Administration agents to United States diplomatic missions in those foreign countries where illicit narcotics production or trafficking is, or is likely to become, a significant problem.

Subtitle H—International Banking Matters

31 USC 5311 note.

SEC. 4701. INTERNATIONAL CURRENCY TRANSACTION REPORTING.

(a) FINDINGS.—The Congress finds that—

(1) the success of cash transaction and money laundering control statutes in the United States has been significant; and

(2) the United States should play a leadership role in the development of an international system of a similar kind.

(b) PURPOSE.—It is the purpose of this section to urge the United States Government, to the maximum extent practicable, to seek the active cooperation of other countries in the enforcement of these statutes, since only a truly multilateral approach can be effective in eliminating bank haven loopholes through which money launderers can escape.

(c) ESTABLISHMENT OF INTERNATIONAL AGENCY.—The Congress urges the Secretary of the Treasury to negotiate with finance ministers of foreign countries to establish an international currency control agency to—

(1) serve as a central source of information and database for international drug enforcement agencies;

(2) collect and analyze currency transaction reports filed by member countries; and

(3) encourage the adoption, by member countries, of uniform cash transaction and money laundering statutes.

(d) MAINTENANCE OF DOMESTIC EFFORT.—While establishing a multilateral agency will be the most effective method of combating money laundering, the United States must itself continue to do everything it can to curb international money laundering.

SEC. 4702. RESTRICTIONS ON LAUNDERING OF UNITED STATES CURRENCY. 31 USC 5311 note.

(a) FINDINGS.—The Congress finds that international currency transactions, especially in United States currency, that involve the proceeds of narcotics trafficking fuel trade in narcotics in the United States and worldwide and consequently are a threat to the national security of the United States.

(b) PURPOSE.—The purpose of this section is to provide for international negotiations that would expand access to information on transactions involving large amounts of United States currency wherever those transactions occur worldwide.

(c) NEGOTIATIONS.—(1) The Secretary of the Treasury (hereinafter in this section referred to as the "Secretary") shall enter into negotiations with the appropriate financial supervisory agencies and other officials of any foreign country the financial institutions of which do business in United States currency. Highest priority shall be attached to countries whose financial institutions the Secretary determines, in consultation with the Attorney General and the Director of National Drug Control Policy, may be engaging in currency transactions involving the proceeds of international narcotics trafficking, particularly United States currency derived from drug sales in the United States.

(2) The purposes of negotiations under this subsection are—

(A) to reach one or more international agreements to ensure that foreign banks and other financial institutions maintain adequate records of large United States currency transactions, and

(B) to establish a mechanism whereby such records may be made available to United States law enforcement officials.

In carrying out such negotiations, the Secretary should seek to enter into and further cooperative efforts, voluntary information exchanges, the use of letters rogatory, and mutual legal assistance treaties.

(d) REPORTS.—Not later than 1 year after the date of enactment of this Act, the Secretary shall submit an interim report to the Committee on Banking, Finance and Urban Affairs of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate on progress in the negotiations under subsection (c). Not later than 2 years after such enactment, the Secretary shall submit a final report to such Committees and the President on the outcome of those negotiations and shall identify, in consultation with the Attorney General and the Director of National Drug Control Policy, countries—

(1) with respect to which the Secretary determines there is evidence that the financial institutions in such countries are engaging in currency transactions involving the proceeds of international narcotics trafficking; and

(2) which have not reached agreement with United States authorities on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings.

(e) AUTHORITY.—If after receiving the advice of the Secretary and in any case at the time of receipt of the Secretary's report, the Secretary determines that a foreign country—

(1) has jurisdiction over financial institutions that are substantially engaging in currency transactions that effect the United States involving the proceeds of international narcotics trafficking;

(2) such country has not reached agreement on a mechanism for exchanging adequate records on international currency transactions in connection with narcotics investigations and proceedings; and

(3) such country is not negotiating in good faith to reach such an agreement,

President of U.S. the President shall impose appropriate penalties and sanctions, including temporarily or permanently—

(1) prohibiting such persons, institutions or other entities in such countries from participating in any United States dollar clearing or wire transfer system; and

(2) prohibiting such persons, institutions or entities in such countries from maintaining an account with any bank or other financial institution chartered under the laws of the United States or any State.

Any penalties or sanctions so imposed may be delayed or waived upon certification of the President to the Congress that it is in the national interest to do so. Financial institutions in such countries that maintain adequate records shall be exempt from such penalties and sanctions.

(f) DEFINITIONS.—For the purposes of this section—

(1) The term "United States currency" means Federal Reserve Notes and United States coins.

(2) The term "adequate records" means records of United States' currency transactions in excess of $10,000 including the identification of the person initiating the transaction, the person's business or occupation, and the account or accounts affected by the transaction, or other records of comparable effect.

(g) SUNSET.—The authority given the President in subsection (e) shall expire on June 30, 1994.

SEC. 4703. EXPORT-IMPORT BANK FINANCING FOR SALES OF DEFENSE ARTICLES AND SERVICES FOR ANTI-NARCOTICS PURPOSES.

Section 2(b)(6) of the Export-Import Bank Act of 1945 (12 U.S.C. 635(b)(6)) is amended—

(1) by inserting "(A)" before "The Bank";

(2) by striking "paragraph" and inserting in lieu thereof "subparagraph"; and

(3) by adding at the end the following new subparagraphs:

"(B) Subparagraph (A), and section 32 of the Arms Export Control Act, shall not apply to any sale of defense articles or services if—

"(i) the Bank is requested to provide a guarantee or insurance for the sale;

"(ii) the President determines that the defense articles or services are being sold primarily for anti-narcotics purposes;

"(iii) section 481(h)(5) of the Foreign Assistance Act of 1961 does not apply with respect to the purchasing country;

"(iv) the President determines, in accordance with subparagraph (C), that the sale is in the national interest of the United States;

"(v) the Bank determines that, notwithstanding the provision of a guarantee or insurance for the sale, not more than 5 percent of the guarantee and insurance authority available to the Bank in any fiscal year will be used by the Bank to support the sale of defense articles and services; and

"(vi) the sale is made on or before September 30, 1990.

"(C) In determining whether a sale of defense articles or services would be in the national interest of the United States, the President shall take into account whether the sale would— President of U.S.

"(i) be consistent with the anti-narcotics policy of the United States;

"(ii) involve the end use of a defense article or service in a major illicit drug producing or major drug-transit country (as defined in section 481(i) of the Foreign Assistance Act of 1961); and

"(iii) be made to a country with a democratic form of government.

"(D)(i) The Board shall not give approval to guarantee or insure a sale of defense articles or services unless—

"(I) the President determines, in accordance with subparagraph (C), that it is in the national interest of the United States for the Bank to provide such guarantee or insurance; and

"(II) such determination has been reported to the Speaker and the Committee on Banking, Finance and Urban Affairs of the House of Representatives, and to the Committee on Banking, Housing, and Urban Affairs and the Committee on Foreign Relations of the Senate, not less than 25 days of continuous session of the Congress before the date of such approval.

"(ii) For purposes of clause (i), continuity of a session of the Congress shall be considered as broken only by an adjournment of the Congress sine die, and the days on which either House is not in session because of an adjournment of more than 3 days to

a day certain shall be excluded in the computation of the 25-day period referred to in such sentence.

"(E) The provision of a guarantee or insurance under subparagraph (B) shall be deemed to be the provision of security assistance for purposes of section 502B of the Foreign Assistance Act of 1961 (relating to governments which engage in a consistent pattern of gross violations of international recognized human rights).

"(F) To the extent that defense articles or services for which a guarantee or insurance is provided under subparagraph (B) are used for a purpose other than anti-narcotics purposes, they may be used only for those purposes for which defense articles and defense services sold under the Arms Export Control Act (relating to the foreign military sales program) may be used under section 4 of such Act.

"(G) As used in this paragraph, the term 'defense articles and services' means articles, services, and related technical data that are designated as defense articles and defense services pursuant to sections 38 and 47(7) of the Arms Export Control Act and listed on the United States Munitions List (part 121 of title 22 of the Code of Federal Regulations).".

Subtitle I—Miscellaneous Provisions

SEC. 4801. INTELLIGENCE COMMUNITY ACTIONS DIRECTED AT ILLICIT INTERNATIONAL DRUG TRAFFICKING.

It is the sense of the Congress that, given the magnitude of the illicit drug problem and the threat it poses to the national security of the United States, agencies of the intelligence community should be more actively involved in the effort to combat illicit international drug trafficking.

SEC. 4802. CORRECTION OF TECHNICAL ERRORS IN PRIOR ACTS.

49 USC app. 1902 note.

(a) ANTI-DRUG ABUSE ACT OF 1986.—(1) Section 2015(b)(1) of the Anti-Drug Abuse Act of 1986 is amended by striking out "effects" and inserting in lieu thereof "efforts".

100 Stat. 3207-72.

(2) Section 2030(b) of that Act is amended by striking out "subsection (A)(4)" and inserting in lieu thereof "subsection (a)(4)".

22 USC 2291.

(b) 1986 DRUG ACT AMENDMENTS TO FOREIGN ASSISTANCE ACT.—Section 481(i)(4)(vi) of the Foreign Assistance Act of 1961 (as amended by section 2005 of the Anti-Drug Abuse Act of 1986) is amended by striking out "section 1049(c)(2)" and inserting in lieu thereof "section 104(c)(2)".

Children and youth. 21 USC 1502 note.

SEC. 4803. RESOURCES FOR CERTAIN DRUG CONTROL ACTIVITIES.

(a) FINDINGS.—The Congress finds that—

(1) there has been a severe, cancer-like growth of youth gangs who abuse, transport, and traffic in illegal drugs;

(2) such youth gangs engage in acts of violence, often on a random basis, resulting in death or serious bodily injury to thousands of people, as well as terrorizing tens of thousands of others;

(3) such youth gangs have spread their activities from southern California to more than 50 cities throughout the United States, thereby clearly indicating that the threat posed by these gangs is national in nature, requiring a strong Federal response;

(4) stopping drugs at the source is one of the critical elements of our Government's war on drugs; and

(5) the Airwing Operations of the Bureau of International Narcotics Matters in the Department of State is an important tool of our Government's policy against narcotics trafficking.

(b) REVIEW.—It is, therefore, the sense of the Congress that the Director of National Drug Control Policy should review the entire drug control problem to determine priorities for new resources or shifting of existing resources, giving particular attention to—

(1) planning for and assistance to the Airwing Operations of the Bureau of International Narcotics Matters in the Department of State; and

(2) assistance to control the present and growing threat posed to the Nation by youth gangs which traffic in illegal drugs.

(c) ADDITIONAL RESOURCES.—Based upon his findings, the Director of National Drug Control Policy should consider, as necessary, recommending significant resources in addition to those specifically allocated in this Act.

SEC. 4804. CONSISTENCY WITH INTERNATIONAL OBLIGATIONS OF THE UNITED STATES.

(a) In prescribing regulations under subtitle D of title V of this Act, the head of the appropriate agency—

(1) shall only establish requirements that are consistent with the international obligations of the United States, and

(2) shall take into consideration any applicable laws and regulations of foreign countries.

(b) Section 5152 shall not be construed as conferring extraterritorial application of the provisions of such section. 41 USC 701 note.

TITLE V—USER ACCOUNTABILITY

SEC. 5001. TABLE OF CONTENTS.

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TITLE V—USER ACCOUNTABILITY

Sec. 5001. Table of contents.

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Sec. 5301. Denial of Federal benefits to drug traffickers and possessors.

21 USC 1502 note.

Subtitle A—Opposition to Legalization and Public Awareness

SEC. 5011. SENSE OF THE CONGRESS OPPOSING LEGALIZATION OF DRUGS.

The Congress finds that legalization of illegal drugs, on the Federal or State level, is an unconscionable surrender in a war in which, for the future of our country and the lives of our children, there can be no substitute for total victory.

SEC. 5012. PUBLIC AWARENESS CAMPAIGN.

The Director of National Drug Control Policy shall within 90 days after confirmation by the Senate develop a program to inform the American public of the provisions of this Act pertaining to penalties for the use or possession of illegal drugs.

Subtitle B—National Commission on Drug-Free Schools

SEC. 5051. NATIONAL COMMISSION ON DRUG-FREE SCHOOLS. 20 USC 3172 note.

(a) ESTABLISHMENT OF COMMISSION.—There is established a National Commission on Drug-Free Schools (hereinafter referred to as the "Commission").

(b) MEMBERSHIP OF THE COMMISSION.—(1) The Commission shall consist of the following 26 members:

(A) The Secretary of Education (hereinafter referred to as the "Secretary").

(B) The Director of National Drug Control Policy (hereinafter referred to as the "Director").

(C) Sixteen individuals appointed by the Secretary and the Director.

(D) Four members of the House of Representatives, of which 2 members shall be appointed by the Speaker of the House of Representatives and 2 members shall be appointed by the Minority Leader of the House of Representatives.

(E) Four members of the Senate, of which 2 members shall be appointed by the Majority Leader of the Senate and 2 members shall be appointed by the Minority Leader of the Senate.

(2) The Secretary and the Director shall cochair the Commission.

(3) The members of the Commission appointed under paragraph (1)(C) shall consist of—

(A) experts in the fields of drug abuse prevention and education;

(B) representatives of State and local school authorities;

(C) representatives of parent-teacher associations;

(D) representatives of national education organizations;

(E) representatives of community groups with demonstrated records in drug abuse and prevention education;

(F) representatives of law enforcement officials; and

(G) other appropriate individuals as determined by the Secretary and the Director.

(c) APPOINTMENTS.—Members shall be appointed to the Commission not later than 30 days after the date of the enactment of this Act.

(d) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(e) QUORUM.—Fourteen members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(f) DUTIES OF THE COMMISSION.—The Commission shall—

(1) develop recommendations of criteria for identifying drug-free schools and campuses;

(2) develop recommendations for identifying model programs to meet such criteria;

(3) make such other findings, recommendations, and proposals as the Commission deems necessary to carry out the provisions of this section; and

(4) prepare and submit a final report pursuant to subsection (i). Reports.

(g) COMPENSATION.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated

at a rate established by the Commission not to exceed the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation for service on the Commission.

(2) While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(h) ADMINISTRATIVE PROVISIONS.—(1) The Commission shall appoint an Executive Director who shall be compensated at a rate established by the Commission not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(3) Subject to such rules as may be issued by the Commission, the cochairmen may procure temporary and intermittent services of experts and consultants.

(4) Upon request of the cochairmen of the Commission, the head of any Federal department, agency, or instrumentality shall make any of the facilities and services of such department, agency, or instrumentality available to the Commission and detail any of the personnel of such department, agency, or instrumentality to the Commission, on a nonreimbursable basis, to assist the Commission in carrying out its duties under this section.

Mail.

(5) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(6) Service of an individual as a member of the Commission, or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(i) REPORT OF COMMISSION.—The Commission shall report the findings and recommendations determined under subsection (f)(3) as well as proposals for any legislative action necessary to implement the recommendations of the Commission to the President and the Congress not later than 1 year after the date of the enactment of this Act. The final report of the Commission shall include—

(1) recommended criteria for schools to meet to be considered drug-free, which may include, but shall not be limited to—

(A) guidelines for the establishment of a drug education program for all students in grades kindergarten through 12;

(B) a code of student conduct;

(C) referral to treatment for students found to be using drugs; and

(D) coordinated programs for drug use prevention involving parents, teachers, counselors, local law enforcement personnel, businesses, and community organizations;

(2) a discussion of such issues as—

(A) the proper relationship among schools, parents or guardians, and law enforcement officials;

(B) what corrective measures should be imposed on students found to be using drugs;

(C) whether the suspension of eligibility for student assistance under title IV of the Higher Education Act upon conviction of a drug-related offense is a deterrent to drug use;

(D) any other measured response the Commission deems appropriate; and

(E) the potential effects of measured responses described in this paragraph on civil liberties, educational programs, nondrug-using students, and family relationships;

(3) a description of the assistance required by local school districts to establish drug-free schools and the manner in which local, State and Federal Government may provide such assistance; and

(4) a description of the feasibility of certain programs designed to enhance and raise self-esteem, self-confidence, independence, and responsibility among students.

(j) POWERS OF COMMISSION.—(1) For the purpose of carrying out this section, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(3) The Commission may secure directly from any Federal agency such information as may be necessary to enable the Commission to carry out this Act. Upon request of the cochairmen of the Commission, the head of such agency shall furnish such information to the Commission.

(k) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Such sums shall remain available until expended. Any new spending authority (within the meaning of section 401 of the Congressional Budget Act of 1974) which is provided under this section shall be effective for any fiscal year only to the extent or in such amounts as are provided in appropriation Acts.

Subtitle C—Preventing Drug Abuse in Public Housing

CHAPTER 1—REGULATORY AND ENFORCEMENT PROVISIONS

SEC. 5101. TERMINATION OF TENANCY IN PUBLIC HOUSING.

Section 6(l) of the United States Housing Act of 1937 (42 U.S.C. 1437d(l)) is amended—

(1) by striking "and" at the end of paragraph (3);

(2) by striking the period at the end of paragraph (4) and inserting "; and"; and

(3) by adding at the end the following:

"(5) provide that a public housing tenant, any member of the tenant's household, or a guest or other person under the tenant's control shall not engage in criminal activity, including drug-related criminal activity, on or near public housing premises, while the tenant is a tenant in public housing, and such criminal activity shall be cause for termination of tenancy. For purposes of paragraph (5), the term 'drug-related criminal activity' means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

SEC. 5102. STUDY OF PUBLIC HOUSING SECURITY ACTIVITIES.

(a) IN GENERAL.—The Secretary of Housing and Urban Development shall conduct a study of the extent to which security activities in public housing projects are funded under the performance funding system established under section 9 of the United States Housing Act of 1937 (42 U.S.C. 1437g).

(b) SPECIFIC REQUIREMENTS.—The study shall include an analysis of—

(1) the extent to which the performance funding system currently takes into account, and should take into account, costs associated with maintaining security, including the hiring of security personnel, investigators, and security liaisons with local law enforcement agencies;

(2) the extent to which public housing agencies have been compelled to shift funds from tenant services, building maintenance, or other eligible activities to security activities; and

(3) an estimate of the per unit additional cost necessary to enable all public housing agencies to provide adequate security.

(c) REPORT.—Not later than 6 months after the date of the enactment of this Act, the Secretary of Housing and Urban Development shall submit to the Congress a report setting forth the findings and recommendations of the Secretary as a result of the study conducted under this section.

42 USC 1437d note.

SEC. 5103. REPORT ON IMPACT OF PUBLIC HOUSING LEASE AND GRIEVANCE REGULATION ON ABILITY OF PUBLIC HOUSING AGENCIES TO TAKE ACTION AGAINST TENANTS ENGAGING IN DRUG CRIMES.

The Secretary of Housing and Urban Development shall submit to the Congress a report on the impact of the implementation of the public housing tenancy and administrative grievance procedure

regulations issued under section 6(k) of the United States Housing Act of 1937 (42 U.S.C. 1437d(k)) on the ability of public housing agencies to evict or take other appropriate action against tenants engaging in criminal activity, especially with respect to the manufacture, sale, distribution, use, or possession of controlled substances (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)). The report shall be submitted not later than 12 months after the date of the enactment of this Act.

SEC. 5104. ELIGIBLE ACTIVITIES UNDER BUREAU OF JUSTICE ASSISTANCE BLOCK GRANT PROGRAM.

Section 501(b) of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by title VI of this Act) is amended— 42 USC 3751.

(1) by inserting after paragraph (16) the following new paragraph:

"(17) addressing the problems of drug trafficking and the illegal manufacture of controlled substances in public housing;"; and

(2) by redesignating the succeeding paragraphs accordingly.

SEC. 5105. INCLUSION OF LEASEHOLD INTERESTS IN PROPERTY SUBJECT TO FORFEITURE UNDER CONTROLLED SUBSTANCES ACT.

Section 511(a)(7) of the Controlled Substances Act (21 U.S.C. 881(a)(7)) is amended by inserting "(including any leasehold interest)" after "right, title, and interest".

CHAPTER 2—PUBLIC HOUSING DRUG ELIMINATION PILOT PROGRAM

Public Housing Drug Elimination Act of 1988. 42 USC 11901 note.

SEC. 5121. SHORT TITLE.

This chapter may be cited as the "Public Housing Drug Elimination Act of 1988".

SEC. 5122. CONGRESSIONAL FINDINGS. 42 USC 11901.

The Congress finds that—

(1) the Federal Government has a duty to provide public housing that is decent, safe, and free from illegal drugs;

(2) public housing projects in many areas suffer from rampant drug-related crime;

(3) drug dealers are increasingly imposing a reign of terror on public housing tenants;

(4) the increase in drug-related crime not only leads to murders, muggings, and other forms of violence against tenants, but also to a deterioration of the physical environment that requires substantial government expenditures; and

(5) local law enforcement authorities often lack the resources to deal with the drug problem in public housing, particularly in light of the recent reductions in Federal aid to cities.

SEC. 5123. AUTHORITY TO MAKE GRANTS. 42 USC 11902.

The Secretary of Housing and Urban Development, in accordance with the provisions of this chapter, may make grants to public housing agencies (including Indian housing authorities) for use in eliminating drug-related crime in public housing projects.

SEC. 5124. ELIGIBLE ACTIVITIES. 42 USC 11903.

A public housing agency may use a grant under this chapter for— Grants.

(1) the employment of security personnel in public housing projects;

(2) reimbursement of local law enforcement agencies for additional security and protective services for public housing projects;

(3) physical improvements in public housing projects which are specifically designed to enhance security;

(4) the employment of 1 or more individuals—

(A) to investigate drug-related crime on or about the real property comprising any public housing project; and

(B) to provide evidence relating to any such crime in any administrative or judicial proceeding;

(5) the provision of training, communications equipment, and other related equipment for use by voluntary public housing tenant patrols acting in cooperation with local law enforcement officials;

(6) innovative programs designed to reduce use of drugs in and around public housing projects; and

(7) providing funding to nonprofit public housing resident management corporation and tenant councils to develop security and drug abuse prevention programs involving site residents.

42 USC 11904.

SEC. 5125. APPLICATIONS.

(a) IN GENERAL.—To receive a grant under this chapter, a public housing agency shall submit an application to the Secretary, at such time, in such manner, and accompanied by such additional information as the Secretary may reasonably require. Such application shall include a plan for addressing the problem of drug-related crime on the premises of public housing projects administered by the public housing agency.

(b) CRITERIA.—The Secretary shall approve applications under this chapter based upon—

(1) the extent of the crime problem in the facilities of the public housing project;

(2) the quality of the plan of the public housing agency to address crime in public housing projects;

(3) the capability of the public housing agency to carry out the plan; and

(4) the extent to which the local government and local community support the anti-crime activities of the public housing agency.

42 USC 11905.

SEC. 5126. DEFINITIONS.

For purposes of this chapter:

(1) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given such term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) DRUG-RELATED CRIME.—The term "drug-related crime" means the illegal manufacture, sale, distribution, use, or possession with intent to manufacture, sell, distribute, or use, of a controlled substance.

(3) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

SEC. 5127. IMPLEMENTATION. 42 USC 11906.

The Secretary shall issue regulations to implement this chapter within 180 days after the date of the enactment of this Act. Regulations.

SEC. 5128. REPORT TO CONGRESS. 42 USC 11907.

Not later than June 30, 1990, the Secretary, in consultation with the Director of National Drug Control Policy, shall submit to the Congress a report setting forth the activities carried out under the program established in this chapter. The report shall include any recommendations of the Secretary for revisions necessary to make the program more effective.

SEC. 5129. AUTHORIZATION OF APPROPRIATIONS. 42 USC 11908.

There are authorized to be appropriated to carry out this chapter $8,200,000 for fiscal year 1989 and such sums as may be necessary for fiscal year 1990. Any amount appropriated under this section shall remain available until expended.

CHAPTER 3—DRUG-FREE PUBLIC HOUSING

Drug-Free Public Housing Act of 1988. 42 USC 11901 note.

SEC. 5141. SHORT TITLE.

This chapter may be cited as the "Drug-Free Public Housing Act of 1988".

SEC. 5142. STATEMENT OF PURPOSE. 42 USC 11921.

The purpose of this chapter is to reaffirm the principle that decent affordable shelter is a basic necessity, and the general welfare of the Nation and the health and living standards of its people require better coordination and training in drug prevention programs among the public officials and agencies responsible for administering the public housing programs of the Nation.

SEC. 5143. CLEARINGHOUSE ON DRUG ABUSE IN PUBLIC HOUSING. 42 USC 11922.

(a) ESTABLISHMENT.—The Secretary of Housing and Urban Development shall establish, in the Office of Public Housing in the Department of Housing and Urban Development, a clearinghouse to receive, collect, process, and assemble information regarding the abuse of controlled substances in public housing projects.

(b) FUNCTIONS.—The clearinghouse established under subsection (a) shall—

(1) respond to inquiries by members of the public requesting assistance in investigating, studying, and working on the problem of the abuse of controlled substances; and

(2) receive, collect, process, assemble, and provide information on programs, authorities, institutions, and agencies, that may further assist members of the public requesting information from the clearinghouse.

SEC. 5144. REGIONAL TRAINING PROGRAM ON DRUG ABUSE IN PUBLIC HOUSING. 42 USC 11923.

(a) ESTABLISHMENT.—The Secretary shall establish a regional training program for the training of public housing officials, to better prepare and educate the officials to confront the widespread abuse of controlled substances in the communities in which the officials work.

(b) OPERATION.—The regional training program established under subsection (a) shall be conducted within 12 months after the date of

the enactment of this Act by a national training unit established by the Secretary.

42 USC 11924.

SEC. 5145. DEFINITIONS.

For purposes of this chapter:

(1) CONTROLLED SUBSTANCE.—The term "controlled substance" has the meaning given such term in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(2) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

42 USC 11925.

SEC. 5146. REGULATIONS.

Not later than 6 months after the date of the enactment of this Act, the Secretary shall issue any regulations necessary to carry out this chapter.

Drug-Free Workplace Act of 1988.
41 USC 701 note.

Subtitle D—Drug-Free Workplace Act of 1988

SEC. 5151. SHORT TITLE.

This subtitle may be cited as the "Drug-Free Workplace Act of 1988".

41 USC 701.

SEC. 5152. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL CONTRACTORS.

(a) DRUG-FREE WORKPLACE REQUIREMENT.—

(1) REQUIREMENT FOR PERSONS OTHER THAN INDIVIDUALS.—No person, other than an individual, shall be considered a responsible source, under the meaning of such term as defined in section 4(8) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(8)), for the purposes of being awarded a contract for the procurement of any property or services of a value of $25,000 or more from any Federal agency unless such person has certified to the contracting agency that it will provide a drug-free workplace by—

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the person's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(B) establishing a drug-free awareness program to inform employees about—

(i) the dangers of drug abuse in the workplace;

(ii) the person's policy of maintaining a drug-free workplace;

(iii) any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed upon employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of such contract be given a copy of the statement required by subparagraph (A);

(D) notifying the employee in the statement required by subparagraph (A), that as a condition of employment on such contract, the employee will—

(i) abide by the terms of the statement; and

(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(E) notifying the contracting agency within 10 days after receiving notice under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;

(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 5154; and

(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

(2) REQUIREMENT FOR INDIVIDUALS.—No Federal agency shall enter into a contract with an individual unless such contract includes a certification by the individual that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in the performance of the contract.

(b) SUSPENSION, TERMINATION, OR DEBARMENT OF THE CONTRACTOR.—

(1) GROUNDS FOR SUSPENSION, TERMINATION, OR DEBARMENT.—Each contract awarded by a Federal agency shall be subject to suspension of payments under the contract or termination of the contract, or both, and the contractor thereunder or the individual who entered the contract with the Federal agency, as applicable, shall be subject to suspension or debarment in accordance with the requirements of this section if the head of the agency determines that—

(A) the contractor or individual has made a false certification under subsection (a);

(B) the contractor violates such certification by failing to carry out the requirements of subparagraph (A), (B), (C), (D), (E), or (F) of subsection (a)(1); or

(C) such a number of employees of such contractor have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the contractor has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a).

(2) CONDUCT OF SUSPENSION, TERMINATION, AND DEBARMENT PROCEEDINGS.—(A) If a contracting officer determines, in writing, that cause for suspension of payments, termination, or suspension or debarment exists, an appropriate action shall be initiated by a contracting officer of the agency, to be conducted by the agency concerned in accordance with the Federal Acquisition Regulation and applicable agency procedures.

(B) The Federal Acquisition Regulation shall be revised to include rules for conducting suspension and debarment proceedings under this subsection, including rules providing notice, opportunity to respond in writing or in person, and such other procedures as may be necessary to provide a full and fair proceeding to a contractor or individual in such proceeding.

(3) EFFECT OF DEBARMENT.—Upon issuance of any final decision under this subsection requiring debarment of a contractor or individual, such contractor or individual shall be ineligible for award of any contract by any Federal agency, and for

participation in any future procurement by any Federal agency, for a period specified in the decision, not to exceed 5 years.

41 USC 702.

SEC. 5153. DRUG-FREE WORKPLACE REQUIREMENTS FOR FEDERAL GRANT RECIPIENTS.

(a) DRUG-FREE WORKPLACE REQUIREMENT.—

(1) PERSONS OTHER THAN INDIVIDUALS.—No person, other than an individual, shall receive a grant from any Federal agency unless such person has certified to the granting agency that it will provide a drug-free workplace by—

(A) publishing a statement notifying employees that the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance is prohibited in the grantee's workplace and specifying the actions that will be taken against employees for violations of such prohibition;

(B) establishing a drug-free awareness program to inform employees about—

(i) the dangers of drug abuse in the workplace;

(ii) the grantee's policy of maintaining a drug-free workplace;

(iii) any available drug counseling, rehabilitation, and employee assistance programs; and

(iv) the penalties that may be imposed upon employees for drug abuse violations;

(C) making it a requirement that each employee to be engaged in the performance of such grant be given a copy of the statement required by subparagraph (A);

(D) notifying the employee in the statement required by subparagraph (A), that as a condition of employment in such grant, the employee will—

(i) abide by the terms of the statement; and

(ii) notify the employer of any criminal drug statute conviction for a violation occurring in the workplace no later than 5 days after such conviction;

(E) notifying the granting agency within 10 days after receiving notice of a conviction under subparagraph (D)(ii) from an employee or otherwise receiving actual notice of such conviction;

(F) imposing a sanction on, or requiring the satisfactory participation in a drug abuse assistance or rehabilitation program by, any employee who is so convicted, as required by section 5154; and

(G) making a good faith effort to continue to maintain a drug-free workplace through implementation of subparagraphs (A), (B), (C), (D), (E), and (F).

(2) INDIVIDUALS.—No Federal agency shall make a grant to any individual unless such individual certifies to the agency as a condition of such grant that the individual will not engage in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in conducting any activity with such grant.

(b) SUSPENSION, TERMINATION, OR DEBARMENT OF THE GRANTEE.—

(1) GROUNDS FOR SUSPENSION, TERMINATION, OR DEBARMENT.—Each grant awarded by a Federal agency shall be subject to suspension of payments under the grant or termination of the grant, or both, and the grantee thereunder shall be subject to suspension or debarment, in accordance with the requirements

of this section if the agency head of the granting agency or his official designee determines, in writing, that—

(A) the grantee has made a false certification under subsection (a);

(B) the grantee violates such certification by failing to carry out the requirements of subparagraph (A), (B), (C), (D), (E), (F), or (G) of subsection (a)(1); or

(C) such a number of employees of such grantee have been convicted of violations of criminal drug statutes for violations occurring in the workplace as to indicate that the grantee has failed to make a good faith effort to provide a drug-free workplace as required by subsection (a)(1).

(2) CONDUCT OF SUSPENSION, TERMINATION, AND DEBARMENT PROCEEDINGS.—A suspension of payments, termination, or suspension or debarment proceeding subject to this subsection shall be conducted in accordance with applicable law, including Executive Order 12549 or any superseding Executive order and any regulations promulgated to implement such law or Executive order.

(3) EFFECT OF DEBARMENT.—Upon issuance of any final decision under this subsection requiring debarment of a grantee, such grantee shall be ineligible for award of any grant from any Federal agency and for participation in any future grant from any Federal agency for a period specified in the decision, not to exceed 5 years.

SEC. 5154. EMPLOYEE SANCTIONS AND REMEDIES. 41 USC 703.

A grantee or contractor shall, within 30 days after receiving notice from an employee of a conviction pursuant to section 5152(a)(1)(D)(ii) or 5153(a)(1)(D)(ii)—

(1) take appropriate personnel action against such employee up to and including termination; or

(2) require such employee to satisfactorily participate in a drug abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency.

SEC. 5155. WAIVER. 41 USC 704.

(a) IN GENERAL.—A termination, suspension of payments, or suspension or debarment under this subtitle may be waived by the head of an agency with respect to a particular contract or grant if—

(1) in the case of a waiver with respect to a contract, the head of the agency determines under section 5152(b)(1), after the issuance of a final determination under such section, that suspension of payments, or termination of the contract, or suspension or debarment of the contractor, or refusal to permit a person to be treated as a responsible source for a contract, as the case may be, would severely disrupt the operation of such agency to the detriment of the Federal Government or the general public; or

(2) in the case of a waiver with respect to a grant, the head of the agency determines that suspension of payments, termination of the grant, or suspension or debarment of the grantee would not be in the public interest.

(b) EXCLUSIVE AUTHORITY.—The authority of the head of an agency under this section to waive a termination, suspension, or debarment shall not be delegated.

41 USC 705.

SEC. 5156. REGULATIONS.

Not later than 90 days after the date of enactment of this subtitle, the governmentwide regulations governing actions under this subtitle shall be issued pursuant to the Office of Federal Procurement Policy Act (41 U.S.C. 401 et seq.).

41 USC 706.

SEC. 5157. DEFINITIONS.

For purposes of this subtitle—

(1) the term "drug-free workplace" means a site for the performance of work done in connection with a specific grant or contract described in section 5152 or 5153 of an entity at which employees of such entity are prohibited from engaging in the unlawful manufacture, distribution, dispensation, possession, or use of a controlled substance in accordance with the requirements of this Act;

(2) the term "employee" means the employee of a grantee or contractor directly engaged in the performance of work pursuant to the provisions of the grant or contract described in section 5152 or 5153;

(3) the term "controlled substance" means a controlled substance in schedules I through V of section 202 of the Controlled Substances Act (21 U.S.C. 812);

(4) the term "conviction" means a finding of guilt (including a plea of nolo contendere) or imposition of sentence, or both, by any judicial body charged with the responsibility to determine violations of the Federal or State criminal drug statutes;

(5) the term "criminal drug statute" means a criminal statute involving manufacture, distribution, dispensation, use, or possession of any controlled substance;

(6) the term "grantee" means the department, division, or other unit of a person responsible for the performance under the grant;

(7) the term "contractor" means the department, division, or other unit of a person responsible for the performance under the contract; and

(8) the term "Federal agency" means an agency as that term is defined in section 552(f) of title 5, United States Code.

41 USC 707.

SEC. 5158. CONSTRUCTION OF SUBTITLE.

Nothing in this subtitle shall be construed to require law enforcement agencies, if the head of the agency determines it would be inappropriate in connection with the agency's undercover operations, to comply with the provisions of this subtitle.

SEC. 5159. REPEAL OF LIMITATION ON USE OF FUNDS.

Section 628 of Public Law 100-440 (relating to restrictions on the use of certain appropriated amounts) is amended— *Ante*, p. 1758.

(1) by striking "(a)" after "SEC. 628."; and

(2) by striking subsection (b).

41 USC 701 note.

SEC. 5160. EFFECTIVE DATE.

Sections 5152 and 5153 shall be effective 120 days after the date of the enactment of this subtitle.

Subtitle E—President's Media Commission on Alcohol and Drug Abuse Prevention

SEC. 5201. AUTHORIZATION OF APPROPRIATIONS FOR PRESIDENT'S MEDIA COMMISSION ON ALCOHOL AND DRUG ABUSE PREVENTION.

There are authorized to be appropriated for the President's Media Commission on Alcohol and Drug Abuse Prevention—

(1) $1,000,000 for the fiscal year ending September 30, 1989;

(2) $1,000,000 for the fiscal year ending September 30, 1990; and

(3) $1,000,000 for the fiscal year ending September 30, 1991.

Subtitle F—Drug-Free America Policy

SEC. 5251. UNITED STATES POLICY FOR A DRUG-FREE AMERICA BY 1995. 21 USC 1502 note.

(a) FINDINGS.—The Congress finds that—

(1) approximately 37 million Americans used an illegal drug in the past year and more than 23 million Americans use illicit drugs at least monthly, including more than 6 million who use cocaine;

(2) half of all high school seniors have used illegal drugs at least once, and over 25 percent use drugs at least monthly;

(3) illicit drug use adds enormously to the national cost of health care and rehabilitation services;

(4) illegal drug use can result in a wide spectrum of extremely serious health problems, including disruption of normal heart rhythm, small lesions of the heart, high blood pressure, leaks of blood vessels in the brain, bleeding and destruction of brain cells, permanent memory loss, infertility, impotency, immune system impairment, kidney failure, and pulmonary damage, and in the most serious instances, heart attack, stroke, and sudden death;

(5) approximately 25 percent of all victims of AIDS acquired the disease through intravenous drug use;

(6) over 30,000 people were admitted to emergency rooms in 1986 with drug-related health problems, including nearly 10,000 for cocaine alone;

(7) there is a strong link between teenage suicide and use of illegal drugs;

(8) 10 to 15 percent of all highway fatalities involve drug use;

(9) illegal drug use is prevalent in the workplace and endangers fellow workers, national security, public safety, company morale, and production;

(10) it is estimated that 1 of every 10 American workers have their productivity impaired by substance abuse;

(11) it is estimated that drug users are 3 times as likely to be involved in on-the-job accidents, are absent from work twice as often, and incur 3 times the average level of sickness costs as non-users;

(12) the total cost to the economy of drug use is estimated to be over $100,000,000,000 annually;

(13) the connection between drugs and crime is also well-proven;

(14) the use of illicit drugs affects moods and emotions, chemically alters the brain, and causes loss of control, paranoia, reduction of inhibition, and unprovoked anger;

(15) drug-related homicides are increasing dramatically across the Nation;

(16) 8 of 10 men arrested for serious crimes in New York City test positive for cocaine use;

(17) illicit drug use is responsible for a substantially higher tax rate to pay for local law enforcement protection, interdiction, border control, and the cost of investigation, prosecution, confinement, and treatment;

(18) substantial increases in funding and resources have been made available in recent years to combat the drug problem, with spending for interdiction, law enforcement, and prevention programs up by 100 to 400 percent and these programs are producing results—

(A) seizures of cocaine are up from 1.7 tons in 1981 to 70 tons in 1987;

(B) seizures of heroin are up from 460 pounds in 1981 to 1,400 pounds in 1987;

(C) Drug Enforcement Administration drug convictions doubled between 1982 and 1986; and

(D) the average sentence for Federal cocaine convictions rose by 35 percent during this same period;

(19) despite the impressive rise in law enforcement efforts, the supply of illegal drugs has increased in recent years;

(20) the demand for drugs creates and sustains the illegal drug trade; and

(21) winning the drug war not only requires that we do more to limit supply, but that we focus our efforts to reduce demand.

(b) DECLARATION.—It is the declared policy of the United States Government to create a Drug-Free America by 1995.

Subtitle G—Denial of Federal Benefits to Drug Traffickers and Possessors.

21 USC 853a.

SEC. 5301. DENIAL OF FEDERAL BENEFITS TO DRUG TRAFFICKERS AND POSSESSORS.

Courts, U.S.

(a) DRUG TRAFFICKERS.—(1) Any individual who is convicted of any Federal or State offense consisting of the distribution of controlled substances (as such terms are defined for purposes of the Controlled Substances Act) shall—

(A) at the discretion of the court, upon the first conviction for such an offense be ineligible for any or all Federal benefits for up to 5 years after such conviction;

(B) at the discretion of the court, upon a second conviction for such an offense be ineligible for any or all Federal benefits for up to 10 years after such conviction; and

(C) upon a third or subsequent conviction for such an offense be permanently ineligible for all Federal benefits.

(2) The benefits which are denied under this subsection shall not include benefits relating to long-term drug treatment programs for addiction for any person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for

addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

(b) DRUG POSSESSORS.—(1) Any individual who is convicted of any Federal or State offense involving the possession of a controlled substance (as such term is defined for purposes of the Controlled Substances Act) shall—

(A) upon the first conviction for such an offense and at the discretion of the court—

(i) be ineligible for any or all Federal benefits for up to one year;

(ii) be required to successfully complete an approved drug treatment program which includes periodic testing to insure that the individual remains drug free;

(iii) be required to perform appropriate community service; or

(iv) any combination of clauses (i), (ii), or (iii); and

(B) upon a second or subsequent conviction for such an offense be ineligible for all Federal benefits for up to 5 years after such conviction as determined by the court. The court shall continue to have the discretion in subparagraph (A) above. In imposing penalties and conditions under subparagraph (A), the court may require that the completion of the conditions imposed by clause (ii) or (iii) be a requirement for the reinstatement of benefits under clause (i).

(2) The penalties and conditions which may be imposed under this subsection shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

(c) SUSPENSION OF PERIOD OF INELIGIBILITY.—The period of ineligibility referred to in subsections (a) and (b) shall be suspended if the individual—

(A) completes a supervised drug rehabilitation program after becoming ineligible under this section;

(B) has otherwise been rehabilitated; or

(C) has made a good faith effort to gain admission to a supervised drug rehabilitation program, but is unable to do so because of inaccessibility or unavailability of such a program, or the inability of the individual to pay for such a program.

(d) DEFINITIONS.—As used in this section—

(1) the term "Federal benefit"—

(A) means the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

(2) the term "veterans benefit" means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.

(e) INAPPLICABILITY OF THIS SECTION TO GOVERNMENT WITNESSES.—The penalties provided by this section shall not apply to any individ-

ual who cooperates or testifies with the Government in the prosecution of a Federal or State offense or who is in a Government witness protection program.

(f) INDIAN PROVISION.—Nothing in this section shall be construed to affect the obligation of the United States to any Indian or Indian tribe arising out of any treaty, statute, Executive order, or the trust responsibility of the United States owing to such Indian or Indian tribe. Nothing in this subsection shall exempt any individual Indian from the sanctions provided for in this section, provided that no individual Indian shall be denied any benefit under Federal Indian programs comparable to those described in subsection (d)(1)(B) or (d)(2) above.

(g) PRESIDENTIAL REPORT.—(1) On or before May 1, 1989, the President shall transmit to the Congress a report—

(A) delineating the role of State courts in implementing this section;

(B) describing the manner in which Federal agencies will implement and enforce the requirements of this section;

(C) detailing the means by which Federal and State agencies, courts, and law enforcement agencies will exchange and share the data and information necessary to implement and enforce the withholding of Federal benefits; and

(D) recommending any modifications to improve the administration of this section or otherwise achieve the goal of discouraging the trafficking and possession of controlled substances.

(2) No later than September 1, 1989, the Congress shall consider the report of the President and enact such changes as it deems appropriate to further the goals of this section.

(h) EFFECTIVE DATE.—The denial of Federal benefits set forth in this section shall take effect for convictions occurring after September 1, 1989.

Anti-Drug Abuse Amendments Act of 1988.

TITLE VI—ANTI-DRUG ABUSE AMENDMENTS ACT OF 1988

21 USC 801 note.

SEC. 6001. SHORT TITLE.

This title may be cited as the "Anti-Drug Abuse Amendments Act of 1988".

Chemical Diversion and Trafficking Act of 1988.

Subtitle A—Chemical Diversion and Trafficking

21 USC 801 note.

SEC. 6051. SHORT TITLE.

This subtitle may be cited as the "Chemical Diversion and Trafficking Act of 1988".

SEC. 6052. REGULATION OF LISTED CHEMICALS AND CERTAIN MACHINES.

(a) IN GENERAL.—Section 310 of the Controlled Substances Act (21 U.S.C. 830) is amended to read as follows:

"REGULATION OF LISTED CHEMICALS AND CERTAIN MACHINES

"SEC. 310. (a)(1) Each regulated person who engages in a regulated transaction involving a listed chemical, a tableting machine, or an encapsulating machine shall keep a record of the transaction— Records. 21 USC 830.

"(A) for 4 years after the date of the transaction, if the listed chemical is a precursor chemical or if the transaction involves a tableting machine or an encapsulating machine; and

"(B) for 2 years after the date of the transaction, if the listed chemical is an essential chemical.

"(2) A record under this subsection shall be retrievable and shall include the date of the regulated transaction, the identity of each party to the regulated transaction, a statement of the quantity and form of the listed chemical, a description of the tableting machine or encapsulating machine, and a description of the method of transfer. Such record shall be available for inspection and copying by the Attorney General.

"(3) It is the duty of each regulated person who engages in a regulated transaction to identify each other party to the transaction. It is the duty of such other party to present proof of identity to the regulated person. The Attorney General shall specify by regulation the types of documents and other evidence that constitute proof of identity for purposes of this paragraph.

"(b) Each regulated person shall report to the Attorney General, in such form and manner as the Attorney General shall prescribe by regulation— Reports.

"(1) any regulated transaction involving an extraordinary quantity of a listed chemical, an uncommon method of payment or delivery, or any other circumstance that the regulated person believes may indicate that the listed chemical will be used in violation of this title;

"(2) any proposed regulated transaction with a person whose description or other identifying characteristic the Attorney General furnishes in advance to the regulated person;

"(3) any unusual or excessive loss or disappearance of a listed chemical under the control of the regulated person; and

"(4) any regulated transaction in a tableting machine or an encapsulating machine.

Each report under paragraph (1) shall be made at the earliest practicable opportunity after the regulated person becomes aware of the circumstance involved. A regulated person may not complete a transaction with a person whose description or identifying characteristic is furnished to the regulated person under paragraph (2) unless the transaction is approved by the Attorney General. The Attorney General shall make available to regulated persons guidance documents describing transactions and circumstances for which reports are required under paragraph (1) and paragraph (3).

"(c)(1) Except as provided in paragraph (2), any information obtained by the Attorney General under this section which is exempt from disclosure under section 552(a) of title 5, United States Code, by reason of section 552(b)(4) of such title, is confidential and may not be disclosed to any person.

"(2) Information referred to in paragraph (1) may be disclosed only—

"(A) to an officer or employee of the United States engaged in carrying out this title, title III, or the customs laws;

"(B) when relevant in any investigation or proceeding for the enforcement of this title, title III, or the customs laws;

International agreements.

"(C) when necessary to comply with an obligation of the United States under a treaty or other international agreement; or

"(D) to a State or local official or employee in conjunction with the enforcement of controlled substances laws or precursor chemical laws.

"(3) The Attorney General shall—

"(A) take such action as may be necessary to prevent unauthorized disclosure of information by any person to whom such information is disclosed under paragraph (2); and

"(B) issue guidelines that limit, to the maximum extent feasible, the disclosure of proprietary business information, including the names or identities of United States exporters of listed chemicals, to any person to whom such information is disclosed under paragraph (2).

"(4) Any person who is aggrieved by a disclosure of information in violation of this section may bring a civil action against the violator for appropriate relief.

"(5) Notwithstanding paragraph (4), a civil action may not be brought under such paragraph against investigative or law enforcement personnel of the Drug Enforcement Administration.".

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by striking out the item relating to section 310 and inserting in lieu thereof the following:

"310. Regulation of listed chemicals and certain machines.".

SEC. 6053. NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS.

(a) IN GENERAL.—Part A of the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.) is amended by adding at the end the following new section:

"NOTIFICATION, SUSPENSION OF SHIPMENT, AND PENALTIES WITH RESPECT TO IMPORTATION AND EXPORTATION OF LISTED CHEMICALS

21 USC 971.

"SEC. 1018. (a) Each regulated person who imports or exports a listed chemical shall notify the Attorney General of the importation or exportation not later than 15 days before the transaction is to take place.

Regulations.

"(b)(1) The Attorney General shall provide by regulation for circumstances in which the requirement of subsection (a) does not apply to a transaction between a regulated person and a regular customer or regular supplier of the regulated person. At the time of any importation or exportation constituting a transaction referred to in the preceding sentence, the regulated person shall notify the Attorney General of the transaction.

"(2) The regulations under this subsection shall provide that the initial notification under subsection (a) with respect to a customer or supplier of a regulated person shall, upon the expiration of the 15-day period, qualify the customer as a regular customer or regular supplier, unless the Attorney General otherwise notifies the regulated person in writing.

"(c)(1) The Attorney General may order the suspension of any importation or exportation of a listed chemical (other than a regulated transaction to which the requirement of subsection (a) does not apply by reason of subsection (b)) or may disqualify any regular customer or regular supplier on the ground that the chemical may be diverted to the clandestine manufacture of a controlled substance. From and after the time when the Attorney General provides written notice of the order (including a statement of the legal and factual basis for the order) to the regulated person, the regulated person may not carry out the transaction. Commerce and trade.

"(2) Upon written request to the Attorney General, a regulated person to whom an order applies under paragraph (1) is entitled to an agency hearing on the record in accordance with subchapter II of chapter 5 of title 5, United States Code. The hearing shall be held on an expedited basis and not later than 45 days after the request is made, except that the hearing may be held at a later time, if so requested by the regulated person.".

(b) EFFECTIVE DATES AND SPECIAL RULES.—(1) Not later than 45 days after the date of the enactment of this Act, the Attorney General shall forward to the Director of the Office of Management and Budget proposed regulations required by the amendment made by subsection (a). 21 USC 971 note.

(2) Not later than 55 days after the date of the enactment of this Act, the Director of the Office of Management and Budget shall—

(A) review such proposed regulations of the Attorney General; and

(B) forward any comments and recommendations for modifications to the Attorney General.

(3) Not later than 60 days after the date of the enactment of this Act, the Attorney General shall publish the proposed final regulations required by the amendment made by subsection (a).

(4) Not later than 120 days after the date of the enactment of this Act, the Attorney General shall promulgate final regulations required by the amendment made by subsection (a). Regulations.

(5) Subsection (a) of section 1018 of the Controlled Substances Import and Export Act, as added by subsection (a) of this section, shall take effect 90 days after the promulgation of the final regulations under paragraph (4).

(6) Each regulated person shall provide to the Attorney General the identity of any regular customer or regular supplier of the regulated person not later than 30 days after the promulgation of the final regulations under paragraph (4). Not later than 60 days after the end of such 30-day period, each regular customer and regular supplier so identified shall be a regular customer or regular supplier for purposes of any applicable exception from the requirement of subsection (a) of such section 1018, unless the the Attorney General otherwise notifies the regulated person in writing.

(c) PENALTY FOR IMPORTATION OR EXPORTATION.—Section 1010 of the Controlled Substances Import and Export Act (21 U.S.C. 960) is amended by adding at the end the following new subsection:

"(d) Any person who knowingly or intentionally—

"(1) imports or exports a listed chemical with intent to manufacture a controlled substance in violation of this title or, in the case of an exportation, in violation of the law of the country to which the chemical is exported; or

"(2) imports or exports a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance in violation of this title or, in the case of an exportation, in violation of the law of the country to which the chemical is exported;

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.".

(d) PENALTY FOR FAILURE TO NOTIFY.—Section 1011 of the Controlled Substances Import and Export Act (21 U.S.C. 961) is amended in the matter before paragraph (1) by inserting after "section 1004" the following: "or fails to notify the Attorney General of an importation or exportation under section 1018".

(e) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end of the items relating to part A of title III the following new item:

"Sec. 1018. Notification, suspension of shipment, and penalties with respect to importation and exportation of listed chemicals.".

SEC. 6054. DEFINITIONS.

Section 102 of the Controlled Substances Act (21 U.S.C. 802) is amended—

(1) in paragraph (8), by inserting "or a listed chemical" after "a controlled substance";

(2) in paragraph (11), by inserting "or a listed chemical" after "a controlled substance" both places it appears; and

(3) by adding at the end the following new paragraphs:

"(33) The term 'listed chemical' means any listed precursor chemical or listed essential chemical.

"(34) The term 'listed precursor chemical' means a chemical specified by regulation of the Attorney General as a chemical that is used in manufacturing a controlled substance in violation of this title and is critical to the creation of the controlled substances, and such term includes (until otherwise specified by regulation of the Attorney General, as considered appropriate by the Attorney General or upon petition to the Attorney General by any person) the following:

"(A) Anthranilic acid and its salts.

"(B) Benzyl cyanide.

"(C) Ephedrine, its salts, optical isomers, and salts of optical isomers.

"(D) Ergonovine and its salts.

"(E) Ergotamine and its salts.

"(F) N-Acetylanthranilic acid and its salts.

"(G) Norpseudoephedrine, its salts, optical isomers, and salts of optical isomers.

"(H) Phenylacetic acid and its salts.

"(I) Phenylpropanolamine, its salts, optical isomers, and salts of optical isomers.

"(J) Piperidine and its salts.

"(K) Pseudoephedrine, its salts, optical isomers, and salts of optical isomers.

"(L) 3,4-Methylenedioxyphenyl-2-propanone.

"(35) The term 'listed essential chemical' means a chemical specified by regulation of the Attorney General as a chemical that is used as a solvent, reagent, or catalyst in manufacturing a controlled

substance in violation of this title, and such term includes (until otherwise specified by regulation of the Attorney General, as considered appropriate by the Attorney General or upon petition to the Attorney General by any person) the following chemicals:

"(A) Acetic anhydride.
"(B) Acetone.
"(C) Benzyl chloride.
"(D) Ethyl ether.
"(E) Hydriodic acid.
"(F) Potassium permanganate.
"(G) 2-Butanone.
"(H) Toluene.

"(36) The term 'regular customer' means, with respect to a regulated person, a customer with whom the regulated person has an established business relationship that is reported to the Attorney General.

"(37) The term 'regular supplier' means, with respect to a regulated person, a supplier with whom the regulated person has an established business relationship that is reported to the Attorney General.

"(38) The term 'regulated person' means a person who manufactures, distributes, imports, or exports a listed chemical, a tableting machine, or an encapsulating machine.

"(39) The term 'regulated transaction' means—

"(A) a distribution, receipt, sale, importation or exportation of a threshold amount, including a cumulative threshold amount for multiple transactions (as determined by the Attorney General, in consultation with the chemical industry and taking into consideration the quantities normally used for lawful purposes), of a listed chemical, except that such term does not include—

"(i) a domestic lawful distribution in the usual course of business between agents or employees of a single regulated person;

"(ii) a delivery of a listed chemical to or by a common or contract carrier for carriage in the lawful and usual course of the business of the common or contract carrier, or to or by a warehouseman for storage in the lawful and usual course of the business of the warehouseman, except that if the carriage or storage is in connection with the distribution, importation, or exportation of a listed chemical to a third person, this clause does not relieve a distributor, importer, or exporter from compliance with section 310;

"(iii) any category of transaction specified by regulation of the Attorney General as excluded from this definition as unnecessary for enforcement of this title or title III;

"(iv) any transaction in a listed chemical that is contained in a drug that may be marketed or distributed lawfully in the United States under the Federal Food, Drug, and Cosmetic Act; or

"(v) any transaction in a chemical mixture; and

"(B) a distribution, importation, or exportation of a tableting machine or encapsulating machine.

"(40) The term 'chemical mixture' means a combination of two or more chemical substances, at least one of which is not a listed precursor chemical or a listed essential chemical, except that such term does not include any combination of a listed precursor chemi-

cal or a listed essential chemical with another chemical that is present solely as an impurity.".

SEC. 6055. AMENDMENTS TO SECTION 401 OF THE CONTROLLED SUBSTANCES ACT.

(a) ADDITIONAL OFFENSES.—Section 401(d) of the Controlled Substances Act (21 U.S.C. 841(d)) is amended to read as follows:

"(d) Any person who knowingly or intentionally—

"(1) possesses a listed chemical with intent to manufacture a controlled substance except as authorized by this title;

"(2) possesses or distributes a listed chemical knowing, or having reasonable cause to believe, that the listed chemical will be used to manufacture a controlled substance except as authorized by this title; or

"(3) with the intent of causing the evasion of the recordkeeping or reporting requirements of section 310, or the regulations issued under that section, receives or distributes a reportable amount of any listed chemical in units small enough so that the making of records or filing of reports under that section is not required;

shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.".

(b) ADDITIONAL PENALTY AND OFFENSES.—Section 401 of the Controlled Substances Act (21 U.S.C. 841) is amended by adding at the end the following new subsections:

"(f) In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, or importation of a listed chemical may be enjoined from engaging in any regulated transaction involving a listed chemical for not more than ten years.

"(g)(1) Whoever knowingly distributes a listed chemical in violation of this title (other than in violation of a recordkeeping or reporting requirement of section 310) shall be fined under title 18, United States Code, or imprisoned not more than 5 years, or both.

"(2) Whoever possesses any listed chemical, with knowledge that the recordkeeping or reporting requirements of section 310 have not been adhered to, if, after such knowledge is acquired, such person does not take immediate steps to remedy the violation shall be fined under title 18, United States Code, or imprisoned not more than one year, or both.".

SEC. 6056. AMENDMENTS TO SECTION 402 OF THE CONTROLLED SUBSTANCES ACT.

(a) CONFIDENTIAL INFORMATION AMENDMENT.—Section 402(a)(8) of the Controlled Substances Act (21 U.S.C. 842(a)(8)) is amended by inserting after "protection" the following: ", or to use to his own advantage or reveal (other than as authorized by section 310) any information that is confidential under such section".

(b) IDENTIFICATION AMENDMENT.—Section 402(a)(9) of the Controlled Substances Act (21 U.S.C. 842(a)(9)) is amended to read as follows:

"(9) who is a regulated person to engage in a regulated transaction without obtaining the identification required by 310(a)(3).".

(c) TECHNICAL AMENDMENT.—Section 402(c)(2) of the Controlled Substances Act (21 U.S.C. 842(c)(2)) is amended by striking out subparagraph (C).

(d) RECORDS VIOLATIONS.—Section 402(a) of the Controlled Substances Act (21 U.S.C. 842(a)) is amended—

(1) in paragraph (8), as amended by subsection (a) of this section, by striking out "or" at the end of the paragraph;

(2) in paragraph (9), as amended by subsection (b) of this section, by striking out the period at the end of the paragraph and inserting in lieu thereof "; or"; and

(3) by adding at the end the following new paragraph:

"(10) to fail to keep a record or make a report under section 310.".

SEC. 6057. AMENDMENTS TO SECTION 403 OF THE CONTROLLED SUBSTANCES ACT.

(a) ADDITIONAL OFFENSES.—Section 403(a) of the Controlled Substances Act (21 U.S.C. 843(a)) is amended—

(1) in paragraph (4)(B), by striking out "piperidine" and inserting in lieu thereof "a listed chemical";

(2) in paragraph (4)(B), by striking out "or" after the semicolon;

(3) in paragraph (5), by striking out the period at the end and inserting in lieu thereof a semicolon; and

(4) by adding after paragraph (5) the following new paragraphs:

"(6) to possess any three-neck round-bottom flask, tableting machine, encapsulating machine, gelatin capsule, or equipment specially designed or modified to manufacture a controlled substance, with intent to manufacture a controlled substance except as authorized by this title;

"(7) to manufacture, distribute, or import any three-neck round-bottom flask, tableting machine, encapsulating machine, gelatin capsule, or equipment specially designed or modified to manufacture a controlled substance, knowing that it will be used to manufacture a controlled substance except as authorized by this title; or

"(8) to create a chemical mixture for the purpose of evading a requirement of section 310 or to receive a chemical mixture created for that purpose.".

(b) ADDITIONAL PENALTY.—Section 403 of the Controlled Substances Act (21 U.S.C. 843), is amended by adding at the end the following new subsection:

"(d) In addition to any other applicable penalty, any person convicted of a felony violation of this section relating to the receipt, distribution, or importation of a listed chemical may be enjoined from engaging in any regulated transaction involving a listed chemical for not more than ten years.".

SEC. 6058. SUBPOENA POWER.

The first sentence of section 506(a) of the Controlled Substances Act (21 U.S.C. 876(a)) is amended by inserting "listed chemicals, tableting machines, or encapsulating machines," after "with respect to controlled substances,".

SEC. 6059. FORFEITURE.

(a) IN GENERAL.—Section 511(a) of the Controlled Substances Act (21 U.S.C. 881) is amended by adding at the end the following new paragraph:

"(9) All listed chemicals, all drug manufacturing equipment, all tableting machines, all encapsulating machines, and all gelatin capsules, which have been imported, exported, manufactured, possessed, distributed, or intended to be distributed, imported, or exported, in violation of a felony provision of this title or title III.".

(b) TECHNICAL AMENDMENT.—Paragraph (3) and paragraph (4) of section 511(a) of the Controlled Substances Act (21 U.S.C. 881 (a) and (4)) are each amended by striking out "paragraph (1) or (2)" and inserting in lieu thereof "paragraph (1), (2), or (9)".

SEC. 6060. CHEMICAL DIVERSION CONTROL PROGRAM.

Section 502 of the Controlled Substances Act (21 U.S.C. 872) is amended by adding at the end the following new subsection:

"(f) The Attorney General shall maintain an active program, both domestic and international, to curtail the diversion of precursor chemicals and essential chemicals used in the illicit manufacture of controlled substances.".

21 USC 802 note.

SEC. 6061. EFFECTIVE DATE.

Except as otherwise provided in this subtitle, this subtitle shall take effect 120 days after the enactment of this Act.

Subtitle B—Asset Forfeiture Amendments

Asset Forfeiture Amendments Act of 1988.

21 USC 801 note.

SEC. 6071. SHORT TITLE.

This subtitle may be cited as the "Asset Forfeiture Amendments Act of 1988".

SEC. 6072. DEPARTMENT OF JUSTICE ASSETS FORFEITURE FUND.

Section 524(c) of title 28, United States Code, is amended to read as follows:

"(c)(1) There is established in the United States Treasury a special fund to be known as the Department of Justice Assets Forfeiture Fund (hereafter in this subsection referred to as the 'Fund') which shall be available to the Attorney General without fiscal year limitation for the following purposes of the Department of Justice—

"(A) the payment, at the discretion of the Attorney General, of any expenses necessary to seize, detain, inventory, safeguard, maintain, advertise, or sell property under seizure, detention, or forfeited pursuant to any law enforced or administered by the Department of Justice, or of any other necessary expenses incident to the seizure, detention, or forfeiture of such property; such payments may include—

"(i) payments for contract services, the employment of outside contractors to operate and manage properties or provide other specialized services as necessary to dispose of such properties in an effort to maximize the return from such properties, and payments to reimburse any Federal, State, or local agency for any expenditures made to perform the foregoing functions; and

"(ii) payments made pursuant to regulations promulgated by the Attorney General, that are necessary and direct program-related expenses for the purchase or lease of automatic data processing equipment (not less than a majority of which use will be program related), training, printing,

contracting for services directly related to the identification of forfeitable assets processing of and accounting for forfeitures, and the storage, protection, and destruction of controlled substances;

"(B) the payment of awards for information or assistance directly relating to violations of the criminal drug laws of the United States;

"(C) the payment of awards for information or assistance leading to a civil or criminal forfeiture under the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 800 et seq.) or a criminal forfeiture under the Racketeer Influenced and Corrupt Organizations statute (18 U.S.C. 1961 et seq.), at the discretion of the Attorney General;

"(D) the compromise and payment of valid liens and mortgages against property that has been forfeited pursuant to any law enforced or administered by the Department of Justice, subject to the discretion of the Attorney General to determine the validity of any such lien or mortgage and the amount of payment to be made, and the employment of attorneys and other personnel skilled in State real estate law as necessary;

"(E) disbursements authorized in connection with remission or mitigation procedures relating to property forfeited under any law enforced or administered by the Department of Justice;

"(F) for equipping for drug law enforcement functions any government-owned or leased vessels, vehicles, and aircraft available for official use by the Drug Enforcement Administration, the Federal Bureau of Investigation, the Immigration and Naturalization Service, or the United States Marshals Service;

"(G) for purchase of evidence of any violation of the Controlled Substances Act, the Controlled Substances Import and Export Act, chapter 96 of title 18, or sections 1956 and 1957 of title 18; and

"(H) after all reimbursements and program-related expenses have been met at the end of fiscal year 1989, the Attorney General may transfer deposits from the Fund to the building and facilities account of the Federal prison system for the construction of correctional institutions.

Amounts for paying the expenses authorized by subparagraphs (A)(ii), (B), (C), (F), and (G) shall be specified in appropriations acts. Amounts for other authorized expenditures and payments from the Fund, including equitable sharing payments, are not required to be specified in appropriations acts. The Attorney General may exempt the procurement of contract services under subparagraph (A) under the fund from section 3709 of the Revised Statutes of the United States (41 U.S.C. 5), title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 and following), and other provisions of law as may be necessary to maintain the security and confidentiality of related criminal investigations.

"(2) Any award paid from the Fund for information, as provided in paragraph (1) (B) or (C), shall be paid at the discretion of the Attorney General or his delegate, under existing departmental delegation policies for the payment of awards, except that the authority to pay an award of $250,000 or more shall not be delegated to any person other than the Deputy Attorney General, the Associate Attorney General, the Director of the Federal Bureau of Investigation, or the Administrator of the Drug Enforcement Administration. Any award for information pursuant to paragraph (1)(B) shall not

exceed $250,000. Any award for information pursuant to paragraph (1)(C) shall not exceed the lesser of $250,000 or one-fourth of the amount realized by the United States from the property forfeited.

"(3) Any amount under subparagraph (F) of paragraph (1) shall be paid at the discretion of the Attorney General or his delegate, except that the authority to pay $100,000 or more may be delegated only to the respective head of the agency involved.

"(4) There shall be deposited in the Fund all amounts from the forfeiture of property under any law enforced or administered by the Department of Justice, except all proceeds of forfeitures available for use by the Secretary of the Treasury or the Secretary of the Interior pursuant to section 11(d) of the Endangered Species Act (16 U.S.C. 1540(d)) or section 6(d) of the Lacey Act Amendments of 1981 (16 U.S.C. 3375(d)) or the Postmaster General of the United States pursuant to section 2003(b)(7) of title 39.

"(5) Amounts in the Fund which are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

Reports.

"(6) The Attorney General shall transmit to the Congress, not later than 4 months after the end of each fiscal year, two detailed reports as follows:

"(A) a report on—

"(i) the estimated total value of property forfeited under any law enforced or administered by the Department of Justice with respect to which funds were not deposited in the Fund; and

"(ii) the estimated total value of all such property transferred to any State or local law enforcement agency; and

"(B) a report on—

"(i) the Fund's beginning balance;

"(ii) sources of receipts (seized cash, conveyances, and others);

"(iii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies;

"(iv) the net amount realized from the year's operations, amount of seized cash being held as evidence, and the amount of money legally allowed to be carried over to next year;

"(v) any defendant's equity in property valued at $1,000,000 or more; and

"(vi) year-end Fund balance.

"(7) The Fund shall be subject to annual audit by the Comptroller General.

"(8) The provisions of this subsection relating to deposits in the Fund shall apply to all property in the custody of the Department of Justice on or after the effective date of the Comprehensive Forfeiture Act of 1983.

Appropriation authorization.

"(9) There are authorized to be appropriated such sums as necessary for the purposes described in subparagraphs (A)(ii), (B), (C), (F), and (G) of paragraph (1). At the end of each of fiscal years 1990, 1991, and 1992, unobligated amounts not to exceed $150,000,000 remaining in the Fund shall be deposited in the Special Forfeiture Fund, except that an amount not to exceed $15,000,000 or, if determined necessary by the Attorney General to meet asset specific expenses, an amount equal to one-twelfth of the previous year's

expenditures may be carried forward and remain available for appropriation in the next fiscal year.

"(10) For the purposes of this subsection, property is forfeited pursuant to a law enforced or administered by the Department of Justice if it is forfeited pursuant to—

"(A) any criminal forfeiture proceeding;

"(B) any civil judicial forfeiture proceeding; or

"(C) any civil administrative forfeiture proceeding conducted by the Department of Justice,

except to the extent that the seizure was effected by a Customs officer or that custody was maintained by the United States Customs Service in which case the provisions of section 613A of the Tariff Act of 1930 (19 U.S.C. 1613a) shall apply.".

SEC. 6073. ESTABLISHMENT OF SPECIAL FORFEITURE FUND. 21 USC 1509.

(a) IN GENERAL.—There is established in the Treasury of the United States the Special Forfeiture Fund (hereafter referred to in this section as the "Fund") which shall be available to the Director of the National Drug Control Policy without fiscal year limitation in such amounts as may be specified in appropriations acts.

(b) DEPOSITS.—Beginning in fiscal year 1990, there shall be deposited in the Fund not to exceed $150,000,000 in unobligated amounts remaining at the end of each fiscal year from the Department of Justice Assets Forfeiture Fund (28 U.S.C. 524(c)) except that amounts specified in section 524(c)(9) of title 28, United States Code, may be carried forward and remain available for appropriation in the next fiscal year.

(c) INVESTMENT OF FUND.—Amounts in the Fund which are not currently needed for the purposes of this section shall be kept on deposit or invested in obligations of, or guaranteed by, the United States and all earnings on such investments shall be deposited in the Fund.

(d) PRESIDENT'S BUDGET.—The President shall, in consultation with the Director for National Drug Control Policy, include, as part of the budget submitted to the Congress under section 1105(a) of title 31, United States Code, a separate and detailed request for the use of the amounts in the Fund. This request shall reflect the priorities of the National Drug Control strategy.

(e) FUNDS PROVIDED SUPPLEMENTAL.—Funds disbursed under this subsection shall not be used to supplant existing funds, but shall be used to supplement the amount of funds that would be otherwise available.

(f) ANNUAL REPORT.—No later than 4 months after the end of each fiscal year, the President shall submit to both Houses of Congress a detailed report on the amounts deposited in the Fund and a description of expenditures made under this subsection.

SEC. 6074. TRANSFER BY THE ATTORNEY GENERAL OF FOREIGN PROPERTY.

Section 511(e)(1) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by—

(1) striking "or" after the semicolon in subparagraph (C);

(2) striking the period at the end of subparagraph (D) and inserting "; or"; and

(3) adding at the end thereof the following:

"(E) transfer the forfeited personal property or the proceeds of the sale of any forfeited personal or real property

to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(i) has been agreed to by the Secretary of State;

"(ii) is authorized in an international agreement between the United States and the foreign country; and

"(iii) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.".

SEC. 6075. ADDITIONAL EXCEPTION TO PROVISION RELATING TO FORFEITURE OF CONVEYANCES.

Paragraph (4) of section 511(a) of the Controlled Substances Act (21 U.S.C. 881(a)(4)) is amended—

(1) in subparagraph (A), by striking out "and" after the semicolon;

(2) in subparagraph (B), by striking out the period at the end and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new subparagraph:

"(C) no conveyance shall be forfeited under this paragraph to the extent of an interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 6076. FORFEITURES OF CONVEYANCES.

(a) AMENDMENT TO ACT OF AUGUST 9, 1939.—Section 2 of the Act of August 9, 1939 (chapter 618, 53 Stat. 1291; 49 U.S.C. App. 782), is amended by adding at the end the following: "No vessel, vehicle, or aircraft shall be forfeited under this section to the extent of an interest of an owner for a drug-related offense established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

(b) AMENDMENTS TO TARIFF ACT OF 1930.—Section 594(b) of the Tariff Act of 1930 (19 U.S.C. 1594(b)) is amended—

(1) by inserting "(1)" after "(b)";

(2) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively; and

(3) by adding at the end the following:

"(2) Except as provided in paragraph (1) or subsection (c), no vessel, vehicle, or aircraft is subject to forfeiture to the extent of an interest of an owner for a drug-related offense established by that owner to have been committed or omitted without the knowledge, consent, or willful blindness of the owner.".

SEC. 6077. RESTORATION OF EQUITABLE SHARING PRINCIPLE RELATING TO TRANSFER OF FORFEITED ASSETS TO STATE AND LOCAL AGENCIES UNDER THE CONTROLLED SUBSTANCES ACT.

(a) IN GENERAL.—Section 511(e) of the Controlled Substances Act (21 U.S.C. 881(e)) is amended by adding at the end the following new paragraph:

"(3) The Attorney General shall assure that any property transferred to a State or local law enforcement agency under paragraph (1)(A)—

"(A) has a value that bears a reasonable relationship to the degree of direct participation of the State or local agency in the law enforcement effort resulting in the forfeiture, taking into

account the total value of all property forfeited and the total law enforcement effort with respect to the violation of law on which the forfeiture is based; and

"(B) is not so transferred to circumvent any requirement of State law that prohibits forfeiture or limits use or disposition of property forfeited to State or local agencies.".

(b) TECHNICAL AMENDMENT.—Section 511(e)(1)(A) of the Controlled Substances Act (21 U.S.C. 881(e)(1)(A)) is amended to read as follows:

"(A) retain the property for official use or, in the manner provided with respect to transfers under section 616 of the Tariff Act of 1930, transfer the property to any Federal agency or to any State or local law enforcement agency which participated directly in the seizure or forfeiture of the property;".

(c) EFFECTIVE DATE.—Section 551(e)(3)(B) of the Controlled Substances Act, as enacted by subsection (a), shall apply with respect to fiscal years beginning after September 30, 1989. 21 USC 881 note.

SEC. 6078. COORDINATION OF POST-SEIZURE PROCEDURES.

(a) IN GENERAL.—Part E of the Controlled Substances Act (21 U.S.C. 871 et seq.) is amended by adding at the end the following new section:

"COORDINATION AND CONSOLIDATION OF POST-SEIZURE ADMINISTRATION

"SEC. 517. The Attorney General and the Secretary of the Treasury shall take such action as may be necessary to develop and maintain a joint plan to coordinate and consolidate post-seizure administration of property seized under this title, title III, or provisions of the customs laws relating to controlled substances.". 21 USC 887.

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 516 the following new item:

"517. Coordination and consolidation of post-seizure administration.".

SEC. 6079. REGULATIONS TO PROVIDE FORFEITURE PROCEDURES. 21 USC 881 note.

(a) IN GENERAL.—Not later than 90 days after the date of enactment of this Act, the Attorney General and the Secretary of the Treasury shall consult, and after providing a 30-day public comment period, shall prescribe regulations for expedited administrative procedures for seizures under section 511(a) (4), (6), and (7) of the Controlled Substances Act (21 U.S.C. 881(a) (4), (6), and (7)); section 596 of the Tariff Act of 1930 (19 U.S.C. 1595a(a)); and section 2 of the Act of August 9, 1939 (53 Stat. 1291; 49 U.S.C. App. 782) for violations involving the possession of personal use quantities of a controlled substance.

(b) SPECIFICATIONS.—The regulations prescribed pursuant to subsection (a) shall—

(1) minimize the adverse impact caused by prolonged detention, and

(2) provide for a final administrative determination of the case within 21 days of seizure, or provide a procedure by which the defendant can obtain release of the property pending a final determination of the case. Such regulations shall provide that the appropriate agency official rendering a final determination

shall immediately return the property if the following conditions are established:

(A) the owner or interested party did not know of or consent to the violation;

(B) the owner establishes a valid, good faith interest in the seized property as owner or otherwise; and

(C)(1) the owner establishes that the owner at no time had any knowledge or reason to believe that the property in which the owner claims an interest was being or would be used in a violation of the law; and

(2) if the owner at any time had, or should have had, knowledge or reason to believe that the property in which the owner claims an interest was being or would be used in a violation of the law, that the owner did what reasonably could be expected to prevent the violation.

An owner shall not have the seized property returned under this subsection if the owner had not acted in a normal and customary manner to ascertain how the property would be used.

(c) NOTICE.—At the time of seizure or upon issuance of a summons to appear under subsection (d), the officer making the seizure shall furnish to any person in possession of the conveyance a written notice specifying the procedures under this section. At the earliest practicable opportunity after determining ownership of the seized conveyance, the head of the department or agency that seizes the conveyance shall furnish a written notice to the owner and other interested parties (including lienholders) of the legal and factual basis of the seizure.

(d) SUMMONS IN LIEU OF SEIZURE OF COMMERCIAL FISHING INDUSTRY VESSELS.—Not later than 90 days after the enactment of this Act, the Attorney General, the Secretary of the Treasury, and the Secretary of Transportation shall prescribe joint regulations, after a public comment period of at least 30 days, providing for issuance of a summons to appear in lieu of seizure of a commercial fishing industry vessel as defined in section 2101 (11a), (11b), and (11c) of title 46, United States Code, for violations involving the possession of personal use quantities of a controlled substance. These regulations shall apply when the violation is committed on a commercial fishing industry vessel that is proceeding to or from a fishing area or intermediate port of call, or is actively engaged in fishing operations. The authority provided under this section shall not affect existing authority to arrest an individual for drug-related offenses or to release that individual into the custody of the vessel's master. Upon answering a summons to appear, the procedures set forth in subsections (a), (b), and (c) of this section shall apply. The jurisdiction of the district court for any forfeiture incurred shall not be affected by the use of a summons under this section.

(e) PERSONAL USE QUANTITIES OF A CONTROLLED SUBSTANCE.—For the purposes of this section, personal use quantities of a controlled substance shall not include sweepings or other evidence of nonpersonal use amounts.

SEC. 6080. EXPEDITED PROCEDURES FOR SEIZED CONVEYANCES.

(a) IN GENERAL.—The Controlled Substances Act (21 U.S.C. 801 et seq.) is amended by inserting after section 511 the following new section:

"EXPEDITED PROCEDURES FOR SEIZED CONVEYANCES

Claims.
21 USC 881-1.

"SEC. 511A. (a)(1) The owner of a conveyance may petition the Attorney General for an expedited decision with respect to the conveyance, if the conveyance is seized for a drug-related offense and the owner has filed the requisite claim and cost bond in the manner provided in section 608 of the Tariff Act of 1930. The Attorney General shall make a determination on a petition under this section expeditiously, including a determination of any rights or defenses available to the petitioner. If the Attorney General does not grant or deny a petition under this section within 20 days after the date on which the petition is filed, the conveyance shall be returned to the owner pending further forfeiture proceedings.

"(2) With respect to a petition under this section, the Attorney General may—

"(A) deny the petition and retain possession of the conveyance;

"(B) grant the petition, move to dismiss the forfeiture action, if filed, and promptly release the conveyance to the owner; or

"(C) advise the petitioner that there is not adequate information available to determine the petition and promptly release the conveyance to the owner.

"(3) Release of a conveyance under subsection (a)(1) or (a)(2)(C) does not affect any forfeiture action with respect to the conveyance.

"(4) The Attorney General shall prescribe regulations to carry out this section.

Regulations.

"(b) At the time of seizure, the officer making the seizure shall furnish to any person in possession of the conveyance a written notice specifying the procedures under this section. At the earliest practicable opportunity after determining ownership of the seized conveyance, the head of the department or agency that seizes the conveyance shall furnish a written notice to the owner and other interested parties (including lienholders) of the legal and factual basis of the seizure.

"(c) Not later than 60 days after a claim and cost bond have been filed under section 608 of the Tariff Act of 1930 regarding a conveyance seized for a drug-related offense, the Attorney General shall file a complaint for forfeiture in the appropriate district court, except that the court may extend the period for filing for good cause shown or on agreement of the parties. If the Attorney General does not file a complaint as specified in the preceding sentence, the court shall order the return of the conveyance to the owner and the forfeiture may not take place.

"(d) Any owner of a conveyance seized for a drug-related offense may obtain release of the conveyance by providing security in the form of a bond to the Attorney General in an amount equal to the value of the conveyance unless the Attorney General determines the conveyance should be retained (1) as contraband, (2) as evidence of a violation of law, or (3) because, by reason of design or other characteristic, the conveyance is particularly suited for use in illegal activities.".

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by inserting after the item relating to section 511 the following new item:

"511A. Expedited procedures for seized conveyances."

Subtitle C—State and Local Narcotics Control and Justice Assistance Improvements

PART 1—STATE AND LOCAL NARCOTICS CONTROL AND JUSTICE ASSISTANCE IMPROVEMENTS

SEC. 6091. BUREAU OF JUSTICE ASSISTANCE AND UNIFIED GRANT PROGRAMS.

(a) IN GENERAL.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking parts D and E (42 U.S.C. 3741-3766) and inserting the following:

"PART D—ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE

"ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE

42 USC 3741.

"SEC. 401. (a) There is established within the Department of Justice, under the general authority of the Attorney General, a Bureau of Justice Assistance (hereafter in this part referred to as the 'Bureau').

President of U.S.

"(b) The Bureau shall be headed by a Director (hereafter in this part referred to as the 'Director') who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General. The Director shall have final authority for all grants, cooperative agreements, and contracts awarded by the Bureau. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Bureau makes any contract or other arrangement under this title.

Grants.
Contracts.

"DUTIES AND FUNCTIONS OF THE DIRECTOR

42 USC 3742.

"SEC. 402. The Director shall have the following duties:

"(1) Providing funds to eligible States, units of local government, and nonprofit organizations pursuant to part E.

"(2) Establishing programs in accordance with subpart 2 of part E and, following public announcement of such programs, awarding and allocating funds and technical assistance in accordance with the criteria of subpart 2, and on terms and conditions determined by the Director to be consistent with subpart 2.

"(3) Cooperating with and providing technical assistance to States, units of local government, and other public and private organizations or international agencies involved in criminal justice activities.

"(4) Providing for the development of technical assistance and training programs for State and local criminal justice agencies and fostering local participation in such activities.

"(5) Encouraging the targeting of State and local resources on efforts to reduce the incidence of drug abuse and crime and on programs relating to the apprehension and prosecution of drug offenders.

"(6) Establishing and carrying on a specific and continuing program of cooperation with the States and units of local government designed to encourage and promote consultation and coordination concerning decisions made by the Bureau affecting State and local drug control and criminal justice priorities.

"(7) Preparing recommendations on the State and local drug enforcement component of the National Drug Control Strategy which shall be submitted to the Associate Director of the Office on National Drug Control Policy. In making such recommendations, the Director shall review the statewide strategies submitted by such States under part E, and shall obtain input from State and local drug enforcement officials. The recommendations made under this paragraph shall be provided at such time and in such form as the Director of National Drug Control Policy shall require.

"(8) Exercising such other powers and functions as may be vested in the Director pursuant to this title or by delegation of the Attorney General or Assistant Attorney General.

"PART E—BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS

"NAME OF PROGRAMS

"SEC. 500. The grant programs established under this part shall be known as the 'Edward Byrne Memorial State and Local Law Enforcement Assistance Programs'. 42 USC 3750.

"Subpart 1—Drug Control and System Improvement Grant Program

"DESCRIPTION OF THE DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM

"SEC. 501. (a) It is the purpose of this subpart to assist States and units of local government in carrying out specific programs which offer a high probability of improving the functioning of the criminal justice system, with special emphasis on a nationwide and multilevel drug control strategy by developing programs and projects to assist multijurisdictional and multi-State organizations in the drug control problem and to support national drug control priorities. 42 USC 3751.

"(b) The Director of the Bureau of Justice Assistance (hereafter in this part referred to as the 'Director') is authorized to make grants to States, for the use by States and units of local government in the States, for the purpose of enforcing State and local laws that establish offenses similar to offenses established in the Controlled Substances Act (21 U.S.C. 801 et seq.) and to improve the functioning of the criminal justice system with emphasis on violent crime and serious offenders. Such grants shall provide additional personnel, equipment, training, technical assistance, and information systems for the more widespread apprehension, prosecution, adjudication, and detention and rehabilitation of persons who violate these laws, and to assist the victims of such crimes (other than compensation), including—

"(1) demand reduction education programs in which law enforcement officers participate;

"(2) multijurisdictional task force programs that integrate Federal, State, and local drug law enforcement agencies and prosecutors for the purpose of enhancing interagency coordination, intelligence, and facilitating multijurisdictional investigations;

"(3) programs designed to target the domestic sources of controlled and illegal substances, such as precursor chemicals, diverted pharmaceuticals, clandestine laboratories, and cannabis cultivations;

"(4) providing community and neighborhood programs that assist citizens in preventing and controlling crime, including special programs that address the problems of crimes committed against the elderly and special programs for rural jurisdictions;

"(5) disrupting illicit commerce in stolen goods and property;

"(6) improving the investigation and prosecution of white-collar crime, organized crime, public corruption crimes, and fraud against the government with priority attention to cases involving drug-related official corruption;

"(7)(A) improving the operational effectiveness of law enforcement through the use of crime analysis techniques, street sales enforcement, schoolyard violator programs, gang-related and low-income housing drug control programs;

"(B) developing and implementing antiterrorism plans for deep draft ports, international airports, and other important facilities;

"(8) career criminal prosecution programs including the development of proposed model drug control legislation;

"(9) financial investigative programs that target the identification of money laundering operations and assets obtained through illegal drug trafficking, including the development of proposed model legislation, financial investigative training, and financial information sharing systems;

Courts, U.S.

"(10) improving the operational effectiveness of the court process through programs such as court delay reduction programs and enhancement programs;

"(11) programs designed to provide additional public correctional resources and improve the corrections system, including treatment in prisons and jails, intensive supervision programs, and long-range corrections and sentencing strategies;

"(12) providing prison industry projects designed to place inmates in a realistic working and training environment which will enable them to acquire marketable skills and to make financial payments for restitution to their victims, for support of their own families, and for support of themselves in the institution;

"(13) providing programs which identify and meet the treatment needs of adult and juvenile drug-dependent and alcohol-dependent offenders;

"(14) developing and implementing programs which provide assistance to jurors and witnesses, and assistance (other than compensation) to victims of crimes;

"(15)(A) developing programs to improve drug control technology, such as pretrial drug testing programs, programs which provide for the identification, assessment, referral to treatment, case management and monitoring of drug dependent offenders, enhancement of State and local forensic laboratories, and

"(B) criminal and justice information systems to assist law enforcement, prosecution, courts, and corrections organization (including automated fingerprint identification systems);

"(16) innovative programs that demonstrate new and different approaches to enforcement, prosecution, and adjudication of drug offenses and other serious crimes;

"(17) improving the criminal and juvenile justice system's response to domestic and family violence, including spouse abuse, child abuse, and abuse of the elderly; Aged persons.

"(18) drug control evaluation programs which the State and local units of government may utilize to evaluate programs and projects directed at State drug control activities;

"(19) providing alternatives to prevent detention, jail, and prison for persons who pose no danger to the community; and

"(20) programs of which the primary goal is to strengthen urban enforcement and prosecution efforts targeted at street drug sales.

"(c) Each program funded under this section shall contain an evaluation component, developed pursuant to guidelines established by the National Institute of Justice, in consultation with the Bureau of Justice Assistance. The Director of the Bureau of Justice Assistance may waive this requirement when in the opinion of the Director—

"(1) the program is not of sufficient size to justify a full evaluation report; or

"(2) the program is designed primarily to provide material resources and supplies, such as laboratory equipment, that would not justify a full evaluation report.

"ELIGIBILITY

"SEC. 502. The Bureau is authorized to make financial assistance under this subpart available to a State to enable it to carry out all or a substantial part of a program or project submitted and approved in accordance with the provisions of this subpart. 42 USC 3752.

"STATE APPLICATIONS

"SEC. 503. (a) To request a grant under this subpart, the chief executive officer of a State shall submit an application within 60 days after the Bureau has promulgated regulations under this section, and for each subsequent year, within 60 days after the date that appropriations for this part are enacted, in such form as the Director may require. Such application shall include the following: 42 USC 3753.

"(1) A statewide strategy for drug and violent crime control programs which improve the functioning of the criminal justice system, with an emphasis on drug trafficking, violent crime, and serious offenders. The strategy shall be prepared after consultation with State and local officials with emphasis on those whose duty it is to enforce drug and criminal laws and direct the administration of justice and shall contain—

"(A) a definition and analysis of the drug and violent crime problem in the State, and an analysis of the proolems in each of the counties and municipalities with major drug and violent crime problems;

"(B) an assessment of the criminal justice resources being devoted to crime and drug control programs at the time of the application;

"(C) coordination requirements;

"(D) resource needs;

"(E) the establishment of statewide priorities for crime and drug control activities and programs;

"(F) an analysis of the relationship of the proposed State efforts to the national drug control strategy; and

"(G) a plan for coordinating the programs to be funded under this part with other federally funded programs, including State and local drug abuse education, treatment, and prevention programs.

"(2) A certification that Federal funds made available under the formula grant of this subpart will not be used to supplant State or local funds, but will be used to increase the amounts of such funds that would, in the absence of Federal funds, be made available for law enforcement activities.

"(3) A certification that funds required to pay the non-Federal portion of the cost of each program and project for which such grant is made shall be in addition to funds that would otherwise be made available for law enforcement by the recipients of grant funds.

"(4) An assurance that the State application described in this section, and any amendment to such application, has been submitted for review to the State legislature or its designated body (for purposes of this section, such application or amendment shall be deemed to be reviewed if the State legislature or such body does not review such application or amendment within the 30-day period beginning on the date such application or amendment is so submitted).

"(5) An assurance that the State application and any amendment thereto was made public before submission to the Bureau and, to the extent provided under State law or established procedure, an opportunity to comment thereon was provided to citizens and to neighborhood and community groups.

"(6) An assurance that following the first fiscal year covered by an application and for each fiscal year thereafter, a performance evaluation and assessment report concerning the activities carried out pursuant to this section will be submitted to the Bureau.

"(7) A provision for fund accounting, auditing, monitoring, and such evaluation procedures as may be necessary to keep such records that the Bureau shall prescribe to assure fiscal control, proper management, and efficient disbursement of funds reviewed under this section.

Reports.

"(8) An assurance that the applicant shall maintain such data and information and submit such reports in such form, at such times, and containing such data and information as the Bureau may reasonably require to administer other provisions of this subpart.

"(9) A certification that its programs meet all the requirements of this section, that all the information contained in the application is correct, that there has been appropriate coordination with affected agencies, and that the applicant will comply with all provisions of this subpart and all other applicable Federal laws. Such certification shall be made in a form accept-

able to the Bureau and shall be executed by the chief executive or such other officer of the applicant qualified under regulations promulgated by the Office.

"(10) A certification that the State is undertaking initiatives to reduce, through the enactment of innovative penalties or increasing law enforcement efforts, the demand for controlled substances by holding accountable those who unlawfully possess or use such substances.

"(b) Within 30 days after the date of enactment of this part, the Director shall promulgate regulations to implement this section (including the information that must be included and the requirements that the States must meet) in submitting the applications required under this section. Regulations.

"GRANT LIMITATIONS

"SEC. 504. (a) A grant made under this subpart may not— 42 USC 3754.

"(1) for fiscal year 1989 appropriations be expended for more than 75 per centum; and

"(2) for any subsequent fiscal year appropriations be expended for more than 50 per centum; Indians.

of the cost of the identified uses for which such grant is received to carry out any purpose specified in section 502, except that in the case of funds distributed to an Indian tribe which performs law enforcement functions (as determined by the Secretary of the Interior) for any such program or project, the amount of such grant shall be equal to 100 percent of such cost. The non-Federal portion of the expenditures for such uses shall be paid in cash.

"(b) Not more than 10 percent of a grant made to an eligible State under section 506 may be used for costs incurred to administer such grant.

"(c) States and units of local government or combinations thereof are authorized to use a grant made under section 506 for the expenses associated with participation in the State and Local Task Force Program established by the Drug Enforcement Administration.

"(d) States and local units of government are authorized to use a grant made under section 506 for the expenses associated with conducting the evaluations required under section 501(c) of this part.

"(e) The non-Federal portion of the cost of such program or project shall be in cash. State and local units of government may use cash received under the equitable sharing program to cover the non-Federal portion of the costs of programs funded under section 506.

"(f) No funds may be awarded under this subpart to a grant recipient for a program or project for which funds have been awarded under this title for 4 years (in the aggregate), including any period occurring before the effective date of this subsection.

"REVIEW OF STATE APPLICATIONS

"SEC. 505. (a) The Bureau shall provide financial assistance to each State applicant under this subpart to carry out the programs or projects submitted by such applicant upon determining that— 42 USC 3755.

"(1) the application or amendment thereto is consistent with the requirements of this subpart; and

"(2) before the approval of the application and any amendment thereto the Bureau has made an affirmative finding in

writing that the program or project has been reviewed in accordance with this subpart.

"(b) Each application or amendment made and submitted for approval to the Bureau pursuant to section 503 shall be deemed approved, in whole or in part, by the Bureau not later than 45 days after first received unless the Bureau informs the applicant of specific reasons for disapproval.

"(c) Grant funds awarded under this subpart shall not be used for land acquisition or construction projects, other than penal and correctional institutions.

"(d) The Bureau shall not finally disapprove any application, or any amendment thereto, submitted to the Director under this section without first affording the applicant reasonable notice and opportunity for reconsideration.

"ALLOCATION AND DISTRIBUTION OF FUNDS UNDER FORMULA GRANTS

42 USC 3756.

"SEC. 506. (a) Of the total amount appropriated for this part in any fiscal year, the amount remaining after setting aside the amount required to be reserved to carry out section 511 of this title shall be set aside for section 502 and allocated to States as follows:

"(1) $500,000 shall be allocated to each of the participating States; and

"(2) of the total funds remaining after the allocation under paragraph (1), there shall be allocated to each State an amount which bears the same ratio to the amount of remaining funds described in this paragraph as the population of such State bears to the population of all the States.

"(b)(1) Each State which receives funds under subsection (a) of this section in a fiscal year shall distribute among units of local government, or combinations of units of local government, in such State for the purposes specified in section 501(b) that portion of such funds which bears the same ratio to the aggregate amount of such funds as the amount of funds expended by all units of local government for criminal justice in the preceding fiscal year bears to the aggregate amount of funds expended by the State and all units of local government in such State for criminal justice in such preceding fiscal year.

"(2) In distributing funds received under this part among urban, rural, and suburban units of local government and combinations thereof, the State shall give priority to those jurisdictions with the greatest need.

"(3) Any funds not distributed to units of local government under paragraph (2) shall be available for expenditure by the State involved.

"(4) For purposes of determining the distribution of funds under paragraphs (1) and (2), the most accurate and complete data available for the fiscal year involved shall be used. If data for such fiscal year are not available, then the most accurate and complete data available for the most recent fiscal year preceding such fiscal year shall be used.

"(c) No funds allocated to a State under subsection (a) or received by a State for distribution under subsections (b) and (c) may be distributed by the Director or by the State involved for any program other than a program contained in an approved application.

"(d) If the Director determines, on the basis of information available during any fiscal year, that a portion of the funds allocated to a

State for that fiscal year will not be required or that a State will be unable to qualify or receive funds under section 502, or that a State chooses not to participate in the program established under such section, then such portion shall be awarded by the Director to urban, rural, and suburban units of local government or combinations thereof within such State giving priority to those jurisdictions with greatest need.

"(e) Any funds allocated under subsection (a) or (e) that are not distributed under this section shall be available for obligation under subpart 2.

"STATE OFFICE

"SEC. 507. (a) The chief executive of each participating State shall designate a State office for purposes of— 42 USC 3757.

"(1) preparing an application to obtain funds under section 503;

"(2) administering funds received under such section from the Director, including receipt, review, processing, monitoring, progress and financial report review, technical assistance, grant adjustments, accounting, auditing and fund disbursements; and

"(3) coordinating the distribution of funds provided under this part with State agencies receiving Federal funds for drug abuse education, prevention, treatment, and research activities and programs. Research and development.

"(b) An office or agency performing other functions within the executive branch of a State may be designated to carry out the functions specified in subsection (a).

"DISTRIBUTION OF GRANTS TO LOCAL GOVERNMENT

"SEC. 508. (a) Each application made by a local unit of government, or a combination of units of local government, to a State for funds under this subchapter shall be deemed approved, in whole or in part, by the State not later than 45 days after first received unless the State informs the applicant in writing of specific reasons for disapproval. The State shall not finally disapprove any application submitted to the State without first affording the applicant reasonable notice and opportunity for reconsideration. 42 USC 3758.

"(b) Each State which receives funds under section 506 in a fiscal year shall make such funds available to local units of government, or combinations thereof, whose application has been submitted to, approved and awarded by the State, within 45 days after the Bureau has approved the State application and has made funds available to such State. The Director shall have the authority to waive the 45-day requirement in this section upon a finding that the State cannot satisfy that requirement consistent with State statutes.

"Subpart 2—Discretionary Grants

"PURPOSES

"SEC. 510. (a) The purpose of this subpart is to provide additional Federal financial assistance to public or private agencies and private nonprofit organizations for purposes of— 42 USC 3760.

"(1) undertaking educational and training programs for criminal justice personnel;

"(2) providing technical assistance to States and local units of government;

"(3) undertaking projects which are national or multijurisdictional in scope and which address the purposes specified in section 502; and

"(4) providing financial assistance to public agencies and private nonprofit organizations for demonstration programs which, in view of previous research or experience, are likely to be a success in more than one jurisdiction.

Contracts.

"(b) In carrying out this subpart, the Director is authorized to make grants to, or enter into contracts with public or private agencies, institutions, or organizations or individuals to carry out any purpose specified in section 501(b). The Director shall have final authority over all funds awarded under this subpart.

"ALLOCATION OF FUNDS FOR DISCRETIONARY GRANTS

42 USC 3761.

"SEC. 511. Of the total amount appropriated for this part in any fiscal year, 20 percent or $50,000,000, whichever is less, shall be reserved and set aside for this section in a special discretionary fund for use by the Director in carrying out the purposes specified in section 503. Grants under this section may be made for amounts up to 100 percent of the costs of the programs or projects contained in the approved application.

"LIMITATION ON USE OF DISCRETIONARY GRANT FUNDS

42 USC 3762.

"SEC. 512. Grant funds awarded under section 511 shall not be used for land acquisition or construction projects.

"APPLICATION REQUIREMENTS

42 USC 3763.

"SEC. 513. (a) No grant may be made under this subpart unless an application has been submitted to the Director in which the applicant—

"(1) sets forth a program or project which is eligible for funding pursuant to section 511;

"(2) describes the services to be provided, performance goals, and the manner in which the program is to be carried out;

"(3) describes the method to be used to evaluate the program or project in order to determine its impact and effectiveness in achieving the stated goals; and

"(4) agrees to conduct such evaluation according to the procedures and terms established by the Bureau.

"(b) Each applicant for funds under this subpart shall certify that its program or project meets all the requirements of this section, that all the information contained in the application is correct, and that the applicant will comply with all the provisions of this subpart and all other applicable Federal laws. Such certification shall be made in a form acceptable to the Director.

"PERIOD OF AWARD

42 USC 3764.

"SEC. 514. The Bureau may provide financial aid and assistance to programs or projects under this subpart for a period of not to exceed 4 years. Grants made pursuant to this subpart may be extended or renewed by the Bureau for an additional period of up to 2 years if—

"(1) an evaluation of the program or project indicates that it has been effective in achieving the stated goals or offers the potential for improving the functioning of the criminal justice system; and

"(2) the public agency or private nonprofit organization within which the program or project has been conducted agrees to provide at least one-half of the total cost of such program or project from any source of funds, including Federal grants, available to the eligible jurisdiction.

"Subpart 3—Administrative Provisions

"EVALUATION

"SEC. 520. (a) To increase the efficiency and effectiveness of programs funded under this part, the National Institute of Justice shall— 42 USC 3766.

"(1) develop guidelines, in cooperation with the Bureau of Justice Assistance, to assist State and local units of government to conduct the program evaluations as required by section 501(c) of this part; and

"(2) conduct a reasonable number of comprehensive evaluations of programs funded under section 506 (formula grants) and section 511 (discretionary grants) of this part.

"(b) In selecting programs for review, the Director of the National Institute of Justice should consider—

"(1) whether the program establishes or demonstrates a new and innovative approach to drug or crime control;

"(2) the cost of the program to be evaluated and the number of similar programs funded under section 506 (formula grants) and section 511 (discretionary grants);

"(3) whether the program has a high potential to be replicated in other jurisdictions; and

"(4) whether there is substantial public awareness and community involvement in the program. Routine auditing, monitoring, and internal assessment of a State and local drug control program's progress shall be the sole responsibility of the Bureau of Justice Assistance.

"(c) The Director of the National Institute of Justice shall annually report to the President, the Attorney General, and the Congress on the nature and findings of the evaluation and research and development activities funded under this section. Reports.

"GENERAL PROVISIONS

"SEC. 521. (a) The Bureau shall prepare both a 'Program Brief' and 'Implementation Guide' document for proven programs and projects to be funded under this part. 42 USC 3766a.

"(b) The functions, powers, and duties specified in this part to be carried out by the Bureau shall not be transferred elsewhere in the Department of Justice unless specifically hereafter authorized by the Congress by law.

"REPORTS

"SEC. 522. (a) Each State which receives a grant under section 506 shall submit to the Director, for each year in which any part of such 42 USC 3766b.

grant is expended by a State or unit of local government, a report which contains—

"(1) a summary of the activities carried out with such grant and an assessment of the impact of such activities on meeting the needs identified in the State strategy submitted under section 503;

"(2) a summary of the activities carried out in such year with any grant received under subpart 2 by such State;

"(3) the evaluation result of programs and projects;

"(4) an explanation of how the Federal funds provided under this part were coordinated with State agencies receiving Federal funds for drug abuse education, prevention, treatment, and research activities; and

"(5) such other information as the Director may require by rule.

Such report shall be submitted in such form and by such time as the Director may require by rule.

"(b) Not later than 180 days after the end of each fiscal year for which grants are made under this part, the Director shall submit to the Speaker of the House of Representatives and the President pro tempore of the Senate a report that includes with respect to each State—

"(1) the aggregate amount of grants made under subpart 1 and subpart 2 to such State for such fiscal year;

"(2) the amount of such grants awarded for each of the purposes specified in subpart 1;

"(3) a summary of the information provided in compliance with paragraphs (1) and (2) of subsection (a);

"(4) an explanation of how Federal funds provided under this part have been coordinated with Federal funds provided to States for drug abuse education, prevention, treatment, and research activities; and

"(5) evaluation results of programs and projects and State strategy implementation.".

(b) AMENDMENT TO TABLE OF CONTENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking the items relating to parts D and E and inserting the following:

"PART D—ESTABLISHMENT OF BUREAU OF JUSTICE ASSISTANCE

"Sec. 401. Establishment of Bureau of Justice Assistance.
"Sec. 402. Duties and functions of the Director.

"PART E—BUREAU OF JUSTICE ASSISTANCE GRANT PROGRAMS

"Sec. 500. Name of programs.

"SUBPART 1—DRUG CONTROL AND SYSTEM IMPROVEMENT GRANT PROGRAM

"Sec. 501. Description of the Drug Control and System Improvement Grant program.
"Sec. 502. Eligibility.
"Sec. 503. State applications.
"Sec. 504. Grant limitations.
"Sec. 505. Review of State applications.
"Sec. 506. Allocation and distribution of funds under formula grants.
"Sec. 507. State office.
"Sec. 508. Distribution of grants to local government.

"SUBPART 2—DISCRETIONARY GRANTS

"Sec. 510. Purpose.
"Sec. 511. Allocation of funds for discretionary grants.
"Sec. 512. Limitation on use of discretionary grant funds.

"Sec. 513. Application requirements.
"Sec. 514. Period of award.

"SUBPART 3—ADMINISTRATIVE PROVISIONS

"Sec. 520. Evaluation.
"Sec. 521. General provisions.
"Sec. 522. Reports.".

SEC. 6092. DUTIES AND FUNCTIONS OF THE DIRECTOR OF THE BUREAU OF JUSTICE STATISTICS.

(a) IN GENERAL.—Section 302 of part C of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. section 3732) is amended in subsection (c) by redesignating paragraphs (16), (17), (18) and (19) as paragraphs (20), (21), (22) and (23), respectively, and inserting the following new paragraphs:

"(16) provide for the collection, compilation, analysis, publication and dissemination of information and statistics about the prevalence, incidence, rates, extent, distribution and attributes of drug offenses, drug related offenses and drug dependent offenders and further provide for the establishment of a national clearinghouse to maintain and update a comprehensive and timely data base on all criminal justice aspects of the drug crisis and to disseminate such information;

"(17) provide for the collection, analysis, dissemination and publication of statistics on the condition and progress of drug control activities at the Federal, State and local levels with particular attention to programs and intervention efforts demonstrated to be of value in the overall national anti-drug strategy and to provide for the establishment of a national clearinghouse for the gathering of data generated by Federal, State, and local criminal justice agencies on their drug enforcement activities;

"(18) provide for the development and enhancement of State and local criminal justice information systems, and the standardization of data reporting relating to the collection, analysis or dissemination of data and statistics about drug offenses, drug related offenses, or drug dependent offenders;

"(19) provide for research and improvements in the accuracy, completeness, and inclusiveness of criminal history record information, information systems, arrest warrant, and stolen vehicle record information and information systems and support research concerning the accuracy, completeness, and inclusiveness of other criminal justice record information.". Research and development.

(b) TECHNICAL AMENDMENT.—Section 901(a)(2) of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by striking "407(a)" and inserting "506(a)". 42 USC 3791.

SEC. 6093. JUSTICE ASSISTANCE ACT REAUTHORIZATION.

Section 1001 of part J of title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended to read as follows: 42 USC 3793.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 1001. (a)(1) There is authorized to be appropriated $30,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992 to carry out the functions of the Bureau of Justice Statistics.

"(2) There is authorized to be appropriated $30,000,000 for each of the fiscal years 1989, 1990, 1991, and 1992 to carry out the functions of the National Institute of Justice.

"(3) There are authorized to be appropriated $25,500,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the remaining functions of the Office of Justice Programs and the Bureau of Justice Assistance, other than functions under parts D, E, F, G, L, and M.

"(4) There are authorized to be appropriated for each fiscal year such sums as may be necessary to carry out part L of this title.

"(5) There are authorized to be appropriated $275,000,000 for fiscal year 1989; $350,000,000 for fiscal year 1990; $400,000,000 for fiscal year 1991; and such sums as may be necessary for fiscal year 1992 to carry out the programs under parts D and E of this title.

"(6) There are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992 to carry out the programs under part M of this title.

"(b) Funds appropriated for any fiscal year may remain available for obligation until expended.

"(c) Notwithstanding any other provision of law, no funds appropriated under this section for part E of this title may be transferred or reprogrammed for carrying out any activity which is not authorized under such parts.".

Communications and telecommunications.

PART 2—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

SEC. 6101. REGIONAL INFORMATION SHARING SYSTEMS GRANTS.

(a) GRANT AUTHORIZED.—Title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking part M and inserting the following:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

42 USC 3796h.

"SEC. 1301. REGIONAL INFORMATION SHARING SYSTEMS GRANTS.

Contracts.

"(a) The Director of the Bureau of Justice Assistance is authorized to make grants and enter into contracts with State and local criminal justice agencies and nonprofit organizations for the purposes of identifying, targeting, and removing criminal conspiracies and activities spanning jurisdictional boundaries.

"(b) Grants and contracts awarded under this part shall be made for—

"(1) maintaining and operating information sharing systems that are responsive to the needs of participating enforcement agencies in addressing multijurisdictional offenses and conspiracies, and that are capable of providing controlling input, dissemination, rapid retrieval, and systematized updating of information to authorized agencies;

"(2) establishing and operating an analytical component to assist participating agencies and projects in the compilation, interpretation, and presentation of information provided to a project;

"(3) establishing and maintaining a telecommunication of the information sharing and analytical programs in clauses (1) and (2); and

"(4) other programs designated by the Director that are designed to further the purposes of this part. Regulations.

"(c) The Director is authorized to promulgate such rules and regulations as are necessary to carry out the purposes of this section, including rules and regulations for submitting and reviewing applications."

(b) TECHNICAL AMENDMENTS.—The table of contents of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3711 et seq.) is amended by striking out the items relating to part N and section 1401, and inserting in lieu thereof the following new items:

"PART M—REGIONAL INFORMATION SHARING SYSTEMS GRANTS

"Sec. 1301. Regional information sharing systems grants.

"PART N—TRANSITION; EFFECTIVE DATE; REPEALER

"Sec. 1401. Continuation of rules, authorities, and proceedings."

PART 3—PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT

SEC. 6105. PUBLIC SAFETY OFFICERS' DEATH BENEFITS IMPROVEMENT.

(a) BASIC LEVEL OF DEATH BENEFIT PAYABLE.—Section 1201(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796) is amended by striking out "$50,000" and inserting in lieu thereof "$100,000, adjusted in accordance with subsection (g)".

(b) ANNUAL ADJUSTMENT OF BENEFIT LEVEL.—Section 1201 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796) is amended by adding at the end thereof the following new subsections:

"(g) On October 1 of each fiscal year beginning after the effective date of this subsection, the Bureau shall adjust the level of the benefit payable immediately before such October 1 under subsection (a), to reflect the annual percentage change in the Consumer Price Index for All Urban Consumers, published by the Bureau of Labor Statistics, occurring in the 1-year period ending on June 1 immediately preceding such October 1.

"(h) The amount payable under subsection (a) with respect to the death of a public safety officer shall be the amount payable under subsection (a) as of the date of death of such officer.".

(c) PARENTS AS BENEFICIARIES.—Section 1201(a)(4) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796(a)(4)) is amended by striking out "dependent".

(d) TECHNICAL AMENDMENT.—Section 1203 of title I of the Omnibus Crime Control Act of 1968 (42 U.S.C. 3796b) is amended by striking out paragraph (2) and redesignating paragraphs (3), (4), (5), (6), and (7), as paragraphs (2), (3), (4), (5), and (6), respectively.

(e) EFFECTIVE DATE.—The amendments made by this section shall take effect on June 1, 1988. 42 USC 3796 note.

SEC. 6106. NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY.

(a) PROGRAM AUTHORIZATION.—Part L of title I of the Omnibus Crime Control and Safe Streets Act (42 U.S.C. 3796a) is amended by—

(1) redesignating sections 1203 and 1204 as sections 1204 and 1205, respectively; and 42 USC 3796b, 3796c.

(2) adding after section 1202 the following new section:

"NATIONAL PROGRAMS FOR FAMILIES OF PUBLIC SAFETY OFFICERS WHO HAVE DIED IN THE LINE OF DUTY

42 USC 3796a-1.

"SEC. 1203. The Director is authorized and directed to use up to $150,000 of the funds appropriated for this part to establish national programs to assist the families of public safety officers who have died in the line of duty.".

(b) TECHNICAL AMENDMENT.—The table of contents for title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by—

(1) redesignating the items for section 1203 and 1204 as sections 1204 and 1205, respectively; and

(2) inserting after section 1203 the following:

"Sec. 1203. National program for families of public safety officers who have died in the line of duty.".

Subtitle D—Authorizations of Appropriations for the Department of Justice, Prisons, and Related Law Enforcement Purposes

SEC. 6151. IMMIGRATION AND NATURALIZATION SERVICE PERSONNEL ENHANCEMENT.

(a) SALARIES AND EXPENSES.—There is authorized to be appropriated for salaries and expenses for the Immigration and Naturalization Service for fiscal year 1989, $12,300,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That of such additional appropriations authorized in this section, $4,100,000 shall be used to increase the number of inspectors of the Immigration and Naturalization Service by no fewer than 70 over such personnel levels on board at the Service as of September 30, 1988, and for related equipment.

(b) ORGANIZED CRIME DRUG ENFORCEMENT TASK FORCE PILOT PROJECT AND REPORT.—(1) That of such additional appropriation authorized in this section, $8,200,000 shall be used to increase the commitment of Immigration and Naturalization Service personnel to the Organized Crime Drug Enforcement Task Forces (OCDETF) for additional special agent and support positions; and for associated training and equipment; and for costs incurred during INS agent participation in OCDETF operations with other Federal, State, and local law enforcement agencies.

(2) The positions described in paragraph (1) shall, under the supervision of a director for the pilot project, be used exclusively to assist Federal and local law enforcement agencies in combating illegal alien involvement in drug trafficking and crimes of violence.

(3) The Director of the pilot project shall report to the Assistant Commissioner—Investigations and will have the authority to—

(A) hire a limited number of non-Federal law enforcement officers with substantive experience in narcotics investigations should insufficient senior Federal agents be available. Non-Federal law enforcement officers hired under this provision may be over the age of 35, but in that event would only be eligible for nonlaw enforcement retirement benefits; and

(B) grant extensions of stay and other discretionary immigration benefits and waivers to witnesses, informants, and others whose presence in the United States is essential to the investigation and prosecution of criminal aliens involved in drug trafficking and crimes of violence. Aliens.

(4) After the first year of the establishment of this pilot project the Attorney General will provide for an evaluation of its effectiveness, including an assessment by Federal, State, and local prosecutors and enforcement agencies.

(c) LOCAL OFFICE CAPABILITIES IMPROVEMENT PILOT PROJECT.—From the sums appropriated to carry out this section, the Attorney General, through the Investigative Division of the Immigration and Naturalization Service, shall provide a pilot program in 4 cities to establish or improve the capabilities of the local offices of the Service and of local law enforcement agencies to respond to inquiries concerning aliens who have been arrested or convicted for, or are the subject criminal investigation relating to, a violation of any law relating to controlled substances. The Attorney General shall select cities in a manner that provides special consideration for cities located near the land borders of the United States and for large cities which have major concentrations of aliens. Some of the sums made available under the pilot program shall be used to increase the personnel level of the Investigative Division.

SEC. 6152. BUREAU OF ALCOHOL, TOBACCO, AND FIREARMS ARMED CAREER CRIMINAL APPREHENSION PROGRAM PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Bureau of Alcohol, Tobacco, and Firearms for fiscal year 1989, $10,660,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriations shall be used to increase the number of Armed Career Criminal Apprehension enforcement personnel and other personnel responsible for criminal enforcement of section 924 of title 18, United States Code, by no fewer than 244 full-time equivalent positions over such personnel levels onboard at the Bureau as of September 30, 1988, and for related equipment: *Provided further,* That of the amount authorized to be appropriated by this section, $615,000 shall be available for—

(1) the equipping of any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency if the conveyance will be used in drug-related joint law enforcement operations with the Bureau of Alcohol, Tobacco, and Firearms; and

(2) the payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint operations with the Bureau of Alcohol, Tobacco, and Firearms.

SEC. 6153. DRUG ENFORCEMENT ADMINISTRATION PERSONNEL ENHANCEMENT.

(a) IN GENERAL.—There is authorized to be appropriated for salaries and expenses of the Drug Enforcement Administration for fiscal year 1989, $60,000,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September

30, 1989: *Provided further,* That $4,920,000 of such additional appropriation authorized in this section shall be used to increase Drug Enforcement Administration operations against criminals involved in youth gang-related organized crime: *Provided further,* That $10,000,000 of such additional amount authorized to be appropriated in this section shall be used to implement the Chemical Diversion and Trafficking Act of 1988: *Provided further,* That $15,000,000 of such additional amount authorized to be appropriated in this section shall be used for the Foreign Cooperative Investigations program: *Provided further,* That $5,000,000 of such additional amount authorized to be appropriated in this section shall be used for the Diversion Control program: *Provided further,* That $3,280,000 of such additional amount authorized to be appropriated in this section shall be used for additional analysts and equipment for the enhancement of the El Paso Intelligence Center (EPIC).

(b) DEA DRUG EDUCATION PROGRAM.—There is authorized to be appropriated, out of any funds made available by this or any other Act for the Drug Enforcement Administration, for the fiscal year ending September 30, 1989, such sums as may be necessary to establish and maintain a Drug Enforcement Administration Drug Education Program.

5 USC 5315 note.

(c) COMPENSATION OF DEPUTY DIRECTOR.—The Deputy Administrator of the Drug Enforcement Administration shall receive compensation at the rate now or hereafter prescribed by law for positions of Level IV of the Executive Schedule Pay Rate (5 U.S.C. 5315).

SEC. 6154. FEDERAL BUREAU OF INVESTIGATION DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Federal Bureau of Investigation for fiscal year 1989, $30,000,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

SEC. 6155. UNITED STATES MARSHALS SERVICE DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the U.S. Marshals Service for the fiscal year 1989, $21,500,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used as follows:

(1) for asset seizure and forfeiture activities;

(2) for criminal justice support activities, including prisoner production and transportation;

(3) for protection of the Federal judiciary and court facilities resulting from increased drug-related trials;

(4) for increased workloads of the Marshals Service Witness Security Program; and

(5) for payment of rewards for assistance in the capture or information leading to the capture of a Federal fugitive.

SEC. 6156. SUPPORT OF UNITED STATES PRISONERS.

There is authorized to be appropriated for fiscal year 1989, for support of United States prisoners in non-Federal institutions, $21,500,000 to remain available until expended, of which not to exceed $4,100,000 shall be available under the Cooperative Agree-

ment Program for the purpose of renovating, constructing, and equipping State and local correctional facilities: *Provided,* That the appropriation authorized under this section shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That amounts made available for constructing any local correctional facility shall not exceed the cost of constructing space for the average Federal prisoner population to be housed in the facility, or in other facilities in the same correctional system, as projected by the Attorney General; *Provided further,* That following agreement on or completion of any federally assisted correctional facility construction, the availability of the space required for Federal prisoners with authorized Federal funds shall be assured and the per diem rate charged for housing Federal prisoners in the assured space shall not exceed operating costs for the period of time specified in the cooperative agreement.

SEC. 6157. FEDERAL PRISON SYSTEM.

There is authorized to be appropriated in fiscal year 1989 to the buildings and facilities account, Federal Prison System, Department of Justice, $200,000,000 for planning; acquisition of sites, construction of new facilities; purchase and acquisition of existing facilities and remodeling and equipping of such facilities for penal and correctional use, to alleviate overcrowding in existing prisons and to meet the increased demand for prison space resulting from drug-related offenses: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989. There is authorized to be appropriated in fiscal year 1989 for the salaries and expenses account, Federal Prison System, Department of Justice, $13,000,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

SEC. 6158. UNITED STATES ATTORNEYS DRUG ENFORCEMENT PERSONNEL ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the United States Attorneys, Department of Justice for fiscal year 1989, $36,080,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

SEC. 6159. FEDERAL JUDICIARY.

(a) IN GENERAL.—There is authorized to be appropriated to the Federal courts for salaries and expenses of the Courts of Appeals, District Courts, and other Judicial Services, $43,132,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989; *Provided further,* That the additional funds authorized to be appropriated under this section, shall be made available for the following:

(1) $30,340,000 for probation and pretrial services, including pretrial social services;

(2) $1,640,000 for additional deputy clerks;

(3) $656,000 for additional law clerks and clerical support staff;

(4) $4,100,000 for additional renovation of court facilities; and

(5) $4,756,000 for additional United States magistrates.

Reports.

(b) JUDICIAL CONFERENCE.—(1) The Judicial Conference of the United States shall prepare a report evaluating the impact of drug-related criminal activity on the Federal Judiciary. The Judicial Conference shall make its recommendations on the basis of the drug-related resource needs of the district courts. The report shall further contain a complete explanation of the specific criteria used in making its recommendations, including the officials and sources consulted on the impact of drug-related cases in specific judicial district courts. The report shall further contain a complete explanation of the specific criteria used in making its recommendations, including the officials and sources consulted on the impact of drug-related cases in specific judicial districts.

(2) The report required by paragraph (1) shall be transmitted to the United States House of Representatives and the Committee on the Judiciary of the United States Senate not later than 120 days after the date of enactment of this section.

(c) FEDERAL PUBLIC DEFENDER AND COMMUNITY DEFENDER.—There is authorized to be appropriated for the operation of Federal Public Defender and Community Defender organizations, the compensation and reimbursement of expenses of attorneys appointed to represent persons under the Criminal Justice Act of 1964, as amended, the compensation and reimbursement of expenses of persons furnishing investigative, expert and other services under the Criminal Justice Act, the compensation (in accordance with Criminal Justice Act maximums) and reimbursement of expenses of attorneys appointed to assist the court in criminal cases where the defendant has waived representation by counsel, $28,700,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

(d) JURORS FEES AND EXPENSES.—There is authorized to be appropriated to the Federal courts for fees and expenses of jurors and compensation of jury commissioners, $2,378,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

(e) SECURITY EQUIPMENT.—There is authorized to be appropriated to the Federal courts for necessary expenses, not otherwise provided for, incident to the procurement, installation, and maintenance of security equipment and protective services for the United States courts in courtrooms and adjacent areas, including building ingress-egress control, inspection of packages, directed security patrols, and other similar activities, $4,920,000 to remain available until expended: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989.

SEC. 6160. THE NATIONAL ADVISORY COMMISSION ON LAW ENFORCEMENT.

(a) DEFINITIONS.—As used in this section—

(1) the term "Commission" means the National Advisory Commission on Law Enforcement;

(2) the term "Commissioner" means a member of the National Advisory Commission on Law Enforcement; and

(3) the term "law enforcement officer" has the same meaning as provided in section 8401(17) of title 5, United States Code.

(b) ESTABLISHMENT.—There is established a National Advisory Commission on Law Enforcement, which shall consist of the following members:

(1) four members of the United States Senate, 2 of whom shall be selected by the Majority Leader and 2 of whom shall be selected by the Minority Leader;

(2) four members of the United States House of Representatives, 2 of whom shall be selected by the Speaker and 2 of whom shall be selected by the Minority Leader;

(3) the Comptroller General of the United States, who shall also serve as Chairman of the Commission;

(4) the Director of the Office of Personnel Management;

(5) the Attorney General of the United States and three other officials of the Department of Justice who shall be designated by the Attorney General;

(6) the Secretary of the Treasury and 2 other officials of the Department of the Treasury who shall be designated by the Secretary of the Treasury;

(7) the Inspector Generals of 3 departments or agencies of the executive branch of the United States who shall be designated by the President of the United States; and

(8) three representatives from Federal employee groups to be selected by the Office of Personnel Management after consultation with the Speaker of the House and the Majority Leader of the Senate.

(c) STUDY.—The Commission shall study the methods and rates of compensation, including salary, overtime pay, retirement policies, and other benefits of law enforcement officers in all Federal agencies, as well as the methods and rates of compensation of State and local law enforcement officers in a representative number of areas where Federal law enforcement officers are assigned, in order to determine—

(1) the differences which exist among Federal agencies with regard to the methods and rates of compensation for law enforcement officers;

(2) the rational basis, if any, for such differences, considering the nature of the responsibilities of the law enforcement officers in each agency; the qualifications and training required to perform such responsibilities; the degree of personal risk to which the law enforcement officers in each agency are normally exposed in the performance of their duties; and such other factors as the Commission deems relevant in evaluating the differences in compensation among the various agencies;

(3) the extent to which inequities appear to exist among Federal agencies with regard to the methods and rates of compensation of law enforcement officers, based on consideration of the factors mentioned in paragraph (2) of this subsection;

(4) the feasibility of devising a uniform system of overtime compensation for law enforcement officers in all or most Federal agencies, with due regard for both the special needs of law enforcement officers and the relative cost effectiveness to the

Government of such a system compared to those currently in use;

(5) how the salaries paid to Federal law enforcement officers compare to those of State and local officers in the same geographical area, especially those in "high cost-of-living" areas;

(6) the impact of the rates of compensation paid by various Federal agencies on the lifestyle, morale, and general well-being of law enforcement officers, including their ability to subsist;

(7) the recruiting and retention problems experienced by Federal agencies due to: inequities in compensation among such agencies; the differences between rates of compensation paid to Federal law enforcement officers and State and local officers in the same geographical areas; and other factors related to compensation;

(8) the extent to which Federal legislation and administrative regulations may be necessary or appropriate to rectify inequities among Federal agencies in the methods and rates of compensation for law enforcement officers; to address the lack of uniformity among agencies with regard to overtime pay; to provide premiums or special rates of pay for Federal law enforcement officers in high cost-of-living areas; to ensure that the levels of compensation paid to Federal law enforcement officers will be competitive with those paid to State and local officers in the same geographical areas; and to address such other matters related to the determinations made under this subsection as the Commission deems appropriate in the interests of enhancing the ability of Federal agencies to recruit and retain the most qualified and capable law enforcement officers; and

(9) the average retirement age of the Federal agencies and the retirement and benefits policies of Federal agencies.

(d) POWERS OF THE COMMISSION.—The Commission shall have the power to—

(1) utilize, with their consent, the services, equipment, personnel, information, and facilities of other Federal, State, local, and private agencies and instrumentalities with or without reimbursement therefor;

Contracts.

(2) enter into and perform, without regard to section 3324 of title 31, United States Code, such contracts, leases, cooperative agreements, and other transactions as may be necessary in the conduct of the functions of the Commission, with any public agency, or with any person, firm, association, corporation, educational institution, or nonprofit organization;

(3) request such information, data, and reports from any Federal agency or instrumentality as the Commission may from time to time require and as may be produced consistent with other law; and

(4) hold hearings and call witnesses that might assist the Commission in the exercise of its powers or duties.

The Commission shall have such other powers as may be necessary to carry out its functions under this Act and may delegate to any member or designated person such powers as may be appropriate in the conduct of its functions.

(e) RESOURCES.—(1) Upon the request of the Commission, each Federal agency is authorized and directed to make its resources, services, equipment, personnel, facilities, and information available

to the greatest practicable extent to the Commission in the execution of its functions.

(2) Each Commissioner may utilize the resources, services, equipment, personnel, information, and facilities of his or her Federal agency or, in the case of the Commissioners who are Members of Congress, his or her congressional office, as may be necessary in the conduct of the Commissioner's respective functions as a member of the Commission.

(f) QUORUM.—A simple majority of the Commissioners then serving shall constitute a quorum for the conduct of business by the Commission, and the Commission may exercise its powers and fulfill its duties by the vote of a simple majority of the Commissioners present.

(g) MEETING.—The Chairman of the Commission shall call and preside at meetings of the Commission, but the Chairman may delegate to any other Commissioner the authority to preside at meetings of the Commission.

(h) REPORT AND DISSOLUTION OF COMMISSION.—(1) Within 6 months following the date of enactment of this Act, the Commission shall prepare and deliver to the President of the United States, the President of the Senate, and the Speaker of the House of Representatives, a written report setting forth—

(A) the findings and determinations made by the Commission pursuant to section 176(b); and

(B) specific proposals for such legislation and administrative regulations as the Commission has determined to be necessary or appropriate pursuant to section 176(b)(8).

(2) The Commission shall be terminated 60 days following submission of the report mandated by this section.

SEC. 6161. BORDER PATROL DRUG INTERDICTION ASSET ENHANCEMENT.

There is authorized to be appropriated for salaries and expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $16,400,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such additional appropriation shall be used only for the procurement of drug interdiction-related equipment for Border Patrol drug enforcement personnel, including spare parts for helicopters; 4-wheel drive law enforcement vehicles; and initial procurement of mobile sensor response system and electronic intrusion detection, and for related operation and maintenance expenses.

SEC. 6162. IMMIGRATION AND NATURALIZATION SERVICE/BORDER PATROL DRUG INTERDICTION PERSONNEL ENHANCEMENT.

(a) SALARIES AND EXPENSES.—There is authorized to be appropriated for salaries and expenses of the Border Patrol within the Department of Justice for fiscal year 1989, $16,400,000: *Provided,* That such appropriation shall be in addition to any appropriations appropriated in any regular appropriations Acts or continuing resolutions for the fiscal year ending on September 30, 1989: *Provided further,* That such additional appropriation shall be used to increase officers of the Border Patrol by no fewer than 435 full-time equivalent positions over the level of such personnel onboard at the Border Patrol as of September 30, 1988, and for related equipment.

(b) SAN CLEMENTE BORDER PATROL STATION.—There is authorized to be appropriated, out of any funds made available by section 6161, for the fiscal year ending September 30, 1989, $2,706,000 for the design of improvements for the Immigration and Naturalization Service border patrol station at San Clemente, California.

(c) DRUG EDUCATION OFFICERS PROGRAM.—There is authorized to be appropriated, out of any funds made available by this Act, for the fiscal year ending September 30, 1989, such sums as may be necessary to establish and maintain an Immigration and Naturalization Service Drug Education Officers program, featuring the demonstration of drug detection canine unit capabilities along the southwest border region of the United States.

(d) SALARIES AND EXPENSES.—There is authorized to be appropriated for salaries and expenses of the Border Patrol for fiscal year 1989, $16,400,000. Any amounts appropriated pursuant to this subsection shall be in addition to any amounts appropriated in regular appropriations Acts for such fiscal year. Such additional appropriations shall be used to increase the number of officers of the Border Patrol by not fewer than 435 full-time equivalent officer positions beyond the number of such positions at the Border Patrol on September 30, 1988.

SEC. 6163. USE OF EXISTING FEDERAL RESEARCH AND DEVELOPMENT FACILITIES FOR CIVILIAN LAW ENFORCEMENT.

President of U.S.

(a) COMPREHENSIVE PLAN.—The President of the United States shall direct the Office of National Drug Control Policy, established in title I of this Act, to develop a comprehensive plan for utilizing no fewer than eight existing facilities of the Department of Defense, the Department of Justice, the Department of Energy, National Security Agency, and the Central Intelligence Agency, to develop technologies for application to Federal law enforcement agency missions, and to provide research, development, technology, and evaluation support to the law enforcement agencies of the Federal Government. Such plan shall be prepared and submitted to the Congress by no later than 90 days from the date of enactment of this Act.

(b) EXISTING FACILITIES TO BE EXAMINED.—The following existing United States Government facilities shall be examined in developing the comprehensive plan mandated in subsection (a):

(1) for night vision research and development—Department of Defense, Army Materiel Command, Night Vision Laboratory at Fort Belvoir, Virginia;

(2) for ground sensor research and development—Department of Defense, Army Materiel Command, Communications Electronic Command, Fort Monmouth, New Jersey;

(3) for physical/electronic security research and development—Department of Defense, Air Force Systems Command, Electronic Systems Division, Hanscom Field, Massachusetts;

(4) for imaging/electronic surveillance research and development—Central Intelligence Agency and National Security Agency, Washington, DC;

(5) for chemical/biosensor research and development—Department of Defense, Army Materiel Command, Chemical Research Development and Engineering Center, Aberdeen, Maryland;

(6) for chemical/molecular detector research and development—Department of Energy, Sandia National Laboratories, Albuquerque, New Mexico;

(7) for physical/electronic surveillance and tracking, research and development—Department of Justice, Federal Bureau of Investigation and Drug Enforcement Administration, Washington, DC; and

(8) for explosives ordnance detection research and development—Department of Defense, Naval Ordnance Station, Indian Head, Maryland.

(c) PARTICIPATION.—In developing the plan mandated in subsection (a), the Director of National Drug Control Policy shall ensure that representatives of the Federal law enforcement agencies are provided an opportunity to participate in the formulation of the comprehensive plan and that their views and recommendations are integrated into the planning process.

(d) COMPTROLLER GENERAL OVERSIGHT.—The Comptroller General of the United States shall monitor the development of the plan mandated in subsection (a) and report periodically to the appropriate Committees of the Congress on the progress of the development of this research and development program.

SEC. 6164. FEDERAL LAW ENFORCEMENT TRAINING CENTER IMPROVEMENT.

(a) AUTHORIZATION OF APPROPRIATIONS FOR THE FEDERAL LAW ENFORCEMENT TRAINING CENTER.—(1) There is authorized to be appropriated for salaries and expenses of the Federal Law Enforcement Training Center for fiscal year 1989, $5,740,000; *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That $4,100,000 of such additional appropriation shall be used by the Federal Law Enforcement Training Center only to accommodate the advanced in-service training requirements of the Drug Enforcement Administration that cannot otherwise be met at the Department of Justice training facilities: *Provided further,* That $1,640,000 of such additional appropriation shall be used by the Center to increase the level of drug enforcement training, including basic and advanced training, for Federal, State, and local law enforcement officers: *Provided further,* That the Center shall hire 44 additional direct full-time equivalent positions and maintain an average of not less than 469 direct full-time equivalent positions by the end of fiscal year 1990. *Provided further,* That, on a space available, cost reimbursable basis, the Center shall, to the extent practical, increase the level of training for drug enforcement officers from foreign countries that are cooperating with the law enforcement agencies of the United States Government.

(2) There are authorized to be appropriated for salaries and expenses of the Federal Law Enforcement Training Center, $45,000,000 for the fiscal year ending September 30, 1990, and $50,000,000 for the fiscal year ending September 30, 1991: *Provided,* That in each fiscal year addressed in this paragraph, support for the State and local law enforcement training program and the training programs for drug enforcement officers from foreign countries shall be maintained at no less than the level of support in the fiscal year ending September 30, 1989.

(b) EXPANDED TRAINING.—The Secretary of the Treasury is directed to expand the advanced training programs for Federal law enforcement agencies at the Marana, Arizona, satellite facility of the Federal Law Enforcement Training Center, within the total

amount of appropriations authorized for fiscal years 1989, 1990, and 1991.

(c) REPORT.—The Secretary of the Treasury is directed to report in writing to the appropriate committees of the Congress by no later than 90 days from the date of enactment of this Act with his preliminary plans for the increased training activities at the Federal Law Enforcement Training Center facilities to be funded with the additional appropriations authorized in subsection (a)(1) of this section, and the authorized level of appropriations contained in subsection (a)(2).

SEC. 6165. FEDERAL LAW ENFORCEMENT LANGUAGE TRAINING IMPROVEMENT.

(a) DEPARTMENT OF DEFENSE.—The Department of Defense is authorized to provide, on a cost reimbursable basis, foreign language training at the Defense Language Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(b) DEPARTMENT OF STATE.—The Department of State is authorized to provide, on a cost reimbursable basis, foreign language training at the Foreign Service Institute to special agents of Federal civilian agencies involved in drug law enforcement.

(c) DRUG ENFORCEMENT ADMINISTRATION.—The Drug Enforcement Administration is authorized to—

(1) detail special agent personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(d) CUSTOMS SERVICE.—The Customs Service is authorized to—

(1) detail special agent personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute, or both; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(e) INS.—The Immigration and Naturalization Service is authorized to—

(1) detail investigative personnel for foreign language training to the Defense Language Institute or the Foreign Service Institute; and

(2) reimburse, from appropriated funds, the Departments of Defense and State for the cost of training provided.

(f) AUTHORIZATION OF APPROPRIATIONS.—The following amounts are authorized to be appropriated to implement the provisions of this section:

(1) to the Commissioner of Customs, only for obligation for special agent foreign language training, $273,000;

(2) to the Administrator of the Drug Enforcement Administration, only for obligation for special agent foreign language training, $273,000; and

(3) to the Commissioner of the Immigration and Naturalization Service, only for obligation for special agent foreign language training, $273,000.

(g) RULES APPLICABLE TO APPROPRIATIONS.—Moneys appropriated pursuant to this section shall—

(1) remain available until expended; and

(2) shall be made available by the United States Customs Service, the Immigration and Naturalization Service, and the

Drug Enforcement Administration out of the total amount of additional funds authorized to be appropriated in this Act.

SEC. 6166. INTERDICTION TASK FORCE PROGRAMS. Bahamas.

(a) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated for salaries and expenses of the Drug Enforcement Administration for fiscal year 1989, $4,920,000: *Provided,* That such appropriation shall be in addition to any appropriations provided in regular appropriations Acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such appropriations shall be made available for the United States-Bahamas Drug Interdiction Task Force established by section 3301 of subtitle E of title III of the Antidrug Abuse Act of 1986 (21 U.S.C. 801 note) and related activities: *Provided further,* That of these amounts made available for the United States-Bahamas Drug Interdiction Task Force under this section, the Drug Enforcement Administration is authorized to provide grants or other financial assistance to the Commonwealth of the Bahamas in the establishment of a Bahamian Enforcement Strike Team that will conduct unilateral Bahamian Government drug interdiction operations in the southern Bahamian Islands: *Provided further,* That the appropriations authorized under this section shall only be made available for United States-Bahamian drug interdiction operations upon receipt of a $410,000 contribution toward such joint operations by the Commonwealth of the Bahamas in fiscal year 1989.

(b) SENSE OF CONGRESS.—It is the sense of the Congress that— Nigel Bowe.

(1) the Commonwealth of the Bahamas should aggressively pursue the extradition of Nigel Bowe and the consummation of the pending extradition treaty with the United States by the end of 1988;

(2) the Government of the United States should cooperate fully with the Commonwealth of the Bahamas in providing information to the Bahamas regarding allegations of corruption and cooperate in responding to requests from the Commonwealth of the Bahamas for the extradition of United States citizens who have been indicted for drug-related offenses in the Bahamas; and

(3) agents of the Drug Enforcement Agency should be physically present when confiscated or seized illegal drug contraband is destroyed by personnel of the Commonwealth of the Bahamas.

SEC. 6167. INTERPOL—UNITED STATES NATIONAL CENTRAL BUREAU.

There is authorized to be appropriated for the United States National Central Bureau for fiscal year 1989 $820,000: *Provided,* That such appropriation shall be in addition to any appropriations requested by the President in his fiscal year 1989 budget as presented to Congress on February 18, 1988, or provided in regular appropriations acts or continuing resolutions for the fiscal year ending September 30, 1989: *Provided further,* That such appropriation shall be used to increase personnel by no fewer than 23 full-time equivalent positions over personnel levels as of September 30, 1988 for the purpose of maintaining no fewer than 24-hour operations and for upgrading telecommunications equipment.

SEC. 6168. DRUG ENFORCEMENT ADMINISTRATION AIR WING FACILITY.

The Administrator of the Drug Enforcement Administration shall take such action (including site acquisition, purchase of equipment and fixtures, and relocation from any former facility) as may be necessary to establish, maintain, and operate a special purpose facility for the use of the Drug Enforcement Administration Air Wing, to be located at a site having direct aircraft access to public aviation facilities. To carry out this section, there is authorized to be appropriated for the Department of Justice for the Drug Enforcement Administration, $10,800,000.

Subtitle E—Money Laundering

Money Laundering Prosecution Improvements Act of 1988. 18 USC 981 note.

SEC. 6181. SHORT TITLE.

This subtitle may be cited as the "Money Laundering Prosecution Improvements Act of 1988".

SEC. 6182. APPLICATION OF SECTION 1957 TO ATTORNEYS FEES.

Section 1957(f)(1) of title 18, United States Code, is amended by inserting after "title 31)" the second place it appears the following: ", but such term does not include any transaction necessary to preserve a person's right to representation as guaranteed by the sixth amendment to the Constitution".

SEC. 6183. CROSS-REFERENCE TECHNICAL CORRECTIONS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by striking out "section 38 of the Arms Export Control Act" and all that follows through "(50 U.S.C. App. 3)" and inserting in lieu thereof "section 38(c) (relating to criminal violations) of the Arms Export Control Act, section 11 (relating to violations) of the Export Administration Act of 1979, section 206 (relating to penalties) of the International Emergency Economic Powers Act, or section 16 (relating to offenses and punishment) of the Trading with the Enemy Act.".

SEC. 6184. DEFINITION OF MONETARY INSTRUMENT FOR MONEY LAUNDERING OFFENSES.

Section 1957 of title 18, United States Code, is amended by striking out "for the purposes of subchapter II of chapter 53 of title 31" and inserting "in section 1956(c)(5) of this title" in lieu thereof.

SEC. 6185. BANK SECRECY ACT AMENDMENTS.

(a) BUSINESS SIMILAR TO FINANCIAL INSTITUTIONS.—Section 5312(a)(2) of title 31, United States Code, is amended by striking subparagraphs (T) and (U) and inserting the following:

"(T) a business engaged in vehicle sales, including automobile, airplane, and boat sales;

"(U) persons involved in real estate closings and settlements;

"(V) the United States Postal Service;

"(W) an agency of the United States Government or of a State or local government carrying out a duty or power of a business described in this paragraph;

"(X) any business or agency which engages in any activity which the Secretary of the Treasury determines, by regulation, to be an activity which is similar to, related to, or a

substitute for any activity in which any business described in this paragraph is authorized to engage; or

"(Y) any other business designated by the Secretary whose cash transactions have a high degree of usefulness in criminal, tax, or regulatory matters.".

(b) IDENTIFICATION REQUIRED TO PURCHASE CERTAIN MONETARY INSTRUMENTS OF $3,000 OR MORE.—Subchapter II of chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new section:

"§ 5325. Identification required to purchase certain monetary instruments

"(a) IN GENERAL.—No financial institution may issue or sell a bank check, cashier's check, traveler's check, or money order to any individual in connection with a transaction or group of such contemporaneous transactions which involves United States coins or currency (or such other monetary instruments as the Secretary may prescribe) in amounts or denominations of $3,000 or more unless—

"(1) the individual has a transaction account with such financial institution and the financial institution—

"(A) verifies that fact through a signature card or other information maintained by such institution in connection with the account of such individual; and

"(B) records the method of verification in accordance with regulations which the Secretary of the Treasury shall prescribe; or Regulations.

"(2) the individual furnishes the financial institution with such forms of identification as the Secretary of the Treasury may require in regulations which the Secretary shall prescribe and the financial institution verifies and records such information in accordance with regulations which such Secretary shall prescribe. Regulations.

"(b) REPORT TO SECRETARY UPON REQUEST.—Any information required to be recorded by any financial institution under paragraph (1) or (2) of subsection (a) shall be reported by such institution to the Secretary of the Treasury at the request of such Secretary.

"(c) TRANSACTION ACCOUNT DEFINED.—For purposes of this section, the term 'transaction account' has the meaning given to such term in section 19(b)(1)(C) of the Federal Reserve Act.".

(c) SECRETARY AUTHORIZED TO REQUIRE RECORDKEEPING FOR DOMESTIC COIN AND CURRENCY TRANSACTIONS.—Subchapter II of chapter 53 of title 31, United States Code, is amended by inserting after section 5325 (as added by subsection (b) of this section) the following new section:

"§ 5326. Records of certain domestic coin and currency transactions

"(a) IN GENERAL.—If the Secretary of the Treasury finds, upon the Secretary's own initiative or at the request of an appropriate Federal or State law enforcement official, that reasonable grounds exist for concluding that additional recordkeeping and reporting requirements are necessary to carry out the purposes of this subtitle and prevent evasions thereof, the Secretary may issue an order requiring any domestic financial institution or group of domestic financial institutions in a geographic area—

"(1) to obtain such information as the Secretary may describe in such order concerning—

"(A) any transaction in which such financial institution is involved for the payment, receipt, or transfer of United States coins or currency (or such other monetary instruments as the Secretary may describe in such order) the total amounts or denominations of which are equal to or greater than an amount which the Secretary may prescribe; and

"(B) any other person participating in such transaction;

"(2) to maintain a record of such information for such period of time as the Secretary may require; and

Reports.

"(3) to file a report with respect to any transaction described in paragraph (1)(A) in the manner and to the extent specified in the order.

"(b) MAXIMUM EFFECTIVE PERIOD FOR ORDER.—No order issued under subsection (a) shall be effective for more than 60 days unless renewed pursuant to the requirements of subsection (a).".

(d) REGULATIONS AND PENALTIES.—

(1) INSURED BANKS.—Section 21 of the Federal Deposit Insurance Act (12 U.S.C. 1829b) is amended by adding at the end thereof the following new subsection:

"(j) CIVIL PENALTIES.—

"(1) PENALTY IMPOSED.—Any insured bank and any director, officer, or employee of an insured bank who willfully or through gross negligence violates any regulation prescribed under subsection (b) shall be liable to the United States for a civil penalty of not more than $10,000.

"(2) TREATMENT OF CONTINUING VIOLATION.—A separate violation of any regulation prescribed under subsection (b) of this section occurs for each day the violation continues and at each office, branch, or place of business at which such violation occurs.

"(3) ASSESSMENT.—Any penalty imposed under paragraph (1) shall be assessed, mitigated, and collected in the manner provided in subsections (b) and (c) of section 5321 of title 31, United States Code.".

(2) INSURED INSTITUTIONS.—Section 411 of the National Housing Act (12 U.S.C. 1730d) is amended—

(A) by striking out "The Secretary" and inserting in lieu thereof "(a) REGULATIONS.—The Secretary"; and

(B) by adding at the end thereof the following new subsection:

"(b) CIVIL PENALTIES.—

"(1) PENALTY IMPOSED.—Any insured institution and any director, officer, or employee of an insured institution who willfully or through gross negligence violates any regulation prescribed under subsection (a) of this section shall be liable to the United States for a civil penalty of not more than $10,000.

"(2) TREATMENT OF CONTINUING VIOLATION.—A separate violation of any regulation prescribed under subsection (a) of this section occurs for each day the violation continues and at each office, branch, or place of business at which such violation occurs.

"(3) ASSESSMENT.—Any penalty imposed under paragraph (1) shall be assessed, mitigated, and collected in the manner provided in subsections (b) and (c) of section 5321 of title 31, United States Code.".

(3) OTHER FINANCIAL INSTITUTIONS.—

(A) INSTITUTIONS SUBJECT TO RECORDKEEPING REQUIREMENT.—Section 123(b) of Public Law 91-508 (12 U.S.C. 1953(b)) is amended to read as follows:

"(b) INSTITUTIONS SUBJECT TO RECORDKEEPING REQUIREMENTS.—The authority of the Secretary of the Treasury under subsection (a) extends to any financial institution (as defined in section 5312(a)(2) of title 31, United States Code), other than any insured bank (as defined in section 3(h) of the Federal Deposit Insurance Act) and any insured institution (as defined in section 401(a) of the National Housing Act), and any partner, officer, director, or employee of any such financial institution.".

(B) CIVIL PENALTIES.—Section 125(a) of Public Law 91-508 (12 U.S.C. 1955(a)) is amended—

(i) by striking out "$1,000" and inserting in lieu thereof "$10,000";

(ii) by inserting "or grossly negligent" after "willful"; and

"(iii) by inserting "or through gross negligence" after "willfully".

(e) DELEGATION OF ENFORCEMENT POWER TO POSTAL SERVICE.—Section 5318(a)(1) of title 31, United States Code, is amended by inserting "and the Postal Service" after "appropriate supervising agency".

(f) CLERICAL AMENDMENT.—The table of sections for chapter 53 of title 31, United States Code, is amended by adding at the end thereof the following new items:

"5325. Identification required to purchase certain monetary instruments.
"5326. Records of certain domestic coin and currency transactions.".

(g) TECHNICAL CORRECTIONS.—

(1) Section 5312(a)(5) of title 31, United States Code, is amended—

(A) by inserting a comma after "Puerto Rico"; and

(B) by striking the second comma after "Pacific Islands".

(2) The first sentence of section 5321(a)(1) of title 31, United States Code, is amended by inserting "(if any)" after "transaction".

SEC. 6186. RIGHT TO FINANCIAL PRIVACY ACT AMENDMENTS.

(a) CLARIFICATION OF RIGHT OF FINANCIAL INSTITUTIONS TO REPORT SUSPECTED VIOLATIONS.—Section 1103(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3403(c)) is amended by inserting ", corporation," after "individual".

(b) TRANSFER BY GOVERNMENT AGENCY OF RECORDS TO ATTORNEY GENERAL FOR CRIMINAL INVESTIGATION.—Section 1112 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3412) is amended by adding at the end thereof the following new subsection:

"(f) TRANSFER TO ATTORNEY GENERAL.—

"(1) IN GENERAL.—Nothing in this title shall apply when financial records obtained by an agency or department of the United States are disclosed or transferred to the Attorney General upon the certification by a supervisory level official of the transferring agency or department that—

"(A) there is reason to believe that the records may be relevant to a violation of Federal criminal law; and

"(B) the records were obtained in the exercise of the agency's or department's supervisory or regulatory functions.

"(2) LIMITATION ON USE.—Records so transferred shall be used only for criminal investigative or prosecutive purposes by the Department of Justice and shall, upon completion of the investigation or prosecution (including any appeal), be returned only to the transferring agency or department.".

(c) FINANCIAL RECORDS OF INSIDERS.—Section 1113 of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3413) is amended by adding at the end thereof the following new subsection:

"(l) CRIMES AGAINST FINANCIAL INSTITUTIONS BY INSIDERS.—Nothing in this title shall apply when any financial institution or supervisory agency provides any financial record of any officer, director, employee, or controlling shareholder (within the meaning of subparagraph (A) or (B) of section 2(a)(2) of the Bank Holding Company Act of 1956 or subparagraph (A) or (B) of section 408(a)(2) of the National Housing Act) of such institution, or of any major borrower from such institution who there is reason to believe may be acting in concert with any such officer, director, employee, or controlling shareholder, to the Attorney General of the United States, to a State law enforcement agency, or, in the case of a possible violation of subchapter II of chapter 53 of title 31, United States Code, to the Secretary of the Treasury if there is reason to believe that such record is relevant to a possible violation by such person of—

"(1) any law relating to crimes against financial institutions or supervisory agencies by directors, officers, employees, or controlling shareholders of, or by borrowers from, financial institutions; or

"(2) any provision of subchapter II of chapter 53 of title 31, United States Code.".

(d) GOOD FAITH AS A DEFENSE FROM LIABILITY FOR DISCLOSURE OF FINANCIAL RECORDS OF INSIDERS.—Section 1117(c) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 3417(c)) is amended—

(1) by inserting "or pursuant to the provisions of section 1113(l)" after "certificate by any Government authority"; and

(2) by inserting before the period at the end thereof the following: "under this title, the constitution of any State, or any law or regulation of any State or any political subdivision of any State".

(e) EXCEPTION TO REQUIREMENT OF ACTUAL PRESENTATION OF FINANCIAL RECORDS TO GRAND JURY.—Section 1120(1) of the Right to Financial Privacy Act of 1978 (12 U.S.C. 1120(1)) is amended by inserting before the semicolon "unless the volume of such records makes such return and actual presentation impractical in which case the grand jury shall be provided with a description of the contents of the records.". 12 USC 3420.

SEC. 6187. STUDY OF WITHDRAWAL OF LEGAL TENDER STATUS OF $100 FEDERAL RESERVE NOTES.

(a) STUDY REQUIRED.—The Secretary of the Treasury, in consultation with appropriate law enforcement agencies, shall conduct a study of the feasibility of withdrawing the legal tender status of $100 Federal Reserve notes.

(b) FACTORS TO BE CONSIDERED.—The study conducted pursuant to subsection (a) by the Secretary of the Treasury shall include an analysis of the following factors:

(1) Whether $100 Federal Reserve notes are being used predominately for illegal activities, especially drug-related transactions.

(2) Whether withdrawing the legal tender status of $100 Federal Reserve notes would help deter such illegal activities.

(3) Whether withdrawing the legal tender status of $100 Federal Reserve notes would impair legitimate business transactions.

(4) Whether withdrawing the legal tender status of $50 Federal Reserve notes (in addition to the $100 notes) would result in even greater deterrence of illegal activities.

(c) REPORT REQUIRED.—Before the end of the 180-day period beginning on the date of the enactment of this Act, the Secretary of the Treasury shall submit a report to the Congress on the study conducted pursuant to subsection (a).

Subtitle F—Sense of Congress That Proposals To Legalize Illicit Drugs Should Be Rejected

SEC. 6201. SENSE OF CONGRESS THAT PROPOSALS TO LEGALIZE ILLICIT DRUGS SHOULD BE REJECTED.

It is the sense of Congress that—

(1) proposals to combat sale and use of illicit drugs by legalization should be rejected; and

(2) consideration should be given only to proposals to attack directly the supply of, and demand for, illicit drugs, such as proposals to strengthen and expand penalties for sale and use, proposals to encourage greater multinational cooperation in eradication and interdiction, and proposals to promote educational awareness programs for young people.

Subtitle G—Firearms Provisions

SEC. 6211. INTERDICTION OF SUPPLY OF FIREARMS TO DRUG TRAFFICKERS.

Section 924 of title 18, United States Code, is amended by adding at the end the following:

"(f) Whoever, with the intent to engage in conduct which—

"(1) constitutes an offense listed in section 1961(1),

"(2) is punishable under the Controlled Substances Act (21 U.S.C. 802 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.),

"(3) violates any State law relating to any controlled substance (as defined in section 102(6) of the Controlled Substances Act (21 U.S.C. 802(6))), or

"(4) constitutes a crime of violence (as defined in subsection (c)(3)),

travels from any State or foreign country into any other State and acquires, transfers, or attempts to acquire or transfer, a firearm in such other State in furtherance of such purpose, shall be imprisoned not more than 10 years, fined in accordance with this title, or both.

"(g) Whoever knowingly transfers a firearm, knowing that such firearm will be used to commit a crime of violence (as defined in

subsection (c)(3)) or drug trafficking crime (as defined in subsection (c)(2)) shall be imprisoned not more than 10 years, fined in accordance with this title, or both.".

SEC. 6212. CLARIFICATION OF DEFINITION OF DRUG TRAFFICKING CRIMES IN WHICH USE OR CARRYING OF FIREARMS AND ARMOR PIERCING AMMUNITION IS PROHIBITED.

Paragraph (2) of section 924(c) of title 18, United States Code, and paragraph (2) of section 929(a) of title 18, United States Code, are each amended to read as follows:

"(2) For purposes of this subsection, the term 'drug trafficking crime' means any felony punishable under the Controlled Substances Act (21 U.S.C. 801 et seq.), the Controlled Substances Import and Export Act (21 U.S.C. 951 et seq.), or the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.).".

18 USC 922 note.

SEC. 6213. IDENTIFICATION OF FELONS AND OTHER PERSONS INELIGIBLE TO PURCHASE HANDGUNS.

(a) IDENTIFICATION OF FELONS INELIGIBLE TO PURCHASE HANDGUNS.—The Attorney General shall develop a system for immediate and accurate identification of felons who attempt to purchase 1 or more firearms but are ineligible to purchase firearms by reason of section 922(g)(1) of title 18, United States Code. The system shall be accessible to dealers but only for the purpose of determining whether a potential purchaser is a convicted felon. The Attorney General shall establish a plan (including a cost analysis of the proposed system) for implementation of the system. In developing the system, the Attorney General shall consult with the Secretary of the Treasury, other Federal, State, and local law enforcement officials with expertise in the area, and other experts. The Attorney General shall begin implementation of the system 30 days after the report to the Congress as provided in subsection (b).

(b) REPORT TO CONGRESS.—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall report to the Congress a description of the system referred to in subsection (a) and a plan (including a cost analysis of the proposed system) for implementation of the system. Such report may include, if appropriate, recommendations for modifications of the system and legislation necessary in order to fully implement such system.

(c) ADDITIONAL STUDY OF OTHER PERSONS INELIGIBLE TO PURCHASE FIREARMS.—The Attorney General in consultation with the Secretary of the Treasury shall conduct a study to determine if an effective method for immediate and accurate identification of other persons who attempt to purchase 1 or more firearms but are ineligible to purchase firearms by reason of section 922(g) of title 18, United States Code. In conducting the study, the Attorney General shall consult with the Secretary of the Treasury, other Federal, State, and local law enforcement officials with expertise in the area, and other experts. Such study shall be completed within 18 months after the date of the enactment of this Act and shall be submitted to the Congress and made available to the public. Such study may include, if appropriate, recommendations for legislation.

(d) DEFINITIONS.—As used in this section, the terms "firearm" and "dealer" shall have the meanings given such terms in section 921(a) of title 18, United States Code.

SEC. 6214. REVOCATION OF PROBATION.

Section 3565 of title 18, United States Code, is amended—

(1) by redesignating subsection (b) as subsection (c); and

(2) by inserting after subsection (a) the following new subsection:

"(b) MANDATORY REVOCATION FOR POSSESSION OF A FIREARM.—If the defendant is in actual possession of a firearm, as that term is defined in section 921 of this title, at any time prior to the expiration or termination of the term of probation, the court shall, after a hearing pursuant to Rule 32.1 of the Federal Rules of Criminal Procedure, revoke the sentence of probation and impose any other sentence that was available under subchapter A at the time of the initial sentencing.".

SEC. 6215. PROHIBITION AGAINST FIREARMS AND DANGEROUS WEAPONS IN FEDERAL FACILITIES.

(a) IN GENERAL.—Chapter 44 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 930. Possession of firearms and dangerous weapons in Federal facilities

"(a) Except as provided in subsection (c), whoever knowingly possesses or causes to be present a firearm or other dangerous weapon in a Federal facility, or attempts to do so, shall be fined under this title or imprisoned not more than 1 year, or both.

"(b) Whoever, with intent that a firearm or other dangerous weapon be used in the commission of a crime, knowingly possesses or causes to be present such firearm or dangerous weapon in a Federal facility, or attempts to do so, shall be fined under this title or imprisoned not more than 5 years, or both.

"(c) Subsection (a) shall not apply to—

"(1) the lawful performance of official duties by an officer, agent, or employee of the United States, a State, or a political subdivision thereof, who is authorized by law to engage in or supervise the prevention, detection, investigation, or prosecution of any violation of law;

"(2) the possession of a firearm or other dangerous weapon by a Federal official or a member of the Armed Forces if such possession is authorized by law; or

"(3) the lawful carrying of firearms or other dangerous weapons in a Federal facility incident to hunting or other lawful purposes.

"(d) Nothing in this section limits the power of a court of the United States to punish for contempt or to promulgate rules or orders regulating, restricting, or prohibiting the possession of weapons within any building housing such court or any of its proceedings, or upon any grounds appurtenant to such building.

"(e) As used in this section:

"(1) The term 'Federal facility' means a building or part thereof owned or leased by the Federal Government, where Federal employees are regularly present for the purpose of performing their official duties.

"(2) The term 'dangerous weapon' means a weapon, device, instrument, material, or substance, animate or inanimate, that is used for, or is readily capable of, causing death or serious bodily injury, except that such term does not include a pocket knife with a blade of less than 2½ inches in length.

"(f) Notice of the provisions of subsections (a) and (b) shall be posted conspicuously at each public entrance to each Federal facility, and no person shall be convicted of an offense under subsection (a) with respect to a Federal facility if such notice is not so posted at such facility, unless such person had actual notice of subsection (a).".

(b) CLERICAL AMENDMENT.—The table of sections for chapter 44 of title 18, United States Code, is amended by adding at the end the following new item:

"930. Possession of firearms and dangerous weapons in Federal facilities.".

Subtitle H—Investigative Powers of Postal Service Personnel and National Forest System Drug Control

SEC. 6251. INVESTIGATIVE POWERS OF POSTAL SERVICE PERSONNEL.

(a) IN GENERAL.—Section 3061 of title 18, United States Code, is amended to read as follows:

"§ 3061. Investigative powers of Postal Service personnel

"(a) Subject to subsection (b) of this section, Postal Inspectors and other agents of the United States Postal Service designated by the Board of Governors to investigate criminal matters related to the Postal Service and the mails may—

"(1) serve warrants and subpoenas issued under the authority of the United States;

"(2) make arrests without warrant for offenses against the United States committed in their presence;

"(3) make arrests without warrant for felonies cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such a felony;

"(4) carry firearms; and

"(5) make seizures of property as provided by law.

"(b) The powers granted by subsection (a) of this section shall be exercised only—

"(1) in the enforcement of laws regarding property in the custody of the Postal Service, property of the Postal Service, the use of the mails, and other postal offenses; and

"(2) to the extent authorized by the Attorney General pursuant to agreement between the Attorney General and the Postal Service, in the enforcement of other laws of the United States, if the Attorney General determines that violations of such laws have a detrimental effect upon the operations of the Postal Service.".

(b) CLERICAL AMENDMENT.—The item relating to section 3061 in the table of sections of chapter 203 of title 18, United States Code, is amended to read as follows:

"3061. Investigative powers of Postal Service personnel.".

SEC. 6252. POSTAL SERVICE FUND AMENDMENTS.

Section 2003(b)(7) of title 39, United States Code, is amended—

(1) by striking out "administrative"; and

(2) by striking out "under title 18".

SEC. 6253. CIVIL FORFEITURE AUTHORITY OF THE POSTAL SERVICE UNDER THE CONTROLLED SUBSTANCES ACT.

(a) IN GENERAL.—Section 511 of the Controlled Substances Act (21 U.S.C. 881), as amended by section 6159, is further amended by adding at the end the following new subsection:

"(l) The functions of the Attorney General under this section shall be carried out by the Postal Service pursuant to such agreement as may be entered into between the Attorney General and the Postal Service.".

(b) DEPOSITS OF PROCEEDS IN POSTAL SERVICE FUND.—Section 511(e)(2)(B) of the Controlled Substances Act (21 U.S.C. 881(e)(2)(B)) is amended by striking out the period at the end and inserting in lieu thereof the following: ", except that, with respect to forfeitures conducted by the Postal Service, the Postal Service shall deposit in the Postal Service Fund, under section 2003(b)(7) of title 39, United States Code, such moneys and proceeds.".

SEC. 6254. NATIONAL FOREST SYSTEM, NATIONAL PARK SYSTEM, AND BUREAU OF LAND MANAGEMENT PUBLIC LANDS SAFETY.

16 USC 559b note.

(a) FINDINGS.—Congress finds that—

(1) National Forest System lands continue to be a haven for the unlawful production of marijuana and other controlled substances, which—

(A) endangers the public in its use of National Forest System lands;

(B) interferes with the ability of the Forest Service to effectively manage the natural resources and activities within the National Forest System; and

(C) causes damage and destruction of the natural resources and facilities managed by the Forest Service;

(2) the unlawful production of marijuana and other controlled substances often—

(A) is generally harmful to the environment and public health and safety;

(B) pollutes the air, soil, and water; and

(C) is harmful to wildlife;

(3) the Forest Service needs additional authority to adequately deal with the problem of controlled substance production that affects the administration of the National Forest System;

(4) the Forest Service needs to be able to exercise its investigative authorities outside the boundaries of the National Forest System for drug-related crimes arising from within the National Forest System in order to be effective in deterring such crime;

(5) the authority and powers of the Forest Service are not intended to be in conflict or interfere with the statutory authority, powers, or responsibilities of any State or political subdivision thereof; and

(6) the Forest Service, in the exercise of its law enforcement powers, should cooperate to every extent possible with any other Federal, State, or local law enforcement authority having jurisdiction in areas where national forests are located, particularly where coordinated investigative and enforcement actions can be effective to control crime which affects multiple agencies.

(b) POWERS.—Section 15003 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559c) is amended—

(1) in the matter preceding paragraph (1)—

(A) by striking out "500 officers and employees" and inserting in lieu thereof "1,000 special agents and law enforcement officers"; and

(B) by striking out "within the boundaries of the National Forest System";

(2) in paragraph (2)—

(A) by inserting after "conduct" the following: ", within the exterior boundaries of the National Forest System,"; and

(B) by inserting before the semicolon at the end thereof the following: "and to conduct such investigations and enforcement of such laws outside the exterior boundaries of the National Forest System for offenses committed within the National Forest System or which affect the administration of the National Forest System (including the pursuit of persons suspected of such offenses who flee the National Forest System to avoid arrest)"; and

(3) in paragraph (3), by inserting before the semicolon at the end thereof the following: ", for offenses committed within the National Forest System or which affect the administration of the National Forest System;".

(c) COOPERATION.—Section 15004 of the National Forest System Drug Control Act of 1986 (16 U.S.C. 559d) is amended—

(1) in paragraph (1), by striking out "and" at the end thereof;

(2) in paragraph (2), by striking out ", within the boundaries of the National Forest System." and inserting in lieu thereof "for offenses committed within the National Forest System or which affect the administration of the National Forest System."; and

(3) by adding at the end thereof the following new paragraphs:

"(3) the Forest Service shall cooperate with the Attorney General in carrying out the seizure and forfeiture provisions of section 511 of the Controlled Substances Act (21 U.S.C. 881) for violations of the Controlled Substances Act relating to offenses committed within the National Forest System, or which affect the administration of the National Forest System;

"(4) the Secretary is authorized to designate law enforcement officers of any other Federal agency, when the Secretary determines such designation to be economical and in the public interest, and with the concurrence of that agency, to exercise the powers and authorities of the Forest Service while assisting the Forest Service in the National Forest System, or for activities administered by the Forest Service; and

"(5) the Forest Service is authorized to accept law enforcement designation from any other Federal agency or agency of a State or political subdivision thereof for the purpose of cooperating in a multi-agency law enforcement task force investigation of violations of the Controlled Substances Act and other offenses committed in the course of or in connection with such violations.".

(d) AUTHORIZATION OF APPROPRIATIONS.—

(1) NATIONAL FOREST SYSTEM.—Section 15006 of title XV of the Anti-Drug Abuse Act of 1986 (16 U.S.C. 559e) is amended to read as follows:

"SEC. 15006. FOREST SERVICE AUTHORIZATION. 16 USC 559e.

"In order to improve Federal law enforcement activities relating to the use and production of narcotics and controlled substances on lands administered by the Forest Service, from amounts appropriated there shall be made available to the Secretary, in addition to sums made available under other authority of law, $10,000,000 for fiscal year 1989, and for each fiscal year thereafter, to be used for employment and training of additional and existing Forest Service law enforcement personnel, for expenses related to such employment, training, equipment, and facilities, and for cooperative programs with State and local law enforcement agencies.".

(2) NATIONAL PARK SERVICE POLICE.—Section 5052 of title V of the Anti-Drug Abuse Act of 1986 (16 U.S.C. 1 note) is amended to read as follows:

"SEC. 5052. NATIONAL PARK AUTHORIZATION.

"In order to improve Federal law enforcement activities relating to the use and production of narcotics and controlled substances in National Park System units, from amounts appropriated there shall be made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $3,000,000 for fiscal year 1989, and for each fiscal year thereafter, to be used for the employment and training of officers or employees of the Department of the Interior designated pursuant to section 10(b) of the Act of August 18, 1970 (16 U.S.C. 1a-6), for equipment and facilities to be used by such personnel, and for expenses related to such employment, training, equipment, and facilities.".

(3) BUREAU OF LAND MANAGEMENT.—Title V of the Anti-Drug Abuse Act of 1986 is amended by adding at the end thereof the following new subtitle:

"Subtitle C—Bureau of Land Management Program

Bureau of Land Management Drug Enforcement Supplemental Authority Act. 43 USC 2 note.

"SEC. 5061. SHORT TITLE.

"This subtitle may be cited as the 'Bureau of Land Management Drug Enforcement Supplemental Authority Act'.

"SEC. 5062. BUREAU OF LAND MANAGEMENT AUTHORIZATION.

"In order to improve Federal law enforcement activities relating to the use and production of narcotics and controlled substances on Bureau of Land Management public lands, from amounts appropriated there are made available to the Secretary of the Interior, in addition to sums made available under other authority of law, $1,500,000 for fiscal year 1989, and for each fiscal year thereafter, to be used for the employment and training of additional and existing personnel, for equipment and facilities to be used by such personnel, and for expenses related to such employment, training, equipment, and facilities.".

(e) DESIGNATION OF AUTHORITY.—The National Forest System Drug Control Act of 1986 is amended by inserting after section 15007 (16 U.S.C. 559f) the following new section:

"SEC. 15008. DESIGNATION AUTHORITY OF SECRETARY OF AGRICULTURE. 16 USC 559g.

"(a) PURPOSE.—It is the purpose of this section to authorize the Secretary of Agriculture to make law enforcement operations more efficient in connection with the administration and use of the National Forest System.

"(b) OFFICERS OF OTHER AGENCIES.—The Secretary is authorized to designate law enforcement officers of any other Federal agency, when the Secretary determines such designation to be economical and in the public interest, and with the concurrence of that agency, to exercise the powers and authorities of the Forest Service while assisting the Forest Service in the National Forest System, or for activities administered by the Forest Service.

"(c) ACCEPTANCE BY FOREST SERVICE.—The Forest Service is authorized to accept law enforcement designation from any other Federal agency or agency of a State or political subdivision thereof for the purpose of cooperating in the investigation and enforcement of any Federal or State law or ordinance and regulation of any such agency, when such investigation or enforcement is mutually beneficial to the National Forest System and the cooperating agency or jurisdiction, upon entering into a memorandum of understanding or cooperative agreement with such agency or jurisdiction.".

(f) CRIMINAL PENALTY FOR PLACING HAZARDOUS OR INJURIOUS DEVICES ON FEDERAL LANDS.—Chapter 91 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 1864. Hazardous or injurious devices on Federal lands

"(a) Whoever—

"(1) with the intent to violate the Controlled Substances Act,

"(2) with the intent to obstruct or harass the harvesting of timber, or

"(3) with reckless disregard to the risk that another person will be placed in danger of death or bodily injury and under circumstances manifesting extreme indifference to such risk,

uses a hazardous or injurious device on Federal land, on an Indian reservation, or on an Indian allotment while the title to such allotment is held in trust by the United States or while such allotment remains inalienable by the allottee without the consent of the United States shall be punished under subsection (b).

"(b) An individual who violates subsection (a) shall—

"(1) if death of an individual results, be fined under this title or imprisoned for any term of years or for life, or both;

"(2) if serious bodily injury to any individual results, be fined under this title or imprisoned for not more than twenty years, or both;

"(3) if bodily injury to any individual results, be fined under this title or imprisoned for not more than ten years, or both;

"(4) if damage exceeding $10,000 to the property of any individual results, be fined under this title or imprisoned for not more than ten years, or both; and

"(5) in any other case, be fined under this title or imprisoned for not more than one year.

"(c) Any individual who is punished under subsection (b)(3), (4), or (5) after one or more prior convictions under any such subsection shall be fined under this title or imprisoned for not more than ten years, or both.

"(d) As used in this section—

"(1) the term 'serious bodily injury' means bodily injury which involves—

"(A) a substantial risk of death;

"(B) extreme physical pain;

"(C) protracted and obvious disfigurement; and

"(D) protracted loss or impairment of the function of bodily member, organ, or mental faculty; and

"(2) the term 'bodily injury' means—

"(A) a cut, abrasion, bruise, burn, or disfigurement;

"(B) physical pain;

"(C) illness;

"(D) impairment of the function of a bodily member, organ, or mental faculty; or

"(E) any other injury to the body, no matter how temporary.

"(3) the term 'hazardous or injurious device' means a device, which when assembled or placed, is capable of causing bodily injury, or damage to property, by the action of any person making contact with such device subsequent to the assembly or placement. Such term includes guns attached to trip wires or other triggering mechanisms, ammunition attached to trip wires or other triggering mechanisms, or explosive devices attached to trip wires or other triggering mechanisms, sharpened stakes, lines or wires, lines or wires with hooks attached, nails placed so that the sharpened ends are positioned in an upright manner, or tree spiking devices including spikes, nails, or other objects hammered, driven, fastened, or otherwise placed into or on any timber, whether or not severed from the stump.".

(g) CLERICAL AMENDMENT.—The table of sections for chapter 91 of title 18, United States Code, is amended by adding at the end the following new item:

"1864. Hazardous or injurious devices on Federal lands.".

(h) CRIMINAL PENALTY FOR POLLUTING FEDERAL LANDS.—Section 401(b) of the Controlled Substances Act (21 U.S.C. 841(b)) is amended by adding at the end the following new paragraph:

"(6) Any person who violates subsection (a), or attempts to do so, and knowingly or intentionally uses a poison, chemical, or other hazardous substance on Federal land, and, by such use—

"(A) creates a serious hazard to humans, wildlife, or domestic animals,

"(B) degrades or harms the environment or natural resources, or

"(C) pollutes an aquifer, spring, stream, river, or body of water,

shall be fined in accordance with title 18, United States Code, or imprisoned not more than five years, or both.".

(i) DRUG POLLUTION FUND.—Section 516 of the Controlled Substances Act (21 U.S.C. 886) is amended by adding at the end the following new subsection:

"(d)(1) There is established in the Treasury a trust fund to be known as the 'Drug Pollution Fund' (hereinafter referred to in this subsection as the 'Fund'), consisting of amounts appropriated or credited to such Fund under section 401(b)(6).

"(2) There are hereby appropriated to the Fund amounts equivalent to the fines imposed under section 401(b)(6).

"(3) Amounts in the Fund shall be available, as provided in appropriations Acts, for the purpose of making payments in accordance with paragraph (4) for the clean up of certain pollution resulting from the actions referred to in section 401(b)(6).

"(4)(A) The Secretary of the Treasury, after consultation with the Attorney General, shall make payments under paragraph (3), in

such amounts as the Secretary determines appropriate, to the heads of executive agencies or departments that meet the requirements of subparagraph (B).

"(B) In order to receive a payment under paragraph (3), the head of an executive agency or department shall submit an application in such form and containing such information as the Secretary of the Treasury shall by regulation require. Such application shall contain a description of the fine imposed under section 401(b)(6), the circumstances surrounding the imposition of such fine, and the type and severity of pollution that resulted from the actions to which such fine applies.

"(5) For purposes of subchapter B of chapter 98 of the Internal Revenue Code of 1986, the Fund established under this paragraph shall be treated in the same manner as a trust fund established under subchapter A of such chapter.".

(j) ARSON INVOLVING TIMBER.—The first undesignated paragraph of section 1855 of title 18, United States Code, is amended by striking out "not more than $5,000" and inserting in lieu thereof "under this title".

(k) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General and the Secretary of Agriculture shall each prepare and submit, to the Committee on Agriculture, the Committee on Interior and Insular Affairs, and the Committee on the Judiciary of the House of Representatives, and to the Committee on Agriculture, Nutrition, and Forestry, the Committee on Energy and Natural Resources, and the Committee on the Judiciary of the Senate, a report concerning the activities of the Attorney General and the Secretary of Agriculture in expediting investigations referred to in section 15003(2) of the National Forest Systems Drug Control Act of 1986 (16 U.S.C. 559c(2)).

Subtitle I—Travel Expenses and Health Care of Department of Justice Personnel Serving Abroad

SEC. 6281. AUTHORIZATION OF APPROPRIATIONS FOR TRAVEL AND RELATED EXPENSES AND FOR HEALTH CARE OF DEPARTMENT OF JUSTICE PERSONNEL SERVING ABROAD.

(a) IN GENERAL.—Chapter 31 of title 28, United States Code, is amended by adding at the end the following new section:

"§ 530A. Authorization of appropriations for travel and related expenses and for health care of personnel serving abroad

"There are authorized to be appropriated, for any fiscal year, for the Department of Justice, such sums as may be necessary—

"(1) for travel and related expenses of employees of the Department of Justice serving abroad and their families, to be payable in the same manner as applicable with respect to the Foreign Service under paragraphs (3), (5), (6), (8), (9), (11), and (15) of section 901 of the Foreign Service Act of 1980, and under the regulations issued by the Secretary of State; and

"(2) for health care for such employees and families, to be provided under section 904 of that Act.".

(b) CLERICAL AMENDMENT.—The table of section for chapter 31 of title 28, United States Code, is amended by adding at the end the following new item:

"530A. Authorization of appropriations for travel and related expenses and for health care of personnel serving abroad.".

Subtitle J—Program-Related and Study Provisions

SEC. 6291. ENHANCEMENT OF THE DRUG AFTERCARE PROGRAM OF THE ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.

Section 4(a) of the Contract Services for Drug Dependent Federal Offenders Act of 1978 (18 U.S.C. 4255 note) is amended by—

(1) striking out "$14,000,000" and inserting "$24,000,000" in lieu thereof, and

(2) striking out "$16,000,000" and inserting "$26,000,000" in lieu thereof.

SEC. 6292. NATIONAL TRAINING CENTER FOR PRISON DRUG REHABILITATION PROGRAM PERSONNEL.

18 USC 4352 note.

(a) IN GENERAL.—The Director of the National Institute of Corrections, in consultation with persons with expertise in the field of community-based drug rehabilitation, shall establish and operate, at any suitable location, a national training center (hereinafter in this section referred to as the "center") for training Federal, State, and local prison or jail officials to conduct drug rehabilitation programs for criminals convicted of drug-related crimes and for drug-dependent criminals. Programs conducted at the center shall include training for correctional officers, administrative staff, and correctional mental health professionals (including subcontracting agency personnel).

(b) DESIGN AND CONSTRUCTION OF FACILITIES.—The Director of the National Institute of Corrections shall design and construct facilities for the center.

(c) AUTHORIZATION OF APPROPRIATIONS.—In addition to amounts otherwise authorized to be appropriated with respect to the National Institute of Corrections, there are authorized to be appropriated to the Director of the National Institute of Corrections—

(1) for establishment and operation of the center, for curriculum development for the center, and for salaries and expenses of personnel at the center, not more than $4,000,000 for each of fiscal years 1989, 1990, and 1991; and

(2) for design and construction of facilities for the center, not more than $10,000,000 for fiscal years 1989, 1990, and 1991.

SEC. 6293. STUDY OF ALTERNATIVE JUDICIAL SYSTEM.

The Attorney General shall study the feasibility of prosecuting Federal drug-related offenses in a manner alternative or supplemental to the current criminal justice system. The Attorney General shall report the results of such study to Congress not later than 180 days after the date of the enactment of this Act.

Subtitle K—Manufacturing Offenses

SEC. 6301. CRIMINAL PENALTY FOR ENDANGERING HUMAN LIFE WHILE ILLEGALLY MANUFACTURING A CONTROLLED SUBSTANCE.

(a) IN GENERAL.—Part D of the Controlled Substances Act is amended by adding at the end the following new section:

"ENDANGERING HUMAN LIFE WHILE ILLEGALLY MANUFACTURING A CONTROLLED SUBSTANCE

21 USC 858.

"SEC. 417. Whoever, while manufacturing a controlled substance in violation of this title, or attempting to do so, or transporting or causing to be transported materials, including chemicals, to do so, creates a substantial risk of harm to human life shall be fined in accordance with title 18, United States Code, or imprisoned not more than 10 years, or both.".

(b) CLERICAL AMENDMENT.—The table of contents of the Comprehensive Drug Abuse Prevention and Control Act of 1970 is amended by adding at the end of the items relating to part D of title II the following new items:

"416. Establishment of manufacturing operations.
"417. Endangering human life while illegally manufacturing a controlled substance.".

Subtitle L—Serious Crack Possession Offenses

SEC. 6371. INCREASED PENALTIES FOR CERTAIN SERIOUS CRACK POSSESSION OFFENSES.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended by inserting after the second sentence the following new sentence: "Notwithstanding the preceding sentence, a person convicted under this subsection for the possession of a mixture or substance which contains cocaine base shall be fined under title 18, United States Code, or imprisoned not less than 5 years and not more than 20 years, or both, if the conviction is a first conviction under this subsection and the amount of the mixture or substance exceeds 5 grams, if the conviction is after a prior conviction for the possession of such a mixture or substance under this subsection becomes final and the amount of the mixture or substance exceeds 3 grams, or if the conviction is after 2 or more prior convictions for the possession of such a mixture or substance under this subsection become final and the amount of the mixture or substance exceeds 1 gram.".

Subtitle M—Miscellaneous Drug Enforcement

5 USC 5541 note.

SEC. 6401. PAYMENT OF BONUSES FOR FOREIGN LANGUAGE CAPABILITIES.

Notwithstanding any other provision of law, the Drug Enforcement Administration and the Federal Bureau of Investigation are authorized on and after October 1, 1988, to pay bonuses up to 25 percent of base pay to employees of the Drug Enforcement Administration and the Federal Bureau of Investigation who possess and make substantial use of one or more languages, other than English,

in the performance of their official duties. The Administrator of the Drug Enforcement Administration and the Director of the Federal Bureau of Investigation shall develop such policies as necessary to implement the payment of these bonuses.

Subtitle N—Sundry Criminal Provisions

SEC. 6451. VIOLENT FELONIES BY JUVENILES.

Section 924(e) of title 18, United States Code, is amended—

(1) in paragraph (e)(2)(B), by inserting ", or any act of juvenile delinquency involving the use or carrying of a firearm, knife, or destructive device that would be punishable by imprisonment for such term if committed by an adult," after "one year"; and

(2) by adding at the end thereof the following:

"(C) the term 'conviction' includes a finding that a person has committed an act of juvenile delinquency involving a violent felony.".

SEC. 6452. LIFE IN PRISON FOR THREE-TIME DRUG OFFENDER.

(a) PENALTY FOR THIRD OFFENSE.—Section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) is amended—

(1) in the sentence beginning "If any person commits" by striking "one or more prior convictions" through "have become final" and inserting "a prior conviction for a felony drug offense has become final"; and

(2) adding after such sentence the following: "If any person commits a violation of this subparagraph or of section 405, 405A, or 405B after two or more prior convictions for a felony drug offense have become final, such person shall be sentenced to a mandatory term of life imprisonment without release and fined in accordance with the preceding sentence. For purposes of this subparagraph, the term 'felony drug offense' means an offense that is a felony under any provision of this title or any other Federal law that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances or a felony under any law of a State or a foreign country that prohibits or restricts conduct relating to narcotic drugs, marihuana, or depressant or stimulant substances.".

(b) CONFORMING AMENDMENTS.—(1) Sections 405(b), 405A(b) and 405B(c) of the Controlled Substances Act (21 U.S.C. 845(b), 845a(b), and 845b(c)) are amended—

(A) by striking "a prior conviction or convictions" and inserting "a prior conviction", and

(B) by inserting at the end thereof the following: "Penalties for third and subsequent convictions shall be governed by section 401(b)(1)(A).".

(2) Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by striking "or subsequent" from the caption.

SEC. 6453. PENALTIES FOR IMPORTATION BY AIRCRAFT AND OTHER VESSELS.

28 USC 994 note.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 1010(a) of the Controlled

Substances Import and Export Act (21 U.S.C. 960(a)) under circumstances in which—

(1) an aircraft other than a regularly scheduled commercial air carrier was used to import the controlled substance; or

(2) the defendant acted as a pilot, copilot, captain, navigator, flight officer, or any other operation officer aboard any craft or vessel carrying a controlled substance,

shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(A) two levels greater than the level that would have been assigned had the offense not been committed under circumstances set forth in (A) or (B) above; and

(B) in no event less than level 26.

(b) EFFECT OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

28 USC 994 note.

SEC. 6454. ENHANCED PENALTIES FOR OFFENSES INVOLVING CHILDREN.

(a) IN GENERAL.—Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating sections 405, 405A, or 405B of the Controlled Substances Act (21 U.S.C. 845, 845a or 845b) involving a person under 18 years of age shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) two levels greater than the level that would have been assigned for the underlying controlled substance offense; and

(2) in no event less than level 26.

(b) EFFECTS OF AMENDMENT.—If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (a) so as to achieve a comparable result.

(c) MULTIPLE ENHANCEMENTS.—The guidelines referred to in subsection (a), as promulgated or amended under such subsection, shall provide that an offense that could be subject to multiple enhancements pursuant to such subsection is subject to not more than one such enhancement.

SEC. 6455. EXCEPTION TO MANDATORY MINIMUM PENALTY FOR FIRST OFFENSE.

Section 405(a) of the Controlled Substances Act (21 U.S.C. 845(a)) is amended by inserting at the end the following: "The mandatory minimum sentencing provisions of this subsection shall not apply to offenses involving 5 grams or less of marihuana.".

SEC. 6456. ELIMINATION OF EXCEPTION TO MANDATORY MINIMUM FOR SECOND OFFENSES.

Section 405(b) of the Controlled Substances Act (21 U.S.C. 845(b)) is amended by striking "The mandatory minimum sentencing provisions of this paragraph shall not apply to offenses involving 5 grams or less of marihuana.".

SEC. 6457. POSSESSION WITH INTENT TO DISTRIBUTE WITHIN 1,000 FEET OF A SCHOOLYARD.

Sections 405A (a) and (b) of the Controlled Substances Act (21 U.S.C. 845a (a) and (b)) are amended by inserting ", possessing with intent to distribute," after "distributing".

SEC. 6458. PLAYGROUNDS, YOUTH CENTERS, SWIMMING POOLS AND VIDEO ARCADES.

(a) Sections 405A (a) and (b) of the Controlled Substances Act (21 U.S.C. 845a (a) and (b)) are amended by inserting ", or within 100 feet of a playground, public or private youth center, public swimming pool, or video arcade facility," after "university".

(b) Section 405A of the Controlled Substances Act (21 U.S.C. 845a) is amended by adding at the end thereof the following subsection:

"(d) For the purposes of this section—

"(1) The term 'playground' means any outdoor facility (including any parking lot appurtenant thereto) intended for recreation, open to the public, and with any portion thereof containing three or more separate apparatus intended for the recreation of children including, but not limited to, sliding boards, swingsets, and teeterboards.

"(2) The term 'youth center' means any recreational facility and/or gymnasium (including any parking lot appurtenant thereto), intended primarily for use by persons under 18 years of age, which regularly provides athletic, civic, or cultural activities.

"(3) The term 'video arcade facility' means any facility, legally accessible to persons under 18 years of age, intended primarily for the use of pinball and video machines for amusement containing a minimum of ten pinball and/or video machines.

"(4) The term 'swimming pool' includes any parking lot appurtenant thereto.".

SEC. 6459. APPLICATION OF MANDATORY MINIMUM PENALTIES TO PURCHASE OF CONTROLLED SUBSTANCES FROM MINORS.

Section 405b(a) of the Controlled Substances Act (21 U.S.C. 845b(a)) is amended by—

(1) striking "or" after the semicolon in paragraph (1);

(2) striking the period at the end of paragraph (2) and inserting "; or"; and

(3) adding at the end thereof the following:

"(3) receive a controlled substance from a person under 18 years of age, other than an immediate family member, in violation of this title or title III.".

SEC. 6460. ENHANCED PENALTIES FOR USE OF CERTAIN WEAPONS IN CONNECTION WITH A CRIME OF VIOLENCE OR DRUG TRAFFICKING CRIME.

Subsection (c)(1) of section 924 of title 18, United States Code, is amended—

(1) in the first sentence, by striking "ten years" and inserting "thirty years"; and

(2) in the second sentence—

(A) by striking "ten years" and inserting "twenty years"; and

(B) by striking "20 years" and inserting "life imprisonment without release".

SEC. 6461. INCLUSION OF FEDERAL FIREARMS VIOLATIONS AS PREDICATE WIRETAP OFFENSES.

Section 2516(1) of title 18, United States Code, is amended by adding at the end thereof the following:

"(m) any felony violation of sections 922 and 924 of title 18, United States Code (relating to firearms); and

"(n) any violation of section 5861 of the Internal Revenue Code of 1986 (relating to firearms).".

SEC. 6462. INCREASED PENALTIES FOR CERTAIN FIREARMS OFFENSES.

Section 924(a) of title 18, United States Code, is amended by—

(1) inserting "or 3" after "paragraph 2" in paragraph (1);

(2) striking out "(g), (i), (j)," in subparagraph (a)(1)(B);

(3) redesignating subsection (a)(2) as subsection (a)(3); and

(4) inserting a new subsection (a)(2) to read as follows:

"(2) Whoever knowingly violates subsections (d), (g), (h), (i), (j), or (o) of section 922 shall be fined as provided in this title, imprisoned not more than 10 years or both.".

SEC. 6463. MONEY LAUNDERING FORFEITURES.

(a) CIVIL FORFEITURE.—Section 981(a)(1) of title 18, United States Code, is amended—

(1) by striking out subparagraph (A) and inserting in lieu thereof the following:

Real property.

"(A) Any property, real or personal, involved in a transaction or attempted transaction in violation of section 5313(a) or 5324 of title 31, or of section 1956 or 1957 of this title, or any property traceable to such property. However, no property shall be seized or forfeited in the case of a violation of section 5313(a) of title 31 by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, or employee thereof."; and

(2) by striking out subparagraph (C).

(b) CONFORMING AMENDMENT.—Section 981(b) of title 18, United States Code, is amended by striking out "involved in a violation of section 1956 or 1957 of this title investigated by the Secretary of the Treasury, and any property subject to forfeiture under subsection (a)(1)(C) of this section" and inserting in lieu thereof "involved in a violation of section 5313(a) or 5324 of title 31 or of section 1956 or 1957 of this title investigated by the Secretary of the Treasury".

(c) CRIMINAL FORFEITURE.—Section 982(a) of title 18, United States Code, is amended to read as follows:

"(a) The court, in imposing sentence on a person convicted of an offense in violation of section 5313(a) or 5324 of title 31, or of section 1956 or 1957 of this title, shall order that the person forfeit to the United States any property, real or personal, involved in such offense, or any property traceable to such property. However, no property shall be seized or forfeited in the case of a violation of section 5313(a) of title 31 by a domestic financial institution examined by a Federal bank supervisory agency or a financial institution regulated by the Securities and Exchange Commission or a partner, director, or employee thereof.".

SEC. 6464. FORFEITURE OF SUBSTITUTE ASSETS FOR MONEY LAUNDERING OFFENSE.

Section 982(b) of title 18, United States Code, is amended—

(1) by striking "(o)" both places it appears, and inserting "(p)" in lieu thereof; and

(2) by adding at the end the following: "However, the substitution of assets provisions of subsection 413(p) shall not be used to order a defendant to forfeit assets in place of the actual property laundered where such defendant acted merely as an intermediary who handled but did not retain the property in the course of the money laundering offense.".

SEC. 6465. UNDERCOVER "STING" OPERATIONS IN MONEY LAUNDERING CASES.

Section 1956(a) of title 18, United States Code, is amended by inserting after paragraph (a)(2) the following new paragraph:

"(3) Whoever, with the intent—

"(A) to promote the carrying on of specified unlawful activity;

"(B) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or

"(C) to avoid a transaction reporting requirement under State or Federal law,

conducts or attempts to conduct a financial transaction involving property represented by a law enforcement officer to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, shall be fined under this title or imprisoned for not more than 20 years, or both. For purposes of this paragraph, the term 'represented' means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a Federal official authorized to investigate or prosecute violations of this section.".

SEC. 6466. SPECIFIED UNLAWFUL ACTIVITY.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) inserting "section 542 (relating to entry of goods by means of false statements)," after "securities of States and private entities),";

(2) inserting "section 549 (relating to removing goods from Customs custody)," after "smuggling goods into the United States),"; and

(3) inserting "section 2319 (relating to copyright infringement), section 310 of the Controlled Substances Act (21 U.S.C. 830) (relating to precursor and essential chemicals), section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling), section 1822 of the Mail Order Drug Paraphernalia Control Act (100 Stat. 3207-51; 21 U.S.C. 857) (relating to transportation of drug paraphenalia)," after "postal robbery and theft) of this title,".

SEC. 6467. MINORS CONVICTED OF DRUG TRAFFICKING.

(a) DELINQUENCY PROCEEDINGS.—Section 5032 of title 18, United States Code, is amended—

(1) in the first undesignated paragraph, by striking out "section 841, 952(a), 955, or 959 of title 21," and inserting in lieu thereof "section 401 of the Controlled Substances Act (21 U.S.C

841), or section 1002(a), 1003, 1005, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 955, 959, 960(b) (1), (2), (3)), or section 922(p) of this title,"; and

(2) in the fourth undesignated paragraph—

(A) by striking out "section 841, 952(a), 955, or 959 of title 21," and inserting in lieu thereof "section 401 of the Controlled Substances Act (21 U.S.C. 841), or section 1002(a), 1005, or 1009 of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 955, 959),"; and

(B) by inserting after "2275 of this title," the following: "subsection (b)(1) (A), (B), or (C), (d), or (e) of section 401 of the Controlled Substances Act, or section 1002(a), 1003, 1009, or 1010(b) (1), (2), or (3) of the Controlled Substances Import and Export Act (21 U.S.C. 952(a), 953, 959, 960(b) (1), (2), (3)),".

(b) SURRENDER TO STATE AUTHORITIES.—The first undesignated paragraph of section 5001 of title 18, United States Code, is amended by inserting before the period at the end thereof the following: ", unless such surrender is precluded under section 5032 of this title".

SEC. 6468. DRUG OFFENSES WITHIN FEDERAL PRISONS.

(a) TWENTY YEAR MAXIMUM PENALTY.—Section 1791(b) of title 18, United States Code, is amended—

(1) by redesignating paragraphs (1) through (4) as (2) through (5), respectively;

(2) by inserting before paragraph (2), as so redesignated, the following new paragraph (1):

"(1) imprisonment for not more than 20 years, or both, if the object is specified in subsection (d)(1)(C) of this section;"; and

(3) in paragraph (3), as so redesignated, by striking "or (c)(1)(C)".

(b) CONSECUTIVE SENTENCES.—Section 1791 of title 18, United States Code, is further amended—

(1) by redesignating subsection (c) as subsection (d); and

(2) by inserting after subsection (b) the following new subsection (c):

"(c) Any punishment imposed under subsection (b) for a violation of this section by an inmate of a prison shall be consecutive to the sentence being served by such inmate at the time the inmate commits such violation.".

28 USC 994 note.

(c) Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that a defendant convicted of violating section 1791(a)(1) of title 18, United States Code, and punishable under section 1791(b)(1) of that title as so redesignated, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is—

(1) two levels greater than the level that would have been assigned had the offense not been committed in prison; and

(2) in no event less than level 26.

(d) If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in subsection (c) so as to achieve a comparable result.

SEC. 6469. AUTHORIZATION OF POSTAL SERVICE TO INVESTIGATE MONEY LAUNDERING.

(a) JURISDICTION.—(1) Section 1956 of title 18, United States Code, is amended by striking all that follows "appropriate" in subsection (e) and inserting the following: "and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General."

(2) Section 1957 of title 18, United States Code, is amended by striking all that follows "appropriate" in subsection (e) and inserting the following: "and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General.".

(b) CONFORMING AMENDMENTS.—Section 981 of title 18, United States Code, is amended by—

(1) inserting "or the Postal Service" in subsection (b) following "Secretary of the Treasury" the first two times it appears;

(2) striking "the Attorney General or the Secretary of the Treasury" in subsections (b)(2) and (c) through (e) and inserting "the Attorney General, the Secretary of the Treasury, or the Postal Service";

(3) adding at the end of subsection (d) the following: "The Attorney General shall have sole responsibility for disposing of petitions for remission or mitigation with respect to property involved in a judicial forfeiture proceeding"; and

(4) adding at the end of subsection (e) the following: "The authority granted to the Secretary of the Treasury and the Postal Service pursuant to this subsection shall apply only to property that has been administratively forfeited.".

(c) POWERS OF THE SECRETARY.—Section 5318(a)(1) of title 31, United States Code, is amended by inserting "or the Postal Inspection Service" after "supervising agency".

SEC. 6470. CONTROLLED SUBSTANCES AND RELATED AMENDMENTS.

(a) ATTEMPT AND CONSPIRACY AMENDMENTS.—Section 406 of the Controlled Substance Act (21 U.S.C. 846) and section 1013 of the Controlled Substances Import and Export Act (21 U.S.C. 963) are amended by striking "is punishable" and all that follows through "punishment" and inserting "shall be subject to the same penalties as those".

(b) CLARIFYING AMENDMENTS RELATING TO FORFEITURE OF PROCEEDS OF A FOREIGN DRUG OFFENSE.—Subparagraph (B) of section 981(a)(1) of title 18, United States Code, is amended by—

(1) inserting ", real or personal," after "property";

(2) striking "which represents the proceeds of" and inserting "constituting, derived from, or traceable to, any proceeds obtained directly or indirectly from";

(3) striking "or activity" the first place it appears;

(4) inserting "under the laws of the United States" after "punishable" the second place it appears; and

(5) inserting "constituting the offense against the foreign nation" after "such act or activity".

(c) CLARIFICATION OF CONTROLLED SUBSTANCE ANALOGUE PROVISION.—Section 203 of the Controlled Substances Act (21 U.S.C. 813) is amended by striking "this title and title III" and inserting "any Federal law".

(d) CORRECTION OF REFERENCE RELATING TO MANDATORY PRISON TERMS FOR JUVENILE DRUG TRAFFICKING.—Section 405B(e) of the Controlled Substances Act (21 U.S.C. 845b(e)) is amended by striking "required by section 401(b)".

(e) CORRECTION OF TYPOGRAPHICAL ERROR.—Section 981(a)(2) of title 18, United States Code, is amended by striking "emission" and inserting "omission".

(f) CORRECTION OF REFERENCE TO SUBSECTION.—Section 981(i)(1) of title 18, United States Code, is amended by striking "subchapter" and inserting "subsection".

(g) MANDATORY MINIMUM PENALTY FOR TRAFFICKING IN SUBSTANTIAL QUANTITY OF METHAMPHETAMINE.—Subparagraph (A) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by striking "or" at the end of clause (vi);
(2) by inserting "or" at the end of clause (vii); and
(3) by adding a new clause (viii), as follows:

"(viii) 100 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;".

(h) CONFORMING AMENDMENT.—Subparagraph (B) of section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) by striking "or" at the end of clause (vi);
(2) by inserting "or" at the end of clause (vii); and
(3) by adding a new clause (viii), as follows:

"(viii) 10 grams or more of methamphetamine, its salts, isomers, and salts of its isomers or 100 grams or more of a mixture or substance containing a detectable amount of methamphetamine, its salts, isomers, or salts of its isomers;".

SEC. 6471. MONEY LAUNDERING AMENDMENTS.

(a) INSERTION OF INCOME TAX PREDICATE FOR MONEY LAUNDERING OFFENSE.—Section 1956(a)(1)(A) of title 18, United States Code, is amended to read as follows:

"(A)(i) with the intent to promote the carrying on of specified unlawful activity; or

"(ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or".

(b) TRANSMISSION OR TRANSFER.—Section 1956(a)(2) of title 18, United States Code, is amended by striking "transports or attempts to transport" and inserting "transports, transmits, or transfers, or attempts to transport, transmit, or transfer".

(c) CLARIFICATION OF SCOPE OF STAY OF CIVIL FORFEITURE.—Section 981(g) of title 18, United States Code, is amended by inserting ", Federal, State or local," after "law".

SEC. 6472. BALLISTIC KNIFE ACT JURISDICTIONAL CLARIFICATIONS.

The Ballistic Knife Prohibition Act of 1986 (15 U.S.C. 1245) is amended—

(1) by striking "knowingly possesses, manufactures, sells, or imports" and inserting "in or affecting interstate commerce, within any Territory or possession of the United States, within Indian country (as defined in section 1151 of title 18), or within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18), knowingly possesses, manufactures, sells, or imports"; and

(2) by striking "or State" before "crime of violence".

SEC. 6473. COMMON CARRIER OPERATION AMENDMENTS.

(a) DEFINITIONAL REFINEMENT.—Section 342 of title 18, United States Code, is amended by striking "drugs" and inserting "any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802))".

(b) CONFORMANCE OF FINE LEVEL.—Section 342 of title 18, United States Code, is amended by striking "fined not more than $10,000," and inserting "fined under this title,".

(c) LIMITATION AND CLARIFICATION OF PRESUMPTIONS.—Section 343 of title 18, United States Code, is amended—

(1) in paragraph (1) by striking ".10" and inserting ".10 percent" and by striking "conclusively"; and

(2) in paragraph (2) by striking "conclusively".

SEC. 6474. EXPLOSIVES OFFENSES AMENDMENTS.

(a) EXPANSION OF OFFENSE TO CERTAIN AIRPORTS AND STRENGTHENING OF PENALTY.—Section 844(g) of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting "(1) Except as provided in paragraph (2), whoever";

(2) by inserting "in an airport that is subject to the regulatory authority of the Federal Aviation Administration, or" after "possesses an explosive";

(3) by inserting "or airport" after "such building";

(4) by striking "not more than one year, or fined not more than $1,000, or both" and inserting "not more than five years, or fined under this title, or both"; and

(5) by adding at the end thereof the following:

"(2) The provisions of this subsection shall not be applicable to—

"(A) the possession of ammunition (as that term is defined in regulations issued pursuant to this chapter) in an airport that is subject to the regulatory authority of the Federal Aviation Administration if such ammunition is either in checked baggage or in a closed container; or

"(B) the possession of an explosive in an airport if the packaging and transportation of such explosive is exempt from, or subject to and in accordance with, regulations of the Research and Special Projects Administration for the handling of hazardous materials pursuant to the Hazardous Materials Transportation Act (49 App. U.S.C. 1801, et seq.).".

(b) STRENGTHENING OFFENSE OF USING OR CARRYING AN EXPLOSIVE IN COMMISSION OF A FEDERAL FELONY.—Section 844(h) of title 18, United States Code, is amended—

(1) by striking "unlawfully" in paragraph (2); and

(2) by striking "shall be sentenced" through the remainder of the subsection and inserting the following:

"including a felony which provides for an enhanced punishment if committed by the use of a deadly or dangerous weapon or device shall, in addition to the punishment provided for such felony, be sentenced to imprisonment for five years. In the case of a second or subsequent conviction under this subsection, such person shall be sentenced to imprisonment for ten years. Notwithstanding any other provision of law, the court shall not place on probation or suspend the sentence of any person convicted of a violation of this subsection, nor shall the term of imprisonment imposed under this subsection run concurrently with any other term of imprisonment including that imposed for the felony in which the explosive was used or carried.".

(c) CONFORMING DEFINITIONAL CHANGE.—Section 842(d)(5) of title 18, United States Code, is amended to read as follows:

"(5) is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

(d) CONFORMING DEFINITIONAL CHANGE.—Section 842(i)(3) of title 18, United States Code, is amended to read as follows:

"(3) who is an unlawful user of or addicted to any controlled substance (as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802)).".

SEC. 6475. CLARIFICATION OF PROHIBITION OF POSSESSION WITH INTENT TO DISTRIBUTE CONTROLLED SUBSTANCES ON AIRCRAFT.

Section 1010(a)(3) of the Controlled Substances Import and Export Act (21 U.S.C. 960(a)(3)) is amended by striking "manufactures or distributes a controlled substance" and inserting "manufactures, possesses with intent to distribute, or distributes a controlled substance".

SEC. 6476. RESTARTING OF SPEEDY TRIAL ACT TIME PERIOD FOR DEFENDANTS WHO ABSCOND ON EVE OF TRIAL.

Section 3161 of title 18, United States Code, is amended by adding at the end the following:

"(k)(1) If the defendant is absent (as defined by subsection (h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs more than 21 days after the day set for trial, the defendant shall be deemed to have first appeared before a judicial officer of the court in which the information or indictment is pending within the meaning of subsection (c) on the date of the defendant's subsequent appearance before the court.

"(2) If the defendant is absent (as defined by subsection (h)(3)) on the day set for trial, and the defendant's subsequent appearance before the court on a bench warrant or other process or surrender to the court occurs not more than 21 days after the day set for trial, the time limit required by subsection (c), as extended by subsection (h), shall be further extended by 21 days.".

SEC. 6477. ASSIMILATIVE CRIMES ACT AMENDMENTS.

(a) PENALTIES FOR OPERATING A MOTOR VEHICLE WHILE UNDER THE INFLUENCE OF DRUGS OR ALCOHOL.—Section 13 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following:

"(b) For purposes of subsection (a) of this section, that which may or shall be imposed through judicial or administrative action under the law of a State, territory, possession, or district, for a conviction for operating a motor vehicle under the influence of a drug or alcohol, shall be considered to be a punishment provided by that law. Any limitation on the right or privilege to operate a motor vehicle imposed under this subsection shall apply only to the special maritime and territorial jurisdiction of the United States.".

(b) IMPLIED CONSENT FOR CERTAIN TESTS.—(1) Chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"§ 3117. Implied consent for certain tests

Motor vehicles.

"(a) CONSENT.—Whoever operates a motor vehicle in the special maritime and territorial jurisdiction of the United States consents thereby to a chemical test or tests of such person's blood, breath, or urine, if arrested for any offense arising from such person's driving while under the influence of a drug or alcohol in such jurisdiction. The test or tests shall be administered upon the request of a police officer having reasonable grounds to believe the person arrested to have been driving a motor vehicle upon the special maritime and territorial jurisdiction of the United States while under the influence of drugs or alcohol in violation of the laws of a State, territory, possession, or district.

"(b) EFFECT OF REFUSAL.—Whoever, having consented to a test or tests by reason of subsection (a), refuses to submit to such a test or tests, after having first been advised of the consequences of such a refusal, shall be denied the privilege of operating a motor vehicle upon the special maritime and territorial jurisdiction of the United States during the period of a year commencing on the date of arrest upon which such test or tests was refused, and such refusal may be admitted into evidence in any case arising from such person's driving while under the influence of a drug or alcohol in such jurisdiction. Any person who operates a motor vehicle in the special maritime and territorial jurisdiction of the United States after having been denied such privilege under this subsection shall be treated for the purposes of any civil or criminal proceedings arising out of such operation as operating such vehicle without a license to do so.".

(2) The table of sections at the beginning of chapter 205 of title 18, United States Code, is amended by adding at the end the following:

"3117. Implied consent for certain tests.".

SEC. 6478. PROTECTION OF FOREIGN OFFICIALS.

Section 112(b)(3) of title 18, United States Code, is amended by striking "but outside the District of Columbia".

SEC. 6479. MARIHUANA PLANTS.

Section 401(b)(1) of the Controlled Substances Act (21 U.S.C. 841(b)(1)) is amended—

(1) in paragraph (A)(vii), by inserting ", or 1,000 or more marihuana plants regardless of weight" after "containing a detectable amount of marihuana";

(2) in paragraph (B)(vii), by inserting ", or 100 or more marihuana plants regardless of weight" after "containing a detectable amount of marihuana"; and

(3) in paragraph (D) by striking out "100 or more marihuana plants" and inserting in lieu thereof "50 or more marihuana plants".

SEC. 6480. FINES FOR SIMPLE POSSESSION.

Section 404(a) of the Controlled Substances Act (21 U.S.C. 844(a)) is amended—

(1) in the second sentence—

(A) by striking out "but not more than $5,000";

(B) by striking out "but not more than $10,000"; and

(C) by striking out "but not more than $25,000".

SEC. 6481. CONTINUING CRIMINAL ENTERPRISE.

(a) INCREASED PENALTIES.—Section 408(a) of the Controlled Substances Act is amended by— 21 USC 848.

(1) striking "10 years" and inserting "20 years"; and

(2) striking "20 years" and inserting "30 years".

(b) REDESIGNATION.—Subsections (d) and (e) of section 408 of the Controlled Substances Act are redesignated as (c) and (d).

SEC. 6482. COMMON CARRIER OPERATION UNDER THE INFLUENCE OF ALCOHOL OR DRUGS.

(a) LOCOMOTIVES.—Section 341 of title 18, United States Code, is amended by adding after "means a" the following: "locomotive, a".

(b) MAXIMUM PENALTY.—Section 342 of title 18, United States Code, is amended by striking "five" and inserting "fifteen".

28 USC 994 note. (c) SENTENCING GUIDELINES.—(1) Pursuant to its authority under section 994(p) of title 28, United States Code, and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide that—

(A) a defendant convicted of violating section 342 of title 18, United States Code, under circumstances in which death results, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is not less than level 26; and

(B) a defendant convicted of violating section 342 of title 18, United States Code, under circumstances in which serious bodily injury results, shall be assigned an offense level under chapter 2 of the sentencing guidelines that is not less than level 21.

(2) If the sentencing guidelines are amended after the effective date of this section, the Sentencing Commission shall implement the instruction set forth in paragraph (1) so as to achieve a comparable result.

SEC. 6483. AMENDMENT TO THE FEDERAL RULES OF CRIMINAL PROCEDURE.

The Federal Rules of Criminal Procedure are amended by adding after Rule 12.2 the following:

"Rule 12.3. Notice of Defense Based Upon Public Authority

"(a) NOTICE BY DEFENDANT; GOVERNMENT RESPONSE; DISCLOSURE OF WITNESSES.— 18 USC app.

"(1) DEFENDANT'S NOTICE AND GOVERNMENT'S RESPONSE.—A defendant intending to claim a defense of actual or believed exercise of public authority on behalf of a law enforcement or Federal intelligence agency at the time of the alleged offense shall, within the time provided for the filing of pretrial motions or at such later time as the court may direct, serve upon the attorney for the Government a written notice of such intention and file a copy of such notice with the clerk. Such notice shall identify the law enforcement or Federal intelligence agency and any member of such agency on behalf of which and the period of time in which the defendant claims the actual or believed exercise of public authority occurred. If the notice identifies a Federal intelligence agency, the copy filed with the clerk shall be under seal. Within ten days after receiving the defendant's notice, but in no event less than twenty days before the trial, the attorney for the Government shall serve upon the defendant or the defendant's attorney a written response which shall admit or deny that the defendant exercised the public authority identified in the defendant's notice.

"(2) DISCLOSURE OF WITNESSES.—At the time that the Government serves its response to the notice or thereafter, but in no event less than twenty days before the trial, the attorney for the Government may serve upon the defendant or the defendant's attorney a written demand for the names and addresses of the witnesses, if any, upon whom the defendant intends to rely in establishing the defense identified in the notice. Within seven days after receiving the Government's demand, the defendant shall serve upon the attorney for the Government a written statement of the names and addresses of any such witnesses. Within seven days after receiving the defendant's written statement, the attorney for the Government shall serve upon the defendant or the defendant's attorney a written statement of the names and addresses of the witnesses, if any, upon whom the Government intends to rely in opposing the defense identified in the notice.

"(3) ADDITIONAL TIME.—If good cause is shown, the court may allow a party additional time to comply with any obligation imposed by this rule.

"(b) CONTINUING DUTY TO DISCLOSE.—If, prior to or during trial, a party learns of any additional witness whose identity, if known, should have been included in the written statement furnished under subdivision (a)(2) of this rule, that party shall promptly notify in writing the other party or the other party's attorney of the name and address of any such witness.

"(c) FAILURE TO COMPLY.—If a party fails to comply with the requirements of this rule, the court may exclude the testimony of any undisclosed witness offered in support of or in opposition to the defense, or enter such other order as it deems just under the circumstances. This rule shall not limit the right of the defendant to testify.

"(d) PROTECTIVE PROCEDURES UNAFFECTED.—This rule shall be in addition to and shall not supersede the authority of the court to

issue appropriate protective orders, or the authority of the court to order that any pleading be filed under seal.

"(e) INADMISSIBILITY OF WITHDRAWN DEFENSE BASED UPON PUBLIC AUTHORITY.—Evidence of an intention as to which notice was given under subdivision (a), later withdrawn, is not, in any civil or criminal proceeding, admissible against the person who gave notice of the intention.".

SEC. 6484. WITNESS SERVING SENTENCE ABROAD.

(a) IN GENERAL.—Chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 3508. Custody and return of foreign witnesses

"(a) When the testimony of a person who is serving a sentence, is in pretrial detention, or is otherwise being held in custody, in a foreign country, is needed in a State or Federal criminal proceeding, the Attorney General shall, when he deems it appropriate in the exercise of his discretion, have the authority to request the temporary transfer of that person to the United States for the purposes of giving such testimony, to transport such person to the United States in custody, to maintain the custody of such person while he is in the United States, and to return such person to the foreign country.

International agreements.

"(b) Where the transfer to the United States of a person in custody for the purposes of giving testimony is provided for by treaty or convention, by this section, or both, that person shall be returned to the foreign country from which he is transferred. In no event shall the return of such person require any request for extradition or extradition proceedings, or proceedings under the immigration laws.

International agreements.

"(c) Where there is a treaty or convention between the United States and the foreign country in which the witness is being held in custody which provides for the transfer, custody and return of such witnesses, the terms and conditions of that treaty shall apply. Where there is no such treaty or convention, the Attorney General may exercise the authority described in paragraph (a) if both the foreign country and the witness give their consent.".

(b) TABLE OF CONTENTS.—The table of contents for chapter 223 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"3508. Custody and return of foreign witnesses.".

SEC. 6485. CLARIFICATIONS REGARDING DRUG PARAPHERNALIA.

Section 1822 of the Anti-Drug Abuse Act of 1986 (Public Law 99-570; 21 U.S.C. 857) is amended—

(1) in subsection (d), by striking out "in violation of the Controlled Substances Act" and inserting ", possession of which is unlawful under the Controlled Substances Act"; and

(2) in subsection (f)(2) by striking out "primarily intended for use with" and inserting "traditionally intended for use with".

21 USC 844a.

SEC. 6486. CIVIL PENALTY FOR POSSESSION OF SMALL AMOUNTS OF CERTAIN CONTROLLED SUBSTANCES.

(a) IN GENERAL.—Any individual who knowingly possesses a controlled substance that is listed in section 401(b)(1)(A) of the Controlled Substances Act (21 U.S.C. 841(b)(1)(A)) in violation of section 404 of that Act (21 U.S.C. 841(b)(1)(A)) in an amount that, as specified by regulation of the Attorney General, is a personal use amount

shall be liable to the United States for a civil penalty in an amount not to exceed $10,000 for each such violation.

(b) INCOME AND NET ASSETS.—The income and net assets of an individual shall not be relevant to the determination whether to assess a civil penalty under this section or to prosecute the individual criminally. However, in determining the amount of a penalty under this section, the income and net assets of an individual shall be considered.

(c) PRIOR CONVICTION.—A civil penalty may not be assessed under this section if the individual previously was convicted of a Federal or State offense relating to a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802).

(d) LIMITATION ON NUMBER OF ASSESSMENTS.—A civil penalty may not be assessed on an individual under this section on more than two separate occasions.

(e) ASSESSMENT.—A civil penalty under this section may be assessed by the Attorney General only by an order made on the record after opportunity for a hearing in accordance with section 554 of title 5, United States Code. The Attorney General shall provide written notice to the individual who is the subject of the proposed order informing the individual of the opportunity to receive such a hearing with respect to the proposed order. The hearing may be held only if the individual makes a request for the hearing before the expiration of the 30-day period beginning on the date such notice is issued.

(f) COMPROMISE.—The Attorney General may compromise, modify, or remit, with or without conditions, any civil penalty imposed under this section.

(g) JUDICIAL REVIEW.—If the Attorney General issues an order pursuant to subsection (e) after a hearing described in such subsection, the individual who is the subject of the order may, before the expiration of the 30-day period beginning on the date the order is issued, bring a civil action in the appropriate district court of the United States. In such action, the law and the facts of the violation and the assessment of the civil penalty shall be determined de novo, and shall include the right of a trial by jury, the right to counsel, and the right to confront witnesses. The facts of the violation shall be proved beyond a reasonable doubt.

(h) CIVIL ACTION.—If an individual does not request a hearing pursuant to subsection (e) and the Attorney General issues an order pursuant to such subsection, or if an individual does not under subsection (g) seek judicial review of such an order, the Attorney General may commence a civil action in any appropriate district court of the United States for the purpose of recovering the amount assessed and an amount representing interest at a rate computed in accordance with section 1961 of title 28, United States Code. Such interest shall accrue from the expiration of the 30-day period described in subsection (g). In such an action, the decision of the Attorney General to issue the order, and the amount of the penalty assessed by the Attorney General, shall not be subject to review.

(i) LIMITATION.—The Attorney General may not under this subsection commence proceeding against an individual after the expiration of the 5-year period beginning on the date on which the individual allegedly violated subsection (a).

(j) EXPUNGEMENT PROCEDURES.—The Attorney General shall dismiss the proceedings under this section against an individual upon

application of such individual at any time after the expiration of 3 years if—

(1) the individual has not previously been assessed a civil penalty under this section;

(2) the individual has paid the assessment;

(3) the individual has complied with any conditions imposed by the Attorney General;

(4) the individual has not been convicted of a Federal or State offense relating to a controlled substance as defined in section 102 of the Controlled Substances Act (21 U.S.C. 802); and

(5) the individual agrees to submit to a drug test, and such test shows the individual to be drug free.

Records. Classified information.

A nonpublic record of a disposition under this subsection shall be retained by the Department of Justice solely for the purpose of determining in any subsequent proceeding whether the person qualified for a civil penalty or expungement under this section. If a record is expunged under this subsection, an individual concerning whom such an expungement has been made shall not be held thereafter under any provision of law to be guilty of perjury, false swearing, or making a false statement by reason of his failure to recite or acknowledge a proceeding under this section or the results thereof in response to an inquiry made of him for any purpose.

SEC. 6487. PROTECTION OF FORMER FEDERAL OFFICIALS AND MEMBERS OF THE FAMILY OF FORMER FEDERAL OFFICIALS.

(a) FORMER FEDERAL OFFICIALS.—Section 111 of title 18, United States Code, is amended to read as follows:

"§ 111. Assaulting, resisting, or impeding certain officers or employees

"(a) IN GENERAL.—Whoever—

"(1) forcibly assaults, resists, opposes, impedes, intimidates, or interferes with any person designated in section 1114 of this title while engaged in or on account of the performance of official duties; or

"(2) forcibly assaults or intimidates any person who formerly served as a person designated in section 1114 on account of the performance of official duties during such person's term of service,

shall be fined under this title or imprisoned not more than three years, or both.

"(b) ENHANCED PENALTY.—Whoever, in the commission of any acts described in subsection (a), uses a deadly or dangerous weapon, shall be fined under this title or imprisoned not more than ten years, or both.".

(f) FAMILY MEMBERS OF FORMER FEDERAL OFFICIALS.—Section 115(a) of title 18, United States Code, is amended to read as follows:

"(a)(1) Whoever—

"(A) assaults, kidnaps, or murders, or attempts to kidnap or murder, or threatens to assault, kidnap or murder a member of the immediate family of a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under section 1114 of this title; or

"(B) threatens to assault, kidnap, or murder, a United States official, a United States judge, a Federal law enforcement officer, or an official whose killing would be a crime under such section,

with intent to impede, intimidate, or interfere with such official, judge, or law enforcement officer while engaged in the performance of official duties, or with intent to retaliate against such official, judge, or law enforcement officer on account of the performance of official duties, shall be punished as provided in subsection (b).

"(2) Whoever assaults, kidnaps, or murders, or attempts to kidnap or murder a member of the immediate family of any person who formerly served as a person designated in paragraph (1), with intent to retaliate against such person on account of the performance of official duties during the term of service of such person, shall be punished as provided in subsection (b).".

TITLE VII—DEATH PENALTY AND OTHER CRIMINAL AND LAW ENFORCEMENT MATTERS

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Subtitle A—Death Penalty

SEC. 7001. DEATH PENALTY FOR DRUG-RELATED KILLINGS.

(a) ELEMENTS OF OFFENSE.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended—

(1) by redesignating subsection (e) as subsection (f); and

(2) by inserting after subsection (d) the following:

"Death Penalty

"(e)(1) In addition to the other penalties set forth in this section—

"(A) any person engaging in or working in furtherance of a continuing criminal enterprise, or any person engaging in an offense punishable under section 841(b)(1)(A) or section 960(b)(1) who intentionally kills or counsels, commands, induces, procures, or causes the intentional killing of an individual and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death; and

"(B) any person, during the commission of, in furtherance of, or while attempting to avoid apprehension, prosecution or service of a prison sentence for, a felony violation of this title or title III who intentionally kills or counsels, commands, induces,

procures, or causes the intentional killing of any Federal, State, or local law enforcement officer engaged in, or on account of, the performance of such officer's official duties and such killing results, shall be sentenced to any term of imprisonment, which shall not be less than 20 years, and which may be up to life imprisonment, or may be sentenced to death.

"(2) As used in paragraph (1)(b), the term 'law enforcement officer' means a public servant authorized by law or by a Government agency or Congress to conduct or engage in the prevention, investigation, prosecution or adjudication of an offense, and includes those engaged in corrections, probation, or parole functions.".

(b) PROCEDURE APPLICABLE WITH RESPECT TO THE DEATH PENALTY.—Section 408 of the Controlled Substances Act (21 U.S.C. 848) is amended by adding at the end the following:

"Hearing Required with Respect to the Death Penalty

"(g) A person shall be subjected to the penalty of death for any offense under this section only if a hearing is held in accordance with this section.

"Notice by the Government in Death Penalty Cases

"(h)(1) Whenever the Government intends to seek the death penalty for an offense under this section for which one of the sentences provided is death, the attorney for the Government, a reasonable time before trial or acceptance by the court of a plea of guilty, shall sign and file with the court, and serve upon the defendant, a notice—

"(A) that the Government in the event of conviction will seek the sentence of death; and

"(B) setting forth the aggravating factors enumerated in subsection (n) and any other aggravating factors which the Government will seek to prove as the basis for the death penalty.

"(2) The court may permit the attorney for the Government to amend this notice for good cause shown.

"Hearing Before Court or Jury

"(i)(1) When the attorney for the Government has filed a notice as required under subsection (h) and the defendant is found guilty of or pleads guilty to an offense under subsection (e), the judge who presided at the trial or before whom the guilty plea was entered, or any other judge if the judge who presided at the trial or before whom the guilty plea was entered is unavailable, shall conduct a separate sentencing hearing to determine the punishment to be imposed. The hearing shall be conducted—

"(A) before the jury which determined the defendant's guilt;

"(B) before a jury impaneled for the purpose of the hearing if—

"(i) the defendant was convicted upon a plea of guilty;

"(ii) the defendant was convicted after a trial before the court sitting without a jury;

"(iii) the jury which determined the defendant's guilt has been discharged for good cause; or

"(iv) after initial imposition of a sentence under this section, redetermination of the sentence under this section is necessary; or

"(C) before the court alone, upon the motion of the defendant and with the approval of the Government.

"(2) A jury impaneled under paragraph (1)(B) shall consist of 12 members, unless, at any time before the conclusion of the hearing, the parties stipulate with the approval of the court that it shall consist of any number less than 12.

"Proof of Aggravating and Mitigating Factors

"(j) Notwithstanding rule 32(c) of the Federal Rules of Criminal Procedure, when a defendant is found guilty of or pleads guilty to an offense under subsection (e), no presentence report shall be prepared. In the sentencing hearing, information may be presented as to matters relating to any of the aggravating or mitigating factors set forth in subsections (m) and (n), or any other mitigating factor or any other aggravating factor for which notice has been provided under subsection (h)(1)(B). Where information is presented relating to any of the aggravating factors set forth in subsection (n), information may be presented relating to any other aggravating factor for which notice has been provided under subsection (h)(1)(B). Information presented may include the trial transcript and exhibits if the hearing is held before a jury or judge not present during the trial, or at the trial judge's discretion. Any other information relevant to such mitigating or aggravating factors may be presented by either the Government or the defendant, regardless of its admissibility under the rules governing admission of evidence at criminal trials, except that information may be excluded if its probative value is substantially outweighed by the danger of unfair prejudice, confusion of the issues, or misleading the jury. The Government and the defendant shall be permitted to rebut any information received at the hearing and shall be given fair opportunity to present argument as to the adequacy of the information to establish the existence of any of the aggravating or mitigating factors and as to appropriateness in that case of imposing a sentence of death. The Government shall open the argument. The defendant shall be permitted to reply. The Government shall then be permitted to reply in rebuttal. The burden of establishing the existence of any aggravating factor is on the Government, and is not satisfied unless established beyond a reasonable doubt. The burden of establishing the existence of any mitigating factor is on the defendant, and is not satisfied unless established by a preponderance of the evidence.

"Return of Findings

"(k) The jury, or if there is no jury, the court, shall consider all the information received during the hearing. It shall return special findings identifying any aggravating factors set forth in subsection (n), found to exist. If one of the aggravating factors set forth in subsection (n)(1) and another of the aggravating factors set forth in paragraphs (2) through (12) of subsection (n) is found to exist, a special finding identifying any other aggravating factor for which notice has been provided under subsection (h)(1)(B), may be returned. A finding with respect to a mitigating factor may be made by one or more of the members of the jury, and any member of the

jury who finds the existence of a mitigating factor may consider such a factor established for purposes of this subsection, regardless of the number of jurors who concur that the factor has been established. A finding with respect to any aggravating factor must be unanimous. If an aggravating factor set forth in subsection (n)(1) is not found to exist or an aggravating factor set forth in subsection (n)(1) is found to exist but no other aggravating factor set forth in subsection (n) is found to exist, the court shall impose a sentence, other than death, authorized by law. If an aggravating factor set forth in subsection (n)(1) and one or more of the other aggravating factors set forth in subsection (n) are found to exist, the jury, or if there is no jury, the court, shall then consider whether the aggravating factors found to exist sufficiently outweigh any mitigating factor or factors found to exist, or in the absence of mitigating factors, whether the aggravating factors are themselves sufficient to justify a sentence of death. Based upon this consideration, the jury by unanimous vote, or if there is no jury, the court, shall recommend that a sentence of death shall be imposed rather than a sentence of life imprisonment without possibility of release or some other lesser sentence. The jury or the court, regardless of its findings with respect to aggravating and mitigating factors, is never required to impose a death sentence and the jury shall be so instructed.

"Imposition of Sentence

"(l) Upon the recommendation that the sentence of death be imposed, the court shall sentence the defendant to death. Otherwise the court shall impose a sentence, other than death, authorized by law. A sentence of death shall not be carried out upon a person who is under 18 years of age at the time the crime was committed. A sentence of death shall not be carried out upon a person who is mentally retarded. A sentence of death shall not be carried out upon a person who, as a result of mental disability—

"(1) cannot understand the nature of the pending proceedings, what such person was tried for, the reason for the punishment, or the nature of the punishment; or

"(2) lacks the capacity to recognize or understand facts which would make the punishment unjust or unlawful, or lacks the ability to convey such information to counsel or to the court.

"Mitigating Factors

"(m) In determining whether a sentence of death is to be imposed on a defendant, the finder of fact shall consider mitigating factors, including the following:

"(1) The defendant's capacity to appreciate the wrongfulness of the defendant's conduct or to conform conduct to the requirements of law was significantly impaired, regardless of whether the capacity was so impaired as to constitute a defense to the charge.

"(2) The defendant was under unusual and substantial duress, regardless of whether the duress was of such a degree as to constitute a defense to the charge.

"(3) The defendant is punishable as a principal (as defined in section 2 of title 18 of the United States Code) in the offense, which was committed by another, but the defendant's participa-

tion was relatively minor, regardless of whether the participation was so minor as to constitute a defense to the charge.

"(4) The defendant could not reasonably have foreseen that the defendant's conduct in the course of the commission of murder, or other offense resulting in death for which the defendant was convicted, would cause, or would create a grave risk of causing, death to any person.

"(5) The defendant was youthful, although not under the age of 18.

"(6) The defendant did not have a significant prior criminal record.

"(7) The defendant committed the offense under severe mental or emotional disturbance.

"(8) Another defendant or defendants, equally culpable in the crime, will not be punished by death.

"(9) The victim consented to the criminal conduct that resulted in the victim's death.

"(10) That other factors in the defendant's background or character mitigate against imposition of the death sentence.

"Aggravating Factors for Homicide

"(n) If the defendant is found guilty of or pleads guilty to an offense under subsection (e), the following aggravating factors are the only aggravating factors that shall be considered, unless notice of additional aggravating factors is provided under subsection (h)(1)(B):

"(1) The defendant—

"(A) intentionally killed the victim;

"(B) intentionally inflicted serious bodily injury which resulted in the death of the victim;

"(C) intentionally engaged in conduct intending that the victim be killed or that lethal force be employed against the victim, which resulted in the death of the victim;

"(D) intentionally engaged in conduct which—

"(i) the defendant knew would create a grave risk of death to a person, other than one of the participants in the offense; and

"(ii) resulted in the death of the victim.

"(2) The defendant has been convicted of another Federal offense, or a State offense resulting in the death of a person, for which a sentence of life imprisonment or a sentence of death was authorized by statute.

"(3) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the infliction of, or attempted infliction of, serious bodily injury upon another person.

"(4) The defendant has previously been convicted of two or more State or Federal offenses punishable by a term of imprisonment of more than one year, committed on different occasions, involving the distribution of a controlled substance.

"(5) In the commission of the offense or in escaping apprehension for a violation of subsection (e), the defendant knowingly created a grave risk of death to one or more persons in addition to the victims of the offense.

"(6) The defendant procured the commission of the offense by payment, or promise of payment, of anything of pecuniary value.

"(7) The defendant committed the offense as consideration for the receipt, or in the expectation of the receipt, of anything of pecuniary value.

"(8) The defendant committed the offense after substantial planning and premeditation.

"(9) The victim was particularly vulnerable due to old age, youth, or infirmity.

"(10) The defendant had previously been convicted of violating this title or title III for which a sentence of five or more years may be imposed or had previously been convicted of engaging in a continuing criminal enterprise.

"(11) The violation of this title in relation to which the conduct described in subsection (e) occurred was a violation of section 405.

"(12) The defendant committed the offense in an especially heinous, cruel, or depraved manner in that it involved torture or serious physical abuse to the victim.

"Right of the Defendant to Justice Without Discrimination

"(o)(1) In any hearing held before a jury under this section, the court shall instruct the jury that in its consideration of whether the sentence of death is justified it shall not consider the race, color, religious beliefs, national origin, or sex of the defendant or the victim, and that the jury is not to recommend a sentence of death unless it has concluded that it would recommend a sentence of death for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant, or the victim, may be. The jury shall return to the court a certificate signed by each juror that consideration of the race, color, religious beliefs, national origin, or sex of the defendant or the victim was not involved in reaching his or her individual decision, and that the individual juror would have made the same recommendation regarding a sentence for the crime in question no matter what the race, color, religious beliefs, national origin, or sex of the defendant, or the victim, may be.

Reports.

"(2) Not later than one year from the date of enactment of the Anti-Drug Abuse Amendments Act of 1988, the Comptroller General shall conduct a study of the various procedures used by the several States for determining whether or not to impose the death penalty in particular cases, and shall report to the Congress on whether or not any or all of the various procedures create a significant risk that the race of a defendant, or the race of a victim against whom a crime was committed, influence the likelihood that defendants in those States will be sentenced to death. In conducting the study required by this paragraph, the General Accounting Office shall—

"(A) use ordinary methods of statistical analysis, including methods comparable to those ruled admissible by the courts in race discrimination cases under title VII of the Civil Rights Act of 1964;

"(B) study only crimes occurring after January 1, 1976; and

"(C) determine what, if any, other factors, including any relation between any aggravating or mitigating factors and the race of the victim or the defendant, may account for any

evidence that the race of the defendant, or the race of the victim, influences the likelihood that defendants will be sentenced to death. In addition, the General Accounting Office shall examine separately and include in the report, death penalty cases involving crimes similar to those covered under this section.

"Sentencing in Capital Cases in Which Death Penalty is not Sought or Imposed

"(p) If a person is convicted for an offense under subsection (e) and the court does not impose the penalty of death, the court may impose a sentence of life imprisonment without the possibility of parole.

"Appeal in Capital Cases; Counsel for Financially Unable Defendants

"(q)(1) In any case in which the sentence of death is imposed under this section, the sentence of death shall be subject to review by the court of appeals upon appeal by the defendant. Notice of appeal must be filed within the time prescribed for appeal of judgment in section 2107 of title 28, United States Code. An appeal under this section may be consolidated with an appeal of the judgment of conviction. Such review shall have priority over all other cases.

"(2) On review of the sentence, the court of appeals shall consider the record, the evidence submitted during the trial, the information submitted during the sentencing hearing, the procedures employed in the sentencing hearing, and the special findings returned under this section.

"(3) The court shall affirm the sentence if it determines that—

"(A) the sentence of death was not imposed under the influence of passion, prejudice, or any other arbitrary factor; and

"(B) the information supports the special finding of the existence of every aggravating factor upon which the sentence was based, together with, or the failure to find, any mitigating factors as set forth or allowed in this section.

In all other cases the court shall remand the case for reconsideration under this section. The court of appeals shall state in writing the reasons for its disposition of the review of the sentence.

"(4)(A) Notwithstanding any other provision of law to the contrary, in every criminal action in which a defendant is charged with a crime which may be punishable by death, a defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services at any time either—

"(i) before judgment; or

"(ii) after the entry of a judgment imposing a sentence of death but before the execution of that judgment;

shall be entitled to the appointment of one or more attorneys and the furnishing of such other services in accordance with paragraphs (5), (6), (7), (8), and (9).

"(B) In any post conviction proceeding under section 2254 or 2255 of title 28, United States Code, seeking to vacate or set aside a death sentence, any defendant who is or becomes financially unable to obtain adequate representation or investigative, expert, or other reasonably necessary services shall be entitled to the appointment of

one or more attorneys and the furnishing of such other services in accordance with paragraphs (5), (6), (7), (8), and (9).

"(5) If the appointment is made before judgment, at least one attorney so appointed must have been admitted to practice in the court in which the prosecution is to be tried for not less than five years, and must have had not less than three years experience in the actual trial of felony prosecutions in that court.

"(6) If the appointment is made after judgment, at least one attorney so appointed must have been admitted to practice in the court of appeals for not less than five years, and must have had not less than three years experience in the handling of appeals in that court in felony cases.

"(7) With respect to paragraphs (5) and (6), the court, for good cause, may appoint another attorney whose background, knowledge, or experience would otherwise enable him or her to properly represent the defendant, with due consideration to the seriousness of the possible penalty and to the unique and complex nature of the litigation.

"(8) Unless replaced by similarly qualified counsel upon the attorney's own motion or upon motion of the defendant, each attorney so appointed shall represent the defendant throughout every subsequent stage of available judicial proceedings, including pretrial proceedings, trial, sentencing, motions for new trial, appeals, applications, for writ of certiorari to the Supreme Court of the United States, and all available post-conviction process, together with applications for stays of execution and other appropriate motions and procedures, and shall also represent the defendant in such competency proceedings and proceedings for executive or other clemency as may be available to the defendant.

"(9) Upon a finding in ex parte proceedings that investigative, expert or other services are reasonably necessary for the representation of the defendant, whether in connection with issues relating to guilt or sentence, the court shall authorize the defendant's attorneys to obtain such services on behalf of the defendant and shall order the payment of fees and expenses therefore, under paragraph (10). Upon a finding that timely procurement of such services could not practicably await prior authorization, the court may authorize the provision of and payment for such services nunc pro tunc.

"(10) Notwithstanding the rates and maximum limits generally applicable to criminal cases and any other provision of law to the contrary, the court shall fix the compensation to be paid to attorneys appointed under this subsection and the fees and expenses to be paid for investigative, expert, and other reasonably necessary services authorized under paragraph (9), at such rates or amounts as the court determines to be reasonably necessary to carry out the requirements of paragraphs (4) through (9).

"Refusal to Participate by State and Federal Correctional Employees

"(r) No employee of any State department of corrections or the Federal Bureau of Prisons and no employee providing services to that department or bureau under contract shall be required, as a condition of that employment, or contractual obligation to be in attendance at or to participate in any execution carried out under this section if such participation is contrary to the moral or religious convictions of the employee. For purposes of this subsection, the

term 'participation in executions' includes personal preparation of the condemned individual and the apparatus used for execution and supervision of the activities of other personnel in carrying out such activities.".

SEC. 7002. GAO STUDY OF THE COST OF EXECUTIONS. 21 USC 848 note.

(a) STUDY.—No later than three years after the date of the enactment of this Act, the Comptroller General shall carry out a study to review the cost of implementing the procedures for imposing and carrying out a death sentence prescribed by this title.

(b) SPECIFIC REQUIREMENT.—Such study shall consider, but not be limited to, information concerning impact on workload of the Federal prosecutors and judiciary and law enforcement necessary to obtain capital sentences and executions under this Act.

(c) SUBMISSION OF REPORT.—Not later than four years after date of the enactment of this Act, the Comptroller General shall submit to Congress a report describing the results of the study.

Subtitle B—Minor and Technical Criminal Law Amendments

Minor and Technical Criminal Law Amendments Act of 1988. 18 USC 1 note.

SEC. 7011. SHORT TITLE.

This subtitle may be cited as the "Minor and Technical Criminal Law Amendments Act of 1988".

SEC. 7012. CORRECTION OF CROSS REFERENCE.

Section 38 of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "section 23" and inserting "section 34". 18 USC 18.

SEC. 7013. CORRECTION OF ERRONEOUS REFERENCE.

Section 50(a) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "1961(a)" and inserting "1961(1)". 18 USC 1961.

SEC. 7014. CORRECTION OF MISPRINT. 18 USC 4217.

Section 58(g) of the Criminal Law and Procedure Technical Amendments Act of 1986 is amended by striking "SECTION 3147 AMENDMENTS.—Section 3147 of title" and inserting "REPEAL.—(1) Title". 18 USC 3147.

SEC. 7015. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 31.

Section 31 of title 18, United States Code, is amended by striking "door in opened" and inserting "door is opened".

SEC. 7016. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 32.

Section 32(a)(3) of title 18, United States Code, is amended by striking "intefering" and inserting "interfering".

SEC. 7017. CORRECTION OF TYPOGRAPHICAL ERROR IN SECTION 152.

The third paragraph of section 152 of title 18, United States Code is amended by striking "penalty or perjury" and inserting "penalty of perjury".

SEC. 7018. CONSPIRACY AGAINST CIVIL RIGHTS.

(a) IN GENERAL.—Section 241 of title 18, United States Code, is amended by striking "citizen" and inserting "inhabitant of any State, Territory, or District".

(b) CONFORMING AMENDMENTS.—(1) The heading for section 241 of title 18, United States Code, is amended by striking "**of citizens**".

(2) The item relating to section 241 in the table of sections at the beginning of chapter 13 of title 18, United States Code, is amended by striking "of citizens".

SEC. 7019. DEPRIVATION OF CIVIL RIGHTS.

Section 242 of title 18, United States Code, is amended by inserting "and if bodily injury results shall be fined under this title or imprisoned not more than ten years, or both;" after "both;".

SEC. 7020. DESIGNATION OF ADDITIONAL HIGH LEVEL OFFICIALS OF THE DEPARTMENT OF JUSTICE TO PERFORM CERTAIN FUNCTIONS RELATING TO CRIMINAL AND ANCILLARY PROCEEDINGS.

(a) APPROVAL OF CERTAIN CIVIL RIGHTS PROSECUTIONS.—Section 245(a)(1) of title 18, United States Code, is amended—

(1) by striking "or the Deputy" and inserting ", the Deputy";

(2) by inserting ", the Associate Attorney General, or any Assistant Attorney General specially designated by the Attorney General" after "Deputy Attorney General".

(b) APPROVAL OF PROSECUTIONS FOR FLIGHT TO AVOID SERVICE OF PROCESS AND RELATED PROCEEDINGS.—Section 1073 of title 18, United States Code, is amended by inserting ", the Deputy Attorney General, the Associate Attorney General," after "the Attorney General".

(c) DEFINITION OF "ATTORNEY GENERAL" FOR PURPOSES OF CERTAIN RACKETEERING PROCEEDINGS.—Section 1961(10) of title 18, United States Code, is amended by inserting "the Associate Attorney General of the United States," after "Deputy Attorney General of the United States,".

(d) SUMMONING OF SPECIAL GRAND JURIES.—Section 3331(a) of title 18, United States Code, is amended by inserting ", the Associate Attorney General" after "Deputy Attorney General".

(e) REQUESTING JUDICIAL GRANT OF IMMUNITY IN GENERAL.—Section 6003(b) of title 18, United States Code, is amended—

(1) by inserting ", the Associate Attorney General" after "Deputy Attorney General"; and

(2) by inserting "or Deputy Assistant Attorney General" after "Assistant Attorney General".

(f) REQUESTING JUDICIAL GRANT OF IMMUNITY IN CERTAIN DRUG CASES.—Section 514(c) of the Controlled Substances Act (21 U.S.C. 884(c)) is amended by inserting ", the Associate Attorney General" after "Deputy Attorney General".

(g) OBJECTING TO DISCLOSURE OF CLASSIFIED INFORMATION UNDER THE CLASSIFIED INFORMATION PROCEDURES ACT.—Section 14 of the Classified Information Procedures Act (18 U.S.C. App. 14) is amended by inserting ", the Associate Attorney General," after "Deputy Attorney General".

SEC. 7021. OFF-HIGHWAY VEHICLE IDENTIFICATION OFFENSE.

Section 553(b)(2) of title 18, United States Code, is amended to read as follows:

"(2)(A) in the case of a motor vehicle, is not a violation of section 511 of this title (relating to altering or removing motor vehicle identification numbers); or

"(B) in the case of off-highway mobile equipment, would not be a violation of section 511 of this title if such equipment were a motor vehicle.".

SEC. 7022. REDESIGNATION OF PARAGRAPHS IN SECTION 831.

Paragraphs (3) through (6) of section 831(e) of title 18, United States Code, are redesignated as paragraphs (2) through (5), respectively.

SEC. 7023. IDENTIFICATION FRAUD.

Section 1028(a)(6) of title 18, United States Code, is amended—

(1) by inserting "knowingly" before "possesses";

(2) by inserting "lawful" before "authority" the first place it appears; and

(3) by inserting "such" before "authority" the second place it appears.

SEC. 7024. TRANSMISSION OF WAGERING INFORMATION.

(a) TRANSMISSION OF INFORMATION TO FOREIGN COUNTRIES.—Section 1084(b) of title 18, United States Code, is amended by inserting "or foreign country" after "State" each place it appears.

(b) DEFINITION OF "STATE".—(1) Section 1084 of title 18, United States Code, is amended by adding at the end the following:

"(e) As used in this section, the term 'State' means a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or a territory or possession of the United States.".

(2) Section 1084(c) of title 18, United States Code, is amended by striking ", Commonwealth of Puerto Rico, territory, possession, or the District of Columbia".

SEC. 7025. PUNCTUATION CORRECTION IN SECTION 1111.

Section 1111(a) of title 18, United States Code, is amended by inserting a comma after "arson".

SEC. 7026. PUNCTUATION CORRECTION IN SECTION 1114.

Section 1114 of title 18, United States Code, is amended by striking the second comma after "terms of this section".

SEC. 7027. CLARIFICATION OF RELATION BETWEEN TWO AMENDMENTS MADE BY PUBLIC LAWS ENACTED IN THE 99TH CONGRESS.

Section 1153 of title 18, United States Code, is amended by striking "maiming" and all that follows through "incest" and inserting "maiming, a felony under chapter 109A, incest".

SEC. 7028. CORRECTION OF SUBSECTION DESIGNATION.

Section 1203 of title 18, United States Code, is amended by striking "(C)" the last place it appears and inserting "(c)".

SEC. 7029. OBSTRUCTION OF JUSTICE AMENDMENTS.

(a) EXPANSION OF VENUE FOR SECTIONS 1512 AND 1503 CASES.—Section 1512 of title 18, United States Code, is amended by adding at the end the following:

"(h) A prosecution under this section or section 1503 may be brought in the district in which the official proceeding (whether or not pending or about to be instituted) was intended to be affected or

in the district in which the conduct constituting the alleged offense occurred.".

(b) DEFINITION CHANGES.—Section 1515(a)(1)(A) of title 18, United States Code, is amended by inserting "a judge of the United States Tax Court, a special trial judge of the Tax Court, a judge of the United States Claims Court," after "bankruptcy judge,".

(c) CORRUPT PERSUASION.—Section 1512(b) of title 18, United States Code, is amended by striking "or threatens" and inserting "threatens, or corruptly persuades".

(d) DEFINITION.—Section 1515(a) of title 18, United States Code, is amended—

(1) by striking "and" at the end of paragraph (4);

(2) by striking the period at the end of paragraph (5) and inserting "; and"; and

(3) by adding at the end the following:

"(6) the term 'corruptly persuades' does not include conduct which would be misleading conduct but for a lack of a state of mind.".

SEC. 7030. CONFORMING AMENDMENT TO TABLE OF SECTIONS.

The item relating to section 1515 in the table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by inserting "; general provision" after "provisions".

SEC. 7031. CROSS REFERENCE CORRECTIONS AND ADDITIONS.

Section 1956(c)(7)(D) of title 18, United States Code, is amended by—

(1) striking "section 511" and inserting "section 513";

(2) striking "section 543" and inserting "section 545"; and

(3) inserting "section 657 (relating to lending, credit, and insurance institutions), section 658 (relating to property mortgaged or pledged to farm credit agencies)," after "section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee),".

SEC. 7032. CROSS REFERENCE CORRECTION AND ADDITIONS.

Section 1961(1) of title 18, United States Code, is amended by striking "section 2320" and inserting "section 2321".

SEC. 7033. SYNTAX CORRECTION IN SECTION 1962.

Section 1962(d) of title 18, United States Code, is amended by striking "subsections" and inserting "subsection".

SEC. 7034. SECTION 1963 AMENDMENTS.

(a) CORRECTION OF TYPOGRAPHICAL ERROR IN SUBSECTION (n).—Section 1963(n) of title 18, United States Code, is amended by striking "act of omission" and inserting "act or omission".

(b) REDESIGNATION.—Subsection (n) of section 1963 of title 18, United States Code, is redesignated as subsection (m).

SEC. 7035. CLERICAL CORRECTION TO TABLE OF CONTENTS FOR CHAPTER 119.

The table of sections at the beginning of chapter 119 of title 18, United States Code, is amended by striking "wire or oral" in the items relating to sections 2511, 2512, 2513, 2516, 2517, 2518, and 2519 and inserting "wire, oral, or electronic".

SEC. 7036. SECTION 2516 AMENDMENTS.

(a) SYNTAX CORRECTION.—Section 2516(1) of title 18, United States Code, is amended—

(1) by inserting "or" after "Associate Attorney General,", and

(2) by striking the comma that follows a comma.

(b) CORRECTION OF CROSS-REFERENCES.—Section 2516(1)(c) of title 18, United States Code, is amended—

(1) by striking "the second section 2320" and inserting "section 2321"; and

(2) by striking "section 2252 or 2253 (sexual exploitation of children),".

(c) PUNCTUATION CORRECTIONS.—

(1) section 2516(1)(a) is amended by striking "(relating to riots);" and inserting "(relating to riots),";

(2) section 2516(1)(j) is amended by striking "or;"; and

(3) section 2516(1)(k) is amended by inserting "or" at the end thereof.

SEC. 7037. CORRECTION OF CROSS REFERENCE.

Section 2702(b)(2) of title 18, United States Code, is amended by striking "2516" and inserting "2517".

SEC. 7038. GOVERNMENTAL ACCESS TO CONTENTS OF ELECTRONIC COMMUNICATIONS IN AND RECORDS OF A REMOTE COMPUTING SERVICE.

Sections 2703(b)(1)(B)(i) and 2703(c)(1)(B)(i) of title 18, United States Code, are amended by inserting "or trial" after "grand jury".

SEC. 7039. DEFINITION OF COURT FOR CERTAIN APPLICATIONS.

Section 2703(d) of title 18, United States Code, is amended by inserting "may be issued by any court that is a court of competent jurisdiction set forth in section 3126(2)(A) of this title and" before "shall issue".

SEC. 7040. SECTION 3124 AMENDMENT.

Section 3124(b) of title 18, United States Code, is amended by inserting "order" after "court" the last place it appears.

SEC. 7041. SENTENCING CLASSIFICATION OF OFFENSES.

(a) REDESIGNATION.—Section 3559(a) of title 18, United States Code, is amended—

(1) by striking "classified—" and all that follows through "is—" and inserting "classified if the maximum term of imprisonment authorized is—"; and

(2) by redesignating subparagraphs (A) through (I) as paragraphs (1) through (9).

(b) CLASS B CLASSIFICATION.—Section 3559(a) of title 18, United States Code, is amended in each of paragraphs (2) and (3) (as so redesignated by subsection (a)), by striking "twenty" and inserting "twenty-five".

SEC. 7042. CORRECTION OF CROSS REFERENCES.

Subsection (h) of section 3663 of title 18, United States Code, is amended to read as follows:

"(h) An order of restitution may be enforced—

"(1) by the United States—

"(A) in the manner provided for the collection and payment of fines in subchapter B of chapter 229 of this title; or

"(B) in the same manner as a judgment in a civil action; and

"(2) by a victim named in the order to receive the restitution, in the same manner as a judgment in a civil action.".

SEC. 7043. FURLOUGH OF CERTAIN INDIVIDUALS ORDERED TO BE COMMITTED FOR INSANITY.

Section 4243 of title 18, United States Code, is amended by adding at the end thereof the following:

"(h) LIMITATIONS ON FURLOUGHS.—An individual who is hospitalized under subsection (e) of this section after being found not guilty only by reason of insanity of an offense for which subsection (d) of this section creates a burden of proof of clear and convincing evidence, may leave temporarily the premises of the facility in which that individual is hospitalized only—

"(1) with the approval of the committing court, upon notice to the attorney for the Government and such individual, and after opportunity for a hearing;

"(2) in an emergency; or

"(3) when accompanied by a Federal law enforcement officer (as defined in section 115 of this title).".

SEC. 7044. PERIODIC REPORTS RELATING TO CERTAIN HOSPITALIZED PERSONS.

Section 4247(e)(1)(B) of title 18, United States Code, is amended by adding at the end thereof the following: "A copy of each such report concerning a person hospitalized after the beginning of a prosecution of that person for violation of section 871, 879, or 1751 of this title shall be submitted to the Director of the United States Secret Service. Except with the prior approval of the court, the Secret Service shall not use or disclose the information in these copies for any purpose other than carrying out protective duties under section 3056(a) of this title.".

Classified information.

SEC. 7045. INSERTION OF MISSING CLOSE PARENTHESIS.

The last paragraph of section 5034 of title 18, United States Code, is amended by striking "facility upon" and inserting "facility) upon".

SEC. 7046. AMENDMENT TO RULES OF EVIDENCE CONFORMING TERMINOLOGY RELATING TO SEX OFFENSES.

28 USC app.

(a) IN GENERAL.—Rule 412 of the Federal Rules of Evidence is amended—

(1) in the heading of such rule, by striking "**Rape**" and inserting "**Sex Offense**";

(2) in subdivisions (a) and (b), by striking "rape or of assault with intent to commit rape" each place it appears and inserting "an offense under chapter 109A of title 18, United States Code";

(3) in subdivision (a), by striking "rape or assault" and inserting "offense";

(4) by striking "rape or assault with intent to commit rape" each place it appears and inserting "an offense under chapter 109A of title 18, United States Code"; and

(5) in subdivision (b)(2)(B), by striking "rape or assault" and inserting "such offense".

(b) CLERICAL AMENDMENT.—The item relating to rule 412 in the table of contents at the beginning of the Federal Rules of Evidence is amended by striking "Rape" and inserting "Sex Offense".

SEC. 7047. EXTENSION OF POWER TO MAKE CERTAIN EXAMINATIONS TO PSYCHOLOGISTS.

(a) SECTION 4247(b).—Section 4247(b) of title 18, United States Code, is amended by striking "clinical psychologist" and inserting "psychologist".

(b) CONFORMING AMENDMENT TO RULE 35.—Rule 35 of the Federal Rules of Civil Procedure is amended— 28 USC app.

(1) in subdivision (a), by striking "physical or mental examination by a physician" and inserting "physical examination by a physician, or mental examination by a physician or psychologist";

(2) in subdivision (b), by inserting "or psychologist" after "physician" each time it appears, and by adding "or psychologist" to the heading of the subdivision; and

(3) by adding at the end the following new subdivision:

"(c) DEFINITIONS.—For the purpose of this rule, a psychologist is a psychologist licensed or certified by a State or the District of Columbia.".

SEC. 7048. SYNTACTICAL CORRECTION RELATING TO CERTAIN COUNTERFEIT OR FORGED ITEMS.

The second paragraph of section 2315 of title 18, United States Code, is amended by striking "which have crossed a State or United States boundary after being stolen, unlawfully converted, or taken" and inserting "moving as, or which are a part of, or which constitute interstate or foreign commerce".

SEC. 7049. FORM CORRECTION IN FEDERAL RULES OF CIVIL PROCEDURE.

Rule 17(a) of the Federal Rules of Civil Procedure is amended by striking "with him". 28 USC app.

SEC. 7050. PUNCTUATION CORRECTION IN FEDERAL RULES OF CIVIL PROCEDURE.

Rule 71A(e) is amended by striking "taking of the defendants property" and inserting "taking of the defendant's property".

SEC. 7051. DEFINITION OF "UNITED STATES" IN REFERENCE TO TERRORIST ACTS.

Section 3077(4) of title 18, United States Code, is amended to read as follows:

"(4) 'United States,' when used in a geographical sense, includes Puerto Rico and all territories and possessions of the United States;".

SEC. 7052. CROSS REFERENCES PERTAINING TO ARREST AUTHORITY FOR VIOLATION OF RELEASE CONDITIONS.

Section 3062 of title 18, United States Code, is amended by striking "a condition imposed on the person pursuant to section 3142(c)(2)(D), (c)(2)(E), (c)(2)(H), (c)(2)(I), or (c)(2)(M), or, if the violation involves a failure to remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(2)(J)" and inserting "a condition imposed on the person pursuant to section 3142(c)(1)(B)(iv), (v), (viii), (ix), or (xiii), or, if the violation involves a failure to

remain in a specified institution as required, a condition imposed pursuant to section 3142(c)(1)(B)(x)".

SEC. 7053. RENUMBERING OF SECTIONS IN CHAPTER 95.

(a) SECTION 1958.—Section 1952A of title 18, United States Code, is redesignated as section 1958.

(b) SECTION 1959.—Section 1952B of title 18, United States Code, is redesignated as section 1959.

(c) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 95 of title 18, United States Code, is amended—

(1) by striking "1952A" and inserting "1958";

(2) by striking "1952B" and inserting "1959"; and

(3) by inserting the items for redesignated sections 1958 and 1959 at the end of the table.

(d) SECTION 2516(c).—Section 2516(c) of title 18, United States Code, is amended—

(1) by striking "1952A" and inserting "1958"; and

(2) by striking "1952B" and inserting "1959".

SEC. 7054. ADDITION OF RICO PREDICATE.

Section 1961(1)(B) of title 18, United States Code, is amended—

(1) by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following: ", section 1958 (relating to use of interstate commerce facilities in the commission of murder-for-hire), sections 2251-2252 (relating to sexual exploitation of children)"; and

(2) by inserting after "sections 891-894 (relating to extortionate credit transactions)" the following: ", section 1029 (relative to fraud and related activity in connection with access devices)".

SEC. 7055. PROVISION OF MISDEMEANOR PENALTY FOR CERTAIN ESCAPES.

Sections 751(a) and 752(a) of title 18, United States Code, are amended by inserting ", or for exclusion or expulsion proceedings under the immigration laws," after "extradition".

SEC. 7056. CLARIFICATION OF PREDICATE OFFENSE REQUIREMENTS FOR ARMED CAREER CRIMINAL ACT.

Section 924(e)(1) of title 18, United States Code, is amended by inserting "committed on occasions different from one another," after "for a violent felony or a serious drug offense, or both,"

SEC. 7057. TRANSPORTATION AND RECEIPT OF STOLEN SECURITIES.

(a) TRANSMISSION OR TRANSFER.—The first paragraph of section 2314 of title 18, United States Code, is amended by striking "transports" and inserting "transports, transmits, or transfers".

(b) INAPPLICABILITY OF SECTION.—The final paragraphs of sections 2314 and 2315 of title 18, United States Code, are amended—

(1) by striking "or by a bank or corporation of any foreign country"; and

(2) by adding at the end thereof: "This section also shall not apply to any falsely made, forged, altered, counterfeited, or spurious representation of any bank note or bill issued by a bank or corporation of any foreign country which is intended by the laws or usage of such country to circulate as money.".

SEC. 7058. MAXIMUM PENALTY ADJUSTMENTS.

(a) ABUSIVE SEXUAL CONTACT.—Section 2244(a) of title 18, United States Code, is amended—

(1) in paragraph (1) by striking "five years" and inserting "ten years"; and

(2) in paragraph (3) by striking "one year" and inserting "two years".

(b) MURDER FOR HIRE.—Section 1958 of title 18, United States Code, is amended by striking "five years" and inserting "ten years".

(c) ATTEMPTED MURDER.—Section 1113 of title 18, United States Code, is amended by striking "shall be fined not more than $1,000 or imprisoned not more than three years, or both" and inserting "shall, for an attempt to commit murder be imprisoned not more than twenty years or fined under this title, or both, and for an attempt to commit manslaughter be imprisoned not more than three years or fined under this title, or both."

(d) RACKETEERING INFLUENCED AND CORRUPT ORGANIZATIONS.—Section 1963(a) of title 18, United States Code, is amended by striking "shall be fined not more than $25,000 or imprisoned not more than twenty years, or both" and inserting "shall be fined under this title or imprisoned not more than 20 years (or for life if the violation is based on a racketeering activity for which the maximum penalty includes life imprisonment), or both.".

SEC. 7059. INTERSTATE AGREEMENT ON DETAINERS ACT AMENDMENTS.

The Interstate Agreement on Detainers Act (84 Stat. 1397) is amended by adding at the end thereof the following new section:

"§ 9. Special Provisions when United States is a Receiving State 18 USC app.

"Notwithstanding any provision of the agreement on detainers to the contrary, in a case in which the United States is a receiving State—

"(1) any order of a court dismissing any indictment, information, or complaint may be with or without prejudice. In determining whether to dismiss the case with or without prejudice, the court shall consider, among others, each of the following factors: The seriousness of the offense; the facts and circumstances of the case which led to the dismissal; and the impact of a reprosecution on the administration of the agreement on detainers and on the administration of justice; and

"(2) it shall not be a violation of the agreement on detainers if prior to trial the prisoner is returned to the custody of the sending State pursuant to an order of the appropriate court issued after reasonable notice to the prisoner and the United States and an opportunity for a hearing.".

SEC. 7060. CLERICAL CORRECTIONS RELATING TO CHAPTER 44.

(a) SECTION 924(c) AMENDMENTS.—Paragraph (1) of section 924(c) of title 18, United States Code, is amended—

(1) by striking "crime,," the first place it appears and inserting "crime";

(2) by striking "crime,," each other place it appears and inserting "crime,";

(3) by striking "including a crime" and inserting "(including a crime";

(4) by striking "crime, which" and inserting "crime which";

(5) by striking "device, for" and inserting "device) for"; and

(6) by striking ", or drug trafficking crime".

(b) SECTION 929 AMENDMENT.—Paragraph (1) of section 929(a) of title 18, United States Code, is amended by striking "crime," each place it appears and inserting "crime".

(c) SECTION 922(g) AMENDMENT.—Section 922(g)(3) of title 18, United States Code, is amended by inserting "who" before "is an unlawful user".

(d) SECTION 923 AMENDMENTS.—Section 923 of title 18, United States Code, is amended—

(1) in subsection (a), by striking the period that follows "licensing"; and

(2) in subsection (f)(3), by striking the period that follows a period.

SEC. 7061. INSERTION OF MISSING SUBSECTION HEADING.

Section 2706(c) of title 18, United States Code, is amended by inserting "EXCEPTION.—" after "(c)".

SEC. 7062. INSERTION OF MISSING TABLE.

Chapter 113A of title 18, United States Code, is amended by inserting after the heading of such chapter the following table:

"Sec. 2331. Terrorist acts abroad against United States nationals.".

SEC. 7063. CORRECTION OF ITEMS IN TABLES OF CHAPTERS.

(a) CHAPTER 113A.—The item relating to chapter 113A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking the final period and inserting "..... 2331".

(b) CHAPTER 121.—The item relating to chapter 121 in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Wire and Electronic Communications and Transactional Records Access" and inserting "wire and electronic communications and transactional records access".

(c) CHAPTER 17A.—The item relating to chapter 17A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Carrier Operation Under the Influence of Alcohol or Drugs" and inserting "carrier operation under the influence of alcohol or drugs..... 341".

(d) CHAPTER 109A.—The item relating to chapter 109A in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Abuse" and inserting "abuse".

(e) CHAPTER 11.—The item relating to chapter 11 in the table of sections at the beginning of part I of title 18, United States Code, is amended by striking "Bribery and graft" and inserting "Bribery, graft, and conflicts of interest".

SEC. 7064. INSERTION OF MISSING LETTER.

Section 794(d)(4) of title 18, United States Code, is amended by striking "amount" and inserting "amounts".

SEC. 7065. PUNCTUATION CORRECTION.

Section 1030(a)(2) of title 18, United States Code, is amended—

(1) by striking the comma that follows a comma; and

(2) by inserting a comma after "financial institution".

SEC. 7066. REFERENCE CORRECTION.

Section 2232(c) of title 18, United States Code, is amended by inserting "of 1978" after "Surveillance Act".

SEC. 7067. CONFORMING AMENDMENT TO TABLE OF SECTIONS.

The item relating to section 2710 in the table of sections at the beginning of chapter 121 of title 18, United States Code, is amended by inserting "for chapter" after "Definitions".

SEC. 7068. CORRECTION OF ITEM IN TABLE OF SECTIONS FOR CHAPTER 206.

The item relating to section 3123 in the table of sections at the beginning of chapter 206 of title 18, United States Code, is amended by striking "trap or trace" and inserting "trap and trace".

SEC. 7069. CORRECTION OF ITEMS IN TABLE OF SECTIONS FOR CHAPTER 46.

The items in the table of sections at the beginning of chapter 46 of title 18, United States Code, are each amended by striking "Forfeiture" and inserting "forfeiture".

SEC. 7070. CORRECTION OF TYPOGRAPHICAL ERROR.

Section 2422 of title 18, United States Code, is amended by striking "of foreign commerce" and inserting "or foreign commerce"

SEC. 7071. CONFORMING AMENDMENT TO TABLE OF SECTIONS FOR CHAPTER 117.

The item relating to section 2424 in the table of sections at the beginning of chapter 117 of title 18, United States Code, is amended by striking "female" and inserting "individual".

SEC. 7072. ELIMINATION OF CROSS REFERENCES TO REPEALED SECTION.

(a) SECTION 3401.—Section 3401(g) of title 18, United States Code, is amended by striking "and section 4216".

(b) SECTION 3522.—Section 3522(c) of title 18, United States Code, is amended by striking "4216" and inserting "4215".

(c) SECTION 4106.—Section 4106(b) of title 18, United States Code, is amended by striking "4216" and inserting "4215".

SEC. 7073. INSERTION OF MISSING WORD.

Section 3142(c)(3) of title 18, United States Code, is amended by inserting "the" before "order".

SEC. 7074. INSERTION OF MISSING COMMA.

Section 351(a) of title 18, United States Code, is amended by inserting a comma after "(as defined in section 3056 of this title)".

SEC. 7075. CORRECTIONS OF ERRORS IN FEDERAL RULES OF EVIDENCE. 28 USC app.

(a) INSERTION OF MISSING WORD.—Rule 615 of the Federal Rules of Evidence is amended by inserting "a" before "party which is not a natural person.".

(b) SYNTAX CORRECTION.—Rule 804(a)(5) of the Federal Rules of Evidence is amended by striking "subdivisions" and inserting "subdivision".

(c) CORRECTION OF CAPITALIZATION.—Rule 1101(a) of the Federal Rules of Evidence is amended—

(1) by striking "Rules" and inserting "rules"; and

(2) by striking "Courts of Appeals" and inserting "courts of appeals".

SEC. 7076. SUPERVISED RELEASE.

18 USC app.

Rule 11(c)(1) of the Federal Rules of Criminal Procedure is amended by adding "or term of supervised release" after "special parole term".

SEC. 7077. INJUNCTIONS AGAINST FRAUD.

Section 1345 of title 18, United States Code, is amended by adding "or of section 287, 371 (insofar as such violation involves a conspiracy to defraud the United States or any agency thereof), or 1001 of this title" after "violation of this chapter,".

SEC. 7078. OBSTRUCTION OF FEDERAL AUDIT.

(a) OFFENSE.—Chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 1516. Obstruction of Federal audit

Fraud.
Contracts.

"(a) Whoever, with intent to deceive or defraud the United States, endeavors to influence, obstruct, or impede a Federal auditor in the performance of official duties relating to a person receiving in excess of $100,000, directly or indirectly, from the United States in any 1 year period under a contract or subcontract, shall be fined under this title, or imprisoned not more than 5 years, or both.

"(b) For purposes of this section the term 'Federal auditor' means any person employed on a full- or part-time or contractual basis to perform an audit or a quality assurance inspection for or on behalf of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end thereof the following new item:

"1516. Obstruction of Federal audit.".

SEC. 7079. UNAUTHORIZED USE OF THE TERM "SECRET SERVICE".

(a) UNAUTHORIZED USE.—Section 709 of title 18, United States Code, is amended by inserting after the undesignated paragraph relating to the Federal Bureau of Investigations the following new paragraph:

"Whoever, except with written permission of the Director of the United States Secret Service, knowingly uses the words 'Secret Service', 'Secret Service Uniformed Division', the initials 'U.S.S.S.', 'U.D.', or any colorable imitation of such words or initials, in connection with, or as a part of any advertisement, circular, book, pamphlet or other publication, play, motion picture, broadcast, telecast, other production, product, or item, in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet or other publication, product, or item, is approved, endorsed, or authorized by or associated in any manner with, the United States Secret Service, or the United States Secret Service Uniformed Division; or".

18 USC 709 note.

(b) EFFECTIVE DATE.—This section shall take effect 90 days after the date of enactment of this Act.

SEC. 7080. AGGREGATION TO PERMIT PROSECUTION OF CERTAIN SCHEMES TO DEFRAUD MULTIPLE VICTIMS.

The second paragraph of section 2314 of title 18, United States Code, is amended by inserting "or persons" after "person" the first place it appears, and by inserting "or those persons" after "person" the second place it appears.

SEC. 7081. TIME FOR REFILING INDICTMENT OR INFORMATION FOLLOWING DISMISSAL.

(a) INDICTMENT WHERE DEFECT FOUND AFTER PERIOD OF LIMITATIONS.—Section 3288 of title 18, United States Code, is amended—

(1) by inserting after "within six calendar months of the date of the dismissal of the indictment or information" the following: ", or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final";

(2) by striking all beginning with "Whenever" through "for any cause," and inserting "Whenever an indictment or information charging a felony is dismissed for any reason";

(3) by adding at the end thereof the following: "This section does not permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution."; and

(4) so that the section heading reads as follows:

"§ 3288. Indictments and information dismissed after period of limitations"

(b) INDICTMENT WHERE DEFECT FOUND BEFORE PERIOD OF LIMITATIONS.—Section 3289 of title 18, United States Code, is amended—

(1) by inserting after "within six calendar months of the date of the dismissal of the indictment or information" the following: "or, in the event of an appeal, within 60 days of the date the dismissal of the indictment or information becomes final";

(2) by striking all beginning with "Whenever" through "for any cause," and inserting "Whenever an indictment or information charging a felony is dismissed for any reason";

(3) by adding at the end thereof the following: "This section does not permit the filing of a new indictment or information where the reason for the dismissal was the failure to file the indictment or information within the period prescribed by the applicable statute of limitations, or some other reason that would bar a new prosecution."; and

(4) so that the section heading reads as follows:

"§ 3289. Indictments and information dismissed before period of limitations".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 213 of title 18, United States Code, is amended by striking the items for sections 3288 and 3289 and inserting the following:

"3288. Indictments and information dismissed after period of limitations.
"3289. Indictments and information dismissed before period of limitations.".

SEC. 7082. CRIMINAL FINES AMENDMENTS.

(a) APPLICATION OF GOVERNMENT PETITION FOR MODIFICATION OR REMISSION OF FINES TO OLD FINES.—Section 3573 of title 18, United States Code, is amended by adding at the end thereof the following: "This section shall apply to all fines and assessments irrespective of the date of imposition.".

(b) APPLICATION OF STATUTE OF LIMITATIONS FOR SPECIAL ASSESSMENTS TO OLD ASSESSMENTS.—Section 3013(c) of title 18, United States Code, is amended by adding at the end thereof the following: "This subsection shall apply to all assessments irrespective of the date of imposition.".

(c) APPLICATION OF WAIVER BY ATTORNEY GENERAL OF INTEREST OR PENALTY RELATING TO FINES TO OLD FINES.—Section 3612(h) of title 18, United States Code, is amended by inserting "or any interest or penalty relating to a fine imposed under any prior law" after "under this section".

(d) NOTICE REQUIREMENTS.—Sections 3612(d) and (e) of title 18, United States Code, are amended by striking ", by certified mail,".

SEC. 7083. SYNTAX CORRECTION TO MINIMUM SENTENCE PROVISION.

Section 994(n) of title 28, United States Code, is amended by striking "as minimum sentence" and inserting "as a minimum sentence".

SEC. 7084. REFUND OF FORFEITED BAIL.

(a) OFFENSE.—Chapter 207 of title 18, United States Code, is amended by adding the following new section after section 3150:

"§ 3151. Refund of forfeited bail

"Appropriations available to refund money erroneously received and deposited in the Treasury are available to refund any part of forfeited bail deposited into the Treasury and ordered remitted under the Federal Rules of Criminal Procedure.".

(b) SECTION ANALYSIS.—The section analysis for chapter 207 of title 18, United States Code, is amended by inserting at the appropriate place the following new item:

"3151. Refund of forfeited bail.".

SEC. 7085. SPECIAL ASSESSMENTS ON PERSONS CONVICTED OF OFFENSES.

Paragraph (1) of section 3013(a) of title 18, United States Code, is amended to read as follows:

"(1) in the case of an infraction or a misdemeanor—

"(A) if the defendant is an individual—

"(i) the amount of $5 in the case of an infraction or a class C misdemeanor;

"(ii) the amount of $10 in the case of a class B misdemeanor; and

"(iii) the amount of $25 in the case of a class A misdemeanor; and

"(B) if the defendant is a person other than an individual—

"(i) the amount of $25 in the case of a infraction or a class C misdemeanor;

"(ii) the amount of $50 in the case of a class B misdemeanor; and

"(iii) the amount of $125 in the case of a class A misdemeanor.".

SEC. 7086. CONDITIONS OF PROBATION.

Section 3563(a)(2) of title 18, United States Code, is amended by inserting before the period ", unless the court finds on the record that extraordinary circumstances exist that would make such a condition plainly unreasonable, in which event the court shall impose one or more of the other conditions set forth under subsection (b)".

SEC. 7087. AUTHORITY TO OBTAIN ARREST WARRANT FOR FOREIGN FUGITIVE WHOSE SPECIFIC WHEREABOUTS ARE NOT KNOWN. District of Columbia.

Section 3184 of title 18, United States Code, is amended by inserting after the first sentence the following: "Such complaint may be filed before and such warrant may be issued by a judge or magistrate of the United States District Court for the District of Columbia if the whereabouts within the United States of the person charged are not known.".

SEC. 7088. MISUSE OF SOCIAL SECURITY NUMBER.

Section 208 of the Social Security Act (42 U.S.C. 408) is amended—

(1) in the first undesignated paragraph, by striking "not more than $5,000" after "shall be fined" and inserting "under title 18, United States Code,";

(2) in the second undesignated paragraph, by striking "not more than $25,000" after "shall be fined" and inserting "under title 18, United States Code,"; and

(3) adding at the end the following: "For the purpose of subsection (g), the terms 'social security number' and 'social security account number' mean such numbers as are assigned by the Secretary under section 405(c)(2) of this title whether or not, in actual use, such numbers are called social security numbers.".

SEC. 7089. PETTY OFFENSE AMENDMENTS.

(a) TITLE 18.—Section 19 of title 18, United States Code, is amended by inserting ", for which the maximum fine is no greater than the amount set forth for such an offense in section 3571(b) (6) or (7) in the case of an individual or section 3571(c) (6) or (7) in the case of an organization" after "infraction".

(b) RULES OF PROCEDURE.—Rule 9 of the Rules of Procedure for the Trial of Misdemeanors before United States Magistrates is amended to read as follows: 18 USC app.

"Rule 9. Definition

"As used in these rules, 'petty offense' has the meaning set forth in 18 U.S.C. § 19.".

(c) FEDERAL RULES OF CRIMINAL PROCEDURE.—Rule 54 of the Federal Rules of Criminal Procedure is amended in the definition of "petty offense" to read as follows: 18 USC app.

" 'Petty offense' has the meaning set forth in 18 U.S.C. 19.".

SEC. 7090. NONMAILABILITY OF LOCKSMITHING DEVICES.

(a) IN GENERAL.—Title 39, United States Code, is amended by inserting after section 3002 the following:

"§ 3002a. Nonmailability of locksmithing devices.

"(a) Any locksmithing device is nonmailable mail, shall not be carried or delivered by mail, and shall be disposed of as the Postal Service directs, unless such device is mailed to—

"(1) a lock manufacturer or distributor;

"(2) a bona fide locksmith;

"(3) a bona fide repossessor; or

"(4) a motor vehicle manufacturer or dealer.

"(b) For the purpose of this section, 'locksmithing device' means—

"(1) a device or tool (other than a key) designed to manipulate the tumblers in a lock into the unlocked position through the keyway of such lock;

"(2) a device or tool (other than a key or a device or tool under paragraph (1)) designed for the unauthorized opening or bypassing of a lock or similar security device; and

"(3) a device or tool designed for making an impression of a key or similar security device to duplicate such key or device.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 30 of title 39, United States Code, is amended by inserting after the item relating to section 3002 the following:

"3002a. Nonmailability of locksmithing devices.".

(c) PENALTIES.—Section 1716A of title 18, United States Code, is amended—

(1) by inserting "**locksmithing devices and**" before "**motor vehicle**" in the section heading;

(2) by inserting "(a)" before "Whoever"; and

(3) by striking out "fined not more than $1,000, or" and inserting "under this title"; and

(4) by adding at the end the following:

"(b) Whoever knowingly deposits for mailing or delivery, causes to be delivered by mail, or causes to be delivered by any interstate mailing or delivery other than by the United States Postal Service, any matter declared to be nonmailable by section 3002a of title 39, shall be fined under this title, imprisoned not more than one year, or both.".

(d) CLERICAL AMENDMENT.—The table of sections for chapter 83 of title 18, United States Code, is amended by striking out the item relating to section 1716A and inserting the following:

"1716A. Nonmailable locksmithing devices and motor vehicle master keys.".

SEC. 7091. BAIL PENDING APPEAL.

Section 3143(b) of title 18, United States Code, is amended by—

(1) striking subparagraph (2) and inserting the following:

"(2) that the appeal is not for the purpose of delay and raises a substantial question of law or fact likely to result in—

"(A) reversal,

"(B) an order for a new trial,

"(C) a sentence that does not include a term of imprisonment, or

"(D) a reduced sentence to a term of imprisonment less than the total of the time already served plus the expected duration of the appeal process."; and

(2) inserting before the final period the following: ", except that in the circumstance described in paragraph (b)(2)(D), the judicial officer shall order the detention terminated at the expiration of the likely reduced sentence".

SEC. 7092. EMERGENCY PEN REGISTER AND TRAP AND TRACE DEVICE INSTALLATION.

(a) Chapter 206 of title 18, United States Code is amended—

(1) by renumbering sections 3125 and 3126 as sections 3126 and 3127 respectively; and

(2) by adding after section 3124 the following new section:

"§ 3125. Emergency pen register and trap and trace device installation.

"(a) Notwithstanding any other provision of this chapter, any investigative or law enforcement officer, specially designated by the

Attorney General, the Deputy Attorney General, the Associate Attorney General, any Assistant Attorney General, any acting Assistant Attorney General, or any Deputy Assistant Attorney General, or by the principal prosecuting attorney of any State or subdivision thereof acting pursuant to a statute of that State, who reasonably determines that—

"(1) an emergency situation exists that involves—

"(A) immediate danger of death or serious bodily injury to any person; or

"(B) conspiratorial activities characteristic of organized crime,

that requires the installation and use of a pen register or a trap and trace device before an order authorizing such installation and use can, with due diligence, be obtained, and

"(2) there are grounds upon which an order could be entered under this chapter to authorize such installation and use 'may have installed and use a pen register or trap and trace device if, within forty-eight hours after the installation has occurred, or begins to occur, an order approving the installation or use is issued in accordance with section 3123 of this title.'

"(b) In the absence of an authorizing order, such use shall immediately terminate when the information sought is obtained, when the application for the order is denied or when forty-eight hours have lapsed since the installation of the pen register or trap and trace device, whichever is earlier.

"(c) The knowing installation or use by any investigative or law enforcement officer of a pen register or trap and trace device pursuant to subsection (a) without application for the authorizing order within forty-eight hours of the installation shall constitute a violation of this chapter.

"(d) A provider for a wire or electronic service, landlord, custodian, or other person who furnished facilities or technical assistance pursuant to this section shall be reasonably compensated for such reasonable expenses incurred in providing such facilities and assistance.".

(b)(1) Section 3124(d) of title 18, United States Code, is amended by adding after the words "court order under this chapter" the words "or request pursuant to section 3125 of this title".

(2) Section 3124(e) of title 18, United States Code, is amended by adding after the words "court order" the words "under this chapter, a request pursuant to section 3125 of this title".

(c) The table of sections for chapter 206 of title 18, United States Code, is amended—

(1) by renumbering the items for sections 3125 and 3126 as sections 3126 and 3127, respectively; and

(2) by inserting the following new item: "3125. Emergency pen register and trap and trace device installation".

(d) Section 3124(b) of title 18, United States Code, is amended by adding after the words "shall be furnished" the words ", pursuant to subsection 3123(b) or section 3125 of this title,".

SEC. 7093. AUTHORITY OF FEDERAL PRISON INDUSTRIES TO BORROW AND INVEST FUNDS.

(a) GRANT OF AUTHORITY.—Chapter 307 of title 18, United States Code, is amended by inserting after section 4128 the following new section:

"§ 4129. Authority to borrow and invest

"(a)(1) As approved by the board of directors, Federal Prison Industries, to such extent and in such amounts as are provided in appropriations Acts, is authorized to issue its obligations to the Secretary of the Treasury, and the Secretary of the Treasury, in the Secretary's discretion, may purchase or agree to purchase any such obligations, except that the aggregate amount of obligations issued by Federal Prison Industries under this paragraph that are outstanding at any time may not exceed 25 percent of the net worth of the corporation. For purchases of such obligations by the Secretary of the Treasury, the Secretary is authorized to use as a public debt transaction the proceeds of the sale of any securities issued under chapter 31 of title 31 after the date of the enactment of this section, and the purposes for which securities may be issued under that chapter are extended to include such purchases. Each purchase of obligations by the Secretary of the Treasury under this subsection shall be upon such terms and conditions as to yield a return at a rate not less than a rate determined by the Secretary of the Treasury, taking into consideration the current average yield on outstanding marketable obligations of the United States of comparable maturity. For purposes of the first sentence of this paragraph, the net worth of Federal Prison Industries is the amount by which its assets (including capital) exceed its liabilities.

"(2) The Secretary of the Treasury may sell, upon such terms and conditions and at such price or prices as the Secretary shall determine, any of the obligations acquired by the Secretary under this subsection. All purchases and sales by the Secretary of the Treasury of such obligations under this subsection shall be treated as public debt transactions of the United States.

"(b) Federal Prison Industries may request the Secretary of the Treasury to invest excess moneys from the Prison Industries Fund. Such investments shall be in public debt securities with maturities suitable to the needs of the corporation as determined by the board of directors, and bearing interest at rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the United States of comparable maturities.".

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 307 of title 18, United States Code, is amended by adding at the end the following new item:

"4129. Authority to borrow and invest.".

SEC. 7094. USE OF FUNDS.

Section 4126 of title 18, United States Code, is amended—

(1) by designating the first through fifth paragraphs as subsections (a) through (e), respectively;

(2) by amending subsection (c), as designated by paragraph (1) of this section, to read as follows:

Corporations.

"(c) The corporation, in accordance with the laws generally applicable to the expenditures of the several departments, agencies, and establishments of the Government, is authorized to employ the fund, and any earnings that may accrue to the corporation—

"(1) as operating capital in performing the duties imposed by this chapter;

"(2) in the lease, purchase, other acquisition, repair, alteration, erection, and maintenance of industrial buildings and equipment;

"(3) in the vocational training of inmates without regard to their industrial or other assignments;

"(4) in paying, under rules and regulations promulgated by the Attorney General, compensation to inmates employed in any industry, or performing outstanding services in institutional operations, and compensation to inmates or their dependents for injuries suffered in any industry or in any work activity in connection with the maintenance or operation of the institution in which the inmates are confined.

In no event may compensation for such injuries be paid in an amount greater than that provided in chapter 81 of title 5."; and

(3) by adding at the end the following:

"(f) Funds available to the corporation may be used for the lease, purchase, other acquisition, repair, alteration, erection, or maintenance of facilities only to the extent such facilities are necessary for the industrial operations of the corporation under this chapter. Such funds may not be used for the construction or acquisition of penal or correctional institutions, including camps described in section 4125.".

SEC. 7095. REPORTS TO CONGRESS.

Section 4127 of title 18, United States Code, is amended to read as follows:

"The board of directors of Federal Prison Industries shall submit an annual report to the Congress on the conduct of the business of the corporation during each fiscal year, and on the condition of its funds during such fiscal year. Such report shall include a statement of the amount of obligations issued under section 4129(a)(1) during such fiscal year, and an estimate of the amount of obligations that will be so issued in the following fiscal year.".

SEC. 7096. GUIDELINES AND PUBLIC COMMENT ON NEW OR EXPANDED PRODUCTION BY FEDERAL PRISON INDUSTRIES. Corporations.

Section 4122(b) of title 18, United States Code, is amended—

(1) by inserting "(1)" after "(b)";

(2) by striking out "all physically fit inmates in the United States penal and correctional institutions" and inserting in lieu thereof "the greatest number of those inmates in the United States penal and correctional institutions who are eligible to work as is reasonably possible"; and

(3) by adding at the end thereof the following:

"(2) Federal Prison Industries shall conduct its operations so as to produce products on an economic basis, but shall avoid capturing more than a reasonable share of the market among Federal departments, agencies, and institutions for any specific product. Federal Prison Industries shall concentrate on providing to the Federal Government only those products which permit employment of the greatest number of those inmates who are eligible to work as is reasonably possible. Employment and unemployment.

"(3) Federal Prison Industries shall diversify its products so that its sales are distributed among its industries as broadly as possible.

"(4) Any decision by Federal Prison Industries to produce a new product or to significantly expand the production of an existing product shall be made by the board of directors of the corporation.

Before the board of directors makes a final decision, the corporation shall do the following:

"(A) The corporation shall prepare a detailed written analysis of the probable impact on industry and free labor of the plans for new production or expanded production. In such written analysis the corporation shall, at a minimum, identify and consider—

"(i) the number of vendors currently meeting the requirements of the Federal Government for the product;

Small business.

"(ii) the proportion of the Federal Government market for the product currently served by small businesses, small disadvantaged businesses, or businesses operating in labor surplus areas;

"(iii) the size of the Federal Government and non-Federal Government markets for the product;

"(iv) the projected growth in the Federal Government demand for the product; and

"(v) the projected ability of the Federal Government market to sustain both Federal Prison Industries and private vendors.

"(B) The corporation shall announce in a publication designed to most effectively provide notice to potentially affected private vendors the plans to produce any new product or to significantly expand production of an existing product. The announcement shall also indicate that the analysis prepared under subparagraph (A) is available through the corporation and shall invite comments from private industry regarding the new production or expanded production.

"(C) The corporation shall directly advise those affected trade associations that the corporation can reasonably identify the plans for new production or expanded production, and the corporation shall invite such trade associations to submit comments on those plans.

"(D) The corporation shall provide to the board of directors—

"(i) the analysis prepared under subparagraph (A) on the proposal to produce a new product or to significantly expand the production of an existing product,

"(ii) comments submitted to the corporation on the proposal, and

"(iii) the corporation's recommendations for action on the proposal in light of such comments.

In addition, the board of directors, before making a final decision under this paragraph on a proposal, shall, upon the request of an established trade association or other interested representatives of private industry, provide a reasonable opportunity to such trade association or other representatives to present comments directly to the board of directors on the proposal.

Public information.

"(5) Federal Prison Industries shall publish in the manner specified in paragraph (4)(B) the final decision of the board with respect to the production of a new product or the significant expansion of the production of an existing product.

Public information.

"(6) Federal Prison Industries shall publish, after the end of each 6-month period, a list of sales by the corporation for that 6-month period. Such list shall be made available to all interested parties.".

Subtitle C—Sentencing Amendments

SEC. 7101. PRISONERS TRANSFERRED TO THE UNITED STATES.

(a) PRISONERS TRANSFERRED TO THE UNITED STATES.—Chapter 306 of title 18, United States Code, is amended by inserting after section 4106 the following:

"§ 4106A. Transfer of offenders on parole; parole offenders transferred

"(a) Upon the receipt of an offender who is on parole from the authorities of a foreign country, the Attorney General shall assign the offender to the United States Parole Commission for supervision.

"(b)(1)(A) The United States Parole Commission shall, without unnecessary delay, determine a release date and a period and conditions of supervised release for an offender transferred to the United States to serve a sentence of imprisonment, as though the offender were convicted in a United States district court of a similar offense.

"(B) In making such determination, the United States Parole Commission shall consider—

"(i) any recommendation of the United States Probation Service, including any recommendation as to the applicable guideline range; and

"(ii) any documents provided by the transferring country; relating to that offender.

"(C) The combined periods of imprisonment and supervised release that result from such determination shall not exceed the term of imprisonment imposed by the foreign court on that offender

"(D) The duties conferred on a United States probation officer with respect to a defendant by section 3552 of this title shall, with respect to an offender so transferred, be carried out by the United States Probation Service.

"(2)(A) A determination by the United States Parole Commission under this subsection may be appealed to the United States court of appeals for the circuit in which the offender is imprisoned at the time of the determination of such Commission. Notice of appeal must be filed not later than 45 days after receipt of notice of such determination.

"(B) The court of appeals shall decide and dispose of the appeal in accordance with section 3742 of this title as though the determination appealed had been a sentence imposed by a United States district court.

"(3) During the supervised release of an offender under this subsection, the United States district court for the district in which the offender resides shall supervise the offender.

"(c) This section shall apply only to offenses committed on or after November 1, 1987.".

(b) TECHNICAL AMENDMENT.—Section 4108(a) of title 18, United States Code, is amended by striking out "including any term of imprisonment" and all that follows through "28 U.S.C. 994(a)(1),".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 306 of title 18, United States Code, is amended by inserting after the item relating to section 4106 the following:

"4106A. Transfer of offenders on parole; parole of offenders transferred.".

(d) APPOINTMENT OF GUARDIANS AD LITEM AND PROVISION OF COUNSEL.—Section 4109 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "In proceedings"; and

(2) by adding at the end the following:

"(b) Guardians ad litem appointed by the verifying officer under section 4100 of this title to represent offenders who are financially unable to provide for compensation and travel expenses of the guardian ad litem shall be compensated and reimbursed under subsection (a)(1) of this section.

"(c) The offender shall have the right to advice of counsel in proceedings before the United States Parole Commission under section 4106A of this title and in an appeal from a determination of such Commission under such section. If the offender is financially unable to obtain counsel, counsel for such proceedings and appeal shall be appointed under section 3006A of this title.".

(e) CONSENT TO TRANSFER BY GUARDIANS FOR INCOMPETENTS; APPOINTMENT OF GUARDIAN INDEPENDENT OF APPOINTMENT OF COUNSEL.—Section 4100(b) of title 18, United States Code, is amended—

(1) in the last sentence, by—

(A) inserting ", or is deemed by the verifying officer to be mentally incompetent or otherwise incapable of knowingly and voluntarily consenting to the transfer," after "under eighteen years of age"; and

(B) inserting ", guardian ad litem," after "guardian"; and

(2) by adding at the end the following: "The appointment of a guardian ad litem shall be independent of the appointment of counsel under section 4109 of this title.".

(f) CONFORMING AMENDMENTS AND COMPENSATION MAXIMA RELATING TO PROVISION OF COUNSEL.—(1) Section 3006A(a)(1) of title 18, United States Code, is amended—

(A) by striking "or" at the end of subparagraph (H);

(B) by striking the period at the end of subparagraph (I) and inserting "; or"; and

(C) by adding at the end the following:

"(J) is entitled to the appointment of counsel under section 4109 of this title.".

(2) Section 3006A(d)(2) of title 18, United States Code, is amended by inserting after the second sentence the following: "For representation of an offender before the United States Parole Commission in a proceeding under section 4106A of this title, the compensation shall not exceed $750 for each attorney in each proceeding; for representation of an offender in an appeal from a determination of such Commission under such section, the compensation shall not exceed $2,500 for each attorney in each court."

SEC. 7102. RECORDS OTHER THAN TRANSCRIPTS.

Section 3553(c) of title 18, United States Code, is amended by—

(1) inserting after "transcription" the following: "or other appropriate public record"; and

(2) striking "clerk of the" in the last sentence.

SEC. 7103. STANDARD OF REVIEW.

(a) TITLE 18 AMENDMENT.—Section 3742 of title 18, United States Code, is amended—

(1) in subsections (a)(2) and (b)(2), by striking "issued by the Sentencing Commission pursuant to 28 U.S.C. 994(a)";

(2) by striking paragraph (3) of subsection (a) and inserting the following:

"(3) is greater than the sentence specified in the applicable guideline range to the extent that the sentence includes a greater fine or term of imprisonment, probation, or supervised release than the maximum established in the guideline range, or includes a more limiting condition of probation or supervised release under section 3563(b)(6) or (b)(11) than the maximum established in the guideline range; or";

(3) by striking paragraph (3) of subsection (b) and inserting the following:

"(3) is less than the sentence specified in the applicable guideline range to the extent that the sentence includes a lesser fine or term of imprisonment, probation, or supervised release than the minimum established in the guideline range, or includes a less limiting condition of probation or supervised release under section 3563(b)(6) or (b)(11) than the minimum established in the guideline range; or";

(4) by striking paragraph (4) of subsection (a) and inserting the following:

"(4) was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable.";

(5) in subsection (b)—

(A) by striking paragraph (4) through the end and inserting the following:

"(4) was imposed for an offense for which there is no sentencing guideline and is plainly unreasonable."; and

(B) by inserting after "The Government" the following: ", with the personal approval of the Attorney General or the Solicitor General,";

(6) in subsections (d)(3) and (e)(2), by striking "range of the applicable sentencing guideline" and inserting "applicable guideline range";

(7) in the second sentence of subsection (d), by inserting "and shall give due deference to the district court's application of the guidelines to the facts" after "clearly erroneous";

(8) by inserting a new subsection (c), as follows, and by redesignating subsections (c), (d), (e), and (f) as subsections (d), (e), (f), and (g), respectively:

"(c) PLEA AGREEMENTS.—In the case of a plea agreement that includes a specific sentence under rule 11(e)(1)(C) of the Federal Rules of Criminal Procedure—

"(1) a defendant may not file a notice of appeal under paragraph (3) or (4) of subsection (a) unless the sentence imposed is greater than the sentence set forth in such agreement; and

"(2) the Government may not file a notice of appeal under paragraph (3) or (4) of subsection (b) unless the sentence imposed is less than the sentence set forth in such agreement."; and

(9) by adding at the end of the section the following new subsection:

"(h) GUIDELINE NOT EXPRESSED AS A RANGE.—For the purpose of this section, the term 'guideline range' includes a guideline range having the same upper and lower limits.".

(b) TITLE 28 AMENDMENT.—Section 994(a)(1) of title 28, United States Code, is amended—

(1) in subparagraph (C), by striking out "term; and" and inserting "term;";

(2) in subparagraph (D), by inserting "and" after "consecutively;"; and

(3) by adding at the end thereof the following:

"(E) a determination under paragraphs (6) and (11) of section 3563(b) of title 18;".

SEC. 7104. HIRING OUTSIDE COUNSEL.

Section 995(a) of title 28, United States Code, is amended by—

(1) striking "and" at the end of paragraph (21);

(2) striking the period at the end of paragraph (22) and inserting "; and"; and

(3) adding at the end thereof the following:

"(23) retain private attorneys to provide legal advice to the Commission in the conduct of its work, or to appear for or represent the Commission in any case in which the Commission is authorized by law to represent itself, or in which the Commission is representing itself with the consent of the Department of Justice; and the Commission may in its discretion pay reasonable attorney's fees to private attorneys employed by it out of its appropriated funds. When serving as officers or employees of the United States, such private attorneys shall be considered special government employees as defined in section 202(a) of title 18; and".

SEC. 7105. POWERS OF THE COMMISSION.

Section 995(a)(2) of title 28, United States Code, is amended by striking "grade 18 of the General Schedule pay rates (5 U.S.C. 5332)" and inserting "Level 6 of the Senior Executive Service Schedule (5 U.S.C. 5382)".

SEC. 7106. GRANTING INCENTIVE AWARDS.

(a) DEFINED AS AGENCY.—Section 4501(1) of title 5, United States Code, is amended by—

(1) striking "and" at the end of subparagraph (F);

(2) adding "and" at the end of subparagraph (G); and

(3) adding at the end thereof the following:

"(H) the United States Sentencing Commission;".

(b) POWERS OF COMMISSION.—Section 995(a) of title 28, United States Code, is amended by adding at the end thereof the following:

"(24) grant incentive awards to its employees pursuant to chapter 45 of title 5, United States Code.".

(c) INCENTIVE AWARDS.—Section 996(b) of title 28, United States Code, is amended by inserting before "81", the following: "45 (Incentive Awards),".

SEC. 7107. TECHNICAL CORRECTION.

Section 3582(c) of title 18, United States Code, is amended by striking "28 U.S.C. 994(n)" and inserting "28 U.S.C. 994(o)".

SEC. 7108. PROTECTION OF PUBLIC.

(a) CONDITIONS.—Section 3583(d) of title 18, United States Code, is amended—

(1) in paragraph (1) by inserting "(a)(2)(C)," after "(a)(2)(B),", and

(2) in paragraph (2) by inserting "(a)(2)(C)," after "(a)(2)(B),"

(b) MODIFICATION OR REVOCATION.—Section 3583(e) of title 18, United States Code, is amended—

(1) by inserting "(a)(2)(C)," after "(a)(2)(B),";

(2) in paragraph (2), by inserting "or" after "supervision;";

(3) by striking out paragraph (3); and

(4) by redesignating paragraph (4) as paragraph (3).

SEC. 7109. AUTHORITY TO AMEND GUIDELINES.

Subsection (p) of section 994 of title 28, United States Code, is amended to read as follows:

"(p) The Commission, at or after the beginning of a regular session of Congress, but not later than the first day of May, may promulgate under subsection (a) of this section and submit to Congress amendments to the guidelines and modifications to previously submitted amendments that have not taken effect, including modifications to the effective dates of such amendments. Such an amendment or modification shall be accompanied by a statement of the reasons therefor and shall take effect on a date specified by the Commission, which shall be no earlier than 180 days after being so submitted and no later than the first day of November of the calendar year in which the amendment or modification is submitted, except to the extent that the effective date is revised or the amendment is otherwise modified or disapproved by Act of Congress.".

SEC. 7110. CLARIFICATION OF RESTITUTION PROVISION.

SEC. 3563(b)(3) of title 18, United States Code, is amended by striking "3556" and inserting "3663 and 3664 (but not subject to the limitations of 3663(a))".

SEC. 7111. AMENDMENT TO RULE 4, RULES OF APPELLATE PROCEDURE.

Rule 4(b) of the Rules of Appellate Procedure is amended— 28 USC app.

(1) in the first sentence, by inserting "(i)" after "entry of", and inserting "or (ii) a notice of appeal by the Government" at the end; and

(2) in the sentence beginning "When an appeal by the government is authorized", by inserting "(i)" after "entry of", and inserting "or (ii) a notice of appeal by any defendant" at the end.

Subtitle D—Victim Compensation and Assistance

SEC. 7121. VICTIMS OF CRIME ACT OF 1984 REAUTHORIZATION.

(a) IN GENERAL.—Subsection (c) of section 1402 of the Victims of Crime Act of 1984 (42 U.S.C. 10601(c)) is amended to read as follows:

"(c)(1)(A) If the total deposited in the Fund during a particular fiscal year reaches the ceiling sum described in subparagraph (B), the excess over the ceiling sum shall not be part of the Fund. The first $2,200,000 of such excess shall be available to the judicial branch for administrative costs to carry out the functions of the judicial branch under sections 3611 and 3612 of title 18, United States Code, and the remaining excess shall be deposited in the general fund of the Treasury.

"(B) The ceiling sum referred to in subparagraph (A) is—

"(i) $125,000,000 through fiscal year 1991; and

"(ii) $150,000,000 thereafter through fiscal year 1994.

"(2) No deposits shall be made in the Fund after September 30, 1994.".

(b) USE OF SUMS IN EXCESS OF PRIOR CAP.—(1) Section 1402(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(2)) is amended by adding at the end the following:

"(D) Any deposits in the Fund in a particular fiscal year in excess of $110,000,000 shall be available as follows:

"(i) 47.5 percent shall be available for grants under section 1403;

"(ii) 47.5 percent shall be available for grants under section 1404(a); and

"(iii) 5 percent shall be available for grants under section 1404(c)(1)(B).".

(2) Section 1402(d)(2)(C) of the Victims of Crime Act of 1984 (42 U.S.C. 10601(d)(2)(C)) is amended by inserting ", but not in excess of $110,000,000," after "$105,500,000".

SEC. 7122. VICTIMS ASSISTANCE AMENDMENT.

Section 1404(a)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(2)) is amended—

(1) by inserting after subparagraph (A) the following:

Grants.

"(B) certify that funds shall be made available for grants to programs which serve previously underserved populations of victims of violent crime. The Director, after consultation with State and local officials and representatives from private organizations, shall issue guidelines to implement this section that provide flexibility to the States in determining the populations of victims of violent crimes that may be underserved in their respective States;"; and

(2) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (D) accordingly.

SEC. 7123. ESTABLISHMENT OF OFFICE FOR VICTIMS OF CRIME.

(a) IN GENERAL.—The Victims of Crime Act of 1984 (42 U.S.C. 10601 et seq.) is amended by adding at the end the following:

"ESTABLISHMENT OF OFFICE FOR VICTIMS OF CRIME

42 USC 10605.

"SEC. 1411. (a) There is established within the Department of Justice an Office for Victims of Crime (hereinafter in this chapter referred to as the 'Office').

President of U.S.

"(b) The Office shall be headed by a Director (referred to in this chapter as the 'Director'), who shall be appointed by the President, by and with the advice and consent of the Senate. The Director shall report to the Attorney General through the Assistant Attorney General for the Office of Justice Programs and shall have final authority for all grants, cooperative agreements, and contracts awarded by the Office. The Director shall not engage in any employment other than that of serving as the Director, nor shall the Director hold any office in, or act in any capacity for, any organization, agency, or institution with which the Office makes any contract or other agreement under this part.

"(c) The Director shall have the following duties:

"(1) Administering funds made available by section 1402.

"(2) Providing funds to eligible States pursuant to sections 1403 and 1404.

"(3) Establishing programs in accordance with section 1404(c) on terms and conditions determined by the Director to be consistent with that subsection.

"(4) Cooperating with and providing technical assistance to States, units of local government, and other public and private organizations or international agencies involved in activities related to crime victims.

"(5) Such other functions as the Attorney General may delegate.".

(b) CONFORMING AMENDMENTS.—

(1) Section 1403(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking "Attorney General" and inserting "Director".

(2) Section 1403(a)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking "Attorney General" and inserting "Director".

(3) Section 1403(b)(6) of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking "Attorney General" and inserting "Director".

(4) Section 1404(a)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General" and inserting "Director".

(5) Section 1404(a)(2)(C) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General" and inserting "Director".

(6) Section 1404(c)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General, acting through the Assistant Attorney General for the Office of Justice Programs" and inserting "Director".

(7) Section 1404(c)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Assistant Attorney General for the Office of Justice Programs" and inserting "Director".

(8) Section 1404(c)(3)(D) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General may assign" and inserting "Director deems appropriate".

(9) Section 1404(c)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10603) is amended by striking "Attorney General" and inserting "Director".

(10) Section 1407(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by—

(A) striking "Attorney General" each place it appears and inserting "Director"; and

(B) striking "and may delegate to any officer or employee of the Department of Justice any such function as the Attorney General deems appropriate".

(11) Section 1407(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by striking "Attorney General" and inserting "Director".

(12) Section 1407(c) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by striking "Attorney General or any duly authorized representative of the Attorney General" and inserting "Director".

(13) Section 1407(f) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by striking "Attorney General" each place it appears and inserting "Director".

(14) Section 1407(g) of the Victims of Crime Act of 1984 (42 U.S.C. 10604) is amended by—

(A) striking "Attorney General" each place it appears and inserting "Director"; and

(B) striking "no later than December 31, 1987" and inserting "on December 31, 1990, and on December 31 every 2 years thereafter".

SEC. 7124. GRANTS FOR INDIAN COUNTRY.

42 USC 10601.

Section 1402 of the Victims of Crime Act of 1984 is amended by adding at the end the following:

Children and youth.

"(g)(1) The Attorney General, acting through the Director, shall use 15 percent of the funds available under subsection (d)(2)(A)(iv) to make grants for the purpose of assisting Native American Indian tribes in developing, establishing, and operating programs designed to improve—

"(A) the handling of child abuse cases, particularly cases of child sexual abuse, in a manner which limits additional trauma to the child victim; and

"(B) the investigation and prosecution of cases of child abuse, particularly child sexual abuse.".

"(2) As used in this subsection, the term "tribe" has the meaning given that term in section 4(b) of the Indian Self-Determination and Education Assistance Act.".

SEC. 7125. OTHER AMENDMENTS TO VICTIMS OF CRIME ACT OF 1984.

(a) NEW CRITERIA.—Section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)) is amended—

(1) by inserting after paragraph (5) the following:

"(6) such program provides compensation to residents of the State who are victims of crimes occurring outside the State if—

"(A) the crimes would be compensable crimes had they occurred inside that State; and

"(B) the places the crimes occurred in are States not having eligible crime victim compensation programs;

"(7) such program does not, except pursuant to rules issued by the program to prevent unjust enrichment of the offender, deny compensation to any victim because of that victim's familial relationship to the offender, or because of the sharing of a residence by the victim and the offender; and"; and

(2) by redesignating paragraph (6) as paragraph (8).

(b) INCREASE OF STATE ANNUAL GRANT AMOUNT.—Section 1403(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(a)) is amended by striking out "35 percent" each place it appears and inserting "40 percent" in lieu thereof.

(c) ADDING VICTIMS OF DRUNK DRIVING AND DOMESTIC VIOLENCE.—(1) Paragraph (1) of section 1403(b) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(b)(1)) is amended to read as follows:

"(1) such program is operated by a State and offers compensation to victims and survivors of victims of criminal violence, including drunk driving and domestic violence;".

(2) Section 1403(d)(3) of the Victims of Crime Act (42 U.S.C. 10602(d)(3)) is amended by inserting ", and includes driving while intoxicated and domestic violence" after "program".

(d) CHANGE IN VICTIM COMPENSATION CRITERIA.—Section 1403(b)(5) (42 U.S.C. 10602(b)(5)) of the Victims of Crime Act of 1984 is amended to read as follows:

"(5) such program provides compensation to victims of Federal crimes occurring within the State on the same basis that such program provides compensation to victims of State crimes;".

(e) REMOVAL OF OBSOLETE PROVISION.—Section 1403 of the Victims of Crime Act of 1984 (42 U.S.C. 10602) is amended by striking subsection (c).

SEC. 7126. TREATMENT OF EYEGLASSES.

(a) NOT TO BE CONSIDERED PROPERTY.—Section 1403(d)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(1)) is amended by inserting ", eyeglasses or other corrective lenses," after "prosthetic devices".

(b) TO BE INCLUDED IN MEDICAL EXPENSES.—Section 1403(d)(2) of the Victims of Crime Act of 1984 (42 U.S.C. 10602(d)(2)) is amended—

(1) by inserting "eyeglasses and other corrective lenses, for" after "crime victim compensation program, expenses for"; and

(2) by inserting a comma after "prosthetic devices".

SEC. 7127. INCLUSION OF VIRGIN ISLANDS AS STATE FOR ALL PURPOSES OF ACT.

Section 1404(d)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(d)(1)) is amended by inserting "the United States Virgin Islands," after "the Commonwealth of Puerto Rico,".

SEC. 7128. ALLOCATION TO STATES.

(a) IN GENERAL.—(1) Section 1404(a)(3) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(3)) is amended by striking out "$100,000" and inserting "the base amount" in lieu thereof.

(b) CONFORMING AMENDMENT.—Section 1404(a)(4) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)(4)) is amended by striking out "$100,000" and inserting "the base amount" in lieu thereof.

(c) DEFINITION.—Section 1404(a) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(a)) is amended by adding at the end the following:

"(5) As used in this subsection, the term "base amount" means—

"(A) $150,000 for fiscal years 1989 through 1991; and

"(B) $200,000 thereafter through fiscal year 1994.".

SEC. 7129. TRANSITION RULE.

42 USC 10601 note.

The amendments made by this chapter shall not apply with respect to a State compensation program that was an eligible State crime victim compensation program on the date of the enactment of this Act until October 1, 1990.

SEC. 7130. RETROACTIVE TRANSFER TO FUND.

42 USC 10601 note.

An amount equivalent to those sums which would have been placed in the Fund under section 1402(b) of the Victims of Crime Act, but for the effect of section 1402(c)(2) of such Act, is hereby transferred to the Fund from any sums not appropriated from the general treasury.

Federal Aviation Administration Drug Enforcement Assistance Act of 1988.
49 USC app. 1301 note.

Subtitle E—Federal Aviation Administration Drug Enforcement Assistance

SEC. 7201. SHORT TITLE.

This subtitle may be cited as the "Federal Aviation Administration Drug Enforcement Assistance Act of 1988".

49 USC app. 1401 note.

SEC. 7202. FINDINGS AND POLICY.

(a) FINDINGS.—Congress makes the following findings:

(1) Illegal drug consumption and the trafficking in illegal drugs is a major problem in the United States.

(2) The smuggling of drugs into the United States through the use of general aviation aircraft is a major contributing factor in the illegal drug crisis facing our Nation.

(3) The Federal Government has a significant role in combatting such drug crisis.

(4) The Federal Aviation Administration has played an important role in assisting law enforcement agencies in certain aspects of drug interdiction and enforcement activities.

(5) The current systems of registering aircraft, certificating pilots, and processing major aircraft repair and alteration forms and enforcement of the requirements associated with such systems need to be improved in order to more effectively contribute to drug interdiction and enforcement efforts.

(6) Improving such systems and enforcement of such requirements will require providing the Federal Aviation Administration with additional funding and other resources.

(7) Improved systems of registering aircraft, certificating pilots, and processing major aircraft repair and alteration forms and increased enforcement of requirements associated with such systems will benefit all users of such systems (including law enforcement officials) and the general public.

(b) POLICY.—Section 103 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1303) is amended by redesignating paragraphs (a), (b), (c), (d), and (e) (and any references thereto) as paragraphs (1), (2), (3), (4), and (5), respectively, by striking out the semicolons at the end of each of paragraphs (1), (2), (3), and (4) (as so redesignated) and inserting in lieu thereof a period, and by adding at the end thereof the following new paragraph:

"(6) The provision of assistance to law enforcement agencies in the enforcement of laws relating to the regulation of controlled substances, to the extent consistent with aviation safety.".

SEC. 7203. AIRCRAFT REGISTRATION SYSTEM.

(a) MODIFICATION AUTHORITY.—Section 501 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1401) is amended by adding at the end thereof the following new subsection:

Records. Fraud.

"(h) MODIFICATION OF SYSTEM.—The Administrator is authorized and directed to make such modifications in the system established under this title for registration and recordation of aircraft as may be necessary to make such system more effective in serving the needs of buyers and sellers of aircraft, officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act), and other users of such system. Such modifications may include a system of titling

aircraft or of registering all aircraft whether or not operated, shall assure positive, verifiable, and timely identification of the true owner, and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

"(1) The registration of aircraft to fictitious persons.

"(2) The use of false or nonexistent addresses by persons registering aircraft.

"(3) The use by a person registering an aircraft of a post office box or 'mail drop' as a return address for the purpose of evading identification of such person's address.

"(4) The registration of aircraft to corporations and other entities established to facilitate unlawful activities.

"(5) The submission of names of individuals on applications for registration of aircraft which are not identifiable.

"(6) The ability to make frequent legal changes in the registration markings which are assigned to aircraft.

"(7) The use of false registration markings on aircraft.

"(8) The illegal use of 'reserved' registration markings on aircraft.

"(9) The large number of aircraft which are classified as being in 'self-reported status'.

"(10) The lack of a system to assure timely and adequate notice of the transfer of ownership of aircraft.

"(11) The practice of allowing temporary operation and navigation of aircraft without issuance of a certificate of registration under this section.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 501 of such Act is amended by adding at the end thereof the following:

"(h) Modification of system.".

SEC. 7204. REVOCATION OF AIRMAN CERTIFICATES.

(a) LIMITATION ON REISSUANCE OF REVOKED CERTIFICATES.—Section 602(b) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422(b)) is amended by striking out subparagraphs (A) and (B) of paragraph (2) and inserting in lieu thereof the following:

"(2) LIMITATION ON REISSUANCE OF REVOKED CERTIFICATES.—

"(A) GENERAL RULE.—Except as provided in subparagraphs (B) and (C), the Administrator shall not issue an airman certificate to any person whose airman certificate has been revoked under section 609(c).

"(B) SPECIAL RULE FOR LAW ENFORCEMENT PURPOSES.—The Administrator may issue an airman certificate to any person whose airman certificate has been revoked under section 609(c) if the Administrator determines that issuance of such certificate will facilitate law enforcement efforts.".

(b) WAIVER OF REVOCATION REQUIREMENT.—Section 609(c) of such Act (49 U.S.C. 1429(c)) is amended by adding at the end thereof the following new paragraph: 49 USC app. 1429.

"(5) WAIVER OF REVOCATION REQUIREMENT.—Upon request of a Federal or State law enforcement official, the Administrator may waive the requirements of paragraphs (1) and (2) that an airman certificate of any person be revoked if the Administrator determines that such waiver will facilitate law enforcement efforts.".

SEC. 7205. MODIFICATION OF SYSTEM FOR ISSUING AIRMAN'S CERTIFICATES TO PILOTS.

(a) MODIFICATION AUTHORITY.—Section 602 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1422) is amended by adding at the end thereof the following new subsection:

"(d) MODIFICATION OF SYSTEM.—The Administrator is authorized and directed to make such modifications in the system established under this title for issuance of airman's certificates to pilots as may be necessary to make such system more effective in serving the needs of pilots and officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act). Such modifications shall assure positive and verifiable identification of each person applying for or holding such a certificate and shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

Fraud.

"(1) The use of fictitious names and addresses by applicants for such certificates.

"(2) The use of stolen or fraudulent identification in applying for such certificates.

"(3) The use by a person applying for such a certificate of a post office box or 'mail drop' as a return address for the purpose of evading identification of such person's address.

"(4) The use of counterfeit and stolen airman's certificates by pilots.

"(5) The absence of information concerning physical characteristics of holders of such certificates.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 602 of such Act is amended by adding at the end thereof the following:

"(d) Modification of system.".

SEC. 7206. MODIFICATION OF SYSTEM FOR PROCESSING FORMS FOR ALTERATIONS OF FUEL SYSTEMS.

(a) MODIFICATION AUTHORITY.—Section 605 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1425) is amended by adding at the end thereof the following new subsection:

"(c) MODIFICATION OF SYSTEM.—The Administrator is authorized and directed to make such modifications in the system established under this title for processing forms for major repairs or alterations of fuel tanks and fuel systems of aircraft as may be necessary to make such system more effective in serving the needs of users of such system, including officials responsible for enforcement of laws relating to the regulation of controlled substances (as defined in section 102 of the Controlled Substances Act). Such modifications shall address, at a minimum, each of the following deficiencies in and abuses of the existing system:

"(1) The lack of a special identification feature to permit such forms to be easily distinguished from other major repair and alteration forms.

"(2) The excessive amount of time required for receiving such forms at the Airmen and Aircraft Registry of the Federal Aviation Administration.

"(3) The backlog of such forms which are awaiting processing at the Airmen and Aircraft Registry.

"(4) The lack of ready access by law enforcement officials to information contained on such forms.".

(b) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 605 of such Act is amended by adding at the end thereof the following:

"(c) Modification of system.".

SEC. 7207. REGISTRATION, CERTIFICATION, AND FUEL SYSTEM ALTERATION REGULATIONS.

(a) RULEMAKING.—Not later than 10 months after the date of the enactment of this subtitle, the Administrator shall issue final regulations for carrying out the objectives of sections 501(h), 602(d), and 605(c) of the Federal Aviation Act of 1958 and provide a written explanation of how such regulations address each of the deficiencies and abuses required to be addressed by such sections. Such regulations shall include, but not limited to, a requirement that each individual listed in an application for registration of an aircraft provide, together with such application, his or her driver's license number and each person (other than an individual) listed in such an application provide, together with such application, its Federal tax identification number. 49 USC 1401 note.

(b) CONSULTATION REQUIREMENT.—In issuing regulations in accordance with this section, the Administrator shall consult the Drug Enforcement Administration of the Department of Justice, the United States Customs Service, other Federal law enforcement officials, representatives of State and local law enforcement officials, representatives of the general aviation aircraft industry, representatives of users of general aviation aircraft, and other interested persons.

(c) FEES.—

(1) GENERAL RULES.—Section 313 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1354) is amended by adding at the end thereof the following new subsection:

"(f) PROCESSING FEES.—

"(1) ESTABLISHMENT AND COLLECTION.—The Administrator may establish and collect such fees as may be necessary to cover the costs associated with issuance of certificates of registration of aircraft, issuance of airman certificates to pilots, and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

"(2) MAXIMUM FEE SCHEDULE.—The amount of any fee which may be collected under this subsection—

"(A) with respect to issuance of an airman's certificate to a pilot may not exceed $12;

"(B) with respect to registration of an aircraft after transfer of ownership may not exceed $25;

"(C) with respect to renewal of an aircraft registration may not exceed $15; and

"(D) with respect to processing of a form for a major repair or alteration of a fuel tank or fuel system of an aircraft may not exceed $7.50.

The amounts established by this paragraph shall be adjusted by the Administrator for changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor.

"(3) LIMITATION.—No fee may be collected under this subsection before the date on which the final regulations referred to in section 7207(a) of the Federal Aviation Administration Drug Enforcement Assistance Act of 1988 take effect.

"(4) CREDIT TO ACCOUNT; AVAILABILITY.—The amount of fees collected under this subsection shall be credited to the account in the United States Treasury from which expenses were incurred by the Administrator for carrying out titles V and VI of this Act and shall be available to the Administrator for paying expenses for which such fees are collected.".

(2) CONFORMING AMENDMENT TO TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 313 is amended by adding at the end thereof the following:

"(f) Processing fees.".

(3) CONFORMING AMENDMENT TO SECTION 334 OF TITLE 49.—The first sentence of section 334 of title 49, United States Code, is amended by striking out "only when" and all that follows through the period and inserting in lieu thereof the following: "only when—

"(1) the charge—

"(A) was in effect on January 1, 1973, and

"(B) is not more than the charge that was in effect on such date, adjusted in proportion to changes in the Consumer Price Index of All Urban Consumers published by the Bureau of Labor Statistics of the Department of Labor between January 1, 1973, and the date the charge is imposed; or

"(2) the charge is a fee established and collected in accordance with section 313(f) of the Federal Aviation Act of 1958.".

Reports.
49 USC app. 1354 note.

(4) GAO AUDIT.—During the 5-year period beginning after the date on which fees are first collected under section 313(f) of the Federal Aviation Act of 1958, the Comptroller General shall conduct an annual audit of the collection and use of such fees for the purpose of ensuring that such fees do not exceed the costs for which they are collected and submit to Congress a report on the results of such audit.

49 USC app. 1401 note.

(d) REPORT.—Not later than 180 days after the date of the enactment of this subtitle and annually thereafter during the 5-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

(1) The status of the rulemaking process, issuance of regulations, and implementation of regulations in accordance with this section.

(2) The progress being made in reducing the number of aircraft classified by the Federal Aviation Administration as being in "sale-reported status".

(3) The progress being made in expediting the filing and processing of forms for major repairs and alterations of fuel tanks and fuel systems of aircraft.

(4) The status of establishing and collecting fees under section 313(f) of the Federal Aviation Act.

49 USC app. 1401 note.

(e) DEFINITIONS.—For purposes of this subtitle—

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Federal Aviation Administration.

(2) AIRCRAFT.—The term "aircraft" has the meaning such term has under section 101 of the Federal Aviation Act of 1958.

SEC. 7208. CIVIL PENALTIES.

(a) RELATING TO OWNERSHIP AND REGISTRATION.—Section 901(a)(1) of the Federal Aviation Act of 1958 (49 U.S.C. App. 1471(a)(1)) is amended by inserting before the period at the end of the first sentence the following: "and for each such violation which relates to registration or recordation of an aircraft under title V".

(b) ADMINISTRATIVE ASSESSMENT.—Section 901(a) of such Act (49 U.S.C. App. 1471(a)) is amended by adding at the end thereof the following new paragraph:

"(3) ADMINISTRATIVE ASSESSMENT OF CERTAIN REGISTRATION AND RECORDATION VIOLATIONS.—

"(A) GENERAL AUTHORITY.—The Administrator, or his delegate, may assess a civil penalty for a violation of title V, or a rule, regulation, or order issued thereunder, which relates to registration or recordation of an aircraft upon written notice and finding of violation by the Administrator.

"(B) NO REEXAMINATION OF LIABILITY OR AMOUNT.—In the case of a civil penalty assessed by the Administrator under this paragraph, the issue of liability or amount of civil penalty shall not be reexamined in any subsequent suit for collection of such civil penalty.

"(C) CONTINUING JURISDICTION OF DISTRICT COURTS.—Notwithstanding subparagraph (A), the United States district courts shall have exclusive jurisdiction of any civil penalty action initiated by the Administrator—

"(i) which involves an amount in controversy in excess of $50,000;

"(ii) which is an in rem action or in which an in rem action based on the same violation has been brought;

"(iii) regarding which an aircraft subject to lien has been seized by the United States; and

"(iv) in which a suit for injunctive relief based on the violation giving rise to the civil penalty has also been brought.

"(D) LIMITATIONS.—

"(i) HEARING.—A civil penalty may be assessed by the Administrator under this paragraph only after notice and opportunity for a hearing on the record in accordance with section 554 of title 5, United States Code.

"(ii) VIOLATIONS.—This paragraph only applies to civil penalties initiated by the Administrator after the date of the enactment of this paragraph.

"(iii) MAXIMUM AMOUNT.—The maximum amount of a civil penalty which may be assessed by the Administrator under this paragraph in any case may not exceed $50,000.".

SEC. 7209. CRIMINAL PENALTIES.

(a) IN GENERAL.—Subsection (b) of section 902 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1472) is amended by redesignating paragraph (3) as paragraph (5) and by striking out the subsection

heading and paragraphs (1) and (2) and inserting in lieu thereof the following:

"(b) FORGERY OF CERTIFICATES, FALSE MARKING OF AIRCRAFT, AND OTHER AIRCRAFT REGISTRATION VIOLATIONS.—

"(1) DESCRIPTION OF VIOLATIONS.—It shall be unlawful for any person—

"(A) to knowingly and willfully forge, counterfeit, alter, or falsely make any certificate authorized to be issued under this Act, or to knowingly sell, use, attempt to use, or possess with the intent to use any such fraudulent certificate;

"(B) to obtain any certificate authorized to be issued under this Act by knowingly and willfully falsifying, concealing, or covering up a material fact, or making a false, fictitious, or fraudulent statement or representation, or making or using any false writing or document knowing the writing or document to contain any false, fictitious, or fraudulent statement or entry;

"(C) who is the owner of an aircraft eligible for registration under section 501, to knowingly and willfully operate, attempt to operate, or permit any other person to operate such aircraft if such aircraft is not registered under section 501 or the certificate of registration of such aircraft is suspended or revoked, or if such owner knows or has reason to know that such person does not have proper authorization to operate or navigate the aircraft without registration for a period of time after transfer of ownership;

"(D) to knowingly and willfully operate or attempt to operate an aircraft eligible for registration under section 501 knowing that such aircraft is not registered under section 501, that the certificate of registration of such aircraft is suspended or revoked, or that such person does not have proper authorization to operate or navigate such aircraft without registration for a period of time after transfer of ownership;

"(E) to knowingly and willfully serve, or attempt to serve, in any capacity as an airman without a valid airman certificate authorizing such person to serve in such capacity;

"(F) to knowingly and willfully employ for service or utilize any airman who does not possess a valid airman certificate authorizing such person to serve in such capacity;

"(G) to operate an aircraft with a fuel tank or fuel system which has been installed or modified on the aircraft knowing that such tank or system or the installation or modification of such tank or system is not in accordance with all applicable rules, regulations, and requirements of the Administrator; or

"(H) to knowingly and willfully display or cause to be displayed on any aircraft any marks which are false or misleading as to the nationality or registration of the aircraft.

"(2) PENALTIES.—Any person who commits a violation of paragraph (1) shall be, upon conviction, subject to—

"(A) a fine of not more than $15,000 or imprisonment for a term of not more than 3 years, or both; or

"(B) a fine of not more than $25,000 or imprisonment for a term of not more than 5 years, or both, if such violation was in connection with the act of transportation by aircraft of a controlled substance or of the aiding or facilitating of a controlled substance offense where such act is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law or is provided in connection with any act which is punishable by death or imprisonment for a term exceeding 1 year under a State or Federal law relating to a controlled substance (other than a law relating to simple possession of a controlled substance).

Any term of imprisonment imposed under subparagraph (B) shall be in addition to, and shall not be served concurrently with, any other term of imprisonment imposed on such person.

"(3) SEIZURE OF AIRCRAFT.—

"(A) BY DEA OR CUSTOMS.—An aircraft used in connection with, or in aiding or facilitating, a violation of paragraph (1) whether or not a person is charged in connection with such violation, may be seized and forfeited by the Drug Enforcement Administration of the Department of Justice or the United States Customs Service in accordance with the customs laws.

"(B) PRESUMPTIONS.—For purposes of subparagraph (A), an aircraft shall be presumed to have been used in connection with, or to aid or facilitate a violation of—

"(i) paragraph (1)(B) if the aircraft is registered to a fictitious or false person;

"(ii) paragraph (1)(B) if the application form used to obtain the aircraft registration certificate contains a material false statement;

"(iii) paragraph (1)(A) if the registration for the aircraft has been forged, counterfeited, altered, or falsely made;

"(iv) paragraph (1)(C) if the aircraft has been operated while it is not registered under section 501;

"(v) paragraph (1)(H) if there is an external display of false or misleading registration numbers or false or misleading country of registration;

"(vi) paragraph (1)(G) if there is on the aircraft a fuel tank or fuel system which has not been installed or modified in accordance with all applicable rules, regulations, and requirements of the Administrator; and

"(vii) paragraph (1)(G) if, in the case of an aircraft on which a fuel tank or fuel system has been installed or modified, a certificate required to be issued by the Administrator for such installation or modification is not carried aboard the aircraft.

"(C) MEMORANDUM OF UNDERSTANDING.—The Federal Aviation Administration, the Drug Enforcement Administration, and the United States Customs Service shall enter into a memorandum of understanding for the purpose of establishing procedures for carrying out the objectives of this paragraph.

"(4) CONTROLLED SUBSTANCE DEFINED.—For purposes of this section, the term 'controlled substance' has the meaning that such term has under section 102 of the Controlled Substances Act (21 U.S.C. 802).".

49 USC app. 1472.

(b) CONFORMING AMENDMENTS.—

(1) SECTION 902(b)(5).—Paragraph (5) of section 902(b) of such Act, as redesignated by subsection (a) of this section, is amended by inserting "EFFECT ON STATE LAW.—" before "Nothing" and by aligning such paragraph with paragraph (2) of such subsection, as inserted by subsection (a) of this section.

(2) TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 902 is amended by striking out

"(b) Forgery of certificates and false marking of aircraft."

and by inserting in lieu thereof

"(b) Forgery of certificates, false marking of aircraft, and other aircraft registration violations.".

(c) LIGHTING VIOLATIONS.—

(1) IN GENERAL.—Subsection (q) of section 902 of such Act (49 U.S.C. App. 1472) is amended—

(A) by striking out the section heading and paragraph (1) and inserting in lieu thereof the following:

"(q) LIGHTING VIOLATIONS IN CONNECTION WITH TRANSPORTATION OF CONTROLLED SUBSTANCES.—

"(1) DESCRIPTION OF VIOLATION.—It shall be unlawful, in connection with an act described in paragraph (2) and with knowledge of such act, for any person to knowingly and willfully operate an aircraft in violation of any rule, regulation, or requirement issued by the Administrator with respect to the display of navigation or anticollision lights."; and

(B) by striking out paragraphs (4), (5), and (6).

(2) CONFORMING AMENDMENTS.—

(A) SECTION 902(q).—Section 902(q) of such Act is amended—

(i) in paragraph (2) by inserting "RELATIONSHIP TO CONTROLLED SUBSTANCE OFFENSES.—" before "The act";

(ii) in paragraph (3) by inserting "PENALTY.—" before "A person"; and

(iii) by aligning such paragraphs with paragraph (1) of such section, as amended by paragraph (1) of this subsection.

(B) TABLE OF CONTENTS.—That portion of the table of contents contained in section 1 of such Act relating to section 902 is amended by striking out

"(q) Violations in connection with transportation of controlled substances."

and by inserting in lieu thereof

"(q) Lighting violations in connection with transportation of controlled substances.".

49 USC app. 1401 note. Reports.

SEC. 7210. INFORMATION COORDINATION.

Not later than 180 days after the date of the enactment of this subtitle and annually thereafter during the 3-year period beginning on such 180th day, the Administrator shall prepare and transmit to Congress a report on the following:

(1) The progress made in establishing a process for provision of informational assistance by such Administration to officials of Federal, State, and local law enforcement agencies.

(2) The progress made in establishing a process for effectively pursuing suspensions and revocations of certificates of registration and airman certificates in accordance with the amend-

ments made to the Federal Aviation Act of 1958 by the Aviation Drug-Trafficking Control Act, section 3401 of the Anti-Drug Abuse Act of 1986, and this subtitle.

(3) The efforts of such Administration in assessing and defining the appropriate relationship of such Administration's informational assistance resources (including the El Paso Intelligence Center and the Law Enforcement Assistance Unit of the Aeronautical Center of such Administration).

(4) The progress made in issuing guidelines on (A) the reporting of aviation sensitive drug-related information, and (B) the development, in coordination with the Drug Enforcement Administration of the Department of Justice and the United States Customs Service, of training and educational policies to assist employees of such Administration to better understand (i) the trafficking of controlled substances (as defined in section 102 of the Controlled Substances Act), and (ii) the role of such Administration with respect to such trafficking.

(5) The progress made in improving and expanding such Administration's role in the El Paso Intelligence Center.

SEC. 7211. FUNDING AND OTHER RESOURCES.

49 USC app. 1401 note.

(a) 5-YEAR COST REPORT.—No later than 30 days after the date on which the final regulations referred to in section 7207(a) of this subtitle are issued, the Administrator shall prepare and transmit to Congress a report on the resources (including funding and positions) which will be necessary on an annual basis during the 5-year period beginning after such 30th day to implement the objectives of this subtitle (including the amendments made by this subtitle).

(b) APPLICABILITY OF PAPERWORK REDUCTION ACT.—No information collection requests necessary to carry out the objectives of this subtitle (including the amendments made by this subtitle) shall be subject to or affect, directly or indirectly, the annual information collection budget goals established for the Federal Aviation Administration and the Department of Transportation under chapter 35 of title 44, United States Code.

(c) REVIEW OF CERTAIN GRADE-LEVEL CLASSIFICATIONS.—

(1) APPLICABILITY.—This subsection applies with respect to—

(A) positions within the Airmen and Aircraft Registry of the Federal Aviation Administration; and

(B) positions within the Law Enforcement Assistance Unit of the Aeronautical Center of the Federal Aviation Administration.

(2) REVIEW; REMEDY; REPORT.—Not later than 120 days after the date of the enactment of this subtitle, the Office of Personnel Management shall—

(A) in accordance with section 5110(a) of title 5, United States Code, review a sufficient number of positions under paragraphs (1)(A) and (1)(B), respectively, to determine whether positions under those respective paragraphs are being placed in appropriate classes and grades;

(B) if the Office finds that positions have not been placed in appropriate classes and grades, and after consulting with appropriate officials of the Federal Aviation Administration, exercise any authority under section 5110(b) of title 5, United States Code, which may be necessary to ensure that those positions are placed in their appropriate classes and grades; and

Reports.

(C) transmit to Congress a report on the results of such review and any actions taken in accordance with subparagraph (B).

SEC. 7212. USE OF TRANSPONDERS ON AIRCRAFT ENTERING THE UNITED STATES.

(a) STUDY.—The Secretary of Transportation shall study the feasibility, costs, and benefits with respect to drug interdiction of requiring each aircraft entering the continental United States—

(1) to have installed an operating transponder;

(2) to have a flight plan filed with the Federal Aviation Administration before such entry;

(3) to have the signal from such transponder identify, in the most efficient manner, such aircraft; and

(4) to have the signal from such transponder which identifies such aircraft provide information which ensures that such aircraft is following its filed flight plan.

(b) REPORT.—Not later than 180 days after the date of the enactment of this subtitle, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section.

SEC. 7213. ESTABLISHMENT OF FLIGHT CORRIDORS.

(a) STUDY.—The Secretary of Transportation, in consultation with the Attorney General and the Secretary of the Treasury, shall study—

(1) the feasibility of establishing flight corridors across the borders of the continental United States and intercepting any aircraft which deviate from such corridors; and

(2) the impact of the establishment of such corridors on the safe and efficient movement of aircraft and on drug interdiction.

(b) REPORT.—Not later than 180 days after the date of the enactment of this subtitle, the Secretary of Transportation shall transmit to Congress a report on the results of the study conducted under this section.

49 USC app. 1303 note.

SEC. 7214. LIMITATION ON APPLICABILITY.

This subtitle (including any amendments made by this subtitle) shall only apply to aircraft which are not used to provide air transportation (as defined in section 101 of the Federal Aviation Act of 1958).

Juvenile Justice and Delinquency Prevention Amendments of 1988.
42 USC 5601 note.

Subtitle F—Juvenile Justice and Delinquency Prevention

SEC. 7250. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Juvenile Justice and Delinquency Prevention Amendments of 1988".

(b) TABLE OF CONTENTS.—

Sec. 7250. Short title; table of contents.

CHAPTER 1—AMENDMENTS TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

Sec. 7251. Definitions.
Sec. 7252. Establishment of Office of Juvenile Justice and Delinquency Prevention.

Sec. 7253. Concentration of Federal efforts.
Sec. 7254. Coordinating Council on Juvenile Justice and Delinquency Prevention.
Sec. 7255. Annual reports.
Sec. 7256. Authority to make grants.
Sec. 7257. Allocation.
Sec. 7258. State plans.
Sec. 7259. National Institute for Juvenile Justice and Delinquency Prevention.
Sec. 7260. Information function.
Sec. 7261. Research, demonstration, and evaluation functions.
Sec. 7262. Technical assistance and training functions.
Sec. 7263. Technical and conforming amendments to parts B and C of title II.
Sec. 7264. Special studies and reports.
Sec. 7265. Authorization of appropriations.
Sec. 7266. Technical amendments to part D of title II.
Sec. 7267. Prevention and treatment programs relating to juvenile gangs.

CHAPTER 2—AMENDMENTS TO THE RUNAWAY AND HOMELESS YOUTH ACT

Sec. 7271. Grants for runaway and homeless youth centers.
Sec. 7272. Additional technical amendments.
Sec. 7273. Authorization of transitional living projects.
Sec. 7274. Reports.
Sec. 7275. National communication system.
Sec. 7276. Grants for technical assistance and training.
Sec. 7277. Grants for research, demonstration, and service projects.
Sec. 7278. Annual program priorities.
Sec. 7279. Coordination with activities of certain Federal health agencies.
Sec. 7280. Authorization of appropriations.

CHAPTER 3—AMENDMENTS TO THE MISSING CHILDREN'S ASSISTANCE ACT

Sec. 7285. Duties and functions of Administrator.
Sec. 7286. Advisory board.
Sec. 7287. Grants.
Sec. 7288. Competition amendment.
Sec. 7289. Authorization of appropriations.
Sec. 7290. Additional technical and conforming amendments.
Sec. 7291. Special study and report.

CHAPTER 4—MISCELLANEOUS

Sec. 7295. Investigation and report by the Comptroller General.
Sec. 7296. Effective date; application of amendments.

CHAPTER 1—AMENDMENTS TO THE JUVENILE JUSTICE AND DELINQUENCY PREVENTION ACT OF 1974

SEC. 7251. DEFINITIONS.

(a) DEFINITION.—Section 103 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603) is amended—

(1) in paragraph (15) by striking "and" at the end,

(2) in paragraph (16) by striking the period at the end and inserting a semicolon, and

(3) by adding at the end the following:

"(17) the term 'Council' means the Coordinating Council on Juvenile Justice and Delinquency Prevention established in section 206(a)(1); and

"(18) the term 'Indian tribe' means—

"(A) a federally recognized Indian tribe; or

"(B) an Alaskan Native organization.".

(b) CONFORMING AMENDMENT.—Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended by striking "(hereinafter referred to as the 'Council')".

SEC. 7252. ESTABLISHMENT OF OFFICE OF JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) DEPUTY ADMINISTRATOR.—Section 201(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611(c)) is amended—

(1) in the first sentence by striking "and whose" and all that follows through "Act", and

(2) in the last sentence by striking "also".

(b) TECHNICAL AND CONFORMING AMENDMENTS.—(1) Section 103(5) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(5)) is amended by striking "section 201(c)" and inserting "section 201(b)".

(2) Section 206(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(a)(1)) is amended by striking "the Deputy Administrator of the Institute for Juvenile Justice and Delinquency Prevention,".

(3) Section 5315 of title 5, United States Code, is amended by adding at the end the following:

"Administrator, Office of Juvenile Justice and Delinquency Prevention.".

(4) Section 5316 of title 5, United States Code, is amended by striking the item relating to the Associate Administrator, Office of Juvenile Justice and Delinquency Prevention of the Law Enforcement Assistance Administration.

SEC. 7253. CONCENTRATION OF FEDERAL EFFORTS.

(a) TECHNICAL AMENDMENT.—Section 204(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614(a)) is amended by striking "and the National Advisory Committee for Juvenile Justice and Delinquency Prevention".

42 USC 5614.

(b) PUBLICATION OF ANNUAL PROGRAM PLAN.—Section 204(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 3614(b)) is amended—

(1) by amending paragraph (5) to read as follows:

Federal Register, publication.

"(5)(A) develop for each fiscal year, and publish annually in the Federal Register for public comment, a proposed comprehensive plan describing the particular activities which the Administrator intends to carry out under parts C and D in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts C and D; and

"(B) taking into consideration comments received during the 45-day period beginning on the date the proposed plan is published, develop and publish a final plan, before December 31 of such fiscal year, describing the particular activities which the Administrator intends to carry out under parts C and D in such fiscal year, specifying in detail those activities designed to satisfy the requirements of parts C and D; and",

(2) by striking paragraph (6), and

(3) by redesignating paragraph (7) as paragraph (6).

(c) REPORTS.—Section 204 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5614) is amended—

(1) by striking subsections (c), (d), and (e),

(2) in subsection (l)—

(A) in paragraph (1)—

(i) by striking "which meets any criterion developed by the Administrator under subsection (d)(1)", and

(ii) by striking "subsection (f)" and inserting "subsection (c)", and

(B) in paragraph (2)—

(i) by striking "shall be submitted" and all that follows through "subsection (e) and", and

(ii) by striking "under subsection (e)",

(3) by redesignating subsections (f) through (l) as subsections (c) through (i), respectively, and

(4) by striking subsection (m).

SEC. 7254. COORDINATING COUNCIL ON JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) FUNCTIONS.—Section 206(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(c)) is amended—

(1) in the first sentence by striking ", in consultation with the Advisory Board on Missing Children,", and

(2) in the third sentence—

(A) by striking "is authorized to" and inserting "shall", and

(B) by striking "section 223(a)(12)(A) and (13)" and inserting "paragraphs (12)(A), (13), and (14) of section 223(a)", and

(3) by adding at the end the following: "The Council shall review the reasons why Federal agencies take juveniles into custody and shall make recommendations regarding how to improve Federal practices and facilities for holding juveniles in custody.".

(b) CONFORMING AMENDMENT.—Section 206(d) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(d)) is amended by striking "and" and all that follows through "title".

(c) ALLOCATION.—Section 206(g) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5616(g)) is amended to read as follows:

"(g) Of sums available to carry out this part, not more than $200,000 shall be available to carry out this section.".

SEC. 7255. ANNUAL REPORTS.

Part A of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611-5616) is amended by adding at the end the following:

"ANNUAL REPORT

"SEC. 207. Not later than 180 days after the end of a fiscal year, the Administrator shall submit to the President, the Speaker of the House of Representatives, and the President pro tempore of the Senate a report that contains the following with respect to such fiscal year: 42 USC 5617.

"(1) A detailed summary and analysis of the most recent data available regarding the number of juveniles taken into custody, the rate at which juveniles are taken into custody, and the trends demonstrated by the data required by subparagraphs (A), (B), and (C). Such summary and analysis shall set out the information required by subparagraphs (A), (B), (C), and (D) separately for juvenile nonoffenders, juvenile status offenders, and other juvenile offenders. Such summary and analysis shall separately address with respect to each category of juveniles specified in the preceding sentence—

"(A) the types of offenses with which the juveniles are charged;

"(B) the race and gender of the juveniles;

"(C) the ages of the juveniles;

"(D) the types of facilities used to hold the juveniles in custody, including secure detention facilities, secure correctional facilities, jails, and lockups; and

"(E) the number of juveniles who died while in custody and the circumstances under which they died.

"(2) A description of the activities for which funds are expended under this part, including the objectives, priorities, accomplishments, and recommendations of the Council.

"(3) A description, based on the most recent data available, of the extent to which each State complies with section 223 and with the plan submitted under such section by the State for such fiscal year.

"(4) A summary of each program or activity for which assistance is provided under part C or D, an evaluation of the results of such program or activity, and a determination of the feasibility and advisability of replicating such program or activity in other locations.

"(5) A description of selected exemplary delinquency prevention programs for which assistance is provided under this title, with particular attention to community-based juvenile delinquency prevention programs that involve and assist families of juveniles.".

SEC. 7256. AUTHORITY TO MAKE GRANTS.

Section 221 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5631) is amended—

(1) by amending the heading to read as follows:

"AUTHORITY TO MAKE GRANTS AND CONTRACTS",

(2) by inserting "(a)" after "SEC. 221.", and

(3) by adding at the end the following:

State and local governments.

"(b)(1) With not to exceed 2 percent of the funds available in a fiscal year to carry out this part, the Administrator shall make grants to and enter into contracts with public and private agencies, organizations, and individuals to provide technical assistance to States, units of general local governments (and combinations thereof), and local private agencies to facilitate compliance with section 223 and implementation of the State plan approved under section 223(c).

"(2) Grants and contracts may be made under paragraph (1) only to public and private agencies, organizations, and individuals that have experience in providing such technical assistance. In providing such technical assistance, the recipient of a grant or contract under this subsection shall coordinate its activities with the State agency described in section 291(c)(1).".

SEC. 7257. ALLOCATION.

(a) MINIMUM ALLOCATION.—Section 222(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(a)) is amended—

(1) by striking "In" and inserting "(1) Subject to paragraph (2) and in",

(2) by striking the last sentence, and

(3) by adding at the end the following:

"(2)(A) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) is less than $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $325,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $75,000 each. State and local governments. Territories, U.S.

"(B) Subject to paragraph (3), if the aggregate amount appropriated for a fiscal year to carry out this title (other than part D) equals or exceeds $75,000,000, then the amount allotted to each State for such fiscal year shall be not less than $400,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $100,000 each.

"(3) If, as a result of paragraph (2), the amount allotted to a State for a fiscal year would be less than the amount allotted to such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot to such State for the fiscal year the amount allotted to such State for fiscal year 1988.".

(b) TECHNICAL AMENDMENTS.—Section 222(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5632(b)) is amended—

(1) in the first sentence by striking "Except for funds appropriated for fiscal year 1975, if" and inserting "If", and

(2) by striking the second sentence.

SEC. 7258. STATE PLANS.

(a) INDIAN TRIBES.—Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)) is amended—

(1) in paragraph (5)—

(A) in the matter preceding subparagraph (A) by striking "through",

(B) in subparagraph (A)—

(i) by inserting "through" after "(A)", and

(ii) by striking "and" at the end,

(C) in subparagraph (B)—

(i) by inserting "through" after "(B)", and

(ii) by inserting "and" after the semicolon,

(D) and by adding at the end the following:

"(C) to provide funds for programs of Indian tribes that perform law enforcement functions (as determined by the Secretary of the Interior) and that agree to attempt to comply with the requirements specified in paragraphs (12)(A), (13), and (14), applicable to the detention and confinement of juveniles, an amount that bears the same ratio to the aggregate amount to be expended through programs referred to in subparagraphs (A) and (B) as the population under 18 years of age in the geographical areas in which such tribes perform such functions bears to the State population under 18 years of age,", and

(2) in paragraph (8)(A)—

(A) by inserting "(including any geographical area in which an Indian tribe performs law enforcement functions)" after "relevant jurisdiction", and

(B) by inserting "(including the joining of gangs that commit crimes)" after "juvenile crime problems" each place it appears.

(b) DETENTION IN JAILS AND LOCKUPS FOR ADULTS.—Section 223(a)(14) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(14)) is amended—

(1) by striking "1989" and inserting "1993",

(2) in subparagraph (iii) by striking the period and inserting a semicolon, and

(3) by redesignating subparagraphs (i), (ii), and (iii) as subparagraphs (A), (B), and (C), respectively.

(c) OVERREPRESENTATION OF JUVENILES OF MINORITY GROUPS.—Section 223(a) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)) is amended—

(1) in paragraph (22) by striking "and" at the end,

(2) by redesignating paragraph (23) as paragraph (24), and

(3) by inserting after paragraph (22) the following:

"(23) address efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population; and".

(d) COMPLIANCE REQUIREMENT FOR ELIGIBILITY.—Section 223(c) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(c)) is amended—

(1) by striking "subpart" and inserting "part",

(2) by inserting "(1)" after "(c)",

(3) by striking the last sentence, and

(4) by adding at the end the following:

"(2) Failure to achieve compliance with the requirements of subsection (a)(14) within the 5-year time limitation shall terminate any State's eligibility for funding under this part unless the Administrator—

"(A) determines, in the discretion of the Administrator, that such State has—

"(i)(I) removed not less than 75 percent of juveniles from jails and lockups for adults; or

"(II) achieved substantial compliance with such subsection; and

"(ii) made, through appropriate executive or legislative action, an unequivocal commitment to achieving full compliance within a reasonable time, not to exceed 3 additional years; or

"(B) waives the termination of the State's eligibility on the condition that the State agrees to expend all of the funds to be received under this part by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222 and with section 223(a)(5)(C)), only to achieve compliance with subsection (a)(14).

"(3) Except as provided in paragraph (2), failure to achieve compliance with the requirements of subsection (a)(14) after December 8, 1985, shall terminate any State's eligibility for funding under this part unless the Administrator waives the termination of the State's eligibility on the condition that the State agrees to expend all of the

funds to be received under this part by the State (excluding funds required to be expended to comply with subsections (c) and (d) of section 222 and with section 223(a)(5)(C)), only to achieve compliance with subsection (a)(14).

"(4) For purposes of paragraph (2)(A)(i)(II), a State may demonstrate that it is in substantial compliance with such paragraph by showing that it has—

"(A) removed all juvenile status offenders and nonoffenders from jails and lockups for adults;

"(B) made meaningful progress in removing other juveniles from jails and lockups for adults;

"(C) diligently carried out the State's plan to comply with subsection (a)(14); and

"(D) historically expended, and continues to expend, to comply with subsection (a)(14) an appropriate and significant share of the funds received by the State under this part.".

SEC. 7259. NATIONAL INSTITUTE FOR JUVENILE JUSTICE AND DELINQUENCY PREVENTION.

(a) SUPERVISION.—Section 241(b) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(b)) is amended by striking ", and shall" and all that follows through "section 201(c)".

(b) STATE ADVISORY GROUPS.—Section 241(f) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651(f)) is amended—

(1) in paragraph (1) by striking "section 224" and inserting "section 261",

(2) by redesignating paragraphs (1), (2), (3), and (4) as subparagraphs (B), (C), (D), and (E), respectively,

(3) by inserting "(1)" after "(f)", and

(4) by striking "provide," and all that follows through "purpose of—", and inserting the following:

"provide technical and financial assistance to an eligible organization composed of member representatives of the State advisory groups appointed under section 223(a)(3) to assist such organization to carry out the functions specified in paragraph (2).

"(2) To be eligible to receive such assistance, such organization shall agree to carry out activities that include—

"(A) conducting an annual conference of such member representatives for purposes relating to the activities of such State advisory groups;".

(c) TECHNICAL AMENDMENT.—Section 241 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5651) is amended by striking subsection (h).

SEC. 7260. INFORMATION FUNCTION.

Section 242 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5652) is amended—

(1) by inserting "Administrator, acting through the" after "The",

(2) by striking "Prevention is authorized to" and inserting "Prevention, shall",

(3) in paragraph (1) by inserting "and" after the semicolon,

(4) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and

(5) by inserting before paragraph (2), as so redesignated, the following:

"(1) on a continuing basis, review reports, data, and standards relating to the juvenile justice system in the United States;".

SEC. 7261. RESEARCH, DEMONSTRATION, AND EVALUATION FUNCTIONS.

Section 243 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5653) is amended—

(1) by striking "National Institute for Juvenile Justice and Delinquency Prevention" and inserting "Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention,",

(2) in paragraph (4) by striking ", upon the request of the Deputy Administrator",

(3) in paragraph (5)—

(A) in the matter preceding subparagraph (A) by striking "and related matters" and inserting "and the improvement of the juvenile justice system",

(B) in subparagraph (A) by striking "and" at the end,

(C) in subparagraph (B) by striking "possible ameliorating roles of familial relationships" and inserting "effectiveness of family-centered treatment programs", and

(D) in subparagraph (D) by striking the period at the end and inserting a semicolon,

(4) in paragraph (6) by striking "and" at the end,

(5) in paragraph (7) by striking the period and inserting a semicolon, and

State and local governments.

(6) by adding at the end the following:

"(8) develop and support model State legislation consistent with the mandates of this title and the standards developed by the National Advisory Committee for Juvenile Justice and Delinquency Prevention before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984; and

"(9) support research relating to reducing the excessive proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups.".

SEC. 7262. TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS.

Section 244 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5654) is amended—

(1) by amending the heading to read as follows:

"TECHNICAL ASSISTANCE AND TRAINING FUNCTIONS",

(2) by striking "National Institute for Juvenile Justice and Delinquency Prevention" and inserting "Administrator, acting through the National Institute for Juvenile Justice and Delinquency Prevention",

(3) by striking paragraph (3),

(4) in paragraph (2) by adding "and" at the end,

(5) by redesignating paragraphs (1) and (2) as paragraphs (2) and (3), respectively, and

(6) by inserting before paragraph (2), as so redesignated, the following:

State and local governments. Courts, U.S.

"(1) provide technical assistance and training assistance to Federal, State, and local governments and to courts, public and private agencies, institutions, and individuals in the planning,

establishment, funding, operation, and evaluation of juvenile delinquency programs;".

SEC. 7263. TECHNICAL AND CONFORMING AMENDMENTS TO PARTS B AND C OF TITLE II.

(a) TECHNICAL AMENDMENTS.—Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5611 et seq.) is amended—

(1) in part B—

(A) by striking the heading for subpart I, and

(B) by striking subpart II, and

(2) in part C—

(A) by striking the heading for such part and inserting the following:

42 USC 5634-5639.

"PART C—NATIONAL PROGRAMS",

(B) by inserting after the heading for part C the following:

"Subpart I—National Institute for Juvenile Justice and Delinquency Prevention",

(C) by striking sections 245 and 246,

(D) in section 249—

(i) in subsection (a) by striking "section 248" and inserting "section 245",

(ii) in subsection (b) by striking "section 248(b)" and inserting "section 245(b)", and

(iii) in subsection (c) by striking "section 246" and inserting "section 245",

42 USC 5656, 5657.

(E) by redesignating sections 247, 248, and 249 as sections 245, 246, and 247, respectively, and

(F) by adding at the end the following:

42 USC 5659-5661.

"Subpart II—Special Emphasis Prevention and Treatment Programs

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 261. (a) The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals provide for each of the following during each fiscal year:

42 USC 5665.

"(1) Establishing or maintaining community-based alternatives to traditional forms of institutionalization of juvenile offenders.

"(2) Establishing or implementing effective means of diverting juveniles from the traditional juvenile justice and correctional system, including restitution and reconciliation projects which test and validate selected arbitration models, such as neighborhood courts or panels, and increase victim satisfaction while providing alternatives to incarceration for detained or adjudicated delinquents.

"(3) Establishing or supporting programs stressing advocacy activities aimed at improving services to juveniles impacted by the juvenile justice system, including services which encourage the improvement of due process available to juveniles in the juvenile justice system, which improve the quality of legal

representation of such juveniles, and which provide for the appointment of special advocates by courts for such juveniles.

"(4) Developing or supporting model programs to strengthen and maintain the family unit in order to prevent or treat juvenile delinquency.

"(5) Establishing or implementing special emphasis prevention and treatment programs relating to juveniles who commit serious crimes (including such crimes committed in schools), including programs designed to deter involvement in illegal activities or to promote involvement in lawful activities on the part of gangs whose membership is substantially composed of juveniles.

Education.

"(6) Developing or implementing further a coordinated, national law-related education program of—

"(A) delinquency prevention in elementary and secondary schools, and other local sites;

"(B) training for persons responsible for the implementation of law-related education programs; and

"(C) disseminating information regarding model, innovative, law-related education programs to juvenile delinquency programs, including those that are community based, and to law enforcement and criminal justice agencies for activities related to juveniles.

Minorities.

"(7) Addressing efforts to reduce the proportion of juveniles detained or confined in secure detention facilities, secure correctional facilities, jails, and lockups who are members of minority groups if such proportion exceeds the proportion such groups represent in the general population.

"(b) The Administrator is authorized, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, to develop and implement new approaches, techniques, and methods designed to—

"(1) improve the capability of public and private agencies and organizations to provide services for delinquents and other juveniles to help prevent juvenile delinquency;

Education.

"(2) develop and implement, in coordination with the Secretary of Education, model programs and methods to keep students in elementary and secondary schools, to prevent unwarranted and arbitrary suspensions and expulsions, and to encourage new approaches and techniques with respect to the prevention of school violence and vandalism;

Employment and unemployment.

"(3) develop, implement, and support, in conjunction with the Secretary of Labor, other public and private agencies, organizations, business, and industry, programs for the employment of juveniles;

State and local governments.

"(4) develop and support programs designed to encourage and assist State legislatures to consider and establish policies consistent with this title, both by amending State laws, if necessary, and devoting greater resources to effectuate such policies;

Handicapped persons.

"(5) develop and implement programs relating to juvenile delinquency and learning disabilities, including on-the-job training programs to assist law enforcement personnel and juvenile justice personnel to more effectively recognize and provide for learning-disabled and other handicapped juveniles;

"(6) develop statewide programs through the use of subsidies or other financial incentives designed to—

"(A) remove juveniles from jails and lockups for adults;

"(B) replicate juvenile programs designated as exemplary by the National Institute of Justice; or

"(C) establish and adopt, based upon the recommendations of the National Advisory Committee for Juvenile Justice and Delinquency Prevention made before the date of the enactment of the Juvenile Justice, Runaway Youth, and Missing Children's Act Amendments of 1984, standards for the improvement of juvenile justice within each State involved; and

"(7) develop and implement model programs, relating to the special education needs of delinquent and other juveniles, which develop locally coordinated policies and programs among education, juvenile justice, and social service agencies.

"(c) Not less than 30 percent of the funds available for grants and contracts under this section shall be available for grants to and contracts with private nonprofit agencies, organizations, and institutions which have experience in dealing with juveniles.

"(d) Assistance provided under this section shall be available on an equitable basis to deal with female, minority, and disadvantaged juveniles, including juveniles who are mentally, emotionally, or physically handicapped. Discrimination, prohibition.

"(e) Not less than 5 percent of the funds available for grants and contracts under this section shall be available for grants and contracts designed to address the special needs and problems of juvenile delinquency in the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands. Territories, U.S.

"CONSIDERATIONS FOR APPROVAL OF APPLICATIONS

"SEC. 262. (a) Any agency, institution, or individual desiring to receive a grant, or enter into a contract, under this part shall submit an application at such time, in such manner, and containing or accompanied by such information as the Administrator may prescribe. Grants. Contracts. State and local governments. 42 USC 5665a.

"(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

"(1) set forth a program for carrying out one or more of the purposes set forth in this part and specifically identify each such purpose such program is designed to carry out;

"(2) provide that such program shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program;

"(4) provide for regular evaluation of such program;

"(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

"(6) attach a copy of the responses of such State planning agency and local agency to such request;

"(7) provide that regular reports on such program shall be sent to the Administrator and to such State planning agency and local agency; and Reports.

"(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In determining whether or not to approve applications for grants and for contracts under this part, the Administrator shall consider—

"(1) the relative cost and effectiveness of the proposed program in carrying out this part;

"(2) the extent to which such program will incorporate new or innovative techniques;

"(3) if a State plan has been approved by the Administrator under section 223(c), the extent to which such program meets the objectives and priorities of the State plan, taking into consideration the location and scope of such program;

"(4) the increase in capacity of the public and private agency, institution, or individual involved to provide services to address juvenile delinquency and juvenile delinquency prevention;

"(5) the extent to which such program serves communities which have high rates of juvenile unemployment, school dropout, and delinquency; and

Urban areas.

"(6) the adverse impact that may result from the restriction of eligibility, based upon population, for cities with a population greater than 40,000 located within States which have no city with a population over 250,000.

Federal Register, publication.

"(d)(1)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be selected through a competitive process to be established by rule by the Administrator. As part of such a process, the Administrator shall announce in the Federal Register—

"(i) the availability of funds for such assistance;

"(ii) the general criteria applicable to the selection of applicants to receive such assistance; and

"(iii) a description of the procedures applicable to submitting and reviewing applications for such assistance.

"(B) The competitive process described in subparagraph (A) shall not be required if the Administrator makes a written determination that—

"(i)(I) the proposed program is not within the scope of any announcement issued, or expected to be issued, by the Administrator regarding the availability of funds to carry out programs under this part, but can be supported by a grant or contract in accordance with this part; and

"(II) such program is of such outstanding merit, as determined through peer review conducted under paragraph (2), that the award of a grant or contract without competition is justified; or

"(ii) the applicant is uniquely qualified to provide proposed training services as provided in section 244 and other qualified sources are not capable of providing such services, and includes in such determination the factual and other bases thereof.

"(C) If a program is selected for assistance without competition pursuant to the exception provided in subparagraph (B), the Administrator shall promptly so notify the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate. Such notification shall include copies of the Administrator's determina-

tion made under such subparagraph and the peer review determination required by paragraph (2).

"(2)(A) Programs selected for assistance through grants or contracts under this part (other than section 241(f)) shall be reviewed before selection, and thereafter as appropriate, through a formal peer review process utilizing experts (other than officers and employees of the Department of Justice) in fields related to the subject matter of the proposed program.

"(B) Such process shall be established by the Administrator in consultation with the Directors and other appropriate officials of the National Science Foundation and the National Institute of Mental Health. Before implementation of such process, the Administrator shall submit such process to such Directors, each of whom shall prepare and furnish to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate a final report containing their comments on such process as proposed to be established. Reports.

"(3) The Administrator, in establishing the processes required under paragraphs (1) and (2), shall provide for emergency expedited consideration of the proposed programs if necessary to avoid any delay which would preclude carrying out such programs.

"(e) A city shall not be denied assistance under this part solely on the basis of its population.

"(f) Notification of grants and contracts made under this part (and the applications submitted for such grants and contracts) shall, upon being made, be transmitted by the Administrator, to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate.".

(b) CONFORMING AMENDMENTS.—(1) Section 223(a)(1) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5633(a)(1)) is amended by striking "section 261(c)(1)" and inserting "section 291(c)(1)".

(2) Section 246 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5660), as so redesignated by section (a)(2)(E), is amended by striking "section 248" and inserting "section 245".

SEC. 7264. SPECIAL STUDIES AND REPORTS.

The Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5601) is amended by inserting after section 247, as so redesignated by section 7263(a)(2)(E), the following:

"SPECIAL STUDIES AND REPORTS

"SEC. 248. (a) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study with respect to the juvenile justice system— 42 USC 5662.

"(1) to review—

"(A) conditions in detention and correctional facilities for juveniles; and

"(B) the extent to which such facilities meet recognized national professional standards; and

"(2) to make recommendations to improve conditions in such facilities.

Indians.

"(b)(1) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study to determine—

"(A) how juveniles who are American Indians and Alaskan Natives and who are accused of committing offenses on and near Indian reservations and Alaskan Native villages, respectively, are treated under the systems of justice administered by Indian tribes and Alaskan Native organizations, respectively, that perform law enforcement functions;

"(B) the amount of financial resources (including financial assistance provided by governmental entities) available to Indian tribes and Alaskan Native organizations that perform law enforcement functions, to support community-based alternatives to incarcerating juveniles; and

"(C) the extent to which such tribes and organizations comply with the requirements specified in paragraphs (12)(A), (13), and (14) of section 223(a), applicable to the detention and confinement of juveniles.

"(2)(A) For purposes of section 7(b) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450e(b)), any contract, subcontract, grant, or subgrant made under paragraph (1) shall be deemed to be a contract, subcontract, grant, or subgrant made for the benefit of Indians.

"(B) For purposes of section 7(b) of such Act and subparagraph (A) of this paragraph, references to Indians and Indian organizations shall be deemed to include Alaskan Natives and Alaskan Native organizations, respectively.

Reports.

"(c) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results, of the study conducted under subsection (a) or (b), as the case may be.".

SEC. 7265. AUTHORIZATION OF APPROPRIATIONS.

(a) FUNDS AUTHORIZED FOR FISCAL YEARS.—Section 261(a) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(a)) is amended—

(1) by inserting "(1)" after "(a)",

(2) by inserting "(other than part D)" after "this title",

(3) by striking "1985, 1986, 1987, and 1988",

(4) by inserting "1989, 1990, 1991, and 1992", and

(5) by adding at the end the following:

"(2)(A) Subject to subparagraph (B), to carry out part D, there are authorized to be appropriated $15,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

"(B) No funds may be appropriated to carry out part D of this title for a fiscal year unless the aggregate amount appropriated to carry out this title (other than part D) for such fiscal year is not less than the aggregate amount appropriated to carry out this title (other than part D) for the preceding fiscal year.".

(b) ALLOCATIONS.—Section 261(b) of part D of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671(b)) is amended—

(1) by inserting "(other than part D)" after "this title"

(2) in paragraph (1) by striking "7.5 percent" and inserting "5 percent",

(3) in paragraph (2) by striking "81.5 percent" and inserting "70 percent", and

(4) in paragraph (3) by striking "11 percent" and inserting "25 percent".

SEC. 7266. TECHNICAL AMENDMENTS TO PART D OF TITLE II.

Part D of title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended—

(1) by amending the heading of such part to read as follows:

"PART E—GENERAL AND ADMINISTRATIVE PROVISIONS",

(2) by striking section 263,

(3) by redesignating sections 261 and 262 as sections 291 and 292, respectively, and

(4) by adding at the end the following:

42 USC 5601 note.

42 USC 5671, 5672.

"WITHHOLDING

"SEC. 293. Whenever the Administrator, after giving reasonable notice and opportunity for hearing to a recipient of financial assistance under this title, finds that— 42 USC 5673.

"(1) the program or activity for which the grant or contract involved was made has been so changed that it no longer complies with this title; or

"(2) in the operation of such program or activity there is failure to comply substantially with any provision of this title;

the Administrator shall initiate such proceedings as are appropriate.

"USE OF FUNDS

"SEC. 294. (a) Funds paid pursuant to this title to any public or private agency, organization, or institution, or to any individual (either directly or through a State planning agency) may be used for— 42 USC 5674.

"(1) planning, developing, or operating the program designed to carry out this title; and

"(2) not more than 50 per centum of the cost of the construction of any innovative community-based facility for fewer than 20 persons which, in the judgment of the Administrator, is necessary to carry out this title.

"(b) Except as provided in subsection (a), no funds paid to any public or private agency, or institution or to any individual under this title (either directly or through a State agency or local agency) may be used for construction.

"(c)(1) Funds paid pursuant to section 223(a)(10)(D) and section 261(a)(3) to any public or private agency, organization, or institution or to any individual shall not be used to pay for any personal service, advertisement, telegram, telephone communication, letter, printed or written matter, or other device intended or designed to influence a Member of Congress or any other Federal, State, or local elected official to favor or oppose any Acts, bills, resolutions, or similar legislation, or any referendum, initiative, constitutional amendment, or any similar procedure of the Congress, any State legislature, any local council, or any similar governing body, except

that this paragraph shall not preclude such funds from being used in connection with communications to Federal, State, or local elected officials, upon the request of such officials through proper official channels, pertaining to authorization, appropriation, or oversight measures directly affecting the operation of the program involved.

"(2) The Administrator shall take such action as may be necessary to ensure that no funds paid under section 223(a)(10)(D) or section 261(a)(3) are used either directly or indirectly in any manner prohibited in this paragraph.

"PAYMENTS

42 USC 5675.

"SEC. 295. (a) Payments under this title, pursuant to a grant or contract, may be made (after necessary adjustment, in the case of grants, on account of previously made overpayments or underpayments) in advance or by way of reimbursement, in such installments and on such conditions as the Administrator may determine.

"(b) Except as provided in the second sentence of section 222(c), financial assistance extended under this title shall be 100 per centum of the approved costs of the program or activity involved.

Indians.

"(c)(1) In the case of a grant under this title to an Indian tribe, if the Administrator determines that the tribe does not have sufficient funds available to meet the local share of the cost of any program or activity to be funded under the grant, the Administrator may increase the Federal share of the cost thereof to the extent the Administrator deems necessary.

"(2) If a State does not have an adequate forum to enforce grant provisions imposing any liability on Indian tribes, the Administrator may waive State liability attributable to the liability of such tribes and may pursue such legal remedies as are necessary.

"(d) If the Administrator determines, on the basis of information available to the Administrator during any fiscal year, that a portion of the funds granted to an applicant under part C for such fiscal year will not be required by the applicant or will become available by virtue of the application of the provisions of section 802 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended from time to time, that portion shall be available for reallocation in an equitable manner to States which comply with the requirements in paragraphs (12)(A) and (13) of section 223(a), under section 261(b)(6).

"CONFIDENTIALITY OF PROGRAM RECORDS

42 USC 5676.

"SEC. 296. Except as authorized by law, program records containing the identity of individual juveniles gathered for purposes pursuant to this title may not be disclosed without the consent of the service recipient or legally authorized representative, or as may be necessary to carry out this title. Under no circumstances may program reports or findings available for public dissemination contain the actual names of individual service recipients.".

SEC. 7267. PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS.

Title II of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5671-5672 note) is amended by inserting after part C, as amended by this subtitle, the following:

"PART D—PREVENTION AND TREATMENT PROGRAMS RELATING TO JUVENILE GANGS AND DRUG ABUSE AND DRUG TRAFFICKING

"AUTHORITY TO MAKE GRANTS AND CONTRACTS

"SEC. 281. The Administrator shall, by making grants to and entering into contracts with public and private nonprofit agencies, organizations, institutions, and individuals, establish and support programs and activities that involve families and communities and that are designed to carry out any of the following purposes: 42 USC 5667.

"(1) To reduce the participation of juveniles in drug-related crimes (including drug trafficking and drug use), particularly in elementary and secondary schools.

"(2) To develop within the juvenile adjudicatory and correctional systems new and innovative means to address the problems of juveniles convicted of serious drug-related and gang-related offenses.

"(3) To reduce juvenile involvement in gang-related activity, particularly activities that involve the distribution of drugs by or to juveniles.

"(4) To promote the involvement of juveniles in lawful activities in geographical areas in which gangs commit crimes.

"(5) To provide treatment to juveniles who are members of such gangs, including members who are accused of committing a serious crime and members who have been adjudicated as being delinquent.

"(6) To support activities to inform juveniles of the availability of treatment and services for which financial assistance is provided under this part.

"(7) To facilitate Federal and State cooperation with local school officials to assist juveniles who are likely to participate in the activities of gangs that commit crimes and to establish and support programs that facilitate coordination and cooperation among local education, juvenile justice, employment, and social service agencies, for the purpose of preventing or reducing the participation of juveniles in activities of gangs that commit crimes. Schools and colleges. State and local governments.

"(8) To provide personnel, personnel training, equipment, and supplies in conjunction with programs and activities designed to prevent or reduce the participation of juveniles in unlawful gang activities or unlawful drug activities, to assist in improving the adjudicative and correctional components of the juvenile justice system.

"(9) To provide pre- and post-trial drug abuse treatment to juveniles in the juvenile justice system.

"(10) To provide drug abuse education, prevention and treatment involving police and juvenile justice officials in demand reduction programs.

"APPROVAL OF APPLICATIONS

"SEC. 282. (a) Any agency, institution, or individual desiring to receive a grant, or to enter into a contract, under this part shall submit an application at such time, in such manner, and containing Grants. Contracts. 42 USC 5667a.

or accompanied by such information as the Administrator may prescribe.

"(b) In accordance with guidelines established by the Administrator, each application for assistance under this part shall—

"(1) set forth a program or activity for carrying out one or more of the purposes specified in section 281 and specifically identify each such purpose, such program or activity is designed to carry out;

"(2) provide that such program or activity shall be administered by or under the supervision of the applicant;

"(3) provide for the proper and efficient administration of such program or activity;

"(4) provide for regular evaluation of such program or activity;

"(5) certify that the applicant has requested the State planning agency and local agency designated in section 223, if any, to review and comment on such application and indicate the responses of such State planning agency and local agency to such request;

"(6) attach a copy of the responses of such State planning agency and local agency to such request;

Reports.

"(7) provide that regular reports on such program or activity shall be sent to the Administrator and to such State planning agency and local agency; and

"(8) provide for such fiscal control and fund accounting procedures as may be necessary to ensure prudent use, proper disbursement, and accurate accounting of funds received under this title.

"(c) In reviewing applications for grants and contracts under this part, the Administrator shall give priority to applications—

"(1) based on the incidence and severity of crimes committed by gangs whose membership is composed primarily of juveniles or the incidence of juvenile drug abuse and drug trafficking, in the geographical area in which the applicants propose to carry out the programs and activities for which such grants and contracts are requested; and

"(2) for assistance for programs and activities that have the broad support of organizations operating in such geographical areas, as demonstrated by the applicants.".

CHAPTER 2—AMENDMENTS TO THE RUNAWAY AND HOMELESS YOUTH ACT

SEC. 7271. GRANTS FOR RUNAWAY AND HOMELESS YOUTH CENTERS.

(a) TECHNICAL AMENDMENT.—The heading for section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) is amended to read as follows:

"AUTHORITY TO MAKE GRANTS".

(b) GRANT PROGRAM.—Subsections (a) and (b) of section 311 of the Runaway and Homeless Youth Act (42 U.S.C. 5711) are amended to read as follows:

"(a) The Secretary shall make grants to public and private entities (and combinations of such entities) to establish and operate (including renovation) local runaway and homeless youth centers to provide services to deal primarily with the immediate needs of runaway

or otherwise homeless youth, and their families, in a manner which is outside the law enforcement structure and the juvenile justice system.

"(b)(1) Subject to paragraph (2) and in accordance with regulations promulgated under this title, funds for grants under subsection (a) shall be allotted annually with respect to the States on the basis of their relative population of individuals who are less than 18 years of age.

"(2) Subject to paragraph (3), the amount allotted under paragraph (1) with respect to each State for a fiscal year shall be not less than $75,000, except that the amount allotted to the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, and the Commonwealth of the Northern Mariana Islands shall be not less than $30,000 each. Territories, U.S.

"(3) If, as a result of paragraph (2), the amount allotted under paragraph (1) with respect to a State for a fiscal year would be less than the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988, then the amounts allotted to satisfy the requirements of such paragraph shall be reduced pro rata to the extent necessary to allot under paragraph (1) with respect to such State for the fiscal year an amount equal to the aggregate amount of grants made under this part to recipients in such State for fiscal year 1988.

"(4) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to private entities that have experience in providing the services described in such subsection.".

(c) CONFORMING AMENDMENTS.—(1) Sections 312 and 313 of the Runaway and Homeless Youth Act (42 U.S.C. 5712, 5713) are each amended by striking "this part" each place it appears and inserting "section 311(a)".

(2) Section 312(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(a)) is amended by inserting "and homeless youth" after "proposed runaway".

(3) Section 312(b) of the Runaway and Homeless Youth Act (42 U.S.C. 5712(b)) is amended—

(A) in the matter preceding paragraph (1) by striking "meeting" and all that follows through "center—", and inserting "including assurances that the applicant—",

(B) in paragraph (1)—

(i) by striking "shall be" and inserting "shall operate a runaway and homeless youth center", and

(ii) by inserting "and homeless" after "by runaway",

(C) in paragraphs (3) and (5) by striking "runaway center" each place it appears and inserting "runaway and homeless youth center",

(D) in paragraphs (4) and (6) by striking "runaway youths" each place it appears and inserting "runaway and homeless youth", and

(E) in paragraphs (5) and (6) by striking "runaway youth" each place it appears and inserting "runaway and homeless youth".

(4) Section 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5714) is amended by striking "runaway center" and inserting "runaway and homeless youth center".

(5) Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(A) by striking "runaway centers" and inserting "runaway and homeless youth centers", and

(B) by striking "runaway youth" and inserting "runaway and homeless youth".

(6) Section 318(a) of the Runaway and Homeless Youth Act (42 U.S.C. 5716(a)) is amended by striking "acquisition and".

SEC. 7272. ADDITIONAL TECHNICAL AMENDMENTS.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended—

(1) by amending the heading for part A to read as follows:

"PART A—RUNAWAY AND HOMELESS YOUTH GRANT PROGRAM",

(2) by striking the headings for parts B and C, and

(3) by inserting before the heading for section 317 the following:

"PART D—ADMINISTRATIVE PROVISIONS".

SEC. 7273. AUTHORIZATION OF TRANSITIONAL LIVING PROJECTS.

(a) ASSISTANCE TO POTENTIAL GRANTEES.—Section 315 of the Runaway and Homeless Youth Act (42 U.S.C. 5714a) is amended—

(1) by inserting "and transitional living youth projects" after "homeless youth centers",

(2) in paragraph (1) by inserting "or transitional living youth project" after "homeless youth center",

(3) by inserting "or such project" after "such center" each place it appears, and

(4) in paragraph (3) by inserting "and homeless" after "runaway".

(b) LEASE OF SURPLUS FEDERAL FACILITIES.—Section 316 of the Runaway and Homeless Youth Act (42 U.S.C. 5714b) is amended—

(1) in the heading of such section by inserting "OR AS TRANSITIONAL LIVING YOUTH SHELTER FACILITIES" after "HOMELESS YOUTH CENTERS", and

(2) in subsection (a)—

(A) by inserting "or as transitional living youth shelter facilities" after "homeless youth centers", and

(B) in paragraph (1) by inserting "or transitional living youth project, as the case may be, under this title" after "homeless youth center".

(c) REPORTS.—Section 317 of the Runaway and Homeless Youth Act (42 U.S.C. 5715) is amended—

(1) by inserting "(a)" after "SEC. 317.",

(2) by striking "this part" and inserting "part A", and

(3) by adding at the end thereof the following:

"(b) The Secretary shall annually report to the Congress on the status and accomplishments of the transitional living youth projects which are funded under part B, with particular attention to—

"(1) the number and characteristics of homeless youth served by such projects;

"(2) describing the types of activities carried out under such projects;

"(3) the effectiveness of such projects in alleviating the immediate problems of homeless youth;

"(4) the effectiveness of such projects in preparing homeless youth for self sufficiency;

"(5) the effectiveness of such projects in helping youth decide upon future education, employment, and independent living; and

"(6) the ability of such projects to strengthen family relationships, and encourage the resolution of intra-family problems through counseling and the development of self-sufficient living skills.".

(d) AUTHORIZATION OF APPROPRIATIONS.—Section 331 of the Runaway and Homeless Youth Act (42 U.S.C. 5751) is amended—

(1) by redesignating subsections (b) and (c) as subsections (c) and (d), respectively, and

(2) by inserting after subsection (a) the following:

"(b)(1) Subject to paragraph (2), to carry out the purposes of part B of this title, there are authorized to be appropriated $5,000,000 for fiscal year 1989 and such sums as may be necessary for each of the fiscal years 1990, 1991, and 1992.

"(2) No funds may be appropriated to carry out part B of this title for a fiscal year unless the aggregate amount appropriated for such fiscal year to carry out part A of this title exceeds $26,900,000.".

(e) TECHNICAL AMENDMENTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended—

(1) by inserting before the heading for section 315 the following:

"PART C—GENERAL PROVISIONS", and

(2) by redesignating sections 315, 316, 317, 318, 321, and 331 as sections 341, 342, 361, 362, 363, and 366, respectively.

(f) GRANTS FOR TRANSITIONAL LIVING YOUTH PROJECTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 314 the following: 42 USC 5714a, 5714b, 5715, 5716, 5731, 5751.

"PART B—TRANSITIONAL LIVING GRANT PROGRAM

"PURPOSE AND AUTHORITY FOR PROGRAM

"SEC. 321. (a) The Secretary is authorized to make grants and to provide technical assistance to public and nonprofit private entities to establish and operate transitional living youth projects for homeless youth. 42 USC 5714-1.

"(b) For purposes of this part—

"(1) the term 'homeless youth' means any individual—

"(A) who is not less than 16 years of age and not more than 21 years of age;

"(B) for whom it is not possible to live in a safe environment with a relative; and

"(C) who has no other safe alternative living arrangement; and

"(2) the term 'transitional living youth project' means a project that provides shelter and services designed to promote a transition to self-sufficient living and to prevent long-term dependency on social services.

"ELIGIBILITY

42 USC 5714-2.

"SEC. 322. (a) To be eligible for assistance under this part, an applicant shall propose to establish, strengthen, or fund a transitional living youth project for homeless youth and shall submit to the Secretary a plan in which such applicant agrees, as part of such project—

"(1) to provide, directly or indirectly, shelter (such as group homes, host family homes, and supervised apartments) and services (including information and counseling services in basic life skills, interpersonal skill building, educational advancement, job attainment skills, and mental and physical health care) to homeless youth;

"(2) to provide such shelter and such services to individual homeless youth throughout a continuous period not to exceed 540 days;

"(3) to provide, directly or indirectly, on-site supervision at each shelter facility that is not a family home;

"(4) that such shelter facility used to carry out such project shall have the capacity to accommodate not more than 20 individuals (excluding staff);

"(5) to provide a number of staff sufficient to ensure that all homeless youth participating in such project receive adequate supervision and services;

"(6) to provide a written transitional living plan to each youth based on an assessment of such youth's needs, designed to help the transition from supervised participation in such project to independent living or another appropriate living arrangement;

"(7) to develop an adequate plan to ensure proper referral of homeless youth to social service, law enforcement, educational, vocational, training, welfare, legal service, and health care programs and to help integrate and coordinate such services for youths;

"(8) to provide for the establishment of outreach programs designed to attract individuals who are eligible to participate in the project;

Reports.

"(9) to submit to the Secretary an annual report that includes information regarding the activities carried out with funds under this part, the achievements of the project under this part carried out by the applicant and statistical summaries describing the number and the characteristics of the homeless youth who participate in such project in the year for which the report is submitted;

"(10) to implement such accounting procedures and fiscal control devices as the Secretary may require;

"(11) to submit to the Secretary an annual budget that estimates the itemized costs to be incurred in the year for which the applicant requests a grant under this part;

"(12) to keep adequate statistical records profiling homeless youth which it serves and not to disclose the identity of individual homeless youth in reports or other documents based on such statistical records;

Classified information.

"(13) not to disclose records maintained on individual homeless youth without the consent of the individual youth and parent or legal guardian to anyone other than an agency compiling statistical records or a government agency involved in the disposition of criminal charges against youth; and

"(14) to provide to the Secretary such other information as the Secretary may reasonably require.

"(b) In selecting eligible applicants to receive grants under this part, the Secretary shall give priority to entities that have experience in providing to homeless youth shelter and services of the types described in subsection (a)(1).".

SEC. 7274. REPORTS.

Section 361 of the Runaway and Homeless Youth Act (42 U.S.C. 5715), as so redesignated by section 7273(e)(2), is amended by striking "The Secretary shall annually" and inserting "Not later than 180 days after the end of each fiscal year, the Secretary shall".

SEC. 7275. NATIONAL COMMUNICATION SYSTEM.

(a) TECHNICAL AMENDMENTS.—Sections 313 and 314 of the Runaway and Homeless Youth Act (42 U.S.C. 5713-5714) are redesignated as sections 316 and 317, respectively.

(b) AUTHORITY TO MAKE GRANTS.—The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 312 the following:

"GRANTS FOR A NATIONAL COMMUNICATION SYSTEM

"SEC. 313. (a) With funds reserved under subsection (b), the Secretary shall make grants for a national communication system to assist runaway and homeless youth in communicating with their families and with service providers. 42 USC 5712a.

"(b) From funds appropriated to carry out this part and after making the allocation required by section 366(a)(2), the Secretary shall reserve—

"(1) for fiscal year 1989 not less than $500,000;

"(2) for fiscal year 1990 not less than $600,000; and

"(3) for each of the fiscal years 1991 and 1992 not less than $750,000;

to carry out subsection (a).".

SEC. 7276. GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 313, as added by section 7275, the following:

"GRANTS FOR TECHNICAL ASSISTANCE AND TRAINING

"SEC. 314. The Secretary may make grants to statewide and regional nonprofit organizations (and combinations of such organizations) to provide technical assistance and training to public and private entities (and combinations of such entities) that are eligible to receive grants under section 311(a), for the purpose of assisting such entities to establish and operate runaway and homeless youth centers.". 42 USC 5712b.

SEC. 7277. GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 314, as added by section 7276, the following:

"AUTHORITY TO MAKE GRANTS FOR RESEARCH, DEMONSTRATION, AND SERVICE PROJECTS

42 USC 5712c.

"SEC. 315. (a) The Secretary may make grants to States, localities, and private entities (and combinations of such entities) to carry out research, demonstration, and service projects designed to increase knowledge concerning, and to improve services for, runaway and homeless youth.

"(b) In selecting among applications for grants under subsection (a), the Secretary shall give special consideration to proposed projects relating to—

"(1) juveniles who repeatedly leave and remain away from their homes;

"(2) outreach to runaway and homeless youth;

"(3) transportation of runaway and homeless youth in connection with services authorized to be provided under this part;

"(4) the special needs of runaway and homeless youth programs in rural areas;

"(5) the special needs of foster care home programs for runaway and homeless youth;

"(6) transitional living programs for runaway and homeless youth; and

"(7) innovative methods of developing resources that enhance the establishment or operation of runaway and homeless youth centers.

"(c) In selecting among applicants for grants under subsection (a), the Secretary shall give priority to applicants who provide services directly to runaway and homeless youth.".

SEC. 7278. ANNUAL PROGRAM PRIORITIES.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 363, as so redesignated by section 7273(e)(2), the following:

"ANNUAL PROGRAM PRIORITIES

Federal Register, publication. 42 USC 5732.

"SEC. 364. (a) The Secretary shall develop for each fiscal year, and publish annually in the Federal Register for public comment a proposed plan specifying the subject priorities the Secretary will follow in making grants under this title for such fiscal year.

"(b) Taking into consideration comments received in the 45-day period beginning on the date the proposed plan is published, the Secretary shall develop and publish, before December 31 of such fiscal year, a final plan specifying the priorities referred to in subsection (a).".

SEC. 7279. COORDINATION WITH ACTIVITIES OF CERTAIN FEDERAL HEALTH AGENCIES.

The Runaway and Homeless Youth Act (42 U.S.C. 5701-5751) is amended by inserting after section 364, as added by section 7278, the following:

"COORDINATION WITH ACTIVITIES

42 USC 5733.

"SEC. 365. With respect to matters relating to communicable diseases, the Secretary shall coordinate the activities of health agencies in the Department of Health and Human Services with the

activities of the entities that are eligible to receive grants under this title.".

SEC. 7280. AUTHORIZATION OF APPROPRIATIONS.

Section 366(a) of the Runaway and Homeless Youth Act of 1974 (42 U.S.C. 5751(a)), as so redesignated by section 7273(d)(2), is amended—

(1) by striking "1985, 1986, 1987, and 1988",
(2) by inserting "1989, 1990, 1991, and 1992",
(3) by inserting "(1)" after "(a)", and
(4) by adding at the end the following:

"(2) Not less than 90 percent of the funds appropriated under paragraph (1) for a fiscal year shall be available to carry out section 311(a) in such fiscal year.".

CHAPTER 3—AMENDMENTS TO THE MISSING CHILDREN'S ASSISTANCE ACT

SEC. 7285. DUTIES AND FUNCTIONS OF ADMINISTRATOR.

(a) ANNUAL REPORT.—Section 404(a) of the Missing Children's Assistance Act (42 U.S.C. 5773(a)) is amended—

(1) in paragraph (3) by striking "law enforcement",
(2) in paragraph (4) by inserting "and" at the end,
(3) by amending paragraph (5) to read as follows:

"(5) not later than 180 days after the end of each fiscal year, submit a report to the President, Speaker of the House of Representatives, and the President pro tempore of the Senate—

"(A) containing a comprehensive plan for facilitating cooperation and coordination in the succeeding fiscal year among all agencies and organizations with responsibilities related to missing children;

"(B) identifying and summarizing effective models of Federal, State, and local coordination and cooperation in locating and recovering missing children;

"(C) identifying and summarizing effective program models that provide treatment, counseling, or other aid to parents of missing children or to children who have been the victims of abduction,

"(D) describing how the Administrator satisfied the requirements of paragraph (4) in the preceding fiscal year;

"(E) describing in detail the number and types of telephone calls received in the preceding fiscal year over the national toll-free telephone line established under subsection (b)(1)(A) and the number and types of communications referred to the national communications system established under section 313;

"(F) describing in detail the activities in the preceding fiscal year of the national resource center and clearinghouse established under subsection (b)(2);

"(G) describing all the programs for which assistance was provided under section 405 in the preceding fiscal year;

"(H) summarizing the results of all research completed in the preceding year for which assistance was provided at any time under this title; and

"(I)(i) identifying each clearinghouse with respect to which assistance is provided under section 405(a)(9) in the preceding fiscal year;

"(ii) describing the activities carried out by such clearinghouse in such fiscal year;

"(iii) specifying the types and amounts of assistance (other than assistance under section 405(a)(9)) received by such clearinghouse in such fiscal year; and

"(iv) specifying the number and types of missing children cases handled (and the number of such cases resolved) by such clearinghouse in such fiscal year and summarizing the circumstances of each such cases.", and

(4) by striking paragraph (6).

(b) Section 404(b) of the Missing Children's Assistance Act (42 U.S.C. 5773(b)) is amended—

(1) in paragraph (1)—

(A) by inserting "(A)" after "(1)",

(B) by inserting "24-hour" after "national",

(C) by adding "and" after the semicolon, and

(D) by adding at the end the following:

"(B) coordinating the operation of such telephone line with the operation of the national communications system established under section 313;",

(2) in paragraph (2)—

(A) by amending subparagraph (A) to read as follows:

"(A) provide to State and local governments, public and private nonprofit agencies, and individuals information regarding—

"(i) free or low-cost legal, restaurant, lodging, and transportation services that are available for the benefit of missing children and their families; and

"(ii) the existence and nature of programs being carried out by Federal agencies to assist missing children and their families;", and

(B) in subparagraph (D)—

(i) by inserting "and training" after "assistance", and

(ii) by striking the semicolon and inserting the following: "and in locating and recovering missing children;",

(3) in paragraph (3) by striking the period at the end and inserting "; and", and

(4) by adding at the end the following:

State and local governments.

"(4) provide to State and local governments, public and private nonprofit agencies, and individuals information to facilitate the lawful use of school records and birth certificates to identify and locate missing children.".

SEC. 7286. ADVISORY BOARD.

Section 405 of the Missing Children's Assistance Act (42 U.S.C. 5774) is repealed.

SEC. 7287. GRANTS.

Section 406(a) of the Missing Children's Assistance Act (42 U.S.C. 5775(a)) is amended—

(1) in paragraph (5) by striking "and" at the end,

(2) in paragraph (6) by striking the period and inserting a semicolon, and

(3) by adding at the end the following:

"(7) to address the needs of missing children (as defined in section 403(1)(A)) and their families following the recovery of such children;

"(8) to reduce the likelihood that individuals under 18 years of age will be removed from the control of such individuals' legal custodians without such custodians' consent; and

"(9) to establish or operate statewide clearinghouse to assist in locating and recovering missing children.".

SEC. 7288. COMPETITION AMENDMENT.

Section 407 of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5776) is amended to read as follows:

"CRITERIA FOR GRANTS

"SEC. 407. (a) In carrying out the programs authorized by this title, the Administrator shall establish— Contracts. 42 USC 5776.

"(1) annual research, demonstration, and service program priorities for making grants and contracts pursuant to section 405; and

"(2) criteria based on merit for making such grants and contracts.

Not less than 60 days before establishing such priorities and criteria, the Administrator shall publish in the Federal Register for public comment a statement of such proposed priorities and criteria. Federal Register, publication.

"(b) No grant or contract exceeding $50,000 shall be made under this title unless the grantee or contractor has been selected by a competitive process which includes public announcement of the availability of funds for such grant or contract, general criteria for the selection of recipients or contractors, and a description of the application process and application review process.

"(c) Multiple grants or contracts to the same grantee or contractor within any 1 year to support activities having the same general purpose shall be deemed to be a single grant for the purpose of this subsection, but multiple grants or contracts to the same grantee or contractor to support clearly distinct activities shall be considered separate grants or contractors.".

SEC. 7289. AUTHORIZATION OF APPROPRIATIONS.

Section 408 of the Missing Children's Assistance Act (42 U.S.C. 5777) is amended—

(1) by striking "$10,000,000 for fiscal year 1985, and",

(2) by striking "1986, 1987, and 1988", and

(3) by inserting "1989, 1990, 1991, and 1992".

SEC. 7290. ADDITIONAL TECHNICAL AND CONFORMING AMENDMENTS.

(a) TECHNICAL AMENDMENT.—Sections 406, 407, and 408 are redesignated as sections 405, 406, and 407, respectively. 42 USC 5775–5777.

(b) CONFORMING AMENDMENT.—Section 406 of the Missing Children's Assistance Act, as so redesignated by subsection (a), is amended by striking "section 406" and inserting "section 405". 42 USC 5776.

SEC. 7291. SPECIAL STUDY AND REPORT.

The Missing Children's Assistance Act (42 U.S.C. 5771-5777) is amended by adding at the end the following:

"SPECIAL STUDY AND REPORT

"SEC. 408. (a) Not later than 1 year after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Administrator shall begin to conduct a study to determine 42 USC 5778.

the obstacles that prevent or impede individuals who have legal custody of children from recovering such children from parents who have removed such children from such individuals in violation of law.

"(b) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Secretary shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results, of the study conducted under subsection (a).".

CHAPTER 4—MISCELLANEOUS

42 USC 5617 note.

SEC. 7295. INVESTIGATION AND REPORT BY THE COMPTROLLER GENERAL.

(a) INVESTIGATION.—Not later than 180 days after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Comptroller General of the United States shall begin to conduct an investigation of the extent to which—

(1) valid court orders, and

(2) court orders other than valid court orders,

are used in the 5-year period ending on December 31, 1988, to place juveniles in secure detention facilities, in secure correctional facilities, and in jails and lockups for adults.

(b) REPORT.—(1) Not later than 3 years after the date of the enactment of the Juvenile Justice and Delinquency Prevention Amendments of 1988, the Comptroller General shall submit a report to the chairman of the Committee on Education and Labor of the House of Representatives and the chairman of the Committee on the Judiciary of the Senate containing a description, and a summary of the results of the investigation conducted under subsection (a).

(2) In such report, the Comptroller shall specify separately with respect to secure detention facilities, secure correctional facilities, and jails and lockups for adults—

(A) the frequency with which juveniles were confined,

(B) the length of confinement of juveniles, and

(C) the types of conduct of juveniles for which confinement was imposed,

as a result of the enforcement of court orders of the 2 types described in paragraphs (1) and (2) of subsection (a).

(c) DEFINITIONS.—For purposes of this section—

(1) the term "juvenile" means an individual who is less than 18 years of age,

(2) the term "secure correctional facility" has the meaning given it in section 103(13) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(13)),

(3) the term "secure detention facility" has the meaning given it in section 103(12) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(12)), and

(4) the term "valid court order" has the meaning given it in section 103(16) of the Juvenile Justice and Delinquency Prevention Act of 1974 (42 U.S.C. 5603(16)).

SEC. 7296. EFFECTIVE DATE; APPLICATION OF AMENDMENTS. 42 USC 5601 note.

(a) EFFECTIVE DATE.—Except as provided in subsection (b), this subtitle and the amendments made by this Act shall take effect on October 1, 1988.

(b) APPLICATION OF AMENDMENTS.—(1) The amendments made by section 7258(a) shall not apply to a State with respect to a fiscal year beginning before the date of the enactment of this Act if the State plan is approved before such date by the Administrator for such fiscal year.

(2) The amendments made by section 7274(b)(1) and section 7278 shall not apply with respect to fiscal year 1989.

(3) Notwithstanding the 180-day period provided in section 7277 of the Juvenile Justice and Delinquency Prevention Act of 1974, as added by section 7255, the report required by such section to be submitted with respect to fiscal year 1988 shall be submitted not later than August 1, 1989.

Subtitle G—Provisions Relating to Prisons, Probation, Parole, and Supervised Release

SEC. 7301. PAYMENT OF COSTS OF INCARCERATION BY FEDERAL PRISONERS. 18 USC 4007 note.

Not later than 1 year after the date of enactment of this section, the United States Sentencing Commission shall study the feasibility of requiring prisoners incarcerated in Federal correctional institutions to pay some or all of the costs incident to the prisoner's confinement, including, but not limited to, the costs of food, housing, and shelter. The study shall review measures which would allow prisoners unable to pay such costs to work at paid employment within the community, during incarceration or after release, in order to pay the costs incident to the prisoner's confinement.

SEC. 7302. ADMINISTRATION OF CONFINEMENT FACILITIES LOCATED ON MILITARY INSTALLATIONS BY THE BUREAU OF PRISONS. 18 USC 4042 note.

In conjunction with the Department of Defense and the Commission on Alternative Utilization of Military Facilities as established in the National Defense Authorization Act of Fiscal Year 1989, the Bureau of Prisons shall be responsible for—

(1) administering Bureau of Prisons confinement facilities for civilian nonviolent prisoners located on military installations in cooperation with the Secretary of Defense, with an emphasis on placing women inmates in such facilities, or in similar minimum security confinement facilities not located on military installations, so that the percentage of eligible women equals the percentage of eligible men housed in such or similar minimum security confinement facilities (i.e., prison camps); Women.

(2) establishing and regulating drug treatment programs for inmates held in such facilities in coordination and cooperation with the National Institute on Drug Abuse; and

(3) establishing and managing work programs in accordance with guidelines under the Bureau of Prisons for persons held in such facilities and in cooperation with the installation commander.

SEC. 7303. REVOCATION OF PROBATION, PAROLE, AND SUPERVISED RELEASE FOR POSSESSION OF A CONTROLLED SUBSTANCE.

(a) PROBATION.—(1) Section 3563(a) of title 18, United States Code, is amended by—

(A) striking "and" after the semicolon in paragraph (1);

(B) striking the period at the end of paragraph (2) and inserting "; and"; and

(C) inserting after paragraph (2) the following:

"(3) for a felony, a misdemeanor, or an infraction, that the defendant not possess illegal controlled substances.".

(2) Section 3565(a) of title 18, United States Code, is amended by adding at the end thereof the following: "Notwithstanding any other provision of this section, if a defendant is found by the court to be in possession of a controlled substance, thereby violating the condition imposed by section 3563(a)(3), the court shall revoke the sentence of probation and sentence the defendant to not less than one-third of the original sentence.".

(b) SUPERVISED RELEASE.—(1) Section 3583(d) of title 18, United States Code, is amended in the first sentence by striking the period and inserting "and that the defendant not possess illegal controlled substances.".

(2) Section 3583 of title 18, United States Code, is amended by adding at the end thereof the following:

"(g) POSSESSION OF CONTROLLED SUBSTANCES.—If the defendant is found by the court to be in the possession of a controlled substance, the court shall terminate the term of supervised release and require the defendant to serve in prison not less than one-third of the term of supervised release.".

(c) PAROLE.—(1) Section 4209(a) of title 18, United States Code, is amended in the first sentence by inserting after "local crime" the following: ", that the parolee not possess illegal controlled substances.".

(2) Subsection (c) of section 4209 of title 18, United States Code, is amended by—

(A) striking the dash and "(1)";

(B) striking the semicolon at the end of paragraph (1) and all of paragraph (2) and inserting a period; and

(C) striking "subparagraph (1) or (2) of".

(3) Section 4214 of title 18, United States Code, is amended by adding at the end thereof the following:

"(f) Notwithstanding any other provision of this section, a parolee who is found by the Commission to be in possession of a controlled substance shall have his parole revoked.".

18 USC 3563 note.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to persons whose probation, supervised release, or parole begins after December 31, 1988.

SEC. 7304. DEMONSTRATION PROGRAM FOR DRUG TESTING OF ARRESTED PERSONS AND DEFENDANTS ON PROBATION OR SUPERVISED RELEASE.

18 USC 3150 note.

(a) ESTABLISHMENT.—The Director of the Administrative Office of the United States Courts shall establish a demonstration program of mandatory testing of criminal defendants.

(b) LENGTH OF PROGRAM.—The demonstration program shall begin not later than January 1, 1989, and shall last two years.

(c) SELECTION OF DISTRICTS.—The Judicial Conference of the United States shall select 8 Federal judicial districts in which to

carry out the demonstration program, so that the group selected represents a mix of districts on the basis of criminal caseload and the types of cases in that caseload.

(d) INCLUSION IN PRETRIAL SERVICES.—In each of the districts in which the demonstration program takes place, pretrial services under chapter 207 of title 18, United States Code, shall arrange for the drug testing of defendants in criminal cases. To the extent feasible, such testing shall be completed before the defendant makes the defendant's initial appearance in the case before a judicial officer. The results of such testing shall be included in the report to the judicial officer under section 3154 of title 18, United States Code.

(e) MANDATORY CONDITION OF PROBATION AND SUPERVISED RELEASE.—In each of the judicial districts in which the demonstration program is in effect, it shall be an additional, mandatory condition of probation, and an additional mandatory condition of supervised release for offenses occurring or completed on or after January 1, 1989, for any defendant convicted of a felony, that such defendant refrain from any illegal use of any controlled substance (as defined in section 102 of the Controlled Substances Act) and submit to periodic drug tests for use of controlled substances at least once every 60 days. The requirement that drug tests be administered at least once every 60 days may be suspended upon motion of the Director of the Administrative Office, or the Director's designee, if, after at least one year of probation or supervised release, the defendant has passed all drug tests administered pursuant to this section. No action may be taken against a defendant pursuant to a drug test administered in accordance with this subsection unless the drug test confirmation is a urine drug test confirmed using gas chromatography techniques or such test as the Secretary of Health and Human Services may determine to be of equivalent accuracy.

(f) REPORT TO CONGRESS.—Not later than 90 days after the first year of the demonstration program and not later than 90 days after the end of the demonstration program, the Director of the Administrative Office of the United States Courts shall report to Congress on the effectiveness of the demonstration program and include in such report recommendations as to whether mandatory drug testing of defendants should be made more general and permanent.

SEC. 7305. HOUSE PROBATION AS A CONDITION FOR PROBATION, PAROLE, OR SUPERVISED RELEASE.

(a) PROBATION.—Section 3563(b) of title 18, United States Code, is amended by—

(1) striking "or" after the semicolon in paragraph (19);

(2) redesignating paragraph (20) as paragraph (21); and

(3) inserting after paragraph (19) the following new paragraph:

"(20) remain at his place of residence during nonworking hours and, if the court finds it appropriate, that compliance with this condition be monitored by telephonic or electronic signaling devices, except that a condition under this paragraph may be imposed only as an alternative to incarceration; or".

(b) SUPERVISED RELEASE.—(1) Section 3583(d) of title 18, United States Code, is amended in the matter following paragraph (3) by striking "(b)(19)" and inserting "(b)(20)".

(2) Section 3583(e) is amended by—

(A) striking "or" at the end of paragraph (3);

(B) striking the period at the end of paragraph (4) and inserting "; or"; and

(C) inserting at the end the following new paragraph:

"(5) order the person to remain at his place of residence during nonworking hours and, if the court so directs, to have compliance monitored by telephone or electronic signaling devices, except that an order under this paragraph may be imposed only as an alternative to incarceration.".

(c) PAROLE.—Section 4209(c) of title 18, United States Code, is amended to read as follows:

"(c) Release on parole or release as if on parole (or probation, or supervised release where applicable) may as a condition of such release require—

"(1) a parolee to reside in or participate in the program of a residential community treatment center, or both, for all or part of the period of such parole; or

"(2) a parolee to remain at his place of residence during nonworking hours and, if the Commission so directs, to have compliance with this condition monitored by telephone or electronic signaling devices, except that a condition under this paragraph may be imposed only as an alternative to incarceration.

A parolee residing in a residential community treatment center pursuant to paragraph (1) of this subsection may be required to pay such costs incident to such residence as the Commission deems appropriate.".

Subtitle H—Provisions Relating to Courts

SEC. 7321. STATE JUSTICE INSTITUTE REAUTHORIZATION.

(a) AUTHORIZATION.—Section 215 of the State Justice Institute Act of 1984 (Public Law 98-620; 42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title $15,000,000 for fiscal year 1989, $15,000,000 for fiscal year 1990, $15,000,000 for fiscal year 1991, and $15,000,000 for fiscal year 1992.".

(b) TECHNICAL AMENDMENTS.—(1) Section 203(f) of the State Justice Institute Act of 1984 is amended— 42 USC 10702.

(A) by striking out ", at least thirty days prior to their effective date,"; and

(B) by adding to the end thereof the following: "The publication of a substantive rule shall not be made less than thirty days before the effective date of such rule, except as otherwise provided by the Institute for good cause found and published with the rule.".

(2) Section 205(d)(2) of the State Justice Institute Act of 1984 is amended by striking out "chapter 83" and inserting in lieu thereof "chapters 83 and 84". 42 USC 10704.

(3) Section 206(c) of the State Justice Institute Act of 1984 is amended by— 42 USC 10705.

(A) inserting "judicial and" before "nonjudicial" in paragraph (3);

(B) striking out paragraph (4); and

(C) redesignating paragraphs (5) through (15) as paragraphs (4) through (14), respectively.

(4) Section 206(d) of the State Justice Institute Act of 1984 is amended by striking out "judicial system" and inserting in lieu thereof "court (or other unit of State or local government)". 42 USC 10705.

SEC. 7322. SENTENCING JURISDICTION.

Section 636(a) of title 28, United States Code, is amended by—

(1) striking out "and" at the end of paragraph (2);

(2) striking out the period at the end of paragraph (3) and inserting in lieu thereof ", and"; and

(3) adding at the end thereof the following paragraph:

"(4) the power to enter a sentence for a misdemeanor or infraction with the consent of the parties.".

SEC. 7323. CONSIDERATION OF HABEAS CORPUS REFORM LEGISLATION.

(a) INTRODUCTION OF LEGISLATION BY THE CHAIRMAN OF THE COMMITTEE ON THE JUDICIARY OF THE SENATE.—Beginning on the date the Chief Justice of the United States forwards to the Committees on the Judiciary of the Senate and the House of Representatives the report and recommendation of the Special Committee on Habeas Corpus Review of Capital Sentences, appointed by the Chief Justice of the United States and chaired by Justice Lewis Powell (hereafter in this section referred to as the "Special Committee"), the chairman of the Committee on the Judiciary of the Senate shall have 15 days of session thereafter to introduce a bill to modify Federal habeas corpus procedure after having faithfully considered the report and recommendations of the Special Committee. If no such bill is introduced by the chairman within the 15-day period, such bill may be introduced by the ranking minority Member of the committee within an additional 10 days of session.

(b) REPORTING OF LEGISLATION BY THE COMMITTEE ON THE JUDICIARY OF THE SENATE.—(1) The bill introduced pursuant to subsection (a) shall be reported with or without recommendation by the Committee on the Judiciary of the Senate by the end of the 60th day of session after the submission of the report by the Chief Justice or the bill shall be discharged automatically from such committee and such bill shall be placed on the appropriate calendar of the Senate.

(2) It is in order at any time after the 30th day of session after the bill has been placed on the calendar pursuant to paragraph (1), notwithstanding any rule or precedent of the Senate, including Rule 22, for any Member of the Senate to move to proceed to the consideration of the bill. The motion is not debatable. The motion is not subject to a motion to postpone. A motion to reconsider the vote by which the motion is agreed to or disagreed to shall not be in order. Only one motion in the Senate shall be in order pursuant to this paragraph and such motion shall be decided by a roll call vote.

(3) This subsection is enacted by Congress—

(A) as an exercise of the rulemaking power of the Senate and as such it is deemed a part of the rules of the Senate, but applicable only with respect to the procedure to be followed in the Senate in the case of a bill described in paragraph (1), and it supersedes other rules only to the extent that it is inconsistent with such rules; and

(B) with full recognition of the constitutional right of the Senate to change the rules (so far as relating to the procedure of the Senate) at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

(c) REPORT OF THE SPECIAL COMMITTEE.—The Special Committee is urged to expedite the filing of its report and to include options for legislative action among its findings. The House of Representatives shall give fair, appropriate, and expeditious consideration to the report of the Special Committee.

Subtitle I—Provisions Relating to the Federal Bureau of Investigation

SEC. 7331. AUTHORITY FOR THE FEDERAL BUREAU OF INVESTIGATION TO INVESTIGATE, UPON REQUEST, FELONIOUS KILLINGS OF STATE OR LOCAL LAW ENFORCEMENT OFFICERS.

(a) AUTHORITY.—Chapter 33 of title 28, United States Code, is amended by adding at the end thereof the following new section:

"§ 540. Investigation of felonious killings of State or local law enforcement officers

"The Attorney General and the Federal Bureau of Investigation may investigate felonious killings of officials and employees of a State or political subdivision thereof while engaged in or on account of the performance of official duties relating to the prevention, detection, investigation, or prosecution of an offense against the criminal laws of a State or political subdivision, when such investigation is requested by the head of the agency employing the official or employee killed, and under such guidelines as the Attorney General or his designee may establish.".

(b) CONFORMING AMENDMENTS.—The table of sections of such chapter is amended by adding at the end thereof the following item:

"540. Investigation of felonious killings of State or local law enforcement officers.".

Uniform Federal Crime Reporting Act of 1988.
28 USC 534 note.

SEC. 7332. UNIFORM FEDERAL CRIME REPORTING ACT OF 1988.

(a) SHORT TITLE.—This section may be cited as the "Uniform Federal Crime Reporting Act of 1988".

(b) DEFINITIONS.—For purposes of this section, the term "Uniform Crime Reports" means the reports authorized under section 534 of title 28, United States Code, and administered by the Federal Bureau of Investigation which compiles nationwide criminal statistics for use in law enforcement administration, operation, and management and to assess the nature and type of crime in the United States.

(c) ESTABLISHMENT OF SYSTEM.—

(1) IN GENERAL.—The Attorney General shall acquire, collect, classify, and preserve national data on Federal criminal offenses as part of the Uniform Crime Reports.

(2) REPORTING BY FEDERAL AGENCIES.—All departments and agencies within the Federal government (including the Department of Defense) which routinely investigate complaints of criminal activity, shall report details about crime within their respective jurisdiction to the Attorney General in a uniform manner and on a form prescribed by the Attorney General. The reporting required by this subsection shall be limited to the reporting of those crimes comprising the Uniform Crime Reports.

(3) DISTRIBUTION OF DATA.—The Attorney General shall distribute data received pursuant to paragraph (2), in the form

of annual Uniform Crime Reports for the United States, to the President, Members of the Congress, State governments, and officials of localities and penal and other institutions participating in the Uniform Crime Reports program.

(d) ROLE OF FEDERAL BUREAU OF INVESTIGATION.—The Attorney General may designate the Federal Bureau of Investigation as the lead agency for purposes of performing the functions authorized by this section and may appoint or establish such advisory and oversight boards as may be necessary to assist the Bureau in ensuring uniformity, quality, and maximum use of the data collected.

(e) INCLUSION OF OFFENSES INVOLVING ILLEGAL DRUGS.—The Director of the Federal Bureau of Investigation is authorized to classify offenses involving illegal drugs and drug trafficking as a part I crime in the Uniform Crime Reports.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $350,000 for fiscal year 1989 and such sums as may be necessary to carry out the provisions of this section after fiscal year 1989.

(g) EFFECTIVE DATE.—The provisions of this section shall be effective on January 1, 1989.

SEC. 7333. COLLEGE AND RAILROAD POLICE INFORMATION.

Section 534 of title 28, United States Code, is amended by adding at the end thereof the following new subsection:

"(d) For purposes of this section, the term 'other institutions' includes—

"(1) railroad police departments which perform the administration of criminal justice and have arrest powers pursuant to a State statute, which allocate a substantial part of their annual budget to the administration of criminal justice, and which meet training requirements established by law or ordinance for law enforcement officers; and

"(2) police departments of private colleges or universities which perform the administration of criminal justice and have arrest powers pursuant to a State statute, which allocate a substantial part of their annual budget to the administration of criminal justice, and which meet training requirements established by law or ordinance for law enforcement officers.".

Subtitle J—Provisions Relating to the Deportation of Aliens Who Commit Aggravated Felonies

SEC. 7341. AMENDMENTS TO THE IMMIGRATION AND NATIONALITY ACT.

Except as otherwise specifically provided in this subtitle, whenever in this subtitle an amendment or repeal is expressed as an amendment to, or repeal of, a provision, the reference shall be deemed to be made to the Immigration and Nationality Act.

SEC. 7342. DEFINITION.

Section 101(a) (8 U.S.C. 1101(a)) is amended by adding at the end thereof the following new paragraph:

"(43) The term 'aggravated felony' means murder, any drug trafficking crime as defined in section 924(c)(2) of title 18, United States Code, or any illicit trafficking in any firearms or

destructive devices as defined in section 921 of such title, or any attempt or conspiracy to commit any such act, committed within the United States.".

SEC. 7343. DEPORTATION OF ALIENS COMMITTING AGGRAVATED FELONIES.

(a) RETENTION IN CUSTODY BY THE ATTORNEY GENERAL.—Section 242(a) (8 U.S.C. 1252(a)) is amended—

(1) in the second sentence, by striking out "Any" and inserting in lieu thereof "Except as provided in paragraph (2), any";

(2) by redesignating clauses (1), (2), and (3) as clauses (A), (B), and (C), respectively;

(3) by inserting "(1)" immediately after "(a)"; and

(4) by adding at the end thereof the following new paragraphs:

"(2) The Attorney General shall take into custody any alien convicted of an aggravated felony upon completion of the alien's sentence for such conviction. Notwithstanding subsection (a), the Attorney General shall not release such felon from custody.

"(3)(A) The Attorney General shall devise and implement a system—

"(i) to make available, daily (on a 24-hour basis), to Federal, State, and local authorities the investigative resources of the Service to determine whether individuals arrested by such authorities for aggravated felonies are aliens;

"(ii) to designate and train officers and employees of the Service within each district to serve as a liaison to Federal, State, and local law enforcement and correctional agencies and courts with respect to the arrest, conviction, and release of any alien charged with an aggravated felony; and

"(iii) which uses computer resources to maintain a current record of aliens who have been convicted of an aggravated felony and who have been deported; such record shall be made available to inspectors at ports of entry and to border patrol agents at sector headquarters for purposes of immediate identification of any such previously deported alien seeking to reenter the United States.

Reports. "(B) The Attorney General shall submit reports to the Committees on the Judiciary of the House of Representatives and of the Senate at the end of the 6-month period and at the end of the 18-month period beginning on the effective date of this paragraph which describe in detail specific efforts made by the Attorney General to implement this paragraph.".

(b) INAPPLICABILITY OF VOLUNTARY DEPARTURE.—Section 244(e) (8 U.S.C. 1254(e)) is amended—

(1) by striking out "(e) The" and inserting in lieu thereof "(e)(1) Except as provided in paragraph (2), the"; and

(2) by adding at the end thereof the following new paragraph:

"(2) The authority contained in paragraph (1) shall not apply to any alien who is deportable because of a conviction for an aggravated felony.".

8 USC 1252 note. (c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply to any alien who has been convicted, on or after the date of the enactment of this Act, of an aggravated felony.

SEC. 7344. GROUNDS OF DEPORTATION.

(a) IN GENERAL.—Section 241(a)(4) (8 U.S.C. 1251(a)(4)) is amended—

(2) by inserting after the semicolon the following: " or (B) is convicted of an aggravated felony at any time after entry;".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to any alien who has been convicted, on or after the date of the enactment of this Act, of an aggravated felony. 8 USC 1251 note.

SEC. 7345. CRIMINAL PENALTIES FOR REENTRY OF CERTAIN DEPORTED ALIENS.

(a) IN GENERAL.—Section 276 (8 U.S.C. 1326) is amended—

(1) by striking out "Any alien" and inserting in lieu thereof "(a) Subject to subsection (b), any alien"; and

(2) by adding at the end thereof the following new subsection:

"(b) Notwithstanding subsection (a), in the case of any alien described in such subsection—

"(1) whose deportation was subsequent to a conviction for commission of a felony (other than an aggravated felony), such alien shall be fined under title 18, United States Code, imprisoned not more than 5 years, or both; or

"(2) whose deportation was subsequent to a conviction for commission of an aggravated felony, such alien shall be fined under such title, imprisoned not more than 15 years, or both.".

(b) APPLICABILITY.—The amendments made by subsection (a) shall apply to any alien who enters, attempts to enter, or is found in, the United States on or after the date of the enactment of this Act. 8 USC 1326 note.

SEC. 7346. CRIMINAL PENALTIES FOR AIDING OR ASSISTING CERTAIN ALIENS TO ENTER THE UNITED STATES.

(a) IN GENERAL.—Section 277 (8 U.S.C. 1327) is amended by inserting "(9), (10), (23) (insofar as an alien excludable under any such paragraph has in addition been convicted of an aggravated felony)," immediately after "212(a)".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to any aid or assistance which occurs on or after the date of the enactment of this Act. 8 USC 1327 note.

(c) CONFORMING AMENDMENTS.—(1) The section heading for such section is amended by striking out "SUBVERSIVE ALIEN" and inserting in lieu thereof "CERTAIN ALIENS".

(2) The table of contents of such Act is amended by amending the item relating to section 277 to read as follows:

"Sec. 277. Aiding or assisting certain aliens to enter the United States.".

SEC. 7347. EXPEDITED DEPORTATION PROCEEDINGS FOR ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) EXPEDITED PROCEEDINGS.—The Act is further amended by inserting after section 242 the following new section:

"EXPEDITED PROCEDURES FOR DEPORTATION OF ALIENS CONVICTED OF COMMITTING AGGRAVATED FELONIES

"SEC. 242A. (a) IN GENERAL.—The Attorney General shall provide for the availability of special deportation proceedings at certain Federal, State, and local correctional facilities for aliens convicted of aggravated felonies (as defined in section 101(a)(43). Such proceedings shall be conducted in conformity with section 242 (except as otherwise provided in this section), and in a manner which eliminates the need for additional detention at any processing center of the Service and in a manner which assures expeditious deportation, 8 USC 1252a.

where warranted, following the end of the alien's incarceration for the underlying sentence.

"(b) IMPLEMENTATION.—With respect to an alien convicted of an aggravated felony who is taken into custody by the Attorney General pursuant to section 242(a)(2), the Attorney General shall, to the maximum extent practicable, detain any such felon at a facility at which other such aliens are detained. In the selection of such facility, the Attorney General shall make reasonable efforts to ensure that the alien's access to counsel and right to counsel under section 292 are not impaired.

"(c) PRESUMPTION OF DEPORTABILITY.—An alien convicted of an aggravated felony shall be conclusively presumed to be deportable from the United States.

"(d) EXPEDITED PROCEEDINGS.—(1) Notwithstanding any other provision of law, the Attorney General shall provide for the initiation and, to the extent possible, the completion of deportation proceedings, and any administrative appeals thereof, in the case of any alien convicted of an aggravated felony before the alien's release from incarceration for the underlying aggravated felony."

"(2) Nothing in this section shall be construed as requiring the Attorney General to effect the deportation of any alien sentenced to actual incarceration, before release from the penitentiary or correctional institution where such alien is confined, unless the chief prosecutor or the judge in whose jurisdiction conviction occurred submits a written request to the Attorney General that such alien be so deported.

"(e) REVIEW.—(1) The Attorney General shall review and evaluate deportation proceedings conducted under this section. Within 12 months after the effective date of this section, the Attorney General shall submit a report to the Committees on the Judiciary of the House of Representatives and of the Senate concerning the effectiveness of such deportation proceedings in facilitating the deportation of aliens convicted of aggravated felonies.

Reports.

"(2) The Comptroller General shall monitor, review, and evaluate deportation proceedings conducted under this section. Within 18 months after the effective date of this section, the Comptroller General shall submit a report to such Committees concerning the extent to which deportation proceedings conducted under this section may adversely affect the ability of such aliens to contest deportation effectively.".

Reports.

(b) APPEALS.—Paragraph (1) of section 106(a) (8 U.S.C. 1105a(a)(1)) is amended to read as follows:

> "(1) a petition for review may be filed not later than 6 months after the date of the issuance of the final deportation order, or, in the case of an alien convicted of an aggravated felony, not later than 60 days after the issuance of such order;".

8 USC 1252a note.

(c) APPLICABILITY.—The amendments made by subsections (a) and (b) shall apply in the case of any alien convicted of an aggravated felony on or after the date of the enactment of this Act.

(d) TABLE OF CONTENTS.—The table of contents of such Act is further amended by inserting after the item relating to section 242 the following new item:

"Sec. 242A. Expedited Procedures for deportation of aliens convicted of committing aggravated felonies.".

SEC. 7348. DEPORTATION FOR WEAPONS VIOLATION.

(a) IN GENERAL.—Section 241(a)(14) (8 U.S.C. 1251(a)(14)) is amended by inserting after "law" the following: "any firearm or destructive device (as defined in paragraphs (3) and (4)), respectively, of section 921(a) of title 18, United States Code, or any revolver or".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to any alien convicted, on or after the date of the enactment of this Act, of possessing any firearm or destructive device referred to in such subsection. 8 USC 1251 note.

SEC. 7349. BAR ON REENTRY OF ALIENS CONVICTED OF AGGRAVATED FELONIES.

(a) IN GENERAL.—Section 212(a)(17) (8 U.S.C. 1182(a)(17)) is amended by inserting "(or within ten years in the case of an alien convicted of an aggravated felony)" after "within five years".

(b) APPLICABILITY.—The amendment made by subsection (a) shall apply to any alien convicted of an aggravated felony who seeks admission to the United States on or after the date of the enactment of this Act. 8 USC 1182 note.

SEC. 7350. IMMIGRATION AND NATURALIZATION SERVICE PERSONNEL ENHANCEMENT.

(a) PILOT PROGRAM REGARDING THE IDENTIFICATION OF CERTAIN ALIENS.— 8 USC 1103 note.

(1) Within 6 months after the effective date of this subtitle, the Attorney General shall establish, out of funds appropriated pursuant to subsection (c)(2), a pilot program in 4 cities to improve the capabilities of the Immigration and Naturalization Service (hereinafter in this section referred to as the "Service") to respond to inquiries from Federal, State, and local law enforcement authorities concerning aliens who have been arrested for or convicted of, or who are the subject of any criminal investigation relating to, a violation of any law relating to controlled substances (other than an aggravated felony as defined in section 101(a)(43) of the Immigration and Nationality Act, as added by section 7342 of this subtitle).

(2) At the end of the 12-month period after the establishment of such pilot program, the Attorney General shall provide for an evaluation of its effectiveness, including an assessment by Federal, State, and local prosecutors and law enforcement agencies. The Attorney General shall submit a report containing the conclusions of such evaluation to the Committees on the Judiciary of the House of Representatives and of the Senate within 60 days after the completion of such evaluation. Reports.

(b) HIRING OF INVESTIGATIVE AGENTS.—

(1) Any investigative agent hired by the Attorney General for purposes of this section shall be employed exclusively to assist Federal, State, and local law enforcement agencies in combating drug trafficking and crimes of violence by aliens.

(2) Any investigative agent hired under this section who is older than 35 years of age shall not be eligible for Federal retirement benefits made available to individuals who perform hazardous law enforcement activities.

Subtitle K—United States Customs Service

SEC. 7361. AUTHORIZATION OF APPROPRIATIONS FOR THE UNITED STATES CUSTOMS SERVICE.

(a) IN GENERAL.—

(1) Paragraph (1) of section 301(b) of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(b)(1)) is amended to read as follows:

"(1) FOR NONCOMMERCIAL OPERATIONS.—There are authorized to be appropriated for fiscal year 1989 not to exceed $440,504,000 for the salaries and expenses of the United States Customs Service that are incurred in noncommercial operations, of which at least $26,240,000 shall be used to increase the number of customs inspectors for contraband enforcement teams and other drug interdiction personnel of the United States Customs Service to a number which exceeds the total number of such inspectors and personnel employed by the United States Customs Service on September 30, 1988, by the equivalent of at least 435 full-time employees, and for related equipment.".

(2) Subsection (b) of section 301 of the Customs Procedural Reform and Simplification Act of 1978 is amended—

(A) by striking out "1988" in paragraphs (2) and (3) and inserting in lieu thereof "1989",

(B) by striking out "$615,000,000" in paragraph (2) and inserting in lieu thereof "$615,247,000",

(C) by striking out "$118,309,000" in paragraph (3) and inserting in lieu thereof "$142,262,000", and

(D) by adding at the end thereof the following new paragraph:

"(4) CUSTOMS COOPERATION COUNCIL.—There are authorized to be appropriated to the Secretary of the Treasury for fiscal year 1989, $1,600,000 for payment to the Customs Cooperation Council.".

(b) INCREASE IN NUMBER OF EMPLOYEES.—Subsection (g) of section 301 of the Customs Procedural Reform and Simplification Act of 1978 (19 U.S.C. 2075(g)) is amended by adding at the end thereof the following new paragraph:

"(3) The total number of employees of the United States Customs Service shall be equivalent to at least 17,174 full-time employees.".

19 USC 1514 note. Regulations.

(c) INCONSISTENT DECISIONS OF CUSTOMS OFFICERS.—

(1) The Secretary of the Treasury shall prescribe regulations that—

(A) effect uniformity in—

(i) decisions described in section 514(a) of the Tariff Act of 1930 (19 U.S.C. 1514(a)) that are made by customs officers with respect to the same, or substantially similar, merchandise, and

(ii) decisions to conduct intensified inspections or examinations of merchandise at ports of entry, and

(B) establish procedures that allow individuals described in section 514(c)(1) of the Tariff Act of 1930 (19 U.S.C. 1514(c)(1)), any port authority, and any other interested party (within the meaning of section 516(a)(2) of the Tariff Act of 1930 (19 U.S.C. 1516(a)(2))) to petition the Secretary

to obtain such uniformity in an expedited and timely fashion.

(2) The Secretary of the Treasury shall publish in the Federal Register and submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives the proposed and final form of the regulations prescribed under paragraph (1) and shall receive and consider comments from the public regarding the proposed form of such regulations during the 60-day period beginning on the date the proposed form of such regulations are published in the Federal Register. Federal Register, publication.

(3) The regulations prescribed under paragraph (1) shall take effect by no later than April 1, 1989. Effective date.

(4) By no later than September 1, 1989, the Secretary of the Treasury shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report on the effectiveness of the regulations prescribed under paragraph (1) and recommendations for permanent legislation addressing uniformity. Reports.

SEC. 7362. UNITED STATES CUSTOMS SERVICE DRUG INTERDICTION ASSET ENHANCEMENT.

In addition to any other amounts authorized to be appropriated for fiscal year 1989, there are authorized to be appropriated for Operation and Maintenance, Air Interdiction Program for fiscal year 1989, $57,400,000: *Provided,* That such additional appropriation shall be available for the procurement of helicopters; tracking, and interceptor aircraft; and operation and maintenance expenses for these and other assets of the United States Customs Service's air interdiction program. Appropriation authorization.

SEC. 7363. TRANSFER OF AIRCRAFT.

The Secretary of the Treasury shall transfer to the office of the sheriff of Marion County, Indiana, for use by that office for drug enforcement and prisoner transportation purposes, a light twin engine or high-performance single engine aircraft having a capacity of not less than 4 passengers that— Indiana.

(1) was forfeited to the United States under the customs laws;

(2) is not transferred to any Federal agency or State or local law enforcement agency under section 616 of the Tariff Act of 1930; and

(3) would, but for this section, be sold at public auction under section 609 of the Tariff Act of 1930.

Section 616(d) of the Tariff Act of 1930 applies to the aircraft transferred under this section.

SEC. 7364. CUSTOMS FORFEITURE FUND.

Section 613A of the Tariff Act of 1930 (19 U.S.C. 1613b) is amended to read as follows:

"SEC. 613A. CUSTOMS FORFEITURE FUND. Gifts and property.

"(a) IN GENERAL.—

"(1) There is established in the Treasury of the United States a fund to be known as the 'Customs Forfeiture Fund' (hereafter in this section referred to as the 'Fund'), which shall be available to the United States Customs Service, subject to appropriation, with respect to seizures and forfeitures by the United

States Customs Service and the United States Coast Guard under any law enforced or administered by those agencies for payment, or for reimbursement to the appropriation from which payment was made, for—

"(A) all proper expenses of the seizure (including investigative costs incurred by the United States Customs Service leading to seizures) or the proceedings of forfeiture and sale, including, but not limited to, the expenses of inventory, security, and maintenance of custody of the property, advertisement and sale of the property, and if condemned by the court and a bond for such costs was not given, the costs as taxed by the court;

"(B) awards of compensation to informers under section 619;

"(C) satisfaction of—

"(i) liens for freight, charges, and contributions in general average, notice of which has been filed with the appropriate customs officer according to law, and

"(ii) other liens against forfeited property;

"(D) amounts authorized by law with respect to remission and mitigation; and

Claims.

"(E) claims of parties in interest to property disposed of under section 612(b), in the amounts applicable to such claims at the time of seizure.

"(2) Any payment made under subparagraph (C) or (D) of paragraph (1) with respect to a seizure or a forfeiture of property shall not exceed the value of the property at the time of the seizure.

"(3) In addition to the purposes described in paragraph (1), the Fund shall be available for—

"(A) purchases by the United States Customs Service of evidence of—

"(i) smuggling of controlled substances, and

"(ii) violations of the currency and foreign transaction reporting requirements of chapter 51 of title 31, United States Code, if there is a substantial probability that the violations of these requirements are related to the smuggling of controlled substances;

"(B) equipment for any vessel, vehicle, or aircraft available for official use by the United States Customs Service to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(C) the reimbursement, at the discretion of the Secretary, of private persons for expenses incurred by such persons in cooperating with the United States Customs Service in investigations and undercover law enforcement operations;

"(D) publication of the availability of awards under section 619;

"(E) equipment for any vessel, vehicle, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Customs Service; and

"(F) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law

enforcement officers that are incurred in joint law enforcement operations with the United States Customs Service.

"(b) UNITED STATES COAST GUARD.—The Commissioner of Customs shall make available to the United States Coast Guard, from funds appropriated under subsection (f)(2) in excess of $10,000,000 for a fiscal year, proceeds in the Fund derived from seizures by the Coast Guard. Funds made available under this subsection may be used for—

"(1) equipment for any vessel, vehicle, or aircraft available for official use by the United States Coast Guard to enable the vessel, vehicle, or aircraft to assist in law enforcement functions;

"(2) equipment for any vessel, vehicle, equipment, or aircraft available for official use by a State or local law enforcement agency to enable the vessel, vehicle, or aircraft to assist in law enforcement functions if the conveyance will be used in joint law enforcement operations with the United States Coast Guard;

"(3) payment of overtime salaries, travel, fuel, training, equipment, and other similar costs of State and local law enforcement officers that are incurred in joint law enforcement operations with the United States Coast Guard; and

"(4) expenses incurred in bringing vessels into compliance with applicable environmental laws prior to disposal by sinking.

"(c) DEPOSITS.—There shall be deposited into the Fund all proceeds from forfeiture under any law enforced or administered by the United States Customs Service or the United States Coast Guard and all income from investments made under subsection (d).

"(d) INVESTMENT.—Amounts in the Fund which are not currently needed for the purposes of this section shall be invested in obligations of, or guaranteed by, the United States.

"(e) ANNUAL REPORTS; AUDITS.—

"(1) The Commissioner of Customs shall transmit to the Congress, by no later than February 1 of each fiscal year the following detailed reports:

"(A) a report on—

"(i) the estimated total value of property forfeited under any law enforced or administered by the United States Customs Service or the United States Coast Guard with respect to which funds were not deposited in the Fund during the previous fiscal year, and

"(ii) the estimated total value of all such property transferred to any State or local law enforcement agency; and

"(B) a report on—

"(i) the balance of the Fund at the beginning of the preceding fiscal year;

"(ii) sources of receipts (seized cash, conveyances, and others) of the Fund during the previous fiscal year;

"(iii) liens and mortgages paid and amount of money shared with State and local law enforcement agencies during the previous fiscal year;

"(iv) the net amount realized from the operations of the Fund during the previous fiscal year, the amount of seized cash being held as evidence, and the amount of money that has been carried over to the current fiscal year;

"(v) any defendant's equity in property valued at $1,000,000 or more; and

"(vi) the balance of the Fund at the end of the previous fiscal year.

"(2) The Fund shall be subject to annual financial audits conducted by the Comptroller General of the United States.

"(f) AUTHORIZATION OF APPROPRIATIONS.—

"(1) There are hereby appropriated from the Fund such sums as may be necessary to carry out the purposes set forth in subsection (a)(1).

"(2) There are authorized to be appropriated from the Fund not to exceed $20,000,000 for each fiscal year to carry out the purposes set forth in subsections (a)(3) and (b) for such fiscal year.

"(3) At the end of each fiscal year, any unobligated amount in excess of $15,000,000 remaining in the Fund shall be deposited into the general fund of the Treasury of the United States.".

SEC. 7365. WARRANTS.

Section 603 of the Tariff Act of 1930 (19 U.S.C. 1603) is amended—

(1) by amending the section heading to read as follows:

"SEC. 603. SEIZURE; WARRANTS AND REPORTS.";

and

(2) by striking out "Whenever a seizure of merchandise" and inserting in lieu thereof the following:

"(a) Any property which is subject to forfeiture to the United States for violation of the customs laws and which is not subject to search and seizure in accordance with the provisions of section 595 of this Act, may be seized by the appropriate officer or person upon process issued in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure. This authority is in addition to any seizure authority otherwise provided by law.

"(b) Whenever a seizure of merchandise".

SEC. 7366. DISPOSITION OF FORFEITED PROPERTY.

(a) AMENDMENT.—Section 616(c) of the Tariff Act of 1930 (19 U.S.C. 1616a(c)) is amended to read as follows:

"(c)(1) The Secretary of the Treasury may apply property forfeited under this Act in accordance with subparagraph (A) or (B), or both:

"(A) Retain any of the property for official use.

"(B) Transfer any of the property to any—

"(i) other Federal agency; or

"(ii) State or local law enforcement agency that participated directly or indirectly in the seizure or forfeiture of the property.

"(2) The Secretary may transfer any forfeited personal property or the proceeds of the sale of any forfeited personal or real property to any foreign country which participated directly or indirectly in the seizure or forfeiture of the property, if such a transfer—

"(A) has been agreed to by the Secretary of State;

"(B) is authorized in an international agreement between the United States and the foreign country; and

"(C) is made to a country which, if applicable, has been certified under section 481(h) of the Foreign Assistance Act of 1961.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) applies with respect to property forfeited under the Tariff Act of 1930 on or after the date of the enactment of this Act. 19 USC 1616a note.

SEC. 7367. AMENDMENTS TO THE TARIFF ACT OF 1930.

(a) PENALTY FOR FAILURE TO DECLARE.—Section 497(a)(2)(A) of the Tariff Act of 1930 (19 U.S.C. 1497), is amended by striking out "200 percent" and inserting in lieu thereof "1,000 percent".

(b) EFFECT OF A DECLARATION OF FORFEITURE.—Section 609 of the Tariff Act of 1930 (19 U.S.C. 1609) is amended to read as follows.

"SEC. 609. SEIZURE; SUMMARY FORFEITURE AND SALE.

"(a) IN GENERAL.—If no such claim is filed or bond given within the twenty days hereinbefore specified, the appropriate customs officer shall declare the vessel, vehicle, aircraft, merchandise, or baggage forfeited, and shall sell the same at public auction in the same manner as merchandise abandoned to the United States is sold or otherwise dispose of the same according to law, and shall deposit the proceeds of sale, after deducting the expenses described in section 613, into the Customs Forfeiture Fund.

"(b) EFFECT.—A declaration of forfeiture under this section shall have the same force and effect as a final decree and order of forfeiture in a judicial forfeiture proceeding in a district court of the United States. Title shall be deemed to vest in the United States free and clear of any liens or encumbrances (except for first preferred ship mortgages pursuant to subsection O of section 30 of the Ship Mortgage Act, 1920 (46 U.S.C. App. 961) or any corresponding revision, consolidation, and enactment of such subsection in title 46, United States Code) from the date of the act for which the forfeiture was incurred. Officials of the various States, insular possessions, territories, and commonwealths of the United States shall, upon application of the appropriate customs officer accompanied by a certified copy of the declaration of forfeiture, remove any recorded liens or encumbrances which apply to such property and issue or reissue the necessary certificates of title, registration certificates, or similar documents to the United States or to any transferee of the United States.".

(c) TECHNICAL CORRECTIONS.—

(1) Section 431(c)(1)(G) of the Tariff Act of 1930 (19 U.S.C. 1431(c)(1)(G)) is amended by striking out "or" and inserting in lieu thereof "of".

(2) Section 608 of the Tariff Act of 1930 (19 U.S.C. 1608) is amended to read as follows:

"SEC. 608. SEIZURE; CLAIMS; JUDICIAL CONDEMNATION.

"Any person claiming such vessel, vehicle, aircraft, merchandise, or baggage may at any time within twenty days from the date of the first publication of the notice of seizure file with the appropriate customs officer a claim stating his interest therein. Upon the filing of such claim, and the giving of a bond to the United States in the penal sum of $5,000 or 10 percent of the value of the claimed property, whichever is lower, but not less than $250, with sureties to be approved by such customs officer, conditioned that in case of condemnation of the articles so claimed the obligor shall pay all the costs and expenses of the proceedings to obtain such condemnation, such customs officer shall transmit such claim and bond, with a duplicate list and description of the articles seized, to the United

States attorney for the district in which seizure was made, who shall proceed to a condemnation of the merchandise or other property in the manner prescribed by law.".

(3) Section 610 of the Tariff Act of 1930 (19 U.S.C. 1610) is amended to read as follows:

"SEC. 610. SEIZURE; JUDICIAL FORFEITURE PROCEEDINGS.

"If any vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607, the appropriate customs officer shall transmit a report of the case, with the names of available witnesses, to the United States attorney for the district in which the seizure was made for the institution of the proper proceedings for the condemnation of such property.".

(4) Section 612 of the Tariff Act of 1930 (19 U.S.C. 1612) is amended to read as follows:

"SEC. 612. SEIZURE; SUMMARY SALE.

"(a) Whenever it appears to the appropriate customs officer that any vessel, vehicle, aircraft, merchandise, or baggage seized under the customs laws is liable to perish or to waste or to be greatly reduced in value by keeping, or that the expense of keeping the same is disproportionate to the value thereof, and such vessel, vehicle, aircraft, merchandise, or baggage is subject to section 607, and such vessel, vehicle, aircraft, merchandise, or baggage has not been delivered under bond, such officer shall proceed forthwith to advertise and sell the same at auction under regulations to be prescribed by the Secretary of the Treasury. If such vessel, vehicle, aircraft, merchandise, or baggage is not subject to section 607, such officer shall forthwith transmit the appraiser's return and his report of the seizure to the United States attorney, who shall petition the court to order an immediate sale of such vessel, vehicle, aircraft, merchandise, or baggage, and if the ends of justice require it the court shall order such immediate sale, the proceeds thereof to be deposited with the court to await the final determination of the condemnation proceedings. Whether such sale be made by the customs officer or by order of the court, the proceeds thereof shall be held subject to claims of parties in interest to the same extent as the vessel, vehicle, aircraft, merchandise, or baggage so sold would have been subject to such claim.

"(b) If the expense of keeping the vessel, vehicle, aircraft, merchandise, or baggage is disproportionate to the value thereof, and such value is less than $1,000, such officer may proceed forthwith to order destruction or other appropriate disposition of such property, under regulations prescribed by the Secretary of the Treasury.".

(5) Section 589 of the Tariff Act of 1930 (19 U.S.C. 1589), as added by section 320 of the Comprehensive Forfeiture Act of 1984 (Public Law 98-473; 98 Stat. 2056), is hereby repealed.

(6) Section 627 of the Tariff Act of 1930 (19 U.S.C. 1627), as added by section 302 of the Motor Vehicle Theft Law Enforcement Act of 1984 (98 Stat. 2771), is hereby repealed.

SEC. 7368. CARGO CONTAINER DRUG DETECTION RESEARCH AND DEVELOPMENT.

(a) AUTHORIZATION OF APPROPRIATIONS.—In addition to any other amounts authorized to be appropriated for fiscal year 1989, there are authorized to be appropriated to the United States Customs Service for the fiscal year 1989, $4,100,000: *Provided,* That such

additional appropriation shall be used only for accelerating the development and availability of X-ray detection, nitrate detection, or other technologies to be utilized for the detection, of illegal narcotics in cargo containers entering the United States at seaports, airports, and land borders. Up to $10,900,000 of funds appropriated under section 301(b)(1) of the Customs Procedural Reform and Simplification Act of 1978 may be used for the purpose set forth in this subsection.

(b) COORDINATION.—The Commissioner of Customs shall coordinate and share the findings of the research and development authorized in subsection (a) with other Federal departments and agencies with possible mission requirements for such technology, including the Federal Aviation Administration and United States Coast Guard in the Department of Transportation; the Drug Enforcement Administration in the Department of Justice; and the appropriate State and local law enforcement agencies, including airport authorities, port authorities, and other interested parties.

(c) REPORT.—The Commissioner of Customs shall report his findings in either classified, or unclassified form, to the appropriate Committees of Congress in conjunction with the President's submission of his fiscal year 1990 Budget of the United States.

SEC. 7369. STANDARDS OF CARE IN DISCOVERING CONTRABAND.

Regulations. 19 USC 1584 note.

(a) IN GENERAL.—By no later than the date that is 120 days after the date of enactment of this Act and after an opportunity for public comment, the Secretary of the Treasury shall prescribe regulations which set forth criteria for use by the owner, master, pilot, operator, or officer of, or other employee in charge of, any common carrier in meeting the standards under sections 584(a)(2) and 594(c) of the Tariff Act of 1930 (19 U.S.C. 1584(a)(2) and 1594(c)) for the exercise of the highest degree of care and diligence to know whether controlled substances imported into the United States are on board the common carrier.

(b) AIR CARRIER SMUGGLING PREVENTION PROGRAM.—

(1) The Secretary of the Treasury, in consultation with the Secretary of Transportation, shall issue controlled substances regulations for a 2-year demonstration program within 6 months after the date of the enactment of this Act. The regulations shall apply to at least three United States International Airports classified as high-risk by the United States Customs Service and based upon the volume of cargo and number of aircraft arriving from high-risk points of departure. Such regulations shall establish procedures for air carrier development and Customs Service approval of foreign and domestic security and inspection practices. The regulations shall permit air carriers to request the Secretary of the Treasury to permit air carriers, the Customs Service, or an approved agent of the Customs Service to inspect at United States airports of entry, and aircraft arriving from foreign locations. The Secretary of the Treasury shall approve such request if the applicant meets the requirements of the regulations. Taking into account all considerations of security, law enforcement, and commercial needs, inspections of aircraft and cargo shall be conducted and completed within a reasonable period of time.

(2) Air carriers which have applied to the Secretary of the Treasury and which the Secretary determines to be in compliance with the regulations and inspection requirements promul-

gated under paragraph (1) shall be considered participating air carriers. The Secretary of the Treasury shall establish by regulation a procedure for finding a carrier to be a participating carrier and procedures for subsequent removal of that status. The Secretary shall not remove an air carrier from the status of participating air carrier unless the Secretary has first provided to the air carrier a written notice that the air carrier is not in compliance with the regulations or inspection requirements promulgated under paragraph (1), which notice shall include the reasons for that determination, and has provided to the air carrier a reasonable opportunity to correct such noncompliance.

(3) Participating air carriers shall be considered to have met the test of the highest degree of care and diligence required under law, and shall not be subject to the penalty or seizure provisions of the Tariff Act of 1930, if a controlled substance is discovered aboard an aircraft that they may own or operate or in the cargo they carried, if the participating air carrier establishes at an oral presentation that the air carrier was not grossly negligent nor engaged in willful misconduct, and complied with the applicable procedures established in the regulations promulgated under paragraph (1).

(4) For the purpose of this subsection, the term "air carrier" means an air carrier or foreign air carrier as those terms are defined in section 101 of the Federal Aviation Act of 1958 (49 U.S.C. App. 1301).

(5) No provision of this section shall have any effect on air transportation security requirements prescribed pursuant to the Federal Aviation Act of 1958.

SEC. 7370. COMMENDATION OF UNITED STATES CUSTOMS SERVICE.

(a) FINDINGS.—The Congress finds that—

(1) on October 11, 1988, the United States Customs Service announced the results of Operation C-Chase, a 2-year investigation of the Bank of Credit and Commerce International and its top managers;

(2) this investigation culminated in simultaneous arrest, search and seizure warrants in the United States, France, and the United Kingdom;

(3) Operation C-Chase is the first indictment of an international financial institution for laundering illegal narcotics proceeds; and

(4) Operation C-Chase ended in 39 arrests, including of Amjad Awan--General Manuel Antonio Noriega's personal banker—and other alleged international drug and money laundering kingpins known as Gonzalo Mora, Jr., Roberto Alcaino, and Don Chepe, some of whom are intimately tied to the Medellin Cartel.

(b) COMMENDATION BY THE CONGRESS.—The Congress—

William von Raab.

(1) commends Commissioner William von Raab, for his outstanding leadership and dedication over the last 7 years as Commissioner of the United States Customs Service, and specifically for his direction of Operation C-Chase;

(2) commends and expresses its gratitude to the undercover agents involved in Operation C-Chase, who risked their lives and well-being for the sake of combatting the international drug trade; and

Bonni Tischler.

(3) expresses its appreciation for the efforts of Special Agent in Charge Bonni Tischler of the Customs Service, and all other

United States Customs officials who participated in Operation C-Chase.

(c) TRANSMITTAL.—The Secretary of the Senate is directed to transmit copies of this section to President Reagan, Commissioner von Raab, and Special Agent Tischler.

Subtitle L—Coast Guard Drug Law Enforcement

SEC. 7401. AUTHORITY AND PROTECTION OF COMMANDING OFFICERS ON NAVAL VESSELS TO WHICH COAST GUARD PERSONNEL ARE ASSIGNED.

(a) IN GENERAL.—Section 637 of title 14, United States Code, is amended to read as follows:

"§ 637. Stopping vessels; immunity for firing at or into vessel

"(a) Whenever any vessel liable to seizure or examination does not stop on being ordered to do so or on being pursued by an authorized vessel or authorized aircraft which has displayed the ensign, pennant, or other identifying insignia prescribed for an authorized vessel or authorized aircraft, the person in command or in charge of the authorized vessel or authorized aircraft may, after a gun has been fired by the authorized vessel or authorized aircraft as a warning signal, fire at or into the vessel which does not stop.

"(b) The person in command of an authorized vessel or authorized aircraft and all persons acting under that person's direction shall be indemnified from any penalties or actions for damages for firing at or into a vessel pursuant to subsection (a). If any person is killed or wounded by the firing, and the person in command of the authorized vessel or authorized aircraft or any person acting pursuant to their orders is prosecuted or arrested therefor, they shall be forthwith admitted to bail.

"(c) A vessel or aircraft is an authorized vessel or authorized aircraft for purposes of this section if—

"(1) it is a Coast Guard vessel or aircraft; or

"(2) it is a surface naval vessel on which one or more members of the Coast Guard are assigned pursuant to section 379 of title 10.".

(b) CONFORMING AMENDMENT.—The item relating to section 637 in the table of sections at the beginning of chapter 17 of title 14, United States Code, is amended to read as follows:

"637. Stopping vessels; immunity for firing at or into vessel."

SEC. 7402. MARITIME DRUG LAW ENFORCEMENT ACT AMENDMENTS.

(a) SECTION 3(a) AMENDMENT.—Section 3(a) of the Act entitled "An Act to facilitate increased enforcement by the Coast Guard of laws relating to the importation of controlled substances, and for other purposes", approved September 15, 1980 (46 U.S.C. App. 1903(a)), is amended by inserting after "jurisdiction of the United States," the following: "or who is a citizen of the United States or a resident alien of the United States on board any vessel,".

(b) SECTION 3(b) AMENDMENT.—Section 3(b)(2) of such Act (46 U.S.C. App. 1903(b)(2)) is amended by inserting after "High Seas" the following: "and a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the

enforcement action by an officer or employee of the United States authorized to enforce applicable provisions of United States law".

SEC. 7403. COAST GUARD LAW ENFORCEMENT DUTIES.

Section 2 of title 14, United States Code, is amended by striking "United States;" the first place it appears and inserting in lieu thereof "United States; shall engage in maritime air surveillance or interdiction to enforce or assist in the enforcement of the laws of the United States;".

21 USC 801 note.

SEC. 7404. GREAT LAKES DRUG INTERDICTION.

(a) INTERAGENCY AGREEMENT.—The Secretary of Transportation and the Secretary of the Treasury shall enter into an agreement for the purpose of increasing the effectiveness of maritime drug interdiction activities of the Coast Guard and the Customs Service in the Great Lakes area.

(b) NEGOTIATIONS WITH CANADA ON DRUG ENFORCEMENT COOPERATION.—The Secretary of State is encouraged to enter into negotiations with appropriate officials of the Government of Canada for the purpose of establishing an agreement between the United States and Canada which provides for increased cooperation and sharing of information between United States and Canadian law enforcement officials with respect to law enforcement efforts conducted on the Great Lakes between the United States and Canada.

SEC. 7405. AUTHORIZATION OF APPROPRIATIONS.

(a) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS FOR THE COAST GUARD.—

(1) ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS.—Subject to subsection (c), there are authorized to be appropriated for acquisition, construction, and improvements of the Coast Guard $200,000,000 for fiscal year 1989, to remain available until expended.

(2) OPERATING EXPENSES.—Subject to subsection (c), there are authorized to be appropriated for operating expenses of the Coast Guard $80,000,000 for fiscal year 1989 and $20,000,000 for each of fiscal years 1990, 1991, and 1992, to remain available until expended. Amounts appropriated pursuant to this paragraph shall be used to increase by 500 the full-time equivalent strength level for the Coast Guard for active duty personnel for fiscal years 1989, 1990, 1991, and 1992, and to procure, enhance, relocate, operate, and maintain vessels, aircraft, radar, equipment, and structures by the Coast Guard for drug interdiction purposes.

(b) AMOUNTS IN ADDITION TO OTHER AMOUNTS.—Amounts and personnel authorized by this section are in addition to any other amounts or personnel strengths authorized for the Coast Guard for any fiscal year.

(c) AUTHORIZATION ENHANCEMENT.—Nothing in this Act shall authorize the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment except to the extent that—

(1) additional appropriations are made available in appropriations Acts for that purpose; or

(2) funds are transferred to the Secretary of Transportation for that purpose pursuant to this Act.

Subtitle M—INTERPOL Provisions

SEC. 7451. AUTHORIZATION TO ACCEPT MONEY, GOODS, AND SERVICES FOR THE INTERPOL CONFERENCE AND FOR A COMMEMORATIVE GIFT TO THE INTERPOL GENERAL SECRETARIAT.

(a) INTERPOL CONFERENCE.—Notwithstanding the provisions of section 1342 of title 31, United States Code, the Attorney General is hereby authorized to accept, receive, hold, and administer on behalf of the United States, gifts of money, personal property and services, for the purpose of hosting the International Criminal Police Organization's (INTERPOL) American Regional Conference in the United States in May and June of 1989.

(b) COMMEMORATIVE GIFT.—The Attorney General is authorized to accept, receive, hold, and administer on behalf of the United States, gifts of money, personal property and services, for the purpose of making a commemorative gift, the value of which shall not exceed $10,000 without the prior concurrence of the Secretary of State, to the INTERPOL General Secretariat on the opening of its headquarters in Lyon, France.

(c) USE OF MONEYS RECEIVED.—All moneys received for the purposes provided in this section shall be credited to the appropriation "Salaries and Expenses, general legal activities" for fiscal year 1989. The Attorney General shall use such amounts as he deems necessary to pay expenses of such commemorative gift and hosting such conference, including (but not limited to) reception and representation expenses. The authority of the Attorney General under this section shall continue through September 30, 1989.

Subtitle N—Child Pornography and Obscenity

Child Protection and Obscenity Enforcement Act of 1988. 18 USC 2251 note.

SEC. 7501. SHORT TITLE.

This subtitle may be cited as the "Child Protection and Obscenity Enforcement Act of 1988".

CHAPTER 1—CHILD PORNOGRAPHY

SEC. 7511. AMENDMENTS TO EXISTING OFFENSES.

(a) SEXUAL EXPLOITATION OF CHILDREN.—Paragraph (2) of subsection 2251(c) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" both places it appears.

(b) MATERIAL INVOLVING SEXUAL EXPLOITATION OF CHILDREN.—Subsection 2252(a) of title 18, United States Code, is amended by inserting "by any means including by computer" after "interstate or foreign commerce" each place it appears.

(c) DEFINITION.—Section 2256 of title 18, United States Code, is amended—

(1) by striking out "and" at the end of paragraph (4);

(2) by striking out the period at the end of paragraph (5) and inserting in lieu thereof: "; and"; and

(3) by adding at the end the following:

"(6) 'computer' has the meaning given that term in section 1030 of this title.".

SEC. 7512. SELLING OR BUYING OF CHILDREN.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by inserting after section 2251 the following:

"§ 2251A. Selling or buying of children

"(a) Any parent, legal guardian, or other person having custody or control of a minor who sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor either—

"(1) with knowledge that, as a consequence of the sale or transfer, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(b) Whoever purchases or otherwise obtains custody or control of a minor, or offers to purchase or otherwise obtain custody or control of a minor either—

"(1) with knowledge that, as a consequence of the purchase or obtaining of custody, the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct; or

"(2) with intent to promote either—

"(A) the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct; or

"(B) the rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct;

shall be punished by imprisonment for not less than 20 years or for life and by a fine under this title, if any of the circumstances described in subsection (c) of this section exist.

"(c) The circumstances referred to in subsections (a) and (b) are that—

"(1) in the course of the conduct described in such subsections the minor or the actor traveled in or was transported in interstate or foreign commerce;

"(2) any offer described in such subsections was communicated or transported in interstate or foreign commerce by any means including by computer or mail; or

"(3) the conduct described in such subsections took place in any territory or possession of the United States.".

(b) DEFINITION.—Section 2256 of title 18, United States Code, as amended by section 201 of this Act, is further amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting "; and" in lieu thereof; and

(3) by adding at the end the following:

"(7) 'custody or control' includes temporary supervision over or responsibility for a minor whether legally or illegally obtained.".

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by inserting after the item relating to section 2251 the following:

"2251A. Selling or buying of children.".

SEC. 7513. RECORD KEEPING REQUIREMENTS.

(a) IN GENERAL.—Chapter 110 of title 18, United States Code, is amended by adding at the end thereof the following:

"§ 2257. Record keeping requirements

"(a) Whoever produces any book, magazine, periodical, film, videotape, or other matter which—

"(1) contains one or more visual depictions made after February 6, 1978 of actual sexually explicit conduct; and

"(2) is produced in whole or in part with materials which have been mailed or shipped in interstate or foreign commerce, or is shipped or transported or is intended for shipment or transportation in interstate or foreign commerce;

shall create and maintain individually identifiable records pertaining to every performer portrayed in such a visual depiction.

"(b) Any person to whom subsection (a) applies shall, with respect to every performer portrayed in a visual depiction of actual sexually explicit conduct—

"(1) ascertain, by examination of an identification document containing such information, the performer's name and date of birth, and require the performer to provide such other indicia of his or her identity as may be prescribed by regulations;

"(2) ascertain any name, other than the performer's present and correct name, ever used by the performer including maiden name, alias, nickname, stage, or professional name; and

"(3) record in the records required by subsection (a) the information required by paragraphs (1) and (2) of this subsection and such other identifying information as may be prescribed by regulation.

"(c) Any person to whom subsection (a) applies shall maintain the records required by this section at his business premises, or at such other place as the Attorney General may by regulation prescribe and shall make such records available to the Attorney General for inspection at all reasonable times. Regulations.

"(d)(1) No information or evidence obtained from records required to be created or maintained by this section shall, except as provided in paragraphs (2) and (3), be used, directly or indirectly, as evidence against any person with respect to any violation of law.

"(2) Paragraph (1) of this subsection shall not preclude the use of such information or evidence in a prosecution or other action for a violation of any applicable provision of law with respect to the furnishing of false information.

"(3) In a prosecution of any person to whom subsection (a) applies for an offense in violation of subsection 2251(a) of this title which has as an element the production of a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct and in which that element is sought to be established by showing that a performer within the meaning of this section is a minor—

"(A) proof that the person failed to comply with the provisions of subsection (a) or (b) of this section concerning the creation and maintenance of records, or a regulation issued pursuant thereto, shall raise a rebuttable presumption that such performer was a minor; and

"(B) proof that the person failed to comply with the provisions of subsection (e) of this section concerning the statement required by that subsection shall raise the rebuttable presumption that every performer in the matter was a minor.

"(e)(1) Any person to whom subsection (a) applies shall cause to be affixed to every copy of any matter described in paragraph (1) of subsection (a) of this section, in such manner and in such form as the Attorney General shall by regulations prescribe, a statement describing where the records required by this section with respect to all performers depicted in that copy of the matter may be located.

"(2) If the person to whom subsection (a) of this section applies is an organization the statement required by this subsection shall include the name, title, and business address of the individual employed by such organization responsible for maintaining the records required by this section.

"(3) In any prosecution of a person for an offense in violation of section 2252 of this title which has as an element the transporting, mailing, or distribution of a visual depiction involving the use of a minor engaging in sexually explicit conduct, and in which that element is sought to be established by a showing that a performer within the meaning of this section is a minor, proof that the matter in which the visual depiction is contained did not contain the statement required by this section shall raise a rebuttable presumption that such performer was a minor.

Regulations. "(f) The Attorney General shall issue appropriate regulations to carry out this section.

"(g) As used in this section—

"(1) the term 'actual sexually explicit conduct' means actual but not simulated conduct as defined in subparagraphs (A) through (E) of paragraph (2) of section 2256 of this title;

"(2) 'identification document' has the meaning given that term in subsection 1028(d) of this title;

"(3) the term 'produces' means to produce, manufacture, or publish and includes the duplication, reproduction, or reissuing of any material; and

"(4) the term 'performer' includes any person portrayed in a visual depiction engaging in, or assisting another person to engage in, actual sexually explicit conduct.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 110 of title 18, United States Code, is amended by adding after the item relating to section 2256 the following:

"2257. Record keeping requirements.".

18 USC 2257 note. (c) EFFECTIVE DATE.—Section 2257 of title 18, United States Code, as added by this section shall take effect 180 days after the date of the enactment of this Act except—

(1) the Attorney General shall prepare the initial set of regulations required or authorized by section 2257 within 90 days of the date of the enactment of this Act; and

(2) subsection (e) of section 2257 of such title and of any regulation issued pursuant thereto shall take effect 270 days after the date of the enactment of this Act.

SEC. 7514. R.I.C.O. AMENDMENT.

Subsection 1961(1)(B) of title 18, United States Code, is amended by inserting after "section 1957 (relating to engaging in monetary transactions in property derived from specified unlawful activity)" the following: "sections 2251 through 2252 (relating to sexual exploitation of children),".

CHAPTER 2—OBSCENITY

SEC. 7521. ENGAGING IN THE BUSINESS OF SELLING OR TRANSFERRING OBSCENE MATTER.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by inserting after section 1465 the following:

"§ 1466. Engaging in the business of selling or transferring obscene matter

"(a) Whoever is engaged in the business of selling or transferring obscene matter, who knowingly receives or possesses with intent to distribute any obscene book, magazine, picture, paper, film, videotape, or phonograph or other audio recording, which has been shipped or transported in interstate or foreign commerce, shall be punished by imprisonment for not more than 5 years or by a fine under this title, or both.

"(b) As used in this subsection, the term 'engaged in the business' means that the person who sells or transfers or offers to sell or transfer obscene matter devotes time, attention, or labor to such activities, as a regular course of trade or business, with the objective of earning a profit, although it is not necessary that the person make a profit or that the selling or transferring or offering to sell or transfer such material be the person's sole or principal business or source of income. The offering for sale of or to transfer, at one time, two or more copies of any obscene publication, or two or more of any obscene article, or a combined total of five or more such publications and articles, shall create a rebuttable presumption that the person so offering them is 'engaged in the business' as defined in subsection (b).".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1465 the following:

"1466. Engaging in the business of selling or transferring obscene matter.
"1467. Criminal forfeiture.".

(c) TRAVEL IN COMMERCE.—The first paragraph of section 1465 of title 18, United States Code, is amended by inserting after the word distribution: ", or knowingly travels in interstate commerce, or uses a facility or means of interstate commerce for the purpose of transporting obscene material in interstate or foreign commerce,".

(d) PRESUMPTIONS.—Chapter 71 of title 18, United States Code, as amended by subsection (a) of this section and by section 302, is further amended by adding at the end the following:

"§ 1469. Presumptions

"(a) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in interstate commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured in one State and is subsequently located in another State shall raise a

rebuttable presumption that such matter was transported, shipped, or carried in interstate commerce.

"(b) In any prosecution under this chapter in which an element of the offense is that the matter in question was transported, shipped, or carried in foreign commerce, proof, by either circumstantial or direct evidence, that such matter was produced or manufactured outside of the United States and is subsequently located in the United States shall raise a rebuttable presumption that such matter was transported, shipped, or carried in foreign commerce.".

(f) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding after the item relating to section 1468 the following:

"1469. Presumptions.".

SEC. 7522. FORFEITURE IN OBSCENITY CASES.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"§ 1467. Criminal forfeiture

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense involving obscene material under this chapter shall forfeit to the United States such person's interest in—

"(1) any obscene material produced, transported, mailed, shipped, or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense, if the court in its discretion so determines, taking into consideration the nature, scope, and proportionality of the use of the property in the offense.

"(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

"(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

"(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered under subparagraph (B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if—

"(1) the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture; and

"(2) with respect to property referred to in subsection (a)(3), if the court exercises the court's discretion under that subsection.

"(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required

by law, or which are necessary to protect the interests of the United States or third parties.

"(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and shall direct the disposition of any property described in paragraph (2) or (3) of subsection (a) by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

"(2) comprise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 1616, title 19, United States Code, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"(i) BAR ON INTERVENTION.—Except as provided in subsection (l) of this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

Courts, U.S.

"(j) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(k) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the

entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under Rule 15 of the Federal Rules of Criminal Procedure.

"(l) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

"(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within 30 days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

"(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

"(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within 30 days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

"(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

"(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

"(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

"(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

"(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

"(m) CONSTRUCTION.—This section shall be liberally construed to effectuate its remedial purposes.

"(n) SUBSTITUTE ASSETS.—If any of the property described in subsection (a), as a result of any act or omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).".

(b) REPEAL.—The last paragraph of section 1465 of title 18, United States Code, is repealed.

(c) SEXUAL ABUSE OF CHILDREN.—Sections 2253 through 2254 of title 18, United States Code, are amended to read as follows:

"§ 2253. Criminal forfeiture

"(a) PROPERTY SUBJECT TO CRIMINAL FORFEITURE.—A person who is convicted of an offense under this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter shall forfeit to the United States such person's interest in—

"(1) any visual depiction described in sections 2251, 2251A, or 2252 of this chapter, or any book, magazine, periodical, film, videotape, or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped or received in violation of this chapter;

"(2) any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from such offense; and

"(3) any property, real or personal, used or intended to be used to commit or to promote the commission of such offense.

"(b) THIRD PARTY TRANSFERS.—All right, title, and interest in property described in subsection (a) of this section vests in the United States upon the commission of the act giving rise to forfeiture under this section. Any such property that is subsequently transferred to a person other than the defendant may be the subject of a special verdict of forfeiture and thereafter shall be ordered forfeited to the United States, unless the transferee establishes in a hearing pursuant to subsection (m) of this section that he is a bona fide purchaser for value of such property who at the time of purchase was reasonably without cause to believe that the property was subject to forfeiture under this section.

"(c) PROTECTIVE ORDERS.—(1) Upon application of the United States, the court may enter a restraining order or injunction, require the execution of a satisfactory performance bond, or take any other action to preserve the availability of property described in subsection (a) of this section for forfeiture under this section—

"(A) upon the filing of an indictment or information charging a violation of this chapter for which criminal forfeiture may be ordered under this section and alleging that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section; or

"(B) prior to the filing of such an indictment or information, if, after notice to persons appearing to have an interest in the property and opportunity for a hearing, the court determines that—

"(i) there is a substantial probability that the United States will prevail on the issue of forfeiture and that failure to enter the order will result in the property being destroyed, removed from the jurisdiction of the court, or otherwise made unavailable for forfeiture; and

"(ii) the need to preserve the availability of the property through the entry of the requested order outweighs the hardship on any party against whom the order is to be entered;

except that an order entered pursuant to subparagraph (B) shall be effective for not more than 90 days, unless extended by the court for good cause shown or unless an indictment or information described in subparagraph (A) has been filed.

"(2) A temporary restraining order under this subsection may be entered upon application of the United States without notice or opportunity for a hearing when an information or indictment has not yet been filed with respect to the property, if the United States demonstrates that there is probable cause to believe that the property with respect to which the order is sought would, in the event of conviction, be subject to forfeiture under this section and that provision of notice will jeopardize the availability of the property for forfeiture. Such a temporary order shall expire not more than 10 days after the date on which it is entered, unless extended for good cause shown or unless the party against whom it is entered consents to an extension for a longer period. A hearing requested concerning an order entered under this paragraph shall be held at the earliest possible time and prior to the expiration of the temporary order.

"(3) The court may receive and consider, at a hearing held pursuant to this subsection, evidence and information that would be inadmissible under the Federal Rules of Evidence.

"(d) WARRANT OF SEIZURE.—The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant. If the court determines that there is probable cause to believe that the property to be seized would, in the event of conviction, be subject to forfeiture and that an order under subsection (c) of this section may not be sufficient to assure the availability of the property for forfeiture, the court shall issue a warrant authorizing the seizure of such property.

"(e) ORDER OF FORFEITURE.—The court shall order forfeiture of property referred to in subsection (a) if the trier of fact determines, beyond a reasonable doubt, that such property is subject to forfeiture.

"(f) EXECUTION.—Upon entry of an order of forfeiture under this section, the court shall authorize the Attorney General to seize all property ordered forfeited upon such terms and conditions as the court shall deem proper. Following entry of an order declaring the property forfeited, the court may, upon application of the United

States, enter such appropriate restraining orders or injunctions, require the execution of satisfactory performance bonds, appoint receivers, conservators, appraisers, accountants, or trustees, or take any other action to protect the interest of the United States in the property ordered forfeited. Any income accruing to or derived from property ordered forfeited under this section may be used to offset ordinary and necessary expenses to the property which are required by law, or which are necessary to protect the interests of the United States or third parties.

"(g) DISPOSITION OF PROPERTY.—Following the seizure of property ordered forfeited under this section, the Attorney General shall destroy or retain for official use any article described in paragraph (1) of subsection (a), and shall retain for official use or direct the disposition of any property described in paragraph (2) or (3) of subsection (a) by sale or any other commercially feasible means, making due provision for the rights of any innocent persons. Any property right or interest not exercisable by, or transferable for value to, the United States shall expire and shall not revert to the defendant, nor shall the defendant or any person acting in concert with him or on his behalf be eligible to purchase forfeited property at any sale held by the United States. Upon application of a person, other than the defendant or person acting in concert with him or on his behalf, the court may restrain or stay the sale or disposition of the property pending the conclusion of any appeal of the criminal case giving rise to the forfeiture, if the applicant demonstrates that proceeding with the sale or disposition of the property will result in irreparable injury, harm, or loss to him.

"(h) AUTHORITY OF ATTORNEY GENERAL.—With respect to property ordered forfeited under this section, the Attorney General is authorized to—

"(1) grant petitions for mitigation or remission of forfeiture, restore forfeited property to victims of a violation of this chapter, or take any other action to protect the rights of innocent persons which is in the interest of justice and which is not inconsistent with the provisions of this section;

"(2) compromise claims arising under this section;

"(3) award compensation to persons providing information resulting in a forfeiture under this section;

"(4) direct the disposition by the United States, in accordance with the provisions of section 1616, title 19, United States Code, of all property ordered forfeited under this section by public sale or any other commercially feasible means, making due provision for the rights of innocent persons; and

"(5) take appropriate measures necessary to safeguard and maintain property ordered forfeited under this section pending its disposition.

"(i) APPLICABILITY OF CIVIL FORFEITURE PROVISIONS.—Except to the extent that they are inconsistent with the provisions of this section, the provisions of section 2254(d) of this title (18 U.S.C. 2254(d)) shall apply to a criminal forfeiture under this section.

"(j) BAR ON INTERVENTION.—Except as provided in subsection (m) of this section, no party claiming an interest in property subject to forfeiture under this section may—

"(1) intervene in a trial or appeal of a criminal case involving the forfeiture of such property under this section; or

"(2) commence an action at law or equity against the United States concerning the validity of his alleged interest in the

property subsequent to the filing of an indictment or information alleging that the property is subject to forfeiture under this section.

"(k) JURISDICTION TO ENTER ORDERS.—The district courts of the United States shall have jurisdiction to enter orders as provided in this section without regard to the location of any property which may be subject to forfeiture under this section or which has been ordered forfeited under this section.

"(l) DEPOSITIONS.—In order to facilitate the identification and location of property declared forfeited and to facilitate the disposition of petitions for remission or mitigation of forfeiture, after the entry of an order declaring property forfeited to the United States, the court may, upon application of the United States, order that the testimony of any witness relating to the property forfeited be taken by deposition and that any designated book, paper, document, record, recording, or other material not privileged be produced at the same time and place, in the same manner as provided for the taking of depositions under rule 15 of the Federal Rules of Criminal Procedure.

"(m) THIRD PARTY INTERESTS.—(1) Following the entry of an order of forfeiture under this section, the United States shall publish notice of the order and of its intent to dispose of the property in such manner as the Attorney General may direct. The Government may also, to the extent practicable, provide direct written notice to any person known to have alleged an interest in the property that is the subject of the order of forfeiture as a substitute for published notice as to those persons so notified.

"(2) Any person, other than the defendant, asserting a legal interest in property which has been ordered forfeited to the United States pursuant to this section may, within 30 days of the final publication of notice or his receipt of notice under paragraph (1), whichever is earlier, petition the court for a hearing to adjudicate the validity of his alleged interest in the property. The hearing shall be held before the court alone, without a jury.

"(3) The petition shall be signed by the petitioner under penalty of perjury and shall set forth the nature and extent of the petitioner's right, title, or interest in the property, the time and circumstances of the petitioner's acquisition of the right, title, or interest in the property, any additional facts supporting the petitioner's claim, and the relief sought.

"(4) The hearing on the petition shall, to the extent practicable and consistent with the interests of justice, be held within 30 days of the filing of the petition. The court may consolidate the hearing on the petition with a hearing on any other petition filed by a person other than the defendant under this subsection.

"(5) At the hearing, the petitioner may testify and present evidence and witnesses on his own behalf, and cross-examine witnesses who appear at the hearing. The United States may present evidence and witnesses in rebuttal and in defense of its claim to the property and cross-examine witnesses who appear at the hearing. In addition to testimony and evidence presented at the hearing, the court shall consider the relevant portions of the record of the criminal case which resulted in the order of forfeiture.

"(6) If, after the hearing, the court determines that the petitioner has established by a preponderance of the evidence that—

"(A) the petitioner has a legal right, title, or interest in the property, and such right, title, or interest renders the order of

forfeiture invalid in whole or in part because the right, title, or interest was vested in the petitioner rather than the defendant or was superior to any right, title, or interest of the defendant at the time of the commission of the acts which gave rise to the forfeiture of the property under this section; or

"(B) the petitioner is a bona fide purchaser for value of the right, title, or interest in the property and was at the time of purchase reasonably without cause to believe that the property was subject to forfeiture under this section;

the court shall amend the order of forfeiture in accordance with its determination.

"(7) Following the court's disposition of all petitions filed under this subsection, or if no such petitions are filed following the expiration of the period provided in paragraph (2) for the filing of such petitions, the United States shall have clear title to property that is the subject of the order of forfeiture and may warrant good title to any subsequent purchaser or transferee.

"(n) CONSTRUCTION.—This section shall be liberally construed to effectuate its remedial purposes.

"(o) SUBSTITUTE ASSETS.—If any of the property described in subsection (a), as a result of any act or omission of the defendant—

"(1) cannot be located upon the exercise of due diligence;

"(2) has been transferred or sold to, or deposited with, a third party;

"(3) has been placed beyond the jurisdiction of the court;

"(4) has been substantially diminished in value; or

"(5) has been commingled with other property which cannot be divided without difficulty;

the court shall order the forfeiture of any other property of the defendant up to the value of any property described in paragraphs (1) through (5).

"§ 2254. Civil forfeiture

"(a) PROPERTY SUBJECT TO CIVIL FORFEITURE.—The following property shall be subject to forfeiture by the United States:

"(1) Any visual depiction described in sections 2251, 2251A, or 2252 of this chapter, or any book, magazine, periodical, film, videotape or other matter which contains any such visual depiction, which was produced, transported, mailed, shipped, or received in violation of this chapter.

"(2) Any property, real or personal, used or intended to be used to commit or to promote the commission of an offense under this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(3) Any property, real or personal, constituting or traceable to gross profits or other proceeds obtained from a violation of this chapter involving a visual depiction described in sections 2251, 2251A, or 2252 of this chapter, except that no property shall be forfeited under this paragraph, to the extent of the interest of an owner, by reason of any act or omission established by that owner to have been committed or omitted without the knowledge or consent of that owner.

"(b) SEIZURE PURSUANT TO SUPPLEMENTAL RULES FOR CERTAIN ADMIRALTY AND MARITIME CLAIMS.—Any property subject to forfeiture to the United States under this section may be seized by the Attorney General, the Secretary of the Treasury, or the United States Postal Service upon process issued pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims by any district court of the United States having jurisdiction over the property, except that seizure without such process may be made when the seizure is pursuant to a search under a search warrant or incident to an arrest. The Government may request the issuance of a warrant authorizing the seizure of property subject to forfeiture under this section in the same manner as provided for a search warrant under the Federal Rules of Criminal Procedure.

"(c) CUSTODY OF FEDERAL OFFICIAL.—Property taken or detained under this section shall not be repleviable, but shall be deemed to be in the custody of the Attorney General, Secretary of the Treasury, or the United States Postal Service subject only to the orders and decrees of the court or the official having jurisdiction thereof. Whenever property is seized under any of the provisions of this subchapter, the Attorney General, Secretary of the Treasury, or the United States Postal Service may—

"(1) place the property under seal;

"(2) remove the property to a place designated by the official or agency; or

"(3) require that the General Services Administration take custody of the property and remove it, if practicable, to an appropriate location for disposition in accordance with law.

"(d) OTHER LAWS AND PROCEEDINGS APPLICABLE.—All provisions of the customs laws relating to the seizure, summary and judicial forfeiture, and condemnation of property for violation of the customs laws, the disposition of such property or the proceeds from the sale thereof, the remission or mitigation of such forfeitures, and the compromise of claims, shall apply to seizures and forfeitures incurred, or alleged to have been incurred, under this section, insofar as applicable and not inconsistent with the provisions of this section, except that such duties as are imposed upon the customs officer or any other person with respect to the seizure and forfeiture of property under the customs laws shall be performed with respect to seizures and forfeitures of property under this section by such officers, agents, or other persons as may be authorized or designated for that purpose by the Attorney General, the Secretary of the Treasury, or the Postal Service, except to the extent that such duties arise from seizures and forfeitures affected by any customs officer.

"(e) Sections 1606, 1613, 1614, 1617, and 1618 of title 19, United States Code, shall not apply with respect to any visual depiction or any matter containing a visual depiction subject to forfeiture under subsection (a)(1) of this section.

"(f) DISPOSITION OF FORFEITED PROPERTY.—Whenever property is forfeited under this section the Attorney General shall destroy or retain for official use any property described in paragraph (1) of subsection (a) and, with respect to property described in paragraph (2) or (3) of subsection (a), may—

"(1) retain the property for official use or transfer the custody or ownership of any forfeited property to a Federal, State, or local agency pursuant to section 1616 of title 19;

"(2) sell any forfeited property which is not required to be destroyed by law and which is not harmful to the public; or

"(3) require that the General Services Administration take custody of the property and dispose of it in accordance with law. The Attorney General, Secretary of the Treasury, or the United States Postal Service shall ensure the equitable transfer pursuant to paragraph (1) of any forfeited property to the appropriate State or local law enforcement agency so as to reflect generally the contribution of any such agency participating directly in any of the acts which led to the seizure or forfeiture of such property. A decision by an official or agency pursuant to paragraph (1) shall not be subject to judicial review. With respect to a forfeiture conducted by the Attorney General, the Attorney General shall forward to the Treasurer of the United States for deposit in accordance with section 524(c) of title 28 the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter. With respect to a forfeiture conducted by the Postal Service, the proceeds from any sale under paragraph (2) and any moneys forfeited under this subchapter shall be deposited in the Postal Service Fund as required by section 2003(b)(7) of title 39.

"(g) TITLE TO PROPERTY.—All right, title, and interest in property described in subsection (a) of this section shall vest in the United States upon commission of the act giving rise to forfeiture under this section.

"(h) STAY OF PROCEEDINGS.—The filing of an indictment or information alleging a violation of this chapter which is also related to a civil forfeiture proceeding under this section shall, upon motion of the United States and for good cause shown, stay the civil forfeiture proceeding.

"(i) VENUE.—In addition to the venue provided for in section 1395 of title 28 or any other provision of law, in the case of property of a defendant charged with a violation that is the basis for forfeiture of the property under this section, a proceeding for forfeiture under this section may be brought in the judicial district in which the defendant owning such property is found or in the judicial district in which the criminal prosecution is brought.".

(e) TARIFF ACT AMENDMENT.—Section 305 of the Tariff Act of 1930 (19 U.S.C. 1305) is amended by adding at the end the following:

"(b) COORDINATION OF FORFEITURE PROCEEDINGS WITH CRIMINAL PROCEEDINGS.—(1) Notwithstanding subsection (a), whenever the Customs Service is of the opinion that criminal prosecution would be appropriate or that further criminal investigation is warranted in connection with allegedly obscene material seized at the time of entry, the appropriate customs officer shall immediately transmit information concerning such seizure to the United States Attorney of the district of the addressee's residence. No notice to the addressee or consignee concerning the seizure is required at the time of such transmittal.

"(2) Upon receipt of such information, such United States attorney shall promptly determine whether in such attorney's opinion the referral of the matter for forfeiture under this section would materially affect the Government's ability to conduct a criminal investigation with respect to such seizure.

"(3) If the United States attorney is of the opinion that no prejudice to such investigation will result from such referral, such attorney shall immediately so notify the Customs Service in writing. The appropriate customs officer shall immediately notify in writing the addressee or consignee of the seizure and shall transmit information concerning such seizure to the United States Attorney

of the district in which is situated the office at which such seizure has taken place. The actions described in paragraphs (1) through (3) of this subsection shall take place within sufficient time to allow for the filing of a forfeiture complaint within 14 days of the seizure unless the United States Attorney of the district of the addressee's residence certifies in writing and includes specific, articulable facts demonstrating that the determination required in paragraph (2) of this subsection could not be made in sufficient time to comply with this deadline. In such cases, the actions described in paragraphs (1) through (3) of this subsection shall take place within sufficient time to allow for the filing of a forfeiture complaint within 21 days of seizure.

"(4) If the United States attorney for the district of the addressee's residence concludes that material prejudice to such investigation will result from such referral, such United States attorney shall place on file, within 14 days of the date of seizure, a dated certification stating that it is the United States attorney's judgment that referral of the matter for forfeiture under this section would materially affect the Government's ability to conduct a criminal investigation with respect to the seizure. The certification shall set forth specific, articulable facts demonstrating that withholding referral for forfeiture is necessary.

"(5)(A) As soon as the circumstances change so that withholding of referral for forfeiture is no longer necessary for purposes of the criminal investigation, the United States attorney shall immediately so notify the Customs Service in writing and shall furnish a copy of the certification described in paragraph (4) above to the Customs Service.

"(B) In any matter referred to a United States attorney for possible criminal prosecution wherein subparagraph (5)(A) does not apply, the United States attorney shall immediately notify the Customs Service in writing concerning the disposition of the matter, whether by institution of a prosecution or a letter of declination, and shall also furnish a copy of the certification described in paragraph (4) of this subsection to the Customs Service.

"(C) Upon receipt of the notification described in subparagraph (A) or (B) of this paragraph, the appropriate customs officer shall immediately notify the addressee or consignee of the seizure and shall transmit information concerning the seizure, including a copy of the certification described in paragraph (4) above and a copy of the notification described in subparagraph (A) or (B) of this paragraph, to the United States attorney of the district in which is situated the office at which such seizure has taken place, who shall institute forfeiture proceedings in accordance with subsection (a) hereof within 14 days of the date of the notification described in subparagraph (A) or (B) above. A copy of the certification described in paragraph (4) above and a copy of the notification described in subparagraph (A) or (B) of this paragraph shall be affixed to the complaint for forfeiture.

"(c) STAY ON MOTION.—Upon motion of the United States, a court, for good cause shown, shall stay civil forfeiture proceedings commenced under this section pending the completion of any related criminal matter whether in the same or in a different district.".

SEC. 7523. CABLE TELEVISION OBSCENITY.

(a) NEW OFFENSE.—Chapter 71 of title 18, United States Code, is amended by inserting at the end, the following new section:

"§ 1468. Distributing obscene material by cable or subscription television

"(a) Whoever knowingly utters any obscene language or distributes any obscene matter by means of cable television or subscription services on television, shall be punished by imprisonment for not more than 2 years or by a fine in accordance with this title, or both.

"(b) As used in this section, the term 'distribute' means to send, transmit, retransmit, telecast, broadcast, or cablecast, including by wire, microwave, or satellite, or to produce or provide material for such distribution.

"(c) Nothing in this chapter, or the Cable Communications Policy Act of 1984, or any other provision of Federal law, is intended to interfere with or preempt the power of the States, including political subdivisions thereof, to regulate the uttering of language that is obscene or otherwise unprotected by the Constitution or the distribution of matter that is obscene or otherwise unprotected by the Constitution, of any sort, by means of cable television or subscription services on television.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding at the end the following:

"1468. Distributing obscene material by cable or subscription television.".

SEC. 7524. COMMUNICATIONS ACT AMENDMENT.

Section 223(b) of the Communications Act of 1934 (47 U.S.C. 223(b)) is amended to read as follows:

"(b)(1) Whoever knowingly—

"(A) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any obscene communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(B) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i);

shall be fined in accordance with title 18 of the United States Code, or imprisoned not more than two years, or both.

"(2) Whoever knowingly—

"(A) in the District of Columbia or in interstate or foreign communication, by means of telephone, makes (directly or by recording device) any indecent communication for commercial purposes to any person, regardless of whether the maker of such communication placed the call; or

"(B) permits any telephone facility under such person's control to be used for an activity prohibited by clause (i),

shall be fined not more than $50,000 or imprisoned not more than six months, or both.".

SEC. 7525. ELECTRONIC SURVEILLANCE.

Subsection (1) of section 2516 of title 18, United States Code, is amended by redesignating paragraphs (i), (j), (k), and (l) as paragraphs (j), (k), (l), and (m), respectively, and by adding a new paragraph (i) as follows:

"(i) any felony violation of chapter 71 (relating to obscenity) of this title;".

SEC. 7526. POSSESSION WITH INTENT TO SELL AND SALE OF OBSCENE MATTERS IN FEDERAL JURISDICTION OR ON FEDERAL PROPERTY.

(a) IN GENERAL.—Chapter 71 of title 18, United States Code, is amended by inserting before section 1461 the following:

"§ 1460. Possession with intent to sell, and sale, of obscene matter on Federal property

"(a) Whoever, either—

"(1) in the special maritime and territorial jurisdiction of the United States, or on any land or building owned by, leased to, or otherwise used by or under the control of the Government of the United States; or

"(2) in the Indian country as defined in section 1151 of this title, Indians.

knowingly sells or possesses with intent to sell an obscene visual depiction or a visual depiction of a minor engaging in or assisting another person to engage in sexually explicit conduct, shall be punished by a fine in accordance with the provisions of this title or imprisoned for not more than 2 years, or both.

"(b) For the purposes of this section—

"(1) the term 'visual depiction' includes undeveloped film and videotape but does not include mere words; and

"(2) the terms 'minor' and 'sexually explicit conduct' have the meaning given those terms in chapter 110 of this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 71 of title 18, United States Code, is amended by adding before the item relating to section 1461 the following:

"1460. Possession with intent to sell, and sale, of obscene matter on Federal property.".

Subtitle O—Miscellaneous

SEC. 7601. DISCLOSURE OF INFORMATION ON CASH TRANSACTIONS; UNDERCOVER ACTIVITIES OF INTERNAL REVENUE SERVICE.

(a) DISCLOSURE PROVISION.—

(1) DISCLOSURE OF REPORTS UNDER SECTION 6050I.—Section 6050I of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"(f) ACTIONS BY PAYORS.—

"(1) IN GENERAL.—No person shall for the purpose of evading the return requirements of this section—

"(A) cause or attempt to cause a trade or business to fail to file a return required under this section,

"(B) cause or attempt to cause a trade or business to file a return required under this section that contains a material omission or misstatement of fact, or

"(C) structure or assist in structuring, or attempt to structure or assist in structuring, any transaction with one or more trades or businesses.

"(2) PENALTIES.—A person violating paragraph (1) of this subsection shall be subject to the same civil and criminal sanctions applicable to a person which fails to file or completes a false or incorrect return under this section.".

(2) PENALTY.—

(A) Section 6721(b)(1)(A) of the Internal Revenue Code of 1986 is amended by inserting "(or, if greater, in the case of a return filed under section 6050I, 10 percent of the taxable income derived from the transaction)" after "reported".

(B) Section 7203 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following sentence: "In the case of a willful violation of any provision of section 6050I, the first sentence of this section shall be applied by substituting '5 years' for '1 year'."

26 USC 6050I note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to actions after the date of the enactment of this Act.

26 USC 6050I note.

(4) NO INFERENCE.—No inference shall be drawn from the amendment made by paragraph (1) on the application of the Internal Revenue Code of 1986 without regard to such amendment.

(b) DISCLOSURE OF RETURNS ON CASH TRANSACTIONS.—

(1) IN GENERAL.—Subsection (i) of section 6103 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new paragraph:

"(8) DISCLOSURE OF RETURNS FILED UNDER SECTION 6050I.—The Secretary may, upon written request, disclose returns filed under section 6050I to officers and employees of any Federal agency whose official duties require such disclosure for the administration of Federal criminal statutes not related to tax administration."

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 6103(p)(3) of the Internal Revenue Code of 1986 is amended by striking out "or (7)(A)(ii)" and inserting in lieu thereof ", (7)(A)(ii), or (8)".

(B) The material preceding subparagraph (A) of section 6103(p)(4) of the Internal Revenue Code of 1986 is amended—

(i) by striking out "or (5)" and inserting in lieu thereof "(5), or (8)", and

(ii) by striking out "(i)(3)(B)(i)," and inserting in lieu thereof "(i)(3)(B)(i) or (8)".

(C) Clause (ii) of section 6103(p)(4)(F) of the Internal Revenue Code of 1986 is amended by striking out "or (5)" and inserting in lieu thereof "(5), or (8)".

26 USC 6103 note.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply to requests made on or after the date of the enactment of this Act, but disclosures may be made pursuant to such amendments only during the 2-year period beginning on such date.

(c) ENHANCEMENT OF UNDERCOVER CAPABILITIES OF THE INTERNAL REVENUE SERVICE.—

(1) IN GENERAL.—Section 7608(b)(1) of the Internal Revenue Code of 1986 is amended—

(A) by striking out "or" before "any other" and inserting a comma, and

(B) by inserting ", or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service," after "responsible".

(2) UNDERCOVER OPERATIONS.—Section 7608 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new subsection:

"(c) RULES RELATING TO UNDERCOVER OPERATIONS.—

"(1) CERTIFICATION REQUIRED FOR EXEMPTION OF UNDERCOVER OPERATIONS FROM CERTAIN LAWS.—With respect to any undercover investigative operation of the Internal Revenue Service (hereinafter in this subsection referred to as the 'Service') which is necessary for the detection and prosecution of offenses under the internal revenue laws, any other criminal provisions of law relating to internal revenue, or any other law for which the Secretary has delegated investigatory authority to the Internal Revenue Service— Gifts and property.

"(A) sums authorized to be appropriated for the Service may be used—

"(i) to purchase property, buildings, and other facilities, and to lease space, within the United States, the District of Columbia, and the territories and possessions of the United States without regard to—

"(I) sections 1341 and 3324 of title 31, United States Code,

"(II) sections 11(a) and 22 of title 41, United States Code,

"(III) section 255 of title 41, United States Code,

"(IV) section 34 of title 40, United States Code, and

"(V) section 254 (a) and (c) of title 41, United States Code, and

"(ii) to establish or to acquire proprietary corporations or business entities as part of the undercover operation, and to operate such corporations or business entities on a commercial basis, without regard to sections 9102 and 9103 of title 31, United States Code;

"(B) sums authorized to be appropriated for the Service and the proceeds from the undercover operations, may be deposited in banks or other financial institutions without regard to the provisions of section 648 of title 18, United States Code, and section 3302 of title 31, United States Code, and

"(C) the proceeds from the undercover operation may be used to offset necessary and reasonable expenses incurred in such operation without regard to the provisions of section 3302 of title 31, United States Code.

This paragraph shall apply only upon the written certification of the Commissioner of Internal Revenue (or, if designated by the Commissioner, the Deputy Commissioner or an Assistant Commissioner of Internal Revenue) that any action authorized by subparagraph (A), (B), or (C) is necessary for the conduct of such undercover operation.

"(2) LIQUIDATION OF CORPORATIONS AND BUSINESS ENTITIES.—If a corporation or business entity established or acquired as part of an undercover operation under subparagraph (B) of paragraph (1) with a net value over $50,000 is to be liquidated, sold, or otherwise disposed of, the Service, as much in advance as the Commissioner or his delegate determines is practicable, shall report the circumstances to the Secretary and the Comptroller General of the United States. The proceeds of the liquidation, sale, or other disposition, after obligations are met, shall be deposited in the Treasury of the United States as miscellaneous receipts.

"(3) DEPOSIT OF PROCEEDS.—As soon as the proceeds from an undercover investigative operation with respect to which an action is authorized and carried out under subparagraphs (B) and (C) of paragraph (1) are no longer necessary for the conduct of such operation, such proceeds or the balance of such proceeds remaining at the time shall be deposited into the Treasury of the United States as miscellaneous receipts.

"(4) AUDITS.—

"(A) The Service shall conduct a detailed financial audit of each undercover investigative operation which is closed in each fiscal year; and

"(i) submit the results of the audit in writing to the Secretary; and

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"(ii) not later than 180 days after such undercover operation is closed, submit a report to the Congress concerning such audit.

Reports.

"(B) The Service shall also submit a report annually to the Congress specifying as to its undercover investigative operations—

"(i) the number, by programs, of undercover investigative operations pending as of the end of the 1-year period for which such report is submitted;

"(ii) the number, by programs, of undercover investigative operations commenced in the 1-year period preceding the period for which such report is submitted; and

"(iii) the number, by programs, of undercover investigative operations closed in the 1-year period preceding the period for which such report is submitted and, with respect to each such closed undercover operation, the results obtained and any civil claims made with respect thereto.

"(5) DEFINITIONS.—For purposes of paragraph (4)—

"(A) CLOSED.—The term 'closed' means the date on which the later of the following occurs;

"(i) all criminal proceedings (other than appeals) are concluded, or

"(ii) covert activities are concluded, whichever occurs later.

"(B) EMPLOYEES.—The term 'employees' has the meaning given such term by section 2105 of title 5, United States Code.

"(C) UNDERCOVER INVESTIGATIVE OPERATION.—The terms 'undercover investigative operation' and 'undercover operation' mean any undercover investigative operation of the Service—

"(i) in which—

"(I) the gross receipts (excluding interested earned) exceed $50,000; or

"(II) expenditures, both recoverable and nonrecoverable (other than expenditures for salaries of employees), exceed $150,000; and

"(ii) which is exempt from section 3302 or 9102 of title 3, United States Code.

Clauses (i) and (ii) shall not apply with respect to the report required under subparagraph (B) of paragraph (4).".

(3) EFFECTIVE DATE.—The amendments made by this subsection shall take effect on the date of the enactment of this Act and shall cease to apply after December 31, 1989; and all amounts expended pursuant to such amendments shall be recovered to the extent possible, and deposited in the Treasury of the United States as miscellaneous receipts, before January 1, 1990. 26 USC 7608 note.

SEC. 7602. RECOVERY OF COSTS INCURRED BY STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

(a) IN GENERAL.—Subchapter B of chapter 78 of the Internal Revenue Code of 1986 (relating to general powers and duties) is amended by adding at the end thereof the following new section:

"SEC. 7624. REIMBURSEMENT TO STATE AND LOCAL LAW ENFORCEMENT AGENCIES.

"(a) AUTHORIZATION OF REIMBURSEMENT.—Whenever a State or local law enforcement agency provides information to the Internal Revenue Service that substantially contributes to the recovery of Federal taxes imposed with respect to illegal drug-related activities (or money laundering in connection with such activities), such agency may be reimbursed by the Internal Revenue Service for costs incurred in the investigation (including but not limited to reasonable expenses, per diem, salary, and overtime) not to exceed 10 percent of the sum recovered. Taxes.

"(b) RECORDS; 10 PERCENT LIMITATION.—The Internal Revenue Service shall maintain records of the receipt of information from a contributing agency and shall notify the agency when monies have been recovered as the result of such information. Following such notification, the agency shall submit a statement detailing the investigative costs it incurred. Where more than 1 State or local agency has given information that substantially contributes to the recovery of Federal taxes, the Internal Revenue Service shall equi tably allocate investigative costs among such agencies not to exceed an aggregate amount of 10 percent of the taxes recovered.

"(c) NO REIMBURSEMENT WHERE DUPLICATIVE.—No State or local agency may receive reimbursement under this section if reimbursement has been received by such agency under a Federal or State forfeiture program or under State revenue laws.".

(b) ESTABLISHMENT OF LAW ENFORCEMENT AGENCY ACCOUNT.—Section 7809 of the Internal Revenue Code of 1986 (relating to deposit of collections) is amended by adding at the end thereof the following new subsection:

"(d) DEPOSIT OF FUNDS FOR LAW ENFORCEMENT AGENCY ACCOUNT.—

"(1) IN GENERAL.—In the case of any amounts recovered as the result of information provided to the Internal Revenue Service by State and local law enforcement agencies which substantially contributed to such recovery, an amount equal to 10 percent of such amounts shall be deposited in a separate account which shall be used to make the reimbursements required under section 7624.

"(2) DEPOSIT IN TREASURY AS INTERNAL REVENUE COLLECTIONS.—If any amounts remain in such account after payment of any qualified costs incurred under section 7624, such amounts shall be withdrawn from such account and deposited in the Treasury of the United States as internal revenue collections.".

(c) DISCLOSURE OF RETURN INFORMATION.—Section 6103(d) of the Internal Revenue Code of 1986 (relating to disclosure to State tax officials) is amended by adding at the end the following new paragraph:

"(3) EXCEPTION FOR REIMBURSEMENT UNDER SECTION 7624.—Nothing in this section shall be construed to prevent the Secretary from disclosing to any State or local law enforcement agency which may receive a payment under section 7624 the amount of the recovered taxes with respect to which such a payment may be made."

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for subchapter B of chapter 78 of the Internal Revenue Code of 1986 is amended by adding at the end thereof the following new item:

"7624. Reimbursement to State and local law enforcement agencies.".

(2) The heading for section 6103(d) of the Internal Revenue Code of 1986 is amended to read as follows:

"(d) DISCLOSURE TO STATE TAX OFFICIALS AND STATE AND LOCAL LAW ENFORCEMENT AGENCIES.".

26 USC 6103 note.

(e) EFFECTIVE DATE.—The amendments made by this section shall apply to information first provided more than 90 days after the date of the enactment of this Act.

26 USC 7809 note.

(f) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated from the account referred to in section 7809(d) of the Internal Revenue Code of 1986 such sums as may be necessary to make the payments authorized by section 7624 of such Code.

26 USC 7624 note.

(g) REGULATIONS.—The Secretary of the Treasury shall, not later than 90 days after the date of enactment of this Act, prescribe such rules and regulations as shall be necessary and proper to carry out the provisions of this section, including regulations relating to the definition of information which substantially contributes to the recovery of Federal taxes and the substantiation of expenses required in order to receive a reimbursement.

SEC. 7603. DEFINITION FOR MAIL FRAUD CHAPTER OF TITLE 18, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 63 of title 18 of the United States Code is amended by adding at the end the following:

"§ 1346. Definition of 'scheme or artifice to defraud'

"For the purposes of this chapter, the term 'scheme or artifice to defraud' includes a scheme or artifice to deprive another of the intangible right of honest services.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"1346. Definition of 'scheme or artifice to defraud'.".

National Commission on Measured Responses to Achieve a Drug-Free America by 1995 Authorization Act. 21 USC 1502 note. Establishment.

SEC. 7604. NATIONAL COMMISSION ON MEASURED RESPONSES TO ACHIEVE A DRUG-FREE AMERICA BY 1995 AUTHORIZATION ACT.

(a) SHORT TITLE.—This section may be cited as the "National Commission on Measured Responses to Achieve a Drug-Free America by 1995 Authorization Act".

(b) COMMISSION.—(1) There is hereby established a Commission to be chaired by the Director of the Office of National Drug Control

Policy and consisting of 24 members appointed by the President within 120 days of the date of enactment of this section. Not more than one-half of the members of the Commission may be members of one political party. The members of the Commission shall include—

(A) State and local law enforcement officers;

(B) Attorneys General and District Attorneys;

(C) State and local elected officials;

(D) experts in the fields of drug abuse prevention, treatment, education, and law enforcement; and

(E) other appropriate individuals as determined by the President.

(2) The term of the Commission shall expire 6 months following the date of appointment of the members thereof.

(c) DUTIES OF THE COMMISSION.—The Commission is established to develop a proposed uniform code of State laws that represent measured responses to achieve a Drug-Free America by 1995. Among the types of measured responses that the Commission should consider are—

(1) appropriate penalties for drug offenses;

(2) participation in rehabilitation and treatment programs;

(3) appropriate use of drug testing;

(4) efforts to educate the public on the dangers of drug abuse as a means of reducing demand;

(5) forfeiture of assets of violators of State drug laws;

(6) cooperative ventures among the Federal, State, and local levels;

(7) methods to interdict illegal drugs at our borders, eradicate crops of illegal drugs, and cease the manufacture of illegal drugs; and

(8) other means of preventing drug abuse.

(d) REPORT OF COMMISSION.—Within 6 months after the date of the appointment of its members, the Commission shall submit its proposed uniform code to the Governors of the 50 States and the Mayor of the District of Columbia.

State and local governments.

(e) VACANCIES.—A vacancy in the Commission shall be filled in the same manner as the original appointment was made. A vacancy in the Commission shall not affect the powers of the Commission.

(f) QUORUM.—Fourteen members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(g) COMPENSATION.—(1) Each member of the Commission who is not an officer or employee of the United States shall be compensated at a rate established by the Commission not to exceed the daily equivalent of the annual rate of basic pay prescribed for grade GS-18 of the General Schedule under section 5332 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the actual performance of duties as a member of the Commission. Each member of the Commission who is an officer or employee of the United States shall receive no additional compensation for service on the Commission.

(2) While away from their homes or regular places of business in the performance of duties for the Commission, all members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at a rate established by the Commission not to exceed the rates authorized for employees of agencies under sections 5702 and 5703 of title 5, United States Code.

(h) ADMINISTRATIVE PROVISIONS.—(1) The Commission shall appoint an Executive Director who shall be compensated at a rate

established by the Commission not to exceed the rate of basic pay prescribed for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(2) With the approval of the Commission, the Executive Director may appoint and fix the compensation of such additional personnel as the Executive Director considers necessary to carry out the duties of the Commission.

(3) Subject to such rules as may be issued by the Commission, the chairman may procure temporary and intermittent services of experts and consultants.

Mail. (4) The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(5) Service of an individual as a member of the Commission, or employment of an individual by the Commission as an attorney or expert in any business or professional field, on a part-time or full-time basis, with or without compensation, shall not be considered as service or employment bringing such individual within the provisions of any Federal law relating to conflicts of interest or otherwise imposing restrictions, requirements, or penalties in relation to the employment of persons, the performance of services, or the payment or receipt of compensation in connection with claims, proceedings, or matters involving the United States. Service as a member of the Commission, or as an employee of the Commission, shall not be considered service in an appointive or elective position in the Government for purposes of section 8344 of title 5, United States Code, or comparable provisions of Federal law.

(i) POWERS OF COMMISSION.—(1) For the purpose of carrying out this section, the Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate. The Commission may administer oaths or affirmations to witnesses appearing before the Commission.

(2) Any member or employee of the Commission may, if authorized by the Commission, take any action which the Commission is authorized to take by this subsection.

(j) SENSE OF THE CONGRESS ON STATE CONFERENCES.—It is the sense of the Congress that the Governors of the 50 States and the Mayor of the District of Columbia should convene State conferences for a Drug-Free America by 1995. These conferences should include attorneys general, district attorneys, mayors, other elected officials, law enforcement officials, educators, drug prevention and treatment experts, and other interested parties. The State conferences should consider the proposed uniform code described in subsection (c) and make recommendations thereon.

(k) AVAILABILITY OF FUNDS.—There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this section, and they shall remain available for the term of the Commission. New spending authority or authority to enter contracts as provided in this section shall be effective only to such extent and in such amounts as are provided in advance in appropriation Acts.

SEC. 7605. USE OF EXISTING FEDERAL RESEARCH AND DEVELOPMENT FACILITIES FOR CIVILIAN LAW ENFORCEMENT.

President of U.S. (a) COMPREHENSIVE PLAN.—The President of the United States shall direct the Office of National Drug Control Policy, established

in title I of this Act, to develop a comprehensive plan for utilizing no fewer than eight existing facilities of the Department of Defense, the Department of Justice, the Department of Energy, National Security Agency, and the Central Intelligence Agency, to develop technologies for application to Federal law enforcement agency missions, and to provide research, development, technology, and evaluation support to the law enforcement agencies of the Federal Government. Such plan shall be prepared and submitted to the Congress by no later than 90 days from the date of enactment of this Act.

(b) EXISTING FACILITIES TO BE EXAMINED.—The following existing United States Government facilities shall be examined in developing the comprehensive plan mandated in subsection (a): State listing.

(1) For night vision research and development—Department of Defense, Army Materiel Command, Night Vision Laboratory at Fort Belvoir, Virginia;

(2) For ground sensor research and development—Department of Defense, Army Materiel Command, Communications Electronic Command, Fort Monmouth, New Jersey;

(3) For physical/electronic security research and development—Department of Defense, Air Force Systems Command, Electronic Systems Division, Hanscom Field, Massachusetts;

(4) For imaging/electronic surveillance research and development—Central Intelligence Agency and National Security Agency, Washington, DC;

(5) For chemical/biosensor research and development—Department of Defense, Army Materiel Command, Chemical Research Development and Engineering Center, Aberdeen, Maryland;

(6) For chemical/molecular detector research and development—Department of Energy, Sandia National Laboratories, Albuquerque, New Mexico;

(7) For physical/electronic surveillance and tracking research and development—Department of Justice, Federal Bureau of Investigation and Drug Enforcement Administration, Washington, DC; and

(8) For explosives ordnance detection research and development—Department of Defense, Naval Ordnance Station, Indian Head, Maryland.

(c) PARTICIPATION.—In developing the plan mandated in subsection (a), the Director of National Drug Control Policy shall ensure that representatives of the Federal law enforcement agencies are provided an opportunity to participate in the formulation of the comprehensive plan and that their views and recommendations are integrated into the planning process.

(d) COMPTROLLER GENERAL OVERSIGHT.—The Comptroller General of the United States shall monitor the development of the plan mandated in subsection (a) and report periodically to the appropriate Committees of the Congress on the progress of the development of this research and development program. This subsection does not confer authority upon the Comptroller General, additional to that otherwise provided by law, to gain access to sensitive information held by any agency within the intelligence community.

SEC. 7606. CIVIL AIR PATROL. 10 USC 9441 note.

(a) REGULATIONS.—Within 45 days, the Secretary of the Air Force shall issue such regulations as are necessary to ensure that the Civil

Air Patrol has an integral role in drug interdiction and eradication activities.

(b) REPORTS.—The Secretary of the Air Force shall submit to the Committees on Appropriations and the Committee on Armed Services of the Senate and the House of Representatives, quarterly reports which include a detailed description of the activities of the Civil Air Patrol in support of the Federal, State, and local government agencies' drug interdiction and eradication programs. The first report shall be submitted on the last day of the first quarter ending not less than 150 days after the date of the enactment.

SEC. 7607. DEFENSE DRUG INTERDICTION AMENDMENT.

Ante, p. 2270-16.

Title VII of "An Act Making Appropriations For The Department of Defense For The Fiscal Year Ending September 30, 1989" is amended under the heading "DRUG INTERDICTION, DEFENSE" by inserting at the end of the first sentence after the word "United States" the following: "and drug enforcement and interdiction activities of the Army National Guard and Air National Guard", and by inserting in the second sentence "enforcement and" after the word "drug".

SEC. 7608. UNITED STATES MARSHALS.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—Chapter 37 of title 28, United States Code, is amended by striking out section 561 and all that follows through section 571 and inserting in lieu thereof the following:

"§ 561. United States Marshals Service

"(a) There is hereby established a United States Marshals Service as a bureau within the Department of Justice under the authority and direction of the Attorney General. There shall be at the head of the United States Marshals Service (hereafter in this chapter referred to as the 'Service') a Director who shall be appointed by the President, by and with the advice and consent of the Senate.

"(b) The Director of the United States Marshals Service (hereafter in this chapter referred to as the 'Director') shall, in addition to the powers and duties set forth in this chapter, exercise such other functions as may be delegated by the Attorney General.

President of U.S. District of Columbia. Northern Mariana Islands.

"(c) The President shall appoint, by and with the advice and consent of the Senate, a United States marshal for each judicial district of the United States and for the Superior Court of the District of Columbia, except that any marshal appointed for the Northern Mariana Islands may at the same time serve as marshal in another judicial district. Each United States marshal shall be an official of the Service and shall serve under the direction of the Director.

"(d) Each marshal shall be appointed for a term of four years. A marshal shall, unless that marshal has resigned or been removed by the President, continue to perform the duties of that office after the end of that 4-year term until a successor is appointed and qualifies.

District of Columbia. New York. Northern Mariana Islands.

"(e) The Director shall designate places within a judicial district for the official station and offices of each marshal. Each marshal shall reside within the district for which such marshal is appointed, except that—

"(1) the marshal for the District of Columbia, for the Superior Court of the District of Columbia, and for the Southern District

of New York may reside within 20 miles of the district for which the marshal is appointed; and

"(2) any marshal appointed for the Northern Mariana Islands who at the same time is serving as marshal in another district may reside in such other district.

"(f) The Director is authorized to appoint and fix the compensation of such employees as are necessary to carry out the powers and duties of the Service and may designate such employees as law enforcement officers in accordance with such policies and procedures as the Director shall establish pursuant to the applicable provisions of title 5 and regulations issued thereunder.

"(g) The Director shall supervise and direct the United States Marshals Service in the performance of its duties.

"(h) The Director may administer oaths and may take affirmations of officials and employees of the Service, but shall not demand or accept any fee or compensation therefor.

"(i) There are authorized to be appropriated such sums as may be necessary to carry out the functions of the Service. Appropriation authorization.

"§ 562. Vacancies

"(a) In the case of a vacancy in the office of a United States marshal, the Attorney General may designate a person to perform the functions of and act as marshal, except that the Attorney General may not designate to act as marshal any person who was appointed by the President to that office but with respect to such appointment the Senate has refused to give its advice and consent.

"(b) A person designated by the Attorney General under subsection (a) may serve until the earliest of the following events:

"(1) The entry into office of a United States marshal appointed by the President, pursuant to section 561(c).

"(2) The expiration of the thirtieth day following the end of the next session of the Senate.

"(3) If such designee of the Attorney General is appointed by the President pursuant to section 561(c), but the Senate refuses to give its advice and consent to the appointment, the expiration of the thirtieth day following such refusal.

"§ 563. Oath of office

"The Director and each United States marshal and law enforcement officer of the Service, before taking office, shall take an oath or affirmation to faithfully execute the duties of that office.

"§ 564. Powers as sheriff

"United States marshals, deputy marshals and such other officials of the Service as may be designated by the Director, in executing the laws of the United States within a State, may exercise the same powers which a sheriff of the State may exercise in executing the laws thereof.

"§ 565. Expenses of the Service

"The Director is authorized to use funds appropriated for the Service to make payments for expenses incurred pursuant to personal services contracts and cooperative agreements, authorized by the Attorney General, for security guards and for the service of summons on complaints, subpoenas, and notices in lieu of services by United States marshals and deputy marshals.

"§ 566. Powers and duties

Courts, U.S.

"(a) It is the primary role and mission of the United States Marshals Service to provide for the security and to obey, execute, and enforce all orders of the United States District Courts, the United States Courts of Appeals and the Court of International Trade.

"(b) The United States marshal of each district is the marshal of the district court and of the court of appeals when sitting in that district, and of the Court of International Trade holding sessions in that district, and may, in the discretion of the respective courts, be required to attend any session of court.

"(c) Except as otherwise provided by law or Rule of Procedure, the United States Marshals Service shall execute all lawful writs, process, and orders issued under the authority of the United States, and shall command all necessary assistance to execute its duties.

"(d) Each United States marshal, deputy marshal, and any other official of the Service as may be designated by the Director may carry firearms and make arrests without warrant for any offense against the United States committed in his or her presence, or for any felony cognizable under the laws of the United States if he or she has reasonable grounds to believe that the person to be arrested has committed or is committing such felony.

"(e)(1) The United States Marshals Service is authorized to—

"(A) provide for the personal protection of Federal jurists, court officers, witnesses, and other threatened persons in the interests of justice where criminal intimidation impedes on the functioning of the judicial process or any other official proceeding; and

"(B) investigate such fugitive matters, both within and outside the United States, as directed by the Attorney General.

"(2) Nothing in paragraph (1)(B) shall be construed to interfere with or supersede the authority of other Federal agencies or bureaus.

"(f) In accordance with procedures established by the Director, and except for public money deposited under section 2041 of this title, each United States marshal shall deposit public moneys that the marshal collects into the Treasury, subject to disbursement by the marshal. At the end of each accounting period, the earned part of public moneys accruing to the United States shall be deposited in the Treasury to the credit of the appropriate receipt accounts.

"(g) Prior to resignation, retirement, or removal from office—

"(1) a United States marshal shall deliver to the marshal's successor all prisoners in his custody and all unserved process; and

"(2) a deputy marshal shall deliver to the marshal all process in the custody of the deputy marshal.

"(h) The United States marshals shall pay such office expenses of United States Attorneys as may be directed by the Attorney General.".

(2) ADDITIONAL AMENDMENTS.—Chapter 37 of title 28, United States Code, is amended—

(A) by striking out sections 572a, 573, and 574; and

(B) by redesignating sections 572, 575, and 576 as sections 567, 568, and 569, respectively.

(3) CONFORMING AMENDMENTS.—The chapter heading for chapter 37 of title 28, United States Code, and the table of

sections at the beginning of such chapter, are amended to read as follows:

"Chapter 37—United States Marshals Service

"Sec.
"561. United States Marshals Service.
"562. Vacancies.
"563. Oath of office.
"564. Powers as sheriff.
"565. Expenses of the Service.
"566. Powers and duties.
"567. Collection of fees; accounting.
"568. Practice of law prohibited.
"569. Reemployment rights.".

(b) OTHER AMENDMENT.—Section 755 of title 28, United States Code, is amended by striking out the third paragraph.

(c) MARSHALS' FEES.—Section 1921 of title 28, United States Code, is amended—

(1) by redesignating subsection (c) as subsection (e); and

(2) by striking out subsections (a) and (b) and inserting in lieu thereof the following:

"(a)(1) The United States marshals or deputy marshals shall routinely collect, and a court may tax as costs, fees for the following:

"(A) Serving a writ of possession, partition, execution, attachment in rem, or libel in admiralty, warrant, attachment, summons, complaints, or any other writ, order or process in any case or proceeding.

"(B) Serving a subpoena or summons for a witness or appraiser.

"(C) Forwarding any writ, order, or process to another judicial district for service.

"(D) The preparation of any notice of sale, proclamation in admiralty, or other public notice or bill of sale.

"(E) The keeping of attached property (including boats, vessels, or other property attached or libeled), actual expenses incurred, such as storage, moving, boat hire, or other special transportation, watchmen's or keepers' fees, insurance, and an hourly rate, including overtime, for each deputy marshal required for special services, such as guarding, inventorying, and moving.

"(F) Copies of writs or other papers furnished at the request of any party.

"(G) Necessary travel in serving or endeavoring to serve any process, writ, or order, except in the District of Columbia, with mileage to be computed from the place where service is returnable to the place of service or endeavor. District of Columbia.

"(H) Overtime expenses incurred by deputy marshals in the course of serving or executing civil process.

"(2) The marshals shall collect, in advance, a deposit to cover the initial expenses for special services required under paragraph (1)(E), and periodically thereafter such amounts as may be necessary to pay such expenses until the litigation is concluded. This paragraph applies to all private litigants, including seamen proceeding pursuant to section 1916 of this title.

"(3) For purposes of paragraph (1)(G), if two or more services or endeavors, or if an endeavor and a service, are made in behalf of the same party in the same case on the same trip, mileage shall be computed to the place of service or endeavor which is most remote

from the place where service is returnable, adding thereto any additional mileage traveled in serving or endeavoring to serve in behalf of the party. If two or more writs of any kind, required to be served in behalf of the same party on the same person in the same case or proceeding, may be served at the same time, mileage on only one such writ shall be collected.

"(b) The Attorney General shall from time to time prescribe by regulation the fees to be taxed and collected under subsection (a). Such fees shall, to the extent practicable, reflect the actual and reasonable cost of the service provided.

Gifts and property.

"(c)(1) The United States Marshals Service shall collect a commission of 3 percent of the first $1,000 collected and 1½ percent on the excess of any sum over $1,000, for seizing or levying on property (including seizures in admiralty), disposing of such property by sale, setoff, or otherwise, and receiving and paying over money, except that the amount of commission shall be within the range set by the Attorney General. If the property is to be disposed of by marshal's sale, the commission shall be in such amount, within the range set by the Attorney General, as may be allowed by the court. In any case in which the vessel or other property is sold by a public auctioneer, or by some party other than a marshal or deputy marshal, the commission authorized under this subsection shall be reduced by the amount paid to such auctioneer or other party. This subsection applies to any judicially ordered sale or execution sale, without regard to whether the judicial order of sale constitutes a seizure or levy within the meaning of State law. This subsection shall not apply to any seizure, forfeiture, sale, or other disposition of property pursuant to the applicable provisions of law amended by the Comprehensive Forfeiture Act of 1984 (98 Stat. 2040).

Regulations.

"(2) The Attorney General shall prescribe from time to time regulations which establish a minimum and maximum amount for the commission collected under paragraph (1).

"(d) The United States marshals may require a deposit to cover the fees and expenses prescribed under this section.".

(d) SUPPORT OF UNITED STATES PRISONERS IN NON-FEDERAL INSTITUTIONS.—

(1) IN GENERAL.—Chapter 301 of title 18, United States Code, is amended by adding at the end the following new section:

"§ 4013. Support of United States prisoners in non-Federal institutions

"(a) The Attorney General, in support of United States prisoners in non-Federal institutions, is authorized to make payments from funds appropriated for the support of United States prisoners for—

"(1) necessary clothing;

"(2) medical care and necessary guard hire;

State and local governments.

"(3) the housing, care, and security of persons held in custody of a United States marshal pursuant to Federal law under agreements with State or local units of government or contracts with private entities; and

Contracts.

"(4) entering into contracts or cooperative agreements with any State, territory, or political subdivision thereof, for the necessary construction, physical renovation, acquisition of equipment, supplies, or materials required to establish acceptable conditions of confinement and detention services in any State or local jurisdiction which agrees to provide guaranteed bed space for Federal detainees within that correctional system,

in accordance with regulations which are issued by the Attorney General and are comparable to the regulations issued under section 4006 of this title, except that—

"(A) amounts made available for purposes of this paragraph shall not exceed the average per-inmate cost of constructing similar confinement facilities for the Federal prison population,

"(B) the availability of such federally assisted facility shall be assured for housing Federal prisoners, and

"(C) the per diem rate charged for housing such Federal prisoners shall not exceed allowable costs or other conditions specified in the contract or cooperative agreement.".

(2) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 301 of title 18, United States Code, is amended by adding at the end the following:

"4013. Support of United States prisoners in non-Federal institutions.".

(e) PAY OF DIRECTOR OF SERVICE.—Section 5315 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director, United States Marshals Service.".

SEC. 7609. DATA COLLECTION AND REPORTING. 28 USC 534 note.

(a) FAMILY VIOLENCE REPORTING.—Under the authority of section 534 of title 28, United States Code, the Attorney General shall require, and include in uniform crime reports, data that indicate—

(1) the age of the victim; and

(2) the relationship of the victim to the offender, for crimes of murder, aggravated assault, simple assault, rape, sexual offenses, and offenses against children.

(b) NATIONAL CRIME SURVEY.—The Director of the Bureau of Justice Statistics, through the annual National Crime Survey, shall collect and publish data that more accurately measures the extent of domestic violence in America, especially the physical and sexual abuse of children and the elderly.

(c) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated in fiscal years 1989, 1990, 1991, and 1992, such sums as are necessary to carry out the purposes of this section.

TITLE VIII—FEDERAL ALCOHOL ADMINISTRATION

SEC. 8001. FEDERAL ALCOHOL ADMINISTRATION.

(a) The Federal Alcohol Administration Act (27 U.S.C. 201 et seq.) is amended—

(1) by inserting immediately after the enacting clause the following centered heading:

"TITLE I—FEDERAL ALCOHOL ADMINISTRATION";

(2) by redesignating the first section and section 2 through 17 as sections 101 through 117, respectively; and 27 USC 201-211.

(3) by adding at the end the following new title:

Alcoholic Beverage Labeling Act of 1988.
27 USC 201 note.

"TITLE II—ALCOHOLIC BEVERAGE LABELING

"SHORT TITLE

"SEC. 201. This title may be cited as the "Alcoholic Beverage Labeling Act of 1988".

"DECLARATION OF POLICY AND PURPOSE

Public information.
27 USC 213.

"SEC. 202. The Congress finds that the American public should be informed about the health hazards that may result from the consumption or abuse of alcoholic beverages, and has determined that it would be beneficial to provide a clear, nonconfusing reminder of such hazards, and that there is a need for national uniformity in such reminders in order to avoid the promulgation of incorrect or misleading information and to minimize burdens on interstate commerce. The Congress finds that requiring such reminders on all containers of alcoholic beverages is appropriate and necessary in view of the substantial role of the Federal Government in promoting the health and safety of the Nation's population. It is therefore the policy of the Congress, and the purpose of this title, to exercise the full reach of the Federal Government's constitutional powers in order to establish a comprehensive Federal program, in connection with the manufacture and sale of alcoholic beverages in or affecting interstate commerce, to deal with the provision of warning or other information with respect to any relationship between the consumption or abuse of alcoholic beverages and health, so that—

"(1) the public may be adequately reminded about any health hazards that may be associated with the consumption or abuse of alcoholic beverages through a nationally uniform, nonconfusing warning notice on each container of such beverages; and

"(2) commerce and the national economy may be—

"(A) protected to the maximum extent consistent with this declared policy,

"(B) not impeded by diverse, nonuniform, and confusing requirements for warnings or other information on alcoholic beverage containers with respect to any relationship between the consumption or abuse of alcoholic beverages and health, and

"(C) protected from the adverse effects that would result from a noncomprehensive program covering alcoholic beverage containers sold in interstate commerce, but not alcoholic beverage containers manufactured and sold within a single State.

"DEFINITIONS

27 USC 214.

"SEC. 203. As used in this title—

"(1) The term 'alcoholic beverage' includes any beverage in liquid form which contains not less than one-half of one percent of alcohol by volume and is intended for human consumption.

"(2) The term 'bottle' means to fill a container with an alcoholic beverage and to seal such container.

"(3) The term 'bottler' means a person who bottles an alcoholic beverage.

"(4) The term 'commerce' means—

"(A) commerce between any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island and any place outside thereof;

"(B) commerce between points in any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island, but through any place outside thereof; or

"(C) commerce wholly within the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island.

"(5) The term 'container' means the innermost sealed container irrespective of the material from which made, in which an alcoholic beverage is placed by the bottler and in which such beverage is offered for sale to members of the general public.

"(6) The term 'health' includes, but is not limited to, the prevention of accidents.

"(7) The term 'person' means an individual, partnership, joint stock company, business trust, association, corporation, or any other business or legal entity, including a receiver, trustee, or liquidating agent, and also includes any State, any State agency, or any officer or employee thereof.

"(8) The term 'sale' and 'distribution' include sampling or any other distribution not for sale.

"(9) The term 'Secretary' means the Secretary of the Treasury.

"(10) The term 'State' includes any political subdivision of any State, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, or Johnston Island.

"(11) The term 'State law' includes State statutes, regulations, and principles and rules having the force of law.

"(12) The term 'United States', when used in geographical sense, includes the several States, the District of Columbia, the Commonwealth of Puerto Rico, the Commonwealth of the Northern Mariana Islands, Guam, the Virgin Islands, American Samoa, Wake Island, the Midway Islands, Kingman Reef, and Johnston Island.

"LABELING REQUIREMENT; CONSPICUOUS STATEMENT

"SEC. 204. (a) On and after the expiration of the 12-month period following the date of enactment of this title, it shall be unlawful for any person to manufacture, import, or bottle for sale or distribution in the United States any alcoholic beverage unless the container of such beverage bears the following statement: 27 USC 215.

" 'GOVERNMENT WARNING: (1) According to the Surgeon General, women should not drink alcoholic beverages during pregnancy because of the risk of birth defects. (2) Consumption of alcoholic beverages impairs your ability to drive a car or operate machinery, and may cause health problems.'.

"(b) The statement required by subsection (a) of this section shall be located in a conspicuous and prominent place on the container of such beverage, as determined by the Secretary, shall be in type of a size determined by the Secretary, and shall appear on a contrasting background. The Secretary shall make such determinations within 90 days after the date of enactment of this title.

"(c) Subsection (a) of this section shall not apply with respect to alcoholic beverages that are manufactured, imported, bottled, or labeled for export from the United States, or for delivery to a vessel or aircraft, as supplies, for consumption beyond the jurisdiction of the internal revenue laws of the United States: *Provided,* That this exemption shall not apply with respect to alcoholic beverages that are manufactured, imported, bottled, or labeled for sale, distribution, or shipment to members or units of the Armed Forces of the United States, including those located outside the United States.

"(d) The Secretary shall—

"(1) have the power to—

"(A) ensure the enforcement of the provisions of this title, and

Regulations.

"(B) issue regulations to carry out this title, and

"(2) consult and coordinate the health awareness efforts of the labeling requirements of this title with the Surgeon General of the United States.

"PREEMPTION

27 USC 216.

"SEC. 205. No statement relating to alcoholic beverages and health, other than the statement required by section 204 of this title, shall be required under State law to be placed on any container of an alcoholic beverage, or on any box, carton, or other package, irrespective of the material from which made, that contains such a container.

"REPORT TO CONGRESS

27 USC 217.

"SEC. 206. If, after appropriate investigation and consultation with the Surgeon General carried out after the expiration of the 24-month period following the date of enactment of this title, the Secretary finds that available scientific information would justify a change in, addition to, or deletion of the statement, or any part thereof, set forth in section 204(a) of this title, the Secretary shall promptly report such information to the Congress together with specific recommendations for such amendments to this title as the Secretary determines to be appropriate and in the public interest.

"CIVIL PENALTIES

27 USC 218.

"SEC. 207. Any person who violates the provisions of this title shall be subject to a civil penalty of not more than $10,000, and each day shall constitute a separate offense.

"INJUNCTION PROCEEDINGS; COMPROMISE OF LIABILITY

27 USC 219.

"SEC. 208. (a) The several district courts of the United States are vested with jurisdiction, for cause shown, to prevent and restrain violations of this title upon the application of the Attorney General of the United States acting through the several United States attorneys in their several districts.

"(b) The Secretary is authorized, with respect to any violation of this title, to compromise the liability arising with respect to such violation upon payment of a sum for each offense, to be collected by the Secretary and to be paid into the Treasury as miscellaneous receipts.

"SEVERABILITY

"SEC. 209. If any provision of this title or the application thereof to any person or circumstance is held invalid, the validity of the remainder of this title and this Act and of the application of such provision to other persons and circumstances shall not be affected thereby. 27 USC 219a.

"EFFECTIVE DATE

"SEC. 210. Except as provided in section 204(a), this title shall take effect on the date of its enactment into law.". 27 USC 213 note.

(b) The Federal Alcohol Administration Act, as amended by this Act, is further amended—

(1) by amending section 101, as redesignated under subsection (a)(2) of this Act, to read as follows:

"SHORT TITLE

"SEC. 101. This title may be cited as the 'Federal Alcohol Administration Act'."; Federal Alcohol Administration Act. 27 USC 201.

(2) in sections 103, 104, 105, 107, 108, and 117, as so redesignated, by striking "this Act" each place it appears and inserting in lieu thereof "this title"; 27 USC 203-205, 207-211.

(3) in section 104(d), as so redesignated, by striking "section 5" and inserting in lieu thereof "section 105" and by striking "section 6" and inserting in lieu thereof "section 106"; and

(4) in section 107, as so redesignated, by striking "section 3 or 5" and inserting in lieu thereof "section 103 or 105".

TITLE IX—MISCELLANEOUS

Subtitle A—Alcohol and Drug Traffic Safety

Drunk Driving Prevention Act of 1988. 23 USC 401 note.

SEC. 9001. SHORT TITLE.

This subtitle may be cited as the "Drunk Driving Prevention Act of 1988".

SEC. 9002. DRUNK DRIVING PREVENTION PROGRAMS.

(a) GENERAL RULES.—Chapter 4 of title 23, United States Code, is amended by adding at the end the following new section:

"§ 410. Drunk driving prevention programs

Grants. State and local governments.

"(a) GENERAL AUTHORITY.—Subject to the provisions of this section and to the extent provided in advance in appropriation Acts, the Secretary shall make basic and supplemental grants to those States which adopt and implement drunk driving prevention programs which include measures described in this section to improve the effectiveness of the enforcement of laws the purpose of which are to discourage individuals from operating motor vehicles while

under the influence of alcohol. Such grants may only be used by recipient States to implement and enforce such programs.

"(b) MAINTENANCE OF EFFORT.—No grant may be made to a State under this section in any fiscal year unless such State enters into such agreements with the Secretary as the Secretary may require to ensure that such State will maintain its aggregate expenditures from all other sources for drunk driving prevention programs at or above the average level of such expenditures in its 2 fiscal years preceding the date of enactment of this section.

"(c) FEDERAL SHARE.—No State may receive grants under this section in more than 3 fiscal years. The Federal share payable for any grant under this section shall not exceed—

"(1) in the first fiscal year a State receives a grant under this section, 75 percent of the cost of implementing and enforcing in such fiscal year the drunk driving prevention program adopted by the State pursuant to subsection (a) of this section;

"(2) in the second fiscal year the State receives a grant under this section, 50 percent of the cost of implementing and enforcing in such fiscal year such program; and

"(3) in the third fiscal year the State receives a grant under this section, 25 percent of the cost of implementing and enforcing in such fiscal year such program.

"(d) MAXIMUM AMOUNT OF BASIC GRANTS.—Subject to subsection (c) of this section, the amount of a basic grant made under this section for any fiscal year to any State which is eligible for such a grant under subsection (e) of this section shall not exceed 30 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title.

"(e) ELIGIBILITY FOR BASIC GRANTS.—For purposes of this section, a State is eligible for a basic grant if such State provides—

"(1) for an expedited driver's license suspension or revocation system for individuals who operate motor vehicles while under the influence of alcohol which requires that—

"(A) when a law enforcement officer has probable cause under State law to believe an individual has committed an alcohol-related traffic offense and such individual is determined, on the basis of a chemical test, to have been under the influence of alcohol while operating the motor vehicle or refuses to submit to such a test as proposed by the officer, the officer serve such individual with a written notice of suspension or revocation of the driver's license of such individual and take possession of such driver's license;

"(B) the notice of suspension or revocation referred to in subparagraph (A) provide information on the administrative procedures under which the State may suspend or revoke in accordance with the objectives of this section a driver's license of an individual for operating a motor vehicle while under the influence of alcohol and specify any rights of the operator under such procedures;

"(C) the State provide, in the administrative procedures referred to in subparagraph (B), for due process of law, including the right to an administrative review of a driver's license suspension or revocation within the time period specified in subparagraph (F);

"(D) after serving notice and taking possession of a driver's license in accordance with subparagraph (A), the law enforcement officer immediately report to the State entity

responsible for administering drivers' licenses all information relevant to the action taken in accordance with this paragraph;

"(E) in the case of an individual who, in any 5-year period beginning after the date of the enactment of this section, is determined on the basis of a chemical test to have been operating a motor vehicle under the influence of alcohol or is determined to have refused to submit to such a test as proposed by the law enforcement officer, the State entity responsible for administering driver's licenses, upon receipt of the report of the law enforcement officer—

"(i) suspend the driver's license of such individual for a period of not less than 90 days if such individual is a first offender in such 5-year period; and

"(ii) suspend the driver's license of such individual for a period of not less than 1 year, or revoke such license, if such individual is a repeat offender in such 5-year period; and

"(F) the suspension and revocation referred to under subparagraph (D) take effect not later than—

"(i) 15 days after the day on which the individual first received notice of the suspension or revocation in accordance with subparagraph (B); or

"(ii) 30 days after the day on which the individual first received notice of the suspension or revocation in accordance with subparagraph (B) if the Secretary determines that the requirements of clause (i) would impose a hardship upon the State; and

"(2) for a self-sustaining drunk driving prevention program under which the fines or surcharges collected from individuals convicted of operating a motor vehicle while under the influence of alcohol are returned, or an equivalent amount of non-Federal funds are provided, to those communities which have comprehensive programs for the prevention of such operations of motor vehicles.

"(f) SUPPLEMENTAL GRANT PROGRAMS.—

"(1) MANDATORY BLOOD ALCOHOL CONCENTRATION TESTING PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c) of this section, not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for mandatory blood alcohol concentration testing whenever a law enforcement officer has probable cause under State law to believe that a driver of a motor vehicle involved in an accident resulting in the loss of human life or, as determined by the Secretary, serious bodily injury, has committed an alcohol-related traffic offense.

"(2) PROGRAM FOR PREVENTION OF OPERATORS UNDER AGE 21 FROM OBTAINING ALCOHOLIC BEVERAGES.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c) of this section, not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for an effective system for preventing operators of motor vehicles under age 21 from obtaining alcoholic beverages, which may

include the issuance of drivers' licenses to individuals under age 21 that are easily distinguishable in appearance from drivers' licenses issued to individuals 21 years of age and older.

"(3) UNLAWFUL OPEN CONTAINER AND CONSUMPTION OF ALCOHOL PROGRAMS.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c) of this section, not to exceed 25 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State makes unlawful the possession of any open alcoholic beverage container, or the consumption of any alcoholic beverage, in the passenger area of any motor vehicle located on a public highway or the right-of-way of a public highway, except—

"(A) as allowed in the passenger area, by persons (other than the driver), of any motor vehicle designed to transport more than 10 passengers (including the driver) while being used to provide charter transportation of passengers; or

"(B) as otherwise specifically allowed by such State, with the approval of the Secretary, but in no event may the driver of such motor vehicle be allowed to possess or consume an alcoholic beverage in the passenger area.

"(4) SUSPENSION OF REGISTRATION AND RETURN OF LICENSE PLATE PROGRAM.—For purposes of this section, a State is eligible for a supplemental grant for a fiscal year in an amount, subject to subsection (c) of this section, not to exceed 10 percent of the amount apportioned to such State for fiscal year 1989 under section 402 of this title if such State is eligible for a basic grant and in addition such State provides for the suspension of the registration of, and the return to such State of the license plates for, any motor vehicle owned by an individual who—

"(A) has been convicted on more than 1 occasion of an alcohol-related traffic offense within any 5-year period after the date of the enactment of this section; or

"(B) has been convicted of driving while his or her driver's license is suspended or revoked by reason of a conviction for such an offense.

A State may provide limited exceptions to such suspension of registration or return of license plates, on an individual basis, to avoid undue hardship to any individual, including any family member of the convicted individual, and any co-owner of the motor vehicle, who is completely dependent on the motor vehicle for the necessities of life. Such exceptions may not result in unrestricted reinstatement of the registration or unrestricted return of the license plates of the motor vehicle.

"(5) GRANTS AS BEING IN ADDITION TO OTHER GRANTS.—A supplemental grant under this section shall be in addition to any basic grant or any other supplemental grant received by such State.

"(g) DEFINITIONS.—As used in this section—

"(1) ALCOHOLIC BEVERAGE.—The term 'alcoholic beverage' has the meaning such term has under section 158(c) of this title.

"(2) MOTOR VEHICLE.—The term 'motor vehicle' has the meaning such term has under section 154(b) of this title.

"(3) OPEN ALCOHOLIC BEVERAGE CONTAINER.—The term 'open alcoholic beverage container' means any bottle, can, or other receptacle—

"(A) which contains any amount of an alcoholic beverage; and

"(B)(i) which is open or has a broken seal, or

"(ii) the contents of which are partially removed.

"(h) AUTHORIZATIONS OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $25,000,000 for fiscal year 1989 and $50,000,000 per fiscal year for each of fiscal years 1990 and 1991. Such sums shall remain available until expended.".

(b) CONFORMING AMENDMENT.—The analysis of chapter 4 of title 23, United States Code, is amended by adding at the end the following:

"410. Drunk driving prevention programs.".

(c) REGULATIONS.—The Secretary of Transportation shall issue and publish in the Federal Register proposed regulations to implement section 410 of title 23, United States Code, not later than 6 months after the date of the enactment of this section. The final regulations for such implementation shall be issued, published in the Federal Register, and transmitted to Congress not later than 12 months after such date of enactment. Federal Register, publication. 23 USC 410 note.

SEC. 9003. ALCOHOL IMPAIRMENT STANDARDS AND INFORMATION EXCHANGE. 23 USC 410 note.

(a) ALCOHOL IMPAIRMENT STANDARDS.—

(1) STUDY.—Not later than 30 days after the date of enactment of this Act, the Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study to determine the blood alcohol concentration level at or above which any individual when operating any motor vehicle should be deemed to be driving while under the influence of alcohol.

(2) REPORT.—In entering into any arrangement with the National Academy of Sciences for conducting the study under this subsection, the Secretary shall request the National Academy of Sciences to submit, not later than 15 months after the date of the enactment of this Act, to the Secretary a report on the results of such study. Upon its receipt, the Secretary shall immediately transmit the report to Congress.

(b) FEDERAL-STATE EXCHANGE OF INFORMATION.—

(1) STUDY.—The Secretary of Transportation shall conduct a study regarding the exchange of information between the Federal Government and State law enforcement officials on all arrests for drunk driving offenses in all States. In conducting such study, the Secretary shall consider the usefulness of such information to law enforcement officials as well as any legal restraints on the exchange or use of such information. One purpose of such study shall be to identify effective methods, if any, for the exchange of such information.

(2) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Secretary shall transmit to Congress a report on the results of the study conducted under this section.

(c) AUTHORIZATION OF APPROPRIATION.—There is authorized to be appropriated to carry out this section $300,000 for fiscal year 1989.

SEC. 9004. PILOT PROGRAM FOR DRUG RECOGNITION EXPERT TRAINING. 23 USC 403 note.

(a) ESTABLISHMENT.—The Secretary of Transportation, acting through the National Highway Traffic Safety Administration, shall

establish a 3-year pilot, regional program for training law enforcement officers to recognize and identify individuals who are operating a motor vehicle while under the influence of alcohol or 1 or more controlled substances or other drugs.

(b) REPORT.—Not later than 1 year after the completion of the pilot program under this section, the Secretary of Transportation shall transmit to Congress a report on the effectiveness of such pilot program together with any recommendations.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated to carry out this section $5,000,000 for fiscal year 1989, $7,000,000 for fiscal year 1990, and $9,000,000 for fiscal year 1991. Such sums shall remain available until expended.

23 USC 403 note.

SEC. 9005. PILOT GRANT PROGRAM FOR RANDOM TESTING FOR ILLEGAL DRUG USE.

(a) ESTABLISHMENT OF PILOT PROGRAM.—The Secretary shall design, within 9 months after the date of the enactment of this Act, and implement, within 15 months after the date of the enactment of this Act, a pilot State grant program for the purpose of testing individuals described in subsection (e)(1) to determine whether such individuals have used, without lawful authorization, a controlled substance.

(b) STATE PARTICIPATION.—The Secretary shall solicit the participation of States from those States interested in participating in such a program not more than 4 States to participate in the program.

(c) STATE SELECTION PROCESS.—The Secretary shall ensure that the selection made pursuant to this section is representative of varying geographical and population characteristics of the Nation, and takes into consideration the historical geographical incidence of motor vehicle accidents involving loss of human life. In selecting the States for participation, the Secretary shall attempt to solicit States which meet the following criteria:

(1) One of the States shall be a western State which is one of the 3 most populous States, with numerous large cities, with at least one city exceeding 7,000,000 people. The State should have a diverse demographic population with larger than average drug use according to reliable surveys.

(2) One of the remaining States should be a southern State, one a northeastern State, and one a central State.

(3) One of the remaining States should be mainly rural and among the least populous States.

(4) One of the remaining States should have less than average drug use according to reliable surveys.

(d) LENGTH OF PROGRAM.—The pilot program authorized by this section shall continue for a period of 1 year. The Secretary shall consider alternative methodologies for implementing a system of random testing of such individuals.

(e) REQUIREMENTS FOR STATE PARTICIPATION.—

(1) PERSONS TO BE TESTED.—Each State participating in the test program shall test for controlled substances in accordance with paragraph (2) individuals who—

(A) are applicants seeking the privilege to drive, and

(B) have never been issued a driver's license by any State

(2) TYPES OF TESTING.—To deter drug use and promote high way safety, all individuals described in paragraph (1) shall be subject to random testing—

(A) prior to issuance of driver's licenses, and

(B) during the first year following the date of issuance of such licenses.

(3) DENIAL OF DRIVING PRIVILEGES.—Each State participating in the test program shall deny an individual driving privileges if drug testing required by paragraph (1) indicates that such individual has used illicit drugs, with such denial lasting for a period of at least 1 year following such test or subsequent confirmatory test.

(4) REINSTITUTION OF DRIVING PRIVILEGES.—The program described in paragraph (3) may allow for reinstitution of driving privileges after a period of 3 months if such reinstitution is accompanied by a requirement that the individual be available for a period of 9 months for drug testing on a regular basis. If any such test indicates that the individual has used illicit drugs, then driving privileges must be denied for 1 year following such test or confirmatory test.

(f) REGULATIONS.—The Secretary may issue regulations to assist States in implementing the programs described in subsection (e) and to grant temporary exceptions in appropriate circumstances.

(g) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Secretary shall prepare and transmit to Congress a comprehensive report setting forth the results of the pilot program conducted under this section. Such report shall include any recommendations of the Secretary concerning the desirability and implementation of a system for random testing of such operators of motor vehicles.

(h) AUTHORIZATION OF APPROPRIATIONS.—For purposes of carrying out this test program, there is authorized to be appropriated $5,000,000 for fiscal year 1990.

(i) DEFINITIONS.—For purposes of this section—

(1) CONTROLLED SUBSTANCE.—The term "controlled substance" means any controlled substance as defined under section 102(6) of the Controlled Substance Act (21 U.S.C. 802(6)) whose use the Secretary has determined poses a risk to transportation safety.

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

(3) STATE.—The term "State" has the meaning such term has when used in chapter 1 of title 23, United States Code.

Subtitle B—Truck and Bus Safety and Regulatory Reform

Truck and Bus Safety and Regulatory Reform Act of 1988.

SEC. 9101. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Truck and Bus Safety and Regulatory Reform Act of 1988" 49 USC app. 2501 note.

(b) TABLE OF CONTENTS.—

Sec. 9101. Short title; table of contents.
Sec. 9102. Commercial zone exemption.
Sec. 9103. Hours of service.
Sec. 9104. Improved compliance with hours of service regulations.
Sec. 9105. Biometric identification system.
Sec. 9106. Emergency flares.
Sec. 9107. Report on improved brake systems for commercial motor vehicles.
Sec. 9108. Speed control devices.
Sec. 9109. Extension of review and preemption time periods.
Sec. 9110. Maintenance and inspection of brake systems.
Sec. 9111. Certificates of registration for certain foreign persons.

Sec. 9112. Insurance for foreign motor carriers.
Sec. 9113. Monitoring and reporting of certain cost savings.
Sec. 9114. Freight forwarder liability technical amendments.
Sec. 9115. Definitions.

SEC. 9102. COMMERCIAL ZONE EXEMPTION.

(a) GENERAL RULE.—Section 206 of the Motor Carrier Safety Act of 1984 (49 U.S.C. 2505 App.) is amended by striking out subsection (h) and inserting in lieu thereof the following:

"(h) COMMERCIAL ZONE EXEMPTION.—

"(1) GENERAL RULE.—The Secretary may not—

"(A) exempt any person or commercial motor vehicle from complying with any regulation pertaining to commercial motor vehicle safety, or

"(B) waive application of any such regulation with respect to any person or commercial motor vehicle,

solely on account that the operations of such person or vehicle are entirely in a municipality or commercial zone thereof.

"(2) GRANDFATHER CLAUSE.—

"(A) GENERAL RULE.—If any person was authorized to operate in the United States throughout the 1-year period ending on the date of the enactment of the Truck and Bus Safety and Regulatory Reform Act of 1988 a commercial motor vehicle in a municipality or commercial zone thereof and if such person is otherwise qualified to operate such a vehicle, such person may operate such a vehicle entirely in a municipality or commercial zone thereof notwithstanding paragraph (1), notwithstanding any Federal minimum age requirement for operation of such a vehicle, and notwithstanding any medical or physical condition of such person.

"(B) DEFINITION OF MEDICAL OR PHYSICAL CONDITION.—For purposes of this paragraph, the term 'medical or physical condition' means a medical or physical condition of a person—

"(i) which would prevent such person from operating a commercial motor vehicle under the commercial motor vehicle safety regulations contained in title 49 of the Code of Federal Regulations,

"(ii) which existed on July 1, 1988,

"(iii) which has not substantially worsened, and

"(iv) which does not involve alcohol or drug abuse.

"(3) LIMITATION ON STATUTORY CONSTRUCTION.—Nothing in this subsection shall be construed as having any effect on any State commercial motor vehicle safety law pertaining to intrastate commerce.".

(b) DELAYED APPLICATION.—

(1) FOREIGN CARRIERS.—Notwithstanding section 206(h)(1) of the Motor Carrier Safety Act of 1984 or any other provision of Federal law, the Secretary shall not apply, for a period of 1 year beginning on the date of the enactment of this Act, part 393 of title 49 of the Code of Federal Regulations to any foreign motor carrier or foreign motor private carrier (as such terms are defined, or will be defined on January 1, 1990, in section 10530 of title 49, United States Code) if—

(A) such carrier is or will be required to obtain a certificate of registration under such section 10530 for operation of a commercial motor vehicle in a municipality or commer-

cial zone thereof which encompasses a border between the United States and a contiguous foreign country;

(B) the State in which such municipality or commercial zone is located has in effect a law or regulation pertaining to commercial motor vehicle safety which applies to such carrier; and

(C) such State has adopted and is enforcing the North American Commercial Vehicle Critical Safety Inspection Items and Out-of-Service Criteria established by the Commercial Vehicle Safety Alliance.

(2) REPORT.—Within 9 months after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the effects of the delay in application of part 393 of title 49 of the Code of Federal Regulations provided by the Secretary under paragraph (1) together with recommendations on the extent to which foreign motor carriers and foreign motor private carriers may or should be required to comply with all or any of the requirements contained in such part 393.

(c) SAVINGS CLAUSE.—The amendment made by subsection (a) shall not be construed as having any effect on the enactment of subsection (d) of section 3102 of title 49, United States Code, which subsection (d) was added to such section by section 206(h) of the Motor Carrier Safety Act of 1984 on October 30, 1984. 49 USC 3102 note.

SEC. 9103. HOURS OF SERVICE. 49 USC app. 2505 note.

(a) STUDY.—The Secretary shall conduct a study of the hours of service regulations pertaining to operators of commercial motor vehicles as in effect under title 49 of the Code of Federal Regulations on the date of the enactment of this Act. The purpose of such study shall be to determine if there is any relationship among (1) such regulations, (2) operator fatigue, and (3) the frequency of serious accidents involving such vehicles.

(b) REPORT.—Not later than 2 years after the date of the enactment of this Act, the Secretary shall submit a report to Congress on the results of the study conducted under this section together with such recommendations (including legislative recommendations) for modifying the regulations referred to in subsection (a) as the Secretary determines appropriate taking into account the results of such study.

SEC. 9104. IMPROVED COMPLIANCE WITH HOURS OF SERVICE REGULATIONS. 49 USC app. 2505 note.

Safety.

(a) RULEMAKING PROCEEDING.—Not later than 3 months after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding on the need to adopt methods for improving safety with respect to compliance by operators of commercial motor vehicles with hours of service regulations of the Department of Transportation, including the use of onboard monitoring devices on commercial motor vehicles to record speed, driving time, and other information. Such proceeding shall be completed within 1 year after the date of the enactment of this Act.

(b) LIMITATION ON THE USE OF MONITORING DEVICES.—Any rule which the Secretary issues regarding the use of onboard monitoring devices on commercial motor vehicles shall ensure that such devices are not used for the purpose of harassment of operators of such vehicles, but such devices may be used for the purpose of monitoring the productivity of such operators.

49 USC app. 2706 note.

SEC. 9105. BIOMETRIC IDENTIFICATION SYSTEM.

(a) REGULATIONS.—Not later than December 31, 1990, the Secretary shall issue regulations establishing, for purposes of sections 12007 and 12009 of the Commercial Motor Vehicle Safety Act of 1986, minimum uniform standards for a biometric identification system to ensure identification of operators of commercial motor vehicles.

(b) PILOT DEMONSTRATION PROJECT.—To carry out a pilot project to demonstrate the use of biometric identification systems for ensuring identification of operators of commercial motor vehicles, the Secretary may use not to exceed in each of fiscal years 1989 and 1990—

(1) $500,000 from the funds made available to carry out section 402 of the Surface Transportation Assistance Act of 1982; and

(2) $1,000,000 from the funds made available to carry out section 12010 of the Commercial Motor Vehicle Safety Act of 1986.

SEC. 9106. EMERGENCY FLARES.

Not later than 60 days after the date of the enactment of this Act, the Secretary shall initiate a rulemaking proceeding for the purposes of determining the appropriate use, as emergency warning devices for commercial motor vehicles, of fusees as an alternative or supplement to bidirectional emergency reflective triangles. The Secretary shall complete such rulemaking proceeding by October 31, 1989.

49 USC app. 2521 note.

SEC. 9107. REPORT ON IMPROVED BRAKE SYSTEMS FOR COMMERCIAL MOTOR VEHICLES.

Not later than January 30, 1991, the Secretary shall submit to Congress a report on whether or not commercial motor vehicles operating on any Federal-aid highway system should be equipped with improved brakes and brake systems in order to enhance the safe operation of such vehicles. Such report shall include an examination of available information and data on antilock systems, means of improving brake compatibility, and methods of ensuring the effectiveness of brake timing and the results of any field testing conducted by the Department of Transportation on brakes and brakes systems for commercial motor vehicles.

49 USC app. 2510 note.

SEC. 9108. SPEED CONTROL DEVICES.

(a) STUDY.—The Secretary shall conduct a study on whether or not devices which control the speed of commercial motor vehicles enhance safe operation of such vehicles.

(b) REPORT.—Not later than 30 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the results of the study conducted under this section together with recommendations of the Secretary on whether or not to make the use of speed control devices mandatory for commercial motor vehicles.

SEC. 9109. EXTENSION OF REVIEW AND PREEMPTION TIME PERIODS.

Section 208(h) of the Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2507(h)) is amended by adding at the end thereof the following new sentences: "Upon request of a State which has under consideration adoption of regulations which may be in effect and enforced under this section, the Secretary—

"(1) shall extend such 60-month period with respect to the State for such additional period as the State requests but not to exceed 12 months; and

"(2) may provide an extension in addition to the extension under paragraph (1) for a period not to exceed 12 months if such additional extension is not contrary to the public interest and does not diminish the safe operation of commercial motor vehicles.

With respect to any State, the aggregate amount of extensions under this subsection with respect to such 60-month period may not exceed 24 months.".

SEC. 9110. MAINTENANCE AND INSPECTION OF BRAKE SYSTEMS.

49 USC app. 2521.

The Motor Carrier Safety Act of 1984 (49 U.S.C. App. 2501-2520) is amended by adding at the end thereof the following new section:

"SEC. 231. MAINTENANCE AND INSPECTION OF BRAKE SYSTEMS.

"(a) INITIATION OF RULEMAKING PROCEEDING.—Not later than 60 days after the date of the enactment of this section, the Secretary shall initiate a rulemaking proceeding for the purpose of adopting improved standards or methods to ensure that brakes and brake systems of commercial motor vehicles are properly maintained and inspected by appropriate employees.

"(b) REGULATIONS.—Not later than December 31, 1990, the Secretary shall issue regulations for the purpose of adopting improved standards or methods to ensure that brakes and brake systems of commercial motor vehicles are properly maintained and inspected by appropriate employees. At a minimum, such regulations shall establish minimum training requirements and qualifications for employees responsible for maintaining and inspecting such brakes and brake systems.".

SEC. 9111. CERTIFICATES OF REGISTRATION FOR CERTAIN FOREIGN PERSONS.

(a) DEFINITIONS.—

(1) ELIMINATION OF REGISTRABLE PERIOD DEFINITION.—Paragraph (1) of section 10530(a) of title 49, United States Code, is repealed.

(2) FOREIGN MOTOR CARRIER.—Paragraph (2) of such section is amended to read as follows:

"(2) 'foreign motor carrier' means a person (including a motor carrier of property but excluding a motor private carrier)—

"(A)(i) which is domiciled in a contiguous foreign country; or

"(ii) which is owned or controlled by persons of a contiguous foreign country and is not domiciled in the United States; and

"(B) in the case of a person which is not a motor carrier of property, which provides interstate transportation of property (including exempt items) by motor vehicle under an agreement or contract entered into with a motor carrier of property (other than a motor private carrier or a motor carrier of property described in subparagraph (A)).".

(3) FOREIGN MOTOR PRIVATE CARRIER.—Paragraph (3) of such section is amended to read as follows:

"(3) 'foreign motor private carrier' means a person (including a motor private carrier but excluding a motor carrier of property)—

"(A)(i) which is domiciled in a contiguous foreign country; or

"(ii) which is owned or controlled by persons of a contiguous foreign country and is not domiciled in the United States; and

"(B) in the case of a person which is not a motor private carrier, which provides interstate transportation of property (including exempt items) by motor vehicle under an agreement or contract entered into with a person (other than a motor carrier of property or a motor private carrier described in subparagraph (A)).".

(b) CERTIFICATION REQUIREMENT.—

(1) FOR FOREIGN MOTOR CARRIERS.—Subsection (b) of section 10530 of such title is amended by striking out paragraph (1) and inserting in lieu thereof the following new paragraph:

"(b) CERTIFICATION REQUIREMENT.—

"(1) FOR FOREIGN MOTOR CARRIERS.—Except as provided in this section and sections 10922 and 10923, no foreign motor carrier may provide interstate transportation of property (including exempt items) by motor vehicle unless the Commission has issued to such person a certificate of registration under this section, or a certificate or permit under subchapter II of chapter 109, authorizing such person to provide such transportation.".

(2) CONFORMING AMENDMENTS FOR FOREIGN MOTOR PRIVATE CARRIERS.—Such subsection is further amended—

(A) in paragraph (2)—

(i) by inserting "FOR FOREIGN MOTOR CARRIERS.—" before "Except";

(ii) by inserting "by motor vehicle" after "items)";

(iii) by striking out "in any registrable year"; and

(iv) by striking out "in such year"; and

(B) by indenting paragraph (2) and aligning such paragraph with paragraph (1), as amended by paragraph (1) of this subsection.

(c) ISSUANCE OF CERTIFICATES.—Subsection (c) of such section is amended—

(1) by striking out "exempt items in any registrable year" and inserting in lieu thereof "property (including exempt items) by motor vehicle"; and

(2) by striking out "in any registrable year, if" and inserting in lieu thereof "by motor vehicle, if"; and

(3) in paragraph (2) by striking out "ending before the first day of such registrable year".

(d) APPLICATION.—Subsection (d) of such section is amended by inserting "by motor vehicle" before the period at the end of the first sentence.

(e) FITNESS REQUIREMENT.—Subsection (e)(2) of such section is amended by striking out subparagraphs (A) and (B) and inserting in lieu thereof the following:

"(A) under section 30 of the Motor Carrier Act of 1980, and

"(B) under the laws of the States in which the carrier is operating,

to the extent applicable.".

(f) IDENTIFICATION.—

(1) IN VEHICLE.—Subsection (g) of such section is amended by striking out paragraph (1) and inserting in lieu thereof the following:

"(g) IDENTIFICATION.—

"(1) IN VEHICLE.—Any motor vehicle which is used by a foreign motor carrier or by a foreign motor private carrier to provide interstate transportation of property (including exempt items) by motor vehicle under a certificate issued under this section or section 10922 or under a permit issued under section 10923 shall have a copy of such certificate or permit, as the case may be, in such motor vehicle at any time such vehicle is being used to provide such transportation.".

(2) CONFORMING AMENDMENTS.—Such subsection is further amended—

(A) in paragraph (2) by inserting "DENIAL OF ENTRY.—" before "The Commission" and by striking out "certificate of registration" and inserting in lieu thereof "certificate or permit"; and

(B) by indenting paragraph (2) and aligning such paragraph with paragraph (1), as amended by paragraph (1) of this subsection.

(g) MORATORIUM.—

(1) GENERAL PROHIBITION.—Section 10922(l)(1) of title 49, United States Code, is amended by striking out "motor carrier of property or motor private carrier" and inserting in lieu thereof "foreign motor carrier or foreign motor private carrier".

(2) GENERAL AUTHORITY TO ISSUE CERTIFICATES OF REGISTRATION.—Section 10922(l)(2)(B)(i) of such title is amended by striking out "motor carriers of property and motor private carriers" each place it appears and inserting in lieu thereof "foreign motor carriers and foreign motor private carriers".

(3) FOREIGN MOTOR CARRIERS.—Section 10922(l)(2)(B)(ii) of such title is amended—

(A) by striking out "motor carrier of property" each place it appears and inserting in lieu thereof "foreign motor carrier"; and

(B) by striking out "exempt items" and inserting in lieu thereof "property (including exempt items) by motor vehicle".

(4) FOREIGN MOTOR PRIVATE CARRIERS.—Section 10922(l)(2)(B)(iii) of such title is amended—

(A) by inserting "foreign" before "motor private" each place it appears; and

(B) by inserting "by motor vehicle" after "items)".

(5) HYBRID FOREIGN MOTOR CARRIERS.—Section 10922(l)(2)(B)(iv) is amended—

(A) by striking out "motor carrier of property" and inserting in lieu thereof "foreign motor carrier"; and

(B) by striking out "exempt items" and inserting in lieu thereof "property (including exempt items) by motor vehicle".

(6) HYBRID FOREIGN MOTOR PRIVATE CARRIERS.—Section 10922(l)(2)(B)(v) is amended—

(A) by inserting "foreign" before "motor private"; and

(B) by inserting "by motor vehicle" after "items)".

49 USC 10922.

(7) DEFINITIONS.—Section 10922(l)(2)(B)(vi) of such title is amended by inserting ", 'foreign motor carrier', 'foreign motor private carrier'," before "and".

(h) SECURITY.—

(1) GENERAL RULE.—Section 10927(a)(1) of such title is amended by striking out the first sentence and inserting in lieu thereof the following new sentence: "The Commission may issue a certificate under section 10922 or 10530 or a permit under 10923 only if the carrier (including a motor private carrier and a foreign motor private carrier) applying for such certificate files with the Commission a bond, insurance policy, or other type of security approved by the Commission, in an amount not less than such amount as the Secretary of Transportation prescribes pursuant to, or as is required by, section 30 of the Motor Carrier Act of 1980, section 18 of the Bus Regulatory Reform Act of 1982, and the laws of the State or States in which the carrier is operating, to the extent applicable.".

(2) FOREIGN TRANSPORTATION.—Section 10927(a)(2) of such title is amended by striking out "(as such term is defined under section 10530(a)(3) of this title)" and inserting in lieu thereof "and foreign motor carrier (as defined under section 10530(a))".

(i) GENERAL ENFORCEMENT AUTHORITY.—Section 11701 of such title is amended—

(1) in subsection (a) by inserting "foreign motor carrier or foreign" before "motor private carrier"; and

(2) in subsection (b) by striking out "motor carrier or motor private carrier" and inserting in lieu thereof "foreign motor carrier or foreign motor private carrier".

(j) CIVIL ACTIONS.—Section 11702 of such title is amended—

(1) in subsection (a)(4) by striking out "motor carrier or motor private carrier" and inserting in lieu thereof "foreign motor carrier or foreign motor private carrier"; and

(2) in subsection (b)(1) by striking out "or broker" and inserting in lieu thereof ", foreign motor carrier (as defined under section 10530(a)), foreign motor private carrier (as defined under section 10530(a)), or broker".

49 USC 10050 note.

(k) EFFECTIVE DATE.—The amendments made by this section shall take effect January 1, 1990.

SEC. 9112. INSURANCE FOR FOREIGN MOTOR CARRIERS.

49 USC 10927 note.

Section 30 of the Motor Carrier Act of 1980 is amended by redesignating subsection (g) (and any reference thereto) as subsection (h) and inserting after subsection (f) the following new subsection:

"(g) INSURANCE FOR FOREIGN MOTOR CARRIERS.—The Secretary of Transportation may issue regulations which permit foreign motor carriers and foreign motor private carriers (as such terms are defined under section 10530 of title 49, United States Code) providing transportation of property under a certificate of registration issued under such section to meet the minimum levels of financial responsibility established by or under this section only during periods in which such carriers are providing transportation of property in the United States.".

SEC. 9113. MONITORING AND REPORTING OF CERTAIN COST SAVINGS.

Section 10732(b) of title 49, United States Code, relating to food and grocery transportation, is amended by striking out the second and third sentences.

SEC. 9114. FREIGHT FORWARDER LIABILITY TECHNICAL AMENDMENTS.

(a) EXEMPTION FROM LIABILITY.—Section 11707(c)(1) of title 49, United States Code, is amended by inserting "and freight forwarder" after "common carrier".

(b) STATUTE OF LIMITATIONS.—Section 11707(e) of such title is amended—

(1) by inserting "or freight forwarder" after "carrier" each place it appears; and

(2) in paragraph (2) by inserting "or freight forwarder's" after "carrier's".

SEC. 9115. DEFINITIONS. 49 USC app. 2505 note.

For purposes of this subtitle—

(1) COMMERCIAL MOTOR VEHICLE, EMPLOYEE, AND REGULATION.—The terms "commercial motor vehicle", "employee", and "regulation" have the meaning such terms have under section 204 of the Motor Carrier Safety Act of 1984.

(2) SECRETARY.—The term "Secretary" means the Secretary of Transportation.

Subtitle C—Comptroller General Study

SEC. 9201. COMPTROLLER GENERAL STUDY. 28 USC 509 note.

(a) STUDY.—The Comptroller General of the United States shall conduct a study—

(1) to determine the impact of additional resources to certain components of the Federal criminal justice system on other components of the system and of enhanced or new Federal criminal penalties or laws on the agencies and offices of the Department of Justice, the Federal courts, and other components of the Federal criminal justice system; and

(2) use the data derived from the impact analysis to develop a model that can be applied by Congress and Federal agencies and departments to help determine appropriate staff and budget responses in order to maintain balance in the Federal criminal justice system and effectively implement changes in resources, laws, or penalties.

(b) REPORT TO CONGRESS.—The Comptroller General shall report the results and recommendations derived from the study required by subsection (a) no later than 1 year after the date of enactment of this Act.

Subtitle D—Insular Areas

Insular Areas Drug Abuse Amendments of 1988.

SEC. 9301. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This subtitle may be cited as the "Insular Areas Drug Abuse Amendments of 1988". 48 USC 1494 note.

(b) TABLE OF CONTENTS.—

Sec. 9301. Short title.
Sec. 9302. American Samoa.

Sec. 9303. Guam.
Sec. 9304. Northern Mariana Islands.
Sec. 9305. Puerto Rico.
Sec. 9306. Virgin Islands.
Sec. 9307. Palau.
Sec. 9308. Purposes.
Sec. 9309. Annual reports.
Sec. 9310. Drug Enforcement Agency personnel assignments.

SEC. 9302. AMERICAN SAMOA.

Section 5004(a) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(a)) is amended—

(1) in paragraph (2) by—

(A) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(B) inserting ", as appropriate," after "States";

(C) inserting "and, upon request of the Government of American Samoa, shall" after "are authorized to";

(D) inserting "and other personnel" after "officers"; and

(E) inserting "or other substance" after "drug";

Grants.

(2) in paragraph (3) by—

(A) striking "$700,000" and inserting in lieu thereof "$350,000 for fiscal year 1989 and annually thereafter for grants to the Government of American Samoa to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education and Health and Human Services"; and

(B) striking "subsection" and inserting in lieu thereof "Act"; and

(3) by adding at the end thereof the following:

"(4) The Secretary of the Treasury in consultation with the Secretary of the Interior shall provide the Government of American Samoa with a vessel to be used in the enforcement of narcotics and other laws. There are authorized to be appropriated $500,000 for this purpose.".

Appropriation authorization.

SEC. 9303. GUAM.

Section 5004(b) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(b)) is amended—

(1) in paragraph (1) by—

(A) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(B) inserting "and, upon request of the Government of Guam, shall provide appropriate training," after "may provide"; and

(C) inserting "or other substance" after "drug";

(2) in paragraph (2) by striking "$1,000,000" and all that follows through "shall" and inserting in lieu thereof "$500,000 for fiscal year 1989 and annually thereafter for grants to the Government of Guam to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education and Health and Human Services, to carry out the purposes of this Act, to"; and

(3) by adding at the end thereof the following:

Appropriation authorization.

"(3) There are authorized to be appropriated to the Government of Guam $500,000 for grants to be expended in accordance with a plan

approved by the Secretary of the Interior in consultation with the Attorney General for drug abuse law enforcement equipment.".

SEC. 9304. NORTHERN MARIANA ISLANDS.

Section 5004(c) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(c)) is amended—

(1) in paragraph (2) by—

(A) moving "of the United States" to after "Services";

(B) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(C) inserting "and, upon request of the Government of the Northern Mariana Islands, shall" after "are authorized to";

(D) inserting "and other personnel" after "officers"; and

(E) inserting "or other substance" after "drug"; and

(2) in paragraph (3) by—

(A) striking "$250,000" and inserting in lieu thereof "$125,000 for fiscal year 1989 and annually thereafter for grants to the Government of the Northern Mariana Islands to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education and Health and Human Services"; and

(B) striking "subsection" and inserting in lieu thereof "Act".

SEC. 9305. PUERTO RICO.

Section 5004(d) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(d)) is amended—

(1) in paragraph (1) by striking all after "Rico" and inserting in lieu thereof "$7,000,000 for fiscal year 1989 and $2,000,000 annually thereafter for grants to the Government of Puerto Rico to carry out the purposes of this Act to be expended in accordance with a plan approved by the Executive Director of the White House Task Force on Puerto Rico in consultation with the Attorney General and the Secretaries of Education and Health and Human Services, to remain available until expended."; and

(2) in paragraph (4) by—

(A) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(B) inserting "and, upon request of the Government of Puerto Rico, shall provide appropriate training," after "may provide"; and

(C) inserting "or other substance" after "drug".

SEC. 9306. VIRGIN ISLANDS.

(a) INSULAR CRIME VICTIMS.—Section 1404(d)(1) of the Victims of Crime Act of 1984 (42 U.S.C. 10603(d)(1)) is amended by striking ", except for the purposes of paragraphs (3)(A) and (4) of subsection (a) of this section,".

(b) VIRGIN ISLANDS.—Section 5004(e) of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b(e)) is amended—

(1) in paragraph (1) by striking all after "Islands" and inserting in lieu thereof a comma and "$2,000,000 for fiscal year 1990 and annually thereafter to carry out the purposes of this Act to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Attorney General

and the Secretaries of Education and Health and Human Services, to remain available until expended.";

(2) in paragraph (2) by striking "should" and inserting in lieu thereof "shall";

(3) in paragraph (3) by—

(A) striking "Secretary of" and inserting in lieu thereof "Secretaries of Education and";

(B) inserting "and, upon request of the Government of the Virgin Islands, shall provide appropriate training," after "may provide"; and

(C) inserting "or other substance" after "drug"; and

(4) by adding at the end thereof the following:

"(4) To assist in the prosecution of the violation of the narcotics laws of the United States, the Attorney General of the United States shall assign the necessary personnel to serve in the office of the United States Attorney for the Virgin Islands appointed pursuant to section 27 of the Revised Organic Act of the Virgin Islands, as amended (48 U.S.C. 1617).

Appropriation authorization.

"(5) Effective fiscal year 1989, there are authorized to be appropriated for a grant to the Government of the Virgin Islands $2,500,000 to be expended in accordance with a plan approved by the Secretary of the Interior in consultation with the Secretary of Health and Human Services for a substance abuse facility.".

SEC. 9307. PALAU.

Section 5004 of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494b) is amended by adding at the end thereof the following:

"(f) PALAU.—(1) The Attorney General and the Secretaries of Education and Health and Human Services are authorized to and, upon request of the Government of Palau, shall provide appropriate training, technical assistance, and equipment to carry out the purposes of this Act and any other applicable Federal or insular drug or other substance abuse laws.

Appropriation authorization.

"(2) There are authorized to be appropriated $500,000 for fiscal year 1989 and annually thereafter for grants to the Government of Palau to be expended in accordance with a plan to be approved by the Secretary of the Interior in consultation with the Attorney General and the Secretaries of Education, State, and Health and Human Services to carry out the purposes of this Act.

"(3) To the extent not prohibited under the Constitution of Palau, upon written request of the President of Palau, the Drug Enforcement Administration, the Federal Bureau of Investigation, the Secret Service, the Immigration and Naturalization Service, and the Customs Service are authorized to investigate any United States criminal laws which are applicable in Palau in cooperation with law enforcement agencies of Palau.".

SEC. 9308. PURPOSES.

Section 5002 of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494) is amended by—

(1) inserting "and the Trust Territory of the Pacific Islands (or successor governments)" after "States" where it first appears;

(2) inserting "and other substance" before "prevention"; and

(3) inserting "associated" before "insular areas.".

SEC. 9309. ANNUAL REPORTS.

Section 5003 of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494a) is amended by—

(1) inserting "(a) IN GENERAL.—" before "The President";

(2) in such subsection (a) inserting ", the Trust Territory of the Pacific Islands," before "and states" in paragraph (1) and after "territories" each place in which it appears in paragraph (2); and

(3) adding at the end thereof the following new subsection:

"(b) TRANSMISSION DATE.—The annual reports required by subsection (a) shall be transmitted to the Committee on Interior and Insular Affairs of the United States House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate not later than the first day of October each year.".

SEC. 9310. DRUG ENFORCEMENT AGENCY PERSONNEL ASSIGNMENTS.

Title V of the United States Insular Areas Drug Abuse Act of 1986 (48 U.S.C. 1494 et seq.) is amended by adding at the end of Subtitle A the following new section:

"SEC. 5005. DRUG ENFORCEMENT AGENCY PERSONNEL ASSIGNMENTS.

Virgin Islands. Guam. 48 USC 1494c.

"To assist in the enforcement of the controlled substances laws of the United States in coordination with law enforcement officers in insular areas in the eastern Caribbean and in the central and western Pacific, the Administrator of the Drug Enforcement Administration shall assign appropriate personnel and other resources to the Virgin Islands and Guam.".

TITLE X—SUPPLEMENTAL APPROPRIATIONS

Urgent Supplemental Appropriations Act of 1989 to Meet the Dire Emergency Created by the Crisis of Drug Abuse.

The following sums are appropriated, out of any money in the Treasury not otherwise appropriated, to provide supplemental appropriations for the fiscal year ending September 30, 1989, and for other purposes, namely:

In view of the urgent necessity to provide additional funding for treatment and rehabilitation for drug users and for law enforcement, there is hereby appropriated an additional sum of $961,400,000 to implement the agreement on H.R. 5210, the Anti-Drug Abuse Act of 1988. Such sums are in addition to the $4,271,000,000 heretofore appropriated and made available October 1, 1988.

CHAPTER I

DEPARTMENT OF JUSTICE

LEGAL ACTIVITIES

SALARIES AND EXPENSES, GENERAL LEGAL ACTIVITIES

For an additional amount for "Salaries and expenses, general legal activities", $1,800,000, notwithstanding any designations contained in other titles of this Act: *Provided,* That of the amount appropriated, $800,000 shall be made available to INTERPOL-United States National Central Bureau and $1,000,000 shall be made available for Organized Crime Drug Enforcement and for

asset forfeiture and civil enforcement actions leading to the forfeiture of seized assets.

SALARIES AND EXPENSES, UNITED STATES ATTORNEYS

For an additional amount for "Salaries and expenses, United States attorneys", $39,000,000, notwithstanding any designations contained in other titles of this Act: *Provided,* That of the amount appropriated, $22,000,000 shall be for asset forfeiture and civil enforcement actions leading to the forfeiture of seized assets.

SALARIES AND EXPENSES, UNITED STATES MARSHALS SERVICE

For an additional amount for "Salaries and expenses, United States Marshals Service", $16,400,000, notwithstanding any designations contained in other titles of this Act.

SUPPORT OF UNITED STATES PRISONERS

For an additional amount for "Support of United States Prisoners", $16,400,000, to remain available until expended, notwithstanding any designations contained in other titles of this Act: *Provided,* That of the amount appropriated, not to exceed $4,100,000 shall be for the Cooperative Agreement Program.

ASSETS FORFEITURE FUND

For expenses necessary to carry out the programs authorized in the Omnibus Drug Initiative Act of 1988, $30,000,000, to be derived from receipts collected pursuant to 28 U.S.C. 524, as amended, shall be transferred to "Legal Activities, Salaries and Expenses, United States Attorneys".

FEDERAL BUREAU OF INVESTIGATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $15,000,000, notwithstanding any designations contained in other titles of this Act.

DRUG ENFORCEMENT ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $30,000,000, notwithstanding any designations contained in other titles of this Act.

IMMIGRATION AND NATURALIZATION SERVICE

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $26,200,000, notwithstanding any designations contained in other titles of this Act.

FEDERAL PRISON SYSTEM

BUILDINGS AND FACILITIES

For an additional amount for "Buildings and facilities", $95,600,000, to remain available until expended, notwithstanding any designations contained in other titles of this Act.

OFFICE OF JUSTICE PROGRAMS

JUSTICE ASSISTANCE

For an additional amount for "Justice assistance" for the Drug Control and System Improvement Grant program and the Public Safety Officers Benefits program as authorized by the Anti-Drug Abuse Act of 1988", and salaries and expenses for administration of such programs, $90,000,000, to remain available until expended, notwithstanding any designations contained in other titles of this Act.

DEPARTMENT OF STATE

ADMINISTRATION OF FOREIGN AFFAIRS

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $5,000,000, to remain available until expended, for expenses authorized by the Anti-Drug Abuse Act of 1988 for development, procurement and implementation of a machine-readable travel and identity document border security program.

EMERGENCIES IN THE DIPLOMATIC AND CONSULAR SERVICE

Notwithstanding section 15 of the State Department Basic Authorities Act of 1956, as amended, the funds made available under this heading in Public Law 99-88 for the purposes stated therein, shall also be available for rewards for information concerning narcotics-related offenses as described in section 36(b)(1) and authorized by section 36(g) of the State Department Basic Authorities Act of 1956, as amended, and such funds shall remain available until expended.

THE JUDICIARY

COURTS OF APPEALS, DISTRICT COURTS, AND OTHER JUDICIAL SERVICES

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $35,000,000.

DEFENDER SERVICES

For an additional amount as authorized by law for "Defender services", $15,000,000, to remain available until expended.

FEES OF JURORS AND COMMISSIONERS

For an additional amount for "Fees of jurors and commissioners", $1,000,000, to remain available until expended.

CHAPTER II

DEPARTMENT OF LABOR

Departmental Management

SALARIES AND EXPENSES

For an additional amount for substance abuse employee assistance programs in the workplace, $2,000,000.

Department of Health and Human Services

Alcohol, Drug Abuse and Mental Health Administration

ALCOHOL, DRUG ABUSE AND MENTAL HEALTH

For an additional amount for substance abuse prevention and treatment activities as authorized by the Anti-Drug Abuse Act of 1988, $283,000,000.

Family Support Administration

Community Services Block Grant

NATIONAL YOUTH SPORTS PROGRAM

For an additional amount for substance abuse prevention and treatment activities as authorized by the Anti-Drug Abuse Act of 1988, $3,000,000.

Human Development Service

For an additional amount for substance abuse prevention and treatment activities as authorized by the Anti-Drug Abuse Act of 1988, $30,000,000 of which $15,000,000 is for drug education and prevention relating to youth gangs, and $15,000,000 is for runaway and homeless youth.

Department of Education

SCHOOL IMPROVEMENT PROGRAMS

For an additional amount to carry out the Drug-Free Schools and Communities Act of 1986, as amended, $108,000,000, of which $7,000,000 is provided to carry out part C, $100,500,000 is provided to carry out programs in accordance with the funding requirements of section 5112, and $500,000 shall be transferred to the Program Administration account, Department of Education, for the salaries and related expenses of carrying out said Act: *Provided,* That $83,214,000 for part B shall become available on July 1, 1989, and shall remain available until September 30, 1990.

RELATED AGENCY

ACTION

OPERATING EXPENSES

For an additional amount for substance abuse prevention and education activities as authorized by the Domestic Volunteer Service Act of 1973, $2,000,000, of which up to $200,000 may be used for administrative expenses.

CHAPTER III

DEPARTMENT OF AGRICULTURE

FOOD AND NUTRITION SERVICE

SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC)

For fiscal year 1989, not to exceed $10,000,000 of the funds appropriated pursuant to section 17(g)(1) of the Child Nutrition Act of 1966 (42 U.S.C. 1786(g)(1)) may be used for purposes of preparing and distributing drug abuse education materials and to carry out the study described in section 17(g)(4) of the Child Nutrition Act of 1966, as authorized by the Anti-Drug Abuse Act of 1988.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

FOOD AND DRUG ADMINISTRATION

SALARIES AND EXPENSES

For an additional amount for the Food and Drug Administration, $5,000,000.

CHAPTER IV

DEPARTMENT OF TRANSPORTATION

COAST GUARD

OPERATING EXPENSES

For an additional amount for "Operating expenses", $16,000,000 to be available only to increase drug interdiction patrols and other special drug interdiction operations above the level otherwise programmed to be performed in fiscal year 1989 with funds made available by the Department of Transportation and Related Agencies Appropriations Act, 1989, and the Department of Defense Appropriations Act, 1989: *Provided,* That such funds shall be available only for fuel, maintenance, spare parts, supplies and materials, and related logistics expenses: *Provided further,* That the Secretary of Transportation shall submit a confidential report to Congress no later than 30 days after enactment describing the Coast Guard's planned fiscal year 1989 drug interdiction level of effort using funds made available in regular appropriations Acts compared to the level

Reports. Classified information.

of effort to be achieved with the additional funds made available by this Act.

ACQUISITION, CONSTRUCTION, AND IMPROVEMENTS

Notwithstanding any other provision of law or this Act, for an additional amount for "Acquisition, construction, and improvements", $100,000,000, to remain available until expended, of which $52,000,000 shall be available to accelerate phase IV of the ongoing program for the acquisition of 32 HH-60 medium range recovery helicopters, $31,000,000 shall be available for the cutter fleet renovation and modernization program, and $17,000,000 shall be available for the installation of an APS-125 or APS-138 radar system on an existing Coast Guard long range surveillance aircraft.

CHAPTER V

DEPARTMENT OF THE TREASURY

Bureau of Alcohol, Tobacco and Firearms

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $7,000,000.

United States Customs Service

SALARIES AND EXPENSES

For an additional amount for "Salaries and expenses", $8,500,000.

OPERATIONS AND MAINTENANCE, AIR INTERDICTION PROGRAM

For an additional amount for "Operations and maintenance, Air Interdiction Program", $7,000,000, to remain available until expended.

EXECUTIVE OFFICE OF THE PRESIDENT

Office of National Drug Control Policy

SALARIES AND EXPENSES

For necessary expenses of the Office of National Drug Control Policy, $3,500,000.

CHAPTER VI—GENERAL PROVISION

No part of any appropriation contained in this title shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

This title may be cited as the "Urgent Supplemental Appropriations Act of 1989 to Meet the Dire Emergency Created by the Crisis of Drug Abuse".

Approved November 18, 1988.

LEGISLATIVE HISTORY—H.R. 5210:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 7, 8, 14-16, 22, considered and passed House.
Oct. 13, 14, considered and passed Senate, amended.
Oct. 21, House concurred in Senate amendment with an amendment. Senate concurred in House amendment.
WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 18, Presidential remarks.

○

Public Law 100-691
100th Congress

An Act

Nov. 18, 1988
[H.R. 1975]

To protect cave resources on Federal lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Cave Resources Protection Act of 1988.
Minerals and mining.
Conservation.
16 USC 4301 note.

SECTION 1. SHORT TITLE.

This Act may be referred to as the "Federal Cave Resources Protection Act of 1988".

16 USC 4301.

SEC. 2. FINDINGS, PURPOSES, AND POLICY.

(a) FINDINGS.—The Congress finds and declares that—

(1) significant caves on Federal lands are an invaluable and irreplaceable part of the Nation's natural heritage; and

(2) in some instances, these significant caves are threatened due to improper use, increased recreational demand, urban spread, and a lack of specific statutory protection.

(b) PURPOSES.—The purposes of this Act are—

(1) to secure, protect, and preserve significant caves on Federal lands for the perpetual use, enjoyment, and benefit of all people; and

(2) to foster increased cooperation and exchange of information between governmental authorities and those who utilize caves located on Federal lands for scientific, education, or recreational purposes.

(c) POLICY.—It is the policy of the United States that Federal lands be managed in a manner which protects and maintains, to the extent practical, significant caves.

16 USC 4302.

SEC. 3. DEFINITIONS.

For purposes of this Act:

(1) CAVE.—The term "cave" means any naturally occurring void, cavity, recess, or system of interconnected passages which occurs beneath the surface of the earth or within a cliff or ledge (including any cave resource therein, but not including any vug, mine, tunnel, aqueduct, or other manmade excavation) and which is large enough to permit an individual to enter, whether or not the entrance is naturally formed or manmade. Such term shall include any natural pit, sinkhole, or other feature which is an extension of the entrance.

(2) FEDERAL LANDS.—The term "Federal lands" means lands the fee title to which is owned by the United States and administered by the Secretary of Agriculture or the Secretary of the Interior.

(3) INDIAN LANDS.—The term "Indian lands" means lands of Indian tribes or Indian individuals which are either held in trust by the United States for the benefit of an Indian tribe or subject to a restriction against alienation imposed by the United States.

(4) INDIAN TRIBE.—The term "Indian tribe" means any Indian tribe, band, nation, or other organized group or community of Indians, including any Alaska Native village or regional or village corporation as defined in, or established pursuant to, the Alaska Native Claims settlement Act (43 U.S.C. 1601 et seq.).

(5) CAVE RESOURCE.—The term "cave resource" includes any material or substance occurring naturally in caves on Federal lands, such as animal life, plant life, paleontological deposits, sediments, minerals, speleogens, and speleothems.

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture or the Secretary of the Interior, as appropriate.

(7) SPELEOTHEM.—The term "speleothem" means any natural mineral formation or deposit occurring in a cave or lava tube, including but not limited to any stalactite, stalagmite, helictite, cave flower, flowstone, concretion, drapery, rimstone, or formation of clay or mud.

(8) SPELEOGEN.—The term "speleogen" means relief features on the walls, ceiling, and floor of any cave or lava tube which are part of the surrounding bedrock, including but not limited to anastomoses, scallops, meander niches, petromorphs and rock pendants in solution caves and similar features unique to volcanic caves.

SEC. 4. MANAGEMENT ACTIONS. 16 USC 4303.

(a) REGULATIONS.—Not later than nine months after the date of the enactment of this Act, the Secretary shall issue such regulations as he deems necessary to achieve the purposes of this Act. Regulations shall include, but not be limited to, criteria for the identification of significant caves. The Secretaries shall cooperate and consult with one another in preparation of the regulations. To the extent practical, regulations promulgated by the respective Secretaries should be similar.

(b) IN GENERAL.—The Secretary shall take such actions as may be necessary to further the purposes of this Act. Those actions shall include (but need not be limited to)—

(1) identification of significant caves on Federal lands:

(A) The Secretary shall prepare an initial list of significant caves for lands under his jurisdiction not later than one year after the publication of final regulations using the significance criteria defined in such regulations. Such a list shall be developed after consultation with appropriate private sector interests, including cavers. Records.

(B) The initial list of significant caves shall be updated periodically, after consultation with appropriate private sector interests, including cavers. The Secretary shall prescribe by policy or regulation the requirements and process by which the initial list will be updated, including management measures to assure that caves under consideration for the list are protected during the period of consideration. Each cave recommended to the Secretary by interested groups for possible inclusion on the list of significant caves shall be considered by the Secretary according to the requirements prescribed pursuant to this paragraph, and shall be added to the list if the Secretary determines that the cave meets the criteria for significance as defined by the regulations. Regulations.

(2) regulation or restriction of use of significant caves, as appropriate;

Contracts.

(3) entering into volunteer management agreements with persons of the scientific and recreational caving community; and

(4) appointment of appropriate advisory committees.

(c) PLANNING AND PUBLIC PARTICIPATION.—The Secretary shall—

(1) ensure that significant caves are considered in the preparation or implementation of any land management plan if the preparation or revision of the plan began after the enactment of this Act; and

(2) foster communication, cooperation, and exchange of information between land managers, those who utilize caves, and the public.

16 USC 4304.

SEC. 5. COFIDENTIALITY OF INFORMATION CONCERNING NATURE AND LOCATION OF SIGNIFICANT CAVES.

(a) IN GENERAL.—Information concerning the specific location of any significant cave may not be made available to the public under section 552 of title 5, United States Code, unless the Secretary determines that disclosure of such information would further the purposes of this Act and would not create a substantial risk of harm, theft, or destruction of such cave.

State and local governments. Schools and colleges.

(b) EXCEPTIONS.—Notwithstanding subsection (a), the Secretary may make available information regarding significant caves upon the written request by Federal and State governmental agencies or bona fide educational and research institutions. Any such written request shall, at a minimum—

(1) describe the specific site or area for which information is sought;

(2) explain the purpose for which such information is sought; and

(3) include assurances satisfactory to the Secretary that adequate measures are being taken to protect the confidentiality of such information and to ensure the protection of the significant cave from destruction by vandalism and unauthorized use.

16 USC 4305.

SEC. 6. COLLECTION AND REMOVAL FROM FEDERAL CAVES.

(a) PERMIT.—The Secretary is authorized to issue permits for the collection and removal of cave resources under such terms and conditions as the Secretary may impose, including the posting of bonds to insure compliance with the provisions of any permit:

(1) Any permit issued pursuant to this section shall include information concerning the time, scope, location, and specific purpose of the proposed collection, removal or associated activity, and the manner in which such collection, removal, or associated activity is to be performed must be provided.

(2) The Secretary may issue a permit pursuant to this subsection only if he determines that the proposed collection or removal activities are consistent with the purposes of this Act, and with other applicable provisions of law.

(b) REVOCATION OF PERMIT.—Any permit issued under this section shall be revoked by the Secretary upon a determination by the Secretary that the permittee has violated any provision of this Act, or has failed to comply with any other condition upon which the permit was issued. Any such permit shall be revoked by the Secretary upon assessment of a civil penalty against the permittee

pursuant to section 8 or upon the permittee's conviction under section 7 of this Act. The Secretary may refuse to issue a permit under this section to any person who has violated any provision of this Act or who has failed to comply with any condition of a prior permit.

(c) TRANSFERABILITY OF PERMITS.—Permits issued under this Act are not transferable.

(d) CAVE RESOURCES LOCATED ON INDIAN LANDS.—(1)(A) Upon application by an Indian tribe, the Secretary is authorized to delegate to the tribe all authority of the Secretary under this section with respect to issuing and enforcing permits for the collection or removal of any cave resource, or to carrying out activities associated with such collection or removal, from any cave resource located on the affected Indian lands.

(B) In the case of any permit issued by the Secretary for the collection or removal of any cave resource, or to carry out activities associated with such collection or removal, from any cave resource located on Indian lands (other than permits issued pursuant to subparagraph (A)), the permit may be issued only after obtaining the consent of the Indian or Indian tribe owning or having jurisdiction over such lands. The permit shall include such reasonable terms and conditions as may be requested by such Indian or Indian tribe.

(2) If the Secretary determines that issuance of a permit pursuant to this section may result in harm to, or destruction of, any religious or cultural site, the Secretary, prior to issuing such permit, shall notify any Indian tribe which may consider the site as having significant religious or cultural importance. Such notice shall not be deemed a disclosure to the public for purposes of section 5. Religion.

(3) A permit shall not be required under this section for the collection or removal of any cave resource located on Indian lands or activities associated with such collection, by the Indian or Indian tribe owning or having jurisdiction over such lands.

(e) EFFECT OF PERMIT.—No action specifically authorized by a permit under this section shall be treated as a violation of section 7.

SEC. 7. PROHIBITED ACTS AND CRIMINAL PENALTIES. 16 USC 4306.

(a) PROHIBITED ACTS.—

(1) Any person who, without prior authorization from the Secretary knowingly destroys, disturbs, defaces, mars, alters, removes or harms any significant cave or alters the free movement of any animal or plant life into or out of any significant cave located on Federal lands, or enters a significant cave with the intention of committing any act described in this paragraph shall be punished in accordance with subsection (b). Animals. Plants.

(2) Any person who possesses, consumes, sells, barters or exchanges, or offers for sale, barter or exchange, any cave resource from a significant cave with knowledge or reason to know that such resource was removed from a significant cave located on Federal lands shall be punished in accordance with subsection (b).

(3) Any person who counsels, procures, solicits, or employs any other person to violate any provisions of this subsection shall be punished in accordance with section (b).

(4) Nothing in this section shall be deemed applicable to any person who was in lawful possession of a cave resource from a significant cave prior to the date of enactment of this Act.

(b) PUNISHMENT.—The punishment for violating any provision of subsection (a) shall be imprisonment of not more than one year or a fine in accordance with the applicable provisions of title 18 of the United States Code, or both. In the case of a second or subsequent violation, the punishment shall be imprisonment of not more than 3 years or a fine in accordance with the applicable provisions of title 18 of the United States Code, or both.

16 USC 4307.

SEC. 8. CIVIL PENALTIES.

(a) ASSESSMENT.—(1) The Secretary may issue an order assessing a civil penalty against any person who violates any prohibition contained in this Act, any regulation promulgated pursuant to this act, or any permit issued under this Act. Before issuing such an order, the Secretary shall provide such person written notice and the opportunity to request a hearing on the record within 30 days. Each violation shall be a separate offense, even if such violations occurred at the same time.

(2) The amount of such civil penalty shall be determined by the Secretary taking into account appropriate factors, including (A) the seriousness of the violation; (B) the economic benefit (if any) resulting from the violation; (C) any history of such violations; and (D) such other matters as the Secretary deems appropriate. The maximum fine permissible under this section is $10,000.

District of Columbia.

(b) JUDICIAL REVIEW.—Any person aggrieved by an assessment of a civil penalty under this section may file a petition for judicial review of such assessment with the United States District Court for the District of Columbia or for the district in which the violation occurred. Such a petition shall be filed within the 30-day period beginning on the date the order assessing the civil penalty was issued.

(c) COLLECTION.—If any person fails to pay an assessment of a civil penalty—

(1) within 30 days after the order was issued under subsection (a), or

(2) if the order is appealed within such 30-day period, within 10 days after court has entered a final judgment in favor of the Secretary under subsection (b),

the Secretary shall notify the Attorney General and the Attorney General shall bring a civil action in an appropriate United States district court to recover the amount of penalty assessed (plus costs, attorney's fees, and interest at currently prevailing rates from the date the order was issued or the date of such final judgment, as the case may be). In such an action, the validity, amount, and appropriateness of such penalty shall not be subject to review.

(d) SUBPOENAS.—The Secretary may issue subpoenas in connection with proceedings under this subsection compelling the attendance and testimony of witnesses and subpoenas duces tecum, and may request the Attorney General to bring an action to enforce any subpoena under this section. The district courts shall have jurisdiction to enforce such subpoenas and impose sanctions.

Courts, U.S.

16 USC 4308.

SEC. 9. MISCELLANEOUS PROVISIONS.

(a) AUTHORIZATION.—There are authorized to be appropriated $100,000 to carry out the purposes of this Act.

(b) EFFECT ON LAND MANAGEMENT PLANS.—Nothing in this Act shall require the amendment or revision of any land management

plan the preparation of which began prior to the enactment of this Act.

(c) FUND.—Any money collected by the United States as permit fees for collection and removal of cave resources; received by the United States as a result of the forfeiture of a bond or other security by a permittee who does not comply with the requirements of such permit issued under section 7; or collected by the United States by way of civil penalties or criminal fines for violations of this Act shall be placed in a special fund in the Treasury. Such moneys shall be available for obligation or expenditure (to the extent provided for in advance in appropriation Acts) as determined by the Secretary for the improved management, benefit, repair, or restoration of significant caves located on Federal lands.

(d) Nothing in this Act shall be deemed to affect the full operation of the mining and mineral leasing laws of the United States, or otherwise affect valid existing rights.

SEC. 10. SAVINGS PROVISIONS. 16 USC 4309.

(a) WATER.—Nothing in this Act shall be construed as authorizing the appropriation of water by any Federal, State, or local agency, Indian tribe, or any other entity or individual. Nor shall any provision of this Act—

(1) affect the rights or jurisdiction of the United States, the States, Indian tribes, or other entities over waters of any river or stream or over any ground water resource;

(2) alter, amend, repeal, interpret, modify, or be in conflict with any interstate compact made by the States; or

(3) alter or establish the respective rights of States, the United States, Indian tribes, or any person with respect to any water or water-related right.

(b) FISH AND WILDLIFE.—Nothing in this Act shall be construed as affecting the jurisdiction or responsibilities of the States with respect to fish and wildlife.

Approved November 18, 1988.

LEGISLATIVE HISTORY—H.R. 1975:

HOUSE REPORTS: No. 100-534 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-559 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 28, considered and passed House.
Oct. 21, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 100-692
100th Congress

An Act

Nov. 18, 1988
[H.R. 3957]

To establish the Delaware and Lehigh Navigation Canal National Heritage Corridor in the Commonwealth of Pennsylvania.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988.
Conservation.
Cultural programs.
Historic preservation.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Delaware and Lehigh Navigation Canal National Heritage Corridor Act of 1988".

SEC. 2. FINDINGS.

Congress finds the following:

(1) The Delaware Canal, which opened for regular commercial navigation in 1834, provided an early and essential link in a 4,000 mile national transportation route and helped to transform Pennsylvania from an agrarian region to the center of an industrialized society.

(2) The Canal served as the primary means for transporting coal and other bulk goods from the "Anthracite Region" of Pennsylvania to New York, New Jersey, Philadelphia, and other industrial centers as far away as Europe.

(3) As part of an elaborate national transportation system, the Delaware Canal and Lehigh Navigation Canal played a critical role in supplying our developing Nation with the coal that fueled its factories and heated its homes.

(4) The route of the Delaware Canal parallels stagecoach routes and the trails of the Lenni-Lenape Indians, and passes numerous 18th, 19th, and 20th century sites of national and State historical significance.

(5) In 1978, the Delaware Canal was declared a National Historic Landmark, and portions of the Lehigh Navigation Canal were placed on the National Register of Historic Places and designated a National Recreation Trail.

16 USC 461 note.

SEC. 3. ESTABLISHMENT OF NATIONAL HERITAGE CORRIDOR; PURPOSE.

(a) ESTABLISHMENT.—There is hereby established in the Commonwealth of Pennsylvania the Delaware and Lehigh Navigation Canal National Heritage Corridor (hereinafter in this Act referred to as the "Corridor").

(b) PURPOSE.—It is the purpose of this Act to provide a management framework to assist the Commonwealth and its political subdivisions in developing and implementing integrated cultural, historical, and natural resource policies and programs that will preserve and interpret for the educational and inspirational benefit of present and future generations the unique and significant contributions to our national heritage of certain historic and cultural lands, waterways, and structures within and surrounding the Delaware and Lehigh Navigation Canal in the Commonwealth.

SEC. 4. BOUNDARIES AND ADMINISTRATION.

(a) BOUNDARIES.—The boundaries of the Corridor shall include those lands generally depicted on the map entitled "Delaware and Lehigh Navigation Canal National Heritage Corridor" numbered DELE-90,000 and dated August, 1988. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, District of Columbia, and the Pennsylvania Department of Environmental Resources. As soon as practical after the date of enactment of this Act, the Secretary of the Interior shall publish in the Federal Register a detailed description and map of the boundaries established under this subsection.

Public information.

Federal Register, publication.

(b) ADMINISTRATION.—The Corridor shall be administered in accordance with the provisions of this Act.

SEC. 5. DELAWARE AND LEHIGH NAVIGATION CANAL NATIONAL HERITAGE CORRIDOR COMMISSION.

(a) ESTABLISHMENT.—There is hereby established the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission (hereinafter in this Act referred to as the "Commission"). The Commission shall assist appropriate Federal, State, and local authorities in the development and implementation of an integrated resource management plan for the Corridor.

(b) MEMBERSHIP.—The Commission shall be composed of 21 members appointed not later than 6 months after the date of enactment of this Act as follows:

(1) The Director of the National Park Service ex officio (or his delegate).

(2) 4 individuals appointed by the Secretary, after receiving recommendations from the Governor who shall represent the Pennsylvania Department of Environmental Resources, the Pennsylvania Historical and Museum Commission, the Pennsylvania Department of Commerce/Economic Development Partnership, and the Pennsylvania Department of Community Affairs.

(3) 8 representatives of local governments from the Commonwealth appointed by the Secretary, after receiving recommendations from the Governor, of whom 4 shall be representatives from the Lehigh Navigation Canal region and 4 shall be representatives from the Delaware Canal region.

(4) 8 individuals from the general public who are citizens of the Commonwealth appointed by the Secretary, after receiving recommendations from the Governor, who shall have knowledge and experience in appropriate fields of interest, relating to the preservation, use, and interpretation of the Corridor of whom 4 shall be residents of the Lehigh Navigation Canal region and 4 shall be residents of the Delaware Canal region. A vacancy in the Commission shall be filled in the manner in which the original appointment was made.

(c) TERMS.—Members of the Commission shall be appointed for terms of 3 years and may be reappointed.

(2) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor has taken office.

(d) COMPENSATION.—Members of the Commission shall receive no pay on account of their service on the Commission, but while away

from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in the Government service are allowed expenses under section 5703 of title 5, United States Code.

(e) CHAIRPERSON.—The chairperson of the Commission shall be elected by the members of the Commission. The term of the chairperson shall be 2 years.

(f) QUORUM.—(1) 11 members of the Commission shall constitute a quorum, but a lesser number may hold hearings.

(2) The affirmative vote of not less than 6 members of the Commission shall be required to approve the budget of the Commission.

(g) MEETINGS.—The Commission shall hold its first meeting not later than 90 days after the date on which its members are appointed, and shall meet at least quarterly at the call of the chairperson or 6 of its members. Meetings of the Commission shall be subject to section 552b of title 5, United States Code (relating to open meetings).

SEC. 6. STAFF OF THE COMMISSION.

(a) IN GENERAL.—(1) The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(2) Staff appointed by the Commission—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) The Commission may accept the services of personnel detailed from the Commonwealth and any political subdivision thereof, and may reimburse the Commonwealth or such political subdivision for those services.

SEC. 7. POWERS OF COMMISSION.

(a) HEARINGS.—(1) The Commission may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission considers appropriate.

(2) The Commission may not issue subpoenas or exercise any subpoena authority.

(b) POWERS OF MEMBERS AND AGENTS.—Any member or agent of the Commission, if so authorized by the Commission, may take any action which the Commission is authorized to take by this Act.

(c) ADMINISTRATIVE SUPPORT SERVICES.—The Administrator of the General Services Administration shall provide to the Commission,

on a reimbursable basis, such administrative support services as the Commission may request.

(d) MAILS.—The Commission may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(e) USE OF FUNDS TO OBTAIN MONEY.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(f) GIFTS.—(1) Except as provided in subsection (g)(2)(B), the Commission may, for purposes of carrying out its duties, seek, accept, and dispose of gifts, bequests, or donations of money, personal property, or services, received from any source.

(2) For purposes of section 170(c) of the Internal Revenue Code of 1986, any gift to the Commission shall be deemed to be a gift to the United States.

(g) ACQUISITION OF REAL PROPERTY.—(1) Except as provided in paragraph (2) and except with respect to any leasing of facilities under subsection (c), the Commission may not acquire any real property or interest in real property.

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the Corridor—

(A) by gift or devise; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that such money would be used to purchase real property, or interests in real property, in the Corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

(h) COOPERATIVE AGREEMENTS.—For purposes of carrying out the plan, the Commission may enter into cooperative agreements with the Commonwealth, with any political subdivision of the Commonwealth, or with any person. Any such cooperative agreement shall, at a minimum, establish procedures for providing notice to the Commission of any action proposed by the Commonwealth, such political subdivision, or such person which may affect the implementation of the Plan.

(i) ADVISORY GROUPS.—The Commission may establish such advisory groups as it deems necessary to ensure open communication with, and assistance from, the Commonwealth, political subdivisions of the Commonwealth, and interested persons.

SEC. 8. DUTIES OF THE COMMISSION.

(a) PREPARATION OF PLAN.—Within 2 years after the Commission conducts its first meeting, it shall submit to the Secretary of the Interior a Cultural Heritage and Corridor Management Plan. The Plan shall be based on existing Federal, Commonwealth, and local plans, but shall coordinate those plans and present a unified historic preservation and interpretation plan for the Corridor. The Plan shall—

(1) provide an inventory which includes any property in the Corridor which should be preserved, restored, managed, developed, maintained, or acquired because of its national historic or cultural significance;

(2) develop an historic interpretation plan to interpret the history of the Canal and its surrounding area;

(3) recommend policies for resource management which consider and detail the application of appropriate land and water management techniques, including the development of intergovernmental cooperative agreements, that will protect the Corridor's historical, cultural, scenic, and natural resources in a manner consistent with supporting appropriate and compatible economic revitalization efforts;

(4) detail the ways in which local, Commonwealth, and Federal programs may best be coordinated to promote the purposes of this Act; and

(5) contain a program for implementation of the Plan by the Commonwealth and its political subdivisions.

(b) IMPLEMENTATION OF PLAN.—After review and approval of the Plan by the Secretary of the Interior as provided in section 10(a), the Commission shall implement the Plan by taking appropriate steps to preserve and interpret the historic resources of the Canal and its surrounding area, and to support public and private efforts in economic revitalization consistent with the goals of the Plan. These steps may include, but need not be limited to—

(1) assisting the Commonwealth in preserving the Canal;

(2) assisting the Commonwealth and local governments in designing, establishing, and maintaining visitor centers and other interpretive exhibits in the Corridor;

(3) assisting in increasing public awareness of and appreciation for the historical, architectural, and geological resources and sites in the Corridor;

(4) assisting the Commonwealth, local governments, and nonprofit organizations in the restoration of any historic building in the Corridor;

(5) encouraging by appropriate means enhanced economic and industrial development in the Corridor consistent with the goals of the Plan;

(6) encouraging local governments to adopt land use policies consistent with the management of the Corridor and the goals of the Plan, and to take actions to implement those policies; and

(7) ensuring that clear, consistent signs identifying access points and sites of interest are put in place throughout the Corridor.

SEC. 9. TERMINATION OF COMMISSION.

(a) TERMINATION.—Except as provided in subsection (b), the Commission shall terminate on the day occurring 5 years after the date of the enactment of this Act.

(b) EXTENSIONS.—The Commission may be extended for a period of not more than 5 years beginning on the day of termination referred to in subsection (a) if, not later than 180 days before such day—

(1) the Commission determines such extension is necessary in order to carry out the purpose of this Act;

(2) the Commission submits such proposed extension to the Committee on Interior and Insular Affairs of the United States

House of Representatives and to the Committee on Energy and Natural Resources of the United States Senate; and

(3) the Secretary approves such extension.

SEC. 10. DUTIES OF THE SECRETARY.

(a) APPROVAL OF PLAN.—The Secretary of the Interior shall approve or disapprove a Plan submitted to him under this Act by the Commission not later than 60 days after he receives such Plan. The Secretary shall approve a Plan submitted to him if—

(1) he finds that the Plan, if implemented, would adequately protect the significant historical and cultural resources of the Corridor while providing adequate and appropriate outdoor recreational opportunities and economic activities within the Corridor;

(2) he determines that the Commission held public hearings and provided adequate opportunity for public and governmental involvement in the preparation of the Plan; and

(3) he receives adequate assurances from appropriate Commonwealth officials that the recommended implementation program identified in the Plan will be initiated within a reasonable time after the date of approval of the Plan, and that such implementation program will ensure effective implementation of the State and local aspects of the Plan.

(b) DISAPPROVAL OF PLAN.—If the Secretary disapproves a Plan submitted to him by the Commission, he shall advise the Commission in writing of the reasons therefore and shall make recommendations for revisions in the Plan. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Secretary who shall approve or disapprove a proposed revision within 60 days after the date it is submitted to him.

(c) INTERPRETIVE MATERIALS.—Following approval of the Plan as provided under subsection (a), the Secretary shall assist the Commission in designing and producing interpretive materials based on the Plan. Such materials may include—

(1) guide brochures for exploring the Corridor by automobile, train, bicycle, boat, or foot;

(2) indoor and outdoor visitor displays, which may include video presentations, at several locations along the Corridor; and

(3) a mobile display describing the history of the Corridor, to be used in the Corridor, public buildings, libraries, and schools.

(d) TECHNICAL ASSISTANCE.—The Secretary of the Interior shall, upon the request of the Commission, provide technical assistance to the Commission in the preparation and implementation of the Plan.

SEC. 11. DUTIES OF OTHER FEDERAL ENTITIES.

Any Federal entity conducting or supporting activities directly affecting the flow of the Canal or the natural resources of the Corridor shall—

(1) consult with the Secretary and the Commission with respect to such activities;

(2) cooperate with the Secretary and the Commission in carrying out their duties under this Act and, to the maximum extent practicable, coordinate such activities with the carrying out of such duties; and

(3) to the maximum extent practicable, conduct or support such activities in a manner consistent with the Plan and the provisions of this Act.

SEC. 12. AUTHORIZATION OF APPROPRIATIONS.

(a) COMMISSION.—There is authorized to be appropriated annually to the Commission to carry out its duties under this Act $350,000, except that the Federal contribution to the Commission shall not exceed 50 percent of the annual costs to the Commission in carrying out those duties.

(b) SECRETARY.—There are authorized to be appropriated annually to the Secretary such sums as may be necessary to carry out his duties under this Act.

SEC. 13. DEFINITIONS.

For purposes of this Act—

(1) the term "Canal" means the Delaware and Lehigh Navigation Canal;

(2) the term "Commission" means the Delaware and Lehigh Navigation Canal National Heritage Corridor Commission established under section 5(a);

(3) the term "Commonwealth" means the Commonwealth of Pennsylvania;

(4) the term "Corridor" means the Delaware and Lehigh Navigation Canal National Heritage Corridor established under section 3(a);

(5) the term "Plan" means the Cultural Heritage and Corridor Management Plan to be prepared by the Commission pursuant to section 8(a); and

(6) the term "Secretary" means the Secretary of the Interior.

Approved November 18, 1988.

LEGISLATIVE HISTORY—H.R. 3957:

HOUSE REPORTS: No. 100-906 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 19, House concurred in certain Senate amendments and disagreed to another.
Oct. 20, Senate receded from its amendment.

Public Law 100-693
100th Congress

An Act

To declare that certain lands in the State of California which form a part of the right-of-way granted by the United States to the Central Pacific Railway Company have been abandoned, and for other purposes.

Nov. 18, 1988
[H.R. 4039]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. FINDINGS.

The Congress finds that—

(1) Southern Pacific Transportation Company is the successor grantee of the real property described in section 3;

(2) through a petition to the Interstate Commerce Commission to be allowed to cease using such property for the provision of railroad services, through the removal of tracks, and through other actions, the Southern Pacific Transportation Company has taken steps to abandon and relinquish the real property described in section 3;

(3) the County of Alameda (a political subdivision of the State of California wherein the real property described in section 3 is situated) has acted to include such property within its County System of Highways; and

(4) use for public purposes of lands granted for railroad rights-of-way, including use of such land for highway, communications, and other public purposes as well as for public recreational trails or other recreational purposes, is in the national interest.

SEC. 2. DECLARATION OF ABANDONMENT, ETC.

(a) ABANDONMENT OF RIGHT-OF-WAY.—The Congress hereby declares that the Southern Pacific Transportation Company has abandoned the real property described in section 3.

(b) UNITED STATES INTEREST.—(1) Except as otherwise provided in this Act, any and all right, title, or interest of the United States in the real property described in section 3 shall be retained and managed by the Secretary of the Interior for use as a public recreational trail or for other recreational purposes, as well as for such other uses as the Secretary may determine to be appropriate pursuant to applicable law, so long as such uses do not preclude trail use.

(2) Paragraph (1) of this subsection shall not apply to any portion of the real property described in section 3 embraced in a public highway in a manner meeting the requirements of the Act of March 8, 1922 (43 U.S.C. 912).

(3) Section 4 of this Act shall apply to all the real property described in section 3, regardless of whether any portion of such property may be covered by paragraph (2) of this subsection.

(c) LIMITATIONS.—(1) Nothing in this Act shall be construed as expanding or diminishing any right, title, or interest of any party other than the United States in the real property described in

section 3 which under applicable law vested in any such party on or before the date of enactment of this Act.

(2) Nothing in this Act shall be construed as requiring or permitting the acquisition by the United States of any right, title, or interest in the real property described in section 3 greater than any such right, title, or interest of the United States in such real property as of the date of enactment of this Act.

SEC. 3. DESCRIPTION OF PROPERTY.

(a) IN GENERAL.—The property referred to in sections 1, 2, and 4 is certain real property situated in the County of Alameda, State of California, forming a part of the right-of-way granted by the United States to the Central Pacific Railway Company in the Act entitled "An Act to aid in the Construction of a Railroad and Telegraph Line from the Missouri River to the Pacific Ocean, and to secure to the Government the Use of the same for Postal, Military, and Other Purposes", approved July 1, 1862 (12 Stat. 489).

(b) SPECIFIC DESCRIPTION.—The real property referred to in subsection (a) involves certain real property situated in the unincorporated townships of Murray, Pleasanton, and Washington, and in the incorporated area of the cities of Union City and Fremont, and is more particularly described as follows:

(1) PARCEL 1.—A strip of land, 400 feet in width, acquired by the Central Pacific Railway Company by an Act of Congress dated July 1, 1862 (as shown on the map entitled "C.P.RY. Co. Oakland to Sacramento Main Line Via Niles and Tracy Map of Real Estate and Right of Way Properties through Alameda, County, California" dated 1914, in Alameda County Road Department Files numbered A 77-32, A 77-33, and A 77-34), lying equally 200 feet on each side of the center line more particularly described in that certain Quitclaim Deed from the Southern Pacific Transportation Company, a Delaware corporation, to the County of Alameda, dated March 15, 1985, and recorded April 23, 1985, as Series No. 85-077990, Official Records of Alameda County, California.

(2) PARCEL 2.—Those strips of land varying in width acquired by the Central Pacific Railroad Company by an Act of Congress, dated July 1, 1862 (as shown on the map entitled "C.P.RY. Co. Oakland to Sacramento Main Line Via Niles and Tracy Map of Real Estate and Right of Way Properties through Alameda County, California" dated 1914, in Alameda County Road Department Files numbered A 77-26, A 77-27, and A 77-28), the center line of said strips of land being more particularly described in that certain Quitclaim Deed from the Southern Pacific Transportation Company, a Delaware corporation, to the County of Alameda, dated March 15, 1985, and recorded April 23, 1985, as Series No. 85-077991, Official Records of Alameda County, California.

(3) PARCEL 3.—Those strips of land varying in width acquired by—

(A) the Central Pacific Railroad Company under the Act referred to in subsection (a) (as shown on the map entitled "C.P.RY. Co. Oakland to Sacramento Main Line Via Niles and Tracy Map of Real Estate and Right of Way Properties through Alameda, County, California" dated 1914, in Alameda County Road Department Files numbered A 77-26, A 77-27, and A 77-28);

(B) the Western Pacific Railroad Company by Order and Declaration dated June 22, 1868, concerning the Report of Commissioners in the matter of the Western Pacific Railroad Company against Matthew W. Dixon, et al., in the District Court of the Third Judicial District in and for the County of Alameda, State of California, a certified copy of the Order recorded September 7, 1869, in Book 43 of Deeds at page 262, Records of Alameda County, California; and

(C) the Western Pacific Railroad Company by deed dated April 18, 1870, from Jonas G. Clark, recorded June 14, 1870, in Book 55 of Deeds at page 342, Records of Alameda County.

SEC. 4. RESERVATION AND RESTRICTIONS.

Petroleum and petroleum products.
Coal.
Minerals and mining.

(a) RESERVATION.—Any and all rights of the United States in and to all oil, coal, and other minerals in the real property described in section 3 shall be retained by and reserved to the United States, together with the right to prospect for, mine, and remove such oil, coal, and other minerals under applicable law.

Highways.

(b) RESTRICTIONS.—Any portion of the real property described in section 3 embraced in a public highway in a manner meeting the requirements of the Act of March 8, 1922 (43 U.S.C. 912), shall be used only for such purposes (including but not limited to public recreational purposes) as may be authorized under laws of the State of California applicable to property forming part of such public highway. In the event that any portion of such real property should be used for any other purpose, or in the event that an attempt should be made to transfer ownership of any portion of such real property to any party other than the State of California or a political subdivision thereof, there shall revert to and be vested in the United States all the right, title, and interest in such real property which the United States possessed on the date of enactment of this Act.

SEC. 5. MOUNTAIN WARFARE TRAINING CENTER.

Armed Forces.
National Forest System.

Unless otherwise provided by law, the lands within the Toiyabe National Forest, in California, which have been used for purposes of the United States Marine Corps Mountain Corps Mountain Warfare Training Center, shall be retained as part of such National Forest. The Secretary of Agriculture shall continue to make such lands available to the United States Marine Corps for purposes of such training center, subject to such restrictions as the Secretary of Agriculture finds appropriate to protect the natural, environmental,

Recreation.

aesthetic, scientific, cultural, and other resources and values of such lands. So far as possible, consistent with use of such lands by the United States Marine Corps for purposes of the Mountain Warfare Training Center, the affected lands shall be open to public recreation and other uses.

Approved November 18, 1988.

LEGISLATIVE HISTORY—H.R. 4039:

HOUSE REPORTS: No. 100-941 (Comm. on Interior and Insular Affairs).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 20, considered and passed House.
Oct. 21, considered and passed Senate.

O

Public Law 100-694
100th Congress

An Act

To amend title 28, United States Code, to provide for an exclusive remedy against the United States for suits based upon certain negligent or wrongful acts or omissions of United States employees committed within the scope of their employment, and for other purposes.

Nov. 18, 1988
[H.R. 4612]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Federal Employees Liability Reform and Tort Compensation Act of 1988.
28 USC 1 note.
28 USC 2671 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Employees Liability Reform and Tort Compensation Act of 1988".

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds and declares the following:

(1) For more than 40 years the Federal Tort Claims Act has been the legal mechanism for compensating persons injured by negligent or wrongful acts of Federal employees committed within the scope of their employment.

(2) The United States, through the Federal Tort Claims Act, is responsible to injured persons for the common law torts of its employees in the same manner in which the common law historically has recognized the responsibility of an employer for torts committed by its employees within the scope of their employment.

(3) Because Federal employees for many years have been protected from personal common law tort liability by a broad based immunity, the Federal Tort Claims Act has served as the sole means for compensating persons injured by the tortious conduct of Federal employees.

(4) Recent judicial decisions, and particularly the decision of the United States Supreme Court in Westfall v. Erwin, have seriously eroded the common law tort immunity previously available to Federal employees.

(5) This erosion of immunity of Federal employees from common law tort liability has created an immediate crisis involving the prospect of personal liability and the threat of protracted personal tort litigation for the entire Federal workforce.

(6) The prospect of such liability will seriously undermine the morale and well being of Federal employees, impede the ability of agencies to carry out their missions, and diminish the vitality of the Federal Tort Claims Act as the proper remedy for Federal employee torts.

(7) In its opinion in Westfall v. Erwin, the Supreme Court indicated that the Congress is in the best position to determine the extent to which Federal employees should be personally liable for common law torts, and that legislative consideration of this matter would be useful.

(b) PURPOSE.—It is the purpose of this Act to protect Federal employees from personal liability for common law torts committed within the scope of their employment, while providing persons injured by the common law torts of Federal employees with an appropriate remedy against the United States.

SEC. 3. JUDICIAL AND LEGISLATIVE BRANCH EMPLOYEES.

Section 2671 of title 28, United States Code, is amended in the first full paragraph by inserting after "executive departments," the following: "the judicial and legislative branches,".

SEC. 4. RETENTION OF DEFENSES.

Section 2674 of title 28, United States Code, is amended by adding at the end of the section the following new paragraph:

"With respect to any claim under this chapter, the United States shall be entitled to assert any defense based upon judicial or legislative immunity which otherwise would have been available to the employee of the United States whose act or omission gave rise to the claim, as well as any other defenses to which the United States is entitled.".

SEC. 5. EXCLUSIVENESS OF REMEDY.

Section 2679(b) of title 28, United States Code, is amended to read as follows:

"(b)(1) The remedy against the United States provided by sections 1346(b) and 2672 of this title for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful act or omission of any employee of the Government while acting within the scope of his office or employment is exclusive of any other civil action or proceeding for money damages by reason of the same subject matter against the employee whose act or omission gave rise to the claim or against the estate of such employee. Any other civil action or proceeding for money damages arising out of or relating to the same subject matter against the employee or the employee's estate is precluded without regard to when the act or omission occurred.

"(2) Paragraph (1) does not extend or apply to a civil action against an employee of the Government—

"(A) which is brought for a violation of the Constitution of the United States, or

"(B) which is brought for a violation of a statute of the United States under which such action against an individual is otherwise authorized.".

SEC. 6. REPRESENTATION AND REMOVAL.

Section 2679(d) of title 28, United States Code, is amended to read as follows:

"(d)(1) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court shall be deemed an action against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant.

"(2) Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employ-

ment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court shall be removed without bond at any time before trial by the Attorney General to the district court of the United States for the district and division embracing the place in which the action or proceeding is pending. Such action or proceeding shall be deemed to be an action or proceeding brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. This certification of the Attorney General shall conclusively establish scope of office or employment for purposes of removal.

"(3) In the event that the Attorney General has refused to certify scope of office or employment under this section, the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment. Upon such certification by the court, such action or proceeding shall be deemed to be an action or proceeding brought against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant. A copy of the petition shall be served upon the United States in accordance with the provisions of Rule 4(d)(4) of the Federal Rules of Civil Procedure. In the event the petition is filed in a civil action or proceeding pending in a State court, the action or proceeding may be removed without bond by the Attorney General to the district court of the United States for the district and division embracing the place in which it is pending. If, in considering the petition, the district court determines that the employee was not acting within the scope of his office or employment, the action or proceeding shall be remanded to the State court.

"(4) Upon certification, any action or proceeding subject to paragraph (1), (2), or (3) shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of this title and shall be subject to the limitations and exceptions applicable to those actions.

"(5) Whenever an action or proceeding in which the United States is substituted as the party defendant under this subsection is dismissed for failure first to present a claim pursuant to section 2675(a) of this title, such a claim shall be deemed to be timely presented under section 2401(b) of this title if—

"(A) the claim would have been timely had it been filed on the date the underlying civil action was commenced, and

"(B) the claim is presented to the appropriate Federal agency within 60 days after dismissal of the civil action.".

SEC. 7. SEVERABILITY.

28 USC 2671 note.

If any provision of this Act or the amendments made by this Act or the application of the provision to any person or circumstance is held invalid, the remainder of this Act and such amendments and the application of the provision to any other person or circumstance shall not be affected by that invalidation.

SEC. 8. EFFECTIVE DATE.

28 USC 2679 note.

(a) GENERAL RULE.—This Act and the amendments made by this Act shall take effect on the date of the enactment of this Act.

(b) APPLICABILITY TO PROCEEDINGS.—The amendments made by this Act shall apply to all claims, civil actions, and proceedings

pending on, or filed on or after, the date of the enactment of this Act.

(c) PENDING STATE PROCEEDINGS.—With respect to any civil action or proceeding pending in a State court to which the amendments made by this Act apply, and as to which the period for removal under section 2679(d) of title 28, United States Code (as amended by section 6 of this Act), has expired, the Attorney General shall have 60 days after the date of the enactment of this Act during which to seek removal under such section 2679(d).

(d) CLAIMS ACCRUING BEFORE ENACTMENT.—With respect to any civil action or proceeding to which the amendments made by this Act apply in which the claim accrued before the date of the enactment of this Act, the period during which the claim shall be deemed to be timely presented under section 2679(d)(5) of title 28, United States Code (as amended by section 6 of this Act) shall be that period within which the claim could have been timely filed under applicable State law, but in no event shall such period exceed two years from the date of the enactment of this Act.

16 USC 831c-2.

SEC. 9. TENNESSEE VALLEY AUTHORITY.

(a) EXCLUSIVENESS OF REMEDY.—(1) An action against the Tennessee Valley Authority for injury or loss of property, or personal injury or death arising or resulting from the negligent or wrongful act or omission of any employee of the Tennessee Valley Authority while acting within the scope of this office or employment is exlusive of any other civil action or proceeding by reason of the same subject matter against the employee or his estate whose act or omission gave rise to the claim. Any other civil action or proceeding arising out of or relating to the same subject matter against the employee or his estate is precluded without regard to when the act or omission occurred.

(2) Paragraph (1) does not extend or apply to a cognizable action against an employee of the Tennessee Valley Authority for money damages for a violation of the Constitution of the United States.

(b) REPRESENTATION AND REMOVAL.—(1) Upon certification by the Tennessee Valley Authority that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding heretofore or hereafter commenced upon such claim in a United States district court shall be deemed an action against the Tennessee Valley Authority pursuant to 16 U.S.C. 831C(b) and the Tennessee Valley Authority shall be substituted as the party defendant.

(2) Upon certification by the Tennessee Valley Authority that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a State court shall be removed without bond at any time before trial by the Tennessee Valley Authority to the district court of the United States for the district and division embracing the place wherein it is pending. Such action shall be deemed an action brought against the Tennessee Valley Authority under the provisions of this title and all references thereto, and the Tennessee Valley Authority shall be substituted as the party defendant. This certification of the Tennessee Valley Authority shall conclusively establish scope of office or employment for purposes of removal.

(3) In the event that the Tennessee Valley Authority has refused to certify scope of office or employment under this section, the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment. Upon such certification by the court, such action shall be deemed an action brought against the Tennessee Valley Authority, and the Tennessee Valley Authority shall be substituted as the party defendant. A copy of the petition shall be served upon the Tennessee Valley Authority in accordance with the Federal Rules of Civil Procedure. In the event the petition is filed in a civil action or proceeding pending in a State court, the action or proceeding may be removed without bond by the Tennessee Valley Authority to the district court of the United States for the district and division embracing the place in which it is pending. If, in considering the petition, the district court determines that the employee was not acting within the scope of his office or employment, the action or proceeding shall be remanded to the State court.

(4) Upon certification, any actions subject to paragraph (1), (2), or (3) shall proceed in the same manner as any action against the Tennessee Valley Authority and shall be subject to the limitations and exceptions applicable to those actions.

(c) RETENTION OF DEFENSES.—Section 2674 of title 28, United States Code, is amended by adding at the end thereof the following new paragraph:

"With respect to any claim to which this section applies, the Tennessee Valley Authority shall be entitled to assert any defense which otherwise would have been available to the employee based upon judicial or legislative immunity, which otherwise would have been available to the employee of the Tennessee Valley Authority whose act or omission gave rise to the claim as well as any other defenses to which the Tennessee Valley Authority is entitled under this chapter.".

Approved November 18, 1988.

LEGISLATIVE HISTORY—H.R. 4612 (S. 2500):

HOUSE REPORTS: No. 100-700 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 27, 28, considered and passed House.
Oct. 12, considered and passed Senate, amended.
Oct. 20, House concurred in Senate amendment.

Public Law 100-695
100th Congress

An Act

Nov. 18, 1988
[H.R. 4847]

To amend the Federal Hazardous Substances Act to require the labeling of chronically hazardous art materials, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Hazardous Substances Act is amended by adding at the end the following:

Safety.

"LABELING OF ART MATERIALS

15 USC 1277.

"SEC. 23. (a) On and after the last day of the 2-year period beginning on the date of the enactment of this section, the requirements for the labeling of art materials set forth in the version of the standard of the American Society for Testing and Materials designated D-4236 that is in effect on the date of the enactment of this section and as modified by subsection (b) shall be deemed to be a regulation issued by the Commission under section 3(b).

Business and industry.

"(b) The following shall apply with respect to the standard of the American Society for Testing and Materials referred to in subsection (a):

"(1) The term 'art material or art material product' shall mean any substance marketed or represented by the producer or repackager as suitable for use in any phase of the creation of any work of visual or graphic art of any medium. The term does not include economic poisons subject to the Federal Insecticide, Fungicide, and Rodenticide Act or drugs, devices, or cosmetics subject to the Federal Food, Drug, and Cosmetics Act.

"(2) The standard referred to in subsection (a) as modified by this subsection applies to art materials intended for users of any age.

"(3) Each producer or repackager of art materials shall describe in writing the criteria used to determine whether an art material has the potential for producing chronic adverse health effects. Each producer or repackager shall be responsible for submitting to the Commission these criteria and a list of art materials that require hazard warning labels under this section.

"(4) Upon the request of the Commission, a producer or repackager of art materials shall submit to the Commission product formulations and the criteria used to determine whether the art material or its ingredients have the potential for producing chronic adverse health effects.

Children and youth.

"(5) All art materials that require chronic hazard labeling pursuant to this section must include on the label the name and address of the producer or repackager of the art materials and an appropriate telephone number and a statement signifying that such art materials are inappropriate for use by children.

"(6) If an art material producer or repackager becomes newly aware of any significant information regarding the hazards of an art material or ways to protect against the hazard, this new

information must be incorporated into the labels of such art materials that are manufactured after 12 months from the date of discovery. If a producer or repackager reformulates an art material, the new formulation must be evaluated and labeled in accordance with the standard referred to in subsection (a) as modified by this subsection.

"(7) If the Commission determines that an art material in a container equal to or smaller than one fluid ounce (30 ml) (if the product is sold by volume) or one ounce net weight (28 g) (if the product is sold by weight) has the potential for producing chronic adverse health effects with customary or reasonably foreseeable use despite its small size, the Commission may require the art material to carry a label which conveys all the information required under the standard referred to in subsection (a) as modified by this subsection for art materials in a container greater than one fluid ounce or one ounce net weight. If the information cannot fit on the package label, the Commission shall require the art material to have a package insert which conveys all this information. If the art material has a package insert, the label on the product shall include a signal word in conformance with paragraph 5 of the standard referred to in subsection (a), a list of potentially harmful or sensitizing components, and the statement 'see package insert before use'. For purposes of this subsection, the term 'package insert' means a display of written, printed, or graphic matter upon a leaflet or suitable material accompanying the art material. This requirement is in addition to, and is not meant to supersede, the requirement of paragraph 5.8 of the standard designated D-4236.

"(8) In determining whether an art material has the potential for producing chronic adverse health effects, including carcinogenicity and potential carcinogenicity, a toxicologist shall take into account opinions of various regulatory agencies and scientific bodies.

"(c) If the Commission determines that a revision proposed by the American Society for Testing and Materials is in the public interest, it shall incorporate the revision into the standard referred to in subsection (a) as modified by subsection (b) after providing notice and an opportunity for comment. If at any time the Commission finds that the standard referred to in subsection (a) as modified by subsection (b) is inadequate for the protection of the public interest, it shall promulgate an amendment to the standard which will adequately protect the public interest. Such final standard shall be promulgated pursuant to section 553 of title 5, United States Code, except that the Commission shall give interested persons an opportunity for the oral presentation of data, views, or arguments, in addition to an opportunity to make written submissions. A transcript shall be kept of any oral presentation. Records.

"(d)(1) Within 1 year of the date of the enactment of this section, the Commission shall issue guidelines which specify criteria for determining when any customary or reasonably foreseeable use of an art material can result in a chronic hazard. In developing such guidelines the Commission shall conduct a public hearing and provide reasonable opportunity for the submission of comments.

"(2) The guidelines established under paragraph (1) shall include— Children and youth.

"(A) criteria for determining when art materials may produce chronic adverse health effects in children and criteria for determining when art materials may produce such health effects in adults,

"(B) criteria for determining which substances contained in art materials have the potential for producing chronic adverse health effects and what those effects are,

"(C) criteria for determining the bioavailability of chronically hazardous substances contained in art materials when the products are used in a customary or reasonably foreseeable manner, and

"(D) criteria for determining acceptable daily intake levels for chronically hazardous substances contained in art materials. Where appropriate, criteria used for assessing risks to children may be the same as those used for adults.

"(3) The Commission shall periodically review the guidelines established under paragraph (1) to determine whether the guidelines reflect relevant changes in scientific knowledge and in the formulations of art materials, and shall amend the guidelines to reflect such changes.

"(e) The Commission shall develop informational and educational materials about art materials and shall distribute the informational and educational materials to interested persons.

Children and youth.

"(f) The Commission may bring an action under section 8 to enjoin the purchase of any art material required to be labeled under this Act which is for use by children in pre-kindergarten, kindergarten, or grades 1 through 6.".

Approved November 18, 1988.

LEGISLATIVE HISTORY—H.R. 4847:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 12, considered and passed House.
Oct. 19, considered and passed Senate.

Public Law 100-696
100th Congress

An Act

To provide for the designation and conservation of certain lands in the States of Arizona and Idaho, and for other purposes.

Nov. 18, 1988
[S. 2840]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That this Act be cited as the "Arizona-Idaho Conservation Act of 1988".

Arizona-Idaho Conservation Act of 1988.

TITLE I—SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA

ESTABLISHMENT OF SAN PEDRO RIPARIAN NATIONAL CONSERVATION AREA

SEC. 101. (a) ESTABLISHMENT.—In order to protect the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the public lands surrounding the San Pedro River in Cochise County, Arizona, there is hereby established the San Pedro Riparian National Conservation Area (hereafter in this title referred to as the "conservation area").

16 USC 460xx.

(b) AREA INCLUDED.—The conservation area shall consist of public lands as generally depicted on a map entitled "San Pedro Riparian National Conservation Area—Proposed" numbered AZ-040-OZ, dated January 1988, and consisting of approximately 56,431 acres.

(c) MAP.—As soon as is practicable after enactment of this title, a map and legal description of the conservation area shall be filed by the Secretary of the Interior (hereafter in this title referred to as the "Secretary") with the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate. Each such map shall have the same force and effect as if included in this title. Such map shall be on file and available for public inspection in the Office of the Director of the Bureau of Land Management, Department of the Interior, and in the Bureau of Land Management offices of the State Director for Arizona, and the district office responsible for the management of the conservation area.

Public information.

MANAGEMENT OF CONSERVATION AREA

SEC. 102. (a) GENERAL AUTHORITIES.—The Secretary shall manage the conservation area in a manner that conserves, protects, and enhances the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreational resources of the conservation area. Such management shall be guided by this title and, where not inconsistent with this title, by the provisions of the Federal Land Policy and Management Act of 1976 (hereinafter in this title referred to as "FLPMA").

16 USC 460xx-1.

(b) USES.—The Secretary shall only allow such uses of the conservation area as he finds will further the primary purposes for

which the conservation area is established. Except where needed for administrative or emergency purposes, the use of motorized vehicles in the conservation area shall only be allowed on roads specifically designated for such use as part of the management plan prepared pursuant to section 103 of this title. The Secretary shall have the power to implement such reasonable limits to visitation and use of the conservation area as he finds appropriate for the protection of the resources of the conservation area, including requiring permits for public use, or closing portions of the conservation area to public use.

(c) WITHDRAWALS.—Subject to valid existing rights, all Federal lands within the conservation area are hereby withdrawn from all forms of entry, appropriation, or disposal under the public land laws; from location, entry, and patent under the United States mining laws; and from disposition under all laws pertaining to mineral and geothermal leasing and all amendments thereto.

(d) WATER RIGHTS.—Congress reserves for the purposes of this reservation, a quantity of water sufficient to fulfill the purposes of the San Pedro Riparian National Conservation Area created by this title. The priority date of such reserve rights shall be the date of enactment of this title. The Secretary shall file a claim for the quantification of such rights in an appropriate stream adjudication.

Claims.

(e) ENFORCEMENT.—Any person who violates any provision of this title or any regulation promulgated by the Secretary to implement this title shall be subject to a fine of up to $10,000, or imprisonment for up to one year, or both.

MANAGEMENT PLAN

16 USC 460xx-2.

SEC. 103. (a) DEVELOPMENT OF PLAN.—No later than 2 years after the enactment of this title, the Secretary shall develop a comprehensive plan for the long-range management and protection of the conservation area. The plan shall be developed with full opportunity for public participation and comment, and shall contain provisions designed to assure protection of the riparian area and the aquatic, wildlife, archeological, paleontological, scientific, cultural, educational, and recreation resources and values of the conservation area.

(b) RECOMMENDATIONS.—The Secretary shall, in the comprehensive plan referred to in subsection (a), develop recommendations to Congress on whether additional lands should be included in the conservation area.

(c) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with appropriate State and local agencies, pursuant to section 307(b) of FLPMA, to better implement the plan developed pursuant to subsection (a).

(d) RESEARCH.—In order to assist in the development of appropriate management strategies for the conservation area, the Secretary may authorize research on matters including the environmental, biological, hydrological, and cultural resources of the conservation area, pursuant to section 307(a) of FLPMA.

ADVISORY COMMITTEE

16 USC 460xx-3.

SEC. 104. (a) ESTABLISHMENT.—The Secretary shall establish a San Pedro Riparian National Conservation Area Advisory Committee, whose purpose shall be to advise the Secretary with respect to the

preparation and implementation of the comprehensive, long-range plan required pursuant to section 103 of this title.

(b) REPRESENTATION.—There shall be 7 members of the Committee, who shall be appointed by the Secretary. Members of the Committee shall be appointed for terms of three years, except that of the members first appointed 2 shall be appointed for terms of 1 year and 3 shall be appointed for terms of 2 years. The Secretary shall appoint one member from nominations supplied by the Governor of the State of Arizona, and one member from nominations supplied by the Supervisors of Cochise County, Arizona. The other members shall be persons with recognized backgrounds in wildlife conservation, riparian ecology, archeology, paleontology, or other disciplines directly related to the primary purposes for which the conservation area was created.

LAND ACQUISITION

SEC. 105. The Secretary may acquire lands or interests in lands within the boundaries of the conservation area by exchange, purchase, or donation, except that any lands or interests therein owned by the State or local government may be acquired by donation or exchange only. Any purchase or exchange of lands to be added to the conservation area shall require the consent of the owner of those lands or rights. 16 USC 460xx-4.

REPORT TO CONGRESS

SEC. 106. No later than five years after the enactment of this title, and every ten years thereafter, the Secretary shall report to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the United States Senate, on the implementation of this title. Such report shall include a detailed statement on the condition of the resources within the conservation area and of the progress of the Bureau of Land Management in achieving the purposes of this title. 16 USC 460xx-5.

AUTHORIZATION

SEC. 107. There are hereby authorized to be appropriated such sums as may be necessary to carry out the provisions of this title. 16 USC 460xx-6.

TITLE II—CITY OF ROCKS NATIONAL RESERVE

ESTABLISHMENT OF CITY OF ROCKS NATIONAL RESERVE

SEC. 201. (a) There is hereby established the City of Rocks National Reserve (hereinafter referred to as the "reserve"), in order to preserve and protect the significant historical and cultural resources; to manage recreational use; to protect and maintain scenic quality; and to interpret the nationally significant values of the reserve. Historic preservation. 16 USC 460yy.

(b) The reserve shall include approximately fourteen thousand three hundred and twenty acres as depicted on the map entitled "Boundary Map, City of Rocks National Reserve, Idaho" numbered P30–80,005 and dated October 1987. The map shall be on file in the offices of the National Park Service, Department of the Interior and the Offices of the Governor, State of Idaho.

(c) Within six months after the enactment of this title, the Secretary of the Interior (hereinafter in this title referred to as the

"Secretary") shall file a legal description of the reserve designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (b). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior and the offices of the Governor of the State of Idaho.

Public information.

PLAN AND MANAGEMENT OF RESERVE

State and local governments. 16 USC 460yy-1.

SEC. 202. (a) To achieve the purpose of this title, the Secretary, acting through the National Park Service, in cooperation with appropriate State and Federal agencies, local units of government and local residents shall formulate a comprehensive plan for the protection, preservation, and interpretation of the reserve. The plan shall identify those areas or zones within the reserve which would most appropriately be devoted to—

(1) public use and development;

(2) historic and natural preservation; and

(3) private use subject to appropriate local ordinances designed to protect the historic rural setting.

(b) Within eighteen months following the date of enactment of this section, the Secretary shall transmit the plan to the President of the Senate and the Speaker of the House of Representatives and to the Governor of the State of Idaho.

(c) At such time as the State or appropriate units of local government having jurisdiction over land use within the reserve have enacted ordinances or established regulations which in the judgment of the Secretary will protect and preserve the historic and natural features of the area in accordance with the comprehensive plan, the Secretary shall, pursuant to cooperative agreement—

(1) transfer management and administration over all or any part of the property acquired under subsection (d) of this section to the State or appropriate units of local government;

(2) provide technical assistance to such State or units of local government in the management, protection, and interpretation of the reserve; and

Grants.

(3) make periodic grants, which shall be supplemental to any other funds to which the grantee may be entitled under any other provision of law, to such State or local unit of government to carry out the purposes of this title.

(d)(1) The Secretary is authorized to acquire such lands and interests as he determines are necessary to accomplish the purposes of this title by donation, purchase with donated funds, or appropriated funds, or exchange, except that the Secretary may not acquire the fee simple title to any land without the consent of the owner. The Secretary shall, in addition, give prompt and careful consideration to any offer made by an individual owning property within the reserve to sell such property, if such individual notifies the Secretary that the continued ownership of such property is causing, or would result in, undue hardship.

(2) Lands and waters, and interests therein, within the boundaries of the reserve which were administered by the Forest Service,

United States Department of Agriculture or the Bureau of Land Management, Department of the Interior prior to the date of enactment of this title are hereby transferred to the administrative jurisdiction of the Secretary to be administered by the National Park Service in accordance with this title.

(3) Lands and interest therein so acquired shall, so long as responsibility for management and administration remains with the United States, be administered by the Secretary subject to the provisions of the Act of August 25, 1916 (39 Stat. 535), as amended and supplemented, and in a manner consistent with the purpose of this title.

(e) If, after the transfer of management and administration of any lands pursuant to subsection (c) of this section, the Secretary determines that the reserve is not being managed in a manner consistent with the purposes of this title, he shall so notify the appropriate officers of the State or local unit of government to which such transfer was made and provide for a one hundred and eighty-day period in which the transferee may make such modifications in applicable laws, ordinances, rules, and procedures as will be consistent with such purposes. If, upon the expiration of such one hundred and eighty-day period, the Secretary determines that such modifications have not been made or are inadequate, he shall withdraw the management and administration from the transferee and he shall manage such lands in accordance with the provisions of this title.

(f) Congress finds that there are unique circumstances with respect to the water and water related resources within the Reserve designated by this title. The Congress recognizes that the management of this area may be transferred to the State of Idaho, that the State has committed to providing the water necessary to fulfill the purposes of this title, and that there is little or no water or water-related resources that require the protection of a Federal reserved water right. Nothing in this title, nor any action taken pursuant thereto, shall constitute either an express or implied reservation of water or water right for any purpose: *Provided*, That the United States shall retain that reserved water right which is associated with the initial establishment and withdrawal of the national forest lands which will be transferred to the Reserve under this title. Water.

(g) Subject to valid existing rights, Federal lands and interests therein, within the reserve, are hereby withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended.

(h) There is hereby authorized to be appropriated not to exceed $2,000,000 to carry out the provisions of this title. Appropriation authorization.

TITLE III—HAGERMAN FOSSIL BEDS NATIONAL MONUMENT

16 USC 431 note.

ESTABLISHMENT OF HAGERMAN FOSSIL BEDS NATIONAL MONUMENT

SEC. 301. (a) In order to preserve for the benefit and enjoyment of present and future generations the outstanding paleontological sites known as the Hagerman Valley fossil sites, to provide a center for continuing paleontological research, and to provide for the display and interpretation of the scientific specimens uncovered at such sites, there is hereby established the Hagerman Fossil Beds

National Monument (hereinafter in this title referred to as the "monument").

(b) The monument shall consist of approximately four thousand three hundred and ninety-four acres as depicted on a map entitled "Boundary Map, Hagerman Fossil Beds National Monument, Idaho" number HAFO-20,012A and dated September, 1987. The map shall be on file and available for public inspection in the office of the Director, National Park Service, Department of the Interior and the Office of the Superintendent, Hagerman Fossil Beds National Monument, Idaho.

Public information.

(c) Within six months after the enactment of the title, the Secretary of the Interior (hereinafter in this title referred to as the "Secretary") shall file a legal description of the monument designated under this section with the Committee on Interior and Insular Affairs of the United States House of Representatives and with the Committee on Energy and Natural Resources of the United States Senate. Such legal description shall have the same force and effect as if included in this title, except that the Secretary may correct clerical and typographical errors in such legal description and in the map referred to in subsection (a). The legal description shall be on file and available for public inspection in the offices of the National Park Service, Department of the Interior.

Public information.

ACQUISITION OF LANDS

Gifts and property.

SEC. 302. (a) The Secretary is authorized to acquire lands or interests in lands within the monument only by donation or exchange.

(b) Notwithstanding any other provision of law, any Federal property located within the boundaries of the monument shall be transferred without consideration to the administrative jurisdiction of the Secretary to be administered in accordance with the purposes of this title.

(c) In acquiring non-Federal lands by exchange pursuant to this title, the Secretary shall utilize his existing authority including but not limited to applicable provisions of the Federal Land Policy and Management Act of 1976 (Public Law 94-579).

ADMINISTRATION OF MONUMENT

SEC. 303. The Secretary shall administer the monument established pursuant to this title in accordance with the Act entitled "An Act to establish a National Park Service, and for other purposes", approved August 25, 1916 (39 Stat. 535; 16 U.S.C. 1 et seq.), as amended and supplemented.

WATER RIGHTS

SEC. 304. Congress finds that there are unique circumstances with respect to the water or water-related resources within the Monument designated by this title. The Congress recognizes that there is little or no water or water-related resources that require the protection of a federal reserve water right. Nothing in this title, nor any action taken pursuant thereto, shall constitute either an expressed or implied reservation of water or water right for any purpose.

EFFECT ON EXISTING FACILITIES

SEC. 305. Nothing in this title shall affect electrical generating and transmission and irrigation pumping and transmission facilities in existence within the boundaries of the monument, or the right to operate, maintain, repair, upgrade, and modify such facilities. Such facilities are hereby expressly determined to be compatible and consistent with the purposes of this title.

CONTINUING PALEONTOLOGICAL RESEARCH

SEC. 306. In order to provide for continuing paleontological research, the Secretary shall incorporate in the general management plan provisions for the orderly and regulated use of and research in the monument by qualified scientists, scientific groups, and students under the jurisdiction of such qualified individuals and groups.

MINING PROHIBITION

SEC. 307. Subject to valid existing rights, Federal lands and interests therein, within the monument, are hereby withdrawn from disposition under the public land laws and from entry or appropriation under the mining laws of the United States, from the operation of the mineral leasing laws of the United States, and from operation of the Geothermal Steam Act of 1970, as amended.

AUTHORIZATION OF APPROPRIATIONS

SEC. 308. There are hereby authorized to be appropriated not to exceed $5,000,000 to carry out the purposes of this title.

TITLE IV—ARIZONA-FLORIDA LAND EXCHANGE

DEFINITIONS

SEC. 401. For purposes of this title:

(1) The term "Administrator" means the Administrator of Veterans' Affairs.

(2) The term "Arizona InterTribal Trust Fund" means the fund established pursuant to section 405(a)(1) of this title in the Treasury of the United States for the benefit of Arizona Tribes that were members of the InterTribal Council of Arizona on January 1, 1988, and the members of such tribes.

(3) The term "Arizona Tribe" means an Indian tribe that has a reservation located partially or totally in the State of Arizona.

(4) The term "City" means the City of Phoenix, Arizona.

(5) The term "Collier" means the nongovernmental parties to the Exchange Agreement identified in the Exchange Agreement as Barron Collier Company, Collier Development Corporation, and Collier Enterprises.

(6) The term "Exchange Agreement" means the Agreement Among the United States, Collier Enterprises, Collier Development Corporation, and the Barron Collier Company, executed on May 15, 1988, and subsequently submitted to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(7) The term "Florida Lands" means the lands that would be conveyed to the United States by Collier under the terms of the Exchange Agreement or this title, and other lands owned by Collier and located within the boundaries of the Florida Panther National Wildlife Refuge to be acquired by purchase by the United States and managed as part of such Refuge, other than those lands identified for conveyance to the United States pursuant to agreements for purchase and sale of such lands executed by Collier prior to January 1, 1988.

(8) The term "InterTribal Council of Arizona" or "ITCA" means the corporation organized and existing under the laws of the State of Arizona under the name InterTribal Council of Arizona, Inc., or a successor to such corporation organized and existing under the laws of the State of Arizona, the membership of which includes thirteen or more of the Arizona Tribes that were members of the ITCA on January 1, 1988.

(9) The term "Land Exchange" means the transaction providing for the acquisition by the United States of title to lands in Florida owned by Collier and the receipt by the United States of Monetary Proceeds in exchange for the acquisition by Collier of title to land within the School Property.

(10) The term "Monetary Proceeds" means either—

(A) the cash amount required to be paid to the United States by Collier upon closing of the Land Exchange, or

(B) the amount required to be paid to the United States by a Purchaser other than Collier upon closing of the Purchase Transaction, less the amount required to be paid from the account for acquisition of the Florida Lands and reimbursement of costs established under section 402(i) of this title.

(11) The term "Navajo Trust Fund" means the fund established pursuant to section 405(a)(2) of this title in the Treasury of the United States for the benefit of the Navajo Tribe and its members.

(12) The term "Phoenix Exchange Property" means the land within the School Property to be conveyed to a Purchaser under the Land Exchange or the Purchase Transaction, which land shall be the School Property less any parcel of land to be conveyed to the City of Phoenix or transferred to the Veterans' Administration upon closing of the Land Exchange or Purchase Transaction pursuant to section 402 of this title.

(13) The term "Planning and Development Agreement" means the Memorandum of Agreement between the City of Phoenix, Arizona, Collier Enterprises and Barron Collier Company approved by the City Council of Phoenix, Arizona, on July 1, 1987, including any amendments or modifications of such Memorandum of Agreement subsequently agreed to by the parties, or, as the context may require, an agreement between the City of Phoenix, Arizona, and a Purchaser other than Collier that is identical in all material respects to such Memorandum of Agreement.

(14) The term "Public Planning Process" means the land use planning and zoning process applicable to the School Property under the Planning and Development Agreement or other State or local law and regulation applicable to the planning and zoning of such property.

(15) The term "Purchase Transaction" means the cash purchase of the Phoenix Exchange Property by a Purchaser other than Collier under section 402(h) of this title.

(16) The term "Purchaser" means Collier or, in the event that Collier does not accept the offer of the United States to acquire the Phoenix Exchange Property under either section 402(h)(1) or section 402(h)(6) and (7) of this title, any other person that acquires the Phoenix Exchange Property under a Purchase Transaction.

(17) The term "School Property" means the real property used by the Secretary on January 1, 1988, for the Phoenix Indian High School in Phoenix, Arizona.

(18) The term "Secretary" means the Secretary of the Interior.

(19) The term "Trust Fund Payment" means the payment to the United States of the Monetary Proceeds for deposit into, as the context requires, the Arizona InterTribal Trust Fund or the Navajo Trust Fund, in the form of a lump sum payment or annual payments as determined under section 403 of this title.

(20) The term "Trust Fund Payment Agreement" means an agreement providing for payment by the Purchaser of annual Trust Fund Payments for deposit into the Arizona InterTribal Trust Fund or the Navajo Trust Fund or, as the context may require, an agreement between the United States and a Purchaser other than Collier that is identical in all material respects to such Trust Fund Payment Agreement.

(21) The term "Trust Income" to the Arizona InterTribal Trust Fund or the Navajo Trust Fund means the interest earned on amounts deposited into each such trust fund and any amounts paid into each such trust fund in the form of annual Trust Fund Payments.

(22) The term "Veterans' Administration Property" means the property adjacent to the School Property owned by the United States and under the jurisdiction and control of the Veterans' Administration on January 1, 1988.

DISPOSITION OF SCHOOL PROPERTY

SEC. 402. (a) AUTHORIZATION OF DISPOSAL.—The Secretary is authorized to dispose of the School Property and use the Monetary Proceeds only in accordance with this title. The provisions of this title shall govern the disposal of such property and other provisions of law governing the disposal of Federal property shall not apply to the disposal of the School Property.

(b) EXCHANGE AGREEMENT.—The Exchange Agreement is ratified and confirmed and sets forth the obligations, duties, and responsibilities of the parties to the Exchange Agreement. The Secretary shall implement the Exchange Agreement in accordance with its terms and conditions; except that, the Secretary may, with the concurrence of Collier, make minor and technical amendments in land descriptions and instruments of conveyance, as set forth in the agreement, upon 30 days prior written notice to the House Interior and Insular Affairs and Senate Energy and Natural Resources Committees.

(c) CONVEYANCE OF LANDS; TRANSFER OF JURISDICTION.—If the Phoenix Exchange Property is conveyed under the Land Exchange

or a Purchase Transaction, the Secretary is authorized and directed, subject to the requirements of this section, to—

(1) convey to the City by quitclaim deed a parcel of 20 acres of the School Property upon election by the City to accept such conveyance under subsection (e);

(2) transfer jurisdiction and control of a parcel of 11.5 acres of the School Property to the Veterans' Administration pursuant to subsection (f); and

(3) transfer jurisdiction and control of a parcel of 4.5 acres of the School Property to the Veterans' Administration pursuant to subsection (g).

(d) PRELIMINARY NOTICE.—(1) On a date no later than 135 days prior to acceptance by Collier of the offer of the United States under the Exchange Agreement, Collier shall provide preliminary notice in writing of its intent to accept such offer to—

(A) the Secretary;

(B) the Mayor of the City;

(C) the Administrator of Veterans' Affairs;

Indians. (D) the InterTribal Council of Arizona;

(E) the governing body of the Navajo Tribe; and

(F) the Governor of the State of Arizona.

The provision of this preliminary notice by Collier shall not affect Collier's right to accept or not to accept the offer of the United States under the Exchange Agreement and in accordance with subsection (h) (1) or (7).

(2) Notwithstanding any provision of the Exchange Agreement, Collier may not provide preliminary notice under paragraph (1) prior to the later of one year following the date of enactment of this title or the submission of a Specific Plan for the Phoenix Exchange Property as provided in the Planning and Development Agreement.

(e) ELECTION BY CITY.—(1) Within 15 days after receipt of notice to the Mayor of the City under subsection (d), the City may advise the Secretary in writing that it elects to accept conveyance of a parcel of 20 acres of land within the School Property identified for conveyance to the City by mutual agreement with Collier in accordance with the Public Planning Process.

(2) On or after conveyance of the Phoenix Exchange Property under the Land Exchange or Purchase Transaction, the Secretary shall convey to the City such parcel of 20 acres of the School Property as the City may elect to receive under paragraph (1), subject to the requirements of this section: *Provided*, That if the City and the Purchaser have not identified 20 acres for conveyance to the City in accordance with the Public Planning Process at the time of closing of the Land Exchange or the Purchase Transaction, the Secretary shall convey to the city a parcel of land consisting of the northernmost 20 acres of the School Property.

(3) Nothing in this title shall be construed as a limitation on the authority of the Purchaser and the City to enter into agreements to exchange, on an acre-for-acre basis, land within the School Property conveyed to the Purchaser for land conveyed by the United States to the City or owned by the City contiguous to the School Property.

(4) Any conveyance to the City by the United States under this subsection shall include the requirement for a right of reverter in favor of the United States restricting the use of such land perpetually to provide for public open space and recreation.

(5) Any conveyance by the Purchaser to the City of land within the School Property pursuant to exchange shall include a right of

reverter in favor of the United States restricting the use of such land perpetually to provide for public open space and recreation. The conveyance by exchange of land to the Purchaser from the City shall extinguish any right of reverter restricting the use of land so conveyed to the Purchaser.

(6) Nothing in this subsection shall be construed to alter any right of the City to purchase additional acres of land within the School Property from the Purchaser pursuant to the Planning and Development Agreement or as may otherwise be agreed to by the City and the Purchaser.

(f) TRANSFER TO THE VETERANS' ADMINISTRATION.—(1) Upon the closing of the Land Exchange or the Purchase Transaction, the Secretary shall transfer to the Veterans' Administration jurisdiction and control of a parcel of 11.5 acres (including improvements located thereon) within the School Property to be used for expansion of the Veterans' Administration Medical Center in Phoenix, Arizona.

(2) Such parcel shall be the portion of land designated as Tract C on the metes-and-bounds surveys in the southeast quarter of section 20, township 2 north, range 3 east, of the Gila and Salt River Meridian, Arizona, conducted by the Bureau of Land Management of the Department of the Interior, dated March 22, 1988.

(3)(A) The Administrator shall cooperate with the City in the planning and development of land transferred under this subsection for the purpose of ensuring comprehensive planning of the School Property in accordance with the objectives of the Public Planning Process. The general authorities of the Administrator, including but not limited to those contained in sections 5022(a)(2) and 5024 of title 38, United States Code, shall be available to the Administrator for the purposes of this subsection.

(B) The Administrator shall, within six months after the date of the enactment of this title and every six months thereafter until the cooperative planning referred to in subparagraph (A) is completed, transmit a report to the Committee on Interior and Insular Affairs and the Committee on Veterans' Affairs of the House of Representatives and the Committee on Energy and Natural Resources and the Committee on Veterans' Affairs of the Senate. Each such report shall contain a description of the efforts made by the Veterans' Administration in carrying out such planning during the period for which the report is submitted. Reports.

(C) The Secretary shall enter into a memorandum of understanding with the Administrator for the temporary use by the Administrator of the gymnasium constructed on the School Property in 1975. Such temporary use shall not extend beyond the interim period before the transfer or development of the property on which the gymnasium is located.

(g) TRANSFER TO THE STATE OF ARIZONA.—(1) Upon the closing of the Land Exchange or the Purchase Transaction, the Secretary shall transfer to the Veterans' Administration jurisdiction and control of a parcel of 4.5 acres (including improvements located thereon) within the School Property which shall be under the jurisdiction and control of the Veterans' Administration until disposed of in accordance with paragraph (3) or (4).

(2) Such parcel of land shall be contiguous to the parcel of land transferred to the Veterans' Administration under subsection (f) and to the Veterans' Administration Property. Such parcel shall be identified by mutual agreement of the City, the Administrator,

Collier, and the State of Arizona in accordance with the objectives of the Public Planning Process for use by the State of Arizona as a site for facilities owned and operated by such State as a home for veterans.

(3) The Administrator shall convey such parcel (including improvements located thereon), without reimbursement, to the State of Arizona when—

(A) the Administrator of Veterans' Affairs has approved the State of Arizona's application for assistance in construction of a State veterans' facility on such parcel pursuant to section 5035 of title 38, United States Code; and

(B) the State of Arizona has appropriated sufficient funds to pay for its portion of the costs of construction of such facility.

(4) If the State of Arizona does not submit an application for assistance described in paragraph (3)(A) and appropriate the funds described in paragraph (3)(B) within three years after such parcel is transferred to the Veterans' Administration under this subsection, the Administrator of Veterans' Affairs shall transfer jurisdiction and control of such parcel to the Secretary.

(5) Such land shall be offered by the Secretary for sale to the City, subject to a right of reverter in favor of the United States restricting the use of such land perpetually to provide for public open space and recreation, at a price determined by the Secretary which shall be representative of the value of such land discounted to account for such restrictions in use. In the event that the City does not accept the offer of the United States to purchase such land within six months from the date such offer is made, such land shall be offered for sale to the Purchaser at fair market value. The amount received from any sale of such land shall be deposited in the Arizona InterTribal Trust Fund and in the Navajo Trust Fund in accordance with the allocation described in section 405(e).

Indians.

(h) OFFERS TO PURCHASE.—(1) Upon receipt by the Secretary of the notice of election to receive the parcel of land by the City of Phoenix under subsection (e), but in no event later than 15 days after receipt of preliminary notice to the Secretary by Collier under subsection (d), the Secretary shall notify Collier that, notwithstanding the provisions of subsection (d)(1), Collier may accept the offer of the United States to acquire the Phoenix Exchange Property under the terms of the Exchange Agreement, subject to the requirements that if the fair market value of the Phoenix Exchange Property stated in the current, independent appraisal obtained by the Secretary under subsection (m)(4) is greater than $80,000,000, then Collier shall pay, in addition to the amount required to be paid under paragraphs 13 and 14 of the Exchange Agreement, an amount equal to the difference between the fair market value stated in such appraisal and $80,000,000. If Collier notifies the Secretary that it does not accept the offer of the United States under this paragraph, a Purchaser may acquire the Phoenix Exchange Property pursuant to the requirements of paragraphs (2) through (9) of this subsection.

(2)(A) Upon receipt of notice by Collier that it does not accept the offer of the United States under paragraph (1), but in no event later than 15 days following receipt of such notice, the Secretary shall initiate the bidding process under this section by soliciting and advertising widely for sealed bids for purchase of the Phoenix Exchange Property: *Provided,* That no such bid will be accepted unless such bid offers a price of no less than the minimum acceptable price set forth in subsection (h)(4). The Secretary shall solicit

Federal Register, publication.

and advertise widely for such bids by publishing notice that the Secretary will receive offers by persons other than Collier to purchase the Phoenix Exchange Property in the Federal Register and in newspapers of general circulation and other appropriate publications, including newspapers in Phoenix, Arizona. Such notice shall include—

(i) an accurate description of the Phoenix Exchange Property, and an identification of any parcels of land within the School Property elected for conveyance to the City pursuant to subsection (e), transferred to the Veterans' Administration pursuant to subsection (f), or conveyed to the State of Arizona pursuant to subsection (g);

(ii) the name and address of State and local offices from which information concerning the zoning and other legal requirements applicable to such property may be obtained;

(iii) a description of the terms and conditions for purchase of the Phoenix Exchange Property established under this title pursuant to which the Secretary may accept an offer to purchase the Phoenix Exchange Property;

(iv) a statement of the minimum price that the Secretary may accept for sale of the Phoenix Exchange Property under paragraph (4) of this subsection;

(v) a description of the other terms and conditions for purchase of the Phoenix Exchange Property that the Secretary determines are necessary to ensure that the rights and obligations of a Purchaser under this section are comparable in all material respects to the rights and obligations of Collier under the Exchange Agreement, except as otherwise provided in this title;

(vi) a statement establishing requirements for deposit of bond or other guarantee of credit in an amount determined by the Secretary; and

(vii) any other information that the Secretary, in his discretion, determines is reasonably necessary to permit a bona fide potential purchaser to evaluate the terms and conditions for purchase of the Phoenix Exchange Property.

(B) Upon request, the Secretary shall make available to any potential purchaser a copy of the Exchange Agreement or any other document in the possession of the Secretary which the Secretary in his discretion determines is reasonably necessary to permit a bona fide potential purchaser to evaluate the proposal of the United States to sell the Phoenix Exchange Property.

(3) Any person seeking to acquire the Phoenix Exchange Property by purchase under this section shall, within 90 days after publication of notice in the Federal Register under paragraph (2)(A), deliver to the Secretary in the form prescribed in such notice, a written offer to purchase the Phoenix Exchange Property which offer shall—

(A) offer to purchase the entire Phoenix Exchange Property for cash in a single transaction at a price greater than the minimum acceptable price established under paragraph (4);

(B) by its terms be irrevocable for a period of at least 120 days from the date such offer is delivered to the Secretary and be legally binding on the offeror upon acceptance of such offer by the United States;

(C) offer to enter into a Purchase Agreement with the United States under the terms and conditions for purchase of the

Phoenix Exchange Property described in the notice by the Secretary under paragraph (2);

(D) contain an offer to the United States to enter into a Trust Fund Payment Agreement in a form prescribed by the Secretary consistent with the requirements for payment of the Trust Fund Payment in the form of annual payments under section 403, which agreement shall be legally binding upon the offeror upon election of the Secretary to receive payment of the Monetary Proceeds in the form of annual payments under section 403 of this title, including: (i) a detailed description of the collateral to be provided by the offeror to secure the payment obligation under the Trust Fund Payment Agreement upon such election of the Secretary to receive payment in the form of annual payments, and (ii) evidence of ownership and value of such collateral sufficient to permit the Secretary to determine whether such collateral is adequate to secure the payment obligations of the Purchaser under the Trust Fund Payment Agreement;

(E) contain evidence that the offeror has made an offer to the City of Phoenix, legally binding by its terms on the offeror upon approval by the City Council of Phoenix, Arizona, to enter into the Planning and Development Agreement;

(F) contain full and substantial evidence of the capacity of the offeror to enter into and perform each of the obligations required to be undertaken by the offeror under the terms described by the Secretary in accordance with paragraph (2) including a description of any financing arrangements to be undertaken by the offeror in order to perform the payment obligation of the Purchaser upon closing of the Purchase Transaction;

(G) meet any other requirements prescribed by the Secretary in the notice published under paragraph (2)(A) which are reasonably necessary to ensure that any offer accepted by the United States under this subsection will provide public benefits to the United States comparable to those provided to the United States under the Land Exchange; and

Securities.

(H) be accompanied by the deposit of a bond or other guarantee consistent with the requirements prescribed by the Secretary under paragraph (2).

(4) The minimum acceptable price for sale of the Phoenix Exchange Property is a cash amount equal to the sum of the amount required to be deposited into the account for purchase of the Florida Lands and reimbursement of costs under subsection (i) and an amount equal to the amount required to be paid by Collier under paragraphs 13 and 14 of the Exchange Agreement.

(5)(A) The Secretary shall review any offer to purchase the Phoenix Exchange Property delivered to the Secretary within 90 days after publication of notice under paragraph (2)(A) for the purpose of determining whether such offer meets the requirements under paragraph (3) or other requirements set forth in the notice of the Secretary pursuant to paragraph (2). The Secretary shall identify for consideration as qualifying offers all such offers that meet such requirements subject to the limitations of subparagraph (B).

(B) In determining whether an offer is a qualifying offer under this paragraph, the Secretary shall exclude from consideration any offer that the Secretary in his discretion determines—

(i) does not meet the requirements set forth in the notice of the Secretary pursuant to paragraph (2);

(ii) is made by an offeror without adequate capacity to enter into or perform the payment obligations under this title or the Trust Fund Payment Agreement; or

(iii) has failed to identify collateral that is adequate to secure the obligations under the Trust Fund Payment Agreement.

(C) The Secretary shall, within 105 days after publication of notice in the Federal Register, select from among the qualifying offers the best qualifying offer, which shall be the single offer from among the qualifying offers that contains an offer to pay to the United States the highest lump sum cash payment upon closing of the Purchase Transaction: *Provided,* That nothing in this paragraph shall be construed to limit or alter the right of the Secretary to elect to receive payment of the Monetary Proceeds in the form of annual payments under section 403 of this title.

(6) Within 105 days after publication of notice in the Federal Register under paragraph (2)(A), the Secretary shall advise Collier whether the Secretary has identified a qualifying offer or offers. In the event that the Secretary has not identified any such qualifying offer, he shall advise Collier that Collier may accept the offer of the United States to Collier under the terms of the Exchange Agreement and this title. In the event that the Secretary has identified a qualifying offer, the Secretary shall provide Collier with a copy of the best qualifying offer, and shall advise Collier that Collier may accept the offer of the United States under the Exchange Agreement subject to the requirement that Collier pay, rather than the amount required to be paid under paragraphs 13 and 14 of the Exchange Agreement, the difference between an amount equal to 105 percent of the price to be paid under the best qualifying offer and $45,100,000.

(7) Collier may accept the offer of the United States by notice to the Secretary within 30 days of receipt of notice under paragraph (6) that Collier accepts such offer under the terms of the Exchange Agreement and subject to the requirement, if any, for additional payment under paragraph (6). If Collier accepts the offer of the United States under this paragraph, closing of the Land Exchange shall occur under the terms of the Exchange Agreement and this title.

(8) If Collier does not accept such offer, the Secretary shall accept the best qualifying offer. If no qualifying offer has been received within the period specified in paragraph (3), the Secretary shall maintain the School Property in accordance with subsection (k) of this section, and notify the Committees on Interior and Insular Affairs and Veterans' Affairs in the House of Representatives, and the Committee on Energy and Natural Resources in the Senate within 60 days of the Secretary's notice to Collier under paragraph (6). Closing of the Purchase Transaction under this subsection shall occur within 90 days after acceptance by the United States of the best qualifying offer, subject to the requirements respecting deposit of payment under subsection (i).

(9) No action of the Secretary under this subsection shall be subject to the provisions of 5 U.S.C. 553 through 558 or 701 through 706.

(i) ACCOUNT FOR PURCHASE TRANSACTION AMOUNTS.—(1) Upon closing of the Purchase Transaction, there shall be established in the Treasury of the United States an account into which shall be

deposited from the amount paid to the United States under the Purchase Transaction, at the direction of the Secretary, an amount equal to the sum of—

(A) $49,400,000, less any amount received by Collier in consideration of the conveyance to the United States of any portion of the Florida Lands prior to the closing of the Purchase Transaction, and

(B) an amount equal to the costs determined by the Secretary as reimbursable to Collier under paragraph (2), based on information to be provided to the Secretary by Collier at the time that Collier provides preliminary notice under subsection (d).

(2) For purposes of this subsection, reimbursable costs of Collier shall include—

(A) all costs, including fees for attorneys and consultants and appraisal costs paid or incurred by Collier in connection with the Public Planning Process and planning and zoning of the School Property, and

(B) an amount for compensation of general administrative costs and overhead, which shall be an amount equal to the costs reimbursable to Collier under subparagraph (A) multiplied by a factor of 0.8.

Florida.

(3) Upon conveyance by Collier to the United States of title to the Florida Lands pursuant to this subsection, the Secretary shall cause to be paid to Collier from the account established under paragraph (1): (A) $49,400,000, less any amount previously paid to Collier by the United States in consideration of conveyance of any portion of the Florida Lands, and (B) an amount equal to the total amount of costs reimbursable to Collier under this subsection, as determined by the Secretary.

(j) CONVEYANCE OF TITLE.—Upon conclusion of the procedures under subsection (h), the Secretary is authorized and directed to release and quitclaim to the Purchaser all right, title, and interest of the United States to the Phoenix Exchange Property.

(k) REVERSION.—Any land within the School Property not conveyed to the Purchaser or the City or transferred to the Veterans' Administration upon closing of the Land Exchange or the Purchase Transaction or which reverts to the United States under subsection (e)(4) or is transferred to the Secretary under subsection (g)(4) and is not sold to the City or the Purchaser shall be maintained under the administrative jurisdiction, management and control of the National Park Service and shall not be disposed of until authorized by an Act of Congress: *Provided, however,* That such lands shall not be considered a unit of the National Park System.

(l) STATE AND LOCAL AUTHORITY.—Nothing in this title shall be construed to supersede, abrogate, enlarge, diminish, or otherwise alter the exercise of authority of the State of Arizona, the City or other State and local authority with respect to planning and zoning of the School Property under applicable State or local law.

(m) SPECIFIC PLAN REPORTS.—(1) No later than 30 days after the submission of the Specific Plan as provided for in the Planning and Development Agreement, the Comptroller General of the United States shall submit to Congress a report analyzing the Specific Plan, particularly as it relates to the final proposals for zoning of the Phoenix Exchange Property, the alternatives considered, the reasons for rejection of the alternatives, and the effect of the rezoning

proposals on the potential value of the property relative to the effects of other zoning proposals.

(2) Within 60 days after acceptance of the Purchasers' offer under subsection (h)(8), or acceptance by Collier of the offer of the United States under subsection (h) (1), (6) or (7), whichever is later, the Comptroller General shall provide a further report on all actions taken subsequent to the submission of the Specific Plan relative to disposition of the Phoenix Exchange Property, particularly as they relate to the value received by the United States and the process by which such value was determined.

(3) The Comptroller General shall transmit all reports required by this section to the Committees on Interior and Insular Affairs and Education and Labor of the House of Representatives and the Committee on Energy and Natural Resources and the Select Committee on Indian Affairs of the Senate.

(4) Within 45 days following submission of the Specific Plan as provided for in the Planning and Development Agreement, the Secretary shall obtain, at Collier's expense, a current, independent appraisal of the Phoenix Exchange Property, based upon the zoning requirements stated in such Specific Plan, which appraisal shall determine the fair market value which Collier must give for the Phoenix Exchange Property if such property is acquired by Collier pursuant to the provisions of subsection (h)(1).

PAYMENT TO THE TRUST FUNDS

Indians.

SEC. 403. (a) DEPOSIT OF MONETARY PROCEEDS.—The Monetary Proceeds shall be paid to the United States for deposit in the Arizona InterTribal Trust Fund and the Navajo Trust Fund in accordance with this section and section 405 of this title.

(b) ELECTION OF LUMP SUM OR ANNUAL PAYMENTS.—Subject to the requirements for consultation under subsection (c)(3), the Secretary may, in his discretion, elect to receive the Trust Fund Payment for deposit in the Arizona InterTribal Trust Fund or the Navajo Trust Fund, or both, in the form of either a lump sum payment or 30 annual payments, calculated in accordance with subsection (c). The Secretary shall provide notice of such election to the Purchaser within 90 days after receipt of notice from Collier that it intends to accept the offer of the United States under the Exchange Agreement pursuant to section 402(d).

(c) METHOD OF PAYMENT.—(1) If the Secretary elects to receive a Trust Fund Payment in the form of a lump sum payment, the Purchaser shall, at the time of closing, pay to the United States an amount equal to that portion of the Monetary Proceeds that is properly allocable to the Trust Fund for which such election is made.

(2) If the Secretary elects to receive a Trust Fund Payment in the form of annual payments, the Purchaser shall make—

(A) 30 annual payments equal to the interest due on an amount equal to that portion of the Monetary Proceeds that is properly allocable to the Trust Fund for which such election is made; and

(B) at the time of the last annual payment, a payment equal to that portion of the Monetary Proceeds that is properly allocable to the Trust Fund for which such election is made.

(3) Prior to making any election as to form of the Trust Fund Payment under this subsection, the Secretary shall consult with—

(A) the InterTribal Council of Arizona, concerning the form of the Trust Fund Payment to the Arizona InterTribal Trust Fund; and

(B) the governing body of the Navajo Tribe, concerning the form of the Trust Fund Payment to the Navajo Trust Fund.

(4) If the Secretary elects to receive a Trust Fund Payment in the form of annual payments under subsection (c)(2), the Secretary is directed to execute the Trust Fund Payment Agreement pursuant to which such annual payments will be made.

(5) The interest rate to be used in determining the interest due on annual Trust Fund Payments payable by the purchaser shall be the interest rate being offered on bonds payable in 30 years sold by the United States on the date that notice of the election of the form of the Trust Fund Payment is made by the Secretary plus 0.25 percent, except that in no event shall such interest rate be lower than 8.5 percent or higher than 9.0 percent.

(6) Closing of the Land Exchange or the Purchase Transaction shall occur no sooner than 90 days after notice of the Secretary's election is provided to the Purchaser, except that if the Secretary elects to receive a Trust Fund Payment in the form of annual payments under subsection (c)(2), closing of the Land Exchange or the Purchase Transaction shall not occur unless a Trust Fund Payment Agreement has been executed.

(d) CASH PROCEEDS.—Any cash proceeds to the United States from the sale of land within the School Property offered to and accepted by the City or the Purchaser subsequent to closing of the Land Exchange or the Purchase Transaction shall be in the form of a lump sum payment, unless otherwise agreed to by the parties, payable to the United States for deposit into the Arizona InterTribal Trust Fund and the Navajo Trust Fund pursuant to section 405 of this title.

CLOSURE OF THE PHOENIX INDIAN HIGH SCHOOL

SEC. 404. (a) CLOSURE.—Notwithstanding any other provision of law, the Secretary shall close the Phoenix Indian High School on a date determined by the Secretary, which date shall be no earlier than June 1, 1990, and no later than September 1, 1990.

(b) NOTICE.—By January 30, 1990, the Secretary shall notify the tribal governing body of each Arizona Tribe affected by the closing of the Phoenix Indian High School and each person, or parent or guardian of each person, enrolled as a student at the Phoenix Indian High School on January 1, 1991, of the date of closing of the Phoenix Indian High School as determined by the Secretary under subsection (a).

(c) INDIVIDUAL EDUCATION PLANS.—(1) Beginning January 30, 1990, but in no case later than March 1, 1990, the Secretary, through the Assistant Secretary of Indian Affairs, shall—

(A) identify each eligible Indian student who is enrolled or preenrolled for attendance at the Phoenix Indian High School, as of the date of enactment of this title, or who attended the Phoenix Indian High School during the academic year 1988-89, and who did not graduate from a secondary program, and shall—

(i) contact each student, or the parents or guardians of record of each such student,

(ii) notify each student that the Phoenix Indian High School is to be closed at the date established by the Secretary under subsection (a),

(iii) inform each of the alternatives available to each student and their families, including attendance at the Bureau operated facility at Riverside, California, and

(iv) develop the individual education plans required under subparagraph (B);

(B) develop for each student identified under subparagraph (A) an individual education plan, which shall be formulated in a cooperative fashion between Bureau education and other appropriate social services. Each individual education plan shall, at the minimum, include—

(i) an identification of the student;

(ii) an identification of the special educational, social, or academically related cultural needs of each student;

(iii) a description of the consultation and discussions with the student and the parent involved in the formulation of this plan;

(iv) an identification of the alternative service provider chosen by the student or parent to provide educational services;

(v) any actions taken, pursuant to the requirements to protect confidentiality, to contact and coordinate the alternative service provider, the tribe, any appropriate Bureau social service entities, and the Office of Indian Education Program; and

(vi) set out in detail the actions to be taken by the Bureau of Indian Affairs to supplement the program provided with additional services and support for the student, where the student attends a non-Bureau funded program or a Bureau funded program which does not include the services described within the plan; and

(C) take such steps as are necessary to establish a formal internal mechanism for implementing the findings and recommendations of the plans developed under subparagraph (B).

(2)(A) Any other provision of law notwithstanding, the Secretary shall, for the fiscal years ending prior to September 30, 1992, reserve from funds appropriated under section 1128 of Public Law 95-561 and other Bureau of Indian Affairs accounts presently providing support to the Phoenix Indian High School during the fiscal year 1990 an amount equal to the amount determined under subparagraph (B) for the purpose of implementing subparagraph (C).

(B)(i) The amount reserved for the fiscal year ending September 30, 1991, shall be equal to the sum of three-fourths the amount generated under the Indian Student Equalization Formula during fiscal year 1990 for the Phoenix Indian High School plus three-fourths the amount generated under the accounts referenced in subparagraph (A), such funds to be reserved from the respective accounts and administered pursuant to subparagraph (C).

(ii) The amount reserved for the fiscal year ending September 1992 shall be equal to the sum of one-half the amount generated under the Indian Student Equalization Formula during fiscal year 1990 for the Phoenix Indian High School plus one-half the amount generated under the accounts referenced in subparagraph (A), such funds to be reserved from the respective accounts and administered pursuant to subparagraph (C).

(C) From funds reserved pursuant to subparagraph (B), the area education director and the area director shall jointly administer a program to implement the individual education plans developed under paragraph (2), with particular emphasis being placed on monitoring the performance and attendance of students covered by the individual education plans. From such funds, they shall also, to the extent funds are available, conduct such activities as may be necessary to determine those eligible Indian students who reside within the State of Arizona or the jurisdiction of the Phoenix Area Office of the Bureau of Indian Affairs who are of legal age to be attending school but who are not enrolled in any program.

(d) TRANSFER OF JURISDICTION.—Within 60 days after closure of the Phoenix Indian High School under subsection (a), the Secretary shall transfer administrative jurisdiction, management and control of the school property from the Bureau of Indian Affairs to the National Park Service: *Provided,* That, prior to the disposition of the School Property under the terms of the Exchange Agreement or otherwise, the National Park Service shall manage and control such School Property in a manner consistent with the requirements of the Exchange Agreement and subsection (e), except that the Administrator may, during the interim period of administration, take such actions as are necessary to protect the improvements located on the 11.5 acres of land and 4.5 acres of land to be transferred to the Veterans' Administration pursuant to subsections (f) and (g) of section 402. During the interim period of administration the School Property shall not be considered a unit of the National Park System.

California.

(e) TRANSFER OF RESOURCES.—(1) Any other provision of law notwithstanding, the following shall apply to the Sherman Indian School, located in Riverside, California, and operated by the Bureau of Indian Affairs, or its successors, effective on the date of enactment:

(A) The attendance boundaries used by the Bureau of Indian Affairs to govern placements in the Sherman Indian School is expanded to include all of the attendance boundary served in the fiscal year 1991 by the Phoenix Indian High School.

(B) Subject to school board approval, the superintendent of the Sherman Indian School is authorized to pay the recruitment and retention allowance authorized under section 1131(h)(3) of Public Law 95-561.

(C) The Secretary shall inventory all Bureau of Indian Affairs educational property, including personal property, currently located at the Phoenix Indian High School. The superintendent of the Sherman Indian School, and their designees, shall have first option on all materials located at the Phoenix Indian High School and the Secretary shall take all steps necessary to move the materials chosen by the superintendent of the Sherman Indian School to the school as expeditiously as possible. Remaining property shall be made available to other off-reservation boarding schools.

(D) Subject to the provisions of subsection (d), the personnel ceilings at the Sherman Indian School shall be immediately adjusted to reflect employees who transfer from the Phoenix Indian High School and any increase in the student population projected by the closure.

(2) With respect to any employee employed at the Phoenix Indian High School prior to the closure of the academic program—

(A) for the purpose of conducting the reduction in force associated with the closure of the Phoenix Indian High School, Phoenix Indian High School and the Sherman Indian School in Riverside, California shall be considered as one employment area; and

(B) for those who do not elect to exercise the above, or to whom they do not apply, outplacement assistance, including where available job retraining programs, professional résumé and other job placement assistance.

ESTABLISHMENT OF THE ARIZONA INDIAN TRUST FUNDS

SEC. 405. (a) ESTABLISHMENT.—Upon disposal of the School Property and receipt by the United States of the Monetary Proceeds, there shall be established in the Treasury of the United States—

(1) a fund to be known as the Arizona InterTribal Trust Fund; and

(2) a fund to be known as the Navajo Trust Fund.

(b) AMOUNTS IN FUNDS.—Each Trust Fund established under this section shall consist of—

(1) an amount equal to the sum of—

(A) that portion of the Monetary Proceeds properly allocable to each such Trust Fund;

(B) that portion of the cash proceeds from the sale by the United States to the City or the Purchaser of additional acres of land within the School Property pursuant to subsection (g)(5) of section 402 of this title properly allocable to each such Trust Fund; and

(C) any interest accruing on any amount deposited in each such Trust Fund,

(2) less the amount of Trust Income from the Trust Fund used by the Secretary pursuant to subsection (d).

(c) INVESTMENT.—(1) If a Trust Fund Payment is made in the form of a lump sum payment under section 403(c)(1) of this title, the Secretary of the Treasury shall invest the amount of such lump sum payment in interest-bearing deposits and securities in accordance with the Act of June 24, 1938 (25 U.S.C. 162a).

(2) If a Trust Fund Payment is made in the form of annual payments under section 403(c)(2) of this title, the Secretary of the Treasury shall hold in trust the security provided in accordance with the Trust Fund Payment Agreement.

(3) At the direction of the Secretary, the Secretary of the Treasury may invest in accordance with the requirements of paragraph (1) any portion of the Trust Income not used by the Secretary in any year.

(d) USE OF TRUST INCOME.—(1) The purpose of these trust funds is to supplement, not supplant, current Federal efforts. The Secretary shall not reduce, rescind, alter or change any distribution of funds to which any Indian tribe or students covered by this section may otherwise be entitled or eligible under any other Federal authority. The Congress also expresses its intention that in determining the amount of any funds to provide services to Indian tribes or students covered by this section, there shall be no amendment, alteration, limitation, or reduction within future congressional action occasioned by the presence of these funds.

(2) Trust Income may be used only for—

Education. Children and youth.

(A) supplemental educational and child-welfare programs, activities, and services for the benefit of—

(i) those Arizona Tribes that were members of the Inter-Tribal Council of Arizona on January 1, 1988, in the case of payments from the Arizona InterTribal Trust Fund; and

(ii) the Navajo Tribe, in the case of payments from the Navajo Trust Fund;

(B) the design, construction, improvement, or repair of related facilities; and

(C) the payments referred to in paragraph (4).

(3)(A) To carry out the purposes of paragraph (2), the Secretary, pursuant to appropriations, may make grants—

(i) from the Arizona InterTribal Trust Fund to Arizona tribes that were members of the InterTribal Council of Arizona on January 1, 1988, public school districts on or near reservations of such Tribes in the State of Arizona, and the InterTribal Council of Arizona; and

(ii) from the Navajo Trust Fund to the Navajo Tribe or public school districts on or near the Navajo Reservation in the State of Arizona.

(B) The Secretary shall require, as a condition for making any grant to a public school district, the approval of the governing body of the Arizona Tribe the children of which are to be served by such grant.

(4)(A) An amount equal to 5 percent of the Trust Income during the preceding fiscal year shall be paid annually by the Secretary—

(i) to the InterTribal Council of Arizona from the Arizona InterTribal Trust Fund; and

(ii) to the governing body of the Navajo Tribe from the Navajo Trust Fund.

Education. Children and youth.

(B) Payments made under this paragraph shall be used for education, child welfare, community development, and general administrative purposes, and may be made only pursuant to an annual budget adopted by the vote of—

(i) a majority of the members of the InterTribal Council of Arizona, in the case of payments to the Arizona InterTribal Trust Fund; and

(ii) the governing body of the Navajo Tribe, in the case of payments to the Navajo Trust Fund.

(C) The limitation on the amount of payments under this paragraph shall not be construed as a limitation on the authority of the Secretary to make grants to the InterTribal Council of Arizona or the Navajo Tribe under paragraph (3).

(5) None of the Trust Income may be used for scholarship grants for higher education.

(e) ALLOCATION.—In depositing into the Trust Funds the Monetary Proceeds, any payment by the State of Arizona, or the cash proceeds from the sale of land within the School Property—

(1) the amount properly allocable to the Arizona InterTribal Trust Fund shall be 95 percent of the total amount of such payment or cash proceeds to the United States; and

(2) the amount properly allocable to the Navajo Trust Fund shall be 5 percent of the total amount of such payment or cash proceeds to the United States.

SEC. 406. ADMINISTRATION OF NEW LANDS FUNDS.—Subsection (c)(2)(B) of section 12 of Public Law 93-531 (25 U.S.C. 640d-11) is amended by adding at the end thereof of the following new clause:

"(B) : *Provided further,* That for administrative purposes such funds shall be maintained in a separate account.".

SEC. 407. CLARIFICATION OF ELIGIBILITY.—Public Law 93-531 is amended by adding at the end thereof the following new section:

"SEC. 32. Nothing in this Act prohibits the Commissioner from providing relocation assistance to families certified as eligible, regardless of their current place of residence, with funds appropriated to implement Public Law 93-531.". 25 USC 640d-31.

TITLE V—SANTA RITA PUBLIC LANDS EXCHANGE

PAYMENT OF FEDERAL DEBT

SEC. 501. The Secretary of the Interior, acting through the Bureau of Land Management, shall convey to the State of Arizona, a portion of the lands in the Santa Rita Experiment Station lying outside of the National Forest System, (comprising 50,810.94 acres as generally depicted on map AZ-020-01, subpart A, dated September 13, 1988), which the Secretary deems necessary to satisfy the remaining Federal debt to the State of Arizona, as of the date of enactment of this title, for relinquishments of lands for the Central Arizona project pursuant to the provisions of the Act of June 20, 1910. The map referenced in this section shall be on file and available for public inspection in the offices of the Arizona State Bureau of Land Management and of the Bureau of Land Management in Washington, D.C.

LAND ACQUISITION

SEC. 502. (a) STATE LANDS ACQUISITION.—Upon completion of the actions authorized in section 501, the Secretary shall utilize the remaining Federal lands in the Santa Rita Experiment Station, described in section 501, to acquire through exchange, pursuant to the exchange provisions of the Federal Land Policy Management Act of 1976, all of the State trust lands within Catalina State Park (as generally depicted on map AZ-020-02, subpart B, dated September 13, 1988), Buenos Aires National Wildlife Refuge (as generally depicted on map AZ-020-05, subpart A, dated September 13, 1988), the Black Canyon Corridor (as generally depicted on map AZ-020-03, Subpart A, dated September 13, 1988), Arivaca Lake (as generally depicted on map AZ-020-05, subpart B, dated September 13, 1988), the Madera-Elephant Head Trail area (as generally depicted on map AZ-020-01, subpart C, dated September 13, 1988), and near Lake Pleasant (as generally depicted on map AZ-020-03, subpart B, dated September 13, 1988). The maps described in this subsection shall be on file and available for public inspection in the offices of the Arizona State Bureau of Land Management and of the Bureau of Land Management in Washington, D.C. Public information.

(b) ADDITIONAL ACQUISITION AUTHORITY.—The Secretary is also authorized to acquire the State lands described in subsection (a) by purchase or eminent domain to the extent determined by him to be appropriate.

(c) LANDS TO BE INCLUDED IN THE NATIONAL WILDLIFE REFUGE SYSTEM.—Those lands within the Buenos Aires National Wildlife Refuge that are acquired in accordance with this title shall be added to the National Wildlife Refuge System and managed in accordance with the National Wildlife Refuge System Administration Act of 1966.

(d) LANDS TO BE ADMINISTERED BY THE BUREAU OF LAND MANAGEMENT.—Those lands near Lake Pleasant and within the Black Canyon Corridor that are acquired in accordance with this title shall be administered by the Bureau of Land Management, in accordance with the provisions of the Federal Land Policy and Management Act of 1976.

ADDITION TO THE CORONADO NATIONAL FOREST

SEC. 503. (a) INCLUSION IN NATIONAL FOREST SYSTEM.—Those lands in the Catalina State Park, Madera-Elephant Head Trail area, and the Arivaca Lake area that are acquired pursuant to this title, shall be included in the Coronado National Forest, and the exterior boundary of the Coronado National Forest shall be modified to include such lands on the date of acquisition by the United States. The Catalina State Park lands shall be managed cooperatively with the Arizona State Parks Department for public access and recreation purposes under the authorities of the National Forest System. Subject to valid existing rights, such lands are hereby withdrawn from all forms of—

National Forest System.

(1) entry, appropriation, or disposal under the public lands laws;

(2) location, entry, and patent under the United States mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing.

(b) LANDS EXEMPT FROM FURTHER PLANNING.—The lands added to the Coronado National Forest by this section shall be administered under the laws and regulations applicable to National Forest System lands except that the lands described in this section shall be exempt from any further planning requirements of the National Forest Management Act of 1976 until the final 1986 forest plan for the Coronado National Forest is revised. At that time, future management direction for these lands will be determined as a part of planning for the entire national forest.

REVOCATION OF SANTA RITA RANGE EXECUTIVE AND PUBLIC LAND ORDERS

SEC. 504. (a) REVOCATION.—Notwithstanding any other provision of law, in order to facilitate the transfer of certain Federal lands, Executive Order 1222 dated July 1, 1910, and Public Land Order 1363 dated November 14, 1956, which withdrew the Santa Rita Experimental Range for a forest and range experiment station, are hereby revoked in their entirety.

(b) EFFECTIVE DATE.—The effective date of the revocation made by this section shall be—

(1) for those lands lying within the National Forest System the date of enactment of this title; or

(2) for those lands lying outside of the National Forest System the date of transfer of patent to the State of Arizona.

WITHDRAWALS FOR ADMINISTRATIVE SITE

SEC. 505. (a) WITHDRAWAL.—Subject to valid existing rights, the following described lands within the Coronado National Forest are hereby withdrawn from all forms of—

(1) entry, appropriation, or disposal under the public lands laws;

(2) location, entry, and patent under the United States mining laws; and

(3) disposition under all laws pertaining to mineral and geothermal leasing:

All of section 19, the SW¼NW¼, and W½SW¼ of section 20, the N½NE¼ of section 30; all in T. 19 S., R. 15 E., G&SRM; containing approximately 751.04 acres. (Florida Canyon)

Such lands shall be used for research purposes in accordance with applicable law.

(b) REVOCATION OF ORDER.—Notwithstanding any other provision of law, in order to facilitate the administration of the Federal lands described in subsection (a), Public Land Order 1080, dated February 28, 1955, which withdrew lands for forest administrative sites, is hereby revoked as it relates in sec. 19, T. 19 S., R. 15 E., G&SRM.

WITHDRAWALS FOR KOFA NATIONAL WILDLIFE REFUGE

SEC. 506. Subject to valid existing rights, all federally owned lands within the Kofa National Wildlife Refuge as of the date of enactment of this title are hereby withdrawn from all forms of—

(a) entry, appropriation, or disposal under the public land laws;

(b) location, entry, and patent under the United States mining laws; and

(c) disposition under all laws pertaining to mineral and geothermal leasing.

REVOCATION OF RECLAMATION WITHDRAWALS

SEC. 507. (a) IN GENERAL.—Notwithstanding any other provision of law, in order to facilitate the transfer of certain Federal lands—

(1) Secretarial Orders dated January 31, 1903, September 8, 1903, June 4, 1930, and October 16, 1931, which withdrew lands from the Colorado River Storage Project and Executive Order 8647 dated January 22, 1941, and Public Land Order 4417 dated May 20, 1968, which withdrew lands for the Havasu National Wildlife Refuge, and Executive Order 8685 dated February 14, 1941, which withdrew lands for the Imperial National Wildlife Refuge are hereby revoked on the following described lands under the administration of the Fish and Wildlife Service:

Sec. 17. T. 5 S., R. 21 W.; portions of secs. 17, 20, 28, and 33, T. 14 N., R. 20 W.; portions of secs. 3 and 10, T. 16 N., R. 21 W.; and portions of secs. 21, 27, and 34, T. 17 N., R. 21 W.; all in G&SRM.

The effective date of the revocation shall be the date of patent to the State of Arizona.

(2) Secretarial Orders dated July 2, 1902, and February 10, 1906, which withdrew certain lands in aid of the Salt River Project, are hereby revoked on the following described lands:

Lots 7, 9, 11, 13, through 15, and 17 through 29 of section 24, T. 2 N., R. 6 E., G&SRM.

The effective date of the revocation shall be the date of patent to the State of Arizona.

(b) PATENTS.—The following stipulations shall be included in all patents issued by the Secretary of the Interior for the lands described in subsection (a)(2):

(1) Excepting and reserving to the Salt River Project, a right-of-way for electric transmission and distribution lines and access purposes which shall comprise that portion of the east 300 feet of section 24, lying west of a line extending northerly from a point on the south section line of section 24, being 51 feet west of the southeast corner of section 24 to a point on the north section line of section 24, being 129 feet west of the northeast corner of section 24, as generally depicted on the Salt River Project drawing number C-675-439.88, dated June 1988;

(2) The United States and the Salt River Project shall not be liable whatsoever for damages to any lands conveyed herein, which may be caused by flooding in conjunction with any of the United States' or Salt River Project's existing or future facilities or protective works;

(3) The patentee, successors or assigns of the lands conveyed herein shall be held liable to the United States or the Salt River Project for damages caused by the holder's activities which alter drainage and adversely affect adjacent lands, project facilities or protective works of the United States or the Salt River Project; and

(4) Reserving to the United States a right-of-way for road purposes, as described in Bureau of Land Management A.R. 020234.

ADJUSTMENT OF CORONADO NATIONAL FOREST BOUNDARY

SEC. 508. (a) MODIFICATION OF PROCLAMATION 1121.—Proclamation 1121, dated April 17, 1911, which established the Coronado National Forest boundary as it related to Township 21 South, Range 18 East, G&SRM, is hereby modified to delete sections 27 and 28, which are not under the jurisdiction of the Forest Service, from inclusion within the National Forest System.

(b) MODIFICATION OF PROCLAMATION DATED JULY 19, 1907.—The proclamation dated July 19, 1907, which established the Coronado National Forest boundary as it is related to Township 15 South, Range 17 East, Gila and Salt River Meridian, is hereby modified to delete sections 9, 10, 15 and 22, which are not under the jurisdiction of the Forest Service, from inclusion within the National Forest System.

AUTHORIZATION

SEC. 509. (a) GENERAL APPROPRIATION.—There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this title.

(b) PERSONNEL.—There are hereby authorized to be appropriated such sums as are necessary to provide for at least 5 and more, if necessary, full-time equivalent employees of the Bureau of Land Management to perform resource management and law enforcement activities as part of the administration of the Bureau of Land Management lands in Black Canyon Corridor.

SEC. 510. The Director of the United States Fish and Wildlife Service shall approve or disapprove applications for rights-of-way access across the Kofa National Wildlife Refuge as expeditiously as possible.

TITLE VI—MOUNT GRAHAM INTERNATIONAL OBSERVATORY

ESTABLISHMENT OF THE MOUNT GRAHAM INTERNATIONAL OBSERVATORY SITE

SEC. 601. (a) The Secretary of Agriculture (hereinafter in this title referred to as the "Secretary") shall issue a Special Use Authorization, subject to the terms and conditions of Reasonable and Prudent Alternative Three of the United States Fish and Wildlife Service Biological Opinion, dated July 14, 1988 (hereinafter referred to as "the Biological Opinion"), to the State of Arizona Board of Regents on behalf of the University of Arizona for the establishment of the Mount Graham International Observatory Research Site (hereinafter referred to as the "Site"), which shall, subject to any subsequent biological opinions issued by the United States Fish and Wildlife Service under the Endangered Species Act, and the provisions of this title, include provision for seven telescopes and necessary support facilities, for the purposes of scientific and astronomical research.

(b) The Site referred to in subsection (a) shall include not more than 24 acres within the 150-acre area of the Coronado National Forest, Arizona, as generally depicted on a map entitled, "Mount Graham International Observatory Site", dated July 28, 1988. Copies of the map shall be available for public inspection in the Office of the Chief, Forest Service, United States Department of Agriculture, Washington, District of Columbia, and the Forest Service office located in Tucson, Arizona. Public information.

CONSTRUCTION AUTHORIZATION

SEC. 602. (a) Subject to the terms and conditions of Reasonable and Prudent Alternative Three of the Biological Opinion, the requirements of section 7 of the Endangered Species Act shall be deemed satisfied as to the issuance of a Special Use Authorization for the first three telescopes and the Secretary shall immediately approve the construction of the following items:

(1) three telescopes to be located on Emerald Peak;
(2) necessary support facilities; and
(3) an access road to the Site.

(b) Until the road described in subsection (a)(3) above is constructed, the Secretary shall allow the University of Arizona to use forest roads FR 507 and FR 669 to the extent permitted in the Biological Opinion.

ADDITIONAL TELESCOPE CONSTRUCTION AUTHORIZATION

SEC. 603. (a) The Secretary shall, subject to the requirements of the Endangered Species Act and other applicable law, authorize the construction of four additional telescopes on Emerald Peak.

(b) Consultation under section 7(a)(2) of the Endangered Species Act with respect to construction of the four additional telescopes referred to in subsection (a) shall consider, among other things, all biological data obtained from monitoring the impact of construction of the first three telescopes upon the Mount Graham red squirrel. Authorization by the Secretary for the construction of four additional telescopes shall be consistent with requirements deemed nec-

essary to avoid jeopardizing the continued existence of any species listed under and pursuant to the Endangered Species Act.

MANAGEMENT PLAN

SEC. 604. (a) The University of Arizona, with the concurrence of the Secretary, shall develop and implement a management plan, consistent with the requirements of the Endangered Species Act and with the terms and conditions of Reasonable and Prudent Alternative Three of the Biological Opinion, for the Site.

(b) Such management plan shall include provisions for the construction, operation and maintenance of the Site, access to the Site, and related support facilities.

(c) The management plan shall be included in any Special Use Authorization issued by the Secretary to the University of Arizona.

EXISTING SPECIAL USE AUTHORIZATIONS

SEC. 605. (a) Those Special Use Authorizations now in effect for the Columbine Summer Home Tract area and the Arizona Bible School Organization Camp shall continue, subject to the terms and conditions of the authorizations, for the duration of the term specified in each authorization. Prior to the termination, nonrenewal or modification of those Special Use Authorizations for the areas noted above, the Secretary shall, with the assistance of the United States Fish and Wildlife Service, conduct a biological study to determine the effects of such special use authorizations upon the Mount Graham red squirrel and other threatened or endangered species. In making this determination, the Secretary shall consider the small amount of land under special use authorizations. The biological study shall also involve the participation of representatives from the community of Safford, Arizona, all of the affected parties, and any other appropriate interests. In addition to the biological study, the Secretary shall initiate consultation with the United States Fish and Wildlife Service pursuant to section 7(a)(2) of the Endangered Species Act regarding the termination, nonrenewal, extension or modification of the special use authorizations.

(b) Pursuant to title 2300 of the Forest Service Manual, special use terminations, nonrenewals, or modifications shall not take effect until ten years from the last date of the tenure of existing special use authorizations described in subsection (a). Unless the biological study or the biological opinion issued by the United States Fish and Wildlife Service after consultation under the Endangered Species Act concluded that an earlier date was necessary to avoid jeopardizing the continued existence of the Mount Graham red squirrel or any other threatened or endangered species, such actual terminations, nonrenewals, or modifications shall not take effect before completion of a biological study by the United States Fish and Wildlife Service to begin in the year 2000. This additional study shall be subject to the same requirements and involve the same participants as described in subsection (a).

(c) If, after completion of these studies, termination, modification or nonrenewal of special use authorizations described in subsection (a) are prescribed, the United States Forest Service shall, with the cooperation and approval of the holders of these special use authorizations, develop a relocation plan for such individuals and entities.

(d) Nothing in this section is intended to preclude the termination of special use authorizations for breach by the permittee of terms and conditions of the authorizations.

FINANCIAL RESPONSIBILITIES

SEC. 606. In implementing this title, all costs directly associated with construction and site preparation for telescopes, support facilities, a new access road, the biological monitoring program for the Mount Graham red squirrel as contained in the terms and conditions of Reasonable and Prudent Alternative Three of the Biological Opinion, and the retention of an onsite biologist, shall be funded by the University of Arizona.

ENVIRONMENTAL IMPACT STATEMENTS

SEC. 607. With reference to the construction of the first three telescopes, related facilities, and the access road within the boundaries of the Site described in section 601, the requirements of section 102(2)(c) of the National Environmental Policy Act of 1969 shall be deemed to have been satisfied. The Environmental Impact Statement for the Site, currently in process, shall continue and shall use the information developed to date and any additional appropriate information in analyzing the impacts of the four additional telescopes authorized under section 603 of this title.

TITLE VII—MISSISSIPPI NATIONAL RIVER AND RECREATION AREA

Minnesota. Water. Historic preservation.

Subtitle A—Mississippi National River and Recreation Area

FINDINGS AND PURPOSES

SEC. 701. (a) FINDINGS.—The Congress finds that: 16 USC 460zz.

(1) The Mississippi River Corridor within the Saint Paul-Minneapolis Metropolitan Area represents a nationally significant historical, recreational, scenic, cultural, natural, economic, and scientific resource.

(2) There is a national interest in the preservation, protection and enhancement of these resources for the benefit of the people of the United States.

(3) State and local planning efforts along the River Corridor provide a unique foundation for coordinating Federal, State, and local planning and management processes.

(4) Existing Federal agency programs lack sufficient coordination and financial participation with State and local planning and regulatory authorities to provide for adequate and comprehensive resource management and economic development consistent with the protection of the Mississippi River Corridor's nationally significant resources, and the public use and enjoyment of the area.

(5) The preservation, enhancement, enjoyment, and utilization of the nationally significant resources of the Mississippi River Corridor can be accomplished by a cooperative Federal, State, and local comprehensive planning and management effort.

(b) PURPOSES.—The purposes of this subtitle are:

(1) To protect, preserve and enhance the significant values of the waters and land of the Mississippi River Corridor within the Saint Paul-Minneapolis Metropolitan Area.

(2) To encourage adequate coordination of all governmental programs affecting the land and water resources of the Mississippi River Corridor.

(3) To provide a management framework to assist the State of Minnesota and its units of local government in the development and implementation of integrated resource management programs for the Mississippi River Corridor in order to assure orderly public and private development in the area consistent with the findings of this subtitle.

ESTABLISHMENT OF NATIONAL RIVER AND RECREATION AREA

16 USC 460zz-1.

SEC. 702. (a) ESTABLISHMENT.—There is hereby established the Mississippi National River and Recreation Area (hereinafter in this title referred to as the "Area") which shall consist of the State designated Mississippi Critical Area encompassing that portion of the Mississippi River and adjacent lands generally within the Saint Paul-Minneapolis Metropolitan Area, as depicted on the map entitled Mississippi National River and Recreation Area numbered MI-NRA/80,000 and dated April 1987. The map shall be on file and available for public inspection in the offices of the Department of the Interior in Washington, District of Columbia, and in the offices of the Metropolitan Council of the Twin Cities Area in Saint Paul, Minnesota.

Public information. District of Columbia.

Federal Register, publication.

(b) BOUNDARIES.—The Secretary of the Interior (hereinafter referred to as the "Secretary") shall publish in the Federal Register, as soon as practicable after the enactment of this title a detailed description and map of the boundaries established under subsection (a).

MISSISSIPPI RIVER COORDINATING COMMISSION

16 USC 460zz-2.

SEC. 703. (a) ESTABLISHMENT.—There is hereby established a Mississippi River Coordinating Commission whose purpose shall be to assist Federal, State, and local authorities in the development and implementation of an integrated resource management plan for those lands and waters as specified in section 702. The Commission shall consist of the following 22 members appointed by the Secretary of the Interior:

(1) The Director of the National Park Service, or his designee.

(2) The Chief of the Corps of Engineers, or his designee.

(3) The Director of the Fish and Wildlife Service, or his designee.

(4) Three individuals, from recommendations by the Governor of Minnesota, to represent the Minnesota Department of Natural Resources, Department of Transportation, and Minnesota Environmental Quality Board.

(5) One individual, to represent the Minnesota Historical Society.

(6) One individual, to represent the Metropolitan Council of the Twin Cities Area.

(7) Four elected officials, to represent the cities of Saint Paul and Minneapolis.

(8) Four elected officials, from recommendations by the Governor of Minnesota, to represent the interests of the other affected municipalities and counties.

(9) One individual, to represent the Metropolitan Parks and Open Spaces Commission.

(10) One individual, from recommendations by the Governor of Minnesota, to represent the interests of commercial navigation.

(11) Four individuals, from recommendations by the Governor of Minnesota, to be chosen from the general public.

(b) TERMS.—(1) Except as provided in paragraphs (2) and (3), members (other than ex officio members) shall be appointed for terms of three years.

(2) Of the members first appointed—

(A) Under paragraph (4) of subsection (a):

(i) One shall be appointed for a term of one year.

(ii) One shall be appointed for a term of two years.

(B) Under paragraphs (7) and (8) of subsection (a), one shall be appointed for a term of one year.

(C) Under paragraph (11) of subsection (a):

(i) One shall be appointed for a term of one year.

(ii) One shall be appointed for a term of two years.

(iii) One shall be appointed for a term of four years.

(3) Any member appointed to fill a vacancy occurring before the expiration of the term for which his predecessor was appointed shall be appointed only for the remainder of such term. A member may serve after the expiration of his term until his successor has taken office.

(c) COMPENSATION.—Members of the Commission shall serve without pay. While away from their homes or regular places of business in the performance of services for the Commission, members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, in the same manner as persons employed intermittently in Government service are allowed expenses under section 5703 of title 5 of the United States Code.

(d) CHAIRPERSON.—The Chairperson of the Commission shall be appointed by the Secretary from among the members of the Commission nominated by the Governor of Minnesota to serve for a term of three years.

(e) QUORUM.—Twelve members of the Commission shall constitute a quorum.

(f) MEETINGS.—The Commission shall meet at the call of the Chairman or a majority of its members.

(g) DEVELOPMENT OF POLICIES AND PROGRAMS.—As a coordinator and advisory organization, the Commission shall assist the Secretary, the State of Minnesota and local units of government, endeavoring to use existing Federal, State, regional, and local plans and programs where consistent with the intent and goals of this subtitle, in developing the following:

(1) Policies and programs for the preservation and enhancement of the environmental values of the Area.

(2) Policies and programs for enhanced public outdoor recreation opportunities in the Area.

(3) Policies and programs for the conservation and protection of the scenic, historical, cultural, natural and scientific values of the Area.

(4) Policies and programs for the commercial utilization of the Area and its related natural resources, consistent with the protection of the values for which the Area is established as the Mississippi National River and Recreation Area.

(h) STAFF.—The Secretary shall provide the Commission with such staff and technical assistance as the Secretary, after consultation with the Commission, considers appropriate to enable the Commission to carry out its duties. Upon request of the Secretary, any Federal agency may provide information, personnel, property, and services on a reimbursable basis, to the Commission to assist in carrying out its duties under this subtitle. The Secretary may accept the services of personnel detailed from the State of Minnesota or any political subdivision of the State and may reimburse the State or such political subdivision for such services. The Commission may procure temporary and intermittent services under section 3109(b) of title 5 of the United States Code.

(i) PLAN.—Within 3 years after enactment of this Act, the Commission shall submit to the Secretary and the Governor of Minnesota a comprehensive plan for land and water use measures for the area to be developed and implemented by the responsible Federal agencies, the State of Minnesota, and local political subdivisions. The plan shall endeavor to use existing Federal, State, regional, and local plans and where consistent with the intent and goals of this subtitle shall coordinate those plans to present a unified comprehensive plan for the Area. The plan shall include but not be limited to each of the following:

(1) A program for management of existing and future land and water use which—

(A) considers and details the application of a variety of land and water protection and management techniques;

(B) includes a policy statement for the use of Federal, State, and local regulatory responsibilities to manage land and water resources in a manner consistent with the purposes of this subtitle; and

(C) recognizes existing economic activities within the area and provides for the management of such activities, including barge transportation and fleeting and those indigenous industries and commercial and residential developments which are consistent with the findings and purposes of this subtitle.

(2) A program providing for coordinated implementation and administration of the plan with proposed assignment of responsibilities to the appropriate governmental unit at the Federal, State, regional and local levels, including each of the following:

(A) Ways in which local, regional, State, and Federal policies and permits may better be coordinated to the goals and policies of this subtitle.

(B) A financial plan to provide and support the public improvements and services recommended in the plan; and a mechanism for coordinating local, regional, State, and Federal planning to promote the purposes of this subtitle.

(C) How the goals and policies of the management plan will be compatible with the existing channel maintenance program on the Mississippi River, and the existing Federal, State, regional, and local programs and goals on the Minnesota and Saint Croix Rivers.

(D) The provisions of the Clean Water Act and the Safe Drinking Water Act (title XIV of the Public Health Service Act) which pertain to the surface waters of the Mississippi National River and Recreation Area.

(3) A coordination and consistency component which details the ways in which local, State, and Federal programs and policies may best be coordinated to promote the purposes of this subtitle.

(4) A program for the coordination and consolidation, to the extent feasible, of permits that may be required by Federal, State, and local agencies having jurisdiction over land and waters within the Area.

(j) DEVELOPMENT OF PLAN.—

(1) In developing the plan the Commission shall consult on a regular basis with appropriate officials of any local government or Federal or State agency which has jurisdiction over lands and waters within the Area.

(2) In developing the plan the Commission shall consult with interested conservation, business, professional and citizen organizations.

(3) In developing the plan the Commission shall conduct public hearings within the Area, and at such other places as may be appropriate, for the purposes of providing interested persons with the opportunity to testify with respect to matters to be addressed by the plan.

(k) APPROVAL OF PLAN.—The Commission shall submit the plan to the Secretary and the Governor of Minnesota, for their review. The Governor shall act on the plan within 90 days and shall submit the plan to the Secretary along with any recommendations. The Secretary shall approve or disapprove the plan within 90 days. In reviewing the plan the Secretary shall consider each of the following:

(1) The adequacy of public participation.

(2) Assurances of plan implementation from State and local officials.

(3) The adequacy of regulatory and financial tools that are in place to implement the plan.

(4) Plan provisions for continuing oversight of the plan implementation by the Secretary and the Governor of Minnesota.

If the Secretary disapproves the plan, he shall, within 60 days after the date of such disapproval advise the Governor and Commission in writing of the reasons therefor, together with his recommendations for revision. The Commission shall within 90 days of receipt of such notice of disapproval revise and resubmit the plan to the Governor for his review. Following his review, the Governor shall submit the revised plan, together with any recommendations he may have, to the Secretary who shall approve or disapprove the revision within 60 days.

(l) INTERIM PROGRAM.—Prior to the adoption of the Commission's plan, the Secretary and the Commission shall monitor all land and water use activities within the Area to ensure that said activities are in keeping with the purposes of this subtitle, and shall advise and cooperate with the appropriate Federal, State, and local governmental entities to minimize adverse impacts on the values for which the Area is established.

(m) COMMISSION REVIEW.—The Commission shall assist the Secretary and the Governor of Minnesota in reviewing and monitoring

the implementation of the plan by Federal, State, and local governmental agencies having jurisdiction in the Area. The Commission may, after providing, for public comment and subject to the review and approval, as set forth in subsection (k), modify said plan, if the Commission determines that such modification is necessary to further the purposes of this subtitle.

(n) TERMINATION OF COMMISSION.—The Commission shall terminate on the date 10 years after the enactment of this subtitle. Following termination of the Commission the State is authorized to establish a State Commission which shall exercise the functions and authorities described in subsection (m). The Secretary of the Interior and the Secretary of the Army are authorized and directed to participate as members of such State Commission.

FEDERAL LANDS AND DEVELOPMENTS

16 USC 460zz-3.

SEC. 704. (a) LANDS.—Notwithstanding any other provision of law, any Federal property located within the boundaries of the Area as identified on the map referred to in section 702, is hereby transferred without consideration to the administrative jurisdiction of the Secretary for use by him in implementing the purposes of this subtitle, except as follows:

(1) Facilities and lands administered by the Secretary of the Army through the Corps of Engineers for navigational and flood control purposes may continue to be used by the Secretary of the Army subject to the provisions of subsection (b).

(2) Federal property on which there is located any building or other structure which is in use (as of the enactment of this subtitle) or for which a lease is in effect shall not be transferred under this subsection without the concurrence of the administering agency.

(b) FEDERAL AGENCY ACTIVITIES.—

(1) IN GENERAL.—Before any department, agency, or instrumentality of the United States issues or approves any license or permit for any facility or undertaking within the Area and before any such department, agency, or instrumentality commences any undertaking or provides any Federal assistance to the State or any local governmental jurisdiction for any undertaking within the Area, the department, agency, or instrumentality shall notify the Secretary. The Secretary shall review the proposed facility or undertaking to assess its compatibility with the plan approved under section 703. The Secretary shall make a determination with respect to the compatibility or incompatibility of a proposed facility or undertaking within 60 days of receiving notice under this subsection. If the Secretary determines that the proposed facility or undertaking is incompatible with the plan, he shall immediately notify such Federal department, agency, or instrumentality and request such department, agency, or instrumentality to take the actions necessary to conform the proposed facility or undertaking to the plan. The Federal department, agency, or instrumentality shall, within 60 days after receiving the Secretary's request, notify the Secretary of the specific decisions made in response to the request. To the extent that such department, agency, or instrumentality does not then conform such facility or undertaking to the request of the Secretary, the Secretary is directed to notify the Congress in writing of the incompatibility of such

facility or undertaking with the plan approved under section 703.

(2) NAVIGATION.—(A) Nothing in this subtitle shall be deemed to impact or otherwise affect such existing statutory authority as may be vested in the Secretary of the Department in which the Coast Guard is operating or the Secretary of the Army for the maintenance of navigation aids and navigation improvements: *Provided,* That in exercising such authority the Secretary of the Army, through the Corps of Engineers and the Secretary of the Department in which the Coast Guard is operating, shall not take any action that would have a direct and adverse effect on the values for which the Area is established unless such action is essential for the protection of public health or safety or is necessary for national security or defense.

(B) In planning for the development and public use of the Area, the Secretary shall consult with the Secretary of the Army to assure that public use of adjacent or related water resource developments or flood control projects and that of the Area are compatible.

ADMINISTRATION

SEC. 705. (a) AUTHORITIES.—The Secretary shall administer the Area in accordance with this subtitle. Only those lands within the Area under the direct jurisdiction of the Secretary shall be administered in accordance with the provisions of law generally applicable to units of the National Park System. Our lands and waters within the Area shall be administered under State and local laws. In the case of any conflict between the provisions of this subtitle and such generally applicable provisions of law, the provisions of this subtitle shall govern. 16 USC 460zz-4.

(b) STATE AND LOCAL AUTHORITIES.—The Secretary shall consult and cooperate with the State of Minnesota and its political subdivisions concerning the development and management of Federal lands within the Area.

(c) LAND ACQUISITION.—Within the boundaries of the Area, the Secretary is authorized, in consultation with the State of Minnesota and the affected local governmental unit, to acquire land and interests therein by donation, purchase with donated or appropriated funds, exchange or transfer, except as provided in paragraphs (1) and (2).

(1) Any lands or interests therein owned by the State of Minnesota or any political subdivision thereof may be acquired only by donation. Gifts and property.

(2) Privately owned lands or interests therein may be acquired only with the consent of the owner thereof unless the Secretary makes a determination pursuant to subsection (d)(2). In no event may the Secretary use the authority provided in subsection (d)(3) to acquire land or interests in land without the owner's consent for any use exercised prior to January 1, 1987, that is consistent with the plan under section 703.

(d) REVIEW OF LOCAL PLANS.—

(1) AUTHORITY.—For the purpose of protecting the integrity of the Area the Secretary shall cooperate and consult with the State and the appropriate political subdivisions to review all relevant local plans, laws and ordinances to determine whether they substantially conform to the plan approved pursuant to

Contracts.
State and local governments.

section 703. Additionally the Secretary shall in consultation with the State and its political subdivisions determine the adequacy of enforcement of such plans, laws, and ordinances, including review of building permits and zoning variances granted by local governments, and amendments to local laws and ordinances. The Secretary shall enter into agreements with the State or its political subdivisions to provide, on behalf of the Secretary, professional services necessary for the review of such local plans, laws, and ordinances, and of amendments thereto and variances therefrom, and for the monitoring or the enforcement thereof by local governments having jurisdiction over any areas to which the management plan applies.

(2) PURPOSE.—The purpose of review under paragraph (1) shall be to determine the degree to which actions by local governments are compatible with the purposes of this title. Following the approval of the plan under section 703 and after a reasonable period of time has elapsed, upon a finding by the Secretary that such plans, laws and ordinances are nonexistent, are otherwise not in conformance with the plan or are not being enforced in a manner consistent with the plan, and if the Secretary detemines that there is no feasible alternative available to prevent uses which would be substantially incompatible with the plan, the Secretary may exercise the authority available to him under the provisions of paragraph (3).

(3) ENFORCEMENT.—In those sections of the Area where local plans, laws and ordinances, or amendments thereto or variances therefrom are found by the Secretary not to be in conformance with the plan approved pursuant to section 703, or are not being enforced in a manner consistent with the plan, the Secretary shall notify the local government authority concerned. The Secretary may withhold from the local government authority concerned or, require reimbursement of, (A) Federal funds made available for implementation of the plan, or (B) any grant under section 706(a) if the local plan, law, ordinance, amendment, or variance is not modified to conform with the plan and enforced in such manner as will carry out the purposes of this subtitle. If the State has not initiated, within a 60-day period, such judicial or other action as necessary to ensure conformity with the plan, and if noncompliance with the plan or failure to enforce the plan continues after the end of such 60-day period, the Secretary may acquire, subject to appropriations, land or interests in land under this subsection without the consent of the owner thereof. Land and interests in land acquired pursuant to this subsection shall be restricted to the geographical area of the local government unit failing to conform with the plan and shall be limited to those lands clearly and directly required, in the judgment of the Secretary, for the protection of the Area in a manner compatible with the plan.

(e) RETENTION BY OWNER OF USE AND OCCUPANCY.—The Secretary may permit the owner or owners of any improved residential property acquired by the Secretary under this subtitle to retain a right of use and occupancy of the property for noncommerical residential uses not incompatible with the plan approved under section 703. The provisions of subsection (c), (d), and (e) of section 102 of the Act of August 15, 1978 (16 U.S.C. 460ii-1) shall apply to the retention of such rights, except that for purposes of this subtitle, the applicable date shall be January 1, 1987 in lieu of January 1, 1975 and the

purposes of this subtitle shall be substituted for the purposes referred to in section 102(d) of such Act.

STATE AND LOCAL ASSISTANCE AND JURISDICTION

SEC. 706. (a) GRANTS.—Upon approval of the plan under section 703, the Secretary is authorized to make grants to the State of Minnesota, or its political subdivisions, to cover not more than 50 percent of the cost of acquisition and development within the Area of lands and waters or interests therein in a manner consistent with the purposes of this subtitle. 16 USC 460zz-5.

(b) COOPERATIVE AGREEMENTS.—The Secretary is authorized to enter into cooperative agreements with the State of Minnesota or any political subdivision thereof pursuant to which he may assist in the planning for and interpretation of non-Federal publicly owned lands within the Area.

(c) TECHNICAL ASSISTANCE.—To enable the State of Minnesota and its political subdivisions to develop and implement programs compatible with the plan, the Secretary shall provide such technical assistance to the State and its political subdivisions as he deems appropriate.

(d) STATE AND LOCAL JURISDICTION.—Nothing in this subtitle shall diminish, enlarge, or modify any right of the State of Minnesota or any political subdivision thereof, to exercise civil and criminal jurisdiction or to carry out State fish and wildlife laws, rules, and regulations within the Area, or to tax persons, corporations, franchises, or private property on the lands and waters included in the Area.

AUTHORIZATION OF APPROPRIATIONS

SEC. 707. There is authorized to be appropriated such sums as may be necessary to carry out this subtitle. 16 USC 460zz-6.

Subtitle B—Tri-Rivers Management

TRI-RIVERS MANAGEMENT BOARD

SEC. 711. (a) FEDERAL REPRESENTATIVES.—In furtherance of the integrated management of those portions of the Mississippi, Saint Croix, and Minnesota Rivers within the Saint Paul-Minneapolis Metropolitan Area, the Secretary of the Interior and the Secretary of the Army are authorized and directed to appoint representatives to a Tri-Rivers Management Board (hereinafter referred to as the "Board"), or any similar organization, which may be established by the State of Minnesota to assist in the development and implementation of consistent and coordinated land use planning and management policy for such portions of such rivers. 16 USC 460zz-11.

(b) PERSONNEL.—Upon request of the Board, the Secretary of the Interior and the Secretary of the Army may detail, on a reimbursable basis, any personnel to the Board.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is hereby authorized to carry out the purposes of this subtitle the sum of $100,000 annually; except that the Federal contribution to the Board shall not exceed one-third of the annual operating costs of the Board.

TITLE VIII—UNITED STATES CAPITOL PRESERVATION COMMISSION

UNITED STATES CAPITOL PRESERVATION COMMISSION

40 USC 188a.

SEC. 801. (a) ESTABLISHMENT AND PURPOSES.—There is established in the Congress the United States Capitol Preservation Commission (hereinafter in this title referred to as the "Commission") for the purposes of—

(1) providing for improvements in, preservation of, and acquisitions for, the United States Capitol;

(2) providing for works of fine art and other property for display in the United States Capitol and at other locations under the control of the Congress; and

(3) conducting other activities that directly facilitate, encourage, or otherwise support any purposes specified in paragraph (1) or (2).

(b) MEMBERSHIP.—The Commission shall be composed of the following Members of Congress:

(1) The President pro tempore of the Senate and the Speaker of the House of Representatives, who shall be co-chairmen.

(2) The Chairman and Vice-Chairman of the Joint Committee on the Library.

(3) The Chairman and the ranking minority party member of the Committee on Rules and Administration of the Senate, and the Chairman and the ranking minority party member of the Committee on House Administration of the House of Representatives.

(4) The majority leader and the minority leader of the Senate.

(5) The majority leader and the minority leader of the House of Representatives.

(6) The Chairman of the Commission on the Bicentennial of the United States Senate and the Chairman of the Commission of the House of Representatives Bicentenary, to be succeeded upon expiration of such commissions, by a Senator or Member of the House of Representatives, as appropriate, appointed by the Senate or House of Representatives co-chairman of the Commission, respectively.

(7) One Senator appointed by the President pro tempore of the Senate and one Senator appointed by the minority leader of the Senate.

(8) One Member of the House of Representatives appointed by the Speaker of the House of Representatives and one Member of the House of Representatives appointed by the minority leader of the House of Representatives.

(c) DESIGNEES.—Each member of the Commission specified under subsection (b) (other than a member under paragraph (7) or (8) of such subsection) may designate a Senator or Member of the House of Representatives, as the case may be, to serve as a member of the Commission in place of the member so specified.

(d) ARCHITECT OF THE CAPITOL.—In addition to the members under subsection (b), the Architect of the Capitol shall participate in the activities of the Commission, ex officio, and without the right to vote.

(e) STAFF SUPPORT AND ASSISTANCE.—The Senate Commission on Art, the House of Representatives Fine Arts Board, and the Ar-

chitect of the Capitol shall provide to the Commission such staff support and assistance as the Commission may request.

AUTHORITY OF COMMISSION TO ACCEPT GIFTS AND CONDUCT OTHER TRANSACTIONS RELATING TO WORKS OF FINE ART AND OTHER PROPERTY

SEC. 802. (a) IN GENERAL.—In carrying out the purposes referred to in section 801(a) the Commission is authorized— 40 USC 188a-1.

(1) to accept gifts of works of fine art, gifts of other property, and gifts of money; and

(2) to acquire property, administer property, dispose of property, and conduct other transactions related to such purposes.

(b) TRANSFER AND DISPOSITION OF WORKS OF FINE ART AND OTHER PROPERTY.—The Commission shall, with respect to works of fine art and other property received by the Commission—

(1) upon agreement with the Joint Committee on the Library, the Senate Commission on Art, or the House of Representatives Fine Arts Board, as the case may be, transfer such property to the entity with which the agreement is made;

(2) if a transfer described in paragraph (1) is not appropriate, dispose of the work of fine art by sale or other transaction; and

(3) in the case of property that is not directly related to the purposes referred to in section 801(a), dispose of such property by sale or other transaction.

(c) REQUIREMENTS FOR CONDUCT OF TRANSACTIONS.—In conducting transactions under this section, the Commission shall—

(1) accept money only in the form of a check or similar instrument made payable to the Treasury of the United States and shall deposit any such check or instrument in accordance with section 803;

(2) in making sales and engaging in other property transactions, take into consideration market conditions and other relevant factors; and

(3) assure that each transaction is directly related to the purposes referred to in section 801(a).

CAPITOL PRESERVATION FUND

SEC. 803. (a) IN GENERAL.—There is established in the Treasury a fund, to be known as the "Capitol Preservation Fund" (hereafter in this title referred to as the "fund"), which shall consist of (1) amounts deposited, and interest and proceeds credited, under subsection (d), (2) obligations obtained under subsection (e), and (3) all surcharges received by the Secretary of the Treasury from the sale of coins minted under the Bicentennial of the United States Congress Commemorative Coin Act. 40 USC 188a-2.

(b) AVAILABILITY OF FUND.—The fund shall be available to the Commission subject to the approval, except for the purchase of fine art and antiques, of the Committees on Appropriations of the House of Representatives and Senate, respectively—

(1) for payment of transaction costs and similar expenses incurred under section 802;

(2) for improvement and preservation projects for the United States Capitol;

(3) for disbursement with respect to works of fine art and other property as provided in section 802; and

(4) for such other payments as may be required to carry out section 801 or section 802.

(c) TRANSACTION COSTS AND PROPORTIONALITY.—In carrying out this section, the Commission shall, to the extent practicable, take such action as may be necessary—

(1) to minimize disbursements under subsection (b)(1); and

(2) to equalize disbursements under subsection (b) between the Senate and the House of Representatives.

(d) DEPOSITS, CREDITS, AND DISBURSEMENTS.—The Commission shall deposit in the fund gifts of money and proceeds of transactions under section 802. The Secretary of the Treasury shall credit to the fund the interest on, and the proceeds from sale or redemption of, obligations held in the fund. Disbursements from the fund shall be made on vouchers approved by the Commission and signed by the co-chairmen.

(e) INVESTMENTS.—The Secretary of the Treasury shall invest any portion of the fund that, as determined by the Commission, is not required to meet current withdrawals. Each investment shall be made in an interest bearing obligation of the United States or an obligation guaranteed as to principal and interest by the United States that, as determined by the Commission has a maturity suitable for the fund. In carrying out this subsection, the Secretary may make such purchases, sales, and redemptions of obligations as may be approved by the Commission.

AUDITS BY THE COMPTROLLER GENERAL

Reports.
40 USC 188a-3.

SEC. 804. The Comptroller General shall conduct annual audits of the transactions of the Commission and shall report the results of each audit to the Congress.

ADVISORY BOARDS

40 USC 188a-4.

SEC. 805. The Commission may establish appropriate boards to provide advice and assistance to the Commission and to further the purposes of the Commission. The boards shall be composed of members (including chairmen) who shall be appointed by the Commission from public and private life and shall serve at the pleasure of the Commission and each co-chairman of the Commission may appoint one member to any such board. The members of boards under this section may be reimbursed for actual and necessary expenses incurred in the performance of the duties of the boards, at the discretion of the Commission.

DEFINITION

40 USC 188a-5.

SEC. 806. As used in this title, the term "Member of the House of Representatives" means a Representative in, or a Delegate or Resident Commissioner to, the Congress.

TITLE IX—SENATE PROVISIONS

PROVISIONS RELATING TO THE SENATE COMMISSION ON ART

SEC. 901. (a) INCORPORATION.—The provisions of Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) (as amended by this section) and Senate Resolution 95 (Ninety-second Congress;

40 USC 188b—188b-42, 40 USC 188b-5.

agreed to April 1, 1971) (as amended by this section) are hereby incorporated by reference.

(b) TECHNICAL CHANGES.—Senate Resolution 382 (Ninetieth Congress; agreed to October 1, 1968) is amended—

(1) in section 1(b) by adding at the end "The Secretary of the Senate shall be the Executive Secretary of the Commission"; 40 USC 188b.

(2) in section 2(a)— 40 USC 188b-1.

(A) by striking out "and protect" and inserting in lieu thereof "protect, and make known"; and

(B) by striking out "within the Senate wing of the Capitol", and inserting in lieu thereof "within the Senate wing of the United States Capitol, any Senate Office Buildings"; and

(3) in section 1(a), by striking out "Commission on Art and Antiquities of the United States Senate" and inserting in lieu thereof "Senate Commission on Art".

(c) NAME CHANGE.—Senate Resolution 95 (Ninety-second Congress, agreed to April 1, 1971) is amended by striking out "Commission on Art and Antiquities of the United States Senate" and inserting in lieu thereof "Senate Commission on Art". 40 USC 185b-5.

(d) SENATE RULEMAKING POWER.—The provisions of this section are enacted by the Congress— 40 USC 188b note.

(1) as an exercise of the rulemaking power of the Senate, and as such they shall be considered as part of the rules of the Senate, and such rules shall supersede other rules only to the extent that they are inconsistent therewith; and

(2) with full recognition of the constitutional right of the Senate to change such rules at any time, in the same manner, and to the same extent as in the case of any other rule of the Senate.

TITLE X—HOUSE OF REPRESENTATIVES PROVISIONS

HOUSE OF REPRESENTATIVES FINE ARTS BOARD

SEC. 1001. (a) ESTABLISHMENT AND AUTHORITY.—There is established in the House of Representatives a Fine Arts Board (hereafter in this title referred to as the "Board"), comprised of the House of Representatives members of the Joint Committee on the Library The chairman of the Committee on House Administration of the House of Representatives shall be the chairman of the Board. The Board, in consultation with the House office building commission, shall have authority over all works of fine art, historical objects, and similar property that are the property of the Congress and are for display or other use in the House of Representatives wing of the Capitol, the House of Representatives Office Buildings, or any other location under the control of the House of Representatives. 40 USC 188c.

(b) CLERK OF THE HOUSE OF REPRESENTATIVES.—Under the supervision and direction of the Board, the Clerk of the House of Representatives shall be responsible for the administration, maintenance, and display of the works of fine art and other property referred to in subsection (a).

(c) ARCHITECT OF THE CAPITOL.—The Architect of the Capitol shall provide assistance to the Board and to the Clerk of the House of Representatives in the carrying out of their responsibilities under this title.

ACCEPTANCE OF GIFTS ON BEHALF OF THE HOUSE OF REPRESENTATIVES

40 USC 188e-1.

SEC. 1002. The Board is authorized to accept, on behalf of the House of Representatives, gifts of works of fine art, historical objects, and similar property, including transfers from the United States Capitol Preservation Commission under section 802, for display or other use in the House of Representatives wing of the Capitol, the House of Representatives Office Buildings, or any other location under the control of the House of Representatives.

Approved November 18, 1988.

LEGISLATIVE HISTORY—S. 2840 (S. 252) (S. 2352) (H.R. 4519):

HOUSE REPORTS: No. 100-744, Pt. 1, accompanying H.R. 4519 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Veterans' Affairs).

SENATE REPORTS: No. 100-525 accompanying S. 252 (Comm. on Energy and Natural Resources), No. 100-553 accompanying S. 2352 (Comm. on Energy and Natural Resources), and No. 100-539 accompanying H.R. 4519 (Comm. on Energy and Natural Resources).

CONGRESSIONAL RECORD, Vol. 134 (1988):
July 27, H.R. 4519 considered and passed House.
Oct. 13, S. 2840 considered and passed Senate.
Oct. 20, considered and passed House, amended. Senate concurred in House amendments.

WEEKLY COMPILATION OF PRESIDENTIAL DOCUMENTS, Vol. 24 (1988):
Nov. 18, Presidential statement.

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Public Law 100-697
100th Congress

An Act

To establish a national Federal program effort in close collaboration with the private sector to develop as rapidly as possible the applications of superconductivity to enhance the Nation's economic competitiveness and strategic well-being, and for other purposes.

Nov. 19, 1988
[H.R. 3048]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

National Superconductivity and Competitiveness Act of 1988.
15 USC 5201 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Superconductivity and Competitiveness Act of 1988".

15 USC 5201.

SEC. 2. FINDINGS AND PURPOSES.

(a) FINDINGS.—The Congress finds that—

(1) recent discoveries of high-temperature superconducting materials could result in significant new applications of these materials in such areas as microelectronics, computers, power systems, transportation, medical imaging, and nuclear fusion, yet most potential applications may well lie beyond our ability to predict them;

(2) full application of the new superconductors is expected to require 10 to 20 years, thus calling for long-term commitments by the public and private sector to appropriate research and development programs;

(3) the Nation's economic competitiveness and strategic well-being depend greatly on the development and application of critical advanced technologies such as those anticipated to evolve from the new superconducting materials;

(4) the United States manufacturing industries confront strong competition in both domestic and world markets as other countries are increasingly taking advantage of modern technology and production techniques and innovative management focused on quality;

(5) whereas we have as a Nation been highly successful in the conduct of basic research in a variety of scientific areas, including superconductivity, other nations have been highly successful in the commercial and military application of the results of such fundamental research;

(6) if the United States is to begin its competitive advantage, it must commit sufficient long-term resources to solving processing and manufacturing problems in parallel with basic research and development;

(7) Federal agencies have responded aggressively to this exciting challenge by reprogramming funds to basic superconductivity research while informally coordinating their efforts to avoid unnecessary duplication; and further commitment of Federal funding and efforts directed to developing manufacturing, materials processing, and fabrication tech-

nologies is essential so that these activities may be conducted in parallel;

(8) successful development and application of the new superconducting materials will require close collaboration between the Federal Government and the industrial and academic components of the private sector, as well as coordinating among the Federal departments and agencies involved in research and development on superconductors;

(9) a committed Federal program effort with appropriate long-term goals, priorities, and adequate resources is necessary for the rapid development and application of the new superconducting materials; and

(10) a national program should serve as a test of new agency authorities directed at technological competitiveness such as those provided to the Department of Energy.

(b) PURPOSES.—The purposes of this Act are—

(1) to establish a 5-year national action plan to research and develop new high-temperature superconducting materials with appropriate goals and priorities;

(2) to designate the appropriate roles, mechanisms, and responsibilities of various Federal departments and agencies in implementing such a national research and development action plan.

15 USC 5202.

SEC. 3. NATIONAL ACTION PLAN ON SUPERCONDUCTIVITY RESEARCH AND DEVELOPMENT.

(a) ESTABLISHMENT.—(1) The Director of the Office of Science and Technology Policy shall establish a 5-year National Action Plan on Advanced Superconductivity Research and Development (hereinafter in this Act referred to as the "Superconductivity Action Plan").

(2) The Office of Science and Technology Policy shall coordinate the development of the Superconductivity Action Plan and any recommendations required by this Act with the National Critical Materials Council and the National Commission on Superconductivity.

(b) CONTENT AND SCOPE.—The Superconductivity Action Plan shall include—

(1) goals and priorities for advanced superconductivity research and development to be carried out by individual departments and agencies and organizational elements therein;

(2) the assignment of responsibility for the conduct of advanced superconductivity research and development among the departments, agencies, and organization elements therein;

(3) recommendation of proposed funding levels for activities relating to superconductivity of the 5 years following the date of enactment of this Act for each of the participating departments, agencies, and organizational elements therein; and

(4) proposals for the participation by industry and academia in the planning and implementation of the Superconductivity Action Plan.

(c) ACTION PLAN REPORT.—The Office of Science and Technology Policy, in conjunction with the National Critical Materials Council, shall submit a report detailing the Superconductivity Action Plan to the Committee on Science, Space, and Technology of the House of Representatives, and to the Committees on Energy and Natural

Resources, and Commerce, Science, and Transportation of the Senate, within 9 months after the date of enactment of this Act.

(d) UPDATE REPORTS.—The Office of Science and Technology Policy, with the assistance of the National Critical Materials Council as specified in the National Critical Materials Act of 1984 (30 U.S.C. 1801 et seq.), shall prepare an annual report setting forth and evaluating the progress of the Superconductivity Action Plan. This report shall include a description of the amount of funds expended in the previous year by all Federal departments and agencies involved with superconductivity. This report shall be submitted with the President's annual budget request to the Committee on Science, Space, and Technology of the House of Representatives, and to the Committees on Energy and Natural Resources, and Commerce, Science, and Transportation of the Senate.

SEC. 4. DEPARTMENT OF ENERGY. 15 USC 5203.

The Secretary of Energy shall conduct a program in superconductivity research and development. Within 180 days after the date of enactment of this Act, and for the two succeeding years thereafter, the Secretary shall submit annual reports on the implementation of technology transfer activities under the Stevenson-Wydler Technology Innovation Act of 1980 and related legislation with respect to superconductivity research and development to the Committee on Science, Space, and Technology of the House of Representatives and to the Committee on Energy and Natural Resources of the Senate. Such report shall include recommendations for improvements in the technology transfer between government and industry, and in the management of property developed or made at the National Laboratories. Reports.

SEC. 5. NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY. 15 USC 5204.

In pursuance of the goals of this Act, the National Institute of Standards and Technology shall promote fundamental research and materials standards to accelerate the use and application of the new superconducting materials, and shall utilize the Superconductivity Center Focusing on Electronic Applications at the National Institute of Standards and Technology in Boulder, Colorado.

SEC. 6. NATIONAL SCIENCE FOUNDATION. 15 USC 5205.

The National Science Foundation shall promote fundamental research in pursuance of the goals of this Act.

SEC. 7. NATIONAL AERONAUTICS AND SPACE ADMINISTRATION. 15 USC 5206.

The National Aeronautics and Space Administration shall utilize existing programs in technology transfer, aeronautics and space technology, and space commercialization to promote the commercial applications of high-temperature superconductors, including applications relating to thin film technology, communications technology, sensors, space power, and propulsion.

SEC. 8. THE DEPARTMENT OF DEFENSE. 15 USC 5207.

(a) FOCUS OF RESEARCH.—In conformance with the Superconductivity Action Plan, the Secretary of Defense, in the superconductivity research and development activities of the Department of Defense, shall give emphasis to fundamental research, materials processing, and applications of new superconducting materials.

(b) ADDITIONAL ACTIVITIES.—In conducting research under subsection (a), the Secretary of Defense shall—

(1) systematically define the engineering parameters for high-temperature superconducting materials; and

(2) conduct the necessary development, engineering, and operational prototype testing considered appropriate to the overall mission of the Department of Defense. Such operational prototype testing shall, where appropriate, utilize criteria developed by the Defense Advanced Research Projects Agency.

(c) DEFENSE ADVANCED RESEARCH PROJECTS AGENCY.—The Director of the Defense Advanced Research Projects Agency shall, in conformance with the Superconductivity Action Plan, conduct activities to—

(1) augment, as appropriate, basic and applied superconductivity research conducted in other Federal agencies and industry; and

(2) develop criteria for operational prototype testing within the Department of Defense.

15 USC 5208.

SEC. 9. INTERNATIONAL COOPERATION.

President of U.S.

The President, as part of the Superconductivity Action Plan, shall establish a program of international cooperation in the conduct of fundamental and basic research on superconducting materials. Such program of international cooperation shall include the exchange of basic information and data, as well as the development of international standards for the use and application of superconducting materials.

15 USC 5209.

SEC. 10. TECHNOLOGY TRANSFER.

(a) PROMOTION.—In pursuance of the goals of this Act, all Federal departments and agencies shall conduct technology transfer activities as appropriate to the overall mission of each department or agency to—

(1) complement basic superconductivity research by promoting the rapid development of manufacturing and processing technologies necessary for the commercialization of high-temperature superconductors; and

(2) promote collaborative arrangements and consortia of industry (which shall include small business) in order to lower the barriers to deployment of advanced high-temperature superconductor technology; such consortia to also include, as appropriate, universities and independent research organizations.

(b) IMPEDIMENTS TO COMMERCIALIZATION.—The Director of the Office of Science and Technology Policy, in collaboration with the Secretary of Commerce and the Secretary of Energy, shall identify those Federal policies and regulations which impede the ability of the private sector to undertake long-term investment programs to commercialize superconductivity applications.

SEC. 11. MANUEL LUJAN, JR. NEUTRON SCATTERING CENTER.

(a) RENAMING FACILITY.—The Los Alamos Neutron Scattering Center is hereby redesignated as the "Manuel Lujan, Jr. Neutron Scattering Center".

(b) REFERENCES.—Any reference in any law, regulation, map, record, or other document of the United States to the Los Alamos Neutron Scattering Center shall be considered a reference to the "Manuel Lujan, Jr. Neutron Scattering Center".

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 3048:

HOUSE REPORTS: No. 100-900 (Comm. on Science, Space, and Technology).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 20, considered and passed House.
Oct. 5, considered and passed Senate, amended.
Oct. 21, House concurred in certain Senate amendments with an amendment and disagreed to another. Senate receded and concurred in House amendment.

Public Law 100-698
100th Congress

An Act

Nov. 19, 1988
[H.R. 3313]

To establish in the Department of the Interior the Southwestern Pennsylvania Heritage Preservation Commission, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

16 USC 461 note.

SECTION 1. FINDINGS AND PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the iron and steelmaking, coal, and transportation industries and the labor of their workers contributed significantly to America's movement westward, allowed for the growth of the Nation's cities, and helped fuel and move its industrial growth and development and establish its standing among nations of the world;

(2) there are only a few recognized historic sites that are devoted to portraying the development and growth of heavy industry and the industrial labor movement in America; and

(3) the 9-county region in southwestern Pennsylvania known as the Allegheny Highlands contain significant examples of iron and steel, coal, and transportation industries, and is a suitable region in which the story of American industrial heritage can be appropriately interpreted to present and future generations.

(b) PURPOSE.—In furtherance of the findings set forth in subsection (a) of this section, it is the purpose of this Act to establish, through a commission representing all concerned levels of government, the means by which the cultural heritage of the 9-county region in southwestern Pennsylvania associated with the three basic industries of iron and steel, coal, and transportation may be recognized, preserved, promoted, interpreted, and made available for the benefit of the public.

16 USC 461 note.

TITLE I—SOUTHWESTERN PENNSYLVANIA HERITAGE PRESERVATION COMMISSION

SEC. 101. ESTABLISHMENT.

(a) IN GENERAL.—To carry out the purpose of this title and to implement, as appropriate, the document which is entitled "Action Plan—America's Industrial Heritage Project" and which is dated August 1987, there is hereby established in the Department of the Interior the Southwestern Pennsylvania Heritage Preservation Commission (hereinafter referred to as the "Commission"). The Commission shall exercise the responsibilities and authorities herein conferred on the Commission with respect to that region in southwestern Pennsylvania comprising the counties of Bedford, Blair, Cambria, Fayette, Fulton, Huntingdon, Indiana, Somerset,

and Westmoreland. The Commission shall consist of 21 members, appointed by the Secretary of the Interior (hereinafter referred to as the "Secretary") as follows:

(1) 2 members appointed from recommendations submitted by the Governor of Pennsylvania of which one shall represent the interests of the Pennsylvania Historical and Museum Commission; and the other shall represent the Pennsylvania Department of Community Affairs;

(2) 9 members appointed from recommendations submitted by the county commissioners of the Pennsylvania counties of Bedford, Blair, Cambria, Fayette, Fulton, Huntingdon, Indiana, Somerset, and Westmoreland, of which one member shall be appointed from the recommendations of each such county from groups and individuals representing historic preservation, tourism promotion, business and industry and industrial and labor history;

(3) 4 members appointed from recommendations from the Southern Alleghenies Planning and Development Commission;

(4) 4 members appointed from recommendations from Laurel Highlands, Inc.;

(5) 2 members appointed by the Secretary from recommendations by the Director of the National Park Service who shall have knowledge and experience in the field of historic preservation; and

(6) the Director of the National Park Service, ex officio, or his delegate.

(b) APPOINTMENT.—All members of the Commission shall be appointed for terms of 3 years, except that the terms of the 9 members appointed from recommendations submitted by each county pursuant to subsection (a)(2) shall be for 2 years.

(c) CHAIRMAN.—The Commission shall elect a chairman from among its members. The term of the chairman shall be 2 years.

(d) TERMS.—Any member of the Commission appointed for a definite term may serve after the expiration of his term until his successor is appointed. Any vacancy in the Commission shall be filled in the same manner in which the original appointment was made. Any member appointed to fill a vacancy shall serve for the remainder of the term for which his predecessor was appointed.

(e) QUORUM.—A simple majority of Commission members shall constitute a quorum.

(f) MEETINGS.—The Commission shall meet at least quarterly or at the call of the chairman or a majority of its members.

(g) COMPENSATION.—Members of the Commission shall serve without compensation as such. Members shall be entitled to travel expenses under section 5703, title 5, United States Code, when engaged in Commission business, including per diem in lieu of subsistence in the same manner as persons employed intermittently.

SEC. 102. STAFF OF THE COMMISSION.

(a) STAFF.—(1) The Commission shall have the power to appoint and fix the compensation of such staff as may be necessary to carry out its duties.

(2) Staff appointed by the Commission—

(A) shall be appointed subject to the provisions of title 5, United States Code, governing appointments in the competitive service; and

(B) shall be paid in accordance with the provisions of chapter 51 and subchapter III of chapter 53 of such title relating to classification and General Schedule pay rates.

(b) EXPERTS AND CONSULTANTS.—Subject to such rules as may be adopted by the Commission, the Commission may procure temporary and intermittent services to the same extent as is authorized by section 3109(b) of title 5, United States Code, but at rates determined by the Commission to be reasonable.

(c) STAFF OF OTHER AGENCIES.—(1) Upon request of the Commission, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Commission to assist the Commission in carrying out the Commission's duties.

(2) The Commission may accept the services of personnel detailed from the Commonwealth of Pennsylvania (and any political subdivision thereof) and may reimburse the commonwealth or political subdivision for those services.

(d) ADMINISTRATIVE SUPPORT.—The Administrator of the General Services Administration shall provide such administrative support services as the Commission may request, on a reimbursable basis.

SEC. 103. POWERS OF THE COMMISSION.

(a) IN GENERAL.—The Commission may for the purpose of carrying out this title hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence, as the Commission may deem advisable.

(b) BYLAWS.—The Commission may make such bylaws, rules and regulations, consistent with this Act, as it considers necessary to carry out its functions under this title.

(c) DELEGATION.—When so authorized by the Commission, any member or agent of the Commission may take any action which the Commission is authorized to take by this section.

(d) TECHNICAL ADVISORY GROUPS.—The Commission may establish and appoint one or more technical advisory groups to provide technical advice in financing, historic preservation, recreation, tourism, and intergovernmental coordination.

(e) DONATIONS.—Notwithstanding any other provision of law, the Commission may seek and accept donations of funds, property, or services from individuals, foundations, corporations, and other private entities, and from public entities, for the purpose of carrying out its duties.

(f) FUNDS FROM OTHER SOURCES.—The Commission may use its funds to obtain money from any source under any program or law requiring the recipient of such money to make a contribution in order to receive such money.

(g) MAIL.—The Commission may use the United States mails in the same manner and upon the same conditions as other departments and agencies of the United States.

(h) OBTAINING PROPERTY.—(1) The Commission may obtain by purchase, rental, donation, or otherwise, such property, facilities, and services as may be needed to carry out its duties except that the Commission may not acquire any real property or interest in real property otherwise than under paragraph (2).

(2) Subject to paragraph (3), the Commission may acquire real property, or interests in real property, in the Corridor—

(A) by gift or device; or

(B) by purchase from a willing seller with money which was given or bequeathed to the Commission on the condition that

such money would be used to purchase real property, or interests in real property, in the Corridor.

(3) Any real property or interest in real property acquired by the Commission under paragraph (2) shall be conveyed by the Commission to an appropriate public agency, as determined by the Commission. Any such conveyance shall be made—

(A) as soon as practicable after such acquisition;

(B) without consideration; and

(C) on the condition that the real property or interest in real property so conveyed is used for public purposes.

SEC. 104. FUNCTIONS OF THE COMMISSION.

Loans.
Grants.
Conservation.

(a) IN GENERAL.—The Commission shall—

(1) make loans and grants, from funds appropriated for that purpose or from funds donated or otherwise made available to the Commission, for the purpose of conserving and protecting sites, buildings, and objects which are related to the industrial development of the area and which are included or eligible for inclusion on the National Register of Historic Places;

(2) coordinate activities of Federal, State, and local governments and private businesses and organizations in order to further historic preservation and compatible economic revitalization;

(3) develop guidelines and standards for projects, consistent with standards established by the National Park Service for the preservation of historic properties, including interpretive methods, that will further historic preservation in the region; and

(4) provide advice and assistance in preparation of loan or grant applications to the Commission and applications for loans or grants from other Federal or non-Federal sources in furtherance of the purposes of this title.

Any loan made under this subsection shall be for a term expiring before the date 10 years after the enactment of this Act and shall be subject to such other terms and conditions, including interest, as may be established by the Commission with the approval of the Secretary.

(b) ANNUAL REPORTS.—The Commission shall submit an annual report to the Secretary setting forth its expenses and income and the entities to which any loans and grants were made during the year for which the report is made. The Secretary shall submit an annual report to the Congress describing the loans, grants, and technical assistance provided under this Act. Such report shall specify the amount, recipient, and purpose of any loan, grant, or technical assistance so provided and shall include an analysis of the adequacy of actions taken during the previous year to preserve, protect, and interpret the significant sites, buildings, and objects within the area; as well as the anticipated funds and personnel to be made available by the Secretary during the next fiscal year to implement the provisions of this Act.

(c) COST ESTIMATES.—Prior to making any grant or loan the Commission shall require detailed cost estimates to be prepared for the project to be funded. Within one year from the date of enactment, the Commission shall submit to the appropriate committees of the Congress detailed cost estimates for the projects identified in the action plan referred to in section 101 of this title.

(d) STUDY REPORT.—The Commission, in consultation with the Secretary, the Pittsburgh Area Steel Industry Heritage Task Force,

and other interested parties which represent the greater Allegheny and Washington Counties/Mon-Valley area shall within 2 years of enactment of this Act, submit a report concerning the cultural and historical resource values of the greater Allegheny and Washington Counties/Mon-Valley area to the Secretary. Such report shall include an analysis of the methods and means of inventorying, preserving and interpreting the cultural and historical resources of the area, along with recommendations concerning the coordination of activities in the 11 counties represented by the Commission and the Pittsburgh Area Steel Industry Heritage Task Force and other interested parties. The Secretary shall review the report and submit it along with any comments or recommendations that the Secretary may wish to make to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate within 180 days after receipt of such report from the Commission.

(e) EXPIRATION.—The Commission established pursuant to this title shall cease to exist 10 years from the date of enactment of this Act. Any property or funds of the Commission remaining upon the expiration of the Commission shall be transferred by the Commission to the United States, to a State or local government agency, to a private nonprofit organization exempt from income taxes under section 501(c)(3) of the Internal Revenue Code of 1986, or to any combination of the foregoing.

SEC. 105. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $3,000,000 to the Commission to carry out the purposes of this title. Funds may be made available pursuant to this section only to the extent they are matched by equivalent funds from non-Federal sources.

16 USC 1244 note.

TITLE II—SOUTHWESTERN PENNSYLVANIA INDUSTRIAL HERITAGE ROUTE

SEC. 201. DESIGNATION OF ROUTE.

Federal Register, publication.

(a) DESIGNATION.—In order to provide for public appreciation, education, understanding, and enjoyment of certain nationally and regionally significant sites in southwestern Pennsylvania which are accessible by public road, the Secretary of Interior (hereinafter referred to as the "Secretary"), with the concurrence of the agency having jurisdiction over such roads, shall designate, by publication of a description thereof in the Federal Register, a vehicular tour route along existing public roads linking historic, cultural, natural, scenic, and recreational sites in southwestern Pennsylvania. Such route shall be known as the Southwestern Pennsylvania Industrial Heritage Route (hereinafter referred to as the "route"), and shall be marked with an appropriate marker to guide members of the visiting public. With the concurrence of the State or local entity having jurisdiction over such roads so designated, the Secretary may erect thereon signs and other informational devices displaying the Southwestern Pennsylvania Industrial Heritage Route marker. The Secretary is authorized to accept the donation of signs and other informational devices for placement at appropriate locations along the route.

Gifts and property.

(b) INITIAL ROUTE.—The route as initially designated shall include public roads linking Allegheny Portage Railroad National Historic Site, Johnstown Flood National Memorial, Historic Saltsburg, Eliza and Mt. Etna Furnaces, the Charles Schwab Estate, Friendship Hill National Historic Site, Fort Necessity National Battlefield, Altoona Railroad Shops, Altoona Railroader's Memorial Museum, Cambria Iron Works, Johnstown Inclined Plane, Johnstown Flood Museum, Conemaugh Gap, East Broadtop Railroad National Historic Landmark, Gallitzin Tunnels, Horseshoe Curve National Historic Landmark, Fort Ligonier, Bushy Run Battlefield, Seldom Seen Valley Mine, and Somerset Historical Center.

(c) ADDITIONAL SEGMENTS.—The Secretary may, in the manner set forth in section 201 of this title, designate additional segments of the route from time to time as appropriate to link the sites referred to in subsection (b) with other historic, cultural, natural, scenic, and recreational sites when such sites are designated and protected by Federal, State and local governments, Indian tribes, or nonprofit entities.

SEC. 202. TECHNICAL ASSISTANCE.

With respect to sites linked by segments of the route which are administered by other Federal, State, local, tribal, or nonprofit entities, the Secretary may, pursuant to cooperative agreements with such entities, provide technical assistance in the development of interpretive devices and materials in order to contribute to public appreciation of the historic, cultural, natural, scenic, and recreational sites along the route.

SEC. 203. AUTHORIZATION OF APPROPRIATIONS.

There is hereby authorized to be appropriated $150,000 to the Secretary to carry out the purposes of this title. No funds made available under this title shall be used for the operation, maintenance, or repair of any road or related structure.

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 3313:

HOUSE REPORTS: No. 100-789 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-533 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
July 26, considered and passed House.
Oct. 21, considered and passed Senate, amended. House concurred in Senate amendments.

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Public Law 100-699
100th Congress

An Act

Nov. 19, 1988
[H.R. 3680]

To revoke certain public land orders, transfer certain public lands, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Omnibus Public Lands and National Forests Adjustments Act of 1988.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Omnibus Public Lands and National Forests Adjustments Act of 1988".

TITLE I—PHILLIPS COUNTY, MONTANA

SEC. 101. AUTHORIZATION OF EXCHANGE.

Notwithstanding the order of the United States District Court for the District of Columbia dated February 10, 1985, in Civil Action Numbered 85-2238, the Secretary of the Interior (hereafter in this title referred to as "the Secretary") is hereby authorized to revoke applicable public land orders, to revoke withdrawals, to terminate classifications, and to take such other actions as the Secretary determines necessary in order to consummate, in accordance with applicable law, an exchange of lands with Phillips County, Montana, as described in Bureau of Land Management Land Report Serial Number M-66965, dated May 8, 1986, if the Secretary determines such exchange to be in the public interest.

SEC. 102. CONDITIONS OF EXCHANGE.

(a) MANAGEMENT.—Nothing in this title shall be construed as enlarging or diminishing the extent to which the United States or any other party may be responsible, under applicable laws of the United States or the State of Montana, for proper management of lands involved in the exchange described in section 101 (including control of public access to such lands) or for management, control, removal, or other actions related to any hazardous substances or other materials located on such lands.

(b) HAZARDOUS SUBSTANCES.—Prior to consummating the exchange described in section 101, the Secretary shall advise the county and appropriate officials of the United States and the State of Montana concerning any information, from inspection or otherwise, the Secretary has concerning hazardous substances or other materials (including, but not limited to, industrial solvents or wastes) located on such lands.

TITLE II—VETERAN, WYOMING TOWNSITE

SEC. 201. SURVEY AND PLAT.

As soon as possible after the date of enactment of this Act, the Secretary of the Interior (hereafter in this title referred to as "the Secretary") shall resurvey and prepare a new plat for the townsite

of Veteran, Wyoming, to take into account the actual and common use of streets and alleys on such lands for designation as public reservations in accordance with the Act of April 16, 1906 (34 Stat. 116).

SEC. 202. PATENT AND SALES.

(a) PATENT.—

(1) After completion of the work required to complete the survey and plat required under section 201, the Secretary shall patent the title of the United States in and to the public reservation lands referred to in subsection (a) to Goshen County, Wyoming.

(2) Title of the United States in and to a 90 feet by 75 feet lot of approximately 0.15 acres which is described in the records of the Goshen County, Wyoming, clerk's office as "a tract in southwest corner of town of Veteran, Block 40 in the original town of Veteran," shall be patented to Goshen County United School District Number One.

(b) DISPOSAL, ETC.—The Secretary, acting through the Commissioner of Reclamation, is authorized to dispose of Federal lands within the townsite area for fair market value, by negotiated or public sale, and to revoke withdrawals, terminate classifications, and take other steps necessary to implement this title, notwithstanding the order of the United States District Court for the District of Columbia dated February 10, 1985, in Civil Action Numbered 85-2238.

TITLE III—MATTERS INVOLVING LANDS IN THE STATE OF UTAH

SEC. 301. FARMINGTON CITY EXCHANGE.

(a) EXCHANGE.—

(1) Subject to valid existing rights, if Farmington City, Utah (hereafter in this section referred to as the "city"), transfers to the United States all right, title, and interest of the city in and to the land described in paragraph (2)(A), the Secretary of Agriculture (hereafter in this section referred to as the "Secretary") shall transfer to the city all right, title, and interest of the United States in and to the land described in paragraph (2)(B). Any land acquired by the United States under this section shall be added to and managed as part of the Wasatch National Forest.

(2)(A) The land referred to in paragraph (1) to be transferred by the city is that land depicted as parcels Ai, Aii, and Aiii on the map entitled "Farmington Exchange" and dated May 1988, on file and available for public inspection in the Office of the Chief of the Forest Service, Department of Agriculture.

(B) The land referred to in paragraph (1) to be transferred by the United States is that land depicted as parcel Bi on the map referred to in subparagraph (A).

(3) Before transferring land to the city pursuant to this subsection, the Secretary shall appraise the values of the lands described in subparagraphs (A) and (B) of paragraph (2). If, based on such appraisal, the fair market value of the lands being transferred to the city is not equal to the fair market value of the lands to be transferred to the United States, the

Secretary shall require the city to pay, or shall pay to the city, an amount sufficient to equalize such values.

(b) CITY OR STATE LANDS WHICH MAY BE EXCHANGED.—

(1)(A) Within the 3-year period beginning on the date of enactment of this Act, the Secretary, in conjunction with the city and the State of Utah (hereafter in this section referred to as the "State"), shall identify city or State lands which are suitable for transfer to the United States for national forest purposes in exchange for the Federal lands depicted as parcels Bii, Biii, Biv, Bv, and Bvi on the map referred to in subsection (a)(2)(A).

(B) Subject to valid existing rights, if within such period the city or the State (as the case may be) transfers to the United States the city or State lands identified pursuant to subparagraph (A), the Secretary shall transfer the appropriate Federal lands depicted as parcels Bii, Biii, Biv, Bv, and Bvi on the map referred to in subsection (a)(2)(A) to the city or the State, as appropriate. The values of lands exchanged under this section shall be of equal value as determined by the Secretary, or, if they are not of equal value, the values shall be equalized by payment to or by the Secretary so long as the payment does not exceed 25 percent of the total value of the lands transferred out of Federal ownership.

(2) In lieu of an exchange under paragraph (1), the Secretary may transfer by sale for fair market value the Federal lands depicted as parcels Bii, Biii, Biv, Bv, and Bvi on the map referred to in subsection (a)(2)(A) to the city or the State of Utah, as appropriate.

SEC. 302. KANAB CITY TRANSFER.

Minerals and mining.
Energy.

(a) WITHDRAWAL.—Subject to valid existing rights, all public lands located within the city limits of Kanab City, Utah (as such limits stood on April 1, 1988) are hereby withdrawn from all forms of entry and appropriation under the public land laws, including the mining laws, and from operation of the mineral leasing and geothermal leasing laws. The withdrawal under this subsection shall terminate on the date which is five years after the date of enactment of this Act.

(b) RIGHT OF KANAB CITY TO PURCHASE CERTAIN WITHDRAWN LANDS.—As soon as possible after the date of enactment of this Act, the Secretary of the Interior (hereafter in this section referred to as the "Secretary") shall determine which public lands withdrawn by subsection (a) meet the disposal criteria specified in section 203(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1713(a)) and shall notify the city of Kanab City concerning such determination. For the four-year period beginning on the date of enactment of this Act, the city of Kanab City, Utah, shall have the exclusive right to purchase any public lands withdrawn by subsection (a) that the Secretary has determined to be suitable for disposal.

(c) PUBLIC SALE.—After the expiration of the period of exclusive right specified in subsection (b), the Secretary may offer any lands covered by such exclusive right for sale under appropriate provisions of the Federal Land Policy and Management Act of 1976, but the city of Kanab City, Utah, shall be given the opportunity to meet the high bid offered by any other party and if such city matches such high bid, the city shall be declared the highest bidder and allowed to purchase the property offered for sale.

(d) TERMS AND CONDITIONS.—All sales of public lands under this section shall be for fair market value and subject to valid existing rights, and the Secretary may attach such conditions to any sale under this section, and any patent issued in consequence of such sale, as the Secretary determines necessary or appropriate. Patents and trademarks.

SEC. 303. RIVERDALE.

(a) AUTHORIZATION FOR SALE.—If not later than one year after the date of enactment of this Act the city of Riverdale, Utah, submits to the Secretary of the Interior a request to release and quitclaim to the city all right, title, and interest of the United States in and to the property described in subsection (b), the Secretary is authorized to release and quitclaim such right, title, and interest, in accordance with this section.

(b) PROPERTY DESCRIPTION.—The property referred to in subsection (a) is that certain parcel of land, comprising approximately 13.6 acres transferred to the city of Riverdale, Utah, by the United States by a deed dated April 30, 1975, as generally depicted on the map entitled "Riverdale City Parcel" dated May 1988.

(c) CONSIDERATION.—A release and quitclaim under this section shall be in consideration for payment by the city of Riverdale, Utah, to the United States of the fair market value of the right, title, and interest of the United States in the property described in subsection (b) and shall have the effect of releasing any restrictions imposed on the use of such property by the deed referenced in such subsection. Such fair market value shall not include the value of improvements on such property.

(d) DISPOSITION OF FUNDS.—All funds received by the United States from the city of Riverdale, Utah, in consideration for a release and quitclaim under this section shall be covered into the land and water conservation fund in the Treasury of the United States and shall be available for expenditure in accordance with the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-4 et seq.).

SEC. 304. BRIGHAM CITY: REMOVAL OF RESTRICTIONS. Real property.

(a) 1959 CONVEYANCE.—

(1) The Secretary of the Interior shall execute such instruments as may be necessary to remove the restrictions on the property described in paragraph (2) that the property be used for public school purposes and that the property be available to Indians and non-Indians on the same terms, unless otherwise approved by the Secretary of the Interior. Schools and colleges. Indians.

(2) The property referred to in paragraph (1) is approximately 9.39 acres of property conveyed by the United States by quitclaim deed on February 12, 1959, to the Board of Education for the Box Elder County School District, Box Elder County, Utah, recorded March 5, 1959, in Box Elder County Deed Book numbered 123 at page 450.

(b) 1977 CONVEYANCE.—

(1) The Secretary of the Interior shall execute such instruments as may be necessary to remove the restrictions of the property described in paragraph (2) that—

(A) the property not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the prop-

erty for public park or public recreational purposes subject to the same terms and conditions in the original instrument of conveyance; but

Contracts.

(B) nothing in subparagraph (A) shall preclude the grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior.

(2) The property referred to in paragraph (1) is approximately 16.619 acres of property conveyed by deed without warranty dated May 11, 1977, from the United States of America to the city of Brigham City and recorded on May 23, 1977, in county records of Box Elder County, State of Utah, book numbered 292, pages 503 through 507.

(c) 1983 CONVEYANCE.—

(1) The Secretary of the Interior shall execute such instruments as may be necessary to remove the restriction on the property described in paragraph (2) that—

(A) the property not be sold, leased, assigned, or otherwise disposed of except to another eligible governmental agency that the Secretary of the Interior agrees in writing can assure the continued use and maintenance of the property for public park or public recreational purposes subject to the same terms and conditions in the original instrument of conveyance; but

Contracts.

(B) nothing in subparagraph (A) shall preclude the grantee from providing related recreational facilities and services compatible with the approved application, through concession agreements entered into with third parties, provided prior concurrence to such agreements is obtained in writing from the Secretary of the Interior.

(2) The property referred to in paragraph (1) is approximately 81.2 acres of property conveyed by the United States by deed without warranty on March 29, 1983, recorded April 11, 1983, in Box Elder County, Utah, Deed Book numbered 369 at page 578.

Conservation. Historic preservation.

TITLE IV—OREGON TRAIL

SEC. 401. END OF THE OREGON TRAIL STUDY.

(a) STUDY.—In furtherance of the interpretation and commemoration of the Oregon National Historic Trail, the Secretary of the Interior (hereafter in this title referred to as the "Secretary") is authorized and directed to conduct a study to determine the feasibility and desirability of protecting and preserving those lands and resources associated with the western terminus of the Oregon Trail in Oregon City, Oregon.

(b) CONSULTATION AND COORDINATION.—As part of such study, the Secretary shall consult with other interested Federal agencies and State and local bodies, and the study shall be coordinated with applicable outdoor recreation plans and related plans for the preservation of historic and natural resources in the area.

(c) REPORT.—Within one year after the date of enactment of this section, the Secretary shall make a report of the Secretary's findings and recommendations to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on

Energy and Natural Resources of the Senate. The report of the Secretary shall include, but not be limited to, findings with respect to the historical and natural values of the lands and resources involved, and recommendations as to the historic preservation and markings of the area.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.

TITLE V—CLARK COUNTY, NEVADA

Real property.

SEC. 501. CATHOLIC DIOCESE OF RENO/LAS VEGAS, NEVADA.

(a) FINDINGS.—The Congress finds the following:

(1) In 1949 Marie D. Lawton purchased from Clark County in a tax sale 40 acres of land in Clark County, Nevada.

(2) She paid taxes on this property until her death in 1975, at which time the property was bequeathed to the Roman Catholic Diocese of Reno/Las Vegas to be used to benefit the Home of the Good Shepherd, which works with troubled young women in the western States.

(3) Since 1975 the Diocese has paid taxes on the property.

(4) It has recently been discovered that Clark County erred in selling the property in 1949 since the land at that time was actually in the public domain.

(b) PURPOSE.—The purpose of this section is to convey this property to the Diocese of Reno/Las Vegas so it may be sold to benefit the Home of the Good Shepherd.

(c) CONVEYANCE.—Subject to valid existing rights and notwithstanding any other provision of law, the Secretary of the Interior shall convey without consideration to the Catholic Diocese of Reno/Las Vegas, Nevada, the lands described as follows: one 40-acre parcel comprising the northwest one-quarter of southwest one-quarter of section 13 township 19 south range 61 east Mount Diablo base line and meridian, subject to the limitations of subsection (d) of this section. The administrative costs of such conveyance shall be borne by the Catholic Diocese of Reno/Las Vegas, Nevada.

(d) RESERVATION OF RIGHT-OF-WAY.—A right-of-way and construction easement shall be reserved to the United States to accommodate flood control facilities of the Clark County Regional Flood Control District. Said right-of-way shall be no more than 75 feet in width and 1,320 feet in length, and shall be located in accordance with the Clark County Flood Control District Master Plan.

TITLE VI—COAL MINING HERITAGE

Conservation.
Historic preservation.

SEC. 601. COAL MINING HERITAGE STUDY.

(a) STUDY.—The Secretary of the Interior, acting through the Director of the National Park Service, is authorized and directed to conduct a study to determine the feasibility of protecting and preserving certain significant cultural, historic, and natural resources associated with the coal mining heritage of southern West Virginia. The study shall include, but not be limited to, the identification of—

(1) Specific sites and points of interest associated with the coal mining heritage of West Virginia, the Appalachian Region and the Nation.

(2) The historic and cultural values of such sites and points of interest.

(3) The relationship between such sites and points of interest with the natural, scenic, recreational, cultural and historic resources in the region managed by State or Federal agencies, including State and national park system units, recreational lakes, State forest system units, and historic landmarks.

(4) A vehicular tour route along existing public roads linking such sites, points of interest and such other resources managed by State or Federal agencies.

(b) CONSULTATION AND COORDINATION.—As part of such study, the Secretary shall consult with other interested Federal agencies, State and local government authorities, and nonprofit organizations.

West Virginia.

(c) AREA TO BE STUDIED.—The study shall focus on the eleven county areas consisting of Cabell, Wayne, Mingo, Logan, McDowell, Wyoming, Raleigh, Mercer, Boone, Fayette and Summers Counties, West Virginia.

(d) REPORT.—Within one year after the date of enactment of this Act, the Secretary shall make a report of his findings to the Committee on Interior and Insular Affairs of the House of Representatives and the Committee on Energy and Natural Resources of the Senate.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 3680:

HOUSE REPORTS: No. 100-717, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Agriculture).

CONGRESSIONAL RECORD, Vol. 134 (1988):

Sept. 13, considered and passed House.

Oct. 21, considered and passed Senate.

Public Law 100-700
100th Congress

An Act

To amend title 18, United States Code, to provide increased penalties for certain major frauds against the United States.

Nov. 19, 1988
[H.R. 3911]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Major Fraud Act of 1988.
Contracts.
18 USC 1001 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Major Fraud Act of 1988".

SEC. 2. CHAPTER 47 AMENDMENT.

(a) IN GENERAL.—Chapter 47 of title 18, United States Code, is amended by adding at the end the following:

"§ 1031. Major fraud against the United States

"(a) Whoever knowingly executes, or attempts to execute, any scheme or artifice with the intent—

"(1) to defraud the United States; or

"(2) to obtain money or property by means of false or fraudulent pretenses, representations, or promises,

in any procurement of property or services as a prime contractor with the United States or as a subcontractor or supplier on a contract in which there is a prime contract with the United States, if the value of the contract, subcontract, or any constituent part thereof, for such property or services is $1,000,000 or more shall, subject to the applicability of subsection (c) of this section, be fined not more than $1,000,000, or imprisoned not more than 10 years, or both.

"(b) The fine imposed for an offense under this section may exceed the maximum otherwise provided by law, if such fine does not exceed $5,000,000 and—

"(1) the gross loss to the Government or the gross gain to a defendant is $500,000 or greater; or

"(2) the offense involves a conscious or reckless risk of serious personal injury.

"(c) The maximum fine imposed upon a defendant for a prosecution including a prosecution with multiple counts under this section shall not exceed $10,000,000.

"(d) Nothing in this section shall preclude a court from imposing any other sentences available under this title, including without limitation a fine up to twice the amount of the gross loss or gross gain involved in the offense pursuant to 18 U.S.C. section 3571(d).

"(e) In determining the amount of the fine, the court shall consider the factors set forth in 18 U.S.C. sections 3553 and 3572, and the factors set forth in the guidelines and policy statements of the United States Sentencing Commission, including— Courts, U.S.

"(1) the need to reflect the seriousness of the offense, including the harm or loss to the victim and the gain to the defendant;

"(2) whether the defendant previously has been fined for a similar offense; and

"(3) any other pertinent equitable considerations.

"(f) A prosecution of an offense under this section may be commenced any time not later than 7 years after the offense is committed, plus any additional time otherwise allowed by law.

"(g) Any individual who—

Discrimination, prohibition.

"(1) is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by an employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of a prosecution under this section (including investigation for, initiation of, testimony for, or assistance in such prosecution), and

"(2) was not a participant in the unlawful activity that is the subject of said prosecution, may, in a civil action, obtain all relief necessary to make such individual whole. Such relief shall include reinstatement with the same seniority status such individual would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees."

18 USC 1031 note.

(b) SENTENCING GUIDELINES.—Pursuant to its authority under section 994(p) of title 28, United States Code and section 21 of the Sentencing Act of 1987, the United States Sentencing Commission shall promulgate guidelines, or shall amend existing guidelines, to provide for appropriate penalty enhancements, where conscious or reckless risk of serious personal injury resulting from the fraud has occurred. The Commission shall consider the appropriateness of assigning to such a defendant an offense level under Chapter Two of the sentencing guidelines that is at least two levels greater than the level that would have been assigned had conscious or reckless risk of serious personal injury not resulted from the fraud.

(c) CLERICAL AMENDMENT —The table of sections at the beginning of chapter 47 of title 18, United States Code, is amended by adding at the end the following new item:

"1031 Major fraud against the United States.".

SEC. 3. LIMITATION ON ALLOWABILITY OF COSTS OF CONTRACTORS INCURRED IN CERTAIN PROCEEDINGS.

(a) IN GENERAL.—Chapter 15 of title 18, United States Code, is amended by adding at the end thereof the following new section:

"§ 293. Limitation on Government contract costs

"(a) Any proceeding costs incurred in connection with any proceeding brought by the United States or a State government that relates to a violation of, or failure to comply with, any Federal or State law or regulation on the part of the contractor are not allowable costs in a covered contract if the proceeding results in any of the following:

"(1) an indictment by a Federal grand jury, or a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of such violation or failure to comply;

"(2) the assessment of a monetary penalty by reason of a civil or administrative finding of such violation or failure to comply;

"(3) a civil judgment containing a finding of liability, or an administrative finding of liability, by reason of such violation or

failure to comply, if the charges which are the subject of the proceeding involve fraud or similar offenses;

"(4) a decision to debar or suspend the contractor or rescind, void, or terminate a contract for default, by reason of such violation or failure to comply; or

"(5) the resolution of the proceeding by consent or compromise, where the penalty or relief sought by the government included the actions described in paragraphs (1) through (5).

"(b) In any proceeding brought by the United States or a State government that does not result in any of the actions described in paragraphs (1) through (5) of subsection (a), costs for legal services incurred by a contractor in connection with such proceeding shall not be allowed in excess of the rate specified in the Equal Access to Justice Act (28 U.S.C. 2412(d)(2)(A); 5 U.S.C. 504(a)) unless the responsible contracting officer finds that a special factor (such as the limited availability of qualified attorneys or agents) justifies an award of higher rates.

"(c) For purposes of this section—

"(1) the term 'covered contract' means a contract for an amount more than $100,000 entered into by a department or agency of the United States other than a fixed-price contract without cost incentives;

"(2) the term 'proceeding' means a civil, criminal, or an administrative investigation, prosecution, or proceeding; and

"(3) the term 'proceeding costs' means all costs relating to a proceeding incurred before, during, or after the commencement of the proceeding, and such term includes—

"(A) administrative and clerical expenses;

"(B) the cost of legal services (whether performed by an employee of the contractor or otherwise);

"(C) the cost of the services of accountants and consultants retained by a contractor; and

"(D) the salaries and wages of employees, including officers and directors.".

(b) AMENDMENT TO CHAPTER ANALYSIS.—The chapter analysis for chapter 15 of title 18, United States Code, is amended by adding at the end thereof the following:

"293. Limitation on Government contract costs.".

(c) APPLICABILITY.—The amendments made by this section shall apply to contracts entered into after the date of the enactment of this Act. 18 USC 293 note.

SEC. 4. ESTABLISHMENT OF ADDITIONAL ASSISTANT UNITED STATES ATTORNEY AND SUPPORT PROVISIONS.

(a) ESTABLISHMENT OF POSITIONS.—Subject to the funding authorization limitations in section 5(a), there are hereby established within the Department of Justice additional Assistant United States Attorney positions and additional support staff positions for prosecuting cases under both the criminal and civil statutes.

(b) FUNCTION OF PERSONNEL.—The primary function of individuals selected for the positions specified in subsection (a) shall be dedicated to the investigation and prosecution of fraud against the Government.

(c) LOCATIONS.—The Attorney General shall determine the locations for assignment of such personnel. In making such determination the Attorney General shall consider concentrations of

Government programs and procurements and concentrations of pending Government fraud investigations and allegations.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

(a) AUTHORIZATION.—Subject to the provisions of subsection (b), for the purpose of carrying out the purposes of this Act there are authorized to be appropriated $8,000,000 for fiscal year 1989, and such sums as may be necessary for each of the four succeeding fiscal years, to be available until expended.

(b) LIMITATION.—Before expending funds appropriated pursuant to subsection (a) to carry out the purposes of this section, the Attorney General shall utilize available existing resources within the Department of Justice for such purposes.

28 USC 522 note.

SEC. 6. CONGRESSIONAL OVERSIGHT.

Reports.

Commencing with the first year after the date of enactment of this section, the Attorney General shall annually report to the Congress with respect to—

(1) the number of referrals of fraud cases by the Department of Defense of defense contractors (with specific statistics with respect to the one hundred largest contractors), the number of open investigation of such contractors, and a breakdown of to which United States Attorney's Office or other component of the Department of Justice each such case was referred;

(2) the number of referrals of fraud cases from other agencies or sources;

(3) the number of attorneys and support staff assigned pursuant to this Act;

(4) the number of investigative agents assigned to each investigation and the period of time each investigation has been opened;

(5) the number of convictions and acquittals achieved by individuals assigned to positions established by the Act; and

(6) the sentences, recoveries, and penalties achieved by individuals assigned to positions established by this Act.

Courts, U.S. District of Columbia.

SEC. 7. RELIEF OF PAULETTE MENDES-SILVA.

(a) Notwithstanding section 2675 of title 28, United States Code, and section 2401(b) of such title, or any other limitation on actions at law or in equity, the United States District Court for the District of Columbia shall have jurisdiction to hear, determine, and render judgment on any claim of Paulette Mendes-Silva against the United States for personal injuries which she allegedly incurred after an innoculation on March 12, 1963, by an employee of the Public Health Service of the United States Department of Health, Education, and Welfare. Any such claim of Paulette Mendes-Silva shall be brought within six months after the date of the enactment of this Act. The court shall apply the laws of the District of Columbia in such case.

(b) Nothing in this section shall be construed as an inference of liability on the part of the United States.

SEC. 8. LIMITATIONS ON ALLOWABILITY OF COSTS INCURRED BY FEDERAL GOVERNMENT CONTRACTORS IN CERTAIN PROCEEDINGS.

(a) AMENDMENT TO THE FEDERAL PROPERTY AND ADMINISTRATIVE SERVICES ACT OF 1949.—(1) Title III of the Federal Property and Administrative Services Act of 1949 (41 U.S.C. 251 et seq.) is

amended by inserting after section 305 the following new section 306:

"LIMITATIONS ON ALLOWABILITY OF COSTS INCURRED BY CONTRACTORS IN CERTAIN PROCEEDINGS

"SEC. 306. (a) Except as otherwise provided in this section, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State are not allowable as reimbursable costs under a covered contract if the proceeding (1) relates to a violation of, or a failure to comply with, a Federal or State statute or regulation, and (2) results in a disposition described in subsection (b). 41 USC 256.

"(b) A disposition referred to in subsection (a)(2) is any of the following:

"(1) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in subsection (a).

"(2) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in subsection (a).

"(3) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in subsection (a).

"(4) A final decision by an appropriate official of an executive agency—

"(A) to debar or suspend the contractor;

"(B) to rescind or void the contract; or

"(C) to terminate the contract for default,

by reason of the violation or failure referred to in subsection (a).

"(5) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in paragraph (1), (2), (3), or (4).

"(c) In the case of a proceeding referred to in subsection (a) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such subsection may be allowed to the extent specifically provided in such agreement.

"(d) In the case of a proceeding referred to in subsection (a) that is commenced by a State, the head of the executive agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (1) a specific term or condition of the contract, or (2) specific written instructions of the agency. Regulations.

"(e)(1) Except as provided in paragraph (3), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under subsection (a), but only to the extent provided in paragraph (2).

"(2)(A) The amount of the costs allowable under paragraph (1) in any case may not exceed the amount equal to 80 percent of the

amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the single Government-wide procurement regulation issued pursuant to section 4(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)(A)).

"(B) Regulations issued for the purpose of subparagraph (A) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(3) In the case of a proceeding referred to in paragraph (1), contractor costs otherwise allowable as reimbursable costs under this subsection are not allowable if (A) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (B) the costs of such other proceeding are not allowable under subsection (a).

"(f) As used in this section:

"(1) The term 'covered contract' means a contract for an amount more than $100,000 entered into by an executive agency other than a fixed-price contract without cost incentives.

"(2) The term 'proceeding' includes an investigation.

"(3) The term 'costs', with respect to a proceeding—

"(A) means all costs incurred by a contractor, whether before or after the commencement of such proceeding; and

"(B) includes—

"(i) administrative and clerical expenses;

"(ii) the cost of legal services, including legal services performed by an employee of the contractor;

"(iii) the cost of the services of accountants and consultants retained by the contractor; and

"(iv) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(4) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.".

(2) The table of contents in the first section of such Act is amended by inserting after the item relating to section 305 the following new item:

"306. Limitation on allowability of costs incurred by contractors in certain proceedings.".

(b) AMENDMENTS TO TITLE 10.—Section 2324 of title 10, United States Code, is amended—

(1) in subsection (e)—

(A) by striking out subparagraph (N) and inserting in lieu thereof the following:

"(N) Costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a State, to the extent provided in subsection (k).";

(B) by striking out paragraph (2); and

(C) by redesignating paragraph (3) as paragraph (2); and

(2) by striking out subsection (k) and inserting in lieu thereof the following:

"(k)(1) Except as otherwise provided in this subsection, costs incurred by a contractor in connection with any criminal, civil, or administrative proceeding commenced by the United States or a

State are not allowable as reimbursable costs under a covered contract if the proceeding (A) relates to a violation of, or failure to comply with, a Federal or State statute or regulation, and (B) results in a disposition described in paragraph (2).

"(2) A disposition referred to in paragraph (1)(B) is any of the following:

"(A) In the case of a criminal proceeding, a conviction (including a conviction pursuant to a plea of nolo contendere) by reason of the violation or failure referred to in paragraph (1).

"(B) In the case of a civil or administrative proceeding involving an allegation of fraud or similar misconduct, a determination of contractor liability on the basis of the violation or failure referred to in paragraph (1).

"(C) In the case of any civil or administrative proceeding, the imposition of a monetary penalty by reason of the violation or failure referred to in paragraph (1).

"(D) A final decision by the Department of Defense—

"(i) to debar or suspend the contractor;

"(ii) to rescind or void the contract; or

"(iii) to terminate the contract for default;

by reason of the violation or failure referred to in paragraph (1).

"(E) A disposition of the proceeding by consent or compromise if such action could have resulted in a disposition described in subparagraph (A), (B), (C), or (D).

"(3) In the case of a proceeding referred to in paragraph (1) that is commenced by the United States and is resolved by consent or compromise pursuant to an agreement entered into by a contractor and the United States, the costs incurred by the contractor in connection with such proceeding that are otherwise not allowable as reimbursable costs under such paragraph may be allowed to the extent specifically provided in such agreement.

"(4) In the case of a proceeding referred to in paragraph (1) that is commenced by a State, the head of the agency that awarded the covered contract involved in the proceeding may allow the costs incurred by the contractor in connection with such proceeding as reimbursable costs if the agency head determines, under regulations prescribed by such agency head, that the costs were incurred as a result of (A) a specific term or condition of the contract, or (B) specific written instructions of the agency.

"(5)(A) Except as provided in subparagraph (C), costs incurred by a contractor in connection with a criminal, civil, or administrative proceeding commenced by the United States or a State in connection with a covered contract may be allowed as reimbursable costs under the contract if such costs are not disallowable under paragraph (1), but only to the extent provided in subparagraph (B).

"(B)(i) The amount of the costs allowable under subparagraph (A) in any case may not exceed the amount equal to 80 percent of the amount of the costs incurred, to the extent that such costs are determined to be otherwise allowable and allocable under the single Government-wide procurement regulation issued pursuant to section 4(4)(A) of the Office of Federal Procurement Policy Act (41 U.S.C. 403(4)(A)).

"(ii) Regulations issued for the purpose of clause (i) shall provide for appropriate consideration of the complexity of procurement litigation, generally accepted principles governing the award of legal fees in civil actions involving the United States as a party, and such other factors as may be appropriate.

"(C) In the case of a proceeding referred to in subparagraph (A), contractor costs otherwise allowable as reimbursable costs under this paragraph are not allowable if (i) such proceeding involves the same contractor misconduct alleged as the basis of another criminal, civil, or administrative proceeding, and (ii) the costs of such other proceeding are not allowable under paragraph (1).

"(l)(1) In this section, the term 'covered contract' means a contract for an amount more than $100,000 entered into by the Department of Defense other than a fixed-price contract without cost incentives.

"(2) In subsection (k):

"(A) The term 'proceeding' includes an investigation.

"(B) The term 'costs', with respect to a proceeding—

"(i) means all costs incurred by a contractor, whether before or after the commencement of any such proceeding; and

"(ii) includes—

"(I) administrative and clerical expenses;

"(II) the cost of legal services, including legal services performed by an employee of the contractor;

"(III) the cost of the services of accountants and consultants retained by the contractor; and

"(IV) the pay of directors, officers, and employees of the contractor for time devoted by such directors, officers, and employees to such proceeding.

"(C) The term 'penalty' does not include restitution, reimbursement, or compensatory damages.".

(c) TECHNICAL AMENDMENT.—Section 832(b) of the National Defense Authorization Act, Fiscal Year 1989 is repealed.

10 USC 2324 note.

(d) REGULATIONS.—The regulations necessary for the implementation of section 306(e) of the Federal Property and Administrative Services Act of 1949 (as added by subsection (a)) and section 2324(k)(5) of title 10, United States Code (as added by subsection (b))—

10 USC 2324 note.

(1) shall be prescribed not later than 120 days after the date of the enactment of this Act; and

(2) shall apply to contracts entered into more than 30 days after the date on which such regulations are issued.

10 USC 2324 note.

(e) EFFECTIVE DATE.—The amendments made by subsections (a) and (b) shall take effect with respect to contracts awarded after the date of the enactment of this Act.

SEC. 9. QUI TAM ACTIONS.

(a) AWARDS OF DAMAGES.—Section 3730(d) of title 31, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4); and

(2) by inserting after paragraph (2) the following new paragraph:

"(3) Whether or not the Government proceeds with the action, if the court finds that the action was brought by a person who planned and initiated the violation of section 3729 upon which the action was brought, then the court may, to the extent the court considers appropriate, reduce the share of the proceeds of the action which the person would otherwise receive under paragraph (1) or (2) of this subsection, taking into account the role of that person in advancing the case to litigation and any relevant circumstances pertaining to the violation. If the person bringing the action is convicted of criminal conduct arising from his or her role in the violation of

section 3729, that person shall be dismissed from the civil action and shall not receive any share of the proceeds of the action. Such dismissal shall not prejudice the right of the United States to continue the action, represented by the Department of Justice.".

(b) TECHNICAL AMENDMENTS.—Section 3730 of title 28, United States Code, is amended— 31 USC 3730.

(1) in subsection (c)(4) by inserting "the" after "Government proceeds with"; and

(2) in subsection (d)(4), as redesignated by subsection (a)(1) of this section, by striking out "actions" and inserting in lieu thereof "action".

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 3911:

HOUSE REPORTS: No. 100-610 (Comm. on the Judiciary).
SENATE REPORTS: No. 100-503 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
May 10, considered and passed House.
Oct. 18, considered and passed Senate, amended.
Oct. 20, House concurred in Senate amendment.

Public Law 100-701
100th Congress

An Act

Nov. 19, 1988
[H.R. 4212]

To amend the Joint resolution of April 27, 1962, to permit the Secretary of the Interior to establish the former home of Alexander Hamilton as a national memorial at its present location in New York, New York.

Historic preservation. Conservation.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Joint resolution of April 27, 1962 (76 Stat. 57), is amended by striking all after the resolving clause and inserting the following:

"SECTION 1. HAMILTON GRANGE NATIONAL MEMORIAL.

16 USC 431 note.

"(a) ESTABLISHMENT.—In order to provide for the benefit, inspiration, and education of the American people, there is hereby established the Hamilton Grange National Memorial (hereinafter in this Act referred to as the 'memorial') in the State of New York.

"(b) MAP.—The memorial shall consist of the lands and interests in lands and improvements as generally depicted on the map entitled 'Hamilton Grange National Memorial Boundary Map' numbered 416/80,002 and dated June 1988.

"SEC. 2. ACQUISITION OF PROPERTY.

"The Secretary of the Interior (hereinafter in this Act referred to as the 'Secretary') is authorized to acquire lands, interests in lands, and improvements thereon within the boundaries of the memorial by donation. The Secretary is authorized to reimburse the owner not more than $15,000 for administrative costs directly related to the transfer of ownership of this property. The Secretary may also acquire by the donation, purchase with donated or appropriated funds or by exchange, personal property associated with and appropriate for interpretation of the memorial.

"SEC. 3. ADMINISTRATION OF MEMORIAL.

"The Secretary shall administer the memorial in accordance with the provisions of law generally applicable to units of the National Park System, including the Act of August 21, 1916 (39 Stat. 535; 16 U.S.C. 1, 2-4) and the Act of August 21, 1935 (49 Stat. 666; 16 U.S.C. 461). In administering the memorial, the Secretary shall—

"(1) provide for the interpretation of the life of Alexander Hamilton;

"(2) preserve and interpret the history of The Grange, home of Alexander Hamilton; and

"(3) present the history of the United States as a young Nation.

"SEC. 4. GENERAL MANAGEMENT PLAN.

"Within 3 complete fiscal years after the enactment of this section, the Secretary shall submit to the Committee on Interior and Insular Affairs of the United States House of Representatives and the Committee on Energy and Natural Resources of the United States Senate a general management plan for the memorial. The

plan shall be prepared in accordance with section 12(b) of the Act of August 18, 1970 (84 Stat. 825; 16 U.S.C. la-1—la-7). Such plan shall identify appropriate facilities for proper interpretation of the site for visitors.

"SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated such sums as may be necessary to carry out this Act, but not to exceed $2,500,000 for development.".

Public lands. Patents and trademarks. Utah. 16 USC 431 note.

SEC. 2. Notwithstanding any other provision of law or any order of land classification based thereon, the Secretary of the Interior is authorized to consider an application for desert land entry covering approximately 280 acres of public lands, 105 of which constitute a part of a scenic easement area of the Dinosaur National Monument, Utah, as identified on a map entitled "Desert Land Entry—Dinosaur National Monument—October 1, 1987". If the applicant meets the requirements of section 3 of this Act, the Secretary shall issue a patent to the applicant in accordance with the Desert Land Entry Act (43 U.S.C. 321 et seq.). Such patent shall reserve to the United States a right-of-way 200 feet in width for the Dinosaur National Monument entrance road.

SEC. 3. The Secretary shall not issue a patent to the lands described in section 2 until the applicant has: (a) complied with the requirements of the Desert Land Entry Act; and (b) conveyed to the United States, at no cost, title to scenic easements for purposes of Dinosaur National Monument on lands identified by the National Park Service as tracts 07-114, south half; 07-115, the complete tract.

Patents and trademarks.

SEC. 4. The scenic easements acquired by the Secretary and any patents issued by him under this Act shall be subject to the restrictions set forth in the scenic easement deed dated March 16, 1967, and filed in the records of Moffat County, Colorado, at pages 2 and 3 of book 341 of the deed of records of the county.

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 4212:

HOUSE REPORTS: No. 100-699 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-536 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Oct. 21, considered and passed Senate, amended. House concurred in Senate amendments.

Public Law 100-702
100th Congress

An Act

Nov. 19, 1988
[H.R. 4807]

To amend title 28, United States Code, to make certain improvements with respect to the Federal judiciary, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Judicial Improvements and Access to Justice Act.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Judicial Improvements and Access to Justice Act".

28 USC 1 note.

SEC. 2. REFERENCE TO TITLE 28, UNITED STATES CODE.

Except as otherwise expressly provided, whenever in this Act an amendment or repeal is expressed as an amendment to or repeal of a section or other provision, the reference shall be considered to be made to a section or other provision of title 28, United States Code.

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Federal Courts Study Act.
28 USC 331 note.

TITLE I—FEDERAL COURTS STUDY COMMITTEE

SEC. 101. SHORT TITLE.

This title may be cited as the "Federal Courts Study Act".

SEC. 102. ESTABLISHMENT AND PURPOSES.

(a) ESTABLISHMENT.—There is hereby established within the Judicial Conference of the United States, a Federal Courts Study Committee on the future of the Federal judiciary (hereafter referred to as the "Committee").

(b) PURPOSES.—The purposes of the Committee are to—

(1) examine problems and issues currently facing the courts of the United States;

(2) develop a long-range plan for the future of the Federal judiciary, including assessments involving—

(A) alternative methods of dispute resolution;

(B) the structure and administration of the Federal court system;

(C) methods of resolving intracircuit and intercircuit conflicts in the courts of appeals; and

(D) the types of disputes resolved by the Federal courts; and

Reports.

(3) report to the Judicial Conference of the United States, the President, the Congress, the Conference of Chief Justices, and the State Justice Institute on the revisions, if any, in the laws of the United States which the Committee, based on its study and evaluation, deems advisable.

SEC. 103. MEMBERSHIP OF THE COMMITTEE.

(a) APPOINTMENTS.—The Committee shall be composed of fifteen members to be appointed by the Chief Justice of the United States, within ten days after the effective date of this title.

(b) SELECTION.—The membership of the Committee shall be selected in such a manner as to be representative of the various interests, needs and concerns which may be affected by the jurisdiction of the Federal courts. The Chief Justice shall designate one of the members of the Committee to serve as Chairman.

(c) TERM OF OFFICE.—The Committee members shall serve at the pleasure of the Chief Justice.

(d) RULES OF PROCEDURE.—Rules of procedure shall be promulgated by vote of a majority of the Committee.

SEC. 104. POWERS OF THE COMMITTEE.

(a) HEARINGS.—The Committee or, on the authorization of the Committee, any subcommittee thereof may, for the purpose of carrying out its functions and duties, hold such hearings and sit and act at such times and places, as the Committee or any such subcommittee may deem advisable.

(b) INFORMATION AND ASSISTANCE.—The Administrative Office of the United States Courts, the Federal Judicial Center, and each department, agency, and instrumentality of the executive branch of the Government, including the National Institute of Justice and independent agencies, shall furnish to the Committee, upon request made by the Chairman, such information and assistance as the Committee may reasonably deem necessary to carry out its func-

tions under this title, consistent with other applicable provisions of law governing the release of such information.

(c) PERSONNEL.—(1) Subject to such rules and regulations as may be adopted by the Committee, the Director of the Administrative Office shall furnish to the Committee necessary staff and technical assistance in response to needs specified.

(2) Section 5108(c)(1) of title 5, United States Code, is amended by striking out "15" and inserting in lieu thereof "17".

(d) ADVISORY PANELS.—The Committee is authorized, for the purpose of carrying out its functions and duties pursuant to the provisions of this title, to establish advisory panels consisting of Committee members or members of the public. Such panels shall be established to provide expertise and assistance in specific areas, as the Committee deems necessary.

SEC. 105. FUNCTIONS AND DUTIES.

The Committee shall—

(1) make a complete study of the courts of the United States and of the several States and transmit a report to the President, the Chief Justice of the United States, the Congress, the Judicial Conference of the United States, the Conference of Chief Justices, and the State Justice Institute on such study, within fifteen months after the effective date of this title; Reports.

(2) recommend revisions to be made to laws of the United States as the Committee, on the basis of such study, deems advisable;

(3) develop a long-range plan for the judicial system; and

(4) make such other recommendations and conclusions it deems advisable.

SEC. 106. COMPENSATION OF MEMBERS.

(a) EMPLOYEES OF THE GOVERNMENT.—A member of the Committee who is an officer or full-time employee of the United States shall receive no additional compensation for his or her services, but shall be reimbursed for travel, subsistence, and other necessary expenses incurred in the performance of duties vested in the Committee, not to exceed the maximum amounts authorized under section 456 of title 28.

(b) PRIVATE SECTOR.—A member of the Committee who is from the private sector shall receive $200 per diem for each day (including travel time) during which he or she is engaged in the actual performance of duties vested in the Committee, plus reimbursement for travel, subsistence, and other necessary expenses incurred in the performance of such duties, not to exceed the maximum amounts authorized under section 456 of title 28.

SEC. 107. EXPIRATION OF THE COMMITTEE.

The Committee shall cease to exist on the date 60 days after it transmits the report pursuant to section 105.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

To carry out the purposes of this title there are authorized to be appropriated $300,000 for each of the fiscal years 1989 and 1990.

SEC. 109. EFFECTIVE DATE.

This title shall become effective on January 1, 1989.

TITLE II—FEDERAL JURISDICTION—DIVERSITY REFORM

SEC. 201. AMOUNT IN CONTROVERSY IN DIVERSITY CASES.

(a) INCREASE IN AMOUNT IN CONTROVERSY TO $50,000.—Subsections (a) and (b) of section 1332 are each amended by striking out "$10,000" and inserting in lieu thereof "$50,000".

28 USC 1332 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any civil action commenced on or after the 180th day after the date of enactment of this title.

SEC. 202. DIVERSITY IN CASES INVOLVING MULTISTATE CORPORATIONS OR REPRESENTATIVE PARTIES.

(a) IN GENERAL.—Section 1332(c) is amended to read as follows:

"(c) For the purposes of this section and section 1441 of this title—

Insurance.

"(1) a corporation shall be deemed to be a citizen of any State by which it has been incorporated and of the State where it has its principal place of business, except that in any direct action against the insurer of a policy or contract of liability insurance, whether incorporated or unincorporated, to which action the insured is not joined as a party-defendant, such insurer shall be deemed a citizen of the State of which the insured is a citizen, as well as of any State by which the insurer has been incorporated and of the State where it has its principal place of business; and

"(2) the legal representative of the estate of a decedent shall be deemed to be a citizen only of the same State as the decedent, and the legal representative of an infant or incompetent shall be deemed to be a citizen only of the same State as the infant or incompetent.".

28 USC 1332 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any civil action commenced in or removed to a United States district court on or after the 180th day after the date of enactment of this title.

SEC. 203. CITIZENSHIP OF PERMANENT RESIDENT ALIEN.

(a) PERMANENT RESIDENT ALIEN CITIZENSHIP FOR DIVERSITY PURPOSES.—Section 1332(a) is amended by adding at the end thereof the following: "For the purposes of this section, section 1335, and section 1441, an alien admitted to the United States for permanent residence shall be deemed a citizen of the State in which such alien is domiciled.".

28 USC 1332 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to claims in civil actions commenced in or removed to the United States district courts on or after the 180th day after the date of enactment of this title.

TITLE III—FEDERAL JUDICIAL CENTER

SEC. 301. FEDERAL JUDICIAL CENTER FOUNDATION.

(a) ESTABLISHMENT.—Chapter 42 is amended by adding at the end the following new section:

"§ 629. Federal Judicial Center Foundation

"(a) There is established a private nonprofit corporation which shall be known as the Federal Judicial Center Foundation (hereafter in this section referred to as the 'Foundation') and which shall be incorporated in the District of Columbia. The purpose of the Foundation shall be to have sole authority to accept and receive gifts of real and personal property and services made for the purpose of aiding or facilitating the work of the Federal Judicial Center. The Foundation shall not accept conditional or otherwise restricted gifts, except gifts that are designated for the support of specific projects previously approved by the Board of the Center may be accepted. The Foundation shall have no authority to administer or otherwise determine the use of gifts accepted under this section.

Establishment. District of Columbia.

Gifts and property. Real property.

"(b) The business of the Foundation shall be conducted by a Board that shall have seven members, including a chairman. Three members, including the chairman, shall be appointed by the Chief Justice of the United States, two by the President Pro Tempore of the Senate, and two by the Speaker of the House of Representatives. The term of office of each member of the Board shall be 5 years, except that the initial terms shall be 5 years for the chairman, one member appointed by the President Pro Tempore and one member appointed by the Speaker, 3 years for the other member appointed by the President Pro Tempore and the other member appointed by the Speaker, and two years for the two other members appointed by the Chief Justice. Members of the Board shall serve without compensation but, upon authorization of the Director of the Center, shall be reimbursed by the Federal Judicial Center for actual and necessary expenses incurred in the performance of their official duties. No person who is a Federal or State judge in regular active service or otherwise eligible to perform judicial duties shall be eligible for membership on the Board. The Center shall provide all administrative support and facilities necessary for the operation of the Board.

"(c) The Federal Judicial Center is authorized to administer and use gifts received by the Foundation under this section. The gifts shall be used to further the goals of the Center as determined by the Board of the Center.

Gifts and property.

"(d) Gifts of money and proceeds from sales of other property received as gifts shall be deposited in a separate fund in the Treasury of the United States and disbursed on the order of the Director of the Center, in accordance with policies established by the Board of the Center.

Gifts and property.

"(e) The Board of the Foundation shall, not later than October 1 of each year, submit to the Committees on the Judiciary of the United States Senate and House of Representatives a report with respect to gifts received under this section during the preceding 12-month period, including the source of each such gift, the amount of each gift of cash or cash equivalent, and a description of any other gift. The Center shall include in its annual report of the activities of the Center under section 623(a)(3) a description of the purposes for which gifts were used during the year covered by the report.

Reports.

"(f) For the purpose of Federal income, estate, and gift taxes, property accepted under this section shall be considered as a gift or bequest to or for the use of the United States.".

Taxes.

(b) CONFORMING AMENDMENT.—The item relating to section 629 in the table of sections for chapter 42, is amended to read as follows:

"629. Federal Judicial Center Foundation.".

SEC. 302. AUTHORITY TO IMPLEMENT HISTORY PROGRAM.

Section 623(a) is amended—

(1) by striking out "and" at the end of paragraph (5);

(2) by striking out the period at the end of paragraph (6) and inserting in lieu thereof "; and"; and

(3) by adding at the end the following new paragraph:

"(7) conduct, coordinate, and encourage programs relating to the history of the judicial branch of the United States Government.".

SEC. 303. AUTHORITY TO PROVIDE FOR TRAINING FOR PERSONS OUTSIDE THE JUDICIAL BRANCH.

Section 620(b)(3) is amended to read as follows:

"(3) to stimulate, create, develop, and conduct programs of continuing education and training for personnel of the judicial branch of the Government and other persons whose participation in such programs would improve the operation of the judicial branch, including, but not limited to, judges, United States magistrates, clerks of court, probation officers, and persons serving as mediators and arbitrators;".

SEC. 304. APPOINTMENT AND COMPENSATION OF THE DEPUTY DIRECTOR OF THE CENTER.

(a) APPOINTMENT BY THE BOARD.—Section 624(1) is amended by inserting "and the Deputy Director" after "Director".

(b) COMPENSATION.—

(1) Section 626 is amended—

(A) by adding at the end the following new sentence: "The compensation of the Deputy Director of the Federal Judicial Center shall be the same as that of the Deputy Director of the Administrative Office of the United States Courts."; and

(B) by amending the section heading to read as follows:

"§ 626. Compensation of the Director and Deputy Director".

(2) The item relating to section 626 in the table of sections for chapter 42 is amended to read as follows:

"626. Compensation of the Director and Deputy Director.".

28 USC 626 note.

(c) BUDGET ACT COMPLIANCE.—The amendment made by subsection (b) shall be effective for fiscal years beginning on or after October 1, 1988.

TITLE IV—RULES ENABLING ACT

SEC. 401. RULES ENABLING ACT AMENDMENTS.

(a) IN GENERAL.—Chapter 131 is amended by striking out section 2072 and inserting in lieu thereof the following:

"§ 2072. Rules of procedure and evidence; power to prescribe

"(a) The Supreme Court shall have the power to prescribe general rules of practice and procedure and rules of evidence for cases in the United States district courts (including proceedings before magistrates thereof) and courts of appeals.

"(b) Such rules shall not abridge, enlarge or modify any substantive right. All laws in conflict with such rules shall be of no further force or effect after such rules have taken effect.

"§ 2073. Rules of procedure and evidence; method of prescribing

"(a)(1) The Judicial Conference shall prescribe and publish the procedures for the consideration of proposed rules under this section.

"(2) The Judicial Conference may authorize the appointment of committees to assist the Conference by recommending rules to be prescribed under section 2072 of this title. Each such committee shall consist of members of the bench and the professional bar, and trial and appellate judges.

"(b) The Judicial Conference shall authorize the appointment of a standing committee on rules of practice, procedure, and evidence under subsection (a) of this section. Such standing committee shall review each recommendation of any other committees so appointed and recommend to the Judicial Conference rules of practice, procedure, and evidence and such changes in rules proposed by a committee appointed under subsection (a)(2) of this section as may be necessary to maintain consistency and otherwise promote the interest of justice.

"(c)(1) Each meeting for the transaction of business under this chapter by any committee appointed under this section shall be open to the public, except when the committee so meeting, in open session and with a majority present, determines that it is in the public interest that all or part of the remainder of the meeting on that day shall be closed to the public, and states the reason for so closing the meeting. Minutes of each meeting for the transaction of business under this chapter shall be maintained by the committee and made available to the public, except that any portion of such minutes, relating to a closed meeting and made available to the public, may contain such deletions as may be necessary to avoid frustrating the purposes of closing the meeting. Public information.

"(2) Any meeting for the transaction of business under this chapter, by a committee appointed under this section, shall be preceded by sufficient notice to enable all interested persons to attend.

"(d) In making a recommendation under this section or under section 2072, the body making that recommendation shall provide a proposed rule, an explanatory note on the rule, and a written report explaining the body's action, including any minority or other separate views. Reports.

"(e) Failure to comply with this section does not invalidate a rule prescribed under section 2072 of this title.

"§ 2074. Rules of procedure and evidence; submission to Congress; effective date

"(a) The Supreme Court shall transmit to the Congress not later than May 1 of the year in which a rule prescribed under section 2072 is to become effective a copy of the proposed rule. Such rule shall take effect no earlier than December 1 of the year in which such rule is so transmitted unless otherwise provided by law. The Supreme Court may fix the extent such rule shall apply to proceedings then pending, except that the Supreme Court shall not require the application of such rule to further proceedings then pending to the extent that, in the opinion of the court in which such proceedings are pending, the application of such rule in such proceedings

would not be feasible or would work injustice, in which event the former rule applies.

"(b) Any such rule creating, abolishing, or modifying an evidentiary privilege shall have no force or effect unless approved by Act of Congress.".

(b) ADVISORY COMMITTEES FOR COURTS.—Section 2077(b) is amended—

(1) by striking out "of appeals" the first place it appears and inserting in lieu thereof ", except the Supreme Court, that is authorized to prescribe rules of the conduct of such court's business under section 2071 of this title"; and

(2) by striking out "the court of appeals" and inserting in lieu thereof "such court".

(c) REPEALER.—Section 2076 is repealed.

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 131 is amended by striking out the item relating to section 2072 and all that follows through the item relating to section 2076 and inserting in lieu thereof the following:

"2072. Rules of procedure and evidence; power to prescribe.
"2073. Rules of procedure and evidence; method of prescribing.
"2074. Rules of procedure and evidence; submission to Congress; effective date.
"2075. Bankruptcy rules.".

SEC. 402. COMPILATION AND REVIEW OF LOCAL RULES.

(a) COMPILATION.—Section 604(a) is amended—

(1) by redesignating paragraph (18) as paragraph (23); and

(2) by inserting after paragraph (18) the following:

Records.

"(19) Periodically compile—

"(A) the rules which are prescribed under section 2071 of this title by courts other than the Supreme Court;

"(B) the rules which are prescribed under section 372(c)(11) of this title; and

Public information.

"(C) the orders which are required to be publicly available under section 372(c)(15) of this title;

so as to provide a current record of such rules and orders;".

(b) REVIEW.—Section 331 is amended by inserting after the fifth paragraph the following:

"The Judicial Conference shall review rules prescribed under section 2071 of this title by the courts, other than the Supreme Court and the district courts, for consistency with Federal law. The Judicial Conference may modify or abrogate any such rule so reviewed found inconsistent in the course of such a review.".

SEC. 403. RULES BY CERTAIN COURTS AND ORDERS BY CIRCUIT JUDICIAL COUNCILS AND THE JUDICIAL CONFERENCE.

(a) RULES BY CERTAIN COURTS.—(1) Section 2071 is amended—

(A) by inserting "(a)" before "The";

(B) by striking out "by the Supreme Court" and inserting in lieu thereof "under section 2072 of this title"; and

(C) by adding at the end the following:

"(b) Any rule prescribed by a court, other than the Supreme Court, under subsection (a) shall be prescribed only after giving appropriate public notice and an opportunity for comment. Such rule shall take effect upon the date specified by the prescribing court and shall have such effect on pending proceedings as the prescribing court may order.

"(c)(1) A rule of a district court prescribed under subsection (a) shall remain in effect unless modified or abrogated by the judicial council of the relevant circuit.

"(2) Any other rule prescribed by a court other than the Supreme Court under subsection (a) shall remain in effect unless modified or abrogated by the Judicial Conference.

"(d) Copies of rules prescribed under subsection (a) by a district court shall be furnished to the judicial council, and copies of all rules prescribed by a court other than the Supreme Court under subsection (a) shall be furnished to the Director of the Administrative Office of the United States Courts and made available to the public. Public information

"(e) If the prescribing court determines that there is an immediate need for a rule, such court may proceed under this section without public notice and opportunity for comment, but such court shall promptly thereafter afford such notice and opportunity for comment.

"(f) No rule may be prescribed by a district court other than under this section.".

(2) Section 332(d) is amended by adding at the end the following new paragraph:

"(4) Each judicial council shall periodically review the rules which are prescribed under section 2071 of this title by district courts within its circuit for consistency with rules prescribed under section 2072 of this title. Each council may modify or abrogate any such rule found inconsistent in the course of such a review.".

(b) ORDERS BY CIRCUIT JUDICIAL COUNCILS.—Section 332(d)(1) is amended by inserting after the first sentence the following new sentence: "Any general order relating to practice and procedure shall be made or amended only after giving appropriate public notice and an opportunity for comment. Any such order so relating shall take effect upon the date specified by such judicial council. Copies of such orders so relating shall be furnished to the Judicial Conference and the Administrative Office of the United States Courts and be made available to the public.". Public information.

(c) RULES BY JUDICIAL CONFERENCE AND CIRCUIT JUDICIAL COUNCILS.—Section 372(c)(11) is amended by inserting before "Any rule promulgated" the following new sentence: "Any such rule shall be made or amended only after giving appropriate public notice and an opportunity for comment.".

SEC. 404. CONFORMING AND OTHER TECHNICAL AMENDMENTS.

(a) CONFORMING REPEAL OF CRIMINAL RULES ENABLING PROVISIONS.—(1) Chapter 237 of title 18, United States Code, and the item relating to chapter 237 in the table of chapters for part II of such title, are repealed.

(b) CONFORMING AMENDMENTS RELATING TO MAGISTRATES.—(1) Section 636(d) is amended by striking out "section 3402 of title 18, United States Code" and inserting in lieu thereof "section 2072 of this title".

(2) Section 3402 of title 18, United States Code, is amended by striking out the second paragraph.

(c) CROSS REFERENCE TECHNICAL AMENDMENT.—Section 9 of the Act entitled "An Act to provide an adequate basis for the administration of the Lake Mead National Recreation Area, Arizona and Nevada, and for other purposes" approved October 8, 1964 (Public

Law 88-639; 16 U.S.C. 460n-8) is amended by striking out the sentence beginning "The provisions of title 18, section 3402".

28 USC 2071 note.

SEC. 405. TAX COURT RULE MAKING NOT AFFECTED.

The amendments made by this title shall not affect the authority of the Tax Court to prescribe rules under section 7453 of the Internal Revenue Code of 1986.

28 USC 2071 note.

SEC. 406. SAVINGS PROVISION.

The rules prescribed in accordance with law before the effective date of this title and in effect on the date of such effective date shall remain in force until changed pursuant to the law as amended by this title.

28 USC 2071 note.

SEC. 407. EFFECTIVE DATE.

This title shall take effect on December 1, 1988.

TITLE V—JURISDICTION OF THE FEDERAL CIRCUIT

SEC. 501. INTERLOCUTORY APPEALS.

Section 1292(d) is amended by adding at the end the following new paragraph:

Territories, U.S.

"(4)(A) The United States Court of Appeals for the Federal Circuit shall have exclusive jurisdiction of an appeal from an interlocutory order of a district court of the United States, the District Court of Guam, the District Court of the Virgin Islands, or the District Court for the Northern Mariana Islands, granting or denying, in whole or in part, a motion to transfer an action to the United States Claims Court under section 1631 of this title.

"(B) When a motion to transfer an action to the Claims Court is filed in a district court, no further proceedings shall be taken in the district court until 60 days after the court has ruled upon the motion. If an appeal is taken from the district court's grant or denial of the motion, proceedings shall be further stayed until the appeal has been decided by the Court of Appeals for the Federal Circuit. The stay of proceedings in the district court shall not bar the granting of preliminary or injunctive relief, where appropriate and where expedition is reasonably necessary. However, during the period in which proceedings are stayed as provided in this subparagraph, no transfer to the Claims Court pursuant to the motion shall be carried out.".

28 USC 1292 note.

SEC. 502. EFFECTIVE DATE.

The amendment made by section 501 shall apply to any action commenced in the district court on or after the date of enactment of this title.

TITLE VI—STATE JUSTICE INSTITUTE AMENDMENTS

SEC. 601. RULE MAKING.

Section 203(f) of the State Justice Institute Act of 1984 (42 U.S.C. 10702(f)) is amended—

(1) by striking out ", at least thirty days prior to their effective date,"; and

(2) by adding at the end the following: "The publication of a substantive rule shall be made not less than 30 days before the effective date of such rule, except as otherwise provided by the Institute for good cause found and published with the rule.".

SEC. 602. CIVIL SERVICE RETIREMENT.

Section 205(d)(2) of the State Justice Institute Act of 1984 (42 U.S.C. 10704(d)(2)) is amended by striking out "chapter 83" and inserting in lieu thereof "chapters 83 and 84".

SEC. 603. USE OF FUNDS UNDER GRANTS AND CONTRACTS.

Section 206(c) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(c)) is amended—

(1) in paragraph (3) by inserting "judicial and" after "using";

(2) by striking out paragraph (4); and

(3) by redesignating paragraphs (5) through (15) as paragraphs (4) through (14), respectively.

SEC. 604. UNIT OF STATE OR LOCAL GOVERNMENT MATCHING FUNDS.

Section 206(d) of the State Justice Institute Act of 1984 (42 U.S.C. 10705(d)) is amended by striking out "judicial system" and inserting in lieu thereof "court (or other unit of State or local government)".

SEC. 605. INTERIM FUNDING.

Section 207(a) of the State Justice Institute Act of 1984 (42 U.S.C. 10706(a)) is amended—

(1) in paragraph (1)(B) by adding "and" after the semicolon;

(2) in paragraph (2) by striking out "; and" and inserting in lieu thereof a period; and

(3) by striking out paragraph (3).

SEC. 606. PROCEDURES FOR SUSPENSION OF FUNDING; RESTRICTIONS ON DISCLOSURE OF INFORMATION.

Section 209 of the State Justice Institute Act of 1984 (42 U.S.C. 10708) is amended to read as follows:

"ADMINISTRATIVE PROVISIONS

"SEC. 209. (a) The Institute shall prescribe procedures to ensure that financial assistance under this title shall not be suspended unless the grantee, contractor, person, or entity receiving financial assistance under this title has been given reasonable notice and opportunity to show cause why such actions should not be taken.

"(b) Except as provided by Federal law other than this title, no officer or employee of the Institute, and no recipient of assistance under this title, may use or reveal any research or statistical information furnished under this title by any person and identifiable to any specific private person for any purpose other than the purpose for which the information was obtained in accordance with this title. Such information and copies thereof shall be immune from legal process, and shall not, without the consent of the person furnishing such information, be admitted as evidence or used for any purpose in any action, suit, or other judicial, legislative, or administrative proceedings.".

SEC. 607. AUTHORIZATION OF APPROPRIATIONS.

Section 215 of the State Justice Institute Act of 1984 (42 U.S.C. 10713) is amended to read as follows:

"SEC. 215. There are authorized to be appropriated to carry out the purposes of this title $15,000,000 for each of the fiscal years 1989 and 1990. Amounts appropriated under this section may remain available until expended.".

Court Interpreter Amendments Act of 1988.

TITLE VII—COURT INTERPRETERS AMENDMENTS

28 USC 1 note.

SEC. 701. SHORT TITLE.

This title may be cited as the "Court Interpreter Amendments Act of 1988".

SEC. 702. AUTHORITY OF THE DIRECTOR.

Section 1827(a) is amended to read as follows:

"(a) The Director of the Administrative Office of the United States Courts shall establish a program to facilitate the use of certified and otherwise qualified interpreters in judicial proceedings instituted by the United States.".

SEC. 703. CERTIFICATION OF INTERPRETERS; OTHER QUALIFIED INTERPRETERS.

Section 1827(b) is amended to read as follows:

"(b)(1) The Director shall prescribe, determine, and certify the qualifications of persons who may serve as certified interpreters, when the Director considers certification of interpreters to be merited, for the hearing impaired (whether or not also speech impaired) and persons who speak only or primarily a language other than the English language, in judicial proceedings instituted by the United States. The Director may certify interpreters for any language if the Director determines that there is a need for certified interpreters in that language. Upon the request of the Judicial Conference of the United States for certified interpreters in a language, the Director shall certify interpreters in that language. Upon such a request from the judicial council of a circuit and the approval of the Judicial Conference, the Director shall certify interpreters for that circuit in the language requested. The judicial council of a circuit shall identify and evaluate the needs of the districts within a circuit. The Director shall certify interpreters based on the results of criterion-referenced performance examinations. The Director shall issue regulations to carry out this paragraph within 1 year after the date of the enactment of the Judicial Improvements and Access to Justice Act.

Regulations.

"(2) Only in a case in which no certified interpreter is reasonably available as provided in subsection (d) of this section, including a case in which certification of interpreters is not provided under paragraph (1) in a particular language, may the services of otherwise qualified interpreters be used. The Director shall provide guidelines to the courts for the selection of otherwise qualified interpreters, in order to ensure that the highest standards of accuracy are maintained in all judicial proceedings subject to the provisions of this chapter.

"(3) The Director shall maintain a current master list of all certified interpreters and otherwise qualified interpreters and shall report periodically on the use and performance of both certified and otherwise qualified interpreters in judicial proceedings instituted by the United States and on the languages for which interpreters have been certified. The Director shall prescribe, subject to periodic review, a schedule of reasonable fees for services rendered by interpreters, certified or otherwise, used in proceedings instituted by the United States, and in doing so shall consider the prevailing rate of compensation for comparable service in other governmental entities.". Records. Reports.

SEC. 704. LISTS OF INTERPRETERS; RESPONSIBILITY FOR SECURING SERVICES OF INTERPRETERS.

Section 1827(c) is amended to read as follows:

"(c)(1) Each United States district court shall maintain on file in the office of the clerk, and each United States attorney shall maintain on file, a list of all persons who have been certified as interpreters by the Director in accordance with subsection (b) of this section. The clerk shall make the list of certified interpreters for judicial proceeding available upon request. Records. Public information.

"(2) The clerk of the court, or other court employee designated by the chief judge, shall be responsible for securing the services of certified interpreters and otherwise qualified interpreters required for proceedings initiated by the United States, except that the United States attorney is responsible for securing the services of such interpreters for governmental witnesses.".

SEC. 705. SOUND RECORDINGS.

Section 1827(d) is amended by—

(1) redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) inserting "(1)" after "(d)"; and

(3) adding at the end thereof the following:

"(2) Upon the motion of a party, the presiding judicial officer shall determine whether to require the electronic sound recording of a judicial proceeding in which an interpreter is used under this section. In making this determination, the presiding judicial officer shall consider, among other things, the qualifications of the interpreter and prior experience in interpretation of court proceedings; whether the language to be interpreted is not one of the languages for which the Director has certified interpreters, and the complexity or length of the proceeding. In a grand jury proceeding, upon the motion of the accused, the presiding judicial officer shall require the electronic sound recording of the portion of the proceeding in which an interpreter is used.".

SEC. 706. AUTHORIZATION OF APPROPRIATIONS; PAYMENT FOR SERVICES OF INTERPRETERS.

Section 1827(g) is amended—

(a) by amending paragraphs (1), (2), and (3) to read as follows:

"(g)(1) There are authorized to be appropriated to the Federal judiciary, and to be paid by the Director of the Administrative Office of the United States Courts, such sums as may be necessary to establish a program to facilitate the use of certified and otherwise qualified interpreters, and otherwise fulfill the provisions of this

section and the Judicial Improvements and Access to Justice Act, except as provided in paragraph (3).

"(2) Implementation of the provisions of this section is contingent upon the availability of appropriated funds to carry out the purposes of this section.

"(3) Such salaries, fees, expenses, and costs that are incurred with respect to Government witnesses (including for grand jury proceedings) shall, unless direction is made under paragraph (4), be paid by the Attorney General from sums appropriated to the Department of Justice.";

(b) by redesignating paragraph (4) as paragraph (5) and by inserting between paragraph (3) and paragraph (5), the following:

"(4) Upon the request of any person in any action for which interpreting services established pursuant to subsection (d) are not otherwise provided, the clerk of the court, or other court employee designated by the chief judge, upon the request of the presiding judicial officer, shall, where possible, make such services available to that person on a cost-reimbursable basis, but the judicial officer may also require the prepayment of the estimated expenses of providing such services.".

SEC. 707. APPROVAL OF COMPENSATION AND EXPENSES.

Section 1827(h) is amended to read as follows:

"(h) The presiding judicial officer shall approve the compensation and expenses payable to interpreters, pursuant to the schedule of fees prescribed by the Director under subsection (b)(3).".

SEC. 708. DEFINITIONS.

Subsections (i) and (j) of section 1827 are amended to read as follows:

"(i) The term 'presiding judicial officer' as used in this section refers to any judge of a United States district court, including a bankruptcy judge, a United States magistrate, and in the case of grand jury proceedings conducted under the auspices of the United States attorney, a United States attorney.

"(j) The term 'judicial proceedings instituted by the United States' as used in this section refers to all proceedings, whether criminal or civil, including pretrial and grand jury proceedings (as well as proceedings upon a petition for a writ of habeas corpus initiated in the name of the United States by a relator) conducted in, or pursuant to the lawful authority and jurisdiction of a United States district court. The term 'United States district court' as used in this subsection includes any court which is created by an Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title.".

SEC. 709. SIMULTANEOUS INTERPRETATION.

Section 1827(k) is amended to read as follows:

"(k) The interpretation provided by certified or otherwise qualified interpreters pursuant to this section shall be in the simultaneous mode for any party to a judicial proceeding instituted by the United States and in the consecutive mode for witnesses, except that the presiding judicial officer, sua sponte or on the motion of a party, may authorize a simultaneous, or consecutive interpretation when such officer determines after a hearing on the record that such interpretation will aid in the efficient administration of justice. The presiding judicial officer, on such officer's motion or on the motion

of a party, may order that special interpretation services as authorized in section 1828 of this title be provided if such officer determines that the provision of such services will aid in the efficient administration of justice.".

SEC. 710. TECHNICAL AMENDMENTS.

(a) Section 1827(d) is amended—

(1) by striking out "competent" and inserting in lieu thereof "qualified";

(2) by striking out "any criminal" and all that follows through "relator)" and inserting in lieu thereof "judicial proceedings instituted by the United States"; and

(3) by striking out "such action" and inserting in lieu thereof "such judicial proceedings".

(b) Section 1827(e)(2) is amended by striking out "criminal or civil action in a United States district court" and inserting in lieu thereof "judicial proceedings instituted by the United States".

SEC. 711. IMPACT ON EXISTING PROGRAMS.

28 USC 1827 note.

Nothing in this title shall be construed to terminate or diminish existing programs for the certification of interpreters.

SEC. 712. EFFECTIVE DATE.

28 USC 1827 note.

This title shall become effective upon the date of enactment.

TITLE VIII—JURY SELECTION AND SERVICE

SEC. 801. EXCUSE OF JURORS.

Section 1866(c)(1) is amended to read as follows: "(1) excused by the court, or by the clerk under supervision of the court if the court's jury selection plan so authorizes, upon a showing of undue hardship or extreme inconvenience, for such period as the court deems necessary, at the conclusion of which such person either shall be summoned again for jury service under subsections (b) and (c) of this section or, if the court's jury selection plan so provides, the name of such person shall be reinserted into the qualified jury wheel for selection pursuant to subsection (a) of this section, or".

SEC. 802. JURY SELECTION PLAN.

(a) CLERK DEFINED FOR PURPOSES OF FUNCTIONS UNDER PLAN.—Section 1869(a) is amended to read as follows:

"(a) 'clerk' and 'clerk of the court' shall mean the clerk of the district court of the United States, any authorized deputy clerk, and any other person authorized by the court to assist the clerk in the performance of functions under this chapter;".

(b) OPTIONAL JURY SERVICE BY VOLUNTEER PUBLIC SAFETY PERSONNEL.—Paragraph (5) of section 1863(b)(5) is amended—

(1) by inserting "(A) except as provided in subparagraph (B)," after "(5)", and

(2) by adding at the end the following:

"(B) specify that volunteer safety personnel, upon individual request, shall be excused from jury service. For purposes of this subparagraph, the term 'volunteer safety personnel' means individuals serving a public agency (as defined in section 1203(6) of title I of the Omnibus Crime Control and Safe Streets Act of

1968) in an official capacity, without compensation, as firefighters or members of a rescue squad or ambulance crew.".

(c) PERSONS EXEMPTED FROM JURY SERVICE.—Paragraph (6) of section 1863(b) is amended to read as follows:

Armed Forces. Firemen. Policemen.

"(6) specify that the following persons are barred from jury service on the ground that they are exempt: (A) members in active service in the Armed Forces of the United States; (B) members of the fire or police departments of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession; (C) public officers in the executive, legislative, or judicial branches of the Government of the United States, or of any State, the District of Columbia, any territory or possession of the United States, or any subdivision of a State, the District of Columbia, or such territory or possession, who are actively engaged in the performance of official duties.".

SEC. 803. MASTER JURY WHEEL.

Classified information.

(a) ALPHABETICAL LIST NOT MANDATORY.—Strike out the second sentence of section 1864(a) and insert the following: "The clerk or jury commission may, upon order of the court, prepare an alphabetical list of the names drawn from the master jury wheel. Any list so prepared shall not be disclosed to any person except pursuant to the district court plan or pursuant to section 1867 or 1868 of this title.".

(b) CONFORMING AMENDMENT.—The second sentence of section 1865(a) is amended by striking out "the alphabetical" and inserting in lieu thereof "in any alphabetical".

SEC. 804. TECHNICAL AMENDMENT.

Section 1869(f) is amended to read as follows:

"(f) 'district court of the United States', 'district court', and 'court' shall mean any district court established by chapter 5 of this title, and any court which is created by Act of Congress in a territory and is invested with any jurisdiction of a district court established by chapter 5 of this title;".

SEC. 805. EXPERIMENTAL USE OF NEW JURY SELECTION PROCEDURES.

(a) SECTION 1878.—Chapter 121 is amended by adding at the end thereof the following:

"§ 1878. Experimental use of a one-step summoning and qualification procedure

"(a) The Judicial Conference of the United States is hereby authorized to develop and conduct an experiment in which jurors serving in a limited number of United States district courts shall be qualified and summoned in a single procedure, in lieu of the two separate procedures otherwise provided for by this chapter. The Judicial Conference shall designate the district courts to participate in this experiment, but in no event shall the number of courts participating exceed ten. An experiment may be conducted pursuant to this section for a period not to exceed 2 years. The Judicial Conference shall ensure that an experiment conducted pursuant to this section does not violate the policies and objectives set forth in sections 1861 and 1862 of this title, and shall terminate the experiment immediately if it determines that these policies and objectives

are being violated or whenever in its judgment good cause for such termination exists.

"(b) Jury selection conducted pursuant to this section shall be subject to challenge under section 1867 of this title for substantial failure to comply with the provisions of this title in selecting the jury. However, no challenge under section 1867 of this title shall lie solely on the basis that a jury was selected in accordance with an experiment conducted pursuant to this section.".

(b) TECHNICAL.—The table of sections for chapter 121 is amended by adding at the end thereof the following new item:

"1878. Experimental use of a one-step summoning and qualification procedure.".

TITLE IX—ARBITRATION

SEC. 901. ARBITRATION AUTHORIZATION BY DISTRICT COURTS.

(a) IN GENERAL.—Title 28, United States Code, is amended by inserting after chapter 43 the following new chapter:

"CHAPTER 44—ARBITRATION

"Sec.
"651. Authorization of arbitration.
"652. Jurisdiction.
"653. Powers of arbitrator; arbitration hearing.
"654. Arbitration award and judgment.
"655. Trial de novo.
"656. Certification of arbitrators.
"657. Compensation of arbitrators.
"658. District courts that may authorize arbitration.

"§ 651. Authorization of arbitration

"(a) AUTHORITY OF CERTAIN DISTRICT COURTS.—Each United States district court described in section 658 may authorize by local rule the use of arbitration in any civil action, including an adversary proceeding in bankruptcy. A district court described in section 658(1) may refer any such action to arbitration as set forth in section 652(a). A district court described in section 658(2) may refer only such actions to arbitration as are set forth in section 652(a)(1)(A).

"(b) TITLE 9 NOT AFFECTED.—This chapter shall not affect title 9.

"§ 652. Jurisdiction

"(a) ACTIONS THAT MAY BE REFERRED TO ARBITRATION.—(1) Notwithstanding any provision of law to the contrary and except as provided in subsections (b) and (c) of this section, and section 901(c) of the Judicial Improvements and Access to Justice Act, a district court that authorizes arbitration under section 651 may—

"(A) allow the referral to arbitration of any civil action (including any adversary proceeding in bankruptcy) pending before it if the parties consent to arbitration, and

"(B) require the referral to arbitration of any civil action pending before it if the relief sought consists only of money damages not in excess of $100,000 or such lesser amount as the district court may set, exclusive of interest and costs.

"(2) For purposes of paragraph (1)(B), a district court may presume damages are not in excess of $100,000 unless counsel certifies that damages exceed such amount.

"(b) ACTIONS THAT MAY NOT BE REFERRED WITHOUT CONSENT OF PARTIES.—Referral to arbitration under subsection (a)(1)(B) may not be made—

"(1) of an action based on an alleged violation of a right secured by the Constitution of the United States, or

"(2) if jurisdiction is based in whole or in part on section 1343 of this title.

"(c) EXCEPTIONS FROM ARBITRATION.—Each district court shall establish by local rule procedures for exempting, sua sponte or on motion of a party, any case from arbitration in which the objectives of arbitration would not be realized—

"(1) because the case involves complex or novel legal issues,

"(2) because legal issues predominate over factual issues, or

"(3) for other good cause.

"(d) SAFEGUARDS IN CONSENT CASES.—In any civil action in which arbitration by consent is allowed under subsection (a)(1)(A), the district court shall by local rule establish procedures to ensure that—

"(1) consent to arbitration is freely and knowingly obtained, and

"(2) no party or attorney is prejudiced for refusing to participate in arbitration.

"§ 653. Powers of arbitrator; arbitration hearing

"(a) POWERS.—An arbitrator to whom an action is referred under section 652 shall have, within the judicial district of the district court which referred the action to arbitration, the power—

"(1) to conduct arbitration hearings,

"(2) to administer oaths and affirmations, and

"(3) to make awards.

"(b) TIME FOR BEGINNING ARBITRATION HEARING.—An arbitration hearing under this chapter shall begin within a time period specified by the district court, but in no event later than 180 days after the filing of an answer, except that the arbitration proceeding shall not, in the absence of the consent of the parties, commence until 30 days after the disposition by the district court of any motion to dismiss the complaint, motion for judgment on the pleadings, motion to join necessary parties, or motion for summary judgment, if the motion was filed during a time period specified by the district court. The 180-day and 30-day periods specified in the preceding sentence may be modified by the court for good cause shown.

"(c) SUBPOENAS.—Rule 45 of the Federal Rules of Civil Procedure (relating to subpoenas) applies to subpoenas for the attendance of witnesses and the production of documentary evidence at an arbitration hearing under this chapter.

"§ 654. Arbitration award and judgment

"(a) FILING AND EFFECT OF ARBITRATION AWARD.—An arbitration award made by an arbitrator under this chapter, along with proof of service of such award on the other party by the prevailing party or by the plaintiff, shall, promptly after the arbitration hearing is concluded, be filed with the clerk of the district court that referred the case to arbitration. Such award shall be entered as the judgment of the court after the time has expired for requesting a trial de novo under section 655. The judgment so entered shall be subject to the same provisions of law and shall have the same force and effect as a judgment of the court in a civil action, except that the judgment

shall not be subject to review in any other court by appeal or otherwise.

"(b) SEALING OF ARBITRATION AWARD.—The district court shall provide by local rule that the contents of any arbitration award made under this chapter shall not be made known to any judge who might be assigned to the case—

"(1) except as necessary for the court to determine whether to assess costs or attorney fees under section 655,

"(2) until the district court has entered final judgment in the action or the action has been otherwise terminated, or

"(3) except for purposes of preparing the report required by section 903(b) of the Judicial Improvements and Access to Justice Act.

"(c) TAXATION OF COSTS.—The district court may by rule allow for the inclusion of costs as provided in section 1920 of this title as a part of the arbitration award.

"§ 655. Trial de novo

"(a) TIME FOR DEMAND.—Within 30 days after the filing of an arbitration award with a district court under section 654, any party may file a written demand for a trial de novo in the district court.

"(b) RESTORATION TO COURT DOCKET.—Upon a demand for a trial de novo, the action shall be restored to the docket of the court and treated for all purposes as if it had not been referred to arbitration. In such a case, any right of trial by jury that a party otherwise would have had, as well as any place on the court calendar which is no later than that which a party otherwise would have had, are preserved.

"(c) LIMITATION ON ADMISSION OF EVIDENCE.—The court shall not admit at the trial de novo any evidence that there has been an arbitration proceeding, the nature or amount of any award, or any other matter concerning the conduct of the arbitration proceeding, unless—

"(1) the evidence would otherwise be admissible in the court under the Federal Rules of Evidence, or

"(2) the parties have otherwise stipulated.

"(d) TAXATION OF ARBITRATOR FEES AS COST.—(1)(A) A district court may provide by rule that, in any trial de novo under this section, arbitrator fees paid under section 657 may be taxed as costs against the party demanding the trial de novo.

"(B) Such rule may provide that a party demanding a trial de novo under subsection (a), other than the United States or its agencies or officers, shall deposit a sum equal to such arbitrator fees as advanced payment of such costs, unless the party is permitted to proceed in forma pauperis.

"(2) Arbitrator fees shall not be taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) shall be returned to the party demanding the trial de novo, if—

"(A) the party demanding the trial de novo obtains a final judgment more favorable than the arbitration award, or

"(B) the court determines that the demand for the trial de novo was made for good cause.

"(3) Any arbitrator fees taxed as costs under paragraph (1)(A), and any sum deposited under paragraph (1)(B) that is not returned to the party demanding the trial de novo, shall be paid to the Treasury of the United States.

"(4) Any rule under this subsection shall provide that no penalty for demanding a trial de novo, other than that provided in this subsection, shall be assessed by the court.

"(e) ASSESSMENT OF COSTS AND ATTORNEY FEES.—In any trial de novo demanded under subsection (a) in which arbitration was done by consent of the parties, a district court may assess costs, as provided in section 1920 of this title, and reasonable attorney fees against the party demanding the trial de novo if—

"(1) such party fails to obtain a judgment, exclusive of interest and costs, in the court which is substantially more favorable to such party than the arbitration award, and

"(2) the court determines that the party's conduct in seeking a trial de novo was in bad faith.

"§ 656. Certification of arbitrators

"(a) STANDARDS FOR CERTIFICATION.—Each district court listed in section 658 shall establish standards for the certification of arbitrators and shall certify arbitrators to perform services in accordance with such standards and this chapter. The standards shall include provisions requiring that any arbitrator—

"(1) shall take the oath or affirmation described in section 453, and

"(2) shall be subject to the disqualification rules of section 455.

"(b) TREATMENT OF ARBITRATOR AS INDEPENDENT CONTRACTOR AND SPECIAL GOVERNMENT EMPLOYEE.—An arbitrator is an independent contractor and is subject to the provisions of sections 201 through 211 of title 18 to the same extent as such provisions apply to a special Government employee of the executive branch. A person may not be barred from the practice of law because such person is an arbitrator.

"§ 657. Compensation of arbitrators

"(a) COMPENSATION.—The district court may, subject to limits set by the Judicial Conference of the United States, establish and pay the amount of compensation, if any, that each arbitrator shall receive for services rendered in each case.

"(b) TRANSPORTATION ALLOWANCES.—Under regulations prescribed by the Director of the Administrative Office of the United States Courts, a district court may reimburse arbitrators for actual transportation expenses necessarily incurred in the performance of duties under this chapter.

"§ 658. District courts that may authorize arbitration

"The district courts for the following judicial districts may authorize the use of arbitration under this chapter:

State listing.

"(1) Northern District of California, Middle District of Florida, Western District of Michigan, Western District of Missouri, District of New Jersey, Eastern District of New York, Middle District of North Carolina, Western District of Oklahoma, Eastern District of Pennsylvania, and Western District of Texas.

"(2) Ten additional judicial districts, which shall be approved by the Judicial Conference of the United States. The Judicial Conference shall give notice of the 10 districts approved under this paragraph to the Federal Judicial Center and to the public.".

(b) CONFORMING AMENDMENT.—The table of chapters at the beginning of part III is amended by inserting after the item relating to chapter 43 the following new item:

"44. Arbitration ..... 651".

(c) EXCEPTION TO LIMITATION ON MONEY DAMAGES.—Notwithstanding section 652 (as added by subsection (a) of this section), establishing a limitation of $100,000 in money damages with respect to cases referred to arbitration, a district court listed in section 658 (as added by subsection (a) of this section), whose local rule on the date of the enactment of this Act provides for a limitation on money damages, with respect to such cases, of not more than $150,000, may continue to apply the higher limitation. 28 USC 652 note.

SEC. 902. MODEL PROCEDURES. 28 USC 651 note.

The Judicial Conference of the United States may develop model rules relating to procedures for arbitration under chapter 44, as added by section 901 of this Act. No model rule may supersede any provision of such chapter 44, this title, or any law of the United States.

SEC. 903. REPORTS. 28 USC 651 note.

(a) ANNUAL REPORT BY DIRECTOR OF ADMINISTRATIVE OFFICE OF THE UNITED STATES COURTS.—The Director of the Administrative Office of the United States Courts shall include in the annual report of the activities of the Administrative Office required under section 604(a)(3), statistical information about the implementation of chapter 44, as added by section 901 of this Act.

(b) REPORT BY FEDERAL JUDICIAL CENTER.—Not later than 5 years after the date of enactment of this Act, the Federal Judicial Center, in consultation with the Director of the Administrative Office of the United States Courts, shall submit to the Congress a report on the implementation of chapter 44, as added by section 901 of this Act, which shall include the following:

(1) A description of the arbitration programs authorized by such chapter, as conceived and as implemented in the judicial districts in which such programs are authorized.

(2) A determination of the level of satisfaction with the arbitration programs in those judicial districts by a sampling of court personnel, attorneys, and litigants whose cases have been referred to arbitration.

(3) A summary of those program features that can be identified as being related to program acceptance both within and across judicial districts.

(4) A description of the levels of satisfaction relative to the cost per hearing of each program.

(5) Recommendations to the Congress on whether to terminate or continue chapter 44, or, alternatively, to enact an arbitration provision in title 28, United States Code, authorizing arbitration in all Federal district courts.

SEC. 904. EFFECT ON JUDICIAL RULE MAKING POWERS. 28 USC 651 note.

Nothing in this title, or in chapter 44, as added by section 901 of this Act, is intended to abridge, modify, or enlarge the rule making powers of the Federal judiciary.

28 USC 651 note.

SEC. 905. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated for the fiscal year ending September 30, 1989, and for each of the succeeding 4 fiscal years, to the judicial branch such sums as may be necessary to carry out the purposes of chapter 44, as added by section 901 of this Act. Funds appropriated under this section shall be allocated by the Administrative Office of the United States Courts to Federal judicial districts and the Federal Judicial Center. The funds so appropriated are authorized to remain available until expended, except that such funds may not be expended for the arbitration of actions referred to arbitration after the date of repeal set forth in section 906 of this Act.

28 USC 651 note.

SEC. 906. REPEAL.

Effective 5 years after the date of the enactment of this Act, chapter 44, as added by section 901 of this Act, and the item relating to that chapter in the table of chapters at the beginning of part III of such title, are repealed, except that the provisions of that chapter shall continue to apply through final disposition of all actions in which referral to arbitration was made before the date of repeal.

SEC. 907. EFFECTIVE DATE.

This title and the amendments made by this title shall take effect 180 days after the date of enactment of this Act.

TITLE X—MISCELLANEOUS PROVISIONS

SEC. 1001. DIVISIONAL VENUE IN CIVIL CASES.

(a) REPEAL.—Section 1393, relating to divisional venue in civil cases, and the item relating to section 1393 in the table of sections at the beginning of chapter 87, are repealed.

28 USC 1393 note.

(b) EFFECTIVE DATE.—The amendments made by this section take effect 90 days after the date of enactment of this Act.

SEC. 1002. REGISTRATION OF FOREIGN JUDGMENTS.

(a) JUDGMENTS OF DISTRICT COURTS AND COURT OF INTERNATIONAL TRADE.—Section 1963 is amended by amending the first sentence to read as follows: "A judgment in an action for the recovery of money or property entered in any district court or in the Court of International Trade may be registered by filing a certified copy of such judgment in any other district or, with respect to the Court of International Trade, in any judicial district, when the judgment has become final by appeal or expiration of the time for appeal or when ordered by the court that entered the judgment for good cause shown.".

(b) CONFORMING AMENDMENTS.—(1) The section caption for section 1963 is amended to read as follows:

"§ 1963. Registration of judgments of the district courts and the Court of International Trade".

(2) Section 1963A is repealed.

(3)(A) The item relating to section 1963 in the table of sections at the beginning of chapter 125 is amended to read as follows:

"1963. Registration of judgments of the district courts and the Court of International Trade.".

(B) The table of sections at the beginning of chapter 125 is amended by repealing the item relating to section 1963A.

(c) EFFECTIVE DATE.—The amendments made by this section take effect 90 days after the date of enactment of this title. 28 USC 1963 note.

SEC. 1003. BANKRUPTCY JUDGE, MAGISTRATE AND LAW CLERK EXEMPTION FROM FEDERAL LEAVE ACT.

(a) AMENDMENTS TO SECTIONS 153, 156, 631, 634, 712, 752, AND 794.—

(1) Section 153 is amended by adding at the end thereof the following:

"(d) A bankruptcy judge appointed under this chapter shall be exempt from the provisions of subchapter I of chapter 63 of title 5.".

(2) Section 631 is amended by adding at the end thereof the following:

"(l) A United States magistrate appointed under this chapter shall be exempt from the provisions of subchapter I of chapter 63 of title 5.".

(3) Sections 156(a), 712, 752, and 794 are each amended by adding at the end thereof the following:

"A law clerk appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.".

(4) Section 634(c) is amended by adding at the end thereof the following: "A legal assistant appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, unless specifically included by the appointing judge or by local rule of court.".

(b) TRANSITION PROVISIONS.—(1) If an individual who is exempted from the Leave Act by operation of amendments under this section and who was previously subject to the provisions of subchapter I of chapter 63 of title 5, United States Code, without a break in service, again becomes subject to this subchapter on completion of his service as an exempted officer, the unused annual leave and sick leave standing to his credit when he was exempted from this subchapter is deemed to have remained to his credit. 28 USC 153 note.

(2) In computing an annuity under section 8339 of title 5, United States Code, the total service of a person specified in paragraph (1) of this subsection who retired on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of section 8339 of title 5, United States Code, the days of unused sick leave standing to his credit when he was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

SEC. 1004. COST-OF-LIVING ADJUSTMENT OF ANNUITIES PAYABLE UNDER SECTIONS 611 AND 627.

(a) AMENDMENTS TO SECTIONS 611 AND 627.—Sections 611 and 627 are amended by adding at the end thereof a new paragraph denominated as subsection (e) of section 611 and subsection (f) of section 627, to read as follows:

"Each annuity payable under this section shall be increased by the same percentage amount and effective on the same date as annuities payable under chapter 83 of title 5, are increased as provided by section 8340 of title 5.".

28 USC 611 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to cost-of-living increases that go into effect on or after the date of enactment of this title with respect to any annuity being paid or becoming payable on or after such date.

SEC. 1005. MILITARY RETIREMENT PAY FOR SENIOR OR RETIRED JUDGES.

(a) AMENDMENTS TO SECTION 371.—Section 371 is amended by adding at the end thereof the following new subsection:

Uniformed services.

"(e) Notwithstanding subsection (c) of section 5532 of title 5, if a regular or reserve member or former member of a uniformed service who is receiving retired or retainer pay becomes employed as a justice or judge of the United States, as defined by section 451, or becomes eligible therefor while so employed, such retired or retainer pay shall not be paid during regular active service as a justice or judge, but shall be resumed or commenced without reduction upon retirement from the judicial office or from regular active service (into senior status) as such justice or judge.".

28 USC 371 note.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to a justice or judge who retires, or has retired, from the judicial office or from regular active service (into senior status) as such justice or judge of the United States on or after the effective date of section 5532(c) of title 5, and to whom section 5532(c) would otherwise be applicable.

SEC. 1006. AMENDMENTS TO CONFORM SECTIONS 611 AND 627 TO THE FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT OF 1986.

(a) AMENDMENTS TO SECTIONS 611 AND 627.—

(1) Section 611(a) is amended to read as follows:

"(a) The Director may, by written election filed with the Chief Justice of the United States within 6 months after the date on which he takes office, waive coverage under chapter 83 of title 5, subchapter III (the Civil Service Retirement System) or chapter 84 of title 5 (the Federal Employees' Retirement System), whichever is applicable, and bring himself within the purview of this section. A Director who elects coverage under this section shall be deemed an 'employee' for purposes of chapter 84 of title 5, subchapter III, regardless of whether he has waived the coverage of chapter 83, subchapter III, or chapter 84. Waiver of coverage under chapter 83, subchapter III, and election of this section shall not operate to foreclose to the Director, upon separation from service other than by retirement, such opportunity as the law may provide to secure retirement credit under chapter 83 for service as Director by depositing with interest the amount required by section 8334 of title 5. A Director who waives coverage under chapter 84 and elects this section may secure retirement credit under chapter 84 for service as Director by depositing with interest 1.3 percent of basic pay for service from January 1, 1984, through December 31, 1986, and the amount referred to in section 8422(a) of title 5, for service after December 31, 1986. Interest shall be computed under section 8334(e) of title 5.".

(2) Section 627(b) is amended, following the words "*Provided, however,*", to read as follows:

"That the Director, upon written notice filed with the Director of the Administrative Office of the United States Courts within 6 months after the date on which he takes office, may waive coverage under chapter 83 of title 5, subchapter III (the Civil Service Retire-

ment System) or chapter 84 of title 5 (the Federal Employees' Retirement System), whichever is applicable, and elect coverage under the retirement and disability provisions of this section. A Director who elects coverage under this section shall be deemed an 'employee' for purposes of chapter 84 of title 5, subchapter III, regardless of whether he has waived the coverage of chapter 83, subchapter III, or chapter 84: *And provided further,* That upon his nonretirement separation from the Federal Judicial Center, waiver of coverage under chapter 83, subchapter III, and election of this section shall not operate to foreclose to the Director such opportunity as the law may provide to secure retirement credit under chapter 83 for service as Director by depositing with interest the amount required by section 8334 of title 5. A Director who waives coverage under chapter 84 and elects this section may secure retirement credit under chapter 84 for service as Director by depositing with interest 1.3 percent of basic pay for service from January 1, 1984, through December 31, 1986, and the amount referred to in section 8422(a) of title 5, for service after December 31, 1986. Interest shall be computed under section 8334(e) of title 5.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to persons holding the offices of Director of the Administrative Office of the United States Courts, Director of the Federal Judicial Center, and Administrative Assistant to the Chief Justice on the date of enactment of this title. 28 USC 611 note.

SEC. 1007. JUDICIAL DISQUALIFICATION AMENDMENT.

Section 455 is amended by adding at the end thereof the following:

"(f) Notwithstanding the preceding provisions of this section, if any justice, judge, magistrate, or bankruptcy judge to whom a matter has been assigned would be disqualified, after substantial judicial time has been devoted to the matter, because of the appearance or discovery, after the matter was assigned to him or her, that he or she individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in a party (other than an interest that could be substantially affected by the outcome), disqualification is not required if the justice, judge, magistrate, bankruptcy judge, spouse or minor child, as the case may be, divests himself or herself of the interest that provides the grounds for the disqualification.".

SEC. 1008. INCENTIVE AWARDS.

Section 604(a), as amended by this Act, is further amended—

(1) by redesignating the second paragraph (14) through paragraph (19) as paragraphs (15) through (20); and

(2) by inserting after paragraph (20) the following:

"(21) Establish a program of incentive awards for employees of the judicial branch of the United States Government, other than any judge who is entitled to hold office during good behavior;".

SEC. 1009. WAIVER OF CLAIMS FOR OVERPAYMENT OF JUDICIAL PAY AND ALLOWANCES.

(a) AMENDMENTS TO TITLE 5, UNITED STATES CODE.—Section 5584 of title 5, United States Code, is amended—

(1) in subsection (a)—

(A) by striking out "or" at the end of paragraph (1);

(B) by striking out the period at the end of paragraph (2) and inserting in lieu thereof "; or"; and

(C) by adding at the end thereof the following new paragraph:

"(3) the Director of the Administrative Office of the United States Courts when the claim is in an amount aggregating not more than $10,000 and involves an officer or employee of the Administrative Office of the United States Courts, the Federal Judicial Center, or any of the courts set forth in section 610 of title 28."; and

(2) in subsection (g)—

(A) by striking out "and" at the end of paragraph (4);

(B) by striking out the period at the end of paragraph (5) and inserting in lieu thereof "; and"; and

(C) by adding at the end thereof the following new paragraph:

"(6) the Administrative Office of the United States Courts, the Federal Judicial Center, and any of the courts set forth in section 610 of title 28.

For purposes of this section, the Director of the Administrative Office of the United States Courts shall be the head of the agency in the case of those entities set forth in paragraph (6) of this subsection.".

5 USC 5584 note.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to any claim arising before the date of the enactment of this Act which is pending on such date, and to any claim which arises on or after such date of enactment.

SEC. 1010. COURT SECURITY.

Section 604(a) is further amended by inserting the following new paragraph before paragraph (23), as redesignated by this Act:

"(22) Receive and expend, either directly or by transfer to the United States Marshals Service or other Government agency, funds appropriated for the procurement, installation, and maintenance of security equipment and protective services for the United States Courts in courtrooms and adjacent areas, including building ingress/egress control, inspection of packages, directed security patrols, and other similar activities;".

SEC. 1011. TRAVEL REIMBURSEMENT.

Section 604(a)(7) is amended by inserting a comma in lieu of the semicolon at the end thereof and adding thereafter the following: "without regard to the per diem allowances and amounts for reimbursement of actual and necessary expenses established by the Administrator of General Services under section 5702 of title 5: *Provided,* That the reimbursement of subsistence expenses may not exceed that authorized by the Director for judges of the United States under section 456 of this title;".

SEC. 1012. CLAIMS COURT FEES.

(a) INCREASE IN CLAIMS COURT FILING FEES.—(1) Section 2520 is amended by striking out "$60" and inserting in lieu thereof "$120".

Effective date. 28 USC 2520 note.

(2) The amendment made by this subsection shall take effect 30 days after the date of enactment of this title.

(b) REPORT ON OTHER FEES.—Not later than 180 days after the date of enactment of this Act, the Judicial Conference of the United

States shall submit a report to the Congress on the actual costs of filing actions in the district courts of the United States.

SEC. 1013. CORPORATE VENUE.

(a) IN GENERAL.—Section 1391(c) is amended to read as follows:

"(c) For purposes of venue under this chapter, a defendant that is a corporation shall be deemed to reside in any judicial district in which it is subject to personal jurisdiction at the time the action is commenced. In a State which has more than one judicial district and in which a defendant that is a corporation is subject to personal jurisdiction at the time an action is commenced, such corporation shall be deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State, and, if there is no such district, the corporation shall be deemed to reside in the district within which it has the most significant contacts.".

(b) EFFECTIVE DATE.—The amendment made by this section takes effect 90 days after the date of enactment of this title. 28 USC 1391 note.

SEC. 1014. METHOD OF RECORDING.

Paragraph (7) of section 636(c) is amended to read as follows:

"(7) The magistrate shall, subject to guidelines of the Judicial Conference, determine whether the record taken pursuant to this section shall be taken by electronic sound recording, by a court reporter, or by other means.".

SEC. 1015. LOCATION OF CHAMBERS OF CIRCUIT JUDGES.

Section 462(c) is amended by striking out "where Federal facilities are available" and inserting in lieu thereof "within the circuit other than where regular sessions of court are authorized by law to be held,".

SEC. 1016. IMPROVEMENTS IN REMOVAL PROCEDURE.

(a) ACTIONS REMOVABLE GENERALLY.—Section 1441(a) is amended by adding at the end thereof the following new sentence: "For purposes of removal under this chapter, the citizenship of defendants sued under fictitious names shall be disregarded.".

(b) PROCEDURE FOR REMOVAL.—Section 1446 is amended—

(1) by amending subsection (a) to read as follows:

"(a) A defendant or defendants desiring to remove any civil action or criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such action is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.";

(2) in subsection (b)—

(A) by striking out "petition for removal" each place it appears and inserting in lieu thereof "notice of removal"; and

(B) in the second paragraph by striking out the period at the end thereof and inserting in lieu thereof ", except that a case may not be removed on the basis of jurisdiction conferred by section 1332 of this title more than 1 year after commencement of the action."; and

(3) by striking out subsection (d) and redesignating subsections (e) and (f) as subsections (d) and (e), respectively.

(c) PROCEDURE AFTER REMOVAL GENERALLY.—Section 1447 is amended—

(1) by amending subsection (c) to read as follows:

"(c) A motion to remand the case on the basis of any defect in removal procedure must be made within 30 days after the filing of the notice of removal under section 1446(a). If at any time before final judgment it appears that the district court lacks subject matter jurisdiction, the case shall be remanded. An order remanding the case may require payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal. A certified copy of the order of remand shall be mailed by the clerk to the clerk of the State court. The State court may thereupon proceed with such case."; and

(2) by adding at the end thereof the following new subsection:

"(e) If after removal the plaintiff seeks to join additional defendants whose joinder would destroy subject matter jurisdiction, the court may deny joinder, or permit joinder and remand the action to the State court.".

SEC. 1017. COST-OF-LIVING ADJUSTMENTS FOR JUDICIAL SURVIVORS' ANNUITIES.

(a) IN GENERAL.—Section 376(m) is amended to read as follows:

"(m) Each time that an increase is made under section 8340(b) of title 5 in annuities paid under subchapter III of chapter 83 of such title, each annuity payable from the Judicial Survivors' Annuities Fund shall be increased at the same time by the same percentage by which annuities are increased under that section.".

28 USC 376 note.

(b) INCREASE FOR EXISTING ANNUITANTS.—Each annuity payable from the Judicial Survivors' Annuities Fund under section 376 of title 28, United States Code, on the date of the enactment of this title shall be increased by 10 percent, effective on such date of enactment.

28 USC 376 note.

(c) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply with respect to increases in annuities which are made under section 8340(b) of title 5, United States Code, on or after the date of enactment of this title.

SEC. 1018. ELIMINATION OF CIRCUIT EXECUTIVE BOARD OF CERTIFICATION PROCEDURE.

Section 332 is amended—

(1) in subsection (e) by striking out "executive from among persons who shall be certified by the Board of Certification." and inserting in lieu thereof "executive. In appointing a circuit executive, the judicial council shall take into account experience in administrative and executive positions, familiarity with court procedures, and special training."; and

(2) in subsection (f) by striking out the first paragraph and by designating the remaining paragraphs as paragraphs (1), (2), (3), and (4), respectively.

SEC. 1019. APPEALS UNDER TITLE 9, UNITED STATES CODE.

(a) IN GENERAL.—Chapter 1 of title 9, United States Code, is amended by adding at the end thereof the following new section:

"§ 15. Appeals

"(a) An appeal may be taken from—

"(1) an order—

"(A) refusing a stay of any action under section 3 of this title,

"(B) denying a petition under section 4 of this title to order arbitration to proceed,

"(C) denying an application under section 206 of this title to compel arbitration,

"(D) confirming or denying confirmation of an award or partial award, or

"(E) modifying, correcting, or vacating an award;

"(2) an interlocutory order granting, continuing, or modifying an injunction against an arbitration that is subject to this title; or

"(3) a final decision with respect to an arbitration that is subject to this title.

"(b) Except as otherwise provided in section 1292(b) of title 28, an appeal may not be taken from an interlocutory order—

"(1) granting a stay of any action under section 3 of this title;

"(2) directing arbitration to proceed under section 4 of this title;

"(3) compelling arbitration under section 206 of this title; or

"(4) refusing to enjoin an arbitration that is subject to this title.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"15. Appeals.".

SEC. 1020. MISCELLANEOUS TECHNICAL AMENDMENTS. Copyrights.

(a) AMENDMENTS TO TITLE 28.—

(1) Section 332(c) is amended by striking out "semiannually" and inserting in lieu thereof "semiannual".

(2) Section 604(a)(2) is amended by striking out "quarterly" and inserting in lieu thereof "semiannually".

(3) Section 1295(a)(1) is amended by inserting ", exclusive rights in mask works," after "copyrights".

(4)(A) Section 1338 is amended by adding at the end the following:

"(c) Subsections (a) and (b) apply to exclusive rights in mask works under chapter 9 of title 17 to the same extent as such subsections apply to copyrights.".

(B) The section heading for section 1338 is amended to read as follows:

"§ 1338. Patents, plant variety protection, copyrights, mask works, trade-marks, and unfair competition".

(5) Section 1400(a) is amended by inserting "or exclusive rights in mask works" after "copyrights".

(6) Section 1498 is amended by adding at the end the following:

"(e) Subsections (b) and (c) of this section apply to exclusive rights in mask works under chapter 9 of title 17 to the same extent as such subsections apply to copyrights.".

(7) The table of sections at the beginning of chapter 85 is amended—

(A) in the item relating to section 1330 by striking out "Action" and inserting in lieu thereof "Actions";

(B) in the item relating to section 1331 by inserting a period after "question";

(C) by amending the item relating to section 1338 to read as follows:

"1338. Patents, plant variety protection, copyrights, mask works, trade-marks, and unfair competition.";

and

(D) by amending the item relating to section 1343 to read as follows:

"1343. Civil rights and elective franchise.".

(8) The item relating to section 1914 in the table of sections at the beginning of chapter 123 is amended by striking out "courts" and inserting in lieu thereof "court".

(9) The table of sections for chapter 17 is amended by amending the item relating to section 376 to read as follows:

"376. Annuities for survivors of certain judicial officials of the United States.".

(b) OTHER AMENDMENTS.—Section 912 of title 17, United States Code, is amended—

(1) by striking out subsection (d); and

(2) by redesignating subsection (e) as subsection (d).

SEC. 1021. CONFIGURATION OF FLORIDA DISTRICTS.

(a) MIDDLE AND SOUTHERN DISTRICTS.—Section 89 is amended—

(1) in subsection (b)—

(A) by inserting "Collier," after "Clay,";

(B) by inserting "Glades," after "Flagler,"; and

(C) by inserting "Hendry," after "Hardee,"; and

(2) in subsection (c) by striking "Collier," "Glades," and "Hendry,".

28 USC 89 note.

(b) EFFECTIVE DATE.—(1) The amendments made by this section shall take effect 90 days after the date of enactment of this title.

(2) The amendments made by subsection (a) shall apply to any action commenced in the United States District Court for the Middle District of Florida, or in the United States District Court for the Southern District of Florida, on or after the effective date of this title, and shall not affect any action pending in either such court on such effective date.

28 USC 89 note.

(c) JURIES.—The amendments made by this section shall not affect the composition, or preclude the service, of any grand or petit jury summoned, empaneled, or actually serving on the effective date of this title.

SEC. 1022. SERVICE OF ARTICLE III JUDGES ON TERRITORIAL COURTS.

Chapter 13 is amended by—

(1) adding at the end thereof the following:

"§ 297. Assignment of judges to courts of the freely associated compact states

"(a) The Chief Justice or the chief judge of the United States Court of Appeals for the Ninth Circuit may assign any circuit or district judge of the Ninth Circuit, with the consent of the judge so

assigned, to serve temporarily as a judge of any duly constituted court of the freely associated compact states whenever an official duly authorized by the laws of the respective compact state requests such assignment and such assignment is necessary for the proper dispatch of the business of the respective court.

"(b) The Congress consents to the acceptance and retention by any judge so authorized of reimbursement from the countries referred to in subsection (a) of all necessary travel expenses, including transportation, and of subsistence, or of a reasonable per diem allowance in lieu of subsistence. The judge shall report to the Administrative Office of the United States Courts any amount received pursuant to this subsection."; and

Reports.

(2) amending the table of sections by adding at the end thereof the following:

"297. Assignment of judges to courts of the freely associated compact states.".

SEC. 1023. SALARIES OF UNITED STATES CLAIMS COURT JUDGES.

Section 172(b) is amended to read as follows:

"(b) Each judge shall receive a salary at the rate of pay, and in the same manner, as judges of the district courts of the United States.".

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 4807:

HOUSE REPORTS: No. 100-889, Pt. 1 (Comm. on the Judiciary).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 19, House concurred in Senate amendment.

Public Law 100-703
100th Congress

An Act

Nov. 19, 1988
[H.R. 4972]

To authorize appropriations for the Patent and Trademark Office in the Department of Commerce, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—PATENT AND TRADEMARK OFFICE AUTHORIZATIONS

SECTION 101. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Patent and Trademark Office—

(1) for salaries and necessary expenses, $117,504,000 for fiscal year 1989, $125,210,000 for fiscal year 1990, and $111,984,000 for fiscal year 1991; and

(2) such additional amounts as may be necessary for each such fiscal year for increases in salary, pay, retirement, and other employee benefits authorized by law.

35 USC 42 note.

SEC. 102. APPROPRIATIONS AUTHORIZED TO BE CARRIED OVER.

Amounts appropriated under this Act and such fees as may be collected under title 35, United States Code, and the Trademark Act of 1946 (15 U.S.C. 1051 and following) may remain available until expended.

SEC. 103. OVERSIGHT OF AND ADJUSTMENTS TO TRADEMARK AND PATENT FEES.

15 USC 1113 note.

(a) TRADEMARK FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, increase fees established under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) except for purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor. The Commissioner also may not establish additional fees under such section during such fiscal years.

35 USC 41 note.

(b) PATENT FEES.—The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, increase fees established under section 41(d) of title 35, United States Code, except for purposes of making adjustments which in the aggregate do not exceed fluctuations during the previous three years in the Consumer Price Index, as determined by the Secretary of Labor. The Commissioner also may not establish additional fees under such section during such fiscal years.

35 USC 14 note.

(c) REPORT TO CONGRESS.—The Secretary of Commerce shall, on the day on which the President submits the annual budget to the Congress, provide to the Committees on the Judiciary of the Senate and the House of Representatives—

(1) a list of patent and trademark fee collections by the Patent and Trademark Office during the preceding fiscal year;

(2) a list of activities of the Patent and Trademark Office during the preceding fiscal year which were supported by

patent fee expenditures, trademark fee expenditures, and appropriations;

(3) budget plans for significant programs, projects, and activities of the Office, including out-year funding estimates;

(4) any proposed disposition of surplus fees by the Office; and

(5) such other information as the committees consider necessary.

SEC. 104. PUBLIC ACCESS TO PATENT AND TRADEMARK OFFICE INFORMATION.

(a) REPEAL.—Section 4 of Public Law 99-607 (35 U.S.C. 41 note) is repealed.

(b) MAINTENANCE OF COLLECTIONS.—The Commissioner of Patents and Trademarks shall maintain, for use by the public, paper or microform collections of United States patents, foreign patent documents, and United States trademark registrations arranged to permit search for and retrieval of information. The Commissioner may not impose fees for use of such collections, or for use of public patent or trademark search rooms or libraries. Funds appropriated to the Patent and Trademark Office shall be used to maintain such collections, search rooms, and libraries. 35 USC 41 note.

(c) FEES FOR ACCESS TO SEARCH SYSTEMS.—Subject to section 105(a), the Commissioner of Patents and Trademarks may establish reasonable fees for access by the public to automated search systems of the Patent and Trademark Office in accordance with section 41 of title 35, United States Code, and section 31 of the Trademark Act of 1946 (15 U.S.C. 1113). If such fees are established, a limited amount of free access shall be made available to all users of the systems for purposes of education and training. The Commissioner may waive the payment by an individual of fees authorized by this subsection upon a showing of need or hardship, and if such waiver is in the public interest. 35 USC 41 note.

SEC. 105. FUNDING OF AUTOMATED DATA PROCESSING RESOURCES.

(a) ALLOCATIONS.—Of amounts available to the Patent and Trademark Office for automatic data processing resources for fiscal years 1989, 1990, and 1991, not more than 30 percent of such amounts in each such fiscal year may be from fees collected under section 31 of the Trademark Act of 1946 (15 U.S.C. 1113) and section 41 of title 35, United States Code. The Commissioner of Patents and Trademarks shall notify the Committees on the Judiciary of the Senate and the House of Representatives of any proposed reprogrammings which would increase or decrease the amount of appropriations expended for automatic data processing resources.

(b) USE OF REVENUES BY PATENT AND TRADEMARK OFFICE.—Except as otherwise specifically provided in this Act, Public Law 99-607, and section 42(c) of title 35, United States Code, the Patent and Trademark Office is authorized to use appropriated or apportioned fee revenues for any of its operations or activities.

SEC. 106. USE OF EXCHANGE AGREEMENTS RELATING TO AUTOMATIC DATA PROCESSING RESOURCES PROHIBITED. 35 USC 6 note.

The Commissioner of Patents and Trademarks may not, during fiscal years 1989, 1990, and 1991, enter into any agreement for the exchange of items or services (as authorized under section 6(a) of title 35, United States Code) relating to automatic data processing resources (including hardware, software and related services, and

machine readable data), and the Commissioner may not, on or after the date of the enactment of this Act, continue existing agreements for the exchange of such items or services. The preceding sentence shall not apply to an agreement relating to data for automation programs which is entered into with a foreign government or with an international intergovernmental organization.

TITLE II—PATENT MISUSE REFORM

SEC. 201. PERMISSIBLE ACTS BY PATENT OWNER.

Section 271(d) of title 35, United States Code, is amended by striking out the period at the end thereof and inserting in lieu thereof the following: "; (4) refused to license or use any rights to the patent; or (5) conditioned the license of any rights to the patent or the sale of the patented product on the acquisition of a license to rights in another patent or purchase of a separate product, unless, in view of the circumstances, the patent owner has market power in the relevant market for the patent or patented product on which the license or sale is conditioned.".

35 USC 271 note.

SEC. 202. EFFECTIVE DATE.

The amendment made by this title shall apply only to cases filed on or after the date of the enactment of this Act.

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 4972:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 5, considered and passed House.
Oct. 14, considered and passed Senate, amended.
Oct. 20, House concurred in Senate amendment with an amendment.
Oct. 21, Senate concurred in House amendment.

○

Public Law 100-704
100th Congress

An Act

To improve the procedures and remedies for the prevention of insider trading, and for other purposes.

Nov. 19, 1988
[H.R. 5133]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Insider Trading and Securities Fraud Enforcement Act of 1988.
15 USC 78a note.

This Act may be cited as the "Insider Trading and Securities Fraud Enforcement Act of 1988".

SEC. 2. FINDINGS.

15 USC 78u-1 note.

The Congress finds that—

(1) the rules and regulations of the Securities and Exchange Commission under the Securities Exchange Act of 1934 governing trading while in possession of material, nonpublic information are, as required by such Act, necessary and appropriate in the public interest and for the protection of investors;

(2) the Commission has, within the limits of accepted administrative and judicial construction of such rules and regulations, enforced such rules and regulations vigorously, effectively, and fairly; and

(3) nonetheless, additional methods are appropriate to deter and prosecute violations of such rules and regulations.

SEC. 3. CIVIL PENALTIES OF CONTROLLING PERSONS FOR ILLEGAL INSIDER TRADING BY CONTROLLED PERSONS.

(a) AMENDMENT.—The Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.) is amended—

(1) in section 21(d)— 15 USC 78u.

(A) by striking out paragraph (2); and

(B) by redesignating subsection (d)(1) as subsection (d); and

(2) by inserting after section 21 the following new section:

"CIVIL PENALTIES

"SEC. 21A. (a) AUTHORITY TO IMPOSE CIVIL PENALTIES.— 15 USC 78u-1.

"(1) JUDICIAL ACTIONS BY COMMISSION AUTHORIZED.—Whenever it shall appear to the Commission that any person has violated any provision of this title or the rules or regulations thereunder by purchasing or selling a security while in possession of material, nonpublic information in, or has violated any such provision by communicating such information in connection with, a transaction on or through the facilities of a national securities exchange or from or through a broker or dealer, and which is not part of a public offering by an issuer of securities other than standardized options, the Commission—

"(A) may bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, a Courts, U.S.

civil penalty to be paid by the person who committed such violation; and

Courts, U.S.

"(B) may, subject to subsection (b)(1), bring an action in a United States district court to seek, and the court shall have jurisdiction to impose, a civil penalty to be paid by a person who, at the time of the violation, directly or indirectly controlled the person who committed such violation.

"(2) AMOUNT OF PENALTY FOR PERSON WHO COMMITTED VIOLATION.—The amount of the penalty which may be imposed on the person who committed such violation shall be determined by the court in light of the facts and circumstances, but shall not exceed three times the profit gained or loss avoided as a result of such unlawful purchase, sale, or communication.

"(3) AMOUNT OF PENALTY FOR CONTROLLING PERSON.—The amount of the penalty which may be imposed on any person who, at the time of the violation, directly or indirectly controlled the person who committed such violation, shall be determined by the court in light of the facts and circumstances, but shall not exceed the greater of $1,000,000, or three times the amount of the profit gained or loss avoided as a result of such controlled person's violation. If such controlled person's violation was a violation by communication, the profit gained or loss avoided as a result of the violation shall, for purposes of this paragraph only, be deemed to be limited to the profit gained or loss avoided by the person or persons to whom the controlled person directed such communication.

"(b) LIMITATIONS ON LIABILITY.—

"(1) LIABILITY OF CONTROLLING PERSONS.—No controlling person shall be subject to a penalty under subsection (a)(1)(B) unless the Commission establishes that—

"(A) such controlling person knew or recklessly disregarded the fact that such controlled person was likely to engage in the act or acts constituting the violation and failed to take appropriate steps to prevent such act or acts before they occurred; or

"(B) such controlling person knowingly or recklessly failed to establish, maintain, or enforce any policy or procedure required under section 15(f) of this title or section 204A of the Investment Advisers Act of 1940 and such failure substantially contributed to or permitted the occurrence of the act or acts constituting the violation.

"(2) ADDITIONAL RESTRICTIONS ON LIABILITY.—No person shall be subject to a penalty under subsection (a) solely by reason of employing another person who is subject to a penalty under such subsection, unless such employing person is liable as a controlling person under paragraph (1) of this subsection. Section 20(a) of this title shall not apply to actions under subsection (a) of this section.

"(c) AUTHORITY OF COMMISSION.—The Commission, by such rules, regulations, and orders as it considers necessary or appropriate in the public interest or for the protection of investors, may exempt, in whole or in part, either unconditionally or upon specific terms and conditions, any person or transaction or class of persons or transactions from this section.

"(d) PROCEDURES FOR COLLECTION.—

"(1) PAYMENT OF PENALTY TO TREASURY.—A penalty imposed under this section shall (subject to subsection (e)) be payable into the Treasury of the United States.

"(2) COLLECTION OF PENALTIES.—If a person upon whom such a penalty is imposed shall fail to pay such penalty within the time prescribed in the court's order, the Commission may refer the matter to the Attorney General who shall recover such penalty by action in the appropriate United States district court.

"(3) REMEDY NOT EXCLUSIVE.—The actions authorized by this section may be brought in addition to any other actions that the Commission or the Attorney General are entitled to bring.

"(4) JURISDICTION AND VENUE.—For purposes of section 27 of this title, actions under this section shall be actions to enforce a liability or a duty created by this title.

"(5) STATUTE OF LIMITATIONS.—No action may be brought under this section more than 5 years after the date of the purchase or sale. This section shall not be construed to bar or limit in any manner any action by the Commission or the Attorney General under any other provision of this title, nor shall it bar or limit in any manner any action to recover penalties, or to seek any other order regarding penalties, imposed in an action commenced within 5 years of such transaction.

"(e) AUTHORITY TO AWARD BOUNTIES TO INFORMANTS.—Notwithstanding the provisions of subsection (d)(1), there shall be paid from amounts imposed as a penalty under this section and recovered by the Commission or the Attorney General, such sums, not to exceed 10 percent of such amounts, as the Commission deems appropriate, to the person or persons who provide information leading to the imposition of such penalty. Any determinations under this subsection, including whether, to whom, or in what amount to make payments, shall be in the sole discretion of the Commission, except that no such payment shall be made to any member, officer, or employee of any appropriate regulatory agency, the Department of Justice, or a self-regulatory organization. Any such determination shall be final and not subject to judicial review.

"(f) DEFINITION.—For purposes of this section, 'profit gained' or 'loss avoided' is the difference between the purchase or sale price of the security and the value of that security as measured by the trading price of the security a reasonable period after public dissemination of the nonpublic information.".

(b) AMENDMENTS CONCERNING SUPERVISION.—

(1) BROKERS AND DEALERS.—Section 15 of the Securities Exchange Act of 1934 (15 U.S.C. 78o) is amended by adding at the end thereof the following new subsection:

"(f) Every registered broker or dealer shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such broker's or dealer's business, to prevent the misuse in violation of this title, or the rules or regulations thereunder, of material, nonpublic information by such broker or dealer or any person associated with such broker or dealer. The Commission, as it deems necessary or appropriate in the public interest or for the protection of investors, shall adopt rules or regulations to require specific policies or procedures reasonably designed to prevent misuse in violation of this title (or the rules or regulations thereunder) of material, nonpublic information.". Classified information.

(2) INVESTMENT ADVISERS.—The Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.) is amended by adding after section 204 the following new section:

"PREVENTION OF MISUSE OF NONPUBLIC INFORMATION

15 USC 80b-4a.

"SEC. 204A. Every investment adviser subject to section 204 of this title shall establish, maintain, and enforce written policies and procedures reasonably designed, taking into consideration the nature of such investment adviser's business, to prevent the misuse in violation of this Act or the Securities Exchange Act of 1934, or the rules or regulations thereunder, of material, nonpublic information by such investment adviser or any person associated with such investment adviser. The Commission, as it deems necessary or appropriate in the public interest or for the protection of investors, shall adopt rules or regulations to require specific policies or procedures reasonably designed to prevent misuse in violation of this Act or the Securities Exchange Act of 1934 (or the rules or regulations thereunder) of material, nonpublic information.".

15 USC 78u-1 note.

(c) COMMISSION RECOMMENDATIONS FOR ADDITIONAL CIVIL PENALTY AUTHORITY REQUIRED.—The Securities and Exchange Commission shall, within 60 days after the date of enactment of this Act, submit to each House of the Congress any recommendations the Commission considers appropriate with respect to the extension of the Commission's authority to seek civil penalties or impose administrative fines for violations other than those described in section 21A of the Securities Exchange Act of 1934 (as added by this section).

SEC. 4. INCREASES IN CRIMINAL PENALTIES.

Section 32(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78ff(a)) is amended—

(1) by striking "$100,000" and inserting "$1,000,000";

(2) by striking "five years" and inserting "10 years";

(3) by striking "is an exchange" and inserting "is a person other than a natural person"; and

(4) by striking out "$500,000" and inserting "$2,500,000".

SEC. 5. LIABILITY TO CONTEMPORANEOUS TRADERS FOR INSIDER TRADING.

The Securities Exchange Act of 1934 is amended by inserting after section 20 the following new section:

"LIABILITY TO CONTEMPORANEOUS TRADERS FOR INSIDER TRADING

Classified information. 15 USC 78t-1.

"SEC. 20A. (a) PRIVATE RIGHTS OF ACTION BASED ON CONTEMPORANEOUS TRADING.—Any person who violates any provision of this title or the rules or regulations thereunder by purchasing or selling a security while in possession of material, nonpublic information shall be liable in an action in any court of competent jurisdiction to any person who, contemporaneously with the purchase or sale of securities that is the subject of such violation, has purchased (where such violation is based on a sale of securities) or sold (where such violation is based on a purchase of securities) securities of the same class.

"(b) LIMITATIONS ON LIABILITY.—

"(1) CONTEMPORANEOUS TRADING ACTIONS LIMITED TO PROFIT GAINED OR LOSS AVOIDED.—The total amount of damages imposed under subsection (a) shall not exceed the profit gained or

loss avoided in the transaction or transactions that are the subject of the violation.

"(2) OFFSETTING DISGORGEMENTS AGAINST LIABILITY.—The total amount of damages imposed against any person under subsection (a) shall be diminished by the amounts, if any, that such person may be required to disgorge, pursuant to a court order obtained at the instance of the Commission, in a proceeding brought under section 21(d) of this title relating to the same transaction or transactions.

"(3) CONTROLLING PERSON LIABILITY.—No person shall be liable under this section solely by reason of employing another person who is liable under this section, but the liability of a controlling person under this section shall be subject to section 20(a) of this title.

"(4) STATUTE OF LIMITATIONS.—No action may be brought under this section more than 5 years after the date of the last transaction that is the subject of the violation.

"(c) JOINT AND SEVERAL LIABILITY FOR COMMUNICATING.—Any person who violates any provision of this title or the rules or regulations thereunder by communicating material, nonpublic information shall be jointly and severally liable under subsection (a) with, and to the same extent as, any person or persons liable under subsection (a) to whom the communication was directed. Classified information.

"(d) AUTHORITY NOT TO RESTRICT OTHER EXPRESS OR IMPLIED RIGHTS OF ACTION.—Nothing in this section shall be construed to limit or condition the right of any person to bring an action to enforce a requirement of this title or the availability of any cause of action implied from a provision of this title.

"(e) PROVISIONS NOT TO AFFECT PUBLIC PROSECUTIONS.—This section shall not be construed to bar or limit in any manner any action by the Commission or the Attorney General under any other provision of this title, nor shall it bar or limit in any manner any action to recover penalties, or to seek any other order regarding penalties.".

SEC. 6. INVESTIGATORY ASSISTANCE TO FOREIGN SECURITIES AUTHORITIES.

(a) DEFINITION OF FOREIGN SECURITIES AUTHORITY.—Section 3(a) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)) is amended by adding at the end thereof the following:

"(50) The term 'foreign securities authority' means any foreign government, or any governmental body or regulatory organization empowered by a foreign government to administer or enforce its laws as they relate to securities matters.".

(b) AUTHORITY TO PROVIDE ASSISTANCE TO FOREIGN SECURITIES AUTHORITIES.—Section 21(a) of such Act (15 U.S.C. 78u(a)) is amended—

(1) by redesignating subsection (a) as subsection (a)(1); and

(2) by adding at the end thereof the following:

"(2) On request from a foreign securities authority, the Commission may provide assistance in accordance with this paragraph if the requesting authority states that the requesting authority is conducting an investigation which it deems necessary to determine whether any person has violated, is violating, or is about to violate any laws or rules relating to securities matters that the requesting authority administers or enforces. The Commission may, in its discretion, conduct such investigation as the Commission deems necessary to

collect information and evidence pertinent to the request for assistance. Such assistance may be provided without regard to whether the facts stated in the request would also constitute a violation of the laws of the United States. In deciding whether to provide such assistance, the Commission shall consider whether (A) the requesting authority has agreed to provide reciprocal assistance in securities matters to the Commission; and (B) compliance with the request would prejudice the public interest of the United States.".

15 USC 78b note.

SEC. 7. SECURITIES LAWS STUDY.

(a) FINDINGS.—The Congress finds that—

(1) recent disclosures of securities fraud and insider trading have caused public concern about the adequacy of Federal securities laws, rules, and regulations;

(2) Federal securities laws, rules, and regulations have not undergone a comprehensive and exhaustive review since the advent of the modern international, institutionalized securities market;

(3) since that review, the volume of securities transactions and the nature of the securities industry have changed dramatically; and

(4) there is an important national interest in maintaining fair and orderly securities trading, assuring the fairness of securities transactions and markets and protecting investors.

(b) STUDY AND INVESTIGATION REQUIRED.—

(1) GENERAL REQUIREMENT.—The Securities and Exchange Commission shall, subject to the availability of funds appropriated pursuant to subsection (d), make a study and investigation of the adequacy of the Federal securities laws and rules and regulations thereunder for the protection of the public interest and the interests of investors.

(2) REQUIRED SUBJECTS FOR STUDY AND INVESTIGATION.—Such study and investigation shall include an analysis of—

(A) the extent of improper trading while in possession of insider information, such as trading with advance knowledge of tender offers or forthcoming announcements of material financial information;

(B) the adequacy of surveillance methods and technologies of brokers, dealers, and self-regulatory organizations;

(C) the adequacy of cooperation between the Federal, State, and foreign enforcement authorities concerning securities laws enforcement; and

(D) impediments to the fairness and orderliness of the securities markets and to improvements in the breadth and depth of the capital available to the securities markets, and additional methods to promote those objectives.

(3) CONDUCT OF STUDY AND INVESTIGATION.—In conducting the study and investigation required by this section, the Commission—

(A) may exercise any existing authority to gather information, including all power and authority the Commission would have if such investigation were being conducted pursuant to section 21 of the Securities Exchange Act of 1934;

(B) may consult with and obtain such assistance and information from other agencies in the executive and legis-

lative branches of the Government (including the Department of Justice) as is necessary to enable the Commission to carry out this section;

(C) may appoint, without regard to the civil service laws, rules, and regulations, such personnel as the Commission deems advisable to carry out such study and investigation and to fix their respective rates of compensation without regard to such laws, rules, and regulations, but no such rate shall exceed the rate payable pursuant to section 5314 of title 5, United States Code; and

(D) may, on a reimbursable basis, use the services of personnel detailed to the Commission from any Federal agency.

(4) SUPPORT FROM OTHER AGENCIES.—(A) The head of any Federal agency—

(i) may detail employees to the Commission for the purposes of this section; and

(ii) shall provide to the Commission such information as it requires for the performance of its functions under this section, consistent with applicable law.

(B) The Comptroller General and the Director of the Office of Technology Assessment are authorized to assist the Commission in the performance of its functions under this section.

(c) REPORTS AND INFORMATION TO CONGRESS.—

(1) GENERAL REPORT.—The Commission shall report to the Congress on the results of its study and investigation within 18 months after the date funds to carry out this section are appropriated under subsection (d). Such report shall include the Commission's recommendations, including such recommendations for legislation as the Commission deems advisable.

(2) INTERIM INFORMATION TO CONGRESS.—The Commission shall keep the Committee on Energy and Commerce of the House of Representatives and the Committee on Banking, Housing, and Urban Affairs of the Senate, and the members thereof, fully informed on the progress of, and any impediments to completing, the study and investigation required by this section.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $5,000,000 to carry out the study and investigation required by this section.

(e) DEFINITIONS.—As used in this section—

(1) the term "Commission" means the Securities and Exchange Commission; and

(2) the term "Federal securities laws" has the meaning given the term securities laws by section 3(a)(47) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(47)).

SEC. 8. COOPERATION WITH FOREIGN AUTHORITIES AND INTERNATIONAL ORGANIZATIONS IN ENFORCEMENT.

Section 35 of the Securities Exchange Act of 1934 is amended by adding at the end thereof the following new subsection: 15 USC 78kk.

"(c) Funds appropriated pursuant to this section are authorized to be expended—

"(1) for official reception and representation expenses, not to exceed $10,000 per year; and

"(2) for the purpose of maintaining membership in and contributing to the operating expenses of the International

Organization of Securities Commissions, not to exceed $10,000 per year.".

15 USC 78o note.

SEC. 9. EFFECTIVE DATE.

The amendments made by this Act, except for section 6, shall not apply to any actions occurring before the date of enactment of this Act.

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 5133:

HOUSE REPORTS: No. 100-910 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 13, 14, considered and passed House.
Oct. 21, considered and passed Senate.

Public Law 100-705
100th Congress

An Act

Nov. 19, 1988
[H.R. 5287]

To establish the Panama Canal Commission Compensation Fund to provide for the accumulation of funds to meet the Panama Canal Commission's obligations under chapter 81 of title 5, United States Code, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Panama Canal Commission Compensation Fund Act of 1988.
22 USC 3601 note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Panama Canal Commission Compensation Fund Act of 1988".

22 USC 3715.

SEC. 2. ESTABLISHMENT OF COMPENSATION FUND.

There is established in the Treasury of the United States the Panama Canal Commission Compensation Fund (hereafter in this Act referred to as the "Fund").

22 USC 3715a.

SEC. 3. OPERATION OF THE FUND.

Claims.

(a) DEPOSITS TO THE FUND.—The Panama Canal Commission shall make deposits on a regular basis to the Fund, beginning on October 1, 1988, to accumulate an amount sufficient to defray the estimated total cost of liability for the workers' compensation benefits and other payments payable under chapter 81 of title 5, United States Code, for the disability or death of employees of the Panama Canal Commission or any of its predecessor agencies on account of injuries sustained on or before December 31, 1999, except for those claims arising before, on, or after October 1, 1988, for which the Secretary of Labor has assumed fiscal responsibility.

Contracts.

(b) CALCULATION OF AMOUNTS TO BE DEPOSITED.—The amounts deposited under subsection (a) shall be based upon periodic actuarial studies conducted by experts or consultants whose services are procured by the Panama Canal Commission by contract. The amounts of such deposits shall take into consideration interest earnings in accordance with subsection (c) of this section and expected cost-of-living adjustments as provided in section 8146a of title 5, United States Code, but not amounts payable by the Commission for continuation of pay pursuant to section 8118 of such title.

(c) INVESTMENT OF AMOUNTS IN THE FUND.—The Secretary of the Treasury, upon the request of the Secretary of Labor, shall invest moneys in the Fund in public debt securities which shall bear interest at rates determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the United States of comparable maturity. Such interest shall be credited to and form a part of the Fund.

22 USC 3715b.

SEC. 4. TRANSFERS FROM THE FUND FOR COMPENSATION BENEFITS.

The Secretary of the Treasury shall, upon request of the Secretary of Labor, transfer funds from the Fund to the Employees' Compensation Fund to reimburse the Employees' Compensation Fund for the

total cost of workers' compensation benefits and other payments described in section 3(a) that are provided on or after October 1, 1988.

22 USC 3715c.

SEC. 5. FINAL EVALUATION OF THE FUND; DEFICIENCY OR SURPLUS IN THE FUND.

Upon the termination of the Panama Canal Commission:

Contracts.

(a) FINAL EVALUATION OF THE FUND.—The Secretary of Labor shall, on the basis of an actuarial study conducted by experts or consultants whose services are procured by the Secretary of Labor by contract, make a final determination of the amounts estimated to be necessary to meet expenditures for workers' compensation benefits and other payments described in section 3(a), as calculated in accordance with the second sentence of section 3(b). Amounts in the Fund shall be used to pay for the final determination under this subsection. The Secretary of the Treasury shall, in accordance with such final determination, transfer from the Fund to the Employee Compensation Fund amounts sufficient to meet expenditures for workers' compensation benefits and other payments described in section 3(a).

(b) DEFICIENCY OR SURPLUS IN THE FUND.—If amounts in the Fund are not sufficient to meet expenditures as determined by the Secretary of Labor for workers' compensation benefits and other payments described in section 3(a), then amounts in the Panama Canal Revolving Fund not otherwise obligated shall be transferred to the Employees Compensation Fund to make up the deficiency. Any amounts remaining in the Fund in excess of the final determination amount as described in subsection (a) shall be transferred to the Panama Canal Revolving Fund, and may be used to satisfy lawful obligations of the Revolving Fund arising on or before December 31, 1999.

22 USC 3715d.

SEC. 6. CONTINUATION OF BENEFITS.

The provisions of chapter 81 of title 5, United States Code, shall, on or after the effective date of this Act, continue to be the exclusive remedy, in accordance with section 8116 of such title, for the disability or death of any employee of the Panama Canal Commission, or any of its predecessor agencies, who is covered under such chapter, resulting from injuries sustained while in the performance of the employee's duty. The rights of any such employee for workers' compensation benefits shall be based only on the provisions of that chapter.

SEC. 7. PROXIES.

Section 1102(c) of the Panama Canal Act of 1979 (22 U.S.C. 3612(c)), is amended by striking out "Only one proxy may be valid at any one time.".

SEC. 8. OTHER USES OF COMMISSION FUNDS PROHIBITED.

Section 1321 of the Panama Canal Act of 1979 (22 U.S.C. 3731) is amended by adding at the end thereof the following:

"(h) Except as expressly provided in this Act, funds available to the Panama Canal Commission may not be made available to any other agency as that term is defined in section 551 of title 5, United States Code, nor may funds be authorized or appropriated for any function other than Panama Canal Commission activities.".

SEC. 9. TECHNICAL AMENDMENT.

Section 1302 of the Panama Canal Act of 1979 (22 U.S.C. 3712) is amended in the last subsection by striking out "(e)(1)" and inserting in lieu thereof "(f)(1)".

SEC. 10. EFFECTIVE DATE. 22 USC 3612w.

This Act takes effect on October 1, 1988.

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.R. 5287:

HOUSE REPORTS: No. 100-969 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 19, considered and passed Senate.

Public Law 100-706
100th Congress

Joint Resolution

Nov. 19, 1988
[H.J. Res. 564]

Designating the first week of April 1989 as "National Earthquake Awareness Week".

Whereas the threat of earthquakes is a national problem, with earthquakes occurring in the eastern as well as western section of the Nation, causing the United States to sustain approximately $4,300,000,000 in property damage and 1,478 deaths from destructive earthquakes between 1812 and 1986;

Whereas the State of California leads the Nation in the damage and death sustained from earthquakes, with approximately $2,700,000,000 in damage and 995 deaths between 1812 and 1986;

Whereas some researchers believe there is a 95 percent certainty of an earthquake with a magnitude of six or greater on the Richter scale occurring in the Eastern United States within the next 20 years;

Whereas serious study of earthquakes east of the Rocky Mountains has come about only in the last decade, despite the fact that the largest earthquake known to have hit the continental United States struck near New Madrid, Missouri, around 1811 or 1812;

Whereas at least 35 countries face a high probability of loss from earthquakes;

Whereas a new era in the recognition of natural disasters and man's capacity to reduce their destruction has begun;

Whereas the United Nations General Assembly in Resolution 169 has declared the decade beginning in 1990 an International Decade for Natural Hazard Reduction;

Whereas the intent of the declaration of the United Nations General Assembly is to promote a cooperative international program to apply existing technology and advance existing knowledge to achieve a less hazardous world;

Whereas education, general awareness, and concern is at the core of any disaster mitigation program; and

Whereas April is the month in which the great San Francisco earthquake of 1906 occurred: Now, therefore, be it

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, That the first week of April 1989 is designated "National Earthquake Awareness Week". The President of the United States is authorized and requested to issue a proclamation calling upon all public officials and the people of the United States to observe such week with appropriate programs and activities.

Approved November 19, 1988.

LEGISLATIVE HISTORY—H.J. Res. 564:

CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 21, considered and passed House and Senate.

Public Law 100-707
100th Congress

An Act

To amend the Disaster Relief Act of 1974 to provide for more effective assistance in response to major disasters and emergencies, and for other purposes.

Nov. 23, 1988
[H.R. 2707]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Safety.
State and local governments.
The Disaster Relief and Emergency Assistance Amendments of 1988.
42 USC 5121 note.

TITLE I—DISASTER RELIEF AND EMERGENCY ASSISTANCE AMENDMENTS

SEC. 101. SHORT TITLE; AMENDMENTS TO DISASTER RELIEF ACT OF 1974.

(a) SHORT TITLE.—This title may be cited as "The Disaster Relief and Emergency Assistance Amendments of 1988.".

(b) AMENDMENTS TO DISASTER RELIEF ACT OF 1974.—Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Disaster Relief Act of 1974 (42 U.S.C. 5121-5202).

SEC. 102. AMENDMENT TO SHORT TITLE.

The Robert T. Stafford Disaster Relief and Emergency Assistance Act.
42 USC 5121 note.

(a) AMENDMENT TO SHORT TITLE.—The first section is amended by striking out "Disaster Relief Act of 1974" and inserting in lieu thereof "The Robert T. Stafford Disaster Relief and Emergency Assistance Act.".

(b) REFERENCES.—Whenever any reference is made in any law (other than this Act), regulation, document, rule, record, or other paper of the United States to a section or provision of the Disaster Relief Act of 1974, such reference shall be deemed to be a reference to such section or provision of the Robert T. Stafford Disaster Relief and Emergency Assistance Act.
42 USC 5121 note.

SEC. 103. AMENDMENTS TO TITLE I.

(a) FINDINGS AND DECLARATIONS.—Section 101(b) (42 U.S.C. 5121(b)) is amended—

(1) by striking out paragraph (7);

(2) by striking out "; and" at the end of paragraph (6); and

(3) by inserting "and" at the end of paragraph (5).

(b) DEFINITION OF EMERGENCY.—Section 102(1) is amended to read as follows: 42 USC 5122.

"(1) EMERGENCY.—'Emergency' means any occasion or instance for which, in the determination of the President, Federal assistance is needed to supplement State and local efforts and capabilities to save lives and to protect property and public health and safety, or to lessen or avert the threat of a catastrophe in any part of the United States.".

(c) DEFINITION OF MAJOR DISASTER.—Section 102(2) is amended to read as follows:

"(2) MAJOR DISASTER.—'Major disaster' means any natural catastrophe (including any hurricane, tornado, storm, high water, winddriven water, tidal wave, tsunami, earthquake, volcanic eruption, landslide, mudslide, snowstorm, or drought), or, regardless of cause, any fire, flood, or explosion, in any part of the United States, which in the determination of the President causes damage of sufficient severity and magnitude to warrant major disaster assistance under this Act to supplement the efforts and available resources of States, local governments, and disaster relief organizations in alleviating the damage, loss, hardship, or suffering caused thereby.".

42 USC 5122.

(d) TECHNICAL AMENDMENTS.—Paragraphs (3) and (4) of section 102 are each amended by striking out "the Canal Zone,".

42 USC 5122 note.

(e) LOCAL GOVERNMENT.—

(1) IN GENERAL.—The term "local government" is deemed to have the same meaning in the Disaster Relief and Emergency Assistance Act, as amended by this Act, as that term had on October 1, 1988, under section 102(6) of the Disaster Relief Act of 1974 and regulations implementing the Disaster Relief Act of 1974.

President of U.S. Reports.

(2) TERMINATION OF EFFECTIVENESS.—Paragraph (1) shall not be effective on and after the 90th day after the President transmits to the Committee on Public Works and Transportation of the House of Representatives and to the Committee on Environment and Public Works of the Senate a report which includes an interpretation of the term "local government" for purposes of the Disaster Relief and Emergency Assistance Act, as amended by this Act.

(f) DEFINITIONS OF PUBLIC AND PRIVATE NONPROFIT FACILITIES.—Section 102 is amended by adding at the end thereof the following new paragraphs:

"(8) PUBLIC FACILITY.—'Public facility' means the following facilities owned by a State or local government:

"(A) Any flood control, navigation, irrigation, reclamation, public power, sewage treatment and collection, water supply and distribution, watershed development, or airport facility.

"(B) Any non-Federal-aid street, road, or highway.

"(C) Any other public building, structure, or system, including those used for educational, recreational, or cultural purposes.

"(D) Any park.

"(9) PRIVATE NONPROFIT FACILITY.—'Private nonprofit facility' means private nonprofit educational, utility, emergency, medical, rehabilitational, and temporary or permanent custodial care facilities (including those for the aged and disabled), other private nonprofit facilities which provide essential services of a governmental nature to the general public, and facilities on Indian reservations as defined by the President.".

SEC. 104. DISASTER PREPAREDNESS ASSISTANCE.

42 USC 5131.

(a) MAXIMUM AMOUNT OF STATE DISASTER ASSISTANCE PLANNING GRANTS.—Section 201(d) is amended by striking out "$25,000" and inserting in lieu thereof "$50,000".

(b) TECHNICAL AMENDMENTS.—Section 201 is amended—

(1) in subsection (a) by striking out "(including the Defense Civil Preparedness Agency)"; and

(2) in subsection (d) by inserting "including evaluations of natural hazards and development of the programs and actions required to mitigate such hazards;" after "plans,".

SEC. 105. DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION.

(a) WAIVER OF CONDITIONS.—Title III is amended—

(1) by striking out the heading for such title and inserting in lieu thereof:

"TITLE III—MAJOR DISASTER AND EMERGENCY ASSISTANCE ADMINISTRATION";

and

(2) by striking out sections 301 and 302 and inserting in lieu thereof the following new section: 42 USC 5141, 5142.

"SEC. 301. WAIVER OF ADMINISTRATIVE CONDITIONS. 42 USC 5141.

"Any Federal agency charged with the administration of a Federal assistance program may, if so requested by the applicant State or local authorities, modify or waive, for a major disaster, such administrative conditions for assistance as would otherwise prevent the giving of assistance under such programs if the inability to meet such conditions is a result of the major disaster.".

(b) COORDINATING OFFICERS.—

(1) REDESIGNATION.—Section 303, and any reference thereto, is redesignated as section 302. 42 USC 5143.

(2) INCLUSION OF EMERGENCIES.—Such section is amended in subsection (a) by inserting "or emergency" after "major disaster".

(c) REDESIGNATION OF SECTION 304.—Section 304, and any reference thereto, is redesignated as section 303. 42 USC 5144.

(d) REMOVAL OF EMERGENCY ASSISTANCE AND COOPERATION PROVISIONS FROM TITLE III; REDESIGNATION OF SECTIONS 307, 308, AND 309.—Title III is further amended by striking out sections 305 and 306 and by redesignating sections 307, 308, and 309, and any references thereto, as sections 304, 305, and 306, respectively. 42 USC 5145, 5146.

(e) USE OF LOCAL FIRMS AND INDIVIDUALS.— 42 USC 5147-5149.

(1) REDESIGNATION.—Section 310, and any reference thereto, is redesignated as section 307. 42 USC 5150.

(2) INCLUSION OF EMERGENCIES.—Such section is amended by inserting "or emergency" after "major disaster" each place it appears.

(3) USE OF DEPARTMENT OF DEFENSE RESOURCES.—Such section is further amended by adding at the end thereof the following new sentence: "This section shall not be considered to restrict the use of Department of Defense resources in the provision of major disaster assistance under this Act.".

(f) REDESIGNATION OF SECTIONS 311 AND 312; CONFORMING AMENDMENT.—Sections 311 and 312, and any references thereto, are redesignated as sections 308 and 309, respectively. Such section 308, relating to nondiscrimination in disaster assistance, is amended by striking out "section 402 or 404 of" in subsection (b). 42 USC 5151, 5152.

(g) PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE.—Title III is amended by striking out section 313 and inserting in lieu thereof the following new section:

42 USC 5153.

"SEC. 310. PRIORITY TO CERTAIN APPLICATIONS FOR PUBLIC FACILITY AND PUBLIC HOUSING ASSISTANCE.

President of U.S.

"(a) PRIORITY.—In the processing of applications for assistance, priority and immediate consideration shall be given by the head of the appropriate Federal agency, during such period as the President shall prescribe, to applications from public bodies situated in areas affected by major disasters under the following Acts:

"(1) The United States Housing Act of 1937 for the provision of low-income housing.

"(2) Section 702 of the Housing Act of 1954 for assistance in public works planning.

"(3) The Community Development Block Grant Program under title I of the Housing and Community Development Act of 1974.

"(4) Section 306 of the Consolidated Farm and Rural Development Act.

"(5) The Public Works and Economic Development Act of 1965.

"(6) The Appalachian Regional Development Act of 1965.

"(7) The Federal Water Pollution Control Act.

"(b) OBLIGATION OF CERTAIN DISCRETIONARY FUNDS.—In the obligation of discretionary funds or funds which are not allocated among the States or political subdivisions of a State, the Secretary of Housing and Urban Development and the Secretary of Commerce shall give priority to applications for projects for major disaster areas.".

(h) INSURANCE.—Title III is further amended by striking out section 314 and inserting in lieu thereof the following new section:

Real property.
42 USC 5154.
President of U.S.

"SEC. 311. INSURANCE.

"(a) APPLICANTS FOR REPLACEMENT OF DAMAGED FACILITIES.—

"(1) COMPLIANCE WITH CERTAIN REGULATIONS.—An applicant for assistance under section 406 of this Act (relating to repair, restoration, and replacement of damaged facilities), section 422 of this Act (relating to simplified procedure) or section 803 of the Public Works and Economic Development Act of 1965 shall comply with regulations prescribed by the President to assure that, with respect to any property to be replaced, restored, repaired, or constructed with such assistance, such types and extent of insurance will be obtained and maintained as may be reasonably available, adequate, and necessary, to protect against future loss to such property.

"(2) DETERMINATION.—In making a determination with respect to availability, adequacy, and necessity under paragraph (1), the President shall not require greater types and extent of insurance than are certified to him as reasonable by the appropriate State insurance commissioner responsible for regulation of such insurance.

"(b) MAINTENANCE OF INSURANCE.—No applicant for assistance under section 406 of this Act (relating to repair, restoration, and replacement of damaged facilities), section 422 of this Act (relating to simplified procedure), or section 803 of the Public Works and Economic Development Act of 1965 may receive such assistance for any property or part thereof for which the applicant has previously received assistance under this Act unless all insurance required pursuant to this section has been obtained and maintained with respect to such property.

"(c) STATE ACTING AS SELF-INSURER.—A State may elect to act as a self-insurer with respect to any or all of the facilities owned by the State. Such an election, if declared in writing at the time of acceptance of assistance under section 406 or 422 of this Act or section 803 of the Public Works and Economic Development Act of 1965 or subsequently and accompanied by a plan for self-insurance which is satisfactory to the President, shall be deemed compliance with subsection (a). No such self-insurer may receive assistance under section 406 or 422 of this Act for any property or part thereof for which it has previously received assistance under this Act, to the extent that insurance for such property or part thereof would have been reasonably available.".

(i) DUPLICATION OF BENEFITS.—Title III is further amended by striking out section 315 and inserting in lieu thereof the following new section:

"SEC. 312. DUPLICATION OF BENEFITS. 42 USC 5155.

"(a) GENERAL PROHIBITION.—The President, in consultation with the head of each Federal agency administering any program providing financial assistance to persons, business concerns, or other entities suffering losses as a result of a major disaster or emergency, shall assure that no such person, business concern, or other entity will receive such assistance with respect to any part of such loss as to which he has received financial assistance under any other program or from insurance or any other source. President of U.S.

"(b) SPECIAL RULES.—

"(1) LIMITATION.—This section shall not prohibit the provision of Federal assistance to a person who is or may be entitled to receive benefits for the same purposes from another source if such person has not received such other benefits by the time of application for Federal assistance and if such person agrees to repay all duplicative assistance to the agency providing the Federal assistance.

"(2) PROCEDURES.—The President shall establish such procedures as the President considers necessary to ensure uniformity in preventing duplication of benefits. President of U.S.

"(3) EFFECT OF PARTIAL BENEFITS.—Receipt of partial benefits for a major disaster or emergency shall not preclude provision of additional Federal assistance for any part of a loss or need for which benefits have not been provided.

"(c) RECOVERY OF DUPLICATIVE BENEFITS.—A person receiving Federal assistance for a major disaster or emergency shall be liable to the United States to the extent that such assistance duplicates benefits available to the person for the same purpose from another source. The agency which provided the duplicative assistance shall collect such duplicative assistance from the recipient in accordance with chapter 37 of title 31, United States Code, relating to debt collection, when the head of such agency considers it to be in the best interest of the Federal Government.

"(d) ASSISTANCE NOT INCOME.—Federal major disaster and emergency assistance provided to individuals and families under this Act, and comparable disaster assistance provided by States, local governments, and disaster assistance organizations, shall not be considered as income or a resource when determining eligibility for or benefit levels under federally funded income assistance or resource-tested benefit programs.".

(j) REVIEWS AND REPORTS.—Title III is further amended by striking out section 316 and inserting in lieu thereof the following new section:

President of U.S.
42 USC 5156.

"SEC. 313. STANDARDS AND REVIEWS.

"The President shall establish comprehensive standards which shall be used to assess the efficiency and effectiveness of Federal major disaster and emergency assistance programs administered under this Act. The President shall conduct annual reviews of the activities of Federal agencies and State and local governments in major disaster and emergency preparedness and in providing major disaster and emergency assistance in order to assure maximum coordination and effectiveness of such programs and consistency in policies for reimbursement of States under this Act.".

(k) PENALTIES.—Title III is further amended by striking out section 317 and inserting in lieu thereof the following new section:

42 USC 5157.

"SEC. 314. PENALTIES.

"(a) MISUSE OF FUNDS.—Any person who knowingly misapplies the proceeds of a loan or other cash benefit obtained under this Act shall be fined an amount equal to one and one-half times the misapplied amount of the proceeds or cash benefit.

"(b) CIVIL ENFORCEMENT.—Whenever it appears that any person has violated or is about to violate any provision of this Act, including any civil penalty imposed under this Act, the Attorney General may bring a civil action for such relief as may be appropriate. Such action may be brought in an appropriate United States district court.

President of U.S.

"(c) REFERRAL TO ATTORNEY GENERAL.—The President shall expeditiously refer to the Attorney General for appropriate action any evidence developed in the performance of functions under this Act that may warrant consideration for criminal prosecution.

"(d) CIVIL PENALTY.—Any individual who knowingly violates any order or regulation issued under this Act shall be subject to a civil penalty of not more than $5,000 for each violation.".

(l) REDESIGNATION OF SECTION 318.—Section 318, and any reference thereto, is redesignated as section 315.

42 USC 5158.

(m) PROTECTION OF ENVIRONMENT; RECOVERY OF ASSISTANCE; AUDITS AND INVESTIGATIONS.—

(1) ADDITIONS TO TITLE III.—Title III is further amended by adding at the end thereof the following new sections:

42 USC 5159.

"SEC. 316. PROTECTION OF ENVIRONMENT.

"An action which is taken or assistance which is provided pursuant to section 402, 403, 406, 407, or 502, including such assistance provided pursuant to the procedures provided for in section 422, which has the effect of restoring a facility substantially to its condition prior to the disaster or emergency, shall not be deemed a major Federal action significantly affecting the quality of the human environment within the meaning of the National Environmental Policy Act of 1969 (83 Stat. 852). Nothing in this section shall alter or affect the applicability of the National Environmental Policy Act of 1969 to other Federal actions taken under this Act or under any other provisions of law.

"SEC. 317. RECOVERY OF ASSISTANCE. 42 USC 5160.

"(a) PARTY LIABLE.—Any person who intentionally causes a condition for which Federal assistance is provided under this Act or under any other Federal law as a result of a declaration of a major disaster or emergency under this Act shall be liable to the United States for the reasonable costs incurred by the United States in responding to such disaster or emergency to the extent that such costs are attributable to the intentional act or omission of such person which caused such condition. Such action for reasonable costs shall be brought in an appropriate United States district court.

"(b) RENDERING OF CARE.—A person shall not be liable under this section for costs incurred by the United States as a result of actions taken or omitted by such person in the course of rendering care or assistance in response to a major disaster or emergency.

"SEC. 318. AUDITS AND INVESTIGATIONS. 42 USC 5161.

"(a) IN GENERAL.—Subject to the provisions of chapter 75 of title 31, United States Code, relating to requirements for single audits, the President shall conduct audits and investigations as necessary to assure compliance with this Act, and in connection therewith may question such persons as may be necessary to carry out such audits and investigations. President of U.S.

"(b) ACCESS TO RECORDS.—For purposes of audits and investigations under this section, the President and Comptroller General may inspect any books, documents, papers, and records of any person relating to any activity undertaken or funded under this Act.

"(c) STATE AND LOCAL AUDITS.—The President may require audits by State and local governments in connection with assistance under this Act when necessary to assure compliance with this Act or related regulations.

"SEC. 319. ADVANCE OF NON-FEDERAL SHARE. 42 USC 5162.

"(a) IN GENERAL.—The President may lend or advance to an eligible applicant or a State the portion of assistance for which the State is responsible under the cost-sharing provisions of this Act in any case in which—

"(1) the State is unable to assume its financial responsibility under such cost-sharing provisions—

"(A) with respect to concurrent, multiple major disasters in a jurisdiction, or

"(B) after incurring extraordinary costs as a result of a particular disaster; and

"(2) the damages caused by such disasters or disaster are so overwhelming and severe that it is not possible for the applicant or the State to assume immediately their financial responsibility under this Act.

"(b) TERMS OF LOANS AND ADVANCES.—

"(1) IN GENERAL.—Any loan or advance under this section shall be repaid to the United States.

"(2) INTEREST.—Loans and advances under this section shall bear interest at a rate determined by the Secretary of the Treasury, taking into consideration the current market yields on outstanding marketable obligations of the United States with remaining periods to maturity comparable to the reimbursement period of the loan or advance.

President of U.S. Loans.

"(c) REGULATIONS.—The President shall issue regulations describing the terms and conditions under which any loan or advance authorized by this section may be made.

42 USC 5163.

"SEC. 320. LIMITATION ON USE OF SLIDING SCALES.

"No geographic area shall be precluded from receiving assistance under this Act solely by virtue of an arithmetic formula or sliding scale based on income or population.

42 USC 5164.

"SEC. 321. RULES AND REGULATIONS.

"The President may prescribe such rules and regulations as may be necessary and proper to carry out the provisions of this Act, and may exercise, either directly or through such Federal agency as the President may designate, any power or authority conferred to the President by this Act.".

42 USC 5175.

(2) CONFORMING AMENDMENT TO TITLE IV.—Title IV is amended by striking out section 405, relating to protection of the environment.

SEC. 106. MAJOR DISASTER ASSISTANCE PROGRAMS.

(a) PROCEDURE FOR DECLARATION; GENERAL FEDERAL ASSISTANCE; ESSENTIAL ASSISTANCE; AND HAZARD MITIGATION.—Title IV is amended—

(1) by striking out the heading for such title and inserting in lieu thereof:

"TITLE IV—MAJOR DISASTER ASSISTANCE PROGRAMS";

42 USC 5171.

(2) by redesignating section 401 (relating to Federal facilities), and any reference thereto, as section 405; and

(3) by inserting before such section 405 the following new sections:

President of U.S. 42 USC 5170.

"SEC. 401. PROCEDURE FOR DECLARATION.

"All requests for a declaration by the President that a major disaster exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the disaster is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As part of such request, and as a prerequisite to major disaster assistance under this Act, the Governor shall take appropriate response action under State law and direct execution of the State's emergency plan. The Governor shall furnish information on the nature and amount of State and local resources which have been or will be committed to alleviating the results of the disaster, and shall certify that, for the current disaster, State and local government obligations and expenditures (of which State commitments must be a significant proportion) will comply with all applicable cost-sharing requirements of this Act. Based on the request of a Governor under this section, the President may declare under this Act that a major disaster or emergency exists.

42 USC 5170a.

"SEC. 402. GENERAL FEDERAL ASSISTANCE.

"In any major disaster, the President may—

"(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical, and advisory services) in support of State and local assistance efforts;

"(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;

"(3) provide technical and advisory assistance to affected State and local governments for—

"(A) the performance of essential community services;

"(B) issuance of warnings of risks and hazards;

"(C) public health and safety information, including dissemination of such information; Public information.

"(D) provision of health and safety measures; and

"(E) management, control, and reduction of immediate threats to public health and safety; and

"(4) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

"SEC. 403. ESSENTIAL ASSISTANCE. 42 USC 5170b.

"(a) IN GENERAL.—Federal agencies may on the direction of the President, provide assistance essential to meeting immediate threats to life and property resulting from a major disaster, as follows: Real property.

"(1) FEDERAL RESOURCES, GENERALLY.—Utilizing, lending, or donating to State and local governments Federal equipment, supplies, facilities, personnel, and other resources, other than the extension of credit, for use or distribution by such governments in accordance with the purposes of this Act. Gifts and property.

"(2) MEDICINE, FOOD, AND OTHER CONSUMABLES.—Distributing or rendering through State and local governments, the American National Red Cross, the Salvation Army, the Mennonite Disaster Service, and other relief and disaster assistance organizations medicine, food, and other consumable supplies, and other services and assistance to disaster victims.

"(3) WORK AND SERVICES TO SAVE LIVES AND PROTECT PROPERTY.—Performing on public or private lands or waters any work or services essential to saving lives and protecting and preserving property or public health and safety, including— Public lands. Waters.

"(A) debris removal;

"(B) search and rescue, emergency medical care, emergency mass care, emergency shelter, and provision of food, water, medicine, and other essential needs, including movement of supplies or persons;

"(C) clearance of roads and construction of temporary bridges necessary to the performance of emergency tasks and essential community services;

"(D) provision of temporary facilities for schools and other essential community services;

"(E) demolition of unsafe structures which endanger the public;

"(F) warning of further risks and hazards;

"(G) dissemination of public information and assistance regarding health and safety measures; Public information.

"(H) provision of technical advice to State and local governments on disaster management and control; and

"(I) reduction of immediate threats to life, property, and public health and safety.

"(4) CONTRIBUTIONS.—Making contributions to State or local governments or owners or operators of private nonprofit facilities for the purpose of carrying out the provisions of this subsection.

"(b) FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of such assistance.

"(c) UTILIZATION OF DOD RESOURCES.—

Public lands.
Real property.

"(1) GENERAL RULE.—During the immediate aftermath of an incident which may ultimately qualify for assistance under this title or title V of this Act, the Governor of the State in which such incident occurred may request the President to direct the Secretary of Defense to utilize the resources of the Department of Defense for the purpose of performing on public and private lands any emergency work which is made necessary by such incident and which is essential for the preservation of life and

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property. If the President determines that such work is essential for the preservation of life and property, the President shall grant such request to the extent the President determines practicable. Such emergency work may only be carried out for a period not to exceed 10 days.

"(2) RULES APPLICABLE TO DEBRIS REMOVAL.—Any removal of debris and wreckage carried out under this subsection shall be subject to section 407(b), relating to unconditional authorization and indemnification for debris removal.

"(3) EXPENDITURES OUT OF DISASTER RELIEF FUNDS.—The cost of any assistance provided pursuant to this subsection shall be reimbursed out of funds made available to carry out this Act.

"(4) FEDERAL SHARE.—The Federal share of assistance under this subsection shall be not less than 75 percent.

President of U.S.

"(5) GUIDELINES.—Not later than 180 days after the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, the President shall issue guidelines for carrying out this subsection. Such guidelines shall consider any likely effect assistance under this subsection will have on the availability of other forms of assistance under this Act.

"(6) DEFINITIONS.—For purposes of this section—

"(A) DEPARTMENT OF DEFENSE.—The term 'Department of Defense' has the meaning the term 'department' has under section 101 of title 10, United States Code.

"(B) EMERGENCY WORK.—The term 'emergency work' includes clearance and removal of debris and wreckage and temporary restoration of essential public facilities and services.

42 USC 5170c.

"SEC. 404. HAZARD MITIGATION.

"The President may contribute up to 50 percent of the cost of hazard mitigation measures which the President has determined are cost-effective and which substantially reduce the risk of future damage, hardship, loss, or suffering in any area affected by a major

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disaster. Such measures shall be identified following the evaluation of natural hazards under section 409 and shall be subject to approval by the President. The total of contributions under this section for a major disaster shall not exceed 10 percent of the estimated aggre-

gate amounts of grants to be made under section 406 with respect to such major disaster.".

(b) REPAIR AND RESTORATION OF DAMAGED FACILITIES.—Title IV is further amended by striking out section 402, relating to repair and restoration of damaged facilities, and inserting in lieu thereof the following new section:

"SEC. 406. REPAIR, RESTORATION, AND REPLACEMENT OF DAMAGED FACILITIES. 42 USC 5172.

"(a) CONTRIBUTIONS.—The President may make contributions—

"(1) to a State or local government for the repair, restoration, reconstruction, or replacement of a public facility which is damaged or destroyed by a major disaster and for associated expenses incurred by such government; and

"(2) to a person who owns or operates a private nonprofit facility damaged or destroyed by a major disaster for the repair, restoration, reconstruction, or replacement of such facility and for associated expenses incurred by such person.

"(b) MINIMUM FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than—

"(1) 75 percent of the net eligible cost of repair, restoration, reconstruction, or replacement carried out under this section;

"(2) 100 percent of associated expenses described in subsections (f)(1) and (f)(2); and

"(3) 75 percent of associated expenses described in subsections (f)(3), (f)(4), and (f)(5).

"(c) LARGE IN LIEU CONTRIBUTIONS.—

"(1) FOR PUBLIC FACILITIES.—In any case where a State or local government determines that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing any public facility owned or controlled by such State or local government, it may elect to receive, in lieu of a contribution under subsection (a)(1), a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing such facility and of associated expenses. Funds contributed under this subsection may be used to repair, restore, or expand other selected public facilities, to construct new facilities, or to fund hazard mitigation measures which the State or local government determines to be necessary to meet a need for governmental services and functions in the area affected by the major disaster.

"(2) FOR PRIVATE NONPROFIT FACILITIES.—In any case where a person who owns or operates a private nonprofit facility determines that the public welfare would not be best served by repairing, restoring, reconstructing, or replacing such facility, such person may elect to receive, in lieu of a contribution under subsection (a)(2), a contribution of not to exceed 90 percent of the Federal share of the Federal estimate of the cost of repairing, restoring, reconstructing, or replacing such facility and of associated expenses. Funds contributed under this subsection may be used to repair, restore, or expand other selected private nonprofit facilities owned or operated by such person, to construct new private nonprofit facilities to be owned or operated by such person, or to fund hazard mitigation measures which such person determines to be necessary to meet a need for its

services and functions in the area affected by the major disaster.

"(3) RESTRICTION ON USE FOR STATE OR LOCAL CONTRIBUTION.—Funds provided under this subsection shall not be used for any State or local government cost-sharing contribution required under this Act.

"(d) FLOOD INSURANCE.—

"(1) REDUCTION OF FEDERAL ASSISTANCE.—If a public facility or private nonprofit facility located in a special flood hazard area identified for more than 1 year by the Director pursuant to the National Flood Insurance Act of 1968 (42 U.S.C. 4001 et seq.) is damaged or destroyed, after the 180th day following the date of the enactment of the Disaster Relief and Emergency Assistance Amendments of 1988, by flooding in a major disaster and such facility is not covered on the date of such flooding by flood insurance, the Federal assistance which would otherwise be available under this section with respect to repair, restoration, reconstruction, and replacement of such facility and associated expenses shall be reduced in accordance with paragraph (2).

"(2) AMOUNT OF REDUCTION.—The amount of a reduction in Federal assistance under this section with respect to a facility shall be the lesser of—

"(A) the value of such facility on the date of the flood damage or destruction, or

"(B) the maximum amount of insurance proceeds which would have been payable with respect to such facility if such facility had been covered by flood insurance under the National Flood Insurance Act of 1968 on such date.

"(3) EXCEPTION.—Paragraphs (1) and (2) shall not apply to a private nonprofit facility which is not covered by flood insurance solely because of the local government's failure to participate in the flood insurance program established by the National Flood Insurance Act.

President of U.S.

"(4) DISSEMINATION OF INFORMATION.—The President shall disseminate information regarding the reduction in Federal assistance provided for by this subsection to State and local governments and the owners and operators of private nonprofit facilities who may be affected by such a reduction.

"(e) NET ELIGIBLE COST.—

"(1) GENERAL RULE.—For purposes of this section, the cost of repairing, restoring, reconstructing, or replacing a public facility or private nonprofit facility on the basis of the design of such facility as it existed immediately prior to the major disaster and in conformity with current applicable codes, specifications, and standards (including floodplain management and hazard mitigation criteria required by the President or by the Coastal Barrier Resources Act (16 U.S.C. 3501 et seq.)) shall, at a minimum, be treated as the net eligible cost of such repair, restoration, reconstruction, or replacement.

"(2) SPECIAL RULE.—In any case in which the facility being repaired, restored, reconstructed, or replaced under this section was under construction on the date of the major disaster, the cost of repairing, restoring, reconstructing, or replacing such facility shall include, for purposes of this section, only those costs which, under the contract for such construction, are the owner's responsibility and not the contractor's responsibility.

"(f) ASSOCIATED EXPENSES.—For purposes of this section, associated expenses include the following:

"(1) NECESSARY COSTS.—Necessary costs of requesting, obtaining, and administering Federal assistance based on a percentage of assistance provided as follows:

"(A) For an applicant whose net eligible costs equal less than $100,000, 3 percent of such net eligible costs.

"(B) For an applicant whose net eligible costs equal $100,000 or more but less than $1,000,000, $3,000 plus 2 percent of such net eligible costs in excess of $100,000.

"(C) For an applicant whose net eligible costs equal $1,000,000 or more but less than $5,000,000, $21,000 plus 1 percent of such net eligible costs in excess of $1,000,000.

"(D) For an applicant whose net eligible costs equal $5,000,000 or more, $61,000 plus ½ percent of such net eligible costs in excess of $5,000,000.

"(2) EXTRAORDINARY COSTS.—Extraordinary costs incurred by a State for preparation of damage survey reports, final inspection reports, project applications, final audits, and related field inspections by State employees, including overtime pay and per diem and travel expenses of such employees, but not including pay for regular time of such employees, based on the total amount of assistance provided under sections 403, 404, 406, 407, 502, and 503 in such State in connection with the major disaster as follows:

"(A) If such total amount is less than $100,000, 3 percent of such total amount.

"(B) If such total amount is $100,000 or more but less than $1,000,000, $3,000 plus 2 percent of such total amount in excess of $100,000.

"(C) If such total amount is $1,000,000 or more but less than $5,000,000, $21,000 plus 1 percent of such total amount in excess of $1,000,000.

"(D) If such total amount is $5,000,000 or more, $61,000 plus ½ percent of such total amount in excess of $5,000,000.

"(3) COSTS OF NATIONAL GUARD.—The costs of mobilizing and employing the National Guard for performance of eligible work.

"(4) COSTS OF PRISON LABOR.—The costs of using prison labor to perform eligible work, including wages actually paid, transportation to a worksite, and extraordinary costs of guards, food, and lodging.

"(5) OTHER LABOR COSTS.—Base and overtime wages for an applicant's employees and extra hires performing eligible work plus fringe benefits on such wages to the extent that such benefits were being paid before the disaster.". Wages.

(c) DEBRIS REMOVAL.—

(1) REDESIGNATION.—Section 403 (relating to debris removal) and any reference thereto, is redesignated as section 407. 42 USC 5173.

(2) INCLUSION OF NONPROFIT FACILITIES.—Subsection (a)(2) of such section 407 is amended by inserting after "local government" the following: "or owner or operator of a private nonprofit facility".

(3) RULES RELATING TO LARGE LOTS; FEDERAL SHARE.—Such section 407 is further amended by adding at the end thereof the following new subsections:

"(c) RULES RELATING TO LARGE LOTS.—The President shall issue rules which provide for recognition of differences existing among President of U.S.

urban, suburban, and rural lands in implementation of this section so as to facilitate adequate removal of debris and wreckage from large lots.

"(d) FEDERAL SHARE.—The Federal share of assistance under this section shall be not less than 75 percent of the eligible cost of debris and wreckage removal carried out under this section.".

(d) TEMPORARY HOUSING ASSISTANCE.—Title IV is further amended by striking out section 404, relating to temporary housing assistance, and inserting in lieu thereof the following new section:

42 USC 5174.

"SEC. 408. TEMPORARY HOUSING ASSISTANCE.

"(a) PROVISION OF TEMPORARY HOUSING.—

"(1) IN GENERAL.—The President may—

Contracts.

"(A) provide, by purchase or lease, temporary housing (including unoccupied habitable dwellings), suitable rental housing, mobile homes, or other readily fabricated dwellings to persons who, as a result of a major disaster, require temporary housing; and

"(B) reimburse State and local governments in accordance with paragraph (4) for the cost of sites provided under paragraph (2).

"(2) MOBILE HOME SITE.—

"(A) IN GENERAL.—Any mobile home or other readily fabricated dwelling provided under this section shall whenever possible be located on a site which—

"(i) is provided by the State or local government; and

Utilities.

"(ii) has utilities provided by the State or local government, by the owner of the site, or by the occupant who was displaced by the major disaster.

"(B) OTHER SITES.—Mobile homes and other readily fabricated dwellings may be located on sites provided by the President if the President determines that such sites would be more economical or accessible than sites described in subparagraph (A).

President of U.S.

"(3) PERIOD.—Federal financial and operational assistance under this section shall continue for not longer than 18 months after the date of the major disaster declaration by the President, unless the President determines that due to extraordinary circumstances it would be in the public interest to extend such 18-month period.

"(4) FEDERAL SHARE.—The Federal share of assistance under this section shall be 100 percent; except that the Federal share of assistance under this section for construction and site development costs (including installation of utilities) at a mobile home group site shall be 75 percent of the eligible cost of such assistance. The State or local government receiving assistance under this section shall pay any cost which is not paid for from the Federal share.

President of U.S.

"(b) TEMPORARY MORTGAGE AND RENTAL PAYMENTS.—The President is authorized to provide assistance on a temporary basis in the form of mortgage or rental payments to or on behalf of individuals and families who, as a result of financial hardship caused by a major disaster, have received written notice of dispossession or eviction from a residence by reason of a foreclosure of any mortgage or lien, cancellation of any contract of sale, or termination of any lease, entered into prior to such disaster. Such assistance shall be provided

for the duration of the period of financial hardship but not to exceed 18 months.

"(c) IN LIEU EXPENDITURES.—In lieu of providing other types of temporary housing after a major disaster, the President is authorized to make expenditures for the purpose of repairing or restoring to a habitable condition owner-occupied private residential structures made uninhabitable by a major disaster which are capable of being restored quickly to a habitable condition. President of U.S.

"(d) TRANSFER OF TEMPORARY HOUSING.— President of U.S.

"(1) DIRECT SALE TO OCCUPANTS.—Notwithstanding any other provision of law, any temporary housing acquired by purchase may be sold directly to individuals and families who are occupants of temporary housing at prices that are fair and equitable, as determined by the President.

"(2) TRANSFERS TO STATES, LOCAL GOVERNMENTS, AND VOLUNTARY ORGANIZATIONS.—The President may sell or otherwise make available temporary housing units directly to States, other governmental entities, and voluntary organizations. The President shall impose as a condition of transfer under this paragraph a covenant to comply with the provisions of section 308 requiring nondiscrimination in occupancy of such temporary housing units. Such disposition shall be limited to units purchased under the provisions of subsection (a) and to the purposes of providing temporary housing for disaster victims in major disasters or emergencies. Discrimination, prohibition.

"(e) NOTIFICATION.—

"(1) IN GENERAL.—Each person who applies for assistance under this section shall be notified regarding the type and amount of any assistance for which such person qualifies. Whenever practicable, such notice shall be provided within 7 days after the date of submission of such application.

"(2) INFORMATION.—Notification under this subsection shall provide information regarding—

"(A) all forms of such assistance available;

"(B) any specific criteria which must be met to qualify for each type of assistance that is available;

"(C) any limitations which apply to each type of assistance; and

"(D) the address and telephone number of offices responsible for responding to—

"(i) appeals of determinations of eligibility for assistance; and

"(ii) requests for changes in the type or amount of assistance provided.

"(f) LOCATION.—In providing assistance under this section, consideration shall be given to the location of and travel time to—

"(1) the applicant's home and place of business;

"(2) schools which the applicant or members of the applicant's family who reside with the applicant attend; and

"(3) crops or livestock which the applicant tends in the course of any involvement in farming which provides 25 percent or more of the applicant's annual income.".

(e) REDESIGNATION OF SECTIONS 406 AND 407.—Sections 406 (relating to minimum standards for public and private structures) and 407 (relating to unemployment assistance), and any references thereto, are redesignated as sections 409 and 410, respectively. 42 USC 5176, 5177.

42 USC 5177.

(f) UNEMPLOYMENT ASSISTANCE LIMITATIONS.—Section 410 (as so redesignated) is amended as follows:

(1) ENTITLEMENT TO OTHER COMPENSATION.—The first sentence of subsection (a) is amended by inserting "for the weeks of such unemployment with respect to which the individual is not entitled to any other unemployment compensation (as that term is defined in section 85(b) of the Internal Revenue Code of 1986) or waiting period credit" after "is unemployed".

(2) TERM OF ASSISTANCE.—The second sentence of subsection (a) is amended by striking out "one year" and inserting in lieu thereof "26 weeks".

(3) REPEAL OF REDUCTION IN COMPENSATION.—The third sentence of subsection (a) is amended by striking out "occurred," and all that follows through the end of the sentence and inserting in lieu thereof "occurred.".

(4) REEMPLOYMENT ASSISTANCE.—Subsection (b) is amended to read as follows:

"(b) REEMPLOYMENT ASSISTANCE.—

"(1) STATE ASSISTANCE.—A State shall provide, without reimbursement from any funds provided under this Act, reemployment assistance services under any other law administered by the State to individuals receiving benefits under this section.

"(2) FEDERAL ASSISTANCE.—The President may provide reemployment assistance services under other laws to individuals who are unemployed as a result of a major disaster and who reside in a State which does not provide such services.".

42 USC 5178 and note.

(g) INDIVIDUAL AND FAMILY GRANT PROGRAMS.—Title IV is amended by striking out section 408 (relating to individual and family grant programs) and inserting in lieu thereof the following new section:

42 USC 5178.

"SEC. 411. INDIVIDUAL AND FAMILY GRANT PROGRAMS.

President of U.S.

"(a) IN GENERAL.—The President is authorized to make a grant to a State for the purpose of making grants to individuals or families adversely affected by a major disaster for meeting disaster-related necessary expenses or serious needs of such individuals or families in those cases where such individuals or families are unable to meet such expenses or needs through assistance under other provisions of this Act or through other means.

"(b) COST SHARING.—

"(1) FEDERAL SHARE.—The Federal share of a grant to an individual or a family under this section shall be equal to 75 percent of the actual cost incurred.

"(2) STATE CONTRIBUTION.—The Federal share of a grant under this section shall be paid only on condition that the remaining 25 percent of the cost is paid to an individual or family from funds made available by a State.

President of U.S.

"(c) REGULATIONS.—The President shall promulgate regulations to carry out this section and such regulations shall include national criteria, standards, and procedures for the determination of eligibility for grants and the administration of grants under this section.

"(d) ADMINISTRATIVE EXPENSES.—A State may expend not to exceed 5 percent of any grant made by the President to it under subsection (a) for expenses of administering grants to individuals and families under this section.

"(e) ADMINISTRATION THROUGH GOVERNOR.—The Governor of a State shall administer the grant program authorized by this section in the State.

"(f) LIMIT ON GRANTS TO INDIVIDUAL.—No individual or family shall receive grants under this section aggregating more than $10,000 with respect to any single major disaster. Such $10,000 limit shall annually be adjusted to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.".

(h) REDESIGNATION OF SECTIONS 409 THROUGH 412.—Sections 409 (relating to food coupons and distribution), 410 (relating to food commodities), 411 (relating to relocation assistance), and 412 (relating to legal services), and any references thereto, are redesignated as sections 412, 413, 414, and 415, respectively. 42 USC 5179–5182.

(i) CRISIS COUNSELING.—Section 413 (relating to crisis counseling assistance and training), and any reference thereto, is redesignated as section 416. Such section is amended by striking out "(through the National Institute of Mental Health)". 42 USC 5183.

(j) REDESIGNATION OF SECTIONS 414 THROUGH 418.—Sections 414 (relating to community disaster loans), 415 (relating to emergency communications), 416 (relating to emergency public transportation), 417 (relating to fire suppression grants), and section 418 (relating to timber sale contracts), and any references thereto, are redesignated as sections 417, 418, 419, 420, and 421, respectively. 42 USC 5184–5188.

(k) SIMPLIFIED PROCEDURE.—Title IV is further amended by striking out section 419 (relating to in-lieu contribution) and inserting in lieu thereof the following new section:

"SEC. 422. SIMPLIFIED PROCEDURE. 42 USC 5189.

"If the Federal estimate of the cost of—

"(1) repairing, restoring, reconstructing, or replacing under section 406 any damaged or destroyed public facility or private nonprofit facility,

"(2) emergency assistance under section 403 or 502, or

"(3) debris removed under section 407,

is less than $35,000, the President (on application of the State or local government or the owner or operator of the private nonprofit facility) may make the contribution to such State or local government or owner or operator under section 403, 406, 407, or 502, as the case may be, on the basis of such Federal estimate. Such $35,000 amount shall be adjusted annually to reflect changes in the Consumer Price Index for All Urban Consumers published by the Department of Labor.".

(l) APPEALS; DATE OF ELIGIBILITY; EXPENSES INCURRED BEFORE DATE OF DISASTER; ADVANCE OF NON-FEDERAL SHARE; LIMITATION ON USE OF SLIDING SCALES.—Title IV is further amended by adding at the end thereof the following new sections:

"SEC. 423. APPEALS OF ASSISTANCE DECISIONS. 42 USC 5189a.

"(a) RIGHT OF APPEAL.—Any decision regarding eligibility for, from, or amount of assistance under this title may be appealed within 60 days after the date on which the applicant for such assistance is notified of the award or denial of award of such assistance.

"(b) PERIOD FOR DECISION.—A decision regarding an appeal under subsection (a) shall be rendered within 90 days after the date on

which the Federal official designated to administer such appeals receives notice of such appeal.

President of U.S. "(c) RULES.—The President shall issue rules which provide for the fair and impartial consideration of appeals under this section.

42 USC 5189b. **"SEC. 424. DATE OF ELIGIBILITY; EXPENSES INCURRED BEFORE DATE OF DISASTER.**

President of U.S. "Eligibility for Federal assistance under this title shall begin on the date of the occurrence of the event which results in a declaration by the President that a major disaster exists; except that reasonable expenses which are incurred in anticipation of and immediately preceding such event may be eligible for Federal assistance under this Act.".

SEC. 107. FEDERAL EMERGENCY ASSISTANCE PROGRAMS.

(a) FEDERAL EMERGENCY ASSISTANCE PROGRAMS.—Title V is amended to read as follows:

"TITLE V—EMERGENCY ASSISTANCE PROGRAMS

42 USC 5191. **"SEC. 501. PROCEDURE FOR DECLARATION.**

"(a) REQUEST AND DECLARATION.—All requests for a declaration by the President that an emergency exists shall be made by the Governor of the affected State. Such a request shall be based on a finding that the situation is of such severity and magnitude that effective response is beyond the capabilities of the State and the affected local governments and that Federal assistance is necessary. As a part of such request, and as a prerequisite to emergency assistance under this Act, the Governor shall take appropriate action under State law and direct execution of the State's emergency plan. The Governor shall furnish information describing the State and local efforts and resources which have been or will be used to alleviate the emergency, and will define the type and extent of Federal aid required. Based upon such Governor's request, the President may declare that an emergency exists.

"(b) CERTAIN EMERGENCIES INVOLVING FEDERAL PRIMARY RESPONSIBILITY.—The President may exercise any authority vested in him by section 502 or section 503 with respect to an emergency when he determines that an emergency exists for which the primary responsibility for response rests with the United States because the emergency involves a subject area for which, under the Constitution or laws of the United States, the United States exercises exclusive or

President of U.S. preeminent responsibility and authority. In determining whether or not such an emergency exists, the President shall consult the Governor of any affected State, if practicable. The President's determination may be made without regard to subsection (a).

42 USC 5192. **"SEC. 502. FEDERAL EMERGENCY ASSISTANCE.**

"(a) SPECIFIED.—In any emergency, the President may—

"(1) direct any Federal agency, with or without reimbursement, to utilize its authorities and the resources granted to it under Federal law (including personnel, equipment, supplies, facilities, and managerial, technical and advisory services) in support of State and local emergency assistance efforts to save

lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe;

"(2) coordinate all disaster relief assistance (including voluntary assistance) provided by Federal agencies, private organizations, and State and local governments;

"(3) provide technical and advisory assistance to affected State and local governments for—

"(A) the performance of essential community services;

"(B) issuance of warnings of risks or hazards;

"(C) public health and safety information, including dissemination of such information;

"(D) provision of health and safety measures; and

"(E) management, control, and reduction of immediate threats to public health and safety;

"(4) provide emergency assistance through Federal agencies;

"(5) remove debris in accordance with the terms and conditions of section 407;

"(6) provide temporary housing assistance in accordance with section 408; and Housing.

"(7) assist State and local governments in the distribution of medicine, food, and other consumable supplies, and emergency assistance.

"(b) GENERAL.—Whenever the Federal assistance provided under subsection (a) with respect to an emergency is inadequate, the President may also provide assistance with respect to efforts to save lives, protect property and public health and safety, and lessen or avert the threat of a catastrophe.

"SEC. 503. AMOUNT OF ASSISTANCE. 42 USC 5193.

"(a) FEDERAL SHARE.—The Federal share for assistance provided under this title shall be equal to not less than 75 percent of the eligible costs.

"(b) LIMIT ON AMOUNT OF ASSISTANCE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), total assistance provided under this title for a single emergency shall not exceed $5,000,000.

"(2) ADDITIONAL ASSISTANCE.—The limitation described in paragraph (1) may be exceeded when the President determines that— President of U.S.

"(A) continued emergency assistance is immediately required;

"(B) there is a continuing and immediate risk to lives, property, public health or safety; and

"(C) necessary assistance will not otherwise be provided on a timely basis.

"(3) REPORT.—Whenever the limitation described in paragraph (1) is exceeded, the President shall report to the Congress on the nature and extent of emergency assistance requirements and shall propose additional legislation if necessary.". President of U.S.

(b) SAVINGS CLAUSE.—The amendment made by subsection (a) shall not be construed as having any effect on title VIII of the Public Works and Economic Development Act of 1965 which was added to such Act by section 501 of the Disaster Relief Act of 1974 on May 22, 1974. 42 USC 3231 note.

SEC. 108. AMENDMENTS TO TITLE VI.

(a) RULES.—Section 601(a) is amended— 42 USC 5201.

(1) by inserting "(1)" after "SEC. 601. (a)"; and

(2) by adding at the end the following new paragraph:

"(2) DEADLINE FOR PAYMENT OF ASSISTANCE.—Rules and regulations authorized by paragraph (1) shall provide that payment of any assistance under this Act to a State shall be completed within 60 days after the date of approval of such assistance.".

42 USC 5121 note.

(b) EFFECTIVE DATE.—Section 605 is repealed.

42 USC 5202.

(c) AUTHORIZATION OF APPROPRIATIONS.—Section 606 is repealed.

SEC. 109. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) AGRICULTURAL ACT OF 1949.—(1) Section 401(c) of the Agricultural Act of 1949 (7 U.S.C. 1421(c)) is amended by striking out "Public Law 875, Eighty-first Congress" and inserting in lieu thereof "the Disaster Relief and Emergency Assistance Act".

(2) Section 407 of such Act (7 U.S.C. 1427) is amended by striking out "Public Law 875, Eighty-first Congress, as amended (42 U.S.C. 1855)" and inserting in lieu thereof "the Disaster Relief and Emergency Assistance Act".

(b) AGRICULTURAL ACT OF 1970.—Section 813(d) of the Agricultural Act of 1970 (7 U.S.C. 1427a(d)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(c) CONSOLIDATED FARM AND RURAL DEVELOPMENT ACT.—(1) Section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) is amended by striking out "Act of 1974" each place it appears and inserting in lieu thereof "and Emergency Assistance Act".

(2) Section 324(d) of such Act (7 U.S.C. 1964(d)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(d) FOOD STAMP ACT OF 1977.—Section 5(h)(1) of the Food Stamp Act of 1977 (7 U.S.C. 2014(h)(1)) is amended by striking out "section 302(a) of the Disaster Relief Act of 1974" and inserting in lieu thereof "sections 402 and 502 of the Disaster Relief and Emergency Assistance Act".

(e) NATIONAL HOUSING ACT.—(1) Section 8(b)(2) of the National Housing Act (12 U.S.C. 1706c(b)(2)) is amended by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

(2) Section 203(h) of such Act (12 U.S.C. 1709(h)) is amended—

(A) by striking out "riot or civil disorder,"; and

(B) by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

(3) Section 221(f) of such Act (12 U.S.C. 1715l(f)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(f) SMALL BUSINESS ACT.—(1) Section 7(b)(2)(A) of the Small Business Act (15 U.S.C. 636(b)(2)(A)) is amended by striking out "the Act entitled 'An Act to authorize Federal assistance to States and local governments in major disasters, and for other purposes', approved September 30, 1950, as amended (42 U.S.C. 1855–1855g)" and inserting in lieu thereof "the Disaster Relief and Emergency Assistance Act".

(2) Section 7(b)(E) of such Act (15 U.S.C. 636(b)(E)) is amended by striking out "subsection (b) of section 315 of Public Law 93-288 (42

U.S.C. 5155)" and inserting in lieu thereof "section 312(a) of the Disaster Relief and Emergency Assistance Act".

(3) Section 7(f) of such Act (15 U.S.C. 636(f)) is amended by striking out "section 2(a) of the Act of September 30, 1950 (42 U.S.C. 1855a(a))" and inserting in lieu thereof "section 102(2) of the Disaster Relief and Emergency Assistance Act".

(g) ENDANGERED SPECIES ACT OF 1973.—Section 7(p) of the Endangered Species Act of 1973 (16 U.S.C. 1536(p)) is amended—

(1) by striking out "Disaster Relief Act of 1974" each place it appears and inserting in lieu thereof "Disaster Relief and Emergency Assistance Act"; and

(2) by striking out "401 or 402" and inserting in lieu thereof "405 or 406".

(h) COASTAL BARRIER RESOURCES ACT.—Section 6(a)(6)(E) of the Coastal Barrier Resources Act (16 U.S.C. 3505(a)(6)(E)) is amended by striking out "305 and 306 of the Disaster Relief Act of 1974 (42 U.S.C. 5145 and 5146)" and inserting in lieu thereof "402, 403, and 502 of the Disaster Relief and Emergency Assistance Act".

(i) IMPACT AID ACT.—Section 7(a)(1)(A) of the Act of September 30, 1950, commonly known as the Impact Aid Act (Public Law 874, 81st Congress; 20 U.S.C. 241-1(a)(1)(A)), is amended by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

(j) PUBLIC LAW 815 OF THE 81ST CONGRESS.—Section 16(a)(1)(A) of the Act of September 23, 1950 (Public Law 815, 81st Congress; 20 U.S.C. 646(a)(1)(A)), is amended by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

(k) TITLE 23.—Section 125(b) of title 23, United States Code, is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(l) INTERNAL REVENUE CODE OF 1986.—Sections 165(i)(1), 165(k), 5064(b)(3), and 5708(a) of the Internal Revenue Code of 1986 (26 U.S.C. 165(i)(1), 165(k), 5064(b)(3), and 5708(a)) are each amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(m) ACT OF AUGUST 18, 1941.—Section 5(a) of the Act entitled "An Act authorizing the construction of certain public works on rivers and harbors for flood control, and for other purposes", approved August 18, 1941 (33 U.S.C. 701n), is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(n) TITLE 38.—Section 1820(f) of title 38, United States Code, is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(o) NATIONAL FLOOD INSURANCE ACT OF 1968.—Section 1306(c)(5) of the National Flood Insurance Act of 1968 (42 U.S.C. 4013(c)(5)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(p) SOCIAL SECURITY ACT.—Subsections (a)(2)(A) and (b)(11) of section 1612 of the Social Security Act (42 U.S.C. 1382a(a)(2)(A) and (b)(11)) are each amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(q) OLDER AMERICANS ACT OF 1965.—Section 310(a)(1) of the Older Americans Act of 1965 (42 U.S.C. 3030(a)(1)) is amended by striking

out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(r) PUBLIC WORKS AND ECONOMIC DEVELOPMENT ACT OF 1965.—(1) Section 801(b) of the Public Works and Economic Development Act of 1965 (42 U.S.C. 3231(b)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(2) Section 802(b) of such Act (42 U.S.C. 3232(b)) is amended by striking out "402(f) of the Disaster Relief Act of 1974" and inserting in lieu thereof "406(c) of the Disaster Relief and Emergency Assistance Act".

(s) DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; SPACE, SCIENCE, VETERANS, AND CERTAIN OTHER INDEPENDENT AGENCIES APPROPRIATION ACT, 1973.—Section 406 of the Department of Housing and Urban Development; Space, Science, Veterans, and Certain Other Independent Agencies Appropriation Act, 1973 is amended by striking out "Act of 1970 (84 Stat. 1744)" and inserting in lieu thereof "and Emergency Assistance Act".

42 USC 3539.

(t) FLOOD DISASTER PROTECTION ACT OF 1973.—Section 3(a)(4) of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4003(a)(4)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(u) EARTHQUAKE HAZARDS REDUCTION ACT OF 1977.—Subsections (g) and (i) of section 5 of the Earthquake Hazards Reduction Act of 1977 (42 U.S.C. 7704) are each amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(v) CERCLA.—Section 101(23) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601(23)) is amended by striking out "Act of 1974" and inserting in lieu thereof "and Emergency Assistance Act".

(w) ACT OF JUNE 30, 1954.—Section 3 of the Act of June 30, 1954 (68 Stat. 330; 48 U.S.C. 1681 note) is amended by striking out "102(2) and 301 of the Disaster Relief Act of 1974" and inserting in lieu thereof "102(2) and 401 of the Disaster Relief and Emergency Assistance Act".

42 USC 5121 note.

SEC. 110. RECOMMENDATIONS CONCERNING IMPROVEMENT OF RELATIONSHIPS AMONG DISASTER MANAGEMENT OFFICIALS.

President of U.S.

Not later than 1 year after the date of the enactment of this Act, the President shall recommend to the Congress proposals to improve the operational and fiscal relationships that exist among Federal, State, and local major disaster and emergency management officials. Such proposals should include provisions which—

(1) decrease the amount of time for processing requests for major disaster and emergency declarations and providing Federal assistance for major disasters and emergencies;

(2) provide for more effective utilization of State and local resources in major disaster and emergency relief efforts; and

(3) improve the timeliness of reimbursement of State and local governments after the submission of necessary documentation.

SEC. 111. STUDY OF DISASTER DECLARATION PROCESS.

(a) FINDINGS.—The Congress finds and declares that—

(1) the explosion at the Pacific Engineering and Production Company in Henderson, Nevada, on May 4, 1988, resulted in the deaths of two people, more than 350 injuries, and damages to more than 3,000 buildings;

(2) the Governor of Nevada on May 9, 1988, requested the President to declare a major disaster for Nevada as a result of the catastrophic accident that occurred on May 4;

(3) the Federal Emergency Management Agency's recommendations in response to the Governor's disaster declaration request were delivered to the White House on May 12;

(4) the Governor of Nevada was not kept informed of the status of the State's request for Federal disaster assistance and information concerning the Governor's request was selectively disseminated; and

(5) the untimely and selective release of information concerning the disaster had a negative impact on the victims of the Henderson explosion, and the citizens of Nevada as a whole.

(b) STUDY AND REPORT.—The Comptroller General of the United States shall—

(1) conduct a study of the process by which disaster declarations are made; and

(2) not later than 180 days after the date of enactment of this Act, transmit a report to the Congress describing the findings of the study along with recommendations on ways to improve and ensure the non-political functioning of the process for declaring disasters.

SEC. 112. DECLARED DISASTERS AND EMERGENCIES NOT AFFECTED.

42 USC 5121 note.

This title shall not affect the administration of any assistance for a major disaster or emergency declared by the President before the date of the enactment of this Act.

President of U.S.

SEC. 113. DEADLINE FOR ISSUANCE OF REGULATIONS.

42 USC 5201 note.

Regulations necessary to carry out this title and the amendments made by this title shall be issued no later than the 180th day following the date of the enactment of this Act.

TITLE II—GREAT LAKES DAMAGE ASSISTANCE AND PREVENTION

Great Lakes Planning Assistance Act of 1988.

SEC. 201. SHORT TITLE.

33 USC 426p note.

This title may be cited as the "Great Lakes Planning Assistance Act of 1988".

SEC. 202. DAMAGE ASSISTANCE PROGRAM.

33 USC 426p note.

(a) IN GENERAL.—The Director is authorized to provide assistance to Great Lakes States in the establishment of State programs to reduce and prevent damage attributable to high water levels in the Great Lakes.

(b) GRANTS.—Upon application by a Great Lakes State within 1 year after the date of enactment of this Act, the Director may make a one-time grant to the State of not more than $250,000 for use by the State for—

(1) preparation of plans for mitigation, warning, emergency operations, and emergency assistance;

(2) coordination of available State and Federal assistance;

(3) development and implementation of nonstructural measures to reduce or prevent damage attributable to high water levels in the Great Lakes, including establishment of setback requirements and other conditions on construction and re-

construction of public and private facilities, mapping of flooding zones, and technical assistance; and

(4) assisting local governments in developing and implementing plans for nonstructural reduction and prevention of damages attributable to high water levels in the Great Lakes.

(c) TECHNICAL ASSISTANCE.—The Director may provide technical assistance to Great Lakes States for carrying out any activity carried out with assistance under this section.

(d) STATE MATCHING.—A State which receives a grant under this section shall match the grant with an amount of funds from non-Federal sources equal to 25 percent of the amount of the grant.

(e) AUTHORIZATION.—There are authorized to be appropriated for making grants under this section not more than $2,000,000 for fiscal years beginning after September 30, 1988.

Flood control.
33 USC 426p.

SEC. 203. CORPS OF ENGINEERS.

(a) TECHNICAL AND OTHER ASSISTANCE.—The Secretary of the Army may—

(1) provide emergency assistance to prevent or reduce damage attributable to high water levels in the Great Lakes, including provision of sandbags, sheeting, and stones and other armoring devices (taking account of flooding and erosion of other property which may be caused by such activity) but not including construction of permanent structures;

(2) provide technical assistance to individuals and local governments with respect to measures to prevent or reduce such damage; and

(3) compile and disseminate information on—

(A) water levels of the Great Lakes,

(B) techniques for prevention or reduction of such damage, and

(C) emergency relief available to persons who suffer economic injury attributable to high water levels in the Great Lakes.

(b) ISSUANCE OF PERMITS.—

(1) CONSIDERATION OF FLOODING AND EROSION.—In issuing a permit under—

(A) section 10 of the Act of March 3, 1899 (33 U.S.C. 403); or

(B) section 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344);

for any activity carried out with assistance under this title, the Secretary of the Army shall take account of flooding and erosion of other property which may be caused by such activity.

(2) BANK STABILIZATION.—

(A) GENERAL RULE.—In issuing permits under sections 10 of the Act of March 3, 1899 (33 U.S.C. 403) and 404 of the Federal Water Pollution Control Act (33 U.S.C. 1344) for a project involving dredging of any portion of the Great Lakes, the Secretary of the Army shall, if feasible, encourage for bank stabilization purposes the disposal of nonhazardous compatible sand from such project on shorelines affected by erosion.

(B) CONSULTATION.—In carrying out subparagraph (A), the Secretary of the Army shall consult affected State and local governments.

SEC. 204. GREAT LAKES COASTAL BARRIER ACT OF 1988.

Great Lakes Coastal Barrier Act of 1988.
16 USC 3501 note.

(a) SHORT TITLE.—This section may be cited as the "Great Lakes Coastal Barrier Act of 1988".

(b) STUDY OF COASTAL BARRIER RESOURCES SYSTEM TO INCLUDE BARRIERS WITHIN GREAT LAKES SHORE AREAS.—Section 4 of the Coastal Barrier Resources Act (16 U.S.C. 3503) is amended to read as follows:

"SEC. 4. COASTAL BARRIER RESOURCES SYSTEM.

"(a) IN GENERAL.—The Coastal Barrier Resources System consists of—

"(1) those undeveloped coastal barriers that are located on the Atlantic and Gulf Coasts of the United States and included within the System on April 19, 1983; and

"(2) those undeveloped coastal barriers along the shore areas of the Great Lakes that are designated by Congress by law after considering the recommendations of the Secretary made under subsection (b) of this section.

"(b) INCLUSION OF GREAT LAKES BARRIERS.—

"(1) IN GENERAL.—

"(A) RECOMMENDATIONS AND MAPS.—Except as provided in subparagraph (B), not later than 3 months after the date of the enactment of the Great Lakes Coastal Barrier Act of 1988, the Secretary shall recommend to Congress and prepare maps identifying the boundaries of those undeveloped coastal barriers along the shore areas of Great Lakes that the Secretary considers appropriate for inclusion in the Coastal Barrier Resources System.

"(B) EXCLUDED AREAS.—The Secretary may not recommend for inclusion as an undeveloped coastal barrier, and sections 5 and 6 of this Act do not apply to, any area that is publicly owned and protected by Federal, State, or local government law, or held by a qualified organization defined in section 170(h)(3) of the Tax Reform Act of 1986 (26 U.S.C. 170(h)(3)), primarily for wildlife refuge, sanctuary, recreational, or natural resource conservation purposes.

"(2) CONSULTATIONS AND CONSIDERATIONS.—Before recommending undeveloped coastal barriers under paragraph (1) of this section, the Secretary shall—

"(A) consult with and provide an opportunity for comment by appropriate United States Government agencies, State agencies (including the coastal zone management agencies) of the States bordering the Great Lakes, and the public; and

"(B) update on the basis of aerial photographs and consider the draft coastal barrier inventory maps prepared by the Secretary in January 1985 for the States of Michigan, Wisconsin, Ohio, New York (Great Lakes) and Minnesota. State listing.

"(3) PROVISION OF MAPS.—As soon as practicable after the revision of the maps referred to in paragraph (2)(B) of this subsection is completed, the Secretary shall provide copies of the maps to—

"(A) each appropriate State and county or equivalent jurisdiction in which System units are located;

"(B) the coastal zone management agency in each appropriate State that has a coastal zone management program

approved under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

"(C) each appropriate United States Government agency; and

"(D) the Congress.

"(4) PUBLIC INSPECTION OF MAPS.—The Director of the United States Fish and Wildlife Service shall make available for public inspection all maps prepared under this section.

"(c) BOUNDARY MODIFICATIONS.—

"(1) IN GENERAL.—The Secretary shall—

"(A) conduct a review of the System maps at least once every 5 years after the date of the enactment of the Great Lakes Coastal Barrier Act of 1988; and

"(B) subject to paragraph (2), make any minor and technical modifications to the boundaries of any System unit that are necessary solely to reflect changes that have occurred in the size or location of that unit as a result of natural forces.

"(2) CONSULTATIONS.—The Secretary shall conduct the reviews required under paragraph (1) in consultation with the chief executive officer of—

"(A) each appropriate State and county equivalent jurisdiction in which System units are located;

"(B) the coastal zone management agency in each appropriate State that has a coastal zone management program approved under section 306 of the Coastal Zone Management Act of 1972 (16 U.S.C. 1455);

"(C) each appropriate United States Government agency; and

"(D) the public.

Public information.

"(d) SYSTEM MAPS.—The Office of the Director of the United States Fish and Wildlife Service, Department of the Interior, and other appropriate offices of the Service shall have available for public inspection all System maps.".

(c) CONFORMING AMENDMENTS.—

(1) CONGRESSIONAL FINDINGS.—Section 2 of the Coastal Barrier Resources Act (16 U.S.C. 3501) is amended by inserting "and along the shore areas of the Great Lakes" after "Atlantic and Gulf coasts" at each place it appears.

(2) DEFINITIONS.—Section 3 of the Coastal Barrier Resources Act (16 U.S.C. 3502) is amended as follows:

(A) REDESIGNATION.—Paragraphs (4) and (5), and any reference thereto, are redesignated as paragraphs (5) and (7), respectively.

(B) GREAT LAKES DEFINED.—The following is inserted after paragraph (3):

"(4) The term 'Great Lakes' means Lake Ontario, Lake Erie, Lake Huron, Lake St. Clair, Lake Michigan, and Lake Superior, to the extent that those lakes are subject to the jurisdiction of the United States.".

(C) SYSTEM MAPS DEFINED.—The following is inserted after paragraph (5) (as redesignated):

"(6) The term 'system maps' means—

"(A) the maps that are entitled 'Coastal Barrier Resources System', numbered A01 through T12 (but excluding maps T02 and T03) and dated September 30, 1982, and the

maps numbered T02A and T03A and dated December 8, 1982; and

"(B) the maps prepared under section 4(b) of this Act and any modification to those maps under that section.".

(d) EXPANSION OF HIGHWAYS IN MICHIGAN.—The limitations on the use of Federal expenditures or financial assistance within the Coastal Barrier Resources System under section 6(a)(3) of the Coastal Barrier Resources Act (16 U.S.C. 3505(a)(3)) shall not apply to existing highways located within the State of Michigan if the Congress adds new units to the Coastal Barrier Resources System under section 4 of that Act, and those units include portions of United States or State highways in the State of Michigan.

16 USC 3505 note.

SEC. 205. DEFINITIONS.

33 USC 426p note.

For purposes of this title—

(1) DIRECTOR.—The term "Director" means the Director of the Federal Emergency Management Agency.

(2) HIGH WATER LEVELS.—The term "high water levels" means water levels above the long-term average of water levels from 1900.

(3) LOCAL GOVERNMENT.—The term "local government" means a county, city, village, town, district, or other political subdivision of a Great Lakes State and an Indian tribe or authorized tribal organization.

(4) GREAT LAKES STATE.—The term "Great Lakes State" means Minnesota, Wisconsin, Illinois, Ohio, Michigan, Indiana, Pennsylvania, and New York.

TITLE III—MISCELLANEOUS PROVISIONS

SEC. 301. AUTHORIZATION OF APPROPRIATIONS.

The last sentence of section 91 of the Water Resources Development Act of 1974 (88 Stat. 39), relating to authorization of appropriations for the New York Harbor collection and removal of drift project, is amended by striking out "$30,500,000" and inserting in lieu thereof "$6,000,000 annually".

SEC. 302. HUDSON RIVER CHANNEL.

That portion of Public Law 100-202 designated as the Energy and Water Development Appropriation Act of 1988 is amended by striking out in the undesignated paragraph "The following portion of the Hudson River" all that follows through "the States of New York and New Jersey." (101 Stat. 1329-109) and inserting in lieu thereof the following:

"The following portion of the Hudson River in the Borough of Manhattan, New York County, State of New York, is hereby declared not to be part of the federally authorized Channel Deepening Project: that portion of the Hudson River and land thereunder more particularly bounded and described as follows: Beginning at a point in the United States Pierhead Line approved by the Secretary of War on July 31, 1941, said point having a coordinate of North 4,677.56 feet and West 11,407.92 feet and running: (1) Northerly along said Pierhead Line on a bearing of N21-01'-53"W for a distance of 700.00 feet to a point; thence (2) Westerly at right angles to said Pierhead Line on a bearing of S68-58'-07"W for a distance of 200.00 feet to a point; thence (3) Southerly and parallel with said

Pierhead Line on a bearing of S21-01'-53"E for a distance of 700.00 feet to a point; thence (4) Easterly at right angles to said Pierhead Line on a bearing of N68-58'-07"E for a distance of 200.00 feet to the point of beginning. Bearings and coordinates are in the system used on the Borough Survey, Borough President's Office, Manhattan. This declaration shall apply to all or any part of the described area which is used or needed for New York Harbor passenger ferry boat service, as such service may be operated by, or contracted for operation by, a bi-State agency created by compact between the States of New York and New Jersey.".

Compacts between States.

Approved November 23, 1988.

LEGISLATIVE HISTORY—H.R. 2707 (S. 2380):

HOUSE REPORTS: No. 100-517 (Comm. on Public Works and Transportation).
SENATE REPORTS: No. 100-524 accompanying S. 2380 (Comm. on Environment and Public Works).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Mar. 17, considered and passed House.
Oct. 21, considered and passed Senate, amended. House concurred in Senate amendment.

Public Law 100-708
100th Congress

An Act

Nov. 23, 1988
[H.R. 2839]

To correct historical and geographical oversights in the establishment and development of the Utah component of the Confederated Tribes of the Goshute Reservation, to unify the land base of the Goshute Reservation, to simplify the boundaries of the Goshute Reservation, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LANDS HELD IN TRUST FOR THE TRIBE PURSUANT TO EXECUTIVE ORDERS.

(a) LANDS HELD IN TRUST.—In recognition and confirmation of the actions of the President in Executive Order 1539 (May 29, 1912; IR 168) and Executive Order 1903 (March 23, 1914; IV K 1048), the lands in Utah described in such orders are hereby declared to be held in trust by the United States for the use and benefit of the Tribe.

(b) EFFECTIVE DATE FOR DETERMINING WATER RIGHTS AND PRIORITIES.—For purposes of determining water rights, and priorities related to such rights, in the lands held in trust for the Tribe under subsection (a), such lands shall be deemed to have been held in trust by the United States as of the dates of the respective Executive orders referred to in subsection (a) or such earlier dates as may be indicated by any applicable order or law.

SEC. 2. IMPLEMENTATION; PROTECTION OF THE RIGHTS OF THIRD PARTIES; RIGHTS OF ACCESS.

(a) VALID EXISTING RIGHTS.—Except as otherwise provided in this section, nothing in this Act shall be construed to deprive any person of any valid existing right or interest (including, but not limited to, a real property right or interest, water right or priority, right of ingress and egress, right-of-way, easement, license, grazing permit, oil and gas lease, mining claim, or other legal property or contract right or interest) which such person may have in the lands described in this Act on the date of enactment of this Act.

(b) TRANSFER OF RIGHTS TO TRIBE.—Upon the effective date of this Act, all valid rights-of-way, leases, permits, and other land use rights or authorizations, except mining claims, existing on the date of enactment of this Act in the lands described in this Act, including the right to receive compensation for use of the lands, shall cease to be the responsibility of, or inure to the benefit of, the United States, and shall become the responsibility of the Tribe and the Secretary as trustee. The Tribe or the Secretary as trustee shall succeed to the interests of the United States and shall continue to maintain those interests under the same terms and conditions as they were maintained by the United States.

(c) DETERMINATION OF VALIDITY OF UNPATENTED MINING CLAIMS.—Not later than two years after the date of enactment of this Act, the Secretary shall determine the validity of all mining claims existing on the date of enactment of this Act on the lands

within the exterior boundaries of the Reservation. Those mining claims which the Secretary determines to be valid shall be maintained thereafter in compliance with the mining laws of the United States.

SEC. 3. ADDITION OF LANDS TO THE RESERVATION.

(a) LANDS UNINTENTIONALLY OMITTED FROM INCLUSION BY EXECUTIVE ORDER OF 1914.—All right, title, and interest of the United States in and to the lands described in section 9(a) is hereby declared to be held by the United States in trust for the use and benefit of the Tribe and to be part of the Reservation.

(b) FEDERAL BUT NON-INDIAN LANDS WITHIN THE BOUNDARIES OF THE 1912 AND 1914 EXECUTIVE ORDER RESERVATIONS.—All right, title, and interest of the United States in and to the lands described in section 9(b) is hereby declared to be held by the United States in trust for the use and benefit of the Tribe and to be part of the Reservation. So long as such lands are held in trust, they shall not be developed for commercial purposes.

(c) LANDS HELD IN TRUST BUT NOT PART OF THE RESERVATION.—All lands described in section 9(c), title to which is held by the United States in trust for the Tribe, are hereby declared to be part of the Reservation.

(d) UNIFICATION OF SUBSURFACE ESTATES.—All right, title, and interest of the United States in and to the subsurface estates described in section 9(d) is hereby declared to be held by the United States in trust for the use and benefit of the Tribe and to be part of the Reservation.

(e) LANDS HELD BY THE TRIBE AS A PRIVATE PARTY.—The Secretary may accept a conveyance by the Tribe of all right, title, and interest of the Tribe in and to the lands described in section 9(e). Any such land accepted by the Secretary shall be held by the United States in trust for the use and benefit of the Tribe and shall become part of the Reservation.

(f) FEDERAL LANDS SURROUNDING GOSHUTE TRIBAL CEMETERY.—All right, title, and interest of the United States in and to the lands described in section 9(f) is hereby declared to be held by the United States in trust for the use and benefit of the Tribe and to be part of the Reservation. So long as such lands are held in trust, they shall not be developed for commercial purposes.

Federal Register, publication.

(g) MAPS AND LEGAL DESCRIPTIONS.—Within 90 days after the date of enactment of this Act, the Secretary shall publish a legal description in the Federal Register of the lands added by this Act to the Reservation. During such period, the Secretary is authorized to correct any technical errors in the legal descriptions contained in this Act. A map depicting the lands added to the Reservation by this Act shall be on file and available for public inspection in the Bureau of Indian Affairs' Land Title Record Office having jurisdiction over these lands.

Public information.

SEC. 4. CONTINGENT ADDITION OF LANDS AND INTERESTS HELD BY THE STATE OF UTAH; CONTINGENT UNIFICATION OF SPLIT ESTATES.

(a) LANDS HELD BY THE STATE OF UTAH.—If any right, title, and interest in and to any or all portions of the tracts of land described in section 9(g)(1) ever vests in the United States as the result of an exchange of public domain land, the United States shall hold all of its right, title, and interest in and to such tracts in trust for the use

and benefit of the Tribe and such tracts shall become part of the Reservation.

(b) UNIFICATION OF SPLIT ESTATES.—If any right, title, and interest in and to any subsurface estate in any or all portions of the tracts of land described in section 9(g)(2) shall ever vest in the United States, the United States shall hold all of its right, title, and interest in and to the minerals in such tracts in trust for the use and benefit of the Tribe and such interests shall become part of the Reservation. Minerals and mining.

SEC. 5. RESTRICTION ON DISPOSAL OF CERTAIN FEDERAL LANDS ADJACENT TO THE GOSHUTE INDIAN RESERVATION.

Any right, title, or interest of the United States in and to the lands described in section 9(h) may not be conveyed, sold, or otherwise transferred by the Bureau of Land Management, or any other Federal agency, without the approval of the Secretary, after consideration of the desire and need of the Tribe for such lands.

SEC. 6. EXTINGUISHMENT OF RIGHT OF UNITED STATES TO CONSTRUCT DITCHES AND CANALS.

The reserved right of the United States to construct ditches and canals on the lands described in this Act is hereby extinguished.

SEC. 7. APPLICATION OF UNITED STATES LAWS TO LANDS ADDED TO RESERVATION.

The lands which are declared to be held in trust for the Tribe and added to the Reservation under this Act shall be subject to the laws of the United States relating to Indian land to the same extent and in the same manner as the lands comprising the Reservation of the Tribe on the day of the enactment of this Act.

SEC. 8. DEFINITIONS.

For the purposes of this Act—

(1) the term "Reservation" means the reservation of the Tribe;

(2) the term "Secretary" means the Secretary of the Interior; and

(3) the term "Tribe" means the Confederated Tribes of the Goshute Reservation.

SEC. 9. LAND DESCRIPTIONS.

(a) LANDS UNINTENTIONALLY OMITTED FROM INCLUSION BY EXECUTIVE ORDER OF 1914.—The lands referred to in section 3(a), comprising approximately 1753.51 acres of acquired lands, are described as follows:

Fractional Township 11 South, Range 20 West, Salt Lake Base and Meridian, Juab County, Utah

Section 1: All.

Section 12: Lots 1-4, the northeast ¼, and the northeast ¼ of the southeast ¼.

Section 13: Lots 1-4, the west ½ of the southeast ¼, and the southeast ¼ of the southeast ¼.

Section 24: All.

Section 25: All.

Fractional Township 12 South, Range 20 West, Salt Lake Base and Meridian, Juab County, Utah

Section 1: All.
Section 12: Lots 1 and 2.

(b) FEDERAL BUT NON-INDIAN LANDS WITHIN THE BOUNDARIES OF THE 1912 AND 1914 EXECUTIVE ORDER RESERVATIONS.—The lands referred to in section 3(b), comprising approximately 80 acres, are described as follows:

1926 ALLOTMENT RECONVEYANCE

Township 11 South, Range 19 West; Salt Lake Base and Meridian, Juab County, Utah

Section 8: The southeast ¼ of the southeast ¼.
Section 9: The southwest ¼ of the southwest ¼.

(c) LANDS HELD IN TRUST BUT NOT PART OF THE RESERVATION.—The lands referred to in section 3(c), comprising approximately 5,075.69 acres, are described as follows:

(1) HEADQUARTERS UNIT

Township 9 South, Range 19 West, Salt Lake Base and Meridian, Tooele County, Utah

Section 33: The southeast ¼ of the northeast ¼, the southeast ¼, the southeast southwest ¼ of the southwest ¼.
Section 34: The southwest ¼ of the northwest ¼, the west ½ of the southwest ¼, the northeast ¼ of the southwest ¼, the southeast ¼ of the northwest ¼.

Township 10 South, Range 19 West, Salt Lake Base and Meridian, Tooele County, Utah

Section 3: Lot 4 and the southwest ¼ of the northwest ¼.
Section 4: Lot 1 and Lot 2, the south ½ of the northeast ¼, the southeast ¼.

(2) HALSTEAD PURCHASE

Township 9 South, Range 19 West, Salt Lake Base and Meridian, Tooele County, Utah

Section 22: The southeast ¼ of the southwest ¼.
Section 27: The east ½ of the west ½.
Section 34: The north ½ of the northwest ¼.

Township 10 South, Range 19 West, Salt Lake Base and Meridian, Tooele County, Utah

Section 9: The northeast ¼ of the northwest ¼, the south ½ of the northwest ¼, the north ½ of the southwest ¼, the north ½ of the northeast ¼.

(3) VARIOUS PURCHASED INHOLDINGS IN 11 SOUTH, 19 WEST

Township 11 South, Range 19 West, Salt Lake Base and Meridian, Juab County, Utah

Section 19: The northeast ¼ of the southwest ¼.
Section 20: The east ½ of the west ½.
Section 22: The north ½ of the southeast ¼, the northeast ¼, the west ½, the south ½ of the southeast ¼.

(4) PURCHASED AND EXCHANGED LAND IN 12 SOUTH, 19 WEST

Township 12 South, Range 19 West, Salt Lake Base and Meridian, Juab County, Utah

Section 27: The southwest ¼ of the northwest ¼, the northwest ¼ of the southwest ¼.
Section 28: The east ½ of the northeast ¼, the east ½ of the northwest ¼, the northwest ¼ of the northwest ¼, the southeast ¼ of the southwest ¼.
Section 29: The southeast ¼, the southwest ¼ of the northeast ¼, the north ½ of the northeast ¼.
Section 30: The south ½ of the northeast ¼.
Section 33: The northeast ¼ of the northwest ¼, the northwest ¼ of the northeast ¼.
Section 34: The southeast ¼, the southeast ¼ of the northeast ¼, the north ½ of the northeast ¼, the northeast ¼ of the northwest ¼.
Section 27: The northwest ¼ of the northwest ¼, the southeast ¼ of the northwest ¼, the east ½ of the southwest ¼, the southwest ¼ of the southwest ¼.
Section 28: The west ½ of the northeast ¼, the southwest ¼ of the northwest ¼, the northeast ¼ of the southwest ¼, the southwest ¼ of the southeast ¼, the east ½ of the southeast ¼.
Section 29: The southeast ¼ of the northeast ¼.
Section 33: The northeast ¼ of the northeast ¼.
Section 34: The northwest ¼ of the northwest ¼.
Section 35: The northwest ¼ of the southwest ¼.
Section 28: The west ½ of the southwest ¼, the northwest ¼ of the southeast ¼.
Section 30: The north ½ of the northeast ¼, the northeast ¼ of the northwest ¼ and Lot 1.
Section 33: The south ½ of the northeast ¼.
Section 34: The southwest ¼ of the northeast ¼, the south ½ of the northwest ¼, the southwest ¼.

(5) PURCHASED AND EXCHANGED LAND IN 12 SOUTH, 20 WEST

FRACTIONAL TOWNSHIP 12 SOUTH, RANGE 20 WEST, SALT LAKE BASE AND MERIDIAN, JUAB COUNTY, UTAH

Section 12: Lots 3 and 4.
Section 13: Lots 1, 2, 3 and 4.
Section 24: Lots 1, 2, 3 and 4.

(d) UNIFICATION OF SUBSURFACE ESTATES.—The lands referred to in section 3(d) are described as follows:

Township 9 South, Range 19 West, Salt Lake Base and Meridian, Tooele County, Utah

Section 22: The southeast ¼ of the southwest ¼ (oil and gas).
Section 34: The southeast ¼ of the northwest ¼, and the northeast ¼ of the southwest ¼ (all minerals).

Township 10 South, Range 19 West, Salt Lake Base and Meridian, Tooele County, Utah

Section 4: The south ½ of the southwest ¼ of the southeast ¼ of the northwest ¼ (oil and gas).

Township 12 South, Range 19 West, Salt Lake Base and Meridian, Juab County, Utah

Section 28: The north ½ of the northwest ¼ and the southeast ¼ of the northwest ¼ (all minerals).
Section 29: The west ½ of the east ½, the northeast ¼ of the northeast ¼, and the east ½ of the southeast ¼ (all minerals).
Section 30: The south ½ of the northeast ¼ (all minerals).

Township 12 South, Range 20 West, Salt Lake Base and Meridian, Juab County, Utah

Section 12: Lots 3 and 4 (all minerals).
Section 13: All (all minerals).
Section 24: All (all minerals).

(e) LANDS HELD BY THE GOSHUTE INDIAN TRIBE AS A PRIVATE PARTY.—The lands referred to in section 3(e), comprising approximately 5 acres, are described as follows:

GOSHUTE TRIBAL CEMETERY

Township 10 South, Range 19 West, Salt Lake Base and Meridian, Tooele County, Utah

Section 4: The south ½ of the southwest ¼ of the southeast ¼ of the northwest ¼.

(f) FEDERAL LANDS SURROUNDING GOSHUTE TRIBAL CEMETERY.—The lands referred to in section 3(f), comprising approximately 360 acres, are described as follows:

(1) Township 10 South, Range 19 West; Salt Lake Base and Meridian, Tooele County, Utah

Section 4: Lots 3 and 4, the southwest ¼ of the northwest ¼, the east ½ of the southeast ¼ of the northwest ¼, the northwest ¼ of the southeast ¼ of the northwest ¼, the north ½ of the southwest ¼ of the southeast ¼ of the northwest ¼, and the southwest ¼.
Section 9: The northwest ¼ of the northwest ¼.

(g) LANDS HELD BY THE STATE OF UTAH.—(1) The lands referred to in section 4(a), comprising approximately 860.16 acres and including the surface and subsurface estates, are described as follows:

Township 11 South, Range 19 West, Salt Lake Base and Meridian, Juab County, Utah

Section 16: The east ½ of the west ½ and the east ½.

Fractional Township 11 South, Range 20 West, Salt Lake Base and Meridian, Juab County, Utah

Section 36: All.

(2) The lands referred to in section 4(b), comprising approximately 1,275.91 acres and including only the subsurface estate, are described as follows:

Township 12 South, Range 19 West, Salt Lake Base and Meridian, Juab County, Utah

Section 30: Lot 1, the north ½ of the northeast ¼, the northeast ¼ of the northwest ¼.
Section 33: The south ½ of the northeast ¼.
Section 34: The southwest ¼ of the northeast ¼, the south ½ of the northwest ¼ and the southwest ¼.
Section 28: The southwest ¼ of the northwest ¼.
Section 29: The southeast ¼ of the northeast ¼.
Section 27: The southeast ¼ of the northwest ¼, the northeast ¼ of the southwest ¼, the southwest ¼ of the southwest ¼.
Section 28: The east ½ of the southeast ¼.
Section 27: The northwest ¼ of the northwest ¼.
Section 35: The northwest ¼ of the southwest ¼.
Section 27: The southeast ¼ of the southwest ¼.
Section 33: The northeast ¼ of the northeast ¼.
Section 34: The northwest ¼ of the northwest ¼.
Section 28: The west ½ of the northeast ¼, the northeast ¼ of the southwest ¼, the southwest ¼ of the southeast ¼.
Section 28: The west ½ of the southwest ¼, the northwest ¼ of the southeast ¼.

(h) CERTAIN FEDERAL LANDS ADJACENT TO THE GOSHUTE INDIAN RESERVATION.—The lands referred to in section 6, comprising approximately 640.00 acres, are described as follows:

Township 9 South, Range 19 West, Salt Lake Base and Meridian, Tooele County, Utah

Section 21: The southeast ¼ of the southeast ¼.
Section 27: The west ½ of the west ½.
Section 28: The east ½ of the east ½.
Section 33: The northeast ¼ of the northeast ¼.
Section 34: The southeast ¼ of the southwest ¼.

Township 10 South, Range 19 West, Salt Lake Base and Meridian, Tooele County, Utah

Section 9: The south ½ of the northeast ¼, the north ½ of the southeast ¼, the southeast ¼ of the southeast ¼, the east ½ of the southwest ¼ of the southeast ¼, east ½ of the northwest ¼ of the southwest ¼ of the southeast ¼.

SEC. 10.

Except for the conveyance of lands pursuant to subsections 3(e) or 3(f), the conveyance of interests of the United States under sections 3 and 4 of this Act in lands located in Tooele County, Utah shall be subject to the payment by the Tribe of fair market value for those interests as determined by the Secretary.

SEC. 11. LANDS HELD IN TRUST FOR THE UTE MOUNTAIN UTE INDIAN TRIBE.

(a) LAND HELD IN TRUST.—The land described in subsection (b) is declared—

(1) to be held in trust by the United States for the benefit of the Ute Mountain Ute Indian Tribe, and

(2) to be part of the Ute Mountain Ute Indian Reservation.

(b) LAND DESCRIPTIONS.—The land referred to in subsection (a) is the parcel of land withdrawn from the public domain and reserved for use as a site for a school for the Ute Indians under the Act approved May 31, 1924 (43 Stat. 246) and more particularly described as follows:

The 40-ace parcel which is approximately the northeast quarter of the southwest quarter of section 7, township 36 south, range 21 east, Salt Lake meridian, San Juan County, Utah, and is bordered by Indian alottment number 15 on the east, by Indian alottment number 55 on the north, and by public domain land on the south and west.

(c) The Act approved May 31, 1924 (43 Stat. 246) is repealed.

Approved November 23, 1988.

LEGISLATIVE HISTORY—H.R. 2839:

HOUSE REPORTS: No. 100-402 (Comm. on Interior and Insular Affairs).
SENATE REPORTS: No. 100-549 (Comm. on Energy and Natural Resources).
CONGRESSIONAL RECORD:
Vol. 133 (1987): Nov. 16, considered and passed House.
Vol. 134 (1988): Oct. 21, considered and passed Senate, amended. House concurred in Senate amendments.

Public Law 100-709
100th Congress

An Act

To amend the Truth in Lending Act to establish additional disclosure, advertising, and other requirements for home equity loans.

Nov. 23, 1988
[H.R. 3011]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

Home Equity Loan Consumer Protection Act of 1988.
15 USC 1601 note.

This Act may be cited as the "Home Equity Loan Consumer Protection Act of 1988".

SEC. 2. DISCLOSURE AND ADVERTISING REQUIREMENTS FOR HOME EQUITY LOANS.

(a) DISCLOSURE REQUIREMENTS.—Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by inserting after section 127 the following new section:

"SEC. 127A. DISCLOSURE REQUIREMENTS FOR OPEN END CONSUMER CREDIT PLANS SECURED BY THE CONSUMER'S PRINCIPAL DWELLING.

15 USC 1637a.

"(a) APPLICATION DISCLOSURES.—In the case of any open end consumer credit plan which provides for any extension of credit which is secured by the consumer's principal dwelling, the creditor shall make the following disclosures in accordance with subsection (b):

"(1) FIXED ANNUAL PERCENTAGE RATE.—Each annual percentage rate imposed in connection with extensions of credit under the plan and a statement that such rate does not include costs other than interest.

"(2) VARIABLE PERCENTAGE RATE.—In the case of a plan which provides for variable rates of interest on credit extended under the plan—

"(A) a description of the manner in which such rate will be computed and a statement that such rate does not include costs other than interest;

"(B) a description of the manner in which any changes in the annual percentage rate will be made, including—

"(i) any negative amortization and interest rate carryover;

"(ii) the timing of any such changes;

"(iii) any index or margin to which such changes in the rate are related; and

"(iv) a source of information about any such index;

"(C) if an initial annual percentage rate is offered which is not based on an index—

"(i) a statement of such rate and the period of time such initial rate will be in effect; and

"(ii) a statement that such rate does not include costs other than interest;

"(D) a statement that the consumer should ask about the current index value and interest rate;

"(E) a statement of the maximum amount by which the annual percentage rate may change in any 1-year period or a statement that no such limit exists;

"(F) a statement of the maximum annual percentage rate that may be imposed at any time under the plan;

"(G) subject to subsection (b)(3), a table, based on a $10,000 extension of credit, showing how the annual percentage rate and the minimum periodic payment amount under each repayment option of the plan would have been affected during the preceding 15-year period by changes in any index used to compute such rate;

"(H) a statement of—

"(i) the maximum annual percentage rate which may be imposed under each repayment option of the plan;

"(ii) the minimum amount of any periodic payment which may be required, based on a $10,000 outstanding balance, under each such option when such maximum annual percentage rate is in effect; and

"(iii) the earliest date by which such maximum annual interest rate may be imposed; and

"(I) a statement that interest rate information will be provided on or with each periodic statement.

"(3) OTHER FEES IMPOSED BY THE CREDITOR.—An itemization of any fees imposed by the creditor in connection with the availability or use of credit under such plan, including annual fees, application fees, transaction fees, and closing costs (including costs commonly described as 'points'), and the time when such fees are payable.

"(4) ESTIMATES OF FEES WHICH MAY BE IMPOSED BY THIRD PARTIES.—

"(A) AGGREGATE AMOUNT.—An estimate, based on the creditor's experience with such plans and stated as a single amount or as a reasonable range, of the aggregate amount of additional fees that may be imposed by third parties (such as governmental authorities, appraisers, and attorneys) in connection with opening an account under the plan.

"(B) STATEMENT OF AVAILABILITY.—A statement that the consumer may ask the creditor for a good faith estimate by the creditor of the fees that may be imposed by third parties.

"(5) STATEMENT OF RISK OF LOSS OF DWELLING.—A statement that—

"(A) any extension of credit under the plan is secured by the consumer's dwelling; and

"(B) in the event of any default, the consumer risks the loss of the dwelling.

"(6) CONDITIONS TO WHICH DISCLOSED TERMS ARE SUBJECT.—

"(A) PERIOD DURING WHICH SUCH TERMS ARE AVAILABLE.—A clear and conspicuous statement—

"(i) of the time by which an application must be submitted to obtain the terms disclosed; or

"(ii) if applicable, that the terms are subject to change.

"(B) RIGHT OF REFUSAL IF CERTAIN TERMS CHANGE.—A statement that—

"(i) the consumer may elect not to enter into an agreement to open an account under the plan if any term changes (other than a change contemplated by a variable feature of the plan) before any such agreement is final; and

"(ii) if the consumer makes an election described in clause (i), the consumer is entitled to a refund of all fees paid in connection with the application.

"(C) RETENTION OF INFORMATION.—A statement that the consumer should make or otherwise retain a copy of information disclosed under this subparagraph.

"(7) RIGHTS OF CREDITOR WITH RESPECT TO EXTENSIONS OF CREDIT.—A statement that—

"(A) under certain conditions, the creditor may terminate any account under the plan and require immediate repayment of any outstanding balance, prohibit any additional extension of credit to the account, or reduce the credit limit applicable to the account; and

"(B) the consumer may receive, upon request, more specific information about the conditions under which the creditor may take any action described in subparagraph (A).

"(8) REPAYMENT OPTIONS AND MINIMUM PERIODIC PAYMENTS.—The repayment options under the plan, including—

"(A) if applicable, any differences in repayment options with regard to—

"(i) any period during which additional extensions of credit may be obtained; and

"(ii) any period during which repayment is required to be made and no additional extensions of credit may be obtained;

"(B) the length of any repayment period, including any differences in the length of any repayment period with regard to the periods described in clauses (i) and (ii) of subparagraph (A); and

"(C) an explanation of how the amount of any minimum monthly or periodic payment will be determined under each such option, including any differences in the determination of any such amount with regard to the periods described in clauses (i) and (ii) of subparagraph (A).

"(9) EXAMPLE OF MINIMUM PAYMENTS AND MAXIMUM REPAYMENT PERIOD.—An example, based on a $10,000 outstanding balance and the interest rate (other than a rate not based on the index under the plan) which is, or was recently, in effect under such plan, showing the minimum monthly or periodic payment, and the time it would take to repay the entire $10,000 if the consumer paid only the minimum periodic payments and obtained no additional extensions of credit.

"(10) STATEMENT CONCERNING BALLOON PAYMENTS.—If, under any repayment option of the plan, the payment of not more than the minimum periodic payments required under such option over the length of the repayment period—

"(A) would not repay any of the principal balance; or

"(B) would repay less than the outstanding balance by the end of such period,

as the case may be, a statement of such fact, including an explicit statement that at the end of such repayment period a balloon payment (as defined in section 147(f)) would result which would be required to be paid in full at that time.

"(11) NEGATIVE AMORTIZATION.—If applicable, a statement that—

"(A) any limitation in the plan on the amount of any increase in the minimum payments may result in negative amortization;

"(B) negative amortization increases the outstanding principal balance of the account; and

"(C) negative amortization reduces the consumer's equity in the consumer's dwelling.

"(12) LIMITATIONS AND MINIMUM AMOUNT REQUIREMENTS ON EXTENSIONS OF CREDIT.—

"(A) NUMBER AND DOLLAR AMOUNT LIMITATIONS.—Any limitation contained in the plan on the number of extensions of credit and the amount of credit which may be obtained during any month or other defined time period.

"(B) MINIMUM BALANCE AND OTHER TRANSACTION AMOUNT REQUIREMENTS.—Any requirement which establishes a minimum amount for—

"(i) the initial extension of credit to an account under the plan;

"(ii) any subsequent extension of credit to an account under the plan; or

"(iii) any outstanding balance of an account under the plan.

"(13) STATEMENT REGARDING CONSULTATION OF TAX ADVISOR.—A statement that the consumer should consult a tax advisor regarding the deductibility of interest and charges under the plan.

"(14) DISCLOSURE REQUIREMENTS ESTABLISHED BY BOARD.—Any other term which the Board requires, in regulations, to be disclosed.

"(b) TIME AND FORM OF DISCLOSURES.—

"(1) TIME OF DISCLOSURE.—

"(A) IN GENERAL.—The disclosures required under subsection (a) with respect to any open end consumer credit plan which provides for any extension of credit which is secured by the consumer's principal dwelling and the pamphlet required under subsection (e) shall be provided to any consumer at the time the creditor distributes an application to establish an account under such plan to such consumer.

"(B) TELEPHONE, PUBLICATIONS, AND 3d PARTY APPLICATIONS.—In the case of telephone applications, applications contained in magazines or other publications, or applications provided by a third party, the disclosures required under subsection (a) and the pamphlet required under subsection (e) shall be provided by the creditor before the end of the 3-day period beginning on the date the creditor receives a completed application from a consumer.

"(2) FORM.—

"(A) IN GENERAL.—Except as provided in paragraph (1)(B), the disclosures required under subsection (a) shall be provided on or with any application to establish an account under an open end consumer credit plan which provides for

any extension of credit which is secured by the consumer's principal dwelling.

"(B) SEGREGATION OF REQUIRED DISCLOSURES FROM OTHER INFORMATION.—The disclosures required under subsection (a) shall be conspicuously segregated from all other terms, data, or additional information provided in connection with the application, either by grouping the disclosures separately on the application form or by providing the disclosures on a separate form, in accordance with regulations of the Board.

"(C) PRECEDENCE OF CERTAIN INFORMATION.—The disclosures required by paragraphs (5), (6), and (7) of subsection (a) shall precede all of the other required disclosures.

"(D) SPECIAL PROVISION RELATING TO VARIABLE INTEREST RATE INFORMATION.—Whether or not the disclosures required under subsection (a) are provided on the application form, the variable rate information described in subsection (a)(2) may be provided separately from the other information required to be disclosed.

"(3) REQUIREMENT FOR HISTORICAL TABLE.—In preparing the table required under subsection (a)(2)(G), the creditor shall consistently select one rate of interest for each year and the manner of selecting the rate from year to year shall be consistent with the plan.

"(c) 3d PARTY APPLICATIONS.—In the case of an application to open an account under any open end consumer credit plan described in subsection (a) which is provided to a consumer by any person other than the creditor—

"(1) such person shall provide such consumer with—

"(A) the disclosures required under subsection (a) with respect to such plan, in accordance with subsection (b); and

"(B) the pamphlet required under subsection (e); or

"(2) if such person cannot provide specific terms about the plan because specific information about the plan terms is not available, no nonrefundable fee may be imposed in connection with such application before the end of the 3-day period beginning on the date the consumer receives the disclosures required under subsection (a) with respect to the application.

"(d) PRINCIPAL DWELLING DEFINED.—For purposes of this section and sections 137 and 147, the term 'principal dwelling' includes any second or vacation home of the consumer.

"(e) PAMPHLET.—In addition to the disclosures required under subsection (a) with respect to an application to open an account under any open end consumer credit plan described in such subsection, the creditor or other person providing such disclosures to the consumer shall provide—

"(1) a pamphlet published by the Board pursuant to section 4 of the Home Equity Consumer Protection Act of 1988; or

"(2) any pamphlet which provides substantially similar information to the information described in such section, as determined by the Board.".

(b) ADDITIONAL DISCLOSURES WHEN ACCOUNT IS OPENED.—Section 127(a) of the Truth in Lending Act (15 U.S.C. 1637(a)) is amended by adding at the end thereof the following new paragraph:

"(8) In the case of any account under an open end consumer credit plan which provides for any extension of credit which is

secured by the consumer's principal dwelling, any information which—

"(A) is required to be disclosed under section 127A(a); and

"(B) the Board determines is not described in any other paragraph of this subsection.".

(c) ADVERTISING REQUIREMENTS.—Chapter 3 of the Truth in Lending Act (15 U.S.C. 1661 et seq.) is amended by adding at the end thereof the following new section:

15 USC 1665b.

"SEC. 147. ADVERTISING OF OPEN END CONSUMER CREDIT PLANS SECURED BY THE CONSUMER'S PRINCIPAL DWELLING.

"(a) IN GENERAL.—If any advertisement to aid, promote, or assist, directly or indirectly, the extension of consumer credit through an open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling states, affirmatively or negatively, any of the specific terms of the plan, including any periodic payment amount required under such plan, such advertisement shall also clearly and conspicuously set forth the following information, in such form and manner as the Board may require:

"(1) LOAN FEES AND OPENING COST ESTIMATES.—Any loan fee the amount of which is determined as a percentage of the credit limit applicable to an account under the plan and an estimate of the aggregate amount of other fees for opening the account, based on the creditor's experience with the plan and stated as a single amount or as a reasonable range.

"(2) PERIODIC RATES.—In any case in which periodic rates may be used to compute the finance charge, the periodic rates expressed as an annual percentage rate.

"(3) HIGHEST ANNUAL PERCENTAGE RATE.—The highest annual percentage rate which may be imposed under the plan.

"(4) OTHER INFORMATION.—Any other information the Board may by regulation require.

"(b) TAX DEDUCTIBILITY.—If any advertisement described in subsection (a) contains a statement that any interest expense incurred with respect to the plan is or may be tax deductible, the advertisement shall not be misleading with respect to such deductibility.

"(c) CERTAIN TERMS PROHIBITED.—No advertisement described in subsection (a) with respect to any home equity account may refer to such loan as 'free money' or use other terms determined by the Board by regulation to be misleading.

"(d) DISCOUNTED INITIAL RATE.—

"(1) IN GENERAL.—If any advertisement described in subsection (a) includes an initial annual percentage rate that is not determined by the index or formula used to make later interest rate adjustments, the advertisement shall also state with equal prominence the current annual percentage rate that would have been applied using the index or formula if such initial rate had not been offered.

"(2) QUOTED RATE MUST BE REASONABLY CURRENT.—The annual percentage rate required to be disclosed under the paragraph (1) rate must be current as of a reasonable time given the media involved.

"(3) PERIOD DURING WHICH INITIAL RATE IS IN EFFECT.—Any advertisement to which paragraph (1) applies shall also state the period of time during which the initial annual percentage rate referred to in such paragraph will be in effect.

"(e) BALLOON PAYMENT.—If any advertisement described in subsection (a) contains a statement regarding the minimum monthly payment under the plan, the advertisement shall also disclose, if applicable, the fact that the plan includes a balloon payment.

"(f) BALLOON PAYMENT DEFINED.—For purposes of this section and section 127A, the term 'balloon payment' means, with respect to any open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling, any repayment option under which—

"(1) the account holder is required to repay the entire amount of any outstanding balance as of a specified date or at the end of a specified period of time, as determined in accordance with the terms of the agreement pursuant to which such credit is extended; and

"(2) the aggregate amount of the minimum periodic payments required would not fully amortize such outstanding balance by such date or at the end of such period.".

(d) TECHNICAL AND CONFORMING AMENDMENTS.—Section 122(b) of the Truth in Lending Act (15 U.S.C. 1632(b)) is amended by striking out "section 128(b)(1)" and inserting in lieu thereof "sections 127A(b)(3) and 128(b)(1)".

SEC. 3. HOME EQUITY PROTECTIONS.

Chapter 2 of the Truth in Lending Act (15 U.S.C. 1631 et seq.) is amended by adding at the end thereof the following new section:

"SEC. 137. HOME EQUITY PLANS. 15 USC 1647.

"(a) INDEX REQUIREMENT.—In the case of extensions of credit under an open end consumer credit plan which are subject to a variable rate and are secured by a consumer's principal dwelling, the index or other rate of interest to which changes in the annual percentage rate are related shall be based on an index or rate of interest which is publicly available and is not under the control of the creditor.

"(b) GROUNDS FOR ACCELERATION OF OUTSTANDING BALANCE.—A creditor may not unilaterally terminate any account under an open end consumer credit plan under which extensions of credit are secured by a consumer's principal dwelling and require the immediate repayment of any outstanding balance at such time, except in the case of—

"(1) fraud or material misrepresentation on the part of the consumer in connection with the account;

"(2) failure by the consumer to meet the repayment terms of the agreement for any outstanding balance; or

"(3) any other action or failure to act by the consumer which adversely affects the creditor's security for the account or any right of the creditor in such security.

"(c) CHANGE IN TERMS.—

"(1) IN GENERAL.—No open end consumer credit plan under which extensions of credit are secured by a consumer's principal dwelling may contain a provision which permits a creditor to change unilaterally any term required to be disclosed under section 127A(a) or any other term, except a change in insignificant terms such as the address of the creditor for billing purposes.

"(2) CERTAIN CHANGES NOT PRECLUDED.—Notwithstanding the provisions of subsection (1), a creditor may make any of the following changes:

"(A) Change the index and margin applicable to extensions of credit under such plan if the index used by the creditor is no longer available and the substitute index and margin would result in a substantially similar interest rate.

"(B) Prohibit additional extensions of credit or reduce the credit limit applicable to an account under the plan during any period in which the value of the consumer's principal dwelling which secures any outstanding balance is significantly less than the original appraisal value of the dwelling.

"(C) Prohibit additional extensions of credit or reduce the credit limit applicable to the account during any period in which the creditor has reason to believe that the consumer will be unable to comply with the repayment requirements of the account due to a material change in the consumer's financial circumstances.

"(D) Prohibit additional extensions of credit or reduce the credit limit applicable to the account during any period in which the consumer is in default with respect to any material obligation of the consumer under the agreement.

"(E) Prohibit additional extensions of credit or reduce the credit limit applicable to the account during any period in which—

"(i) the creditor is precluded by government action from imposing the annual percentage rate provided for in the account agreement; or

"(ii) any government action is in effect which adversely affects the priority of the creditor's security interest in the account to the extent that the value of the creditor's secured interest in the property is less than 120 percent of the amount of the credit limit applicable to the account.

"(F) Any change that will benefit the consumer.

"(3) MATERIAL OBLIGATIONS.—Upon the request of the consumer and at the time an agreement is entered into by a consumer to open an account under an open end consumer credit plan under which extensions of credit are secured by the consumer's principal dwelling, the consumer shall be given a list of the categories of contract obligations which are deemed by the creditor to be material obligations of the consumer under the agreement for purposes of paragraph (2)(D).

"(4) CONSUMER BENEFIT.—

"(A) IN GENERAL.—For purposes of paragraph (2)(F), a change shall be deemed to benefit the consumer if the change is unequivocally beneficial to the borrower and the change is beneficial through the entire term of the agreement.

"(B) BOARD CATEGORIZATION.—The Board may, by regulation, determine categories of changes that benefit the consumer.

"(d) TERMS CHANGED AFTER APPLICATION.—If any term or condition described in section 127A(a) which is disclosed to a consumer in connection with an application to open an account under an open end consumer credit plan described in such section (other than a

variable feature of the plan) changes before the account is opened, and if, as a result of such change, the consumer elects not to enter into the plan agreement, the creditor shall refund all fees paid by the consumer in connection with such application.

"(e) ADDITIONAL REQUIREMENTS RELATING TO REFUNDS AND IMPOSITION OF NONREFUNDABLE FEES.—

"(1) IN GENERAL.—No nonrefundable fee may be imposed by a creditor or any other person in connection with any application by a consumer to establish an account under any open end consumer credit plan which provides for extensions of credit which are secured by a consumer's principal dwelling before the end of the 3-day period beginning on the date such consumer receives the disclosure required under section 127A(a) and the pamphlet required under section 127A(e) with respect to such application.

"(2) CONSTRUCTIVE RECEIPT.—For purposes of determining when a nonrefundable fee may be imposed in accordance with this subsection if the disclosures and pamphlet referred to in paragraph (1) are mailed to the consumer, the date of the receipt of the disclosures by such consumer shall be deemed to be 3 business days after the date of mailing by the creditor.".

SEC. 4. CONSUMER EDUCATION.

15 USC 1637a note.

The Board of Governors of the Federal Reserve System shall develop and prepare a pamphlet for distribution to consumers which contains—

(1) a general description of open end consumer credit plans secured by the consumer's principal dwelling and the terms and conditions under which such loans are generally extended; and

(2) a discussion of the potential advantages and disadvantages of such plans, including how to compare among home equity plans and between home equity and closed end credit plans.

SEC. 5. CLERICAL AMENDMENTS.

(a) CHAPTER 2.—The table of sections for chapter 2 of the Truth in Lending Act is amended—

(1) by inserting after the item relating to section 127 the following new item:

"127A. Disclosure requirements for open end consumer credit plans secured by the consumer's principal dwelling.";

and

(2) by inserting after the item relating to section 136 the following new item:

"137. Home equity plans.".

(b) CHAPTER 3.—The table of sections for chapter 3 of the Truth in Lending Act is amended by inserting after the item relating to section 146 the following new item:

"147. Advertising of open end consumer credit plans secured by the consumer's principal dwelling.".

SEC. 6. ABILITY TO COMPARE PLANS.

(a) STUDY REQUIRED.—Before the end of the 6-month period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall conduct a study to determine whether the use of the same term, such as annual percentage rate, to describe the cost to the consumer for extensions

of credit under all forms of consumer credit plans may unduly mislead consumers with respect to the comparability of the various forms of such extensions of credit.

(b) REPORT REQUIRED.—At the conclusion of the study required under subsection (a), the Board of Governors of the Federal Reserve System shall submit a report to the Congress containing the Board's findings and conclusions in connection with such study and, if applicable, such recommendations for legislation or administrative action as the Board may determine to be appropriate, including, if appropriate, a new term to replace "annual percentage rate" or "corresponding nominal percentage rate".

15 USC 1637a note.

SEC. 7. REGULATIONS AND EFFECTIVE DATE.

(a) REGULATIONS.—Before the end of the 60-day period beginning on the date of the enactment of this Act, the Board of Governors of the Federal Reserve System shall prescribe such regulations as may be necessary to carry out the proposes of the amendments made by this Act.

(b) EFFECTIVE DATE.—The amendments made by this Act, and the regulations prescribed pursuant to subsection (a) with respect to such amendments, shall apply to—

(1) any agreement to open an account under an open end consumer credit plan under which extensions of credit are secured by a consumer's principal dwelling which is entered into after the end of the 5-month period beginning on the date on which the regulations prescribed under subsection (a) become final; and

(2) any application to open such an account which is distributed by, or received by a creditor, after the end of such 5-month period.

(c) VOLUNTARY COMPLIANCE.—Notwithstanding subsection (b), any creditor may comply with the amendments made by this Act, in accordance with the regulations prescribed by the Board, before the effective date established under such subsection.

Approved November 23, 1988.

LEGISLATIVE HISTORY—H.R. 3011:

CONGRESSIONAL RECORD, Vol. 134 (1988):
June 20, considered and passed House.
Oct. 21, considered and passed Senate.

○

Public Law 100-710
100th Congress

An Act

Nov. 23, 1988
[H.R. 3105]

To revise, consolidate, and enact certain laws related to shipping definitions and maritime commercial instruments and liens as subtitle III of title 46, United States Code, "Shipping", and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

TITLE I—MARITIME COMMERCIAL INSTRUMENTS AND LIENS

VESSEL IDENTIFICATION SYSTEM

SEC. 101. (a) Title 46, United States Code, is amended by adding the following new chapter 125 after chapter 123:

"CHAPTER 125—VESSEL IDENTIFICATION SYSTEM

"Sec.
"12501. Establishment of a vessel identification system.
"12502. Identification numbers, signal letters, and markings.
"12503. Information available to the system.
"12504. Information available from the system.
"12505. Fees.
"12506. Delegation of authority.
"12507. Penalties.

"§ 12501. Establishment of a vessel identification system

Public information. Law enforcement and crime. State and local governments.

"(a) The Secretary of Transportation shall establish a vessel identification system to make available information under section 12503 of this title for use by the public for law enforcement and other purposes relating to—

"(1) the ownership of documented vessels;

"(2) the ownership of vessels numbered under chapter 123 of this title; and

"(3) the ownership of vessels titled under the law of a State.

"(b) The vessel identification system shall include information prescribed by the Secretary including—

"(1) identifying a vessel;

"(2) identifying the owner of the vessel;

"(3) identifying the State in which it is titled or numbered;

"(4) indicating whether the vessel is numbered or titled, or both;

"(5) if titled in a State, indicating where evidence of a lien or other security interest may be found against the vessel in that State; and

"(6) information assisting law enforcement officials.

"(c) The Secretary may maintain information under this chapter in connection with any other information system maintained by the Secretary.

"§ 12502. Identification numbers, signal letters, and markings

"(a) For the identification of a vessel of the United States, the Secretary of Transportation—

"(1) shall maintain a unique numbering system and assign a number to each vessel of the United States;

"(2) may maintain a system of signal letters for a documented vessel;

"(3) shall record a name selected by the owner of a documented vessel approved by the Secretary as the vessel's name of record; and

"(4) may establish other identification markings.

"(b) The manufacturer or owner of a vessel shall affix to the vessel and maintain in the manner prescribed by the Secretary the number assigned and any other markings the Secretary may require.

"(c) Once a number is assigned under this section, it may not be used by another vessel.

"(d) Once a documented vessel's name is established, the name may not be changed without the approval of the Secretary.

"(e) A person may not tamper with or falsify a number or other marking required under this section.

"§ 12503. Information available to the system

"(a) Except as provided in subsections (b) and (c) of this section, a State or a State's delegee approved by the Secretary of Transportation may make information available to the Secretary if, in a manner and form prescribed by the Secretary, the State—

"(1) identifies the vessel;

"(2) identifies the owner of the vessel;

"(3) identifies the State in which it is titled or numbered;

"(4) indicates whether the vessel is numbered or titled, or both;

"(5) if titled in a State, indicates where evidence of a lien or other security interest may be found against the vessel in that State;

"(6) includes information to assist law enforcement; and

"(7) includes other information agreed to by the Secretary and the State.

"(b) Except as provided in subsection (c) of this section, the Secretary also may accept information under conditions and in a manner and form prescribed by the Secretary.

"(c) The Secretary shall—

"(1) retain information on a vessel with a preferred mortgage under section 31322(d) of this title that is no longer titled in a State making information available to the Secretary under this chapter until the mortgage is discharged or the vessel is sold; and

"(2) accept information under section 31321(h) of this title only if that information cannot be provided to a State.

"§ 12504. Information available from the system

Law enforcement and crime.

"For law enforcement or other purposes and under conditions prescribed by the Secretary, the Secretary of Transportation—

"(1) shall make available information in the vessel identification system to a State making information available under section 12503(a) of this title; and

"(2) may make available information in the vessel identification system to others.

"§ 12505. Fees

"(a) The Secretary of Transportation may charge a fee under section 9701 of title 31 for providing information to or requesting information from the vessel identification system, except to—

"(1) an agency; or

"(2) a State making information available to the Secretary under section 12503(a) of this title.

"(b) In addition to any fee under subsection (a) of this section, the Secretary may collect an annual fee of not more than $1.00 from the owner of each vessel of the United States under section 9701 of title 31 for maintaining the vessel identification system. However, the collection of that fee may be delayed under conditions prescribed by the Secretary.

"(c) The Secretary may employ any agency, State, or person to collect the fee established under subsection (b) of this section.

"(d) If a State is employed to collect a fee under subsection (c) of this section, the State may retain one-half of the amounts collected. A State shall transfer one-half of the amounts collected under subsection (b) of this section to the Secretary.

"(e) The Secretary shall deposit amounts transferred or collected under this section in the general fund of the Treasury as proprietary receipts of the Secretary and ascribed to the vessel identification system.

"(f) The amounts retained by a State under this section may be used to make information available to the Secretary and to pay incremental administrative costs.

"§12506. Delegation of authority

"The Secretary of Transportation may delegate to an agency, a State, or a qualified person the authority to—

"(1) establish and maintain the vessel identification system; and

"(2) charge fees under section 12505 of this title to a person making information available to or requesting information from the vessel identification system.

"§ 12507. Penalties

"(a) A person shall be fined under title 18, imprisoned for not more than 2 years, or both, if the person with the intent to defraud—

"(1) provides false information to the Secretary of Transportation or a State issuing authority regarding the identification of a vessel under this chapter; or

"(2) tampers with, removes, or falsifies the unique vessel identification number assigned to a vessel under section 12502 of this title.

"(b) A person is liable to the United States Government for a civil penalty of not more than $10,000 if the person—

"(1) provides false information to the Secretary or a State issuing authority regarding the identification of a vessel under this chapter;

"(2) violates section 12502 of this title; or

"(3) fails to comply with requirements prescribed by the Secretary under section 12505 of this title.

"(c) A vessel involved in a violation of this chapter, or regulation under this chapter, and its equipment, may be seized by, and forfeited to, the Government.

"(d) If a person, not an individual, is involved in a violation of this chapter, the president or chief executive of the person also is subject to any penalty provided under this section.".

(b) The title analysis at the beginning of subtitle II of title 46, United States Code, is amended by adding after item 123 in part H:

"125. Vessel Identification System ..... 12501".

CHAPTERS 301 AND 313 OF TITLE 46

46 USC note prec. 2101.

SEC. 102. (a) Certain general and permanent laws of the United States, related to definitions and maritime commercial instruments and liens, are revised, consolidated, and enacted by paragraph (3) of this subsection as subtitle III of title 46, United States Code, "Shipping".

(b) The title analysis at the beginning of title 46, United States Code, is amended to read as follows:

"Subtitle		Sec.
"I.	GENERAL	101
"II.	VESSELS AND SEAMEN	2101
"III.	MARITIME LIABILITY	30101
	"[BALANCE OF TITLE RESERVED]"	

(c) Title 46, United States Code, is amended by adding at the end the following new subtitle:

"Subtitle III—Maritime Liability

"Chapter		Sec.
"301.	**General**	**30101**
	"[Chapters 303-311—Reserved]	
'313.	**Commercial Instruments and Maritime Liens**	**31301**
	"[Chapter 315—Reserved]	

"CHAPTER 301—GENERAL

"Sec.
"30101. Definitions.

"§ 30101. Definitions

"In this subtitle—

"(1) 'documented vessel' means a vessel documented under chapter 121 of this title;

"(2) 'foreign vessel' means a vessel of foreign registry or operated under the authority of a foreign country;

"(3) 'public vessel' means (except in chapter 315 of this title) a vessel that is owned, demise chartered, or operated by the United States Government or a government of a foreign country;

"(4) 'recreational vessel' means a vessel—

"(A) operated primarily for pleasure; or

"(B) leased, rented, or demise chartered to another for the latter's pleasure;

"(5) 'seaman' means a master or a crewmember of a vessel in operation;

"(6) 'State' means a State of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States;

"(7) 'State vessel' means a vessel owned or demise chartered by the government of a State or an authority or a political subdivision of a State;

"(8) 'United States', when used in a geographic sense, means the States of the United States, Guam, Puerto Rico, the Virgin Islands, American Samoa, the District of Columbia, the Northern Mariana Islands, and any other territory or possession of the United States; and

"(9) 'vessel of the United States' means a vessel documented under chapter 121 of this title, numbered under chapter 123 of this title, or titled under the law of a State.

"[CHAPTERS 303-311—RESERVED]

"CHAPTER 313—COMMERCIAL INSTRUMENTS AND MARITIME LIENS

"SUBCHAPTER I—GENERAL

"Sec.
"31301. Definitions.
"31302. Availability of instruments, copies, and information.
"31303. Certain civil actions not authorized.
"31304. Liability for noncompliance.
"31305. Waiver of lien rights.
"31306. Declaration of citizenship.
"31307. State statutes superseded.
"31308. Secretary of Commerce or Transportation as mortgagee.
"31309. General civil penalty.

"SUBCHAPTER II—COMMERCIAL INSTRUMENTS

"31321. Filing, recording, and discharge.
"31322. Preferred mortgages.
"31323. Disclosing and incurring obligations before executing preferred mortgages.
"31324. Retention and examination of mortgages of vessels covered by preferred mortgages.
"31325. Preferred mortgage liens and enforcement.
"31326. Court sales to enforce preferred mortgage liens and maritime liens and priority of claims.
"31327. Forfeiture of mortgagee interest.
"31328. Limitations on parties serving as trustees of mortgaged vessel interests.
"31329. Court sales of documented vessels.
"31330. Penalties.

"SUBCHAPTER III—MARITIME LIENS

"31341. Persons presumed to have authority to procure necessaries.
"31342. Establishing maritime liens.
"31343. Recording and discharging liens on preferred mortgage vessels.

"SUBCHAPTER I—GENERAL

"§ 31301. Definitions

"In this chapter—

"(1) 'acknowledge' means making—

"(A) an acknowledgment or notarization before a notary public or other official authorized by a law of the United States or a State to take acknowledgments of deeds; or

"(B) a certificate issued under the Hague Convention Abolishing the Requirement of Legalisation for Foreign Public Documents, 1961;

"(2) 'district court' means—

"(A) a district court of the United States (as defined in section 451 of title 28); Courts, U.S.

"(B) the District Court of Guam;
"(C) the District Court of the Virgin Islands;
"(D) the District Court for the Northern Mariana Islands;
"(E) the High Court of American Samoa; and
"(F) any other court of original jurisdiction of a territory or possession of the United States;

"(3) 'mortgagee' means—
"(A) a person to whom property is mortgaged; or
"(B) when a mortgage on a vessel involves a trust, the trustee that is designated in the trust agreement;

"(4) 'necessaries' includes repairs, supplies, towage, and the use of a dry dock or marine railway;

"(5) 'preferred maritime lien' means a maritime lien on a vessel—
"(A) arising before a preferred mortgage was filed under section 31321 of this title;
"(B) for damage arising out of maritime tort;
"(C) for wages of a stevedore when employed directly by a person listed in section 31341 of this title;
"(D) for wages of the crew of the vessel;
"(E) for general average; or
"(F) for salvage, including contract salvage; and

"(6) 'preferred mortgage'—
"(A) means a mortgage that is a preferred mortgage under section 31322 of this title; and
"(B) also means in sections 31325 and 31326 of this title, a mortgage, hypothecation, or similar charge that is established as a security on a foreign vessel if the mortgage, hypothecation, or similar charge was executed under the laws of the foreign country under whose laws the ownership of the vessel is documented and has been registered under those laws in a public register at the port of registry of the vessel or at a central office.

"§ 31302. Availability of instruments, copies, and information

"The Secretary of Transportation shall—
"(1) make any instrument filed or recorded with the Secretary under this chapter available for public inspection;
"(2) on request, provide a copy, including a certified copy, of any instrument made available for public inspection under this chapter; and
"(3) on request, provide a certificate containing information included in an instrument filed or recorded under this chapter.

"§ 31303. Certain civil actions not authorized

"If a mortgage covers a vessel and additional property that is not a vessel, this chapter does not authorize a civil action in rem to enforce the rights of the mortgagee under the mortgage against the additional property.

"§ 31304. Liability for noncompliance

Contracts.

"(a) If a person makes a contract secured by, or on the credit of, a vessel covered by a mortgage filed or recorded under this chapter and sustains a monetary loss because the mortgagor or the master or other individual in charge of the vessel does not comply with a requirement imposed on the mortgagor, master, or individual under this chapter, the mortgagor is liable for the loss.

"(b) A civil action may be brought to recover for losses referred to in subsection (a) of this section. The district courts have original jurisdiction of the action, regardless of the amount in controversy or the citizenship of the parties. If the plaintiff prevails, the court shall award costs and attorney fees to the plaintiff. Courts, U.S.

"§ 31305. Waiver of lien rights

"This chapter does not prevent a mortgagee or other lien holder from waiving or subordinating at any time by agreement or otherwise the lien holder's right to a lien, the priority or, if a preferred mortgage lien, the preferred status of the lien.

"§ 31306. Declaration of citizenship

"(a) When an instrument transferring an interest in a vessel is presented to the Secretary of Transportation for filing or recording, the transferee shall file with the instrument a declaration, in the form the Secretary may prescribe by regulation, stating information about citizenship and other information the Secretary may require to show the transaction involved does not violate section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835). Records.

"(b) A declaration under this section filed by a corporation must be signed by its president, secretary, treasurer, or other official authorized by the corporation to execute the declaration. Corporations.

"(c) An instrument transferring an interest in a vessel is not valid against any person until the declaration required by this section has been filed.

"(d) A person knowingly making a false statement of a material fact in a declaration filed under this section shall be fined under title 18, imprisoned for not more than 5 years, or both. Fraud. Law enforcement and crime.

"§ 31307. State statutes superseded

"This chapter supersedes any State statute conferring a lien on a vessel to the extent the statute establishes a claim to be enforced by a civil action in rem against the vessel for necessaries.

"§ 31308. Secretary of Commerce or Transportation as mortgagee

"When the Secretary of Commerce or Transportation is a mortgagee under this chapter, the Secretary may foreclose on a lien arising from a right established under a mortgage under title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1241 et seq.), subject to section 362(b) of title 11.

"§ 31309. General civil penalty

"Except as otherwise provided in this chapter, a person violating this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $10,000.

"SUBCHAPTER II—COMMERCIAL INSTRUMENTS

"§ 31321. Filing, recording, and discharge

"(a)(1) A bill of sale, conveyance, mortgage, assignment, or related instrument, whenever made, that includes any part of a documented vessel or a vessel for which an application for documentation is filed, must be filed with the Secretary of Transportation to be valid, to the extent the vessel is involved, against any person except—

"(A) the grantor, mortgagor, or assignor;

"(B) the heir or devisee of the grantor, mortgagor, or assignor; and

"(C) a person having actual notice of the sale, conveyance, mortgage, assignment, or related instrument.

"(2) Each bill of sale, conveyance, mortgage, assignment, or related instrument that is filed in substantial compliance with this section is valid against any person from the time it is filed with the Secretary.

"(3) The parties to an instrument or an application for documentation shall use diligence to ensure that the parts of the instrument or application for which they are responsible are in substantial compliance with the filing and documentation requirements.

"(b) To be filed, a bill of sale, conveyance, mortgage, assignment, or related instrument must—

"(1) identify the vessel;

"(2) state the name and address of each party to the instrument;

"(3) state, if a mortgage, the amount of the direct or contingent obligations (in one or more units of account as agreed to by the parties) that is or may become secured by the mortgage, excluding interest, expenses, and fees;

"(4) state the interest of the grantor, mortgagor, or assignor in the vessel;

"(5) state the interest sold, conveyed, mortgaged, or assigned; and

"(6) be signed and acknowledged.

"(c) If a bill of sale, conveyance, mortgage, assignment, or related document is filed that involves a vessel that has not yet been documented, and the Secretary decides that the vessel cannot be documented by an applicant—

"(1) the Secretary shall send notice of the Secretary's decision, including reasons for the decision, to each party whose name and address is stated on the instrument filed for recording; and

"(2) 90 days after sending the notice as provided under clause (1) of this subsection, the Secretary—

"(A) may terminate the filing; and

"(B) may return the instrument filed without recording it under subsection (e) of this section.

"(d) A person may withdraw an application for documentation of a vessel for which a mortgage has been filed under this section only if the mortgagee consents.

"(e) The Secretary shall—

"(1) record the bills of sale, conveyances, mortgages, assignments, and related instruments of a documented vessel complying with subsection (b) of this section in the order they are filed; and

Public information.

"(2) maintain appropriate indexes, for use by the public, of instruments filed or recorded, or both.

"(f) On full and final discharge of the indebtedness under a mortgage recorded under subsection (e)(1) of this section, a mortgagee, on request of the Secretary or mortgagor, shall provide the Secretary with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary. The Secretary shall record the certificate.

"(g) The mortgage or related instrument of a vessel covered by a preferred mortgage under section 31322(d) of this title, that is later

filed under this section at the time an application for documentation is filed, is valid under this section from the time the mortgage or instrument representing financing became a preferred mortgage under section 31322(d).

"(h) On full and final discharge of the indebtedness under a mortgage deemed to be a preferred mortgage under section 31322(d) of this title, a mortgagee, on request of the Secretary, a State, or mortgagor, shall provide the Secretary or the State, as appropriate, with an acknowledged certificate of discharge of the indebtedness in a form prescribed by the Secretary or the State, as applicable. If filed with the Secretary, the Secretary shall enter that information in the vessel identification system under chapter 125 of this title. State and local governments.

"§ 31322. Preferred mortgages

"(a)(1) A preferred mortgage is a mortgage, whenever made, that—

"(A) includes the whole of a vessel;

"(B) is filed in substantial compliance with section 31321 of this title;

"(C)(i) covers a documented vessel; or

"(ii) covers a vessel for which an application for documentation is filed that is in substantial compliance with the requirements of chapter 121 of this title and the regulations prescribed under that chapter; and

"(D) has as the mortgagee—

"(i) a State;

"(ii) the United States Government;

"(iii) a federally insured depository institution, unless disapproved by the Secretary;

"(iv) an individual who is a citizen of the United States;

"(v) a person qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802); or

"(vi) a person approved by the Secretary of Transportation.

"(2) Paragraph (1)(D) of this subsection does not apply to a vessel operated only as a fishing vessel, fish processing vessel, or a fish tender vessel (as defined in section 2101 of this title) or to a vessel operated only for pleasure. Fish and fishing.

"(b) A preferred mortgage filed or recorded under this chapter may have any rate of interest that the parties to the mortgage agree to.

"(c)(1) If a preferred mortgage includes more than one vessel or property that is not a vessel, the mortgage may provide for the separate discharge of each vessel and all property not a vessel by the payment of a part of the mortgage indebtedness.

"(2) If a vessel covered by a preferred mortgage that includes more than one vessel or property that is not a vessel is to be sold on the order of a district court in a civil action in rem, and the mortgage does not provide for separate discharge as provided under paragraph (1) of this subsection—

"(A) the mortgage constitutes a lien on that vessel in the full amount of the outstanding mortgage indebtedness; and

"(B) an allocation of mortgage indebtedness for purposes of separate discharge may not be made among the vessel and other property covered by the mortgage.

State and local governments.

"(d)(1) A mortgage or instrument representing financing of a vessel under State law that is made under applicable State law covering the whole of a vessel titled in a State is deemed to be a preferred mortgage if—

"(A) the Secretary certifies that the State titling system complies with the Secretary's guidelines for a titling system under section 13106(b)(8) of this title; and

"(B) information on the vessel covered by the mortgage or instrument is made available to the Secretary under chapter 125 of this title.

"(2) This subsection applies to mortgages or instruments covering vessels titled in a State after—

"(A) the Secretary's certification under paragraph (1)(A) of this subsection; and

"(B) the State begins making information available to the Secretary under chapter 125 of this title.

"(3) A preferred mortgage under this subsection continues to be a preferred mortgage if the vessel is no longer titled in the State where the mortgage was made.

"(e) If a vessel is already covered by a preferred mortgage when an application for titling or documentation is filed—

"(1) the validity of the preferred mortgage covering the vessel to be titled in the State is determined by the law of the jurisdiction where the vessel is currently titled or documented; and

"(2) the validity of the preferred mortgage covering the vessel to be documented under chapter 121 is determined by subsection (a) of this section.

"§ 31323. Disclosing and incurring obligations before executing preferred mortgages

"(a) On request of the mortgagee and before executing a preferred mortgage, the mortgagor shall disclose in writing to the mortgagee the existence of any obligation known to the mortgagor on the vessel to be mortgaged.

"(b) After executing a preferred mortgage and before the mortgagee has had a reasonable time to file the mortgage, the mortgagor may not incur, without the consent of the mortgagee, any contractual obligation establishing a lien on the vessel except a lien for—

"(1) wages of a stevedore when employed directly by a person listed in section 31341 of this title;

"(2) wages for the crew of the vessel;

"(3) general average; or

"(4) salvage, including contract salvage.

"(c) On conviction of a mortgagor under section 31330(a)(1) (A) or (B) of this title for violating this section, the mortgage indebtedness, at the option of the mortgagee, is payable immediately.

"§ 31324. Retention and examination of mortgages of vessels covered by preferred mortgages

"(a) On request, the owner, master, or individual in charge of a vessel covered by a preferred mortgage shall permit a person to examine the mortgage if the person has business with the vessel that may give rise to a maritime lien or the sale, conveyance, mortgage, or assignment of a mortgage of the vessel.

"(b) A mortgagor of a preferred mortgage covering a self-propelled vessel shall use diligence in keeping a certified copy of the mortgage on the vessel.

"§ 31325. Preferred mortgage liens and enforcement

"(a) A preferred mortgage is a lien on the mortgaged vessel in the amount of the outstanding mortgage indebtedness secured by the vessel.

"(b) On default of any term of the preferred mortgage, the mortgagee may enforce the preferred mortgage lien in—

"(1) a civil action in rem for a documented vessel or a vessel to be documented under chapter 121 of this title;

"(2) a civil action in personam in admiralty against the mortgagor, comaker, or guarantor for the amount of the outstanding indebtedness secured by the mortgaged vessel or any deficiency in full payment of that indebtedness; and

"(3) a civil action against the mortgagor, comaker, or guarantor for the amount of the outstanding indebtedness secured by the mortgaged vessel or any deficiency in full payment of that indebtedness.

"(c) The district courts have original jurisdiction of a civil action brought under subsection (b) of this section. However, for documented vessels or vessels to be documented under chapter 121 of this title, this jurisdiction is exclusive of the courts of the States for a civil action under subsection (b)(1) of this section. Courts, U.S.

"(d)(1) Actual notice of a civil action brought under subsection (b)(1) of this section, or to enforce a maritime lien, must be given in the manner directed by the court to—

"(A) the master or individual in charge of the vessel;

"(B) any person that recorded under section 31343 (a) or (d) of this title a notice of a claim of an undischarged lien on the vessel; and

"(C) a mortgagee of a mortgage filed or recorded under section 31321 of this title that is an undischarged mortgage on the vessel.

"(2) Notice under paragraph (1) of this subsection is not required if, after search satisfactory to the court, the person entitled to the notice has not been found in the United States.

"(3) Failure to give notice required by this subsection does not affect the jurisdiction of the court in which the civil action is brought. However, unless notice is not required under paragraph (2) of this subsection, the party required to give notice is liable to the person not notified for damages in the amount of that person's interest in the vessel terminated by the action brought under subsection (b)(1) of this section. A civil action may be brought to recover the amount of the terminated interest. The district courts have original jurisdiction of the action, regardless of the amount in controversy or the citizenship of the parties. If the plaintiff prevails, the court may award costs and attorney fees to the plaintiff. Courts, U.S.

"(e) In a civil action brought under subsection (b)(1) of this section—

"(1) the court may appoint a receiver and authorize the receiver to operate the mortgaged vessel and shall retain in rem jurisdiction over the vessel even if the receiver operates the vessel outside the district in which the court is located; and Courts, U.S.

"(2) when directed by the court, a United States marshal may take possession of a mortgaged vessel even if the vessel is in the

possession or under the control of a person claiming a possessory common law lien.

"§ 31326. Court sales to enforce preferred mortgage liens and maritime liens and priority of claims

"(a) When a vessel is sold by order of a district court in a civil action in rem brought to enforce a preferred mortgage lien or a maritime lien, any claim in the vessel existing on the date of sale is terminated, including a possessory common law lien of which a person is deprived under section 31325(e)(2) of this title, and the vessel is sold free of all those claims.

"(b) Each of the claims terminated under subsection (a) of this section attaches, in the same amount and in accordance with their priorities to the proceeds of the sale, except that—

"(1) the preferred mortgage lien has priority over all claims against the vessel (except for expenses and fees allowed by the court, costs imposed by the court, and preferred maritime liens); and

"(2) for a foreign vessel, the preferred mortgage lien is subordinate to a maritime lien for necessaries provided in the United States.

"§ 31327. Forfeiture of mortgagee interest

"The interest of a mortgagee in a documented vessel or a vessel covered by a preferred mortgage under section 31322(d) of this title may be terminated by a forfeiture of the vessel for a violation of a law of the United States only if the mortgagee authorized, consented, or conspired to do the act, failure, or omission that is the basis of the violation.

"§ 31328. Limitations on parties serving as trustees of mortgaged vessel interests

"(a) Without the approval of the Secretary of Transportation, an instrument or evidence of indebtedness secured by a mortgage of a documented vessel to a trustee may not be issued, assigned, or transferred to, or held in trust for, a person not qualifying as a citizen of the United States under section 2 of the Shipping Act, 1916 (46 App. U.S.C. 802), unless the trustee—

"(1) is a State;

"(2) is the United States Government;

"(3) is a person approved by the Secretary and qualifying as a citizen of the United States under that section 2; or

"(4) has been approved by the Secretary.

"(b) The Secretary shall approve a trustee under subsection (a) (3) or (4) of this section if the trustee—

"(1) is organized as a corporation, and is doing business, under the laws of the United States or of a State;

"(2) is authorized under those laws to exercise corporate trust powers;

"(3) is subject to supervision or examination by an official of the United States Government or a State;

"(4) has a combined capital and surplus (as stated in its most recent published report of condition) of at least $3,000,000; and

"(5) if the trustee is to be approved under subsection (a)(4) of this section, meets any other requirements prescribed by the Secretary.

"(c) If the trustee at any time does not satisfy the qualifications of subsection (b) of this section, the Secretary shall disapprove the trustee.

"(d) Except as provided in subsection (a) of this section, a right under a mortgage of a documented vessel may be issued, assigned, or transferred to a person not eligible to be a mortgagee of that vessel under section 31322 of this title only with the approval of the Secretary.

"(e) The vessel may be operated by the trustee only with the approval of the Secretary.

"(f) The issuance, assignment, or transfer of an instrument or evidence of indebtedness contrary to this section is void.

"§ 31329. Court sales of documented vessels

"(a) A documented vessel may be sold by order of a district court only to—

"(1) a person eligible to own a documented vessel under section 12102 of this title; or

"(2) a mortgagee of that vessel.

"(b) When a vessel is sold to a mortgagee not eligible to own a documented vessel—

"(1) the vessel must be held by the mortgagee for resale;

"(2) the vessel held by the mortgagee is subject to section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); and

"(3) the sale of the vessel to the mortgagee is not a sale foreign within the terms of the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883).

"(c) Unless waived by the Secretary of Transportation, a person purchasing a vessel by court order under subsection (a)(1) of this section or from a mortgagee under subsection (a)(2) of this section must document the vessel under chapter 121 of this title.

"(d) The vessel may be operated by the mortgagee not eligible to own a documented vessel only with the approval of the Secretary.

"(e) A sale of a vessel contrary to this section is void.

"§ 31330. Penalties

"(a)(1) A mortgagor shall be fined under title 18, imprisoned for not more than 2 years, or both, if the mortgagor—

"(A) with intent to defraud, does not disclose an obligation on a vessel as required by section 31323(a) of this title;

"(B) with intent to defraud, incurs a contractual obligation in violation of section 31323(b) of this title;

"(C) with intent to hinder or defraud an existing or future creditor of the mortgagor or a lienor of the vessel, files a mortgage with the Secretary of Transportation; or

"(D) with intent to defraud, does not comply with section 31321(h) of this title.

"(2) A mortgagor is liable to the United States Government for a civil penalty of not more than $10,000 if the mortgagor—

"(A) does not disclose an obligation on a vessel as required by section 31323(a) of this title;

"(B) incurs a contractual obligation in violation of section 31323(b) of this title;

"(C) files with the Secretary a mortgage made not in good faith; or

"(D) does not comply with section 31321(h) of this title.

"(b)(1) A person that knowingly violates section 31328 or 31329 of this title shall be fined under title 18, imprisoned for not more than 3 years, or both.

"(2) A person violating section 31328 or 31329 of this title is liable to the Government for a civil penalty of not more than $25,000.

"(3) A vessel involved in a violation under section 31328 or 31329 of this title and its equipment may be seized by, and forfeited to, the Government.

"(c) If a person not an individual violates this section, the president or chief executive of the person also is subject to any penalty provided under this section.

"SUBCHAPTER III—MARITIME LIENS

"§ 31341. Persons presumed to have authority to procure necessaries

"(a) The following persons are presumed to have authority to procure necessaries for a vessel:

"(1) the owner;

"(2) the master;

"(3) a person entrusted with the mangement of the vessel at the port of supply; or

"(4) an officer or agent appointed by—

"(A) the owner;

"(B) a charterer;

"(C) an owner pro hac vice; or

"(D) an agreed buyer in possession of the vessel.

"(b) A person tortiously or unlawfully in possession or charge of a vessel has no authority to procure necessaries for the vessel.

"§ 31342. Establishing maritime liens

"A person providing necessaries to a vessel (except a public vessel) on the order of a person listed in section 31341 of this title or a person authorized by the owner—

"(1) has a maritime lien on the vessel;

"(2) may bring a civil action in rem to enforce the lien; and

"(3) is not required to allege or prove in the action that credit was given to the vessel.

"§ 31343. Recording and discharging liens on preferred mortgage vessels

"(a) Except as provided under subsection (d) of this section, a person claiming a lien on a vessel covered by a preferred mortgage filed or recorded under this chapter may record with the Secretary of Transportation a notice of that person's lien claim on the vessel. To be recordable, the notice must—

"(1) state the nature of the lien;

"(2) state the date the lien was established;

"(3) state the amount of the lien;

"(4) state the name and address of the person; and

"(5) be signed and acknowledged.

"(b) The Secretary shall record a notice complying with subsection (a) of this section.

"(c) On full and final discharge of the indebtedness that is the basis for a claim recorded under subsection (b) of this section, on request of the Secretary or owner, the person having the claim shall

provide the Secretary with an acknowledged certificate of discharge of the indebtedness. The Secretary shall record the certificate.

"(d) A person claiming a lien on a vessel covered by a preferred mortgage under section 31322(d) of this title must record and discharge the lien as provided by the law of the State in which the vessel is titled.

"[CHAPTER 315—RESERVED]".

SURRENDER AND INVALIDATION OF CERTIFICATES OF DOCUMENTATION

SEC. 103. (a) Section 12111 of title 46, United States Code, is amended—

(1) by striking the catchline and inserting in lieu thereof the following:

"§ 12111. Surrender and invalidation of certificates of documentation";

and

(2) by striking subsection (b) and inserting in lieu thereof the following:

"(b) An invalid certificate of documentation must be surrendered as provided by regulations prescribed by the Secretary of Transportation.

"(c)(1) Notwithstanding subsection (a) of this section, until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

"(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

"(B) sections 9 and 37(b) of the Shipping Act, 1916 (46 App. U.S.C. 808, 835(b));

"(C) section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242); and

"(D) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

"(2) This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

"(3) The Secretary may approve the surrender of the certificate of documentation of a documented vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.".

(b) Item 12111 in the analysis of chapter 121 of title 46, United States Code, is amended to read as follows:

"12111. Surrender and invalidation of certificates of documentation.".

MISCELLANEOUS AND CONFORMING PROVISIONS

SEC. 104. (a) Title 46, United States Code, is amended—

(1) in section 2101(34), by inserting ", except in part H," immediately before "means";

(2) in section 2101(46), by striking the period at the end and inserting in lieu thereof "or titled under the law of a State.";

(3) in section 2110, by striking "the licensing of masters, mates, pilots, and engineers, and the documentation of vessels,"

and inserting in lieu thereof "and the licensing of masters, mates, pilots, and engineers,";

(4) in sections 12102(b), 12103(a), 12105(c), 12110(a), 12112 (a), (b), and (c), 12117, 12119, and 12120, by inserting "of Transportation" immediately after "Secretary" the first time it appears;

(5) in section 12102, by adding at the end the following:

"(c) A vessel titled in a State is eligible for documentation only if the State certificate of title is surrendered."; and

(6) in section 12103(c), by amending clause (1) to read as follows:

"(1) identify and describe the vessel;".

(b) Section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), is amended—

(1) in the first paragraph, by inserting "(a)" immediately after "SEC. 9.";

(2) in the second paragraph, by inserting "(b)" immediately before "Every vessel"; and

(3) by striking the third, fourth, and fifth paragraphs and inserting in lieu thereof the following:

"(c) Except as provided in section 611 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1181), and sections 31322(a)(1)(D) and 31328 of title 46, United States Code, a person may not, without the approval of the Secretary of Transportation—

"(1) sell, mortgage, lease, charter, deliver, or in any manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any manner transfer, to a person not a citizen of the United States, any interest in or control of a documented vessel (except in a vessel that has been operated only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of title 46, United States Code) or in a vessel that has been operated only for pleasure) owned by a citizen of the United States; or

"(2) place a documented vessel under foreign registry or operate that vessel under the authority of a foreign country.

"(d)(1) Any charter, sale, transfer, or mortgage of a vessel, or interest or control in that vessel, contrary to this section is void.

Law enforcement and crime.

"(2) A person that knowingly charters, sells, transfers, or mortgages a vessel, or interest or control in that vessel, contrary to this section shall be fined under title 18, United States Code, imprisoned for not more than 5 years, or both.

Law enforcement and crime.

"(3) A documented vessel may be seized by, and forfeited to, the United States Government if—

"(A) the vessel is placed under foreign registry or operated under the authority of a foreign country contrary to this section; or

"(B) a person knowingly charters, sells, transfers, or mortgages a vessel, or interest or control in that vessel, contrary to this section.".

(c) The first sentence of section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242), is amended by striking "or under construction" and inserting in lieu thereof "a documented vessel, or a vessel under construction".

(d) Section 1101(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271(a)), is amended to read as follows:

"(a) The term 'mortgage' includes—

"(1) a preferred mortgage as defined in section 31301 of title 46, United States Code; and

"(2) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of title 46, United States Code.".

(e)(1) Before January 1, 1992, the annual fee under section 12505 of title 46, United States Code (as enacted by section 101 of this Act), is $1.00. 46 USC 12505 note.

(2) To establish, centralize, and computerize records and other information maintained under chapters 121, 125, and 313 of title 46, United States Code, from the effective date of this title through September 30, 1993, the Secretary of Transportation shall spend (out of amounts appropriated for the Department of Transportation under an appropriations law) not less than an amount that is equal to the amounts estimated to be— 46 USC 12501 note.

(A) collected under section 9701 of title 31, United States Code, for fees paid for services and things of value provided under chapter 313 of title 46, United States Code (as enacted by section 101 of this Act), and for documenting vessels under chapter 121 of title 46; and

(B) transferred to or collected by the Secretary under chapter 125 of title 46, United States Code (as enacted by section 101 of this Act).

(f) Section 12502(a)(1) of title 46, United States Code (as enacted by section 101 of this Act), applies to a vessel of the United States that does not have a unique number as prescribed by the Secretary of Transportation under that section until the earlier of the following: 46 USC 12502 note.

(1) The next time the vessel is documented, numbered, or titled.

(2) January 1, 1995.

(g) Nothing in this section requires the Coast Guard to recruit, compensate, train, purchase, or deploy any personnel or equipment to carry out chapter 125 of title 46, United States Code (as enacted by section 101 of this Act), except to the extent that appropriations are made available in an appropriations law for the Department of Transportation. Uniformed services. 46 USC 12501 note.

LEGISLATIVE PURPOSE AND CONSTRUCTION

SEC. 105. (a) A reference to a law replaced by section 102 of this Act, including a reference in a regulation, order, or other law, is deemed to refer to the corresponding provision of this Act. 46 USC note prec. 2101.

(b) An order, rule, or regulation in effect under a law replaced by section 102 of this Act continues in effect under the corresponding provision of this Act until repealed, amended, or superseded.

(c) An action taken or an offense committed under a law replaced by section 102 of this Act is deemed to have been taken or committed under the corresponding provision of this Act.

(d) An inference of legislative construction is not to be drawn by reason of the caption or catch line of a provision enacted by section 102 of this Act.

(e) If a provision of this Act is held invalid, all valid provisions that are severable from the invalid provision remain in effect. If a provision of this Act is held invalid in any of its applications, the provision remains valid for all valid applications that are severable from any of the invalid applications.

REPEALS

46 USC note prec. 2101.

SEC. 106. (a) The repeal of a law by this title may not be construed as a legislative implication that the provision was or was not in effect before its repeal.

(b) The following laws are repealed, except for rights and duties that matured, penalties that were incurred, and proceedings that were begun, before the effective date of this title:

(1) sections 40 and 42 of the Shipping Act, 1916 (46 App. U.S.C. 838, 840);

(2) section 30 of the Merchant Marine Act, 1920 (46 App. U.S.C. 911-984);

(3) the Act of February 16, 1925 (46 App. U.S.C. 1011-1014);

(4) Reorganization Plan No. 1 of 1967 (46 App. U.S.C. 961 (note)); and

(5) sections 12109(c), 12113, 12114, 12115, 12116, 12118, and 12121 of title 46, United States Code.

EFFECTIVE DATES

46 USC 30101 note.

SEC. 107. (a) This title and amendments made by this title take effect on January 1, 1989. However, sections 31321 and 31322 of title 46 (as enacted by section 102 of this Act), United States Code (as sections 31321 and 32322 apply to vessels for which an application for documentation has been filed), take effect on January 1, 1990.

(b) An instrument filed before January 1, 1989, but not recorded before that date, is deemed to comply with section 31321 of title 46, United States Code, if it is in substantial compliance with the provisions in that section that had corresponding requirements under the law on December 31, 1988. However, the mortgage may not become a preferred mortgage until the vessel is documented.

(c) This title and the amendments made by this title do not affect the validity of any instrument filed or recorded before January 1, 1989, if there was a corresponding requirement under the law on December 31, 1988.

(d) An instrument filed or recorded before January 1, 1989, is deemed to comply with any new requirement under chapter 313 of title 46, United States Code (as enacted by section 102 of this Act), affecting the validity of that instrument.

(e) Section 102 of this Act and amendments made by that section do not affect any civil action filed before January 1, 1989.

(f) Section 104(b) of this Act and the amendments made by section 104(b) of this Act do not apply to any change in control resulting from, or which may at any time result from, any proposed plan of reorganization filed under the United States bankruptcy laws prior to the date of enactment of this Act, except that transactions undertaken as a result of such a plan shall continue to be governed by section 9 of the Shipping Act, 1916 (46 App. U.S.C. 808), as it existed prior to the date of enactment of this Act, to the extent that such section 9 would have governed such transactions.

TITLE II—DOCUMENTATION AND REPEALS

COASTWISE AND FISHERIES DOCUMENTATION

SEC. 201. (a) Notwithstanding sections 12106 through 12108 of title 46, United States Code, and section 27 of the Merchant Marine Act,

1920 (46 App. U.S.C. 883), the Secretary of Transportation may issue a certificate of documentation for the following vessels:

(1) ALEUTIAN TRAWLER, United States official number 236979;

(2) ENCORE, United States official number 545162;

(3) FAIR TIDE, United States official number 644363;

(4) FREEDOM, United States official number 569163;

(5) PAVLOF, United States official number 597532;

(6) SUVA, United States official number 225008;

(7) RA, United States official number 655181;

(8) TE DE II, United States official number 572205;

(9) FRE-N-EZE, United States official number 659826;

(10) BETA LYRA, United States official number 679226;

(11) POLAR ICE, United States official number 604676;

(12) COMPASS ROSE III, United States official number 559647;

(13) SCOTCH 'N WATER, United States official number 264090;

(14) ERSA, United States official number 229511;

(15) GILBERT, United States official number 230568, with a restriction that this vessel may engage in the coastwise trade of the United States only for the purpose of moving barges filled with seafood waste and wastewater to designated ocean disposal sites from Port Canaveral, Florida;

(16) MARY L, United States official number 275311;

(17) ZB-6, United States official number 505317;

(18) KUT N OUT, hull identification number BERL1087M-80A-385-80 and Florida registration number FL7665FG;

(19) FOXY LADY III, United States official number 299818; and

(20) GIPSY, United States official number 903276.

(b) Notwithstanding sections 508 and 510(g) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1158 and 1160(g)), and United States Department of Transportation Contract Numbered MA-6772 (IFB PD-X-945) and amendments thereto, the Secretary of Transportation is authorized to allow, and the Secretary of the department in which the Coast Guard is operating may issue a certificate of documentation for, the vessel M/V OCEAN TEMPEST (ex HORSESHOE SPLICE), United States official number 248773, to acquire, purchase, process, and transport fish and fish products in the fisheries of the United States: *Provided,* That if the vessel is scrapped, it shall not be scrapped other than in the domestic market without the prior approval of the Secretary of Transportation.

REPEAL OF OBSOLETE LAWS

SEC. 202. The following laws related to shipping are repealed:

(1) the paragraph immediately before the heading "UNITED STATES VETERANS' BUREAU" in the first section of the Independent Offices Act, 1928 (46 App. U.S.C. 810a);

(2) the Act of July 3, 1926 (46 App. U.S.C. 817a);

(3) sections 3 and 4 of the Act of July 7, 1960 (46 App. U.S.C. 817b, 817c);

(4) sections 2, 4, 5, 16, 22, and 23 of the Merchant Marine Act, 1920 (46 App. U.S.C. 862-864, 874, 878, 879); 46 USC app. 13.

(5) section 2 of the Act of March 4, 1927 (46 App. U.S.C. 870a);

(6) the Act of April 16, 1934 (46 App. U.S.C. 870b-870d);

(7) section 2 of the Act of April 24, 1944 (46 App. U.S.C. 1128e-1);

(8) sections 203, 401-404, 716, 903, 904, 907, 1001-1005, and 1010-1012 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1113, 1141-1144, 1206, 1243, 1246, 1251-1255, 1260-1262);

(9) the first section and sections 2 and 3 of the Act of February 6, 1941 (46 App. U.S.C. 1119a, 1119b, 1214);

(10) the Act of June 12, 1960 (46 App. U.S.C. 1401-1413); and

(11) section 7 of the Maritime Act of 1981 (46 App. U.S.C. 1606).

TRANSFER OF THE COAST GUARD CUTTER INGHAM

South Carolina.

SEC. 203. The Secretary of the department in which the Coast Guard is operating shall transfer the Coast Guard cutter INGHAM to the Naval and Maritime Museum at Patriots Point, South Carolina. The Secretary shall transfer the INGHAM along with such equipment and in such condition as the Secretary considers appropriate. The Secretary shall make the transfer upon the decommissioning of the INGHAM or at a later time as determined appropriate by the Secretary.

Approved November 23, 1988.

LEGISLATIVE HISTORY—H.R. 3105:

HOUSE REPORTS: No. 100-918 (Comm. on Merchant Marine and Fisheries).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Oct. 6, considered and passed House.
Oct. 20, considered and passed Senate, amended.
Oct. 21, House concurred in Senate amendment.

Public Law 100-711
100th Congress

An Act

To authorize appropriations to carry out the Marine Mammal Protection Act of 1972 for fiscal years 1989 through 1993.

Nov. 23, 1988
[H.R. 4189]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Marine Mammal Protection Act Amendments of 1988.
16 USC 1361 note.

SECTION 1. That this Act may be cited as the "Marine Mammal Protection Act Amendments of 1988".

INTERIM COMMERCIAL FISHERY EXEMPTION

SEC. 2. (a) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended—

(1) by redesignating section 114 as section 116; and

16 USC 1384 note.

(2) by inserting immediately after section 113 the following new section:

"INTERIM EXEMPTION FOR COMMERCIAL FISHERIES

Business and industry.
16 USC 1383a.

"SEC. 114. (a)(1) During the period beginning on the date of enactment of this section and ending October 1, 1993, except as provided in paragraph (2), the provisions of this section, rather than sections 101, 103, and 104, shall govern the incidental taking of marine mammals in the course of commercial fishing operations by persons using vessels of the United States and vessels which have valid fishing permits issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)). In any event it shall be the immediate goal that the incidental kill or serious injury of marine mammals permitted in the course of commercial fishing operations be reduced to insignificant levels approaching a zero mortality and serious injury rate.

"(2) The provisions of this section other than subsection (e)(6)(A) shall not govern the incidental taking of marine mammals in the course of commercial yellowfin tuna fishing subject to section 104(h)(2) of this title.

"(b)(1) The Secretary shall, after consultation with the Marine Mammal Commission—

"(A) publish in the Federal Register, for public comment, not later than sixty days after the date of enactment of this section a proposed list of those fisheries, along with a statement of the marine mammals and the approximate number of vessels or persons involved in each such fishery, that have—

Federal Register, publication.

"(i) frequent incidental taking of marine mammals;

"(ii) occasional incidental taking of marine mammals; or

"(iii) a remote likelihood of or no known incidental taking of marine mammals;

"(B) publish in the Federal Register not later than one hundred and twenty days after the date of enactment of this section a final list of the fisheries and other information required by

Federal Register, publication.

paragraph (A), together with a summary of the provisions of this section and information sufficient to advise vessel owners on how to obtain an exemption and otherwise comply with the requirements of this section; and

Federal Register, publication.

"(C) at least once each year thereafter, and at such other times as the Secretary considers appropriate, reexamine, based on information gathered from the program established under subsections (c), (d), (e), and (f), and other relevant sources and after notice and opportunity for public comment, the classification of fisheries and other determinations required under subparagraph (A) and publish in the Federal Register any necessary changes.

"(2)(A) An exemption shall be granted by the Secretary in accordance with this section for a vessel engaged in a fishery identified under paragraph (1)(A) (i) or (ii), upon receipt by the Secretary of a completed registration form providing the name of the vessel owner, the name and description of the vessel, the fisheries in which it will be engaged, and such other information as the Secretary considers necessary. A decal or other physical evidence that the exemption is current and valid shall be issued by the Secretary at the time an exemption is granted, and so long as the exemption remains current and valid, shall be reissued annually thereafter.

"(B) No exemption may be granted under this section to the owner of a vessel unless such vessel—

"(i) is a vessel of the United States; or

"(ii) has a valid fishing permit issued by the Secretary in accordance with section 204(b) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1824(b)).

"(C) Notwithstanding any other provision of this title, exemptions granted under this section shall authorize the incidental taking of marine mammals, other than California sea otters, from any species or stock, including a population stock designated as depleted, but shall not authorize the intentional lethal taking of any Steller sea lion, any cetacean, or any marine mammals from a population stock designated as depleted.

"(3)(A) Beginning two hundred and forty days after the date of enactment of this section, each owner of a vessel engaged in any fishery identified under paragraph (1)(A) (i) or (ii) shall, in order to engage lawfully in that fishery—

"(i) have registered with the Secretary in order to obtain for each such vessel owned an exemption for the purpose of incidentally taking marine mammals in accordance with this section;

"(ii) ensure that a decal or such other physical evidence of a current and valid exemption as the Secretary may require is displayed on or is in the possession of the master of each such vessel; and

"(iii) report as required by subsection (c).

"(B) Any owner of a vessel receiving an exemption under this section for any fishery identified under paragraph (1)(A)(i) shall, as a condition of that exemption, take on board a natural resource observer if requested to do so by the Secretary.

"(C) An owner of a vessel engaged in a fishery identified under paragraph (1)(A) (i) or (ii) who—

"(i) fails to obtain from the Secretary an exemption under this section;

"(ii) fails to maintain a current and valid exemption; or

"(iii) fails to ensure that a decal or other physical evidence of such exemption issued by the Secretary is displayed on or is in possession of the master of the vessel,

and the master of any such vessel engaged in such fishery, shall be deemed to have violated this title, and shall be subject to the penalties of this title except in the case of unknowing violations before January 1, 1990.

"(D) If the owner of a vessel has obtained and maintains a current and valid exemption from the Secretary under this section and meets the requirements set forth in this section, the owner of such vessel, and the master and crew members of the vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals while such vessel is engaged in a fishery to which the exemption applies.

"(E) Each owner of a vessel engaged in any fishery not identified in paragraph (1)(A) (i) or (ii), and the master and crew members of such a vessel, shall not be subject to the penalties set forth in this title for the incidental taking of marine mammals if such owner reports to the Secretary, in such form and manner as the Secretary may require, instances of lethal incidental taking in the course of that fishery.

"(4) The Secretary shall suspend or revoke an exemption granted under this section and shall not issue a decal or other physical evidence of the exemption for any vessel until the owner of such vessel complies with the reporting requirements under subsection (c) and such requirements to take on board a natural resource observer under paragraph (3)(B) as are applicable to such vessel.

"(5)(A) The Secretary shall develop, in consultation with the appropriate States, Regional Fishery Management Councils, and other interested parties, the means by which the granting and administration of exemptions under this section shall be integrated and coordinated, to the maximum extent practicable, with existing fishery licenses, registrations, and related programs.

"(B) The Secretary shall utilize newspapers of general circulation, fishery trade associations, electronic media, and other means of advising commercial fishermen of the provisions of this section and the means by which they can comply with its requirements. Communications and telecommunications.

"(C) The Secretary is authorized to charge a fee for the granting of an exemption under this subsection. The level of fees charged under this subparagraph shall not exceed the administrative costs incurred in granting an exemption. Fees collected under this subparagraph shall be available to the Under Secretary of Commerce for Oceans and Atmosphere for expenses incurred in the granting and administration of exemptions under this section.

"(c) The owner of each vessel holding an exemption granted under subsection (b) of this section shall regularly compile information which shall be used in a report to be submitted to the Secretary at the close of the fishing season or annually, as the Secretary may prescribe. Such report shall be submitted in such form as the Secretary may require and shall include the following: Reports.

"(1) the type of fishery engaged in by the owner's vessel;

"(2) the date and approximate time of any incidental taking of a marine mammal, together with the area in which the incidental taking occurred, the fishing gear used at the time of the incidental taking, and the species of fish involved; and

"(3) for each incidental taking, the number and species of marine mammals involved, whether the marine mammals were

deterred from gear or catch, incidentally injured, incidentally killed, or lethally removed to protect gear, catch, or human life. If there was no incidental taking of marine mammals during the reporting period, a report stating that fact shall be filed with the Secretary.

"(d)(1) The Secretary shall establish a program to enhance the quality of and verify information received from reports submitted by owners of vessels who have been granted an exemption under subsection (b) of this section. The program shall include, but not be limited to—

"(A) education efforts regarding the information that must be submitted;

"(B) interviews with fishermen; and

"(C) other such information gathering and verification activities that will enable the Secretary to determine reliably the nature, type, and extent of the incidental taking of marine mammals that occurs in a fishery.

Except to the extent authorized by the provisions of subsection (e), the program shall not include placement of observers aboard exempted vessels.

Classified information.

"(2) Information obtained under this subsection shall be subject to the confidentiality provisions of subsection (j).

"(e)(1) For each fishery identified under subsection (b)(1)(A)(i) of this section, the Secretary shall, after consultation with the appropriate Regional Fishery Management Councils, other Federal and State agencies, and other interested parties, and subject to paragraph (6), place observers on board exempted vessels so as to monitor not less than 20 percent nor more than 35 percent of the fishing operations by vessels in the fishery to obtain statistically reliable information on the species and number of marine mammals incidentally taken in the fishery. If the Secretary determines that fewer than 20 percent of the fishing operations by vessels in the fishery will be monitored during the course of the fishing season, the Secretary shall implement the alternative observation program described in subsection (f) to the extent necessary to supplement the observer program described in this subsection.

"(2) When determining the distribution of observers among fisheries and between vessels in a particular fishery, the Secretary shall be guided by the following standards:

"(A) the requirement to obtain the best scientific information available;

"(B) the requirement that assignment of observers is fair and equitable among fisheries and among vessels in a fishery;

"(C) consistent with paragraph (1), the requirement that no individual person or vessel, or group of persons or vessels, be subject to excessive or overly burdensome observer coverage; and

"(D) where practicable, the need to minimize costs and avoid duplication.

"(3) If the Secretary finds that, for reasons beyond his or her control, the Secretary cannot assign observers to all the fisheries identified under subsection (b)(1)(A)(i) of this section at the level of observer coverage set forth in paragraph (1), the Secretary shall allocate available observers among such fisheries, consistent with paragraph (2), according to the following priority:

"(A) those fisheries that incidentally take marine mammals from any population stock designated as depleted;

"(B) those fisheries that incidentally take marine mammals from population stocks that the Secretary believes are declining;

"(C) those fisheries other than those described in subparagraphs (A) and (B) in which the greatest incidental take of marine mammals occur; and

"(D) any other fishery identified under subsection (b)(1)(A)(i).

The Secretary may, with the consent of the vessel owner, station an observer on board a vessel engaged in a fishery not identified under subsection (b)(1)(A)(i).

"(4) Information gathered by observers shall be subject to the provisions of subsection (j). Consistent with the requirements of paragraph (1), the Secretary shall, if requested by the Appropriate Regional Fishery Management Council, or in the case of a State fishery, the State, require observers to collect additional information, including but not limited to the quantities, species, and physical condition of target and non-target fishery resources and, if requested by the Secretary of the Interior, seabirds. Birds.

"(5) Notwithstanding the provisions of paragraph (4), the Secretary may decline to require observers to collect information described in such paragraph, if the Secretary finds in writing, following public notice and opportunity for comment, that such information will not contribute to the protection of marine mammals or the understanding of the marine ecosystem, including fishery resources and seabirds.

"(6) The Secretary shall not be required to place an observer on a vessel in a fishery if the Secretary finds that—

"(A) in a situation where harvesting vessels are delivering fish to a processing vessel and the catch is not taken on board the harvesting vessel, statistically reliable information can be obtained from an observer on board the processing vessel to which the fish are delivered;

"(B) the facilities of a vessel for the quartering of an observer, or for carrying out observer functions, are so inadequate or unsafe that the health or safety of the observer or the safe operation of the vessel would be jeopardized; or

"(C) for reasons beyond the control of the Secretary, an observer is not available.

"(7)(A) An observer on a vessel (or the observer's personal representative) under the requirements of this section or section 104 that is ill, disabled, injured, or killed from service as an observer on that vessel may not bring a civil action under any law of the United States for that illness, disability, injury, or death against the vessel or vessel owner, except that a civil action may be brought against the vessel owner for the owner's willful misconduct.

"(B) This paragraph does not apply if the observer is engaged by the owner, master, or individual in charge of a vessel to perform any duties in service to the vessel.

"(8) There are authorized to be appropriated to the Department of Commerce for the purposes of carrying out this subsection not to exceed $2,700,000 for fiscal year 1989 and not to exceed $8,000,000 for each of the fiscal years 1990, 1991, 1992, and 1993. Appropriation authorization.

"(f)(1) The Secretary shall establish an alternative observation program to provide statistically reliable information on the species and number of marine mammals incidentally taken in those fisheries identified pursuant to subsection (b)(1)(A)(i) of this section for which the required level of observer coverage has not been met or

for any other fisheries about which such reliable information is not otherwise available. The alternative program shall include, but not be limited to, direct observation of fishing activities from vessels, airplanes, or points on shore.

"(2) Individuals engaged in the alternative observation program shall collect scientific information on the fisheries subject to observation, consistent with the requirements of paragraph (1) and subsection (e) (4) and (5). All information collected shall be subject to the provisions of subsection (j).

"(g)(1) The Secretary shall review information regarding the incidental taking of marine mammals and evaluate the effects of such incidental taking on the affected population stocks of marine mammals.

Regulations.

"(2) If the Secretary finds, based on the information received from the programs established under subsections (c), (d), (e), and (f), that the incidental taking of marine mammals in a fishery is having an immediate and significant adverse impact on a marine mammal population stock or, in the case of Steller sea lions and North Pacific fur seals, that more than 1,350 and 50, respectively, will be incidentally killed during a calendar year, the Secretary shall consult with appropriate Regional Fishery Management Councils and State fishery managers and prescribe emergency regulations to prevent to the maximum extent practicable any further taking. Any emergency regulations prescribed under this paragraph—

"(A) shall, to the maximum extent practicable, avoid interfering with existing State or regional fishery management plans;

Federal Register, publication.

"(B) shall be published in the Federal Register together with the reasons therefor;

"(C) shall remain in effect for not more than one hundred and eighty days or until the end of the fishing season, whichever is earlier; and

"(D) may be terminated by the Secretary at an earlier date by publication in the Federal Register of a notice of termination if the Secretary determines the reasons for the emergency regulations no longer exist.

In prescribing emergency regulations under this paragraph, the Secretary shall take into account the economics of the fishery concerned and the availability of existing technology to prevent or minimize incidental taking of marine mammals.

State and local governments.

"(3) If the Secretary finds, based on information received from the programs established under subsections (c), (d), (e), and (f), that incidental taking of marine mammals in a fishery is not having an immediate and significant adverse impact on a marine mammal population stock but that it will likely have a significant adverse impact over a period of time longer than one year, the Secretary shall request the appropriate Regional Fishery Management Council or State to initiate, recommend, or take such action within its authority as it considers necessary to mitigate the adverse impacts, including adjustments to requirements on fishing times or areas or the imposition of restrictions on the use of vessels or gear.

"(4) The Secretary shall impose appropriate conditions and restrictions on an exemption granted under subsection (b) if—

"(A) a Regional Fishery Management Council or State does not act in a reasonable period of time on a request made by the Secretary under paragraph (3); or

"(B) if the Secretary determines after notice and opportunity for public comment that the purposes of this section would be better served by such action.

"(h) The Secretary shall design and implement an information management system capable of processing and analyzing reports received from the programs established under subsections (c), (d), (e), and (f), and other relevant sources, including Federal and State enforcement authorities, marine mammal stranding networks, and the marine mammal researchers. The information shall be made accessible to the public on a continuing basis, but in any case no later than six months after it is received, subject to the provisions of subsection (j). Public information.

"(i) When carrying out the Secretary's responsibilities under subsections (b), (d), (e), (f), and (h) of this section, the Secretary shall, to the maximum extent practicable, utilize the services and programs of State agencies, Federal agencies (including programs established by Regional Fishery Management Councils), marine fisheries commissions, universities, and private entities, on a reimbursable basis or otherwise. The Secretary is authorized to enter into contracts and agreements to carry out his or her responsibilities and shall establish appropriate guidelines to ensure that other programs used or contracted for will meet the same standards as a program established by the Secretary. A person contracting with the Secretary to provide observer services under subsection (e) of this section must provide evidence of financial responsibility in an amount and form prescribed by the Secretary to compensate employees (or their survivors) adequately for any illness, disability, injury, or death from service on a vessel. Contracts.

"(j)(1) Any information collected under subsection (c), (d), (e), (f), or (h) of this section shall be confidential and shall not be disclosed except— Classified information.

"(A) to Federal employees whose duties require access to such information;

"(B) to State employees pursuant to an agreement with the Secretary that prevents public disclosure of the identity or business of any person;

"(C) when required by court order; or

"(D) in the case of scientific information involving fisheries, to employees of Regional Fishery Management Councils who are responsible for fishery management plan development and monitoring.

"(2) The Secretary shall prescribe such procedures as may be necessary to preserve such confidentiality, except that the Secretary shall release or make public any such information in aggregate, summary, or other form which does not directly or indirectly disclose the identity or business of any person. Public information.

"(k) The Secretary, in consultation with any other Federal agency to the extent that such agency may be affected, shall prescribe such regulations as necessary and appropriate to carry out the purposes of this section. Regulations.

"(l)(1) The Chairman of the Marine Mammal Commission shall, after consultation with interested parties and not later than February 1, 1990, transmit to the Secretary and make available to the public recommended guidelines to govern the incidental taking of marine mammals in the course of commercial fishing operations, other than those subject to section 104(h)(2), after October 1, 1993. Public information.

Such guidelines shall be developed by the Commission and its Committee of Scientific Advisers on Marine Mammals and shall—

"(A) be designed to provide a scientific rationale and basis for determining how many marine mammals may be incidentally taken under a regime to be adopted to govern such taking after October 1, 1993;

"(B) be based on sound principles of wildlife management, and be consistent with and in furtherance of the purposes and policies set forth in this Act; and

"(C) to the maximum extent practicable, include as factors to be considered and utilized in determining permissible levels of such taking—

"(i) the status and trends of the affected marine mammal population stocks;

"(ii) the abundance and annual net recruitment of such stocks;

"(iii) the level of confidence in the knowledge of the affected stocks; and

"(iv) the extent to which incidental taking will likely cause or contribute to their decline or prevent their recovery to optimum sustainable population levels.

"(2) The Secretary shall advise the Chairman of the Commission in writing if the Secretary determines that any additional information or explanation of the Chairman's recommendations is needed, and the Chairman shall respond in writing to any such request by the Secretary.

Federal Register, publication.

"(3) On or before February 1, 1991, the Secretary, after consultation with the Marine Mammal Commission, Regional Fishery Management Councils, and other interested governmental and nongovernmental organizations, shall publish in the Federal Register, for public comment, the suggested regime that the Secretary considers should, if authorized by enactment of any additional legislation, govern incidental taking of marine mammals, other than those subject to section 104(h)(2), after October 1, 1993. The suggested regime shall include—

"(A) the scientific guidelines to be used in determining permissible levels of incidental taking;

"(B) a description of the arrangements for consultation and cooperation with other Federal agencies, the appropriate Regional Fishery Management Councils and States, the commercial fishing industry, and conservation organizations; and

"(C) a summary of such regulations and legislation as would be necessary to implement the suggested regime.

"(4) On or before January 1, 1992, the Secretary, after consultation with the Marine Mammal Commission, and consideration of public comment, shall transmit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives recommendations pertaining to the incidental taking of marine mammals, other than those subject to section 104(h)(2), after October 1, 1993. The recommendations shall include—

"(A) the suggested regime developed under paragraph (3) of this subsection as modified after comment and consultations;

"(B) a proposed schedule for implementing the suggested regime; and

"(C) such recommendations for additional legislation as the Secretary considers necessary or desirable to implement the suggested regime.

"(m) The Secretary shall consult with the Secretary of the Interior prior to taking actions or making determinations under this section that affect or relate to species or population stocks of marine mammals for which the Secretary of the Interior is responsible under this title.

"(n) For the purposes of this section, the owner of fixed or other commercial fishing gear that is deployed with or without the use of a vessel shall be deemed to be an owner of a vessel engaged in the fishery in which that gear is deployed.

"(o) As used in this section—

"(1) the term 'fishery' has the same meaning as it does in section 3(8) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(8)).

"(2) the term 'Secretary' means the Secretary of Commerce.

"(3) the term 'vessel engaged in a fishery' means a fishing vessel as defined in section 2101(11a) of title 46, United States Code, or a fish processing vessel as defined in section 2101(11b) of that title, which is engaged in fishery.

"(4) the term 'vessel of the United States' has the same meaning as it does in section 3(27) of the Magnuson Fishery Conservation and Management Act (16 U.S.C. 1802(27)).".

(b) Section 102(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(a)) is amended by striking "and 113" and inserting in lieu thereof the following: "113, and 114".

(c) The table of contents contained in the first section of the Marine Mammal Protection Act of 1972 is amended by striking:

"Sec. 114. Authorization of Appropriations."

and inserting in lieu thereof the following:

"Sec. 114. Interim Exemption for Commercial Fisheries.
"Sec. 115. Status Review; Conservation Plans.
"Sec. 116. Authorization of Appropriations.".

STATUS REVIEW

SEC. 3. (a) The Marine Mammal Protection Act of 1972 (16 U.S.C. 1361 et seq.) is amended by inserting immediately after section 114, as added by section 2 of this Act, the following new section:

"STATUS REVIEW; CONSERVATION PLANS

"SEC. 115. (a)(1) In any action by the Secretary to determine if a species or stock should be designated as depleted, or should no longer be designated as depleted, regardless of whether such action is taken on the initiative of the Secretary or in response to a petition for a status review, the Secretary shall only make such a determination by issuance of a rule, after notice and opportunity for public comment and after a call for information in accordance with paragraph (2). 16 USC 1383b.

"(2) The Secretary shall make any determination described in paragraph (1) solely on the basis of the best scientific information available. Prior to the issuance of a proposed rule concerning any such determination, the Secretary shall publish in the Federal Register a call to assist the Secretary in obtaining scientific information from individuals and organizations concerned with the con- Federal Register, publication.

servation of marine mammals, from persons in any industry which might be affected by the determination, and from academic institutions. In addition, the Secretary shall utilize, to the extent the Secretary determines to be feasible, informal working groups of interested parties and other methods to gather the necessary information.

Federal Register, publication. Public information.

"(3)(A) If the Secretary receives a petition for a status review as described in paragraph (1), the Secretary shall publish a notice in the Federal Register that such a petition has been received and is available for public review.

Federal Register, publication.

"(B) Within sixty days after receipt of the petition, the Secretary shall publish a finding in the Federal Register as to whether the petition presents substantial information indicating that the petitioned action may be warranted.

"(C) If the Secretary makes a positive finding under subparagraph (B), the Secretary shall include in the Federal Register notice, a finding that—

"(i) a review of the status of the species or stock will be commenced promptly; or

"(ii) a prompt review of the petition is precluded by other pending status determination petitions and that expeditious progress is being made to process pending status determination petitions under this title.

In no case after making a finding under this subparagraph shall the Secretary delay commencing a review of the status of a species or stock for more than one hundred and twenty days after receipt of the petition.

Federal Register, publication.

"(D) No later than two hundred and ten days after the receipt of the petition, the Secretary shall publish in the Federal Register a proposed rule as to the status of the species or stock, along with the reasons underlying the proposed status determination. Persons shall have at least sixty days to submit comments on such a proposed rule.

"(E) Not later than ninety days after the close of the comment period on a proposed rule issued under subparagraph (D), the Secretary shall issue a final rule on the status of the species or stock involved, along with the reasons for the status determination. If the Secretary finds with respect to such a proposed rule that there is substantial disagreement regarding the sufficiency or accuracy of the available information relevant to a status determination, the Secretary may delay the issuance of a final rule for a period of not more than six months for purposes of soliciting additional information.

"(F) Notwithstanding subparagraphs (D) and (E) of this paragraph and section 553 of title 5, United States Code, the Secretary may issue a final rule as to the status of a species or stock any time sixty or more days after a positive finding under subparagraph (B) if the Secretary determines there is substantial information available to warrant such final status determination and further delay would pose a significant risk to the well-being of any species or stock. Along with the final rule, the Secretary shall publish in the Federal Register detailed reasons for the expedited determination.

Federal Register, publication.

"(b)(1) The Secretary shall prepare conservation plans—

"(A) By December 31, 1989, for North Pacific fur seals;

"(B) by December 31, 1990, for Steller sea lions; and

"(C) as soon as possible, for any species or stock designated as depleted under this title, except that a conservation plan need

not be prepared if the Secretary determines that it will not promote the conservation of the species or stock.

"(2) Each plan shall have the purpose of conserving and restoring the species or stock to its optimum sustainable population. The Secretary shall model such plans on recovery plans required under section 4(f) of the Endangered Species Act of 1973 (16 U.S.C. 1533(f)).

"(3) The Secretary shall act expeditiously to implement each conservation plan prepared under paragraph (1). Each year, the Secretary shall specify in the annual report prepared under section 103(f) of this title what measures have been taken to prepare and implement such plans.".

TAKING OF PORPOISE IN TUNA FISHERY

Business and industry. Commerce and trade.

SEC. 4. (a) Section 101(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(2)) is amended—

(1) in subparagraph (A), by striking "and" at the end;

(2) in subparagraph (B)—

(A) in clause (ii), by striking the period at the end and inserting in lieu thereof a comma; and

(B) by adding at the end, flush with the margin, the following:

"except that the Secretary shall not find that the regulatory program, or the average rate of incidental taking by vessels, of a harvesting nation is comparable to that of the United States for purposes of clause (i) or (ii) of this paragraph unless—

"(I) the regulatory program of the harvesting nation includes, by no later than the beginning of the 1990 fishing season, such prohibitions against encircling pure schools of species of marine mammals, conducting sundown sets, and other activities as are made applicable to United States vessels;

"(II) the average rate of the incidental taking by vessels of the harvesting nation is no more than 2.0 times that of United States vessels during the same period by the end of the 1989 fishing season and no more than 1.25 times that of United States vessels during the same period by the end of the 1990 fishing season and thereafter;

"(III) the total number of eastern spinner dolphin (Stenella longirostris) incidentally taken by vessels of the harvesting nation during the 1989 and subsequent fishing seasons does not exceed 15 percent of the total number of all marine mammals incidentally taken by such vessels in such year and the total number of coastal spotted dolphin (Stenella attenuata) incidentally taken by such vessels in such seasons does not exceed 2 percent of the total number of all marine mammals incidentally taken by such vessels in such year;

"(IV) the rate of incidental taking of marine mammals by the vessels of the harvesting nation during the 1989 and subsequent fishing seasons is monitored by the porpoise mortality observer program of the Inter-American Tropical Tuna Commission or an equivalent international program in which the United States

participates and is based upon observer coverage that is equal to that achieved for United States vessels during the same period, except that the Secretary may approve an alternative observer program if the Secretary determines, no less than sixty days after publication in the Federal Register of the Secretary's proposal and reasons therefor, that such an alternative observer program will provide sufficiently reliable documentary evidence of the average rate of incidental taking by a harvesting nation; and

"(V) the harvesting nation complies with all reasonable requests by the Secretary for cooperation in carrying out the scientific research program required by section 104(h)(3) of this title;"; and

(3) by adding at the end the following new subparagraphs:

Exports.
Imports.

"(C) shall require the government of any intermediary nation from which yellowfin tuna or tuna products will be exported to the United States to certify and provide reasonable proof that it has acted to prohibit the importation of such tuna and tuna products from any nation from which direct export to the United States of such tuna and tuna products is banned under this section within sixty days following the effective date of such ban on importation to the United States; and

Imports.

"(D) shall, six months after importation of yellowfin tuna or tuna products has been banned under this section, certify such fact to the President, which certification shall be deemed to be a certification for the purposes of section 8(a) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(a)) for as long as such ban is in effect.".

International agreements.

(b) Paragraph (2) of section 108(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1378(a)) is amended to read as follows:

"(2) initiate—

"(A) negotiations as soon as possible with all foreign governments which are engaged in, or which have persons or companies engaged in, commercial fishing operations which are found by the Secretary to be unduly harmful to any species or population stock of marine mammal, for the purpose of entering into bilateral and multilateral treaties with such countries to protect marine mammals, with the Secretary of State to prepare a draft agenda relating to this matter for discussion at appropriate international meetings and forums; and

Conservation.

"(B) discussions with foreign governments whose vessels harvest yellowfin tuna with purse seines in the eastern tropical Pacific Ocean, for the purpose of concluding, through the Inter-American Tropical Tuna Commission or such other bilateral or multilateral institutions as may be appropriate, international arrangements for the conservation of marine mammals taken incidentally in the course of harvesting such tuna, which should include provisions for (i) cooperative research into alternative methods of locating and catching yellowfin tuna which do not involve the taking of marine mammals, (ii) cooperative research on the status of affected marine mammal population stocks, (iii) reliable monitoring of the number, rate, and species of marine mammals taken by vessels of harvesting nations, (iv) limitations on incidental take levels based upon the best

scientific information available, and (v) the use of the best marine mammal safety techniques and equipment that are economically and technologically practicable to reduce the incidental kill and serious injury of marine mammals to insignificant levels approaching a zero mortality and serious injury rate;".

(c) Section 108 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1378) is amended by adding at the end the following new subsection:

"(c) The Secretary shall include a description of the annual results of discussions initiated and conducted pursuant to subsection (a)(2)(B), as well as any proposals for further action to achieve the purposes of that subsection, in the report required under section 103(f) of this title.".

(d) Section 104(h)(2)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(h)(2)(B)) is amended by adding at the end the following new clauses:

"(iv) The Secretary shall, by January 1, 1989, prescribe regulations to ensure that the backdown procedure during sets of the purse seine net on marine mammals is completed and rolling of the net to sack up has begun no later than thirty minutes after sundown. The Secretary may waive or otherwise modify such regulations for— Regulations.

"(I) a designated certificate holder on an observed trip if the Secretary determines, based on observer reports, that such restriction is not necessary because the certificate holder has consistently utilized fishing techniques and equipment so as to result in an incidental marine mammal mortality rate during sundown sets that is no higher than the average such rate for the fleet during daylight sets; or

"(II) all certificate holders on observed trips if the Secretary determines that such restriction is not necessary because all certificate holders have developed and are utilizing fishing techniques and equipment that assure that the incidental marine mammal mortality rate during sundown sets will be no higher than such rate during daylight sets.

"(v) The Secretary may authorize, after public notice and opportunity for comment, designated certificate holders to conduct experimental fishing operations on observed trips, under such terms and conditions as the Secretary may prescribe, for the purpose of testing proposed improvements in fishing techniques and equipment that may reduce the incidental mortality of marine mammals in the course of commercial yellowfin tuna fishing operations, and the Secretary may waive such terms and conditions of the general permit and this section, other than the quotas on incidental taking of marine mammals and the prohibition against encircling pure schools of certain species of marine mammals, as the Secretary determines to be necessary and appropriate for the conduct of such experimental fishing.

"(vi) The Secretary, after public notice and opportunity for comment and consultation with the skippers' panel of experts established pursuant to the general permit, shall develop and implement by not later than the beginning of the 1990 fishing season a system of performance standards to maintain the diligence and proficiency of certificate holders in the use of the best marine mammal safety techniques and equipment that are

economically and technologically practicable. The system shall include such arrangements as are necessary for the identification of certificate holders whose incidental marine mammal mortality rate is consistently and substantially higher than the average rate of the fleet, and for the supplemental training and observation of such certificate holders, and provisions for suspension or revocation of certificates of inclusion of those certificate holders whose unacceptably high rate of incidental taking reflects a lack of diligence or proficiency in the use of the best marine mammal safety techniques and equipment.

Arms and munitions. Pests and pesticides. Regulations.

"(vii) It shall be unlawful to use any explosive devices other than class C explosive pest control devices in the course of commercial yellowfin tuna fishing subject to the general permit. The Secretary shall prescribe regulations, effective April 1, 1990, to prohibit or restrict the use of class C explosive pest control devices in the course of commercial yellowfin tuna fishing unless the Secretary determines, based on a study which the Secretary shall undertake, that the use of such devices does not result in physical impairment or increased mortality of marine mammals.

"(viii) During the 1989 and subsequent fishing seasons, each certificated vessel shall carry on every fishing trip subject to this subsection an official observer certified by the Secretary or by the Inter-American Tropical Tuna Commission for the purpose of conducting research and observing fishing operations unless, for reasons beyond the control of the Secretary, an observer is not available for such purpose. The Secretary may waive this requirement after the 1991 fishing season and establish a less extensive observer program if the Secretary, after notice and opportunity for comment, determines that such an alternative program will provide sufficiently reliable information.

"(ix) The Secretary shall annually convene meetings with representatives of conservation and environmental organizations, the commercial tuna fishing industry, and other interested persons for the purpose of discussing the results of efforts to reduce the incidental mortality and serious injury of marine mammals under this subsection as well as throughout the international fleet as a whole and developing plans for such efforts during the next year. On or before April 1, 1992, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a comprehensive report on the results of such efforts. The report shall discuss the results of the scientific research programs, performance standards, observer program, prohibition on sundown sets, development of alternative fishing techniques, and other efforts required by this section, and shall include recommendations for such action as the Secretary considers necessary and desirable to reduce further the total mortality and serious injury of marine mammals in the course of commercial yellowfin tuna fishing throughout the international fleet.".

Reports.

(e) Section 110(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1380(a)) is amended—

(1) immediately before "The Secretary" at the beginning of the first sentence, by inserting "(1)"; and

(2) by adding at the end the following new paragraph:

"(2) For purposes of identifying appropriate research into promising new methods of locating and catching yellowfin tuna without the incidental taking of marine mammals, the Secretary shall contract for an independent review of information pertaining to such potential alternative methods to be conducted by the National Academy of Sciences with individuals having scientific, technical, or other expertise that may be relevant to the identification of promising alternative fishing techniques. The Secretary shall request that the independent review be submitted to the Secretary on or before September 8, 1989, and the Secretary shall submit the report of the independent review, together with a proposed plan for research, development, and implementation of alternative fishing techniques, to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives on or before December 5, 1989.". Research and development. Contracts. Reports.

SCIENTIFIC RESEARCH AND PUBLIC DISPLAY PERMITS

SEC. 5. (a) Section 109(h) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1379(h)) is amended to read as follows:

"(h)(1) Nothing in this title shall prevent a Federal, State, or local government official or employee or a person designated under section 112(c) from taking, in the course of his or her duties as an official, employee, or designee, a marine mammal in a humane manner (including euthanasia) if such taking is for—

"(A) the protection or welfare of the mammal,

"(B) the protection of the public health and welfare, or Safety.

"(C) the nonlethal removal of nuisance animals.

"(2) Nothing in this title shall prevent the Secretary or a person designated under section 112(c) from importing a marine mammal into the United States if such importation is necessary to render medical treatment that is not otherwise available. Imports.

"(3) In any case in which it is feasible to return to its natural habitat a marine mammal taken or imported under circumstances described in this subsection, steps to achieve that result shall be taken.".

(b) Section 102(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(b)) is amended by adding at the end the following new sentence, flush with the margin:

"Notwithstanding the provisions of paragraphs (1) and (2), the Secretary may issue a permit for the importation of a marine mammal, if the Secretary determines that such importation is necessary for the protection or welfare of the animal.". Imports.

(c) Paragraph (1) of section 101(a) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)) is amended to read as follows:

"(1) Consistent with the provisions of section 104, permits may be issued by the Secretary for taking and importation for purposes of scientific research, public display, or enhancing the survival or recovery of a species or stock if—". Imports.

(d) Section 104(c) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1374(c)) is amended—

(1) by striking "display or scientific research" each place it appears and inserting in lieu thereof the following: "scientific research, public display, or enhancing the survival or recovery of a species or stock";

(2) by inserting "(1)" immediately after "(c)"; and

(3) by adding at the end the following new paragraphs:

"(2) A permit may be issued for public display purposes only to an applicant which offers a program for education or conservation purposes that, based on professionally recognized standards of the public display community, is acceptable to the Secretary and which submits with the permit application information indicating that the applicant's facilities are open to the public on a regularly scheduled basis and that access to the facilities is not limited or restricted other than by the charging of an admission fee.

"(3) A permit may be issued for scientific research purposes only to an applicant which submits with its permit application information indicating that the taking is required to further a bona fide scientific purpose and does not involve unnecessary duplication of research. No permit issued for purposes of scientific research shall authorize the killing of a marine mammal unless the applicant demonstrates that a nonlethal method for carrying out the research is not feasible. The Secretary shall not issue a permit for research which involves the lethal taking of a marine mammal from a species or stock designated as depleted, unless the Secretary determines that the results of such research will directly benefit that species or stock, or that such research fulfills a critically important research need.

"(4)(A) A permit may be issued for enhancing the survival or recovery of a species or stock only with respect to a species or stock for which the Secretary, after consultation with the Marine Mammal Commission and after notice and opportunity for public comment, has first determined that—

"(i) taking or importation is likely to contribute significantly to maintaining or increasing distribution or numbers necessary to ensure the survival or recovery of the species or stock; and

"(ii) taking or importation is consistent (I) with any conservation plan adopted by the Secretary under section 115(b) of this title or any recovery plan developed under section 4(f) of the Endangered Species Act of 1973 for the species or stock, or (II) if there is no conservation or recovery plan in place, with the Secretary's evaluation of the actions required to enhance the survival or recovery of the species or stock in light of the factors that would be addressed in a conservation plan or a recovery plan.

"(B) A permit issued in accordance with this paragraph may allow the captive maintenance of a marine mammal from a depleted species or stock only if the Secretary—

"(i) determines that captive maintenance is likely to contribute to the survival or recovery of the species or stock by maintaining a viable gene pool, increasing productivity, providing biological information, or establishing animal reserves;

"(ii) determines that the expected benefit to the affected species or stock outweighs the expected benefit of alternatives which do not require removal of animals from the wild; and

"(iii) requires that the marine mammal or its progeny be returned to the natural habitat of the species or stock as soon as feasible, consistent with the objectives of any applicable conservation plan or recovery plan, or of any evaluation by the Secretary under subparagraph (A).

The Secretary may allow the public display of such a marine mammal only if the Secretary determines that such display is incidental to the authorized maintenance and will not interfere with the attainment of the survival or recovery objectives.".

(e)(1) Section 101(a)(3)(B) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1371(a)(3)(B)) is amended by inserting, immediately after "scientific research purposes", the following: "or enhancing the survival or recovery of a species or stock".

(2) Section 102(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1372(b)) is amended by striking "research" and inserting in lieu thereof the following: "research, or for enhancing the survival or recovery of a species or stock,".

(3) Section 109(b) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1379(b)) is amended—

(A) in paragraph (1)(E), by striking "research and public display purposes" and inserting in lieu thereof the following: "research, public display, or enhancing the survival or recovery of a species or stock"; and

(B) in paragraph (3)(B)(ii), by striking "research or public display purposes" and inserting in lieu thereof the following: "research, public display, or enhancing the survival or recovery of a species or stock".

(4) Section 202(a)(2) of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1402(a)(2)) is amended by inserting, immediately after "scientific research", the following: ", public display, or enhancing the survival or recovery of a species or stock".

AUTHORIZATION OF APPROPRIATIONS

SEC. 6. Section 7 of the Act entitled "An Act to improve the operation of the Marine Mammal Protection Act of 1972, and for other purposes", approved October 9, 1981 (16 U.S.C. 1384 and 1407) is amended—

(1) in subsection (a), by adding at the end the following new sentence: "There are authorized to be appropriated to the Department of Commerce, for purposes of carrying out such functions and responsibilities as it may have been given under such title (other than section 114(e)(8)), $12,250,000 for fiscal year 1989, $12,740,000 for fiscal year 1990, $13,250,000 for fiscal year 1991, $13,780,000 for fiscal year 1992, and $14,331,000 for fiscal year 1993.";

(2) in subsection (b)—

(A) by striking "and" immediately after "1985,"; and

(B) by striking "and 1988" and inserting in lieu thereof the following: "1988, and 1989, $3,120,000 for fiscal year 1990, $3,240,000 for fiscal year 1991, $3,370,000 for fiscal year 1992, and $3,500,000 for fiscal year 1993"; and

(3) in subsection (c)—

(A) by striking "and" immediately after "1983,"; and

(B) by striking "and 1988" and inserting in lieu thereof the following: "1988, and 1989, $1,140,000 for fiscal year 1990, $1,190,000 for fiscal year 1991, $1,230,000 for fiscal year 1992, and $1,280,000 for fiscal year 1993".

STUDY ON MORTALITY OF ATLANTIC DOLPHIN

SEC. 7. (a) The Secretary of Commerce shall conduct a study regarding the east coast epidemic during 1987 and 1988 which has caused substantial mortality within the North Atlantic coastal population of Atlantic bottle-nosed dolphin. The study shall examine— Diseases. 16 USC 1361 note.

(1) the cause or causes of the epidemic;

(2) the effect of the epidemic on coastal and offshore populations of Atlantic bottle-nosed dolphin;

(3) the extent to which pollution may have contributed to the epidemic;

(4) whether other species and populations of marine mammals were affected by those factors which contributed to the epidemic; and

(5) any other matters pertaining to the causes and effects of the epidemic.

(b) On or before January 1, 1989, the Secretary shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Merchant Marine and Fisheries of the House of Representatives a plan for conducting the study required in subsection (a).

AMENDMENTS TO FISHERMEN'S PROTECTIVE ACT OF 1967

SEC. 8. Section 8(h)(4) of the Fishermen's Protective Act of 1967 (22 U.S.C. 1978(h)(4)) is amended to read as follows:

"(4) The term "fish products" means any aquatic species (including marine mammals and plants) and all products thereof exported from an offending country, whether or not taken by fishing vessels of such country, or packed, processed, or otherwise prepared for export in such country or within the jurisdiction thereof."

PRIBILOF ISLAND TRUST FUNDS

SEC. 9. Section 206(e)(1) of the Fur Seal Act of 1966 (16 U.S.C. 1166(e)(1)) is amended by adding at the end the following new sentence: "In addition, there are authorized to be appropriated to the Secretary $3,200,000 for fiscal year 1989 and $1,800,000 for fiscal year 1990 to be used for the purpose of funding the Saint Paul Island Trust, as established pursuant to subsection (a)(1) of this section, and $3,700,000 for fiscal year 1990 to be used for the purpose of funding the Saint George Trust, as established pursuant to subsection (a)(1).".

Appropriation authorization.

Approved November 23, 1988.

LEGISLATIVE HISTORY—H.R. 4189 (S. 2810):

HOUSE REPORTS: No. 100-970 (Comm. on Merchant Marine and Fisheries).
SENATE REPORTS: No. 100-592 accompanying S. 2810 (Comm. on Commerce, Science, and Transportation).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 14, considered and passed Senate, amended, in lieu of S. 2810.
Oct. 19, House concurred in Senate amendment with an amendment.
Oct. 21, Senate concurred in House amendment.

Public Law 100-712
100th Congress

An Act

To grant the consent of the Congress to the Southwestern Low-Level Radioactive Waste Disposal Compact.

Nov. 23, 1988
[H.R. 5232]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act. Environmental protection. 42 USC 2021d note.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Southwestern Low-Level Radioactive Waste Disposal Compact Consent Act".

SEC. 2. CONGRESSIONAL FINDING.

The Congress finds that the compact set forth in section 5 is in furtherance of the Low-Level Radioactive Waste Policy Act.

SEC. 3. CONDITIONS OF CONSENT TO COMPACT. 42 USC 2021d note.

The consent of the Congress to the compact set forth in section 5—

(1) shall become effective on the date of the enactment of this Act;

(2) is granted subject to the provisions of the Low-Level Radioactive Waste Policy Act; and

(3) is granted only for so long as the regional commission established in the compact complies with all of the provisions of such Act.

SEC. 4. CONGRESSIONAL REVIEW. 42 USC 2021d note.

The Congress may alter, amend, or repeal this Act with respect to the compact set forth in section 5 after the expiration of the 10-year period following the date of enactment of this Act, and at such intervals thereafter as may be provided in such compact.

SEC. 5. SOUTHWESTERN LOW-LEVEL RADIOACTIVE WASTE COMPACT. State listing.

In accordance with section 4(a)(2) of the Low-Level Radioactive Waste Policy Act (42 U.S.C. 2021d (a)(2)), the consent of Congress is given to the states of Arizona, California, and any eligible states, as defined in article VII of the Southwestern Low-Level Radioactive Waste Disposal Compact, to enter into such compact. Such compact is substantially as follows:

ARTICLE I.—COMPACT POLICY AND FORMATION

The party states hereby find and declare all of the following:

(A) The United States Congress, by enacting the Low-Level Radioactive Waste Policy Act, Public Law 96-573, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. sec. 2021b to 2021j, incl.), has encouraged the use of interstate compacts to provide for the establishment and operation of facilities for regional management of low-level radioactive waste.

(B) It is the purpose of this compact to provide the means for such a cooperative effort between or among party states to protect the citizens of the states and the states' environments.

(C) It is the policy of party states to this compact to encourage the reduction of the volume of low-level radioactive waste requiring disposal within the compact region.

Safety.

(D) It is the policy of the party states that the protection of the health and safety of their citizens and the most ecological and economical management of low-level radioactive wastes can be accomplished through cooperation of the states by minimizing the amount of handling and transportation required to dispose of these wastes and by providing facilities that serve the compact region.

(E) Each party state, if an agreement state pursuant to section 2021 of title 42 of the United States Code, or the Nuclear Regulatory Commission if not an agreement state, is responsible for the primary regulation of radioactive materials within its jurisdiction.

ARTICLE II.—DEFINITIONS

As used in this compact, unless the context clearly indicates otherwise, the following definitions apply:

(A) "Commission" means the Southwestern Low-Level Radioactive Waste Commission established in article III of this compact.

(B) "Compact region" or "region" means the combined geographical area within the boundaries of the party states.

(C) "Disposal" means the permanent isolation of low-level radioactive waste pursuant to requirements established by the Nuclear Regulatory Commission and the Environmental Protection Agency under applicable laws, or by a party state if the state hosts a disposal facility.

(D) "Generate," when used in relation to low-level radioactive waste, means to produce low-level radioactive waste.

(E) "Generator" means a person whose activity, excluding the management of low-level radioactive waste, results in the production of low-level radioactive waste.

(F) "Host county" means a county, or other similar political subdivision of a party state, in which a regional disposal facility is located or being developed.

(G) "Host state" means a party state in which a regional disposal facility is located or being developed. The state of California is the host state under this compact for the first thirty years from the date the California regional disposal facility commences operations.

(H) "Institutional control period" means that period of time in which the facility license is transferred to the disposal site owner in compliance with the appropriate regulations for long-term observation and maintenance following the postclosure period.

(I) "Low-level radioactive waste" means regulated radioactive material that meets all of the following requirements:

(1) The waste is not high-level radioactive waste, spent nuclear fuel, or by-product material (as defined in section 11e(2) of the Atomic Energy Act of 1954 (42 U.S.C. sec. 2014(e)(2))).

(2) The waste is not uranium mining or mill tailings.

(3) The waste is not any waste for which the Federal Government is responsible pursuant to subdivision (b) of section 3 of the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. sec. 2021c(b)).

(4) The waste is not an alpha emitting transuranic nuclide with a half-life greater than five years and with a concentration greater than one hundred nanocuries per gram, or plutonium-241 with a concentration greater than three thousand five hundred nanocuries per gram, or curium-242 with a concentration greater than twenty thousand nanocuries per gram.

(J) "Management" means collection, consolidation, storage, packaging, or treatment.

(K) "Major generator state" means a party state which generates 10 percent of the total amount of low-level radioactive waste produced within the compact region and disposed of at the regional disposal facility. If no party state other than California generates at least ten percent of the total amount, "Major generator state" means the party state which is second to California in the amount of waste produced within the compact region and disposed of at the regional disposal facility.

(L) "Operator" means a person who operates a regional disposal facility.

(M) "Party state" means any state that has become a party in accordance with article VII of this compact.

(N) "Person" means an individual, corporation, partnership, or other legal entity, whether public or private.

(O) "Postclosure period" means that period of time after completion of closure of a disposal facility during which the licensee shall observe, monitor, and carry out necessary maintenance and repairs at the disposal facility to assure that the disposal facility will remain stable and will not need ongoing active maintenance. This period ends with the beginning of the institutional control period.

(P) "Regional disposal facility" means a non-Federal low-level radioactive waste disposal facility established and operated under this compact.

(Q) "Site closure and stabilization" means the activities of the disposal facility operator taken at the end of the disposal facility's operating life to assure the continued protection of the public from any residual radioactive or other potential hazards present at the disposal facility.

(R) "Transporter" means a person who transports low-level radioactive waste.

(S) "Uranium mine and mill tailings" means waste resulting from mining and processing of ores containing uranium.

ARTICLE III.—THE COMMISSION

(a) There is hereby established the Southwestern Low-Level Radioactive Waste Commission. Establishment.

(1) The Commission shall consist of one voting member from each party state to be appointed by the governor, confirmed by the senate of that party state, and to serve at the pleasure of the governor of each party state, and one voting member from the host county. The appointing authority of each party state shall notify the Commission in writing of the identity of the member

and of any alternates. An alternate may act in the member's absence.

(2) The host state shall also appoint that number of additional voting members of the commission which is necessary for the host state's members to compose at least 51 percent of the membership on the Commission. The host state's additional members shall be appointed by the host state governor and confirmed by the host state senate.

If there is more than one host state, only the state in which is located the regional disposal facility actively accepting low-level radioactive waste pursuant to this compact may appoint these additional members.

(3) If the host county has not been selected at the time the commission is appointed, the governor of the host state shall appoint an interim local government member, who shall be an elected representative of a local government. After a host county is selected, the interim local government member shall resign and the governor shall appoint the host county member pursuant to paragraph (4).

(4) The governor shall appoint the host county member from a list of at least seven candidates compiled by the board of supervisors of the host county.

(5) In recommending and appointing the host county member pursuant to paragraph (4), the board of supervisors and the governor shall give first consideration to recommending and appointing the members of the board of supervisors in whose district the regional disposal facility is located or being developed. If the board of supervisors of the host county does not provide a list to the governor of at least seven candidates from which to choose, the governor shall appoint a resident of the host county as the host county member.

(6) The host county member is subject to confirmation by the senate of that party and shall serve at the pleasure of the governor of the host state.

(b) The Commission is a legal entity separate and distinct from the party states and shall be so liable for its actions. Members of the Commission shall not be personally liable for actions taken in their official capacity. The liabilities of the commission shall not be deemed liabilities of the party states.

(c) The Commission shall conduct its business affairs pursuant to the laws of the host state and disputes arising out of Commission action shall be governed by the laws of the host state. The Commission shall be located in the capital city of the host state in which the regional disposal facility is located.

Records. Public information.

(d) The Commission's records shall be subject to the host state's public records law, and the meetings of the Commission shall be open and public in accordance with the host state's open meeting law.

(e) The Commission members are public officials of the appointing state and shall be subject to the conflict of interest laws, as well as any other law, of the appointing state. The Commission members shall be compensated according to the appointing state's law.

(f) Each Commission member is entitled to one vote. A majority of the Commission constitutes a quorum. Unless otherwise provided in this capacity, a majority of the total number of votes on the Commission is necessary for the Commission to take any action.

(g) The Commission has all of the following duties and authority:

(1) The Commission shall do, pursuant to the authority granted by this compact, whatever is reasonably necessary to ensure that low-level radioactive wastes are safely disposed of and managed within the region.

(2) The Commission shall meet at least once a year and otherwise as business requires.

(3) The Commission shall establish a compact surcharge to be imposed upon party state generators. The surcharge shall be based upon the cubic feet of low-level radioactive waste and the radioactivity of the low-level radioactive waste and shall be collected by the operator of the disposal facility.

The host state shall set, and the Commission shall impose, the surcharge after congressional approval of the compact. The amount of the surcharge shall be sufficient to establish and maintain at a reasonable level funds for all of the following purposes:

(A) The activities of the Commission and Commission staff.

(B) At the discretion of the host state, a third-party liability fund to provide compensation for injury to persons or property during the operational, closure, stabilization, and postclosure and institutional control periods of the regional disposal facility. This subparagraph does not limit the responsibility or liability of the operator, who shall comply with any federal or host state statutes or regulations regarding third-party liability claims.

(C) A local government reimbursement fund, for the purpose of reimbursing the local government entity or entities hosting the regional disposal facility for any costs or increased burdens on the local governmental entity for services, including, but not limited to, general fund expenses, the improvement and maintenance of roads and bridges, fire protection, law enforcement, monitoring by local health officials, and emergency preparation and response related to the hosting of the regional disposal facility.

(4) The surcharges imposed by the Commission for purposes of subparagraphs (b) and (c) of paragraph (3) and surcharges pursuant to paragraph (3) of subdivision (E) of article IV shall be transmitted on a monthly basis to the host state for distribution to the proper accounts.

(5) The Commission shall establish a fiscal year which conforms to the fiscal years of the party states to the extent possible.

(6) The Commission shall keep an accurate account of all receipts and disbursements. An annual audit of the books of the Commission shall be conducted by an independent certified public accountant, and the audit report shall be made a part of the annual report of the Commission. Records.

(7) The Commission shall prepare and include in the annual report a budget showing anticipated receipts and disbursements for the subsequent fiscal year. Reports.

(8) The Commission may accept any grants, equipment, supplies, materials, or services, conditional or otherwise, from the federal or state government. The nature, amount and condition, if any, of any donation, grant, or other resources accepted pursuant to this paragraph and the identity of the donor or grantor shall be detailed in the annual report of the Commission. Gifts and property.

However, the host state shall receive, for the uses specified in subparagraph (E) of paragraph (2) of subsection (d) of section

2021e of title 42 of the United States Code, any payments paid from the special escrow account for which the Secretary of Energy is trustee pursuant to subparagraph (A) of paragraph (2) of subsection (d) of section 2021e of title 42 of the United States Code.

Reports.

(9) The Commission shall submit communications to the governors to the presiding officers of the legislatures of the party States regarding the activities of the Commission, including an annual report to be submitted on or before January 15 of each year. The Commission shall include in the annual report a review of, and recommendations for, low-level radioactive waste disposal methods which are alternative technologies to the shallow land burial of low-level radioactive waste.

Public information.

(10) The Commission shall assemble and make available to the party states, and to the public, information concerning low-level radioactive waste management needs, technologies, and problems.

Records.

(11) The Commission shall keep a current inventory of all generators within the region, based upon information provided by the party states.

Records.

(12) The Commission shall keep a current inventory of all regional disposal facilities, including information on the size, capacity, location, specific low-level radioactive wastes capable of being managed, and the projected useful life of each regional disposal facility.

(13) The Commission may establish advisory committees for the purpose of advising the Commission on the disposal and management of low-level radioactive waste.

(14) The Commission may enter into contracts to carry out its duties and authority, subject to projected resources. No contract made by the Commission shall bind a party state.

(15) The Commission shall prepare contingency plans, with the cooperation and approval of the host state, for the disposal and management of low-level radioactive waste in the event that any regional disposal facility should be closed.

(16) The Commission may sue and be sued and, when authorized by a majority vote of the members, may seek to intervene in an administrative or judicial proceeding related to this compact.

(17) The Commission shall be managed by an appropriate staff, including an executive director. Notwithstanding any other provision of law, the Commission may hire or retain, or both, legal counsel.

(18) The Commission may, subject to applicable federal and state laws, recommend to the appropriate host state authority suitable land and rail transportation routes for low-level radioactive waste carriers.

(19) The Commission may enter into an agreement to import low-level radioactive waste into the region only if both of the following requirements are met—

(a) The Commission approves the importation agreement by a two-thirds vote of the Commission.

(b) The Commission and the host state assess the affected regional disposal facilities' capability to handle imported low-level radioactive wastes and any relevant environmental or economic factors, as defined by the host state's appropriate regulatory authorities.

(20) The Commission may, upon petition, allow an individual generator, a group of generators, or the host state of the compact, to export low-level radioactive wastes to a low-level radioactive waste disposal facility located outside the region. The Commission may approve the petition only by a two-thirds vote of the Commission. The permission to export low-level radioactive wastes shall be effective for that period of time and for the amount of low-level radioactive waste, and subject to any other term or condition, which may be determined by the Commission.

(21) The Commission may approve, only by a two-thirds vote of the Commission, the exportation outside the region of material, which otherwise meets the criteria of low-level radioactive waste, if the sole purpose of the exportation is to process the material for recycling.

(22) The Commission shall, not later than 10 years before the closure of the initial or subsequent regional disposal facility, prepare a plan for the establishment of the next regional disposal facility.

ARTICLE IV.—RIGHTS, RESPONSIBILITIES, AND OBLIGATIONS OF PARTY STATES

(A) There shall be regional disposal facilities sufficient to dispose of the low-level radioactive waste generated within the region.

(B) Low-level radioactive waste generated within the region shall be disposed of at regional disposal facilities and each party state shall have access to any regional disposal facility without discrimination.

(C)(1) Upon the effective date of this compact, the state of California shall serve as the host state and shall comply with the requirements of subdivision (E) for at least 30 years from the date the regional disposal facility begins to accept low-level radioactive waste for disposal. The extension of the obligation and duration shall be at the option of the state of California.

If the state of California does not extend this obligation, the party state, other than the state of California, which is the largest major generator state shall then serve as the host state for the second regional disposal facility.

The obligation of a host state which hosts the second regional disposal facility shall also run for thirty years from the date the second regional disposal facility begins operations.

(2) The host state may close its regional disposal facility when necessary for public health or safety. Safety.

(D) The party states of this compact cannot be members of another regional low-level radioactive waste compact entered into pursuant to the Low-Level Radioactive Waste Policy Act, as amended by the Low-Level Radioactive Waste Policy Amendments Act of 1985 (42 U.S.C. secs. 2021b to 2021j, incl.).

(E) A host state shall do all of the following:

(1) Cause a regional disposal facility to be developed on a timely basis.

(2) Ensure by law, consistent with any applicable federal laws, the protection and preservation of public health and safety in the siting, design, development, licensing, regulation, operation, closure, decommissioning, and long-term care of the regional disposal facilities within the state. Safety.

(3) Ensure that charges for disposal of low-level radioactive waste at the regional disposal facility are reasonably sufficient to do all of the following:

(a) Ensure the safe disposal of low-level radioactive waste and long-term care of the regional disposal facility.

(b) Pay for the cost of inspection, enforcement, and surveillance activities at the regional disposal facility.

(c) Assure that charges are assessed without discrimination as to the party state of origin.

Reports.

(4) Submit an annual report to the Commission on the status of the regional disposal facility including projections of the facility's anticipated future capacity.

(5) The host state and the operator shall notify the Commission immediately upon the occurrence of any event which could cause a possible temporary or permanent closure of a regional disposal facility.

Commerce and trade. Transportation. Utilities.

(f) Each party state is subject to the following duties and authority:

(1) To the extent authorized by federal law, each party state shall develop and enforce procedures requiring low-level radioactive waste shipments originating within its borders and destined for a regional disposal facility to conform to packaging and transportation requirements and regulations. These procedures shall include, but are not limited to, all of the following requirements:

(a) Periodic inspections of packaging and shipping practices.

(b) Periodic inspections of low-level radioactive waste containers while in the custody of transporters.

(c) Appropriate enforcement actions with respects to violations.

(2) A party state may impose a surcharge on the low-level radioactive waste generators within the state to pay for activities required by paragraph (1).

(3) To the extent authorized by federal law, each party state shall, after receiving notification from a host state that a person in a party state has violated packaging, shipping, or transportation requirements or regulations, take appropriate actions to ensure that these violations do not continue. Appropriate actions may include, but are not limited to, requiring that a bond be posted by the violator to pay the cost of repackaging at the regional disposal facility and prohibit future shipments to the regional disposal facility.

Records.

(4) Each party state shall maintain a registry of all generators within the state that may have low-level radioactive waste to be disposed of at a regional disposal facility, including, but not limited to, the amount of low-level radioactive waste and the class of low-level radioactive waste generated by each generator.

(5) Each party state shall encourage generators within its borders to minimize the volume of low-level radioactive waste requiring disposal.

(6) Each party state may rely on the good faith performance of the other party states to perform those acts which are required by this compact to provide regional disposal facilities, including the use of the regional disposal facilities in a manner consistent with this compact.

(7) Each party state shall provide the Commission with any data and information necessary for the implementation of the Commission's responsibilities, including taking those actions necessary to obtain this data or information.

(8) Each party state shall agree that only low-level radioactive waste generated within the jurisdiction of the party states shall be disposed of in the regional disposal facility, except as provided in paragraph (19) of subdivision (G) of article III.

(9) Each party state shall agree that if there is any injury to persons or property resulting from the operation of a regional disposal facility, the damages resulting from the injury may be paid from the third-party liability fund pursuant to subparagraph (b) of paragraph (3) of subdivision (G) of article III, only to the extent that the damages exceed the limits of liability insurance carried by the operator. No party state, by joining this compact, assumes any liability resulting from the siting, operation, maintenance, long-term care, or other activity relating to a regional facility, and no party state shall be liable for any harm or damage resulting from a regional facility not located within the state.

ARTICLE V.—APPROVAL OF REGIONAL FACILITIES

A regional disposal facility shall be approved by the host state in accordance with its laws. This compact does not confer any authority on the Commission regarding the siting, design, development, licensing, or other regulation, or the operation, closure, decommissioning, or long-term care of, any regional disposal facility within a party state.

ARTICLE VI.—PROHIBITED ACTS AND PENALTIES

(A) No person shall dispose of low-level radioactive waste within the region unless the disposal is at a regional disposal facility, except as otherwise provided in paragraphs (20) and (21) of subdivision (G) of article III.

(B) No person shall dispose of or manage any low-level radioactive waste within the region unless the low-level radioactive waste was generated within the region, except as provided in paragraphs (19), (20), and (21) of subdivision (G) of article III.

(C) Violations of this section shall be reported to the appropriate law enforcement agency within the party state's jurisdiction.

(D) Violations of this section may result in prohibiting the violator from disposing of low-level radioactive waste in the regional disposal facility, as determined by the Commission or the host state.

ARTICLE VII.—ELIGIBILITY, ENTRY INTO EFFECT, CONGRESSIONAL CONSENT, WITHDRAWAL, EXCLUSION

(A) The states of Arizona, North Dakota, South Dakota, and California are eligible to become parties to this compact. Any other state may be made eligible by a majority vote of the commission and ratification by the legislatures of all of the party states by statute, and upon compliance with those terms and conditions for eligibility which the host state may establish. The host state may establish all terms and conditions for the entry of any state, other than the states named in this subparagraph, as a member of this compact.

(B) Upon compliance with the other provisions of this compact, an eligible state may become a party state by legislative enactment of this compact or by executive order of the governor of the state adopting this compact. A state becoming a party state by executive order shall cease to be a party state upon adjournment of the first general session of its legislature convened after the executive order is issued, unless before the adjournment the legislature enacts this compact.

(C) A party state, other than the host state, may withdraw from the compact by repealing the enactment of this compact, but this withdrawal shall not become effective until two years after the effective date of the repealing legislation. If a party state which is a major generator of low-level radioactive waste voluntarily withdraws from the compact pursuant to this subdivision, that state shall make arrangements for the disposal of the other party states' low-level radioactive waste for a time period equal the period of time it was a member of this compact.

If the host state withdraws from the compact, the withdrawal shall not become effective until five years after the effective date of the repealing legislation.

(D) A party state may be excluded from this compact by a two-thirds vote of the Commission members, acting in a meeting, if the state to be excluded has failed to carry out any obligations required by compact.

Effective date.

(E) This compact shall take effect upon the enactment by statute by the legislatures of the state of California and at least 1 other eligible state and upon the consent of Congress and shall remain in effect until otherwise provided by federal law. This compact is subject to review by Congress and the withdrawal of the consent of Congress every 5 years after its effective date, pursuant to federal law.

ARTICLE VIII.—CONSTRUCTION AND SEVERABILITY

(A) The provisions of this compact shall be broadly construed to carry out the purposes of the compact, but the sovereign powers of a party state shall not be infringed unnecessarily.

(B) This compact does not affect any judicial proceeding pending on the effective date of this compact.

(C) If any provision of this compact or the application thereof to any person or circumstances is held invalid, that invalidity shall not affect other provision or applications of the compact which can be given effect without the invalid provision or application, and to this end the provisions of this compact are severable.

(D) Nothing in this compact diminishes or otherwise impairs the jurisdiction, authority, or discretion of either of the following:

(1) The Nuclear Regulatory Commission pursuant to the Atomic Energy Act of 1954, as amended (42 U.S.C. sec. 2011 et seq.).

(2) An agreement state under section 274 of the Atomic Energy Act of 1954, as amended (42 U.S.C. sec. 2021).

(E) Nothing in this compact confers any new authority on the states or Commission to do any of the following:

(1) Regulate the packaging or transportation of low-level radioactive waste in a manner inconsistent with the regulations

of the Nuclear Regulatory Commission or the United States Department of Transportation.

(2) Regulate health, safety, or environmental hazards from source, by-product, or special nuclear material.

(3) Inspect the activities of licensees of the agreement states or of the Nuclear Regulatory Commission.

Approved November 23, 1988.

LEGISLATIVE HISTORY—H.R. 5232:

HOUSE REPORTS: No. 100-931, Pt. 1 (Comm. on Interior and Insular Affairs) and Pt. 2 (Comm. on Energy and Commerce).
CONGRESSIONAL RECORD, Vol. 134 (1988):
Sept. 26, considered and passed House.
Oct. 21, considered and passed Senate.

Public Law 100-713
100th Congress

An Act

Nov. 23, 1988
[H.R. 5261]

To reauthorize and amend the Indian Health Care Improvement Act, and for other purposes.

Indian Health Care Amendments of 1988.
Appropriation authorizations.
25 USC 1601 note.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SHORT TITLE

SECTION 1. This Act may be cited as the "Indian Health Care Amendments of 1988".

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REFERENCES

SEC. 3. Except as otherwise specifically provided, whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or a repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Indian Health Care Improvement Act (25 U.S.C. 1601, et seqq.).

APPROPRIATION; AVAILABILITY

SEC. 4. Any new spending authority (described in subsection (c)(2)(A) or (B) of section 401 of the Congressional Budget Act of 1974) which is provided under this Act shall be effective for any fiscal year only to such extent or in such amounts as are provided in appropriation Acts. 25 USC 1601 note.

TITLE I—INDIAN HEALTH MANPOWER

HEALTH PROFESSIONS RECRUITMENT PROGRAM FOR INDIANS

SEC. 101. Subsection (c) of section 102 (25 U.S.C. 1612 (c)) is amended to read as follows:

"(c) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $600,000 for fiscal year 1989,
"(2) $650,000 for fiscal year 1990,
"(3) $700,000 for fiscal year 1991, and
"(4) $750,000 for fiscal year 1992.".

HEALTH PROFESSIONS PREPARATORY SCHOLARSHIP PROGRAM

SEC. 102. (a) Section 103 (25 U.S.C. 1613) is amended by striking out subsection (d) and inserting in lieu thereof the following:

"(d) The Secretary shall not deny scholarship assistance to an eligible applicant under this section solely on the basis of the applicant's scholastic achievement if such applicant has been admitted to, or maintained good standing at, an accredited institution.

"(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $3,000,000 for fiscal year 1989,

"(2) $3,700,000 for fiscal year 1990,

"(3) $4,400,000 for fiscal year 1991, and

"(4) $5,100,000 for fiscal year 1992.".

25 USC 1613. (b) Subsection (c) of section 103 is amended by striking out "expenses" and inserting in lieu thereof "expenses of a grantee while attending school full time".

INDIAN HEALTH SERVICE EXTERN PROGRAMS

SEC. 103. Subsection (d) of section 105 (25 U.S.C. 1614) is amended to read as follows:

"(d) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $300,000 for fiscal year 1989,

"(2) $350,000 for fiscal year 1990,

"(3) $400,000 for fiscal year 1991, and

"(4) $450,000 for fiscal year 1992.".

INDIAN HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

25 USC 1613a. SEC. 104. (a) Section 104 is amended to read as follows:

"INDIAN HEALTH PROFESSIONS SCHOLARSHIPS

"SEC. 104. (a) In order to provide health professionals to Indian communities, the Secretary, acting through the Service and in accordance with this section, shall make scholarship grants to Indians who are enrolled full time in appropriately accredited schools of medicine, osteopathy, podiatry, psychology, dentistry, environmental health and engineering, nursing, optometry, public health, allied health professions, and social work. Such scholarships shall be designated Indian Health Scholarships and shall be made in accordance with section 338A of the Public Health Service Act (42 U.S.C. 254l), except as provided in subsection (b) of this section.

"(b)(1) The Secretary, acting through the Service, shall determine who shall receive scholarships under subsection (a) and shall determine the distribution of such scholarships among such health professions on the basis of the relative needs of Indians for additional service in such health professions.

"(2) An individual shall be eligible for a scholarship under subsection (a) in any year in which such individual is enrolled full time in a health profession school referred to in subsection (a).

"(3) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by a recipient of an Indian Health Scholarship by service—

"(A) in the Indian Health Service;

"(B) in a program conducted under a contract entered into under the Indian Self-Determination Act;

"(C) in a program assisted under title V of this Act; or

"(D) in the private practice of the applicable profession if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"(c) For purposes of this section, the term 'Indian' has the same meaning given that term by subsection (c) of section 4 of this Act, including all individuals described in clauses (1) through (4) of that subsection.

"(d) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $5,100,000 for fiscal year 1989,

"(2) $6,000,000 for fiscal year 1990,

"(3) $7,100,000 for fiscal year 1991, and

"(4) $8,234,000 for fiscal year 1992.".

(b)(1) Section 338I of the Public Health Service Act (42 U.S.C. 254r) is repealed.

(2) Scholarships that have been provided under section 338I of the Public Health Service Act (42 U.S.C. 254r) on or before the date of enactment of this Act— 42 USC 254r note.

(A) shall continue to be provided under the provisions of such section that were in effect on the day before the date of enactment of this Act,

(B) shall be subject to the same terms and conditions to which such scholarships were subject on the day before the date of enactment of this Act, and

(C) shall be funded from funds appropriated to carry out section 104 of the Indian Health Care Improvement Act, as amended by this Act.

CONTINUING EDUCATION ALLOWANCES

SEC. 105. Subsection (b) of section 106 (25 U.S.C. 1615(b)) is amended to read as follows:

"(b) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $500,000 for fiscal year 1989,

"(2) $526,300 for fiscal year 1990,

"(3) $553,800 for fiscal year 1991, and

"(4) $582,500 for fiscal year 1992.".

NATIVE HAWAIIAN HEALTH PROFESSIONS SCHOLARSHIP PROGRAM

SEC. 106. Subpart III of part D of title III of the Public Health Service Act (42 U.S.C. 254b, et seq.) is amended by adding at the end thereof the following new section:

"SEC. 338J. NATIVE HAWAIIAN HEALTH SCHOLARSHIPS. 42 USC 254s.

"(a) Subject to the availability of funds appropriated under the authority of subsection (d), the Secretary shall provide scholarship assistance, pursuant to a contract with the Kamehameha Schools/ Bishop Estate, to students who—

"(1) meet the requirements of section 338A(b), and

"(2) are Native Hawaiians.

"(b)(1) The scholarship assistance provided under subsection (a) shall be provided under the same terms and subject to the same conditions, regulations, and rules that apply to scholarship assistance provided under section 338A.

"(2) The Native Hawaiian Health Scholarship program shall not be administered by or through the Indian Health Service.

"(c) For purposes of this section, the term 'Native Hawaiian' means any individual who is—

"(1) a citizen of the United States,

"(2) a resident of the State of Hawaii, and

"(3) a descendant of the aboriginal people, who prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—

"(A) genealogical records,

"(B) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

"(C) birth records of the State of Hawaii.

"(d) There are authorized to be appropriated $1,800,000 for each of the fiscal years 1990, 1991, and 1992 for the purpose of funding the scholarship assistance provided under subsection (a).".

COMMUNITY HEALTH REPRESENTATIVES

SEC. 107. Title I is amended by adding at the end thereof the following new section:

"COMMUNITY HEALTH REPRESENTATIVE PROGRAM

25 USC 1616.

"SEC. 107. (a) Under the authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary shall maintain a Community Health Representative Program under which the Service—

"(1) provides for the training of Indians as health paraprofessionals, and

"(2) uses such paraprofessionals in the provision of health care, health promotion, and disease prevention services to Indian communities.

"(b) The Secretary, acting through the Community Health Representative Program of the Service, shall—

"(1) provide a high standard of training for paraprofessionals to Community Health Representatives to ensure that the Community Health Representatives provide quality health care, health promotion, and disease prevention services to the Indian communities served by such Program,

"(2) in order to provide such training, develop a curriculum that—

"(A) combines education in the theory of health care with supervised practical experience in the provision of health care, and

"(B) provides instruction and practical experience in health promotion and disease prevention activities,

"(3) develop a system which identifies the needs of Community Health Representatives for continuing education in health care, health promotion, and disease prevention and develop programs that meet the needs for such continuing education,

"(4) develop and maintain a system that provides close supervision of Community Health Representatives,

"(5) develop a system under which the work of Community Health Representatives is reviewed and evaluated, and

"(6) promote traditional health care practices of the Indian tribes served consistent with the Service standards for the provision of health care, health promotion, and disease prevention.".

INDIAN HEALTH SERVICE CLINICAL STAFFING

SEC. 108. Title I, as amended by section 107 of this Act, is further amended by adding at the end thereof the following new sections:

"INDIAN HEALTH SERVICE LOAN REPAYMENT PROGRAM

"SEC. 108. (a)(1) The Secretary, acting through the Service, shall establish a program to be known as the Indian Health Service Loan Repayment Program (hereinafter referred to as the 'Loan Repayment Program') in order to assure an adequate supply of trained physicians, dentists, nurses, nurse practitioners, physician assistants, clinical and counseling psychologists, graduates of schools of public health, graduates of schools of social work, and other health professionals necessary to maintain accreditation of, and provide health care services to Indians through, Indian health programs. 25 USC 1616a.

"(2) For the purposes of this section—

"(A) the term 'Indian health program' means any health program or facility funded, in whole or part, by the Service for the benefit of Indians and administered—

"(i) directly by the Service;

"(ii) by any Indian tribe or tribal or Indian organization pursuant to a contract under—

"(I) the Indian Self-Determination Act, or

"(II) section 23 of the Act of April 30, 1908 (25 U.S.C. 47), popularly known as the 'Buy-Indian' Act; or

"(iii) by an urban Indian organization pursuant to title V of this Act; and

"(B) the term 'State' has the same meaning given such term in section 331(i)(4) of the Public Health Service Act.

"(b) To be eligible to participate in the Loan Repayment Program, an individual must—

"(1)(A) be enrolled—

"(i) as a full-time student in the final year of a course of study or program in an accredited institution, as determined by the Secretary, within any State; or

"(ii) in an approved graduate training program in medicine, osteopathy, dentistry, or other health profession; or

"(B) have—

"(i) a degree in medicine, osteopathy, dentistry, or other health profession;

"(ii) completed an approved graduate training program in medicine, osteopathy, dentistry, or other health profession in a State, except that the Secretary may waive the completion requirement of this clause for good cause; and

"(iii) a license to practice medicine, osteopathy, dentistry, or other health profession in a State;

"(2)(A) be eligible for, or hold, an appointment as a commissioned officer in the Regular or Reserve Corps of the Public Health Service;

"(B) be eligible for selection for civilian service in the Regular or Reserve Corps of the Public Health Service;

"(C) meet the professional standards for civil service employment in the Indian Health Service; or

"(D) be employed in an Indian health program without a service obligation;

"(3) submit an application to participate in the Loan Repayment Program; and

Contracts.

"(4) sign and submit to the Secretary, at the time of submission of such application, a written contract (described in subsection (f)) to accept repayment of educational loans and to serve (in accordance with this section) for the applicable period of obligated service in an Indian health program.

Contracts.

"(c)(1) In disseminating application forms and contract forms to individuals desiring to participate in the Loan Repayment Program, the Secretary shall include with such forms a fair summary of the rights and liabilities of an individual whose application is approved (and whose contract is accepted) by the Secretary, including in the summary a clear explanation of the damages to which the United States is entitled under subsection (l) in the case of the individual's breach of the contract. The Secretary shall provide such individuals with sufficient information regarding the advantages and disadvantages of service as a commissioned officer in the Regular or Reserve Corps of the Public Health Service or a civilian employee of the Indian Health Service to enable the individual to make a decision on an informed basis.

"(2) The application form, contract form, and all other information furnished by the Secretary under this section shall be written in a manner calculated to be understood by the average individual applying to participate in the Loan Repayment Program.

"(3) The Secretary shall make such application forms, contract forms, and other information available to individuals desiring to participate in the Loan Repayment Program on a date sufficiently early to ensure that such individuals have adequate time to carefully review and evaluate such forms and information.

"(d)(1) The Secretary, acting through the Service and in accordance with subsection (k), shall annually—

"(A) identify the positions in each Indian Health program for which there is a need or a vacancy, and

"(B) rank those positions in order of priority.

"(2) Consistent with the priority determined under paragraph (1), the Secretary, in determining which applications under the Loan Repayment Program to approve (and which contracts to accept), shall give priority to applications made by—

"(A) Indians; and

"(B) individuals recruited through the efforts of Indian tribes or tribal or Indian organizations.

Contracts.

"(e)(1) An individual becomes a participant in the Loan Repayment Program only on the Secretary's approval of the individual's application submitted under subsection (b)(3) and the Secretary's acceptance of the contract submitted by the individual under subsection (b)(4).

"(2) The Secretary shall provide written notice to an individual promptly on—

"(A) the Secretary's approving, under paragraph (1), of the individual's participation in the Loan Repayment Program; or

"(B) the Secretary's disapproving an individual's participation in such Program.

Contracts.

"(f) The written contract referred to in this section between the Secretary and an individual shall contain—

"(1) an agreement under which—

"(A) subject to paragraph (3), the Secretary agrees—

"(i) to pay loans on behalf of the individual in accordance with the provisions of this section, and

"(ii) to accept (subject to the availability of appropriated funds for carrying out this section) the individual into the Service or place the individual with a tribe or Indian organization as provided in subparagraph (B)(iii), and

"(B) subject to paragraph (3), the individual agrees—

"(i) to accept loan payments on behalf of the individual;

"(ii) in the case of an individual described in subsection (b)(1)—

"(I) to maintain enrollment in a course of study or training described in subsection (b)(1)(A) until the individual completes the course of study or training, and

"(II) while enrolled in such course of study or training, to maintain an acceptable level of academic standing (as determined under regulations of the Secretary by the educational institution offering such course of study or training);

"(iii) to serve for a time period (hereinafter in this section referred to as the 'period of obligated service') equal to 2 years or such longer period as the individual may agree to serve in the full-time clinical practice of such individual's profession in an Indian health program to which the individual may be assigned by the Secretary;

"(2) a provision permitting the Secretary to extend for such longer additional periods, as the individual may agree to, the period of obligated service agreed to by the individual under paragraph (1)(B)(iii);

"(3) a provision that any financial obligation of the United States arising out of a contract entered into under this section and any obligation of the individual which is conditioned thereon is contingent upon funds being appropriated for loan repayments under this section;

"(4) a statement of the damages to which the United States is entitled under subsection (l) for the individual's breach of the contract; and

"(5) such other statements of the rights and liabilities of the Secretary and of the individual, not inconsistent with this section.

"(g)(1) A loan repayment provided for an individual under a written contract under the Loan Repayment Program shall consist of payment, in accordance with paragraph (2), on behalf of the individual of the principal, interest, and related expenses on government and commercial loans received by the individual for—

"(A) tuition expenses;

"(B) all other reasonable educational expenses, including fees, books, and laboratory expenses, incurred by the individual; and

"(C) reasonable living expenses as determined by the Secretary.

"(2)(A) Except as provided in subparagraph (B) and paragraph (3), for each year of obligated service for which an individual contracts to serve under subsection (f), the Secretary may pay up to $25,000 on behalf of the individual for loans described in paragraph (1)

"(B) Any arrangement made by the Secretary for the making of loan repayments in accordance with this subsection shall provide that any repayments for a year of obligated service shall be made no later than the end of the fiscal year in which the individual completes such year of service.

Taxes.

"(3) In addition to payments made under paragraph (2), in any case in which payments on behalf of an individual under the Loan Repayment Program result in an increase in Federal, State, or local income tax liability for such individual, the Secretary may, on the request of such individual, make payments to such individual in a reasonable amount, as determined by the Secretary, to reimburse such individual for all or part of the increased tax liability of the individual.

"(4) The Secretary may enter into an agreement with the holder of any loan for which payments are made under the Loan Repayment Program to establish a schedule for the making of such payments.

Employment and unemployment.

"(h) Notwithstanding any other provision of law, individuals who have entered into written contracts with the Secretary under this section, while undergoing academic training, shall not be counted against any employment ceiling affecting the Department of Health and Human Services.

"(i) The Secretary shall conduct recruiting programs for the Loan Repayment Program and other Service manpower programs at educational institutions training health professionals or specialists identified in subsection (a).

"(j) Section 214 of the Public Health Service Act (42 U.S.C. 215) shall not apply to individuals during their period of obligated service under the Loan Repayment Program.

Discrimination, prohibition.

"(k) The Secretary shall ensure that the staffing needs of Indian health programs administered by any Indian tribe or tribal or Indian organization receive consideration on an equal basis with programs that are administered directly by the Service.

Contracts.

"(l)(1) An individual who has entered into a written contract with the Secretary under this section and who—

"(A) is enrolled in the final year of a course of study and who—

"(i) fails to maintain an acceptable level of academic standing in the educational institution in which he is enrolled (such level determined by the educational institution under regulations of the Secretary);

"(ii) voluntarily terminates such enrollment; or

"(iii) is dismissed from such educational institution before completion of such course of study; or

"(B) is enrolled in a graduate training program, fails to complete such training program, and does not receive a waiver from the Secretary under subsection (b)(1)(B)(ii),

shall be liable, in lieu of any service obligation arising under such contract, to the United States for the amount which has been paid on such individual's behalf under the contract.

"(2) If, for any reason not specified in paragraph (1), an individual breaches his written contract under this section by failing either to begin, or complete, such individual's period of obligated service in accordance with subsection (f), the United States shall be entitled to recover from such individual an amount to be determined in accordance with the following formula:

$$A = 3Z(t-s/t)$$

in which—

"(A) 'A' is the amount the United States is entitled to recover;

"(B) 'Z' is the sum of the amounts paid under this section to, or on behalf of, the individual and the interest on such amounts which would be payable if, at the time the amounts were paid, they were loans bearing interest at the maximum legal prevailing rate, as determined by the Treasurer of the United States;

"(C) 't' is the total number of months in the individual's period of obligated service in accordance with subsection (f); and

"(D) 's' is the number of months of such period served by such individual in accordance with this section.

Amounts not paid within such period shall be subject to collection through deductions in Medicare payments pursuant to section 1892 of the Social Security Act.

"(3)(A) Any amount of damages which the United States is entitled to recover under this subsection shall be paid to the United States within the 1-year period beginning on the date of the breach or such longer period beginning on such date as shall be specified by the Secretary.

"(B) If damages described in subparagraph (A) are delinquent for 3 months, the Secretary shall, for the purpose of recovering such damages—

"(i) utilize collection agencies contracted with by the Administrator of the General Services Administration; or

"(ii) enter into contracts for the recovery of such damages with collection agencies selected by the Secretary. Contracts.

"(C) Each contract for recovering damages pursuant to this subsection shall provide that the contractor will, not less than once each 6 months, submit to the Secretary a status report on the success of the contractor in collecting such damages. Section 3718 of title 31, United States Code, shall apply to any such contract to the extent not inconsistent with this subsection. Reports.

"(m)(1) Any obligation of an individual under the Loan Repayment Program for service or payment of damages shall be canceled upon the death of the individual.

"(2) The Secretary shall by regulation provide for the partial or total waiver or suspension of any obligation of service or payment by an individual under the Loan Repayment Program whenever compliance by the individual is impossible or would involve extreme hardship to the individual and if enforcement of such obligation with respect to any individual would be unconscionable. Regulations.

"(3) The Secretary may waive, in whole or in part, the rights of the United States to recover amounts under this section in any case of extreme hardship or other good cause shown, as determined by the Secretary.

"(4) Any obligation of an individual under the Loan Repayment Program for payment of damages may be released by a discharge in bankruptcy under title 11 of the United States Code only if such discharge is granted after the expiration of the 5-year period beginning on the first date that payment of such damages is required, and only if the bankruptcy court finds that nondischarge of the obligation would be unconscionable.

"(n)(1) By not later than the first of March of each year, the Secretary shall, beginning with fiscal year 1990, submit to the Congress an annual report for the preceding fiscal year setting out— Reports.

"(A) the number of such applications filed with respect to each type of health profession;

"(B) the health professional positions maintained by the Service or by tribal or Indian organizations for which recruitment or retention is difficult;

"(C) the number of contracts described in subsection (f) that are entered into with respect to each health profession; and

"(D) the amount of loan payments made in total and by health profession.

"(2) Not later than the first of July of each year, beginning in 1989, the Secretary shall submit to Congress a report on—

"(A) the number of providers of health care that will be needed by Indian health programs by location and profession, during the three fiscal years beginning after the date the report is filed; and

"(B) the measures the Secretary plans to take to fill the health professional positions maintained by the Service or by tribes or tribal or Indian organizations for which recruitment or retention is difficult.

"(o) There are authorized to be appropriated such sums as may be necessary for each fiscal year to carry out the provisions of this section.

"TRAVEL EXPENSES FOR RECRUITMENT

25 USC 1616b.

"SEC. 109. (a) The Secretary may reimburse health professionals seeking positions in the Service, including individuals considering entering into a contract under section 108, and their spouses, for actual and reasonable expenses incurred in traveling to and from their places of residence to an area in which they may be assigned for the purpose of evaluating such area with respect to such assignment.

"(b) There are authorized to be appropriated $100,000 for each of the fiscal years 1990, 1991, and 1992, for the purpose of carrying out the provisions of this section.

"TRIBAL RECRUITMENT AND RETENTION PROGRAM

25 USC 1616c.

"SEC. 110. (a) The Secretary, acting through the Service, shall fund, on a competitive basis, projects to enable Indian tribes and tribal and Indian organizations to recruit, place, and retain health professionals to meet the staffing needs of Indian health programs (as defined in section 108(a)(2)).

"(b)(1) Any Indian tribe or tribal or Indian organization may submit an application for funding of a project pursuant to this section.

"(2) Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act shall be given an equal opportunity with programs that are administered directly by the Service to compete for, and receive, grants under subsection (a) for such projects.

"(c) There are authorized to be appropriated $1,000,000 for each of the fiscal years 1990, 1991, and 1992, for the purpose of carrying out the provisions of this section.

"ADVANCED TRAINING AND RESEARCH

"SEC. 111. (a) The Secretary, acting through the Service, shall establish a program to enable health professionals who have worked in an Indian health program (as defined in section 108(a)(2)) for a substantial period of time to pursue advanced training or research in areas of study for which the Secretary determines a need exists. 25 USC 1616d.

"(b) An individual who participates in a program under subsection (a), where the educational costs are borne by the Service, shall incur an obligation to serve in an Indian health program for a period of obligated service equal to at least the period of time during which the individual participates in such program. In the event that the individual fails to complete such obligated service, the individual shall be liable to the United States for the period of service remaining. The Secretary shall develop standards for appropriate recoupment for such remaining service.

"(c) Health professionals from Indian tribes and tribal and Indian organizations under the authority of the Indian Self-Determination Act shall be given an equal opportunity to participate in the program under subsection (a).

"(d) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section.

"NURSING PROGRAM

"SEC. 112. (a) The Secretary, acting through the Service, shall provide grants to— Grants. 25 USC 1616e.

"(1) public or private schools of nursing,

"(2) tribally controlled community colleges, and

"(3) nurse midwife programs, and nurse practitioner programs, that are provided by any public or private institution, for the purpose of increasing the number of nurses, nurse midwives, and nurse practitioners who deliver health care services to Indians.

"(b) Grants provided under subsection (a) may be used to—

"(1) recruit individuals for programs which train individuals to be nurses, nurse midwives, or nurse practitioners,

"(2) provide scholarships to individuals enrolled in such programs that may pay the tuition charged for such program and other expenses incurred in connection with such program, including books, fees, room and board, and stipends for living expenses,

"(3) provide a program that encourages nurses, nurse midwives, and nurse practitioners to provide, or continue to provide, health care services to Indians,

"(4) provide a program that increases the skills of, and provides continuing education to, nurses, nurse midwives, and nurse practitioners, or

"(5) provide any program that is designed to achieve the purpose described in subsection (a).

"(c) Each application for a grant under subsection (a) shall include such information as the Secretary may require to establish the connection between the program of the applicant and a health care facility that primarily serves Indians.

"(d) In providing grants under subsection (a), the Secretary shall extend a preference to—

"(1) programs that provide a preference to Indians,

"(2) programs that train nurse midwives or nurse practitioners,

"(3) programs that are interdisciplinary, and

"(4) programs that are conducted in cooperation with a center for gifted and talented Indian students established under section 5324(a) of the Indian Education Act of 1988.

"(e) The active duty service obligation prescribed under section 338C of the Public Health Service Act (42 U.S.C. 254m) shall be met by each individual who receives training or assistance described in paragraph (1) or (2) of subsection (b) that is funded by a grant provided under subsection (a). Such obligation shall be met by service—

"(A) in the Indian Health Service;

"(B) in a program conducted under a contract entered into under the Indian Self-Determination Act;

"(C) in a program assisted under title V of this Act; or

"(D) in the private practice of nursing if, as determined by the Secretary, in accordance with guidelines promulgated by the Secretary, such practice is situated in a physician or other health professional shortage area and addresses the health care needs of a substantial number of Indians.

"(f)(1) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $5,000,000 for the purpose of carrying out the provisions of this section.

"(2) Of the amounts appropriated under the authority of paragraph (1) for each fiscal year, the Secretary shall use at least $1,000,000 to provide grants under subsection (a) for the training of nurse midwives.".

OTHER RECRUITMENT AND RETENTION PROVISIONS

SEC. 109. Title I, as amended by section 108 of this Act, is further amended by adding at the end thereof the following new sections:

"TRIBAL CULTURE AND HISTORY

Education.
25 USC 1616f.

"SEC. 113. (a) The Secretary, acting through the Service, shall establish a program under which appropriate employees of the Service who serve particular Indian tribes shall receive educational instruction in the history and culture of such tribes and in the history of the Service.

"(b) To the extent feasible, the program established under subsection (a) shall—

"(1) be carried out through tribally-controlled community colleges (within the meaning of section 2(4) of the Tribally Controlled Community College Assistance Act of 1978),

"(2) be developed in consultation with the affected tribal government, and

"(3) include instruction in Native American studies.

"(c) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $1,000,000 to carry out the provisions of this section.

"INMED PROGRAM

Grants.
Schools and colleges.
25 USC 1616g.

"SEC. 114. (a) The Secretary is authorized to provide grants to at least 3 colleges and universities for the purpose of maintaining and expanding the Native American health careers recruitment pro-

gram known as the 'Indians into Medicine Program' (hereinafter in this section referred to as 'INMED') as a means of encouraging Indians to enter the health professions.

"(b) The Secretary shall provide one of the grants authorized under subsection (a) to maintain the INMED program at the University of North Dakota, unless the Secretary makes a determination, based upon program reviews, that the program is not meeting the purposes of this section. North Dakota.

"(c)(1) The Secretary shall develop regulations for the competitive awarding of the grants provided under this section. Regulations.

"(2) Applicants for grants provided under this section shall agree to provide a program which—

"(A) provides outreach and recruitment for health professions to Indian communities including elementary, secondary and community colleges located on Indian reservations which will be served by the program,

"(B) incorporates a program advisory board comprised of representatives from the tribes and communities which will be served by the program,

"(C) provides summer preparatory programs for Indian students who need enrichment in the subjects of math and science in order to pursue training in the health professions,

"(D) provides tutoring, counseling and support to students who are enrolled in a health career program of study at the respective college or university, and

"(E) to the maximum extent feasible, employs qualified Indians in the program.

"(d) By no later than the date that is 3 years after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall submit a report to the Congress on the program established under this section including recommendations for expansion or changes to the program. Reports.

"(e) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $1,000,000 to carry out the provisions of this section.

"HEALTH TRAINING PROGRAMS OF COMMUNITY COLLEGES

"SEC. 115. (a)(1) The Secretary, acting through the Service, shall award grants to community colleges for the purpose of assisting the community college in the establishment of programs which provide education in a health profession leading to a degree or diploma in a health profession for individuals who desire to practice such profession on an Indian reservation or in a tribal clinic. Grants. 25 USC 1616h.

"(2) The amount of any grant awarded to a community college under paragraph (1) for the first year in which such a grant is provided to the community college shall not exceed $100,000.

"(b)(1) The Secretary, acting through the Service, shall award grants to community colleges that have established a program described in subsection (a)(1) for the purpose of maintaining the program and recruiting students for the program.

"(2) Grants may only be made under this section to a community college which—

"(A) is accredited,

"(B) has access to a hospital facility, Service facility, or hospital that could provide training of nurses or health professionals,

"(C) has entered into an agreement with an accredited college or university medical school, the terms of which—

"(i) provide a program that enhances the transition and recruitment of students into advanced baccalaureate or graduate programs which train health professionals, and

"(ii) stipulate certifications necessary to approve internship and field placement opportunities at service unit facilities of the Service or at tribal health facilities,

"(D) has a qualified staff which has the appropriate certifications, and

"(E) is capable of obtaining State or regional accreditation of the program described in subsection (a)(1).

"(c) The Secretary shall encourage community colleges described in subsection (b)(2) to establish and maintain programs described in subsection (a)(1) by—

Contracts.

"(1) entering into agreements with such colleges for the provision of qualified personnel of the Service to teach courses of study in such programs, and

"(2) providing technical assistance and support to such colleges.

"(d) Any program receiving assistance under this section that is conducted with respect to a health profession shall also offer courses of study which provide advanced training for any health professional who—

"(1) has already received a degree or diploma in such health profession, and

"(2) provides clinical services on an Indian reservation, at a Service facility, or at a tribal clinic.

Such courses of study may be offered in conjunction with the college or university with which the community college has entered into the agreement required under subsection (b)(2)(C).

"(e) For purposes of this section—

"(1) The term 'community college' means—

"(A) a tribally controlled community college, or

"(B) a junior or community college.

"(2) The term 'tribally controlled community college' has the meaning given to such term by section 2(4) of the Tribally Controlled Community College Assistance Act of 1978.

"(3) The term 'junior or community college' has the meaning given to such term by section 312(e) of the Higher Education Act of 1965 (20 U.S.C. 1058(e)).

"(f) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $1,500,000 to carry out the provisions of this section.

"ADDITIONAL INCENTIVES FOR HEALTH PROFESSIONALS

Wages.
25 USC 1616i.

"SEC. 116. (a) The Secretary may provide the incentive special pay authorized under section 302(b) of title 37, United States Code, to civilian medical officers of the Indian Health Service who are assigned to, and serving in, positions included in the list established under subsection (b)(1) for which recruitment or retention of personnel is difficult.

"(b)(1) The Secretary shall establish and update on an annual basis a list of positions of health care professionals employed by, or assigned to, the Service for which recruitment or retention is difficult.

"(2)(A) The Secretary may pay a bonus to any commissioned officer or civil service employee, other than a commissioned medical officer, dental officer, optometrist, and veterinarian, who is employed in or assigned to, and serving in, a position in the Service included in the list established by the Secretary under paragraph (1).

"(B) The total amount of bonus payments made by the Secretary under this paragraph to any employee during any 1-year period shall not exceed $2,000.

"(c) The Secretary may establish programs to allow the use of flexible work schedules, and compressed work schedules, in accordance with the provisions of subchapter II of chapter 61 of title 5, United States Code, for health professionals employed by, or assigned to, the Service.

"(d) By no later than the date that is 6 months after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall submit a report to the Congress on the limitation imposed on amounts of premium pay for overtime to any individual employed by, or assigned to, the Service. The report shall include an explanation of existing overtime pay policy, an estimate of the budget impact of removing limitations on overtime pay, a summary of problems associated with overtime pay limitations, and recommendations for changes to the overtime pay policy. Reports.

"(e) There are authorized to be appropriated $600,000 for each of the fiscal years 1990, 1991, and 1992 to carry out the provisions of this section.

"RETENTION BONUS

"SEC. 117. (a) The Secretary may pay a retention bonus to any physician or nurse employed by, or assigned to, and serving in, the Service either as a civilian employee or as a commissioned officer in the Regular or Reserve Corps of the Public Health Service who— Wages. 25 USC 1616j.

"(1) is assigned to, and serving in, a position included in the list established under section 116(b)(1) for which recruitment or retention of personnel is difficult,

"(2) the Secretary determines is needed by the Service,

"(3) has—

"(A) completed 3 years of employment with the Service, or

"(B) completed any service obligations incurred as a requirement of—

"(i) any Federal scholarship program, or

"(ii) any Federal education loan repayment program, and

"(4) enters into an agreement with the Service for continued employment for a period of not less than 1 year. Contracts.

"(b) The Secretary may establish rates for the retention bonus which shall provide for a higher annual rate for multiyear agreements than for single year agreements referred to in subsection (a)(4), but in no event shall the annual rate be more than $25,000 per annum.

"(c) The retention bonus for the entire period covered by the agreement described in subsection (a)(4) shall be paid at the beginning of the agreed upon term of service.

"(d) Any physician or nurse failing to complete the agreed upon term of service, except where such failure is through no fault of the individual, shall be obligated to refund to the Government the full

amount of the retention bonus for the period covered by the agreement, plus interest as determined by the Secretary in accordance with section 108(l)(2)(B).

"(e) There are authorized to be appropriated $3,200,000 for each of the fiscal years 1990, 1991, and 1992 to carry out the provisions of this section.".

REPORT ON RECRUITMENT AND RETENTION

25 USC 1611 note.

SEC. 110. (a) The Secretary of Health and Human Services shall establish an advisory panel composed of—

(1) 10 physicians or other health professionals who are employees of, or assigned to, the Indian Health Service,

(2) 3 representatives of tribal health boards, and

(3) 1 representative of an urban health care organization.

(b) The advisory panel established under subsection (a) shall conduct an investigation of—

(1) the administrative policies and regulatory procedures which impede the recruitment or retention of physicians and other health professionals by the Indian Health Service, and

(2) the regulatory changes necessary to establish pay grades for health professionals employed by, or assigned to, the Service that correspond to the pay grades established for positions provided under sections 4103 and 4104 of title 38, United States Code, and the costs associated with establishing such pay grades.

(c) By no later than the date that is 18 months after the date of enactment of this Act, the advisory panel established under subsection (a) shall submit to the Congress a report on the investigation conducted under subsection (b), together with any recommendations for administrative or legislative changes in existing law, practices, or procedures.

TITLE II—HEALTH SERVICES

IMPROVEMENT OF INDIAN HEALTH STATUS

SEC. 201. (a) Section 201 (25 U.S.C. 1621) is amended to read as follows:

"IMPROVEMENT OF INDIAN HEALTH STATUS

"SEC. 201. (a) The Secretary is authorized to expend funds which are appropriated under the authority of subsection (h), through the Service, for the purposes of—

"(1) raising the health status of Indians to zero deficiency,

"(2) eliminating backlogs in the provision of health care services to Indians,

"(3) meeting the health needs of Indians in an efficient and equitable manner, and

"(4) augmenting the ability of the Service to meet the following health service responsibilities with respect to those Indian tribes with the highest levels of health resources deficiency:

"(A) clinical care (direct and indirect) including clinical eye and vision care;

"(B) preventive health;

"(C) dental care (direct and indirect);

"(D) mental health, including community mental health services, inpatient mental health services, dormitory mental health services, therapeutic and residential

treatment centers, and training of traditional Indian practitioners;

"(E) emergency medical services;

"(F) treatment and control of, and rehabilitative care related to, alcoholism and drug abuse (including fetal alcohol syndrome) among Indians;

"(G) accident prevention programs;

"(H) home health care;

"(I) community health representatives; and

"(J) maintenance and repair.

"(b)(1) Any funds appropriated under the authority of subsection (h) shall not be used to offset or limit any appropriations made to the Service under the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, or any other provision of law.

"(2) Funds which are appropriated under the authority of subsection (h) may be allocated to, or used for the benefit of, any Indian tribe which has a health resources deficiency level at level I or II only if a sufficient amount of funds have been appropriated under the authority of subsection (h) to raise all Indian tribes to health resources deficiency level II.

"(3)(A) Funds appropriated under the authority of subsection (h) may be allocated on a service unit basis but such allocation shall be made in a manner which ensures that the requirement of paragraph (2) is met. The funds allocated to each service unit under this subparagraph shall be used by the service unit (in accordance with paragraph (2)) to raise the deficiency level of each tribe served by such service unit.

"(B) The apportionment of funds allocated to a service unit under subparagraph (A) among the health service responsibilities described in subsection (a)(4) shall be determined by the Service in consultation with the affected Indian tribes.

"(c) For purposes of this section—

"(1) The health resources deficiency levels of an Indian tribe are as follows:

"(A) level I—0 to 20 percent health resources deficiency;

"(B) level II—21 to 40 percent health resources deficiency;

"(C) level III—41 to 60 percent health resources deficiency;

"(D) level IV—61 to 80 percent health resources deficiency; and

"(E) level V—81 to 100 percent health resources deficiency.

"(2) The term 'health resources deficiency' means a percentage determined by dividing—

"(A) the excess, if any, of—

"(i) the value of the health resources that the Indian tribe needs, over

"(ii) the value of the health resources available to the Indian tribe, by

"(B) the value of the health resources that the Indian tribe needs.

"(3) The health resources available to an Indian tribe include health resources provided by the Service as well as health resources used by the Indian tribe, including services and financing systems provided by any Federal programs, private insurance, and programs of State or local governments.

"(4) Under regulations, the Secretary shall establish procedures which allow any Indian tribe to petition the Secretary for a review of any determination of the health resources deficiency level of such tribe.

"(d)(1) Programs administered by any Indian tribe or tribal organization under the authority of the Indian Self-Determination Act shall be eligible for funds appropriated under the authority of subsection (h) on an equal basis with programs that are administered directly by the Service.

"(2) If any funds allocated to a tribe or service unit under the authority of this section are used for a contract entered into under the Indian Self-Determination Act, a reasonable portion of such funds may be used for health planning, training, technical assistance, and other administrative support functions.

Reports.

"(e) By no later than the date that is 60 days after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall submit to the Congress the current health services priority system report of the Service for each Indian tribe or service unit, including newly recognized or acknowledged tribes. Such report shall set out—

"(1) the methodology then in use by the Service for determining tribal health resources deficiencies, as well as the most recent application of that methodology;

"(2) the level of health resources deficiency for each Indian tribe served by the Service;

"(3) the amount of funds necessary to raise all Indian tribes served by the Service below health resources deficiency level II to health resources deficiency level II;

"(4) the amount of funds necessary to raise all tribes served by the Service below health resources deficiency level I to health resources deficiency level I;

"(5) the amount of funds necessary to raise all tribes served by the Service to zero health resources deficiency; and

"(6) an estimate of—

"(A) the amount of health service funds appropriated under the authority of this Act, or any other Act, including the amount of any funds transferred to the Service, for the preceding fiscal year which is allocated to each service unit, Indian tribe, or comparable entity;

"(B) the number of Indians eligible for health services in each service unit or Indian tribe; and

"(C) the number of Indians using the Service resources made available to each service unit or Indian tribe.

President of U.S.

"(f)(1) The President shall include with the budget submitted to the Congress under section 1105 of title 31, United States Code, for each fiscal year a separate statement which specifies the amount of funds requested to carry out the provisions of this section for such fiscal year.

"(2) Funds appropriated under authority of this section for any fiscal year shall be included in the base budget of the Service for the purpose of determining appropriations under this section in subsequent fiscal years.

"(g) Nothing in this section is intended to diminish the primary responsibility of the Service to eliminate existing backlogs in unmet health care needs, nor are the provisions of this section intended to discourage the Service from undertaking additional efforts to achieve parity among Indian tribes.

"(h) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $19,000,000 for fiscal year 1990,

"(2) $19,000,000 for fiscal year 1991, and

"(3) $20,000,000 for fiscal year 1992.

Any funds appropriated under the authority of this subsection shall be designated as the 'Indian Health Care Improvement Fund'.".

(b) Section 4 (25 U.S.C. 1603) is amended by striking out subsections (i), (j), and (k), and by inserting in lieu thereof the following new subsections:

"(i) 'Area office' means an administrative entity including a program office, within the Indian Health Service through which services and funds are provided to the service units within a defined geographic area.

"(j) 'Service unit' means—

"(1) an administrative entity within the Indian Health Service, or

"(2) a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act,

through which services are provided, directly or by contract, to the eligible Indian population within a defined geographic area.".

CATASTROPHIC HEALTH PROGRAM

SEC. 202. Title II is amended by adding at the end thereof the following new section:

"CATASTROPHIC HEALTH EMERGENCY FUND

"SEC. 202. (a)(1) There is hereby established an Indian Catastrophic Health Emergency Fund (hereafter in this section referred to as the 'Fund') consisting of— 25 USC 1621a.

"(A) the amounts deposited under subsection (d), and

"(B) the amounts appropriated under subsection (e).

"(2) The Fund shall be administered by the Secretary, acting through the central office of the Service, solely for the purpose of meeting the extraordinary medical costs associated with the treatment of victims of disasters or catastrophic illnesses who are within the responsibility of the Service.

"(3) The Fund shall not be allocated, apportioned, or delegated on a service unit, area office, or any other basis.

"(4) No part of the Fund or its administration shall be subject to contract or grant under any law, including the Indian Self-Determination Act.

"(b) The Secretary shall, through the promulgation of regulations consistent with the provisions of this section— Regulations.

"(1) establish a definition of disasters and catastrophic illnesses for which the cost of treatment provided under contract would qualify for payment from the Fund;

"(2) provide that a service unit shall not be eligible for reimbursement for the cost of treatment from the Fund until its cost of treating any victim of such catastrophic illness or disaster has reached a certain threshold cost which the Secretary shall establish at not less than $10,000 or not more than $20,000;

"(3) establish a procedure for the reimbursement of the portion of the costs incurred by—

"(A) service units or facilities of the Service, or

"(B) whenever otherwise authorized by the Service, non-Service facilities or providers,

in rendering treatment that exceeds such threshold cost;

"(4) establish a procedure for payment from the Fund in cases in which the exigencies of the medical circumstances warrant treatment prior to the authorization of such treatment by the Service; and

"(5) establish a procedure that will ensure that no payment shall be made from the Fund to any provider of treatment to the extent that such provider is eligible to receive payment for the treatment from any other Federal, State, local, or private source of reimbursement for which the patient is eligible.

"(c) Funds appropriated under subsection (e) shall not be used to offset or limit appropriations made to the Service under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, or any other law.

"(d) There shall be deposited into the Fund all reimbursements to which the Service is entitled from any Federal, State, local, or private source (including third party insurance) by reason of treatment rendered to any victim of a disaster or catastrophic illness the cost of which was paid from the Fund.

"(e) There are authorized to be appropriated for the purpose of carrying out the provisions of this section—

"(1) $12,000,000 for fiscal year 1989, and

"(2) for each of the fiscal years 1990, 1991, and 1992, such sums as may be necessary to restore the Fund to a level of $12,000,000 for such fiscal year.

Funds appropriated under the authority of this subsection shall remain available until expended.".

HEALTH PROMOTION AND DISEASE PREVENTION

25 USC 1621b note.

SEC. 203. (a) The Congress finds that health promotion and disease prevention activities will—

(1) improve the health and well being of Indians, and

(2) reduce the expenses for medical care of Indians.

(b) Section 4 (25 U.S.C. 1603), as amended by section 201(b) of this Act, is further amended by adding at the end thereof the following new subsections:

"(k) 'Health promotion' includes—

"(1) cessation of tobacco smoking,

"(2) reduction in the misuse of alcohol and drugs,

"(3) improvement of nutrition,

"(4) improvement in physical fitness,

"(5) family planning,

"(6) control of stress, and

"(7) pregnancy and infant care (including prevention of fetal alcohol syndrome).

"(l) 'Disease prevention' includes—

"(1) immunizations,

"(2) control of high blood pressure,

"(3) control of sexually transmittable diseases,

"(4) prevention and control of diabetes,

"(5) control of toxic agents,

"(6) occupational safety and health,

"(7) accident prevention,

"(8) fluoridation of water, and

"(9) control of infectious agents.".

(c) Title II (25 U.S.C. 1621, et seq.), as amended by section 202 of this Act, is further amended by adding at the end thereof the following new sections:

"HEALTH PROMOTION AND DISEASE PREVENTION SERVICES

"SEC. 203. (a) The Secretary, acting through the Service, shall provide health promotion and disease prevention services to Indians. 25 USC 1621b.

"(b) The Secretary shall submit to the President for inclusion in each statement which is required to be submitted to the Congress under section 201(f) an evaluation of—

"(1) the health promotion and disease prevention needs of Indians,

"(2) the health promotion and disease prevention activities which would best meet such needs,

"(3) the internal capacity of the Service to meet such needs, and

"(4) the resources which would be required to enable the Service to undertake the health promotion and disease prevention activities necessary to meet such needs.

"(c)(1) The Secretary shall establish at least 1 demonstration project (but no more than 4 demonstration projects) to determine the most effective and cost-efficient means of—

"(A) providing health promotion and disease prevention services,

"(B) encouraging Indians to adopt good health habits,

"(C) reducing health risks to Indians, particularly the risks of heart disease, cancer, stroke, diabetes, anxiety, depression, and lifestyle-related accidents,

"(D) reducing medical expenses of Indians through health promotion and disease prevention activities,

"(E) establishing a program—

"(i) which trains Indians in the provision of health promotion and disease prevention services to members of their tribe, and

"(ii) under which such Indians are available on a contract basis to provide such services to other tribes, and

"(F) providing training and continuing education to employees of the Service, and to paraprofessionals participating in the Community Health Representative Program, in the delivery of health promotion and disease prevention services.

"(2) The demonstration project described in paragraph (1) shall include an analysis of the cost effectiveness of organizational structures and of social and educational programs that may be useful in achieving the objectives described in paragraph (1).

"(3)(A) The demonstration project described in paragraph (1) shall be conducted in association with at least one—

"(i) health profession school,

"(ii) allied health profession or nurse training institution, or

"(iii) public or private entity that provides health care.

"(B) The Secretary is authorized to enter into contracts with, or make grants to, any school of medicine or school of osteopathy for the purpose of carrying out the demonstration project described in paragraph (1).

"(C) For purposes of this paragraph, the term 'school of medicine' and 'school of osteopathy' have the respective meaning given to such terms by section 701(4) of the Public Health Service Act (42 U.S.C. 292a(4)).

Reports. "(4) The Secretary shall submit to Congress a final report on the demonstration project described in paragraph (1) within 60 days after the termination of such project.

"(5) The demonstration project described in paragraph (1) shall be established by no later than the date that is 12 months after the date of enactment of the Indian Health Care Amendments of 1988 and shall terminate on the date that is 30 months after the date of enactment of such amendments.

"(6) There are authorized to be appropriated $500,000 for the purpose of carrying out the provisions of this subsection, such sum to remain available without fiscal year limitation.

"DIABETES PREVENTION, TREATMENT, AND CONTROL

25 USC 1621c. "SEC. 204. (a)(1) The Secretary, in consultation with the tribes, shall determine—

"(A) by tribe and by Service unit of the Service, the incidence of, and the types of complications resulting from, diabetes among Indians; and

"(B) based on subparagraph (A), the measures (including patient education) each Service unit should take to reduce the incidence of, and prevent, treat, and control the complications resulting from, diabetes among tribes within that Service unit.

Reports. "(2) Within 18 months after the date of enactment of the Indian Health Care Amendments of 1988, the Secretary shall prepare and transmit to the President and the Congress a report describing the determinations made and measures taken under paragraph (1) and making recommendations for additional funding to prevent, treat, and control diabetes among Indians.

"(b) The Secretary shall screen each Indian who receives services from the Service for diabetes and for conditions which indicate a high risk that the individual will become diabetic. Such screening may be done by a tribe or tribal organization operating health care programs or facilities with funds from the Service under the Indian Self-Determination Act.

State listing. "(c)(1) The Secretary shall continue to maintain during fiscal years 1988 through 1991 each of the following model diabetes projects which are in existence on the date of enactment of the Indian Health Care Amendments of 1988:

"(A) Claremore Indian Hospital in Oklahoma;

"(B) Fort Totten Health Center in North Dakota;

"(C) Sacaton Indian Hospital in Arizona;

"(D) Winnebago Indian Hospital in Nebraska;

"(E) Albuquerque Indian Hospital in New Mexico;

"(F) Perry, Princeton, and Old Town Health Centers in Maine; and

"(G) Bellingham Health Center in Washington.

State listing. "(2) The Secretary shall establish in fiscal year 1989, and maintain during fiscal years 1989 through 1991, a model diabetes project in each of the following locations:

"(A) Fort Berthold Reservation;

"(B) the Navajo Reservation;

"(C) the Papago Reservation;

"(D) the Zuni Reservation; and

"(E) the States of Alaska, California, Minnesota, Montana, Oregon, and Utah.

"(d) The Secretary shall—

"(1) employ in each area office of the Service at least one diabetes control officer who shall coordinate and manage on a full-time basis activities within that area office for the prevention, treatment, and control of diabetes;

"(2) establish in each area office of the Service a registry of patients with diabetes to track the incidence of diabetes and the complications from diabetes in that area; and

"(3) ensure that data collected in each area office regarding diabetes and related complications among Indians is disseminated to all other area offices.

"(e) There are authorized to be appropriated such sums as may be necessary to carry out the provisions of this section. Funds appropriated under subsection (c) in any fiscal year shall be in addition to base resources appropriated to the Service for that year.

"NATIVE HAWAIIAN HEALTH PROMOTION AND DISEASE PREVENTION

Contracts.

"SEC. 205. (a)(1) The Secretary shall, acting through the Public Health Service, establish in the State of Hawaii, as a demonstration project, a Native Hawaiian Program for Health Promotion and Disease Prevention for the purpose of exploring ways to meet the unique health care needs of Native Hawaiians.

25 USC 1621d.

"(2) The demonstration program that is to be established under paragraph (1) shall—

"(A) provide necessary preventive-oriented health services, including health education and mental health care,

"(B) develop innovative training and research projects,

"(C) establish cooperative relationships with the leadership of the Native Hawaiian community,

"(D) ensure that a continuous effort is made to establish programs which can be of direct benefit to other Native American people, and

"(E) assure a comprehensive effort to reduce the incidence of diabetes among Native Hawaiians.

"(3) The Secretary is authorized to enter into contracts with Native Hawaiian organizations for the purpose of assisting the Secretary in meeting the objectives of the demonstration program that is to be established under paragraph (1).

"(b)(1) In fulfillment of the objective set forth in subsection (a)(2)(E), the Secretary shall enter into a contract with a Native Hawaiian organization to conduct a study to determine—

"(A) the incidence of diabetes among Native Hawaiians;

"(B) activities which should be undertaken—

"(i) to reduce the incidence of diabetes among Native Hawaiians,

"(ii) to provide Native Hawaiians with guidance in the prevention, treatment, and control of diabetes,

"(iii) to provide early diagnosis of diabetes among Native Hawaiians, and

"(iv) to ensure that proper continuing health care is provided to Native Hawaiians who are diagnosed as diabetic.

"(2) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of preparing an inventory of all health care programs (public and private) within the State of Hawaii that are available for the treatment, prevention, or control of diabetes among Native Hawaiians.

Reports.

"(3) By no later than the date that is two years after the date of enactment of this section, the Native Hawaiian organization with whom the Secretary has entered into a contract, shall prepare and transmit to the Secretary a report describing the determinations made under paragraph (1), containing the inventory prepared under paragraph (2), and describing the research activities conducted under this subsection. The Secretary shall submit the report to the Congress and the President.

"(c)(1) By no later than the date that is three years after the date of enactment of this section, the Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of implementing a program designed—

"(A) to establish a diabetes control program;

"(B) to screen those Native Hawaiian individuals that have been identified as having a high risk of becoming diabetic;

"(C) to effectively treat—

"(i) individuals diagnosed as diabetics in order to reduce further complications from diabetes,

"(ii) individuals who have a high risk of becoming diabetic in order to reduce the incidence of diabetes, and

"(iii) short- and long-term complications of diabetes;

"(D) to conduct for Federal, State, and other Native Hawaiian health care providers (including Native Hawaiian community health outreach workers), training programs concerning current methods of prevention, diagnosis, and treatment of diabetes and related complications among Native Hawaiians;

"(E) to determine the appropriate delivery to Native Hawaiians of health care services relating to diabetes;

"(F) to develop and present health education information to Native Hawaiian communities and schools concerning the prevention, treatment, and control of diabetes; and

"(G) to ensure that proper continuing health care is provided to Native Hawaiians who are diagnosed as being diabetic.

"(2) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of—

"(A) promoting coordination and cooperation between all health care providers in the delivery of diabetes related services to Native Hawaiians; and

"(B) encouraging and funding joint projects between Federal programs, State health care facilities, community health centers, and Native Hawaiian communities for the prevention and treatment of diabetes.

"(3)(A) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of establishing a model diabetes program to serve Native Hawaiians in the State of Hawaii.

"(B) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of developing and implementing an outreach program to ensure that the achievements and benefits derived from the activities of the model diabetes program established under subparagraph (A) are applied in Native Hawaiian communities to assure the diagnosis, prevention, and treatment of diabetes among Native Hawaiians.

"(4) The Secretary shall submit to the Congress an annual report outlining the activities, achievements, needs, and goals of the Native Hawaiian diabetes care program established under this paragraph. Reports.

"(d) The Secretary shall enter into a contract with a Native Hawaiian organization, for the purpose of developing a standardized system to collect, analyze, and report data regarding diabetes and related complications among Native Hawaiians. Such system shall be designed to facilitate dissemination of the best available information on diabetes to Native Hawaiian communities and health care professionals. Public information.

"(e) The Secretary shall enter into a contract with a Native Hawaiian organization for the purpose of—

"(1) conducting research concerning the causes, diagnosis, treatment, and prevention of diabetes and related complications among Native Hawaiians, and

"(2) coordinating such research with all other relevant agencies and units of the government of the State of Hawaii and the Department of Health and Human Services which conduct research relating to diabetes and related complications.

"(f) The Secretary shall submit to the Congress an annual report on the status and accomplishments of the progress established under this section during each of the fiscal years 1990, 1991, and 1992. Reports.

"(g)(1) The Secretary shall include in any contract which the Secretary enters into with any Native Hawaiian organization under this subsection such conditions as the Secretary considers necessary to ensure that the objectives of such contract are achieved.

"(2) The Secretary shall develop procedures to evaluate compliance with, and performance of, contracts entered into by Native Hawaiian organizations under this subsection.

"(3) The Secretary shall conduct an evaluation of each Native Hawaiian organization which has entered into a contract under this subsection for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.

"(4) If, as a result of the evaluations conducted under paragraph (3), the Secretary determines that a Native Hawaiian organization has not complied with or satisfactorily performed a contract entered into under this subsection, the Secretary shall, prior to renewing such contract, attempt to resolve the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under this subsection with another Native Hawaiian organization that serves the same population of Native Hawaiians which is served by the Native Hawaiian organization whose contract is not renewed by reason of this subparagraph.

"(5) In determining whether to renew a contract entered into with a Native Hawaiian organization under this subsection, the Secretary shall—

"(A) review the records of the Native Hawaiian organization, and

"(B) shall consider the results of the onsite evaluations conducted under paragraph (3).

"(6) All contracts entered into by the Secretary under this subsection shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provision of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.).

"(7) Payments made under any contract entered into under this subsection may be made in advance, by means of reimbursement, or in installments and shall be made on such conditions as the Secretary deems necessary to carry out the purposes of this subsection.

"(8) Notwithstanding any other provision of law, the Secretary may, at the request or consent of a Native Hawaiian organization, revise or amend any contract entered into by the Secretary with such organization under this subsection as necessary to carry out the purposes of this subsection.

Reports.

"(9)(A) For each fiscal year during which a Native Hawaiian organization receives or expends funds pursuant to a contract entered into under this subsection, such organization shall submit to the Secretary a quarterly report on—

"(i) activities conducted by the organization under the contract,

"(ii) the amounts and purposes for which Federal funds were expended, and

"(iii) such other information as the Secretary may request.

"(B) The reports and records of any Native Hawaiian organization which concern any contract entered into under this subsection shall be subject to audit by the Secretary and the Comptroller General of the United States.

"(10) The Secretary shall allow as a cost of any contract entered into under this subsection the cost of an annual private audit conducted by a certified public accountant.

"(11) The authority of the Secretary to enter into contracts under this subsection shall be to the extent, and in amounts, provided for in appropriation Acts.

"(h) For purposes of this subsection—

"(1) The term 'Native Hawaiian' means any individual who—

"(A) is a citizen of the United States,

"(B) is a resident of the State of Hawaii, and

"(C) is a descendant of the aboriginal people who, prior to 1778, occupied and exercised sovereignty in the area that now constitutes the State of Hawaii, as evidenced by—

"(i) genealogical records,

"(ii) Kupuna (elders) or Kama'aina (long-term community residents) verification, or

"(iii) birth records of the State of Hawaii.

"(2) The term 'Native Hawaiian organization' means any organization—

"(A) which serves and represents the interests of Native Hawaiians,

"(B) which is recognized by the Department of Health of the State of Hawaii, the Office of Hawaiian Affairs of the State of Hawaii, and E Ola Mau for the purpose of planning, conducting, or administering programs (or portion of programs) authorized under this Act for Native Hawaiians, and

"(C) in which Native Hawaiian health professionals significantly participate in the planning, management, monitoring, and evaluation of health services.

"(i) There are authorized to be appropriated $750,000 for each of the fiscal years 1990, 1991, 1992, and 1993, for the purpose of carrying out the provisions of this subsection.

"(j) The programs and services established by this section shall not be administered by or through the Indian Health Service nor shall any funds appropriated to the Indian Health Service be used to supplement funding of such programs and services.".

REIMBURSEMENT OF CERTAIN EXPENSES; RESEARCH

SEC. 204. Title II, as amended by section 203(c), is further amended by adding at the end thereof the following new sections:

"REIMBURSEMENT FROM CERTAIN THIRD PARTIES OF COSTS OF HEALTH SERVICES

"SEC. 206. (a) The United States shall have the right to recover the reasonable expenses incurred by the Secretary in providing health services, through the Service, to any individual to the same extent that such individual, or any nongovernmental provider of such services, would be eligible to receive reimbursement or indemnification for such expenses if— 25 USC 1621e.

"(1) such services had been provided by a nongovernmental provider, and

"(2) such individual had been required to pay such expenses and did pay such expenses.

"(b) Subsection (a) shall provide a right of recovery against any State, or any political subdivision of a State, only if the injury, illness, or disability for which health services were provided is covered under—

"(1) workers' compensation laws, or

"(2) a no-fault automobile accident insurance plan or program.

"(c) No law of any State, or of any political subdivision of a State, and no provision of any contract entered into or renewed after the date of enactment of the Indian Health Care Amendments of 1988, shall prevent or hinder the right of recovery of the United States under subsection (a).

"(d) No action taken by the United States to enforce the right of recovery provided under subsection (a) shall affect the right of any person to any damages (other than damages for the cost of health services provided by the Secretary through the Service).

"(e) The United States may enforce the right of recovery provided under subsection (a) by—

"(1) intervening or joining in any civil action or proceeding brought—

"(A) by the individual for whom health services were provided by the Secretary, or

"(B) by any representative or heirs of such individual, or

"(2) instituting a separate civil action, after providing to such individual, or to the representative or heirs of such individual, notice of the intention of the United States to institute a separate civil action.

"CREDITING OF REIMBURSEMENTS

25 USC 1621f.

"SEC. 207. (a) Except as provided in section 202(d), title IV, and section 713 of this Act, all reimbursements received or recovered, under authority of this Act, Public Law 87-693 (42 U.S.C. 2651, et seq.), or any other provision of law, by reason of the provision of health services by the Service or by a tribe or tribal organization under a contract pursuant to the Indian Self-Determination Act shall be retained by the Service or that tribe or tribal organization and shall be available for the facilities, and to carry out the programs, of the Service or that tribe or tribal organization to provide health care services to Indians.

"(b) The Service may not offset or limit the amount of funds obligated to any service unit or any entity under contract with the Service because of the receipt of reimbursements under subsection (a).

"HEALTH SERVICES RESEARCH

25 USC 1621g.

"SEC. 208. Of the amounts appropriated for the Service in any fiscal year, other than amounts made available for the Indian Health Care Improvement Fund, not less than $200,000 shall be available only for research to further the performance of the health service responsibilities of the Service. Indian tribes and tribal organizations contracting with the Service under the authority of the Indian Self-Determination Act shall be given an equal opportunity to compete for, and receive, research funds under this section.".

TITLE III—HEALTH FACILITIES

CONSULTATION; CLOSURE OF FACILITIES; REPORTS

SEC. 301. Section 301 (25 U.S.C. 1631) is amended to read as follows:

"CONSULTATION; CLOSURE OF FACILITIES; REPORTS

"SEC. 301. (a) Prior to the expenditure of, or the making of any firm commitment to expend, any funds appropriated for the planning, design, construction, or renovation of facilities pursuant to the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, acting through the Service, shall—

"(1) consult with any Indian tribe that would be significantly affected by such expenditure for the purpose of determining and, whenever practicable, honoring tribal preferences concerning size, location, type, and other characteristics of any facility on which such expenditure is to be made, and

"(2) ensure, whenever practicable, that such facility meets the standards of the Joint Commission on Accreditation of Hospitals by not later than 1 year after the date on which the construction or renovation of such facility is completed.

"(b)(1) Notwithstanding any provision of law other than this subsection, no Service hospital or other outpatient health care facility of the Service, or any portion of such a hospital or facility, may be closed if the Secretary has not submitted to the Congress at least 1 year prior to the date such hospital or facility (or portion thereof) is proposed to be closed an evaluation of the impact of such

proposed closure which specifies, in addition to other considerations—

"(A) the accessibility of alternative health care resources for the population served by such hospital or facility;

"(B) the cost effectiveness of such closure;

"(C) the quality of health care to be provided to the population served by such hospital or facility after such closure;

"(D) the availability of contract health care funds to maintain existing levels of service; and

"(E) the views of the Indian tribes served by such hospital or facility concerning such closure.

"(2) Paragraph (1) shall not apply to any temporary closure of a facility or of any portion of a facility if such closure is necessary for medical, environmental, or safety reasons.

"(c) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each of the fiscal years 1990, 1991, and 1992, program information documents for the construction of 10 Indian health facilities which— President of U.S.

"(1) comply with applicable construction standards, and

"(2) have been approved by the Secretary.

"(d)(1) The Secretary shall submit to the Congress an annual report which sets forth— Reports.

"(A) the current health facility priority system of the Service,

"(B) the planning, design, construction, and renovation needs for the 10 top-priority inpatient care facilities and the 10 top-priority ambulatory care facilities (together with required staff quarters),

"(C) the justification for such order of priority,

"(D) the projected cost of such projects, and

"(E) the methodology adopted by the Service in establishing priorities under its health facility priority system.

"(2) The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after the date of enactment of the Indian Health Care Amendments of 1988 and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31, United States Code.

"(3) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall—

"(A) consult with Indian tribes and tribal organizations including those tribes or tribal organizations operating health programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act, and

"(B) review the needs of such tribes and tribal organizations for inpatient and outpatient facilities, including their needs for renovation and expansion of existing facilities.

"(4) For purposes of this subsection, the Secretary shall, in evaluating the needs of facilities operated under any contract entered into with the Service under the Indian Self-Determination Act, use the same criteria that the Secretary uses in evaluating the needs of facilities operated directly by the Service.

"(5) The Secretary shall ensure that the planning, design, construction, and renovation needs of Service and non-Service facilities which are the subject of a contract for health services entered into with the Service under the Indian Self-Determination Act are

fully and equitably integrated into the development of the health facility priority system.

"(e) All funds appropriated under the Act of November 2, 1921 (25 U.S.C. 13), for the planning, design, construction, or renovation of health facilities for the benefit of an Indian tribe or tribes shall be subject to the provisions of sections 102 and 103(b) of the Indian Self-Determination Act.".

SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

SEC. 302. Section 302 (25 U.S.C. 1632) is amended to read as follows:

"SAFE WATER AND SANITARY WASTE DISPOSAL FACILITIES

"SEC. 302. (a) The Congress hereby finds and declares that—

"(1) the provision of safe water supply systems and sanitary sewage and solid waste disposal systems is primarily a health consideration and function;

"(2) Indian people suffer an inordinately high incidence of disease, injury, and illness directly attributable to the absence or inadequacy of such systems;

"(3) the long-term cost to the United States of treating and curing such disease, injury, and illness is substantially greater than the short-term cost of providing such systems and other preventive health measures;

"(4) many Indian homes and communities still lack safe water supply systems and sanitary sewage and solid waste disposal systems; and

"(5) it is in the interest of the United States, and it is the policy of the United States, that all Indian communities and Indian homes, new and existing, be provided with safe and adequate water supply systems and sanitary sewage waste disposal systems as soon as possible.

"(b)(1) In furtherance of the findings and declarations made in subsection (a), Congress reaffirms the primary responsibility and authority of the Service to provide the necessary sanitation facilities and services as provided in section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

"(2) The Secretary, acting through the Service, is authorized to provide under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a)—

"(A) financial and technical assistance to Indian tribes and communities in the establishment, training, and equipping of utility organizations to operate and maintain Indian sanitation facilities;

"(B) ongoing technical assistance and training in the management of utility organizations which operate and maintain sanitation facilities; and

"(C) operation and maintenance assistance for, and emergency repairs to, tribal sanitation facilities when necessary to avoid a health hazard or to protect the Federal investment in sanitation facilities.

"(3) Notwithstanding any other provision of law—

"(A) the Secretary of Housing and Urban Affairs is authorized to transfer funds appropriated under the Housing and Commu-

nity Development Act of 1974 (42 U.S.C. 5301, et seq.) to the Secretary of Health and Human Services, and

"(B) the Secretary of Health and Human Services is authorized to accept and use such funds for the purpose of providing sanitation facilities and services for Indians under section 7 of the Act of August 5, 1954 (42 U.S.C. 2004a).

"(c) Beginning in fiscal year 1990, the Secretary, acting through the Service, shall develop and begin implementation of a 10-year plan to provide safe water supply and sanitation sewage and solid waste disposal facilities to existing Indian homes and communities and to new and renovated Indian homes.

"(d) The financial and technical capability of an Indian tribe or community to safely operate and maintain a sanitation facility shall not be a prerequisite to the provision or construction of sanitation facilities by the Secretary.

"(e) The provisions of this section shall not diminish the primary responsibility of the Indian family, community, or tribe to establish, collect, and utilize reasonable user fees, or otherwise set aside funding, for the purpose of operating and maintaining sanitation facilities.

"(f) Programs administered by Indian tribes or tribal organizations under the authority of the Indian Self-Determination Act shall be eligible for—

"(1) any funds appropriated pursuant to subsection (h), and

"(2) any funds appropriated for the purpose of providing water supply or sewage disposal services,

on an equal basis with programs that are administered directly by the Service.

"(g)(1) The Secretary shall submit to the Congress an annual report which sets forth— Reports.

"(A) the current Indian sanitation facility priority system of the Service;

"(B) the methodology for determining sanitation deficiencies;

"(C) the level of sanitation deficiency for each sanitation facilities project of each Indian tribe or community;

"(D) the amount of funds necessary to raise all Indian tribes and communities to a level I sanitation deficiency; and

"(E) the amount of funds necessary to raise all Indian tribes and communities to zero sanitation deficiency.

"(2) The first report required under paragraph (1) shall be submitted by no later than the date that is 180 days after the date of enactment of the Indian Health Care Amendments of 1988 and, beginning in 1990, each subsequent annual report shall be submitted by the date that is 60 days after the date on which the President submits the budget to the Congress under section 1105 of title 31, United States Code.

"(3) In preparing each report required under paragraph (1) (other than the initial report), the Secretary shall consult with Indian tribes and tribal organizations (including those tribes or tribal organizations operating health care programs or facilities under any contract entered into with the Service under the Indian Self-Determination Act) to determine the sanitation needs of each tribe.

"(4) The methodology used by the Secretary in determining sanitation deficiencies for purposes of paragraph (1) shall be applied uniformly to all Indian tribes and communities.

"(5) For purposes of this subsection, the sanitation deficiency levels for an Indian tribe or community are as follows:

"(A) level I is an Indian tribe or community with a sanitation system—

"(i) which complies with all applicable water supply and pollution control laws, and

"(ii) in which the deficiencies relate to routine replacement, repair, or maintenance needs;

"(B) level II is an Indian tribe or community with a sanitation system—

"(i) which complies with all applicable water supply and pollution control laws, and

"(ii) in which the deficiencies relate to capital improvements that are necessary to improve the facilities in order to meet the needs of such tribe or community for domestic sanitation facilities;

"(C) level III is an Indian tribe or community with a sanitation system which—

"(i) has an inadequate or partial water supply and a sewage disposal facility that does not comply with applicable water supply and pollution control laws, or

"(ii) has no solid waste disposal facility;

"(D) level IV is an Indian tribe or community with a sanitation system which lacks either a safe water supply system or a sewage disposal system; and

"(E) level V is an Indian tribe or community that lacks a safe water supply and a sewage disposal system.

"(6) For purposes of this subsection, any Indian tribe or community that lacks the operation and maintenance capability to enable its sanitation system to meet pollution control laws may not be treated as having a level I or II sanitation deficiency.

"(h)(1) There are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $3,000,000 for the purpose of providing funds necessary to implement the responsibilities of the Service described in subsection (b)(2).

"(2) In addition to the amount authorized under paragraph (1), there are authorized to be appropriated for each of the fiscal years 1990, 1991, and 1992, $850,000 for the sanitation service account of the Service which shall be used to carry out the responsibilities of the Service described in subsection (b)(2).".

USE OF NON-SERVICE FUNDS FOR RENOVATION

SEC. 303. (a) Section 305 (25 U.S.C. 1634) is amended to read as follows:

"EXPENDITURE OF NON-SERVICE FUNDS FOR RENOVATION

"SEC. 305. (a) Notwithstanding any other provision of law, the Secretary is authorized to accept any major renovation or modernization by any Indian tribe of any Service facility, or of any other Indian health facility operated pursuant to a contract entered into under the Indian Self-Determination Act, including—

"(1) any plans or designs for such renovation or modernization, and

"(2) any renovation or modernization for which funds appropriated under any Federal law were lawfully expended,

but only if the requirements of subsection (b) are met.

"(b) The requirements of this subsection are met with respect to any renovation or modernization if the renovation or modernization—

"(1) does not require or obligate the Secretary to provide any additional employees or equipment,

"(2) is approved by the appropriate area director of the Service, and

"(3) is administered by the Indian tribe in accordance with the rules and regulations prescribed by the Secretary with respect to construction or renovation of Service facilities.

"(c) A renovation or modernization shall not be authorized by this section if such renovation or modernization would require the diversion of funds appropriated to the Service from any project which has a higher priority under the health facility priority system of the Service.

"(d) If any Service facility which has been renovated or modernized by an Indian tribe under this section ceases to be used as a Service facility during the 20-year period beginning on the date such renovation or modernization is completed, such Indian tribe shall be entitled to recover from the United States an amount which bears the same ratio to the value of such facility at the time of such cessation as the value of such renovation or modernization (less the total amount of any funds provided specifically for such facility under any Federal program that were expended for such renovation or modernization) bore to the value of such facility at the time of the completion of such renovation or modernization.".

(b) The paragraph relating to administrative provisions of the Health Services Administration under the heading "Department of Health and Human Services" in title II of the matter contained in section 101(c) of Public Law 98-473 (98 Stat. 1864) is amended by striking out the sixth proviso. 25 USC 1635.

BETHEL, ALASKA, HOSPITAL

SEC. 304. Title III is amended by adding at the end thereof the following new section:

"BETHEL, ALASKA, HOSPITAL

"SEC. 306. (a) If a final administrative ruling by the Department of the Interior holds that the Bethel Native Corporation is entitled to conveyance under the Alaska Native Claims Settlement Act of the title to the real property described in subsection (d)(1), such ruling shall be subject to judicial review. Real property. 25 USC 1636.

"(b) The Secretary is authorized to enter into an agreement with Bethel Native Corporation for an exchange of the real property described in subsection (d)(1) for—

"(1) the lands described in subsection (d)(2), or

"(2) any other Federal property which Bethel Native Corporation would have been able to select under the Alaska Native Claims Settlement Act.

"(c) If an agreement for the exchange of land is not entered into under subsection (b) before the date that is 90 days after the date on which a ruling described in subsection (a) becomes final and is no longer appealable, the Secretary shall, subject to the availability of funds provided by Appropriations Acts, purchase the lands described in subsection (d)(1) at fair market value.

"(d)(1) The real property referred to in subsection (a) is United States Survey Numbered 4000, other than the lands described in paragraph (2).

"(2) The lands referred to in subsection (b)(1) are the lands identified as tracts A and B in the determination AA-18959 of the Bureau of Land Management issued on September 30, 1983, pursuant to the Alaska Native Claims Settlement Act.".

TITLE IV—ACCESS TO HEALTH SERVICES

MEDICAID PROVISIONS

SEC. 401. (a) Subsection (c) of section 402 (42 U.S.C. 1396j, note) is amended—

(1) by striking out "or skilled nursing facility" and inserting in lieu thereof "skilled nursing facility, or any other type of facility which provides services of a type otherwise covered under a State plan for medical assistance approved under title XIX of the Social Security Act",

(2) by striking out "a State plan approved under title XIX of the Social Security Act" and inserting in lieu thereof "such a State plan", and

(3) by striking out "The preceding sentence shall" and inserting in lieu thereof "In making payments from such fund, the Secretary shall ensure that each service unit of the Indian Health Service receives at least 50 percent of the amounts to which the facilities of the Indian Health Service, for which such service unit makes collections, are entitled by reason of section 1911 of the Social Security Act, if such amount is necessary for the purpose of making improvements in such facilities in order to achieve compliance with the conditions and requirements of title XIX of the Social Security Act. This subsection shall".

42 USC 1396j note.

(b) Subsection (b) of section 402 (42 U.S.C. 1396j, note) is repealed.

42 USC 1396j note.

(c) The amendments made by this section shall apply to services performed on or after the date of the enactment of this Act.

DEMONSTRATION PROGRAM

SEC. 402. Title IV is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROGRAM FOR DIRECT BILLING OF MEDICARE, MEDICAID, AND OTHER THIRD PARTY PAYORS

Health care facilities.
42 USC 1395qq note.

"SEC. 405. (a) The Secretary shall establish a demonstration program under which Indian tribes, tribal organizations, and Alaska Native health organizations, which are contracting the entire operation of an entire hospital or clinic of the Service under the authority of the Indian Self-Determination Act, shall directly bill for, and receive payment for, health care services provided by such hospital or clinic for which payment is made under title XVIII of the Social Security Act (medicare), under a State plan for medical assistance approved under title XIX of the Social Security Act (medicaid), or from any other third-party payor. The last sentence of section 1905(b) of the Social Security Act shall apply for purposes of the demonstration program.

"(b)(1) Each hospital or clinic participating in the demonstration program described in subsection (a) shall be reimbursed directly

under the medicare and medicaid programs for services furnished, without regard to the provisions of section 1880(c) of the Social Security Act and sections 402(c) and 713(b)(2)(A) of this Act, but all funds so reimbursed shall first be used by the hospital or clinic for the purpose of making any improvements in the hospital or clinic that may be necessary to achieve or maintain compliance with the conditions and requirements applicable generally to facilities of such type under the medicare or medicaid program. Any funds so reimbursed which are in excess of the amount necessary to achieve or maintain such conditions or requirements shall be used—

"(A) solely for improving the health resources deficiency level of the Indian tribe, and

"(B) in accordance with the regulations of the Service applicable to funds provided by the Service under any contract entered into under the Indian Self-Determination Act.

"(2) The amounts paid to the hospitals and clinics participating in the demonstration program described in subsection (a) shall be subject to all auditing requirements applicable to programs administered directly by the Service and to facilities participating in the medicare and medicaid programs.

"(3) The Secretary shall monitor the performance of hospitals and clinics participating in the demonstration program described in subsection (a), and shall require such hospitals and clinics to submit reports on the program to the Secretary on a quarterly basis (or more frequently if the Secretary deems it to be necessary).

"(4) Notwithstanding section 1880(c) of the Social Security Act or section 402(c) of this Act, no payment may be made out of the special fund described in section 1880(c) of the Social Security Act, or section 402(c) of this Act, for the benefit of any hospital or clinic participating in the demonstration program described in subsection (a) during the period of such participation.

"(c)(1) In order to be considered for participation in the demonstration program described in subsection (a), a hospital or clinic must submit an application to the Secretary which establishes to the satisfaction of the Secretary that—

"(A) the Indian tribe, tribal organization, or Alaska Native health organization contracts the entire operation of the Service facility;

"(B) the facility is eligible to participate in the medicare and medicaid programs under sections 1880 and 1911 of the Social Security Act;

"(C) the facility meets any requirements which apply to programs operated directly by the Service; and

"(D) the facility is accredited by the Joint Commission on Accreditation of Hospitals, or has submitted a plan, which has been approved by the Secretary, for achieving such accreditation prior to October 1, 1990.

"(2) From among the qualified applicants, the Secretary shall, prior to October 1, 1989, select no more than 4 facilities to participate in the demonstration program described in subsection (a). The demonstration program described in subsection (a) shall begin by no later than October 1, 1991, and end on September 30, 1995.

"(d)(1) Upon the enactment of the Indian Health Care Amendments of 1988, the Secretary, acting through the Service, shall commence an examination of—

"(A) any administrative changes which may be necessary to allow direct billing and reimbursement under the demonstra-

tion program described in subsection (a), including any agreements with States which may be necessary to provide for such direct billing under the medicaid program; and

"(B) any changes which may be necessary to enable participants in such demonstration program to provide to the Service medical records information on patients served under such demonstration program which is consistent with the medical records information system of the Service.

"(2) Prior to the commencement of the demonstration program described in subsection (a), the Secretary shall implement all changes required as a result of the examinations conducted under paragraph (1).

"(3) Prior to October 1, 1990, the Secretary shall determine any accounting information which a participant in the demonstration program described in subsection (a) would be required to report.

Reports.

"(e) The Secretary shall submit a final report at the end of fiscal year 1995, on the activities carried out under the demonstration program described in subsection (a) which shall include an evaluation of whether such activities have fulfilled the objectives of such program. In such report the Secretary shall provide a recommendation, based upon the results of such demonstration program, as to whether direct billing of, and reimbursement by, the medicare and medicaid programs and other third-party payors should be authorized for all Indian tribes and Alaska Native health organizations which are contracting the entire operation of a facility of the Service.

Contracts.

"(f) The Secretary shall provide for the retrocession of any contract entered into between a participant in the demonstration program described in subsection (a) and the Service under the authority of the Indian Self-Determination Act. All cost accounting and billing authority shall be retroceded to the Secretary upon the Secretary's acceptance of a retroceded contract.".

TITLE V—URBAN INDIAN HEALTH SERVICES

REVISION OF PROGRAM

SEC. 501. Title V (25 U.S.C. 1651, et seq.) is amended to read as follows:

"TITLE V—HEALTH SERVICES FOR URBAN INDIANS

"PURPOSE

25 USC 1651.

"SEC. 501. The purpose of this title is to establish programs in urban centers to make health services more accessible to urban Indians.

"CONTRACTS WITH URBAN INDIAN ORGANIZATIONS

25 USC 1652.

"SEC. 502. Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, shall enter into contracts with urban Indian organizations to assist such organizations in the establishment and administration, within the urban centers in which such organizations are situated, of programs which meet the requirements set forth in this title. The Secretary, through the Service, shall include such conditions as the Secretary considers necessary to effect the

purpose of this title in any contract which the Secretary enters into with any urban Indian organization pursuant to this title.

"CONTRACTS FOR THE PROVISION OF HEALTH CARE AND REFERRAL SERVICES

"SEC. 503. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, shall enter into contracts with urban Indian organizations for the provision of health care and referral services for urban Indians residing in the urban centers in which such organizations are situated. Any such contract shall include requirements that the urban Indian organization successfully undertake to— 25 USC 1653.

"(1) estimate the population of urban Indians residing in the urban center in which such organization is situated who are or could be recipients of health care or referral services;

"(2) estimate the current health status of urban Indians residing in such urban center;

"(3) estimate the current health care needs of urban Indians residing in such urban center;

"(4) identify all public and private health services resources within such urban center which are or may be available to urban Indians;

"(5) determine the use of public and private health services resources by the urban Indians residing in such urban center;

"(6) assist such health services resources in providing services to urban Indians;

"(7) assist urban Indians in becoming familiar with and utilizing such health services resources;

"(8) provide basic health education, including health promotion and disease prevention education, to urban Indians;

"(9) establish and implement training programs to accomplish the referral and education tasks set forth in paragraphs (6) through (8) of this subsection;

"(10) identify gaps between unmet health needs of urban Indians and the resources available to meet such needs;

"(11) make recommendations to the Secretary and Federal, State, local, and other resource agencies on methods of improving health service programs to meet the needs of urban Indians; and

"(12) where necessary, provide, or enter into contracts for the provision of, health care services for urban Indians.

"(b) The Secretary, through the Service, shall by regulation prescribe the criteria for selecting urban Indian organizations to enter into contracts under this section. Such criteria shall, among other factors, include— Regulations.

"(1) the extent of unmet health care needs of urban Indians in the urban center involved;

"(2) the size of the urban Indian population in the urban center involved;

"(3) the accessibility to, and utilization of, health care services (other than services provided under this title) by urban Indians in the urban center involved;

"(4) the extent, if any, to which the activities set forth in subsection (a) would duplicate—

"(A) any previous or current public or private health services project in an urban center that was or is funded in a manner other than pursuant to this title; or

"(B) any project funded under this title;

"(5) the capability of an urban Indian organization to perform the activities set forth in subsection (a) and to enter into a contract with the Secretary under this section;

"(6) the satisfactory performance and successful completion by an urban Indian organization of other contracts with the Secretary under this title;

"(7) the appropriateness and likely effectiveness of conducting the activities set forth in subsection (a) in an urban center; and

"(8) the extent of existing or likely future participation in the activities set forth in subsection (a) by appropriate health and health-related Federal, State, local, and other agencies.

"CONTRACTS FOR THE DETERMINATION OF UNMET HEALTH CARE NEEDS

25 USC 1654.

"SEC. 504. (a) Under authority of the Act of November 2, 1921 (25 U.S.C. 13), popularly known as the Snyder Act, the Secretary, through the Service, may enter into contracts with urban Indian organizations situated in urban centers for which contracts have not been entered into under section 503. The purpose of a contract under this section shall be the determination of the matters described in subsection (b)(1) in order to assist the Secretary in assessing the health status and health care needs of urban Indians in the urban center involved and determining whether the Secretary should enter into a contract under section 503 with the urban Indian organization with which the Secretary has entered into a contract under this section.

"(b) Any contract entered into by the Secretary under this section shall include requirements that—

"(1) the urban Indian organization successfully undertake to—

"(A) document the health care status and unmet health care needs of urban Indians in the urban center involved; and

"(B) with respect to urban Indians in the urban center involved, determine the matters described in clauses (2), (3), (4), and (8) of section 503(b); and

"(2) the urban Indian organization complete performance of the contract within one year after the date on which the Secretary and such organization enter into such contract.

"(c) The Secretary may not renew any contract entered into under this section.

"EVALUATIONS; CONTRACT RENEWALS

25 USC 1655.

"SEC. 505. (a) The Secretary, through the Service, shall develop procedures to evaluate compliance with, and performance of contracts entered into by urban Indian organizations under this title. Such procedures shall include provisions for carrying out the requirements of this section.

"(b) The Secretary, through the Service, shall conduct an annual onsite evaluation of each urban Indian organization which has entered into a contract under section 503 for purposes of determining the compliance of such organization with, and evaluating the performance of such organization under, such contract.

"(c) If, as a result of the evaluations conducted under this section, the Secretary determines that an urban Indian organization has not complied with or satisfactorily performed a contract under section 503, the Secretary shall, prior to renewing such contract, attempt to resolve with such organization the areas of noncompliance or unsatisfactory performance and modify such contract to prevent future occurrences of such noncompliance or unsatisfactory performance. If the Secretary determines that such noncompliance or unsatisfactory performance cannot be resolved and prevented in the future, the Secretary shall not renew such contract with such organization and is authorized to enter into a contract under section 503 with another urban Indian organization which is situated in the same urban center as the urban Indian organization whose contract is not renewed under this section.

"(d) In determining whether to renew a contract with an urban Indian organization under section 503 which has completed performance of a contract under section 504, the Secretary shall review the records of the urban Indian organization, the reports submitted under section 507, and, in the case of a renewal of a contract under section 503, shall consider the results of the onsite evaluations conducted under subsection (b).

"OTHER CONTRACT REQUIREMENTS

"SEC. 506. (a) Contracts with urban Indian organizations entered into pursuant to this title shall be in accordance with all Federal contracting laws and regulations except that, in the discretion of the Secretary, such contracts may be negotiated without advertising and need not conform to the provisions of the Act of August 24, 1935 (40 U.S.C. 270a, et seq.). 25 USC 1656.

"(b) Payments under any contracts pursuant to this title may be made in advance or by way of reimbursement and in such installments and on such conditions as the Secretary deems necessary to carry out the purposes of this title.

"(c) Notwithstanding any provision of law to the contrary, the Secretary may, at the request or consent of an urban Indian organization, revise or amend any contract entered into by the Secretary with such organization under this title as necessary to carry out the purposes of this title.

"(d) In connection with any contract entered into pursuant to this title, the Secretary may permit an urban Indian organization to utilize, in carrying out such contract, existing facilities owned by the Federal Government within the Secretary's jurisdiction under such terms and conditions as may be agreed upon for the use and maintenance of such facilities.

"(e) Contracts with urban Indian organizations and regulations adopted pursuant to this title shall include provisions to assure the fair and uniform provision to urban Indians of services and assistance under such contracts by such organizations.

"(f) Urban Indians, as defined in section 4(f) of this Act, shall be eligible for health care or referral services provided pursuant to this title.

"REPORTS AND RECORDS

"SEC. 507. (a) For each fiscal year during which an urban Indian organization receives or expends funds pursuant to a contract 25 USC 1657.

entered into pursuant to this title, such organization shall submit to the Secretary a quarterly report including—

"(1) in the case of a contract under section 503, information gathered pursuant to clauses (10) and (11) of subsection (a) of such section;

"(2) information on activities conducted by the organization pursuant to the contract;

"(3) an accounting of the amounts and purposes for which Federal funds were expended; and

"(4) such other information as the Secretary may request.

"(b) The reports and records of the urban Indian organization with respect to a contract under this title shall be subject to audit by the Secretary and the Comptroller General of the United States.

"(c) The Secretary shall allow as a cost of any contract entered into under section 503 the cost of an annual private audit conducted by a certified public accountant.

"LIMITATION ON CONTRACT AUTHORITY

25 USC 1658.

"SEC. 508. The authority of the Secretary to enter into contracts under this title shall be to the extent, and in an amount, provided for in appropriation Acts.".

URBAN INDIAN ORGANIZATION

SEC. 502. Subsection (h) of section 4 (25 U.S.C. 1603(h)) is amended by inserting "urban" after "governed by an".

TITLE VI—ORGANIZATIONAL IMPROVEMENTS

ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE

SEC. 601. (a) Title VI (25 U.S.C. 1661) is amended to read as follows:

"TITLE VI—ORGANIZATIONAL IMPROVEMENTS

"ESTABLISHMENT OF THE INDIAN HEALTH SERVICE AS AN AGENCY OF THE PUBLIC HEALTH SERVICE

25 USC 1661.

"SEC. 601. (a) In order to more effectively and efficiently carry out the responsibilities, authorities, and functions of the United States to provide health care services to Indians and Indian tribes, as are or may be hereafter provided by Federal statute or treaties, there is established within the Public Health Service of the Department of Health and Human Services the Indian Health Service. The Indian Health Service shall be administered by a Director, who shall be appointed by the Secretary. The Director of the Indian Health Service shall report to the Secretary through the Assistant Secretary for Health of the Department of Health and Human Services.

Reports.

"(b) The Indian Health Service shall be an agency within the Public Health Service of the Department of Health and Human Services, and shall not be an office, component, or unit of any other agency of the Department.

"(c) The Secretary shall carry out through the Director of the Indian Health Service—

"(1) all functions which were, on the day before the date of enactment of the Indian Health Care Amendments of 1988, carried out by or under the direction of the individual serving as Director of the Indian Health Service on such day;

"(2) all functions of the Secretary relating to the maintenance and operation of hospital and health facilities for Indians and the planning for, and provision and utilization of, health services for Indians; and

"(3) all health programs under which health care is provided to Indians based upon their status as Indians which are administered by the Secretary, including (but not limited to) programs under—

"(A) this Act;

"(B) the Act of November 2, 1921 (25 U.S.C. 13);

"(C) the Act of August 5, 1954 (42 U.S.C. 2001, et seq.);

"(D) the Act of August 16, 1957 (25 U.S.C. 2005, et seq.); and

"(E) the Indian Self-Determination Act (25 U.S.C. 450f, et seq.).

"(d)(1) The Secretary, acting through the Director of the Indian Health Service, shall have the authority—

"(A) except to the extent provided in paragraph (2), to appoint and compensate employees for the Service in accordance with title 5, United States Code;

"(B) to enter into contracts for the procurement of goods and services to carry out the functions of the Service; and

"(C) to manage, expend, and obligate all funds appropriate for the Service.

"(2) Notwithstanding any other law, the provisions of section 12 of the Act of June 18, 1934 (48 Stat. 986; 25 U.S.C. 472), shall apply to all personnel actions taken with respect to new positions created within the Service as a result of its establishment under subsection (a).

"AUTOMATED MANAGEMENT INFORMATION SYSTEM

"SEC. 602. (a)(1) The Secretary shall establish an automated management information system for the Service. 25 USC 1662.

"(2) The information system established under paragraph (1) shall include—

"(A) a financial management system,

"(B) a patient care information system for each area served by the Service,

"(C) a privacy component that protects the privacy of patient information held by, or on behalf of, the Service, and

"(D) a services-based cost accounting component that provides estimates of the costs associated with the provision of specific medical treatments or services in each area office of the Service.

"(3) By no later than September 30, 1989, the Secretary shall submit a report to Congress setting forth— Reports.

"(A) the activities which have been undertaken to establish an automated management information system,

"(B) the activities, if any, which remain to be undertaken to complete the implementation of an automated management information system, and

"(C) the amount of funds which will be needed to complete the implementation of a management information system in the succeeding fiscal years.

"(b)(1) The Secretary shall provide each Indian tribe and tribal organization that provides health services under a contract entered into with the Service under the Indian Self-Determination Act automated management information systems which—

"(A) meet the management information needs of such Indian tribe or tribal organization with respect to the treatment by the Indian tribe or tribal organization of patients of the Service, and

"(B) meet the management information needs of the Service.

"(2) The Secretary shall reimburse each Indian tribe or tribal organization for the part of the cost of the operation of a system provided under paragraph (1) which is attributable to the treatment by such Indian tribe or tribal organization of patients of the Service.

California. "(3) The Secretary shall provide systems under paragraph (1) to Indian tribes and tribal organizations providing health services in California by no later than September 30, 1990.

"(c) Notwithstanding any other provision of law, each patient shall have reasonable access to the medical or health records of such patient which are held by, or on behalf of, the Service.".

25 USC 1661 note. (b) All personnel, records, equipment, facilities, and interests in property that are administered by the Indian Health Service on the day before the date on which the amendments made by this section take effect shall be transferred to the Indian Health Service established by the amendment made by subsection (a) of this section. All transfers must be accomplished within 9 months of the date of enactment of this section. The Secretary is authorized to waive the Indian preference laws on a case-by-case basis for temporary transfers involved in implementing this section during such 9-month period.

Effective date. 25 USC 1661 note. (c)(1) Except as provided in paragraph (2), section 601 of the Indian Health Care Improvement Act added by subsection (a) of this section shall take effect 9 months from the date of the enactment of this section.

(2) Notwithstanding subsections (b) and (c)(1), any action which carries out such section 601 that is taken by the Secretary before the effective date of such section 601 shall be effective beginning on the date such action was taken.

(d) Section 5316 of title 5, United States Code, is amended by adding at the end thereof the following:

"Director, Indian Health Service, Department of Health and Human Services.".

TITLE VII—MISCELLANEOUS PROVISIONS

LEASING AND OTHER CONTRACTS

SEC. 701. Section 704 (25 U.S.C. 1674) is amended—

(1) by striking out "Notwithstanding", and inserting in lieu thereof "(a) Notwithstanding", and

(2) by adding at the end thereof the following new subsection:

"(b) The Secretary may enter into leases, contracts, and other legal agreements with Indian tribes or tribal organizations which hold—

"(1) title to;

"(2) a leasehold interest in; or

"(3) a beneficial interest in (where title is held by the United States in trust for the benefit of a tribe);

facilities used for the administration and delivery of health services by the Service or by programs operated by Indian tribes or tribal organizations to compensate such Indian tribes or tribal organizations for costs associated with the use of such facilities for such purposes. Such costs include rent, depreciation based on the useful life of the building, principal and interest paid or accrued, operation and maintenance expenses, and other expenses determined by regulation to be allowable.".

ARIZONA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

SEC. 702. (a) Subsection (a) of section 708 (25 U.S.C. 1678(a)) is amended—

(1) by striking out "1984" and inserting in lieu thereof "1991", and

(2) by striking out "Indians in such State" and inserting in lieu thereof "members of federally recognized Indian tribes of Arizona".

(b) Section 708 (25 U.S.C. 1678(c)) is amended by striking out subsection (c).

ELIGIBILITY OF CALIFORNIA INDIANS

SEC. 703. Section 709 (25 U.S.C. 1679) is amended to read as follows:

"ELIGIBILITY OF CALIFORNIA INDIANS

"SEC. 709. (a)(1) In order to provide the Congress with sufficient data to determine which Indians in the State of California should be eligible for health services provided by the Service, the Secretary shall, by no later than the date that is 3 years after the date of enactment of the Indian Health Care Amendments of 1988, prepare and submit to the Congress a report which sets forth— Reports.

"(A) a determination by the Secretary of the number of Indians described in subsection (b)(2), and the number of Indians described in subsection (b)(3), who are not members of an Indian tribe recognized by the Federal Government,

"(B) the geographic location of such Indians,

"(C) the Indian tribes of which such Indians are members,

"(D) an assessment of the current health status, and health care needs, of such Indians, and

"(E) an assessment of the actual availability and accessibility of alternative resources for the health care of such Indians that such Indians would have to rely on if the Service did not provide for the health care of such Indians.

"(2) The report required under paragraph (1) shall be prepared by the Secretary—

"(A) in consultation with the Secretary of the Interior, and

"(B) with the assistance of the tribal health programs providing services to the Indians described in paragraph (2) or (3) of subsection (b) who are not members of any Indian tribe recognized by the Federal Government.

"(b) Until such time as any subsequent law may otherwise provide, the following California Indians shall be eligible for health services provided by the Service:

"(1) Any member of a federally recognized Indian tribe.

"(2) Any descendant of an Indian who was residing in California on June 1, 1852, but only if such descendant—

"(A) is living in California,

"(B) is a member of the Indian community served by a local program of the Service, and

"(C) is regarded as an Indian by the community in which such descendant lives.

"(3) Any Indian who holds trust interests in public domain, national forest, or Indian reservation allotments in California.

"(4) Any Indian in California who is listed on the plans for distribution of the assets of California rancherias and reservations under the Act of August 18, 1958 (72 Stat. 619), and any descendant of such an Indian.

"(c) Nothing in this section may be construed as expanding the eligibility of California Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.".

CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

SEC. 704. Section 710 (25 U.S.C. 1680) is amended to read as follows:

"CALIFORNIA AS A CONTRACT HEALTH SERVICE DELIVERY AREA

"SEC. 710. The State of California, excluding the counties of Alameda, Contra Costa, Los Angeles, Marin, Orange, Sacramento, San Francisco, San Mateo, Santa Clara, Kern, Merced, Monterey, Napa, San Benito, San Joaquin, San Luis Obispo, Santa Cruz, Solano, Stanislaus, and Ventura shall be designated as a contract health service delivery area by the Service for the purpose of providing contract health services to Indians in such State.".

CONTRACT HEALTH FACILITIES

SEC. 705. Title VII is amended by adding at the end thereof the following new section:

"CONTRACT HEALTH FACILITIES

25 USC 1680a.

"SEC. 711. The Service shall provide funds for health care programs and facilities operated by tribes and tribal organizations under contracts with the Service entered into under the Indian Self-Determination Act—

"(1) for the maintenance and repair of clinics owned or leased by such tribes or tribal organizations,

"(2) for employee training,

"(3) for cost-of-living increases for employees, and

"(4) for any other expenses relating to the provision of health services,

on the same basis as such funds are provided to programs and facilities operated directly by the Service.".

NATIONAL HEALTH SERVICE CORPS

SEC. 706. Title VII, as amended by section 705 of this Act, is further amended by adding at the end thereof the following new section:

"NATIONAL HEALTH SERVICE CORPS

"SEC. 712. The Secretary of Health and Human Services shall not— 25 USC 1680b.

"(1) remove a member of the National Health Service Corps from a health facility operated by the Indian Health Service or by a tribe or tribal organization under contract with the Indian Health Service under the Indian Self-Determination Act, or

"(2) withdraw funding used to support such member,

unless the Secretary, acting through the Service, has ensured that the Indians receiving services from such member will experience no reduction in services.".

HEALTH SERVICES FOR INELIGIBLE PERSONS

SEC. 707. (a) Title VII, as amended by section 706 of this Act, is further amended by adding at the end thereof the following new section:

"HEALTH SERVICES FOR INELIGIBLE PERSONS

"SEC. 713. (a)(1) Any individual who— Children and youth. 25 USC 1680c.

"(A) has not attained 19 years of age,

"(B) is the natural or adopted child, step-child, foster-child, legal ward, or orphan of an eligible Indian, and

"(C) is not otherwise eligible for the health services provided by the Service,

shall be eligible for all health services provided by the Service on the same basis and subject to the same rules that apply to eligible Indians until such individual attains 19 years of age. The existing and potential health needs of all such individuals shall be taken into consideration by the Service in determining the need for, or the allocation of, the health resources of the Service. If such an individual has been determined to be legally incompetent prior to attaining 19 years of age, such individual shall remain eligible for such services until one year after the date such disability has been removed.

"(2) Any spouse of an eligible Indian who is not an Indian, or who is of Indian descent but not otherwise eligible for the health services provided by the Service, shall be eligible for such health services if all of such spouses are made eligible, as a class, by an appropriate resolution of the governing body of the Indian tribe of the eligible Indian. The health needs of persons made eligible under this paragraph shall not be taken into consideration by the Service in determining the need for, or allocation of, its health resources.

"(b)(1)(A) The Secretary is authorized to provide health services under this subsection through health facilities operated directly by the Service to individuals who reside within the service area of a service unit and who are not eligible for such health services under any other subsection of this section or under any other provision of law if—

"(i) the Indian tribe (or, in the case of a multi-tribal service area, all the Indian tribes) served by such service unit requests such provision of health services to such individuals, and

"(ii) the Secretary and the Indian tribe or tribes have jointly determined that—

"(I) the provision of such health services will not result in a denial or diminution of health services to eligible Indians, and

"(II) there is no reasonable alternative health facility or services, within or without the service area of such service unit, available to meet the health needs of such individuals.

Contracts.

"(B) In the case of health facilities operated under a contract entered into under the Indian Self-Determination Act, the governing body of the Indian tribe or tribal organization providing health services under such contract is authorized to determine whether health services should be provided under such contract to individuals who are not eligible for such health services under any other subsection of this section or under any other provision of law. In making such determinations, the governing body of the Indian tribe or tribal organization shall take into account the considerations described in subparagraph (A)(ii).

"(2)(A) Persons receiving health services provided by the Service by reason of this subsection shall be liable for payment of such health services under a schedule of charges prescribed by the Secretary which, in the judgment of the Secretary, results in reimbursement in an amount not less than the actual cost of providing the health services. Notwithstanding section 1880(c) of the Social Security Act, section 402(c) of this Act, or any other provision of law, amounts collected under this subsection, including medicare or medicaid reimbursements under titles XVIII and XIX of the Social Security Act, shall be credited to the account of the facility providing the service and shall be used solely for the provision of health services within that facility. Amounts collected under this subsection shall be available for expenditure within such facility for not to exceed one fiscal year after the fiscal year in which collected.

Contracts.
State and local governments.

"(B) Health services may be provided by the Secretary through the Service under this subsection to an indigent person who would not be eligible for such health services but for the provisions of paragraph (1) only if an agreement has been entered into with a State or local government under which the State or local government agrees to reimburse the Service for the expenses incurred by the Service in providing such health services to such indigent person.

"(3)(A) In the case of a service area which serves only one Indian tribe, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which the governing body of the Indian tribe revokes its concurrence to the provision of such health services.

"(B) In the case of a multi-tribal service area, the authority of the Secretary to provide health services under paragraph (1)(A) shall terminate at the end of the fiscal year succeeding the fiscal year in which at least 51 percent of the number of Indian tribes in the service area revoke their concurrence to the provision of such health services.

"(c) The Service may provide health services under this subsection to individuals who are not eligible for health services provided by the Service under any other subsection of this section or under any other provision of law in order to—

"(1) achieve stability in a medical emergency,

Diseases.
Safety.

"(2) prevent the spread of a communicable disease or otherwise deal with a public health hazard,

"(3) provide care to non-Indian women pregnant with an eligible Indian's child for the duration of the pregnancy through post partum, or Women.

"(4) provide care to immediate family members of an eligible person if such care is directly related to the treatment of the eligible person.

"(d) Hospital privileges in health facilities operated and maintained by the Service or operated under a contract entered into under the Indian Self-Determination Act may be extended to non-Service health care practitioners who provide services to persons described in subsection (a) or (b). Such non-Service health care practitioners may be regarded as employees of the Federal Government for purposes of section 1346(b) and chapter 171 of title 28, United States Code (relating to Federal tort claims) only with respect to acts or omissions which occur in the course of providing services to eligible persons as a part of the conditions under which such hospital privileges are extended.

"(e) For purposes of this section, the term 'eligible Indian' means any Indian who is eligible for health services provided by the Service without regard to the provisions of this section.".

INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME

SEC. 708. Title VII, as amended by section 707 of this Act, is further amended by adding at the end thereof the following new section:

"INFANT AND MATERNAL MORTALITY; FETAL ALCOHOL SYNDROME

"SEC. 714. (a) By no later than January 1, 1990, the Secretary shall develop and begin implementation of a plan to achieve the following objectives by January 1, 1994: 25 USC 1680d.

"(1) reduction of the rate of Indian infant mortality in each area office of the Service to the lower of—

"(A) twelve deaths per one thousand live births, or

"(B) the rate of infant mortality applicable to the United States population as a whole;

"(2) reduction of the rate of maternal mortality in each area office of the Service to the lower of—

"(A) five deaths per one hundred thousand live births, or

"(B) the rate of maternal mortality applicable to the United States population as a whole; and

"(3) reduction of the rate of fetal alcohol syndrome among Indians served by, or on behalf of, the Service to one per one thousand live births.

"(b) The President shall include with the budget submitted under section 1105 of title 31, United States Code, for each fiscal year a separate statement which specifies the total amount obligated or expended in the most recently completed fiscal year to achieve each of the objectives described in subsection (a).". President of U.S.

CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA

SEC. 709. Title VII, as amended by section 708 of this Act, is further amended by adding at the end thereof the following new section:

"CONTRACT HEALTH SERVICES FOR THE TRENTON SERVICE AREA

North Dakota. Montana. 25 USC 1680e.

"SEC. 715. (a) The Secretary, acting through the Service, is directed to provide contract health services to members of the Turtle Mountain Band of Chippewa Indians that reside in the Trenton Service Area of Divide, McKenzie, and Williams counties in the State of North Dakota and the adjoining counties of Richland, Roosevelt, and Sheridan in the State of Montana.

"(b) Nothing in this section may be construed as expanding the eligibility of members of the Turtle Mountain Band of Chippewa Indians for health services provided by the Service beyond the scope of eligibility for such health services that applied on May 1, 1986.".

INDIAN HEALTH SERVICE AND VETERANS' ADMINISTRATION HEALTH FACILITIES AND SERVICES SHARING

SEC. 710. Title VII, as amended by section 709 of this Act, is further amended by adding at the end thereof the following new section:

"INDIAN HEALTH SERVICE AND VETERANS' ADMINISTRATION HEALTH FACILITIES AND SERVICES SHARING

Reports. 25 USC 1680f.

"SEC. 716. (a) The Secretary shall examine the feasibility of entering into an arrangement for the sharing of medical facilities and services between the Indian Health Service and the Veterans' Administration and shall, in accordance with subsection (b), prepare a report on the feasibility of such an arrangement and submit such report to the Congress by no later than September 30, 1990.

"(b) The Secretary shall not take any action under this section or under subchapter IV of chapter 81 of title 38, United States Code, which would impair—

"(1) the priority access of any Indian to health care services provided through the Indian Health Service;

"(2) the quality of health care services provided to any Indian through the Indian Health Service;

"(3) the priority access of any veteran to health care services provided by the Veterans' Administration;

"(4) the quality of health care services provided to any veteran by the Veterans' Administration;

"(5) the eligibility of any Indian to receive health services through the Indian Health Service; or

"(6) the eligibility of any Indian who is a veteran to receive health services through the Veterans' Administration.

"(c)(1) Within 30 days after the date of enactment of this section, the Director of the Indian Health Service and the Administrator of Veterans' Affairs are authorized and directed to implement an agreement under which—

Utah.

"(A) individuals in the vicinity of Roosevelt, Utah, who are eligible for health care from the Veterans' Administration could obtain health care services at the facilities of the Indian Health Service located at Fort Duchesne, Utah; and

"(B) individuals eligible for health care from the Indian Health Service at Fort Duchesne, Utah, could obtain health care services at the Veterans' Administration medical center located in Salt Lake City, Utah.

Reports.

"(2) Not later than 2 years after the date of enactment of this section, the Secretary and the Administrator of Veterans' Affairs

shall jointly submit a report to the Congress on the health care services provided as a result of paragraph (1).

"(d) Nothing in this section may be construed as creating any right of a veteran to obtain health services from the Indian Health Service except as provided in an agreement under subsection (c).".

REALLOCATION OF BASE RESOURCES

SEC. 711. Title VII, as amended by section 710 of this Act, is further amended by adding at the end thereof the following new section:

"REALLOCATION OF BASE RESOURCES

"SEC. 717. (a) Notwithstanding any other provision of law, any allocation of Service funds for a fiscal year that reduces by 5 percent or more from the previous fiscal year the funding for any recurring program, project, or activity of a service unit may be implemented only after the Secretary has submitted to the Congress a report on the proposed change in allocation of funding, including the reasons for the change and its likely effects. Reports. 25 USC 1680g.

"(b) Subsection (a) shall not apply if the total amount appropriated to the Service for a fiscal year is less than the amount appropriated to the Service for previous fiscal year.".

PROVISION OF SERVICES IN MONTANA

SEC. 712. (a) The Secretary of Health and Human Services, acting through the Indian Health Service, shall provide services and benefits for Indians in Montana in a manner consistent with the decision of the United States Court of Appeals for the Ninth Circuit in McNabb for McNabb v. Bowen, 829 F.2d 787 (9th Cir. 1987).

(b) The provisions of subsection (a) shall not be construed to be an expression of the sense of the Congress on the application of the decision described in subsection (a) with respect to the provision of services or benefits for Indians living in any State other than Montana.

DEMONSTRATION PROJECTS FOR TRIBAL MANAGEMENT OF HEALTH CARE SERVICES

SEC. 713. Title VII, as amended by section 711 of this Act, is amended by adding at the end thereof the following new section:

"DEMONSTRATION PROJECTS FOR TRIBAL MANAGEMENT OF HEALTH CARE SERVICES

"SEC. 718. (a)(1) The Secretary, acting through the Service, shall make grants to Indian tribes to establish demonstration projects under which the Indian tribe will develop and test a phased approach to assumption by the Indian tribe of the health care delivery system of the Service for members of the Indian tribe living on or near the reservations of the Indian tribe through the use of Service, tribal, and private sector resources. Grants. 25 USC 1680h.

"(2) A grant may be awarded to an Indian tribe under paragraph (1) only if the Secretary determines that the Indian tribe has the administrative and financial capabilities necessary to conduct a demonstration project described in paragraph (1).

"(b) During the period in which a demonstration project established under subsection (a) is being conducted by an Indian tribe, the Secretary shall award all health care contracts, including community, behavioral, and preventive health care contracts, to the Indian tribe in the form of a single grant to which the regulations prescribed under part A of title XIX of the Public Health Service Act (as modified as necessary by any agreement entered into between the Secretary and the Indian tribe to achieve the purposes of the demonstration project established under subsection (a)) shall apply.

"(c) The Secretary may waive such provisions of Federal procurement law as are necessary to enable any Indian tribe to develop and test administrative systems under the demonstration project established under subsection (a), but only if such waiver does not diminish or endanger the delivery of health care services to Indians.

Termination date.

"(d)(1) The demonstration project established under subsection (a) shall terminate on September 30, 1993.

Reports.

"(2) By no later than September 30, 1994, the Secretary shall evaluate the performance of each Indian tribe that has participated in a demonstration project established under subsection (a) and shall submit to the Congress a report on such evaluations and demonstration projects.

"(e) There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this section.".

HEALTH CARE FOR RURAL AREAS

SEC. 714. Title VII of the Public Health Service Act is amended by adding at the end thereof the following:

"PART I—HEALTH CARE FOR RURAL AREAS

"HEALTH CARE FOR RURAL AREAS

Grants.
Contracts.
42 USC 295j.

"SEC. 799A. (a) The Secretary is authorized to make grants to, or enter into contracts with, any eligible applicant to help such applicant fund authorized activities under an application and approved under subsection (d).

"(b)(1) Amounts provided under subsection (a) shall be used by the recipients to fund interdisciplinary projects designed to use new and innovative methods and models to—

"(A) train health care practitioners to provide services in rural areas;

"(B) provide access to cost-effective, comprehensive health care to individuals residing in rural areas;

"(C) enhance the amount of research conducted concerning health care delivery in rural areas; and

"(D) increase the recruitment and retention of health care practitioners in rural areas and make rural practice a more attractive career choice for health care practitioners.

"(2) A recipient of funds under subsection (a) may use various methods in carrying out the projects described in paragraph (1), including—

"(A) the distribution of stipends to students of eligible applicants;

"(B) the establishment of a post-graduate fellowship program;

"(C) the training of faculty in the economic and logistical problems confronting rural health care delivery systems; or

"(D) the purchase or rental of transportation and telecommunication equipment where the need for such equipment due to unique characteristics of the rural area is demonstrated by the recipient.

"(3)(A) An applicant shall not use more than 10 percent of the funds made available to such applicant under subsection (a) for administrative expenses.

"(B) Not more than 10 percent of the individuals receiving training with funds made available to an applicant under subsection (a) shall be trained as doctors of medicine or doctors of osteopathy.

"(c) Applicants eligible to obtain funds under subsection (a) shall include nonprofit organizations and public or nonprofit colleges, universities, or schools of, or programs that specialize in, nursing, psychology, social work, optometry, public health, dentistry, osteopathy, physicians assistants, pharmacy, podiatry, medicine, chiropractic, and allied health professions if such applicants submit applications approved by the Secretary under subsection (d). Applicants eligible to obtain funds under subsection (a) shall not include for-profit entities, either directly or through a subcontract or subgrant.

"(d)(1) In order to receive a grant or contract under subsection (a) an entity shall submit an application to the Secretary.

"(2) An application submitted under this subsection shall be in such form, be submitted by such date, and contain such information as the Secretary shall require.

"(3) Applications submitted under this subsection shall—

"(A) be jointly submitted by at least two eligible applicants with the express purpose of assisting individuals in academic institutions in establishing long-term collaborative relationships with health care providers in rural areas;

"(B) designate a rural health care agency or agencies for clinical treatment or training, including hospitals, community health centers, migrant health centers, rural health clinics, community mental health centers, long-term care facilities, facilities operated by the Indian Health Service or an Indian tribe or tribal organization or Indian organization under a contract with the Indian Health Service under the Indian Self-Determination Act, or Native Hawaiian health centers; and

"(C) provide any additional information required by the Secretary.

"(e)(1) The Secretary shall enter into a contract to conduct a study of manpower training needs in rural areas, with attention focused on the supply of health professionals and whether such supply is adequate to meet the demands for health care services in rural communities.

"(2)(A) The study conducted under paragraph (1) shall include statistics and projections on—

"(i) the supply of health care practitioners in rural areas; and

"(ii) suggested methods of improving access to health care services in rural areas.

Health care professionals.
Aged persons.

The study shall pay particular attention to the needs of the elderly in rural areas.

"(B) The study conducted under paragraph (1) shall evaluate existing models for health care training and service delivery and propose innovative alternative models to enhance the quality and availability of health care services in rural areas and to increase the retention of health professionals in rural areas.

"(3) The Secretary shall evaluate the effectiveness of the health care training and service delivery models developed with funds made available under this section and compare such models with programs designed to increase the availability of health care providers in rural areas, including the National Health Service Corps program authorized by subpart II of part D of the Public Health Service Act (42 U.S.C. 254d et seq.) and the area health education center program authorized under section 781 of such Act (42 U.S.C. 295g-1).

"(4) Not later than 18 months after the date of the signing of the contract for the health care study under paragraph (1), the Secretary shall submit to the appropriate committees of the Congress a report that describes the results of the study conducted under paragraph (1).

"(f)(1) Each application for a grant or contract under this section shall be submitted to a peer review group for an evaluation of the merits of the proposals made in the application.

"(2) The Secretary shall establish such peer review groups as may be necessary to carry out paragraph (1). The Secretary shall make appointments to the peer review groups from among appropriately qualified persons who are not officers or employees of the United States.

Reports.

"(3) With respect to applications referred to in paragraph (1), a peer review group established pursuant to paragraph (2) shall report its findings and recommendations to the Secretary. The Secretary may not approve such an application unless a peer review group has recommended the application for approval.

"(4) This paragraph shall be carried out by the Secretary, acting through Health Resources and Services Administration.

"(g) For the purposes of this section, the term 'rural area' includes a frontier area, which is an area in which the population density is less than 7 individuals per square mile.

"(h)(1) There are authorized to be appropriated to carry out the provisions of this section, other than subsection (e), $5,000,000 for fiscal year 1989.

"(2) There are authorized to be appropriated $1,000,000 for fiscal year 1989 to carry out subsection (e).

Termination date.

"(g) This section shall cease to be effective on October 1, 1989.".

CHILD SEXUAL ABUSE TREATMENT PROGRAMS

SEC. 715. Title VII, as amended by section 713 of this Act, is amended by adding at the end thereof the following new section:

"CHILD SEXUAL ABUSE TREATMENT PROGRAMS

25 USC 1680i.

"SEC. 719. (a) The Secretary and the Secretary of the Interior shall, for each of the fiscal years 1989, 1990, and 1991, continue to provide through the Hopi Tribe and the Asiniboine and Sioux Tribes of the Fort Peck Reservation the demonstration programs involving treatment for child sexual abuse that were conducted during fiscal year 1988 through such tribes.

"(b) There are authorized to be appropriated for each of the fiscal years 1989, 1990, and 1991 such sums as may be necessary to carry out the provisions of this section.".

PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO

SEC. 716. Title VII, as amended by section 715, is further amended by adding at the end thereof the following new section:

"PUEBLO SUBSTANCE ABUSE TREATMENT PROJECT FOR SAN JUAN PUEBLO, NEW MEXICO

"SEC. 720. (a) The Secretary, through the Service, shall make grants to the Eight Northern Indian Pueblos Council, San Juan Pueblo, New Mexico, for the purpose of providing substance abuse treatment services to Indians in need of such services. Grants. 25 USC 1680j.

"(b) There are authorized to be appropriated to carry out this section $250,000 for each of the fiscal years 1990 and 1991.".

STUDY WITH RESPECT TO NUCLEAR RESOURCE DEVELOPMENT HEALTH HAZARDS

SEC. 717. (a) The Secretary of Health and Human Services (acting through the Indian Health Service), the Secretary of the Interior (acting through the Bureau of Indian Affairs), and the Secretary of Energy shall jointly conduct a study for the purpose of determining— 25 USC 1677 note.

(1) the number of active nuclear resource development sites on Indian lands in the United States;

(2) the Federal agencies that carry out Federal responsibilities with respect to each such site;

(3) the health hazards that exist as a result of such sites;

(4) the remedial actions which have been undertaken with respect to such health hazards;

(5) remedial actions that are needed with respect to such health hazards; and

(6) the amount of funds that would be necessary each year to implement and maintain such needed remedial actions and the date by which the remedial actions would be implemented if sufficient funds were to provide for the remedial actions.

(b) By no later than the date that is 2 years after the date of enactment of this Act, a report shall be submitted to the Congress describing the findings and conclusions made as a result of carrying out the study required in subsection (a). Reports.

LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE

SEC. 718. Section 706 (25 U.S.C. 1676) is amended to read as follows:

"LIMITATION ON USE OF FUNDS APPROPRIATED TO THE INDIAN HEALTH SERVICE

"SEC. 706. Any limitation on the use of funds contained in an Act providing appropriations for the Department of Health and Human Services for a period with respect to the performance of abortions shall apply for that period with respect to the performance of abortions using funds contained in an Act providing appropriations for the Indian Health Service.". Abortion.

SEC. 719. (a) During the period of the moratorium imposed by Public Law 100-446 on implementation of the final rule published in the Federal Register on September 16, 1987, by the Health Resources and Services Administration of the Public Health Service, relating to eligibility for the health care services of the Indian Health Service, the Indian Health Service shall provide services pursuant to the criteria for eligibility for such services that were in effect on September 15, 1987, subject to the provisions of section 709 of the Indian Health Care Improvement Act, as amended by this Act.

Contracts.

(b) The Secretary of Health and Human Services, acting through the Indian Health Service, shall, by contract or any other means, conduct a study to determine the impact of the final rule described in subsection (a) and of any other proposed rules which would change the eligibility criteria for medical services provided by the Indian Health Service.

(c) The study conducted under subsection (b) shall include—

(1) full participation and consultation with Indian and Alaskan Native tribal governments and representatives of urban Indian health care programs;

(2) statistics for each of the service areas of the Indian Health Service on the number of Indians who are currently eligible for the services of the Indian Health Service;

(3) statistics for each of the service areas of the Indian Health Service on the number of Indians who would be eligible for such services if the final rule described in subsection (a), or any alternative rule changing eligibility, were implemented;

(4) consideration of the financial impact of such final rule or any other proposed rule on the contract health care budget and on the clinical services budget of the Indian Health Service;

(5) consideration of the health status, cultural, social, and economic impact on Indian reservations and urban Indian populations of such final rule or any other rule changing the eligibility criteria;

(6) consideration of the alternatives, if any, that would be available to those Indians who would not be eligible for such services by reason of any such final rule; and

(7) consideration of the program changes that the Indian Health Service would be required to make if the eligibility requirements for such services that were in effect on September 15, 1987, were modified.

Reports.

(d) The Secretary of Health and Human Services shall submit to the Congress a report on the study required under subsection (b).

(e) Before submitting to Congress the report on the study required under subsection (b), the Secretary of Health and Human Services shall provide Indian tribes, Alaska Native villages and urban Indian health care programs an opportunity to comment on the report and shall incorporate the comments of such Indian groups into the report.

(f) There are hereby authorized to be appropriated such sums as are necessary to carry out the provisions of this section.

TITLE VIII—SEVERABILITY PROVISION

SEC. 801. If any provision of this Act, any amendment made by this Act, or the application of such provision or amendment to any person or circumstances is held to be invalid, the remainder of this Act, the remaining amendments made by this Act, and the application of such provision or amendment to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

25 USC 1601 note.

Approved November 23, 1988.

LEGISLATIVE HISTORY—H.R. 5261 (S. 129):

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Sept. 28, considered and passed Senate, amended.
Oct. 12, House agreed to conference report.
Oct. 14, Senate agreed to conference report.